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PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, SECOND SESSION

SENATE—*Wednesday, September 17, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. CARL LEVIN, a Senator from the State of Michigan.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

God of our fathers and our God, who has made and preserved us a nation, give us grace ever to heed the truth of Thy word that the judgments of the Lord are true and righteous altogether. As we labor keep us mindful that judgment day is every day.

Guide by Thy higher wisdom the President, the Congress, the judiciary, and all our leaders. Draw the people close to one another by keeping them close to Thee. Give us a part in the spiritual renovation of the Nation, in the recovery of national purpose, and a pure patriotism.

And to Thee shall be the thanksgiving and the praise. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 17, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CARL M. LEVIN, a Senator from the State of Michigan, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. LEVIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the statement which I am about to make on the U.S. Senate appear at this point in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. So I yield to the distinguished minority leader if he has anything to say at this time in order for him to have an opportunity, if he so desires, and also to receive a message from the President of the United States.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

Mr. BAKER. Mr. President, I thank the majority leader. I have no need for my time under the standing order. I am aware of the fact that the distinguished majority leader is to comment this morning, I believe, on the anniversary of the occasion of the adoption of the Constitution or the publishing of the Constitution, and I offer to yield my time to him as well as the time that has been heretofore provided.

Mr. ROBERT C. BYRD. I appreciate the generous offer and I would like to have the time.

Mr. BAKER. Mr. President, I ask unanimous consent that I may yield my time under the standing order to the distinguished majority leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Chair will inform the majority leader that he has 34 minutes.

Mr. ROBERT C. BYRD. I thank the Chair.

THE UNITED STATES SENATE

Mr. ROBERT C. BYRD. Mr. President, 193 years ago today the Constitutional Convention concluded its work in Philadelphia and signed what would become the Constitution of the United States of America. Ours is the oldest continuing written Constitution in the world. It is a covenant between the people and their Government that has carried us through territorial expansion, civil war, industrialization, two world wars, Watergate, and the nuclear age.

William Ewart Gladstone, who was Prime Minister of England four times and who was the foremost political leader during the reign of Queen Victoria, said:

> As the British Constitution is the most subtle organism which has proceeded from the womb and the long gestation of progressive history, so the American Constitution is, so far as I can see, the most wonderful work ever struck off at a given time by the brain and purpose of man.

Mr. President, the following is from *Formation of the Union under the Constitution*, by the U.S. Constitution Sesquicentennial Commission: the main origins of the United States Constitution "lie in centuries of experience in government, the lessons of which were brought over from England and further developed through the practices of over a century and a half in the colonies and early State governments, and in the struggles of the Continental Congress.

"Its roots are deep in the past; and its endurance and the obedience and respect it has won are mainly the result of the slow growth of its principles from before the days of the Magna Carta.

The Constitution does not "give us our rights and liberties. . . . It only guarantees them. The people had all their rights and liberties before they created the Constitution. The Constitution was created, among other things, in order to make the people's liberties secure, secure not only against foreign attack but against oppression by their own government."

All Members of the United States Senate swear to uphold the Constitution. That is our foremost duty and responsibility.

Inasmuch as I have, for the past several months, spoken on the historical development of the United States Senate, I should like to take this occasion to discuss the Constitution which created the Senate and defined our role and functions in the Federal Government.

Our Constitution has survived so long

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

and worked so well that we tend to forget the existence of an earlier Government of the United States. The first united action of protest in the preliminaries of the Revolutionary War was the Stamp Act Congress of 1765. It was held at New York, and nine of the 13 colonies sent delegates who had been appointed by the Assemblies, for the most part. The voting was by colonies, one vote accorded to each, and the Stamp Act Congress framed petitions to the King and to Parliament.

Following the efforts by the British Government to coerce Massachusetts into obedience to British measures, the colonies took action that led to the present Union.

The first Continental Congress met on September 5, 1774 in Carpenters' Hall at Philadelphia. Delegates from all the colonies, except Georgia, attended. As in the case of the Stamp Act Congress, the Continental Congress adopted the rule of one vote for each colony, regardless of population or size. This rule often hindered the competency of the general government and frequently impeded congressional action.

The Second Continental Congress met at Philadelphia on May 10, 1775. This organ of union did not possess the power to enforce its measures. The only instrument for enforcement was that of the States. Congress could recommend, but the States could do as they pleased, and in many instances they did nothing at all.

The Virginia Convention adopted a resolution on May 15, 1776, which instructed the colony's delegates to propose independence and gave approval to whatever measures were considered proper and necessary by the Congress "for forming foreign alliances, and a Confederation of the Colonies, . . ." Richard Henry Lee introduced legislation which was adopted by Congress on July 2, 1776, providing "that a plan of confederation be prepared and transmitted to the respective Colonies for their consideration and approbation. In 1777, the Articles of Confederation were agreed to and submitted to the States, but the Articles were not ratified until Maryland, the last state to ratify, finally agreed to the Articles on March 1, 1781.

The Articles remained in effect until the inauguration of the new government under the Constitution in March of 1789.

The Articles of Confederation reflected the suspicions that early Americans had of a centralized government. Having just freed themselves from the rule of a King, they were not about to accept strong executive leadership, either in the states or in the nation as a whole. The Articles, therefore, created only a single-chamber national legislature, without either an executive or a judiciary.

But Congress under the Articles represented more than just a league of sovereign states. As Professor Jack Rakove of Colgate University has pointed out in his study of the Continental Congress, "Congress was in fact a national government, burdened with legislative and administrative responsibilities unprecedented in the colonial past." Congress had the authority to determine foreign policy, to coin and borrow money, to requisition the states for men and money, to regulate Indian affairs, and to mediate disputes between the states. On minor matters a simple majority of seven votes was necessary (with each state having one vote), but on major matters of war, finance, and treaty making, a majority of nine votes was required. Amendments to the Articles required the unanimous consent of the states. Because there was so much disagreement between the states, north and south, large and small, merchant and agrarian, a majority of nine was extremely difficult to achieve on major issues, and unanimity among the states was almost impossible.

Administrative leadership under the Articles came only from congressional committees, but these were hobbled by a rule which prohibited members from serving in Congress for more than three out of every six years, thus restricting seniority and making it difficult for committee members to build up sufficient expertise. The proliferation of standing and special committees also proved a drain on the legislative functions of the Congress.

The government under the Articles of Confederation was not without its achievements—such as winning the war with Great Britain, and establishing the Northwest Ordinance of 1787 which organized the vast American territories which now comprise the states of Ohio, Indiana, Illinois, Michigan, and Wisconsin. But for the most part this government was known for its weaknesses and inefficiency. States frequently ignored its requests, continued printing their own money, and erected barriers to interstate trade. Many of the leading men of the era, George Washington, James Madison, Benjamin Franklin, and others, sought a stronger, more stable, more efficient form of government. They were particularly alarmed over an insurrection by debtors in Massachusetts, under the leadership of Daniel Shays. Washington was mortified that "Shays' Rebellion" had been led by a former officer in his army "I feel infinitely more than I can express," he wrote, "for the disorders which have arisen. Good God! Who besides a tory could have foreseen, or a Briton have predicted them."

The late constitutional scholar Clinton Rossiter very aptly described the reaction of men such as Washington to the events they witnessed under the Articles of Confederation:

> By 1787 men like Washington and Madison had come to see the commercial, financial, social, and diplomatic disorders of the new Republic as primarily political in character. The trouble with almost every state was that it was governed weakly or erratically; the trouble with the United States was that it was governed hardly at all. Since they also saw these disorders as primarily national in scope, as afflictions that no state could hope to cure on its own, the most unbearable ill was a palsied common government.

I again quote from the *Formation of the Union Under the Constitution:*

"The Confederation, under the Articles, had three great weaknesses. It had no means of revenue independent of that received through its requisitions on the states, which were nothing more than requests, which the states could and did disregard; and it had no control over foreign or interstate commerce. Behind these lacks was its inability to compel the states to honor the national obligations. It could make treaties but had no means to compel obedience to them; or to provide for the payment of the foreign debt. It had responsibility but no power as a national government; no means of coercing the states to obedience. . . . Its greatest weakness was that it had no direct origin in, or action on, the people themselves; but, unlike both the Declaration of Independence and the later Constitution, knew only the states and was known only to them, calling them sovereign."

In June of 1786, the Congress debated a motion by Charles Pinckney of South Carolina to amend the Articles to create a federal appeals court, and to strengthen the power of Congress to raise taxes from the state government (in February of that year the state of New Jersey had simply refused to pay a tax which the Congress had levied). But since a unanimous vote was clearly impossible, Congress did not even bother to submit Pinckney's proposals to the states.

Instead, in September 1786, nine states accepted the invitation of Virginia to meet in Annapolis, Maryland, ostensibly to discuss interstate commercial activities. The Annapolis conference, however, recognized the broader nature of the problem and proposed that all of the states send delegates to a new convention, to be held at Philadelphia the following year, to discuss all matters necessary "to render the constitution of the Federal Government adequate to the exigencies of the Union." Creating a new central government, wrote James Madison, was now a matter that would "decide forever the fate of republican government."

All of the States except Rhode Island appointed deputies to the 1787 Convention. The deputies were appointed by the legislatures. Seventy-four men were appointed deputies, of which 19 declined to serve or did not attend. Of the 55 who attended, 14 left before the Convention closed, and three more refused to sign the final draft. Only 38 signed, with the added signature of an absent deputy, John Dickinson of Delaware, making 39.

Of the 55 men who, in varying degrees, framed the Constitution, 47 were natives of the Colonies. The oldest was Franklin, at 81; the youngest was Dayton of New Jersey, at 26. Twenty-one deputies were under 40, 14 were 50 or over.

Twenty-five were college trained. Eighteen had been officers in the Continental Army, and 1 had been a British Army officer prior to the Revolution. Thirty-four were lawyers, or had at least studied the law. Eight were merchants or financiers. Six were planters, 3 were physicians, 2 were former ministers of the gospel, and several were college professors. Benjamin Franklin represented the Fourth Estate.

Forty-six had been members of one or both Houses of Colonial or State legislatures. Ten had attended State constitutional conventions. Several had been Governors or Presidents of States, and several had been state attorneys general, while several had served as justices of state courts.

Eight were signers of the Declaration of Independence. Thirty-nine or 40 had been delegates to the Continental Congress. Six had signed the draft of the Articles of Confederation, 7 had attended the Annapolis Convention, 3 had been executive officers under the Congress, and 1 had been a minister abroad.

The positions, therefore, which these men had occupied, are indicative of the respect and regard in which they were held by their fellow citizens.

Never before, I suppose, had such an illustrious gathering of wise, able, and farsighted men met together in a common cause as on that occasion.

George Washington was the most important man in the Convention, so great was his prestige. His fellow deputies from Virginia—Madison and Randolph—were very active, Madison becoming the principal architect of the Constitution. Wythe and Mason contributed knowledge and experience which had grown out of their prominent participation in earlier American affairs of state. Franklin had great prestige, and his advice and experience made him, like Washington, a great harmonizer. Gouverneur Morris, who was a firm believer in a national system, contributed much to the verbiage of the Constitution. Alexander Hamilton did not influence the actual verbiage of the Constitution as much as he later influenced the ratification of the document and the successful operation of the new Government.

James Wilson contributed much to the details and political theory of the document. Roger Sherman was a signer of the documents of the First Congress, the Declaration of Independence, the Articles of Confederation, and would be a signer of the Constitution.

Oliver Ellsworth was an able lawyer. Gerry and King were Harvard graduates. William Patterson, John Dickinson, and Luther Martin were prominent leaders in small States—men who were dedicated to the preservation of equality for the State. Rutledge, Charles Pinckney, Pierce Butler, and Charles Cotesworth Pinckney were active in preserving the advantage of the slave system which then undergirded the economic conditions of the South.

The man who deserved the title of "Father of the Constitution" was thirty-six-year-old James Madison, whom we have just this year honored with the dedication of the new Madison building of the Library of Congress. For those members of the Senate who have not yet visited the Madison building, it contains a handsome hall which houses a white marble statue of Madison, surrounded by selected quotations from his writings inscribed on the wood paneled walls. This is certainly a fitting—if belated—tribute to a man who contributed so significantly to our system of government.

Madison had served in Congress under the Articles but had to retire in 1783 because of the three-year limitation on service. During his years out of office he became increasingly concerned over the mounting sectional tensions and the inability of the central government to respond. Madison was an advocate of the new convention and became one of Virginia's delegates. James Madison did his homework and was able to cut through the maze of complicated issues facing the convention with a sharpness of mind and a degree of preparedness that deeply impressed the other delegates. He was a man who seized the initiative when he spotted it, and thus was able to shape the course of the convention. It was Madison, also, who kept the minutes of the debates, which were conducted in secret, and so it is to him that we are indebted, for the most part, for our knowledge of the inside deliberations which produced the Constitution.

The Convention was set for May 14, 1787, a Monday, but a necessary quorum did not develop until the 25th, when 7 States were represented. Before the end of May, 10 States were in attendance and voting. Maryland participated on June 2. New Hampshire, the 12th State, was present on July 23. New York was not voting after July 10.

The meeting was held in Independence Hall where the Declaration of Independence had been adopted and signed, and where the Congress had sat.

Washington was the unanimous choice for president of the Convention. Each State had one vote. Complete secrecy was the rule, as in the case of the Continental Congress, but it was occasionally violated.

The President, even in the intimacy of his private diary, gave no hint concerning the meetings. Other than the list of motions and votes, the formal journal provides rather skimpy details. The notes on the debates kept by Madison constitute the most important record thereof, and they were not made public as a whole until 1840. Notes were kept by various other members, especially those by Yates.

Of the 116 days between May 25 and September 17, inclusive, meetings were conducted on 87 or 88 days. Our knowledge of special committee meetings and private discussions is very scarce, and most of this is based on the unreliable form of later recollection. Yet, it was in these meetings and informal gatherings that much of the real work was done.

James Madison was the principal author of the "Virginia Plan"—introduced by Edmund Randolph—which became the working plan for the new system of government. In place of the 1-house legislature, the "Virginia Plan" called for a Senate and a House of Representatives, and, in addition, it proposed a national executive and a national judiciary. In the intervening years between the Articles of Confederation and the Constitution, Montesquieu's treatise on The Spirit Of The Laws had gained great acceptance among American leaders, and the Constitution-makers were determined to apply his theories of separation of powers.

The great French philosopher had, however, in turn borrowed much of his doctrine from the Englishman, John Locke, with whose writings, various members of the Convention were also familiar. But, as Dr. Louis Fisher of the Congressional Research Service has pointed out in his fine book, ***President and Congress***, "Theory played a role, but it was always circumscribed and tested by experience."

The main origins of the original ideas of Government embedded in the Constitution lie in centuries of experience in government, the lessons of which were brought over from England and further developed through the practices of over a century and a half in the colonies and early state governments, and in the struggles of the Continental Congress. Its roots are deep in the past; and its endurance and the obedience and respect it has won are mainly the result of the slow growth of its principles from before the days of Magna Carta.

The constitution-makers were men of experience, in the tradition of American pragmatism. They understood from experience that a single branch could not adequately perform all of the functions of a central government, that some executive leadership was necessary, checked and balanced by a legislature and a judiciary.

Under the "Virginia Plan," the members of the Senate and House would have been apportioned according to the population of the states and would have the power to legislate in "all cases to which the separate states are incompetent," as well as to "negate all laws passed by the several states, contravening in the opinion of the national legislature, the articles of Union." The thrust of this proposal was a strong legislature: Congress would elect the executive and the members of the judiciary.

The larger states advocated the "Virginia Plan," while the smaller states countered with the "New Jersey Plan," which William Patterson introduced. This plan provided for equal rather than proportional representation of the states. While the New Jersey Plan basically would have continued the system under the Articles of Confederation, it added an important distinction, that the proposed constitution would be the "supreme law" of the land and would be superior to those of the states.

Between the Virginia and New Jersey plans came a proposal by Roger Sherman of Connecticut. This "Connecticut

Compromise" provided for proportionate representation in the House and equal representation in the Senate. On July 12, 1787, the convention agreed that the lower house should be apportioned according to the size of the population in each state, counting the total of white inhabitants and three-fifths of the slaves. Four days later, the convention accepted the principle that each state should have equal representation in the Senate. Thus, the unicameral legislature under the Articles of Confederation was replaced by a bicameral legislature under the Constitution, a decision to which we in the Senate owe our existence as a legislative body today.

Of course, two-house legislatures were not new to this country, but dated back to the early colonial governments. There the assemblies represented the popular local interests, while the smaller councils advised and generally supported the royal governors and the British crown. In his study of *The Upper House In Revolutionary America,* Professor Jackson Turner Main has traced the evolutions of these small councils of elites, who owed their appointments to the king, into democratically-elected legislative bodies. The colonial councils were comprised of large landholders, lawyers, and merchants, who were generally better educated, wealthier and more experienced than the members of the assemblies. After the Revolution, state constitutions turned these councils into working legislative bodies, which remained smaller than the assemblies, generally averaging fifteen members, and had longer terms in office. These upper bodies formulated, amended, and rejected laws, and acted as something of a check on the popular fervor of the lower houses. Although the upper houses had moved from an aristocratic to a democratic form, they continued to demonstrate a tendency to favor the upper classes and protect property holders. The existence of these upper houses in the states, therefore, provided the constitution-makers with models for the creation of the United States Senate.

Having decided on the basic tripartite form of government, the Convention then launched into a "Great Debate" during August and September 1787 to complete the specific details of the Constitution and enumerate the powers and responsibilities of each branch of the government. It was agreed that senators would serve for six years, while House members would be elected every two years. Senators would be elected by the state legislatures, a system which existed until the Seventeenth Amendment in 1913 provided for popular election. Congress would not have the blanket authority to legislate that the Virginia Plan originally contemplated, but would have specifically enumerated powers to tax, to borrow and coin money, to regulate commerce, to declare war, to raise and support an army, and to make all laws necessary for executing the powers vested in the government by the Constitution. Of course, we, like other branches, also operate under the "implied" powers of the Constitution as well as those enumerated.

We are, I think, all familiar with these Constitutional provisions for the Senate, but it might be instructive to look briefly at some of the proposals which were *not* adopted, and try to imagine how differently the Senate might have developed under them. I draw this material from a fascinating little book, *Constitutional Chaff, Rejected Suggestions of the Constitutional Convention,* compiled by Jane Butzer.

Delegates to the convention argued over the number of senators each state should send, whether it be one, two, or three. John Dickinson called for more than two hundred senators—this at a time when there were only thirteen states! His reasoning was that "by enlarging their number, their influence and weight will be increased by combining the families and wealth of the aristocracy, and thereby you will establish a balance against, and a check of, the democracy." Charles Pinckney of South Carolina called for states to be divided into three classes according to their respective sizes, with the largest states being allowed three senators, the middle-sized states two senators, and the smallest states one senator. David Brearley of New Jersey suggesting erasing all existing state boundaries and partitioning the lands of the United States into thirteen equal parts, since, as he said, "this is the only device by which the state equality of votes may be preserved without unfairness to the larger states."

It was suggested that the Senate be elected by the House of Representatives, or by electors, or that the president should appoint senators for life terms. Alexander Hamilton advocated that senators hold their seats for life, "or at least during good behavior." If not for life, then the terms of Senate service were proposed to be three, four, five, six, seven, or nine years. George Read of Delaware suggested a nine year term, with one-third up for election triennially. Mathematically, Read's plan would have required elections for the Senate to be held during odd years as well as even years—also, counting House elections, congressional elections would thus be held *every* year! The mind boggles at the thought.

Several delegates opposed having the vice president serve as president of the Senate. John Rutledge, reporting for the Committee of Detail, proposed that the Senate choose its own president. Elbridge Gerry—who would later become vice president himself argued that the intimacy between the vice president and president would make it "absolutely improper" for the vice president to preside over the Senate. George Mason saw such use of the vice president as an encroachment on the rights of the Senate. "It mixes too much the legislative and executive, which, as well as the judiciary department, ought to be kept as separate as possible."

On the question of recorded votes in Congress, Roger Sherman believed that the yeas and nays should not be required. "They never have done any good, and have done much mischief," Sherman argued. "They are not proper, as the reasons governing the voter never appear along with them." To this objection, Daniel Carroll of Maryland added that the Constitution should specify that any member of the Senate be at liberty to enter his reasons for casting a vote.

As to the provision that neither house of Congress could adjourn for more than three days without the consent of the other, several delegates argued that this was unnecessary since the Senate, as an advisory body to the president, should always be in session!

Then there was the question of whether or not to pay senators for their legislative services. Pierce Butler of South Carolina argued that senators should not be entitled to receive a salary, or any other compensation for their services. General Charles Cotesworth Pinckney agreed that the Senate should represent the wealthier classes and, therefore, if no salary were paid only the wealthy could serve. Benjamin Franklin also opposed a salary for senators. "If lucrative appointments shall be recommended," he warned, "we might be chargeable with having carved out places for ourselves." Edmund Randolph of Virginia, however, argued that senators and representatives should receive "liberal" compensation for their many duties.

Several delegates believed that the individual states should pay their senators' salaries, and that these salaries could vary according to the wealth and style of living in each state. Hugh Williamson of North Carolina objected to the eastern states having to pay the salaries of senators from the western states. "The new states to the westward will be poor—will pay little into the common treasury—and will have a different interest from the old states," said Williamson. "The old states, therefore, ought not to pay these expenses of men who will be employed in thwarting their measures and interests."

Mr. Williamson also suggested that a two-thirds vote should be required to pass all legislation. Thank goodness that his proposal was not adopted.

Mr. President, when we contemplate these failed proposals which would have established a Senate which was always in session, where members would serve for life at no salary or other compensation, and where a two-thirds agreement would be necessary for any piece of legislation—then we can appreciate the wisdom of the founding fathers for giving us the Senate that they did.

By September 17, the delegates had completed their work but there was still some dissension among them. Several members were unhappy with the system of government that had been wrought, and were not prepared to endorse the new Constitution. The Secretary opened the meeting with a complete reading of the magnificent document they had fashioned, and then Benjamin Franklin "rose with a speech in his hand," as Madison noted. Franklin, at eighty-two, could not stand to deliver the entire speech, and so handed it to James Wilson, another member of the Pennsylvania delegation, to read for him. It was a wise and gentle speech, typical of the great man who wrote it. Franklin sought to still the doubts of some of the delegates and to coax them into signing the Constitution, which he readily admitted was not perfect, and of which he did not entirely approve himself. He reminded some of the dissenters that they were not infallible, and compared them to "a certain French lady," who in a dispute with her sister said, "I don't know how it happens, Sister, but I meet with nobody but myself, that's always in the right."

"On the whole, Sir," Franklin concluded his remarks, "I cannot help expressing a wish that every member of the Convention who may still have objections to it, would with me, on this occasion, doubt a little of his own infallibility, and to make manifest our unanimity, put his name to this instrument." At this point, Franklin shrewdly moved that they sign the Constitution in recognition of "the unanimous consent of *the States*" rather than of the individual delegates. The Constitution was thus signed by all the members except for Edmund Randolph, George Mason, and Elbridge Gerry, who declined to sanction its compromises.

It was at this point in the proceedings that James Madison closed his minutes to the Constitutional Convention, but he added this final anecdote, one which encapsulated the entire history of their debates:

> Whilst the last members were signing, Doctor Franklin, looking towards the President's chair, at the back of which a rising sun happened to be painted, observed to a few members near him, that painters had found it difficult to distinguish in their art, a rising, from a setting sun. I have, said he, often and often, in the course of the session, and the vicissitudes of my hopes and fears as to its issue, looked at that behind the President, without being able to tell whether it was rising or setting: but now at length, I have the happiness to know, that it is a rising, and not a setting sun.

So, Mr. President, one hundred and ninety-three years later, on this Wednesday, September 17, 1980, we can conclude that Benjamin Franklin was entirely correct; that it was, and still is, a rising sun. The Constitution, with its amendments, still stands. The system of checks and balances between the branches of the federal government still operate. And the United States Senate continues to perform the vast responsibilities which the Constitution has entrusted to it.

Mr. President, I ask unanimous consent to have printed in the RECORD the names of the signers of the Constitution of the United States.

There being no objection, the names were ordered to be printed in the RECORD, as follows:

GO. WASHINGTON—
Presidt. and deputy from Virginia.

New Hampshire

JOHN LANGDON, NICHOLAS GILMAN.

Massachusetts

NATHANIEL GORHAM, RUFUS KING.

Connecticut

WM. SAML. JOHNSON, ROGER SHERMAN.

New York

ALEXANDER HAMILTON.

New Jersey

WIL: LIVINGSTON, WM. PATERSON,
DAVID BREARLEY, JONA. DAYTON.

Pennsylvania

B. FRANKLIN, THOMAS MIFFLIN,
ROBT. MORRIS, GEO: CLYMER,
THO: FITZSIMONS, JARED INGERSOLL,
JAMES WILSON, GOUV: MORRIS.

Delaware

GEO: READ, GUNNING BEDFORD, JUN'R,
JOHN DICKINSON, RICHARD BASSETT.
JACO: BROOM,

Maryland

JAMES M'HENRY, DAN: OF ST. THOS. JENIFER.
DANL CARROLL,

Virginia

JOHN BLAIR, JAMES MADISON, JR.

North Carolina

WM. BLOUNT, RICH'D DOBBS SPAIGHT.
HU. WILLIAMSON,

South Carolina

J. RUTLEDGE, CHARLES COTESWORTH PINCKNEY,
CHARLES PINCKNEY, PIERCE BUTLER.

Georgia

WILLIAM FEW, ABR. BALDWIN.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to extend beyond 11 a.m. and that Senators may speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DOMESTIC AUTO INDUSTRY DETERMINED TO RECOVER

Mr. PERCY. Mr. President, as the auto industry in this country tackles the serious job of turning itself around and reasserting its position in the domestic and world markets, it is heartening to see the spirit and determination with which the heads of the major auto companies have taken on this challenge.

I was impressed in particular by the very positive, aggressive and hard-hitting approach to recovery taken by General Motors Chairman Thomas Murphy and recently described in an article in the Christian Science Monitor.

As the article points out—

> The world's largest automaker is turning out fuel-efficient cars as fast as it can. GM's two assembly plants that turn out the X-cars are working double shifts and overtime.

We are also informed that—

> GM is also intensifying its efforts to better the Government-mandated fuel standards. Mr. Murphy said that by 1985 it will produce a passenger car fleet that averages 31 miles per gallon. The federally mandated standard for 1985 fleets is 27.5 miles per gallon.

Lee Iacocca, chairman of Chrysler said their fleets average by 1985 would be 30 mpg. Ford and American Motors look forward to dramatic increases. This is welcome news indeed, of benefit to the individual American auto buyer and to our national energy position as well.

Because Illinois is a major State in the field of auto production and the related industries, I have been working with the heads of the four U.S. auto companies and the UAW to reach a consensus on how best to revitalize this key American industry. The vigorous leadership shown by Tom Murphy, as well as by the heads of the other companies, is necessary to the survival of the industry and certainly is an example of the resiliency that has always characterized American business.

Mr. President, I ask unanimous consent that the article by Ron Scherer from the Christian Science Monitor of August 27 be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GM CHAIRMAN SAYS AUTOS TO LEAD U.S. INDUSTRY FROM SLUMP

(By Ron Scherer)

DETROIT.—The automobile industry led the economy into the recession. Now, according to Thomas A. Murphy, chairman of the General Motors Corporation, "We're going to lead the economy back."

Interviewed in his 14th-floor Detroit office, Mr. Murphy also told the Monitor:

General Motors' recent price increases of 1.9 percent on its 1981 cars do not cover the automaker's rising cost of emission control devices and other hardware mandated by the government. The price GM sells its cars to the dealer—called the dealer discount—is actually down for some cars, but unchanged for GM's smaller cars. "We recognize the trend in buying and go with the flow in terms of pricing," he said.

In his view, the downturn in the economy will be short but the recovery will be modest. "The only thing that's preventing us from selling cars," he said, "is the lack of consumer confidence. . . . Uncertainty is our biggest problem. People delay making purchases from a month to two years depending on how confident they feel about the economy." Already, he related, "the used-car market has rebounded, and this is bound to help the new-car market. We are stepping up production now to meet expected growth and restore dealer stocks, which were badly depleted."

Interest rates will not rise markedly during the recovery. This should help the industry, because it was badly hurt during the Federal Reserve Board's credit tightening moves in March. The Fed's actions, Mr. Murphy commented, were not supposed to affect the auto industry adversely, but they did, because banks stopped extending credit to auto dealers.

General Motors will post another loss in the third quarter, a model changeover period. However, it's still too early to tell if it will show a loss in the fourth quarter.

Mr. Murphy shudders when asked why the automobile companies were so slow to react to the shift in demand to fuel-efficient cars. It is a criticism that he has heard often, and he is quick to inform a visitor that it takes some historical perspective to understand why the auto companies were not ready for the massive shift to small cars. Gasoline has been cheap, he intones, and still is underpriced. And the size of the American family unit has until recently mitigated against small cars.

Furthermore, he said: "You have to look at the waves of small cars that have been produced and died of malnutrition—the Henry J. Nash, Corvair—demand for small cars was not there until 1979. Even the VW beetle, which was big in the '60s because to some degree it was challenging, not goodlooking, but dependable and economical, and had some success in the market, is now gone."

Even in 1973, he said, "after the oil embargo and the long gas lines, our main worry was how to make more family-size cars. As late as early 1979, our biggest problem was how to make more full-size cars. You know, up until 1978, foreign car sales were going down."

What triggered the rush to small cars?

"The misallocation of gas by the government in early 1979 resulted in the perception of shortages when there were none," the GM chairman replied. Then, he went on, the foreign manufacturers got lucky because they had large surpluses of small cars they could sell in this country. "They didn't anticipate the gasoline crisis. It's just that they always made small cars."

As for General Motors, the world's largest automaker is turning out fuel-efficient cars as fast as it can. GM's two assembly plants that turn out the X-cars are working double shifts and overtime. The company currently has a 48-day supply of the cars. So he tells a visitor, "If you want one, I can get it for you." Normally, the wait for a new 4-cylinder X-car in a specific color, with specific options, could take several months.

GM is also intensifying its efforts to better the government-mandated fuel standards. Mr. Murphy said that by 1985 it will produce a passenger car fleet that averages 31 miles per gallon.

Recently, Lee Iacocca, chairman of Chrysler Corporation, said Chrysler's fleet average would be 30 m.p.g. by 1985. The federally mandated standard for 1985 fleets is 27.5 m.p.g. In 1974 GM's average was 12 m.p.g. and for the 1981 models due in the showrooms in a few weeks it is 21.8 m.p.g.

Despite the remarkable rise in the number of fuel-efficient foreign cars sold in the US, Mr. Murphy said he doesn't believe the reason people buy cars has changed much over the past 25 years.

"There is still a lot of emotion involved in buying a car," he explained, "and people buy cars for a lot of different reasons, including, for example, what the neighbors will think."

Furthermore, Americans still like the performance, although he added, "I wouldn't say they are hot rodders." Mr. Murphy had a chance to get a consumer's reaction firsthand recently when his son borrowed the keys to a new Oldsmobile equipped with a diesel engine. "The car didn't have the pickup and response he was accustomed to," Mr. Murphy related, "which is just the way a fuel-efficient diesel acts."

HEARING HELD ON ALCOHOL FUELS BY PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. PERCY. Mr. President, on July 4, 1980, we celebrated the 204th anniversary of our Nation's independence. For most of our first 200 years, we enjoyed energy independence as well. Yet, in the last 10 years, we have gradually lost control of our energy future. Since the oil embargo of 1973–74, the United States has seemingly been at the mercy of a cartel of oil-producing nations. We remain so today—and in some respects, to a greater degree than we were during the original embargo.

The development of energy from renewable resources and the expanded use of one of our most abundant fossil fuels, coal, are both vitally important if we are to break free of our dependence on foreign oil. The production of ethanol from corn to make gasohol is practical on a commercial scale today. The Midwest, with its over 6 billion bushels of corn production, is a great national resource that can help us break OPEC's hold on our economy. And it can be done with a fuel that grows anew each year out of our rich soil: Alcohol produced from grain. More and more Americans are turning to this new alternative. The United States currently consumes 2 million gallons a day of gasohol, composed of nine parts unleaded gasoline and one part corn-made ethanol. Gasohol also accounts for 16 to 18 percent of the sale of one company, Texaco, Inc., in the 11 States where it is marketed. In addition to the clear advantage that gasohol offers in reducing America's dependence on foreign oil, it also increases octane and improves performance in many American cars.

The U.S. Senate Permanent Subcommittee on Investigations, of which I am ranking Republican member, held a hearing on alcohol fuels on August 12, 1980, in Springfield, Ill. We heard testimony that was extremely encouraging about the potential for alcohol fuels and gasohol. Farmers and small businessmen are extremely eager to put alcohol fuels to work for themselves and the Nation. Yet we also learned of the deep frustrations that Illinois farmers and entrepreneurs have experienced in their efforts to wage an all-out fight for energy independence. In particular, we heard of their problems in obtaining access to loan guarantees from the Farmers Home Administration.

The Congress has repeatedly affirmed its support for the development and production of alcohol fuels through tax exemptions and authorizations of loans and loan guarantees for plant construction. The recently passed Synthetic Fuels Corporation Act is only the most recent example of Congress support for alternative fuels. Back in 1977, I cosponsored a 4-cents per gallon Federal excise tax exemption for gasohol as an amendment to the 1978 energy tax bill that was designed to improve the competitiveness of alcohol fuels in the marketplace.

John R. Block, Illinois director of agriculture, was the leadoff witness at the Springfield hearing. He testified about the great potential of Illinois' corn production when turned into alcohol fuels. According to Block, just 30 percent of Illinois' corn production will produce almost twice as much fuel grade alcohol as is needed to meet the national goal of 500 million gallons a year in 1981. In addition to the 900 million gallons of alcohol worth more than $1.6 billion, this same corn contains 576 million pounds of high quality protein and oil worth more than $600 million. These facts, combined with the value of the foreign oil the alcohol will replace, bring the total to more than $2.8 billion. In contrast, this same quantity of corn is worth only $1.1 billion when sold at $3 a bushel.

Al Mavis, executive director of Agri Stills of America of Springfield, Ill., and president of the National Gasohol Commission, argued in his testimony that there has been far too little recognition on the part of the Federal bureaucracy that alcohol fuels are feasible now. He strongly believes further research and development studies simply waste tax dollars that should be used to expand commercial production of alcohol fuels.

Indeed, judging from some of the local success stories, commercial production of alcohol fuels is a practical, profitable reality. Archer Daniels Midland Co., (ADM), located in Decatur, Ill., is the single largest domestic producer of alcohol for the gasohol market. ADM distills more than 54 million gallons a year of fuel-grade alcohol—half of the United States total production of ethanol—and currently plans to expand production further. Richard E. Burket, vice-president and assistant to the chairman, testified that his company is in the process of both converting a beverage alcohol distillery in Peoria, Ill., and constructing a new alcohol fuels facility in Cedar Rapids, Iowa. By the end of 1981, ADM's plants alone will be capable of producing 260 million gallons a year—more than half of the national objective.

ADM's success is heartening, but for every ADM there are dozens or even hundreds of small businessmen who are having trouble getting their alcohol fuels projects off the ground. Unfortunately, these and other developers of new energy technologies have difficulty procuring private financing without Federal assistance in the form of loans and loan guarantees. For the moment, conventional financing sources are wary about these projects—both because of the risks attendant with a new industry and the lack of widespread experience in financing these businesses. Help is now on the way. In the recently passed Energy Security Act (P.L. 96–294), the Congress has appropriated $525 million to be used to encourage the development of alcohol fuels. Let us hope that this promising initiatitve can boost this important technology to the stage where it can attract conventional financing on is own.

It is essential that the Congress closely monitor administration of these plans. From what the subcommittee learned in Springfield, it appears that existing assistance programs have been poorly managed, and funds are not getting to the businessmen who need them. Of the $10 million currently earmarked for direct alcohol fuels loans, the Farmers Home Administration has obligated only $756,000. Less than 10 percent of the loan funds available for this fiscal year—which will end September 30—have been allocated.

But the fledgling small-scale alcohol fuels industry needs more than money to grow. In an unfortunate case that seems more the rule than the exception, C. D. Bond, of Rushville, Ill., testified about his unsuccessful efforts to secure a $350,000 loan guarantee from the Farmers Home Administration. Mr. Bond had planned to build a relatively small 1 million gallon per year alcohol plant on his wife's farm. His plans had been certified by a registered engineer and had also served as a model for an alcohol fuels seminar conducted at Colby College in Colby, Kans. Moreover, a local bank had demonstrated its faith in his ability to get the job done by approving this loan request contingent upon an FmHA guarantee of 90 percent of the loan. Yet, Mr. Bond who is most knowledgeable about alcohol fuels but not Government loan procedures, received little help from FmHA in deciphering the highly complicated loan application.

Redtape and the lack of needed technical assistance, as evidenced in C. D. Bond's experience with the Farmers Home Administration, can effectively strangle the development of small-scale alcohol fuels production in this country. George Miller, President of the Illinois Independent Alcohol Producers, Inc., a group of 25 business and agriculture leaders in Taylorsville, Ill., that is planning to build a small distillery, testified that he is just beginning to receive information on loans and technical matters from the Farmers Home Administration after over a year of run-arounds at the State level. Unnecessary frustration like this is clearly a detour on the road to energy independence.

There is some evidence, however, that administration of these Government programs is changing for the better. James E. Thornton, associate administrator of the Farmers Home Administration, testified that public hearings would be held around the country in August to gather comments on a new loan and loan guarantee program for projects of less than $15 million which, under the Energy Security Act, will be administered by FmHA. (The Department of Energy will have authority for all projects of over $15 million.)

He also testified that improvements have been made in both the loan process and the level of technical assistance given to applicants. Additional technical training will be provided to loan officers to better acquaint them with both the credit and economic feasibility aspects of alcohol fuels technology. Furthermore, Thornton pledged that the Farmers Home Administration will commit the approximately $70 million in loans and loan guarantees remaining in this year's appropriation before the end of the fiscal year.

While aspects of the hearings were certainly disheartening, there were also elements that reinforced my belief in our ability to find our way out of today's energy problems. Drs. Kenneth E. Tempelmeyer and Charles B. Muchmore, both of Southern Illinois University, described a new process that can harness two great national resources located in the Midwest: Coal and alcohol from grain. This "ethacoal" process is created by mixing pulverized coal with alcohol. The result is a thick slurry that can be transported through a pipeline and then separated into distinct gaseous, liquid, and solid forms of energy products. The gas produced is similar to natural gas with a high British Thermal Unit (Btu) content. The resulting solid product resembles coal. There is, however, one important difference: The solid is 30 to 40 percent lower in sulfur, making it a far cleaner fuel to burn. Ethacoal, perhaps, may be the new wonder fuel—if it can cut oil use, give us cleaner air, and vastly expend the utilization of Midwestern coal reserves.

My esteemed colleague, Representative PAUL FINDLEY of Illinois, reported on another important energy-related discovery by a constituent of ours, Mr. Wilbur Clair, of Quincy, Ill. According to Mr. Clair, most carburetor floats installed in American cars absorb significant quantities of gasoline. The resulting increase in weight, according to follow-up studies conducted under a Department of Energy contract, causes excess gasoline consumption that may be responsible for anywhere from a 5- to 27-percent loss in fuel economy in most cars on the road today.

In California, Mr. Chuck Stone, president of Future Fuels of America, Inc., of Sacramento, Calif., has converted a Piper Super Cub to fly on methanol produced from industrial waste and natural gas, and potentially from coal. Former astronaut Gordon Cooper, and Bill Paynter, former chief pilot for Governor Reagan, piloted the plane to Springfield from Sacramento, Calif., in an attempt to achieve Federal Aviation Administration certification for it as the Nation's first alcohol-powered airplane. The plane was on display outside the hearing site, and taxied around the fairgrounds along with several other pure alcohol-fueled vehicles at the conclusion of the hearing.

Technical innovations like the ethacoal process and Wilbur Clair's discovery, and entrepreneurs like the Independent Illinois Alcohol Producers and Chuck Stone can lead the way as America breaks out of the oil-producing nations' stranglehold on our economy and national security. Two hundred years ago, we undertook a revolution to achieve political independence. The "can do" attitude and determination of alcohol fuels proponents that I saw at the permanent Subcommittee on Investigations' hearing in Springfield, Ill., proves to me that we have the ability to regain our energy independence. Enthusiastic support of alternative fuels like alcohol is essential if America hopes to achieve a second revolution for energy indepndence, a revolution that is critical to maintaining our national security. I am determined to guarantee that the Federal bureaucracy will provide the technical and financial assistance to commercial development of alternative fuels on both large and small scales mandated by Congress.

Mr. President, our country is not alone in this battle for energy independence. Nor are we in the lead on alcohol fuels development. Our neighbor to the South, Brazil, is committeed to a massive alcohol conversion program as its principal means for reducing its dependence on foreign oil. If Brazil can do this, I see no reason why the United States cannot do so as well. I ask unanimous consent that an article from the August 19, 1980, Wall Street Journal, describing Brazil's alcohol fuels program, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BRAZIL'S ALCOHOL-RUN CAR STARTS UP

(By Everett G. Martin)

SAO PAULO.—Brazilians love to poke fun at the government. There was the time, for instance, that Sao Paulo voters nearly elected a hippopotamus to city office.

The butt of many recent jokes was the national government's apparent inaction on its program to substitute pure grain alcohol, or ethanol, for gasoline in cars. A favorite car-window sticker read: "Powered by alcohol—only the driver."

But that sticker has disappeared, and another kind of window placard is seen in more and more public vehicles, taxis and private cars. Each placard announces that the vehicle is powered by ethanol.

Brazil's ambitious alcohol program—after seemingly interminable delays—is finally under way. In the first half of 1980, the number of cars powered by alcohol mushroomed from 1,500—all experimental vehicles in government fleets—to about 40,000.

Auto-industry sources say that, by the end of this year, they can build a further 140,000 cars with engines modified to burn the 190-proof alcohol. But they say actual output will depend on whether the government eases the severe restrictions on car-sales financing, imposed to combat Brazilian inflation of nearly 100% this year.

The alcohol program was originally formulated in 1975 to cut the country's heavy dependence on imported oil. Virgilio Frizzotti, a private consulting engineer on alcohol projects here, says Brazil has the right ingredients for a successful program: It has the tropical climate suitable for growing sugar cane, which is an efficient raw material for distilling alcohol. It has ample unused land to expand cane production. And it has an industry sophisticated enough to supply equipment for alcohol projects.

U.S. WON'T SWITCH

He says other countries with comparable characteristics include Australia, South Africa and India. While the U.S. can produce some sugar cane plus some usable grains, questions of efficiency and competition for land use indicate that the U.S. won't switch to pure alcohol as an alternate fuel.

But gasohol, a mixture of 90% gasoline and 10% alcohol, is being used on a limited basis in the U.S. as a substitute for gasoline. Thus energy experts in the U.S. are interested in how Brazil fares with its alcohol program.

Brazil targeted 2.8 million gallons of alcohol output by 1985. But project approvals bogged down in red tape, there was no network of service stations with alcohol pumps, and the auto industry wasn't authorized to sell alcohol cars to the public.

But the latest big oil-price increase jolted the government into action. Alcohol cars went on sale last April. Alcohol projects now get approved in little more than a month. And a motorist can, in theory, travel from Sao Paulo north to Belem, at the mouth of the Amazon River, and find alcohol stations along the way.

At the heart of the alcohol program are government incentives for alcohol production and government price-setting to ensure that gasoline costs 35% more at the pump than alcohol.

Private industry is offered government loans at "giveaway" terms to plant virgin land in sugar cane and build distilleries nearby. The smallest project economically feasible, according to Mr. Frizzotti, is a distillery that produces 32,000 gallons of ethanol a day using as fuel the sugar-cane husks supplied by 15,000 acres of cane. Such a project will cost about $20 million, with the government supply 80 percent of the financing through loans that carry 30 percent interest and aren't indexed to inflation.

A GUARANTEED MARKET

"With our inflation," Mr. Frizzotti says, "you pay back less than you borrow." Besides that, he adds, "you have a guaranteed market and a guaranteed price. You can't find many investments like that."

Some 280 projects with total estimated output of 1.9 million gallons of ethanol a year have been approved so far. At that rate, Mr. Frizzotti believes the target of 2.8 million gallons in 1985 will be reached. If so, a fourth of all Brazilian cars could be running on alcohol in 1985, saving 170,000 barrels of oil a day.

A key to the recent burst in progress was the auto industry's pledge to begin building alcohol cars. Its first commitment was to product 250,000 alcohol cars this year, or one-fourth of total auto output. But credit restrictions and buyer hesitation led them to cut back their plans.

"We can only build what we can sell," says Bernhard Eland, general sales manager at the huge Brazilian subsidiary of Volkswagen AG of West Germany. VW has half of Brazil's car market and 60 percent of the alcohol-car market. "When the market is there," he adds, "we can build all alcohol cars."

Ethanol cars cost about 10 percent more to make, Mr. Eland claims. They require special coatings in the fuel system to protect against alcohol corrosion and an extra two-quart tank for gasoline, which is used for starts on cold days. Because of its higher octaine rating, alcohol provides livelier performance, but the alcohol car needs about 10 percent more fuel than its gasoline-powered counterpart. That shouldn't be a disincentive to buying an alcohol car in Brazil because of the fuel-price differential maintained by the government.

STEELING FOR COMPLAINTS

VW is also steeling itself for a rash of customer complaints about the alcohol cars. "With distilleries all over the country producing alcohol, the quality is sure to be uneven," Mr. Eland warns, "and the car makers are going to get the blame for poor performance. It is very complicated to make such a big change so fast."

But Brazil must move fast to cut its dependence on imported oil. It imports 80 percent of its petroleum, and its oil-import bill will jump to $10 billion this year from almost $7 billion in 1979. Paying for petroleum takes half of the country's export earnings, and the mounting trade deficit requires more and more loans from abroad that could otherwise be used for economic development. With about $50 billion in foreign debt, Brazil is among the most heavily indebted countries in the world.

Despite extensive exploration in Brazil, there doesn't appear to be much long-range hope for domestic oil production. Thus the country plans to get most of its electricity from water power and to run at least half its cars on ethanol by the end of the decade. A pilot plant is being built to experiment with making even more ethanol from fast-growing eucalyptus trees, and there are less-defined plans for exploiting deposits of charcoal and coal. The country also has untapped shale-oil reserves.

A major unsolved problem is finding a suitable substitute for diesel oil in trucks, which account for 80 percent of total freight transport in Brazil versus 30 percent in the U.S. Chrysler Motores do Brasil, now a VW subsidiary, has an alcohol truck engine almost ready for production, but it consumes 65 percent more fuel than a diesel engine. The company plans to sell the trucks only to the sugar-cane industry, thus enabling it to become entirely self-sufficient in energy.

The goal is to lower petroleum's share in Brazil's total energy consumption from 58 percent today to 38 percent by 1990. Taking into account Brazil's anticipated economic growth, that means petroleum consumption would be about 1.2 million barrels a day in 1990, or about the present level.

SENATE PAGES

Mr. BAKER. Mr. President, I would like to share with my colleagues today a letter received by the secretary to the minority, Mr. Hildenbrand, from one of the Senate's always outstanding group of group pages.

I am sure many of my colleagues will remember Jim Jacobson of Maryland, who served as a Republican page for 3 weeks this past summer. As one who called on his services often, I remember and appreciate his diligence and courtesy.

And I would relay to my colleagues the message from young James' letter, for it really is addressed to us all:

He wrote of his service as a page:

> It was a most meaningful experience, it is very popular to criticize our congressional leaders, but after working with them, I realize how well versed they are in a wide variety of areas . . . I have gained a greater respect for their work and dedication to it.

As well as this letter speaks of those of us in the Senate, Mr. President, it speaks all the more of the young man who wrote it, and of all those who serve the Senate as pages.

From time to time, the value of the page program, both to the Senate and those who participate in the program, is called into question. All of us can readily attest to the contributions these young men and women make to the Senate.

And I believe James' letter attests to the value this experience holds for the pages themselves.

All of our young people, Mr. President, and most particularly those who serve as our pages, are the legatees of the traditions and works of the Senate. So very soon, they will be the trustees of the Senate.

James' letter reassures me, Mr. President, that the Senate will be in good hands.

At this time, I ask unanimous consent that the text of the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JAMES W. JACOBSON,
Potomac, Md., September 6, 1980.

Mr. BILL HILDENBRAND,
Secretary for the Minority,
U.S. Capitol,
Washington, D.C.

DEAR MR. HILDENBRAND: Thanks for making it possible for me to be a Senate page. It was a most meaningful experience.

Seeing the United States Senate at work and exchanging words with some of the most important leaders in the country was an experience that I will long remember.

It is very popular to criticize our Congressional leaders, but after working with them I realize how well versed they are in a wide variety of areas. The amount of reading a Senator must do is staggering. I have gained a greater respect for their work and dedication to it.

Another fascinating point of being a page is associating and making friends with the other pages who are from around the country. It is great to hear about everyone's own home town.

It was a wonderful three weeks, and I hope I have the opportunity to do it again next year.

With many thanks,

JIM JACOBSON.

CONSTANTINO BRUMIDI DAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1042.

Mr. BAKER. Mr. President, reserving the right to object, and I will not, the reservation, Mr. President, is to advise the majority leader that that item is cleared on our calendar as well, and we have no objection to its consideration.

Mr. ROBERT C. BYRD. Mr. President, later I will ask that Calendar Order No. 1041 be indefinitely postponed.

Mr. BAKER. If the majority leader will yield, both of those items are cleared, and that procedure is satisfactory to us.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will state the joint resolution.

The assistant legislative clerk read as follows:

> A joint resolution (H.J. Res. 594) to authorize and request the President to issue a proclamation designating September 18, 1980, as "Constantino Brumidi Day."

The Senate proceeded to consider the joint resolution.

Mr. ROBERT C. BYRD. Mr. President, I pause to reflect very briefly on the life and career of Constantino Brumidi.

Brumidi was born in Italy in 1805, came to the United States and painted many of the frescoes and friezes in the Capitol Rotunda and other areas of the Capitol.

He died at the age of 75, in 1880.

I remember one classic statement of of his. and I may not be entirely accurate. He said, "I no longer wish for fame and fortune. My only ambition and my only longlasting prayer is to live long enough to make the Capitol beautiful, in the only country in the world where liberty exists."

Brumidi did not live to finish his work, but he lived long enough to make the Capitol beautiful.

The distinguished Senator from New York (Mr. MOYNIHAN) and others who have joined in cosponsoring this resolution are to be congratulated on remembering this great man who came from Italy and whose desire was to make this Capitol beautiful and who believed so fervently in the United States of America as the only country. in his words, where liberty exists. I congratulate them. I am also a cosponsor.

I hope our remarks will reflect on the contributions that men like Brumidi have made. not only to the Nation's Capitol but also to the country.

I, for one, am a little tired of hearing the use of hyphenated names for many Americans. These are all Americans. They are not Jewish-Americans; they are not Greek-Americans; they are not Italian-Americans. They are Americans.

I am sure that not only those persons in America of Italian ancestry take great pride in the contributions Brumidi made, but others of us do as well.

The ACTING PRESIDENT pro tempore. The question is on the third reading of the joint resolution.

The joint resolution (H.J. Res. 594) was read a third time, and was passed.

The preamble was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar No. 1041 be indefinitely postponed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PETER FREUCHEN'S FIGHT AGAINST GENOCIDE

Mr. PROXMIRE. Mr. President, Peter Freuchen is a man whose actions should inspire the Senate to ratify the Genocide Convention. Peter Freuchen was an Arctic explorer and newspaperman in his younger days. His wooden leg was the result of surgery he had performed on himself during an expedition in 1921.

Freuchen committed himself to fight the heinous crime of genocide long before the Nazi war machine brought its evil policies to his beloved Denmark. A middle aged Peter Freuchen helped to organize the Society To Help Nazi Victims. His private island served as a refuge for Jews smuggled out of Germany.

In one of his books, "Vagrant Viking," Freuchen explained how he personally saved several Jews. His island was strategically located on the Baltic Sea. As excursion boats sailed near his island home, passengers jumped overboard. Using his speedboat, he would pluck them from the icy water. When dry and reassured, he sent them to Sweden via small fishing vessels.

When the Nazis invaded Denmark, Freuchen joined the underground. He was captured by the Germans and sent to a concentration camp. During the distraction of an air raid, he managed to escape.

He resumed his activities with the underground. His unrelenting acts of courage against the Third Reich's genocidal policies resulted in recapture. This time the Nazis robbed him of his wooden leg to insure that he would not escape again.

But with the aid of the Danish underground, the indomitable Freuchen escaped again.

Mr. President, I believe this Senate should seek to emulate the spirit of Peter Freuchen in his crusade against genocide. This Senate should join the 85 other nations that have already ratified the Genocide Convention. We should delay no longer. Peter Freuchen demonstrated the persistence that was needed to combat the heinous crime of genocide. We should do no less. Let us act now to take a determined stand against the recurrence of genocide. Let us ratify the Genocide Treaty.

QUORUM CALL

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS FROM FRIDAY, SEPTEMBER 19, UNTIL MONDAY, SEPTEMBER 22

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Friday, no later than 6 p.m., the Senate go into recess until Monday, at 12 noon.

I say 6 p.m. because of the religious holiday that begins at 6 p.m. on Friday and extends into Saturday.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I have cleared this request with the minority leader.

I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 517 for not to exceed 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 517) waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 7831.

The resolution was considered and agreed to, as follows:

Resolved, That pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of H.R. 7831, a bill making appropriations for the Department of Transportion and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

Such waiver is necessary to permit the appropriation of $166,000,000 to become available for a fiscal year for which the first concurrent resolution on the budget has not been agreed to. Specifically, the spending authority would become available for fiscal year 1982 for the capital program of the National Railroad Passenger Corporation. This advance appropriation is authorized under the provisions of Public Law 96–73, the Amtrak Reauthorization Act of 1979. The legislation recognizes that in purchasing passenger equipment, Amtrak must be able to make multiyear commitments, and that Amtrak has successfully initiated cost-effective purchasing programs using this authority.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. LAXALT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMPETITION IN THE FUTURES INDUSTRY

Mr. HELMS. Mr. President, periodically—and with more frequency than most of us would desire—the Government goes beyond its day-to-day meddling in our economy, and really attempts to avert competition.

The editors of Financial Trend, a weekly business and investment publication in Dallas, Tex., recently described such intervention in a most revealing fashion. The article places a perspective on the Commodity Futures Trading Commission's role in attempting to preclude competition in financial futures in the industry that remains one of the last best bastions of the free enterprise system.

The Chicago Mercantile Exchange, which founded the International Monetary Market (IMM) in 1972, and the Chicago Board of Trade (CBT), have been trading a number of financial instrument futures contracts, including Treasury bills at the IMM and Treasury bonds at the CBT. Both exchanges have been particularly successful in their respective markets despite the approval of the trading of similar contracts at other exchanges.

These two exchanges dominate their respective markets for a simple reason. The marketplace, not a Federal agency, has thus far determined that they do their jobs well. These exchanges are big enough to provide the liquidity that enables hedges to get in and out when they desire. The management of the exchanges evidently has the skill to execute transactions well and promptly.

And not the least of reasons why an exchange becomes successful in the commitment each makes to its market by educating potential hedgers on how they can effectively reduce borrowing costs by hedging the risk associated with great interest rate volatility.

These exchanges have been successful and are respected throughout the futures trading industry. The exchanges involved have not sought any exclusive franchise on their work product but have sought to maintain their ability to compete with any of the newer exchanges now entering the market.

Recently, the Commodity Futures Trading Commission—which Congress created in 1974 with oversight responsibility—entered the competitive fray. It entered not for oversight purposes, but evidently to curtail competition among the exchanges by attempting to grant an exclusive franchise to deal in a specific Treasury bill futures contract. To give such exclusive rights to a particular exchange seems to be an action the Commodities Futures Trading Act does not allow. In fact, the courts upheld, in a recent decision, the right of the CME and CBT to trade in additional months of existing futures contracts. The court said that prior CFTC approval for this added trading was not necessary and the court further noted that such trading was specifically provided for in the exchanges' rules that had been approved by the CFTC.

Now, however, because of new intervening actions by the CFTC, it may be that these exchanges are not going to be able to trade in all the months of contracts without great cost and new regulatory hurdles.

Mr. President, I ask unanimous consent that the article in Financial Trend magazine be printed in the Record at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the Record, as follows:

Commodities Corral

(By Eugene R. Jackson)

To have an "open interest" of one in the futures market, there must be one person long a futures contract and another person short a futures to create an open interest (matched pair) of one.

Come to think about it, we have to have those matched pairs. One can not buy something unless someone sold it. And it is a bit difficult to sell something unless there is a buyer.

Anyway, the open interest in June Treasury bill futures on the last trading day was 1,921. Each T-bill futures is for $1 million worth of the 3-month bills. Total value of the longs and shorts represented $1.921 billion.

Had the folks who were long those futures decided they actually wanted to take delivery of them, the shorts would have had to go find some. And there was six billion dollars' worth of the little rascals floating around in the cash market from the previous Monday's auction.

At that time, the open interest in the June Government bond futures was a bit over 5,000 contracts. At $100,000 per futures contract, there was an involvement of about $50 million, and $25.4 billion in publicly-held bonds satisfying the delivery specifications.

The idea that someone might buy up all of the available supply and then squeeze the market seems a bit on the farfetched side of logic. Yet the Commodity Futures Trading Commission. Treasury officials, and the Federal Reserve Bank can't seem to find any better reason to oppose the trading of additional bill and bond futures on the Chicago markets—additional delivery months, that is.

Underneath all the oratory is a bit of free enterprise and government confrontation on a subject that isn't being talked about very much by the government boys. It goes like this.

The Chicago Board of Trade invented the GNMA and Treasury Bond futures contracts a few years ago. And the Chicago Mercantile's IMM division was first with the T-bill futures. They got off to a slow start and were quite expensive operations for a while as the exchanges were educating folks how to use them.

Wild interest-rate fluctuations showed a real need for these vehicles. And there were a lot of speculators who thought they knew more about interest rates than pork bellies and began trading the interest-rate futures. And the volume of trading began to expand. Then explode. A lot of commissions were generated. And the New York stock exchanges felt left out.

First to do something about it was the American Stock Exchange which gave birth to the American Commodity Exchange. The kid didn't do very well in the sterile climate of New York. Even the Big Apple boys felt they could get a better shake for their money in Chicago.

And the New York Stock Exchange still felt left out on all of those commission dollars they were missing. So they formed the New York Futures Exchange (NYFE, pronounced "knife") and took over the ACF offspring. They plan to begin operations in early August with some futures months of bonds and bills that were not being traded in Chicago.

Now anyone with any brains at all would know that those Chicago fellows would not just stand idly by and wish the competition the best of luck on a deal like this. So they recently added those New York months to their stable of tradeable futures. And New York doesn't have the exclusive merchandise they thought they would have. Now they have to compete. And that has not been their long suit for a number of years.

The New Yorkers, being regulated by the Securities Exchange Commission, etc., know a lot of folks in Washington. And they told their Washington friends what those Chicago fellows were up to, suggesting it sure would be nice if they could go ahead with their idea to horn in on the game with a bit of an advantage like a couple of exclusive futures.

The CFTC sent a message up to Chicago saying in effect, "Fellows, you didn't ask us for these new months. So knock it off and let New York play." And the fellows in Chicago said, "Hell, we didn't have to ask you. Get your head screwed back on straight."

And that is what they are really arguing about. It is fun to listen to. And one sort of hopes that the fellows wearing the white hats win.

U.S. CONSTITUTION'S 193D BIRTHDAY CELEBRATED IN NATION'S CAPITAL WITH EMPHASIS ON CITIZENSHIP RESPONSIBILITY

Mr. RANDOLPH. Mr. President, today is the 193d birthday of the Constitution of the United States.

It is appropriate that, as we gather in the Chamber of the U.S. Senate, the hall of the people, discussing and formulating the policies and laws of the United States of America, we reflect on the significances of our long march from serfdom to guaranteed freedoms.

This morning, with my colleagues Senators Javits and Morgan, Representatives Ottinger and Hughes, and others, I was privileged to participate in a birthday party for our Constitution. We were joined by the representatives of over 100 national organizations active in 50 States, the District of Columbia, and the territories.

The conclave proclaimed the period from today's date through September 17, 1987, the 200th birthday of the Constitution to be the "The Constitution Era, a time for Citizenship Education." I urge my collegues to join in that proclamation which is both appropriate and timely.

In addressing the participants, I expressed my belief in the Constitution and my belief in the Government "of the people, for the people, and by the people."

I did express, however, concern that we are in danger of losing our status as a participatory democracy. As in 1978, when only 34 percent of eligible voters cast their ballots, we are faced with the anomalous siutation of a minority of voters setting the course for a majority who chose not to vote. A majority of the minority establishing the policy for the majority. I told the 250 citizens present: "We must disarm this tragic trend if we are to be worthy of the legacy given us by our Founding Fathers and Mothers."

The failure of 18-, 19-, and 20-year-olds to exercise the franchise granted them by the 26th amendment to the Constitution is of particular concern.

As the author of that amendment which I first introduced in 1942 as a Member of the House of Representatives and which was incorporated into the Constitution on July 2, 1971, I am deeply distressed when, as in the most recent general elections of 1978, only 20 percent of eligible 18- to 20-year-olds exercised their right to vote. The right to vote, as we know, carries with it also the responsibility to cast the ballot. If not exercised, this right will deteriorate, eventually ceasing to exist.

The sponsoring groups of today's event—Convention II, the National Association of Secondary School Principals, and the National Association of Student Councils, all are actively involved in promoting citizen involvement. In conjunction with other groups such as the Council for the Advancement of Citizenship, Operation PUSH, and the Institute for Political and Legal Education, the sponsors have implemented voter registration programs for young adults. They are to be encouraged and congratulated for their efforts.

Particular note should be made of the selfless efforts of individuals such as Boris Feinman and Tim Leighton of Convention II, Mary Ann Kirk from the Center for Citizenship Education and the Council for the Advancement of Citizenship, for their positive contribution to advancing meaningful citizenship in the United States.

This morning, there were 193 candles surrounding a relief map of the United States to commemorate the Constitution's birthday. Significantly, Mr. President, in the words of Bob Feinman, who coordinated today's events, "to symbolize the rootless, the bottom rung, the upward striving and the arrived—all of whom the Constitution is designed to serve" the children of three migrant farmworkers families lit the first candles. They were Joseph Greenwich, Heather Hernandez and Julio Alonzo.

Mr. President, I ask unanimous consent to have printed in the Record the names of the participating organizations of today's birthday celebration.

There being no objection, the material was ordered to be printed in the Record, as follows:

Advertising Council.
Amer. Assn. of School Administrators.
Amer. Bar Association.
American Legion.
American Legion Auxil.
Americans For Dem. Act. Youth Caucus.
Amer. Red Cross Youth Services.
Boy Scouts of America.
Camp Fire Girls.
Center For Citizenship Education.
Center For Policy Research.
Chamber of Commerce of USA.
Citizen Education Clearinghouse.
Close Up Foundation.
College Democrats.
College Republican National Committee.
Common Cause.
Community Involve. For Resp. Cit.
Convention II.
Convention II N.Y.
Council For Educ. Day and Research.

Council of Chief State School Off.
Council For Inter-Institutional Lead.
Council of State Governments.
Disabled American Veterans.
Education Commission Of the States.
Film Educators.
Four H Council.
Future Business Lead. Of America.
Future Homemakers of America.
Girl Scouts of the USA.
Girls Nation.
Inst. For Educational Leadership.
Inst. For Pol. & Legal Education.

PARTICIPATING ORGANIZATIONS

International Council on Law related Ed.
League of Women Voters.
M. P. Peyser & Associates.
Migrant Workers.
Mutual Broadcasting Co.
Nat. Assessment of Ed. Programs.
NAACP.
Nat. Assn. Elementary School Principals.
Nat. Assn. Of Independ. Schools.
Nat. Assn. of Manufact.
Nat. Assn. of Schools Of Pub. Affairs & Admin.
Nat. Assn. of Student Councils.
Nat. Catholic Educ. Assn.
Nat. Cath. Youth Orgs. Fed.
Nat. Conference of State Legislators.
Nat. Council For Social Studies.
Nat. Council of Negro Women.
Nat. Education Associate.
Nat. Energy Ed. Day.
Nat. Exec. Svce. Corps
Nat. Governors Assn.
Nat. League of Cities.
Nat. School Boards Assn.
Nat. School Resources Network.
Nat. School Volunteer Program.
Nat. Street Law Inst.
N.Y. State Council For Social Studies.
Pet Foods, Inc., Musselman Division.
Political and Legal Educational Associates.
Republican National Committee.
Research For Better Schools.
Robert F. Kennedy Memor.
Robert Taft Inst. Of Government.
Student National Ed. Association.
United Fed. of Teachers.
United States Jaycees.
U.S. News & World Report.
Vocational & Ind. Clubs of America.
Washington Monthly.
YWCA.

BOARDS AND SYSTEMS IN EDUCATION

Arkansas Dept of Ed.
Illinois Supt of Ed.
Maryland Assoc of Student Councils.
Maryland Council on Economic Ed.
Maryland Dept of Ed.
N.Y. State Dept of Ed.
Pennsylvania Dept of Ed.
Wash DC Board of Ed.
Wash DC Student Adv. Council.
Wash DC Supt Schools.
Washington State Dept of Ed.
Anne Arundel County.
Baltimore City.
Baltimore County.
Calvert County.
Carroll County.
Charles County.
Frederick County.
Howard County.
Mamaroneck Town.
New Rochelle City.
Westreville City.

SCHOOLS

Boiling Springs, Pa.
Greenbelt Jr. Hs., Md.
Ketterinf/Fairmont, Ohio.
New Rochelle HS.
Mamaroneck, HS, NY.
New Rochelle HS, NY.
Ossining HS, NY.
Washington DC Schools.

UNIVERSITIES

Alabama-Center for Public Law.
American-Law.
George Mason-Ed.
Georgia-Coll of Ed.
Georgetown-Commun. Action Coalition.
Indiana-Social Studies Development Center.
Johns Hopkins-Evening College.
Maryland.
Pace-Inst. For Sub/Urban Governance.
Portland State-Law Related Education.
Southern Assoc. of Colleges and Schools.
Temple.
Towson State.
Wright State-Coll of Education.
Wyoming-Coll of Ed.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that morning business be closed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT-INDEPENDENT AGENCIES APPROPRIATIONS, 1981

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 7631, which will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 7631) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1981, and for other purposes.

UP AMENDMENT NO. 1587

(Purpose: To prohibit retroactive application of regulations in connection with the construction grants program)

Mr. JEPSEN. Mr. President, I send an amendment to the desk, and I ask unanimous consent that the names of Senator SIMPSON, Senator DOMENICI, and Senator GARN be added as cosponsors of the amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Iowa (Mr. JEPSEN) for himself and others, proposes an unprinted amendment numbered 1587.

Mr. JEPSEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 17, line 21, before the period, insert the following: ": *Provided*, That none of the funds appropriated in this Act shall be used to enforce, retroactively, any regulation issued under the construction grants program or any project requirements or conditions not in effect at the time the grant for a project is awarded.

Mr. JEPSEN. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JEPSEN. Mr. President, it is reasonable to adequately protect the health of residents in our small towns and communities from unsafe or improper sewage treatment wastes. But the Environmental Protection Agency has been unreasonable in the regulatory changes it has imposed on small towns and communities retroactively. In effect, this has undermined their ability to provide this protection.

The amendment I am offering today will help eliminate some of the bureaucratic and regulatory roadblocks which have thrown off course the efforts of small communities to meet these regulations, causing unreasonable delays and costing millions of dollars to towns and communities throughout this country.

My amendment is very simple. Practically speaking, it prohibits EPA from blackballing the small community into accepting new, retroactive regulations after local planners believed and thought they had agreed on all the necessary conditions.

Obviously, since a sewage treatment plant is often the biggest investment a small community makes, the impact of a changed regulation can play havoc with a small town's budget, delay construction of the critical facility, and create a mountain of expensive, economically prohibitive paperwork.

State and local governments should be able to rely on the present rules of the Federal game when they decide to commit their limited resources. Reasonably speaking, Mr. President, this amendment will help assure them that complying with the Federal grant rules is not like trying to "paint a moving train."

I am not the first Senator to attempt such a change. Last year Senator BELLMON offered an amendment during committee consideration of EPA's appropriation request to prohibit the same retroactive regulation changes. The amendment was accepted by the full Appropriations Committee, but changed on the Senate floor when the EPA promised to provide an "administrative solution to the problem which would avoid a legislative change." EPA at that time also promised that they would instruct the "program that no new requirements are to be applied to a project with step 3 grant assistance where construction is underway or likely to be underway within 6 months of the grant award."

Unfortunately, step 3 retroactive changes have seldom been the problem. In fact, EPA rarely applies retroactive regulations if step 3 grant construction will be underway within 6 months of the award. The real problems occur in step 1, the planning phase, and step 2, the design and technical specifications stage. Approximately 80 percent of the engineering is completed at the end of steps 1 and 2. Changes in step 2 can send the project back to step 1, but without the additional grant moneys from EPA to help pay for the changes mandated retroactively by the agency.

Understand, Mr. President, that I am not in any way trying to establish a direction interfering with the actual compliance of regulations and ground rules entered into during the negotiations and the workup of the grants. This amendment, I reemphasize, would only be to prohibit the use of retroactive regulations. Once everything has been worked up and approved, once everyone thinks they understand the rules of the ball game that were so carefully scrutinized and planned and they get moving down the road, contracting for engineers, builders and materials, EPA should not be able to come back and retroactively enforce regulations by holding back funds. That is blackjacking a city or community's progress.

I think that is very reasonable.

An argument will be put forth here, I am sure, concerning the health of the community and its citizens. If we overlook the new technology in a regulation, would we be overlooking the health and welfare of the people it affects? Of course not.

This amendment simply says that EPA will not be able to withhold the funds in enforcing a new regulation retroactively once the award has been granted.

I do not know of any mayor or any council in this country, if presented with new technology to enhance the safety, health, or whatever of their community, especially if it was proven by experts, that would not on a voluntary basis say, "Let us put that in." To insinuate otherwise is a direct insult to Mr. and Mrs. Main Street America who work on the firing lines with these things day in and day out. Concerning what is good for a neighborhood and community in regards to their health and welfare, of course the mayor and city council will do their best in complying with regulations.

Earlier this summer, the Environmental Protection Agency did respond to what they said they were going to do last year when they assured Senator BELLMON that they were going to correct the problem. They responded with their version of "an administrative solution," but I point out that the response, in the form of a "program requirements memorandum," is no more binding than a suggestion and, in fact, explicitly states that the Administrator reserves the right to require retroactive changes in requirements.

This feeble response, as part of a bureaucratic smokescreen, is unacceptable because it does not answer EPA's promise to either the Senate or to the House Public Works Subcommittee, both of which asked EPA to develop a policy which would restrict retroactive regulatory changes. So they come out with "bureaucratese" which explicitly states that the Administrator reserves the right to require retroactive changes and requirements.

This amendment today is a very simple, commonsense amendment. It is a vote for Mr. and Mrs. Main Street America, for all those folks who live, work, obey the laws, pay their bills, try to take care of their brothers and sisters in their own communities, and who willingly—maybe grudgingly—go along with the realization that we need some type of guidelines and regulatory control over the general health and welfare of large numbers of people.

They go through all the normal channels. They follow all the rules. Anyone who has had experience in local government knows how long it can take to get a Federal award. In many instances, hundreds of thousands, even millions, of dollars are spent. Then EPA comes along, arbitrarily, and says, "Whoops, back up, change horses, cancel that. We do not care what you spend. We say you do this and if you do not do it no funds."

I want to conclude with an example in my home State of Iowa. Last year an engineering firm in my home State of Iowa gave me some examples of towns which experienced unbelievable project delays in trying to comply with the EPA regulations for sewage waste treatment facilities.

At this time, Mr. President, I ask unanimous consent to have printed in the RECORD these examples to substantiate the headaches and the confusion that EPA regulatory changes can cause.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXAMPLES

TAMA, IOWA

Tama, Iowa constructed new secondary treatment facilities in 1973 and 1974 prior to initiation of the Public Law 92–500 requirements for infiltration/inflow consideration. One of the Federal Grant conditions for construction of their new plant, however, was that they initiate a study to determine the extent of infiltration and inflow in their sanitary sewer system. In 1975 in response to that Grant condition, the City filed a Grant application and a Plan of Study with the Environmental Protection Agency to do that work. A new regulation went into effect July 1, 1975 that said the Plan of Study must be approved by EPA before any work done would be grant eligible. The Grant application and Plan of Study were into EPA in plenty of time for review and approval prior to July 1, and, in fact, comments were received from EPA in mid-June asking for some final information prior to approval. The City Attorney filed that information and it was assumed that the Plan of Study would therefore be approved. The City authorized our company to proceed with the infiltration/Inflow Analysis, spending approximately $6,000 in the determination that there was excessive infiltration/inflow which required further identification in a Sewer System Evaluation Survey. When that report was filed with the Environmental Protection Agency, the City was notified that their Plan of Study had not officially been approved by July 1, although there were no changes required—it was just a lack of someone getting around to approve it. The work that had been done was said to be not grant eligible. The City filed a formal complaint based on the extenuating circumstances of the conditions and received a favorable ruling from EPA's Washington headquarters that their work would be reimbursable as soon as a grant offer was made for the Step I project.

To this date, the City of Tama does not have a Step I Grant and has not been reimbursed for the money expended on the Infiltration/Inflow Analysis in 1976, all because of regulation modification and the failure by the review agency to approve a document which was in proper form in their office in time for approval.

The City tried to perform the work required in their initial Grant condition and have yet to be reimbursed for the authorized work. In addition, the three-year delay has rendered most of the initial work done on the system worthless and, of course, has increased the total overall cost of the engineering work and any construction work significantly due to inflation.

NEVADA, IOWA

The City of Nevada, Iowa entered into the Grant program with the Environmental Protection Agency for upgrading their waste treatment facilities in 1975. The City Engineer did the Infiltration/Inflow Analysis work, and then our company was retained to do the remainder of the Sewer System Evaluation Survey and Facility Planning work for the City. Several regulation changes have caused significant time delays and increased costs on this project. Our original Step I contract was executed on November 15, 1976. As an example, an amendment was made to the Engineering Contract on April 3, 1976 to include revised Appendix C–1 regulations governing negotiations for engineering services, and also this amendment included revisions in the scope of work to include detailed study of land application alternatives, which are required nationwide, although their application in this particular part of the country is exceptionally questionable. This amendment increased the contract cost approximately $7,000 and increased the contract time by several months. Another amendment was added to the contract on the 5th of March, 1979, to again add revised Appendix C–1 regulations. No additional engineering charges were added for this contract amendment, although it is obvious that there was significant time expended and delays associated with preparing the amendment, getting it executed by the City and forwarding to the government agency for their review and approval. Another amendment to the Professional Engineering Contract was executed on July 2, 1979 to cover regulation revisions regarding sewer user charge system development and the utilization of Minority Business Enterprise in the engineering portion of the project. These regulation revisions added $3,500 to the contract and, again, delayed the project by several months. The regulation revisions, interpretation of rules and the delays have thus far added over $10,000 to this project cost, and it is not yet out of the planning stage. The real cost impact can only be determined when the inflationary increase caused by the significant time delays are fully taken into account.

MARSHALLTOWN, IOWA

An engineering contract to perform Step I planning work for the City of Marshalltown was originally signed on August 29, 1974 as a result of Public Law 92–500. Provisions of Public Law 92–500 made it possible for communities to bypass the Infiltration/Inflow Analysis portion of Step I work if they could prove beyond reasonable doubt that they had an excessive infiltration/inflow problem. Marshalltown had significant data over a period of several years which dynamically indicated the extent of their infiltration and inflow problem and presented this data both to the Environmental Protection Agency and the Iowa Department of Environmental Quality so they might proceed directly to the Sewer System Evaluation Survey. Neither Agency would accept the data and required the City of Marshalltown to expend nearly $17,000 on an Infiltration/Inflow Analysis which proved exactly what should have been obvious by inspection of the original data. The original rule was an excellent one but was never used in the manner in which it was intended, and much money was wasted.

Since that time additional engineering contracts and amendments have been necessary in order to provide for regulation modifications. All of these have caused time delays and additional costs to the owner and to the government. The Contract was amended in March of 1976 to include revised Appendix C–1 regulations regarding negotiation of engineering contracts as required by EPA. The Contract was again amended on the 24th of April, 1978 to include further revisions of Appendix C–1 regulations regarding negotiation of engineering contracts. Further detailed considerations of land application alternatives were included in the scope of the project at this time. The total costs for the regulation revisions and time delays associated with the project to this point added $10,000 to the Step I work and delayed the completion by several months.

The Step I work has recently been completed and is now being held for review by the Iowa Department of Environmental Quality due to an EPA Program Requirement Memorandum stating that justification of any treatment higher than conventional secondary treatment in which the incremental cost is more than $1 million must be reviewed and approved by the Washington EPA office. This project qualifies in this category and is now being held by the State and Regional office trying to determine what approach they should use in justifying the extra expense of this project for advanced secondary treatment when it does not appear it is necessary to meet reasonable stream standards. At this time we have no idea when this project that has been in the planning stage since August of 1974, will get beyond that stage into the construction of some needed pollution control facilities.

IOWA FALLS, IOWA

The original engineering agreement with the City of Iowa Falls was executed on April 9, 1976 to cover all phases of the planning, design and construction work for wastewater treatment improvements. Again, several regulation modifications have caused delays and cost increases in this project. On December 19, 1977, a contract amendment was executed which added the revised Appendix C–1 regulations regarding negotiations for engineering services. This contract amendment also included provisions for the direct retention of sewer cleaning and televising contractors by the engineer as required by regulation.

An additional amendment was executed on February 19, 1979, which again revised the Appendix C–1 regulations. This amendment further provided for the modification of the scope of the Facility Plan to include land application, detailed evaluation and other Program Requirement Memoranda details. The cost increase for this extra service from revised regulations was approximately $6,000 and again several months of time were lost in the process.

Mr. JEPSEN. Mr. President, did you know that there are 54 regulations or statutes along with those already in the Clean Water Act? What this means is that local governments have to spend hundreds and thousands of hours in figuring out what EPA wants when it imposes their initial regulations.

The extra burden of doing this is more than a small town in most instances can bear, but they go ahead and do that. Once they do and the grant has been approved—a great majority of the time after they have acquired expenses, people, personnel—EPA says, "Whoa, shift gears, change the rules." In the real world you cannot do business that way.

A year ago Senator BELLMON asked for this to be corrected. But the EPA has not corrected it, and our city and State officials unfortunately in many instances have given up attempting to comply with the latest EPA regulatory changes.

The time delays caused by these changes cost the taxpayers millions of dollars which small towns and local governments simply do not have.

Our citizens do not want to ignore, and I emphasize this, any necessary regulations EPA issues. They simply want to protect their health. All they want, Mr. President, are reasonable and reliable standards in the regulatory structure.

But once the ground rules have been laid down and met, they rebel at being blackjacked arbitrarily in the middle of the stream, so to speak. Their they are on the road to fiscally completing this project, and EPA says, "We don't care what you have done, how much money you have spent. You are not getting one single thin dime more from us unless you do as we say. It does not make any difference whether it makes any sense or not. We don't have to prove anything to you because we control the funds, and we will retroactively, as we have done many times before, lay it on you."

It is time we changed that, and that is what my amendment does.

Mr. President, I reserve the remainder of my time. I yield to the distinguished Senator, my colleague from Oregon, Senator HATFIELD.

Mr. HATFIELD. I thank the Senator.

I would suggest, Mr. President, that we are considering here a very important issue, and if we are truly interested in causing serious delays and inevitable cost increases in our sewage treatment construction program, I can think of no better way than to constantly revise minor sewage treatment regulations—and I emphasize minor—and then retroactively apply them. Yet this has been the case in the past, and it appears that the EPA intends to continue the trend.

Last year—and I think we ought to put this into some context—in this bill we included report language which suggested to EPA that this was an inappropriate practice.

Since then EPA has published a regulation in the Federal Register vowing not to do so unless circumstances warrant. In effect, Mr. Costle, the EPA Administrator, is saying, "Trust me." Senator JEPSEN is not a trusting soul in this case, and I tend to agree with him.

I agree because EPA does not consider the planning stage to be sufficiently into the program to warrant a curb on retroactivity. Yet most delays occur during this step.

As a result, most of the ultimate increases in costs to local governments for building treatment plants are directly attributable to EPA changes in the planning requirements. The irony of this is that most of the added facility planning requirements seldom result in major changes in the construction project. While regulations which can be written or changed are infinite, the number of water control pollution options are not.

In Oregon I think we can speak with some authority here from the standpoint that I think Oregon is probably the No. 1 State in the Union in the advanced progressive work in sewage water programs. We have been for many years before EPA ever came into existence, and one of the reasons is because we have been blessed in Oregon with conditions which make sewage control a less complex problem than in many other States.

Our program, therefore, functions smoothly. But this national stop-and-go strategy on sewage construction affects us as gravely as it affects those who are caught in this regulatory morass. Anyone who questions that statement need only look at the unobligated balances in the sewage construction program and question members of the Appropriations Committee, of which I am one, as to their effect on yearly appropriations.

Appropriations have dropped in the last several years, good years for other major programs, and the inability of States to get their programs off the ground and to spend their allotment has caused those declining appropriations.

In sum, no State is immune from the problems caused by delay in the sewage construction program.

This amendment is one part of the answer, although not the entire one. For that reason I support it.

I think what we have to have here is an answer to the simple question: Is the EPA interested in public health more than it is in bureaucratic regulation, because I emphasize again the real test as to the effectiveness of the program is the unobligated funds, and the States have been trying desperately to comply, but with the stop-and-go and the constant change in the rules of the game they have been bogged down in this kind of bureaucratic redtape.

Let us not kid ourselves. The technology in this field is not changing that rapidly. Again I emphasize it has had little impact on the actual construction part of the sewage program. All it has done is to stop those programs or to prevent them from beginning, and that has caused the increased costs to the whole project if and when they get approval.

Again I speak from a State which has not had difficulties in this realm. But it has affected us as it affects any other State because we have had, I guess, the longest heritage of any State in upgrading and updating our sewage water program.

But I have to lend my support to Senator JEPSEN's efforts here because it is a valid criticism, and I do not think the EPA has gotten the message. We tried to send them a message last year, and if they cannot get the message through report language, then the only other alternative we have is to go the route of language in the statute. I commend the Senator from Iowa.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. RIEGLE). Without objection, it is so ordered.

Mr. PERCY. Mr. President, I intend to support the amendment by the distinguished Senator from Iowa (Mr. JEPSEN) which would add language to the HUD/Independent Agencies Appropriation bill to prohibit retroactive application of EPA regulations which were not in effect when grants were awarded to execute the sewage treatment plant grant program.

Mr. President, the Governmental Affairs Committee and the Commerce Committee have conducted 3 years of intensive seminars and study into the regulatory process.

I think we went through every possible grievance the American people, the business community, and labor unions have against the regulatory processes carried out by some 43 regulatory agencies. The frustrations that I saw expressed were very great indeed. We also had former directors and some chairmen of regulatory commissions testify as to the frustrations they had in attempting to carry out the law.

The types of problems that Senator Jepsen is addressing today were raised many times by our committee investigations. We often heard that it was bad enough to try to implement regulations that were on the books that sometimes went beyond what was considered to be the spirit and intent of the law. However, when regulations were put in that were made retroactive, this was viewed as being unusually harsh.

I say to my distinguished colleague from Iowa, Senator Jepsen, that I am supportive of this amendment. I know what he is trying to accomplish and I commend him for it.

My staff has been in touch with the Illinois EPA and they have raised a couple of questions about this amendment. It would be very helpful if the Senator's interpretation of these questions could be addressed on the record and incorporated as a part of the legislative history of this amendment.

The Illinois EPA has indicated some concern about the inclusion of phase I grant funding as a part of this amendment. Is it possible that the adoption of this amendment could reduce the ability of the U.S. EPA to insure that phase I planning programs are completed on schedule?

In order to expedite the completion of phase I programs, might it be useful to modify the language of the proposed amendment so that there would be a limit on the length of time during which a phase I program would be exempt from retroactive regulatory changes? Might 2 years from the granting of a phase I award be an appropriate length of time for such an exemption?

Mr. JEPSEN. Let me answer your questions by pointing to some examples in my home of Iowa where enforcement of retroactive regulations in phase I have delayed the construction of a sewage treatment facility for at least 6 years. In the small towns of Tama, Nev., and Marshalltown, Iowa, all of which began phase I in 1974, they have not been able to move beyond that phase due to retroactive regulatory changes. This has cost them thousands of dollars and leaves them with no sewage treatment system to protect the health of their citizens. I think it is clear from these examples that my amendment would aid the timely completion of phase I planning grants, not stall it.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first of all, I want to commend the Senator from Iowa for bringing up this amendment. He points the finger at a real critical problem for local government and local units of government.

The problem is the problem of retroactivity, changing rules in the middle of the game. That creates nothing but grief and headaches for our local governmental units across this country.

In the Governmental Affairs Committee we have a grant reform bill. I have successfully added to that bill an amendment which is very similar to the amendment of the Senator from Iowa. It has a little more discretion than does his amendment and there is a difference in that regard. But, basically, it is based on the same premise that the Agency should not change the rules after local governments have substantially relied on the old regulation.

I would like to suggest to the Senator from Iowa, however, one small addition to his amendment. There are circumstances where a subsequent law is passed or an Executive order is passed which really mandates an agency—in this case the EPA—to change its regulations. This is not the usual reason for changes in regulations, but it is one of the causes for changes in regulations.

I am wondering whether or not the sponsor of this amendment might add the following words at the end of his amendment on line 6: "except as expressly required by law or Executive order."

Again, I would assure him that this is not the usual reason for the change in the regulation. They are usually resulting from decisions of these agencies or their own tinkering with the regulations and, as he has pointed out, they create great headaches. But we have found, in some circumstances, that there are expressed changes in law or Executive order which are the reasons for the change. In those instances, unless the Agency is allowed to follow those expressed changes, we are creating a legal headache for the Agency, because they would be torn between this amendment which says to follow the old rule and a new law or Executive order which, under my hypothesis, expressly says that there must be a new one.

I am wondering if that might be acceptable to the Senator from Iowa. I do not think it is essential to his amendment. I think that probably the spirit would prevail in court, but I think it would avoid a lot of court litigation and the delay which would ensue.

Mr. JEPSEN. Mr. President, I have one reservation. I have no reservation with the spirit of this and the logic of it. I have no reservation whatsoever if we would confine the Senator's recommendation to a change in statutes. The Executive order, I do have a reservation on and would have trouble with.

Then my second reservation, which we can handle very quickly—I will suggest the absence of a quorum and I would like to meet to make sure that this is not in any way a contingency which, under rule XVI, paragraph 4, would immediately say that this is legislation on an appropriations bill. I want to make sure that would not be the case.

If that all is so, then I would gladly accept and recommend, in fact, that we state, as the Senator from Michigan so ably did, that this would not hold in the event there was a change in statute which would cause a conflict.

Mr. LEVIN. Mr. President, I accept the logic in the Senator's remarks in limiting this to the express requirement of the law. I think that goes most of the way in terms of what I was saying.

I would be happy to join in the request of the Senator in a discussion with the Parliamentarian during the quorum call, if he wishes to do that now.

Mr. JEPSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JEPSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEPSEN. Mr. President, after discussing this matter with my distinguished colleague from Michigan, I would advise the Senate that I am pleased to accept the modification and would ask, to make sure that it is perfectly clear, for the Senator from Michigan to repeat his modification, at the end of which time I will accept it and ask unanimous consent to do so.

Mr. LEVIN. Mr. President, the words, "except as expressly provided by law" are to be added to the Senator's amendment. I am not pressing the Executive order aspect. In my opinion as a Senator, I think that is law, but I am not pressing that aspect at all. I am, however, suggesting, "except as expressly required by law."

The PRESIDING OFFICER. Is there objection to the modification? The Chair hears none. The amendment is so modified.

The amendment, as modified, is as follows:

On page 17, line 21, before the period, insert the following: ": *Provided*, That none of the funds appropriated in this Act shall be used to enforce, retroactively, any regulation issued under the construction grants program or any project requirements or conditions not in effect at the time the grant for a project is awarded, except as expressly required by law.

Mr. JEPSEN. Mr. President, I ask unanimous consent that the names of the Senator from Michigan (Mr. Levin) and the Senator from Minnesota (Mr. Durenberger) be added as cosponsors to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1588

(Purpose: Make EPA changes in construction requirements fully funded by the Federal government)

Mr. HATFIELD. Mr. President, on behalf of Senator Mathias, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD), on behalf of the Senator from Maryland (Mr. MATHIAS), proposes an unprinted amendment numbered 1588.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of Senator JEPSEN's amendment, before the period add: ", unless the grantee is totally reimbursed for all costs associated with the implementation of such a regulation, requirement or condition"

Mr. HATFIELD. Mr. President, Senator MATHIAS' amendment, which I have just sent to the desk, will allow EPA to require a grantee to make specific changes that are necessary to meet health and safety standards and to comply with new legislation and Presidential directives. However, EPA would be required to fully fund—that is provide 100 percent of—the money required to implement these changes. This amendment would avoid tying EPA's hands and, at the same time, preclude a grantee from having to bear the cost of such changes. In addition, Senator MATHIAS would expect that EPA would be more cautious in recommending such changes to waste water construction projects if they knew that the cost of these changes would be fully borne by the Agency.

Mr. President, Senator MATHIAS requested that this be presented as an amendment to the Jepsen amendment.

Mr. JEPSEN. Mr. President, I must respectfully object to that, in that rule XVI, paragraph 4, would apply. This amendment would put a limitation on there with a contingency which, therefore, if it were put to the body, would be legislation on an appropriation bill. It is my understanding that Senator MATHIAS has been advised of this.

Mr. HATFIELD. Mr. President, I am authorized on behalf of Senator MATHIAS to withdraw the amendment on the basis of the objection that the Senator from Iowa (Mr. JEPSEN) has raised. It is fully understood that there is this objection. Nevertheless, that does not in any way diminish Senator MATHIAS' concern about the possibility of putting EPA in a difficult role—a rather more inflexible role than perhaps Senator MATHIAS would want to see. But in no way does Senator MATHIAS fail to recognize the problems which the Senator from Iowa has raised on this amendment.

Mr. JEPSEN. Will the Senator yield?

Mr. HATFIELD. Yes.

Mr. JEPSEN. Mr. President. I commend the distinguished Senator from Maryland for this. I wish, frankly, that it would not place this amendment in jeopardy. Regulatory reform is long overdue because of the capricious and arbitrary punitive attitude that is sometimes taken. I do not mean to make a blanket condemnation of those folks who have all good intent and I shall not judge what is the intent in the heart of all the regulatory bureaucracy. But the end result of their actions across America is punitive in nature, prohibitive, and does not make, in many cases, reasonable sense.

The thrust of the amendment that Senator MATHIAS has presented, I think, is one to which Mr. and Mrs. Main Street America would say, "Amen, it's about time. If they are going to lay it on us and it's arbitrary on their part and, to us, it does not make sense, if we have to go along with it, the least they can do is pay for it." That is right thinking. He is right on target, except in this particular case, unfortunately, it does jeopardize, and for that reason only, I have to reject it.

I thank the Senator.

Mr. HATFIELD. Mr. President, I respect the judgment of the Senator from Iowa on this. As I indicated, the Senator from Maryland would not in any way want to jeopardize the main thrust of the Senator's amendment. I withdraw the amendment, therefore, offered on behalf of the Senator from Maryland at this time.

The amendment was withdrawn.

Mr. HATFIELD. Mr. President, I should like also to say that I think the Senator from Iowa has made a very good point, that those of us who either have consponsored or who support the amendment, do not in any way like the thought of leaving the impression that this is a broadside attack on EPA. I happen to be a very strong supporter of EPA, voted for its creation, support its existence, believe in its broad general principles and its objectives. I know I speak for the Senator from Maryland (Mr. MATHIAS) in making that statement, because he, likewise, has been a very staunch supporter of EPA.

But I should like to indicate that I believe that many of those forces today who would like to make a broadside attack on EPA, who were not sympathetic to the very beginnings of EPA or its policy since its beginnings, can so easily exploit these circumstances that we are addressing today in this Jepsen amendment, the kind of record established by the EPA in these minor and yet very troublesome points, and use that as ammunition against the whole concept of EPA.

I think those of us who are the friends of EPA realize that, sometimes, it is the little things that build up the public support in opposition to the total agency and the total purpose of the agency. They seem to swallow a camel and gag on a gnat in some of these things.

Therefore, I do not consider that those of us who are supporting the Jepsen amendment in any way are attacking the principle or the basic purpose of EPA. Rather, I consider myself a friend of EPA, and I know for one thing and I reemphasize now that my State has not had difficulties in the sense that we have been able to utilize all of our allocation under the formula, which I have offered amendments to change, the formula itself. The formula itself, to me, is a very discriminatory formula, because it discriminates against some of the progressive States and States like mine, which is both progressive and has had an easier way to develop these sewer projects, water projects, terrain, and geology, than a lot of other States, because we have a full allocation and we stand ready to qualify for additional allocations, because many of the communities in my State have already bonded themselves at the local level to comply with the Federal program.

Yet we stand waiting and those project costs are going to escalate because of the delay. We have completed all of the actions necessary to qualify. But here we find other States which have unobligated funds under the formula and are struggling to get out of this morass of bureaucratic regulation.

Oftentimes, as I indicated before, it does not really impact upon the basic construction program itself. So there those unobligated funds are and here we are, waiting for additional funds. It is just an inequitable and unfair penalty that a progressive State suffers under this kind of system.

Again, I commend the Senator from Iowa and say that, on behalf of my good friend (Mr. MATHIAS), we struggle with the Senator from Iowa in trying to correct these problems, but as friends of EPA rather than as opponents of EPA.

Mr. JEPSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I must resist this amendment. The issue is health and safety, and that is about as squarely as I can put it.

I point out that there have been no hearings on this amendment at all. We have no record. The Environmental Protection Agency says that this amendment could make it difficult to deal with very serious health hazards. They oppose it. They think it is wrong.

On the other hand, some Senators argue that we need to do something about changes in regulations that are applied retroactively and create serious difficulties for communities that have to accommodate themselves to the changes.

But there has been no discussion of this amendment in subcommittee, there has been no discussion in full committee, there is no hearing record. This is the wrong way to legislate.

There is no question that we are making policy on an appropriation bill, policy that should be considered by the authorizing committees and by the full Senate and House on the basis of a record. We do not have that record. And, as I say, we have sharply conflicting statements from EPA and from certain Senators. For this reason alone, I honestly hope that the Senate will reject this amendment.

This amendment would prohibit EPA from enforcing any regulation or requirement not in effect at the time a construction grant is awarded.

It should be opposed for the following substantive reasons:

One, EPA has issued a policy stating

that no new program requirements will be applied to projects that are in construction or where construction is likely to be underway within 6 months of the time of the grant award.

That policy was promulgated on July 24 of this year. Let us give it a chance to operate. EPA is doing administratively what the Jepsen amendment would propose to do, but they are doing it in an orderly way, in a way that gives them some degree of flexibility in the event a health hazard develops.

In the second place, EPA will avoid applying new requirements in the planning stages of a project unless they are essential to implement new laws or correct serious deficiencies.

In other words, they will retroactively apply new requirements if safety and health requires them to do so, otherwise they will not.

EPA has gotten the message and gotten it clearly.

In the third place, flexibility to accommodate new laws, Presidential directives, and new findings relative to public health, safety and cost effective design must be accommodated.

We have here a constantly changing situation. Almost every month we have new revelations and developments with respect to the highly complicated area of toxicity.

We may say that the American people resent regulations. Sure, they do. But, in the first place, when the Federal Government is spending the taxpayers' money, it has every reason to insist that the health and the safety of its citizens be protected.

I have seen polls that indicate that people resent regulations, as all of us do. I have talked to hundreds of thousands of constituents in my State over the years about these things. But I can say that there is one issue on which the American people overwhelmingly want protection, and that is with respect to their safety and health. That is what the EPA wants the flexibility to provide in administering its construction grant regulations.

Before making any changes in construction grant requirements, EPA will assess their impact, notably the affected parties and set forth the justification for such changes.

That is the way they would operate under the July 24, 1980, directive, which is currently in effect.

Mr. President, let me point to some examples of the kind of safety precautions this Agency has taken in the past but could not implement if this amendment passes.

I refer, in the first place, to regulations involving the toxicity of chemical grants for sewer rehabilitation.

EPA argues that they would have been prevented from effectively alerting grantees and their engineers of potential health hazards associated with a major chemical grout—AM-9—used in correcting sewer infiltration.

They argue that they would have been prevented from requiring that worker exposure to a catalyst—DMAPN—be completely avoided, effective immediately.

These were rulings they issued in the past. They feel that under the Jepsen amendment they would not have the authority to pursue these actions.

EPA argues that a new directive now under preparation will address safety requirements for preventing the explosion of and human exposure to hazardous gases in sewers. This could not be applied retroactively if we approve this Jepsen amendment.

They argue, as far as the implementation of statutory deadlines is concerned, that they would have been prevented from implementing a "Buy American" directive which was issued on February 17, 1978.

Mr. President, let me point out that EPA is determined to eliminate redtape and expedite construction grant project, and they have tried to do so, but they would have been inhibited from implementing that kind of acceleration through combining step 2 and step 3 construction grant awards, for example, had the Jepsen amendment been in effect.

A program directive permitted combined grants for small projects to decrease paperwork and shorten processing time prior to construction. EPA argues that they would not have been able to initiate that kind of change, which would certainly be in the interest of the community and the contractors, if this rigid amendment had been a part of the law. Of course, such a policy directive would be in the interest of local communities.

All of the actions I have cited are examples of directives EPA has been able to implement in the past which would have been barred had the Jepsen amendment been in effect. The Agency would not have been able to apply these directives retroactively. I will quickly repeat them.

EPA would not have been able to protect the health and safety of local people with respect to the toxicity of chemical grants for sewer rehabilitation; they would not have been able to implement the "Buy American" directive issued on the 17th of February, 1978; and they would not have been able to combine step 2 and 3 construction grant awards, thereby decreasing paperwork and shortening processing time, in the event this amendment had been in effect.

So, Mr. President, I would hope, given these facts, that the amendment would not be accepted.

Let me point out further, Mr. President, that the question of the retroactive nature of the EPA regulations was dealt with last year. It was my belief it was satisfactorily resolved through a commitment by EPA not to apply new program requirements retroactively to projects that are under construction or scheduled to begin construction within 6 months. I have already referred to that particular policy. Senator BELLMON withdrew his amendment to bar the retroactive application of waste treatment construction grant regulations last year upon a commitment by EPA to change the retroactive application of regulations in certain cases, which has been done, as well as a commitment from our former colleague and present Secretary of State, the Senator from Maine, Mr. Muskie, to explore the issue when the waste treatment construction grant program came up for reauthorization.

Mr. President, that is the proper way to react. We should rely on the authorizing committees and develop a record from hearings. We should solicit testimony from those who feel that the EPA has been too reluctant to comply with the obvious needs of communities, to keep a steady course and not to change that course once a project is underway. EPA should have an opportunity to testify and to show that they could mend their ways and implement a better policy.

Now we have to deal with an amendment that has come to the floor at the last minute. It was not considered by my Appropriations Subcommittee. I had no knowledge of this issue when we were holding hearings. It was not considered by the full Appropriations Committee. It was not considered by the authorizing committee. EPA opposes the amendment and warns us that it may create a serious safety and health hazard.

To act at this time, under these circumstances, it seems to me, cannot be considered responsible. It is my opinion that we must give the authorizing committee a chance to deal with this issue next year, when the waste treatment construction grant authorization expires. That would be an orderly way to proceed. We would like to act on the issue as promptly as possible, but the authorizing committee should have a chance to move, especially in view of EPA's good faith efforts to meet the problem by partially barring the retroactive application of new policies, and they have not. If we act now, we are simply usurping the prerogatives of the authorizing committee.

I yield the floor.

Mr. MATHIAS. Mr. President, I commend the Senator from Iowa for bringing this to the attention of the Senate, because it touches a subject that I think is important.

I have discussed with him privately, before this debate, some of the kinds of problems that have arisen in the State of Maryland.

For example, we have small coal operations in the Appalachian Mountains; and under existing EPA programs, the small coal miners are required to construct settling ponds so that we reduce the amount of acid mine drainage which gets into the streams and rivers of Maryland.

It is a matter of more than aggravation. It is a matter of economic law if any of these mine operations are told to build a settling pond and to provide spillover pipe of 6-inch diameter, and they go out and buy the 6-inch pipe at a substantial cost, and find that just before they are ready to install the pipe, EPA has changed the diameter and is requiring them to put in an 8-inch spillover pipe. They are there with an expenditure totally wasted for the purchase of 6-inch pipe, with delay occasioned by the necessity to get 8-inch pipe, and really with no recourse.

It was with that kind of experience in mind that I had suggested the proposal which was offered on my behalf a few minutes ago, which would provide some recourse to people who are affected by unreasonable changes that are made by EPA after an original standard has been established and then changed.

Earlier, Senator HATFIELD sent to the desk an amendment of mine on EPA construction grant regulations which would have allowed EPA to require a grantee to make specific changes necessary to meet health and safety standards and to comply with new legislation and with Presidential directives.

However, I believe that it would cure the problem that the Senator from Iowa wants to cure by requiring EPA to fully fund, a hundred percent, the cost of implementing the changes. This would have avoided tying EPA's hands and at the same time precluding a grantee from having to bear the cost of such changes.

In addition, I had hoped that EPA, if it was going to have to bear the cost—because the money would come out of its budget—if it was going to have to bear the cost, it would be much more reluctant, much more prudent, about making these changes. Therefore, there would be less of the aggravation and loss that have resulted as a result of this unreasonable action.

Without my amendment, I have some difficulty with the pending amendment, because I am not sure just exactly what it would mean, and perhaps the author of the amendment can explain to us.

I observe that on all the Senate desks there are pencils, and on all the pencils there are erasers. I conclude from that, however, that the manufacturers of pencils believe that human error is a very common occurrence in life. Unhappily, I have to agree with that. I do not think that EPA is any more immune from making mistakes than anybody else.

So that with all the sympathy I have with this amendment, with all I want to do to see the principle of it adopted, I am concerned that the author of the amendment will block very necessary corrections or mistakes.

For example, on the issue of toxicity of chemicals in sewer rehabilitation. EPA was able to alert the grantees and their engineers of potential health hazards associated with a major chemical grout used in correcting sewer infiltration. I cannot believe that the Senator from Iowa would want to prevent that kind of change.

On the other hand, I hope the Senator from Iowa would want to prevent the kind of silly changes that have been inflicted on the coal operators I have just described. Perhaps he could tell us exactly how he envisions the amendment working to achieve those two objectives.

Mr. JEPSEN. Mr. President, my distinguished colleague from Maryland, I believe, has brought up points that do not apply, in that we are not talking about mistakes. We are talking about a retroactive, new regulation and a blackjacking in the enforcement of those regulations by withholding funds.

I have been in the Senate a year and three quarters. It has been very difficult for me not to get Potomac fever. I have not got it, but I have to talk to myself and reflect about it sometimes, despite the heady atmosphere that takes place in Washington.

But if an honest mistake has been made, mature, compassionate, reasonable human beings in and out of Washington would say, of course, correct it. I keep hearing the arguments that this amendment would prohibit anything good happening for the health and welfare of the community. It does not at all. It is an insult to those folks outside of Washington, D.C., which is, thank goodness, where most of the American people live. It is an insult to the mayors and city councils to say that if a law or regulation came up that would affect community health on a positive basis, even revolutionary and brand-new technology, they would say do not do it. Of course, I can assure the Senator that I have not been away so long from Mr. and Mrs. Main Street America and my constituents where folks are compassionate and able to make decisions. They do not have to come to Washington to get some stroke of divine wisdom and counsel.

Mr. MATHIAS. I agree with the Senator. I agree with the Senator so completely. That is why I wish to be for his amendment. I think that very clearly the people who are out on the firing line very often have a better instinct about what needs to be done and exactly what the facts are. They are not reading it from some distilled report that has gone through 14 bureaucratic offices. They are out there looking at the ground. They are looking at the hole in the ground. So they understand the facts.

I have served in municipal government, and I have great confidence in the mayors and boards of aldermen across this country. But I also know that municipal government is in tough shape financially now, and mayors and boards of aldermen may have to cope with problems that will reflect financially on their particular situations, on the established tax rates, and on tax levies in municipalities. There are just a lot of inhibitions that may affect mayors, and that is why I wanted to take the financial burden off these small communities and the burden of retroactive change which I think can be so unreasonable, so unfair, and so economically burdensome.

In most cases I think we could say, "Well, let the mayor wait until the next tax year," in a given municipality, and "Let the board of aldermen hold up a decision until the next tax year when the funds may be available."

But the one class of cases that concern me is the health and safety class cases. There are just a number of those cases that have come to my attention that really do not have time to wait for the next budget of a town or for the next tax levy of a municipality because health and safety is a matter of timing as much as any other thing. If we could agree to exempt health and safety orders, I think maybe we would have a ground for agreement, since my amendment has been ruled out of order here. We would have a ground for agreement that at least sends a strong signal to EPA that Congress is concerned about the aggravation and the cost of retroactive orders and yet at the same time would not pose any present danger to health and safety in this country.

Mr. JEPSEN. Mr. President, will the Senator yield?

Mr. MATHIAS. I yield.

Mr. JEPSEN. The distinguished Senator as always brings up his deep concern for the health and the welfare of the people. He has a consistent record of being concerned for and about the health and safety of the people. But I suggest to the Senator that the very thing that he is concerned about is one of the very compelling reasons for supporting this amendment.

Mr. MATHIAS. I want to support it.

Mr. JEPSEN. What do we have because of these retroactive regulations? I could name hundreds of communities across this Nation where projects have been postponed, and people have been frustrated. In fact, some people have given up. You do not postpone the health and welfare of some people for 3 or 4 years because of an arbitrary and capricious feeling of someone in Washington who says, "Whoops, I want to change horses in the middle of the stream."

We should not postpone the health and welfare of people. They should be entitled to good health and clean water now, not 5 years from now after we satisfy some bureaucratic regulator.

And I repeat that this would be voluntary. Please understand that if we have technology good for the health and welfare of local communities that mayors and councils are going to change. There is nothing in this amendment that says they cannot change. It is voluntary, and of course they will.

Mr. MATHIAS. Mr. President, one of the difficulties it seems to me is that these questions of health and safety have some pattern to them. In other words, I do not think we want to get into a situation where we have one water standard in one community and another water standard in another community.

One of the great things about the United States of America as opposed to almost any other comparable land mass in the world is that we can with considerable confidence and safety eat a hamburger in the Northeast, Southwest, Northwest, and the Southeast. We have uniform standards of water quality and health inspections, and that uniformity is one of the reasons that makes it possible for Americans to live better in more places in America than any other place in the world.

I think, if we abandon that concept of the national standards of health and safety, we are abandoning a great deal.

But what I am proposing to the Senator goes a long way toward what he wants to achieve. For example, all the engineering and all the planning which have been subjected to wearisome, burdensome, aggravating, retroactive changes would get the benefit of his amendment. If we exempt health and safety issues, we then do not raise any dangers in those areas, and I think we would just find an enormous reduction. I think the Senator would have done a very useful work for the people of this country.

Mr. PROXMIRE. Mr. President, will the Senator from Maryland yield on that point?

Mr. MATHIAS. I yield.

Mr. PROXMIRE. Mr. President, as I understand the amendment of the Senator from Maryland, and correct me if I am wrong, it will provide that if changes are made in a construction grant project because of the retroactive application of regulations by EPA, the full cost of those changes would have to be borne by the Federal Government, which initiated and instituted those changes. Is that correct?

Mr. MATHIAS. That was my amendment which was offered previously on my behalf. I felt that that would not only compensate whoever was affected by the retroactive changes but it would have a very sobering effect on the bureaucrats in EPA because they would find themselves having to take out of their own budgets the costs of these changes and they would be, No. 1, more careful to put out the plans originally that they were going to stick with and then, if there were some unavoidable change, they would make it a minimal change, and they would get to it as quickly as possible.

Mr. PROXMIRE. I am very sympathetic to that approach. It makes sense to me. I enthusiastically support it. I only have one problem with it. It seems to me that with a change in a formula of that kind, the authorizing committee should have some input. EPA should have the opportunity to make a presentation. We should have a record before us. We should have some knowledge of just what we are doing, what the effects are, what the reaction of EPA is, and what the reaction of grant recipients may be so that we do not change the formula without full knowledge and a full record.

I must say that what the Senator from Maryland proposes seems completely logical because it would make sure that we would protect the health and safety of our citizens. It would also make sure that a community was held harmless from any increased expense they might have to suffer because of the retroactive application of regulations.

Mr. MATHIAS. I think the Senator has stated what I proposed to do correctly, and I think it would really make a good deal of sense both as a deterrent to retroactive change which, I think, all of us would agree is bad, and as a softening of the impact on those who are affected by the change.

But if the Senator will let me just make a further observation here, there is a second way we could go which, I think, would be not as desirable as my first proposal, but that would be to exempt health and safety issues.

But in this whole discussion I do not think we can ignore the fact that some light seems to be breaking in EPA itself on this subject. I am interested about the fact on the 24th of July of this year Mr. Costle, the Administrator of EPA stated he was prepared to reaffirm the policy of EPA that—

> No new program requirements will be applied to projects having step 3 grant assistance where construction is already underway or likely to be underway within 6 months of the grant award.

Mr. JEPSEN. Mr. President, will the Senator yield?

Mr. MATHIAS. Let me finish this statement.

> The EPA will avoid applying new requirements retroactively to projects in step 1 or step 2 funding unless they are essential to implement new laws or to correct serious deficiencies in the program.

So I do not think we can assume that EPA is ignorant of the problem we have been discussing here.

Mr. JEPSEN. Mr. President, will the Senator yield?

Mr. MATHIAS. I believe the Senator from Wisconsin has the floor, but to the extent that I can yield it I am happy to do it.

Mr. JEPSEN. While the Senator from Wisconsin is talking to the Senator from Florida, who also wishes to speak on behalf of this amendment, I would point out to the Senator from Maryland that I have this statement from the U.S. Environmental Protection Agency dated July 24, 1980, and I quote it:

> It is fair to assume that there may be particular instances where this policy will hurt rather than help the progress of the program toward meeting the goals of the Clean Water Act. For these reasons I reserve the right to deviate from this policy in individual cases under rigorous standards for justification.

There you are, the most beautiful form of bureaucratese that contradicted everything they said they were going to do. It gives them full license to do what we asked them not to.

Mr. MATHIAS. I think it is only fair to read what Mr. Costle says in these words which follow immediately after the words the Senator from Iowa just read. He goes on to say:

> That is, before taking any such action EPA will assess the impacts of that action, and notify affected interest groups in writing of our intentions, setting forth the results of the assessment and the specific reasons why we feel this action must be taken. If any such requirements are then issued, they must be signed by me, the Deputy Administrator, or the Assistant Administrator for the Office of Water and Waste Management.

So, as I read that, EPA is concerned enough about this problem that they are saying:

> No little, petty bureaucrats down the line can issue these change orders any more. It is only clearly accountable administrators at the highest level, the top 3 people in EPA, who can issue these change orders, and that will only be done after a record is made of the reason for the change, and the assessment of the impact of the change, so that the degree of accountability which is being attained is much, much higher than it has been in the past.

I do not think that is necessarily the final word on this, and I would prefer that Congress act. But I do think we have to give Mr. Costle at least the opportunity to show what he can do before we completely alter the policy here. He has had since the 24th of July, which is less than 3 months ago, only that time, so the track record really is a very brief one, and I think he is entitled to an opportunity to make a case here.

The Senator from Florida, I think, is seeking the floor.

Mr. CHILES. I just wanted to join with Senator JEPSEN in saying that I really cannot think of anything about which I have heard more from my local governments. I recall the frustration that they have expressed to me as they have talked about this subject, and I can see the faces on some of those city commissioners who have come to my office.

I remember one particular city official saying:

> We were told we had raw sewage working its way into what could be our water systems because we had a very old sewer system. We had some trees that had roots that had pierced part of the pipes of the sewer system, and there was leakage and drainage. We were told by EPA that we had to fix that. We were cited. We were told we had a time certain in which we had to fix it. We did not know what in the world we were going to do to fix it.
>
> We went out and sought a grant to get the money. We finally got approval for the grant. We started forward on the basis of the grant approval and then, after we had that approval, EPA came back and in this particular instance said, "You do not have enough capacity because you may have more growth. You are in a growth area, and so you ought to have a larger plant now than you have approved."
>
> So they said they would not approve what we had gotten our grant approval for.

So, they went back to do that, and they could not get sufficient grant moneys. This particular city, therefore, floated a bond issue in which they put a bonded indebtedness on their people. It went through, and they got the new plans, and by the time they came back with the new plans, which they were told was the way to go to start with, EPA then decided they did not want the effluent to be sprayed out on the land. There had been a change for that, and they wanted to change the effluent, and so they were going to have to do it again.

Here was a city which first got the grant, got the first set of plans, got their first construction, and then was told that the project was not going to work, that they had to have more capacity. Then, since they did not have enough grant money, they had to get a bond issue. They got the money, and then EPA told them that they did not like the way the effluent was being sprayed, and so they had to go and do it again.

During this time period, which was about 3 to 5 years, the cost escalated on that project tremendously.

Certainly the people of that area were not served. If you talk about the health or safety of the people, the people would have been better off had they gone with any technology they had. But again, every time EPA could come up with something they thought was a little better, or tell them they thought it should be a little bigger, they delayed the project again.

I recall discussing this issue last year. Senator BELLMON offered an amendment, and EPA came in and said, "Do not put that amendment on. We will do this. We will do this administratively." Now we find that they have come up with a halfway administrative change.

I just cannot understand what EPA has done to small towns and cities and what they are really doing to the cost of this program. If they cannot get their act together and determine what requirements a city should meet with respect to one of these projects then I think that Congress has to act.

We cannot put this kind of burden on local government, nor can we put this kind of inflationary burden on the people, because every project delay has resulted in increased project costs.

I want to support the Senator from Iowa because I think that this amendment represents the direction in which we should go. I strongly support his amendment and hope that we will adopt it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1589

(Purpose: To prohibit retroactive application of regulations in connection with the construction grants program)

Mr. MATHIAS. Mr. President, I send to the desk an amendment in the nature of a substitute.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes an unprinted amendment numbered 1589 in the nature of a substitute for unprinted amendment No. 1587:

In lieu of the language to be inserted, insert: On page 17, line 21, before the period, insert the following: ": *Provided*, That none of the funds appropriated in this Act shall be used to enforce, retroactively, any regulation other than regulations involving health and safety, issued under the construction grants program or any project requirements or conditions not in effect at the time the grant for a project is awarded".

Mr. MATHIAS. Mr. President, I have offered this substitute because I think it gives us an opportunity to examine a little more closely what are health and safety issues and to create some legislative history as to what would or what would not be prohibited to EPA under the Jepsen amendment.

I favor the principle of the Jepsen amendment. I am dismayed by the kind of problem created by retroactive changes on behalf of EPA. But I am apprehensive that if we prevent the correction of honest errors or corrections that may result from new information, that we will simply be cutting the erasers off our pencils and preventing ourselves from doing what is necessary to do in life, which is to correct our mistakes.

The Senator from Iowa has suggested that if we exempt health and safety issues we will be exempting almost the whole area of retroactive changes, but I do not think that that necessarily follows. We have an opportunity here and now to make this clear.

Perhaps if the Senator from Iowa would give us his attention he could define for the Senate what he feels health and safety issues to be, because that really seems to me to be the nub of this whole problem.

Are we denying to the people of the United States the kind of protection to health and safety that they would otherwise have if EPA were able to take advantage of new information or to correct mistakes in judgment or mistakes of fact embodied in previous orders?

I personally would say that I would not consider that this would exempt engineering changes that flowed from new estimates, for example. Perhaps the Senator from Iowa would be able to give us what he thinks would be exempted under this amendment.

Mr. HATFIELD. Will the Senator be gracious enough to yield so I may ask the Senator a question?

Mr. JEPSEN. Yes.

Mr. HATFIELD. Mr. President, I have gone on record today in support of the Jepsen amendment. As I indicated earlier on in this debate, we have not had a great number of difficulties of this type in our State. Our State has geological and other characteristics that have made sewage and other such programs rather easier to accomplish than some States have experienced.

In addition, our State has been the leader in the Nation in developing sewer-water programs for quite some time, long before EPA even came into the picture. Our problem has been basically to secure enough Federal matching funds, since the local governments have already qualified and are standing waiting, because of a formula I have tried to change, because as a progressive State we have been penalized.

So I am not speaking in other than that context, but I do raise the question that where other States have had this extraordinary difficulty it has affected us as well.

It seems to me that this is almost like saying that we are for motherhood, in the sense that anything can be justified under health and safety. We saw that operate through OSHA, until this Congress had to amend our own actions.

Mr. MATHIAS. Let me observe that that is exactly why I introduced this, so that we can, through this legislative history, define and limit what can be justified as a health and safety measure.

Mr. HATFIELD. But the basic thing is, the Senator, as I understood, said he could conceive where this might even be used to affect engineering.

Mr. MATHIAS. No. No. I specifically said that it would not be used.

Mr. HATFIELD. I am glad to have that better understanding of what the Senator said. I misunderstood him.

I would also, though, remind the Senator that the interesting thing is that these rules changes, this stop-and-go policy, in most cases has not affected the engineering aspects of the project. These have created delays outside of the field of engineering more frequently than not. So I do not know that we are really getting to the problem with this amendment.

EXECUTIVE SESSION

TREATIES

The PRESIDING OFFICER. Under the previous order, the hour of 12:40 p.m. having arrived, the Senate will now go into executive session to consider the resolutions of ratification of eight pending treaties, on which there shall be a total of 20 minutes debate to be equally divided and controlled by the Senator from Idaho (Mr. CHURCH) and the Senator from New York (Mr. JAVITS).

The clerk will state the Resolutions of Ratification.

THE FOOD AID CONVENTION, 1980

The Resolution of Ratification of Executive G was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Food Aid Convention, 1980, signed on behalf of the Government of the United States of America at Washington on April 29, 1980 (Executive G, Ninety-sixth Congress, second session).

PROTOCOLS FOR THE FIFTH EXTENSION OF THE INTERNATIONAL WHEAT AGREEMENT, 1971

The Resolution of Ratification of Executive FF was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the 1979 Protocol for the Fifth Extension of the Wheat Trade Convention, 1971, and the 1979 Protocol for the Fifth Extension of the Food Aid Convention, 1971, both signed on behalf of the Government of the United States of America at Washington on May 16, 1979 (Executive FF, Ninety-sixth Congress, first session).

THE 1978 PARTIAL REVISION OF THE RADIO REGULATIONS

The Resolution of Ratification of Executive B was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Partial Revision of the Radio Regulations (Geneva 1959) signed on behalf of the United States at Geneva, March 5, 1978 (Executive B, Ninety-sixth Congress, second session).

AMENDMENT TO THE CONVENTION ON THE INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA

The Resolution of Ratification of Executive C was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Amendment to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, adopted at Bonn on June 22, 1979 (Executive C, Ninety-sixth Congress, second session).

PROPOSED AMENDMENTS TO THE CONVENTION ON THE PREVENTION OF MARINE POLLUTION BY DUMPING OF WASTES AND OTHER MATTER

The Resolution of Ratification of Executive I was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Amendment to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, adopted at London on October 12, 1978 (Executive I, Ninety-sixth Congress, first session).

CONVENTION ON THE INTER-AMERICAN INSTITUTE FOR COOPERATION ON AGRICULTURE

The Resolution of Ratification of Executive HH was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention on the Inter-American Institute for Cooperation on Agriculture, signed at Washington on March 6, 1979 (Executive HH, Ninety-sixth Congress, first session).

MARITIME BOUNDARY TREATY WITH THE REPUBLIC OF VENEZUELA

The Resolution of Ratification of Executive G was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Maritime Boundary Treaty between the United States of America and the Republic of Venezuela, signed at Caracas on March 28, 1978 (Executive G, Ninety-sixth Congress, first session).

MARITIME BOUNDARY AGREEMENT WITH THE REPUBLIC OF CUBA

The Resolution of Ratification of Executive H was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Maritime Boundary Agreement between the United States of America and the Republic of Cuba, signed at Washington, December 16, 1977 (Executive H, Ninety-sixth Congress, first session).

Mr. **HELMS**. Mr. President, I ask unanimous consent that it be in order to suggest the absence of a quorum with the time charged to neither side.

Mr. **MATHIAS**. Mr. President, reserving the right to object, I hope this will not delay the 1 o'clock vote.

Mr. **HELMS**. Mr. President, there is no need for a quorum call. I withdraw the suggestion.

Mr. **CHURCH**. Mr. President, I yield myself such part of the 10 minutes as I may require.

Mr. President, I urge the Senate to give its advice and consent to a series of unrelated treaties and other international agreements which have been considered by the Foreign Relations Committee and reported favorably.

They are identified as follows:

Maritime boundary treaties with Cuba and Venezuela.

Amendment to the convention on the prevention of marine pollution by dumping of wastes and other matter.

Protocols for the fifth extension of the International Wheat Agreement of 1971.

Food aid convention.

Convention on the Inter-American Institute for Cooperation on Agriculture.

1978 partial revision of the radio regulations.

Amendment to the convention on international trade in endangered species of wild fauna and flora.

The committee gave careful attention to these agreements. They were thoroughly considered in public hearings and they were reported favorably without dissenting vote.

While many of these treaties are noncontroversial and appear to be routine in nature, they are part of the important fabric of U.S. relations with particular states and with the international community as a whole. By acting on them promptly and favorably, the Senate will be furthering the orderly and efficient management of U.S. foreign relations and enhancing the Nation's standing as a reliable partner in the peaceful resolution of disputes and the pursuit of international comity.

Mr. President, I ask unanimous consent that a summary description of these treaties be printed in the RECORD at this point.

There being no objection, the summaries were ordered to be printed in the RECORD, as follows:

AMENDMENT TO THE CONVENTION ON THE PREVENTION OF MARINE POLLUTION BY DUMPING OF WASTES AND OTHER MATTER

These amendments provide a system for the arbitration and settlement of any disputes which may arise in the interpretation of Marine Pollution by Dumping of Wastes. Under this Convention, considerable discretion is retained by the contracting parties and, to date, there have been no controversies calling for a negotiated settlement. Nonetheless, the original convention requires that a dispute-resolution procedure be set up, and the arrangements worked out in these amendments should provide a ready means to resolve any differences in interpretation which may arise. Although the amendments raise the possibility of an arbitral award against the United States, such an award could be made only after Congressional consideration and appropriation.

CONVENTION ON THE INTER-AMERICAN INSTITUTE FOR COOPERATION ON AGRICULTURE

This convention, which was opened for signature at the Organization of American States on March 9, 1979, revamps the original 1944 convention governing the establishment, organization and operation of the Inter-American Institute for Agricultural Sciences. The purpose of the new convention is to strengthen and expand the mandate of the Institute, which will be renamed as the Inter-American Institute for Cooperation on Agriculture.

Over the years the focus of the Institute's programs has changed from an emphasis on tropical agricultural research to programs which reflect the concerns of all the Inter-American member states, including those countries in the temperate climates. With its new emphasis on technical assistance, the Institute has undertaken programs to halt the spread of swine fever and a "systems" approach to encourage maximum crop yields from small farm plots. In addition, the Institute is working on a new agricultural marketing strategy for the Caribbean which hopefully will bring increased prosperity to the region.

1978 PARTIAL REVISION OF THE RADIO REGULATIONS (GENEVA 1959)

The primary purpose of this treaty is to update the international Radio Regulations as they apply to aeronautical communication to take into account the present technological state of the art and the increasing demands on these radio frequencies by national and international air carriers.

International radio regulations were last revised with respect to the Aeronautical Mobile (R) Service in 1966 and further revisions were required because of the increased complexity of radiocommunication techniques, coupled with heightened competition for space in the electromagnetic spectrum by a larger number of countries, as well as by changes in airline traffic patterns.

AMENDMENT TO THE CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA

This amendment to the Convention on International Trade in Endangered Species formalizes the duty of the contracting parties to provide necessary funding to carry out the Convention's work. A multi-party financing arrangement has become necessary since the United Nations Environmental Program, which traditionally provided financial support, has decided to curtail funding. At the same time, various parties to the Convention have stated that they could not legally contribute unless the responsibility for doing so was formally set out in the Convention text. The amendment will make possible the establishment of a trust fund of $984,000 to pay for implementation of the Convention through 1981. The projected U.S. share under this arrangement will be $246,000.

PROTOCOLS FOR THE FIFTH EXTENSION OF THE 1971 INTERNATIONAL WHEAT AGREEMENT AND THE 1980 FOOD AID CONVENTION

The protocols for the Fifth Extension of the 1971 International Wheat Agreement, which continue U.S. participation in the 1971 Wheat Trade and Food and Aid Conventions through June 30, 1981, together constitute the International Wheat Agreement.

The Wheat Trade Convention, with 54 participating nations, plus the European Community, is a purely consultative arrangement without any economic provisions for price stabilization. It does provide for the continued operation of the International Wheat Council, an administrative body established in 1949 to conduct an annual review of the world wheat situation in order to provide member governments with information relevant to their respective domestic agricultural and price policies.

Negotiations on a new Food Aid Convention to supplant the 1971 convention were concluded on March 6, 1980. The new convention raises the total annual commitment to food aid to less developed countries by the 12 donor countries from 4.3 million metric tons to 7.6 million metric tons, with a goal of 10 million metric tons annually at some future date. The U.S. minimum pledge would increase from 1.89 million metric tons to 4.47 million metric tons annually.

No additional appropriations will be required by ratification of the Food Aid Convention as the United States already more than meets its commitments through the P.L. 480 programs.

MARITIME BOUNDARY TREATIES WITH CUBA AND VENEZUELA

The primary purpose of this treaty is to establish a permanent maritime boundary and eliminate overlapping jurisdictional claims between the United States and Mexico and Venezuela that have arisen in the Caribbean, the Gulf of Mexico and the Pacific Ocean.

In seeking to resolve their differences, the parties adopted negotiating guidelines which basically adhere to the delimitation principles of the 1958 Geneva Convention on the Continental Shelf and the criteria set forth by the International Court of Justice in the North Sea Continental Shelf cases.

These treaties mark an important step forward in protecting our fishery and offshore mineral resources, as well as in resolving potential problems in a cooperative fashion.

EXECUTIVE H (96TH-1ST), ORDER NO. 22, MARITIME BOUNDARY AGREEMENT WITH THE REPUBLIC OF CUBA

Mr. **CHURCH**. Mr. President, for the purpose of consideration of the maritime boundary treaty with Cuba, I yield the remainder of my time to the distinguished chairman of our Subcommittee on Western Hemisphere Affairs, the Senator from Nebraska (Mr. ZORINSKY).

Mr. **ZORINSKY**. Mr. President, in considering this agreement, let there be no mistake about it. Its sole and primary purpose is to serve the interests of the United States. Period. There are no ifs, ands, or buts about it. This agreement serves the national interest.

It serves the national interest by doing what Congress mandated be done in the 1976 Fishery Conservation and Management Act. It establishes an internationally recognized maritime boundary between the United States and Cuba. It eliminates uncertainty and confusion. And it vastly reduces the potential for controversy and conflict on the high seas.

This is all the treaty does. It does nothing more. It does not extend formal recognition to the Castro government. It does not lift the embargo against Cuba. It does not circumscribe our rights to Guantanamo. It does not do anything but establish a mutually acceptable maritime boundary between our two countries.

Mr. President, this agreement is not a new one. It was concluded in 1977 and has provisionally been in force since January 1, 1978. By all accounts, it has worked and worked well. So far as the Foreign Relations Committee is aware, there is no opposition to this agreement. Indeed, the committee has sent it to the Senate floor by a unanimous vote of approval.

Having said this, Mr. President, I also recognize there is always the temptation to politicize anything having to do with the Castro government. In this instance, the Senate must resist such temptation if we are to avoid the kind of ill-advised foreign policy surgery which will only prove beyond a shadow of a doubt that we are fully capable of cutting off our nose to spite our face. Needless to say, such surgery never makes good sense.

In the final analysis, Mr. President, there is only one reason for supporting this agreement: It serves the national interest. For this reason and this reason alone, I ask my colleagues to vote aye.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, in the absence of Senator Javits, I yield myself such time as I may require.

Mr. President, the Senate will shortly go on record, one way or another, with regard to a maritime boundary treaty with Cuba.

As I understand it, we will have seven votes at approximately 1 o'clock, and then thereafter there will be one vote on the Cuban treaty.

Mr. President, the Senator from North Carolina feels that the Senate would be making a great mistake if it regards the matter as simply a technical issue devoid of political significance.

Indeed, to conclude any kind of agreement with Cuba at a time when Fidel Castro is seeking to subvert not only the Third World countries, but even the United States itself, would be the kind of action that causes the American people to doubt the sanity of this august body.

The fact is that this treaty, simply put, is a referendum on Castro. There are those who doubtless would prefer that it not be construed in that light. But as representatives of the American people, we have no choice but to construe it in that light. The American people will be calling many of us to the bar of justice on November 4. They will be scrutinizing our decisions here today very carefully, and I have no doubt what criteria they will use for that scrutiny.

Mr. President, at the appropriate time, I am going to offer an amendment to the Cuban treaty. It is not in order at this time, but I will offer it at the appropriate time.

The American people are going to note that Cuba is virtually an outlaw nation. Not only is Cuba shipping arms and providing training to export revolution throughout Central America and Africa, but she is acting as the surrogate of the Soviet Union to impose Marxist dictatorships in Ethiopia, Angola, Mozambique, and elsewhere.

They will note the fact that Cuba is a Soviet base. They will note the fact that Cuba has been provided with Soviet Flogger-D Mig-23's, and that Soviet pilots have been piloting Cuban planes. They will note that the Soviets have a submarine base in Cuba, and have even provided Cuba with a first submarine. They will note that the Soviets have a brigade in Cuba in a combat mode, and that they have not been withdrawn.

Moreover, they will note that there has been no positive assurance that the Soviets have not emplaced nuclear weapons on the island.

They will note, too, that Castro has been busy exporting his revolution to the United States. They are aware that the Puerto Rican National Liberation Front, one of the worst terrorist organizations in the United States, is funded and trained by Castro.

They will note that Castro's own people have repudiated him, and that thousands are clamoring to leave. They will note too that Castro cynically exploited the disaffection of his people by forcing criminals and social degenerates to join in the exodus, thereby hoping to discredit the emigrants in general.

They will note too that secret agents have been included in the exiles, in order to stir up trouble and social unrest, and for more sinister purposes. They will note that we have had 10 hijackings in 5 weeks, all perpetrated by supposedly "disillusioned" Cubans.

But we know that Castro's agents—the agents of the DGI, his secret police—operate with impunity in the United States. We know how they seek to intimidate Cuban exiles. Hubert Matos has testified how DGI agents follow him constantly; and now he has to live in a virtual fortress in Miami for fear of assassination from Castro's agents.

And the atmosphere of terror works the other way, too, bringing the war between communism and freedom to our own territory. This very week, a Cuban DGI agent, Felix Garcia Rodriguez, disguised as an attaché at the Cuban U.N. mission in New York, was assassinated by persons claiming to be anti-Castro exiles. Moreover, the case of Orlando Letellier, reminds us how dangerous a man can be who is in the pay and under the direction of the Cuban DGI.

The papers found in his briefcase showed that he was not only receiving funds and direction from Havana, but was in contact with various KGB agents and terrorist agents in the United States and elsewhere.

On September 5, three Cuban nationals were arrested by the FBI in Miami under suspicion of spying for Castro. It is significant that they were carrying Nicaraguan papers supplied by the Marxist Sandinista Government.

Mr. President, I ask unanimous consent that an account of this incident, appearing in the Miami Herald of Saturday, September 6, 1980, be printed in the Record at the conclusion of my remarks.

Mr. President, if we vote for approval of the resolution of ratification of this treaty in the current state of relations with Castro, the American people will hold us responsible. I am, therefore, offering an amendment to the resolution of ratification which calls for all Soviet military units to be withdrawn before the treaty goes into effect. The language of the resolution is simple:

> *Provided however*, That the consent to ratification given hereby is subject to the express condition that the instruments of ratification of said Treaty contain the following: "The Senate of the United States denounces and deplores the continued presence of the Soviet combat brigade and Soviet advanced attack aircraft in Cuba. Accordingly, the Parties expressly agree that the terms of the Treaty ratified hereby shall not come into force until all Soviet military units have been withdrawn from Cuba and the President of the United States has certified to the Congress of the United States that no Soviet military units remain within Cuba or anywhere else in the Western Hemisphere.

If such language is added, then the American people will begin to consider the treaty in a somewhat more favorable light.

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

Mr. President, the treaties which are before us deal with problems affecting different parts of the world and a wide range of subjects; they are simply part of the broad assortment of activities between governments—whether we approve of those governments or not, or whether there are other sources of conflict with those governments—which make up the stuff that is international relations.

It is almost like saying that notwithstanding war, pestilence, or catastrophe, we still have to eat and we still have to sleep.

These treaties make up different aspects of our international life which we have to carry on so long as we are living in this world.

I joined yesterday in the exclusion of the Mexican treaty from the group of treaties which was first to be considered because we wanted to maintain a policy of complete information for any Members who desire it. There will now be an opportunity for Members to look into the situation respecting the Mexican treaty.

I wish to say, Mr. President, to those

who have raised issues in respect of the Mexican treaty that there may be oil resources somehow, though we do not know it, involved. We also have to recognize that there are important fishing interests involved, and that those who have those interests are very satisfied with the treaty. The person who raised these questions, a prominent geologist named Hollis Hedberg, actually testified before the Foreign Relations Committee and the committee hearings are included in the committee report. So the subject seems to me to have been covered, and the arguments, it seems to me, are still persuasive for approving this treaty.

Comparably on the Cuba treaty, I yield to no other Member in my own feeling about Soviet activities in Cuba. However, Cuba is there and we have just seen what happens with an uncontrolled incursion of Cubans leaving the island, almost without any warning as far as we are concerned, and the chaos and confusion which can be caused and the real dangers to human life which result. This treaty respecting marine boundaries with Cuba is occasioned by the fact that we both have extended our national fishing jurisdiction to the 200-mile limit. In waters of that kind, where our claims would otherwise overlap, this has to be subject to agreement or, again, it will be responsible for all kinds of confusion and conflict. Mr. President, the Senate has to determine that it must operate in this chaotic world, from the point of view of our own interests in peace and in some element of stability. We cannot have everything in conflict and everything in dispute and still operate in the world.

For all of those reasons, Mr. President, I commend the ratification of these treaties to the Senate and hope they will be ratified at this time.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The time will run equally against both sides.

Mr. CHURCH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHURCH. Under the unanimous-consent agreement, is it now time for the Senate to proceed to a vote on the first package of seven treaties?

The PRESIDING OFFICER. Not until 1 o'clock.

Mr. CHURCH. At 1 o'clock, that vote will come?

The PRESIDING OFFICER. Yes.

Mr. CHURCH. I thank the Chair.

Mr. JAVITS. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. JAVITS. And how much time does the other side have?

The PRESIDING OFFICER. The other side has 3 minutes.

Mr. JAVITS. Mr. President, I yield myself the remainder of my time.

Mr. President, the first treaty to be voted on is the 1980 Food Aid Convention, which will raise the minimum annual commitments of food aid to developing countries by donor countries above the levels contained in the 1971 convention. We operate generally under the Public Law 480 program and there are certain modifications which relate to the 1980 food aid convention we shall be ratifying which are important to the operation of our own programs. We are also dealing with an extension of the Wheat Trade Convention in that same connection.

Similarly, amendments to the 1972 convention on marine pollution by dumping establish a system of dispute settlement, allowing a choice between arbitration and the International Court of Justice. The convention on the Inter-American Institute For Cooperation in Agriculture is a revision of an original convention adopted in 1944 and is of considerable importance to the Latin American countries. There was a world administrative radio conference in early 1978. The convention which is before us relates to a partial revision of the regulations respecting an increase in channels allocated to aeronautical communications. We make a minor change in an amendment to the Convention on International Trade in Endangered Species.

Then, of course, there are the three maritime boundary agreements with Venezuela, Mexico, and Cuba, which will be voted on in due course. As I mentioned before, as to the Mexican treaty, the committee concluded that the kind of treaty which the witness, Dr. Hedberg, would have preferred was simply not negotiable. In any negotiation, it is not a matter of what claims we can make, but what claims we can make stick. In addition, there is no assurance whatever that, in the absence of this treaty, we could do better in a future treaty negotiation.

We simply have to, like any other nation involved in negotiation, decide what is best, in the aggregate, for our national interest. We cannot expect to have every claim we assert fully recognized by others.

The PRESIDING OFFICER. All time has expired.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the resolutions of ratification. The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

EX. G. (96TH–2D), ORDER NO. 14, THE FOOD AID CONVENTION, 1980

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. McGOVERN), the Senator from Alabama (Mr. STEWART), and the Senator from Florida (Mr. STONE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The yeas and nays resulted—yeas 94, nays 0, as follows:

[Rollcall Vote No. 408 Ex.]

YEAS—94

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stevenson
Talmadge
Thurmond
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NOT VOTING—6

Goldwater
McGovern
Stafford
Stewart
Stone
Tower

The PRESIDING OFFICER. Two-thirds of the Senators present and voting have voted in the affirmative, the resolution of ratification is agreed to.

EX. FF (96TH–1ST), ORDER NO. 15, PROTOCOLS FOR FIFTH EXTENSION OF INTERNATIONAL WHEAT AGREEMENT, 1971

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. McGOVERN), the Senator from Alabama (Mr. STEWART), and the Senator from Florida (Mr. STONE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from ARIZONA (Mr. GOLDWATER) and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The yeas and nays resulted—yeas 94, nays 0, as follows:

[Rollcall Vote No. 409 Ex.]

YEAS—94

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar

Magnuson
Mathias
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stevenson
Talmadge
Thurmond
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NOT VOTING—6

Goldwater
McGovern
Stafford
Stewart
Stone
Tower

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

EX. B (96TH–2D), ORDER NO. 16, 1978 PARTIAL REVISION OF RADIO REGULATIONS (GENEVA 1959)

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. McGOVERN), the Senator from Alabama (Mr. STEWART), and the Senator from Florida (Mr. STONE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The yeas and nays resulted—yeas 94, nays 0, as follows:

[Rollcall Vote No. 410 Ex.]

YEAS—94

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stevenson
Talmadge
Thurmond
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NOT VOTING—6

Goldwater
McGovern
Stafford
Stewart
Stone
Tower

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

EX. C (96TH–2D), ORDER NO. 17, AMENDMENT TO CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. McGOVERN), the Senator from Alabama (Mr. STEWART), and the Senator from Florida (Mr. STONE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The yeas and nays resulted—yeas 94, nays 0, as follows:

[Rollcall Vote No. 411 Ex.]

YEAS—94

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stevenson
Talmadge
Thurmond
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NOT VOTING—6

Goldwater
McGovern
Stafford
Stewart
Stone
Tower

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

EX. I (96–1ST), ORDER NO. 18, PROPOSED AMENDMENTS TO CONVENTION ON PREVENTION OF MARINE POLLUTION BY DUMPING OF WASTES AND OTHER MATTER

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. McGOVERN), the Senator from Alabama (Mr. STEWART), and the Senator from Florida (Mr. STONE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The yeas and nays resulted—yeas 94, nays 0, as follows:

[Rollcall Vote No. 412 Ex.]

YEAS—94

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stevenson
Talmadge
Thurmond
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NOT VOTING—6

Goldwater
McGovern
Stafford
Stewart
Stone
Tower

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

EX. HH (96TH–1ST), ORDER NO. 19, CONVENTION ON INTER-AMERICAN INSTITUTE FOR COOPERATION ON AGRICULTURE

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. McGOVERN), the Senator from Alabama (Mr. STEWART), and the Senator from Florida (Mr. STONE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The yeas and nays resulted—yeas 94, nays 0, as follows:

[Rollcall Vote No. 413 Ex.]

YEAS—94

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Havakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stevenson
Talmadge
Thurmond
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NOT VOTING—6

Goldwater
McGovern
Stafford
Stewart
Stone
Tower

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

EX. G (96TH-1ST), ORDER NO. 21, MARITIME BOUNDARY TREATY WITH THE REPUBLIC OF VENEZUELA

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. McGovern), the Senator from Alabama (Mr. Stewart), and the Senator from Florida (Mr. Stone) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater) and the Senator from Texas (Mr. Tower) are necessarily absent.

I also announce that the Senator from Vermont (Mr. Stafford) is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The yeas and nays resulted—yeas 94, nays 0, as follows:

[Rollcall Vote No. 414 Ex.]

YEAS—94

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stevenson
Talmadge
Thurmond
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NOT VOTING—6

Goldwater
McGovern
Stafford
Stewart
Stone
Tower

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

MARITIME BOUNDARY AGREEMENT WITH THE REPUBLIC OF CUBA

Mr. HELMS. Mr. President, what is the pending business now?

The PRESIDING OFFICER (Mr. Exon). The vote on the resolution of ratification of the maritime boundary agreement with the Republic of Cuba.

UP AMENDMENT NO. 1590

Mr. HELMS. Mr. President, I have an amendment at the desk which I call up and ask that it be stated, and I wish for the clerk to read it carefully and slowly so Senators may understand it. There will be no debate on this amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. Helms) proposes an unprinted amendment numbered 1590:

Add at the end of the Resolution the following:

"*Provided, however*, That the consent to ratification given hereby is subject to the express condition that the instruments of ratification of said Treaty contain the following: 'The Senate of the United States denounces and deplores the continued presence of the Soviet combat brigade and Soviet advanced attack aircraft in Cuba. Accordingly, the Parties expressly agree that the terms of the Treaty ratified hereby shall not come into force until all Soviet military units have been withdrawn from Cuba and the President of the United States has certified to the Congress of the United States that no Soviet military units remain within Cuba or anywhere else in the Western Hemisphere.'."

Mr. ZORINSKY and Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

UP AMENDMENT NO. 1591

Mr. ZORINSKY. Mr. President, I send to the desk an amendment in the nature of a substitute to the amendment of the Senator from North Carolina and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nebraska (Mr. Zorinsky) for himself and Mr. Javits proposes an unprinted amendment numbered 1591 to the Helms unprinted amendment numbered 1590.

In lieu of the language proposed to be inserted by the Senator from North Carolina, insert the following:

"Nothing in the treaty this resolution ratifies alters the view of the United States that Cuban military activities abroad and that the continued presence of Soviet combat forces in Cuba—and the transfer of advanced military equipment—constitute a grave concern to the United States and a continuing threat to the peace and security of the region."

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. Exon). The Senator from Nebraska.

Mr. ZORINSKY. Mr. President, I offer this on behalf of myself and the Senator from New York (Mr. Javits), and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. This is nothing but a gutting amendment, and I move to table it, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second on the motion to table by the Senator from North Carolina.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Carolina to lay on the table the amendment of the Senator from Nebraska. The clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. McGovern), the Senator from Alabama (Mr. Stewart), and the Senator from Florida (Mr. Stone) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater), the Senator from Maryland (Mr. Mathias), and the Senator from Texas (Mr. Tower) are necessarily absent.

I also announce that the Senator from Vermont (Mr. Stafford) is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 35, nays 58, as follows:

[Rollcall Vote No. 415 Ex.]

YEAS—35

Armstrong
Baker
Bayh
Bellmon
Boschwitz
Byrd,
  Harry F., Jr.
Cochran
Cohen
Danforth
Dole
Domenici
Durkin
Exon
Garn
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Humphrey
Jepsen
Laxalt
Lugar
McClure
Pressler
Proxmire
Roth
Schmitt
Schweiker
Simpson
Thurmond
Wallop
Warner
Young

NAYS—58

Baucus
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cranston
Culver
DeConcini
Durenberger
Eagleton
Ford
Glenn
Gravel
Hart
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Kassebaum
Kennedy
Leahy
Levin
Long
Magnuson
Matsunaga
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stennis
Stevens
Stevenson
Talmadge
Tsongas
Weicker
Williams
Zorinsky

NOT VOTING—7

Goldwater
Mathias
McGovern
Stafford
Stewart
Stone
Tower

So the motion to lay on the table the amendment of the Senator from Nebraska was rejected.

Mr. ZORINSKY. Mr. President, I request the yeas and nays on my amendment.

The PRESIDING OFFICER. The yeas and nays have been ordered on the amendment of the Senator from Nebraska.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I ask unanimous consent that it be in order to get the yeas and nays on my amendment, as well.

The PRESIDING OFFICER. Is there objection?

Mr. ZORINSKY. I object.

Mr. ROBERT C. BYRD. Mr. President, I hope there will be no objection. It does not hurt anything for the Senator to get the yeas and nays on his amendment.

Mr. ZORINSKY. Mr. President, I withdraw my objection.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

UP AMENDMENT NO. 1592

Mr. HELMS. Mr. President, I send a perfecting amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1592 as a perfecting amendment to the Helms unprinted amendment numbered 1590:
>
> Strike all after "following:" in line 3, and insert in lieu thereof;
>
> "The Parties to the Treaty expressly agree that the terms of the Treaty ratified hereby shall not come into force nor be given any effect until such time as the President of the United States shall certify in writing to the Senate of the United States that Cuba is not conducting subversion in nor exporting revolution to any country, either directly or indirectly."

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. ROBERT C. BYRD. Mr. President, may I say to the distinguished Senator from North Carolina, I will be glad to yield to him if I do not lose my right to the floor.

Mr. HELMS. Will the distinguished Senator permit me to ask for the yeas and nays?

Mr. ROBERT C. BYRD. Yes.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate return to legislative session.

Mr. HELMS. Mr. President, I believe we ought to have the yeas and nays on this. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Alabama (Mr. STEWART), and the Senator from Florida (Mr. STONE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 55, nays 37, as follows:

[Rollcall Vote No. 416 Ex.]

YEAS—55

Baucus
Bayh
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cranston
Culver
DeConcini
Durkin
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Heflin
Hollings
Huddleston
Inouye
Jackson
Johnston
Leahy
Levin
Long
Magnuson
Matsunaga
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pell
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stennis
Stevenson
Talmadge
Tsongas
Williams
Zorinsky

NAYS—37

Armstrong
Baker
Bellmon
Boschwitz
Chafee
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Garn
Hatch
Hatfield
Hayakawa
Heinz
Helms
Humphrey
Javits
Jepsen
Kassebaum
Laxalt
Lugar
McClure
Packwood
Percy
Pressler
Roth
Schmitt
Schweiker
Simpson
Stevens
Thurmond
Wallop
Warner
Weicker
Young

NOT VOTING—8

Goldwater
Kennedy
Mathias
McGovern
Stafford
Stewart
Stone
Tower

So the motion to return to legislative session was agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT-INDEPENDENT AGENCIES APPROPRIATIONS, 1981

The Senate continued with the consideration of H.R. 7631.

Mr. PROXMIRE. Mr. President, I understand that the pending amendment is the Mathias amendment to the Jepsen amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. PROXMIRE. I ask unanimous consent that I be listed as a cosponsor of the amendment by the Senator from Maryland.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, this substitute amendment is an amendment which I think is very logical. The Senator from Iowa (Mr. JEPSEN) offered an amendment which is highly controversial. It is an amendment on which there has been no discussion, no hearings, and no record in either the authorizing committee or the Appropriations Committee.

I have talked to members of the Public Works and Environment Committee in an attempt to find out how this amendment affects their jurisdiction. They have indicated they have not had an opportunity to become familiar with this matter.

So I earnestly hope the Senate will very seriously consider the Mathias amendment.

Mr. President, the amendment by the Senator from Iowa provides that none of the funds in this act shall be used retroactively to enforce any regulation issued under the construction grants program.

The Environmental Protection Agency has cited examples where they have issued regulations retroactively to protect the health and safety of American citizens.

The agency points out that an action it took with respect to the toxicity of chemical grants for sewer rehabilitation could not have been taken, in its judgment, if the amendment by the Senator from Iowa had been enacted into law.

On the other hand, if the Mathias substitute had been in effect, then that action could have been taken. EPA could have alerted grantees of the potential health hazards associated with grout used to correct sewer infiltration.

Mr. President, I think all of us recognize how very difficult it is, how expensive it is, and how utterly frustrating it can be when an agency as involved as the EPA is in our communities changes the signals. The Senator from Iowa deserves great credit for calling our attention to that problem.

But I think we are all aware of the importance of protecting health and safety. The Senators who vote against the Mathias amendment are assuming quite a responsibility. They are saying that the EPA, which is our expert adviser in this area, is wrong when it says the Jepsen amendment could affect the health and safety of American citizens.

What the Senator from Maryland is doing is to provide that the Jepsen amendment will be effective whenever health and safety are not involved.

I might point out, Mr. President, that even with respect to cases involving health and safety considerations, the policy of the EPA has changed in the last 6 weeks. On July 24 of this year, the EPA issued a policy statement that no new program requirements will be applied to projects under construction, or where construction is likely to be underway within 6 months of the grant award.

What the Mathias substitute would do is to protect us against a situation that could endanger the public health and safety of our citzens, but prohibit the retroactive application of other EPA policies that would effect the design segment of a project.

No one can say that the Mathias substitute is without effect. It does have an effect. It has a specific effect. But it does not prevent the EPA from taking actions that all of us would expect it to take whenever it finds that vital public health and safety considerations have to be considered.

Mr. President, I do want to remind Senators that before we go as far as the Jepsen amendment would go, and thus override the opinion of the EPA that the amendment would affect the health and safety of our citizens, at the very least we should have hearings in the Committee on Public Works and the Environment. The authorizing committee should have an opportunity to create a record. The EPA should testify under cross-examination. Those who disagree with the EPA should testify also. This is the way we produce virtually all of our legislation.

But it is wrong to come to the floor of the Senate with this amendment without any opportunity for the authorizing committee to act and without any opportunity for the Appropriations Committee to have hearings. My Appropriations Subcommittee has jurisdiction in this area. We did not receive a word of testimony about this amendment. Under these circumstances, it seems to me to be a mistake to add this far-reaching amendment to this bill before us today.

For that reason, Mr. President, I do hope that the amendment offered by the distinguished Senator from Maryland (Mr. MATHIAS) will be accepted.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JEPSEN. Mr. President, I move to table the Mathias amendment to the Jepsen amendment and ask for a voice vote.

Mr. PROXMIRE. Mr. President, in the first place, I ask the Senator if he would desist for a minute so I can point out a problem.

The PRESIDING OFFICER. The motion to table is not debatable.

Mr. PROXMIRE. I would have to ask for the yeas and nays on the Mathias substitute, which I could do. The difficulty is that the Senator from Maryland will be back shortly, but he may miss this vote and it is on his amendment.

Out of courtesy, I hope the Senator will defer any further action until the Senator from Maryland returns. The staff tells me he is expected to return soon.

The PRESIDING OFFICER. Does the Senator from Iowa withdraw his motion?

Mr. JEPSEN. The Senator from Iowa does not withdraw his motion to table.

Mr. PROXMIRE. Then I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum. Nobody has voted as yet.

The PRESIDING OFFICER. The clerk will call the roll on the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. JEPSEN addressed the Chair.

The PRESIDING OFFICER (Mr. BRADLEY). The Senator from Ohio.

Mr. JEPSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. PROXMIRE. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued the call of the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. PROXMIRE. Mr. President, it is my understanding that the Senator from Maryland will not be back until about 3:15, so we will have to go ahead with the vote.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Maryland. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Ohio (Mr. GLENN), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. McGOVERN), the Senator from Alabama (Mr. STEWART), and the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 59, nays 29, as follows:

[Rollcall Vote No. 417 Leg.]

YEAS—59

Armstrong
Baucus
Boschwitz
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Church
Cochran
Cohen
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Humphrey
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Matsunaga
McClure
Melcher
Nunn
Packwood
Percy
Pressler
Pryor
Riegle
Roth
Schmitt
Schweiker
Simpson
Stennis
Stevens
Talmadge
Thurmond
Wallop
Warner
Weicker
Young
Zorinsky

NAYS—29

Bayh
Bentsen
Biden
Boren
Bradley
Cranston
Culver
Hart
Hollings
Huddleston
Inouye
Jackson
Kennedy
Long
Magnuson
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Pell
Proxmire
Randolph
Ribicoff
Sarbanes
Sasser
Stevenson
Tsongas
Williams

NOT VOTING—12

Baker
Bellmon
Cannon
Glenn
Goldwater
Gravel
Mathias
McGovern
Stafford
Stewart
Stone
Tower

So the motion to table Mr. MATHIAS' amendment (UP No. 1589) was agreed to.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from Iowa. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Ohio (Mr. GLENN), the Senator from Alaska (Mr. GRAVEL), the Senator from South Dakota (Mr. McGOVERN), the Senator from Alabama (Mr. STEWART), and the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The PRESIDING OFFICER (Mr. BUMPERS). Are there any other Senators wishing to vote?

The result was announced—yeas 75, nays 12, as follows:

[Rollcall Vote No. 418 Leg.]

YEAS—75

Armstrong
Baucus
Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Church
Cochran
Cohen
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Morgan
Nunn
Packwood
Percy
Pressler
Pryor
Riegle
Roth
Sasser
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stevenson
Talmadge
Thurmond
Tsongas
Wallop
Warner
Weicker
Young
Zorinsky

NAYS—12

Bradley
Cranston
Hollings
Kennedy
Moynihan
Nelson
Pell
Proxmire
Randolph
Ribicoff
Sarbanes
Williams

NOT VOTING—13

Baker
Biden
Cannon
Garn
Glenn
Goldwater
Gravel
Mathias
McGovern
Stafford
Stewart
Stone
Tower

So Mr. JEPSEN's amendment (UP No. 1587), as modified, was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JEPSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MILITARY CONSTRUCTION APPROPRIATIONS, 1981

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 7592, which the clerk will state by title.

The legislative clerk read as follows:

> A bill (H.R. 7592) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes.

The Senate proceeded to consider the bill.

Mr. HUDDLESTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is H.R. 7592.

Mr. HUDDLESTON. Mr. President, I am pleased to bring before the Senate today the Military Construction Appropriation bill for fiscal year 1981, which begins on October 1, 1980, and ends September 30, 1981.

The purpose of this bill is to provide appropriations in fiscal year 1981 for planning, design, construction, alteration, and improvement of military facilities in the United States and abroad for both the Active and Reserve Forces. It also finances the military family housing program, certain types of community impact assistance and the U.S. share of the NATO infrastructure program.

The fiscal year 1981 budget request, as revised in March, totaled $5,387,136,000 in new budget authority. The recommendation of the committee is $5,148,370,000. This recommendation is $346,391,000 above the House recommendation but $238,766,000 under the budget estimate.

The bill is within the subcommittee's allocation under the first concurrent resolution (FRC) on the fiscal 1981 budget in terms of both budget authority and outlays. In order to keep the recommendations within the subcommittee allocation, we were, however, forced to leave out a number of budgeted, authorized, and desirable projects.

Action taken by the committee on individual construction projects is listed by State and installation on pages 61 through 93 of the committee report, Senate Report 96–931.

I would, however, like to comment on several of the larger projects, principally because there is significant bill and report language relating to them.

INDIAN OCEAN/PERSIAN GULF

As chairman of the Subcommittee on Military Construction of the Senate Appropriations Committee, I have been particularly concerned about policy and planning for the Indian Ocean/Persian Gulf area. The subcommittee in March received a fiscal 1980 supplemental request of $71.5 million for planning and design of facilities in Diego Garcia, Kenya, Somalia, and Oman and for certain construction on Diego Garcia. At the same time it received a fiscal 1981 budget amendment requesting $297 million for the area.

These requests marked the first efforts by the administration to implement its policy of securing access to a network of facilities in the Indian Ocean/Persian Gulf area. The requested funds would be used to construct storage capacity and upgrade certain logistical and operational facilities at various sites in the region.

Instead of funding individual projects as requested in the budget, the subcommittee, consistent with the Senate authorization committee, recommended the creation of a special construction fund for the Indian Ocean/Persian Gulf area, which would be funded at a level of $245 million. It has taken this approach because of the fluidity of the situation in the region and the likelihood of further shifts in priorities as the administration refines its program.

In order to retain control and exercise oversight over use of the funds, however, the subcommittee in report language specified the following procedures for use of the funds:

> Prior to the obligation of any funds, the Department shall notify the Committee in writing of: (a) the amount involved in the project, (b) the country involved, (c) the date the country-to-country agreement and legal interpretation were submitted to the Committee, (d) the site or sites within the country involved, (e) the type of facilities to be constructed, including provision of a 1391 form on each, (f) the impact construction or modification of the proposed facility will have on operational capabilities and readiness, (g) other similar or related facilities being constructed under the fund, (h) other similar or related facilities within the area and (i) alternatives, if the proposed facilities do not become available. The Department may proceed with the project if it receives no objection from the Committee within 15 days of the Committee's receipt of the notification.

From the beginning, the Subcommittee has recognized both the symbolic and the operational importance of an enhanced U.S. presence and capability in the area from which such a significant portion of United States and allied nations' oil supplies come. Developments in Iran and the Soviet invasion of Afghanistan have reinforced concerns about the stability of the region and the reliability of supply lines. But, from the beginning, the subcommittee has also been concerned about vagueness in planning and lack of program definition. For this reason, there is what I consider to be extremely important report language relating to the expenditure of funds in the area.

The original March request for Indian Ocean/Persian Gulf facilities focused on Diego Garcia, Kenya, Somalia, and Oman. Even then, however, there was discussion in Government circles of other potential sites, and observers both within and outside Government were suggesting alternative locations which might be more operationally feasible, more politically acceptable and more economical than those selected initially.

Recent reports regarding possible sites in Egypt as well as other nearby countries would seem to confirm that a larger, more extensive network of facilities is under consideration. For this reason, we have continued to press for a concept plan for the entire area. The Department of Defense needs to prepare and justify a comprehensive program so that the subcommittee can judge the parameters of the entire program.

The subcommittee also requires such a plan so that it can evaluate various alternative sites against one another. Under the requests already submitted, construction has been proposed at a number of individual sites. As noted previously, several sites in Egypt and other countries are now under consideration. Certainly there may be instances where duplication is advisable, but we must also guard against any unnecessary multiplication of sites.

During our deliberations, it also became clear to me that the country-to-country agreements might have been more definitive. If the United States is going to spend tax dollars to construct facilities abroad, then it must have reasonable assurances that it will be able to use those facilities—and use them for the purposes required—when the need arises. Consequently, no funds are to be committed to projects in any country until a country-to-country agreement has been signed and until the agreement has been submitted to the committee, accompanied by a legal interpretation of the access and use rights which the agreement gives the United States and the nature of any consultation required prior to use.

Finally, I think our proceedings emphasized two other important points. One is that there are instabilities within the area to which the United States needs to be particularly sensitive. The political advisability of seeking facilities in certain countries of the area is questionable. The United States should not position itself so as to be drawn into local, internal conflicts. If there is any lesson from the past that we should continue to remember, that is certainly one. Second, U.S. allies, who are more dependent upon Middle Eastern oil than the United States, must bear a fair share of the cost of securing oil supplies. The U.S. effort to obtain access to facilities in the Indian Ocean/Persian Gulf area follows closely major efforts to upgrade NATO. Both are needed, but the United States cannot—and should not—have to shoulder a disproportionate amount of the cost of both. The economies of several allies are performing better than ours, and those countries in particular must make a reasonable contribution.

I have recited the above not to question the commitment in the Indian Ocean/Persian Gulf area, but to demonstrate that we are embarking upon a new commitment which carries with it a number of unresolved issues. These issues will continue into future military construction requests, and I hope we have in this bill laid the groundwork for a rational and comprehensive approach to evaluating the facility/construction requirements in the region.

MX

Another program of magnitude in the military construction budget is the MX basing system. The bill before us contains $17 million for MX test facilities at Vandenberg Air Force Base, Calif. This is in addition to the $57 million provided last year.

Furthermore, as much as $97 million of the Air Force's fiscal 1981 planning and design funds may be used to prepare for the $20 billion construction program anticipated for the MX.

Again, the subcommittee included language which I consider particularly important in guiding the Department of Defense during the early part of the construction effort. Under this language, the Department must comply fully with the National Environmental Policy Act prior to the obligation of any funds for the design of site specific facilities. This is to insure that all environmental issues—issues which are of prime importance to the citizenry of the affected areas—are fully considered.

There is also language directing that a good faith effort be made in studying base sites alternative to the preferred sites in Utah and Nevada. While the subcommittee does not wish to delay the scheduled initial operating capability (IOC) of the MX missile, it does expect the split basing option to be fully and carefully evaluated.

We have also sought to provide some direction for the use of community impact assistance and the mitigation of the adverse effects which will result from construction and deployment of a system of this size.

SPACE SHUTTLE

The bill includes $88 million to continue construction at the western launch site for the Space Shuttle, located at Vandenberg Air Force Base, Calif. Despite the problems encountered by the Space Shuttle, the subcommittee remains convinced that the program is an important national one and that every effort should be made to bring it to operational status as soon as possible.

The language in the House bill prohibiting the obligation of any fiscal 1981 funds until completion of the first successful manned orbital flight of the Space Shuttle has been deleted from the Senate version. That flight is currently scheduled for March 1981, at Kennedy Space Center, Fla. Meeting the projected schedules, particularly for several extremely sensitive DOD missions, does depend upon a successful manned flight from Kennedy Space Center, but it also depends upon prompt orbiter delivery and meeting the Vandenberg construction dates. The construction schedule has already slipped because of higher than anticipated bids on the launch pad modification package. Further delays, such as could result from the House prohibition, could well jeopardize the June 1984 initial operating capability (IOC) now planned for Vandenberg.

OTHER PROVISIONS

The bill contains $244.8 million for the U.S. contribution to the NATO infrastructure program. This represents concurrence with the House reduction of $50 million in the $300 million request. The subcommittee believes that much of this $50 million can be covered by recoupments from NATO for projects which the United States prefinanced in previous years but which either were or were expected to become eligible for infrastructure financing.

The further reduction of $5.2 million covers the amount the Department intends to pay in foreign property taxes for certain off-base housing. The House, in bill language, prohibited payment of the property taxes. That language has been deleted. The recommended offset seeks to make the same point to the Department of Defense and foreign governments: The United States should not have to pay these taxes. The Senate approach would, however, give the Department the time to negotiate changes in the status of forces agreement (SOFA) and host nation support which is necessary if the United States is to be relieved of commitments under existing agreements.

For some time, the subcommittee has been concerned about the ability of U.S. business to compete for construction projects abroad. The bill retains the language first included last year directing that U.S. steel producers be given the opportunity to compete for steel procurement contracts. This provision was directed toward the NATO infrastructure program where U.S. producers had encountered difficulties.

The committee report on the bill also contains language regarding preferences for U.S. contractors and dredgers on projects in the Indian Ocean/Persian Gulf area. This language builds upon directives in the conference report on the fiscal 1980 supplemental appropriations bill, Public Law 96–304. As previously mentioned, the construction program in the region is an expanding one. The subcommittee expects not only that U.S. firms will receive a preference on projects approved in fiscal 1980 and 1981 but also that future country-to-country agreements will make provision for such preferences.

Of the planning and design funds included for the various services, $18.8 million has been earmarked for projects dealing with conversion from oil to alternate fuels. Because the Department of Defense is a major energy user, it must demonstrate some initiative in energy conservation and the use of fuels alternative to oil and natural gas.

No funds are included in the reported bill for the binary chemical munitions production facility at Pine Bluff, Ark. The House bill included $3.150 million.

The $19.9 million requested to prefinance the deployment of the ground-launched cruise missile in Great Britain has been restored in the reported bill, as has the $28.2 million requested to exercise the option of the Mariana Islands land lease.

Initial funding is included for the Defense Intelligence Agency (DIA) building. The Senate Armed Services Committee authorized the building, contingent upon completion of a study of alternative sites to Bolling Air Force Base, which was the site proposed in the original budget request.

The bill includes restoration of funds cut by the House for utilities, furnishings and leasing in the family housing program.

The important fraud, abuse, waste and error provisions proposed by Chairman MAGNUSON have been included in the bill. These deal with fourth quarter spending, use of consultants, unresolved audits and collection of overdue debts owed to the Government.

Also included is a provision prohibiting the use of funds to pay contractors who have employed illegal aliens.

Mr. President, we have had an interesting, if somewhat difficult, military construction appropriation bill this year. We have had a number of new and significant issues to deal with. We have had to work within rather restrictive budget limitations. We have been faced with a number of budget changes and some shifting of priorities.

I want to thank our ranking member, Senator LAXALT, for his interest and cooperation as we have worked our way through the process. He has been most helpful both during the hearing and markup sessions. I appreciate the time and effort he has given to the matters in the bill.

I also want to thank my authorization counterpart, Senator HART, for his cooperation. Our subcommittees held several joint hearing sessions, and we have worked closely together in recent days in order to move this bill quickly.

Mr. President, that concludes my opening statement.

Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc and that the bill as amended be considered as original text for the purpose of further amendment, with the understanding that no points of order be considered as having been waived by reason thereof.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments agreed to en bloc are as follows:

On page 2, line 7, strike "$828,308,000", and insert in lieu thereof "$865,980,000";

On page 2, line 19, after "therefor" insert the following: : And, *provided further*, That $4,700,000 of the funds available for planning and design shall be available only for activities related to the conversion of facilities to alternative fuels.

On page 3, line 6, strike "$732,873,000", and insert in lieu thereof "$680,323,000";

On page 3, line 18, after "Georgia", insert the following: : And, *provided further*, That $8,100,000 of the funds available for planning and design shall be available only for activities related to the conversion of facilities to alternative fuels.

On page 4, line 3, strike "$783,797,000", and insert in lieu thereof "$812,230,000";

On page 4, line 5, strike "$134,400,000", and insert in lieu thereof "$139,400,000";

On page 4, line 11, strike "$4.000,000", and insert in lieu thereof "$5,000,000";

On page 4, line 14, after "areas", insert the following: : And, *provided further*, That $6,000,000 of the funds available for planning and design shall be available only for activities related to the conversion of facilities to alternative fuels.

On page 5, line 1, strike "$136,100,000", and insert in lieu thereof "$637,400,000";

On page 5, strike line 17 through and including page 6, line 4;

On page 6, line 10, strike "$34,364,000", and insert in lieu thereof "$34,000,000";

On page 7, line 7, strike "$33,000,000", and insert in lieu thereof "$24,700,000";

On page 7, after line 15, insert the following:

MILITARY CONSTRUCTION, RESERVE COMPONENTS GENERALLY

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Armed Forces, $20,000,000, to be allocated by the Secretary of Defense for the use of the reserve components of the Armed Forces.

On page 8, line 9, strike "$1,981,593,000", and insert in lieu thereof "$2,051,793,000";

On page 8, line 14, strike "$82,118,000", and insert in lieu thereof "$82,133,000";

On page 8, line 16, strike "$86,703,000", and insert in lieu thereof "$86,786,000";

On page 8, line 18, strike "$43,348,000", and insert in lieu thereof "$53,575,000";

On page 8, line 20, strike "$493,000", and insert in lieu thereof "$468,000";

On page 8, line 23, strike "$1,635,326,000", and insert in lieu thereof "$1,693,726,000";

On page 13, strike line 7 through and including line 24;

On page 14, line 1, strike "118", and insert in lieu thereof "115";

On page 14, line 7, strike "119", and insert in lieu thereof "116";

On page 14, strike line 10 through and including line 23;

On page 14, line 24, strike "122", and insert in lieu thereof "117";

On page 15, line 6, strike "123", and insert in lieu thereof "118";

On page 15, after line 12, insert the following:

Sec. 119. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

Sec. 120. (a) No appropriations made available in this Act shall be obligated in a manner that would cause obligations from the total budget authority available to any department or establishment—as defined in section 2 of the Budget and Accounting Act, 1921—or any major administrative subdivision thereof, during the fiscal year ending September 30, 1981, to exceed 30 per centum for the last quarter of such fiscal year or 15 per centum for any month in the last quarter of such fiscal year. The Director of the Office of Management and Budget may waive the requirements of the preceding sentence with respect to any program or activity if the Director determines in writing that the waiver is necessary to avoid a serious disruption in carrying out such program or activity.

(b) Not later than forty-five days after the end of each quarter of the fiscal year, the head of each department and establishment shall submit a report to the Committees on Appropriations and to the Director of the Office of Management and Budget, specifying the amount of obligations incurred during the quarter and the percentage of total available budget authority for the fiscal year which the obligations constitute.

(d) The Director of the Office of Management and Budget shall keep the Committees on Appropriations fully informed of actions taken to carry out the requirements of this section, including any waivers granted, and shall promptly report in writing any situation in which the obligations of any department and establishment exceed such requirements other than pursuant to a waiver. Not later than December 31, 1981, the Director shall submit a report to the Committees on Appropriations on the results of the requirements of this section and actions taken under this section, including the effects upon procurement and apportionment processes, together with any recommendations the Director considers appropriate. Concurrent with the submittal of the report to the Committees on Appropriations under the preceding sentence, the Director shall submit a copy of such report to the Comptroller General, who shall promptly review that report and submit to the Committees on Appropriations an analysis of the report and any recommendations which the Comptroller General considers appropriate.

Sec. 121. All unresolved audits currently pending within agencies and departments, for which appropriations are made under this Act, shall be resolved not later than September 30, 1981. Any new audits, involving questioned expenditures, arising after the enactment of this Act shall be resolved within six months of completing the initial audit report.

Sec. 122. Each department and agency for which appropriations are made under this Act shall take immediate action (1) to improve the collection of overdue debts owed to the United States within the jurisdiction of that department or agency; (2) to bill interest on delinquent debts as required by the Federal Claims Collection Standards; and (3) to reduce amounts of such debts written off as uncollectible.

Sec. 123. (a) For fiscal year 1982 and thereafter, a department or establishment—as defined in section 2 of the Budget and Accounting Act, 1921—shall submit annually to the House and Senate Appropriations Committees, as part of its budget justification, the estimated amount of funds requested for consulting services; the appropriation accounts in which such funds are located; and a brief description of the need for consulting services, including a list of major programs that require consulting services.

(b) For fiscal year 1982 and thereafter, the inspector General of such department or establishment, or comparable official, or if there is no Inspector General or comparable official, the agency head or the agency head's designee, shall submit to the Congress along with the budget justification, an evaluation of the agency's progress to institute effective management controls and improve the accuracy and completeness of the data provided to the Federal Procurement Data System regarding consultant service contractual arrangements.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that Jim Smith of the Senate Armed Services Committee be given the privilege of the floor during consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, as I mentioned previously the assistance and help given in the preparation of this bill by the distinguished minority member of our subcommittee, the Senator from Nevada (Mr. LAXALT), has been very substantial.

I appreciate the assistance that he has given and the attention that he has paid to the pending measure.

I yield at this time to the Senator from Nevada for any comment he might make.

Mr. LAXALT. Mr. President, I thank the distinguished Senator from Kentucky (Mr. HUDDLESTON) for his advice and cooperation throughout the course of the processing of this bill.

Mr. President, the distinguished chairman of our subcommittee (Mr. HUDDLESTON), has provided the Senate with the details on the fiscal year 1981 military construction appropriations bill now before us. I would like to make but a short statement on this bill.

The bill recommended by the committee includes $3.2 billion for military construction projects and $1.9 billion for family housing construction and operations and maintenance. The total bill—at $5.148 billion—is $238 million less than the amended budget request and $346 million more than the House allowance. The total is within the amount allocated to the subcommittee by the first concurrent resolution on the fiscal year 1981 budget in both budget authority and outlays.

The amount reported to the Senate is some $300 million less than the authorization bill. Because of the large difference between the authorization bill and the subcommittee allocation, we have been forced to make some hard decisions—especially with regard to projects added during the authorization process but not included in the budget. Our recommendations were made after careful consideration of all projects, and we worked with the Defense Department and took their priorities into our consideration of the bill. I believe we have proposed a well-balanced program for fiscal year 1981.

Of significance is the Indian Ocean/Persian Gulf recommendation of $245 million for facilities in that area of the world. Also, $244.8 million for the U.S. contribution to the NATO infrastructure account.

With regard to the MX missile system, the chairman and I have worked closely on the report and bill language. I support the language wholeheartedly. The bill contains $17 million for test facilities for the MX at Vandenberg Air Force Base. Also included is about $98 million—part of the $139 million recommended in total—for planning and design of the initial basing mode deployment of the MX system.

With this initial planning money, we are about to venture into an enormous construction program for MX which will last 10 years or more and cost in the $20 billion range. Mr. President, the committee is acutely aware of the far-reaching consequences not only for U.S. strategic forces and policy, but also of the impact to the regions of this country where the construction is scheduled. The committee has worked closely with the Air Force to insure that their needs, as well as those of the others concerned, are met. We have included language which covers such areas as the National Environmental Policy Act; split basing;

point security; State water rights; construction impact; community and economic impact planning; and local contractors.

Of importance to my State of Nevada and to the State of Utah, is the $5 million for the impact assistance planning. This money is to be used to help the State and local governments in these States to assess their needs for the near-term and long-term impact of the MX system. I recommended and the committee agreed with report language to insure that local contractors are given every opportunity to receive contracts on this huge venture.

I believe that between our recommendations and those made by the House—which I might add are very similar—we have tried to meet the concerns of all parties concerned with the deployment of the MX.

Mr. President, I would like to express my sincere thanks to the chairman, Senator Huddleston, for his advice and cooperation on the MX issue. As with all other sections of the bill, we are in complete agreement. This was the first year that our subcommittee has tried to consider the requests presented to us on a "mission" basis. I believe our hearings were very successful, and I support the chairman in his plan to continue the mission approach to the projects requested.

Mr. President, I support this bill as reported and urge my colleagues to accept the bill without amendment.

UP AMENDMENT NO. 1593

(Purpose: To provide funds for the initiation of construction of a binary weapons production facility at Pine Bluff Arsenal, Arkansas)

Mr. JACKSON. Mr. President, I call up an amendment I am offering for myself and Senators Hollings, Nunn, and Warner.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Washington (Mr. Jackson), for himself and Messrs. Hollings, Nunn, and Warner, proposes an unprinted amendment numbered 1593:

On page 2, line 7, strike out "$865,980,000" and insert in lieu thereof "$869,130,000".

Mr. JACKSON. Mr. President, yesterday, in its consideration of the fiscal year 1981 military construction authorization bill, the Senate put itself on record as supporting the initiation of construction of a binary weapons production line at Pine Bluff, Ark., this year. We had a good debate on this issue, both the proponents and opponents having had an opportunity to state their cases, and the Senate affirmed the recommendation of its Armed Services Committee to take this important step in fiscal year 1981.

Today, Senator Hollings, Senator Warner, and I are offering a conforming amendment which will bring the military construction appropriations bill as reported by the Senate Appropriations Committee into line with the substantive decision taken yesterday by the full Senate. I see no need to take the time of the Senate once more to discuss the sound and compelling reasons behind yesterday's 52-to-38 vote in favor of the Pine Bluff construction. Suffice it to say, the Senate's action on this issue is sending the right signal to the Soviet Union about our determination to deter chemical war and to encourage an effective. reciprocal chemical arms control agreement.

Mr. President, I think this issue has been resolved. I hope that the committee will accept this amendment.

Mr. WARNER. Mr. President, I rise in support of the amendment. The underlying issue was thoroughly considered by the Senate yesterday and passed on, in one way or another, but my recollection is by at least three votes.

Therefore, I urge my colleagues to expedite this matter and accept the amendment.

Mr. HUDDLESTON. Mr. President, the subcommittee and full committee, in preparing this legislation, considered the question of a binary weapons production line and came to the conclusion that the matter should be left to future determination.

However, yesterday, the Senate very thoroughly debated the issue and expressed its will.

The House has provided funding, in the same amount as suggested by the Senator from Washington, in its bill.

That being the case, and the Senate having already spoken on this issue, I am prepared to accept the amendment as offered by the Senator from Washington.

I yield to the Senator from Nevada.

Mr. LAXALT. Mr. President, the minority has no objection to the amendment.

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1594

Mr. PRYOR. Mr. President, I have a perfecting amendment to the Jackson amendment. I see the Senator in the Chamber. I do not know whether the Senator wants to make a statement in behalf of his amendment at this time.

Mr. JACKSON. I have made my statement.

Mr. PRYOR. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. Pryor) proposes an unprinted amendment numbered 1594 to the unprinted amendment numbered 1593 by Mr. Jackson:

At the end of the amendment offered by the Senator from Washington, add the following:

"And *provided further*, That none of the funds appropriated in this Act for the construction of any facility for the production of binary chemical weapons at Pine Bluff Arsenal, Arkansas, may be obligated or expended before March 1, 1981.".

Mr. PRYOR. Mr. President, the amendment I propose relates directly to the debate we had yesterday in this Chamber. I propose this amendment at this time to give the Members of the U.S. Senate a final opportunity to reverse what I believe was an absolutely catastrophic decision that the Senate made yesterday, by one vote, in turing down the amendment offered by the Senator from Colorado (Mr. Hart).

I am not going to take a great deal of time in making my argument today, because the issue was debated extensively yesterday. However, I do feel very strongly that to reverse, at this moment, an 11-year-old policy with regard to the manufacture of chemical agents in this country, to inaugurate a new and massive commitment of some $4 billion, in all likelihood, to the manufacture of chemical agents, when we have an adequate supply available, does not make military sense nor does it make economic sense.

Mr. President, in addition, we have an ongoing study—not a new study but an ongoing study—at this time, an interagency study being conducted by the administration.

If we are going to reverse this policy, the least we can do is to wait until a report is made to Congress assessing the impact on relations with our allies and the worldwide community.

I think that we need an update on the amount of chemical warfare agents and weapons that we actually have in stock at this point.

We need to consider the possibility of a closed session to allow the Secretary of Defense, the Secretary of the Army, the Secretary of State, and maybe even the President to come before us and report what the facts are with regard to our chemical warfare capability.

Mr. President, it is not too late to restore a little bit of sanity to what we did yesterday, when this body voted 47 to 46 against the amendment of the Senator from Colorado.

I firmly believe that if a proper study is completed and a proper report made to Congress, we will be much better served. We will be given the opportunity to make a proper and studied decision based upon fact—not based upon allegation, not based upon emotion, not based upon an article that has been written in the Reader's Digest. It will be a decision based upon logic and commonsense. a decision based upon the facts that we need before we legislate in this very, very sensitive area.

Mr. President, I conclude by saying that I deeply appreciate the fact that 46 Members of this body supported the Hart amendment yesterday. I am only hopeful that they will support this substitute amendment which will preclude the spending of any of these funds until March 1, 1981. This will provide us with the time we need to hear from the proper officials regarding the circumstances as exist today, in the world and in this country.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Mr. President, I rise in opposition to the amendment.

Yesterday the Senate voted decisively to support the authorization for the Pine Bluff facilities.

Today I hope my colleagues will support with equal conviction the appropriations for this very necessary step toward providing a chemical warfare deterrent and an incentive for the Soviets to negotiate an arms limiting treaty.

The pending Jackson-Warner amendment is just a conforming amendment that has the overwhelming support of the Armed Services Committee. That committee voted 14 to 3 in favor of funding the Pine Bluff facilities and yesterday the Senate voted 52 to 38 in favor of this amendment.

It is important to bear in mind that we are not appropriating funds for production of weapons, only the improvement of facilities, and with due respect to my colleague from Arkansas, the first sentence that he uttered today was that we are establishing a policy for the production of chemical and biological warfare. That is inaccurate. This is merely a legislative process to provide funds for developing the Pine Bluff facilities. Should this Nation, at a subsequent time, and only after instructions from the President and a further judgment by this body, decide to produce these weapons, only then would we go to the production of weapons.

Personally, I hope it will never be necessary to produce these weapons. If our actions today encourage the Soviets to conclude an effective chemical weapons treaty, then our purpose could not be better served. But if we fail to take this action, the signal to the Soviets will be clear: The United States will once again have chosen to negotiate from a position of weakness.

I urge my colleagues to join me in support of this vital amendment.

Mr. PRYOR. Mr. President, I say to the Senator that I am aware that the immediate question we are discussing is $3.15 million to construct a facility.

However, yesterday the other body appropriated $19 million to equip the facility.

What we are embarking on, I say to my friend from Virginia, is a long-term $4 billion project. At the same time, we are going to be possibly manufacturing a binary type nerve gas that has no military advantage whatsoever to the present stockpile that we have. It does not make sense.

Mr. WARNER. Mr. President, I ask my colleague from Arkansas to clarify. We are not starting the production of any binary weapons. It is nothing more than bricks and mortar.

Mr. PRYOR. This appropriation is for bricks and mortar, but it is the beginning of a reversal of the policy of the past three administrations over the past 11 years. What we are doing will be interpreted, no matter in what fine language we discuss it on the floor, as a commitment to go back into the chemical weapons race.

Mr. WARNER. That commitment would have to be subsequently ratified by the President, and would require subsequent actions by Congress.

Mr. PRYOR. My point is this: Why do this? Why make this decision when we have not had proper testimony in the Senate, when the only testimony is that of Secretary Brown in a closed session before one committee in the Senate? Why is it that we have to rush into this matter in the closing days of this session of Congress when we know that the decision can wait until March 1981, after a proper report has been given this policy? Why is that?

Mr. WARNER. I should like now to resume the colloquy with my distinguished friend from Arkansas. I reopen it by asking a question: Am I not correct that what we are considering today is nothing more than an appropriation for bricks and mortar, and it is not in any way the commencement of the manufacture of binary weapons?

Mr. PRYOR. I would answer the distinguished Senator from Virginia by saying that it is the beginning of a process. It will be perceived, I think, by the worldwide community as a commitment of our resources to chemical weapons production and a reversal of policy. It amounts to an expenditure over the next few years of approximately $4 billion for the production of new chemical weapons, when we have a sufficient stockpile, and the destruction of our present munitions.

I do not see the reason for hurrying in the last hours of this session and appropriating this money before we have the administration's report. Why does the Senator fear a report to the Congress before we vote?

Mr. WARNER. In response to that question I say I do not fear it. I think it is a useless waste of time and taxpayers' money. We already have had 21 studies on this issue.

Mr. PRYOR. Upon what facts does the Senator base his decision to appropriate $3.15 million and then an additional $19 million in a few days to equip this facility? What facts does the Senator have to base that vote upon?

Mr. WARNER. This body has coequal responsibility with the executive for making decisions relative to national defense.

Mr. PRYOR. The President is the Commander in Chief.

Mr. WARNER. He is not here and we do not need him on this issue. This issue can independently be judged by the Members in this Chamber.

Mr. PRYOR. Based upon what facts though? We have had no hearings.

Mr. WARNER. We have every reason to believe that the Soviet Union has in no way lessened its intention to go forward with this area of warfare capability.

Mr. PRYOR. Is the Senator referring to the article in the Reader's Digest of last year? That seems to be the best authority in this Chamber.

Mr. JACKSON. Mr. President, will the Senator yield right there?

Mr. WARNER. I yield to the Senator from Washington (Mr. JACKSON).

Mr. JACKSON. I think there is a lot of nonsense being introduced into this debate. Is the Senator aware that the Secretary of Defense appointed a special science advisory board on this very subject?

Mr. PRYOR. All I am aware of is the Secretary of Defense 2 weeks ago testified against this proposal.

Mr. JACKSON. I would ask the Senator to answer the question.

Mr. PRYOR. I will admit to the Senator from Washington that I am not familiar with it.

Mr. JACKSON. I think the Senator ought to know that the Secretary of Defense appointed a science advisory board to review this question. We went into it yesterday, and the DSB's findings are clearcut. The board says that we should go ahead with this binary program, and I think the Senate is entitled to know about it. They said specifically to go ahead with the binary project.

Mr. PRYOR. Who was on the board I ask the distinguished Senator? Who were the members of the board?

Mr. JACKSON. Well, I am happy to tell the Senator the distinguished members of this panel. The chairman of it is John Deutch.

Mr. PRYOR. I am sorry the Senator from Arkansas does not know the gentleman you have reference to.

Mr. JACKSON. For the Senator's information, Dr. Deutch is a very prominent scientist who served in several senior capacities in the Department of Energy during most of the junior Senator from Arkansas' service in the Senate.

Mr. PRYOR. Maybe that is why I do not know him.

Mr. JACKSON. The Senator ought to know, if he is talking to leading scientists, if he is really going into this problem. He is one of the foremost chemists in the United States. He is the head of the department at Massachusetts Institute of Technology.

I will go down the list here.

Mr. PRYOR. Fine. Has Dr. Deutch discussed with any of our foreign allies whether or not they are going to store this binary gas?

Mr. JACKSON. Wait a minute, you asked who was on the Secretary's Defense Science Advisory Board. The chairman was John Deutch and I am sure the senior Senator from Arkansas is very familiar with John Deutch.

I will go down the list: Prof. Joshua Lederberg, Dr. Ivan Bennett—keep in mind these were all appointed by the Secretary of Defense, Mr. President; these are not appointees of the Senate—Gen. George Blanchard, Dr. Victoria Chan-Palay, Brig Gen. Niles Fulwyler, Dr. Reuven Leopold, Dr. Herbert Ley, Dr. Raymond Murray, Rear Adm. Harry Schrader, Adm. Isaac Kidd, Jr., Mr. Carl Feldbaum, Brig. Gen. Harry Goodall, Dr. Norman Hackerman, Dr. Ivan Sutherland, Brig. Gen. Gerald Watson, Ambasador Sevmour Weiss, Dr. Roberta Wohlstetter, Prof. Henry Rowen, Ms. Shelia Buckley, Brig. Gen. Harry Goodall, Ms. Amoretta Hoeber, Ambassador Thomas Pickering, Col. John Tengler.

Now, you say this matter has not been reviewed. That is nonsense, pure nonsense. As my colleagues on the Armed Services Committee know, we have been trying to get administration witnesses up here to testify. We had to wait and wait and wait to get the Secretary of Defense to come up and testify on this. I made the request and Chairman STENNIS cooperated 100 percent in my efforts.

Finally, the Secretary appeared before us and, I must say, we went into this quite thoroughly. We had the Secretary of Defense together with the head of the Defense Intelligence Agency.

If it is studies you want, as the Senator from Arkansas knows, there have been studies and studies, and if you look at page 25475 of the RECORD of yesterday they are all set out, a long list of all these studies, dating from December 1971 right on down to March 1980.

I think that I can agree with the Senator from Arkansas on one point: Chemical warfare is a nasty business and we ought to outlaw it.

But I have been around this body long enough to observe Russian behavior. They are not going to negotiate to eliminate something when they have it in large quantities and we do not. After all we have been negotiating in Geneva since 1976 and not one line of a draft treaty has been agreed to, not one line, Mr. President. I must say that if you are going to get an agreement—which I want to see—an agreement that is enforceable, an agreement that is viable so that we can really get rid of chemical agents, then it will be necessary for us to be credible at the bargaining table.

I hope the United States will not have to build any of these binary weapons. I hope it is possible to get an effective agreement, but let us not kid ourselves, Mr. President. We have already seen what has happened in connection with the treaty adopted in 1975 on biological warfare. Biological weapons were to be outlawed; no biological agents were allowed to be manufactured at all except for peaceful research purposes. And now we have the Sverdlovsk incident. I hope my good friend from Arkansas will take a look at that incident and get the classified intelligence briefing. It is obvious from what we know that something far beyond what is permitted under the agreement was going on at Sverdlovsk when all of a sudden a large number of people die of anthrax.

The Russians gave as an excuse that some kind of an epidemic started in a slaughter house. All of the experts that we have had in and asked about that say that that alibi makes absolutely no sense at all. Clearly, there are indications that they are in violation of that treaty. But the U.S. is reluctant to press the issue. Oh, we have meetings and conferences going on. and the like, but that's the extent of it. All of which proves the point that the kind of arms control agreement we need to limit and control this nasty chemical business—and the kind of agreement we must be able to negotiate—is a verifiable one.

All I am seeking in our amendment today—as in the amendment approved by the Senate yesterday—is to give the United States a credible bargaining position.

There is nothing in the post-World War II history that will corroborate the view of the Senator from Arkansas that by not going forward with the modernization of our chemical capabilities, the Soviet Union will somehow come around and sit down at the table. That is the unilateral approach. We have tried it before. This country has a noble record in that regard, if I may say so. As I have said before, back in 1946, we offered to turn over all of our nuclear weapons to an international agency to be created by the United Nations in the Acheson-Baruch-Lilienthal proposal. The Russians vetoed it because they did not have nuclear weapons at that time, although they did have, of course, the spies that made it possible, in a large measure, for them to get nuclear weapons as they did in September of 1949 when they exploded their first bomb.

Then again, in the mid-1960's, we made another effort at unilateral restraint, when President Johnson offered to shut down a number of our plutonium weapons-producing reactors and called upon the Russians to do the same. You know what they did. We shut ours down and, instead of shutting some of theirs down, they added to their capacity to produce nuclear weapons.

The reality today is that, if we are going to get an agreement on chemical warfare, the Soviets must understand that we are going to go forward with an important modernization program here unless they agree with us to outlaw the use of chemical agents. If you do not have offensive chemical munitions in sufficient, deliverable quantities, your deterrent lacks credibility. The Senator from Arkansas—and I take this time now, because I did not bother to get into all the details yesterday—was talking about the viable stockpile we have, the ample quantities and the good condition of our chemical munitions.

I would point out to the Senator that our present unitary chemical weapons are highly toxic and dangerous for those who have to handle them—namely, those who have to participate in any kind of movement of these chemical agents around today. Each weapon is terribly toxic in itself. By contrast, what we are proposing here is a process in which it takes a mixture of the two agents by firing the weapon to create the toxic agent. It offers a tremendous advance in safety among other things.

I am amazed that the Senator from Arkansas wants to continue to keep on with this present stockpile which is highly dangerous—highly dangerous to handle and highly dangerous to administer. The binary program would allow for greater safety, and would provide the safeguards that this Nation needs in the administration of its chemical deterrent program.

I can only say that it seems to me that we are moving down the road to better negotiations, hopefully, if we go this course. If we do not go this course and if we stay where we are now, we are going to continue to see the Soviet Union becoming even more active in the use of these chemical agents.

Mr. WARNER. Will the Senator yield on that point?

Mr. JACKSON. Yes.

Mr. WARNER. Secretary Brown confirms precisely what my distinguished colleague from Washington has represented. I will read from a classified document. I cannot read it in its entirety, but it is here for inspection, of course, to my distinguished colleague from Arkansas. It is dated October 4, 1979, sent by Secretary Brown to the Assistant to the President for National Security Affairs. Here is the pertinent paragraph that verifies Senator JACKSON's representation (this portion is not classified):

> We have been participating in the bilateral negotiations with the Soviets since 1976 and see little or no movement on their part to resolve critical differences. In view of the continuing degradation of our deterrent stockpile and the serious asymmetry of capabilities in this area, I directed, in the Amended Program Decision Memorandum dated August 29, 1979, that the binary chemical munitions facility be included in the amount of $19 million in the Department of the Army basic budget submission.

I also have the Department of Army basic budget submission, dated December 7, 1979, in which the Department of Defense requested not only the $19 million referred to by the Secretary, but also the same $3 million which Senator JACKSON and I seek today, under the line item Facilitation of Binary Munitions.

Now, there is clear documentary proof available for inspection by my colleague of the decision within the Department of Defense to proceed on this question of facilities.

Mr. PRYOR. If the Senator from Virginia will yield, I am just going to take a minute or two because I think we have debated this issue fairly well in the last day or two. But, first, the Secretary of Defense on September 4 testified against it. That is more recent than the October 1979 report that the Senator just quoted.

(Mr. MITCHELL assumed the chair.)

Mr. WARNER. Mr. President, I suggest to my colleague, to be more accurate in the representations, that Secretary Brown's testimony was not against it. It was simply that the timing could be adjusted—he was not against the concept of binary weapons.

Mr. PRYOR. If the Senator is using the Secretary of Defense as his authority, then why does he not accept the Secretary's advice, accept my amendment and wait until March to fund this program?

Mr. JACKSON. Will the Senator yield?

Mr. WARNER. May I just finish this one point? The Secretary was overruled by OMB in his funding request and, therefore, quite naturally, he had to toe the line and talk about timing.

Mr. JACKSON. Will the Senator yield?

Mr. WARNER. Yes.

Mr. JACKSON. That is exactly the point. In the formulation of the budget for fiscal year 1981, as the Senator from Virginia will recall the testimony, the program for this project went over to the White House. This was killed in the White House, and the Secretary of Defense does not take a position different from the position taken by the President; or from OMB, which speaks for the President. The Army request was in the Defense Department program when it went over to OMB. In fact, the Army was directed by the Secretary of Defense to bring this program together in the budget process. They brought it over for interagency review and it was killed in the White House.

Now, that just happens to be the truth. The pseudonym for it is the OMB and the OMB acts under the direction of the President. Now, those are the facts about why this item was taken out, and why the Secretary is saying what he now says.

Mr. PRYOR. Mr. President, I say to my distinguished friend, if he will yield a moment, that I do not oppose the Senator's amendment and offer this perfecting amendment because I trust the Russians. I do not have any great trust for the Russians. And I do not do this because I want us to have a weak defense posture.

Senators can check my record and it will show that I have voted for every appropriation and every authorization that has, I think, been meaningful and constructive to a strong national defense.

Earlier the Senator mentioned destroying our present stockpile. The Army is spending millions of dollars every year to destroy our present stockpile of usable chemical weapons. At the same time the Army is saying, "My goodness, look at our stockpile. It is leaking, deteriorating."

Building a binary weapons facility in Arkansas, or anywhere else, will not strengthen our position one bit at the bargaining table because we will simply have substituted our present stockpile of chemical agent for a new stockpile that is a little bit safer to make, a little bit safer to store, and a little bit safer to transport.

We have actually not had any fatalities and very few accidents with our present stockpile of chemical munitions. Hopefully we never will.

Militarily, it will not strengthen us one bit because binary nerve gas does not have one iota of military advantage over our present stockpile. There is no need for us to consider this at this time. We should wait until a final report is sent to this Congress so that all of us will know the facts, not just the views of one commission, but the facts from those in the Department of State and the Department of Defense who are responsible for carrying out our military and foreign policy. Those agencies should bring us the facts that we so desperately need before we vote on such a global issue.

Mr. JACKSON. Mr. President, mention has been made about our stockpile. I have in front of me an unclassified report on certain aspects of our stockpile entitled "Leaking Munitions, Quarterly Report."

I am informed that at the present time we have nearly 4,000 leaks per year, toxic leaks, in the stockpile.

As this report suggests our outmoded stockpile does present a real danger to our own people and is wholely inadequate as a deterrent.

Mr. President, the proposal which is before us is to avoid that kind of a situation. A leak from one of the binary weapons would not in any way create a toxic environment. But the current stockpile does so and consequently creates a very dangerous situation for those who have to manage our chemical weapons and those who have to handle them. When we have 4,000 leaks, which is the current leakage rate per year, that in itself, I think, speaks for the need to change our whole approach. I am surprised that anyone would want our Nation to rely on a leaking, deteriorating stockpile.

Mr. WARNER. If the Senator will yield, he has raised a pertinent point. I regret that Senator Hart is not on the floor at this time, he is our major opponent on this issue. I am reading from a press release of Senator Hart dated February 26, 1980, this year, in which he addressed this very question. He says as follows:

> I am convinced that the bombs

And he is speaking here of the Weteye—

> that the bombs in their leaking condition should be detoxified immediately and not simply stored indefinitely at the Rocky Mountain Arsenal. It makes little sense to maintain a chemical warfare stockpile which, due to its leaking conditions, is a hazard to the people of Colorado as well as to the military personnel who eventually might use these weapons.

Mr. JACKSON. Will the Senator yield at that point?

Mr. WARNER. I yield.

Mr. JACKSON. I note, too, from the information we have received in the Armed Services Committee, by 1990, through deterioration, leaks, and obsolescence, the United States will no longer have a militarily usable stockpile of chemical munitions. What is the Senator from Arkansas proposing to do about this?

Mr. President, I ask unanimous consent that a fact sheet entitled "Binary Chemical Munitions" be printed at this point in the Record.

There being no objection, the fact sheet was ordered to be printed in the Record, as follows:

Subject: Binary Chemical Munitions

NEED

U.S. has not produced chemical munitions since 1969.

Our only chemical production facility is inactive and in a state of disrepair.

The Soviet Union outnumbers the U.S. 35 to 1 in chemical units; 11 to 1 in chemical personnel; 10 to 1 in decontamination equipment; 8 to 1 in chemical munitions; 5 to 1 in ground based delivery systems; and 14 to 1 in production facilities.

SITUATION

Chemical weapons have been historically used against nations having no retaliatory capability: by Germany in WWI; by the Italians in Ethiopia, 1935; by the Japanese in China, 1937; by the UAR in Yemen, 1967; by the Vietnamese in Laos and Kampuchea; and by the Soviets in Afghanistan, 1980.

U.S. policy is one of deterrence/retaliation. However, inaction and the effects of deterioration and obsolesence will equate to unilateral chemical disarmament.

Bilateral negotiations with the Soviet Union, ongoing since 1976, have produced no substantative results.

SOLUTION

Binary Weapons—involves two non-toxic chemicals not mixed until the munition is inflight to the intended target. Chemicals would be procured, shipped and stored separately. Binaries which are safe in production, in transportation, and in storage would also facilitate any future demilitarization.

Phase I—155MM Artillery, GB: Requires funding of $3.15M in military construction and $19M in Ammunition Procurement, Army. FY 81 start would not yield a production capability until late 1983, early 1984.

Phase II—8 inch Artillery, VX: FY 82 start would yield a production capability in 1985.

Phase III—Bigeye Bomb, VX (Air Force and Navy): FY 83 start would yield a production capability in 1986.

REQUIREMENT

FY 81 Authorization and Appropriation of $3.15M Military Construction for Pine Bluff Arsenal, Arkansas. House has authorized; House has appropriated.

FY 81 Appropriation of $19M Ammunition Procurement, Army for procurement of necessary Phase I production equipment.

Mr. PRYOR. Why have we spent over $150 million to demilitarize and destroy our present stockpile? The reason is that the Army loves to make things. That is why they want to get back into the manufacturing of binary nerve gas. Why have they not asked for more money to defend ourselves from chemical attack?

Mr. JACKSON. The answer is they have asked for those funds. That is only one part of the problem, the need for a defense system. And funds are being sought for those purposes.

I would point out to the Senator that the idea of maintaining a leaking system that is hazardous to the personnel in our armed services should bear heavily on all of us here. The solution to this—and the Army wants to do this, to protect their own personnel among other things—is to have a binary type of stockpile where you will not be asking your people to handle dangerous, leaking, toxic substance.

Senator Hart has expressed his deep concern, as have all of us on the committee, because the current stockpile is leaking, and I just gave the figures, at the rate of 4,000 leaks per year—all involving toxic substances.

Mr. President, this program is not just to provide a credible deterrent and to bring us progress at the negotiating table, in order that we may get a sensible, reciprocal agreement and do away with this nasty business. It is also a program to allow us to manage effectively our chemical deterrent without endangering the lives of our personnel.

May I say, to answer an earlier question about the investments in defensive systems, the Army has programmed $1.8 billion for the fiscal years 1982 to 1986 for defensive systems. That is an important aspect of the problem, but, it is one that is being addressed.

But, Mr. President, you cannot be credible simply by building defensive systems when the other side has a viable offensive system and you are going to be on the receiving end of it.

In World War II, Hitler did not use gas because he knew that if he used gas they would be hit a lot harder. In World War I, they were able to get away with it because the Germans had mustard gas, among other things, and the Western Powers did not.

So we are simply inviting the use of it. And I do not need to say to my colleagues once more, the Russians are believed to be using it now in Afghanistan and, through proxies, in Cambodia and Laos.

Mr. PRYOR. If the Senator will yield, I would like to say that my friend from Virginia (Mr. WARNER) did make a statement a while ago with which I agree 100 percent. The distinguished Senator from Virginia said that he wished Senator HART of Colorado was on the floor at this time. I wish he were here at this time. But he could not be here, so I am having to substitute for him.

I know that he knows this issue much better than I.

Mr. WARNER. I say to my colleague from Arkansas, my remarks was not directed to him. He is very ably presenting this subject. It was simply that I do not like to quote from a colleague's press statements or representations unless he is here to verify their accuracy, but I have the document from his office.

Mr. LEVIN. Will the Senator from Arkansas yield?

Mr. PRYOR. I shall be glad to yield to my friend from Michigan but first would like to respond to one thing my friend from Washington mentioned. I want to quote from the GAO report I put into the RECORD yesterday as to the condition of our stockpile. The 1977 GAO report stated:

> The true condition of the stockpile is unknown. Its serviceability may have been greatly understated. For example, many of the unserviceable classifications are a result of minor nonfunctional defects, such as container rust, which do not affect usability.

I could go on and read further evidence from that GAO report but the thrust of the report is that no one really knows the condition of our stockpile, which, once again, gives substance, reason, and justification for not expending this money at least until 1981, until we have a total, full, and accurate report of the facts. Then we can decide this issue in a voting environment that is not based on conjecture and speculation.

Mr. President, I yield to my friend from Michigan.

Mr. LEVIN. Mr. President, I wanted to comment on the statement of the Senator from Virginia relative to the position of Secretary Brown. Actually, I wish the Senator from Colorado were here for an additional reason. Not only is he a good friend of ours, but he was present when Secretary Brown testified, as were the Senator from Virginia and the Senator from Washington.

That testimony has been classified, for reasons that I am not clear on, but it is classified. Parts of that testimony of Secretary Brown are unclassified, and I should like to read for my friend from Virginia a portion of the testimony that is unclassified, because it is not consistent with what the Senator said earlier in terms of whether Secretary Brown really means what he says—is he doing this because OMB has now told him he has to do it, or the White House, or because he really means what he says, and how do the words speak for themselves? It sounds to me—and I was there—like more than somebody mouthing words to be consistent with a program somebody else has said must be it. Rather, it sounds heartfelt to me, as it did when I was there. This is Secretary Brown, unclassified:

> My personal opinion is that at some time we should move forward to modernize the stockpile, but I think the time is wrong now.
>
> But there is a broader issue beyond even arms control negotiations, and that is relations with our allies, which I have also discussed. It seems to me that is largely a matter of timing and education. I think the ground now is uncertain. I think it is realistic that a precipitate decision on our part or what they would see as a precipitate decision, even though, as you correctly point out, we have been hashing this out for several years, would have very negative consequences.

Mr. President, the Secretary of Defense has informed us in unclassified testimony that proceeding now without getting our allies on board—and they are critical to be on board if we are going to have forward deployment—will have, using Secretary Brown's words, "very negative consequences." Negative for what?

Mr. WARNER. Will the Senator yield for a clarification?

Mr. LEVIN. Yes, I yield.

Mr. WARNER. He used the words "modernize the stockpile." That is not what we are doing today. He is referring to modernizing the stockpile of the weapons. That is not the issue before the Senate. It is simply modernizing the facility; they are two very distinct courses of action.

Mr. LEVIN. Mr. President, I understand that well. I suggest that the allies are going to respond in the following way, as they have before in chemical weapons. I think the Senator from Washington will remember the last time chemical weapons were raised in terms of forward deployment in Germany in 1969, what kind of response we got from them. We need to get a positive response from our allies if we are going to succeed in the two purposes that I believe the Senator from Virginia and the Senator from Washington want to achieve. The Senator from Washington tells us, and I happen to agree with him, that the Russians only appreciate strength and will only negotiate from strength, and I agree. But if our allies reject forward deployment of these weapons because they have not been consulted, which they have not been, we are then going to find we are not negotiating from strength but from weakness.

Mr. President, you cannot go to the bargaining table with the Russians on chemical weapons with our allies refusing forward deployment and feel that you have a bargaining position, because you have not. It is hollow. Your position will be weak, because our allies are not with us. I suggest now that we have these high-level discussions with our allies before we make a unilateral position and they perceive that that is exactly what we are wishing on ourselves.

In terms of the purposes of the Senators from Virginia and Washington, it is counterproductive to proceed now before we have the consent of our allies to deploy these weapons on their soil. That is point No. 1.

The other reason we want to proceed, and I think there is some merit to this, too, though I have not resolved it in my mind, is that we want a deterrent to Russian effective chemical capability. We want to be able to respond in kind. I think there is a good thing to be said for that. I happen to think it is a reasonable argument. But again, if our allies reject forward deployment because we unilaterally make a decision, which is what this Senate is about to do, on proceeding with either the improvement of the production facility or the production of weapons—and I suggest that is very much blurred in terms of perceptions—as my friend from Virginia knows, perceptions are what count in Europe.

If they are looking at our unilateral decision to proceed, they are not going to distinguish between proceeding to modernize a plant to make something and making it. They will perceive this as modernization of chemical weapons. And they are going to say, when their people object to storage of chemical weapons on their territory, they are going to have to say, "The U.S. Government did this without our consent." Then we are in the position of having no deterrent in terms of the Russians. We shall have to store the stuff here instead of there. So not only do we not have a good negotiating position—which is what the purpose of the Senator from Washington is—we do not have a good deterrent. I think that is a critical flaw in the timing of the request and of the amendment that has been proposed by the Senator from Washington and supported by the Senator from Virginia.

Mr. WARNER. If I may reply to my distinguished colleague's statement, with no disrespect to my collegaue, the weakness in his argument is most apparent because he is mixing facts. I come back again and again to the fact that this is a simple request for appropriations to fund a $3 million facility. It cannot be construed as a major policy decision to go forward unilaterally, as Senator PRYOR has suggested, with a $4 billion program which, I agree would require consultation beforehand with our allies.

Mr. LEVIN. What is the purpose of proceeding with the facility?

Mr. WARNER. To make certain that the Congress of the United States of America, under article I, section 8 of the Constitution, is providing for the common defense of this Nation in the event we discover, at some later point in time, positive evidence that the Soviet Union has progressed with their research, development, and production of chemical and biological weapons.

The weakness in the Senator's argument is that he talks about forward deployment. That is not germane to this discussion whatsoever. We are not in any respect trying to impose on this body a decision now to go forward with the production of weapons. We are not trying to impose on this body a unilateral decision on an issue which would require consultation with our allies.

We are simply taking precautionary

steps to prepare a deterrent in the event a President of the United States, under the law, directs these weapons go into production and the Congress concurs in that decision.

Mr. LEVIN. If the Senator from Virginia will yield for a question, does he not think it wise before we proceed to modify the plant, which, in turn, gives us these items, that we consult with our allies before they read about this in the paper? Would that not be wise?

Mr. WARNER. I disagree. I simply think this country has a right to proceed as we believe best in terms of our constitutional responsibility, and we do not need to consult with our allies simply to build a $3 million facility on a military base.

Mr. LEVIN. I will read for the record a portion of an article which appeared in the August 13, 1980, London Times, in which the London Times said:

> Thus the decision of the United States House of Representatives last month to agree to a request from the American Department of Defence for funds to resume manufacture of chemical weapons is a sombre, and clearly politically profound, development.

That is the issue. That is our best ally, or one of them, speaking.

They are profoundly concerned with the question of storage of chemical weapons. They have indicated this over and over again in the past.

We are taking a step which can have no symbolic meaning to our friends in Europe, and this is not my meaning. This is the way this step will be read in Europe, that we are taking the first step toward modernization of chemical weapons, and they can have no real deterrent value. They can have some, but no real deterrent value, unless they are forward deployed.

Mr. WARNER. Our allies only need to read the proceedings of this Chamber to seek clarification of this step.

If the Senator would be so kind as to reread one phrase of that article, I copied it as "the House resuming the manufacture of weapons."

That is not what we are doing.

Is that not what the article said?

Mr. LEVIN. That is what the article says.

Mr. WARNER. Then it does not pertain to this debate.

Mr. LEVIN. That is what I read.

The Senator's distinction between proceeding with a plant capable of producing weapons, which on this floor has been said over and over again we must produce, the Senator from Washington has given us statistics, and others think we are far behind and we must proceed.

I do not see there is any other way they will read this except that this is a first step toward the modernization.

Perhaps the Senator from Virginia is right. Time will tell. But I predict that this will be construed in the European press as the first step, made without consultation, toward the manufacture of modern chemical weapons.

Again, I repeat, they can only have a deterrent effect—I agree with the Senator from Washington that they can only have a deterrent effect, which is what we are seeking, if they are forward deployed. We want that deterrent effect.

I say to my friend, if the allies read what we are doing as the first step towards modernization, and if we take it unilaterally, without consultation, they will be faced with a political barrage at home that they do not want, the storage of these weapons. They will have to make commitments to their people that they will not accept them and we will undercut the point the Senators from Virginia and Washington and Nebraska, and others, are seeking to achieve.

Mr. WARNER. May I state a question to the Senator from Washington?

Mr. JACKSON. Yes.

Mr. WARNER. We have two freshmen Senators, one says the record will make clear what we are doing, the other indicates that this record could well be perceived as a commitment to embark on a $4 billion program. I call upon Senator JACKSON for clarification.

In the Senator's years of experience is there any question about whether we have made it clear in the record exactly what we are doing?

Mr. JACKSON. Absolutely none.

Mr. President, I will yield, if I may just finish, to the Senator from Nebraska.

We have had this exchange about our allies. Let us look at it sensibly.

We do have chemical agents deployed abroad. It is classified, the amount, and so on. Let us just say that we have chemical agents deployed abroad.

The report is that those agents could be extremely hazardous, under certain circumstances, and if we want to have a credible force, it is better to be able to have one we can deploy rapidly. We do not to have stockpile in Europe. The advantage, again, of a modern system, the binary approach, is that we can transport these agents without the danger, and in the event of an accident, or whatever, of a toxic situation being created in that area.

The allies should be interested in modernizing. If they knew or understood in detail the problem we have with the existing stockpile, I would think they would truly be outraged. I cannot understand why anyone in this body would be opposed to modernizing the stockpile from the standpoint of safety of handling, if nothing else, and the safeguards with it.

Mr. PRYOR. If the distinguished Senator's amendment passes, and I will be honest, I think his amendment will pass, but if it does pass——

Mr. JACKSON. Why do we not just stipulate as much?

Mr. PRYOR. I am not ready to stipulate that.

But if it passes, and we make binary chemical weapons in Pine Bluff, Ark., will the Senator say he is willing to store them in Washington State?

Mr. JACKSON. May I say to the Senator, we do our part in the State of Washington. We have in our State 90 percent of the Nation's stored, radioactive military nuclear waste today. We are most responsive to the legitimate requirements of our national defense.

But I am amazed that the Senator from Arkansas would want to be calling for the maintenance of the status quo, which means allowing our stockpile to consist of growing numbers of leaking chemicals.

Why does the Senator not introduce legislation to abolish the whole chemical stockpile, if that is his position here, because it is leaking? As I understand his philosophy or his position, he does not want to convert the existing stockpile into one with adequate safeguards, and that is what the binary approach is all about.

This is a two-pronged thing, Mr. President.

Mr. PRYOR. The GAO has stated that they do not know the condition of our stockpile. They say the facts are not known.

Mr. JACKSON. I say to my good friend from Arkansas—Senator HART could not be here—but he has a problem of leaking chemical weapons situated in his State. We are 100 percent supportive of resolving that problem and, as the Senator from Nebraska will recall, we went into this in the Armed Services Committee, and we have insisted upon the relocation of those weapons from the Rocky Mountain arsenal because of the hazardous nature of the situation.

If we had a binary system, we would not have a problem of dangerous toxic leakages. But we have it with our present weapons and it will grow. At the very least, we need to convert our existing capability into one with adequate safety and safeguards. This will make our chemical deterrent more credible. That is one thrust of this effort.

A second, thrust will be, hopefully, to make the Russians understand that we are ready, willing, and determined to reach an agreement. Hopefully, they will come around when they recognize that in going forward with this program that will be credible, we mean business.

Mr. LEVIN. Will the Senator from Nebraska yield so I can respond?

Mr. EXON. Yes.

Mr. LEVIN. One, to determine the importance of forward deployment, I urge my colleagues to read page 22 of the classified testimony of Secretary Brown.

Second, as my friend from Virginia points out, the article referred to, from the London Times, said that the approval by the House of Representatives for funds to resume manufacture of chemical weapons is somber, and a politically profound development.

That reporter did not distinguish between the production facility which was voted on by the House and the production of weapons which he reported in his article. That is exactly the point.

As my friend from Virginia pointed out, this article talks about developing weapons and producing weapons, but the action which was being reported, which was taken by the House of Representatives, was an action to improve the facility.

So the very point I made, that there can be no difference in the perception whether we are improving the facility or producing the weapons, is borne out by this article's characterization of the action of the House of Representatives.

I thank the Senator from Nebraska for yielding.

Mr. EXON. Mr. President, unfortunately, the Senate wastes a great deal of time repeating itself, over and over again, and I hope I will not be repetitious with respect to what I said yesterday.

I have sat here very patiently and listened to the discussion, and I do not suspect that a great number of minds are going to be changed when we vote eventually on this matter, as opposed to the vote on yesterday. However, I should like to make a point or two.

In his opening statement on this matter, the Senator from Arkansas indicated that we should not rely upon a reprint of an article in the Reader's Digest. I have looked through the RECORD of yesterday, and as near as I can tell the only Senator who introduced anything into the RECORD—and I did not read it—was this Senator.

It seems to me that the Reader's Digest article that my friend from Arkansas referred to had very little, if any, effect, one way or the other, on the vote of yesterday. However, since he brought it up once again, I believe it would be well for all of us who are interested in this matter to look at the Reader's Digest article.

True, it is a scenario of war games, if you will. But in these perilous times in which we live, in which those of us who serve on the Armed Services Committee have a very special responsibility, we have to look at all sides of every issue and all sides of every threat.

I do not believe we need to split hairs on what is intended by the House of Representatives or what is intended by the action we took yesterday and the action I hope we are about to take in the Senate today.

The fact is—and I believe any reasonable person will agree to the fact—that the Soviet Union is far ahead of the United States in the development of the type of chemical warfare we are considering now.

Mr. President, if we want to play second fiddle to the Soviet Union—in fact, without any fiddle at all—with regard to chemical warfare, we should go along with the recommendations that have been made by the Senator from Arkansas and others and let them pick up that one vote they lost yesterday.

I was interested to see the various news accounts of the vote. They all picked the final vote. By and large, the news media somehow do not understand that the key vote yesterday was a one-vote margin in which those of us who felt that we have to have more defenses in this area prevailed. It was not the larger vote by which that measure finally passed. One thin vote.

Mr. President, I do not believe we have to continue to apologize for what we do in the U.S. Senate with regard to the defenses of our forces and what our allies in Europe think about all these matters.

Senators will recall the debate not too long ago with regard to the neutron bomb. It was said that it was politically unimportant, that it could not be done, that our allies in Europe would not agree to the deployment of the neutron bomb. It seems to me that much of that has changed.

Mr. President, if we had waited until all our allies agreed on every step we should take, we probably would not have developed some of the advanced technology we now have in our new, modern day means of defending ourselves.

I am a little weary of hearing, time and time again, that we in the Congress of the United States must do this or must do that because it would be perceived incorrectly in other nations. The fact is that we have more than 300,000 troops, supposedly fighting men and women, ready for combat, to defend NATO. As important as NATO is to our defenses, I believe we should remember that when we are defending ground in Europe, we are defending foreign soil that our troops have been called upon to defend in wars in the past. But if we are going to have 300,000 of our troops ready for combat in Europe, then, regardless of what the Europeans think, I believe we should take at least some steps—a tiny step, if you will—in the right direction to provide them with some of the defensive, if not offensive, chemical weapons that we are confident the Soviet Union now has.

Senator JACKSON mentioned earlier today in this Chamber the difficulties the Soviet Union is now having with regard to what they described as an anthrax outbreak. We know that was not a sudden outbreak of anthrax in the Soviet Union. We know, if we want to face the fact, that they are far ahead of us in this deadly business of a possible future war.

Therefore, we should not become sidetracked on the issue of whether or not the NATO allies agree with us on everything we develop. I do not believe we should be sidetracked on whether or not we have leaky chemical warfare agents of a toxic nature today, because we know we do have.

Let us face the issue head on. Let us recognize that we are far behind. Let us realize that the Soviet Union has approximately 180,000 troops who are specialists in chemical warfare. Yet, we have people on the floor of the U.S. Senate today who say, "No, wait a minute. Let's do a study. Let's think about this before we go into this very onerous part of any kind of offensive or defensive weapons."

None of us likes to authorize money for this kind of program; but I believe that those who are against authorizing money, as has been recommended by the Armed Services Committee and by the House of Representatives, are not being realistic in facing the situation that exists today.

Mr. President, I yield back the remainder of my time.

Mr. THURMOND. Mr. President, is there a time limitation?

The PRESIDING OFFICER. There is no time limitation.

Mr. THURMOND. Mr. President, I support the amendment offered by the distinguished and able Senator from Washington. I simply wish to make a few remarks on this subject. I spoke in more detail several days ago, when the matter was up for consideration.

The Armed Services Committee has considered this matter carefully. They have gone into every aspect of it and voted 14 to 3—I repeat, 14 to 3—to support this matter.

Who are the 14 members of the Armed Services Committee who voted for it? Senator STENNIS, the chairman of the committee; Senator JACKSON, the ranking majority member of the committee; Senator CANNON; Senator HARRY F. BYRD, JR.; Senator NUNN; Senator EXON; Senator MORGAN. All those are on the majority side.

On our side, we have the ranking minority member, Senator TOWER; I supported it; Senator GOLDWATER; Senator WARNER; Senator COHEN; Senator HUMPHREY; Senator JEPSEN.

In other words, all but three members of the Armed Services Committee supported this proposal, and the members whose names I read are the senior members of the committee.

They have been around here 5, 10, 15, 20, 25, and 30 years. It seems to me that should carry great weight with the full Senate on this question.

Mr. President, furthermore, we voted in the full Senate. We have already voted on it day before yesterday. We voted 52 to 38 for this amendment. Now are we going to have to fight the battle all over again? I hope not.

The House of Representatives has already acted on this. The House Armed Services Committee has approved it. The House Appropriations Committee has approved it. The Senate authorization committee, the Armed Services Committee, has approved it, and the full Senate has voted in favor of the authorization.

So this is the last step to attach it to this appropriation bill of the Senate. I sincerely hope that that will be done.

We are supporting this amendment simply because it is another step in the preparedness of the proper defense for this Nation. We cannot wait until the last minute to see to our defenses. If a war should come, we have to be ready. It is not like it was in World War II. The oceans protected us then. We had time to recruit men, train men, equip men and send them overseas. Now we will not have that time. With the continental ballistic missiles that can go from here across the ocean in 30 minutes, or vice versa, with airplanes that fly several times the speed of sound, war will be fought and fought quickly. We will not have time. We will not have time, I repeat, to do all the things we did in World War II.

Now this step in my judgment will be a step of deterrence. I am firmly convinced that if we go forward and do what we should in this field of binary weapons, then the Soviets, if we do have an engagement with them, will be deterred from using theirs.

We say we will not use binary weapons first. But if we have these binary weapons, they will be a deterrence to the Soviets because they know we will retaliate in kind to a chemical attack. But if we do not have these weapons then they have a green light, the field is wide open to them, and they will be tempted to use them.

The Joint Chiefs of Staff say that our stockpile is only 25 percent of what would be needed for a deterrent capability. I repeat 25 percent. In other words, we are 75-percent deficient. Are we just going to sit around and not try to remedy that? I hope not.

Mr. President, I repeat, also, that this is not production. We are not going into production, although I would not object to it, to be frank with the Senate. This is only a facility to produce. We need this facility. It may take a year or 2 to build this facility, but we will have it built and then we can quickly go into production if the need arises. If the need does not arise, then we do not have to use it.

In my judgment, if we want to get a treaty with the Soviets to prevent the use of binary weapons, this is the best way to do it.

The same thing happened with the antiballistic missile known as the ABM. Virtually same circumstance existed then. So if we have the capability we can come nearer to getting a treaty than if we do not have the capability.

Mr. President, in closing, I say this, that our commander in Europe, General Rogers, the NATO commander who is there facing the Warsaw Pact countries, has made a strong statement on this question, and I shall read a few lines of his statement here to show what his position is. These are his words:

> I support an adequate and modern retaliatory capability to deter a chemical attack by the Soviet bloc nations. At present we do not have an adequate or modern capability. This binary round would give us that capability.

Here is our top commander in case war comes. There is no one higher than he is. He is the man who has to fight the battle. He is the man who is facing the enemy. What does he say?

> At present we do not have an adequate or modern capability. This binary round would give us that capability.

Mr. President, we need that capability. We should have that capability. We cannot take the chance. The freedom of the people of this country is at stake. The freedom of the people of the free world is at stake.

We should go forward. We should do it now. We have been too late with everything. That is the reason we are behind. That is the reason the Joint Chiefs of Staff now, against their wishes, have to acknowledge that the Soviets are now ahead of us in conventional weapons and the Soviets are now ahead of us in strategic weapons.

We do not want that to happen again in other fields. So let us go forward and add this amendment and be prepared to protect this country.

Mr. COHEN. Mr. President, if I could have the attention of the Senator from Washington, Senator JACKSON is recognized, I think, by his colleagues as being quite expert in dealing with the Soviet Union. He travels there a great deal and has spoken about Soviet relations with the United States on many occasions.

I watched this morning's newscast with former Ambassador Toon who appeared on one of the morning programs. I was interested to hear what he had to say, that on his departure from the Soviet Union he noticed there was a growing arrogance bordering on contempt for the United States and he pointed to that growing arrogance as an indication that we are going into very dangerous times in the eighties with the Soviet Union and that the danger is going to be precipitated or exacerbated by this sense that the United States is lacking in willpower to meet the Soviet Union on its conventional or strategic terms and that if anything would precipitate a war it would be the Soviet's miscalculation of the intentions or the ability of the United States to meet their aggression with whatever force is necessary.

I came in during the middle of the debate when the Senator from Arkansas was talking about safety. I sat in on the hearings when Secretary Brown came before the Armed Services Committee, and I do not recall that the Secretary focused upon safety. What he said was in response to some questions that he noticed that the Army had requested this kind of production facility for about 4 years now. First, he pointed out that it was Congress who said no, and that is true, Congress had rejected it 4 or 5 years ago. But Congress is capable of rectifying its errors. Then the following year it was not Congress; it was OMB. Now it is not OMB, but it is the executive department.

And the reason was not safety. That was not cited by Secretary Brown. It was not safety. It was timing and politics.

What the Secretary was saying is that they did not think that the timing was right just now but this might somehow interfere or jeopardize these ongoing negotiations with the Soviet Union.

I do not possess the expertise of Senator JACKSON as far as dealing with the Soviet Union, but I have never known the Soviets to ever be magnanimous in dealing with a weaker adversary. I do not think anyone could point to that. We certainly could not look to Afghanistan for any kind of magnanimity from the Soviet Union in dealing with a much weaker opponent, to say the least.

I reject the notion that we are going to achieve any significant treaty arrangement with the Soviet Union as long as we are dealing from a position of weakness and inferiority.

Now, the Senator from Arkansas indicated that we have a credible deterrent. Well, the Senator from South Carolina has just pointed out that our top officials in the military do not think we have a credible deterrent, and while we are precluded on this floor from going into specifics, I think it is fair to say that if the American people knew the kind of disadvantage we are placing our troops in and our people in, they would be seriously outraged about the imbalance and the inequity of the situation.

So, Mr. President, when we talk about safety, if anyone is really concerned about safety, then we should vote in favor of the Jackson proposal and not against it. As a matter of fact, our situation is such that the current chemical weaponry we have is deteriorating at such a pace and under such circumstances that the Navy will not even take it aboard. What we should be concerned about is producing safer chemical weapons and not simply stockpiling or continuing to stockpile the ones in existence now.

So the Senator from Washington makes a good point. If safety is your principal objection to this matter or to this measure, then you ought to be supporting a resolution to destroy or get rid of the current stockpile and modernize it consistent with the Senator's objectives.

I would simply say, in closing, Mr. President, that if we are going to have a serious negotiation to arrive at a fair and balanced treaty, we have to do so from a position of at least equality, and that equality currently does not exist.

We found with our allies—and I find it ironic that now the administration is suggesting we have not had time to consult with our allies—this issue has been bounced around for the past 4 years, and now we are told we have not had time to consult with our allies. We found when our allies made the decision to modernize their theater nuclear weapons systems, only then did the Soviet Union express interest in conducting negotiations to limit their expansion.

I would suggest to my colleagues that the same thing applies here, that the only time we are going to be able to achieve a balanced and equitable treaty is if we have a balanced and equitable capability of inflicting the same kind of damage they can inflict.

So I hope the measure that has been offered as a substitute of Senator JACKSON's amendment will be defeated and that we will reaffirm the vote that was taken just yesterday, and that we move forward, not to actually increase our deterrent—because this will not increase our deterrent capability—but toward acquiring the facilities that will produce that deterrent, should it be necessary.

It may reduce that—I hate to use the phrase—window of vulnerability that we talked about in our strategic weapons. The same window of vulnerability exists now. It is a bay window. We may be able to reduce it by 1 or 2 years if we do it now. But to simply put it off until next March for another study or another report will just delay it even further.

Mr. President, I would reject the attempt to modify the amendment of the Senator from Washington.

Mr. JACKSON. Mr. President, I want to commend the Senator from Maine for his excellent statement. I think he summarized all of the arguments very well.

It is clear we are addressing here two fundamental problems: One, to make our present stockpile safer in the handling of those munitions; and two, to have a credible force so that we can reach an agreement, with the Soviets, that will be verifiable and hopefully one which will outlaw entirely these hasty, chemical weapons.

I think the Senator from Maine made

an excellent contribution when he referred to the expert comment of Ambassador Toon regarding the attitude of the Soviet Union during this period.

Clearly if we turn back the vote of yesterday when we, by a good majority, on final passage approved the amendment, then we are sending a signal which can only make the Soviets more contemptuous of the United States and increase their arrogance.

I say that in approving our amendment, our bipartisan amendment, we will be sending the right signal. This signal is, "Let us get on with negotiations, and if you do not, we are prepared to have a credible deterrent to prevent you from ever seeking to use chemical weapons against us or our allies."

I yield to the Senator from Georgia.

Mr. NUNN. Mr. President, I will not delay this matter but for just 1 minute. I do not think anything is clearer in all of the military analyses that have been ongoing regarding NATO in the last 5 to 10 years than that we have a monumental deficiency in chemical weapons, both as far as offense and as far as defense are concerned. There is nothing clearer than that.

It is also clear that this matter has been studied and studied and studied and studied by military people both in the United States and in NATO.

We do not need any more military studies to tell us what everyone who has looked at this with any degree of objectivity already knows.

My third point is that it should be abundantly clear that unilateral restraint in this area, contrary to testimony we have had from administration officials in terms of their hopes and expectations back in 1977, contrary to those expectations, unilateral restraint has not worked. There is absolutely no indication or evidence that I know of whatsoever that unilateral restraint in this area is going to produce any kind of agreement, any kind of meaningful, substantive, verifiable, and equitable agreement.

I think that—the final point I would like to make to those who are most fervent in their belief—and I know there are people on both sides of this question who are fervent in their belief, and I am one of them—we should do everything possible to outlaw chemical warfare forever; to those who really believe that, it should be abundantly clear from history that the only way we are going to be able to do that is to demonstrate to the Soviet Union that in the absence of such an agreement they will not be in a posture of total, complete or even substantial dominance with their own chemical weapons by the default of the United States and NATO.

So I believe that those who want an agreement should be the most enthusiastic in support of the Jackson amendment.

I thank the Senator from Washington and the Senator from Virginia for their leadership in this area. I think it is an important area that has been neglected for too long. I am proud to be a cosponsor of the amendment, and I urge the Senate to support the Jackson amendment and to oppose those amendments that would delay the beginning—and this is only the beginning—of what is going to take a long time to correct, and that is a very significant military deficiency.

Mr. JACKSON. I thank the Senator from Georgia for an excellent statement. He has been tremendously helpful in the committee and on the floor in this very important debate.

As I indicated, Mr. President, I will be offering a motion to table, right after the Senator from Arkansas has had a chance to make a statement. I yield to him for that purpose.

Mr. PRYOR. I thank the Senator from Washington for yielding to me.

Mr. President, in conclusion, my perfecting amendment to the Jackson amendment does not kill this program. It does not say that we are going to be weak. It does not say we trust the Russians. It does not say we are not going to have chemical weapons.

My amendment simply says if we reverse this policy, let us do so only after we have the facts. Today we do not have the facts. We have assumptions, we have allegations, we have innuendo, we have a few articles, we have an absolute void of testimony before the proper committees in the U.S. Senate and before the Senate itself.

We will be casting our vote in the dark, Mr. President, if we cast our vote now, prematurely before we have the benefit of the ongoing study that would be completed and reported to the Congress of the United States. That, Mr. President, is what my amendment does. It is saying "Let us wait 5 months until this report is given to the Senate and to the other body," so that we can legislate in wisdom. This major decision that will have global implications should be based upon facts and the most thorough assessment of all military foreign policy, and arms control factors.

Mr. JACKSON. Mr. President, I move to table the Pryor amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table offered by the Senator from Washington. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ZORINSKY (when his name was called). Mr. President, on this vote I have a live pair with the Senator from Delaware (Mr. Biden). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. Biden), the Senator from New Hampshire (Mr. Durkin), the Senator from Colorado (Mr. Hart), the Senator from South Dakota (Mr. McGovern), the Senator from Tennessee (Mr. Sasser), the Senator from Alabama (Mr. Stewart), the Senator from Florida (Mr. Stone), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that, if present and voting, the Senator from Colorado (Mr. Hart) would vote "nay."

Mr. STEVENS. I announce that the Senator from Utah (Mr. Garn), the Senator from Arizona (Mr. Goldwater), and the Senator from Texas (Mr. Tower) are necessarily absent.

I also announce that the Senator frc Vermont (Mr. Stafford) is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 49, nays 38, as follows:

[Rollcall Vote No. 419 Leg.]

YEAS—49

Armstrong
Baker
Bellmon
Bentsen
Boschwitz
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cohen
DeConcini
Dole
Domenici
Exon
Ford
Glenn
Hatch
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Laxalt
Long
Lugar
Magnuson
McClure
Melcher
Morgan
Moynihan
Nunn
Pell
Pressler
Ribicoff
Roth
Schmitt
Schweiker
Stennis
Stevens
Thurmond
Wallop
Warner
Young

NAYS—38

Baucus
Bayh
Boren
Bradley
Bumpers
Burdick
Chafee
Church
Cochran
Cranston
Culver
Danforth
Durenberger
Eagleton
Gravel
Hatfield
Huddleston
Kassebaum
Kennedy
Leahy
Levin
Mathias
Matsunaga
Metzenbaum
Mitchell
Nelson
Packwood
Percy
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Simpson
Stevenson
Tsongas
Weicker
Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Zorinsky, for.

NOT VOTING—12

Biden
Durkin
Garn
Goldwater
Hart
McGovern
Sasser
Stafford
Stewart
Stone
Talmadge
Tower

So the motion to lay on the table Mr. Pryor's amendment (UP No. 1594) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now occurs on agreeing to the amendment offered by the Senator from Washington.

The amendment (UP No. 1593) was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HUDDLESTON. Mr. President, for the benefit of the Members, I would like to note that our bill now is at the point where only three or four amendments remain to be offered. I think we can accept these amendments without the necessity of rollcall votes. That should bring us to passage about 6 p.m.—not later than 6. Personally, I have not requested the yeas and nays on passage, but I understand that the request will be made. As a matter of fact, I understand it is certain to be made, so I will make the request in order to have it understood.

I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further amendment?

Mr. HUDDLESTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1595

(Purpose: To provide funds for construction of small arms firing range at Malmstrom Air Force Base)

Mr. MELCHER. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 1595.

Mr. MELCHER. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, line 3, strike: "$812,230,000" and insert in lieu thereof, "$812,970,000".

Mr. MELCHER. Mr. President, the amendment I am offering adds $740,000 to the fiscal year 1981 amount for military construction in the Air Force for construction of a small arms firing range at Malmstrom Air Force Base in Montana. Originally the project was set for construction in fiscal 1983. However, the military construction authorization bill, which the Senate passed yesterday contained my amendment authorizing the project in fiscal 1981.

As I look through the report on this appropriations bill I come to the section marked "Military Construction Program by State." On page 68 of that report, the State on the top of the page is Missouri. The next State listed is Nebraska. Montana is not there. In this entire military construction funding bill, not 1 cent for construction is assigned to Montana. That is especially sad when you consider that Malmstrom Air Force Base, one of the keystones in our strategic missile defenses, is in need—clear need—of a firing range in order to augment base security.

The project is for $740,000 to construct a 2,000-square-foot building, four classrooms, office space for nine instructors, paving, utilities, construction of M-60 machinegun and shotgun ranges, and modification of existing M-16 and 0.38 caliber pistol ranges. Separate arrangements would be made for grenade launchers.

More than 6,000 people a year need to qualify on some or all of these weapons.

The following list shows the number of people who must receive training in arms use:

1. Annual 341st Strategic Missile Wing and 24th NORAD Training requirements:

M–16	
Security Police Group	2, 085
Maintenance (MB)	144
WARSKILL—Wartime Augmentee	50
Prime BEEF (Mobility Force)	210
Prime R'BS (Mobility Force)	30
Communications Squadron	54
Permanent Change of Station	300
Addition for Failure Rate of 1.5%	43
Total	2, 916
.38 Pistol	
SPG	630
MB	239
Operations (DO)	303
WARSKILL (Wartime Augmentee)	50
Prime BEEF (Mobility Force)	25
Helicopter Crews	15
Addition for Failure Rate of 1.5%	13
Total	1, 272
Shotgun	
SPG	12
MB	436
Addition for 1.5% Failure Rate	4
Total	452
M–60 Machine Gun	
SPC (450 twice/year)	900
40mm Grenade Launcher (450 twice/year)	900
Total Annual 341st SMW and NORAD Range Training Requirement	6, 640

2. Annual Montana Air National Guard Training Requirements (MANG provides its own instructors):

M–16	
Security Policy (SP)	132
SP Augmentees and Mobility Force	85
Total	217
38 Caliber Pistol	
SP	88
SP Augmentees and Aircrews	55
Total	143
Total Annual MANG Range Training Requirements	360

Mr. President, this is not just a routine activity. Most of the personnel receiving training on these weapons are responsible for the security of missile silos and command centers or other high security areas. They must protect these important military installations during inspection, maintenance, and at times of emergency. Under current conditions the Wing Commander must waive small arms proficiency requirements for an average of 600 security personnel each year. These waivers are required for up to 3 to 4 months in some cases because of of the lack of a year-round small-arms training facility. I have no doubt that these security personnel are well-trained and competent; however, it makes no sense to me that they should be deprived of training in this critical skill. This flies directly in the face of Congress' mandate that we upgrade the quality of training of our military personnel.

Of equal importance is the waste of tax dollars that will result from delaying this project.

Currently, training is conducted at a range in Helena, Mont., almost 100 miles from Malmstrom. The expense involved in holding these training sessions in Helena rather than at Malmstrom amounts to $10,000 per session for transportation and approximately $4,000 per session for per diem costs. These unnecessary costs amount to $28,000 per year. Further, it takes three times as long for personnel to qualify at Helena as it would if there were an all-weather range at Malmstrom, resulting in the waste of 800 man-days. Finally, the $740,000 cost estimate for the firing range is in 1981 dollars; if it is delayed another 2 or 3 years, we know well from past experience that the cost will escalate and the taxpayer will be the loser.

These weapons training requirements are vital to Malmstrom Air Force Base. Security is a major aspect of the maintenance of a missile complex. The task of maintaining proficiency in weapons use becomes increasingly difficult with inadequate facilities. We have the opportunity to take a definite step toward upgrading the ability of the 341st Strategic Missile Wing to fulfill its mission.

Mr. President, this amendment conforms with the amendment I offered yesterday to the authorization bill which will provide $740,000 in fiscal year 1981 for military construction at Malmstrom Air Force Base for a target range that is absolutely essential.

Mr. President, I hope the managers of the bill can accept it.

Mr. HUDDLESTON. Mr. President, we have examined this amendment. On this side, we are prepared to accept it.

Mr. LAXALT. The minority has no objection, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1595) was agreed to.

Mr. MELCHER. I move to reconsider the vote by which the amendment was agreed to.

Mr. HUDDLESTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1596

(Purpose: To increase appropriations for Ellsworth Air Force Base, South Dakota)

Mr. HUDDLESTON. Mr. President, I send to the desk an amendment. This amendment is submitted on behalf of the Senator from South Dakota (Mr. MCGOVERN).

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON), for Mr. MCGOVERN, proposes an unprinted amendment numbered 1596:

On page 4, line 3, strike out "$812,970,000" and insert in lieu thereof "$816,130,000".

The PRESIDING OFFICER. If the Senator from Kentucky will permit the Chair to say, this amendment would only be in order by unanimous consent. It amends a part of the bill already amended.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent it be in order to consider this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, this provides for construction of a new dining facility at Ellsworth Air Force Base in Rapid City, S. Dak. The cost of the new facility is $3.16 million.

Mr. President, I ask unanimous consent that a statement on behalf of Senator McGovern be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR McGOVERN

This amendment would fund construction of a new dining facility at Ellsworth Air Force Base in Rapid City, South Dakota.

The cost of the new facility is $3,160,000. Since the new facility had not been authorized prior to consideration by the Appropriations Committee of the Military Construction Appropriations bill (H.R. 7592), this amendment is necessary to appropriate the funds required for the dining facility.

The project is needed to improve morale at the base. The exodus of experienced personnel is a major problem for the armed services. While pay raises are necessary to stem this flow, improvements in the living conditions of our personnel are also critically important. Senator McGovern learned from his inspection trips to Ellsworth that the men and women regard a new dining hall as a high priority.

The second reason is cost-effectiveness. The current dining hall was built in 1952. It is classified as a Code 3 structure, which means that it is deteriorating structurally and requires excessive amounts of repair funds to keep it operating. This drains repair funds away from other needy projects and contributes to the overall decline in real property standards. Replacing the Korean War-era structure with a modern new hall will save repair funds over the long run and help preserve other base structures.

The third reason is safety. The old dining hall is a wooden structure almost 30 years old. It is a fire hazard which endangers the lives of the Ellsworth personnel.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Kentucky on behalf of the Senator from South Dakota.

The amendment (UP No. 1596) was agreed to.

Mr. HUDDLESTON. I move to reconsider the vote by which the amendment was agreed to.

Mr. LAXALT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1597

(Purpose: To provide funds for a launcher laboratory at the Naval Underwater Systems Center, Newport, R.I.)

Mr. PELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Rhode Island (Mr. PELL), for himself and Mr. CHAFEE, proposes an unprinted amendment numbered 1597.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 6, strike out "$680,323,000" and insert in lieu thereof "$684,673,000".

Mr. PELL. Mr. President, my amendment would increase the total appropriation for Navy construction by $4.35 million, to provide for the construction of a launcher laboratory at the Naval Underwater Systems Center, in Newport, R.I. This project was authorized by the Senate yesterday as part of H.R. 7301, and is cosponsored by my colleague, Senator CHAFEE. Submarine weapons research, to increase the firepower and effectiveness of weapon launching systems, is of tremendous importance to the Navy. Planning for this launcher laboratory has been underway for a number of years, and it is high on the Navy's unfunded priority list. This item was dropped from the administration's budget submission at the very last minute, but I strongly believe that this launcher laboratory should go forward in 1981.

Since this project is not included in the House bill, I very much hope the managers of the bill will accept my amendment so that we can seek the disposition of our House colleagues on this item.

Mr. CHAFEE. Mr. President, I join my colleague and good friend, the senior Senator from Rhode Island, in support of our amendment to the military construction appropriation bill for 1981.

I commend the Senator for the lead he has taken on this. I am delighted that it appears the Appropriations Committee will accept it.

Mr. President, I am pleased to join my colleague and good friend, the senior Senator from Rhode Island, Senator PELL, to support our amendment to the military construction appropriations bill for 1981.

Mr. President, last month Melvin Laird, former Secretary of Defense, with whom I served as Secretary of the Navy, published an article in the Reader's Digest titled "Should Our Missile Force Go To Sea?" In this article, former Secretary Laird asks the very pertinent and perceptive question:

How can we best deploy an MX force against the new realities of the Soviets' strategic strength, against the accuracy and firepower they can now bring to bear against our land-based missiles?

Secretary Laird's response to this question, is "The answer may lie at sea."

I concur with Secretary Laird that the theoretical case for a sea-based ICBM force is compelling, and I would suggest we are well advised to maintain and improve any facilties we may now have that will assist in the further development of such capabilities.

Mr. HUDDLESTON. Mr. President, we have examined the amendment submitted by the distinguished Senator from Rhode Island. We have no objection to it.

Mr. LAXALT. Mr. President, the minority has no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Rhode Island (Mr. PELL).

The amendment (UP No. 1597) was agreed to.

Mr. HUDDLESTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LAXALT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1598

(Purpose: To provide funds for an aircraft maintenance hangar shop addition at Fort Riley, Kans.)

Mrs. KASSEBAUM. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Kansas (Mrs. KASSEBAUM), for herself and Mr. DOLE, proposes an unprinted amendment numbered 1598.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 7, strike out $869,130,000 and insert in lieu thereof $870,020,000.

The PRESIDING OFFICER. The Chair states to the Senator from Kansas that because it amends a section of the bill already amended, it would require unanimous consent to be considered.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that it be in order to consider the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, this is an amendment that would provide assistance for a maintenance hangar at Fort Riley, which has been given top priority by the Army, rated 100 percent as far as completion in the markup staff and ready to put on contract in fiscal year 1981.

We feel it is of great importance to the furtherance of upgrading the defense preparedness at Fort Riley and feel, also, because it is included in the authorizing bills in both the House and the Senate that it is an amendment of merit.

Mr. DOLE. Mr. President, I rise in support of the amendments to be offered by my distinguished colleague from Kansas, Senator KASSEBAUM, which will address some very important matters in Fort Riley and Fort Leavenworth, Kans.

Mr. President, as you know, both of these military bases represent a significant portion of our national defense and it is important that we maintain them in an effective operational status. The amendments that we are offering today will contribute significantly to this readiness.

Mr. President, the first amendment will add $890,000 to the amount appropriated for the Department of the Army for the construction of an aircraft hangar maintenance shop at Fort Riley.

Language authorizing this project is

contained in both House and Senate authorization bills, and was included in the Department of Defense's original budget request.

Very simply, Mr. President, without this new hangar the facilities at Marshall Army Airfield, Fort Riley, will be inadequate to effectively maintain aircraft readiness when the provisional aviation battalion is activated in fiscal year 1981 as a regular unit.

Mr. President, I am pleased to note that the committee has agreed to accept this amendment.

While the following three amendments will not be accepted by the committee, I, nevertheless, would like to comment on their worthiness.

FORT LEAVENWORTH HOSPITAL

The second amendment, Mr. President, requests $9,900,000 be added to the amount appropriated for the Department of the Army for upgrading the hospital at Fort Leavenworth.

Again, the justification for this amendment is quite obvious. The purpose of this amendment is to bring this hospital up the current life safety standards and codes established by the National Fire Protection Association, the Joint Committee on Accreditation of Hospitals, the National Electric Code and OSHA. It is also important to note that since the recent closing of the Richard-Gabaur Air Force Base and its hospital, the medical care demands on Fort Leavenworth's hospital has increased significantly.

DENTAL CLINIC

This amendment will authorize $1,250,000 for much needed improvements of the dental clinic at Fort Leavenworth, Kans. This request, which is identical to that submitted by the Department of Defense, will be used to replace 12 inadequate dental treatment rooms with only 8 new rooms.

Last year, the Department of Defense requested funding for 12 new treatment rooms, four of which would accommodate dependent dental care. The committee rejected this request because it felt these dependent facilities were not justified. This year the request reflects the wishes of the committee.

The fourth amendment requests addition of $6,500,000 to the amount appropriated for the Department of the Army for an administrative building renovation at Fort Leavenworth.

This amendment will help to renovate and create approximately 300 administrative offices and some conference rooms.

Some concern has been expressed that the cost of renovation may exceed the cost of constructing a new building. While this may be true, I would note that this building is located in the historical district of Fort Leavenworth and the renovation plans carry out the mandate of Executive Order 11593 protection and enhancement of the cultural environment which requires Federal agencies to initiate measures and procedures to provide for the maintenance through preservation, rehabilitation, or restoration, of federally owned and registered sites.

Mr. President, these amendments are important if we are to maintain an effective and combat ready organization. I urge the conference committees on the military construction authorization and appropriation to adopt these important measures.

Mr. HUDDLESTON. Mr. President, we have examined the amendment.

The Senator from Kansas knows how it is to strike the heart of the floor manager of the bill, because this happens to be a project at the military installation where I conducted my basic training and induction into the service some several years ago.

Mr. President, we have no objection to this amendment.

Mr. LAXALT. Mr. President, the minority has no objection whatsoever.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment (UP No. 1598) was agreed to.

Mr. HUDDLESTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LAXALT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1599

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Utah (Mr. HATCH) proposes an unprinted amendment numbered 1599:
>
> At the appropriate place insert the following new section:
>
> No part of the funds appropriated in this Act may be used for the purchase of foreign steel for the construction of the shelters or bases of the proposed MX missile system.

Mr. HATCH. Mr. President, for the past several years we have seen the balance of payments of this Nation fall further and further in the red. With the additional cost of imported oil, added to the greater number of imported automobiles, we have become a nation deeply in debt.

One of the areas of industry that has been hardest hit by this influx of foreign products has been the American steel industry. Within the past year we have witnessed several steel plants closed by the parent companies, only to have the results being larger numbers of Americans, men and women who want to work and have a tradition of working, swelling the ranks of the unemployed. This situation is intolerable and we in the leadership of the Nation should make every effort to insure that we do not contribute to the problem.

This particular bill contains some of the initial money for the planning of the future deployment of the MX missile. I am familiar with this issue, as can be well imagined, for it is in my State that a large part of this system is proposed to be deployed. The construction of this system will require a large amount of material, including a great deal of steel. I have seen estimates that as much as 1 million metric tons of steel will go into the construction of the MX and its shelters. This is by any consideration a large amount of steel. It is also my feeling that this should be American steel.

I believe that the trigger price mechanism has not worked adequately. I believe our American steel manufacturers can compete with any in the world. But I think because of the failure to enforce antidumping statutes, that our people have been bereft of protections they deserve.

I am against protectionist legislation. But, on the other hand, I believe this particular amendment is a worthwhile one. The amendment that I offer is a simple one. It is one that I hope every member of this body will support, for it means employment for American workers.

I urge my colleagues to support this amendment, which reads as follows:

> No part of the funds appropriated in this Act may be used for the purchase of foreign steel for the construction of the shelters or bases of the proposed MX missile system.

Mr. HUDDLESTON. Mr. President, throughout the consideration of this entire matter of the MX and its basing, we have had the benefit of the counsel of the ranking member of the subcommittee, the distinguished Senator from Nevada (Mr. LAXALT) and the distinguished Senator from Utah (Mr. GARN), who serves on the full committee.

We did provide in our report that local contractors—that is, contractors in the States of Nevada and Utah—should have ready access to work on the MX on the basis of merit and that procedures be taken to insure that they had such access.

Mr. HATCH. We are very grateful for the wonderful work done by the distinguished Senator from Kentucky in these particular areas, because our people in our States are very upset and concerned about the impact of this. I congratulate him and thank him for considering our States.

Mr. HUDDLESTON. I thank the Senator from Utah.

I believe that the addition the Senator is offering here, which would prohibit foreign steel from being used in this construction, is very valid. There would be something ironic about our building up our strategic defense with foreign steel. I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Utah (Mr. HATCH).

The amendment (UP No. 1599) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LAXALT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. I thank my colleagues.

NEEDED FUNDING FOR FORT DRUM

Mr. JAVITS. Mr. President, I have noticed in this military construction appropriation measure that we are considering now that the Senate version does not contain $4.25 million which the House of Representatives recommends for use at Fort Drum in New York for the purpose of starting the process of construction for some very badly needed new barracks. For the first time in many years, some active Army forces, an engineers battalion, are being assigned to Fort Drum. The present barracks there are World War II vintage. New ones are needed, and, indeed, construction on some has already started. However, the present construction plan is not large enough for the troops to be assigned to Fort Drum, and funding has to be provided now to have enough new barracks built by the time that the full engineers battalion will be at Fort Drum. Therefore, Mr. President, I believe that the House has acted properly and wisely on this matter, and I hope the Senate will closely listen to the House arguments on this issue when this bill goes to conference.

We were in the same position with respect to the military construction authorization bill on this issue yesterday. Accordingly, I wrote to the chairman and ranking minority member of the Military Construction Subcommittee of the Senate Armed Services Committee urging the same action I am urging here today. I am very hopeful that the result from the military construction authorization conference will be a positive one and that the appropriations conferees will act similarly.

FORT DRUM

Mr. MOYNIHAN. Mr. President, I seek consideration by the body of a small but worthwhile project at Fort Drum in New York: The construction of a barracks to house an engineer battalion that is to be stationed there. For a number of reasons, including a late decision bv the Armv to deploy this unit at Ford Drum, this item was not included in the authorization bill passed by the Senate yesterday, but I am hopeful that our conferees will understand the merits of this project and agree to the appropriation of $4.25 million as passed already by the House.

This redeployment has been made necessary by increasing use of Fort Drum by active Army units for winter exercises, in addition to use of the fort facilities by over 80.000 Reserve component soldiers for their annual 2-week training. The battalion will be responsible for the maintenance of roads and ranges on a year-round basis, and are to be housed in a pair of barracks, one of which has already been completed. This first building will make possible the stationing of a single company of engineers at Fort Drum, but unless the second barracks is funded now, the assignment of men to this post will be interrupted.

Mr. President, the inflation of construction costs is always an argument of sorts for completing projects like this one early. In this instance, there is an additional, and more compelling reason for moving ahead quickly. The construction of the first barracks offers us a contractor, equipment, and work crew on the scene at Fort Drum, ready to continue work on the second facility. This should make a very favorable bid possible, and would complete the project at significantly lower cost than would be possible with a delay in the work.

The only alternative to a new barracks for this unit would be to house the men in temporary barracks erected during World War II—intended to be temporary, that is, almost 40 years ago. These lack insulation, lack adequate plumbing, even lack rooms. Fortunately, we have the opportunity to prevent such hardship housing arrangements—and, for once, at a real savings. I hope that the advantages of including this project in the fiscal year 1981 budget will be recognized in the upcoming conference.

MILITARY CONSTRUCTION APPROPRIATIONS

Mr. ROBERT C. BYRD. Mr. President, I wish to thank the distinguished Senator from Kentucky, Mr. HUDDLESTON, for his contribution as floor manager of the fiscal year 1981 military construction appropriations bill. I also wish to extend the gratitude of the Senate to the minority floor manager of the bill, the distinguished Senator from Nevada (Mr. LAXALT).

This legislation is complex and extremely important. One measure of a society's greatness is reflected in how well it maintains its physical structures—its buildings, highways, towns, and cities. This principle also is true with regard to a nation's military programs. One measure of the strength of a nation's defenses is the level of maintenance given to that nation's military bases and ports; to its military buildings and training facilities; and to the other structures that form the foundation for military programs.

This bill meets that standard and that need. It contains our next installment toward a 5-year NATO military construction program. It contains funds for construction of test facilities for the MX missile, the mainstay of the land-based leg of our strategic triad in the future. It contains construction funds for the space shuttle program, which may be of enormous military significance. And it contains construction funds for other military facilities throughout our Nation and around the world.

This legislation represents months of work by the Military Construction Appropriations Subcommittee, chaired by the able Senator from Kentucky, Mr. HUDDLESTON. He skillfully and fairly managed the bill, and with the help of the ranking minority member of the subcommittee, Mr. LAXALT, the issues in the bill were resolved, and the deliberations of the Senate were carried to a successful conclusion.

These two Senators, and the other members of the subcommittee, and the chairman and ranking minority member of the Appropriations Committee, have the gratitude of the Senate and of the Nation for a job well done.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

(Disturbance in the Visitors' Galleries.)

Mr. ROBERT C. BYRD. Mr. President, may we have order in the gallery?

The PRESIDING OFFICER (Mr. METZENBAUM). The Senate will suspend until the Sergeant-at-Arms has restored order in the gallery. After the Sergeant-at-Arms has restored order the Senate proceedings will continue.

The Senate is in order, and the clerk will proceed.

The legislative clerk resumed and concluded the call of the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Tennessee (Mr. SASSER), the Senator from Alabama (Mr. STEWART), and the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. DURKIN), and the Senator from North Carolina (Mr. MORGAN) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The result was announced—yeas 84, nays 3, as follows:

[Rollcall Vote No. 420 Leg.]

YEAS—84

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Glenn
Hatch
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stevenson
Talmadge
Thurmond
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—3

Hatfield
Proxmire
Tsongas

NOT VOTING—13

Biden
Durkin
Garn
Goldwater
Gravel
Hart
McGovern
Morgan
Sasser
Stafford
Stewart
Stone
Tower

So the bill (H.R. 7592) was passed.

Mr. HUDDLESTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUDDLESTON. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. HUDDLESTON, Mr. JOHNSTON, Mr. INOUYE, Mr. SASSER, Mr. LAXALT, Mr. STEVENS, Mr. MAGNUSON, and Mr. YOUNG conferees on the part of the Senate.

Mr. HUDDLESTON. Mr. President, I just want to take a minute to express my appreciation to the staff who have worked so diligently to prepare this legislation, on the majority side the subcommittee staff director, Carolyn Fuller, and her assistant, Dorothy Douglas; and Rick Pierce on the minority side.

Again, I thank our ranking minority member, the Senator from Nevada (Mr. LAXALT) for helping put together what was a somewhat unusual military construction bill this year.

We had significant budget amendments submitted in March modifying the January request. We had the Indian Ocean/Persian Gulf situation develop. That policy is still in an evolving stage, and we have had to deal with a number of issues associated with U.S. policy there.

There was, of course, the MX missile request which included test facilities and raised many important questions relating to the basing site and mode. We also had the Space Shuttle, which as I mentioned in my opening statement, has significant military applications. And, finally, we had to work within budget constraints.

So I think everybody made a significant effort to contribute to the final product.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1981

The PRESIDING OFFICER. Pursuant to the previous order, the Senate will now proceed to the consideration of H.R. 7831, which the clerk will state by title.

The assistant legislative clerk read as follows:

Calendar 1017. H.R. 7831, an act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with amendments.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WEST VALLEY DEMONSTRATION PROJECT ACT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2443.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2443) entitled "An Act to authorize the Department of Energy to carry out a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, New York", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. This Act may be cited as the "West Valley Demonstration Project Act".

SEC. 2. (a) The Secretary shall carry out in accordance with this Act, a high level radioactive waste management demonstration project at the Western New York Service Center in West Valley, New York, for the purpose of demonstrating solidification techniques which can be used for preparing high level radioactive waste for disposal. Under the project the Secretary shall carry out the following activities:

(1) The Secretary shall solidify, in a form suitable for transportation and disposal, the high level radioactive waste at the Center by vitrification or by such other technology which the Secretary determines to be the most effective for solidification.

(2) The Secretary shall develop containers suitable for the permanent disposal of the high level radioactive waste solidified at the Center.

(3) The Secretary shall, as soon as feasible, transport, in accordance with applicable provisions of law, the waste solidified at the Center to an appropriate Federal repository for permanent disposal.

(4) The Secretary shall, in accordance with applicable licensing requirements, dispose of low level radioactive waste and transuranic waste produced by the solidification of high level radioactive waste under the project.

(5) The Secretary shall decontaminate and decommission—

(A) the tanks and other facilities of the Center in which the high level radioactive waste solidified under the project was stored,

(B) the facilities used in the solidification of the waste, and

(C) any material and hardware used in connection with the project,

in accordance with such requirements as the Commission may prescribe.

(b) Before undertaking the project and during the fiscal year ending September 30, 1981, the Secretary shall carry out the following:

(1) The Secretary shall hold in the vicinity of the Center public hearings to inform the residents of the area in which the Center is located of the activities proposed to be undertaken under the project and to receive their comments on the project.

(2) The Secretary shall consider the various technologies available for the solidification and handling of high level radioactive waste taking into account the unique characteristics of such waste at the Center.

(3) The Secretary shall—

(A) undertake detailed engineering and cost estimates for the project,

(B) prepare a plan for the safe removal of the high level radioactive waste at the Center for the purposes of solidification and include in the plan provisions respecting the safe breaching of the tanks in which the waste is stored, operating equipment to accomplish the removal, and sluicing techniques,

(C) conduct appropriate safety analyses of the project, and

(D) prepare required environmental impact analyses of the project.

(4) The Secretary shall enter into a cooperative agreement with the State in accordance with the Federal Grant and Cooperative Agreement Act of 1977 under which the State will carry out the following:

(A) The State will make available to the Secretary the facilities of the Center and the high level radioactive waste at the Center which are necessary for the completion of the project. The facilities and the waste shall be made available without the transfer of title and for such period as may be required for completion of the project.

(B) The Secretary shall provide technical assistance in securing required license amendments.

(C) The State shall pay 10 per centum of the costs of the project, as determined by the Secretary. In determining the costs of the project, the Secretary shall consider the value of the use of the Center for the project. The State may not use Federal funds to pay its share of the cost of the project, but may use the perpetual care fund to pay such share.

(c) Within one year from the date of the enactment of this Act, the Secretary shall enter into an agreement with the Commission to establish arrangements for review and consultation by the Commission with respect to the project. The agreement shall provide for the following:

(1) The Secretary shall submit to the Commission, for its review and comment, a plan for the solidification of the high level radioactive waste at the Center, the removal of the waste for purposes of its solidification, the preparation of the waste for disposal, and the decontamination of the facilities to be used in solidifying the waste. In preparing its comments on the plan, the Commission shall specify with precision its objections to any provision of the plan. Upon submission of a plan to the Commission, the Secretary shall publish a notice in the Federal Register of the submission of the plan and of its availability for public inspection, and, upon receipt of the comments of the Commission respecting a plan, the Secretary shall publish a notice in the Federal Register of the receipt of the comments and of the availability of the comments for public inspection. If the Secretary does not revise the plan to meet objections specified in the comments of the Commission, the Secretary shall publish in the Federal Register a detailed statement for not so revising the plan.

(2) The Secretary shall consult with the Commission with respect to the form in which the high level radioactive waste at the Center shall be solidified and the containers to be used in the permanent disposal of such waste.

(3) The Secretary shall submit to the Commission safety analysis reports and such other information as the Commission may require to identify any danger to the public health

and safety which may be presented by the project.

(4) The Secretary shall afford the Commission access to the Center to enable the Commission to monitor the activities under the project for the purpose of assuring the public health and safety.

(d) In carrying out the project, the Secretary shall consult with the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Director of the Geological Survey, and the commercial operator of the Center.

SEC. 3. (a) There are authorized to be appropriated to the Secretary for the project not more than $5,000,000 for the fiscal year ending September 30, 1981.

(b) The total amount obligated for the project by the Secretary shall be 90 per centum of the costs of the project.

(c) The authority of the Secretary to enter into contracts under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

SEC. 4. Not later than February 1, 1981, and on February 1 of each calendar year thereafter during the term of the project, the Secretary shall transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate an up-to-date report containing a detailed description of the activities of the Secretary in carrying out the project, including agreements entered into and the costs incurred during the period reported on and the activities to be undertaken in the next fiscal year and the estimated costs thereof.

SEC. 5. (a) Other than the costs and responsibilities established by this Act for the project, nothing in this Act shall be construed as affecting any rights, obligations, or liabilities of the commercial operator of the Center, the State, or any person, as is appropriate, arising under the Atomic Energy Act of 1954 or under any other law, contract, or agreement for the operation, maintenance, or decontamination of any facility or property at the Center or for any wastes at the Center. Nothing in this Act shall be construed as affecting any applicable licensing requirement of the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974. This Act shall not apply or be extended to any facility or property at the Center which is not used in conducting the project. This Act may not be construed to expand or diminish the rights of the Federal Government.

(b) This Act does not authorize the Federal Government to acquire title to any high level radioactive waste at the Center or to the Center or any portion thereof.

SEC. 6. For purposes of this Act:

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "Commission" means the Nuclear Regulatory Commission.

(3) The term "State" means the State of New York.

(4) The term "high level radioactive waste" means the high level radioactive waste which was produced by the reprocessing at the Center of spent nuclear fuel. Such term includes both liquid wastes which are produced directly in reprocessing, dry solid material derived from such liquid waste, and such other material as the Commission designates as high level radioactive waste for purposes of protecting the public health and safety.

(5) The term "transuranic waste" means material contaminated with elements which have an atomic number greater than 92, including neptunium, plutonium, americium, and curium, and which are in concentrations greater than 10 nanocuries per gram, or in such other concentrations as the Commission may prescribe to protect the public health and safety.

(6) The term "low level radioactive waste" means radioactive waste not classified as high level radioactive waste, transuranic waste, or byproduct material as defined in section 11 e. (2) of the Atomic Energy Act of 1954.

(7) The term "project" means the project prescribed by section 2(a).

(8) The term "Center" means the Western New York Service Center in West Valley, New York.

Mr. JACKSON. Mr. President, the House has recently adopted an amendment in the nature of a substitute for the text of the act S. 2443. It is important that this legislation be enacted in this Congress so that the nuclear waste stored at the Western New York Service Center in West Valley, N.Y., can be processed into a form suitable for permanent disposal. I, nonetheless, feel that the House-passed version of S. 2443 contains deficiencies which must necessarily be corrected in order to achieve enactment of a workable bill. The Senate-passed version of S. 2443 contained, under the provision for a cooperative agreement with the State of New York, a requirement that the Department of Energy be party to the licensing amendment which will be required in order to conduct the project. I believe that reinserting this provision will insure that the interests of the Federal Government, which will bear 90 percent of the cost of the project, will be protected.

A further amendment is required to section 2(c) of the act in order to clarify the status of the Secretary's activities with respect to the Nuclear Regulatory Commission's responsibilities. The proviso which is proposed to be added to section 2(c) makes it clear that the review and consultation by the Nuclear Regulatory Commission will be performed on an informal basis and not require formal procedures or actions by the Commissioners themselves. This approach is in full keeping with the long-standing tradition of informal review by the nuclear regulators of Federal Government nuclear activities not intended to result in commercial activity.

In this process the Department of Energy provides full technical information to the staff of the Nuclear Regulatory Commission. This information is carefully reviewed, critiqued, and analyzed to insure that the project is conducted with standards fully equivalent to those imposed on licensed activities. The Commission communicates its concerns back to the Department of Energy, and the Department of Energy acts to resolve the concerns by providing further technical information or by making modifications in the facilities.

With these changes, I believe the bill will provide the full opportunity for the Department of Energy and the State of New York to move quickly forward to establish a project for the safe processing of the high-level nuclear waste stored at the West Valley site. I wish to commend Senators MOYNIHAN and JAVITS for their leadership in this bill and the Members of the New York delegation in the House of Representatives.

An editorial published in today's New York Daily News aptly summarizes the process, except that the editors were remiss in not including New York's distinguished senior Senator, Senator JAVITS who, as the bill's cosponsor has worked intensively with me, with my distinguished colleague Senator McCLURE and with all those involved in the West Valley bill and deserves recognition as do his colleagues. Indeed, New York's two Senators, its Governor, and certainly West Valley's Congressman STAN LUNDINE have aptly represented the State's and the Nation's concern that these stored wastes be safely and swiftly disposed.

I hope the House of Representatives will accept the amendments to the bill without asking for a conference to resolve these differences. With the shortness of time and the need for beginning action in the fiscal year 1981, I hope that we can send the bill to the President in the next few days.

Mr. MOYNIHAN. Mr. President, today the Senate will act on the West Valley nuclear waste solidification bill—S. 2443—setting in motion a technological enterprise which is so vital to our basic education in managing nuclear waste. Senate passage of the West Valley bill—nearly identical to the version it passed on June 12, 1980—marks the first time in 4 years that the Senate and House of Representatives have agreed on the nature of the Federal role in the project. It has not been easy.

West Valley is the site of this Nation's only commercial nuclear fuel reprocessing plant. Over 75 percent of the high-level waste at West Valley is from Federal facilities or commercial reactors under contract with the former Atomic Energy Commission. The high level wastes at West Valley are the only such wastes in the United States that are not managed by the Federal Government. New York State does not belong in the nuclear waste business. It is important that the facility be under the care and management of the Department of Energy which possesses the necessary technical resources to oversee the solidification and safe removal of the wastes.

On March 8, 1977, the GAO recommended that the Nuclear Regulatory Commission develop criteria for handling the waste and decommissioning the site. The GAO report also recommended that the NRC and the Department of Energy develop a policy of Federal assistance to New York for the site. On March 15, 1978, the DOE Task Force for Review of Nuclear Waste Management stated that "DOE should accept responsibility for the high level waste at West Valley."

Over a year later, Secretary James Schlesinger wrote to Governor Hugh Carey expressing DOE's willingness to accept overall management responsibility and bear a portion of the costs of a program of high-level liquid waste solidification, storage, transfer to a Federal repository for solidified wastes, and decommissioning of all facilities associated with these activities. As recently as September 21, 1979, Secretary Duncan wrote to Governor Carey expressing his desire to reach a final agreement on arrangements for beginning the waste solidification project at West Valley. However, the

Department of Energy cannot proceed on the project without the proper authorization. That is the purpose of S. 2443.

The House has returned S. 2443 to the Senate with few changes of substance. For example, the consultative role of the Nuclear Regulatory Commission has been made more explicit in the House version of the bill. Language in other provisions of the bill has been tightened to leave little doubt of the intent of Congress to see this unique undertaking proceed in the most open and deliberate manner. No party's legal responsibilities are the lesser for this law.

I would be remiss if I failed to record at this time my profound gratitude to Dr. James Schlesinger, Dr. John Sawhill—soon to be chairman of the Synthetic Fuels Corporation—and Dr. Worth Bateman. These three gentlemen, in their unenviable position of running the Department of Energy past and present, have conscientiously negotiated with the State of New York, on behalf of the Federal Government. There were many complications associated with this project during these 4 years which I am sure gave them pause to consider another line of employment. Nonetheless, each stayed the course and for this each is to be commended.

It would not be an overstatement to suggest that Senator HENRY JACKSON is, in the end, the individual most responsible for the successful culmination of the West Valley legislation. His unwavering support and his generosity in lending the assistance of his staff have brought us to this day.

Mr. JAVITS. Mr. President, this is the third time the Senate has passed the legislation to clean up West Valley and we believe this final version of our bill will serve the interests of New Yorkers well. We have sent to the House for final passage a bill which makes the State of New York a partner with the Federal Government in a 10-year, $200 million project to solidify and dispose of the nuclear wastes which have threatened the health and wellbeing of New Yorkers in this rich farmland area on the outskirts of Buffalo.

It is high time, after the 4 long years that Senator MOYNIHAN, Congressman LUNDINE, and I have worked to enact such a program, that the United States assume its rightful responsibilities and clean up that waste and take it away from the highly populated area where it now lies. Further, I intend to see to it that, once enacted, this program goes forward without any further delay and I am certain that we can continue to count on the excellent support we have had from the Senate Energy Committee and particularly its distinguished chairman.

UP AMENDMENT NO. 1600

Mr. MOYNIHAN. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is the Senator moving to concur in the House amendments with an amendment?

Mr. MOYNIHAN. Mr. President, I will ask in a moment that the Senate concur in the House amendment with an amendment which I now send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an unprinted amendment numbered 1600.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 4, after line 23, insert the following:

(D) submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration;

On page 5, line 2, strike the period and insert the following: ": *Provided*, That review and consultation by the Commission pursuant to this subsection shall be conducted informally by the Commission and shall not include nor require formal procedures or actions by the Commission pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, or any other law."

Mr. JAVITS. Mr. President, I ask unanimous consent that my name be added to that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I move that the Senate concur in the House amendment with the amendment I have sent to the desk.

The motion was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business not to exceed 15 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE NEXT WEEK

Mr. ROBERT C. BYRD. Mr. President, this has been cleared with the Republican leader, and the acting Republican leader is here with me and can speak for himself.

I ask unanimous consent that on Monday the Senate proceed to the consideration of the State-Justice appropriation bill, provided the HUD appropriation bill has been disposed of by that time and provided that the Department of Transportation appropriation bill and the military construction appropriation bill have been disposed of by that time, but in any event that the State-Justice appropriation bill follow the disposition of the three aforementioned measures, with the further understanding that on Tuesday, of course, the nuclear fuels sale to India proceed as under the previous order and that the Senate then pick up on Wednesday with the disposition of any of the aforementioned appropriation bills and that following the State-Justice appropriation bill the Interior appropriation bill be taken up.

Mr. STEVENS. Mr. President, that has been agreed to.

The PRESIDING OFFICER. May the Chair inquire of the distinguished majority leader whether or not that means that the Tarapur sale of enriched uranium to India will follow State, Commerce, Justice if it has not been passed on Monday?

Mr. ROBERT C. BYRD. No. Under the pervious order, on Tuesday the Senate will come in at 9 o'clock, and following the two leaders and any orders for the recognition of Senators, the Senate is to proceed to the Tarapur matter, the disapproval resolution.

Mr. McCLURE. Mr. President, reserving the right to object—and I do not intend to object—it is my understanding that the Interior Department appropriation bill will not come up before next Wednesday?

Mr. STEVENS. And will not occur before Tarapur.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. BUMPERS. Mr. President, reserving the right to object, I discussed the State, Justice, Commerce bill with Senator HOLLINGS a moment ago and told him that I cannot be here on Friday or Monday. I have a very important amendment which I think Senator HOLLINGS and I will be able to agree on. But in the event that we are not, would it be possible to defer final votes on that bill until after the sale to India resolution in order that I might offer the amendment if Senator HOLLINGS and I cannot agree?

Mr. ROBERT C. BYRD. Yes. It is agreeable—in order to protect the Senator from Arkansas (Mr. BUMPERS) on the amendment to the State, Justice, Commerce bill—to carry that amendment only and, of course, final passage, over beyond Monday. Am I understanding the Senator correctly?

Mr. BUMPERS. The Senator is correct.

Mr. ROBERT C. BYRD. So if State, Justice, Commerce appropriations was to reach the point where it was about to go to third reading on Monday, with no other amendments, the Senator would be protected and that bill would be put over until an appropriate time, consonant with the order entered, so as to give the Senator his opportunity to call up his amendment thereto.

Mr. BUMPERS. And the majority leader amends his request to make that specific?

Mr. ROBERT C. BYRD. Yes.

Mr. BUMPERS. I thank the majority leader very much.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER (Mr.

Pryor). Without objection, it is so ordered.

OMNIBUS RECONCILIATION ACT OF 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Budget be discharged from further consideration of H.R. 7765, the Omnibus Reconciliation Act of 1980 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 7765) to provide for reconciliation pursuant to section 3 of the First Concurrent Resolution on the budget for the fiscal year 1981.

There being no objection, the Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 7765 be amended by striking out all after the enacting clause and inserting in lieu thereof the texts of S. 2885 and S. 2939 as passed by the Senate, and that the bill as amended be considered to have been read a third time and passed; that the motion to reconsider be laid on the table, that the Senate insist on its amendments to H.R. 7765 and request a conference with the House thereon and that the Chair be authorized to appoint conferees on the part of the Senate.

Mr. STEVENS. Mr. President, reserving the right to object, and I shall not object, I understand what this does is put the Senate-passed bills in conference with the House of Representatives on the budget process; is that correct?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair appointed Mr. Hollings, Mr. Moynihan, Mr. Exon, Mr. Bellmon, and Mr. Domenici, from the Committee on the Budget;

Mr. Talmadge, Mr. McGovern, Mr. Huddleston, Mr. Helms, and Mr. Hayakawa from the Committee on Agriculture, Nutrition, and Forestry, solely for the consideration of matters within the jurisdiction of that committee;

Mr. Nunn, Mr. Harry F. Byrd, Jr., and Mr. Jepsen from the Committee on Armed Services, solely for the consideration of matters within the jurisdiction of that committee;

Mr. Cannon, Mr. Exon, Mr. Packwood, and Mrs. Kassebaum from the Committee on Commerce, Science, and Transportation, solely for the consideration of matters within the jurisdiction of that committee;

Mr. Randolph, Mr. Bentsen, Mr. Burdick, Mr. Stafford, and Mr. Pressler from the Committee on Environment and Public Works, solely for the consideration of matters within the jurisdiction of that committee;

Mr. Long, Mr. Talmadge, Mr. Boren, Mr. Dole, and Mr. Roth from the Committee on Finance, solely for the consideration of matters within the jurisdiction of that committee;

Mr. Ribicoff, Mr. Glenn, Mr. Pryor, Mr. Percy, and Mr. Stevens from the Committee on Governmental Affairs, solely for the consideration of matters within the jurisdiction of that committee;

Mr. Williams, Mr. Randolph, Mr. Pell, Mr. Schweiker, and Mr. Stafford from the Committee on Labor and Human Resources, solely for the consideration of matters within the jurisdiction of that committee;

Mr. Cranston, Mr. Talmadge, and Mr. Simpson from the Committee on Veterans' Affairs, solely for the consideration of matters within the jurisdiction of that committee, conferees on the part of the Senate.

THE CARTER TAX INCREASE

Mr. THURMOND. Mr. President, in recent days, numerous issues have surfaced in the Presidential campaign. We have run the gamut from defense policy to foreign policy and back around to who will—and who will not—debate whom, under what conditions and where.

Mr. President, amid the shouts, and aside from the purely partisan distractions, the central issues stand out. One is national security and national defense. The other is the state of our economy.

Not that there are not other issues of a pressing nature in need of discussion and clarification. There certainly are. Not that we should preoccupy ourselves solely with strategies for dealing with the current combination of inflation and recession. We should not.

Yet, Mr. President, surveys show that the American people, by a 2 to 1 margin, feel that the economy is the single most pressing problem facing our Nation today. This is understandable. It is hard for the average American to concentrate on other issues in this election year when he is trying harder than ever to make his checkbook balance after paying higher fuel bills, higher grocery bills, higher rent and higher mortgage interest and higher costs across-the-board for essential household items.

On August 28, President Carter announced his "economic renewal" program for the Nation. His announcement was preceded by a great deal of fanfare and heightened expectations on the part of weary wage earners. Unfortunately, the program unveiled by the White House does not live up to these expectations. After 3½ years and six previous Presidential economic programs, President Carter has yet to get it right. It would appear that he and his economic advisers fail to understand basic economics—in particular, the link between Government taxation and spending.

President Carter's proposed tax reduction is, in reality, no tax reduction at all but rather an offset of the higher social security tax increase scheduled to go into effect next year. The much-needed tax reduction for individuals is nowhere to be found among his proposals.

I am also disturbed by the absence in the Carter program of any real restraints on Federal spending. In fact, there are substantial spending increases proposed in some areas.

While I compliment the President on his proposal for more liberal depreciation allowances for business and industry, it is unfortunate that it took him so long to recognize this need. As you know, Governor Reagan much earlier had made this a key feature of his economic revitalization program, and many of us in this body have urged adoption of this approach for years.

Mr. President, one of the better analyses of President Carter's program—especially his so-called tax reduction proposal—appeared in the August 29, 1980 issue of the Wall Street Journal. I should like to share this brief but precise analysis with my colleagues. I therefore ask unanimous consent that it be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

THE CARTER TAX INCREASE

To add a bit of perspective to the economic policy the President officially unveiled yesterday, let's start by citing a few statistics:

Federal spending in the fiscal year that begins a month from now is estimated at $633 billion, a full one-third higher than last fiscal year and rising;

The federal deficit in the current fiscal year is already near $60 billion, 50 percent over the January predictions;

The rising burden of inflation and taxation has made it necessary for a family of four to earn just over $20,000 this year to equal the purchasing power of $10,000 in 1970;

Worker productivity, which rose steadily during the years the U.S. was making significant gains in living standards, has been going downhill since the end of 1978.

After the anemic tax reductions proposed yesterday by Mr. Carter, the federal tax burden will rise yet another $80 billion next year.

Mr. Carter's latest economic policy, his seventh try at this in three and a half years, displays no real awareness of any of these stark numbers. Is the country being strangled by taxes? Too bad. Is federal spending racing out of control? Then we need more money spent on what Teddy Kennedy dignifies with the description "jobs programs."

About the only thing of merit in the tax cuts Mr. Carter has proposed is a liberalization of depreciation allowances for business, which will make some new equipment purchases more attractive. This, however, is overshadowed by the futility of a piddling tax credit to offset part of the sharp increase in the Social Security wage tax due next year. Mr. Carter apparently still has not learned why the $50 tax rebate he first proposed and then dropped in 1977 was of no economic value. And the idea of shipping cash, in the form of an investment credit, to money-losing companies is, at worst, a stimulant to inefficiency, and, at best a Band-Aid for the wounds this administration has inflicted on business profits. The same goes for the grab-bag of "community help" programs.

Other problems of this economy are to be dealt with by convening an "Economic Revitalization Board" made up of government, industry and public representatives. Will this committee come up with a lot of new ideas for restoring competition and efficiency? Or will it come up with ideas for protecting existing corporations, labor unions and government bureaus from threats to their present security? Give yourself a correct score if you chose answer number two.

Mr. Carter's reason for doing so little to reverse economic stagnation is that any genuine measure to slow the federal spending-taxing rise might exacerbate inflation. Or, as everybody knows, you cure inflation by trying to balance the budget, even if the spending keeps outrunning the revenues while you are trying to do all that, and the inflation keeps getting worse.

In fact, you do not cure inflation by raising taxes. If that were the case it is unlikely the inflation rate could have tripled over the last three years at a time when federal tax receipts were rising 50 percent. Inflation can be cured by sound central bank money growth control coupled with federal policies that do not discourage production and efficient use of resources. It is not necessary to be absolutist about the Laffer curve or supply-side economics to argue that on the record of the last three years, arresting the tax rise, particularly as it affects investment and work incentives, is more likely to reduce inflation than the continued piling on of additional tax. And certainly federal spending must be brought under control.

The fact that the Carter administration refuses to accept this suggests to us that the problem goes deeper than a mere misreading of economic trend lines. There is every reason to believe that we are faced here with a government that has been taken over by the inmates and that its only dynamic comes from men and women in power centers who are busily designing new forms of activism to pour into Stu Eizenstat's hopper. When it all comes out we don't get programs that address economic problems but yet another wish list reflecting all the things Carter administration functionaries would like to busy themselves doing.

Can this process be reversed? That may well be the most important economic issue we face.

KIM DAE-JUNG

Mr. CHURCH. Mr. President, last night, Mr. Kim Dae-jung, a Korean political leader, was convicted of sedition and sentenced to death. I rise today as a friend of South Korea to urge President Chon Du-hwan and the Korean Government to show clemency when reviewing Kim's trial. Otherwise, I fear that our long and close relationship with South Korea will suffer.

From my perspective, Mr. Kim's past political activities have put his life in jeopardy, not his role in recent student demonstrations protesting martial law. His views represent the aspirations of millions of Koreans, who wish to have a real role in their country's political process. For myself, I am committed to doing anything within my power to see that those hopes are fulfilled.

Obviously, if a Korean law has been broken, the government is justified in meting out some sort of punishment. In this case, however, I am convinced, as are international observers, that Mr. Kim's alleged crimes do not justify the death penalty. His sentencing was a political act, pure and simple; one to demonstrate that political opposition to the new government will be dealt with harshly. This is not justice, and certainly not what we here in America had come to expect from Korea.

Mr. President, Senator JAVITS, as ranking minority member of the Committee on Foreign Relations, and I, as chairman, are preparing a letter to President Chon urging the Korean Government to show clemency in Kim's case. That letter will state our steadfast commitment to the security of the Republic of Korea. It will also state our deep concern that the Korean Government's handling of the Kim Dae-jung case could adversely affect relations between our two countries.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal, which were referred to the appropriate committees.

(The nominations and withdrawal received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:03 a.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, with amendments in which it requests the concurrence of the Senate:

S. 1873. An act to establish a procedure for the processing of complaints directed against Federal judges, and for other purposes.

The message also announced that the House has passed the following bill, with an amendment in which it requests the concurrence of the Senate:

S. 2489. An act to authorize appropriations for the Coast Guard for fiscal year 1981, to authorize supplemental appropriations for fiscal year 1980, and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 3292) to assist the States in developing fish and wildlife conservation plans, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 6511) to designate the building known as the Federal Building in Morgantown, W. Va. as the "Harley O. Staggers Federal Building".

The message further announced that the House has passed the following bill without amendment:

S. 215. An act for the relief of Renuka Pavia.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3806. An act to establish a U.S. Court of Appeals for the Federal Circuit, to establish a U.S. Claims Court, and for other purposes;

H.R. 6686. An act to discontinue or amend certain requirements for agency reports to Congress;

H.R. 7626. An act to amend title 37, United States Code, to improve certain special pay and allowance benefits for members of the uniformed services, and for other purposes; and

H.R. 7941. An act to amend section 21 of the act of February 25, 1920, commonly known as the Mineral Leasing Act.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 3806. An act to establish a U.S. Court of Appeals for the Federal Circuit, to establish a U.S. Claims Court, and for other purposes; to the Committee on the Judiciary.

H.R. 7626. An act to amend title 37, United States Code, to improve certain special pay and allowance benefits for members of the uniformed services, and for other purposes; to the Committee on Armed Services.

H.R. 7941. An act to amend section 21 of the act of February 25, 1920, commonly known as the Mineral Leasing Act; to the Committee on Energy and Natural Resources.

HOUSE BILL HELD AT THE DESK

The following bill received from the House was held at the desk pursuant to previous order:

H.R. 6686. An act to discontinue or amend certain requirements for agency reports to Congress.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4632. A communication from the Acting Assistant Secretary of the Air Force, reporting, pursuant to law, that a study has been conducted with respect to converting the grounds maintenance function at Mather Air Force Base, California, and a decision has been made that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC-4633. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Air Force's proposed Letter of Offer to NATO for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-4634. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Navy's proposed Letter of Offer to Italy for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-4635. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Army's proposed Letter of Offer to Greece for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-4636. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to amend title 14, United States Code, to provide for selective pre-appointment travel to the Coast Guard Academy for cadet applicants; to the Committee on Commerce, Science, and Transportation.

EC-4637. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Increasing Costs, Competition May Hinder U.S. Position of Leadership in High Energy Physics," September 16, 1980; to the Committee on Commerce, Science, and Transportation.

EC-4638. A communication from the Administrator, General Services Administration transmitting, pursuant to law, a prospectus which proposes a new lease for approximately 137,658 square feet of space for the expanded needs of the Federal Aviation Administration in East Point, Georgia; to the Committee on Environment and Public Works.

EC-4639. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes the acquisition of leased space for several agencies in Portland, Oregon; to the Committee on Environment and Public Works.

EC-4640. A communication from the Chairman, National Mediation Board, transmitting, pursuant to law, the 45th annual report of the NLRB; to the Committee on Labor and Human Resources.

EC-4641. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Employment Service Needs to Emphasize Equal Opportunity in Job Referrals," September 17, 1980; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RIBICOFF, from the Committee on Governmental Affairs, with an amendment (in the nature of a substitute):

H.R. 4417. An act to provide for the coordination of federally supported and conducted research efforts regarding the Chesapeake Bay, and for other purposes (Rept. No. 96-950).

By Mr. BUMPERS from the Committee on Energy and Natural Resources, with an amendment:

S. 1135. A bill to add certain lands to the Moapa Indian Reservation, and for other purposes (Rept. No. 96-951).

By Mr. BUMPERS, from the Committee on Energy and Natural Resources, with an amendment (in the nature of a substitute) and an amendment to the title:

S. 2364. A bill to establish the Langmuir National Research Area in the State of New Mexico, and for other purposes (Rept. No. 96-952).

By Mr. BUMPERS, from the Committee on Energy and Natural Resources, with amendments:

S. 1910. A bill to authorize and direct the Secretary of the Interior to convey, by quitclaim deed, all right, title, and interest of the United States in and to certain lands that were withdrawn or acquired for the purpose of relocating a portion of the city of American Falls out of the area flooded by the American Falls Reservoir (Rept. No. 96-953).

S. 1985. A bill to authorize the Secretary of Agriculture to convey certain lands in the State of Arizona, and for other purposes (Rept. No. 96-954).

By Mr. HOLLINGS, from the Committee on the Budget, without amendment:

S. Res. 517. A resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 7831.

By Mr. CHILES, from the Committee on Appropriations, with amendments:

H.R. 7583. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1981, and for other purposes (Rept. No. 95-955).

By Mr. MATSUNAGA, from the Committee on Energy and Natural Resources, with an amendment (in the nature of a substitute):

S. 2774. A bill to authorize an accelerated research, development, and demonstration program to advance in situ technologies for energy production from underground coal deposits and unconventional gas resources (Rept. No. 96-956).

By Mr. MELCHER, from the Select Committee on Indian Affairs, with an amendment (in the nature of a substitute):

S. 2829. A bill to provide for the settlement of land claims of Indians, Indian nations and tribes and bands of Indians in the State of Maine, including the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, and for other purposes (Rept. No. 96-957).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on the Judiciary:

Harry Alan Scarr, of Virginia, to be Director of the Bureau of Justice Statistics.

Blandina Cardenas Ramirez, of Texas, to be a Member of the Commission on Civil Rights.

Brian P. Joffrion, of Louisiana, to be U.S. Marshal for the Western District of Louisiana.

(The above nominations from the Committee on the Judiciary were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. KENNEDY, from the Committee on the Judiciary:

Richard L. Williams, of Virginia, to be U.S. district judge for the eastern district of Virginia.

Hipolito Frank Garcia, of Texas, to be U.S. district judge for the western district of Texas.

James Harry Michael, Jr., of Virginia, to be U.S. District Judge for the Western District of Virginia.

George Howard, Jr., of Arkansas, to be U.S. district judge for the eastern and western districts of Arkansas.

Charles P. Kocoras, of Illinois, to be U.S. district judge for the northern district of Illinois.

Susan C. Getzendanner, of Illinois, to be U.S. district judge for the northern district of Illinois.

Richard C. Erwin, of North Carolina, to be U.S. district judge for the middle district of North Carolina.

David Vreeland Kenyon, of California, to be U.S. district judge for the central district of California.

Consuelo B. Marshall, of California, to be U.S. district judge for the central district of California.

Norman P. Ramsey, of Maryland, to be U.S. district judge for the district of Maryland.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LEVIN:

S. 3121. A bill to amend title IV of the Social Security Act to allow States to make AFDC shelter payments in the form of vendor payments where an AFDC recipient has failed to make two consecutive rent payments, and for other purposes; to the Committee on Finance.

By Mr. THURMOND (for himself and Mr. Kennedy):

S. 3122. A bill to amend chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), to revise the laws governing the U.S. Court of Military Appeals, to provide for review of decisions of such court by the Supreme Court, and for other purposes; to the Committee on the Judiciary.

By Mr. THURMOND (for himself and Mr. Heflin):

S. 3123. A bill to establish a Federal Jurisdiction Review and Revision Commission; to the Committee on the Judiciary.

By Mr. DANFORTH (for himself, Mr. Jackson, Mr. Pell, Mr. Stone, Mr. Boschwitz, Mr. Cranston, Mr. Baker, Mr. Stevens, Mr. Baucus, Mr. Bayh, Mr. Chiles, Mr. Church, Mr. Cohen, Mr. DeConcini, Mr. Durkin, Mr. Eagleton, Mr. Exon, Mr. Garn, Mr. Hart, Mr. Hatfield, Mr. Heinz, Mr. Javits, Mrs. Kassebaum, Mr. Mathias, Mr. Matsunaga, Mr. McGovern, Mr. Metzenbaum, Mr. Moynihan, Mr. Percy, Mr. Pressler, Mr. Randolph, Mr. Ribicoff, Mr. Roth, Mr. Sarbanes, Mr. Sasser, Mr. Stennis, Mr. Stevenson, Mr. Tsongas, Mr. Wallop, Mr. Warner, and Mr. Williams):

S. 3124. A bill to establish the U.S. Holocaust Memorial Council; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (for himself and Mr. Kennedy):

S. 3122. A bill to amend chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), to revise the laws governing the U.S. Court of Military Appeals, to provide for review of decisions of such court by the Supreme Court, and for other purposes; to the Committee on the Judiciary.

U.S. COURT OF MILITARY APPEALS ACT OF 1980

Mr. THURMOND. Mr. President, today, I am introducing a bill which will restructure to some extent the U.S. Court of Military Appeals, a court created by the Congress in 1951 and a court that is essential to reconcile the demands of discipline and due process in our Armed Forces.

This bill would increase the number of judges who serve on the court from three to five; provide a means whereby the Supreme Court can directly review, by writ of certiorari, the decisions of the U.S. Court of Military Appeals; and insure that future appointments to the court are for full 15-year terms rather than for the unexpired portions of terms that currently exist.

For instance, one of the judges is now serving an appointment of only some 12 months in duration, which is the unexpired portion of a predecessor's term. Stability at the court is important to the military justice system and this bill would increase that stability and would not permit the impasse that resulted recently when there were only two judges who had different judicial philosophies.

Over the years, I have been interested in providing a means whereby the Supreme Court could directly review, by writ of certiorari, the decisions of the U.S. Court of Military Appeals. The legislation I now propose would authorize such access to the Supreme Court by both service members and the Government. I believe it fills a significant gap.

I should emphasize that the legislation I am now proposing is substantively the same as a proposal of the administration to strengthen and stabilize the court of military appeals. A more detailed explanation of the need for this legislation is contained in a letter from the Office of General Counsel of the Department of Defense dated January 2, 1980, which I am inserting in the Record at the conclusion of my remarks.

Often our consideration of military needs involves appropriations of billions of dollars for new weapons systems or for military pay and allowances. This bill does not involve significant amounts of money; but it does respond to needs which are basic and which must be met now if a strong system of military justice is to be maintained for our Armed Forces.

Mr. President, I ask unanimous consent that the letter from the Office of General Counsel of the Department of Defense be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

General Counsel of
the Department of Defense,
Washington, D.C., January 2, 1980.

Hon. Walter F. Mondale,
President of the Senate,
Washington, D.C.

Dear Mr. President: There is forwarded herewith a draft of proposed legislation "To establish the United States Court of Military Appeals as an independent court under article I of the Constitution of the United States, and for other purposes" and a sectional analysis thereof. It is proposed to cite this act as the "Military Appellate Procedures Act of 1979".

The proposal is part of the Department of Defense legislative program for the 96th Congress. The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this proposal for the consideration of the Congress. It is recommended that the proposal be enacted by the Congress.

PURPOSE OF THE LEGISLATION

The purpose of the legislation is to improve the appellate process in the court-martial system by enhancing the stature of the Court of Military Appeals. The Court of Military Appeals was created by Congress in 1951 as a result of enactment of the Uniform Code of Military Justice. The Court is empowered to review cases arising under the Uniform Code of Military Justice in which there is a sentence of death, a punitive discharge, confinement for one year or more, and in certain other cases. The Court has a significant impact on the operation of the court-martial system, the state of discipline in the armed forces, and the rights of servicemembers.

The Court consists of three members, appointed from civil life by the President with the advice and consent of the Senate. No more than two of the judges may be from the same political party. Each seat on the Court carries a fifteen year term. If a vacancy develops within a fifteen year term, the successor appointed to that seat fills only the remaining balance of the term. The Court is dependent upon the Department of Defense for administrative support. The judges are eligible for civil service retirement if they meet the requirements of the civil service laws. The judges are compensated at the same rate as the judges of the circuit courts.

In recent years, membership on the Court has been characterized by considerable turnover. During the past ten years, eight different judges have held the Court's three seats. Within a four year period, there were seven judges who sat at various times in nine different combinations. Only two of the vacancies during the past decade resulted from illness or death, suggesting that there are fundamental problems with the Court that are causing this turnover. A member of the Court recently resigned to accept a federal district court judgeship. This marks the second time within the past six years that a member of this appellate court has departed to accept an appointment to the federal trial bench. Such turnover on a three-member court has introduced substantial instability and unpredictability into the military justice system. The result has been to create a situation of uncertainty in the law that presents substantial problems for both the government and the accused.

A further difficulty with the current system is that the appellate process is not subject to direct review in the Supreme Court. At present, court-martial convictions are reviewed in the federal courts only through collateral proceedings such as a petition for habeas corpus filed in the federal district courts by the accused. There is no stautory authority for decisions of the Court of Military Appeals adverse to the government to be reviewed in the federal courts.

For the accused, the absence of direct review by the federal courts leads to "a judicial trek that has been criticized as inefficient, costly, time-consuming, and redundant."[1] If, for example, the accused in a general court-martial receives a sentence that includes a punitive discharge, there is legal review by a judge advocate in the field, automatic appeal to a Court of Military Review, and the opportunity to petition for review by the Court of Military Appeals. The accused then is faced with a complex array of options for mounting collateral attack in which the opportunity for obtaining review and the scope of review can differ considerably depending on the court in which review is sought and the nature of the remedy sought. The doctrine of exhaustion of remedies may require the accused to pursue further actions in the military system prior to obtaining review in a federal district court. Even if relief is obtained at the district court level, there is the likelihood of further review by the a court of appeals. The situation is complicated by the procedural aspects of federal court review. Moreover, the substantive treatment of the case may vary not only among the courts of appeal but also within particular circuits.

For the government, on the other hand, there are no complex choices to be made. If there is a determination adverse to the government in the Court of Military Appeals, there is no other tribunal to which the government can appeal. This leaves the government at a very substantial disadvantage. The absence of direct review in an Article III court is of particular concern because of the nature of the issues decided adversely to the government by the Court of Military Appeals can have a substantial effect on the state of discipline in the armed forces.

As a result of these issues, the Department of Defense conducted an extensive study of the military appellate process. The enclosed legislative proposal contains reforms that are designed to enhance the stature of the court and bring stability to its membership. The key provisions include:

An increase in the size of the Court to five members to bring greater stability to the Court and reduce the impact of any turnover;

Full fifteen year terms for each appointee to reduce the amount of personnel turbulence;

Discretionary review of decisions of the Court of Military Appeals by the Supreme Court through writs of certiorari.

COST AND BUDGET DATA

Enactment of the legislation will not have an appreciable impact on the budget of the Department of Defense. There will be an additional cost in terms of salary and support costs of approximately $300,000 per year. It is recommended that the proposed legislation be enacted by the Congress.

Sincerely,

L. Niederlehner,
Acting General Counsel.

By Mr. THURMOND (for himself and Mr. Heflin):

S. 3123. A bill to establish a Federal Jurisdiction Review and Revision Commission; to the Committee on the Judiciary.

FEDERAL JURISDICTION REVIEW AND REVISION COMMISSION ACT

Mr. THURMOND. Mr. President, I am introducing today along with the Senator from Alabama (Mr. Heflin) legislation to establish a Federal Jurisdiction Review and Revision Commission that will be directed to study the jurisdiction of the courts of the United States and the several States. I do so because of my belief that our legal system is drifting into a posture of blurring the jurisdiction between the State and Federal courts. In a recent speech to the American Law Institute by Chief Justice Warren Burger, the Chief Justice noted:

> In the past decade Congress has enacted not less than 70 new statutes enlarging the jurisdiction of Federal courts. Many of these statutes expand Federal jurisdiction to cover relief already available in State courts. It is fair to say that the Federal courts, and ultimately, the Supreme Court, have tended to give expansive, rather than restricted, interpretation to these statutes, along with a narrowing of the scope of immunity of Government officials.

It was this observation by the Chief Justice and my own experiences as a member of the Senate Judiciary Committee which led me to introduce this legislation. Increasing caseloads in the Federal courts reveal a trend which could eventually lead to a total breakdown of traditional federalist principles as we know them.

The bill would establish a commission made up of 16 members; 4 to be appointed by the President, 4 by the Senate: 4 by the House; and 4 by the Chief Justice of the United States. The membership shall be selected in a manner that will represent a broad range of interests, needs and concerns.

The commission would be asked to study the relevant aspects of Federal and State court jurisdiction, including problems of substantive law, civil and criminal procedure, workload and caseload of the courts, case processing and State and Federal bars. It would also be asked to make recommendations for legislative action. The commission will be in existence for only 2 years and is to issue a final report upon completion of its work.

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[1] H. Moyer, Justice and the Military 1182 (1972).

Mr. President, often the creation of commissions simply leads to a report that ends up gathering dust on the shelf. I cannot believe, however, that the subject of this study will suffer that fate. The relationship between Federal and State courts is one that should have the attention of everyone interested in our judicial system.

As State courts surrender more and more jurisdiction to the Federal courts, traditional concepts of federalism are eroded. Federal courts were originally intended to deal only with unique and narrow disputes involving national rights and obligations, while State courts were left to deal with the day-to-day legal disputes of citizens. Interest in the development and nurturing of State courts may well diminish if all the emphasis is on Federal courts.

For these reasons, it is important for the relationship between State and Federal courts to be carefully studied and I believe the commission created under this legislation is the best way to proceed.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3123

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Jurisdiction Review and Revision Commission Act".

ESTABLISHMENT AND PURPOSE OF THE COMMISSION

SEC. 2. (a) ESTABLISHMENT AND PURPOSE.—There is established a Federal Jurisdiction Review and Revision Commission (hereafter in this Act referred to as the "Commission"). The Commission shall study the jurisdiction of the courts of the United States and of the several States, and shall report to the President and the Congress on the revisions, if any, of related provisions of the Constitution and laws of the United States which the Commission deems advisable on the basis of such study.

(b) COMMISSION STUDY.—The study shall include—

(1) a discussion of the application, consequences, and interpretation by the courts of the provisions of the Constitution and laws of the United States which establish Federal and State jurisdiction;

(2) an analysis of the interrelation between the jurisdiction of Federal courts and of the State courts;

(3) a discussion of the impact of jurisdictional provisions on the judicial system and on the litigant;

(4) a discussion of the nature and scope of any problems in Federal or State jurisdiction relating to—

(A) substantive law;

(B) civil and criminal procedure;

(C) workload and caseload of the courts;

(D) case processing; and

(E) State and Federal bars; and

(5) recommendations, if any, for legislative action.

MEMBERSHIP OF THE COMMISSION

SEC. 3. (a) NUMBER AND APPOINTMENT.—The Commission shall be composed of sixteen members appointed, within 90 days from the date of enactment, as follows:

(1) Four members appointed by the President of the United States.

(2) Four members of the Senate appointed by the President pro tempore of the Senate, two of whom shall be appointed upon the recommendation of the majority leader and two of whom shall be appointed upon the recommendation of the minority leader.

(3) Four members of the House of Representatives appointed by the Speaker of the House of Representatives, two of whom shall be appointed upon the recommendation of the majority leader and two of whom shall be appointed upon the recommendation of the minority leader.

(4) Four members appointed by the Chief Justice of the United States.

(b) REPRESENTATION OF VARIED INTERESTS.—The membership of the Commission shall be selected in such a manner as to be broadly representative of the various interests, needs, and concerns which may be affected by the jurisdiction of Federal and State courts.

(c) TERM OF OFFICE AND VACANCIES.—The term of office of each member shall be for the life of the Commission. Vacancies in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(d) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and a Vice Chairman from among its members.

(e) QUORUM.—Eight members of the Commission shall constitute a quorum.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 4. (3) FEDERALLY EMPLOYED MEMBERS.—A member of the Commission who is an officer, or full-time employee, of the United States shall receive no additional compensation for his or her services, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission, but not exceeding the maximum amounts authorized under section 456 of title 28, United States Code.

(b) OTHER MEMBERS.—A member of the Commission from the private sector shall receive $200 per diem for each day (including traveltime) during which he or she is engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties, but not in excess of the maximum amounts authorized under section 456 of title 28, United States Code.

POWERS OF THE COMMISSION

SEC. 5. (a) (1) HEARINGS.—The Commission or, on the authorization of the Commission, any subcommittee thereof may, for the purpose of carrying out its functions and duties, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses, and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or such subcommittee may deem advisable. Subpenas may be issued under the signature of the Chairman or Vice Chairman, or any duly designated members, and may be served by any person designated by the Chairman, the Vice Chairman, or such member.

(2) In case of contumacy or refusal to obey a subpoena issued under paragraph (1) of this subsection, any district court of the United States or the United States court of any possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is being carried on or within the jurisdiction of which the person guilty of contumacy or refusal to obey is found or resides or transacts business, upon applications by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, to produce evidence if so ordered, or to give testimony touching the matter under inquiry; and failure to obey such order of the court may be punished by the court as a contempt thereof.

(b) OFFICIAL DATA.—Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, shall furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information and assistance as the Commission deems necessary to carry out its functions under this Act, consistent with applicable provisions of law.

(c) ADMINISTRATIVE POWERS.—Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an Executive Director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title, and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $200 a day for individuals.

(d) CONTRACTING AUTHORITY.—The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(e) NONGOVERNMENTAL ASSISTANCE.—The Commission is authorized to receive financial assistance from sources other than the Federal Government, including assistance from private foundations.

FINAL REPORT

SEC. 6. The Commission shall transmit to the President and to the Congress, not later than two years after the first meeting of the Commission, a final report containing a detailed statement of the findings and conclusions of the study conducted by the Commission under section 2, together with such recommendations as it deems advisable. The Commission may also submit interim reports prior to submission of its final report.

EXPIRATION OF THE COMMISSION

SEC. 7. Ninety days after the submission to Congress of the final report provided for in section 6, the Commission shall cease to exist.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

EFFECTIVE DATE

SEC. 9. This Act shall take effect October 1, 1980.

By Mr. DANFORTH (for himself, Mr. JACKSON, Mr. PELL, Mr. STONE, Mr. BOSCHWITZ, Mr. CRANSTON, Mr. BAKER, Mr. STEVENS, Mr. BAUCUS, Mr. BAYH, Mr. CHILES, Mr. CHURCH, Mr. COHEN, Mr. DECONCINI, Mr. DURKIN, Mr. EAGLETON, Mr. EXON, Mr. GARN, Mr. HART, Mr. HATFIELD, Mr. HEINZ, Mr. JAVITS, Mrs. KASSEBAUM, Mr. MATHIAS, Mr. MATSUNAGA, Mr. MCGOVERN, Mr. METZENBAUM, Mr. MOYNIHAN, Mr. PERCY, Mr. PRESSLER, Mr. RANDOLPH, Mr. RIBICOFF, Mr. ROTH, Mr. SARBANES, Mr. SASSER, Mr. STENNIS, Mr. STEVENSON, Mr. TSONGAS, Mr. WALLOP, Mr. WARNER, and Mr. WILLIAMS):

S. 3124. A bill to establish the U.S. Holocaust Memorial Council; to the Committee on Governmental Affairs.

U.S. HOLOCAUST MEMORIAL COUNCIL

• Mr. DANFORTH. Mr. President, I am introducing a bill, together with 40 of my colleagues, which puts on a statutory basis the U.S. Holocaust Memorial Council, which was established and is currently in existence pursuant to executive order. The Council is working to carry out the recommendations of the President's Commission on the Holocaust. The bill provides the Council with a 3-year authorization.

Mr. President, as you may recall, the President's Commission on the Holocaust was established on November 1, 1978, to recommend a fitting memorial to those who perished in the Nazi holocaust as well as other victims of persecution. It finished its work and issued a report on September 27, 1979. The Commission's two principal recommendations were that a permanent, living memorial/museum to the victims of the holocaust be established in Washington, D.C. and that 1 week each year be designated as "Days of Remembrance" to be marked by a national, civil commemoration and appropriate, private and public observances. The legislation we are introducing today charges the Council with implementing these two recommendations.

The U.S. Holocaust Memorial Council consists of 50 distinguished individuals, each with a special sensitivity to the holocaust, as well as 5 Members of the House of Representatives and 5 Members of the Senate. I ask unanimous consent that a list of the members of the Council, and a brief description of them, be printed in the RECORD.

Under the legislation, each current member would serve for a term of from 5 to 10 years in order that the Council have continuity and stability in carrying out its mandate. Then, as the terms of the current members expire, the President will appoint new members for 5-year terms to continue to carry out the mandates of the Commission.

The costs to the Government of the Council and memorial should be minimal. The operating costs of the Council will be below $750,000 in fiscal year 1981. The cost of the memorial itself should be financed primarily through direct, private contributions.

Mr. President, I believe Americans should always remember the horror of the holocaust, so it is never repeated. The fulfillment of the recommendations of the President's Commission on the Holocaust will serve as a living reminder to all and a call to eternal vigilance against persecution.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

THE U.S. HOLOCAUST MEMORIAL COUNCIL MEMBERS

Mr. Elie Wiesel, Chairman. Survivor, distinguished author and scholar; served as Chairman of the President's Commission on the Holocaust; New York City.

Mr. Mark Talisman, Vice Chairman, Director of the Washington Action Program for the Council of Jewish Federations, and a founder and instructor at the John F. Kennedy Institute of Politics at Harvard University; Washington, D.C.

Rabbi Joseph Asher, National Vice President of the American Jewish Congress; San Francisco, California.

Mr. Tibor Baranski, Social Services Department, Catholic Charities, Buffalo, New York; honored by Yad Vashem for his actions saving Hungarian Jews during the Holocaust.

Mr. Irving Bernstein, National Executive Vice President of the United Jewish Appeal; New York City.

Dr. Marver Bernstein, President of Brandeis University; Waltham, Massachusetts.

Mr. Hyman Bookbinder, Washington Representative of the American Jewish Committee, who has also served as Washington Chairman of the Ad Hoc Coalition for Ratification of Genocide and Human Rights Treaties; Washington, D.C.

Mr. Victor Borge, the actor, long active in Tribute to the Danes, a foundation designed to honor the Danes for their efforts in World War II; Greenwich, Connecticut.

Dr. Robert McAfee Brown, Professor of Theology and Ethics, Pacific School of Religion; Berkeley, California.

Professor Harry James Cargas, Chairman of the Department of Literature, Webster College, and author of books on the Holocaust; St. Louis, Missouri.

Ms. Esther Cohen, Chair of the Simon Wiesenthal Center for Holocaust Studies, member of the Golda Meir Club, a trustee of Yeshiva University; Los Angeles, California.

Professor Gerson D. Cohen, Chancellor and Jacob H. Schiff Professor of History at the Jewish Theological Seminary of America; New York City.

Honorable Mario Cuomo, Lieutenant Governor of New York, former attorney and law professor, and a member of the Legal Committee for Soviet Jewry; Albany, New York.

A. Arthur Davis, Esquire, a Des Moines, Iowa, attorney active in civic and humanitarian affairs.

Professor Terrence DesPres, Professor of English at Colgate University and author of The Survivor, a study of how people survived the Holocaust; Hamilton, New York.

Pastor Constantine N. Dombalis, Theologian and Dean of the Greek Orthodox Cathedral, active in the National Conference of Christians and Jews Brotherhood; Richmond, Virgina.

Mr. Jaroslav Drabek, a survivor, former member of the Underground Czechoslovakia Against Nazi War Criminals, and an attorney who prosecuted Nazi war criminals in Czechoslovakia; Washington, D.C.

Ms. Kitty Dukakis, President of the National Center for the Study of the Holocaust and Armenian Genocide who was chairman of the Holocaust Subcommittee on Education; Brookline, Massachusetts.

Professor Willard Fletcher, former Chairman of the History Department at the University of Delaware, and who assisted the Office of the Public Prosecutor in West Germany in gathering evidence against Nazi war criminals; Newark, Delaware.

Mr. Irvin Frank, Chairman of the Board of Zochrim, Zachor: The Holocaust Resource Center, New York City, and past president of the Tulsa (Oklahoma) Jewish Community Council; Tulsa, Oklahoma.

Mr. Sol Goldstein, a survivor, a businessman and Chairman of the Chicago Committee for Holocaust Commemoration; Skokie, Illinois.

Cantor Isaac Goodfriend, a survivor, Cantor of Ahavath Achim Congregation in Atlanta, Georgia.

Professor Alfred Gottschalk, President of the Hebrew Union College—Jewish Institute of Religion; Cincinnati, Ohio.

Dr. Irving Greenberg, a rabbi, author, Holocaust scholar, and Director of the National Jewish Resource Center; New York City.

Ms. Dorothy Height, President of the National Council of Negro Women; New York City.

Father Theodore Hesburgh, President of Notre Dame University; South Bend, Indiana.

Professor Raul Hilberg, McCullough Professor of Political Science at the University of Vermont, author of The Destruction of the European Jews; Burlington, Vermont.

Julian E. Kulas, Esquire, a Chicago, Illinois, attorney and banker, Chairman of the Helsinki Monitoring Committee of Chicago, and of the Interfaith Group of the Jewish Federation of Chicago.

Professor Norman Lamm, President of Yeshiva University in New York City, an author, lecturer, and rabbi, Director for the Union of Orthodox Jewish Congress of America.

Mr. Frank R. Lautenberg, President of the United Jewish Appeal, a businessman and philanthropist; Clifton, New Jersey.

Mr. Miles Lerman, a survivor, businessman, and Vice Chairman of the National State of Israel Bonds; Vineland, New Jersey.

Professor Franklin Littell, Chairman of the Board of the National Institute on the Holocaust, a professor of religion at Temple University; Philadelphia, Pennsylvania.

Steven A. Ludsin, Esquire, attorney and investment banker, President of Remembrance of the Holocaust Foundation, on the board of directors of American Friends of Haifa University; New York City.

Mr. Aloysius A. Mazewski, President of the Polish American Congress of Chicago and the Polish National Alliance; Chicago, Illinois.

Mr. Benjamin Meed, a survivor, businessman, President of the Warsaw Ghetto Resistance Organization; New York City.

Professor Ingeborg G. Muaksch, distinguished professor of nursing at Vanderbilt University, active in community affairs and human rights causes; Nashville, Tennessee.

Mr. Set Momjian, a human rights activist who was a U.S. representative to the U.N. General Assembly in 1978–79 and White House representative to the Human Rights Commission in Geneva in 1979; Huntingdon Valley, Pennsylvania.

Father John T. Pawlikowski, Professor of Social Ethics at Catholic Theological Union, a member of the National Conference of Catholic Bishops and the Secretariat for Catholic-Jewish Relations; Chicago, Illinois.

Rabbi Bernard S. Raskas, Rabbi of Temple of Aaron Congregation in St. Paul, Minnesota, an author of Jewish affairs.

Mrs. Hadassah Rosensaft, a survivor, lecturer and author on the Holocaust; New York City.

Mr. Bayard Rustin, President of the A. Philip Randolph Education Institute; New York City.

Dr. Abraham Sachar, Chancellor and former President of Brandeis University; Waltham, Massachusetts.

Edward Sanders, Esquire, attorney and former Senior Advisor to President Carter; Los Angeles, California.

Mr. Julius Schatz, Director of the National Commission on Jewish Life and Culture of the American Jewish Congress, active in various Holocaust organizations; New York City.

Richard Schifter, Esquire, an attorney and former President of the Maryland State Board of Education; Washington, D.C.

Mr. Sigmund Strochlitz, a survivor, President of American Friends of Haifa University, where he endowed a chair in Holocaust Studies; New London, Connecticut.

Mr. Kalman Sultanik, a survivor, Vice President of the World Jewish Congress, Executive Co-President of the World Conference of General Zionists; New York City.

Mr. Glenn E. Watts, President of the Communications Workers of America; Washington, D.C.

Mr. Siggi B. Wilzig, a survivor, businessman and a national lecturer on the Holocaust; Jersey City, New Jersey.

Mr. Eli Zborowski, a survivor, businessman, Honorary President of the American Federation of Jewish Fighters, Camp Inmates and Nazi Victims, and member of the executive committee of Yad Vashem; New York City.

CONGRESSIONAL REPRESENTATIVES

The Honorable James J. Blanchard, House of Representatives.

The Honorable Rudy Boschwitz, U.S. Senate.

The Honorable John C. Danforth, U.S. Senate.

The Honorable Bill Green, House of Representatives.

The Honorable Henry M. Jackson, U.S. Senate.

The Honorable William Lehman, House of Representatives.

The Honorable Claiborne Pell, U.S. Senate.

The Honorable Stephen J. Solarz, House of Representatives.

The Honorable Richard B. Stone, U.S. Senate.

The Honorable Sidney R. Yates, House of Representatives.●

ADDITIONAL COSPONSORS

S. 2783

At the request of Mr. WALLOP, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 2783, a bill to amend the Internal Revenue Code of 1954 with respect to the treatment of certain shale oil property as energy property for purposes of the energy investment credit.

S. 2977

At the request of Mr. THURMOND, the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2977, a bill to amend title 38, United States Code, to provide a new educational assistance program for veterans and persons who serve on active duty with the Armed Forces after December 31, 1980, and for persons who perform service in the Selected Reserve of the Ready Reserve of an Armed Force after such date, and for other purposes.

S. 3006

At the request of Mr. WALLOP, the Senator from New Mexico (Mr. DOMENICI), and the Senator from Wyoming (Mr. SIMPSON) were added as cosponsors of S. 3006, a bill to amend the Internal Revenue Code of 1954 to provide a nonrefundable tax credit for investment in qualified industrial energy efficiency and fuel conversion projects.

S. 3087

At the request of Mr. SASSER, the Senator from Alabama (Mr. HEFLIN) was added as a cosponsor of S. 3087, a bill to amend the Congressional Budget Act to require the Congressional Budget Office, for every significant bill or resolution reported in the House or Senate, to prepare and submit an estimate of the cost which would be incurred by State and local governments in carrying out or complying with such bill or resolution.

SENATE JOINT RESOLUTION 197

At the request of Mr. MOYNIHAN, the Senator from Minnesota (Mr. DURENBERGER), the Senator from North Carolina (Mr. MORGAN), the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Maryland (Mr. SARBANES), the Senator from Oregon (Mr. HATFIELD), the Senator from Rhode Island (Mr. PELL), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Arizona (Mr. DECONCINI), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Mexico (Mr. DOMENICI), the Senator from Texas (Mr. BENTSEN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of Senate Joint Resolution 197, a joint resolution to authorize and request the President to issue a proclamation designating September 18, 1980, as "Constantino Brumidi Day."

SENATE CONCURRENT RESOLUTION 120

At the request of Mr. HEINZ, the Senator from Oregon (Mr. HATFIELD), the Senator from Alabama (Mr. HEFLIN), and the Senator from Minnesota (Mr. BOSCHWITZ) were added as cosponsors of Senate Concurrent Resolution 120, a concurrent resolution congratulating the people of Poland on the successful conclusion of the strike.

AMENDMENTS SUBMITTED FOR PRINTING

DISASTER RELIEF ACT AMENDMENTS OF 1980—S. 3027

AMENDMENT NO. 2339

(Ordered to be printed and to lie on the table.)

Mr. SCHWEIKER submitted an amendment intended to be proposed by him to S. 3027, a bill to extend authorization for the Disaster Relief Act, and for other purposes.

● Mr. SCHWEIKER. Mr. President, the amendment I am submitting today is similar to amendment No. 1975, which I submitted for printing August 19. At the suggestion of the Federal Emergency Management Agency, I have modified my original amendment.

My modified amendment does what amendment No. 1975 does—it relieves six Pennsylvania libraries of liability for repayment of erroneously made contributions by the United States to certain nonprofit libraries, plus it entitles these six libraries to disaster relief assistance as if eligible under the provisions of the Disaster Relief Act of 1970. Let me explain the need for this additional language.

Following Hurricane Agnes, the Federal Disaster Assistance Administration mistakenly approved disaster relief applications for six Pennsylvania libraries. It was not until 1976 that the FDAA realized that these community libraries—which were privately owned but used by the public and publicly funded—were ineligible for disaster relief assistance. Under section 252(a) of the Disaster Relief Act of 1970, only publicly owned facilities could receive disaster relief assistance of the type provided to the libraries.

When the ax fell on these six libraries in 1976 and the FDAA demanded reimbursement, four of the six libraries had received full reimbursement from the Federal Government for their restoration work; two libraries had not. It is these two libraries and their plight I want to address with my modified amendment. Under my original amendment, the language of which passed the Senate twice as S. 400 and S. 1147, four of the six libraries would have been covered for the total cost of their restoration work. The other two libraries would have had to pick up some of the restoration costs themselves.

As GAO points out in a report to Chairman RODINO of the House Judiciary Committee, "if audit and settlement had taken place before the determination of ineligibility, these two libraries would now find themselves in the position of the other (four libraries). They would be provided relief in the amount of eligible costs of library restoration." GAO also states that to treat these two libraries as if they were eligible for disaster assistance "would insure equal and consistent treatment of all communities concerned. No community would be penalized simply because it had not been able to arrange a Federal audit and settlement of its claims before the determination of ineligibility."

The Federal Emergency Management Agency supports this change because of its concern that these libraries be treated equally and consistently. For these and other reasons, I strongly urge my colleagues on the Environment and Public Works Committee to accept my amendment.

I ask unanimous consent that my amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 2339

On page 2, after line 10, add the following new section:

"SEC. 4. (a) Notwithstanding any provision of the Disaster Relief Act of 1970 (the Act), any unit of local government or any of the privately owned nonprofit libraries listed in subsection (b) is relieved from any liability for the repayment of contributions erroneously made by the United States for disaster relief activities for the benefit of such libraries which were damaged or destroyed by Hurricane Agnes in 1972 in the State of Pennsylvania.

(b) The following libraries are hereby entitled to assistance as if eligible under the provisions of the Act as in effect at the time of such disaster:

(1) the William D. Himmelreich Memorial Library in Lewisburg, Pennsylvania;

(2) the Milton Library in Milton, Pennsylvania;

(3) the Shippensburg Public Library in Shippensburg, Pennsylvania;

(4) the West Shore Public Library in Camp Hill, Pennsylvania;

(5) the Osterhout Library in Wilkes-Barre, Pennsylvania; and

(6) the West Pittston Library in West Pittston, Pennsylvania.

(c) In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, credit shall be given for the amount for which liability is relieved by this Act.".●

MARITIME BOUNDARY AGREEMENT WITH THE REPUBLIC OF CUBA—EX. H (96–1)

AMENDMENT NO. 2340

(Ordered to be printed.)

Mr. HELMS proposed an amendment to Ex. H (96–1) the Maritime Boundary Agreement With the Republic of Cuba, signed at Washington, D.C., on December 16, 1977.

AMENDMENT NO. 2341

(Ordered to be printed.)

Mr. ZORINSKY (for himself and Mr. JAVITS) proposed an amendment to amendment No. 2340 proposed to Ex. H (96–1), supra.

AMENDMENT NO. 2342

(Ordered to be printed.)

Mr. HELMS proposed an amendment to amendment No. 2340 proposed to Ex. H (96–1), supra.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate today to consider only S. 2216, the Intelligence Identities Protection Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate today to hold an executive session in order to hear administration officials on U.S. military access agreements with Oman, Kenya, and Somalia.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the sessions of the Senate today and tomorrow to hold hearings on the role of the worker in the 1980's.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

GEOPOLITICS OF OIL

● Mr. JACKSON. Mr. President, the Committee on Energy and Natural Resources has been conducting a major study on the geopolitics of oil over the past 10 months. The purpose of the study has been to assess the political, social, economic, military and other factors that will influence the availability and price of oil over the next 10 to 20 years. As part of this study, the committee has conducted a series of 14 hearings on each of the major oil producing and consuming regions of the world and on alternative policies for securing supplies at reasonable prices in the future. The proceedings of the public hearings will soon be available in printed form.

I wish to draw the attention of the Senate and of the public to a recent statement prepared by Mr. Elihu Bergman, executive director of Americans for Energy Independence, on the subject of the geopolitics of oil. Mr. Bergman's statement contains several interesting observations about international energy developments and their implications for U.S energy policy. Americans for Energy Independence is committed to policies that will reduce U.S. strategic and economic vulnerabilities that result from excessive dependence on insecure foreign oil sources.

In his statement, Dr. Bergman discusses the political adversities the United States is suffering in the international arena as a result of our oil dependence. He brings to this discussion insights acquired as a result of extensive work and research experience in Europe, the Middle East, and Latin America. Mr. Bergman stresses the critical link between our foreign policy and our energy security over the next 10 to 20 years, a link which has been the focus of the Energy Committee's study of the geopolitics of oil.

A version of Mr. Bergman's statement is scheduled for publication in the winter 1980–81 issue of Middle East Review. In order to make his excellent statement available to a wider audience, I request that it be printed in the RECORD.

The statement follows:

A GLOBAL PERSPECTIVE ON U.S. ENERGY POLICYMAKING

During the decade of the 80's, the Middle East will remain the world's major single source of oil. The conditions of Middle East oil availability, and its impact on world politics and economics, will be determined by how the major consuming countries handle their energy requirements and their strategic interests.

Actions by the consuming countries, the Western alliance and principally the U.S., will determine both the economic value of Middle East oil, and the political value of the region. For the U.S. the stakes in this reckoning process, and its outcome, are critical to the economic health of the U.S., and to our strategic and political interests in the Middle East and elsewhere in the world. A reduction in the value of Middle East oil would enhance U.S. stature and capabilities in the world. The maintenance and increase in its value, as the result of continuing dependence on it, has the opposite effect.

Clearly the ball is in our court, and we have not been handling it so well, neither the U.S., nor our traditional partners in the Western alliance. An erosion of American leadership in the international arena has compounded a pattern of political and economic weakness. The costs and consequences of this deterioration are somber to contemplate, not only for the energy and economic well-being of the U.S., but for the maintenance of national values we traditionally assert, and share with our Western allies.

External perceptions of the U.S. by allies and adversaries alike fosters behavior that further erodes common interests and values. What they see is an America still traumatized by the anguish of the Vietnam war, guilt-ridden, complex-ridden, and unable to cope with post Vietnam realities. They observe increasingly a lack of clarity in defining American interests and objectives, and a lack of will in carrying them out. These perceptions have exacted a heavy cost among friends who traditionally have relied on the U.S. as a major factor in securing mutual interests, and have provided opportunities for adversaries in asserting their objectives.

Among our traditional allies, the costs of American weakness came into dramatic and depressing focus during the Venice Summit in June. There we witnessed a melancholy spectable of allies publicly and collectively turning their backs on the United States, for all the world to see, in rejecting the common effort in pursuit of shared values that had characterized our relationship since the end of World II. It was every man for himself in a headlong rush to seek refuge in insecure ports in the storm, the favorite ones being Moscow and Riyadh. There was anxious quest for self-serving alternatives to joint action. Our allies appeared to abandon any commitment to collective responsibility and political solidarity that is at the root of the Western Alliance. Much of this because of uncertainties and anxieties about the Middle East oil supplies on which they are so reliant.

During previous months, there had been ample evidence of the unravelling commitment in Western Europe and Japan. There was an equivocal response to the U.S. call for a trade embargo on Iran. There was a comparable response in asserting a condemnation of the Soviet invasion of Afghanistan, most visibly in a boycott of the Moscow Olympics. There has been the undisciplined provision of nuclear capability to anybody who wants to buy it. There was the forfeiture of an opportunity during a short-term global oil glut for exercising joint leverage in the oil market, as each nation scrambles to make the best deal to protect its short-term interest. And finally, at Venice, there was the assault on the U.S.-sponsored Camp David peace formula, which has produced a first and remarkable breakthrough in more than 30 years of Middle East hostilities. The cosmetics that occurred during President Carter's visit that followed their meetings during the previous week could not camouflage their earlier assertions of self-interest.

For the proud nations of Western Europe, the display of contempt for a commitment that had served them so well during the past thirty years reflects not only a disabling anxiety, but a loss of self-respect, and perhaps even of a part of the moral purpose of their nationhood. This summer, they have reverted to the level of paranoid shopkeepers. But they have gotten there largely because of their lack of faith in the United States.

Among our adversaries, the perceptions and realties of U.S. and Western weakness provide unparalleled opportunities to pursue historic objectives. It is now six months after the Soviet invasion of Afghanistan dramatized the strategic vulnerability into which the U.S. and our allies have declined. No matter that the Soviets have gotten more than they bargained for in Afghanistan in terms of costs and casualties; they still have come out ahead.

The Soviet move was a response both to Western weakness and internal instability in the region, conditions that have fed off of one another. The Soviets based their move in Afghanistan on a calculation of great opportunity, coupled with low cost and low risk, in taking another step toward an historic objective of greater Russian foreign policy—the establishment of Russian control on the Persian Gulf. The opportunity was created by the collapse of Iran into a condition of tribal anarchy, the increasing conditions of unrest and instability in Saudi Arabia, and the growing assertiveness of Soviet clients in the Persian Gulf area. The minimal risks and costs were driven home to Soviet decisionmakers as they witnessed an erosion of U.S. power in the Middle East, symbolized by the agonizing failure to rescue some 50 Americans held hostage by terrorists in Tehran. The Soviets observed an ambiguity of U.S. will coupled with a lack of capability for action by the U.S. and our allies.

No longer was there an effective Western deterent in the Persian Gulf region. Since the British withdrew from Aden in 1969, there had been no direct Western military presence. And with the collapse of the Shah in 1979, the last remaining surrogate for a direct Western military presence, ill-advised that this particular formula for an assertion of Western power may have been, was removed from the scene.

Beyond our traditional allies and principal adversary, there is a third sector of the international community, whose behavior is influenced by perceptions of the U.S. and our actions, and whose condition and opportunities are very much determined by our role in the international community. These are the Third World nations in the Middle East, Asia, and Africa, a few of them with oil resources who are "haves", but most of them with limited resources and rapidly expanding populations who are 'have nots". With the "haves" we have attempted to create influence and special relationships because of the obvious value of their oil. And among some of the "have nots" we have sought special relationships because of the strategic significance of the particular geography they occupy. Because of our particular vision of how the international community should live together, the U.S. traditionally has been committed to the expansion of opportunity for all these countries, "haves" and "have nots", and their populations.

Yet among all of these countries, there is growing unease and uncertainty about the U.S. Among the "have nots" there is an increasing climate of insecurity largely because of the oil tribute exacted by the "haves", which deprives them of even limited opportunities to pursue their self-interest as they conceive it, and compels them in the name of self-preservation to grasp at any manner of lifesaving device, no matter who offers it, and at what price. Within this environment, there is a growing conviction that it is open season on U.S. interests, which can be challenged at will and with impunity. The new regime in Iran has provided the most blatant display of such behavior.

Some of the major oil-producing countries now pose a unique requirement for interdependence with the U.S. and the West. For better or worse, and for the time-being, we need one another—we for the oil they can supply, and we for the security blanket we can provide. Because of conditions internal to these countries, their relationships within the region, and the existing condition of Western strategic capability on their behalf, this is a vulnerable and perilous environment for all concerned.

It is an environment characterized by conditions of instability and the absence of constructive relationships both internal and external, in which Soviet ambitions and capabilities are the common denominator and principal beneficiary. The ingredients of this highly volatile environment are reflections of the historic experience of the populations and regimes of the area. They are nothing new. They involve an overlapping set of adversary relationships reflecting historic political, economic, religious, ethnic, and tribal diversities and rivalries.

The internal pattern of conflict is illustrated by current upheavals, which by no means have run their course. Iran is the obvious and most dramatic showcase for these ingredients and their consequences. The revolution in Iran is the product of long-standing grievances involving the impact of Western modernism, the maldistribution of wealth, the abuse of political and economic power, intolerable levels of corruption among the leadership, and the persecution of non-Persian ethnic minorities. Catalyzed by the explosion of oil wealth, these grievances were successfully manipulated by a coalition of strange bedfellows, embracing militant religious fundamentalists, secular political radicals of various persuasions, and a small group of upper middle class reformers who concluded that matters had deteriorated too far. Now, all of these groups are at each other's throats, competing for political power.

Variations of this pattern, and replications of its ingredients and dynamics, have surfaced in other key countries in the region. The Mecca Mosque episode last winter, and the less publicized, but recurrent insurrections in Saudi Arabia, illustrate the chronic and increasing instability created by combinations of oil wealth, rivalries within the ruling family, conflicts between a small but growing cadre of modernists and Islamic traditionalists, and the inevitable tribal grievances.

In Iraq, which has emerged as the major Soviet-supplied military force in the Middle East, with an arsenal of tanks larger than the armored force of any single NATO country, there is another variation of conflict and instability. The principal factors in the Iraqi pattern, which were illustrated during the past year by a series of bloody vendettas within the political leadership, involved clashes between factions of the dominant Baathist political ideology, overlapping the traditional conflict between the Sunni and Shute sectors of Islam. Here again, the burgeoning oil wealth increases the stakes involved in the outcome.

This is the environment of instability in the three countries with the largest immediate oil-producing capability in the Middle East. It should be noted in passing that none of these volatile ingredients are directly related to Egypt, Israel, Camp David, the Palestinians, the PLO, nor the West Bank. But in the absence of internal resolution and external deterrent, they are ripe objects for Soviet manipulation.

Nobody can project with certainty how events will transpire during the coming weeks and months. But let us consider a worse-case scenario, which is neither fantasy nor an unrealistic prospect: Political cadres dominated by the Soviets are the only elements capable of restoring order to the increasing anarchy in Iran. The trained and skilled political operations already are on the scene in the key separatist provinces of Abezbaijan, Kurdistan, Baluchistan, and Khuzistan, where Iranian oil is produced. Now that Iran is effectively surrounded by the Soviet Union, and its clients in Iraq and Afghanistan, the activation and backstopping of these elements is an enterprise the Soviets can accomplish with relative ease when they choose to do so. When Soviet surrogates assume political control in Iran, the Russians, in effect, will have arrived physically on the Persian Gulf.

Once there, they are in a unique position to exploit the increasing unrest and instability in Saudi Arabia. Recent events in Saudi Arabia beg the question of when a coalition of traditionalists and radicals, comparable to the one that toppled the Shah, will remove the incumbent Saudi regime. In this enterprise, the surrounding Soviet surrogates in Iraq, Iran, and South Yemen, orchestrated and manipulated by the Soviets, would be available for supporting roles. It is unlikely that the remaining traditional oil producing regimes on the Persian Gulf—Kuwait and the United Arab Emirates—could resist the bandwagon impact for long.

Thus, the Soviets not only would be sitting on shores of the Persian Gulf, they would add effective control over 35 percent of the world's current oil producing capacity to the 18 percent they themselves produce. The Soviets would control more than half (53 percent) of the world's current oil-producing capacity.

Once they controlled the oil, it is unlikely that the Soviets would impose embargoes on export to the West. As now, they would require maximum production to generate the revenues needed to support domestic and foreign policy objectives. But consider the enormous increase of more than 500 percent in the amount of world oil production under nominal Soviet control, and the corresponding fivefold increase in oil revenues subject to their influence. Here is a permanent windfall of enormous proportions available to sustain Soviet global objectives for as long as the world needed oil. With this resource, the Soviets would not even have to bother with price and supply manipulations readily available to the controller of more than 50 percent of the world's oil production.

This worst-case scenario is no longer fanciful; it is real, it could happen and it could be somewhere on the horizon.

An obvious priority of U.S. foreign policy during the months and years ahead, is to prevent this worst-case scenario from happening. In addressing this objective, our national energy policy is the critical adjunct of foreign policy. To attain the goal, U.S. policy must be directed at two interrelated targets: (1) A reduction of dependence on Middle East oil; and (2) The effective security of the residual Middle East oil sources we and our allies will continue to require.

The securing of Middle East oil requires nothing less than a clear assertion of U.S. interest, determination and strength in a tangible commitment in the form of a regional security net. Such a structure would perform the dual function of unmistakably assuring both the local regimes and the Soviets of the particular U.S. interest in the region.

The parallel reduction of dependence on Middle East oil requires a vigorous U.S. commitment—far more so than heretofore—to three mutually reinforcing objectives: (1) A reduction in oil consumption by the conservation and more efficient use of all energy supplies; (2) The expansion and diversification of oil supply sources, both domestic and foreign, and (3) The substitution of presently available alternative energy sources for oil wherever they can be used.

A meaningful reduction of dependence on Middle East oil requires the replacement of a "sellers" market that now exists with a "buyers" market. As the world's major oil consumer—we use 30 percent of global production—with access to the widest range of substitutes for oil, the U.S. plays a critical role in accelerating the transition. In pursuing these objectives, the primary target for U.S. energy policy is the power of the foreign producers, who presently enjoy discretion over the level of their oil productions—notably Saudi Arabia, Kuwait, and the United Arab Emirates. They produce more than they need to sell. The other producers need to sell everything they can produce to meet their revenue requirements.

This target is achieved by collapsing the demand for oil to a level where oil producers, of whatever political stripe, would require customers more than the consumers require the oil. The attainment of this goal involves decreases in the demand for existing oil production below the level required by the producing countries to meet their current obligations—to pay their bills. Once this goal has been achieved, the producers will need to compete with one-another for markets, thus assuring a secure supply for consuming countries, moderating the rate of price increases, and perhaps even reducing prices. Under these conditions, a marketplace dominated by the consumers—not the producing countries—will determine the quantity of oil produced, and its price. The amount of oil involved has been estimated at about 5 million barrels a day, less than 8 percent of current world consumption. Clearly this is a manageable goal, especially when the stakes in achieving it are so high.

In addition to generating enough income to meet their current and increasing financial obligations, two other sets of objectives determine production decisions by the major oil producers. One is to align production and prices with the requirements of Western economic systems, at levels that do not disrupt the viability of these systems, in which the producers have an increasing stake. The other is to maintain production and prices at levels that do not encourage significant shifts to petroleum substitutes, and thus undermine the long-term value of their resource and the related economic and political influence. Here again, despite the rhetoric, a Palestinian solution is not a factor in this decisionmaking process.

These remedies for turning around the existing condition of U.S. weakness are within reach. For the well-being of the nation, it is critical that they be used, because the stakes are so high. Doing so requires energy policy decisions transacted in an atmosphere of reality and national interest; not in a world of symbolism and mythology where too many of them have been made.●

OUR DANGEROUS DEPENDENCE ON FOREIGN SOURCES OF STRATEGIC MATERIALS

● **Mr. SCHMITT.** Mr. President, I have been speaking out on our strategic minerals crisis now for some time because I fear that this country's best interests are threatened by our dangerous dependence on unstable foreign sources for many of our strategic minerals. It is bad enough to import 45 percent of needed crude oil, but it is equally if not more dangerous to be importing 65 percent of our strategic minerals.

The Commerce Committee has been working on this problem and recently held 4 days of hearings on the subject of a strategic materials policy. It is apparent that the Carter administration does not really have a strategic minerals policy any more than it has a realistic energy policy.

On September 11, 1980, the New York Times printed an article detailing the recent trip made to the People's Republic of China during which the Chinese preliminarily agreed to sell the United States quantities of titanium, vanadium, and tantalum, all of which are necessary for aircraft production.

As I and others have repeatedly stated, the United States must rapidly develop a minerals and materials policy since there is a long leadtime required to actually put new mines or smelting plants into operation. At present, too many of our critical strategic minerals come from foreign nations where, at some point in the future, we may be unable to purchase the needed materials or to protect our lines of supply. Our policy should emphasize increased domestic exploration and production as well as efforts to produce synthetic material to further reduce our dependence.

While I am glad to see that we are at least diversifying our sources of strategic minerals, such action should not blind us to the fact that this action in no way lessens our dependency on foreign sources and thus the need for a coherent and realistic minerals and materials policy is as great as ever.

Mr. President, I request that the article I referred to earlier be printed in the RECORD.

The article follows:

CHINA WILL SELL U.S. METALS NEEDED TO MAKE PLANES

PEKING, September 10.—China has indicated it would be willing to sell the United States some of its plentiful supplies of three metals that are critical for defense manufacturing but which America lacks, a senior Pentagon official said today.

Dr. William J. Perry, the Under Secretary of Defense for Development, Research and Engineering, said Chinese and American experts met today for a preliminary discussion on the sales. The metals—titanium, vanadium and tantalum—are lightweight, heat-resistant and necessary for aircraft production.

Dr. Perry also said that negotiations between China and private companies in the United States for the purchase of American military equipment were proceeding "at a brisk pace" despite a cutback in Peking's military budget.

Peking has made no purchases since the Carter Administration announced last winter that it was willing to sell China military equipment and technology but not weapons, Dr. Perry said. The Pentagon has granted licenses to American companies for such sales and Dr. Perry said he expects some sales within a few months.

ADD SUBSTANCE TO U.S. POLICY

Dr. Perry is leading a 22-member Defense Department mission of technical and scientific experts on a 13-day visit to China. The trip follows one by Secretary of Defense Harold Brown last January and is part of an effort to "add substance" to Washington's policy of making United States military technology available to China, Dr. Perry said.

Dr. Perry said the Chinese had again sought permission to buy weapons, but he said he had told Chinese military officials, including a deputy chief of staff, Liu Huaqing, that the Carter Administration had not changed its restrictions on arms sales.

He said the Chinese had not exerted any pressure on the United States. "We believe, and they do too, that there is ample room for progress under the current guidelines," Dr. Perry said at a news conference at the home of Ambassador Leonard Woodcock.

SALE OF COMPUTER APPROVED

He also disclosed that he had told the Chinese the United States had approved the sale of an advanced high-speed computer made by the Western Geophysical Company of Houston to process oil and gas prospecting data. The Chinese have sought permission since last year to buy the computer, which has possible military applications. Secretary Brown had given them preliminary indications that the purchase would be approved.

The computer is more advanced than any American equipment approved for sale to the Soviet Union, Dr. Perry said.

He said the technology and equipment the Chinese had shown the most interest in were electronics, semiconductors, testing equipment, instrumentation, radar, radios and transport helicopters.

Bell Helicopter is reportedly negotiating to build a helicopter factory in Harbin in the northeast, not far from the Soviet border.

About 400 licenses for dual-use technology—technology with both military and civilian applications—have been approved by the Pentagon, Dr. Perry said. The Defense Department has also cleared 10 or 20 applications for licenses for sales of military support equipment, he said, adding that American companies must now complete the sales.

PUBLICITY ON GLAMOR WEAPONS

China has been cautious about buying arms, despite widespread publicity about its possible orders for glamorous weapons like Britain's Harrier jump jet or French antitank and antiaircraft missiles. A major stumbling block is China's low military budget.

It was announced last week at the National People's Congress, the nominal legislature, that the military budget would be cut by $2 billion this year because the army overspent last year during the brief border war with Vietnam. The cut will reduce military spending to $13.1 billion.

Gen. Shi Shiyu, a member of the Military Affairs Commission, was quoted by the New China News Agency as urging "understanding and support" on all sides over the low level of appropriations for defense.

Dr. Perry and his delegation left Peking today for visits to Chinese military bases and research and production facilities. He is scheduled to visit Xian, Nanjing, Hangzhou and Shanghai.●

EXCESSIVE GOVERNMENT TRAVEL

● **Mr. SASSER.** Mr. President, over the past 2 years, I have taken the floor on several occasions to bring to the attention of my colleagues certain instances of waste and abuse in Federal Government travel.

A $500 MILLION TRAVEL CUTBACK

Last year, in response to these abuses, I introduced legislation designed to reduce the Federal Government's travel and transportation budget by $500 million. This legislation received strong bipartisan support and was quickly enacted.

According to testimony by the OMB Deputy Director before the Senate Appropriations Committee earlier this year, the $500 million travel cutback legislation, which I sponsored and which was solidly supported by Senator MAGNUSON and Senator YOUNG, is being implemented successfully.

A MATTER OF CONCERN

Excessive travel is a matter that is of concern to both the Congress and the administration. Unfortunately, it seems that some Federal departments and agencies are still paying insufficient attention to curbing excessive travel despite the efforts of the Congress and the Office of Management and Budget.

EXCESSIVE MEETINGS AND CONFERENCES

Mr. President, for a number of years, the Office of Management and Budget has had in effect certain policies designed to control official travel of Federal employees. I question however, whether these policies are being taken seriously by the various agencies of the Government.

Mr. President, one of the recommended methods for curtailing official travel and reducing travel costs, as outlined in OMB Bulletin No. 76-9, reads as follows, and I quote:

> Limitation of attendance at conferences—when attendance is determined to be necessary for accomplishment of agency missions—to a single individual responsible for summarizing and reporting the results to other staff members.

This recommendation seems straightforward enough—send one person to the conference and let that individual report back to the others. The OMB and the administration are to be commended for efforts such as this to curb and eliminate nonessential travel expenditures.

FOREST SERVICE EXAMPLE

In response to my request that some insight be gained on just how a particular agency might implement this OMB recommendation, the auditors from the General Accounting Office examined the implementation of this policy at the U.S. Forest Service.

FOREST SERVICE STATED POLICY

Under the Forest Service's "meetings management" policy statement, the Service should, and I quote:

> In recommending and approving attendance of more than one employee at a meeting consider the following: "Possibility of one employee representing several Forest Service units and reporting information to all those units."

FOREST SERVICE ACTUAL POLICY

So far, so good. But only a couple of pages further into the manual is found the following quote:

> 1. The following employees are authorized to attend national meetings without further Washington Office approval:
>
> a. The Chief, Associate Chief, Deputy Chiefs, Associate Deputy Chiefs, Regional Foresters, Station Directors, and Area Directors.

ENTOURAGE OF 35 CAN ATTEND SOME MEETINGS

Mr. President, the GAO informs me that the Forest Service has 5 Deputy Chiefs, 8 Associate Chiefs, 9 Regional Foresters, 9 Station Directors, and 2 Area Directors. So while the Forest Service pays lipservice to the desirable policy of sending one person to, "national meetings" only four pages later, in the same manual, they give blanket approval for an entourage of 35 people to attend, "national meetings" without further Washington office approval.

ONE HUNDRED AND ELEVEN EMPLOYEES AUTHORIZED TO TRAVEL TO ONE CONFERENCE

In another case, Mr. President, the GAO auditors found blanket authorization for the 35-person entourage to attend one meeting—to be accompanied by 76 additional employees for a total of 111 employees at one single conference.

I submit, Mr. President, that the travel practices of the Forest Service as announced in its travel manual bear no resemblance at all to the frugal and rational approach stated in formal policy—that is, send one conference participant and let that individual return and brief the others.

WIDESPREAD PATTERN OF EXCESSIVE TRAVEL

One might ask, Mr. President, just how often do these conferences and "national meetings" arise? Am I pointing out isolated instances of travel abuse or is there a widespread pattern of excessive travel at the Forest Service.

To get the answer, one need go no further than the Forest Service travel manual.

No less than 77 individual organizations are listed. Attendance at the annual conferences of all of these organizations does not require Washington office approval. Blanket approval has already been given in the travel manual which ranges from 5 to 76 attendees. The average is 21 employees for each of the 77 meetings. Plus the 35-person entourage mentioned earlier. Plus additional personnel such as those in the program to present papers and those employees who happen to be national officers or committee members of the 77 favored organizations.

OVER 4,000 ATTENDEES

If the blanket approvals are fully utilized, Mr. President, the American taxpayers are sending over 4,000 Forest Service personnel on expense paid trips to 77 conferences each year.

A $4 MILLION EXPENDITURE

If one assumes that the typical conference costs the Government $1,000 for travel, lodging costs, per diem costs, and registration costs per attendee, then Uncle Sam is picking up a $4 million annual travel tab so that Forest Service personnel can attend just one category of meetings entitled, "national conferences."

A 50-PERCENT INCREASE IN APPROVED CONFERENCES

I might say, Mr. President, that the GAO auditors found that between 1977 and 1979, while the Congress and the OMB were implementing new efforts to curb excessive travel expenditures, the Forest Service was heading in just the opposite direction. Between 1977 and 1979, the Forest Service added 27 conferences to its list for which no Washington office approval was required. This is a 50-percent increase in conferences in just 2 years.

LIST OF CONFERENCES AND APPROVED ATTENDEES

Mr. President, I shall submit a listing of the approved conferences and the authorized participation by Forest Service personnel be printed in the RECORD at the conclusion of my remarks.

IRONIC SITUATION

I think this situation—this flaunting of the stated policy of sending one participant and having that individual return and brief the others—is especially ironic, Mr. President. We have a situation in this country where the farmers are having difficulty borrowing the money to plant their crops, but the Foerst Service of the Agriculture Department can find the funds to conduct the boondoggles I have just described.

CONCLUSION

Mr. President, I am hopeful that the officials at the Agriculture Department and the Foerst Service will take note of my comments here today and initiate new efforts to root out nonessential Federal expenditures. I hope the staffs of the other departments and agencies take note of my comments and examine their own policies and procedures to see if they are living up to the letter and the spirit of the OMB policy of sending only one individual—not 111 as the Forest Service does—to a conference and having that individual report back to brief the others.

The table follows:

TITLE 1300—MANAGEMENT

EXHIBIT 1

Sponsoring organization	Authorized participation by unit: Regions (9)	Stations (9) and forest products laboratory (1)	Areas (2)	Washington office	Total attendees
FSM 6/79 AMEND 66					
1. American Agricultural Economics Association	1	1	1	1—Res, NFS, A.P. & D	[1]24
2. American Association for the Advancement of Science.		1		1—TMR, FER, FIDR	13
3. American Association of Petroleum Geologists	1			1—M. & G.	10
4. American Association of State Highway & Transportation Officials.	1			1—E	10
5. American Congress on Surveying & Mapping	1	1	1	4—E	25
6. American Fisheries Society	2	1	1	1—WL, FER	32
7. American Forest Institute	1	1	1	1—OI	22
8. American Forestry Association	1	1	1	1—OI, Rn, TMR, A. & F. M.	25
9. American Geophysical Union	1	1	1	1—APD	22
10. American Institute of Mining, Metallurgical & Petroleum Engineers.	1			2—M. & G.	11
11. American Institute of Planners			1	2—APD, 1—LMF	5
12. American Mining Congress	1			2—M. & G.	11
13. American Personnel & Guidance Association	1			1—HRP	10
14. American Phytopathological Society	1—except R8 and R9	2	2	1—FIDM, FIDR	33

Sponsoring organization	Authorized participation by unit				Total attendees
	Regions (9)	Stations (9) and forest products laboratory (1)	Areas (2)	Washington office	
FSM 9/79 AMEND 67					
15. American Right of Way Association	1			2-L	11
16. Association for Computing Machinery	1	1	1	1-CT, 1-DM, 1-CSA	24
17. American Society for Information Sciences		1	1	1-S. & P.R., E, CSA, DM, AM	17
18. American Society for Public Administration	1	1	1	2-AM	23
19. American Society of Agricultural Engineers	1, 2-R1, R5	1		2-E	23
20. American Society of Automotive Engineers	1, 2-R1, R5			2-E	13
21. American Society of Civil Engineers	1	1-INT		2-E	12
22. American Society of Farm Managers & Rural Appraisers.	1-R2, R3, R4, R8, R9			1-L	6
23. American Society of Landscape Architects	2, 1-R10	1-PSW, NE, NC, SE	1	2-RN, 1-E	26
24. American Society of Photogrammetry	1	1	2	3-E, 1-FRER, 1-FIDM	28
25. American Society of Training & Development	1, 2-R2 (1 OMA)	1	1	3-PM, 1-A. & F.M., E, HRP	29
25a. American Water Works Association	1			2-E	11
26. Association of Engineering Geologists	1	1-RM, PNW, PSW, NE		2-E, M. & G	17
27. Association of Federal Appraisers	1			2-L	11
28. Association of Government Accountants	3-R1 through 9:1-R10	1	1	2-F. & A.M., P.D. & B	41
29. Association of Interpretive Naturalists	1	1		3-Rn	22
30. Classification Compensation Society	1	1		5-PM	24
31. Conservation Education Association	1		1	1-OI	12
32. Data Processing Management Association	1			2-CT, 1-CSA	12
33. Entomological Society of America	2-except R8, R9	2	3	2-FIDR, 2-FIDM	44
34. Federal Employed Women	1	1	1	2-CR	23
35. Forest History Society	1	1	1	2-AM and 1-Rn	24
36. Forest Products Research Society [2]	1-R1, 2, 4, 3, 9, 10; 2-R3, 6; 3-R5.	4, 10-FPL	4	5-CFM, 3-FRER, FRER, 1-TM	76
37. Geological Society of America	1			1-M. & G	10
38. Great Plains Agricultrual Council	1-R1, 2, 3	1	1	1-CF, 1-TMR	17
39. Helicopter Association of America	1; 2-R5	1-PNW		2-A. & F.M., 1-AS, CFFP, F.F. & A.S.R., FPER.	17
40. IMAGE	1	1		2-CR	21
41. International Personnel Management Association	1, 2-P2 (1 OMA)	1	1	5-PM	25
42. Izaak Walton League of America	1			1-WL, Rn, OI	12
43. National Agricultural Aviation Association	1-R1, 3, 4, 5, 6			2-A & F.M., 1-FTDM	8
43a. National Association of Conservation Districts	1		1	2-S. & P.F	13
FSM 4/79 AMEND 65					
44. National Association of County Engineers	1			1-E	10
45. National Association of Review Appraisers	1-R1 through 9			2-L	10
46. National Association of State Foresters	1		1	1-OI, RPA, 4-S. & P.F	17
47. National Audubon Society	1	1	1	2-WI, 1-FER	24
48. National Cattlemen's Association	1	1-RM, INT		1-Rge, FER	13
49. National Coal Association		1, 2-INT	1	1-FER, CF, WS, MG	17
50. National Computer Conference	1	1		1-CT, 1-DM, 1-CSA	22
51. National Council of State Garden Clubs	1			1-OI	10
52. National Forest Recreation Association	1-R1, 2, 3, 4, 6, 3-R5	1-PNW		2-Rn, 1L	13
53. National Recreation & Parks Association	1	1		1-WL, FER, RPA, A. & F.M., OI, 3-Rn	27
54. National Safety Congress	1, 2-R1, 2, 5	1	1	1-Rn, PM, AS, A. & F.M., E	29
55. National Ski Areas Association	1			1-Rn	10
56. National Watershed Congress	1	1	1	2-A.P. & D., 1-WS	24
57. National Wildlife Federation	1	1	1	2-WL	23
58. National Wildlife Management Institute	1	1	1	2-WL, FER, 1-OI, CF	27
59. National Woolgrowers Association	1			1-FER, Rge	11
60. Outdoor Writers Association of America	1			1-OI, RPA	11
61. Raptor Research Foundation	1	1		1-WL, FER	21
62. Rocky Mountain Oil & Gas Association	1-RI through 4			1-M. & G	5
63. Sierra Club	1	1	1	1-Rn	22
64. Society for Range Management	2, 1-R10	3-INT, PNW, PSW, RM, 2-NC, SE, SO.	1	3-Rge	40
65. Society of American Archeologists	2	1	1	1-AM, Rn	32
66. Society of American Foresters	2	2	2	Per special authorization letter	42
67. Society of Federal Labor Relations Professionals	1	1	1	3-PM	24
68. Society of Technical Communications		1	1	1-E, 1-OI	14
69. Soil Conservation Society of America	1	1-PNW, PSW, NE, INT	1	2-A.P. & D., 1, FER, RPA	19
70. Soil Science Society of America	1	1		1-E, FER, TMR 2-W. & M	24
71. Technical Association of Pulp & Paper Industries		1, 5-FPL		1-FRER, 2-FRER	17
72. Technology Transfer Society	1	1	1	3-S. & P.F	24
73. Transportation Research Board	2		2	5-E	27
FSM 9/79 AMEND 67					
74. Water Pollution Control Federation	1			1-E	10
75. Western History Association	1	1-RM, INT, PNW, PSW, NC.		1-AM, Rn	16
76. Western Interpreters Association	1	1		1-Rn	20
77. 430. added					
Total attendees authorized without Washington Office approval.					1,563

[1] Add 35 attendees to all figures for total authorized.

[2] No. 36 above authorized (76 plus 35) for total of 111 employes. ●

SAMMY DAVIS, JR., HONORED FOR HIS CONTRIBUTIONS TO THERAPEUTIC LIVING CENTERS FOR BLIND PERSONS

● Mr. CRANSTON. Mr. President, one of America's great entertainers—Sammy Davis, Jr.—will be honored in Los Angeles on September 21 for his unique contribution to the world of entertainment and to a very special organization with which he is associated.

The Therapeutic Living Centers for the Blind is an organization founded by the parents of a blind boy who is severely handicapped in other ways, as well. When Seymour and Bunny Pearlman found out that there was no institution, no organization which could help their son and hundreds of other blind children with multiple handicaps, they organized and helped finance the first Therapeutic Living Center (TLC).

Sammy Davis, Jr., heard about the Therapeutic Living Centers and offered to help. His assistance has provided TLC's with new hope, new money, and new determination to enlarge its work of helping the most helpless of all handicapped individuals—blind disabled children.

Sammy Davis, Jr., will be honored this Sunday for his contribution to TLC's at a banquet in the Los Angeles Music

Center in the Dorothy Chandler Pavilion by Los Angeles civic leaders and public officials. He will be recognized not only for his artistic abilities but also for his deep, humanitarian concern for those who have needed a helping hand, our blind children with multiple handicaps.

For his tremendous contributions to entertainment, for his compassion and thoughtfulness, for his deep caring for others and his desire to reach out to others—I ask the Senate to join me today in this tribute.●

BURLEY TOBACCO INVENTORY

● Mr. HUDDLESTON. Mr. President, over the past decade, the floor of the House and Senate have witnessed many debates on the continuation of the tobacco price support program. It has consistently been upheld as the most practical method of stabilizing the price of this commodity and matching supply and demand.

The continuing success of this 40-year-old program has recently been highlighted by the Burley Tobacco Growers Cooperative Association, Lexington, Ky., announcing the sale of 21 million pounds of pool stocks thus reducing their inventory to less than 2 million pounds. For comparative purposes, it should be remembered that at one time, Burley pool stocks amounted to 500 million pounds. Informally, I have been advised that the balance left in the pool is most likely to be sold prior to the opening of the 1980 marketing season in December.

I want to pay public tribute to the president of the association, Mr. Joe McDaniel, and his staff for the diligence and patience they have displayed in bringing about this remarkable achievement. Operated by and for the tobacco growers, the association has demonstrated again and again the resourcefulness of the American farmer when given the opportunity.

Mr. President, I ask that the press releases issued by the association on September 2 and 8, 1980, concerning this recent turn of events be printed in the RECORD.

The press releases follows:

WAVE OF BURLEY POOL SALES REACHES 21½ MILLION POUNDS

(By Bennett Roach)

A series of heavy sales over the past two weeks has brought pooled burley tobacco stocks to their lowest level in many years.

The Burley Tobacco Growers Cooperative Association said today that as of September 1, total storage stocks now amount to only 2½ million pounds, and that sales are pending which may take most of this.

Alvin R. Beckley, executive secretary-treasurer, announced that since the middle of August the Association has sold 21½ million pounds, all of it to manufacturers and dealers. One purchase amounted to about 15 million pounds.

The sales figures:

1978 crop: 19,617 hogsheads—18,819,434 pounds.

1979 crop: 2,841 hogsheads—2,682,425 pounds.

Totals 22,458 hogsheads—21,501,829 pounds.

Joe McDaniel, president, said "The Association is deeply gratified over the sales. True it almost cleans us out, but that is what we are here for—to conduct the price support program for the benefit of the growers, and to offer a dependable, orderly way for loan stocks to reach the manufacturers and dealers."

McDaniel added: "Our members can look forward to some extra returns over the next two or three years. Those who had part of their crops to go under loan will share in some net gains which the Association has been able to earn for them."

Most of the sales have been on a deferred basis, said Beckley, with delivery up to a year later. For growers who cosigned portions of their crops to the Association under loan, extra payments will be forthcoming on a basis of each year's crop settlement, if net gains are shown on the year's holdings.

Commenting on the success of the Association and the tobacco program, McDaniel said, "The recent sales put our organization in even stronger position, from the standpoint of its record of rendering services to the growers, and in paying off Federal loans and interest. Again, as in many instances over the past 40 years, the farmers and the Association's directors and officers are proud of our operation."

Some distribution from the recent sales is assured, but the payoff, as in former years, must await delivery, tabulation of costs such as storage, processing, insurance, transportation and others, plus final interest settlement with the Commodity Credit Corporation.

The movement of pooled leaf into the hands of dealers and manufacturers is usually spread over many months, or even years. So the buying wave of recent weeks marks a sharp departure from the normal periodic purchases of leaf stocks.

Pooled burley sales are year-around and not seasonal. Manufacturers and large export and domestic suppliers, as well as small job-lot dealers, are regularly "shopping" the wares of the burley association through inventory listings supplied to the trade.

During any month the association at its offices at Lexington receives calls for samples of specified grades, sometimes resulting in sales, sometimes not.

At times the association has had portions of a half-dozen or more crop years on hand, and at one time some twenty years ago the inventory totaled 500 million pounds of unsold leaf. Gradually this was taken by manufacturers and dealers, until in recent years the pool supplies have been no more than 50 to 75 million pounds at any time.

Acting as banker overseeing sales, prices and terms, the Commodity Credit Corporation prescribes rules and guidelines under which the pool selling program operates. The Washington based agency, which finances the farmer-owned burley co-op, dictates grade prices and policies.

Apparently the recent activity is the continuation of a heavy buying movement following a short crop last year.

Near-record purchases took some 50 million pounds of pool held storage stocks last fall before the market opened.

Last March the buying resumed in large scale lots, reflecting the 1979 crop shortage and dwindling supplies of loan stocks, until only the 1978 and 1979 crop holdings were left.

All holdings of earlier years were sold out before the 1979–80 market season opened.

POOLED BURLEY STOCKS LOWEST IN 40 YEARS

(By Bennett Roach)

Burley tobacco news this week is highlighted by more sales of old stock pooled leaf, new and higher grade loan rates for the 1980 market, and good progress in harvesting the current crop.

All loan stocks except 718,224 pounds from last year's crop have now been sold. The August buying wave which 21½ million pounds has continued into September, with an additional 3 million pounds being taken by the trade, on Sept. 3, 4 and 5.

Reporting pool stocks down to their lowest level in 40 years, Alvin R. Beckley, executive secretary-treasurer of the Burley Tobacco Growers Cooperative Association, said the first week in September took all remaining 1977 and 1978 leaf, plus 1.9 million pounds of 1979, for total sales of 3,040,769 pounds.

It is the first time on record that loan stocks held by the Association have fallen below 1 million pounds, since price supports started in 1941.●

JIM DILLEY DAY

● Mr. CRANSTON. Mr. President, on September 21, the community of Laguna Beach, Calif., will be celebrating a special day in the city's history: a day in honor of the founder of the Laguna Greenbelt, Jim Dilley—a former professor and longtime friend of mine.

Twelve years ago, Jim founded the Laguna Beach Greenbelt Committee with the idea of creating an urban open space in Orange County. Through his hard work and enthusiasm, the people of his community were awakened to a new awareness of the natural beauty of their coastal environment and of the need to preserve it. Although Jim Dilley, sadly, has not lived to see his "day" it seems fitting that his good work should be recognized by the residents of Laguna Beach who are the beneficiaries of his vision.

I would like to share with my colleagues a resolution recently passed by the Orange County Board of Supervisors in honor of Laguna Beach's Jim Dilley Day. I ask that it be printed in the RECORD.

The resolution follows:

RESOLUTION

Whereas, Jim Dilley moved to the coastal environment of Laguna Beach in 1958; and

Whereas, Jim developed a strong belief that a portion of the rustic, natural south County environment which he loved must be preserved for future generations; and

Whereas, he was the principal founder of the Laguna Beach Greenbelt Committee 12 years ago to promote this open space dream; and

Whereas, this small, local organization with Jim serving as a guiding force has grown from a handful of concerned friends to a countywide organization of over 1,500 members; and

Whereas, Jim's dream of a designated urban open space or greenbelt area is now finding fulfillment in the Orange Coast National Park;

Now, therefore, be it resolved that the Orange County Board of Supervisors does congratulate the residents of Laguna Beach for recognizing the late Jim Dilley with this special day, September 21, 1980, and further commends them for holding the recognition event at Laguna's main beach in a setting so befitting the beauty of nature which this dedicated environmentalist sought to preserve.●

REPRESENTATIVE RUSSELL "RUSTY" HELLMAN

● Mr. LEVIN. Mr. President, I rise to speak of a man from the Upper Peninsula of Michigan who has had major impact on all the citizens of our State, Representative Russell "Rusty" Hellman.

Rusty has served in the Michigan

Legislature for 20 years. As chairman of the joint capitol outlay committee, his imprint has been left on schools, hospitals, and many public projects.

As a fighter for the people of his district, thousands know of his good deeds.

But perhaps most important have been Rusty's efforts on behalf of Michigan's forests and forest products industry. His dedication to maintenance of forests in Michigan has been noted throughout the State, and his impact has been national.

Mr. President, in the very near future "Rusty" Hellman will be retiring from the Michigan State Legislature, although his good deeds will continue.

Mr. President, I ask that an editorial from the Daily Mining Gazette from Houghton, Mich., regarding the retirement of Michigan's No. 1 lumberjack be printed in the RECORD.

The article follows:

RUSTY HELLMAN DAY

Government officials from the local to State levels have declared Wednesday "Rusty Hellman Day" in the Copper Country and we can't think of a more fitting tribute to a man who has spent the last 20 years of his life representing residents of the 110th District.

Unlike some legislators, Rusty has never rested on his laurels, preferring to keep slugging away—ruffling feathers if necessary—to do the best job he knew how for his constituents.

He has been outspoken and unafraid to call a spade a spade. As a result, he has often been faced with opposition in his bids for reelection. But each time he has prevailed.

Rusty's forte has been forestry. Early in his Lansing career he became known as an expert in the field. Since then he has earned himself a place in Upper Peninsula history books as the man who has done more than any other to keep the industry strong.

Currently, he has a bill before the Legislature which will implement many of the suggestions made in the Jaskko Poyry company study of Upper Peninsula forestry. The bill, if passed, could have a profound impact on the economy of the Upper Peninsula.

Rusty's friends and constituents will gather Wednesday evening at Dee Stadium in Houghton to show him their appreciation. We join them in saluting the State's No. 1 lumberjack.●

THE STRATEGIC PETROLEUM RESERVE—TIMID LEADERSHIP COSTING THE AMERICAN PUBLIC $1 BILLION

● **Mr. DOLE.** Mr. President, for the last 13 months this administration has refused to buy oil for the strategic petroleum reserve. This single act of timidity has cost the American public dearly in protections against an interruption of oil imports. It has left our military preparedness and our overall defense posture in doubt. And at a time when all are concerned with holding the line on Federal spending, President Carter's inaction has also wasted precious taxpayer dollars.

If the administration had filled the gulf coast sites at a rate of 250,000 barrels per day since August of 1979 when reserve storage was halted, the cost to our economy would have been $2.27 billion. But because the price of oil on the world market has rocketed from $14.50 per barrel delivered in August of 1979 to $32 per barrel now, the same amount of oil for the strategic reserve would cost $3.26 billion—even if President Carter begins today and we make the obviously conservative assumption that OPEC will not raise its prices for the next 13 months!

In other words, the Carter administration's refusal to buy oil for the strategic reserve these last 13 months has cost the American public more than $1 billion.

Only now is the executive branch moving to renew fill of the reserve—not because DOE and President Carter think it is finally the right time—but because Congress directed the President to renew crude oil purchases.

Mr. President, it has been nearly 1 year since the Senate debated the merit of and subsequently expressed its will in adopting the so-called Dole-Bradley amendment to S. 932 dealing with the purchase of crude oil to be used to begin filling our strategic petroleum reserve. That amendment, which the President signed on June 30, 1980, requires him to resume purchasing oil for SPR at the minimum average daily rate of 100,000 barrels.

We should ask "when would the 'right time' occur?" How much of a world oil glut and how long at peak industrial storage before the administration would recede from its position of OPEC paranoia and agree to begin reserve storage?

Mr. President, with the near certainty of an oil import interrupation of 2 to 3 million barrels per day sometime in the next 10 years, we cannot afford to have a petroleum reserve only one-tenth its intended strength, nor can we permit timidity to threaten the Nation's security.

Our oil vulnerability, exacerbated by more than a year of neglect, and the $1 billion price tag for this leadership void, have hurt strategically and economically. We must move with dispatch to renew fill of the petroleum reserve.

Mr. President, I cannot stress strongly enough that our reliance upon oil imports from politically unstable countries carries with it the threat of an embargo or other supply interruption which could place the security of the United States in jeopardy. This country is so unprepared and strategically vulnerable due to our weak SPR that an extended oil embargo would not only devastate our economy to the point where no President, regardless of party affiliation, could hope to reverse the situation, but would also make us vulnerable to foreign military and political aggression. It is essential that this country pursue an energy policy which will free us from dependence on OPEC and insure future generations of energy security as well as military security.

SPR: NONPARTISAN ISSUE

This is not a partisan attack on the administration. Many of my Decocratic colleagues in both the House and Senate feel as I do that the OPEC paranoia and timidity displayed by the Carter administration on the issue of filling our strategic petroleum reserve is a break of our national security, an imperilment of America's defense preparedness, and, because of delays, an incredible economic waste to taxpayers. Mr. President, these are not new revelations. As long ago as October 31, 1979, I made these very points in various statements given before the full Senate. On November 8, 1979, during debate on the Dole-Bradley Amendment I warned my colleagues of the consequences of refusing to fill SPR. And again on April 23, 1980, in a colloquy with several of my colleagues I expressed my deep concern over the Carter administration's total lack of commitment to the SPR program. I stated then and I will state again today that in my opinion this must be one of the most important aspects of our comprehensive energy program, if in fact we are truly committed to energy independence and a defense capability second to none.

Mr. President, to illustrate the nonpartisan nature of this issue, Chairman DINGELL, in a hearing September 15, 1980 before his Energy and Power Subcommittee said:

> Despite a temporary worldwide glut of oil, despite billions of dollars in appropriations (for oil purchases) which will expire at the end of this year, despite the cost to the taxpayer of $9 million per day, despite the peril to national security, the Department of Energy still refuses to fill the strategic petroleum reserve.

Mr. President, simply put, the Carter administration has wasted over $1 billion and has threatened our national security by:

Ignoring statutory requirements for an early storage reserve of 150 million barrels by December 1978;

Refusing offers of oil at a time when 110 million barrels of oil are presently floating in tankers available for purchase, and at a time when industrial storage is at peak levels; and

Increasing our vulnerability to anticipated oil supply interruptions.

Mr. President, I ask that documents prepared by the staff of the Energy and Power Subcommittee of the House Committee on Interstate and Foreign Commerce be printed in the RECORD.

The material follows:

SUBCOMMITTEE ON ENERGY AND POWER,
Washington, D.C., September 1980.

MEMORANDUM

To John D. Dingell, Chairman.
From Subcommittee staff.
Subject The Empty Oil Cupboard.

Despite a temporary worldwide glut of oil, despite billions of dollars in appropriations which will expire at the end of this year, despite the cost to the taxpayer of $9 million per day, despite the peril to national security, the Department of Energy still refuses to fill the Strategic Petroleum Reserve (SPR). This is in direct conflict with the announced policy of the President—one of the key points of his energy program—and is in marked contrast to what is being done in other industrialized nations.

The Energy Policy and Conservation Act, which was passed in December 1975, called for an Early Storage Reserve of 150 million barrels by December 1978. It also provided for an SPR of up to one billion barrels. The last oil was bought for the SPR in November 1978—before the Iranian oil interruption. Since that time the Department has been unsuccessful in its efforts to purchase oil and indeed has turned away offers to sell oil to it. This policy of inaction by the Department is having the following effects:

It is costing the taxpayer the equivalent of $9 million a day in increased oil prices.

It is imperiling national defense preparedness.

As many as 3 million jobs may be lost in the next embargo if the SPR is not filled.

110 million barrels of oil are presently floating in tankers available for purchase.

The Department of Energy is refusing offers of oil.

Every other industrialized country is building its oil stockpiles.

The Subcommittee has conducted a number of hearings on various aspects of the Strategic Reserve and has held at least four hearings within the last year solely on the issue of fill. On April 25, 1980 Secretary Duncan promised regarding the Reserve that fill would commence in early June. As of this date no oil has yet been put in the Reserve. The Subcommittee also heard similar promises in its May hearing from Secretary Duncan and Assistant Secretary Ruth Davis in two of its February hearings.

$9 MILLION PER DAY

At the request of the Administration and in order to expedite the purchase of oil for the Reserve, the Congress authorized the use of the entitlements program to purchase oil for the SPR. This was done in the Energy Security Act (P.L. 96-294), which the President signed into law on July 2. Since that time the Department has put into place regulations to implement this legislation. However, it has not taken advantage of the opportunity to buy inexpensive oil. The difference in old oil and new oil prices means that the Department can save roughly $23.50 on every barrel of oil that it purchases for the Reserve. At a normal anticipated fill rate of 400,000 barrels of oil per day, this means that the taxpayer is missing the benefit of $9 million per day. This further equates to a potential loss in entitlements of nearly $3.4 billion between now and September 30, 1981, when the entitlements program expires. The failure of the Department to take effective action on purchasing oil is particularly distressing since one oil company notified us that it had made an offer of up to 12 million barrels of oil for the Reserve and had received not even the courtesy of a response from the Department.

LOSS OF JOBS

The Congressional Budget Office (CBO) conducted a study for the Subcommittee and analyzed the potential impact of an inadequate SPR. The CBO concluded that the failure to fill could result in disastrous consequences in terms of loss of jobs and loss of Gross National Product. For example, every barrel of oil not in the SPR could represent as much as $350 in lost Gross National Product in the event of another embargo similar to the 1973 oil interruption. This would translate into rates of unemployment in excess of 20 percent. The Director of the Congressional Budget Office, Dr. Alice Rivlin, testified that the consequences could very well resemble the economic hardships during the Depression of the 1930's. The Executive Associate Director for Budget of the Office of Management and Budget, W. Bowman Cutter confirmed this analysis.

FLOATING INVENTORIES

Never has the situation been so ripe for oil purchases for the Reserve. One oil company official has advised the Subcommittee staff that in his company's analysis there are presently between 70 and 110 million barrels in oil tankers in the Caribbean which cannot be off-loaded because of the glut. His company is presently struggling to dispose of surplus oil. It is seriously considering reducing commitments to take oil under existing contracts because of problems with managing inventories. This statement was mirrored by statements from other oil company officials who had similar experiences to relate. For example, one oil company advised that they were ready to sell 1.7 million barrels on an unsolicited spot basis beginning in late August of this year. They were advised by the DOE that the DOE could not accept unsolicited proposals at that time.

Everyone agrees there is a temporary glut. The duration is unanswered; however, best estimates indicate that this glut will last somewhere between four and ten months, possibly a little longer. Everyone agrees that this will end and tight oil markets will return. Because of a fear that tight oil markets will return, the companies are reluctant to refuse delivery of oil under existing contracts, because this would affect their position in times of short supply.

OTHER NATIONAL SPR'S

All other Western and industrialized nations are stockpiling oil. Since the Iranian interruption in early 1979, Japan and Germany have both increased their Reserves. Chile is building its Strategic Reserve. Other Western nations are increasing their Reserves. The only country which has not added to its SPR is the United States. The contrast is stark: everybody is buying oil except the United States of America.

POSSIBLE SOURCES OF OIL

At a July 27, 1980 meeting with the Department of Energy official responsible for filling the Reserve, Chairman Dingell discussed possible sources of oil:

Royalty Oil
Alaskan North Slope Oil
Spot Solicitations
Government-to-Government Arrangements

These re-identified possible sources which the Subcommittee has insisted the Department consider. These points have been raised at hearings and explored since at least the summer of 1978. The official at the Department, Abram Chayes, said those would be considered. However, we have learned from discussions with DOE staff that no efforts have been made to obtain supplies from these potential sources.

PROGRAMMED OIL FILL

In 1973, the Arab oil embargo cost the United States uncounted millions of dollars in lost Gross National Product. The Energy Policy and Conservation Act in 1975 established a Strategic Petroleum Reserve which would reduce the impact of future oil supply interruptions. The original Reserve plan called for 500 million barrels in storage by the end of 1980. In 1977 the Administration, citing its strategic importance, accelerated the plan so there would be a 500 million barrel Reserve by the end of 1980. Reemphasizing its importance in 1978, the President expanded its ultimate size to one billion barrels.

Initial fill of the reserve with crude oil began in July of 1977. The purchase of oil was officially terminated at the outset of the Iranian oil crisis. The Reserve now stands at 92 million barrels. In the Synthetic Fuels Bill, Congress required that fill of the Reserve start at the rate of at least 100,000 barrels per day within 90 days of enactment of the Synfuels bill, or oil production would be required to be shut in at the Naval Petroleum Reserve at Elk Hills. The Synfuels bill in no way required that the oil production at Elk Hills be put in the Strategic Petroleum Reserve. However, the Department of Energy determined that the best way to achieve the 100,000 barrels per day mandate was to obtain voluntary exchanges of Elk Hills production for crude oil delivered to the Strategic Petroleum Reserve states in Texas and Louisiana. Responses to the solicitation were due September 3 and are being evaluated by the Defense Fuel Supply Center.

It should be noted that the Congressional requirement of 100,000-barrels-per-day fill in the reserve was intended as a minimum fill: in no way was it to be assumed that this was to be the maximum or that it was the desired rate. The Department of Energy has made no other attempts to procure oil for the Strategic Petroleum Reserve. It was offered and has accepted the relatively insignificant amount of 10,000 barrels per day as part of a turnback on a contract for oil from the Naval Petroleum Reserve at Elk Hills. Even this oil, at the rate of 10,000 barrels per day, is scheduled to go to the Reserve only until November.

The Department of Energy has decided to swap Elk Hills crude s the best possible way to fill the Reserve. The Energy Regulatory Administration has proposed rules which would mandate the swapping of Elk Hills oil for oil going into the Strategic Petroleum Reserve. There has been unanimous objection by the oil industry to these rules. The industry has used some of the strongest language to date characterizing the DOE as not only robber brons but the equivalent of "Vlad the Impaler". The industry claims to be mystified why the Department of Energy is not now obtaining additional quantities of oil for the SPR. (See the summary of industry comments attached to this memorandum.) The *Wall Street Journal* on Tuesday, September 9, characterized the crude oil situation on the Gulf Coast as a "petroleum glut".

Since the crude oil market is soft and this is the proper time for the DOE to purchase for the SPR, it is important to question why the DOE is not doing so at this time. At the April 25, 1980 Energy and Power hearing, Secretary Duncan pleaded with Subcommittee members to allow him to delay resuming purchases for the Reserve until June. Two and one-half months have now elapsed and the only initiative for the Reserve has been that required by the minimum Congressional mandate contained in S. 932.

The hearing scheduled for Monday, September 15 will present appropriate witnesses to investigate the situation. Representatives from the oil industry will present their opinions. The State Department will be asked to discuss the international ramifications of increased purchases for the SPR. The Central Intelligence Agency in a closed session will give assessment of the world crude market at this time. Mr. Abrams Chayes, Special Advisor to the Secretary of Energy for the Strategic Petroleum Reserve, will address the Department's concerns.

INDUSTRY STATEMENTS IN SUPPORT OF FILLING THE STRATEGIC PETROLEUM RESERVE MADE AT DOE'S PUBLIC HEARINGS ON NAVAL PETROLEUM RESERVE EXCHANGE ON AUGUST 27, 1980 IN LOS ANGELES, CALIFORNIA, AND SEPTEMBER 4, 1980, IN WASHINGTON, D.C.

CONOCO has always supported the development of a Strategic Reserve. We recognize the precarious supply situation prevalent in today's crude oil market and the United States' vulnerability to supply interruptions. We feel such a reserve can help to counter the effects of a major supply interruption. When excess supplies appear on the crude oil market as there are today, every effort should be made to store this excess and protect the United States from future shortages. J. M. McNeese, Manager, Regulations Crude Oil Supply and Trading, CONOCO, Inc.

Union Oil has supported the idea of an SPR from its conception. We continue to support it in the belief that an effective SPR program will be of benefit to every American citizen, and to our Nation's allies as well. An effective program should serve as a deterrent to future international oil embargoes. In the event of such an embargo, or of some other major supply interruption, the SPR will protect U.S. citizens against the worst possible effects. And, of course, only with an effective SPR can we meet our National obligations under the International Energy Agreement. By its existence, the SPR will serve to protect our foreign and domestic interest and our control over these interests. John L. Rafuse, Manager of Regulatory Economics, Union Oil Company of California.

AMOCO endorses the decision to resume filling the Strategic Petroleum Reserve. In the long run, the SPR will provide the best assurance that the United States will have a substantial inventory of oil physically available on our shores in the event of another embargo or supply interruption. The Strategic supply would also be important to other consuming countries in view of our country's participation in the International Energy Agency's crude sharing agreements.

AMOCO believes that now is a good time to resume filling the SPR. United States and world crude stocks are at a high level. U.S. demand is down substantially from a year ago and conservation is increasing. World prices are soft in comparison to those of 1979 and spot market bargains are available. Domestic crude prices for decontrolled crude are down. Domestic refiners are having few, if any, problems in finding adequate supplies of available crude. N. J. Rubash, Vice President, Supply, Standard Oil (of Indiana).

Filling the SPR is Federal and Administration Policy, and there could hardly be a better time to acquire oil than in a glutted market such as exists today. Ottie T. Vipperman, Vice President, TOSCO Corporation.

MacMillan supports the concept of filling the Strategic Petroleum Reserve as mandated in the Energy Security Act. Jerry Engelhardt, MacMillan Ring-Free Oil Company, Inc.

We feel that the filling of the Strategic Petroleum Reserve is somewhat overdue. John E. Armstrong, Vice President, Supply and Distribution, Fletcher Oil and Refining Company.

We fully subscribe to a National energy policy which would provide the country with assured crude supplies in the case of another oil embargo. At this point in time, it appears that the Strategic Reserve is our best (and possibly only) option to provide such assurance. Therefore, with the current short-term crude surplus in the world, we concur that it is timely to resume moving crude supplies to the Strategic Petroleum Reserve. Arthur L. Malacky, Vice President, Governmental Affairs, Edgington Oil Company, Inc.

Opening Statement of the Honorable John D. Dingell at Hearings on Strategic Petroleum Reserve September 15, 1980

Everyone has oil except DOE.

Despite a temporary worldwide glut of oil, despite billions of dollars in appropriations which will expire at the end of this year, despite the cost to the taxpayer of $9 million per day, despite the peril to national security, the Department of Energy still refuses to fill the Strategic Petroleum Reserve. This is in direct conflict with the announced policy of the President—one of the key points of his energy program—and is in marked contrast to what is being done in other industrialized nations.

The Energy Policy and Conservation Act, which was passed in December 1975, called for an Early Storage Reserve of 150 million barrels by December 1978. It also provided for an SPR of up to one billion barrels. The last oil was bought for the SPR in November 1978—before the Iranian oil interruption. Since that time the Department has been unsuccessful in its efforts to purchase oil and indeed has turned away offers to sell oil to it. This policy of inaction by the Department is having the following effects:

It is costing the taxpayer the equivalent of $9 million a day in increased oil prices.

It is imperiling national defense preparedness.

As many as 3 million jobs may be lost in the next embargo if the SPR is not filled.

110 million barrels of oil are presently floating in tankers available for purchase.

The Department of Energy is refusing offers of oil.

Every other industrialized country is building its oil stockpiles.

The Subcommittee has conducted a number of hearings on various aspects of the Strategic Reserve and has held at least four hearings within the last year solely on the issue of fill. On April 25, 1980 Secretary Duncan promised regarding the Reserve that fill would commence in early June. As of this date no oil has yet been put in the Reserve. The Subcommittee also heard similar promises in its May hearing from Secretary Duncan and Assistant Secretary Ruth Davis in two of its February hearings.

At the request of the Administration and in order to expedite the purchase of oil for the Reserve, the Congress authorized the use of the entitlements program to purchase oil for the SPR. This was done in the Energy Security Act (Public Law 96–294), which the President signed into law on July 2. Since that time the Department has put into place regulations to implement this legislation. However, it has not taken advantage of the opportunity to buy inexpensive oil. The entitlement benefit amounts to roughly $23.50 on every barrel of oil that it purchases for the Reserve.

At a normal anticipated fill rate of 400,000 barrels of oil per day, this means that the taxpayer is missing the benefit of $9 million per day. This further equates to a potential loss in entitlements of nearly $3.4 billion between now and September 30, 1981, when the entitlements program expires. The failure of the Department to take effective action on purchasing oil is particularly distressing since one oil company notified us that it had made an offer of up to 12 million barrels of oil for the Reserve and had received not even the courtesy of a response from the Department.

The Administration seems loathe to enter the world oil markets to boost the fill rate at a time of acknowledged world crude oil surplus. A number of other possible sources of oil are available, such as royalty oil, Alaskan North Slope oil, spot solicitations and government-to-government arrangements. However, the Department, with no apparent explanation, has failed to pursue any of these possible alternatives.

The Congressional requirement of 100,000 barrels per day fill reserve was intended as a minimum fill rate; in no way was this to be the maximum, or desired rate. Quite to the contrary, the Congress intended the Department to pursue the most expeditious source for additional oil at rates substantially greater than 100,000 barrels per day.

Even with this mandate, the Department of Energy failed to take sufficient action. In fact, the Department did not even understand the mandate. On September 4, 1980, the Department made the following incorrect statement:

"The Energy Security Act signed June 30, 1980 requires us to begin filing SPR at an average rate of 100,000 barrels per day, beginning October 1, 1980, and further that we may not sell or otherwise dispose of our share of crude oil from the Naval Petroleum Reserve except to fill the SPR directly or be exchanged with other oil with certain specified exceptions."

Later today, I will be introducing a bill to take the SPR away from the Department of Energy and transfer it to an independent agency. I invite my colleagues to join me in cosponsoring this important piece of legislation.

Today, the Subcommittee will hear from a number of witnesses representing private oil companies, the Department of State, the Department of Defense, the Department of Energy and the Central Intelligence Agency. Hopefully, the information provided by this group of witnesses will shed some light on the reluctance of the Department of Energy to start and increase the fill rate for the Strategic Petroleum Reserve.●

HAPPY BIRTHDAY TO THE UNITED STATES CONSTITUTION

● Mr. BAYH. Mr. President, today I call on my distinguished colleagues to pay homage to the Constitution. One hundred ninety-three years ago today our U.S. Constitution was adopted by a convention of the States and was subsequently ratified by the several States on June 21, 1788. The birthday celebration of the Constitution is indeed a most appropriate time for us to stop for a moment and bless our stars and stripes that we truly are a very fortunate Nation. Happy birthday to our U.S. Constitution.

By any objective reckoning, this date should stand with Independence Day as a great national holiday, yet it passes, year after year, with usually the most perfunctory recognition. However, this year, the Constitution was honored with a birthday party. Yes a birthday party, with a magnificent cake in the shape of the United States surrounded with 193 red, white, and blue candles. The birthday celebration was sponsored by a group of highly motivated young people, members of convention II and their executive director, Boris Feinman, the founder and chairman of convention II. In addition, the celebration was cosponsored by the National Association of Secondary School Principals and the National Association of Student Councils. This celebration took place in the halls of the Senate Dirksen Office Building with the full cooperation of Congress and its Members. Over 100 national, State and local organizations were guests of honor at this celebration from all aspects of American life.

Mr. President, I would like to pause for one moment more to thank the distinguished sponsors, cosponsors, and guests. I commend them to national attention for their work in advancing the cause of citizenship education and in fostering participation in the political process. I shall submit the formal announcement of this celebration for the Congressional Record at the end of my statement.

Mr. President, I shall also submit for the Record an article by Esther Van Wagoner Tufty be placed in the Congressional Record, following the formal announcement of the Constitution's birthday party.

The crucial importance of the Constitution sometimes escapes us for the simple reason that it seems almost anticlimactic by comparison with the mighty, ringing phrases of the Declaration of Independence, and the heroic struggles of the Revolution. It is, after all, not so much a great statement of principle as a blueprint for the formation and conduct of our form of government, a blueprint that continues to serve us surpassingly well nearly two centuries later. As a practical blueprint of government, the Constitution of the United States has no peer anywhere in the world today. As a statement of principle, when considered as part of a great amalgam, which includes the Bill of Rights and the Declaration of Independence, it comprises the definitive statement of principles and aspirations of modern representative democracy.

A century ago, William Ewart Gladstone, the grand old man of English politics who served four times as Prime Minister of Great Britain, gave his thoughts on the Constitution of the United States. His words of tribute have not been surpassed since then, and they merit repetition today:

> The American Constitution is the most wonderful work ever struck off at a given time by the brain and purpose of man.

So it remains in 1980, so too, it will remain for many, many years to come.

In its every particular, the Constitution of the United States righly merits our praise and recognition: In the distinction of its authorship, in its excellence, clarity and brevity of form, in its remarkable adaptability to changing conditions, in its perseverance, and in its salutary effect on the affairs of men and women the world over.

Mr. President, Justice Learned Hand called the Constitution "the best political document ever made." Each American, not only on September 17 of each year, but also throughout the year should understand and reflect on the wisdom of that statement. Citizenship Day and Constitution Week are worthy and fitting complements to Independence Day. I hope that my colleagues will call on their own constitutents to reflect on the Constitution's purpose "to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare and secure the blessings of liberty."

Mr. President, at this time, I would like to indulge my colleagues for one additional birthday wish. It is most appropriate that my chief counsel and executive director of the Judiciary Subcommittee on the Constitution, Kevin Faley, is also celebrating his birthday today, September 17. I call on the Senators to join me in wishing Kevin a very happy birthday and to thank him for his dedication to the principles on which our Constitution was founded.

The announcement and the article follow:

ANNOUNCEMENT

You are cordially invited to celebrate the 193rd Birthday of the Constitution at a commemorative breakfast in the Senate of the United States, Wednesday, September 17, 1980, 8:30 a.m., Dirksen–1202. We shall proclaim the period from now till 1987 as the Constitution's Era, a Time For Citizenship Education, Convention.

We the people who believe the Constitution of the United States is one of the most magnificent inventions in the history of Man hold:

That our country is in need of an up beat . . . a national focus on a definite concept which can evoke the same spirit and depth of pride in achievement as did our hockey team at Lake Placid;

That in the war for the mind one such concept which seizes the soul and fills the essence is the American Constitution. It has imparted to the world:—Brotherhood, Democracy, Freedom, Equality of Opportunity, Responsibility;

That we have a winner in the Constitution . . . that by focusing on it from now until its 200th birthday in 1987 we will generate a substantive and challenging uplifting of the American soul . . . to growth and greatness tomorrow built upon the greatness of all of our yesterdays.

Meeting . . . in the facilities of Congress, and in cooperation with Congress, we warmly acknowledge the presence or assistance of Senator Jennings Randolph, Chair, Committee on Environment And Public Works; Senator Birch Bayh, Chair, Subcommittee On The Constitution; Representative Carl Perkins, Chair, Committee on Labor and Education; and Senator Harrison Williams, Chair, Committee On Labor And Human Resources.

Representative Edward Beard.
Senator Rudy Boschwitz.
Representative M. Caldwell Butler.
Representative Carroll Campbell.
Representative Baltasar Corrada.
Senator Alan Cranston.
Representative Arlen Erdahl.
Representative William Goodling.
Senator Mark Hatfield.
Representative William Hughes.
Representative Jack Kemp.
Representative Mike McCormack.
Senator Robert Morgan.
Representative Richard Ottinger.
Senator Claiborne Pell.
Representative Peter Peyser.
Senator Donald Riegle.
Representative F. James Sensenbrenner, Jr.
Representative Floyd Spence.
Representative Edward Stack.
Representative Antonio Won Pat.
Representative Leo Zeferetti.

Our guests are from all aspects of American life. We are honored by their presence. We commend them to national attention for their work in advancing the cause of citizenship education and in fostering participation in political process. They are from the following organizations:

Advertising Council.
Amer. Assn. of School Administrators.
Amer. Bar Association.
American Legion.
American Legion Auxil.
Americans For Dem. Act. Youth Caucus.
Amer. Red Cross Youth Services.
Boy Scouts of America.
Camp Fire Girls.
Center For Citizenship Education.
Center For Policy Research.
Chamber of Commerce of USA.
Citizen Education Clearinghouse.
Close Up Foundation.
College Democrats.
College Republican National Committee.
Common Cause.
Community Involve. For Resp. Cit.
Convention II.
Convention II N.Y.
Council For Educ. Dev. and Research.
Council of Chief State School Off.
Council For Inter-Institutional Lead.
Council of State Governments.
Disabled American Veterans.
Education Commission Of the States.
Film Educators.
Four H Council.
Future Business Lead. of America.
Future Homemakers of America.
Girl Scouts of the USA.
Girls Nation.
Inst. For Educational Leadership.
Inst. For Pol. & Legal Education.
International Council on Law related Ed.
League of Women Voters.
M. P. Peyser & Associates.
Migrant Workers.
Mutual Broadcasting Co.
Nat. Assessment of Ed. Programs.
NAACP.
Nat. Assn Elementary School Principals.
Nat. Assn of Independ. Schools.
Nat. Assn of Manufact.
Nat. Assn of Schools of Pub. Affairs & Admin.
Nat. Assn of Secondary School Principals.
Nat. Assn of Student Councils.
Nat. Catholic Educ. Assn.
Nat. Cath. Youth Orgs. Fed.
Nat. Conference of State Legislators.
Nat. Council For Social Studies.
Nat. Council of Negro Women.
Nat. Education Associat.
Nat. Energy Ed. Day.
Nat. Exec. Svce. Corps.
Nat. Governors Assn.
Nat. League of Cities.
Nat. School Boards Assn.
Nat. School Resources Network.
Nat. School Volunteer Program.
Nat. Street Law Inst.
N.Y. State Council For Social Studies.
Pet Foods, Inc., Musselman Division.
Political and Legal Educational Associates.
Republican National Committee.
Research For Better Schools.
Robt. F. Kennedy Memor.
Robert Taft Inst. of Government.
Student National Ed. Association.
United Fed. of Teachers.
United States Jaycees.
US News & World Report.
Vocational & Ind. Clubs of America.
Washington Monthly.
YWCA.

BOARDS AND SYSTEMS IN EDUCATION

Arkansas Dept of Ed.
Illinois Supt of Ed.
Maryland Assoc of Student Councils.
Maryland Council on Economic Ed.
Maryland Dept of Ed.
N.Y. State Dept of Ed.
Pennsylvania Dept Ed.
Wash DC Board of Ed.
Wash DC Student Adv. Council.
Wash DC Supt Schools.
Washington State Dept of Ed.
Anne Arundel County.
Baltimore City.
Baltimore County.
Calvert County.
Carroll County.
Charles County.
Frederick County.
Howard County.
Mamaroneck Town.
New Rochelle City.
Westreville City.

SCHOOLS

Boiling Springs, Pa.
Greenbelt Jr HS, Md.
Ketterinf/Fairmont, Ohio.
New Rochelle HS.
Mamaroneck HS, N.Y.
New Rochelle HS, N.Y.
Ossining HS, N.Y.
Washington, D.C. Schools.

UNIVERSITIES

Alabama—Center For Public Law.
American—Law.
George Mason—Ed.
Georgia—Coll of Ed.
Georgetown—Commun. Action Coalition.
Indiana—Social Studies Development Center.
Johns Hopkins—Evening College.
Maryland.
Pace—Inst. For Sub/Urban Governance.
Portland State—Law Related Education.
Southern Assoc. of Colleges and Schools.
Temple.
Towson State.
Wright State—Coll of Education.
Wyoming—Coll of Ed.

ELECTION AGENCIES

Federal Election Commission.
Illinois State Board.
New York State Board.

FEDERAL GOVERNMENT

Executive Branch

The President's Asst. for Liaison with Congress.

Dept. of Agriculture.

Dept. of Education, Law related Ed., Migrant Ed., Nat. Diffusion Net.

Judicial Branch

Office of the Chief Justice.

PROGRAM

8:30 am—Breakfast. Boris Feinman, Founder, Convention II, Welcome and Keynote.

8:50—Your Hosts. George Melton National Association of Student Councils and National Association of Secondary School Principals, G. Timothy Leighton, Convention II.

9:05—The Citizenship Education Movement, Barbara Presseisen, RBS-Research For Better Schools; Howard Mehlinger, Indiana University Center For Social Studies Development.

9:12—Gifts For The Constitution, Mary Ann Kirk, Center For Citizenship Education; Boris Feinman, Convention II.

9:20—Lighting The Birthday Candles. All; Members of Congress, assisted by Frank Moore, The President's Assistant For Liaison with Congress, and a group of Migrant Workers will lead. Remarks by Frank Moore.

9:40—Senator Randolph. At the Conclusion of Senator Randolph's remarks the meeting will be open to the Floor.

BORIS FEINMAN

(By Esther Van Wagoner Tufty)

WASHINGTON.—The United States seems to be fresh out of heroes and then along comes a man with an heroic objective.

Boris Feinman is such a man. His self-appointed task is not glamorous, or even new, and to interest people in "citizenship education" calls for continuing dedication, unlimited patience and no expectation of glory.

The need is apparent, says this New Rochelle, N.Y., businessman, who is a bipartisan political activist of a rare kind. Simply, he is encouraging everyone, especially young people, "to participate in the political process."

"When in 1978, two-thirds of the Americans eligible to vote shun the polls, democracy begins to die," said this 64-year-old engineer, saleman, World War II veteran and a part-time teacher of civics.

The timing for such an effort is called perfect. Approaching is the 200th birthday of the United States Constitution on Sept. 17, 1987.

On this Sept. 17th, he is the host of a big party to celebrate the 193rd birthday of the Constitution right on Capitol Hill. At the moment, Feinman is trying to arrange for a cake big enough to display 193 candles.

It all began with this hero's love of the U.S. Constitution.

A naturalized American citizen (born in Riga, Latvia, in 1916), his brown eyes light up when he speaks of the joy of living in the United States. He doesn't take freedom for granted for he can recall the horror stories told him by his parents under the Russian Czar. In his efforts to encourage Americans to participate in the political process he seems to be saying "thank you" for the U.S. Constitution "which made this a country by law."

To achieve his objective, Feinman begins with the young students contending "the road to the ballot starts at the school."

So he originated Convention II, "a model constitutional convention which convenes annually in the halls of the Congress to consider amendments to the Constitution which the young delegates propose in response to challenges confronting America."

The Congress is so impressed that the sessions are held in various committee rooms with the final meeting right on the floor of the House of Representatives . . . thus setting a precedent. Their decisions are reported to the White House.

At the last constitutional convention, the delegates proposed that an amendment be made to the Constitution to provide for the direct election of the President and Vice President. It was defeated.

Convention II isn't the only way this unsung hero uses to encourage more citizenship education.

He even thinks you can fight city hall. In New Rochelle, he set up a "City Hall School" . . . right in city hall! There young students learned in an experimental social studies course how citizens can make their local government respond to their needs. Feinman was the teacher. He is interested "in making a marriage between the political system and the educational system."

Other organizations are planning pre-birthday celebrations during the seven years leading up to the 200th birthday of the Constitution. Two of these are joining Convention II in the 193rd party Sept. 17th: the National Association of Secondary School Principals and the National Association of Student Councils.

The guests at this first-of-a-kind birthday party . . . some 200 . . . will be VIPs from the Congress (many of whom are already sponsors of Convention II), top educators, representatives of such organizations as the U.S. Chamber of Commerce, Common Cause, the League of Women Voters, the Camp Fire Girls and others, plus some young people in Convention II. One enthusiastic supporter, Senator Jennings Randolph (D-W.Va.) has personally invited President Carter to blow out a candle.

Who finances the first-of-a-kind party? Boris Feinman, the official host.●

THE TRIAL OF KIM DAE JUNG

o Mr. DOLE. Mr. President, the Government of South Korea has experienced numerous drastic changes since President Park Chung Hee was assassinated on October 26, 1979. Initially, acting President Choi Kyu Ha proposed a revision of the Constitution and took positive steps to remove controls over political and civil liberties which had existed in the Park Administration. Political Parties became active again and steps were taken to allow for a presidential election in the following year.

However, that election never took place. When Lt. Gen. Chun Doo Hwan, a strong follower of Park, became acting director of the Korean Central Intelligence Agency, student uprisings and violence escalated. The right wing in the military used the unrest as a cover to take complete control of the Government. Over 50,000 students rebelled in Seoul on May 14 and 15. The country was put under strict martial law. In protest, 200,000 South Korean citizens took control of the city of Kwangju. But, in the end the repression of the new military successors to Park became total.

Later, Mr. Kim Dae Jung, the chief opposition leader, who ran for parliament four times and even ran remarkably close to Park in the 1971 presidential elections, was arrested as the instigator of these riots and charged with sedition. Most of the charges appear to be based on his previous opposition to government policies.

SOUTH KOREA ON TRIAL IN THE WORLD'S EYES

The proceedings against Mr. Kim have begun, but the South Korean Government prohibited outside observers from attending. Foreign reporters covering the trial were forced to rely on pool reports from two colleagues who are allowed to attend. Mr. Bert Lockwood, who is the director of the Urban Morgan Institute for Human Rights, has been denied a visa to attend the trial as a nongovernmental observer for the International Commission of Jurists. The same is true for other organizations such as Amnesty International. It is becoming increasingly apparent that Mr. Kim is being denied vital judicial and human rights, making it impossible for him to receive a fair trial. His lawyers were supposedly arrested and tortured until they stated they would not represent Mr. Kim. Witnesses were tortured to make confessions and to testify. New attorneys were appointed for Kim by the Government.

Korea has tried to filter news of the trial to the rest of the world. Reports of the trial proceedings were censored to include only the charges and accusations against Kim and none of his responses or denials.

The right to a fair and open trial and to choose one's counsel are basic human rights that Mr. Kim has been denied. It represents a tragic setback to the progress of democracy in South Korea. It is an abomination against internationally understood concepts of justice and human rights. The South Korean Government should be made to understand that its actions in this case are severely damaging to its standing in the world community. Wide-ranging disapproval and outright condemnation have issued from all corners of the globe.

DEATH SENTENCE GIVEN

Today it was learned that a death sentence has been imposed on Mr. Kim, subject to further appeal. The appeals process will no doubt be as ersatz as the trial itself. Rumors in the diplomatic community are strong that at the last minute, President Chun will step in and mercifully commute the death sentence. This is a blatant attempt to increase the stature and legitimacy of his regime in the eyes of the world. It is also an attempt to win approval from his countrymen, since Mr. Kim is very popular among the people of Korea, and indeed in many areas of the Far East, he is recognized as a spokesman for democracy, freedom, and human rights.

Kim's trial and death sentence have been an exercise in intimidation for the Korean people. Perhaps a little personal revenge by the Korean authorities was part of it, too. The pressure brought by the western democracies to release Kim, however, has been a lesson of a different sort to President Chun and his corulers. The death sentence is inappropriate and premature, for Mr. Kim has yet to receive the due process of law to which he is entitled.

The United States should make it clear that we feel this farcial trial should be set aside by the South Korean authorities. For the good of their nation, Mr. Kim should be granted a new trial—an open trial with counsel of his own choosing and proper judicial proceedings. Whether Mr. Kim is guilty or innocent of the charges, it is his right to have a fair trial. South Korea owes it to itself. President Chun owes it to the Korean people.

Mr. President, I ask that an article by Mr. William Chapman recently published in the Washington Post, which describes the current conditions in South Korea be printed in the Record.

The article follows:

New Leaders in Seoul Exploit General Yearning for Stability

(By William Chapman)

Seoul.—Chin Soon Ja, a 35-year-old shopkeeper, is of two minds about the wave of purges, arrests and more subtle forms of repression that have swept into every corner of life since the South Korean military established itself in absolute power last May.

People are frightened by the arrests and what she describes as "invisible pressures" exerted by the government, she says. But uppermost in their minds, she thinks, is a desire for economic stability after nearly a year of turmoil and the advent of a severe recession. Her sales are down 40 percent from a year ago and have been declining for months. "Actually, ordinary people do not care much about politics," she adds. "What we want is a better living."

The belief that what Koreans want most is a dose of stability seems to be widespread. It is a theme on which the new government plays skillfully to justify its tactics. For many average South Koreans, it has a ring of truth and helps them to swallow the bitter political pills.

Their response calls to mind the haunting phrase Walter Lippmann once used to describe the acceptance of facist governments in depression-ridden Europe during the 1920s and 30s. The people accepted shackles on their wrists, Lippmann wrote, to keep their hands from shaking.

For thousands of citizens, of course, there has been no choice. Thousands have been designated "hooligans" and marched off to reeducation camps. Thousands of government officials, from top bureaucrats to lowly tax assessors, have been purged. Rich people are being forced to give up their fortunes and businesses required to fire or demote persons whose views are unacceptable.

Most respond with quiet resignation. One prominent professional man sat recently in a Seoul restaurant and described his fate. He had worked hard all his life, rising from a poor family to attain national prominence in his profession. He had been privately critical of the new government but by no means an enemy of the state.

His employers were forced to seek his resignation, he explained, but were able to soften his punishment by transferring him to a less important position. Throughout the dinner, he cast wary glances over his shoulder and fell silent when waiters hovered nearby. What would he do with his life now? "From now on, I shall keep a very low profile," he said.

The low profile is the solution of many. Dissidents who once sought out foreign journalists to advance their causes now do not return telephone calls. Those who do give interviews are swarmed over later by investigators who want to know what the reporters sought to find out.

Government surveillance and attempts at thought-control were facts of life under the rule of the late president, Park Chung Hee. What is different now, under Chun Doo Hwan, is the systematic character of the intrusions. Especially in its later years, the Park government exhibited a somewhat erratic and bumbling approach to keeping citizens in line, which many mocked. Nobody mocks the cold efficiency of the Chun era.

An example is the new application of one of Park's favorite exercises, the *saemaul*, or "new community" movement. *Saemaul* is a government rural retreat at which businessmen and government leaders are expected to undergo periodic spiritual renewal sessions heavily laced with propaganda. In Park's era, many prominent people scoffed at those sessions as boring and refused to attend.

No longer. The Ministry of Home Affairs has announced that precisely 32,504 social leaders will undergo the spiritual renewal lectures. No one doubts that they will go. The chilling thought is how the government decides that exactly 32,504 people need their spiritual life and devotion to country revitalized.

The purges, arrests, and other reprisals have extended into every segment of Korean society and have ranged far beyond the political enemies who once went in and out of Park's jails with a revolving door regularly. Several of Park's own cronies have fallen victim to Chun's purges and even one eccentric mystic thought to have influenced Park's daughter is under house arrest.

Even popular music has not escaped. Twenty-four top entertainers have been banned from television and radio, their careers in ruins, for what the newspapers described as "their indecent personal lives and debased singing." At the top of the list, ironically, was a pop singer, Sim Su Bong, who had been one of Park's favorites and in whose arms Park reportedly died after being shot by an assassin in a dining hall last October.

In none of these cases has the victim been permitted to defend himself in a public hearing. The determination of guilt is made solely by military investigators. People confess to "hooliganism" or to amassing illicit wealth to escape punishment worse than an education camp or a surrender of assets. A hearing process or public trial for all those singled out might take 20 years. The government has no time for that, one government official explained.

The government's justification for this widespread "purification" is its belief that under Park's waning rule a sense of corruption had come to pervade South Korean society, encouraged from the top by greedy businessmen and favor-selling bureaucrats. "Park had a soft spot for those around him," said one highly placed official, "and did nothing to punish them."

Another explanation is that Chun and his military cronies needed a popular program to justify their own accession to power. A government official agreed that in its early months the military junta was extremely unpopular. Weeding out the big wheeler-dealers and the small-time punks called "hooligans" has a certain appeal to the average Korean who puts in an honest day's work and who has never shared in the spoils of economic growth. To him, purification may be a fine idea.

"It's a good thing for a lot of people to see them clean up on the hoodlums and street gangsters," said Kim Young Gil, a 41-year-old taxi driver. "The question is how long the drive can go on before many of them come back to resume their business."●

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose only of considering the following nominations:

The nominations under National Council on the Handicapped, those under National Advisory Council on Women's Educational Programs, those under National Council on Educational Research, and the one under Federal Council on the Aging.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that those nominations, namely, those appearing under the National Council on the Handicapped, those appearing under National Advisory Council on Women's Educational Programs, those appearing under National Council on Educational Research, and the one appearing under Federal Council on the Aging be re-referred to the appropriate committees and reported back forthwith en bloc.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, I take this opportunity only to advise that the procedure that is now being followed by the majority leader in this respect has been the subject of rather extensive negotiations and consultation on this side and seems to be the best way to handle these nominations under the circumstances.

I wish only to advise the majority leader that it is a satisfactory arrangement to us and we have no objection to his request.

Mr. ROBERT C. BYRD. Mr. President, I thank the minority leader.

Mr. President, I ask unanimous consent that the Record show that the report back has been made.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominees be considered en bloc, confirmed en bloc, that the President be notified of the confirmation of the nominees, and that the motion to reconsider en bloc be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

National Council on the Handicapped

Nelba R. Chavez, of Arizona, Nanette Fabray MacDougall, of California, John P. Hourihan, of New Jersey, Edwin O. Opheim, of Minnesota, Elizabeth Monroe Boggs of New Jersey, Mary P. Chambers, of New Hampshire, Jack Genair Duncan, of South Carolina, Thomas Joe, of the District of Columbia, Donald E. Galvin, of Michigan, Judith E. Heumann, of California, Howard A. Rusk, of New York, J. David Webb, of Georgia, and Henry Williams, of New York, to be Members of the National Council on the Handicapped.

National Advisory Council on Women's Educational Programs

Maria Concepcion Bechily, of Illinois, Barbara M. Carey, of Florida, Virginia Foxx, of North Carolina, K. Jessie Kobayashi, of California, Jewel Limar Prestage, of Louisiana, and Rhine Lania McLin, of Ohio, to be Members of the National Advisory Council on Women's Educational Programs.

National Council on Educational Research

Maria B. Cerda, of Illinois, Joseph J. Davies, Jr., of Louisiana, Timothy S. Healy, of the District of Columbia, John S. Shipp, Jr., of Florida, and Maria B. Cerda, of Illinois, to be Members of the National Council on Educational Research.

Federal Council on the Aging

Jacob Clayman, of Maryland, to be Member of the Federal Council on the Aging.

FARM CREDIT ADMINISTRATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the nominees under Farm Credit Administration on page 7 of the calendar.

Mr. BAKER. Mr. President, reserving the right to object, and I will not, that item also was cleared on our calendar and we have no objection to the consideration of the nominees and their confirmation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination will be stated.

The legislative clerk read the nomination of Ralph Raikes, of Nebraska, to be a member of the Federal Farm Credit Board, Farm Credit Administration.

The PRESIDING OFFICER. The nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nominee was confirmed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will read the next nomination.

The legislative clerk read the nomination of William D. Wampler, of Virginia, to be a member of the Federal Farm Credit Board, Farm Credit Administration.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nominee was confirmed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be notified of the confirmation of the nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, Messrs. BAKER, YOUNG, BELLMON, and DOLE be recognized, as follows: Mr. BAKER, 5 minutes; Mr. BELLMON, 10 minutes; Mr. YOUNG, 5 minutes; Mr. DOLE, 10 minutes, and that they be followed by Messrs. HOLLINGS and CHILES, each for not to exceed 15 minutes, and that the Senators may appear not necessarily in the order listed but in whatever order suits their convenience.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 975 and Calendar Order No. 1040.

AUTHORIZING FEASIBILITY INVESTIGATIONS

The Senate proceeded to consider the bill (H.R. 5278) to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments, and for other purposes, which had been reported from the Committee on Energy and Natural Resources with amendments as follows:

On page 3, beginning with line 19, insert the following:

(14) To determine the cause and extent of the high groundwater levels which developed in and adjacent to the town of Moses Lake, Washington, following the initiation of irrigation of the lands in and adjacent to the town and determine by the studies authorized herein measures to resolve the problems caused by the high water levels in the area.

(15) The Cle Elum Dam and Tieton Dam powerplants, Yakima Project, Washington.

(16) The Owyhee Dam powerplant, Owyhee Project, Oregon.

(17) The Wickiup Dam powerplant, Deschutes Project, Oregon.

(18) The Tiber Dam powerplant, Lower Marias Unit, Marias Division, Pick-Sloan Missouri Basin Program, Montana.

(19) The New Siphon Drop powerplant, Yuma Project, Arizona-California.

(20) The Guernsey Dam powerplant enlargement, North Platte Project, Wyoming.

(21) Increasing the height of the Theodore Roosevelt Dam, Salt River Project, Arizona.

(22) The Sly Park Extension Unit, American River Division, Central Valley Project, California.

(23) The Prineville Dam powerplant. Crooked River Project, Oregon.

On page 6, beginning with line 3, strike all through and including line 18, and insert in lieu thereof the following:

SEC. 5. (a) Notwithstanding any other provision of law, the Secretary of the Interior is authorized to enter into new negotiated concession agreements with the present concessionaires at Lake Berryessa, California. Such agreements shall be for a term ending not later than May 26, 1989, and may be renewed at the request of the concessionaire with the consent of the Secretary of the Interior for no more than two consecutive terms of 10 years each. Concession agreements may be renegotiated preceding renewal. Such agreements must comply with the 1959 National Park Service Public Use Plan for Lake Berryessa, as amended, and with the Water and Power Resources Service Reservoir Area Management Plan: *Provided*, That the authority to enter into contracts or agreements to incur obligations or to make payments under this section shall be effective only to the extent and in such amounts as are provided in advance in appropriation Acts.

(b) Notwithstanding any other laws to the contrary, all permanent facilities placed by the concessionaires in the seven resorts at Lake Berryessa shall be considered the property of the respective current concessionaires. Further, any permanent additions or modifications to these facilities shall remain the property of said concessionaries: *Provided*, That at the option of the Secretary of the Interior, the United States may require that the permanent facilities mentioned herein not be removed from the concession areas, and instead, pay fair value for the permanent facilities or, if a new concessionaire assumes operation of the concession, require that new concessionaire to pay fair value for the permanent facilities to the existing concessionaire.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the committee amendments be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1601

Mr. ROBERT C. BYRD. Mr. President, I send to the desk amendments by Messrs. HART and ARMSTRONG with respect to the proposed Wayne N. Aspinall and Closed Basin units; an amendment by Mr. CRANSTON on water payments; an amendment by Mr. DECONCINI on solar-hydro study; and an amendment by Mr. CHURCH on moratorium, and ask that these amendments, in addition to those to be offered by Mr. BAKER on behalf of Senators on his side of the aisle, be considered and agreed to en bloc.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that statements by various Senators be printed in the RECORD at appropriate places in support of the amendments designated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the authorization for the Closed Basin Division, San Luis Valley Project, and to rename the Curecanti Unit, Colorado River Storage Project in honor of Wayne N. Aspinall)

Proposed by Mr. HART (for himself and Mr. ARMSTRONG):

At the appropriate place insert the following:

SEC. . The Reclamation Project Authorization Act of 1972 (Public Law 92-514, 86 Stat. 964) is amended—

(a) by inserting in section 101 of such Act, following "on this project", "as modified by the plans shown in the Definite Plan Report of the Water and Power Resources Service, dated November 1979";

(b) by inserting in section 102(b) of such Act, following "domestic wells in existence", "outside the project boundary"; and

(c) by striking in section 109 of such Act "$18.246,000 (April 1972 prices)" and inserting in lieu thereof "$57,139,000 (October 1979 prices)".

SEC. . The Curecanti Storage Unit of the Colorado River Storage Project constructed under the authority of the Act of April 11, 1956 (70 Stat. 106) is hereby designated and hereafter shall be known as the Wayne N. Aspinall Storage Unit of the Colorado River Storage Project. Any law, regulation, record, map, or other document of the United States referring to the Curecanti Storage Unit shall be held to refer to the Wayne N. Aspinall Storage Unit.

CLOSED BASIN AND TRIBUTE TO WAYNE ASPINALL

● Mr. HART. Mr. President, I offer this amendment on behalf of myself and Senator ARMSTRONG. The amendment includes two sections, each identical to a bill we have jointly sponsored. The first section, which is the same as S. 2584, changes the authorization of the Closed Basin water project to conform that authorization to the current project plans. The second section of the amendment, which is the same as S. 2324, renames the existing Curecanti unit of the Colorado River storage project in honor of former Congressman Wayne N. Aspinall.

The change in the authorization for the Closed Basin project will allow it to be constructed according to the most effective design.

The Closed Basin project is a division of the San Luis Valley project and is located in Saguache and Alamosa Counties in southwestern Colorado. The project is a noncontroversial, environmentally sound project to transfer water into the Rio Grande River from a nearby closed basin—where water collects underground, trapped above impermeable rock in a watershed with no outlet. The water in that closed basin is not now being put to any beneficial use, and cannot effectively be put to use within that basin.

The project includes a series of wells to pump water from the aquifer in the closed basin, with conveyance channels to transfer the salvage water to the Rio Grande. The project design does not include any dams.

The project is essential to enable Colorado to deliver to downstream States the full amount of water required by the interstate agreements governing the Rio Grande River. Under a 1968 agreement among Colorado, New Mexico, and Texas, Colorado is required to deliver a certain amount of water to the downstream States in each and every year. To meet this delivery obligation, Colorado has been forced to drastically curtail its previous diversions from the San Luis Valley. With the augmentation of the Rio Grande River by the Closed Basin project, Colorado will be able to use its historic water rights and fulfill its obligations to New Mexico and Texas.

Additional waters transferred by the project would be used to meet the needs of two national wildlife refuges, to eliminate any accumulated deficit in deliveries which Colorado may owe under the Rio Grande Compact, and finally for irrigation and other beneficial uses within Colorado.

The project is so obviously beneficial that Congress authorized its construction before a feasibility report was completed. The project is now in a construction phase, with appropriated construction funding.

The construction funding was initially requested by the Carter administration as one of the few new construction starts requested by this or any other recent administration.

Before beginning actual construction operations, the Water and Power Resources Service completed drilling test wells into the closed basins aquifer, and finalized other design features. Based on this work, it became clear that the most effective design for the project is different from the design assumed by Congress at the time of the project's authorization. The major design change is the enlargement of the land area in which wells need to be drilled to collect the underground water. This and the other changes will raise the project's eventual total cost to $57 million, approximately $17 million (in 1979 dollars) above the current authorization level.

Congress needs to amend the authorization before the WPRS can make an irrevocable commitment to the final design. To avoid delays in this year's construction activities, the WPRS, in an arrangement worked out with the Colorado delegation and the authorizing committees, has undertaken various construction activities but has avoided any steps involving a definite decision on the complete design of the project. Because the agency will soon be at the point of having to choose between the different designs, Congress needs to rapidly resolve the authorization question to prevent any delay in the construction work. Any construction delays, of course, would increase the final costs of the project.

The amendment Senator ARMSTRONG and I are proposing will resolve this problem by increasing the authorization ceiling to $57 million, and by clarifying that Congress intends for the project to be constructed according to the WPRS design.

The amendment also makes it clear that all existing water rights will be protected from harm by the project. The project authorization already includes a provision insuring that the diversion of water from the aquifer will not cause the water level from existing wells to drop more than 2 feet. Our amendment makes it clear that this protection applies to all wells throughout the basin, not just those within the actual boundaries of the project area.

The second section of our amendment renames the Curecanti Unit of the Colorado River storage project after former Congressman Wayne N. Aspinall. This is a most appropriate tribute to a monumental figure in our history of water resource development. People throughout America owe a major debt of gratitude to Congressman Aspinall for his assistance in helping all regions of the country meet their water needs. However; those of us from Colorado are particularly aware of his efforts on behalf of the people of our State.

Simply put, Congressman Aspinall has done more than any other person to help Colorado store and use its water. As chairman of the House Committee on Interior and Insular Affairs, Congressman Aspinall was largely responsible for the many Federal water projects which have made possible the life Coloradans know and enjoy. In particular, he was uniquely responsible for the authorization of the Colorado River storage project. This project implements the "law of the river"—the various treaties, interstate compacts, and congressional statutes governing the allocation of the water in the Colorado River among the several States in the river basin.

The Curecanti unit is the first project unit authorized by the Colorado River Storage Project Act, and the only project unit entirely in Colorado. As such, it is a fitting memorial to Congressman Aspinall. The existence of the unit is itself already a memorial to Congressman Aspinall. The legislation we are proposing merely gives that memorial the right name.

The legislation would rename the Curecanti unit as the Wayne N. Aspinall unit. The individual dams and reservoirs which comprise the unit would retain their existing names.

Since Senator ARMSTRONG and I first proposed this tribute to Congressman Aspinall on January 3, many people have agreed that this is a fitting tribute to Congressman Aspinall. Assistant to the President, Stuart Eisenstat, has written to me, indicating President Carter's support for this measure. Many Coloradans have also expressed their support. Included among these Coloradans are Governor Lamm and the members of the Colorado General Assembly, which has passed a resolution supporting this measure. I ask that Governor Lamm's letter and a copy of the general assembly resolution be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE OF COLORADO,
March 24, 1980.

Hon. GARY HART,
U.S. Senate,
Washington, D.C.

DEAR GARY: I was most pleased to learn that you have introduced legislation to rename the Curecanti Storage Unit in honor of Wayne Aspinall. I can think of no more fitting way to recognize the long years of service he has rendered on behalf of water resources development in Colorado.

Your bill certainly has my support.

Sincerely,

RICHARD D. LAMM,
Governor.

SENATE CHAMBER,
STATE OF COLORADO,
April 23, 1980.

Hon. GARY HART,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR HART: The Senate and House of Representatives of the Fifty-second General Assembly of the State of Colorado have adopted the enclosed Senate Joint Resolution No. 25 and directed that a copy be forwarded to you for your information.

Sincerely,

MARJORIE L. RUTENBECK,
Secretary of the Senate.

SENATE JOINT RESOLUTION NO. 25

Whereas, Wayne N. Aspinall has been a resident of the Grand Valley of western Colorado since early boyhood and for the great majority of his almost eighty-four years; and

Whereas, Wayne N. Aspinall unselfishly devoted forty-eight years of his life to elective office in the service of his fellow man; and

Whereas, Wayne N. Aspinall served as an outstanding legislator in both the House of Representatives and the Senate of the General Assembly of the state of Colorado for a period of sixteen years; and

Whereas, Wayne N. Aspinall was elected twelve times to the House of Representatives of the Congress of the United States, serving there for twenty-four years, during which time he was for twelve years chairman of the important House Committee on Interior and Insular Affairs which acted upon approximately one-fifth of the bills introduced into the Congress; and

Whereas, In 1956, while Wayne N. Aspinall was chairman of the Subcommittee on Irrigation and Reclamation of the House Committee on Interior and Insular Affairs, during which time there was bitter opposition to Colorado River water resource development projects, the Congress enacted the "Colorado River Storage Project Act", which at that time was the largest reclamation authorization act ever approved by the Congress, containing authorization to construct for large water conservation storage units (Curecanti, Flaming Gorge, Glen Canyon, and Navajo) and eleven participating irrigation projects in Colorado and her three sister states in the Upper Colorado River Basin, and containing authorization for priority of planning for twenty-five additional participating projects in the Upper Colorado River Basin; and

Whereas, In 1962, Wayne N. Aspinall was directly instrumental in securing the passage of legislation by the Congress authorizing the construction of the Fryingpan-Arkansas Project in Colorado and the San Juan Chama and Navajo Indian Irrigation Projects in Colorado and New Mexico; and

Whereas, In 1964, Wayne N. Aspinall successfully sponsored legislation in the Congress that authorized the construction of the Bostwick Park, Fruitland Mesa, and Savery-Pot Hook participating projects of the Colorado River Storage Project in western Colorado; and

Whereas, In 1968, Wayne N. Aspinall was a major force in maneuvering through the Congress the "Colorado River Basin Project Act" which then became the largest single reclamation project act in history, and which authorized construction of the Central Arizona Project and five additional participating irrigation projects of the Colorado River Storage Project in western Colorado; and

Whereas, Under the chairmanship of Wayne N. Aspinall, the House Committee on Interior and Insular Affairs reported to the United States House of Representatives numerous bills, including bills which, upon their enactment, created and expanded units of the national park system, established basic laws pertaining to environmental improvement and outdoor recreation opportunities, protected the water and related land resources of our nation, and added two new states, Alaska and Hawaii, to the United States of America; and

Whereas, Wayne N. Aspinall has dedicated the major portion of his life to service to the nation, the Upper Colorado River Basin, the state of Colorado and especially to western Colorado with the result that Colorado is a much better place to live than it otherwise would be without his diligent and tireless efforts which enhanced the conservation, orderly development, and wise utilization of Colorado's water, land, and mineral resources; and

Whereas, A bill has been introduced in the United States Congress to designate the Curecanti Storage Unit of the Colorado River Storage Project as the Wayne N. Aspinall Storage Unit of the Colorado River Storage Project; now, therefore,

Be it resolved by the Senate of the Fifty-second General Assembly of the State of Colorado, the House Representatives concurring herein:

That the General Assembly of the State of Colorado does hereby enthusiastically support and does hereby urge the Congress of the United States to promptly enact legislation to designate the Curecanti Storage Unit of the Colorado River Storage Project as the Wayne N. Aspinall Storage Unit of the Colorado River Storage Project.

Be it further resolved, That copies of this resolution be transmitted to the President of the United States, to the President of the Senate and the Minority Leader of the Senate of the Congress of the United States, to the Speaker of the House of Representatives and the Minority Leader of the House of Representatives of the Congress of the United States, to the chairman of the House Committee on Interior and Insular Affairs, to each member of the Congress of the United States from the State of Colorado, to the Governor of the State of Colorado, and to the President of Club 20, Grand Junction, Colorado.●

CLOSED BASIN AUTHORIZATION AMENDMENT

● Mr. ARMSTRONG. Mr. President, I join my colleague from Colorado and urge the adoption of the Hart-Armstrong Closed Basin authorization amendment. The adoption of this amendment will amend the authorization for the Closed Basin diversion unit of the San Juan project allowing the project to be built utilizing the most efficient construction design.

The Closed Basin unit is located in south-central Colorado, in the San Luis Valley. This valley possesses a highly developed agricultural economy which is dependent upon the availability of adequate irrigation water supplies. Previous investigations have established the water needs of the valley. These studies have established the need for optimum salvage of water now being consumed nonbeneficially in the valley to improve Colorado's status under the Rio Grande compact and to make additional water supplies available for irrigation use in the valley. The principal opportunity for the economical salvage of water in the valley lies in the reduction of water losses within the Closed Basin sump area where unconfined ground waters, surface runoff from tributary streams, and return irrigation flows are presently lost through evaporation.

The Closed Basin unit, when completed, will salvage and deliver to the Rio Grande River approximately 100,800 acre-feet of water that otherwise would be lost through evaporation. The first priority for the water made available by completion of the project is to assist Colorado in making its annual delivery of water to the Colorado-New Mexico State line per the requirements of the Rio Grande compact which will ease irrigation restrictions in the valley. Once this requirement is met, additional water will be furnished to establish wildlife refuges, wildlife and recreational enhancement and water for fish.

Congress approved construction funds for this project last year. However, since then the Water and Power Resources Service has discovered that several project modifications will greatly increase the effectiveness of the project. These modifications are a result of continued investigations by the WPRS to optimize the salvage of the groundwater and minimize environmental impacts. The new project design increases the Closed Basin unit's underground water collection system by approximately one-third and will increase the cost of the project from the current authorized level of $40 million to approximately $57 million.

The adoption of the Hart-Armstrong Closed Basin amendment will allow the WPRS to continue to develop the Closed Basin by utilizing the most efficient construction design. In addition, this amendment clarifies that not only existing water rights in the project area but all water rights in the Closed Basin area are protected from any possible unforeseen effects due to the project's completion.

Mr. President, as a result of demands on the Rio Grande River under the Rio Grande compact and the Mexican Treaty, the Colorado State water engineer has been forced on occasion to curtail water diversions in the San Luis Valley. This has resulted in severe hardship in an area which is already economically depressed. The resulting bitterness toward State officials and among neighbors in competition over the same water supply is a condition which can be greatly eased by the completion of this project. I urge that my colleagues agree to adopt the Hart-Armstrong Closed Basin authorization amendment and allow this project to be **completed in a timely manner.**

WAYNE N. ASPINALL UNIT

Mr. President, I urge my colleagues to adopt the amendment to H.R. 5278 which would rename the Curecanti unit of Colorado River storage project as the "Wayne N. Aspinall unit."

Wayne Aspinall unselfishly dedicated the major portion of his life to the service of the Nation and the residents of Colorado. He served 24 years in the House of Representatives enacting legislation which greatly enhances the quality of life in Colorado and throughout the Western United States.

Wayne Aspinall's name is synonymous with Western reclamation projects. In 1956, as chairman of the Subcommittee on Irrigation and Reclamation of the House Committee on Interior and Insular Affairs, he was responsible for the enactment of the "Colorado River Storage Project Act," which at that time was the largest reclamation authorization act approved by Congress. This was the first of many of the successful reclamation bills Wayne Aspinall guided through Congress.

As chairman of the House Interior and Insular Affairs Committee, he clearly demonstrated that he was indeed a man of vision. He understood that water was the key resource in determining whether the Western States would be able to contribute to America's prosperity and future. Today, as the Nation looks to the West for the development of our energy resources, Wayne Aspinall's water planning and accomplishments will enable our State to begin to develop these resources. To meet future demands, we must continue to follow Mr. Aspinall's tradition for water planning and development.

Mr. President, it is only fitting that Americans honor Wayne Aspinall's accomplishments by renaming the Curecanti unit of the Colorado River storage project as the "Wayne N. Aspinall storage unit."●

(Purpose: To expand the options available to the Secretary of the Interior in requiring advance payment for water delivered from Federal reclamation projects)

Proposed by Mr. CRANSTON:

At the end of the bill, add a new section:

SEC. . Section 1(5) of the Act of July 2, 1956, 70 Stat. 483, is hereby amended to read as follows: "(5) Provide for payment of rates under any contract entered into pursuant to said subsection (e) in advance of delivery of water on an annual, semiannual, bimonthly, or monthly basis as specified in the contract."

ADVANCE PAYMENT AT FEDERAL RECLAMATION PROJECTS

● Mr. CRANSTON. Mr. President, this amendment would amend existing law to expand the options available to the Secretary of the Interior in requiring advance payment for water delivered from Federal reclamation projects.

The 1956 statute requires that the payment for such water be made "in advance of delivery of water on an annual or semiannual basis." This requirement creates tremendous cash flow problems for water districts in some areas, particularly in California. I understand that it also complicates marketing problems for the Water and Power Resources Service of the Department of the Interior.

Recognizing this problem, the Water and Power Resources Service has, for the past several years, permitted bimonthly advance payments for districts within the service areas of the Federal Central Valley project in California. It has worked well from the standpoint of both the water districts and the Department of the Interior.

This amendment would reconcile the law with the current advance water payment practice in California by expanding the current options of annual and semiannual payment to include bimonthly or monthly payment. Both the Water and Power Resources Service and the affected California water districts have expressed a desire for this change in the 1956 statute.

Mr. President, I understand that the amendment is acceptable to the floor managers of the bill, and I ask that it be adopted.●

Proposed by Senators DECONCINI, CRANSTON, and HAYAKAWA.

At the end of the Bill add a new Section:

"Sec. . The Secretary of the Interior in coordination with the Secretary of Energy shall conduct a three year study of the feasibility of integrating a solar powerplant in Arizona, Nevada and California into the Federal hydroelectric system, including but not limited to consideration of the applicable solar technology, the operation of the Federal hydroelectric system and the integration of electric power generated by such a powerplant in the Federal system. The study shall specifically consider operations of Department of Energy Project 76-2-b, 10 MW Solar Thermal Power and related technology development. The Secretary shall complete the study by January 1, 1984 and submit a report to the President and the Congress."

FEASIBILITY GRADE STUDY RE: COLORADO RIVER BASIN

● Mr. DECONCINI. Mr. President, the amendment I have offered will authorize the Secretary of the Interior to conduct a feasibility grade study of the integration of solar and hydroelectric power in the Lower Colorado River Basin. The amendment is entirely germane to H.R. 5278 in that it simply adds one more study to the list included in the bill. The amendment is very similar to S. 2368 which I introduced on February 28 of this year.

The Department of Energy and the Water and Power Resources Service have jointly funded a preliminary assessment to determine to what extent solar-thermal electric plants could augment existing WPRS hydroelectric facilities. This approach is similar to the wind power investigation conducted jointly by the two agencies.

The initial findings are quite encouraging. It has been determined that the hydro facilities under consideration could support at least 750 MWe of solar electric facilities. The specific recommendation for further study involves the technical and economic viability of integrating a 100 MWe solar thermal powerplant into the Federal Southwest grid system.

The proposed 3-year study would focus on: site selection, power system integration, hydrology integration, solar powerplant performance, and solar powerplant economics.

The conceptualized powerplant is an advanced central receiver system. This type of system uses a central tower receiver surrounded by a field of heliostats. The heat created from the reflected solar energy is used to produce steam which is then used to drive a conventional steam turbine to generate electrical energy. The solar energy receiver as originally conceived would have a capacity of 140 MWe along with the conventional steam turbine generator to allow marketing of energy at 100 MWe. Annual production would be about 350,000 MWe of electricity.

Mr. President, during the preliminary study, the two agencies considered over 60 possible sites in three States. All of these sites were in the Southwestern climatic region of the United States where solar energy availability is the greatest on an annual mean daily basis. This area also includes the hydroelectric system of Hoover, Davis, and Parker Dams, which has the potential for energy storage needed to successfully use solar energy systems. The three most likely sites are Mormon Mesa, near Las Vegas, Nev., Yuma, Ariz., and East Mesa in California.

The performance of a solar powerplant is coupled with local meteorological events. Typically, there are only 700 hours of cloudy weather during the year at Yuma. Most of the cloudy periods correspond to the winter months when peak loads at Hoover Dam are minimal. During the test year of 1978, the downtime from cloudy days would not have exceeded 2 consecutive days.

Mr. President, there are three major considerations that must be the basis of any project involving the hydroelectric system: The requirements of the downstream water users cannot be modified; the operation of reservoirs cannot be modified to exceed legal or environmental specified limits; and the hydroelectric system must be able to provide the back-up required to firm the intermittent solar power generation.

The integration of a powerplant into a hydrosystem allows using the water control capability as a "battery." When excess solar power is generated, water is stored in the hydrosystem, and when cloudy days occur, the excess water is released to make up the deficiency. Integration of a 100-MWe solar powerplant into the hydroelectric grid would not change the water releases that are required to meet the needs of water users in downstream areas. The hydrologic impacts of integration would be increased fluctuations in the levels of Lake Mead and Lake Mohave. The fluctuations could require a maximum of 10 inches of additional drawdown in Lake Mohave which fluctuates about 15 feet annually. The operation of Hoover Dam would be modified to act as a "battery" to store water during brief periods when solar energy production is above 100 MWe and release water to produce hydroenergy during cloudy and below average solar generation periods. The effects of integration on present and future operations of power users and the benefits derived by producing power from the solar powerplant will be carefully evaluated.

The proposed plan of study indicates that outside agencies will be included on the study planning team to cover the environmental aspects of siting a solar powerplant. Also, close coordination will be maintained with utility companies and other interested parties within the area through public involvement programs. The WPRS has been informed, on an informal basis, that DOE/solar thermal will support any project by providing technical assistance from a lead laboratory and by training WPRS personnel as necessary to effectively determine and manage the design, construction, and operation of solar plants.

Mr. President, the Department of Energy solar thermal projects, which I support, are directed at commercialization through non-Federal users. The proposed integration of solar and hydro powerplants will not hinder that effort, and should, in fact, accelerate commercialization. The anticipated decrease in installment costs of future powerplants will result mainly from the mass production of heliostats.

Mr. President, the domestic production of energy has become the most important issue in the United States today—and it will be tomorrow, and it will still be in the years to come. The frightening cost projections, resulting from uncertain energy resources, demand an advance in large-scale solar applications. In the area of the United States that has the greatest potential for solar energy, the Lower Colorado area, over half of the power generated is fueled by gas and oil: An incredible 51.2 percent.

Mr. President, my only regret is that this study will take up to 3 years. I wish we had made a greater effort in the past, but our only choice is to go forward as expeditiously as possible.

I hope, Mr. President, that the committee's distinguished floor manager will accept this amendment. It has the support of the Department of the Interior and Department of Energy, and the response from the people of Arizona to this concept has been extremely positive and supportive.●

Proposed by Mr. Church.

At the end of the bill, add a new section, numbered appropriately, as follows:

Sec. . That the proviso contained in section 201 of the Colorado River Basin Project Act (43 U.S.C. 1511) is amended by striking out "the Secretary" and inserting in lieu thereof "any Federal official".

MORATORIUM ON FEASIBILITY STUDIES

● Mr. CHURCH. Mr. President, the amendment I am offering is identical to the text of a bill, S. 2237, which I introduced earlier this year. Since introducing the bill on January 30, Senators Jackson, Magnuson, Melcher, McClure, and Baucus have joined as cosponsors.

As my colleagues know, there is presently a statutory prohibition banning the Secretary of the Department of the Interior from undertaking studies of any plan for the importation of water into the Colorado Basin. The effect of the amendment that I offer today would be to broaden the scope of the present ban to include all Federal officials.

As you will recall, the original moratorium which was adopted by the Congress in 1968 was directed specifically at the Secretary of the Interior and provided for a 10-year period in which studies of interbasin transfers of water into the Colorado Basin were prohibited. In 1978, the Congress unanimously extended the moratorium for another decade—once again prohibiting studies by the Secretary of the Interior.

Recently, it has come to my attention that the Environmental Protection Agency, during the course of a study on Western water, has engaged in the study of potential transfers of water from the Columbia River Basin and its tributaries, to the Colorado River Basin. Earlier this year, a draft of this study, performed under EPA contract, was presented before a meeting of the Western States Water Council in San Antonio, Tex.

Clearly, it is now necessary to spell out for other Federal officials that the study of transferring water from the Pacific Northwest to other areas is banned. Adoption of this amendment and passage of the bill will put an end to Federal agencies attempting to do what current law clearly prohibits the Secretary of the Interior from undertaking.

Mr. President, periodically, proposals have been made to divert water from the Pacific Northwest to other areas. The fact of the matter is that water is extremely precious in the Pacific Northwest and all available supplies are claimed or committed to future use. Nevertheless, the threat of diversion hangs over the Pacific Northwest water user, and is a detriment to the orderly development of remaining resources. Adoption of this amendment will give us in the Pacific Northwest the assurance of a breathing space in which we can pursue the best use of our most valued resource.●

(Purpose: To amend Section 206 of the Reclamation Project Authorization Act of 1972)

Proposed by Mr. Domenici.

At the end of the bill, add a new section:

Sec. . Section 206 of Public Law 92–514 is amended to read as follows: "There is hereby authorized to be appropriated for construction of the Brantley project the sum of $172,728,000 (based on April 1979 prices), plus or minus such amounts, if any, as may be justified by reason of changes in the construction costs as indicated by engineering costs indexes applicable to the types of construction involved and, in addition thereto, sums as may be required for operation and maintenance of the project."

BRANTLEY DAM PROJECT

● Mr. DOMENICI. Mr. President, I am pleased that the committee is willing to accept my amendment to H.R. 5278 which would raise the authorization ceiling on the Brantley Dam project.

Brantley Dam was originally authorized in title II of Public Law 92–514, which was approved October 20, 1972. The dam is to solve the real need for flood control in the Carlsbad, N. Mex., area and the need for an additional supply of irrigation water. However, since authorization, plans for the dam have undergone a number of changes.

As a result of a dam safety analysis, it was necessary to relocate the dam alinement to find safe abutments and foundation. After four consultations, it seems that a safe site has been located. The design change has resulted in increased costs which require the dam's authorization ceiling to be raised. Total cost of construction is now estimated to be $172,728,000.

There is no doubt, Mr. President, that flood protection is absolutely necessary for the area downstream of the proposed dam; 25 percent of the city of Carlsbad is considered within a 100-year flood zone. This 25 percent constitutes a good majority of the downtown section of Carlsbad. Consequently, I am pleased that the committee has accepted this necessary amendment.●

Proposed by Mr. Armstrong (for himself, Mr. Wallop, Mr. DeConcini, Mr. Goldwater, Mr. Schmitt, Mr. Hatch, Mr. Garn, Mr. Cannon, Mr. Simpson, Mr. Hart, Mr. Hayakawa, and Mr. Laxalt).

At the end of the bill add a new section numbered accordingly:

Section . The Secretary of Interior is hereby authorized to engage in feasibility studies of the following salinity control proposals:

(1) Lower Gunnison Basin unit, located in Delta, Montrose, and Ouray Counties, Colorado.

(2) Glenwood-Dotsero Springs unit, located in Garfield and Eagle Counties, Colorado.

(3) Meeker Dome unit, located in Rio Blanco County, Colorado.

(4) McElmo Creek unit, located in Montezuma County, Colorado.

(5) Uinta Basin unit, located in Duschesne and Uintah Counties, Utah.

(6) Dirty Devil River unit, located in Sanpete, Sevier, Emery, and Wayne Counties, Utah.

(7) Price-San Rafael Rivers unit, located in Carbon, Emery, and Sanpete Counties, Utah.

(8) La Verkin Springs unit, located in Washington County, Utah.

(9) Lower Virgin River unit, located in Clark County, Nevada, and Mohave County, Arizona.

(10) Big Sandy River unit, located in Sweetwater County, Wyoming.

COLORADO RIVER BASIN SALINITY FEASIBILITY INVESTIGATIONS AMENDMENT

● Mr. ARMSTRONG. Mr. President, today, my colleagues and I are offering the Colorado River Basin salinity feasibility investigations amendment for adoption to H.R. 5278. The adoption of this legislation will insure that we continue to examine ways in which our water supplies can be developed so as to insure the future development and protection of the water in the Colorado River basin.

This amendment is identical to S. 3017 which was considered and favorably reported out of the Senate Energy Committee on September 10, 1980. It is essential that this legislation be acted upon this year if Congress is to continue its commitment to preserve the water quality of the Colorado River Basin. Due to the time constraints facing Congress, I believe it is important that this amendment be adopted to H.R. 5278.

The Colorado River Basin salinity feasibility investigations amendment allows the Water and Power Resources Service (WPRS) to conduct feasibility studies for several salinity control projects in Colorado, Arizona, Nevada, Utah, and Wyoming. The completion of these studies will help the seven Colorado River Basin States in meeting their commitments to reduce the salt concentration in the Colorado River Basin.

The proposed feasibility studies will enable the WPRS to evaluate the effectiveness of the proposed salinity projects. By examining the salinity concentration of irrigation flows and the seepage rates of irrigation canals and laterals, a project can be designed and evaluated that would reduce the salt loading from the irrigated areas. These proposed studies will also examine a combination of irrigation improvements, vegetation management, and watershed management for the most cost-effective project.

The significance of the Colorado River Basin to our Western States is unparalleled. This river epitomizes our region's dependence and concern over one of our most scarce resources—water. Comparisons of our Nation's rivers by volume shows that the Colorado River ranks only 25th. For example, it is smaller than the Wabash in Indiana. But by almost any other comparison—wildness of rivers, grandeur of setting, and life sustaining capacity—the Colorado is unequalled.

The Colorado River flows 1,450 miles through our Western States sustaining life along its path. Over 11 million people in our region depend upon the waters of this magnificant river for municipal, industrial, and agricultural purposes.

As the Colorado River travels through the Western States, the salinity level of the river increases. Increased salinity levels result both from natural sources such as salt domes or springs and through increased use of the water for irrigation and other uses. As a result of the contributions of nature and the continued development of the Colorado River, the salt content of the river has increased over the past several years.

For several reasons, salinity concentration is a major concern for the future development of the Colorado River Basin First, without salinity control, water users in the Colorado River Basin can expect increasing salinity accompanied by major economic detriments. These losses, which occur to irrigators through decreased crop yields and to municipal and industrial users through increased water treatment costs, are estimated to reach $124 to $160 million annually by the year 2000 if salinity control measures are not implemented. Second, as my colleagues are aware, the Nation is turning toward the West for the development of our vast energy resources. The development of these resources is dependent upon the quality and quantity of available water supplies in the Colorado River Basin. Finally, both the lower basin projects authorized under title I of the Salinity Control Act and the upper basin projects authorized under title II will contribute materially to international comity with Mexico by meeting our agreements with that country on Colorado River quality. For these reasons, I think it is important that we continue to search for ways to reduce the salt content of this vital river basin.

Mr. President, I believe there is no doubt as to the value of this program. I urge the adoption of the Colorado River Basin salinity feasibility investigations amendment to H.R. 5278.●

Proposed by Mr. McClure and Mr. Hatfield.

H.R. 5278 is amended by adding at the end thereof the following new section:

"Sec. 5. Nothing in this Act shall be interpreted to preclude or delay issuance of a license by the Federal Energy Regulatory Commission."

FEASIBILITY STUDY, POWER DEVELOPMENT

● Mr. HATFIELD. Mr. President, I support passage of H.R. 5278 to authorize feasibility studies of power development at several existing reclamation projects. In doing so, however, I recognize the possibility of non-Federal developments at several of these projects, including three in Oregon at the Wickiup, Owyhee and Prineville Reservoirs. I believe it entirely appropriate that a responsible non-Federal entity, particularly an irrigation district which runs a project, develop the power potential at a reclamation dam and save the Government the expense. The important thing is that the power be developed at the earliest possible time.

We in the Pacific Northwest are facing projected power supply deficits in the 1980's, and there is very little that can make a difference in this picture except conservation efforts and small generation projects which have relatively short leadtimes.

Therefore, I would not move to take the Oregon projects out of this bill on the hope that the non-Federal interests will actually make good on their intentions to develop the power, realizing, as I do, that this bill is just one of two acts of Congress which must be passed in order for a Federal feasibility study go ahead. The second act is, of course, an Appropriations Act, and I will not support the funding of any of the Oregon feasibility studies so long as responsible local interests are proceeding apace with their own studies which will lead to optimal power development at these projects. The region needs the power, as I have said, and it matters less to me who actually develops it.

Mr. President, with this clarification of my position on the pending matter, I am prepared to vote for its passage.●

The PRESIDING OFFICER. Without objection, the amendments (UP No. 1601) are considered and agreed to en bloc.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the bill passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMERICAN BUFFALO WEEK

The Senate proceeded to consider the resolution (S. Res. 482) to designate the third week of September of each year as "American Buffalo Week," which had been reported from the Committee on the Judiciary with an amendment on page 2, line 1, strike "third week of September of each year" and insert "week of September 14 through 20, 1980,".

The amendment was agreed to.

The resolution, as amended, was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas the buffalo provided a source of food and clothing vital to expansion into the western United States;

Whereas by providing such necessities the buffalo played an integral part in American history;

Whereas the American Buffalo Association and the National Buffalo Association have organized to save the buffalo from extinction as well as to preserve the history of the role of the buffalo;

Whereas these organizations are attempting to educate the American people regarding the significance of these peaceful yet magnificent animals; and

Whereas the consumption of buffalo meat is increasing and the buffalo is once again becoming an important food source:

Now, therefore, be it

Resolved, That the week of September 14 through 20, 1980, be designated as "American Buffalo Week" and urges Federal, State, and local government agencies, and urges the people of the United States, to observe such week with appropriate programs, ceremonies, and activities.

The title was amended so as to read:

A resolution to designate the week of September 14 through 20, 1980, as "American Buffalo Week".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL HELD AT DESK PENDING FURTHER DISPOSITION (H.R. 6538)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as H.R. 6538, New Mexico oil and gas leases, is received in the Senate Chamber, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR FILING REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Indian Affairs Committee have until 7 p.m. today to file a bill and a report.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS TO 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO REDUCE THE TIME OF THE TWO LEADERS TO 10 MINUTES ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders or their designees be reduced to 10 minutes, to be equally divided, on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, following the recognition of the two leaders or their designees under the standing order, and the recognition of Senators for whom orders have been previously entered tomorrow, the Senate will resume consideration of the Transportation appropriation bill, and at no later than 12 o'clock noon tomorrow, the Senate will resume consideration of the HUD appropriation bill.

There will be rollcall votes on tomorrow.

May I ask, have I correctly stated the orders pertaining to tomorrow?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

RECESS TO 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 9 o'clock tomorrow morning.

The motion was agreed to; and at 6:41 p.m., the Senate recessed until tomorrow, Thursday, September 18, 1980, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate September 17, 1980:

THE JUDICIARY

Myron H. Thompson, of Alabama, to be U.S. district judge for the middle district of Alabama, vice Frank M. Johnson, Jr., elevated.

Ralph W. Nimmons, Jr., of Florida, to be U.S. district judge for the middle district of Florida, vice a new position created by Public Law 95-486, approved October 20, 1978.

Israel Leo Glasser, of New York, to be U.S. district judge for the eastern district of New York, vice a new position created by Public Law 95-486, approved October 20, 1978.

Philip Weinberg, of New York, to be U.S. district judge for the eastern district of New York, vice Jacob Mishler, retired.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

The following-named persons to be associate judges of the Superior Court of the District of Columbia for terms of 15 years:

Dorothy Sellers, of the District of Columbia, vice Edmond T. Daly, deceased.

Richardo M. Urbina, of the District of Columbia, vice Normalie Holloway Johnson, elevated.

NATIONAL RAILROAD PASSENGER CORPORATION

The following-named persons to be Members of the Board of Directors of the National Railroad Passenger Corporation for the terms indicated:

William T. Cahill, of New Jersey, for a term expiring July 18, 1982, vice Robert G. Dunlop, resigned.

W. Howard Fort, of Ohio, for a term expiring July 18, 1984, vice Harry Edwards, resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 17, 1980:

NATIONAL COUNCIL ON THE HANDICAPPED

The following-named persons to be Members of the National Council on the Handicapped for the terms indicated:

For a term of 1 year:
Nelbe R. Chavez, of Arizona.
Nanette Fabray MacDougall, of California.
John P. Hourihan, of New Jersey.
Edwin O. Opheim, of Minnesota.

For a term of 2 years:
Elizabeth Monroe Boggs, of New Jersey.
Mary P. Chambers, of New Hampshire.
Jack Genair Duncan, of South Carolina.
Thomas Joe, of the District of Columbia.

For a term of 3 years:
Donald E. Galvin, of Michigan.
Judith E. Heumann, of California.
Howard A. Rusk, of New York.
J. David Webb, of Georgia.
Henry Williams, of New York.

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

The following-named persons to be Members of the National Advisory Council on Women's Educational Programs for the terms indicated:

For terms expiring May 8, 1982:
Maria Concepcion Bechily, of Illinois.
Barbara M. Carey, of Florida.
Virginia Foxx, of North Carolina.
K. Jessie Kobayashi, of California.
Jewel Limar Prestage, of Louisiana.

For a term expiring May 8, 1983:
Rhine Lana McLin, of Ohio.

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

The following-named persons to be Members of the National Council on Educational Research for the terms indicated:

For the remainder of the term expiring September 30, 1980:
María B. Cerda, of Illinois.

For terms expiring September 30, 1982:
Joseph J. Davies, Jr., of Louisiana.
Timothy S. Healy, of the District of Columbia.
John S. Shipp, Jr., of Florida.

For a term expiring September 30, 1983:
María B. Cerda, of Illinois.

FEDERAL COUNCIL ON THE AGING

Jacob Clayman, of Maryland, to be a Member of the Federal Council on the Aging for a term expiring December 19, 1982.

FARM CREDIT ADMINISTRATION

The following-named persons to be Members of the Federal Farm Credit Board, Farm Credit Administration, for terms expiring March 31, 1986:

Ralph Raikes, of Nebraska.
William D. Wampler, of Virginia.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

WITHDRAWAL

Executive nomination withdrawn from the Senate September 17, 1980:

Fred D. Gray, of Alabama, to be U.S. district judge for the middle district of Alabama, vice Frank M. Johnson, Jr., elevated, which was sent to the Senate on January 10, 1980.

HOUSE OF REPRESENTATIVES—*Wednesday, September 17, 1980*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious Lord, incline Your ear to our supplications and minister to us in the depths of our hearts. Sustain us in our daily concerns and forgive us our transgressions. As the day follows the night so fill our world with the brightness of Your radiance, that trusting in Your love, we may go forth to serve You and our neighbor. May we not despair with problems great or small, but continue in faithful dedication to those good values that never change. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

ELECTION OF HON. IKE SKELTON AS MEMBER OF COMMITTEE ON ARMED SERVICES

Mr. FOLEY. Mr. Speaker, as chairman of the Democratic Caucus and by the authority of the Democratic Caucus, I send to the desk a privileged resolution (H. Res. 786) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 786

Resolved, That the following-named Member be, and is hereby, elected to the following standing committee of the House of Representatives:

Committee on Armed Services: Ike Skelton of Missouri.

The resolution was agreed to.

A motion to reconsider was laid on the table.

DOUBLE STANDARD OF JUSTICE

(Mr. DONNELLY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DONNELLY. Mr. Speaker, I rise to call attention to a travesty of justice that must not pass unchallenged. In July, 17 Lithuanian Americans including the great patriot Simas Kudirka were arrested after a peaceful protest at the Soviet Embassy while voicing outrage at the recent Soviet invasion of Afghanistan and the occupation of their native Lithuania since 1940.

Later in July, 192 pro-Khomeini demonstrators were arrested after repeated clashes with District and U.S. Park Police which resulted in injuries to several police officers and bystanders.

Beyond the evident contrasts in these incidents the Justice Department has chosen to handle these cases with an unduly flexible and expedient definition of equal justice. The Iranian students were released under what amounts to blanket amnesty, yet amazingly the U.S. attorney's office intends to prosecute these American citizens to the fullest extent of the law.

Last week I introduced a resolution, cosponsored by Mr. SAWYER, of Michigan, expressing the discontent of the Congress with this double standard of justice. I urge my colleagues on both sides of the aisle to reaffirm our time-honored commitment to equal justice by lending support to this resolution.

NO TAX CUT

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, at a meeting of the Ways and Means Committee yesterday, I learned that there will be no consideration of a tax cut by the House before election, and I suspect therefore there will be no tax cut this year. Rank and file House Members can do nothing about it but complain to the majority members of the Ways and Means Committee. They have allowed their party's leadership, and the fuzzy-headed policymakers of the White House, to do their thinking for them, and plenty of badgering by the Ways and Means minority has not moved them. I feel some affection for my majority colleagues on Ways and Means, and regret their willingness to risk blame which should properly be placed elsewhere for the highest Federal tax burden in history. Please talk to them, and remind them of the proud traditions of independence which the committee has earned.

What will we in the House do when the Senate sends us its tax cut measure about 2 weeks from now? I, for one, shall feel like weeping for the American taxpayers, and the House of Representatives.

A CESSPOOL OF POLITICAL HYPERBOLE

(Mr. LOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, last month Andy Young was the author of a vindictive article in the Washington Post in which he tried to call up ghosts of the past and criticized Governor Reagan for even going to Philadelphia, Miss. And, of course, he did not like the mention of States' rights.

And now President Carter has taken up the invective. In a speech in Georgia yesterday he stooped to the worst kind of inflammatory language. He too slurred the term "States' rights" and the State of Mississippi. You would think a former Governor would know that States rights is a fundamental principle in American constitutional law.

Mr. Speaker, I resent this negative reference to Governor Reagan's trip to the Neshoba County Fair in Mississippi and regret that President Carter has fallen into such a cesspool of political hyperbole.

A LOWER TONE OF POLITICAL DEBATE

(Mr. HYDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, there are many unique advantages in being President of the United States, especially when one is running for reelection. Millions and millions of dollars have been dumped into areas where the President needed a boost, including my beloved Chicago. We have seen a resumption in activity in Mideast negotiations, the disclosure of a new secret radar-proof aircraft, and a fifth new economic plan.

There are disadvantages to being President in a campaign however. One of them is that the President of the United States should not say everything his instinct for the jugular dictates. The President is the President of all the people, 24 hours a day, 365 days a year, whether he is campaigning or not.

President Carter has obviously forgotten the demands of civil discourse his high office requires. Yesterday he demeaned his office by uttering inflammatory, even venemous innuendo.

He implied, as we all heard on the news, that Republicans are filled with hatred and racism. He said that "States rights" was some kind of code phrase which proved we are lowly creatures living in another age.

What he said was irresponsible, and a deliberate attempt at polarizing segments of our population. He has lowered the tone of political debate. I think he owes Ronald Reagan and all Americans an apology.

THE RUTTED ROAD OF CAMPAIGN INVECTIVE

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, as was pointed out by the Washington Post this morning, President Carter has steered his way along the road of invective that has already become well rutted in this young fall campaign.

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Mr. Speaker, of course, I am referring to those comments that have already been referred to wherein President Carter injected the question of racism, States' rights as racism and other things into this campaign.

As one who, in the month of August, was back in his district defending the sincerity and honesty of the President despite saying that he ought to be voted out of office, I must say that I am at a loss for words to try to explain or defend him any longer. It seems to me that the President is well on his way in a campaign where he plays issues such as racism like an accordion, where he folds back and forth on it wherever it might give him the highest note for his campaign. This is the type of thing we do not need in this campaign; this is the type of thing from which the President ought to refrain and for which he ought to apologize to the American people.

PRESIDENT DECIDED TO LEAK STEALTH

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BADHAM. Mr. Speaker, the former CNO, a Democrat, former Democratic candidate for the U.S. Senate, Adm. Elmo Zumwalt, testified before the Armed Services Investigations Subcommittee yesterday under oath about his statement: "there appears to be no doubt, based on my contacts with the White House staff and Pentagon officials, that the decision was made by the President to disclose the existence of this technology and that the method chosen was first 'leak' the existence and then be forced to confirm the leak."

☐ 1010

Mr. Speaker, the White House was quick to respond. They accused Admiral Zumwalt of lying. I think that this cover-up is reprehensible. If the White House really thinks that the admiral lied under oath, they ought to press charges, not press innuendo.

The former CNO was asked if he had heard rumors about a certain source of leak. He said only that he had heard the rumors.

I say again that Admiral Zumwalt has clearly said the leak started with the President; the technology was confirmed after the leak; the Soviets were given information they did not previously have; the White House has tried to "cover-up"; and they have been caught. This deplorable, desperate, disastrous situation can only be laid at the feet of Jimmy Carter.

LAMEDUCK SESSION WILL ACCOMPLISH LITTLE

(Mr. BETHUNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BETHUNE. Mr. Speaker, most of the good people in my district in Arkansas have the feeling that the budget is the most important piece of business that the Congress should do in each session. I think that I agree with that proposition.

Now here we are supposed to have finished our work on that important document on September 15. We violated the law. We are 2 days in default. One of the great mysteries around the Congress today is the question of what we are going to do about it. I have been trying to find out. I know Members have been trying to find out. Of course, that is in the hands of the Democrats, who have a two-thirds majority in this House, but one of the first things that has been mentioned is, well, we will have a lameduck session. Members who get defeated in this election will come back after the election and take care of some of the loose ends that need to be tied up.

But now it is rumored, if we do come back, we will only come back for a couple or 3 days and piddle around a little while and take care of a few odds and ends, then recess and let the next Congress take care of business without ever dealing with the most important piece of legislation, the budget.

I think it is not even fair now to call it a lameduck Congress. I think it is more in the nature of a dead-duck Congress.

LET US ENFORCE OUR IMMIGRATION LAWS

(Mr. ROYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROYER. Mr. Speaker, according to this morning's Washington Post, Attorney General Benjamin Civiletti has refused to grant the INS permission to resume immigration raids designed to locate illegal aliens. Initially the ban had been ordered to insure that the 1980 census count was accurate. While I disagreed with that judgment because it does not seem to me you maintain respect for the law by suspending its enforcement, the necessity for the ban no longer exists since the census count is over. Now the INS is clamoring for reinstatement of its right to conduct these raids. But the delay continues evidently due to political considerations—something not unheard of in this administration. I wonder does this administration ever do the right thing regardless of the "alleged" political consequences? The immigration laws exist, Mr. Attorney General, and your duty is to enforce them.

CALL OF THE HOUSE

Mr. BROOMFIELD. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 550]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bowen
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Burgener
Burlison
Burton, John
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Fish
Fithian
Flippo
Florio
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hance
Hanley
Hansen
Harkin
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Leland
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Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McDade
McDonald
McEwen
McHugh
McKay
Madigan
Maguire
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mavroules
Mazzoli
Mica
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
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Regula
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Richmond
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Rosenthal
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Satterfield
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Schroeder
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Sharp
Shelby
Shumway
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
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St Germain
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Stewart
Stockman
Stratton
Studds
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Symms
Synar
Tauke
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Taylor
Thomas
Thompson
Traxler
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Van Deerlin
Vanik
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Walgren
Walker
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Watkins
Waxman
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White
Whitehurst
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

□ 1030

The SPEAKER pro tempore (Mr. Rostenkowski). On this rollcall, 349 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 3210. An act to terminate the authority to make grants to the Las Vegas Valley Water District under the act of August 27, 1954.

The message also announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 670. An act to require the Secretary of Agriculture to establish and maintain a rural development policy management process, and for other purposes; and

S. 2223. An act to permit any Indian to transfer by will restricted lands of such Indian to his or her heirs or lineal descendants, and other Indian persons.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 1197) entitled "An act to simplify the tonnage measurement of certain vessels," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Cannon, Mr. Long, Mr. Exon, Mr. Heflin, Mr. Jackson, Mr. Johnston, Mr. Ford, Mr. Bumpers, Mr. Melcher, Mr. Metzenbaum, Mr. Schmitt, Mr. Warner, Mrs. Kassebaum, Mr. Hatfield, Mr. McClure, Mr. Domenici, and Mr. Stevens to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res 108. Concurrent resolution to disapprove the determination of the President not to provide import relief for the leather wearing apparel industry.

ITALIAN-AMERICAN HERITAGE WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 568) to authorize and request the President to issue a proclamation designating October 19, 1980, as "Italian-American Heritage Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. WOLFF. Mr. Speaker, reserving the right to object, and I shall not object, I just take this time to thank the gentleman from New York (Mr. Garcia), chairman of the subcommittee, for his expeditious handling of this bill and to thank the 224 other Member cosponsors of this resolution.

Mr. Speaker, I rise in support of House Joint Resolution 568, which would designate the week of October 12–19 as "Italian-American Heritage Week." I feel that this is a most significant piece of legislation, as it would bestow recognition upon one of America's most energetic and creative ethnic communities.

The contributions of the Italian-American community to our American way of life are too numerous to mention here. As Americans, we owe an immeasurable debt to the man who discovered the New World, Christopher Columbus, as well as to the man who lent it his name, Amerigo Vespucci. It is with a deep and abiding sense of respect that I mention the names of those two courageous individuals, who risked life and fortune in what was to become the great American tradition of exploring the unknown. It was a similar thirst for freedom which brought waves of Italian immigrants to our shores in the late 19th century. It was a similar drive toward achievement which motivated the likes of Fiorello LaGuardia, Frank Sinatra, and Enrico Fermi to not only excell but to reach the very zenith of their chosen professions.

As a New Yorker, I am quite familiar with the unique Italian cultural heritage which is expressed by Italian Americans in a variety of ways, whether be culinary, artistic, or literary. America would not be the same without its heavy doses of pasta, great expanses of frescos, and huge helpings of Italian song and wit. Our Italian-American ethnic neighborhoods contain a delightful collage of small merchants and businessmen who do credit to our free enterprise system with their lively and vivacious market acumen. We owe a great debt to those who have served and continue to serve in this very Chamber as model legislators and innovative lawmakers. Even the magnificent aesthetics of this building are mainly the result of the intense creativity of 20 Italian artists, who in some cases defied death itself while attempting to complete their most difficult task.

I could continue for hours, yet logistics prohibit me from doing so. I wish to commend the over 220 cosponsors of this resolution, who undoubtedly feel as strong an affection as I do for this great American ethnic community. I also wish to commend the Order of the Sons of Italy in America, the largest organization in the country representing Italian Americans. The order is celebrating its 75th anniversary this year, and I would like to thank them on behalf of the Members of this body for their fine work on behalf of the Italian-American community. It is my hope that the implementation this year of Italian-American Heritage Week will prompt greater awareness across the Nation of the outstanding contributions of this rich ethnic culture.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Speaker, I rise in support of the legislation and take this opportunity to thank the gentleman from New York (Mr. Garcia) and commend the gentleman for his expeditious production of this legislation. I also would like to thank the other gentleman from New York (Mr. Wolff) for his authorship of this legislation.

Mr. Speaker, as an American of Italian descent and a cosponsor of House Joint Resolution 568, I rise in enthusiastic support of this resolution. I commend my colleague from New York (Mr. Wolff) for his sponsorship of this important measure. The Italian-American heritage is a rich one and worthy of the special attention that this resolution provides.

The justification for such a proposal is clear. We live in a nation discovered by an Italian and named for an Italian. From Christopher Columbus and Philip Mazzei to Peter Rodino and Judge John Sirica, Italo-Americans have contributed as much as any other ethnic group to the growth of our great Nation.

Currently, there are some 30 million Italian Americans in the United States and over 30 Members of Congress. At a time when all ethnic Americans are becoming increasingly aware of their backgrounds, it is essential that the Italian-American community be given this well-deserved and long-overdue opportunity to make itself more visible and take pride in their heritage.

In recent weeks, two outstanding Italian Americans have gained national recognition. The first was passage of a resolution by Congress designating September 18, 1980, as Constantino Brumidi Day. The second took place this past Friday when President Carter presented the Congressional Medal of Honor, the Nation's highest award to Anthony Casamento for outstanding bravery in World War II.

In addition, a commemorative airmail stamp honoring Italian-American patriot Philip Mazzei will be issued later this year.

Let us use the occasion of Italian-American Heritage Week to rededicate ourselves to the removal of all remaining forms of discrimination which exist against Italian Americans. Discrimination can and does take many forms. It can be as blunt as a denial of admission into a university or as subtle as an advertisement on television. Italian Americans are still victimized by unfortunate and unwarranted stigmas and stereotypes. Italian-American Heritage Week and its commitment to presenting the positive elements of the Italian-American experience may go a long way to removing these barriers. I urge adoption of this resolution.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman.

Mr. GILMAN. Mr. Speaker, I rise in support of the resolution sponsored by the gentleman from New York (Mr. Wolff) and want to commend him and the distinguished Subcommittee chairman from New York (Mr. Garcia) for bringing this measure (H.J. Res. 568) before us today, designating October 12–19 as "Italian-American Heritage Week".

Italian-Americans have made numerous significant contributions over the years to the development of the United

States. Accordingly, it is fitting that we pause to pay tribute to our Nation's Italian-American community in which we observe the birthday of Christopher Columbus, the first Westerner to venture out to our continent.

Earlier this month, the House honored Constantino Brumidi, the artist whose creativity and monumental work we observe every day as we walk about our Capitol Building. At that time, I suggested that the House should expand its tribute to include all Italian-Americans. I am pleased that we now have that opportunity in adopting this resolution today and in providing our Nation with the opportunity to acknowledge the rich heritage of our Italian-Americans and their contributions to our Nation's history.

Mr. CARNEY. Mr. Speaker, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from New York.

Mr. CARNEY. Mr. Speaker, on June 17, 1980, I had the honor to speak in support of a bill I sponsored designating June 22 as "National Italian-American Day." I applaud the author of this bill, the gentleman from New York (Mr. WOLFF). As I said at that time, I believe that it is fitting that a nation discovered by an Italian, named for an Italian, and which has grown and prospered through the efforts of its citizens which have included over 5 million Italian immigrants should, in turn, honor those citizens and their descendants.

Our country's history is replete with the names of outstanding Italian-Americans who worked and fought to make ours the greatest nation in the world, including, to name a few examples: Philip Mazzei, Thomas Jefferson's neighbor, confidant, and friend whom Jefferson credited with originating the concept that "All men are created equal," which became the cornerstone of our democratic government; Luigi Palma Di Cesnola, the founder of the Metropolitan Museum of Art in New York; who, as a Union general in the Civil War, was the first of many Italian-Americans to be awarded the Congressional Medal of Honor; Constantino Brumidi, called the Michelangelo of the U.S. Capitol; Enrico Fermi, the father of nuclear science; and Mother Cabrini, the first American to be proclaimed a saint by the Roman Catholic Church. It is impossible to find a field, be it in the arts, science, business, labor, or politics where Italian immigrants and their descendants, have not excelled.

I am proud to cosponsor this resolution.

Mr. WOLFF. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. RITTER. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I rise in support of House Joint Resolution 568, designating October 12–19, 1980, as "Italian-American Heritage Week." During a week in which we commemorate the discovery of America by Italian explorer Christopher Columbus, the American people should recognize the great contributions many Italian Americans have made to our Nation.

In the Lehigh Valley, the Italian-American community has fostered a rich heritage of Old World customs, family tradition, and ethnic pride. Many community organizations deserve our thanks and tribute: the Knights of Columbus, the Sons of Italy, the Sons of Italy Ladies' Lodge, the Holy Cross Society and its ladies auxiliary, the Castel di Lucio Society and its ladies auxiliary and the Circle of San Placido. These local organizations, which include many first-generation Italians, preserve the pageantry and ritual of religious and village traditions as well as the "buona festa" spirit of the Italian people for all of us in the Lehigh Valley to appreciate and enjoy.

Let us call upon all Americans to honor the Italian-American contribution to our national heritage with "Italian-American Heritage Week."

Mrs. HECKLER. Mr. Speaker, will the gentleman yield?

Mr. RITTER. I yield to the gentlewoman.

Mrs. HECKLER. Mr. Speaker, I rise in support of this resolution which I think has great significance for the country.

Mr. Speaker, it is a pleasure to join with my colleagues today as the House unanimously proclaims October 12 through October 19, 1980 as "Italian-American Heritage Week."

Italo-Americans have every reason to be proud of their heritage and the fundamental role they have played in the historical development of our country. Long before 1492 when the Italian navigator, Christopher Columbus, discovered America, Italy was contributing to a nation yet to be born—a nation that would give birth to the democratic ideals developed in ancient Rome.

More than 5 million Italian immigrants have arrived on our shores and have shared with us their heritage, not only in my home State of Masachusetts, but in every State of the Union. They have enriched our lives by adding the Italian flavor to the blend in the American melting pot. Today the U.S. population includes more than 25 million Italian Americans who will continue on every level of society to contribute significantly to the culture and education, to the strength and structure, which underpin the basic greatness of our country.

Through the Sons of Italy and other Italo-American organizations, this rich Italian heritage has been shared for more than three quarters of a century throughout the United States.

Columbus Day celebrations across the country give non-Italian Americans the opportunity to salute this special heritage. As this Columbus Day approaches, it is entirely appropriate that an official act of recognition by the U.S. Congress be made of the Italo-Americans' contribution to the greatness of America.

● Mr. RODINO. Mr. Speaker, I want to add my strong support for House Joint Resolution 568 and urge its adoption by the House. The many contributions of Italian-Americans of Italian descent have helped to build America into the great country that it is today, and Italian-Americans play an important part in America's future.

As the author of the legislation making Columbus Day, October 12, a national holiday, I strongly believe that a week dedicated to celebrating Italian heritage in America is long overdue.

I believe that such a week of recognition will help strengthen the bonds that hold together all ethnic groups of America because it will honor the values that we hold so dear—family, community, and service to our country. The Italian immigrants who came to our country endured countless hardships and sacrifice so that their children could partake in the American dream. The rich heritage of Italian culture can never be forgotten by our children and our children's children because it has been woven into the fabric of American folk life.

Mr. Speaker, I think it is important that during the week of October 12 through 19 all Americans of Italian origin come together, not only to proudly proclaim our heritage but to ask ourselves some questions as individuals and as a community of people sharing common aims. How can we better serve this America we love so dearly? How can we help make tomorrow better for ourselves and our children? How can we help not only ourselves but others achieve the American dream?

Mr. Speaker, I believe that Italian-American Heritage Week will enhance appreciation for Italian culture in our Nation and help promote understanding and compassion among all Americans. I urge its prompt passage.●

● Mr. ADDABBO. Mr. Speaker, I rise in support of the resolution (H.J. Res. 568) authorizing the President to issue a proclamation designating October 12 through October 19, 1980, as "Italian-American Heritage Week." I urge my colleagues to vote in favor of this measure which appropriately honors and recognizes the countless Italian-Americans who have made vital contributions to this great country of ours. I commend its sponsor Mr. WOLFF and Mr. GARCIA for his expeditious action.

Italian-Americans, as have other nationalities, have played important roles in the growth and advancement of our Nation since its inception. Appropriately enough, the second Monday of October is also the day in which all Americans celebrate the formal discovery of America by the famous Italian geographer-navigator-explorer, Christopher Columbus. It is a day in which all people are reminded just how far back in American history Italians have been making their mark. For almost 500 years Italian-Americans have carved a special niche for themselves in countless fields, among them, music, art, communication, government, law, sport, and science. In literally every city in America the hard working, dedicated, and patriotic spirit of these people is as strong as ever.

Italian-Americans have brought to this country a lifestyle rich in culture and tradition that they have enjoyed sharing with all Americans. Their sharing has added so much to communities from coast to coast. We invite all our colleagues to join in our wonderful Columbus Day parade sponsored by the Columbus Day Citizens Committee a great charitable organization.

Again, I urge my colleagues to support this resolution so we all can say thanks to all Italian-Americans. Without them, and the rest of the numerous ethnic groups that exist in this country, this Nation would be a far bleaker place to live in.●

● Mr. DOWNEY. Mr. Speaker, as a cosponsor of House Joint Resolution 568, I welcome the opportunity to speak to my colleagues in support of this resolution to authorize and request the President to issue and proclaim October 12–19 as "Italian-American Heritage Week."

I believe that such a designated week would be an important occasion for all of us to honor the role Italian-Americans have played in the development of our Nation. Being of half Italian ancestry myself, I understand the importance of designating such a week to honor the many contributions of Americans of Italian descent to our society.

Italian heritage is in many ways the heritage of all Americans. Many of the first explorers and settlers of the American continent were Italians. Italian-Americans have fought side by side with people of other ethnic origins to establish and preserve this Nation in times of war and peace.

Though the Italian immigrant had to overcome differences in languages and customs, many of these same differences have remained to add significantly to the diversity and dynamism of American society. They have continued through many generations of Italian-Americans to add greatly in the areas of music, art, political, economic and cultural leadership, athletics, and many other areas of our national life.

Therefore I believe we should set aside 1 week to honor Italian-Americans and commemorate the many contributions they have made to our country.●

● Mr. ANNUNZIO. Mr. Speaker, I was glad to join my colleagues in cosponsoring House Joint Resolution 568, which was introduced by my good friend from New York, the Honorable LESTER L. WOLFF, to authorize and request the President to issue a proclamation designating October 12 through October 19, 1980, as "Italian-American Heritage Week," and I am delighted today to join my colleagues in the House in paying tribute to the great contributions that Italo-Americans have made, not only to the discovery of America, but since the discovery of America, to the development of the United States.

Each year in my own city of Chicago, the Joint Civic Committee of Italian Americans sponsors a gigantic Columbus Day parade to celebrate the courage, foresight, and intrepid fortitude of a man who dared follow his ideals. Only two men in U.S. history have been honored by designation of a public Federal holiday—the first was George Washington, Father of our Country; and the second was Christopher Columbus, father of all immigrants.

America is a nation of immigrants, and Italy has provided us with many of our citizenry. From William Paca, who was a signer of the Declaration of Independence, to the present, Italian Americans have made enormous and lasting contributions to the strength and greatness of the United States. Philip Mazzei, who assisted our Nation's Founding Fathers in the Revolutionary War, was born in Italy and is being honored this year in a new commemorative postage stamp.

Although everyone knows that Cristoforo Columbo discovered America and almost everyone knows that America was named after Italian Amerigo Vespucci, not everyone is aware that Giovanni Cabota—John Cabot—first explored its mainland; that Giovanni da Verrazzano discovered New York Bay; and that Alessandro Malaspina was the first white man to explore Alaska, Vancouver, and the coast of California. It was Henry Tonti who explored the land of the Mississippi River, built Fort Niagara, and started the first settlement in Arkansas; Paolo Busti, through whose skillful planning as manager of the Holland Land Co. that 5 million acres of land evolved into American towns and cities and who chose the location where Buffalo, N.Y., was to be built; and Francesco Vigo, a prominent Italian fur trader in the West, who assisted the victory of Gen. George Rogers Clark at Fort Vincennes in 1779 which preserved American sovereignty over an area that later became the States of Illinois, Ohio, Indiana, Wisconsin, and Michigan.

Italians fought heroically in all of America's wars for freedom including Richard Tagliaferro, a colonel killed at the battle of Guilford Hall during the American Revolution, and Salvatore Catalano, a naval hero who recaptured the *Philadelphia* from pirates. Anthony Casamento recently joined John Basilone and a number of other courageous Italian Americans who have won our Nation's highest military award for bravery, the Congressional Medal of Honor.

In all walks of our country's life, Americans of Italian heritage have made innumerable and lasting contributions. In all types of music from classic to modern, Italian names are well known, such as Arturo Toscanni, and Ezio Pinza, and Luciano Pavarotti in opera; and in popular music there is Frank Sinatra, Tony Bennett, Perry Como, and many others too numerous to mention. The names Henry Fonda and Jimmy Durante come to mind among many in show business; and Rocky Marciano, Vince Lombardi, Yogi Berra, Joe DiMaggio, and so many others have excelled in sports.

Constantino Brumidi, who died 100 years ago this year, was the major artist who decorated our Nation's Capitol Building, and Mario E. Campioli, who retired this year as Assistant Architect of the Capitol, was the director of architecture in the restoration of colonial Williamsburg, Va., from 1949 to 1957.

In politics, the first Italian to hold public office in America was Onorio Razzolini, who was born in Venice but settled in Annapolis, Md., where in 1736 he was appointed Armourer and Keeper of the Stores of Maryland. Many other Italian names appear in the political history of our country, and of course, perhaps the most famous of all is Fiorello LaGuardia, who was mayor of New York City longer than any other individual and who was elected after serving 14 years as a Congressman.

In science, we have Dr. Enrico Fermi, the father of nuclear energy, Dr. Anthony R. Curreri, the first president of the Uniformed Services University of the Health Sciences, and Dr. Vincent T. DeVita, Jr., the Director of the Division of Cancer Treatment of the National Cancer Institute.

The designation of "Italian-American Heritage Week" is a tribute to the role of Italian immigrants in making our country strong and free, and Americans of Italian descent continue to carry forward the new-world tradition of determination, hard work, and courage begun by Christopher Columbus. I urge the support of my colleagues for this resolution.●

● Mr. VENTO. Mr. Speaker, I rise in support of House Joint Resolution 568, a fitting tribute to the many contributions Italian Americans have made in the history of our country.

On October 12, we commemorate Christopher Columbus Day, the first of many Italians whose hard work and determination have enriched our country's heritage.

My own resolution (H.J. Res. 385) seeks to commemorate the 500th anniversary in 1992 of Columbus' voyage, but beyond that, this House Joint Resolution 568 would serve as a commemoration of all Italian Americans and their ancestors. It is only proper that we authorize the designation of October 12–19 as "Italian-American Heritage Week."

I thank the resolution's sponsor, Mr. WOLFF, and my many fellow cosponsors for their recognition of the proud role Italian Americans have played in our country's development and whose contributions to our Nation's history are a source of pride in our American heritage.●

● Ms. FERRARO. Mr. Speaker, I rise in support of House Joint Resolution 568, to urge the President to designate the week of October 12–19 as Italian American Heritage Week.

I am pleased to join my colleagues in recognizing the role that Americans of Italian descent have played in the development of this Nation. Italian immigrants have come and continue to come to America to seek better lives for themselves and their children. They bring with them the history of a rich culture that has, through the ages, been woven into the tapestry of civilization. We have only to walk through the halls of the Capitol and see the works of Brumidi to see that ours is a vivid, imaginative culture. We need only to look back through our history books to see the contributions of hard work and dedication that Italians and Italian Americans have given this Nation. Columbus holds a special significance for us. Many of Fillipo Mazzei's writings, translated into English by Thomas Jefferson, have enriched American democracy. There are countless others who have given much and others who will continue to give.

Our heritage is one of which we are proud, one whose values we can carry with us now and into the future. As we become increasingly aware of the necessity and the value of retaining our traditions, we can put them to work. Today, Italian Americans continue to be hardworking individuals, seeking changes that will not only benefit ourselves and our country, but also seeking changes that will make the world a better place for all of us. An Italian American, Judge John Sirica, judicially paved the way for Americans to hear the full story of Watergate. Italian Americans like Attorney General Benjamin Civiletti, Gov. Ella Grasso, and members of the Italian American delegation in Congress are meeting the challenges that we, as a Nation, face. The President's Special Assistant on Ethnic Affairs, Dr. Steven Aiello, is an Italian American. The list is endless. We are using the traditions that our parents and grandparents held so dear to strengthen the fabric of society.

On September 12, the President honored Anthony Casamento with the Congressional Medal of Honor. He is one example of many Italian Americans whose actions reflect a deep and abiding commitment to America. We are proud of him, proud that an Italian American has been so honored. But we are equally proud of the traditions and values that have been handed down from generation to generation. And more than that, we seek to integrate them into the American way of life and to share them with all Americans of all backgrounds.●

Mr. RITTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 568

Whereas the Congress fully recognizes that it is essential for the people of the United States of America to understand and respect the rich heritage of all American ethnic groups if we are to maintain and foster the national unity and

Whereas the many great contributions of Italian-Americans to our country must be recognized and the deep Western roots of Italian-American culture, history, and traditions must be appreciated; and

Whereas the long recognized American holiday of Columbus Day is celebrated on the second Monday of October to commemorate the discovery of America by the famous Italian geographer-navigator-explorer, and this day is of special significance to the Italian-American community as a symbol of their essential contributions to American society as courageous immigrants, hardworking citizens, and true American achievers: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating October 12 through October 19, 1980, as "Italian-American Heritage Week" and calling upon the people of the United States, State, and local government agencies, and interested organizations to observe that week with appropriate ceremonies, activities, and programs.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL AGRICULTURE DAY

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 560), to proclaim March 19, 1981, as "National Agriculture Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. JONES of Tennessee. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I am pleased that the House is acting today to adopt legislation which will proclaim March 19, 1981, as National Agriculture Day.

I am pleased, also, that this recognition of the importance of American agriculture to all of our people has such broad and nonpartisan support in the House. Since House Joint Resolution 560, establishing National Agriculture Day, was introduced last June, more than 230 Members of the House in both parties have joined me and Mr. WAMPLER, of Virginia, ranking minority members of the House Committee on Agriculture, as sponsors.

The resolution will authorize and request the President to issue a proclamation calling on all Americans to observe next March 19 with ceremonies and activities emphasizing the interdependence of rural and urban people.

Most Americans think of themselves as living in an urban society. But American agriculture, which includes both our farmers and all others who work with them to produce, process and distribute food and fiber, is the Nation's largest and most productive industry. This means that no matter where we live, we cannot escape from the fact that a healthy farm economy, working in partnership with an efficient agribusiness sector, is the cornerstone on which the national economy rests.

All Americans, therefore, will be well served if they are given a clear understanding of the role that agriculture plays in their lives and the many direct and indirect ways it affects their well-being. One of the effective ways of promoting this understanding in recent years has been the annual observance of Agriculture Day. Enactment into law of the resolution we are passing in the House today will—without involving any cost to taxpayers—bring the added support of formal Government recognition to the work farmers and their allies have already begun toward making the 1981 Agriculture Day a truly effective observance.

In past years, Agriculture Day has been celebrated in communities all across the country with special activities calling attention to the impact of agriculture on the interests of all citizens. In 1981, we will see farmers and ranchers, farm and commodity groups and all other segments of the agricultural community working in another united effort to speak to the American people.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. WAMPLER. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I rise in support of House Joint Resolution 560, authorizing the President to proclaim March 19, 1981, as National Agriculture Day. Without question, American agriculture is still this Nation's biggest single industry—with well over 15 million people involved in it in some form or another, from the farmers who grow the food and fiber to those who transport it to market and those who actually sell it at the stores. There are some 4.4 million workers on farms in this country—and that is more than the combined payrolls of the steel, transportation, and automobile industries.

All in all, agriculture is responsible for one out of every five jobs in the private enterprise system of this country. No other industry, occupation, or business can come close to these numbers.

These are some of the reasons I am so pleased to support this resolution for a "National Agriculture Day" next March 19. In fact, I would be perfectly amenable to the idea of establishing a National Agriculture Day on a regular basis—designating a special date each year to honor the men and women who have contributed so much to this great Nation of ours. My feeling is that if we can pay tribute to such great leaders of the past as George Washington—who himself was a farmer—with a national holiday, if we can salute the Nation's veterans to whom we owe so much on a special day each year, if we can honor working men and women on Labor Day, then we can surely set aside 1 day each year to honor the American farmer and American agriculture.

The fact is that agriculture in this country is not simply our biggest industry nor our only source of food and fiber. It's not just our largest employer nor our most productive industry. Agriculture is the key to this Nation's survival, as well as that of many other countries—for it produces the one essential of life we cannot live without. It is the backbone of our economic strength—for its assets total close to the combined assets of all manufacturing corporations in the United States.

What is amazing to me is that this one industry on which this Nation was built had not been singled out long ago for a special holiday. I think establishment of a "National Agriculture Day" would serve as a most important reminder of what we owe this vital segment of our economy and what we need and expect from it in the future.

I urge my colleagues to support this resolution honoring this segment of our economy that is so vital to this Nation and the world.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

☐ 1040

Mr. COELHO. Mr. Speaker, I reserve the right to object.

Mr. Speaker, as a cosponsor of this joint resolution I rise not only to encourage its passage, but to invite my colleagues to celebrate National Agriculture Day on March 19 next year in a big way.

In my congressional district nothing is closer to our hearts than the fertile farmland, the roar of a tractor or mechanical harvester over an endless expanse of row crops gorged by a bright, vibrant sun. The crating of vegetables in the packing house and trucking to market—this is our life in what we call the Garden of Eden, grower of everything in the Nation's richest agricultural State. When it comes to working the soil and tending the fields we are proud to be the undisputed world champions. Farm income in California last year was $12½ billion, 25 percent higher than the second leading State, Iowa. And the forecast for gross farm receipts is expected to increase another 5 percent this year with a bold jump of 17 percent in our State's field crops such as cotton, wheat, and sugar beets leading the way.

Consider that assets in U.S. agriculture are equal to four out of every five dollars tied up in the assets of all manufacturing corporations in this country. As many people are employed in American farming as are in the transportation, steel, and automobile industries combined. A full fifth of all private sector jobs in the United States are tied to agriculture.

Look at our rate of farm productivity: We are producing almost three times the food and fiber today that we did just 20 years ago. Agricultural exports are far and away the leading factor on the positive side of our balance of trade. With less than 7 percent of the world's land we provide many more times the world's supply of food products, about half the planet's wheat, for example.

In commemorating the contribution of the American farmer to our way of life, those of us in positions of community and government leadership are obligated to promote the best interests of agriculture. We must encourage even greater farm productivity, an even more dynamic export program, expanded domestic food programs, and policies which create a climate of economic viability for all those engaged in the agricultural sector.

Mr. Speaker, I know this resolution may seem insignificant to many. But to California agriculture it is a tribute which they are most proud to receive.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 560

Whereas agriculture is this Nation's most basic industry, and its associated production, processing, and marketing segments, together provide more jobs than any other single industry; and

Whereas the productivity of American agriculture is a vital ingredient in our strength as a Nation, both domestically and on the world scene; and

Whereas to maintain a healthy agriculture it is necessary that all Americans should understand how agriculture affects their lives and well-being, and should be aware of their personal stake in an abundant food and fiber supply: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 19, 1981, is hereby proclaimed "National Agriculture Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on both of the joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 7112, STATE AND LOCAL FISCAL ASSISTANCE ACT AMENDMENTS OF 1980

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 96–1325) on the resolution (H. Res. 787) providing for the consideration of the bill (H.R. 7112) to authorize an extension and amendment of the revenue sharing program to provide general purpose fiscal assistance to local governments, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5615, INTELLIGENCE IDENTITIES PROTECTION ACT

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 96–1326) on the resolution (H. Res. 788) providing for consideration of the bill (H.R. 5616) to amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain U.S. intelligence officers, agents, informants, and sources, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR A PROCEDURE FOR RESPONSE TO SUBPENAS

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 723 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 723

Resolved, That during the consideration of the resolution (H. Res. 722) providing a procedure for response to subpenas, debate in the House shall continue not to exceed one and one-half hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules: *Provided*, That it shall be in order to consider during said debate, without intervening motion, the two amendments to said resolution printed in the Congressional Record of June 18, 1980, by Representative Bauman of Maryland, and the previous question shall be considered as ordered on said amendments, if offered, and on the resolution to final adoption without intervening motion.

The SPEAKER pro tempore. The gentleman from South Carolina (Mr. Derrick) is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the usual 30 minutes to the gentleman from Maryland (Mr. Bauman), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 723 is the rule providing for the consideration of House Resolution 722, providing for a procedure for response to subpenas.

Under clause 4 of rule XI, a resolution reported from the Committee on Rules is a matter of privilege and can be called up for consideration in the House at any time. A resolution repealing or amending any of the rules of the House of Representatives is considered in the House under the hour rule and amendments to the resolution are not in order unless the manager of the resolution yields for that purpose.

In this case, however, the Rules Committee granted a rule to House Resolution 722 to make in order during the consideration of the resolution in the House two amendments to the resolution printed in the Congressional Record of June 18, 1980, by, and if offered by, Representative Bauman, of Maryland. The amendments shall be considered without intervening motion, and the previous question shall be considered as ordered on the amendments, if offered, and on the resolution to final adoption without intervening motion.

Mr. Speaker, last February 13, the House adopted House Resolution 578 instructing the Committee on Rules to inquire into the circumstances surrounding a subpena that was served on the Clerk of the House for records relating to the official functions of his office and of the House of Representatives. It had been reported in the public press that the House of Representatives had engaged in a secret effort to block a subpena. The Rules Committee held 3 days of hearings on this matter. During the course of these hearings, it became clear that the dictates of House Resolution 10, which is the procedure the House adopted at the beginning of this Congress for responding to subpenas served on Members, officers, and employees of the House, and which the Clerk had followed in responding to the subpena, needed to be revised. A task force was then appointed by the committee to further study the procedure and practices followed under the provisions of House Resolution 10 and to recommend a new procedure. The Rules Committee subsequently ordered reported House Resolution 722 revising House Resolution 10.

The committee felt very strongly that any Member, officer, or employee who is served a subpena shall comply, consistent with the rights and privileges of the House, with the subpena. Further, that when a Member, officer, or employee is served a subpena, the House be notified of its receipt and informed of the records or information sought. In a departure from previous House resolutions, House Resolution 722 provides for a formal notice and publication procedure. And finally, the committee was very careful that the procedure of House Resolution 722 protect the rights and privileges of the House, and of its Members, officers, and employees.

Mr. Speaker, I urge my colleagues to adopt House Resolution 723, the rule providing for the consideration of House Resolution 722.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from South Carolina has done more than an adequate job in describing the rule. There is no point in discussing the merits of the resolution brought up once this rule is adopted. I do want to express my appreciation to the members of the Committee on Rules for allowing the two amendments that will be made in order and also my personal appreciation to the chairman of the Rules Committee, the gentleman from Missouri (Mr. BOLLING), for his guarantee and now the fact that this resolution will be considered by the House today. I know there was some discussion in private that this matter might be better delayed or not considered at all in this Congress. I think it is an important matter and the rule we now have before us will allow us to address the question.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. YATES. The gentleman referred to two amendments. In the CONGRESSIONAL RECORD on page 15418 reference is made to three amendments by the gentleman: On page 1; on page 2, section 2; and on page 2 at the end of section 3.

Mr. BAUMAN. Mr. Speaker, the gentleman is correct but the rule before us makes in order two of the amendments en bloc since they deal with the same matter so, in effect, there will be three amendments; however, there are but two questions before the House.

Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 722 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 722

Whereas, by the privileges of this House, no evidence of a documentary character, under the control and in the possession of the House of Representatives can, by the mandate of process of the ordinary courts of justice be compelled or taken from such control or possession except by its permission: Therefore, be it

Resolved, That when any Member, officer, or employee of the House of Representatives is properly served with a subpena or other judicial order directing appearance as a witness relating to the official functions of the House or for the production or disclosure of any documents relating to the official functions of the House, such Member, officer, or employee shall comply, consistently with the privileges and rights of the House, with said subpena or other judicial order as hereinafter provided, unless otherwise determined pursuant to the provisions of this resolution.

SEC. 2. Upon receipt of a properly served subpena or other judicial order directing appearance as a witness relating to the official functions of the House or for the production or disclosure of any documents relating to the official functions of the House, such Member, officer, or eployee shall promptly notify, in writing, the Speaker of its receipt and such notification shall then be promptly laid before the House by the Speaker, except that during a period of recess or adjournment of longer than three days, no such notification to the House shall be required. However, upon the reconvening of the House, such notification shall then be promptly laid before the House by the Speaker.

SEC. 3. Once notification has been laid before the House, the Member, officer, or employee shall determine whether the issuance of the subpena or other judicial order is a proper exercise of the court's jurisdiction, is material and relevant, and is consistent with the privileges and rights of the House. The Member, officer, or employee shall notify the Speaker prior to seeking judicial determination of these matters.

SEC. 4. Upon determination whether the subpena or other judicial order is a proper exercise of the court's jurisdiction, is material and relevant, and is consistent with the privileges and rights of the House, the Member, officer, or employee shall immediately notify, in writing, the Speaker of such a determination.

SEC. 5. The Speaker shall inform the House of the determination of whether the subpena or other judicial order is a proper exercise of the court's jurisdiction, is material and relevant, and is consistent with the privileges and rights of the House, and shall generally describe the records or information sought, except that during any recess or adjournment of the House for longer than three days, no such notification is required. However, upon the reconvening of the House, such notification shall then be promptly laid before the House by the Speaker.

SEC. 6. Upon such notification to the House that said subpena is a proper exercise of the court's jurisdiction, is material and relevant, and is consistent with the privileges and rights of the House, the Member, officer, or employee shall comply with such subpena or other judicial order by supplying certified copies, unless the House adopts a resolution to the contrary; except that under no circumstances shall any minutes or transcripts of executive sessions, or any evidence of witnesses in respect thereto, be disclosed or copied. Should the House be in recess or adjournment for longer than three days, the Speaker may authorize compliance or take such other action as he deems appropriate under the circumstances during the pendency of such recess or adjournment. And upon the reconvening of the House, all matters having transpired under this section shall be laid promptly before the House by the Speaker.

SEC. 7. A copy of this resolution shall be transmitted by the Clerk of the House to any of said courts whenever any such subpena or other judicial order is issued and served on a Member, officer, or employee of the House.

SEC. 8. Nothing in this resolution shall be construed to deprive, condition or waive the constitutional or legal rights applicable or available to any Member, officer, or employee of the House, or of the House itself, or the right of a Member or the House to assert such privilege or right before any court in the United States, or the right of the House thereafter to assert such privilege or immunity before any court in the United States.

SEC. 9. This resolution shall apply with respect to subpenas served on or after the date of its adoption; and, with respect to those subpenas, House Resolution 10 shall be of no force or effect.

The SPEAKER. Pursuant to the provisions of House Resolution 723, the gentleman from South Carolina (Mr. DERRICK) will be recognized for 45 minutes, and the gentleman from Maryland (Mr. BAUMAN) will be recognized for 45 minutes.

The Chair recognizes the gentleman from South Carolina (Mr. DERRICK).

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the resolution we have before us today, House Resolution 722, providing for a procedure for response to subpenas, revised the procedure by which Members, officers, and employees of the House shall comply with subpenas served on them in conjunction with their official duties.

House Resolution 722 clarifies as well as revises the current House procedure the House adopted at the beginning of this Congress in House Resolution 10.

It requires that all Members, officers, and employees shall comply with any subpena that is consistent with the rights and privileges of the House. And when a subpena is received, the Member, officer, or employee shall immediately notify the Speaker and the House of its receipt, of the information and materials sought, and as to whether or not it is a valid subpena.

Mr. Speaker, for the first time, the House would be formally notified when any and every subpena relating to the official functions of the House are served on its Members, officers, and employees. Presently, there is no obligation to provide public notice. The resolution clearly spells out the precise obligations Members, officers, and employees have in complying with subpenas.

The resolution arises from a subpena served on the Clerk of the House on September 24, 1979, for certain of his records.

Mr. Speaker, House Resolution 722 provides general authority to the Members, officers, and employees of the House to comply with subpenas served on them in relation to their official functions.

Further, it establishes the procedure by which subpenas shall be complied with.

Until the 95th Congress, whenever a Member, officer, or employee received a subpena, the House had to adopt a resolution granting authority to the person to respond. The House would decide in each case whether the person should or should not comply with the subpena and appear in court with the requested documents. Then on January 4, 1977, and again on January 15, 1979, the House adopted House Resolution 10 which granted general authority to Members, officers, and employees to respond to subpenas duces tecum. The resolution established a procedure by which automatic compliance could be effected without the necessity of a House vote.

House Resolution 722 continues to provide the general compliance authority of House Resolution 10. However, House Resolution 722 revises the procedure for complying with subpenas in four particularly important ways:

First. The resolution mandates compliance. The intent of the resolution, which is clearly stated in the resolve clause, is that any Member, officer, or employee shall comply with any subpena that is consistent with the privileges and rights of the House. While the resolution presupposes compliance, it does not deny the person his constitutional right to due process—to defend the rights and privileges of the House, its Members, officers, and employees against unwarranted attacks.

In light of the Supreme Court pronouncements handed down over the last 10 years concerning the rights and privileges of Members, officers, and employees of Congress, the resolution recognizes the fact that it may be necessary to seek judicial guidance regarding certain documents requested in the subpena.

Second. The resolution requires that any member, officer, or employee who intends to seek a judicial determination must first notify the speaker prior to doing so. The purpose of this requirement, which does not presently exist in House Resolution 10, is to inform the speaker when legal proceedings, that could involve the rights and privileges of the House, its Members, officers, and employees, are anticipated. It is the opinion of the committee that the Speaker, who is the constitutional officer of the House, should be notified before the person seeks to undertake legal proceedings, in order that the Speaker can properly discharge his duties in the protection of the House and in the preservation of its integrity and rights and privileges.

Third. The resolution provides a formal notice and publication procedure. In a departure from the procedure of House Resolution 10 and prior House resolutions, House Resolution 722 requires that the Speaker and the House be notified when a subpena is received. Further, when a determination has been made regarding the validity of the subpena, the Speaker and the House are so notified.

In the majority of cases, subpenas are quickly and routinely complied with, and notice to the Speaker and the House could combine the two steps. In those cases when a subpena calls into question the rights and privileges of the House, or when time is needed before a determination can be made due to the extensive nature of the request, the House would first be notified of its receipt and then subsequently notified when a determination is made.

An example of when additional time might be requested is when the party filling in the subpena requests all of a Member's records dating back over the past 10 years. In all cases, however, notice would be given prior to complying with the subpena, so as to provide the House the opportunity, should it so choose, to introduce a privileged resolution regarding the subpena. Under rule IX of the rules of the House, a Member may at any time call up in the House a privileged motion regarding the disposition of papers or other matters of privilege relating to a subpena served on a Member, officer, or employee of the House. The House may determine, by resolution, whether to allow the documents specified in the subpena to be released or testimony given, or take other action as it deems necessary.

Fourth. The authority and procedure for complying with subpenas in House Resolution 722 extends to all subpenas served on Members, officers, and employees in conjunction with their official duties. Whether a Member, officer, or employee is served a subpena duces tecum (requesting testimony in court and documents) or a subpena ad testificandum (for testimony only), he or she would now be required to notify the Speaker and the House of its receipt and to comply with the subpena in accordance with the provisions of the resolution.

Presently, there is no guarantee that subpenas for testimony will be brought to the attention of the House. The majority of the committee members felt that all subpenas should be subject to the compliance and notice provisions of the resolution. That there should be no exceptions. This belief was not, however, unanimously shared by all members of the committee. The minority stated in its views to accompany the report that House Resolution 722:

> Enormously broadens the scope of the resolution to apply also to subpenas ad testificandum.

One of the two amendments that the gentleman from Maryland (Mr. BAUMAN) intends to offer today would omit subpenas ad testificandum from the notice and publication procedure. I oppose the gentleman's amendment. By exempting subpenas ad testificandum from the provisions of the resolution, Members, officers, and employees would have no affirmative duty to inform the Speaker or the House of the receipt or of any judicial clarification sought by the Members, officer, or employee.

I would like to discuss in summary the procedure for complying with subpenas:

When a Member, officer, or employee is served a subpena, he shall promptly notify, in writing, the Speaker of its receipt and the Speaker shall lay such notification before the House. In a period of recess or adjournment of the House for longer than 3 days, notification to the House is not required. However, as soon as the House reconvenes, the Speaker will lay the notification before it.

Then a determination of whether the subpena is a proper exercise of the Court's jurisdiction, material and relevant, and is consistent with the privileges and rights of the House shall be made, notification to the Speaker shall be made prior to undertaking legal proceedings. Once determination is made, and most determinations are routinely made and compliance routinely effected, the Speaker is again notified, in writing, and the notification is laid before the House, prior to compliance, with a general description of the documents or information sought.

Unless the House adopts a resolution prohibiting the release of the information or documents or prescribing other action, compliance shall be effected by supplying certified copies, except that under no circumstances shall any minutes or transcripts of executive sessions or any evidence of witnesses thereto, be disclosed or copied. If the House is in a recess or adjournment of longer than 3 days when the Speaker is notified of the determination, the Speaker may authorize compliance or take such other action as he deems appropriate. Upon the reconvening of the House, the Speaker will promptly lay before the House all matters that transpired during this time.

Since 1879, all House resolutions regarding the disposition of House papers have provided that only copies be produced, embodying the privilege based on the protection and control of original House documents, House Resolution 722 continues to embody this privilege and provides that only certified copies may be produced.

The resolution also continues to bar the release of executive session material or testimony. Since 1950, when the House first denied the release of its executive session material, most House resolutions have included language prohibiting the release of executive session documents and testimony.

The resolution further directs the Clerk to send a copy of the resolution to the Court whenever a subpena is issued and served on a Member, officer, or employee of the House informing it of the House procedure.

And, it concludes with the important affirmation that, nothing in this resolution shall be construed to deprive, condition or waive the constitutional and legal rights of any Member, officer, or employee, or of the House itself.

The committee was concerned in drafting the resolution that it provide the right balance in protecting the rights and privileges of the individual Members, officers, and employees of the House, as well as of the House as a whole.

Mr. Speaker, the Committee on Rules recommends that House Resolution 722 revising House Resolution 10 be adopted. It is the opinion of the majority of the committee, that the procedures contained in House Resolution 722 will protect the integrity, and rights, and privileges of the House and of its Members, officers, and employees, and will insure an orderly method of compliance with subpenas served on its Members, officers, and employees. This resolution serves to strengthen the House as an institution of integrity and honor. It is in the interest of this institution and the country. I urge my colleagues to adopt House Resolution 722 as reported.

□ 1100

Mr. YATES. Mr. Speaker, will the gentleman yield for a question?

Mr. DERRICK. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, in the course of the procedures that are outlined in section 6, the Member, officer, or employee shall comply with the subpena unless the House adopts a resolution to the contrary.

The question I should like to ask is: How is that resolution activated? Who files it? How is it filed once the notice has been given by the Speaker to the House that the request is pending?

Mr. DERRICK. Mr. Speaker, it may be filed by any Member.

Mr. YATES. Any Member may file a resolution?

Mr. DERRICK. That is right, he may offer a privileged resolution.

Mr. YATES. And it may be brought up at any time?

Mr. DERRICK. At any time.

Mr. YATES. Mr. Speaker, I thank the gentleman.

The SPEAKER. The gentleman from South Carolina (Mr. DERRICK) has consumed 13 minutes.

The Chair recognizes the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I yield myself 10 minutes.

Mr. YATES. Mr. Speaker, will the gentleman yield for a question before he starts his address?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, as I understand the thrust of the gentleman's amendments, at least the first two amendments, the ones which he intends to offer en bloc, he would strike the phrase, "directing appearance as a witness relating to the official functions of the House or for the production or disclosure of any documents relating to the official functions of the House," and he proposes to insert in lieu thereof the following: "for the production or disclosure of certain and sundry papers in the possession and under the control of the House of Representatives."

In other words, if I understand the thrust of the gentleman's proposed amendment, it is to open up the possibility of obtaining any papers that are within the possession and under the control of the House, not necessarily only those relating to the official functions of the House. Is that a correct interpretation?

Mr. BAUMAN. Mr. Speaker, the gentleman raises a question about this resolution now pending that has bothered the gentleman from Maryland, and that is one of the reasons that the amendment referred to address that section. We have never had the phrase, "official functions of the House," in any resolutions or House rules relating to subpenas in the past, and it is my opinion that that broad phrase ought to be stricken. In the past the Parliamentarian of the House, Mr. Brown, who was the drafter of House Resolution 10 now governing subpenas, said that there was a difficulty with overly broad subpenas, and so he drafted House Resolution 10 to include specific documents.

The "official functions" phrase that I would remove creates in my view a whole area of new litigation that could be used to prevent subpenas from being honored by Congress. I simply want to narrow the resolution to cover those documents and papers in the possession of officials of the House, but not to include the direct oral testimony of a witness relating to the official functions of the House.

Mr. YATES. Mr. Speaker, the gentleman just indicated that his amendment proposes to include the papers within the possession and control of the House. That is any papers within the possession or control of the House.

The phrase the gentleman uses is the phrase, "certain and sundry papers." What does the phrase, "certain and sundry papers," mean?

Mr. BAUMAN. Mr. Speaker, it goes to any documents in the possession of the officials of the House such as the Clerk and the Sergeant at Arms, but it specifically does not include, at my suggestion—because this is dealt with elsewhere in the resolution—the transcripts and papers that have been taken in committee executive session. That is an historic exception, and the courts are not allowed to take those executive papers from the House without our specific permission. The phrase would include all the records of the Clerk and the Sergeant at Arms, including records of employment of personnel, and other documents of that nature.

Mr. YATES. Mr. Speaker, will the gentleman yield for another question?

Mr. BAUMAN. Yes, I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, let us suppose that one of the Members of the House is engaged in a contested divorce suit and the attorney for the defendant's spouse wants to investigate papers within the control of the House and files a subpena with the House. I would think that those do not relate to the official functions of the House inasmuch as they relate to a private lawsuit.

Under the gentleman's amendment, would the Member then have to comply or would the Clerk of the House have to comply with the request in that subpena by making available whatever papers were requested in that subpena?

Mr. BAUMAN. Mr. Speaker, I think the gentleman has drawn a very clear and important distinction, and I think it will probably influence the outcome of a great many Members' decisions on how they will vote on these amendments.

My amendments do not affect in any way the right of any individual Member to claim his personal legal privilege or to assert his rights or his privilege as a Member of the House to resist subpenas.

What my amendments go to are situations such as we had a few months ago—and I will address that matter in my remarks in general debate—where a Member is assisted by an official of the House gratuitously and the Clerk of the House resists a subpena all the way to the Supreme Court without the knowledge of the House. The House knew nothing about that matter.

So my amendment would prevent the Clerk from doing that, but it would not prevent an individual Member, as the gentleman indicated, in a domestic relations matter from asserting his own privilege. But certainly the Clerk of the House or the Sergeant at Arms should not go all the way to the Supreme Court fighting a subpena, as they did then, in a matter in which an individual Member is involved. That could conceivably happen, I suppose, too, under the new rule.

Mr. YATES. Mr. Speaker, will the gentleman yield for another question?

Mr. BAUMAN. Yes, I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, let us suppose a request is made for the official records of the House relating to the telephone calls that have been made by a Member of the House, relating to personal calls that the Member may have made.

Under the gentleman's proposed amendment, which translates into the disclosure of any "papers in the possession and under the control" of the House of Representatives, as I understood from what the gentleman said previously, would not the Clerk of the House have to make available the records of the Member's calls?

Mr. BAUMAN. Mr. Speaker, the Supreme Court in the Eilberg case ruled specifically on the question of telephone calls, and as I recall the ruling—and I only paraphrase it—it was that some telephone records of a Member could fall within the protection of legislative privilege and would not have to be disclosed. But again the Member can assert that protection personally.

The only thing I am saying is that the Clerk or other officials of the House, rather than Members, should not have the discretion to fight against these subpenas. The Member himself will retain that right regardless of the outcome of this debate today, but the Clerk or the Sergeant at Arms or other officials of the House should not be able to assert what is pecularily a private and special privilege of the Member in the name of the full House unless the full House has a right to approve that action.

But in the case of the telephone records in the Eilberg matter the Supreme Court ruled that some are under the legislative and official functions of the House.

Mr. YATES. Mr. Speaker will the gentleman yield for another question?

Mr. BAUMAN. Yes, I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, in connection with the phrase, "disclosure of certain and sundry papers," again it is translated to mean any papers in the possession and under the control of the House of Representatives.

Do we have any idea as to how many types of papers or documents are within the control of the staff and would be subject to being subpenaed under the gentleman's proposed amendment?

Mr. BAUMAN. Mr. Speaker, we really heard no testimony on the scope, but I think the gentleman, without having to use his imagination, can assume the enormous number of such papers.

Mr. YATES. It would be an enormous number?

Mr. BAUMAN. It would include an enormous amount of documentary evidence.

Mr. YATES. All of that, as I understand it, under the gentleman's amendment would be subject to subpena, then?

Mr. BAUMAN. It is now.

Mr. YATES. Well, no, not as I understand it. It is not now because I think the only materials subject to subpena are those relating to the official functions of the House or a Member.

Mr. BAUMAN. No. Any documentary matter now in the files of the House can in fact be subpenaed. Whether the subpena succeeds is something else again.

Mr. YATES. As I understand the effort of the majority in this case, it is to limit the subpena to the official functions of the House. The gentleman strikes that language, and I wait anxiously to hear the gentleman's statement. I would like to hear why the gentleman proposes to strike it.

Can the gentleman tell us why he proposes to change the language?

□ 1110

Mr. BAUMAN. Because the gentleman from Maryland, amongst other things, finds the phrase "official functions" to be a possible major roadblock in compliance with legal subpenas. It appears to me that the phrase "official functions," which is not defined anywhere in this resolution and has never appeared in the rules before, in relation to subpenas, is not a mandate to give evidence, but a very broad block to giving evidence when in fact the full House might wish to allow that evidence to be given.

Mr. YATES. But does not the gentleman believe that, in striking the term "official functions" from the phrase and not using it in the gentleman's amendment, it opens up the entire panorama of papers to nonofficial as well as official functions?

Mr. BAUMAN. Unfortunately, as is quite often the case in the law, it has the opposite effect. By removing the broad and undefined phrase of "official functions" and "witness relating to the official functions of the House," it limits it to my suggestion that the only matter should be for the production and disclosure of certain and sundry papers in the possession and under the control of the House, which is traditional as a definition.

Mr. YATES. The phrase "certain and sundry papers——

Mr. BAUMAN. Under the control of the House.

Mr. YATES. As I understand it, the gentleman told me before that the phrase "certain and sundry papers" means any papers in the possession and under the control of the House.

Mr. BAUMAN. That is true.

Mr. YATES. I thank the gentleman.

Mr. BAUMAN. Mr. Speaker, how much time have I consumed?

The SPEAKER. The gentleman has consumed 9 minutes.

Mr. BAUMAN. Mr. Speaker, I yield myself an additional 10 minutes.

Mr. Speaker, on February 9, 1980, a banner headline appeared on the front page of the Washington Post: "House Loses Secret Bid For Immunity."

And here it is. It was, at the time, a topic of a great deal of discussion amongst Members, and for most of us it was the first notice that in fact the House of Representatives as such had not only lost a bid for immunity for one Member, but that we even were engaged in such a bid. The essence of the article that appeared—and it was in fact the reason we conducted the investigation and the reason we are having this debate today—was that secretly the Clerk of the House of Representatives and his legal staff, had decided to challenge a subpena that had been served against the Clerk for certain documents necessary—at least the court thought—for investigation into the matter of the gentleman from California (Mr. CHARLES H. WILSON). By implication in the article, whether it was true or not, all Members stood accused either directly or by inaction of having sought to resist the subpena.

As I said, what really happened was that the legal staff of the Clerk, not the House, had taken it upon themselves to challenge the subpena, and they carried their arguments all the way to the U.S. Supreme Court without the knowledge or approval of the House or without the knowledge of the Speaker; or at least that was the testimony that the Rules Committee received from the Speaker's personal counsel, that he was not informed until the matter was finally resolved by the Supreme Court saying that in fact the subpenas had to be honored.

Because of this article and the embarrassment that did result, debate ensued on the floor of the House in February, and by a unanimous rollcall vote, 310 to 0, this House directed the Committee on Rules to investigate this matter as to the truth or falsity of the charges in the Washington Post article and also to recommend any rules changes that might remedy the problems that caused this controversy.

I think it is worth noting, in passing, that the report issued by the Rules Committee does not pass at all on the falsity or truth or the circumstances surrounding the particular article, even though that was the suggestion that the House wanted done, and a reading of the transcript I think will largely support the main thrust of that article, even though we do not comment on it.

Mr. Speaker, may I make a personal observation at this time?

The amendments that I am offering today were made in order by the Rules Committee, and I appreciate that. I think this entire investigation, with the task force headed by the gentleman from South Carolina, including the gentleman from Texas (Mr. FROST) and myself, was done in a nonpartisan manner. We debated the issues on a legal basis. All sides tried to go into it from the viewpoint of what was the best course for the House to balance the constitutional right and privileges of the Members of the House against the public's need to be informed and the court's need to have certain information before them to pursue their deliberations.

Some of the Members have received a "Dear Colleague," which will probably stand alone in the annals of the House, signed jointly by the very distinguished gentlewoman from New York, SHIRLEY CHISHOLM, and myself, supporting the two amendments that I will offer. I offer this letter as evidence, if that is the term to be used, in this debate to show that my arguments here are not partisan, and I know there is a feeling on the part of some Members that the gentleman from Maryland and others on both sides are often motivated by partisanship.

I want to say, Mr. Speaker, that the gentleman from Maryland loves this institution and has been associated with it for most of his adult and a good part of his juvenile life. The comments that are made here today are the product of that profound respect for the House of Representatives and not by any partisan motive.

I also know that the manner in which this resolution will be treated will be largely to lean on the advice of the gentleman from South Carolina or the gentleman from Maryland, depending upon which party you belong to.

I would only ask the Members of the House—many of them are not lawyers and feel themselves lucky not to be members of the legal profession in this day and age—to at least look closely at the arguments that are made and to try and decide on that basis and not on any partisan basis. I think the issues here will, as I indicate in my remarks, go well beyond any individual Members or either party as to their importance in the future.

I will try to condense my remarks because I know that this is a complicated matter and this House has other matters with which to deal.

But let me just refer for a moment to the historical perspective in which we debate the issue of subpenas today.

Historically, whenever a subpena used to be received by the House of Representatives for a Member of the House or the staff, a resolution was offered at the desk, was considered, and the House either said comply or do not comply. In recent years, we have had a whole rash of subpenas brought before the House, and it became apparent that we had to have some mechanism in our rules to insure compliance, particularly when the House was not in session. That is why, back in 1973, the first of two House Resolutions 10 were put in place in the Rules of the House at the opening of the sessions. Those resolutions, as their predecessor resolution, House Resolution 9, required automatic compliance with subpenas which were received by the House when we were not in session.

In 1977 and 1979 the House adopted a similar resolution, with almost no debate—in fact, we have almost no legislative history of what the intent was—and those resolutions contained some of the features of the resolutions adopted in prior Congresses, but they were also applicable for the first time when the House was not in session as well as when it was. That was a change from the past.

In effect, what we were saying in these

rules changes was that the House wanted to comply with reasonable and proper subpenas that were offered, without taking up the time of the House by passing a resolution in each case.

During the Rules Committee hearings on this matter before us, the distinguished Parliamentarian of the House, William Holmes Brown, testified, and he said that, as the drafter of Resolution 10, which this resolution today would change, it was clearly his intent and the major thrust when he drafted it to insure voluntary compliance with subpenas when the House was in session as well as when it was not.

That is the background of the rules we now have in the House. But the proposal we have before us offered by the gentleman from South Carolina and as reported by the Rules Committee stands this historic intent on its head. It changes the entire thrust of our current rule as it is now written. Rather than automatic compliance upon receipt of a subpena by an official of the House, even a subpena already containing a court's finding that it is material and relevant to the court's inquiry—and that is one of the requirements that our rules now state—this new proposal, if the Members vote for it today, allows and mandates adjudication of the subpena's propriety in almost every instance. It places on the individual official, the Clerk of the House, the Sergeant at Arms, any other official who might be in any way the subject of a subpena, it places on them the discretion to go all the way to the Supreme Court to resist every subpena. And that I do not think the House should do, nor do I think we want to do it, in light of the charges that have been made against Members of the House in recent months and could be made at any moment. No one, including the gentleman from Maryland, ever knows when the day may arrive that a subpena or legal action could be taken against him in his official capacity, and it seems to me that we all ought to proceed with the possibility that that could happen.

Now, notification of the House, if a subpena is received, is one of the very positive aspects of the resolution now before us, and I praise the majority and I agree with that notice to the House. That will be required. But as was highlighted by a question from the gentleman from Illinois (Mr. YATES), that notice is all that we get, and then an individual Member would have to take it upon himself to inquire into the subpena, make a judgment, offer a resolution, call it up under privilege, and act on the floor. So once that notification has been made to the House under this new procedure suggested today, House officials and their staff are given a free hand to attempt to quash the subpena, fight it all the way to the Supreme Court if they deem it necessary, but they would be fighting in the name of the full House of Representatives if this rules change is adopted without amendment.

My point is that the full House should address that question. It should not be left to the Clerk or any other official of the House to take that upon themselves without the House giving its consent. We emphatically do not believe—I do not believe and I do not think many in the House believe—that that power ought to be delegated by the full House to any of its employees or officers, especially when the integrity of the House is at stake.

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What does that mean? That means in very concrete terms that in the Abscam case or any other case, that if the Clerk decides that the full House will in its name be taken to court, he could do so without our actual permission and fight those subpenas against the records of the Member.

Now, this is an important distinction. I bring it to your attention.

House Resolution 10, which now governs our rules, only covers subpenas relating to documents; but this resolution before us today, if we adopt it, reported by the Committee on Rules, enormously broadens the scope of the resolution to apply also to subpenas relating to testimony.

In other words, for the first time, we are saying subpenas dealing with testimony could also be the subject of opposition in the court without the House ever saying anything about it.

Mr. LOTT. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Mississippi.

Mr. LOTT. On that particular point, why was this done? I do not see anything in the report, and I do not recall a sufficient explanation in the Committee on Rules as to why this change was made. Could the gentleman enlighten the House on why it was expanded in this way?

Mr. BAUMAN. The broadening of the scope of the resolution to include testimonial evidence as opposed to simply documentary evidence was explained to me by the gentleman from South Carolina—he can comment on it himself—as a necessity, because quite often officers of the House will have to testify in person as to the documents that have been subpenaed. In other words, they have to verbally tell the court the nature of the document and the privilege or whatever other matter that is raised. But that is not defined in the resolution before us.

The SPEAKER. The time of the gentleman from Maryland (Mr. BAUMAN) has expired.

Mr. BAUMAN. Mr. Speaker, I yield myself an additional 10 minutes.

In response to the gentleman from Mississippi, further, unfortunately the way this resolution before us today is written, it does not confine itself just to testimonial evidence having to do with documents. What it means is that if theoretically, and we do not know this because the resolution does not define it, if the gentleman from Mississippi is subpenaed to testify in a matter, not only could he resist it with his privileges as a Member of the House and fight it all the way to the Supreme Court, but the Clerk of the House could join with him possibly, if perhaps there were documents in his possession or joint possession.

Mr. LOTT. Without the House being notified?

Mr. BAUMAN. The House would be notified the subpena had been served, but the House would never be told the resistance was occurring, and it could occur in camera or secret session, and the full House of Representatives, without their knowledge, the name of the institution would be used to defend the individual Member and his resistance to testifying in court.

Mr. LOTT. Is not that a fundamental point we were supposed to try to correct with this resolution, House Resolution 722, to put the House on notice? It seems to me now the decision could still be made by an employee of the House to pursue this all the way to the Supreme Court without the House being aware this was going on.

Mr. BAUMAN. The only safeguard is the House will be notified when the subpena is served. There is no other additional requirement of notice to the House if resistance to the subpena is to be followed by the official of the House.

The Speaker must be informed under this proposal before us today, but the Speaker has no obligation to inform the House or to do anything. He may simply allow the House official to fight the subpena.

So what, in effect, would happen would be a subpena is served on an official of the House. It is laid before the House, perhaps with no reference to what is sought, and no Member perhaps might notice this act. In fact, I do not know if the Members know how many Abscam subpenas have been laid before the House in recent months. There have been many.

The Clerk would say to the Speaker, probably in writing, "I intend to fight this to the Supreme Court," and the Speaker could take no action. It would be opposed possibly most likely in secret because they are often grand jury proceedings. After all of that at the end of the road, the Supreme Court might rule, as they did in the Wilson matter, "You must honor the subpena and turn over the records," or, "You must testify," and then, and only then would the House be told this had happened. It could be months later. So the House would be called into public ridicule very possibly.

Mr. LOTT. I thank the gentleman for yielding for the question.

Mr. BAUMAN. Mr. Speaker, let me proceed further and just make the point that if we broaden the rules of the House today with this resolution to include the testimonial evidence in addition to documentary evidence could place the House in the inappropriate position of arguing cases for Members under indictment or being considered for indictment rather than simply protecting House documents. That would provide, I think, the legal staffs of the Clerk and the Sergeant at Arms with a whole array of new activities which they might have to respond to at great cost and, in fact, with very little limit. If one Member had the right to be depended, the others would want to avail themselves of the legal services of Congress to resist these subpenas; and it could be to the detriment of the full House.

As I said, currently, under the rules of the House the only thing that can be contested is the terms and relevancy of specific documents. But now we are going to go to documents relating to the official functions of the House, that new term we hear about, as well as testimonial evidence.

I would strongly hope that the amendments that I will offer to address that would be supported, as the gentlewoman from New York (Mrs. Chisholm) and myself both argue it should.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. THOMAS. I thank the gentleman for yielding.

A question: My concern is that as a member of the Committee on Standards of Official Conduct, when we were discussing the Wilson matter in front of the committee, I was personally embarrassed and was embarrassed for the House as I attempted to get the Department of Justice to explain to me why they would not release certain information to the committee, with full guarantees that the information would not be divulged in any public manner, while at the same time staff members of the House were withholding information and attempting to wend that subpena all the way to the Supreme Court to continue to withhold that information.

In the colloquy that the gentleman just had with the gentleman from Mississippi, the gentleman's indication is then that the only information I would receive under this resolution, which I had hoped would solve the problem, is that the House is informed that there is a subpena. Is that correct?

Mr. BAUMAN. Yes. That is the only requirement initially, when a subpena is served on an officer of the House, or employee, that it be laid before the House. The practice informally has been in the last few months, since this controversy arose, that the subpena is laid before the House by the Speaker and is read but the name of the Member is not even disclosed. It has been the practice of the gentleman from Maryland to go to the Parliamentarian and ask who is involved. Every Member would have a notice that a subpena was somewhere and had been served, but you would have to find out who was involved and what was involved.

Mr. THOMAS. This Member would personally have to inquire as to this?

Mr. BAUMAN. All 435 Members would have to inquire if any cared to do so.

Mr. THOMAS. If additional decisions were made to attempt to quash the subpena, what would this Member have to do to try to find out what was occurring without the knowledge of the House in general or any particular Member of the House? What would I have to do to be informed about attempts to quash the subpena?

Mr. BAUMAN. The gentleman would have to ask the official involved to see the subpena. It might describe what the court is seeking. Then the gentleman would have to make some judgment in his own mind with whatever evidence he could personally gather, whether the subpena should be honored. If the gentleman felt it should be honored, he would have to draft a resolution, present it on the floor of the House as a privileged matter and debate it for 1 hour and have the House decide whether or not the subpena should be stopped.

Mr. THOMAS. The gentleman's amendment would do what in this portion of the resolution?

Mr. BAUMAN. My amendment would say that the official of the House would comply with all subpenas showing materiality and relevancy requirements as they have in the past.

Mr. THOMAS. So that I would have assurance, if the gentleman's amendment passes, that when various papers of the House are subpenaed that the House will be informed without my having to follow up to find out whether or not they were supplied or derived?

Mr. BAUMAN. That is the way it was supposedly going to be under the current rules, House Resolution 10, automatic compliance. It was the Wilson case that raised, for the first time, the opposition of the Clerk and legal counsel all the way to the Supreme Court, without our knowledge. All I am saying is that should not happen again and if such resistance is to be permitted, the House should know about it beforehand.

Mr. THOMAS. That was my understanding of the whole purpose of having the Committee on Rules take up an examination of rule 10. What the gentleman has told me then is the original intent of Resolution 10, which was not carried out and purportedly was supposed to be changed by the resolution in front of us, does not do that unless the Bauman amendment is accepted.

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Mr. BAUMAN. As I have used the phrase, the proposal before us today if we vote for it "turns on its head" the current rules and does not solve the problem of the Wilson matter. It codifies the Wilson procedure into our rules and allows resistance to subpenas without the House having first to do anything about it.

My amendment would reverse that and say that if we are going to fight subpenas in the courts, the House should know that and should act positively on it.

Mr. THOMAS. I appreciate the diligence of the gentleman from Maryland in making sure that the resolution as finally presented before the body resolves the problem that took it to the Rules Committee in the first place.

Mr. BAUMAN. And understand, and I am not going to belabor it, because it is the argument of the other side, there is a legitimate argument against allowing the House as a whole to address itself to subpenas against officials or Members. The argument is that we would act in a political matter and that a Charles Diggs of Michigan might be pilloried on the floor for political reasons, even though the subpena is not in proper form and should not be honored.

I am willing to trust, I have my concerns, too, about that, but I am willing to trust the collective judgment of the House as opposed to the individual judgment of a member of a staff of the House. That I think is a far greater evil. Without any personal reference to the current staff members or officials of the House; they are political officers elected by the majority party and it seems to me that the full House in whose name these actions are taken should have the final say.

Mr. FROST. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Yes, I yield to the gentleman from Texas.

Mr. FROST. Pursuing the line of questioning that the gentleman has just been engaging in, if an individual Member of the House wished to know whether or not it was the intent of an officer of the House to contest a subpena in court, could that Member ask that question of the Speaker of the House?

Mr. BAUMAN. Most assuredly, he could ask the Speaker, or he could ask the official involved.

Mr. FROST. Now, under the provisions of the resolution before us, the Speaker of the House would have received notification if any officer of the House were going to contest the subpena; is that correct?

Mr. BAUMAN. That is true. The Speaker would be notified, but he would have no requirement to notify the House.

Mr. FROST. He would have been notified and then an individual Member, should he be particularly interested in this matter, could ask the Speaker whether or not he had received notice that this matter was going to be contested in court.

Mr. BAUMAN. That is correct.

Mr. FROST. My only other question is, Does the gentleman have any doubt that the Speaker would, in fact, give a full and complete response to that question by any Member?

Mr. BAUMAN. I have no doubt that the incumbent Speaker or any future Speaker who had been elevated to that position would fully and truthfully respond to the Member's inquiry.

The SPEAKER pro tempore. (Mr. Yates). The time of the gentleman from Maryland has expired.

Mr. BAUMAN. I yield myself 5 additional minutes.

My problem, I would say to the gentleman from Texas, is that the average Member of the House burdened as he is with other duties is not going to avail himself of the notice in the Record. They are not going to inquire. These matters will progress at the discretion of the officials of the House and we will learn perhaps too late that the resistance has occurred in the name of the full House. That is the concern that I expressed today and my amendments go to this. It is the basic difference, I think, that I have with the resolution.

Mr. FROST. Would the gentleman yield for one further question?

Mr. BAUMAN. Yes.

Mr. FROST. Does the gentleman have any doubt that each party would on a regular basis follow up on these matters, as the gentleman from Maryland has, as the gentleman has indicated today that he personally has followed up on these matters every time a notice has been published in the Record?

Mr. BAUMAN. After almost 30 years of association with this House, my guess is that after this current matter blows over, no one will pay attention to subpenas until the next scandal in which the House is embarrassed by an official fighting all the way to the Supreme Court.

Mr. FROST. With the possible exception of the gentleman from Maryland.

Mr. BAUMAN. Well, the gentleman from Maryland may not always be here. There is an effort right now in my district to change that.

Mr. DERRICK. Mr. Speaker, would the gentleman yield for just a moment?

Mr. BAUMAN. I yield to the gentleman.

Mr. DERRICK. As I recall on the morning that the conversation took place before the gentleman from Maryland and the Speaker down here in the well, as I recall the gentleman from Maryland indicated that he had no problem whatsoever with the Speaker making these sort of judgments on jurisdictional matters.

Mr. BAUMAN. Is the gentleman talking about the discussion that occurred in the front row here last February?

Mr. DERRICK. A friendly conversation that took place.

Mr. BAUMAN. Well, I would not like to divulge the contents of that discussion because, if I quoted the Speaker fully, it would be just as embarrassing to the other side as the gentleman's quotation is to my side at the moment. I think that was a private discussion.

Mr. DERRICK. Well, as I recall, I overheard that part of the conversation.

Mr. BAUMAN. That is hearsay and not admissible in any court, I might say.

Mr. DERRICK. It is not hearsay if I heard it.

Mr. BAUMAN. Mr. Speaker, let me just conclude, because the distinguished ranking member of the Committee on Rules would like to speak on this matter.

I believe in view of the continuing Abscam investigations and other indictments that might occur that we are going to be inundated in this House with subpenas for documents. Undoubtedly Members and officials are going to be asked to appear in court.

I doubt very much that most Members know how many subpenas have been served in the last few months. I have not kept a record, either. There have been a great number. There undoubtedly is a list that has been compiled; but this just underscores my contention that mere general notice is not enough. Under this proposal before us, the legal staff of the Clerk and of the Sergeant at Arms and other officials will be able, and for all I know, even anxious to invoke the name of the entire House in challenging these subpenas that will be coming to us.

So I offer these two amendments on the floor today that will go to redress the unbalance that I think this resolution proposes.

I would have to say that if these amendments are not adopted, particularly the second amendment that deals with affirmative compliance before resistance to subpenas, I could not support the resolution and I would urge other Members not to support the resolution because, in effect, we would be voting for a new system that would make it very difficult for the public and the courts to find out legitimate information about what could be improprieties on the part of the House or of its Members. No change at all in the rules would be better than the resolution before us.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. HYDE. I want to thank my friend for yielding.

In the hypothetical situation that the House is not in session, that it is in recess or has adjourned, and a subpena duces tecum is served, what is the procedure then? What action occurs as a result of the gentleman's amendments?

Mr. BAUMAN. Well, either with or without my amendments, when the House is not in session and under current rules of the House, those subpenas can be honored or resisted; but under this resolution, I do not change that. When the session reconvened, the Speaker would have to notify the House of the subpena, but not of the resistance, as I understand it.

Mr. HYDE. But would the Clerk have to comply with the subpena duces tecum? I know the Member has his rights to object and to make a motion to quash, et cetera; but is there any discretion in terms of what the Clerk's office must do when the House is not here to express its will?

Mr. BAUMAN. Either the Clerk or other official of the House would have to comply with the subpena if it was accompanied by a finding of materiality and relevancy by the court. That is the procedure now.

Mr. HYDE. In other words, we are depriving the House of a right, a power to resist a subpena duces tecum under the amendments of the gentleman from Maryland if the House is not in session, whether that is appropriate or not.

Mr. BAUMAN. Well, that is the present system now, voluntary compliance.

The SPEAKER pro tempore. The time of the gentleman from Maryland has again expired.

Mr. BAUMAN. I yield myself 1 additional minute.

That is the present system now, voluntary compliance, unless the Clerk or others would wish to resist. That is what happened in the Wilson case; but the fact of the matter is that we are never out of session for more than a month or 6 weeks any more and the procedures, as the gentleman well knows, being a distinguished member of the bar, these matters drag on, as in the case of the gentleman from California (Mr. WILSON), for 8 or 9 months; so that there is an occasion for the House to resist the subpena.

Mr. HYDE. Well, I do not want to prolong this discussion; but I am concerned that we are depriving the Members of the power to resist a subpena that is issued during the interim.

Mr. BAUMAN. Well, may I make this very plain to the gentleman from Illinois. We are not depriving the Members——

Mr. HYDE. I mean as a House, not the individuals.

Mr. BAUMAN. We are depriving the officers of the House from stepping in and saying in the name of every Member of the House that we will not honor the subpena, Your Honor.

Mr. HYDE. But it may be appropriate when the House is not in session.

Mr. BAUMAN. But the Members may still claim their own privilege and resist subpenas for their records which may be in the hands of others.

Mr. DERRICK. Mr. Speaker, I yield myself 5 minutes.

Mr. BAUMAN. Mr. Speaker, would the gentleman from South Carolina permit me to yield to the gentleman from Tennessee? The gentleman is just going to make a brief statement.

Mr. DERRICK. Yes.

Mr. BAUMAN. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. QUILLEN).

Mr. QUILLEN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it is not often that I take issue with the work of my committee, but in the case of House Resolution 722, I must. Our committee has identified a case of an unbridled, runaway legal staff in the House, and instead of reining it in, as we should have, we have, in this resolution, given it a riding crop and a free run of the track. Instead of reclaiming the exercise of our constitutional rights and privileges, we have, in this resolution, given House legal staff and open-ended license to litigate over these rights and privileges, without our knowledge or approval. In short, we have, in this resolution, made a bad situation even worse by legitimizing the very abuse which fomented this controversy in the first place.

As my colleagues may recall, back in February of this year the House voted overwhelmingly for House Resolution 578 which instructed the Rules Committee to investigate the truth or falsity of a newspaper account that claimed that the House had lost a secret effort in the courts to block a subpena for House records relating to a House Member under investigation by a grand jury. What so enraged House Members about this article and led to the adoption of that resolution was the fact that the House had no prior knowledge of this legal challenge on its behalf; it had never even been informed of the existence of the subpena for House documents.

Furthermore, as our investigation later revealed, not even the Speaker had been informed by the Clerk or his legal staff that they were challenging a subpena for House documents, all the way to the Supreme Court, as it turned out. The Speaker was not informed until after the Supreme Court denied the Clerk's motion to stay the lower court's compliance order, pending an appeal of the motion to quash. And, to add insult to injury, the whole matter was not laid before the House until after the subpenaed materials had already been turned over to the court. In other words, the House had been completely shut out of this whole process, even though it was the name of the House and the rights and privileges of the House which had been drug through the courts, and finally into the mud.

Mr. Speaker, although House Resolution 578 called on the Rules Committee to inquire into the facts of this case and report back its findings and recommendations to the House, the report on the resolution before us today is strangely silent on just what happed and why. You have to turn to the "minority views" to learn what really prompted this whole inquiry and why. Perhaps it should not seem too strange that the majority report ignores the facts of this case since the resolution being propounded by the majority as a remedy only codifies the kind of staff abuse which got us into this whole mess.

What our hearings did reveal was that the legal staff in the Office of the Clerk of the House came up with a very imaginative interpretation of what should have been the governing procedure in this case, House Resolution 10, and used that interpretation to justify their unilateral court challenges without the knowledge or authority of the House. In short, they took the term "proper court" in House Resolution 10 as the basis for their challenge, claiming that since, in their opinion, the subpenaed House payroll records were protected by the "speech or debate clause" of the Constitution, they were beyond the reach of any court, and therefore no court was a proper court for the purpose of issuing such a subpena.

But what our hearings further revealed in testimony elicited from the House Parliamentarian who had authored House Resolution 10, was that it was never the intention that the term "proper court" should be so construed for the purpose of launching a constitutional challenge to a subpena before the matter had even been laid before the House. The whole purpose of House Resolution 10 was to require compliance with a subpena for House records once a proper court had determined its materiality and relevance and the matter had been laid before the House, unless the House at that point voted to challenge the subpena.

It should have been obvious to us in the Rules Committee that what was really needed was a further clarifying revision of House Resolution 10 to insure that this practice would be followed in the future. The fact is that the language of House Resolution 10 is somewhat ambiguous and the legislative history and intent behind it is practically nonexistent, though a simple chat with the Parliamentarian could have cleared up any possible misinterpretations.

Instead, what we have in House Resolution 722 which is before us today, is a new procedure which practically mandates judicial challenges to subpenas on such grounds as court jurisdiction, materiality and relevancy, and consistency with the rights and privileges of the House, before the House is to be informed of such judicial challenges. The resolution makes a slight improvement by requiring that the Speaker and House be immediately informed when a subpena is served, but then it requires that only the Speaker be informed of any judicial challenge, and he is under no obligation either to approve the challenge or inform the House of it. It is not until after the matter is finally disposed of in the courts that the House is to be informed of the challenge—hardly a propitious moment for the House to decide whether it wants to invoke its rights and privileges.

What the Rules Committee has done in House Resolution 722 is to throw House Resolution 10 out the window and not only save the bath water but codify it—if such a thing is possible with bath water. Instead of moving to further protect the right of the House to assert its own rights and privileges in the courts, House Resolution 722 blindly delegates this important constitutional authority and prerogative to staff.

Mr. Speaker, I cannot imagine that this House will sit idly by and accept such a blind delegation of authority to staff when it can only lead to more abuses and embarrassments. Have we not suffered enough ridicule, humiliation and scandal to avoid ever putting ourselves in such a box again? Are we not sufficiently capable of determining for ourselves when our own rights and privileges should be invoked in the courts to resist the blind delegation of such authority to staff? This whole issue goes to the very heart of our representative form of government, and I fear if we cannot accept direct responsibility for asserting our constitutional prerogatives, then we are in danger of forfeiting our rightful role under the Constitution in other respects as well.

Mr. Speaker, to put it all quite bluntly, what we are confronted with in this matter is a case of "staff infection," a disease which is likely to spread if we do not, like the wise physician, resolve to heal ourselves.

The gentleman from Maryland (Mr. BAUMAN) will be offering two amendments which will help cure this "staff infection." The first amendment will narrow the coverage of this procedure to subpenas for House documents as originally provided in House Resolution 10. House Resolution 722, on the other hand, for some inexplicable reason, would broaden the scope of the procedure to include subpenas for testimony and papers relating to the official functions of the House, whatever those may be. The second Bauman amendment would require that, before any judicial challenge to a subpena may be initiated by an officer or employee of the House, the House must give its affirmative approval to such a challenge. While this in no way interferes with the right of a Member to assert his constitutional privileges in the courts, it does make it quite clear that our officers and employees are under the direct control and supervision of the House and cannot invoke the rights and privileges of this House without our permission. I strongly urge the adoption of these two amendments.

□ 1140

Mr. DERRICK. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, I had not intended to participate in this debate but, having read the committee record and having listened to today's discussion, I felt that it was appropriate to make certain comments.

In the first instance, I do not think it is a good idea to draft legislation based upon news reports and various newspapers which may or may not be accurate. Certainly I was concerned and surprised to learn, as I did learn, that the House had, in fact, taken the matter up to the Supreme Court in resisting subpena. But it seems to me that the solution which has been proposed by the Rules Committee in this resolution is a totally appropriate solution. It is a matter of providing prior notification of the subpena to the House, and if any action, by way of contesting the subpena or testing its validity, is to be taken that the Speaker of the House should be notified of that action.

It is the Speaker of the House who, under the Constitution and by precedent, is embodied with the responsibility of asserting the rights and privileges of the House, not the rights and privileges of the Members, and that is not what is at stake here. The question is: Should there be a procedure where the Members of the House can know what the House is doing in asserting any rights and privileges it may have in resisting a subpena?

I believe this resolution is a very, very good manner of solving that problem because the Members have to be notified of the service of the subpena and the Speaker has to be notified if there is any action taken in defending the subpena. Indeed, I think this resolution is a great improvement over the present situation.

The gentleman from Mississippi asked the question about why should subpena for testimony be covered by this resolution. I think it is very important for the Members of the House to know if an employee of the House has been subpenaed to testify in a particular matter and if that person is resisting that subpena. At the present time there would be no requirement of any notification. So what we are now providing is an opportunity for the House to insist either that the subpena be resisted or that the subpena be complied with.

The other thing that is a great improvement, and the gentleman from Illinois touched upon that in another context, is that this resolution requires compliance with valid subpenas. So the House is, in effect, saying we have got to comply with subpenas which are validly served. There is a requirement to comply with subpenas.

I listened very attentively to the comments of the gentleman from Maryland (Mr. BAUMAN) that the real fundamental difference between his approach and the approach embodied in the Rules Committee resolution is that he feels the House should affirmatively vote in each instance as to whether or not a subpena should be resisted or tested in the courts. That is the key issue according to the gentleman from Maryland.

I submit to the Members that if it is important for the House to make that determination, then, in any situation where it is relevant, that determination can be made without requiring the House to adopt a resolution for every subpena.

The resolution provides that when any subpena is received the following will occur; the House will be notified, assuming anybody reads the CONGRESSIONAL RECORD, of the service of the subpena. Before an effort can be made to resist that subpena, the Speaker will be notified. The gentleman from Maryland has already stated, and I think quite correctly, that neither this Speaker nor a future Speaker would hesitate from supplying the information upon request as to whether or not a subpena would be resisted. Any Member who seeks that information, because they feel it is important, will be provided the information, at which point a privileged resolution could be introduced, which would be voted on at any time, either to prevent that subpena from being tested in the court or to require that it be tested.

I think this is a perfectly appropriate solution to the problem. It does not strip the Speaker of his authority to defend and assert the privileges and rights of the House of Representatives, and it does not provide that the Speaker shall assert the rights and privileges of individual Members.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may need.

Mr. Speaker, I would like to comment on a point, and I thought it was a very good point that the gentleman from Illinois (Mr. HYDE) made on behalf of our resolution. The point is that we are really in danger of taking a right or privilege away from a Member if during the recess period we force an officer of this House—and as the gentleman from Maryland knows, the officer as well as an employee has been held by the courts to be in a fiduciary capacity to the membership—if we force them to comply during a recess period we are taking away a right that they have. But let me comment, if I may, on House Resolution 722 and the proposed amendments thereto. This resolution, House Resolution 722, is an affirmative, a positive, resolution. It mandates compliance with subpenas within the structure of House Resolution 722. It says that the House shall comply, unless by a resolution introduced on the floor of the House, the Members determine otherwise.

Further, this is the first time in the history of this institution that public notice, as well as notice to the Speaker and to the membership, is given when a subpena is first received by a Member, officer, or employee of the House. Then, if that subpena is to be contested on some jurisdictional matter, the Speaker is notified.

The gentleman from Maryland and everyone that I have heard speak on this matter indicate to me that they have no problem with the Speaker handling this. They should not have any problem because this is the Speaker's constitutional right given to him under the Constitution of this country of ours to protect the rights and privilege of this House.

If the gentleman from Maryland or if someone else is concerned that the Speaker might do something that would not be to their liking, they have two ways to overcome this under our resolution. They can be attentive to the RECORD, and I know the gentleman from Maryland is. He reads it every day, line by line, word by word. Also they can go to the officer or employee involved and request that they be notified if there is further action to be taken on the subpena. I know that the employee or officer, certainly the officer would be mandated to do so, would notify the gentleman from Maryland.

But if there is further concern, I direct the gentleman from Maryland's attention to two letters that I have here, one from the Honorable THOMAS P. O'NEILL, the Speaker, addressed to the chairman of the Rules Committee. If I may, I would like to read it into the RECORD. It is under date of September 17, 1980.

WASHINGTON, D.C.,
September 17, 1980.

Hon. RICHARD BOLLING,
Chairman, Committee on Rules,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Since last March, beginning with litigation pending before the Federal Trade Commission, *In the Matter of Exxon Corporation, et al.*, I have, upon notification by an officer of the House in receipt of a subpoena for documents, convened a meeting of the Joint Leadership to apprise the Majority and the Minority of the officers intention to oppose or to seek a modification of the subpoena.

Mr. Rhodes, in a letter addressed to me on March 25, stated that this policy "is a good one for the institutional strength of the House." It is my intention to continue this bipartisan consultation process if H. Res. 722, as recommended by the Rules Committee, is adopted.

Sincerely,

THOMAS P. O'NEILL, Jr.,
The Speaker.

□ 1150

I further refer to Mr. RHODES' letter addressed to the Speaker under date of March 25, 1980:

DEAR MR. SPEAKER: This is in response to the litigation *In the Matter of Exxon Corporation, et al.* pending before the Federal Trade Commission and its impact on both the Congressional Research Service and the Congress itself.

Based upon my briefing and understanding of this matter, I want you to know I concur in the basic position taken by the Senate and recommended by House Counsel. I believe that in civil cases particularly we should be extremely careful in permitting agency or litigant discovery of documents and communications between Members of Congress and our staff and support components.

I also want you to know that I appreciate your willingness to consult and discuss matters of this nature with me in my capacity as the Minority Leader. I believe such a policy is a good one for the institutional strength of the House.

Further, we are very concerned—and I know that I do not single out anyone particularly and certainly not the Member from Maryland—that under the gentleman from Maryland's amendment which would require a vote before we might go forward in the House on a jurisdictional matter concerning a subpena, consideration of the subpena in the House could very well turn into a political matter rather than a bipartisan matter on the floor. Before the Member, officer, or employee, as the case may be, has had an opportunity to really have his day in court, before he has ever been indicted or the procedure goes very far, the entire legal procedure will be aired on the floor of the House.

This amendment would put the House to an awful lot of trouble. Common Cause in one instance, in one case, has served 40 subpenas on this body, and to suggest that we may have to deal with each of those on a vote, I think the gentleman would see that we would have to manufacture several more Christmases to finish the session. There is no provision for a recess in the gentleman's amendment. As to the gentleman's amendment that deals with the matter of excluding testimony, I feel that House Resolution 722 really constricts rather than liberalizes this procedure, because, as the gentleman knows, today with House Resolution 10, the House has no control whatsoever over employees and officers who might be called to testify concerning the official functions of the House. We have no control over an officer or an employee of the House who may be called to testify on a matter dealing with an executive session.

There is no provision for notice in the gentleman's amendment.

What we are trying to do in House Resolution 722 is to bring this category of subpenas for testimony under the purview of House Resolution 722. As the gentleman further knows, I am sure, when officers, Members, and employees of the House are called to testify before a court concerning documents relating to the official functions of this body, they are in many instances further called upon to add testimony of clarification of the documents that are before the House. We want this included in the purview of House Resolution 722.

In House Resolution 722, we are constricting and bringing within the purview a class of subpenas that the House presently exercises no control over under House Resolution 10. I suggest to the Membership that House Resolution 722 which received a great deal of thought and work by the members of the Committee on Rules will operate in the years to come and will bring within the purview of this resolution all subpenas, subpenas for testimony as well as subpenas for documents. House Resolution 722 will well serve this House and our country. I urge your support for the resolution as reported.

Mr. BAUMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Speaker, I will be brief because I think we have pretty well hashed over this issue. I just want to take a minute, though, as a member of the Committee on Rules, to commend the task force composed of the gentleman from South Carolina (Mr. DERRICK), the gentleman from Maryland (Mr. BAUMAN), and the gentleman from Texas (Mr. FROST), for the job they did, and

I think it was truly in a bipartisan manner.

Mr. Speaker, House Resolution 722 is the result of efforts by a Rules Committee task force to address certain problems dealing with the way the House responds to subpenas for its documents. Although the original resolution specifying the House's response to these subpenas has been revised somewhat, it is most disheartening that the task force product is still so imperfect. The new resolution leaves us in much the same predicament we are in operating under current House Resolution 10. In fact, the situation which demonstrated the need for changes in the resolution is precisely the kind of action which will be allowed under the proposal we have before us.

In February of this year, newspaper reports revealed that the House had tried to quash a subpena for documents relating to an investigation of one of its Members. What had happened was that the Clerk of the House had challenged a subpena for House records without, not only the House's approval, but the House's knowledge. What ensued, aside from great embarrassment to the House as a body, was an investigation into the matter and the finding that House Resolution 10 is indeed a sieve which invites Members, officials, and employees to invoke the rights and privileges of the House in the courts without its knowledge or permission. I believe all of the members of the Rules Committee agreed that the language of House Resolution 10 did need further clarification. Consequently the task force undertook the job of drafting a new resolution which would hopefully provide specific guidance to Members, employees, and officials in their future responses to subpenas.

However, House Resolution 722, the product of the task force's efforts, is an insufficient attempt at plugging only some of the holes of the sieve. The largest and most glaring loophole is that which requires notification to the Speaker, but not to the House, before a Member, employee, or official pursues a challenge to a subpena for House documents. House Resolution 722 provides that Members and the Speaker are to be notified upon receipt of a subpena. However, a Member, employee, or official is still able under the new resolution to challenge a subpena in the courts without notification to the House. There is the rub: Under the proposal before us, the name of the House of Representatives and its rights and privileges may be invoked in the courts without anyone except the Speaker of the House having knowledge of the challenge. This is a responsibility which should be shared by all Members, and the House as a body should be given an opportunity to disapprove each and every such action.

I support the pending amendment which provides proper notification to the House and allows a judicial determination to be sought only after an affirmative vote by its Members. Thus, we can prevent a reoccurence of past events. We can be sure that the House does not pursue its former legal activities without specific authorization. This amendment is a satisfactory plugging of a loophole which could allow unwarranted exercise of the rights and privileges of the House without its knowledge and which could be a great embarrassment to its Members. Without this amendment, we will be institutionalizing that which caused us such consternation in the first place.

Mr. BAUMAN. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, there is an honest difference of opinion about this matter. We must balance the rights of Members of the House and the House as a whole against the necessity of responding to the courts and their valid subpenas for information which may have to do with Members of the House or its officers. But I suggest to you once again that the larger issue involved here is indeed the House of Representatives itself. We have to balance those rights and privileges of Members in the House against the public's right to know that the activities of the House of Representatives are being conducted in an open, forthright, honest and in a legal manner. When a headline can appear, as I referred to in my opening remarks, saying that the full House of Representatives has fought all the way to the Supreme Court against a subpena, which the Supreme Court eventually ruled was legal and proper, then all of our names and the institution are being dragged down to a level that should never even be approached.

I say to you in good faith today that despite all of the arguments that you have heard, the resolution before you unamended will institutionalize a situation in which the House will, yes, know that a subpena has been served on someone but then can be resisted all the way to the very top echelons of our judicial system in the name of the full House of Representatives, without the full House every having a say about it unless some Member, somewhere, sometime, reads the Congressional Record, or happens to be here at the end of a day when a subpena is laid down, takes enough time from his duties to follow that subpena, and introduces a resolution of privilege to negate resistance to it.

All I am saying is that we should not make it easier to yield the privileges and rights of the House when the Constitution says we should defend them, but we should seek to comply with the courts when they are moving in a proper manner to get information the public and the courts have a right to.

Let me offer to you a little indication of what the sponsors of this resolution, or at least some of them, intended. On page 8 of this report you see a statement of the majority and what their intent is in this matter. I read to you from the second paragraph:

> It is intended that the Member, officer or employee may seek the advice of counsel within the House and/or outside of Congress in determining whether the subpoena raises substantive or procedural questions.

I do not know whether that is the intention of the majority of this House or not, but at one point in our proceedings the suggestion was made to us that we embody in this resolution a permanent House Legal Counsel that would be triggered by the Speaker, which would serve to defend any and all Members and any and all employees who might in any way be charged. I do not think that this House ought to be getting into the business of defending and offering legal counsel to individual Members and officials who may have conducted themselves in such manner that the House should not want to give that assistance to them. They still have their individual rights to fight against such subpenas and charges.

The whole drift of this resolution I am afraid is contrary to the public's best interests and contrary to the best interests of this institution.

□ 1200

I would hope that the House would consider the two amendments that I will offer with the endorsement of the gentlewoman from New York (Mrs. Chisholm) to try to correct the inequities that I feel exist in this resolution. Failing that, as I said, I would oppose the resolution.

Mr. DERRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri (Mr. Bolling).

Mr. BOLLING. Mr. Speaker, I am glad the gentleman from Maryland feels that this matter was handled in a manner that was bipartisan. I made a commitment to the House that it would be and I made a commitment to the House that it would be brought up in this session. I feel quite strongly that the task force did a good job and I think the committee did a good job. I am glad that the gentleman from Maryland feels that the disagreement over the substance is a matter of opinion because I think that is accurate.

The gentleman from Maryland's approach is more the traditional approach which I believe was entirely suitable for a different time. The new approach which is contained in the matter that is before the House at this time is designed to maintain the best of the past and improve the procedure in the interest not only of the House and its Members but in the interest of the country.

We carefully saw to it that all the people who were involved in the process in modern times were consulted. We tried to come to a compromise that would be suitable to the minority and for reasons that were apparent were unsuccessful. However, it is, in effect, a compromise in time, in substance and in purpose. I think it is a very good compromise and I think it should be adopted.

Mr. Speaker, I have no hesitation in adding, too, that in addition to the traditional people who would be involved, the parliamentarian and others, that we consulted with the Speaker and we attempted to keep the minority side informed on events, to see to it that, as much as possible, this would be an action of the institution. I think despite the objections or reservations perhaps of the gentleman from Maryland and others, the product of the majority is such a compromise and I think it deserves to be supported on that basis and in the interest of all concerned.

I think it is always important to remember that we, after all, do not own the House, that it belongs to the people of the country and that is more than just a pious statement, that that is a reality and as far as I am concerned this resolution was drawn in the interest of the people of the country and not in the interests of any particular group in the House.

Mr. Speaker, I think it would be a mistake to overturn it by the amendments of the minority. I hope we are able to pass this by a very substantial margin without change.

AMENDMENT OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Speaker, I offer an amendment as permitted under the rule.

The Clerk read as follows:

Amendment offered by Mr. BAUMAN: On page 1, in the first resolved clause, strike "directing appearance as a witness relating to the official functions of the House or for the production or disclosure of any documents relating to the official functions of the House", and insert in lieu thereof the following: "for the production or disclosure of certain and sundry papers in the possession and under the control of the House of Representatives"; and

On page 2, in section 2 strike "directing appearance as a witness relating to the official functions of the House or for the production or disclosure of any documents relating to the official functions of the House", and insert in lieu thereof the following: "for the production or disclosure of certain and sundry papers in the possession and under the control of the House of Representatives".

The SPEAKER pro tempore. The Chair would inquire of the gentleman from Maryland whether the gentleman from Maryland would like to use the 2 minutes he has at the present time.

Mr. BAUMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Does the gentleman from South Carolina desire to address himself to the amendment?

Mr. BAUMAN. Mr. Speaker, is not the gentleman permitted to speak under the 5-minute rule?

The SPEAKER pro tempore. The Chair will advise the gentleman from Maryland that the 5-minute rule does not apply under the terms of House Resolution 723, debate is in the House.

Mr. BAUMAN. The gentleman from Maryland was not aware of that.

Mr. Speaker, I will use my 2 minutes, then.

Mr. DERRICK. Mr. Speaker, in courtesy to the gentleman from Maryland, I will advise the gentleman that I plan to move a call of the House when the gentleman is finished. Or else I will do it right now.

Mr. BAUMAN. The gentleman from South Carolina may do as he wishes. I do not think it will make any difference whether the Members are here or not.

The SPEAKER pro tempore. The gentleman from Maryland is recognized for 2 minutes.

Mr. BAUMAN. Mr. Speaker, I yield myself 1 minute of the time.

Mr. Speaker, this amendment now pending simply narrows the scope of this resolution to situations in which documents are sought by subpenas. That is the present rule of the House. I see no reason why we should broaden the rules of the House to allow the officials of the House to resist a subpena for testimony. When they are subpenaed to testify, they do not even know what they are subpenaed to testify about. It may be generally mentioned in the subpena. But for the House to allow them on their own volition, after a notice to the House that a subpena has been served, to say they will not even testify, is well beyond anything we have ever adopted before. My amendment would simply leave the rule precisely as it is now and that is, they could still resist subpenas dealing with documents as opposed to testimony, and I would urge its adoption.

CALL OF THE HOUSE

Mr. DERRICK. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device and the following Members responded to their names:

[Roll No. 551]

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Ashley
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Donnelly
Dornan
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Marks
Marlenee
Marriott
Martin
Matsui
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

□ 1220

The SPEAKER pro tempore (Mr. FOLEY). On this rollcall 373 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

PROVIDING FOR A PROCEDURE FOR RESPONSE TO SUBPENAS

The SPEAKER pro tempore. The Chair recognizes the gentleman from South Carolina (Mr. DERRICK).

Mr. DERRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, may I ask, is it the intenton of the Speaker to speak on this amendment or the next amendment. I would rather reserve my time and speak on the second amendment.

Mr. DERRICK. Mr. Speaker, it is my understanding that the Speaker intends to speak on both the amendments.

Mr. BAUMAN. Mr. Speaker, I believe I have 1 minute remaining of my own time, and I have 3 minutes that were just yielded to me.

The SPEAKER pro tempore. The gentleman from Maryland (Mr. BAUMAN) has 5 minutes of his own time remaining.

Mr. BAUMAN. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, the first amendment, the amendment before us now, I again mention for the purposes of political support, is supported by the gentlewoman from New York (Mrs. Chisholm). I think we all have to admit that that is an unusual combination of political forces in the House, and I am very pleased to be honored with that support.

This amendment before us simply holds the House rules to their present status regarding subpenas served upon officers of the House, and I will ask the Members to please keep in mind that neither of these amendments has to do with Members of the House individually. They have to do with officers and employees of the House. In no way do these amendments affect Members' rights as Members of the House of Representatives or as individual citizens.

My first amendment does limit to the traditional role the rules of the House have in the past covered regarding subpenas. The amendment renarrows the scope of this pending resolution to the traditional rules of the House saying that an officer or employee of the House may resist a subpena regarding documents, but he ought to respond to a proper subpena to testify.

The way this resolution is written, with a broad definition of "official functions of the House"—in fact, there is no definition at all—it means that the House of Representatives, on the determination of an employee, without our say, could resist all the way to the Supreme Court, as occurred in the Wilson case, a valid subpena, only to find out later that the matter had been resisted in our names without our approval.

Mr. Speaker, I urge the Members to adopt this first amendment so the rule involved only has to do with subpena of documents, as opposed to one dealing with testimony.

Mr. DERRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts, the Speaker of the House, Mr. Thomas P. O'Neill.

Mr. O'NEILL. Mr. Speaker, may I make this clear at the outset: There is nothing partisan whatsoever in this. This is not a vote for Tip O'Neill or against Tip O'Neill. This in my opinion is a vote for the country. I think it is a vote for this institution, and I think it is a vote that greatly concerns the future of this body.

I rise in support of the committee resolution and in opposition to the amendment. As Speaker, my primary concern is to see to it that my obligations, under the Constitution and the rules of this House, are exercised responsibly and the duties I owe to the Members of this House and to the people of this Nation are carried out honestly and faithfully.

□ 1230

The role of the Speaker has traditionally carried with it the task of representing this coordinate branch of Government in its formal context with the other coordinate branches. And on occasion, as has its parliamentary ancestor, the Speaker of the House of Commons, the Speaker of the House has defended the constitutional rights and the privileges of this body.

House Resolution 722 places great responsibility in me as Speaker to see to it that the Members, the officers and the employees of this House do not seek to avoid compliance with a proper court order and to see to it that the constitutional prerogatives of this House are not abandoned or ignored in face of the process being served by another branch.

The amendment conditions and reduces the discretion traditionally given to the Speakers in these matters. The Speaker is an elected officer of the House. As Speaker, I have on occasion moved forward to protect a threatened privilege, such as the speech and debate clause, when I filed a brief before the Supreme Court in the Helstoski matter. In the Helstoski matter, as the Members will recall—Helstoski is a former Democratic Member of this House who was defeated for renomination and ran as an independent and was responsible for a Republican taking his place—there was a question as to whether or not certain pieces of legislation that he had filed should be brought before the Court or not.

The Clerk of the House had the duty of protecting the files. And then I ordered, without a subpena, that we go to the Supreme Court, and the Supreme Court upheld, under the speech and debate clause, the bills that had been filed by Members were protected under the speech and debate clause and they should not be turned over to the court. If 10 years from now, somebody came in and wanted the records as to why you filed legislation 10 years ago, and we adopt this amendment I would have to say that those records, particularly if we are out of session, would have to be turned over. I think this is a complete erosion, a complete erosion of the rights that the Founding Fathers gave to us under the speech and debate clause.

Believe me, I hold no brief as to what you are going to do. You may act any way you want. But I think we are destroying this institution ultimately, some time along the line.

When I was talking about the Helstoski case, I filed a brief in the matter. My attorneys argued it for 15 minutes before the Supreme Court.

I have no intention of debating my remarks, if the gentleman will be kind enough to sit down. I am just making a statement. I have no intention of debating my remarks.

Mr. RHODES. I have no intention of asking for debate, if the distinguished Speaker will yield.

Mr. O'NEILL. I yield to the gentleman from Arizona.

Mr. RHODES. I just want to compliment the Speaker for the statement he is making.

Mr. O'NEILL. I appreciate that.

Mr. RHODES. I am very familiar with this matter, as the Speaker knows. We have handled these matters of subpena together. I have no criticism of the way the Speaker has handled these matters in the past. I think some of the House employees have gotten out of line, and assumed responsibilities which were not theirs, which is the reason for this resolution being here, today. I believe that the prerogatives of the House will be adequately protected by the resolution, and I join the Speaker in urging its adoption without amendment.

Mr. O'NEILL. I appreciate the remarks of the minority leader.

In the Helstoski case, my position was sustained by the Supreme Court. The position of the executive branch was rejected. The speech and debate clause was protected against the clear attempted encroachment by the Executive.

The Founding Fathers wrote a Constitution that provided for the election of a Speaker, the protection of the speech and debate clause, and the separation of powers. I take my constitutional role seriously, as do I take the constitutional guarantees such as the speech and debate clause seriously.

By adopting this amendment, we will inevitably be eroding the protection of this branch as was given it by the Founding Fathers to insure its independence and the vigorous representation of its constituents. Therefore I urge a vote against the amendment.

I want to congratulate the task force of the Rules Committee. They did a serious study along the line. There have been criticisms of the officers of the House. I cannot truly criticize the Sergeant at Arms or the Clerk of the House.

We put into their hands through the years the protection of the records of this House, whether it was a criminal case or whether it was a civil case. Now there are so many criminal cases out there that people get upset, and I thoroughly understand it. If the House is in session, by virtue of the ruling all subpenas must come to the House. But what happens if the House is not in session? You are relegating to the Speaker, who is an elected, constitutional officer, a role below a Member. It is my opinion that the prerogatives of the Speaker should be kept not for "Tip" O'Neill but for the posterity of this House and what has gone before years ago.

The Founding Fathers knew what they were doing, and I do not think we should tinker with it at this time.

The SPEAKER pro tempore. The Chair announces that there are 3 minutes remaining on each side.

Mr. DERRICK. Mr. Speaker, I reserve the balance of my time.

Mr. BAUMAN. Perhaps each of us could yield 1 minute to the gentlewoman from New York.

Mr. DERRICK. I will be glad to yield 1 minute to the gentlewoman, yes.

Mr. BAUMAN. Mr. Speaker, I yield 1 minute to the gentlewoman from New York (Mrs. Chisholm).

The SPEAKER pro tempore. The gentlewoman from New York (Mrs. Chisholm) is recognized for 2 minutes.

Mrs. CHISHOLM. Mr. Speaker, the Bauman-Chisholm amendment will continue the historic practice of covering only subpenas relating to documents. House Resolution 722 broadens the scope of the resolution to include subpenas relating to testimony. We assert that the scope should not be broadened. The amendment would allow the House to continue to assert its rights and privileges regarding documents in its possession, and allow Members to continue to assert their individual rights and privileges as Members of the House, but would not unnecessarily broaden the resolution. Second, House Resolution 722 substitutes the term "documents relating to the official functions of the House" for the prior language which was "certain and sundry papers in the possession and under the control of the House." We seek to return to the latter language. Although Mr. DERRICK may argue that the language is too vague and there exists actual legal definitions for the term "official functions of the House." However, that legal definition is open to interpretation and in actuality could open up litigation, rather than narrowing it.

Generally, it is my feeling that House Resolution 722 is a broad modification of House Resolution 10 that opens up potential avenues of litigation thereby defeating the intent of House Resolution 10, which is automatic compliance with subpenas, unless there are compelling reasons for seeking judicial determination of their appropriateness. I believe that the Bauman amendments will better restore the intent of the original resolution while protecting the House from the kind of situation with which it was faced in the Wilson case.

The SPEAKER pro tempore. The time of the gentlewoman from New York (Mrs. CHISHOLM) has expired.

Mr. BAUMAN. Mr. Speaker, I yield 1 additional minute to the gentlewoman from New York.

☐ 1240

Mrs. FENWICK. Mr. Speaker, will the gentlewoman yield?

Mrs. CHISHOLM. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentlewoman for yielding.

I would like to associate myself with the gentlewoman's remarks and support the amendment.

Mr. DERRICK. Mr. Speaker, I reserve the balance of my time.

Mr. BAUMAN. Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN).

The amendment was rejected.

AMENDMENT OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BAUMAN: On page 2, at the end of section 3, strike the period, and insert the following: ", and in no event whatsoever shall any formal judicial determination be sought by any officer or employee without the House or Representatives having first voted affirmatively to authorize such action.".

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Mr. Speaker, we have only 3 minutes remaining, do we not, before a vote?

The SPEAKER pro tempore. The Chair would like to advise all Members that in 3 minutes all time will expire on the debate on the second amendment just reported by the Clerk, and we will proceed to vote on the second amendment in 3 minutes and thereafter on the resolution, and for the advice of Members, the Chair emphasizes this fact.

Mr. BAUMAN. Mr. Speaker, I strongly urge that the Members vote in favor of this amendment. This amendment simply says that no employee of the House shall have the right to go into a court as an employee of the House without our permission and fight a subpena all the way to the Supreme Court as was done in the Wilson case.

If the Members vote against this amendment, the Members are saying that what happened in the Wilson case is all right with them, and they are going to institutionalize that process in our rules. That should not happen.

The amendment before the House not only has the support of the gentlewoman from New York, but all the minority members of the Committee on Rules.

I was surprised to learn only a few moments ago the position of the minority leader. His present position is a marked change from past discussions I have had with him on this matter.

But I think this is a worthy amendment. I would hope we could get away from partisanship on this matter and uphold the institution of the House of Representatives.

There is no way that we can avoid future disrepute for the House if this amendment is not adopted, because possibly in secret, officials of the House will be using our name and the name of the House of Representatives to oppose all the way to the Supreme Court future subpenas.

Yes; the House of Representatives is the issue, as the Speaker has rightly said. I hope my colleagues will uphold this institution and adopt the amendment. That is what is embodied in this vote.

Mr. DERRICK. Mr. Speaker, I yield myself 2 minutes, the balance of my time.

If the Members support the Bauman amendment, what they do is strip the Speaker of the House of the powers that he was given under the Constitution of this country to protect the rights and privileges of this body.

Now if the Members really want to see a partisan situation, they can support Mr. BAUMAN's amendment, because that is exactly what they are going to get. They are going to have a Member's rights debated on this floor as to the jurisdictional matter before he has ever had an opportunity to have his day in court, even as far as indictment is concerned before a Grand Jury. If the Members want to get home every year after Christmas, then vote with the gentleman from Maryland. The amendment of the gentleman from Maryland suggests that we are going to have to vote on every subpena that comes before this House.

Common Cause in one case presented this House with 40 subpenas. If the Members want to vote on every one of them, I suggest they support the gentleman's amendment.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. DERRICK. I yield to the gentleman from Arizona, the minority leader.

Mr. RHODES. I just want to ask the gentleman if it is not true that under the resolution reported by the committee that an employee of the House no longer can take a matter like this to the courts without the Speaker giving his assent?

Mr. DERRICK. That is correct.

Mr. RHODES. Prior to this time, that was not true. The Speaker will now be in charge completely of the handling of subpenas?

Mr. DERRICK. The gentleman is correct.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. DERRICK. I yield to the gentleman from Massachusetts.

Mr. O'NEILL. The gentleman describing it said the employees of the House. He did not mention the fact of the officers of the House, and the Speaker of the House is an officer of the House.

Mr. DERRICK. The gentleman is certainly correct.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN).

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—yeas 19; nays 162.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 55, nays 353, not voting 24, as follows:

[Roll No. 552]

YEAS—55

Archer
Badham
Bauman
Bereuter
Bethune
Broyhill
Buchanan
Chisholm
Collins, Tex.
Courter
Daniel, R. W.
Dannemeyer
Dickinson
Dornan
Edwards, Okla.
Erdahl
Gilman
Goldwater
Goodling
Gradison
Hammerschmidt
Hansen
Hinson
Holt
Ichord
Jacobs
Jeffords
Jeffries
Kemp
Lagomarsino
Latta
Leach, Iowa
Lewis
Lott
Lungren
McDonald
Marks
Martin
Moorhead, Calif.
Pashayan
Paul
Porter
Quillen
Rousselot
Sensenbrenner
Shumway
Solomon
Stangeland
Stockman
Stump
Symms
Taylor
Thomas
Wylie
Yatron

NAYS—353

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Burgener

Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Danielson
Daschle
Davis, Mich.
Davis, S.C.
Dellums
Derrick
Derwinski
Devine
Dicks
Dingell
Dixon
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marlenee
Marriott
Mathis
Matsui
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shelby
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stenholm
Stewart
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Thompson
Traxler
Trible
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Yates
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—24

Anderson, Ill.
Ashbrook
Boggs
Brown, Ohio
de la Garza
Deckard
Dodd
Erlenborn
Ford, Mich.
Holtzman
Jenrette
Leach, La.
Lederer
McClory
Mattox
Myers, Pa.
Nedzi
Nolan
Shannon
Stokes
Ullman
Wilson, Bob
Wilson, C. H.
Young, Fla.

☐ 1300

Mr. DANIEL B. CRANE and Mr. PHILLIP BURTON changed their votes from "yea" to "nay."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. SHARP). Under the rule, the previous question is ordered on the resolution.

The question is on the resolution.

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—yeas 112, nays 18.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 380, nays 23, not voting 29, as follows:

[Roll No. 553]

YEAS—380

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Davis, S.C.
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
McCloskey
McCormack
McDade
McEwen
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patterson
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pursell
Quayle
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shelby
Shumway
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NAYS—23

Archer
Bauman
Broyhill
Collins, Tex.
Crane, Daniel
Crane, Philip
Dannemeyer
Hammerschmidt
Hansen
Hinson
Lott
Lungren
McDonald
Myers, Ind.
Patten
Paul
Porter
Quillen
Rousselot
Sensenbrenner
Stump
Symms
Thomas

NOT VOTING—29

Anderson, Ill.
Ashbrook
Brown, Ohio
de la Garza
Deckard
Dodd
Dornan
Erlenborn
Forsythe
Holtzman
Jenrette
Leach, La.
Lederer
McClory
McKay
Mattox
Myers, Pa.
Nedzi
Nolan
Pepper
Pritchard
Railsback
Sebelius
Shannon
Shuster
Stokes
Wilson, Bob
Wilson, C. H.
Young, Fla.

☐ 1320

The Clerk announced the following pairs:

Mr. Nedzi with Mr. McClory.
Mr. Lederer with Mr. Forsythe.
Mr. de la Garza with Mr. Bob Wilson.
Mr. Pepper with Mr. Young of Florida.

Mr. Mattox with Mr. Shuster.

Mr. Myers of Pennsylvania with Mr. Railsback.

Mr. Jenrette with Mr. Pritchard.

Mr. McKay with Mr. Sebelius.

Mr. Nolan with Mr. Dornan.

Mr. Dodd with Mr. Ashbrook.

Ms. Holtzman with Mr. Brown of Ohio.

Mr. Shannon with Mr. Deckard.

Mr. Stokes with Mr. Erlenborn.

Mr. Charles H. Wilson of California with Mr. Leach of Louisiana.

Mr. KEMP changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DERRICK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 1125, FEDERAL CROP INSURANCE ACT OF 1980

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 784 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 784

Resolved, That during the consideration of the conference report on the bill (S. 1125) to improve and expand the Federal crop insurance program, and for other purposes, all points of order against said conference report for failure to comply with the provisions of clause 3, rule XXVIII, are hereby waived.

The SPEAKER pro tempore. The gentleman from South Carolina (Mr. Derrick) is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Mississippi (Mr. Lott), for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 784 makes in order the consideration of the conference report to accompany S. 1125, the Federal Crop Insurance Act of 1980. Conference reports in general have privilege to be called up at any time under clause 1 of rule XXVIII after they have laid over in the House for 3 days. The conference report to S. 1125 was filed in the House on August 28.

In this case, however, a rule was granted waiving any point of order that may be raised under clause 3 of rule 28 with respect to one provision of the report which is technically outside the scope of the conference. Clause 3 of rule XXVIII limits the contents of the conference report to the scope of the differences between the two Houses.

The particular provision in section 106 of the report would allow a farmer to reduce his Federal crop insurance premium by a prescribed amount that may not be less than 15 percent, nor more than 30 percent, of the full cost of the Federal crop insurance coverage, if he elected to obtain hail and fire coverage from a non-Federal insurer. The House amendment had provided that, for any producer who makes such election, the Federal crop insurance premium would be reduced by 25 percent, but not to exceed the premium for the substitute coverage.

The conference substitute modifies the House amendment to provide a flexible discount range to more accurately reflect the variety of risk associated with hail and fire in different parts of the country. There is no comparable provision in either the Senate bill or current law. As the report's discount range of from 15 to 30 percent would provide for a reduction in the premium that could be lower or greater than the House's 25 percent figure, the conference provision is technically outside the scope of the conference. Therefore, the rule waives clause 3 of rule XXVIII against the provision.

Mr. Speaker, the report provides for expansion and improvement of the present Federal all-risk crop insurance program by authorizing its availability on all commodities in all counties of the United States. It assures that the program is affordable to all farmers by requiring the Federal Crop Insurance Corporation to pay a portion of the premium cost. It includes reinsurance provisions which enable the private insurance industry to offer a comprehensive all-risk insurance policy to the farmer and otherwise provides for use of the private sector in carrying out the program. And, it extends the disaster payment program for the 1980 crop and provides for its phaseout in 1981 as crop insurance is made generally available to producers in the country.

Mr. Speaker, I urge my colleagues to adopt House Resolution 784 so that the House may consider the conference report to the Federal Crop Insurance Act of 1980.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the rule to accompany the conference report on the Federal Crop Insurance Act has been adequately explained. It simply waives clause 3 of rule XXVIII against consideration of the report. This clause calls for limiting the contents of the conference report to the scope of the differences between the two Houses.

Apparently there is one provision of the conference report which is outside the scope of the conference report. The House version of the bill would have allowed a 25-percent credit for farmers who obtain fire and hail coverage from a non-Federal insurer. The Senate bill contained no such provision. The conference substitute adopts the House provision with a modification relating to the determination of the amount of the premium reduction. Under this change, the Federal crop insurance premium for a farmer who elects to obtain hail and fire coverage from a non-Federal insurer would be reduced by 40 percent of the prevailing average county insurance premium.

Although there was some controversy over specific provisions of the bill when it came before the House, conferees have reached an acceptable level of compromise consolidating the best features of both the disaster payment and crop insurance programs. The hesitation which some segments of the insurance industry felt has been dispelled, since the final version of the bill allows the utilization of private carriers to the maximum extent possible.

The other body agreed to this conference report on Monday, September 8, by a voice vote. Thus I urge the adoption of this rule and fully support implementation of the program at an early date to assure farmers the protection they need.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 5192, HIGHER EDUCATION EXTENSION AND REVISION

Mr. FORD of Michigan submitted the following conference report and statement on the bill (H.R. 5192) to amend and extend the Higher Education Act of 1965, and for other purposes:

Conference Report (H. Rept. No. 96–1337)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5192) to amend and extend the Higher Education Act of 1965, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Education Amendments of 1980".

TITLE I—ESTABLISHMENT OF A NEW TITLE I OF THE HIGHER EDUCATION ACT OF 1965

Sec. 101. New programs established.

"TITLE I—CONTINUING POSTSECONDARY EDUCATION PROGRAM AND PLANNING

"Part A—Commission on National Development in Postsecondary Education

"Sec. 101. Findings.

"Sec. 102. Establishment of the Commission on National Development in Postsecondary Education.

"Sec. 103. Duties of the Commission.

"Sec. 104. Powers and administrative provisions.
"Sec. 105. Authorization.

"PART B—EDUCATION OUTREACH PROGRAMS

"Sec. 111. Findings.
"Sec. 112. State allotments.
"Sec. 113. Comprehensive statewide planning.
"Sec. 114. Information services.
"Sec. 115. Continuing education.
"Sec. 116. Federal discretionary grants.
"Sec. 117. National Advisory Council on Continuing Education.
"Sec. 118. Definitions.
"Sec. 119. Appropriations authorized and payments.".

TITLE II—AMENDMENT AND EXTENSION OF TITLE II OF THE HIGHER EDUCATION ACT OF 1965

Sec. 201. Extension and revision of library programs.

"TITLE II—COLLEGE AND RESEARCH LIBRARY ASSISTANCE AND LIBRARY TRAINING AND RESEARCH

"Sec. 201. Purpose; authorization.
"Sec. 202. Notification of State agency.

"PART A—COLLEGE LIBRARY RESOURCES

"Sec. 211. Resource development grants.

"PART B—LIBRARY TRAINING, RESEARCH, AND DEVELOPMENT

"Sec. 221. Grants authorized.
"Sec. 222. Library career training.
"Sec. 223. Research and demonstrations.
"Sec. 224. Special purpose grants.

"PART C—STRENGTHENING RESEARCH LIBRARY RESOURCES

"Sec. 231. Eligibility for assistance.
"Sec. 232. Geographical distribution of grants.

"PART D—NATIONAL PERIODICAL SYSTEM

"Sec. 241. Purpose.
"Sec. 242. Establishment.
"Sec. 243. Functions of the Corporation.
"Sec. 244. Board of Directors.
"Sec. 245. Director and staff of Corporation.
"Sec. 246. Nonprofit nature of Corporation.
"Sec. 247. Authority of Corporation.
"Sec. 248. Implementing the design.
"Sec. 249. Copyright Act.
"Sec. 250. Definitions.
"Sec. 251. Authorization of appropriations.".

TITLE III—ESTABLISHMENT OF A NEW TITLE III OF THE HIGHER EDUCATION ACT OF 1965

Sec. 301. Programs authorized.

"TITLE III—INSTITUTIONAL AID

"Sec. 301. Findings and purposes.

"PART A—STRENGTHENING INSTITUTIONS

"Sec. 311. Program purpose.
"Sec. 312. Definitions.
"Sec. 313. Duration of grant.

"PART B—AID TO INSTITUTIONS WITH SPECIAL NEEDS

"Sec. 321. Program purpose.
"Sec. 322. Definitions.
"Sec. 323. Duration of grant.
"Sec. 324. Federal share.

"PART C—CHALLENGE GRANTS FOR INSTITUTIONS ELIGIBLE FOR ASSISTANCE UNDER PART A OR PART B

"Sec. 331. Establishment of challenge grant program.
"Sec. 332. Applications for challenge grants.

"PART D—GENERAL PROVISIONS

"Sec. 341. Applications for assistance.
"Sec. 342. Waiver authority and reporting requirement.
"Sec. 343. Application review process.
"Sec. 344. Cooperative arrangements.
"Sec. 345. Assistance to institutions under other programs.
"Sec. 346. Limitations.
"Sec. 347. Authorizations.".

TITLE IV—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

Sec. 401. Statement of purpose.
Sec. 402. Pell grants.
Sec. 403. Supplemental educational opportunity grants.
Sec. 404. Grants to States for State student incentives.
Sec. 405. Special programs for students from disadvantaged backgrounds.

"SUBPART 4—SPECIAL PROGRAMS FOR STUDENTS FROM DISADVANTAGED BACKGROUNDS

"Sec. 417A. Program authority; authorization of appropriations.
"Sec. 417B. Talent search.
"Sec. 417C. Upward bound.
"Sec. 417D. Special services for disadvantaged students.
"Sec. 417E. Educational opportunity centers.
"Sec. 417F. Staff development activities.".
Sec. 406. Special program for migrant and seasonal farmwork students.
Sec. 407. Veterans' cost-of-instruction payments.

PART B—GUARANTEED AND INSURED STUDENT LOANS

Sec. 411. Extension of programs.
Sec. 412. Loan limitations.
Sec. 413. Deferral of repayment.
Sec. 414. State agencies as lenders of last resort.
Sec. 415. Interest rate and payment.
Sec. 416. Collection practices.
Sec. 417. Administrative improvements.
Sec. 418. Loan information program authorized.
Sec. 419. Loans to parents.
Sec. 420. Special allowances.
Sec. 421. The Student Loan Marketing Association.
Sec. 422. Prompt due diligence determinations.
Sec. 423. Miscellaneous amendments.

PART C—WORK-STUDY PROGRAMS

Sec. 431. Purpose; appropriations authorized.
Sec. 432. Allotment to States.
Sec. 433. Use of certain unused college work-study program funds for the support of cooperative education programs.
Sec. 434. Grants for work-study programs.
Sec. 435. Distribution of assistance.
Sec. 436. Job location and development.
Sec. 437. Work study for community service-learning.

PART D—NATIONAL DIRECT STUDENT LOANS

Sec. 441. Extension of program.
Sec. 442. Alternative funding for direct loans; recapture of current balances.
Sec. 443. Loan limitations.
Sec. 444. Deferral of repayment.
Sec. 445. Collection practices.
Sec. 446. Interest rates.
Sec. 447. Student loan information program authorized.
Sec. 448. Miscellaneous amendments.

PART E—GENERAL PROVISIONS

Sec. 451. Student assistance general provisions.

"PART F—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

"Sec. 481. Definitions.
"Sec. 482. Need analysis.
"Sec. 483. Forms and regulations.
"Sec. 484. Student eligibility.
"Sec. 485. Institutional and financial assistance information for students.
"Sec. 486. Training in financial aid and student support services.
"Sec. 487. Program participation agreements.
"Sec. 488. Transfer of allotments.
"Sec. 489. Administrative expenses.
"Sec. 490. Criminal penalties.
"Sec. 491. National Commission on Student Financial Assistance.".

TITLE V—AMENDMENT AND EXTENSION OF TITLE V OF THE HIGHER EDUCATION ACT OF 1965

Sec. 501. Extension of programs.
Sec. 502. Teacher Corps amendments.
Sec. 503. Teacher centers amendments.
Sec. 504. Teacher training.
Sec. 505. Training for teachers of handicapped children in areas with a shortage.
Sec. 506. Education professional development.

"PART C—TRAINING FOR ELEMENTARY AND SECONDARY SCHOOL TEACHERS TO TEACH HANDICAPPED CHILDREN IN AREAS WITH A SHORTAGE

"Sec. 541. Grants authorized.
"Sec. 542. Application.
"Sec. 543. Stipends and institution of higher education allowances.
"Sec. 544. Fellowship conditions.
"Sec. 545. Definition.
"Sec. 546. Appropriations authorized.".

"PART D—COORDINATION OF EDUCATION PROFESSIONAL DEVELOPMENT

"Sec. 551. Findings.
"Sec. 552. Policy.
"Sec. 553. Office of Education Professional Development.".

TITLE VI—ESTABLISHMENT OF A NEW TITLE VI OF THE HIGHER EDUCATION ACT OF 1965

Sec. 601. Programs authorized.

"TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

"PART A—INTERNATIONAL AND FOREIGN LANGUAGE STUDIES

"Sec. 601. Findings and purposes.
"Sec. 602. Graduate and undergraduate language and area centers.
"Sec. 603. International studies centers.
"Sec. 604. Undergraduate international studies and foreign language programs.
"Sec. 605. Research; studies; annual report.
"Sec. 606. Equitable distribution of funds.
"Sec. 607. Authorization of appropriations.

"PART B—BUSINESS AND INTERNATIONAL EDUCATION PROGRAMS

"Sec. 611. Findings and purposes.
"Sec. 612. Education and training programs.
"Sec. 613. Authorization of appropriations.

"PART C—GENERAL PROVISIONS

"Sec. 621. Advisory board.
"Sec. 622. Definitions.".

TITLE VII—AMENDMENT TO TITLE VII OF THE HIGHER EDUCATION ACT OF 1965

Sec. 701. Amendment.

"TITLE VII—CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

"Sec. 701. General purposes.
"Sec. 702. Appropriations authorized.

"PART A—GRANTS FOR THE CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF UNDERGRADUATE ACADEMIC FACILITIES

"Sec. 711. State plan.
"Sec. 712. Basic criteria.
"Sec. 713. Allotment of funds.

"PART B—GRANTS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF GRADUATE ACADEMIC FACILITIES

"Sec. 721. Grants.

"PART C—LOANS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

"Sec. 731. Eligibility conditions, amounts, and terms.
"Sec. 732. General provisions for loan program.
"Sec. 733. Revolving loan and insurance fund.

"Sec. 734. Annual interest grants.
"Sec. 735. Academic facilities loan insurance.

"Part D—General

"Sec. 741. Recovery of payments.
"Sec. 742. Definitions.".

TITLE VIII—COOPERATIVE EDUCATION

Sec. 801. Extension of program.

TITLE IX—GRADUATE PROGRAMS

Sec. 901. Grants to institutions of higher education.
Sec. 902. Graduate fellowships.

"Part B—Fellowships for Graduate and Professional Study

"Sec. 921. Statement of purpose.
"Sec. 922. Program authorized.
"Sec. 923. Award of fellowships.
"Sec. 924. Authorization of appropriations.".
Sec. 903. New program authorized.

"Part C—National Graduate Fellows Program

"Sec. 931. Award of national graduate fellowships.
"Sec. 932. Allocation of fellowships.
"Sec. 933. Stipends.
"Sec. 934. Fellowship conditions.".
Sec. 904. Training and legal assistance profession program authorized.

"Part D—Assistance for Training in the Legal Profession

"Sec. 941. Program authorized.
"Sec. 942. Authorization of appropriations.".
Sec. 905. Law school programs included in title IX.

"Part E—Law School Clinical Experience Programs

"Sec. 951. Program authorization.
"Sec. 952. Applications.
"Sec. 953. Authorization of appropriations.".

TITLE X—ESTABLISHMENT OF A NEW TITLE X OF THE HIGHER EDUCATION ACT OF 1965

Sec. 1001. Fund for the Improvement of Postsecondary Education.

"TITLE X—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

"Part A—Establishment and Operation of Fund

"Sec. 1001. Authorization of program.
"Sec. 1002. Consultation.
"Sec. 1003. National Board of the Fund for the Improvement of Postsecondary Education.
"Sec. 1004. Administrative provisions.
"Sec. 1005. Authorization of appropriations.".

TITLE XI—ESTABLISHMENT OF A NEW TITLE XI OF THE HIGHER EDUCATION ACT OF 1965

Sec. 1101. Program authorized.

"TITLE XI—URBAN GRANT UNIVERSITY PROGRAM

"Sec. 1101. Findings and purpose.
"Sec. 1102. Appropriations authorized.
"Sec. 1103. Project assistance.
"Sec. 1104. Limitation.
"Sec. 1105. Definitions.".

TITLE XII—GENERAL PROVISIONS

Sec. 1201. Amendments.
"Sec. 1203. Federal-State relationships; State agreements.
"Sec. 1204. Treatment of territories and territorial assistance.
"Sec. 1205. National Advisory Committee on Accreditation and Institutional Eligibility.".

TITLE XIII—MISCELLANEOUS PROVISIONS

Part A—General Education Provisions

Sec. 1301. Contingent extension.
Sec. 1302. Enforcement of the rules.
Sec. 1303. Science education programs.
Sec. 1304. Commission on the Review of the Federal Impact Aid Program.
Sec. 1305. Evaluation reports.
Sec. 1306. Education impact statement.

Part B—National Institute of Education

Sec. 1311. Extension of authority.
Sec. 1312. Declaration of policy.
Sec. 1313. Research and development priorities.
Sec. 1314. Repealer.

Part C—Amendments to the Rehabilitation Act of 1973

Sec. 1321. Composition of the Architectural and Transportation Barriers Compliance Board and transmission of report.
Sec. 1322. Information clearinghouse for handicapped individuals.

Part D—Native Hawaiian Education Study

Sec. 1331. Study authorized.

Part E—Special Impact Aid Program

Sec. 1341. Program authorized.

Part F—The Navajo Community College Assistance Program

Sec. 1351. Amendments to the Navajo Community College Act.

Part G—New Land Grant Colleges

Sec. 1361. American Samoa and Micronesia land grant colleges.

Part H—Memorials

SUBPART 1—THE ROBERT A. TAFT INSTITUTE

Sec. 1371. Short title.
Sec. 1372. Grants for development.
Sec. 1373. Authorization of appropriations.

SUBPART 2—GENERAL DANIEL JAMES MEMORIAL HEALTH EDUCATION CENTER

Sec. 1376. Financial assistance authorized.
Sec. 1377. Authorization of appropriations.

SUBPART 3—THE WILLIAM LEVI DAWSON CHAIR OF PUBLIC AFFAIRS

Sec. 1381. Short title.
Sec. 1382. Assistance for the establishment of the William Levi Dawson Chair of Public Affairs.
Sec. 1383. Authorization of appropriations.

Part I—Technical Provisions

Sec. 1391. Administrative amendments.
Sec. 1392. Contract authority.
Sec. 1393. Effective dates.

TITLE I—ESTABLISHMENT OF A NEW TITLE I OF THE HIGHER EDUCATION ACT OF 1965

NEW PROGRAMS ESTABLISHED

Sec. 101. (a) Title I of the Higher Education Act of 1965 (hereafter in this Act referred to as the "Act") is amended to read as follows:

"TITLE I—CONTINUING POSTSECONDARY EDUCATION PROGRAM AND PLANNING

"Part A—Commission on National Development in Postsecondary Education

"FINDINGS

"Sec. 101. The Congress finds—

"(1) that institutions of higher education in our Nation and their human and intellectual resources are critical to the future of the American society, and that the Nation's economic potential, its strength and freedom, and the quality of life for all citizens are tied to the quality and extent of higher education available;

"(2) that it is the responsibility of the Federal Government, consistent with the rights, duties, and privileges of States and institutions of higher education, to promote—

"(A) equality of access to postsecondary education, without regard to age, race, sex, creed, handicap, national origin, geographic location, or economic status;

"(B) freedom of choice to students who wish to participate in postsecondary education, to select institutions and programs which meet their needs and abilities;

"(C) quality of postsecondary education, including the maintenance and extension of academic freedom, responsibility, and educational diversity;

"(D) responsiveness of postsecondary education to rapidly changing social and economic needs; and

"(E) the efficient use of resources in postsecondary education, and the optimal allocation of human, physical and financial resources, through efficient planning and management to achieve these goals; and

"(3) that demographic, economic, and social changes will require institutions of postsecondary education to adapt to the future needs of individuals and of American society.

"ESTABLISHMENT OF THE COMMISSION ON NATIONAL DEVELOPMENT IN POSTSECONDARY EDUCATION

"Sec. 102. (a) There is established a Commission to be known as the Commission on National Development in Postsecondary Education to review the effectiveness of policies to promote the Federal responsibilities set forth in clauses (A) through (E) of section 101(2).

"(b) The Commission shall be composed of twenty-five members as follows:

"(1) Nine members shall be appointed by the President of the United States.

"(2) Eight of the members shall be appointed by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader.

"(3) Eight members shall be appointed by the Speaker of the House of Representatives.

"(c)(1) Of each class specified in subsection (b) not more than four members shall be from the same political party, except in the case of the members appointed under clause (1), in which case not more than five members shall be from the same political party. The members of the Commission appointed from private life shall be individuals who by reason of experience or training are especially qualified to serve on the Commission.

"(2) In making appointments under subsection (b) of this section the President, the President pro tempore, and the Speaker of the House of Representatives shall give due consideration to the appointment of individuals who, collectively, will provide appropriate representation of institutions of higher education, State agencies responsible for postsecondary education, labor, the business community, and public service.

"(d) Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

"(e) The Commission shall select a Chairman and a Vice Chairman from among its members.

"(f) Thirteen members of the Commission shall constitute a quorum for the transaction of business, but the Commission may establish a lesser number as a quorum for the purpose of holding hearings, taking testimony, and receiving evidence.

"(g)(1) Members of the Commission who are Members of Congress or officers or employees of the executive branch of the Government shall serve without additional compensation but shall be reimbursed for travel, subsistence and other necessary expenses incurred by them in carrying out the duties of the Commission.

"(2) Members of the Commission not otherwise employed by the Federal Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 of the General Schedule under section 5332 of title 5, United States Code, including traveltime for each day they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

"DUTIES OF THE COMMISSION

"Sec. 103. (a) The Commission shall study and investigate the extent to which national policies promote the objectives set forth in clauses (A) through (E) of section 101(2). Such study shall include, but not be limited to, consideration of—

"(1) the extent to which postsecondary educational planning by States and localities and institutions of higher education is designed to identify the future needs of education in American society;

"(2) the effectiveness of Federal financial assistance to students and institutions of higher education in promoting national development of postsecondary education in the most efficient manner.

"(3) the physical and financial capacity of institutions of higher education to carry out their mission, including the conduct of basic and applied research in the humanities and scientific and technical fields, and the relationship between institutions of higher education, public agencies, and the private sector in developing the capacity of higher education to promote such research;

"(4) the human and technical resources currently and prospectively available to institutions of higher education to enable them to address and respond to national and worldwide social and economic forces;

"(5) the effect of demographic changes on institutions of higher education and their constituent disciplines and professions and the ability of such institutions to meet national needs; and

"(6) the extent to which Federal student assistance may be used to promote the recruiting of individuals to serve in the Armed Forces and to retain members of the Armed Forces.

"(b)(1) In addition, the Commission shall conduct a study of the remaining barriers to adult postsecondary education which analyzes the characteristics of current or potential adult postsecondary students, the Federal response to the needs of adult postsecondary students, and the ability of educational institutions to respond to the growing postsecondary student population. For the purpose of the study conducted under this subsection, the term 'adult postsecondary student' means individuals twenty-two years of age or older.

"(2) In analyzing the characteristics of current or potential adult postsecondary students and the Federal response to their needs, the Commission shall—

"(A) review the extent to which such students are motivated by employment goals, and whether these students seek further education in order to enter the labor force or reenter after an extended absence, advance in a current career, or move from one career to another;

"(B) analyze the relationship between different employment motivations and sources of financial assistance for education, choice of institution or patterns of participation in postsecondary education;

"(C) evaluate the extent to which the unavailability or inaccessibility of financial aid sources may prevent educational participation by economically or socially disadvantaged adults, or otherwise limit their choice of educational focus or intensity of study; and

"(D) evaluate the extent to which age represents a barrier to participation in postsecondary education and the potential for greater participation in postsecondary education by individuals age 60 and older.

"(3) In analyzing the ability of postsecondary institutions to respond to the potential adult postsecondary student population, the Commission shall, at a minimum—

"(A) review the availability of outreach, information, counseling, or supportive service programs, with particular attention to programs serving adults such as homemakers or retirees who are least likely to have access to normal sources of educational information; and

"(B) review the availability of alternative methods of evaluating past education credits and experience to promote adult participation in postsecondary education, and the availability of remedial courses for adult students.

"(4) The Commission shall coordinate the study conducted under this subsection with the research and demonstration priorities of the National Institute of Education, and such other studies on student financial assistance as are authorized by this Act.

"(c) The Commission shall submit to the President and to the Congress such interim reports as it deems advisable and, not later than December 31, 1983, a final report of its study and investigation together with such recommendations, including recommendations for legislation, as the Commission deems advisable.

"(d) The Commission shall cease to exist 60 days after the submission of its final report.

"POWERS AND ADMINISTRATIVE PROVISIONS

"SEC. 104. (a) The Commission or, on authorization of the Commission, any subcommittee or member thereof, may, for the purposes of carrying out the provisions of this Act, hold such hearings, sit and act at such times and places, as the Commission or such subcommittee or member may deem advisable.

"(b) The Commission may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information which the Commission considers useful in the discharge of its duties. All departments, agencies, and independent instrumentalities, or other authorities of the executive branch of the Government, shall cooperate with the Commission and furnish all information requested by the Commission to the extent permitted by law.

"(c) The Commisison is authorized to—

"(1) appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

"(2) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;

"(3) enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman and the Administrator of General Services;

"(4) procure supplies, services, and property, and make contracts without regard to the laws and procedures applicable to Federal agencies; and

"(5) enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

"AUTHORIZATION

"SEC. 105. There are authorized to be appropriated $3,000,000 to carry out the provisions of this part for the period beginning October 1, 1981 through March 1, 1984.

"PART B—EDUCATION OUTREACH PROGRAMS

"FINDINGS

"SEC. 111. The Congress finds that—

"(1) the rapid pace of social, economic, and technological change has created pressing needs for postsecondary educational opportunities for adults in all stages of life;

"(2) postsecondary educational opportunities in the United States are traditionally provided for individuals between the ages of eighteen and twenty-two;

"(3) many adults are barred from advancement or self-sufficiency by lack of access to, and lack of retention in, postsecondary educational opportunities appropriate to their needs, or by lack of information or support services concerning the availability of postsecondary educational opportunities;

"(4) access to postsecondary educational opportunities is severely limited for adults whose educational needs have been inadequately served during youth, or whose age, sex, race, handicap, national origin, rural isolation, or economic circumstance may be a barrier to such opportunities;

"(5) with declining population growth rates, the future of postsecondary education in the United States is largely dependent upon its ability to respond to the challenges of new student populations;

"(6) service in continuing education will be better achieved through increased emphasis on planning and coordination which more effectively utilizes existing resources of both public and private sectors; and

"(7) to meet the unique problems and needs of adults who are disadvantaged in seeking access to postsecondary educational opportunities, resources must be marshalled from a wide range of institutions and groups, including community colleges, community-based educational institutions, business, industry, labor, and other public and private organizations and institutions.

"STATE ALLOTMENTS

"SEC. 112. (a)(1) From 90 per centum of the funds appropriated for this part for each fiscal year, the Secretary shall—

"(A) allot to each State having an agreement under section 1203 of this Act an amount which bears the same ratio to 60 per centum of such amount as the adult population of that State bears to the adult population of all States, and

"(B) allot 40 per centum of such amount to all States having an agreement under section 1203 on an equal basis,

except that no State shall receive less than $187,500 in any such fiscal year. If 90 per centum of the sums appropriated for any fiscal year are insufficient to pay the allotment specified in clauses (A) and (B) of the previous sentence and the exception contained in the previous sentence, the amount of each State's allotment under such clauses (A) nd (B) (but not the amount in the exception) shall be ratably reduced. If 90 per centum of the sums appropriated for any fiscal year are insufficient after the application of the previous sentence, the amount of each State's allotment shall be equal. In case additional funds become available in making such payments in any fiscal year during which the second and third sentence of this paragraph are applicable, such reduced amounts shall be increased on the same basis as they were reduced.

"(2) Ten per centum of the funds appropriated for this part shall be available for carrying out section 116.

"(b) If, in any fiscal year, a State does not wish to conduct comprehensive planning pursuant to section 113, the Secretary shall allot to such State an amount equal to the amount the State would otherwise receive for the conduct of programs of continuing education and information services under this part. The Secretary shall reallot the funds that would have been used by such State for the conduct of statewide planning under section 113 to all other States having agreements under section 1203. Such reallotments shall be made in proportion to their allotments pursuant to subsection (a).

"COMPREHENSIVE STATEWIDE PLANNING

"SEC. 113. (a)(1) Subject to paragraphs (2) and (3), each State with an agreement pursuant to section 1203 of this Act shall use at least 15 per centum but not to exceed 20 per centum of its allotment for the purpose of conducting comprehensive statewide planning for improving access and retention within the State to postsecondary educational programs for traditional and nontraditional learners, coordinating educational and occupational information and counseling services to youth and adults throughout the State, and promoting more effective and efficient use of available resources for continuing education within the State.

"(2) In any fiscal year in which appropriations for this part are equal to or exceed $18,500,000 but are less than $24,000,000, each State with an agreement pursuant to section 1203 of this Act shall use at least 10 per centum but not to exceed 15 per centum of its allotment for the purpose described in paragraph (1) of this subsection.

"(3) In any fiscal year in which the appropriations for this part are equal to or exceed $24,000,000, each State having an agreement pursuant to section 1203 of this Act shall use not to exceed 10 per centum of its allotment for the purpose described in paragraph (1) of this subsection.

"(b) A State shall submit to the Secretary at the end of each fiscal year for which sums have been received a list of programs assisted under this part, a brief description of the purposes of the programs, and an analysis of the relationship between grants and contracts awarded under this part and comprehensive statewide planning for postsecondary education.

"(c) Of the sums granted to States for comprehensive statewide planning, not less than 50 per centum shall be for the purpose of carrying out a program of statewide planning for continuing education in order to improve access for adults within the State to post-secondary education programs and to promote more effective and efficient use of available resources, including efforts to ensure equal treatment of applicants in the evaluation of grant proposals, except that the Secretary may, upon application, grant a waiver to a State which has demonstrated that the State has adequately provided for meeting the needs of adult learners in its statewide planning activities. Such planning shall give particular consideration to the educational needs of adults who have been inadequately served by programs of postsecondary education.

"(d) Planning undertaken pursuant to this section shall be coordinated, to the maximum extent feasible, with the planning activities under subpart 4 of part A and part B of title IV and section 485 of this Act; the Vocational Education Act; the Comprehensive Employment and Training Act; the Older Americans Act of 1965; the Rehabilitation Act of 1973; the Career Education Incentive Act; the Adult Education Act; the Veterans Readjustment Assistance Act; and other Federal, State, and local activities intended to provide outreach, guidance, counseling, and educational, student aid, and occupational information to persons within the State.

"(e) Each State may use the funds available for this section to conduct studies of student financial assistance needs and resources, information coordination, continuing education, and other topics consistent with the purposes of subsections (a) and (c) of this section.

"INFORMATION SERVICES

"SEC. 114. (a) Each State shall use not less than $50,000 nor more than 12 per centum of its allotment, whichever is greater, to conduct programs to develop and coordinate new and existing educational and occupational information and counseling programs to eliminate unnecessary duplication and to provide a more comprehensive delivery of services to both traditional and nontraditional learners seeking educational information and to youth and adults seeking occupational information.

"(b) Such educational and occupational information and counseling programs shall be coordinated to the maximum extent possible with those authorized by subpart 4 of part A and part B of title IV and section 485 of this Act; the Vocational Education Act; the Comprehensive Employment and Training Act; the Older Americans Act of 1965; the Rehabilitation Act of 1973; the Career Education Incentive Act; the Adult Education Act; the Veterans Readjustment Assistance Act; and other Federal, State, and local activities intended to provide outreach, guidance, counseling, and educational, student aid, and occupational information to persons within the State.

"(c) For the purposes of carrying out this section, each State may make grants to, and enter into contracts with, institutions of higher education, public, and private institutions and organizations, business, industry, and labor, or any combination thereof.

"CONTINUING EDUCATION

"SEC. 115. (a) Each State shall use such sums as may remain available from that State's allotment after reserving the amounts required to carry out the provisions of sections 113 and 114 of this part for the purpose of—

"(1) promoting access to and retention in postsecondary educational programs for adults whose educational needs have been inadequately served;

"(2) expanding and improving postsecondary education programs which help adults develop their occupational potential and prepare for transitions between education and work;

"(3) eliminating barriers posed by previous education or training, age, sex, race, handicap, national origin, rural isolation, or economic circumstance which may place adults at a disadvantage in seeking postsecondary educational opportunities;

"(4) strengthening statewide and other mechanisms of information, counseling, and referral which provide access to postsecondary education and serve the special needs of adults; and

"(5) developing strategies to promote the financial self-sufficiency of postsecondary education programs initiated pursuant to this part.

"(b) To promote the purposes of subsection (a), each State may make grants to and enter into contracts with public and private institutions and organizations, institutions of higher education, business, industry, and labor, or any combination thereof, for programs, such as—

"(1) the creation or expansion of labor education, training and technical assistance programs, and the development of cooperative relationships between State and local labor organizations and institutions and agencies which provide opportunities for continuing education;

"(2) the removal of barriers to continuing education caused by rural isolation or other rural-related factors;

"(3) legal, vocational, and health educational services and information services for older individuals who use preretirement education as a means to adjust to retirement;

"(4) the promotion of resource sharing for innovative uses of technology, including telecommunications, either on an interstate or intrastate basis, to overcome barriers to postsecondary educational opportunities;

"(5) educational and occupational information and counseling services designed to meet the special needs of adult women, particularly homemakers, and to assist their entry or reentry into postsecondary education and the labor force;

"(6) the collection and dissemination of information, including data banks, on sources of student financial assistance and information designed to assist individuals to make choices among postsecondary institutions, programs, and other educational opportunities;

"(7) community education service activities consistent with the purpose of this section for adults in rural areas;

"(8) postsecondary educational programs suited to individuals whose educational needs have been inadequately served, especially the handicapped, older individuals, migrant and seasonal farmworkers, individuals who can participate in programs only on a part-time basis, and individuals who otherwise would be unlikely to continue their education beyond high school;

"(9) child care services to assist individuals desiring to participate to enter or reenter the field of postsecondary education and the labor force; and

"(10) the promotion or delivery of postsecondary education services to women at the place of their employment or in conjunction with their employment.

"(c) No grant or contract may be entered into to carry out the activities described in clause (9) of subsection (b) unless the agreement to make the grant or the contract contains provisions designed to assure that—

"(1) the State will provide assurances that the State has established a cooperative agreement between the State entity responsible for planning under section 113 and the agency responsible for coordinating child care services within the State; and

"(2) funds made available pursuant to such grant or contract will be used for services furnished only by child care providers licensed in the State or child care providers who have applied for renewal of such a license and are determined by the State to be likely to be approved for renewal.

"(d) Each State may use an amount which does not exceed 5 per centum of sums available for this section or $40,000, whichever is greater, for the administration and operation of programs described in subsection (b) of this section.

"FEDERAL DISCRETIONARY GRANTS

"SEC. 116. (a) From 10 per centum of the sums appropriated to carry out the provisions of this part, the Secretary is authorized to make grants to and enter into contracts with public and private institutions and organizations, institutions of higher education, business, industry, labor, and States, or any combination thereof for activities which—

"(1) develop and evaluate innovative delivery systems to increase access to postsecondary education for underserved adults;

"(2) expand the range of educational and community resources used to meet the needs of underserved adults for continuing education;

"(3) promote the development of interstate educational delivery systems, cooperative and consortial arrangements, and programs (including telecommunications) which more effectively address regional needs for continuing education;

"(4) stimulate and evaluate creative approaches to the problems of access for adults inadequately served by existing educational offerings;

"(5) develop statewide, regional, or national programs to coordinate educational and occupational information, including information on student financial assistance, through creation and expansion of data banks for the more effective coordination and dissemination of such information;

"(6) assist States to perform their functions of authorizing institutions of higher education effectively; and

"(7) provide preservice and inservice training to teachers and administrative personnel involved in child care programs, including the recruitment and training of low-income parents for child care positions, and provide specialized training in early childhood education, and to provide improved teacher certification criteria for child care programs.

"(b) No grant may be awarded under this section within a State unless the Secretary has provided the State entity responsible for comprehensive planning under section 1203, if applicable, an opportunity to comment on the relationship of the proposed grant to such planning.

"NATIONAL ADVISORY COUNCIL ON CONTINUING EDUCATION

"SEC. 117. (a) The President shall appoint a National Advisory Council on Continuing Education consisting of eight representatives of Federal agencies having postsecondary continuing education and training responsibilities, including but not limited to, one representative each from the Departments of Education, Agriculture, Defense, and Labor, and the Veterans' Administration; and twelve members, not full-time employees of the Federal Government, who are knowledgeable and experienced in the field of continuing education, including State and local government officials, representatives of business, labor, and community groups, and adults whose educational needs have been inadequately served. The Advisory Council shall meet at the call of the chairman but not less than twice a year.

"(b) The Advisory Council shall advise the Secretary in the preparation of general regulations and with respect to policies and procedures arising in the administration of this title.

"(c) The Advisory Council shall examine all federally supported continuing education and training programs and make recommendations with regard to policies to eliminate duplication and to effectuate the coordination of programs under this title and other federally funded continuing education and training programs and services.

"(d) The Advisory Council shall make annual reports to the President, the Congress, and the Secretary, commencing on September 30, 1981, of its findings and recommendations, including recommendations for changes in the provisions of this title and other Federal laws relating to continuing education and training activities. The President shall transmit each such report to the Congress with his comments and recommendations. The Advisory Council shall make such other reports or recommendations to the President, the Congress, the Secretary, or the head of any other Federal department or agency as may be appropriate.

"(e) The Advisory Council may utilize the services and facilities of any agency of the Federal Government as may be necessary. The Advisory Council may accept, employ, and dispose of gifts or bequests to carry out its responsibilities under this title.

"DEFINITIONS

"SEC. 118. For the purpose of this subpart—

"(1) the term 'Commission' means the Commission on National Development in Postsecondary Education established under section 102;

"(2) the term 'Advisory Council' means the National Advisory Council on Continuing Education established under section 117;

"(3) the term 'adults whose educational needs have been inadequately served' means individuals eighteen years of age or older who, because of circumstances of age, sex, low income, handicap, minority status, rural isolation, status of unemployment or underemployment, lack of education, or other significant barriers have been discouraged from obtaining equal educational opportunities;

"(4) the term 'continuing education' means postsecondary instruction and support services designed to meet the educational needs of adults, including the expansion of available learning opportunities for adults whose educational needs are inadequately served by current educational offerings in their communities; and

"(5) the term 'adult population' means the population eighteen years old and older of a State and of all the States which shall be determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

"APPROPRIATIONS AUTHORIZED AND PAYMENTS

"SEC. 119. (a) There is authorized to be appropriated $20,000,000 for fiscal year 1981, $30,000,000 for fiscal year 1982; $40,000,000 for fiscal year 1983; $50,000,000 for fiscal year 1984; and $60,000,000 for fiscal year 1985 to carry out the provisions of this part.

"(b) Payments under this part shall not exceed two-thirds of the cost of activities assisted under this part. The non-Federal share may be in cash or in kind, but may not include payments received under any other Federal program.

"(c) Each State is authorized to use not more than 50 per centum of the funds provided under section 113 for the purpose of carrying out programs under section 115.".

(b) Subpart 5 of part A of title IV of the Act is repealed.

TITLE II—AMENDMENT AND EXTENSION OF TITLE II OF THE HIGHER EDUCATION ACT OF 1965

EXTENSION AND REVISION OF LIBRARY PROGRAMS

SEC. 201. Title II of the Act is amended to read as follows:

"TITLE II—COLLEGE AND RESEARCH LIBRARY ASSISTANCE AND LIBRARY TRAINING AND RESEARCH

"PURPOSE; AUTHORIZATION

"SEC. 201. (a) The Secretary shall carry out a program to assist—

"(1) institutions of higher education in the acquisition of library resources, including law library resources, and in the establishment and maintenance of networks for sharing library resources in accordance with part A;

"(2) in the training of persons in librarianship and to encourage research and development relating to the improvement of libraries (including the promotion of economical and efficient information delivery, cooperative efforts, and developmental projects) in accordance with part B;

"(3) the Nation's major research libraries, in maintaining and strengthening their collections, and in making their holdings available to other libraries whose users have need for research materials, in accordance with part C; and

"(4) the establishment of a National Periodical System Corporation, in accordance with part D.

"(b) (1) (A) There are authorized to be appropriated to carry out part A $10,000,000 for the fiscal year 1981, $30,000,000 for the fiscal year 1982 and for each of the two succeeding fiscal years, and $35,000,000 for the fiscal year 1985.

(B) There are authorized to be appropriated to carry out part B $10,000,000 for the fiscal year 1981, $30,000,000 for the fiscal year 1982 and for each of the two succeeding fiscal years, and $35,000,000 for the fiscal year 1985.

(C) There are authorized to be appropriated to carry out part C $10,000,000 for the fiscal year 1981, $15,000,000 for the fiscal year 1982 and each of the three succeeding fiscal years.

"(2) Notwithstanding paragraph (1), no funds are authorized to be appropriated for part D unless the appropriation for each of parts A, B, and C equals or exceeds the amount appropriated for each such part, respectively, for fiscal year 1979.

"(c) No grant may be made under this title for books, periodicals, documents, or other related materials to be used for sectarian instruction or religious worship, or primarily in connection with any part of the program of a school or department of divinity.

"NOTIFICATION OF STATE AGENCY

"SEC. 202. Each institution of higher education which receives a grant under this title shall annually inform the State agency designated pursuant to section 1203 of its activities under this title.

"PART A—COLLEGE LIBRARY RESOURCES

"RESOURCE DEVELOPMENT GRANTS

"SEC. 211. (a) From the amount appropriated for this part, the Secretary shall make grants to institutions of higher education or combinations thereof (and to each branch of an institution which is located in a community different from that in which its parent institution is located), and to other public and private nonprofit library institutions whose primary function is to provide library and information services to institutions of higher education on a formal, cooperative basis. The amount of a resource development grant under this section shall not exceed $10,000.

"(b) A grant under this part may be made only if the application provides—

"(1) information about the institution and its library resources as prescribed by the Secretary in regulations;

"(2) satisfactory assurance that the applicant will expend, for all library material expenditures (exclusive of construction) during the fiscal year for which the grant is sought, from funds other than funds received under this part, an amount not less than the average annual aggregate amount or the average amount per full-time equivalent student it expended for such purposes during the two fiscal years preceding the fiscal year for which assistance is sought under this part;

"(3) for such fiscal control and fund accounting procedures as are necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

"(4) for making such reports as the Secretary may require and for keeping such records and for affording such access thereto as the Secretary deems necessary to assure the correctness and verification of such reports.

"(c) If the Secretary determines, in accordance with regulations, that there are very unusual circumstances which prevent the applicant from making the assurance required by subsection (b)(2), the requirement for such assurance may be waived. For purposes of this subsection, the term 'very unusual circumstances' means theft, vandalism, fire, flood, earthquake, or other occurrence which may temporarily reduce the level of expenditures for library materials and total library purposes, or which resulted in unusually high expenditures for library materials and total library purposes.

"(d) Grants under this part may be used only for books, periodicals, documents, magnetic tapes, phonographic records, audiovisual materials, and other related library materials (including necessary binding) and for the establishment and maintenance networks for sharing library resources with other institutions of higher education.

"PART B—LIBRARY TRAINING, RESEARCH, AND DEVELOPMENT

"GRANTS AUTHORIZED

"SEC. 221. From the amount appropriated for this part, the Secretary shall make grants in accordance with sections 222, 223, and 224. Of such amount, one-third shall be available for the purposes of each such section.

"LIBRARY CAREER TRAINING

"SEC. 222. (a) The Secretary shall make grants to, and contracts with, institutions of higher education and library organizations or agencies to assist them in training persons in librarianship. Such grants or contracts may be used by such institutions, library organizations, or agencies (1) to assist in covering the cost of courses of training or study (including short term or regular session institutes), (2) to establish and maintain fellowships or traineeships with stipends (including allowances for travel, subsistence, and other expenses) for fellows and others undergoing training and their dependents, not in excess of such maximum amounts as may be determined by the Secretary, and (3) to establish, develop, or expand programs of library and information science, including new techniques of information transfer and communication technology.

"(b) Not less than 50 per centum of the grants made under this section shall be for the purpose of establishing and maintaining fellowships or traineeships under subsection (a)(2).

"RESEARCH AND DEMONSTRATIONS

"SEC. 223. The Secretary is authorized to make grants to, and contracts with, institutions of higher education and other public or private agencies, institutions, and organizations for research and demonstration projects related to the improvement of libraries, training in librarianship, and information technology, and for the dissemination of information derived from such projects.

"SPECIAL PURPOSE GRANTS

"SEC. 224. (a) The Secretary is authorized to make special purpose grants to (1) institutions of higher education to meet special national or regional needs in the library or information sciences, (2) combinations of institutions of higher education which demonstrate a need for special assistance in establishing and strengthening joint-use library facilities, resources, or equipment, (3) other public and private nonprofit library institutions which provide library and information services to institutions of higher education on a formal, cooperative basis for the purpose of establishing, developing, or expanding programs or projects that improve their services, and (4) institutions of higher education which demonstrate a need for special assistance to develop or expand programs or projects that will service the communities in which the institutions are located.

"(b) A grant under this section may be made only if the application therefor (whether by an individual institution or a combination of institutions) is approved by the Secretary on the basis of criteria prescribed in regulations and provides satisfactory assurance that (1) the applicant will expend during the fiscal year for which the grant is sought (from funds other than funds received under this title), for the same purpose as such grant, an amount from such other sources equal to not less than one-third of such grant, and (2) the applicant will expend during such fiscal year from such other sources for all library purposes (exclusive of construction) an amount not less than the average annual amount it expended for such purposes during the two fiscal years preceding the fiscal year for which the grant is sought under this section.

"PART C—STRENGTHENING RESEARCH LIBRARY RESOURCES

"ELIGIBILITY FOR ASSISTANCE

"SEC. 231. (a)(1) From the amount appropriated for this part, the Secretary shall make grants to institutions with major research libraries.

"(2) For the purposes of this part, the term 'major research library' means a public or private nonprofit institution (including the library resources of an institution of higher education), an independent research library, or a State or other public library, having a library collection which is available to qualified users and which—

"(A) makes a significant contribution to higher education and research;

"(B) is broadly based and is recognized as having national or international significance for scholarly research;

"(C) is of a unique nature, and contains material not widely available; and

"(D) is in substantial demand by researchers and scholars not connected with that institution.

"(b) No institution receiving a grant under this part for any fiscal year may receive a grant under section 211 of 224 for that year.

"GEOGRAPHICAL DISTRIBUTION OF GRANTS

"SEC. 232. In making grants under this part, the Secretary shall endeavor to achieve broad and equitable geographical distribution throughout the Nation.

"PART D—NATIONAL PERIODICAL SYSTEM

"PURPOSE

"SEC. 241. It is the purpose of this part to assess the feasibility and advisability of, and, if feasible and advisable, prepare a design for a national periodical system to serve as a national periodical resource by contributing to the preservation of periodical materials and by providing access to a comprehensive collection of periodical literature to public and private libraries throughout the United States.

"ESTABLISHMENT

"SEC. 242. There is established a nonprofit corporation, to be known as the National Periodical System Corporation, which shall not be considered an agency or establishment of the United States Government. The Corporation shall be subject to the provisions of this part, and to the extent consistent with this Act, to the laws of the jurisdiction where incorporated.

"FUNCTIONS OF THE CORPORATION

"SEC. 243. (a) The Corporation shall assess the feasibility and advisability of a national system and, if feasible and advisable, design such a system to provide reliable and timely document delivery from a comprehensive collection of periodical literature. A design may be implemented by the Corporation only in accordance with the provisions of section 248.

"(b) Any design for a national periodical system shall include provisions for such system to—

"(1) acquire current and past issues of periodicals, and to preserve and maintain a dedicated collection of such documents;

"(2) provide information on periodicals to which the system can insure access, including those circulated from private sector sources, and cooperate in efforts to improve bibliographic and physical access to periodicals;

"(3) make such periodicals available through libraries, by loan, photoreproduction or other means;

"(4) cooperate with and participate in international borrowing and lending activities as may be appropriate for such purposes;

"(5) ensure that copyright owners who do not wish to participate in such system are not required to participate;

"(6) ensure that copyright fees are fixed by the copyright owners for any reproduction or dissemination of a document delivered through the system;

"(7) complement and not duplicate activities in the private sector to provide access to periodical literature;

"(8) ensure, to the maximum extent feasible, that such system not adversely affect the publication and distribution of current periodicals, particularly scholarly periodicals of small circulation; and

"(9) ensure coordination with existing programs to distribute periodical literature, including programs of regional libraries and programs of interlibrary loan and library networks.

"(c) Any design shall include provisions for the role, if any, of the Corporation in the governance, administration, and operation of the system.

"(d) Any design shall be accompanied by an estimate of the cost for each fiscal year of carrying out the system proposed in the design.

"BOARD OF DIRECTORS

"SEC. 244. (a) The Corporation shall have a Board of Directors, consisting of fifteen members, including fourteen members appointed by the President, by and with the advice and consent of the Senate, and the Director of the Corporation.

"(b) The members of the Board appointed by the President shall be equitably representative of the needs and interests of the Government, academic and research communities, libraries, publishers, the information community, authors, and the public. Except for the initial Board of Directors, the members shall be appointed after consultation with the Board.

"(c) The members of the initial Board of Directors shall serve as incorporators and shall take whatever actions are necessary to establish the Corporation under the laws of the jurisdiction in which it is incorporated.

"(d) The term of office for each member of the Board (other than the Director) shall be two years except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Notwithstanding the preceding provisions of this paragraph, a member whose term has expired may serve until his successor has taken office.

"(e)(1) The members of the Board shall not, by reason of membership, be deemed employees of the United States. Except as provided in paragraph (2), members shall, while engaged in activities of the Board, be entitled to receive compensation at the rate equal to the daily rate prescribed for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day and, while away from their homes or regular place of business, may be allowed travel expenses.

"(2) Members of the Corporation who are full-time officers and employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Corporation.

"(f) Eight members of the Board shall constitute a quorum.

"(g) The Board shall elect annually one of its members to serve as the Chairman.

"(h) The Board shall meet annually or at the call of the Chairman or a majority of its members.

"DIRECTOR AND STAFF OF CORPORATION

"SEC. 245. (a) The Corporation shall have a Director, and such other officers as appointed by the Board for the terms and at rates of compensation fixed by the Board. The Director shall manage the operations of the Corporation, subject to such rules as may be prescribed by the Board.

"(b) Subject to such rules as may be prescribed by the Board, the Director may appoint and fix the pay of personnel and may procure temporary and intermittent services.

"NONPROFIT NATURE OF CORPORATION

"SEC. 246. (a) The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

"(b) No part of the incomes or assets of the Corporation shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

"(c) The National Periodical System Corporation shall be exempt from taxation now or hereafter imposed by the United States, or any territory or possession thereof, or by any State, county, municipality, or local taxing authority.

"AUTHORITY OF CORPORATION

"SEC. 247. (a) The Corporation is authorized to—

"(1) obtain grants from and to make contracts with individuals and with private, State, and Federal agencies, organizations, and institutions;

"(2) conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

"(3) lease, purchase, or otherwise acquire, own, hold, improve, use or otherwise deal in and with any property (real, personal, or mixed), or any interest therein, wherever situated;

"(4) sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets; and

"(5) enter into contracts, execute instruments, incur liabilities, and do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

"(b) To carry out its functions and to engage in the activities described in subsection (a), the Corporation shall have the usual powers conferred upon a nonprofit corporation by the jurisdiction in which the Corporation is incorporated.

"(c) The Corporation may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States. The Administrator of General Services shall provide to the Corporation on a reimbursable basis such administrative support services as the Corporation may request.

"(d) The Corporation is authorized to accept, hold, administer, and use gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the authority of the Corporation pursuant to section 243. For the purpose of Federal income, estate, and gift taxes, property accepted by the National Periodical System Corporation shall be a gift, bequest, or devise to the United States.

"(e) The Corporation shall be subject to the provisions of section 552b of title 5, United States Code.

"IMPLEMENTING THE DESIGN

"SEC. 248. Any design established under this part shall be submitted to the Congress not later than December 31, 1981, and may not be implemented until the design is approved in whole or in part by enactment of a joint resolution of the Congress approving such design.

"COPYRIGHT ACT

"SEC. 249. Nothing in this part shall be considered to amend, affect, or redefine the provisions of title 17, United States Code, relating to copyrights.

"DEFINITIONS

"SEC. 250. As used in this part—

"(1) the term 'access' means the ability to identify, locate, and obtain a specific item (generally a periodical article), and includes both bibliographic access (the ability to identify a specific item from its description) and physical access to materials (the ability to obtain the text of an item in an appropriate form, such as visual, audio, or printed formats);

"(2) the term 'Board' means the Board of Directors of the National Periodical System Corporation:

"(3) the term 'comprehensive collection' means a collection of periodical titles which will provide access to approximately 90 per centum of the requests received, except that such titles need not all be physically located in the same place;

"(4) the term 'copyright owner' means the owner of any one of the exclusive rights comprised in a copyright;

"(5) the term 'Corporation' means the National Periodical System Corporation established under this part;

"(6) the term 'dedicated collection' means a collection of periodicals maintained for the sole purpose of assuring the provision of permanent physical access;

"(7) the term 'document' means any portion or the entire issue of a periodical;

"(8) the term 'periodical' means a publication consisting of issues in a continuous series under the same title published at regular or irregular intervals, over an indefinite period, individual issues in the series being numbered consecutively or each issue being dated; and

"(9) the term 'private sector' means nongovernmental, non-profit, and for-profit organizations.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 251. (a) There are authorized to be appropriated, for the purpose of carrying out this part, $750,000 for each of fiscal years 1981 and 1982, and such sums as may be necessary for each of the fiscal years 1983, 1984, and 1985.

"(b) In any fiscal year after the joint resolution described in section 248 is enacted, there are authorized to be appropriated such additional sums as may be necessary to implement an approved design for any such fiscal year ending prior to October 1, 1985.".

TITLE III—ESTABLISHMENT OF A NEW TITLE III OF THE HIGHER EDUCATION ACT OF 1965

PROGRAMS AUTHORIZED

SEC. 301. Title III of the Act is amended to read as follows:

"TITLE III—INSTITUTIONAL AID

"FINDINGS AND PURPOSES

"SEC. 301. (a) The Congress finds that—

"(1) many institutions of higher education in this era of declining enrollments and scarce resources face problems which threaten their ability to survive;

"(2) the problems relate to the management and fiscal operations of certain institutions of higher education, as well as to an inability to engage in long-range planning, recruitment activities, and development activities;

"(3) the solution of the problems of these institutions would enable them to become viable, thriving institutions of higher education; and

"(4) these institutions play an important role in the American system of higher education, and there is a strong national interest in assisting them in solving their problems and in stabilizing their management and fiscal operations.

"(b) It is the purpose of this title to assist such institutions through a program of Federal assistance.

"PART A—STRENGTHENING INSTITUTIONS

"PROGRAM PURPOSE

"SEC. 311. (a) The Secretary shall carry out a program, in accordance with this part, to improve the academic quality, institutional management, and fiscal stability of eligible institutions, in order to increase their self-sufficiency and strengthen their capacity to make a substantial contribution to the higher education resources of the Nation.

"(b) From the sums available for this part under section 347(a)(1), the Secretary may award grants to any eligible institution with an application approved under section 341 in order to assist such an institution to plan, develop, or implement activities that promise to strengthen the institution. Special consideration shall be given to applications which propose to engage in the following activities pursuant to the institution's plan:

"(1) faculty development;

"(2) funds and administrative management;

"(3) development and improvement of academic programs;

"(4) acquisition of equipment for use in strengthening funds management and academic programs;

"(5) joint use of facilities such as libraries and laboratories; and

"(6) student services.

"DEFINITIONS

"SEC. 312. For purposes of this part:

"(1) The term 'educational and general expenditures' means the total amount expended by an institution of higher education for instruction, research, public service, academic support (including library expenditures), student services, institutional support scholarships and fellowships, operation, and maintenance expenditures for physical plant, and any mandatory transfers which the institution is required to pay by law.

"(2) The term 'eligible institution' means—

"(A) an institution of higher education—

"(i)(I) which, in the case of an institution which awards a bachelor's degree, has an enrollment which includes a substantial percentage of students receiving awards under subpart 1 of part A of title IV, the average amount of which is high in comparison with the average amount of all grants awarded under such subpart to students at such institutions, and (II) which, in the case of junior or community colleges, has an enrollment which includes a substantial percentage of students receiving awards under subpart 1 of title IV, the average amount of which is high in comparison with the average amount of all grants awarded under such subpart to students at such institutions;

"(ii) except as provided in section 342(a), the average educational and general expenditures of which are low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditures per full-time equivalent undergraduate student of institutions that offer similar instruction;

"(iii)(I) is legally authorized to provide, and provides within the State, an educational program for which it awards a bachelor's degree, or (II) is a junior or community college;

"(iv) is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation;

"(v) except as provided in section 342(b) has, during the five academic years preceding the academic year for which it seeks assistance under this part—

"(I) met the requirement of either clause (iii)(I) or (iii)(II), or of both such clauses (simultaneously or consecutively); and

"(II) met the requirement of clause (iv); and

"(vi) meets such other requirements as the Secretary may prescribe; or

"(B) any branch of any institution of higher education described under subparagraph (A) which by itself satisfies the requirements contained in clauses (i) and (ii) of such subparagraph.

For purposes of the determination of whether an institution is an eligible institution under this paragraph, the factor described under subparagraph (A)(i) shall be given twice the weight of the factor described under subparagraph (A)(ii).

"(3) The term 'full-time equivalent students' means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by twelve) at such institution.

"(4) The term 'junior or community college' means an institution of higher education—

"(A) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

"(B) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

"(C) that—

"(i) provides an educational program of not less than two years that is acceptable for full credit toward such a degree, or

"(ii) offers a two-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

"DURATION OF GRANT

"SEC. 313. (a) The Secretary may award a grant to an eligible institution under this part for—

"(1) not to exceed three years, or

"(2) not less than four nor more than seven years,

subject for each fiscal year to the availability of appropriations therefor. The Secretary shall not accept the application of an eligible institution for a grant under both paragraphs (1) and (2) for a fiscal year.

"(b) The Secretary shall not award a grant under this part to an eligible institution that has, for any prior fiscal year, received a grant under subsection (a)(2).

"(c) Notwithstanding subsection (a), the Secretary may award a grant to an eligible institution under this part for a period of one year for the purpose of assisting such institution in the preparation of plans and applications under this part.

"PART B—AID TO INSTITUTIONS WITH SPECIAL NEEDS

"PROGRAM PURPOSE

"SEC. 321. (a) The purpose of this part is to provide for a program of short-term Federal assistance to strengthen the planning, management, and fiscal capabilities of institutions with special needs.

"(b) From the sums available for this part under section 347(a)(1), the Secretary may make grants to any institution with special needs with an application approved under section 341 in order to assist such an institution to plan, develop, or implement activities consistent with the purpose of this part. Such activities shall include—

"(1) faculty development;

"(2) funds and administrative management;

"(3) development and improvement of academic programs;

"(4) acquisition of equipment for use in strengthening funds management and academic programs;

"(5) joint use of facilities such as libraries and laboratories; and

"(6) student services.

"DEFINITIONS

"SEC. 322. (a) For purposes of this part:

"(1) The term 'educational and general expenditures' means the total amount expended by an institution of higher education for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation, and maintenance expenditures of physical plant, and any mandatory transfers which the institution is required to pay by law.

"(2) The term 'institution with special needs' means—

"(A) an institution of higher education—

"(i)(I) which, in the case of an institution which awards a bachelor's degree, has an enrollment which includes a substantial percentage of students receiving need-based assistance under title IV of this Act, the average amount of which assistance is high in comparison with the average amount of all assistance provided under such title to students at such institutions, and (II) which, in the case of junior or community colleges, has an enrollment which includes a substantial percentage of students receiving need-based assistance under title IV, the average amount of which assistance is high in comparison with the average amount of all assistance provided under such title to students at such institutions, and

"(ii) except as provided in section 342(a), the average educational and general expenditures of which are low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditures per full-time equivalent undergraduate student of institutions that offer similar instruction;

"(iii)(I) is legally authorized to provide, and provides within the State, an educational program for which it awards a bachelor's degree, or (II) is a junior or community college;

"(iv) is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation;

"(v) except as provided in section 342(b) has, during the five academic years preceding the academic year for which it seeks assistance under this part—

"(I) met the requirement of either clause (iii)(I) or (iii)(II), or of both such clauses (simultaneously or consecutively); and

"(II) met the requirement of clause (iv);

"(vi) has an enrollment of not less than 100 full-time equivalent students in the academic year for which the determination is made; and

"(vii) meets such other requirements as the Secretary may prescribe; or

"(B) any branch of any institution of higher education described under subparagraph (A) which by itself satisfies the requirements contained in clauses (i), (ii), and (vi) of such subparagraph and which is located in a community different from that in which its parent institution is located.

For purposes of the determination of whether an institution is an eligible institution under this paragraph, the factor described under subparagraph (A)(i) shall be given the same weight as the factor described under subparagraph (A)(ii), and the Secretary may also consider the factors specified under subsection (b) of this section.

"(3) The term 'full-time equivalent students' means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time at such institution (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by twelve).

"(4) The term 'junior or community college' means an institution of higher education—

"(A) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

"(B) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

"(C) that—

"(i) provides an educational program of not less than two years that is acceptable for full credit toward such a degree, or

"(ii) offers a two-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

"(b) In determining whether an institution is an institution with special needs under subsection (a)(2), the Secretary may also consider the following factors:

"(1) extreme financial limitations requiring low faculty salaries, low costs of instruction for students, and low library expenditures;

"(2) a little or no endowment, whether or not unrestricted;

"(3) a high student to faculty ratio;

"(4) a substantial percentage of students receiving need-based Federal student assistance;

"(5) limited library resources;

"(6) a low percentage of faculty with doctorate degrees;

"(7) poor physical facilities and limited resources to maintain physical facilities;

"(8) little or no support from foundations, alumni, or corporations;

"(9) limited or no sponsored research or faculty publications;

"(10) inadequate development offices and a limited capacity for long-range planning; and

"(11) poor or inadequate fiscal management and accounting procedures.

"DURATION OF GRANT

"SEC. 323. The Secretary may make a grant to any institution with special needs under this part for a period of not more than five years. A grant to enhance the planning capabilities of an institution shall not exceed one year.

"FEDERAL SHARE

"SEC. 324. The Federal share of the cost of grants made to institutions with special needs under this part shall be 100 per centum for the first two years in which an institution receives a grant, 90 per centum for the third year an institution receives a grant, 80 per centum for the fourth year an institution receives a grant, and 70 per centum for the fifth year an institution receives a grant.

"PART C—CHALLENGE GRANTS FOR INSTITUTIONS ELIGIBLE FOR ASSISTANCE UNDER PART A OR PART B

"ESTABLISHMENT OF CHALLENGE GRANT PROGRAM

"SEC. 331. (a)(1) From the sums available under section 347(a)(2) for each fiscal year, the Secretary may award a challenge grant to each institution—

"(A) which is an eligible institution under part A or would be considered to be such an institution if section 312(2)(A)(iii) referred to a postgraduate degree rather than a bachelor's degree; or

"(B) which is an institution with special needs under part B or would be considered to be such an institution if section 322(a)(2)(A)(iii) referred to a postgraduate degree rather than a bachelor's degree.

"(2) The Secretary may waive the requirements set forth in subparagraphs (A) and (B) of paragraph (1) with respect to a postgraduate degree in the case of any institution otherwise eligible under such paragraph for a challenge grant upon determining that the institution makes a substantial contribution to medical education opportunities for minorities and the economically disadvantaged.

"(b) The Secretary may make a grant under this section for a period of not more than 5 years. A grant under this section may be used for the programs and activities described in part A or part B, as the case may be.

"APPLICATIONS FOR CHALLENGE GRANTS

"SEC. 332. (a) Any institution eligible for a challenge grant under section 331(a) may apply for such a grant under section 341, except that the application for the purpose of this part shall—

"(1) provide evidence that funds are available to the applicant to match funds that the Secretary is requested to make available to the institution as a challenge grant;

"(2) in the case of an application by a public institution, contain the recommendations of an appropriate State agency responsible for higher education in the State, or provide evidence that the institution requested the State agency to comment but the State agency failed to comment; and

"(3) in the case of an application by an institution described under section 331(a)(1)(B), demonstrate how challenge grant funds will be used to eradicate the conditions enumerated in section 322(b) (1) through (11), and lead to greater financial independence.

"(b) Not later than April 1 of the fiscal year preceding the fiscal year in which any grant is to be made under this part, the Secretary shall determine which institutions will receive challenge grants under this part and notify the institutions of the amount of the grant.

"(c) In approving applications for grants under this part, preference shall be given to institutions which are receiving, or have received, grants under part A or part B.

"PART D—GENERAL PROVISIONS

"APPLICATIONS FOR ASSISTANCE

"SEC. 341. (a) Any institution which is eligible for assistance under this title may submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate its need for assistance. Subject to the availability of appropriations to carry out this title, the Secretary may approve an application for a grant under this title if the application meets the requirements of subsection (b) and shows that the applicant is eligible for assistance in accordance with the part of this title under which the assistance is sought.

"(b) An institution, in its application for a grant, shall—

"(1) set forth, or describe how it will develop, a comprehensive development plan to strengthen the institution's academic quality and institutional management, and otherwise provide for institutional self-sufficiency and growth (including measurable objectives for the institution and the Secretary to use in monitoring the effectiveness of activities under this title);

"(2) set forth policies and procedures to ensure that Federal funds made available under this title for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of section 311(b) or 321(b), and in no case supplant those funds;

"(3) set forth policies and procedures for evaluating the effectiveness in accomplishing the purpose of the activities for which a grant is sought under this title;

"(4) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds made available to the applicant under this title;

"(5) provide for making such reports, in such form and containing such information, as the Secretary may require to carry out his functions under this title (including not less than one report annually setting forth the institution's progress toward achieving the objectives for which the funds were awarded), and for keeping such records and affording such access thereto, as the Secretary may find necessary to assure the correctness and verification of such reports;

"(6) provide that the institution will comply with the limitations set forth in section 346;

"(7) include such other information as the Secretary may prescribe; and

"(8) describe in a comprehensive manner any development project for which funds are sought under the application and include—

"(A) a description of the various components of the development project, including the estimated time required to complete each such component;

"(B) in the case of any development project which consists of several components (as described by the applicant pursuant to subparagraph (A)), a statement identifying those components which, if separately funded, would be sound investments of Federal funds and those components which would be sound investments of Federal funds only if funded under this title in conjunction with other parts of the development project (as specified by the applicant);

"(C) an evaluation by the applicant of the priority given any development project for which funds are sought in relation to any other projects for which funds are sought by the applicant under this title, and a similar evaluation regarding priorities among the components of any single development project (as described by the applicant pursuant to subparagraph (A));

"(D) in the case of a request for an award for a period of more than one year, a statement of reasons explaining why funds are necessary for each year of such period and why a single year award would be inadequate;

"(E) information explaining the manner in which the development project will assist the applicant to prepare for the critical financial problems that all institutions of higher education will face during the subsequent decade as a result of declining enrollment, increased energy costs, and other problems;

"(F) a detailed budget showing the manner in which funds for any development project would be spent by the applicant; and

"(G) a detailed description of any activity which involves the expenditure of more than $25,000, as identified in the budget referred to in subparagraph (F).

"WAIVER AUTHORITY AND REPORTING REQUIREMENT

"SEC. 342. (a)(1) The Secretary may waive the requirements set forth in section 312(2)(A)(ii) or section 322(a)(2)(A)(ii) if the Secretary determines, based on persuasive evidence submitted by the institution, that the institution's failure to meet that criterion is due to factors which, when used in the determination of compliance with such criterion, distort such determination, and that the institution's designation as an eligible institution under part A or as an institution with special needs under part B (as the case may be) is otherwise consistent with the purposes of such parts.

"(2) The Secretary shall submit to the Congress each year a report concerning the institutions which, although not satisfying the criterion contained in section 312(2)(A)(ii) or section 322(a)(2)(A)(ii), have been determined to be eligible institutions under part A or institutions with special needs under part B, as the case may be. Such report shall—

"(A) identify the factors referred to in paragraph (1) which were considered by the Secretary as factors that distorted the determination of compliance with section 312(2)(A)(ii) or section 322(a)(2)(A)(ii), as the case may be; and

"(B) contain a list of each institution determined to be an eligible institution under part A or as an institution with special needs under part B and include a statement of the reasons for each such determination.

"(b) The Secretary may waive the requirement set forth in section 312(2)(v) and 322(a)(2)(v) in the case of an institution—

"(1) located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians;

"(2) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of Spanish-speaking people;

"(3) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of individuals living in rural areas, whose needs are for the most part unserved by other postsecondary education institutions;

"(4) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of low-income individuals; or

"(5) wherever located, if the Secretary determines that the institution has traditionally served substantial numbers of black students.

"APPLICATION REVIEW PROCESS

"SEC. 343. (a)(1) All applications submitted under this title by institutions of higher education shall be read by a panel of readers composed of individuals selected by the Secretary. The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to the application which might impair the impartiality with which the individual conducts the review under this section.

"(2) All readers selected by the Secretary shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under this title and consistent with the provisions of this title, including—

"(A) explanations and examples of the types of activities referred to in section 311(b) that should receive special consideration for grants awarded under part A of the types of activities referred to in section 321(b) that should receive special consideration for grants awarded under part B;

"(B) an enumeration of the factors to be used to determine the quality of applications submitted under this title; and

"(C) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under this title, the amount of any such grant, and the duration of any such grant.

"(b) In awarding grants under this title, the Secretary shall take into consideration the recommendations of the panel made under subsection (a).

"(c) Not later than June 30 of each year, the Secretary shall notify each institution of higher education making an application under this title of—

"(1) the scores given the applicant by the panel pursuant to this section,

"(2) the recommendations of the panel with respect to such application, and

"(3) the reasons for the decision of the Secretary in awarding or refusing to award a grant under this title, and any modifications, if any, in the recommendations of the panel made by the Secretary.

"COOPERATIVE ARRANGEMENTS

"Sec. 344. (a) The Secretary may make grants to encourage cooperative arrangements—

"(1) with funds available to carry out part A, between institutions eligible for assistance under part A; or

"(2) with funds available to carry out part B, between institutions eligible for assistance under part B;

for the activities described in section 311(b) or section 321(b), as the case may be, so that the resources of the cooperating institutions might be combined and shared to achieve the purposes of such parts and avoid costly duplicative efforts.

"(b) The Secretary shall give priority to grants for the purposes described under subsection (a) whenever the Secretary determines that the cooperative arrangement is geographically and economically sound.

"(c) Grants to institutions having a cooperative arrangement may be made under this section for a period as determined under section 313 or 323, as the case may be.

"ASSISTANCE TO INSTITUTIONS UNDER OTHER PROGRAMS

"Sec. 345. (a) Each institution which the Secretary determines to be an eligible institution under part A or an institution with special needs under part B shall be eligible for waivers in accordance with subsection (b).

"(b)(1) Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by an institution referred to in subsection (a) for assistance under any programs specified in paragraph (2), the Secretary is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from other institutions.

"(2) The provisions of this section shall apply to any program authorized by title II, IV, VII, or VIII of this Act.

"(c) The Secretary shall not waive, under subsection (b), the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of more than 10 per centum of the appropriations for the program for any fiscal year.

"LIMITATIONS

"Sec. 346. The funds appropriated under section 347 may not be used—

"(1) for a school or department of divinity or any religious worship or sectarian activity;

"(2) for an activity that is inconsistent with a State plan for desegregation of higher education applicable to such institution;

"(3) for an activity that is inconsistent with a State plan of higher education applicable to such institution; or

"(4) for purposes other than those set forth in the approved application under which the funds were made available to the institution.

"AUTHORIZATIONS

"Sec. 347. (a)(1) There are authorized to be appropriated to carry out parts A and B $175,000,000 for the fiscal year 1982, $185,000,000 for the fiscal year 1983, $200,000,000 for the fiscal year 1984, and $220,000,000 for the fiscal year 1985. Of the amounts appropriated under this paragraph for each fiscal year, 50 per centum shall be made available to carry out part A and 50 per centum shall be made available to carry out part B.

"(2) There are authorized to be appropriated to carry out part C $25,000,000 for the fiscal year 1982, $35,000,000 for the fiscal year 1983, $45,000,000 for the fiscal year 1984, and $50,000,000 for the fiscal year 1985.

"(b) In the event of a multiple year award to any institution under this title, the Secretary shall make funds available for such award from funds appropriated for this title for the fiscal year in which such funds are to be used by the recipient.

"(c)(1) Of the sums appropriated under subsection (a)(1) for any fiscal year for part A, the Secretary shall make available to use for the purposes of each such part—

"(A) not less than 24 per centum to institutions that are junior or community colleges, and

"(B) the remainder to institutions that plan to award a bachelor's degree during that year.

"(2) Of the sums appropriated under subsection (a)(1) for any fiscal year for part B, the Secretary shall make available to use for the purposes of each such part—

"(A) not less than 30 per centum to institutions that are junior or community colleges, and

"(B) the remainder to institutions that plan to award a bachelor's degree during that year.

"(d) Of the sums appropriated under subsection (a)(1) for the purpose of part A for any fiscal year, the Secretary shall make available not less than 25 per centum for grants under section 313(a)(2). Any funds made available under this subsection for such grants which are not expended during the fiscal year for which such funds were appropriated shall remain available for expenditure for the purpose of making such grants during subsequent fiscal years.

"(e) The Secretary shall assure that in each fiscal year the amount available under part B for institutions with special needs that historically serve substantial numbers of black students will not be less than 50 per centum of the amount received by such institutions for fiscal year 1979.".

TITLE IV—STUDENT ASSISTANCE

Part A—Grants to Students in Attendance at Institutions of Higher Education

STATEMENT OF PURPOSE

Sec. 401. Section 401(a) of the Act is amended—

(1) by striking out "qualified students" and inserting in lieu thereof "eligible students (defined in accordance with section 484)"; and

(2) by striking out "of exceptional need who, for lack of such a grant, would be unable to obtain the benefits of a postsecondary education" in paragraph (2) and inserting in lieu thereof "who demonstrate financial need".

PELL GRANTS

Sec. 402. (a) Section 411(a)(1) of the Act is amended to read as follows:

"Sec. 411. (a)(1)(A) The Secretary shall, during the period beginning July 1, 1972, and ending September 30, 1985, pay to each eligible student (defined in accordance with section 484) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a basic grant in the amount for which that student is eligible, as determined pursuant to paragraph (2).

"(B) The purpose of this subpart is to provide a basic grant that (i) as determined under paragraph (2), will meet in academic year 1985–1986, 70 per centum of a student's cost of attendance not in excess of $3,700; and (ii) in combination with reasonable parental or independent student contribution and supplemented by the programs authorized under subparts 2 and 3 of this part, will meet 75 per centum of a student's cost of attendance, unless the institution determines that a greater amount of assistance would better serve the purposes of section 401.

"(C) Basic grants made under this subpart shall be known as 'Pell Grants'.".

(b)(1) Section 411(a)(2)(A)(i) of the Act is amended to read as follows:

"(2)(A)(i) The amount of the basic grant for a student eligible under this part shall be—

"(I) $1,900 for academic year 1981–1982,

"(I) $2,100 for academic year 1982–1983,

"(III) $2,300 for academic year 1983–1984,

"(IV) $2,500 for academic year 1984–1985, and

"(V) $2,600 for academic year 1985–1986,

less an amount equal to the amount determined under section 482 to be the expected family contribution with respect to that student for that year.".

(2) Section 411(a)(2)(A)(ii) of this Act is amended by striking out "February 1 of each year" and inserting in lieu thereof "January 1, 1981, October 1, 1981, and on October 1 of each succeeding year".

(c)(1) Section 411(a)(2)(B)(i) of the Act is amended to read as follows:

"(B)(i) The amount of a basic grant to which a student is entitled under this subpart for any academic year shall not exceed—

"(I) 50 per centum of the cost of attendance (as defined under section 482(d)) at the institution at which the student is in attendance for that year, when the maximum grant is less than or equal to $1,900;

"(II) 55 per centum of such cost of attendance when the maximum basic grant is more than $1,900 but is less than $2,100;

"(III) 60 per centum of such cost of attendance when the maximum basic grant is at least $2,100 but is less than $2,300;

"(IV) 65 per centum of such cost of attendance when the maximum basic grant is at least $2,300 but is less than $2,600; and

"(V) 70 per centum of such cost of attendance when the maximum basic grant is $2,600.".

(2) Section 411(a)(2)(B)(ii) of the Act is amended by striking out "actual" each time it appears.

(3) Section 411(a)(2)(B)(iv) of the Act is repealed.

(d)(1) Section 411(a)(3) of the Act is repealed.

(2) Paragraph (4) of section 411(a) of the Act is redesignated as paragraph (3).

(e) Section 411(a)(3) of the Act (as redesignated by subsection (d)(2)) is amended to read as follows:

"(3) The period during which a student may receive basic grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance. Nothing in this section shall exclude from eligibility courses of study which are noncredit or remedial in nature which are determined by the institution as necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree.".

(f) Section 411(b)(3)(B)(i) of the Act is amended to read as follows:

"(B)(i) If, during any period of any fiscal year, the funds available for payments under this subpart are insufficient to satisfy fully all entitlements, the amount paid with respect to each such entitlement, as calculated prior to the cost of attendance limitation provided in section 411(a)(2)(B)(i) under this subpart, shall be—

"(I) the full amount in the case of any student's eligibility index which is less than 601;

"(II) 90 per centum of the amount when the student's eligibility index is 601 but less than 801;

"(III) 80 per centum of the amount when the student's eligibility index is 801 but less than 1001;

"(IV) 70 per centum when the student's eligibility index is 1001 but less than 1201;

"(V) 60 per centum when the student's

eligibility index is 1201 but less than 1601; and

"(VI) 50 per centum when the student's eligibility index is 1601 or greater.

For the purpose of this division, a 'student's eligibility index' is the index of need of a student established by the Secretary in carrying out section 482, relating to the family contribution schedule.".

(g) Section 411(b)(5) of the Act is amended to read as follows:

"(5)(A) For any fiscal year ending prior to October 1, 1985, if—

"(i) the appropriation for making grants under subpart 2 of this part for that fiscal year does not at least equal $370,000,000,

"(ii) the appropriation for State student incentive grants under subpart 3 of this part for that fiscal year does not at least equal $76,750,000,

"(iii) the appropriation for work-study payments under section 441 of this title for that fiscal year does not at least equal $550,000,000, and

"(iv)(I) the amount available for Federal capital contributions to student loan funds for that fiscal year from funds appropriated under section 461 does not at least equal $286,000,000, (II) the sum of the amounts available under both sections 461 and 468 for Federal capital contributions to student loan funds for that fiscal year does not at least equal $286,000,000, or (III) the amount available under section 468 is not sufficient to provide Federal capital contributions to such funds for that fiscal year in an amount which equals or exceeds the total amount which was available for student loans during the preceding fiscal year,

no payment may be made in excess of $1,800 on the basis of entitlements established under this subpart in excess of such amount.

"(B) For any fiscal year ending prior to October 1, 1985, if—

"(i) the appropriation for making grants under subpart 2 of this part for that fiscal year does not at least equal $400,000,000,

"(ii) the appropriation for State student incentive grants under subpart 3 of this part for that fiscal year does not at least equal $76,750,000,

"(iii) the appropriation for work-study payments under section 441 of this title for that fiscal year does not at least equal $550,000,000, and

"(iv)(I) the amount available for Federal capital contributions to student loan funds for that fiscal year from funds appropriated under section 461 does not at least equal $286,000,000, (II) the sum of the amounts available under both sections 461 and 468 for Federal capital contributions to student loan funds for that fiscal year does not at least equal $286,000,000, or (III) the amount available under section 468 is not sufficient to provide Federal capital contributions to such funds for that fiscal year in an amount which equals or exceeds the total amount which was available for student loans during the preceding fiscal year,

no payment may be made in excess of $1,899 on the basis of entitlements established under this subpart in excess of such amount.

"(C) For any fiscal year ending prior to October 1, 1985, if—

"(i) the appropriation for making grants under subpart 2 of this part for that fiscal year does not at least equal $440,000,000,

"(ii) the appropriation for State student incentive grants under subpart 3 of this part for that fiscal year does not at least equal $76,750,000,

"(iii) the appropriation for work-study payments under section 441 of this title for that fiscal year does not at least equal $550,000,000, and

"(iv)(I) the amount available for Federal capital contributions to student loan funds for that fiscal year from funds appropriated under section 461 does not at least equal $286,000,000, (II) the sum of the amounts available under both sections 461 and 468 for Federal capital contributions to student loan funds for that fiscal year does not at least equal $286,000,000, or (III) the amount available under section 468 is not sufficient to provide Federal capital contributions to such funds for that fiscal year in an amount which equals or exceeds the total amount which was available for student loans during the preceding fiscal year,

no payment may be made in excess of $2,099 on the basis of entitlements established under this subpart in excess of such amount.

"(D) For any fiscal year ending prior to October 1, 1985, if—

"(i) the appropriation for making grants under subpart 2 of this part for that fiscal year does not at least equal $460,000,000,

"(ii) the appropriation for State student incentive grants under subpart 3 of this part for that fiscal year does not at least equal $76,750,000,

"(iii) the appropriation for work-study payments under section 441 of this title for that fiscal year does not at least equal $550,000,000, and

"(iv)(I) the amount available for Federal capital contributions to student loan funds for that fiscal year from funds appropriated under section 461 does not at least equal $286,000,000, (II) the sum of the amounts available under both sections 461 and 468 for Federal capital contributions to student loan funds for that fiscal year does not at least equal $286,000,000 or (III) the amount available under section 468 is not sufficient to provide Federal capital contributions to such funds for that fiscal year in an amount which equals or exceeds the total amount which was available for student loans during the preceding fiscal year,

no payment may be made in excess of $2,299 on the basis of entitlements established under this subpart in excess of such amount.

"(E) For any fiscal year ending prior to October 1, 1985, if—

"(i) the appropriation for making grants under subpart 2 of this part for that fiscal year does not at least equal $480,000,000,

"(ii) the appropriation for State student incentive grants under subpart 3 of this part for that fiscal year does not at least equal $76,750,000,

"(iii) the appropriation for work-study payments under section 441 of this title for that fiscal year does not equal at least $550,000,000, and

"(iv)(I) the amount available for Federal capital contributions to student loan funds for that fiscal year from funds appropriated under section 461 does not at least equal $286,000,000, (II) the sum of the amounts available under both sections 461 and 468 for Federal capital contributions to student loan funds for that fiscal year does not at least equal $286,000,000, or (III) the amount available under section 468 is not sufficient to provide Federal capital contributions to such funds for that fiscal year in an amount which equals or exceeds the total amount which was available for student loans during the preceding fiscal year,

no payment may be made equal to or in excess of $2,500 on the basis of entitlements established under this subpart which are equal to or in excess of such amount.".

(h) Subsections (d) and (e) of section 411 of the Act are repealed.

SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

SEC. 403. (a) Section 413A(a) of the Act is amended by striking out "who, for lack of financial means, would be unable to obtain such benefits without such a grant" and inserting in lieu thereof "who demonstrate financial needs in accordance with the provisions of section 482".

(b)(1) The first sentence of section 413A(b)(1) of the Act is amended by inserting before the period a comma and the following: "and $350,000,000 for the fiscal year 1981, and for each of the succeeding fiscal years ending prior to October 1, 1985".

(2) Section 413A(b)(3) of the Act is amended by inserting "second" before "fiscal year" the second time it appears in such section.

(c)(1) Section 413B(a)(2)(A) of the Act is amended to read as follows:

"(2)(A) The amount of the payment to any student pursuant to paragraph (1) shall be equal to the amount determined by the institution, in accordance with the provisions of section 482, to be needed by that student to enable him to pursue a course of study at the institution, except that such amount shall not exceed $2,000.".

(2) Section 413B(a)(2)(B) of the Act is amended by adding at the end thereof the following new sentence: "For a student enrolled for less than a full academic year, the minimum payment required shall be reduced proportionately.".

(3) Section 413B(a)(2) of the Act is further amended by striking out subparagraph (C).

(4) Section 413B(b) of the Act is amended to read as follows:

"(b)(1) The period during which a student may receive supplemental grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance.

"(2) A supplemental grant awarded under this subpart shall entitle the student to whom it is awarded to payments pursuant to such grant only if the student meets the requirements of section 484, except as provided in section 413C(c).".

(d) Section 413C of the Act is amended to read as follows:

"SELECTION OF RECIPIENTS; AGREEMENTS WITH INSTITUTIONS

"SEC. 413C. (a) An individual shall be eligible for the award of a supplemental grant under this subpart by an institution of higher education which, in accordance with section 487, has an agreement with the Secretary applicable to this subpart, if the individual makes application at a time and in a manner consistent with the requirements of the Secretary and that institution, and meets the requirements of section 484.

"(b) From among individuals who are eligible for supplemental grants for each fiscal year, the institution shall, in accordance with the agreement under section 487, and within the amount allocated to the institution for that purpose for that year under section 413D(b), select individuals who are to be awarded such grants and determine, in accordance with section 413B, the amounts to be paid to them.

"(c) An eligible institution may use not more than 10 per centum of its allocation for less-than-half-time undergraduate students who are determined by the institution to be in need of such grants and who meet the requirements of section 484, other than the requirement of clause (2) of section 484(a).".

(e)(1) Section 413D(a)(1) of the Act is amended by striking out "persons" each place it appears and inserting in lieu thereof "undergraduates".

(2) Section 413D(a)(2) is amended by striking out "section 431A(b)(2)" and inserting in lieu thereof "section 413A(b)(2)".

(3) Section 413D(b)(1)(B)(ii) of the Act is amended to read as follows:

"(ii) Allocations under division (i) by the Secretary to such institutions shall be made in accordance with a formula which determines institutional need for funds under this subpart by subtracting from 75 per centum of total student expenses the sum of expected family or independent student contributions, awards made under subparts 1 and 3 of this part, and 25 per centum of grants and awards made by the institution from its own resources. In addition, the Secretary, in establishing equitable criteria, shall not issue any regulation which has the effect of penalizing institutions that under existing State law must provide scholarships or grant assistance from their own funds and yet are not free under laws in effect on January 1, 1979, either to select the recipients of such assistance or to adjust the criteria by which the recipients are selected. The formula established under this division shall not result in any institution receiving an amount less than—

"(I) 100 per centum of the amount such institution received and used under this section of fiscal year 1979 in the case of any fiscal year for which the appropriation for this part is less than $400,000,000;

"(II) 80 per centum of such amount in the case of any fiscal year for which such appropriation is at least $400,000,000 but less than $420,000,000;

"(III) 60 per centum of such amount in the case of any fiscal year for which such appropriation is at least $420,000,000 but less than $440,000,000;

"(IV) 40 per centum of such amount in the case of any fiscal year for which such appropriation is at least $440,000,000 but less than $460,000,000; or

"(V) 20 per centum of such amount in the case of any fiscal year for which such appropriation is at least $460,000,000 but less than $480,000,000.".

(4) Section 413D(b)(2) of the Act is amended by adding at the end thereof the following new sentence: "Such allocation shall be made in accordance with the formula prescribed by regulation under division (ii) of paragraph (1)(B) of this subsection.".

(f) Section 413D(b) of the Act is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Each institution receiving allocations under this subsection from apportionments made to the State under subsection (a)(1) and under subsection (a)(2) may use its allocations for initial supplemental grants and for continuing supplemental grants in such manner as the institution determines will best achieve the purposes of this subpart.".

GRANTS TO STATES FOR STATE STUDENT INCENTIVES

SEC. 404. (a) Section 415A of the Act is amended to read as follows:

"PURPOSE; APPROPRIATIONS AUTHORIZED

"SEC. 415A. (a) It is the purpose of this subpart to make incentive grants available to the States to assist them in providing grants to eligible students attending institutions of higher education.

"(b)(1) There are authorized to be appropriated $100,000,000 for each of the fiscal years 1981 and 1982, $150,000,000 for fiscal year 1983, $200,000,000 for fiscal year 1984, and $250,000,000 for fiscal year 1985, for payments to the States for grants to eligible students under this subpart.

"(2) Sums appropriated pursuant to paragraph (1) for any fiscal year shall remain available for payments to States for the award of student grants under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated.".

(b) Section 415B(a)(1)(A) of the Act is amended by inserting before the period a comma and the following: "except that no State shall receive less than the State received for fiscal year 1979".

(c) Section 415C of the Act is amended—

(1) in subsection (a), by striking out "shall submit" and inserting in lieu thereof "shall have a State agreement pursuant to section 1203 and shall submit";

(2) in subsection (b)(1), by inserting "under section 1203" immediately after "agency";

(3) in subsection (b)(2), by striking out "$1,500" and inserting in lieu thereof "$2,000", and by striking out "as an undergraduate";

(4) in subsection (b)(4), by inserting immediately before the semicolon at the end thereof the following: "or in any State in which participation of nonprofit institutions of higher education is in violation of a statute of the State which was enacted prior to October 1, 1978"; and

(5) in subsection (b), by striking out "and" at the end of clause (5), by redesignating clause (6) as clause (8), and by inserting after clause (5) the following new clauses:

"(6) provides that institutions of higher education, with the approval of the State agency, may use any proportion of the payments received in any fiscal year for grants to otherwise eligible students who fail to meet the requirement of section 484(a)(2);

"(7) provides for State expenditures under such program of an amount not less than the average annual aggregate expenditures for the preceding three fiscal years or the average annual expenditure per full-time equivalent student for such years; and".

(d) Section 415E of the Act is repealed.

SPECIAL PROGRAMS FOR STUDENTS FROM DISADVANTAGED BACKGROUNDS

SEC. 405. Subpart 4 of part A of title IV of the Act is amended to read as follows:

"SUBPART 4—SPECIAL PROGRAMS FOR STUDENTS FROM DISADVANTAGED BACKGROUNDS

"PROGRAM AUTHORITY; AUTHORIZATION OF APPROPRIATIONS

"SEC. 417A. (a) The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants and contracts designed to identify qualified individuals from disadvantaged backgrounds, to prepare them for a program of postsecondary education, to provide special services for such students who are pursuing programs of postsecondary education, and to train persons serving or preparing for service in programs and projects so designed.

"(b)(1) For the purposes described in subsection (a), the Secretary is authorized, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), to make grants to, and contracts with, institutions of higher education, public and private agencies and organizations, and, in exceptional circumstances, secondary schools for planning, developing, or carrying out one or more of the services assisted under this subpart.

"(2) In making grants and contracts under this subpart, the Secretary shall consider the prior experience of service delivery under the particular program for which funds are sought by each applicant.

"(c) For the purpose of making grants and contracts under this subpart there are authorized to be appropriated $400,000,000 for fiscal year 1982 and such sums as may be necessary for each of the succeeding fiscal years ending prior to October 1, 1985.

"(d) For the purposes of this subpart—

"(1) the term 'first generation college student' means a person neither of whose parents completed a baccalaureate degree; and

"(2) the term 'low-income individual' means an individual from a family whose taxable income for the preceding year did not exceed 150 per centum of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

"(e) No individual who is an eligible veteran, as that term is defined by section 1652 (a) of title 38, United States Code, shall be deemed ineligible to participate in any program under this subpart by reason of such individual's age.

"TALENT SEARCH

"SEC. 417B. (a) The Secretary shall carry out a program to be known as talent search which shall be designed—

"(1) to identify qualified youths with potential for education at the postsecondary level and to encourage such youth to complete secondary school and to undertake a program of postsecondary education;

"(2) to publicize the availability of student financial assistance available to persons who pursue a program of postsecondary education; and

"(3) to encourage persons who have not completed programs of education at the secondary or postsecondary level, but who have the ability to complete such programs, to reenter such programs.

"(b) A talent search project assisted under this subpart may include, in addition to the services described in paragraphs (1), (2), and (3) of subsection (a), tutorial services for youths being encouraged to undertake or reenter programs of postsecondary education if such tutorial services are not otherwise available to such youths through a project assisted under this subpart.

"(c) In approving applications for talent search projects under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) require that such participants be persons who either have completed six years of elementary education or are at least twelve years of age but not more than twenty-seven years of age, unless the imposition of any such limitation with respect to any person would defeat the purposes of this section or the purposes of section 417E; and

"(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 417E.

"(d) In approving applications for talent search projects under this subpart for any fiscal year, the Secretary shall require assurances that the project will be located in a setting accessible to the persons proposed to be served by the project.

"UPWARD BOUND

"SEC. 417C. (a) The Secretary shall carry out a program to be known as upward bound which shall be designed to generate skills and motivation necessary for success in education beyond high school.

"(b) Any upward bound project assisted under the subpart may provide services such as—

"(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond high school;

"(2) personal counseling;

"(3) academic advice and assistance in high school course selection;

"(4) tutorial services;

"(5) exposure to cultural events, academic programs, and other activities not usually available to disadvantaged youth;

"(6) activities designed to acquaint youths participating in the project with the range of career options available to them;

"(7) instruction designed to prepare youths participating in the project for careers in which persons from disadvantaged backgrounds are particularly underrepresented;

"(8) on-campus residential programs; and

"(9) programs and activities as described in paragraphs (1) through (8) which are specially designed for students of limited English proficiency.

"(c) In approving applications for upward bound projects under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) require an assurance that the remaining youths participating in the project proposed to be carried out under any application be either low-income individuals or be first generation college students;

"(3) require that there be determination, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond high school; and

"(4) require that such participants be persons who have completed eight years of elementary education and are at least thirteen years of age but not more than nineteen years of age, unless the imposition of any such limitation would defeat the purposes of this section.

"(d) Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $60 per month during June, July, and August, and not in excess of $40 per month during the remaining period of the year.

"SPECIAL SERVICES FOR DISADVANTAGED STUDENTS

"SEC. 417D. (a) The Secretary shall carry out a program to be known as special services for disadvantaged students (hereinafter referred to as 'special services') which shall be designed to provide supportive services to persons participating in the projects.

"(b) A special services project assisted under this subpart may provide services such as—

"(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond high school;

"(2) personal counseling;

"(3) academic advice and assistance in course selection;

"(4) tutorial services;

"(5) exposure to cultural events and academic programs not usually available to disadvantaged students;

"(6) activities designed to acquaint students participating in the project with the range of career options available to them;

"(7) activities designed to assist students participating in the project in securing admission and financial assistance for enrollment in graduate and professional programs; and

"(8) programs and activities as described in paragraphs (1) through (7) which are specially designed for students of limited English proficiency.

"(c) In approving applications for special services projects under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application—

"(A) be physically handicapped, or

"(B) be low-income individuals who are first generation college students;

"(2) require an assurance that the remaining students participating in the project proposed to be carried out under any application either be low-income individuals, first generation college students, or physically handicapped;

"(3) require that there be a determination, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond high school; and

"(4) require that such participants be enrolled or accepted for enrollment at the institution which is the recipient of the grant or contract.

"(d) In approving applications for special services projects under this subpart for any fiscal year, the Secretary shall require an assurance from the institution which is the recipient of the grant or contract that each student enrolled in the project will receive sufficient financial assistance to meet that student's full financial need.

"EDUCATIONAL OPPORTUNITY CENTERS

"SEC. 417E. (a) The Secretary shall carry out a program of paying up to 75 per centum of the cost of establishing and operating programs to be known as educational opportunity centers which shall be designed—

"(1) to provide information with respect to financial and academic assistance available for individuals desiring to pursue a program of postsecondary education; and

"(2) to provide assistance to such persons in applying for admission to institutions at which a program of postsecondary education is offered, including preparing necessary applications for use by admissions and financial aid officers.

"(b) An educational opportunity center assisted under this subpart may provide, in addition to the services described in clauses (1) and (2) of subsection (a), tutorial and counseling services for persons participating in the project if such tutorial and counseling services are not otherwise available through a project assisted under this subpart.

"(c) In approving applications for educational opportunity centers under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) require that such participants be persons who are at least nineteen years of age, unless the imposition of such limitation with respect to any person would defeat the purposes of this section or the purposes of section 417B; and

"(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 417B.

"STAFF DEVELOPMENT ACTIVITIES

"SEC. 417F. For the purpose of improving the operation of the programs and projects authorized by this subpart, the Secretary is authorized to make grants to institutions of higher education and other public and private nonprofit institutions and organizations to provide training for staff and leadership personnel employed in, or preparing for employment in, such programs and projects. Such training shall include conferences, internships, seminars, and workshops designed to improve the operation of such programs and projects and shall be carried out in the various regions of the Nation in order to ensure that the training opportunities are appropriate to meet the needs in the local areas being served by such programs and projects. Grants for the purposes of this section shall be made only after consultation with regional and State professional associations of persons having special knowledge with respect to the needs and problems of such programs and projects.".

SPECIAL PROGRAM FOR MIGRANT AND SEASONAL FARMWORK STUDENTS

SEC. 406. Subpart 5 of part A of title IV of the Act is amended to read as follows:

"SUBPART 5—SPECIAL PROGRAMS FOR STUDENTS WHOSE FAMILIES ARE ENGAGED IN MIGRANT AND SEASONAL FARMWORK

"SEC. 418A. (a) The Secretary shall maintain and expand existing secondary and postsecondary high school equivalency program and college assistance migrant program projects, which shall be designed to provide services to students of families who are engaged in migrant and seasonal farmwork. The services authorized by this subpart include—

"(1) instruction in reading, writing, study skills, mathematics, communication skills, and other subjects necessary for success beyond high school, and in preparation for the examination for a certificate of high school equivalency;

"(2) personal and academic counseling;

"(3) outreach and recruitment, special admissions, and financial assistance;

"(4) tutorial services;

"(5) career-oriented work study;

"(6) housing support and on-campus residential programs;

"(7) activities designed to acquaint youths participating in the project with the range of career options available to them;

"(8) exposure to cultural events, academic programs and other activities not usually available to migrant youth; and

"(9) other essential supportive services, as needed to ensure the success of eligible migrant and seasonal farmwork students at the secondary and postsecondary levels.

"(b) There is authorized to be appropriated $9,600,000 for the fiscal year 1981, $12,000,000 for the fiscal year 1982, $14,000,000 for the fiscal year 1983, $16,000,000 for the fiscal year 1984, and $18,000,000 for the fiscal year 1985, to carry out the provisions of this subpart.".

VETERANS' COST-OF-INSTRUCTION PAYMENTS

SEC. 407. Section 420 of the Act is amended to read as follows:

"VETERANS' COST-OF-INSTRUCTION PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION

"SEC. 420. (a)(1) During the period beginning July 1, 1972, and ending September 30, 1985, each institution of higher education shall be entitled to a payment under, and in accordance with, this section during any fiscal year if—

"(A) the number of persons who are veterans receiving vocational rehabilitation under chapter 31 of title 38, United States Code, or veterans receiving educational assistance under chapter 34 of such title, and who are in attendance as undergraduate students at such institution during any academic year, equals at least—

"(i) 10 per centum of the number of such recipients who were in attendance at such institution during the preceding academic year, or

"(ii) 10 per centum of the total number of undergraduate students in attendance at such institution during such academic year and if such number does not constitute a per centum of such undergraduate students which is less than such per centum for the preceding academic year; and

"(B) the number of such persons is at least 25.

"(2) With respect to any academic year ending on or before September 30, 1986, each institution which has qualified for payment under this section for the preceding year shall be entitled during such academic year, notwithstanding the provisions of paragraph (1)(A), to a payment under this section if—

"(A) the number of persons referred to in paragraph (1) equals at least the number which bears the same ratio to the number of such recipients who were in attendance at such institution during the first academic year in which the institution was entitled to payments under this section as the number of such recipients in all institutions of higher education during the academic year for which the determination is made bears to the number of such recipients in all institutions of higher education for the first such academic year; or

"(B) in the event that subparagraph (A) of this paragraph is not satisfied, the Secretary determines, on the basis of evidence presented by such institution, that such institution is making reasonable efforts, taking into consideration the extent to which the number of persons referred to in such paragraph (1) falls short of meeting the ratio criterion set forth in such subparagraph (A), to continue to recruit, enroll, and provide necessary services to veterans.

"(3) For any fiscal year beginning after September 30, 1980, the Secretary may waive the provisions of paragraph (1) of this subsection for any institution of higher education which has qualified for payment under this section for any preceding fiscal year but subsequently became ineligible, if—

"(A) the institution would have been eligible had section 420(a)(2) been in effect when such institution became ineligible,

"(B) the institution has had a full-time office of veterans' affairs since that institution was so eligible, and

"(C) the appropriations made available in any such fiscal year for this section are in excess of (i) $14,380,000, or (ii) the amount requested for carrying out this section in the budget of the President submitted under section 201 of the Budget and Accounting Act, 1921, whichever is greater, by an amount sufficient to make payments to all institutions meeting the requirements of clauses (A) and (B) of this paragraph.

"(b)(1) The amount of the payment to which any institution shall be entitled under this section for any fiscal year shall be—

"(A) $300 for each person who is a veteran receiving vocational rehabilitation under chapter 31 of title 38, United States Code, or a veteran receiving educational assistance under chapter 34 of such title 38, and who is in attendance at such institution as an undergraduate student during such year; and

"(B) in addition, $150 for each person who is in attendance at such institution as an undergraduate student during such year and who has been the recipient of educational assistance under subchapter V or VI of chapter 34 of such title 38, or who has a service-connected disability as defined in section 101(16) of such title 38, or who is disabled, as determined in accordance with regulations promulgated by the Secretary after consultation with the Administrator of Veterans' Affairs.

"(2) In any case where a person on behalf of whom a payment is made under this section attends an institution on less than a full-time basis, the amount of the payment on behalf of that person shall be reduced in proportion to the degree to which that person is not attending on a full-time basis. In no case shall a payment be made on behalf of a person who attends an institution on less than a half-time basis.

"(c)(1) An institution of higher education shall be eligible to receive the payment to which it is entitled under this section only if it makes application therefor to the Secretary. An application under this section shall be submitted at such time or times, in such manner, in such form and containing such information as the Secretary determines necessary to carry out the functions of the Secretary under this title, and shall—

"(A) set forth such policies, assurances, and procedures as will insure that—

"(i) the funds received by the institution under this section and available to it after the requirements of subsection (e) have been met will be used solely to defray instructional expenses in academically related programs of the applicant;

"(ii) the funds received by the institution under this section will not be used for a school or department of divinity or for any religious worship or sectarian activity;

"(iii) the applicant will expend, during the academic year for which a payment is sought, for all academically related programs of the institution, an amount equal to at least the average amount so expended during the three years preceding the year for which the grant is sought; and

"(iv) the applicant will submit to the Secretary such reports as the Secretary may require by regulation;

"(B) contain such other statement of policies, assurances, and procedures as the Secretary may require by regulation in order to protect the financial interests of the United States; and

"(C) set forth such plans, policies, assurances, and procedures as will insure that the applicant will make an adequate effort—

"(i) to maintain a full-time office of veterans' affairs which has responsibility for veterans' outreach, recruitment, and special education programs, including the provision of educational, vocational, and personal counseling for veterans,

"(ii) to carry out programs designed to prepare educationally disadvantaged veterans for postsecondary education (I) under subchapter V of chapter 34 of title 38, United States Code, and (II) in the case of any institution located near a military installation, under subchapter VI of such chapter 34,

"(iii) to carry out active outreach (with special emphasis on service-connected disabled veterans, other disabled or handicapped veterans, incarcerated veterans, and educationally disadvantaged veterans), recruiting, and counseling activities through the use of funds available under federally assisted work-study programs (with special emphasis on the veteran-student services program under section 1685 of such title 38),

"(iv) to carry out an active tutorial assistance program (including dissemination of information regarding such program) in order to make maximum use of the benefits available under section 1692 of such title 38, and

"(v) to coordinate activities carried out under this part with the readjustment counseling program authorized under section 612A of title 38, United States Code, and with the veterans employment and training initiatives authorized under the Comprehensive Employment and Training Act and under chapters 41 and 42 of title 38, United States Code, in order to assist in serving the readjustment, rehabilitation, personal counseling, and employment needs of veterans,

except that an institution which the Secretary determines, in accordance with regulations jointly prescribed by the Secretary and the Administrator of Veterans' Affairs (hereinafter referred to as the 'Administrator'), cannot feasibly itself, in terms of the number of veterans in attendance there, carry out any or all of the programs set forth in subclauses (i) through (v) of clause (C), may carry out such program or programs through a consortium agreement with one or more other institutions of higher education and shall be required to carry out such programs only to the extent that the Secretary determines, in accordance with regulations jointly prescribed by the Secretary and the Administrator, is appropriate in terms of the number of veterans in attendance at such institution. The adequacy of efforts to meet the requirements of clause (C) of this paragraph shall be determined by the Secretary, based upon the recommendations of the Administrator, in accordance with criteria established in regulations jointly prescribed by the Secretary and the Administrator.

"(2) The Secretary shall not approve an application under this subsection unless he determines that the applicant will implement the requirements of clause (C) of paragraph (1) within the first academic year during which it receives a payment under this section.

"(d)(1) The Secretary shall pay to each institution of higher education which has had an application approved under subsection (c) the amount to which it is entitled under this section.

"(2) The maximum amount of payments to any institution of higher education, or any branch thereof which is located in a community which is different from that in which the parent institution thereof is located, in any fiscal year shall be $75,000. In making payments under this section for any fiscal year, the Secretary shall apportion the appropriation for making such payments, from funds which become available as a result of the limitation on payments set forth in the preceding sentence, in such a manner as will result in the receipt by each institution which is eligible for payment under this section of the first $9,000 (or the amount of its entitlement for that fiscal year, whichever is the lesser) and then additional amounts up to the limitation set forth in the preceding sentence.

"(e) Not less than 90 per centum of the amounts paid to any institution under subsection (d) in any fiscal year shall be used to implement the requirement of clause (C)(i) of paragraph (1) of subsection (c), and to the extent that such funds remain after implementing such requirement, funds limited by such 90 per centum requirement shall be used for implementing the requirements of subclauses (ii) through (v) of clause (C) of such paragraph (1), except that the Secretary may, in accordance with criteria established in regulations jointly prescribed by the Secretary with the Administrator, waive the requirement of this subsection to the extent that he finds that such institution is adequately carrying out all such requirements without the necessity for such application of such amount of the payments received under this subsection.

"(f) The Secretary, in carrying out the provisions of this section, shall seek to assure the coordination of programs assisted under this section with programs carried out by the Veterans' Administration pursuant to title 38, United States Code, and the Administrator shall provide all assistance, technical consultation, and information otherwise authorized by law as necessary to promote the maximum effectiveness of the activities and programs assisted under this section.

"(g) The program provided for in this section shall be administered by an identifiable administrative unit in the Department of Education.".

PART B—GUARANTEED AND INSURED STUDENT LOANS

EXTENSION OF PROGRAMS

SEC. 411. (a) Section 424(a) of the Act is amended—

(1) by striking out "1981" and inserting in lieu thereof "1986"; and

(2) by striking out "1985" and inserting in lieu thereof "1990".

(b) Section 428(a)(5) of the Act is amended—

(1) by striking out "1981" and inserting in lieu thereof "1986"; and

(2) by striking out "1985" and inserting in lieu thereof "1990".

LOAN LIMITATIONS

SEC. 412. (a) Section 425(a)(1) of the Act is amended—

(1) by redesignating clauses (A), (B), and (C), as clauses (B), (C), and (D), respectively;

(2) by inserting immediately before clause (B) (as so redesignated) the following new clause:

"(A) that in the case of an independent student (defined in accordance with section 482(c)(2)) who has not successfully completed a program of undergraduate education, the total of such loans may not exceed $3,000,"; and

(3) by striking out "clause (B)" in the last sentence of such section and inserting in lieu thereof "clause (C)".

(b) Section 425(a)(2) of the Act is amended by striking out "$7,500, in the case of any student who has not successfully completed a program of undergraduate education, and $15,000 in the case of any graduate or professional student" and inserting in lieu thereof "$12,500 in the case of any student (other than an independent student) who has not successfully completed a program of undergraduate education, $15,000 in the case of any independent student who has not successfully completed a program of undergraduate education, and $25,000 in the case of any graduate or professional student".

(c) The matter preceding division (i) of section 428(b)(1)(A) of the Act is amended—

(1) by inserting after "student" the following: "(other than an independent student)"; and

(2) by inserting after "undergraduate education," the following: "or not more than $3,000 in the case of an independent student (defined in accordance with section 482(c)(2)) who has not successfully completed a program of undergraduate education,".

(d) Section 428(b)(1)(B) of the Act is amended by striking out "$7,500, in the case of any student who has not successfully completed a program of undergraduate education, and $15,000 in the case of any graduate or professional student" and inserting in lieu thereof "$12,500 in the case of any student (other than an independent student) who has not successfully completed a program of undergraduate education, $15,000 in the case of any independent student who has not successfully completed a program of undergraduate education, and $25,000 in the case of any graduate or professional student".

(e) Section 428A of the Act is amended—

(1) by striking out "$2,500 (in the case of a student who has not successfully completed a program of undergraduate education) or $5,000 (in the case of a graduate or professional student)" in subsection (a)(1)(A) and in subsection (a)(2)(A) and inserting in lieu thereof in each such place the following: "$2,500 (in the case of a student, other than an independent student, who has not successfully completed a program of undergraduate education), $3,000 (in the case of an independent student (as defined in section 482(c)(2)) who has not successfully completed a program of undergraduate education), or $5,000 (in the case of a graduate or professional student)"; and

(2) by striking out "$7,500 in the case of any student who has not successfully completed a program of undergraduate education, and $15,000 in the case of any graduate or professional student" in subsection (a)(1)(A) and in subsection (a)(2)(A) and inserting in lieu thereof in each such place the following: "$12,500 in the case of any student (other than an independent student) who has not successfully completed a program of undergraduate education, $15,000 in the case of any independent student who has not successfully completed a program of undergraduate education, and $25,000 in the case any graduate or professional student".

(f) Part B of title IV of the Act is further amended by inserting immediately before the period at the end of section 425(a)(2) and immediately before the semicolon at the end of sections 428(b)(1)(B), 428A(a)(1)(A), and 428A(a)(2)(A) the following: "; except that the Secretary may increase the limit applicable to graduate or professional students who are pursuing programs which the Secretary determines are exceptionally expensive".

DEFERRAL OF REPAYMENT

SEC. 413. (a) Section 427(a)(2)(C) is amended—

(1) by inserting "or is an officer in the Commissioned Corps of the Public Health Service" immediately after "Armed Forces of the United States" in clause (ii); and

(2) by striking out "or (v)" and inserting in lieu thereof the following: "(v) not in excess of three years during which the borrower is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954; (vi) not in excess of two years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service; (vii) not in excess of three years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled; or (viii)".

(b) Section 428(b)(1)(M) of the Act is amended—

(1) by inserting "or is an officer in the Commissioned Corps of the Public Health Service" immediately after "Armed Forces of the United States" in clause (ii); and

(2) by striking out "or (v)" and inserting in lieu thereof the following: "(v) not in excess of three years during which the borrower is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954; (vi) not in excess of two years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service; (vii) not in excess of three years during which the borrowed is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled, or (viii)".

(c) Section 427(a)(2)(C) of the Act is amended—

(1) by striking out "and any such period" and inserting in lieu thereof "that any such period", and

(2) by inserting before the comma at the end thereof a comma and the following: "and that no repayment of principal of any loan for any period of study, training, service, or unemployment described in this clause or any combination thereof shall begin until six months after the completion of such period or combination thereof".

(d) Section 428(b)(1)(M) is amended by inserting before the semicolon at the end thereof a comma and the following: "and that no repayment of principal of any loan for any period of study, training, service, or unemployment described in this clause or any combination thereof shall begin until six months after the completion of such period or combination thereof".

(e) Section 435 of the Act is amended by adding at the end thereof the following new subsection:

"(j) The term 'temporarily totally disabled' when used with respect to a borrower means a borrower who, by reason of injury or illness, cannot be expected to be able to attend an eligible institution or to be gainfully employed during a reasonable period of recovery from such injury or illness not to exceed three years. Such term when used with respect to the spouse of a borrower means a spouse who, by reason of injury or illness, cannot be expected to be gainfully employed during a reasonable period of recovery from such injury or illness not to exceed three years and who during such period required continuous nursing or other similar services.".

STATE AGENCIES AS LENDERS OF LAST RESORT

SEC. 414. Section 428 of the Act is amended by adding at the end thereof the following new subsection:

"(h)(1) From sums advanced by the Association pursuant to section 439(p), each State agency and nonprofit private institution or organization with which the Secretary has an agreement under subsection (b) of this section or an eligible lender in a State described in section 435(g)(1) (D) or (F) of the Act is authorized to make loans directly to students otherwise unable to obtain loans under this part.

"(2)(A) Each State agency or nonprofit private institution or organization which has an agreement under subsection (b) of this section or an eligible lender in a State described in section 435(g)(1) (D) or (F) and which has an application approved under section 439(p)(2) may receive advances under section 439(p) for each fiscal year in an amount necessary to meet the demand for loans under this section. The amount such agency, institution, organization, or lender is eligible to receive may not exceed 25 per centum of the average of the loans guaranteed by that agency, institution, organization, or lender for the three years preceding the fiscal year for which the determination is made. Whenever the determination required by the preceding sentence cannot be made because the agency, institution, organization, or lender does not have three years previous experience, the amount such agency, institution, organization, or lender is eligible to receive may not exceed 25 per centum of the loans guaranteed under a program of a State of comparable size.

"(B) Each State agency or nonprofit private institution or organization which has an agreement under subsection (b) of this section and each eligible lender in a State described in section 435(g)(1) (D) or (F) shall repay advances made under section 439(p) in accordance with agreements entered between the Association and such agency, institution, organization, or lender.

"(3) Loans made pursuant to this subsection shall have the same terms, conditions, and benefits as all other loans made under this part.".

INTEREST RATE AND PAYMENT

SEC. 415. (a)(1) Part B of the Act is amended by inserting immediately after section 427 the following new section:

APPLICABLE INTEREST RATES

"SEC. 427A. (a) With respect to any loan to cover the cost of instruction for any period of instruction beginning on or after January 1, 1981, the rate of interest applicable to any borrower shall—

"(1) not exceed 7 per centum per annum on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has an outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, other than a loan for which the interest rate is determined under paragraph (2) or (3) of this subsection;

"(2) except as provided in paragraph (3), be 9 per centum per annum on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, or who has such an outstanding balance on a loan for which the interest rate is determined under this paragraph; or

"(3) be 8 per centum per annum on the unpaid principal balance of the loan in the case of any borrower not subject to paragraph (1) or (2) for any loan to cover the cost of education for any period of enrollment beginning on or after a date which is three months after a determination made under subsection (b).

"(b) If for any twelve-month period beginning on or after January 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of ninety-one-day Treasury bills auctioned for such twelve-month period is equal to or less than 9 per centum, the interest rate for loans under this part shall be the rate prescribed in subsection (a)(3) for borrowers described in such subsection

"(c) Nothing in this section shall be construed to prohibit a lender from charging a borrower interest at a rate less than the rate which is applicable under this part.".

(2) Section 427(b) of the Act is amended by striking "No maximum" and inserting in lieu thereof "Except as provided in section 427A, no maximum".

(3) Section 428(a)(3)(B)(ii) of the Act is amended by striking out "7 per centum per annum on the unpaid principal balance" and inserting in lieu thereof "the applicable interest rate under this part".

(4) Section 428(b)(1)(F) of the Act is amended by inserting immediately before the semicolon at the end thereof a comma and the following: "except as otherwise required by section 427A".

(5) Section 428(d) of the Act is amended by striking out "7 per centum per annum" and inserting in lieu thereof "the rate specified in this part".

(b)(1)(A) Section 427(a)(2)(B) of the Act is amended by striking out "nine-to-twelve-month period" the first time it appears and inserting in lieu thereof "six months".

(B) Such section 427(a)(2)(B) is further amended by striking out "nine months nor later than one year" and inserting in lieu thereof "six months".

(2)(A) Section 428(b)(1)(E) of the Act is amended by striking out "nine-to-twelve-month period" the first time it appears and inserting in lieu thereof "six months".

(B) Such section 428(b)(1)(E) is further amended by striking out "nine months nor later than one year" in both places that it appears and inserting in lieu thereof "six months".

COLLECTION PRACTICES

SEC. 416. (a)(1) Section 430(b) of the Act is amended by inserting "(1)" after "(b)" and adding at the end thereof the following new paragraph:

"(2)(A) For the purpose of promoting responsible repayment of loans covered by Federal loan insurance pursuant to this part, the Secretary shall enter into cooperative agreements with credit bureau organizations providing for the exchange of information concerning student borrowers in accordance with the requirements of this paragraph. For the purpose of assisting such organizations to comply with the Fair Credit Reporting Act, such agreements may provide for timely response by the Secretary to requests from such organizations for responses to objections raised by such borrowers. Subject to the requirements of subparagraph (C), such agreements shall provide for the disclosure by the Secretary to such organizations with respect to any loan for which the Secretary has received a notice of default under subsection (a) of this section of—

"(i) the date of disbursement and the amount of any such loan;

"(ii) information concerning collection of any such loan, including information concerning the status of any defaulted loan on which the Secretary has made a payment pursuant to subsection (a) of this section; and

"(iii) the date of cancellation of the note upon completion of repayment by the borrower of any such loan or payment by the Secretary pursuant to section 437.

"(B) Such agreements may also provide for the disclosure by such organizations to the Secretary, upon receipt from the Secretary of a notice under subparagraph (A)(ii) that such a loan is in default, of information concerning the borrower's location or other information which may assist the Secretary in proceeding to collection of the defaulted amount.

"(C) Agreements entered into pursuant to this paragraph shall contain such provisions as may be necessary to ensure that—

"(i) no information is disclosed by the Secretary unless its accuracy and completeness have been verified, and no information stating that a loan is in default is disclosed until the Secretary has made a reasonable effort to collect the debt;

"(ii) as to any information so disclosed, such organizations will be promptly notified of, and will promptly record, any change submitted by the Secretary with respect to such information, or any objections by the borrower with respect to any such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 681i);

"(iii) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning any such information; and

"(iv) except for disclosures made to obtain the borrower's location, the Secretary (I) shall not disclose any such information until he has notified the borrower that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of his loan, but (II) shall, if the borrower has not entered into repayment within a reasonable period of time, but not less than thirty days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

"(D)(i) The Secretary shall, within ninety days after the date of enactment of this paragraph, take such steps as may be necessary to establish the disclosure of information described in subparagraph (A)(i), (ii), and (iii) as a routine use in accordance with section 552a(b)(3) of title 5, United States Code, and to establish a system for the prompt notification of any borrower of any disclosure made pursuant to this paragraph.

"(ii) Information disclosed by the Secretary to credit bureau organizations under the requirements of this paragraph shall be constitute a system of records within the meaning of section 552a of title 5, United States Code (the Privacy Act of 1974); and credit bureau organizations which enter into agreements with the Secretary under this paragraph shall not be considered Government contractors within the meaning of that Act.".

(2) Section 427(a)(2) of the Act is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

"(H)(i) contains a notice of the system of disclosure of information concerning such loan to credit bureau organizations under section 430(b)(2), and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations,".

(b) Section 430(c) of the Act is amended by adding at the end thereof the following new sentence: "Any forbearance which is approved by the Secretary under this subsection with respect to the repayment of a loan shall not be considered as indicating that a holder of a federally insured loan has failed to exercise reasonable care and due diligence in the collection of the loan.".

(c) Section 432 of the Act is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of law, the Secretary may provide to eligible lenders, and to any State or any nonprofit private institution or organization having a guaranty agreement under section 428(c)(1), any information with respect to the names and addresses of borrowers or other relevant information which is available to the Secretary, from whatever source such information may be derived.".

ADMINISTRATIVE IMPROVEMENTS

SEC. 417. (a) Section 428(b)(1)(H) of the Act is amended by inserting before the semicolon a comma and the following: "and insures that the proceeds of the premium will not be used for incentive payments to lenders".

(b)(1) Section 428(c)(6)(A)(ii) of the Act is amended—

(A) by striking out "and" the first time it appears and inserting in lieu thereof a comma; and

(B) by inserting after "prevention" a comma and the following: "and the administrative costs of monitoring the enrollment and repayment status of students".

(2) Section 428(c)(6)(B) is amended—

(A) by striking out "and" at the end of clause (i) and inserting in lieu thereof a comma;

(B) by inserting "and" at the end of clause (ii); and

(C) by adding after clause (ii) the following:

"(iii) 'administrative costs of monitoring the enrollment and repayment status of students' means any administrative costs by a guaranty agency which are directly related to ascertaining the student's enrollment status, prompt notification to the lender of such status, an audit of the note agreement to determine if the provisions of that agreement are consistent with the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note to assure that the repayment provisions are consistent with the provisions of this part,".

(3) Section 428(f)(1)(A) of the Act is amended—

(A) by striking out "or" at the end of clause (iii);

(B) by redesignating clause (iv) as clause (v); and

(C) by inserting after clause (iii) the following new clause:

"(iv) the administrative costs of monitoring the enrollment and repayment status of students; or".

(4)(A) Section 428(f)(1) of the Act is amended by striking out "(f)(1)(A)" and inserting in lieu thereof "(f)(1)" and by striking out subparagraphs (B) and (C).

(B) Such section is further amended by redesignating clauses (i) through (v) as clauses (A) through (E), respectively.

(5) Section 428(f)(2) of the Act is amended—

(A) by striking out "or" at the end of clause (iii);

(B) by redesignating clause (iv) as clause (v); and

(C) by inserting after clause (iii) the following new clause:

"(iv) the administrative costs of monitoring the enrollment and repayment status of students; or".

(6) Section 428(f)(3) of the Act is amended—

(A) by striking out "and" at the end of clause (B);

(B) by striking out the period at the end of clause (C) and inserting in lieu thereof a comma and the word "and"; and

(C) by adding after clause (C) the following new clause:

"(D) 'administrative costs of monitoring the enrollment and repayment status of students' means any administrative costs by a guaranty agency which are directly related to ascertaining the student's enrollment status, prompt notification to the lender of such status, an audit of the note agreement to determine if the provisions of that agreement are consistent with the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note to assure that the repayment provisions are consistent with the provisions of this part,".

(c) Section 428(f) (3) (A) of the Act is amended by redesignating clauses (iv) and (v) as clauses (vi) and (vii) respectively, and by inserting after clause (iii) the following new clauses: "(iv) the costs of providing interest and special allowance computation and billing services to lenders, (v) the amount of non-Federal funds expended by an insurer as incentive payments to lenders to induce them to improve or expand their program participation,".

(d) Section 428 of the Act is amended by adding at the end thereof the following new subsection:

"(i) (1) Any State agency or any nonprofit private institution or organization which has an agreement under subsection (b) of this section may enter into an agreement with any eligible lender (other than an eligible institution or an agency or instrumentality of the State) for the purpose of authorizing multiple disbursements of the proceeds of a loan under which the lender will pay the proceeds of such loans into an escrow account to be administered by the State agency or any nonprofit private institution or organization in accordance with the provisions of paragraph (2) of this subsection.

"(2) Each State agency or each nonprofit private institution or organization entering into an agreement under paragraph (1) of this subsection is authorized to—

"(A) make the disbursements in accordance with the note evidencing the loan;

"(B) commingle the proceeds of all loans paid to it pursuant to the escrow agreement entered into under such paragraph (1);

"(C) invest the proceeds of such loans in obligations of the Federal Government or obligations which are insured or guaranteed by the Federal Government;

"(D) retain interest or other earnings on such investment; and

"(E) return to the eligible lender undisbursed funds when the student ceases to carry at an eligible institution at least one-half of the normal full-time academic workload as determined by the institution.".

LOAN INFORMATION PROGRAM AUTHORIZED

SEC. 418. Title IV of the Act is amended by adding after section 433 the following new section:

"STUDENT LOAN INFORMATION BY ELIGIBLE LENDERS

"SEC. 433A. Each eligible lender shall enter into an agreement with the Secretary under which the eligible lender will, at the time such lender makes a loan to a student borrower which is insured or guaranteed under this part, provide thorough and accurate loan information on loans insured or guaranteed under this part to the student borrower. The loan information required by this section shall include—

"(1) the yearly and cumulative maximum amounts that may be borrowed by a student;

"(2) the terms on which repayment will begin;

"(3) the maximum number of years in which the loan must be repaid;

"(4) the interest rate that will be repaid, and the minimum amount of required monthly payment;

"(5) any special options the borrower may have for deferral, cancellation, prepayment, consolidation, or other refinancing of the loan;

"(6) a definition of default and the consequences to the borrower if the borrower should default, including a description of any arrangements made with credit bureau organizations; and

"(7) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance.".

LOANS TO PARENTS

SEC. 419. Part B of title IV of the Act is amended by inserting immediately after section 428A the following new section:

"LOANS TO PARENTS OF DEPENDENT UNDERGRADUATE STUDENTS

"SEC. 428B. (a) Parents of a dependent undergraduate student (as defined by regulations by the Secretary) shall be eligible to borrow funds under this part in amounts specified in subsection (b), and unless otherwise specified in subsections (c) and (d), such loans shall have the same terms, conditions, and benefits as all other loans made under this part. Whenever necessary to carry out the provisions of this section the terms 'student' and 'student borrower' used in this part shall include a parent borrower under this section.

"(b) (1) Subject to paragraphs (2) and (3), the maximum amount parents may borrow for one student in any academic year or its equivalent (as defined by regulation by the Secretary) is $3,000.

"(2) The aggregate insured principal amount for insured loans made to parents on account of an undergraduate dependent student shall not exceed $15,000.

"(3) No loan may be made to any parent or student under this part which would cause their combined loans for any academic year to exceed the student's estimated cost of attendance minus such student's estimated financial assistance as certified by the eligible institution under section 428(a) (2) (A) of this part. The annual insurable limit on account of any student shall not be deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.

"(c) (1) Repayment of principal on loans made under this section shall commence not later than 60 days after the date such loan is disbursed by a lender.

"(2) No payments to reduce interest costs shall be paid pursuant to section 428(a) of this part on loans made pursuant to this section.

"(3) Interest on loans made pursuant to this section shall be at the rate of 9 per centum per annum on the unpaid principal balance of the loan, except that, if the loan is to cover the cost of education for a period of enrollment which begins on or after a date which is three months after the date on which the Secretary has made a determination under section 427A(b) and that borrower, on the date of entering into the note or other written evidence of the loan, has no obligation to repay any amount of principal or interest on any other loan made under this section with respect to the same student, then the interest shall be at the rate of 8 per centum per annum on the unpaid principal balance of the loan.

"(d) Loans made under this section shall be insured by the Secretary in a State only if—

"(1) the State is not served by a State agency or nonprofit private institution or organization having an agreement with the Secretary pursuant to section 428(b), or

"(2) an agency, institution, or organization in a State having such an agreement does not authorize loans under this section (A) within one hundred and twenty days after the effective date of this amendment, or (B) if a State is prohibited from authorizing loans under this section because of existing State law, one hundred and twenty days after the adjournment of the next regular session of this State legislature which convenes after the effective date of this amendment.".

SPECIAL ALLOWANCES

SEC. 420. (a) Section 438 of the Act is amended to read as follows:

"SPECIAL ALLOWANCES

"SEC. 438. (a) In order to assure (1) that the limitation on interest payments or other conditions (or both) or loans made or insured under this part, do not impede or threaten to impede the carrying out of the purposes of this part or do not cause the return to holders of loans to be less than equitable, (2) that incentive payments on such loans are paid promptly to eligible lenders, and (3) that appropriate consideration of relative administrative costs and money market conditions is made in setting the quarterly rate of such payments, the Congress finds it necessary to establish an improved method for the determination of the quarterly rate of the special allowances on such loans, and to provide for a thorough, expeditious and objective examination of alternative methods for the determination of the quarterly rate of such allowances.

"(b) (1) A special allowance shall be paid for each of the three-month periods ending March 31, June 30, September 30, and December 31 of every year and the amount of such allowance paid to any holder with respect to any three-month period shall be a percentage of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by such holder during such period.

"(2) (A) Subject to subparagraph (D) and paragraph (4), the special allowance paid pursuant to this subsection on loans for which the applicable interest rate is 7 per centum per annum or less shall be computed (i) by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for such three-month period, (ii) by subtracting 3.5 per centum from such average, (iii) by rounding the resultant per centum upward to the nearest one-eighth of 1 per centum, and (iv) by dividing the resultant per centum by four.

"(B) Subject to subparagraph (D) and paragraph (4), the special allowance paid pursuant to this subsection on loans for which the applicable interest rate is 8 per centum per annum shall be computed (i) by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for such three-month period, (ii) by subtracting 4.5 per centum from such average, (iii) by rounding the resultant per centum upward to the nearest one-eighth of 1 per centum, and (iv) by dividing the resultant per centum by four.

"(C) Subject to subparagraph (D) and paragraph (4), the special allowance paid pursuant to this subsection on loans for which the applicable interest rate is 9 per centum per annum shall be computed (i) by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for such three-month period, (ii) by subtracting 5.5 per centum from such average, (iii) by rounding the resultant per centum upward to the nearest one-eighth of 1 per centum, and (iv) by dividing the resultant per centum by four.

"(D) (i) The quarterly rate of the special allowance for holders of loans which were made or purchased with funds obtained by the holder from the issuance of obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954 shall be one-half the quarterly rate of the special allowance established under subparagraph (A), (B), or (C). Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interests or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds.

This subparagraph shall not apply to loans which were made or insured prior to October 1, 1980.

"(ii) The rate set under division (i) shall not be less than (I) 2.5 per centum per annum in the case of loans for which the applicable interest rate is 7 per centum per annum (II) 1.5 per centum per annum in the case of loans for which the applicable interest rate is 8 per centum per annum, or (III) 0.5 per centum in the case of loans for which the applicable rate is 9 per centum per annum.

"(iii) No special allowance may be paid under this subparagraph unless the issuer of such obligations complies with section 420(b) of the Education Amendments of 1980.

"(3) The holder of an eligible loan shall be deemed to have a contractual right against the United States, during the life of such loan, to receive the special allowance according to the provisions of this section. Subject to paragraph (4) the special allowance determined for any such three-month period shall be payable at such time, after the close of such period, as may be specified by or pursuant to regulations promulgated under this section.

"(4)(A) If payments of the special allowances payable under this section or of interest payments under section 428(a) with respect to a loan have not been made within thirty days after the Secretary has received an accurate, timely, and complete request for payment thereof, the special allowance payable to such holder shall be increased by an amount equal to the daily interest accruing on the special allowance and interest benefits payments due the holder.

"(B) Such daily interest shall be computed at the daily equivalent rate of the sum of the special allowance rate computed pursuant to paragraph (2) and the interest rate applicable to the loan and shall be paid for the later of (i) the thirty-first day after the receipt of such request for payment from the holder, or (ii) the thirty-first day after the final day of the period or periods covered by such request, and shall be paid for each succeeding day until, and including, the date on which the Secretary authorizes payment.

"(C) For purposes of reporting to the Congress the amounts of special allowances paid under this section, amounts of special allowances paid pursuant to this paragraph shall be segregated and reported separately.

"(5) As used in this section, the term 'eligible loan' means a loan which is insured under this part, or made under a program covered by an agreement under section 428(b) of this Act.

"(6) The Secretary shall pay the holder of an eligible loan, at such time or times as are specified in regulations, a special allowance prescribed pursuant to this subsection subject to the condition that such holder shall submit to the Secretary, at such time or times and in such a manner as he may deem proper, such information as may be required by regulation for the purpose of enabling the Secretary to carry out his functions under this section and to carry out the purposes of this section.

"(c) The Secretary shall adopt or amend appropriate regulations pertaining to programs carried on under this part to prevent, where practicable, any practices which he finds have denied loans to a substantial number of eligible students.".

(b) In order for the holders of loans which were made or purchased with funds obtained by the holder from an Authority issuing obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954, to be eligible to receive a special allowance under section 438(b)(2)(D) of the Higher Education Act of 1965, the Authority shall submit to the Secretary a plan for doing business. The Secretary shall approve or disapprove such plan within 30 days after the date of its submission. Each such plan shall contain provisions designed to assure that—

(1) no eligible lender in the area served by the Authority will be excluded from participation in the program of the Authority and that all eligible lenders may participate in the program on the same terms and conditions if eligible lenders are going to participate in the program;

(2) no director or staff member of the Authority who receives compensation from the Authority may own stock in, or receive compensation from any agency that would contract to service and collect the loans of the Authority;

(3) student loans will not be purchased from participating lenders at a premium or discount amounting to more than 1 per centum of the unpaid principal amount borrowed plus accrued interest to the date of acquisition, but a reasonable loan transfer fee may be paid by the purchaser;

(4) the Authority will, within the limit of funds available and subject to applicable State and Federal law, make loans to, or purchase loans incurred by, all eligible students who are residents of, or who attend an eligible institution within, the area served by the Authority;

(5) the Authority has a plan under which the Authority will pursue the development of new lender participation in a continuing program of benefits to students together with assurances of existing lender commitments to the program; and

(6) there will be an annual audit of the Authority by a certified public accounting firm which will include review of compliance by the Authority with the provisions of the plan.

THE STUDENT LOAN MARKETING ASSOCIATION

SEC. 421. (a)(1) Section 439(a)(1) of the Act is amended by striking out "Government-sponsored".

(2) Section 439(f) of the Act is amended to read as follows:

"(f)(1) The Association shall have common stock having such par value as may be fixed by its Board of Directors from time to time which may be issued only to lenders under this part, pertaining to guaranteed student loans, who are qualified as insured lenders under this part or who are eligible institutions, as defined in section 435(a), other than an institution outside of the United States.

"(2) Each share of common stock shall be entitled to one vote with rights of cumulative voting at all elections of Directors. Voting shall be by classes as described in subsection (c)(3).

"(3) The maximum number of shares of common stock that the Association may issue and have outstanding at any one time shall be fixed by the Board of Directors from time to time. Any common share issued shall be fully transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

"(4) To the extent that net income is earned and realized, subject to subsection (g)(2), dividends may be declared on common stock and nonvoting common stock by the Board of Directors. Such dividends as may be declared by the Board shall be paid to the holders of outstanding shares of common stock and nonvoting common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

"(5) The Association is authorized to issue nonvoting common stock having such par value as may be fixed by its Board of Directors from time to time. Any nonvoting common stock shall be freely transferable, except that, as to the Association, it shall be transferable only on the books of the Association.".

(3) The first sentence of section 439(g)(1) of the Act is amended to read as follows: "The Association is authorized to issue nonvoting preferred stock having such par value as may be fixed by its Board of Directors from time to time.".

(b)(1) Section 439(d) of the Act is amended—

(A) in paragraph (1), by inserting "or repurchase," after "purchase" and by inserting "or resell, offer participations, or pooled interests," after "sell";

(B) by amending paragraph (2) to read as follows:

"(2) Any warehousing advance made under paragraph (1) of this subsection shall be made on the security of (A) insured loans, (B) marketable obligations and securities issued, guaranteed or insured by, the United States, or for which the full faith and credit of the United States is pledged for the repayment of principal and interest thereof, or (C) marketable obligations issued, guaranteed, or insured by any agency, instrumentality or corporation of the United States for which the credit of such agency, instrumentality or corporation is pledged for the repayment of principal and interest thereof, in an amount equal to the amount of such advance. The proceeds of any such advance secured by insured loans shall either be invested in additional insured loans or the lender shall provide assurances to the Association that during the period of the borrowing it will maintain a level of insured loans in its portfolio not less than the aggregate outstanding balance of such loans held at the time of the borrowing. The proceeds from any such advance secured by collateral described in clauses (B) and (C) shall be invested in additional insured student loans."; and

(C) by adding at the end thereof the following new paragraph:

"(4) Securities issued pursuant to the offering of participations or pooled interests under paragraph (1) of this subsection may be in the form of debt obligations, or trust certificates of beneficial ownership, or both. Student loans set aside pursuant to the offering of participations or pooled interests shall at all times be adequate to ensure the timely principal and interest payments on such securities.".

(2) Section 439(l) of the Act is amended by inserting "including those made under subsection (d)(4)" immediately after "All obligations issued by the Association".

(c) Section 439(e)(A) of the Act is amended by striking out "$50,000,000" and inserting in lieu thereof "$75,000,000".

(d)(1) Section 439(h)(1) of the Act is amended to read as follows:

"(h)(1) The Association is authorized with the approval of the Secretary of Education and the Secretary of the Treasury to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association. The authority of the Secretary of Education to approve the issuance of such obligations is limited to obligations issued by the Association and guaranteed by the Secretary pursuant to paragraph (2) of this subsection. Such obligations may be redeemable at the option of the Association before maturity in such manner as may be stipulated therein. The Secretary of the Treasury may not direct as a condition of his approval that any such issuance of obligations by the Association be made or sold to the Federal Financing Bank.".

(2) Section 439(h)(2) of the Act is amended—

(A) by striking out "July 1, 1982" and inserting in lieu thereof "October 1, 1984"; and

(B) by adding at the end thereof the following new sentence: "Nothing in this section shall be construed so as to authorize the Secretary of Education or the Secretary of the Treasury to limit, control, or constrain programs of the Association or support of the Guaranteed Student Loan Program by the Association.".

(3) Section 439(h) of the Act is amended by adding at the end thereof the following new paragraphs:

"(4) Upon receipt of a request from the Association under this subsection requiring approvals by the Secretary of Education or the Secretary of the Treasury, the Secretary of Education or the Secretary of the Treasury shall act promptly either to grant approval or to advise the Association of the reasons for withholding approval. In no case shall such an approval be withheld for a period longer than sixty days unless, prior to the end of such period, the Secretary of Education and the Secretary of the Treasury submit to the Congress a detailed explanation of reasons for doing so.

"(5) The Secretary of the Treasury is authorized to purchase any obligations issued by the Association pursuant to this subsection as now or hereafter in force, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force are extended to include such purchases. The Secretary of the Treasury shall not at any time purchase any obligations under this subsection if such purchase would increase the aggregate principal amount of his then outstanding holdings of such obligations under this subsection to an amount greater than $1,000,000,000. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month preceding the making of such purchase. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

"(6) Notwithstanding any other provision of law the Association is authorized to sell or issue obligations on the security of student loans, the payment of interest or principal of which has at any time been guaranteed under section 428 or 429 of this part, to the Federal Financing Bank.".

(e) (1) Section 439 of the Act is amended by adding at the end thereof the following new subsections:

"(o) (1) (A) The Association or its designated agent may, upon request of a borrower who has received loans under this title from two or more programs or lenders, or has received any other federally insured or guaranteed student loan, and where the borrower's aggregate outstanding indebtedness is in excess of $5,000, or where the borrower's aggregate outstanding indebtedness is in excess of $7,500 from a single lender under this part, make, notwithstanding any other provision of this part limiting the maximum insured principal amount for all insured loans made to a borrower, a new loan to the borrower in an amount equal to the unpaid principal and accrued unpaid interest on the old loans. The proceeds of the new loan shall be used to discharge the liability on such old loans.

"(B) The Association in making loans pursuant to this subsection in any State served by a State agency or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b) or an eligible lender in a State described in section 435(g) (1) (D) or (F) may designate as its agent such agency, institution, organization, or lender to perform such functions as the Association determines appropriate. Any agreements made pursuant to this subparagraph shall be on such terms and conditions as agreed upon by the Association and such agency, institution, organization, or lender.

"(2) Loans made pursuant to this subsection shall be insurable either by the Secretary under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b) (1) or by a State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b), except that such State or nonprofit private institution or organization shall provide the Association with a certificate of comprehensive insurance coverage. The terms of loans made under this subsection shall be such as may be agreed upon by the borrower and the Association and meet the requirements of section 427, except that (A) the ten-year maximum period referred to in section 427(a) (2) (B) may be extended to no more than twenty years, and (B) clause (ii) of section 427(a) (2) (B) shall not be applicable.

"(3) (A) Notwithstanding any other provision of this part, the Association, with the agreement of the borrower, may establish such repayment terms as it determines will promote the objectives of this subsection including, but not limited to, the establishment of graduated, income sensitive repayment schedules.

"(B) For any borrower who has received two or more loans under this part bearing interest at the rate of 9 per centum per annum on the unpaid principal balance of the loan and who requests a new loan under this subsection for the purpose of consolidation on a date after the date on which the Secretary has made a determination under section 427A(b), the rate of interest on such new loan shall not exceed 8 per centum per annum on the unpaid principal balance of such new loan.

"(4) The Association shall develop a program to ensure the dissemination of information to students, lenders, and institutions of higher education regarding the loans authorized by this subsection.

"(p) (1) The Association shall make advances in each fiscal year from amounts available to it to each State agency, nonprofit institution or organization, and eligible lender described in subsection 428 (h) (1) which has an agreement with the Association which sets forth that advances are necessary to enable such agency, institution, organization or lender to make student loans in accordance with section 428 (h) of this title and that such advances will be repaid to the Association in accordance with such terms and conditions as may be set forth in the agreement and agreed to by the Association and such agency, institution, organization, or lender. Advances made under this subsection shall not be subject to section 439 (d) (2) of this Act.

"(2) No advance may be made under this subsection unless the State agency or nonprofit institution, organization, or lender makes an application to the Association, which shall be accompanied by such information as the Association determines to be reasonably necessary.

"(q) (1) (A) Whenever the Secretary determines that eligible borrowers in a State not served by a State agency or nonprofit private institution or organization having an agreement pursuant to section 428(b), or an eligible lender in a State described in section 435(g) (1) (D) or (F) are seeking and are unable to obtain loans under this part, the Association or its designated agent may begin making loans in accordance with this subsection at the request of the Secretary. The Association shall give preference to such States in making loans under this subsection.

"(B) Loans made pursuant to this subsection shall be insurable by the Secretary under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b) (1).

"(2) (A) Whenever the Secretary, after consultation with, and with the agreement of, representatives of the agency in a State or nonprofit private institution or organization having an agreement pursuant to section 428 (b), or an eligible lender in a State described in section 435(g) (1) (D), determines that a substantial portion of eligible borrowers in such State or within an area of such State are seeking and are unable to obtain loans under this part, the Association or its designated agent may begin making loans in accordance with this subsection at the request of the Secretary.

"(B) Loans made pursuant to this subsection shall be insurable by the agency identified in subparagraph (A) having an agreement pursuant to section 428(b). For loans insured by such agency, the agency shall provide the Association with a certificate of comprehensive insurance coverage, if the Association and the agency have mutually agreed upon a means to determine that the agency has not already guaranteed a loan under this part to a student which would cause a subsequent loan made by the Association to be in violation of any provision under this part.

"(3) The Association or its designated agent shall cease making loans under this part in any State at such time as it is determined by the Secretary, with regard to loans made under paragraph (1), or by any party to the agreement required by paragraph (2), that—

"(A) the conditions which caused the implementation of this subsection have ceased to exist; or

"(B) the implementation of this subsection has either (i) further reduced the availability of loans from other sources in the applicable geographical area, or (ii) inhibited the formation in a State of an agency which would have an agreement pursuant to section 428 (b) of this part which would have the responsibility of developing local sources of funds for student loans.".

(2) Section 435(g) (1) of the Act is amended by striking out "and" at the end of subparagraph (E), by striking out the period at the end of subparagraph (F), and by adding at the end thereof the following:

"(G) for purposes of making loans under section 439 (o) and (q), the Student Loan Marketing Association; and

"(H) for purposes of making loans under section 428(j), a State agency or a nonprofit private institution or organization having an agreement under section 428(b).".

PROMPT DUE DILIGENCE DETERMINATIONS

SEC. 422. Section 430(a) of the Act is amended by adding at the end thereof the following new sentence: "The Secretary shall make the determination required to carry out the provisions of this section not later than ninety days after the notification by the insurance beneficiary and shall make payment in full on the amount of the beneficiary's loss pending completion of his due diligence investigation.".

MISCELLANEOUS AMENDMENTS

SEC. 423. (a) (1) Section 427(a) (1) of the Act is amended to read as follows:

"(1) made to a student who (A) is an eligible student under section 484, and (B) has agreed to notify promptly the holder of the loan concerning any change of address; and".

(2) Section 428(a) (2) (B) (i) of the Act is amended to read as follows:

"(i) a student's estimated cost of attendance means the cost of attendance for such student determined in accordance with section 482(d);".

(b) The first sentence of section 428(c)(1)(A) of the Act is amended by striking out everything after "of any insured loan" and inserting in lieu thereof a period.

(c) Section 428(e) of the Act is amended to read as follows:

"(e) From funds appropriated to carry out this part in any fiscal year, the Secretary shall pay to each eligible institution the amount of $10 per academic year for each student enrolled in that institution who is in receipt of a loan described in paragraph (1) of subsection (a) of this section or made under section 428B, for that year. Payments received by an institution under this subsection shall be used solely for the purpose of offsetting the costs to the institution for the program under this part.".

(d) Section 428(f) of the Act is amended by adding at the end thereof the following new paragraph:

"(5)(A) The Secretary shall make payments in accordance with this paragraph to an agency, institution, or organization in any State which has an agreement under subsection (b) of this section which provides a lender referral service for students who meet the requirements of subparagraph (B).

"(B) A student is eligible to apply for lender referral services to an agency, institution, or organization in a State if (i) such student is either a resident of such State or is accepted for enrollment in or is attending an eligible institution in such State, and (ii) such student has sought and was unable to find a lender willing to make a loan under this part.

"(C) The amount which the Secretary shall pay to any eligible agency, institution, or organization under this paragraph shall be equal to one-half of 1 per centum of the total principal amount of the loans upon which insurance was issued under this part on loans made to a student described in subparagraph (B) who subsequently obtained such loans because of such agency's, institution's or organization's referral service.

"(D) Nothing in this or any law shall prohibit an agency from using all or a portion of the funds received under this part for the payment of incentive fees to lenders who agree to participate in a loan referral service.

"(E) There is authorized to be appropriated such sums as are necessary to carry out the provisions of this paragraph.".

PART C—WORK-STUDY PROGRAMS

PURPOSE; APPROPRIATIONS AUTHORIZED

SEC. 431. Section 441 of the Act is amended to read as follows:

"PURPOSE; APPROPRIATIONS AUTHORIZED

"SEC. 441. (a) The purpose of this part is to stimulate and promote the part-time employment of students, particularly students who are in need of earnings from employment to pursue courses of study at eligible institutions.

"(b) There are authorized to be appropriated for carrying out this part $670,000,000 for fiscal year 1981, $720,000,000 for fiscal year 1982, $760,000,000 for fiscal year 1983, $800,000,000 for fiscal year 1984, and $830,000,000 for fiscal year 1985.".

ALLOTMENT TO STATES

SEC. 432. Section 442 of the Act is amended—

(1) by striking out "2 per centum" in subsection (a)(1) and inserting in lieu thereof "1 per centum";

(2) by striking out "Puerto Rico," in subsection (a)(1);

(3) by striking out "subsection (e)" in subsection (a)(2) and inserting in lieu thereof "subsection (f)".

(4) by inserting "second" immediately after "until the close of the" in subsection (d); and

(5) by striking out "Puerto Rico," in subsection (e).

USE OF CERTAIN UNUSED COLLEGE WORK-STUDY PROGRAM FUNDS FOR THE SUPPORT OF COOPERATIVE EDUCATION PROGRAMS

SEC. 433. (a) The first sentence of section 442(d) of the Act is amended by inserting before the period a comma and the following: "except that the Secretary shall give preference for the first 50 per centum of such reallotments to eligible institutions for use for initiating, improving, and expanding programs of cooperative education conducted in accordance with title VIII of this Act".

(b) Section 442(d) of the Act is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraph:

"(2) The requirement for preferences under reallotment contained in the exception of the first sentence of paragraph (1) of this subsection shall be made upon application by the eligible institution to the Secretary in such manner and such form as the Secretary may require. The Secretary shall allot funds under such preference based upon the ratio of the number of students assisted under the cooperative education program authorized by title VIII for the fiscal year for which the determination is made enrolled in the eligible institution making application under this paragraph to the number of such students for such year enrolled in all eligible institutions applying under this part.".

GRANTS FOR WORK-STUDY PROGRAMS

SEC. 434. Part C of title IV of the Act is amended by striking out sections 443 and 444 and inserting in lieu thereof the following:

"GRANTS FOR WORK-STUDY PROGRAMS

"SEC. 443. (a) The Secretary is authorized to enter into agreements with institutions of higher education under which the Secretary will make grants to such institutions to assist in the operation of work-study programs as provided in this part.

"(b) An agreement entered into pursuant to this section shall—

"(1) provide for the operation by the institution of a program for the part-time employment of its students in work for the institution itself (except in the case of a proprietary institution of higher education) or work in the public interest for a Federal, State, or local public agency or private nonprofit organization under an arrangement between the institution and such agency or organization, and such work—

"(A) will not result in the displacement of employed workers or impair existing contracts for services;

"(B) will be governed by such conditions of employment as will be appropriate and resonable in light of such factors as type of work performed, geographical region, and proficiency of the employee;

"(C) does not involve the construction, operation, or maintenance of so much of any facility as is used or is to be used for sectarian insruction or as a place for religious worship; and

"(D) will not pay any wage to students employed under this subpart that is less than the current Federal minimum wage as mandated by section 6(a) of the Fair Labor Standards Act of 1938;

"(2) provide that funds granted an institution of higher education, pursuant to section 443, may be used only to make payments to students participating in work-study programs, except that an institution may use a portion of the sums granted to it to meet administrative expenses in accordance with section 489 of this Act, may use a portion of the sums granted to it to meet the cost of a job location and development program in accordance with section 447 of this part, and may transfer funds in accordance with the provisions of section 488 of this Act;

"(3) provide that in the selection of students for employment under such work-study program, only students who demonstrate financial need in accordance with the provisions of section 482, and who meet the requirements of section 484 will be assisted, except that each eligible institution may reserve and award not more than 10 per centum of the funds made available under this part for each fiscal year for less-than-half-time students who are determined by the institution to be in need of such grants and who meet the requirements of section 484, other than the requirement of clause (2) of section 484(a);

"(4) provide that no student in a work-study program under this part shall be required to terminate that employment during a semester (or other regular enrollment period) at the time income derived from any employment (including work-study or non-work-study or both) is in excess of the determination of the amount of such student's need for that semester under clause (3) of this subsection, but when such excess income equals $200 or more, continued employment under a work-study program shall not be subsidized with funds appropriated under this part;

"(5) provide that the institution will meet the requirements of section 487(2) of this Act (relating to maintenance of effort);

"(6) provide that the Federal share of the compensation of students employed in the work-study program in accordance with the agreement will not exceed 80 per centum of such compensation; except that the Federal share may exceed 80 per centum of such compensation if the Secretary determines, pursuant to regulations adopted and promulgated by him establishing objective criteria for such determinations, that a Federal share in excess of 80 per centum is required in furtherance of the purposes of this part;

"(7) include provisions to make employment under such work-study program reasonably available (to the extent of available funds) to all eligible students in the institution in need thereof, and to make equivalent employment offered or arranged by the institution reasonably available (to the extent of available funds) to all students in the institution who desire such employment;

"(8) provide assurances that employment made available from funds under this part will, to the maximum extent practicable, complement and reinforce the educational program or vocational goals of each student receiving assistance under this part; and

"(9) include such other provisions as the Secretary shall deem necessary or appropriate to carry out the purposes of this part.".

DISTRIBUTION OF ASSISTANCE

SEC. 435. (a) Section 446(a) of the Act is amended by inserting at the end thereof the following new sentence: "The criteria established under this subsection shall not result in any institution's receiving an amount less than the institution used under this section for fiscal year 1979, unless there is a substantial decline in the student enrollment of the institution.".

(b) Section 446 of the Act is amended by striking out subsection (b) and inserting in lieu thereof the following new subsections:

"(b) Of the sums granted to an eligible institution under this part for any fiscal year, 10 per centum may, at the discretion of the institution, remain available for expenditure during the succeeding fiscal year to carry out programs under this part. Any of the sums so granted to an institution for a fiscal year which are not needed by that institution to operate work-study programs during that fiscal year, and which it does not wish to use during the next fiscal year as authorized in the preceding sentence, shall remain available to the Secretary for making grants under section 443 to other institutions in the same State until the close of the second fiscal year next succeeding the fiscal year for which such funds were appropriated.

"(c) Up to 10 per centum of the sums the Secretary determines an eligible institution may receive from funds which have been appropriated for a fiscal year may be used by the Secretary to make grants under this part to such institution for expenditure during the fiscal year preceding the fiscal year for which the sums were appropriated.".

JOB LOCATION AND DEVELOPMENT

SEC. 436. Section 447 of the Act is amended by striking out "$15,000" and inserting in lieu thereof "$25,000".

WORK STUDY FOR COMMUNITY SERVICE-LEARNING

SEC. 437. Part C of title IV of the Act is amended by adding at the end thereof the following new section:

"WORK STUDY FOR COMMUNITY SERVICE-LEARNING ON BEHALF OF LOW-INCOME INDIVIDUALS AND FAMILIES

"SEC. 448. (a) The purpose of this section is to encourage and enable institutions of higher education to develop work study programs involving eligible students in community service-learning designed to develop, improve, or expand services for low-income individuals and families or to solve particular problems related to the needs of low-income individuals.

"(b) For the purpose of this section—

"(1) 'community service-learning' means a program of student work that—

"(A) provides tangible community services for or on behalf of low-income individuals or families; and

"(B) provides participating students with work-learning opportunities related to their educational or vocational programs or goals; and

"(2) 'community services' means direct service, planning or applied research activities designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to their needs including, but not limited to, such fields as health care, education, welfare, social services, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development, and community improvement.

"(c) Each institution participating under this part may use funds made available under the last sentence of section 489(a) to conduct that institution's program of community service-learning, including—

"(1) development of mechanisms to assure the academic quality of the student experience,

"(2) assuring student access to educational resources, expertise, and supervision necessary to achieve community service objectives, and

"(3) collaboration with public and private nonprofit agencies in the planning and administration of such programs.".

PART D—NATIONAL DIRECT STUDENT LOANS

EXTENSION OF PROGRAM

SEC. 441. (a) Section 461(b)(1) of the Act is amended to read as follows:

"(b)(1) For the purpose of enabling the Secretary to make contributions to student loan funds established under this part, there are authorized to be appropriated $400,000,000 for each of the fiscal years 1981 and 1982, $475,000,000 for fiscal year 1983, $550,000,000 for fiscal year 1984, and $625,000,000 for fiscal year 1985, except that no funds are authorized to be appropriated for any fiscal year which begins after there has been a capital distribution under section 466(a).".

(b) Section 461(b)(2) of the Act is amended—

(1) by striking out "for the fiscal year ending September 30, 1980, and each of the three succeeding fiscal years" and inserting in lieu thereof "for fiscal year 1985 and each of the five succeeding fiscal years"; and

(2) by striking out "October 1, 1980" and inserting in lieu thereof "October 1, 1985".

ALTERNATIVE FUNDING FOR DIRECT LOANS; RECAPTURE OF CURRENT BALANCES

SEC. 442. (a) Part E of title IV of the Act is amended by adding at the end thereof the following new sections:

"ALTERNATIVE SOURCE OF FUNDS

"SEC. 468. (a)(1) The Secretary shall, not later than April 1 of each fiscal year, issue and have outstanding at any one time notes, debentures, bonds, or other obligations in such amounts as shall be necessary to carry out functions under this part, subject to such annual limitations as may be provided in an appropriation Act with respect to such fiscal year, except that the Secretary shall not issue any such obligation without the prior concurrence of the Secretary of the Treasury as to the terms and conditions of such obligations. The Secretary of the Treasury may direct that any such issuance by the Secretary be sold to the Department of the Treasury for its own account or to the Federal Financing Bank.

"(2) The Secretary of the Treasury is authorized and directed to purchase any obligations issued under this section, and for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this section shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. Interest due on obligations of the Secretary held by the Treasury may be deferred, at the discretion of the Secretary, but any such deferred interest shall bear interest at the rate specified in this section. The Secretary of Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this section shall be treated as public debt transactions of the United States.

"(3) All obligations of the Secretary issued under this section shall be fully and unconditionally guaranteed as to principal and interest and shall constitute general obligations of the United States backed by the full faith and credit of the Government of the United States of America. Such guarantee shall be expressed on the face of all such obligations.

"(4) Obligations of the Secretary issued pursuant to this section shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof. All stock and obligations issued by the Secretary pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States.

"(5) In order that the Secretary may be supplied with such forms of notes, debentures, bonds, or other such obligations as it may need for issuance under this section, the Secretary of the Treasury is authorized to prepare such forms as shall be suitable and approved by the Secretary, to be held in the Treasury subject to delivery, upon order of the Secretary. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Secretary shall reimburse the Secretary of the Treasury for any expenses incurred in the preparation, custody, and delivery of such notes, debentures, bonds, or other obligations.

"(6) All moneys of the Secretary not otherwise employed may be—

"(A) deposited with the Treasury of the United States subject to withdrawal by the Secretary, by check drawn on the Treasury of the United States by a Treasury disbursing officer, or

"(B) with the approval of the Secretary of the Treasury, deposited in any Federal Reserve bank, or

"(C) with the approval of the Secretary of the Treasury, and by authorization of the Secretary, used in the purchase for redemption and retirement of any notes, debentures, bonds, or other obligations issued by the Secretary.

"(b)(1) The Secretary shall make payments under this section for any fiscal year to each institution of higher education having an agreement under section 463 on the basis of the estimated needs of that institution for making student loans taking into consideration—

"(A) the cost of attendance at that institution,

"(B) the financial need of students at that institution to meet the cost of attendance as determined under section 482, and

"(C) the financial assistance received by students at that institution under parts A and C of this title, or any other provision of Federal law (other than part B), and other scholarship, grant, work, and loan assistance received by students,

subject to the limitations specified in section 464(a)(2). No application under subsection (c) shall be approved which requests an amount greater than the amount determined under this subsection to be needed by that institution.

"(2) If the total amount of Federal capital contributions requested in applications under subsection (c) exceeds the amount available under this section for a fiscal year, the request from each institution shall be ratably reduced, except that no reduction may be made under this sentence to an amount which, together with funds available to the institution of higher education under section 463(a)(2)(A) and (B) for that fiscal year 1980. In case additional amounts become available for such contributions in any fiscal year in which requests have been so reduced, such requests shall be increased on the same basis as they were reduced, except that no such request shall be increased above the amount requested in the application.

"(c) Any institution of higher education desiring to receive payments of Federal capital contributions from the apportionment under subsection (b) shall submit an application therefor to the Secretary at such time as the Secretary prescribes.

"(d) There are authorized to be appropriated such sums as may be necessary to pay the differential between the rate of return on obligations of the Secretary made under this section and the interest collected on student loans made under this part.

"(e) In carrying out the provisions of this part, the Secretary is authorized—

"(1) to consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note evidencing a loan which has been made under this part;

"(2) to enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption;

"(3) to conduct litigation in accordance with the provisions of section 432(a)(2); and

"(4) to enter into a contract or other arrangement with State or nonprofit agencies and, on a competitive basis, with collection agencies for servicing and collection of loans under this part.

"RECAPTURE OF CURRENT BALANCE OF STUDENT LOAN FUNDS

"SEC. 469. If, by April 1 of any fiscal year, the Secretary has made available for deposit in student loan funds pursuant to section 463(a)(2)(C) an amount which equals or exceeds $1,000,000,000 to be available for loans for such fiscal year, there shall be collected from each student loan fund established under this part the current balance of such student loan fund as follows:

"(1) The Secretary shall first be paid an amount which bears the same ratio to the balance in such fund (excluding any portion of such balance which was deposited pursuant to section 463(a)(2)(C)) as the total amount of Federal capital contributions to such fund by the Secretary from funds appropriated under section 461 or under title II of the National Defense Education Act of 1958 bears to the sum of such Federal capital contributions and the institution's capital contribution to such fund. Such amounts shall be deposited in the Treasury of the United States.

"(2) The remainder of such balance, excluding any portion of such balance which was deposited pursuant to section 463(a)(2)(C), shall be paid to the institution.

"(3) Any portion of such balance which was deposited pursuant to section 463(a)(2)(C) shall be retained in the student loan fund for use in accordance with this part.".

(b)(1) Section 463(a)(2) of the Act is amended to read as follows:

"(2) provide for the deposit in such fund of—

"(A) Federal capital contributions from funds appropriated under section 461;

"(B) a capital contribution by such institution in an amount equal to not less than one-ninth of the amount of the Federal capital contributions described in subparagraph (A);

(C) Federal capital contributions from funds provided by the Secretary under section 468;

"(D) collections of principal and interest on student loans made from deposited funds other than those described in subparagraph (C);

"(E) charges collected pursuant to regulations under section 464(c)(1)(H); and

"(F) any other earnings of the funds;".

(2) Section 463(a)(3)(D) of the Act is amended by striking out "section 464(c)(1)(G)" and inserting in lieu thereof "section 464(c)(1)(H)".

(3) Section 463(a) of the Act is further amended by striking out "and" at the end of paragraph (5), by redesignating paragraph (6) as paragraph (9), and by inserting immediately after paragraph (5) the following new paragraph:

"(6)(A) provide that collections of principal and interest on student loans made from funds described in paragraph (2)(C), after deduction of any costs of litigation and other servicing and collection costs agreed to by the Secretary in connection with the servicing and collection of such a loan (and interest thereon) or a charge assessed pursuant to regulations under section 464(c)(1)(H), shall be paid to the Secretary at such time and in such manner as the Secretary may prescribe by regulation and shall be deposited in the Treasury of the United States; or

"(B) provide that, if an institution of higher education determines not to service and collect student loans made from funds described in paragraph (2)(C), the institution will assign, at the beginning of the repayment period, notes or evidence of obligations of student loans made from funds described in such paragraph to the Secretary;".

(4) Section 463(b) of the Act is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraph:

"(2) An institution which has entered into an agreement under subsection (a) and has elected to assign the notes or evidence of obligations of student loans in accordance with paragraph (6)(B) of such subsection shall be eligible to receive, from funds available to the Secretary, an amount equal to $10 per academic year for each student enrolled in that institution who in that year received a loan from funds described in paragraph (2)(C) of subsection (a) of this section. Payments received by an institution under this paragraph shall be used for the purpose of offsetting the costs to the institution for the program under this part.".

(5) Section 464(c)(1)(G) of the Act is amended by inserting before the semicolon a comma and the following: "and except as necessary to carry out section 463(a)(6)(B)".

(6) Section 465(b) of the Act is amended by inserting immediately before the period at the end of the first sentence the following: ", minus an amount equal to the aggregate of the amounts of any such loans so canceled which were made from Federal capital contributions to its student loan fund provided by the Secretary under section 468".

(c) Section 466 of the Act is amended—

(1) by striking out "September 30, 1984" each place it appears in subsection (a) and inserting in lieu thereof "September 30, 1990";

(2) by striking out "March 31, 1985" each place it appears in subsections (a) and (b) and inserting in lieu thereof "March 31, 1991";

(3) by striking out "September 30, 1978" in subsection (b) and inserting in lieu thereof "September 30, 1981"; and

(4) by striking out "October 1, 1984" in subsection (c) and inserting in lieu thereof "October 1, 1990".

LOAN LIMITATIONS

SEC. 443. Section 464(a)(2) of this Act is amended—

(1) by striking out "$10,000" in clause (A) and inserting in lieu thereof "$12,000";

(2) by striking out "$5,000" in clause (B) and inserting in lieu thereof "$6,000"; and

(3) by striking out "$2,500" in clause (C) and inserting in lieu thereof "$3,000".

DEFERRAL OF REPAYMENT

SEC. 444. (a) Section 464(c)(2)(A) of the Act is amended—

(1) by inserting "or is an officer in the Commissioned Corps of the Public Health Service" immediately after "Armed Forces of the United States" in clause (ii);

(2) by striking out "or" at the end of clause (iii), by striking out the period at the end of clause (iv) and inserting in lieu thereof a semicolon, and by inserting after clause (iv) the following new clauses:

"(v) is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954;

"(vi) is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service; or

"(vii) is temporarily totally disabled (as defined in section 435(j)), as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled.";

(3) by striking "clause (ii), (iii), or (iv)" in the second sentence of such section and inserting in lieu thereof "clause (ii), (iii), (iv), (v), or (vii)"; and

(4) by inserting immediately after such sentence the following new sentence: "The period during which repayment may be deferred by reason of clause (vi) shall not exceed two years.".

(b) Section 464(c)(1)(A) of the Act is amended by striking out "nine months" each place it appears and inserting in lieu thereof "six months".

(c) Section 464(c)(1)(A) of the Act is amended by adding at the end thereof the following new subparagraph:

"(C) No repayment of principal of, or interest on, any loan for any period of study, service, or disability described in subparagraph (A) or any combination thereof shall begin until six months after the completion of such period of study, service, disability, or combination thereof.".

(d) Section 464(c)(3) of the Act is amended by inserting "(A)" immediately after "(3)" and by adding at the end thereof the following:

"(B) Pursuant to uniform criteria established by the Secretary, the repayment period for any student borrower who during the repayment period is a low-income individual may be extended for a period not to exceed ten years and the repayment schedule may be adjusted to reflect the income of that individual.".

COLLECTION PRACTICES

SEC. 445. (a) Section 463(a) of the Act (as amended by section 442(b)(3)) is further amended by inserting after paragraph (6) the following new paragraph:

"(7) provide that, notwithstanding any other provision of law, the Secretary will provide to the institution any information with respect to the names and addresses of borrowers or other relevant information which is available to him, from whatever source such information may be derived;".

(b)(1) Section 463 of the Act is amended by adding at the end thereof the following new subsection:

"(c)(1) For the purpose of promoting responsible repayment of loans made pursuant to this part, the Secretary shall enter into cooperative agreements with credit bureau organizations to provide for the exchange of information concerning student borrowers concerning whom the Secretary has received a referral pursuant to section 467.

"(2) Each cooperative agreement made pursuant to paragraph (1) shall be made in accordance with requirements of section 430(b)(2) except that such agreement shall provide for the disclosure by the Secretary to such organizations, with respect to any loan for which the Secretary is responsible, of—

"(A) the date of disbursement and the amount of any such loan;

"(B) information concerning collection of any such loan, including information concerning the status of any defaulted loan; and

"(C) the date of cancellation of the note upon completion of repayment by the borrower of any such loan.".

(2) Section 464(c)(1) of such Act is amended by striking out "and" at the end of subparagraph (G), by striking out the period at the end of subparagraph (H) and inserting in lieu thereof "; and", and by adding at the end thereof the following new subparagraph:

"(I) shall contain a notice of the system of disclosure of information concerning default on such loan to credit bureau organizations under section 463(c).".

(c) Section 467 of the Act is amended by inserting "(a)" after "SEC. 467." and by adding at the end thereof the following new subsection:

"(b) The Secretary shall continue to attempt to collect any loan assigned under section 463(a)(5) or (6) or referred under subsection (a) of this section until a date which is not earlier than four years after the date of default (determined in a manner consistent with section 430(e)).".

INTEREST RATES

SEC. 446. Section 464(c)(1)(D) of the Act is amended by inserting immediately after "3 per centum per annum" the following: "or 4 per centum per annum in the case of any loan made on or after October 1, 1980".

STUDENT LOAN INFORMATION PROGRAM AUTHORIZED

SEC. 447. (a) Section 463(a) of the Act (as amended by section 442(b)(3)) is amended by inserting immediately after paragraph (7) the following new paragraph:

"(8) provide assurances that the institution will comply with the provisions of section 463A;".

(b) Part E of title IV of the Act is amended by adding after section 463 the following new section:

"STUDENT LOAN INFORMATION BY INSTITUTIONS

"SEC. 463A. Each institution of higher education, in order to carry out the provisions of section 463(a)(7), shall, at the time such institution makes a loan to a student borrower which is made under this part, provide thorough and adequate loan information on loans made under this part to the student borrower. The loan information required by this section shall include—

"(1) the yearly and cumulative maximum amounts that may be borrowed by a student;

"(2) the terms on which repayment will begin;

"(3) the maximum number of years in which the loan must be repaid;

"(4) the interest rate that will be repaid and the minimum amount of required monthly payment;

"(5) any special options the borrower may have for deferral, cancellation, prepayment, consolidation, or other refinancing of the loan;

"(6) a definition of default and the consequences to the borrower if the borrower should default, including a description of any arrangements made with credit bureau organizations; and

"(7) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance.".

MISCELLANEOUS AMENDMENTS

SEC. 448. (a) Section 462 of the Act is amended by striking out subsection (d).

(b) Section 463(b) of the Act is amended by striking out "section 493" and inserting in lieu thereof "section 485".

(c)(1) Section 464(b) of the Act is amended to read as follows:

"(b) A loan from a student loan fund assisted under this part may be made only to a student who demonstrates financial need in accordance with section 482 and who meets the requirements of section 484.".

(2) Section 464(e) of the Act is repealed.

(d) Section 465(a)(2) of the Act is amended by striking out the last sentence and inserting in lieu thereof the following: "For purposes of this paragraph, the term 'handicapped children' has the meaning set forth in section 602(1) of the Education of the Handicapped Act.".

(e) Section 465(a) of the Act is amended by adding at the end thereof the following new paragraph:

"(5) The amount of a loan, and interest on a loan, which is canceled under this section shall not be considered income for purposes of the Internal Revenue Code of 1954.".

PART E—GENERAL PROVISIONS

STUDENT ASSISTANCE GENERAL PROVISIONS

SEC. 451. (a) Part F of title IV of the Act is amended to read as follows:

"PART F—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

"DEFINITIONS

"SEC. 481. (a)(1) For the purposes of this title, except subpart 6 of part A and part B, the term 'institution of higher education' includes, in addition to the institutions covered by the definition contained in section 1201 (a)—

"(A) a proprietary institution of higher education;

"(B) a postsecondary vocational institution;

"(C) a department, division, or other administrative unit in a college or university which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to the degree of bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing; and

"(D) a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively an accredited two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree.

"(2) The term 'accredited' when applied to any program of nurse education means a program accredited by a recognized body or bodies approved for such purpose by the Secretary.

"(b) For the purposes of this section, the term 'proprietary institution of higher education' means a school (1) which provides less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (2) which meets the requirements of clauses (1) and (2) of section 1201(a), (3) which does not meet the requirement of clause (4) of section 1201(a), (4) which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose, and (5) which has been in existence for at least two years. Such term also includes a proprietary educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution. For purposes of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

"(c) For the purposes of this section, the term 'postsecondary vocational institution' means a school (1) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (2) which meets the requirements of clauses (1), (2), (4), and (5) of section 1201(a), and (3) which has been in existence for at least two years. Such term also includes an educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution.

"(d) For the purpose of any program under this title, the term 'academic year' shall be defined by the Secretary by regulation.

"NEED ANALYSIS

"SEC. 482. (a)(1) For the purpose of determining a student's need for financial assistance under this title (other than under subpart 3 of part A and under part B), the Secretary shall publish in the Federal Register, no later than July 1, 1981, April 1, 1982, and on April 1 of each succeeding calendar year, a proposed schedule of expected family contributions for the academic year which begins after July 1 of the calendar year which succeeds such calendar year for various levels of family income, which, except as is otherwise provided in paragraph (2), together with any amendments thereto, shall become effective July 1 of the calendar year which succeeds such calendar year. During the thirty-day period following such publication the Secretary shall provide interested parties with an opportunity to present their views and make recommendations with respect to such schedule. Such schedule shall be adjusted annually.

"(2) The schedule of expected family contributions required for each academic year shall be submitted to the President of the Senate and the Speaker of the House of Representatives not later than the time of its publication in the Federal Register. If either the Senate or the House of Representatives adopts, prior to October 1, 1981, July 1, 1982, or July 1 of any succeeding year following the submission of such schedule as required by this paragraph, a resolution of disapproval of such schedule, in whole or in part, the Secretary shall publish a new schedule of expected family contributions in the Federal Register not later than fifteen days after the adoption of such resolution of disapproval of such schedule, in whole or in part, consideration such recommendations as may be made in either House in connection with such resolution. If within fifteen days following the submission of the revised schedule either the Senate or the House of Representatives again adopts a resolution of disapproval, in whole or in part, of such revised schedule, the Secretary shall publish a new schedule of expected family contributions in the Federal Register not later than fifteen days after the adoption of such resolution of disapproval. This procedure shall be repeated until neither the Senate nor the House of Representatives adopts a resolution of disapproval. The Secretary shall publish together with each new schedule a statement identifying the recommendations made in either House in connection with such resolution of disapproval and explaining his reasons for the new schedule.

"(3) The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall develop a proposed schedule of expected family contributions each year for publication in the Federal Register.

"(b)(1) For the purpose of this section, the term 'family contribution' with respect to any student means the amount which the student and his family may be reasonably expected to contribute toward his postsecondary education for the academic year for which the determination is made, as determined in accordance with regulations. In promulgating such regulations, the Secretary shall follow the basic criteria set forth in paragraph (2) of this subsection.

"(2) The basic criteria to be followed in promulgating regulations with respect to expected family contributions are as follows:

"(A) The amount of the effective income of the student or the effective family income of the student's parents.

"(B) The number of dependents of the family of the student.

"(C) The number of dependents of the student's family who are in attendance in a program of postsecondary education and for whom the family may be reasonably expected to contribute for their postsecondary education.

"(D) The amount of the assets of the student and the assets of the student's family.

"(E) Any unusual expenses of the student or his family, such as unusual medical expenses and those which may arise from a catastrophe.

"(F) Any educational expenses of other dependent children in the family.

"(3) For purposes of subparagraph (A) of paragraph (2), the term 'effective family income' with respect to a student, means the annual adjusted family income, as determined in accordance with regulations prescribed by the Secretary, received by the parents or legal guardians of the student minus Federal, State and local taxes paid or payable with respect to such income, and includes any amount paid under the Social Security Act to, or on account of, the student which would not be paid if he were not a student and one-half any amount paid the student under chapters 34 and 35 of title 38, United States Code. The term 'effective family income' includes any effective student income after any offset as determined by regulations prescribed by the Secretary.

"(4) In determining the expected family contribution under this section for any academic year after academic year 1978–1979, an assessment rate of not more than 14 per centum shall be applied to parental discretionary income for families with adjusted gross family income which does not exceed $25,000 for each such year. The Secretary may set an assessment rate or a series of assessment rates to be applied to parental discretionary income for families with adjusted gross income which exceed $25,000 for each such year for income in excess of $25,000.

"(5) For the purposes of paragraph (2) (D), the assets shall be determined by—

"(A) excluding all equity in a single principal place of residence from the computation of assets;

"(B) deducting an asset reserve of not less than $10,000 from the net value of all assets; and

"(C) if net assets include farm or business assets, deducting an additional asset reserve of not less than $50,000 from the net assets.

"(c)(1) The Secretary shall promulgate special regulations for determining the expected family contribution and effective family income of an independent student. Such special regulations shall be consistent with the basic criteria set forth in paragraph (2) of subsection (b). In addition, such regulations shall—

"(A) provide that the portion of assets which shall be exempt from assessment for contribution for an independent student who has one or more dependents shall be the same as the portion so exempt for the family of a dependent student;

"(B) provide that the rate of assessment for contribution on that portion of assets of such an independent student which is not exempt under subparagraph (A) shall be the same as the rate applied to the comparable portion of assets of the family of a dependent student;

"(C) in establishing a portion of effective family income which shall be exempt from assesment for contribution by reason of subsistence requirements of independent students who have no dependents, use the same method for computation of such portion for such students as is used for dependent students and for independent students who have dependents;

"(D) in determining the family contribution for an independent student who has one or more dependents, provide that the assesment rate which is to be applied to the student's discretionary income shall be the same as the assessment rate applied to discretionary income of the family of a dependent student; and

"(E) provide that a married student shall be considered independent if, notwithstanding prior dependency status, such student certifies that in the year of application he (i) will not live with parents for more than six weeks; (ii) will not be claimed by parents as a dependent on any tax return filed for purposes of Federal income taxes; and (iii) will not receive more than $750 in support from parents.

"(2) For purposes of this title, the term 'independent student' means a student who is determined, pursuant to regulations of the Secretary, to be independent of the parents or legal guardians of the student.

"(d) For the purposes of this title, the term 'cost of attendance' means—

"(1) tuition and fees normally, assessed a full-time student at the institution at which the student is in attendance;

"(2) an allowance for books, supplies, transportation, and miscellaneous personal expenses;

"(3) an allowance for room and board costs incurred by the student which—

"(A) beginning in academic year 1981–1982 shall be an allowance of not less than $1,100 for a student without dependents residing at home with parents;

"(B) for students without dependents residing in institutionally owned or operated housing, shall be a standard allowance determined by the institution based on the amount normally assessed most of its residents for room and board;

"(C) for all other students without dependents, shall be a standard allowance determined by the institution based on the expenses reasonably incurred by such students for room and board; and

"(D) for students with dependents, shall be an allowance based on the expenses reasonably incurred by such students for room and board;

"(4) for a student engaged in a program of study by correspondence, only tuition and fees and, if required, books and supplies, and travel and room and board costs incurred specifically in fulfilling a required period of residential training;

"(5) for a student enrolled in an academic program which normally includes a formal program of study abroad, reasonable costs associated with such study;

"(6) for a student with dependent children, an allowance based on the expenses reasonably incurred for child care; and

"(7) for a handicapped student, an allowance for those expenses related to his handicap, including special services, transportation, equipment, and supplies that are reasonably incurred and not provided for by other assisting agencies.

"(e) Nothing in this section shall prohibit an institution, in individual cases, from adjusting the financial need determination for a student aided under subpart 2 of part A or part C or E of this title if the basis for such adjustment is documented.

"FORMS AND REGULATIONS

"SEC. 483. (a) The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall prescribe a common Federal financial aid application form to be used to determine the need and eligibility of a student for financial assistance under this title (other than under subpart 3 of part A and under part B). No student or parent of a student shall be charged a fee for processing the data elements of the form prescribed by the Secretary. The Secretary shall, to the extent practicable, enter into not less than three contracts with States, institutions of higher education, or private organizations for the purpose of processing the application required under this subsection and issuing eligibility reports. The Secretary may also contract for additional services to assure coordination of financial aid from both Federal and non-Federal sources, and to provide information, training, and similar services to institutions, aid officers, counselors, lenders, parents and students. Nothing in this section shall prohibit States, institutions, or private organizations from simultaneously collecting data elements, in addition to the data elements prescribed by the Secretary, as may be necessary to determine the eligibility of a student for financial aid funds not covered by this title (or covered under subpart 3 of part A or under part B of this title).

"(b) Copies of all rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this title shall be provided to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives at least thirty days prior to their effective date.

"(c) To help insure access to postsecondary education by providing early notice to students of their potential eligibility for financial aid, the Secretary is authorized to enter into contracts with States, institutions of higher education, and private organizations for the purpose of—

"(1) developing a common pre-eligibility Federal financial aid form,

"(2) distributing and processing such form on a year-round basis free of charge to students, and

"(3) issuing on the basis of information reported by the student on such form a pre-eligibility index designed to estimate the amount of Federal (and, if feasible, non-Federal) funds for which the student might qualify in later completing and submitting the application form called for under this section.

The Secretary shall widely disseminate the pre-eligibility form through post offices and other appropriate Federal installations, schools, postsecondary institutions, libraries, and community-based agencies, including projects assisted under subpart 4 of part A of this title.

"STUDENT ELIGIBILITY

"SEC. 484. (a) In order to receive any grant, loan, or work assistance under this title, a student must—

"(1) be enrolled or accepted for enrollment at an institution of higher education that is an eligible institution in accordance with the provisions of section 487;

"(2) except as otherwise specifically provided, be carrying or planning to carry at least one-half the normal full-time workload for the course of study the student is pursuing, as determined by the institution;

"(3) if the student is presently enrolled at an institution, be maintaining satisfactory progress in the course of study the student is pursuing according to the standards and practices of the institution at which the student is in attendance;

"(4) not owe a refund on grants previously received at such institution under this title, or be in default on any loan from a student loan fund at such institution provided for in part E, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at such institution; and

"(5) file with the institution of higher education which the student intends to attend, or is attending (or in the case of a loan or loan guarantee with the lender), a statement of educational purpose (which need not be notarized) stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution.

"(b) Any permanent resident of the Trust Territory of the Pacific Islands or of the Northern Mariana Islands shall be eligibe for assistance under this title to the same extent that citizens of the United States are eligible for such assistance.

"INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS

"SEC. 485. (a)(1) Each eligible institution participating in any program under this title shall carry out information dissemination activities for prospective and enrolled students regarding the institution and financial assistance under this title. The information required by this section shall be produced and be made readily available, through appropriate publications and mailings, to all current students, and to any prospective student upon request. The information required by this section shall accurately describe—

"(A) the student financial assistance programs available to students who enroll at such institution;

"(B) the methods by which such assistance is distributed among student recipients who enroll at such institution;

"(C) any means, including forms, by which application for student financial assistance is made and requirements for accurately preparing such application;

"(D) the rights and responsibilities of students receiving financial assistance under this title;

"(E) the cost of attending the institution, including (i) tuition and fees, (ii) books and supplies, (iii) estimates of typical student room and board costs or typical commuting costs, and (iv) any additional cost of the program in which the student is enrolled or expresses a specific interest;

"(F) a statement of the refund policy of the institution for the return of unearned tuition and fees or other refundable portion of cost, as described in clause (E) of this paragraph;

"(G) the academic program of the institution, including (i) the current degree programs and other educational and training programs, (ii) the instructional, laboratory, and other physical plant facilities which relate to the academic program, and (iii) the faculty and other instructional personnel;

"(H) each person designated under subsection (b) of this section, and the methods by which and locations in which any person so designated may be contacted by students and prospective students who are seeking information required by this subsection;

"(I) special facilities and services available to handicapped students;

"(J) the names of associations, agencies, or governmental bodies which accredit, approve, or license the institution and its programs, and the procedures under which any current or prospective student may obtain or review upon request a copy of the documents describing the institution's accreditation, approval, or licensing; and

"(K) the standards which the student must maintain in order to be considered to be making satisfactory progress, pursuant to section 484(a)(3).

"(2) For purposes of this section, the term 'prospective student' means any individual who has contacted an eligible institution requesting information concerning admission to that institution.

"(b) Each eligible institution shall designate an employee or group of employees who shall be available on a full-time basis to assist students or potential students in obtaining information as specified in subsection (a). The Secretary may, by regulation, waive the requirement that an employee or employees be available on a full-time basis for carrying out responsibilities required under this section whenever an institution in which the total enrollment, or the portion of the enrollment participating in programs under this title at that institution, is too small to necessitate such employee or employees being available on a full-time basis. No such waiver may include permission to exempt any such institution from designating a specific individual or a group of individuals to carry out the provisions of this section.

"(c) The Secretary shall make available to eligible institutions descriptions of Federal student assistance programs including the rights and responsibilities of student and institutional participants, in order to (1) assist students in gaining information through institutional sources, and (2) assist institutions in carrying out the provisions of this section, so that individual and insitutional participants will be fully aware of their rights and responsibilities under such programs.

"TRAINING IN FINANCIAL AID AND STUDENT SUPPORT SERVICES

"SEC. 486. (a) The Secretary is authorized to enter into contracts with appropriate public agencies or nonprofit private organizations or institutions of higher education to provide training for financial aid administrators student peer counselors, student staff or volunteers, and other part-time staff and volunteers who provide financial aid, admissions and academic counseling and outreach, and student support programs in postsecondary education in postsecondary institutions, communities or statewide programs.

"(b) Financial assistance under this section may be used for—

"(1) development of materials and inservice training and career awareness programs;

"(2) operation of short-term training institutes designed to improve the skills and career awareness of participants in such institutes; and

"(3) special programs to assist in training of students and part-time staff or volunteers at institutions eligible for assistance under title III of this Act.

"(c) There are authorized to be appropriated $1,000,000 to carry out the provisions of this section for fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1985.

"PROGRAM PARTICIPATION AGREEMENTS

"SEC. 487. (a) In order to be an eligible institution for the purposes of any program authorized under this title, an institution must be an institution of higher education or an eligible institution (as that term is defined for purposes of that program) and shall, except with respect to a program under subpart 3 of part A, enter into a program participation agreement with the Secretary. The agreement shall condition the initial and continuing eligibility of an institution to participate in a program upon compliance with the following requirements:

"(1) The institution will use funds received by it for any program under this title solely for the purposes specified in, and in accordance with, the provisions of that program.

"(2) In the case of an institution participating in any program authorized under subpart 2 of part A or part C of this title for any fiscal year, the institution will continue to spend in its own scholarship and student aid program, from sources other than funds received under such parts, not less than the average expenditures per year made for that purpose during the most recent period of three fiscal years preceding the effective date of the program participation agreement, except that, under special and unusual circumstances prescribed by regulation, the Secretary is authorized to waive the requirements of this paragraph.

"(3) The institution will establish and maintain such administrative and fiscal procedures and records as may be necessary to ensure proper and efficient administration of funds received from the Secretary or from students under this title.

"(4) The institution will comply with the provisions of subsection (b) of this section and the regulations prescribed under that subsection, relating to fiscal eligibility.

"(5) The institution will submit reports to the Secretary and, in the case of an institution participating in a program under part B or part E, to holders of loans made to the institution's students under such parts at such times and containing such information as the Secretary may reasonably require to carry out the purposes of this title.

"(6) The institution will comply with the requirements of section 485.

"(b)(1) Notwithstanding any other provisions of this title, the Secretary is authorized to prescribe such regulations as may be necessary to provide for—

"(A) a fiscal audit of an eligible institution with regard to any funds obtained by it under this title or obtained from a student who has a loan insured or guaranteed by the Secretary under this title;

"(B) the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid under this title;

"(C) the establishment, by each eligible institution under part B responsible for furnishing to the lender the statement required by section 428(a)(2)(A)(i), of policies and procedures by which the latest known address and enrollment status of any student who has had a loan insured under this part and who has either formally terminated his enrollment, or failed to reenroll on at least a half-time basis, at such institution, shall be furnished either to the holder (or if unknown, the insurer) of the note, not later than sixty days after such termination or failure to re-enroll; and

"(D) the limitation, suspension, or termination of the eligiblity for any program under this title of any otherwise eligible institution, or the imposition of a civil penalty under paragraph (2)(B) whenever the Secretary has determined, after reaosnable notice and opportunity for hearing on the record, that such institution has violated or failed to carry out any provision of this title or any regulation prescribed under this title, except that no period of suspension under this section shall exceed sixty days unless the institution and the Secretary agree to an extension or unless limitation or termination proceedings are initiated by the Secretary within that period of time.

"(2)(A) Upon determination, after reasonable notice and opportunity for a hearing on the record, that an eligible institution has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, or the employability of its graduates, the Secretary may suspend or terminate the eligibility status for any or all programs under this title of any otherwise eligible institution, in accordance with procedures specified in paragraph (1)(D) of this subsection, until the Secretary finds that such practices have been corrected.

"(B)(i) Upon determination, after reasonable notice and opportunity for a hearing on the record, that an eligible institution—

"(I) has violated or failed to carry out any provision of this title or any regulation prescribed under this title; or

"(II) has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, and the employability of its graduates,

the Secretary may impose a civil penalty upon such institution of not to exceed $25,000 for each violation or misrepresentation.

"(ii) Any civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the institution of higher education subject to the determination, and the gravity of the violation, failure, or misrepresentation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the institution charged.

"(3) The Secretary shall publish a list of State agencies which the Secretary determines to be reliable authority as to the quality of public postsecondary vocational education in their respective States for the purpose of determining eligibility for all Federal student assistance programs.

"(c) For the purpose of this section the term 'eligible institution' means any such institution described in section 435(a) of this Act.

"TRANSFER OF ALLOTMENTS

"SEC. 488. Up to 10 per centum of the allotment of an eligible institution for a fiscal year under section 413D or 446 of this Act, may be transferred to, and used for the purposes of, the institution's allotment under the other section within the discretion of such institution in order to offer an arrangement of types of aid, including institutional and State aid, which best fits the needs of each individual student. The Secretary shall have no control over such transfer, except as specifically authorized, except for the collection and dissemination of the information.

"ADMINISTRATIVE EXPENSES

"SEC. 489. (a) From the sums appropriated for any fiscal year for purposes of the program authorized under subpart 1 of part A, the Secretary shall reserve such sums as may be necessary to pay to each institution with which he has an agreement under section 487, an amount equal to $10 for each student at that institution who receives assistance under subpart 1 of part A. In addition, an institution which has entered into an agreement with the Secretary under subpart 2 of part A or part C (other than section 448), of this title or under part E of this title shall be entitled for each fiscal year for which it receives an allotment by payment under any such part to a payment for the purposes set forth in subsection (b). The payment for a fiscal year shall be payable from each such allotment by payment in accordance with regulations of the Secretary and shall be equal to 5 per centum of the institution's first $2,750,000 of expenditures plus 4 per centum of the institution's expenditures greater than $2,750,000 and less than $5,500,000, plus 3 per centum of the institution's expenditures in excess of $5,500,000 during the fiscal year from the sum of its grants to students under subpart 2 of part A, its expenditures during such fiscal year under part C for compensation of students, and the principal amount of loans made during such fiscal year from its student loan fund established under part E, excluding the principal amount of any such loans which the institution has agreed to assign under section 463(a)(6)(B). The payment for a fiscal year for the purpose of subsection (b) with respect to section 448 shall be payable from each allotment under part C in accordance with regulations of the Secretary, and shall be 10 per centum of the institution's expenditures during such fiscal year under such section.

"(b) The sums paid to institutions under this part are for the sole purpose of offsetting the administrative costs of the programs described in subsection (a).

"CRIMINAL PENALTIES

"SEC. 490. (a) Any person who knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery any funds, assets, or property provided or insured under this title shall be fined not more than $10,000 or imprisoned for not more than five years, or both: but if the amount so embezzled, misapplied, stolen, or obtained by fraud, false statement, or forgery does not exceed $200, the fine shall not be more than $1,000 and imprisonment shall not exceed one year, or both.

"(b) Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with the assignment of a loan which is made or insured under this title shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

"(c) Any person who knowingly and willfully makes an unlawful payment to an eligible lender under part B as an inducement to make, or to acquire by assignment, a loan insured under that part shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

"(d) Any person who knowingly and willfully destroys or conceals any record relating to the provision of assistance under this title with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

"NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

"SEC. 491. (a) There is established, as an independent agency within the executive branch, a National Commission on Student Financial Assistance (referred to in this section as the 'Commission').

"(b)(1) The Commission shall be composed of twelve members. Four of the members shall be appointed by the President. Four of the members shall be appointed by the Speaker of the House, including two Members of the House, one from each political party. Four of the members shall be appointed by the President pro tempore of the Senate, including two Members of the Senate, one from each political party.

"(2) The Chairman shall be designated by the President from among the members appointed by him. If the President has not appointed four members of the Commission and designated a Chairman within sixty days of the enactment of this Act, the members of the Commission appointed by the Speaker of the House and the President pro tempore of the Senate shall elect a Chairman who shall continue to serve for the duration of the Commission.

"(3) Any vacancy in the Commission shall be filled by appointment of the same person who appointed the person who has left the Commission.

"(c)(1) The Commission shall make a study of the following issues:

"(A) more effective means to reduce default, fraud, abuse, and delinquency in the programs authorized by this title;

"(B) the appropriate balance between loans and other sources of financing postsecondary education from the point of view of the needs and welfare of students and their parents;

"(C) the adequacy of capital to serve the postsecondary educational needs of students or their parents for credit; if adequate credit is available, the likelihood it will continue to remain available; if adequate credit is not available, the likelihood it will become available and the steps that can be taken to provide adequate credit for the postsecondary educational needs of students;

"(D) the impact of various levels of student borrowing, grants, gift aid, and employment on the educational performance, future career choices, and future educational choices of students;

"(E) the impact of various levels of parent borrowing for postsecondary education on parents;

"(F) the appropriate annual and aggregate self-help limits and gift aid for parents, dependent students, and independent students;

"(G) the most appropriate mechanism for the effective and efficient origination, servicing, and collection of student loans and for the effective and efficient delivery of other forms of student assistance;

"(H) the most appropriate source or sources of student loan capital considering both the cost and the reliability of adequate availability;

"(I) the appropriate level of public subsidy to students and parents for the cost of capital for student loans;

"(J) the impact of the availability of Federal student financial assistance on the availability of student financial assistance from all other sources;

"(K) the impact of the availability of student assistance, particularly from Federal sources, on the level of postsecondary education costs;

"(L) the most appropriate mechanism to provide students and parents with the flexible repayment options and opportunities for consolidation of student loan indebtedness;

"(M) means to remove barriers to capital availability caused by patterns of lender discrimination;

"(N) the cost to the Federal Government of the arbitrage derived from revenue bonds issued by agencies for the purpose of making or purchasing loans under part B of this title and the appropriate role of such bonds as a mechanism for raising student loan capital; and

"(O) the effectiveness in serving the purposes of this title of the existing formulas for allotment among the States in subpart 2 of part A and in parts C and E of this title.

"(2) The Commission shall make a study of the insurance premium charged by an insurer pursuant to section 428(b)(1)(H) in order to determine if the rate of the insurance premium exceeds the rate necessary to protect the reserves of the insurer and to determine if a statutory limit should be enacted for the rate of such premium.

"(3)(A) The Commission shall make a study of an improved method or methods for determination of the quarterly rate of special allowances paid under part B of this title which the Commission determines will carry out the objectives set forth in section 438(a).

"(B) The Commission shall make every effort to reach a unanimous decision with respect to the method for determination of the quarterly rate of the special allowances required to be studied by this paragraph.

"(C) In developing the method for the determination of the quarterly rate of the special allowances under this paragraph, the Commission shall consider—

"(i) the experiences of students and eligible lenders under the method in operation during the period of the study,

"(ii) the administrative costs of various types of eligible lenders under part B of title IV,

"(iii) relevant and widely available financial indicators which accurately reflect the costs of capital invested in programs under such part, or substitute financial indicators which equitably represent the cost of such capital.

"(iv) an administrative mechanism necessary to produce a prompt and rapidly disseminated determination of the quarterly rate of the special allowances, in order to avoid delays in the determination and dissemination of that rate and in the actual payment of the special allowances to eligible lenders, and

"(v) such other factors as the Commission considers necessary to carry out the purposes of section 438(a).

"(4) The Commission shall conduct a study to determine if institutions of higher education which meet the requirements of section 1201(a) (other than the provisions of subclauses (A) and (B) of clause (5) of such section), but fail to meet such requirements because the institution is not located in a State, should be included in the definition of institution of higher education under section 481.

"(5) The Commission shall conduct a study to determine if student eligibility for financial assistance under section 484 on the basis of maintaining satisfactory academic progress should include provisions which would require that a student complete successfully a specified portion of the workload undertaken during the academic period for which assistance was received by the student.

"(6) The Commission shall, in consultation with the National Center for Education Statistics, conduct longitudinal studies of high school students in order to determine the effect of federally authorized student assistance programs upon postsecondary education access and choices of high school students.

"(7) (A) The Commission shall, in consultation with appropriate higher education associations and representatives from institutions of higher education, collect data necessary for the study of graduate education throughout the United States required by this paragraph. Such study shall—

"(i) analyze trends and shortcomings in the sources of support available to students for the financing of graduate education, and compare the nature and level of support available in the various academic disciplines, including sources of support from student assistance and research programs sponsored by—

"(I) the Federal Government,

"(II) State and local governments,

"(III) foundations, corporations, and other private entities, and

"(IV) institutions of higher education, and

in addition, consider the resources of the students and the students' families;

"(ii) examine the extent to which students may be dissuaded from pursuing graduate education on financial grounds, to the consequent detriment of—

"(I) the major fields of knowledge which need to attract the most able and talented students of each generation if they are to remain strong and vigorous; and

"(II) the Nation as a whole, if some of its most promising students are precluded because of financial circumstances from developing their capacities and abilities to the fullest possible extent;

"(iii) investigate existing and projected levels of graduate student indebtedness, and consider the implications (for the students involved and for the health of graduate education generally) or existing and projected expectations for borrowing to meet the costs of graduate education;

"(iv) assess the desirability of modifying existing Federal fellowship and student assistance programs or establishing a new Federal graduate student assistance program in which the selection of students and the amounts of their awards are based on merit or financial need or both, particularly with regard to the special needs of students in the humanities and social sciences or other disciplines; and

"(v) examine and assess the financial and educational needs of individuals from disadvantaged backgrounds in order to enhance their participation in graduate and professional education and their potential for employment in occupational areas where these individuals are underrepresented.

"(B) In conducting the study described in this paragraph, the Commission shall consult with representatives of the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, and representatives of higher education institutions and associations, learned societies, and professional organizations.

"(8) (A) The Commission shall conduct a study of a proposal to amend the guaranteed student loan program authorized by part B of title IV by recapturing interest subsidies from borrowers who do not obtain loans for undergraduate study under such part by reason of need or who borrow under such part for graduate study to the extent such loans are made for graduate study. In conducting such study, the Commission shall analyze the long term effect on the Budget of the United States of recapturing the interest subsidy in accordance with such proposal outlined in this paragraph and the impact of such proposal on the availability of funds for postsecondary education for students.

"(B) In conducting the study under this paragraph, the Commission shall also consider other alternative proposals designed to reduce the cost of the guaranteed student loan program under part B of title IV in fiscal years subsequent to fiscal year 1982 and the impact of such proposal on the availability of funds for postsecondary education for students.

"(d) (1) The Commission shall prepare and submit reports and recommendations to the President and to the Congress on the studies required to be conducted under subsection (c) of this section. The reports for the studies required by paragraphs (2), (3), (5), and (8) of such subsection shall be submitted as soon as practicable but in no event later than one year after the date of the first meeting of the Commission. The reports for the studies required by paragraphs (1), (4), (6), and (7) shall be submitted as soon as practicable but in no event later than July 1, 1983.

"(2) Any recommendations and reports submitted under this paragraph which contemplate changes in Federal legislation shall include draft legislation to accomplish the recommendations.

"(3) The Commission shall cease to exist 90 days following the submission of its final report.

"(e) (1) Members of the Commission who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(2) Members of the Commission who are not officers or full-time employees of the United States may each receive $150 per diem when engaged in the actual performance of duties vested in the Commission. In addition, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(f) Such personnel as the Commission deems necessary may be appointed by the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subtitle III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS–18 of the General Schedule.

"(g) (1) The Commission or, on the authorization of the Commission, any committee thereof, may, for the purpose of carrying out the provisions of the Act, hold such hearings and sit and act at such times and such places within the United States as the Commission or such committee may deem advisable.

"(2) In carrying out its duties under the Act, the Commission shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

"(3) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment or instrumentality, information, suggestions, estimates, and statistics for the purpose of this section, and each such department bureau, agency, board, commission office establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman.

"(4) For the purpose of securing the necessary data and information the Commission may enter into contracts with universities, research institutions, foundations, and other competent public or private agencies. For such purpose, the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

"(5) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Commission in carrying out this section.

"(6) The Commission is authorized to utilize, with their consent, the services, personnel, information and facilities of other Federal, State, local and private agencies with or without reimbursement.

"(7) The Commission shall have authority to accept in the name of the United States, grants, gifts, or bequests of money for immediate disbursement in furtherance of the functions of the Commission. Such grants, gifts, or bequests, after acceptance by the Commission, shall be paid by the donor or his representative to the Treasurer of the United States whose receipts shall be their acquittance. The Treasurer of the United States shall enter them in a special account to the credit of the Commission for the purposes in each case specified.

"(8) Six members of the Commission shall constitute a quorum, but a lesser number of two or more may conduct hearings.

"(h) There is authorized to be appropriated an amount not to exceed a total of $10,000,000 for fiscal years beginning on or after October 1, 1980, to carry out the provisions of this section, which shall remain available until expended or until the termination of the Commission, whichever occurs first.".

(b) Section 440 of the Act is repealed.

(c) The amendments made by section 6 of the Middle Income Student Assistance Act shall take effect on July 1, 1972.

(d) Section 438 of the Act is amended by striking out subsections (e), (f), and (g).

TITLE V—AMENDMENT AND EXTENSION OF TITLE V OF THE HIGHER EDUCATION ACT OF 1965

EXTENSION OF PROGRAMS

SEC. 501. (a) Section 511(b) of the Act is amended to read as follows:

"(b) For the purpose of carrying out the provisions of this part, there are authorized to be appropriated $45,000,000 for the fiscal year 1981, $50,000,000 for the fiscal year 1982, $60,000,000 for the fiscal year 1983, $70,000,000 for the fiscal year 1984, and $80,000,000 for the fiscal year 1985.".

(b) The first sentence of section 531 of the Act is amended to read as follows: "There are authorized to be appropriated $20,000,000 for the fiscal year 1981, $30,000,000 for the fiscal year 1982, $40,000,000 for the fiscal year 1983, $50,000,000 for the fiscal year 1984, and $55,000,000 for the fiscal year 1985 to carry out the provisions of this part.".

TEACHER CORPS AMENDMENTS

SEC. 502. (a) Section 513(a) of the Act is amended by striking out "and" at the end of paragraph (8), by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and" and by inserting after such paragraph the following:

"(10) make grants to schools, colleges and departments of education and local educational agencies with high concentrations of low income students for the purpose of—

"(A) developing, improving or expanding curriculum offerings or instructional materials for the purpose of improving instruction in the areas of—

"(i) biological sciences, natural sciences and earth sciences,

"(ii) physical sciences, and

"(iii) mathematics; and

"(B) providing training opportunities for teachers to increase their effectiveness in developing instructional materials and teaching science and mathematics related subject matter.".

(b) Section 513(c)(2) of the Act is amended—

(1) by striking out "Not to exceed 5 per centum" and inserting in lieu thereof "Not to exceed 2 per centum"; and

(2) by striking out "Puerto Rico," each place it appears.

(c) Section 513(d) of the Act is amended by striking out "section 205(a)(2) of Public Law 874, Eighty-first Congress, as amended," and inserting in lieu thereof "section 130 of the Elementary and Secondary Education Act of 1965".

(d) Section 513(f) of the Act is amended by striking out "goal" and inserting in lieu thereof "the goal".

(e) Section 514(a)(2) of the Act is amended by striking out ", not to exceed $150 per week plus $15 per week for each dependent".

TEACHER CENTERS AMENDMENTS

SEC. 503. (a) Section 531 of the Act is amended by striking out "the event that sums exceeding $50,000,000 are appropriated in any fiscal year for purposes of carrying out this part, each" and inserting in lieu thereof "Each".

(b) Section 532(a)(2) of the Act is amended—

(1) by striking out "local educational agency (or a combination of such agencies) which serve" and inserting in lieu thereof "local educational agency, a combination of such agencies, or an educational service agency which serves";

(2) by inserting "and, where desirable, in collaboration with one or more institutions of higher education which serve teachers" immediately after "experts as may be necessary";

(3) by inserting ", including the use of technology and telecommunications immediately before the semicolon in subparagraph (A);

(4) by inserting ", testing," immediately after "curriculum development" in subparagraph (B).

(c) The first sentence of section 532(b) of the Act is amended by inserting before the period "and, where appropriate, bilingual education teachers".

TEACHER TRAINING

SEC. 504. Section 533 of the Act is amended to read as follows:

"TRAINING FOR HIGHER EDUCATION PERSONNEL

"SEC. 533. (a) The Secretary is authorized to make grants to schools of education for the purposes of—

"(1) developing model projects within schools of education to carry out improved preservice or support activities for preparing elementary or secondary school teachers;

"(2) achieving diversification and redirection of education programs for elementary and secondary school teachers in order to make maximum use of human resources in the fields of education and public service;

"(3) retraining faculty members of such schools of education to provide courses of study for training elementary and secondary school teachers to teach in programs of career education, education of the gifted and talented children, education of handicapped individuals, community education, adult education programs, earth sciences, and other related programs;

(4) training and orientation projects for faculty members of schools of education designed to prepare the faculty to teach and train personnel to work in conjunction with personnel who carry out projects under the Comprehensive Employment and Training Act and under title VIII of this Act, relating to cooperative education and training of individuals to prepare for the workplace; and

"(5) training educational personnel who will specialize in the implementation of the urban and environmental policies of the United States, and for other areas of critical need within education which are developing or are likely to develop as provided in section 406(b)(5) of the General Education Provisions Act.

"(b) The Secretary is authorized to make grants to schools of education for the fiscal year 1981 and for each of the four succeeding years to carry out model projects for the purposes set forth in subsection (a). No grant may be made under this subsection unless an application is made to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(c)(1) The Secretary is authorized to enter into agreements with consortia of schools of education for planning programs designed to help member schools of the consortium to diversify and redirect programs and curricula of the member schools of education.

"(2)(A) The Secretary shall develop criteria for determining the regions of the country in which consortia of schools of education are to be established.

"(B) No consortium may receive a grant in excess of $200,000 in any fiscal year under this section.

"(C) No cooperative agreement may be entered into under this section unless an application is submitted through the State education agency of the State in which the applicant is located. Each such State agency will review and approve the application to assure its consistency with the comprehensive plan mandated by sections 404(a)(12) and 522(2) of the Elementary and Secondary Education Act of 1965. Such application shall be submitted at such time, in such manner, and containing or accompanied by such other information as the Secretary may reasonably require.

"(d) For purposes of this section, the term 'schools of education' means institutions of higher education, and administrative units of institutions of higher education, specializing in the training of indivduals to serve as teachers, guidance and counseling personnel, administrative personnel, or other education specialists.".

TRAINING FOR TEACHERS OF HANDICAPPED CHILDREN IN AREAS WITH A SHORTAGE

SEC. 505. (a) Title V of the Act is amended by adding after part B the following new part:

"PART C—TRAINING FOR ELEMENTARY AND SECONDARY SCHOOL TEACHERS TO TEACH HANDICAPPED CHILDREN IN AREAS WITH A SHORTAGE

"GRANTS AUTHORIZED

"SEC. 541. (a) The Secretary is authorized to make grants, in accordance with the provisions of this part, to State educational agencies to enable such agencies to support a fellowship program of stipends and allowances to institutions of higher education for teachers to be trained to provide special education for handicapped children.

"(b) The Secretary shall establish criteria for—

"(1) determining if there is a shortage of teachers in the area of special education for handicapped children in the State;

"(2) assuring that the institutions of higher education, at which recipients of fellowships awarded under this part are pursuing courses of study, offer a program designed to prepare such recipients in the area of special education for handicapped children; and

"(3) assuring that individuals trained with assistance under this part receive specialized training in the subject areas in which there is the greatest need for such teachers.

"(c) The Secretary shall assure an equitable distribution among the States of grants made under this part, consistent with criteria established under subsection (b).

"APPLICATION

"SEC. 542. (a) No grant may be made under this part unless an application is made by a State educational agency at such time, in such manner and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(1) describe a fellowship program under which the State will make stipends to recipients and make allowances to institutions of higher education, in accordance with the provisions of this part, for teachers and other specialists to be trained in special education for handicapped children;

"(2) provide assurances that each recipient of a fellowship under this part will enter into an agreement with the State under which the recipient will—

"(A) within the five-year period after the completion of the training for which the fellowship was awarded, teach for a period of not less than two years in an elementary or secondary school of a local educational agency of that State, a public elementary or secondary school of that State, or a public educational program approved by the local educational agency of the State, which has, or has provided assurances that it will have, a special education program for handicapped children, or

"(B) repay all of the stipend awarded to the recipient plus the allowances paid to any institution of higher education based upon that fellowship in the event that the conditions of clause (A) are not complied with, except when such conditions are not complied with for reasons beyond a recipient's control;

"(3) provide procedures under which recipients of fellowships who teach, for reasons beyond their control, less than the two-year period required under clause (2) of this subsection will have the repayment requirement reduced according to a schedule established by the State agency;

"(4) provide procedures under which stipends and institutions of higher education allowances will be paid by the State agency in accordance with the provisions of this part; and

"(5) provide that the State agency will make continuing efforts to encourage recipients of fellowships under this part to continue to provide special education for handicapped children in areas where there is a shortage of such teachers.

"(b) The Secretary shall approve any application which meets the requirements of subsection (a) of this section. Prior to approving any applications under this section, the Secretary shall prepare regulations setting forth detailed requirements with respect to clause (2) and (3) of subsection (a).

"STIPENDS AND INSTITUTION OF HIGHER EDUCATION ALLOWANCES

"SEC. 543. (a)(1) Each State educational agency receiving a grant under this part shall pay to individuals awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs.

"(2) No stipend may be paid to any single recipient in any one year in excess of $9,000.

"(b) Each State educational agency receiving a grant under this part shall (in addition to the stipends paid to persons under subsection (a)) pay to the institution of higher education at which such individual is pursuing a course of study such amounts as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.

"FELLOWSHIP CONDITIONS

"SEC. 544. (a) An individual awarded a fellowship under the provisions of this part shall continue to receive the payments provided in this part only during such periods as the State educational agency finds that the individual is maintaining satisfactory progress and devoting at least one-half of the full-time academic workload to study in the field in which such fellowship was awarded in an institution of higher education, and is not engaging in gainful employment other than employment approved by the Secretary by or pursuant to regulation. The amount of any payment to an individual engaged in such gainful employment shall be appropriately reduced pursuant to regulation.

"(b) The State educational agency is authorized to require reports containing such information in such form and to be filed at such times as it determines necessary from any individual awarded a fellowship under the provisions of this part. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education approved by the State educational agency, stating that such individual is making satisfactory progress in, and is devoting at least one-half of the full-time academic workload to, the program for which the fellowship was awarded.

"(c) No fellowship shall be awarded under this part for study at a school or department of divinity.

"DEFINITION

"SEC. 545. As used in this part 'special education' has the same meaning as prescribed by section 602(16) of the Education of the Handicapped Act.

"APPROPRIATIONS AUTHORIZED

"SEC. 546. There are authorized to be appropriated $2,000,000 for the fiscal year 1981, $3,000,000 for the fiscal year 1982, and $5,000,000 for the fiscal year 1983 and for each of the fiscal years ending prior to October 1, 1985 to carry out the provisions of this part.".

(b) The Secretary shall promulgate regulations to carry out the amendment made by subsection (a) of this section not later than 30 days after the date of enactment of the Education Amendments of 1980.

EDUCATION PROFESSIONAL DEVELOPMENT

SEC. 506. Title V of the Act is further amended by adding after part C (as added by section 504) the following new part:

"PART D—COORDINATION OF EDUCATION PROFESSIONAL DEVELOPMENT

"FINDINGS

"SEC. 551. The Congress finds that—

"(1) any Federal programs have been enacted to train and develop education professionals;

"(2) such programs make Federal funds available to States, local education agencies, colleges and universities, and other agencies;

"(3) such programs should be coordinated at the Federal level to avoid unnecessary duplication of effort; and

"(4) such programs should be responsive to State needs and priorities for education professional development.

"POLICY

"SEC. 552. Federal programs which support education professional development should be administered in a coordinated manner, and the activities authorized under such programs should have complementary purposes whenever possible in order to provide the most effective use of Federal funds.

"OFFICE OF EDUCATION PROFESSIONAL DEVELOPMENT

"SEC. 553. (a) There is established in the Department an Office of Education Professional Development, the function of which is to review the operations of and to coordinate program activities among the various Federal education professional development programs within the Department to eliminate unnecessary duplication of effort.

"(b) The Office shall review on a biennial basis each education professional development program administered by the Department and shall—

"(1) identify inconsistencies in program policies and procedures;

"(2) identify overlap in program purpose and operations; and

"(3) coordinate program activities among the various Federal education professional development programs, and wherever necessary, make legislative recommendations to coordinate such programs.

"(c) The Secretary shall report biennially to the Congress on the findings and recommendations of the Office.".

TITLE VI—ESTABLISHMENT OF A NEW TITLE VI OF THE HIGHER EDUCATION ACT OF 1965

PROGRAMS AUTHORIZED

SEC. 601. (a) Title VI of the Higher Education Act is amended to read as follows:

"TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

"PART A—INTERNATIONAL AND FOREIGN LANGUAGE STUDIES

"FINDINGS AND PURPOSES

"SEC. 601. (a) The Congress finds that—

"(1) knowledge of other countries is important in promoting mutual understanding and cooperation between nations;

"(2) strong American educational resources are a necessary base for strengthening our relations with other countries;

"(3) present and future generations of Americans should be given the opportunity to develop to the fullest extent possible their intellectual capacities in all areas of knowledge pertaining to other countries, peoples, and cultures; and;

"(4) the economy of the United States and the long range security of the Nation are dependent upon acquiring such knowledge.

"(b) It is the purpose of this part to assist in the development of resources and trained personnel for international study, international research, and foreign language study and to coordinate programs of the Federal Government in the areas of international study and research and foreign language study.

"GRADUATE AND UNDERGRADUATE LANGUAGE AND AREA CENTERS

"SEC. 602. (a)(1) The Secretary is authorized to make grants to, and enter into contracts with, institutions of higher education, or combination of such institutions, for the purpose of establishing, strengthening, and operating graduate and undergraduate centers and programs which will be national resources for the teaching of any modern foreign language, for instruction in fields needed to provide a full understanding of the areas, regions, or countries in which such language is commonly used, or for research and training in international studies and the international aspects of professional and other fields of study.

"(2) Any such grant or contract may be used to pay all or part of the cost of establishing or operating a center or program, including the cost of faculty, staff, and student travel in foreign areas, regions, or countries, the cost of teaching and research materials, the cost of curriculum planning and development, the cost of bringing visiting scholars and faculty to the center to teach or to conduct research, and the cost of training and improvement of the staff, for the purpose of, and subject to such conditions as the Secretary finds necessary for, carrying out the objectives of this section.

"(3) The Secretary may make grants to centers described in paragraph (1) having important library collections for the maintenance of such collections.

"(b) The Secretary is also authorized to pay stipends to individuals undergoing such advanced training in any center or program approved by the Secretary under this part, including allowances for dependents and for travel for research and study in the United States and abroad.

"(c) No funds may be expended under this part for undergraduate travel except in accordance with rules prescribed by the Secretary setting forth policies and procedures to assure that Federal funds made available for such travel are expended as part of a formal program of supervised study.

"INTERNATIONAL STUDIES CENTERS

"SEC. 603. (a)(1) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, for the purpose of establishing, strengthening, and operating graduate and undergraduate centers which will be regional resources to increase access to research and training in international and foreign language studies and the international aspects of professional and other fields of study. Activities carried out in such centers may be concentrated either on specific geographical areas of the world or on particular fields or issues in world affairs which concern one or more countries, or on both. In addition to providing training to students enrolled in the institution of higher education in which the center is located, the centers serving as regional resources shall, in order to qualify for assistance under this section, offer programs to strengthen international studies and foreign languages in the two-year and four-year colleges and universities in the region served by each such center.

"(2) The Secretary may also make grants to public and private nonprofit agencies and organizations, including professional and scholarly associations, whenever the Secretary determines that such grants will make an especially significant contribution to attaining the objectives of this section.

"(b) Grants under this section may be used to pay part or all of the cost of establishing, strengthening, equipping, and operating research and training centers, including the cost of teaching and research materials and resources, the cost of programs for bringing visiting scholars and faculty to the center, and the cost of training, improvement, and travel of the staff for the purposes of carrying out the provisions of this section. Such grants may also include funds for stipends (in such amounts as may be determined in accordance with regulations of the Secretary) to individuals undergoing training in such centers, including allowances for dependents and for travel for research and study in the United States and abroad.

"(c) Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the purposes of this section.

"UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS

"SEC. 604. (a) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, to assist them in planning, developing, and carrying out a comprehensive program to strengthen and improve undergraduate instruction in international studies and foreign languages. Grants made under this section may be for projects and activities which are an integral part of such a comprehensive program, such as—

"(1) planning for the development and expansion of undergraduate programs in international studies;

"(2) teaching, research, curriculum development, and other related activities;

"(3) training of faculty members in foreign countries;

"(4) expansion of foreign language courses;

"(5) programs under which foreign teachers and scholars may visit institutions as visiting faculty;

"(6) programs designed to integrate undergraduate education with terminal Masters Degree programs having an international emphasis; and

"(7) the development of an international dimension in teacher training.

"(b) The Secretary may also make grants to public and private nonprofit agencies and organizations, including professional and scholarly associations, whenever the Secretary determines such grants will make an especially significant contribution to attaining the objective of this section.

"RESEARCH; STUDIES; ANNUAL REPORTS

"SEC. 605. (a) The Secretary may, directly or through grants or contracts, conduct research and studies which contribute to the purposes of this part and part N of title III of the Elementary and Secondary Education Act of 1965. Such research and studies may include but are not limited to—

"(1) studies and surveys to determine the need for increased or improved instruction in modern foreign languages and in other fields needed to provide a full understanding of the places in which such languages are commonly used;

"(2) research on more effective methods of providing instruction and evaluating competency in such foreign languages and other fields; and

"(3) the development of specialized materials for use in providing such instruction and evaluation or for use in training individuals to provide such instruction and evaluation.

"(b) The Secretary shall prepare and publish an annual report which shall include an index and analysis of the books and research materials produced with assistance under this title.

"EQUITABLE DISTRIBUTION OF FUNDS

"SEC. 606. (a) The Secretary shall make excellence the criterion for selection of grants awarded under section 602.

"(b) To the extent practicable and consistent with the criterion of excellence, the Secretary shall award grants under this part (other than section 602) in such manner as will achieve an equitable distribution of funds throughout the Nation.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 607. There are authorized to be appropriated $45,000,000 for fiscal year 1981, $50,000,000 for fiscal year 1982, $60,000,000 for fiscal year 1983, $70,000,000 for fiscal year 1984, and $80,000,000 for fiscal year 1985, to carry out the provisions of this part.

"PART B—BUSINESS AND INTERNATIONAL EDUCATION PROGRAMS

"FINDINGS AND PURPOSES

"SEC. 611. (a) The Congress finds that—

"(1) the future economic welfare of the United States will depend substantially on increasing international skills in the business community and creating an awareness among the American public of the internationalization of our economy;

"(2) concerted efforts are necessary to engage business schools, language and area study programs, public and private sector organizations, and United States business in a mutually productive relationship which benefits the Nation's future economic interests;

"(3) few linkages presently exist between the manpower and information needs of United States business and the international education, language training and research capacities of institutions of higher education in the United States, and public and private organizations; and

"(4) organizations such as world trade councils, world trade clubs, chambers of commerce and State departments of commerce are not adequately used to link universities and business for joint venture exploration and program development.

"(b) It is the purpose of this part—

"(1) to enhance the broad objective of this Act by increasing and promoting the Nation's capacity for international understanding and economic enterprise through the provision of suitable international education and training for business personnel in various stages of professional development; and

"(2) to promote institutional and noninstitutional educational and training activities that will contribute to the ability of United States business to prosper in an international economy.

"EDUCATION AND TRAINING PROGRAMS

"SEC. 612. (a) The Secretary shall make grants to, and enter into contracts with, institutions of higher education to pay the Federal share of the cost of programs designed to promote linkages between such institutions and the American business community engaged in international economic activity. Each program assisted under this part shall both enhance the international academic programs of institutions of higher education and provide appropriate services to the business community which will expand its capacity to engage in commerce abroad.

"(b) Eligible activities to be conducted by institutions of higher education under this section shall include, but are not limited to—

"(1) innovation and improvement in international education curricula to serve the needs of the business community, including development of new programs for nontraditional, mid-career, or part-time students;

"(2) development of programs to inform the public of increasing international economic interdependence and the role of American business within the international economic system;

"(3) internationalization of curricula at the junior and community college level, and at undergraduate and graduate schools of business;

"(4) development of area studies programs and interdisciplinary international programs;

"(5) establishment of export education programs through cooperative arrangements with regional and world trade centers and councils, and with bilateral and multilateral trade associations;

"(6) research for and development of specialized teaching materials, including language materials, and facilities appropriate to business-oriented students;

"(7) establishment of student and faculty fellowships and internships for training and education in international business activities;

"(8) development of opportunities for junior business and other professional school faculty to acquire or straighten international skills and perspectives; and

"(9) development of research programs on issues of common interest to institutions of higher education and private sector organizations and associations engaged in or promoting international economic activity.

"(c) No grant may be made and no contract may be entered into under the provisions of this part unless an institution of higher education submits an application at such time and in such manner as the Secretary may reasonably require. Each such application shall be accompanied by a copy of the agreement entered into by the institution of higher education with a business enterprise, trade organization or association engaged in international economic activity, or a combination or consortium of such enterprises, organizations or associations, for the purpose of establishing, developing, improving or expanding activities eligible for assistance under subsection (b) of this section. Each such application shall contain assurances that the institution of higher education will not use the assistance provided under this part to supplement and not to supplant activities conducted by institutions of higher education described in subsection (b).

"(d) The Federal share under this part for each fiscal year shall not exceed 50 per centum of the cost of such program.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 613. There are authorized to be appropriated $7,500,000 for fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1985, to carry out the provisions of this part.

"PART C—GENERAL PROVISIONS

"ADVISORY BOARD

"SEC. 621. (a) Not less than four times each year the Secretary shall convene meetings of an advisory board on the conduct of programs under this title. The board shall consist of—

"(1) one member selected by the Secretary of State;

"(2) one member selected by the Secretary of Defense;

"(3) one member selected by the Secretary of the Treasury;

"(4) one member selected by the Secretary of Commerce;

"(5) one member selected by the Secretary to serve as Chairman and coordinator of the activities of the board;

"(6) one member selected by the Chairman of the National Endowment for the Humanities;

"(7) one member selected by the Director of the International Development Cooperation Agency;

"(8) one member selected by the Director of the International Communication Agency;

"(9) one member selected by the President and Chairman of the Export-Import Bank of the United States;

"(10) one member selected by the Administrator, Small Business Administration;

"(11) five members selected by the Secretary from among representatives of the postsecondary educational community;

"(12) two members selected by the Secretary from among representatives of the elementary and secondary education community;

"(13) three members selected by the Secretary from among members of the public; and

"(14) three members selected by the Secretary from among representatives of the business community.

"(b)(1) The Advisory Board shall establish two subcommittees to carry out the functions described in paragraphs (2) and (3) of this subsection.

"(2) The first such subcommittee shall consider the grants made, or contracts entered into, under part A and part N of title

III of the Elementary and Secondary Education Act of 1965. The board shall advise the Secretary on (A) any geographic areas of special need or concern to the United States, (B) the specific foreign languages to be designated under section 394(b)(3) of the Elementary and Secondary Education Act of 1965, (C) innovative approaches which may help to fulfill the purposes of this title, (D) activities which are duplicative of programs operated under other provisions of Federal law, (E) changes which should be made in the operation of programs under this part to ensure that the attention of scholars is attracted to problems of critical concern to United States international relations, and (F) the administrative and staffing requirements of international education programs in the Department.

"(3) The second such subcommittee shall review the programs under section 612 and shall advise the Secretary, who shall seek the advice of the Secretary of Commerce, on (A) changes which should be made to advance the purposes of Part B and to assure the success of the programs authorized by part B, (B) special needs of such programs, and (C) any program elements which are duplicative of programs operated under other provisions of Federal law.

"DEFINITIONS

"SEC. 622. (a) As used in this title—

"(1) the term 'area studies' means a program of comprehensive study of the aspects of a society or societies, including study of its history, culture, economy, politics, international relations and languages;

"(2) the term 'international business' means profit-oriented business relationships conducted across national boundaries and includes activities such as the buying and selling of goods; investments in industries; the licensing of processes, patents and trademarks; and the supply of services;

"(3) the term 'export education' means educating, teaching and training to provide general knowledge and specific skills pertinent to the selling of goods and services to other countries, including knowledge of market conditions, financial arrangements, laws and procedures; and

"(4) the term 'internationalization of curricula' means the incorporation of international or comparative perspectives in existing courses of study or the addition of new components to the curricula to provide an international context for American business education.

"(b) All references to individuals or organizations, unless the context otherwise requires, mean individuals who are citizens or permanent residents of the United States or organizations which are organized or incorporated in the United States.".

(b) Title III of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new part:

"PART N—INTERNATIONAL UNDERSTANDING

"SHORT TITLE; DECLARATION OF FINDINGS; PURPOSE

"SEC. 393. (a) This part may be cited as the 'International Understanding Act'.

"(b) The Congress finds that—

"(1) the well-being of the United States and its citizens is affected by policies adopted and actions taken by, or with respect to, other nations and areas; and

"(2) the United States must afford its citizens adequate access to the information which will enable them to make informed judgments with respect to the international policies and actions of the United States.

"(c) It is the purpose of this part to support educational programs which will increase the availability of such information to students in the United States.

"PROGRAM AUTHORIZED

"SEC. 394. (a)(1) The Secretary is authorized, by grant or contract, to stimulate educational programs to increase the understanding of students and the public in the United States about the cultures, actions and interconnections of nations and peoples in order better to evaluate the international and domestic impact of major national policies.

"(2) Grants or contracts under this section may be made to any public or private agency or organization, including, but not limited to, institutions of higher education, State and local educational agencies, professional associations, education consortia, and organizations of teachers.

"(b)(1) Financial assistance under this part may be used for assistance for inservice training of teachers and other education personnel, the development of materials to link language learning to international studies, the compilation of existing information and resources about other nations in forms useful to various types of educational programs, and the dissemination of information and resources to educators and educational officials upon their request, but such assistance may not be used for the acquisition of equipment or remodeling of facilities.

"(2) Financial assistance under this part may be made for projects and programs at all levels of education, and may include projects and programs carried on as part of community, adult, and continuing education programs.

"(3) Financial assistance under this part may be used by local educational agencies to introduce instruction in foreign languages designated by the Secretary as having critical importance for the Nation which have not been offered by the schools of the local educational agency in the three academic years preceding the year in which the grant is made.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 395. There are authorized to be appropriated $5,250,000 for fiscal year 1981, $6,750,000 for fiscal year 1982, $8,250,000 for fiscal year 1983, and $9,000,000 each for fiscal years 1984 and 1985 to carry out the provisions of this part.".

(c)(1) Title VI of the National Defense Education Act of 1958 is repealed.

(2) Title I of the International Education Act of 1966 is repealed.

TITLE VII—AMENDMENT TO TITLE VII OF THE HIGHER EDUCATION ACT OF 1965

AMENDMENT

SEC. 701. Title VII of the Act is amended to read as follows:

"TITLE VII—CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

"GENERAL PURPOSES

"SEC. 701. The Secretary shall carry out programs of financial assistance to institutions of higher education and to higher education building agencies for the construction, reconstruction, or renovation of academic facilities and the acquisition of special equipment if the primary purpose of such assistance is—

"(1) to enable such institutions to economize on the use of energy resources, with a priority for the use of coal, solar, and renewable resources;

"(2) to enable such institutions to bring their academic facilities into conformity with the requirements of—

"(A) the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968,

"(B) section 504 of the Rehabilitation Act of 1973, or

"(C) environmental protection or health and safety programs mandated by Federal, State, or local law, if such requirements were not in effect at the time such facilities were constructed;

"(3) to enable such institutions to construct, reconstruct, or renovate the Nation's research facilities, including libraries, and to acquire special research equipment;

"(4) to enable institutions with unusual increases in enrollment (according to data and criteria established by the Secretary) to construct, reconstruct, or renovate their facilities; or

"(5) to enable such institutions to detect, remove, or otherwise contain asbestos hazards in academic or other facilities used by students, in accordance with regulations prescribed by the Secretary.

"APPROPRIATIONS AUTHORIZED

"SEC. 702. There are authorized to be appropriated $100,000,000 for fiscal year 1981 and for each succeeding fiscal year ending prior to October 1, 1985, for part A. There are authorized to be appropriated $80,000,000 for the fiscal year 1981 and for each succeeding fiscal year ending prior to October 1, 1985, for part B. There is authorized to be appropriated $80,000,000 for the fiscal year 1981 and for each succeeding fiscal year ending prior to October 1, 1985, for part C, and such sums as may be necessary for each such fiscal year for section 734.

"PART A—GRANTS FOR THE CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF UNDERGRADUATE ACADEMIC FACILITIES

"STATE PLAN

"SEC. 711. (a) Any State desiring to participate in the grant program authorized by this part shall have an agreement pursuant to section 1203 and submit annually to the Secretary, through the State agency designated in such agreement, a State plan which shall—

"(1) provide that the plan shall be administered by the State entity having an agreement under section 1203;

"(2) set forth objective standards and methods which are consistent with basic criteria established under section 712, for—

"(A) determining the relative priorities of eligible projects submitted by institutions of higher education within the State, and

"(B) certifying the Federal share of the cost of each project;

"(3) provide for every applicant an opportunity for a hearing before the State agency regarding the priority assigned to such project, or any other decision by the State agency adversely affecting such applicant; and

"(4) provide for accounting procedures necessary to assure proper disbursement of Federal funds.

"(b) The Secretary shall not disapprove any State plan, or modification thereof, without first affording the State agency reasonable notice and opportunity for a hearing.

"(c) Whenever the Secretary finds that the State plan substantially fails to comply with this section, the Secretary shall notify the State that it is ineligible to participate in the program under this part until a determination is made that there is no longer a failure to comply.

"BASIC CRITERIA

"SEC. 712. (a) The Secretary shall, by regulation, prescribe basic criteria for the consideration of State plans which ensure—

"(1) flexibility for States to accommodate the varied needs of institutions in the States;

"(2) consideration of the degree to which applicant institutions are effectively using existing facilities; and

"(3) that the Federal share shall not exceed 50 percent of the development costs of a project.

"(b) Section 553 of title 5, United States Code, shall apply to the prescription of regulations under this section.

"ALLOTMENT OF FUNDS

"SEC. 713. (a) From the sums appropriated pursuant to section 702 to carry out the purposes of this part, not less than 24 per centum shall be allotted to States under subsection (b) for public community colleges and public technical institutes. The remainder of such sums shall be allotted States under subsection (c) for all other institutions of higher education.

"(b)(1) For the purpose of making grants to public community colleges and public technical institutes, the Secretary shall allot to each State an amount which bears the same ratio to the amount available for allotment under this subsection as the product of—

"(A) the number of persons in the State who have graduated from high school or received an equivalent certificate during the previous school year, and

"(B) the State's allotment ratio,

bears to the sum of the corresponding products for all the States.

"(2)(A) Except as provided in subparagraph (B), the allotment ratio shall be 1.00 less the product of—

"(i) 0.50, and

"(ii) the quotient obtained by dividing the income per person for the State by the income per person for all States (not including Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam).

"(B) Notwithstanding subparagraph (A)—

"(i) the allotment ratio shall in no case be less than 0.33⅓ or more than 0.66⅔;

"(ii) the allotment ratio for Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam shall be 0.66⅔; and

"(iii) the allotment ratio of any State shall be 0.50 for any fiscal year if the Secretary finds that the cost of school construction in such State exceeds twice the median of such

SEC. 903. Title IX of the Act is amended by him on the basis of statistics and data as the Secretary shall deem adequate and appropriate.

"(C) Allotment ratios shall be promulgated annually by the Secretary on the basis of the average personal income in the State and in all the States for the three most recent consecutive calendar years for which data are available from the Department of Commerce.

"(c) For the purpose of making grants to all other institutions of higher education, the Secretary shall allot to each State—

"(1) an amount which bears the same ratio to 50 per centum of the amount available for allotment under this subsection as the number of students enrolled in institutions of higher education in such State bears to the number of students so enrolled in all States; and

"(2) an amount which bears the same ratio to 50 per centum of the amount available for allotment under this subsection as the number of students enrolled in grades nine through twelve of schools in such State bears to the total number of students so enrolled in all the States.

"(d) The aggregate amount allotted to any State under subsections (b) and (c) for any fiscal year shall not be less than $100,000. If the sums appropriated pursuant to section 702 are not sufficient to make payments to each State, then the amount of each State's allotment shall be ratably reduced.

"(e) Any portion of a State's allotment under subsections (b) and (c) for any fiscal year for which applications from qualified institutions have not been received by the State agency prior to January 1 of such fiscal year shall, by request, be available for payment of the Federal share of cost of other approved projects.

"(f) Amounts allotted under this section for any fiscal year which are not used by the close of the fiscal year, shall be reallotted by the Secretary among the States which are able to use these funds without delay during the next fiscal year.

"(g) Funds available under this part may be used for construction, reconstruction, or renovation of undergraduate facilities and combined graduate and undergraduate facilities.

"PART B—GRANTS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF GRADUATE ACADEMIC FACILITIES

"GRANTS

"SEC. 721. (a)(1) Funds available for this part shall be used by the Secretary to make grants to graduate institutions of higher education whose applications for assistance are consistent with the objectives of this title.

"(2) The total payment for any fiscal year made to institutions of higher education in any State shall not exceed 12.5 per centum of sums appropriated for this part.

"(b) In making grants under this section, the Secretary shall seek the advice and recommendations of a panel of specialists who are not regular full-time employees of the Federal Government and are competent to evaluate such applications.

"(c) The amount of the grant shall not exceed 50 per centum of the development cost of the project.

"PART C—LOANS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

"ELIGIBILITY CONDITIONS, AMOUNTS, AND TERMS

"SEC. 731. (a) From the sums available for this part, the Secretary shall make and insure loans to institutions of higher education and to higher education building agencies for programs consistent with the purposes of this title. No loan shall be made unless the Secretary finds that—

"(1) not less than 20 per centum of the development cost of the project will be financed from non-Federal sources;

"(2) the applicant is unable to secure the loan from other sources upon terms and conditions equally as favorable as those applicable to loans under this part;

"(3) the project will be undertaken in an economical manner; and

"(4) for any project with regard to an infirmary or other outpatient care facility for students and institutional personnel, assistance will not be provided under title IV of the Housing Act of 1950.

"(b) Loans shall be repaid within fifty years and shall bear interest at (1) a rate annually determined by the Secretary which shall be not less than one-quarter of 1 percentage point above the average annual interest rate on all interest-bearing obligations of the United States forming a part of the public debt as computed at the end of the preceding fiscal year, adjusted to the nearest one-eighth of 1 per centum, or (2) the rate of 4 per centum per annum, whichever is less.

"GENERAL PROVISIONS FOR LOAN PROGRAM

"SEC. 732. (a) Financial transactions of the Secretary, except with respect to administrative expenses, shall be final and conclusive on all officers of the Government and shall not be reviewable by any court.

"(b) In the performance of, and with respect to, the functions vested in him by this part, the Secretary may—

"(1) prescribe such rules and regulations as may be necessary to carry out the purposes of this part;

"(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and any action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of the Secretary or any vacancy in such office: but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under his control, and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 507(b) and 517 and 2679 of title 28, United States Code;

"(3) foreclose on any property and bid for and purchase at any foreclosure, or any other sale, any property in connection with which he has made a loan pursuant to this part; in the event of such an acquisition, notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real property by the United States, the Secretary may complete, administer, remodel and convert, dispose of, lease and otherwise deal with, such property; except that (A) such action shall not preclude any other action by him to recover any deficiency in the amounts loaned and (B) any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

"(4) sell, exchange, or lease real or personal property and securities or obligations;

"(5) modify, with respect to the rate of interest, the time of payment of principal, interest, security, or any other term of any contract or agreement to which he is a party, including (A) granting a moratorium on the repayment of principal or interest to a party temporarily unable to make such repayment without undue financial hardship provided the applicant files, and the Secretary approves, a plan to make repayment, and (B) for any party for which a loan has been authorized prior to January 1, 1976, granting the option to pay into the fund pursuant to section 733, 75 per centum of the party's total obligation if the party desiring to exercise such option makes payment from non-Federal sources prior to October 1, 1985; and

"(6) include in any contract such other covenants, conditions, or provisions necessary to ensure that the purposes of this title will be achieved.

"REVOLVING LOAN AND INSURANCE FUND

"SEC. 733. (a) There is created within the Treasury a revolving loan fund for the purpose of making and insuring loans under this part (hereafter called the 'fund') which shall be available to the Secretary without fiscal year limitation. The total of any loans made from the fund in any fiscal year shall not exceed limitations specified in appropriations Acts.

"(b)(1) The Secretary shall transfer to the fund appropriations provided under section 702 to provide capital for making loans. Interest and principal payments on loans, and any other moneys, property, or assets derived from activities under this part shall be deposited in the fund.

"(2) All loans, expenses, and payments pursuant to operation of this part shall be paid from the fund, including expenses and payments in connection with sale, pursuant to section 302(c) of the Federal National Mortgage Association Charter Act, of participations in obligations acquired under this part. At the close of each fiscal year, the Secretary shall pay interest on the cumulative amount of funds paid out for loans under this part less the average undisbursed cash balance in the fund during the year. The interest rate shall be determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of maturity comparable to the average maturity of loans made from the fund during the month preceding each fiscal year. Interest payments may be deferred with the approval of the Secretary of the Treasury, but interest payments so deferred shall themselves bear interest. If the Secretary determines that moneys in the fund exceed the present and prospective needs of the fund, the excess may be transferred to the general fund of the Treasury.

"ANNUAL INTEREST GRANTS

"SEC. 734. (a) To assist institutions of higher education and higher education building agencies in reducing the cost of borrowing from other sources for projects under this part, the Secretary may make annual interest grants to such institutions and agencies with respect to any project made over a fixed period not exceeding forty years, and provision for the grants shall be embodied in the contract guaranteeing their payment. Grants shall not be greater than the difference between (1) the average annual debt service which would be required to be paid during the life of the loan on the amount borrowed from other sources for the construction of such facilities, and (2) the average annual debt service which the institution or agency would have been required to pay during the life of the loan if the applicable interest rate had been determined by the Secretary in accordance with section 731(b).

"(b) The total amount of annual interest grants which may be paid to institutions of higher education and higher education building agencies in any year pursuant to contracts entered into for such year under this section shall not exceed $13,500,000.

"(c) The total payment for any fiscal year made to institutions of higher education and higher education building agencies in any State shall not exceed 12.5 per centum of sums appropriated for this section.

"(d) No annual interest grant shall be made unless (1) assurance is provided that not less than 10 per centum of the costs of the project will be financed from non-Federal sources, (2) the applicant is unable to secure a loan from other sources upon terms and conditions as favorable as those applicable to loans under this title, and (3) the project will be undertaken in an economical manner. Loans for which an interest grant is made shall, for purposes of this section only, not be considered financing from a non-Federal source.

"ACADEMIC FACILITIES LOAN INSURANCE

"SEC. 735. (a)(1) In order to assist institutions of higher education and higher education building agencies to procure loans for programs consistent with the purposes of this title, the Secretary may insure the payment of interest and principal on such loans if such institutions and agencies meet criteria prescribed under section 734 for the making of annual interest grants.

"(2) No loan insurance may apply to any loan principal which exceeds 90 per centum of the development cost of the academic facility.

"(b)(1) The United States shall be entitled to recover from any institution or agency to which loan insurance has been issued under this section the amount of any payment made pursuant to that insurance, unless the Secretary waives its right of recovery. Upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payment with respect to which the payment was made.

"(2) Any insurance issued under subsection (a) shall be incontestable in the hands of the institution or agency on whose behalf insurance is issued, and as to any lenders which make or contract to make a loan to such institution or agency in reliance thereon, except for fraud or misrepresentation on the part of such institution or agency or on the part of the lender who makes or contracts to make such loan.

"(c) Insurance may be issued by the Secretary under subsection (a) only if he determines that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed a per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, considering interest rates prevailing in the private market for similar loans and the risks assumed by the United States. The Secretary may charge a premium for such insurance in an amount determined by him to be necessary to cover administrative expenses and probable losses under subsections (a) and (b). Such insurance shall be subject to such further terms and conditions as the Secretary determines to be necessary.

"PART D—GENERAL

"RECOVERY OF PAYMENTS

"SEC. 741. (a) The Congress declares that, if a facility constructed with the aid of a grant under part A or B of this title is used as an academic facility for twenty years following completion of such construction, the public benefit accruing to the United States will equal in value the amount of the grant. The period of twenty years after completion of such construction shall therefore be deemed to be the period of Federal interest in such facility for the purposes of this title.

"(b) If, within twenty years after completion of construction of an academic facility which has been constructed, in part with a grant under part A or B of this title—

"(1) the applicant (or its successor in title or possession) ceases or fails to be a public or nonprofit institution, or

"(2) the facility ceases to be used as an academic facility, or the facility is used as a facility excluded from the term 'academic facility', unless the Secretary determines that there is good cause for releasing the institution from its obligation,

the United States shall be entitled to recover from such applicant (or successor) an amount which bears to the value of the facility at that time, or so much thereof as constituted an approved project or projects) the same ratio as the amount of Federal grant bore to the cost of the facility financed with the aid of such grant. The value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

"(c) Notwithstanding the provisions of subsections (a) and (b), no project assisted with funds under this title shall ever be used for religious worship or a sectarian activity or for a school or department of divinity.

"DEFINITIONS

"SEC. 742. The following definitions apply to terms used in this title:

"(1)(A) Except as provided in subparagraph (B) of this paragraph, the term 'academic facilities' means structures suitable for use as classrooms, laboratories, libraries, and related facilities necessary or appropriate for instruction of students, or for research, or for administration of the educational or research programs, of an institution of higher education, and maintenance, storage, or utility facilities essential to operation of the foregoing facilities. For purposes of part A or C, such term includes infirmaries or other facilities designed to provide primarily for outpatient care of student and instructional personnel. Plans for such facilities shall be in compliance with such standards as the Secretary may prescribe or approve in order to insure that projects assisted with the use of Federal funds under this title shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

"(B) The term 'academic facilities' shall not include (i) any facility intended primarily for events for which admission is to be charged to the general public, or (ii) any gymnasium or other facility specially designed for athletic or recreational activities, other than for an academic course in physical education or where the Secretary finds that the physical integration of such facilities with other academic facilities included under this title is required to carry out the objectives of this title, or (iii) any facility used or to be used for sectarian instruction or as a place for religious worship, or (iv) any facility which (although not a facility described in the preceding clause) is used or to be used primarily in connection with any part of the program of a school or department of divinity, or (v) any facility used or to be used by a school of medicine, school of dentistry, school of osteopathy, school of pharmacy, school of optometry, school of podiatry, or school of public health as these terms are defined in section 724 of the Public Health Service Act, or a school of nursing as defined in section 843 of that Act, except that the term 'academic facilities' may include any facility described in clause (v) to the degree that such facility is owned, operated, and maintained by the institution of higher education requesting the approval of a project; and that funds available for such facility under such project shall be used solely for the purpose of conversion or modernization of energy utilization techniques to economize on the use of energy resources; and that such project is not limited to facilities described in clause (v) of this subsection.

"(2)(A) The term 'construction' means (i) erection of new or expansion of existing structures, and the acquisition and installation of initial equipment therefor; or (ii) acquisition of existing structures not owned by the institution involved; or (iii) a combination of either of the foregoing. For the purposes of the preceding sentence, the term 'equipment' includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, except books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term 'initial equipment' means equipment acquired and installed in connection with construction; and the terms 'equipment', 'initial equipment', and 'built-in equipment', shall be more particularly defined by the Secretary by regulation.

"(B) The term 'reconstruction or renovation' means rehabilitation, alteration, conversion, or improvement (including the acquisition and installation of initial equipment, or modernization or replacement of such equipment) of existing structures. For the purposes of the preceding sentence, the term 'equipment' includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, except books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term 'initial equipment' means equipment acquired and installed either in connection with construction as defined in paragraph (2)(A), or as part of the rehabilitation, alteration, conversion, or improvement of an existing structure, which structure would otherwise not be adequate for use as an academic facility; the terms 'equipment', 'initial equipment', and 'built-in equipment' shall be more particularly defined by the Secretary by regulation, and the term 'rehabilitation, alteration, conversion, or improvement' includes such action as may be necessary to provide for the architectural needs of, or to remove architectural barriers to, handicapped persons with a view toward increasing the accessibility to, and use of, academic facilities by such persons.

"(3) (A) The term 'development cost', with respect to an academic facility, means the amount found by the Secretary to be the cost, to the applicant for a grant or loan under this title, of the construction, reconstruction, or renovation involved and the cost of necessary acquisition of the land on which the facility is located and of necessary site improvements to permit its use for such facility. There shall be excluded from the development cost—

"(i) in determining the amount of any grant under part A or B, an amount equal to the sum of (I) any Federal grant which the institution has obtained or is assured of obtaining, under any law other than this title, with respect to the construction, reconstruction, or renovation that is to be financed with the aid of a grant under part A or B, and (II) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant; and

"(ii) in determining the amount of any loan under part C, an amount equal to the amount of any Federal financial assistance which the institution has obtained, or is assured of obtaining, under any law other than this title, with respect to the construction, reconstruction, or renovation that is to be financed with the aid of a loan under part C.

"(B) In determining the development cost with respect to an academic facility, the Secretary may include expenditures for works of art for the facility of not to exceed 1 per centum of the total cost (including such expenditures) to the applicant of construction, reconstruction, or renovation of, and land acquisition and site improvements for, such facility.

"(4) The term 'Federal share' means in the case of any project a percentage (as determined under the applicable State plan) not in excess of 50 per centum of its development cost.

"(5) The term 'higher education building agency' means (A) an agency, public authority, or other instrumentality of a State authorized to provide, or finance the construction, reconstruction, or renovation of, academic facilities for institutions of higher education (whether or not also authorized to provide or finance other facilities for such or other educational institutions, or for their students or faculty), or (B) any corporation (no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual (i) established by an institution of higher education for the sole purpose of providing academic facilities for the use of such institution, and (ii) upon dissolution of which, all title to any property purchased or built from the proceeds of any loan made under part C will pass to such institution), or (C) an institution of postsecondary education.

"(6) The term 'public community college and public technical institute' means an institution of higher education which is under public supervision and control, and is organized and administered principally to provide a two-year program which is acceptable for full credit toward a bachelor's degree, or a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge; and the term includes a branch of an institution of higher education offering four or more years of higher education which is located in a community different from that in which its parent institution is located.

"(7) The term 'public educational institution' does not include a school or institution of any agency of the United States.

"(8) The term 'State' includes in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.".

TITLE VIII—COOPERATIVE EDUCATION

EXTENSION OF PROGRAM

SEC. 801. (a) Section 801(a) of the Act is amended—

(1) by striking out "fiscal year 1979" in paragraph (4) and inserting in lieu thereof "fiscal years 1979 and 1980";

(2) by striking out "for each of the fiscal years 1980, 1981, and 1982, $25,000,000" in paragraph (5) and inserting in lieu thereof "for each of the fiscal years 1981, 1982, 1983, 1984, and 1985, $30,000,000"; and

(3) by striking out "alternating periods" and inserting in lieu thereof "alternating or parallel periods".

(b) Section 801(b) of the Act is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out "fiscal years 1978, 1979, 1980, 1981, and 1982," in paragraph (4) and inserting in lieu thereof "fiscal years 1978, 1979, and 1980; and";

(3) by inserting immediately after paragraph (4) the following new paragraph:

"(5) $5,000,000 for each of the fiscal years 1981, 1982, 1983, 1984, and 1985,".

(c) Section 802(a) of the Act is amended—

(1) by striking out "$175,000" and inserting in lieu thereof "$325,000"; and

(2) by striking out "$125,000" and inserting in lieu thereof "$250,000".

(d) Section 802(c) of the Act is amended by inserting "individual unit of" immediately before "institution of higher education".

TITLE IX—GRADUATE PROGRAMS

GRANTS TO INSTITUTIONS OF HIGHER EDUCATION

SEC. 901. (a) Section 901 of the Act is amended—

(1) in subsection (a)(1), by striking out "to strengthen, improve and where necessary expand" and inserting in lieu thereof "to maintain, strengthen, and improve"; and

(2) in subsection (c), by striking out "1980" and inserting in lieu thereof "1985".

(b) Section 903(b)(2) of the Act is amended by striking out "expansion" and inserting in lieu thereof "maintenance and improvement of quality".

GRADUATE FELLOWSHIPS

SEC. 902. (a) Part B of title IX of such Act is amended to read as follows:

"PART B—FELLOWSHIPS FOR GRADUATE AND PROFESSIONAL STUDY

"STATEMENT OF PURPOSE

SEC. 921. It is the purpose of this part to provide, through institutions of higher education, a program of grants to assist in making available the benefits of post-baccalaureate education to graduate and professional students who demonstrate financial need.

"PROGRAM AUTHORIZED

"SEC. 922. (a) The Secretary shall make grants to institutions of higher education to enable such institutions to make grants in accordance with the provisions of this part.

"(b)(1) In making such grants the Secretary shall, to the maximum extent feasible, ensure an equitable geographic distribution of awards and an equitable distribution among eligible public and independent institutions of higher education.

"(2) The Secretary shall not make a grant to a single institution of higher education of less than $75,000 from the sums appropriated under this part of any fiscal year.

"(3) Whenever the Secretary determines that an institution of higher education is unable to use all of the amounts available to it under this part, the Secretary shall, on such dates during each fiscal year as the Secretary may fix, reallot such amounts not needed to institutions which can use the grants authorized by this part.

"(c) Any eligible institution of higher education offering a program of post-baccalaureate study leading to a graduate or professional degree may apply for grants under this part. Each such institution may make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(d) In making grants to institutions of higher education, the Secretary shall—

"(1) take into account present and projected needs for highly trained individuals in all areas of education beyond high school;

"(2) take into account present and projected needs for highly trained individuals in other than academic career fields of high national priority; and

"(3) consider the need to prepare a larger number of individuals from minority groups, especially from among such groups which have been traditionally underrepresented in colleges and universities, but nothing contained in this paragraph shall be interpreted to require any educational institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number of percentage of individuals of such group participating in or receiving the benefits of the program authorized in this section, in comparison with the total number or percentage of individuals of such group in any community, State, section, or other area.

"(e) The Secretary shall assure that, in making grants under this part, awards are made to—

"(1) individuals who plan to pursue a career in public service;

"(2) individuals who plan to pursue advanced study in domestic mining and mineral and mineral fuel conservation including oil, gas, coal, oil shale, and uranium; and

"(3) individuals from traditionally underrepresented groups, as determined by the Secretary, undertaking graduate or professional study.

The Secretary shall assure that the amount expended for categories of fellowships described in paragraphs (1), (2), and (3) of this subsection for each fiscal year is not less than the amount expended for each catgeory in fiscal year 1979.

"(f) From sums required to be expended by the Secretary for grants under subsection (e), the Secretary may (in addition to the awards made to individuals) pay to the institution of higher education at which such person is pursuing his course of study such amounts as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.

"(g) No fellowship shall be awarded under this part for study at a school or department of divinity.

"AWARD OF FELLOWSHIPS

"SEC. 923. (a) An institution of higher education receiving funds under this part shall make available to financially needy graduate and professional students an award determined by such institution of higher education, except that no award under this part may exceed $4,500, or the demonstrated level of financial need according to measurements of need approved by the Secretary, whichever is lower.

"(b) No student shall receive an award except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded and is not engaging in gainful employment other than part-time employment by the institution of higher education involved in teaching, research, or similar activities, approved by the Secretary. Such period shall not exceed a total of 3 years, except that the Secretary may provide by regulation for the granting of such fellowships for a period of study not to exceed one twelve-month period, in addition to the 3 year period set forth in this section, under special circumstances which the Secretary determines would most effectively serve the purposes of this part. The Secretary shall make a determination to provide such twelve-month extension of an award to an individual fellowship recipient upon review of an application for such extension by the recipient.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 924. There are authorized to be appropriated to carry out the provisions of this part $60,000,000 for each of the fiscal years 1981 and 1982 and such sums as may be necessary for the fiscal year 1983 and each of the succeeding fiscal years ending before October 1, 1985."

(b) Parts C, D, E, and F of such title IX are repealed.

NEW PROGRAM AUTHORIZED

SEC. 903. Title IX of the Act is amended by inserting after part B (as amended by this this Act) the following new part:

"PART C—NATIONAL GRADUATE FELLOWS PROGRAM

"AWARD OF NATIONAL GRADUATE FELLOWSHIPS

"SEC. 931. (a) During the fiscal year ending September 30, 1981, and each of the succeeding fiscal years ending prior to October 1, 1985, the Secretary is authorized to award not more than 450 fellowships in accordance with the provisions of this part for graduate study in the arts, humanities, and social sciences by students of superior ability selected on the basis of demonstrated achievement and exceptional promise. Such fellowships shall be awarded for such periods as the Secretary may determine, but not in excess of forty-eight months.

"(b) The Secretary may allow a fellowship recipient to interrupt periods of study for a period not to exceed twelve months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program, except that for such period the Secretary shall make no payments to the fellowship recipients or payments to institutions pursuant to the fellowship award of the recipient.

"(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this part.

"ALLOCATION OF FELLOWSHIPS

"SEC. 932. (a) (1) The President shall appoint a National Graduate Fellows Program Fellowship Board consisting of not less than nine and not more than fifteen individuals representative of both public and private institutions of higher education especially qualified to serve on the Board. In making appointments, the President shall give due consideration to the appointment of individuals who are highly respected in the academic community.

"(2) The Board shall—

"(A) establish general policies for the program established by this part and oversee its operation;

"(B) select each year the fields in which fellowships under this part are to be awarded;

"(C) determine the number of fellowships each year to be awarded under this part in each designated field;

"(D) appoint distinguished panels in each field for the purpose of selecting fellows; and

"(E) prepare and submit to the Congress, at least once in every three year period, a report on any modifications in the program that the Board determines to be appropriate.

"(3) In carrying out its responsibilities, the Board shall consult on a regular basis with representatives of the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, and representatives of institutions of higher education and associations of such institutions, learned societies, and professional organizations.

"(4) The term of office of each member of the Board shall be six years; except that (A) the members first taking office shall serve as designated by the President, one-third of the members for terms of two years, one-third of the members for terms of four years, and one-third of the members for terms of six years, and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed. No member may serve for a period in excess of eight years.

"(5) The President shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairman and a Vice Chairman, who shall serve until one year after the date of their appointment. Thereafter each officer shall be elected for a term of two years. In case a vacancy occurs in either office, the Board shall elect an individual from among the members of the Board to fill such vacancy.

"(6) (A) A majority of the members of the Board shall constitute a quorum.

"(B) The Board shall meet at least four times a year.

"(7) Members of the Board, while serving on the business of the Board, shall be entitled to receive compensation at rates fixed by the President, but not exceeding the rate prescribed for GS–18 of the General Schedule under section 5332, title 5, United States Code, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

"(b) The recipients of fellowships shall be selected in each designated field from among all applicants nationwide in each field by distinguished panels appointed by the Fellowship Board to make such selections under criteria established by the Board. The number of recipients in each field in each year shall not exceed the number of fellows allocated to that field for that year by the Fellowship Board.

"(c) Each recipient shall be entitled to use the fellowship in a doctoral program at any accredited institution of higher education in which the recipient may decide to enroll.

"STIPENDS

"SEC. 933. (a) The Secretary shall pay to individuals awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such individuals and their dependents) as the Secretary may determine to be appropriate, adjusting such stipends as necessary so as not to exceed the fellow's demonstrated level of need according to measurements of need approved by the Secretary.

"(b) The Secretary shall (in addition to the stipends paid to individuals under subsection (a)) pay to the institution of higher education at which such person is pursuing his course of study such amount as the Secretary may determine to be appropriate, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.

"FELLOWSHIP CONDITIONS

"SEC. 934. (a) An individual awarded a fellowship under the provisions of this part shall continue to receive payments provided in section 933 only during such periods as the Secretary finds that he is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Secretary.

"(b) The Secretary is authorized to require reports containing such information in such form and to file at such times as the Secretary determines necessary from any person awarded a fellowship under the provisions of this part. The reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archives, or other research center approved by the Secretary, stating that such individual is making satisfactory progress in, and is devoting essentially full time to the program for which the fellowship was awarded.".

TRAINING AND LEGAL ASSISTANCE PROFESSION PROGRAM AUTHORIZED

SEC. 904. Title IX of the Act is amended by adding after part C (as added by section 904 of this Act) the following new part:

"PART D— ASSISTANCE FOR TRAINING IN THE LEGAL PROFESSION

"PROGRAM AUTHORIZED

"SEC. 941. (a) The Secretary is authorized prior to October 1, 1985, to make grants to or enter into contracts with, public and private agencies and organizations other than institutions of higher education for the purpose of assisting individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary, to undertake training for the legal profession.

"(b) Grants made, and contracts entered into, under subsection (a) may cover, in accordance with regulations of the Secretary, all or part of the cost of—

"(1) selecting individuals from disadvantaged backgrounds for training for the legal professions,

"(2) facilitating the entry of such individuals into institutions of higher education for the purpose of pursuing such training,

"(3) providing counseling or other services designed to assist such individuals to complete successfully such training,

"(4) providing, for not more than six months prior to the entry of such individuals upon their courses of training for the legal profession, preliminary training for such individuals designed to assist them to complete successfully such training for the legal profession,

"(5) paying such stipends (including allowances for travel and for dependents) as the Secretary may determine for such individuals for any such period of preliminary training or for any period of training for the legal profession during which such individuals maintain satisfactory academic proficiency, as determined by the Secretary, and

"(6) paying for administrative activities of the agencies and organizations which receive such grants, or with which such contracts are entered into, to the extent such activities are for the purpose of furthering activities described in clauses (1) through (5).

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 942. There are authorized to be appropriated to carry out the provisions of this part $5,000,000 for fiscal year 1981, $5,000,000 for fiscal year 1982, $7,500,000 for fiscal year 1983, $7,500,000 for fiscal year 1984, and $10,000,000 for fiscal year 1985.".

LAW SCHOOL PROGRAMS INCLUDED IN TITLE IX

SEC. 905. Title IX of the Act is amended by adding at the end thereof the following new part:

"PART E—LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS

"PROGRAM AUTHORIZATION

"SEC. 951. (a) The Secretary is authorized to enter into grants or contracts with accredited law schools in the States for the purpose of paying not to exceed 90 per centum of the cost of establishing or expanding programs in such schools to provide clinical experience to students in the practice of law, which includes any form of law student work involving performance in the role of a lawyer exercising legal skills and roles such as those of an advocate, counselor, negotiator, investigator, and ethical practitioner, whether by way of the provision of representation of or services to an identifiable client in actual cases or situations (subject to existing State or local limitations upon such provision) or by way of simulation of such provision through appropriate exercises. The cases and situations handled in actuality or by simulation may encompass any one or more of the following:

"(1) judicial, administrative, executive, or legislative proceedings, including the full range of preparation therefor;

"(2) office or house counsel problems; or

"(3) factual investigation, empirical research, or policy or legal analysis.

"(b) Such costs may include necessary expenditures incurred for—

"(1) planning;

"(2) training of faculty members and salary for additional faculty members;

"(3) travel and per diem for faculty and students;

"(4) reasonable stipends for students for work in the public service performed as part of any such program at a time other than during the regular academic year;

"(5) equipment and library resources;

"(6) involving practicing lawyers in the process of training law students to perform as lawyers; and

"(7) such other items as are allowed pursuant to regulations issued by the Secretary.

"(c) No law school may receive more than $100,000 in any fiscal year pursuant to this part, no part of which may be used to pay for indirect costs or charges.

"(d) For the purpose of this part the term 'accredited law school' means any law school which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose, including any combination or consortium of such schools.

"APPLICATIONS

"SEC. 952. (a) A grant or contract authorized by this part may be made by the Secretary upon application which—

"(1) is made at such time or times and contains such information as he may prescribe;

"(2) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

"(3) provides for making such reports, in such form and containing such information as the Secretary may require to carry out his functions under this part, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

"(b) The Secretary shall allocate grants or contracts under this part in such manner as will provide an equitable distribution of such grants or contracts throughout the United States among law schools which show promise of being able to use funds effectively for the purposes of this part.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 953. There are authorized to be appropriated $5,000,000 for the fiscal year 1981, $8,000,000 for the fiscal year 1982, $8,000,000 for the fiscal year 1983, $9,000,000 for the fiscal year 1984, and $10,000,000 for the fiscal year 1985, to carry out the purposes of this part.".

TITLE X—ESTABLISHMENT OF A NEW TITLE X OF THE HIGHER EDUCATION ACT OF 1965

FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

SEC. 1001. (a) Title X of the Act is amended by striking out everything preceding part C and inserting in lieu thereof the following:

"TITLE X—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

"PART A—ESTABLISHMENT AND OPERATION OF FUND

"AUTHORIZATION OF PROGRAM

"SEC. 1001. Subject to the provisions of section 1002, the Secretary is authorized to make grants to, and contracts with, institutions of postsecondary education (including combinations of such institutions) and other public and private educational institutions and agencies (except that no grant shall be made to an educational institution or agency other than a nonproofit institution or agency) to improve postsecondary educational opportunities by providing assistance to such educational institutions and agencies for—

"(1) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

"(2) the creation of institutions and programs involving new paths to career and professional training, and new combinations of academic and experiential learning;

"(3) the establishment of institutions and programs based on the technology of communications;

"(4) the carrying out in postsecondary educational institutions of changes in internal structure and operations designed to clarify institutional priorities and purposes;

"(5) the design and introduction of cost-effective methods of instruction and operation;

"(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

"(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties; and

"(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto.

"CONSULTATION

"SEC. 1002. No grant shall be made or contract entered into under section 1001 for a project or program with any institution of postsecondary education unless it has been submitted to the appropriate State entity having an agreement under section 1203, and an opportunity has been afforded such entity to submit its comments and recommendations to the Secretary.

"NATIONAL BOARD OF THE FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

"SEC. 1003. (a) There is established a National Board of the Fund for the Improvement of Postsecondary Education. The Board shall consist of fifteen members appointed by the Secretary for overlapping three-year terms. A majority of the Board shall constitute a quorum. Any member of the Board who has served for six consecutive years shall thereafter be ineligible for appointment to the Board during a two-year period following the expiration of such sixth year.

"(b) The Secretary shall designate one of the members as Chairman. A majority of the members of the Board shall be public interest representatives, including students, and a minority shall be educational representatives. All members selected shall be individuals able to contribute an important perspective on priorities for improvement in postsecondary education and strategies of educational and institutional change.

"(c) The Board shall—

"(1) advise the Secretary and the Director of the Fund for the Improvement of Postsecondary Education on priorities for the improvement of postsecondary education and make such recommendations as it may deem appropriate for the improvement of postsecondary education and for the evaluation, dissemination, and adaptation of demonstrated improvements in postsecondary educational practice;

"(2) advise the Secretary and the Director of the Fund on the development of programs to be carried out by the Fund and on the selection of projects under consideration for support by the Fund in its competitions;

"(3) advise the Secretary and the Director of the Fund on the operation of the Fund, including advice on planning documents, guidelines, and procedures for grant competitions prepared by the Fund; and

"(4) meet at the call of the Chairman, except that it shall meet (A) at least four times during each fiscal year, or (B) whenever one-third of the members request in writing that a meeting be held.

"(d) The Director shall make available to the Board such information and assistance as may be necessary to enable the Board to carry out its functions.

"ADMINISTRATIVE PROVISIONS

"SEC. 1004. (a) The Secretary may appoint, for terms not to exceed three years, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not more than five technical employees to administer this title who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(b) The Director shall establish procedures for reviewing and evaluating grants and contracts made or entered into under this title. Procedures for reviewing grant applications or contracts for financial assistance under this section may not be subject to any review outside of officials responsible for the administration of the Fund for the Improvement of Postsecondary Education.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1005. There are authorized to be appropriated to carry out this title $20,000,000 for fiscal year 1981, $30,000,000 for fiscal year 1982, $40,000,000 for fiscal year 1983, $45,000,000 for fiscal year 1984, and $50,000,000 for fiscal year 1985.".

(b)(1) Part C of title X of the Act is redesignated as part B, and sections 1071 and 1072 thereof are redesignated as sections 1021 and 1022, respectively.

(2) Section 1021(a) of the Act (as so redesignated) is amended by striking out "this title,".

(c) Section 404 of the General Education Provisions Act is repealed.

TITLE XI—ESTABLISHMENT OF A NEW TITLE XI OF THE HIGHER EDUCATION ACT OF 1965

PROGRAM AUTHORIZED

SEC. 1101. Title XI of the Act is amended to read as follows:

"TITLE XI—URBAN GRANT UNIVERSITY PROGRAM

"FINDINGS AND PURPOSE

"SEC. 1101. (a) The Congress finds and declares—

"(1) that there exists within the Nation's urban universities an underutilized reservoir of skills, talents, and knowledge applicable toward the amelioration of the multitude of problems that face the Nation's urban centers;

"(2) that the skills, talents, and knowledge of urban universities must be applied in a systematic and sustained manner to make a significant contribution toward the solution of these problems;

"(3) that the application of the skills, talents, and knowledge of urban universities is hindered by the limited funds available to sustain their commitment; and

"(4) that it is the policy of the United States to encourage and facilitate the application of the skills, talents, and knowledge of urban universities toward serving the needs of urban centers of the Nation.

"(b) The Secretary shall carry out programs in accordance with the provisions of this title, for the purpose of aiding urban universities to help find answers to urban problems, and aiding such universities to make their resources more readily and effectively available to the urban communities in which they are located.

"APPROPRIATIONS AUTHORIZED

"SEC. 1102. (a) For the purpose of carrying out the provisions of this title there is authorized to be appropriated $15,000,000 for fiscal year 1981, $25,000,000 for fiscal year 1982, $35,000,000 for fiscal year 1983, $45,000,000 for fiscal year 1984, and $56,000,000 for fiscal year 1985.

"(b) In the event of a multiple-year grant to any urban university under this title, the Secretary shall make funds available for such grant from funds appropriated for this title for the fiscal year in which such funds are to be used by the recipient.

"PROJECT ASSISTANCE

"SEC. 1103. (a) (1) The Secretary shall make grants to urban universities to pay the Federal share of the cost of carrying out projects consistent with the purposes of this title.

"(2) The Secretary shall give priority to applications containing cooperative arrangements between urban universities within an urban area.

"(b) An application submitted under this section shall contain provisions designed to show that the chief executive of the local agency or agencies of general government within whose jurisdiction fall the need or needs to be addresesd by the project or projects described has been afforded a reasonable opportunity to review and comment upon the proposed project or projects. In making grants under this title, the Secretary shall consider the degree to which there is evidence in the application of (1) the participation of such local agency or agencies of general government and of the community in the development of the project or projects for which assistance is requested under this section; (2) local government and community participation in the implementation of the proposed project or projects; and (3) a commitment by such local agency or agencies of general government to pay the portion of the non-Federal share of the cost of such project or projects required by subsection (d) of this section. Not more than one-half of such non-Federal share may be in the form of services, supplies, or equipment.

"(c) The Secretary may request the advice of any Federal agency the Secretary considers appropriate before approving an application for project assistance under this section.

"(d) Each grant under this section shall be 90 per centum of the cost of the project for which assistance is granted.

"(e) An institution of higher education which receives a grant under this section shall be designated by the Secretary as an 'urban grant university'. The Secretary shall annually publish a list of the institutions of higher education which have been so designated.

"LIMITATION

"SEC. 1104. (a) The total amount of payments in any fiscal year under section 1103 to institutions within any one State shall not exceed 15 per centum of the total amount paid.

"(b) In allocating assistance under section 1103 of this title, the Secretary shall endeavor to achieve broad and equitable geographical distribution throughout the Nation.

"DEFINITIONS

"SEC. 1105. As used in this title—

"(1) 'urban area' means a standard metropolitan statistical area having a population of not less than five hundred thousand persons; or, in any State which has no standard metropolitan statistical area within its borders which has such a population, the entity of the State having an agreement under section 1203 may, or if no such entity has an agreement, the Secretary shall designate one urban area for the purposes of this part;

"(2) 'urban university' means an institution of higher education which (A) is located in an urban area, (B) draws a substantial portion of its undergraduate students from the urban area in which it is located or contiguous urban areas, (C) carries out programs to make postsecondary education opportunities more accessible to residents of such urban area or contiguous areas, (D) has the present capacity to provide resources responsible to the needs and priorities of such urban area and contiguous areas, (E) offers a range of professional or graduate programs sufficient to sustain its capability to provide such resources, and (F) has demonstrated and sustained a sense of responsibility to such urban area and contiguous areas and its people;

"(3) for the purposes of paragraphs (2) and (4) of this section, 'institution of higher education' includes any combination of such institutions, any one of which meets all the qualifications of paragraph (2); and

"(4) 'resources' are programs of institutions of higher education including specialized training, research services, and technical assistance responsible to the needs and priorities of the urban area and contiguous areas.".

TITLE XII—GENERAL PROVISIONS

AMENDMENTS

SEC. 1201. Title XII of the Act is amended by striking out sections 1202, 1203, 1205, 1206, and 1208, by redesignating section 1207 as section 1202, and by adding after such section the following new sections:

"FEDERAL-STATE RELATIONSHIPS; STATE AGREEMENTS

"SEC. 1203. (a) Any State which desires to receive assistance under an applicable program, as described in subsection (f), shall enter into an agreement with the Secretary pursuant to subsection (b) setting forth the terms and conditions for the relationship between the Federal Government and that State for the purposes set forth in the applicable programs.

"(b) Such agreement shall consist of assurances by the State, including a description of the means to be used by the State to fulfill the assurances, that—

"(1) the State will provide for such methods of administration as are necessary for the proper and efficient administration of any program in keeping with the purposes of the applicable programs described in subsection (f);

"(2) the State will provide such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid to the State under any title of this Act;

"(3) the State will follow policies and practices of administration that will ensure that non-Federal funds will not be supplanted by Federal funds, and that equitable and appropriate criteria will be used in evaluation of applications or proposals for grants or contracts under any such applicable program; and

"(4) the State has a comprehensive planning or policy formulation process which—

"(A) considers the relation between State administration of any such applicable program, and administration of similar State programs or processes;

"(B) encourages State policies designed to consider effects on declining enrollments on all sectors of postsecondary education in the State;

"(C) considers the postsecondary education needs of unserved and underserved individuals within the State, including individuals beyond the traditional college age;

"(D) considers the resources of institutions, organizations, or agencies (both public and private) within the State capable of providing postsecondary educational opportunities in the State; and

"(E) provides for direct, equitable and active participation in the comprehensive planning or policy formulation process or processes of representatives of institutions of higher education (including community colleges, proprietary institutions, and independent colleges and universities), students, other providers of postsecondary education services, and the general public in the State.

Participation under subclause (E) shall, consistent with State law, be achieved through membership on State planning commissions, State advisory councils, or other State entities established by the State to conduct federally assisted comprehensive planning or policy formulation.

"(c) The information and assurances provided by a State in accordance with paragraphs (1), (2), and (3) of subsection (b), and regulations issued by the Secretary related directly to such assurances, shall be satisfactory for the purposes of, and shall be considered in lieu of, any comparable requirements for information and assurances in any applicable program described in subsection (f).

"(d) (1) An agreement of a State shall remain in effect subject to modification as changes in information or circumstances require.

"(2) Whenever the Secretary, after reasonable notice and opportunity for a hearing has been given to the State, finds that there is a failure to comply substantially with the assurances required in paragraph (1), (2), or (3) of subsection (b), the Secretary shall notify the State that it is no longer eligible to participate in any applicable program described in subsection (f) until the Secretary is satisfied that there is no longer any such failure to comply.

"(e) (1) For the purpose of this section, the selection of the State entity or entities authorized to act on behalf of the State for the purpose of entering into an agreement with the Secretary shall be in accordance with the State law of each individual State with respect to the authority to make legal agreements between the State and the Federal Government.

"(2) (A) Nothing in this section shall be construed to authorize the Secretary to require any State to adopt, as a condition for entering into an agreement, or for participation in an applicable program as defined in subsection (f), a specific State organizational structure for achieving participation in the planning, or administration of programs, or for statewide planning, coordination, governing, regulating, or administering of postsecondary education agencies, institutions, or programs in the State.

"(B) Nothing in this section shall be construed as a limitation on the authority of any State to adopt a State organizational structure for postsecondary education agencies, institutions, or programs which is appropriate to the needs, traditions, and circumstances of that State, or as a limitation on the authority of a State entering into an agreement pursuant to this section to modify the State organizational structure at any time subsequent to entering into such an agreement.

"(f) For the purposes of this section an 'applicable program' is defined as—

"(1) title I;

"(2) subpart 3 of part A of title IV; and

"(3) part A of title VII.

"TREATMENT OF TERRITORIES AND TERRITORIAL STUDENT ASSISTANCE

"SEC. 1204. (a) The Secretary is authorized to provide such modifications of any programs under this Act as the Secretary deems necessary in order to adapt such programs to the needs of Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands. Such program modifications may include the consolidation of grants for any single program on a regional or interterritorial basis. Such program modifications shall be established in cooperation with the governments of such territories and shall be governed by a memorandum of understanding between such governments and the Department of Education.

"(b) In conjunction with the development of program modifications under subsection (a), the Secretary shall, within eighteen months after the date of enactment of this section, conduct an analysis of the unique educational needs of Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, and report to the Congress on the results of such analysis. Such report shall include recommendations of the Secretary with respect to the most appropriate form of Federal postsecondary education assistance for such territories, an evaluation of the effectiveness of the authority contained in subsection (a), and whether such authority should be extended or modified.

"(c) Pending legislative implementation of the recommendations submitted by the Secretary under subsection (b), there are authorized to be appropriated $2,000,000 for each fiscal year ending prior to October 1, 1985 to support the cost of providing postsecondary education programs on Guam for nonresident students from the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa. Such sums shall be allocated by the Secretary among the educational institutions on Guam providing such programs on the basis of the number of students enrolled from the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa. Sums authorized under this subsection shall remain available until appropriated and sums appropriated under this subsection shall remain available until expended.

"NATIONAL ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY

"SEC. 1205. (a) There is established in the Department of Education a National Advisory Committee on Accreditation and Institutional Eligibility which shall be composed of 15 members appointed by the Secretary from among individuals knowledgeable concerning education, and including persons who are (1) representative of institutions, (2) representative of students and youth, (3) representative of professional associations, (4) representative of State educational agencies, and (5) representative of the general public. The Chairman of the Committee shall be appointed by the Secretary.

"(b) The term of office of each member of the Committee shall be three years, except that—

"(1) the members first appointed to the Committee shall serve as designated by the Secretary, five for a term of one year, five for a term of two years, and five for a term of three years, and

"(2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of that term.

"(c) The Committee shall, with respect to all matters pertaining to institutional eligibility—

"(1) advise the Secretary with regard to the responsibility to publish a list of nationally recognized accrediting agencies and associations which he determines to be reliable authority as to the quality of training offered, including advising the Secretary with respect to the criteria and procedures for carrying out such responsibility;

"(2) advise the Secretary with regard to the responsibility to designate State agencies as reliable authorities on the quality of public postsecondary vocational education or training;

"(3) develop and recommend to the Secretary standards and criteria for specific categories of vocational training institutions and institutions of higher education for which there are no recognized accrediting agencies, associations, or State agencies, in order to establish the eligibility of such institutions on an interim basis for participation in federally funded programs; and

"(4) carry out such other advisory functions relating to accreditation and institutional eligibility as may be assigned by the Secretary.

"(d) The Committee shall meet not less than twice each year at the call of the Chairman. The date of, and agenda for, each meeting of the Committee shall be submitted in advance to the Secretary for approval. A representative of the Secretary shall be present at all meetings of the Committee.

"(e) The Committee shall, not later than November 30 of each year, make an annual report through the Secretary to the Congress. The annual report shall contain a list of the members of the Committee and their addresses, a list of the Committee's functions, a list of dates and places of each meeting during the preceding fiscal year, and a summary of the activities, findings, and recommendations made by the Committee during the preceding fiscal year.

"(f) Subject to section 448(b) of the General Education Provisions Act, the Committee shall continue to exist until September 30, 1985.".

TITLE XIII—MISCELLANEOUS PROVISIONS

PART A—GENERAL EDUCATION PROVISIONS

CONTINGENT EXTENSION

SEC. 1301. (a) The first sentence of section 414 of the General Education Provisions Act is amended by striking out "for one additional fiscal year" and inserting in lieu thereof the following: "for—

"(i) two additional fiscal years for any applicable programs authorized to be included in the Appropriation Act for the fiscal year preceding the fiscal year for which appropriations are available for obligation, or

"(ii) one additional fiscal year for any other applicable program".

(b) The second sentence of such section is amended by striking out "for such additional year" and inserting in lieu thereof "for each additional fiscal year".

ENFORCEMENT OF THE RULES

SEC. 1302. The second sentence of section 431(d)(1) of the Act is amended by inserting before the period a comma and the following: "in whole or in part".

SCIENCE EDUCATION PROGRAMS

SEC. 1303. The General Education Provisions Act is amended by inserting after section 406 the following new section:

"AUTHORIZATION OF APPROPRIATIONS FOR SCIENCE EDUCATION PROGRAMS

"SEC. 406A. There is authorized to be appropriated to the Secretary of Education for fiscal year 1981—

"(1) $2,500,000 for the purpose of carrying out the Pre-College Science Teacher Training program, and

"(2) $5,000,000 for the purpose of carrying out the Minority Institutions Science Improvement program

transferred to the Secretary from the National Science Foundation by section 304 of the Department of Education Organization Act.".

COMMISSION ON THE REVIEW OF THE FEDERAL IMPACT AID PROGRAM

SEC. 1304. (a) Section 1015(d) of the Education Amendments of 1978, relating to the impact aid study, is amended by striking out "December 1, 1980" and inserting in lieu thereof "September 1, 1981".

(b) All funds available to the Commission for its operating expenses shall, notwithstanding any other provision of law, be made available to such Commission, and remain available to such Commission to carry out the amendment made by subsection (a) of this section. The Secretary of Education shall, notwithstanding any other provision of law, make available to such Commission, from funds appropriated to the Department of Education, such funds as may be necessary to enable the Commission to maintain its level of operations, consistent with the amendment made by subsection (a) of this section, except that the total amount so available for any month shall not exceed 110 per centum of the average monthly amount available for expenditure by the Commission during the fiscal year 1980.

(c) The terms of office of the members of such Commissions shall be coterminous with the duration of the Commission and the number of such members shall be equal to the number who are in office at any time, except that such number shall not exceed the number specified in such section 1015. A quorum of the Commission shall be equal to a majority of the members of the Commission who have qualified.

(d) The Commission shall terminate September 30, 1981.

EVALUATION REPORTS

SEC. 1305. Section 417(a)(1)(F) of the General Education Provisions Act is amended by inserting immediately before the period a comma and the following: "including tabulations of available data to indicate the effectiveness of the programs and projects by the sex, race, and age of its beneficiaries".

EDUCATION IMPACT STATEMENT

SEC. 1306. Part A of the General Education Provisions Act is amended by adding at the end thereof the following new section:

"EDUCATION IMPACT STATEMENT

"SEC. 409. Notwithstanding any other provision of law, no regulation affecting any institution of higher education in the United States, promulgated on or after the date of enactment of this Act, shall become effective unless such agency causes to be published in the Federal Register a copy of such proposed regulation together with an educational impact assessment statement which shall determine whether any information required to be transmitted under such regulation is already being gathered by or is available from any other agency or authority of the United States. Notwithstanding the exception provided under section 553(b) of title 5, United States Code, such statement shall be based upon the record established under the provisions of section 553 of title 5, United States Code, compiled during the rulemaking proceeding regarding such regulation.".

PART B—NATIONAL INSTITUTE OF EDUCATION

EXTENSION OF AUTHORITY

SEC. 1311. Section 405(j) of the General Education Provisions Act is amended to read as follows:

"(j)(1) There are authorized to be appropriated to carry out the provisions of this section, $120,000,000 for fiscal year 1981, $130,000,000 for fiscal year 1982, $145,000,000 for fiscal year 1983, $160,000,000 for fiscal year 1984, and $175,000,000 for fiscal year 1985.

"(2) Sums so appropriated shall, notwithstanding any other provision of law unless enacted in express limitation of the subsection, remain available for the purposes of this subsection unless expended.".

DECLARATION OF POLICY

SEC. 1312. The first sentence of section 405(a)(1) of the General Education Provisions Act is amended by inserting after "sex" a comma and "age, handicap".

RESEARCH AND DEVELOPMENT PRIORITIES

SEC. 1313. Section 405(b)(2) of the General Education Provisions Act is amended by—

(1) striking out "and" at the end of clause (D);

(2) by redesignating clause (E) as clause (G);

(3) by adding after clause (D) the following new clauses:

"(E) overcoming the special problems of the nontraditional student, including the older student (with special consideration for students over age 45) and the part-time student, and the institution which the student attends;

"(F) encouraging the study of languages and cultures and addressing both national and international education concerns; and"; and

(4) by adding at the end of the following sentence: "In carrying out this paragraph, the Institute shall give attention to the needs of early adolescents and the schools which serve them.".

REPEALER

SEC. 1314. (a) Section 405(f)(3) of the General Education Provisions Act is repealed.

(b) Paragraph (4) of section 405(f) of such Act is redesignated as paragraph (3).

PART C—AMENDMENTS TO THE REHABILITATION ACT OF 1973

COMPOSITION OF THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD AND TRANSMISSION OF REPORT

SEC. 1321. (a)(1) Section 502(a)(1)(B)(i) of the Rehabilitation Act if 1973 is amended to read as follows:

"(i) Department of Health and Human Services.".

(2) Section 502(a) of such Act is amended by adding the following clause immediately after clause (x):

"(xi) Department of Education.".

(b) Section 502(h) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) The Board shall, at the same time that the Board transmits the report required under section 7(b) of the Act entitled 'An Act to ensure that certain buildings financed with Federal funds are so designated and constructed as to be accessible to the physically handicapped', approved August 12, 1968 (commonly known as the Architectural Barriers Act of 1968) transmit that report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.".

INFORMATION CLEARINGHOUSE FOR HANDICAPPED INDIVIDUALS

SEC. 1322. (a) The first sentence of section 15(a) of the Rehabilitation Act of 1973 is amended by striking out "may" and inserting in lieu thereof "shall".

(b) Section 15(c) of such Act is amended by striking "Any" and inserting in lieu thereof "The".

PART D—NATIVE HAWAIIAN EDUCATION STUDY

STUDY AUTHORIZED

SEC. 1321. (a)(1) The Congress finds that—

(A) like other Native Americans, Native Hawaiians rank among the lowest in level of educational attainment and per capita income; and

(B) existing Federal, State, and local assistance in the field of education fails to address the basic and special needs of Native Hawaiians.

(2) The Congress declares its commitment to assist in providing the educational services and opportunities which Native Hawaiians need.

(b) There is established the Advisory Council on Native Hawaiian Education which shall consist of seven members appointed by the Secretary of Education, after consultation with the Governor of Hawaii, from among individuals who are professionals in the various fields relating to human development, and who are familiar with the educational problems of Native Hawaiians.

(c) The Council shall—

(1) advise the Secretary with respect to the operation of programs administered by the Department of Education and other programs making educational assistance available to Native Hawaiians;

(2) conduct a study which shall (A) evaluate the effectiveness of State and federally assisted educational programs in serving Native Hawaiian children and the extent to which such programs achieve their purposes with respect to such children, and (B) take into account the special health, social, and psychological needs of Native Hawaiian children; and

(3) submit a report to the Secretary and to the Congress not later than January 31, 1983, containing the findings and recommendations of the Council with respect to the matters described in paragraphs (1) and (2).

(d) The Council shall terminate 60 days after the submission of its report under subsection (c).

(e) There are authorized to be appropriated a total amount of not more than $500,000 for the fiscal years 1981, 1982, and 1983 to carry out this section.

PART E—SPECIAL IMPACT AID PROGRAM

PROGRAM AUTHORIZED

SEC. 1341. The Act of September 30, 1950 (Public Law 874, 81st Cong.), relating to impact aid, is amended by adding after section 4 the following new section:

"SPECIAL PROGRAM

"SEC. 4A. (a)(1) Any local educational agency that experiences an enrollment increase in any school year of at least 20 students as a result of the entry into any school supported by such agency of eligible children shall be eligible to receive payment for such children enrolled in its schools in accordance with the provisions of this section.

"(2) For purposes of this section the term 'eligible children' means—

"(A) aliens who fled from Cambodia, Vietnam, or Laos and who, on or after January 1, 1979—

"(i) were admitted into the United States as refugees under section 207 of the Immigration and Nationality Act;

"(ii) are applicants for asylum or have been granted asylum in the United States; or

"(iii) were paroled into the United States as refugees under section 212(d)(5) of the Immigration and Nationality Act; or

"(B) aliens who fled from Cuba or Haiti and who, on or after November 1, 1979—

"(i) were admitted into the United States as refugees under section 207 of the Immigration and Nationality Act;

"(ii) are applicants for asylum or have been granted asylum in the United States;

"(iii) are paroled into the United States as refugees under section 212(d)(5) of the Immigration and Nationality Act; or

"(iv) are Cuban-Haitian entrants (status pending) who entered the United States on or after such date.

"(3)(A) Each such local educational agency is authorized to receive for the fiscal year 1981 an amount equal to the product of the number of eligible children in average daily attendance in the schools of such agency in excess of 20 such eligible children multiplied by the current local expenditure rate of that local educational agency, plus $200 for each such eligible child in excess of 20.

"(B) For the purpose of this paragraph the current local expenditure rate shall be deemed to be the non-Federal expenditure rate of the local educational agency.

"(4) No provision of this Act which is inconsistent with the provisions of this section shall apply to the administration of this section.

"(5) Each local educational agency which is authorized to receive assistance under this section shall provide the Secretary with assurances that no eligible child counted for the purpose of this section shall be counted for payments made under any other provision of this Act.

"(b) There are authorized to be appropriated for the fiscal year 1981 such sums as may be necessary to carry out the provisions of this section.".

PART F—THE NAVAJO COMMUNITY COLLEGE ASSISTANCE PROGRAM

AMENDMENTS TO THE NAVAJO COMMUNITY COLLEGE ACT

SEC. 1351. (a) Section 5(a)(1) of the Navajo Community College Act is amended by striking out "two" and inserting in lieu thereof "three".

(b) Section 5(b) of such Act is amended by striking out paragraphs (1) and (2), by redesignating paragraph (3) as paragraph (2), and by inserting immediately before such paragraph the following:

"(b)(1) There is further authorized to be appropriated for grants to the Navajo Community College, for any fiscal year beginning on or after October 1, 1979, an amount equal to the amount necessary for operation and maintenance of the college, including, but not limited to, administrative, academic, and operations and maintenance costs.".

(c) Such Act is further amended by adding at the end thereof the following new section:

"EFFECT ON OTHER LAWS

"SEC. 6. Except as specifically provided by law, eligibility for assistance under this Act shall not, by itself, preclude the eligibility of the Navajo Community College to receive Federal financial assistance under any program authorized under the Higher Education Act of 1965 or any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions.".

PART G—NEW LAND GRANT COLLEGES

AMERICAN SAMOA AND MICRONESIA LAND GRANT COLLEGES

SEC. 1361. (a) Section 506 of the Education Amendments of 1972 is amended—

(1) by inserting ", the Community College of American Samoa, the College of Micronesia," immediately after "The College of the Virgin Islands" in subsection (a);

(2) by striking out "Virgin Islands and Guam" each place it appears in subsection (b) and inserting in lieu thereof "Virgin Islands, Guam, American Samoa, and Micronesia"; and

(3) by striking out "Guam." in such subsection and inserting in lieu thereof "Guam and an equal amount to American Samoa and to Micronesia.".

(b) Section 5 of the Act of August 30, 1890 (7 U.S.C. 327), commonly referred to as the Second Morrill Act, is amended by inserting ", American Samoa, and Micronesia," immediately after "the Virgin Islands".

(c) Any provision of any Act of Congress relating to the operation of or provision of assistance to a land grant college in the Virgin Islands or Guam shall apply to the land grant college in American Samoa and in Micronesia in the same manner and to the same extent.

(d) Nothing in this section shall be construed to interfere with or affect any of the provisions of the April 17, 1900 Treaty of Cession of Tutuila and Aunu'u Islands or the July 16, 1904 Treaty of Session of the Manu'a Islands as ratified by the Act of February 20, 1929 (45 Stat. 1253) and the Act of May 22, 1929 (46 Stat. 4).

PART H—MEMORIALS

Subpart 1—The Robert A. Taft Institute

SHORT TITLE

SEC. 1371. This subpart may be cited as the "Robert A. Taft Institute Assistance Act".

GRANTS FOR DEVELOPMENT

SEC. 1372. (a) In recognition of the public service of Senator Robert A. Taft, the Secretary of Education is authorized to make grants to the Robert A. Taft Institute of Government, located in New York, New York.

(b) The total amount of grants under this section in any fiscal year may not exceed the total amount of private contributions received by the Institute for the fiscal year for which the grants are made.

(c) No payment may be made under this subpart except upon an application at such time, in such manner, and containing or accompanied by such information as the Secretary of Education may require.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1373. There are authorized to be appropriated $750,000 for the fiscal year 1981 and for each fiscal year ending prior to October 1, 1985.

Subpart 2—General Daniel James Memorial Health Education Center

FINANCIAL ASSISTANCE AUTHORIZED

SEC. 1376. (a) In recognition of the public service of General Daniel James and as a memorial to General Daniel James, the Secretary of Education shall, in accordance with the provisions of this title, make a grant to establish the General Daniel James Memorial Health Education Center to be located at Tuskegee Institute, Tuskegee, Alabama.

(b) No grant may be made under subsection (a) of this section unless an application is made to the Secretary at such time and in such manner as the Secretary may provide. The application shall contain provisions designed to assure that—

(1) the building known as the General Daniel James Memorial Health Education Center will be located on the campus of Tuskegee Institute, Tuskegee, Alabama;

(2) the memorial will serve as a regional center for preventive health education and as a repository for papers and memorabilia relating to the life of General Daniel James; and

(3) such other reasonable conditions as the Secretary may require.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1377. (a) There are authorized to be appropriated $6,000,000 for the fiscal year 1981 to carry out the provisions of this title.

(b) Funds appropriated pursuant to this title shall remain available until expended.

Subpart 3—The William Levi Dawson Chair of Public Affairs

SHORT TITLE

SEC. 1381. This subpart may be cited as the "William Levi Dawson Chair of Public Affairs Act".

ASSISTANCE FOR THE ESTABLISHMENT OF THE WILLIAM LEVI DAWSON CHAIR OF PUBLIC AFFAIRS

SEC. 1382. (a) The Secretary of Education is authorized to provide financial assistance in acordance with the provision of this section to establish the William Levi Dawson Chair of Public Affairs at Fisk University, Nashville, Tennessee.

(b) No financial assistance under this title may be made except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1383. (a) There are authorized to be appropriated such sums, not to exceed $750,000, for the fiscal year 1981, as may be necessary to carry out the provisions of section 1802 of this title.

(b) Funds appropriated pursuant to this title shall remain available until expended.

PART I—TECHNICAL PROVISIONS

ADMINISTRATIVE AMENDMENTS

SEC. 1391. (a)(1) The Act is amended by striking out "Commissioner" wherever it appears (except in section 1201(f) and inserting in lieu thereof "Secretary".

(2) The Act is further amended by striking out "Commissioner's" whenever it appears and inserting in lieu thereof "Secretary's".

(3) The Act is further amended by striking out "Secretary of Health, Education, and Welfare" wherever it appears (except in section 1201(e)) and inserting in lieu thereof "Secretary".

(b)(1) Section 1201(e) of the Act is amended to read as follows:

"(e) The term 'Secretary' means the Secretary of Education.".

(2) Section 1201(f) of the Act is repealed.

(3) Section 1201 of the Act is amended by adding at the end thereof the following:

"(m) The term 'Department' means the Department of Education.".

CONTRACT AUTHORITY

SEC. 1392. The authorization to enter into contracts or other obligations under the Act, as amended by this Act, shall be effective for fiscal year 1981 and any succeeding fiscal year only to the extent or in such amounts as are provided in advance in appropriation Acts.

EFFECTIVE DATES

SEC. 1393. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on October 1, 1980.

(b)(1) The amendment made by section 301 of this Act to title III of the Act shall take effect October 1, 1981.

(2) The amendment made by section 404 (c)(4) of this Act to section 415C(b)(4) of the Act shall be effective October 1, 1979.

(3) The amendment made by section 405 to subpart 4 of part A of title IV of the Act shall take effect October 1, 1981.

(4) The amendments made by part B of title IV of this Act shall take effect, except as otherwise provided therein, on January 1, 1981, and to the extent such amendments make changes in such part B which affect student loans, such changes shall apply to outstanding loans as well as to loans made after the amendments take effect, except that the amendments made by section 415 (b) shall apply with respect to any loan to cover the cost of instruction for any period of instruction beginning on or after January 1, 1981, to any student borrower who has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 on the date on which the borrower enters into the note or other written evidence of the loan.

(5) The amendments made by part D of title IV of this Act shall apply to loans made under part E of the Act on or after October 1, 1980.

(6) The amendment made by section 701 of this Act adding section 731 of the Act shall apply to loans made under section 731 on or after October 1, 1980.

And the Senate agree to the same.

CARL D. PERKINS,
FRANK THOMPSON, Jr.,
JOHN BRADEMAS,
WILLIAM D. FORD,
JOSEPH M. GAYDOS,
MARIO BIAGGI,
PAUL SIMON,
AUSTIN J. MURPHY,
TED WEISS,
PETER A. PEYSER,
WILLIAM RATCHFORD,
GEO. MILLER,
JOHN M. ASHBROOK,
JOHN A. BUCHANAN, Jr.,
JAMES M. JEFFORDS,
MICKEY EDWARDS,
THOMAS J. TAUKE,
THOMAS E. PETRI,
Managers on the Part of the House.

CLAIBORNE PELL,
HARRISON A. WILLIAMS,
JENNINGS RANDOLPH,
EDWARD M. KENNEDY,
THOMAS F. EAGLETON,
ROBERT STAFFORD,
DICK SCHWEIKER,
JACOB K. JAVITS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5192) to amend and extend the Higher Education Act of 1965, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

IN MEMORIAM

The conferees note with great sadness the absence from our deliberations of Mr. William F. Gaul, Associate General Counsel of the House Committee on Education and Labor.

Mr. Gaul has provided a central thread of informed judgment and wise counsel throughout all previous conference committee deliberations on the Higher Education Act, from its original enactment in 1965 through the amendments of 1968, 1972, and 1976.

Mr. Gaul worked tirelessly on the House version of this reauthorizing legislation through its enactment last November. But shortly thereafter, he was stricken by a fatal illness which confined him to a hospital quarters during our conference committee deliberations.

We have greatly missed his good and wise counsel in our deliberations. We wish he could have been with us. But most of all, we wish to record, as a part of this conference report, our great and continuing indebtedness to Mr. Gaul for the extraordinary contributions he has made throughout the last fifteen years to the creation, development, and refinement of the Higher Education Act.

On behalf of the millions of postsecondary students and the thousands of postsecondary institutions who have and will continue to benefit from the Higher Education Act, we wish to state that Mr. William F. Gaul's leadership role in constructing this legislation will be greatly noted and long remembered.

TITLE I—EDUCATION OUTREACH

1. The Senate amendment, but not the House bill, in Part A of Title I establishes a new Commission on National Development in Postsecondary Education, a tripartite Commission of 25 members to be appointed by the President, the President pro tem of the Senate, and Speaker of the House. The function of the Commission shall be to review national, state, and institutional planning policies to examine the effectiveness of Federal financial assistance to students and institutions in conjunction with State and institutional aid policies; to consider the research capacity of institutions and the relationship between institutions and the public and private sector in promoting research; and to examine the resources of institutions and the effect of demographic changes which will impact on their ability to meet social and economic needs. The Senate amendment authorizes $3 million for the Commission for the period beginning October 1, 1981, through March 1, 1983.

The House recedes with an amendment extending the life of the Commission through December 31, 1983, and adding as a purpose of the Commission a study of the needs of adult postsecondary students.

2. The provisions of the House bill and the Senate amendment with respect to the allocation of funds under Title I of the House bill and Part B of Title I of the Senate amendment are described in the following tables:

ALLOCATION FORMULA

[Unless indicated, each State must have an agreement for comprehensive statewide planning in order to receive funds under the following provisions:]

HOUSE—TITLE I	SENATE—TITLE I–B
Statewide Planning Program—Sec. 102. 20 percent of total appropriation is allotted on the basis of adult population for Statewide planning. Each State must receive at least $60,000.[1] State Grant Program—Sec. 103. 70 percent of the total appropriation is allotted to States for education information and continuing education services. Half of this amount is allotted equally to all states, and half is allotted on the basis of adult population. Each State must receive at least $90 000.[1] Federal Discretionary Grant—Sec. 107. 10 percent of the total appropriation shall be reserved for the Federal discretionary grant program.	Sec. 112. From 90 percent of appropriation, each State shall receive an amount equal[1] to the FY 1979 level of funding for title I, Sec. 418A, and Sec. 1203. If the level of appropriations exceeds that amount the excess shall be distributed on the basis of adult population. (If, in any fiscal year, a State does not wish to enter into an agreement for statewide planning, the Secretary shall allot to that State an amount equal to the amount the State would receive for continuing education and education information services.) Sec. 116 10 percent of the appropriations shall be reserved for the Federal discretionary grant Program established under Sec. 116.

[1] Ratable reduction language is provided in the event appropriations are insufficient.

AUTHORIZATION OF APPROPRIATIONS

[Dollar amounts in millions, fiscal years]

HOUSE		SENATE	
Title I	Amount	Title I	Amount
1981	$100	Part A (for period from Oct. 1, 1981 thru Mar. 1, 1983).	$3.0
1982	125		
1983	150		
1984	175	Part B:	
1985	200	1981	18.5
		1982	21.5
		1983	24.0
		1984	27.5
		1985	32.0
		Part C:	
		Subpart I (for each of 1981–85).	9.5
		Subpart II (for each of 1981–85).	7.5
		Subpart III (for each of 1981–85)	50.0

USE OF FUNDS

STATEWIDE PLANNING

HOUSE—TITLE I	SENATE—PART B
	If the appropriation level is less than $18.5 million, each State must use at least 15 percent, but not more than 20 percent, of its allotment for statewide planning. If the appropriation level is more than $18.5 million, but less than $24 million, each State shall use at least 10 percent but not to exceed 15 percent, of its allotment for statewide planning. If the appropriation level exceeds $24 million, then a State shall not use more than 10 percent of its allotment for statewide planning.
At least 50 percent of a State's allotment must be used for planning continuing education activities for adults.	Same as House provision except the Secretary may waive if State can demonstrate it has fullfilled the statewide planning needs for adults.
Up to 50 percent of a State's allotment may flow through for use under the State grant program, at the State's discretion.	

INFORMATION SERVICES

State's discretion as to amount of funds used for information services under State grant program.	Not less than $50,000 nor more than 12 percent, whichever is greater, shall be used for information services.

CONTINUING EDUCATION

State's discretion as to amount funds used for continuing education activities under State grant program.	Each state shall use amounts remaining after reserve for statewide planning and information services.

Following is the conference agreement:

Allocation formula and uses of funds

The House recedes to Senate Part B with an amendment which provides that, with respect to statewide planning, up to 50 percent of a State's funds available for this program may be used for continuing education programs under section 115 and that, for the purposes of operating educational information programs, states may make grants to and enter into contracts with institutions of higher education, public private institutions and organizations, business, industry, and labor and any combination thereof. The conferees intend that the list of continuing education activities under section 115 is not exclusive.

The Senate recedes with an amendment which provides that, for the purposes of state grants, each state shall receive an allotment of funds from available appropriations based 60 percent on relative state adult population and 40 percent on an equal basis, except that no state shall receive less than $187,500 in any fiscal year. Of its allotment, any state may use up to 5 percent or $40,000 of its portion available for continuing education, whichever is greater, for the purposes of administration or operation of continuing education activities.

Authorization of appropriations

The conference substitute authorizes the following amounts for Part B:

Fiscal year:	*Millions*
1981	$20
1982	$30
1983	$40
1984	$50
1985	$60

3. Both the House bill and the Senate amendment contain comparable provisions concerning the use of comprehensive statewide planning funds.

The conference substitute incorporates all provisions.

4. The Senate amendment, but not the House bill, permits the Secretary to waive the requirements that States use 50 percent of comprehensive statewide planning funds for planning for Continuing Education if the State demonstrates it has adequately provided for meeting the needs of adult learners.

The House recedes.

5. The House bill, but not the Senate amendment, restricts the use of funds which a State may use for conducting studies of topics consistent with the purposes of comprehensive statewide planning and statewide planning for Continuing Education.

The Senate recedes.

6. The House bill, but not the Senate amendment, specifically authorizes States to make grants and enter into contracts with institutions of higher education, public and private institutions and organizations, business, industry and labor, and any combination thereof.

The Senate recedes.

7. The House bill, but not the Senate amendment, requires particular attention to homemakers in the provision of educational and occupational information and counseling services.

The Senate recedes.

8. The Senate amendment, but not the House bill, authorizes the provision of child care services to assist individuals in Continuing Education.

The House recedes.

9. The Senate bill contains the following restrictions for the use of funds for providing child care services:

(A) that the State has established a cooperative agreement with the agency responsible for coordinating child care services in the State,

(B) that funds available for child care services will be paid only to child care providers licensed or likely to be licensed in the State, and

(C) that a State may not use more than 5 percent of the sums available for Continuing Education programs provided directly by the State.

The House recedes on item (A); the Senate recedes on item (B); and the House recedes on item (C) with an amendment providing that there may be spent for the administration of programs under section 115 and the direct operation by the State of continuing education programs 5 percent of the sums available or $40,000, whichever is greater. The "operation" of a program under the 5 percent or $40,000, whichever is greater, provision applies only to those programs that are not otherwise competing for funds under the remainder of the continuing education monies.

10. (a) The House bill, but not the Senate amendment, authorizes the Secretary to provide funds to assist States to effectively perform their functions of authorizing institutions of higher education.

(b) The Senate amendment, but not the House bill, authorizes the Secretary to provide funds to support demonstration child care projects and to provide pre-service and in-service training to personnel involved in child care programs.

a. The Senate recedes.

b. The House recedes with an amendment eliminating the support of demonstration child care projects.

11. The House bill provides that payments made under Sections 102 and 103 shall not exceed two-thirds of the cost of activities funded under those Sections. The Senate bill provides that payments under all of Part B of the Title I of the Senate amendment shall not exceed two-thirds of the cost of activities assisted under that part.

The House recedes.

12. The House bill, but not the Senate amendment, provides that States may use 50 percent of the funds received under Section 102 (relating to statewide planning) for

the purpose of carrying out programs under Section 103 (relating to State grant programs).

The Senate recedes.

13. The Senate amendment, but not the House bill, requires the Secretary to evaluate the extent to which age is a barrier to participation in postsecondary education and the potential for greater participation in such education by individuals age 65 and older.

The House recedes with an amendment changing the age to 60.

14. The House bill, but not the Senate amendment, requires the Secretary to report to the President and the Congress on the results of the investigation and study not later than two years after the date of enactment of this Act. The Senate amendment, but not the House bill, requires the Secretary to coordinate the study with the activities of the Commission on National Development in Postsecondary Education, the National Institute of Education, and other studies authorized by this Act.

The Conference substitute incorporates all of the provisions of this special study within the Commission of National Development in Postsecondary Education authorized by Part A of this Title.

15. The Senate amendment, but not the House bill, establishes a new Part C of Title I to induce institutions of higher education to engage in limited programs of policy development to test essential areas for growth and adaptation in future years.

The Senate recedes.

16. The Senate amendment, but not the House bill, authorizes grants and contracts to States and postsecondary institutions to attempt cost-effective conversions of curriculum, transformations of staffing and research patterns, and collaborative cost-sharing relationships with institutions to replace duplicative educational programming and shared arrangements based on demographic and labor market trends.

The Senate recedes.

17. The Senate amendment, but not the House bill, authorizes a program to encourage and to support the efforts of all forms of postsecondary institutions to serve women in their workplaces with the collaboration of labor unions and employers.

The Senate recedes with an amendment expanding the continuing education activities under Part B of Title I to include the promotion or delivery of postsecondary education to women at the place of their employment or in conjunction with their employment.

18. The Senate amendment, but not the House bill, authorizes a program of providing to 50 educational institutions incentives to devote their community service and research resources to solve the problems of massive youth unemployment. This provision creates a demonstration program whereby the colleges would organize their technical assistance capabilities in a discretionary grant program and assist local decision-making in several areas: (1) development of individual employability plans for the young people who are assisted in comprehensive community efforts to remedy youth unemployment; (2) design of community-oriented achievement benchmarks for student progress; (3) means to establish labor union and employer collaboration on skills certification mechanisms to assist transitions from education and training to work; (4) development of detailed local labor market statistics and forecasts so as to assist the education and employment services in skills remediation and preparation of lasting value to young people experiencing comprehensive youth employment efforts; and (5) exploration of applying college resources in retraining unemployed persons.

The Senate recedes.

TITLE II—COLLEGE AND RESEARCH LIBRARY ASSISTANCE AND LIBRARY TRAINING AND RESEARCH

19. The House bill authorizes appropriations of $60 million for Part A, $60 million for Part B, $20 million for Part C, and $15 million for Part D of Title II for each of the fiscal years 1981–1985. The Senate amendment authorizes appropriations for Part A and B combined of $15 million for fiscal year 81, $17 million for fiscal year 82, $19.5 million for fiscal year 83, $22 million for fiscal year 84, and $25 million for fiscal year 85. The Senate bill also authorizes for Part C $8 million for fiscal year 81, $9 million for fiscal year 82, $10.5 million for fiscal year 83, $12 million for fiscal year 84, $14 million for fiscal year 85. The Senate amendment authorizes $750,000 for each of fiscal years 81 and 82 and such sums as may be necessary for any remaining fiscal year ending prior to October 1, 1985 for Part D.

The conference substitute authorizes the following amounts:

Part A:

Fiscal year:	*Millions*
1981	$10
1982	30
1983	30
1984	30
1985	35

Part B:

Fiscal year:	
1981	10
1982	30
1983	30
1984	30
1985	35

Part C:

Fiscal year:	
1981	10
1982	15
1983	15
1984	15
1985	15

Part D:

Fiscal year:	
1981 and 1982	750,000

Fiscal years 1983 to 1985—such sums.

20. The House bill, but not the Senate amendment, provides that no funds are authorized to be appropriated for Part D unless each of the appropriations for Part A, B or C equals or exceeds the amounts appropriated for that Part for fiscal year 79.

The Senate recedes.

21. The House bill, but not the Senate amendment, extensively reorganizes Title II of the Act. Part A is focused on general support for college libraries. The special grants currently authorized in Part A are transferred to Part B where there are emphasized two forms of special purpose assistance. The maximum Basic Grant under Part A is increased from $5,000 to $10,000. The House bill repeals the authority for Supplemental grants and for the Advisory Council on College Library Resources. In addition, the House bill repeals the authority of the Secretary to make grants to educational institutions which are not accredited on the basis of the finding that acquisition of library sources would render the institution accreditable.

The Senate amendment retains current law in Part A of Title II.

The Senate recedes.

22. The House bill, but not the Senate amendment, requires that institutions applying for funds under Title II supply information about the institution itself and its library resources to the Secretary. There is no comparable provision in current law, which is retained by the Senate amendment.

The House bill, but not the Senate amendment, amends current law to permit a grant recipient in the grant year for which funds are sought to choose between the average annual aggregate amount or the average amount per full-time equivalent student it expended for library material expenditures during the two preceding fiscal years to substantiate its maintenance of effort. Current law requires the use of the average annual aggregate amount.

The House bill, but not the Senate amendment, amends current law to specify under which circumstances the Secretary may waive the maintenance of effort provisions.

The Senate recedes.

23. The House bill provides for a division of the available funds of one-third for library career training, one-third for research and demonstration and one-third for special purpose grants.

The House bill deletes the special advisory committee to the secretary on research and demonstration for the improvement of libraries and training in librarianship. The House bill deletes language relating to section 3709 of the Revised Statutes (41 U.S.C. 5). The House bill deletes the authorization for special purpose grants to institutions of higher education which demonstrate a special need for additional library resources and which indicate such a grant would make a substantial contribution to the quality of educational resources. The House bill removes the restriction under special purpose grants to combinations of institutions of higher education that the funds may be used only for books, periodicals, documents, magnetic tapes, phonographic records, audiovisual materials and other related library materials. The House bill adds a provision to the authorization for special purpose grants to public and private nonprofit library institutions limiting the grant's purpose to establishing, developing or expanding programs or projects that improve their services. The House bill adds a new authorized activity to the special purpose grant program permitting grants to institutions of higher education to develop or expand programs or projects to serve the community in which the institution is located. The House bill does not give the institution of higher education a choice in base years for providing maintenance of effort for special purpose grants. It requires the institution to expend during the grant year at least as much as it did for all library purposes in the two fiscal years immediately prior to the grant application. Current law permits either this approach or using the two fiscal years immediately prior to June 30, 1965. The House bill prohibits an institution from receiving a resource development grant or a special purpose grant if it receives a grant under Part C.

The Senate amendment continues existing law under all of Part B.

The Senate recedes.

24. The House bill authorizes the establishment of a National Periodical Center. The Senate amendment authorizes a study of the feasibility and advisability of establishing a National Periodical system, and, if found feasible and advisable, authorizes the preparation of a design for such system. Both bills establish a nonprofit corporation to carry out the purposes of Part D of Title II.

The House recedes.

25. The House bill, but not the Senate amendment, contains provisions relating to cost reimbursement, cooperative agreements with certain national, State, and local institutions, the establishment of regulatory offices, and the coordination of the training of librarians..

The House recedes.

26. The Senate amendment, but not the House bill, contains certain provisions as to the participation and fees payable to copyright owners, duplication of, or adverse impact on, private sector activities, and coordination with existing library programs.

The House recedes.

27. The Senate amendment, but not the House bill, requires any design to implement the periodical system to specify the role of

the Corporation in the management of the system and an estimate of the cost of carrying out the system for each fiscal year.

The House recedes.

28. The Senate amendment, but not the House bill, requires the Board to be equitably representative of certain groups and interests.

The House recedes.

29. The House bill provides that the term of office of Board members shall be six years. The Senate amendment provides terms of two years. The House bill provides for staggered terms and provides that no member shall be eligible to serve more than two 6-year terms.

The House recedes.

30. The Senate amendment, but not the House bill, specifically provides that the Corporation shall be subject to the Government in the Sunshine Act.

The House recedes.

31. The House bill provides for annual reports from the Corporation on March 1st of each year. The Senate bill provides for submission of the implementing design not later than December 31, 1981, and provides that the design may not be implemented unless it is approved in whole or in part by a Joint Resolution of the Congress.

The House recedes.

TITLE III—INSTITUTIONAL AID

32. The House bill makes major revisions in Title III. The purposes are briefly stated in the title's opening section. Institutional assistance under Title III must be used to improve the academic quality, institutional management and fiscal stability of developing institutions. Eligibility as a developing institution is based on an institution's enrollment of a substantial percentage of students from low-income families and average educational and general expenditures which are low per full-time equivalent student in comparison with average educational and general expenditures per full-time equivalent student of institutions that offer similar instruction.

The House bill provides that a branch institution is eligible to compete for funds under Title III in and of itself.

The Secretary is authorized to waive the requirement that an institution have a low educational and general expenditure per full-time equivalent student in certain cases.

The House bill provides an authorization of $140 million in fiscal year 1981; $160 million in fiscal year 1982; $180 million in fiscal year 1983; and $200 million for fiscal years 1984 and 1985. Under the new Challenge Grant program, additional authorizations of $25 million for fiscal year 1982; $35 million for fiscal year 1983; $45 million for fiscal year 1984; and $50 million for fiscal 1985 are provided.

The House bill provides that grant awards for community and junior colleges cannot be less than 24 percent of the funds in any fiscal year, but may be greater.

In addition to the two criteria used to establish eligibility to compete as a developing institution, any institution applying for assistance under this title must also be degree-granting for at least five years prior to applying for assistance and accredited by a nationally recognized accrediting agency or association.

The House bill authorizes the Secretary to waive the five-year degree-granting requirement for institutions applying for assistance if the development of that institution will substantially increase the higher education opportunities of American Indians, Hispanics and low-income rural people.

The House bill instructs the Secretary to give special consideration to any institution submitting an application to improve that institution's faculty development, funds and administrative management development and improvement of academic programs, acquisition of equipment for use in strengthening funds management and academic programs, joint use of facilities such as libraries and laboratories, and student services.

The House bill establishes two categories of grants. Any eligible institution can apply to receive assistance for one-to-three years. Such a grant is renewable indefinitely. Under a second category, institutions can apply for a non-renewable grant of four-to-seven years. The bill requires that 25 percent of the appropriation (excluding the appropriation for the Challenge Grant program) be reserved for nonrenewable grants. If an insufficient number of institutions apply for the non-renewable grants and all funds are not obligated, the bill provides that the funds be carried over to the succeeding fiscal year for later use in the four-to-seven year program.

In a case where the institution receives notification of a multiple-year award under Title III, the bill requires that the Secretary make awards annually from the appropriation for the fiscal year in which the grant is to be used.

The Secretary may make one-year awards for the purpose of planning grants. The planning must be consistent with the purpose of the title.

The applicant institution must submit a detailed analysis of how it will provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds made available under this title. The bill eliminates from current law the provision that required institutions to participate in consortia or a bilateral arrangement. The bill permits this activity.

The House bill requires that any institutions receiving assistance under this title must report at least annually on the progress of its development activities. Any institution failing to comply with this requirement may, at the Secretary's discretion, have its future year grants withheld.

The House bill establishes a method for selecting independent readers who are responsible for reviewing application proposals. Institutions submit reader nominees to the Secretary. The Secretary then selects reviewers who have expertise in the evaluation of Title III projects. Included among these individuals must be representatives of the types of institutions receiving Title III grants. The Secretary is required to assure that no reader has any conflict of interest regarding the application being evaluated which might impair the impartiality with which the individual conducts the review.

All readers must receive instruction from the Secretary regarding the evaluation process, including (1) explanations and examples of the types of activities that should receive special consideration for grant awards; (2) an enumeration of the factors to be used to determine the quality of the applications; and (3) an enumeration of the factors to be used to determine whether a grant should be awarded, and the amount and duration of the grant. In awarding grants, the Secretary may only consider those factors which are explained to the readers.

A Committee on Review is established which would review all grant award recommendations made by the readers which were used by the Secretary to make grant awards. The Committee would then submit a report to the Secretary which contains (1) the recommendations of the independent readers; (2) recommendations the Committee considers appropriate to provide for equitable adjustments in the amounts recommended by the readers in order that the total amount recommended for all grants not exceed the amount appropriated for Title III; and (3) recommendations regarding the amount and duration of any grant after adjustment. After reviewing the Committee's report, the Secretary would make final awards.

The Committee on Review will consist of ten members appointed by the Secretary with one representative each from private junior colleges, private institutions that award bachelor's degrees, public junior or community colleges, public institutions that award bachelor's degrees and six other members representing the above institutions. The Secretary will appoint these members after consultation with the various postsecondary education institutions. No officer or employee of the United States can serve as a Committee member and the term of office will be two years.

Not later than June 30 of each year, the Secretary must publish in the Federal Register the name of each institution which submitted an application, the average score given to the applications by the readers, any changes in the average scores recommended by the Committee, and the recommendations of the Committee regarding the recipients and amounts of the grants.

The House bill establishes a new Challenge Grant program, the purpose of which is to provide an incentive for institutions to seek alternative sources of funding.

The Challenge Grant program, like the basic Title III program, is a competitive grant program and all requirements, limitations and procedures applicable in the basic Title III program are also applicable in the Challenge Grant program, unless otherwise stated.

In the Challenge Grant program, the House bill requires the Secretary to give priority to those institutions participating in the four-to-seven-year grant program.

33. The Senate amendment completely rewrites existing Title III, Strengthening Developing Institutions program. It divides the Title into two parts: Part A would provide short-term Federal assistance to institutions with special needs. Such institutions have enrollments which include a substantial percentage of students from low income families and low general and educational expenditures for full time equivalent undergraduate students. In determining institutional eligibility the Secretary may also consider institutional characteristics, such as limited library resources, little or no endowment, low percentage of faculty with doctorate degrees, and a high student-to-faculty ratio. Part A assistance will be used to provide for faculty development, administrative development, the improvement of academic programs, the development of new and improved student services, joint use of facilities such as libraries and laboratories among institutions, and the acquisition of equipment to strengthen and improve management and academic programs. Assistance under this Part would be limited to five years with institutional matching required after the second year, in an effort to "graduate" institutions from the program and to achieve an institutional commitment to the purposes of this Part.

Part B of this Senate amendment recognizes that institutions which enroll a large number of students from low income families face a special burden. These institutions do not need project grants; they need general operating assistance. Part B would provide that assistance. The factors that would determine eligibility for Part B assistance would be factors such as the percentage of low income students at the institution, the per student expenditure at the institution, the amount of public and private funds available to the institution, and the institution's own program of financial assistance to those students. There is no time limit to receiving assistance under Part B.

The Senate amendment also establishes a new challenge grant initiative under Part A of Title III from a 10 percent set-aside of funds appropriated and available for that Part. In order to be eligible for a challenge grant, on a 50-50 matching share basis, an institution must have received, or be eligible to receive, a grant under Part A criteria established for institutions having special needs. The 50 percent matching share for institutions must come from new sources; the Federal Government will not match money that is already available to the institution.

Existing law provides that 24 percent of funds under Title III must go for awards to community and junior colleges. The Senate amendment provides that not less than 30 percent of the funds awarded in Parts A and B should go to community and junior colleges.

The Senate amendment provides that a branch institution located in a community different from that of its parent institution is eligible to compete for funds under this Title in and of itself. The Senate amendment also requires the Secretary to give priority to cooperative arrangement applications in awarding funds under Part A of this Title.

Existing Title III permits the Secretary to grant waivers to Title III recipients for matching requirements under Titles II, IV, VI, or VII of the Higher Education Act. The Senate amendment does not permit such waivers. However, the Senate amendment does allow the Secretary to waive the 5-year degree granting requirement of Part A to institutions which will substantially increase the higher education opportunities of American Indians and Hispanics, of individuals living in rural areas whose higher education needs are being unserved, of low income individuals, and of black students.

The Senate amendment establishes the following authorization levels:

Fiscal year:	
1981	$161,000,000
1982	185,000,000
1983	213,000,000
1984	245,000,000
1985	284,000,000

Appropriations for each fiscal year must be divided evenly between Parts A and B of the Title. For purposes of making challenge grants the Secretary can reserve up to 10 percent of Part A funds. In addition, the Secretary shall assure that in each fiscal year the amount available to the sector of traditional black colleges and universities shall not be less than the amount that sector received in Fiscal Year 1979.

The conference substitute creates a title III program which contains three parts. Part A, Strengthening Institutions, is derived from the provisions of the House bill. Part B, Aid to Institutions with Special Needs, contains provisions that were in Part A of the Senate Amendment. Fifty percent of the appropriation will go to each of these parts.

Under Part B of the conference substitute, the institutions that historically have served substantial numbers of Black students shall be assured that their sector will receive not less than 50 percent of the amount that such sector received in fiscal year 1979 under the current Title III program.

The conference substitute incorporates the provisions of the House bill pertaining to challenge grants to institutions eligible for assistance under Part A or Part B.

The conference substitute modifies the provisions of the House bill establishing an application review process and a committee on review to provide only for an application review process.

The conferees intend that unique institutions such as the College for Human Services, which charge no tuition fees, rely exclusively on CETA wages to support its students and serve students who meet the Department of Labor's low-income guidelines, be recognized as a developing institution eligible to apply for funds under this program.

The criteria used to determine eligibility for participation in the title III program under either Part A or Part B includes the average educational and general expenditure per full-time equivalent undergraduate student. The inclusion of the word "undergraduate" was intentional.

During the Senate's deliberation on this legislation, some concerns were raised that this language was not entirely clear and furthermore, may create some reporting difficulties since many institutions would not be able to identify separately the expenditures made for undergraduate instruction.

Clearly the intent of the conference in accepting this Senate language that would apply to the educational and general expenditures definition under both Part A and Part B was that the Secretary should not consider institutional expenditures for high cost professional training such as medical, dental, and legal programs which are organized, budgeted, and conducted separately from regular graduate and undergraduate instruction.

The conference substitute authorizes the following amounts for Parts A and B:

Fiscal year:	*Millions*
1982	$175
1983	185
1984	200
1985	220

The substitute provides the following authorizations for the challenge grant program:

Fiscal year:	*Millions*
1982	$25
1983	35
1984	45
1985	50

TITLE IV—STUDENT ASSISTANCE

34. The House bill extends the Basic Educational Opportunity Grant program through FY 1986. The Senate amendment extends this program through FY 1985.

The House recedes.

35. The House bill, but not the Senate amendment, provides that the purpose of the Basic Grants program is to provide a Basic Grant that will meet 75 percent of the students' costs of attendance for academic year 1985–86, but not in excess of $3,600.

The Senate recedes with an amendment changing 75 percent to 70 percent and $3,600 to $3,700.

36. The Senate amendment, but not the House bill, designates Basic Grants as "Pell Grants".

The House recedes.

37. Both the House bill and the Senate amendment provide Basic Grants in specified amounts minus an amount determined to be the expected family contribution. The amounts specified are as follows:

Academic year	House bill	Senate amendment
1981–82	$1,980	$1,900
1982–83	2,160	2,000
1983–84	2,340	2,200
1984–85	2,520	2,400
1985–86	2,520	2,600

The Conference substitute provides for the following maximum Basic Grants:

$1900 for academic year 1981–82.
$2100 for academic year 1982–83.
$2300 for academic year 1983–84.
$2500 for academic year 1984–85.
$2600 for academic year 1985–86.

38. The House bill changes the date for publication of a schedule of reductions for less than full-time attendance from February 1 to January 1 of each year. The Senate amendment changes this date from February 1 to October 1 of each year.

The Conference substitute provides for publication dates of January 1, 1981, October 1, 1981, and October 1 of each succeeding year.

39. Both the House bill and the Senate amendment limit the amount of Basic Grants to a percentage of the cost of attendance based upon the amount of the maximum grant which is available for that year. These limitations are as follows:

Percentage of cost of attendance	Maximum grant amount	
	House bill	Senate amendment
50 percent	Less than $1,980	Less than $2,000.
55 percent	$1,980 to $2,159	$2,000 to $2,399.
60 percent	$2,160 to $2,339	$2,400 or more.
65 percent	$2,340 to $2,519	
70 percent	$2,520 or more	

The Conference substitute provides that the cost of attendance limitation shall be 50 percent when the maximum Pell Grant is less than or equal to $1900; 55 percent when the maximum Pell Grant is more than $1900 but less than $2100; 60 percent when the maximum Pell Grant is at least $2100 but less than $2300; 65 percent when the maximum Pell Grant is at least $2300 but less than $2600; and 70 percent when the maximum Pell Grant is $2600.

40. The House bill allows the Secretary through regulation to develop a schedule of reduction in cases of less than full funding. Such schedule is required to contain a single reduction formula in which the percentage increases uniformly as the entitlement decreases, and requires that no payment of less than $200 shall be made in any case.

The Senate amendment establishes a statutory schedule of reductions to be paid in the case of less than full funding. Such schedule is based upon the student's eligibility index as calculated prior to the cost of attendance limitation.

The House recedes. The conferees intend that the term "eligibility index" have the same meaning as it has in the regulations governing this program.

41. The House bill, but not the Senate amendment, provides that an institution of higher education entering into agreements to disburse Basic Grants shall not be deemed, by virtue of such agreement, a contractor maintaining a system of records to accomplish a function of the Secretary of education.

The Senate recedes. The Conferees wish to emphasize that the provisions of this Section apply solely to the Privacy Act and in no way are meant to interfere or impinge upon any civil rights statutes.

42. The Senate amendment, but not the House bill, removes the five academic year eligibility limitation and substitutes a limitation based on the period required for completion of the first undergraduate baccalaureate course of study.

The Senate amendment also removes the one-year extension of eligibility for noncredit remedial courses of study and substitutes an extension for such study determined by the institution as necessary to enable the student to earn a baccalaureate degree.

The House recedes.

The conferees note that this provision should not be construed to allow a student to pursue a second baccalaureate degree at another school with such grants. The conferees also intend that a period of study in a non-baccalaureate degree program should be included as part of the period required for the completion of a baccalaureate degree. Finally, the conferees intend that this provision should not be construed to deny eligibility to students enrolled in a non-baccalaureate degree program.

43. The Senate amendment, but not the House bill, eliminates the definition of "noncredit remedial course of study".

The House recedes.

44. The House bill extends the provisions of the Basic Grant program which require

that no Basic Grant be paid for any fiscal year unless the appropriations for certain other programs equal or exceed certain specified amounts. The House bill raises the minimum required for Supplemental Educational Opportunity Grants from $370 million to $400 million (or $480 million when appropriations are available to make Basic Grants of at least $1,980). The House bill raises the amount required for Work-Study payments from $500 million to $550 million. The House bill continues the requirement that appropriations for Direct Loans capital contribution equal or exceed $286 million, and adds a requirement that appropriations for State Student Incentive Grants equal or exceed $76,750,000.

The Senate amendment provides that no Basic Grants in excess of certain specified amounts should be made unless the amount appropriated for certain specified programs equals or exceeds certain levels. These amounts are as follows:

	Appropriations—		
Maximum basic grant payment	For SEOG	For work-study	For NDSL
$1,900	$370,000,000	$500,000,000	$286,000,000
$2,000	400,000,000	500,000,000	286,000,000
$2,200	420,000,000	500,000,000	286,000,000
$2,400	440,000,000	500,000,000	286,000,000
$2,400 or more	480,000,000	500,000,000	286,000,000

The Senate amendment further provides that these requirements shall not be construed as directing the Committees on Appropriations to make specific appropriations and amounts available.

The conference substitute provides that Pell grants in excess of $1800 may not be paid unless appropriations are provided for the SEOG, Work-Study, NDSL and SSIG programs at various specified levels. The Senate conferees wish to point out, however, that, in their opinion, these specified funding levels are advisory.

45. The House bill, but not the Senate amendment, eliminates the authority to make administrative cost payments of $10 per student to institutions of higher education. The House bill, but not the Senate amendment, eliminates the existing authority of the Secretary of Education to enter into agreements with States for the processing of Basic Grant applications.

The Senate recedes.

46. The House bill but not the Senate amendment provides that it is the purpose of the Supplemental Grant program to provide grants which, in combination with family or student contribution and Basic Grant and State Student Incentive Grant assistance, will meet 75 percent of the student's cost of attendance, unless the institution determines that a greater amount of assistance would better serve the purposes of part A of title IV.

The House recedes.

47. Current law (which the Senate amendment extends) contains a separate authorization of appropriations for payments to students in their initial academic year and for payments to students in succeeding academic years. The House bill eliminates this separate authorization and provides a single authorization of appropriations of $500 million for fiscal year 1980 and fiscal year 1982, $600 million for fiscal year 1983, $700 million for fiscal year 1984, and $800 million for fiscal year 1985.

The conference substitute maintains the separate authorizations for initial year and continuing year appropriations for the SEOG program. In addition, the conference substitute authorizes initial year appropriations of $350 million for fiscal years 1981 through 1985 and authorizes appropriations of such sums as may be necessary for continuing year SEOG awards for fiscal years 1981 through 1985.

48. The House bill, but not the Senate amendment, eliminates the limitation contained in current law which restricts the amount of Supplemental Grants to one-half of the sum of the total amount of student financial assistance provided to such student by an institution of higher education.

The Senate recedes.

49. The House bill, but not the Senate amendment, limits the period for receipt of Supplemental Grants to five academic years (or an additional year in the case of students requiring noncredit remedial courses of study). The Senate amendment eliminates the academic year limitation from current law.

The House recedes.

50. The Senate amendment, but not the House bill, specifically requires that less-than-half-time students meet all eligibility requirements.

The House recedes.

51. The House bill, but not the Senate amendment, revises the apportionment and allocation provisions of the Supplemental Grant program (1) to make such provisions applicable to a single appropriation (rather than to the appropriations for only first year students); (2) by basing the minimum allotments of States on the amount of their allotment for fiscal year 1979 (rather than on the apportionment of first year funds for fiscal year 1972); and (3) by basing the allocation on the number of fulltime equivalent undergraduate students (rather than the number of fulltime equivalent number of undergraduate and graduate students).

On item (1), the House recedes: item (2) the House recedes, and item (3) the Senate recedes.

52. The Senate amendment, but not the House bill, revises the intrastate allocation requirements to require the Secretary of Education to allocate funds in accordance with a formula which determines institutional need for Supplemental Grant funds by subtracting from 75 percent of the total student expenses the sum of family and student contributions and Basic Grants and SSIG assistance. The Senate amendment, but not the House bill, prohibits the Secretary from issuing any regulation for such formula which has the effect of penalizing institutions that are required by State law to provide student financial assistance from their own funds, and yet are not free under laws in effect on January 1, 1979 either to select the recipients of such assistance or to adjust the criteria by which the recipients are selected. The House bill prohibits the Secretary from issuing any regulation which has the effect of penalizing institutional or State efforts to provide need-based assistance. The Senate amendment, but not the House bill, further provides that the allocation formula not result in any institution receiving less Supplemental Grant funds than it received for fiscal year 1979.

The conference substitute determines institutional need for supplemental grant funds by subtracting from 75 percent of the total student expenses the sum of family and student contributions. Pell grants, SSIG assistance including that portion of State funds required to match Federal SSIG funds, and 25 percent of grants and awards made by the institution from its own resources. The substitute retains the Senate provision prohibiting the Secretary from issuing any regulation which has the effect of penalizing institutions that are required by state law to provide student financial assistance from their own funds, yet are not free to select the recipients of such assistance. The substitute further provides a declining institutional hold-harmless related to increased availability of appropriations for the program.

For the purposes of determining each institution's need for SEOG funds, the conferees intend that SSIG funds be counted in each institution's SEOG application in a manner that reflects total state grants (the federal SSIG contribution plus total state matching contribution) received for students at that institution. The conferees have been advised that certain states maintain separate accounting procedures for distribution of federal SSIG funds and State SSIG funds. Where this procedure is used, and given the manner in which the SEOG formula determines institutional need, certain institutions could be unfairly penalized. Thus, the conferees believe it important to emphasize that for the purpose of determining SEOG need, SSIG funds allotted to a State and the State contribution shall be considered proportionately utilized in each state student grant.

53. The Senate amendment, but not the House bill, provides that funds received from first-year and subsequent year appropriations need not be segregated by the institutions for first-year and subsequent year students.

The House recedes.

54. Current law (which the Senate amendment extends) contains a separate authorization of appropriations of $50 million for initial SSIG grants and such sums as may be necessary for subsequent SSIG grants. The House bill eliminates this separate authorization and provides a single authorization of appropriations of $100 million for fiscal year 1981 and fiscal year 1982, $150 million for fiscal year 1983, $200 million for fiscal year 1984, and $250 million for fiscal year 1985.

The Senate recedes.

55. Current law (which the House bill extends) provides for the allocation of SSIG funds on the basis of the number of students in attendance at institutions of higher education in a State. The Senate amendment, but not the House bill, (1) provides that the amount allotted to any State shall not be less than the amount allotted to that State for fiscal year 1979; (2) provides that any amount appropriated in excess of the amount appropriated for fiscal year 1979 shall be allotted as follows: (A) 90 percent of such excess shall be allotted on the basis of the number of students in attendance at the institution of higher education in a State; and (B) 10 percent of such excess shall be allotted on the basis of the need-based student aid for students in attendance at institutions of higher education in a State.

The House recedes on (1) and the Senate recedes on (2).

56. The House bill, but not the Senate amendment, revises the allocation formula for SSIG funds to treat differently States which are "overmatched" and States which are "undermatched". The State allotment formula is modified with respect to the distribution of funds in excess of the current appropriation level, $76.75 million. Of the excess funds, States whose State grant effort is less than their eligibility for Federal SSIG dollars will initially be eligible for 20 percent more of the funds than they would otherwise be under the current law. The remaining funds will then be made available to the States whose State grant effort is equal to or greater than Federal SSIG dollars received. If the undermatched States do not increase their grant effort sufficiently to capture the additional dollars offered, the funds will then first be offered to other undermatched States and then reallotted to the overmatched States.

The House recedes.

57. The House bill, but not the Senate amendment, requires any State desiring to receive SSIG funds to have an agreement under section 1203 (as amended by the House bill).

The Senate recedes.

58. The House bill, but not the Senate amendment, eliminates the requirement that SSIG recipients be undergraduate students.

The Senate recedes.

59. The Senate amendment, but not the House bill, provides that funds received from first-year and subsequent year appropriations need not be segregated by the institutions for first-year and subsequent year students.

The Senate amendment also specifically provides that, with the approval of the State agency, institutions of higher education may use any proportion of their SSIG funds for less-than half-time students.

The Senate recedes on the first paragraph and the House recedes on the second paragraph.

60. The House bill, but not the Senate amendment, provides that all States will be required to maintain their State grant effort at the level of their average aggregate level of the previous three fiscal years or at the level of their average level per full-time equivalent (FTE) student for the previous three fiscal years. The undermatched States will also receive new Federal matching funds only on the basis of State grant expenditures in excess of those for the previous year.

The conference substitute provides that all states will be required to maintain their state grant effort at the level of the average aggregate level of the previous three fiscal years or at the level of their average level per full-time equivalent student for the previous years.

61. The Senate amendment, but not the House bill, authorizes the Secretary to make grants to and contracts with public agencies and organizations.

The House recedes.

62. The Senate amendment, but not the House bill, requires the Secretary to consider the prior experience of applicants for TRIO funds.

The House recedes. The conferees express their strong dissatisfaction with the way that the TRIO programs were administered during the past year. Many institutions were not notified of the decisions of the Department until mid-August, thus causing severe disruptions in their programs and in their services to students. The conferees are also distressed by the discourteous treatment of applicants by the program administrators. The conferees admonish the new Department of Education to remedy these glaring defects in its performance with respect to these programs.

63. The House bill, but not the Senate amendment, requires the Secretary to determine that each participant in a Talent Search Project has a need for academic support in order to successfully pursue education beyond the high school.

The House recedes.

64. The House bill, but not the Senate amendment, requires that the Secretary determine that each participant in an Educational Opportunity Center project has a need for academic support in order to successfully pursue education beyond the high school.

The House recedes.

65. The Senate amendment, but not the House bill, provides statutory authority for the HEP/CAMP programs under the Higher Education Act of 1965.

The House recedes.

66. The Senate amendment, but not the House bill, repeals Section 419 of the Act (relating to payments to institutions of higher education).

The Senate recedes.

67. The Senate amendment, but not the House bill, deletes the provisions of current law providing for the continuing eligibility of institutions for VCI funds despite declining enrollment of veterans.

The House recedes.

68. The Senate amendment, but not the House bill, authorizes the Secretary to waive the minimum veteran enrollment requirements for previously eligible institutions if the institution has a full time veterans affairs office and the appropriations for VCI exceed $14,380,000, or the amount requested in the President's Budget, whichever is greater, by an amount sufficient to meet payments to all institutions meeting such requirements.

The House recedes.

69. The House bill authorizes payments with respect to veterans who are disabled or incarcerated (in accordance with regulations prescribed by the Secretary of Education). The Senate amendment authorizes payments with respect to veterans who have a service-connected disability.

The Senate recedes with an amendment to give service-connected disability priority over non-service connected disability. The amendment further removes the term incarcerated from the list of eligible veterans for whom an institution receives payments.

70. The Senate amendment, but not the House bill, eliminates the requirements that applicants include programs designed to prepare educationally disadvantaged veterans for postsecondary education under Subchapter VI of Chapter 34, Title 38, United States Code, relating to predischarge education programs.

The Senate recedes.

71. The House bill requires active outreach with special emphasis for handicapped veterans. The Senate amendment requires active outreach with special emphasis for service-connected disabled veterans.

The Conference substitute requires that both special emphasis provisions be included.

72. The Senate amendment, but not the House bill, requires that applicants make maximum use for outreach services of benefits available under Federally assisted work-study programs.

The Senate recedes.

73. The House bill, but not the Senate amendment, requires that coordinated readjustment counseling programs be necessary to serve the unique readjustment, rehabilitation, personal counseling, and employment needs of veterans.

The Senate recedes with an amendment requiring that there be coordination among the programs providing readjustment counseling for veterans.

74. The Senate amendment, but not the House bill permits the Secretary to allow consortia agreements for any institution which cannot feasibly itself, in terms of the number of veterans in attendance there, carry out any or all of the programs required.

The House recedes.

75. The House bill reduces the maximum VCI payment to any institution or branch from $135,000 to $100,000. The Senate amendment reduces this amount to $75,000.

The House recedes.

76. The House bill, but not the Senate amendment, increases the maximum total amount an undergraduate dependent student may borrow under the federally-insured loan program from $7,500 to $12,500.

The Senate recedes.

77. The Senate amendment, but not the House bill, contains a conforming amendment to increase the aggregate loan limitations applicable to Guaranteed Student Loans consistently with those increases made with respect to federally-insured student loans.

The House recedes.

78. The House bill, but not the Senate amendment, increases the maximum amount required to be insured, under the supplemental guarantee agreement provisions, for undergraduate dependent students from $7,500 to $12,500.

The Senate recedes.

79. The Senate amendment, but not the House bill, permits State guarantee agencies and other non-profit organizations operating State loan programs to be eligible to receive from the Student Loan Marketing Association up to 25 percent of the average unpaid principal balance of loans guaranteed by that agency for the preceding three years, in order to make loans to eligible students who were otherwise unable to borrow money under Part B of Title IV.

The House recedes with an amendment clarifying the relationship between state agencies and the Student Loan Marketing Association.

80. The Senate amendment, but not the House bill, increases the interest rate to student borrowers under Part B of Title IV from 7 percent to 9 percent.

The House recedes with an amendment increasing the interest rate to 9 percent for new borrowers, except that the rate will decrease to 8 percent if the annualized rate of 91-day Treasury bills is 9 percent or less.

81. The Senate amendment, but not the House bill, reduces the grace period (following periods of attendance) from 9–12 months to four months.

The House recedes with an amendment reducing the grace period to six months for new borrowers.

82. The Senate amendment, but not the House bill, exempts from the prior notice requirement of disclosure to credit bureau organizations, disclosures made to obtain the borrower's location.

The House recedes.

83. The Senate amendment, but not the House bill, provides that information disclosed by the Secretary to credit bureau organizations is not subject to the Privacy Act of 1974 and provides that credit bureau organizations which enter into agreements with the Secretary shall not be considered government contractors within the meaning of that Act.

The House recedes.

84. The Senate amendment authorizes States to charge an insurance premium of not to exceed 1 percent per year of the amount of the loan to defray the cost of their insurance and administrative, spending, and overhead costs. The House bill retains current law which provides that States may not charge an excessive insurance premium.

The Senate recedes with an amendment providing that the Commission on Student Financial Assistance which is authorized by Section 491 of this Title shall study the entire issue of insurance premiums and report to the Congress within one year of its establishment on the results of that study. The amendment further provides that the proceeds of the insurance premiums will not be used for incentive payments to lenders. The conferees wish to emphasize that the term "not excessive" should not be interpreted to result in an insurance premium that is more than States are currently permitted to charge. Furthermore, the conferees believe that, in determining the amount of an insurance premium that is to be charged, the reserves of States and the effects of insurance premiums on student borrowers should be taken into account.

85. The Senate amendment, but not the House bill, vests responsibility in the State guaranty agency to ascertain whether the student borrower is enrolled on at least a half-time basis, to notify the lender when a student ceases to be so enrolled (thereby triggering the timing of the repayment period), to audit the note to determine that its provisions with regard to the amount of principal guaranteed match with agency records, and to examine the note to assure that its repayment provisions are consistent with the requirement of the law. The Senate amendment allows expenses in the performance of this function to be treated as allowable administrative costs.

The House recedes.

86. The House bill, but not the Senate amendment, repeals provisions in current law requiring specific percentages of administrative costs allowances to be expended for specified purposes.

The Senate recedes.

87. The Senate amendment, but not the House bill, expands the definition of allowable administrative costs of promotion of commercial leader participation to include costs of providing interest and special allowance computation and billing services to lenders and expenses by an insurer as incentive payments to lenders to induce them to improve or expand their program participation.

The House recedes. The Conferees wish to emphasize that in their opinion, these types of activities have been allowable since October 12, 1976. The Conferees further wish to emphasize that, since the administrative cost allowance can cover the expenses attributable to lender incentive payments, no insurance premiums shall be used to pay for these lender incentive fees.

88. The Senate amendment, but not the House bill, authorizes guarantee agencies, for the purpose of making multiple disbursements of loans to students, to act as escrow agents for lenders under specific terms of an agreement between the lender and the guarantee agency.

The House recedes.

89. The Senate amendment, but not the House bill, contains a provision requiring eligible lenders to provide thorough and accurate loan counseling to student borrowers.

The House recedes with an amendment changing counseling to information throughout this provision.

90. The Senate amendment, but not the House bill, deems parents to be student borrowers for the purpose of construing the various provisions of Part B of Title IV.

The House recedes.

91. The House bill provides that, with respect to parent borrowers who elect to commence installments more than 60 days after disbursement of a loan, interest which would accrue within such interval is to be deducted from the loan prior to disbursement. The Senate amendment provides, with respect to parent borrowers who make such an election to defer payment, that interest on the loan shall be at a rate of 14 percent, which shall accrue during the deferral period.

The conference substitute eliminates the option for parents to begin repayment later than 60 days after disbursement of a loan.

92. The House bill provides, with respect to parent borrowers who elect to begin installment payments not later than 60 days after the date of disbursement of a loan, that the interest rate on the loan shall be 7 percent. The Senate amendment provides that the interest rate on loans to borrowers who make such an election shall be 9 percent.

The House recedes with an amendment providing an interest rate of 9 percent, except that the rate will decrease to 8 percent if the annualized rate of 91-day Treasury bills is 9 percent or less.

93. The Senate amendment, but not the House bill, revises the special allowance provisions to adjust those allowances in the case of new loans on which borrowers would be required to pay a 9 percent interest rate or a 14 percent interest rate (in the case of parent borrowers electing to defer payment).

The House recedes with an amendment revising the special allowance in light of the 8 percent or 9 percent interest rate to be paid by parents.

94. The Senate amendment, but not the House bill, revises the special allowance provisions to reduce by one-half (but to a rate not less than .5 percent per year) the special allowance payable with respect to loans made or purchased with funds obtained by the holder from the issuance of tax exempt bonds.

The House recedes with an amendment that the revised special allowance shall apply only to loans made or purchased from the proceeds of tax exempt bonds issued after October 1, 1980.

The amendment further provides that such special allowance shall not be less than 2.5 percent in the case of loans having an interest rate of 7 percent, 1.5 percent in the case of loans having an interest rate of 8 percent, or .5 percent in the case of loans having an interest rate of 9 percent.

95. The House bill repeals provisions establishing a Committee on the Process of Determining Student Loan Special Allowances. The Senate amendment revises these provisions and provides that the Committee is to prepare and submit, within one year, recommendations for improvements in the computation of special allowances which the Congress may, by joint resolution, approve in whole or in part.

The Senate recedes with an amendment incorporating the special allowance study within the National Commission on Student Financial Assistance authorized by Section 491 of this Title. The Commission shall report to the Congress within one year after its establishment on the results of this special study.

96. The Senate amendment, but not the House bill, requires holders of loans which were made or purchased with funds obtained from tax-exempt bonds, as a condition of receiving special allowance payments on such loans, to submit to the Secretary for approval a plan for doing business.

The House recedes with an amendment requiring that the Secretary approve or disapprove such plan within 30 days.

97. The House bill, but not the Senate amendments, authorizes appropriations for the purpose of repaying certain amounts (based on years of qualifying service) of loans to borrowers under Part B or E of Title IV who serve as enlisted members of the Armed Forces reserves or serve on active duty as enlisted members of the Armed Forces. The House provisions require the Secretary of Defense to prescribe by regulation for the allocation of funds, in the event that appropriations are not sufficient to make all eligible payments among various services and military occupational specialties.

The House recedes.

98. The House bill eliminates the authority of the Secretary to prescribe the maximum number of shares of common stock the SLMA may issue, but retains the authority of the Secretary to prescribe regulations governing transferability of such stock. The Senate amendment makes both the maximum number and the transferability of common stock subject to control by the board of directors of the SLMA.

The House recedes.

99. The Senate amendment provides that proceeds from any warehousing advance made to a lender which is secured by collateral (whether insured loans or other securities) must be invested in additional insured loans. The House bill provides that the proceeds of advances secured by insured loans must be invested in additional insured loans, or the lender must make assurances to the SLMA that its aggregate insured loans have not decreased.

The Senate recedes.

100. Current law requires lenders receiving advances from the SLMA not to condition receipt of a loan by a student or his family on maintaining a business relationship with a lender. Lenders with less than $50 million in deposits are exempt from this requirement. The House bill, but not the Senate amendment, raises this amount to $100 million.

The Senate recedes with an amendment changing the limit to $75,000,000.

101. The Senate amendment, but not the House bill, limits the authority of the Secretary to approve new SLMA bonds to those bonds guaranteed by the Secretary.

The House recedes.

102. Both the House bill and the Senate amendment extend the authority of the Secretary to guarantee SLMA bonds. The House bill extends this authority to October 1, 1984, and the Senate amendment extends this authority to July 1, 1984.

The Senate recedes.

103. The Senate amendment, but not the House bill, prohibits the Secretary of Education and the Secretary of Treasury from limiting, controlling, or constraining programs of the SLMA.

The House recedes.

104. The House bill authorizes the SLMA to issue bonds secured by student loans to the Federal Financing Bank. The Senate bill does not restrict the sales to the Federal Financing Bank.

The Senate recedes.

105. Both the House bill and the Senate amendment authorizes the SLMA to make loans to borrowers under Title IV for the purpose of consolidating that borrower's loans. In addition, the Senate amendment authorizes consolidation of federally insured or guaranteed student loans under other provisions of law. With respect to consolidation loans made by the SLMA, the Senate amendment also waives the maximum insured principal amount for all insured loans made to a borrower.

The House recedes with an amendment providing for consolidation at the interest rate applicable to the Guaranteed Student Loan program at the time of consolidation.

106. [Note: See note 79 pertaining to State agencies as "lenders of last resort."]

The House recedes with an amendment clarifying the relationship between State agencies and the Student Loan Marketing Association.

107. Both the House bill and the Senate amendment authorize the SLMA to make loans in States in which a substantial portion of eligible borrowers are seeking and are unable to obtain loans under Part B of Title IV. In addition, the Senate amendment provides that the SLMA shall give preference to making loans in States not served by a guarantee agency or a State direct lender.

The House recedes with an amendment clarifying the relationship between State agencies and the Student Loan Marketing Association.

108. The House bill requires the Secretary to consult with represenatives of a State (including representatives of guarantee agencies) prior to authorizing the SLMA to make lender-of-last-resort loans. The Senate amendment requires the Secretary to consult with representatives of guarantee agencies or direct State lenders prior to authorizing such loans.

The House recedes with an amendment clarifying the relationship between State agencies and the Student Loan Marketing Association.

109. The Senate amendment, but not the House bill, requires the Secretary's consent to the termination of SLMA loans in States given preference by reason of the lack of a guarantee agency or State lender.

The House recedes with an amendment clarifying the relationship between State agencies and the Student Loan Marketing Association.

110. The House bill, but not the Senate amendment, provides that the SLMA, in making student loans, shall not be deemed to be a creditor for any purpose of the Consumer Credit Protection Act.

The House recedes.

111. The House bill, but not the Senate amendment, provides that the Truth in Lending Act shall not apply to any loans made under Title IV of the Act.

The House recedes.

112. The Senate amendment, but not the House bill, authorizes guarantee agencies, upon the request of a borrower who has received loans from two or more programs or lenders, to issue new loans to consolidate those prior obligations, under certain circumstances.

The Senate recedes with an amendment authorizing the Student Loan Marketing Association to contract with a variety of entities to act as the Association's agents for the purpose of loan consolidation.

113. The Senate amendment, but not the House bill, requires the Secretary to make due diligence determinations within 90 days after notification by the insurance beneficiary and to make prompt payment pending completion of such determination.

The House recedes.

114. The Senate amendment, but not the House bill, establishes a four-month grace period prior to resuming repayment following completion of public services qualifying for deferral of repayment.

The House recedes with an amendment establishing the grace period at six months for new borrowers.

115. The Senate amendment, but not the House bill, contains provisions requiring repayment, in installments, to the United States of certain interest subsidies unless the borrower: (A) has exhausted the ability to obtain NDSL loans, (B) has borrowed more than $7,500, (C) has borrowed from a State acting as a lender of last resort, or (D) has received an interest subsidy for more than three years.

The House recedes with an amendment providing that the National Commission on Student Financial Assistance shall conduct a special one-year study of the recapture of interest subsidies.

116. The Senate amendment permits administrative cost payments with respect to parent loans (as well as with respect to student loans). The Senate amendment further provides that such administrative cost payments be used by the institution first for the purpose of carrying out student information requirements.

The Conference substitute permits administrative cost payments for parent loans as well as student loans.

117. The House bill, but not the Senate amendment, authorizes appropriations for the purpose of making payments in amounts not to exceed .5 percent of the principal amount of loans to guarantee agencies which provide a lender referral service for students unable to find an available lender.

The Senate recedes.

118. The House bill, but not the Senate amendment, deletes from the statement of purpose for the Work-Study Program special emphasis on students who are in great financial need.

The Senate recedes.

119. The Senate amendment extends the authorization for work-study for fiscal year 1983 through fiscal year 1985 at the level provided for fiscal year 1982 ($720 million). The House bill provides an increasing authorization from $670 million for fiscal year 1981 up to $990 million for fiscal year 1985.

The conference substitute provides the following authorizations:

Fiscal year:	*Millions*
1981	$670
1982	720
1983	760
1984	800
1985	830

120. The House bill, but not the Senate amendment, reduces the amount reserved for the Territories from 2 percent to 1 percent, treats Puerto Rico as a State rather than as a Territory, and extends the availability of realloted funds for an additional fiscal year.

The Senate recedes.

121. The Senate amendment, but not the House bill, provides that any funds not used in any annual cycle in the Work-Study Program be reallotted by setting aside 75 percent of the reallotted amount for eligible institutions to use for initiating, expanding, and improving cooperative education programs. Such reallotment is required to be based upon the number of students assisted under the cooperative education program enrolled in eligible institutions.

The House recedes with an amendment changing the set-aside to 50 percent. The Conferees wish to emphasize that this assistance is not intended to be used for general program assistance but for the purposes of cooperative education in accordance with Title VIII of this Act.

122. The House bill, but not the Senate amendment, deletes the definition of eligible institution from Part C of Title IV.

The Senate recedes.

123. The House bill, but not the Senate amendment, deletes requirements from Part C requiring Work-Study recipients to be enrolled on at least a half-time basis, show need for assistance and show evidence of academic or creative promise, and substitutes, in Part F, the general requirement that the students be eligible and in financial need.

The Senate recedes.

124. The House bill, but not the Senate amendment, deletes from current law requirements that institutions make employment under Work-Study reasonably available to all eligible students in need, and make equivalent employment offered or arranged by the institution reasonably available to all students who desire such employment.

The House recedes.

125. The House bill, but not the Senate amendment, deletes all provisions of current law imposing special conditions with respect to student eligibility in area vocational schools.

The Senate recedes.

126. The House bill, but not the Senate amendment, authorizes the institution in which the student is enrolled to determine the amount of the student's Work-Study award allocable to non-education related living expenses.

The House recedes.

127. The Senate amendment, but not the House bill, authorizes each eligible institution to use no more than 10 percent of its Work-Study funds for less than half-time students.

The House recedes with an amendment clarifying that less than half-time students have to meet all the eligibility requirements of Section 484 of this Title except the requirement of clause two of Section 484.

128. The Senate amendment, but not the House bill, provides that Work-Study funds will be used to complement and reinforce the education programs of a percentage of students increasing from 10 percent in fiscal year 1981 to 30 percent in fiscal year 1985.

The House recedes with an amendment requiring that institutions shall provide employment that, to the maximum extent practicable, complements and reinforces the educational program or vocational goal of each student receiving assistance under this part.

129. The Senate amendment, but not the House bill, provides that criteria established to allocate funds shall not result in any institution receiving less than it used for Work-Study for fiscal year 1979, unless there has been a substantial decline in enrollment.

The House recedes.

Due to some problems encountered by local institutions of higher education in receiving an adequate share of funds under the so-called "fair share" formula devised by the Department of Education for the distribution of campus-based program funds, the conferees have adopted the provision contained in the Senate amendment holding all institutions harmless to the level of Work-Study funds they used in fiscal year 1979. In taking this action, the conferees urge the Department of Education to review that formula so that all institutions are not being held to the same national standards. For instance, some institutions, such as Berea College, wish to emphasize Work-Study programs more than grant or loan programs. Any formula for the distribution for all these funds should respect such local decisions.

130. The House bill permits an eligible institution to carry over 10 percent of its Work-Study funds for the succeeding fiscal year, or to carry back 10 percent to the previous fiscal year, to carry out programs under this part. The Senate amendment permits an eligible institution to carry over or carry back 7.5 percent, but provides that prior to carrying over or carrying back such funds, compliance must be obtained with the requirements for reallocation for cooperative education.

The Senate recedes.

131. The Senate amendments, but not the House bill, permits institutions of higher education to use 10 percent of their administrative allowance for Work-Study to establish community service learning programs in which students are provided service-oriented jobs relating to their academic or vocational goals, and which provide tangible community service for or on behalf of low income individuals and families.

The House recedes.

132. The Senate amendment, but not the House bill, establishes a new nonprofit agency in the Executive Branch of the Federal Government, the National Direct Student Loan Association. This Association will be responsible for administration of an expanded program of need-based loans available to students on-campus through their institution's financial aid office.

The Association's Board of Directors shall consist of the Secretary of Education and eight other members appointed by the President, subject to the advice and consent of the Senate.

In administering the National Direct Student Loan Program, the Association shall provide, either directly or by way of contract or other arrangement with Senate guaranty agencies or other appropriate agencies, organizations, and institutions for collection of Direct student loans, programs of preclaims assistance for default prevention, and other programs which the Board of Directors deems necessary to assure the success of the program. State guaranty agencies shall be offered the first right of refusal to carry out these activities in their respective States.

The Association will be authorized to enter into agreements with students for prepayment of loans made under the existing National Direct Student Loan Program. Since it will have the responsibility for collection of outstanding loans made under current law, it may receive information regarding student borrowers from the Secretary and, pursuant to agreements with institutions regarding collection, make such information available to them.

The Association is authorized to issue notes, debentures, bonds, or other obligations necessary to make loan capital available to institutions for their needy students. However, all such obligations are specifically limited by annual limitations in appropriations Act, which will control the amount of money available to the Association for payment of interest on its obligations. In addition, the Association may not issue any obligation without the prior concurrence of the Secretary of the Treasury as to the obligation's terms and conditions. The Secretary of the Treasury may direct that any issuance by the Association be sold to the Department of the Treasury or to the Federal Financing Bank. The Secretary of the Treasury is authorized to purchase any obligations of the Association, upon such terms and conditions as to yield a rate determined by him, taking into account the current average yield on outstanding obligations of the United States of comparable maturity. Interest owed by the Association may be deferred, in the discretion of the Secretary, but such deferred interest shall bear interest. The Secretary may sell any of the obligations he acquired, upon such terms and conditions as he decides, and at such prices as he determines. All actions of the Secretary shall be treated as public debt transactions of the United States.

All obligations of the Association shall be guaranteed as to principal and interest, and shall constitute general obligations of the United States, backed by the government's full faith and credit. Association funds not otherwise employed may be deposited with the Treasury, with the approval of the Secretary of the Treasury, deposited in a Federal Reserve bank, or with the approval of the Secretary of the Treasury and the Board of Directors, used in the purchase (for redemption and retirement) of the Association's obligations.

The Association shall prepare annually and submit a budget as provided by the Government Corporations Control Act. In addition, it shall maintain an integral set of accounts with respect to loans made, which the General Accounting Office shall audit once every three years. The Association shall report annually to the Congress and the President on the general operations of the National Direct Loan Program, including a specific description of the progress made on collection of student loans for which the Association is responsible.

There are authorized to be appropriated such sums as may be necessary to the Association for administrative costs of carrying out the National Direct Student Loan Program, to pay the differential between the rate of return on the Association's obilgations and the interest rates collected under the Program, and for the costs of repayment of student loans in the event of default, death, or disability.

Upon the winding down of the current Direct Student Loan Program, institutions shall return to the Association the 90 per- of making new Direct Loans to students. loan funds, retaining the 10 percent institutional contribution on campus. As additional repayments of Direct Loans are made to the Association, that capital shall be available to the Association for the purpose of making new Direct Loans to students New student notes entered into under the Direct Loan Program shall be assigned to the Association for collections purposes. As noted earlier, institutions with good collection records may apply to the Association to continue as collection agents.

The Senate recedes.

133. The House bill extends the provisions of the direct student loan program under Title IV for six years and increases the level of authorization of appropriations from $400 million for fiscal year 1981 and fiscal year 1982 to $625 million for fiscal year 1985.

The Senate recedes.

134. The Senate amendment, but not the House bill, replaces the existing National Direct Student Loan Program with a new program administered by the National Direct Student Loan Association. The National Direct Student Loan Association is responsible for providing funds to institutions of higher education to enable them to make loans to students with demonstrable financial need. Each institution with an agreement with the Association will analyze the overall financial need of students on its campus, taking into account other financial aid (other than Guaranteed Loans) available to them.

Subject to appropriations available to allow the Association to borrow money from the Federal Financing Bank, the Association will make necessary loan funds available to colleges based on their aggregate need for student loans. It will do so in installments, to avoid unnecessary accumulation of capital at the institutional level, taking into account the institution's actual disbursement of student loans. The first such payment by the Association will be made as soon as possible after October 1, 1980.

The Association's agreement with an institution of higher education shall provide for the establishment and maintenance of a student loan fund at the institution. Payments made to the institution under this part, as well as any other earnings of the funds, shall be deposited into the loan fund. The fund shall be used only for loans to students, based on their need as demonstrated by the uniform needs analysis, costs of administration, distributions of capital, if any, and costs of litigation or collection, if required by the Association.

If the institution wishes to act as a collection agent, it may apply to the Association for that purpose. It will be required to demonstrate that it has a good collection record in the existing Direct Loan Program, in order for the Association to enter into an agreement with the institution. Not to exceed 10 percent of an institution's loan funds may be used for loans to less than half-time students who need assistance, in the direction of the student financial aid administrator.

Direct Student Loans would bear an interest rate of seven percent, beginning nine months after the borrower ceases to carry at least a half-time workload, and ending ten years after that date. Repayments may, at the option of the borrower, be made in graduated installments, with larger payments due later in the repayment period, and with provision for acceleration of repayment of the loan, in whole or in part. The normal minimum repayment shall be $30 per month, unless the Association provides, by regulation, for a lower payment for one year to avoid hardship to the borrower, or unless the borrower is employed in a low-income occupation during the repayment period, in which case the repayment schedule may be adjusted to reflect his income. Repayment obligations are deferred for additional education on more than a half-time basis, for service in the Armed Forces or the Commissioned Corps of the Public Health Service, Peace Corps or VISTA service and related activities.

The Senate amendment eliminates all provisions concerning cancellation of direct Student Loans for various types of public service.

The House recedes with an amendment which retains the current structure of the NDSL program, increases the interest rate to 4 percent, and provides for an alternative financing mechanism through borrowing by the Secretary to meet the student loan capital needs of institutions of higher education through procedures by which existing campus revolving funds revert to the federal government. The conferees note that the intended hold-harmless level is the amount loaned by a school during the 1979–80 academic year. The NDSL grace period prior to beginning repayment is reduced from 9 months to 6 months.

135. Both the House bill and the Senate amendment raise the applicable aggregate loan limits of the Direct Loan Program in identical amounts.

There is no difference between the House and the Senate provisions.

136. Both the House bill and the Senate amendment add identical provisions relating to periods which deferment may be made.

There is no difference between the House and the Senate provisions.

137. The Senate amendment, but not the House bill, excludes periods of deferral of repayment from the maximum duration of repayment, and establishes a grace period with respect to such deferral periods (allowing repayment to begin up to six months after the completion of the deferral period).

The House recedes.

138. The Senate amendment, but not the House bill, allows the repayment period to be extended for an additional ten years for, and the payment schedule to be adjusted to reflect the income of, low-income individuals.

The House recedes.

139. The House bill repeals the definition of a veteran. The Senate amendment retains a comparable provision.

The Senate recedes.

140. The House bill, but not the Senate amendment, authorizes the Secretary to provide institutions with any information with respect to the names and addresses of Direct Student Loan borrowers or other relevant information, from whatever source derived, notwithstanding any other provision of law.

The Senate recedes.

141. The House bill contains provisions authorizing the Secretary to enter into cooperative agreements with credit bureau organizations to provide for the exchange of information concerning Direct Student Loan borrowers, in a manner comparable to the provisions added by both the House bill and the Senate amendment with respect to guaranteed and insured student loans. The Senate amendment contains comparable authority for the National Direct Student Loan Association for Direct Student Loan borrowers.

The Senate recedes.

142. The House bill, but not the Senate amendment, requires the Secretary to continue to attempt to collect any defaulted student loans for not less than four years.

The Senate recedes.

143. The House bill, but not the Senate amendment, conforms the definition of handicapped children used for determining teacher eligibility for loan cancellation to the definition of handicapped children contained in the Education of Handicapped Children Act. The Senate amendment eliminates all cancellation provisions.

The Senate recedes.

144. The House bill, but not the Senate amendment, provides that cancellation of a Direct Student Loan or the interest thereon shall not be considered as income for purposes of Federal income tax.

The Senate recedes.

145. [See discussion of provisions concerning cancellation for military service in Note 97.]

The House recedes.

146. The Senate amendment, but not the House bill, includes in the definition of institution of higher education accredited institutions of higher education which are not located in a State, but which otherwise meet the requirements of Section 1201(a)(1) through (4).

The House recedes with an amendment mandating the National Commission on Student Financial Assistance to conduct a study of whether institutions chartered by but not located in a state should be eligible institutions under Title IV.

147. The Senate amendment, but not the House bill, requires institutions, as a condition of eligibility for Title IV programs, to be in compliance with certain fiscal responsibility requirements.

The House recedes.

The conferees clarify a minor difference between the Senate and House language regarding the requirement for having an agreement with the Secretary as a condition of program participation by an eligible institution. Section 487 of the Senate amendment is entitled "Institutional Eligibility Agreements." A similar provision, Section 482 of the House bill, is entitled "Institutional Eligibility." The conferees change the title to "Participation Agreements" to clarify the delineation between the determination of the statutory characteristics comprising institutional eligibility and the reciprocal responsibilities in an agreement between the institution and the Secretary as a condition to program participation.

Since the enactment of the Higher Education Act in 1965, an eligible institution has been defined as an institution which has been determined to meet the relevant basic statutory requirements as articulated in § 1201 and other provisions of the Act.

An eligible institution has always been regarded as one which meets the Act's threshold requirements which would therefore make it eligible to apply for program participation or funding under one or more programs authorized by the Act. Not all eligible institutions are eligible for all programs. In adopting this language the conferees intend that the distinction between "eligibility" and "participation" shall continue, and that an eligible institution is not necessarily a participating institution in any one program unless that eligible institution has completed and filed a terms of agreement which has been approved by the Secretary for that particular program.

In adopting this language, the conferees note that the term "eligible institution for the purposes of any program authorized under this title" shall be construed as the institution's eligibility to participate in a specific program and that this language in no way impinges upon the original determination of an institution as an "eligible institution."

148. [See discussion relating to Work-Study for Community Service Learning in note 131.]

The House recedes.

149. The House bill, but not the Senate amendment, contains a provision authorizing any prospective student to obtain and review copies of documents describing the institution's accreditation, approval, or licensing.

The Senate recedes.

150. The House bill continues certain provisions of current law relating to student financial aid training, but provides that all authority with respect to such programs terminates September 30, 1986. The Senate amendment authorizes the Secretary to enter into contracts to provide training for financial aid administrators, student peer counselors, and other financial assistance personnel. The House bill authorizes $280,000 and the Senate bill authorizes $1,000,000 for fiscal years 1981–1985.

The House recedes.

151. The House bill requires the publication of expected family contribution schedules not later than July 1 of each calendar year, and the Senate amendment requires this publication not later than April 1 of each calendar year.

The Senate recedes with an amendment providing that such Family Contribution Schedule shall be published no later than July 1, 1981, April 1, 1982, and April 1 of each succeeding calendar year.

152. The Senate amendment, but not the House bill, authorizes a resolution of disapproval with respect to any part of the expected family contribution schedule (or any resubmission of such schedule).

The House recedes.

153. The Senate amendment, but not the House bill, includes any expenses to a handicapped student as part of the basic criteria to be followed in promulgating regulations with respect to the family contribution.

See explanation following note 154.

154. The House bill, but not the Senate amendment, includes reasonable child care expenses of a student as part of the basic criteria to be followed in promulgating regulations with respect to the family contribution.

The Conference substitute provides that these expenses shall be considered in calculating cost of attendance under Subsection d of this Section.

155. Current law, which the House bill extends, defines effective family income as the annual adjusted family income received by the parents or guardian of a student (or persons having an equivalent relationship to the student) minus Federal income tax payable or paid with respect to that income. The Senate amendment defines effective family income as the annual adjusted family income received by the parents (or the adoptive parents of the student minus Federal, State, and local taxes payable or paid with respect to such income, and adds any effective student income (after any offset as determined by regulations prescribed by the Secretary).

The House recedes with an amendment striking "adoptive parents" and adding in its place "guardians".

156. In determining expected family contribution, current law provides for an assessment rate of not more than 10.5 percent to be applied to parental discretionary income under the Basic Grant program. The Senate amendment applies this assessment rate for all need computations under Title IV but only to families with adjusted gross family incomes less than $25,000, and authorizes the Secretary to establish an assessment rate or rates to be applied to income in excess of $25,000. The House bill establishes no assessment rate with respect to parental discretionary income.

The House bill, but not the Senate amendment, requires that in determining expected family contribution, parental assets be determined by excluding equity in a principal place of residence, deducting an asset reserve of not less than $10,000, and, if assets include farm or business assets, deducting an additional asset reserve of not less than $50,000.

The House recedes with an amendment changing the assessment rate to not more than 14 percent. The Senate recedes with respect to the treatment of assets. It is the clear and express intent of the conferees that, in considering farm assets, the value of the principal place of residence, even if it is located on the farm, will be excluded in its entirety before taking into consideration the assets reserve of not less than $50,000 for farm assets. The conferees also wish to stress that it is their intention that stock in cooperative apartments be considered an asset in terms of equity in a principal place of residence.

157. The House bill, but not the Senate amendment, requires that regulations concerning the expected family contribution and the effective family income of an independent student provide (A) that the portion of assets exempted from assessment for independent students with families be the same as the portion exempted for families of independent students; (B) that the rate of assessment for such students be the same as the rate for such families; (C) that the portion of the effective family income for independent students without families which shall be exempt from subsistence requirements be computed in the same manner as for dependent students or independent students who have dependents; (D) that in determining the family contribution for independent students with families, the assessment rate on discretionary income shall be the same as that applied to the discretionary income of the family of a dependent student; and (E) that a married student shall be considered independent if the student certifies that he will not reside with parents for more than six weeks, will not be claimed as a dependent on tax returns, and will not receive more than $750 from parents.

The Senate recedes.

158. The House bill defines cost of attendance to include, beginning in academic year 1981–82, an allowance of not less than $600 for books, supplies, and miscellaneous personal expenses. The Senate amendment does not require a minimum of $600 and does not identify an academic year in which such allowance is to begin. In addition, the Senate amendment includes transportation as an element of this allowance.

The House recedes.

159. The House bill provides an allowance of not less than $1,150 for room and board for a student without dependents residing at home. The Senate amendment sets this allowance at not less than $1,100.

The House recedes.

160. The Senate amendment, but not the House bill, excludes from the definition of students who are maintaining satisfactory progress those students who, while receiving assistance under Title VI, failed to complete successfully at least three-fourths of the academic workload undertaken with such assistance, until the student successfully completes that or an equivalent workload, unless the institution determines that exceptional circumstances exist and that failure to waive these requirements would result in undue hardship to the student.

The Senate recedes. The Conferees intend that the issue raised by the Senate amendment be studied by the National Commission on Student Financial Assistance authorized by Section 491 of this Title and that such study be reported to the Congress within one year of the Commission's establishment.

161. Current law, which the Senate amendment continues, authorizes the Secretary to prescribe such regulations as may be necessary to provide for (A) fiscal audit of institutions with regard to funds obtained directly or indirectly under this title, (B) the establishment of reasonable standards for financial responsibility and administrative capacity of student financial assistance, (C) the establishment by institutions of policies and procedures to inform lenders under Part B of the latest known addresses and enrollment status of student borrowers under that Part, and (D) the limitation, suspension, or termination of eligibility for any program under Title IV of institutions which have violated or failed to carry out any provisions of Title IV or any regulation thereunder. The House bill contains comparable provisions with respect to limitation, suspension, or termination of eligibility.

The House recedes.

162. The Senate amendment, but not the House bill, authorizes the Secretary to suspend or terminate the eligibility of institutions for any or all programs under Title IV if the Secretary determines that the institution has engaged in a substantial misrepresentation of its educational program, its financial charges, or the employability of its graduates.

The House recedes.

163. The Senate amendment, but not the House bill, authorizes the Secretary to impose a civil penalty not to exceed $25,000 upon an institution which violated or failed to carry out provisions of Title IV (or any regulation thereunder), or has engaged in substantial misrepresentation of the nature

of its educational program, its financial charges, or the employability of its graduates.

The House recedes with an amendment requiring that any such determination by the Secretary shall be made only after reasonable notice and opportunity for hearing on the record are provided.

164. The Senate amendment, but not the House bill, continues a provision of current law which requires the Secretary to publish a list of State agencies which the Secretary determines to be reliable authority as to the quality of public postsecondary vocational education.

The House recedes.

165. The Senate amendment, but not the House bill, requires the Secretary to enter into not less than three contracts for processing students aid applications.

The House recedes.

166. The Senate amendment, but not the House bill, permits the Secretary to contract for educational services to assure coordination of financial aid from Federal and non-Federal sources, and to provide information, training and similar services.

The House recedes.

167. The Senate amendment, but not the House bill, specifically permits appending to or incorporating additional data elements in the general financial aid form.

The Senate recedes. The Conferees wish to point out that they consider "simultaneously collecting" to include "appending to or incorporating into."

168. The Senate amendment, but not the House bill, authorizes the Secretary to develop a system of pre-eligibility assistance to provide students with an early notice of their potential eligibility for financial aid.

The House recedes.

169. The House bill, but not the Senate amendment, establishes a National Commission on Student Financial Assistance. The Commission is composed of 12 members. The President, the Speaker of the House and the President Pro Tem of the Senate each appoint one third of the members. The members appointed by the Speaker will include two members of the House, one from each political party, and likewise the members appointed by the President Pro Tem will include two members of the Senate, one from each political party. The Commission is required to make a final report to the President and the Congress not later than July 1, 1983, and is required to include draft legislative language in its report to accomplish any changes in current law which it recommends.

Among the issues the Commission is charged with analyzing are:

More effective means to reduce default, fraud, abuse and delinquency in the Title IV programs;

The appropriate balance between loans and other forms of student assistance;

The adequacy of student loan capital;

The impact of various forms of student assistance on student career educational choices;

The most appropriate delivery systems for the student loan programs and other forms of student assistance;

The appropriate level of public subsidy for student loans;

The impact of student assistance on educational prices;

The means to remove barriers to loan availability for students caused by patterns of lender discrimination (a concern also noted above in the discussion of the Guaranteed Student Loan program); and

The appropriate role of tax exempt bonds as a mechanism for raising student loan capital and the cost to the Federal Government of the arbitrage derived from such bonds, the proceeds of which are used to make student loans.

An authorization of $10 million is provided for the Commission.

The Senate recedes with an amendment adding additional charges to the Commission as noted throughout this statement.

170. The Senate amendment, but not the House bill, authorizes the Secretary to conduct a comprehensive study of Federally authorized assistance programs on postsecondary educational access and choice of high school students.

The Senate recedes with an amendment providing that this study shall be conducted by the National Commission on Student Financial Assistance authorized under Section 491 of this Title.

171. The House bill, but not the Senate amendment, provides that amendments made by Section 6 of the Middle Income Student Assistance Act shall take effect on July 1, 1972.

The Senate recedes.

TITLE V—TEACHERS CORPS AND TEACHER TRAINING PROGRAM

172. The House bill extends the existing authorization of $100,000,000 per fiscal year for the Teacher Corps program through Fiscal Year 1985.

The Senate amendment provides authorization levels for this program as follows:

$43,000,000 for Fiscal Year 1981,
$50,000,000 for Fiscal Year 1982,
$57,500,000 for Fiscal Year 1983,
$66,000,000 for Fiscal Year 1984,
$76,000,000 for Fiscal Year 1985.

The conference substitute authorizes the following amounts:

$45,000,000 for Fiscal Year 1981,
$50,000,000 for Fiscal Year 1982,
$60,000,000 for Fiscal Year 1983,
$70,000,000 for Fiscal Year 1984,
$80,000,000 for Fiscal Year 1985.

173. The House bill extends the existing authorization for Teacher Training programs of $100,000,000 per fiscal year through Fiscal Year 1985.

The Senate amendment establishes authorization levels for these programs as follows:

$16,500,000 for Fiscal Year 1981,
$19,000,000 for Fiscal Year 1982,
$22,000,000 for Fiscal Year 1983,
$25,000,000 for Fiscal Year 1984,
$28,000,000 for Fiscal Year 1985.

The conference substitute provides for the following authorizations:

$20,000,000 for Fiscal Year 1981,
$30,000,000 for Fiscal Year 1982,
$40,000,000 for Fiscal Year 1983,
$50,000,000 for Fiscal Year 1984,
$55,000,000 for Fiscal Year 1985.

174. The House bill, but not the Senate amendment, with respect to the Teacher Corps program removes Puerto Rico from the list of Territories and treats it like a state. It also lowers from 5 to 2% the number of Teacher Corps members to be allocated to the Territories.

The Senate recedes.

175. The House bill, but not the Senate amendment, removes the teacher intern compensation limitation of $150.00 per week plus $15.00 per week for each dependent.

The Senate recedes.

176. The House bill, but not the Senate amendment, adds a new authorized activity for the Teacher Corps Program by permitting grants to schools, colleges, and departments of education, and local education agencies with high concentrations of low income students for programs in biological, natural, earth, and physical sciences and mathematics.

The Senate recedes.

177. The House bill requires that the Secretary seek to provide an equitable geographic distribution of Teacher Center Grants when the appropriation is less than $50,000,000.

The Senate amendment requires each State to receive a Teacher Center Grant regardless of the appropriation.

The House recedes.

178. The House bill, but not the Senate amendment, permits educational service agencies to receive Teacher Center Grants.

The Senate recedes. The conferees note that the term "educational service agency" refers to an intermediate school district, county school district or board of cooperative education services, officially recognized by a state, which performs administrative or service functions for local educational agencies, including but not limited to handicapped education programs, inservice and preservice training, computer services and curriculum development.

179. The House bill, but not the Senate amendment, expands the definition of Teacher Centers to require that any site operated by a local educational agency must collaborate with one or more institutions of higher education which serves teachers.

The Senate recedes with an amendment to encourage, but not require, teacher centers to collaborate with institutions of higher education.

180. The House bill, but not the Senate amendment, includes the use of technology and telecommunications as a permissible activity of the Teacher Center.

The Senate recedes.

181. The House bill, but not the Senate amendment, adds bilingual education teachers as members of the Teacher Center Policy Board.

The Senate recedes with an amendment adding such teachers were appropriate.

182. The House bill, but not the Senate amendment, adds institutions of higher education as eligible Teacher Center Grant recipients.

The House recedes. The Conferees, although not requiring that institutions of higher education be added as eligible Teacher Center Grant recipients, wish to encourage collaboration between higher education institutions and eligible recipients in such Teacher Center grants.

183. See previous note.

The House recedes.

184. See note number 179.

The House recedes with an amendment to encourage, but not require, Teacher Centers to collaborate with institutions of higher education.

185. The House bill rewrites section 533 to provide for grants to schools of education for development of model in-service education projects and support activities for elementary and secondary school teachers. It also provides for grants for achieving diversification and redirecting education programs, retraining faculty members in new educational programs, training faculty for projects in conjunction with the Comprehensive Employment and Training Act, and training educational personnel to specialize in the implementation of urban and environmental policies.

The Senate amendment retains the existing law authority for training for higher education personnel.

The Senate recedes with an amendment which would provide assistance for pre-service instead of in-service activities focused on preparing elementary or secondary school teachers and striking associations as eligible recipients.

186. The House bill, but not the Senate amendment, establishes an Office of Education Professional Development in the Department of Education to review professional development operations and to coordinate their activities among the various Federal education programs.

The Senate recedes. The Conferees suggest that the appropriate location for such an office is in the Office of the Assistant Secretary for Educational Research and Improvement.

187. The Senate amendment, but not the House bill, authorizes a new program of training for elementary and secondary school

teachers to teach handicapped children in areas where there is a shortage of such teachers. This training program is in the nature of fellowships to individual teachers who must within 5 years after completion of training teach for at least 2 years in a special education program or repay the stipend awarded to the individual.

The Senate amendment establishes the following authorization levels for this new program:

$2,000,000 For Fiscal Year 1981;
$3,000,000 For Fiscal Year 1982;
$5,000,000 For Fiscal Years 1983 through 1985.

The House recedes.

TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

188. The Senate amendment, but not the House bill, authorizes grants and contracts with combinations of institutions of higher education and requires that centers and programs funded by the Secretary would be national resources for teaching of foreign languages and instruction in related fields.

The House recedes. The Conferees intend that the Section 602 National Research Centers be selected on the basis of excellence and that such centers contribute to the national interest by conducting advanced research and training. The Conferees also intend that the eligibility of four-year institutions under Section 602 be limited to programs of national import deemed exemplary for the nation in terms of excellence and innovation.

189. The House bill allows grants or contracts to cover the cost of faculty, staff and student travel in foreign areas, regions or countries and the cost of travel of foreign scholars to teach or conduct research.

The Senate amendment allows grants or contracts to cover the cost of teaching and research materials, the cost of curriculum planning and development, the cost of visiting scholars and faculty to the Center to teach or conduct research or the cost of training and employment of the staff.

The Conference substitute combines these provisions and activities.

190. The Senate amendment, but not the House bill, authorizes the Secretary to make grants to centers having important library collections for the maintenance of such collections.

The House recedes.

191. The Senate amendment, but not the House bill, authorizes the operation of undergraduate centers to serve as regional resources, in addition to providing training to students enrolled at the institution in which the Center is located. Such regional resource centers offer programs to strengthen international studies in foreign languages in the colleges in the region served by such Center.

The House bill limits support to graduate centers which would be national and international resources for research and training.

The House recedes. The Conferees stress that these centers should become effective regional resources, in part, through national outreach to other colleges, local education agencies and the community. Section 603 centers may apply to become Section 602 centers.

192. The Senate amendment, but not the House bill, includes, as authorized activities under graduate instruction programs, programs designed to integrate undergraduate education with terminal masters degree programs having an international emphasis and the development of an international dimension in teacher training.

The House recedes. The Conferees stress that it is the purpose of the Section 604 International Studies Program to encourage diversity and stimulate the growth of foreign language in international studies throughout the spectrum of higher education.

193. The Senate amendment, but not the House bill, moves the Grant Program to Promote Cultural Understanding to Title III of the Elementary and Secondary Education Act as a new Part N of the Special Projects Act.

The House recedes. The conferees intend that this program will continue to be administered by the Office of International Education located under the Assistant Secretary for Postsecondary Education.

194. The Senate amendment, but not the House bill, allows financial assistance under this Part to be used for the development of materials to link language learning to international studies.

The House recedes.

195. The House bill provides that funds may be used by local educational agencies to introduce instruction in foreign languages not offered by their schools in the three academic years preceding the year in which the grant is made.

The Senate amendment provides that funds may be used by local education agencies to introduce instruction in foreign languages designated by the Secretary as having critical importance to the Nation.

The Conference substitute merges the two provisions. Grants may be made only for foreign language instruction designated by the Secretary as having critical importance to the Nation and not offered by the school in the three preceding academic years.

196. The Senate amendment, but not the House bill, contains a separate authorization of appropriations for the Cultural and International Understanding program.

The House recedes.

197. The Senate amendment, but not the House bill, provides that excellence be the criterion for selection of grants awarded under the graduate and undergraduate language and area center program. With respect to other programs under this Title, the Senate amendment requires that the Secretary award grants in such a manner as will achieve an equitable distribution of funds throughout the Nation.

The House bill requires that the Secretary shall award grants under this Title in such a manner as will achieve a broad equitable distribution of funds throughout the Nation.

The House recedes. The Conferees wish to stress that excellence should be the criteria with regard to grants for language and area center programs. With respect to other programs under this Title, consistent with the criterion of excellence, grants should be awarded in such a manner that will achieve an equitable distribution of funds.

198. The Senate amendment, but not the House bill, authorizes the Secretary to conduct research on evaluating competency in foreign languages.

The House recedes. The Conferees suggest that the National Institute of Education be the agency to conduct such research.

199. The House bill authorizes the Secretary to prepare and publish an index and analysis of the books and research material produced with the assistance under this title. The Senate amendment authorizes the Secretary to prepare and publish an annual report which shall include such an index and analysis.

The House recedes.

200. Both the House bill and the Senate amendment contain an Advisory Board. The House bill's Advisory Board shall meet not less than four times each year. The Advisory Board in the Senate amendment shall meet not less than three times each year. The House will require a representative selected by the Director of Central Intelligence, four members representative of postsecondary education and four members of the public. The Senate amendment also includes one member selected by the Secretary of the Treasury, one member selected by the Secretary of Education to serve as Chairman and coordinator of the activities, one member selected by the Chairman of the National Endowment for the Humanities, one member selected by the Director of the International Development Corporation Agency, one member selected by the Chairman of the Export-Import Bank, one member selected by the Administrator of the Small Business Administration, five members from postsecondary education, three members from the public and three representatives of the business community.

The House recedes with an amendment requiring that the Board meet at least four times a year.

201. The Advisory Board under the House bill shall advise the Secretary on areas of special need, areas which duplicate other programs and changes which should be made in the operation of the law.

The Senate amendment requires the establishment of two subcommittees. One subcommittee shall consider grants and contracts made under Part A of Title VI and under Title III of the Elementary and Secondary Education Act and shall advise the Secretary of geographic areas of special need or of concern to the United States, specific foreign languages to be designated as critical under Title III of the Elementary and Secondary Education Act, other innovative approaches to international education, activities which would duplicate other Federal programs, changes necessary in program operations, and administrative and staff requirements of international education programs in the department

The House recedes.

202. The Senate amendment provides that the second subcommittee shall review the business and international education programs and advise the Secretary, who shall seek the advice of the Secretary of Commerce.

The House recedes.

203. The House bill authorizes $100,000,000 for Fiscal Year 1981; $105,000,000 for Fiscal Year 1982; $110,000,000 for Fiscal Year 1983; $115,000,000 for Fiscal Year 1984; and $120,000,000 for Fiscal Year 1985, except that no funds shall be available for carrying out the grant program to promote cultural understanding unless $16,000,000 is made available for carrying out the rest of Title VI.

The Senate amendment authorizes $34,500,000 for Fiscal Year 1981; $40,000,000 for Fiscal Year 1982: $46,000,000 for Fiscal Year 1983; $53,000,000 for Fiscal Year 1984; and $61,000,000 for Fiscal Year 1985 for the purposes of Title VI. The Senate amendment provides a separate authorization for the Cultural Understanding Program.

The conference substitute provides the following authorizations:

$45,000,000 for Fiscal Year 1981,
$50,000,000 for Fiscal Year 1982,
$60,000,000 for Fiscal Year 1983,
$70,000,000 for Fiscal Year 1984,
$80,000,000 for Fiscal Year 1985.

204. The Senate amendment, but not the House bill, authorizes a new Part B—Business and International Education Programs. This new Part establishes a dollar for dollar matching grant program to postsecondary institutions which have entered into agreements with business enterprises, trade organizations or consortia of such organizations to establish or expand curricula to serve the international needs of the American business community.

The Senate amendment authorizes an annual appropriation of $7.500,000 for Fiscal Year 1981 through 1985 for the purposes of this new Part.

The House recedes.

TITLE VII—CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

205. The Senate amendment, but not the House bill, expands the purpose of this Title to emphasize a priority in the use of coal, solar, and renewable resources.

The House recedes.

206. The Senate amendment, but not the House bill, allows institutions to use funds

awarded under this Title to detect, remove, or otherwise contain asbestos hazards in their facilities used by students.

The House recedes.

207. The House bill establishes an authorization level of $300,000,000 for each Fiscal Year ending prior to October 1, 1985, for Part A of Title VII.

The Senate amendment authorizes the following authorization levels for the same Part:

$30,000,000 for Fiscal Year 1981,
$35,000,000 for Fiscal Year 1982,
$40,000,000 for Fiscal Year 1983,
$45,000,000 for Fiscal Year 1984,
$55,000,000 for Fiscal Year 1985.

The House bill authorizes an $80,000,000 appropriation for each Fiscal Year ending prior to October 1, 1985, for Part B.

The Senate amendment authorizes the following appropriation levels for the same Part:

$5,000,000 for Fiscal Year 1981,
$10,000,000 for Fiscal Year 1982,
$15,000,000 for Fiscal Year 1983,
$20,000,000 for Fiscal Year 1984,
$25,000,000 for Fiscal Year 1985.

The House bill establishes an authorization level of $200,000,000 for each fiscal year ending prior to October 1, 1985, for Part C.

The Senate amendment establishes a $50,000,000 authorization level for the same period of time for the same Part.

The conference substitute provides an authorization level for Part A of $100,000,000 for each fiscal year ending prior to October 1, 1985.

The substitute provides an authorization of $80 million per year for Part B.

The substitute authorizes $80 million per year for Part C.

208. The Senate amendment, but not the House bill, authorizes a procedure by which a State which does not wish to enter into an agreement pursuant to section 1203 may participate in Title VII programs.

The Senate recedes.

209. The House bill provides that grants for the construction, reconstruction and renovation of graduate academic facilities shall not exceed 50 percent of the cost of the project.

The Senate amendment provides that such grants shall not exceed 75 percent of the cost of the project.

The Senate recedes.

210. The House bill contains the interest rate at 3 percent per year.

The Senate amendment increases the interest rate to 7 percent.

The Senate recedes with an amendment increasing the interest rate to 4 percent.

211. The Senate amendment, but not the House bill, provides for recovery of payments on buildings which have been renovated or reconstructed with Federal funds if they cease to be used as an academic facility.

The Senate recedes.

212. The House bill, but not the Senate amendment, provides a definition of the term "Federal share."

The Senate recedes.

TITLE VIII—COOPERATIVE EDUCATION

213. The Senate amendment, but not the House bill, combines the authorizations of appropriations for grants for programs of cooperative education and training, demonstration, and research grants. The authorization of appropriations provided in the House bill and the Senate amendments are as follows:

Fiscal year	House bill		Senate bill authorization total
	Sec. 802 authorization	Sec. 803 authorization	
1981	$30,000,000	$5,000,000	$27,000,000
1982	30,000,000	5,000,000	31,000,000
1983	30,000,000	5,000,000	36,000,000
1984	30,000,000	5,000,000	41,000,000
1985	30,000,000	5,000,000	47,000,000

The Senate recedes.

214. Both the House bill and the Senate amendment raise the maximum grant which may be made to any individual institution, and the maximum amount which may be made per institution for consortia. The House bill raises the first amount from $175,000 to $250,000 and the second amount from $125,000 to $200,000. The Senate amendment raises the first amount to $400,000 and the second amount to $300,000.

The Senate recedes with an amendment providing $325,000 per institution and $250,000 per consortia member.

215. The Senate amendment, but not the House bill, provides that no "individual unit of any institution of higher education" may receive grants for more than five years. Current law which the House does not amend, provides that no institution may receive a grant for more than five fiscal years.

The House recedes.

216. The House bill provides that the Secretary may waive the percentage limitations on the amount of administrative cost which an institution may receive. The Senate amendment, which continues current law, prohibits waiver of such limitations.

The House recedes.

217. The Senate amendment, but not the House bill, specifically provides that training, research, and demonstration grants and contracts include grants and contracts for the conversion and expansion of comprehensive cooperative education programs in institutions of higher education.

The Senate recedes.

TITLE IX—GRADUATE PROGRAMS

218. The House bill, but not the Senate amendment, deletes from the statement of purpose and from authorized activities the intent to "expand" the quality of graduate and professional programs and substitutes the intent to "maintain" such programs.

The Senate recedes.

219. The House bill, but not the Senate amendment, adds a requirement for the Secretary to collect data necessary for the periodic assessment of the state of graduate education on an annual basis. Further, the House bill requires findings based on the Secretary's studies to be included in the Secretary's annual report under Title IX.

220. The House bill, but not the Senate amendment, requires the Secretary, within two years after the date of enactment of this Act, to prepare and submit to the Congress and the National Committee on Student Financial Aid a special report on financial aid in graduate education

The House recedes with an amendment requiring that such an assessment and study be conducted by the National Commission on Student Financial Assistance.

221. The House bill, but not the Senate amendment, generally extends the provisions contained in Parts B, C and D of Title IX of the Act through Fiscal Year 1985, with the following revisions: (A) to reduce the authority of the Secretary to approve or disapprove particular programs of graduate education; (B) to require the Secretary in the allocation of public service fellowships, to seek to attract persons of ability from disadvantaged backgrounds; (C) to require the Secretary to separately find that a program is in effect of to be readily put into effect, and that the application describes the high quality or reasonable expectation of high quality of the program.

The Senate amendment consolidates the provisions presently contained in Parts B, C and D, except that it provides a separate authorization for programs of assistance for training in the legal profession. The Senate amendment authorizes the Secretary to award fellowships, up to $10,000, under the consolidated part, for each year, with the requirement that at least as much money be spent each year on public service and mining fellowships, and fellowships for the disadvantaged, as was spent in fiscal year 1979.

The conference substitute provides for a program of campus based grant awards to graduate and professional students based on financial need. The maximum award to a student is $4,500 per year for three years. The substitute also provides for the maintenance of the level of awards (including institutional allowances) for the public service, mining and graduate and professional opportunity fellowship programs. The conferees intent that native Hawaiians be included among those considered to be "individuals from traditionally underrepresented groups." The substitute authorizes $60 million for fiscal year 1981 and for fiscal year 1982 and such sums as may be necessary for fiscal year 1983 through 1985.

222. The Senate amendment, but not the House bill, repeals Part C (Public Service Fellowships), Part D (Fellowships for other purposes), Part E (annual fellowship report) and Part F (General Assistance to Graduate Schools) of Title IX.

The House recedes.

223. The Senate amendment, but not the House bill, enacts a new Part C which provides National Graduate fellowships. This part would provide 450 portable competitive fellowships each year in the arts, humanities and social sciences. Selection of these fellowships would be based on merit, with the stipend awarded being related to the recipient's financial need. The National Graduate Fellows Program Fellowship Board would be created to select the areas in which the fellowships are to be awarded and to appoint panels for the selection of recipients.

The House recedes with an amendment requiring the membership of the National Graduate Fellows Program Fellowship Board be composed of representatives of both public and private institutions of higher education.

224. The Senate amendment, but not the House bill, establishes a new Part D of Title IX which provides for national talent grants for first year graduate and professional study. Grants under this new part are awarded by institutions of higher education to exceptionally qualified first-year graduate students who demonstrate need. No institution of higher education may receive more than three-fourths of 1% of the sums appropriated and no individual award may exceed $2,000. There are authorized to be appropriated for this purpose $15 million for fiscal year 1981 and fiscal year 1982, and such sums as may be necessary for fiscal year 1983, fiscal year 1984, and fiscal year 1985.

The Senate recedes. See explanation of the conference substitute on Part B.

225. The Senate amendment, but not the House bill, establishes a new Part E in Title IX. This part continues authority for assistance for training of the legal profession presently contained in Part D of Title IX which the House bill extends.

The House recedes.

226. The House bill, but not the Senate amendment, deletes a restriction in current law that prohibits preliminary training from being given more than three months prior to entry of individuals into courses of instruction in the legal profession.

The Senate recedes with an amendment limiting the period to six months.

227. The House bill authorizes $5 million for fiscal year 1981 and fiscal year 1982, and $10 million for fiscal year 1983, fiscal year 1984, and fiscal year 1985 for the training in the legal profession program. The Senate amendment authorizes $5 million for each of such years for that program.

The conference substitute provides the following authorizations:

Fiscal year:	Millions
1981	$5
1982	5
1983	7.5
1984	7.5
1985	10

228. Both the House bill and the Senate amendment continue the authority for the Law School Clinical Experience Program in Title IX (deleting such authority from Title XI).

Both provisions are identical.

229. The House bill provides that no law school may receive more than $75,000 in any fiscal year for the Law School Clinical Program. The Senate amendment provides that no law school may receive more than $125,000 in any fiscal year for such program and that no part of such funds may be used to pay for indirect costs or charges.

The House recedes with an amendment providing for a ceiling of $100,000.

230. The Senate amendment, but not the House bill, includes in the definition of accredited law school, organizations and associations of law schools.

The Senate recedes.

231. The House bill authorizes $10 million for the Law School Clinical Program for each of the fiscal years 1981–1985. The Senate amendment authorizes $5 million for fiscal year 1981; $6 million for fiscal year 1982; $7 million for fiscal year 1983; $8 million for fiscal year 1984; and $9 million for fiscal year 1985 for such programs.

The conference substitute authorizes the following amounts:

Fiscal year:	Millions
1981	$5
1982	8
1983	8
1984	9
1985	10

TITLE X—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

232. The Senate amendment, but not the House bill, includes a requirement that the Director of the Fund for the Improvement of Postsecondary Education establish procedures for reviewing and evaluating grants and contracts which shall not be subject to any review by officials outside of the Fund.

The House recedes.

233. The House bill authorizes appropriations for the Fund for the Improvement of Postsecondary Education of $75 million for each of the Fiscal Years 1981 through 1985. The Senate amendment authorizes appropriations for the Fund of $20 million for fiscal year 1981; $23 million for fiscal year 1982; $27 million for fiscal year 1983; $31 million for fiscal year 1984; and $36 million for fiscal year 1985.

The conference substitute provides the following authorizations:

$20,000,000 for Fiscal Year 1981,
$30,000,000 for Fiscal Year 1982,
$40,000,000 for Fiscal Year 1983,
$45,000.000 for Fiscal Year 1984.
$50,000,000 for Fiscal Year 1985.

TITLE XI—URBAN GRANT UNIVERSITY ACT

234. The authorizations of appropriations provided by the House bill and the Senate amendment are as follows:

Fiscal year	House	Senate
1981	$50, 000, 000	$11, 250, 000
1982	70, 000, 000	18, 750, 000
1983	80, 000, 000	26, 250, 000
1984	90, 000, 000	33, 750, 000
1985	100, 000, 000	41, 250, 000

The conference substitute authorizes the following amounts:

$15,000,000 for Fiscal Year 1981,
$25,000,000 for Fiscal Year 1982,
$35,000,000 for Fiscal Year 1983,
$45,000,000 for Fiscal Year 1984,
$55,000,000 for Fiscal Year 1985.

235. The House bill provides that funds appropriated for the Urban Grant University Program are to remain available for the duration of a funded project in order to permit multiple year funding of projects. The Senate amendment also permits multiple year grants but provides that funds for the purpose of such grants for any year must be drawn from the appropriation for that year.

The House recedes.

236. The Senate amendment, but not the House bill, requires the Secretary to give priority to applications containing cooperative arrangements for urban universities in a single urban area.

The House recedes.

237. Both the House bill and the Senate amendment require local officials to be afforded a reasonable opportunity to review and comment upon the proposed project or projects. The House bill provides that these local officials are the chief executive of local agencies of general government within whose jurisdiction fall the needs to be addressed by the project or projects. The Senate amendment requires that the local officials to be consulted are the chief executives of local agencies of general government within the urban area and contiguous areas within which the urban university is located.

The Senate recedes.

238. The Senate amendment, but not the House bill, requires the participation of the community in the development of projects assisted under this title.

The House recedes. The conferees require the Secretary to take into account the degree of participation of the affected community in developing any project under this title. The conferees intend that, during the planning and development of a Title XI project, affected citizens, community organizations and members of the public be afforded opportunities to express their interests and concerns. However, the conferees do not intend that this provision be construed to give standing, as a matter of right, to any individual, organization or agency to be made a part of the project planning process. The conferees emphasize that this provision does not authorize the Secretary to issue any regulations defining the phrase "community" nor to establish by regulation or guideline any rigid set of standards or procedures necessary to meet this requirement. The conferees believe that appropriate community participation could be achieved, for example, through public hearings held within the affected community, community discussions and wide solicitation for public comment.

239. The House bill, but not the Senate amendment, allows the non-Federal share of costs to be provided in the form of services, supplies, or equipment.

The House recedes with an amendment requiring that not less than one-half of the non-Federal share shall be cash contributions.

240. The House bill requires the Secretary to designate one urban area in any state in which there is no SMSA with a population of 500,000. The Senate bill provides that such an area is to be designated by the state entity under Section 1203.

The Conference substitute requires that if there is no 1203 entity within the State the Secretary shall designate one urban area.

TITLE XII—GENERAL PROVISIONS

241. Both the House bill and the Senate amendment repeal Section 1205 (establishing an Advisory Council on Graduate Education) and Section 1208 (containing certain funding requirements). In addition, the House bill repeals Section 1202 (requiring states to establish post-secondary education commissions) and Section 1206 (authorizing the Commissioner to require cost of education data from institutions of higher education).

The Senate recedes.

242. Both the House bill and the Senate amendment establish a new Section 1203 of the Act relating to Federal-State relations, which replaces Sections 1202 and 1203 of current law. This new section replaces requirements in current law that States establish or designate a State commission with a specified structure (popularly referred to as "1202 commissions"), in order to be eligible for Federal assistance for comprehensive statewide planning. The new Section 1203 contained in both the House bill and the Senate amendment replaces certain structural requirements with functional requirements, in order to permit States discretion in their internal organization.

The House bill requires each state desiring to receive assistance under certain identified applicable programs to submit an agreement to the Secretary which is to include (A) a designation of a State agency or agencies responsible under State law for comprehensive statewide planning or financing for postsecondary education; (B) a designation of the responsible agency and a description of their activities under the applicable programs; (C) a description of the activities of all entities responsible for educational and occupational information to youth and adults, continuing education services, student assistance administration, authorizing institutions of higher education, and statewide coordination of governance of postsecondary education sectors; (D) a description of the relationship between planning activities of State entities previously identified; and (E) assurances by the State that all interested persons are involved in the comprehensive statewide planning process, that the State will properly and effectively administer the program, that the State will use fiscal and accounting procedures necessary to proper control of Federal funds, and that the State will not use Federal funds to supplant other resources.

The Senate amendment provides that each State desiring to receive assistance under applicable programs must submit an agreement containing assurances by the State that (A) the State will provide for the proper and efficient administration of applicable programs, (B) the State will provide fiscal and accounting procedures necessary for the proper control of Federal funds, (C) the State will insure that Federal funds will not be used to supplant other resources, and that equitable and appropriate criteria will be used in evaluating applications and proposals for grants and contracts under applicable programs, and (D) that the State has a comprehensive planning and policy formulation process which considers the relationship between State administration of applicable programs and similar State programs, encourages State policy to consider the effect of declining enrollments, consider the postsecondary education needs of unserved and underserved individuals (including those beyond traditional college age), considers the resources of various institutions capable of providing postsecondary education opportunities, and provides for direct, equitable and active participation in the comprehensive planning or policy formulation process of all interested persons.

Further, the Senate amendment provides that such participation be insured by including at least one representative of certain specified categories of interested persons as representatives in the State entity, unless prohibited by State law.

The House recedes with an amendment which modifies the language in the Senate amendment requiring participation through membership on a state entity by substituting language which provides states with increased flexibility to achieve such participation, as consistent with state law, through membership on state planning commissions, advisory councils or other state entities established by the state to conduct a federally assisted comprehensive planning or policy formulation process. The amendment further limits the authority of the Secretary to deny eligibility for applicable programs only to matters of proper and efficient administration, fiscal control and fund accounting, anti-supplanting, and use of equitable criteria for evaluation of applications.

243. The House bill, but not the Senate amendment, contains a specific provision prohibiting the Secretary from requiring any State to adopt, as a condition for entering into a 1203 agreement, or for participation in any applicable programs, a specific State organizational structure.

The Senate recedes.

244. The House bill defines applicable programs as programs under Title I (Education Outreach), Subpart 3 of Title IV–A (State Student Incentive Grants), and Part A of Title VII (Construction of Higher Education Facilities). The Senate amendment excludes from this definition Subpart 3 of Title IV–A.

The Senate recedes. The conferees, by including the State Student Incentive Grant Program as an applicable program, wish to emphasize that this should not be interpreted as a requirement, or even a suggestion, that any state with a state student assistance agency separate from the state agency responsible for comprehensive planning should merge such agencies or place one agency in a subordinate relationship to the other. The concept of a single state agreement should not be interpreted as a requirement for a single state agency. The assignment of responsibility for administration of the various applicable programs shall be for each state to determine in accordance with state law and the state's unique governance structure.

245. The House bill, but not the Senate amendment, authorizes the Secretary to make such modifications of any program under the Act as he deems necessary in order to adapt such programs to the needs of the territories, and requires the Secretary within 18 months after the time of enactment to conduct an analysis of the unique educational needs of the territories.

The Senate recedes.

The Conferees stress that such modifications shall be limited only to the programs to which the territories are entitled, to the purposes of those programs, and shall not be construed to authorize the termination of any program.

246. The House bill, but not the Senate amendment, authorizes $2 million for each fiscal year to support the cost of postsecondary education programs in Guam for nonresident students from the other Pacific Territories.

The Senate recedes with an amendment limiting the authorization to five years.

247. The Senate amendment, but not the House bill, establishes a National Advisory Committee on Accreditation and Institutional Eligibility to advise the Secretary.

The House recedes with an amendment limiting the mission of the Committee to the current statutory functions of the Secretary and to the mandate of the former committee.

248. The Senate amendment, but not the House bill, contains certain conforming amendments to reflect the establishment of the Department of Education.

The House recedes.

TITLE XIII—MISCELLANEOUS PROVISIONS

249. Under the Senate amendment, but not the House bill, the free-standing provisions of the Education Amendments of 1980 would take effect upon enactment.

The House recedes.

250. The Senate amendment, but not the House bill, provides that the amendments made by Part B of Title IV of the Act (guaranteed and insured student loans) shall apply to loans made on or after October 1, 1980.

251. The Senate amendment, but not the House bill, provides that the provisions of Part E of Title IV of the Act (direct student loans) in effect prior to October 1, 1980 shall continue to apply to loans made from funds appropriated prior to September 30, 1980.

The conference substitutes provide for appropriate effective dates to meet the unique requirements of implementing the amendments to Title III, Parts A, B and E of Title IV and to Title VII of the Higher Education Act of 1965.

252. The Senate amendment, but not the House bill, makes the College of Micronesia a land grant college.

The House recedes.

253. The Senate amendment, but not the House bill, extends the authorization of appropriations for the National Institute of Education at a rate equal to certain specified percentages of the sum of the amount appropriated or available to the Department of Education. That percentage increases from .75 percent in fiscal year 1981 up to 1.5 percent for fiscal year 1985.

The conference substitute provides the following authorizations:

$120,000,000 for Fiscal Year 1981,
$130,000,000 for Fiscal Year 1982,
$145,000,000 for Fiscal Year 1983,
$160,000,000 for Fiscal Year 1984,
$175,000,000 for Fiscal Year 1985.

254. The Senate amendment, but not the House bill, adds age to the category of demographic characteristics on which the United States is not to discriminate in the provision of quality higher education opportunities.

The House recedes with an amendment adding handicap to the category.

255. The Senate amendment, but not the House bill, adds, as a priority for research by the National Institute of Education, special problems of the non-traditional student, including older and part-time students.

The House recedes with an amendment encouraging studies of language, international education and culture, and the needs of early adolescents.

The Conferees note that little information has been gathered systematically on the needs of early adolescents and the schools which serve them. The Conferees intend that the National Institute of Education, in each of its mandatory priority research and development areas, give particular attention to research regarding this age group and their schools. The Conferees anticipate that the NIE will support research and development activities to determine (1) what organization of schooling is best in meeting the needs of early adolescents, and (2) what policies, programs, practices and services are essential to meet the needs of early adolescents. The NIE's activities in this area should include efforts to identify and promote the best approaches to professional development for faculty, administrators, and others who provide educational services to early adolescents.

The Conferees further recognize that if the condition of schooling for early adolescents is to be improved as the Conferees believes it must, it is essential to create easier access to data, program and research information about this age group and school population. Access to and dissemination of appropriate research information as well as successful program models is particularly critical in light of this Conference's efforts to stimulate major education and training program initiatives in secondary schools during the coming year. Without intensified concentration of research and development resources on successful programming for the early adolescent, schools serving these students will not be equipped, in a timely fashion, to mount the kinds of school-to-work transition programs envisioned by the Conferees.

It is the Conferees' intention that the NIE will not confine its initiatives on early adolescents to the one subunit that has begun to work in this area, but will encourage appropriate activities by other work teams. The Conferees expect that clear documentation of these research, development and dissemination activities and an assessment of the results of those activities concerning early adolescents and the schools serving them will be included in the NIE's annual report to the Congress.

The Conferees mandate that not less than three members of the National Council on Educational Research shall be experienced and knowledgeable in the conduct of educational research.

Since only one member of the NCER is currently engaged in educational research, the Conferees were persuaded that the Council would be strengthened by this requirement, and that the individuals so appointed would provide greater leadership to the Council and the NIE. Due to current vacancies on the Council, no current member will be asked to step down as a result of this amendment.

The Conferees also expect that the National Council on Educational Research should represent the broad array of entities and individuals who will be directly or indirectly involved with NIE research activities. It is the Conferees' view that such broadened representation will be drawn from (1) public and private non-profit community-based organizations, such as those which provide educational support and training services to special needs students or youth who have dropped out of school; (2) education advocacy organizations which are engaged in independent monitoring of school policies and practices; (3) state and local level education researchers, practitioners and policymakers who are involved in the daily operation and administration of education programs; and (4) students and the parents of students.

Given the Conferees' recognition of the increasing need for linkages between education professionals and others who either serve young people or will employ them as they grow to be adults, it is critical that educational research activities reflect this breadth of views. Since NCER is the policymaking body for the nation's foremost educational research agency, the NIE, the Conferees anticipate that broadened membership of the NCER will enable it to address research needs spanning the wider network of institutions and agencies providing educational services to students of every age.

While the Conferees note that existing law requires the NIE to submit an annual report to the President and the Congress, it anticipates that in the future, this annual report shall include a list and description of all grants and contracts awarded by the Institute subsequent to submission of the previous annual report to the Congress, and shall specify (with respect to each grant and contract listed in the report) the amount of the grant or contract, its purpose and duration, and the educational policy issue to be addressed by the project conducted under the grant or contract; shall include the major findings of any research projects completed under the auspices of the Institute subsequent to submission of the previous annual report to the Congress; and shall include an assessment of the progress of the Institute in achieving its priority research and development needs.

The Conferees note that during its short history the NIE has lacked the continuity of leadership necessary to the centerpiece of educational research in the Department of Education.

To assure greater continuity in the future, the conferees encourages the appointment of the NIE Director for a period of five years, serving, of course, at the pleasure of the President. The Conferees believe that setting a specified term of office similar to that provided the Director of the National Science Foundation and the Chairman of the Arts and Humanities Endowments would lend stability to the Institute without restricting the authority of the President to remove the Director, if desired. It is understood that any individual serving as the Director may be reappointed to that office.

The Conferees direct the NIE to expand the scope of its activities and participants through increased involvement of groups and individuals outside the traditional research community. As different sectors of the society become involved in providing basic, remedial and employment related education, it becomes increasingly necessary to involve these groups in research, development, and dissemination activities conducted by the federal government.

The Conferees hope that in awarding grants the NIE would avoid a closed circle of reviewers, grantees and contractors which has characterized other national research agencies. The Conferees believe that the Institute should broaden the base of its review panels to include representatives of social advocacy oragnizations and public and private noprofit community-based organizations involved with education policy and practice.

In addition, the Institute, to the extent practicable, should include among those awarded research and development grants and contracts the following: research institutions other than laboratories or centers which receive funds from the NIE, private and public community-based non-profit organizations, education practitioners, and education policymakers employed at both State and local levels. Organizations of this nature are becoming more and more involved in formulating education policy and both they and the NIE should benefit from a closer working relationship. Nothing in this paragraph should be interpreted to diminish open and fair competition under the standards of peer review for all grants and contracts.

The Conferees wish to clarify the intent of Sec. 405(e)(3) of the General Education Provisions Act providing the Director of the Institute with the authority to establish and maintain research fellowships. It is the intent of the Congress that such fellowships should be supported without regard to the physical location of individual fellows. Conferees understand that a departmental interpretation of the fellowship authority has limited support to fellows physically located in the Institute's offices. The House Committee's version clarified this authority by stating that fellows could be supported in other locations. It is the intent of the Congress that the purpose of the authority to support highly qualified research fellows from the United States and abroad should be implemented without regard to the physical location of the fellow.

It is the intent of the Conferees that regular oversight be conducted by Congress to insure the intent of this title as the NIE will be the major research component of the new Department of Education. If the Institute is found to be wanting in its efforts to carry out the provisions of this title, then Congress will take appropriate legislative steps to correct such inconsistencies. It is the hope of the Conferees that the NIE will continue to engage in ongoing dialogue with Congress as it carries out its research activities.

256. The Senate amendment, but not the House bill, repeals the authority for the Panel for the Review of Laboratory and Center Operations.

The House recedes.

The conferees agreed with the Senate amendment deleting from the National Institute of Education's authorization Section 405(f), the authority for the Panel for the Review of Laboratory and Center Operations. The Panel submitted its final report to Congress in 1979. However, the conferees wish to emphasize that deletion of the Panel authority does not in any way diminish its belief in the importance of the educational research and development conducted by the laboratories and centers. The conferees endorse the Panel's final report and concur that the labs and centers are an important cornerstone of our educational system. As such, the conferees applaud NIE's decision to enter into longterm contractual relationships with these institutions. With the transfer of NIE to the Department of Education, the conferees fully expect that both the Institute and the Department will continue to support and strengthen the laboratories and centers. As part of this process, the Institute should give consideration to creating new laboratories in the currently underserved regions of the Upper Midwest and Northeast.

257. The Senate amendment, but not the House bill, authorizes the establishment of the Robert A. Taft Institute Trust Fund to assist in the development of the Robert A. Taft Institute of Government. $11.25 million is authorized to be appropriated to the fund, the income from which shall be paid to the Institute to match the total amount of private contributions received by the Institute in the preceding fiscal year.

The House recedes with an amendment authorizing an appropriation of $750,000 per year to be matched by funds from private sources.

258. The Senate amendment, but not the House bill, amends the contingent extension provision of the General Education Provisions Act to authorize the contingent extension of any forward funded program for two fiscal years.

The House recedes.

259. The Senate amendment, but not the House bill, amends the General Education Provisions Act to authorize the Congress to disapprove Department of Education regulation *in whole or in part.*

The House recedes.

260. The Senate amendment, but not the House bill, authorizes appropriations to the Secretary of Education for fiscal year 1981 of $2.5 million for the College Science Teacher Program, and $5 million for the Minority Institution Science Program.

The House recedes.

261. The Senate amendment, but not the House bill, extends the life of the Commission on the Review of the Federal Impact Aid Program for the purpose of enabling such Commission to prepare and submit to the President and to Congress not more than three supplemental reports after the submission of its final report.

The House recedes with a substitute amendment extending the reporting period of the existing Impact Aid Commission until September 1, 1981, and providing that the Commission shall terminate on September 30, 1981.

262. The Senate amendment, but not the House bill, amends the General Education Provisions Act to provide that no regulation affecting any institution of higher education in the United States shall become effective unless the agency promulgating such regulation publishes in the Federal Register an educational impact assessment statement which shall identify what information specified by the regulation is available from another authority of the United States and assess the burden of compliance with the regulation by institutions of higher education.

The House recedes with an amendment providing that such statement shall only determine whether any information required to be transmitted under such regulation is already being gathered by or available from any other authority or agency of the United States.

263. The Senate amendment, but not the House bill, directs the Secretary of Education to make a comprehensive study of programs authorized by the Elementary and Secondary Education Act, the Vocational Education Act, and the Education of the Handicapped Act in order to analyze if there are duplications, conflicts, and unnecessary reporting requirements contained in those laws or regulations. The Secretary shall submit a report to Congress on this study. In carrying out the study, the Secretary is authorized to enter into agreements with not less than four nor more than 10 States for the conduct of study projects. The Secretary, through the National Institute of Education, shall analyze the State study projects and shall develop, with cooperation with the Intergovernmental Council on Education, a plan for carrying out the study. Such plan shall be submitted to Congress. The Secretary shall make a final report to the Congress on the study not later than January 1, 1983. $7 million is authorized for each fiscal year 1981–1982, and $1 million is authorized for fiscal year 1983. The Secretary is also authorized to use funds from other available sources.

The Senate recedes.

264. The Senate amendment, but not the House bill, updates Section 502 of the Rehabilitation Act of 1973 by redesignating the Secretary of the Department of Health, Education and Welfare as the Secretary of the Department of Health and Human Services and adding the Secretary of Education to the Architectural and Transportation Barriers Compliance Board.

The House recedes.

265. The Senate amendment, but not the House bill, amends Section 502(h) of the Rehabilitation Act of 1973 to require that the Architectural and Transportation Barriers Compliance Board transmit its annual report to the Labor and Human Resources Committee in the Senate and the Education and Labor Committee in the House.

The House recedes.

266. The Senate amendment, but not the House bill, mandates the creation of the Office of Information Clearinghouse for Handicapped Individuals within the Department of Education.

The House recedes.

267. The Senate amendment, but not the House bill, authorizes $750,000 for fiscal year 1981 to establish the William Levi Dawson Chair of Public Affairs at Fisk University at Nashville, Tennessee.

The House recedes.

268. The Senate amendment, but not the House bill, amends the Impact Aid Act to create a new Title IV which is to provide benefits for Native Hawaiians in a manner comparable to the benefits of Native Americans under the Indian Education Act (Public Law 92–318) and establishes certain additional programs with respect to elementary and secondary education, postsecondary education, adult education, and teacher training for Native Hawaiians.

The House recedes with an amendment establishing an advisory counsel to evaluate the needs of native Hawaiians and the effectiveness of existing state and federally assisted education programs in meeting such needs. A total of $500,000 is authorized for the period of fiscal years 1981 through 1983.

269. The Senate amendment, but not the House bill, authorizes $6 million for fiscal year 1981 for a grant to establish the General Daniel James Memorial Health Education Center to be located in the Tuskegee Institute in Tuskegee, Alabama.

The House recedes.

270. The Senate amendment, but not the House bill, contains certain provisions that: (1) extend the authorization of appropriations for construction under the Navajo Community College Act for one year; (2) change the funding formula to require that credit hours for the fall, spring, and summer terms for independent students be totalled and divided by 15 for the purpose of deter-

mining the number of full-time, equivalent students; and (3) modify Title I of the Tribally Controlled Community College Assistance Act of 1978 to permit Navajo Community College to receive funds under the Higher Education Act and other applicable Federal programs.

The Conference substitute extends the authorization of appropriations for construction for one year, changes the authorization to an amount based on the actual cost of operation and maintenance of the institution, and includes the modification permitting the institution to receive funds under the Higher Education Act and other applicable programs.

271. The Senate amendment, but not the House bill, amends the Impact Aid Act to provide funds to local education agencies experiencing increased enrollments due to the entry into the schools of refugee children, and authorizes appropriations of such sums as may be necessary for this purpose.

The conference substitute authorizes a one-year provision amending the Impact Aid laws to provide special assistance to local school districts facing influxes of Cuban, Haitian and Indo-Chinese refugee children.

This provision is intended as a stop-gap measure while the Congress deliberates a more comprehensive program to meet the needs of these children. This provision is adopted because school districts are faced with the immediate need for funds, and this is the most expeditous means to provide this aid.

Carl D. Perkins,
Frank Thompson, Jr.,
John Brademas,
William D. Ford,
Joseph M. Gaydos,
Mario Biaggi,
Paul Simon,
Austin J. Murphy,
Ted Weiss,
Peter A. Peyser,
William Ratchford,
Geo. Miller,
John M. Ashbrook,
John A. Buchanan, Jr.,
James M. Jeffords,
Mickey Edwards,
Thomas J. Tauke,
Thomas E. Petri,
Managers on the Part of the House.

Claiborne Pell,
Harrison A. Williams,
Jennings Randolph,
Edward M. Kennedy,
Thomas F. Eagleton,
Robert Stafford,
Dick Schweiker,
Jacob K. Javits,
Managers on the Part of the Senate.

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CONFERENCE REPORT ON S. 1125, FEDERAL CROP INSURANCE ACT OF 1980

Mr. JONES of Tennessee. Mr. Speaker, I call up the conference report on the Senate bill (S. 1125) to improve and expand the Federal crop insurance program, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of August 28, 1980.)

The SPEAKER pro tempore. The gentleman from Tennessee (Mr. Jones) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. Madigan) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. Jones).

Mr. JONES of Tennessee. Mr. Speaker, I yield myself such time as I may need for the purposes of explanation of the conference report.

Mr. Speaker, I rise in support of the conference report to S. 1125, a bill to expand and improve the Federal Crop Insurance Corporation. The bill is the result of 3 years of comprehensive study and hard work on the part of the Senate and House Agriculture Committees, the administration, producer organizations, and private industry. I want to express my deep gratitude to my colleague, the gentleman from Illinois (Mr. Madigan) for his hard work and close assistance in the achieving of the results that we have before us today. He has been deeply involved in the development of this legislation and put forth a tremendous effort on the minority side of the committee in helping us reach our goals.

The development of this legislation has not been without controversy.

What has emerged in the form of the conference report, I feel, is legislation that addresses in an effective fashion the concerns that have been expressed by a wide spectrum of interests. The compromises incorporated into this conference report have had the effect of strengthening this legislation to the point that it now carries the support of a wide range of interested groups.

Three years ago, at the inception of the debate leading to this conference report, there was general agreement that the piecemeal collection of Federal disaster programs for agriculture was confusing and inequitable. Secretary Bob Bergland termed these disaster programs disasters themselves. The disaster payment program, a form of free insurance available only to producers of wheat, feed grains, cotton, and rice, was especially criticized.

It is an expensive system. It benefits producers of only six crops, and a disproportionate amount of its benefits go to certain higher risk areas of the country, thus encouraging production where it probably should not be encouraged. The disaster payments program is another example of the "public dole."

S. 1125 would change that. It would, through a creative public-private partnership, permit a nationwide, all-risk crop insurance program to become the primary form of Federal disaster protection for farmers. Rather than producers of only six crops being granted protection, all farmers in every county in the United States would eventually be given the choice of insuring themselves against natural disasters. Rather than a giveaway program, crop insurance requires farmers to responsibly anticipate their own capacity to bear risk and assume part of the cost of insuring themselves if they choose to do so.

These amount to substantial changes in public policy.

Agricultural producers are involved in a high risk business both in terms of economic swings and vagaries of natural phenomena. In a matter of days or even hours a natural disaster can wreak financial ruin on an individual farmer or perhaps an entire rural community. If disaster strikes, a farmer can lose not only his crop but also his equity in his land and the ability to continue in operation in the future. The seriousness of the need of private financial protection to farmers cannot be underestimated. The summer of 1980 has brought this forcibly to our attention as a result of record heat and drought in many areas of this country.

The Federal crop insurance program now in effect has remained essentially a pilot program even though it was first established over 40 years ago. Several factors which have prohibited program growth are addressed in S. 1125. Current law limits expansion of the program each year to a maximum of 150 counties and three additional commodities. Funds authorized or made available to the Corporation have been too limited to provide for even this limited expansion. Currently, over 400 counties have requested coverage from the Federal Crop Insurance Corporation. Due to significant losses during the early years of the program, the limits on expansion represented prudent public policy. However, now with over 40-years' experience and compilation of actuarial data, a more expansive approach is in order.

In brief, S. 1125 would provide farmers with insurance coverage of up to 75 percent of average yield. Coverage would be valued by a price elected by the farmer, the highest of which would be no less than 90 percent of projected market price. In order to encourage the widest possible participation, premiums charged for coverage would be subsidized 30 percent from public funds. The program would be made widely available. It would be sold through county ASCS offices and by insurance agents and brokers. Private companies would be encouraged to write all-risk crop insurance. To achieve their participation, the Federal Crop Insurance Corporation would offer reinsurance services to qualified companies.

Sound insurance principles would be strictly followed in insuring crops, whether directly by FCIC or through insurance written by reinsured companies.

Present limitations on the rate of expansion placed on FCIC would be removed. Every effort would be made to rapidly expand the number of counties where crop insurance is available. Under the report, a farmer would be allowed to select from at least two levels of coverage, 50 percent and 75 percent of his recorded or appraised average yield. As a rule of thumb, 50 to 75 percent of the average yield roughly represents sufficient production to cover the variable cost of producing most crops. The bill provides a premium subsidy designed to bring insurance protection within the financial means of all farmers and to guarantee sufficient participation in the program to make it successful. The

Federal Government would be required to pay 30 percent of the cost for crop insurance premiums covering 65 percent of the recorded yield.

By the end of the 1984 crop year, 99 percent of the acreage devoted to wheat, feed grains, cotton, and rice will be insurable. Moreover, producers of other crops will be offered the opportunity to insure their crops. Expansion into new crop coverage will be aggressively pursued. As the primary form of Federal disaster protection for farmers, crop insurance would replace the disaster payment program beginning with the 1982 crop year. The 1981 crop year will serve as a transition period, permitting the producers of those crops eligible for disaster payments to choose between disaster payments or subsidized crop insurance. The report would make applicable to the 1981 crops the farm disaster payment and prevented planting disaster payment provisions for wheat, feed grains, upland cotton, and rice of the Agricultural Act of 1949.

In 1981, a producer of any of these commodities would have the option of choosing between such disaster payments or participating in the crop insurance program provided in the bill under which the Federal Government contributes to the cost of the premium. The producer could obtain the protection of both only if he pays the full premium cost of the crop insurance program.

I mentioned earlier the role of private insurers in this program. Let me take just a few moments to expound on that. This conference report requires the Federal Crop Insurance Corporation to the maximum extent feasible, to use the delivery system of the private insurance industry to market and service Federal all-risk crop insurance on a commission or contract basis. Private industry can bring a wealth of expertise and well-trained personnel to the expanded, nationwide crop insurance program.

There are 25,000 to 30,000 private crop insurance agents across the Nation who could sell and service crop insurance. The report provides for the Federal Crop Insurance Corporation to make use of this valuable resource pool to implement the crop insurance program.

Provision is included in the report to assure that the crop insurance program will complement and will not unfairly compete with the private and State fire and hail insurance business. To this end the report provides that producers may elect to have deleted from Federal crop insurance policies any coverage against hail and fire risks and obtain equivalent hail and fire coverage from a private or State insurer.

For any producer who makes such election, the Federal crop insurance premium would be reduced by an amount equal to 40 percent of the prevailing average county insurance premium charged by non-Federal insurers for full coverage hail and fire insurance that provides the same amount of protection. However, a farmer's premium could not be reduced by less than 15 percent, nor more than 30 percent, of the full cost of Federal crop insurance coverage. A range is provided so as to accurately reflect the variety of risk associated with hail and fire in different parts of the country.

Up to now, private insurance companies have not been able to successfully write all risk crop insurance such as offered by the Federal Government. Several companies have tried, but failed after finding the uncertainties, risks, and losses too great. The report removes a constraint in current law which limits reinsurance proposals to a 20 county area and stands in the way of private insurance companies entering into reinsurance agreements with FCIC.

In addition, it would require the Corporation, to the maximum extent possible, to provide reinsurance to private insurance companies and Government entities that provide crop insurance to farmers under plans acceptable to the Corporation, and make available a test program of reinsurance to begin not later than with the 1982 crops. The Corporation would pay operating and administrative costs to insurers of policies that are reinsured to the same extent that such costs on the Corporation's policies of insurance are covered by the Corporation.

The conferees felt that Federal reinsurance was necessary to cover the risks of catastrophic losses such as those that arise from large scale droughts, floods, or freezes. I want to emphasize that this bill represents a good partnership between Government and the private sector, and is an example of "good government."

The report deletes the $12 million limit on annual appropriations to cover the Corporation's operating and administrative costs; authorizes annual appropriations to the Corporation to cover agents' commissions, Federal premium payments, direct costs of crop inspections and loss adjustments, and interest on Treasury notes; and authorizes the Corporation to obtain emergency funding whenever moneys available to the Corporation are insufficient to cover claims for loss indemnification.

For this purpose the Secretary of Agriculture could use the funds of the Commodity Credit Corporation whenever the Board of Directors of the Federal Crop Insurance Corporation requests such use of funds (the Secretary's authority to use CCC funds would expire 1 year after the date on which the authority is first used); and the Corporation could borrow from the U.S. Treasury to the extent provided in advance in appropriation acts.

The report also contains a number of changes in the funding provisions to assure that the Federal Crop Insurance Corporation will have the financial resources to meet the needs of the program. It increases the authorized capital stock of the Corporation from $200 million to $500 million and cancels all outstanding capital stock leaving the Corporation with authority to issue stock in the amount of $500 million as needed upon the appropriation of necessary funds.

In summary, the report provides a basis for a creative three-way partnership among farmers, Government, and the insurance industry. It represents the culmination of 3 years of development efforts by Congress, the administration, the insurance industry, and farmers.

It builds upon established institutions by utilizing 40 years of FCIC experience and the great resources and talents of the private sector. It will benefit farmers, the insurance industry, and the taxpayer.

Mr. Speaker, the Federal Crop Insurance Act of 1980 is among the most important pieces of legislation reported out of our committee this year. It puts on a sound basis the various programs necessary to aid farmers when disaster strikes, such as this year when drought has taken a heavy toll on our agricultural economy. I urge my colleagues to join in supporting this measure. It is needed and it will afford the best protection possible for farmers and the taxpayer.

I urge the Members to join me in voting for this measure.

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Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the distinguished ranking minority member of the Committee on Agriculture, the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Speaker, I rise in support of the conference report to S. 1125, a bill to improve and expand the Federal crop insurance program. I wish to associate myself with the remarks of my distinguished colleagues and urge swift passage of the conference report.

Mr. Speaker, there is a need for this legislation. The current disaster payments program, established in 1973, has helped many farmers hard hit by natural disaster.

Nevertheless, the program has been strongly criticized as costly and inequitable. Only six major farm crops, which also benefit from price support programs, are presently eligible for disaster payments—wheat, cotton, rice, corn, grain sorghum, and barley. Also, available coverage is generally inadequate, protecting only about one-third of a farmer's production costs. This is not enough protection to meet the needs of our farmers. This legislation should provide that protection.

As agreed to in conference, S. 1125 is designed to replace the current inadequate disaster payment program. It provides for expansion of the present Federal all-risk crop insurance program by making such insurance available on all commodities in all counties of the United States, and it insures that the program is affordable to all farmers by requiring the Federal Crop Insurance Corporation to pay a portion of the premium cost.

I am particularly pleased that the conference report seeks to provide for broadened participation by the private insurance industry in delivering crop insurance to farmers, either on a commission basis or through reinsurance programs.

Mr. Speaker, this legislation is a positive step toward improving current disaster loss assistance while meeting the insurance needs of our farm sector, and I urge support for the conference report.

In conclusion, I wish to express my

concern about an investigation of certain personnel in the Federal Crop Insurance Corporation and personnel practices and policies in effect at that agency since 1977, which investigation was conducted by the Office of Investigation of the U.S. Department of Agriculture.

Under general leave to revise and extend remarks, I wish to insert a copy of a USDA news release dated August 12, 1980, which noted that two of the top officials of FCIC were recommended for removal "for allegedly engaging in prohibited or irregular personnel practices." The two individuals were the FCIC deputy manager and the assistant manager for administrative management.

The news release also indicates that administrative action against a third official, the FCIC manager, was being held up "pending a ruling on his application for disability retirement." However, according to news reports over the weekend, the application of the FCIC manager for disability retirement has been denied by the Office of Personnel Management.

Subsequently, a fourth FCIC management official was proposed for removal.

The USDA Office of Investigation has forwarded a copy of a report of investigation covering this matter. The report is substantial in detail, and is shocking in its content.

The investigation and the special review summarily disclosed "a number of unlawful personnel management actions perpetrated under either the joint or independent direction" of the FCIC manager, deputy manager or the assistant to the manager.

I commend Mr. COLEMAN and Mr. GLICKMAN of our committee who have pursued this matter vigorously, and I commend our colleagues from the other body, Senators DOLE and ZORINSKY, who were instrumental in insisting that the investigation of FCIC misconduct and mismanagement be thoroughly conducted.

The investigation and its results do not bear directly on this conference report, which I support, but it does reflect adversely in my opinion on the conduct of certain administration officials, their policies and practices.

It is a matter which I hope the Congress will pursue further in both bodies. It is a matter of concern in the House to the Committee on Agriculture, the Committee on Post Office and Civil Service, and the Committee on Government Operations.

USDA PROPOSES REMOVAL OF FEDERAL CROP INSURANCE OFFICIALS

WASHINGTON, August 12.—Winston L. Wilson, deputy under secretary of agriculture for commodity programs, today proposed the removal of two officials of the Federal Crop Insurance Corporation (FCIC) for allegedly engaging in prohibited or irregular personnel practices.

The two officials are W. Otto Johnson, FCIC deputy manager, and Roy L. Alton, assistant manager for administrative management.

Administrative action against a third official, FCIC manager James D. Deal, is being held up pending a ruling on his application for disability retirement.

All three were relieved of their duties and responsibilities July 3 and placed on administrative leave pending completion of an investigation into allegations of improper personal conduct and personnel practices in the FCIC.

The results of the investigation are contained in reports prepared by USDA's Office of Personnel and Office of the Inspector General.

"None of the allegations against these officials reflect on the basic mission of the FCIC," said Wilson. "They are strictly administrative matters.

"There has been and will be no interruption in the services that the FCIC has provided to over 250,000 farmers for more than 40 years, nor will there be any changes in new crop insurance legislation," Wilson said.

Wilson also said that Everett Sharp, former head of actuarial services, will continue as acting manager of FCIC. Roland Wentzel, former assistant to the under secretary for International Affairs and Commodity Programs, will remain acting deputy manager.

Johnson and Alton have 10 days to respond to the proposals, during which time they will remain in nonduty status with pay. If a final decision is made to implement the proposal, the decision will be effective in not less than 30 days, Wilson said.

Mr. JONES of Tennessee. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. BALDUS), a member of the subcommittee.

Mr. BALDUS. Mr. Speaker, I, too, would like to commend both the chairman of the subcommittee and the ranking minority member for their patience in the production of this bill.

Mr. Speaker, I urge your support for the conference report on S. 1125, providing for an expanded and improved Federal crop insurance program for farmers.

When the 95th Congress began, I was one of the few cosponsors of this legislation. It is through the long hours of dedication and hard work put in by my friend from Tennessee, Congressman ED JONES, that we have the opportunity to vote on this conference report today. Certainly, at the beginning of this Congress the smart money was saying that this bill would not ever get out of committee.

But this legislation is needed by our farmers. It is imperative that our current program of incomplete insurance offering partial coverage to selected farmer-clients and backed up by emergency give-away disaster programs be updated and replaced.

By utilizing some of the funding which has traditionally gone into the disaster programs for farmers, we can maintain an effective reinsurance program available to all farmers in all counties in the country and covering all crops and all risks.

Farmers will be willing to pay the premiums for this coverage. Premium payments can easily be worked into the budget of expenses for most farms. The regularity of the payments adapts well into a well-managed farm.

But, more importantly, a farmer who suffers a disaster will receive direct payment for his losses according to the premiums which he pays. No longer will farmers just be given the opportunity to borrow disaster money and be saddled with the responsibility of extending their credit further and further.

Loans and debts have become an all too standard part of American agriculture. As forces push farmers deeper into debt, they soon require more and more money just to keep their farms afloat.

The consumer will gain from the new stability which our farms achieve under this new insurance program. Ultimately, for less money than is now spent on disaster programs, they will benefit from the strength the program gives to our farms.

I urge my colleagues to vote for the conference report.

Mr. MADIGAN. Mr. Speaker, I yield 5 minutes to the gentleman from Missouri (Mr. COLEMAN).

Mr. COLEMAN. Mr. Speaker, it has been mentioned earlier that this agency has been fraught with a number of personnel problems since the last time the House had this bill before it. I just want to take a few moments to discuss those problems.

I think out in front, I ought to say that I voted against this bill in committee when it got out of the committee by a vote of 21 to 20. I voted against it previously, and I will vote against it today. Separate from that, I will say that I am voting on the merits of the bill, but I do want to discuss some of the personnel problems that the FCIC has had.

The highly irregular, if not illegal, personnel practices of the agency have been investigated by the Justice Department and by the Inspector General of the USDA. So far we have seen four—count them, four—of the top administrators of this agency removed by the Department subsequent to the allegations that have been made in the press and through this investigation. Those administrators include the very top individual in the FCIC, the Deputy Manager, the Assistant Manager for Administrative Management, and the FCIC Personnel Director. All have been fired from their posts.

Mr. Speaker, one thing which bothers me is that in one instance the Manager was given a preview of the findings of the Inspector General's report before it was made public. This was done and has admittedly been done by a member of the Secretary's staff prior to its publication. and then, as to that particular individual, it was suggested that he seek disability retirement.

In fact, recently he was turned down on that by the Office of Personnel, but not after apparently an officer of the Secretary had been involved in counseling him to do so and was doing it prior to the publication of this particular report. That shows the lack of leadership and the irregular practices that this officer and others in that particular agency conducted.

I mention this, as I said, not because I am counseling any Member to vote against this particular conference report but because I think it is necessary for those of us on the Committee on Agriculture and indeed in the whole House to recognize that there is a problem with the administration of this agency. As we give them millions of more dollars to spend and give them authority to hire hundreds of more people at this very time when the agency is undergoing such a transition without any leadership, it is very important for us to maintain our oversight function.

So because of that I have asked that we have a hearing on some of these personnel practices and have representatives of the Department in to answer questions as to what really did happen.

□ 1350

We have an Inspector General who is going to report back to our committee on a continuing and an ongoing investigation. I would just simply say that I would like to work with Chairman JONES as we pursue this matter to insure that our committee and the Subcommittee on Conservation and Credit realize the importance of the new, additional responsibilities and duties that we are giving to this agency, and that we follow up with the oversight function which is necessary, I think, to keep them on track.

I would like to have the chairman respond, if he would at this time, to a question, and that is: Does the chairman intend to have periodic oversight hearings on the Federal Crop Insurance Corporation in the next year, as I assume this bill will pass and become law, and I would like to get an affirmative answer from the chairman that we will have those hearings.

Mr. JONES of Tennessee. If the gentleman will yield, my answer to the gentleman is the same answer that I think I gave to the gentleman off the floor one day: That we will continue to have some hearings. In fact, the truth of the matter is that as soon as we can get the Office of the Inspector General's attention, we are going to invite him back up here for a meeting of the considerations that the gentleman just raised.

Mr. COLEMAN. I would also stress to the chairman and hope that he will join with us in pursuing an oversight function next year as we return, after the new authority is on the books and they are attempting to administer this program. It is going to be difficult, at best, and, with four top administrators gone, I think it is wise that we on the subcommittee and the committee make sure that the agency realizes what our intent is by the passage of this legislation today.

Mr. JONES of Tennessee. If the gentleman will yield further, I assure him that this will be done. I am just as interested and concerned as the gentleman is about the administration of the Federal crop insurance program.

Mr. COLEMAN. I thank the gentleman for his response.

Mr. JONES of Tennessee. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. PANETTA), a member of the subcommittee.

Mr. PANETTA. Mr. Speaker, I urge the House's support today for S. 1125, the conference report on a bill to amend the Federal Crop Insurance Act. This measure which the Agriculture Committee and the Subcommittee on Conservation and Credit, on which I serve, have been working on for over 2 years, represents a significant step toward Federal restraint and a return to individual responsibility.

This legislation will put an end to a program of disaster assistance which is itself a disaster. It will expand upon a proven crop insurance program and thereby make a significant contribution to the reduction of uncertainty and income instability on the farms across this Nation.

We have labored long and hard on this proposal which is before the House today. We have taken this issue to the field and have talked to farmers across the Nation. It is an equitable and financially responsible approach to the very real problems facing farmers.

Perhaps more than any other profession, farming involves risks and uncertainties completely beyond the control of the farmer. An entire season's work and investment can be washed away in a matter of days. An entire life's work in some cases can be withered by drought or destroyed by disease while the farmer stands helplessly by. It is the nature of the risk, which works itself in particularly swift and severe ways, that persuaded this body to crease a disaster assistance program. Our experience with that program since its enactment in 1973 has taught us, however, that flatout indemnification for farmers' losses due to disaster is not a responsible use of taxpayers' funds.

The cost of the disaster assistance program has risen to about one-half billion dollars a year. It covers the six basic commodities and admittedly works as an incentive to farmers to comply with Government set aside requirements. But the program has proved to be very costly and to lack effective control or fiscal accountability. In addition, it simply does nothing to meet the needs of farmers of crops other than the basic commodities.

Our objective is clear—to help farmers reduce the uncertainty and risk involved in farming and to level out the peaks and valleys in farm income that result from the uncertainties of nature. The most rational and effective means of accomplishing this worthy goal is to provide a comprehensive crop insurance program in which a farmer may elect to purchase coverage. This approach is consistent with the fiercely independent nature of our farmers and ranchers who do not want any Government hand-out but only the opportunity to purchase affordable protection against disaster.

In the long run, I am convinced that this legislation will provide an all-risk crop insurance program to agriculture producers at a lower cost to the Federal Government than the present commodity disaster program and the crop insurance program which it will replace. It will provide more widespread protection from disaster and thus more stability in the agricultural sector.

The present disaster assistance program is itself a disaster. It is an unfortunate reality that there are farmers in this country who farm disaster programs by planting crops on marginal land that has a history of disaster. There is no incentive not to do this because if a crop is wiped out the Government will pay for it. It is time to put a stop to this kind of abuse by creating a crop insurance program that ties premiums to risk.

The Federal Crop Insurance Corporation (FCIC), has a proven track record. It has refined and improved its operations over the years. Today it is ready to take on the challenge of providing an all-risk, all-crop insurance policy. Over the past 30 years the FCIC has extended $21.5 billion worth of insurance coverage. It has collected $1.15 billion in premiums and paid $1.13 billion in indemnity for a payout of 98 cents on each dollar of premium received. It makes good sense to expand upon this program and to put an end to the disaster assistance program.

The key provisions of this legislation are simple and straightforward. It expands a good program and phases out a bad one. This legislation represents a healthy shift in policy that will benefit our economy and our farmers as well. It turns away from the idea of indiscriminate absorption of farmers' loss and moves toward self-help where farmers themselves share the cost of the program. The idea is a responsible one. It is closely tied to traditional notions of Government as partner rather than provider. I urge your support for the conference report.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, I rise in support of the conference report, and again I want to add my commendation to both the chairman and the ranking minority member on the subcommittee for the really superwork they have done on this very difficult piece of legislation.

Mr. Speaker, I agree with my colleagues who have spoken in favor of this legislation.

This legislation and conference report is designed to replace the current complex and inadequate disaster payment program. It provides for expansion and improvement of the present Federal all-risk crop insurance program by authorizing its availability on all commodites in all counties of the United States.

There is, however, one provision in the legislation and conference report that I would like to mention. This provision, which I offered and the House Committee on Agriculture accepted, authorizes the FCIC to conduct pilot insurance programs on such things as livestock poisoning and disease, destruction of bees due to the use of pesticides and other unique problems of special risk related to agriculture.

Livestock diseases such as brucellosis can be devastating. Many of us have also been contacted by beekeepers who are concerned that agricultural chemicals, improperly applied, are destroying colonies of honey bees. Because of the seriousness of these losses and the cost to the Government of indemnity programs, I believe that diseases such as brucellosis and bee colony losses due to improper chemical risks should be considered as insurable risks under the Federal crop insurance program. I am convinced that it would be less expensive for the Government to do so.

I join with my colleague in asking the House to approve this conference report and this legislation so that we can reduce Government costs.

Mr. JONES of Tennessee. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. HANCE), a member of the subcommittee.

Mr. HANCE. Mr. Speaker, I rise in opposition to the conference report. I opposed this in the subcommittee and in the full committee and on the floor and on the conference committee for several reasons.

One, I think that you are going to find that it is going to be more costly. There are budget estimates that will not be. But my prediction is that within 4 years you are going to see a lot more money expended in this program than ever has been spent in the disaster program.

I have the utmost respect for the chairman of the subcommittee and for the ranking minority member, and I enjoyed working with them. In fact, I even agreed to work out a compromise on the bill. My idea of a good compromise on this bill would be to kill the bill and to eliminate it, but they did not agree with me at the time.

The other thing I would like to point out is that the Federal Crop Insurance Corporation, at this time is being investigated concerning irregularities and illegalities that have been going on in that agency. It is a Government agency. The top four people have been asked to step down because of a scandal. Now we are passing a bill that will give more power and more authority to that agency. I think it is a bad policy.

The other thing, the most important thing and the reason I would urge the Members to vote against this bill, is that the "sunset clause" that was originally in the bill was eliminated in the conference committee. For us to give this agency that has a scandal over it at the present time additional powers without a sunset provision holding them accountable is unwise and bad policy. I would urge a no vote on the conference report.

Mr. MADIGAN. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota (Mr. STANGELAND).

Mr. STANGELAND. Mr. Speaker, I rise in support of this bill. We all recognize the need to provide adequate insurance coverage at a reasonable cost to the farmer and the Government. The overriding concern of those who had reservations about this legislation was the lack of provisions in the bill as reported by the Agriculture Committee to insure private industry's participation in the expanded program. The House adopted the Jones-Madigan amendments requiring the administration to bring the private sector into the program wherever possible. At that time, Members expressed apprehension about the administration's commitment to carrying out the intent of the House to have the private insurance sector participate as fully as possible in the program. I shared that concern. However, I have been informed that the private sector can live with the bill which has emerged from conference, and I intend to support the conference bill.

Although I intend to support this measure, I must say that any apprehension which I had about the administration's good will was exacerbated by a letter which I just received from the Secretary of Agriculture. Although we recognize that the present program is piecemeal, we must live with it until the new program goes into effect. Under the current program many crops were neither included in the crop insurance program nor the disaster payment program. As a consequence of this reality, earlier this summer I introduced legislation necessitated by the fact that 14 counties in my district in northwestern Minnesota were declared a disaster area due to drought conditions. These 14 counties provided over two-thirds of the sugar beet and potato crops in Minnesota in 1979 and also provided over 60 percent of the State's flaxseed and sunflowers, yet none of these crops are currently eligible for disaster payment assistance and only a limited number of the farmers growing these crops had the option this spring of purchasing Federal crop insurance.

My bill, H.R. 7794, would expand the disaster payment program for the 1980 crop to include flaxseed, soybeans, sugar beets, sunflowers, potatoes, and pinto beans. I have urged Chairman JONES to schedule consideration of my bill at the earliest possible date. During its consideration I intend to expand its coverage to grasses, in particular timothy and bluegrass and oats.

Assuming that the Secretary shared my concern over the unfortunate situation of these farmers, I wrote to him to ask his support of my bill. At this point, I would like to insert in the RECORD a copy of the Secretary's response to my request:

DEPARTMENT OF AGRICULTURE,
Washington, D.C., September 10, 1980.

HON. ARLAN STANGELAND,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN STANGELAND: This is in response to your recent letter requesting support for H.R. 7794, a bill "to authorize the Secretary of Agriculture to provide disaster payments to producers of the 1980 crops of flaxseed, soybeans, sugarbeets, sunflower, potatoes, and pinto beans for crop losses caused by natural disasters." You also indicated your intent to offer an amendment to the bill to include grass seeds.

We believe the Administration's comprehensive all-risk crop insurance legislative proposal, that we hope will be soon approved by Congress, is a much preferable alternative to increasing Government handouts to persons who suffer because of natural disasters. While your bill deals with a few crops affected by this year's drought, there are more than 200 crops in the country adversely affected by bad weather not now covered by the disaster relief payments. It is our intention to phase out all of these disaster payment schemes and replace them with this new, broadened Government sponsored insurance program.

If Congress acts on the insurance program before the first of October, we will be offering insurance contracts on most major crops next Spring and on additional crops as data is accumulated.

Sincerely,

BOB BERGLAND,
Secretary.

Although I hope that the new program will preclude a piecemeal approach to disaster coverage, I cannot believe the cavalier, callous attitude toward thousands of American farmers who have suffered severely due to natural phenomena over which they had absolutely no control. Farmers have already suffered from the grain embargo imposed by the administration, and now natural disasters are something which we are asked to accept.

I do not consider disaster payments to farmers for whom a significant source of income has been destroyed as handouts. My bill limits payments to 60 percent of normal value, an amount which barely recovers the farmer's cost. He is still left with no income from his crop. If this is the attitude of the Secretary of Agriculture whose primary interest should be the American farmer, then I have grave doubts that the administration will look after the private insurance's interest any more than it has the farmers.

☐ 1400

Mr. Speaker, I yield back the balance of my time.

Mr. JONES of Tennessee. Mr. Speaker, I yield 4 minutes to a member of the subcommittee, the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Speaker, first of all, I would like to commend our subcommittee chairman (Mr. JONES of Tennessee) and the ranking minority member, the gentleman from Illinois (Mr. MADIGAN). In my opinion, this bill would have never come out of our full committee if it had not been for the tremendous admiration that the members of the committee have for both our committee chairman and the ranking minority member.

I hope as we look at this bill, we will look at exactly what it does, because I think we should realize what we are doing as we pass this legislation.

At this time Federal crop insurance is subsidized to where the taxpayer pays for the cost of administration, selling and settlement cost. This is approximately 20 percent of the total cost of the Federal crop insurance program, including the payments made to the farmers.

This bill would add to that 30 percent of the premium cost of Federal crop insurance, which is to say that under this bill the taxpayers will be paying roughly half of the total cost of Federal crop insurance, at least up to 65 percent coverage.

Now I ask the Members how it is that we are going to start doing this for one segment of our society and say to small business, "When you come to us, you do not get any subsidy for your insurance which you also need," or how we say it to the senior citizen who is living on very limited income and has to pay all of their own insurance.

I think we are taking a very, very, very dangerous step when we say that the taxpayers are going to subsidize not only the cost of administration, selling and settlement, but also 30 percent of the premium cost.

I absolutely agree that we need to expand our Federal crop insurance program. I agree it should be for the other crops that are not covered, but there is no reason that it cannot be done and still have it pay the cost of the program. In fact, in my area where this program is very successful, it is successful because they have an adequate sales effort and are getting out and letting the farmer know exactly how good it is and the opportunity that exists, for those who use it.

The previous speaker said farmers are not interested in getting a handout. That is just why I am here before the Members today. My farmers do not want a handout. My farmers believe that they indeed should be expected to pay the fair cost of the premium of the insurance, particularly when we have a 20-percent administrative subsidy.

We have tried to bring private industry into the act. I question whether we should have a subsidy that applies therein as well. We talked about the disaster program. Absolutely there are problems with the disaster program. But should we not have the courage to address those problems individually? Should we have to say that the only way we can correct something that is wrong is putting in some other big subsidy for some other program?

I believe we should have the courage to address the problems that exist with that program, and second, I hope we will realize that when we have a farm program we have to have incentives for people to come into the farm program; and in the past, one of those incentives has been the disaster program. If we have a farm program and the disaster program is no longer in effect, we are somehow going to spend some money to give some incentive for farmers to participate in our farm program.

Coming from a farm State as I do, I still believe that if we are concerned about our Federal budget, if we are concerned about the taxpayers, then we should have the courage to address the disaster program, make the corrections that need to be made in it, and to have a Federal crop insurance program which is adequate, which provides for coverage of the various crops, which provides for coverage in the various geographical areas, but in which the farmer pays the fair share of the cost and does not ask for a handout from the taxpayer.

Mr. MADIGAN. Mr. Speaker, I yield 5 minutes to the gentleman from Iowa (Mr. GRASSLEY), and pending that, I yield such time as he may consume to the gentleman from Illinois (Mr. PORTER).

Mr. PORTER. Mr. Speaker, I rise in opposition to the conference report.

Mr. Speaker, perhaps I would not arise on this conference report today if I were not changing my vote from the original bill on Federal crop insurance considered earlier this year. Agriculture is not a subject of strong self-interest in my suburban district, although its importance to the country as a whole obviously cannot be overestimated.

But I am changing my vote, and it is not because the sunset provision contained in the House bill has been dropped in the conference or because the special premium subsidies for small farmers contained in the original bill cannot be found in the conference report. These are important differences, and I am disturbed at their deletion, but they are not strong enough considerations to be supportive of a 180-degree turn.

No, Mr. Speaker, I have simply gained a better perspective on this entire subject matter in the months that have intervened. I understand better today than I did then, the implications of this legislation for our private enterprise system, and this is more than sufficient to persuade me to change my vote.

Of course we want to protect our farmers against the vagaries of nature. Of course we want to insure that the family farm survives. Of course we want to maximize production to insure food not only for ourselves but for the people of other countries unable to match our agricultural resources or technology.

But do we wish to do this by extending yet again the reach of the Federal Government—a new program into a new area, displacing private industry still further, ultimately costing more, if not to the farmer, to all the American people who have to pay for the subsidies? I think not.

It is argued that private insurance sources are still able to compete. For how long? Does anyone doubt that the FCIC, perhaps not consciously, will see private industry as its competitor in the field and take all steps necessary, quietly and subtly of course, to clear the field of competition. "Partnerships" of this type between Government and industry, a sharing of the field, are fiction. Government always wins out and preemption is always the ultimate result. And when that happens, will we really be better off? Will greater efficiency have resulted? Again, I think not.

I regret my earlier vote and now urge my colleagues who supported the bill earlier, as I did, to reconsider. We should oppose this extension of Federal power into yet another broader area better left to the competition of a free marketplace.

Mr. GRASSLEY. Mr. Speaker, I rise in opposition to the conference report.

Mr. Speaker, I find it necessary, as I did in the original debate on this bill, to rise in opposition to it; and I do it with a full understanding that if there is going to be a bill on this subject, this bill is probably as good as a compromise as could be worked out.

In regard to that, I have to compliment the gentleman from Tennessee and the gentleman from Illinois for working to get a rational approach to what is considered a Government-private sector partnership in this area. I guess I would have to say that my concern is that this Government-private sector partnership may result in the private sector having minority voting rights in the partnership and farmers perhaps having no vote at all.

□ 1410

If it is going to be a partnership, this may be the best that can be worked out in this area in this Congress, but I find fault with the premise that we had to arrive at that conclusion at this point in the process of trying to deal with the problems of disaster programs and insurance programs for crops. I have some grave reservations about the legislation which a Federal Government-private sector partnership does little to resolve.

I honestly feel that when there is such a partnership between Government and the private sector, as in the case with other insurance programs like the flood insurance program, it is not long until the Government dominates that portion of the insurance industry it is subsidizing. Too often that subsidized program in and of itself is used as a lever to get Government compliance in many other areas as well. I am sure the gentleman from Tennessee does not want to use this as a lever for other Government intervention into agriculture practices or into insurance coverage, contracts, and so forth. But let me assure the gentleman from Tennessee that in my opinion other partnerships between the insurance industry and the Federal Government have ended up in just such domination by Government in the industry it subsidizes, plus it is being used to accomplish greater public policy goals that may offend the independence of the farmers whom it is presumably designed to protect.

I might suggest to the gentleman that in the area of flood insurance there have been some land use policies that could not otherwise have been adopted by this Congress which have been pushed on to private industry and private property interests, under the guise of Federal subsidy of uninsurable risks for flood prone areas. How many Members of Congress who voted for that measure intended such result?

So we have the problem, do we not, of how we are going to solve this Federal relationship? When the Federal Government gets involved, I submit its goal is to dominate. There is a good record here by the private industry of offering hail-fire insurance coverage in agriculture. By and large farmers have been satisfied with the protection offered and the service received on claims.

When we have such a good record by the private sector, then there ought to be an overwhelming reason before the Federal Government should be brought in to become a partner and/or dominate. That presumption has not been proven as far as I am concerned, and I hope this view is shared by a large number of Members in this House.

Yet I do not find the people that this program is supposed to serve, the farmers of the State of Iowa, asking for this massive infusion of Government involvement. In fact, apart from the serious management problems that have surfaced, the message I am getting is one of general satisfaction on the part of farmers and the people of Iowa with the program for disaster and with the program for private insurance on hail, recognizing that there is room for improvement of both. I would like to have that consideration be given utmost concern by this Congress before we go as far as this bill does.

The management problems at the Federal Crop Insurance Corporation alone should cause us to put a hold on this bill. The recent investigations of FCIC have resulted in removal action against the top four officials of the Corporation. We should not be mandating massive new authority to this agency until we are certain all those problems have been straightened out.

In my opinion there are parts of the State of Iowa which will feel the effects of this legislation greater than others. I have traveled throughout the State and talked to farmers and people involved in the insurance industry and on balance I do not believe that this particular legislation is in the best interests of those in the entire State of Iowa who would be most directly affected by it.

I urge opposition to the conference report.

Mr. JONES of Tennessee. Mr. Speaker, I yield 2 minutes to a member of the subcommittee, the gentleman from Kansas (Mr. Glickman).

Mr. GLICKMAN. Mr. Speaker, I rise in support of the conference report.

I want to commend the gentleman from Illinois and the gentleman from Tennessee for their work.

This is a fairly controversial piece of legislation, because as has been said so many times before, it amends the existing programs involving disaster payments, which has heretofore been limited to a few basic crops, this bill expands such coverage to a kind of comprehensive crop insurance program subsidized in part, which would be offered for practically every crop that is grown in America.

Therefore, people in many parts of this country who are not eligible for the disaster program will be eligible for insurance under the Federal crop insurance program.

Now, I did sign the conference report. I was one of the Members, however, who worked with the gentleman from Missouri (Mr. Coleman) concerning the improper behavior by some of the senior members of the Federal Crop Insurance Corporation. As has been already said, there has been some disciplinary action taken and that investigation should not be impeded by failure to pass this crop insurance bill. This bill is too important for the farmers of America and actually is one of the most significant pieces of legislation that we can pass for our farmers, because for the first time it will provide reasonable production against peril and loss; but I do want to serve notice on the Federal Crop Insurance Corporation that our subcommittee and our committee is going to hold their feet to the fire to see that they administer this program properly.

Unfortunately, an amendment I had offered in committee which provided for a sunset to this bill was not agreed to in conference, but even though we do not have a sunset on this bill, I expect and will push very strongly for continuing oversight hearings to make sure that the Federal Crop Insurance personnel are capable and competent to manage this new and very expansive program; but I do not want to let that take away from the nature of the program itself. This is a good bill for farmers all over America and I urge its passage.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at the outset, if I may, I should like to have the attention of the distinguished gentleman from Tennessee, the chairman of the Subcommittee on Conservation and Credit.

Mr. Speaker, section 104 of S. 1125 requires that FCIC reimburse private insurance companies for the administrative and program expenses incurred by them "under terms and provisions and rates of compensation consistent with those generally prevailing in the insurance industry." Later, in the same section, reference is made to the fact that licensed private insurance agents and brokers "shall be reasonably compensated" for their successful efforts to sell Federal all-risk crop insurance policies.

I interpret the words "shall be reasonably compensated" to mean that private insurance agents and brokers are to be compensated for their services according to terms and provisions and rates of compensation generally prevailing in the insurance industry for similar services. Such an interpretation tracks the language in section 104 regarding the compensation of insurance companies. It also reflects the congressional intent to provide the same basis for computing the compensation of both private insurance companies and private insurance agents and brokers.

So my question is this: Does the Congressman from Tennessee accept this interpretation as accurately reflecting his understanding of the intent of the agent compensation provisions of section 104?

Mr. JONES of Tennessee. Mr. Speaker, will my friend, the gentleman from Illinois, yield?

Mr. MADIGAN. I would be happy to yield.

Mr. JONES of Tennessee. The answer is yes.

Mr. MADIGAN. Mr. Speaker, I want to thank the gentleman for his assistance.

Mr. Speaker, the purpose of this legislation is to lay the base for replacing the inadequate, overlapping, and complex and embarrassing farm disaster assistance programs now in effect, and which some of the speakers here want desperately to continue. Currently, the biggest part of our disaster aid goes to the producers of a half-dozen commodities in only a few States. By revising the Federal crop insurance program, taxpayer dollars can be spent more efficiently to provide natural disaster protection nationwide to producers of all commodities, rather than just a few in just a few areas.

The seriousness of the need to provide adequate financial protection to farmers cannot be underestimated. A natural disaster can bring about financial ruin on an individual farmer or an entire rural community within a matter of days or even hours. If disaster strikes, a farmer with a large annual operating loan for the purchase of seed, fertilizer, chemicals, fuel, and labor may not only lose his crop, but also equity in his land and the ability to continue his farm operation the next year.

S. 1125, as agreed to in conference, will meet the financial protection needs of our agricultural sector. The bill amends the Federal Crop Insurance Act of 1938 to provide for the expansion and improvement of the present Federal all-risk crop insurance program by authorizing its availability on all commodities in all counties of the United States. In order to insure that the program is affordable to all farmers, the legislation requires the Federal Crop Insurance Corporation to pay a portion of premium costs. The bill includes reinsurance provisions which will enable the private insurance industry to offer a comprehensive all-risk insurance policy to farmers, and it also provides for phaseout of the disaster payment program in 1981 as crop insurance is made generally available to producers throughout the country.

I would like to point out that the cost of the expanded crop insurance program would be about the same as the cost of the current limited Federal crop insurance program and the present embarrassing disaster payment program combined. Furthermore the present crop insurance program and the current disaster program combined offer only $6.1 billion worth of crop protection to farmers. This legislation would provide an estimated $15.2 billion worth of crop protection by 1985.

This legislation envisions utilizing the private insurance sector to the maximum extent possible in delivering this much needed program to farmers. Producers could elect to purchase hail and fire-risk coverage from the private sector, have such coverage deleted from the Federal policy, and receive a premium reduction on the Federal policy.

In the determination of the amount of the premium reduction, the conference agreement sought to reflect the various degrees of risk associated with hail and fire in different areas of the country while also insuring that the Federal all-risk policy would not compete unfairly with the private hail and fire policies. Thus, the conferees provided a flexible range for the determination of the amount of the premium reduction so that in areas of high risk, the amount deducted from the premium would be greater than 25 percent and in areas of low risk, the deduction would be less than 25 percent. I might add that this provision of the conference agreement has the support of the private insurance industry.

Mr. Speaker, farmers experiencing financial loss due to crop damage from insects, diseases, or natural disasters will be adequately protected by the provisions of this legislation. It is a significant step toward simplifying current disaster loss assistance, and I feel it will provide the means to best serve the insurance needs of our farm sector. Therefore, I urge my colleagues to vote for the passage of the conference report.

□ 1420

I appreciate all of the kind remarks that have been made about the gentleman from Tennessee (Mr. JONES) and myself, by Members on both sides of the aisle.

Mr. Speaker, I reserve the balance of my time.

Mr. JONES of Tennessee. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. STENHOLM), a member of the Committee on Agriculture.

Mr. STENHOLM. Mr. Speaker, I rise again in strong opposition to the conference report before us. I have opposed this bill in committee and opposed it on the floor and I still oppose the bill.

I want to commend the gentleman from Iowa, Mr. BEDELL, for the remarks he made and associate myself with his very good description of why we should oppose this conference report.

I want to amplify just a little further on some of his remarks. It is true we could have had a better Federal Crop Insurance Program to meet the needs. I was on the Texas ASC Committee when the original proposal came down and it was much better than the proposal we are about to act on in this House.

That proposal was much better for two major reasons. One, it provided for getting the insurance out to the local farmers in a manner which would have been much better than what we are about to do because it associated the ASCS system in a more direct manner for serving our farmers' insurance needs.

Second, we did not address the basic problem that we now have with this insurance program, the tremendous costs. I think that in the years ahead we are going to find that the cost of this is going to be much greater. The additional $15 billion in coverage, who is going to pay for that? There is no free lunch in the country today.

We are creating another giant federal bureaucracy. That is the best way to say what we are doing. Again, when the people of America are asking us to make our Government smaller, we, by passing this legislation, are expanding another Federal agency that is going to have to grow in leaps and bounds if it is going to serve our farmers.

I predict that those in the agricultural communities who are supporting this legislation today, when our farmers come back to us in the years ahead, when we find out that it is not serving the needs of our farmers, and it is costing the taxpayer tremendously, we are going to wish we had done a better job, when we had the chance, than what we have done in putting together this package.

I ask you to vote "no."

Mr. MADIGAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of Tennessee. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. AKAKA), a member of the Committee on Agriculture.

Mr. AKAKA. Mr. Speaker, I rise in support of S. 1125.

I commend the subcommittee chairman from Tennessee (Mr. JONES), the ranking minority member from Illinois (Mr. MADIGAN), and the full committee chairman, from Washington (Mr. FOLEY) for their outstanding efforts in the formulation of this comprehensive piece of legislation over a 3½-year period. The Federal Crop Insurance Act of 1980 contains significant improvements for disaster crop insurance.

One of the significant inclusions is for a public-private relationship which will better provide all-risk, all-crop disaster insurance to farmers.

Another outstanding inclusion is the provision for crop insurance or reinsurance of agricultural commodities in the Trust Territory of the Pacific Islands in the same manner as for producers in the States.

Mr. JONES of Tennessee. Mr. Speaker, I yield my remaining 2 minutes and 30 seconds to the gentleman from Iowa (Mr. HARKIN), a member of the subcommittee.

Mr. HARKIN. Mr. Speaker, I rise in support of this bill. I have worked for 3 years with the chairman of the subcommittee on this legislation, and I also consider it a very significant piece of legislation for our farmers.

My interest in this legislation was heightened in 1977. That year, one of the worst droughts that ever hit Iowa struck our farmers. My area, Southwest Iowa, was especially hard hit, and I saw how poorly the disaster payments program worked. At that time farmers were reduced to getting maybe 5, 10 bushels an acre for their corn yields. At the same time, under the disaster payments program, they were getting $1 a bushel for their corn up to 60 percent of the average yield. That was it.

If the yield, however, dropped to just one bushel above that cutoff point, they got zero. They got absolutely nothing.

At the same time, everybody that had soybeans planted got zero, because soybeans were not covered under the disaster payments program.

So as a result of that drought in Iowa in 1977 the Farmers Home Administration and the SBA had to come in there with over $300 million in extra money just to help out the farmers.

So let us look at what this bill would do with the same situation happening this year. Take that "typical" farmer. The target price this year is $2.35. First of all, you have to have a yield reduction to 60 percent of average yield. Then you get paid at one-half the target price for each bushel below that up to 60% of the average yield. So if a farmer had a 100-bushel yield average and the yield was reduced to 50 bushels an acre, he would get $1.75 a bushel on 10 bushels, the difference between his actual yield and 60 percent of his average yield, or he would have a total of $11.75 for that loss on each acre.

Under this new bill, with the same 100-bushel yield average, and it dropped down to 50 bushels, then he would get paid at the rate of 90 percent of projected market price, which this year looks to be about $3 a bushel, or the farmer would get $2.70 a bushel for up to 25 bushels, since he can get covered up to 75 percent of his average yield, or he would have $67.50 payment for each acre as opposed to the $11.75 under the disaster payments program.

So any way we cut it this bill is in favor of the farmer and will help the farmer more than the disaster payments program ever has in the past. For that reason it ought to be adopted overwhelmingly.

● Mr. FOLEY. Mr. Speaker, I rise in support of the conference report on S. 1125, the Federal Crop Insurance Act of 1980. The report is the culmination of several years effort on the part of the committee and represents a compromise of the best provisions of the bills passed by the House and the Senate.

The report provides for expansion and improvement of the present all-risk crop insurance program by authorizing its availability on all commodities in all counties of the United States. It assures that the program is available to all farmers by requiring FCIC to pay a portion of the premium costs.

It provides for a partnership with private industry in making the program fully available to farmers throughout the country. The private insurance industry would be used to the maximum extent possible in delivering the crop insurance program. In addition, the conference report strengthens a provision in the House amendment which permits farmers the option of substituting private hail and fire insurance for hail and fire insurance provided in the Federal all-risk policy. To that end the FCIC would provide farmers with a credit on the Federal policy that reflects the cost of hail and fire coverage provided by private companies. The report also includes reinsurance benefits which enable the private insurance industry to offer a comparable all-risk insurance policy to the farmers carrying out the program. Finally, it extends producers the option in 1981 in choosing between a disaster payment program or participation in the crop insurance program provided in the bill under which the Department would share in the cost.

Agriculture constitutes one of this Nation's most important treasures. It provides the food and fiber necessary to sustain our national health; it contributes much to the well-being of the national economy, and provides export trade of some $40 billion, contributing almost $25 billion to the U.S. balance of trade. However, agriculture remains one of the highest risk undertakings in our economy. Historically, 1 out of every 12 acres planted is not harvested because of natural disasters. This year farmers have been particularly hard hit by hot weather and drought. The legislation that we bring before you today provides a comprehensive program under which farmers with assistance from the Federal Government can protect their capital investments in food and fiber production.

I urge the support of the Members in voting for the conference report.

I would like to thank Mr. Ed Jones, chairman of the subcommittee for his leadership in bringing this matter to a successful conclusion. He has been supported in these efforts by the able assistance and cooperation of Mr. Ed Madigan, ranking minority member of the subcommittee. I also would like to commend Chairman Talmadge and his colleagues on the Senate Agriculture Committee for their efforts to this end.●

● Mr. HAGEDORN. Mr. Speaker, an awareness of the high-risk nature of the farming business is necessary in order to understand the need for a new Federal crop insurance bill. The conference report on S. 1125, the Federal crop insurance bill, is a compromise which addresses both the concerns of farmers and private insurance agents.

Farmers not only face the uncertainty of selling what they produce, but also the uncontrollable hazards of nature which can wipe them out. Historically, 1 out of every 12 planted acres is not harvested because of adverse weather or natural disasters.

When disaster strikes, a farmer is often unable to repay the money he frequently had to borrow in order to plant. The loss of a single crop is sometimes enough to force a farmer into bankruptcy and losses in successive years can cause widespread hardship across wide regions of agriculture.

Congress recognized the unusual hazards of farming in 1938 when it established the Federal crop insurance program. For the payment of a small but regular annual premium, the farmer can protect his crops from failure caused by weather, insects, and disease.

The program is voluntary and premiums vary widely depending upon the crop that is insured, the risks of the area and the amount of protection required per acre. Although the program covered only wheat at first, it has been broadened over the years to protect 26 commodities against practically all natural causes of crop loss.

Another form of Federal protection is the disaster payments program, which was authorized by Congress in 1973. One difference between disaster payments and crop insurance is that disaster protection is provided without cost to eligible producers. Losses for any reason beyond a farmer's control are covered if production yields fall below eligibility levels.

Over the past few years, the problems with both crop insurance and disaster aid have increasingly surfaced. For one thing, Federal crop insurance is available in only half the counties of the country and it fails to cover all major commodities in counties where it is available. In many instances, the program is not available when and where it is needed most. As a result of these and other factors, participation by farmers in the program has been low.

The limited participation was a major reason for setting up the disaster payment program. While the program has helped thousands of farmers who have been hit hard by natural causes, it has also been criticized as overly expensive, limited to just six crops and inequitable in its application.

The conference legislation would extend Federal all-risk insurance as rapidly as possible to all counties and all crops which are important to the agricultural income of a given area. During 1981, farmers eligible for disaster payments could elect either that system of protection or use of the new insurance program in areas where it is offered. Alternatively, a farmer willing to pay the full, unsubsidized insurance premium rate could get both insurance and disaster payment eligibility.

Although I favored the major portions of this bill, I opposed the original legislation in the House Agriculture Committee because I felt the concerns of private hail, fire and lightning insurance companies had not been adequately addressed. As passed by the committee, this legislation would have significantly reduced the capability of the private insurance industry to compete with the Government Federal crop insurance program.

However, I am pleased that the conference legislation incorporated the major features of the House version in allowing for wide participation by the private insurance industry in delivering crop insurance to farmers, either on a commission basis or through reinsurance programs. To assure fair treatment of private insurance firms, the conference bill provides opportunities for private agents and firms to sell the Federal policies and directs adoption of a reinsurance program to the maximum practicable extent. The Federal Crop Insurance Corporation would be directed to develop, by 1982, a pilot program under which at least one private firm would write all-risk crop policies—reinsured by FCIC—offering all the benefits of direct Federal policies.

This bill also gives farmers the option of eliminating hail and fire coverage from their Federal policies and substituting coverage from private firms. In cases where this is done, the premium charge on the Federal policy would be reduced by amounts ranging from 15 to 30 percent, depending on rates for private insurance in individual areas, to offset the reduced coverage.

As agreed to in conference, this bill will place the Federal Government and the private insurance industry on a more equal footing and will provide the farmer with the flexibility to select the type of protection he desires. In essence, this legislation will individualize crop insurance by putting more responsibility on the farmer to determine and provide the type of coverage he feels will adequately protect his interests.

Mr. Speaker, for the above-mentioned reasons, I would urge my colleagues to vote in favor of this legislation.●

The SPEAKER pro tempore. All time has expired.

Mr. JONES of Tennessee. Mr. Speaker, since all time has expired, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BEDELL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 235, nays 150, answered "present" 2, not voting 45, as follows:

[Roll No. 554]

YEAS—235

Abdnor
Addabbo
Akaka
Albosta
Ambro
Andrews, N.C.
Anthony
Applegate
Aspin
Atkinson
Bailey
Baldus
Barnard
Beard, Tenn.
Benjamin
Bennett
Bevill
Blanchard
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burgener
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Coelho
Collins, Ill.
Conyers
Corcoran
Corman
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Davis, S.C.
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edwards, Ala.
Edwards, Calif.
Erdahl
Ertel
Evans, Ga.
Fary
Fascell
Ferraro
Fisher
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gilman
Gingrich
Ginn
Glickman
Gore
Gray
Green
Grisham
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hanley
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hillis
Hinson
Hollenbeck
Horton
Hubbard
Huckaby
Hughes
Hyde
Jeffords
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kildee
Kindness
Leland
Lent
Levitas
Livingston
Lloyd
Long, La.
Long, Md.
Lott
Lowry
Lujan
McCloskey
McCormack
McDade
McEwen
McKay
McKinney
Madigan
Marlenee
Martin
Mathis
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moorhead, Pa.
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal

Nelson
Nichols
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patterson
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pursell
Rahall
Rangel
Reuss
Richmond
Ritter
Robinson
Roe
Rosenthal
Roybal
Royer
Satterfield
Sawyer
Sebelius
Seiberling
Shelby
Shumway
Smith, Nebr.
Snowe
Solarz
Spence
St Germain
Stack
Staggers
Stangeland
Stark
Stratton
Studds
Swift
Thomas
Thompson
Traxler
Trible
Udall
Van Deerlin
Vento
Walgren
Wampler
Waxman
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Winn
Wirth
Wolpe
Wright
Wyatt
Yatron
Young, Alaska
Zablocki
Zeferetti

NAYS—150

Anderson, Calif.
Andrews, N.Dak.
Archer
Ashley
Badham
Bafalis
Barnes
Bauman
Bedell
Beilenson
Bereuter
Bethune
Boland
Breaux
Broomfield
Burlison
Cheney
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Dannemeyer
Deckard
Dellums
Derwinski
Devine
Dougherty
Early
Edgar
Edwards, Okla.
Emery
English
Evans, Del.
Evans, Ind.
Fenwick
Findley
Fish
Fithian
Forsythe
Frenzel
Gephardt
Giaimo
Goldwater
Goodling
Gradison
Gramm
Grassley
Guarini
Hammerschmidt
Hance
Hansen
Heckler
Holt
Hopkins
Howard
Hutchinson
Ichord
Jacobs
Jeffries
Kazen
Kelly
Kemp
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Lewis
Loeffler
Luken
Lundine
Lungren
McDonald
McHugh
Maguire
Markey
Marriott
Michel
Miller, Ohio
Minish
Moffett
Moore
Moorhead, Calif.
Mottl
Murphy, N.Y.
Nolan
Nowak
Patten
Paul
Pease
Porter
Pritchard
Quayle
Railsback
Ratchford
Regula
Rhodes
Rinaldo
Roberts
Rodino
Rostenkowski
Roth
Rousselot
Rudd
Russo
Sabo
Santini
Schroeder
Schulze
Sensenbrenner
Sharp
Shuster
Simon
Skelton
Smith, Iowa
Snyder
Solomon
Spellman
Stanton
Steed
Stenholm
Stockman
Stump
Symms
Synar
Tauke
Tauzin
Taylor
Vander Jagt
Volkmer
Walker
Watkins
Weaver
Wilson, Tex.
Wydler
Wylie
Yates
Young, Mo.

ANSWERED "PRESENT"—2

Gonzalez
Quillen

NOT VOTING—45

Alexander
Anderson, Ill.
Annunzio
Ashbrook
AuCoin
Beard, R.I.
Biaggi
Bingham
Boggs
Brown, Ohio
Broyhill
Carr
de la Garza
Dodd
Dornan
Erlenborn
Fazio
Gibbons
Guyer
Hightower
Holland
Holtzman
Hutto
Ireland
Jenrette
Jones, Okla.
LaFalce
Leach, La.
Lederer
McClory
Marks
Mattox
Myers, Pa.
Nedzi
Rose
Scheuer
Shannon
Stewart
Stokes
Ullman
Vanik
Wilson, Bob
Wilson, C. H.
Wolff
Young, Fla.

☐ 1440

The Clerk announced the following pairs:

On this vote:

Mr. Broyhill for, with Mr. Ashbrook against.

Mr. Fazio for, with Mr. Dornan against.

Mr. Stokes for, with Mr. Erlenborn against.

Mr. Biaggi for, with Mr. Guyer against.

Mr. Lederer for, with Mr. McClory against.

Mr. Annunzio for, with Mr. Young of Florida against.

Until further notice:

Mr. Jenrette with Mr. Vanik.

Mr. Wolff with Mr. Brown of Ohio.

Mr. Bingham with Mr. Gibbons.

Mr. Rose with Mr. Jones of Oklahoma.

Mr. Myers of Pennsylvania with Mr. Scheuer.

Mr. Alexander with Mr. Bob Wilson.

Mr. AuCoin with Mr. Nedzi.

Mr. Beard of Rhode Island with Mr. Mattox.

Mrs. Boggs with Mr. Holland.

Mr. Dodd with Mr. Hutto.

Mr. LaFalce with Mr. Carr.

Mr. Marks with Mr. Ireland.

Ms. Holtzman with Mr. Stewart.

Mr. Shannon with Mr. Charles H. Wilson of California.

Mr. Ullman with Mr. Hightower.

Mr. de la Garza with Mr. Leach of Louisiana.

Messrs. HAMMERSCHMIDT, TAUZIN, RODINO, and BURLISON changed their votes from "yea" to "nay."

Messrs. SHELBY, BUCHANAN, HUGHES, NELSON, and WYATT changed their votes from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of Tennessee. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT THURSDAY, SEPTEMBER 18, 1980, DURING 5-MINUTE RULE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit tomorrow, Thursday, September 18, 1980, while the House is proceeding under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. KINDNESS. Mr. Speaker, reserving the right to object, and I shall not object, I would ask the gentleman from California whether the business sought to be considered by the Committee on the Judiciary will be confined solely to the regulatory reform bill.

Mr. DANIELSON. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from California

Mr. DANIELSON. That is the business which we have in mind. There are on the committee's calendar two other very minor bills. We will get to them if we can, but I do not believe we will have time to get to them.

Mr. KINDNESS. Two other bills could be considered. Do those bills have to do with two Federal charters?

Mr. DANIELSON. Mr. Speaker, I am having difficulty hearing the gentleman from Ohio, but the purpose of the request is to consider the regulatory reform bill.

Mr. KINDNESS. That is the principal purpose?

Mr. DANIELSON. There are two other minor matters which may be considered if time permits.

Mr. KINDNESS. Mr. Speaker, I thank the gentleman from California, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

☐ 1450

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST HOUSE JOINT RESOLUTION 610, CONTINUING APPROPRIATIONS, 1981

Mr. LONG of Louisiana, from the Committee on Rules, submitted a privileged report (Rept. No. 96–1338) on the resolution (H. Res. 789) waiving certain points of order against the joint resolution (H.J. Res. 610) making continuing appropriations for the fiscal year 1981, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 7244, INTERNATIONAL MONETARY FUND QUOTA INCREASE

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 726 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 726

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7244) to amend the Bretton Woods Agreements Act to authorize consent to an increase in the United States quota in the International Monetary Fund, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban

Affairs, the bill shall be read for amendment under five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 7244, it shall be in order in the House to take from the Speaker's table the bill S. 2271, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 7244 as passed by the House.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. Long) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield the usual 30 minutes to the gentleman from Missouri (Mr. Taylor) for the purpose of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 726 is the rule providing for the consideration of the bill, H.R. 7244, to amend the Bretton Woods Agreements Act to authorize consent to an increase in the U.S. quota in the International Monetary Fund.

Mr. Speaker, this is a simple open rule and there are no waivers of points of order. The rule provides 1 hour of general debate, with the time to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs. Upon conclusion of consideration of the bill for amendment, the previous question shall be considered ordered on the bill as amended, without intervening motion except one motion to recommit.

House Resolution 726 also provides that after passage of H.R. 7244 it shall then be in order to consider the Senate companion bill, S. 2271, and to strike all after the enacting clause of the Senate bill and to substitute the provisions of H.R. 7244 as passed by the House.

Mr. Speaker, this legislation authorizes an increase in the quota of the United States in the International Monetary Fund (IMF) of approximately $4 billion special drawing rights (SDR), from $8.4 billion SDR's to $12.6 billion SDR's. This is the equivalent of approximately $5.5 billion.

This increase is part of a general increase in the quotas of all IMF members and is essential for two reasons:

First, to help the IMF keep pace with the growth of world trade and payments; and

Second, to help stabilize the world monetary system in the wake of OPEC oil price increases.

The OPEC price rises have led to tremendous balance-of-payments surpluses in oil exporting countries, while creating balance-of-payments problems for most of the oil-importing countries. This legislation will better equip the IMF to assist the oil-importing nations in stabilizing their economies, as well as to give the IMF a greater role in attempting to "recycle" the surplus held by the oil-exporting countries.

In addition, H.R. 7244 directs the U.S. representatives to the IMF and the World Bank to seek policy changes providing for a greater accounting of "basic human needs" in their loan programs. Chairman Reuss has provided valuable leadership in urging the IMF to look beyond the need for short-term exchange stability to deal with the longer term problems plaguing the international monetary system. This involves seeking better coordination between IMF and World Bank programs to jointly deal with the balance of payments and developmental objectives of debtor countries.

Finally, H.R. 7244 expresses the sense of the Congress that oil-exporting countries assume a greater burden for financing balance-of-payments deficits related to oil price hikes. The IMF is encouraged to develop "innovative proposals" to promote the recycling of the surplus held by oil-exporting nations.

Mr. Speaker, to my knowledge this is a noncontroversial rule. Members on both sides of the aisle support this bill. I urge my colleagues to adopt the rule so that we can proceed expeditiously to the consideration of this important legislation.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, this is a straight 1-hour open rule, providing for the consideration of the International Monetary Fund quota increase.

There are no restrictions on amendments and no waivers of points of order. In order to expedite going to conference, the rule provides that after passage of the House bill, the House-passed language may be inserted in the Senate bill.

The bill made in order by this rule authorizes an increase in the quota of the United States in the International Monetary Fund of approximately $4.2 billion special drawing rights, which is the equivalent of approximately $5.5 billion.

The increase in the U.S. quota would be part of a general increase of all members' quotas. With only minor exceptions, they would all be increased by 50 percent.

The Committee on Banking, Financing and Urban Affairs reported the bill by a vote of 35 to 4. However, there are dissenting views in the report filed by the gentleman from Texas (Mr. Paul) opposing the bill.

Mr. Speaker, at this time I yield 5 minutes to the gentleman from Texas (Mr. Paul).

Mr. PAUL. Mr. Speaker, I have no objection to the rule. The rule is an open rule. I would like to take a few moments, though, to make a few points about the bill we are working on today.

I think there is reason to be alerted to the fact that we are dealing with legislation that is of rather serious consequence to the American taxpayer. A lot of times the IMF bill goes through without much discussion. I hope today that we have full discussion of this bill and what it means.

We do know that we are going to increase the funding by $5.5 billion. It has frequently been said that this does not matter too much to the American taxpayer because it appears as an asset on the books, and we are not any poorer for it. I happen to hold an opposing view of this, because I do believe the American taxpayer suffers from this because that $5.5 billion has to come from either taxation or expansion of the money supply, and therefore is reflected back to the American citizen in inflation and higher prices.

I do not believe for 1 minute that we can accept the argument that this is not of concern to the American taxpayer. The IMF happens to be a fund that we have had, since the Second World War and has done everything except stabilize our currency, the stated intended purpose.

☐ 1500

It is supposed to stabilize the international monetary system. If we would just look back at the history of what we have had since 1945, I would say it is rather chaotic and not stable in any sense of the word.

I do not question the good intentions of my colleagues who will give strong arguments for the passage of this legislation, but I am afraid that all the arguments that are given for the support of this legislation provide only short-run and patchwork solutions. It is true that we face serious problems in the international currency market. The plain truth is that not only is our country threatened by runaway inflation but the entire Western World faces a serious threat from the same condition. There is a cancer in the land, and there is a cancer in Western civilization. It needs treatment.

Usually when we think about giving treatment for inflation, we talk about giving a shot in the arm, and we usually give a shot in the arm by giving ourselves more inflation. This is what we are doing on an international scale today.

But I am afraid that this $5.5 billion is not even a shot of morphine for the treatment of pain from inflation; it is more like aspirin. It is not something to take care of the problem; it may hide the pain or the problems for a few more days, but we still have this tremendous problem in the Eurodollar market. We have more than a trillion dollars in the Eurodollar market, and it is an uncontrollable situation. It has been estimated that there is more than $400 billion that the Third World owes to the West. About $125 billion of this amount is owed to governments, and the rest of this amount is owed to private commercial banks. Let us keep in mind that there is no way that these bills and these loans will ever be paid. The Third World nations cannot even pay the interest. There has been a lot of rescheduling, and yet a very serious threat to the banking system still exists. It never seems to help to just merely throw more money at it and prop it up for a little while longer, because that is the No. 1 problem that we begin with.

The whole concept is wrong, and the idea that the IMF will stabilize the currencies around the world has not worked. It never did work, and it will never work.

Ever since the system got off any fixed exchange rates, we have had nothing but serious chaos in the monetary system. The balance of payments can never get put back on track unless we have currencies that are redeemable in something of real value. When currencies are forever changing in value on a daily basis due to the fact that every nation is today inflating, that is, they are running their printing presses rapidly, and under these conditions it is most difficult and in fact impossible to ever have exchange stability and stability of the economy, and for this reason we will face economic and monetary chaos eventually.

Putting $5.5 billion more into the IMF will do nothing to help. It will do nothing but give another aspirin, another bandaid, or a little more patchwork to hold this system together for a short time.

Mr. Speaker, in spite of this, in spite of the IMF and all its intentions and all its plans and all the things it does to try to stabilize things, for one reason it seems to have something that is still of value. In spite of itself, the IMF still retains 100,000,000 ounces of gold. At today's prices it is worth $60 billion, and so it truly does have an asset which I believe should be returned to the nations that contributed it in order to help reestablish sound currencies in these nations.

The SPEAKER pro tempore. The time of the gentleman from Texas (Mr. PAUL) has expired.

Mr. LONG of Louisiana. Mr. Speaker, I have no further requests for time.

Mr. TAYLOR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LONG of Louisiana. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CAMPBELL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 379, nays 3, not voting 50, as follows:

[Roll No. 555]

YEAS—379

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Anthony
Applegate
Archer
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Stangeland
Stanton
Stark
Steed
Stenholm
Stockman
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NAYS—3

Bauman
Hansen
McDonald

NOT VOTING—50

Alexander
Anderson, Ill.
Annunzio
Ashbrook
Badham
Biaggi
Boggs
Brown, Calif.
Brown, Ohio
Broyhill
Carr
Clay
Davis, S.C.
de la Garza
Deckard
Dodd
Dornan
Erlenborn
Gibbons
Guyer
Harsha
Holland
Holtzman
Ireland
Jenrette
Kindness
LaFalce
Leach, La.
Lederer
Leland
McClory
Madigan
Mathis
Mattox
Murphy, N.Y.
Myers, Pa.
Nedzi
Nolan
Peyser
Rose
Scheuer
Shannon
Staggers
Stewart
Stokes
Vanik
Wilson, Bob
Wilson, C. H.
Wolff
Young, Fla.

☐ 1520

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Ashbrook.
Mrs. Boggs with Mr. Badham.
Mr. Biaggi with Mr. Harsha.
Mr. Jenrette with Mr. Guyer.
Mr. Lederer with Mr. Erlenborn.
Mr. Rose with Mr. Bob Wilson.
Mr. Murphy of New York with Mr. Young of Florida.
Mr. Stokes with Mr. McClory.
Mr. Wolff with Mr. Madigan.
Mr. Nedzi with Mr. Kindness.
Mr. Nolan with Mr. Brown of Ohio.
Mr. Clay with Mr. Broyhill.
Mr. de la Garza with Mr. Dornan.
Mr. Dodd with Mr. Holland.
Mr. Vanik with Mr. Gibbons.
Mr. Peyser with Ms. Holtzman.
Mr. Myers of Pennsylvania with Mr. Ireland.
Mr. Alexander with Mr. Anderson of Illinois.
Mr. Brown of California with Mr. Carr.
Mr. LaFalce with Mr. Leach of Louisiana.
Mr. Davis of South Carolina with Mr. Deckard.
Mr. Leland with Mr. Mattox.
Mr. Mathis with Mr. Staggers.
Mr. Charles H. Wilson of California with Mr. Stewart.
Mr. Shannon with Mr. Scheuer.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 601, INTERNATIONAL MONETARY FUND APPROPRIATIONS, 1981

Mr. ZEFERETTI. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 778 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 778

Resolved, That upon the adoption of this resolution it shall be in order to consider the joint resolution (H.J. Res. 601) making an appropriation for the International Monetary Fund for the fiscal year ending September 30, 1981, in the House as in the Committee of the Whole.

The SPEAKER pro tempore. The gentleman from New York (Mr. ZEFERETTI) is recognized for 1 hour.

Mr. ZEFERETTI. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Maryland (Mr. BAUMAN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 778 provides for the consideration of House Joint Resolution 601, which makes an appropriation for the International Monetary Fund for the fiscal year ending September 30, 1981.

Under this rule, House Joint Resolution 601 will be considered in the House as in the Committee of the Whole. This procedure will allow the House to dispense with general debate and go directly into the amendment process under the 5-minute rule.

Mr. Speaker, House Joint Resolution 601 provides the budget authority for a 50-percent increase in the U.S. quota for the International Monetary Fund. The quota increase represents approximately $5.4 billion. However, this appropriation will result in no actual net spending but budget authority only, thereby incurring no net cost to the U.S. taxpayer. The proposed quota increase will temporarily halt the decline in IMF resources in regard to world trade and will add a greater amount of resources to counter the expected increases in trade deficits due to price hikes by OPEC.

Mr. Speaker, the International Monetary Fund is an essential mechanism for keeping order in the world's monetary system and only through legislation such as this can the United States maintain a strong leadership role in the international economic market.

I urge my colleagues to support House Resolution 778 so we may proceed to the consideration of the International Monetary Fund appropriation for 1981, House Joint Resolution 601.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, what we are seeing here today in this bum's rush to get this legislation through the House of Representatives is a little bit of legislative sleight-of-hand. Over the years the international Monetary Fund and the billions of dollars that we have given out to it usually are part of the foreign aid authorization bill and the foreign aid appropriation bill. Because foreign aid is not a popular topic these days in the Congress of the United States, we are seeing this bill split off from the foreign aid bill and treated separately.

Now mind you, the appropriations this rule makes in order will carry out the $5.5 billion check that the authorizing legislation the Members just made in order with the previous rule authorizes.

Today, as we wind down this session and move toward the magic date of October 4, on which day we all leave to try and get ourselves reelected, presumably dropping all of the business of the American people, dropping the budget process, dropping tax cuts, dropping the balanced budget, dropping everything, we have to be here debating $5.5 billion to be added to our national debt and to our unbalanced budget so that the International Monetary Fund can be taken care of. That is a good example of the priorities of the leadership of this House.

We have not passed the appropriation bill for the Department of Agriculture through Congress, or the Department of Health and Human Services, but we have got to get the International Monetary Fund through.

Now this rule before us is not controversial in the sense that it is a rule that will allow the appropriation bill to be brought up in the full House.

Since it will be considered as in the Committee of the Whole, amendments will be allowed. I think that is very generous. There may well be some amendments offered to cut the amounts, but I am indebted to some of my colleagues on both sides of the aisle; the gentleman from Indiana (Mr. JACOBS), the gentleman from Oregon (Mr. WEAVER), the gentleman from New York (Mr. KEMP), and others, for sending around "Dear Colleagues" letters on this bill. I hope the Members read them.

There is a real question whether or not this authorization and this appropriation and these rules are even needed.

The argument is made by the opponents of the International Monetary Fund that we do not need this money, that the IMF's principal role will not be enhanced by giving them another $5.5 billion out of the U.S. Treasury, the Treasury that is already verging on bankruptcy.

They point out that the IMF has other means of acquiring capital if they so wish by borrowing on the open market, and they also, I think rightly, show that the International Monetary Fund, if this legislation, the appropriation, goes through, will be the recipient of interest subsidies from U.S. taxpayers. Instead of going into the open market and borrowing at the current rates, as the average person who wants a home loan or mortgage would have to do, the IMF has subsidized interest.

What we are doing is not only taking out of the capital market money that somebody in our district may need for mortgages, but we are subsidizing the International Monetary Fund with special interest rates that none of our constituents could possibly get in the open market because they are not part of the IMF. They are just plain taxpayers who will be forced to subsidize the IMF.

I think there has to come a time in this Congress when we stop bailing out other countries and think about the best interests of the United States first.

I am well aware many of my liberal colleagues feel the best way to protect our interest is to give away our money in a rough equivalent of trying to buy friendship.

Well, we have given away hundreds of billions of dollars since the end of World War II, and the United States, today, is probably less respected and less liked by other nations of the world than at any time in our history. I hope that we will defeat the appropriation and the authorization bill and will devote ourselves, as we wind down this Congress and await a lameduck session, to the important matters before us. This is not the most important, nor is this rule the most important.

Mr. Speaker, I yield back the balance of my time.

Mr. ZEFERETTI. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

INTERNATIONAL MONETARY FUND QUOTA INCREASE

Mr. NEAL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7244) to amend the Bretton Woods Agreements Act to authorize consent to an increase in the U.S. quota in the International Monetary Fund, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. NEAL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 7244, with Mr. BEILENSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from North Carolina (Mr. NEAL) will be recognized for 30 minutes, and the gentleman from Iowa (Mr. LEACH) will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. NEAL).

☐ 1530

Mr. NEAL. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin (Mr. REUSS), the distinguished chairman of the full Committee on Banking, Finance and Urban Affairs.

Mr. REUSS. Mr. Chairman, I thank the gentleman from North Carolina (Mr. NEAL) and congratulate him and the gentleman from Iowa (Mr. LEACH) and other members of the subcommittee who have labored so long to bring this well-crafted bill before us.

There are all kinds of good reasons why the House ought vigorously to support continued U.S. participation in the International Monetary Fund. We need to increase our exports in order to, in some measure, repair our oil-induced deficit.

One out of every seven U.S. manufacturing jobs and one out of every three acres of U.S. farmland produce for export. Continued support of the IMF is essential if we want U.S. customers to be able to solve their problems in an orderly way and thus continue to be our customers.

The IMF, too, is a necessary part of our overall foreign policy. Stable economies the world over redound to our benefit and IMF is a leading force in making possible those stable economies.

I am the first to recognize that in the past the IMF has sometimes assumed too hard nosed an attitude, and where there were two ways of attaining its goals of financial stability, too often the IMF has taken that route which bore down most heavily on the ordinary citizen of the developing countries who were getting IMF assistance.

Under an amendment adopted by your committee to this bill, however, we, for the first time, on an across-the-board basis with respect to the International Monetary Fund, mandate host observance of what is called human needs. In a nutshell, the committee amendment prescribes that the IMF programs of stabilization for countries who are getting exchange assistance should take into account human needs, jobs, real income, the gap in wealth between rich and poor, social programs such as health, housing, and education. We, therefore, have in a very real sense repaired what otherwise might have been a gap in a well-constructed IMF program.

I am told that an amendment will be offered by the gentleman from Iowa (Mr. HARKIN), which I believe to be generally acceptable, which will make even stronger this human needs emphasis inherent in H.R. 7244.

So because of our interest in expanded exports, because of our interest in an orderly world, I think it is a good time to remember today that just 25 years ago the International Monetary Fund candle was lighted at Bretton Woods. Now it is a very easy thing to blow out that candle today and say that the United States is turning its back on its world responsibility. But I am confident this House will not do that. I am confident that this House will take into account that the International Monetary Fund in its 35 years has avoided international monetary crises such as those which brought the world to its knees in the twenties and thirties and brought on World War II and that because those crises have been averted the World War III which so many feared has also been averted.

So for all those reasons I hope that the product of Mr. NEAL's subcommittee will be overwhelmingly endorsed.

Mr. JACOBS. Mr. Chairman, will the gentleman be kind enough to yield?

Mr. REUSS. My time has expired but I will undertake to see that the gentleman gets time.

Mr. NEAL. Mr. Chairman, I am happy to yield to the gentleman for one question.

Mr. JACOBS. The gentleman indicated if this bill did not succeed that the candle that was lighted at Bretton Woods would burn out. Is it not more accurate to say it would continue to burn at its present level? I mean this really would not end this, it would just not add any more money to the Fund; is that not correct?

Mr. REUSS. Will the gentleman yield?

Mr. JACOBS. I yield to the gentleman.

Mr. REUSS. I would respectfully differ with the gentleman from Indiana. The United States has always gone along with the necessary augmentation of the International Monetary Fund funding. For it now to turn its back would, I think, extinguish the candle. I do not like to deal in metaphors particularly, but I think it would not continue.

Mr. NEAL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 7244 authorizes an increase in the U.S. quota in the International Monetary Fund, the free world's main instrument for keeping free economies free. Despite its importance, the role of the IMF is not widely understood. I would like to clarify this role, and respond to several questions which have been raised about U.S. participation in the IMF. Then I will address the major issue—the compelling need for an increase in the quotas of all IMF members.

Mr. Chairman, the IMF lends to countries in need of temporary assistance in overcoming balance-of-payments problems. It lends only on the condition that the borrower adopt fairly stringent macroeconomic policies designed to redress the underlying balance-of-payments problem. These so-called "adjustment programs" require a degree of discipline in the economic policies of countries that are, simply put, living beyond their means. This discipline is never easy to take, and it does not always work. But it works well enough to help many countries adjust their balance-of-payments deficits to manageable proportions with less suffering than they would otherwise have to endure.

The IMF lends funds obtained by drawing on the quotas of countries with relatively strong balances-of-payments. The IMF may well draw dollars to fund part of its future loans, but it will certainly not draw solely, or even primarily, on the U.S. quota. It will also draw on the quotas of Germany, Japan, Britain, and others, including OPEC quotas. The proposal before the Congress to increase the U.S. quota is not a unilateral initiative. All members will be increasing their quotas by 50 percent.

Mr. Chairman, this U.S. quota increase will have no impact on our budget deficit, because it will entail no net outlays from the U.S. Treasury. When the IMF draws on our quota, we are credited with an increase in our "reserve position" in the IMF. That "reserve position" is a genuine international monetary reserve asset. The increase in that asset offsets the outflow from the Treasury when the IMF draws on the U.S. quota, so there is no net budgetary outlay. It is analogous to depositing money in a bank account: an outflow—the funds deposited—is offset by a receipt— the increase in the bank balances.

Some have questioned whether our "reserve position" in the IMF is really a useful asset. There should be no doubt that it is a perfectly sound, fully available, and extremely valuable asset. In fact, we have often drawn on it, most recently in 1978. Our "reserve position" is a "hard" asset because it represents an uncontested, unconditional right to draw, from the IMF, an equivalent amount of foreign currencies when we need them to support the dollar. We did just that in 1978, by drawing the equivalent of $3 billion in German marks and Japanese yen, which we needed to arrest the precipitous decline of the dollar on foreign exchange markets. That drawing represented the cashing in of the claims we had accumulated through prior IMF drawings on our quota. And it was not the only time we have drawn on our "reserve position." Throughout the life of the IMF, we have drawn over $7.5 billion in foreign currencies, on 24 different occasions. In fact, U.S. drawings have been the second largest of all IMF members.

Mr. Chairman, though the IMF lends a fair amount to developing countries, those loans are not a form of foreign aid. IMF credit is not associated with development projects, and it is available to all members.

If successful, IMF programs will certainly help a country return to the path of development. But the balance-of-payments problems for which IMF assistance is appropriate can, and do, arise in developed as well as developing economies. Overcoming those problems is a prerequisite to further economic progress, by developed as well as by developing economies. Historically, the industrial nations have been the largest users of IMF resources.

Some have argued, Mr. Chairman, that the IMF does not need a quota increase because the lure of larger loans is not what induces countries to turn to the IMF for assistance. They come, instead, because their balance-of-payments problems have become so severe that they would be cut off from private credit unless they agree to implement an IMF "stabilization" program. While that may, in some cases, be true, it points to one of the reasons a quota increase is needed. With more financing available from the IMF, it will become more attractive for some countries to turn to the IMF before their situation deteriorates to such a hopeless state that private banks cut them off entirely from private credit. The condtions the IMF attaches to its loans are often difficult for a country to implement because it fails to seek IMF assistance until its problems have become so severe that relatively mild corrective policies will no longer suffice. Many countries naturally prefer to postpone the hard adjustments they must eventually undertake—until reality forces their hand.

The adjustment process would be more effective, and less painful, if countries would seek IMF assistance in the early stages of their balance-of-payments disequilibrium. Higher quotas, implying larger loans, may induce some countries to do just that. Mr. Chairman, it is sometimes argued that IMF assistance is nothing but a "bail out" of banks overextended in their loans to LDC's. The record of past bank behavior refutes the charge. In most cases, banks have increased their net lending to a country which has taken out an IMF loan and adopted an IMF adjustment program.

Lenders regard these adjustment programs as positive steps that strengthen a country's balance of payments, and thus render it more credit-worthy. Even if the debtor country tried to pay off its creditors with the proceeds of an IMF loan, it could liquidate only a very minor portion of its outstanding debt. IMF loans serve only to bridge the gap between receipts and essential payments over the period necessary for adjustment policies to take effect. Without such interim financing, adjustment would be forced on an economy abruptly and harshly, at considerable damage to its welfare and development.

Mr. Chairman, some critics of the quota increase contend it will impose a heavy cost on the American taxpayer. That is a gross misconception. We get back from the IMF approximately what we put in it—plus interest. We get the money back in two ways. In the first instance, the IMF simply repays us, with interest, when it is repaid by its debtors. And, Mr. Chairman, no country has ever defaulted on an IMF loan. In the second case, we get our money back in the form of foreign currencies, which we can draw from the IMF when we need them. As I have already noted, we have done that on many occasions, as recently as 1978. Finally, we may also make some profit on these transactions, in addition to the interest we earn. Our assets and liabilities vis-a-vis the IMF are denominated in special drawing rights, SDR's, which change in value against the dollar. When the dollar depreciates against other currencies, it also falls against the SDR. As you know, the dollar has declined quite a bit over the last decade. While that was not a fortunate development, it did bring us, as a side-effect, some large capital gains on our assets in the IMF. The Treasury has tried to calculate the total costs and total earnings from our IMF transactions over the past decade, and they report that we have, in fact, made a net profit of about $200 million.

In other words, aside from the real benefits we have derived from a strong IMF—in terms of its contribution to balance-of-payments adjustment and international monetary stability—we have also made a profit on our investment. While there is no guarantee we will continue to make money in that way, it should be clear that the IMF has not and will not impose any great cost on the American taxpayer.

Mr. Chairman, the bill before us goes beyond the simple authorization of a quota increase, as originally requested by the administration. It contains an important policy initiative on "basic human needs." IMF "adjustment programs" have been criticized for being too severe, too harsh on the living standards and welfare of the poor. The Banking Committee has gone a long way to respond to this criticism. We direct the administration to try to insure that the IMF, and the borrowing country, take full account of the impact of these programs on the "basic human needs" of the poor. We call on the World Bank to coordinate its programs more closely with the IMF, so the two institutions develop simultaneous and parallel strategies.

The World Bank should concentrate on development programs that primarily serve "basic human needs," while the IMF focuses on programs that promote balance-of-payments adjustment. We try to get the IMF and the World Bank to work together more closely so that neither undercuts the other. The World Bank is called upon to increase its lending to countries undergoing IMF stabilization programs. If more World Bank loans are made in tandem with IMF loans, the IMF program can be made more flexible and stretched out over a longer period. That should mitigate somewhat the short-term adverse consequences of balance-of-payments adjustment, while insuring that the countries do make reasonable progress, over an appropriate time period, in overcoming their excessive deficits.

Finally, Mr. Chairman, I want to make clear why a quota increase is needed now. The OPEC oil price increases will cause massive balance-of-payments deficits in many countries. On the whole, these deficits will be financed by private capital, primarily through commercial banks. However, the banking system is not capable of financing the full extent of these deficits, or even as large a portion as it financed in the wake of the 1973 OPEC price increase. Alternative channels must be found. The IMF is not the only alternative channel—but it should assume a growing share of this "recycling" process, since it can combine "recycling" with sensible adjustment programs.

We have a large economic and political stake in the fate of many of the countries that will need IMF assistance. They offer growing markets for our exports. They may be important allies. In the mid-1970's, for example, the largest IMF loans went to Britain and Italy. An important and successful IMF program was also implemented in Portugal. Just recently the IMF has announced a major loan, among the largest it has ever granted, to Turkey, an ally whose economic recovery is of crucial importance to our strategic interests.

Mr. Chairman, the world financial markets, nervous and uncertain about our policies, could well interpret any delay or uncertainty over this quota increase as a weakening of American support for one of the most important international economic institutions. If our commitment to a strong IMF were put in doubt, confidence in the stability of the international monetary system would be severely tested. Confidence is the underpinning of any monetary order. The dollar—the currency most widely held and traded around the world—would stand to suffer most from any such crisis of confidence. We need an immediate, strong, and convincing show of support for the IMF.

□ 1550

Mr. CAVANAUGH. Will the gentleman yield?

Mr. NEAL. I would be happy to yield to the gentleman from Nebraska.

Mr. CAVANAUGH. I thank the gentleman from yielding. First of all, I want to commend the chairman of the subcommittee for an outstanding job in conducting one of the most comprehensive hearings in the history of the Congress 35 years in this country's involvement in the International Monetary Fund. I think that the gentleman from North Carolina (Mr. NEAL) has done an exceptional job in laying before the American people a record upon which they can place a judgment as to the role and the importance of the International Monetary Fund to our country's leadership in the world and to the stability of the world system. I think for that the gentleman should be particularly noted and recognized.

I would like just briefly to speak to the legislation itself, which I do support, to make the point that it is my feeling that those who would argue that this quota increase is not needed I think either seriously misunderstand the function of the International Monetary Fund or choose to ignore the realities of the economic world in which we live. The facts are that this year we will experience or anticipate experiencing more than $120 billion of OPEC surpluses, resulting in a displacement of $70 billion among industrial nations of the world and some $50 billion among the poor and less developed nations of the world.

Unless there is a mechanism by which those deficits and surpluses can be adjusted in the international monetary system, the consequences are, of course, chaotic. The International Monetary Fund has served that function of facilitating those adjustments throughout the past 35 years, but when we look at the Fund today and compare it with the capacity that it had in the past, we find that throughout the 1950's the Fund possessed the resources of roughly 10 to 15 percent of the world trade volume, and throughout the 1960's possessed the resources equivalent to approximately 8 or 10 percent of the world trade volume.

Without this quota increase today, the resources of the Fund will amount to less than 4 percent of the world trade volume and, therefore, seriously incapacitate the Fund in terms of serving this function of facilitating adjustments in these huge imbalances that the oil pricing system has imposed upon the world economic system. I think that that is the critical fact.

As the chairman well knows, my concern in this has largely been a concern related to the impact upon the less developed countries of the world and the poorer nations of the world who have suffered disproportionately in trying to absorb these huge oil price increases. The fact is that the Fund has reacted poorly to those conditions for two reasons, I believe: First, a basic insensitivity within the International Monetary Fund, but, second, and directly relevant to this legislation is an inadequacy and a growing inadequacy of resources upon which they can provide to these struggling poor nations, struggling with their oil bills, adequate resources in which they can make the adjustment processes within their own economies in a way which is not socially repressive and economically disruptive.

Without these added resources, we will

not be able, in spite of the fact that this legislation mandates that our representative at the Fund do all he can, to assure that future adjustment programs of the Fund promote much more investment, real per capita income improvements and income distribution, and the objective of social programs, of health, housing, and education. We, I think, and the chairman particularly of the full committee, the gentleman from Wisconsin (Mr. Reuss), who is primarily responsible for this language, are embarking our Nation on a whole new approach to the International Monetary Fund of bringing our representative to the Fund there with a special mission of seeing that the economic conditions which the Fund imposes for purposes of economic adjustment are done in a context that is appreciative of the economic, social, and political goals and aspirations and best interests of the peoples of those countries who must make those economic adjustments. That is a major change in policy for our country but one that cannot be carried out without adequate resources, and if we are going to be the leader in promoting human economic rights in the world, we cannot do that without contributing to the price that that is going to entail.

Given the magnitude of this $120 billion trade deficit purely related to oil this year, this $5 billion is minuscule in relation to the magnitude or problem it must confront, but it is absolutely essential if we are, as the chairman, the gentleman from Wisconsin (Mr. Reuss), has said, to maintain any hope of the stability we have enjoyed for the past 35 years. For that reason I will vigorously support this legislation and wholeheartedly commend the chairman for his outstanding efforts in bringing this legislation to the floor.

Mr. NEAL. I would like to thank the gentleman for his kind comments and also commend him for the many long hours that he devoted to this legislation. His work resulted in many improvements in the bill, especially in its human rights provisions. He has rendered an important service on this legislation.

Mrs. FENWICK. If the gentleman will yield, I have a very brief question. I have only a question. Did I understand correctly the gentleman to say that the United States has made a profit over the last decade of something around $200 million?

Mr. NEAL. Something over $200 million; that is correct.

Mrs. FENWICK. I thank my colleague.

PARLIAMENTARY INQUIRY

Mr. MITCHELL of Maryland. Mr. Chairman, I have a parliamentary inquiry. How much time does the gentleman have left?

Mr. NEAL. I would have to ask the Chairman of the committee.

The CHAIRMAN. The gentleman has 5 minutes left.

Mr. MITCHELL of Maryland. I thank the Chairman.

Mr. NEAL. I would be happy to yield at this time.

Mr. MITCHELL of Maryland. I appreciate that. I intend to support the legislation, but I wanted to propound a question. Maybe it might be best for me to get 2 or 3 minutes from the gentleman in terms of my support for the legislation rather than take up time now.

Mr. NEAL. I would be happy to yield time whenever the gentleman wishes. I would rather keep a few minutes if I could, at this time, and yield to the minority side.

Mr. MITCHELL of Maryland. I thank the gentleman.

Mr. LEACH of Iowa. I would like to yield at this point to the distinguished ranking minority member of the committee, the gentleman from Ohio (Mr. Stanton).

Mr. STANTON. Mr. Chairman, I appreciate the colloquy that we had between the chairman of the subcommittee and one of the younger but certainly more capable members of our committee, the gentleman from Nebraska (Mr. Cavanaugh). I regret in this particular case, as always, that there are such few Members on the House floor and hope that they are listening.

Mr. Chairman, I rise in support of this legislation to increase the U.S. quota at the International Monetary Fund by 50 percent.

As my colleagues know, the IMF performs a vital role as the world's central monetary institution. The articles of agreement of the Fund that regulate countries' international monetary behavior are the same rules which keep the world's trading system functioning smoothly. At the center of the system the Fund plays a dual role. It monitors countries' compliance with international monetary norms, and it provides short-term financing for countries in balance-of-payments deficit—bridge financing which enables countries to adopt longer term solutions to their economic problems.

As the world's central bank, the International Monetary Fund is often confused with the World Bank and the other foreign aid institutions. However, there are important differences in function, in cost to taxpayers and in who benefits. The IMF gives short-term loans only to countries which demonstrate a genuine balance of payments need. As a quid pro quo, the IMF requires that the country adopt austerity measures to insure its eventual economic recovery.

Contrary to the impression left by one group opposing this bill, only a small proportion of IMF financing goes to Third World countries. In fact, the single largest user of IMF resources over the last 30 years has been Great Britain. The United States is a close second, followed by Italy and France. The United States has borrowed 25 times from the Fund, most recently in November 1978 as part of the administration's dollar rescue program.

All the members of the IMF, large and small, rich and poor will increase their quotas by 50 percent. There is general agreement that IMF resources are too small if compared to the volume of world trade. Demands on IMF resources have historically borne a close relationship to the amount of international economic activity. The ratio of Fund resources to world trade was 12 percent in 1960, 9.6 percent in 1970, but has fallen to 4 percent in 1980. Fund resources have to be increased if it is going to continue to play an important role in financing deficits.

The OPEC surplus this year is projected to be about $120 billion, resulting in a $70 billion deficit for developed countries and $50 billion deficit for developing countries. These deficits combined with the growing international recession will require even greater financing by commercial banks and the Fund. Of course, the IMF only finances a small portion of total balance-of-payments deficits. The bulk of them continue to be financed by commercial banks. It is a fact however, that the larger commercial banks who have been active in international lending, are reaching their lending limits to certain foreign borrowers and are not in a position to meet a growing demand for lending over the next few years. This makes the quota increase at the Fund all the more important.

I am certain my colleagues realize that there has been organized opposition to this bill—much of it generated by the National Taxpayers Union. It is particularly distressing that their opposition is based on mischaracterizations and false assertions about the IMF and its functioning. Their chief argument is that of a costly waste of taxpayers' dollars. In fact, it costs us virtually nothing. Our quota remains on deposit in the Fund until loaned to other countries. It is always repaid in less than 3 years, and always repaid with interest. This bill has virtually no impact upon the budget. But even if there were taxpayer costs, I would argue that it would be a small price to pay to maintain stability in the international economic system from which our country benefits greatly.

The National Taxpayers Union also characterizes this bill as a bank bailout. While there is no truth to this assertion, it is a fact that U.S. commercial banks will benefit from a healthy international economic system—as will U.S. labor, U.S. exporters, American farmers, and American consumers. There is no justification for the charge that commercial banks have lent imprudently. Commercial banks have done the world an invaluable service by providing the bulk of balance-of-payments lending since the oil price increases of the early seventies.

It is extremely important that the Congress act favorably on this legislation now. World financial markets are increasingly nervous, reflecting uncertainties about U.S. economic policy. Many are beginning to question this administration's commitment to maintaining U.S. leadership in the international economy. The psychological fallout of a failure to pass this bill could have a devastating impact. With the finance ministers of over 130 countries making their way to Washington for the IMF's annual meeting later this month, it is important that Congress give the International Monetary Fund a vote of confidence, and sufficient resources to maintain international economic stability. I urge strong support for the bill.

□ 1600

Mr. LEACH of Iowa. Mr. Chairman,

I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 7244, increasing the U.S. quota to the International Monetary Fund.

We are considering this legislation at a time when economic distress is fast becoming the rule rather than the exception. The unprecedented inflation and burgeoning unemployment plaguing our domestic economy also predominate to varying degrees in other industrialized countries. At the same time, the debt burden shouldered by developing nations has become the most destabilizing international issue of the decade.

The most immediate cause of worldwide economic instability is the oil pricing and supply decisions of the OPEC cartel. The doubling and then redoubling of crude oil prices and the consequent massive transfer of wealth to the oil producers means that the United States along with other oil importers has started to lose control over a substantial part of our national independence and economic destiny.

We are all familiar with the oil dependency predicament of our own country, but the non-OPEC developing world is in markedly more desperate straits. It is estimated that developing countries will show a current account deficit this year of approximately $58 billion, a $33 billion increase from 1978. What makes the situation particularly troublesome is that this new deficit will be piled on top of an already alarming debt burden. The aggregate developing country deficit from 1973 through 1979 stood at $168 billion. It is projected to reach $296 billion by yearend 1981. The other side of the coin is that OPEC members have massed between 1973 and 1979 a current account surplus of $220 billion and probably will garner another $100 billion this year alone. By 1985 it is estimated that the aggregate surplus will near $600 billion.

The success or failure of efforts to recycle ever-accumulating revenues from surplus-rich OPEC to deficit-ridden oil importers will greatly influence whether the latter group of states can reasonably and effectively cope with their vulnerability to price and supply actions. In the aftermath of the first oil shock and resultant payments imbalances, recycling was mainly channeled through large, internationally oriented commercial banks bulging with OPEC deposits. However, most observers now believe that, because of already excessive debts and dubious repayment ability, an equivalent infusion of private capital to satisfy new credit demands is unlikely. In addition, internal constraints such as capital adequacy and portfolio diversification requirements make specious any complacent assumption that commercial banks alone can once again rescue seriously indebted countries from the edge of the economic precipice.

Adequate recycling simply cannot be carried out as before through private financial markets without more substantial involvement from international institutions. Prospects for orderly adjustment of balance-of-payments dislocations will depend in large measure on the International Monetary Fund's capacity to take a much more active part in the recycling process. Crucial to fulfillment of this role is adequacy of resources and in this connection the quota increase authorized by this legislation and similarly in the other IMF member countries is imperative.

Mr. Chairman, the gentleman from North Carolina has succinctly described the IMF's purpose and mode of operation. I would like to briefly address as well the major points made by opponents of this measure.

It is argued that Fund stabilization programs have not been successful but have actually been counterproductive and more impoverishing. The IMF study alluded to by critics of this bill does state that only one-third of the programs have been fully successful but it goes on to say that—

> Even when countries carried out only part of the agreed policies, most of them were able to arrest a worsening economic position and all of them prevented the crisis situation that would have developed had no program been in effect.

The primary reason for limited success has been that deficit countries put off turning to the IMF until their payments difficulties become virtually intractable with default imminent. The stabilization policies subsequently accepted are by necessity austere. The quota increase in conjunction with the recent easing in conditionality should encourage utilization of the IMF at an earlier stage and thus improve the chances for success and at the same time make the redress more tolerable.

It must also be remembered that stabilization arrangements are worked out between the Fund and the respective governments. The IMF determines the degree of adjustment needed and the individual governments formulate the policies for implementation. If adjustment is to be effective, governments must be convinced of the necessity and provide thorough backing. To lay all the blame for failure on the IMF indicates a misconception of how the Fund operates and how crucial governmental follow-through is. Moreover, the record of the IMF reflects the inability of governments generally to manage their economies at a time of both high inflation and unemployment. Having to function in this environment, the Fund should not be regarded as a panacea nor should it stop trying altogether because of experienced shortcomings.

Some assert that this legislation is meant to bail out banks that are overextended and others say that, to the contrary, there is no need to protect international banks since only an imprudent few would be unable to withstand defaults. The truth of the matter lies somewhere in between. By temporarily bridging deficits the IMF improves the borrower's repayment ability and credit worthiness. Additional bank lending which is a prerequisite for continued adjustment and renewed development usually follows. Both the deficit country and the banks benefit, the former by maintaining access to private capital and the latter by strengthening loan assets. Undoubtedly the risks involved have heightened as more banks have lent greater sums. In fact, during the 1970's the dramatic increase in commercial lending far outstripped the growth in bank capital to the extent that outstanding loans on average exceeded by 30 times the moneys retained against potential losses. A wave of defaults would have major repercussions not only on the private sector but also on the overall international monetary system. Expanding the IMF's recycling role is a recognition of the more cautious attitude among bankers and, as importantly, is an acknowledgement of the ongoing and indispensable participation of private sources once the IMF completes its short-term task.

The critics of H.R. 7244 also contend that the American taxpayer has to come across with $5.5 billion. This view must derive from confusion about how the IMF operates or a preconceived notion that a quota in some way represents a cost. Technically, as my colleague from North Carolina has explained, the subscription increase will not enlarge our budget deficit because there will be no net outlays. Beyond that, any consideration of gains or losses is overwhelmed by the benefits we receive from a financially strong IMF. It is to our advantage because Fund lending allows borrowing countries to continue to engage in world trade, including purchases of American exports.

Moreover, as the second largest recipient, we have utilized the IMF to stabilize the dollar's value in volatile exchange markets. Demands placed on the international financial system at present are heavy and as the most influential economy in the world the United States has a great deal more to lose by not participating in the IMF than it can ever save by not joining other members in expansion of the Fund's resources.

Mr. Chairman, all of us are concerned that the OPEC nations have not fairly shared in the responsibility for financing huge payments imbalances. The anomaly of OPEC's unwillingness to alleviate the financial misery largely brought on by the cartel cannot continue unnoticed. For this reason, I introduced and the committee accepted an amendment to this legislation pointing out that these strains can only be relieved if oil exporting countries increase their contributions to international lending institutions, particularly the IMF, and engage in direct recycling themselves.

In addition, the amendment stipulates a feasibility study of the IMF borrowing funds in private capital markets for onlending to its members. Closer coordination between the Fund and commercial banks is encouraged to establish a better flow of basic economic and sociological information. In addition, the committee believes that the possibility of cofinancing of loans as currently practiced through the World Bank should be explored as should the possibility of the IMF acting as an insurer or guarantor for OPEC lending to deficit countries, thereby increasing the leverage from its financial resources. Closer IMF-bank cooperation could prevent instances in which banks are played off against the IMF enabling chronic deficit countries to avoid going to the Fund.

Another amendment I introduced in committee stipulates that negotiations within the Fund to establish a substitution account ought to proceed expeditiously. The negotiations are presently in abeyance but it is my belief that substitution, that is, allowing member governments to place surplus currency in the Fund and in return receive interest-bearing SDR's, is an alternative mechanism for recycling petro dollars which could serve to alleviate currency instability.

At the same time, substitution provides unique protection to lenders who become insulated from potentially explosive pressures to nationalize foreign assets. From the point of view of oil importing countries like the United States the substitution process is a method of recycling that involves the sale of debt rather than country assets, such as farmland or equity securities, and is thus less jeopardizing to national economic autonomy.

Mr. Chairman, the world economy is entering unchartered waters. We should not mimic the ostrich which attempts to avoid danger by refusing to face it. H.R. 7244 is an essential measure to provide the flexibility and strength so essential to international financing today.

In this regard, the distinguished committee chairman, the gentleman from Wisconsin, used the analogy of the candle of Bretton Woods being snuffed out if this bill is defeated. To the contrary the gentleman from Indiana argued that the flame of the candle would simply be kept burning at the same level. The gentleman from Indiana is technically correct, but in substance very, very wrong. The flame may be kept at the same level, but the fact is that the room to be lit in 1980 is much larger than the one of 1945. IMF resources are currently very low—4 percent of world imports—down from 12.3 percent in 1960 and 9.6 percent in 1970. We need a larger candle or we run the risk of going lightless in a large part of the world.

Mr. Chairman, I urge adoption of H.R. 7244.

At this point, Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Chairman, I would like to salute the chairman of the subcommittee, the gentleman from North Carolina (Mr. NEAL), and the ranking minority member, the gentleman from Iowa (Mr. LEACH), for their very effective leadership in this difficult, complicated and important legislation. I would also like to commend the gentleman from Nebraska (Mr. CAVANAUGH), who is approaching the end of his career, at least his first career, in Congress. The gentleman from Nebraska has been an extraordinarily useful member of this subcommittee.

Mr. Chairman, I would like to voice my strong support for this measure to increase the U.S. quota at the International Monetary Fund.

The IMF is of critical importance to the United States and the other major trading countries. Unlike the development lending institutions, the IMF puts our interests first. Of the hundreds of international institutions to which the United States belongs, none begins to compare to the IMF in importance to maintaining stability in international finance. As the world's largest trading country, we gain more than any other from strong and effective institutions at the center of the trade and monetary system. The IMF has done an admirable job at maintaining a stable monetary climate for 30 years. As that system has evolved, with the U.S. dollar at its center the interests of stability and U.S. national economic priorities have increasingly become one and the same.

We are now asked to approve an increase in the U.S. quota at the Fund. Because the size of the international trading system keeps growing, members of the IMF periodically vote to increase their quota subscriptions to keep pace with this growth in trade. Five and one-half billion dollars sounds like a high price tag, Mr. Chairman; but, in fact, its not so large when compared to trade growth. Demands on the Fund's resources are roughly proportional to the volume of world trade. When viewed by this measure, IMF resources are currently very low—4 percent of world imports—down from 12.3 percent in 1960 and 9.6 percent in 1970.

The recent round of OPEC oil price increases has put added pressure on Fund resources as some countries find they are unable to make adjustments without financial assistance. It has been estimated that non-OPEC developing countries may need as much as $150 billion from private banks this year in order to finance deficits and to service existing debts. Yet the Chairman of the Federal Reserve and other U.S. banking regulatory authorities have begun to pressure U.S. banks to limit their exposure in LDC's. Similar concerns in Europe and Japan produced a 40-percent drop in Eurodollar loans to LDC's in the first quarter of 1980, compared to 1979.

With serious potential financing problems among developing countries, the private sector less flexible and the international economy less buoyant, the prospects for smooth adjustment to major balance-of-payments dislocations expected in 1980 and 1981 will depend in large measure on the strength of the International Monetary Fund, the adequacy of its resources, and its capacity to play a greater role in the recycling process. The developing countries, it should be emphasized, are not the only countries which depend on IMF resources. Since the IMF was formed, the United States has drawn 25 times from our quota at the Fund. It was crucial to our dollar support program in 1978 that we were able to borrow $2 billion in foreign currencies to defend the dollar's value. The alltime record for Fund borrowing belongs to Great Britain—hardly a developing country.

Our committee has given explicit recognition to the fact that most of the current imbalance in the system results from price gouging by the oil producing countries. As a committee we are concerned that as a group the OPEC countries have not borne their fair share of their responsibilities. We have amended the bill in committee to add an amendment—offered by the distinguished ranking member from Iowa—to encourage OPEC members to assume a greater burden for financing deficits through the Fund and to increase their contributions to the development lending institutions. In a second amendment, the committee asks the Treasury and the Fund to study the feasibility of increasing Fund resources by direct borrowing from member, particularly OPEC, countries.

In closing, Mr. Chairman, let me note that this bill will not contribute to the deficit. Our transactions with the Fund rarely result in net outlays even though we will authorize and appropriate the full amount. Rarely do we get to vote for a bill from which we get so much for so little. We have a crucial interest in the financial stability of the other countries of the world—we have a huge defense budget so that we might resist aggressive communism—we need economic weapons as well in an increasingly dangerous world.

I urge my colleagues to support this important legislation.

Mr. NEAL. Mr. Chairman, I would like to yield time to the gentleman from Indiana (Mr. JACOBS) and any remaining time I would yield to the gentleman from Maryland (Mr. MITCHELL). Perhaps if necessary, the gentleman from Iowa (Mr. LEACH) could yield time to the gentleman from Maryland as well.

☐ 1610

Mr. LEACH of Iowa. I would be happy to honor a time request from either gentleman.

Mr. JACOBS. Mr. Chairman, if the gentleman will yield, it is not my purpose to take time from the gentleman's side if it is required. If there is a surplus I should be very grateful, otherwise I think I can state my views during the 5-minute rule.

Mr. LEACH of Iowa. Mr. Chairman, I would be delighted to yield 1 minute to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, I rise in support of this excellent bill. It is my fervent hope that the House will pass it with minimum damage by amendment.

The International Monetary Fund is no foreign-aid agency. It is involved in no giveaway programs.

It was created to provide stability in the trade and financial relationships of a complex and interrelated world. Supported by every living ex-Secretary of the Treasury including such tight-fisted fellows as George Schultz and Bill Simon, it is deemed critical to international commerce.

The moneys to be authorized and appropriated are not likely to be actually spent. Historically this contribution, although clearly a call on our Treasury, has not required actual expenditure of funds.

The largest users, that is borrowers, from the Fund, have been the United States and the United Kingdom. We have found the Fund a convenient source of funds to support our intervention operations in defense of the dollar.

The biggest need, however, is to finance trade imbalances of developing countries, mostly occasioned by energy price increases. Without the IMF, these countries will have to scale back imports, and they constitute a huge market for the United States and have been the bright spot in our otherwise dim trade picture.

The IMF is not free. Our participation costs us something, but it delivers advantages which far outweigh its costs.

Mr. LEACH of Iowa. Mr. Chairman, I would now like to yield such time as he may consume to the gentleman from New York (Mr. GREEN).

Mr. GREEN. Mr. Chairman, I rise to support this bill. I believe that the International Monetary Fund has been a useful instrument. It has seen the world's monetary system through some very difficult times. It has been useful in imposing economic discipline on those nations it has assisted.

However, I must raise a warning flag. The IMF and the other international financial institutions have been effective and worthy of U.S. support in large part because they have been operated in a thoroughly professional, not political way.

Now there is a threat to that tradition. Efforts are being made to give the PLO observer status at the IMF and other international financial institutions. I want to make it clear that this effort to politicize the IMF and the other international financial institutions, if successful, will force me—and, I believe many other Members of this House who like me have been supporters of these institutions—to reconsider the utility of continued U.S. participation in them.

Mr. LEACH of Iowa. Mr. Chairman, I would like to yield 5 minutes to the distinguished and thoughtful gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Chairman, I rise in opposition to this bill. I have spoken earlier about some of the concerns I have about the international banking situation. I think we are facing a serious international banking crisis, but I do not think that which we are doing here today does anything but compound that problem and makes it much, much worse.

A lot has been said here today about human needs, expressing a sincere concern about the underdeveloped nations in the world, and I too am concerned about human needs. I for one, though, happen to believe that the human needs of the bankers in New York are going to be better served by this bill than any poor person any place in the world. It is the banks that are in trouble.

There are $400 billion owed to the West from the Third-World nations, on top of another $60 billion to $80 billion by the East Europe Communist nations. They have us over the barrel. They have us under the gun. These debts are a greater weapon than any military weapon because they can close down our banks at their choosing.

Some may say, "Well, this is a strong argument for further subsidizing this system, to keep the system together," but $5.5 billion is nothing compared to what is going to be needed when this mountain of debt comes down on us. We are sitting on a mountain of debt, not only in this country but throughout the Western civilization. Unfortunately, the mountain is sitting on its peak. There is no foundation whatsoever, and for this reason we must not further compound it, by creating more inflation.

So what do we do? We take $5.5 billion of Federal Reserve notes—paper, IOU's—send it to the IMF, and they convert it into $4.2 billion SDR's, IOU's, paper.

I can take any 10-year-old, or any 8-year-old, or even a 6-year-old, and have them look at SDR's and also something of real value, whether it is silver or gold, and they will make the right choice. But, here we in the Congress continue to choose that which has no value, no stability whatsoever, and we depend on the false promises of all the Western nations to run a sound economic order.

It has been stated here that the IMF funding is to our benefit. We can go to the IMF and borrow, and that we have. This is not a good sign. This is a bad sign. This is a sign that our economy is in trouble. It is a sign that we are not much better off than the Third-World nations in the way we run our system. It is a tragedy that we have to go and borrow.

Some claim this enhances our trade. I have never been able to quite figure this out—take the money from the American people, give the money to some banker or a corporate giant, and the goods go overseas. It is supposed to enhance our trade. The question that is never asked is: "Would those funds have been used to generate jobs and be stimulating to the economy if we had not extracted them and used them artificially and used them unwisely?" Those funds would have been used by the marketplace if we had not taken them. They would have accomplished the same thing, but the accomplishment would have been much sounder. It would not have been going to encourage this unsound system, this sea of debt that we are living under.

Therefore, I say to compound this by perpetuating it and further subsidizing it is ill advised. I cannot see anything other than that this will bring chaos to us, but it is going to be much bigger and much worse when it eventually comes.

Some claim that these funds are needed to keep pace with world trade. Today, we need much more funds to keep pace with the greater amount of trade we have. We are not keeping pace with trade. All we are doing is keeping pace with monetary expansion. The money supplies are forever increasing. It has been mentioned that England has to continue to borrow frequently from the fund. Their economy has been worse off than ours. Sure, they have had to borrow. Our economies are declining and dying. Our currency is dying because the currency is being destroyed, deliberately destroyed by us, the Congress, and the Federal Reserve System by insisting that we can print as much as we want. We can monetize any amount of debt, and therefore eventually destroy the money.

Some claim it is the Arabs' fault. They claim that since the price of oil went up this has caused all of the problems. That is nonsense also, because the price of oil is only reflecting the increase in the money supply. That is a consequence and not a cause. You cannot blame it on the Arabs. They did not create the imbalance in trade and the imbalance in payments. That is only a consequence of a monetary policy we follow in this country which is not reliable and totally irresponsible.

Mr. LEACH of Iowa. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Delaware (Mr. EVANS).

Mr. EVANS of Delaware. Mr. Chairman, I rise in support of H.R. 7244, which would authorize an increase in the quota of the United States in the International Monetary Fund (IMF). A 50-percent overall expansion of quotas for the member countries of the IMF has been agreed upon as a key element of the international community's response to the increasingly serious world balance-of-payments problems. This bill was overwhelmingly reported by the House Banking Committee on a bipartisan vote of 35 to 4, and was passed by the Senate earlier this year by the impressive margin of 55 to 25.

I must admit that I share the concern of many Members about the size of the quota increase and its timing in light of the serious budgetary problems facing the Government of the United States. However, I would like to reinforce the earlier comments of my colleagues by pointing out that U.S. participation in the IMF does not result in any net budget outlays. The outlays from the U.S. Treasury in the form of cash transfers to the IMF will be offset by additional interest payments from the IMF based on the increased U.S. reserve position in the Fund. The net result of these transactions has little impact on the Federal budget.

I also feel it is unfair to characterize U.S. participation in the IMF as a form of foreign aid. The IMF can more accurately be described as an international financial institution which utilizes a revolving fund of currencies which have been provided by the members through their quota contributions to extend temporary financing to support the economic stabilization programs by countries facing balance-of-payments problems. The primary purpose of the IMF is to allow its members to correct imbalances in trade payments without resorting to policies which destroy their own economies or further aggravate the disequilibrium characterizing the country's balance-of-payments situation.

The United States has a significant national interest in continuing its involvement with this loan facility. The United States has been a frequent user of the Fund's resources; in fact, we are the second biggest user of the financing arrangements available from the IMF. We have utilized the IMF on over 25 occasions for draws equaling $7.8 billion. Our contributions to the IMF guarantee the opportunity for the United States to call on a larger amount of the Fund's resources if we find ourselves in serious balance-of-payments difficulties. The most recent drawing by the United States against its "reserve tranche" came in November of 1978 when the administration needed $3 billion to finance its program to rescue the tumbling value of the U.S. dollar in the international currency markets.

From an international economic standpoint, it is important to insure that the IMF has adequate capital resources to help all the oil-importing countries to cope with the major price increases announced by OPEC in 1979. The quadrupling of oil prices by the OPEC cartel and profound structural problems facing the consuming countries have raised the prospects for dangerous balance-of-payments difficulties for both the developing and industrialized countries. The OPEC countries have tremendous current account surpluses which are expected to grow to upward of $500 billion within the next 5 years. This projected surplus by definition means that many countries will have to find some way to cope with their oil-related deficits.

Over the next several years, the international community faces the difficult task of assuming that sufficient financing is available to establish reasonable prospects for world economic development and growth. At a time when payments imbalances and therefore the likely number of demands on the IMF are increasing, the ratio of IMF resources to world trade has dropped to dangerously low levels. As Treasury Secretary Miller has so ably pointed out in his speeches around the country, the IMF must possess the resources to meet the potential demands for short-term financing which will be needed to encourage international monetary stability.

Although the commercial banking system played the biggest role in handling the recycling problems following the 1973–74 round of price increases, the exposure of the banks to the deficit-ridden developing countries will force them to exercise greater precautions before making any additional loans. It appears that the increased hesitancy of private bankers to move very aggressively to handle the financing problems of the LDC's will force the IMF and other international institutions to increase their lending activities. Without the 50-percent quota increase contemplated in this bill, the IMF will not be able to provide even the 5 percent of total financing resources it provided following the first round of OPEC price increases.

Mr. Chairman, the international monetary system is facing a disquieting future. The major challenges to the world economy over the next several years include the establishment of the proper means to finance the huge payments imbalances that will continue to exist due to OPEC pricing decisions and to promote fundamental adjustments to the threatening world energy situation which is at the heart of global economic problems.

The challenge to the United States, and especially to the Members of the Congress, is to avoid taking the easy way out by turning inward and thereby risking the possibility of precipitating a disastrous international financial crisis. Ambassador Elliot Richardson, among others, has thoughtfully pointed out that the global situation today demands a broader, not a narrower, international perspective in the formulation and conduct of U.S. policy.

Finally, I would like the Members of this body to recognize that the United States has given its word to an international forum that it will continue to participate voluntarily and as a full partner in the financing arrangements for the Fund. At a time when America's credibility is dangerously low in the eyes of friends and foes alike, I do not believe we should break our word by rejecting this legislation and seriously undercutting the U.S. position in the IMF. We have a compelling obligation in this instance to live up to our word and increase our quota in the IMF along with the other member countries.

I urge my colleagues to carefully consider the implications of voting against this needed legislation. Despite the large numbers associated with the quota increase, the impact of this legislation on the budget is truly negligible. With the U.S. contribution, the IMF can position itself to play a constructive role in meeting the payments crisis which could strangle the world and to assist all types of countries to undertake the structural readjustment programs which are needed to revitalize their economies. I urge my colleagues to recognize the compelling need for the United States to play a responsible role in the international economy and support the bill.

☐ 1620

Mr. Chairman, I yield back the balance of my time.

Mr. LEACH of Iowa. Mr. Chairman, once again I yield to our very fine colleague, the gentleman from Texas (Mr. PAUL), a member of the committee, and this time I yield 2 minutes to the gentleman.

Mr. PAUL. Mr. Chairman, the one thing that I think is very important to understand in order to get a different perspective on this bill and to recognize the fundamental difference between my viewpoint and the prevailing opinion here is that if we create credit or if we create a paper asset, the feeling is that in some manner or in some mysterious way we are able to increase wealth. Nobody has ever done this in the history of man. It has been attempted for thousands and thousands of years.

In the olden days they did it in a different way, but today we do this in a very sophisticated manner, allegedly by increasing the supply of money through credit extension and credit creation. This is all done with good intentions. Nobody does this with an ill intent to hurt people. We all are always desirous of helping the poor, but yet in passing this legislation all we do is unfairly redistribute wealth. It takes the wealth from the poor and gives it to the wealthy.

It is the New York banker who is over the barrel. It is the banker who will be bailed out, and it is the dictators in the Third World nations today who will benefit, because 99 percent of them will receive some benefit by this appropriation and it will enhance their power and their positions in their socialist dictatorships. We are not spreading freedom around the world and we are not spreading a productive economy around by doing this.

We are doing the exact opposite. We are encouraging the system which has deceived the people. It is a deception upon all the people. The deception is in the Congress, the deception is in the Federal Reserve Board, and a lot of people in the country are starting to catch on to this. They are starting to realize that paper assets have no value, that this is only a game we are playing, that this is patchwork type of economics, and that eventually we will all suffer the consequences because we cannot do it forever.

Mr. Chairman, the mountain of debt is too great, and eventually we are going to have to settle down and develop a sound currency.

Mr. NEAL. Mr. Chairman, may I inquire, how much time do I have remaining?

The CHAIRMAN. The gentleman from North Carolina (Mr. NEAL) has consumed 25 minutes and has 5 minutes remaining. The gentleman from Iowa (Mr. LEACH) also has 5 minutes remaining.

Mr. NEAL. Mr. Chairman, I will yield the balance of my time to the distinguished gentleman from Maryland (Mr. MITCHELL), but before I do that, I yield myself such time as I may consume.

Mr. Chairman, I would just like to thank the Members on the majority and minority sides who have worked long and hard to develop this legislation.

This is not popular legislation. There is no constituency in our country for it. Few Americans can see the immediate gain from this legislation. Yet it provides a stable world order that serves all of us.

Mr. Chairman, I yield the balance of my time to the distinguished gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Chairman, let me state to my colleagues here that one person asked me today, "Are you going to support the IMF bill, particularly in light of the story that appeared in the Baltimore papers and the Washington papers about a total now of some 12,000 or 15,000 unemployed people in Baltimore applying for 75 jobs?"

I think the question that was put to me shows the lack of understanding of what the IMF is all about. I think if the person who put that question to me understood what we were doing, he would not have put the question.

Mr. Chairman, I support this legislation. I have some questions about the situation with Jamaica, and I intend to raise that issue at the proper time. But let me indicate to the Members that I do not think this Nation can afford the luxury of retreating into a kind of neo-isolationist position in world economic development. I just do not think we can do that.

I do not think all the MX missiles and all the other weaponry we are funding now through the Congress is the answer to America's role in the world order of things, nor do I think our participation in the IMF ought to be aimed primarily at the containment of communism. That is the lesser consideration in my mind.

My argument is that this Nation will sustain itself as a viable international entity to the extent and degree that two things happen: First, the extent and degree that we continue to participate in international trade, operating with a sound currency; and, second, the extent and degree to which we continue to help the undeveloped or lesser developed nations.

We are witnessing in our time a whole new arrangement in geopolitics and in the international money markets and in international relations. If we fail to support an IMF approach, then I think we jeopardize our position in the world.

Mr. Chairman, I do want to raise one question, and perhaps I should do it now. That is with reference to the situation in Jamaica. It has been indicated to me that there is some evidence that IMF officials have attempted to interfere in the internal politics of the nation of Jamaica.

If that is true, then it is totally and terribly wrong for IMF to do that. It is a misuse and an abuse of the IMF legislation and funds.

Mr. Chairman, can the distinguished chairman of the subcommittee enlighten me on the situation with reference to Jamaica?

Mr. NEAL. Mr. Chairman, if the gentleman will yield, I would like to respond by pointing out that the statement by Mr. Walter Robichek, which was quoted in the Black Caucus letter to the Secretary of the Treasury, does not, in my opinion demonstrate any interference in Jamaica's external or internal affairs. I believe the gentleman would agree with my interpretation.

Mr. Robichek's comment was meant to be read internally within the IMF. It concerned some statements that Prime Minister Manley had made publicly and how those statements might impact on the economy. But there was no attempt to change that country's internal policy.

Mr. MITCHELL of Maryland. Mr. Chairman, I will accept the subcommittee chairman's response.

Mr. NEAL. That is my understanding.

Mr. MITCHELL of Maryland. But I do think that as we consider this legislation under the 5-minute rule, we bought to consider an amendment or language in the report which would clearly indicate that there cannot and shall not and must not be any use of IMF funds or IMF personnel to attempt to affect the internal political structure of a given nation.

Jamaica is the only nation that was brought to my attention, and I was concerned because of the form of government that is there. It is a socialist form of government, and that is what they have decided to have. It would be just totally and terribly wrong, it seems to me, to use the IMF to steer that government in another direction.

Mr. Chairman, I rise in support of the bill, H.R. 7244, the International Monetary Fund quota increase amendments, to amend the Bretton Woods Agreement Act and provide for the increased participation by the United States in the International Monetary Fund.

Several months ago, I supported similar legislation, the international financial institutions authorizing bill. Today, my reasons for supporting the legislation before us are not significantly different and remain equally important because our participation in the International Monetary Fund is an essential ingredient of U.S. policy toward the developing countries of the world.

This legislation would authorize the participation of the United States in the supplementary financing facility within the IMF. Such a facility is necessary because of the inability of many IMF members to finance balance-of-payments deficits caused by increases in the price of imported oil. This year's oil bill for the poor countries of the world will exceed $50 billion.

Energy consumption in the developing countries is projected to grow at 6.2 percent a year throughout the 1980's, according to a recently published World Bank report. The oil bill of these countries will therefore double in real terms. The report also indicated that most of the 92 developing countries depend on imported oil and of the 92 import dependent countries, there are 64 countries, including some of the poorest, that depend on imports for more than 75 percent of their commercial supplies. Since there are presently no new facilities to substantially reduce the oil dependency of the developing countries, and the investment climate in the world is not favorable, the IMF will continue to play a dominant role in assisting these countries to reduce their oil deficit.

World trade will expand this year by 2 to 3 percent, in comparison to 6 percent in 1979, as estimated by the General Agreement on Tariffs and Trade, the 85-nation organization that monitors world trade activity. The decrease in world trade is ascribed to changing patterns in the demand and supply of oil. Given such a slowdown in economic activity in the United States and the rest of the industrial world, developing countries will have even greater difficulty in improving their economic position. In essence, the need for this legislation reflects the dilemma of the non-OPEC developing countries and the U.S. role in north-south global economic negotiation. Of course, to the extent that we do not recognize the significance of our role in north-south global economic negotiations and the related components, we will only contribute to the gap that exists between the developing countries and the industrialized nations of the world.

Several arguments have been raised in opposition to increasing the U.S. quota to the International Monetary Fund. One of these arguments is that the U.S. budget deficit will increase by increasing the quota because the United States will have to borrow in capital markets, and this will increase interest rates. However, this argument focuses only on the demand side of world capital markets. Yet the activities of the IMF with respect to fostering stability and growth in the developing countries will increase the supply of capital by an amount sufficient to more than offset any initial demand on interest rates.

Another budget related argument is that since the United States can only use its reserves in the IMF to help finance its balance-of-payments deficits, such spending is inflationary. Yet, any borrowing we do to finance balance-of-payments deficits will be a result of temporary aberrations rather than major structural deficiencies in our economy. Further, to argue that a balance-of-payments deficits is inflationary is to misunderstand the cause of inflation since it is a monetary phenomenon and there is no relationship between our transactions with the IMF and the rate of growth of our money supply.

These arguments center around the question as to whether the costs of the legislation outweigh the benefits. Those who are opposed to our participation in the Fund consider the costs in a vacuum. I would submit that although nothing we do is without cost, the benefits of this legislation are far greater than its costs.

Our participation in the Fund contributes to the 37-percent share of U.S. exports consumed by the non-OPEC developing countries. In the absence of these markets, U.S. manufacturing and agricultural exports would be sharply reduced—1.2 million American workers depend on exports to the developing countries for their employment. These factors notwithstanding, the overall activity of the International Monetary Fund is directly tied to the economic growth and political stability of the world. What could be a greater benefit?

I understand the concerns about human rights violations since the Fund's activities are aimed at improving the quality of life in the recipient countries. However, I do not think that the human rights issue should prevent our participation in the Fund or encumber the IMF in any way. Indeed, in the long run the cause of human rights throughout the world is likely to benefit more from activities of the Fund in conjunction with other forms of developmental assistance than from preoccupation with the mere form of human rights.

I urge my colleagues, given the compelling arguments for increasing our participation in the Fund, to vote for H.R. 7244 without any crippling amendments.

Mr. LEACH of Iowa. Mr. Chairman, I yield myself the balance of my time, and I will make one final observation.

This bill has been brought before this House as a bipartisan measure. The leadership of the gentleman from North Carolina (Mr. NEAL) is particularly appreciated. The legislation draws support on our side, although certainly not unanimous support, as we have heard from the distinguished gentleman from Texas (Mr. PAUL), who has grave concerns. But speaking for myself and speaking for the ranking Republican member of the full committee, I would strongly encourage passage of this bill.

● Mr. KEMP. Mr. Chairman, accordin to Treasury Secretary G. William Miller

> The purpose of the International Monetary Fund is the maintenance of a strong and orderly international monetary system.

If this is the criterion for judging IMF performance, there seems little justification for approving another increase in the IMF quota of the United States. Despite, and in some cases as the result of, the efforts of the IMF, the international monetary system today is neither strong nor orderly.

The IMF was established to oversee the adjustment of international payments under the Bretton Woods gold-exchange standard. Unfortunately, this proved an impossible task, since the nature of a gold-exchange standard is to block the automatic mechanism for adjusting international payments. When one or more currencies are privileged as reserve currencies—that is, used as reserve assets by central banks—two pyramids of credit may be erected on the same gold reserve. A balance-of-payments deficit in the reserve currency country can duplicate itself; under the Bretton Woods system, dollars sent abroad were counted as reserves by foreign central banks, which simultaneously reinvested them back in the United States. This caused monetary expansion abroad and prevented any correction of the overexpansion of American credit which caused the payments deficit in the first place. The dollar became overvalued, and the system broke down under the weight of outstanding claims against American gold.

When the gold-exchange standard was replaced by the nonsystem of "floating" exchange rates without gold convertibility, the main role of the IMF should presumably have ceased. After all, when American monetary authorities closed the gold window, they argued that floating rates would make balance-of-payments adjustments unnecessary; instead, overabundant currencies like the dollar would simply be allowed to depreciate. Needless to say, the regime of the past 9 years compares dismally with the Bretton Woods system, flawed as it was.

Yet the IMF found a new function: "recycling" international oil payments, especially for the Third World countries. Why this could not be handled exclusively by commercial banks is a mystery, unless the role of the IMF is to guarantee the imprudent overextension of risky credit by those banks.

Treasury Secretary Miller is speaking nonsense when he says, in arguing for this quota increase, that "the changed world energy situation is at the heart of current global economic difficulties." Instead, the magnitude and intensity of the energy crisis can be traced to irresponsible U.S. monetary policies, in which Mr. Miller himself figured largely, as Chairman of the Federal Reserve Board, and to U.S. energy policies.

Because world oil prices are quoted in dollars, hikes in the world price of oil are in the first instance a result, not the cause, of the dollar's devaluation. Combined with U.S. controls on the price of domestic energy and subsidies of oil imports, which have discouraged both production and prudent conservation, most of the real and nominal rise in the world price of oil can be traced to Washington, not to Tehran.

In any event, the record of the IMF in "recycling" oil payments has been less than spectacular. Peru, Zaire, and Turkey are only a few examples of countries "saved" from defaulting on their debts, only to sink into deeper financial troubles under the policies imposed by the IMF.

Since World War II, through international institutions like the IMF, we have been encouraging less developed countries to adopt "development" policies which are antithetical to those on which our own development was based: Deficit spending, import protection and substitution, grandoise government projects and income redistribution. Today, these countries are buried under the debt we encouraged them to undertake, and we have destroyed their ability to repay it. High tax rates, supposed to finance staggering debt service and discourage the import of luxuries, instead crushed incentives to produce, save and invest, to the vanishing point. The tax rates naturally fail to yield enough revenues to meet the debt schedules, and the LDC's borrowed further and depreciated their currencies to cover their debt finance.

Mr. Miller now tells us that a further increase in the IMF quota will enable these countries "to borrow substantially more from the IMF," and "maintain needed imports" while "these adjustment measures" take effect.

A friend of mine suggests, only half humorously, that our intelligence officials could save a great deal of effort in trying to predict where in the world the next revolution will take place. A simpler plan, he says, is to assign one agent to follow the IMF's team around the world as it prescribes "adjustment measures." A revolution is sure to follow within 6 months. This certainty seems to be the case in Turkey, a crucial NATO ally.

I recognize that the amount of the quota increase we are discussing will have little real effect, one way or the other, in Mr. Miller's words, in "the maintenance of a strong and orderly international monetary system." Even if the quota increase is approved, IMF quotas will represent only one-third the share of world trade they held throughout the 1960's—when the IMF proved totally incapable of preventing the breakdown of the Bretton Woods system.

More to the point is the fact that such an increase would go in exactly the wrong policy direction—in fact, several wrong directions. To speak of increasing the total IMF quota from SDR 39 billion to SDR 58 billion when the world is awash in liquidity and suffers raging inflation is, as one astute observer said when SDR's were first proposed, "like discussing irrigation plans during a flood." Likewise, an increase in IMF quotas means two things—an increase in the capacity of deficit countries—including the United States—to borrow, and an increase in the obligation of the more responsible surplus countries to lend. And finally, another $5.5 billion in "off-budget" Treasury borrowing would seem to conflict with the rhetoric, at least, of this administration regarding fiscal responsibility.

I believe it is long past time to reexamine and revise our domestic monetary policy, the international monetary system, and the nature of our supposed assistance to the Third World. I believe we will find that if we wish to end inflation, restore world economic stability, and provide a climate of prosperity for all countries, we must devise a new international gold standard in which no national currency is privileged as a reserve asset.

In the meantime, Mr. Speaker, I cast my vote against the proposed IMF quota increase to protest the role of the United States in encouraging a dangerous overexpansion of debt which threatens the collapse of the world's financial system. The IMF has proven that it will not, or cannot, initiate the reexamination of policy which is necessary. While I am sure there is a role for the IMF in a reconstituted, stable international economic order, at this time the IMF is doing little but encouraging this Nation, and the world, to postpone a serious debate on how to restore stability and prosperity to the international monetary system.●

● **Mr. EDWARDS of California.** Mr. Chairman, it is with great reservation that I vote for H.R. 7244, the bill which authorizes the United States to contribute an additional $5.6 billion to the International Monetary Fund. My reservation stems from several sources and I would like to take this opportunity to express them here.

Few people realize the unseen role the IMF exercises in determining our foreign policy, with particular regard to developing nations. Because of its large currency pool of $51 billion, of which the United States is the largest contributor, it has a great influence over developing nations which come to the Fund for assistance during balance-of-payments difficulties. Yet, the American people and the policymakers have little influence or knowledge over how the Fund exercises its control over the economies of these nations.

If we take the time to note the impact the IMF has on the nations of the world, we begin to notice that their initiatives frequently have results contrary to announced U.S. foreign policy. For instance, in 1976, the Fund loaned $464 million to the Government of South Africa. This loan appears even more reprehensible when we consider that it occurred during the height of the Soweto massacres. Consequent with this loan, South African imports of weapons increased significantly and the South African defense budget increased by $450 million.

In Nicaragua, the Fund loaned $22 million to the Government of Somoza a few short weeks before the total collapse of his government. Even the staff of the IMF recognized the absurdity of the loan, stating "the program which the Nicaraguan authorities have submitted to the Fund in support of a request for a standby arrangement involves substantial risks."

The Fund also has a history of making loans to nations which are notorious human rights violators. Included in this list are loans to Chile, Argentina, the Philippines, Idi Amin's Uganda, and the Central African Empire.

It is difficult for me to understand how the Fund can persist in loan actions which are contrary to our foreign policy as expressed by the President and the

State Department. The United States is the major contributor to the Fund and as such has the greatest voting power. I would suggest that the Department of Treasury and the Department of State exercise greater liaison and utilize our voting power in a means which is consonant with our expressed foreign policy.

Another source of my concern over the operation of the IMF is the impact which their financial conditions impose on developing nations which borrow from the Fund. IMF financial assistance is frequently conditional on certain behavior by the recipient government. The conditions are designed to force the recipient to become more financially sound, and I applaud the Fund for their attempts at this goal. However, in reality, the conditions often result in deleterious domestic economic situations which strike harshly at the poor citizens of the developing nation and result in IMF riots.

Peru is a nation which had severe domestic consequences resulting from IMF mandated policy initiatives. The economic policies which Peru was forced to follow initiated widespreads unemployment and a deteriorating standard of living for large segments of the population. The Fund also forced Peru to cut back on development programs which other aid agencies were spending $395 million to promote.

Egypt was also forced to inflate the prices of wheat flour and cotton cloth, sparking an IMF riot among the unemployed that left 30 dead.

I have enclosed an editorial in the Record which further delineates some of the disastrous domestic consequences of IMF conditions for financial assistance.

The amendment to be introduced by Representative Harkin will hopefully reduce the unstabilizing aspects of the IMF arrangements. The amendment would instruct the U.S. Executive Director to be more attentive to basic human needs in the conditions it fixes on loans to less developed countries. In this regard, the Harkin amendment will help to address one of my reservations on IMF funds and I commend it to my colleagues.

My other reservations toward further IMF fund increases are financial and should have broad support among Members of Congress.

Of course, IMF fund increases have costs for the American taxpayer which must be examined. As most of my colleagues are aware, I support most foreign aid programs and am not opposed to using U.S. funds to support a genuine aid program which has reciprocal benefits for both our Nation and the recipient nation. Many would argue that IMF funds are not foreign aid money and should not be viewed as such. Despite the fact that the United States does rely on the Fund on occasion, we must recognize that many foreign nations view the Fund as an organization to resort to during times of need, an aid organization. Our perception of the Fund must incorporate the views of the recipient nations. Viewing the Fund impact on the international financial sys- this way, I question whether these dollars cannot be better spent.

The second, and most serious, financial question involving the Fund relates to what many perceive to be its destabilizing tem. This is especially ironic when one considers that the Fund was established after World War II to maintain financial stability in international currency transactions. Due to its close symbiotic relationship with private banks, the Fund has often made loans of questionable financial integrity.

During recent years, Third World nations have been accumulating larger and larger amounts of foreign exchange debts in order to finance the imports necessary to maintain their countries. Of course, the largest import here has been petroleum products, the price of which has increased astronomically. These nations are forced to turn to large private banks to borrow the hard currency necessary to purchase the required imports. The banks have been quick to respond to these requests and consequently the developed nations have increased their debts to private banks from $9.5 billion in 1971 to $85 billion in 1977.

The scale of this indebtedness raises serious questions concerning the stability of our international financial system. Recognizing the potential for default resulting from this magnitude of indebtedness, the banks come to the IMF to request loans to those nations which seem unable to meet their loan commitments. The IMF in turn comes to our Nation to request an increase in our contributions to the Fund which, if approved, places us in the position of upholding a questionable financial system. If we are going to assume this role, it is essential that we demand further disclosure of the activities of the Fund and the private banks which it is assisting.

The editorial follows:

[From the Boston Globe, July 2, 1980]

THE FUND NEEDS TO LEND GOODWILL

(By Jim Morrell)

The International Monetary Fund is one of those gray, undramatic Washington institutions that make boring news copy and draw no public attention, although they draw quite freely on the public treasury.

With its currency pool of $51 billion, contributed by the United States and other member nations, the IMF does much to determine the underlying structure of U.S. relations with the Third World. It lends money to Third World countries facing balance-of-payments deficits, requiring in return gainful austerity programs that always strike most cruelty at the poor.

The programs exacerbate the huge gap between the rich and the poor and frequently cause "IMF riots" and changes of government. Invisible and unsensational as the IMF is. Therefore, it is time the American public learned more about this giant international agency, especially since it is now seeking a record-high $5.6 billion replenishment from Congress.

That amount, although it is not, strictly speaking, a budgetary outlay, is still more than the total $4.8 billion authorization for all foreign aid recently approved by the Senate. Taken out of the Treasury and refunded as a personal income tax rebate, the IMF's money would amount to a $69 refund to an average taxpayer with a family of four. But it is not only fiscal problems, it is also moral and human rights issues that have many members of Congress upset about the IMF. Consider these cases from the monetary agency's recent loan files:

In 1976 it lent South Africa $464 million, which enabled the government to increase defense spending by $450 million. The IMF's aid came at the height of the Soweto massacres.

In the name of free trade, it pressured Haiti to lift import restrictions on luxury automobiles.

In the name of fiscal austerity, it made the Philippines jack up the price of rice, canned milk, sugar, cooking oil, electricity and bus fares—all striking regressively at the poor.

In the name of fighting inflation, its overpaid staff pressured Bolivia to cut back the wages of tin miners making three dollars a day.

In the name of austerity, it made Egypt inflate the prices of wheat flour and cotton cloth, sparking an "IMF riot" among the unemployed that left 30 dead.

In the name of fiscal conservatism it forced Peru to cut back on the same development programs that other aid agencies were spending $395 million to promote.

While finding $2.5 billion to lend to such notorious human-rights violators as South Africa, Argentina, South Korea, the Philippines, Idi Amin's Uganda, the Central African Empire, it loaded such impossible conditions on its loans to Jamaica and Tanzania that the democratically elected leaders of those countries had to refuse them, despite urgent need.

To correct these abuses members of Congress have been trying for years to pass a human-rights amendment. They've been stopped in their tracks by the Carter Administration's conservative Treasury Department.

The periodic necessity of the IMF to return to Congress for money gives the public its last remaining lever of democratic control. A few well-chosen words could go a long way with legislators who today are only hearing from the Treasury Department of Citibank. With a little prodding from constituents, a majority of Congress would be happy to tell the IMF to do without its requested $5.6 billion, at least until it learns to respect human dignity and assist rather than impoverish the poor.

Jim Morrell is an associate for the Center for International Policy in Washington.●

□ 1630

The CHAIRMAN. All time for general debate having expired, the Clerk will read.

The Clerk read as follows:

H.R. 7244

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

INCREASE IN UNITED STATES QUOTA

Section 1. The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end thereof the following new section:

"Sec. 32. The United States Governor of the Fund is authorized to consent to an increase in the quota of the United States in the Fund equivalent to 4,202.5 million Special Drawing Rights, to such extent or in such amounts as are provided in appropriation Acts.".

Mr. NEAL (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk concluded the reading of section 1.

AMENDMENT OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Bauman: On page 2, line 9, strike out the period and quotation marks and add the following:

": *Provided further*, That none of the special drawing rights authorized in this act shall be made available until such time as the President of the United States certifies in writing to the Congress that the revenues of the United States Government are equal to or greater than the total expenditures of the United States Government for one full fiscal year.".

Mr. NEAL. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, I would be glad to have the gentleman from North Carolina make his point of order, if he would like.

Mr. NEAL. Mr. Chairman, I am not prepared to make the point of order now. I would like to reserve the point of order.

The CHAIRMAN. The gentleman from North Carolina (Mr. NEAL) reserves a point of order.

Mr. BAUMAN. Mr. Chairman, the gentleman from Maryland earlier, during consideration of the rule on the companion appropriation bill to this authorizing bill, made the point of the fiscal solvency of the United States and the additional obligation imposed upon the Treasury of the United States and the taxpayers by the terms of this bill.

The offering of this amendment simply seeks to make contingent the availability of the approximately $5½ billion or $4,202.5 million special drawing rights, upon the fiscal solvency of the United States, that is a balanced budget.

The amendment simply says that these rights will not be available until such time as the President certifies in writing to the Congress that we have either balanced the budget or have a surplus for 1 full fiscal year.

This is not at all out of keeping with the Bretton Woods Agreement Act. I would call attention of the committee to Public Law 95-435, adopted on October 10, 1978, and section 7 of that act, which was an amendment to the Bretton Woods Agreement Act, which reads as follows:

Beginning with fiscal year 1981, the total budget outlays of the Federal Government shall not exceed its receipts.

That is the provision of the Bretton Woods Act known as the Grassley amendment. The Members will note from its own terms intrinsically that section 7 does not take effect until October 1 of this year. That is just a few days away.

I assume because it is the Federal statute that it will happen, that on October 1 there will be a balanced budget; because there it is, folks, in Federal law, and nobody would defy Federal law, I am quite sure. Least of all the Congress. So on October 1, if we believe the Bretton Woods Act, as amended in 1978, the budget will be balanced.

Perhaps I have overstated the case. Maybe the Federal budget will not be balanced. But against that possibility I have offered my amendment now pending, which I believe to be germane to the bill, which simply makes contingent the payment of these special drawing rights on a certification from the President that the budget is in balance or that there is a surplus. I do not think it is too much to ask that the International Monetary Fund await this additional support from the U.S. Treasury and our taxpayers until such a time as our own economy and our national budget is in a condition to allow such payments. To vote against my amendment is to oppose a balanced budget and to support instead $5½ billion of increased national debt at the expense of the taxpayers.

Mr. LEACH of Iowa. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would only comment that, as a supporter of the Grassley amendment and also as a supporter in principle of a balanced budget, I am convinced that this is an inappropriate place to present the type of amendment the gentleman from Maryland has.

The amendment is mischievous and belies an understanding of the nature of the IMF per se. In the history of the IMF, the United States has earned rather than lost income. Adoption of this amendment would deny us participation in an income-earning program. On these grounds, as well as others even more profound, I would strongly oppose the amendment as presented by the gentleman from Maryland.

Mr. CAVANAUGH. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

I think that the gentleman from Iowa has succinctly stated the difficulty with this amendment. This is not a very ingenious way of saying that the United States should pull out of the International Monetary Fund, particularly in this fiscal year, and abandon its responsibilities to the world community and to international economic stability. That clearly would be the consequence of this amendment.

It would be, I think, a far more legitimate approach to offer an amendment that clearly articulated that as a goal rather than this more subtle method of putting forth that really catastrophic and devastating consequence for the United States and, indeed, for the whole international economic structure.

It would seem to me to be more candid for the gentleman from Maryland to simply offer an amendment which proposes to remove the United States from participation in the International Monetary Fund, and it says to the rest of the world this country, the major country and the leading country in the world, no longer will assume its position of leadership, it seeks to abandon those responsibilities by which the world community has been sustained for 35 years, and it seeks in effect the economic destruction of this world which we have enjoyed these past 35 years, because that is the clear, I think, and comprehensive and catastrophic consequence of the adoption of this amendment, and it would be nothing less than terribly destructive for us to adopt it.

Mr. NEAL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think, as the gentleman from Nebraska said, this is clearly an attempt to kill the IMF legislation. If the gentleman from Maryland wants to kill the legislation, I would ask a question: Why does not the gentleman just offer an amendment that would kill this bill?

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I intend to vote against the legislation if this amendment is not adopted. I do not think the IMF necessarily should be killed, but I do think we should wait until such a time as we can afford to contribute to the IMF. That is really my point.

Mr. NEAL. I would point out to the gentleman that the IMF does not cost us any money. What is the gentleman's understanding of how the IMF costs us money and how it affects our budget deficit?

Mr. BAUMAN. Oh, well, the gentleman from North Carolina is the expert on this, but is the gentleman telling us that there is no transaction whatever that involves the credit of the United States in the legislation before us? Because if so, why is the bill before us?

Mr. NEAL. Every drawing against our currencies by the IMF is offset by a corresponding credit balance. So there is, as a matter of fact, no impact on our budget deficit.

Mr. BAUMAN. Then, if the gentleman will yield, why do we need a $5½ billion appropriation bill to follow this bill? Are we just playing games?

Mr. NEAL. Well, it may be a bit of a game because there is no budgetary impact on our deficit. There is an impact on the authorization, but there is absolutely no impact on the expenditure of budgeted funds. In fact, over the last 10 years we made a return on our investment of over $200 million through our participation in the IMF. Now, we cannot predict that we will continue to gain a return on our investment in the IMF. That all depends on interest rate and exchange rate fluctuations, and so on. But, as a matter of fact, we did make about $200 million over the last 10 years.

Let me just say to the gentleman, if I can, that I am fully in accord with his desire to see this country balance its budget. I think it is critically important. But this bill has nothing to do with that question. The defeat of this bill would not help us to balance the budget. In fact, because of its adverse effect on our world trade relationships, it would make a balanced budget much more unlikely.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from Iowa.

☐ 1640

Mr. LEACH of Iowa. One further point should be made. The United States of America is not asked to alone provide new lending resources to the IMF. We are doing this in concert with other countries. For us not to go forth would deny us the availability of approximately $20 billion put in by other nations.

The issue is not really whether we can afford the IMF. The issue is that we cannot afford not to have the IMF.

Mr. NEAL. The gentleman makes a

very good point. Unlike other international financial organizations. IMF member countries want to increase their relative share in the IMF because it increases their influence in the IMF. At this point we have about a 21½-percent share, which essentially gives us veto power over any major IMF decisions. Major decisions require an 80-percent vote. Since we have that 21½-percent share, we can, in effect, veto any major decisions.

I would also point out that the IMF is market oriented. It makes recommendations to countries that are in fact, market oriented.

I am convinced that the market-oriented systems around the world are working. The collective systems around the world are not producing for their people. The IMF helps all kinds of countries, but it especially helps countries that are trying to keep market systems alive.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. NEAL) has expired.

(By unanimous consent, Mr. NEAL was allowed to proceed for 2 additional minutes.)

Mr. NEAL. I would just like to say to the gentleman from Maryland that I share his concern for a balanced budget. But I would argue again that this amendment will not help to achieve a balanced budget for this country.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from Maryland.

Mr. BAUMAN. As the gentleman knows, if this authorization passes, we will subsequently consider House Joint Resolution 601. I quote to him in part from that resolution, which is entitled "Making an Appropriation for the International Monetary Fund," that, "The following sum is appropriated out of any money in the Treasury not otherwise appropriated for the fiscal year ending September 30, 1981, namely," and then on the next page, "The IMF receives $5,537,839,000 at the equivalent special withdrawal rates."

Could the gentleman explain why this is not an appropriation?

Mr. NEAL. The funds are appropriated, but not expended. It is a quirk of our budget process.

Mr. BAUMAN. It is a major quirk.

Mr. NEAL. I am just telling the gentleman the facts. This is the fact of the matter. They are appropriated, but not expended.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from Iowa.

Mr. LEACH of Iowa. In layman's term what happens is like an individual taking money out of one bank account and placing it in another. The funds are not transferred until they are drawn upon and when drawn upon they are in effect lent rather than expended.

Mr. PAUL. Mr. Chairman, I rise in support of the amendment.

I would like to compliment the gentleman from Maryland for introducing this amendment, and I strongly endorse it.

I would like to address the subject for a moment about whether or not this is an a transfer of funds. They claim it is not appropriation. I agree this is true. It is an appropriation because we took it out of one fund, our Treasury, out of the pockets of the American people and put it in the IMF and put it in the pockets of a socialist dictator; but on the ledger it says we still have that $5.5 billion, and we are just as rich, so they tell us.

But our claim is, and my claim is, that we are truly poorer. We have either taxed our people, or we have caused more inflation for our people, and therefore they will suffer more for it. No matter what kind of bookkeeping you have and whether you call this an appropriation or not, it still is a penalty on the American people.

I would also like to go back to the general debate of the gentleman from Maryland (Mr. MITCHELL), about the idea of the involvement on the internal affairs, I believe, the gentleman said, of Jamacia.

I happen to think this should be of great concern to the gentleman. It was of great concern to me in 1976 when we revised the Bretton Woods Agreement, because there was a portion of that bill that specifically said that we should have surveillance of the internal affairs and economic policies of nations who were in trouble.

Let me just read from the report, the committee report at that time. It says:

> All members are obliged to collaborate with the Fund and with other members to promote respect for these principles. The Fund is given the role of overseeing the system, exercising "firm surveillance over the exchange rate policies of members," and adopting, "specific principles for the guidance of all members with respect to those policies." In sum, the new Article 4 defines some principles, appoints an umpire and lays down the outlines of an exchange rate system.

At the time in the legislative history I can remember clearly that it was construed to be able to impose on negligent nations certain rules and regulations on how they should run their economy. That would apply to us, too, if we continue the way we are going.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. PAUL. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. I thank the gentleman for yielding.

My inquiry was not with reference to the IMF's role in the economic systems within a given country. It was with reference to direct political, direct intervention in the political process in those countries. That is an entirely different thing.

If I may continue for just one moment, under the Bretton Woods agreement, yes, certain rules can be imposed on those countries which want to use IMF funds. In the case of Jamaica, I think that a statement was made which was an injurious statement. I am satisfied with the chairman's explanation that it was not in an attempt to influence the political direction of the nation of Jamaica, but I would hope that the gentleman would join me in attempting to draft an amendment, or get some language in the report which would clearly spell out that IMF funds or personnel cannot, shall not, must not be used to influence the political structure or the political process in a given nation.

Mr. PAUL. I would be glad to look at that. I would have to say possibly, our definitions of political intervention and economic intervention must be different because intervention in our country, dictating to us from the IMF what to do and what not to do, I would understand as being very political and not just economics.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. PAUL. I yield to the gentleman from Indiana.

Mr. JACOBS. I think up until about 5 days ago the official word from the U.S. Treasury Department was over the past decade our participation in the International Monetary Fund had, in fact, cost the American taxpayers about $180 million in differential between the amount of money the Treasury paid in this market to rent the money and the amount of rent that this country got from the IMF and the consequence of forwarding the money to the IMF.

It is only within the last 5 days that the Treasury sharpened their pencils and concluded that in consequence of some sort of capital gain, which so far as I can tell has never been realized, that we have actually made money, made $200 million in the last decade. Now, in my opinion, that is rather like having a $1,000 dog because you trade it off for two $500 cats. It is not anything that is real.

I think the gentleman from Maryland is right in offering his amendment. It has already been determined, I think, by default that it is germane. I think most taxpayers would find it germane to wait until we have a little money ahead.

The CHAIRMAN. The time of the gentleman from Texas (Mr. PAUL) has expired.

(At the request of Mr. JACOBS and by unanimous consent, Mr. PAUL was allowed to proceed for 2 additional minutes.)

Mr. JACOBS. If the gentleman will continue to yield, that we wait until we have a little money ahead before we add to the International Monetary Fund on contribution.

More important, the chairman of the full committee has said that the candle will flicker out if this legislation is not passed. I think people should bear in mind this legislation is to increase our quota, not to do away with the present quota, not to do away with participation in the present quota, and the amendment of the gentleman from Maryland, as I understand it, and the gentleman can correct me if I am mistaken, only would prevent an increase in our contribution or our quota or however you want to put it to the International Monetary Fund until such time as the U.S. Government had some money ahead. Right now we are way behind.

☐ 1650

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. PAUL. I yield to the gentleman from Iowa.

Mr. LEACH of Iowa. The gentleman was not on the floor when I discussed earlier his candle analogy, but it should be clear that while the candle stays the same size, as he correctly states, the room itself becomes much bigger. A bigger candle is needed because international trade has expanded so dramatically.

Second, on the gentleman's point about funding, the fact of the matter is that there are advantages to the IMF well beyond whether we make incrementally more or less money by using our resources in another way. One of those advantages is that we have stability in international finance. The United States 2 years ago drew $2 billion in foreign currency from the IMF. We thus protected the value of the dollar, and if we had not we would have had greater inflation in America. The advantage of the IMF as a currency-stabilizing institution is so enormous that it far overcomes any argument that we might have made more money by investing it at a slightly higher interest rate in another investment mechanism.

Mr. JACOBS. Mr. Chairman, would the gentleman yield just for one quick point?

Mr. PAUL. I yield to the gentleman from Indiana.

Mr. JACOBS. I agree with the gentleman from Iowa that the room has grown larger, and I agree with the gentleman that the candle should grow larger. The only thing that has not grown larger is the resources of the U.S. Government to provide a larger candle.

Mr. STANTON. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I have been sitting here next to the author of the amendment and wondering why he did not tell the committee what this amendment was going to be. I have come to the conclusion now that if the gentleman from Maryland, our good friend, had had some more time in which some of us could have talked to him, I honestly do not think he would have offered the amendment. I really and truly honestly believe he would not do it.

As the speakers before me have so eloquently put it, you know, we are not giving this to Nicaragua or to India or to Iran or Vietnam or to somebody else. If you think in your heart that you are not putting up this quota increase for the United States of America, vote against it as our friend, the gentleman from Maryland, is going to do; just plain vote against it. It is absolutely that simple.

I am only sorry truthfully that I cannot get up and offer a larger increase than the 50 percent that we are going to put up.

Now, the gentleman from Iowa just said, "Why are we using this?"

The special drawing right is an exchange of assets. It is different than any particular money. Fundamentally, exactly what it is called, it is an exchange of assets, a program that came into effect in 1969. We have these assets there. What we did borrow, as the gentleman said, in the best interests of the United States was $2 billion in German marks in 1978. We borrowed 24 times before that. That is the purpose of the IMF.

We do not lend directly. The countries that borrow from the IMF are both the developed and the developing countries. They have to pay back in 3 years the money that they borrow. We are not lending directly. It is an exchange of assets for the United States of America.

Now, the amendment to which the gentleman alludes of our friend, the gentleman from Iowa (Mr. GRASSLEY) was added by the other body. It was a totally nongermane amendment. The only reason it is on the IMF is that somebody tacked it on over there. Somebody was telling me about a bill coming back tomorrow from the other body that has another nongermane amendment.

We took the Grassley amendment on a House vote and instructed the conferees at that time to get a balanced budget.

So it is unfortunate that the gentleman picked this bill, but he picked it and so what we have to do is totally defeat it.

But as I say, if you do not personally want the IMF, if you want to oppose the best interests of the United States, vote against this legislation; but if you do not want it, do not vote for this amendment which really in reality has no place here.

I am sure that while the vote is being taken I will have more time to explain this to my good friend, the gentleman from Maryland, and regrettably, we did not have this extra time.

Mr. NEAL. Mr. Chairman, will the gentleman yield to me?

Mr. STANTON. I will quickly yield.

Mr. NEAL. We have found that a point of order does not lie against the amendment. But I would like to make one comment. If this amendment were to pass, it would kill this legislation.

Mr. STANTON. Oh, yes.

Mr. NEAL. It is clearly an attempt to kill the legislation. Every Member should know that if he votes for this amendment, he or she is voting to kill the International Monetary Fund and thus to weaken severely the economic security of our Nation and the world.

Mr. STANTON. Let me say to my friend from North Carolina, I am glad the gentleman checked on the point of order. I would not have even bothered. If the gentleman from Maryland is going to put an amendment, you can be sure it is germane, there is no question about that; but it is the content of the amendment that we should strongly oppose.

The CHAIRMAN. Does the gentleman from North Carolina insist on this point of order?

Mr. NEAL. No, Mr. Chairman. I withdraw the point of order.

The CHAIRMAN. The gentleman withdraws his point of order.

Mr. JACOBS. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, the amendment pending would not kill this legislation. It would just make it a sleeping beauty until we could afford it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 556]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Archer
Ashley
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dingell
Donnelly
Dougherty
Downey
Drinan
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Hughes
Hutchinson
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McCloskey
McCormack
McDade
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Matsui
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio

Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rosenthal
Rostenkowski
Roth
Rousselot
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Yates
Yatron
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

☐ 1710

The CHAIRMAN. Three hundred and eighty-three Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Maryland (Mr. BAUMAN) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 156, noes 248, not voting 28, as follows:

[Roll No. 557]

AYES—156

Abdnor
Andrews, N.C.
Andrews, N.Dak.
Applegate
Archer
Atkinson
Badham
Bafalis
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bethune
Bevill
Boner
Bouquard
Brinkley
Brooks
Broyhill
Burlison
Burton, John
Byron
Campbell
Carney
Carter
Chappell
Clausen
Coleman
Collins, Tex.
Corcoran
Cotter
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Dickinson
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Evans, Ga.
Evans, Ind.
Fithian
Flippo
Fountain
Fuqua
Gaydos
Gingrich
Goldwater
Goodling
Gramm
Grassley
Grisham
Gudger
Guyer
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Hefner
Hightower
Hillis
Hinson
Holt
Hopkins
Hubbard
Huckaby
Hutto
Ichord
Jacobs
Jeffries
Jenkins
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kelly
Kemp
Kogovsek
Kramer
Lagomarsino
Leath, Tex.
Lee
Lent
Loeffler
Lott
Luken
Lungren
McDonald
Madigan
Marlenee
Marriott
Martin
Mica
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Ind.
Nichols
O'Brien
Pashayan
Paul
Perkins
Pickle
Quayle
Quillen
Ritter
Roberts
Robinson
Roth
Rousselot
Rudd
Russo
Santini
Satterfield
Schroeder
Schulze
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Smith, Nebr.
Snyder
Solomon
Spence
Stangeland
Stenholm
Stockman
Stump
Symms
Taylor
Trible
Volkmer
Walker
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Wilson, Tex.
Wyatt
Yatron
Young, Alaska

NOES—248

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Annunzio
Anthony
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnard
Barnes
Bedell
Beilenson
Bereuter
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Brodhead
Broomfield
Brown, Calif.
Buchanan
Burgener
Burton, Phillip
Butler
Carr
Cavanaugh
Cheney
Clay
Cleveland
Clinger
Coelho
Collins, Ill.
Conable
Conte
Conyers
Corman
Coughlin
D'Amours
Danielson
Daschle
Dellums
Derrick
Derwinski
Dicks
Dingell
Dixon
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Erdahl
Ertel
Evans, Del.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Frenzel
Frost
Garcia
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gradison
Gray
Green
Guarini
Hagedorn
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Heckler
Heftel
Holland
Hollenbeck
Holtzman
Horton
Howard
Hughes
Hutchinson
Hyde
Jeffords
Johnson, Calif.
Johnson, Colo.
Kastenmeier
Kazen
Kildee
Kindness
Kostmayer
LaFalce
Leach, Iowa
Lehman
Leland
Levitas
Lewis
Lloyd
Long, La.
Long, Md.
Lowry
Lujan
Lundine
McCloskey
McCormack
McDade
McHugh
McKay
McKinney
Maguire
Markey
Marks
Matsui
Mavroules
Mazzoli
Michel
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Musto
Natcher
Neal
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Petri
Peyser
Porter
Preyer
Price
Pritchard
Pursell
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Rodino
Roe
Rosenthal
Rostenkowski
Roybal
Royer
Sabo
Sawyer
Scheuer
Sebelius
Seiberling
Sharp
Simon
Smith, Iowa
Snowe
Solarz
Spellman
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stewart
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Thomas
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Walgren
Waxman
Weiss
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Winn
Wirth
Wolff
Wolpe
Wright
Wydler
Yates
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—28

Ashbrook
Brown, Ohio
Chisholm
Davis, S.C.
de la Garza
Devine
Dodd
Dornan
Erlenborn
Ireland
Jenrette
Latta
Leach, La.
Lederer
Livingston
McClory
McEwen
Mathis
Mattox
Myers, Pa.
Nedzi
Railsback
Rose
Shannon
Stokes
Wilson, Bob
Wylie
Young, Fla.

☐ 1720

The Clerk announced the following pairs:

On this vote:

Mr. Ashbrook for, with Mr. Dornan against.

Mr. Devine for, with Mr. McClory against.

Mr. Latta for, with Mr. Railsback against.

Mr. Young of Florida for, with Mr. Wylie against.

Mr. BROOKS and Mr. HIGHTOWER changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. NEAL. Mr. Chairman, I ask unanimous consent that we limit the time for debate on the remaining amendments and all amendments thereto to 1 hour from now, excluding a 10-minute period of time for the gentleman from Indiana (Mr. JACOBS).

The CHAIRMAN. The Chair would advise the gentleman that he must first ask unanimous consent to open the bill up. Does the gentleman so request?

Mr. NEAL. Mr. Speaker, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Are there any further amendments to this part of the bill?

AMENDMENT OFFERED BY MR. PAUL

Mr. PAUL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PAUL: Page 2, line 5, strike out "The" and insert in lieu thereof "(a) Subject to subsection (b), the".

Page 2, line 9, strike out the quotation marks and the period at the end thereof.

Page 2, after line 9, insert the following:

"(b) The authority granted by subsection (a) may not be exercised until all gold which was contributed to the Fund by any country and which was held by the Fund on September 1, 1980 is returned to such country. If the amount of gold held by the Fund on such date was less than the total amount of gold contributed to the Fund, each country shall receive that percentage of such gold which is equal to the ratio, expressed as a percentage which the total amount of gold contributed to the Fund by such country bears to the total amount of gold received by the Fund from all countries.".

Mr. STANTON. Mr. Chairman, I have not seen the amendment. Therefore, I will reserve a point of order against the amendment.

The CHAIRMAN. The gentleman reserves a point of order against the amendment.

The gentleman from Texas (Mr. PAUL) is recognized for 5 minutes.

Mr. PAUL. Mr. Chairman, this amendment is not complicated, and I can assure the committee that if we pass this amendment the IMF bill probably would be passed unanimously because it would satisfy our side as well as your side, and we would still fund the IMF. It is not complicated. It goes with the intent of the IMF bill of 1976.

It is the policy of the U.S. Government, and it is the policy of the IMF, to demonetize gold. We have been living under those conditions, and I for one think that even though it was intended to create stable conditions, it has created very unstable conditions. But I would like to say, in spite of that, I am willing to continue the policy of demonetization of gold. This amendment, in essence, would do this: If we go ahead and fund an additional $5.5 billion, each country which has contributed to the IMF in terms of gold would get their percentage of gold back.

In 1976, after the passage of the IMF amendments, there were 150 million ounces of gold in the IMF. Since that time, 25 million ounces were sold off and a fund was established to help the Third World nations. Another 25 million, in this attempt to demonetize gold, was returned to contributing nations.

Now, under the rules that were set up and the intention of the 1976 IMF bill, we could continue to do that very easily. Let me quote from the report from the bill, the IMF bill of 1976:

> In 1971 the United States abolished the convertibility of the dollar into gold. Since then it has been the objective of the United States, with the support of this Committee, to hasten the demonetization of gold so as to reduce its role in the world monetary system. It became evident that, given the nature of modern economies, and the evolution of international monetary relations, a system in which gold is an important reserve component, and in which major countries attempt to preserve the gold convertibility of their currencies at stable par values, is no longer viable.

Under today's condition, I certainly agree with that—

> Such a system, under modern conditions, would be erratic, crisis prone, and unmanageable.

□ 1730

I happen to disagree with that because what we have today is an acute crisis that has become unmanageable.

Further the report contains this language:

> To the extent that the international monetary system needs a reserve asset whose growth and management is under rational control, this Committee feels that Special Drawing Rights (SDR's) offer an alternative preferable to gold.

Further, it says that the Fund "has decided, under existing authority to sell one-third of its gold stock over the next four years."

That was planned, and that has been done.

Then further down in the report, in the description of what we were doing in 1976, it says:

> The amendments will however, empower the Fund to dispose of its remaining gold holdings in a variety of ways, including sales to members at the present official price.

So, Mr. Chairman, this is what I am proposing. The amount of money we give now in the appropriation of $5.5 billion would, if this amendment passed, allow us the return of approximately 30 million ounces of gold. I think that this is a wise move. It would satisfy those of us who are trying to reestablish a sound monetary order, and it would still permit those who want to send out $5.5 billion to bail out the Third World nations and the New York banks to do that.

So I think it is a good solution for us to do this. We originally put in 47.9 million ounces of gold. Since 1976 we had a return of 5.7 million. That leaves us 42 million ounces of gold still in the Fund. We however have given more of our gold away since the IMF has sold an additional 25 million ounces in the open market. For that reason we are now entitled under this amendment to approximately 30 million ounces of gold as our proportionate share.

Some people will say that this is not what we are supposed to do, instruct the IMF on what to do, that we are supposed to wait until they vote on something and then come in like lambs and plan legislation to enforce whatever the IMF has done.

I feel a moral and a constitutional responsibility to defend the American people, the American taxpayers, and say that it is our obligation to instruct the IMF what to do.

I believe this amendment is consistent with the intention of the IMF. They said they wanted to demonetize gold. They said it is permissible, and they intended to return the gold.

Mr. Chairman, I think this is an exceptionally good opportunity for us to do so, and I believe this amendment should be passed.

Mr. REUSS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is a particularly irresponsible and silly amendment. It should be promptly voted down.

What it says is that the $70 billion worth of IMF-held gold at current market value should be returned to the members. World financial stability should not really be the subject of jokes like this amendment.

If this amendment were adopted and thus the $70 billion of IMF gold were returned to its members, it would cause a collapse of the international monetary system and wild inflation all over the world, including this country, since billions of dollars would be added overnight to the money suppy.

King Midas came to an untimely fate many years ago when he, by touching objects, turned them to gold, and he was himself inundated and done in by it. Well, that is exactly what would happen to this country if we adopted the Paul amendment.

So, Mr. Chairman, I do not really think it is necessary to debate this amendment longer. Let us have an immediate vote and vote it down.

Mr. CHAIRMAN. Does the gentleman from Ohio (Mr. STANTON) insist on his point of order?

Mr. STANTON. No, Mr. Chairman, I do not, but I will seek time.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. STANTON).

Mr. STANTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will reiterate what the chairman of our committee has said. This is a totally impractical, unworkable solution. Maybe it would be getting some gold back, but I would have to say to our friend on our committee that this amendment which instructs the IMF is unworkable.

Contrary to what the gentleman said, we cannot instruct the IMF. The IMF is not instructing us on anything. Two years ago the plans for implementation of this quota increase took place. The discussions for the quota were started under former Treasury Secretary Bill Simon 4 years ago. This is not some Carter administration idea. It started under a Republican administration some 4 years ago.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. STANTON. I yield to the ranking minority member.

Mr. LEACH of Iowa. Mr. Chairman, I would only comment that while the issue is described in different terms, the amendent has the exact same effect as the Bauman amendment would have had, and I hope we defeat it resoundingly.

Mr. PAUL. Mr. Chairman, will the gentleman yield?

Mr. STANTON. I yield to the gentleman from Texas.

Mr. PAUL. Mr. Chairman, let me ask the gentleman, does he think we should reject the condition of 1976 that gold should be demonetized? Is the gentleman arguing that gold should be demonetized? Is the gentleman arguing that gold should be put back in SDR's? This is the argument of the subcommittee chairman and the gentleman, that gold should be demonetized?

Mr. STANTON. Mr. Chairman, I will argue anyplace and at anytime on the value of gold, but we will not accomplish anything with amendments of this kind.

Mr. PAUL. How can it be so silly when we have already got rid of one-third, and here we get rid of the rest of it. The intention is to get rid of all of it. I am saying that we should follow through with our intentions.

Mr. STANTON. Mr. Chairman, I hope this amendment will be defeated and I yield back the balance of my time.

Mr. NEAL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I want to say again that this counters the purpose of the bill. The whole purpose of the bill is to strengthen the International Monetary Fund, not to destroy it. The effect of this amendment would be to destroy the IMF. Mr. Chairman, I urge a no vote on the amendment. Let us get it over with.

The CHAIRMAN. The question is on

the amendment offered by the gentleman from Texas (Mr. PAUL).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. PAUL. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1740

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Texas (Mr. PAUL) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

BASIC HUMAN NEEDS

SEC. 2. (a) The Bretton Woods Agreements Act is further amended by adding at the end thereof the following new section:

"SEC. 33. (a) The President shall instruct the Secretary of the Treasury, the Secretary of State, and other appropriate Federal officials to use all appropriate means to encourage countries, in formulating economic adjustment programs to deal with their balance of payments difficulties, to design those programs so as to safeguard, to the maximum feasible extent, jobs, investment, real per capita income, policies to reduce the gap in wealth between rich and poor, and social programs such as health, housing, and education.

"(b) To ensure the effectiveness of economic adjustment programs supported by Fund resources and the reinforcement of those programs by longer term efforts to promote sustained growth and improved living conditions—

"(1) United States representatives to the Fund shall seek amendments to decisions by the Fund on the use of Fund resources to permit stand by arrangements to be extended beyond three years, as necessary to enable the Fund member to implement its adjustment program successfully;

"(2) United States representatives to the Fund, to the Bank, and to other appropriate institutions shall work toward improving coordination among these institutions and, in particular, shall work toward formulation of programs in association with economic adjustment programs supported by Fund resources which (A) will, among other things, promote employment, investment, real income per capita, improvements in income distribution, and the objectives of social programs such as health, housing, and education, and (B) will, to the maximum extent feasible and consistent with the borrowing country's need to improve its balance of payments position within a reasonable period, ameliorate any adverse effects of economic adjustment programs on the poor;

"(3) United States representatives to the Fund and the Bank shall seek amendments to decisions on policies on the use of Fund and Bank resources to provide that, where countries are seeking Extended Fund Facility or upper credit tranche drawings from the Fund and are eligible to receive financing from the Bank, the Fund and Bank will coordinate their financing activities in order—

"(A) to take into account the effects of economic adjustment programs on the areas listed in clause (A) of paragraph (2),

"(B) to provide, to the extent feasible, Bank project loans designed to safeguard and further basic human needs in countries adopting economic adjustment programs supported by Fund resources, and

"(C) to provide, as appropriate, Bank financing for programs of structural adjustment that will facilitate development of a productive economic base and greater attainment of basic human needs objectives over the longer term; and

"(4) United States representatives to the Fund and the Bank shall request the Fund and the Bank to provide periodic analyses of the effects of economic adjustment programs supported by Fund or Bank financing on jobs, investment, real income per capita, income distribution, and social programs such as health, housing, and education.

"(c) The National Advisory Council on International Monetary and Financial Policies shall include in each of its annual reports to the Congress a statement detailing the actions and progress made in carrying out the requirements of subsections (a) and (b) of this section.".

(b) Section 30 of the Bretton Woods Agreements Act (22 U.S.C. 286e-9) is amended—

(1) in subsection (a) by striking out "entered into pursuant to loans from the Supplementary Financing Facility";

(2) in the first sentence of subsection (b) by striking out "entered into pursuant to loans from the Supplementary Financing Facility"; and

(3) in the second sentence of subsection (b) by striking out "by the Supplementary Financing Facility".

Mr. NEAL (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will continue to read.

The Clerk continued the reading of the bill.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 3, line 3, strike out all that follows through line 8 and insert in lieu thereof the following:

(1) United States representatives to the Fund shall recommend changes in Fund guidelines, policies, and decisions that would—

(A) permit stand-by arrangements to be extended beyond three years, as necessary to enable Fund members to implement their economic adjustment programs successfully;

(B) provide that any such program take into account the effect such program will have on jobs, investment, real per capita income, the gap in wealth between the rich and poor, and social programs such as health, housing, and education, in order to seek to minimize, consistent with the attainment of the basic objectives of economic adjustment programs, the adverse impact of those programs on basic human needs; and

(C) provide that letters of intent submitted to the Fund in support of such programs reflect that the member country has taken into account the effect such program will have on the factors listed in subparagraph (B);

Mr. REUSS (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will continue to read.

The Clerk concluded the reading of the committee amendment.

Mr. JACOBS. I move to strike the requisite number of words.

(By unanimous consent, Mr. JACOBS was allowed to proceed for 5 additional minutes.)

Mr. JACOBS. Mr. Chairman, I have asked for some extra time owing to the fact that during the general debate there was insufficient time for those opposed to this bill generally to express their views.

The first thing I would like the committee to understand—and I believe I would have the agreement of the proponents to this—is that the U.S. Government does not owe the $5.5 billion to the International Monetary Fund under any existing agreement at present.

The bill we are considering today will partly determine whether we shall have an increased quota assessed against our Treasury. The International Monetary Fund participants must vote, as I understand it, 75 percent to create the additional obligation. The United States has 21 percent of the vote in the IMF.

In essence—and this is not a certainty, but I think it is fair to say that it is quite likely—if this bill is not passed and the 21-percent vote is not cast in the IMF, there is little likelihood that a 75-percent vote can be obtained.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from Ohio.

Mr. STANTON. I appreciate the gentleman's yielding.

Mathematically, the gentleman is correct. It takes 75 percent to ratify it. We are 21 percent. But under the gentleman's agreement, the agreement of 10, the overall increase of which our 50 percent is $5.5 billion, a part of this, 20 percent, in other words, $25 billion-plus increase in IMF will not take place. It is a gentleman's agreement, fundamentally, to the best of my knowledge. I could be wrong. But the other countries probably would not go through with this if the United States——

Mr. JACOBS. Yes, that is what I am saying. That is my understanding. So I think it should be understood by the membership.

Mr. NEAL. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from North Carolina.

☐ 1750

Mr. NEAL. It is my understanding that the other member countries probably would go ahead with it, but the net result for the United States, would be that we would weaken our overall position in the Fund. Countries want to increase their participation in the IMF. Unlike the other international financial organizations, where countries might benefit by contributing as little as possible, the IMF's members want to invest more. The larger the investment, the more say a country has in the Fund's operations.

If we did not participate, it is my clear understanding that the other countries would increase their quotas and influence and we would just reduce our influence in the Fund.

Mr. JACOBS. Well, the gentleman is entitled to his opinion. I disagree with that opinion. I think there is little likelihood if the United States does not increase its quota, does not vote for the quota increase generally, that an increase will be voted by the other countries simply for the mathematical suggestion I have already made that it requires a 75-percent vote, and we control 21 percent of that vote at present, franchised to do so.

Second, it has been said before, and I think it should be understood clearly that we are not talking about aiding poor countries generally, even in the case of Third World countries. Only one-third of the lending during the past decade, as I understand it, has gone to so-called Third World countries, and it has gone to the Third World countries that are best off financially. So it is not a matter really of helping the poorest countries in the world.

Now that raises the question of what would happen if the United States did not make available the additional credit for an additional quota from the United States to the International Monetary Fund.

The gentleman is talking about not the impoverished Third World countries. The gentleman is talking about countries that are better off relatively. Where would they do their borrowing if the United States did not enable the International Monetary Fund to make larger loans or make additional loans? It seems rather clear to me that they would borrow from the same place that the U.S. Treasury would borrow from in order to come up with the $5.5 billion to meet the appropriation or to meet the callable obligation of the $5.5 billion to the International Monetary Fund, namely, the private markets in the United States notably and perhaps in Europe and elsewhere as well.

Now, if the United States does borrow the $5.5 billion, I think it should also be understood that it is analogous really to an FHA loan where there is an interest subsidy. At least that has been the experience over the last 10 years.

Simply stated, the U.S. Government goes into the capital markets of the United States principally, borrows the $5.5 billion, pays something on the order of 10 percent at present, I believe, for the money, and then as the first 25 percent of the quota is required to be paid immediately, somewhere around $1.5 billion, the U.S. Treasury is obligated to pay the interest off on that $1.5 billion immediately.

Then the countries to which it has lent will pay a certain amount of interest to the IMF. The IMF will in turn pay a certain amount of interest to the United States, but that interest historically has been right at 50 percent of the interest that we pay.

So when it was said in the general debate that this is nothing more than taking money out of one bank account and putting it into another, it would have to be added that the bank account that you took it out of or the place that you went to borrow it was not your bank account in the first place, you simply went and borrowed at 10 percent and then put it into a savings account that paid you 5 percent, not really the brightest financial transaction that anybody ever engaged in. I think that should be understood as well.

Now, finally, Mr. Chairman, I note from the Wall Street Journal of today that the Treasury Department has said in essence that if we advance the amount of money that this bill would authorize to the International Monetary Fund, we are really, as Americans, going to make $3 for every $1 that we advance. Well, is that not wonderful?

I also hear that we will be assured stable world order if this bill passes. Is that not wonderful? If both were true or either were true, I believe I would be in the well supporting the bill.

The other is only by the most convoluted logic, remotely related to reality. Else, if that were true, alchemy has been discovered, and we should not be giving $5.5 to the International Monetary Fund. We should give every penny in the U.S. Treasury, and we can even afford to go borrow something at interest like that, something like 200 percent per annum.

So, I would suggest not that we take that assertion with a grain of salt, but perhaps the whole saltshaker.

Finally—and here is another finally for you—but nonetheless, the showcase loan of the IMF was supposed to have been Turkey. What did we really accomplish by the IMF loans in Turkey? Inflation there is running between 75 and 100 percent a year right now.

I think the best thing to do is to vote down the bill. The House may not choose to do that. But if not, at least, I would hope that the Members would study the record, study the debate, and know that this was not just a pep rally for the proposition.

Many things that have been accepted as the norm in this country for decades, this country has changed its mind about. I hope that today the debate will begin the process of more careful examination. It is, in fact, a $5.5 billion examination.

I yield back the balance of my time.

Mr. NEAL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just like to make a couple of points in opposition to what the gentleman has just said.

Mr. Chairman, the IMF is not foreign aid. It is a monetary institution, unique in the world. It exists to preserve monetary stability. It is not, I would emphasize to the gentleman, a foreign aid institution at all. So it should come as no surprise to him that the majority of the assets do not go to the poorest nations in the world.

Mr. Chairman, a reduction in the appropriation requested to maintain the U.S. quota share in the IMF would have serious consequences for the IMF and the U.S. role in the management of the international monetary system.

The proposed increase in the U.S. quota was carefully negotiated to maintain our share intact. The competition in the IMF is to increase quota shares, not reduce them as is the case in other institutions. If you understand the IMF, you know why—other countries certainly do, as they try to increase their own shares at our expense.

Mr. Chairman, the IMF is not foreign aid. It is a monetary institution, unique on the international landscape, the world's central institution for preserving international monetary stability.

Quotas determine voting power—influence over basic decisions on the nature and operations of the international monetary system. Given the dollar's key role in the system, our vote is of critical importance to the United States.

Quotas determine access to IMF resources. Our use of IMF resources is the second largest in the IMF's history.

Quotas determine shares of SDR allocations. SDR's are a major part of our international reserves, and played a key role in the highly successful November 1978 program to support the dollar against speculative attack.

Quotas do not represent a financial cost. Every transfer of funds to the IMF under quotas is immediately offset by receipt of an IMF reserve position—an interest-earning reserve asset which can be drawn on in balance of payments need. In our own budgetary terms, quota transfers to the IMF do not affect net budget outlays or the Federal deficit.

Mr. Chairman, a cut in the proposed appropriation would be seen as the United States symbolically turning its back on a valuable international institution, an institution designed to promote monetary cooperation and stability, and an institution fundamentally supportive of the broadest U.S. foreign economic interests. This would undercut the IMF's authority and weaken its ability to cope with the looming financing pressures of the 1980's. And this would be accomplished for what benefit?

No fiscal savings. No fiscal prudence. Only a cut in U.S. influence in and benefits from the IMF. The United States fought hard, and successfully, in connection with its quota increase to resist efforts by other countries to further increase their own shares at our expense. Enactment of the proposed amendment would, by our own hand, reduce U.S. voting power in the IMF for the direct benefit of others.

Mr. Chairman, the proposed amendment should be seen against the reality of a growing effort, in various international fora, to reduce U.S. influence in the IMF. The object of this well-orchestrated campaign is to turn the IMF into another U.N. agency directed by the tyranny of the small country majority. This would effectively destroy the usefulness of the IMF—one of the few well and efficiently run institutions on the international scene—and severely cripple our ability to confront the potential financial disruptions of the coming decade.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from Indiana.

Mr. JACOBS. I thank the gentleman for yielding.

I would like to point out on the other hand, the U.S. contribution is the greatest, and unlike several other countries, the United States has never borrowed beyond its quota.

Mr. NEAL. Let me say to the gentleman that it is not accurate to characterize this as a contribution in any way.

Mr. JACOBS. If the gentleman will yield further, it has never borrowed beyond its quota. I think it is fair to say other countries have borrowed beyond their quota and gotten a lot more out of it than we have.

Mr. NEAL. I would say to the gentleman that other countries borrow beyond their quotas because they have gotten themselves in serious financial difficulties. They need to borrow beyond their quota and subject themselves to conditions laid down by the IMF because they have not run their economies responsibly.

Fortunately for this country, we have never gotten ourselves in such serious difficulty that we have been unable to manage our own affairs.

Mr. JACOBS. There is a tangible trace of that in this country. It is known as borrowing yourself out of debt.

Mr. NEAL. I would have to agree that there is no way that any country can borrow itself out of debt.

☐ 1800

AMENDMENT OFFERED BY MR. HARKIN AS A SUBSTITUTE FOR THE COMMITTEE AMENDMENT

Mr. HARKIN. Mr. Chairman, I offer an amendment as a substitute for the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. Harkin as a substitute for the committee amendment: In lieu of the text proposed to be inserted by committee amendment No. 1 (shown in italic type beginning on page 3, line 9 of the bill as reported) insert the following:

"(1) United States representatives to the Fund shall recommend and shall work for changes in Fund guidelines, policies, and decisions that would—

"(A) permit stand-by arrangements to be extended beyond three years, as necessary to enable Fund members to implement their economic adjustment programs successfully;

"(B) provide that in approving any economic adjustment program the Fund shall take into account the effect such program will have on jobs, investment, real per capita income, the gap in wealth between the rich and poor, and social programs such as health, housing, and education, in order to seek to minimize the adverse impact of those adjustment programs on basic human needs; and

"(C) provide that letters of intent submitted to the Fund in support of an economic adjustment program reflect that the member country has taken into account the effect such program will have on the factors listed in subparagraph (B);

"(2)(A) before voting on the approval of any standby arrangement with respect to any economic adjustment program, the United States Executive Director shall review—

"(i) any analysis of factors prepared by the Fund or the member country in accordance with subparagraphs (B) and (C) of paragraph (1), or

"(ii) if no such analysis is prepared and available for such review, an analysis which shall be prepared by the United States Governor of the Fund which examines the effect of the program on the factors listed in subparagraph (B) of paragraph (1); and

"(B) the United States Executive Director of the Fund shall take into account the analysis reviewed pursuant to subparagraph (A) of this paragraph in voting on approval of that standby arrangement;

Page 4, line 6, strike out "(2)" and insert in lieu thereof "(3)"; line 21, strike out "(3)" and insert in lieu thereof "(4)"; and on page 5, line 17, strike out "(4)" and insert in lieu thereof "(5)".

Page 5, line 6, strike out "(2)" and insert in lieu thereof "(3)".

Mr. HARKIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk concluded the reading of the amendment.

Mr. NEAL. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I would be delighted to yield to the distinguished chairman.

Mr. NEAL. I would like to say to the gentleman that we have examined his amendment and we find it perfectly acceptable. We would urge adoption of the amendment.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. Yes.

Mr. LEACH of Iowa. The minority has examined the amendment as well and is willing to accept it.

The leadership of the gentleman from Iowa is certainly appreciated on the human rights issue.

Mr. HARKIN. Well, I thank both the gentleman from North Carolina and my colleague, the gentleman from Iowa (Mr. Leach), the ranking minority member, for their work on behalf of the human needs amendments on the IMF.

I was prepared to go through a whole list of horror stories on the IMF and what it has done in less developed countries. I do not believe it is necessary to do so.

Let me just say that if I thought that the IMF were to continue on in the future, as it has in the past few years, I would be one of the first voting against this bill on the floor. Perhaps I find myself a hopeless optimist. I believe perhaps that IMF can do better. I believe that it can fulfill a needed role in the world today, especially in the LDC's, the less developed countries; however, it has not done so in the past. I am hopeful that with this type of human needs amendment that they will begin to take into account the conditionalities that it lays down for the Third World countries and that rather than just imposing upon these countries the old "Milton Friedman" type economics, that it will take into account that these Third World countries need longer term type of help, not just this short-term type of assistance, which really gets them into deeper trouble, but they need a longer type of assistance that will enable them to build up their own economic structure in their own countries to help themselves. This they have not been doing in the past.

I know that the chairman of the full committee, the gentleman from Wisconsin (Mr. Reuss), the gentleman from Nebraska (Mr. Cavanaugh), and also the gentleman from North Carolina (Mr. Neal) and the gentleman from Iowa (Mr. Leach) all share with me, I believe, this concept and this goal. We have, however, differed in the past on the means to accomplish this. I am hopeful that in the coming months as we see how the IMF now works under this legislation that they will, in fact, begin to pay more attention to how their policies really affect the poor in these countries.

You know, I doubt that any Member on this floor right now, with the exception of maybe two or three, could get into a taxicab and go to the IMF headquarters in Washington and find it; but I would tell you how you can find the trail of the IMF. You do not need to be any kind of an Eagle Scout to follow this trail. Go to that Third World country where they have had a reduction in real income. Go to that Third World country where they have had an increase in malnourishment. Go to that Third World country where they have cut back on health and education and go to that Third World country where they have had all these things, an increase in unemployment to boot, and also on the other hand they kept importing their luxury goods, the rich keep living affluently as they have in the past, with no progressive income taxes; you find those countries and you are on the trail of the IMF because chances are the IMF has been there.

I am hopeful, however, that the IMF will change its policy. We have seen indications that they are doing so in the recent past, that they are taking these things into account. If they do so I believe the IMF can be a force for good in the world.

Mr. MILLER of California. Mr. Chairman will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman I would like to associate myself with the gentleman's remarks and to compliment him on his perseverance in pursuing the human rights element and the recognition that many of these Third World countries, the developing countries, have much more severe problems than the traditional day to day allowances that the IMF is willing to grant them.

I would hope that the gentleman's

amendment and the attention that he has brought to the IMF in regard to Third World countries would cause them to change the manner in which they have done business.

I want to strongly associate myself with the gentleman's remarks.

Mr. HARKIN. I thank the gentleman.

It is not just those of us who are here in this Congress and in the United States, but the studies by the Brandt Commission also found the same thing. I would read just one sentence from that finding of the Brandt Commission. They feel:

> The fund has tended to impose conditions which go beyond its legitimate interests of insuring that it gets its money back on the due date within the framework of the fund's articles, since these can be satisfied by far less rigorous programs.

So not only those of us here in the Congress, but the Brandt Commission, the U.S. Presidential Commission on World Hunger, and even some commercial bankers from our largest banking institutions in the United States have all said that there has to be structural changes within the IMF to address these problems in those Third World countries.

If these changes are made in the way they set down their conditions, then the IMF along with the other multilateral institutions, such as the World Bank, IDA, Inter-American Development Bank, can indeed be a force for stability based on social and economic justice in the LDC's.

Mr. HYDE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I certainly do not object to this amendment and I think it perhaps is useful in focusing on human needs. We can never focus on human needs too much.

I think the gentleman from Iowa is to be commended for constantly focusing us on this very important element; but I think it should be stated that the IMF has a function to perform. It is the function of the physician to administer the castor oil. There are other international development agencies that are specifically designed to target their assistance to meet the human needs that the gentleman from Iowa has spoken about so eloquently. There are the international development institutions, such as the Inter-American Development Bank, the Asian Development Bank, the African Development Bank and the African Development Fund; IDA, and so many others, who are structured to focus on human needs as well as economic development; but the IMF comes in when things are fairly desperate and sometimes must issue a prescription that may be rather bitter to adhere to; but I think it must be said that many times these countries are in difficulty because of inept government, because of policies and programs that are counterproductive and that further dig the economic hole that the people find themselves in day after day and year after year.

Somebody has to tell them what they are doing wrong and what they must do to correct a situation that is badly in need of correction; but having said that, I do think this amendment ought to be supported. I do think we ought to always bear in mind that the IMF is not another international agency that is designed to alleviate human suffering per se.

It is designed to help a country regain economic stability, and having done that, human suffering ought to be alleviated in due course; but the governments of many of these countries need to be guided. They need to be told what they are doing wrong. The IMF is perhaps the only agency in international finance that is structured to do that. But again I think the amendment is worth while, and I do support it.

☐ 1810

Mr. BAUMAN. Will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding. Perhaps the gentleman is not the best one to answer, but in the course of the gentleman from Iowa's presentation, he said something about this amendment, if I heard him correctly, would put an end to the Milton Friedman economics on the IMF.

Mr. HYDE. I hope the gentleman did not think I said that.

Mr. BAUMAN. No, no, the gentleman did not say it, but I think the gentleman would be better able to answer it than the gentleman from Iowa since he has a prejudice against Milton Friedman.

Mr. HYDE. The Milton Friedman economics have worked wonderfully in Chile and Argentina in considerably bringing down inflation from three digits in both of those countries. I think it has been a great success story in at least Chile and Argentina where the Chicago School of Economics has been in effect.

Mr. BAUMAN. I knew the gentleman would be partial, and rightly so, to the Chicago School of Economics, or anything including Chicago. But my question is, Does this amendment in some way provide accomplishment or do away with private enterprise, private-sector development by the IMF? Does it favor socialism, because if that is the intention, I would certainly not want to support it.

Mr. HYDE. No. I do not think every amendment that directs itself toward human needs is necessarily supportive of socialism. On the contrary, I think socialism has shown a wretched record of concern for the fulfillment of basic human needs.

Mr. BAUMAN. I just think it is a terrible day when Milton Friedman has become a buzz word.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. HYDE. Yes, I yield to the gentleman from Iowa who I know is a great supporter of Milton Friedman.

Mr. HARKIN. The gentleman from Iowa has no prejudice whatever against Milton Friedman, just his economics.

Mr. BAUMAN. I am sure Mrs. Friedman would be glad to hear that.

Mr. HYDE. I have nothing more to say. I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. Harkin) as a substitute for the committee amendment.

The question was taken; and on a division (demanded by Mr. Bauman) there were—ayes 17, noes 5.

So the amendment offered as a substitute for the committee amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The CHAIRMAN. Are there further amendments to section 2 of the bill?

AMENDMENT OFFERED BY MR. PASHAYAN

Mr. PASHAYAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Pashayan: On page 6, line 15, add the following new section:
>
> Sec. 3. Strike section 7 of Public Law 95-435, the Bretton Woods Agreements Act Amendments of 1978, which reads:
>
> "Beginning with fiscal year 1981, the total budget outlays of the Federal Government shall not exceed its receipts."
>
> And insert in lieu thereof:
>
> "The Congress reaffirms its commitment that beginning with fiscal year 1981, the total budget outlays of the Federal Government shall not exceed its receipts."
>
> And renumber the sections accordingly.

Mr. NEAL. Mr. Chairman, I would like to see a copy of the amendment.

Mr. PASHAYAN. I believe the gentleman has the substance of the amendment. This is a new section that we are adding that in working it out with the Parliamentarian was determined the best way procedurally.

The CHAIRMAN. The amendment has been read. The gentleman from California (Mr. Pashayan) is recognized to speak on behalf of the amendment.

Mr. PASHAYAN. Mr. Chairman, this amendment is being put on the floor here by myself in order to assure that a section of the 1978 law does not die by neglect.

Mr. NEAL. Mr. Chairman, will the gentleman yield?

Mr. PASHAYAN. Yes, I yield to the gentleman from North Carolina.

Mr. NEAL. I thank the gentleman for yielding. I would like to say that I have examined the amendment, and I think it is laudatory. I think we would be prepared to accept it.

Mr. LEACH of Iowa. If the gentleman will yield, this side would be willing to accept the amendment.

Mr. PASHAYAN. I thank the gentleman. May I have a minute to simply explain what it does.

In the 1978 act, Mr. Chairman, the Congress promised the American people to balance the budget beginning in fiscal year 1981, and that is in October only a few days away. What this amendment simply does is to say that Congress reaffirms that commitment made in 1978 to balance the budget beginning in fiscal year 1981.

Mr. Chairman, over 220 of our colleagues have cosponsored House Resolution 525, and that language in House Resolution 525 is virtually identical to the language of this amendment. Once again I should like to say, and I shall read it, that it is the sense of the House of Representatives that it reaffirms its commitment to balancing the Federal budget in fiscal year 1981 as authorized in Public Law 95-435, which is the Bretton Woods Agreement Act.

Mr. Chairman, unless this body has the will to balance the budget, we shall not do it, and I should like to see this body adopt this amendment and go on to balance the budget this year as we promised the American people we would do 2 years ago. In 1978 we made that solemn promise to do it this fiscal year, and I think this Congress must take upon itself the duty to fulfill that commitment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. PASHAYAN).

The amendment was agreed to.

Mr. BEDELL. I move to strike the requisite number of words.

Mr. Chairman, I had planned to offer an amendment which would have required that the survey which is performed by the Federal Reserve twice per year, and which shows the lending of American lending institutions to foreign banks and foreign governments, would be supplied to the committee twice each year. I have talked to members of the committee. It is my understanding that they are willing to request that of the Federal Reserve so that it will be accomplished without the necessity of having to put an amendment on the bill.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I will be glad to yield to the gentleman from Ohio.

Mr. STANTON. I thank the gentleman for yielding. First, let me compliment the gentleman for bringing this subject to the attention of the House. It is an excellent idea. It is a question of a little bit of germaneness maybe in putting this in the International Monetary Fund, but on the merits it is excellent. I want to assure the gentleman that when we get to next year to amending the Federal Reserve System that we will put it in there, or, if we can, proceed in this year in a statement on behalf of the managers alluding to the fact that this was brought up, and informally ask for it at this time. I compliment the gentleman for bringing it to our attention.

Mr. NEAL. Will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from North Carolina.

Mr. NEAL. I thank the gentleman for yielding. I also would like to compliment and thank him for this contribution. We will cooperate fully with him in making sure the appropriate committees of the House have these reports. I know that the chairman of the full Banking Committee is grateful for the gentleman's efforts in this regard.

Mr. BEDELL. I thank the gentleman. I would point out the reason we need to watch this is the fact that the external debt of the non-oil-producing, less-developed countries. has risen from $70 billion in 1970 to between $300 and $400 billion today, and the amount of debt which is owing to private banks as opposed to official sources has increased from 47 percent in 1973 to 58 percent today. I think it makes sense, with the importance of keeping our financial institutions sound, with the urgent needs that we have for loans to our local economy, that the Banking Committee keep track of this and watch so that we do not find ourselves in a difficult situation. I thank the people for accepting this responsibility to check on this.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

RECYCLING BALANCE-OF-PAYMENTS SURPLUSES

SEC. 3. (a) It is the sense of the Congress that (1) the interests of the United States and those of other member countries require an effective International Monetary Fund equipped with resources adequate to facilitate orderly balance-of-payments adjustments; (2) persistent balance-of-payments surpluses in oil exporting countries have placed, and will continue to place, severe strains on the resources of oil importing countries and on the liquidity of the Fund; (3) the willingness of the United States Government in the future to increase its contributions to the international financial institutions will be contingent upon the assumption by the oil exporting countries of a greater burden for financing balance-of-payments deficits through direct methods of recycling their surpluses and through proportionally greater contributions to the Fund and to the international lending institutions; and (4) the Fund must explore innovative proposals to encourage more direct recycling of oil surpluses and to increase its own liquidity.

(b) The Bretton Woods Agreements Act is further amended by adding at the end thereof the following new sections:

"SEC. 34. The Secretary of the Treasury, in consultation with the United States Executive Director of the Fund, shall study and, following consultations with member countries, shall report to the Congress prior to May 15, 1981, with respect to—

"(1) the current adequacy of Fund resources, together with projected needs of the Fund over the next five years;

"(2) their feasibility of increasing Fund liquidity by encouraging the Fund to borrow directly from the governments of oil exporting countries;

"(3) the feasibility of increasing Fund liquidity by encouraging the Fund to borrow in private capital markets through the issuance of securities backed by Fund resources;

"(4) the feasibility of an offer by the Fund of incentives to oil exporting countries, including financial guarantees by the Fund for government-to-government loans to countries with balance-of-payments deficits, in order to promote more direct recycling of oil surpluses; and

"(5) methods to enhance cooperation between commercial banks and the Fund to promote the availability of adequate resources for balance-of-payments financing.

☐ 1820

Mr. NEAL (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the bill be dispensed with and that the bill be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk continued the reading of the bill.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: Page 6, line 23, strike out "(3)" and all that follows through the semicolon in line 5 on page 7 and insert in lieu thereof the following: "(3) these strains can only be relieved if the oil exporting countries assume a greater burden for financing balance-of-payments deficits through direct methods of recycling their surpluses and through proportionally greater contributions to the Fund and to the international lending institutions;"; and on page 8, strike out lines 18 through 25 and insert in lieu thereof the following new section:

SEC. 35. It is the sense of the Congress that the Secretary of the Treasury and the United States Executive Director of the Fund shall encourage member countries of the Fund to negotiate a dollar-Special Drawing Rights substitution account in which equitable burden sharing would exist among participants in the account, and shall report to the Congress prior to May 15, 1981 with respect to progress toward achieving this goal.

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 9, after line 8, insert the following new section 4:

DEBT RESCHEDULING COMPARABILITY

SEC. 4. Section 29 of the Bretton Woods Agreements Act is amended by striking out "on the use of the facility".

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 3? If not, the Clerk will read section 5.

The Clerk read as follows:

TAIWAN

SEC. 5. The Bretton Woods Agreements Act is further amended by adding at the end thereof the following new section:

"SEC. 36. It is the sense of the Congress that it is the policy of the United States that Taiwan (before January 1, 1979, known as the Republic of China) shall be granted appropriate membership in the Fund and that the United States Executive Director of the Fund shall so notify the Fund.".

The CHAIRMAN. Are there any amendments to section 5 of the bill?

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 9, after line 21, insert the following new section 6:

EFFECTIVE DATE

SEC. 6. This Act shall take effect on its date of enactment, except that funds may not be appropriated under any authorization contained in this Act for any period prior to October 1, 1980.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. GILMAN

Mr. GILMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GILMAN: Page 9, after line 21, insert the following new section and redesignate the subsequent sections accordingly:

PALESTINE LIBERATION ORGANIZATION

SEC. 6. The Bretton Woods Agreements Act is further amended by adding at the end thereof the following new section:

"SEC. 37. It is the policy of the United States that the Palestine Liberation Organization should not be given membership in the Fund or be given observer status or any other official status at any meeting sponsored by or associated with the Fund. The United States Executive Director of the Fund shall promptly notify the Fund of such policy. In the event that the Fund provides either membership, observer status, or any other official status to the Palestine Liberation Organization, such action would result in a serious diminution of U.S. support. Upon review of such action, the President would be required to report his recommendations to the Congress with regard to any further U.S. participation in the Fund."

Mr. GILMAN. Mr. Chairman, at the end of this month the International Monetary Fund will be holding its annual meeting here in Washington. Several Arab States are working overtime to insure that that meeting will include a confrontation that promises to have disastrous effects for developed and developing nations alike. Through the use of oil revenue they are seeking to force the acceptance of the Palestine Liberation Organization as a formal and legitimate observer to the Fund annual meeting.

Very simply, Mr. Chairman, my amendment—originally authored by the gentleman from Florida (Mr. YOUNG)—would amend the Bretton Woods Agreements Act to state as plainly as possible that it is U.S. policy that the PLO should not be given membership or any official status with the International Monetary Fund.

As stated in an editorial in yesterday's Washington Post:

> Observer status is not worth much. It offers the opportunity to attend meetings that are, in any case, public—although not to participate in them. The Arabs' purpose is to try to endow the PLO with some degree of official recognition in as many places as possible. More broadly they are seeking, with a rising sense of frustration, strategies to translate their great financial resources into political influence.

Under the bylaws of the IMF, observers to the annual meeting may be invited by the chairman of the meeting. Currently there are over 40 such accredited observers from the African Centre for Monetary Studies to the United Nations Educational, Scientific, and Cultural Organization. Without exception all of these "observers" are bodies whose activities are sufficiently closely related to those of the Fund. It is obvious that the PLO does not qualify.

If allowed to go unchallenged, the Arab threats to withhold funds unless the PLO is admitted will politicize the work of the Fund and set a most dangerous precedent. Far from an economic institution, the PLO remains the leading terrorist organization in the world today. Its acceptance in the Fund and the issues it would seek to inject would undoubtedly set the pace for other radical political groups in a process that would be the beginning of the end for the Fund.

Let us remember just what the PLO stands for and what it represents. Just 4 months ago, the dominant Al Fatah wing of the PLO stated its goals "to liberate Palestine completely and to liquidate the Zionist entity politically, economically, militarily, culturally and ideologically." One can get little comfort from their attitude about the United States which they consider to be "the leader of the enemies of our people and nation." Their policy toward this nation is "to strengthen the international front against the United States, wage war on its policies, and strike at U.S. interests in the region." This agenda of hate hardly relates to lofty goals and policies of the IMF.

The adoption of this amendment would be fully consistent with current U.S. policy on this question. It is extremely important that we indicate to the executive branch and the world community our strong support for the policies embodied in this amendment. It should not go unnoticed that it is becoming harder and harder for the Congress to support and justify the many international aid programs. The abuse and misuse of those institutions and programs as proposed by the Arab States may well spell doom to a broad range of international cooperative efforts as we lose faith in their usefulness.

Our response to this challenge is simple. We must draw the line on this abuse. As the Washington Post editorial concludes:

> On principle, the right choice is to refuse to admit the PLO as an observer. Its right . . . because it keeps these . . . institutions out of an altogether extraneous political quarrel.

Our actions in opposition to PLO status will not alone prevent such a decision. Ultimately the United States is only one voice in this affair. Many nations, both rich and poor, are represented on the governing board of the IMF. As the Washington Post points out.

> If the Third World government stay together, they may well have the strength to bring in the PLO. But they can do it only by risking, in some degree, the real and substantial financial aid now flowing to their own countries. It is the governments of the poor countries that now have to resolve the dilemma.

The passage of my amendment will make the choices they face—crystal clear.

At this point in the RECORD, I would like to insert the extire text of the September 16, 1980, Washington Post editorial:

ECONOMIC AID AND THE PLO

Several Arab governments are now pressing an ugly dilemma on the two big international financial institutions crucial to the Third World. The World Bank and the International Monetary Fund hold their annual meetings here at the end of the month. The Arabs want them to admit the Palestine Liberation Organization as an observer.

If they do not, the Arabs hint that they will retaliate by refusing to lend their oil wealth to the bank and the fund. But if they do admit the PLO as an observer, their support in the United States—by far their largest contributor—will be jeopardized. In either case, the bank and the fund are being drawn into a kind of corrosive political combat that can only damage their real work.

In practical terms, observer status is not worth much. It offers the opportunity to attend meetings that are, in any case, public—although not to participate in them. The Arabs' purpose is to try to endow the PLO with some degree of official recognition in as many places as possible. More broadly they are seeking, with a rising sense of frustration, strategies to translate their great financial resources into political influence.

If the two institutions refuse the PLO and if the Arabs carry out their threat, the costs to the world's poor nations will be real. The Arab oil-exporting countries would presumably continue to leave much of their money in the Western financial markets where the bank and the fund could borrow it indirectly. But that would mean higher interest for the borrowers and perhaps less money to be lent. Those conditions are not crippling, but neither are they trivial. As for the other alternative, admitting the PLO as an official observer, the Carter administration is already having great difficulty getting funds for international aid out of Congress. The authorization for the latest contribution to the IMF is likely to come to the Senate floor this week.

On principle, the right choice is to refuse to admit the PLO as an observer. It's right not because it avoids offending American senators, but because it keeps these two institutions out of an altogether extraneous political quarrel. Most Third World governments, unfortunately, still reflexively support the Arabs. They are getting increasingly uneasy about it, as the damage done them by the oil price increases becomes evident. But most of them consider the PLO a valid spokesman of one group of the world's dispossessed.

The World Bank and the International Monetary Fund are run by boards representing the member countries, both rich and poor. If the Third World governments stay together, they may well have the strength to bring in the PLO. But they can do it only by risking, in some degree, the real and substantial financial aid now flowing to their own countries. It's the governments of the poor countries that now have to resolve the dilemma.

☐ 1830

The CHAIRMAN. The time of the gentleman from New York has expired.

(At the request of Mr. LAGOMARSINO and by unanimous consent, Mr. GILMAN was allowed to proceed for 2 additional minutes.)

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I rise in strong support of the amendment of the gentleman from New York. The PLO is a terrorist organization and has no business being given this status. In fact, if the PLO is granted observer status, a precedent would be established that would allow other terrorist organizations like this and other so-called liberation movements to make similar demands.

It is very important that we vote on this and very, very strongly support it today, because this Friday there will be a vote on whether or not to allow the PLO to be admitted, and our strong support of the gentleman's amendment today could well avert that move.

Mr. GILMAN. I thank the gentleman for his remarks in support of my amendment.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I would be pleased to yield to my colleague from New York.

Mr. WOLFF. I thank the gentleman for yielding.

Mr. Chairman, I just want to say that I support the amendment of the gentleman from New York, and indicate that it has been revealed that the attack on our Embassy in San Salvador was by terrorists who were trained by the PLO. I think this adds further emphasis to this organization, and I shall take my own time to speak to this amendment.

Mr. GILMAN. I thank the gentleman for his support.

Mrs. HECKLER. Mr. Chairman, I would like to thank the gentleman from New York for yielding, and to congratulate him on his significant amendment. The inclusion of the PLO, with any status, in the IMF, would be detrimental to the very order of the international monetary system which this legislation is intended to maintain.

The IMF has long been an example of cooperation and compromise between the governments of many nations. It would be unwise, therefore, to allow a nongovernment, such as the PLO to observe the delicate IMF proceedings. The PLO is not the government of any nation, and it has not demonstrated the spirit of cooperation and compromise which must exist in order for the IMF to operate effectively.

I believe we should not jeopardize the IMF by allowing this nongovernment entity to participate in any capacity. I urge my colleagues to approve the Gilman amendment.

The CHAIRMAN. The time of the gentleman from New York has again expired.

(At the request of Mr. NEAL and by unanimous consent, Mr. GILMAN was allowed to proceed for 3 additional minutes.)

Mr. NEAL. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I will be pleased to yield to the gentleman from North Carolina.

Mr. NEAL. Mr. Chairman, I would like to say to the gentleman that I support, I think, everything he said. However, he did refer to the Fund as being some kind of aid program, which it is not. I would like to correct that one little observation. The IMF is a self-sustaining organization which serves our interests. It is certainly not an aid program.

But I do agree with his comments about the PLO. It is my understanding that the clear position of our country is that the PLO should not be seated by the Fund.

The wording of the final paragraph of the gentleman's amendment troubles me some because it might set a precedent that we would severely regret. As the gentleman indicated, the International Monetary Fund has never to this time been politicized. It has made its judgments solely on the basis of economic considerations. That has been the IMF's great strength.

I would agree with the gentleman that if the IMF were to seat a PLO observer in any way, that that would be a politicization of the Fund. We very strongly hope that this would not happen. We do not want to give any ammunition to those who would want to politicize the Fund. I have a concern that the final section of the amendment might do that. If this amendment were to succeed, some day in the future some other country might look back on this amendment and use it as a precedent to express political concern about another country.

Historically, the Greeks and the Turks do not object to each other's use of the Fund. There has been no objection to Israel drawing on the Fund. There has been no political objection to any of the Arab countries using the Fund. In other words, we have kept politics and all sorts of other considerations out.

When this House approved the IMF's Witteveen Facility in 1978, human rights amendments were offered that many of us wanted to support. But we fought the language because we thought it added a political dimension to the Fund. We were successful.

I would just ask the gentleman to review the last paragraph of his amendment—although I certainly agree with his intent—to see if he could withdraw that paragraph and leave the rest. I think that he would still accomplish what he wants to do.

The CHAIRMAN. The time of the gentleman from New York has again expired.

(At the request of Mr. ROUSSELOT and by unanimous consent, Mr. GILMAN was allowed to proceed for 4 additional minutes.)

Mr. GILMAN. In response to the gentleman, we have wrestled over the language of this amendment. There were many who would have liked stronger language and would have liked to have deleted funding altogether at this point because, apparently, our Nation is not having much success in keeping the PLO out of the Fund as a political observer.

☐ 1840

The purpose of the resolution is to do away with the politicization of the IMF, not to encourage it. As the gentleman has stated, the intent of both of us is to try to avoid the politicization of this financial organization, and allowing a terrorist organization that certainly has no sovereignty and certainly has nothing to do with a financial institution such as the IMF to sit in and take part in the deliberations is certainly reprehensible.

What we are trying to do is to prevent that from happening, and by this language, if it does occur, we want to give the President an opportunity to reconsider our position. This strengthens the hands of our State Department in what it is seeking to do.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's yielding.

I, first of all, want to thank the gentleman from New York (Mr. GILMAN) for offering this amendment. I think it is terribly important, especially at this time.

My understanding, having studied the IMF in the past and having been on the Banking Committee, is that the IMF and the World Bank have both limited observer status to financial institutions. The PLO is not a financial institution. The fact is that it is a terrorist organization, and, therefore, the gentleman's last paragraph in his amendment is very appropriate in that regard.

There is no tradition at the IMF for having anybody as an observer that is not a financial institution. So on that basis alone, setting aside the fact—which none of us want to do—of the terrorist status of this organization, clearly the PLO does not have a reason to be there in a financial capacity.

So, Mr. Chairman, I complement my colleague, the gentleman from New York (Mr. GILMAN), and I think the language in the last paragraph of his amendment is absolutely essential.

Mr. Chairman, in the past, the IMF and World Bank have limited observer status to financial institutions such as the Bank for International Settlements; Central American Bank for Economic Integration; Commission of the European Communities; European Investment Bank; and 37 other financial organizations. In no case has an organization like the PLO been given such observer status.

Mr. GILMAN. Mr. Chairman, I thank the gentleman from California (Mr. ROUSSELOT) for his support.

Mr. DOUGHERTY. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I am pleased to yield to the gentleman from Pennsylvania.

Mr. DOUGHERTY. Mr. Chairman, I rise in support of the amendment offered by my distinguished colleague, the gentleman from New York (Mr. GILMAN).

As a Member who has voted in the past for the IMF and would be supporting it this time around, I would find it impossible to support the IMF in the future if indeed the PLO were seated even as an observer at the meetings.

Tonight we have an opportunity to serve notice to the world at large that the U.S. Congress is not going to support the PLO in any way, shape, or form, that we are not going to hide behind the bureaucratic trappings that the IMF is a certain kind of an organization, and that if we do something, something else is automatically going to happen.

The fact of the matter, Mr. Chairman, is that the PLO is not a nation and it is not a grouping of nations. The PLO is a terrorist organization. There is absolutely no way any person with any sense of dignity and responsibility could condone allowing the IMF to seat the PLO as an observer.

It seems to me that if this action is going to take place, the IMF should know ahead of time the strong sentiments of the Congress against such an action, and it should be made aware of the resultant effect, if they do seat the

PLO, which is not a nation and is not a grouping of nations—it is in fact a terrorist organization—that there will be strong opposition to the IMF in the Congress in the future.

The CHAIRMAN. The time of the gentleman from New York (Mr. GILMAN) has again expired.

(On request of Mr. DOUGHERTY, and by unanimous consent, Mr. GILMAN was allowed to proceed for 4 additional minutes.)

Mr. DOUGHERTY. Mr. Chairman, if the gentleman will yield further, in conclusion, I would thank the gentleman for presenting this amendment tonight. It is a clear and concise statement of our feelings about the PLO. I want to commend the gentleman for offering the amendment.

Mr. GILMAN. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. DOUGHERTY) for his contribution and for his support of the amendment.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I am pleased to yield to the gentleman from New York.

Mr. GREEN. Mr. Chairman, I thank my colleague, the gentleman from New York, for yielding.

As I indicated in my remarks during the general debate, I think a critical part of the successful role that the IMF and other international financial institutions have played up until now has been the confidence of the world in the fact that they would not be politicized, and that the decisions that they were making were essentially professional decisions based on economic considerations and not on world politics.

I would say that an agreement by any of the international financial institutions to take into even an observer status a terrorist organization like the PLO would obviously represent a breach of what has been a very important part of their tradition to date. The ability of these organizations to function in a professional way has given weight to their recommendations, both as to international monetary matters and as to the actions that should be taken by individual countries to put their own houses in order when they were facing financial difficulties, and it has been a key part of the role that these organizations have played in this world.

If these organizations are now going to abandon that professional role and instead start getting involved in the same kind of politicization that we have seen in the General Assembly of the United Nations, for example, I think their ability to perform the functions that they have performed for the world comes into question, as does the extent to which we should continue to support them.

So, Mr. Chairman, I want to commend my colleague, the gentleman from New York (Mr. GILMAN), for offering this amendment, because I think it will put the world on notice that the politicization of these organizations would be a very dangerous thing for the world.

Mr. GILMAN. Mr. Chairman, I thank the gentleman from New York (Mr. GREEN) for his remarks.

Mr. WOLFF. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I had intended to offer a much stronger amendment than the one offered by the gentleman from New York (Mr. GILMAN). I do think that we must put on notice all world bodies that we will not countenance terrorism of any kind nor a politicizing of these very important organizations which are to serve either economic interests or political interests or the cause of peace.

Mr. Chairman, I understand that the IMF may soon vote to give the PLO observer status, despite the strong opposition of the United States. I am extremely concerned by this development. While the final vote will not be in for several days, the present expectation is that observer status will be granted.

Granting observer status to the PLO at the U.N. and related agencies has been used to legitimize this terrorist group in the international community. This constant politicizing the U.N. by the PLO has made the General Assembly a joke, and made mockery of many issues totally unrelated to the Middle Eastern situation. Witness the recent Copenhagen Mid-decade Conference on Women which turned into a PLO propaganda circus, rather than concentrating on the important problems faced by women worldwide.

But this move to include the PLO into the IMF takes this whole issue a step further. While the U.N. General Assembly has little authority to take any action, the IMF is intimately involved in the world financial structure. This body has been essential for the United States to help with temporary balance-of-payments difficulties, and is increasingly important in helping the Third World countries cope with rising oil prices. To include the PLO in the IMF, even as an observer, is to confer more than just some sort of political legitimacy upon it—this move seems to be aiming at giving the PLO almost a "government in exile" standing—to participate in financial matters.

The U.S. Government must not stand for this. We have a policy of not recognizing and not dealing with the PLO, as the PLO openly seeks to destroy Israel. OPEC oil price increases have weighed on the international financial system, until it seems ready to crumble like a house of cards. Many nations have had to rely increasingly on the IMF, especially Third World countries, to help finance this dreadful burden. Now these OPEC countries want to inject politics into this international financial institution. I am not sure that this situation might not be the straw that breaks the camel's back.

Some of my colleagues would like to see us withdraw completely from the IMF. I do not agree. Our power in the IMF is dwindling, in comparison with the OPEC countries, and therefore I support the increase in our special drawing rights (SDR's) to insure that we retain significant control over the IMF. However, we must let the international community know that we object strenuously to the possibility of giving the PLO observer status, and we must let them know that we will not sit idly by and fund the politicization of the IMF and the World Bank.

Last year the Congress passed an amendment I offered which reduces our contribution to the U.N. by our share of the budgets of the two PLO propaganda committees there. If the move to give observer status is passed, I think the Congress should reassess our role in this organization.

Mr. Chairman, I congratulate the gentleman from New York (Mr. GILMAN) for the language that he has created here in his amendment. It does no violence to the IMF, and it preserves that agency from the violence of the PLO.

Mr. NEAL. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I am delighted to yield to the gentleman from North Carolina.

Mr. NEAL. Mr. Chairman, let me say to the gentleman from New York (Mr. WOLFF) that my only problem—and maybe we can resolve the problem here and now—is that I want to make it clear that it is not our intent to politicize the IMF. It is our intent merely to depoliticize the IMF and to keep it free of political considerations.

Is that the intent of the author of the amendment and of the gentleman from New York (Mr. WOLFF)?

Mr. GILMAN. Mr. Chairman, if the gentleman will yield, it is certainly the intent of the author of the amendment and the intent of all of us to keep the PLO out of financial institutions such as the IMF.

Mr. NEAL. Mr. Chairman, I certainly support the intent of the gentleman as long as we in no way are attempting to politicize the IMF and are in fact doing this to make sure that we depoliticize it.

Mr. WOLFF. Mr. Chairman, that is the effect of this amendment, to see to it that we do depoliticize the IMF. The fact is that the PLO is attempting to politicize it, just as some of the PLO's allies have been doing.

Mr. NEAL. Mr. Chairman, may I say to the gentleman that, looking at it in that light, I think we would certainly be prepared to accept the amendment.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, I appreciate the gentleman's yielding.

We cannot forget that what this is is a sense-of-Congress resolution fundamentally. Second, it really backs up the position that the IMF and the administration are taking at this time in opposing the PLO observation. So we are in effect backing up the present actions of our country by taking this action today.

Mr. Chairman, we do support the amendment on this side.

Mr. WOLFF. Mr. Chairman, one aspect of this that is extremely important is that although the United States has a weighted vote at the IMF, they cannot even get a quorum there to take this measure up, and as a result of that fact the PLO will be granted observer status without even a vote being taken there.

☐ 1850

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I do not want to take the time of this body, but I cannot let this resolution go by without at least saying how heartily I support it. We simply cannot afford to have more of these armed terrorists appearing in the United Nations and its functions, and I think this ought to pass at once.

Mr. PHILIP M. CRANE. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from Illinois.

Mr. PHILIP M. CRANE. I thank the gentleman from New York for yielding.

Mr. Chairman, I would simply like to join in support of the amendment offered by my colleague, the gentleman from New York (Mr. GILMAN), and to associate myself with his remarks. I commend the gentleman for introducing this amendment.

Frankly, it was my own inclination to introduce an amendment which went beyond what has been proposed here in the language, suggesting a serious diminution of U.S. support.

The CHAIRMAN. The time of the gentleman from New York (Mr. WOLFF) has expired.

(On the request of Mr. WEISS and by unanimous consent, Mr. WOLFF was allowed to proceed for 1 additional minute.)

Mr. PHILIP M. CRANE. If the gentleman will yield for just one further statement, it was my own inclination to suggest an absolute cut-off of any further U.S. aid if this atrocity is perpetrated.

So I commend my colleague for what I think is perhaps gentler language and language more compatible with the interests of this House, but I support him in that effort.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from New York.

Mr. WEISS. I thank the distinguished gentleman for yielding, and I want to associate myself fully with his remarks.

I want to commend my distinguished colleague, the gentleman from New York (Mr. GILMAN), for offering this amendment which I fully support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. GILMAN).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GILMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 386, noes 2, not voting 44, as follows:

[Roll No. 558]

AYES—386

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Archer
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Coughlin
Courter
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Rodino
Roe
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NOES—2

Conyers
Johnson, Colo.

NOT VOTING—44

Anderson, Ill.
Ashbrook
Brown, Ohio
Burton, Phillip
Cheney
Clay
Cotter
Crane, Daniel
Daschle
Davis, S.C.
de la Garza
Devine
Dodd
Dornan
Early
Erlenborn
Giaimo
Ireland
Jenkins
Jenrette
Latta
Leach, La.
Lederer
McClory
Mathis
Mattox
Myers, Pa.
Nedzi
Nolan
Quayle
Roberts
Rose
Shannon
Solarz
Staggers
Stokes
Symms
Ullman
Wilson, Bob
Wilson, C. H.
Wydler
Wylie
Young, Alaska
Young, Fla.

☐ 1900

Messrs. FINDLEY, SEIBERLING, and RAHALL changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

☐ 1910

Mr. NEAL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BEILENSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7244) to amend the Bretton Woods Agreements Act to authorize consent to an increase in the U.S. quota in the International Monetary Fund, and for other purposes, had come to no resolution thereon.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendment of the House with amendments to a bill of the Senate of the following title:

S. 2443. An act to authorize the Department of Energy to carry out a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, N.Y.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 7765) entitled "An act to provide for reconciliation pursuant to section 3 of the first concurrent resolution on the budget for the fiscal year 1981," disagreed to by the House; requests a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and appoints Mr. HOLLINGS, Mr. MOYNIHAN, Mr. EXON, Mr. BELLMON, and Mr. DOMENICI from the Committee on the Budget; Mr. TALMADGE, Mr. MCGOVERN, Mr. HUDDLESTON, Mr. HELMS, and Mr. HAYAKAWA from the Committee on Agriculture, Nutrition, and Forestry, solely for the consideration of matters within the jurisdiction of that committee; Mr. NUNN, Mr. HARRY F. BYRD, JR., and Mr. JEPSEN from the Committee on Armed Services, solely for the consideration of matters within the jurisdiction of that committee; Mr. CANNON, Mr. EXON, Mr. PACKWOOD, and Mrs. KASSEBAUM from the Committee on Commerce, Science, and Transportation, solely for the consideration of matters within the jurisdiction of that committee; Mr. RANDOLPH, Mr. BENTSEN, Mr. BURDICK, Mr. STAFFORD, and Mr. PRESSLER from the Committee on Environment and Public Works, solely for the consideration of matters within the jurisdiction of that committee; Mr. LONG, Mr. TALMADGE, Mr. BOREN, Mr. DOLE, and Mr. ROTH from the Committee on Finance, solely for the consideration of matters within the jurisdiction of that committee; Mr. RIBICOFF, Mr. GLENN, Mr. PRYOR, Mr. PERCY, and Mr. STEVENS from the Committee on Governmental Affairs, solely for the consideration of matters within the jurisdiction of that committee; Mr. WILLIAMS, Mr. RANDOLPH, Mr. PELL, Mr. SCHWEIKER, and Mr. STAFFORD from the Committee on Labor and Human Resources, solely for the consideration of matters within the jurisdiction of that committee; Mr. CRANSTON, Mr. TALMADGE, and Mr. SIMPSON from the Committee on Veterans' Affairs, solely for the consideration of matters within the jurisdiction of that committee be the conferees on the part of the Senate.

APPOINTMENT OF CONFEREES ON H.R. 7590, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1981

Mr. BEVILL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7590) making appropriations for energy and water development for the fiscal year ending September 30, 1981, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Alabama? The Chair hears none, and appoints the following conferees: Mr. BEVILL, Mr. BOLAND, Mrs. BOGGS; Messrs CHAPPELL, JENRETTE, FAZIO, HEFNER, WHITTEN, MYERS of Indiana, and BURGENER; Mrs. SMITH of Nebraska, and Mr. CONTE.

CONFERENCE REPORT ON H.R. 5164, SMALL VESSEL INSPECTION AND MANNING

Mr. BIAGGI submitted the following conference report and statement on the bill (H.R. 5164) to amend certain inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 96–1342)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5164) to amend certain inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same.

THOMAS L. ASHLEY,
MARIO BIAGGI,
JOHN BREAUX,
WILLIAM J. HUGHES,
PAUL N. MCCLOSKEY,
GENE SNYDER,
BOB LIVINGSTON,
Managers on the Part of the House.

HOWARD W. CANNON,
RUSSELL B. LONG,
HOWELL HEFLIN,
BOB PACKWOOD,
JOHN WARNER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill, H.R. 5164, to amend certain inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The Senate amendment added a sentence to section 4 of the bill. The House disagreed to the Senate amendment.

The Committee of Conference recommends that the House recede from its disagreement to the amendment of the Senate and agree to the same.

SUMMARY AND DESCRIPTION

The bill, as reported by the two Houses, amends several sections of title 46, U.S. Code and repeals related sections—all of which are concerned with the inspection and manning of small commercial vessels carrying passengers or freight for hire. The bill addresses various acute problems of the small commercial vessel industry, particularly the party boat fishing industry and the offshore oil and mineral supply vessel industry, and should materially assist in keeping these industries safe and viable. It makes important changes in the law governing able seamen for the entire maritime industry. It clarifies the law on the inspection and manning of vessels under 100 gross tons and subjects all offshore supply boats, as defined in the bill, to Coast Guard safety inspection and manning requirements. It also modifies the requirements for licensed engineers and deck officers on vessels of under 300 gross tons.

The only issue in contention is that part of section 4 of the bill that amends section 13 of the Act of March 4, 1915 (38 Stat. 1169), as amended (46 U.S.C. 672).

The House version of section 13(b)(3) reads as follows:

"(3) 'Able seaman-special' qualified for special service on any vessel on any waters shall have at least twelve months' service on deck on vessels operating on the oceans or the navigable waters of the United States including the Great Lakes.".

The Senate version of section 13(b)(3) reads as follows:

"(3) 'Able seaman-special' qualified for special service on any vessel on any waters shall have at least twelve months' service on deck on vessels operating on the oceans or the navigable waters of the United States including the Great Lakes. For service on a vessel of less than five hundred gross tons engaged in support of exploration, exploitation, or production of offshore mineral or energy resources, a person may be rated as able seaman-special who has at least six months' service on deck on vessels operating on the oceans or the navigable waters of the United States including the Great Lakes.".

Simply stated, the Senate bill contains an additional sentence to section 13(b)(3). The House bill requires a seaman to have at least twelve months' service on deck before qualifying as an able seaman-special for employment on any vessel of 500 gross tons or less, or on a seagoing barge, tug, or towboat. The Senate bill retains this same requirement; however, it permits six months' service on deck as prerequisite experience for able seaman employed on vessels of less than 500 gross tons engaged in support of exploration, exploitation, or production of offshore mineral or energy resources.

The Committee of Conference agreed to the Senate amendment.

THOMAS L. ASHLEY,
MARIO BIAGGI,
JOHN BREAUX,
WILLIAM J. HUGHES,
PAUL N. MCCLOSKEY,
GENE SNYDER,
BOB LIVINGSTON,
Managers on the Part of the House.

HOWARD W. CANNON,
RUSSELL B. LONG,
HOWELL HEFLIN,
BOB PACKWOOD,
JOHN WARNER,
Managers on the Part of the Senate.

PERMISSION TO WAIVE 3-DAY RULE FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 5164, SMALL VESSEL INSPECTION AND MANNING

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that the provisions of rule XXVIII(2)(a) shall be waived for purposes of House consideration tomorrow or any day thereafter of the report of the committee of conference on H.R. 5164, a bill regarding small commercial vessel inspection and manning.

Mr. Speaker, the conference report and joint explanatory statement of the committee of conference on H.R. 5164 was filed today and will be printed in today's CONGRESSIONAL RECORD. The matters at issue are noncontroversial. The measure continues to have strong bipartisan support. The Senate is expected to act without delay.

Accordingly, it would be advantageous for the conferees to have the flexibility of bringing the conference report to the floor as soon as possible—in order to facilitate floor scheduling of other major substantive legislation during the closing weeks of this session.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 3904, PRIVATE MULTIEMPLOYER PENSION PLAN AMENDMENTS ACT OF 1979

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 3904) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployer plans, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

The was no objection.

MAKING IN ORDER ON OR AFTER FRIDAY, SEPTEMBER 19, 1980, CONSIDERATION OF CONFERENCE REPORT ON H.R. 3904, MULTIEMPLOYER PENSION PLAN AMENDMENTS ACT OF 1979

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that it be in order on or after Friday, September 19, 1980, to consider the conference report on the bill (H.R. 3904) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployer plans, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

RESIGNATION AS CONFEREE AND APPOINTMENT OF CONFEREE ON CHILD NUTRITION LEGISLATION

The SPEAKER laid before the House the following resignation as a conferee:

WASHINGTON, D.C.
September 17, 1980.

Hon. CARL PERKINS,
Education and Labor Committee, Rayburn Building.

DEAR MR. CHAIRMAN: In compliance with House Rule XLIII, I must refrain from participation in the business of the committees of which I am a member.

Consequently, I am unable to act as a conferee on the Child Nutrition legislation and would ask that you excuse me from this duty and appoint another member to the conference committee.

Sincerely yours,
MICHAEL O. MYERS,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

The SPEAKER. The Chair appoints the gentleman from New Jersey (Mr. THOMPSON) to fill the vacancy, and the Senate will be notified of the action of the House.

WEST VALLEY DEMONSTRATION PROJECT ACT

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 2443) to authorize the Department of Energy to carry out a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, N.Y., with Senate amendments to the House amendment, and concur in the Senate amendments to the House amendment.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendments to the House amendment, as follows:

Page 4, after line 23, of the House engrossed amendment, insert:

(D) Submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration.

Page 5, line 2, of the House engrossed amendment, after "project" insert ": *Provided*, That review and consultation by the Commission pursuant to this subsection shall be conducted informally by the Commission and shall not include nor require formal procedures or actions by the Commission pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, or any other law".

Mr. OTTINGER (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. DINGELL. Mr. Speaker, I reserve the right to object only to note that I have a reservation to the earlier unanimous-consent request. I would indicate to the Chair that I will probably not assert that objection.

The SPEAKER. There is no objection to the suspension of the reading?

Mr. DINGELL. I do not object to that. I just want to make sure that the Chair is aware of the fact that I have a reservation earlier noted.

Mr. Speaker, I withdraw my reservation of objection to the reading of the amendments.

The SPEAKER. Is there objection to the request of the gentleman from New York (Mr. OTTINGER) to dispense with the reading of the amendments?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Florida (Mr. FUQUA)?

Mr. LUJAN. Mr. Speaker, reserving the right to object to bringing up the bill by unanimous consent, I do so simply to ask the gentleman if this was the research bill that we had for West Valley and how does the Senate bill differ from the House passed bill?

Mr. FUQUA. Let me say to the gentleman from New Mexico, this is the bill that passed the House on suspension on Monday relating to the West Valley, or commonly referred to as the West Valley bill. It is the R. & D. program.

The Senate did add two germane amendments, one requiring that the license be jointly complied with by the Department of Energy and the other that there were not required to be formal actions by the Nuclear Regulatory Commission. Both are germane amendments.

Mr. LUJAN. Mr. Speaker, if the gentleman would continue to yield, on the first amendment I do not quite understand what that is all about, that both the Department of Energy and the State of New York must agree to the provisions?

Mr. LUNDINE. Mr. Speaker, will the gentleman yield to me?

Mr. LUJAN. I yield to the gentleman from New York.

Mr. LUNDINE. The original bill that came out of the Committee on Science and Technology provided that the Department of Energy and the State of New York would jointly apply for an amendment to the existing license to allow this demonstration project to occur. When the bill was considered by the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce, the requirement that the Department of Energy join the State of New York was eliminated from that version of the bill and, thereby, eliminated from the House passed bill last Monday.

In discussions with several Senators and the minority, as well as the majority, the feeling was that they did not want the State of New York going in and applying a loan for an amendment to this license, that they wanted a provision in it that the amendment to the license would be agreed on by the Department of Energy.

Therefore, the original Science and Technology Committee language was replaced in the Senate bill and that is what this action is.

☐ 1920

Mr. LUJAN. I would agree with the gentleman that that is a desirable provision.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Florida (Mr. FUQUA)?

Mr. OTTINGER. Reserving the right to object, I reserve the right to object to get some clarification from the Chairman. In the second Senate amendment it says that it will not require formal procedures or actions. The exact language is:

> The Commission—

That is the Nuclear Regulatory Commission—

> pursuant to this subsection shall be conducted informally by the Commission and shall not include nor require formal procedures or actions by the Commission pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, or any other law.

I want to make it clear that Senator Javits informs me that it was the intent of the Senate that this should mean they will not require formal procedures such as licensing procedures, but it does not preclude the Commission from taking any action that otherwise would be authorized by law.

Mr. FUQUA. If the gentleman will yield, I think the gentleman has explained it very well. I think that is the intent.

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from New Mexico.

Mr. LUJAN. I thank the gentleman for yielding. Is it not because it is a research project that you do not go into a full blown licensing proceeding?

Mr. OTTINGER. That was the accommodation that was reached on the bill. The question of whether you need licensing research and development or demonstration projects has not fully been resolved.

Mr. LUJAN. If the gentleman will yield, at least in this particular one we do not.

Mr. OTTINGER. That is correct. That is correct.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Florida (Mr. Fuqua)?

Mr. DINGELL. Mr. Speaker, I have not withdrawn my reservation of objection.

Mr. Speaker, referring to the committee print, H.R. 6865, if I could have the attention of my good friend from the State of Florida, I would observe that I believe the first amendment—and that is the amendment which relates to the "submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration"—would appear, if I am correct, at page 5, line 10, is that correct, as a new item (D)?

Mr. FUQUA. If the gentleman will yield, that is my understanding of the House bill.

Mr. DINGELL. I continue the reservation of objection. I would assume that clause, which sort of floats, would be made into a full sentence, because if it appears at that point in the bill, it simply says:

> Submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration.

I believe that should read:

> The agreement shall provide for the submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration.

Otherwise we have a clause which hangs and which without some good exercise of the human mind is inoperative. Am I correct in that appreciation?

Mr. FUQUA. If the gentleman will yield, I think there could be a technical error in the bill, and I would certainly have no objection to making a technical correction in the amendment as passed by the Senate.

Mr. DINGELL. I am not sure whether that does not get us to the point where we maybe have to accept this and then send it back to the Senate with an amendment. That makes extra problems, but we do want to pass a piece of legislation for the gentleman from New York that is going to deal with the question and not leave hanging and dangling a lot of questions unanswered. I recognize, indeed, the desire for speed in this matter, but I am troubled that we should proceed carefully.

The second question is, as I understand it, the other bill, the House version of the bill, would include the second language which says:

> *Provided*, That review and consultation by the Commission—

And so forth, would go in at the end of the sentence after the word "project" at line 14 of page 5. Is that correct? Am I correct in my appreciation that that amendment should go there?

Mr. FUQUA. If the gentleman will yield, it is my understanding that that is the correct place where the amendment should be inserted.

Mr. DINGELL. Mr. Speaker, I thank my good friend, the gentleman from Florida (Mr. Fuqua).

Mr. Speaker, the Senate action has been to add two amendments to the bill which passed the House. The House action was to accept a modified version of the bill which was reported by the Committee on Interstate and Foreign Commerce, and thus the Senate action was to accept our committee's version of the bill with two amendments.

The first amendment directs the Secretary of Energy to jointly submit a license amendment to the Nuclear Regulatory Commission to allow the activities to occur on the West Valley site. This subjects the Secretary to the jurisdiction of the Nuclear Regulatory Commission and places the Secretary in the position of a colicensee in regard to all aspects of the project.

The second amendment provides that the agreement between the Secretary of Energy and the Nuclear Regulatory Commission provide for informal procedures for the Commission's review and consultation of the Department's plan. This requirement for informal procedure applies only to the provisions of the agency agreement executed pursuant to subsection 2(c) and does not affect the procedures which would be used when the Secretary jointly submits the required license application amendment pursuant to section 2(b)(4)(D) nor does it affect the provisions of section 5(a) which states that nothing in the bill, including the two Senate amendments shall be construed as affecting any applicable licensing requirement of the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Florida (Mr. Fuqua)?

There was no objection.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE PRESIDENT OF THE UNITED STATES REGARDING HOUSE RESOLUTION 745

The SPEAKER laid before the House the following communication from the President of the United States, which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs and the Committee on the Judiciary:

The White House,
Washington, September 17, 1980.

Hon. Thomas P. O'Neill, Jr.,
Speaker of the House of Representatives, Washington, D.C.

Dear Mr. Speaker: I am writing in response to H. Res. 745 passed by the House of Representatives on September 10, 1980.

On July 23, 1980, Chairman Rodino of the Committee on the Judiciary and Chairman Zablocki of the Committee on Foreign Affairs requested that I comment on H. Res. 745. On August 18, 1980, I submitted to those Committees a statement by me and a report of my counsel, together with the information to be furnished by two Executive Branch Departments, which contained the answers and related information called for in the Resolution.

The August 18, 1980 submission and the supplemental report of my counsel dated September 17, 1980 and attached to this transmittal letter constitute my response to H. Res. 745 as passed on September 10, 1980. I am also enclosing letters from the Department of State and the Department of Justice which confirm that these Departments have fully complied with paragraphs 6 and 7 and paragraphs 8 and 9 of H. Res. 745 respectively.

Sincerely,

Jimmy Carter.

WILLIAM S. MOORHEAD

(Mr. DANIELSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIELSON. Mr. Speaker, I join with my colleagues in wishing good things in his future endeavors for Bill Moorhead, who I have had the privilege and the pleasure of serving with in this body for 10 years.

Although I have not served on any House committees with Bill, I do have the opportunity of sharing his counsel every Thursday morning when we both participate as part of the majority whip's organization.

Bill Moorhead has amassed an excellent legislative record in the areas of community development, housing, energy, the arts and humanities, freedom of information, economic revitalization, and frugality in defense spending.

I know that we will all miss BILL, and I am sure that he will do well in whatever future activities he chooses to undertake.

PRIVATE HOUSING DEVELOPMENT

The SPEAKER pro tempore (Mr. FARY). Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 30 minutes.

● Mr. FRENZEL. Mr. Speaker, one of the most severe aspects of the current housing crisis is the lack of available, affordable rental housing. The national vacancy rate is down to 5 percent, the lowest figure in the 24 years that this kind of data has been collected. Of the little rental housing that will be constructed in 1980, it is estimated that 75 percent will be subsidized or insured by the Federal Government. At a time when demand for rental housing is on the rise—as the cost of homeownership becomes increasingly prohibitive—the private development of rental housing has virtually ground to a halt.

The reason for the lack of private development is simple: The increasing costs of financing, building material, labor and land, together with lagging rents and rising operating costs, have rendered multifamily rental housing a lousy investment.

Today I am introducing a bill, the Rental Housing Tax Incentive of 1980, H.R. 8111 which would restore the financial viability of private residential rental housing development.

My bill encourages both the construction of new residential rental housing and the rehabilitation of existing rental housing. The latter is especially important, as preservation of existing rental housing is the cheapest and most efficient method of insuring an adequate and affordable supply of rental housing. Over 41 percent of the Nation's rental housing was built in 1939 or earlier.

The bill has three major provisions. The first two deal with incentives for new construction and the third provides an incentive for the rehabilitation of existing stock. Each of these provisions is outlined below:

First. Ten year straight line depreciation for new construction of residential rental housing.

Currently, all new construction may be depreciated over the useful life of the building—25 to 30 years—in a straight line method, or an accelerated schedule can be used. However, virtually all developers have used the straight line method, as accelerated schedules are subject to the minimum tax and recapture provisions.

My bill defines useful life as 10 years, accelerating the depreciation schedule significantly without the penalties currently incurred when a rapid depreciation schedule is used. Because the depreciation method our bill uses is straight line, there is no excess depreciation which may be penalized through the minimum tax or recapture provisions.

Second. Repeal of section 189 of the Internal Revenue Code of 1954 as it applies to residential rental housing.

Currently, section 189 calls for the 10-year amortization of all construction period interest and taxes. These are out of the pocket costs at the time incurred.

My bill repeals this for the construction of rental housing, and allows an immediate writeoff of such costs.

Third. Extension of section 167(k) of the code to all existing rental housing.

Section 167(k) is a provision that allows a 5-year amortization of rehabilitation expenses for improvements made on low-income rental housing.

My bill extends the rapid amortization provision to all existing residential rental housing. It also eliminates the excess depreciation created by the rapid amortization schedule as an item of tax preference. Finally, the bill increases the expenditure limitation allowable under this provision in order to bring it into line with current costs of rehabilitation.

I encourage the support of my colleagues for this much needed piece of legislation.●

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ASSASSINATION OF FELIX GARCIA RODRIGUEZ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. LELAND) is recognized for 15 minutes.

Mr. LELAND. Mr. Speaker, I rise to express my grief and outrage over the assassination of Felix Garcia Rodriguez, the Cuban attaché to the United Nations. Mr. Garcia Rodriguez was slain with a single bullet that struck the left side of his head at 6:30 p.m. last Thursday as he drove west on Queens Boulevard in Woodside, N.Y.

Minutes after the shooting, an anonymous caller informed UPI that—

> Omega 7 commandos are responsible for the execution and we intend to continue to eliminate all these traitors from the face of the earth and we are going to continue on executing all these people.

Another caller indicated that the next victim would be Raul Roa, the Cuban ambassador to the United Nations.

Terrorism, wherever and by whomever, cannot be tolerated. It strikes at the very basis of society, and terrorism within the diplomatic community strikes at the very basis of all international relations. Whether in Iran or New York, we all must arise to speak against it. When terrorism results in the death of diplomats, we must not only speak against it, but also actively seek actions that will bring justice to the terrorist and peace and security to all of us.

Since Omega 7 first proclaimed itself after a February 1975 bombing, the group has taken responsibility for more than 20 bombings and three assassinations—those of Felix Garcia Rodriguez; last November's murder of Eulalio Jose Negrin, a Cuban refugee leader who favored visits of exile families to Cuba, and Carlos Muniz, another advocate of visiting Cuba.

In October 1978, Omega 7 bombed the offices of the Spanish language newspaper El Diario-La Prensa and threatened the life of its editor, Rudy Garcia. El Diario is a feverently anti-Castro newspaper, but it had the gall to call Omega 7 members "pipsqueak commandos" and asked the intimidated Cuban-American community to help the FBI in exposing them.

More recently, Omega 7 has taken responsibility for bombing the Soviet mission to the U.N. once and the Cuban mission twice and the Aeroflot offices in New York. The bombing of the Soviet mission shattered windows as high as 18 stories in a residential block of New York's East Side.

On March 25 of this year they tried to assassinate Cuba's United Nations Ambassador, Raul Roa. Fortunately, one of his bodyguards discovered the device before it exploded. But now, after assassinating Felix Garcia Rodriguez, Omega 7 has stated that Mr. Roa is next.

We must realize that Omega 7's net of terror spreads far more widely than Cuban diplomats in the United States. Eulalio Jose Negrin was himself an exile from Castro's Cuba. He was a member of the Committee of 75, a group of Cuban exiles who participated in a dialog with the Cuban Government in 1978 and successfully negotiated the release of over 3,000 political prisoners and facilitated travel to and from Cuba, thereby making the reunification of Cuban families a possibility. What kind of organization is it that assassinates individuals who organize the release of political prisoners and work for family reunification?

In the press release in which they officially took responsibility for the slaying of Carlos Muniz in San Juan, Puerto Rico, Omega 7 warned that any Cuban, Puerto Rican, or American "who travels to Cuba, regardless of his motives, is considered our enemy * * * we will be forced to judge them as we did Muniz." Since then, countless other Cubans have been threatened with violence and now live in constant fear for their lives. Does this threat mean that if a committee of Congress were to go to Cuba to investigate conditions there, would they, too, be in danger?

The Omega 7 have gone beyond threatening those who have some relationship to Cuba. In March 1979, Omega 7 exploded a bomb at Kennedy International Airport in luggage about to be loaded on a Trans World airlines flight carrying 155 passengers and crew members to Los Angeles. They made no pretense of claiming that any of the passengers had anything to do with Cuba or Castro. It was an act of terrorism that demonstrated that Omega 7 had no scruples about injuring entirely innocent Americans.

The popularity of terrorism among small, fanatical groups who lack a political power base stems from the wide sphere of influence that a single act of terrorism can generate. For terrorism also affects those who have not been its immediate victims. To be simply threatened by terrorists is also to be victimized by terrorism.

The FBI has described Omega 7 members as—

> Hoods who use "Castro out of Cuba" as an excuse for their criminal activities. They were never in Cuba. They can extort money, go about their daily routine and be big shots in their community by virtue of violence.

Indeed, much of their violence is directed toward their own community businessmen who might resist their efforts at extortion. But, we must recognize that their violence has repercussion far beyond their own community.

One of the United Nations' most respected envoys, Tommy Koh of Singapore said in response to the assassination of Felix Garcia Rodriguez:

> It will be very bad for the United States if they don't find the killer and bring him to justice. The United States has received the active support of the whole world on their pleas that Iran release the hostages and respect the time-honored code of diplomatic immunity. They cannot expect to do less than they expect others to do for them.

We have made ourselves susceptible to international condemnation. Tass, the official Soviet press agency, said that the murder had occurred with the "full connivance" of U.S. authorities. I absolutely resent and reject that interpretation. But, I worry about the effect it has on the rest of the world.

The Cubans, themselves, reject the Soviet interpretation. The official Cuban newspaper, Granma, acknowledged Secretary of State Muskie's and Ambassador McHenry's expressions of sympathy and commitments to achieving justice for the terrorists. At the funeral of Felix Garcia Rodriguez, Cuban Vice President Carlos Rafael Rodriguez stated that the U.S. Government had publicly condemned the assassination and that both Muskie and President Carter had extended their condolences.

In spite of the anger and shock that the Cubans feel over this issue, they have refrained from attacking the United States. Rather, they have attacked Omega 7 and have called for justice.

On innumerable occasions, we have heard from this well anti-Castro and anti-Cuban statements. Is it because Mr. Castro is considered an enemy that we have not heard outrage from this body over the assassination of a U.N. diplomat in New York? Is it because there is so much disdain for Mr. Castro that we have heard no cries for justice for this heinous crime? I contend that the majority of the American people reject these notions and call for justice to be done.

In March of this year, the FBI stated that it regarded Omega 7 as the most dangerous terrorist organization in the United States and that it had placed the highest priority on seizing members of the group. In May, a special 20 member task force to investigate terrorist activities in New York City was set up by the FBI and the city's police department. But, still not one member of Omega 7 has been arrested.

After the assassination of Felix Garcia Rodriguez, the head of the FBI-police task force stated:

> If they thought the heat was on before, they ain't seen nothing yet.

I implore the FBI and the Attorney General to fulfill these promises of justice. The history of the United States is scarred with conflict and assassinations. But through each successive struggle, this Nation has emerged stronger and more willing to amend its political agenda to reflect the changing needs of the times.

Terrorism against the innocent, such as practiced by Omega 7, threatens the very fabric of society. Terrorism against diplomats, whether in Iran or the United States, threatens the basis of all international relations. We must act quickly and decisively, with all the haste that the due process guaranteed in our Constitution allows. We must demonstrate to the world that we will not tolerate such violations. Terrorism throughout the world must be eliminated. Terrorism here at home must be eliminated immediately.

Felix Garcia Rodriguez was a human being who resided within the United States of America.

Felix Garcia Rodriguez was a human being who gave his life in the service of his nation.

MICKEY LELAND, if he is but alone, stands shattered by the tragic loss of this human being, and wishes to convey his condolences publicly to the family of Felix Garcia Rodriguez and to the nation of Cuba.

DOUBTS MOUNTING ABOUT ALL-VOLUNTEER FORCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. CAVANAUGH) is recognized for 5 minutes.

● Mr. CAVANAUGH. Mr. Speaker, a recent article published in Science magazine highlights several shortcomings in the All-Volunteer Force which I and others in the Congress perceive as the most serious threat to the national security and which must be resolved within the context of the current debate over military manpower policy.

Although the major emphasis of this article is directed toward the capabilities of today's recruits, it touches on the even more critical issue of the basic fairness of a system which relies to a disproportionate degree on minorities to meet the manpower needs. I believe it is essential that we in the Congress address the lack of fairness in our current system, possibly through a system of national service such as I have proposed and which Professor Moskos endorses; but in any event we must make the effort and make it now. The article follows:

[From Science magazine, Sept. 5, 1980]

DOUBTS MOUNTING ABOUT ALL-VOLUNTEER FORCE

Tank gunners who don't know where to aim their battle sights, mechanics who can't repair anything, missile firers who can't tell the difference between a Soviet and a U.S. fighter plane—the evidence is piling up that there is a disturbingly high number of such individuals in today's armed services.

For some years now there have been persistent murmurings about the quality of the all-volunteer force, which has made up the nation's defense manpower since the draft was abolished in 1970. The murmurings are getting louder and louder, particularly in the wake of the recent revelation that almost half of the Army's new recruits belong in the lowest mental category accepted in the armed services.

Some members of Congress are getting worried about the situation and want to put a ceiling on the number of what some have called "dummies" allowed in uniform. So at the end of July the House-Senate conference on the 1981 defense authorization bill agreed to provisions that would limit the proportion of recruits in the lowest allowable mental category to 25 percent in each service, with an ultimate goal of 20 percent. It also told the Army that at least 65 percent of its recruits will have to be high school graduates.

Supplementing these stipulations were $2 billion worth of additional educational benefits designed to lure better quality recruits.

These measures were in response to a situation that has become increasingly embarrassing for the military. All four services are suffering from shortages of trained technical manpower, and none achieved their full recruiting goals last year. But the Army is having the worst time of it. In 1979 it managed to achieve a 70 percent rate of high school graduates among its recruits; this year, the rate by March (halfway through fiscal 1980) was 38 percent, and it will be lucky to end up with 55 percent.

Particularly discomfiting for the Army have been the results of a study, released in July, recalibrating the results of entry-level Armed Forces Qualification Tests (AFQT's), which are administered to all potential recruits. The AFQT's bear some similarity to standard intelligence tests, measuring reading skills, ability in arithmetic, and spatial perception: The AFQT (part of a larger test called ASVAB for Armed Services Vocational Aptitude Battery) was introduced as a measure of general trainability in 1950. The content has changed over the years, but each new AFQT has been calibrated so that its results would be comparable to those of ability tests given the armed forces during World War II.

The accuracy of the new 1976 AFQT began to be suspect in 1977 when Marines noted that recruits arriving at boot camp appeared to be less able than their scores indicated. This led to studies by the Center for Naval Analysis, the Army Research Institute, and the Educational Testing Services in Princeton, N.J. A panel of academic experts was asked to evaluate the results of these studies and came out with the July report. They found that the methods used to convert raw scores into percentiles had resulted in overestimates of the scores of recruits in the lower range of the five mental categories into which scores are assigned. Categories I and II are above average, III is average, IV is below average (the 10th to 30th percentile), and V is out of the question.

The Army had been using test scores to defend the quality of the all volunteer Army, pointing out that the percentage of recruits in category IV (called "Cat Fours") was around 9 percent, considerably lower than the 21 percent who participated in World War II. However, the corrected scores showed that a whopping 46 percent fell into that category.

This news has come on top of relevations concerning Army Skill Qualification Tests. The skill tests were inaugurated in 1976 and are administered to enlistees after they have been trained in their Military Occupational Specialties and have some field experience in their use. They were intended as a feedback device to gauge the effectiveness of training. Several members of congressional armed services committees, including Sam Nunn (D-Ga.) in the Senate and Robin Beard (R-Tenn.) in the House, have gotten hold of the results of some of these tests and find them appalling.

Nunn, in a June speech in which he accused the Army of a "massive deception campaign," revealed, for example, that Skill Qualification Tests in 1977 and 1978 were failed by 90 percent of nuclear weapons maintenance specialists and 98 percent of tank turret and artillery repairmen. In 1979 he reported, 91 percent of aviation maintenance personnel and 51 percent of military intelligence personnel failed.

In a list of Army skill qualification scores obtained by Beard for 370 Military Occupational Specialties, there was a 40 percent or higher failure rate in 179 of them. (The Army band stands out as one of the few specialties in which scores were consistently high.)

These figures reflect what critics of the all-volunteer force perceive to be a grave and deteriorating situation. Contrary to predictions of the Gates Commission, which envisaged a fast and lean military—"a smaller, better trained active force, supported by a larger, well equipped force"—training appears to be inadequate to prepare the type of men, who seek to make a career in the all-volunteer Army.

The primary documentation for this is contained in the report of an Army Training Study conducted in 1977 and 1978, which has still not been officially released.

Science took a look at a bootlegged copy of the summary of the report, which had come in over the transom at Representative Beard's office. The report noted that there was "general tolerance of low training standards" among officers and noncommissioned officers and that "many trainers do not know current training philosophy"—that is, "they do not know how to train." The report stated that one and one-half times as much training—in both duration and frequency of repetition—is required for a category IV recruit as a category III one and that the cost of training materials such as ammunition was 40 percent more ("the effect of the lesser qualified trainee is disturbing").

The study zeroed in on a selection of 1288 tank crewmen in the United States and Europe and found that most indicated a need for more and better training. They found low performance levels in both tank commanders and gunners—aggravated by high "turbulence," which means turnover and general lack of job stability—and they also noted that "performance decay" was "significantly greater among lower mental groups."

Specifically, the study found that 17 percent of the tank commanders in Europe and 21 percent of those in the United States "did not know where to aim when employing battlefield gunnery techniques." Among the gunners, 21 and 28 percent, respectively, did not know where to aim when using battle sights. On the whole, they found tank crew proficiency 40 and 50 percent below what should be expected. Of the 1288 tank crewmen, 20 percent of the commanders and 25 percent of the gunners "did not know some of the essential basics of battlefield gunnery."

The study also looked at performance in several other specialties. It found that tank repairmen's chances of correctly diagnosing a repair problem were between 15 and 33 percent, and chances of fixing the problem, once correctly identified, were between 33 and 58 percent. One problem seemed to be that mechanics were hyperspecialized and incapable of working across the "broad spectrum" of their occupational specialties as would be necessary in actual combat.

A survey of men in charge of shooting Redeye missiles revealed that most of them felt inadequately trained. What's more, they found that the gunners in the lower mental category appeared to be incapable of learning the Range Ring Profile, which entails being able to differentiate between the silhouettes of Soviet and American planes.

The study also polled officers for their attitudes about training and found a high degree of complacency, with most expressing "apparent satisfaction with poorly trained personnel." There has been "little perceived change in the training environment since 1971. The environment is still seen as hostile to the conduct of good training."

The report lamely notes at one point that in visits to the field, investigators did encounter "many pockets of competence."

The Army is trying to pull up its socks in the face of all this bad news. All its ability and skills tests are undergoing extensive reevaluation, and it plans to develop a coherent Army-wide system of training. But meanwhile, its responses to criticism have been evasive, the tendency being to minimize the problem by lowering standards. Many training manuals, for example, have been rewritten to conform to a 7th grade reading level. Skill qualification scores required for promotion have been lowered from 80 to 60 percent. And last June the Army quietly ordered that AFQT scores be removed from the files of 400,000 soldiers, allegedly to prevent their "abuse."

Trapped in a situation with shrinking resources and shortages of well-trained personnel, the Army has gone heavily into public relations as defense. Although the Defense Department's general stance is one that supports the validity of its various ability and skills tests. Army Secretary Clifford Alexander has done his best to denigrate them.

In June authorization hearings before the House Armed Services Committee, Alexander dismissed the mental categories as "fundamentally irrelevant." He said the AFQT was "really not a useful device" and that category IV was "not a mental category because it is not based on an intelligence test." Alexander said ASVAB was useful for picking people's occupational specialties, but of the AFQT he said "I am not sure that it measures anything." Asked by one member what category he thought a retarded person would end up in, Alexander insisted he didn't know.

As for the Skill Qualification Tests (which are only used by the Army) the Army has taken the stance that these are still in the early stages of development and have not been properly validated against job performance. An Army public relations person explained to *Science* that if a man's job was, for example, maintaining the UH-1 helicopter, he could not very well pass a test on maintaining all Army helicopters. The Army is attempting to get out of the Skill Qualification Test bind by revising tests to minimize pencil-and-paper work and putting the emphasis on evaluations of actual performance.

Whether this will improve the results is open to question. Although the Army, in common with everyone else who attacks aptitude and IQ tests, insists that verbal skills and ability in handling written tests are not necessarily indicators of how a person will actually function, this is a debatable proposition. Literacy in the Army is notoriously low. For example, a check at Fort Benning in 1976 revealed that 53 percent of the enlistees had a 5th grade or lower reading ability. There are many experts who regard literacy not just as one of many desirable skills, but as a fundamental indicator of mental ability. One of these is Juri Toomepuu, a management analyst at Fort Benjamin Harrison in Indianapolis. Toomepuu says there are plenty of studies that demonstrate a correlation between reading ability and ability to perform most jobs, one of them being "Project 100,000," a study conducted in the late 1960's to assess trainability of category IV recruits. Toomepuu (who emphasizes that he is speaking for himself and not for the Army) says there is abundant evidence showing a high correlation between intelligence, as measured by aptitude tests, and combat performance. He also says a high correlation has been demonstrated between the AFQT and the Skill Qualification Tests and between AFQT scores and reading levels. An official at the Army Research Institute confirmed that they had found a strong relationship between AFQT's and Skill Qualification Tests and added, "historically there has been a high correlation between reading and general ability and trainability."

It would appear that Secretary Alexander and the Army are in the uncomfortable position, because they are politically compelled to support the all-volunteer Army, of bucking certain unpleasant facts. Removing the designation of "mental categories" from the AFQT's, as recommended by the authors of the report on test calibrations, may be a step toward bringing the Army in line with enlightened civilian practices (where any form of labeling is now frowned on), but it will not change the composition of the force.

The fact is, as any observer of the armed forces will admit, there is no longer a middle class among Army enlistees. Says one House staffer, "We are now recruiting the cream of the lower middle-class blacks and the dregs of the white community." Toomepuu puts it even more strongly: "We are approaching a homogenous population of high grade morons." And what makes things worse, according to Toomepuu, is that low ability also correlates highly with everything else regarded as undesirable—low morale, poor discipline, lack of motivation, and high rates of attrition.

What makes the problem especially sensitive is the fact that blacks now constitute about 30 percent of the armed forces (they make up 13 percent of the general population). This puts political liberals in a particularly uncomfortable position. It was they who brought to the nation's attention the fact that blacks were being sacrificed disproportionately in Vietnam. And the disproportion will be much greater if another war comes. But Secretary Alexander, who himself is black, finds himself compelled to ignore the arguments about equitable representation of all groups in society in the armed forces in favor of the argument that it doesn't matter what color a soldier is as long as he can fight.

If no changes are made, the problem will only become more severe. Because of the lower birthrates in the 1960's, the manpower pool will continue to shrink through the 1980's. And the discrepancy between poorly trained or incompetent servicemen and the increasingly sophisticated demands being made on their skills by delicate, highly specialized, and extremely expensive weapons will continue to grow.

One of the adverse effects of denial of unpleasant evidence is manifested in this country's assessment of the outcome of conflict with members of the Warsaw Pact. The DOD's Concepts Analysis Agency each year plays an Omnibus Game with its computer in which Warsaw Pact forces are pitted against U.S. and NATO allies. The computer assumes optimal operating efficiency of both men and machines. But if those who operate and maintain equipment are in the dismal state of readiness that critics allege, then the results of the computer analysis are nothing but fantasy.

The armed services of the 1980's will require more technical competence than ever before. A Marine manpower study, for example, projects a 25 percent increase in the need for high school graduates (who, while not necessarily smarter than their dropout peers, have demonstrated much higher motivation).

If the recent congressional initiatives don't improve the situation, there may still be alternatives to restoration of the draft Military sociologist Charles Moskos of Northwestern University, for example, believes the problem can be solved by restoring the GI bill, raising pay for officers, and making federal educational assistance contingent on some kind of national service.

"The Navy is a system devised by geniuses to be run by idiots," runs an old saying. If that also applies to the Army, then the "idiots" the geniuses had in mind were not Cat Fours.

—Constance Holden ●

VICTIM/WITNESS ASSISTANCE PROGRAMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

● Mr. RODINO. Mr. Speaker, I wish to bring to the attention of my colleagues an important, recent action by the American Bar Association on the special problems of victims and witnesses of crime.

On August 4, a statement I prepared on that issue was presented at the annual meeting of the American Bar Association. I outlined the background and details of the bills I have introduced to provide assistance to victims and witnesses of crime.

The ABA has been working on this issue for many years. In 1976, its Section on Criminal Justice established a Committee on Victims. The study and work of that group led to a set of recommendations titled "Reducing Victim/Witness Intimidation; A Package," published in June of this year. The Criminal Justice Section adopted those recommendations, and its resolution was unanimously approved by the ABA's House of Delegates at the August meeting.

There are differences between the provisions of my legislative proposals and the recommendations of the ABA, but we clearly are embarked on parallel paths. The ABC's action is a big step forward in correcting a weak link in our system of justice.

The intimidation of victims and witnesses of crime, along with the difficulties they endure within the criminal justice system, has been a persistent problem for many years. It is a crime in which only unsuccessful attempts are ever reported or discovered. Intimidation is an offense which inherently thwarts the processes of the criminal justice system.

That system has given high priority to protecting the rights of the accused, to providing humane treatment for convicted offenders, and to delivering essential services to ex-offenders. Enormous sums of money are spent each year to house offenders and to provide them with medical services, legal counsel, and rehabilitation programs. All of these protections and services, even if they do not work as well as we would like them to, are necessary in a society that would call itself just and civilized.

But the basic needs of crime victims and witnesses have been so badly neglected that many valid prosecutions are short-circuited because victims and witnesses would rather avoid dealing with the system. The plain fact is that the victim or the witness can be "twice victimized"—once by the offender and a second time by the system which is supposed to render justice.

Aside from the inconvenience and the distress which the system inflicts on the victims or witnesses, they often face—in hard core criminal cases—actual or implied intimidation about which law enforcement agencies can do very little. There is no police force in the United States that is equipped to provide protection for every witness or victim who is being intimidated by the offender and/or his family and friends. There has been an increase in the number of prosecutions of intimidation cases, but there has been very little improvement in the system to take care of the disastrous consequences of a crime on victims and witnesses.

In many cases that have come to the attention of the Judiciary Committee, victims and witnesses who have been intimidated will refuse to cooperate with law officers. They are then subjected to extraordinary pressure, inconvenience, and distress. They are questioned repeatedly. They sacrifice work days and pay for transportation or child care for seemingly endless court appearances, many of which are postponed or canceled with no advance notice. It is not unusual that stolen property held as evidence is never returned to the owner.

The American Bar Association's resolution recommends particularly: First, that "friend in court" systems be organized in the community to assist victims or witnesses; second, establishment of victim-witness information centers to keep them posted on the progress of a case, to avoid needless loss of pay for pointless appearances; third, establishment of victim-witness hot lines to provide information as well as emergency police service; and fourth, development of post-trial supporting systems involving telephone or personal contacts to avoid post-trial problems.

The ABA's unanimous vote on this resolution is a strong reminder that the time has come to enact legislation to alleviate this vexatious problem. We have been aware of it for many years. The President's Commission on Law Enforcement and Administration of Justice—in 1967—and the National Advisory Commission on Criminal Justice Standards and Goals—in 1973—spotlighted the problem and called for special efforts to correct the deficiencies in the system which I have described. In recent years, some steps have been taken throughout the country to develop special programs to help people deal with the financial and emotional strains of the victim or witness experience.

Since 1965, 27 States have established compensation programs which help victims pay for medical costs and wage losses. Most of these programs do not compensate for property loss, place a ceiling on the amount recoverable, and require that claimants cooperate with prosecutors. At present, the Federal Government provides no financial assistance to the State programs. For several years, Congress has been considering legislation to provide Federal funding. In the 96th Congress, my bill, H.R. 4257, was favorably reported by the House Committee on the Judiciary. This bill would provide grants to qualifying State programs in an amount equal to 25 percent of the cost of compensating victims and witnesses.

It is clear that we need comprehensive Federal legislation to cover the special problems inherent in the criminal justice system for victims and witnesses. Failure to do so would perpetuate the unjust situation I have described.●

NOTICE OF SUBCOMMITTEE MEETING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. HARRIS) is recognized for 5 minutes.

● Mr. HARRIS. Mr. Speaker, the Subcommittee on Human Resources will be meeting on Thursday, September 18, 1980, at 9:30 a.m. in 311 CHOB for the purpose of marking up H.R. 7674, the Consulting Reform Act of 1980. This notification was omitted from the weekly schedule of meetings published in the CONGRESSIONAL RECORD due to the deadline changes caused by the congressional holiday on September 12.●

STATEMENT OF CHAIRMAN AL ULLMAN, COMMITTEE ON WAYS AND MEANS, WITH RESPECT TO THE RULE TO BE REQUESTED ON H.R. 7054, RELATING TO THE DUTY ON PLASTIC FROM WHICH CERTAIN NETTING IS MADE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 5 minutes.

● Mr. ULLMAN. Mr. Speaker, on July 22, 1980, the Committee on Ways and Means favorably reported to the House H.R. 7054, to amend the tariff schedules of the United States in order to make the duty on plastic netting approximately equal to the duty now charged on the raw plastic from which the netting is made. H.R. 7054, as amended by the committee would amend the tariff schedules of the United States to add a separate tariff classification to increase the column 1 (MFN) rate of duty on netting of rubber or plastics to 17 percent ad valorem, approximately equal to the duty charged on the raw plastic from which the netting is made, and to provide a column 2 rate of duty of 47 percent ad valorem.

Pursuant to the rules of the Democratic Caucus, I take this occasion to advise my colleagues as to the nature of the rule that I will request for the consideration of H.R. 7054 on the floor of the House. The Committee on Ways and Means has specifically instructed me to request the Committee on Rules to grant a closed rule which would only provide for:

First, committee amendments, which would not be subject to amendment;

Second, 1 hour of general debate, to be equally divided;

Third, waiving all necessary points of order; and

Fourth, one motion to recommit.

We will request to be heard before the Committee on Rules.●

PERSONAL EXPLANATION

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. HANLEY. Mr. Speaker, last evening I was committed to participate in the Federal employee awards program.

Due to that commitment I had to be absent for the vote on the Addabbo amendment repealing the Maybank amendment and allowing the Secretary of Defense to limit bids for certain types of nonstrategic defense contracts to those companies in areas of high unemployment.

While the RECORD notes that I am paired for the Addabbo amendment, I want to make my strong support for it quite clear, and passage of the bill, also.

PERSONAL STATEMENT

(Mr. MARRIOTT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. MARRIOTT. Mr. Speaker, due to prior commitments in my district, it was necessary that I be absent on September 8, 9, and 10. Had I been present and voting on the rollcalls for those 3 days, I would have voted as follows:

Rollcall No. 523 (resolve to Committee of the Whole), "yea."

Rollcall No. 524 (committee amendment to H.R. 6790), "yea."

Rollcall No. 525 (H.R. 6790), "yea."

Rollcall No. 526 (H.R. 7956), "yea."

Rollcall No. 527 (H.R. 7817), "yea."

Rollcall No. 528 (H.R. 6629), "yea."

Rollcall No. 530 (Eckhardt amendment), "nay."

Rollcall No. 531 (Staggers amendment), "yea."

Rollcall No. 533 (Albosta amendment), "nay."

Rollcall No. 534 (H.R. 7235). "yea."

Rollcall No. 537 (table House Resolution 745), "nay."

Rollcall No. 538 (to resolve into Committee of the Whole), "yea."

Rollcall No. 539 (H.R. 7301), "yea."

I ask unanimous consent that these remarks be inserted in the permanent RECORD following those rollcall votes.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. STOKES (at the request of Mr. WRIGHT), for today, on account of a necessary absence.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARRIOTT) to revise and extend their remarks and include extraneous material:)

Mr. FRENZEL, for 30 minutes, today.

Mr. DOUGHERTY, for 60 minutes, on October 2.

(The following Members (at the request of Mr. LELAND) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 15 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. LELAND, for 15 minutes, today.
Mr. CAVANAUGH, for 5 minutes, today.
Mr. RODINO, for 5 minutes, today.
Mr. BINGHAM, for 5 minutes, today.
Mr. HARRIS, for 5 minutes, today.
Mr. ULLMAN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MARRIOTT) and to include extraneous matter:)

Mr. MOORHEAD of California.
Mr. MCKINNEY.
Mr. HOLLENBECK.
Mr. DANIEL B. CRANE.
Mr. DANNEMEYER.
Mr. FORSYTHE.
Mr. DERWINSKI.
Mr. BEREUTER.
Mr. COLLINS of Texas in three instances.
Mr. SOLOMON.
Mr. QUAYLE.
Mr. SHUSTER.

(The following Members (at the request of Mr. LELAND) and to include extraneous matter:)

Mr. MAZZOLI.
Mr. DOWNEY.
Mr. LLOYD.
Mr. EVANS of Indiana.
Mr. BAILEY.
Mr. FORD of Michigan.
Mr. RODINO.
Mr. MCDONALD in three instances.
Mr. FISHER.
Mr. TRAXLER in two instances.
Mr. SCHEUER.
Mr. PEPPER.
Mrs. CHISHOLM.
Mr. HAMILTON.
Mr. MILLER of California.
Mr. COTTER.
Mr. VENTO.
Mr. MOFFETT.
Mr. DRINAN in two instances.
Mr. IRELAND.
Mr. MURPHY of New York.
Mr. BONKER.
Mr. SOLARZ.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 215. An act for the relief of Renuka Pavla; and

S. 2223. An act to permit any Indian to transfer by will restricted lands of such Indian to his or her heirs or lineal descendants, and other Indian persons.

ENROLLED BILLS SIGNED

Mr. NEDZI, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3210. An act to terminate the authority to make grants to the Las Vegas Valley Water District under the act of August 27, 1954; and

H.R. 6511. An act to designate the building known as the Federal Building in Morgantown, W. Va., as the "Harley O. Staggers Federal Building."

ADJOURNMENT

Mr. LELAND. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 42 minutes p.m.) the House adjourned until tomorrow, Thursday, September 18, 1980, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5327. A letter from the President of the United States, transmitting his response to House Resolution 745, the resolution of inquiry in the matter of Billy Carter; jointly, to the Committee on the Judiciary and Foreign Affairs.

5328. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of certain defense equipment and services to NATO (Transmittal No. 80–107), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

5329. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the State Department's intention to consent to a request by the Government of Turkey for permission to transfer certain U.S.-origin defense equipment to the Federal Republic of Germany, pursuant to section 3(d) of the Arms Export Control Act; to the Committee on Foreign Affairs.

5330. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment and services to NATO (Transmittal No. 80–107), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

5331. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment and services to Canada (Transmittal No. 80–108), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

REPORT OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. EDWARDS of California: Committee on the Judiciary. H.R. 4736. A bill to establish certain pretrial and trial procedures for the use of classified information in connection with Federal criminal cases, and for other purposes; with amendment (Rept. No. 96–931, pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. ZEFERETTI: Committee on Rules. House Resolution 787. Resolution providing for the consideration of H.R. 7112. A bill to authorize an extension and amendment of the revenue sharing program to provide general purpose fiscal assistance to local governments, and for other purposes (Rept. No. 96–1325). Referred to the House Calendar.

Mr. MURPHY of Illinois: Committee on Rules. House Resolution 788. Resolution providing for the consideration of H.R. 5615. A bill to amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain U.S. intelligence officers, agents, informants, and sources (Rept. No. 96–1326). Referred to the House Calendar.

Mr. WHITTEN: Committee on Appropriations. House Joint Resolution 610. Joint resolution making continuing appropriations for the fiscal year 1981, and for other purposes; with amendment (Rept. No. 96–1327). Referred to the Committee of the Whole House on the State of the Union.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 2545. A bill to provide that the lake referred to as the Ririe Lake on Willow Creek, in Bonneville County, Idaho, shall hereafter be known as "Oscar Johnson Lake" (Rept. No. 96–1328). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 4131. A bill to change the name of the China Bluff Access Area being constructed by the Army Corps of Engineers as part of the Tennessee-Tombigbee Waterway near Warsaw in Sumter County, Ala., to the "S. W. Taylor Memorial Park" (Rept. No. 96–1329). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 4645. A bill to change the name of Clayton Lake which is an element of the flood control project for the Clayton and Tuskahoma Reservoirs, Kiamichi River, Okla., to "Sardis Lake" (Rept. No. 96–1330). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 4941. A bill to name a dam and reservoir on the San Gabriel, River, Tex., as the "North San Gabriel Dam" and "Lake Georgetown", respectively (Rept. No. 96–1331). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 6243. A bill to provide that the park referred to as the East Lake Park located within the West Point Lake project on the Chattanhoochee River, Ga., shall hereafter be known and designated as the "R. Shaefer Heard Park" (Rept. No. 96–1332). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 7544. A bill to designate the U.S. Federal Building in New Haven, Conn., as the "Robert N. Giaimo Federal Building" (Rept. No. 96–1333). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H. R. 8018. A bill to rename a reservoir and dam in the Little Miami River Basin, Ohio, as the "William H. Harsha Lake" and the "William H. Harsha Dam"; with amendment (Rept. No. 96–1334). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 8024. A bill to change the name of Aubrey Lake, Tex., to "Ray Roberts Lake"; with amendment (Rept. No. 96–1335). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. S. 1895. A bill to change the name of the Los Esteros Dam (New Mexico) to the Santa Rosa Dam and Lake, and to designate Clark Hill Dam and Lake on the Savannah River, Ga., and S.C., as "Clarks Hill Dam and Lake" (Rept. No. 96–1336). Referred to the House Calendar.

Mr. FORD of Michigan: Committee of conference. Conference report on H.R. 5192. (Rept. No. 96–1337). Ordered to be printed.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 789. Resolution waiving certain points of order against House Joint Resolution 610. Joint resolution making continuing appropriations for the fiscal year 1981, and for other purposes (Rept. No. 96–1338). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 7588. A bill to designate the U.S. Post Office and Courthouse Building in Concord, N.H., as the "James C. Cleveland Building"; with amendment (Rept. No. 96–1339). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5898. A bill to establish the Rattlesnake National Education and Recreation Area and Wilderness in the State of Montana; with amendment (Rept. No. 96–1340). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 7554. A bill to amend the Securities Act of 1933 and the Investment Company Act of 1940 to provide incentives for small business investment, and for other purposes; with amendment (Rept. No. 96–1341). Referred to the Committee of the Whole House on the State of the Union.

Mr. BIAGGI: Committee of conference. Conference report on H.R. 5164 (Rept. No. 96–1342). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BEARD of Tennessee:

H.R. 8133. A bill to amend title 38, United States Code, to allow the Veterans' Administration to furnish hospital care to certain members of the Armed Forces injured during a period of war or other armed conflict, and to establish the Federal interagency health resources committee to coordinate the sharing of medical resources between facilities of the Veterans' Administration with those of the Department of Defense; jointly, to the Committees on Armed Services and Veterans' Affairs.

By Mr. BEREUTER:

H.R. 8134. A bill to amend the Wild and Scenic Rivers Act to provide for the designation of a protected agricultural river; to the Committee on Interior and Insular Affairs.

H.R. 8135. A bill to amend the National Trails System Act to provide for trail interpretation centers along the route of any national scenic or national historic trail to present information to the public about the trail; to the Committee on Interior and Insular Affairs.

By Mr. COTTER:

H.R. 8136. A bill to authorize social security coverage, under the agreement entered into with the State of Connecticut pursuant to section 218 of the Social Security Act, for certain employees of the city of Hartford who are not members of such city's municipal retirement plan, and to validate the past coverage of such employees in cases where wage reports were duly filed and the prescribed equivalent of social security taxes was duly paid; to the Committee on Ways and Means.

By Mr. HOLLAND (for himself and Mr. Corman):

H.R. 8137. A bill to encourage film corporations to donate certain historical film to educational organizations by increasing the limit on the charitable contribution deduction of such corporations; to the Committee on Ways and Means.

By Mr. KASTENMEIER:

H.R. 8138. A bill to amend title 38, United States Code, to provide a presumption of service connection for the occurrence of certain diseases in veterans who were exposed to phenoxy herbicides contaminated by dioxins; to the Committee on Veterans' Affairs.

By Mr. LEDERER:

H.R. 8139. A bill to amend the Internal Revenue Code of 1954 to increase the existing investment tax credit for the rehabilitation of existing structures from 10 to 25 percent; to the Committee on Ways and Means.

By Mr. TRAXLER:

H.R. 8140. A bill to provide for the issuance of a postage stamp to commemorate the 150th anniversary of the birth of Dr. Samuel A. Mudd; to the Committee on Post Office and Civil Service.

By Mr. ULLMAN:

H.R. 8141. A bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to establish policies and procedures (including restrictions and exchange requirements) to be followed by Federal agencies prior to the acquisition of private lands or interests in private lands, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. ULLMAN (for himself, Mr. Jones of Tennessee, Mr. Foley, Mr. Udall, Mr. Johnson of California, Mr. Whitten, Mr. Wampler, and Mr. Madigan):

H.R. 8142. A bill to establish a program to direct financial and technical assistance to those geographic areas of the United States which have particularly severe and chronic soil erosion, soil erosion-related, or irrigation water management problems; to the Committee on Agriculture.

By Mr. WHITE (for himself, Mrs. Holt, Mr. Montgomery, Mr. Kazen, Mr. Won Pat, Mr. Nichols, and Mr. Hillis):

H.R. 8143. A bill to amend chapter 55 of title 10, United States Code, to authorize the provision of full dental care benefits to dependents of members of the uniformed services on active duty under the civilian health and medical program of the uniformed services and in facilities of the uniformed services; to the Committee on Armed Services.

By Mr. ATKINSON:

H.J. Res. 611. Joint resolution authorizing the President to proclaim March 16 of each year as "Freedom of Information Day"; to the Committee on Post Office and Civil Service.

By Mr. LOTT:

H.J. Res. 612. Joint resolution to designate September 21, 1980, as "National Ministers Day"; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. HIGHTOWER presented a bill (H.R. 8144) for the relief of the Wesley United Methodist Church, Wichita Falls, Tex., which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 154: Mr. Porter.

H.R. 1918: Mr. Latta.

H.R. 3764: Mr. Mineta.

H.R. 5311: Mr. Fithian.

H.R. 5813: Mr. Quillen.

H.R. 6300: Mr. McDade, Mr. Ginn, Mr.

Gingrich, Mr. Spence, Mr. Madigan, Mr. Moorhead of California, Mr. Robert W. Daniel, Jr., Mr. Butler, Mr. Sebelius, Mr. Bevill, and Mr. Charles Wilson of Texas.

H.R. 6725: Mr. Andrews of North Dakota, Mr. Cheney, Mr. Hall of Texas, Mr. Hansen, Mr. Johnson of Colorado, Mr. Marlenee, Mr. Sebelius, and Mr. Symms.

H.R. 7172: Mr. Lewis.

H.R. 7557: Mr. Nichols.

H.R. 7562: Mr. Frenzel and Mr. Luken.

H.R. 7574: Mr. Huckaby.

H.R. 7674: Mr. Edgar, Mr. Gray, Mr. Findley, Mr. Mottl, Mr. Erdahl, and Mr. Sawyer.

H.R. 7717: Mr. Mineta, Mr. Walker, Mr. Blanchard, Mr. Winn, Mr. Roe, Mr. Forsythe, Mr. Ottinger, Mr. Ritter, Mr. Brown of California, Mr. Hughes, Mr. McClory, Mr. Guarini, Mr. Edgar, and Mr. Carney.

H.R. 7738: Mr. Gingrich.

H.R. 7739: Mr. Gingrich.

H.R. 8006: Mr. Beilenson, Mr. Coleman, Mr. Dannemeyer, Mr. Duncan of Tennessee, Mr. Forsythe, Mr. Gilman, Mr. Hughes, Mr. Lagomarsino, Mr. Lent, Mr. Michel, Mr. Mottl, Mr. Porter, Mr. Rinaldo, Mr. Roth, Mr. Sawyer, Mr. Thomas, Mr. Whitehurst, Mr. Wolff, Mr. Yatron, and Mr. Bedell.

H.J. Res. 511: Mr. Santini.

H. Con. Res. 317: Mr. Lujan and Mr. Sensenbrenner.

H. Con. Res. 405: Mr. Stenholm, Mr. Ambro, Mr. Levitas, Mr. Porter, Mr. Shumway, Mr. Neal, Mr. Marks, Mr. Duncan of Tennessee, Mr. Roth, Mr. Dannemeyer, Mrs. Byron, and Mr. Moorhead of California.

H. Con. Res. 406: Mr. Gradison, Mr. Hughes, Mr. Stark, Mr. Roe, Mr. Corcoran, Mr. Carter, Mr. Brown of Ohio, Mr. Kogovsek, Mr. Livingston, and Mr. Edgar.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 85

By Mr. DONNELLY:

—On page 21, on line 12, delete "water capacity of more than 3,500 gallons" and substitute "oil capacity of more than 4,200 gallons".

By Mr. PEYSER:

(Amendment to the amendment offered by Mr. Breaux.)

—Page 56, after line 15, insert the following:

"(5) In addition to the processing and settling of claims under subsection (s) of this section, the fund referred to in subsection (k) of this section is available to pay for removal costs for the removal of in-place toxic pollutants which are present in the navigable waterways of the United States on the effective date of this paragraph, but only to the extent that the removal of such pollutants is approved in advance by the Administrator. Not to exceed $10,000,000 per fiscal year shall be available from the fund referred to in subsection (k) of this section for purposes of this paragraph. For purposes of section 532 of the Environmental Revenue Act of 1980, the payment of any amount under this paragraph shall not be deemed to be a payment for a claim for removal costs.

H.R. 7020

By Mr. DANNEMEYER:

(Amendment in the nature of a substitute.)

—Strike out all after the enacting clause and substitute:

SHORT TITLE

Section 1. This Act may be cited as the "Hazardous Waste Act of 1980".

INAPPLICABLE TO POLLUTION OF NAVIGABLE WATERS

Sec. 2. Nothing in this Act, or in any amendment made by this Act, shall apply to oil, or other, pollution of navigable waters.

AMENDMENTS TO SOLID WASTE DISPOSAL ACT

Sec. 3. (a) Subtitle C of the Solid Waste Disposal Act is amended by inserting

"Part 1—Standards and Permits for Hazardous Waste Management"

immediately after

"Subtitle C—Hazardous Waste Management"

and by adding the following new part at the end of such subtitle:

"Part 2—Inactive Hazardous Waste Sites

"Subpart A—General Provisions

"COVERAGE OF PART

"Sec. 3021. (a) Coverage.—The provisions of this part shall apply to inactive hazardous waste sites. Nothing in this part shall apply to oil, or other, pollution of navigable waters.

"DEFINITIONS

"Sec. 3022. For purposes of this part, the term—

"(1) 'Inactive hazardous waste site' means a landfill, surface impoundment, storage facility, or any other site or facility of any kind—

"(A) at which hazardous waste is, or has been, present (including any site or facility where hazardous waste is, or has been, stored, treated, or disposed of, or which is, or has been, used in whole or in part for the retention, deposit, injection, placing, or dumping of hazardous waste), and

"(B) for which no permit under section 3005 has been issued or treated as issued under section 3005(e) and for which no permit under 3005 (including subsection (e) thereof) is required.

"(2) 'Release into the environment' means, with respect to hazardous waste, the discharge, escape, injection, spilling, pouring, emitting, leaching, pumping or other transfer of hazardous waste to any land, air, or water, except that such term does not include any such activity—

"(A) which is subject to part 1 of this subtitle, or

"(B) which is carried out in compliance with the requirements of applicable law.

"Subpart B—Inventory, Priorities, and Monitoring

"HAZARDOUS WASTE SITE INVENTORY

"Sec. 3031. (a) Notification Requirements.—(1) Each person (including each State or local governmental department, agency, or instrumentality) who, on the date of the enactment of the Hazardous Waste Act of 1980, owns or operates any inactive hazardous waste site shall provide to the relevant State and local officials (or to the Administrator in the case of a program carried out under subsection (c)) the information referred to in paragraph (2), to the extent that such information is known to, or reasonably determinable by, such person. Such information shall be provided within three months after the date of receipt from the Administrator of the forms required under this section.

"(2) The information required to be provided under this subsection is as follows:

"(A) a description of the location of the inactive hazardous waste site;

"(B) the name and address of, or corporate headquarters of, the owner of the site, determined as of the date of submission of the information;

"(C) the current status of the site, including (i) whether hazardous waste is being treated, stored, or disposed of at the site at the time the information is submitted (and, if not, the date on which such activity ceased), (ii) whether there have been any releases of hazardous waste from the site which have caused damage to public health or the environment, and (iii) the nature of any other activity being carried out at such site;

"(D) such information relating to the amount, nature, origin and characteristics of the hazardous waste at the site, and relating to the hydrogeological and geophysical properties of the site, as may be necessary to determine the extent of any environmental or health hazard which may be associated with such site; and

"(E) an identification of the types of techniques of waste treatment, storage, or disposal which have been used at such site.

Information under this subsection shall be supplied on forms made available by the Administrator within a three-month period after the date of the enactment of the Hazardous Waste Containment Act of 1980. Such forms shall not require the submission of information which is impracticable, as determined by the Administrator.

"(3) Where any person fails to comply with the requirements of paragraph (2) with respect to any inactive hazardous waste site, or where information acquired from any person under paragraph (2) with respect to any such site is inadequate for any reason, the State in which the site is located, or the Administrator, may exercise the authority of section 3007 of the Solid Waste Disposal Act to secure any information described in paragraph (2) from any person referred to in paragraph (1) or from any former or subsequent owner or operator of the site or from any generator or transporter of hazardous waste which is at the site. The State or the Administrator may, by order, require any such person to submit information described in paragraph (1) or such information as may be necessary to compile the information described in paragraph (1). The provisions of section 3008 shall apply for purposes of enforcing such an order.

"(4) Upon the request of the Administrator, each Federal department, agency, or instrumentality—

"(A) which, on the date of the enactment of the Hazardous Waste Act of 1980, owns or operates any site at which hazardous waste has been treated, stored, or disposed of;

"(B) which owned or operated any such site on or before the date of the enactment of such Act; or

"(C) which has generated any hazardous waste before such date of enactment

shall provide the information described in paragraph (2) to the Administrator to the extent such information is known to or reasonably determinable by such department, agency, or instrumentality. Such information shall be provided on the forms referred to in paragraph (1).

"(b) State Inventory Programs.—Each State shall, as expeditiously as practicable, undertake a continuing program to compile, publish, and submit to the Administrator an inventory containing the information described in subsection (a)(2) for each inactive hazardous waste site within the State. The inventory shall be based upon the information submitted to the State under subsection (a) and upon other information available to the State. For purposes of assisting the States in compiling information under this section, the Administrator shall make available to each State undertaking a program under this section such information as is available to him concerning the items specified in paragraph (2) of subsection (a) with respect to the sites within such State, including such information as the Administrator is able to obtain from other agencies or departments of the United States and from surveys and studies carried out by any committee or subcommittee of the Congress. Any State may exercise the authority of section 3007 for purposes of this section without regard to whether or not such State has an authorized hazardous waste program under part 1.

"(c) Environmental Protection Agency Program.—If the Administrator determines that any State program under subsection (b) is not adequately providing information respecting the sites in such State in compliance with subsection (b), the Administrator shall notify the State. If within ninety days following such notification, the State program has not been revised or amended in such manner as will adequately provide such information, the Administrator shall carry out the inventory program described in subsection (b) in such State. In any such case—

"(1) the Administrator shall have the authorities provided with respect to State programs under subsection (b);

"(2) the funds allocated under subsection (e) for grants to States under this section may be used by the Administrator for carrying out the program in such State; and

"(3) no further expenditure may be made for grants to such State under this section until such time as the Administrator determines that such State is carrying out, or will carry out, an inventory program which meets the requirements of this section.

"(d) REPORT TO CONGRESS.—Based upon the State inventories conducted by the States (or, if necessary, by the Administrator under subsection (c)), the Administrator shall compile a national inventory of all hazardous waste sites. The Administrator shall submit a report containing the national inventory, together with an analysis thereof, to the Committee on Environment and Public Works of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives within two years of the date of enactment of the Hazardous Waste Act of 1980. The Administrator shall update this inventory and submit a report containing the updated inventory, together with an analysis thereof, to the aforementioned committees annually after the first transmittal. The report under this subsection shall include but not be limited to—

"(1) a listing by State of the numbers of active and inactive hazardous waste sites;

"(2) an analysis of the numbers of various types of sites and the numbers of sites and volumes of waste contained in them by industry category;

"(3) a list of the total number of inactive sites at which remedial actions are likely to be required under this part; and

"(4) a general description of the risk of harm to public health and the environment posed by each of the sites listed in paragraph (3).

"(e) GRANTS.—(1) Upon receipt of an application submitted by any State to carry out a program under this section, the Administrator shall make grants to the State for purposes of carrying out the program. Grants under this section shall be allocated among the several States by the Administrator based upon such regulations as he prescribes to carry out the purposes of this section. The Administrator shall make grants to any State which has conducted an inventory program which effectively carried out the purposes of this section before the date of the enactment of the Hazardous Waste Act of 1980 to reimburse the State for all, or any portion of, the costs incurred by the State in conducting such program.

"(2) There are authorized to be appropriated to carry out this section $35,000,000, to remain available until expended.

"ESTABLISHMENT OF PRIORITIES

"SEC. 3032. (a) STATE PRIORITIES.—Within fifteen months after the date of enactment of the Hazardous Waste Act of 1980, and annually thereafter, each State shall establish priorities among the inactive hazardous waste sites in that State which present, or may present, a substantial threat to public health or the environment. The priorities shall be—

"(1) established in accordance with guidelines of the Administrator establishing criteria which define the conditions that constitute such a threat, and

"(2) consistent with the National Hazardous Waste Response Plan.

"(b) NATIONAL PRIORITIES.—The Administrator shall establish and publish a list setting forth national priorities among the inactive hazardous waste sites throughout the United States which are releasing, or which present a substantial threat of releasing, hazardous waste. Such list shall be published by the Administrator not later than six months after the date of the enactment of this section and revised at least annually thereafter. The priorities shall be based upon the Administrator's determination of the relative danger to public health and the environment presented by such sites. The Administrator may utilize any priorities established by the States under subsection (a) for the purpose of establishing national priorities under this subsection. The one hundred inactive hazardous waste sites designated by the Administrator on the list of national priorities as having the greatest danger to public health and the environment shall be referred to in this part as the 'top priority sites'.

"MONITORING OF INACTIVE SITES

"SEC. 3033. Each person and each Federal department, agency, or instrumentality who owns any inactive hazardous waste site which poses a reasonable likelihood of harm to public health or the environment shall, in such manner and at such times as required under regulations promulgated by the Administrator—

"(1) monitor the extent to which hazardous waste associated with such site is released into the environment and periodically submit data resulting from such monitoring to the Administrator and to appropriate State and local authorities; and

"(2) immediately notify the Administrator and the appropriate State and local authorities when any hazardous waste associated with such site is released into the environment in a manner which presents or may present a substantial threat to public health or the environment.

Where the owner is not financially capable of carrying out the requirements of this subsection in a manner satisfactory to the Administrator, the Administrator may, by order, require any person who owned or operated the site at the time during which a substantial portion of the hazardous waste at such site was treated, stored, or disposed of at the site, to carry out such requirements.

"IMMUNITY

"SEC. 3034. No information received from any person pursuant to this subpart, and no information derived therefrom, may be used against such person in any criminal proceeding except a prosecution for perjury or for making a false statement or representation.

"DESTRUCTION OF RECORDS

"SEC. 3035. No person may knowingly destroy, mutilate, erase, falsify, dispose of, conceal, or otherwise render unavailable or unreadable any records reasonably necessary for compliance with the requirements of this part. Violations of this section shall be punishable as provided in section 3061(b).

"Subpart C—National Hazardous Waste Response Plan

"NATIONAL HAZARDOUS WASTE RESPONSE PLAN

"SEC. 3041. (a) PLAN.—The President after consultation with the States, shall propose for public review and hold public hearings on a National Hazardous Waste Response Plan (hereinafter in this section referred to as the 'Plan'). Following such review and public hearings, but not later than eighteen months after the date of the enactment of the Hazardous Waste Act of 1980, the President shall publish the Plan. The Plan may, from time to time, be revised, amended, and modified after notice and public hearing. The Plan shall include, at a minimum—

"(1) methods for discovering and investigating hazardous waste sites and establishing their danger to public health and the environment;

"(2) methods for evaluating (including cost analyses) and containing any releases, or threats of releases, of hazardous wastes into the environment which pose substantial danger to the public health or to significant environmental resources;

"(3) methods and criteria for determining the appropriate extent of removal, emergency response, containment, and other measures to be carried out;

"(4) appropriate roles and responsibilities for the Federal, State, and local governments and for interstate and nongovernmental entities in effectuating the Plan;

"(5) provision for identification, procurement, maintenance, and storage of response equipment and suppliers; and

"(6) a method for and assignment of responsibility for reporting the existence of hazardous waste disposal sites which may be located on federally owned or controlled properties and any releases of hazardous wastes from such sites.

Following publication of the revised National Hazardous Waste Response Plan emergency assistance, the removal and containment of hazardous waste, and other actions shall, to the greatest extent possible, be in accordance with the provisions of the Plan.

"(b) METHODS, PROCEDURES, CRITERIA, AND EQUIPMENT.—The National Hazardous Waste Response Plan shall set forth recommended—

"(1) methods and procedures for the removal of released hazardous waste;

"(2) criteria for development of local and regional hazardous waste removal contingency plans; and

"(3) procedures, methods, and equipment and other requirements to prevent and contain releases of hazardous waste.

In developing recommendations under this subsection, the President shall consult with appropriate representatives of industries concerned.

"(c) PROTECTION OF EMPLOYEES.—The plan under this section shall include provisions for the establishment of a program for the protection of the health and safety of employees involved in remedial actions at hazardous waste sites. Such program shall be developed jointly by the Administrator, the Occupational Safety and Health Administration, and the National Institute for Occupational Safety and Health. The program shall include, but not be limited to, measures for identifying hazards to which persons engaged in such remedial actions may be exposed, methods to protect such employees from such hazards, and regulatory and enforcement measures necessary to assure employee protection in connection with such remedial action. Contracts entered into with the United States under any authority of law for purposes of such remedial action shall include provisions for the protection of employees consistent with the plan provisions adopted pursuant to this subsection and with other applicable law.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for preparation and publication of the plan under this section, not more than $3,000,000, to remain available until expended.

"Subpart D—Enforcement

"ENFORCEMENT

"SEC. 3051. (a) CIVIL PENALTIES.—(1) The Administrator may commence a civil action against any person to impose a civil penalty for violation of any order of the Administrator under this part.

"(2) The amount of penalty under this subsection shall be based on consideration of the size of the business of the owner, operator, or other person against whom the penalty is assessed, the gravity of the violation, and other appropriate factors.

"(3) Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to assess such penalty.

"(b) CRIMINAL PENALTY.—Any person who violates section 3035 (relating to destruction of records) shall, upon conviction, be fined not more than $20,000, or imprisoned for not more than one year, or both.".

(b) The following provisions of the Solid

Waste Disposal Act are each amended by striking out "subtitle" in each place it appears and substituting "part": sections 3001, 3002, 3003, 3004, 3005, 3006, 3009, and 3010.

(c) The table of contents for such subtitle C of the Solid Waste Disposal Act is amended by inserting

"PART 1—STANDARDS AND PERMITS FOR HAZARDOUS WASTE MANAGEMENT"

immediately before the item relating to section 3001 and by adding the following at the end thereof:

"PART 2—HAZARDOUS WASTE RESPONSE PROGRAM

"Subpart A—General Provisions

"Sec. 3021. Coverage of part.
"Sec. 3022. Definitions.

"Subpart B—Inventory, Priorities, and Monitoring

"Sec. 3031. Hazardous waste site inventory.
"Sec. 3032. Establishment of priorities.
"Sec. 3033. Monitoring of inactive sites.
"Sec. 3034. Immunity.
"Sec. 3035. Destruction of records.

"Subpart C—National Hazardous Waste Response Plan

"Sec. 3041. National Hazardous Waste Response Plan.

"Subpart D—Prohibitions and Enforcement
"Sec. 3051. Enforcement.".

STUDY OF HAZARDOUS WASTE SITING

SEC. 4. (a) The Administrator of the Environmental Protection Agency shall, in consultation with other Federal agencies, appropriate representatives from State and local governments, and representatives of nongovernmental entities, conduct a study of the issues, alternatives, and policy considerations involved in the selection of locations for hazardous waste treatment, storage, and disposal facilities. The study shall include:

(1) an assessment of the current and projected treatment storage and disposal capacity needs and shortfalls for hazardous waste by management category on a State-by-State basis;

(2) an evaluation of the appropriateness of a regional approach to siting and designing hazardous waste management facilities and the identification of hazardous waste management regions, interstate or intrastate or both, with similar hazardous waste management needs;

(3) solicitation and analysis of proposals for the construction and operation of hazardous waste management facilities by nongovernmental entities, except that no proposal solicited under terms of this subsection shall be analyzed if it involves cost to the United States Government or fails to comply with the requirements of subtitle C of the Solid Waste Disposal Act and other applicable provisions of law;

(4) recommendations on the appropriate balance between public and private sector involvement in the siting, design, and operation of new hazardous waste management facilities;

(5) documentation of the major reasons for public opposition to new hazardous waste management facilities; and

(6) an evaluation of the various options for overcoming obstacles to siting new facilities including needed legislation, for implementing the most suitable option or options. The Administrator shall report the results of the study to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and to the Committee on Environment and Public Works of the United States Senate not later than eighteen months after the date of the enactment of this Act.

(b) There is authorized to be appropriated not more than $2,000,000 to carry out the study required under this section.

By Mr. SOLOMON:

—Page 36, line 21, after "for" insert "(1)".

Page 36, line 24, before the period insert: ", or (2) in the case of fiscal years beginning after September 30, 1981, assistance under section 3012 for the construction of State or regional hazardous waste facilities. Not more than 25 percent of the amount credited to the Fund for any such fiscal year may be used for purposes of providing assistance under section 3012".

Page 50, after line 11, insert the following:

(c) Subtitle C of the Solid Waste Disposal Act is amended by adding the following new section at the end thereof:

"ASSISTANCE FOR STATE OR REGIONAL FACILITIES

"SEC. 3012. (a) GRANT AUTHORITY.—After September 30, 1981, the Administrator is authorized to make grants to any State or interstate agency for the construction of publicly owned or State permitted facilities for the neutralization, incineration, or recycling of hazardous waste. No amount of any such grant may be used for the construction of any secure landfill or other facility for the storage of hazardous waste for periods in excess of one year.

"(b) FEDERAL SHARE.—The amount of any grant for any facility under this section shall not exceed 50 percent of the cost of such facility.

"(c) LIMITATIONS, REQUIREMENTS, AND CONDITIONS.—(1) Each applicant for assistance under this section shall submit to the Administrator for his approval such plans, specification, and estimates for the proposed facility as the Administrator deems necessary.

"(2) Before making any grant under this section, the Administrator shall determine that—

"(A) the proposed facility will meet the requirements of this subtitle; and

"(B) the applicant for such grant has made provisions satisfactory to the Administrator for assuring payment of the non-Federal share of the costs of such facility and for assuring proper and efficient operation.

"(d) ALLOTMENT.—Grants under this section shall be allotted annually by the Administrator among the applicants in accordance with regulations promulgated by him. Such regulations shall provide for the annual allocation of grants among States and regions in proportion to the relative amounts of hazardous waste generated in each such State and region during an appropriate prior annual period.".

Page 50, after line 15, insert:

"SEC. 3012. ASSISTANCE FOR STATE OR REGIONAL FACILITIES.".

By Mr. WYDLER:

—Strike page 12, line 3 through page 13, line 3 and insert the following new paragraph:

"(d)(1) The Administrator shall establish, within the Environmental Protection Agency, an Office of Remedial Research, to be headed by a Deputy Assistant Administrator of the Environmental Protection Agency. The Office of Remedial Research shall review the inventories submitted to the Administrator under paragraph (b) or compiled by the Administrator under paragraph (c) and publish a report on, dumpsites in the United States which contain significant volumes of toxic chemical and hazardous wastes.

"(2) The report shall include—

"(A) an enumeration of all dumpsites which (i) contain toxic chemicals or hazardous waste in sufficient amounts to present a clear danger to public health, and (ii) were closed before the date of enactment of this act setting forth in such enumeration a description of the location of, type of waste contained in, and specific danger presented by each dumpsite;

"(B)(1) a listing by State of the numbers of active and inactive hazardous waste sites;

(2) an analysis of the numbers of various types of sites and the numbers of site and volumes of waste contained in them by industry category;

(3) A list of the total number of inactive sites at which remedial actions are likely to be required under this part; and

(4) a general description of the risk of harm to public health and the environment posed by each of the sites listed in (3).

"(C) an assessment of the status of technology generally applied to the disposal of toxic chemical and hazardous waste;

"(D) recommendations as to what technology should be used to clean up the dumpsites enumerated under subparagraph (A);

"(E) a description of problems at specific dumpsites requiring research and development for their resolution;

"(F) a plan for research, development, and demonstration respecting the findings of the study, including recommendations regarding the appropriate government and private sector rules under the plan; and

"(G) legislative recommendations resulting from the study to appropriate committees of Congress.

"(3) The Administrator shall submit the report under subparagraph (2) to the Committee on Environment and Public Works and the Committee on Energy and Natural Resources of the Senate and to the Committee on Interstate and Foreign Commerce and the Committee on Science and Technology of the House of Representatives within two years of the date of enactment of the Hazardous Waste Containment Act of 1980. The Administrator shall update this inventory and submit a report containing the updated inventory, together with an analysis thereof, to the aforementioned committees annually after the first transmittal.

"(4)(A) There shall be created an independent Toxic Chemical and Hazardous Waste Advisory Board, comprised of industry, academic, and Government toxicologists, which will review the findings and recommendations in the report. The members of the Advisory Board shall be named by the Director of the Office of Science and Technology Policy.

"(B) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Advisory Board in carrying out this subsection and shall provide such information as the Advisory Board deems necessary to carry out this subsection.

"(C) All data and support research which was used in the compilation of the Administrator's report on toxic chemical and hazardous wastes shall be made available to the Advisory Board.

"(D) All members of the Advisory Board shall be entitled to reimbursement for travel and other exepnses actually incurred, including a per diem allowance in accordance with section 5703(b) of title 5, United States Code, while engaged in performing service as such members.

"(5) There is authorized to be appropriated not to exceed $15,000,000 for the fiscal year 1982 to carry out this paragraph."

On page 21, line 9, after (B) strike "Not" and add the following: "In fiscal year 1981, not".

On page 30, following line 16, add the following new paragraph:

"(5) necessary research and development activities respecting toxic chemical and hazardous waste;"

Renumber the following paragraphs.

H.J. RES. 610

By Mr. LEVITAS:

—At the end of section 111, add a new section as follows:

SEC. . No part of any of the funds appropriated by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

EXTENSIONS OF REMARKS

SUPPORT OF TECHNOLOGICAL INNOVATION AND ECONOMIC PRODUCTIVITY

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. HOLLENBECK. Mr. Speaker, as a member of the Science and Technology Committee and its Subcommittee on Science, Research, and Technology, I have been actively involved in supporting proposals which will spur technological innovation and economic productivity. As a supporter of a variety of legislative proposals on this subject, I believe it is appropriate for the Members of this body to be aware of an address given by John J. Horan, chairman and chief executive officer of Merck & Co., Inc., on this most important issue. Mr. Horan's remarks are as follows:

TEXT OF REMARKS OF JOHN J. HORAN

A great deal of concern is being voiced these days, in many quarters, about the apparent decline in innovation in American industry. That concern is well founded. I would like to share with you today some thoughts on this subject, particularly as it relates to the pharmaceutical industry.

The United States has a proud history of generating innovation and of putting this innovation to work to expand its economy and to improve the standard of living of the American people. It is a history which has been much admired and greatly valued throughout the world. Indeed, in the years to come, America's position in the world and the vitality of American society will depend largely on this nation's ability to fulfill its promise of innovation, economic development, and benefits to society. We must seek policies that fulfill that promise.

We in the pharmaceutical industry know something about the power of innovation. We are an industry which has lived and thrived by making change. We have dealt with the most basic of human needs—health—and we have brought profound progress by innovation. We have addressed problems of disease and suffering which have persisted through man's history, and in many cases have virtually eliminated them through research and scientific discovery.

In a very real sense, we are what a recent report by the Committee for Economic Development, "Stimulating Technological Progress," describes: "Firms that have invested heavily in developing technology and carrying it forward into commercial products have been shown to have about twice the productivity rate, three times the growth rate, nine times the employment growth, and one-sixth the price increases as firms with relatively low investment in these activities."

And yet, when we look to innovation at this critical moment in our history, we do not see research and development being strengthened to meet the challenges we face. There is alarming evidence today of the erosion of the systems which stimulate and sustain innovation. There are ominous signs that our creative drive is dissipating. For example:

Between 1970 and 1979, research and development expenditures in the United States fell from nearly 2.7 percent of the Gross National Product to about 2.25 percent. During that period, R&D expenditures as a share of GNP increased slightly in Japan, West Germany, and the Soviet Union.

Excluding defense spending, research and development expenditures as a percentage of GNP in the U.S. dropped 13 percent (from 1.87 to 1.62 percent) between 1967 and 1975 alone, while in Japan and West Germany it rose by 27 percent and 23 percent, respectively.

Similarly, factoring out inflation, and looking at the picture in terms of constant (1972) dollars, expenditures by U.S. industry for research and development since 1964 have not surpassed the $21 billion figure reached in that year. In the 1972-1976 period, this figure had actually dropped to $19 billion due to the recession. And, in the same period, government and academic spending for research and development also remained relatively static. In short, while the economy has grown in real terms, R&D has not.

Within this same general time period, there has actually been a reduction in the number of scientists and engineers in the labor force in the United States, while this number has risen markedly in Japan, West Germany, and the Soviet Union. From 1968 to 1978, the number of scientists and engineers in the U.S. labor force declined by 13 percent, but that number in Japan rose by 62 percent, in West Germany by 59 percent, and in the USSR by 55 percent. One reason for the decline in the U.S. has been the relatively static employment levels on the faculties of our colleges and universities, where much of the basic research is done. E. Patrick McGuire of The Conference Board has warned that this is resulting in a steady aging of our academic scientific manpower—in a field where some of the most creative work has historically been done by younger scientists.

What have been the consequences of this relative deterioration of our research and development activity? While R&D is not the only factor influencing productivity, one might note that during the period from 1972 to 1978, U.S. productivity had a compound annual growth rate of less than 2 percent per year. At the same time, productivity in both West Germany and Japan increased at a rate of about 5 percent per year. Clearly, our economic competitors who invest more substantially in research and development are pulling ahead in the productivity race.

To underscore that point—according to Derek Price, the distinguished science historian at Yale—in 1967 the U.S. accounted for 33 percent of the world's accomplishments in science and technology; in 1980 that share will have declined to 25 percent.

Similarly, a survey of scientists and engineers indicates that of the 500 innovations of the post World War II period which they regarded as most significant, U.S. scientists had been responsible for about four-fifths developed during the late 1950s and early 1960s, but by the 1970s U.S. scientists accounted for only a little over half of the significant innovations.

While that study is judgmental and also reflects the industrial recovery and growth in Europe and Japan after World War II, statistics of the U.S. Patent Office tell the same story. In 1961, U.S. inventors accounted for over four-fifths of the patents issued. By 1975, that figure was down to less than two-thirds. The bulk of foreign inventors to whom patents are issued are Germans and Japanese, reflecting once again their proportionately higher investment in research and development.

Our own industry—the pharmaceutical industry—looks to innovation as a central business strategy. We are and have traditionally been one of the most research intensive of all U.S. industries. On the average, U.S. pharmaceutical companies spend six percent of their total sales on research and development, compared to two percent for all industries. In contrast to U.S. industry as a whole, where real investment in R&D has not increased since 1964, research and development in the pharmaceutical industry—factoring out inflation—rose by 97%, or almost doubled, between 1964 and 1979.

Nevertheless, our industry has not escaped the adverse trends. According to the final report of the Department of Commerce Advisory Committee on Industrial Innovation, ". . . over the past 15 years, the rate at which new drugs have been developed and approved in this country has declined significantly. A decade and a half ago new chemical entities were introduced at a rate of 42-a-year on the average; today the rate is 16, a decrease of 62 percent."

A comparison between 1962 and 1977 describes the pharmaceutical industry's dilemma very succinctly. In 1962, it took two years and an investment of approximately $4 million to introduce a new drug. By 1977, the time frame had increased to 7 to 10 years and the cost to over $50 million.

Of particular concern to us is the time it takes to bring a new drug to market. This is critical because the new drug is normally under patent protection during most of the time it takes for development, testing, and FDA approval. The effective patent life of a new drug, after FDA approval, has dropped from the 17 years originally legislated to less than ten years in some instances today. As you know, the patent system provides a major incentive for research and innovation in scientific and technological fields. The innovative company receives its financial return on investments in research and development from the sales of patented products free from unlicensed competition. Such pharmaceutical companies could never assume the cost of the massive research involved in developing and introducing new drug entities if forced to compete with companies which could immediately copy its successes.

The case is clear, I believe, that the drive which brought America to a position of technological pre-eminence in the world is fading.

We are facing a time when the forces which have already slowed the drive of innovation elsewhere in the American economy may begin to impact on our own industry. The U.S.-based pharmaceutical industry

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

is already being challenged by stiff international competition. There is no automatic assurance that we will maintain our competitive position—any more than the steel industry, or the television manufacturing industry, or others did before us.

We must take strong and timely action. There are many things that can be done. I believe that five steps are absolutely essential if we are to preserve innovation in the pharmaceutical industry and continue to realize the benefits it can and should bring to society.

1. We must have a cooperative effort by the pharmaceutical industry and the Food and Drug Administration, supported by Congress, to shorten the length and cost of the regulatory process, while maintaining the integrity of the drug supply and the protection of the public.

2. It is essential that we restore the full statutory 17-year duration of patent protection for inventions in the drug field. This will require legislation. It is clearly essential to halt and reverse the steady erosion of patent protection caused by the regulatory process.

3. We must amend our tax laws to provide for accelerated depreciation for capital investment in research facilities and equipment. The United States lags far behind our competitors in this regard. The United Kingdom, Canada, and Ireland allow a 100 percent or higher tax deduction of a new R&D facility in the year in which the expenditure is incurred. France, Germany, Australia, and Japan allow a deduction of over 40 percent in the first year. The United States allows only 18 percent. If the United States is to remain competitive with other leading countries, investment in research and development must be effectively encouraged by our tax laws.

4. We must encourage expansion of Federal support of basic research in universities, to assure an ongoing flow of "leading edge" technology into the broader innovative process. We must also maintain patent policies which encourage close working relationships between the universities and industry.

5. We must encourage policies which permit the patient and the physician to make individual judgments about the relative cost and value of competing pharmaceutical products. Simply, a patient should not be required to entrust his or her health to the lowest bidder, if patient and physician attach a greater value to the drug therapy provided by the research-based company. Such policies not only respect the right of choice of physician, pharmacist, and patient, but ensure that innovative pharmaceutical companies which regain their investment in research and development through the sales of their products will not be excluded by government action from competition with companies which do not bear the costs of innovation.

The effective application of our technological skills offers a principal key to the solution of the economic problems our nation faces. In the health field, research and development can and should continue to serve society well in improving and lowering the cost of health care. It is clear that in recent years many factors have contributed to a loss of incentives to research investments. It is time—indeed, past the time—when we as a nation should address ourselves vigorously to encouraging research and development in our society.●

A TRIBUTE TO CONGRESSMAN WILLIAM S. MOORHEAD OF PENNSYLVANIA

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 16, 1980

● Mr. FORD of Michigan. Mr. Speaker, having missed the opportunity to join yesterday in the special order for our colleague, BILL MOORHEAD, I want to take this occasion to add my own personal tribute.

Like our colleagues who spoke yesterday, I deeply regret that BILL MOORHEAD has decided to retire at the end of this session. He is a Member of this body who will truly be missed by us all.

BILL has been a public servant in the finest sense of the term. He has mastered the legislative process and he has become the House expert in the fields of his committee assignments.

We in Michigan owe a special debt to BILL MOORHEAD for his strong and effective support last year of the Chrysler Loan Guarantee Act. Every American has benefited from the legislation he has helped create and adopt during his 22 years in the Congress.

I have worked with him for 16 of those years, and have come to admire him as a legislator, and respect him as a friend. I know that he will continue to be an active citizen, and I wish him well in all his future endeavors.●

DR. RALPH J. BUNCHE

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mrs. CHISHOLM. Mr. Speaker, for many of us, our first heroes and impressions of good leadership are derived from stories about famous men and women. Such impressions are lasting and these examples become the yardsticks with which we measure our leaders.

Such a model is Dr. Ralph J. Bunche, who for the better part of 30 years was actively involved in the struggle for peace and justice at home and abroad.

Yesterday, nearly 9 years after his death, a park was dedicated in his honor opposite the United Nations in New York City. Along with those present at yesterday's ceremonies, I would like to take this time to honor and remember the legacy left to us and our children by Dr. Bunche.

[From the New York Times]

A PARK FOR RALPH BUNCHE

HE ROSE HIGH IN WHAT SEEMED AN IMPROBABLE FIELD

(By Hugh Price)

The horizons of black children reared in segregation a generation ago were clouded at best. Careers were limited and dreams of joining the American mainstream were usually wasted. To inspire dispirited young people nevertheless to dare to dream, the walls of black schools were typically adorned with the images of black heroes, like Langston Hughes, the poet, and George Washington Carver, the scientist.

Among those who had risen to prominence, in what then seemed like the most improbable field of all for American blacks, was Ralph J. Bunche, an extraordinary diplomat, architect of the armistice that ended the Arab-Israeli War in 1949 and winner in 1950 of the Nobel Peace Prize.

Today, almost nine years after his death, a park is being dedicated in his honor across from the United Nations where he worked so long and hard. A 50-foot obelisk, called "Peace Form One," has been erected there in his memory.

Ralph Bunche acquired a leading role in the diplomacy of the Middle East after Count Folke Bernadotte of Sweden, the U.N.'s mediator, was assassinated in Jerusalem. Dr. Bunche, a former Howard University professor, was serving on the same mission, representing Secretary General Trygve Lie. With skills that earned the admiration of all hands, including David Ben-Gurion, Israel's first Prime Minister, Dr. Bunche persuaded the combatants to start peace talks in 1949 on the island of Rhodes. Egypt came to terms first, followed by the other Arab nations. These were virtually the only Arab-Israeli negotiations until President Sadat's journey to Jerusalem 30 years later.

Dr. Bunche also supervised U.N. peacekeeping forces along the Suez Canal in 1956; in the Congo following the 1960 secession of Katanga Province; and in Cyprus in 1964. As Undersecretary General, he was the most trusted troubleshooter for Secretary General Dag Hammarskjold and his successor, U Thant.

His international achievements notwithstanding, Dr. Bunche was often accused by blacks of standing aloof from the civil rights struggle at home. It was a misguided and unfair charge. The grandson of a slave, he had collaborated with Gunnar Myrdal in researching and writing "An American Dilemma," the first definitive portrait of the black condition in America. Dr. Bunche walked his first picket line in 1937 and, despite failing health, joined the Selma and Montgomery marches in 1965. What he would not do was display hostility toward whites as such. And he refused to complicate his difficult diplomatic tasks by combining them with agitation for civil rights at home.

He was a professional conciliator, determined to see all sides of contentious international issues. No one, therefore, could seriously question his fairness to Israel, or Arabs, or the propriety of a black person spearheading the search for peace in Africa as well as the Middle East. In his day, the slogan around the U.N. was, "Send Bunche and everything will be all right." For American diplomats, he established the standard that the civil rights struggle was a domestic matter, and that men of peace come in all colors.●

IN TRIBUTE TO THE LATE ALDO BECKMAN

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 16, 1980

● Mr. PHILIP M. CRANE. Mr. Speaker, when my brother died at the age of

27, I had many doubts and questions as to why God had permitted one so young—and with so much living to do—to be taken from this Earth before he had the opportunity totally to experience life. This is the same feeling I had when my good friend Aldo Beckman passed away recently.

No matter how one measures success, during his brief lifetime Aldo accomplished a great deal. He was a teamplayer working at the Chicago bureau of the United Press International before joining the Tribune in 1959 as a court reporter. Since 1965, he was a national correspondent for the Tribune's Washington bureau and was the White House correspondent from 1970 to 1976. At the time of his death, he was the chief of the Washington bureau.

He was the recipient of several journalism awards during this time including the 1975 Merriman Smith Memorial Fund Award for his coverage of Sarah Jane Moore's assassination attempt on President Ford. He twice received the Tribune's Beck Journalism Award.

Although some would want to measure success as a listing of tangible awards, I would tend to believe that Aldo would rather cherish the friendships and the relationships he cultivated and the reputation he so justly earned for fairness not only from his peers but the people he wrote about.

Perhaps no greater tribute can be obtained than an acknowledgment of one's efforts by one's peers. He was elected by his colleagues as president of the White House Correspondents Association. Aldo was respected by his peers, admired by professionals, and held in esteem by those fortunate enough to work for and with him.

He was a dedicated and skilled wordsmith, and his passing away leaves an empty void which cannot be matched. We all knew him as a professional, we cherished his friendship, but as those whose lives he touched directly know, he was also a compassionate human being. He is survived by his wife, Marijo; four daughters, Theresa, Jennifer, Mary, and Kathryn; and a son, Eugene—all of Arlington. We will all miss him.●

FLORIDIAN TO COORDINATE FIFTH WORLD CONGRESS OF POETS IN 1981

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. PEPPER. Mr. Speaker, I would like to draw your attention, for a moment, to the fact that the United States will be the host country for the Fifth World Congress of Poets, being held next year in San Francisco, Calif.

Many States, this year, have again proclaimed Poetry Day for October 15. They are: Florida, Alabama, Alaska, Arizona, Arkansas, California, Connecticut, Delaware, Hawaii, Illinois, Indiana, Kansas, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Mexico, North Carolina, Ohio, Pennsylvania, South Carolina, Texas, Virginia, Washington, Wisconsin, and Wyoming.

Dr. Frances Clark Handler, national director of the National Poetry Day Committee, Inc., an honored resident of Miami Beach, Fla., who has been instrumental in bringing the importance of poetry to the official attention of these States and who has long delighted and thrilled Floridians and others with her own poetic gifts, will also coordinate the Fifth World Congress of Poets.

Such a gathering of the famous, the ardent, and interested comers among poets of the world, here in our own country, will doubtless provide enrichment for our cultural life this year and next, as well as entertain and educate our citizens with the wit, the grandeur, the insights, or the thoughtfulness of good poetry. I commend to your kind attention the following proclamations relating to Poetry Day, 1980, and the grand occasion, the Fifth World Congress of Poets in 1981.

PROCLAMATION OF EDMUND G. BROWN, JR., GOVERNOR OF CALIFORNIA

"When power corrupts, poetry cleanses, for art establishes the basic human truths which must serve as the touchstone of our judgment." These words by John F. Kennedy most aptly describe the value which poetry holds in our lives and in our society. Through the images and ideas which poetry creates, it enhances both the life of the individual and the life of the community as a whole.

Therefore, I am pleased to join in observing October 15 as "Poetry Day" and encourage citizens to enjoy this unique form of literature.

STATEMENT BY PIERRE S. DU PONT, GOVERNOR OF DELAWARE

Whereas the art of poetry is a vital part of our culture; and

Whereas many of our citizens enjoy this form of literature and many also are talented and write poetry; and

Whereas this form of expression is taught in our schools and used in many special activities in our lives; and

Whereas poetry has been honored as an art and as an important part of our society's culture; and

Whereas, the United States has been honored by being selected as the site of the 5th World Congress of Poets in 1981; and

Whereas Dr. Frances Clark Handler is the coordinator for the 5th World Congress of Poets.

Now, therefore, I, Pierre S. du Pont, Governor of the State of Delaware, do hereby declare October 15, 1980, as Poetry Day in the State of Delaware, and urge all Delawareans to recognize the importance of poetry in our lives.

PROCLAMATION OF BOB GRAHAM, GOVERNOR OF FLORIDA

Whereas the art of poetry is a vital part of our culture; and

Whereas many of our citizens enjoy this form of literature, and many also are talented and write poetry; and

Whereas this form of expression is taught in our schools and used in many special activities in our lives; and

Whereas poetry has been honored as an art and as an important part of our society's culture; and

Whereas the United States has been honored by being selected as the site of the 5th World Congress of Poets in 1981 and many Floridians will be involved in that Congress;

Now, Therefore, I, Bob Graham, by virtue of the authority vested in me as Governor of the State of Florida, do hereby proclaim October 15, 1980 as Poetry Day in Florida and urge all citizens to join with me in saluting the contributions of poetry and poets to our everyday lives and our culture.

PROCLAMATION OF JAMES R. THOMPSON, GOVERNOR OF ILLINOIS

The art of poetry is a vital part of our culture.

Several of Illinois' poets have been winners of the honored Pulitzer Prize.

A special day in October has been set aside for centuries for acknowledgement and appreciation to the world's poets.

The United States has been honored by being selected as the site of the 5th World Congress of Poets in 1981 and many Illinoisans will participate in that Congress.

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim October 15, 1980, Poetry Day in Illinois and urge our citizens to join with me in saluting the contributions of poetry to our everyday lives and our culture.

PROCLAMATION OF HARRY HUGHES, GOVERNOR OF MARYLAND

Whereas throughout the course of history, poets have chronicled the human condition through their writings and examined the intricate workings of man's psyche and the societies in which they lived; and

Whereas the contributions made by poets to the richness of our culture is incalculable; and

Whereas there exists a need to acknowledge the vital role that poets play in endowing human existence with greater richness and meaning; and

Whereas the State of Maryland has a rich heritage of such poets, including Edgar Allan Poe, Sidney Lanier, Josephine Jacobsen and Lucille Clifton;

Now, therefore, I, Harry Hughes, Governor of the State of Maryland, do hereby proclaim October 15, 1980, as Poetry Day in Maryland, and commend this observance to all our citizens.

PROCLAMATION OF JAMES A. RHODES, GOVERNOR OF OHIO

Whereas through the adoption of a joint resolution of the Ohio General Assembly in January 1938, Ohio became the first State in the Union to exercise its legislative authority in promoting the fine art of poetry in the public schools and in seeking to assure it the high cultural position it merits in the public mind; and

Whereas the Joint Resolution of January 1938 provided that the third Friday in October of each year shall be set aside as Ohio Poetry Day in honor of and to give special recognition to the poets of Ohio and empowered the Superintendent of Public Instruction to prescribe a special observance for the study of poetry in public schools; and

Whereas the Ohio Department of Education—recognizing that this phase of culture, like music and the kindred arts, exerts a molding influence in helping to shape the ideals and purposes of our nation—has issued fine anthologies for use in the public schools and has cooperated with the Ohio Poetry Association in the preparation of the special school programs; and

Whereas this year, Friday, October 17, has been set aside as an occasion for special observance and study of poetry in the public schools of Ohio:

Now, therefore, I, James A. Rhodes, Governor of the State of Ohio, do hereby designate Friday, October 17, 1980, as Ohio Poetry Day and urge our citizens to pay merited tribute to the gifted men and women of Ohio whose talent and genius have contributed immeasurably to Ohio's cultural and literary life.

PROCLAMATION OF DICK THORNBURGH, GOVERNOR OF THE COMMONWEALTH OF PENNSYLVANIA

Poetry, the lyrical expression of thought, has emotional, intellectual and aesthetic appeal. From the romantic works of Elizabeth Barrett Browning to the modernist conscience expressed by Lawrence Ferlinghetti, poetry has, throughout history, served as a literary showcase for the views of society. The works of poets, through the ages and today, touch millions of people throughout the world with mystic beauty and wonderfully diverse conceptions of our universe.

Since 1508, October 15 has been set aside for the traditional observance of Poetry Day, a time to recognize aspiring and established poets whose creative efforts enrich the lives of so many. On this day, civic, community and educational leaders are urged to take part in the annual celebration by encouraging interest and enthusiasm in poetry.

Therefore, I, Dick Thornburgh, Governor of the Commonwealth of Pennsylvania, do hereby proclaim October 15, 1980 as Poetry Day in Pennsylvania in recognition of this annual day of appreciation for all poets and poetry lovers.

OFFICIAL MEMORANDUM BY WILLIAM P. CLEMENTS, JR., GOVERNOR OF TEXAS

Greetings:

October 15, 1980, will be observed as Poetry Day throughout the world. This day is set aside to honor those poets of the past and present who enrich the lives of so many people.

Poetry Day observance was organized in Texas in 1947 and has grown since that time to a worldwide event.

It has been said that today poetry is an absolute necessity. The world needs it for its vitalizing strength. Poetry came into being because of this need, and it is perpetuated for the same reason.

Much of the poetry has come to us in the Twentieth Century as a cultural heritage, passed down from the past, giving tone and character to the culture of today. The poetry of this generation will give similar impetus and strength to the lives of coming generations.

The United States has been honored by being selected as the site of the 5th World Congress of Poets in 1981 and many citizens of Texas will participate in the event.

Our State is proud of its poets and of the poetic expression which have originated here, and in recognition of their contributions to our cultural life it is fitting that we should set aside a day to honor those poets of the past and present.

Therefore, I, as Governor of Texas, do hereby designate October 15, 1980, as Poetry Day in Texas, and call upon all citizens to join in its observance.

CERTIFICATE OF RECOGNITION

By virtue of the authority vested by the Constitution in the Governor of the Commonwealth of Virginia, John N. Dalton, there is hereby officially recognized: Poetry Day 1980.

The words of poets add beauty to language and garnish truth with phrases well remembered from childhood, through school years and throughout life.

In tribute to poets past and present and to their influence on our lives, the National Poetry Day Committee has set aside October 15, traditionally a time of remembrance, as Poetry Day and I call its significance to the attention of all Virginians.●

THE PLO DOES NOT BELONG IN THE IMF

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. SOLARZ. Mr. Speaker, I regret that due to a long-standing commitment in my district I will not be present during this evening's House debate on the Gilman amendment to prevent the PLO from gaining observer status or any formal role in the International Monetary Fund.

The PLO is a terrorist organization which continues to present a threat, not only to Israel, but to innocent civilians all over the world. Over the course of the last decade, the PLO has been responsible for almost 1,000 terrorist actions which have claimed the lives of hundreds of innocent victims. Close to 5,000 people have been wounded by their ruthless attacks which have occurred in Israel and in 25 other countries around the world. The victims of the PLO have included dozens of American citizens and at least three American diplomats who were struck down without warning or reason.

I think it is important today that in light of what the PLO is, that the Congress go strongly on record in opposition to any and all attempts to legitamize the Palestine Liberation Organization and somehow wipe away the blood and horror it has wrought over the last 10 years.

The International Monetary Fund is designed by its charter to promote and maintain a strong and stable world economy—not to engage in pernicious political propaganda. The IMF provides important short-term financing to member countries facing balance of payments problems, and the United States has made use of this program on at least 24 different occasions.

I urge the 140 members of the IMF to maintain their commitment to a healthy world economy and deny any role in the IMF to the PLO.●

SMALL BUSINESS REGULATORY REFORM

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. FISHER. Mr. Speaker, as a legislator, I have witnessed any number of pendulum swings, and I am always gratified when I can be part of a move toward more balanced, rational approaches. In giving my strong support to the regulatory reform initiatives of S. 299, I am confident that this Congress is moving in the right direction.

Unfortunately this is not as major a step as many of us had hoped for. It does not require that regulations be drafted to address more effectively the concerns of small business; however, it does lay crucial groundwork. The analyses required by S. 299 of the effect of regulations on small business and other small entities will, I believe, clearly show the need to establish two-tiered regulations.

Until Congress mandates two-tiered regulation, with one of the tiers dealing separately with small business, I am confident that Congress intent that the executive agencies will take the analyses seriously has been clearly indicated in committee hearings and floor debate. Unquestionably, regulations can be struck down by the courts if an analysis of the effects on small entities is not done, is incomplete, or it ignores significant information presented by individuals.

Small businesses are the innovators in American technology and their diversity is a key to our economic strength. As separate entities, however, they lack the power to challenge inappropriate regulations. Costly requirements and burdensome paperwork have relatively greater impact on small concerns.

The strength of an individual small business on the other hand derives from its management's intimate involvement daily operations. Given alternatives such as performance standards and other approaches outlined in S. 299, these small entrepreneurs are in a much better position to find a solution which most effectively achieves original intent of the regulation.

Too often the intent of Congress has been lost in a maze of complex and sometimes unreasonable regulations. I strongly support the provision of S. 299 which will require a review of all existing regulations over a 10-year period. This is a crucial step to regulatory reform, and as soon as possible we should extend this review and develop sunset and cost/benefit analysis of all regulations.

I am convinced that the small business men and women in my district applaud the intent of much that Congress has attempted to do, but they are deeply frustrated when they are required to commit their resources to approach which they know from direct experience are not the best way to achieve the stated purpose.

I am proud of my part in environmental protection, minority rights, worker safety, energy conservation, and other worthy legislative goals. We have taken a significant step by passing S. 299 in more effectively achieving these goals by setting up a mechanism which can help lift unreasonable, counterproductive regulations from small businesses and bring them in as full, respected participants in shaping constructive solutions.●

CONTINUED COMPETITION IN THE BEEF PACKING INDUSTRY

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. BEREUTER. Mr. Speaker, during the past 4 years the Small Business Committee Subcommittee on SBA and SBIC Authority and General Small Business Problems has been conducting an investigation of the beef industry. With a well-financed and qualified staff of investigators and economists in addition to public hearings, the subcommittee endeavored to determine whether the large commercial feeders and beef packers are eliminating small operators by simultaneously causing artificially depressed cattle prices and high consumer beef prices. As a member of the full committee, I am certainly interested in the work of the subcommittee. After a close reading of the subcommittee's record, I am satisfied that the beef packing industry is still a competitive industry.

The theme for these hearings was not new. Complaints by cattlemen losing money during well-recognized cyclical downturns in the highly volatile cattle industry and consumers feeling the pinch of high retail beef prices have triggered numerous investigations searching for a scapegoat. But almost always the investigators come away from those investigations convinced that supply and demand fluctuations and other natural causes—not sinister packer activities—are responsible.

After looking at the subcommittee's findings I still find nothing in the record that substantiates charges that a few packers have, in concert, monopolized the beef industry. Accordingly, proposals for remedial legislation seem unnecessary and ill-advised.

One underlying premise for the hearings was to determine whether there is a monopoly that could overcharge for retail beef. The basis for this premise was a recent article written by two economists—Parker and Conner, commissioned by USDA—which maintained that the entire U.S. food industry is dominated by huge processors which compete not on the basis of price but in such nonprice ways as advertising, resulting in a monopoly overcharge to consumers of $13 billion per year. Importantly for this subcommittee's purposes, Parker and Connor concluded that meatpacking was the one segment of the entire food industry where there was no overcharge. However, there are some who say that a monopoly overcharge in beef is on the way because the next evolutionary step after boxed beef primals will be packer prepared retail cuts—"portion-control"—which packers will probably want to identify with their individual brands. It is further alleged that they will probably spend vast sums advertising, like soap, and pass the advertising cost on to consumers as a monopoly overcharge. Such a scenario ignores the fact that portion control is not a reality but rather a future development that is at least 10 years away. In addition, none of the new-breed packers, like Iowa Beef Packers—IBP—or Missouri Beef Packers—MBPXL—has even attempted to develop a consumer brand for beef or a significant consumer advertising budget. From the record it is difficult to see how anyone can apply the Parker and Connor study to the beef industry as the rationale for increased consumer food prices since that study clearly excepts beef from its allegations on the food industry.

NO BEEF MONOPOLY

It is clear from the studies and testimony of witnesses that there is no monopoly in the beef industry. In June 1979 the General Small Business Problems Subcommittee commissioned livestock economist Willard F. "Doc" Williams to do a study of "the changing structure of the beef packing industry." Williams concluded that the packing industry had a serious overcapacity and was going through a shakeout period in which some medium-sized packers would probably be eliminated because they would be unable to compete. Williams further concluded that small packers, with established supplies and local distribution, would be able to compete effectively with large packers aiming at the high-volume, low-price supermarket trade. He speculated that, in that environment—page 149—

> A large efficient and aggressively growth oriented packer could possess and exercise improved power to enhance market dominance. It might acquire and use power to preempt market supplies partly by paying more for live cattle than other large competing packers could afford.

Although Williams was willing to speculate, about what could or might happen, he specifically and repeatedly disavowed that he had even studied the subject of the conduct of any particular packer. For example:

> It is important to recognize that the data on which this paper is based are strictly structural in nature. Little or no data were obtained on competitive tactics or strategies of plants and firms comprising the steer-heifer slaughtering industry. We can only infer certain types of conduct and performance from specified structural characteristics and historical developments. [Williams, "The Changing Structure * * *", p. 4].
>
> We must emphasize that the study was structural in character. * * * The matter of structure is concerned with organizational characteristics of an industry, with such things as size, in other words the brick and mortar, and is not greatly concerned itself [sic] with the matter of conduct or what firms do.
>
> The study was not directed, this particular study, at what individual firms have done or will do. [Williams' Testimony before Smith's Subcommittee, June 25, 1979, Tr. 4–5].

Thus, Williams did not even purport to analyze whether IBP or any other packers were engaging in some sort of anticompetitive conduct that might cause monopoly overcharge in beef. Moreover, during his testimony, before the Subcommittee, Williams stated his personal opinion that the beef packing industry in general and IBP in particular had certainly achieved improved operational efficiency through new technology, and that the larger packers are highly competitive, engaged in a dog-eat-dog business where the cost-price margins are narrow. Williams specifically said that recent publicity concerning excessive farm-retail margins certainly cannot be traced to meatpackers. Williams' testimony, June 25, 1979, transcript 4, 20-21; June 26, 1979, transcript 42-43.

Recently, Williams credited newcomers IBP and MBPXL with making needed pioneering alterations in both slaughtering and distribution systems which reduced costs and, through competition, forced other firms to adopt the new lower cost techniques. Furthermore, he admits that the new giants are big, they are efficient and I have no personal knowledge of antitrust violations and that many of the large numbers of smaller packers that have disappeared from the industry deserved to go, or were scheduled in any case for disappearance, while others were forced out by more stringent inspection requirements. Williams, "Cattleconomics," Beef magazine, June 1980, page 39.

Recently, the U.S. Department of Agriculture's Agricultural Marketing Service—packers and stockyards program—prepared a report on concentration in the meat packing industry, which was presented to the subcommittee on April 29, 1980. Dr. Everett Stoddard, the P. & S. economist in charge of the study in response to questions about whether the demise of the small packers was caused by predatory pricing practices, said: "* * * the most important cause was their relative inefficiency—high kill costs which made it hard for them to compete with large plants operating double shifts." Transcript 22-23.

When the questioning of the subcommittee shifted to whether there was a significant shared monopoly in box beef, Mr. Stoddard and his supervisor, Ms. Barbara Schlei, said P. & S. did not have data that would support that conclusion. Transcript 24-27.

During committee questioning of Mr. Stoddard an insinuation by one questioner that the cattle procurement market is not fully competitive and there is a tendency toward monopolistic price making buying practices was rejected.

Apparently, the question was referring to a theoretical situation where a few packers share a buying territory and have the ability to control prices through tacit agreements. No such real-life situation was identified—and none exists or could exist since producers always have the option of sending their cattle to a central terminal market or selling to more remote packers if the local price level is depressed by more than the freight cost to an alternate selling point.

Dr. J. C. Williamson—Stoddard's immediate supervisor—said that historically, competitive forces in the industry had tended to contrain development of monopolistic buying patterns and, as to the current situation, "We do not have adequate statistics to answer fully the kind of questions you are posing." Transcript 30-31.

During a line of questioning a questioner suggested that the beef industry was headed for portion control and the use of advertising to fool the consumer, Dr. Williamson said that since beef was a fresh product, that would be difficult to do. And when the questioner said the old-line packers had tried to promote branded fresh products in 1918 and 1920, with some success, Dr. Williamson said: "I am not aware that there was great success in fresh products in identifying a differentiated product." Transcript 33-34.

In response to a question as to whether packer feeding of cattle was a threat to competition and pricing in the live cattle market, as it had been in the lamb industry, Mr. Stoddard said that data collected by P. & S. from packers' annual reports do not show any significant trend in packer feeding of cattle and P. & S. had not found any cattle procurement problems such as there had been with lambs. Transcript 37-38, 49-50.

In response to suggestions that, as cattle numbers increase—moving out of the low point in the cattle cycle—producers could expect concentration at the packer level and producers low leverage in selling cattle to have a most devastating effect, Ms. Barbara Schlei said that USDA's data did not indicate any significant increase in the number of packers, going out of business. Transcript 43.

Dr. Stoddard in response to allegations that a couple of big packers were doing something questionable to run their plants at near capacity during the low point in the cattle numbers cycle, while small packers were cutting their slaughter, said that was usual. He expanded his comments by saying that, "when cattle supplies get tight, it is the 'better financed firms that are able to keep operating and the small firms have cut back because the banks won't support them.' " 45-46.

Ms. Barabara Schlei, head of the USDA Agricultural Marketing Service, suggested that the Williams study and the USDA study revealed a situation that could demand some action. Dr. Stoddard responded:

> We believe that at this time we have not determined that any packer or packers are exercising their market power in this manner at this point in time.

Similarly, in 1977, Packers & Stockyards hired National Economic Research Associates—NERA—a nationwide economics consulting firm, to determine whether any action should be taken against IBP for monopolizing the beef industry or engaging in anticompetitive conduct. NERA concluded that beef packing is not unduly concentrated, that IBP does not have a monopoly position, and that there is little current indication of known conduct by IBP which inherently is anticompetitive. A noted agricultural economist, Dr. Vernon Mund, was hired by P. & S. to review NERA's conclusions and he said he did not know how it would be shown that IBP is a dominant firm possessing market power.

Thus, the record does not support the premise that there is a monopoly in the beef industry at this time. Further it rejects the notion that the beef packing industry is a shared monopoly in which large packers are reaping excessive profits by overcharging for beef and engaging in unspecified buying practices which depress cattle prices. Shared monopoly is a recently-coined phrase to describe as yet unsuccessful efforts by the Federal Trade Commission and the Department of Justice to attack, as a monopoly, not one company but several companies which, together, are alleged—as in the FTC's cereal case—to have monopoly power; for example, power to control price or output in their industry. No one has ever shown that one or more beef packers can dictate beef prices to the Nation's supermarkets. Rather, the typical concern is that retailers dictate prices to beef packers, which accounts for their low profit margins and precarious existence.

The subcommittee record rather than substantiating the allegations that the large packers are forcing small packers out of business through a classic cost-price squeeze-bidding up the price of cattle, but depressing the wholesale price of beef, proved something else again.

Rather it established that the cost-price differential between live cattle and wholesale beef prices does not indicate either a monopolistic overcharge to retailers and therefore consumers or a predatory squeeze on packers.

USDA's chief economist, Howard Hjort, specifically told the subcommittee on May 5, 1980—8—that its studies indicated that consumers were not overcharged as a result of monopolistic conditions in the meatpacking industry, which was in sharp contrast to the rest of the food-manufacturing industries. He attributed this exemplary performance to the fact that the meatpacking industry is a textbook example of an industry with relatively perfect competition, large number of firms, low product differential and low average profits.

On the other hand, Dr. Stoddard explained that any cost-price squeeze some packers may be experiencing is due to their relative inefficiency and consequent high kill costs. The most important component of kill cost is labor and virtually every packer that has gone out of business in recent years has publicly stated that the principal cause was inability to negotiate a realistic contract with the Amalgamated Meat Cutters Union. Although union intransigence may well be the greatest threat to packer survival today, the issue of economic impact of possible union intransigence has not been explored by the subcommittee. It would have been a very useful addition to the record for the subcommittee to explore the issue of whether the Meat Cutters' contracts preclude retailers from taking advantage of the efficiencies of boxed beef.

WHY ADDITIONAL GOVERNMENT REGULATION?

It is unsupportable on the basis of this record to suggest that the conditions in the beef industry today resemble those that precipitated the 1920 consent decree and the enactment of the Packers and Stockyards Act. In 1920, four companies—Swift, Armour, Wilson and Cudahy—slaughtered 50 percent of all red meat and controlled the stockyards through which livestock were marketed. In 1978, four companies—IBP, Swift, MBPXL and Armour—slaughtered only 24.4 percent of the cattle, as compared with the four-firm concentration ratio of 34.4 percent for hogs and 56.4 percent for sheep. These same companies slaughtered 31.6 percent of fed steers and heifers, which some economists contend is the relevant product market for measuring size and power. Nonfed cattle do effectively compete with fed cattle and have a significant effect on price, as any cattle feeder who lived through the liquidation phase of the cattle cycle in 1974-77 will testify. Moreover, a four-firm concentration ratio of only 31.6 percent is well below the 40-percent level at which some economists begin to be concerned about whether industry structure may cause unhealthy behavior.

In a study prepared expressly for the subcommittee, the USDA has concluded that beef industry concentration levels are considerably lower than concentration in the early 1900's which led to the monopolistic control of the industry and subsequent passage of the Packers and Stockyards Act. "Some Structural Changes in the Beef Production and Marketing Sector," USDA staff paper, January

1980, page 29. Moreover, 90 percent of all slaughter cattle are now purchased directly from feeders or through country auctions, so packer control of the Nation's marketing facilities is no longer even an issue. Finally, the large-scale automated plants of the new-breed packers demand a steady flow of cattle to maintain operational efficiency and reduce per head kill costs, which means that the modern packer needs the producer as much as he needs the packer and precludes packers from exerting any undue influence on producers.

According to the USDA staff paper, page 27, there were only 17 plants each slaughtering over 250,000 steers and heifers per year in 1970; in 1978 there were 26—and 9 of them killed over 500,000 each. USDA has recommended to farmer cooperatives considering branching into meatpacking that the optimum size is at least 375,000 head. "The Future Role of Cooperatives in the Red Meat Industry," USDA Market Research Report 1089, April 1978. As Dr. Hjort pointed out in his testimony before the subcommittee—pages iii, 33—these efficient new plants take advantage of economies of scale, but necessitate better coordination of the flow of cattle and operation at a consistently high percentage of capacity.

The industry has been changing and that should come as no surprise. It would be folly to ignore the reality that the new economies of scale require large efficient plants. It would be irresponsible to require the perpetuation of the cost inefficiencies of smaller, obsolete plants that necessarily must be passed on to someone—either back to the producer in lower cattle prices or forward to the retailer and consumer in higher beef prices—or both.

Government regulation of the meatpacking industry has in fact been an abysmal failure. The 1920 consent decree, while perhaps correcting some procurement abuses, also appropriately or inappropriately stopped the packers from integrating into retailing and thus providing competition to retailers. Of course one of the greatest concerns of producers and of analysts of the industry has been the growing power of the large retailers. Moreover, the Federal Government recognized that the consent decree was obsolete and in 1979 voluntarily agreed to modify it to remove the kinds of restrictions some now want to resurrect. But this came too late for the old-line packers like Swift and Armour which, when prohibited from taking advantage of their vast branchhouse distribution system to evolve a new place in the industry and saddled with obsolete facilities and ill-suited labor rates, have now virtually abandoned cattle slaughtering altogether.

If anything, Government regulation seems to have in effect prohibited some potentially important new forms of competition and exterminated some fine competitors. Accordingly, we should be very reluctant to impose similar regulations on the new-breed beef packers even before it is demonstrated that they are behaving improperly or are doing anything but making the packing segment more efficient and competitive.

During the subcommittee's recent hearings, the USDA personnel responsible for monitoring the behavior of the packing industry repeatedly emphasized that they could handle any anticompetitive aspects that might develop and questioned the need and appropriateness of additional legislation. Their advice should be heeded unless cause is shown to the contrary.●

POSTAGE STAMP TO HONOR DR. SAMUEL A. MUDD

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. TRAXLER. Mr. Speaker, it is important that we take the time to remember and honor those who have been significant figures in the history of our Nation. It is for this reason and with great pride that I have today introduced a bill which calls upon the U.S. Postal Service to issue a commemorate postage stamp on December 20, 1983, to honor the 150th anniversary of the birth of Dr. Samuel A. Mudd.

Many remember Dr. Mudd as the individual who was the doctor accused of assisting John Wilkes Booth after Booth had assassinated President Abraham Lincoln on April 14, 1865. Union soldiers arrested Dr. Mudd after it had become known that Dr. Mudd had treated Booth for the fractured leg he had suffered when Booth had jumped to the stage in Ford's Theater after shooting the President.

But Dr. Samuel Mudd is a much more important figure than commonly known history reveals. Dr. Mudd can be considered as a symbol for those who attempt to survive adversity and remember the importance of assisting those who need help. For while Dr. Mudd was imprisoned in Fort Jefferson, Fla., a yellow fever epidemic occurred and the prison doctor, Sim Smith, died leaving Dr. Mudd—a prisoner—to take over the hospital and the care of the soldiers and prisoners at the facility. It was this self-sacrifice in the face of a dreaded disease that led to the soldiers and prisoners at Fort Jefferson to petition President Andrew Johnson to release Dr. Mudd in recognition of his duty.

President Johnson granted Dr. Mudd a pardon in 1869, expressing doubts about the finding of guilt by the military court that had convicted Dr. Mudd in 1865. Dr. Mudd returned to his medical practice, with the stigma of his conviction. His life remained dedicated to medicine until he died in 1883 at the age of 49 as a result of pneumonia that he developed while making night calls.

Since the death of Dr. Mudd, many Americans, including many of the Members of Congress throughout these years, have attempted to clear the record in behalf of Dr. Mudd. There have been many reports of this incident, all of which have pointed to how Dr. Mudd remained an unselfish individual and a believer in the American system that had so unjustly branded him as a criminal.

It is my sincere hope that the issuance of this commemorative postage stamp, a fair tribute to an American who lived the American spirit, will help us to once again remember the debt that is owed to Dr. Mudd and the importance of the individual in American society and American history.●

FIFTH ANNUAL SLOVAK HERITAGE FESTIVAL

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. GUARINI. Mr. Speaker, I am pleased to announce that a very special event will take place on Saturday, September 20, 1980, at the New Jersey Garden State Arts Center at Holmdel.

The fifth annual Slovak Heritage Festival will be an occasion of great cultural enrichment, saluting the outstanding contributions which hundreds of thousands of Slovak-Americans have made to our great Nation.

With traditional Slovak hospitality, the festival will be a lively day of celebrating the folklore, music, dance, cuisine, and other aspects of the rich and colorful Slovak heritage.

Slovakia, a geographical entity in its own right, has been an integral part of Czechoslovakia since the end of World War I. Its people have had many, many American friends, including our great humanitarian President, Woodrow Wilson.

A former Governor of New Jersey, President Wilson has often been called the godfather of the Republic of Czechoslovakia, as well as one of history's most ardent supporters of the right to self-determination for all nations.

Sacrificing their traditional way of life, the first generation of Slovaks to set foot on American soil left their families behind and underwent numerous hardships to reap the blessings of their promised land.

Despite the difficulties of language and customs which these early Slovak immigrants encountered, they persevered and earned the respect of our Nation, as well as the unique benefits of our great land.

Today, Americans of Slovak descent truly embody the spirit of our country.

Although Czechoslovakia has been a Communist state for the past 32 years, many Americans still recall vividly the month of August 1968, when Soviet troops invaded Czechoslovakia while the Slovak and Czech peoples were experiencing the democratic climate of the Prague spring.

Today—12 years later—Slovaks continue to celebrate their roots at such joyful events as the heritage festival which will take place on Saturday in Holmdel.

At this year's salute to Slovak culture, my dear friend, the Honorable Joseph J. Talafous, a former judge of Jersey City, will again serve as general chairman.

He will be assisted by such outstanding Slovak leaders as Andrew Venglarchik, president of Sokol, U.S.A.; Tibor Kovalovsky, secretary of Slovak Catholic Sokol; and John Sopici, treasurer of Sokol, U.S.A.

They will be joined by another dear friend, John C. Sciaranka, the erudite editor of Slovak Catholic Sokol, a Passaic, N.J.-based group whose membership exceeds 50,000. Ecumenical services will be conducted by Msgr. Michael Churak, pastor of Holy Trinity Roman Catholic Church, Perth Amboy, and Rev. Dr. John Shintay, associate pastor of Holy Trinity Church, Union, N.J.

Among the great Slovak artists and performers who will participate in the festival are singers Janka Guzova, Ruzena Gregus, and Ann Marie Kulhan. The Limbora Slovak Folk Ensemble will also offer entertainment, interpreting varied aspects of Slovak folk culture in dance, as well as song.

In addition, the champion gymnast Ellen Kovaks and the rock group, the Dash (Taktici) will perform.

Throughout the festival, which will stretch from 11 a.m. to 9 p.m., the work of Slovak artists and craftspeople will be on display.

Demonstrations of Slovak calisthenics, gymnastics, and dance will also be given, and Slovak delicacies, as well as other refreshments, will be served.

This year's festival will honor the centennial birthday of the late Gen. Milan Rastislav Stefanik, the famous Slovak astronomer, scientist, and military leader who served heroically in World War I. Until his death in a mysterious airplane crash in 1919, General Stefanik was an outspoken foe of communism.

Proceeds from the festival will be contributed to the Garden State cultural center fund, which provides free entertainment for senior citizens, disabled veterans, the blind, and school children from across the State of New Jersey.

Having had the privilege of attending last year's highly successful festival, I am looking forward to this year's celebration.

I am certain that my colleagues in the House would enjoy this spirited event, and I cordially invite them, one and all, to take part in this unique display of Slovak heritage and pride.●

SOLOMON SUPERFUND AMENDMENT

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. SOLOMON. Mr. Speaker, today I have inserted in the RECORD an amendment to the superfund legislation, H.R. 7020, which is intended to assist in the cleanup of hazardous waste sites.

I do have some reservations concerning the superfund bill.

My major concern about the bill as it is currently drafted is that it encourages the proliferation of storage landfills and the expansion of existing landfills rather than the development of high technology facilities which would destroy or neutralize toxic wastes.

The construction of high technology facilities to reclaim, incinerate, or neutralize the chemical properties of hazardous waste is the surest way, in fact, the only way to assure an environment protected from the potential future hazards of chemical waste.

H.R. 7020 concerns only existing in-ground hazardous waste sites and provides funds only for remedial work on suspect landfills. It does not at all apply itself to the construction of high technology facilities which would reclaim, incinerate, or neutralize toxic materials thus making it unnecessary to put substances into the ground that are still toxic and leachable. By avoiding or failing to address the very important and necessary method for the future control of such waste, this bill and the Congress imply that the best way to deal with hazardous waste is to bury it in the ground.

I do not agree.

If we are to properly control toxic materials, it is imperative that we attack the problem from two angles. Certainly the need to make funds available for cleaning up dangerous landfills is vital. With my amendment, the bill also provides us with the perfect mechanism for avoiding similar mistakes in the future.

My amendment would earmark a certain percentage of the fund to be used as matching grants to States which are willing to construct the facilities for the environmentally sound handling of toxic waste.

In short, my amendment would allow the Government to take action to encourage the development of facilities which can completely destroy or neutralize hazardous waste.

My amendment explicitly prohibits the use of such earmarked funds for the building or operation of landfills.

At present the only method available to most generators of hazardous waste is landfills. What Congress is proposing by enacting the superfund and what it is encouraging through its present tax-exempt limitation on hazardous waste facilities will result in a proliferation of landfills.

As I have already pointed out, this legislation will actually increase the number of landfills across the country and will expand existing landfills that already pose a threat to this Nation's drinking water. Over 50 percent of all Americans depend on ground water for their drinking supply and the creation of more landfills will jeopardize this water supply.

Senator John B. Daley, chairman of the New York State Senate's Hazardous Waste Committee, fully endorses this amendment. He has written:

> It would appear to me that the Federal Government would be wiser indeed if it took strong steps to encourage the States to immediately begin to look at the final answer to hazardous waste and this means the destruction or neutralization, rather than the storage of waste in secure landfills.

I would also like to point out that my amendment would take effect 2 years from the date of enactment of the superfund. In this way the primary purpose of the legislation—to provide the authorities with a way to respond to releases of hazardous waste from inactive hazardous waste sites which endanger public health and the environment—would not be adversely affected by my amendment.

There is growing support for my amendment from both the environmental and economic sectors of this country and I hope you will join with me in supporting it when H.R. 7020 reaches the House floor.●

ASSASSINATION OF ANASTASIO SOMOZA DEBAYLE

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. MURPHY of New York. Mr. Speaker, Anastasio Somoza Debayle is dead. He was incinerated today—along with his chauffeur and bodyguard—in Paraguay by a cadre of Nicaraguan Communists taking orders from the U.S.-supported Communist junta now ruling that formerly friendly nation to our south.

I have been criticized by some in this House and many in the press for my support of the Somozan government. But let me restate today just a part of the legacy left to this United States by Anastasio Somoza Debayle.

Supported the United States in the United Nations and the OAS on terrorism: Nicaragua always supported and worked hand in hand with the United States in the common cause against international terrorism and opposed the Soviet bloc on this issue.

The expulsion of Nationalist China: Nicaragua was the only Latin American country that supported the position of the United States to avoid the expulsion of China from the United Nations.

Israel: Whenever the United States asked Nicaragua to speak in defense of an Israel position in the United Nations—and it was usually by request of the U.S. mission—the Nicaraguan delegation supported Israel's position. In 1977 in the General Assembly on a vote on a draft resolution against Israel, Nicaragua joined with the United States in support of Israel's position.

Disarmament: At the request of the U.S. delegation, Nicaragua always took the floor and argued against the U.S.S.R. and for the American position on disarmament.

South Korea: At the request of the United States, Nicaragua cosponsored the U.S.-backed Korean peace plan.

Puerto Rico: Whenever Cuba presented draft resolutions in different committees and the General Assembly calling for Puerto Rican independence, Nicaragua supported the United States.

Cuba: Whenever the Cuban delegation insulted the U.S. Government and its Presidents, Nicaragua took the floor in defense of the United States and its many administrations.

In the Security Council, Nicaragua consistently supported the different motions presented by the United States.

Nicaragua was one of two Latin American countries that supported the U.S. military base in Iceland.

Cuba: Nicaragua voted with the United States against lifting the OAS ban on Cuba.

On a historical note, Nicaragua was the second country to declare war against the Axis countries in World War II and was the first Latin American country to give the United States rubber and raw materials for the war effort. Nicaragua was the No. 1 exporter of rubber to the United States in World War II.

Formerly one of the few democratically elected leaders in South America, Somoza was blown up in his car in downtown Asuncion, Paraguay, by six Communist assassins using military bazookas. As the car burned the killers raked the vehicle with machinegun fire. Eyewitnesses said the burned bodies were shredded.

The assassins escaped.

Under pressure from the United States, Somoza fled Managua, Nicaragua on July 17, 1979, abandoning one of the few democratically elected governments in South America to a Communist junta, which to this day has not scheduled free elections. Free elections, by the way, were what the revolution—which cost 40,000 lives—was supposed to be about.

Within days of the takeover, the junta served notice that Somoza, his family, his friends, and members of his government would be searched out and brought to "justice." On August 21, 1979, just a month after the revolution, the junta issued the following statement upon the arrival of Somoza in Paraguay, according to CIA intercepts:

> The Nicaraguan revolutionary government reacted today to the arrival of Gen. Anastasio Somoza in Paraguay by saying it will pursue him to any part of the world. "We are going to pursue Somoza all over the Earth. The many crimes committed by him and his clique against the interests of the Nicaraguan people cannot go unpunished," Deputy Foreign Minister Alvaro Ramirez Gonzalez said today.

The junta's first big success in meting out its form of justice came some 3 months later when Pablo Emilio Salazar, popularly known as Commandante Bravo—a U.S-trained Nicaraguan military hero—was brutally assassinated in Honduras while delivering a planeload of food and medical supplies to Nicaraguan refugees huddled along the Honduran border. The medical supplies and food had been provided by Members of the U.S. Congress. Commandante Bravo (Pablo Emilio Salazar) was kidnaped, tortured, and mutilated before he was murdered.

Junta member and commander of the Nicaraguan secret police Tomas Borge discussed Bravo's death with thousands of young people at Espana Stadium in Managua on October 17, 1979. Borge, a self-confessed murderer, rejoiced in the accomplishments of the terrorists under his command when he taunted the gathering crowd with the following twisted truths:

> The truth is that the henchman today is 7 (feet underground). (Applause, shouts.) He was the coordinator of the Somozist counterrevolution—but the truth is that the head of that sector of the counterrevolution has been cut off. (Applause.) The enemies of our people will fall one by one, and sooner or later assassin Anastasio Somoza's turn will come (applause).

Comrade Borge is a self-confessed Communist, trained in Cuba and Russia. Borge's terrorist prediction came true today when his assassins butchered one of the last democratic leaders to hold power in South America. The junta's "sooner or later" was today, and the world is the worse for it.

Last Friday, September 12, 1980, President Carter signed a "determination" implementing the foreign aid bill that will advance $75 million in U.S. dollars to support the activities of the ruling Communist junta in Nicaragua.

It is not lost on those of us who know first hand the cold, calculating brutality of the Communists that they waited until President Carter committed the $75 million to commit their murder. After all, the Sandinista Minister of Agrarian Reform and Cuban trained terrorist said in New York: "We are going to use the capitalist money of the American imperialists to finance Communist revolution."

It saddens me to know that the United States, by its support of the Sandinista regime, not only played an indirect role in this terrorist massacre, but the massacres Tomas Borge has planned for the future.●

FACTSHEET ON SHIPMENT OF NUCLEAR FUEL TO INDIA

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. MARKEY. Mr. Speaker, I am submitting for consideration by my colleagues an excellent factsheet on the issue of the shipment of nuclear fuel to India. I urge my colleagues to support the Bingham resolutions of disapproval when they are voted on today.

One issue is whether India has a strong legal claim that rejection of the pending exports violates a U.S. obligation under the 1963 supply contract.

Our fuel supply agreement with India pledges us to supply sufficient nuclear fuel for the efficient and continuous operation of the Tarapur reactors until 1993, in accordance with the terms, conditions, and delivery schedule set forth in a contract to be made between the parties. The contract in turn states that India "comply with all applicable laws, regulations, and ordinances of the United States." India is not now in compliance with the currently applicable law, the requirement of the Non-Proliferation Act that she place all her nuclear facilities under international safeguards. The agreement and the contract provide for no obligation by the United States toward any Indian fuel fabrication facilities. This legal interpretation is backed up by a paper from the American Law Division of the Congressional Research Service dated July 22, 1980.

The factsheet follows:

QUESTIONS AND ANSWERS ON THE PROPOSED URANIUM SHIPMENTS TO INDIA

The Congress must soon decide whether to overturn a Presidential Executive Order approving the export to India of 38 tons of enriched uranium after the NRC had unanimously rejected the license applications for such shipments as not meeting the requirements of U.S. law.

The sending of this fuel at this time to a country that, after two years of negotiations, has refused to place all its nuclear facilities under safeguards and has announced a possible interest in future nuclear explosions, risks the destruction of U.S. credibility in the area of nonproliferation.

In contrast to the Administration's arguments, this paper will show, via a Question and Answer format, that neither U.S. nonproliferation objectives nor broader U.S. foreign policy objectives will be well-served by allowing these shipments to India to proceed.

1. IMPORTANCE OF TARAPUR DECISION

Q. Why are these particular shipments of such importance?

A. The pending fuel exports to Tarapur constitute a first landmark test of whether the United States will continue nuclear trade with nations which are deliberately and unambiguously keeping open the option of developing nuclear weapons by refusing to allow international inspections (safeguards) on all of their nuclear activities. In enacting the Nuclear Non-Proliferation Act (NNPA) in 1978, the U.S. declared that it would no longer extend the privilege of nuclear trade to nations unwilling to accept safeguards across-the-board.

The Act provided a two-year grace period (ending March 10, 1980) before the export cut-off would be triggered, for negotiations with nations which had not yet agreed to such comprehensive, or "full-scope" safeguards. Although negotiations with a number of our trading partners, including Argentina, Brazil, and Spain, are apparently close to succeeding, India has steadfastly refused to accept the required inspections.

Among the nations subject to the full-scope safeguard export restriction, moreover, India stands alone as the only nation which has overtly used unsafeguarded facilities to produce and test a nuclear explosive device (the Indian test of May 1974) and which, according to a recent statement by Mrs. Gandhi before the Indian Parliament, refuses to rule out future tests. Most recently, India demonstrated, by putting a satellite into orbit, that she is developing an IRBM capability.

Thus the basic question posed by the pending exports is whether the United States, having said two years ago that it would stop nuclear trade with nations unwilling to place all their facilities under safeguards, will now continue business as usual with its one trading partner that has an actual history of misusing unsafeguarded facilities to produce nuclear explosives and whose future plans in this regard are, perhaps, the most suspect of all our export recipients. The impact of U.S. action is this regard on other nations will be consequential, and is explored later on.

2. THE FULL-SCOPE SAFEGUARDS CRITERION

Q. Contrary to the State Department assertion, was the NRC correct in its legal interpretation that the NNPA provision on full-scope safeguards applies to these shipments?

A. Yes. The NNPA and its legislative history support the NRC position that after March 10, 1980, no license for nuclear exports can be approved for any country not having all its nuclear facilities under safeguards. The State Department argument that full-scope safeguards are not required for these fuel licenses has been demolished in a further analysis of the issue by the NRC's Office of General Counsel. (See Appendix I.)

3. IMPACT ON THE NPT AND ON THE ADOPTION OF FULL-SCOPE SAFEGUARDS BY OTHER NATIONS

Q. What will be the impact on other nations if the U.S. sends this fuel at this time?

A. The impact is at least 3-fold.

(a) The Nuclear Nonproliferation Treaty (NPT), signed by 113 nations (but not India), will be undermined. A member nation, which has necessarily accepted full-scope safeguards and forsworn nuclear weapons in return for nuclear trade and assistance, might well question the value of membership when India receives nuclear trade and assistance without the same kind of political commitment.

(b) Non-NPT U.S. export recipients with whom negotiations are not yet complete on the full-scope safeguards question will undoubtedly balk when they realize that even though they have never taken any actions towards proliferation which begin to compare with those of India, they would be submitting to U.S. export control not being applied to that country.

(c) Nuclear supplier nations, some of whom now require full-scope safeguards as a condition for exports (Australia and Canada) and others who may be moving in this direction (France and West Germany), will surely take our permitting these exports in the normal course, as a sign that we are not serious about the full-scope safeguards requirement; undoubtedly they will begin to rethink their own position on this subject. For the U.S. to appear to other suppliers to be retreating at the first test from its full-scope safeguards stand taken in the Non-Proliferation Act only two years ago could have a devastating impact on the prospects for enhanced supplier cooperation on this vital issue.

4. SIGNIFICANCE OF SAFEGUARDS

Q. Why are full-scope safeguards of significance for India? Does India have significant indigenous unsafeguarded facilities?

A. The nuclear facilities that India used for her 1974 explosion are still unsafeguarded. This includes the Cirus heavy water research reactor, the Nangal heavy water facility, and the Trombay reprocessing plant.

Completed additional unsafeguarded facilities include a heavy water reactor (Rapp 2), a reprocessing plant at Tarapur, and three heavy water facilities (Tuticorin, Baroda, and Talcher).

Additional unsafeguarded facilities, either under construction or with design completed, include 4 heavy water reactors (Mapp 1 and 2, and Napp 1 and 2), one Fast Breeder Test Reactor, a reprocessing plant at Kalpakkam, and a heavy water facility at Kota.

It is therefore clear that if all these facilities remain unsafeguarded, India will be in a position to stockpile thousands of kilograms of unsafeguarded plutonium during this decade. (One Nagasaki-sized bomb can be produced from approximately 8 kilograms of plutonium.)

5. INDIAN ATTITUDE ON SAFEGUARDS

Q. Two years ago, when fuel licenses for Tarapur were being reviewed by Congress, the State Department argued that sending the exports would be an inducement to the Indians to cooperate on the safeguards question. The exports were sent. What has been the Indian attitude on this issue since then?

A. Two years of negotiations with India have produced no discernible movement on their part on this issue. On the contrary, there have been repeated public statements by Indian officials adamantly opposing the adoption of full-scope safeguards.

One example illustrating the Indian attitude and the question it raises concerning the future direction of the Indian nuclear program concerns the recent sale by the Soviet Union to India of 250 tons of heavy water (needed by India to operate some of her reactors until her own heavy water production capabilities rise). According to a report in Nucleonics Week (April 17, 1980), "The Indians have so far been holding up the operation of the Rapp-2 nuclear reactor rather than using Soviet heavy water supplies because they do not want to submit the reactor, and all other facilities which use any of its products, to international inspection."

6. U.S.-INDIA OBLIGATIONS

Q. What are major U.S. and Indian obligations under the U.S.-India agreement for cooperation and fuel contract relevant to this case?

A. Our fuel supply agreement with India pledges us to supply sufficient nuclear fuel for the "efficient and continuous operation" of the Tarapur reactors until 1993, "in accordance with the terms, conditions, and delivery schedule set forth in a contract to be made between the parties." The contract, in turn states that India "comply with all applicable laws, regulations, and ordinances of the United States . . ." India is not now in compliance with the currently applicable U.S. law, the requirement of the Non-Proliferation Act that she place all her nuclear facilities under international safeguards. The agreement and the contract provide for no obligation by the U.S. toward any Indian fuel fabrication facilities.

7. POSSIBLE INDIAN LEGAL CLAIM

Q. Does India have a strong legal claim that rejection of the pending exports violates the U.S. obligation to supply the Tarapur reactors and that India is, therefore, released from her obligations under that agreement?

A. No. The NRC has determined that India has enough stockpiled fresh fuel on hand to last until at least 1982 (see Appendix II). India cannot legitimately claim that withholding these particular shipments is a breach of U.S. obligations (see answer to previous question). Moreover, the fuel contract language suggests that the U.S. would not be in breach of the Agreement as long as India does not satisfy the provisions of the NNPA. This legal interpretation is backed up by a paper from the American Law Division of CRS (See Appendix III).

8. POSSIBLE INDIAN ACTIONS AND CONSEQUENCES

Q. Despite the U.S. legal position, what would be the practical consequences if India violated the Agreement by reprocessing without our permission, 200 tons of U.S.-origin spent fuel stored at Tarapur and/or removed safeguards from the Tarapur facility?

A. There is no provision in the Agreement for a judicial or other 3rd party resolution of any conflict between the U.S. and India over the provisions of the Agreement. The removal of safeguards from the facility by India would almost certainly be condemned worldwide. Moreover, from a strictly practical point of view, the Indians will have access to thousands of kilograms of unsafeguarded plutonium in the next few years if they don't accept full-scope safeguards. By way of comparison, the spent fuel at Tarapur contains approximately 100 kgms. of plutonium.

On the issue of reprocessing and plutonium recycle, the Indians are moving to establish a mixed oxide fuel facility that would allow them to use recycled plutonium as a fuel in their reactors, even if uneconomic. It will take at least 3-4 years before such a facility is ready to operate. The reprocessing of U.S.-origin spent fuel at Tarapur would not appreciably change the time at which the Indians might be ready to demonstrate plutonium recycling.

In any case, the State Department fears about an implicit threat by India to take certain actions in the event of a U.S. cutoff to Tarapur leads to a policy without end. Must the U.S. continue to supply India indefinitely because of the fear of Indian actions described above if we don't? Is this an appropriate response to such an implicit threat? The answer is surely negative on both counts.

Thus, while Indian actions in the wake of a cutoff are a cause of concern, the abandonment of U.S. non-proliferation principles implied by the shipments and the associated impact on other countries is, in a real practical sense, cause for much greater concern, as indicated in answers to other questions.

9. CONTINUING DIALOGUE

Q. Will a cutoff cause irreparable damage to U.S.-Indian relations, thus making a continuing non-proliferation dialogue with India impossible, as claimed by the State Department?

A. No. According to reports in the Indian press, particularly the Times of India, some elements in India suggest that the Tarapur issue is a festering sore, blocking the improvement of Indo-U.S. relations, that could be cleared up through a clean break in nuclear relations. Certainly, the State Department has achieved no discernible progress with India in more than 2 years of negotiations on the full-scope safeguards issue during which time nuclear trade has continued. Moreover, as discussed below, progress is more likely to depend on events external to our nuclear trading position. Because of substantial contact between the U.S. and India in other areas (e.g. economic and military assistance) and our common concerns over the Pakistan nuclear program, there will be ample opportunity to maintain a constructive dialogue.

10. "UNRELIABLE SUPPLIER" ARGUMENT

Q. Will a cutoff to India reinforce the image of the U.S. as an "unreliable supplier", as implied by the State Department?

A. No. It is U.S. policy under the NNPA to be a reliable supplier "to nations which adhere to effective nonproliferation policies". There is no evidence that other nations consider India's nuclear policies as effectively contributing to nonproliferation. The Canadians for example, have not reestablished nuclear trade with India since the 1974 explosion. Moreover, in contrast to India, the vast majority of our export recipients have accepted full-scope safeguards by signing the Non-Proliferation Treaty. They recognize—and know that we recognize—that India stands apart and that actions we take with respect to her do not affect our reliability with respect to meeting their needs. If the U.S. has an image problem in this area, it has to do with the apparent inconsistency of our nonproliferation policy. Seen in this light, approving the fuel shipment will worsen rather than improve our image.

11. INDIAN FOREIGN POLICY

Q. What evidence is there to indicate that our nuclear trade with India has substantially affected India's foreign policy?

A. None. India's fundamental strategic goal is to maintain its nonaligned status by preserving a reasonable balance in its relations with the superpowers. In this context the Tarapur controversy has not been and is unlikely to be a significant factor in influencing Indian foreign policy.

Given India's overriding national interest of maintaining her nonaligned posture, it is most unlikely that India will drastically reduce her ties outside the nuclear trade area with the United States in favor of the U.S.S.R. as a result of the Tarapur controversy. There is no information provided in the State Department Fact Sheet to support a contrary conclusion. This controversy must be seen as a matter of limited significance in the overall fabric of India's superpower relations.

India is currently pursuing a foreign policy in many areas which is distinct from, if not in opposition to, U.S. objectives. For example, India has entered into a major trade agreement with Iran. (See Appendix IV—A copy of the front page of the Statesman (Delhi), dated June 14, 1980, with headline entitled, "India to Help Iran Beat U.S. Sanctions.") This appeared three days before the Senate Foreign Relations Committee held its first open hearing on Tarapur.

India has also recognized the pro-Soviet regime in Kampuchea, and she has recently signed a $1.6 billion arms deal with the Soviets. All of these highly visible events, of considerable political importance to the region, it may be noted, occurred after President Carter had reportedly promised Mrs. Gandhi the pending Tarapur fuel, and the recognition of the Kampuchean government came after the President had signed the now pending Executive Order overruling the NRC and authorizing these exports. Without raising the question of whether we should now reward Mrs. Gandhi for her actions by allowing these fuel shipments, at the very least, these events make clear that where major questions of India's foreign diplomacy are concerned, the Tarapur fuel is a bargaining chip of dubious value.

12. REMAINING U.S.-INDIAN TIES

Q. If the pending shipments are rejected, will the U.S. be left without any substantial economic or military links to India?

A. No. The State Department analysis grossly exaggerates the significance of the Tarapur exports to the promotion of U.S. interests in this region. It is simply not true, as the State Department asserts, that by withholding these exports we would "deal ourselves out of the game" with India. On the contrary, our nuclear trade with India is but one of our many political, economic, and military ties to that country. For example, President Carter has just announced a major sale to India of several thousand TOW anti-tank missiles, a sale which would be proceeding even as the Congress held back the Tarapur licenses. Furthermore, the U.S. currently provides India $131 million in economic assistance; this assistance will continue whether or not the pending exports are approved. Thus whatever action is taken on these exports, we will hardly have dealt ourselves out of the game with India; rather, the overall level of our exports and assistance, taking into account the TOW missile sale, will probably be increasing.

13. FUTURE U.S.-INDIAN NUCLEAR TIES

Q. If this export is turned down, does that necessarily mean the end of all nuclear trade with India?

A. Not necessarily. Once rejected, the pending exports could be reconsidered next year via resubmission of the President's Executive Order as provided in the NNPA under the section on waivers for full-scope safeguards (Sec. 128). Thus, far from foreclosing further negotiations with India, we would be maintaining a basis for continued discussions in a bargaining context more favorable to the U.S. than that which now prevails.

14. INDIAN-SOVIET NUCLEAR TIES

Q. If these shipments are rejected, won't the Indians turn to the Soviets for help?

A. From a strictly legal point of view, the rejection of these shipments would not provide the occasion for the U.S.S.R. to step in as an alternative supplier of Tarapur fuel; in any event substitution of Soviet for U.S. fuel would have limited significance, as indicated below.

(a) No legal basis. Since a rejection of the pending exports under the terms proposed here would not violate the U.S. commitment to maintain the "efficient and continuous operation" of the Tarapur reactors, India could not turn to the U.S.S.R. during the next year for supply without herself breaking the agreement (which specifies that Tarapur will be operated only on U.S. fuel).

(b) Soviet controls strict. Even if at some future point Russia were to step in as an alternate fuel supplier, that country has invariably required strict safeguards and other non-proliferation controls on nuclear projects she has aided. (Recall the safeguards requirement under the heavy water contract). Indeed, the U.S.S.R. is required by her adherence to the Non-Proliferation Treaty and the Nuclear Suppliers Guidelines to require safeguards on all exported nuclear material and, under the latter document, is also committed not to undercut U.S. actions in furtherance of non-proliferation objectives. Thus, at the least, Soviet supplied fuel would be safeguarded and the Soviets might conceivably require as a condition of supply that safeguards be maintained on the U.S.-origin spent fuel now at Tarapur.

If India continues to follow a program of unsafeguarded indigenous nuclear development, there is likely to be only a limited role for the U.S.S.R. in the Indian program because of the application of safeguards to any Soviet-supplied materials or facilities.

15. EFFECT ON PAKISTAN

Q. What will be the impact on our effort to dissuade Pakistan from pursuing a nuclear weapons option if we provide the fuel for Tarapur?

A. The U.S. had ceased military and economic assistance to Pakistan in 1979 because of that nation's suspect nuclear development activities, but after the invasion of Afghanistan we had offered to lift this barrier and supply $400 million in aid. The offer was rejected and the official U.S. position, despite our recent approval of the rescheduling of Pakistan's debt, has reverted back to where it was in 1979. Permitting the Tarapur exports, particularly in light of Mrs. Gandhi's statements that future nuclear tests are not ruled out, will give rise to Pakistani claims that we have discriminated against her by using sanctions to redirect her nuclear program but taking no action with respect to India. Our effort to deter the Pakistanis from developing a weapons option will suffer accordingly.

16. IMPACT ON NUCLEAR TRADE

Q. Is support for a cutoff inconsistent with a pro-nuclear attitude?

A. No. Thoughtful advocates of nuclear energy should consider whether the future prospects for nuclear trade are enhanced in an environment in which such trade and the development of nuclear weapons are closely intertwined in the mind of the public. This suggests the importance of maintaining and building public confidence that the U.S., through its exports, is not aiding the nuclear programs of countries interested in nuclear explosions. If the public believes the U.S. is forsaking its commitment to effective nuclear export controls, including full-scope safeguards, it will be difficult to effectively dispel the trade/weapons connection, and the efforts of those seeking an end to all nuclear trade will receive a significant boost.

In this case, following the counsel of nuclear extremists on the other side who wish to see an end to effective nuclear export controls could have the unintended effect of severely damaging the industry as well as contributing to proliferation.

17. PAST MISUSE OF U.S. NUCLEAR EXPORTS

Q. Have the Indians ever misused any nuclear materials we have exported to them under a valid sales agreement?

A. Yes. The U.S. sold India 25 tons of heavy water under a 1956 sales agreement that pledged the Indians to use the material only for peaceful purposes. In 1970, the U.S. sent an aid-memoire to India pointing out that the U.S. would consider it a violation of the agreement for our heavy water to be used in a nuclear explosives program. Despite this, India proceeded to use our heavy water in the Cirus research reactor to produce the plutonium for her 1974 nuclear explosion.

The State department reaction in response to a Congressional inquiry was to first deny that any U.S. heavy water was involved, and then to recant the denial when it became obvious on the basis of computations that the Indians did not, in fact, replace all the U.S. material with their own during the period when the plutonium was produced.●

A JOURNEY BY THE STARS

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. HEFTEL. Mr. Speaker, I would like to bring an article to the attention of my colleagues which I believe is inspirational and informative. In these fast-paced times when technology may seem to be taking over our lives, one often wonders if we are still capable of working in close harmony with our surroundings, or maintaining that appreciation for and understanding of our planet's natural survival aids which were of crucial importance to our ancestors.

The recent, successful voyage of the double-hull canoe Hokule'a from Hawaii to Tahiti and back again was navigated entirely by the stars, not unlike the many ocean journeys taken centuries ago bringing diverse polynesian peoples to their new home in the Hawaiian Islands. The following article by one of the Hokule'a navigators, Will Kyselka, was printed in the July Bishop Museum newsletter, Ka 'Elele, and I believe it teaches us that we have much to offer the future by calling upon our past for guidance:

HOKULE'A 1980

Can we learn the principles of noninstrument navigation by furthering our knowledge of the sea and stars; and then, with only mind and senses to guide us, make successful landfall in the Tuamotu Group or Tahiti?

This was the question that confronted us as Nainoa Thompson, the noninstrument navigator of the 1980 voyage of Hokule'a, and I prepared for the journey. Based on the assumption that basic principles of noninstrument navigation can be learned through study of the stars in the Planetarium, we spent hundreds of hours in the Bishop Museum Planetarium sailing back and forth between Hawaii and Tahiti.

This method is unique; and we have discovered several possibilities for noninstrument navigation that have never before been described in existing literature.

Other investigators of noninstrument navigation, such as Thomas Gladwin and David Lewis, sailed with some of the few Micronesian navigators who are still practitioners of the art in order to learn from them. However, cultural and language barriers make this approach difficult. Westerners think in terms of measurement, while Micronesians are most comfortable with metaphor.

In the Planetarium we observed the changes in the rising and setting positions of stars as we changed latitude. As clues to latitude, we investigated the synchronous rising of stars, meridional star pairs, and the "cut of the moon." So accurate did these methods prove to be at sea, that Nainoa was usually within 3 to 5 miles of the precise latitude.

I recall when Hokule'a cleared the Hilo breakwater on March 15, 1980 and headed out into heavy seas and a squall. For several days weather conditions concealed the stars: yet, to my amazement, Nainoa was very accurate in estimating the position of the vessel. Five degrees further south the sky cleared and that night the escort vessel Ishka received a radio message from Nainoa. "The work that we did in the Planetarium is really paying off now. The stars give me greater precision."

Knowledge of stars is an essential part of noninstrument navigation, but learning the ways of the winds, birds, and, above all, the sea, is also important. Nainoa realized this. He needed sea experience and a teacher to help him gain this knowledge. So, in March 1979, Nainoa went to Micronesia and met with Mau Piailug, who had guided the Hokule'a to Tahiti in 1976 without the use of instruments. Mau agreed to come to Honolulu. From him we learned how to read the wind, the waves, sea swells, the flight pattern of birds and the stars, integrating this understanding into the "shape of the sea and sky", central to his way finding art.

We tested our findings, in the March–June 1980 voyage of Hokule'a to Tahiti and back. Twice a day Nainoa gave his assessment of the position of the Hokule'a to Steve Somsen, the documentor aboard. Steve then radioed the data to Ishka where it was plotted to generate a course line. Nainoa determined this data relative to latitude, the reference course, direction and distance to Hawai'i, Marquesas, Tahiti and Cooks.

Hokule'a made successful landfall at Tikihau in the Tuamotu Group on April 15, 1980. The return voyage was achieved with even greater confidence. Nainoa was surprised to see that the satellite fix put his position 145 miles east of Cape Kumakahi. He had estimated 150 miles!

What we have gained from our work in the Planetarium and from the voyage of Hokule'a will have effective results. We have documented our understanding of noninstrument navigation. It is rational, efficient, and explicit in thought. Nainoa's methods are based on a set of principles that governs the relationship between various phenomena. These principles can be learned and used by others.

Certainly there must be parallels between these principles and those developed long ago by the Polynesians of old. Perhaps greater insight will be achieved by encoding the information we have attained about the stars into a Hawaiian navigational chant that might be learned by navigators who would like to repeat the venture. This might also lead to better understanding of cognitive mapping and of the metaphor in the sailing methods of the peoples of Oceania today.

oli e oli e o Hawai'i
e ulu, e oli mau na hana apau o
Hokule'a.

rejoice, rejoice Hawaii
Let it grow, let it live forever,
all the works of Hokule'a.

E o e Hokule'a (Announcing Hokule'a) a chant by Keli'i Tau'a from "The Musical Saga of The Hokule'a."●

ANTHONY CASAMENTO—MEDAL OF HONOR WINNER AND TRUE AMERICAN HERO

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. BIAGGI. Mr. Speaker, on Friday, September 12, I had the distinct honor of attending a ceremony at the White House at which President Jimmy Carter awarded the Congressional Medal of Honor to Mr. Anthony Casamento. The ceremony was one of the most moving I have ever had the occasion to attend.

As President Carter explained it, Anthony Casamento, in receiving this Nation's highest honor, received it for the performance of a deed "the kind of which makes legends." I wish to especially commend President Carter for his personal intervention in the matter which broke a 15-year stalemate despite the efforts of myself and my colleagues to see justice done. Anthony Casamento's courage has earned him a lasting place in the annals of World War II history.

It is appropriate on this day when the House has passed legislation designating October 12–19 as Italian American Heritage Week that I place into the RECORD the complete text of the President's speech of this past Friday saluting Anthony Casamento, who has made all Italian Americans proud of their heritage.

REMARKS OF THE PRESIDENT AT THE PRESENTATION OF THE CONGRESSIONAL MEDAL OF HONOR TO MR. ANTHONY CASAMENTO

THE PRESIDENT. Secretary Hildalgo, General Barrow, Mr. Anthony Casamento, beloved members of the Casamento family, this is indeed a pleasure and an honor for me as President of our nation and as Commander in Chief of the military forces of the United States of America. On August 19th, 1940, more than a year before Pearl Harbor, Anthony Casamento enlisted in the United States Marine Corps. By volunteering for service in the Marines, he proved himself to be a patriot. Two years later in the jungles of Guadalcanal, he proved himself to be a hero as well.

The deed which Anthony Casamento performed is the kind that makes legends. Because of men like him, the name of Guadalcanal has taken its place along the side of the other great battles of history in the annals of military valor. On November the 1st, 1942, in the course of an American attack, Corporal Casamento led his section to a ridge-top position, then during a series of fierce Japanese counterassaults, Corporal Casamento held firm. He fought on until all of his comrades had either been killed or were too seriously wounded to help. He fought on after he himself had been wounded, again and again. Manning a machine gun, he held out until reinforcements could reach him. He lost consciousness. He had protected more than his own position. He had secured the vulnerable flanks of the companies below his ridge and in so doing, he made possible the success of the American attack.

Corporal Casamento went beyond the struggle of most fighting men to survive. He went beyond the call of duty. He heard the call of his country and the honor of the Marine Corps and he fought on. By the time he was found unconscious by his fellow Marines, Corporal Casamento had been wounded 14 times. Since that day, for 38 years, he has carried the disability of those wounds as courageously and indomitably as he faced the enemy in 1942.

Today, the men and women of the armed forces of the United States draw strength from the same tradition and the same degree of sacrifice and service always potential for them, which was personified and is personified by Anthony Casamento.

While less dramatic, the sacrifices they make are just as important to the security and to the liberty of our nation. The kind of determination that Anthony Casamento has shown is what all of us need if we are to win the things for which we struggle—human rights for all, peace for our country and throughout the world. His valor reminds us of our nation's reserves of determination and strength and courage and his sufferings remind us of the horrors of war.

War is a terrible thing, wasting the young, destroying much that is timeless and beautiful and irreplaceable; yet it is our solemn duty to be prepared for war because that preparation is essential to the prevention of war.

In World War II, when men like Anthony Casamento performed great acts, our soldiers fought for freedom for all people. Today, we're not in the trenches or the jungles of physical combat and we thank God for it, but we're still fighting. We fight for those things for which American veterans have always fought. We are using peace to fight for peace. We are using our own human rights to gain human rights for others and we're using the strength that created this country to make this country stronger still.

This recognition of Anthony Casamento has been a long time coming, but heroism such as his is never diminished by the passage of time. He has the gratitude of a nation to which he will always be an example and an inspiration. I'd like to ask now the Secretary of the Navy to read the citation for this heroic man who has brought great credit to our nation, gratitude from us and admiration from all. [Applause.]

Secretary HILDALGO. The President of the United States in the name of the Congress, takes pleasure in presenting the Medal of Honor to Corporal Anthony Casamento, United States Marine Corps for services set forth in the following citation: For conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty while serving with Company D, First Battalion, Fifth Marines, First Marine Division on Guadalcanal, British Solomon Islands, in action against the enemy, Japanese forces on One November, 1942. Serving as the leader of a machine gun section, Corporal Casamento directed his unit to advance along a ridge near the Mantanikau River, where they engaged the enemy.

He positioned his section to provide covering fire for two flanking units and to provide direct support for the main force of his company, which was behind him. During the course of this engagement, all members of his section were either killed or severely wounded, and he himself suffered multiple grievous wounds. Nonetheless, Corporal Casamento continued to provide critical supporting fire for the attack and in defense of his position. Following the loss of all effective personnel, he set up, loaded and manned his unit's machine gun, tenaciously holding the enemy forces at bay. Corporal Casamento single-handedly engaged and destroyed one machine gun emplacement to his front and took under fire the other emplacement on the flank. Despite the heat and ferocity of the engagement, he continued to man his weapon and repeatedly repulsed multiple assaults by the enemy forces—thereby protecting the flanks of the adjoining companies and holding his position until the arrival of his main attacking force.

Corporal Casamento's courageous fighting spirit, heroic conduct and unwavering dedication to duty reflected great credit upon himself and were in keeping with the highest tradition of the Marine Corps and of the United States Naval Service. [Applause.]●

TRIBUTE TO HON. WILLIAM MOORHEAD

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 16, 1980

● Mr. JONES of Oklahoma. Mr. Speaker, what an honor it is for me to join my colleagues in this tribute to WILLIAM MOORHEAD. My only regret is the occasion which joins us together to heap upon him the encomiums he so richly deserves is the approach of his retirement rather than his election to yet another term in Congress. It is one of the easiest tasks we face in the House, Mr. Speaker, to praise a man such as BILL, whose record through 22 years in Congress has been so consistent and so outstanding.

When I came to this Chamber 8 years ago, BILL MOORHEAD was already a veteran with 14 years' experience under his belt. He was someone whom I looked up to, and a true public servant whose wise counsel was always available to less experienced Members, and I often sought his advice.

As a member of the Joint Economic Committee and our House Committee on Banking and Currency, BILL's opinions on fiscal and monetary policy have always been valuable to me. He has combined superior legislative skills, finely honed for over two decades, with a large dose of commonsense and total commitment to public service. The result has been sterling representation for the 14th District of Pennsylvania, and outstanding service to his State and Nation. His talents and friendship will be sorely missed in the House of Representatives. Although I know his commitment to public service will not end with his service in the House, I hope he is able to enjoy the fruits of the retirement he has so ably earned.●

TRIBUTE TO HON. BILL MOORHEAD

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 16, 1980

● Mr. JOHNSON of California. Mr. Speaker, the opportunity to make a few remarks about the quality and quantity of the achievements of our honorable colleague, BILL MOORHEAD, is a welcome one indeed.

Far from welcome, however, is the thought of bidding farewell to the dedicated Member from Pennsylvania, whose thoughtfulness and boundless energies will be sorely missed.

BILL and I came to Washington in the same year—1959.

In the years since, he has brought keen perception and diligence to a wide variety of legislative endeavors. BILL has concerned himself with issues in the realm of national and international economics, foreign aid, and military operations abroad.

His Subcommittee on Economic Stabilization was responsible for the synthetic fuels bill in 1979, legislation in which I also had particular interest.

BILL helped establish the National Foundation on the Arts and Humanities, in one of his first major contributions to this country as a Member of the House of Representatives.

Although I have never had the pleasure to serve on the same committee with BILL, I am particularly aware of his legislative leadership through the work he did as chairman of the Foreign Operations and Governmental Information Subcommittee, where he took over from our former colleague from California, John Moss.

John had nothing but praise for his successor.

In BILL MOORHEAD's 4 years as chairman of that subcommittee, he was instrumental in drafting significant amendments to the far-reaching Freedom of Information Act which John Moss had originated.

BILL MOORHEAD went on to create an important corollary piece of legislation, the Federal Privacy Act.

BILL is a humane man, fair and judicious.

We will miss him.●

SOUTH AFRICAN EDITOR CALLS FOR INTERNATIONAL PLAN TO END APARTHEID

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. DRINAN. Mr. Speaker, in a recent Washington Star column, a distinguished editor of the Johannesburg Post, Percy Qoboza, reminds us of the global dangers of a civil war in South Africa. In so doing, he warns us in the Congress that we have a vested interest in pressing for a peaceful resolution to the injustices perpetrated by the apartheid policies of the South African Government. I believe his suggestion that the international community take the initiative in formulating a program to end apartheid is a good one. Mr. Qoboza's analysis of the current political climate in South Africa is deserving of our attention, and for this reason I am reprinting the article in the RECORD. The article from the Washington Star dated September 5, 1980, follows:

IN SOUTH AFRICA: THE REAL TRAGEDY OF APARTHEID

(By Percy Qoboza)

A special session of South Africa's Parliament is due to meet at the beginning of October. This is the second time in living memory that Parliament has had to be reconvened. The last time was amidst a growing crisis brought about by World War II and further complicated by Afrikaaner resistance to South Africa's fighting on the side of the Allies.

Next month's session is also necessitated by a crisis. The government is going to forge ahead with new constitutional proposals within the apartheid structure, in spite of massive rejection of the new constitution by the country's blacks, Asians, people of mixed blood and the official white opposition party in Parliament. The new constitutional proposals provide for a State President's Council. Originally, the Council envisaged by the government provided for whites, coloreds and Asians to belong to one body. Blacks would form another.

Both Asians and coloreds rejected the plan and insisted that they would only participate if blacks were included. Last month, Prime Minister Pieter Botha summoned tribal leaders—officially named homeland leaders—to solicit their support. They also rejected the formation of a separate body divided along racial lines. Soon after, an angry Botha announced that plans to form a separate black council have been scrapped. New negotiations, he announced, will be initiated but meanwhile the government would proceed with its own all-white Council.

THE GROWING CRISIS

These developments underline the growing crisis facing that nation as pressure from both an angry black population and a weary international community continue to pile on the South African government. The government is not unmindful of the forces at work. In the last year, a massive propaganda plan was unfolded in which the ruling party attempted to create the impression that serious and radical change was taking place in that country.

The plan, led by such cabinet ministers as Piet Koornhof, was kicked off right here in Washington when Koornhof told an American audience that apartheid was dead. Given the dynamics—or lack of them—of the South African situation, this was a radical thing to say, especially by a ruling party leader. The statement seems to have made an impression on many people here. The only problem is it made very little impact on the black communities in South Africa and the continent of Africa.

Their reaction to Koornhof's "apartheid is dead" statement was that, if it were true, hurried funeral arrangements must be made. For all purposes, the body was still around and was creating a terrible political health hazard. It's slightly more than a year since this statement was made and until last week, when I left South Africa, apartheid was still alive and well, continuing to play havoc with the lives and security—and the future—of millions of South Africans.

When South Africans talk of change, people must not make the basic mistake of reading too much into that statement. Change in South Africa means a little window dressing here, an adaptation there and a little easing up around the corner. But the basic structures of apartheid remain intact. The philosophy is not tampered with. The deep hurt and humiliation perpetrated against the blacks of the country remain as vicious and ungodly as ever. Coercion rather than negotiation remains the order of the day.

As the levels of resistance against the apartheid system continue to plague the government, so does the government's determination to maintain the system. Outside of the Iron Curtain, there is perhaps no nation that so closely regulates its citizens' lives as South Africa.

PRESS AND STATE

Security legislation in that country is unprecedented in Western democracies. Imprisonment without trial—not of criminals but of political opponents—has become a fact of life to those who dare to stand up for what they believe is right and just. Skirmishes with a courageous and consistent English-speaking press have become the government's favorite pastime. A "commission on the media" is presently sitting and there is no doubt that the commission is merely an excuse to introduce further restrictions on an already restricted press.

For many Southern Africans, therefore, next month's special session of Parliament is just another in a string of academic exercises. It does not solve the problems but merely compounds them. It's another attempt to force down the throats of blacks another solution worked out by whites.

Given the levels of anger, impatience—and the almost fanatical dedication to overthrow the system reigning in the black community—one would have thought genuine attempts to come to grips with our problems would be No. 1 on the program for reform. Instead, the government continues to indulge in irrelevancies while increasing the power of vigilance of the police force and spending by far the largest slice of the national budget on purchasing arms.

The result of this intransigence on the part of the government has had the tragic effect of giving violence the credibility it does not deserve. Those black leaders who still believe in a nonviolent transformation of our society are becoming an extinct species, most of them about to be delegated to the political museums of the country.

The real tragedy is that when the final blow-out hits South Africa—and now it is only a matter of time—then the whole of Southern Africa will be engulfed in the bloodiest of conflicts. This carries with it frightening prospects for the international community. This is why South Africa's case has long ceased to be an internal problem. There are things happening within that nation that spell danger to the entire world. A global solution to apartheid has therefore become urgent.●

RESOLUTION 463 OF THE VETERANS OF FOREIGN WARS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. McDONALD. Mr. Speaker, the Veterans of Foreign Wars of the United States, during its 81st national convention in Chicago, Ill., August 15–21, 1980, passed "Resolution No. 463." This resolution pointed up the need to reestablish our Nation's internal security. The activities of terrorists, Soviet spies, certain so-called Iranian students, and Cuban intelligence agents all point up the great need for these actions. As regards a House Committee on Internal Security, I have introduced a measure, House Resolution 48, to do just that; 156 Members of Congress have joined me in this measure. It is needed now more than ever.

The text of the VFW resolution follows:

RESOLUTION NO. 463

Whereas the perfidy and continued dedication to world-wide domination by the Soviet Union is well known and has been for some sixty-two years; and

Whereas the House and Senate of the United States formerly enjoyed the services of special committees to oversee subversion, terrorism, spies and far left-wing militants, and the like; and

Whereas the Justice Department of the United States Government formerly has an Internal Security Division, which was abolished; and

Whereas the obvious necessity for reestablishing all three of these useful governmental instruments for the control of our internal security is apparent; Now, therefore, be it

Resolved by the 81st National Convention of the Veterans of Foreign Wars of the United States, That we urge the immediate reestablishment of the Senate Subcommittee on Internal Security, the House Internal Security Committee, and the Internal Security Division of the Justice Department.

Adopted by the 81st National Convention of the Veterans of Foreign Wars of the United States held in Chicago, Illinois, August 15-21, 1980.●

H.R. 8123, THE SMALL BUSINESS INVESTMENT ACT OF 1980

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. FISHER. Mr. Speaker, it is becoming increasingly evident that a significant part of the next major tax cut bill will focus on business in general and small business in particular. This is appropriate in light of the contribution which small business has made to our gross national product and in light of the fact that in the past it has provided more than half of the new jobs and technological advancements in the private sector. This is essential because at the present time small business is in desperate need of investment capital not only to expand and grow, but merely to survive.

Earlier this year, the first White House Conference on Small Business was held, and it offered many suggestions for new legislation to help small business. I have reviewed those recommendations touching on tax policy and yesterday introduced the Small Business Investment Act of 1980, which incorporates many of them. A similar bill has been introduced in the Senate by Senator NELSON, who is chairman of the Senate Select Committee on Small Business. As a member of the Ways and Means Committee and of the House Small Business Task Force, I will push in the House for the serious consideration of these proposals during the deliberations on any major tax cut bill. They represent a tight yet comprehensive package designed to encourage investment in small business. I urge my colleagues to review this package carefully. With this in mind, I have prepared the following summary of this bill.

Section 1 designates the short title of this bill as the "Small Business Investment Act of 1980."

Section 2 increases the number of permissible shareholders in a subchapter S corporation from 15 to 25. This section is intended to promote investment in electing small business corporations or subchapter S corporations. The legal effect of a subchapter

S election is that it permits a business which is organized as a corporation to be treated as a partnership for Federal income tax purposes. One of the consequences is that operating losses from the business can be passed through the corporate entity to individual shareholders. These losses may be entered on individual tax returns as an offset to other income.

The development of new small businesses may take 5 to 10 years. During these formative years, there usually are major expenses for activities such as product development and marketing. The subchapter S structure is compatible with this business formation pattern where losses can be utilized by investors and the business can raise needed capital. The subchapter S structure has considerable potential for assisting new and small businesses to raise the capital they need to generate new jobs, increase sales, and create new products and greater competition.

Section 3 eliminates the requirement that businesses file a midyear W-2 form for employees who leave the business. Present law requires that whenever a worker leaves a job during the year, a W-2 wage report must be issued to him. A change in this law along the lines which I have recommended would save the business community $300 million and not cost the Treasury anything. Small businesses with tight cash flow situations would particularly benefit. Under this section, the W-2's would be issued once, at the end of the year, for all employees. Those having special needs to obtain the form earlier could do so by request.

Section 4 would allow for the issuance of small business participating debentures. They would be a vehicle by which investors could share in the profits of a company, but operating control would remain solely with the company. The SBPD would be issued as a general obligation of a qualified small business and would bear a stated rate of interest, have a fixed maturity date and provide for the payment of a share of the company's earnings to the investor. Distribution of earnings would be treated as long-term capital gains for the investor. Qualified businesses would be able to deduct such payments as interest expenses. A small business would qualify to issue SBPD's if they have less than $25 million in equity capital, less than $1 million in outstanding SBPD's and no outstanding securities subject to SEC regulation. This new debt instrument could only be issued by domestic businesses.

Section 5 would permit employees to take stock options in lieu of salary without an immediate recognition of income. To attract and retain key employees, a small business will frequently desire to provide its key personnel with a share of the business. Under current law, however, if stock is awarded to an employee or is sold to him at a bargain price as compensation for services, the market value of the stock—or in the case of the bargain sale, the difference between the market price and the bargain price—will be taxable to the employee in the year of receipt or purchase at ordinary income rates. Moreover, resale restrictions imposed by Federal and State security laws often prevent the use of the stock to raise cash to pay the tax. Stock options may be awarded to avoid a current tax, but the problems for the employee are merely postponed. Not only does the eventual exercise of the option require a cash expenditure by the employee, but if the market value of the stock has increased, the employee will also be required to pay tax at ordinary income rates on the difference between the amount paid upon exercise and the fair market value of the stock at the time of exercise.

This section provides that a stock option which is granted to an employee would be taxed at capital gains rates when the employee sells the stock. It will allow small companies to attract talented managerial staff at a modest cost.

Section 6 would increase from $150,000 to $250,000 the amount of accumulated earnings that a business may retain. The increase would be phased in over 2 years. In 1981 the amount would be increased to $200,000, and beginning in 1982 the amount would rise to the full $250,000.

Under current law, a tax is imposed on corporations improperly accumulating surplus earnings and profits beyond the reasonable needs of the enterprise. This is a penalty tax, rather than a normal corporate tax on income. Basically, a corporation is allowed a safe harbor rule whereby it may accumulate up to $150,000 in earnings and profits before the penalty tax is imposed. The current amount of permissible accumulated earnings was established in 1975.

During the past 5 years, inflation alone has increased the cost of doing business by approximately 40 percent. This indicates that the amount of permissible accumulated earnings should be raised to a minimum of $210,000. This proposal would increase the amount to $250,000 to take into consideration future inflation. It would be particularly helpful to small innovative businesses which require substantial amounts of capital investment in the early startup years.

Section 7 would increase the amount of used equipment eligible for the general 10-percent investment tax credit from $100,000 to $200,000. The increase would be phased in over 2 years. In 1981 the amount of equipment eligible for the investment credit could be $150,000 and beginning in 1982 the amount would be increased to $200,000.

This section, therefore, simply doubles the amount of used machinery eligible for the investment tax credit. In comparison, the amount of new machinery eligible for the investment credit is unlimited. This proposal would adjust the used machinery allowance for the inflation induced increase in the cost of capital equipment that has occurred since the existing allowance was enacted in 1975. It is also intended to provide flexibility to cover anticipated future inflationary increases. Many small businesses start out by purchasing one or two used machines. New and small firms simply cannot afford to purchase sophisticated new equipment. The savings resulting in this proposed change in the law can be used for additional purchases and to meet cash flow requirements.

Section 8 would prevent the retroactive application to the year 1979 of the IRS Revenue Ruling 80-60. Under this section, the ruling would only apply to taxable years beginning after December 31, 1979.

Section 9 would allow bus operators engaged in intercity, charter, local, and special operations a special exemption from the 4-cents-per-gallon Federal excise tax imposed on diesel and other special motor fuels. Currently these operations must pay the tax and then file for a refund. The current procedure contributes to a cash flow problem and additional paperwork to the bus industry.

Section 10 would allow taxpayers to defer the capital gains tax on the sale of an interest in a qualifying small business, provided that the proceeds from the sale are reinvested in another small business within 18 months from the date of the sale.

Present laws encourage those who own an interest in a small business to sell out to large companies because the acquiring company may exchange its stock for stock of the small business.

The entire transaction is tax free under present law. The small businessman who sells out may defer the immediate payment of capital gains until he ultimately sells his new stock. This same advantage is unavailable if the small businessman sells his business for cash to another independent businessman. In this case he must pay an immediate capital gains tax on the sale.

This proposal would provide greater incentives for reinvesting in small businesses. It would allow anyone owning an interest in a small company with a net worth of $15 million or less to sell that interest for cash, reinvest that money in another small business and defer any capital gains tax on the sale until the proceeds are taken out of the small business and not reinvested within an 18-month period.

Section 11 would change the corporate tax rate with particular emphasis on small business. After a transitional period, the rate structure would be lowered to 15 percent on the first $50,000 of income, 30 percent on the amount between $50,000 and $100,000 of income and 45 percent on the amount over $100,000 of income. This change in the current tax law focuses on smaller businesses in recognition of the fact that the changes in the laws governing depreciation, which have been proposed and will probably eventually be enacted, will primarily benefit larger businesses.●

INDIANA FOURTH DISTRICT STUDENTS VIEW GOVERNMENT IN ACTION

HON. DAN QUAYLE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. QUAYLE. Mr. Speaker, it is my privilege to welcome to the Nation's Capital this week the fourth group of Fourth Congressional District students from Indiana. Mr. Speaker, these students were selected on a nonpartisan, competitive basis, and I commend them for their success and enthusiasm.

Their education is being enhanced this week by seeing government in action, and I hope their interest in becoming involved in the governmental and political process will be stimulated by their Washington experience. Our young people truly are the most valuable resource of this Nation.

I would like to thank my colleagues in the House, Minority Leader JOHN RHODES, Congressmen PHIL CRANE, JACK KEMP, and TOM DOWNEY, and you, Mr. Speaker, for clearing time from a busy schedule to share views with these Hoosier students. I also appreciate the time taken by Indiana Senators BIRCH BAYH and RICHARD LUGAR to meet with the students.

This program was created 4 years ago to stimulate increased student interest in government. This weeklong inside look at Washington is aimed at creating a greater awareness of government and to encourage them to become participants and not just spectators in governing ourselves.

Incidentally, the program is made possible through the contributions of interested individuals and firms in the Fourth District through a nonpartisan, not-for-profit organization.

The following students are this year's participants:

Cindy Reynolds, Fort Wayne Christian School; Laura Stutzman, Woodland High School; Patricia Clark, South Side High School; Julia Kennedy, Carroll High School; Mari Rose Zenk, Eastside High School.

Jenny Gray, Freemont High School; Laura Mirely, Lakeland High School; Lisa Spear, Churubusco High School; Elaine Westrick, Whitko High School; Sherry McCurley, Huntington North High School.

Connie Peebles, Southwood High School; Ron Mader, Paul Harding High School; Jerry Bowman, Wayne High School; Tom Filchak, Elmhurst High School; David Hosler, Leo High School.

Tim Buell, Hamilton High School; Mike Schoenle, Bishop Dwenger High School; Casey Miller, West Noble High School; Scott Perry, Central Noble High School; and sponsors Mr. and Mrs. Jim Waffle of Fort Wayne.

Again, Mr. Speaker, it is my honor to welcome these students.●

CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. DERWINSKI. Mr. Speaker, Captive Nations Week, held annually during the third week in July, gives us a chance to recognize the courage and persistence of those peoples who today still search and fight for their own freedom that has been suppressed by the policies of the Communist rulers.

I wish to insert several news reports on this year's commemoration of Captive Nations Week. The first article comes from the Chattanooga, Tenn., News-Free Press, which is followed by a letter to the editor of the Pittsburgh, Pa., Press. News reports on the various rallies appeared in the Klamath Falls, Oreg., Herald and News and from the San Francisco Chronicle. These articles follow:

[From the Chattanooga (Tenn.) News-Free Press, July 26, 1980]

CAPTIVE NATIONS WEEK

Not many realize that we are in the midst of "Captive Nations Week 1980," but it's an event worth thinking about.

We usually think of the Captive Nations as being in Eastern Europe near the great captor—the Soviet Union. But there is a new series of captive peoples inside Southeast Asia, including Vietnam, Laos and Cambodia. Cuba, which is also under the domination of the Soviets, should be included on this list.

Rep. Donald Ritter, a Republican from Pennsylvania who has taken a special interest in this subject, helps define the issue. "Wherever Soviet-style Communism and Soviet power extend themselves you find the tragedy of captivity."

Rep. Ritter makes this statement, "I am very much concerned about the quality of the people called on to make our policies and deal with the Soviets. You get people who have studied things in the abstract, but have never seen a person lying, beaten, on the floor of a Soviet cell.

"Many policymakers don't understand the blood; they don't understand the tears. They don't understand what it means to be beaten or persecuted for having written a political satire, for being a religious person, for wanting to see your country free.

"They don't really believe those things go on as the formal policy of the Soviet government.

"What we need is an infusion, a real infusion, of the experience of our American ethnic communities who have seen this, who have experienced it, and who have studied history—people who know where the Communists have been, what they have done, and where they are going.

"Let's hear the voices of those who really know what it means to fall under Soviet domination. The change for the better would be dramatic."

That's the message of Captive Nations Week.

[From the Pittsburgh (Pa.) Press, July 18, 1980]

(By Anne Burdick)

CAPTIVE NATIONS LIST STILL GROWING

President Carter has designated this week as Captive Nations Week.

In the 63 years since the first communist takeover, in Russia, the communist have succeeded in taking 63 countries, an average of one per year! Unfortunately, 1980 will be no exception, with Afghanistan virtually controlled and several Central American countries under attack.

It has been said that a perspective of the world today does not exempt the United States from future control by communism, that the infiltration and forces of communism have never been stronger, and that communism finds in religion today invaluable allies in its quest for world domination.

Let us listen to the heroic fighters for human rights and freedom who know whereof they speak, such as Alexander Solzhenitsyn, Andrei Sakharov and others, who are challenging tyranny.

Let us observe this week with appropriate ceremonies and renew our dedication to the cause of all people who seek freedom, independence, and basic human rights, with special remembrance of our American hostages in Iran.

[From the Klamath Falls (Oreg.) News, July 21, 1980]

SF RALLY, AIMED AT RUSSIANS

SAN FRANCISCO.—More than 100 anti-Soviet demonstrators burned red flags and bombarded the Russian Consulate with eggs Sunday to protest what they said was the execution of 15 Lithuanian soldiers in the Soviet Army after they refused to shoot civilians and prisoners of war in Afghanistan.

After the demonstration, a noisy motorcade of cars went to a noon rally at Union Square where representatives of a dozen nations gathered for "Captive Nations Day," which was held as Olympic competition began in Moscow.

Among the protesters were refugees from Vietnam and Eastern Europe.

"Captive Nations Day" is proclaimed by Congress every year in July for refugees and descendants of people in countries under Soviet domination.

Sayed Nasir, an Afghani refugee from San Diego, told the rally, "We are here because the Afghani people have been robbed, killed, and molested not by the hundreds, but by the millions . . ."

[From the San Francisco (Calif.) Chronicle]

ANTI-SOVIET THEME IN S.F. DEMONSTRATIONS

(By Bill Soiffer)

More than 100 anti-Soviet demonstrators burned red flags and threw eggs at the Russian consulate in San Francisco yesterday to protest what they said was the execution of 15 Lithuanian soldiers in the Soviet Army who had refused to shoot civilians and prisoners of war in Afghanistan.

After the demonstration at the consulate, a motorcade of 50 horn-honking cars led by a hearse went to a noon rally at Union Square. There protesters from more than a dozen countries gathered to remember Captive Nations Day and decry the opening of the 1980 Olympics in Moscow.

Refugees from Vietnam and Eastern Europe chanted, "Nyet, Nyet, Soviet," and "Down with the Communists." They carried signs that read, "No Human Rights in Vietnam," and "Stop Soviet Aggression."

Captive Nations Day is proclaimed by Congress every year in July for refugees, and relatives of persons in countries under Soviet domination.

"We are here because the Afghani people have been robbed, killed, and molested not by the hundreds, but by the millions," the Union Square rally was told by Sayed Nasir, an Afghani refugee from San Diego.

Saturday night, 15 Lithuanian-Americans carrying black flags staged a sit-in at the Soviet Consulate at 2790 Green Street and were ordered to move by police. No arrests were made at either demonstration or the rally.

Antanas Mazeika, spokesman for a group called Lithuanian Americans to Protest the Afghanistan Invasion, said the demonstrations were being held because of the executions last January of 15 Lithuanian soldiers who were impressed into the Soviet Army and refused to kill Afghani civilians and prisoners of war. He said the executions were recently made known through Austrian press reports, and were confirmed by the U.S. State Department.

"We have to wipe out the Soviet cancer in humanity," Mazeika told the crowd of more than 200 persons at the Union Square rally.

The crowd heard speeches denouncing Soviet aggression from the leaders of the Captive Nations Committee of Northern California.

According to the demonstrators, the Russians made a formal protest to the State Department over the flag burning and egg throwing at the consulate. No one at the Soviet Consulate could be reached for comment.

[From the San Francisco (Calif.) Chronicle, July 28, 1980]

IT'S NOT RUSSIA

(By B. Korolyshyn)

I think that it's time that you and the American news media in general stopped referring to Ukraine, Latvia, Uzbekistan, etc. as Russia and their citizens as Russians. It is rather enigmatic that on the same page in the July 21 edition of your paper you have one article devoted to a Captive Nations Day demonstration and right next to it you put an Associated Press article about a Ukrainian family that is divided about returning home to Ukraine but entitle it "Boy, 12, Fighting His Parents Over Going Back to Russia"; a direct slap in the face to the Ukrainian people, one of the founders of Captive Nations Day.

Ukraine is not in Russia, it is a constituent republic of the Soviet Union, as is Russia, and is a member state in the United Nations. And no, the Ukrainians don't want the Russians in their country any more than do the Afghanistanis and they've shed much more blood fighting them.

I can assure you that Mr. Polovchak has no desire to go to Russia. What his heart yearns for is Ukraine. Despite Soviet Russian oppression, Russification, and discrimination, he will be among his own people, Ukrainians, and will be able to raise his family in an environment relatively free from pornography, excessive and perverse sexuality, race riots, mammonism, drug abuse, big city crime and violence, etc.

The Polovchaks find themselves between a rock and a hard spot; either way they go they will be among slaves. In one country among slaves of sin and in the other slaves of a foreign power.●

THE FIRST UNITED CHURCH OF CHRIST CELEBRATES 125TH ANNIVERSARY

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. LUKEN. Mr. Speaker, on Sunday, September 21, the First United Church of Christ will celebrate its 125th anniversary with a dinner. The celebration will continue with a reception for the members and their guests after the morning services on September 28, 1980.

The church was founded in September 1855, when George Godelman, John Suelau, and William Poppe led a meeting of the German Protestant people of the Cumminsville community to discuss the organization of a Christian church. The following October, the congregation constructed its first house of worship.

This founding congregation consisted of 16 individuals. From these humble beginnings, the church has grown and prospered to the present membership of 1,200 believers, and now worships in a building which includes a fellowship hall and the Gudberlet gymnasium.

The First United Church of Christ has a rich heritage of community service. On the first Thursday of each month the church sponsors a noontime meal for roughly 250 senior citizens of the community. An emergency food pantry is also kept stocked by the members, always open to help feed the area's needy and transient people.

In addition, the church sponsors blood banks, CPR seminars, and a multitude of other community services.

In addition to its community outreach, the church supplements its active spiritual life with activities for the members of the congregation, including a growing Sunday school program, the church choir and handbell choirs, Sunday coffee hours, Christmas family nights, and picnics.

Mr. Speaker, I am delighted to take this opportunity to congratulate the congregation of the First United Church of Christ of Cincinnati, so ably led by Rev. Jim Lahman and church president William Henrich, for 125 years of dedicated service to God, to its membership and to the community. I would especially like to congratulate those faithful members who will be honored for 65 or 50 years of consecutive membership.●

NEW RESTRICTIONS ON SOVIET JEWS SEEKING TO EMIGRATE

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. MOFFETT. Mr. Speaker, many Members of the House and the Senate have adopted refuseniks—Soviet Jews who are repeatedly denied exit visas—and have sought to assist them in their efforts to emigrate. I, for one, have been hopeful that my refusenik—Isaak Shkolnik—would soon be able to join his wife and daughter in Israel, as he has completed his 7-year prison term. But I was shocked today, and deeply saddened, by two events: First, an article in the Washington Post by Kevin Klose, entitled "New Bars Seen to Emigration by Soviet Jews," and second, word that Isaak Shkolnik had once again been denied an emigration visa.

Congress can react to the Soviet Union's new, incredibly repressive emigration policy in a number of ways. For one, we can make sure that it is a topic of discussion at the upcoming Madrid conference. We can continue to contact Soviet authorities on their human rights policies. But it is clear that the Congress must take bolder, louder steps. During the next few days, I will be studying our options for combating the Soviet Union's harsh emigration restrictions. In the meantime I submit the following article for my colleagues' perusal:

NEW BARS SEEN TO EMIGRATION BY SOVIET JEWS

MOSCOW, Sept. 16.—Soviet authorities have introduced new restrictions on Jews seeking to emigrate, according to well-informed sources.

Activists now say that Soviet authorities in the major Ukranian city of Kharkov, considered by many Jews here to be a bellwether of Soviet emigration policies, are refusing to reconsider the case of any Jew who has once been denied permission to emigrate.

The new practice of barring reapplication represents a stark departure from longstanding Soviet policy of allowing so-called refusedniks—Jews prevented from emigrating chiefly because they allegedly possess state secrets—to reapply for a visa every six months. In many instances, repeat applicants eventually have been allowed to leave, although some have had to wait years.

The activists said in recent interviews that anyone turned down for emigration now must sign a declaration asserting he has been "warned that I have been refused (emigration permission), that my refusal is final, and that I have no right to reapply. I must get a job in a month."

The Kharkov activists, Yevgeny Chudnovsky, David Soloveichik, Yuri Tarnopolsky and Alexander Paritsky, estimated that some 500 families there have been refused exit visas in the past year and only a handful allowed to leave. The men say they believe the crackdown in Kharkov, which survived as a traditional cultural center for Ukrainian Jews until after World War II despite Stalinist repressions and a Nazi massacre, may be motivated in part by rising Soviet fears of a "brain-drain."

Western analysts of the mass exodus of more than 200,000 Soviet Jews from the land of their birth in the past decade say the emigres are drawn largely from better-educated sectors of Soviet society.

Yet recent figures available in the West also show that the Soviets have steadily shut the emigration tap this year, a probable reflection of the chill on East-West relations in the aftermath of the Afghanistan invasion. While more thn 50,000 Jews were allowed to leave last year, a record, so far in

1980, about 15,000 have been allowed to leave during the first eight months.

Part of that sharp decline is attributable to the Moscow Olympics, when visa officials were processing tourists. But early reports for September indicate that not more than 1,500 are likely to be allowed to leave this month, matching the pre-Olympic record low of 1,500 for June.

"There is no incentive for them to increase the amounts," one activist said.

So far, Moscow activists say, no similar ban on reapplication for visas has been imposed by regional emigration officials elsewhere in the country. Yet Kharkov and Odessa, another major Ukrainian city, were the first places last year to begin systematically using a much tighter definition of family relations to allow Jews to qualify for family reunification abroad.

Prior to that time, the Soviets frequently allowed relatives as distant as cousins and nephews and nieces to emigrate. That has largely been ended, with the officials insisting that only parents, children, siblings and spouses can be considered under the reunification provisions of the 1975 Helsinki act, which spurred Jewish emigration.

Some Westerners had speculated that the Soviets, faced with the Madrid conference in November to review compliance with the Helsinki accords, might suddenly allow a sharp rise in emigration to improve its image and standing among the 34 other signatory powers. Yet that seems unlikely now in the view of observers here.●

KIM DAE JUNG FACES DEATH IN SOUTH KOREA

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. BONKER. Mr. Speaker, as expected, after a show trial, Kim Dae Jung, who has dedicated his life to the task of restoring freedom and democracy in Korea, was sentenced to death today by a South Korean military court. The charges against him have been characterized by the State Department as "farfetched."

We must continue to indicate to General Chun—the self-proclaimed President of Korea—that the death of Kim Dae Jung will not bring domestic tranquillity and economic progress to that troubled land. If anything, it will only help to facilitate General Chun's alienation from the Korean people. Furthermore, it will be increasingly difficult to justify to the American people the continuation of our close relationship.

The crime of Kim Dae Jung was to advocate free elections, a government with broad popular support, an end to martial law, and the return of the military to the barracks.

By law General Chun has the power of reviewing the death sentence. He must know that Kim's death will not serve any purpose. Force should not be the answer to legitimate dissent. Discontent in South Korea will not disappear until all Koreans are assured the full protection of their basic human rights and a fair voice in their Government.

By commuting Kim's death sentence the general will signal the world his willingness to return Korea to the ranks of the civilized world where reason prevails over force. Surely General Chun knows that the stability of the Korean Government, indeed its security, as well as our own, is dependent on domestic tranquillity, which can only be achieved by a broad national consensus.●

ANDREI SAKHAROV CALLS FOR A CONCERTED EFFORT IN MADRID ON BEHALF OF HUMAN RIGHTS

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. DRINAN. Mr. Speaker, as the preliminary meeting to the Second Review Conference of the Helsinki Final Act opens in Madrid, we are again reminded of the actions of the Soviet Government earlier this year when they illegally exiled Nobel Peace Prize winning physicist Andrei Sakharov. Compliance with the Helsinki Final Act, which will be the subject of the Madrid Conference when it formally begins on November 11, was clearly and unequivocally violated when Dr. Sakharov was removed from his Moscow apartment and told he could not leave his "new" home in Gorkey.

In a brilliantly worded statement which appeared in yesterday's Boston Globe, Dr. Sakharov comments on the meaning of the Helsinki accords in the context of international security and confidence. Dr. Sakharov urges all nations to fully examine their own record of compliance, and he states that, in the case of the Soviet Union and Eastern Europe, the situation has grown worse. In closing, he offers an appeal for his son's financee who is waiting anxiously to emigrate.

I urge all Members to read the following article by Andrei Sakharov which appeared in the Boston Globe, September 16, 1980:

THE FUTURE OF HUMAN RIGHTS

(By Andrei Sakharov)

The historic significance of the Helsinki Accords, the subject of a conference opening today in Madrid, lies in its affirmation of a crucial principle: International security and confidence are linked to respect for human rights.

The most complete statement of this idea is contained in the Final Act of the Accords, which commits the participating states to fulfill all the provisions of the International Covenants on Human Rights and of the Universal Declaration of Human Rights.

These provisions include guarantees for freedom of opinion and information, freedom to choose one's country of residence (and not just within the context of family reunification), freedom to choose one's domicile within each country, freedom of religion and freedom of association.

The Helsinki Accords also acknowledged the right of the participating state to monitor each other's compliance; such monitoring is regarded not as intervention in internal affairs but rather as a contribution to international security and confidence.

The Final Act marked a new stage in the formulation of an international ideology of human rights. Unfortunately, its principles have not been put into practice in a satisfactory fashion. I suppose that human-rights violations have occurred in many countries, including Western countries, but I shall speak about what I know best—the situation in the Soviet Union and in Eastern Europe.

The observance of fundamental civil and political rights in these countries has not simply failed to improve over the past five years; the situation has grown worse. Repression against groups organized to promote observance of the Final Act constitute the most brazen and challenging example of violations that demand from the participating states an unequivocal, uncompromising response—effective actions not limited to verbal protests.

More than 40 members of the Helsinki watch groups are imprisoned. Many others also have been arrested; individuals who, although not formally members of the Watch groups, worked to promote the exchange of information and the defense of human rights as contributors to "samizdat" news magazines or journals of opinion, as participants in the movement for freedom of religion and freedom of emigration, or in other ways. The governments, nongovernmental organizations and concerned citizens of the participating states are under an obligation to defend all such victims of repression.

Peace in the world is indivisible. The consequences of any deviation from this principle only confirm its truth. Therefore, I cannot agree with those who consider the Soviet invasion of Afghanistan an event unrelated to security in Europe. I also cannot agree with those who suggest a boycott of the Madrid conference as a response to Soviet actions in Afghanistan or to the increased repression of dissenters.

I believe that the participating states should use the opportunity offered by the Madrid conference to further a political settlement in Afghanistan, which must provide for the withdrawal of Soviet troops and international guarantees of peace, neutrality and free elections. The participating states should also promote the release of prisoners of conscience in the Soviet Union and Eastern Europe, and in western countries as well if people are imprisoned who have not used or advocated violence.

The critical international situation requires that the participating western states coordinate their tactics and pursue their goal with more determination and consistency than at Belgrade. The Helsinki Accords, like detente as a whole, have meaning only if they are observed fully and by all parties. No country should evade a discussion of its own domestic problems, whether they be the problems of Northern Ireland, the Crimean Tartars or Sakharov's exile (here I am speaking objectively). Nor should a country ignore violations in other participating states. The whole point of the Helsinki Accords is mutual monitoring, not mutual evasion of difficult problems.

I wish also to mention a personal matter. My illegal exile to Gorky last January attracted worldwide attention. I appeal to all who expressed concern at that time: Help our son's fiancée, Elizaveta Alexeyeva, receive permission to leave the Soviet Union. I appeal in particular to both government and private people who may meet with Soviet leaders. Liza's fate, the lengthy separation of two people who love one another, has became a means of pressure on me. This is a strictly personal matter, with no connection whatsoever to interests of state. I do not know what the authorities have in mind for the future, but the affair is already tragic. I am hoping for assistance in this very concrete problem that is so important to me.●

REPUBLICANS SUPPORT REVENUE SHARING

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. SHUSTER. Mr. Speaker, yesterday the House Republican Policy Committee adopted a formal policy statement in support of H.R. 7112, the Local Government Fiscal Assistance Amendments of 1980. This is only appropriate, Mr. Speaker, since revenue sharing is a concept conceived by, born under, and nurtured by the Republican Party. Unfortunately, Mr. Speaker, the bill as reported by committee, and as supported by the Carter administration, completely deletes revenue sharing for State governments. The Policy Committee, therefore, also endorsed an amendment to be offered on the floor of the House, and sponsored mainly by Congressmen JACK WYDLER and BARBER CONABLE, which will restore the State share of the revenue-sharing program for fiscal years 1982 and 1983.

Mr. Speaker, I am attaching the full text of the committee statement so that my colleagues may more fully understand the importance of revenue sharing and the reasons behind the policy committee's action.

REPUBLICAN POLICY COMMITTEE REAFFIRMS SUPPORT OF REVENUE SHARING

"We will continue to press for the enactment of General and Special Revenue Sharing * * * a means of returning to the people powers which for 40 years have grown increasingly centralized in the remote Washington bureaucracy." (Republican Platform—1972).

"Revenue Sharing is an effort to reverse the trend toward centralization. Revenue Sharing must continue without unwarranted federal strictures and regulations." (Republican Platform—1976).

"Block grants and Revenue Sharing provide local government with the means and flexibility to solve their own problems in ways most appropriate for each locale * * * we pledge to continue and redouble our efforts to return power to the state and local governments." (Republican Platform—1980).

The concept of Revenue Sharing is one conceived by, born under, and nurtured by the Republican Party. It is, therefore, appropriate that the House Republican Policy Committee endorses H.R. 7112—the Local Government Fiscal Assistance Amendments of 1980—a bill to extend the revenue sharing program through fiscal year 1983.

As reported from Committee, H.R. 7112 would extend payments to local governments at an annual funding level of $4.6 billion. The money is allocated to general purpose units of local government on a formula which takes into account a government's population, per capita income, and tax effort.

As currently drafted, H.R. 7112 does not continue the revenue sharing program providing funds to state governments. The Policy Committee recognizes that fiscal restraint and a balanced budget call for sacrifices. Nonetheless, the same amount of savings could have been attained by trimming some of the 496 different categorical grant programs rather than completely eliminating the state revenue sharing program.

Fortunately, a compromise between continuation and curtailment of the state program is possible. The House Republican Policy Committee supports this compromise in the form of an amendment, authored by Congressmen Jack Wydler (R-N.Y.) and Barber Conable (R-N.Y.), which will be offered on the Floor of the House to authorize state funding in fiscal years 1982 and 1983 at the current level of $2.3 billion per year. No funding will be authorized for fiscal year 1981, however, thereby complying with the Budget Resolution for fiscal year 1981. In addition, under this amendment Congress would retain control of the program because:

Any future funding of state governments would be subject to the appropriations process; and

No entitlement funding for state governments would exist, although such a funding mechanism has been retained for local governments under the bill.

This approach has the salutary effect of giving Congress flexibility in future determinations of how to assist state governments. In addition, it provides the opportunity for the next President, Ronald Reagan, to eliminate some of the 496 grant programs and funnel money back to the states and localities in a more reasonable fashion.

Revenue sharing represents an efficient use of taxpayers money while returning decision making power to the level of government closest to the people. It fosters intergovernmental cooperation and preserves the foundation and heritage of our form of government—federalism. The House Republican Policy Committee, therefore, urges all Members to support adoption of the Wydler-Conable Amendment and passage of H.R. 7112, the Local Government Fiscal Assistance Amendments of 1980.

This is the 260th day of the 26th consecutive year of Democrat control of the House of Representatives.●

TRIBUTE TO THE MOST REVEREND FRANCIS F. REH

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. TRAXLER. Mr. Speaker, it is a great honor and privilege for me to call the attention of our Nation to the service of one of my most noteworthy constituents, the Most Reverend Francis F. Reh, who is currently retiring as Bishop of the Catholic Diocese of Saginaw. Through the years I have felt privileged to know Bishop Reh, and I have always looked with the greatest admiration and respect upon the work he has performed in my congressional district and throughout the country.

Bishop Reh was born in New York City. As a young man he attended the North American College and the Pontifical Gregorian University in Rome, Italy. There he earned a B.S. licentiate in sacred theology and was later awarded an honorary doctor of laws from Ionia College in New Rochelle.

Bishop Reh began his priestly life in 1935 when he was ordained in Rome. He then continued his education in cannon law at the Pontifical Gregorian University.

Upon returning to America, Bishop Reh served in New York from 1939 to 1962. In October of 1958 he was called to Rome by Cardinal Spellman to attend the conclave which elected Angelo Cardinal Roncalli as Pope John XXIII. In 1963 he was one of the religious leaders invited to the White House for a conference with President Kennedy on social justice for our black fellow citizens.

After serving in New York and later as Bishop of Charleston, S.C., Bishop Reh was called back to North American College in Rome, in 1964, and was appointed rector of the college. As rector, he ordained over 200 students into the priesthood.

In 1968 Bishop Reh was appointed by Pope Paul VI as third bishop of the Diocese of Saginaw where he has had care of 176,000 Roman Catholics and 105 parishes. Since then he has ordained 41 priests and 19 deacons. He has been responsible for highly successful education programs in my district, encompassing 5 high schools and 26 elementary schools with a present enrollment of 9,636 students. In other nonschool education programs initiated by the Bishop there are 21,310 students enrolled.

In the Saginaw Diocese, Bishop Reh has established the diocesan finance board, created the liturgical commission, initiated the diocesan deposit and loan fund to assist parishes in building programs, established the senate of priests and the diocesan personnel board. He has established several ongoing educational and ministerial inservice programs for priests and initiated televised Mass in the area. Further he has maintained offices of campus ministry at 3 colleges and universities where 17,000 catholic students participate.

Beyond these duties which Bishop Reh has so diligently executed, he has developed our area's Vietnamese refugee resettlement program, the office of rural life ministry, the Guadalup Center, the office of family life, the office of special projects which includes the administration of the campaign for human development and the office of social and apostolic action.

Bishop Reh is loved and respected not only by all the members of the Catholic diocese, but by the entire community he has served so well. He has touched the lives of countless individuals and enriched us all through his dedication. I am proud to call him my friend, and grateful that he was sent to serve in our area. His life has been a true inspiration to all who strive to serve God and help their fellow man.

Mr. Speaker, I feel greatly honored to be able to tell the Congress about the Most Reverend Francis F. Reh.●

CLEVELAND AMENDMENT: THE BEST POSSIBLE TRANSPORTATION FOR THE NATION'S HANDICAPPED

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. McKINNEY. Mr. Speaker, in the next few weeks, the House will consider H.R. 6417, the Surface Transportation Act of 1980. Included in that legislation is an amendment offered by Representative JAMES C. CLEVELAND, Republican of New Hampshire, which I believe is an excellent means toward expansion and improvement of transportation for the Nation's handicapped. The proposed amendment would allow alternatives to the Department of Transportation's—DOT—published regulations which require that all buses be fully accessible to the handicapped within 10 years. These regulations were issued to comply with section 504 of the Rehabilitation Act of 1973. However, I believe that the handicapped populations of the Nation's cities, towns, and rural areas could be better served by a policy which allows individual communities to implement either the 504 regulations, or an alternative system better tailored to the needs of the handicapped in that particular community. Under the Cleveland amendment, communities would be given that option. However, if the Cleveland amendment is rejected, DOT's requirements will be mandatory and could potentially result in the elimination of other, more successful, transportation systems. Local communities, which must administer and sustain transit systems, best understand the complexities of, and barriers to, transportation in their areas. They should be permitted to utilize their limited mass transportation dollars to provide the best possible alternatives for the handicapped.

As my colleagues know, the Cleveland amendment would grant localities the freedom to develop the most feasible transportation system for handicapped travelers. However, the proposal also insures that the right of the handicapped to safe, reliable, and accessible transit is not violated. The amendment contains explicit standards which any proposed alternate transportation service must satisfy. If these requirements are not met, the community must continue to adhere to section 504 regulations. The standards set forth in the amendment include: Expenditure of a minimum of 3 percent of the community's mass transit funds for transportation for the handicapped; the provision of service at comparable rates and covering the same geographic area as that provided by regular fixed-route transit; and the provision of door-to-door service within 24 hours of request. In addition, the amendment requires that any alternative to full compliance with DOT's regulations be developed in consultation with the handicapped members of the community. This element is the key feature of the amendment. The insight of a handicapped person into the particular difficulties faced by a wheelchair-bound or otherwise handicapped traveler is essential to the development of successful alternate plans for each community.

For instance, rural, hilly areas, sidewalks in disrepair, and crowded conditions on busy, urban streets can pose an insurmountable obstacle to those confined to wheelchairs. The possibility of theft or other crime in some urban areas may deter all but the most dauntless from venturing from the safety of their homes. Despite the good intentions of those who issue regulations, only a handicapped person will best understand the limitations within which a community must work in developing a practical transportation plan. While a plan deemed most suitable might fully comply with 504 requirements, specialized door-to-door taxi services may be more workable in many areas. The Cleveland amendment would permit either full compliance with DOT's regulations, the formulation of a plan for taxi service or other alternative, or any combination of, or variation on, these two systems which meets the standards set forth in the amendment. In any event, the handicapped in each community should have a voice in determining the most appropriate method for that community.

Beyond involvement on the part of the handicapped, however, some communities continue to face obstacles to implementing what they consider to be the most beneficial program for their riders, due to limited financial resources. A Federal mandate to equip all business with wheelchair lifts might preclude the development of a more practical and financially feasible transporation alternative, or the continuation of an already successful one. I need only look to the Fourth Congressional District of Connecticut for an example.

Several years ago, the Westport Transit District, with the assistance of the mobility advisory group, developed an innovative transportation system comprised of both fixed-route "minnybuses" and demand-responsive "maxytaxys." The system currently provides an excellent level of service to both handicapped users and the general population. A handicapped person can be picked up at his or her home by a maxytaxy, with an average wait time of only 30 to 40 minutes, pay half the fare charged to a nonhandicapped rider—25 cents—and be delivered directly to a destination elsewhere in Westport. That person need never contend with either the hilly terrain characteristic of many parts of New England or long waits at bus stops in inclement weather. Furthermore, since the Westport system is an integrated one, nonhandicapped as well as handicapped riders use the maxytaxy—with no detraction in service to the handicapped—thereby providing a mainstreaming into society to which the handicapped have an indisputable right. Using 11 vans, only 2 of which are equipped with wheelchair lifts—lifts are planned for the other 9, if funds are available—Westport serves an average of 20 summer and 25 winter handicapped citizens per day. By contrast, the Connecticut Department of Transporation has invested $2.8 million to equip 280 buses with wheelchair lifts in Harford, New Haven, and Stamford. Has this investment resulted in increased use on the part of the handicapped? Unfortunately, the answer is no. Approximately 93 total wheelchair trips are taken on these buses every month, or about 1 trip per city per day. Under 504 regulations, Westport could be forced to equip all of its buses with lifts. Thus, funds would have to be diverted from the current maxytaxy system, potentially destroying its proven record of success. Further, the purchase of additional wheelchair lifts for the widely used maxytaxy would have to be postponed or abandoned entirely.

The Westport Transit District's Mobility Advisory Group is composed of representatives of Westport's elderly and handicapped population, including two members who are confined to wheelchairs. This type of advisory group could be instrumental in other communities if the Cleveland amendment were enacted. The Westport group has contacted me several times in the past few weeks to urge my support for the Cleveland amendment. Their letters state, in part:

> We believe the integrated services of the minnybus and maxytaxy provide effective transit solutions for a suburban community and serve the needs of the elderly and handicapped community in a sensitive and feasible way.
>
> The Westport Transit District has a direct interest in the accessibility requirements of section 504 and fully supports House bill H.R. 6417, which contains an amendment offered by Representative James Cleveland allowing local options in providing transportation services for elderly/handicapped persons.
>
> The district finds itself in an untenable position in attempting to comply with the section 504 regulations. With limited Federal funds available, the purchase of lift-equipped replacement minnybus transit coaches diminishes the availability of funds to purchase replacement accessible maxytaxy vehicles.
>
> Maxytaxy provides comparable or better service to the elderly/handicapped communities than would accessible vehicles on a minnybus route.

The range of options contained within the Cleveland amendment can produce alternative transportation systems for the handicapped which are better suited to some communities than those mandated by section 504. The Westport system has proven more cost effective than maintaining full accessibility on fixed-route vehicles, while providing first-rate service which is integrated with the rest of the community. The Congressional Budget Office confirmed in a study that a larger number of handicapped persons can be served at less cost by the door-to-door option than on regular transit vehicles. While cost savings such as these are a definite plus, my primary concern is with the quality of service to the handicapped. I maintain that quality can best be assured by allowing the handicapped a voice in determining the most feasible and accessible option for their local communities. I urge my colleagues to support expanded transportation opportunities for the handicapped by casting a positive vote on the Cleveland amendment.●

TRIBUTE TO CABLE AIRPORT

HON. JIM LLOYD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. LLOYD. Mr. Speaker, the aviation community of southern California has been well served by Cable Airport near Upland. This month the fine men and women who operate this excellent general aviation facility are marking the 35th anniversary of its beginnings. I have piloted aircraft in and out of Cable hundreds of time. I am pleased to be affiliated with such an airport. The article below, from the August 30 edition of the Pomona Progress Bulletin, sums up the airport's phenomenal growth and the pride the residents of the 35th Congressional District feel toward this fine facility:

CABLE AIRPORT

Nestled near the foothills Cable Airport celebrates its 35th anniversary as the only privately owned airport in the valley.

Cable, billed as "the largest private airport in the world," has grown considerably since it first opened in May 1945. As the interest in flying grew and aviation pulled the world closer together, the dream of Dewey Cable and his late wife Maude, also prospered.

It has gone from 105 acres of bare land to a facility that has 370 single- and twin-engine aircraft based there, auxiliary services for general aviators and their machines, 222 hangars and a showplace for local pilots' groups.

When Cable, an Iowa farmer who brought his family west in 1923, purchased the land north of the Upland city limits he settled on an area that was generally free of fog even when zero visibility made flying impossible at other valley airports. He had been an aviation enthusiast since his brother built and flew a plane while the family was still in Iowa.

He and the late Mrs. Cable worked for the Civil Air Patrol and operate Rubidoux (now Riverside) Airport before deciding to open their own general aviation airport on May 27, 1945.

The couple constructed the original 2,000-foot runway. Initially, there were only five planes to use that runway. Construction soon began on the office building that still stands today. The facility was initially known as the Cable Claremont Airport.

"Originally there were no hangars," recalled Paul Cable, the eldest Cable son of Dewey and Maude Cable, who now serves as the airport's general manager. "They built a seven-sided building for maintenance. The first hangars were built in 1949. They housed 20 airplanes."

Hangars have been added on an incremental basis since then, he said. The airport now has 222.

"We expand some every year. We do some building improvements and lengthen the runway and taxi way. It's a constant building program," Cable said.

Previous expansions included the extension of the runway to 3,600-feet in 1962, annexation into the city in 1966, and the gradual additions of the various airport businesses.

The airport has stopped additional expansions and improvements until a city-ordered master plan of the airport and its intended expansions are accepted by the state, county and Upland City Council. Public hearings on that master plan are expected to begin next month.

Members of the Cable family all played important roles in developing the airport as a family affair and business. A Cable brother was a barnstormer and test pilot; son Paul was a mechanic for fighter planes in the South Pacific; son Walter was a pilot in the Air Force and holds the world altitude record for small aircraft; son Roger and daughter Mildred received their pilots' license as soon as they were old enough; and daughter-in-law Maxine also held a pilot's license as do several grandchildren.

Cable Airport is a family corporation with Dewey, Paul, Walter, Roger and Mildred as the owners. Businesses on the grounds include Foothill Aircraft Sales and Service, owned by Walter and his son Robert; Cable Air Flight School, owned and operated by Paul Kochman; California Air Radio with Richard Skoglund as owner-manager; Sky West Instruments, Bob Hemphill, owner-manager; Cable Cafe, owned and managed by Frank Hill; Ira Lund Aircraft Parts, owned and managed by Lund; and Southwest Aircraft, owned by Bob Haer. A squadron of the Civil Air Patrol is also housed at the airport.

Dewey Cable is retired. Besides Paul, the airport staff includes Charles Barnett, assistant manager; Dave Cable, maintenance foreman; and Peggy Smith, secretary and bookkeeper.●

PROF. HANS F. SENNHOLZ EXAMINES SUPPLY-SIDE ECONOMICS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. McDONALD. Mr. Speaker, there has been a growing trend in recent years toward repudiation of Keynesian economics, which many of us are pleased to note. However, as with all human nature, many economists are reluctant to recognize the error of their ways and some are promoting what has come to be called supply-side economics. Supply-side economics as Professor Sennholz, a distinguished professor at Grove City College in Pennsylvania, recently pointed out in the Review of the News for September 10, 1980, is only a halfway point on the scale of returning to economic sanity in this country. What really needs to be done is explained in his article, which follows for the edification of my colleagues:

PROF. HANS F. SENNHOLZ EXAMINES SUPPLY-SIDE ECONOMICS

There is mounting evidence that the age of Keynesian economic policies is drawing to a close. The new trend points toward "supply-side economics," which is a curious blend of old virtues and modern temptations. It is eloquently expressed by such eminent economists as Laffer, Feldstein, Boskin, and others, and spear-headed by a growing number of politicians who are sensing its political ramifications and benefits. The American business community, almost without exception, is hailing it as a return to an economic order of reason and justice.

The Keynesian blueprint, which put the federal government in the driver's seat for economic stability and full employment, is falling into disrepute as its consequences become apparent. The blueprint, which guided economic planners from President Franklin Delano Roosevelt to Jimmy Carter, calls for full employment through fine-tuning of aggregate demand by the federal government. But unfortunately this fine-tuning has meant radical government intervention that has aggravated instability and unemployment and precipitated deficit spending and inflation. Moreover, full employment through demand stimulation, as envisioned by Lord Keynes, lent its support to universal stimulation of consumption by a gigantic Welfare State and transfer system that is now consuming economic resources faster that they can be produced.

With standards of living falling and unemployment rising, the supply-side economists are offering a major challenge to the Keynesian orthodoxy. They are emphasizing the importance of production, rather than consumption, urging immediate tax breaks for savers and business. They seek to encourage saving and investment to promote economic growth, to reduce the disincentive to work through lower tax rates, to stimulate business through accelerated depreciation and tax credits. In short, they are designing intriguing supply-side models that are manipulated to achieve the greatest increase in supply or G.N.P.

Most Conservatives are applauding the supply-side economists who promise new hope through tax reductions. But, despite all of the applause, this economist cannot escape the strong concern that some of these supply-side advocates want merely to substitute the collectivist Keynesian blueprint with their own, and replace the demand-side tinkerers in Washington with a new team of collectivist supply-side tinkerers.

We must rejoice at the disrepute into which the Keynesian econometric models are falling. And we readily admit that the rise of supply-side-economics, under certain conditions, affords new light and hope for a better economic future. But we cannot ignore some glaring problems that cast serious doubt on its efficacy.

CUT GOVERNMENT SPENDING

First we must emphasize that tax cuts do not necessarily reduce the burden of government. Given a continued high level of government spending, a tax cut merely shifts the burden to the two other sources of government revenue—to creditors who buy Treasury obligations, and to victims whose purchasing power is reduced through monetary inflation. Contrary to popular belief, it is the level of government spending that determines the cost of government. Taxation is just one form of government revenue which, in this age of deficit spending, covers merely a fraction of the total cost. A tax reduction, therefore, may be only a popular device for shifting costs to other victims.

To be meaningful as a supply-side measure, the tax reduction would have to be significant. To make it politically acceptable, it would have to be paired with income-tax cuts for the benefit of the poor and "underprivileged," which taken together would tear a sizable hole in the federal Budget. If government spending is maintained at previous levels, or even increased for any reason, the inevitable deficit would trigger an inflation the disastrous effects of which might far surpass the deleterious effects of unrelieved taxation.

The supply-side economists are quick to argue that a tax reduction tends to force government to reduce its spending to the level of revenue, or at least to a manageable deficit. But in the light of recent Budgetary deficits of some $50 billion annually, we must question whether this alleged moral force will in fact reduce spending in the face of tax cuts. The American people have grown accustomed to large deficits. Supply-side policies, therefore, might result in continued deficits and further feed the raging inflation.

Supply-side economists angrily reject this conclusion. They are convinced that a cut of business taxes would lead to an astonishing burst of business activity, which would boost government revenue and therefore reduce the budgetary deficit. They point at President Kennedy's tax cuts that led to remarkable economic expansion and employment. But they conveniently overlook the fact that the Kennedy New Frontier and the Johnson War on Poverty thereafter launched numerous special spending programs that, in the end, cost more than the expansion gained. In fact, transfer spending since then has risen at twice the G.N.P. growth rate and, throughout the 1970s, has gradually reduced the real income of most Americans. Therefore, we are led to believe that economic expansion when the benefits are subsequently seized by government is dubious business. It whets the appetites of countless transfer beneficiaries who will want to seize more income and wealth from the producers than the expansion is adding in national income and G.N.P.

SUPPLY-SIDE INTERVENTION

If the supply-side economists were to work as diligently toward a reduction of government spending as they are working on tax cuts, which are more popular politically, and if they were to elevate the balanced budget now and forever to their fiscal ideal, they would be applying a formula for growth and prosperity. And there is no doubt that government can promote economic expansion and development as readily as it has discouraged them during the last 50 years. It can devise controls and regulations, taxes and penalties, that hamper consumption. In fact, it is conceivable that government may use its powerful apparatus of coercion to promote saving and investing, industrial expansion and modernization. But such a policy, unfortunately, does not represent a return to individual freedom and free markets. It is radical interventionism that breeds more government power.

Supply-side policies accompanied by transfer restraint and monetary discipline may lead to astonishing economic growth rates, to which the economies of West Germany and Japan clearly attest. The miracle of German and Japanese reconstruction and development since World War II sprang from supply-side economic policies. The heavy hand of government guided industry and commerce every step of the way. While basic tax rates were as high (or even higher) than U.S. rates, many entrepreneurs and capitalists who met government stipulations and requirements enjoyed complete tax freedom. There were ample tax breaks for savers, accelerated depreciation rates for business, generous tax credits, and many other favors to businessmen complying with the government plan.

An economy built on supply-side interventionism may thus temporarily achieve astonishing growth rates. But it is always walking a tightrope that is strung by the fortunes of politics. With the government stringing the ropes that support business, powerful pressure groups are vying for government power in order to restring the ropes. Economic life is overshadowed by political life that may radically alter the former at the next national election.

OUR YARDSTICK IS FREEDOM

The economics of Free Enterprise points beyond supply-side economics. It rejects all attempts by government to manipulate economic life and redirect the economic actions of millions of people. Devoid of all Napoleonic complexes, it does not deliberate in terms of aggregate demand or supply, nor does it set out to manage the massive U.S. economy along political lines. It offers no policy advice to politicians—except to get out of the way of individual freedom and the dynamic market process. In short, it prefers a self-generating, spontaneous order to the coercively imposed order of any kind or color.

Free Enterprise economics hinges upon the inalienable rights of the individual to his life and property. It opposes any and all kinds of political intervention that negates individual rights and fosters political power. It abhors all sorts of government intervention that distorts the value and price signals by which individual choices and preferences are made known to producers. It makes no value judgment on the different types of spending, such as consumption versus investment, and bestows no particular favors. But it is dead set against political favors that breed economic and social conflict through economic redistribution on a massive scale, weakening the bonds of peaceful cooperation until society is torn apart.

Free Enterprise economists favor the repeal of all previous legislation that favors some people at the expense of others, that redistributes, income and wealth by political force, that restricts the economic freedom of some and bestows privileges to others, and otherwise creates social tension and conflict. This is why we strenuously oppose any and all inflationary policies—which we consider to be the most insidious political evil impoverishing many millions of thrifty, hard-working Americans. In our judgment, the federal Budget must be balanced immediately and permanently, and the monetary authorities must abstain from any further money and credit expansion. To balance the Budget the federal government must reduce its transfer spending, which is sowing the seeds for ever more social conflict.

When federal spending is reduced, federal taxes must be lowered. Free Enterprise economists would proceed with an immediate reduction and ultimate elimination of all those taxes that are punitive, discriminative, and regulatory. They would search for "neutral" taxation that would support or even strengthen the peace-keeping and defense functions of government, but in no way would interfere with the economic choices and preferences of the people. They favor "fiscal" taxation, but reject economic and social tax levies. In particular, they would immediately abolish the confiscatory marginal rates in the upper brackets of the personal income tax and the estate tax, which yield little revenue, but are designed to search and destroy.

Free Enterprise economists would also erase the distinction between certain types of income that are taxed at different rates, such as "earned income" (i.e., income from labor services, vs. "unearned income," i.e. income from savings and investments). Above all, they would eliminate the corporate income tax, which is the most discriminatory and destructive of all levies. It is a double tax on individuals engaged in productive activity that is the inalienable right of all free people. This tax causes countless distortions of personal and corporate decision-making, of costs and prices, spending and saving. Born from envy and resentment against business activity, it suppresses economic life and pursuit more effectively than any other government intervention.

FRIENDS OR FOES?

Are we pleased with the recent rise of supply-side economics and its clear challenge to the Keynesian orthodoxy? In a sense we are. We are applauding the fall of the Keynesian monster into long overdue dispute, but are fearful that it is merely assuming another color. Wherever the supply-side economists and politicians sincerely seek to reduce the size and strength of government, we shall rally to their intellectual and political support. But wherever they are merely changing its color, which is so much easier politically, we cannot join them in their fascinating maneuvers.

We are aware, of course, that some supply-side champions also are staunch defenders of individual freedom and the competitive order. They are promoting supply-side policies as popular interim steps on the way to a freer order. We shall readily support them if they openly and courageously state this position and, in their policies, remain on guard against new deficit spending and inflation. But wherever they forget to confront the transfer cancer, when they are working diligently to increase the national economic pie with bigger transfer slices for everyone, boosting the prestige and power of government, we must stand aside and sound the alarm. Whenever, for urgent political reasons, they prefer to remain silent on the roots of the evil, preferring short-run political gains over long-run consequences, we must avoid their company and go our own way. And if, for any reason whatever, they should fall prey to the temptations of deficit spending and rampant inflation, we must vigorously oppose their schemes and unmask them for what they really are.●

BILL MOORHEAD

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 16, 1980

● Mr. COLLINS of Texas. Mr. Speaker, let me join in extending my best wishes for the future to my good friend, BILL MOORHEAD of Pennsylvania. BILL has been a hard-working Congressman, but I can never recall seeing him when he did not have a pleasant and friendly smile on his face. Considering all the problems we have before us in Congress, it is good to be a man who always takes things in stride with a positive outlook for the future.

Bill represents an unusual combination. He is a Yale man who went through Harvard Law School and represents the solid industrial city of Pittsburgh. When I think of those Pittsburgh Steelers and a combination of Harvard-Yale as their Representative, we have a well-rounded man.

We are counting on Bill to stay active in Washington. We need your advice to help us in these crucial years of the 1980's.●

FUEL-SAVING PATENTS: FACTS AND FALLACIES

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. DANNEMEYER. Mr. Speaker, concern about energy independence has renewed interest in fuel-saving carburetors and in claims that major oil companies have suppressed these carburetor inventions.

In order to establish the facts and fallacies regarding the claimed existence of these super carburetors, and the rumors of their suppression, the following research into the technical aspects of carburetion and the U.S. patenting system should be conclusive.

CARBURETORS: LIMITS TO EFFICIENCY

There is a limit to the efficiency of a carburetor, and that limit has been nearly reached by automakers, according to experts. Their testimony reveals, moreover, that the super carburetor exists only on paper, and even that does not pencil out.

Under normal driving conditions the energy available from a gallon of gasoline is inadequate to provide the mileage economy promised in carburetor legends. Much credence is lent to the miracle carburetor stories by the often astounding results honestly obtained from special "miles-per-gallon" contests. Oil companies sponsor these contests each year to show that an automobile can obtain 100 or more miles from 1 gallon of gasoline. The vehicles are made as friction free as possible. They are tuned to conserve gas at the cost of performance. However, the largest factor in the competition is not the machines but the special driving technique. Momentum is conserved to the maximum extent and the engine is turned on for brief periods of acceleration between long-coasting periods. Neither the vehicle performance nor the driving techniques would be tolerable or safe in normal driving conditions.

Testimony from four sources offers expert opinion on this subject.

Research at the California Institute of Technology, Pasadena, Calif., indicates that:

> Private brand carburetors . . . past and present, have generally fallen short of the efficiency and reliability of those supplied by automakers . . . the standard modern carburetors approach a practical optimum in performance. Potential increases in performance are small and rarely worth the excessive increases in cost and complexity required.

Mr. Eric Dahlquist, former editor of Motor Trend magazine and a leading authority on the carburetor, contends that most carburetor legends appearing over the past 40 years have had fraudulent origins. However, a number of inventions, Dahlquist claims, have appeared. In some cases, companies were found to produce superior carburetors. However, Mr. Dahlquist noted that in each case the designs have had technical problems. He observed that the carburetors offering significantly improved gas mileage, generally 10 percent, did so at the cost of simplicity.

The Kirk-Othmer Encyclopedia, in an article entitled, "Common Fallacies Concerning Gasolines," had this to say about optimum gasoline performance:

> Over the years, a number of misconceptions about gasoline have cropped up again and again. Some are the products of wishful thinking; others stem from a lack of understanding or a misunderstanding of gasoline behavior in engines. Rumors of some suppressed invention, such as a special carburetor or miraculous fuel additive, that would give fuel economies of 100-200 miles per gallon, fall into the wishful thinking category . . . a myth beyond the bounds of possibility.

Mr. Robert Knoll, a research and testing scientist with the Automotive Research Laboratory of Consumers Union submitted that—

> There are no unknowns or mysteries about the carburetion process and today's carburetors approach the practical limits of efficiency.

The question arises of how much of an improvement is possible over today's designs? According to Mr. Dahlquist and other experts, the answer is, unfortunately, very little. The optimum fuel ratios and the optimum fuel vaporization conditions are all well established. Today's carburetors closely approach these ideal conditions within reasonable cost constraints, Dahlquist states.

From the above information, it is difficult to believe there exists a miracle fuel-saving device. Even if there were such high-mileage devices, they could not be hidden from the public under the current patenting system.

PATENT SYSTEM: OPEN FOR INSPECTION

The owner of a patent has certain control over who may make, use, or sell the invention for a period of 17 years, but thereafter, the public may use the invention with complete freedom. This term may only be extended by a special act of Congress, and this occurs very rarely and only in exceptional circumstances. Even during the 17-year term of protection, the public has unrestricted access to all information concerning the invention in the patent document and the Patent and Trademark Office files.

Every patent which has ever been issued in the United States is available in these files. Records are available showing all patent ownerships and transfers of rights. Therefore, if the oil companies were, in fact, buying up patents, they would have no way of hiding it from the public. Secrecy of any invention is only maintained while the patent is pending, a matter of months.

Specifically identified, energy-conserving carburetor patents have been cited only twice in recent correspondence to the Patent and Trademark Office. In both instances, all the patents identified have expired and may be freely utilized by anyone. Neither the patents nor the Patent and Trademark Office files indicate that the inventions involved in these patents would provide any substantial fuel savings. Furthermore, neither of these patents has ever been assigned to an oil company as is commonly alleged.

The Library of Congress has recently studied the issue of suppression of patents on carburetors and other fuel-saving carburetor attachments. Their study did not discover the existence of suppression of patented carburetor technology which would achieve extraordinary fuel economy.

OIL COMPANIES: THE RECORD

Each of the major oil companies: Standard Oil of Indiana, Exxon, Atlantic Richfield, Texaco, Union 76, and Shell, has certified in writing to me that they do not, and never have owned patents on carburetors or gas-saving devices.

Mr. John Tessieri, vice president of the Research, Environment, and Safety Department of Texaco, Inc., pointed out another reason why oil companies would be unsuccessful in suppressing gas-saving devices:

> Because the patent system is an open system, it seems highly unlikely that automotive companies would not become aware of patented devices for improving fuel economy. Since the automobile manufacturers are under heavy regulatory pressure to achieve government-mandated Corporate Average Fuel Economy (CAFE) standards, any such practical devices would be avidly sought to improve the precarious position of the industry.

Concern about energy independence has given the public a genuine reason to hope that there is some element of truth in the carburetor legends. Since the 1950's, stories of 200- and 300-mile-per-gallon carburetors alleged to have been lost in the Patent Office or suppressed by oil firms have been revived at roughly 5-year intervals. How and why this happens has always been a puzzle. But in these times of rising prices and spot shortages, the reason for these latest rumors seems clear. Unfortunately, a myth is still a myth, regardless of its rate of revival.●

DR. JOHN CARMICHAEL HONORED

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

• Mr. BAILEY. Mr. Speaker, it is a rare man who has the extraordinary sensitivities and insights that are held by Dr. John Carmichael, the finest educational entrepreneur I have had the privilege to know.

In the past 6 years, Dr. Carmichael has been the driving force behind the strident growth of the Westmoreland Community College. Under his incisive guidance, it has become a highly respected educational institution, recognized by the Middle States Association. Currently, its student enrollment is more than 8,000.

While I congratulate Dr. Carmichael on his appointment to superintendent/president of Union County Technical Institute and Vocational Center, I must admit that I regret to see him leave. No troop likes to lose a good general.

With a highly impressive academic record of his own, a summa cum laude graduate of Suffolk University, a master of arts from Columbia University Teachers College, a master of business administration and a Ph. D. in vocational education from the University of Michigan, Dr. Carmichael has built a community college in Westmoreland County with a highly talented and knowledgeable faculty to offer thousands of youngsters and adults expanding educational opportunities and many, many support programs.

During his tenure as president, Dr. Carmichael expanded the educational opportunities to include over 25 branch locations, finalized construction of several additional buildings, completed the college strategic long-range master plan, and initiated a college foundation to secure additional funds for college programing. He also is to be commended for his dedicated efforts to improve educational opportunities for handicapped students.

In a word, "success" is synonymous with Dr. Carmichael. His unselfish outlook and overwhelming enthusiasm and ambition also have spurred him to be extremely active in civic affairs. Currently the president of the Pennsylvania Commission for Community Colleges, he has served as vice president of the Central Westmoreland Chamber of Commerce, chairman of the Westmoreland County Heart Association, and presently is a member of Judicial Review, Private Industry Council, and the Economic Development Planning Commission.

Again Mr. Speaker, it is with great pride and admiration that I bring this man of outstanding capabilities and character to your attention. Many, many persons are grateful to have benefited by his wisdom and guidance. I congratulate him and thank him.•

SUPERFUND BILLS SUPPORTED BY CHEMICAL MANUFACTURERS

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

• Mr. DOWNEY. Mr. Speaker, the superfund bills, H.R. 7020 and H.R. 85, are coming to the floor for our consideration this week. Recently, ABC's "Nightline" program was devoted to this legislation. The transcript of that conversation between Congressman Al Gore and the chemical manufacturers' representative, Robert Roland, is an interesting discussion of the issues involved and includes the surprise conclusion of CMA's support for superfund. I make the Chemical Manufacturers Association statement available to my colleagues, and the text of the program is as follows:

Eric Osker. Our waters are going to become polluted, our children and our children's children are going to come down with cancer and genetic damage.

Ted Koppel. The Surgeon General warns that increasing danger to the public health from the dumping of toxic chemicals. There is a major bill in Congress aimed at dealing with the problem. We'll be talking live tonight with one of its chief sponsors, and from the chemical industry, one of its chief opponents.

And on day 313 of the hostage crisis, Iran's President says the United States has hampered his efforts to win the hostages' release.

Announcer. This is ABC News Nightline. Reporting from Washington, Ted Koppel.

Ted Koppel. Good evening.

Most of us tend to be somewhat apathetic to the dangers of chemical waste in places it has been polluting the air and the land and water for years. But because that pollution is frequently invisible and because its effects sometimes take many more years to develop and to surface in our bodies, it is one of those problems which most of us are waiting for someone else to solve.

The question of who should bear that burden is the focus of our broadcast tonight. But first, here's Steve Shepard with a closer look at the problem.

Steve Shepard. No modern industrial society can exist without chemicals. But chemicals are not an unmixed blessing.

This fire ripped through a chemical waste storage facility in Elizabeth, New Jersey. Toxic fumes billowed over populated areas of northeastern New Jersey and parts of New York City.

Woburn, Massachusetts, just north of Boston. Here chemical wastes are suspected to have contaminated air, soil and ground water on an 800-acre chemical dump site. Local residents have suffered higher than normal death rates, and the incidence of childhood leukemia is also unusually high.

Love Canal, Niagara Falls, New York. Hundreds of families have been forced to vacate their homes built on top of a dump once used by Hooker Chemical. Residents have experienced abnormally high rates of cancer, birth defects, and other diseases.

There may be as many as 50,000 chemical waste storage sites around the country. And at least 800 of the sites are known to be dangerous.

James McCarthy and his family live near a chemical dump in Jackson Township, New Jersey. McCarthy lost a nine-month old daughter to a rare form of kidney cancer and later lost his own kidney to the disease.

The ground water he used for drinking was apparently contaminated by the chemical dump near his home. Last month he paid $1,500 to bring a new water line to his house, but he's not yet sure that line is safe.

McCarthy is not alone in his problems. In a report released today the Surgeon General says toxic chemicals are a rapidly growing public health hazard.

Surgeon General Julius Richmond. We think there will be damage to human health, causing disease, cancer, neurological disease, chromosome damage. We don't know.

Shepard. The EPA says that 126 billion pounds of hazardous chemical waste will be produced in the U.S. this year, most in the old industrial states of the northeast and midwest. But those wastes will end up everywhere. Exotic chemicals such as myrex, dioxin, lindane [?] and others will find their way to waste chemical dumping sites all over the map.

There are ways to deal with these chemical wastes, and the government would like to take action.

But if there is a will and a way, there is one missing ingredient: money. Some experts say a nationwide cleanup could cost as much as $44 billion.

But figures like that don't mean much to victims like James McCarthy. They are more concerned about their future and their children.

James McCarthy. I have two children. Am I going to see them live? Or are they going to live? Somebody's got to help us.

Shepard. Steve Shepard, ABC News, Washington.

Koppel. But who will help? And who is going to foot the bill for all the damage caused by chemical waste? That in a moment.

* * * * *

Koppel. It is clear that an enormous amount of money is needed to deal with the nation's toxic waste problem. The question is who pays and how much.

Legislation that would start a national cleanup has been stymied in the Congress mainly because of those questions. Here's Capitol Hill correspondent Britt Hume.

Britt Hume. What happens to this bill, Senate No. 1480, in the coming weeks will determine if this Congress acts or not on the crisis in chemical waste.

A bit of background:

In the House, the Commerce Committee earlier this year voted out a bill creating a $600 million five-year trust fund financed half-in-half by government and industry to clean up hazardous waste dumps. But the bill was sent to the tax writing Ways and Means Committee where it seemed likely to be weakened. But surprise. It was strengthened to a $1.2 billion fund financed three-quarters by industry and a quarter by government. That legislation is presently down on the House floor where its final shape will be decided next week. But passage seems certain.

Meanwhile, in the Senate the Public Works Committee has produced S-1480. And it is a really strong bill. A $4.1 billion cleanup fund financed seven-eighths by industry and the rest by government. What's more, this bill would provide compensation for victims of chemical waste and it would allow victims to sue companies in federal court, a provision that is not popular with the chemical industry and its Senate allies.

It is now so late in the legislative session that any further delay in the Senate would likely mean that there will be no bill at all to clean up chemical waste dumps. And there are some here on Capitol Hill who believe that the chemical industry, while publicly supporting the concept of a cleanup fund is working privately in the Senate to stall and thereby kill the whole idea.

Britt Hume, ABC News, on Capitol Hill.

Koppel. Standing by now on Capitol Hill is one of the chief sponsors of legislation to fund the cleanup of toxic waste, Democratic Congressman Albert Gore of Tennessee. And here in our Washington studios, the president of the Chemical Manufacturers Association, Robert Roland.

Let me begin, if I may, with you, Congressman Gore. Is it not true that you are one of those who believes that the chemical industry is trying to kill that legislation?

Congressman Albert Gore. There's no doubt in my mind, Ted, that the industry would like to see this bill killed this year. Publicly they take the position that it supports some kind of bill, but they're holding out for provisions that a majority will not accept, and they're using the crowded legislative calendar to kill it by delaying it today while they publicly pronounce their acceptance of the principles embodied in it.

Koppel. All right. We have a representative of the chemical industry here. Mr. Roland, would you like to respond to that charge?

Robert Roland. Certainly, Ted.

That statement or that impression is just as erroneous as most of the information that's been surfaced on the superfund legislation or the whole matter of chemical waste disposal. The chemical industry, specifically manufacturers of chemicals have been trying for over a year to get sensible legislation enacted. And today, in testimony before the Senate Finance Committee on S-1480, we indicated once more that we support 7020—HR-7020, the Florio Bill, on the House side. We believe——

Koppel. What does that bill do?

Roland. That is a superfund-type bill that deals with abandoned waste sites and provides for a fund contributed by industry and government.

Koppel. Now what would the breakdown be?

Roland. The breakdown would be 75% industry and 25% government. It would be $1.2 billion.

Koppel. Now what's wrong with that, Congressman Gore? I mean, does that meet your impression of what's going on on the Hill?

Congressman Gore. That's what's going to pass on the House side, Ted, in my opinion. The problem is on the Senate side. And the opponents of the bill in the United States Senate have effectively delayed the bill until the end of the session. And its chances now are not good unless public pressure is focused on this problem.

Koppel. All right. I don't want to get too trapped now in the jargon of these various bills on the House side or the Senate side. The issue I think we ought to get into is whether in fact the chemical industry is going to come up with a great deal of money. Now Mr. Roland seems to suggest that it is.

Congressman Gore. Well, you know, he just said a moment ago that the industry has been trying for over a year to get a bill. You know, for those of us who've been in the trenches fighting this battle, that comment is really quite surprising, because we've been fighting against the industry. They've put up obstacles at every step along the road, and they're still doing so in the United States Senate today.

We're going to pass legislation in the House of Representatives, but it's going to be up to the public to put the pressure on the United States Senate if we're to have legislation out of the Congress and signed by the President this year.

Koppel. Mr. Roland, are you trying to stymie things over on the Senate side?

Roland. He expressed it perfectly. Congress has been fighting the industry on this subject, and particularly on the Senate side. S-1480 is such an unreasonable bill, drawn so broadly, creating an over $4 billion fund with special port law provisions that go well beyond the established law and the state and at the federal level today, and creating a scope of coverage that is well beyond what is needed to clean up the dump site problem.

Koppel. All right. Let me get right down to the——

Roland. And I don't think industry is needed to accept——

Koppel. Let me get down to basics, if I may, Mr. Roland. Do you accept the responsibility, does the chemical industry accept the responsibility that each should pay for the cleanup?

Roland. We think that anybody who is a waste disposer, if they violate the law, they should be responsible and they should pay for it.

Koppel. Yeah, but then we have the problem of deciding who the waste disposer is. Would the chemical industry accept that responsibility?

Roland. We have already said today in testimony that we are opposed to the idea of an industry fund placed on people who were not responsible for a previous action. But it is clear that the public will, as expressed by the Congress and in general public comment is that industry should pay something. And we said that we would contribute to that fund.

Congressman Gore. Ted, if I may comment. I think we've seen something new here on your program tonight. If Mr. Roland is indeed speaking for the industry and can communicate to the United States Senate that the industry will accept a 75 percent burden with 25 percent on—coming out of general revenues, and a fund of $1.2 billion, then I think the United States Senate would pass that legislation expeditiously if the opponents of the legislation got that message from the chemical industry and the lobbyists that they've hired to work it.

Koppel. All right. Now Mr. Roland, you're the president of the Chemical Manufacturers Association, so you clearly speak for the industry. Is that what you're saying?

Roland. What we're saying is we will contribute to a reasonable fund in a reasonable fashion.

Congressman Gore. A moment—a moment ago——

Roland. Now wait a second, let me finish, please.

Congressman Gore. A moment ago you said 75/25 and $1.2 billion.

Roland. On one dollar——

Congressman Gore. You're talking over $4 billion on the Senate side and you're talking more than 80% on the Senate side.

Koppel. I mean, I think we have the workings of a compromise here, Mr. Roland.

Roland. That's precisely so.

Koppel. If in fact you are talking about the chemical industry of coming up with 75% of the $1.2 billion. Is that what you're saying?

Roland. That's right. And we think that the $1.2 billion figure is important because the amount that is specified in the Senate bill is excessive for the job that needs to be done. And that's only the beginning, Ted.

Congressman Gore. Let me——

Roland. The most important part of the liability provisions that are contained in S. 1480 that are not contained in the House bill, in either version of the House bill. And that's what we have to negotiate.

What I'm telling you and what we've said from the beginning is the chemical industry believes and knows that it's part of the problem and we've been working to be part of the solution. We have been fought every step of the way by the committee staff and by people in Congress. We have not been recalcitrant. And that's part of the misinformation that I think has been communicated to the public on this.

Koppel. Mr. Roland, I have one small consolation for you. You've just had the last word.

Thank you very much, and thank you, Congressman Gore.

In a moment, a look at a controversy over toxic waste in a community on Long Island.

* * * * *

Koppel. While everyone agrees that toxic wastes are dangerous, there are many cases where there can be no certainty of just how dangerous because it does take so long for effects of some chemicals to be known. Rita Sands reports on one Long Island community where that uncertainty has produced a controversy.

Rita Sands. These gulls are drawn to what man creates in abundance, garbage. A mountain of waste covering more than 50 acres. It's the Hauppaugh landfill. Buried somewhere underneath this mess, toxic chemicals. No one knows how much or when they were put here, but it is known they seeped into and contaminated some of the underground water supplies.

The dumping of chemical waste has stopped, but officials admit there is a health hazard, and that a landfill should not be in the middle of this residential community and over its supply of drinking water.

Thomas Hroncich (Environmental Commission). I'd say—actually there's no good place for the landfill.

Sands. What is the alternative?

Hroncich. There aren't many right now, and that's one of the problems we're running into, is that there . . .

Sands. Not everyone agrees. Some residents of Hauppaugh think the dump should be closed immediately, with steps taken to stem the flow of the chemicals. Eric Oster is director of Dump the Dump.

Eric Oster. Love Canal unfortunately they found out too late to stop it. Those people have to move out of Love Canal. And unless we do something about it, that's what's going to happen.

Our water's going to become polluted, our children and our children's children are going to come down with cancer and genetic damage unless . . .

Sands. Mrs. Elsie Rotzman and her family moved into this house 26 years ago when there was no dump. Four years ago she found out her well water was unfit to drink.

Mrs. Elsie Rotzman. All this time we felt we were going to enjoy this forever. But it was only short-lived.

Sands. There has been no official documentation yet of sickness related to the toxic waste in the dump, but fear persists.

This elementary school near the dump was closed five months ago after traces of vinyl-chloride were found in the cafeteria. Though officials maintain the school is safe, parents suspicious are afraid to bring their children back.

These people are coming to realize that while you can't always taste or smell toxic chemicals, the danger they pose is very real.

Rita Sands, ABC News, Hauppaugh, New York.

Koppel. We'll have the latest on Iran in a moment.

* * * * *

Koppel. It's day 313 of the crisis in Iran and Iranian President Bani Sadr says it is United States policy that has been delaying a solution to the hostage issue. Bani Sadr did not elaborate, but it's believed he was referring to Iranian demands that the U.S. apologize for its past actions in Iran.

That's our report for tonight. This is Ted Koppel in Washington. For all of us here at ABC News, good night.

Announcer. This has been Nightline, a presentation of ABC News.●

PATRIOTISM ALIVE AND WELL

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. MOORHEAD of California. Mr. Speaker, Mr. Aarno Davidson of Sunland, Calif., was recently guest editorialist for the Record Ledger, one of the leading newspapers in California's 22d District. Mr. Davidson, a naturalized citizen of our country, is a well-known writer and has been a recipient of the Freedoms Foundation Award on four different occasions. His love for his adopted country is often and openly expressed in his writings. I believe my colleagues will appreciate Mr. Davidson's view that patriotism is not dead in America.

The editorial follows:

Patriotism Alive and Well

(By Aarno Davidson)

Contrary to some people's conception patriotism, like God, is not dead. Not in the U.S.A.! True, some vociferous soap-box orators of pessimism are dishing out the gospel of Armageddon through the three D's: Damn, Doom, Discord. In this respect they resemble the front page headlines which accentuate the worst traumatic occurrences. Thus, the adage, "no news is good news" has been changed to "good news is no news."

To counteract this fashionable trend of thought, numerous organizations are providing to us and to the outside world that it is fallacious to judge this great country by front page headlines, by R or X rated movies in movie houses, radio and T.V. (Tantrum Violence?). Contrastingly, our guardians of positivism, peace and freedom continue to herald the wholesome side of American life. Freedoms Foundation at Valley Forge, Pa. leads the way. During the past three decades it has made enormous strides for the enhancement of freedom in general and the preservation of the American heritage in particular. To elucidate:

Every year it inaugurates a National Awards Program, stimulating people from all walks of life to participate in a hundred different contests on vital subjects: education, religion, science, journalism, literature, radio, television, film, corporates, non-profit organizations, et cetera. These contests are judged by a panel of Supreme Court Judges, top officers of national and patriotic organizations. These judges select almost a thousand winners whose names are inscribed permanently in the Foundation's Annual National Awards Book. Sixty pages of information about and pictures of the truly great, the near-great and hundreds of everyday thinking people devoted to freedom's cause.

Then, too, almost 5,000 high school juniors have participated in seminars on the U.S.A. and their role in the responsibilities for its future. Similarly, about 5,000 high school teachers from every state have partaken in graduate credit seminars preparing themselves to better teach American values, including the American private enterprise system.

The national headquarters of this non-profit, non-sectarian organization is Valley Forge, Pennsylvania. No other historical landmark offers more surety symbols of American Heritage than this town where self-sacrifice, discipline and devotion keep uninterrupted the torch of freedom and patriotism alive. Here one may awe at "Faith of Our Father's Chapel," an imposing edifice representing the major religious faiths in the United States; "Independence Gardens," a collection of stones and bricks from the birthplaces of the signers of the Declaration of Independence; "Spirit of '76 Library Building" with innumerable original early American manuscripts. Many more kindred memorabilia of America's glorious past are here enshrined on public display.

Be it stated that I hail from the cosmopolitan metropolis of Amsterdam, Holland, where chauvinism is practically non-existent. Furthermore, I've traveled extensively through Europe, South America, certain parts of the Orient, Canada and Mexico. With deep conviction I feel justified to emulate those who say that in spite of all its shortcomings this is still the sunniest spot on our shadowy planet. Freedoms Foundation is doing its utmost to keep it so.

Author Ben J. Wattenberg, "Only a nation that knows what it has accomplished in the past can know what it is able to do in the future. We are ill-served by the 'nothing works' boys. Americans came through a turbulent value-busting era and they coped well. The real heroes of the past dozen years have been American people. Wiser, tougher, calmer, shrewder and more forgiving than the critics to Right and to the Left." In his fascinating book of poems, Western Star, Stephen Vincent Benet wrote, pensively:

Americans are always on the move
And when the whistle blows they go away,
Sometimes there never was a whistle blown
But they don't care, they blow their own.
A dozen tunes but only one refrain:
We know where we are going and are on our way.

I was privileged to acquire that whistle the day an amiable Federal Judge handed me my American Naturalization Certificate. This certificate I consider, together with my four Freedoms Foundation Awards, the most treasured possession of all my life. Since acquiring this whistle I've often put it to good use. Sometimes it sounds a bit out of tune but this does not stop me from whistling. . . .

So long as there are American organizations like Freedoms Foundation I shall keep on whistling the haunting tunes of "America The Beautiful" or Irving Berlin's popular song, "God Bless America, my home sweet home." A home I adopted decades ago and have been cherishing it ever since.

It is my firm belief that we can pay just homage to our Founding Fathers by seeing to it that our "present-day fathers" (and mothers) in whom we trust our present and future, never lose faith in our two-century old system of Democracy. Thus keeping the torch of liberty forever aglow!●

THE WAY OF OUR FATHERS?

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. GINGRICH. Mr. Speaker, the term "enterprise zones" is quickly becoming familiar across the United States, mainly due to a bill introduced by New York Congressmen Jack Kemp and Robert Garcia. The bill is H.R. 7563, the Urban Jobs and Enterprise Zone Act.

Enterprise zones is not a new concept. The British and Irish Governments are experimenting with enterprise zones as a means to stop urban decay. And the idea has been introduced in Congress before, but was laid aside for the conventional methods of urban development.

Recently, an article on enterprise zones appeared in the Atlanta Constitution by Gene Tharpe, a noted economics writer. I found his points about "enterprise zones" being similar to the old-fashioned term "free enterprise" very interesting. I want to share his remarks with you. The text of the article is printed below:

The "Way Of Our Fathers"?

(By Gene Tharpe)

The "reindustrialization of America" has become a buzzword in the 1980 presidential election, and Republicans and Democrats alike are talking about the need to regenerate the industrial strength of the U.S. But get ready for another buzzword which, so far, is primarily the property of the Republicans (although some Democrats are singing the tune, too)—"Enterprise Zones."

Enterprise Zones, to be true, are an interesting concept. Even if what they are is just old-fashiond free enterprise.

The modern-day concept, however, of Enterprise Zones was the idea of Sir Geoffrey Howe, who is now chancellor of the exchequer in the British Conservative Party government. He first proposed the concept in 1978 when he was a member of the "shadow Cabinet" of the Conservative Party, which was then out of office in opposition to the Labor Party.

The Howe idea, basically, is to apply almost 100-percent-pure free-enterprise capitalism to solve urban decay. In blighted urban areas designated as Enterprise Zones, the government would seek to stimulate the growth of business (especially small businesses) and jobs by reducing tax burdens, eliminating restrictive labor practices, and eliminating restrictive regulations including the ending of overly strict zoning and greatly reducing the amount of government paperwork required of businesses.

Howe's bottom-line contention is that the market would solve the economic and social problems that decades of government planning and regulating had failed to do in Britain. Now that the Conservatives are in power, the British government is moving to set up five or six Enterprise Zones this year, although it is not cutting the "red tape" as extensively as Howe originally proposed.

In the United States, the Enterprise Zones idea began catching on last year, and some politicians soon were touting the new-found old-time religion.

This summer in Congress, a conservative Republican and liberal Democrat teamed up to introduce the Urban Jobs and Enterprise

Zone Act. Rep. Jack Kemp, R-N.Y., and Rep. Robert Garcia, D-N.Y., said their bill calls for Congress to "'greenline' the poorest urban (and rural) areas of the U.S. by providing major tax incentives to create jobs and promote small business within these zones."

Among the tax incentives they list in their bill are reduced payroll, capital gains and corporate taxes, accelerated depreciation of assets, and the establishment of foreign trade zones within the Enterprise Zone. "To receive these benefits a business would have to employ at least one-half of its employees from within the zone," the two sponsors say.

As might be expected, some liberals oppose Enterprise Zones because they fear a return to the "robber baron and sweat shop" days. On the other hand, some conservatives say the concept doesn't go far enough in "freeing up" the urban economy from the heavy hand of government regulations. The chasm of difference among those who support the Enterprise Zone idea can be seen in that both Ronald Reagan and John Anderson have endorsed the concept.

The goal of Enterprise Zones—break the cycle of the urban poor, stop the further decay of America's cities, and revitalize declining areas by attracting business and jobs and population back into the inner cities—is one long sought by various governments in numerous ways. The majority of such attempts, of course, consisted of governments spending billions of dollars in subsidies, welfare and projects, and the steady growth of government controls and regulations.

Only minimum progress has been made, in U.S. cities for sure. The great urban renewal surge in America during the 1960s has borne more costly failures than successes. The nation's urban poor remains, as Vernon Jordan said, America's "boat people without boats." How to attract and keep jobs-providing businesses in the central cities has baffled urban leaders for years; could it be that Enterprise Zones, fundamentalist free enterprise, the "way of our fathers," is the answer?●

H.R. 6520: THE ANTIFAMILY FARM BILL

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. MILLER of California. Mr. Speaker, H.R. 6520, the so-called Reclamation Reform Act, is currently before the Rules Committee, which is exactly where it should remain.

This atrocious piece of legislation may well represent the most serious threat to the family farm ever contemplated by the Congress. And ironically, the reclamation program was designed and funded specifically to assist small farmers and protect them from monopolization of agriculture by agribusiness.

Over 97 percent of current reclamation farms are complying with the law today. H.R. 6520 would emasculate the reclamation program for the benefit of the tiny percentage of violators. This is extremely unwise and unjustifiable public policy. It represents not only a frontal assault on the principles of the reclamation program and the small farmer, but it also poses a severe danger to agriculture in other, nonreclamation areas of the country.

I wanted to share my testimony on the Reclamation Act amendments before the Rules Committee last week. The testimony follows:

STATEMENT OF CONGRESSMAN GEORGE MILLER OF CALIFORNIA

Mr. Chairman, H.R. 6520 is a severely flawed piece of legislation which, if enacted, would totally undermine the 80-year old Federal reclamation program. It would convert a program which was designed to encourage small family farmers into one of lucrative taxpayer subsidies for agribusinesses which have undermined the family farmers of this country.

H.R. 6520 is the first major modification of the reclamation laws in 40 years. If this highly controversial legislation is sent to the House floor in the waning weeks of the 96th congress, we will be asking Members without much background knowledge of the issues to make judgments involving billions of dollars in Government subsidies which could well determine the future of family farming in this country.

Can a reasoned decision be made by the House under these circumstances in so brief a time? Could we achieve a compromise with the very different, but still objectionable, Senate version of this legislation? And lastly, is it likely that a conference on these two bills will produce a piece of legislation acceptable to the administration, which has indicated on several occasions its intention of vetoing any proposal which resembles either the House or Senate versions?

The committee must consider these issues when deciding whether to place this legislation before the House at this time. If you do approve a rule, I strongly urge that it be an open rule allowing all amendments, including substitutes, and that it protect time for any amendments which have been printed in the RECORD. Because of the relative lack of attention the reclamation program has received from the whole House during the tenure of virtually every current Member, I also recommend a minimum of three hours of general debate.

My objections to the specific provisions of H.R. 6520 are detailed in the dissenting views in the report of the Interior Committee, which were signed by 11 committee members.

I can best summarize the bill's numerous flaws by contrasting its stated "purposes" with the actual policies it would establish:

"* * * To family farms * * *"

Over 97 percent of the farms today meet the 960-acre limitation advocated by the administration. The vast majority of these farms are even below the 160-acre ceiling in current law. H.R. 6520, which permits farms of 3,360 acres, is not needed by these 45,000 farms, but only by the 2 percent of farmers who have sought every litigative, administrative and now legislative device by which to avoid complying with a law, under which they voluntarily placed themselves, and under which they have greatly profited. These very powerful special interests are, in the reclamation west as in other agricultural areas, the mortal enemies of true family farmers for whom this program was created.

"* * * To provide opportunity for a maximum number of farmers on the land * * *"

The top 1 percent of reclamation farmers, just 435 people, currently control 20 percent of all the land in the program. The top 2.4 percent control nearly one-third of all the land. This evasion hardly helps to prevent the "monopolization of benefits by the privileged few" against which Interior Secretary Harold Ickes warned in the mid-1940s.

This bill does not assure that beneficiaries are truly "on the land." The longstanding residency provision of reclamation law is repealed by H.R. 6520, and is replaced by a vague "agricultural participation" requirement which is far weaker than that originally proposed either by Chairman Udall or myself. In fact, it is so weak that the newsletter of the large farming interests recently advised its readers, "* * * The majority of the farmers in most States will not be affected by the agricultural participation test"! The largest loophole in this provision is the total waiver of the participation requirement for any farmer living within 50 miles of his land, whether he is involved in farming to any extent or not.

"* * * To distribute widely the benefits of federally subsidized reclamation projects* * *"

H.R. 6520 would effectivley gut the program at the time that much of the distribution of benefits is scheduled to occur. It would allow corporate and agribusiness interests to retain control of hundreds of thousands of acres, of which they had voluntarily agreed to dispose. Moreover, H.R. 6520 would exempt many of the most longstanding violators—those in the Corps of Engineer projects service areas in the Central Valley of California—from compliance with even the diluted provisions of this bill, despite administrative and judicial determinations to the contrary.

"* * * to preclude speculative gain * * *"

H.R. 6520 is riddled with provisions granting special benefits to banks, trusts and other interests which could use federally developed and subsidized projects to reap enormous private benefits.

The bill encourages the speculative resale of taxpayer subsidized water by allowing irrigators to sell it for uncontrolled prices.

"* * * to provide for sound repayment practices * * *"

The water service and capital cost repayment provisions of H.R. 6520 lavish billions of dollars in subsidies on the wealthiest agricultural interests in the country and permit many grant landowners to circumvent the law by paying higher prices. While employing the rhetoric of "Full Cost Repayment," the maximum prices allowed by the bill actually assure that a majority of districts will never repay more than 40 percent of project costs, and some would repay as little as 15 percent! No district will repay more than 72 percent.

This committee should be on notice that the spokesmen of the large California farms have publicly stated their intent to impose a pricing "cap" on the cost of water which would restrict the "full" price to about two-thirds of the subsidized amount already in the bill.

"* * * to promote the efficient use of water resources * * *"

Contrary to the worthwhile goal of promoting water conservation, H.R. 6520 would encourage the wastefull misuse of dwindling western water resources. This bill provides guarantees of subsidized prices for water based on past usage, regardless of whether irrigators have any legal right to that water. The bill permits resale of subsidized water at rates far above those originally paid to the Government, which obviously encourages irrigators to take their full share. The weak conservation "mandate" in the subcommittee bill was removed, and was replaced with meaningless and ineffectual rhetoric. In commenting on the bill, the Assistant Secretary of Interior wrote to me that the formula currently in H.R. 6520 "favors inefficiency" and fails to "reward efficient use or encourage water conservation."

Mr. Chairman and members of the committee, these are but the highlights of my objections to H.R. 6520. They are shared, either wholly or in large part, by such farm organizations as the National Grange and the National Farmers Union, as well as by numerous religious, consumer and organized labor groups through the country.

Lastly, proponents of this legislation argue, despite the 97 percent of reclamation farms which do comply with the acreage limitation, that family farms are economically inferior to corporate farms, and that we should abandon the small farm ideal.

But over a half dozen studies, including one financed by these large operators, have established that efficient production is maximized at 640-960 acres.

The average farm in the United States is just 450 acres. Since over 97 percent of the farms currently in the reclamation program are less than 960 acres, and even in the highly controversial westlands district over a third of the farms are less than 500 acres, it would seem patently obvious that small farms can, and do, economically survive and profit.

H.R. 6520, contrary to its title and its stated purposes would not "reform" the reclamation program. It would virtually repeal it and hand over billions of dollars in taxpayer subsidized projects to the very forces which are threatening to make the family farm extinct throughout the United States.

Reclamation accounts for just 1 percent of all the farms in the United States, and the excess land in controversy is only one-tenth of 1 percent. On that small amount of farmland, we should continue to support the successful reclamation program which encourages and supports real family farming in the west.

H.R. 6520 would undermine those family farms and would thereby stimulate the further concentration of food production resources into fewer hands, a situation which already costs the American consumer $16 billion a year.

And still the special interests are not satisfied. Spokesmen for the biggest farming interest to benefit from H.R. 6520 have been quoted as pledging to fight hard on the floor to remove all limitations on farm size, and to impose a rigid ceiling on water prices for the biggest irrigators.

"If we don't see improvement in those two areas," said William MacFarlene, president of California Westside Farmers, "we may have to shift our position to all out opposition."

If these two provisions are deleted, then there is not even a semblance of this bill being for the benefit of small farmers or the taxpayer. Why would the Congress approve so tainted a piece of legislation?

And if these two provisions are not deleted, the few select interests who currently support H.R. 6520 are telling us they will oppose it on the floor.

Who is the constituency for this bill?

Not the small, family farmer.

Not the taxpayer.

Not the American consumer.

Not the competing farmer in non-reclamation States.

And, apparently, perhaps not even the special interests who have spent extraordinary time and money to push this legislation.

This bill is unworthy of this committee or the House. And yet we are told that unless it is worsened, it will be opposed even by its few supporters. Under those circumstances, it is best to withhold action on H.R. 6520 this year.●

HOSTAGES AND OTHER POW'S

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. DANIEL B. CRANE. Mr. Speaker, I hope the administration will forgive me if I bring up a sensitive subject: This is another day of imprisonment for our hostages in Iran. As the following editorial points out, we seem to be relegating these brave men to the ash heap of painful thoughts we sweep out of our minds whenever possible.

In a very real sense, the hostages have joined the American prisoners of war still in Southeast Asia as subjects we just don't like to think about. But think about them we must. More than think about them, we should be planning ways for their release. All of the adjectives have been repeated. All of the self-flagellation that accompanied this tragedy has been accomplished. All of the plans and schemes have been examined and, if we are to believe the administration, either tried or ruled out.

This is not a time for acrimony or for Monday morning quarterbacking. Fifty-two of our citizens are held prisoner. What are we doing about it, today? What will a new President do about it?

It would be immoral to allow these men to slip out of our daily prayers and actions. The editorial, from the August 16 edition of the Paris, Ill., Beacon-News, follows.

REMEMBER TEHRAN!

This is another day of imprisonment for the American hostages in Iran.

We call attention to this because most Americans seem to have stopped counting. The hostage crisis, like hunger in Cambodia and the war in Afghanistan, has assumed the status of an accepted reality, however cruel and unjust.

This is so in part because Americans, as well as their government, see no likely prospect of freeing the hostages anytime soon. Consequently, the temptation is to lapse into resentful, resigned silence.

In Washington, this sort of posture is known as a "low profile." As diplomatic strategy in the wake of the failed rescue mission of last April, it makes considerable sense. Shouting at the Iranians didn't free the hostages during the 171 days that preceded the rescue attempt. There is even less reason to think that it might do so now.

Better, perhaps, to permit passions to cool on both sides and hope that even the Ayatollah Khomeini comes to realize that holding diplomatic hostages is counterproductive. Khomeini's willingness to release the hospitalized Richard Queen may reflect just such a realization.

But there is also a danger in this muted approach. As Washington deliberately deemphasizes its confrontation with Iran, popular awareness of the hostages themselves tends to dissipate. Their reported dispersal to secret locations in unknown cities far from the hothouse atmosphere of Tehran only services to dim further the national consciousness.

This must not be allowed to happen. The imprisonment of this country's diplomatic mission to Iran is as outrageous and unacceptable today as it was on the morning of Nov. 4, 1979.●

TEXTBOOK ON FEDERAL GRANT LAW

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. SCHEUER. Mr. Speaker, there has come to my attention the recent publication of a pioneering study of the Federal grant system. This work of scholarship deals with the emerging "law of Federal grants," a subject which I am sure will interest my colleagues and the public at large.

The work is entitled "Rights and Remedies Under Federal Grants." It was written by Richard B. Cappalli, a law professor at Temple University. It is published by the Bureau of National Affairs, one of the Nation's largest law book publishers located here in Washington, D.C.

Professor Cappalli patiently worked his way through the thousands of pages of rules, regulations, and statutes underlying 700 programs administered by 24 Federal agencies in order to extract essential principles and practices.

The result of his monumental labors is an absorbing exposition of the emerging law of Federal grants, in which he covers very thoroughly the theory and structure of grants, agency enforcement of grant conditions, the expanding judicial role, and the Federal grant as a unique legal creation. He also examines the actual status of the law as it concerns grantee and subgrantee rights in the context of alleged infractions of Federal rules.

Because rights without remedies are "gossamer and puffs of smoke," Professor Cappalli gives special attention to the need for grantee due process—that is, effective administrative hearing provision for the defense of grant practices and policies and the assertion of grantee powers and rights. Opportunities for grantees and grant applicants to be heard are, he notes, woefully inadequate and lacking in procedural fairness at present.

Professor Cappalli concludes his study—which is notably practical and realistic in approach and liberally illustrated with true-life examples of the everyday problems of the grantee and the grant administrator—by proposing the creation of a grant disputes board subject to a grantee bill of procedural rights. His recommendations are receiving careful consideration, in view of the current embryonic efforts—represented, for example, by the Federal Grant and Cooperative Agreement Act of 1977—to bring order to the anarchy that, in the view of some observers, is the present condition of the Federal grants system.

Mr. Speaker, I would like to congratulate Professor Cappalli and Temple Law School for having produced this much-needed exposition and analysis of the Federal grant system. Many benefits will be derived from consideration of this work by grant administrators, lawyers, and policymakers, and I am pleased to bring this work to the public's attention.●

PRIVATE SECTOR INITIATIVE PROGRAM

HON. RICHARD C. WHITE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 15, 1980

● Mr. WHITE. Mr. Speaker, yesterday the House adopted H.R. 6796, a bill to extend the private sector initiative program (PSIP) embodied in title VII of the Comprehensive Employment and Training Act. I heartily endorse the extension of this program, for there is little doubt the PSIP has been effective in encouraging the involvement of the private business community in the employment and training of economically disadvantaged individuals.

In an effort to further strengthen the program, I would point out the success of the payback provision which has been initiated by the El Paso, Tex., Private Industry Council as part of the PIC's classroom training program. In implementing title VII of CETA, the PIC has gained approval from the Department of Labor for a payback provision allowing the PIC the latitude to request from classroom trainees a commitment to perform a moderate amount of volunteer community service to partially repay the community for the education and training. I am proud to say this program is now on line, and we all have the highest of expectations for its success.

I would emphasize that the PIC does not require community service of any individual who is unable for family or financial reasons to fulfill such a commitment. Each participant volunteers his or her services commensurate with his or her ability and circumstances.

Additionally, the plan enjoys the benefit of allowing participants an excellent opportunity to further learn through service, since the job assignments are designed to complement the education. In El Paso, for instance, licensed vocational nurse trainees are able to fulfill their community service by working in local hospitals as nurses aides.

The service concept reinforces title VII of the CETA program by emphasizing self-reliance in the participant. This concept adds to our efforts to assist individuals in becoming economically independent, not dependent, and to appreciate the values and benefits of the work world, including self-esteem and initiative.

I compliment those dedicated individuals who have so ably created and implemented this program. Under the capable leadership of Mr. Richard Azar, Chairman, and Mr. Thomas A. Draschil, Executive Director, this program can serve as an excellent model of how we as legislators might further strengthen the private sector initiative program by adding a community service element. I urge my colleagues to give strong consideration to the community service concept during any further discussion of this legislation.●

BEWARE OF ECONOMIC MODELS BEARING POLICY POSITIONS

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. COTTER. Mr. Speaker, the September 22 issue of Business Week contains an article which every Member and their staff should read. Not only does it undermine the notion that social security lessens personal savings, but it constitutes an eloquent statement on the danger of relying on econometric modeling to make decisions on public policy.

For those working on the proposal to reduce taxes, this article is especially important and I am placing it at this point in the RECORD.

A SPECTACULAR DEBUNKING OF SOCIAL SECURITY CRITICS

The notion that Social Security has seriously depressed personal savings in the U.S. has become the conventional wisdom largely because of the results of a 1974 study by Harvard University's Martin S. Feldstein, president of the National Bureau of Economic Research. New findings presented at a packed session in Denver by Dean R. Leimer and Selig D. Lesnoy of the Social Security Administration have thrown the whole issue into the limbo of uncertainty. The study seems likely to increase skepticism about the use of econometric work as the basis for policy making. It reveals that an elementary programming error in Feldstein's original econometric work dramatically overestimated the negative impact of Social Security on saving. And Feldstein, who chaired the session at which the new results were aired, acknowledged the error.

In his 1974 study Feldstein argued that Social Security has affected saving in two opposing ways: (1) By providing benefits upon retirement, it reduced the need to save for old age; (2) By inducing earlier retirement and therefore expanding the span of retirement, it raised the amount of total assets required for retirement, thereby increasing the need for private savings.

To determine which effect has been dominant, Feldstein constructed an elaborate econometric model covering the period 1930–74, which included a key variable for Social Security wealth (the present value of Social Security pension benefits anticipated by individuals) that affected present consumption and saving. Expected future Social Security wealth grew rapidly after 1956, by Feldstein's measure, which meant that people believe they needed less of a nest egg.

So the net impact of the system was to increase consumption and inhibit savings. His numbers were spectacular, showing that the introduction of Social Security had reduced personal savings by a phenomenal 50%, or $63 billion, in 1974 alone, and had cut the nation's capital stock by as much as 38% over the years.

Leimer and Lesnoy intended simply to see whether alternative assumptions about how individuals view their future Social Security "wealth" would affect Feldstein's results. But in replicating Feldstein's work, they discovered a programming error in accounting for a 1957 change in Social Security legislation. The effect was to inflate the significance of Feldstein's Social Security wealth variable.

Correcting for the programming error and simply replicating Feldstein's work produced results strikingly different from his original findings. While the study indicates a considerably smaller negative impact on savings over the whole 1930–1974 period, the effect is not statistically significant. More important, looking at only the postwar 1947–74 period, Feldstein's model now implies that consumers actually saved $114 billion more in 1974 than they would have in the absence of Social Security—a finding that is statistically significant but defies reason. Even Leimer and Lesnoy brand it as inherently "implausible."

Because the impact of Social Security on savings is now obviously an open question, the new finding could blunt recent attacks on the system. As the Brookings Institution's Henry J. Aaron, who was a discussant of the Leimer and Lesnoy paper, put it: "It's as if they went hunting for ducks and bagged an elephant."●

EXAMINING THE FEDERAL SYSTEM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. HAMILTON. Mr. Speaker, I insert my Washington report for Wednesday, September 17, 1980, into the CONGRESSIONAL RECORD:

EXAMINING THE FEDERAL SYSTEM

When the nation's governors recently called for a national commission on federalism to consider a realignment of power in the federal system (that is, the assignment of certain functions to the federal government and others to the states), they were raising one of the most difficult and perplexing questions of American government.

It is no coincidence that I often find Hoosiers raising the same question in a variety of different ways. Some constituents are concerned about the degree of federal control over specific programs; others think that too many tax dollars are lost by sending them through Washington; still others complain about the inefficiency or ineffectiveness of federal programs or the unresponsiveness of federal officials. Views such as these are apparent at nearly every session I have with Ninth District residents: the welfare system does not work; the university has an almost adversarial relationship with government; too many ineligible people receive food stamps; the states are required to implement federal environmental directives which are frequently distasteful to localities; a wide gap between expectation and performance characterizes the medicare program.

The governors argue that things have gotten out of hand in Washington. The five hundred programs of categorical grants that make up the federal system may be a bonanza for federal politicians, but they have created a bureaucratic nightmare. For example, the system has not one, but five separate programs for sewage disposal. Moreover, once a program is established it cannot be easily eliminated. Committed constituencies develop quickly, and they fight tooth-and-nail against every proposed cutback. Then, too, it is virtually impossible to draft guidelines from Washington to fit a diverse nation. The essence of the governors' argument is that the federal government is taking more of the tax dollar, returning less of it to state and local government, and dictating how state and local government will use its own tax dollar. In the opinion of the governors, the federal system is cumbersome and wasteful. They also think that it is beyond the control of the people.

So the governors want a national commission on federalism to search for a new distribution of power among federal, state, and local units of government. They want a serious debate in the 1980's to sort out both the responsibilities and the sources of revenue in the federal system. As political realists, the governors do not expect change to come rapidly. However, they are confident that they will find a climate receptive to their thinking. I believe that the governors are right, and I hope that they will succeed.

The governors' position finds support in a recent study of the federal system released by the Advisory Commission on Intergovernmental Relations. The study identifies four major problems in the federal system that require attention:

Administration: There is simply too much red tape and confusion, too little cooperation and coordination, all along the line of program administration, from top federal policy makers and administrators to state and local administrators and officials.

Effectiveness: Federal programs are ineffective, marked by poor performance and inadequate results. They come up well short of standards.

Cost: Federal programs are plagued by costly administrative waste.

Accountability: There has been substantial weakening both in the responsiveness of government and in its accountability to the people. People cannot steer government in the direction they want it to go.

Underlying concern about problems in the federal system is a fear that the "consent of the governed"—the concept on which the legitimacy of our government is based—is being badly strained. The strain is due to the shift of power from the people and their elected representatives to special interest groups and unelected bureaucrats.

It will not be easy to correct the problems in the federal system. Many responsible observers think that we should not even try because, for them, federalism has had its day. Other observers point out that we cannot turn back the clock and try to fit federalism into the patterns of a slower and less complex era. I acknowledge that there is no infallible theory which we might use to guide us in redesigning the federal system and realigning functions within it. Nevertheless, it seems to me that there is a need to reassess federalism, to examine—comprehensively and in detail—federal, state, and local roles in the various areas of public policy.

We should approach our examination of federalism without preconceptions. More than anything else, we must be willing to think in new ways. I endorse the governors' proposal for a national commission on federalism. The problems of the federal system are enough to persuade me that we should be prepared to weigh the possibility of far-reaching changes.●

VOLUNTARY INITIATIVE AND HEALTH-CARE COSTS

HON. DAVID W. EVANS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. EVANS of Indiana. Mr. Speaker, our Nation was founded and has prospered on the voluntary effort of our citizens and business community to improve and enhance the health and lifestyles of our citizens.

I would like to share with my colleagues a speech by Lowell H. Stein, M.D.—who I might add is a fellow Hoosier—presented to the National Governors' Association. It is a fine and worthy example of how voluntary efforts by concerned citizens and the business community can work together in an effective manner to deter escalating costs, especially in the health-care industry. The voluntary effort is a practical and workable approach, and by far a better, more efficient, and less costly approach to the needs of society than the excessive and wasteful government intrusion into our personal lives and individual businesses.

I hope the members of this Chamber will take a moment to review his speech.

The speech follows:

THE BEST OF ALL POSSIBLE REALITIES

As an individual physician and as a spokesman, I am indeed pleased to have this opportunity to tell you what voluntary initiative is doing against health-care costs.

It's good to be able to go before you, the nation's Governors, and report that providers, payers, and consumers of care have been able to scale down the cost rise—by working together in a national, state, and local coalition.

It's good to be able to tell you that this coalition—the Voluntary Effort—was instrumental in saving consumers about $3 billion in 1978-79, its two full years of existence.

And it's good to be able to tell you that such effort is designed not as a "quick win" for the applause of today. . . but as a broad program for the needs of tomorrow.

While much as been done to restrain the cost rise, much more needs to be done. And I have to tell you that doing it won't be easy.

Cost has to be seen as part of the steady cross-fertilization between health care's capabilities and consumer expectations.

Generally consumers know that through one medical and financial recourse or another, they will be kept as well as possible. . . for as many years as possible.

And those years keep adding to cost in a society where the ratio of elderly people—and hence of degenerative disease—keep growing.

Whenever shadows have been cast on some area of personal or social health, concerted moves have been made to bring light. All such undertakings add to cost.

There is the huge repair bill for damage wrought upon health by self-indulgent lifestyles. Many consumers who expect the most from care are those who have done the least for health.

In terms of the massive consumer demands and expectations it has to meet, health care is indeed a mass industry—with over 5,000,000 personnel, over 7,000 hospitals, some 375,000 active physicians, and so forth.

But it is not a mass production industry. It handles one patient at a time, according to his or her individual needs. Hence, it is not subject to the same per-unit measures of output and cost as a canning factory. Health care is something very special that has to be handled with care.

The need for cost restraint has to be balanced with other great needs—notably the health-care quality and availability that Americans expect and demand.

Achieving this balance is no easy task. It is not easy for hospitals. It is not easy for physicians, who order most of the cost-impactive procedures in hospitals.

None the less, physicians and hospitals are the natural and logical choices for being given the core of responsibility for this task. They alone are in a position to see exactly how cost restraint can be effective without being disruptive. And they should work at the task together.

That's the outlook that prompted the American Medical Association, American Hospital Association, and Federation of American Hospitals to originate the Voluntary Effort late in 1977 . . . after individually recognizing cost restraint as a top priority.

The Voluntary Effort, or VE, immediately became expansive—representationally and geographically.

Its national steering committee includes people in health insurance, health-product manufacture, business affairs, consumer affairs, local government, and labor.

Far from being a national monolith, the VE is organized in states and communities—and depends on them. It's tremendously helpful that the governments of some states are represented on state committees.

The national steering committee shapes broad objectives and monitors what the states are doing. But it does not dictate formulas to the states, the way the federal government might. It recognizes that situations vary from place to place and call for indigenous approaches.

Predictably, the amount of progress also has varied from place to place. A number of states have made truly notable progress—and four examples that spring to mind are Pennsylvania, North Carolina, Texas, and the state that Governor Bowen, M.D., and I share: Indiana.

Each of the vocations represented in the VE has made a distinctive contribution to cost restraint.

Partly through management engineering, numerous hospitals have boosted their productivity while holding the *proper* line on hiring of personnel and utilization of services.

By *proper* line, I mean doing what can be done without cutting the quality and needed availability of care.

Alternative forms of health-care delivery, such as outpatient and home care, have been stimulated as ways to reduce hospital utilization.

Economies have also been achieved though sharing of services among hospitals and development of multi-hospital systems.

The American Hospital Association and the Federation of Hospitals have been catalysts of these endeavors.

Physicians . . . with the help of advice and criteria from the AMA . . . are heavily involved in the utilization review and control in hospitals.

Well aware that physicians can be preoccupied with quality of care to the exclusion of cost, the AMA has tried to make them more conscious of cost . . . and of how various hospital and office procedures can be made more economical, or eliminated, without sacrificing quality.

The Blue Cross and Blue Shield Associations—which are VE partners—have their "medical necessity" program . . . aimed at denying reimbursement for hundreds of hospital procedures except in instances when medically justified.

These are procedures regarded as routine, outmoded, or capable of being done on an outpatient basis.

The Health Industry Manufacturers Association—a VE partner—has significantly helped hospitals in group purchasing and through economical product design.

Cooperation, as well as what the VE partners have done on their own, is reflected in the cost-restraint record to date.

Hospitals decelerated their increase in expenses from 15.6 percent when the VE was formed to an inflation-adjusted figure of 11.6 percent last year. A further deceleration of 1.5 percent, inflation-adjusted, is the 1980 goal.

Physicians in the last couple of years kept their fee-increase rate below the consumer price index rate . . . in keeping with appeals from the AMA.

This year the differential will be harder to sustain—one big reason being that recessions traditionally increase the pressures on medical services and costs.

However, any amount of de-escalation achieved through the voluntary effort has a special economic advantage.

The advantage is that the VE's participants have enabled it to do its job without creating any full-time bureau . . . or hiring any extra personnel . . . or spending any extra money. The costs it saves the consumer are complete savings.

In particular, I want you to bear in mind that the Voluntary Effort is not a movie-lot facade . . . but a growing structure for tomorrow. The coalition is here to stay—with long-range and deep-going objectives.

One huge subject for long-term consideration is employee health benefits. Business is, in effect, the largest consumer of health protection . . . and picks up most of the tab for it.

The VE can be a guide to management and labor in negotiating health benefits aimed at greater cost effectiveness and lower cost. Here's a field that symbolizes the advantages of the voluntary approach to cost.

Employee health benefits have already drawn a good deal of attention from the AMA . . . particularly in the wake of recommendations made in 1977 by the AMA-sponsored National Commission on the Cost of Medical Care—a broad-based group of 27 that had met over an 18-month period.

Among other things, the Commission report envisions a broad market in the financing of employee and other health-benefit plans—a market characterized by fair competition and consumer incentives.

A selection from the Commission's 48 recommendations was submitted by the AMA to the VE National Steering Committee last month, in connection with long-range planning.

Other VE partners have their own long-range ideas. And what all the ideas betoken is that the VE represents an ongoing momentum for action.

The momentum does not mean that change will come momentarily. Change affecting the whole health-care system has to be weighed and sorted out before it is meted out—or else the whole system will come unglued.

That is something that many outsiders seem unable to realize. But rather than complain about outsiders, I want more people to be insiders.

I want more people to develop a close knowledge of the voluntary effort—and get the information that is readily available.

More to the point, I want more state governments to get inside the VE—and take vigorous part in it. The greater the cooperation between you and your state VEs, the easier it will be to get a secure handle on common concerns.

The Voluntary Effort is not a closed shop . . . but an open forum with open minds.

It does not, and cannot, offer the best of all possible worlds. It cannot sidestep the plain truth that health-care quality, demand and supply, and technological and organizational needs are all in the same pressure cooker as cost.

But while it does not offer the best of all possible worlds, the Voluntary Effort does offer the best of all possible realities. I invite you, the nation's governors, to help make those realities come true.●

BALANCING THE FREEDOM OF SPEECH WITH THE NEED TO PROTECT U.S. INTELLIGENCE AGENTS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. MAZZOLI. Mr. Speaker, I commend to the attention of my colleagues the following editorial, "The Boundaries of Free Speech," which appeared in the September 5, 1980, Washington Star.

It makes a persuasive case that our constitutional freedom of speech is not absolute. As we know, it does not permit shouting "fire" in a crowded theater. There was to be a balance struck when the issue is the identities of our undercover foreign intelligence officers.

Both the House Intelligence and Judiciary Committees, on which I serve, have approved such a balanced approach in reporting H.R. 5615, which makes it a crime to disclose the names of undercover agents and officers serving abroad.

The unauthorized disclosure of the identities of undercover agents renders our intelligence agents and officers ineffective. It hinders our country's ability to defend itself. And as illustrated in the recent machinegun attack on the home of a staff member of the U.S. Embassy in Jamaica after his name was disclosed by a Washington-based group as an alleged CIA agent—it places the lives of loyal Americans and their families in jeopardy.

It is only appropriate—and long overdue—that such actions be made a Federal crime and the offenders be subject to severe penalties for unauthorized disclosure.

H.R. 5615, as reported, would make it a Federal crime for someone with present or past access to classified information identifying undercover agents to reveal names of undercover agents learned during the period the individual had access to such information.

H.R. 5615 would also criminalize the disclosure of identities of covert agents by those who have had access to classified information.

Finally, it would make criminal the disclosure of information identifying the undercover agents by anyone—including a member of the press—if, but only if, the disclosure were in the course of an effort to identify and expose undercover U.S. agents posted abroad.

The bill mandates that disclosures be part of a course of effort which must be undertaken with the intent to impair or impede the foreign intelligence activities of the United States. Furthermore, H.R. 5615 requires that the specific disclosure of the name or names also must be done with the intent to impair or impede the foreign intelligence activities of the country.

The requirement that the disclosure be "In the course of an effort to identify and expose" makes it clear that the defendant must have been engaged in a conscious plan—a program, pattern or practice—to seek out undercover intelligence operatives and expose them with the intent to destroy U.S. intelligence efforts. Therefore, this provision strongly tends to eliminate regular journalistic practice.

In H.R. 5615, the Judiciary and Intelligence Committees have endeavored to protect all but the conscious and systematic and intentional exposure of American operatives.

We have tried to act only to protect recognizable and important government interests and then only in a very specific and in a very limited fashion.

This legislation is well balanced and I strongly urge my colleagues to resist any efforts on the floor to strengthen or weaken the provisions of H.R. 5615.

The editorial follows:

THE BOUNDARIES OF FREE SPEECH

Those who are resisting the current effort in Congress to protect U.S. intelligence agents against the marauding of Philip Agee and Louis Wolf offer two disclaimers. They are, they claim, as outraged as the rest of us by the disclosures of Mr. Agee and his free-lance protege, Mr. Wolf, who make it their business to identify covert agents and expose them to injury or death. They also protest that they do not consider First Amendment rights absolute, and ask only that the legislation not "chill" legitimate reportorial inquiry.

These disclaimers must be taken at face value: and Congress would indeed waste its time if it passed a bill that would be easy prey for the first court to take formal notice of it.

Nonetheless, we may be sure that if the cavils of the ultra-libertarians are heeded, Congress will leave itself small leeway for effective legislation. If the handiwork of the Wolfs of this world is to be curbed, we must face the risk that legislation strong enough to curb it could tempt adventurous prosecutors to interfere with legitimate reporting.

But while the danger to be dealt with is real and present, the worries about a "chilling effect" on the press are, as we shall suggest below, dim and hypothetical. Moreover, the libertarians may have met their forensic match this time. There is no more zealous advocate of strong protective legislation for U.S. covert intelligence agents than Sen. John Chafee of Rhode Island, whose uncle, the late Zechariah Chafee of Harvard Law School, was in his day a pre-eminent authority on free speech. With those credentials, Senator Chafee is not easily depicted as an enemy of the First Amendment. In defense of the Senate bill he is co-sponsoring, he cites his uncle's dictum that "the boundary line of free speech . . . is fixed close to the point where words will give rise to unlawful acts."

If that is the proper boundary line, as we in fact believe, there is no doubt that the Agee and Wolf disclosures have crossed it. The 1975 assassination of Richard Welch, then the CIA's station chief in Athens, followed within a month the disclosure of his covert function in the Greek press; and that information came directly from Agee's Counterspy magazine. "Public identification of Richard Welch," as was said at the time, "was tantamount to an open invitation to kill him."

More recently, Wolf's bizarre public identification of 15 CIA agents serving in Jamaica (complete with details) was immediately followed by a nocturnal attack on the residence of one with submachine guns and explosives. No life was lost, but several U.S. agents and their families had to be evacuated.

Those who make it their ghoulish business to furnish the enemies of the U.S. with information that invites and facilitates violence against its public servants obviously do not approve of what those servants are doing. It is their right to disapprove; it is their right to agitate against the authority and policy that authorizes their activities.

But the issue before Congress is more basic; it has nothing at all to do with the free play of opinion or dissent and everything to do, rather, with outrageous disclosures that place the authorized intelligence operatives of the U.S. in physical peril and thereby tend to confound and thwart a function that Congress has seen fit to sanction. In the present state of the law, the Agees and Wolfs are apparently free to make these disclosures under cover of the First Amendment.

The absolutism of the First Amendment, so interpreted, lies in the impractical refusal of its interpreters to recognize the boundary line that commended itself years ago to Zechariah Chafee ("where words . . . give rise to unlawful facts") and still commends itself to most of us. Or indeed any other boundary line, for that matter.

The debating trick by which this absolutism is argued by critics of remedial legislation is familiar. It consists in raising endless hypothetical possibilities, all objectionable, which might eventuate if the law were misused. That way lies not free speech and press but consititutional paralysis.

The ultra-libertarians, dwelling upon their unsavory side-effects, in effect mount the disabling argument that we are powerless to defend the cover of U.S. intelligence agents abroad for fear of "chilling" legitimate inquiry and publication. Yet, interestingly, their objections, hypothetical as they are, have been heeded and reasonably answered, by Senator Chafee and others.

Consider one example. In a memorandum of August 4, the American Civil Liberties Union cites, among the conceivable "situations" that might arise from passage of the pending bills, the following: "An investigative reporter seeks to determine if the Watergate burglars have CIA connections. She discovers that several of them do and that one is a CIA agent. She prints that fact, naming the person."

Obviously, no such reporting should be thwarted. Would the bills now before Congress do so? The Senate bill supported by Senator Chafee and others—and more carefully drawn, as we see it, than the bill approved this week by the House Judiciary Committee—lays down a number of conditions designed to distinguish between malicious disclosure and mere reporting.

If the name of an agent, not previously acknowledged, were disclosed, the disclosure would be unlawful only if it were within "a pattern of activities intended to identify and expose covert agents . . . with reason to believe that such activities would impair or impede the foreign intelligence activities of the U.S." In view of these provisos, the Senate intelligence committee's report of August 13 specifically rejects the ACLU's contention. "A journalist," it declares, "writing stories about the CIA would not be engaged in the requisite 'pattern of activities' even if the stories . . . included the names of one or more agents, unless the government proved that there was intent to identify and expose agents . . . with reason to believe it would impair or impede foreign intelligence activities." To meet the bill's standard of prosecution, the Senate report says, "a discloser must be engaged in . . . the business of 'naming names.'"

Probably no legislation can be both effective and foolproof; and there are fools about. But effective government is often a matter of choices, sometimes distressing and imperfect choices. The present no-holds-barred license for disclosure that covers everyone, while permitting the Agees and Wolfs to pursue their seditious business, is of debatable usefulness to free speech and press legitimately understood. But its perils and costs are not debatable. It tends to disarm and cripple U.S. intelligence capacity and to jeopardize the lives and limbs of U.S. agents serving in dangerous and sensitive missions.

No other free government on earth—to say nothing of others unfree—remotely begins to tolerate the casual (and sometimes malicious) interference with its intelligence services that Americans have come to countenance in the name of protective "exposure," by those who may or may not have the nation's interest at heart. We think Congress should do whatever is necessary, taking due but not paralyzing heed of constitutional scruples, to protect our covert intelligence and counterintelligence agents. Otherwise, it would be well to admit that we are too paralyzed by constitutional scruples to conduct an effective foreign intelligence system in this dangerous world, and stop asking our people to risk their lives in its service.

We can't have it both ways.●

POL POT DECISION MOCKS U.S. HUMAN RIGHTS POLICY

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1980

● Mr. FORSYTHE. Mr. Speaker, I am outraged at the recent news that, once again, the administration has decided to support the seating of the Pol Pot government in the United Nations. What was an opportunity to stand proudly for the cause of human rights and dignity has instead made a mockery of our dedication to that policy. I would like to share with my colleagues the letter which I sent to the Presdent concerning this matter:

Dear Mr. President: I am compelled to write you after learning of your recent decision to support the seating of the Pol Pot regime in the United Nations should a challenge to their credentials occur.

I need not recite a litany of Pol Pot's accomplishments in Democratic Kampuchea. It is a matter of public record that he ravaged his country and devastated its capital city of Phnom Penh by systematically murdering all those who could read or write and by purposely starving countless thousands in an effort to establish agrarian communism in Cambodia. How can the United States in good conscience lend even the most minimal support to such a government?

I am fully aware of our Asian allies interests in this matter and our own hopes of reaching a negotiated settlement that would remove the Vietnamese presence in Cambodia. However, I do not believe that U.S. interests are best served by supporting the government of Pol Pot. Since neither Pol Pot nor the Vietnamese backed regime of Heng Samrin are representative of the will of the Cambodian people, the best alternative would be to vote to leave the seat vacant. By pursuing this course, the United States can effectively demonstrate its abhorance of regimes that deny the value of human life.

Mr. President, your vigorous devotion to human rights is beyond question, but, I am confounded as to why the United States should vote to support a regime that has so audaciously denied their very essence.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the Congressional Record on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, September 18, 1980, may be found in the Daily Digest of today's Record.

MEETINGS SCHEDULED

SEPTEMBER 19

9:30 a.m.

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee

To hold oversight hearings on the scope of science and technology policy.

235 Russell Building

*Conferees

To resume on S. 2719, authorizing funds for fiscal year 1981 for housing programs, and authorizing funds for fiscal years 1981 through 1983 for community development programs.

2128 Rayburn Building

Judiciary

To hold hearings to review in detail the President's proposal to admit refugees to the United States in 1981, and to receive the President's annual report to Congress on U.S. refugee programs.

2228 Dirksen Building

9:45 a.m.

Appropriations

Business meeting, to mark up H.R. 7724, appropriating funds for fiscal year 1981 for the Department of the Interior and related agencies, and H.R. 8061, appropriating funds for fiscal year 1981 for the government of the District of Columbia.

S-128, Capitol

10:00 a.m.

Energy and Natural Resources

To continue oversight hearings on the growing importance of coal in international trade.

3110 Dirksen Building

SEPTEMBER 22

10:00 a.m.

Governmental Affairs
Permanent Subcommittee on Investigations

To hold oversight hearings on the role of the Department of Energy in U.S. energy emergency preparedness.

3302 Dirksen Building

Judiciary

To hold hearings on the nomination of Myron H. Thompson, to be U.S. district judge for the middle district of Alabama.

2228 Dirksen Building

SEPTEMBER 23

9:00 a.m.

Governmental Affairs
Permanent Subcommittee on Investigations

To resume closed oversight hearings on the Department of Labor's investigation of alleged mismanagement and criminal activities of the Teamsters Union's Central States pension fund.

3302 Dirksen Building

Labor and Human Resources
Employment, Poverty, and Migratory Labor Subcommittee

Business meeting, to mark up title I, to increase the future employability of disadvantaged youths by increasing basic educational competency and workplace skills of S. 2385, proposed Youth Act.

4232 Dirksen Building

Select on Small Business

To hold joint hearings with the Committee on Environmental and Public Works on the possible economic costs of acid rain, focusing on economic losses to tourism, sport and commercial fishing, agriculture and forestry, damage to public buildings, and threats to public health.

424 Russell Building

9:30 a.m.

Energy and Natural Resources

To hold hearings on the nomination of Wallace O. Green, of the District of Columbia, to be Assistant Secretary of the Interior for Territorial and International Affairs.

3110 Dirksen Building

10:00 a.m.

Judiciary

To hold hearings on pending nominations.

2228 Dirksen Building

11:00 a.m.

Labor and Human Resources

Business meeting, to mark up S. 2385, authorizing funds for fiscal years 1981 through 1984 for youth training and employment programs and to revise such programs, for the private sector initiative program, the Job Corps, and the summer youth program; and H.R. 7859, providing assistance to State and local agencies for the education of Cuban and Haitian refugees.

4232 Dirksen Building

Veterans' Affairs

To hold hearings on fiscal year 1981 legislative recommendations from officials of the American Legion.

318 Russell Building

2:00 p.m.

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee

To hold joint hearings with the Energy and Natural Resources' Subcommittee on Energy Research and Development on the substance of H.R. 6889, proposed Methane Transportation Research, Development, and Demonstration Act.

3110 Dirksen Building

Conferees

To resume on H.R. 2977, authorizing funds through fiscal year 1983, to establish a program to increase participation by States and local governments to prevent domestic violence, to provide assistance to victims of crime, and to establish Commissions on National Youth Service.

S-145, Capitol

Energy and Natural Resources
Energy Research and Development Subcommittee

To hold joint hearings with the Commerce, Science, and Transportation's Subcommittee on Science, Technology, and Space on H.R. 6889, proposed Methane Transportation Research, Development and Demonstration Act.

3110 Dirksen Building

Office of Technology Assessment

The Board to meet and discuss pending business items.

EF-100, Capitol

SEPTEMBER 24

9:30 a.m.

Labor and Human Resources
Health and Scientific Research Subcommittee

To hold oversight hearing on the implementation of the National Health Service Corps program of the Health Services Administration under the Department of Health and Human Services.

1114 Dirksen Building

10:00 a.m.

Governmental Affairs

To hold hearings on S. 2606, proposed Office of Strategic Trade Act, focusing on current U.S. policies governing the export of strategic technology to Soviet bloc nations.

3302 Dirksen Building

Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee

To hold hearings to review the accuracy of the 1980 census count.

1224 Dirksen Building

*Labor and Human Resources

To hold oversight hearings on the implementation of the home energy assistance program.

4232 Dirksen Building

10:30 a.m.

Commerce, Science, and Transportation

To hold hearings on S. 3003, establishing a program within the Department of Commerce to promote U.S. service industries and their competitiveness.

235 Russell Building

2:00 p.m.

Conferees

To continue on H.R. 2977, authorizing funds through fiscal year 1983, to establish a program to increase participation by States and local governments to prevent domestic violence, to provide assistance to victims of crime, and to establish Commissions on National Youth Service.

S-145, Capitol

SEPTEMBER 25

9:30 a.m.

*Labor and Human Resources

To hold hearings on S. 2979, to maintain and extend to 1986 the cost-of-living increases for pre- and post-retirement for railroad employees, and to increase the tax that employers are required to pay into the fund on behalf of active workers of the railroad industry.

4232 Dirksen Building

Select on Small Business

To resume oversight hearings on the Small Business Administration's surety bond guarantee program, focusing on alleged organized criminal involvement in the program.

424 Russell Building

10:00 a.m.

Commerce, Science, and Transportation

To continue hearings on S. 3003, establishing a program within the Department of Commerce to promote U.S. service industries and their competitiveness.

235 Russell Building

Governmental Affairs

To continue hearings on S. 2606, proposed Office of Strategic Trade Act, focusing on current U.S. policies governing the export of strategic technology to Soviet bloc nations.

3302 Dirksen Building

2:00 p.m.

Finance
Health Subcommittee

To resume hearings on the FBI's current and prospective investigation into medicare and medicaid fraud, focusing on the current status of the Department of Health and Human Services' efforts in antifraud and antiabuse activities.

2221 Dirksen Building

SEPTEMBER 29

9:30 a.m.

Finance
Health Subcommittee

To hold hearings on S. 3029, to establish

a National Professional Mental Health Services Commission.
2221 Dirksen Building

SEPTEMBER 30

10:00 a.m.
Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To resume oversight hearings on the implementation of certain programs of the General Services Administration.
3302 Dirksen Building

Labor and Human Resources
Health and Scientific Research Subcommittee
To resume oversight hearings on the implementation of the National Health Service Corps program of the Health Services Administration under the Department of Health and Human Services.
4232 Dirksen Building

OCTOBER 1

10:00 a.m.
Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To continue oversight hearings on the implementation of certain programs of the General Services Administration.
3302 Dirksen Building

CANCELLATIONS

SEPTEMBER 19

2:00 p.m.
Conferees
To continue on H.R. 5192, authorizing funds through fiscal year 1984 for higher education programs of the Department of Education.
S-145, Capitol

SENATE—*Thursday, September 18, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. DAVID L. BOREN, a Senator from the State of Oklahoma.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, giver of every good and perfect gift, give us the mental stamina and the moral rectitude to stand for something lest we fall for anything. Nourish our minds on the truth of Thy word. Conform our lives more to the pattern of the Master who went about doing good. Rule the mind of the President, the Congress, and all who minister in the affairs of state. Keep ever before us the reality that both the temporal and the spiritual are under Thy rulership.

I would be true, for there are those who trust me;
I would be pure, for there are those who care;
I would be strong, for there is much to suffer;
I would be brave, for there is much to dare.

—HOWARD ARNOLD WALTER.

In the Redeemer's name, we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, D.C., September 18, 1980.*
>
> *To the Senate:*
>
> Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID L. BOREN, a Senator from the State of Oklahoma, to perform the duties of the Chair.
>
> WARREN G. MAGNUSON,
> *President pro tempore.*

Mr. BOREN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader, the Senator from West Virginia, is recognized for not to exceed 5 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may reserve my time until the orders for the recognition of Senators has been completed or for use therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader, the Senator from Tennessee, is recognized.

THE PRESIDENTIAL CAMPAIGN

Mr. BAKER. Mr. President, as I am certain every Member of the Senate has heard me say at one time or another, I take great pride in the profession of politics in which we all here are engaged. For politics is the manifestation and expression of the public will. Through politics, public policy is established. There is no higher, secular calling than that which we share.

For that very reason, Mr. President, I am dismayed of late as I read and learn of the remarks of President Carter in reference to the Republican Presidential nominee, Ronald Reagan.

With just about 6 full weeks remaining before the November 4 election, the campaign of President Carter has taken on an ugly and vicious nature—demeaning to our political process and to President Carter himself.

I have known Governor Reagan for many years. He is an honorable man. I have no intention of honoring the President's remarks about the Governor by repeating them today. Suffice it to say that the President's behavior during the recent days of his campaign has been nothing less than reprehensible and contemptuous.

As the lead editorial in the Washington Post so accurately noted this morning, the President's behavior of late is, sadly, not an aberration. Rather, as the Post editorial stated:

> It fits . . . Jimmy Carter's miserable record of personally savaging political opponents . . . whenever the going got rough.

Important far beyond the outcome of this Presidential election, Mr. President, is the continual restoration of public confidence in our electoral process and government institutions. We have begun in recent years to regain that confidence. If, however, the American electorate is to witness 6 more weeks of hate-mongering by the President of the United States, our progress will be negated.

I would like to hope, as the Post editorial hoped, that President Carter has "a better case for his reelection" than the one he is now making.

I fear, however, that he does not have a better case.

In conclusion, I ask unanimous consent that the text of the Washington Post editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

RUNNING MEAN

It is a staple of this year's cynical political wisdom that running for office is what Jimmy Carter does best. We have a different view. We think it may be what he does worst. Mr. Carter, as a candidate, tends to convey a mean and frantic nature. This has been demonstrated in many ways over the past several weeks—and months.

First, the president seems determined to discredit, rather than to prevail over, his opposition. It's as if he doesn't quite believe they are entitled to run against him, and so he won't actually fight them, but rather will only provide an endless series of complaints about their candidacies and their character. You don't have to be a John Anderson fan to be made uncomfortable by the way in which Mr. Carter has sought to paint the Anderson effort as somehow illegitimate, not entitled to a hearing. And you don't have to be a Reagan fan to have noticed that Mr. Carter has abandoned all dignity in his round-the-clock attack on Mr. Reagan's character and standing, jumping him (in a most sanctimonious tone of voice) for "offenses" similar to many Mr. Carter himself has committed, and, most recently, concluding from all this that Mr. Reagan is a "racist" and a purveyor of "hatred." This description doesn't fit Mr. Reagan. What it fits, or more precisely, fits into is Jimmy Carter's miserable record of personally savaging political opponents (Hubert Humphrey, Edward Kennedy) whenever the going got rough.

Ronald Reagan is not a hater and he is not a racist; there are real reasons to challenge his claim to the presidency, but these are not those reasons. Mr. Carter's "evidence" for his charges is so weak as to be pitiable and also puts one in mind of a series of comparable failures and defaults of his own over the years, from "ethnic purity" in 1976 to silence on the civil rights bill in 1964 that could as easily have been distorted by an opponent. In a way, the most disturbing feature of the Carter campaign technique is that he displays a certain contempt for the evidence of our own eyes, asserting these things that run counter to what we can see and already know, as if he believed it didn't matter, that people would believe anything they were told. Only the day before his racism-and-hatred remarks, for instance, Mr. Carter—the man who has managed to keep out of debates with his competitors for a year now, and who has reduced his press conferences to the merest trickle—was telling the public, in his most outraged-for-democracy fashion that it was a terrible thing that Mr. Reagan was refusing to be "cross-examined" as anyone who aspired to the presidency should be.

So the president calls names, and he baldly recreates his own record (for the better) and that of everyone else (for the worse) and he displays an alarming absence of magnanimity, generosity and size when he is campaigning. No, of course, the other candidates are not just going around tossing basketsful of May flowers to each other either, and yes, their campaigns are full of borderline fouls and blurrings of the record. But Jimmy Carter, as before, seems to have few limits beyond which he will not go in the abuse of opponents and reconstruction of history.

The purpose of a campaign is to get elected. But a campaign can win at too great a cost. A campaign can be conducted in a way that casts doubt on the purposes and policies of an incumbent's own government and record. And a campaign can offend and turn off the very people the candidate expects to win, people who want to and normally would support him, if he is ruthless and reckless in seeking their vote. There must be a better case for his reelection than the one the president is now making.

THE HORTICULTURAL CAREER OF MRS. MARGE HAYAKAWA

Mr. BAKER. Mr. President, I would like to call to my colleagues' attention a perfectly delightful pair of newspaper articles that appeared in the garden section of the San Jose, Calif., Mercury News last month.

The articles chronicle the devoted horticultural career of Marge Hayakawa, the wife of the distinguished Senator from California (Mr. HAYAKAWA).

For the past 25 years, her interest and active role in horticultural studies and publications have taken her from a garden inherited from the previous owners of her and Senator HAYAKAWA's home in Mill Valley to the presidency of the California Horticultural Society, the editorship of the respected California plant life publication, Fremontia, and the presidency of the prestigious Pacific Horticultural Foundation, a position she currently holds.

As one who possesses a more than casual interest in flowers, particularly the magnificient marigold of which I have spoken often from this floor, I was inspired by the following passage from Mrs. Hayakawa in behalf of horticultural activities:

> It is as worthy of support as a museum, a ballet company or a scientific society . . . Plants remind people of their relationship with the natural world. Something very important is going on here.

Important, indeed, Mr. President. Those eloquent words of Mrs. Hayakawa call to mind another eloquent passage on the same subject—this from the works of the late Dorothy Frances Gurney:

"The Kiss of the Sun for pardon,
The song of the birds for mirth,
One is nearer God's heart in a Garden,
Than anywhere else on Earth."

Mr. President, my good friend, Senator HAYAKAWA, is a most fortunate man to have a wife and companion so devoted to the sharing of the beauty and nobility of horticulture.

I commend these articles concerning Mrs. Hayakawa to my colleagues and ask unanimous consent that they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the San Jose (Calif.) Mercury News, Aug. 1, 1980]

GARDENER HAYAKAWA—THE SENATOR'S WIFE GOT HOOKED ON WILDFLOWERS; ONE THING LED TO ANOTHER

(By Joan Jackson)

Marge Hayakawa blames it all on the wildflowers. "I had always heard from my flower-loving family about the glorious wildflowers and the wealth of gardening plants grown in California, and suddenly I found myself in the middle of them," she says, explaining how she got so involved with horticulture that she is now regarded as one of the influential figures in the field on the West Coast.

"I'm not a horticultural expert," she protests. "I'm too much a generalist, a dabbler, for that. I'm interested in disseminating the knowledge of the real plant experts to the public. I'm really an editor. I've been editing one publication or another since grade school."

Expert or not, she is president of Pacific Horticulture Foundation, which publishes the handsome quarterly Pacific Horticulture, and is also the editor of Fremontia, the quarterly journal of the California Native Plant Society.

How this very down-to-earth lady, wife of the United States senator, got hooked on wildflowers and came to be so involved in horticulture is a story in itself.

She was a literature major who planned to write novels. She met and married Samuel Ichiye Hayakawa at the University of Wisconsin, and they later moved to Chicago where, she says, "Our only garden was a tub of avocados grown for our salads."

In 1955, Dr. Hayakawa accepted a professorship at San Francisco State College. They intended to build a house and moved "temporarily" into what is still their Mill Valley hillside home. Her brother Wesley Peters, who is chief architect for Frank Lloyd Wright Foundation, remodeled the brown shingle house in a way that strikes some people, but not the owners or the architect, as Oriental.

"There were some unusual plants in the garden, from the time of the first owner," Mrs. Hayakawa says, "along with a lot of the usual things in old Marin gardens. Coming from the Midwest, I didn't know any of them. It took me a year or more to find out all I had and how to care for them. I took courses, read books, and discovered the California Horticultural Society, to which I owe most of my education." Later she was to serve for seven years as a member of "Cal Hort's" Council and for two years as its president.

For Mrs. Hayakawa, it was not a case of "lending her name" to an organization. She is a mover and a doer, an organizer who works hard and expects everybody else to work just as hard.

Always interested in native California plants, since 1973 she has edited Fremontia, a quarterly distributed to the members of the California Native Plant Society, a statewide conservation organization with 18 chapters. In 1975 she was appointed by the California Horticulture Society to the governing board of the California Horticulture Journal, a prestigious publication which circulates to the 2.300 members of four societies—Cal Hort, Strybing Aboretum Society, Western Horticulture—based in Palo Alto and serving the peninsula and San Jose area—and Southern California Horticultural Institute in Los Angeles.

These societies in 1963 had set up the Pacific Horticultural Foundation, a nonprofit corporation, to publish the journal. Increasing costs were making the journal too expensive to publish for just those 2,300 members. Mrs. Hayakawa and others figured there were a lot of others out there in the general public who might subscribe individually to an enlarged, attractive magazine aimed at dedicated gardeners.

Besides Mrs. Hayakawa, F. Owen Pearce, longtime journal editor, Richard Hildreth, director of Saratoga Horticultural Foundation, F. George Waters, horticultural photographer, were appointed to a committee.

Out of a year's work by them came a new West Coast garden magazine, Pacific Horticulture, illustrated in color, with a golden California poppy on the cover of the January 1976 issue.

Later, Editor Owen Pearce retired and George Waters took over as editor. The subscription list has increased fivefold since the changeover. (The address for subscriptions is Pacific Horticulture Box 485 Berkeley CA 94701; cost $8.)

Marge Hayakawa says when she became president of the foundation in 1977 she somewhat to her surprise found herself the head of a publishing corporation. But it is a job for which her enthusiasm for the magazine and her past experience have prepared her well. She gave up commuting to Washington, D.C. with her senator-husband and, instead, now gives Pacific Horticulture a major portion of her time.

Working with her are such volunteers as Betsy Clebsch of Palo Alto, who heads the subscription drive, and Keith Bickford of Los Altos, a retired Bechtel executive, who heads the advertising department. Also on the board are Ed Carman, a Los Gatos nurseryman; William Moore of Los Gatos, an attorney with Varian Associates, and Joseph Williamson, garden editor of Sunset Magazine.

All of the editorial material is gratis, and the only money paid out is for editing and production. The current subscription is $8, and this cost is part of the dues of all four of the participating societies. (Membership in Western Horticulture Foundation is available through Vivian Hawkins, 538 Lincoln Ave., Palo Alto.)

What Mrs. Hayakawa brings to Pacific Horticulture Foundation, she says, "is my knowledge that I can persuade the societies to the possibilities of horticulture." She believes—and wants others to believe with her—that advanced horticulture is a significant contribution to the quality of life. "It is as worthy of support as a museum, a ballet company or a scientific society," she says.

Her job as president the past year has involved opening the foundation's first office, for the circulation department in Berkeley; recruiting horticulturalists, landscape architects, and arboretum directors to serve on an advisory council; setting up a Friends of Pacific Horticulture group to raise needed funds, and applying for grants from foundations and corporations.

She sees an increasing interest in plants and horticulture at the present time. "There are many young people joining the horticultural societies and wanting to make a career around their interests in plants," she says. "They have strong environmental and conservation interests. The drought brought an increased interest in the use of native plants and of plants from other Mediterranean climates similar to California's. We began to question our spendthrift ways with water. Look at the tremendous yearning for house plants among city dwellers. Plants remind people of their relationship with the natural world. Something very important is going on here."

INSIDE MARGE'S GARDEN

Marge Hayakawa admits she is a growing horticulturalist as well as a writing-editing-organizing one, and her own garden proves it.

"I like to try one of everything. Some survive, some don't," she says about the hundreds of plants around her.

"My husband is really vague about gardening," she laughingly admits. "It's funny. People think, oh, how lucky, your husband is Japanese and the Japanese are so good at gardening. Well, he thinks this is all very nice, but he is interested mostly in the vegetables."

The garden, not quite an acre in size, is situated on a hillside below street level, on a cool slope of Blithedale Canyon. It is four miles from the ocean, and the weather is typically morning overcast-afternoon sun. Native live oaks are the dominant factor in both the garden and woodland sections, combined with the native hazelnuts and sword ferns that grow naturally on the site.

"The framework of the garden was here when we moved in," she says about the rock retaining walls, "and I've gradually been making changes." Some old plantings of hydrangea and clematis, plus a wall covered with creeping fig, remain from the first owner's garden. A great many ferns, California natives, rock plants, Japanese maples and some rhododendrons and azaleas have been added.

"What you see here are survivors of the drought," she says. They survived with only the water that could be carried from the kitchen and bath, and a few truckloads of recycled water. A few things flourished; many more died, especially a number of her prized ferns. She now has about 100 hardy ferns in the ground and in hanging baskets.

Much of the garden is shady, or partially so. Here grow the hydrangeas, rhododendrons, camellias and azaleas, where they can be watered. In drier shade, epimedium, vancouveria (a native sometimes called "inside-outside flower"), hellebores of several species, Japanese iris, western native iris, species of asparagus, cyclamen, and woodland groundcovers grow.

On the entrance patio, a waist-high wall forms the rock garden. Here are small species of wild geraniums, mats of dianthus and other rock plants and a weeping pine. Higher up the slope, in larger scale, is a bed of perennials, including salvia, penstemons, clarkias, monkey flowers—all natives—and a collecution of campanulas.

Other groupings of plants, according to their need for sun, shade and water are in a small bog areas with buried sinks hidden underground to give more water to the water lovers such as native yellow-eyed grass and wetland ferns; a peat garden where small shrubs, ground orchids and other plants liking more humus and moisture are planted; and out in one of the few bright sunny spots, a vegetable garden in raised beds of railroad ties.

"I'm always adding something," she says about the vast collection. "I figure I have one of everything. And, there is as much upkeep to this as you would want to do."

It turns out, she does it all herself with the aid of a one-day-a-week gardener—right down to the watering and weeding. It takes about an hour to water all the pots and sprinkle the area. "Basically, I'm not a fanatic about organic gardening. But I try to keep it natural, and I compost everything from the garden.

Mrs. Hayakawa has carefully labeled the plants in her garden. "I know everything I have. But, off hand, I'd forget without the labels."

She also tries to keep a record of each thing she plants, and how it performs, but admits she is falling behind on the task more and more. "I've got so busy with horticulture," she laughs, "that I have no time for gardening." And no time to write those novels.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I ask unanimous consent that the remainder of my time under the standing order, which I understand was abbreviated to a period of 5 minutes this morning, may be aggregated together with the time allotted to me under the special order for this morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I further ask that the total time provided for in the special orders on last evening for the Senator from Tennessee, the Senator from North Dakota (Mr. YOUNG), the Senator from Oklahoma (Mr. BELLMON), and the Senator from Kansas (Mr. DOLE), which totals 30 minutes, be aggregated together and placed under the control of the Senator from Tennessee or his designee.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE BUDGET PROCESS

Mr. BAKER. Mr. President, we are coming now to the final and concluding days, perhaps weeks, of this session of Congress.

It had been my hope from the beginning that this Congress would act with dispatch and diligence and that we would do the things that needed to be done and adjourn sine die in time for the election in November.

The things that must be done, it is clear, include the necessary reauthorizations of existing Federal programs, as well as a number of other important matters which already have been dealt with. But perhaps most important of all the 13 regular appropriation bills, the keystone and the crown jewel of our fiscal congressional policy, is the adoption of the second, and presumably the final, budget resolution, the second concurrent budget resolution.

That is the business yet to be transacted—the appropriation bills, the second concurrent budget resolution, and legislation in respect to reconciliation, assuming that that is necessary, and I believe it is necessary.

Mr. President, I believe that we can do those things, that we can finish that job and leave this Chamber with the public's work done, without returning for a post-election session.

I point out that the Budget Act provides that the second concurrent budget resolution must be adopted by September 15, which has now come and gone. I recall, as my friend the majority leader recalls, that I jousted on this floor about whether we would change the time for the adoption of the second concurrent budget resolution from September 15 to a time earlier in August; and, frankly, I opposed that, thinking that we would not have time to do it by then.

Mr. President, that date, the September date, has passed; and it is increasingly apparent, and I believe, that the majority in this body does not want to deal with the budget resolution before the election. I believe that is a disservice to the people of the United States, because I believe that the second concurrent budget resolution, which is on this calendar in the Senate, will disclose that, instead of a balanced budget or anything approaching a balanced budget, this administration has produced a deficit that will range from $20 to $50 billion. To postpone that reality and the publication of that fact until after the election is a $50 billion surprise for the American people, which they will find out about after they go to the polls in November.

Mr. President, I believe that we can deal with the second concurrent budget resolution. I believe we must deal with the appropriation bills, the second concurrent budget resolution, and a tax adjustment bill, and do all that before the suggested time for adjournment or recess on October 4.

Mr. President, I now yield to the distinguished Senator from Oklahoma.

Mr. BELLMON, I thank my friend, the distinguished minority leader.

I am happy to join in trying to make public what I believe is a very serious mistake which the Senate is now in danger of making.

I must say that I do this with some sorrow, because I feel that the budget process up to now has made a major contribution to the financial health of the country.

I do it, also, with some sorrow that my friend the chairman of the Budget Committee is not in the Chamber at this time, although I am sure he will arrive soon. I do not want what I am about to say to be taken as criticism of him, because he has worked hard at his job; and, on balance, I believe he is doing an excellent job in the budget process, although there is this one area in which I disagree with the decisions that have been made.

Mr. President, I join with my Republican colleagues this morning to oppose what I believe to be one of the most serious threats to the fiscal health of our Nation that I have witnessed in 12 years' service in this body. The leadership of the Senate is moving key spending legislation of paramount economic importance while withholding any debate on the effect of this legislation on the size of the deficit until after the election. By refusing to debate the second budget resolution until after the election, the leadership is participating in an act of budgetary chicanery which must not be allowed to slip by unnoticed.

Mr. President, the Senate Budget Committee completed its markup on the second concurrent budget resolution for fiscal 1981 on August 21, almost 1 month ago. The report on the committee's resolution was filed on August 27, before the August 28 deadline that was insisted upon earlier this year. This report was distributed throughout the Senate on September 4 and each Senator has had ample opportunity to review the committee's budget recommendations carefully.

Moreover, the Senate has done little in recent days. In fact, we were not even in session on either of the last two Fridays. There is no lack of time, but apparently simply a lack of will.

For the record, let me review the budget recommendations. The second concurrent resolution for fiscal year 1981 sets a ceiling on budget authority of $699.6 billion, a ceiling on outlays of $633 billion, and recommends that revenues be no lower than $615.2 billion. In other words, this budget resolution proposes a deficit of $17.9 billion, compared to the $200 million surplus in the first budget resolution this spring.

Mr. President, I believe this is an important point. Our first resolution was not only balanced, but it had a slight surplus. But the second resolution that the committee has approved, and I might say I did not agree with that decision, is in deficit by almost $18 billion, without taking into account the need to make room for a tax reduction, and this is the problem.

The voters of this country, the citizens of the country are still remembering that we have a balanced budget and they do not realize the decision Congress is now about to make.

So, as I say, the budget resolution is now $18 billion in deficit and it avoids the tax cut issue by containing no margin for a tax reduction, but the committee report says the issue of a 1981 tax cut is open for "reconsideration at an appropriate time," and that is a direct quote from the report. That simply means that after the election when Members are less likely to be punished by voters for agreeing to a huge deficit and the inflation which is certain to follow, then we will take up these matters.

In my additional views in the budget report, I make very clear my own position that the level of spending in this resolution is fiscally imprudent, given the prospect of high and rising inflation. I will not undertake to debate that viewpoint now, but I do believe that it should be fully debated and soon, and certainly before major spending legislation which will have substantial impact if the deficit passes the Senate.

Mr. President, the Senate is currently embarked on a course that will lead to a deficit potentially in excess of $50 billion and a return to high inflation, probably getting up again to the 20-percent level.

I believe that American voters should be aware of this fact when they make their choices on November 4. The Senate Appropriations Committee has reported or is in the process of reporting six appropriation bills. The budget authority levels contained in these bills exceed the Appropriations Committee's own allocation under the first concurrent resolution targets by $4.1 billion and exceed even the significantly higher second concurrent resolution ceiling by $5 billion. Moreover, the outlay levels in these bills exceed the first resolution by $4.9 billion and exceed the second resolution ceilings by $3.9 billion. In other words, if the remaining appropriation bills follow the same pattern set in the first six bills, and there is no reason to assume otherwise, the outlays would be $10 to $12 billion higher than the first resolution and at least $8 to $10 billion higher than the recommended levels in the expanded second budget resolution.

Moreover, there are indications that the hoped for reduction in the fiscal year 1981 deficit of over $10 billion contained in the reconciliation bill may not be fully realized or where savings are achieved, other spending programs may simply take their place. It also appears that what started out to be multiyear savings are in danger of becoming one shot efforts. For instance, just this week, the conferees on the higher education bill gave up several billion in savings over the next 5 years that would have been achieved under the Senate version of the reconciliation bill. Using Budget Committee economic assumptions, with which, I might say, I do not agree, the combination of higher appropriation levels and lower reconciliation savings would raise fiscal year 1981 spending to the $646 to $648 billion range and the deficit to at least $35 billion, before consideration of a tax cut. This level of spending represents a 31-percent increase in Federal spending since fiscal year 1979. Such rapid spending growth in the face of virulent inflation which currently exceeds 13 percent is, I believe, irresponsible. Further, if we add the $18 billion first fiscal year cost of the tax cut in the Senate Finance Committee's bill, the fiscal year 1981 deficit then rises to more than $50 billion, which is the figure that our minority leader just mentioned. Fifty billion dollar deficit is what is in store for our American taxpayers unless something is done quickly. I remind my colleagues that this is the budget President Carter and Congress promised no later than June 12 would be balanced. We promised a balanced budget. We approved a first resolution which was in balance, and now American citizens are threatened with a $50 billion deficit and the runaway inflation which is certain to follow.

American voters are entitled to know that they are being hoodwinked by not bringing this matter to the floor for action before the election and they need to know that they are going to be hit with this $50 billion deficit within a very few days after the election is behind us.

It is no wonder that there is effort being made to hide what I consider to be a fiscal scandal until after the November elections are passed.

Mr. President, I do not believe that our country's economic system nor the electorate will tolerate another deficit of $50 billion on the heels of the $63.3 billion deficit that is expected this year.

Government borrowing to cover this debt means drastically increased interest rates, 20-percent inflation, and high unemployment.

The U.S. economy is now recovering. If Congress fails to act in a fiscally responsible manner now, it will bear the direct responsibility for plunging the Nation again into a deep recession.

I am convinced that the only discipline that will make Congress act responsibly is to set fiscal policy before, not immediately after, the election. Voters now believe we have balanced the 1981 budget. Congress can keep the budget in balance and thus help control inflation if we act now before the elections. Waiting means waste, irresponsibility, and great hardship for American workers. I urge our Senate leaders to schedule the second concurrent budget resolution (S. Con. Res. 119) for immediate floor consideration so our voters will know when they cast their votes November 4 whether Congress has acted responsibly or cowardly.

Mr. BAKER. Mr. President, I yield now to the distinguished Senator from Kansas, the senior Republican on the Finance Committee.

Mr. DOLE. I thank the distinguished majority leader, and I will take just a couple minutes.

I just say at the outset——

Mr. ROBERT C. BYRD. Mr. President, if the distinguished Senator will yield, he has spoken somewhat prematurely.

Mr. DOLE. Me?

Mr. ROBERT C. BYRD. He spoke somewhat prematurely.

Mr. DOLE. Excuse me. The distinguished minority leader.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. DOLE. I wondered why I felt so good today.

But in any event, I picked up the Washington Post this morning which I do frequently, and I hope the story I read which says headlines "Key Senate Democrats Opposition Snags Preelection Action on Tax Cut Measure" is not accurate.

As I look at the economy today and as everyone else looks at the economy today it is obvious this country needs a tax cut and needs one this year.

Mr. President, this country needs a tax cut and it needs one this year. Over 8 million men and women are out of work. The Producer Price Index is zooming upward at a 20-percent rate. Real growth in GNP is falling at an astonishing rate and taxes may increase by $86 billion in 1981.

In a word this Nation is in economic trouble. If we permit the Federal Government to take so many additional billions in the current economic atmosphere, bad may well turn to worse. This was the clear consensus of the economic experts and other witnesses who have testified before the Finance Committee and the Joint Economic Committee this year.

Responding to this crisis the Senate Finance Committee ordered reported 2 weeks ago a tax cut bill that was nearly unanimously supported. In fact, the vote was 19 to 1 in the committee. Under the leadership of Senator LONG, we fashioned a bill that responds to the economic needs of our Nation in a responsible way. That bill has been praised throughout the country. It will increase incentives for savings, investment, and productivity and serve to offset the enormous scheduled tax increase next year.

Some in this town have attempted to thwart this process at every step. First they said there is not enough time. In four incredible days of markup the Finance Committee, Democrats and Republicans, proved them wrong. When the national good is at stake, we can act quickly.

Then, expressing their cynical attitude toward the Senate, Congress and, I believe, the political process, they said we should not act because we are incapable of passing a bill which is not laden down with special interest provisions. Those of us, Democrats and Republicans on the Finance Committee, responded to this insult this week by agreeing to oppose all special interest amendments to this tax cut bill. In doing so, I believe, we exposed for all to see, those who can not put the Nation's good above politics and those who believe that self interest and special interest should be elevated above economic recovery.

I just suggest, Mr. President, that the record should be clear. The Finance Committee, in talking with the Democrats and Republicans on the Finance Committee, is willing to support cloture and will band together to oppose all special interest amendments to the tax cut bill. I believe they will be supported by most Republicans and Democrats in the Senate. This bill will not become a Christmas tree. That straw man, as far as I am concerned, is torn down.

So I just say, finally, Mr. President, that I read with interest the resolution introduced by 48 Democrats in June of this year in which they direct the Finance Committee to study and report on a tax program. The honor roll goes on and on. The second person on that honor roll is the distinguished majority leader.

I ask unanimous consent that Senate Resolution 481 be printed in full following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOLE. Mr. President, I am very impressed with that resolution, and I say with all the sincerity I can muster that I can understand the politics and I can understand President Carter's interest in not acting this year. But it seems to this Senator that we have an obligation to comply with Senate Resolution 481 cosponsored by 48 Democrats, we have an obligation to support the Finance Committee in its efforts to pass a bill, which they passed by a vote of 19 to 1. I hope we will resolve, as the resolving clause states in Senate Resolution 481, that the committee, having reported a bill to the Senate, shall pass this bill to take effect in 1981, because I believe the Finance Committee bill is designed to increase employment, give relief to individuals, encourage thrift, improve America's productivity, and to stimulate competitiveness in foreign markets.

I will not go into that resolution any further. It is another effort made by the Democratic task force.

In yet another attempt to stop the Congress from passing this tax cut bill, the disciples of high taxes and stagnation tell us that if the Senate passes this bill we could set off "inflationary expectations." Mr. President, as I said before, the Producer Price Index is increasing at the rate of about 20 percent, the CPI is going up at the rate of about 13 percent. Do you know anyone in America who does not already have "inflationary expectations?" If there is such a person in this country, I suggest he is living too close to a Government expense account.

These people who talk about the fear of "inflationary expectations" fail to explain why our passing the bill will encourage them but the President's recommending a tax cut with precisely the same effective date will not encourage them. I suggest that the answer is grounded more in politics than in economics.

Mr. President, finally those who have fought against this bill say that the American people do not want a tax cut. The short form of this argument is simply "a tax cut will hurt your reelection chances." This Senator will not dwell on the irony of such an argument being made by those who sanctimoniously accuse others of political motivation. As support for this position they cite, I suspect, a series of polls that show Americans responding negatively to the question "do you want more inflation, more unemployment and a tax cut?" A very recent survey taken by the Gallup organization for the chamber of commerce shows that our constituents support a tax cut. Further the survey results show strong support for a tax cut bill much like the one reported by the Finance Committee.

For example 57 percent of those contacted support an individual income tax rate reduction of at least 10 percent this year. When asked whether they favor rate reductions, the Finance Committee approach, or a cut in social security taxes, 76 percent wanted income tax rate cuts; 55 percent believed that people will work harder if taxes are cut.

Mr. President, I ask unanimous consent that the survey results be printed in the Record, as well as another document showing how tax receipts will be increased by many billions of dollars.

There being no objection, the material was ordered to be printed in the Record, as follows:

CONSUMER ATTITUDES TOWARD GOVERNMENT TAXATION AND SPENDING

The survey was conducted by the Gallup Organization for the U.S Chamber Survey Center. Face-to-face interviews of 1,536 U.S. consumers were conducted by the Gallup Organization in early August, 1980. The study involved a national probability sample of U.S. consumers, 18 years and older. The sample design was that of a replicated probability sample which was stratified by area size. The sample is weighted primarily by "times at home" and education. It is very probable (95 chances out of 100) that survey findings are within three percentage points of the figure that would have been obtained if the whole population had been interviewed.

1. If federal income taxes were cut this year, so that everyone's tax rate was reduced by 10 percent, what do you think would be the effect on each of the things listed on this card? First, what do you think would be the impact on inflation—would inflation be increased, be reduced, or would the rate of inflation not be much affected by a 10 percent cut in federal income tax rates? How about employment—I mean the number of people with jobs—would employment be . . . How about investment by business firms in new plant and equipment—would business investment be . . .

[In percent]

	Inflation	Employment	Investment
Increased	24	30	47
Reduced	21	15	6
Not much affected by a 10 percent cut in tax rates	39	40	27
Don't know	16	15	19

2. All things considered, would you favor a 10 percent rate reduction in the federal income taxes people pay this year, or do you think it would be better *not* to cut income tax rates this year?

	Percent
Favor 10 percent reduction	54
Better not to cut tax rates	30
Reduce *more* than 10 percent (volunteer)	3
Reduce *less* than 10 percent (volunteer)	1
Don't know	13

3. Now, assume that there is a cut of 10 percent in federal income tax rates this year, and that the government collects less money in taxes as a result. But also assume that federal spending is also reduced by the same number of dollars—what do you think would be the effect of these two changes on each of the things listed on this card?

[In percent]

	Inflation	Employment	Investment
Increased	16	28	39
Reduced	36	22	11
Not much affected	29	31	27
Don't know	18	18	23

4. Looking at this card, which alternative would be best this year—a cut in both taxes and spending, a tax cut with no spending cut, a spending cut with no tax cut, or a cut in neither taxes nor spending?

	Percent
Cut in both taxes and spending	48
Tax cut, but no spending cut	10
Spending cut, but no tax cut	23
Neither taxes nor spending cut	9
Don't know	11

5. If your own federal income tax rates were reduced by about 10 percent this year, do you think you would spend most of the extra money or save most of it?

	Percent
Spend most	41
Save most	40
Both about equally	11

Don't pay taxes (volunteered)	3
Don't know	5

6. Assuming there is a federal tax cut this year, which would you favor—a cut in personal income tax rates, or a cut in social security taxes?

	Percent
Personal income tax rates	76
Social security taxes	14
Don't know	10

7. Assuming there is a federal tax cut this year, which would you favor—cut in personal income tax rates, or a cut in taxes on the income that people get from their savings and investments?

	Percent
Personal income tax rates	64
Income from savings and investments	25
Don't know	11

8. If there is a cut this year in the taxes that people pay, which would you favor—a cut in the taxes that people pay on their incomes, a cut in the taxes that people pay when they buy things, or a cut that is divided half and half between taxes on incomes and taxes on buying things?

	Percent
Cut taxes on incomes	42
Cut taxes on buying things	14
Half and half	36
Don't know	7

9. Some people believe that a substantial reduction in the income tax rates that people pay would cause people to work less hard or work fewer hours because they could take home as much as they did before, even if they worked less. Some other people believe a substantial reduction in income taxes would cause people to work harder or work more hours because they would take home a larger proportion of what they earn each hour. What do you think—would a substantial cut in income taxes cause people to work less or work more?

	Percent
Less	18
More	55
Don't know	26

10. Some people say that it is important to cut individual income taxes in order to increase consumer spending. Some other people say that it is important to cut taxes paid by business in order to increase business investment in new and more efficient plant and equipment. What is your opinion—is it more important at present to increase consumer spending or to increase business investment?

	Percent
Increase consumer spending	38
Increase business investment	38
Don't know; can't decide	24

11. If defense spending had to be raised, what do you think would be the best way for the government to pay for it—raise taxes, increase the deficit, or reduce other expenditures?

	Percent
Raise taxes	6
Increase the deficit	5
Reduce other expenditures	77
Don't know	11

12. Considering all kinds of taxes you pay—federal, state, and local—do you think you are required to pay your fair share of taxes, or are you required to pay more than your fair share, or less than your fair share?

	Percent
Fair share	45
More than fair share	45
Less than fair share	3
Don't know	7

13. As you probably know, the federal income tax laws provide that people with higher incomes are required to pay a higher percent of their income in taxes than are people with lower incomes. At present, do you think people with high incomes are required to pay more taxes than they should or less than they should, or are the present tax requirements about right in this respect?

	Percent
More than should	18
Less than should	40
About right	33
Don't know	10

14. How about tax loopholes—I mean people finding legal ways to take advantage of the tax laws to pay less tax than they fairly should—do you think many people do this, some people do this, or only a few people do this?

	Percent
Many	56
Some	27
Only a few	12
Don't know	5

15. How about tax evasion—I mean people not paying the taxes the law says they are supposed to pay—do you think many people do this, some people do this, or only a few people do this?

	Percent
Many	32
Some	36
Only a few	27
Don't know	6

16. Here is a card listing some of the things the federal government spends money on. For each one, would you please tell me whether you think the government should be spending more money than it is now, less money than it is now, or should the government continue spending about the same amount as now? First, how about defense . . .

[In percent]

	More	Less	About the same	Don't know
Defense	58	11	25	5
Welfare	13	58	25	4
Health	46	12	36	5
Education and training	49	15	32	5
Social Security	46	10	38	5
Energy	52	15	25	7

17. During the last ten years, the federal government has increased in size by about 30 percent more than inflation. From your own standpoint, do you feel the additional services provided by the government are worth more, about the same, or less than the additional money the government has spent to provide those services?

	Percent
Worth more	5
About the same	25
Worth less	56
Don't know	14

18. Most people agree that the growth in our economy and growth in industrial output have been disappointingly small in recent years. Some people say that the increased size of government has been a major cause of slow growth in the economy. Some other people say there have been many other reasons for slow growth. What is your opinion—would growth in the economy have been larger if the government were not so large, or has growth in the economy been slow mainly for other reasons?

	Percent
Growth would have been larger if government not so large	40
Growth slow mainly for other reasons	37
Don't know	22

19. Of all the money the government spends, on all of its programs, about what percentage do you think is *wasted*—that is, does not serve any useful purpose?

Percentage wasted	*Percentage of respondents*
0	1
1– 5	1
6–10	6
11–20	13
21–30	24
31–40	15
41–50	16
51–70	7
71–90	3
More than 90	2
Don't know	12

20. How about welfare—about what percentage of the money that the federal government spends on welfare do you think is received by the people who need welfare and are entitled to it?

Percentage of welfare received by people who need and are entitled to it	*Percentage of respondents*
0	*
1–5	3
6–10	7
11–20	6
21–30	12
31–40	9
41–50	22
51–70	16
71–90	12
More than 90	2
Don't know	10

*Less than 0.5 percent.

21. Looking at this card, what do you think is the most important cause of waste in government spending? What is second most important?

[In percent]

	Most important	Second most
Misguided administration of laws and regulations	26	19
Misguided lawmakers in Congress	13	21
The system by which laws and regulations are made (Congressional committees, etc.)	17	19
The problems in our society are so complex that waste is unavoidable	10	10
The government tries to solve problems it shouldn't try to solve	24	17
Don't know	10	13

In its midsession review of the budget, the Administration proposes that total tax receipts will rise by $86.1 billion between FY 1980 and FY 1981.

Adjusted for a calendar year (CY) basis, this suggests a $91.4 billion increase in tax receipts between CY 1980 and CY 1981.

The estimated breakdown of these estimates is as follows:

Fiscal year—1981 over 1980:

	Billion
Taxflation	$16
Social security	16.6
Windfall profit tax	14.4
Cash management proposals	4.3
Motor fuels tax	3.4

(The administration still expects approval of a 10 cents/gallon tax.)

	Billion
Witholding on interest and dividends	$3.4
Foreign tax credit	0.7
Independent contractors	0.6
Tax exempt mortgage bonds	1.1
Airport Trust Fund tax	0.9
Railroad retirement tax	0.3
Oil & hazardous substance cleanup	0.2
Subtotal	61.9

Effect of Real Growth & Inflation:

	Billion
Other excise taxes	*$6.7
Estate & gift taxes	*0.2
Customs duties	*0.5
Misc. receipts	**16.8
Total	86.1

Calendar year—1981 over 1980:

	Billion
Taxflation	$20.15
Social security	22.1
(from 1977 changes)	15.4
Windfall profit tax	19.6
Cash management proposal	4.3
Motor fuels tax	8.5
Withholding on interest and dividends	3.2
Subtotal	68.7
Other:	
(Other miscellaneous items, as identified above under fiscal year receipts will total	$23.6
Total	91.4

* There are no new tax proposals in these areas. These increases in estimated receipts from FY 80 to FY 81 are caused by a combination of inflation and real economic growth.

** This includes general growth in tax revenues from an expanding tax base (economic growth and from inflation). The apparent but illusory "growth" in the economy as inflation raises prices and wages and also increases nominal tax revenues even at the same rates. This is distinct from taxflation, which results from people moving into higher brackets and being taxed at higher rates.

For purposes of the foregoing list, it is assumed that:

(1) Administration receipts proposal (e.g., cash management) would not take effect before FY 1981 or CY 1981;

(2) Windfall profit tax is measured as though it first took effect in FY 1981 or CY 1981.

These assumptions are made to dramatize the real tax increases the administration advocates: otherwise tax increases in FY 1980 would tend to understate the growth in the tax burden caused by Carter administration initiatives.

Mr. DOLE. Mr. President, I will conclude these brief remarks the way I began them. We need a tax cut and we need one now. If the leadership of this body, acting I am sure under heavy pressure from the White House, will not bring the Finance Committee bill to the floor, I will offer it as an amendment to the first revenue measure that we do consider. If we are not to have a tax cut bill passed before the election, I want every Member of this body and, hopefully every Member of the House, to have an opportunity to cast a vote on the subject and to go home and accept the thanks of their constituents.

EXHIBIT 1

S. RES. 481

Whereas the best interests of the Nation should be placed first to assure that any tax cut is meaningful and beneficial to all Americans instead of rushing into an ill-considered and inadequate program for the purpose of trying to seize some partisan political advantages; and

Whereas inflation is still the major concern for all Americans; and

Whereas it is essential that our Nation achieve vigorous, sustained economic growth and curtail inflationary pressures in the decade of the 1980's; and

Whereas a tax cut is a necessary part of such a coherent economic policy; and

Whereas our Nation needs an equitable, consistent, coordinated, and comprehensive economic policy for the 1980's; and

Whereas such an economic policy must be designed to reduce unemployment, create jobs for everyone willing to work, and to hold down inflation; and

Whereas the details of a tax cut must be subject to the normal congressional processes which include careful committee consideration through hearings and markup; and

Whereas a midyear review of the economy will provide additional data on unemployment, inflation, and the Federal budget, which data is critical to an informed judgment on fiscal policy, and on the nature, size, and timing of a tax reduction; and

Whereas section 9 of H. Con. Res. 307, the First Concurrent Budget Resolution for Fiscal Year 1981, provided that "no bill or resolution which would reduce Federal revenues in fiscal year 1981 by more than $100,000,000 shall be enrolled until after the Congress has completed action" on the Second Concurrent Budget Resolution; and

Whereas a tax reduction is necessary to induce an orderly recovery from the current recession so as to promote economic growth without inflation: Now, therefore, be it

Resolved, That the Senate Finance Committee shall report to the Senate no later than September 3, 1980, a responsible, targeted anti-inflationary tax cut to take effect in 1981, and designed to increase employment, give relief to individuals, encourage thrift, improve America's productivity and stimulate competitiveness in foreign markets; and be it further

Resolved, That the Democratic Task Force on the Economy recommend to the Senate a comprehensive economic policy at the earliest possible date.

Mr. BAKER. Mr. President, I yield 5 minutes to the distinguished Senator from New Mexico.

Mr. DOMENICI. I thank the Chair and I thank the Senator from Tennessee. I say to my good friend I appreciate the 5 minutes.

I do want to make a point right in my very opening remarks that everyone should know if a budget resolution, the second one, comes to the floor the time is greatly limited.

Mr. DOLE. Mr. President, will the Senator yield me just 10 seconds?

Mr. DOMENICI. Yes.

Mr. DOLE. I would just add to my remarks in the event, for some unforeseen reason, we cannot agree on the tax cut, that the Republicans will then offer the tax cut proposal as an amendment to appropriate bills this year.

Mr. DOMENICI. Mr. President, just to complete the statement——

Mr. ROBERT C. BYRD. Did the Senator say appropriate bills or appropriation bills?

Mr. DOLE. Most everything I see looks appropriate. [Laughter.]

Mr. DOMENICI. Mr. President, to complete just that opening thought, so that there will be no misunderstanding by the Senate, the law limits debate on a second resolution to 15 hours. There are some technical issues as to whether rollcalls count or not, but the Senate ought to know we are not talking about something that can be filibustered or unduly delayed.

The Senate, earlier this year, passed a first concurrent budget resolution, which I supported, that promised the American people the first balanced budget in more than a decade, pledged to reduce the rate of increase in the Federal budget, and began to reverse the dangerous trend of underfunding in national defense that has prevailed during the past decade.

This "balanced budget" was much ballyhooed throughout the land. I suspect that many in this body will run for reelection less than 50 days from now by proclaiming their support for this balanced budget in 1981, much as President Carter pledged a balanced budget first by 1980 and then again by 1981.

Yet, the balanced budget has been destroyed, in part because of the recession and in part because many of the decisions on spending that prior Congresses have made are coming home to haunt us.

The second concurrent budget resolution, which must be passed before this Congress adjourns sine die, recognizes these new realities and offers the Senate a chance to once again cut spending, cut taxes, and cut the anticipated 1981 deficit.

Yet, continuing a long line of delays in the budget process, the Senate has failed to consider the resolution. This delay threatens the entire budget process. And, the delay is entirely motivated by political considerations—the Senate wishes to spare itself the tough decisions that facing the budget resolution head-on will force us to make. That is the only reason the budget resolution has languished for 2 weeks, while a long line of spending measures begin to wind their way through this Chamber.

No one can claim that the resolution is not ready; it has been ready for 2 weeks. No one can claim that the resolution will disrupt the Senate's schedule; the law contains a time limitation that will allow it to be disposed of within a full day. No one can claim that the resolution is not important; indeed, the resolution provides the only forum within which spending, taxing, and fiscal restraint can be coherently addressed. One must conclude, reluctantly, that the resolution has been delayed, and continues to be delayed, because it is a hostage to the politics of this election year, and that decision is a political one.

What makes the second concurrent budget resolution such a political timebomb? Why has the leadership put it on a back burner for so long?

The second concurrent budget resolution is like an orphan child, unwanted and unrecognized, simply because it squarely puts to the Congress three fundamental questions: Will the Congress show the courage to restrain spending in this election year? Will the Congress demand a reduction of the onerous taxes now burdening the taxpayer in this election year? Will Congress allow a real attack on inflation or will Congress resort to a sham that allows the seeds of a virulent inflation to continue to grow?

The second resolution increases spending in the 3 months since this body adopted the first concurrent resolution on the budget by $19.4 billion. The second resolution moves from the surplus of $200 million in the first resolution to a deficit of at least $17.9 billion, and a probable deficit of perhaps $40 billion or more, a point upon which I will amplify later. And, the second resolution allows spending to increase by about the same percentage that we anticipate inflation will increase, thus continuing the inflationary bias of the Federal budget. While the American people clamor for less Federal spending, the second resolution offers more spending. While the American people ask for relief from the highest proportion of taxation in our history, including the World War II year of 1944, the second resolution advocates more taxes and no tax cut of any nature. While the American people ask Government to lead the way in fighting inflation, the second resolution caves in to inflation and continues "business as usual."

No wonder the second concurrent budget resolution has not seen the light of day.

And, what is happening while the second budget resolution is bottled up in a desk somewhere?

The first six appropriations bills reported by the Appropriations Committee, or marked by that committee's subcommittees, exceed the recommendations of the first concurrent budget resolution by about $4.1 billion in budget authority and by about $4.9 billion in estimated outlays. Even compared with the pending second concurrent budget resolution the six bills exceed the binding limits by $5.0 billion in budget authority and $3.9 billion in estimated outlays. And, remember this, these bills account for only about a quarter of the moneys allocated to the Appropriations Committee under the first resolution.

What is the likely outcome of this, then? Well, I foresee three possibilities. First, I foresee an all-out attack on defense spending, cutting it by such a large amount that the Appropriations Committee will meet its overall outlay and budget authority allocations. This would occur of course, at the expense of the Nation's basic security. Second, the Congress may decide that the disciplines of both the first resolution, which is the expressed will of the Congress, and the pending second resolution are simply too harsh, and may amend the second resolution upon our return after the election in order to accommodate still more spending. This will give us a deficit well beyond any public prediction by either the administration or the Congressional Budget Office and put more pressure on the Nation's economy. Or, third, the Congress may simply disregard the entire budget process, allow any and all spending to occur and give lipservice to the Budget Act of 1974 next year by a revised resolution and a massive supplemental appropriations measure.

Now, I ask you, Mr. President, what is the common theme in all of this?

The common theme is that taxes will rise, spending will rise, the deficit will rise, and the chances increase that our military security will not improve.

In order to avoid these results—and I hear all of my colleagues ready to decry each and every one of the results I have speculated upon—we must take up the second concurrent budget resolution now.

We can cut spending during consideration of the resolution. We can cut taxes, and I have a proposal to both cut spending and taxes at one fell swoop. We can reduce the deficit and improve our military spending trend lines.

But, we can do none of these things while the second concurrent budget resolution is held hostage.

I know that cutting programs and offending special groups is not popular less than 50 days before the election. But, if we are to exercise the leadership we were elected to exercise, and to say "no" to those plans that will endanger the Nation, then the time to do so is now and the vehicle by which to do so is the pending concurrent budget resolution.

Without this resolution, we may run a deficit of as high as $45 billion.

Without this resolution, the pending conference on reconciliation, which will cut about $10 billion off the projected 1981 deficit, may well fall into disarray.

Without this resolution, the parade of bloated appropriations bill will continue.

Without this resolution, spending in 1981 may exceed 1979 spending by as much as 31 percent.

And, without this resolution, the American people will not be able to gage just how their elected officials feel about the relationship of spending and taxes for this country.

The stakes are high. One hundred million American taxpayers are about to be hit by the largest single increase in taxes in our history. Two hundred and twenty-five million Americans are about to suffer another year of double-digit inflation. And, more than a billion free world citizens are looking to America to reverse the trend in defense spending that has made us a question mark in the eyes of the world. Only through consideration of this resolution can we cut taxes, strike out at inflation, and insure that defense spending will make this world a safer place in which to live.

I would say that holding the resolution hostage is bad policy. But, more accurately, holding this resolution hostage is simply and purely immoral.

I want to commend Senator BELLMON for his opening remarks. I do hope every Senator will read his remarks. He has been a staunch supporter of this process. He used some harsh words here today, and I think he is right.

I also commend him for his remarks about our distinguished Democratic chairman (Mr. HOLLINGS), complimenting him on the work he has done. He was not here when the Senator said that. I agree with Senator BELLMON. But we have to disagree on this one with him and others on the Budget Committee and ask that the resolution be brought up and the issues be fairly and squarely faced at this point.

Mr. BAKER. Mr. President, I now yield 5 minutes to the Senator from Delaware.

Mr. ROTH. Mr. President, I agree with my colleagues that we must complete all essential public business before we recess in October. Essential public business would include legislation required under the Congressional Budget Act such as spending bills and the second budget resolution, and the tax cut bill.

Mr. President, these matters must be decided before we recess. I understand the current plan is to recess October 4 and reconvene November 12. I cannot believe we are going to subject the American people and our beleaguered economy to the needless speculation and uncertainty which undoubtedly will persist in that month and a half. Are we really going to ignore the budget process for the second time in 2 years, and leave several spending bills and possibly the second budget resolution, too, until the middle of November? I fear that pretty soon we will abuse the process to the point of passing our budgets and spending bills after each fiscal year.

Realizing that this is an election year, I feel the American people have a right to know in what direction their leaders have steered the economy. The American people have a right to cast their vote based upon the complete performance of this Congress—that means record votes on spending, tax cut measures and other essential public business.

Mr. President, some have said the economic future of this country is too important to be decided in an election year. I believe it is too important to be delayed.

Mr. President, the American people expect this Congress to deal with all essential business before they go home. I can tell you that, having traveled around my State of Delaware as well as elsewhere in this Nation, the American people are deeply concerned about the state of our economy. They are concerned about inflation. They are worried about whether they are going to have jobs in the future. They are concerned about the fact that their take-home pay is falling, and they are worried about high interest rates.

For us to go home without working our will on essential legislation is, in my judgment, unconscionable. We are breaking faith with the American people.

Let me say to my good friends on both sides of the aisles: Make no mistake. If we go home without doing our job, without enacting the second budget resolution which we are required to do by law, without working our will on the tax cut that has been fashioned jointly in the Finance Committee by Democrats and Republicans alike, and without working our will on the appropriations bills, the American people will be able to label this is a "do-nothing" Congress—make no mistake about that—because it is a "do-nothing" Congress.

The most serious concern of the people, of the working people, of the poor, of all Americans, is what direction this country is going to go. We cannot duck and dodge. But if we do, the American people will be entitled to say we would rather play politics than make policy.

Mr. President, it is a well known fact that the American people are losing confidence in our election processes. Fewer and fewer people are going to be voting because they do not see the democratic institutions able to cope with the problems we face. There has been a lot of talk in this Congress in the years gone by about open government, about letting the American people know where we stand. And yet now Congress is trying to go home on October 4 or earlier without dealing with these very serious economic problems. No wonder so many Americans say they are not even going to bother to vote.

Mr. President, I think we can change this picture. I think we can reverse this trend if Democrats and Republicans will work together in the remaining days to act on these most critical aspects of the economy.

I would just point out to my distinguished colleagues on both sides of the aisle that I think what was accomplished in the Finance Committee can be accomplished here on the floor. There the Republicans and Democrats, working together under the leadership of the distinguished Chairman RUSSELL LONG and the ranking member BOB DOLE, were able to report out almost unanimously a bill providing for tax cuts.

In closing I would say that we can do the same thing. If we work together here in these closing days, we can accomplish what is essential and go home with a record of which we can be proud.

Mr. BAKER. Mr. President, I thank the Senator from Delaware. Might I inquire of the Chair how much time remains under the special order?

The ACTING PRESIDENT pro tempore. There are 2 minutes remaining.

Mr. BAKER. Mr. President, with my apology to the Senator from Colorado, I yield the remaining time, which I understand is only 2 minutes, to the Senator from Colorado.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I appreciate the Senator yielding. I compliment the distinguished minority leader for taking the lead on this issue.

Frankly, it is pretty hard to find any thoughtful, responsible people in this body or around the country to take seriously the budget process. Certainly, I do not think there are any at this point who have the faith and confidence or credibility in this that it once had or that we all hoped it would have.

But I suggest to my friends in the leadership that if they go on through with the announced plan of putting off the budget resolution until after the election, there will not be a shred of credibility left in this budget process. It has already been seriously eroded and abused and politicized. If we go forward with this plan, there will not be an ounce of faith on the part of anybody in this budget process.

Now, there is absolutely no reason for us to put this off. There remains time enough, even between now and October 4, to adopt the budget resolution, to have a full and fair debate on it and to put those policies clearly before the Senate and before the House and the people of this country, to adopt reconciliation bills, to act on the appropriation bills, and to act on the tax cut. There is absolutely no reason to put this off.

But perhaps there is one single reason, and it is the reason which the minority leader and the ranking Republican member of the Budget Committee and others have alluded to, and that is the political reason, the fear of some Members to come to grips with this issue.

I will suggest to you that if there is ever an issue that deserves to be voted on before the election so the people of this country will know where their Senators stand on the most important economic issue facing this country, it is this budget resolution. It will truly be a travesty if we duck the issue.

Well, Senators and others may be wondering: So what? A bunch of Members of the minority party are making a lot of noise today saying we ought to do this, we should not put off the issue. Some may be wondering what can we do about it. But I think that remains to be seen.

Today, Mr. President, we are just expressing our concern. But it is my hope that the minority leader or others will bring a motion to the floor to put this issue in very clear perspective and to make it clear that Republican Members of the Senate are eager to bring for debate and decision the economic policy of this country.

I trust that at the right time such a motion will be proposed and that perhaps even now the majority leadership will decide that perhaps there is room for further consideration and further negotiation.

The scheduling of legislation is uniquely the prerogative of the majority leader. I think on our side of the aisle that we would be very reluctant and only as a last resort would we attempt to undermine or preempt that prerogative or to force a showdown vote on that issue. So I would plead with my friends on the other side, particularly the distinguished chairman of the Budget Committee, who I see is on the floor, and the majority leader and others who are responsible on the Democratic side for this decision, to not to put us in that position. Do not put the Senate in that position. Do not put the budget process to that kind of a test.

I plead with them to let this bill come to the floor in the regular process, to be considered in the regular way, for amendments to be considered, and a responsible, thoughtful decision to be made. Barring that, I can see, Mr. President, no choice but for those of us on our side of the aisle to take whatever action and by whatever parliamentary means may be available.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Under the previous order, the Senator from South Carolina (Mr. HOLLINGS) is recognized for not to exceed 15 minutes.

Mr. HOLLINGS. Mr. President, the budget process is alive and viable and working. The Senator from Colorado might think that somehow or other the process represents no confidence in the American people, not one word of credibility and all of these other things that he talks about.

The fact of the matter is that the Budget Committee, on schedule, reported here in August and printed its report. For the information of those who will talk about chicanery and hiding, the thrust of the entire argument—well, not the entire argument, because the Senator from Kansas and the Senator from Delaware are confused. They cannot get their act together. They either want to hold down the deficit and hold down inflation or they want a tax cut. Now, Kemp-Roth, Kemp-Dole, Kemp-Reagan, are still running for the Presidential election and they want a tax cut and they want to run up the deficit. The others say that we are late and behind time and we ought to move forward and hold the line on the deficit.

The fact of the matter is that we are on schedule. Your chairman appeared before the National Press Club last week and laid the entire matter out. Nobody is sneaking anything by by not calling the budget resolution, and the news media know it. They were there. I do not see but one or two in the gallery, bless them. It is early in the morning. But I saw 200 to 300 in the National Press Club last week when your chairman addressed that group and answered all of their questions. So do not give us any of this chicanery and hiding.

If the Senator from Tennessee will come back, I am going to tell him exactly what is going on. Amongst the difficulties that we have, the biggest, of course, is that we have no constituency, I say to Senator BELLMON.

When our friend went after us in the first resolution, he listed, and I wish I had that list here, though I have it somewhere in the file, all the special interests of labor unions and everybody else who were against the resolution, which, in essence, means they are against the budget process.

The chairmen of both Appropriations Committees are against the process. They do not like the restrictions. They like to spend all the money they can.

Amongst other things, I pointed out that over on the House side they play politics with it. What they do is they vote for what they want, like high defense matters, and never vote for the budget resolution. And that, Senator DOMENICI, is where we are this morning. You know why we cannot pass a budget. It is because of the House.

To the credit of the Republicans, until this morning, they did not play politics with this budget resolution.

I can tell you here and now, if we were in a boxing match, the referee would call the Republicans for hitting and holding. They hold us over on the House side and they hit us on the Senate side. And they know it. We cannot get it through because the House is not going to pass it. You and I have discussed it, Senator BELLMON has discussed it, Senator CHILES, both sides of the aisle. We know what the facts are.

So we decided, why not go along with Dr. BELLMON, the mighty economist. He is the best economist I know.

He told us when we were marking up this resolution that we were way off, that we were panicking, that we had gone to 9.5 percent according to the CBO or a 9-percent average annual 1981 unemployment. Dr. BELLMON thought it would be 8 percent. It was he who made the motion.

Well, that was a little too much for all of us. That was as optimistic as it could be. But he is nearer right than wrong.

We compromised at 8.5 percent. We should have followed Dr. BELLMON, according to the indicators here this morning, because we find Paul Samuelson saying, that in the first quarter unemployment will go to 8.3 percent and gradually come back to where it is right now, 7.6 percent. So the 8-percent average would be pretty close.

So, Mr. President, the longer we hold off the more money we can save. If we had passed the budget this last week, we would have had to add $3 billion to $4 billion, though I hope not to have to add it if Dr. BELLMON is correct.

So there are good economic reasons, Dr. BELLMON'S reasons, why not to go forward. I discussed this with him.

He has his loyal moments on that side. We find him using the word "chicanery." He knows differently. There is no chicanery. How did he get to the $50 billion? He gets to the $50 billion with $18 billion that we found. I voted for it.

On the reconciliation, we go into conference this afternoon and we hope to save. We have every indication that we will. Even the Speaker, TIP O'NEILL, has asked to address the reconciliation conference. So we will save the $10 billion, not add to the $18 billion, but not go forward with Senator DOLE.

No wonder you cannot go forward if Senator DOLE and Senator ROTH are running off in one direction to add to the deficit. That is what they really want. They care nothing about the budget. They could care less. They want Ronnie's tax cut. That is what your Budget Committee saved in that budget resolution, that across-the-board, infusion into the consumer stream.

Inflation? Who wants to go back to the high inflation, the 18-percent interest rates, when you cannot buy a car, and the housing industry gets back down in the gutter again?

That is what we are still fighting. That is what Paul Volcker testified to last week. He said no tax cut this year, period. He went along with the Budget Committee. No stimulus. We held off. We did not go the stimulus route. And no tax cut.

So we go along with the best business judgment and they call it chicanery?

They cannot play that game with us.

The minority leader came and said earlier this year that it was too early when we tried to put the budget deadline up to August. Then comes the Dole tax cut. Senator ARMSTRONG told us when we marked up the first resolution we were using "2-month-old figures," they are "obsolete," he said. Now he is begging this morning to guarantee obsolescence.

So if we wait from September 15 to November 15, I say to the Senator from Tennessee, we will avoid that obsolescence. We can look at the budget, you can look at it, and the House can look at it, all at the same time.

When was the second concurrent resolution passed? Last year, on November 16, after they had passed the appropriations bills.

When was it passed in 1975? On December 11.

There is no aberration, no reason to believe that all of a sudden the world is going to end this year. You have politics in this thing now. There is every reason for not taking up a tax cut measure. You cannot pass one responsibly with the election on us, and that pertains to the budget resolution as well.

They write up every one of the issues. We get into who recommended what econometric plan, program, Presidential platform, Republican or Democratic platform, and the people get lost in the mess.

If we sit steady and tight, we are saving money.

I picked up the paper this morning and housing had gone up 12 percent. We are coming back.

Dr. BELLMON, you are right. You have been right as rain. You have proven yourself every day. But do not call deliberate, intentional withholding so that we can all look at it together in November chicanery. Do not suggest that we are trying to sneak by $50 billion.

Heavens above, the Senator knows the chairman's mark in the Budget Committee. If I had prevailed, there would be no problem. Where did the $18 billion come from? Eight billion dollars came from the high unemployment figures. You know that. Then the trade adjustment, unemployment compensation, food stamps. Four billion dollars came from inflation and $4 billion came from accelerated spending in defense. That is $16 billion. Then we added on $1.1 billion for the Eximbank. We added on for SPRO. We want to get that going again. That was $18 billion. We did not go wild. But from that $8 billion, we come back over $4 billion, according to Dr. BELLMON'S figures. I am hopeful that will continue, that he will prove I am wrong and he is right.

Let us not call this thing chicanery when they run all over the lot with little prepared releases that get into the national press, about "Whoopee for Ronnie, we hit them today. They don't know where it is coming from. Let them get into the mess. When we get into the mess, and a mess there is bound to be, we will say that this is a Democratic Congress. Elect Ronald Reagan."

That is what we hear this morning, a political move.

We know we should hold up at this particular time and examine exactly what we are doing, as we will. I have even talked to the distinguished ranking member about revising the budget in November since we are going to have to take care of more disaster loans which could come into the debate on Monday. Those loans were sent up afterward. We are a little miffed with our OMB office. They are sending up things willy-nilly, and that hurts us. We all resent it, but we will have to take care of that. Then public housing, we will have to take care of that. But we can also take care of a lesser amount of unemployment that Senator BELLMON predicted and moved for in committee.

This is deliberate, conscious, and open. I said before the National Press Club what our intent was, to come back in November and it is not because of chicanery or trying to sandbag or surprise the voters with $50 billion.

I am trying to forbid that $50 billion deficit. No, we did not get a balanced budget. But, when you come from a $63 billion deficit that we have in this fiscal year, down to $18 billion, I say to the Senator from New Mexico, you have cut $45 billion out of the inflationary process. You have relieved the capital markets from having the Federal Government sticking its nose in there trying to borrow this $45 billion. That is better than all the other things we have heard—Laffer curves, Kemp-Roth, and all those other things.

I yield to the Senator from New Mexico if I have a minute left here.

Mr. DOMENICI. Mr. President, I was going to ask the Senator when he talked about the House not wanting to do anything, that does not preclude the Senate——

Mr. HOLLINGS. Certainly it does.

Mr. DOMENICI. That does not preclude us from taking the lead.

Mr. HOLLINGS. There is no lead. The Senator knows it is parliamentary, procedurally impossible to pass a budget on the House side. The Senator is not responsible for that and I am not. But to call the budget now and let it sit on the griddle and have a big argument about tax cuts and platforms in this body I do not think is particularly wise, when we are winning on Senator BELLMON'S projections by doing nothing. I firmly advocate doing nothing but sitting still and waiting until the middle of November.

Mr. DOMENICI. Mr. President, let me say to the Senator, just as certain as he is that we might save $45 billion, which he says will not go into the fires of inflation, this Senator is convinced that the path we are on is going to add $45 billion. The reason I am here is not political, other than it is the majority's responsibility to decide whether we bring it up or not. I believe what we are going to do is have a tax cut. We are going to overspend even the second concurrent resolution, and the appropriations bills begin to look like that. When you add up what I think is going to happen, the deficit is going to be $45 billion. My theory is that now is the time for this body, in spite of all the problems the Senator described, to say what it is that this institution, through the budget process, wants to recommend to the Senate, not sit back and say, we are going to adjust later. That is my theory and I would appreciate the Senator's thoughts on it.

The ACTING PRESIDENT pro tempore. The Senator's 15 minutes have expired.

RECOGNITION OF SENATOR CHILES

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Florida (Mr. CHILES) is recognized for not to exceed 15 minutes.

Mr. CHILES. Mr President, I listened with great interest this morning to the remarks of our Republican friends from the other side of the aisle. I listened with particular care, as I always do, to the remarks of our distinguished friend from Oklahoma, the ranking member of the Committee on the Budget, who has meant so much to the budget process. The work that he has devoted and the counsel he has given to the budget process, I think, have a great deal to do with the fact that the process is still working. Especially to the fact that we have been able to work it in a bipartisan way in the Senate and to try to instill some discipline through that process.

I listened to the remarks he made today, Mr. President, and I want to associate myself with the basic thrust of those remarks. He talks about the fact that the American people do not want a deficit in excess of $50 billion. He is right; they do not. We in Congress certainly do not.

He also says that he feels that it is going to take hard work on our part to try to impose additional restraint. He is right. He is correct. I agree with that judgment.

The only difficulty I had, Mr. President, was after our distinguished friend from Oklahoma sat down. After listening to him, I thought that the thrust of this morning's debate is going to be that the Republicans are saying we need discipline, that inflation is a problem, that excess spending is a problem, that the deficit growing is a problem—because I think those are things that we certainly agree with. But then I listened to the distinguished Senator from Kansas get up and, in the same colloquy, during the same 30 minutes of time, I did not hear anything about restraint. I did not hear anything about inflation. I did not hear anything about holding down the deficit. What I heard was tax cut, tax cut, additional deficit, additionl inflation. Although he did not talk about additional inflation, he did talk about a tax cut, and he spoke of the great need for the tax cut.

Now I am a little confused, Mr. President. Are the Republicans talking about the need to pass the second budget resolution because we need fiscal restraint, or are they talking about passing the second concurrent resolution because they want to spend more, because they want to inflate the economy more, do they want to raise the ceiling to have this kind of tax cut?

I really think that some of our friends on the Republican side have used the distinguished Senator from Oklahoma as their stalking horse. They have sent him out there to do that job that he believes in, that he wants to do, to talk about holding down spending, to talk about restraint. But it really, seems the other Republicans want to open up the resolution so that they can breach the discipline and so that they can have a tax cut.

Mr. President, why is that necessary? Primarily because the first concurrent resolution says if you have a measure that reduces revenues by more than $100 million, that measure has to stay at that desk until we pass a second concurrent resolution. I think that is the key to what this debate is really about this morning. I think it is the key to what my distinguished friend from New Mexico was referring to, although I am not sure that he has completely focused on that. It is the $100 million procedural restraint on reducing revenues that we wrote into the first budget resolution that is giving our colleagues on the other side such a problem. That is why they want the second concurrent resolution come up, so that they can eliminate that restraint.

Mr. President, I listened to this talk about a tax cut. It is interesting that in all the talk I heard about a tax cut this morning, I missed some key words that I used to hear earlier in the year. I used to hear always the Roth-Kemp tax cut. Man, I heard that all over. In fact, there was a sort of talking show that went around the country and had an elephant at one time, and some other things. It had buttons and pins and all they talked about was the Roth-Kemp tax cut.

As I remember, and I think I remember right, earlier in the year, our friends from the other side were attempting to tack that massive Roth-Kemp tax cut on about every measure that came out of here, and it was something that was needed to save the country. They said if we did not have Roth-Kemp, the country was going down, it was going to sink, we were not going to be able to save the country. It was tacked onto all kinds of vehicles.

Now, I do not hear the Senator from Delaware talking about Roth-Kemp. In fact, Governor Reagan has quit talking about Roth-Kemp. I read that he is abandoning Roth-Kemp. The tax cut we are beginning to hear about now is the tax cut that the Finance Committee worked on. Yes, it is a bipartisan product. I think it is certainly a better tax cut than Roth-Kemp was. It includes important economic incentives that a lot of people are discussing now. But there are still some of us who question whether we ought to have any tax cut this year. I think there are some on the Republican side of the aisle who question that, although I am not sure how many any more. If we are concerned about inflation, if we are concerned about a deficit, then I think we have to be concerned some about that tax cut.

I listened to my distinguished friend from New Mexico, who will soon be the ranking member of the Budget Committee and who also has done yeoman work on the Budget Committee. I think he has been one of our most outstanding Members since the time that the process started.

I listened to him talking about his concern, that this was being held as a political hostage. I listened carefully to what he said, and thought about this changing story on tax cuts as I was listening, I really listen to whatever he says because I have such great respect for him and for his views. As he was talking, I really believed that he is right. This is being held as a political hostage.

But I think we need to concern ourselves as to who has the hostage and who wants to do ill to the person of the hostage?

The first concurrent resolution has a little feature there that says, you cannot reduce revenues by more than $100 million. Any measure that does that gets held up at the desk.

But if they take that feature out in a second concurrent budget resolution, then they inflict upon the hostage, upon the person of the hostage, a change that says Congress abandons that restraint. We would have a wide open situation in which Governor Reagan can be able to talk about a tax cut.

But is that politics? Of course, it is. Many things we do in this body are politics, and may be that is all right.

But what does that do to the economy? What does that do, really, for the people?

I think there is a concern that is shared by many of us here that now is not the time to pass a tax cut. Now we see that the economy is recovering. If we are going to do anything about a tax cut, it ought to be in the sober light of the post-election period so we do not have to concern ourselves that we have to put something for everybody in an across-the-board tax cut.

It is so interesting, because I remember when the Democrats used to always have that in their tax cut and Republicans used to chide us about it. They used to call it a wasting money, that we put it in for everybody across the board. They used to say that money is so precious that we need to use it to fuel the economic engine, to develop the capital we need to create real lasting jobs and economic growth.

I say that is now reversed. For some reason, the Democrats are talking about not having across-the-board tax cuts, about the need to develop capital investment. We have, not all Republicans, but some, including Governor Reagan, who say they want to make it across the board and give consumers, business, and everybody else a tax cut.

I think we can look at that in a much more sober, reflective way after the election. I think we would be better off to keep that restraint that we have, so that any measure that would cut revenues by more than $100 million will be kept at the desk.

That is what we have as long as the first concurrent budget resolution stays in effect. I think that is a necessary protection to the people and the economy.

So if that is holding it hostage, then maybe that is good. I am for holding the hostage, if it provides protection against bigger deficits and more inflation.

But I really feel, as I say, that the harm being inflicted on the hostage is coming from the other side of the aisle.

Mr. BELLMON. Will the Senator yield?

Mr. CHILES. I am delighted to yield.

Mr. BELLMON. Mr. President, I have to say that much of what the Senator from Florida has said today meets my own requirements. I feel that we do need restraint and I hope nothing I said today would indicate otherwise.

I think my friend from Florida knows I do not support borrowing money to cut taxes. I think we ought to have that debate now. I think where we disagree is whether or not we have more restraint before or after the election.

I happen to believe the mood of the country now is for fighting inflation, which most people perceive to be the greatest villain. I think we would have more restraint now than we would have after the election, when we get so much pressure from those who want more and more spending and have very little concern about what it does to the fiscal health of the Nation.

Also, Mr. President, if there is time, I would like to respond quickly to one comment made by the distinguished Senator from South Carolina.

The use of the word "chicanery" which I have used in my statement, but the Senator did not hear, was not in any way aimed at my friend, the chairman of the Budget Committee.

I feel the chicanery comes in the fact that we on the Budget Committee did our work, as required, before the 28th of August, brought the resolution out under some difficult circumstances, and now the leadership of the Senate refuses to let it come to the floor for a vote.

That is where I think the problem is.

We should go ahead and set our fiscal policy before elections, while there is pressure from those who want a sound fiscal policy.

I am afraid that will be lost once the elections are behind us.

Mr. HOLLINGS. Will the Senator from Florida yield?

Mr. CHILES. Yes.

Mr. HOLLINGS. I agree with the Senator from Oklahoma. We are on schedule. We thought by bringing out our resolution we would pressure the House, and we did to the point where this will move forward, and we are, this afternoon, on reconciliation.

But there is no way we can get time to sit down on a second concurrent resolution that has any chance of passing and that will result in a Christmas tree prior to election.

All economists say a tax cut should not be effective before January 1. We could pass it now, or after January 1. But passing it prior to January 1 would be giving the wrong signal and building a Christmas tree.

In spite of the unanimous agreement of the Finance Committee, they did not control a lot of Senators here.

Similarly, if we got this resolution, it would end up as a Christmas tree with special interests getting a vote on record prior to the election.

Then, knowing we could not do it, I advised, along with the majority, to hold up doing it, because it would waste the time of the Senate, and actually, with the predictions and projections becoming more true each day, that delay will actually save us money and result in a lower deficit and less inflation.

Mr. CHILES. Mr. President, in the short remaining time that I have, I say again that I agree with what the Senator from Oklahoma says. I know what his motives are, and they are responsible.

My concern is that when we talk about the second budget resolution being a restraint, if everyone on that side was making the same remarks as the Senator from Oklahoma, then I would say he is right and we ought to take it up.

But when I see, as part of this debate this morning, the distinguished Senator from Kansas, the ranking member of the Finance Committee, and listened to his remarks, all I hear is: tax cut, tax cut, tax cut. I listened to the Senator from Delaware talk about the need for the tax cut, and he says that is what the American people are demanding right now, this tax cut. Then I do not get any great feelings of restraint from the other side of the aisle, and I get really worried that if we passed that tax now and added that to the deficit, and added it to the projected inflation, interest rates would go sky high again.

Now we have an economy that is beginning to turn around, and we have housing beginning to pick up. If we add the stimulus of a tax cut now, then the credit markets will say we no longer care about balancing the budget and reducing inflation. Then they will skyrocket those interest rates again and tumble us back into a worse recession, as housing and auto sales drop back down to nothing. It would be an exact replay of last winter.

Mr. HOLLINGS. Another particular point, the Senator from Oklahoma and the Senator from New Mexico should consider the best example we have. Both Houses voted on the Federal retirees' cost-of-living adjustment, to make it permanent, and save $6 billion by not having to transmit it to the veterans and social security.

Now, as we move toward the election, we have already lost that in the House version of reconciliation, and it was difficult for me to get a conference committee without saying I would be in the soup on that particular point.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. HOLLINGS. Let us get by this election so we can have restraint and less deficit and inflation.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LEVIN). Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond 30 minutes, and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. STEVENS. Mr. President, does the distinguished majority leader plan now to go back to the appropriations bill?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. Handled by Mr. BAYH and Mr MCCLURE?

Mr. ROBERT C. BYRD. Yes.

Mr STEVENS Is it the intention of the leadership to go to another bill today?

Mr. ROBERT C. BYRD. Yes; under the order, at noon, the Senate will proceed to the HUD appropriations bill.

Mr. STEVENS. I am trying to get some understanding as to what the plan might be for the remainder of the day and tomorrow. I have a request on that.

Mr. ROBERT C. BYRD. For the remainder of the day, I am sure the Senate would be on the HUD appropriations bill. If the Senate does not finish that bill today, which it probably will not, it will be on the bill tomorrow.

Mr. STEVENS. Is it the intention of the Senator to have votes tomorrow?

Mr. ROBERT C. BYRD. Yes; on the HUD appropriations bill.

Mr. STEVENS. But not to go back to the transportation bill?

Mr. ROBERT C. BYRD. It is my understanding that there is a good chance of finishing the DOT bill by noon. If not, and we were within earshot of finishing it, perhaps Senator PROXMIRE and the manager on the other side might be willing to let us go a little longer.

Mr. STEVENS. It is my hope that we might finish DOT today, if possible. Some of us interested in that matter intend to go to a convention in San Francisco, the Mining Congress. If it is possible to finish that bill, it is my hope that we can do that.

Mr. ROBERT C. BYRD. I hope we can.

Mr. TSONGAS. We will be in morning business, then, until 10 minutes to 11, at which time we will take up the DOT measure?

Mr. ROBERT C. BYRD. No. We will proceed immediately with the DOT measure if there is no further morning business.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1981

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 7831, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 7831) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, under the order, the HUD appropriation bill will come back before the Senate at noon, if action is not completed on the DOT bill by that time.

I have explored the matter on this side of the aisle, and I find that Senators would prefer—and it is agreeable with Mr. PROXMIRE, the manager—to continue on the Department of Transportation bill until it is finished, before the Senate returns to the HUD appropriation bill.

It is conceivable that the Senate could finish the Department of Transportation appropriation bill by noon today, but it is equally conceivable that it would take another half-hour or hour or hour and a half. In any event, it is felt that it would be better to complete it before going to the HUD appropriation bill.

I have discussed this with the minority leader. I will make the request and he may reserve the right to object.

Mr. President, I so make that unanimous-consent request.

Mr. BAKER. Mr. President, reserving the right to object, I frankly think that is a better arrangement than the one that is now in existence. I think there is a certain value that attaches to continuing that bill once we start it.

It is my expectation, I might say, that we are unlikely to finish HUD appropriations today anyway and that we probably will have to go into tomorrow in order to do that.

So, in recognition of reality and under the circumstances, I advise the majority leader there will be no objection to that request on this side.

Mr. ROBERT C. BYRD. I thank the minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I thank our distinguished majority leader and distinguished minority leader as well as our distinguished colleague, the Senator from Wisconsin, for making it possible to have the time necessary to finish this bill in the manner in which it can best be done.

I think we have an excellent opportunity of finishing it in the allotted time. However, if for reasons that are important to Senators that is not the case, we now know we can maintain our debate on this in a continuous fashion and not have to have it interrupted.

So I thank the majority leader for his thoughtful consideration.

Mr. President, I shall make just some brief opening remarks.

The Transportation Subcommittee, of which I have the honor of being chairman, held extensive hearings over a period of several months on the fiscal year 1981 budget of the Department of Transportation and the related agencies which fall under the subcommittee's jurisdiction. I express my appreciation to the members of the subcommittee for their active participation throughout the hearings and markup of the bill. I particularly thank my distinguished friend and colleague, the Senator from Idaho, Senator McCLURE for his very diligent and careful attention to the bill. During our markup, several of his amendments were accepted in the bill, as well as the report, and I think those changes certainly have improved the consideration of this bill and make it possible for us now to present a bill which has a broader degree of input in it and is better prepared to deal with some transportation problems which confront our country today.

Mr. President, I am pleased to present to the Senate a bill that is under the President's budget requests by over $967 million, and that is almost $1 billion. Also, it is under the House bill by $61 million, even though we considered $413.5 million in budget amendments by our colleagues in the House.

So, I compliment the members of the subcommittee and the full Appropriations Committee at this time of inflated costs for being able to come in at about $1 billion under the President and almost a half billion dollars under the House which I think is salutary to say the least and could not have been done without a cooperative spirit in our effort to try to make ends meet and balance the that budget.

Our subcommittee's recommendations, I wish to point out to my colleagues, are also below our subcommittee's allocation under the first budget resolution by $294 million. This also was not easy to accomplish. We have cut back on the programs for which, in other years, under other circumstances, we might have recommended higher levels of funding.

I know myself there were several programs where I would wish to have seen more money invested and I think could have been invested profitably for the people of this country in the area of transportation.

But we have worked hard to present a balanced bill which provides adequate funds for each program and each agency in the Department and to also recognize the need to be fiscally responsible as we allocate these resources, not reduce programs below prudent levels, particularly where the safety of the traveling public is concerned.

I point out that we have included several provisions in the bill at the request of our distinguished full committee chairman, Senator MAGNUSON, which will enable us to get a better handle on DOT's use of consultants; its management of appropriations so that obligations will not occur at the last minute at the end of the fiscal year, and to force the Department to do a better job of ferreting out fraud, abuse, waste, and error in their programs. Senator MAGNUSON is one of the most knowledgeable Members of the Senate on transportation issues and I am grateful for his counsel on this measure.

Mr. President, the subcommittee considered budget estimates totaling $12.8 billion in new budget authority, as well as $9.9 billion in liquidating cash appropriations. We have provided $11.8 billion in new budget authority—a reduction of almost $1 billion below the President's requests. For liquidating cash to pay for obligations incurred under contract authority programs, the bill provides $9.8 billion, slightly below the President.

Mr. President, the committee report which accompanies the bill contains a summary of major recommendations on pages 1 through 9, so I will not repeat all of them at this time. I ask unanimous consent that those itemizations be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY

OFFICE OF THE SECRETARY OF TRANSPORTATION

For the Office of the Secretary, we recommend $35,740,000 and 625 positions, as well as $10,788,699 for transportation planning, research, and development. Of this amount, $1,000,000 is to enable the Secretary to conduct a series of studies to assess the auto industry and forecast auto demand, the role of new technology, interaction between the industry and its primary suppliers, energy trends, and the impact of the auto industry on other economic and employment conditions.

COAST GUARD

For the Coast Guard, the bill includes the full budget estimates of $1,193,112,000 for operating expenses; $324,392,000 for acquisition, construction, and improvement programs; $232,000,000 for payments to retired Coast Guard personnel; $45,007,000 for reserve training; $25,000,000 for research and development; $12,000,000 for the offshore oil pollution fund, and $1,500,000 for the supply fund.

FEDERAL AVIATION ADMINISTRATION

For the FAA's operations, we recommend $2,233,520,000. This will allow for increased air traffic control personnel at centers and towers—24,341 positions vs. 24,185 last year—or an increase of 156 positions. We state concern in our report that FAA has not reached the level of personnal provided for fiscal 1980. As of April 30, 1980, total staffing was 750 positions short of estimated end-of-year levels projected in the January budget document.

For procurement of facilities and equipment, the full budget request of $350,000,000 is provided. This will fund necessary improvements at centers and towers, flight service stations, airport control facilities, and air navigation facilities.

For obligations from the Trust Fund for airport development grants, the Committee recommends a level of $700,000,000. This is $50,000,000 over the President's request. Also, a limit on aircraft loan guarantees is set at $400,000,000.

For research, engineering, and development, we have provided $75,000,000. That amount is $10,000,000 under the budget but a carryover of $3,750,000 from Fiscal 1980 will also be available for this program. We have included strong language in our report relative to FAA's en route air traffic control computers. Our investigative staff is nearing completion of a year-long study of this system and has found that numerous major changes in FAA's management of its en route system will be necessary if we are to insure the continued high level of aviation safety we've had in the past. We have made nine recommendations in the report relative to the system and expect FAA to follow through on them. If additional resources are needed to do the job, we want to know in time for Conference with the House.

Relative to FAA's planned procurement of a replacement computer system for en route centers, we direct them to consider costs vs. benefits of en mass replacement as opposed to selected upgrading at centers which are reaching capacity. If the new system is justified, by all means, let's move forward on it, but not spend over $3 billion and add a second story to every center to house the new computers if there is a more cost effective way to achieve the same level of competence and safety for the future.

FEDERAL HIGHWAY ADMINISTRATION

For the Federal-aid highway program, we recommend an obligation level of $8.4 billion. This is $350,000,000 below the House bill but is the same level requested by the President. We also recommend the full $7.5 billion requested by the President to liquidate obligations incurred under the program.

We included no funds for auto use management since the program has not been authorized.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

For NHTSA, we have included $99,500,000 for operations and research. Of this amount, $10,000,000 is to enable NHTSA to fund the purchase of air bag equipped government vehicles. For state and community highway safety programs, we recommend $43,593,000. This is $10,000,000 below the budget but $20,000,000 above the House bill. The Committee intends that $40,000,000 be made available to states for enforcement of the national 55 MPH speed limit. Also, the full obligation limit requested in the budget—$150,405,000—is provided for this program for fiscal 1980.

We have striken from the bill the House provision prohibiting the use of funds for implementation of a passive restraint standard. This issue is presently in Conference on the NHTSA authorization bill and properly belongs there.

Finally, we have modified the House provision in the bill concerning state vehicle inspections so that no funds may be used to assist states, directly or indirectly, in imposing mandatory inspection fees or sticker requirements on vehicles which meet the laws of the state in which they are registered and, where appropriate, Federal Motor Vehicle safety requirements.

FEDERAL RAILROAD ADMINISTRATION

For Amtrak, the bill includes $900,000,000. This is $25,000,000 under the budget and $13,100,000 above the House bill. We have increased the capital budget to $221,000,000, which is $32,000,000 above the budgeted level. This amount, when coupled with the advance capital appropriation of $166,000,000 for fiscal 1982 should enable Amtrak to continue making improvements in the equipment which are so vital if people are to ride Amtrak regularly rather than only occasionally.

For the Northeast Corridor Improvement Program, the full $350,000,000 budget request is provided.

For rail rehabilitation, $100,000,000 is provided for grants and a limit on loans under the 511 program is set at $770,000,000.

Also included are appropriations of $27,250,000 for rail safety programs; $50,000,000 for rail research and development; $85,000,000 for local rail service grants; $9,423,000 for the Minority Business Resource Center, and $9,000,000 for rail labor assistance.

URBAN MASS TRANSPORTATION ADMINISTRATION

For UMTA, we have recommended $2,140,000,000 for capital grants under section 3. That's $262,000,000 under the budget, but $430,000,000 above last year's level. We have included a provision in the bill designed to strengthen "Buy America" laws. It is imperative that we find ways to enable plants located in the United States to successfully compete with overseas companies in bidding on transit procurements. We cannot continue to allow jobs to go overseas to build transit equipment for U.S. cities when 80 percent of the cost of the equipment is paid for by Federal taxes.

We have also included a provision intended to give local communities the option of how best to meet the public transit needs of their elderly and handicapped citizens rather than mandating that all transit equipment be equipped with lifts.

For urban formula grants, we recommend $1,400,000,000. This is $170,000,000 below the budget but is the same as last year's level. For nonurban formula grants, the bill contains an appropriation of $80,000,000 which is $15,000,000 above the House bill but $11,000,000 under the budget request.

For interstate transfer grants, the full $800,000,000 budget request is provided.

RELATED AGENCIES

For the ICC, CAB, NTSB, Panama Canal, WMATA, and USRA, we have provided the funds necessary for these agencies to administer the programs under their jurisdictions. Included for the USRA is $185,000,000 for the purchase of Conrail securities. This amount is not adequate to keep Conrail going for all of fiscal 1981, but is the full amount of remaining authorizations. Conrail legislation will likely be necessary later this year and the Senate will want to fully review Conrail's future at that time.

Finally, we have included a provision transferring over $350,000,000 from the Panama Canal Commission Fund back into the General Fund of the United States Treasury. That is possible because tolls have now come in to cover the fiscal year 1980 appropriation, and if we don't take back the general funds from the Commission, they would have over $350,000,000 sitting in the Panama Canal Commission Fund for the full twenty year life of the treaty.

Mr. BAYH. I would, however, highlight the following items:

First. For FAA's personnel, $2,233,520,000 is provided, along with the full budget request of $350 million for facilities and equipment and an obligation ceiling of $700 million for airport development grants.

Second. For the Coast Guard's personnel, the bill includes $1,192,878,065. Also included is the full budget request of $324,392,000 for acquisition, construction, and improvements.

Third. For the Federal-aid highway program, we recommended the full budget level of $8.4 billion in obligations. We also include a provision requested by Senator MAGNUSON that will allow all emergency projects to proceed expeditiously.

Fourth. For Amtrak, we recommend $900 million. That is $13 million over the House, but $25 million under the budget request. Also, the bill includes $350 million for Northeast Corridor construction, and $185 million for Conrail, $100 million for rail rehabilitation grants, and $85 million for local rail service assistance.

Fifth. Finally, for mass transit, we have included $2,140,000,000 for capital grants under section 3; $1,400,000,000 for formula grants under section 5, and $800 million for interstate transfer grants.

Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, with the exception of the cooperative automotive research appropriation on page 25 of the bill, lines 5 through 9, and the matter contained in section 318, lines 9 through 17, on page 38.

The PRESIDING OFFICER. Will the Senator repeat that last request.

Mr. BAYH. With the exception of the cooperative automotive research appropriation on page 25 of the bill, lines 5 through 9, and on page 38, section 318, lines 9 through 17.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The committee amendments agreed to are as follows:

On page 2, line 9, strike "$35,680,000", and insert in lieu thereof "$35,740,000";

On page 2, line 15, strike "$11,100,000", and insert in lieu thereof "$10,788,699";

On page 2, line 19, strike "$60,253,000", and insert in lieu thereof "$56,843,000";

On page 3, line 7, strike "$1,206,967,000", and insert in lieu thereof "$1,193,112,000";

On page 4, line 2, strike "$339,585,000", and insert in lieu thereof "$324,392,000";

On page 4, line 23, strike "$25,100,000", and insert in lieu thereof "$25,000,000";

On page 6, line 4, strike "$700,000,000", and insert in lieu thereof "$350,000,000";

On page 6, line 20, strike "$22,310,000", and insert in lieu thereof "$20,000,000";

On page 7, line 14, strike "$359,000,000", and insert in lieu thereof "$350,000,000";

On page 8, line 8, strike "$85,000,000", and insert in lieu thereof "$75,000,000";

On page 9, line 22, strike "$16,200,000", and insert in lieu thereof "$5,350,000";

On page 10, line 19, after the colon, insert the following:

Provided, That the funds in this Act shall be available for the guarantee of loans even if such aircraft are financed and delivered in fiscal year 1981 for reasons beyond the control of the purchasing carrier so long as the applicant has submitted a loan guarantee application before October 1, 1980; the Federal Aviation Administration has indicated that the applicant was conditionally eligible for a guarantee; and the aggregate of all such guarantees when combined with guarantees issued during fiscal year 1980 does not exceed $650,000,000 in principal amount."

On page 11, line 9, strike "$190,705,000", and insert in lieu thereof "$191,882,000";

On page 12, line 7, strike "(j)";

On page 12, beginning on line 8, strike "and" through and including "$6,100,000" on line 9, and insert in lieu thereof "$7,200,000";

On page 13, line 10, strike "$1,875,000", and insert in lieu thereof the following: balances appropriated under "access highways to public recreation areas on certain lakes" contained in Public Law 95–85"

On page 13, line 21, strike "$7,600,000,000", and insert in lieu thereof "$7,500,000,000";

On page 14, line 12, strike "$82,253,000", and insert in lieu thereof "$99,500,000";

On page 14, line 13, strike "$25,255,000", and insert in lieu thereof "$27,702,000";

On page 14, line 15, strike "$35,587,000", and insert in lieu thereof "$51,386,000";

On page 14, line 16, strike "$11,034,000", and insert in lieu thereof "$11,749,000";

On page 14, line 22, strike "$23,593,000", and insert in lieu thereof "$43,593,000";

On page 14, line 23, strike "$21,000,000", and insert in lieu thereof "$41,000,000";

On page 15, line 13, strike "$52,000,000", and insert in lieu thereof "$50,000,000";

On page 15, line 24, strike "$86,600,000" and insert in lieu thereof "$90,577,000";

On page 16, line 1, after the comma, insert the following:

"and $100,000,000 for railroad restructuring assistance authorized by title V of Public Law 94–210, as amended".

On page 16, line 19, after "purpose", insert a colon the following: "*Provided further*, That all public at grade-level crossings remaining along the Northeast Corridor upon completion of the project shall be equipped with protective devices including gates and lights."

On page 17, line 5, strike "$886,900,000", and insert in lieu thereof "$900,000,000";

On page 17, line 6, strike "$674,900,000", and insert in lieu thereof "$650,000,000";

On page 17, line 12, strike "$183,000,000", and insert in lieu thereof "$221,000,000";

On page 17, line 18, strike the colon through and including page 18, line 2;

On page 19, line 4, strike "$8,600,000", and insert in lieu thereof "$10,640,000";

On page 19, line 20, strike "$600,000,000", and insert in lieu thereof "$770,000,000";

On page 19, line 24, after "$7,500,000", insert the following: "together with $1,500,000 for a new career training assistance under section 119 of the Rock Island Transition and Employment Assistance Act,"

On page 20, line 17, strike "$57,820,000", and insert in lieu thereof "$68,000,000";

On page 20, line 18, strike "$55,820,000", and insert in lieu thereof $66,000,000";

On page 21, line 2, strike "$2,220,000,000", and insert in lieu thereof "$2,140,000,000";

On page 21, beginning on line 3, strike the following: "of which $705,000,000 shall be available only upon the enactment of authorizing legislation";

On page 21, beginning on line 2, strike "Provided" through and including line 12, and insert in lieu thereof the following: "*Provided further*, That none of the funds provided by this Act shall be used to enforce the provisions of 43 F.R. 235, page 57145, with respect to any projected contract entered into after the date of enactment of this Act unless obligated pursuant to the provisions of section 401, Public Law 95–599:"

On page 22, line 5, strike "$65,000,000", and insert in lieu thereof "$80,000,000";

On page 22, line 10, strike "$1,500,000,000", and insert in lieu thereof "$1,400,000,000";

On page 23, strike line 9 through and including line 13;

On page 24, line 23, strike "$29,820,000", and insert in lieu thereof "$32,558,000";

On page 24, line 24, strike "$10,691,000" and insert in lieu thereof $13,429,000";

On page 26, line 2, strike "$17,900,000", and insert in lieu thereof "$18,500,000";

On page 27, beginning on line 7, strike the following "or any other legislation";

On page 29, strike line 24 through and including page 30, line 2;

On page 30, after line 2, insert the following:

REIMBURSEMENT OF GENERAL FUND

For reimbursement to the General Fund of the Treasury from the Panama Canal Commission Fund, the total outlays in fiscal year 1980 from accounts 9501201 Panama Canal Commission Operating Expenses and 95X1201 Panama Canal Commission Capital Outlay, but in no case less than $350,000,000. The reimbursement shall be made within 30 days after submission by the General Accounting Office of the report on audit of the Panama Canal Commission accounts as required by section 1313 of the Panama Canal Act of 1979.

DEPARTMENT OF TREASURY

OFFICE OF THE SECRETARY

INVESTMENT IN FUND ANTICIPATION NOTES

For the acquisition, in accordance with section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, and section 803 of Public Law 95–620, of fund anticipation notes, $100,000,000.

On page 31, line 1, strike "$28,500,000", and insert in lieu thereof "$29,280,000";

On page 31, line 25, strike "$725,000,000", and insert in lieu thereof "$700,000,000";

On page 34, line 12, strike "(3)" through and including the comma on line 16;

On page 35, line 2, strike "$8,750,000,000", and insert in lieu thereof "$8,400,000,000";

On page 35, line 12, after the colon, insert the following:

Provided further, That notwithstanding any other provisions of law, the Secretary of Transportation shall, not later than 60 days aftier date of enactment of this Act, designate under 23 U.S.C. 103(e)(1) as a route on the National System of Interstate and Defense Highways 3.03 miles in the State of Missouri extending I–170 southward from I–70 to tie into U.S. 40: *Provided further*, That there shall be no obligation constraints placed upon ongoing emergency projects funded under the Discretionary Bridge Replacement Fund or the Emergency Relief Fund.

On page 36, strike line 14 through and including line 19;

On page 36, line 20, strike "313", and insert in lieu thereof "312";

On page 37, line 1, strike "314", and insert in lieu thereof "313";

On page 37, line 5, strike "315", and insert in lieu thereof "314";

On page 37, line 15, strike "316", and insert in lieu thereof "315";

On page 37, strike line 20 through and including line 24, and insert in lieu thereof the following:

SEC. 316. None of the funds in this Act shall be used to assist, directly or indirectly, any State in imposing mandatory State inspection fees or sticker requirements on vehicles which are lawfully registered in another State, including vehicles engaged in interstate commercial transportation which are in compliance with Part 396—Inspection and Maintenance of the Federal Motor Carrier Safety Regulations of the U.S. Department of Transportation.

On page 39, line 1, strike "320", and insert in lieu thereof "318";

On page 39, strike line 8 through and including line 21;

On page 39, after line 21, insert the following:

SEC. 319. (a) No appropriations made available in this Act shall be obligated in a manner that would cause obligations from the total budget authority available to any department, agency, or establishment (as defined in 31 U.S.C. chapter 1, subchapter I, section 2) or any major administrative subdivision thereof during the fiscal year ending September 30, 1981, to exceed 30 per centum for the last quarter of such fiscal year or 15 per centum for any month in the last quarter of such fiscal year. The Director of the Office of Management and Budget may waive the requirements of the preceding sentence with respect to any program or activity if the Director determines in writing that the waiver is necessary to avoid a serious disruption in carrying out such program or activity.

(b) Not later than 45 days after the close of each quarter of the fiscal year, the head of each department, agency, or establishment shall submit a report to the Committees on Appropriations and to the Director of the Office of Management and Budget, specifying the amount of obligations incurred during the quarter and the percentage of total available budget authority for the fiscal year which the obligations constitute.

(c) The Director of the Office of Management and Budget shall keep the Committees on Appropriations fully informed of actions taken to carry out the requirements of this section, including any waivers granted, and shall promptly report in writing any situation in which the obligations of any department, agency, or establishment exceed such requirements other than pursuant to a waiver. Not later than December 31, 1981, the Director shall submit a report to the Committees on Appropriations on the results and impact of the requirements of this section and actions taken under this section, including the effects upon procurement and apportionment processes, together with any recommendations the Director considers appropriate. Concurrent with the submittal of the report to the Committees on Appropriations under the preceding sentence, the Director shall submit a copy of such report to the Comptroller General, who shall promptly review that report and submit to the Committees on Appropriations an analysis of the report and any recommendations which the Comptroller General considers appropriate.

SEC. 320. All unresolved audits currently pending within agencies and departments, for which appropriations are made under this Act, shall be resolved not later than September 30, 1981. Any new audits, involving questioned expenditures, arising after the enactment of this Act shall be resolved within 6 months of completing the initial audit report.

SEC. 321. Each department and agency for which appropriations are made under this Act shall take immediate action (1) to improve the collection of overdue debts owed to the United States within the jurisdiction of that department or agency; (2) to bill interest on delinquent debts as required by the Federal Claims Collection Standards; and (3) to reduce amounts of such debts written off as uncollectible.

SEC. 322. (a) Notwithstanding any other provision of this act, the amounts otherwise available to agencies under the act for procurement of consultant services shall be reduced by the following amounts: Department of Transportation, $3,894,000.

(b) For fiscal year 1982 and thereafter, a department or establishment—as defined in section 2 of the Budget and Accounting Act, 1921—shall submit annually to the House and Senate Appropriations Committees, as part of its budget justification, the estimated amount of funds requested for consulting services; the appropriation accounts in which such funds are located; and a brief description of the need for consulting services, including a list of major programs that require consulting services.

(c) For fiscal year 1982 and thereafter, the Inspector General of such department or establishment, or comparable official, or if there is no Inspector General or comparable official, the agency head or the agency head's designee, shall submit to the Congress along with the budget justification, an evaluation of the agency's progress to institute effective management controls and improve the accuracy and completeness of the data provided to the Federal Procurement Data System regarding consultant service contractual arrangements.

SEC. 323. None of the funds in this Act may be used for the planning or execution of programs to compel local transit authorities to purchase wheelchair lifts to comply with section 504 of the Rehabilitation Act of 1975.

SEC. 324. None of the funds in this Act shall be used to create paperwork flowing from profit or nonprofit businesses, private persons, or State or local governments, to any agency covered by this appropriation in fiscal year 1981, in excess of paperwork requirements for the previous fiscal year.

For the purposes of this provision "paperwork" means reports, applications, forms, or other written presentations that any agency "covered by this Act", under statutory authority, requires to be submitted to the local, State, or Federal Government.

SEC. 325. None of the funds in this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

Mr. BAYH. Mr. President, I ask unanimous consent that the bill, as thus amended, be regarded for purposes of amendment as original text, provided that no point of order shall have been waived if the request is agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I know we have two or three colleagues here who are ready to propose amendments.

Mr. SCHMITT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. TSONGAS. Mr. President, will the Senator withhold his request?

Mr. SCHMITT. We are trying to get the ranking minority member here so he can make his opening statement.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, as the ranking minority member of the Transportation Subcommittee, I rise in support of the comments made by the chairman. We have all worked hard on this bill, and I, first of all, want to express my appreciation not only to the chairman but to the members of the staff on both sides of the aisle, the majority staff and minority staff, as well as the other members of the subcommittee who directly and through their staffs have had input into this bill.

We have painstakingly looked for areas to cut all the way through this process, and I think it is commendable that we have come to the floor with a bill which is under the House by almost $61 million and under the President's budget estimate by almost $1 billion.

I think it interesting to note that, contrary to my normal experience, we came away from the subcommittee markup on this bill not with more add-ons but rather with additional cuts in the neighborhood of $14 million. As the chairman has pointed out, we are now below the first budget resolution by $294 million.

Last year, when we were on the floor with this bill, I made the prediction that the ingenuity and resourcefulness that we display in continuing to deal with our transportation problems in this Nation will be a bellwether of our ability to cope with other difficulties with which we will be faced. I would like to reiterate that point, because I think it is more important now than ever that we begin to come to grips with some fundamental transportation issues.

We need to do a much better job than we have done in the past in prioritizing our transportation needs. For example, in this bill we have increased limitations on loan guarantees under the railroad rehabilitation and improvement financing funds account by $170 million over the House bill and we have also addressed the administration's request for additional funding for a new railroad restructuring assistance program. As presently encompassed in this bill these two accounts represent almost $1 billion of the taxpayer's money, much of which will be used to assist with railroad restructuring efforts, particularly in the Midwest.

We have all been made painfully aware of the difficulties associated with our Nation's railroads and this committee is striving very hard to work with the authorizing committees so that we address these needs in a responsible manner. With that in mind, we have attached language in the report attached to this bill which will for the first time require that in administering the section 505 and 511 programs for rail rehabilitation, only the highest priority and most viable projects be funded. We have directed the FRA to provide, and expect to receive from them, quarterly reports detailing all applications received, which ones are funded, which ones are rejected, and the reasons for all of these decisions.

We must establish a degree of accountability with regard to transportation which permits us to make better decisions in this area. In that connection, I have had much difficulty with the tendency in this bill to earmark funds for specific projects in the absence of adequate justifications. I have no difficulty with earmarkings, so long as they are justified. The problem in the past, however, has been that we are flooded with earmarking requests, frequently at the last minute, which create a very poor context for making decisions about which projects are viable and which are not.

I have discussed this problem at great length with the chairman and would put my colleagues in the Senate on notice that in the future we intend to establish a process whereby the committee will require justifications and perhaps testimony which will be put into the committee records and which will provide us with a valid basis for making judgments on which earmarkings are justified and which ones are not. There are also a number of other areas in this bill where we have attempted to tighten up accountability for transportation decisions. For example, under the Federal Highway Administration, the committee intends to require expanded accountability with regard to administration of Federal-aid highway and offsystem roads programs. I am also extremely concerned about the impact of defense fund supply centers pricing policies on the Coast Guard and look forward to having a status report on this issue before the end of this calendar year.

I might add that I am sorry that it has been so slow in coming. We have directed that it be done, and I expect that they will give us that report in a timely fashion before the end of this calendar year.

I do not want to be redundant, and I do not want to repeat the summary of the bill given by the chairman, so I will just make a few other observations concerning items that remain of significant concern to me:

I continue to be frustrated about the inadequacy of the Federal Highway Administration in administering a viable safer offsystem roads program. Each year the administration budget request comes over with language indicating that the safer offsystem roads program can be addressed within the normal FHWA accounts, but at the same time we continue to be bombarded with indications from the various States that there is no significant program in this area. I cannot overstress my dismay at the failure of the current administration to make realistic authorizing proposals to deal with this problem which is so pervasive, especially in the West. I would welcome the opportunity to work with any of my colleagues in addressing this problem in an authorizing context in the future.

Another area that is of vital concern to me is our continuing failure to address Amtrak debt retirement in this bill. In that connection, we have also highlighted this problem in the report and I think it is high time that authorizing steps be taken to deal with this situation. Our track record in reducing Amtrak's indebtedness in any regular fashion is terrible and I think we had better begin looking for other answers in dealing with this problem.

A further area where we need authorizing activity has to do with the so-called cooperative automotive research program which is funded for the first time in the bill. We have taken this funding step in the absence of any major authorizing effort to address our needs in this area and had a considerable discussion about it in the full committee markup.

Again, I feel it safe to say that one cannot overstress the need to pursue a workable R. & D. program in the basic automotive research area. And yet there is no authorizing structure for doing so.

Finally, I want to raise an issue which has been festering since it came to my attention last year. Specifically, I am very distressed about the FAA's reluctance to reissue medical certificates to pilots who have recovered from cardiovascular conditions. I have received over 100 letters from pilots and doctors around the country which conclude unanimously that the FAA's regulations in this area are obsolete and excessively time consuming.

I am going to ask the committee to investigate this regulatory problem. We must answer many questions such as why the FAA contracted with the most renowned cardiovascular experts in the world at the Eighth Bethesda Conference to study cardiovascular problems associated with aviation safety, and then ignored the findings of the conference. Perhaps the FAA's Federal Air Surgeon, Dr. H. L. Reighard, could answer this and additional questions which the committee will be asking.

Hopefully, we will be able to work closely with the appropriate authorizing committees in the future in addressing all of these needs to which I have alluded. Meanwhile, I think the bill, H.R.

7831, which is now before you represents a balanced and responsible approach to our transportation needs in fiscal year 1981 and would urge your support in its consideration.

Mr. BAYH. Mr. President, I want to again, as I did earlier, thank my distinguished ranking Republican member for the cooperation he has given us. He pointed out again some of the matters that are of particular concern to him. The committee, of course, will be giving attention to those matters in the future.

Mr. TSONGAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TSONGAS. Is there an amendment on the floor that was part of the committee amendment regarding the so-called CARP program, which would be on page 25, lines 5 through 9?

The PRESIDING OFFICER. The Senator is correct.

The clerk will state the first excepted committee amendment.

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. After the clerk finishes reporting, I will recognize the Senator.

Mr. BUMPERS. My parliamentary inquiry, Mr. President, goes to the introduction of the amendment.

In the unanimous-consent agreement of a few moments ago, the chairman offered all committee amendments except this one. Is this the one that is now being offered?

The PRESIDING OFFICER. The first amendment which was excepted is now before the Senate.

Mr. BUMPERS. Is this the same amendment that was excluded in the distinguished floor manager's unanimous-consent request when he offered the committee amendments to the bill?

The PRESIDING OFFICER. This amendment was excluded and, therefore, will now be the first committee amendment before the Senate.

Mr. BUMPERS. It is not now being offered as a committee amendment?

The PRESIDING OFFICER. It is a committee amendment. It is a reported committee amendment. It is the first amendment before the Senate.

Mr. BUMPERS. It is the same amendment as the amendment at the desk by Senator TSONGAS?

The PRESIDING OFFICER. The Chair is unable to answer that.

Mr. BAYH. Mr. President, could the Senator from Indiana, as chairman of the subcommittee, if the Senator from Massachusetts will permit him, explain for our friend from Arkansas what the parliamentary procedure is under the rules so that he, the Senator from Massachusetts, and the Senator from New Mexico will have a chance to take full advantage of their rights?

The rules say that when a measure like this is presented and certain amendments are excepted from being considered in the bill on the floor, then those excepted amendments come up in order as the pending business. So the first excepted amendment, the one of concern to the Senator from Arkansas is the pending business. I understand the Senator from Massachusetts now has presented an amendment in lieu of the amendment which was excepted from being a part of the bill.

The PRESIDING OFFICER. The Chair will advise the Senator that the Senator from Massachusetts has not yet offered his amendment. He cannot offer his amendment until the committee amendment is reported. The committee amendment is the first amendment before the Senate under the Senate rules.

Mr. BAYH. Speaking at his sufferance, since he has the floor, and I appreciate his courtesy, will the Senator from Massachusetts yield 30 seconds for a unanimous-consent request concerning staff?

Mr. TSONGAS. I am happy to yield.

Mr. BAYH For the Commerce Committee, I would like to ask that the following Commerce Committee staff members be granted the privileges of the floor during debate on this bill: Candy Vernetti, Ed Hall, Aubrey Sarvis, Bill Semos, Bill Johnson, and Dave Yudin.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the first excepted committee amendment.

The assistant legislative clerk read as follows:

FIRST EXCEPTED COMMITTEE AMENDMENT

On page 25, after line 4, insert the following:

COOPERATIVE AUTOMOTIVE RESEARCH

For necessary expenses to discharge the functions of the Cooperative Automotive Research Program for conducting basic automotive research, $12,000,000 to remain available until expended.

The PRESIDING OFFICER. The Senator from Massachusetts.

UP AMENDMENT NO. 1602

(Purpose: To revise provisions relating to cooperative automotive research)

Mr. TSONGAS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. TSONGAS) for himself, Mr. RIEGLE and Mr. LEVIN, proposes an unprinted amendment numbered 1602:

On page 25, strike lines 5 through 9 and substitute the following:

COOPERATIVE AUTOMOTIVE RESEARCH

For necessary expenses to discharge the functions of the Cooperative Automotive Research Program for conducting basic automotive research, $12,000,000 to remain available until expended: *Provided*, That the amount of funds obligated during the period ending 6 months after the date of enactment of this section shall not exceed $6,000,000 unless the Secretary of Transportation submits to the Congress a comprehensive assessment of all automotive research being undertaken by all Federal agencies including recommendations with regard to appropriate oversight, coordination, and implement strategies for the effective conduct of automotive research programs.

Mr. TSONGAS. Mr. President, this is a minor amount, admittedly, and obviously is not a program that is well known, either here in the Senate or in the country generally. But I think given the state of the automobile industry in this country—and no one knows that better than the Presiding Officer—what we are looking at is a program that has enormous long-term implications.

Why has this thing been put together? The technology of the automobile is the fruit of science developed over the past two centuries. One need not be an expert in the field to know that the fundamental knowledge base that we have been utilizing has pretty much run dry. If we are going to see any kind of serious breakthrough in the future in terms of automobiles, then that research has to continue and really has to be stimulated. This is what this program is all about.

It has been obvious for some time that our automobile industry was in some difficulty. We spent a lot of time last year on the Chrysler package, so I think we are all pretty familiar with that.

Let me read the chronology that led to the establishment of this program.

In December 1978, in a rather well documented and promoted speech, then-Secretary Brock Adams urged the automotive industry to join the Government in a major new program in research. That was the time, as we all know, that the problems of the industry were just beginning to be understood.

Two months later, in February 1979, there was a conference on basic research directions for advanced automotive technology. More than 700 scientists and engineers from institutions throughout the United States and around the world attended that conference. That was a major step in looking at the automobile industry not as an old industry but, in fact, from the perspective of what directions should now be defined and looked at.

In May 1979 there was a meeting at the White House between President Carter and the heads of the domestic automotive manufacturers. Out of that meeting came an agreement on the concept and principles of this program, the cooperative automotive research program, CARP for short, and that began what has been a continuing dialog between industry and Government officials.

Two months later, in July, there was established an interagency planning staff chaired by the Department of Transportation, including every agency in the Government that has an interest in this field. The President's Office of Science and Technology, NSF, the Department of Energy, NASA, Commerce, and Defense all worked together. That activity involved thousands of man-hours to investigate and resolve issues affecting the program.

In November of last year there was the initiation of a process to establish the research agenda for the program. It involved the participation—on their own time, I might add—of nearly 100 leading scientists and engineers from universities, industry, and Government to identify and define the critical research needs and opportunities.

So what we have had here is a coming together of the best minds in the country to try to establish an agenda for research in the automobile industry.

In January of this year, there was the establishment by the President's Office of Science and Technology of a panel of experts to advise the Secretary of Transportation on a management structure for a basic research program in the Department of Transportation. Those recommendations were delivered in February of this year.

Also in January, there was a favorable review of the proposed program agreement between Government and industry by the Justice Department and the FTC to resolve the problems of Government and the private sector working together.

In April of this year, DOT was identified by the Executive Office of the President as the lead Federal agency for this program and NSF was identified as the other Federal participant.

In May, there was a second meeting at the White House between President Carter and the heads of the domestic automotive manufacturers to review the progress of this program. Then in June 1980, the detailed recommendations by the working group were presented.

On June 24 of this year, there was the culmination of detailed discussions among various participants and the proposed program agreement by Secretary of Transportation Goldschmidt and the White House and the Science and Technology Adviser, Frank Press, who spoke with me this morning in support of this program.

Two manufacturers, Chrysler and Ford, have endorsed the agreement and plan to participate and other manufacturers are expected to join as well.

What has happened, Mr. President, is that there has been recognition of the problem, the coming together of the best minds in this country, the participation of every conceivable agency involved and now, for the first time, a definition of what the basic research has to be if the automobile industry is going to survive.

Clearly, the automobile industry is spending millions if not billions of dollars to retool and so forth. What we are looking to in this program is long-term basic research. I have here a document that is rather lengthy. I may or may not put it in, depending on whether there is a need for it, but it is a rather lengthy document which goes into the research program that this $12 million speaks to. I challenge anybody to show me a government program that has been as well thought out and well structured as this one.

What we are talking about, Mr. President, is getting this thing going and, hopefully, having a U.S. automobile industry that can survive. One out of every six Americans is employed in some fashion in relation to the automobile industry. What we are looking at is whether the automobile industry, down the road—to use a somewhat inappropriate metaphor—will be competitive with the Japanese and the Germans. Both countries have long engaged in this kind of research in cooperation with their industry. I hope and expect that the United States is now prepared to do the same thing. It is in this spirit that I offer the amendment.

(Mr. HEFLIN assumed the chair.)

Mr. SCHMITT. Mr. President, I have a very strong warm spot in my heart for basic and even applied automotive research. When I was Director of NASA's energy research and development programs a few years ago, I had the privilege of working out interagency agreements with the Department of Energy for NASA and the then ERDA—Energy Research and Development Agency—which would begin the long path toward rejuvenating the basic research and applied research foundations for transportation technology and, in particular, automotive technology. I think that more can be done. I think there has been a very successful experience by the Federal Government, in cooperation with both industry and academia, in the aeronautics research and development area since the early part of this century, and that we should be looking for ways in which a similar successful experience can take place under somewhat different circumstances with respect to automotive research and development.

However, Mr. President, I rise today in opposition to the committee amendment and to the substitute that has been proposed by the distinguished Senator from Massachusetts. I am asking the Senate to exercise some basic commonsense in addition to some fiscal responsibility on this matter this morning.

After the Senate has heard the arguments by me and the distinguished Senator from Arkansas (Mr. Bumpers), I believe the Senate will support us in opposing the addition of $12 million to the fiscal year 1981 transportation appropriations bill for the purposes of initiating a cooperative automotive research program, commonly known as CARP. The money is, in fact, earmarked for that purpose. However, I think it is clear that this is a question of putting the CARP before the horse.

First, this program does not really have a price tag of $12 million. As proposed by the administration in a bill presently before the Congress, it is the first appropriation for a massive but presently unauthorized Government program that the administration estimates will cost $800 million over the next 10 years to realize any benefits.

Second and more importantly, there is no authorizing legislation for this program. S. 2015, which would have authorized such expenditures, was referred to three committees—Banking, Housing, and Urban Affairs, Commerce, Science, and Transportation, and Environment and Public Works. None of these committees has yet reported the bill or the provision in the bill authorizing expenditures for basic automotive research.

Third, this concept is not politically dead in the various committees. It is very much alive.

I am, I hope, one of the principal reasons that it is alive. It is a very important area of policy consideration for Congress.

The Science, Technology, and Space Subcommittee of the Senate Commerce Committee held 3 days of hearings last spring. The testimony was varied as to the structure of such a program, the type of research, basic and applied, that would yield the most benefits, the appropriate lead agency and cooperative agencies, and the level of funding required. As a result of the hearings, the chairman of the Commerce Committee, the distinguished Senator from Nevada (Mr. Cannon), requested the Office of Technology Assessment to submit to the committee its analysis and recommendations regarding the country's needs for automotive research and development, and the institutional mechanism in which the program would operate.

This report is due in January and will be an important supplement to the studies that have been described by the Senator from Massachusetts, one which will add some objectivity to the Congress' deliberations.

Additionally, several other bills representing different approaches to automotive research must be considered by Congress. S. 3015 would make NASA the lead agency. S. 1250, which has already passed the Senate and House, would set up generic technology centers which could undertake basic automotive research. The Senator from Illinois (Mr. Stevenson) is, at this time, very much attracted to this idea.

Fourth, recent House action reflects a different approach to a cooperative automotive research program than is anticipated by the funding in this bill. H.R. 4678 was reported out of two House committees. This bill sets up an automotive research program but makes NASA the lead agency. Despite my background with NASA, I question the wisdom of this approach; however, I must admit that it is one of many alternatives before Congress.

I have not made up my mind on the best way to structure a program within the executive branch to realize the objectives of the cooperative automotive research program.

In addition, automotive research is currently underway at agencies within the Government. The Department of Energy has tended to be the lead agency in this area, with reimbursable funding, as well as direct funding, available in NASA, in the National Science Foundation, the Environmental Protection Agency, and the Department of Transportation on a limited scale.

The Commerce Committee hearing record reflects that the Department of Transportation as compared to the other agencies does not have any experience or tradition in basic automotive research. A question was asked of a Department of Transportation witness, "What do you know about basic research in DOT?" The DOT answer—"We know very little—we are very anxious to build such competence."

I am not against a cooperative automotive research program, Mr. President, I hope that is clear. I do not think anyone that will support my efforts today and those of Senator Bumpers are against such a program.

No one can deny that the American automotive industry is in the midst of a crisis. This industry is fighting for survival in the face of increasing numbers of high quality foreign imports, costly domestic regulations, previous poor management decisions in both industry and Government and a decline in technical innovation because of unfavorable tax, patent, and other regulations.

There has been a recognized need for new R. & D. programs to assist the auto industry, in cooperation with the industry and academia, in rebounding from their current slump. However, it is time we begin to learn the lessons from our past mistakes and not just pour money into a problem without a well thought-out plan, an infrastructure to insure that the solutions actually come about.

We have done this in the past successfully, and I have already mentioned the experience in aeronautics research.

Many of our colleagues are familiar with the tremendous success in agricultural research that occurred through the years through a well-structured plan, based primarily within the university system in this country.

This type of technology will require different solutions. Clearly, we have not thought this problem through enough to know what is the best solution, except the prevailing opinion before the Commerce Committee, and before many others, that it should not be the Department of Transportation that is the central, leading agency in such an effort.

Those arguing against the position we are taking today say the following:

First. No authorization is required. This money can be spent out of general R. & D. for DOT. Technically that is correct but they miss the point. And authorization gives congressional approval to a national policy and sets congressional guidelines for implementation of that policy. In addition, it assures close congressional oversight of the program. I would not oppose this amendment if I did not believe that this program should have a specific authorization before it is begun on a scale as massive and far-reaching as that proposed by the administration.

Remember, we are talking about the start of a program the administration itself says will use up $800 million in the next 10 years.

Second. The proponents of such a program say it is only $12 million, 40 percent of which is to be transferred to the National Science Foundation. My response is that this money is enough to set up a framework in DOT for a program that Congress may wish to structure differently or even make another agency the lead, a different agency, or even a new agency, or even find an agency that has experience in R. & D. to head such a program, other than DOT.

Third. A deletion of $12 million will set back the program and stop important basic automotive research is argued by the proponents of the amendment before us.

This is baloney. The program plan requires a 10-year effort and $800 million. It is not a program designed with short-term results in mind. Current Federal spending on basic automotive research will continue. This includes about $112 million of research on engines, gas turbines and electric vehicles at the Department of Energy and NASA; EPA will continue to test emissions of various engines in a broad range program; the National Science Foundation spends about $9 million a year on combustion structure mechanics, aerodynamics, control systems and technology.

The estimated total of all this work, including $35 million for basic research, is about $175 million.

A deletion of $12 million from the DOT appropriation will not set back the program, and based on our evidence may actually prevent it from being retarded and put into terminal illness.

For these reasons, I ask Members to vote with us against the proposed amendment.

Mr. President, I will submit for the RECORD a table that shows the basic research program that is currently under way in the Government totaling almost $35 million, broken down into the areas that have been identified as part of the correct program.

There are areas including combustion, thermal and fluid sciences, structural mechanics, electrochemistry, aerodynamics, materials science and processing, control systems, tribology, acoustics and vibration, surface science, and catalysis, with totals in the following agencies, Departments of Commerce, Defense, Energy, Transportation, NASA, and NSF, coming to $34,674,000.

Mr. President, I ask unanimous consent that that table be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 2-4.—FEDERALLY SPONSORED AUTOMOTIVE-RELATED BASIC RESEARCH: FUNDED BY RESEARCH AREA AND SPONSORING AGENCY, FISCAL YEAR 1979

[In thousands of dollars]

Federal agencies	Combustion, thermal and fluid sciences	Structural mechanics	Electro-chemistry	Aerodynamics	Materials science and processing	Control systems	Tribology	Acoustics and vibration	Surface science and catalysis	Agency totals
DOC	134				50					184
DOD	1,782	757	798	163	3,095	40	815		268	7,718
DOE	7,204		2,954	100	2,695		90		1,034	14,077
DOT		68		15		377	8	35		503
NASA	1,620		290		810			600		3,320
NSF	2,705	400	242		4,498	53	156		818	8,872
Research area total	13,445	1,225	4,284	278	13,261	470	1,069	635	2,120	34,674

Mr. SCHMITT. Mr. President, before yielding to the distinguished Senator from Arkansas, I say that Senator TSONGAS made the point that many support this program. There is no question but that is true.

I make two points. One, that the science technology of the Space Subcommittee hearings, 3 days of hearings, reflects a wide divergence of opinion with regard not only to the types of research and which agencies should manage such research but also the level of effort that would be required.

As I indicated, aside from the administration's witnesses, there is a fairly prevailing opinion that the Department of Transportation is not necessarily the appropriate agency for such work.

Also, I believe it is important for Congress to continue to remember that it is responsible for the final approval of national policy; and an amendment of this kind in an appropriations bill, without the completion of the authorization process or even the hearing process in various committees, both in the House and the Senate, is hardly the way in which we should be setting national policy. Clearly, such deliberations have not been completed. We should, however, complete those at the earliest possible time, either this year or next year.

Mr. President, I understand that the Senator from Michigan wishes an opportunity to speak, and then I will yield to Senator BUMPERS.

I yield the floor.

Mr. RIEGLE. Mr. President, the amendment I am offering with Senator TSONGAS would insure a timely start for the cooperative automotive research program (CARP).

I wish to take issue with my friend from New Mexico. It is very important that we stay on target with an intelligent, well thought out advanced research effort than can strengthen the auto industry in the United States.

The auto industry includes not only the major manufacturers but also thousands of supplier companies, and dealerships across the country. Communities in almost every State have a major stake in what happens in this industrial sector. It is essential that we think very carefully about what we do here.

In the last several years we have come a long way in understanding the problems of the U.S. auto industry within the context of the national economy and national public policy.

The $12 million that the Appropriations Committee, in its wisdom, included for CARP, is an important downpayment on a national effort to regain and maintain technological and competitive leadership in the world automotive industry. Frankly, there is reason to believe that we may have relinquished that at the present time.

A major article in yesterday's Wall Street Journal dealt with the tremendous gains that the Japanese automobile industry has made in recent years. This fact is well known to most Members. I ask unanimous consent that that article be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. RIEGLE. The article states that we have fallen behind in world automotive competition and that we have a great deal of catching up to do.

CARP is a very carefully worked out and very limited initiative that promises to help strengthen America's international competitiveness in the long run.

CARP is not just another Federal research program. It is a new effort designed to build cooperation between the public and private sectors in America, on one of the Nation's most pressing industrial problems.

This $12 million item is important to the future of the U.S. auto industry. It is a modest beginning on what must become a major national enterprise. It is an acorn precisely where we will need an oak.

There are several compelling reasons why Congress should fund the President's request for the CARP program.

First, the program is badly needed. Americans have been made starkly aware of the competitive power of foreign automotive makers. The surge of imports into the American market is an ominous warning that the United States must act decisively or we will continue to incur enormous costs in unemployment, Government spending, and huge trade deficits.

We are running a $10 billion deficit alone in the automotive trade account with Japan this year. That capital is leaving the United States at a time when it is desperately needed in our own domestic industry.

It is clear that most foreign auto makers are successful, to a large extent, because their governments have been cooperating directly with them for decades. The tremendous power of Japanese automakers was nurtured since the early 1950's, when the Japanese Government targeted auto manufacturing as a major source of future foreign exchange.

Their strategy has paid off handsomely for them. The Japanese allocated credit through large bank consortia, encouraged joint ventures, and even raised trade barriers to keep cars from the United States and other countries out of their market. In that way they created hothouse conditions to bring their industry along at a faster pace.

The German Government owns 40 percent of Volkswagen and has invested an estimated $1 billion to support research and development that produced the Rabbit automobile.

By comparison, the United States is talking about $12 million spread across an entire industry, with dollar-for-dollar matching funds coming from private industry.

Other governments have worked closely with their auto industries to assure their long-term competitive strength. In the United States, by contrast, such support has been negligible. In fact, in the United States, we have had not a cooperative relationship, but an adversary relationship. And cooperation is long overdue.

Second, this program is carefully designed to have a solid, long-term payoff.

It is significant that private industry will contribute 50 percent of the funding and will participate directly in setting the research agenda. This program will concentrate on the technology breakthroughs that are needed to build the kinds of cars that this Nation will need in the decades ahead.

CARP will help attract some of this Nation's best minds to the technical problems that must be solved if the American economy is to have a strong auto industry in the next decade and beyond. It will help build new generations of automotive engineers. It will help insure the jobs of future generations of American workers.

This private sector involvement will help insure that these new funds will go for research that will strengthen the industry's own efforts. It will not go to finance activities that are simply mandated by Government.

We do not want something that is irrelevant to the needs of American industry. We do not need a group of government scientists, whether they be in NASA or some other place, trying to pursue their own research goals.

Third, and this is important, the authorization for this legislation is already in place. It is in existing law. The law charges the Department of Transportation to "promote and undertake research and development relating to transportation." That is 49 U.S.C. 1653.

The Department's enabling legislation authorizes the Department to contract with educational institutions, public or private agencies or organizations, or persons for the conduct of scientific or technological research into any aspect of the problems related to the programs of the Department.

CARP is consistent with major research activities of the Department over the last 13 years.

We have asked the Chief Counsel of the Department of Transportation to give us a legal opinion on the authority of the Department of Transportation to participate in a program of cooperative automotive research, such as CARP.

I ask unanimous consent to have printed in the Record the document to which I have made reference.

There being no objection, the document was ordered to be printed in the Record, as follows:

Authority of the Department of Transportation To Participate in a Program of Cooperative Automotive Research

Among the specific responsibilities of the Secretary of Transportation is a charge to "promote and undertake research and development relating to transportation" (49 U.S.C. 1653). This comprehensive authority is in addition to statutory R&D authorities entrusted to various predecessor agencies, such as the U.S. Coast Guard and the former Federal Aviation Agency. The Secretarial charter is in furtherance of the Congressional purposes underlying the creation of the Department, inter alia, to "stimulate technological advances in transportation" (49 U.S.C. 1651).

There can be no question that the Cooperative Automotive Research Program is "research and development relating to transportation" and that its very purpose is to "stimulate technological advances in transportation."

Under these broad authorities to promote and conduct research in all phases of transportation, the Department's enabling legislation authorizes contracting with educational institutions, public or private agencies or organizations, or persons for the conduct of scientific or technological research into any aspect of the problems related to the programs of the Department (49 U.S.C. 1657 (q)(1)).

According to consistent practice during the 13 years of the Department's existence, the broad research and development authority across the transportation spectrum authorized in the DOT Act has been considered to be sufficient authorization for the Department to seek appropriations. Further, this is consistent with the authority and practice of the predecessor agencies. In operating under the authority of the DOT Act, the Department has started major new research and development efforts in tunnelling technology, noncontacting suspension and propulsion technology for high speed ground systems, systems engineering and university research. It has never been suggested, either by the Appropriations Committee or any of the substantive committees which have cognizance over DOT programs that annual authorizations for research and development activities authorized by the DOT Act were required. This contemporaneous and invariable practice indicates that it was never the intention of the Congress to review and approve specific proposed research programs on an annual basis.

For almost a decade, the Department has operated a program of university research in which transportation research in a variety of disciplines often of a fundamental nature, is supported under contract at academic institutions. This program is quite analogous to the Cooperative Automotive Research Program. Appropriations for the university research program have invariably been made on the basis of the DOT authorities without ever having been subject to annual authorizations.

Mr. RIEGLE. Mr. President, the notion that authorization is lacking here is just false. We have the authorization.

Fourth, this program is ready to be implemented. Comprehensive discussions have been held with all the parties. On July 24, the administration transmitted the program plan to each of the domestic auto firms.

I understand that both Ford and Chrysler have already agreed to participate and that the other companies are expected to join shortly. Funds are being committed by private firms. If we fail to appropriate the Federal share, the effort will be derailed and needlessly delayed.

Mr. President, the amendment that Senator Tsongas and I are offering fully meets the concerns of those Senators who are reluctant to start any new program. I am frank to say I am reluctant as well.

This amendment would require the administration to conduct a comprehensive assessment of all basic automotive research, at an early stage in the

CARP effort. This amendment would permit valuable new research work to proceed while insuring that these new initiatives will neither conflict with nor duplicate other Federal efforts. I might say that if the Department of Transportation decided that NASA or some other Government agency has the capacity to carry out elements of the research agenda, they can subcontract with that agency. They do not have to duplicate. They do not have to conflict with ongoing Federal efforts.

But clearly the agency to take the lead in this national effort is the Department of Transportation, which has responsibility for implementing one national transportation policy.

Mr. President, last June, Congress determined that, "It is a goal of the United States to achieve technological superiority in the world automobile and truck industry." That goal was established in Senate Concurrent Resolution 101, a concurrent resolution that passed the Senate on a record vote by a margin of 90 to 4. That resolution was cosponsored by 81 Senators. The same resolution passed the House of Representatives unanimously.

Now, this very modest appropriation is the Senate's first opportunity to begin to follow through on that commitment to reestablish world industrial leadership in this basic industry.

EXHIBIT 1

JAPANESE AUTO MAKERS TRY TO RIDE OUT STORM OVER EXPORTS TO U.S.

(By Urban C. Lehner)

TOKYO.—Presidential hopeful Ronald Reagan says "Japan is part of the problem" that has put nearly a million American auto and related workers out of jobs.

Labor Secretary Ray Marshall warns of a "political groundswell" in the U.S. "when unemployed American auto workers read that Japanese auto workers are working overtime to penetrate the U.S. market."

Other U.S. officials brusquely demand that Japan's auto makers cut their U.S. exports from year-earlier levels.

Clearly the pressure on Japan's auto makers is intensifying. What are the Japanese doing about it?

So far at least, not much. For the most part, they are nervously trying to wait out the storm. They hope that time and circumstances will dissipate the pressure, allowing them to avoid even voluntary restraints.

It isn't that they are completely ignoring the growing protectionist sentiment in the U.S. Officials of the Japanese government are publicly and privately urging their auto industry to hold down exports. And Toyota Motor Co. and Nissan Motor Co., the No. 1 and No. 2 Japanese producers, forecast that their U.S. exports in 1980's second half will about equal those of a year earlier, putting them well below the torrid pace of earlier this year though still above what U.S. officials have demanded.

PREDICTIONS CAN BE OFF

But forecasts by Japan's auto makers have often proved conservative, and Toyota is exporting to the U.S. this fall a new small car that could be a hot seller. The Toyota Starlet is said to get 39 miles to the gallon; it reportedly will sell for under $4,000.

Even if the forecasts come true and shipments by Nissan and Toyota do slow down, increased shipments by other producers could make up the difference. "Toyota and Nissan shipments may decline (in the second half of 1980 from the first half), but on balance, total shipments of Japanese cars may not decline," says a Japanese securities analyst.

The Japanese are playing their waiting game primarily because they don't want to give up their U.S. gains. Besides, they doubt that a reduction in their shipments would do Detroit much good. "We don't think restraint on our side will be of any help," says Shigenobu Yamamoto, Toyota's executive vice president.

A Japanese diplomat who is a veteran of U.S.-Japanese trade wars agrees. "For us to cut our exports won't help unemployed American auto workers," he says. "The problem isn't Japan. The problem is the temporary inability of American manufacturers to supply the demand for small cars." Next week a Japanese auto trade group plans to take out ads in U.S. newspapers to defend the Japanese industry.

REBOUND EXPECTED

As the Japanese see it, the U.S. economy soon will emerge from recession—it may already be doing so—and that in itself should lift Detroit's sales and employment. In addition, the U.S. makers are starting to market more and more of their own small, fuel-efficient cars. Thus, the Japanese argue, the U.S. industry will recuperate, but the Japanese differ among themselves as to whether Detroit's success will come at the expense of the Japanese' 21 percent share of the U.S. market. In any event, they reason, once Detroit rebounds, protectionist pressure will subside.

"Both sides, the American side and the Japanese side, should watch very carefully to see how the new models of the American manufacturers sell before relying on restrictive measures," says Masataka Okuma, executive vice president of Nissan, maker of Datsuns. "If they sell successfully, there may not be any need for us to do anything."

But the Japanese realize they are playing a high-risk game in attempting to wait out U.S. protectionism. They know they could well be overestimating Detroit's ability to make a comeback—or underestimating how hot an issue Japanese exports could become during a U.S. presidential election campaign with the U.S. jobless rate near 8 percent.

Government and industry officials here fear that as pressure in Washington builds, their own seeming inaction will itself become an issue. But so far, what the Japanese have mainly done is just step up their rhetoric. Recently, for example, Trade Minister Rokusuke Tanaka publicly named Toyota and Nissan as companies that ought to practice export restraint.

UAW LEADER ANGRY

Some of the powers-that-be in Detroit have already criticized the Japanese waiting game. United Auto Workers President Douglas Fraser calls the Japanese "artists in delaying" and "absolute marvels and experts at procrastination." He says his union filed its petition for export relief with the U.S. International Trade Commission because it got "tired of delays and procrastination." Ford Motor Co. has filed a similar petition. General Motors Corp. says it would prefer voluntary restraint by the Japanese.

A report prepared by the commission staff says that U.S. auto makers have been hurt more by unanticipated shifts in consumer demand than by imports, but the commission itself has yet to rule.

A commission finding that the U.S. industry has been hurt by imports would give President Carter a number of alternatives, including imposing quotas. The union hoped that the ITC would rule before the presidential election, with the idea that stronger action would be likely if President Carter had to make a decision during the heat of the campaign.

That strategy backfired: The ITC announced it wouldn't make its findings until after the election, and the very fact that ITC action is pending may be contributing to Japanese reluctance to take voluntary measures.

"Faced with possible restrictions in 1981, they may not be in a mood to make reductions now, and then have to face a new round of further reductions in their exports early next year," says Harald Malmgrem, a former U.S. negotiator who now writes a trade newsletter.

One thing that could change the picture would be clear signs from Washington that the Carter administration is prepared to take action against auto imports before the election, without waiting for the ITC. But such signs haven't been received here, and unless they are, the Japanese aren't likely to exercise restraint voluntarily.

It is true that Toyota and Nissan shipments may go down, but even those two companies deny they are practicing restraint. They say they are merely forecasting U.S. demand for their products. Anyway, declines in Nissan and Toyota shipments don't mean that Japanese shipments overall will drop. Honda Motor Co., for example, bluntly declares that it wants to increase its exports to the U.S. the rest of this year.

It is easy to see why Japan deems its exports to the U.S. so important. In this year's first half, Japan's nine auto companies sold a total of 5.5 million vehicles at home and abroad, including trucks and buses. Nearly a quarter of those were sold in the U.S. Whereas sales in Japan rose a scant 0.2 percent in this year's first half from a year ago, to 2.6 million, exports to the U.S. jumped 40 percent to 1.3 million.

Nissan and Toyota expect their U.S. auto exports to slow in the short run. In this year's last six months, Nissan predicts, its auto shipments to the U.S. will about equal the 238,239 in last year's second half, well below the 274,177 in this year's first six months. Mr. Yamamoto of Toyota predicts that Toyota's car shipments will also about equal, or be up only slightly from, those in last year's second half, when they totaled 251,228. In this year's first half, the figure was 296,219.

But Honda, which hopes to ship 377,000 cars to the U.S. this year, up 9.6 percent from 1979, had only shipped 217,000 as of the end of July. Managing Director Hirobumi Nakamura says, "We still expect to meet our forecast," meaning that shipments in the next few months will be stepped up.

Honda calls a 9.6 percent a prudent increase and makes no apologies. It points out that it is building an auto plant in Ohio, making it the only Japanese auto company with plans to produce cars in the U.S. (Nissan plans to build a U.S. pickup-truck plant.)

For Honda's new U.S. plant to succeed, Mr. Nakamura argues, "We will need a strong dealer network of about 800 to 1,000 dealers in the U.S. We have only 760 now." To expand the dealer network and to allow each dealer to generate enough profits to improve his service, Honda must export more cars to the U.S., Mr. Nakamura maintains.

As for light pickup trucks, the Japanese expect to be hurt by the recent increase in the U.S. tariff to 25 percent from 4 percent. They still hope the duty will be rolled back, at least partly. But if it wasn't, Nissan's Mr. Okuma says, his company, at least, will pass the higher duty on to the consumer. That $750 to $1,000 price increase will hurt sales, he believes.

Looking beyond the next few months, Japanese auto executives figure that Detroit's new small, fuel-efficient models will prove strong competition. The only question, says a Toyota sales executive, is "how soon they will be able to produce small cars in sufficient quantities" to make serious in-roads into the imports.

"They are very good cars, and they will be very well-accepted by American consumers," says Nissan's Mr. Okuma.

Because of the new models and because Japanese producers increasingly are raising their U.S. prices to offset rising costs (Nissan's Datsuns cost an average of $572 more in the U.S. now than they did last March), Mr. Okuma believes that Japan's auto exports will begin to slow in several months. "I judge very safely that the sales situation of Japanese imports in the U.S. will be a rather moderate one," Mr. Okuma predicts. A government official says confidently. "The Japanese share of the U.S. market will decline."

Not everyone here shares that view. Setsuo Kashiwagi, a spokesman for the automobile manufacturers' association, believes that "there will be an increase in U.S. sales with the new models but total sales will go up to, so our sales won't be hurt." He predicts that the Japanese share of the U.S. market will remain essentially unchanged.

Mr. RIEGLE. Mr. President, so I at this point yield to my colleague from Massachusetts before yielding the floor. Does the Senator from Massachusetts wish me to yield to him?

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. RIEGLE. I yield.

Mr. TSONGAS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TSONGAS. Is it correct that I may modify this amendment at any point until such time as the yeas and nays are ordered?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAYH. Mr. President, will the Senator from Massachusetts permit us together to explore with our distinguished colleagues who have a different perspective as well as those who have a similar perspective in the spirit of compromise a possibility of resolving this? If it is possible to work this out, then we might be able to handle it expeditiously. If we are going to have a fight over it, then we might as well fight over the $12 million. I was wondering. I will let the Senator from Massachusetts proceed with the idea he was going to propose and then get some reaction.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, there are a number of our colleagues working on compromise language that may break the impasse between the points of view that surround this issue of basic automotive research. I thought I might utilize a few of these moments while they are working on that compromise and that language to express my own view.

It seems to me that we are trying desperately to respond to a problem that afflicts the automotive industry—a very basic and a very important segment of our economy in this country. We are very close to doing what is typically the way the Congress and political affairs react to problems of the Nation, and that is identify a problem, create a Federal program, appropriate moneys and embark upon a solution to the problem, with the expectation that the only solution is in governmental action, without perhaps looking at the other side of the coin; that perhaps we are in the problem we are in because we have had too much governmental action and that maybe the appropriate response to the problems confronting this basic industry is not another Federal program of basic research or otherwise and not another Federal appropriation for this or other programs but perhaps to examine the relationship of our Government and our business enterprises in this country in a more fundamental way.

We talk about the relations and we have got to have this program in order to respond to the competition of Japanese and German auto imports. Then there has been a little bit of discussion about what kind of basic research do the Germans and Japanese have in this area and how do they assist their auto industries and why are they better competitors.

Let me go outside this discussion for a moment to remind my friends that the relationship of Government to business in Japan and business to Government in Germany is much different than it is in this country and that may be one of the reasons we are in trouble is because of regulatory and tax burdens and not because of the lack of governmental expenditures.

Maybe the way we ought to be addressing our problems in basic steel, basic automobiles, basic chemical industries is not to look at whether or not we can create another Federal program with another Federal bureaucracy and another Federal appropriation and another Federal tax bill, but to look at what we might be able to do in revising the existing regulatory and tax structures so that Government and business are not adversaries but are partners in a common enterprise of keeping our people employed and the welfare of the public enhanced thereby.

Mr. President, I do not want to suggest that we go back to an earlier era where there is no government intervention in business. I am not talking about laisse-faire economics. I am talking about a constructive relationship in which government, instead of being against business, attempts to solve problems, is sympathetic to the concerns expressed by industry and attempts to accommodate, through the existing economic and regulatory measures, by removing some Federal restraints.

I want to remind my friends that as a member of the Environment and Public Works Committee, as we went through the Clean Air Act amendments a few years ago, I suggested to some who would listen, and suggested to others who would not listen, that the imposition of safety standards, of regulatory burdens, of mileage standards, and of the pollution emissions under existing tax structure would bankrupt the American automotive industry because they could not marshal enough capital to do the job as rapidly as we were legislating they should do.

That is not to say that I am against what they are trying to achieve, against pollution and emission controls which we have legislated, or against the mileage standards that we are trying to achieve.

But I am suggesting that when other countries have a different business-tax-governmental relationship than we have, they find it easier to modernize their plant and equipment over a shorter period of time than does industry in this country.

Maybe that is the problem that we ought to be addressing rather than saying, "Now we have an industry in trouble. We are going to create another Federal program with another Federal bureaucracy to administer it. We are going to study it some further. We are going to come up with all these neat and nifty new ideas about how to build automobiles that will make us competititive while our competitors overseas still are able economically to modernize, to change, to change product lines, to innovate and to bring products to market much more rapidly, much more economically, much more efficiently than we can in this country."

Perhaps we also ought to look at why it takes us from 100 to 500 more man-hours of labor to produce an automobile in this country than it does in Japan. Maybe we ought to look at what it is that we have done through the statutes and practices that we have adopted that makes it more difficult for business in this country to compete with the modern production techniques that are being applied overseas.

I again want to say to my friends who are trying to arrive at a compromise on this issue I hope we can do so, but let us not oversell the idea that a research program is going to be a panacea that is going to solve the problems, where, as a matter of fact, the much more important solution may lie in looking at other policies that are more basic to industry generically, and perhaps in the attitudes of the Congress, that business is evil and big business is even more evil.

We have prevailing in the land a conception that seems to be expressed in the halls of this Congress far too often, that business evils must be eradicated even at the expense of killing the country in order to do it.

I do not want to be blind to business evils. I do not want to be blind to the fact that there can be excesses. But I think one of the excesses has been in government that has been so greedy to collect taxes so rapidly that we have made it almost impossible for business enterprises to succeed. That is one of the reasons many of us are so adamantly insistent that if we are to get economic recovery in this country we must look at some basic economic facts and we must arrive at some modern economic conclusions, and we must revise economic programs to the extent that business will be able to compete on an equal footing with competitors overseas.

Mr. TSONGAS. Will the Senator yield?

Mr. McCLURE. I am happy to yield to my friend from Massachusetts.

Mr. TSONGAS Let me say that I share many of the sentiments of the Senator from Idaho. I would only add that one of the problems of the automobile industry, and I sat through the Banking Committee hearings ad nauseam, is the fact that while the European and Japanese manufacturers were gearing toward an energy-short world, we were still, in essence, providing cars that were based on speed, power, comfort, sort of a macho approach. That was fine for a period of time. But the problem that Detroit had was, unless the American people accepted the problem of the energy crisis, they were sort of caught betwixt and between.

I think part of the problem was the inability of Detroit to look into the future. It is not the only problem. The Senator has raised a number of others also.

Mr. McCLURE. If my friend will yield, I certainly agree that Detroit had that problem, but I think we have to go back into history a little and look at the efforts of Detroit, various of the automobile makers, to produce, build, and market a small, stripped-down automobile, which absolutely bombed in the market because the American public would not buy it.

Mr. TSONGAS. If I may reclaim my time, I may be the only Senator who had the misfortune of owning both a Vega and Pinto. I can say why it bombed. It simply was not competitive. The Honda and Rabbit were far superior.

Mr. McCLURE. But some bombed at earlier dates as well.

Mr. TSONGAS. I wish they had bombed before I made my purchases. But that is neither here nor there.

If I may at this point introduce into the Record the report I referred to earlier, I should like to do so. I do not want to burden the Record as it is 112 pages, but since this will be looked at, and will become relevant next year, assuming the language can be worked out, the complete structure on the research program which has been suggested by those who participated should be in the Record for review. I ask unanimous consent that it be printed in the Record at this point.

There being no objection, the report was ordered to be printed in the Record, as follows:

COOPERATIVE AUTOMOTIVE RESEARCH PROGRAM

(Technical Framework; Research Area Working Groups)

COMBUSTION THERMAL AND FLUID SCIENCES

Professor John P. Longwell*, Massachusetts Institute of Technology.

Dr. Charles Amann, General Motors Company.

Professor C. Thomas Bowman, Stanford University.

Dr. Irving Glassman, Princeton University.

Dr. D. L. Hartley, Sandia Laboratory.

Professor John Heywood, Massachusetts Institute of Technology.

Dr. Howard Palmer, Pennsylvania State University.

Dr. Steven Pope, Massachusetts Institute of Technology.

Dr. David Pratt, University of Michigan.

Dr. Robert Sawyer, University of California, Berkeley.

Dr. William Sirignano, Carnegie-Mellon University.

Dr. Rodney Tabaczynski, Ford Motor Company.

Dr. P. H. Walzer, Volkswagenwerk.

STRUCTURAL MECHANICS

Dr. Max Williams*, University of Pittsburgh.

Dr. Steven Fenves, Carnegie-Mellon University.

Mr. Richard N. Hadcock Grumman Airspace Corporation.

Dr. Thomas Johnson, Jr., United States Steel Corp.

Dr. Mounir M. Kamal, General Motors Research Labs.

Dr. Frank N. Kelly, University of Akron.

Dr. James W. Mar, Massachusetts Institute of Technology.

Mr. Stanley Paprocki, Columbus, OH 43204.

Mr. Jerome Persh, Department of Defense.

Dr. Allen S. Russell, Aluminum Company of America.

Mr. U. Seiffert, Volkswagenwerk.

ELECTROCHEMISTRY

Professor Fred Anson,* California Institute of Technology.

Professor Richard Alkire, University of Illinois.

- Dr. J. J. Auborn, Bell Laboratories.

Professor Allen J. Bard, The University of Texas.

Dr. John Dunning, General Motors Research Laboratories.

Professor Larry R. Faulkner, University of Illinois.

Dr. Jerome Kruger, National Bureau of Standards.

Dr. Ernest B. Yeager, Case Western Reserve University.

AERODYNAMICS

Prof. Frederick H. Abernathy,* Harvard University.

Dr. Timothy M. Barrows, Dept. of Transportation Systems Center.

Mr. James V. Chabot, Ford Motor Co.

Dr. George Lea, National Science Foundation.

Dr. H. M. Nagib, Illinois Institute of Technology.

Mr. Gary F. Romberg, Chrysler Corp.

Professor Anatol Roshko, California Institute of Technology.

Mr. A. M. O. Smith, San Mario, CA.

Mr. Gio Sovran, General Motors Research Labs.

Professor Sheila E. Widnall, Massachusetts Institute of Technology.

Mr. Martin Zlotnick, U.S. Dept. of Energy.

MATERIALS SCIENCE AND PROCESSING

Mr. Julius Harwood,* Ford Motor Company.

Professor George Ansell, Rensselaer Polytechnic Institute.

Professor K. Bowen, Massachusetts Institute of Technology.

Dr. R. Charles, General Electric Company.

Professor M. Fine, North Western University.

Professor M. Fleming, Massachusetts Institute of Technology.

Professor C. Laird, University of Pennsylvania.

Dr. S. Matas, Republic Steel Company.

Professor E. R. Parker, University of California, Berkeley.

Professor B. Pipes, University of Delaware.

Professor Roger Porter, University of Massachusetts.

Dr. John Riggs, Celanese Company.

Dr. A. Russell, Aluminum Company of America.

Professor John Tien, Columbia University.

Dr. J. Wachtman, National Bureau of Standards.

Dr. J. Wernick, Bell Telephone Laboratories.

CONTROL SYSTEMS

Dr. Michael Athans,* Massachusetts Institute of Technology.

Dr. George Ball, Chrysler Corporation.

Dr. Paul Blumberg, Ford Motor Company.

Dr. John Cassidy, General Motors Research Labs.

Professor Steve Citron, Purdue University.

Professor J. David Powell, Stanford University.

Professor Larry Sweet, Princeton University.

TRIBOLOGY

Mr. Donald Buckley,* NASA/Lewis Research Center.

Professor Normal S. Eiss, Jr., VPI and State University.

Dr. Chet Jatczak, The Timkin Company.

Dr. Kenneth L. Kreuz, Texaco Incorporated.

Professor Kenneth Ludema, University of Michigan.

Dr. John E. Mayer, Jr., Ford Motor Company.

Dr. Carl N. Rowe, Mobil Research and Development Corporation.

Mr. Fred G. Rounds, General Motors Corporation.

ACOUSTICS AND VIBRATIONS

Dr. Raymond Cohen,* Purdue University.

Dr. Eric Bender, Bolt, Beranek & Newman.

Dr. Malcolm J. Crocker, Purdue University.

Dr. Lynn Faulkner, Battelle Memorial Institute.

Mr. David Flanigan, Ford Motor Company.

Dr. Robert Hickling, General Motors Research Laboratories.

Mr. Seymour A. Lippman, Uniroyal Tire Company.

Dr. Richard Lyon, Massachusetts Institute of Technology.

Dr. Michael J. Percy, Cummins Engine Company.

SURFACE SCIENCE AND CATALYSIS

Dr. Michael Boudart,* Stanford University.

Dr. Ralph A. Dalla Betta, Catalytica Associates, Inc.

Professor John B. Butt, Northwestern University.

Professor Herbert Kaesz, University of California at Los Angeles.

Dr. Michael L. Knotek, Sandia Laboratories.

Professor Gabor A. Somorjai, University of California, Berkeley.

Dr. Kathleen C. Taylor, General Motors Research.

Professor J. M. White, University of Texas.

Dr. Paul Wynblatt, Ford Scientific Laboratory.

Dr. John Yates, National Bureau of Standards.

COMBUSTION, THERMAL AND FLUID SCIENCES

INTRODUCTION

Long term goal: Achieve quantitative predictive capability of the chemical and physical processes involved in heat engine combustion.

This area of research is primarily relevant to the fuel, combustion and exhaust system of automotive heat engines. Until recently, the types of fuel available and engine design evolved to macth a slowly changing fuel supply and cost and slowly changing requirements for engine performance. The need for major improvement and for continuing and efficient re-optimization of the automotive propulsion system calls for quantitative predictive tools for use by the engine designer and developer.

The major goal of this basic research program is to make these quantitative predictive tools available and to point to new directions for improved systems. The chemistry and fluid mechanics involved in automotive propulsion systems are of such a level of complexity that the goal of complete understanding and prediction from first principles of the processes taking place is unlikely to be achieved within the next fifty years; however, significant contributions to the development process have been made through basic understanding and substantial and rapid increases in contributions to the development process can be expected through a vigorous research program.

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*Research area working group leader.

Because of the size and complexity of the problem, some selectivity is indicated. The following introductory discussion briefly indicates some of the major developmental questions and problems apparent at this time. The sections on basic research reflect these problems.

The Homogeneous Charge Spark Ignition Engine.—The efficiency of this engine is limited by the occurrence of knock as compression ratio is increased and by the need for power output control through inlet mixture throttling. Emission of nitric oxide formed by high temperature reaction of oxygen and nitrogen is a serious problem, as is the emission of unburned fuel. Under rich mixture operations, carbon monoxide emission can be important.

The Diesel Engine.—From the viewpoint of energy conservation, there is a major incentive for expanded use of the automotive diesel engine. Its high thermal efficiency is due to the high compression ratio used and to the use of fuel throttling for load control, in contrast to air throttling for the conventional gasoline engine. Combustion takes place in a very high temperature turbulent diffusion flame which produces nitric oxide and also hydrocarbons plus soot emissions (amounting to approximately 0.5 wt% of the fuel burned). Some of these hydrocarbons are found on the soot, both of which are environmentally detrimental.

Spark Ignition Stratified Charge Engines.—By the use of direct fuel injection not dependent upon compression ignition, a continuous spectrum of degrees of fuel/air homogeneity at the time of ignition can be achieved. The degree of homogeneity can be varied from essentially homogeneous to the high degree of stratification employed in the diesel engine. This class of engine, while still in very limited use, offers important alternatives to the standard diesel and gasoline engines, and basic is research relevant to its problems.

Continuous Combustion Engines.—Gas turbine, Stirling and Rankine cycle engines allow continuous combustion of fuel and air and offer substantial advantages in control of all emissions, as well as the greatest flexibility in acceptable fuel composition. On this basis, they are all candidates for future application. However, the low efficiency and high weight requirements of the Rankine cycle engine appears to rule it out. The gas turbine potentially offers high efficiency at optimum load conditions but suffers in efficiency at low output when compared with the reciprocating engines. The Stirling cycle engine offers attractive possibilities for efficiency, but is currently limited by the capabilities of high temperature heat transfer materials and by its merchanical complexity.

Future Fuels.—Reduced demand for heavy fuel oil, and increased use of low hydrogen content crudes is already resulting in decreased hydrogen content (higher aromatics content) of jet and diesel fuel. Products from coal liquefaction will tend to have decreased hydrogen content and require improved combustion techniques for minimizing production of soot and mutagenic hydrocarbons. Improved combustion technology is clearly needed.

The use of continuous combustion and spark ignition stratified charge engines offers the possibility of using fuels of a wide range of volatility and composition. Understanding of combustion of a wider variety of fuels is therefore needed.

I. Chemistry and kinetics:

The objective is to: Improve understanding of the basic chemistry and kinetics of the large and small molecules involved in automotive combustion and pyrolysis process.

The overall rate of conversion of hydrocarbon fuels to CO_2 and H_2O is sufficiently high that, if the criterion is maximum heat release, the reaction is for all practical purposes complete in current combustion systems. The emission of unreacted trace quantities of hydrocarbons, soot, nitric oxide, etc. and the occurrence of limiting ignition problems, are controlled by the details of the many chemical processes involved. Basic knowledge of the reactions involved varies from quite complete to quite primitive. This is a result of the greatly increased number of chemical species involved as reactions involving hydrocarbon species with more than one carbon atom are considered.

Current treatments of combustion chemistry are generally limited to free radial reactions of unexcited species. Excited species and flame generated ions are present and their role should, where appropriate, be included in kinetic studies. The status and research approaches are quite different for studies of elementary reactions of species containing less than three carbon atoms from, for example, studies of the processes involved in formation of soot particles. There are important research problems in both areas.

A. Small molecules:

The advent of the high capacity computer has made practical the kinetic treatment of large sets of reactions. In principle, if all the elementary reactions involved in a reacting system are known, it is possible to describe quantitatively the information and disappearance of all species. Combustion of complex molecules, such as methane, acetylene and methanol, require very large reaction sets but, with continued research and judicious elimination of unemportant reaction, appear to be tractable. The following discussion treats, in more detail, reactions where there is currently reason to expect that the overall reactions of interest can be practically described in terms of a set of well known (and well chosen) elementary reactions.

1. Nitrogen Chemistry.—The chemistry of the formation and destruction of fixed nitrogen compounds (NO_x NH_3 HCN, R–CN, etc.), as related to control of emissions of these compounds in automobile exhaust, is an area of high scientific and practical priority. The Zeldovich reactions for the thermal oxidation of atmospheric nitrogen accounts for the bulk of nitrogen oxides produced in present engines; however, other reactions involving fuel nitrogen compounds and N_2-hydrocarbon reactions to form products such as NO_x, HCN, NH_3, etc. are poorly understood and are also of importance in both formation and destruction of fixed nitrogen compounds. While the rates of many of the elementary reactions involved are known, there are important gaps, particularly in the rates of elementary reactions involving nitrogen-containing compounds and carbonaceous species, and especially in the quantitative chemistry of the hydrocarbon species involved. Studies could include:

Experimental and theoretical determination of the kinetics of selected elementary reactions of CH_n, NH_i, CN–X, NO_x species;

Experimental studies of premixed flames and post-flame zones with sufficient measurement of kinetically important species to allow model validation;

Generation of useful kinetc models giving net production (and destruction) of fixed nitrogen species in the presence of flame-generated carbonaceous species.

2. Oxidation and Pyrolysis.—Quantitative treatment, in terms of proven elementary reactions, of oxidation and pyrolysis of one and two carbon atom fuels, while not yet achieved, seems within reach. Such treatments would be of great value in understanding, interpreting, and modeling combustion and reactive flows. Among the 1-2 carbon atom fuels, methanol and ethanol are of interest and an accurate and detailed kinetic treatment of their chemistry would be a major contribution. Full kinetic treatment of oxidation of molecules, such as acetylene, ethylene and formaldehyde, will be valuable in developing kinetic treatments of more complex molecules and their mixtures and will greatly strengthen the foundation on which combustion research is based. Studies could include:

Experimental and theoretical determination of kinetics of selected elementary reactions of 1-3 carbon species;

Experimental studies of oxidation, pyrolysis and combustion reactions of 1-2 carbon fuels such as methane, methanol, ethanol, acetylene, formaldehyde, etc. with sufficient measurement of kinetically important species to allow testing and validation of kinetic models;

Generation of kinetic models useful for quantitative treatment of pyrolysis, pre-flame reactions, knock, lean and rich flames and post-flame reactions;

Development, from this basic kinetic information, of overall research mechanisms for facilitation of modeling.

B. Large molecules:

Large molecules are defined here as fuels or their reaction products. The number of carbon atoms per molecule complicates a complete kinetic description. Present optimum research strategy is to lump sets of elementary reactions into "global" reactions, or to search for controlling kinetic steps and mechanisms, and determine overall rates experimentally. Since most practical fuels are mixtures of a very large number of individual compounds, it is also frequently necessary to lump together "global" reactions or mechanisms for related compound types. A common practice, for example, is to determine a global expression for the conversion of the large molecules into molecules whose subsequent reactions can be described by known elementary reactions. Studies for this type and elucidation of reaction pathways and controlling reactions are badly needed for application to quantitative understanding of phenomena occurring within heat engines.

Since the relative importance of the many elementary reactions involved in fuel combustion depends on conditions such as pressure and temperature, it is usually important that research on these reactions be carried out under kinetic conditions that can be related to automotive systems.

1. Pre-Ignition Chemistry.—Substantial chemical modification of fuel molecules can occur before the onset of highly exothermic "combustion" reactions. This chemistry leads to phenomena such as knock, determines ignition delay time, and can produce problems such as deposits, exhaust odor and hydrocarbon pollutants. It is believed that modern analytical and instrumentation techniques offer opportunity for accelerated progress in the complex chemistry of this area. Studies could include:

Experimental and theoretical studies of the early stages of oxidation and pyrolysis. Here detailed kinetics seem attainable and should be sought;

Investigations of the reactions leading to ignition. Both composition and rate (ignition delays) are of interest over a wide range of conditions.

2. Flame Zone Chemistry.—This category refers to the chemistry taking place in the flame zone, where high concentrations of

active radicals and ions occur and where temperature and, therefore, reaction rates are high. The rate and mechanism of conversion to small species is of interest in both fuel-lean and rich flames. For fuel-rich flames, the formation of intermediate-size compounds which can diffuse to a cold boundary to cause deposits or polymerize to high molecular weight aromatic molecules and to soot are of special interest, as are both the chemistry and physics of formation of the liquid and solid particles leading to soot. The role of flame-generated ions is poorly understood and should be included, where appropriate, in kinetic studies. In this area of research, detailed mechanistic studies may require working at low pressures and include:

Experimental measurements of rate of conversion to small molecules whose further conversion can then be described by sets of elementary reactions;

Identification and chemistry of complex intermediates, with special emphasis on those species that can survive to form deposits or post-flame zone hydrocarbons.

Polymerization and growth to high molecular weight hydrocarbons and particulates under diffusion and premix flame conditions.

3. Post-flame Zone Chemistry.—The post-flame zone is characterized by temperatures ranging from slightly below adiabatic flame temperature to engine exhaust temperatures of 600° C or lower, and by a radical pool that may decay to a level orders of magnitude lower than is encountered in the flame zone. Hydrocarbons and soot that escape conversion in the flame zone continue to react, but more slowly. The chemistry resulting in changes in composition and quantity of these materials is of great importance because of the potential environmenal and health effects involved. Studies could include:

Experimental studies of the chemistry of flame-generated polynuclear aromatics at high temperature but very low oxygen concentrations;

Studies of the chemistry of polynuclear aromatics and other exhaust components in the presence of oxygen but at temperatures where reaction rates are slow enough to be limiting;

Studies of the chemistry and physics of growth and oxidation of soot over the entire range of temperature and oxygen concentrations.

II. Fluid mechanics, thermodynamics, heat and mass transfer:

The objectives are to:

Improve quantitative understanding of the fluid mechanics, turbulence, and mass and heat transfer in combustion systems.

Investigate new and superior models which can be coupled into computer simulation models of engine operating cycles.

The operating conditions in heat engines are such that, in nearly all cases, the flows of interest are turbulent, and the processes of interest—chemical reaction, heat and mass transfer—are dominated by the turbulence. Consequently, a better understanding of the relevant turbulent flows is important. This understanding can then be coupled with the processes of interest listed above. The least well understood flows are the transient flows that occur inside internal combustion or other positive displacement engines. Better definition of these flows, and new models describing these flows, are important research objectives.

With liquid fuels, a two-phase mixing process of the fuel with air is a necessary preliminary to combustion. The details of this fuel-air mixing process are often the controlling factor in the combustion process, and hence determine the operating and emission characteristics of many of the engines of interest. The details of liquid fuel atomization and vaporization processes, and the mixing of fuel vapor with air in a turbulent flow, are poorly understood. They are especially important to the development of stratified charge engine concepts and to the reduction in emissions from diesel engines.

Many of the heat transfer processes in the flows which occur in engines—in manifolds, through valves, within engine cylinders, in combustors, heat exchangers and turbomachinery—have not been studied to date at a fundamental level. The optimization of desired heat transfer processes, and the reduction in undesirable heat losses are most important to the development of more efficient internal combustion engines, gas turbines and Stirling engines. Convective heat transfer is of primary importance; radiative heat transfer is also important in stratified charge, diesel and possibly continuous flow combustion engines. Radiation heat transfer is significantly affected by fuel composition, by the details of the combustion process, and, via its impact on the thermal loading of critical engine components, affects engine lifetime.

Basic research activities in the combustion, thermal and fluid sciences area can contribute to the development of much more accurate computer simulations of engine operating cycles, and to submodels for the individual processes. Research with a thermodynamics emphasis, devoted to the development of improved frameworks for these simulations, and methodologies for use of these simulations to examine the characteristics of potentially attractive engine systems, is an important and complementary part of the research activities in this area.

A. Turbulent flow modeling:

In engines, flows in ducts, through valves and ports, within cylinders, in combustors, and in turbomachinery components are all important. These flows are turbulent, occur in complex three-dimensional geometries, and are often transient. An additional complication is the fact that for many phenomena of interest (such as heat and mass transfer, and flame quenching), the relevant flows occur within relatively small volumes. These flow processes significantly influence engine operating characteristics.

Flow visualization experiments are starting to define the qualitative features of the flow patterns within various engine components, but detailed quantitative information is scarce, and modeling these flows is at an early stage of development. An improved quantitative knowledge of the turbulence is a prerequisite to describing heat and mass transfer processes, and combustion and emissions formation mechanisms.

In recent theoretical and experimental studies of turbulence, most progress has been made for simple shear flows—jets, mixing layers, boundary layers, etc. In transient flows, the changing velocity field may not allow the turbulence to attain an equilibrium structure. The effects of compression on turbulence are also poorly understood. Density variations add another uncertainty to this problem area.

Extensive experimental and modeling activities in these areas are required. Flow visualization experiments in both realistic engine configurations and simpler geometry devices, quantitative flow-field mapping experiments, and both conceptual and numerical modeling are examples of research activities which would contribute. Studies could include:

Turbulent unsteady flows in ducts, through valves and ports, and within engine cylinders;

The effects of compression and expansion through boundary displacement or combustion on relevant turbulent flow fields within cylinders;

Flows in small-sized turbomachinery components relevant to automotive engine systems;

Development of appropriate calculation techniques for these flows, with special emphasis on flows with moving boundaries and where small regions of the flow are critical.

B. Two-phase flows and mass transfer:

In all heat engines, the fuel must mix with many times its mass of air prior to complete combustion. This mixing may be essentially completed before the combustion process takes place, as in a spark-ignition engine, or fuel-air mixing and combustion may overlap substantially, as in a diesel engine or gas turbine. Achieving the appropriate fuel-air mixing rate for each of these different engine types, over the entire operating range of the engine, is a formidable problem. The fuel-air mixing process is important because it significantly influences the engine combustion process, and thus the engine's operating, emissions, and fuel consumption characteristics.

Knowledge of liquid-fuel atomization processes, fuel vaporization in liquid fuel sprays, and the subsequent turbulent fuel-air mixing processes, and the degree of mixture in homogeneity with different types of fuel, fuel injector design and ambient environment, is poorly developed, especially with multi-component fuels. Here improved understanding is needed of transient droplet heating and vaporization, secondary atomizations (including microexplosions), near critical and supercritical vaporization. Studies could include:

Experimental and theoretical research on fuel atomization and on the subsequent transport of droplets and air;

Fuel vaporization involving multicomponent mixtures with a wide range of volatility and two-phase mixtures such as oil-water emulsions;

Development of predictive models which can be coupled with combustion and emission formation models;

C. Heat transfer:

Convective and radiative heat transfer processes in engines are poorly understood. In internal combustion engines and gas turbines, heat losses degrade engine efficiency and power. In closed cycle engines such as the Stirling engine, heat transfer processes in the heater, cooler and regenerator must be optimized; in the ducting, flow through valves and within the cylinders it should be minimized. The convective heat transfer processes are dependent on the details of the turbulent flows. Studies could include:

Experimental and theoretical research in simpler-geometry simulations of engine components, as well as in real engines, aimed at developing a fundamental data base on engine heat and mass transfer processes;

Application of fundamental data to modeling of the actual engine heat transfer processes.

III. Combustion and reactive flows:

The objectives are to:

Increase basic understanding of the chemistry and physics of pre-ignition and post-flame combustion reactions, including processes at cold boundaries.

Improve understanding of externally caused and spontaneous ignition processes.

Extend basic knowledge of laminar flame chemistry and physics of droplets and vaporized fuels to high temperatures and pressures and to understand and integrate the chemistry and physics of turbulent flames.

Relevant basic research can cover a wide variety of investigations ranging from, for example, a study of limits and rates of laminar flame propagation, to studies of the transient heterogeneous turbulent diffusion flames found in diesel engines. The experimental equipment can range from simplified laboratory burners to specially modified and instrumented engines capable of providing qualitative and quantitative insight into the combustion problem being addressed. Input-output testing of modified engine designs is not included. Development of quantitative models of the various engine-related processes is integral with the experimental program which provides the qualitative and quantitative understanding of engine processes, useful for model formulation and validation.

A. Pre-ignition and post-flame reactive flows:

In reciprocating engines, analysis of the fuel-air mixture prior to ignition has shown that major chemical changes have occurred that can have an important effect on subsequent combustion. In some cases, part of this reacting fuel-air mixture escapes ignition and is found in the engine exhaust where additional reaction can take place. Knowledge of both composition and amount of the decomposed and partly reacted hydrocarbons are important. These reactions take place in an environment of rapidly time-varying temperature, pressure and composition, and a full description involves understanding and analysis relating the chemistry, fluid mechanics and heat transfer interactions involved.

1. Pre-ignition Reactions.—Limited studies of pre-ignition reactions have been carried out in spark ignition engines, and more extensive measurements have been made of ignition delay time. Study of these problems with modern experimental and chemical analytical equipment offers the possibility of important contributions. Advances in chemistry and computer modeling techniques should be of importance in treating the complex fuel composition, chemistry and flow-related interactions. Studies could include:

The composition changes occurring in homogeneous fuel—air mixtures under conditions and flows typical of the compression stroke in an engine; interaction effects involving fuel composition as related to spontaneous ignition and to exhaust emissions are of special importance;

Composition changes prior to ignition in diffusion flames or in other systems where composition gradients are important the composition gradients can involve vaporized fuel or can also include vaporizing droplets.

2. Post-flame Reactive Flows.—Under very fuel-rich or very fuel-lean conditions, important amounts of hydrocarbons escape destruction in the flame zone by either bypassing the flame zone in flames near either the rich or the lean limit of flame propagation or, in the case of very fuel-rich flames, hydrocarbon molecules ranging from methane to soot are found in the post-flame gases. There has been insufficient quantitative study of the reactions that take place under the cost-flame conditions of the expansion stroke or in the engine exhaust system. Advances here will guide efforts to predict and to eliminate these undesirable exhaust components. Experimental and theoretical studies could include:

The reaction-flow interactions of fuel and fuel fragments that have by-passed active combustion under the mixing, pressure and temperature circumstances typical of the expansion stroke in reciprocating engines;

The unburned hydrocarbon and soot composition changes taking place under the flow and temperature conditions attainable in the exhaust system of all classes of automotive engines (including the effect of increasing temperature, oxygen mol fraction in the exhaust, etc.).

3. Reactions Near Cold Boundaries.—The details of reactions and flow near the relatively cold metal surface of automotive combustion chambers are of interest because of the formation of solid deposits on the surface and the existence of unburned and partially reacted hydrocarbons and lubricating oil in this "quench zone". These deposits are known to cause premature ignition and knock as well as other problems. Little is known of detailed chemistry and physics of these phenomena. Experimental and theoretical studies would include:

Diffusion to combustion chamber walls and subsequent polymer formation of reactive flame-generated species from the flame and pre-flame zone;

Unburned hydrocarbons within the quench layer and of their subsequent interaction with the surrounding combustion products.

B. Ignition:

Much remains to be done to achieve quantitative treatment of ignition under the variety of conditions and fuels that occur in automotive engines, where the effects of uncontrolled ignition or lack of ignition, interfere with the attainment of high efficiency and low emissions.

Criteria characterizing ignition should be based on more detailed understanding of the chemical and turbulent flow processes involved than presently exists. Practical contributions from this research can be of major importance since much of the cost and energy consumption of fuel manufacture has been, and will be, related to control of the ignition properties of fuels.

1. Spontaneous Ignition.—The term, spontaneous ignition, refers to ignition resulting from the heat and active species generated by the pre-ignition reactions that result from the compression heating of a fuel-air mixture. In the diesel engine, treatment of this problem involves simultaneous fuel evaportation, mixing and heat transfer in a complex turbulent flow field. Research aimed at raising the level of quantitative understanding of the fuel chemistry and fluid mechanics in this area is clearly indicated.

Knock in the spark ignition engine refers to spontaneous combustion of part of the fuel-air charge. This undesirable phenomenon can be avoided by decreasing compression ratio (and, therefore, engine efficiency), or by use of special fuels which require energy-consuming manufacturing processes. As in the case of the diesel engine, fluid mechanics, mixing and heat transfer processes are also important, and techniques such as charge stratification are effective but bring their own problems. Application of modern tools to the understanding of the basic interaction of these many factors because of its major importance in transportation energy requirements. Studies could include:

Ignition of fuel vapor of fuel droplets, injected into hot gases;

The compression ignition of fuel-air mixtures as related to knock;

The fluid mechanics and physical effects of the pressure wave resulting from knock.

2. Ignition by External Energy Sources.—The advantages and need for efficient fuel-lean combustion, where ignition and subsequent combustion require large energy sources, have led to new incentives for study of this area and to experimentation and use of ignition by jets and hot combustion products. The interaction of turbulence with the ignition process is of special interest since performance-limiting effects, such as cycle-to-cycle variations in flame propagation and sporadic lack of ignition under lean mixture conditions, are attributed to this interaction.

The uncontrolled initiation of ignition by hot surfaces is a troublesome practical problem that is reflected in rather poorly defined requirements for fuel composition and engine design which becomes more severe as the compression ratio is increased to improve cycle efficiency. Studies would include:

Spark ignition of turbulent fuel-air mixture. Basic understanding of ignition energy requirements as related to fluctuations in mixture composition and velocity, shear, etc., are needed;

Ignition of lean mixtures by hot jets of burned gases;

Ignition of turbulent flowing fuel-air mixture by hot surfaces.

C. Flame propagation:

At stoichiometric flame temperatures, the chemical rate of oxidation of fuel is sufficiently high that it is generally true that the overall rate of heat release is controlled by molecular and turbulent mixing processes. The nature of these mixing processes and their interaction with the flame chemistry is largely determined by the flow in the combustion system. In these circumstances, the interaction between chemistry and flow processes is critical and highly varied under the many circumstances encountered in existing and future automotive engines. In this area there is opportunity for a wide variety of studies ranging from establishing basic understanding of simplified systems where both chemistry and fluid mechanics are relatively well understood, to diagnostic and simplified modeling studies of combustion as it occurs in systems of practical interest. Well chosen research involving laminar, turbulent, premixed, diffusion, steady and unsteady flow in various combinations is relevant and can contribute to the ultimate advancement of automotive engine technology.

1. Laminar Flames.—Even though the flames encountered in automotive combustion systems are predominantly turbulent, study of the laminar flame is of considerable importance in automotive research. Experimental and theoretical study of these systems can serve to validate the applicability of chemical kinetic treatments and simplifications related to both the chemistry and the physics of combustion. Combustion in which the predominant turbulent scale is large compared to flame thickness may well be usefully treated by relating the turbulent process to laminar flame properties. Studies could include:

Laminar premixed flames at high preheat temperatures, high pressure and high rate of flame surface extension;

Small, high pressure laminar diffusion flames involving either vaporized fuel or droplets as the fuel source. Effects of ambient temperature and composition are important;

Diagnostics for determining the role of laminar flame properties in automotive combustion systems.

2. Turbulent Flames.—A detailed, quantitative treatment of the turbulent flames encountered in automotive engines can be considered an ultimate long-range goal of basic research in this area. The chemistry and fluid mechanics involved have not been individually worked out, and the two areas are strongly interactive, greatly increasing the complexity of the problem. Basic research in the form of diagnostic studies of combustion systems, aimed at development and validation of simplified models, can make important contributions and provide guidance to other basic studies. The research should go beyond the description and simple input-output measurements. The goal should be quantitative assessment of the relative importance of the many processes taking place and development and validation of quantitative models covering a wide range of conditions.

a. Continuous Flow Pre-Mixed and Inhomogeneous Systems.—Combustors in gas turbine and Stirling cycle engines are designed to operate in these regimes. Such systems are characterized by flame stabilization, usually by a recirculating flow, followed by a burnout zone. Much remains to be done, especially in developing understanding of these systems to the point where they can be optimized for minimum emissions over the entire automotive operating range. Studies could include:

Basic studies of turbulent premixed combustion of pure and mixed fuels with emphasis on characterizing emissions of hydrocarbons, soot and NO$_x$ over the entire range of mixture conditions;

Basic studies of turbulent combustion involving stoichiometry gradients, as in staged systems or where liquid fuel drops are injected into the flowing air system.

b. Unsteady-flow Premixed System.—This category refers to the type of combustion encountered in the homogeneous charge spark ignition engine and in those stratified charge engines where a volatile fuel is injected well before ignition. Problems of special importance are flame extinction when the flame is required to propagate through mixtures approaching the lean inflammability limit, interaction of flame propagation rate with knock, and the formation of particulates where fuel stratification results in locally fuel-rich gases. Studies could include:

Experimental and modeling studies of combustion rates as a function of time for homogeneous charge systems, with emphasis on flame structure relationships to turbulent flame propagation, knock and to completeness of combustion near the lean inflammability limit;

Experimental and modeling studies of premixed stratified charge systems with emphasis on turbulent mixing as related to NO$_x$ formation, completeness of combustion, particulates formation, and knock.

c. Unsteady-flow Heterogeneous Flames.—This category includes combustion typical of the diesel engine and spark ignition stratified charge engine, where the stratification at the time of ignition is extreme and where part of the fuel may still be in the form of liquid drops. This system involves the interaction of a number of chemical and physical processes which are very poorly understood and better understanding of the flows and general nature of the combustion is needed. Diagnostic studies, accompanied by derivation of empirical models of the major features, are called for, along with development of the more sophisticated tools needed for detailed basic understanding. Studies would include:

Observations of flow patterns, flame structure and composition, and development of appropriate models for prediction of combustion rate, NOx formation and particulate formation;

Detailed study and analyses of specific features of the combustion process to aid in overall model development, to provide guidance on needed detailed mechanistic studies and to make use of the basic information gained in study of simpler systems.

IV. Experimental methods:

The objective is:

To advance knowledge of engine combustion processes by utilizing new advanced scientific measurements and observational techniques in test engines, combustion simulators, and laboratory devices such as shock tubes.

The challenge of providing the detailed information which describes the engine intake, mixture preparation, ignition, flame propagation, and exhaust processes discussed in preceding sections, requires a broad spectrum of experimental configurations, with the corresponding constraints on the diagnostic techniques to be used. Such studies can be conducted in operating research engines, in engine simulators, and in fundamental laboratory experiments.

A. Research engine and engine simulator measurements:

A significant subset of the required research will necessarily be performed with research engines. These engines should be made compatible with the research objectives and with simplified geometrical constraints, but retaining the important features of modern engine design, such as, in a diesel swirl, fuel injection, and high compression ratio.

The engine experiments not only play an important role in bridging the gap to industrial programs, but help determine the important subprocesses that need to be investigated in further detail. Ultimately these engine experiments test the synthesis of subprocesses which have been developed in more fundamental experiments. The following discussion treats, in more detail, the specific diagnostic needs for research engine experiments. Research would include new concepts for:

Another subset of required research will be performed in carefully designed experiments which closely simulate conditions of pressure, temperature, and geometry of research engines, but are simplified in order to remove some of the complexity. Combustion bombs and rapid compression machines are examples of experimental systems which can isolate chemical and physical phenomena and their interactions. The geometrical simplicity generally offered by these simulators also provides opportunity to use line-of-sight instrumention methods, which allow access for minor species, droplet, and particulate analysis. They also serve as excellent test-beds for development of diagnostics for eventual application to research engine analysis. Research could include concepts for:

Visualization of engine fuel flow and combustion processes;

Determination of flow and combustion temperatures in engines;

Measurement of major and minor species concentrations in engine combustion streams;

Characterization of droplets and particulates in engine environments.

B. Fundamental laboratory experiments:

Much of the required research will be performed in fundamental laboratory devices such as shock tubes, premixed and diffusion flames, and flow reactors. These experiments should be designed specifically to isolate individual chemical and physical processes which occur in internal combustion engines. Research on the chemistry of hydrocarbon fuel combustion, turbulent fluid mechanics, and the interaction of the two, pose special diagnostic problems. The techniques discussed in the above two subsections can contribute to fundamental flame analysis, but the simplicity of these experiments allows for use of additional methods. Some of the methods are discussed below:

Species Concentration and Temperature in Laminar Flows—Conventional techniques for measuring species concentration and temperature in laminar flows have been successfully used for many years. Physical probes with mass spectrometers and species-specific gas analyzers are available to study many of the fundamental problems introduced in Sections II–IV. Some of the new laser-based techniques, however, such as stimulated Raman scattering, laser fluorescence, and tunable-laser absorption, can provide unambiguous and accurate measurements of important combustion species such as HCN, NH$_1$, OH, and CH$_1$. These optical techniques can also be used to evaluate and calibrate more conventional measurement methods.

Species Concentration and Temperature in Turbulent Flows—The measurement of mean and fluctuating values of species and temperature in turbulent flows requires spatial and temporal resolution similar to that in engine experiments. In clean laboratory experiments, laser Rayleigh scattering has been demonstrated to be useful diagnostic for the measurement of temperature and density fluctuations. Pulsed Raman scattering can also provide species fluctuation measurements.

Particulates—The measurement of submicron particulates, and their precursors, in steady flames continues to be a challenging problem. As mentioned in the subsection above, more development is warranted.

STRUCTURAL MECHANICS

INTRODUCTION

(Long-term goal to be added).

The design of automotive structures (body, frame, suspension system and tires) follows a logical sequence of interrelated events. First, the requirements of the structure must be determined. Such overall characteristics as length, height, weight must be fixed and features of the operating environment determined. Next, the structural designer needs to determine the loading conditions that the structure is expected to encounter. These include normal operating loads as well as the loads encountered in a collision.

The designer, utilizing knowledge of loads, materials and structural mechanics performs a preliminary design of the structure. Further analysis refines the design to meet the requirements. Failure modes are examined, and the anticipated life cycle of the structure is estimated.

Finally, the design must be verified and tested before the details are set for the manufacturing process.

Interwoven throughout the entire process are considerations such as, manufacturability, cost, safety and availability of materials.

There is a strong use of instrumentation science and electronic data processing. Elements of the design cycle frequently are statistical in nature, for example, the frequency and magnitude of normal loading, and the unusual loads that occur during collision.

Thus, the physical design of a vehicle structure involves a complex process with many feedback loops which take into account many external considerations. Because of its relationship to energy consumption, a major contemporary factor in the design of automotive vehicles is weight reduction. One way to increase gasoline mileage is to reduce vehicle weight, both through smaller vehicles and by utilizing materials having higher strength per unit of mass and where appropriate, by substitution of plastics, aluminum and magnesium. These new materials must be fully characterized, forming properties thoroughly understood, and their responses to environmental factors must be known.

The following sections focus upon the structural design process and upon suggestions of basic research area likely to provide new knowledge and improved analytical and computational technique leading toward new capabilities for the designer.

I. Requirements research:

The objective is to:

Improve the scientific base for technical requirements of vehicle structures.

Before the structural design of an automotive vehicle can commence, internally imposed or externally mandated requirements must be set. Many of the requirement decisions are concerned with the overall features and may be derived from experience, legal and practical considerations. Other requirements are of a technical nature and may be improved by increased scientific knowledge, better instrumentation and analysis of technical limits. Requirements of a technical nature may involve, for example, issues such as erosion and corrosion, safety device response time, structural integrity in collisions, and structural use of vehicle glass. Research could include:

Erosion-corrosion chemical contamination and degradation to load or non-load carrying components; e.g., engine, converter, main frame corrosion, tire checking;

Safety device response time and structural integrity, e.g., bumpers, collision sensitive interior design, individual personnel protection (air bags, belts);

Combined optical and structural performance of plate glass substitution; e.g., visibility, abrasion, fail-safe fracture mode;

Combined behavioral science and structural interaction, e.g., high frequency noise levels from light weight panels, tire noise and tread design, (subjective) passenger response to different lateral, longitudinal, and roll suspension systems, deceleration rates and braking efficiency.

II. Operating and collision loads research:

The objective is to:

Improve the scientific base for determining vehicle structure loads.

The loads of importance in a vehicle are dead loads (e.g., engine weight), and live loads including those forces involved in collisions, wind forces, acoustic loading, thermally induced forces, and mechanically induced forces associated with engine operation and vehicle movement.

From a structural view point a vehicle can be considered in three major parts, the frame, the body, and the suspension system. The body is not particularly stress sensitive in that it is not usually designed for fatigue life. The suspension system is stress sensitive and is designed for fatigue life.

Major components of the automobile, for example, wheels, tires, engine, transmission, and collision design of the body/frame, are stress or deformation controlled. Minor components of the automobile windshield wipers, handles, dashboards, exhaust systems, etc., usually incorporate structural considerations and one or more type of loads.

Reducing the weight of an automobile requires a new look at design techniques because the structural changes are not a simple matter of linear scaling. The volume of the structure needs to be as large as possible to accommodate people and yet the overall weight must be reduced. One driving force for improving knowledge of loading conditions is to be able to design light weight structural members so that they operate close to engineering design limits. A major problem is the interactive nature of the design. For example, a weight reduction in one place must be factored into numerous other design calculations. Management of this interaction can be accomplished through the use of computers. A second and more difficult question for research is the determination of accurate and reliable data describing the range of loads (forces) involved in the operation and use of vehicles. As down weighting of the vehicle occurs, factors such as windloading, and penetrability of light weight skin panels, play an increasingly stronger role in the design of the vehicle structure.

A. External dynamic loading:

Road roughness imposes significant dynamic loading on the vehicle structure, particularly the suspension system. Continued research into external dynamic loadings imposed upon vehicles over a wide range of road conditions, including degraded ones is needed in order to provide new and superior techniques for determining dynamic loading. Other external loads include those arising from wind gusts. Studies could include:

Techniques for improved characterization of road roughness;

New mathematical techniques for treatment of non-linear problems associated with the analysis of road roughness;

Methodologies for optimization of the accumulation of loading data from dynamic loading tests;

Investigations of the characteristics of side loads (wind gusts, etc.);

Methodologies for characterization of tire loads, including thermomechanical and friction loads.

B. Collision loading:

As vehicles become smaller more attention must be paid to the structure. While substantial research is devoted to the subject, only recently has quantitative information suitable for predictive structural analysis begun to emerge for the case of head-on collisions. The general design problem is to minimize catastrophic collapse or penetration of the passenger compartment and at the same time obtain a deceleration rate as low as possible. Ideally the energy of deceleration is absorbed in such a manner that the probability of collapse of the passenger compartment is minimized. Consideration of angle collisions greatly increases the complexity of the design problems and additional research is required to improve design methodologies. Studies could include:

Investigation of analytical crash models, e.g., cylindrical tubes under impact;

Modeling concepts for side impacts and passenger safety;

Investigations of energy absorption concepts, e.g., foams, honeycombs, hydraulics;

Model foreign object penetration of lightweight skin panels.

III. Structural synthesis and analysis:

The objective is to:

Improve structural synthesis and analysis methods for satisfying operating and collision loads.

Thorough knowledge of the properties of materials is essential for the structural designer. In addition to designing a component to fulfill a function the part must be manufacturable. For example, when sheet materials are used, the design must be integrated with the properties of the materials which control the degree of formability. For new materials such a high strength sheet steels the properties, including formability characteristics, must be fully understood before applications are widespread. The selection of new materials will evolve as processing characteristics and mechanical performance become better known in automotive technology.

A. Materials characterization:

As used in structural mechanics, material characterization refers to the quantitative stress-strain relation, (constitutive relations), including as appropriate, the influence of multiaxiality, temperature, time or strain rate, and the magnitude of the (finite or infinitesimal) deformation. Characterization also includes the response to environmental conditions, such as erosion or corrosion, and in a more general sense to any engineering property such as toughness or formability.

The term constitutive law is used increasingly more because with the advent of plastics and elastomers the sensitivity of these materials is known to be relatively more dependent on temperature and time or strain rate, more so than metal creep for example. There is a new body of technical literature devoted to mechanical property characterization of such materials with a usual restriction of linear (visco) elasticity. When the behavior is non-linear the analysis is generally not available, especially in multiaxial stress states, and its mathematical description is thus substantially restricted.

Sophisticated finite element programs show potential for analyzing large-strain large-deflection behavior of structures. These techniques can be extended and improved to predict the formability of sheet metal components and energy absorbing characteristics of automobile components. However, material properties presently available do not adequately define the constitutive laws needed for such analyses, particularly when more than uni-directional behavior is required.

Special efforts should be directed at methodologies for obtaining multi-axial property data needed for structural analysis of the complicated geometrical configuration of complex composite materials. Studies could include:

Quantitative description of stress-strain-rate-temperature with special attention to large deformations (finite elasticity for tires) and high rate elasto-plastic flow (forming and processing conditions as well as during collision impact);

Structure-property relationships for polymers, composites, metals, and ceramics for various strain rates and temperatures, including processing conditions;

Mechanics of foam deformation, including connected or unconnected pores, with or without fillings;

Experimental methods need to be developed to measure the anisotropic material constants, particularly in composites, required later for accurate stress analysis;

Powdered metal characterization and effect of contaminants and processing conditions on mechanical properties as reflected in the stress-strain (constitutive) laws;

Surface characterization, especially corrosion, and the general tribology and wear, as interpreted through emerging developments in the mechanics of adhesion and degradation.

Analysis of materials characterization specimens with special emphasis on simplified ways to evaluate multiaxial characteristics;

Relationships assessing rate of structural degradation resulting from chemical environments;

Methodologies for determining relationships between thermal environments and structural integrity, including adhesion of coatings.

B. Mechanics of formability:

Stress analysis is of particular importance in the mechanics of formability because the high volume, low cost constraints of automotive technology require that maximum use be made of rapid stamping and forming operations. Improvements in computer aided manufacturing technology would be assisted significantly by applying the methods of structural mechanics analysis to large deformation, high rate, high energy forming processes. Such research should lead toward greater ease of incorporating energy and economic constraints into the design process. Studies could include:

New concepts for estimating die shapes, forming forces and induced residual stress states;

Investigation of finite inelastic deformations, including the mechanical effects of phase change during forming;

Establish constitutive relations for large displacement, large strain inelastic analysis for light weight materials;

Characterize the friction between the tools and work pieces as a necessary element in applying structural mechanics analysis to improve design of manufacturing tools;

Investigation of the micro- and macro-analytical boundaries of composite materials to define, for example, where assumptions of isotropy and homogeneity are valid;

Experiments and analysis of micro-interfacial bebonding to define criteria for macro-property constitutive behavior.

C. Stress and deformation in composite elastomers:

Composite elastomers are found in tires and engine mountings. Analytical and numerical structural analysis methods need to be improved to include finite deformation and thermomechanical interactions. Elastomer structures, in addition to their structural characteristics are important in vibration control and in the case of tiers considerable energy is converted to heat in the structure as a result of flexing. Studies could include:

Structural mechanics mathematical models of life-cycle of elastomer structures;

Improved analysis methods for accelerated life-cycle testing;

New concepts for experimental stress analysis methods for high speed strain measurements over extended periods of time;

Investigations of the relationships between cord-rubber, composite geometry, cord material and internal hysteresis of tires.

D. Failure and life cycle prediction:

Automotive structural design is primarily based upon the endurance limit approach for fatigue performance. Significant progress is being made in developing fatigue design procedures based on strain-life fatigue data. The SAE fatigue design handbook is currently being rewritten to include recent advances. Some downweighting can be accomplished by material substitution and or weight reduction of components which are traditionally designed for high stiffness or handling loads. This requires more accurate analysis predicting fatigue which can be used to assess the tradeoff between the weight of the component and safety reliability thresholds. The areas of importance are the techniques of fracture mechanics and crack propagation prediction. Studies could include:

Fracture characterization of interfaces in composites;

Fatigue life-cycle analysis;

Model systems for evaluation of crashworthiness;

New methods for non-destructive evaluation of major structural components;

Selective destructive testing methodologies for validating theoretical predictions of structural integrity.

E. Biochemical analysis:

Structural mechanics analyses related to anthropomorphic structures is a particularly difficult area of research because of the complexity of the human structure and difficulties involved in building and verification of anthropomorphic model. Further cross-discipline efforts between structural mechanics and medical disciplines should lead to new developments quantifying deceleration effects. Studies could include:

Extension of anthropomorphic model research to include a wider range of loads, e.g., side loading.

F. Non-linear analysis:

Structural mechanics research involves several areas where additional emphasis should be placed on new concepts for analytical and numerical solutions to the non-linear problems associated with automotive structures. Vehicle suspension systems are important areas where non-linear problems are particularly important. Studies could include:

Investigation of improved structural analysis methods, especially for non-linear couplings, interrelating tire and suspension systems.

New methods for non-linear vibration analysis of suspension systems.

Methods need to be developed to handle the large-displacements, finite-strain static and dynamic problems which arise from models of tires, highly non-linear suspension systems and materials forming processes.

G. Numerical analyses and computational mechanics:

Numerical analysis complements and supports essentially all aspects of structural mechanics analysis. The automotive industry already makes extensive use of numerical modeling for many automobile components and systems. There is need, however, for basic research in computational methods to handle efficiently some of the models unique to the automobile industry. Numerical analysis is an important component of computeraided design (CAD), and is closely coupled with computer-aided manufacturing (CAM). Its further development should be encouraged.

Frequently geometric designing (styling) structural design, and manufacturing (e.g., forming) use different and often incompatible geometric models for tht same component. Compatible computer data base models representing all structural quantities of interest should also be developed. Studies could include:

Investigation of improved three-dimensional finite element codes;

Compatible geometrical models for geometric and structural design and manufacturing;

Optimization methods capable of handling realistic automotive structures, including all aspects of optimizing large scale structural models.

IV. Design verification and testing research:

The final design for a vehicle is the sum of a number of individual designs which must be verified in some manner. Ultimately the industry evaluates the structure or component by sub-scale or full-scale testing. The costs and time requirements for performance testing may be reduced by better methods for verification of the mathematical models and improved methodologies for evaluating the performance of components, particularly those having new configurations or those made from unusual materials. Studies could include:

Mathematical models of the vehicle system replete with material, configuration, loading and failure parameters;

Investigation of cost effective mathematical models for comparison with sub-scale or full scale models;

Experimental stress analysis methods, e.g., strain gages for elastomers which exhibit large strains.

ELECTROCHEMISTRY

INTRODUCTION

Long-term goals include:

A fundamental understanding of the thermodynamics, kinetics, electrocatalysis, mass transport, and materials synthesis and fabrication as they relate to energy efficient propulsion systems for automobiles or other vehicles based on electrochemical power sources.

The creation of new knowledge for the conceptual design of corrosion-resistant and wear-resistant metallic and non-metallic components of automobiles.

New electrochemical principles for display, monitoring, and control.

Electrochemistry is the science concerned with the transfers of electronic and ionic charges across interfaces and the chemical transformations that accompany them. The charge transfer may proceed spontaneously and release useful electrical energy as in batteries and fuel cells, or a non-spontaneous reaction may be forced to occur by imposing energy from an external source as in electrodeposition or electromachining processes. The most fundamental questions in all electrochemical processes surround the kinetics and mechanisms that control the acts of interfacial charge transfer and basic research in electrochemistry addresses these questions.

Electrochemistry is centrally involved in many aspects of present-day manufacture and operation of automobiles. Besides the batteries used to start cars, electrochemistry is at the heart of the destructive process of corrosion and of the procedures employed to protect against it such as anodization, electroplating and electropainting. Electrochemical machining of critical components is also a widely practiced procedure.

Efforts directed at the conservation of critical materials may also depend upon developments in electrochemical science. For example, attempts to substitute molybdenum, which is mined in the U.S., for some of the chromium used in many automotive applications would require that a large amount of new, fundamental electrochemical knowledge about molybdenum be acquired.

I. Electrocatalysis and kinetics studies:

The objective is to:

Improve fundamental understanding of homogeneous electrocatalyzed reactions and mechanisms, and to establish the relationships of electronic and morphological properties to the reactions.

Electrochemical catalysis is part of the broader field of heterogeneous catalysis and involves the use of electrode surfaces which promote specific electrochemical reactions by providing sites favorable for the adsorption of reactants, products and/or intermediates in addition to serving as a source or sink for electrons in the charge transfer steps. Kinetic studies of the rates of electrochemical reactions as a function of the electrode potential as well as electrode surface properties are of central importance to electrocatalysis. Illustrations of electrode processes which involve electrocatalysis are the oxidation of hydrogen and the reduction of oxygen in fuel cells. Large surface area electrocatalysts such as platinum on carbon are used to catalyze these reactions. Both of these electrochemical reactions involve adsorbed intermediate species and are strongly dependent on the electronic and morphological properties of the electrocatalytic surfaces. Very effective electrocatalysts exist for the hydrogen oxidation reaction but the lack of sufficiently active electrocatalysts for the oxygen reduction results in substantial voltage losses in fuel cells and air consuming batteries of considerable promise for vehicle propulsion.

Many electrochemical reactions appear attractive for battery applications on a thermodynamic basis but the rates of the reactions are too slow to be practical with presently available electrodynamics. Illustrations include the direct electrochemical oxidation of methanol, ethanol or synthetic hydrocarbons in fuel cells. While present electrocatalysts are inadequate at attractive temperatures, it is likely that a sufficiently active electrocatalyst can be found for such processes, thus affording far higher energy conversion efficiency than is possible with internal combustion engines. This would constitute a major breakthrough.

In some instances it is desirable to reduce the catalytic activity of the electrode surface for reactions which compete with the desired electrochemical reaction and lead to accelerated consumption of reactants and loss of energy conversion efficiency. Examples include the generation of hydrogen at the negative electrode and oxygen at the positive electrode during the charging of zinc-nickel oxide storage batteries. There is a need for more effective additives that can be introduced into the electrode or electrolyte to impede these undesired reactions. Studies could include:

Electrocatalyzed battery and fuel cell reactions with emphasis on reactions at metal and semiconductor-catalytic surfaces;

Relationships of adsorption kinetics to the electronic and morphological properties of the surfaces and electrolytes, and the effect of impurities on electrocatalyzed systems; theoretical studies of adsorption on surfaces and clusters using empirical molecular orbital methods.

Theoretical studies of electrocatalytic processes such as the hydrogen discharge reaction and other electrode processes, such as the individual steps involved in the reduction of oxygen to water;

Investigation of new electrocatalyst systems including electrode surfaces modified to accept and hold catalytically active species, the deposition of monolayers or less of metals on inactive supports, implantation of metal atoms in matrices, and the addition of catalysts to gaseous reactants being fed to electrode surfaces;

Theoretical and experimental studies of the kinetics and temperature dependence of heterogeneous reactions under non-catalyzed conditions to develop a comprehensive basis for predicting rate constants of heterogeneous electron transfer reactions;

Kinetics homogeneous electron transfer reactions and the complex ion dissociation and association reactions.

II. Interfacial structure:

The objective is to:

Achieve fundamental understanding of the relationship between interfacial structure and the electrochemistry of corrosion, adhesion and electrocatalysis.

An understanding of the role played by the interfacial region of an electrode is fundamental to all electrochemical processes. This region is the arena where electrochemical interactions are carried out.

Because of the central role played by the interfacial region in the electrochemistry of a solid exposed to a reactive environment, all technologies that involve exposure of solid surfaces to such environments will depend on an understanding of this role.

Knowledge of the interfacial structure of a surface is of special importance to automobile technology because it bears strongly on one of the major problems in this technology—corrosion, and electrochemical process.

The properties of the extremely thin passive films that are present on metal surfaces determine whether the metal can survive in the corrosive environments to which automobiles are exposed, e.g., cooling systems, fuels and the atmosphere.

Moreover, the interactions between the interfacial region and paints, inhibitors and other corrosion protective schemes can be developed.

Better understanding and control of these interfacial films could lead to the development of lightweight, cheap alloys composed of non-critical metals that would form effective passive layers to resist corrosion.

Knowledge of the interfacial structure of surfaces has an important bearing in many areas of automobile technology, in addition to corrosion. Examples include energy generation (fuel cells and battery electrodes) and pollution control (electrocatalysis, recycling, plating bath regeneration).

One of the major long-term purposes in the study of the interfacial region on metal surfaces is to learn how to prepare interfaces with desired structures and compositions. This could lead to tailor-made interfaces on cheap, non-critical metals that could provide better corrosion protection or supply superior electronic and morphological characteristics for electrocatalysts, and improved battery electrodes.

A. Interfacial composition and structure of metal surfaces:

The chemical and mechanical stability of passive films exposed to various relevant environments (resistance to breakdown and ability to self-repair) are the key issues. The nature of surface states at interfaces and the ways that they control adsorption and charge transfer processes that are involved in corrosion, electrocatalysis and energy generation also need to be much better understood. Because many of the films formed on metal surfaces are semiconductors, the mechanics of ionic and electronic transport through such films need to be probed and methods developed to control them. Such knowledge would be of critical importance in the control of localized corrosion.

The need for more knowledge about passive films on metal surfaces is matched by that for more detailed knowledge of the fine structure and properties of the electrical double layer region that exists at the film-electrolyte interface.

B. Non-metallic surfaces:

The factors controlling interfacial energies at non-polar, liquid-liquid electrolyte interfaces are inadequately understood. The stability of such systems is quite important in processes such as the electrodeposition of paints on automobile bodies. The structure and composition in interfaces at conducting polymeric and ceramic surfaces also needs study since such materials are likely to play an increasing role in advanced automotive technologies. An important question is how films that form spontaneously on such materials affect their long term stability. Better knowledge is needed on how surface structure and composition affect the adhesion of electrodeposits and paints to metals and plastics. Wear and corrosion in many automobile parts might be reduced by application of this knowledge.

C. Localized corrosion:

The role played by the metal interfacial surface structure, composition and degree of stress in determining the sites where localized corrosion (pitting, cracking) initiates is inadequately understood. The effects of interfacial structure and composition on the breakdown of the micro passive layer and the repair processes that are thought to control localized corrosion need elucidation. Progress in this area could lead to the development of more corrosion-resistant alloys as well as providing a basis for *in situ* monitoring of such corrosion. Accelerated tests methods for evaluating resistance to pitting, stress corrosion and crevice corrosion in automobiles might also result.

III. Electrolytes and membranes:

The objective is to:

Improve understanding of physical and electrochemical properties of molten salts, solid electrolytes and ionic solutions.

Increase knowledge of the thermodynamic properties of electrolytes in non aqueous solutions.

Electrolytes are ionic species that are required to provide conductance in electrochemical cells. The solid, liquid or gaseous media containing these ionic materials are also referred to as electrolytes. Electrolytes through which selective ionic transport is the predominant feature are called membranes. Examples of electrolytes having particular relevance toward energy conversion and storage are the concentrated sulfuric acid solution in lead-acid batteries, the aqueous potassium hydroxide solution in alkaline cells, phosphoric acid electrolytes used in fuel cells, molten lithium chloride-potassium chloride salt mixtures used in high temperature batteries, etc. The ionically conducting, electronically insulating, ceramic materials used to separate reactive liquids such as sodium and sulfur in other high temperature batteries can be regarded as both electrolytes and membranes. Thin polymer films having selective ionic transport properties such as Nafion are also important ingredients in certain types of batteries and fuel cells. Electroplating solutions and baths for electrowinning metals are other examples of electrolytes of relevance to the automotive industry.

A. Multi-component electrolyte systems:

Although a moderate understanding of the physical and chemical properties of dilute solutions exists, satisfactory models for more complex and concentrated multicomponent systems are lacking. Fundamental research is needed to facilitate better estimates of the identities, solubilities, activities and transport properties of the ionic species in solution over as wide a temperature range as possible. The properties of very concentrated aqueous solutions such as ionic hydrate melts and their application as media for electrochemical processes also need investigation.

Particular emphasis should be placed on organic and inorganic substances in nonaqueous solutions exhibiting high conductivity and rapid mass transport properties. Polymer membranes and polymer-salt complexes also offer exciting possibilities worthy of further exploration. Questions of physical properties, thermal and chemical stability and practical utility need to be addressed.

B. Electrochemistry in molten salts:

Molten salts are close to ideal electrolytes for batteries. Unfortunately, most are high temperature systems and tend to be very reactive towards other materials. However, recent research has identified several low temperature systems where the advantage of high ionic conductivity and high decomposition potential are preserved and corrosion problems are alleviated. Additional research is required to establish the solution properties of these systems and the chemistry occurring in them. Corrosion and the interaction of molten salts with electrode and cell materials are particularly relevant.

C. Solid state chemistry of ionic materials:

Ionically conductive solids are useful as battery or fuel cell electrolytes, display devices, membranes for chemical separation, instrumentation and detectors. Solid electrolytes include crystalline materials, ceramics, glasses and polymers. Additional fundamental research in solid state chemistry could lead to crystal structures with high ionic conductivity at lower temperature than is possible with existing materials.

IV. Electrodes—structure, morphology and electrocrystallization:

The objectives are:

Understanding the effect of the incorporation of metal atoms into the crystal lattice of porous electrodes.

Identification of factors controlling electrodeposition of both metals and polymers on substrates.

This section is concerned with the processes which control the crystal structure of an electrodeposited material and the morphological changes that are associated with electrochemical dissolution of electrodes or the formation of solid products at electrodes. These considerations are of critical importance in rechargeable batteries used in automobile manufacturing.

A. Rechargeable batteries:

The cycle of life of many rechargeable batteries is limited by morphological changes which occur in porous electrodes. It can be anticipated that this limitation will be relevant to advanced batteries as well. Cycling ability is reduced when uncontrolled movements of active material causes reduction in the surface area of porous electrodes, blockage of pores, detachment of active material from electronic conductors, or the formation of dendritic deposits. Additional fundamental research is needed to understand the incorporation of metal atoms into the crystal lattice during electrodeposition.

The processes of precipitation and dissolution of solid reaction products in certain electrodes (for example, the zinc electrode in aqueous systems or the iron disulfide electrode in molten salt systems) also need further investigation. The evolution of changes in the morphology of the electrodes with cycling needs to be understood. Very little fundamental work in this area has been attempted, probably as a result of the complexity of the systems. Diffusion mechanisms in solid phases are of importance as well. The stabilization of phases which are electrochemically inactive needs to be understood and controlled. A good example is the manganese dioxide electrode which, if rechargeable, would offer a low cost alternative to the nickel oxide electrode in alkaline zinc batteries. Studies could include:

Electrodes which do not undergo large morphological charges, such as electrodes based on intercalation;

Liquid electrodes stability at high temperature;

Molten salt electrolytes;

B. Electrodeposition:

The properties of surfaces produced by electrodeposition are dependent on electrode surface morphology. The fundamental aspects of electrodepositing of alloys and composites require much additional research. Control of plating operations has been an art in the past and fundamental understanding is only now beginning to have an impact. Surface properties such as hardness and roughness of electrodeposits and their relation to subtrate structure, bath additives, the control of plating current (e.g., pulse electrodeposition), and other variables are in need of fundamental study. Newer processes such as the electrodeposition of polymers invite added fundamental scrutiny.

V. Chemical systems:

The objectives are to:

Improve the understanding of the chemical behavior of important electrochemical substances.

Investigate new electrochemical materials.

Many technological problems in electrochemical systems arise from a lack of knowledge of, and a consequent inability to control, the chemistry of the system. For example, failure mechanisms in batteries, inefficient utilization of oxygen in fuel cells, and corrosion of metals all arise from such difficulties. The need for detailed knowledge of the chemical behavior of important well-known substances in their various forms is acute. However it is also important to conduct parallel studies on non-conventional materials. General chemical studies that promise to infuse new substances into electrochemistry are of interest and much recent research in synthetic chemistry present opportunities for extension and exploitation by electrochemists. Studies could include:

Simple reactions of high-energy reagents, such as alkali metal and halogens; chemistry of small, potentially plentiful species, such as oxygen, hydrogen, carbon monoxide, carbon dioxide, water; media for storage of hydrogen; chemistry in molten salts fundamental research;

Catalytic redox chemistry of small molecules such as those listed above; homogeneous catalysts that can be attached to electrode systems by surface modification;

Suspended-particulate redox catalysts; metal clusters; catalytic micellar systems; solid state ionic conductors; intercalation chemistry; electronically conducting polymers and molecular solids; chemistry of alloys; polymers as modification agents for electrodes, redox properties of polymers, polyelectrolytes are also of interest; semiconductors as electrodes and catalysts in single crystals and polycrystalline forms.

VI. Thermodynamics:

The objective is to:

Increase the range of thermodynamic information of electrochemical systems.

Thermodynamics data, including enthalpies, free energies of formation, phase diagrams, and equilibrium properties of chemical substances, are important in predicting whether a given process might occur. They bear on feasibility studies, projections of safety and environmental impact, and understanding of device degradation. Substances of interest would include molten salts and molten salt solutions, solid electrolytes, metals, oxides, mixed oxides, semiconductors, polymers, concentrated aqueous electrolytes and nonaqueous solutions. Measurements are especially needed at the temperatures and pressures likely to be encountered in the technological applications.

VII. Electrochemical and surface characterization—methods and instrumentation:

The objectives are:

Improve characterization of mechanisms at electrode surfaces; improve trace elements analysis, and achieve *in situ* characterization of electrodes.

Investigate new electrochemical display concepts and improve understanding of fundamental electrochemical sensor mechanisms.

The further development of electrochemical methods and instrumentation can lead to new techniques for the characterization of the properties and behavior of chemical systems. New methodology is needed for the study of the composition and structure of interfaces. The development of such methods is important in a number of areas related to automotive research. These include designing new electrocatalysts and studying how catalytic electrode surfaces change with time; producing sensors for monitoring automotive processes and emissions (e.g., in combustion studies); studying corrosion processes, especially for accelerated life tests; monitoring the condition and state-of-charge of batteries. While the investigation of such techniques is of importance in automotive research, they can also be of importance in other areas of science, including energy research, environmental studies, and in characterization of materials.

A. Electrochemical characterization:

1. Characterization of solid surfaces.—The nature of electrode surfaces during electrochemical investigations is currently studied by a variety of optical techniques. Alternate, very powerful methods, such as electron spectrocopy for chemical analysis (ESCA) and Auger electron spectroscopy, low energy electron diffraction (LEED) and secondary ion mass spectrometry (SIMS), involve removal of the electrode from the electrolyte environment and transfer into a high vacuum chamber for study. While these techniques have been very useful they do suffer from several limitations. The necessity of removal of the electrode and transfer to the spectrometer raises the possibility of changes in the electrode surface during the transfer. Moreover, some of these methods lack chemical or structural specificity. New methods for examining electrodes *in situ* during electrochemical experiments are needed. Studies could include:

Investigation of new spectroscopic techniques for *in situ* determination of electrode structure and composition of sub-monolayers.

2. Characterizing electrochemical systems.—Needed are systems for more rapid and more accurate electrochemical measurements and improved techniques of signal enhancement and processing (e.g., Fourier transform and convolution methods). The application of microcomputer and microprocessor technology in electrochemical measurement and control systems and the development of new techniques for studying adsorption. electron-transfer rates, and actual electrode surface areas appear worthwhile.

3. Trace analysis.—Many electrochemical techniques have been devised for trace analysis in solutions and in the gas phase: these include pulse polarography, stripping analysis and a number of related methods. These methods can be important in the detection and control of impurities in electrochemical systems and in environmental studies (e.g., determination of emitted pollutants). Especially needed are methods for the determination of organic materials at concentrations below one part per million, methods for analyzing the form and oxidation state of an element (speciation) and new ways of preconcentrating very low level components.

B. Sensors and display concepts:

1. Electrochemical sensors.—Sensors are devices for the conversion of concentrations of chemical species or given physical properties to electrical signals for analysis or control of the system. Present-day electrochemical sensors include voltametric and potentiometric, species-selective electrodes; investigation of the operating mechanisms of these sensors should be expanded. Methods for studying speciation in chemical systems (e.g., Complex ions and ion pairs in electrolytes) are also needed.

2. Fundamentals of display mechanisms.—Displays may be important for read-out of sensors and in automotive diagnostic devices. A number of electrochemical reactions have potential for application to such displays. These include electrochromic processes (coloration of oxide films, electrodeposition of highly colored substances), electrophoretic processes, modification of electrodes by polymer and electrogenerated chemiluminescence.

VIII. Modeling and electrochemical engineering:

The objective is to:

Develop new scientific models and improved mathematical techniques for modeling of electrochemical processes.

The scientific method consists of observing events, constructing a hypothesis for explaining those events, and then testing the hypothesis by observing still more events. Upon repeated application and pursuit, the scientific method can evolve refined hypothesis wherein the salient features can be approximated by mathematical analogs, or models. Such models can, by inversion, be used to test additional refinements in scientific hypothesis, as well as to predict behavior under new circumstances such as required for engineering design and optimization. Therefore the development of modeling techniques is an integral component of research in electrochemical science and engineering. Thus, modeling activities make for easier technology transfer from research laboratory to process application.

The major electrochemical fields in which modeling will augur toward improved automotive technology are: batteries and fuel cells, wastewater treatment processes, electroplating and corrosion. These processes are all characterized by complex interactions which require mathematical models to be understood. Studies could include:

Modeling of fundamental mechanisms;

Investigation of Improved computational methods for solving non-linearly constrained optimization problems;

Improved methods for analysis of surface shape change phenomena;

Modeling of transport to electrode surfaces, both smooth and rough, in both single- and multi-phase flows, including high speed flow effects on corrosion and electroplating, gas evolution, turbulence promoters, and particle impaction;

Detailed transport models in porous electrode systems;

Modeling transport in membranes relating membrane structure to performance.

IX. Electrochemical data and information banks:

There is need for a comprehensive and up-to-date system for the accumulation, appraisal and dissemination of largely numerical electrochemical data. Collecting and compiling such data from the literature is not a challenge that attracts many scientists but the need is too great to go unmentioned. The solution to this problem must include critical evaluation as well as careful collection of the data so that experienced scientists must participate at some level. It would be highly desirable to find ways to provide strong incentives for those who may be prepared to undertake this important task.

AERODYNAMICS

INTRODUCTION

Long-term goals:

To develop a body of detailed knowledge and a scientific understanding of the difficult interactive fluid mechanical elements which dominate the aerodynamics of road vehicles.

Through increased understanding of flow phenomena and the factors which influence them, to develop a rational basis and framework for prediction and control of drag and other forces, for interpretation of test results, and for analysis and design in general.

To devise new techniques of flow measurement to enable complex three-dimensional flows to be investigated more effectively.

Cars, trucks, and buses operate in air and are subjected to aerodynamic forces of lift and drag just as are aircraft. For the successful development of today's airplane, the understanding of these aerodynamic forces, their prediction, and control were crucial. The early need for high lift and low drag configurations led to long slender streamlined shapes where the flow is largely two-dimensional and relatively amenable to analysis. Over a period of many years, a substantial body of knowledge has been developed which makes it currently possible to analyze and predict performance of aircraft at the design stage.

In the historic development of automobiles, aerodynamic forces were of minor importance. Cars were heavy and their fuel requirements were of much less concern than they are today; consequently the aerodynamics of road vehicles—three-dimensional bluff bodies—remained largely undeveloped.

At the present time lift, drag, and other aerodynamic forces have begun influencing automobile design, and will become more important as vehicles become lighter in weight and fuel becomes less available and more costly. Currently a 10% decrease in drag forces results in about 3% fuel saving in the EPA composite of highway and urban driving. Because most of the aerodynamic improvements are incorporated in easy to modified surfaces of road vehicles, aerodynamic reduction is a very cost effective way of decreasing the fuel consumption of future automobiles, trucks, and buses. Aerodynamic drag will not go away, but it can be decreased and lifting forces can be controlled if we increase our understanding of basic fluid mechanics and apply the knowledge appropriately.

The aerodynamics developed for aircraft are not directly applicable to the three-dimensional bluff body problems of road vehicles even though the equations which describe fluid motion for the two situations are derived from the same basic laws of nature. The fluid mechanical developments made for aeronautics do, however, put us in a position to ask intelligent questions and to assess possible benefits to be derived from future research.

A new effort is needed to understand, predict, and control the exceedingly complex flow over the automobiles, trucks and buses of tomorrow.

I. Three-dimensional bluff bodies:

The objective is to:

Understand and predict aerodynamic basic flows, drag, lift and momentum characteristics for three-dimensional bluff bodies.

The aerodynamics of road vehicles is so different from that of aircraft that the instincts of experienced aeronautical researchers sometimes prove to be wrong. Some cars which appear ungainly or boxy have lower drag coefficients than other cars with smoother profiles which appear more streamlined. A major difference between road vehicles' shapes and aircraft configuration is the bluffness of cars and trucks which is associated with their function. There are major regions of separated flow on road vehicles, which make aerodynamic analysis beyond our present capabilities and compel us to rely heavily on expensive and time consuming wind tunnel testing.

Boundary layer effects can be calculated fairly routinely for some two-dimensional bodies or for bodies of revolution aligned with the flow. However, for a body of revolution at an angle of attack or yaw, the calculation of the boundary layer flow is a research problem itself; for a configuration which appears more like a car, the problem is still more complicated.

It is necessary to understand the role of body shape in determining pressure forces on the vehicle. In addition to the overall flow, there are smaller portions or flow elements whose importance needs to be investigated. If some of these flow elements appear to be important contributors to lift or drag, it might be possible to improve the flow by adding devices to control or manage the flow as is often done in aeronautical situations. In addition, a car or truck which performs well in quiet air must also operate in natural gusts, wind and crosswinds, as well as in those environments caused by the surroundings. Each of these problems constitutes a major area of research.

A. Effects of shape:

Present understanding of the flow past short three-dimensional bluff bodies is primitive. It is not possible to gain an adequate understanding of such flow by only studying its component parts in isolation, i.e., it is necessary to study the flow around the body as a whole. Results from such studies can be used interactively with the studies on flow elements described in Section B. This is important for developing understanding of basic flows, relating diverse research activities and generalizing results. Research includes:

1. Parametric Studies.—In aeronautical development, studies of airfoil families have proven to be very beneficial. Similar studies of families of three-dimensional shapes can be expected to be equally useful in the automotive field. Such an experimental data base is necessary as a foundation for theoretical developments. Studies could include:

Shapes which establish the range of flow conditions that may be relevant, e.g., from very high to low drag;

Reference bodies for use in experimental flow and flow-control research allowing different investigators to start from a common baseline and verify their results;

Parametric studies which elucidate or emphasize particular flow phenomena of interest, e.g., separation, unsteadiness, vortex generations, etc.

2. Inviscid Flow Models.—The relationship between circulation and body shape is known for the case of wings and slender lifting bodies. However, for general three-dimensional bluff bodies such as road vehicles, the laws for modeling the flows are not known. For example, there is no obvious generalization of the Kutta condition. As a first step towards the understanding of such flows, models based on potential flow but with elements of vorticity and circulation should be developed. Such models can be used to study the generation of trailing vorticity and its relation to lift and drag. These models might be analytical, computational or experimental.

3. Multiple Bodies.—Strong interactions, which may or may not be beneficial, occur between bodies in close proximity. Research should be carried out to determine the mechanisms of such interactions and to evaluate their effects. This category would include, but not be limited to, such vehicles as tractor-trailers and trailer-behind-car configurations.

B. Flow elements:

While overall shape produces identifiable flow phenomena which in general interact with each other, there are flow elements which need to be studied by themselves as well as in combination. Regions of separated flow are the rule for three-dimensional bodies. Some of these regions close on the body surface while others are open and connect to the wake regions. It is not known in detail how these flow elements contribute to drag or lift. Research includes:

1. Boundary Layers, Separation, and Separated Regions.—The three-dimensional boundary layers on road vehicles are not simply thin viscous regions responding to pressure gradients determined by the viscid flow; the interaction is more complicated. Organized vortex structures can be formed at separations, which may be connected to the wake. These structures alter the pressure gradients and the aerodynamic forces on the vehicle. Studies could include:

Three-dimensional boundary layers in the presence of typical vehicle pressure fields, their development and prediction;

Closed and open separated regions, including small separation bubbles associated with boundary layer transition and free shear layers;

The mechanisms of flow separation leading to the development of organized vortex structures convected to the wake.

2. Three-Dimensional Wakes.—Vehicle wakes are complex flow regions which are not well understood. The near wake is important because it controls particle deposition and dispersion of the exhaust. The extent to which the near wake is influenced by vortex structures in the wake, or by certain vehicle body characteristics, is not clearly understood. Studies should include:

Velocity and turbulence distributions; vorticity distributions and their effects on the wake; wake persistence and factors which influence it; and near wake structure.

3. Through Flows and Special Situations.—While most of the air passes over the surface of a vehicle, a significant amount of the air actually passes through the vehicle engine compartment, wheel wells, passenger compartment with the windows open, as well as through the engine. Studies would include:

The influence of flow through vehicle cavities and its influence on external aerodynamics, as well as the contribution of through flow to total drag;

The aerodynamic phenomena occurring inside wheel wells, including the effects of wheel rotation, and water spray generation.

4. Flow Instabilities.—The importance of flow instability and unsteady flow effects on the various flow elements that lead to unsteady forces on the vehicle may result in alterations in drag.

C. Flow management devices.

Control of the flow field and its elements can be achieved by both overall and local body shaping. In addition, passive or active devices may be used to suppress, enhance or otherwise modify a specific flow element. Such devices have a long history of development and use in aeronautics and have recently found application to vehicles. The application of such devices to vehicle aerodynamics should be further investigated. Better understanding of the mechanisms by which these devices act on the various flow elements could lead to their more frequent use and increased vehicle performance.

II. Effects of surroundings:

The objectives are to:

Increase understanding of the relationships between body system configurations and ground proximity on vehicle driving characteristics.

Increase knowledge of relationships between aerodynamic environments caused by winds, proximity to other moving vehicles and vehicle handling characteristics.

The operating environment of road vehicles contains special features which influence the aerodynamic forces on, and the flow field around a vehicle. The body shape which is ideal under one set of environmental conditions can be far less ideal under apparently slightly different conditions.

A. Ground proximity effect:

Road vehicles typically operate with body-to-ground clearances on the order of 3–15% of their body length. The influence of such clearances on their aerodynamics is body-configuration dependent, e.g., streamlined vs. boxy. Better understanding of this inter-relationship can contribute to more appropriate body shaping of these vehicles in the presence of the ground. Representative subjects of interest are the ground-proximity effects on:

Wake size, stability and flow pattern;

Vehicle pitch angle and ground clearance for minimum drag;

The shape of vehicle forebodies for low drag;

The flow rate through internal passages and cavities.

B. Effects of aerodynamic environment:

The air through which a road vehicle moves is rarely still because it is conditioned both by natural factors (wind, local terrain) and by disturbances generated by other vehicles. Information about the sensitivity of the aerodynamic characteristics of representative vehicle configurations to various approach-flow parameters should permit better identification of body shapes most suitable for actual on-road conditions. Research needed includes understanding the effects of:

Spatial non-uniformity in velocity and stagnation pressure of the mean flow;

Turbulence intensity, its scale and spectrum;

Effects of mean wind cross flow.

C. Traffic-induced aerodynamic effects;

The distortion and intensification of a road vehicle's flow-field caused by another vehicle passing in close proximity generate force transients which affect directional stability. These sudden variations in aerodynamic characteristics (magnitude and direction of resultant force) bear on vehicle handling characteristics. Information on the nature and magnitude of these transients, and their relationship to the parameters of vehicle shape is needed so that body configurations with unacceptable directional sensitivity can be avoided. Traffic situations of interest include:

Vehicles traveling in opposite directions and in overtaking modes;

Vehicles of different type and size (e.g., car-car, car-truck, truck-truck).

III. Experimental methods:

The objective is to:

Explore new concepts and techniques for determination of and increasing the precision of on-road aerodynamic drag coefficients.

No existing method of aerodynamic testing of road vehicles provides data free of uncertainty associated with the exact relationship between the measured variable and the desired variable, and of uncertainty created by extraneous constraints and unsimulated effects. There is need for research to (1) define the reliability and accuracy of the various techniques; (2) develop methods for correcting data for experimental constraints; and (3) compare and establish the range of validity of the measurements obtained from different testing methods.

A. Laboratory methods:

1. Wind Tunnel Tests.—Testing of models in wind tunnels is an important technique which is used successfully in aeronautics. The primary difficulties with using this technique for road vehicle aerodynamics are associated with scale effects, finite-stream effects of the wind tunnel test section, and simulation difficulties.

Ground plane simulation is not perfect due to the existence of a boundary layer on the ground plane of a wind tunnel but in the on-road situation. This boundary layer can be reduced by using a moving ground plane or boundary layer section, but some uncertainties exist regarding the efficacy of these techniques and the circumstances in which they may be important.

Other uncertainties such as the wall-proximity effects are due to the finite extent of the stream. Aeronautical researchers have developed fairly reliable corrections for airplane and missile configurations. A need exists for correction methods for three-dimensional bluff bodies.

Model scale effects can be eliminated by using full size vehicles and actual flow velocities in wind tunnels. Such facilities are expensive and still lack simulation of on-the-road environmental conditions. Smaller scale models can be used in smaller wind tunnels if the Reynolds number replicates on-the-road conditions. How important it is to replicate the Reynolds number is not known in detail for various features of the flow. With very small model sizes it is difficult to maintain model scale-fidelity (for example, the effects of not simulating rotating wheels, engine air intakes, or underbody features). Studies could include:

Further development of correction techniques for finite stream effects, i.e., wall effects due to proximity of boundaries;

Evaluation of the need for simulating the ground plane and of the effectiveness of the various methods used for more realistic simulation;

Development of techniques for simulating environmental effects such as wind gust identified under section IV.

2. Other Laboratory Techniques.—Because of the imperfect simulation which occurs in the wind tunnel, there is an interest in other techniques which can simulate certain flow phenomena more accurately. Such phenomena include the ground boundary layer, the penetration of a crosswind gust by a vehicle flow over rotating wheels, etc. An alternative to moving the air past a fixed body is to support the body on a carriage and move the body through the ambient atmosphere, thus eliminating the effects of wind tunnel walls. There are simulation advantages; however, the technical complexity of the test is increased.

There is a need for development and improvement of laboratory techniques which have the potential of providing more reliable information on those particular flow phenomena which cannot be accurately simulated in the wind tunnel. Such techniques can be used to establish when the wind tunnel is providing useful information and when it is not.

B. Road testing research:

Because of the extreme complexity of the flow fields involved, research on road-vehicle aerodynamics will be primarily experimental for the foreseeable future. Furthermore, the wind tunnel, and not road testing, will be the fundamental research tool because of its controlled and repeatable test environment. However, even though it is not itself a convenient technique and is sensitive to the variabilities and uncertainties of atmospheric conditions, road testing provides the *only* way that the real-life validity of wind tunnels can be established. Without adequate validation there will always be uncertainty about the degree of applicability of some wind tunnel research to on-road driving. It is therefore crucial to the aerodynamic research that road-testing techniques suitable for this purpose be developed.

Of the components describing the aerodynamic characteristics of a vehicle, drag is probably the most important and offers the greatest possibilities for tunnel-to-road validation. However, no method currently exists for direct measurement of on-road drag. There are, however, techniques which attempt to extract it from measurements of total resistive force (i.e., drag plus rolling resistance).

In coastdown tests the total resistance can be accurately determined from measured decelerations in still air. If the rolling resistance dependence on ground speed is accurately known, the drag force could be satisfactorily deduced. The driving torque method attempts to overcome the uncertainty in the rolling resistance's dependence on ground speed, by keeping ground speed constant and measuring the torque required to move the vehicle through different steady wind conditions. In principle each method is valid; however, extraneous and uncontrolled factors invariably contaminate the test. As a consequence, it is not presently possible to extract the drag coefficient from road tests with sufficient accuracy to adequately validate wind tunnel measurements. Studies could include:

Improvement in these two techniques and their methods of analysis, to increase the precision of on-road drag coefficients;

Exploration of new concepts for determining on-road drag coefficients;

Improvement of road testing methods for systematic measurements of stability, aerodynamic noise, and direct deposition of particles on the vehicle.

IV. Research to evaluate the aerodynamic environment:

The objective is to:

Investigate relationships between atmospheric environments, fuel efficiency, and vehicle stability.

Vehicles driving on the open roads and highways rarely encounter the aerodynamic environment of still air relative to the ground simulated in wind tunnels, and generally used for the conditions of on-road testing. On the open road, the air is generally moving with respect to the ground. The environment in which a single road vehicle operates is the time dependent turbulent boundary of the atmospheric weather patterns moving with respect to the earth. The environment is further modified by the active and passive elements or objects in the vicinity of the vehicle. Which parts of the environment are important is not known and is worthy of research.

At this time, it does not appear to be of value to attempt to obtain a large data base of purely descriptive measurements of the aerodynamic environment. Rather it appears that a more appropriate approach is to discover what parts or characteristics of the atmosphere significantly affect vehicle fuel efficiency and which are important aerodynamic inputs to vehicle stability. Once these elements have been identified, techniques for simulating them in wind tunnels and on-road conditions need to be devised Research identifying the aerodynamic effects needs to be integrated with research conducted under the paragraphs Part II, Effects of Surroundings.

Road vehicles designed for minimum drag in still air may not be optimally or near optimally designed aerodynamically for on-road conditions in moderate winds disturbed by wakes of other vehicles, the environmental conditions under which most miles are driven. Before aerodynamic design changes can even be contemplated it will be necessary to verify that measurable effects in on-road drag coefficient can be associated with particular elements of the aerodynamic environment. For time dependent features such as wind gusts and wake transients, it will be necessary to have statistically significant time dependent measures of the drag coefficient, a task which appears exceedingly complex in light of the current difficulties encountered in attempting to verify steady state wind tunnel measurements in still air. Studies could include:

Assess existing data on the atmospheric boundary layer, including statistical information covering velocity profiles, the turbulence intensity, spectrum and correlations of the several components in the first ten meters of the atmosphere;

Identify and describe those elements in the aerodynamic environment which have a significant impact on measured drag coefficient;

Identify and describe those elements in the aerodynamic environment which significantly influence the forcing functions for vehicle stability;

Devise methods to stimulate the identified important aerodynamic features in experimental and analytical modeling.

MATERIALS SCIENCE AND PROCESSING

INTRODUCTION

Long term goals include:

Improved knowledge of the formability, processing, durability/reliability and recovery of metals, plastics, ceramics and composites of value for vehicles.

Improved materials for automotive information transfer and control.

Issues of energy conservation and vehicle fuel economy have markedly highlighted the important role of materials in advanced fuel efficient vehicle designs. Light weight materials and associated fabrication and processing technologies have become key features of vehicle weight reduction startegies involving downsizing, downweighting, and the development of alternative propulsion systems. Materials also are key elements in the development and design of vehicles with improved crashworthiness and emission control systems.

The automobile traditionally has been predominantly a product of steel and cast iron technologies and processing. But replacement of low carbon sheet steel, the traditional materials workhorse of the automobile, by such lighter weight or higher strength steels, aluminum alloys, plastics and composites is proceeding at a rapid pace. However, wider-spread application of these and other classes of materials often is inhibited by such factors as:

Immature materials technology;

Materials cost;

Capacity, supply and availability;

Inadequate manufacturing and processing methods for economic and reliable farbrication;

Inadequate data base on properties, characterization and design;

Lack of experience in design and application.

There should exist the constant recognition that high production rate, large volume and cost considerations are primary factors underlying utilization of materials and processing technologies within the automotive industry. A large bulk of vehicle materials usage is related specifically to the properties and performance of stampings and moldings fabricated from sheet materials. Cost constraints, availability and manufacturing issues predominate as essential aspects in the linking of research opportunities to advanced automotive technology. The choice of materials and their fabricated form and the automotive performance envelope and environment in which they operate that will serve to distinguish CARP from general research programs. The list of research topics is neither complete nor exhaustive.

I. Light weight materials and structures:

The objective is to:

Understand the structure-property-performance relationships in light weight materials and structures, including basic understanding of forming, processing and joining procedures and ultimate durability/reliability.

Fuel economy and vehicle weight have a direct relationship. Utilization of lighter weight and higher strength materials represents significant opportunities for weight reduction in advanced vehicles. Steels represent about 60% of the weight of an average automobile. Much of this is in the form of low carbon sheet, shaped by stamping methods and joined by welding to form a variety of body and chassis components. High fabrication rates, manufacturability and reasonable costs are characteristics which bound cost-effective materials substitution options. Research on forming and fabrication, durability and reliability characteristics and structure property relationships in fabricated shapes, relevant to automotive needs, would enhance the technology base required for the increased utilization of alternative materials, e.g. high strength-low alloy steels, aluminum alloys, plastics and composites, etc. Research on solidification and casting processes for light weight materials and thin wall castings would assist innovation in or substitution for conventional cast iron technology. Research could include:

A. High strength steels:

A large bulk of vehicle materials usage is related specifically to the properties and performance of stampings and moldings fabricated from sheet materials, especially low carbon steel. Substitution by thinner sections of high strength low alloy steels could result in vehicle weight reductions.

1. Formability and Processing.—Metal deformation processing is a major component of fabricating sheet steel for automotive applications. Research on forming techniques per se and how subsequent microstructures and properties are affected by processing is needed to optimize procedures. Studies could include:

Formability research on high strength-low alloy steel sheet as function of structure, composition, thermo-mechanical history and shape variables;

Characterization of forming limit diagrams and related formability prediction techniques;

Exploration of strain-path behavior, temperature, stress-state, strain rate effects;

Analytical modeling for formability prediction; development of constitutive equations to predict deformation behavior;

Relationship of materials properties with die design and processing conditions;

Study of edge cracking tendencies as function of materials parameters.

2. Durability/Reliability Characteristics.—In order to optimize vehicle reliability, durability, safety, crash-worthiness and damage-ability, it is necessary to have a firm understanding of fatigue and fracture behavior of high strength steels. Research studies could include:

Failure mechanisms, particularly in sheet steels, as a function of metallurgical variables, processing history and service conditions (simulated or real);

Crack initiation and crack growth studies;

Fatigue—low cycle and high cycle fatigue characterization and mechanisms; effects of composition, structure, surface condition, prior thermal mechanical history, notches, structural discontinuities;

Fatigue of welded joints—particularly spot welded joints in sheet steels;

Life prediction methodologies—analytical modeling and simulation of service conditions by laboratory testing;

Hydrogen embrittlement phenomena in automotive high strength steels;

Corrosion—fatigue and stress corrosion behavior of high strength steels in simulated vehicle environments.

3. Structure-Property Fundamentals.—The basic goal of materials science and engineering is understanding how microstructure and microchemistry affect materials properties and performance. Greater utilization of high strength steels in automobiles will require research studies such as:

Phase transformation processes in microalloyed and dual phase steels as function of composition and thermo-mechanical history;

Mechanisms of strengthening, deformation and formability; mechanism of work hardening and control of structure and composition to increase work hardening in dual phase steels, work hardening of steels under complex loading conditions;

Role of interstitials and alloying elements on the nature of ferrite to elucidate ductility, strain aging and texturing characteristics;

Effects of inclusions on mechanical properties and mechanisms of inclusion control;

Optimization of structure and composition for property and fabrication improvement.

B. Aluminum alloys:

The relatively low density of aluminum alloys offers the possibility of substitution for steel in some automotive applications, with an attendant weight reduction. A large body of knowledge exists about structure-property-performance characteristics of aluminum alloys. However, there are certain forming, joining, casting, and durability characteristics of aluminum specific to automotive applications that need additional basic understanding.

1. Formability.—The same general knowledge base for forming aluminum alloys is needed that is required for high strength steels. Some specific research topics are:

Formability characterization and forming limit diagrams as related to mechanical properties, microstructure, alloy composition, processing variables and shape factors;

Fundamentals of die design principles to accommodate alloys with varying properties;

Effect of lubricant and surface films on forming characteristics;

Analytical modeling of forming operations.

2. Spotwelding and Adhesive Bonding.—Joining of aluminum alloys by spot welding and adhesive bonding presents some special research opportunities. Studies could include:

Nature of oxide film on aluminum alloys and control of thickness and conductivity characteristics;

Mechanisms of electrode buildup and tip sticking;

Process characterization and study of welding variables for high quality joints;

Effects of surface characteristics on bond performance; influence of chemical environments and mechanical treatments on process variables;

Effect of notches and discontinuities on properties of adhesive bonded joints.

3. Solidification and Casting Research.—Casting of aluminum alloys for automotive applications requires further understanding of specific casting processes and process variables. Research could include:

Modeling of fluid flow and heat transfer in semi-permanent mold and die casting processes;

Research on higher strength/higher ductility alloys for complex shape castings;

Study of process variables and their relation to reproductibility of properties.

4. Structure Property Relationships.—As in the case of high strength steels, understanding structure-property-performance behavior of aluminum alloys is vital, particularly as to how microstructure affects mechanical behavior. Some research topics could be:

Association of properties such as strength, elongation, fatigue resistance and toughness with microstructure, composition, casting and thermomechanical treatments;

Research on alloy behavior for optimization of mechanical properties, corrosion behavior and formability; research on high modulus aluminum alloys;

Influence of processing variables, impurities and composition on fatigue and fracture.

C. Plastics:

Plastics are playing an increasingly important role in the automotive industry because of their relatively light weight, the ability to synthesize new polymers with unusual properties and advances in polymer processing techniques.

1. Preparation and Synthesis.—A most important aspect of polymer science as it relates to plastics for use in automotive vehicles in the need and ability to prepare and synthesize new polymers with tailored properties for specific applications. Some research opportunities are:

Synthesis of new polymers of high thermal stability and mechanical strength;

Development of improved moisture and environmentally resistant systems;

Fundamental studies of chemistry of polymerization, crosslinking mechanisms, curing agents and catalysts, development of faster processing thermoplastics and thermosets;

Fundamental studies of polymer blends; synergistic property development.

2. Structure and Properties.—Unlike metals or ceramics, polymers are made up of entangled long chain molecules, arranged in amorphous, semi-crystalline or crystalline arrays. This presents some unusual challenges in understanding properties in terms of structure. Some research topics are:

Research on high modulus (non-reinforced) polymer systems;

Molecular models for macroscopic physical properties of amorphous and semi-crystalline polymers;

Molecular structure/physical property relationships for cross-linked polymers and gels;

Molecular dynamics and macroscopic rheological properties of crosslinked polymer solutions and dispersions;

Phase separation and morphology in block and graft copolymers;

Diffusion of orangic compounds, water ions through polymer films;

Rheological studies of polymer melts;

Rheological studies near the glass transition temperature or below the melting point;

Composition and morphology of polymer and interface surfaces.

3. Durability/Reliability Characteristics.—Degradation of polymers, like metals and ceramics, reduces the useful lifetime and requires often costly repairs and on replacement of "failed" parts. Some research topics, specific to polymer reliability/durability are:

Photo-degradation of amorphous crosslinked polymer;

Thermal-oxidative degradation of elastomer;

Bio-degradation of polymeric materials and additive;

Failure modes in polymer;

Studies of fatigue, fracture, crazing and large deformation under load;

Surface hardening and transparent coatings to increase wear and fracture resistance (for glass replacement).

D. Structural composites/fiber reinforced polymers:

As a result of aerospace and military needs the science and engineering of fiber reinforced composites has progressed greatly in the last decade or so. High performance composites are often expensive and relatively difficult to manufacture in large quantities. A need exists to better understand many aspects of processing and behavior of light weight lower cost fiber reinforced polymers for automotive structured applications.

1. Preparation and Fabrication.—Processing and fabrication of fiber reinforced composites into useful components requires a knowledge of rheology, polymer chemistry and physics and engineering design. Studies could include:

Fundamentals of crosslinking and solidification;

Role of the fiber matrix interface and development of optimum fiber finishes;

Effect of environment on performs and processing conditions;

Role of fiber wetting by the matrix or resulting composite performance;

Identification of optimum polymer matrix rheological behavior in fabrication;

Fundamental behavior of polymer matrix and composite in sheet molding compounding, molding, pultrusion, thermoplastic stamping and fabrication processes, in general;

Rheology of fiber reinforced composites during processing;

Kinetics of thermoset molding reactions;

Heat transfer relationships in polymeric composite processing;

Adhesive bonding and joining of composites;

Molding of composite fabrication processes.

2. Structure and Properties.—Structure-property studies of fiber reinforced polymers requires a knowledge of the nature of the matrix, the fiber, and the fiber/matrix interface, and how these behave during processing and subsequently influence properties. Some areas for research are:

Models for macroscopic properties of polymer composites;

Interactive roles of the fiber, the matrix and the interface on composite properties;

Effect of environment on maintenance of fiber-matrix adhesion;

Property characterization for single fiber type and hybrid reinforced composites; effects of fiber orientation;

Design of composite structures consistent with optimal properties;

Failure modes and mechanisms in composites;

Crack initiation and propagation in reinforced composites;

Impact resistance of composite laminated structures;

Energy absorption and strain-rate behavior in composites (toughness);

Fiber length effects; continuous versus short fiber reinforcement;

Investigation of glassy metals and organic derived materials as reinforcement materials;

Hydrothermal degradation of organic matrix composites;

Fatigue characterization of composites;

Non-destructive evaluation techniques; e.g. ultrasonics, acoustic emissions.

3. Metal/Polymer Laminates.—Hybrid composites such as metal/polymer laminates offer some unusual research challenges, including:

Characterization of properties of metal/polymer laminates as function of nature of metal skin (e.g. steel, aluminum) and polymer core;

Formability behavior of metal/polymer laminates;

Fracture and fatigue characterization;

Research on design parameters as function of component functional criteria; analysis of weight saving potential.

E. Cast magnesium alloys:

Magnesium alloys are some of the lightest structural materials available to the automotive industry. They suffer from poor corrosion resistance, high flammability and generally poorer mechanical properties than steel or aluminum alloys. More widespread use of magnesium alloys in vehicles could result in great weight savings. Some fertile areas for research are:

Studies on die cast magnesium alloys: influence of processing variables upon properties;

Higher modulus and higher strength cast magnesium alloys;

Studies on segregation and refining of recycled scrap;

Mechanisms of corrosion prevention—particularly by metallic corrosion design.

F. Materials characterization:

In all of the above research on light weight materials and structures there is a need to characterize the materials at all stages of processing and to use the most advanced instrumentation to understand how microstructure and composition influence properties and performance.

Research is needed on techniques for microstructural characterization of advanced automotive materials including surface analytic techniques (ESCA, SIMS, AES, photoemission spectroscopy, etc.), electron transmission (STEM) for characterization of fine scale features, pattern recognition and imaging techniques for structure delineation; advanced x-ray, neutron scattering, acoustic microscopy and others.

Flaw detection (non-destructive evaluation) techniques are especially important. There are research opportunities in ultrasonics, acoustic emission, vibration analysis, radiography and x-ray topography, optical scanning and holography, etc. with particular emphasis on joints and processing flaws in composite materials.

II. Ceramics:

The objective is to:

Understand the processing techniques, microstructure and desired properties needed to effectively use ceramics as high temperature structural materials.

Development of an efficient automotive gas turbine requires ceramic materials for hot flow path components capable of operating at temperatures of 1300°C or higher. High strength, creep resistance, thermal shock resistance, fracture toughness, reproducibility and reliability, component manufacturability, ceramic design methodologies and nondestructive evaluation techniques are some of the issues underlying such developments. Similar issues prevail for the potential utilization of ceramics for advanced Sterling engines. The goal of research in this area is to advance the state of ceramic materials and processing technology to support the design and development of ceramic heat engines.

1. Ceramic Preparation, Processing and Fabrication.—The methods used to prepare ceramic powders, the processing to dense bodies and the fabrication to useful shapes all affect the structures compositions, and properties of structural ceramics. Considerable research is needed if these brittle materials are to achieve prominence as high temperature structural components for use in automotive applications. Studies could include:

New methods of preparation of silicon nitride, silicon carbide, Sialon, low expansion ceramics and related ceramic materials for high temperature use;

Techniques for powder characterization;

Sintering and densification processes to achieve theoretical density in oxide and silicon ceramics; effects of particle size and shape, pressure, environment, additives;

Mechanism, and kinetics of silicon nitriding processes;

Modeling of green ceramic forming processes, including rheology and flow during injection molding and particulate movement and coagulation during slip casting;

Mechanisms and kinetics of reaction sintering processes;

Hot pressing and hot isostatic pressing (H P) processes;

Chemical vapor deposition for bulk ceramics and coatings;

Methods of material removal for silicon ceramics with minimum surface damage;

Ceramic to metal and ceramic to ceramic bonding methods and mechanisms.

2. Structure-Property Characterization.—The brittleness of ceramics is related to their electronic bonding, crystal structure, defect structure, microstructure and chemical composition. Crystalline aggregates often contain flaws remaining from processing and fabrication; these affect the low and high temperature mechanical behavior. Some research needs include studies of:

Effects of structure, composition, flaws, environment on high temperature mechanical properties;

Phase relationships and stability in silicon ceramics;

Phase transformation strengthening in ceramics;

Effects of processing and composition history on reproducibility of strength properties and Weibull modulus;

Influence of microstructure and processing history on thermal shock resistance;

Structure and characterization of grain boundaries—influence of impurities and glassy phases on boundary cohesion and strength;

Oxidation studies of non-oxide ceramics.

3. Durability and Reliability.—For structural ceramics to operate at high temperatures in severe environments, it is necessary to understand how stress, temperature, and environment influence component lifetimes. Studies could include:

Effects of environment and oxidation on performance and life;

Fracture mechanics and failure modes and mechanisms;

Modeling of life prediction methodologies and probabilistic failure analyses;

Non-destructive evaluation techniques for flaw detection;

Mechanisms of slow crack growth and techniques for crack measurement under load;

Probabilistic design methodologies for ceramic components;

Development of reliable high temperature properties base.

III. Advanced materials processing and fabrication methods.

The objective is to:

Understand how present and new processing and fabrication methods can be brought to bear to economically manufacture improved components for automotive applications.

Significant advances are achievable in the processing of materials and in the fabrication of components and devices of extending and applying the science base underlying processing technologies. Improvements in productivity, cost reduction, shape and dimensional control and property reliability, for example, could accrue from major research programs aimed at increasing the science base for materials processing and the opportunities for technological innovations in fabrication and manufacturing methods. Of particular importance to the automotive industry is the need of high volume-high rate processing methods adaptable to advanced light weight materials. The identification of areas of materials processing for which an improved science base could have a potential impact on processing technologies and/or processing economics and exploration of the technical issues relevant to processing technologies for the control of shape, structure and properties of materials are objectives of this section.

A. Metal forming:

Metal deformation processing is a major processing method for forming, shaping and stamping of sheet metal components for automobiles. The extent to which forming operations are economical and result in components with desirable properties greatly influences automotive manufacturing. Research opportunities include studies of:

Fundamentals of formability and macro plastic deformation behavior of materials;

Analytical and computer modeling of formability processes;

Forming limit diagrams and related laboratory methods to predict formability;

Computer aided design of forming dies;

Closed loop, feedback forming processes;

Materials, die and design factors affecting springback;

Material aspects of friction and wear—effects of lubrication.

B. Fabrication of polymers and fiber reinforced composites:

Plastics and fiber reinforced polymer composites have unique processing requirements, not generally encountered in metal processing. Studies could include:

Research and characterization of new processing methods, such as thermoplastic stamping, elastic reservoir molding, etc;

Development of thermoplastic and thermoset preforms and optimization of high speed processing conditions;

Shortening cycle times in plastic and composite moldings;

Control of surface imperfections and finish;

Adaptation of molding design and process parameters to complex shapes;

Reaction injection molding (RIM/RRIM) of filled plastics and composites;

Adhesive bonding;

New concepts of equipment and techniques for high speed manufacture.

C. Casting and solidification:

Casting is a major method of producing metallic shaped parts. Improved process controls and understanding of how process variables affect properties of cast parts is needed. Some research areas for study include:

Fundamental understanding of heat and mass flow;

Analytical and computer modeling of casting processes;

Mold-liquid metal interactions;

Methods for producing thin wall castings (e.g. cast iron);

Characterization of new casting processes—rheo casting, thixo casting, evaporative mold casting, low pressure and semi-permanent mold casting;

Improved innoculation techniques for nodular iron;

Sand and core technology research;

Process and composition control for optimization of cast microstructure and properties;

Research on casting of light weight materials (Al, Mg);

Research on cast irons for thinner wall, lighter weight/higher strength components;

Structure/property/processing relationships to optimize properties of castings.

D. Near net shape fabrication:

In order to avoid expensive machining, grinding and milling operations it is highly desirable to produce parts to near net shape. There is a major resurgence of powder metallurgy including such forming operations as cold/warm forging and cold/warm pressing of powder preforms to help accomplish near net shape primary fabrication. Some research opportunities include studies of:

Rapid solidifaction rate powder processing;

Sintering and densification studies to achieve theoretical density;

Hot isostatic processing;

Sintering of metastable metal powders;

Optimization of process and compositional factors;

Fundamentals of die wear in forging and pressing of powder preforms;

Interactions of materials with process and die design.

E. Welding and joining:

One of the most important manufacturing operations in automotive production involves welding and joining of components from a variety of material classes. Research studies could include:

Process modeling of bonding processes and development of predictive relationships;

Welding studies of light weight materials—particularly spot welding;

Effects of surface microstructure and topology on heat transfer rates and mechanisms;

Adhesive bonding;

NDE methods for evaluation of metal/metal, metal/plastic, metal/ceramic bonds;

Techniques for ceramic-ceramic bonding, particularly adaptable to complex shapes;

Fundamentals of electron beam welding and laser welding for high strength-light weight materials;

Hydrocynamics of metal flow during fusion welding;

Fluxless brazing of aluminum alloys for radiators and heat exchanger applications;

Rapid, inexpensive non-destructive evaluation techniques for on line use—particularly for spot welds.

F. Metal (materials) removal processes:

Materials removal by machining, grinding, milling, etc. constitutes expensive operations. Minimization of materials removal costs requires better understanding of tool wear and failure, the interaction of tool with the workpiece, and tool lifetime improvement. Research could include:

Fundamentals of cutting and chip making processes;

Tool wear and tribological phenomena at high cutting speeds;

Interfacial interactions between work piece and tool;

Role of lubricants and tribological factors;

Mechanisms of tool wear and failure;

Improved machine tool systems for high cutting speeds;

Extension of data base on cast irons, steels and aluminum alloys at high cutting speeds;

Development of laboratory tests to quantitatively simulate production experience;

Surface coatings (ion implantation, vapor deposition, etc.) on tool bits for tool life improvement;

New approaches to metal cutting and material removal;

New tool materials.

G. Heat treatment:

Tailoring of alloy microstructures by heat treating results in automotive components whose properties are optimized for specific applications. Research involving heat treatment could include:

Energy conservation in heat treating processes;

Controlled hardenability of shallow hardening steels;

New surface hardening processes;

Rates of reaction of gas species important in heat treating atmospheres;

Influence of trace elements of hardenability;

Heat transfer mechanisms during quenching.

IV. Materials supply and resource availability:

The objective is to:

Design processes and methodologies to more effectively recover scrap automotive materials and to substitute for strategic materials or materials with a health hazard.

A. Materials recycling of scrap automotive material:

Because of scarce mineral resources and the large requirements often required to produce materials from ores, there is a need to more effectively and economically recycle scrap automotive material. Studies could include:

Methods of segregation and purification of homogeneous plastics from mixed residues;

Effects of microalloy constituents in high strength steel scrap on steel making operations;

Release of graphite fibers to environment during recycling processing of fiber reinforced composites—effect of hybridization, matrix variables and fiber forms upon release behavior.

B. Substitution for "critical" materials:

The need to substitute for strategic materials with high import dependence, such as chromium, cobalt and the noble metals, and for materials, such as asbestos, which may pose a health hazard is an important new research goal for the country. Some automotive-related research could include:

Non-noble metal catalysts to replace platinum;

Non- or low-chromium bearing stainless steels and oxidation resistant alloys;

Low cobalt magnet materials;

Replacements for tungsten carbide-cobalt cutting tools;

Asbestos replacement for brake systems;

Design of alloys compatible with recycling processes;

Methods of segregation and recovery of aluminum alloys from automotive scrap;

Improved remelting procedures and mechanisms of impurity control for efficient recycling;

Characterization of wrought alloys processed from automotive aluminum scrap.

V. Information transfer systems:

The objective is to:

Investigate new sensor principles and display concepts.

A. Sensor materials:

Development of new sensor devices and sensor materials, with sustained reproducible properties, should be supported by basic research efforts in the following areas:

Detection of gases, catalytic phenomena, high temperature electronic and ionic properties, interface phenomena, non-equilibrium processes, magnetism and magnetic devices, piezoelectric materials, optical sensors and fiber optics, physics of small devices, shape-memory alloys.

Materials for lean-burn sensors (high air/fuel ratio);

Factors affecting durability and performance of A/F sensors—structure/property stability in operating environments; improved zirconia and titania based sensors;

Ion permeable or other ion sensitive sensors for oxygen, carbon monoxide, oxides of nitrogen and hydrocarbon.

B. Sensor display materials:

A general need exists for new approaches to information display in the automobiles. Several display technologies are being explored (liquid crystal, light emitting diodes (LED's), electrochromics, thin film electroluminescent, and plasma (gas discharge) panels).

Research opportunities exist for new approaches to optical modulation (passive display) and for high brightness active display systems. Research on thin film systems for new approaches to light generation is indicated.

Liquid crystal displays are presently the *cheapest* and consume the least power (1 uw/cm^2) when compared with other technologies (LED's, electrochromics, electroluminescent, etc.) now under development. They can be made to exhibit color, they can be multiplexed, they exhibit speeds greater than 10 ms, they presently exhibit life-times greater than 5 years and they are commercially available. They suffer, from the standpoint of vehicle use, from the fact that presently available liquid crystal materials can only be used in the range of 0 to 70° C.

Liquid crystals are generally supercooled liquids. Violent agitation will result in crystalization. The nucleation mechanism is unknown. Thus, long range research programs should be supported for the study of the physics and chemistry of liquid crystals (mechanism of ordering, nature of intermolecular forces and the role of molecular structure in determining molecular order). This information should help in the eventual discovery and/or development of new materials. In addition, fundamental phase transition studies and the physics and chemistry of solid surface-liquid crystal interfaces need to be explored, since for the latter it is this interaction that plays an important role in the alignment of the molecules at the inside surfaces of the glass enclosures.

The synthesis of new longer-lasting dye materials is a worthy material research problem.

VI. Electrical, optical and magnetic materials:

The objective is to:

Investigate (for vehicle conditions) optical fiber failure mechanisms, new magnetic materials, microelectronic materials, and packaging materials for semiconductors.

A. Optical fibers and detectors:

The technology of silicate glass optical fibers for telecommunications at 0.90 um, 1.3 um and 1.5 um is developed. Fracture strengths are high and adequate (800,000 psi), adequate polymer coatings exists, and cabling technology has been developed.

Perhaps one of the first large uses of bundles of optical fibers for motor vehicle use will be for illumination purposes. The optical loss requirements for the short lengths required for this use are lower and thus the fibers will be cheaper. As microcomputer feedback systems become increasingly used for many contemplated vehicle information and control functions, metal conductors will have to be replaced by optical fibers to avoid interference by pickup of electromagnetic noise. Therefore, optical wavelengths multiplex loops for several wavelengths must be used.

The basic problems that must be examined are static and cyclic fatigue behavior (failure mechanisms) of glass fibers in complex chemical environments (atmosphere and exhaust fumes), and similar studies of polymer coatings and bundling materials.

Light emitting diodes and detectors (for 0.9 um) are available for telecommunication purposes, and they are in final development for 1.3 um and 1.5 um. As with other semiconductor devices for the vehicle environment, packaging reliability, and failure mechanism studies must be performed.

B. Semiconductor device reliability:

Increasing use of electronic control systems and microprocessor based engine control focuses attention on semiconductor device reliability. Research on new packaging materials which will withstand the chemical, thermal and mechanical stress environment of an automobile will be needed. Solutions to failure mechanisms such as electromigration and interdiffusion, solved for devices not used in harsh environments, must be explored.

C. Electronmagnetic interference phenomena:

Effects of material variables on radio frequency generation or attenuation;

Influence of electrode materials on electrical breakdown in spark gaps;

Effects of electromagnetic phenomena upon performance of IC devices and microprocessors.

D. Magnetic materials/devices:

Higher magnetic energy density materials can lead to redesigned motors and devices for weight and energy savings. More research is needed for more economical versions and improved fabrication of these new materials and for replacement of critical materials (e.g. rare earth cobalt magnets). Research on composition, processing and microstructure control for improved ceramic magnets is another area. New cheaper Fe-Cr-Co alloys are now coming on the same scene and they will be replacing Alnicos; fundamental studies of transformation behavior and microstructure control are required.

E. Microscience; surfaces, interfaces, synthetic microstructures and new materials:

Microelectronics and the drive toward packing more circuit functions on a single crystal chip have brought into sharp focus in recent years the importance of and need for basic understanding of surfaces and interfaces and of the interaction of a programmed array of materials of submicron dimensions on a multilayered substrate. In addition, there is the need to develop new conductor materials in submicron dimensions to interconnect the active and passive circuit elements. The "two-dimensional" nature of the materials results in properties unlike their bulk counterparts and little is known about the behavior of these materials.

The discovery of the quantum nature of properties and device potentialities of synthetic microstructures of semiconductors (e.g., composition modulated alloys with features <100A) have recently stimulated the synthesis of submicron structures of alloys to enhance physical and mechanical properties. Basic research opportunities in the synthesis of modulated structures of metals, dielectrics, and metal-dielectric materials exist.

CONTROL SYSTEMS

INTRODUCTION

Long-term goal:

Increase the knowledge base in systems and control engineering necessary to define overall automotive system configurations.

The basic research needed to accelerate the development of advanced vehicle control systems is outlined. A systems engineering approach must be utilized to achieve a vehicle whose components support and complement each other to the fullest possible extent. Basic research advances in systems engineering are needed to provide the underpinning necessary to integrate advanced control systems into vehicle design.

The area of control systems in this report includes the broad interpretation implied by systems science and engineering. This includes suitable control-oriented models for the processes, actuators, and sensors, optimization, multivariable control system synthesis, human-machine interfaces, failure monitoring, and system integration issues.

Advances in control system design methodology, coupled with low cost digital electronics, offer the potential for realizing new concepts (e.g., multi-fuel engines, hybrid propulsion) for improvement in fuel economy, emissions, and vehicle performance.

The overall research must simultaneously address the following system issues:

Specifications.
Objectives.
Constraints.
Effects of Dynamics.
Control System Configuration.

It is evident from the above that relevant advanced research in control engineering for future automotive vehicles must involve a blending of physical and hardware issues, in terms of their mathematical modeling, systematic optimization and digital control synthesis to define superior control logic structures for improved performance. Because automotive systems are characterized by a high degree of dynamic uncertainty, the development of reliable control systems structures is a challenging task, since the automotive control problem is very complex due to the inherent multi-user, multi-mission and changing environmental conditions.

Fundamental advances are needed in the following research topics:

Experimental and analytical models of the diverse physical phenomena in the entire automotive system;

Sensing and actuation principles;

Model validation methodology and experimental verification of concepts;

System integration methodologies;

Multivariable control systems methodologies.

In view of the system engineering approach needed, strong interaction is essential between the research on Control Systems and the other research areas (such as Combustion, Electrochemistry, Materials Science, Surface Science and Catalysis) especially in the fields of sensing and models of physical phenomena.

I. Automotive modeling research:

The objectives of control systems modeling research are to:

Identify key physical phenomena and define analytical dynamic models for control system needs.

Validate models through systematic experimental approaches, and investigate methods of aggregation of submodels.

The automobile as we know it today is a well-developed and mature technological product. It is comprised of a great many subsystems such as powerplant, driveline, chassis, suspension, etc. which have been carefully integrated over the past decades to produce a relatively comfortable, durable, reliable and low cost form of transportation. Nevertheless, many elements relating to the detailed dynamic interactions of the various subsystems, and the overall system design and control issues that derive from these considerations, remain unexplored.

In conducting a program of basic research in the systems engineering and control area, one must recognize the unique aspects and requirements imposed on the automotive system. These include:

The wide range of operating conditions and human operators to which the vehicle is exposed.

The largely transient (non steady-state) mode of operation which characterizes the typical use of the automotive system;

Complex behavior of some of the major components, e.g., internal combustion engine, tires, vehicle structure, etc.;

The multivariable and interactive nature of the major subsystems in determining overall system performance; for example, the selection of powerplant, driveline, chassis and tires in determining drive quality and ride;

The variable time scales over which many of the important phenomena occur; see for example, Table I for the wide range of time constants associated with today's vehicle system;

The natural and unavoidable variability associated with components, subsystems and systems produced in quantities of millions of units per year.

Fundamental underpinning of a program designed to address basic issues in system engineering methodology and control technology, as applied to the automobile, requires a thorough and quantitative understanding of the behavior or the elements of the system. The time constants involved in automotive processes cover an extremely wide range as illustrated in the following table.

TABLE I.—*Approximate time constants associated with vehicle and internal combustion engine dynamic processes*

Processes:	*Time constant, seconds*
Combustion process chemical kinetics	$<10^{-3}$
Ignition system and flame propagation processes	10^{-3} to 10^{-2}
Fuel and air induction processes	10^{-2} to 10^{-1}
Engine, drivetrain, and vehicle inertia responses	10^{-1} to 10^{0}
Engine thermal capacitance response	10^{2}
Changes in altitude, ambient temperature and humidity	10^{3}
Degradation in engine characteristics	10^{7}
Vehicle lifetime	10^{8}

The fundamental purpose of modeling is the development of a basic understanding of the process being modeled. It is only through the development of such understanding that system design can be approached in a manner consistent with goal specifications. However, in the development of models it is necessary to recognize that detailed first-principle models may not be directly useful to the control (systems) engineer. In this regard models for very detailed system simulation are generally nonlinear in nature and have other complexities. Simpler linearized models are used for understanding dynamic interactions in a narrow range of conditions. Both types of models have their uses.

In particular, models of sufficient complexity to stimulate system response are key to evaluating system performance and controller performance under a variety of conditions. Such models also provide a starting point for the development of the more aggregated models that may be used for the mathematical analysis of control systems. By far the greatest research need is in the area of suitable dynamic models for system simulation and control system design.

A. Basic research modeling:

The challenge in control system modeling is to derive as simple a model (structure and parameters) as possible that captures the physical behavior important to system studies. The term "aggregation," used in the following discussion, refers to the systematic process of reducing more complex models to simpler representations while maximizing the capability of the simplified models to reflect the physical phenomena of importance to the (control) system study.

1. Physical phenomena modeling.—An important aspect of a successful modeling approach is the need to describe a subsystem in the overall context of control of the entire automobile. It is vital that the interaction between the various subsystems be understood and characterized. It is crucial that this work be closely allied with that of other research areas, e.g., combustion, catalysis, etc. The challenge is to identify key physical phenomena and define the structure of the models adequate for control systems needs. Fundamental experimental work should be a significant factor in this effort.

2. Aggregation of detailed mechanistic models.—Models of a very detailed nature exist for certain state-of-the-art components, e.g., NO_x combustion kinetics. Additional models of this type will be forthcoming from other research areas of the technical framework. Systematic aggregation procedures that will generate simple models adequate for control studies which exploit the information contained in the more detailed models should be investigated and developed.

B. Total systems methodology.

Modeling approachs which include the interaction of the driveline system with such other vehicular subsystems as suspensions, steering, braking, and body structure should be investigated. Control of the interactions between these systems will have importance as vehicles become smaller and lighter.

1. Validation.—It is absolutely essential that improved methods of vehicle validation be developed. A key issue would be the systematic use of experimental approaches to validate both model structure and parameter values.

2. Widely separated time constant models.—The range of the time constants in the automotive control problems covers 11 orders of magnitude (see Table I). Very difficult questions are involved in understanding the appropriate array of models required to handle the spread of the dynamics inherent in this system.

3. Aggregation vs. accuracy.—In general simplification of models results in less accuracy. The challenge is to develop systematic procedures for controlling the trade-off between complexity and accuracy and for defining model structures consistent with a specified level of accuracy.

4. Combined physical principle and empirical models.—Since the availability of completely analytical first principle models is minimal, there is a need to develop systematic procedures to integrate analytical and empirical approaches. The desired result would be a modeling procedure involving a minimum amount of experimental data consistent with a desired level of modeling accuracy.

II. Sensors and actuators:

The Objectives are to:

Investigate basic physical phenomena leading toward indentification of sensor principles.

Investigate the dynamical stochastic characteristics of new sensors for automatic controls and laboratory use.

Develop basic principles for understanding the interdependency between actuators and physical requirements of systems.

At present the control designer is attempting to accomplish goals where the index of success involves knowledge of states (variables) that can not be sensed on-board the vehicle in real time at reasonable cost, e.g., emissions, driveability, etc. It is easy to appreciate that control goals could be accomplished more easily if the relevant quantities could be directly measured, thus serving as inputs to the controller.

A. Sensors:

To this end a systematic investigation is required of basic physical phenomena leading toward identifying sensor principles likely to lead to low cost and reliable onboard sensors.

Simulation models would be fruitful tools for identifying where sensor are likely to have significant payoff. For any given sensor, detailed models of their dynamic and stochastic characteristics are crucial not only for the development of the necessary control logic, but in addition for the development of "smart sensors," failure detection, and a failure management system.

In addition to research related to low cost and reliable sensors to be used on-board the automotive vehicle, there is need for sensors to be used for laboratory and test-cell measurements. These laboratory sensors are necessary to validate dynamic models. Much of our current ignorance about the significant dynamics of emissions are due to the fact that laboratory sensors are not available to measure key emission variables in rapid time scales.

B. Actuators:

There is very little basic research that deals with actuators per se. Rather, the basic research directions deal with the identification of actuation variables for improved performance. In other words, basic research is needed to identify the degrees of freedom (or control variables) that should be dynamically coordinated by the control system for improved performance of the entire power train. Thus, there is a strong interaction between the selection of these actuation signals, the powertrain dynamics, (including exhaust cleaning devices), the performance, and the control system design. Such interactions will have to be modeled.

Once the actuation signals have been established, then the physical actuator characteristics that are necessary for implementation should be assessed. There are important trade-offs that have to be carried out relating the cost, reliability, dynamic characteristics (bandwidth), and degree of nonlinearity (including dead-zone and hysteresis effects) of such physical actuators upon the overall improvement in performance. Such trade-offs are always part of careful systems engineering research; improvements in methodology for relating actuation and actuator models to hardware complexity and to system performance are needed.

III. Vehicle integration and control system design methodology:

The objectives are to:

Investigate methodologies for integration of subsystems models.

Advance the theory of reliable control system design.

Advance fundamental knowledge of man-machine interfaces needed to improve automotive control systems.

Improve static optimization methodologies by understanding the effects of random variables.

Improve numerical computation techniques enhancing dynamic systems modeling.

The automobile is a complex system which combines powerplant, exhaust treatment, driveline, chassis, and even structure into an integrated whole. As the level of sophistication in vehicle technology increases, the interactions among the individually complex subsystems need to be understood. A cornerstone of the control and vehicle systems area is a methodology for integration of these subsystems in a coordinated design process that will result in smaller lighter weight vehicles that achieve the performance and personal comfort levels of contemporary vehicles.

The complexity of the integrated vehicle implies that numerous variables will be sensed, manipulated by on-board computers, and used to control an array of hardware components distributed throughout the powerplant, exhaust treatment devices, and other subsystems. This type of structure is referred to as a multi-variable control system. Another class of system discussed in this section is adaptive control systems, which have the potential for maintaining performance under varying operating and environmental conditions, fuel properties, component aging, etc. over the longer periods of time indicated in Table 1.

The use of digital electronics (microprocessors) opens up new avenues for the implementation of superior control system designs; on the other hand, it poses theoretical and design challenges requiring basic research related to the most appropriate way of incorporating computational constraints (in terms of speed, memory, accuracy) into the very formulation of the digital control problem. The introduction of more actuation and sensing devices in the control system for performance improvement, raises fundamental issues in the control system reliability, since many more components (actuators and sensors) which can fail are introduced. Thus, the traditional notions of control system design have to be extended so as to include real time failure monitoring, failure isolation, and reorganization of the control system following a (hard or soft) failure for adequate performance and for a minimal "limp home" capability. This calls for significant advances in the theory of reliable control system design.

A. Human-machine control interfaces:

The human acceptance of the automobile, in terms of driveability, ride quality, etc. and safety of the driver/vehicle system are important in establishing specifications for automotive control systems. Such considerations are particularly important as engine/transmission controllers evolve towards direct acceleration/velocity command systems (in contrast to the present indirect control through air flow manipulation). Driveability is a key issue for hybrid propulsion systems, where multiple power sources and/or storage devices must be coordinated to yield an acceptable response.

Human-machine systems considerations are also important to design for ride quality, handling safety, and driver information systems. As weight and structure are reduced, active control technology may be used to minimize adverse vibration and directional stability problems. The potential also exists for display of information to the drivers regarding means for minimizing their fuel usage, vehicle diagnostics, and traffic control information oriented towards smoothing the driving cycle.

In summary, basic research is needed where human-machine system interfaces are important, and the constraints on system performance are imposed by limits on human performance and tolerance. Research will provide foundations for establishing requirements for automotive control systems.

B. Static optimization research:

The methodology of using nonliner programming techniques to optimize in a steady-state sense the operation of an engine using experimental data (engine maps) is well established. Typical performance criteria include minimization of consumed fuel subject to emission and other physical constraints. Once models are established and it is experimentally verified that they include random effects. research in the area of optimization of such stochastic static models is needed. The reason is that the research to date has ignored random variations inherent in static optimization. Such random variations arise from normal variations among engines and environmental variables (e.g., temperature, altitude, fuel quality, etc.). A random (or stochastic) approach to the steady state of optimization problem should yield more insight into the limitations of static optimization, and provide a better interface with control designs based upon dynamic optimization.

C. Dynamic optimization research:

Recent experimental research has shown that decreased fuel consumption over the EPA cycle can be achieved when the control sytsem is designed to accommodate system transients. Encouraging results point to the long-range potential for control systems optimized to include important system dynamics.

The dynamic system optimization should be based on the control-oriented, nonlinear models described previously, and well-established methodologies for computing the required control functions. Due to the significant computational requirements associated with such procedures, refinements in numerical methods and systematic techniques for translating open-loop controls into feed-back structures will be useful.

Extensions of results for the optimal control system should include analysis of the sensitivity of the optimal solution and tradeoffs among performance, fuel economy, and emissions.

D. Control synthesis research:

Research in this area should lead toward the development of techniques for synthesizing control systems that retain the performance of those resulting from the optimization process, yet may be implemented realistically in diverse user population situation. Relevant issues include:

The impact of additional sensors and actuators upon complexity and performance; system simplification through linearization and decomposition through time scale separation and weak coupling effects; robust and adaptive control designs which are insensitive to disturbances and system parameter changes; and fail-safe system reliability.

All of these investigations will have a significant impact upon the architecture of the microprocessor based automotive digital control system.

TRIBOLOGY

INTRODUCTION

Long-term goals include:

Understanding the surface science of tribological materials

Improved knowledge of the physics and chemistry of solid and liquid lubricants and the chemistry of their interactions with environmental constituents.

Tribology is an interdisciplinary research field in which the adhesion, friction, wear and lubrication of solid surfaces in solid state contact are studied. The practical areas involving tribology include such things as mechanical bearings, gears, seals and all situations where two solid surfaces are in contact and some relative motion is imposed between those surfaces. Adhesion and lubrication of solid surfaces is very important in certain instances where motion is not necessarily involved, as in electrical contacts.

Tribology, as a science, emerged since the end of the Second World War. Prior to that time some basic research was conducted in research laboratories in this country and abroad, principally in England. However, most of the activity in the field was empirical in nature, components were tested and evaluated.

The automobile contains literally thousands of systems which involve tribology. Major systems are contained in the engine, transmission, differential, drive mechanism, wheel assemblies, and steering mechanisms. Signficant energy is expended in the friction between tires and road.

Many of the materials that are currently used have not been specifically formulated or manufactured for use in tribological systems. That is, the components have not been specifically designed to have low adhesion, friction and wear properties. Basic research should result in an improved base of scientific knowledge for use in the design and selection of tribological system for automotive applications.

There are a host of fundamental concepts which must be addressed in the field of tribology. The chemical aspects involved in tribology have been studied by researchers in the lubrication manufacturing and production laboratories, such as oil companies and oil additive manufacturing organizations and by the automobile manufacturers. Very little research has been conducted in the area of surface physics.

I. Tribological materials:

The objective is to:

Improve understanding of the tribological characteristics and behavior of materials, including new alloys, polymers, ceramics and composites.

New materials are needed for friction and wear applications in future automotive components. These materials include metals, alloys, polymers, ceramics and composites as well as carbon structures. Improved understanding of the effect of various parameters on the tribological behavior of lighter weight metals is needed to enhance incorporation of these materials in automotive tribological systems. It is known, for example, that aluminum is a very poor friction material and care must be taken to insure minimum adhesion, friction and wear. Fundamental research on adhesion, friction and wear properties of the lightweight alloys including aluminum and magnesium is warranted.

A. Tribological alloys concepts:

From a fundamental point of view, alloys could be "tailor made" to suit the particular tribological application and thereby achieve a minimum of friction and wear. Very little effort has been put forth to formulate specific alloys and to develop the chemistry and physics of alloys specifically for tribological needs. Frequently tribological alloys have been selected because they may have the proper mechanical properties. Studies could include:

The chemistry of alloys in terms of tribological characteristics;

Correlation of fundamental chemical properties of materials with variation in tribological properties.

B. Tribological polymers:

Polymers are attractive, because of weight considerations for use in automotive applications as well as for those areas which involve tribological behavior. Many polymers have good lubricating properties when in contact with other materials such as metals and alloys. Polymers such as polytetrafluorethylene and the polymides which have inherently desirable friction and wear properties have been studied. These polymers are relatively expensive. High density polyethylene has shown promise in artificial prosthesis and may be useful in many tribological automotive applications. Further research is needed to characterize the friction and wear properties of polyethylene. The influence of polymer properties on adhesion, friction and wear for polymer-polymer and polymer material contents should be investigated for polyethylene and other polymers. The fundamental role of additives in polymer adhesion, friction and wear behavior needs additional study.

Polymers may also be used as solid lubricants when films are deposited on surfaces. The chemistry of adhesion of polymers to metals for tribological applications is poorly understood. Adhesion of the polymer to the substrate surface is very important. Plasma deposition techniques such as sputter deposition show considerable promise for future use in automotive areas. Studies could include:

The role of molecular characteristics of polymers affecting tribological properties;

Tribological characterizations of the role of additives;

Molecular level mechanisms (physics and chemistry) of adhesion, and deposition of polymeric films on substitutes.

C. Composite tribological systems:

Composite materials could be utilized in the formulation of materials for piston ring construction, for gears, seals, and in brake and clutch materials. While there is a considerable amount of materials science composite research for structural members of systems, very little research has been conducted to characterize tribological composites.

There is a need for formulation of self-lubricating composites. In addition, there is a need for development of composite materials having inherently high friction properties but low wear characteristics for brakes and clutches. Carbon materials are of interest because the friction and wear characteristics may be modified and controlled by incorporating additives. Studies could include:

Characterization of composites incorporating lubricants;

Investigation of tribological properties of carbon composites.

D. Tribological ceramics:

Ceramics could be used for those tribological applications where corrosion is a problem and for applications where temperatures are in excess of limits of effective lubrication. Areas where lubricant additive or environmental factors contribute to corrosive mechanical wear of metals and alloys are also of potential interest. Studies could include:

Investigation of tribological properties of ceramics at high temperatures;

Characterization of the tribological properties of ceramics.

II. Lubricants:

The objective is to:

Improve methods for characterizing the physical and chemical properties of liquid and solid film lubricants.

Lubricants are the key to many extremely important tribological systems and a wide variety of lubricants are required for various automotive applications. These vary from mineral or synthetic oils for transmission, to solid coatings and lubricants such as graphite. Virtually all lubricants contain additives, synthetic or natural, to enhance the tribological characteristics for that particular use. Fundamental knowledge of lubricants has increased yet much remains to be learned about the influence of molecular structure on tribological behavior. The effect of chemical interrelationships between additives and tribological properties are not well understood.

A. Liquid lubricants:

Synthetic lubricants are used in aircraft application because of their superior performance at high temperatures where greater thermodynamic efficiency may be achieved. Such lubricants maintain their viscosity over a broader temperature range than mineral oil lubricants. Because of these properties automotive uses are being developed. Detailed basic studies on the influence of molecular structure of synthetic lubricants are needed. Further progress can be made if molecular characteristics can be correlated with desirable lubricating properties. The characteristics of synthetic organic molecules which are desirable for lubrication of automotive components is not known.

The basic chemical and physical interactions of simple mineral oils with solid surfaces such as the iron and aluminum are poorly understood. Surface physics and chemistry studies would reveal the interactions of both natural and synthetic lubricants with metals in both the oxide free and oxidized state.

Both synthetic and natural lubricants are compounded from base lubricating fluids, anti-oxidants, anti-wear agents, anti-foam agents, etc. Unfortunately, the role of the interaction of a single additive with the solid surface is not well known. The interaction of combinations of additives with the base lubricant and with themselves is poorly understood. Each of the individual classes of materials used as additives to a lubricating oil should be studied in a manner independent of the actions of the others. For example, the influence of a anti-wear additive in a simple mineral oil should be explored and the surface characterization conducted. Once surface characterization with analytical surface tools has been accomplished and the system understood are defined, then the interactions of additional members of that particular class of additives could be determined. Once one particular additive system is very thoroughly understood the effect of a second additive and in the same fashion a third additive can be explored.

This knowledge combined with the knowledge of the effect of molecular structure would provide guidance for formulation of superior lubricant. Mechanical activity frequently produces enough energy in the interfacial region to breakdown the molecular.

A polymeric structure develops from the radicals generated due to the mechanical activity at the solid surfaces. The result is referred to as a friction polymer. These polymers have been observed in lubrication systems involving conventional mineral oils.

Such materials in synthetic oils need to be identified and studied. It is well known that certain metal surfaces catalyze the formation of friction polymers and others do not. Surface metallic coatings or inclusion of small concentrations of alloy constituents which either retard or promote friction polymer formation might be utilized as a substitute for conventionally used additives.

Friction polymers, however, must be generated in a controlled manner, and the chemistry of interaction at the solid surface and the role of the metal in catalyzing the polymer of film formation must be understood.

B. Solid film lubricants:

There are a number of ways in which solids are used as lubricants, for example, graphite is used for odometer cables. Graphite and molybdenum disulfide are incorporated into composites, and graphite can also be utilized in the presence of a grease. Solid lubricants can also be thin films applied to surfaces. The science of solid film lubricants is presently well developed. However, when these materials are incorporated into composite structures the mechanisms of lubrication are not known and further research is needed.

Solid film lubricants have been applied to surfaces as thin coatings to provide lubricating films in the dry state. One of the difficulties encountered has been in gaining good adhesion of solid film lubricants to the solid surface. A considerable amount of research has been conducted in recent years using ion plating and sputtering for depositing thin film lubricants of soft metals, inorganic compounds such as molybdenum disulfide and organic compounds such as polytetrafluoroethylene. Extremely thin films can be utilized, and a 2,000 angstrom thick film of sputter deposited polytetrafluoroethylene is a very effective lubricant. Research is warranted to better understand adhesion mechanism of polymer films to solid surfaces, and to characterize these films. Surface analytical tools are available to pursue this area of research.

Solid film lubricating material in oils necessitates colloidal size particles and the use of detergents and dispersants to achieving good suspensions. Colloidal chemistry will assist in understanding methods for maintaining suspensions as well as the complex interactions between the colloidal material and the solid surface being lubricated.

III. Tribological environment:

The objective is to:

Understand the effect of chemical interactions of environmental constituents upon tribological behavior of systems.

The environment in which tribological systems operate is of considerable importance. The operating environment may contain water vapor, oxygen, combustion products, trace of components of atmospheric pollutants and road contaminants which have potential for chemical modification of the system. For example, the presence of oxygen and water vapor dissolved oils plays a very marked role in the behavior of additives on solid surfaces. Thus, the chemical composition of the environment can change the surface chemistry and the friction and wear characteristics. It is important to understand the role of environmental constituents and their interaction with solid surface and the lubricant system.

Temperature is an important parameter of tribological systems. Temperature affects fundamental properties such as viscosity and the rate of lubricant chemical reactions. Temperature effects may exist because of the location of the tribological system; localized high pressures may also result in high transient temperatures in thin films of lubricants. The effect of temperature. Further investigation is needed to clarify the impact of temperature upon wear and friction. Studies could include:

The influence of chemical and physical environment on the interactions of basic lubricant structures in both mineral and synthetic lubricants;

Role of temperature in the surface chemistry of lubricated surfaces and determination of the significance of temperature on the friction and wear of solid surfaces as a friction of particular lubrication systems.

ACOUSTICS AND VIBRATIONS

INTRODUCTION

Long-term goals:

Understanding of the sources of noise and vibration and their transmission paths to the human receiver.

Improved analytical methods for predicting the sources and transmission of noise and vibration in the initial stages of vehicle design.

Improved measurement procedures to identify and quantify the sources of noise and vibration and the transmission paths.

Better understanding of polymeric, composite, and lightweight materials and structures as these relate to noise and vibration control.

Automobiles, vans and other lightweight road vehicles, although not as noisy as trucks and buses, are by virtue of their greater number significant contributors to the noise environment. Noise and vibration can cause driver fatigue. For many users a quiet, vibrationless vehicle is synonymous with high quality. Sound and vibration can signal users that the vehicle is operating properly, or that something is amiss. Very subtle characteristics of sound, which are poorly understood, can spell the difference between a feeling of well-being or a sense of concern to drivers. Improved techniques for diagnosing sound and vibration problems have great potentials for new developments in automotive manufacture, design and repair.

Although fundamental knowledge of vehicular noise and vibration exists, the present noise control technology is very limited and difficult to apply.

Almost every aspect of vehicle design has implications for acoustics and vibrations. For example, differences in materials, in sizes and shapes of components, in types of tires and suspensions, and in engine modifications all affect the acoustics and vibrations.

Some aspects of vibration analysis such as used for structural fatigue predictions have been applied during the conceptual stage of design. However, design engineers do not know how to account for or control structure-borne and air-borne noise in the early stages of design.

Exceptions do exist in rare instances, but noise is handled with incomplete theories and questionable procedures. Thus, after prototypes are built, much effort is spent on reduction of noise and vibration with empirical methods; then changes in basic design are often impossible to make. Good predictive techniques and guidelines are needed prior to model construction. Better techniques for measurement and data analysis are also needed to reduce the great effort spent on noise and vibration problems in the prototype stage of design.

Increased acoustic knowledge is essential if significant reductions in the levels of noise and vibration are to be achieved, especially with the advent of lighter weight vehicles and lighter weight, higher speed engines. The research must take cognizance of the vehicle as a system. System concepts are important so that solutions to noise and vibration problems are compatible with safety, fuel economy, reliability, performance, durability, emission control, and user preferences.

Solution of noise and vibration problems for vehicles requires an understanding of the sources of acoustical and vibrational energy, the paths by which this energy is transmitted and the response of the human receiver.

I. Mechanical noise and vibration:

The objectives are to:

Improve measurement techniques and methods for analyses of acoustical paths in structures.

Improve prediction of acoustical properties of structures and cavities for use in dynamic modeling of noise generation of structural components, tires and passenger compartments.

The amount of energy required to produce vibrations is directly related to the mass of a body. As cars become lighter, new materials will be used, and new concepts for the frame and other structural components will be developed. The higher strength steels will have different acoustical transmission properties, members such as doors will have lower mass, and acoustic disturbances. New methods for assessing the acoustical and vibrational properties of structures in the design stage can result from application of fundamental knowledge. Basic research on noise and vibrations in structures and on the transmission of noise in complex structures will lead toward new acoustical design concepts.

A. Cavity noise and vibration:

Nearly all the sound and vibration to which occupants of a vehicle are exposed, and part of the exterior sound, are significantly influenced by the acoustical characteristics of the structure. The structure acts as a transmission path for vibrational energy from the engine, suspension system, and other sources. Aerodynamic noise is transmitted through the structure to the interior of the vehicle. Acoustical cavities determined by the shape of the structure that are of importance are the passenger compartment, engine compartment, and the partial cavity between the vehicle and the road. The theory of conventional room acoustics is inadequate to predict the acoustical behavior of these cavities.

Transmission of sound through the structure between the cavities needs to be better understood. Appropriate theory and analytical techniques do not exist for the coupled panel-cavity modes, their relation to exterior airflow, and the effect of window openings.

Vehicle designers need tools that will allow them to predict structural transmission and radiation of sound and vibration with greater accuracy. The energy transmission is important over a very wide range of frequencies. Different analyses and theories will probably be required for the low, mid, and high frequency portions. Studies could include:

Methods of analysis and measurement techniques for determining acoustical and vibration paths in vehicle structures;

Develop better models for junctions between structures;

Measurement methods and models for the acoustical properties of cavities at low, mid, and high frequencies.

B. Power transmission induced noise:

Noise and vibration of the transmission and driveline system is a major area of interest in automotive design due because of decreased size and weight. Changing designs require increased understanding of the sources of noise and vibration in the driveline components and of the coupling with the engine and each other. Certain phenomena associated with transmissions, for example, cannot be excited nor studied without the mechanical coupling of the transmission to the engine.

Improved measurement methods, modeling, predictive capability, and a better understanding of the mechanism of noise and vibration generation should be goals of research. Studies could include:

Investigation and modeling the sources of noise and vibration within and between the drivetrain components and of the transfer of vibrational energy to the vehicle.

II. Combustion process noise:

The objective is to:

Improve analytical capability for predicting noise sources and emissions from engines.

One of the predominant sources of noise and vibration in automobiles is the engine. This is especially true for diesel engines. Most urgently needed are guidelines which will enable engine designers to deal with noise early in the design process when new designs are being evaluated and compared. In engine design projects, noise is generally dealt with empirically in the prototype stage. Usually this is too late to make major modifications to the engine structure.

A. Combustion induced noise:

Engine noises and vibrations can come from combustion, mechanical impacts, and unbalance. They are transmitted to the vehicle's interior by air-borne and structure-borne paths and are radiated as acoustical energy to the exterior. Although some progress has been made recently in the development of improved methods of measurement and analysis of engine noise, considerable effort is needed to establish experimental methods and analyses for sources, transmission paths, and radiation properties.

With the need to improve fuel efficiency and to reduce the weight and size of engines, there will be an increase in the number of new engine projects, including continuing efforts with alternative engines (electric, stirling, turbine, etc.). Studies could include methods of vibration and acoustic measurements and analysis of data for:

Transfer functions (force and moment functions, use of Fourier, coherence, correlation techniques) for inferring source and path characteristics;

Acoustic and surface intensity methods related to acoustic radiation;

Relations of structural characteristics to the vibratory input and damping at junctures between components.

Studies could also include theoretical models for:

Combustion sources (pressure-time characteristics and relation to operating and acoustic parameters);

Mechanical impacts (e.g., piston slap, valve trains, injectors);

Transmission of vibrational energy to the vehicle, to radiating surfaces of the engine itself, and to and from the power train;

Damping and radiation efficiencies;

Prediction of engine noise using the various models above.

B. Combustion stream flow noise:

The exhaust is potentially the loudest noise source of a vehicle. Intake of air to the fuel system produces less noise but it is a significant source. Because pressure drops in the intake and exhaust system decrease engine efficiency, the acoustic design must be integrated with the overall design of the carburetion, emission control and exhaust system. Acoustic models should be integrated with other physical models of the system. Study of the exhaust system is complex because of the temperature and pressure gradients encountered. Studies could include:

Determination of the nonlinear relationships between large and amplitude unsteady pressure fluctuations, thermal gradients, and the performance of the exhaust and intake systems;

Modeling of surface noise radiation from intake and exhaust systems.

III. Flow induced noise.

The objective is to:

Predict noise emission characteristics of mechanically induced flows and velocity.

Develop new concepts for predicting low and moderate aerodynamic flow noise

Fluids in turbulent motion under some conditions produce vibrations in the audible range. This noise is associated with the operation of engine cooling fans, heating and air conditioning blowers, and to a lesser extent with the flow of air around a moving vehicle as well as with the interactions of air with tires and pavements. Superior acoustical performance should result from improved analytical understanding of the noise producing mechanisms and integration of this knowledge into the design of automative systems.

A. Mechanically induced flow noise:

Various kinds of fans and pumps are capable of generating noise in vehicles. These include the engine cooling fan, the alternator fan, the blower used in the heating and air-conditioning (H–A/C) system, the air-conditioning compressor, the air-injection pump for adding air to the exhaust, the water pump, the power-steering pump, and the engine turbocharger. The engine cooling fan can be a major source both of exterior and interior noise. The H–A/C blower can be a major source of interior noise, sometimes to the extent that there is speech interference. Noise from the cooling fan can be cut off through the use of a thermally-controlled clutch; however, intermittent operation of a noisy fan can still be a source of annoyance. Studies could include:

Investigation of the noise mechanisms associated with different types of fans, pumps, and turbochargers as they are used in a vehicle with attention to their interrelationships with performance.

Development of acoustical models which can be used in the design process with design objectives of minimum noise with optimum performance.

B. Aerodynamic flow noise:

The noise induced by airflow can be experienced both inside and outside the vehicle. The "wind rush" noise heard inside a vehicle moving at higher speeds is probably the best known effect. Even with the windows closed, this noise can sometimes be loud enough to cause speech interference.

Sound inside a vehicle from airflow outside the vehicle results from the pressure fluctuations in the separated turbulent flow regions.

Exterior noise due to airflow has recently been recognized to be significant; and at higher speeds, the noise level with some vehicles has been shown to be comparable to that of tire noise.

Also, annoying tonal effects can sometimes result from the frontal grille work, mirrors, luggage racks, and other objects protruding into the flow. These tones can be heard both inside and outside the vehicle but are generally most annoying to the vehicle occupants.

Disturbing noise effects can sometimes result from airflow past an open window or sunroof, particularly when a resonant coupling occurs with the cavity formed by the vehicle interior. Another area of interest is the relation of the noise due to airflow around a vehicle to aerodynamic drag. Studies could include:

Investigation of the mechanisms of noise generated by airflow around the vehicle as a function of parameters describing the vehicle shape and configuration.

C. Tire noise and vibration:

Tires are one of the most important sources of environmental noise and automotive interior noise and vibration; yet they are perhaps one of the least understood. Although many noise and vibration models have been proposed, there has been little experimental validation of them.

There does not yet exist a body of empirically validated technology which may be used to relate tire and pavement system parameters to noise and vibration levels.

The development of this technology requires an understanding of the excitation, dynamic response and acoustical radiation of tires and the transmission of vibrations through the suspension system and vehicle structure.

This area of research must be concerned with the quantitative interrelationships between objectives for noise and vibration and for many other performance requirements for the tire and suspension systems; e.g., directional control of the vehicle, durability, safety, wear, reduced rolling resistance, and avoidance temperatures at high speeds.

The evaluation of the role of the tire in noise and vibration phenomena must account for dynamic and complex effects, such as the excitation forces at the tire pavement interface.

These effects involve road surface irregularities and textures and the vibration of the tread elements tread band, and sidewalls in the vicinity of the contact area.

The complex behavior of the tire in relationship to the road and to the vehicle itself as characterized by the dynamic impedances at the axle needs to be better understood and modeled.

Standard road surfaces for tests cannot be specified until the interactions in the contact area are better understood.

Identification techniques need to be applied to understand and quantify tire noise mechanism and their relation to tire design, road surfaces and operating conditions. Better structural mechanics models of tires and suspension systems are needed to relate tire design parameters to the noises and vibrations of the tire and vehicle system.

Such models are expected to be of use also for treating the other tire design criteria already mentioned. Complex linear and nonlinear models are believed necessary for representing the many complicated phenomena. The use of damping in these models is expected to be difficult, but important.

The mechanics of polymeric compounds and reinforcing materials as applied to tires and isolators in vehicles is not understood adequately to allow accurate predictions of performance models. Studies could include:

Analysis of tire noise mechanisms and their relations to tire design parameters, road parameters, and vehicle operating conditions;

Characterization of road irregularities that pertain to vehicle noise and vibration;

Analysis and quantification of how the textures and macro profiles of pavements react with tires to generate noise and vibration;

Investigation of analytical dynamic tire models describing the dynamic interaction between the vehicle and the pavement, predicting noise and vibration as a function of tire design, road parameters, and vehicle operating conditions;

Prediction schemes for dynamic modules, non-linear properties, and directional damping of engineering structures and composites as a function of polymeric compounds, reinforcing materials, geometric parameters, strain and temperature.

IV. Noise and vibration control materials:

Noise and vibration control materials are utilized at many locations in vehicles, engine mounts, suspension bushings, shock absorbers, tires, hood blankets, head liners, floor mats, panel dampers. Many pertinent details of the mechanical properties of the materials now in use are not known, and thus the accurate quantitative design of system and structures using these materials is not feasible. The stick-slip phenomenon which manifests itself in brakes, tires, and body squeaks could probably be controlled through a better understanding of how material properties affect it. Research into the possibilities for controlling vibrations through special combinations of newly developed or discovered material properties needs to be explored.

The dynamic behavior of polymeric materials is often nonlinear and time-dependent and related to temperature, shape, frequency, state of stress, and rate of loading. These factors are presently evaluated empirical and require full-scale vehicle testing. Theory and analytical techniques need to be improved to utilize these material properties in such a way that their performance in a vehicle can be predicted. Studies could include:

Transmissibility of vibrations as a function of dynamic properties of elastmers and other materials;

Effects of acceleration and frequency of vibration, damping characteristics, and material strength properties in noise and vibration control materials;

Analytical techniques and theories to predict acoustical and vibration behavior of polymeric materials;

Identification of those material characteristics likely to lead to successful use and synthesis of new materials having the characteristics;

Degradation of polymeric materials through fatigue failure or environmental agents.

SURFACE SCIENCE AND CATALYSIS

INTRODUCTION

Long-term goal:

Understand at a molecular level the location and dynamics of events involved in heterogeneous catalysis and interfacial phenomena encountered in automotive engineering.

Surfaces, or more exactly interfaces, are the seat of communication between any two phases. Hence, surface chemistry pervades the automotive industry since adhesion, lubrication, fuel modification, exhaust control, corrosion, and plating all involve surfaces. Several of these applications involve both surface science and heterogeneous catalysis. In the future, surface science and catalysis will play an increasing role in automotive research and development.

Seven broad research areas have been identified. Each area has short term and long term components but all must be supported to meet technological needs since they stimulate invention and innovation.

Naturally, the perceived needs of the automotive industry should be considered in a significant fraction of the work that is supported, but there is no ready formula for determining the appropriate fraction.

As an example, consider the work initiated in several laboratories, where beams of molecules in selected energy states are directed toward catalytic surfaces and the products are caught at various angles of scattering and energy analyzed.

This type of state to state chemistry has been practiced for some time in the gas phase. Its extension to surface catalyzed reactions may appear esoteric at first but applications are possible. Thus the kind of energy required for activated chemical processes may well depend on the chemical nature of the surface.

More importantly, the partitioning of the heat of reaction between the solid and the products may determine the stability of the catalytic material. Indeed, the phenomenon of catalytic etching in which commercial platinum catalysts are slowly destroyed when ammonia is oxidized over their surface has been known for over sixty years but is still uncontrolled because of lack of understanding.

Surface science, i.e. surface physics and chemistry, provides the central methodology of heterogeneous catalysis and the rallying point where engineers, chemists, and physicists can meet to solve problems in the eight areas noted above.

But heterogeneous catalysis is a coherent discipline that also relies on inorganic chemistry, colloid chemistry, organic chemistry, coordination chemistry, theoretical chemistry, solid state chemistry and physics, material sciences and chemical reaction engineering—including mass transfer, heat transfer, and fluid mechanics.

Moreover, the concerted application of many spectroscopic and analytical instruments is crucial to the study of catalytic reactions and the complex interfaces at which they occur.

Most of these tools have appeared within the past fifteen years and more are just being developed. Others are still needed but remain to be invented. These new opportunities have created new problems.

First, the new techniques are not only expensive but advances in understanding catalytic reactions and the structure and chemistry of catalysts result not from the application of any one experimental technique but rather from the concerted application of the techniques best suited to the system under study.

I. Mechanisms of catalytic reactions:

The objective is to:

Achieve a fundamental understanding of the chemical and physical factors that determine catalyst selectivity and activity.

Reaction mechanisms lie at the heart of catalysis and the opportunity now exists to understand them at the molecular level and control them in practice. What is needed are studies at very low and normal pressures, on very large and very small crystals, with the tools of surface science and the methods of chemical reaction engineering.

The search for alternate catalytic materials as well as the optimization of catalyst performance depends on our understanding of the mechanism of catalytic reactions such as the oxidation of carbon monoxide and unburned hydrocarbons to CO_2 and H_2O, the reduction of nitric oxide to nitrogen, the steam reforming of hydocarbons, and the water-gas shift reaction. Other important reactions are those occurring at the surface of electrocatalysts in fuel cells and batteries.

A. Catalyst activity and selection:

In general, the overall reaction depends upon both the catalyst and the reaction conditions. For example, in the reduction of NO to N_2 over 3-way catalysts under net lean conditions, NO and O_2 compete for the reducing agent which is in short supply. Alternatively, the product distribution may reflect the competition of reacting gases for surface sites. Thus, wide differences in selectivity for the NO–CO–O_2 system have been observed even over closely related catalyists such as the noble metals.

The intrinsic catalyst properties that determine product distributions in this system are unknown. Basic research is needed to identify the factors that determine catalyst activity and selectivity for reactions of interest. Mechanistic and kinetic studies of reactions in networks made of reactions in parallel and in series, are needed for providing input to mathematical models of catalytic devices. Basic understanding of the controlling factors in a catalytic reaction will also steer the search for new catalysts.

B. Experimental techniques:

Although heterogeneous catalysis is now a coherent body of scientific knowledge, it is fair to say that we are just now beginning to understand some of the details of the dynamics of catalytic reactions, for example, CO oxidation or NO reduction. It is, therefore, important to study these reactions on big single crystals at very low pressures and on the very small crystals of commercial supported catalysts, ultimately with auto exhaust gases. With presently available techniques involving high pressure reactors interfaced to ultrahigh vacuum chambers, it is now possible for a single investigator to bridge partially the well known gap between high and low pressure studies.

Perhaps even more important are recent developments in infrared and Raman spectroscopy which allow measurements of surface species on large single crystals to be made while heterogeneous reactions are occurring at high pressures. The possibilities here for measurements under controlled practical working conditions are very exciting. This is also the case for the characterization *in situ* of very small crystals found on supported catalysts, by means of absorption of X-rays (EXAFS) available from powerful new sources such as synchrotron radiation or other instruments now being developed. For the structural determination of reaction intermediates during reaction conditions, infrared spectroscopy will continue to play a crucial role.

For a few of the simpler reactions, the relations between surface coverage, adsorption rate, partial pressures, total pressure, temperature, metal particle size, product formation rate and desorption rate should be established for a broad range of the process variables. Techniques to be used range from velocity selected molecular beam scattering, low energy electron diffraction, and the many forms of electron spectroscopy to controlled atmosphere electron microscopy, and election spin resonance.

This list is not complete but is intended simply to indicate the broad range of techniques which one must bring to bear on these many-variable problems. Such detailed work would provide a systematic set of benchmark experiments of greater permanent value to the surface science/catalysis community and of immediate use in the automotive industry.

It is important to stress the very basic character of this particular research. A great deal is already known about the overall features of, for example, the carbon monoxide oxidation reaction. What is now needed are molecular level descriptions of these processes for a very broad range of experimental conditions. Present experimental methods will be taxed to their limits to provide the requirement data. Excellent progress can be made because the tools are available. And with new tools, discovery awaits the prepared scientist.

C. Chemical reaction engineering:

In addition to these molecular level studies, studies in reaction mechanism and engineering are equally needed. The use of isotopes as tracers and in kinetic investigations will continue to provide incisive mechanistic details. Quality kinetic data on reaction networks are essential priod to careful modeling which finally combines the chemistry with heat and mass transfer. Stability of reactions in the case of multiple regimes of operation and stability of catalytic materials in the case of poisoning and of thermal or mechanical degradation, should be studied in new types of reactors operating at the stationary state or in transient fashion e.g. as in temperature programmed reactions.

D. Combustion and post combustion catalysis:

Many of the problems of gasoline engines carry over to Diesel engines. However, important differences do exist. Among them are the visibilty of carbonaceous particulates emitted at lower exhaust temperatures. With these come new demands on the catalytic exhaust systems. In particular, the soot must be collected and burned or prevented from being formed altogether. Here, as in the case of gasoline engines, either new catalytic materials are needed or radically new solutions must be found, for example, by an additive to the exhaust stream to control emission.

II. Conceptual design of catalysts:

The objectives are to:

Understand surface electronic and atomic structure in order to predict surface properties and synthesize catalysts with defined specifications.

Understand the relationship between catalytic activity and catalyst promotors and poisons and to correlate at the atomic level the effects of catalyst sintering or crystal growth with catalytic activity.

Fundamental investigations of surface physics, surface chemistry, catalysts and chemical reactor engineering are needed to achieve modification of existing catalysts by promotion, poisoning and sintering.

One of the most important, difficult and neglected areas in surface science and catalysis has to do with catalyst modification either by design or by accident as the result of aging under use. Included in this subarea are poisoning, promotion and sintering. Examples are the poisoning of non noble metal catalysts by sulfur and phosphorus from fuel or oil combustion, the promotion of certain catalysts with alkali and alkaline earth metals and the control of active metal dispersion with lanthanide metal oxides.

A. Surface chemical physics methods:

The physics and chemistry underlying these multifaceted phenomena are largely unknown, and understanding at the molecular level is inadequate to explain the facts. Much of this research will rely on the many types of electron and ion spectroscopies, each of which needs to be carefully quantified, for data against which various theories can be tested. Preliminary data on the effect of carbon, oxygen, or sulfur overlayers on reactivity of metallic single crystals are most encouraging.

B. Surface chemistry:

In addition to these surface chemical physical studies, many painstaking surface chemistry studies are needed. These include chemisorption and reaction experiments on single crystal metals whose properties are altered by controlled oxidation, sulfiding and promotion. An essential companion to this work is the investigation of reaction kinetics at high pressures with supported materials and with well-characterized single crystals. From these measurements a detailed picture should emerge of the relationship between activity, specificity, selectivity and structure, as controlled by the addition of promotors and poisons.

C. Surface characterization:

A somewhat separate category of catalyst modification involves sintering and/or crystal growth. Morphology, surface mobility, reactivity and structure should be correlated, all at the atomic level. Electron microscopy and field ion microscopy will be very helpful, as they have been in the recent past, in throwing light on these phenomena with atomic scale resolution. High temperature chemistry can provide additional concepts and data. Other aspects of catalyst modification by loss of specific surface area depend upon the thermodynamics and thermochemistry of interfaces and is discussed below.

III. Catalytic materials research:

The objective is to:

Systematically investigate new concepts for less expensive automotive catalysts.

The present reliance on precious metals catalysts should be alleviated by the introduction of less expensive new materials. Research involving alloys, mixed metals, and mixed metal oxides on a variety of supports called for in order to find suitable substitutes for the precious metals, particularly platinum (Pt), palladium (Pd), and ruthenium (Rh), used in automotive catalysts. Catalytic chemists as well as surface and materials scientists should be heavily involved. Detailed reconsideration of metals or alloys deemed inadequate following earlier work is in order because advances in surface characterization now permits us to decide whether present or absent surface impurities, or the wrong surface structure might have been responsible for the reported inadequacy. A good example is the recent discovery that tungsten is as active as nickel in the methanation of carbon monoxide although earlier studies had assigned it a much lower activity. A second example is the discovery of the platinum-rhenium reforming catalyst which becomes superior to the conventional platinum catalyst only after treatment with sulfur impurities. Another area, ripe for exploration, involves alloy and compound catalysts. Some new clues may be gained from the emerging metallic cluster organometallic literature.

Research on novel catalyst preparation techniques should be pursued that interprets the chemical and physical events that occur during each stage of catalyst preparation.

Combinations of precious metals and precious metals with base metals constitute an important area of research. New combinations between noble and base metal oxides deserve further attention. A variety of supports should be investigated at both the molecular and macroscopic levels. It cannot be stressed enough that a catalytic material which appears attractive at the laboratory scale, may be marginal at the bench scale and fail altogether in field tests.

One way to alleviate pressures on world supplies of precious metals, particularly Pt and Pd, is to recover and recycle materials. New practical methods to regenerate catalysts should be developed.

IV. Thermodynamics and thermochemistry of interfaces:

The objective is to:

Increase fundamental interfacial thermodynamic and binding energy data of relevance to catalysis.

Catalytically relevant, interfacial thermodynamic and binding energy data for metals, metal compounds, and absorbed species exist for only a few systems. Since numerical values of these are necessary in any quantitative calculation of process energetics and stability, measurements are essential and should be determined.

A. Thermodynamics of interfaces:

An important consideration in hetrogeneous catalysis is interface thermodynamics—the measurement of surface free energies and species binding energies. While the macroscopic underpinnings of bulk and surface thermodynamics have been worked out, thermochemical data vital to the development of our ability to predict materials properties, are woefully lacking. As examples, surface energies of the noble metals and noble metal oxides are largely unknown. The surface energy of gamma aluminum oxide, a widely used support, is unavailable. The numerical values of interfacial thermodynamic properties are just as valuable as the atomic and molecular weights of the species present because they enter the calculation of the energetics of surface processes, including sintering and metal-support interactions. Measurements of surface energy of refractory metal oxides and noble metal oxides with small molecules containing carbon, nitrogen, oxygen and sulfur are important.

B. Thermochemistry:

For correlation and screening of catalytic materials, as well as the choice of probable reaction mechanisms, the thermochemistry of reaction intermediates, i.e. surface species, must be available either experimentally through calorimetry or adsorption equilibria, or through quantum-mechanical calculations. Experimental data are needed to check theoretical methods and to accelerate further the calculations through introduction of simplifications that have been sanctioned by experiment.

V. Catalyst-support interactions:

The objective is to:

Obtain the fundamental understanding of the interactions between the catalyst and support necessary for optimizing catalyst utilization, activity, selectivity and stability.

All precious metal exhaust catalysts are supported by dispersing them onto an oxide support (also called substrate.) Alumina is the conventional support. The question of how metal atoms interact with oxide supports is an old and important question because such interactions may alter the metal particle size, its structure and its electronic properties. If the alteration is sizeable, it can be used to optimize catalytic systems. Recent work has shown that important metal-substrate interactions occur when transition metals with variable oxidation states.

This interaction affects not only specific activity and selectivity but also thermal stability and sintering. With time and at high temperatures, dispersed metal particles tend to grow to larger particles which leave fewer and fewer transition metal atoms exposed at the surface. Consequently the catalytic activity per atom of metal in the catalyst tends to decline. There is also the question of how the metal in its oxidized form is also responsible for chemisorption of gas phase species and conversion of surface species. In some cases, it appears that both the reduced and the oxidized forms of the metal participate in the reaction.

A. Catalysts supports:

Automotive cataysts now rely on alumina supports which have excellent intrinsic thermal stability and which, generally speaking, do not interact strongly with exhaust constituents. In spite of its durability alumina is not the perfect material. Modifications of it and development of entirely new materials should be pursued, with emphasis on light weight, high porosity and resistance to thermal shock.

The characterization and description of the metal-support interactions from the perspective of selectivity and activity of real catalysts at normal pressures is a clear-cut catalytic chemistry problem. On the other hand, characterization of model systems at very low pressures in terms of electronic structure and surface order is a surface science problem. Finally, development of new supports with high and stable specific areas is a problem that requires further definition.

Metal support interactions in real catalysts can be studied by chemical probes (chemisorption, catalytic activity) and physical probes (electron microscopy, x-ray photoelectron spectroscopy, x-ray absorption) in concerted studies of structure and reactivity. The experiments should involve detailed description of the catalyst preparation technique with regard to (a) characterization of all materials used with special emphasis on concentrations of minor constituents, and (b) the steps leading to the genesis of the catalyst (impregnation, calcination and reduction).

B. Surface science studies:

A second approach involves surface science studies of the structure of transition metals and metal oxides substrates when submonolayer to multilayer concentrations of the former are deposited on single crystals of the latter.

Low energy electron diffraction, ultraviolet photoelectron spectroscopy, x-ray photoelectron spectroscopy, high resolution energy loss spectroscopy and optical spectroscopy can be used to show how the separate components are altered when they are linked together, how this alteration changes the vibrational and electronic structure of intermediates formed upon chemisorption, and how ordered structures are formed when a metal vapor is deposited on a single crystal oxide.

A third class of experiments combines low and high pressure studies on model systems in reactor chambers coupled by a metal-sealed valve to an ultrahigh vacuum chamber or by a small, internal, rapidly-evacuable reactor cup in an ultrahigh vacuum chamber.

A fourth class of experiments is under development. It involves the preparation of small particles of a metal evaporated on a single crystal or polycrystalline support. The system can be studied by the low pressure methods of surface science and perhaps ultimately at high pressures by means of the coupled reactor apparatus described above.

VI. Sensor concepts:

The objective is to:

Gain fundamental understanding of sensor reactions to guide acquirement of new sensors.

Solid devices that respond quickly and reliably to gas composition are needed for the monitoring and feedback controlling of engine combustion. Research into how gas phase molecules interact with the surfaces of these devices is needed, to lengthen their durability and shorten their response time.

A promising route for improved engine efficiency and emission control involves changing the engine parameters such as fuel/air ratio and spark advance in responses to changes in the exhaust composition. What is needed is a very durable, rapidly responding sensor which detects concentration changes of various exhaust components such as carbon monoxide, nitrogen oxides and oxygen. The responses must be converted to electrical outputs and interfaced to a microprocessor. The microprocessor drives electromechanical devices which adjust the engine parameters. Such control is an integral part of three-way catalyst systems.

The sensors must be based on just the kind of data outlined in the previous sections since they respond through surface interactions with exhaust molecules through adsorption and/or reaction. In addition, with thin film detectors, surface science techniques can be used to study the interface between the thin film and its support in order to increase the life of these devices. From such investigations insights will arise to guide the development of discriminating, fast and variable sensors. Solid state chemistry and electrochemistry are branches of materials science which ought to help in the synthesis and selection of appropriate materials.

VII. Interfacial phenomena:

The objective is to:

Investigate new experimental methods for acquiring fundamental information concerning surface composition, structure, bonding and dynamics.

Surface analysis is critical to the understanding of interfacial phenomena in hetrogeneous catalysis, adhesion, corrosion, lubrication, and materials science problems related to automotive engineering. Surface analysis in turn depends on the continuing elaboration of new experimental approaches emerging from a variety of scientific disciplines and engineering.

Instruments are providing information at the atomic scale which provides the scientific answers to explain and control interfacial phenomena. As an example, field ion microscopy provides data on surface mobility of atoms that controls aging of automotive exhaust catalysts.

This broad research area depends on the emerging tools of surface science. Interfacial phenomena are encountered in a host of materials problems in today's automotive engineering. Thus, hydrogen storage materials load and unload fuel at their surfaces, new light metals in body and engine components corrode, materials age through surface segregation at grain boundaries, composite materials owe their strength to the chemistry of adhesion at bonding interfaces, catalytic combustion depends on the stability of refractory catalytic materials, and moving parts wear by friction at a solid-oil interface.

* * * * *

This will provide an understanding of the molecular basis of catalysis, adhesion, lubrication, corrosion, and the development of new materials for automotive systems. Studies could include new experimental methods for examining all of the combination of solid-liquid-gas interactions encompassing mobility of atoms, high-pressure molecular and atomic interactions at interfaces, mechanisms and prevention of corrosion, the evolution of new lubricants, improved efficiency of combustion, and the role of particulate emissions in the environment.

Mr. McCLURE. I may say the American people are not fools. They make rational choices. They are intelligent. When energy was cheap, it was rational for them to buy things which consumed energy in prodigious quantities. As energy becomes shorter, they make a different judgment saying that now they will buy a smaller automobile.

Mr. TSONGAS. I will also say that the faith and rationality of the American public also comes to those who are in the elective process, who have been elected.

Mr. McCLURE. I think there was the frustration on the part of many that there was no incentive within the automobile industry to build that smaller automobile because the American public would not buy it. The American public would not buy it because energy was so much available. I remember back 12 years ago at the time we were debating the oil import quota program, when the Northeastern States wanted a flood of cheap foreign oil. If we had had that flood of cheap foreign oil, it would have been more apparent than the American people making their choice to opt for the high guzzling automobile because it did not cost much to use it.

Mr. TSONGAS. Mr. President, at this point I yield to the distinguished Senator from Michigan.

Mr. LEVIN. Mr. President, I rise in support of the substitute amendment offered by the distinguished Senator from

Massachusetts. I strongly urge my colleagues to oppose efforts to delete this $12 million from the DOT appropriation bill.

If the $12 million were eliminated for cooperative automotive research, it would be a major step backward in administration and congressional efforts to restore the economic well-being of the automobile industry. The cooperative automotive research program represents a cooperative effort among public and private sector funded jointly by these groups. It is based on principles developed by the industry and Federal officials. Over 100 scientists and engineers from industry, universities, and Federal laboratories throughout the Nation have been involved in preparing a detailed research agenda.

Efforts to solve the critical problems of the auto industry are both long and short term. The long-term solutions are no less important than the short. This cooperative venture is an important element in a program to insure the long-term technological health and international competitiveness of the U.S. automobile industry. It will help produce a new generation of scientists and engineers to meet the technical manpower needs of the industry. Competitive strength of the auto industry depends on its technological edge and we will undermine progress toward that goal if we eliminate this initial appropriation.

Deletion of these funds would disrupt the work of a year and a half of consultation and discussions between the administration, the automobile industry, scientists, and engineers across the Nation. In the area of research and development we must address the long-term health of the auto industry now. It would be irresponsible to turn our backs on efforts which will promote the long-term viability and competitiveness of the auto industry.

The absence of authorizing legislation should not obstruct the appropriation of initial funds for this cooperative research effort. Leaders of the automobile industry and Government have reached agreement on a set of guiding principles for a new, mutually supported program aimed by increasing the level of basic research in the sciences and engineering related to the automobile industry.

I urge my colleagues to reject the proposal which eliminates these funds and support the compromise substitute which requires the Secretary of Transportation to report on the collective efforts of the Federal Government in the area of automotive research and development.

Mr. TSONGAS. Mr. President, as I understand it I may modify my amendment. Is that correct?

The PRESIDING OFFICER (Mr. PRYOR). The Senator is correct.

UP AMENDMENT NO. 1602, AS MODIFIED

Mr. TSONGAS. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The modification will be stated.

The assistant legislative clerk read as follows:

Modify the amendment as follows:

On page 25, strike lines 5 through 9 and substitute the following:

COOPERATIVE AUTOMOTIVE RESEARCH

For necessary expenses to discharge the functions of cooperative automotive research program for conducting basic automotive research, $10,000,000. *Provided,* That the amount of funds obligated during the period ending 6 months after the date of enactment of this section shall not exceed $6,000,000: *Provided further,* That no additional funds shall be expended thereafter, unless authorized by Congress. Provided further that it is also the intention of the Senate that an authorization bill with positive or negative recommendations be reported out by the appropriate committees of the Senate within said period.

Mr. TSONGAS. Mr. President, what the modification reflects is the workmanship of those who participated in the discussions in the last half hour. I shall try to state it, and if the Senator from New Mexico and the Senator from Arkansas would listen, they can correct me if I am wrong. What we do is change the second line of the amendment so that the cooperative automotive research program does not have capital letters so it is not a capitalized program in that sense. The $12 million remains. The 6-month period remains in effect as in the original amendment.

The two provisos that are added are: One, that it is the intent of Congress that no more funds be expended until a program of this nature is specifically authorized by Congress, which then gives the various committees the year in which to come up with that recommendation; provided, however, that the committees come before the Senate and the Congress with a bill, either positively or negatively, as to their recommendations, giving the direction of the program.

In other words, the committees could not simply sit on this for 2 years and kill the program by a process of omission.

Is that a fair statement?

Mr. RIEGLE. Will the Senator yield for a question?

Mr. TSONGAS. Yes.

Mr. RIEGLE. I just want to clarify the understanding with regard to the $12 million figure. What would happen, under the agreement, when we get out beyond 6 months and into the seventh or eighth month and the committees of jurisdiction have not come back to the Senate with a recommendation either for or against? I assume that the remainder of the $12 million can be obligated.

Mr. TSONGAS. Only if the Secretary has issued the report stated in the amendment.

Mr. BUMPERS. If I may inject myself and the Senator will yield, Mr. President, I think the Senator from Massachusetts misspoke himself. I think that part of the amendment that requires the Secretary to send his analysis down as to the efficacy of this program and so forth has been stricken from this amendment.

Mr. SCHMITT. If the Senator will yield further, I think it is important to recognize that having that remain in there will be redundant, because the administration has done their homework as they perceive it, they have made a recommendation to Congress. I think it is important that we encourage, repeat that recommendation at the earliest possible moment in the next Congress, and then also work in our various committees and with our various influences to see that there is a program of sequential referral to the three committees of jurisdiction so that the intent of the language offered now as a modification by the Senator from Massachusetts is, in fact, carried out. I think everybody that was involved in the discussions is committed to that process.

Let us reiterate here, and if anybody disagrees, let us hear about it. I have made that commitment, and I think everybody who was talking here has made the commitment to see that this actually happens and that there is an authorizing bill for the cooperative automotive research program, under whatever structure it may be finally designed, before the Congress.

Mr. TSONGAS. If I may restate the case, inasmuch as the language beginning with the word "unless" has been deleted, inasmuch as that was really an attempt to meet some of the concerns, the answer to the question would be: After the 6 months, the Secretary would have the authority to begin drawing down on the balance.

Mr. REIGLE. Mr. President, that nails that down. On the second point that Senator BUMPERS has raised, we are now striking the residual language about the report, because the Senator from New Mexico has suggested that it is now redundant. Does the Senator from Massachusetts also agree with that? As the clerk read the modification, it omits those references.

Mr. TSONGAS. The Senators from Arkansas and New Mexico are correct.

Mr. RIEGLE. The Senator from Massachusetts indicates that he has taken account of the comment of the Senator from Arkansas that this remaining language about the Secretary of Transportation submitting a comprehensive assessment has been dropped out of the amendment. It is his intention that the language be left out because that assessment is going to have to be done anyway in preparing legislation.

Mr. BUMPERS. Mr. President, I want, if I may, to make just a few remarks regarding this amendment and also state my position on this whole thing and how I got into it.

The Senator from New Mexico brought this up in the Committee on Appropriations the other day and pointed out to the committee that this $12 million appropriation for this cooperative automotive research program was in there and had been put in by the committee, that the President had not requested it, that the only hearings by any of the authorizing committees were held in the Commerce Committee, which did not report this out.

Mr. President, ever since I have been in the Senate, I have been on the Committee on Energy, and I know that we are spending a tremendous amount of money now on automobile research, both applied and basic. These figures may be subject to some misinterpretation, they may even be slightly erroneous but, based on the figures I have here, in 1979, the U.S. Government spent $35 million on basic research for automobiles. Some of it was spent by NASA, some by DOE, some by the Department of Defense, and so on.

We have put tremendous sums of money into trying to develop the Stirling engine. We spent $112 million in applied research and development. Mr. President, that is at least $147 million in 1979 that the U.S. Government has put into automobile research and development and I doubt that the Japanese spent that much last year on their automobile industry as far as research is concerned. I know that the German Government owns 40 percent of Volkswagen; we are going to own that much or more of Chrysler before long—not because we want to.

Mr. President, I want to say that I have absolutely no objection to the concept here, and I do not think either of the Senators from Michigan or the Senator from Massachusetts or the Senator from Indiana should have any fear about an authorizing bill being on the floor within 6 months from October 1. If the White House is as excited about this program as they have indicated they are, since they found out I was involved in trying to strike it, they will not have any trouble getting an authorizing bill down here.

Mr. President, there is another point I want to make. This cooperative agreement apparently has been executed between the United States, through the Department of Transportation and the Secretary thereof, and Ford and Chrysler. All of us have been led to believe here, and I do not think there is any dispute about this, that the industry is going to put up 50 percent of the money for this program.

I do not believe that, right now, industry is committed to 50 percent of the program. I think that Ford and Chrysler have said they will put up their fair share—I do not know whether that is based on the number of automobiles sold or manufactured in a certain period of time or what—but General Motors is not a signatory to this agreement yet. I have been told they will enter into it and I hope they will.

My main objection to this is that nobody from the administration has made a case here. This committee bill says that this money is to be spent for basic research and the question, to a layman like me, is, what kind of basic research? If you look at the kind of research we are doing right now, here they are. This is basic research, in which we put $34,674,000 last year.

Mr. SCHMITT. Will the Senator yield at that point for a clarification?

Mr. BUMPERS. Yes.

Mr. SCHMITT. The listing of the table the Senator has is in the RECORD; I have placed it in the RECORD. It has the same items mentioned in the administration's bill as being the basis of their program.

Mr. BUMPERS. I thank the Senator. I shall not belabor that point, then. But the point I want to make and I want every Senator in this body and every Senator who happens to be listening on his squawk box back in his office to know that we are embarking on an $800 million program.

Everybody understands that this $12 million that we are appropriating, only $6 million of which can be spent until an authorizing bill comes through, that this is the camel's nose under the tent.

That may be the best money we ever spent. If it is, I will be the first to stand on the floor of the Senate and insist we appropriate the balance of it.

The $800 million which the administration says this program will ultimately cost, I do not know. I would like to ask the Senator from Massachusetts, if he knows, does that mean $400 million from the U.S. Government and $400 million from industry, or is that $800 million from the United States alone?

Mr. TSONGAS. That figure of $800 million is in some question. I do not think there has been any determination whatsoever made on that.

My understanding is that the programs that will be undertaken, that research will be cooperative by definition. So, theoretically, half the cost will be borne by the private sector.

But there is no definitive study that I know of that suggests that $800 million is a figure we can rely upon.

Clearly, given the language, if the argument for the research cannot be made next year, it stops.

Mr. BUMPERS. I appreciate the Senator saying that.

Mr. SCHMITT. If the Senator will yield again for clarification, in the administration bill, S. 2015, introduced for the administration by Mr. RANDOLPH, on page 8, line 22:

> There is authorized to be appropriated not to exceed $800 million to be derived from the Energy Security Trust Fund and for allocation by the President, to carry out cooperative basic automotive research to advance the state of knowledge underlying automotive technology.

That is the administration's proposal. So, in due deference to the Senator from Massachusetts, the administration has made up its mind, at least this year, what that would require.

Mr. BUMPERS. Finally, Mr. President, I conclude by saying that I express my gratitude to the distinguished floor manager (Mr. BAYH), and the three strong supporters of this, Senators TSONGAS, RIEGLE, and LEVIN, for their efforts to compromise on the matter.

Sometimes this may not be the best way to legislate, but in this case I feel that the effort has been effective.

My objection is that nobody really knows what we are embarking on. We all know these things develop a language of their own once they start.

One reason I was reluctant to agree to this appropriation is that, once we spend $6 million, it is like Rasputin, it will be tough to kill.

So I serve notice on everybody that I think we have a good meeting of the minds about the intent of the amendment.

If this program holds the promise that those who support it hold out for it, I will be on the floor debating in favor of the authorization bill and the appropriation.

If it is not definitive, and if it looks as though it is a duplication of a large part of the basic or applied research we are doing now, I will be the first to scream like a pig under a gate to try to torpedo this program.

Mr. President, I yield the floor.

Mr. SCHMITT. Mr. President, I concur in the commitment the Senator from Arkansas has made.

I also say that I think in the ensuing weeks and months, we, the Congress, must be sure we understand just what industry's commitment to this is.

I say to the distinguished Senator from Illinois (Mr. STEVENSON), who is on the floor, that I am sure he recalls in the course of our hearings that industry's commitment was not nearly as clear and strong as has been implied and even may be written by them subsequently.

They have a very clear idea in their own minds what basic research is, and it is not sure that is the same idea the Government will have.

I think we have to make sure that is clarified.

Certainly, there is nothing in the proposed legislation, S. 2015, that defines industry's commitment. That is going to be a gentleman's agreement, more than anything, between industry and the administration, and we should not be too sure right now what that implies.

Mr. STEVENSON. Will the Senator yield?

Mr. SCHMITT. I yield to the Senator from Illinois.

Mr. STEVENSON. Did the administration, in the hearings on the program, indicate to the Congress the elements of this program beyond vaguely describing it as an automotive research program?

Mr. SCHMITT. The only definitive elements that were given, and, as I recall, definitive by the administration, were those listed on page 9 of the bill, previously referenced, and the same ones that were used to construct the table printed in the RECORD dealing with current basic research.

Mr. STEVENSON. And then having done that, did they not indicate that there was a great deal of synergism between different modes of transportation, and rather than just to automotive research, that the program ought to apply to all transportation?

Mr. SCHMITT. I recall that did tend to be part of the discussion.

One justification was that it would have a fallout into other modes of transportation.

Mr. STEVENSON. With respect to the industry, I share the Senator's impression. There was, at best, lukewarm support for this program.

Am I correct that there is no support from General Motors?

Mr. SCHMITT. As of this time, I do not think there is any available agreement with General Motors.

The Senator from Michigan may have more current information.

Mr. STEVENSON. Let me ask the Senator, the strong impression I have, based on some recent contacts with that corporation, is that it will not commit to this program until it knows what it is, which raises a large question in my mind as to whether the Congress ought to commit to this program until it knows what it is, and whether the program is properly structured.

I have some more questions I would like to ask the distinguished Senator from New Mexico, but would be delighted if the Senator from Michigan can answer that question about the commitment of General Motors to this program.

Mr. RIEGLE. Let me try to respond to the Senator.

I cannot speak for General Motors. I understand that discussions are ongoing, that both Ford and Chrysler, at this point, have reached agreement, that General Motors has not reached agreement. My sense board is that that is not to be read either way.

The presumption I have been operating on is that in due course they will participate. Of course, the amount of money that the Government would spend is directly related to the number of private-sector participants. So that if General Motors were not in, then the amount of spending by the Government would decrease by exactly the amount the company did not put it.

I think it is essential they participate. It is my feeling that the Department of Transportation feels that, as well, and, therefore, there will be a meeting of the minds, as there should be.

In other words, I want the research program designed to be one that makes sense, essentially, to the entire industry.

So I do not think there is any desire here to not have that be the case or think that, in the end, it will not be the case.

Mr. STEVENSON. I thank the Senator.

But the question is not just a financial one, at least in my mind. If the industry is reluctant to make a commitment to this program, it may be for sound reasons, or at least it may be premature for anyone to make a commitment, including the taxpayers, until they know what it is.

It is my impression that that is the reason, the principal reason, for General Motors' reluctance. There are some other reasons.

I ask my friend from New Mexico, who presided over these hearings with me, what is the reputation and the record of the Department of Transportation for conducting basic research?

Mr. SCHMITT. My personal experience, as well as the testimony provided to our committee, indicates that their record is not very great. At the present time, they are undertaking about $500,000 of research, defined research.

The National Highway Traffic Safety Administration does safety testing to assess the state of the art. to determine regulations. Other than in related automotive research, they do not do very much. At one time, they were doing some aerodynamic work which they actually contracted out to NASA to do.

I am sure the Senator is aware of their efforts to conduct applied research in mass transportation systems, none of which has a record of success. at least to my knowledge. There has been a record of failures that have been most unfortunate. The DOT is not recognized as having a basic research capability of any kind. That, by the admission of DOT, is a quoted statement which I read into the RECORD earlier today.

Mr. STEVENSON. I believe this is an important point. An agency has been singled out for this research responsibility, with no track record and with responsibilities that are in conflict.

There are other agencies—NASA, for example—with strong research records and a strong record for effectively transferring technology to industry. It has a solid relationship with industry.

My question to the Senator is whether, instead of proposing this research responsibility in a department which is basically a regulatory agency, the industry might not be more enthusiastic about cooperating and putting up money that it appears to be at present if the research was to be organized by a different agency.

Mr. SCHMITT. The Senator asks a question that was explored in the course of our hearings and which both he and I explored with the industry witnesses.

They did express concern about the regulatory aspect of DOT overwhelming the research and development aspects, as it has in other agencies where this has been attempted—the AEC being one of the earlier examples; the Department of Energy being a very current example.

However, the testimony basically was that they had been assured by the administration, and by the Secretary of Transportation in particular, that all those things would be worked out, and their support on the program was based on there being no impact from the regulatory side of the agency on the R. & D. side.

That is great in theory, but as yet, in government, I have not seen an example of where a secretary of any regulatory agency that has R. & D. responsibilities can literally wear two hats. He must always—it is his duty by law to do so—balance the conflicting demands within his agency.

Frankly, that is why the AEC failed in many aspects of the development of a safe and viable nuclear power technology. It is why the Department of Energy research and development program really has not got off the ground to the degree that is necessary, because the people at the top and the person at the top continually have their attention diverted or are compromised by the regulatory hat they must wear.

The industry recognizes that. In their testimony they said, "We accept that, and we are accepting the administration's assurances that that won't happen in this case."

I submit, in rebuttal, as I did in the hearings, that there has not been a single point in this history of the Government of the United States in which it has worked in spite of the good intentions of the agency and the administration.

Mr. STEVENSON. I really do not know the answer to this question, but any cooperative research program involves antitrust questions, as we encountered in the drafting and during the enacting of the Technology Innovation Act of 1980. It also involves some complex questions of patent ownership and rights.

Has the CARP program addressed and answered the inevitable questions about the application of the antitrust laws to research involving cooperation among the automobile companies and the questions that inevitably would arise about the ownership and the use of any patents which might emerge from such cooperative research programs?

Mr. SCHMITT. The Senator has raised two additional questions which were not explored fully in our hearings, nor do I believe they have been explored fully in the activities of the Banking Committee or the Environment and Public Works Committee—that of antitrust implications and that of patent law.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. SCHMITT. I conclude by saying—

Mr. STEVENSON. I will yield to the distinguished Senator from Idaho and then I will yield the floor.

My conclusion, on the basis of the hearings we held, is that there is a need for cooperative research, more automotive research. With respect to research for the automobile industry, which in most instances has applications outside it, the need is for basic research through the point of demonstration on a variety of technological problems that come up in all transportation modes; and it would be more practicable and ultimately productive to tailor a cooperative research program to transportation.

By that, I do not mean space and air, which is already addressed by NASA, but surface transportation, for which we have not made a systematic commitment as we have in the case of air. But in putting it together, a great many questions have to be resolved, many of them of a technical nature; many not.

For example, we had to address patents and antitrust question's in connection with the Technology Innovation Act. That act, which we expect to become law in this Congress, will establish new model for cooperative research in the United States, a model that might be more appropriate to this particular exercise than fitting it into a regulatory agency with no good track record either on basic research or on transferring it to industry, in cooperation with industry.

There are other possibilities. NASA is a possibility. The Department of Commerce, which has a lead role in the innovation center model that comes out of the Innovation Act, is another possibility. Of all the possibilities we have been able to examine—and there are more in the Department of Energy and elsewhere—the Department of Transportation may be the least probable or likely.

I have not heard all this debate, I regret to say, and I am not certain at this point what the parliamentary situation is. I concur with what the Senator has said. It is reflected in the hearing record—so far as I know, the only record in the Senate—on this program.

I think we might be wiser appropriating a modest amount to the Department of Transportation not for the program but for a study and a report which finally does what the Department should have done in the first instance; namely, tell us what this program is before requesting a substantial initial amount and a commitment to what might become over time a very large amount.

This study could consider not only technological requirements for research but also the institutional requirements, including such possibilities as innovation centers.

It might also develop more industry cooperation than we have any evidence of at the moment.

My impression is that the industry does not want to get into this and make commitments until it knows what the program is going to be, too. I do not think we lose time and, in fact, we might gain some time if instead of this $12 million we were to appropriate $1 million or $2 million for a study with some directions as to what goes into that study and then in the next Congress act on this important subject which I do think needs an additional Federal commitment, but then with the benefit of more information and a sense of where the effort is going than the Senate has today.

Mr. SCHMITT. Mr. President, I appreciate very much the Senator's remarks. I think he has added to the foundation of the legislative history that has already been established. I wish that we could get an agreement to do exactly what he has proposed. I do not think that is possible.

I yield to the Senator from Massachusetts to comment on the proposal of the Senator from Illinois. It may be that he will want to bring back into the amendment the one section that was stricken and the provision that does specifically say to the Department of Transportation, if I recall it correctly, that they should provide us that assessment.

But I yield to the Senator from Massachusetts for further comment.

Mr. TSONGAS. The Senator from Massachusetts is quite flexible. We have been in here for 2 hours. This is a $20 billion appropriation. We are talking about $12 million, and at this point I would probably accept almost anything. So if they want to put that proviso back in, it is fine; if they want to keep it out, that is fine also.

It seems to me at some point the Senate should get on to other business, given the fact we worked out a compromise, and I just think there is a point in which the discussion in everyone's interest should end.

So, to conclude, if there is a desire to have this clause include, it is acceptable. It is up to the Senators from New Mexico and Illinois.

The PRESIDING OFFICER. The Senator does have a right to modify his amendment. Does he desire to so modify his amendment?

Mr. SCHMITT. Mr. President, I ask the Senator from Illinois to examine that and see if he thinks it is helpful.

Mr. STEVENSON. Mr. President, I suggest the absence of a quorum.

Mr. TSONGAS. Mr. President, will the Senator withhold?

Mr. STEVENSON. I withhold.

Mr. TSONGAS. I wonder whether we could do it this way, whether I could ask unanimous consent that the compromise amendment be agreed to subject to the right of the Senator from Illinois to include that proviso before the end of the deliberations on this appropriation bill so we can get on to the remainder of the bill. Is that acceptable?

Mr. BAYH. Mr. President, we have been on this for an hour and a half or 2 hours, and we can set it aside temporarily and go on to something else as far as another amendment is concerned.

I share the feeling of the Senator from Massachusetts, that instead of picking watermelons we are picking acorns.

Mr. SCHMITT. Mr. President, I think the Senator underestimates the importance of this issue. It is certainly important to the Senators from Michigan and it is important to this Senator if we are, in fact, embarking on an $800 million R. & D. program. I think we can move on very quickly. The Senator from Illinois suggests the absence of a quorum. Or we can lay it aside. But I reserve the right to object.

Mr. McCLURE. Mr. President, let us lay it aside temporarily.

Mr. BAYH. Let us lay it aside.

I say to my friend from New Mexico I do not suppose he has any more interest in automobiles in New Mexico than we do in Indiana. The question is now that we go ahead and do the best job of the research that we are all trying to do here.

Mr. RIEGLE. Mr. President, does the chairman hold the floor or yield at this point for a comment?

Mr. BAYH. I yield.

Mr. RIEGLE. Mr. President, I wish to settle this. We have been at it now a long time. We all have other things we have to do. Hearings are underway, and so forth. I want to try to accommodate as many people as we can. I thought we had an agreement. Can we not make a modification that is generally acceptable and complete this now? We should be able to settle it within a minute or two.

Mr. SCHMITT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCHMITT. I believe a unanimous-consent request is before the Senate.

Mr. TSONGAS. I simply stated that as a possibility. I did not make it official.

Mr. RIEGLE. Mr. President, could we understand what the issue is here? Is this a new snag? We have been all over this ground already.

Mr. McCLURE. Mr. President, I ask unanimous consent that this amendment be laid aside temporarily with the understanding that it be the pending business upon the conclusion of the next amendment that is dealt with.

Mr. RIEGLE. Mr. President, reserving the right to object, the Senator from Idaho has been gracious, courteous, and helpful all the way through here, but I just wish to see us resolve this. I would rather we take another couple minutes and see if we can settle it.

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. RIEGLE. I yield.

Mr. TSONGAS. Perhaps we can do it this way: Allow the request to be granted and if there is any change, other than the discussion on the proviso, we be called back so we may consult on it; if not, we will be comfortable with whatever is arrived at. I also have a conflict.

Mr. RIEGLE. Mr. President, will the Senator from Massachusetts have any objection? If I understand it correctly, all the Senator from Illinois is asking to do is to put in language that was originally in the amendment as it was offered. I see no reason to object to putting it back in.

Mr. TSONGAS. The question is whether the Senator from Illinois wants it in. Either way is fine with me.

Mr. RIEGLE. Does the Senator from Illinois want it in or out? It is out now and we are happy to put it in.

Mr. STEVENSON. Putting in the proviso does not satisfy the problems of the Senator from Illinois.

Mr. President, I ask unanimous consent that the amendment be laid aside temporarily and the Senate return to this amendment upon the disposition of the next amendment to be brought up.

The PRESIDING OFFICER. Is there objection?

Mr. RIEGLE. Mr. President, I withdraw my objection with reluctance because I wish we could get this thrashed out here.

Mr. McCLURE. Mr. Chairman, has the Chair ruled on the unanimous-consent request?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I ask unanimous consent that the second committee amendment be temporarily laid aside and the Senator from Kansas be recognized to offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kansas is recognized.

UP AMENDMENT NO. 1603

(Purpose: To revise provisions relating to the transportation of the handicapped)

Mr. DOLE. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. Dole), for himself, Mr. Williams, Mr. Cranston, Mr. Randolph, Mr. Kennedy, Mr. Riegle, and Mr. Mathias proposes an unprinted amendment numbered 1603.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 43, line 6, strike out "1975" and the period and insert in lieu thereof the following: "1973, except—

"(1) to the extent which would be required under the amendment contained in section 118 of S. 2720, (96th Congress, Federal Public Transportation Act of 1980), as passed by the Senate on June 25, 1980, or

"(2) where such authorities have elected to purchase such lifts.".

Mr. DOLE. Mr. President, I will quickly summarize the amendment which I think has been agreed upon by all the interested parties.

This amendment is to section 323 of the Transportation appropriations bill, H.R. 7831. The amendment which I am introducing, and which is privileged to have as cosponsors, the distinguished Senators WILLIAMS, CRANSTON, RANDOLPH, KENNEDY, RIEGLE, and MATHIAS, would not prohibit funding for the next fiscal year for purposes of complying with section 504, but would permit local communities to exercise a degree of flexibility in their planning for transportation services to handicapped individuals.

On June 25 of this year, when we were considering S. 2720, the reauthorization of the Urban Mass Transportation Act of 1964, the Senate passed an amendment to section 504 that is currently awaiting action on the House side. At that time, we agreed that, since its implementation, section 504 has not been without its problems, and we attempted to address some of the problems encountered by local communities. The amendment which the distinguished Senator from Nebraska introduced at that time provided for increased flexibility at the local level in implementing transportation systems for the handicapped in compliance with section 504. It is possible that a conference with the House will result in a further improvement of the Zorinsky language, and we would like to leave the door open to this possibility, while at the same time upholding current law in the event that for some unforeseen circumstances, the basic requirements of the Zorinsky amendment are defeated in conference.

It is my intention to assure that criteria similar to that expressed in the Zorinsky amendment be put into effect in providing access to transportation for handicapped individuals. This plan allows for consideration of available local resources and varying population size in implementing transportation plans within communities. However, some form of transportation for the handicapped should be assured at the local level. It may be that, in conference, population criteria will be worked out which would prove to be even more reasonable than what was previously outlined in the Zorinsky amendment. However, under these provisions, the special needs of population areas of 50,000 inhabitants or less, 50,000 to 750,000, and 750,000 or over would be taken into consideration in local planning of transportation systems in compliance with section 504.

I want to make it clear that the intent of Congress is to give communities a local option in complying with section 504 of the Rehabilitation Act of 1973. The discretionary authority given the Secretary of Transportation is an important aspect of the Zorinsky amendment. The Secretary should make every effort to work closely with those communities wishing to provide an alternative form of handicapped transportation.

The reason I think this amendment is appropriate at this time is to make sure that we do not send negative signals to the handicapped community who have regarded section 504 as their only recourse in law—the only provision they have which resembles the same kind of civil rights that are guaranteed to other minorities under the Constitution. Although the Senator from Kansas understands the intent of section 323, in withholding funds until more practical outlines for implementation are decided upon, I think it is unwise to withhold all funds to be utilized for this purpose. My amendment would provide flexibility at the local level and would still assure that, in the event that the provisions of S. 2720, which affect this issue are defeated, transportation services in compliance with section 504 will still be in effect. I ask your support in continuing and improving transportation facilities for this significant segment of our Nation's population.

I think that has been done through the efforts of the distinguished Senator from Nebraska, Senator ZORINSKY, and others.

I do not know of any objection to the amendment.

● Mr. WILLIAMS. Mr. President, I would like to strongly support the amendment of the Senator from Kansas.

This amendment would simply conform the restriction on the use of Federal funds for the purchase of wheelchair lifts contained in section 323 of the appropriations bill, to the provisions that passed the Senate as part of the mass transit authorization bill.

Under the language of section 323, no fiscal 1981 funds could be used "for the planning or execution of programs to compel local transit authorities to purchase wheelchair lifts to comply with section 504 of the Rehabilitation Act."

Under the Senator's amendment, there would be two exceptions to the prohibition against the use of Federal funds for the planning and execution of programs to compel the purchase of wheelchair lifts: First would be where the program is consistent with the provisions of section 118 of the authorizing bill (S. 2720) as passed. This would assure that local option plans which are consistent with the requirements of that section would be eligible for Federal assistance.

The second instance is where a transit authority elects to purchase lift-equipped buses. This would assure that a community that elects to comply with the DOT 504 regulations in lieu of submitting a local option plan would still be eligible for Federal assistance. This ability to make this election is contemplated in the language of the authorizing bill.

By way of background, section 504 of the Rehabilitation Act of 1973 does not specifically mandate the purchase of wheelchair lifts on buses. It simply prohibits discrimination against the handicapped in federally assisted programs and activities. The Department of Transportation, in implementing section 504 with respect to Federal transit programs, has chosen to mandate that all new buses be equipped with wheelchair lifts to make them accessible to handicapped persons.

These regulations have been extremely controversial: Many communities have argued that full accessibility is inappropriate for their community; and some members of the handicapped population have expressed concern that specialized "dial-a-ride" type transportation service may no longer be available to them under the Department's regulations. On the other hand, many organizations representing the handicapped believe that substantial progress toward accessible public transit is an essential part of making handicapped people able to function in the mainstream of life.

In order to try to resolve this controversy, during floor action on the transit authorization bill, the Senate adopted a proposal—as a result of discussions between Senators ZORINSKY, EXON, MCCLURE, CRANSTON, and myself—to attempt to respond to these legitimate concerns. The thrust of the adopted amendment was to allow a significant degree of local discretion in structuring a program to provide effective transportation services for handicapped persons, in lieu of meeting the DOT regulations if a community so desires.

Under this amendment a community would be required to provide an overall level of service no less beneficial than that available to the general public, utilizing a locally determined mix of special services and accessible buses. As a threshold, urbanized area of less than 750,000 would be required to purchase 50 percent of their new buses with lifts; urbanized areas of over 750,000 would have a basic requirement to purchase all their new buses with lifts. In both cases, the Secretary could adjust the required percentage if he finds that a different percentage is consistent with the plan. The intent of this provision was fully discussed in the statement of Senator CRANSTON, a cosponsor of the amendment.

In effect, Mr. President, the amendment adopted on the Senate floor represents a compromise in a very positive direction that would embody the spirit of local discretion within the principles of section 504.

The amendment adopted by the Senate is part of a continuing process to resolve the difficult and sensitive question of the transportation needs of our handicapped citizens. My subcommittee's staff, as well as staff of the relevant House committee, DOT, and affected interest groups have been engaged in an intensive series of negotiations to try to develop a broadly acceptable approach.

The purpose of the Senator's amendment to the appropriations bill is simply to assure that the decision already made by the Senate in the authorizing process is not contradicted in the appropriations bill, so we can avoid conflicting mandates that would complicate the ongoing process of resolving this complex problem.

It is my basic view that neither the existing language of section 323, nor my proposed amendment should be part of the appropriations bill—particularly when authorizing committees in both Houses are working tirelessly and responsibly to resolve the problem. In fact, language similar to section 323 was struck from the House appropriations bill on the floor for the very reason that the question was being properly addressed by the authorizing committee.

Nevertheless, I believe that a reiteration of the Senate's already adopted position—as an outside boundary, in effect—will not harm the delicate process that is underway.

Mr. President, the language of section 323 as reported has been strongly criticized by handicapped groups and is opposed by the Department of Transportation. Unless amended, it can not only create a legislative and administrative nightmare, but will also undermine much of the progress we have made in Congress to give disabled people their rightful opportunity to fully participate in this society.

I urge adoption of the amendment.●

● Mr. CRANSTON. Mr. President, I express my strong support for this amendment. I think it is a grave disservice to America's disabled citizens that we are being asked once again to consider language which has as its underlying purpose an effort to blunt section 504 of the Rehabilitation Act—the basic protection of the civil rights of disabled individuals.

Section 323 of this bill would affect, detrimentally, hundreds of thousands of handicapped and elderly persons' access to the world in which they live. The Congress of the United States made a commitment to disabled and elderly people when it stated that it is unlawful for any program receiving Federal funds to discriminate against an individual solely on the basis of handicap. Most of my colleagues who support the language in section 323 of this bill would bend over backwards trying to convince themselves and the people whose lives they affect that they have not the slightest intention to back away from that commitment. Section 323 of this bill is nothing more than a method for backing away from that commitment and should be seen in that light.

I congratulate the Senator from Kansas for his leadership in moving to amend this section.

Mr. President, we cannot shout loudly on one day that we are strong believers in equal rights and then walk quietly onto the floor of the Senate on another day and cast an appropriations vote against those rights. We should not be so foolish as to believe that disabled people in this country cannot recognize double talk when they see it.

Just 2 months ago, on June 25, the Senate spoke on this issue during consideration of the urban mass transportation authorization bill—S. 2720. An attempt was made at that time to limit tremendously the applicability of section 504 in the transportation of handicapped persons. That attempt failed when the Senate adopted a compromise which was offered by Senator ZORINSKY and coauthorized by myself and Senator WILLIAMS.

I outlined at some length at that time the intent underlying the Zorinsky amendment.

I continue to believe that the Zorinsky language—as it has come to be known—represents a workable compromise taking into account the needs of disabled individuals and the fiscal ability of cities to meet these needs. That carefully crafted compromise should not be allowed to be undone by the language contained in section 323.

The amendment I am joining in offering today with my colleague from Kansas (Mr. DOLE) would simply require that Federal funds be used to enforce section 504 in the area of transportation, where a community elects a local option approach, only to an extent consistent with the Zorinsky language which was adopted by the Senate on June 25, 1980.●

● Mr. MATHIAS. Mr. President, I am pleased to cosponsor this amendment with Senator DOLE clarifying our intent concerning the use of UMTA funds for the purchase of wheelchair lifts by local transit authorities.

On July 25 of this year, the Senate passed the Department of Transportation authorization bill, S. 2720. That legislation included the so-called "Zorinsky compromise" by my distinguished colleague from Nebraska. It was the proper place for the Senate to express its position on local option transportation systems and the issue of wheelchair lifts on buses.

The language of section 323 of the bill before us is inconsistent with the action which the Senate took in the authorization bill in June. And it will cause confusion for the Department of Transportation which must implement congressional directives as well as for local transit authorities.

The language of our amendment simply references section 118 of the authorization bill to be used as a guide in implementing this appropriation. That section assures the civil rights of disabled persons while providing useful guidance to local transit authorities on alternate means of assuring those civil rights pursuant to title V of the Rehabilitation Act of 1973 by providing substantially equivalent transportation at the option of the locality.

I urge my colleagues' adoption of this amendment.●

Mr. BAYH. Mr. President, the Senator from Indiana has no objection to the amendment. He discussed it with the distinguished ranking Republican, and I think the Senator from Kansas is stating what we really should be doing in this area.

Mr. McCLURE. Mr President, will the Senator from Kansas yield?

Mr. DOLE. Yes.

Mr. McCLURE. I thank the Senator for yielding.

I have no objection to the amendment. I think it carries out what I intended by the amendment I offered in the committee, and I am perfectly happy to accept this as an improvement on what the committee has already done, and I commend the Senator from Kansas for offering the amendment.

Mr. DOLE. I also want to thank the distinguished Senator from Idaho for his leadership on a matter many of us have been concerned about, and I thank him for his assistance.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

Mr. DOLE's amendment (UP No. 1603) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAYH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment offered by the Senator from Massachusetts.

Mr. BAYH. Mr. President, if there is no objection, can we proceed to the consideration of a Baucus amendment on the same basis as the amendment we have just been considering?

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Montana is recognized.

UP AMENDMENT NO. 1604

(Purpose: Relating to reduction in funds for advertising and public relations activities)

Mr. BAUCUS. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. BAUCUS) proposes an unprinted amendment numbered 1604:

At the appropriate place in the bill, insert the following new section:

SEC. . Notwithstanding any other provision of this Act, any amount appropriated by this Act for the fiscal year ending September 30, 1981, for any department, agency, or instrumentality of the United States Government, which is available to pay for or conduct advertising or public relations activities is reduced by 10 percent.

Mr. BAUCUS. Mr. President, this amendment is designed to cut advertising expenses of the Department of Transportation's budget by 10 percent. I propose this amendment because it is my intuitive sense that there is excessive advertising not only in the Department of Transportation's budget but in the budgets of all agencies.

AN AMENDMENT TO CUT ADVERTISING EXPENSES

I think we all agree that in all probability there is at least 10 percent waste in the advertising budget of that agency.

In order to document my suspicion, I conducted a little survey. I first began to seek out the advertising budgets of the various agencies and found that I was unable to learn how much they were spending because there are no line items for "advertising" or "public relations." We have no way of knowing the degree to which various agencies spend the money on advertising. We do not even know how they define advertising; that is, whether the amount they spend in printing or producing TV spots and other public relations work, is advertising.

What I did do was to ask my office this morning to go down to the Department of Transportation. I sent two people to DOT. They spent only one-half an hour down at the Department of Transportation looking for any printed matter published by the Department of Transportation.

Well, Mr. President, I have here on my desk just a sample of that effort. It is a 30-pound box of individual samples of various printed matter in the Department of Transportation.

Let me just take 2 or 3 minutes to point out to the Members of the Senate what some of these items are. Here is one I just picked up at random, a little brochure, a glossy print, a little slick. It says "Cities are for living." Well, Mr. President, I would hope that cities are for living. I would not think that cities are for dying.

Here is another one, another glossy publication from the Department of Transportation, entitled "Common Sense in Buying a Safe Used Car." Mr. President, this pamphlet is 20 pages, and I think we all agree we want to exercise a little commonsense when we buy a used car.

The trouble is, however, you do not learn commonsense by reading a book. Commonsense is something you learn through experience. In addition to that, I doubt that anybody, when he buys a used car, happens to have this handy book in his back pocket.

Here is another one, which is on bicycling, another big glossy print, lots of pictures, lots of big print.

Let us look at some of the headings. One right here is, of all things, "The Ups and Downs of Pedal Power." That is the chapter title of one representative sample in this book.

Here is another one. It is titled "On the Run." It is produced by the FRA. It is a 28-page pamphlet produced by the Deparment of Transportation. It is designed to guide, to help runaway youth in transportation centers. Mr. President, we all want to help runaway youths. We want to, first, prevent them from running away and, second, we want to make sure we will help them come back home. But I wonder how many people read this pamphlet, a guide for helping runaway youth? I doubt that many runaway youth read this, and I doubt very seriously whether anybody reads it.

Here is another one, "Transportation USA." Here is a big article, some of you on the floor can see it, it is a big picture of a lobster, and the title of the article is, "When Lobsters Travel They Go By Air," and it is just all about lobsters traveling by air, again produced by the Department of Transportation.

I do not want to take too much time of the Members of the Senate, but I believe you should look through those materials and I invite each of you to come over here and look at all these articles produced by the Department.

Here is another one, another booklet, and, ironically, let me just read one paragraph on the concluding page. It is entitled, "Cutting Red Tape." It says:

> One of the biggest byproducts of international trade is red tape.

It goes on and says:

> The Department of Transportation has recommended changes that will reduce paperwork costs by at least 45 percent and save U..S importers, exporters, and Government Agencies $3 billion a year.

Mr. President, I simply recommend to the Department of Transportation that they adopt their own advice and begin to cut paper costs. I do not know if they can save $3 billion a year, but certainly they can cut their budget by 10 percent, and that is very simply what I am recommending.

Mr. President, I found something else fairly interesting in my research. There is a statute, a small provision probably not recognized or known by many people. Let me read it:

> Appropriated funds may not be used to pay a publicity expert unless specifically appropriated for that purpose. 5 U.S.C. 3107 (enacted October 22, 1913).

Mr. President, according to this statute, the law now requires that we itemize advertising expenditures. Yet, we do not do it. When we look at our appropriation bills there is no line item for advertising expenses. They are hidden somewhere. We do not know where. And I submit that the advertising expenditures of the various agencies are used primarily to justify agency budgets and to keep public relations staff employed. I also submit that the only people who read all this stuff are the people who print it.

But the important point to make here is that under current budgeting practices Congress is unable to determine how much is to be spent each year by the Federal Government for advertising. This is contrary to existing law. It is also contrary to wise public policy.

Consider for a moment the recommendations the General Accounting Office made in the following report that I request be printed in the RECORD at this point.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

GAO REPORT ENTITLED: "DIFFICULTIES IN EVALUATING PUBLIC AFFAIRS GOVERNMENT-WIDE AND AT THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE" (JANUARY 18, 1979)

DIGEST

"Public affairs" is an umbrella term for numerous ways any activity, public or private, attempts to inform the public about its services and programs. In the Federal Government public affairs includes such activities as press releases, reports, news conferences, photographs, speeches, publications, exhibits, audiovisual materials, advertising, and facilities for answering daily questions from journalists and taxpayers.

Evaluating public affairs activities has been, and still is, difficult because Government agencies do not uniformly define "public affairs" and are not consistent in reporting and evaluating their public affairs costs. Campaigns—those promotional efforts which emphasize specific issues over a specified period—also are not uniformly defined and evaluated.

Uniform definitions and budgeting are needed not only to evaluate the effectiveness of public affairs and campaigns but also to assess their costs and to manage them properly.

Once Government-wide definitions of public affairs activities have been developed:

Definite lines of management responsibility can be drawn; departmental coordination and congressional oversight can be strengthened; and total costs can be assessed.

These improvements also would make it easier to develop criteria for measuring public affairs work forces. Further, the ability of the Congress and the executive branch to oversee public affairs activities would be greatly improved.

Managing nationwide campaigns, particularly those concerned with health issues and behavior change, is one of the more difficult tasks in public affairs. However, the inconsistencies observed in campaign management approaches, funding, and use of the media leads GAO to believe that more questions need to be answered before undertaking a campaign:

How does each funding request relate to the past and future efforts?

How is the amount of advertising to be used determined?

What management structures have been considered to best achieve program objectives?

These and other questions need to be more fully explored and costs need to be more carefully analyzed. If managers evaluated elements—early in the decisionmaking process—similar to those included as appendix I, they would be better prepared to answer such questions and to establish a firm basis for program activities and costs.

MANAGING PUBLIC AFFAIRS AT THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

In the Department of Health, Education, and Welfare (HEW), public affairs activities are managed by the Office of the Assistant Secretary for Public Affairs and by 30 other offices. Although the Assistant Secretary's office is responsible for coordinating and reviewing public affairs activities, departmental oversight has been weak.

Both GAO's initial work and an internal study indicated a fragmented and unfocused management structure. Public affairs plans, budgets, audiovisual products, and publications were not always submitted to the Assistant Secretary's office for review, contrary to HEW's instructions.

Recognizing the need to improve management control, the Secretary of HEW approved management and organizational changes in late 1977. At the end of GAO's work, information on the scope and cost of public affairs was being compiled. This is a major step toward improving management control. Other actions being taken include developing procedures to ensure that publications, audiovisual proposals, and service contracts are reviewed in the Assistant Secretary's office before products are produced or contracts awarded. GAO believes HEW should continue to emphasize improving public affairs management and work toward centralized oversight of planning, budgeting, and evaluating.

EVALUATING HEALTH CAMPAIGNS

Over the years, HEW has conducted many public information campaigns aimed at fostering a healthy society. Effective campaign management depends largely on how thoroughly certain essential elements, such as objectives and audience targeting, are evaluated before starting the campaign.

GAO examined two health education programs; the new initiative on smoking and health and the National High Blood Pressure Education Program.

There was little indication that the smoking and health managers had considered many of the essential elements of campaign development. Although HEW is justified in its involvement with smoking and health, the basis for the fiscal year 1979 budget request for some aspects, especially the public information campaign and research on childhood determinants of smoking. is unclear. Further, although several activities are already underway, goals have not been established.

The high blood pressure program, on the other hand, is well managed and appears to have had some success in controlling hypertension.

GAO found differences in the way campaigns are funded and the emphasis placed on use of the media to disseminate information. Although such differences may not always be detrimental, GAO believes they point out the need to better define and plan campaigns and to establish a firm basis for activities and costs.

GAO discussed its findings and recommendations with HEW and Office of Management and Budget officials and they generally concurred. Their comments have been incorporated where appropriate.

RECOMMENDATIONS

To provide for Government-wide oversight, a greater means for evaluating public affairs organizational structures, and a basis for measuring the effectiveness of specific public affairs activities, GAO recommends that the Director, Office of Management and Budget:

Work with the agencies to develop uniform definitions of "public affairs" and "campaigns".

Require all Government agencies, once such definitions have been developed, to identify in their annual budgets the costs for their public affairs activities.

GAO also recommends that the Secretary of Health, Education, and Welfare:

Establish guidelines for the evaluation of communications activities to include what activities should be evaluated and what types of evaluations should be conducted.

Require explanations of how public affairs projects submitted for review and approval will be evaluated. If an evaluation is not planned, an adequate justification should be provided.

Develop procedures to ensure that criteria, such as those included as appendix I, be adequately and consistently applied to the Department's public affairs activities and information campaigns.

Mr. BAUCUS. Next month we will celebrate the 67th anniversary of the enactment of 5 U.S.C. 3107. It has been nearly 2 years since GAO called for line items in Federal budgets for advertising expenses. Yet, despite all this time, no advertising budget items are available for review by Congress.

So I had to dig this information out myself. Frankly, I do not trust this information, because I suspect it substantially understates actual expenses. To acquire this information was difficult in many instances, because the agencies did not want to reveal how much they spend on publicity.

Mr. President, I ask unanimous consent that a table appear at this point displaying the Federal Government's publicitv expenses for the years 1978–80.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

AGENCY TOTALS

NOTE.—The figures for 1980 are for October 1, 1979, through May 31, 1980, only.

Department of Energy

1978	$12,122,000
1979	38,274,000
1980	38,509,000

H.H.S.

1978	$11,666,471
1979	12,985,196
1980	10,722,161

Department of State

1978	$876,529
1979	1,128,649
1980	601,414

U.S.D.A.

1978	$26,495,000
1979	31,090,000
1980	20,096,000

Department of the Interior

1978	$5,525,537
1979	6,515,862
1980	4,055,453

H.U.D.

1978	$1,567,159
1979	2,495,659
1980	927,489

Department of Labor

1978	$9,062,000
1979	11,700,000
1980	12,204,000

Department of Defense

1978	$20,370,000
1979	21,562,000
1980	22,912,000

Commerce

1978	$1,716,000
1979	3,386,000
1980	2,609,000

Education

1978	$1,315,800
1979	1,091,600
1980	2,284,000

Department of Justice

1978	$1,268,976
1979	1,567,056
1980	844,410

Treasury

1978	$5,169,124
1979	5,487,891
1980	4,326,942

Transportation

1978	$2,245,488
1979	2,426,813
1980	1,876,648

Independent agencies

1978	$23,872,824
1979	27,600,549
1980	26,492,607

Grand total

1978	$123,272,800
1979	167,311,275
1980	148,451,124

Mr. BAUCUS. As can be seen from these figures Federal agencies are spending hundreds of millions of dollars for advertising.

In the bill before us today, I estimate there will be spent at least $2 million—probably much more than that—for advertising. Consider the following tables:

ADVERTISING EXPENSES IN DOT APPROPRIATIONS FOR PRIOR YEARS

	In-house	Outside	Total
FISCAL YEAR 1978			
Department of Transportation:			
Office of Secretary	$858,000.00	0	$858,000.00
Coast Guard	926,000.00	0	926,000.00
Federal Aviation Administration	0	0	0
Federal Highway Administration	18,730.44	$158	18,888.44
National Highway Traffic Safety Administration	142,600.00	0	142,600.00
Federal Railroad Administration	300,000.00	0	300,000.00
Urban Mass Transportation Administration	(1)	(1)	(1)
Total for Department of Transportation	2,245,330.44	158	2,245,488.44
Independent agencies:			
National Transportation Safety Board	0	0	0
Civil Aeronautics Board	201,419.00	0	201,419.00
Interstate Commerce Commission	181,512.00	8,462	189,974.00
Panama Canal Commission	282,000.00	0	282,000.00
Total for independent agencies	664,931.00	8,462	673,393.00
Grand total	2,910,261.44	8,620	2,918,881.44
FISCAL YEAR 1979			
Department of Transportation:			
Office of Secretary	858,000.00	0	858,000.00
Coast Guard	1,100,400.00	0	1,100,400.00
Federal Aviation Administration	0	0	0
Federal Highway Administration	18,747.25	866	19,613.25
National Highway Traffic Safety Administration	148,800.00	0	148,800.00
Federal Railroad Administration	300,000.00	0	300,000.00
Urban Mass Transportation Administration	(1)	(1)	(1)
Total for Department of Transportation	2,425,947.25	866	2,426,813.25
Independent agencies:			
National Transportation Safety Board	0	0	0
Civil Aeronautics Board	212,020.00	0	212,020.00
Interstate Commerce Commission	224,811.00	10,308	235,119.00
Panama Canal Commission	206,000.00	0	206,000.00
Total for independent agencies	642,831.00	10,308	653,139.00
Grand total	3,068,778.25	11,174	3,079,952.25
FISCAL YEAR 1980 (TO DATE)			
Department of Transportation:			
Office of Secretary	858,000.00	0	858,000.00
Coast Guard	598,500.00	0	598,500.00
Federal Aviation Administration	0	0	0
Federal Highway Administration	8,020.85	58	8,078.25
National Highway Traffic Safety Administration	106,640.00	5,430	112,070.00
Federal Railroad Administration	300,000.00	0	300,000.00
Urban Mass Transportation Administration	(1)	(1)	(1)
Total for Department of Transportation	1,871,160.85	5,488	1,876,648.85
Independent agencies:			
National Transportation Safety Board	0	0	0
Civil Aeronautics Board	227,978.00	0	227,978.00
Interstate Commerce Commission	179,976.00	11,079	191,055.00
Panama Canal Commission	170,000.00	0	170,000.00
Total for independent agencies	577,954,00	11,079	589,033.00
Grand total	2,449,114.85	16,567	2,465,681.85

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[1] Information yet to come.

Mr. BAUCUS. Mr. President, I have been interested in the problem of wasteful spending for advertising expenses since I came to Congress. As I was preparing to speak today, I reviewed a report prepared for me over 3 years ago by the General Accounting Office. This report is a clear statement of the problem. Unfortunately, I believe the situation is at least as bad today as it was when this report was prepared, and I ask unanimous consent that it be printed in full at this point in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., July 12, 1977.

Hon. MAX BAUCUS,
House of Representatives.

DEAR MR. BAUCUS: In your May 20, 1977, letter, you asked that we examine how much the Government spends for television, radio, and magazine advertising. You also wished to know where these expenditures are accounted for in each agency's budget and whether this type of advertising is effective.

GOVERNMENT ADVERTISING COSTS

Although information in the form you requested is not available without surveying each agency and bureau, we have information on hand that may meet your needs. We answered a similar congressional inquiry in 1975 by obtaining total advertising costs from 31 agencies. This information shows the costs by type of media for commercially procured advertising. In-house costs, however, are not broken out.

These 31 agencies spent $141.6 million for advertising by private agencies in fiscal year 1974 and estimated that $145.5 million would be spent in fiscal year 1975. In addition, the agencies spent $47.5 million for in-house advertising in fiscal year 1974 and estimated $53.3 million for in-house advertising in fiscal year 1975. Therefore, these 31 agencies spent about $189 million and $199 million, respectively, for fiscal years 1974 and 1975.

The expenditures and various types of media purchased from private agencies are as follows:

	1974 (actual)	1975 (estimated)
Television	$4, 929, 300	$9, 596, 000
Radio	2, 006, 400	2, 428, 700
Newspapers and magazines	30, 168, 400	30, 487, 800
Posters, billboards, and displays	15, 592, 100	13, 004, 000
Brochures and catalogs	25, 673, 000	31, 676, 000
Films	5, 464, 400	6, 277, 900
Other	57, 757, 700	52, 029, 000
Total	141, 591, 300	145, 499, 400

Other costs include items such as military recruiting costs which were not clearly reported by type of media used, give-away recruiting items, visitors programs, advertising research, and related travel costs.

REPORTING ADVERTISING COSTS

There is no requirement that agencies identify advertising costs within their budgets. Also, budgeting of these costs varies by agency. For example, military recruiting advertising is budgeted under Operations and Maintenance for each of the military departments, and Energy Research and Development Administration recruiting is budgeted under Program Direction, Program Support. Energy Research and Development Administration public information is budgeted under Supporting Activities, Program Support, and National Institute of Drug Abuse public information is budgeted under Management and Information, Drug Abuse, Direct Program. Further, there is no Government-wide definition of advertising and no central location within the Government where this information can be obtained. Consequently, total Government advertising costs have previously been obtained by special studies or one-time reporting, with the definitions established for each report. This approach was used in our aforementioned study.

In July 1975, the Office of Management and Budget reported to the Chairman, House Appropriations Committee, on the total Government contract advertising costs. This report covered all agencies with more than 100 employees. The method of defining advertising costs for the Office of Management and Budget study differed somewhat from our study of the same period, in that we were more specific as to what costs should be reported. As a result, the reported costs differed. We reported advertising from private firms at $141.6 million in fiscal year 1974, and the Office of Management and Budget reported $128.8 million. Our report also pointed out that some agencies had reservations about identifying certain costs as advertising.

EFFECTIVENESS OF ADVERTISING PROGRAMS

We discussed advertising effectiveness with an official of the American Association of Advertising Agencies. According to him, advertising effectiveness depends on many factors, such as type of presentation, timing, and media. Further, each program is designed for a particular group. This diversity would likely cause the effectiveness to vary from program to program. Consequently, we believe that an effectiveness evaluation of Government advertising could best be viewed on a program-by-program basis.

We have been able to locate only a few evaluations of the effectiveness of Government advertising programs. We evaluated the effectiveness of the Army's advertising aimed at recruiting persons for the all-volunteer forces ("Advertising For Military Recruiting; How Effective Is It?" March 29, 1976). In that report, we pointed out that although the all-volunteer forces program had been successful, all available evidence indicates that the contribution of advertising had been modest at best. A copy of the report is enclosed.

In addition to our work, we are aware of two other evaluations of advertising programs. Both are available through the National Technical Information Service. They are:

"Public Awareness of a NIAAA Advertising Campaign and Public Attitudes Toward Drinking and Alcohol Abuse".

"Effects of Anti-Smoking Campaigns Aimed at Less Hazardous Smoking".

We trust this information will satisfy your needs.

Sincerely yours,
R. G. ROTHWELL
(For Fred Shafer, Director).

LINE-ITEM ADVERTISING BUDGETS ARE NECESSARY

Mr. BAUCUS. Mr. President, I recommend that the appropriate committee, the Committee on Governmental Affairs, review this problem. I believe it should consider legislation requiring that agencies itemize advertising expenses so that we can get a better handle on this waste and cut back on it. That, Mr. President, is essentially the reason why I am offering this amendment.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. BAUCUS. I yield to the Senator from Montana.

Mr. MELCHER. I think my colleague's remarks are right on target, and I ask unanimous consent to become a cosponsor of the amendment. I think it is an excellent amendment.

Mr. BAUCUS. I ask unanimous consent that my colleague be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I am authorized by the Senator from Indiana to indicate his support for the amendment and, as minority manager of the bill, I state I am willing to accept the amendment.

Mr. BAUCUS. May I inquire of the Senator as to the degree to which, if it goes to conference, the conferees will fight for its retention?

Mr. McCLURE. The Senator knows that I will not say we are going to conference and chuck his amendment. The Senator has my assurance we will give reasonable effort to take the amendment, and I would suspect Members of the House, in the mood the Congress is in today, will very likely see the wisdom and merit of this amendment and be as ready to accept it as we are today.

Mr. BAUCUS. I thank the Senator from Idaho for his acumen, his vision, and his support.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana (Mr. BAUCUS).

The amendment (UP No. 1604) was agreed to.

Mr. LEVIN. Mr. President, if it is in order, I will send an amendment to the desk which I believe the managers of the bill have accepted. If it is not in order, I ask unanimous consent that it be in order to do so.

Mr. McCLURE. Mr. President, reserving the right to object, and I do not intend to object, I think, under the previous order, the pending business would be the amendment that was set aside temporarily.

The PRESIDING OFFICER. The Senator from Idaho is correct.

Mr. McCLURE. Mr. President, a further parliamentary inquiry. Under the rules of the Senate, the next amendment would be the second committee amendment upon which reservation was stated earlier?

The PRESIDING OFFICER. The Senator from Idaho is correct.

Mr. McCLURE. Mr. President, might I inquire of the Senator from Michigan how long it will take to dispose of this amendment?

Mr. LEVIN. About 3 minutes.

Mr. McCLURE. Mr. President, I ask unanimous consent that, in the event the amendment is set aside, that it may be set aside temporarily, not to exceed 5 minutes, for the consideration of the amendment of the Senator from Michigan.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 1605

(Purpose: To restrict the use of certain funds)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan (Mr. Levin) proposes an unprinted amendment numbered 1605.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 43, after line 21, insert the following:

Sec. 326. None of the funds provided in this Act shall be available for interstate highway I-69 between Charlotte and Lansing, Michigan for a period of 120 days after the date of enactment of this Act.

Mr. LEVIN. Mr. President, the amendment which I am introducing today with Senator Riegle—which I understand is acceptable to both the majority and minority floor leaders—would simply delay further work on interstate I-69 highway between Charlotte and Lansing, Mich., until a 90-day review of the route has been completed by the Secretary of Transportation.

We are acting on this matter at the request of Congressman Howard Wolpe, who has been attempting to work with the State of Michigan for over 2 years in representing the concerns of local citizens, and we are acting after discussions initiated by the Secretary of Transportation concerning problems with the route which has been selected by the Michigan Department of Transportation.

The goal of completing this interstate highway is one which I fully support, but given the concerns as expressed by Congressman Wolpe and the Secretary of Transportation, it seems appropriate that the Department be given authority to review the alinement.

Cooperation between the Michigan Department of Transportation, citizens who have expressed opposition, the regional planning authority and the Secretary of Transportation, is of course essential if this venture is to be successful. It is my understanding that within this limited time-frame, the Department of Transportation could conduct public hearings which would provide all parties with an opportunity to make their views known and to consider the various factors which were involved in the selection of the alinement. The Department of Transportation has informed us that this delay could not take place without this amendment. Senator Riegle and I have informed the Federal Highway Administration that we are introducing this amendment after assurances from the Department that, no matter what the outcome of the review, Michigan would not lose any employment or Federal dollars and that the Department remains committed to the completion—in the most effective and least damaging way—of this needed interstate system. The Michigan Department of Transportation will have final authority over the project after the 90-day review period.

Mr. RIEGLE. Mr. President, I would like to add to the comments of my colleague that I think this is an important amendment. We appreciate the consideration of the committee on both sides of the aisle on the matter.

Mr. President, I join with Senator Levin in introducing this amendment which allows the Department of Transportation to conduct a review of that segment of I-69 between Charlotte and Lansing, Mich.

Congressman Howard Wolpe from Michigan, who is the Congressman in the area affected, has given considerable leadership to the effort to try to make sure that some of the concerns that have been raised have an opportunity to be examined carefully. We think this will be constructive. The amendment goes further to make it clear that there will be no loss of funds or loss of jobs to Michigan by the purpose of this special 90-day review.

The following groups have expressed their opposition to the current proposed route: Bellevue Township, Benten Township, Brookfield Township, Carmel Township, Eaton Township, Oneida Township, Roxand Township, Walten Township, Chester Township, Eaton Rapids Township, Kalamo Township, Sunfield Township, Village of Bellevue, Village of Sunfield, Eaton County Board of Commissioners, Eaton County Planning Commission, Tri-County Regional Planning Commission, Michigan Department of Agriculture, Michigan Commission of Agriculture, Eaton County Chapter of the Michigan Townships Association, Transportation Task Force of the Citizen Advisory Council of Tri-County Planning Commission, Transportation Review Committee Tri-County Regional Planning Commission, Eaton County Farm Bureau, Michigan Farm Bureau, Thornapple-Grand Soil Conservation District, Eaton County Holstein-Friesian Association, Capitol Area United Auto Workers Community Action Program Council, and State Senator Richard Allen.

Our amendment simply provides for a limited final review period—which is not to exceed 90 days—after which the Michigan Department of Transportation shall have final authority over the project.

It is our understanding that Michigan shall not lose any employment or Federal dollars as a result of this amendment.

Mr. McCLURE. Mr. President, will the Senator from Michigan yield?

Mr. LEVIN. I am happy to yield.

Mr. McCLURE. Mr. President, I have reviewed the amendment, along with the comments in support of the amendment.

I want to state only one reservation in my mind with respect to the amendment. I want to make very clear at this time that we are not now trying in any way to subvert the ordinary process of decisions upon the construction of highways. I noted in the remarks of the Senators that they indicated that the final decision is the decision of the Michigan Department of Transportation. That is where the decision, under existing statutes, must be made. We are not trying to change that by indicating that this delay that we are in any way expecting the Federal Highway Administration or the Congress of the United States to change the ultimate authority in the highway location decisions.

Mr. LEVIN. The Senator is correct.

Mr. McCLURE. I thank the Senator. I have no objection to the amendment.

Mr. BAYH. Mr. President, the Senator from Indiana has no objection to the amendment.

The PRESIDING OFFICER (Mr. Exon). The question is on agreeing to the amendment of the Senator from Michigan (Mr. Levin).

The amendment (UP No. 1605) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, is the Senator from North Carolina correct in his understanding that one of the excluded committee amendments is now the pending business?

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. HELMS. Yes.

Mr. SCHMITT. Mr. President, I believe the unanimous-consent request was for the amendment offered by the Senator from Massachusetts to be pending at this point. We are close to having that language drafted. It is not quite drafted. I think there is agreement now on what it should be.

Mr. President, I ask unanimous consent that that amendment be laid aside further until the disposition of the next pending committee amendment.

Mr. HELMS. Mr. President, I thank the distinguished Senator.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

SECOND EXCEPTED COMMITTEE AMENDMENT

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The legislative clerk read as follows:

On page 38, strike line 9 through and including line 17;

On page 38, line 18, strike "319", and insert in lieu thereof "317";

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, for Senators on the floor and for those who may be listening to this debate on their loudspeakers in their offices, this is the airbag amendment. If Senators favor adding $200 to the price of a new car, then they will vote for the Senate committee amendment which, Mr. President, strikes section 318 (a) and (b) on page 38, lines 9 through 17.

Mr. President, in the judgment of the Senator from North Carolina, the Senate has an opportunity today to show the

American people that it is willing to come to the aid of the American automobile industry, which is ailing.

Admittedly, delaying implementation and enforcement of the airbag standard will not, in and of itself, guarantee the survival of the American automobile industry. We have a lot of adjustments to make in terms of how far we have strayed from the fundamentals of the free enterprise system before we can have any assurance of that type. But, by delaying implementation and enforcement of this airbag standard, the Senate will be sending a signal that we are willing to take steps to eliminate some of the costly and excessive regulations by the Federal Government that are hampering U.S. automobile manufacturers.

Mr. President, there is at least one compelling reason for the Senate to vote on this issue today, to take a stand and let the people back home know where we stand: That is the condition of the U.S. automobile industry.

I think I am correct in saying that nearly 1 million American workers in the automobile and related industries are jobless today. Only 300,000 of these workers actually work directly for the auto manufacturers. The vast majority of them work, or would like to be working again, for automobile dealers, suppliers, and component makers throughout this Nation.

In my State of North Carolina alone, many are out of work as a result of the slump in automobile sales and automobile production.

The North Carolina textile industry, in particular, has been adversely affected.

Mr. President, I would hate to try to estimate the number of letters I have received. I cannot count them. They are from people back home. They are letters insisting that Congress do something about those "blankety-blank" Japanese imports, except when many of the people write they do not use "blankety-blank."

How does one respond with any intellectual honesty?

You have to tell them as I do, Mr. President, that we should not blame the Japanese; we ought to blame the real culprit, the Federal Government of the United States. The policies of our Government have resulted in the Japanese imports. These policies are chiefly responsible because it is the myriad of unwise Federal policies that have created the competitive advantage by foreign automakers over the U.S. automobile industry.

I am going to require a vote on this proposition, Mr. President, because this air-bag issue is just one example of what I am talking about.

The National Highway Traffic Safety Administration's current section 208 passive restraint standard actually creates a competitive advantage for foreign automobiles. This standard provides that only large cars need comply by 1982.

What does that mean? It means that for all practical purposes only American-made cars are so adversely affected. Intermediate-size cars would have to comply by 1983. Again, these include mostly American-made cars.

So we have a situation that not until the year 1984 will any substantial number of imported cars have to comply with these standards. In the meantime, down the tube go thousands upon thousands of additional jobs that American workers so desperately need today.

We have a lot of overworked cliches in our vocabulary these days, one of which is "shooting ourselves in the foot." Well, we are doing that. This is a prime example of it. We are imposing restrictions and standards on our own people that we do not impose on imported products.

As to the air bag, it is estimated that when in full production air bags will add $200 to the price of a new car, and the replacement cost, Mr. President, will be two and a half times that, $500. So for at least 2 years foreign automobiles imported into this country will enjoy a substantial competitive advantage over American-made cars, courtesy of the policies of the Federal Government of the United States. That is, unless Congress votes to delay implementation and enforcement of this standard.

I suppose the amendment put into this bill by the House of Representatives, and which the Senate committee proposes to strike, can best be described as a fair play amendment: Fair play to the American automobile industry; fair play to people who buy automobiles; fair play to people who are out of work as a result of this policy; and others, instituted and implemented by the Federal Government.

So, the Senate is going to take a stand today on this amendment. Interestingly enough, I am bound to observe, Mr. President, that some of the very same Senators who support the air bag rule have been calling for Government intervention to limit foreign car imports in order to save the American automobile industry.

Well, they do not have to do that. Just let the American free enterprise system work, give it a chance to be competitive, and we do not have to have these trade embargoes. We just need to have some faith and some fairness toward the best economic system the world has ever had—the free enterprise system.

That is the reason I am raising this question today and why I want to vote on this amendment—because Senators will have a chance to show their intention to take positive steps to aid the ailing U.S. automobile industry. I urge Senators to show their support for the industry and all of the people employed by it and ancillary businesses by voting to delay implementation and enforcement of NHTSA's passive restraint standards.

Mr. President, I am going to ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I say to the distinguished managers of the bill that I shall be glad to vitiate the yeas and nays—I have an indication that there will be no attempt to strike the yeas and nays.

Mr. McCLURE. Will the Senator yield?

Mr. HELMS. I am glad to yield.

Mr. McCLURE. As the Senator knows, when this matter was discussed in the other body, they added an amendment which would, in effect, prohibit the air bag program. When that matter came before the subcommittee, it was suggested that we go ahead with the air-bag program and that the language prohibiting such a program be stricken from the bill.

The Senator from Idaho, at that time, indicated, as he indicates now, that I am no supporter of the air-bag program. I am not convinced that it is cost-effective or that it is, indeed, as good for safety as the proponents claim it to be. I agreed at that time that the language be stricken and that it could then be discussed, both on the floor of the Senate—as is now being done—or, in the event it was not discussed here, in the conference, knowing that the House already had had a vote on it and it would be within the conference if omitted from the Senate bill.

I have no illusions that we shall not have that discussion here, on the floor of the Senate. I had no illusion, and certainly, no expection, that the matter was concluded by the action of the subcommittee in striking the language from the bill.

It will be debated, I am certain, and either settled on the floor today by a vote of the Senate, or will be, again, the subject of a spirited debate in the conference.

I might add to that that, following the action taken by the committee, which, in effect, left the debate to a different forum, there was a demonstration mandated in a purchase by GSA as the result of an amendment offered by the Senator from Washington (Mr. MAGNUSON). So there is a program in which GSA will be involved in the purchase of automobiles equipped with air bags if they are economically available on models which are to be purchased for the GSA fleet.

Other than that, the matter is, as has been suggested by the Senator from Idaho, a matter of longtime debate, longtime discussion. I do not think, there is any need to go any further, from my standpoint, into the merits or demerits of the air bag proposals. But I do know that the Senator from Indiana has indicated that he is unwilling to accept the amendment of the Senator from North Carolina. Therefore, I did indicate to the Senator that there would be no disposition on the part of the committee to accept the amendment and that, therefore, he should not withdraw his request for the yeas and nays.

Mr. BAYH. Mr. President, with all due respect to the very strong feelings of our distinguished colleague from North Carolina, I have to urge that this amendment not be accepted. We have had that amendment in our bill several times in previous years. We just sort of let it go by the board because it has not had any effect, since the standard was not scheduled to go into effect in those years. But if there ever was an example where we should not have legislation on an appropriation bill, I say to my colleagues, this is where it is, particularly when, this year, this is an item that is being worked out in the House-Senate conference by the respective authorizing committees.

Mr. President, I think it would be very unfortunate for us to put a prohibition in there which not only deals with airbags but with seatbelts and, without getting involved in the merits of lives saved—which the Senator from Indiana could do with very little provocation—I address the parliamentary question of urging my colleagues not to interfere with what the authorizing committees are doing right at this very moment in the conference.

Our distinguished colleague from New Mexico (Mr. Schmitt) is on our committee. He is a conferee on that authorizing committee. He told us that this issue will be worked out in conference in a relatively short period of time. I just urge the Senate to vote down the amendment of the Senator from North Carolina.

● Mr. RIEGLE. Mr. President, I oppose the proposal introduced by my distinguished colleague from North Carolina, Mr. Helms, which would, in effect, bar the Department of Transportation from spending any funds in fiscal year 1981 to enforce standard 208—the passive restraint standard.

At this very moment Senate and House conferees are working toward a compromise on this issue and I believe that it can best be resolved by the committees involved.●

● Mr. LEVIN. Mr. President, it is with a good deal of reluctance that I vote to sustain the committee's decision not to address the issue of passive restraint issues. On substantive grounds, I find airbags to be an expensive and, at this time, unjustified mechanism. I am particularly offended by the proposed provisions for phasing in the requirement which clearly works to the disadvantage of American producers.

But having said that, I believe there is good reason to sustain the committee's action on this issue at this time. I base that conclusion on two factors. First, this issue is being addressed now in a conference between the House and Senate. I have been informed about the progress of those negotiations and while it appears that they will not go as far as I would like toward minimizing the requirements for airbags, they have clearly addressed the phase in issue and have restricted the requirement for airbags. This amendment could create uncertainty which the industry does not need. Secondly, I am disturbed by the language of the amendment which is being offered. As I read it and as I listen to the explanation being offered, it may well have the effect of preventing continuing efforts to find nonairbag passive restraint systems.

While I have concluded that airbags are not a desirable safety mechanism, I have not reached the same conclusion about other passive systems and, accordingly, I cannot support an amendment which would have the effect of preventing advancements in this area.

Mr. President, while I commend the Senator from North Carolina for his willingness to raise this issue, I am afraid that my disagreement with his timing and the excessive scope of his language, compells me to vote against him.●

Mr. HELMS. Mr. President, if nothing further remains to be said, I move to lay the committee amendment on the table and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the committee amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arizona (Mr. DeConcini), the Senator from New Hampshire (Mr. Durkin), the Senator from Missouri (Mr. Eagleton), the Senator from South Dakota (Mr. McGovern), the Senator from Tennessee (Mr. Sasser), the Senator from Illinois (Mr. Stevenson), the Senator from Alabama (Mr. Stewart), the Senator from Florida (Mr. Stone), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois (Mr. Stevenson) would vote "nay."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater), the Senator from New York (Mr. Javits), the Senator from Iowa (Mr. Jepsen), and the Senator from Maryland (Mr. Mathias) are necessarily absent.

I also announce that the Senator from Vermont (Mr. Stafford) is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 30, nays 56, as follows:

[Rollcall Vote No. 421 Leg.]

YEAS—30

Armstrong
Baker
Biden
Boren
Byrd,
  Harry F., Jr.
Church
Dole
Domenici
Durenberger
Exon
Hatch
Hayakawa
Heflin
Helms
Hollings
Humphrey
Johnston
Kassebaum
Lugar
McClure
Melcher
Morgan
Nunn
Roth
Simpson
Thurmond
Tower
Wallop
Weicker
Zorinsky

NAYS—56

Baucus
Bayh
Bellmon
Bentsen
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
Ford
Garn
Glenn
Gravel
Hart
Hatfield
Heinz
Huddleston
Inouye
Jackson
Kennedy
Laxalt
Leahy
Levin
Long
Magnuson
Matsunaga
Metzenbaum
Mitchell
Moynihan
Nelson
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Schmitt
Schweiker
Stennis
Stevens
Tsongas
Warner
Williams
Young

NOT VOTING—14

DeConcini
Durkin
Eagleton
Goldwater
Javits
Jepsen
Mathias
McGovern
Sasser
Stafford
Stevenson
Stewart
Stone
Talmadge

So the motion to lay on the table the committee amendment, page 38, line 9, was rejected.

Mr. BAYH. Mr. President, I move to reconsider the vote by which the motion to lay the amendment on the table was rejected.

Mr. WARNER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the committee amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. PROXMIRE. Mr. President, will the Senator yield so that I may get the yeas and nays on passage?

Mr. BENTSEN. I yield.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, I ask unanimous consent that I be allowed to proceed out of order with an amendment that has been cleared, as I understand it, by the managers for the majority and the minority.

The PRESIDING OFFICER. Is there objection?

Mr. BAYH. Mr. President, the Senator from Indiana has no objection but from a parliamentary standpoint should we not dispose of the amendment which we are presently dealing with or can we put this aside just momentarily?

The PRESIDING OFFICER. It can be put aside by unanimous consent.

Mr. BAYH. Mr. President, I ask unanimous consent that we put it aside temporarily to take care of the Senator from Texas and the Senator from Washington.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I did not hear the request. I reserve the right to object. What was the request?

Mr. BENTSEN. The request was that we proceed out of order with an amendment that has been cleared by the managers for the majority and minority.

Mr. HELMS. Mr. President, certainly I will not object.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. Where does the committee amendment stand relative to this amendment?

The PRESIDING OFFICER. It is the pending question.

Mr. HELMS. The proposal is to set that aside; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I have no objection.

Mr. BENTSEN. I think this will take a couple minutes.

Mr. HELMS. I have no objection and I am delighted to accommodate the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1606

Mr. BENTSEN. Mr. President, I have an amendment which I send to the desk and ask the clerk to state.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. Bentsen) for himself, Mr. Randolph, Mr. Stafford, Mr. Domenici, Mr. Pressler, and Mr. Chafee proposes an unprinted amendment numbered 1606.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 35 after line 21, insert:

(a) For fiscal year 1981, the Secretary of Transporation shall control the obligation of the limitation imposed by section 310 by allocation according to the following formula: 80 per centum in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to a State for fiscal year 1981 bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year: *Provided,* That the collective obligations of all the States may not exceed one-fourth of the obligation ceiling imposed by section 310 in each of the first two calendar quarters of fiscal year 1981; the remaining 20 per centum not so allocated, in the order in which States have obligated all such sums so allocated submit projects on or after August 1, 1981, to the Secretary of Transportation for his approval and in the amounts for such projects.

(b) Notwithstanding subsection (a), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1, 1981, revise a distribution of the 80 per centum made under subsection (a) if a State will not obligate the amount distributed during fiscal year 1981 and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during fiscal year 1981; and

(3) not distribute amounts authorized for administrative expenses.

Mr. BENTSEN. Mr. President, I offer this amendment for myself and Mr. Randolph, Mr. Stafford, Mr. Domenici, Mr. Pressler, and Mr. Chafee.

This amendment adds a new section to deal with a problem that we have had this year with allocation of Federal-aid highway program obligational authority.

Under existing law, States can obtain obligational authority on a first come, first served basis. If there is a diminution of the amount available for obligation, it can have serious ramifications for some of the States. In the past year, an executive deferral of obligational authority created a situation which severely cut back available obligational authority.

Section 310 in this bill calls for an $8.4 billion obligation limitation. The amendment I propose now will require the Secretary of Transportation to allocate the obligation limitation among the States. This amendment is the same as the amendment I offered on June 25, 1980 to S. 2720, which was accepted and agreed to by the Senate at that time. I offer the amendment today, because it is unlikely that S. 2720 will become law by October 1, 1980, since it has not yet been considered by the House of Representatives.

On October 1, if neither S. 2720 as amended nor this amendment has been enacted into law, then in fiscal year 1981 we will be operating under the same first come, first served rule that occasioned the problem we seek to guard against here.

In short, this amendment seeks to give all States a degree of certainty about the obligational limitation available to them. It will require the Secretary of Transportation to split up the obligation limitation which is set in section 310 of H.R. 7831, so that each State has reserved to it in fiscal year 1981 a certain portion of what will be available for the total Federal-aid highway program in fiscal year 1981.

I remind the Senators that this amendment was proposed, debated, and passed by this body on June 25, 1980, and it pertains only to the obligational authority for fiscal year 1981. In fiscal year 1982, States should be prepared to go on the first come, first served basis.

Mr. President, what this amendment does is it deals with the allocation formula for the States. In the obligation authority that is created under our statutes, we have the situation that developed with some of the deferral of funds where we have been operating on a first-come-first-served basis and that meant that a lot of the smaller States were not able to achieve the funds that they needed for the highway construction.

What we have done in this piece of legislation is to do by amendment to this one what we did earlier in the year to a bill that is now resting over in the House of Representatives and will perhaps not be acted on. If it is not acted on, we are going to find that a number of small States are going to have some real problems on their allocation of funds, and this will see that the Secretary of Transportation is under the obligation to see that these States have an opportunity to obtain some of the funds.

As I say, it has been cleared by the managers of the bill on the majority and the minority side and has previously been acted on by this Senate.

Mr. PRESSLER. Mr. President, I rise in support of the amendment offered by Senator Bentsen which I am pleased to cosponsor.

The intent of this amendment is to provide an orderly procedure for obligating Federal-aid highway funds so that each State will have an effective highway program next year. We saw a situation last year of changing obligational ceilings and allocation formulas which completely disrupted the States Federal-aid highway programs. We no longer have more money available than the States can obligate for highway projects. This practice has the potential for creating panic among the States that unless they rush to obligate October 1, they will get left out.

I believe we want to avoid that situation and this amendment would accomplish that purpose. It would provide a stable, assured amount of funds for each State and enable responsible planning through the entire fiscal year. Under the terms of this amendment, each State would retain the right to set its own priorities in funding highway projects. It would allow States like South Dakota, which are slower obligating States, an adequate amount of time to obligate their highway funds. This is necessary because in a number of States in my part of the country, construction is limited to a few months during the year.

It is intended that this allocation formula be in place only during fiscal year 1981 and after that period consideration be given to resuming the first come, first serve obligation procedure used in the past.

Mr. DOMENICI. Mr. President, the apportionments for the Federal-aid highway program for fiscal year 1981 will be made on October 1, 1980. Unless legislation is enacted before that date, the money will be available for obligation by the States on a first come, first serve basis.

I believe my distinguished colleagues are well aware of the disruption experienced by the States in their Federal-aid highway programs this past year due to a deferral of highway budget authority and the subsequent allocation formulas and resulting court suits.

The States now realize that there may not be sufficient funds available to meet all their highway needs and their experience last year has taught them that obligating funds early in the fiscal year may be the only way to assure a highway program. I believe this creates a real potential for a panic situation on October 1 when apportionments become available for obligation. It may also encourage States to obligate funds for any project which can be ready in a hurry, rather than funding high priority projects. States may believe, and justifiably so, that if they do not obligate immediately all the money will be gone.

In the past, there have been faster obligating States and slower obligating States. This is due to many reasons including the length of the construction season, the procedure for raising and making available revenues for the States' matching share, and the procedure for letting contracts. I believe it is unfair to penalize a State or deny them a highway program because, for example, their State legislature wants to be involved in the process of allocating revenues.

After the kind of experience my own State of New Mexico had last year, I believe it is imperative that we establish a procedure at the beginning of the fiscal year which will provide each State with a stable, assured amount of funding for their highway program during the next fiscal year.

Language similar to that contained in the amendment has already been passed by both the House and Senate. However, it is unclear at this time whether the legislation containing this language will be passed in time and it is included here only because of the urgency of having a plan in place by October 1, 1980 when the apportionments will be made, to assure an orderly implementation of the highway program during the next fiscal year.

I am pleased to be a cosponsor of this amendment offered by Senator BENTSEN and I believe it will be effective in preserving a meaningful Federal-aid highway program for each State during fiscal year 1981.

Mr. BENTSEN. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Vermont.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR STAFFORD

During the past year we have seen a situation developing where the States have been able to spend more money on Federal-aid highway projects than the Federal Government can provide.

The President's deferral of $1.15 billion in Federal-aid highway funds during fiscal 1980 and the subsequent allocation of the remaining funds demonstrated the difficulty in dividing limited resources among States with increasing highway needs. The purpose of the formula contained in this amendment is to provide each State with a definite amount of money in order that the necessary planning can be accomplished by the States throughout the year in order to maximize the benefit of the Federal funds available. At the same time there is adequate flexibility in the formula for the Department of Transportation to address any unique or unforeseen situations that may develop. This formula is intended to apply only during fiscal year 1981.

My own State of Vermont was adversely impacted by the changing allocation formulas during this fiscal year. Because of several factors including a construction season limited to the summer months, Vermont has traditionally been one of the slower obligating States. This Senator believes the amendment will preserve an effective highway program for Vermont and for all States. Similar language has already been passed by both the House and the Senate. I believe it is important to include it in H.R. 7831 because of the urgency of having an allocation formula in place by October 1, 1980 when highway apportionments for fiscal year 1981 are made.

Mr. CHAFEE. Mr. President, I am pleased to cosponsor the amendment offered by Senator BENTSEN. The allocation formula for the Federal-aid highway program contained in this amendment is absolutely necessary to assure a viable highway program for each State during fiscal year 1981.

It is important that such a procedure is in place by October 1, 1980, when the apportionments for the Federal-aid highway program are made to the States. No one wants to repeat the situation the States experienced last year when the formulas and obligational limitations were changed in midyear. We know how difficult it is to implement a formula once the States have begun obligating funds.

If an allocation formula is not in place by October 1, 1980, the apportioned Federal-aid highway funds are immediately available to the States for obligation on a first-come, first-serve basis. This has been an effective way of administering the highway program in the past when there were sufficient funds to meet all the States highway needs. However, that situation has dramatically changed during the past year for a number of reasons including inflation, a rapidly deteriorating highway system, and competing national priorities for limited Federal funds.

The Federal-aid highway program and the Federal and State interest in that program must be reexamined. Until we have the opportunity to make decisions regarding the future of the program, it appears that the most equitable procedure is to provide each State with a stable, assured level of funding so each State can have a highway program in fiscal year 1981.

Mr. President, if a first-come, first-serve procedure is used during fiscal year 1981, there is a good possibility some States will be unable to obligate funds quickly enough before the collective obligation ceiling is reached. After October 1, 1980, States will have apportionments available totaling over $15 billion with an obligational limitation for fiscal 1981 somewhere around $8.4 billion. Rhode Island is a State which could potentially be adversely affected if funds are obligated on a first-come, first-serve basis. For a variety of reasons it has, in the past, been a slow obligating State. This allocation formula contained in this amendment will allow States like Rhode Island to carefully plan their highway priorities throughout the fiscal year.

Mr. BAYH. Mr. President, I am happy to accept the amendment of the distinguished Senator from Texas. He describes it accurately.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas.

The amendment (UP No. 1606) was agreed to.

UP AMENDMENT NO. 1607

(Purpose: To make clear that grants in aid for airports can be made for both noise compatibility planning and programs)

Mr. MAGNUSON. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the consideration of the amendment offered by the Senator from Washington?

Mr. HELMS. Is there not an amendment pending?

The PRESIDING OFFICER. The committee amendment is pending, in respone to the inquiry of the Senator from North Carolina.

Mr. HELMS. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. They have been ordered.

Mr. BAYH. Mr. President, does the Senator from North Carolina object? The Senator is completely within his rights but since we just voted on that issue is it necessary to have another yea and nay vote?

The PRESIDING OFFICER. The yeas and nays have been previously ordered the Chair so advises the Senator from North Carolina.

Mr. HELMS. Very well.

The PRESIDING OFFICER. Is there objection to the amendment being considered at this time?

Mr. HELMS. Yes, I object. We have pending business.

The PRESIDING OFFICER. Objection is heard.

Mr. BAYH. Mr. President, will the Senator from North Carolina permit us to put aside the pending business for 2 minutes out of deference to the President pro tempore to consider an uncontroversial amendment?

Mr. HELMS. If it is no longer than that, all right. I have been here in this Chamber for 3 hours. I have two conferences at which I am supposed to be present. I want to accommodate every Senator, but I have stepped aside for eight Senators now. But I will be delighted if it will not take over 2 or 3 minutes. I am delighted to yield to my friend from Washington.

Mr. MAGNUSON. This will take a minute.

Mr. HELMS. I am delighted to yield.

The PRESIDING OFFICER. Without objection, the agreement has been made to set aside the committee amendment.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposes an unprinted amendment numbered 1607:

At page 32, line 2, subtitute "noise compatibility planning and programs" in lieu of "noise compatibility planning".

Mr. MAGNUSON. Mr. President, the change I am proposing to section 302 of H.R. 7831 is technical in nature. Section 302 is a general provision which limits the amounts of obligations that the Department of Transportation can enter into for grants in aid for airports during the upcoming fiscal year.

However, the language of section 302 this year also appears to narrow the purposes for which those funds could be used beyond the language included in the authorization. For example, in past years—and consistent with the authorization act—airport sponsors could receive grants from the Department of Transportation for implementing their noise compatibility plans. Under this year's appropriation bill, only noise compatibility planning seems to be eligible under section 302, not noise compatibility programs to implement those plans.

My amendment merely makes clear that, as in years past, airport sponsors can receive grants from DOT under the authorization and the section 302 limitation on obligations for both "noise compatibility planning and programs."

I hope the chairman and ranking member of the Transportation Appropriations Subcommittee will be able to accept this amendment to settle the technical concern of the Department of Transportation.

Mr. BAYH. Mr. President, the Senator from Indiana is happy to accept the amendment of our distinguished chairman of the Appropriations Committee.

The PRESIDING OFFICER. The Chair interrupts with apologies to the Senator from Indiana. The Chair has been very patient at the several conversations that are going on in the Chamber but now it reaches the point where the Chair is having difficulty hearing Senators who are entitled to be heard in the Chamber.

I ask the Senator to please be in order so we might continue and if Senators must carry on conversations please retire to the cloakroom for that purpose.

With my apologies, the Chair recognizes the Senator from Indiana.

Mr. MAGNUSON. Mr. President, I ask for a vote on my amendment.

The PRESIDING OFFICER. The Senator from Indiana was recognized.

Mr. BAYH. Mr. President, the Senator from Nebraska did the Senator from Indiana a great service. He has nothing further that needs to be said.

The PRESIDING OFFICER. Is there objection?

Mr. SCHMITT. Mr. President, this is a very difficult morning, particularly for the Senator from Indiana, and I have no known objections to this amendment. However, I do know that the ranking minority member has not seen it. If we could have a moment or two to find out where he is and have him look at the amendment it would be, I think, wholly appropriate.

I suggest the absence of a quorum while that is done.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAYH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Baucus). Without objection, it is so ordered.

Mr. BAYH. Mr. President, I ask unanimous consent that the amendment of our distinguished colleagues from Washington be put aside for not to exceed 3 minutes, and I yield to the Senator from New Mexico to finish the business, which is really the pending business, which has been put aside for about 3 hours now.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 6602 (AS FURTHER MODIFIED)

Mr. SCHMITT. Mr. President, first of all I apologize to my distinguished colleague and friend from North Carolina. Things have gotten a little bit out of control and, hopefully this will establish a small measure of control to our proceedings.

Mr. President, at the request of Senator Stevenson, we have drafted language to be inserted in the pending amendment presented by Senator Tsongas, and we have agreement among the Senators concerned, including Senator Stevenson, that this language be inserted after line 9 of the amendment as presently at the desk.

Mr. President, I ask unanimous consent that the amendment proposed by the Senator from Massachusetts be modified as follows——

The PRESIDING OFFICER. Will the Senator please send his modification to the desk?

Mr. SCHMITT. For the clarification of the clerk, the insert "A" is to follow after line 9.

The PRESIDING OFFICER. The clerk will report the modification. Will the Senator please repeat his explanation?

Mr. SCHMITT. After the number "$6 million."

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

On page 25, strike lines 5 through 9 and substitute the following:

COOPERATIVE AUTOMOTIVE RESEARCH

For necessary expenses to discharge the functions of a cooperative automotive research program for conducting basic automotive research, $12,000,000: *Provided*, That the amount of funds obligated during the period ending 6 months after the date of enactment of this section shall not exceed $6,000,000; *Provided further*, That the Department of Transportation, in cooperation with the Department of Commerce, Department of Defense, National Science Foundation, National Aeronautics and Space Administration, Environmental Protection Agency, and Department of Energy, report to the Congress within 6 months of enactment of this Act its assessment of current federal automotive and other surface transportation research and development and its analysis of options for the federal management structure, areas of research, detailed objectives and funding requirements for a cooperative automotive research program, *Provided further*, that no additional funds shall be expended thereafter, unless authorized by Congress. *Provided further*, That it is also the intention of the Senate that an authorization bill with positive or negative recommendations be reported out by the appropriate committees of the Senate within said period.

The PRESIDING OFFICER. Without objection, the amendment will be so modified.

Mr. SCHMITT. Mr. President, there will be one technical correction in the final printing of the bill. I would recommend that the acronyms for the various agencies be spelled out, and that the first agency in the amendment is the Department of Commerce not the Department of Energy.

I believe this amendment now is acceptable to all persons concerned. The legislative history, I think, has already been well stated in the record, and I would suggest that we agree to the amendment.

Mr. BAYH. Mr. President, I urge us to do so expeditiously.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Massachusetts.

Mr. Tsongas' amendment (UP No. 1602), as further modified, was agreed to.

The PRESIDING OFFICER. The question now recurs to agreeing to the first excepted committee amendment, as amended.

The first excepted committee amendment, as amended, was agreed to.

SECOND EXCEPTED COMMITTEE AMENDMENT

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Washington.

Mr. FORD. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FORD. Did the Senator from North Carolina propose an amendment to the bill eliminating moneys as relating to airbags of $25 million?

Mr. HELMS. Will the Senator yield Mr. President?

Mr. FORD. I am asking the question.

Mr. HELMS. The situation is that the committee struck the provision and the Senator from North Carolina moved to table the committee amendment striking the House amendment, if that is not confusing.

Mr. FORD. Well, as you know, I have had something to do with NHTSA, as the chairman of the Consumer Subcommittee.

As I understand, the House language forbids the use of any funds as they relate to airbags.

Mr. HELMS. That is correct.

Mr. FORD. On this side the committee struck the House language.

The PRESIDING OFFICER. That is correct, with an amendment striking it.

Mr. FORD. But then it also put in $25 million for the Government to buy cars for the use of airbags.

Mr. BAYH. $10 million.

Mr. FORD. $10 million. Was it $25 million over the next 3 years or $10 million just in 1981?

Mr. BAYH. Ten million dollars.

Mr. FORD. For 1981 or when?

Mr. BAYH. Yes.

Mr. FORD. For 1981.

Mr. WARNER. Will the Senator from Kentucky, Mr. President, yield for a point of clarification?

Mr. FORD. I think we had better clear it up because we have a conference going on now and if that conference completes its business what we are doing here eliminates the judgment of the conference, as I see it.

Mr. WARNER. Absolutely. I sit with you on the conference.

The point is the House action, if left in the bill, would remove money for the enforcement of any passive device, airbags, including the new passive safety belts, so it is an across-the-board elimination of any funds to implement a standard to provide consumer choice for these devices.

Mr. FORD. Let me ask, Mr. President—may I continue? Is there any time constraint?

Mr. SCHMITT. Just passive time. [Laughter.]

Mr. WARNER. There is no time constraint.

The PRESIDING OFFICER. The Chair informs the Senators there is no time control.

Mr. FORD. Mr. President, I would like to have a colloquy with the Senator from Virginia (Mr. Warner). If I understand the Senator from Indiana, who is the floor manager of the bill, there is $10 million in this legislation for the implementation of the passive restraints, and that $10 million is there for the purchase by the Federal Government of vehicles containing airbags or is it just for passive restraints?

Mr. SCHMITT. If the Senator will

yield, Mr. President, I think I can clarify that. The language is the language of passive restraints and would include any form of passive restraint, including airbags.

Mr. FORD. Let me just read to you from the bottom of page 35.

> The Committee has provided an additional $10 million to the National Highway Traffic Safety Administration to fund a demonstration program of air bag systems using fleet purchases of cars equipped with air bags. Under this program, the Department of Transportation would fund the incremental cost of air bags in 1982 model cars purchased by the General Services Administration, State and local governments, and by police departments.

Now, that is $10 million for airbags. That is what this bill says and that is what we are voting on. That is not what we are in conference on as it relates to NHTSA.

I understand what the House language does. It eliminates all the use of money. But I understand what this language does, too. It preempts what our conference is doing.

Mr. BAYH addressed the Chair.

The PRESIDING OFFICER. Does the Senator yield?

Mr. FORD. I yield to the Senator from Indiana.

Mr. BAYH. Mr. President, the purpose of that money and the purpose of the language was in no way designed to try to subvert or circumvent the language of the authorizing committee. In fact, the Senator from Indiana authored the amendment to strike it out of there for the very purposes suggested by the Senator from Virginia and the Senator from Kentucky.

This money is provided so that GSA can buy 25,000 cars as a testing procedure, so we will know more about them after they have had a chance to use them for a year. It does not deal at all with the general population of cars. This is a testing program.

If the Senator from Kentucky would feel better about the language being included in the conference report to permit passixe restraints as well as airbags, the Senator from Indiana has no problem with that.

Mr. FORD. Mr. President, I say to the Senator from Indiana, as I recall the conference and its discussion and the vote on our side and what came out of the conference, there was very little sentiment for expending this kind of money as it relates to the purchase of airbags, an airbag experimental system as it relates to the Federal Government.

What we were intending to do was impose a procedure—I think that is what is in conference now. I do not think it is flying. I think we might have to go back to conference to narrow the fields a little bit to designate lines of vehicles within the industry. We turned everything around to prevent small cars from getting airbags or passive restraints. I thought we came up with a reasonable procedure. But now I am not sure where we are, since the conference, at least on our side, was opposed to the implementation of the large expenditure of funds as it relates to a demonstration program.

The Senator from Virginia may recall it differently, but that is the way I recall the conference that we had.

Mr. WARNER. If the Senator will yield, it seems to me that there are two separate questions that may be presented to the Senate. The first one, and the one I regard as the most important, is the committee amendment which will strike the House language. That is found on page 38 of the bill resting on our desks, section 318.

The Senate committee amendment would strike section 318 from the statute. If left in, 318 would negate the work of the conference.

Mr. FORD. That is correct.

Mr. WARNER. Therefore, it is my strong recommendation to our colleagues that the committee amendment be supported. Now, that support has been manifested here by a vote, as I recall, of 30 to 52.

Mr. FORD. Mr. President, I beg the Senator's pardon. That was to eliminate the committee language as it related to reinstating, as I read the amendment.

Mr. WARNER. The vote was 32 to 55.

Mr. FORD. I am talking about the motion to table that part of it.

Mr. WARNER. It is my understanding that the motion was to table section 318. Am I not correct?

Mr. BAYH. Yes.

Mr. WARNER. That is correct.

Mr. FORD. I yield to the Senator.

Mr. WARNER. It is my understanding, Mr. President, that the Senator from North Carolina is contemplating asking for the yeas and nays on an up-or-down vote on the committee amendment, which effect would be to strike from the bill a House provision which would restrain the Department of Defense from using any funds to implement standards which apply to both airbags and passive seat belts.

So, I think, if I might suggesst, Mr. President, if it is appropriate, to the managers of the bill to call up this amendment at this time, we should ask for an expression of an opinion of the Senator from North Carolina as to whether or not he desires the yeas and nays or if he is willing to accept the judgment of the Senate as manifested by this vote a moment ago in which the Senate clearly stated it would accept the committee amendment.

Mr. BAYH. Mr. President, I think the Senator from North Carolina has already expressed himself rather unequivocally on that matter.

Mr. HELMS. And the yeas and nays have been ordered.

Mr. FORD. Mr. President, I offered, as I recall, this sort of procedure in our conference, and it was turned down by the conferees I think we are getting into a posture here where we are forcing airbags, whether we want them or not, and we are forcing a demonstration at a cost of $10 million to the taxpayers of this country. This is just for the purchase of automobiles for airbags.

I am not opposed to airbags, as such, as I am not opposed to passive restraints, as such. But I think what we were trying to do here was implement the passive restraints through NHTSA, which is an agency of the Department of Transportation. I thought we were saying to industry—and industry was asking us to take this off their backs—that we switch the responsibility and the size of the automobile as to when we would require the passive restraints within the industry.

This proposal does not outline anything. It just says "Go get 'em" at approximately $400 apiece, at a cost of $10 million.

Mr. CANNON. Will the Senator yield?

Mr. FORD. Yes.

Mr. CANNON. Is it not a fact that there will not be any airbags available in the 1981 model year?

Mr. FORD. The Senator is correct.

Mr. CANNON. This appropriation is for 1981. So the earliest time that they could come onstream would be a 1982 model year.

Mr. FORD. Possibly, as we go back and look at it, the Senator is correct that when we brought the medium-size cars to the top and the larger cars last, because they are changing the larger automobile in size, that we reversed the trend. What the committee is about to do here is to spend $10 million and, as we say down home, "It ain't there." And we are going to put $10 million into a program.

Mr. BAYH. If the Senator will yield, this was put in in the full committee by our distinguished chairman, the Senator from Washington. And it is not necessary for the Senator from Indiana to speak for him, but the thrust of this was to give us a chance to have a thorough testing in which Government vehicles would be used; that these vehicles will be available in the latter part of the fiscal year for 1982 models. That is what the money is supposed to be spent for—let us have a comprehensive test of a sufficient number of these vehicles and we can decide, once and for all, the pluses and minuses for airbags, not just to have a test run on a bunch of dummies.

Mr. FORD. Mr. President, I say to my good friend from Indiana that that is what our conference was trying to do as it relates to NHTSA. That was our responsibility from the Commerce Committee as you relate it to the differences between the Senate and the House. And the Senate and the House agreed on something different, and the Senate's proposal was something different than what is included in this piece of legislation we are attempting to pass here today.

So the $10 million that is in the committee bill was not approved by the conference committee as it related to the conference between the House and Senate on NHTSA and passive restraints.

Mr. BAYH. Mr. President, I ask my friend from Kentucky, are we not talking about apples and oranges?

Mr. FORD. Mr. President, we are talking about $10 million going against something that the conference committee of the Senate did not agree to. And the Commerce Committee has the responsibility in this area.

Mr. BAYH. Mr. President, the Senator

from Indiana is fully aware of how many dollars we are talking about, and he is fully aware of what the authorizing committee is trying to do. But I say to my friend from Kentucky that he can distinguish between what he is doing in the authorizing committee as it applies to national policy and what we are telling the automobile manufacturers they have to do—and you have reached a compromise, I understand.

Mr. FORD. No; we did not. It is still in conference. We have not reached a compromise.

Mr. BAYH. That is the reason we are striking this language out of here so that we do not presuppose what you are going to do. What this language is designed to do—and perhaps I should let the Senator from Washington make the explanation, because I am not having very much luck the way I am going about it—but what we are trying to do is say: "OK, you fellows decide what the national policy should be as far as the automobile producers are concerned. We are going to give GSA the opportunity to run a test on these. We are not telling the automobile companies what to produce. We are going to buy automobiles that they produce according to the instructions that you give them in the authorizing committee."

Then we are going to test them and see how people are protected or not protected and come back in a year and give a report to the Senate and perhaps the authorizing committee would want to change its position. Perhaps it would make sense.

Mr. McCLURE. Will the Senator yield?

Mr. BAYH. I am happy to yield.

Mr. McCLURE. The comment was made that these will not even be available during 1981. I would suggest that if in fact they are not available because of decisions made in the law or in the manufacturing sector, then this question is moot because the money would not be expended, whether it is made available or not. The only way in which this provision for a GSA purchase could have any effect at all is if, as a matter of fact, appropriate automobiles are available with this equipment that might be purchased by GSA as part of the Government fleet. If they are not available, obviously, GSA could not buy them.

Mr. FORD. I might say to my good friend from Idaho that what we were trying to do was to get the airbags tested in the system, or passive restraints tested in the system.

We are not doing that here, in my opinion. It just says to buy them. There is no procedure, there is no direction, as I read it. There may be a different intent than what I read.

"This amendment is not intended to encourage the purchase of car models other than the usual models purchased by the participating agencies."

Well, that may be true, but how are you going to distribute them? How are you going to make a comprehensive study when there is nothing, apparently, in the language of the legislation that says what you must do with them?

Maybe they are all going to be bought for Washington, D.C., and we will drive up and down Constitution Avenue and Pennsylvania Avenue and see if there are accidents. That does not make a lot of sense to me.

I go back to what we are trying to do. We are trying to work out something with the auto industry. We are trying to work out something for the citizens to have an opportunity to use it. Now we are usurping that part of the conference that we were trying to put into the permanent, long-range study as it affects the citizens and as it relates to the auto industry.

Mr. President, I am very concerned about the $10 million. If we just take the $10 million out and let it float around where we can use it somewhere else, that is all right. I understand now how it got in there and I understand why.

Mr. President, I am very much opposed to the procedure and very much opposed to the $10 million. I think it is time that we do not want to eliminate the possibility of the Department of Transportation having an opportunity to look at it and have a study made, but I do not think we want to spend $10 million in taxpayer money on top of what we are already spending when the system can work itself and we have the opportunity to see that the system works itself without any additional taxes or additional budgetary figure.

Mr. President, I am going to be looking at this amendment——

Mr. WARNER. Will the Senator yield?

Mr. FORD. I yield.

Mr. WARNER. Just so that it is clear to our colleagues since we have worked on this for some time, I do believe that the Magnuson amendment is supportive of the ultimate objective of the conference. The objective of the conference is to see that an adequate body of statistics is developed on the highways of America with respect to the alternative passive restraints available. There are only two today: The airbag system and a seatbelt, be it a passive or active type of seabelt.

As I understand Senator MAGNUSON's amendment, it would provide $10 million. It says that the General Services Administration in its broad discretion could buy automobiles for use by the Federal Government and those automobiles, assuming the models were available, would be equipped with airbags.

I am certain that the GSA, in performing this responsibility, would distribute those automobiles reasonably even throughout the United States on the various highways such that a statistical base could be developed from this Government fleet of airbag equipped automobiles. It is for that reason that I am supportive of that part of the bill, that language in the bill.

I yield to the Senator from Washington.

Mr. MAGNUSON. Mr. President, it is not the intention of the committee, if appropriate car models are not available with airbag systems, to expend the funds.

There are several Government agencies which have expressed interest, 400, as a matter of fact——

Mr. FORD. Four hundred agencies have expressed interest?

Mr. MAGNUSON. Local and State government agencies that want to buy them. There are about 400 of them. I have the list here.

Mr. FORD. I would like to see the list.

Mr. MAGNUSON. There is ample precedent for this. The Senator from Kentucky was not a member of the Commerce Committee when this first came up, but long before Nader we established a test program for safety devices on cars which were being purchased by GSA. GSA is the biggest single customer of the automobile industry. There were certain safety features we knew should be put on cars, such as four-wheel brakes, and safety glass. There were seven different items. We suggested to the manufacturers that they put those items on cars to be purchased by GSA.

Well, naturally that led to putting these safety devices, seven of them—rearview mirrors and things of that kind, four-wheel brakes, shatterproof glass—on all cars. The automobile manufacturers decided, "If we are going to sell cars to GSA with those items on them, we will put them on all models." So they are standard procedure now.

All we are trying to do here is to suggest a test to see whether airbags are feasible or not. Since there was so much fuss and feathers going on about airbags, we thought this would be a good idea to make a test.

I do not know what the NTSA conference committee has done. I have not had the chance to be there as much as I should because I have been busy with appropriations.

However, all this provision does is to set aside $10 million to fund a demonstration of airbags.

There are many agencies that would like to participate in this test. I have a whole list of them.

Mr. FORD. What are the agencies?

Mr. MAGNUSON. They are mainly police departments, sheriffs departments, things of that kind.

Mr. FORD. And GSA is going to buy the cars for local police departments?

Mr. MAGNUSON. No; just the airbags. They are not going to buy the cars.

Mr. FORD. But the Department of Transportation will furnish airbags for local police departments under this language?

Mr. MAGNUSON. Yes.

Mr. WARNER. If the Senator will yield——

Mr. MAGNUSON. This is merely a test proposition.

It does not tell the manufacturers what to do at all.

Mr. WARNER. If the Senator will yield, I am generally supportive of the objective of this amendment which has been incorporated into the bill. As a practical matter, it is my understanding that the airbag is not an off-the-shelf item that might be purchased and installed at some time subsequent to manufacture, but it has to be integrated into the automobile as that car is going through the assembly line. Therefore, as I interpret the language, it would provide a sum of money such that the Government, in the future as it acquires new vehicles, can acquire those vehicles in the models customarily bought by the Government with the airbag installed by the manufacturer. Will the Senator accept that as a clarification?

Mr. MAGNUSON. Yes; yes, I will.

Mr. WARNER. Airbags are not going to be an item that will be displayed in the showroom window so that you can come in, drive up your car and, like a muffler, have it installed in an afternoon. It is a frightfully complicated system and it must be installed at the factory, during the integration of all the other parts of the automobile. Consequently, the Senator's amendment, while highly worthy in objective, I think has to be technically correct to reflect that, in the future, as GSA acquires cars made, presumably, by American manufacturers, they would acquire a certain number of cars, up to a total not to exceed $10 million, which have airbags in them.

It is unlikely that this can be achieved in a period of time of less than 3 or 4 years, because in model year 1982, in America, only the Lincoln and, I believe, the Mark VI will offer as an option by an American manufacturer the airbag. I am confident that there will be very few Lincolns and Mark IV's bought by the Federal Government. So it is probably in the model years 1983 and 1984, when the midsized smaller cars come on, that we can utilize the fund included in this bill.

Mr. MAGNUSON. Mr. President, I ask unanimous consent to have printed in the RECORD a synposis of the 1978 canvass of the interest of State and local governments and law enforcement agencies, as well as commercial organizations, including taxicab companies, public and private utilities, industry and insurance companies, in purchasing cars equipped with airbags.

There being no objection, the synopsis was ordered to be printed in the RECORD, as follows:

Industry, number of replacement vehicles (yearly), and size:

1. General Mill, Inc., Minneapolis, Minnesota: 200, Intermediate.

2. Service Systems—A Subsidiary of Del-Monte Corp., Buffalo, N.Y.: 120, Intermediate.

3. W. R. Grace & Co., New York, N.Y.: 60, Full; 350, Intermediate.

4. Home Savings & Loan Association, North Hollywood, California: 26, Full; 100, Intermediate; 150, Compact.

5. Getty Oil Company, Los Angeles, California: 11, Full.

6. General Casualty Companies, Madison, Wisconsin: 75, Full.

7. Missouri Edison Company, Louisiana, Missouri: 3, Full; 7, Intermediate.

8. Bituminous Insurance Companies, Rock Island, Illinois: 75, Intermediate.

9. N. C. Farm Bureau Insurance, Raleigh, North Carolina: 60, Full.

10. Superior Water, Light and Power Co., Superior, Wisconsin: 1, Full.

11. Erie Insurance Group, Erie, Pa.: 105, Intermediate.

12. Federal Nat'l Mortgage Association, Washington, D.C.: 1, Full.

13. Minnesota Mining & Manufacturing Co., St. Paul, Minnesota: 500, Compact; 500, Intermediate.

14. Monsanto Company, St. Louis, Missouri: 350, Intermediate.

15. Chubb & Son Co., New York, N.Y.: 500, Intermediate.

16. Western Agricultural Insurance Co, Phoenix, Arizona: 6, Full.

17. CAL–Farm Insurance Company, Berkeley, California: 70, Intermediate.

18. Ina Corporation, Philadelphia, Pa.: 700, Intermediate.

19. Peninsular Fire Insurance Co., Jacksonville, Florida: 4, Full.

20. DOW Chemical U.S.A., Midland, Michigan, 1300, Intermediate.

21. City of Baton Rouge & Parish of East Baton Rouge, Louisiana: 250, Full; 250, Intermediate.

22. Goodyear Tire & Rubber Co., Akron, Ohio: 300, Intermediate.

23. Preferred Risk Mutual Insurance Co., Des Moines, Iowa: 30, Intermediate.

24. Independent Indemnity Co., Insurance Carrier, Santa Ana, Calif.: 6, Intermediate; 4, Full.

25. Hooker Chemicals & Plastics, Corporation, Niagara Falls, N.Y.: 10, Intermediate.

26. Follett Corporation, Chicago: 30, Intermediate; 5, Full.

27. The Concord Group Insurance Co., Concord, New Hampshire: 40, Intermediate.

28. National Farmers Union Insurance Co., Denver, Colorado: 50, Intermediate; 10, Full.

29. Harleysville Insurance Co., Harleysville, Pa: 65, Compact.

30. Alabama Power Co., Birmingham, Alabama: 250, Compact.

31. Louisville Gas & Electric, Louisville, Kentucky: 25, Compact.

32. Arizona Public Service Co., Phoenix, Arizona: 10, Intermediate.

33. Pekin Insurance, Pekin, Illinois: 20, Intermediate; 10, Full.

34. General Dynamics, St. Louis, Missouri: 700, Intermediate; 200, Full.

35. American Telephone & Telegraph Company, New York, N.Y.: 4000, Compact.

36. Nabisco, Inc., East Hanover, New Jersey: 100, Intermediate.

37. Allstate Insurance Co., Northbrook, Illinois: 1000, Intermediate; 1500, Subcompact.

38. State of Maine, Dept. of Public Safety, Augusta, Maine: 50, Intermediate.

39. Chromalloy Photographic Industries, St. Louis, Missouri: 75, Subcompact; 75 Intermediate.

40. Oregon Mutual Insurance Co., McMinnville, Oregon: 10, Intermediate.

41. Etna Insurance Company, Hartford, Connecticut: 200, Compact.

42. Kansas City Power & Light Company, Kansas City, Missouri: 50, Intermediate.

43. Caterpillar Tractor Co., Peoria, Illinois: 125, Intermediate.

44. Beatrice Foods Co., Chicago, Illinois: 500, Full; 400, Intermediate; 100, Compact.

45. Robertshaw Controls Company, Richmond, Virginia: 150, Subcompact; 150, Intermediate.

46. Vermont Yankee Nuclear Power Corporation, Rutland, Vermont: 2, Full.

47. Rochester Gas & Electric Corp, Rochester, N.Y.: 5, Full; 45, Compact.

48. Meridian Insurance Company, Indianapolis, Indiana: 70, Intermediate.

49. Nashville Electric Service, Nashville, Tenn.: 20, Compact; 5, Intermediate.

50. Hercules Incorporated: 190, Intermediate.

51. Dept. of Water & Power, Los Angeles, Calif.: 100, Compact.

52. Ranger Insurance Co., Houston, Texas: 80, Intermediate.

53. The LTV Corporation, Dallas, Texas: 50, Compact; 100, Intermediate; 50, Full.

54. Keystone Automobile Club, Philadelphia, Pa.: 8, Compact.

55. Kemper Insurance Companies, Long Grove, Illinois: 500, Intermediate.

56. The Continental Insurance Co., New York, N.Y., 300, 600, 400, Full; Intermediate; Compact.

57. Potomac Electric Power Co., Washington, D.C.: 10, Compact.

58. Xerox Corporation, Rochester, N.Y.: 1,000, Intermediate.

59. State Street Bank & Trust Co., Boston, Mass.: 45, Compact.

60. Grinnell Mutual Reinsurance Co., Grinnell, Iowa: 40, Intermediate.

61. The Home Insurance Co., Manchester, New Hampshire: 375, Intermediate.

62. Baker Service Tools, Houston, Texas: 50, Full.

63. Northwest Natural Gas Co., Portland, Oregon: 38, Full.

64. Fairchild Industries, Germantown, Md.: 9, Full.

65. McCormack & Company, Inc., Hunt Valley, Md.: 200, Intermediate.

66. MFA Insurance Companies, Columbia, Missouri: 210, Intermediate.

67. Iowa National Mutual Insurance, Cedar Rapids, Iowa: 40, Intermediate.

68. Transport Indemnity Co., Los Angeles, Calif.: 40, Intermediate.

69. Selected Risks Insurance Co., Branchville, N.J.: 50, 5, Compact; Intermediate.

70. Nationwide Insurance, Columbus, Ohio: 350, 150, Subcompact; Intermediate.

71. Heinz U.S.A., Pittsburgh, Pa.: 200, 10, 20, Compact; Intermediate; Full.

72. Reliance Insurance Companies, Philadelphia, Pa.: 250, Intermediate.

73. Tri-State Insurance Company, Luverne, Minnesota: 15, Compact.

74. Attleboro Mutual Fire Insurance Co., Attleboro, Mass.: 1, Full.

75. The Philadelphia Contributionship Fire Insurance Co., Philadelphia, Pennsylvania: 2, Full.

76. AVA Leasing Service Co., Atlanta, Georgia: 75, Full.

77. Yellow Cab Inc., Indianapolis, Indiana: 100, Full.

78. Motorola Inc., Phoenix, Arizona: 80, Intermediate.

79. California Taxi Cab Association, Sacramento, Calif.: 500, Intermediate.

80. Government Employees Insurance Co., Washington, D.C.; 45, 45, Intermediate; Compact.

81. Federated Life Insurance Co., Owatonna, Minnesota: 25, 25, Compact; Full.

82. Mandeville Signs, Pawtucket, Rhode Island: 10, Full.

83. Prudential Property & Casualty, Insurance Co., Holmdel, N.J.: 150, Compact.

84. The Hamilton Mutual Insurance Co., Cincinnati, Ohio: 8, Intermediate.

85. Michigan Millers Mutual, Insurance Co., Lansing, Michigan: 40, Intermediate.

86. Benjamin Moore & Co., Montvale, N.J.: 50, 50, Compact, Intermediate.

87. Northway, Inc., Columbia, Ohio: 25, Full.

88. Evans Products Co., Portland, Oregon: 75, Intermediate.

89. Unigard Insurance Group, Seattle, Washington: 60, Intermediate.

90. Pennwalt Corporation, Philadelphia, Pa.: 650, Compact.

91. Thompson-Hayward Chemical Co., Kansas City, Kansas: 80, Full.

92. Fitchburg Mutual Fire Insurance Co., Fitchburg, Mass.: 6, Full.

93. AETNA Life & Casualty Co., Hartford, Connecticut: 750, Compact.

49. Iowa Kemper Insurance Co., Mason City, Iowa: 25, Intermediate.

95. Occidental Petroleum Services, Inc., Houston, Texas: 250, Intermediate.

96. AMICA Mutual Insurance Co., Providence, Rhode Island: 50, Full.

97. Amalgamated Casualty Insurance Co., Washington, D.C.: 8, Full.

98. National Mutual Casualty Insurance Company, Harrisburg, Pennsylvania: 50, Intermediate.

99. Mission Insurance Group, Inc., Los Angeles, California: 40, Full.

100. Western National Mutual Insurance Company, Minneapolis, Minnesota: 15, Full.

101. Orange & Rockland Utilities, Inc., Spring Valley, N.Y.: 72, Intermediate.

102. State Farm Mutual Automobile Insur-

ance Co., Bloomington, Illinois: 2,000, Intermediate.

103. Employers Mutual Companies, Des Moines, Iowa: 9, 67, Full; Intermediate.

104. Merchants & Business Men's Mutual Insurance Company, Harrisburg, Pennsylvania: 55, Full.

105. Citizens Security Red Wing Mutual Insurance Co., Minnesota: 9, Full.

106. California Mutual Insurance Co., Monterey, Calif.: 18, Intermediate.

107. Farmers Alliance Mutual Insurance Co., McPherson, Kansas: 40, Intermediate.

108. Holyoke Mutual Insurance Co., Salem, Massachusetts: 10, Intermediate.

109. Church Mutual Insurance Co., Merrill, Wisconsin: 35, Intermediate.

110. Austin Mutual Insurance Co., Minneapolis, Minnesota: 10, Intermediate.

111. Peerless Insurance Co., Keene, New Hampshire: 30, Compact.

112. Minnesota Mutual Fire & Casualty, Minneapolis, MN: 15, Intermediate.

113. Holy Cross Novitiate, Bennington, Vermont: 50, Full.

114. Union Oil Company of Calif., Los Angeles, Calif.: 175, Compact; 175 Intermediate.

115. National Grange Mutual Insurance Co., Keene, New Hampshire: 30, Intermediate.

116. Preferred Mutual Insurance Co., New Berlin, New York: 3, Full.

117. Grain Dealers Mutual Insurance Co., Indianapolis, Indiana: 25, Intermediate.

118. Pennsylvania Lumbermens Mutual Co., Philadelphia, Pa.: 10, Intermediate.

119. Montgomery Ward Insurance Co., Chicago, Illinois: 30, Intermediate.

120. Central Louisiana Electric Co., Alèxandria, Louisiana: 40, Intermediate.

121. Ralston Purina Company, St. Louis, Missouri: 12, Full.

122. Cooper Laboratories, Inc., Parsippany, New Jersey: 50, Intermediate.

Total number of replacement vehicles (yearly) as of April 26, 1978, 27,946.

States, number of replacement vehicles (yearly), and size:

1. Minnesota: 500, Full.

2. Florida: 250, Compact; 250, Intermediate.

3. West Virginia: 200, Intermediate.

4. New Mexico: 250, Intermediate.

5. Mississippi: 250, Intermediate; 250 Full.

6. Maryland: 1,320, Full.

7. Montana: 400, Compact; 150, Full; 70, Intermediate.

8. Wisconsin: 600, Compact; 300, Intermediate; 200, Full.

9. South Dakota: 200, Intermediate.

10. Colorado: 250, Intermediate; 250, Full.

11. Vermont: 50, Intermediate.

12. Maine: 45 Intermediate.

13. Idaho: 125, Compact; 125, Intermediate.

14. Washington: 650, Intermediate.

15. Oregon: 165, Compact; 20, Intermediate.

16. Pennsylvania: 1,000, Compact; 1,200, Intermediate.

17. New Jersey: 250, Compact; 250, Intermediate.

18. Louisiana: 300, Compact; 375, Intermediate.

19. New York: 500, Compact; 500, Intermediate; 200, Full.

20. Wyoming: 100, Intermediate; 55, Full.

21. Missouri: 250, Full.

22. District of Columbia: 150, Intermediate.

23. Nebraska: 300, Compact.

24. Hawaii: 29, Subcompact; 51, Compact; 8, Intermediate.

25. Iowa: 120, Compact.

26. Alaska: 10, Intermediate.

27. Connecticut: 800, Intermediate.

28. Georgia: 95, Full; 60 Compact.

Total number of replacement vehicles (yearly) as of April 26, 1978, 13,473.

Police and local list, number of replacement vehicles (yearly), and size:

1. New York State Police, Albany, N.Y.: 700, Full.

2. Department of California Hwy. Patrol, Sacramento, Calif.: 1,200, Full.

3. County of Ventura Sheriff's Department, Ventura, Calif.: 40, intermediate.

4. City of Burbank Police Dept., Burbank, Calif.: 27, intermediate.

5. Reno Department of Police, Reno, Nev.: 20, full.

6. City of Oakland Police Dept., Oakland, Calif.: 70, intermediate.

7. City of Huntington Beach, Police Dept., Huntington Beach, Calif.: 40, intermediate.

8. City of Concord, Police Dept., Concord, Calif.: 20, intermediate.

9. State of Rhode Island, Div. of State Police, North Scituate, R.I.: 25, full.

10. County of Santa Clara Office of the Sheriff, San Jose, Calif.: 40, full.

11. City of Berkeley Police Dept., Berkeley, Calif.: 20, intermediate.

12. City of San Diego Police Dept., San Diego, Calif.: 100, compact.

13. San Bernardino County Sheriff, San Bernardino, Calif.: 80, intermediate.

14. City of San Jose Police Dept., San Jose, Calif.: 125, full.

15. City of Downey Police Dept., Downey, Calif.: 15, full.

16. City of Stockton, Police Dept., Stockton, Calif.: 32, intermediate.

17. City of Norwalk, Calif., Police Dept.: 5, intermediate.

18. City of Anaheim, California; Police Department: 25, Intermediate.

19. City & County of San Francisco, Police Department: 48, Intermediate.

20. City of Concord, Concord Calif.: 20, Full.

21. City of Berkeley, Berkeley, Calif.: 10, Compact.

22. County of Alameda California, Oakland, California: 40, Compact.

23. County of Los Angeles, Los Angeles, California: 345, Compact.

24. County of Hawaii, Hilo, Hawaii 12, Compact.

25. City of Hayward, Hayward, Calif.: 27, Compact.

26. City of Santa Ana, Santa Ana, Calif.: 30, Intermediate.

27. County of San Diego, Dept. of General Services, San Diego, California: 10, Full.

28. Department of General Services Seattle, Washington: 450, Compact.

29. City of Portland Oregon, Bureau of Fleet Mgmt., Portland, Oregon: 20, Compact.

30. University of California, San Diego, California: 20, Compact.

31. City of Lakewood, Lakewood, Calif.: 2, Intermediate.

32. Contra Costa County Public Works Dept., Martinez, Calif.: 45, Intermediate; 75, Compact.

33. Denver Police Department, Denver, Colorado: 150, Intermediate.

34. County of San Mateo, Redwood City, Calif.: 15, Full.

35. City of Fort Lauderdale, Florida: 20, Full; 20, Intermediate.

Total number of replacement vehicles (yearly) as of April 26, 1978, 3,943.

Mr. FORD. Mr. President, things are getting a little strange here. Perhaps I arrived after Ralph Nader became so important, as the Senator from Washington said, but I stood right down there 3 years ago and led the battle for passive restraints. I was the floor manager of the bill. It was my introduction to the fiery pit. I think I have some background and some knowledge relating to passive restraints.

The Senator from Virginia is defending $10 million in the bill and, really, we do not know what the $10 million is going for. One says police departments, another says there will not be any models ready until 1982 or 1983, and this is fiscal year 1981. So why put them in? Why buy them? Why put $10 million in when it is 3 years from now before we are ever going to use the money?

What we were trying to do—I thought—in the conference committee was develop a system through the industry on how they are going to use passive restraints. If I remember correctly, I asked the distinguished Senator from Virginia just this question. He said, "No, I do not want them to be guinea pigs." Those were his words: "I do not want these people to be guinea pigs." Now he is supporting a $10 million investment by GSA to make Government employees guinea pigs.

Mr. President, somewhere along the way, we are going to have to say yes or no to this and we are going to have an up or down vote. What I say to the Senator is there are going to be $10 million that the Senator himself says are not going to be spent in this fiscal year. We have $10 million that GSA is going out to make all the purchases with. They are going to keep all the records and we are not going to have anything to keep records of. It does not help the industry, it does not help the people, it does not support the conference committee and the decision the Senator and I made in that conference as to passive restraints and NHTSA.

So, Mr. President, I hope that we can reconsider the position we are in and, if nothing else, cut it in two. That will give us $5 million that we shall not have to spend today. It will be $5 million that we are not going to spend anyhow. We are going to have $5 million left, based on the Senator's own statement, so we really do not need the 10. So just take the 10 out.

Mr. WARNER. The Senator is accurate. During the course of the conference, there was a discussion about whether we should or not make it mandatory, require the Federal Government to acquire a certain number of cars for the purposes of experimentation. I did say at that time, and I stand by the statement, that I personally would not want to force anybody to use an airbag in a car against his will. But as I read this, it will be an optional thing for the GSA and State and local governments to decide whether or not a certain percentage of their cars—be they State-owned cars or whatever, police cars—will have the bag in them. I hope that the Senator from Washington will agree to that interpretation of the language.

As a practical matter, the Senator from Kentucky and I know from our work on the committee that no American manufacturer will have an airbag-equipped car in model year 1982 except Ford, and they will be on two very high-priced models.

With the exception of perhaps a few that are bought for high-ranking Cabinet officers, I doubt that any additional will be bought by the Federal Government and it is most unlikely that any substantial number will be bought by State or local governments.

So, as a practical matter, Mr. President, it will be in the out years when this fund will be available on an optional basis for a State or Federal authority to acquire a car with the airbag. It is supportive of the work of the conference in the sense that it gives a few more vehicles out on the road to provide test data.

In addition, I think it is supportive of industry, because both the Senator from Kentucky and I were deeply concerned about inventories of airbag-equipped cars being accumulated until such time as the marketplace absorbed them. At least this will give an incentive to State and local authorities to buy cars with airbags and, in that way, help the production line in the industry.

Mr. MAGNUSON. Will the Senator yield for a question?

Mr. WARNER. Yes, I yield.

Mr. MAGNUSON. I do not believe the airbag provision will interfere with what the conference decides at all. The conference will make a decision. It does not interfere with the conference at all. Does the Senator from Virginia agree with me?

Mr. WARNER. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. WARNER. May we have a clarification? A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. WARNER. May we have a clarification of what the vote is?

UP AMENDMENT NO. 1607

The PRESIDING OFFICER. The pending amendment is the amendment offered by the Senator from Washington, unprinted amendment No. 1607. The question is on agreeing to the amendment.

The amendment (UP No. 1607) was agreed to.

SECOND EXCEPTED COMMITTEE AMENDMENT

The PRESIDING OFFICER. The question recurs on the second excepted committee amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arizona (Mr. DECONCINI), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri (Mr. EAGLETON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Alabama (Mr. STEWART), the Senator from Florida (Mr. STONE), the Senator from Georgia (Mr. TALMADGE), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Missouri (Mr. EAGLETON) would vote "nay."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Iowa (Mr. JEPSEN), the Senator from Maryland (Mr. MATHIAS), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 48, nays 38—as follows:

[Rollcall Vote No. 422 Leg.]

YEAS—48

Baucus
Bayh
Bellmon
Boschwitz
Bradley
Bumpers
Cannon
Chafee
Cochran
Cohen
Cranston
Culver
Danforth
Dole
Garn
Gravel
Hatfield
Heinz
Inouye
Jackson
Kennedy
Laxalt
Levin
Long
Magnuson
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Packwood
Pell
Percy
Pressler
Proxmire
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Stennis
Stevens
Stevenson
Tsongas
Warner
Williams

NAYS—38

Armstrong
Baker
Bentsen
Biden
Boren
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chiles
Church
Domenici
Durenberger
Exon
Ford
Glenn
Hart
Hatch
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Johnston
Kassebaum
Leahy
Lugar
McClure
Nunn
Pryor
Randolph
Roth
Simpson
Thurmond
Tower
Weicker
Young
Zorinsky

NOT VOTING—14

DeConcini
Durkin
Eagleton
Goldwater
Javits
Jepsen
Mathias
McGovern
Morgan
Stafford
Stewart
Stone
Talmadge
Wallop

So the excepted committee amendment (No. 2) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

UP AMENDMENT NO. 1608

(Purpose: To require the Panama Canal Commission to operate in accordance with the Government in Sunshine Act)

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1608:

On page 37, line 4, delete the period and insert the following: ", or for meetings of the Board established by Section 1102 of the Panama Canal Act of 1979 (93 Stat. 456) unless such meetings are open to the public in accordance with the provisions of the Government in the Sunshine Act of September 13, 1976 (90 Stat. 1241; 5 U.S.C. 552b).".

Mr. HELMS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order. Senators who wish to converse will please cease to do so in the Chamber. The Senate is not in order.

The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Mr. President, I will be very brief.

This amendment would require meetings of the Supervisory Board of the Panama Canal Commission to be conducted in the open in accordance with the provisions of the Government in the Sunshine Act (5 U.S. Code section 552b). The Supervisory Board is provided for by article III of the 1977 treaty and is established by section 1102 of the Panama Canal Act of 1979 (93 Stat. 456).

The Board is composed of five nationals of the United States and four nationals of the Republic of Panama, all appointed by the President of the United States with Senate confirmation of the five U.S. nationals, which, of course, constitutes a majority of the Board.

Legal experts who have examined the question agree that the Board falls squarely within the provisions of the Government in the Sunshine Act which requires open meetings of Government agencies headed by a collegial body composed of two or more members, a majority of whom are appointed by the President and confirmed by the Senate.

Notwithstanding the clear provisions of the act, however, the Board of the Panama Canal Commission has adopted regulations assuming complete control of the Commission and providing that meetings of the Board shall be closed to the public. This amendment would nullify that regulation and require open meetings in accordance with the policy of the Government in the Sunshine Act.

Mr. BAYH. Mr. President, if the Senator will yield, I believe that the activities of that Commission should be in the public and in the sunshine, and I am prepared to accept the amendment.

Mr. HELMS. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1608) was agreed to.

UP AMENDMENT NO. 1609

(Purpose: To provide $2.25 million for access to public recreation areas)

Mr. SCHMITT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. SCHMITT) proposes an unprinted amendment numbered 1609:

On page 13, line 10, insert the following: Strike out "$4,275,000" and insert in lieu thereof "$6,525,000".

Mr. SCHMITT. Mr. President, this amendment would provide $2.25 million for the construction of an access road to the Sims Mesa facility at Navajo State Park in New Mexico.

Navajo Lake State Park consists of two developed areas, Sims Mesa and Pine River. Due to access deficiencies to the Sims Mesa facility, this fully developed recreational area is virtually unused while Pine River is severely overcrowded. Sims Mesa is equipped with a visitors center, public campgrounds, boat launching ramp, restrooms and maintenance facilities. But because the 15-mile dirt access road is unpaved, posing a danger to motorists and their cars, only 5 percent of all the visitors to the park use the Sims Mesa area.

The New Mexico Natural Resources Department has analyzed this matter in detail and has provided extensive documentation on the need for this project. In particular, they have provided evidence of the heavily imbalanced use of the nearly identical facilities at Navajo Lake. For example, in 1979, 217,500 people used the Pine River facility while only 8,850 visited Sims Mesa. According to State Park officials, this is entirely due to the inadequate and hazardous access road to Sims Mesa.

In addition, the U.S. Department of Interior, in a letter dated April 21, 1980, noted the deficiencies in the access to the Pine River area and recommended section 115 (U.S.C. 155), authorizing appropriations for constructing access highways to public recreation areas on lakes and reservoirs as an appropriate source of funds.

Finally, it should be noted that the facilities at the Navajo Lake Park were constructed and financed by the Federal Government with little input from the State of New Mexico. As the popularity of this area has increased over the years due to population growth related to energy development, many problems have become apparent, most important of which is the fact that visitors are simply unwilling to traverse 15 miles of unimproved roads to use the Sims Mesa site. The result is a significant underutilization of facilities constructed at Federal expense. Under these circumstances an appropriation of $2.25 million is needed and will result in substantial benefits to visitors from any of the Western States.

The managers of this bill I believe have agreed to this amendment.

Mr. President, I urge the adoption of the amendment.

Mr. BAYH. Mr. President, the Senator from New Mexico makes a good case. If he is going to have a reservoir he better be able to get into it. I am glad to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (UP No. 1609) was agreed to.

PROPOSED DULLES ACCESS ROAD AMENDMENT

Mr. WARNER. Mr. President, it is my intention to send to the desk an amendment, the effect of which would be to restore $13 million for the construction of the Dulles access road to I–66. But in deference to my distinguished colleague from Idaho who initiated the action in the committee in the first instance to remove these funds, I will await sending that amendment to the desk until such time as he has had an opportunity to speak.

I yield to the Senator from Idaho.

Mr. McCLURE. Mr. President, I make clear to my friend from Virginia the reason that I took in the committee for striking this money was because there was some confusion and remains some confusion about what the intention is with respect to the expenditure of the money and what would flow from that as a result of the extension of the Dulles access road to I–66.

What I am seeking is the information upon which I can be certain that there is not inherent in this action or flowing from it a change in the rules with respect to the kind of traffic having access to the Dulles access road.

The extension, per se, just the physical extension to connect I–66 certainly does not have my opposition nor do I know of anyone who does oppose it.

But as the Senator will know better than the Senator from Idaho does, there has been a longstanding discussion and a tremendous amount of conflict with respect to what kind of traffic may use the Dulles access road legally and it is now restricted to that which is flowing to or from Dulles Airport, those buses which are entitled to use the Reston exit under special permission, a limited carpool arrangement which will expire in 1985, and those restrictions, being well known, I assume would be continued. There would be no broadening of the policy with respect to access to the Dulles highway with the exception that it would simply be extended to the I–66 route when completed.

Mr. WARNER. Mr. President, the Senator from Idaho is correct, and I will provide him with the assurance from the Federal Aviation Agency to that effect.

Mr. McCLURE. Mr. President, let me say to the Senator from Virginia if I receive those assurances from the appropriate Federal agencies that have control over the Dulles access road by the time we get to the conference I will not object to the Senate's receding in conference and therefore receding to the position of the House of Representatives which would leave the funds intact for this extension.

Mr. WARNER. I assure the Senator from Idaho that I will make it my personal responsibility to see that he is given that information prior to the conference, and I thank him for his courtesy and willingness to work out this problem.

Mr. President, therefore, I withdrew my request to send to the desk an amendment.

Mr. McCLURE. I thank the Senator from Virginia.

The PRESIDING OFFICER (Mr. BRADLEY). The Senator from Arkansas is recognized.

UP AMENDMENT NO. 1610

(Purpose: To limit the obligation or expenditure of funds for contracts for consulting services)

(Purpose: To require the provision of information concerning the contractor who prepared a report and the contract under which the report was prepared)

Mr. PRYOR. Mr. President, I have two amendments that I ask unanimous consent to consider en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I do send this amendment to the desk at this time and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. PRYOR) proposes amendments en bloc numbered unprinted numbered 1610.

Mr. PRYOR. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 38, strike out lines 18 through 24 and insert the following:

SEC. 317. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law; the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within 24 months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

On page 39, strike out lines 1 through 7 and insert the following:

SEC. 318. No part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared and (B) the contractor who prepared the report pursuant to such contract.

Mr. PRYOR. Mr. President, these two simple amendments very basically relate to our use of consultants and our contracting out of many of the obligations and duties of the Federal system of government.

In our investigation of the Government's use of these contractors I found that most agencies have a list for internal management use and some agencies make the listing available to the public.

This amendment only assures that the Department of Transportation will maintain basic contract information in such a manner that the public can determine where their money is being spent by listing the contractor's name, the date of award, and the completion date of the contract, the original and current amount of the contract award, and whether or not the contract was competitively bid.

It is the basic minimal information which is required if we are to bring any sunshine into this particular area.

Mr. President, with the passing of this amendment the agencies will maintain a list of contracts awarded and that list will be available to the public. In my investigation of the Government's use of consultants I have found that most agencies have such a list for internal management use and some agencies make the listing available to the public. This amendment assures that DOT will maintain basic contract information in such a manner that the public can determine where the money is being spent and for what purposes.

Such a list should contain at a minimum the basic information concerning the contract, such as—

The contractor's name.

The contract identification number assigned by the agency.

The date of award and the estimated completion date.

The original and current amount of the contract award, and

Whether the contract was competitively bid.

It is the basic, minimal information which is required if we are to bring any sunshine into this area. It is the minimum of information that can be provided if we are to allow the taxpayers to know where their tax moneys are being spent.

Mr. President, the second amendment is also a simple amendment. The purpose is to require basic information on all reports prepared by contractors and on agency reports prepared substantially from such contractor-prepared reports. The need for this particular amendment has recently been made crystal clear in a GAO report issued just last month. GAO's review of seven agencies found that consultants and contractors were used to meet over 40 percent of their congressionally-mandated reporting requirements during fiscal years 1977 to 1979. Consulting services accounted for almost two-thirds of the total costs thus incurred. Undoubtedly, the most disturbing finding in the GAO report was the fact that approximately 60 percent of these reports either did not disclose or that they inadequately disclosed consultants' involvement in their preparation.

Mr. President, each year the Congress received hundreds if not thousands of reports from agencies that were prepared entirely or substantially by contractors. As the GAO found, often times we do not know who actually wrote the reports because the agencies simply do not disclose that information. This cannot be permitted to continue. The Congress needs to know who prepares the reports sent to us by the agencies. The basic attribution information called for in my amendment will provide the necessary information for Members of Congress to decide how much reliance to place on the conclusions and recommendations contained in these reports. Such information that would be required to be disclosed includes—

The name of the contractor who prepared or contributed to the report.

The total dollar value of the contract.

The contract identification number assigned by the agency.

Whether the contract was awarded competitively or noncompetitively, and in any case in which a contractor used a subcontractor to prepare any portion of the report, the name of the subcontractor and the amount paid to the subcontractor.

This is the minimum level of disclosure that will satisfy the intent of this amendment. The GAO report stated very succintly why the amendment I am offering today is necessary—"Since congressionally mandated reports have the potential to influence the congressional oversight process, we believe that the Congress should be fully apprised of consultants' roles in preparing these reports." I could not agree more with that statement.

Mr. President, I ask unanimous consent that the article appearing in the September 10, 1980, Washington Post by Federal Columnist Mike Causey on this GAO report be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GHOSTWRITING COSTS TAXPAYERS PLENTY

Ghostwriting for Uncle Sam has become a multimillion-dollar business. Nobody knows for sure its size and scope. But it is a heck of a lot bigger than a breadbox.

An estimated four of every 10 reports that federal agencies send Congress as their own are, in fact, written by people who do not work for Uncle Sam, except as consultant ghostwriters.

Federal agencies are paying outsiders millions to write up congressionally mandated reports designed to tell the legislative branch of government what the executive branch is doing. It is not known if Congress hires its own outside experts—ghostreaders—to study and digest the reports. What is known is that the taxpayers foot the entire bill.

In a spot check of the report-writing habits of seven large and small federal departments, the General Accounting Office found that 40 percent of the products they send Congress under their own by-lines are written in whole or part by outsiders.

Between 1977 and 1979 the seven agencies spent $17 million for the ghostwritten products. Several explained to GAO investigators that the expenditures were necessary because nobody in government has the time or talent to do them. The U.S. government is the nation's largest single employer with 2.7 million workers, many of them presumably able to write a report on what they and their agencies do.

The outfits spot-checked by GAO are: Environmental Protection Agency; Housing and Urban Development; Department of Transportation; Federal Communications Commission; Federal Trade Commission; National Aeronautics and Space Administration and the Nuclear Regulatory Commission.

GAO's report was made for Sen. David Pryor (D-Ark.). Pryor, who heads the Senate Civil Service subcommittee has the feeling that Uncle Sam employs too many outside experts doing work that should be done in-house. In the case of the reports required by Congress, Pryor questions the legality and wisdom of having outsiders prepare work which agencies send on, under their own bylines, advising Congress of their progress.

EPA, DOT and HUD, for example, told the congressional watchdog agency that in most cases they had to spend money on outside help because of "limited resources and time constraints" or because of "lack of special expertise." In other words their people didn't have the time or talent.

Although everybody needs outside help sometimes—maybe to unstop the bathroom or move to another state—many federal workers believe the government is suffering a runaway consultant problem.

Several interesting questions come to mind. If seven agencies spent $17 million during a two-year period, what is the ghostwriter total governmentwide? And what is the government—which last year spent 33,334,637 hours training people—training its people to do?

The report is less an indictment of the typical career bureaucrat than it is of the top management and a system which decides it doesn't have the time or money to do a job but does have the time and money to hire outsiders to do it.

Mr. PRYOR. Mr. President, once again this would require further and more detailed reporting in order that the taxpayer and the general public would have a greater understanding of where their tax dollars were going.

I understand these are acceptable and I hope they are.

I yield to the distinguished chairman.

Mr. MAGNUSON. Mr. President, I wish to compliment the Senator from Arkansas for these amendments. They follow a pattern he and I have been pursuing for a long time.

Mr. PRYOR. The Senator is absolutely correct.

Mr. MAGNUSON. Checking upon all consultants and these contracts.

As far as I am concerned and the Senator from Indiana, we are glad to accept them.

Mr. PRYOR. I thank the chairman.

Mr. McCLURE. Mr. President, we accept the amendments. We have seen them and have discussed them with the distinguished Senator, and we are prepared to vote.

Mr. PRYOR. I thank the Senator from Idaho.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that I be added as a cosponsor on both amendments.

Mr. PRYOR. I am honored to have the chairman as a cosponsor.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. PRYOR. Mr. President, I thank the managers of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment (UP No. 1610) was agreed to.

Mr. FORD. Mr. President, I ask unanimous consent that the language on page 35 beginning with the last paragraph of "The committee" and through the top of page 36 ending with "system" be eliminated from the committee report.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Mr. President, reserving the right to object, and I shall not object, the Senator identified language but he did not state that it is in the committee report. Do I understand that it is?

Mr. FORD. It is in the committee report, page 35, the last paragraph, beginning with "The committee," and ending on page 36 with the word "system."

Mr. McCLURE. Mr. President, this would present the issue that we have discussed earlier with respect to the $10 million that has been provided by the Department to the National Highway Traffic Safety Administration which would then be transferred and made available to GSA for the purpose of automobiles equipped with airbags. Is that correct?

Mr. FORD. The Senator is correct.

Mr. MAGNUSON. Mr. President, the Senator from Kentucky seeks to change the report language; is that correct?

Mr. FORD. The Senator is correct?

Mr. MAGNUSON. It knocks out the $10 million.

Mr. FORD The Senator is correct because everyone stated here today that no airbags will be available in the fiscal year in which the $10 million is to be made available.

Mr. MAGNUSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there objection to the request? Without objection, it is so ordered.

Mr. FORD. I thank the Senator very much.

Mr. MAGNUSON. Now, Mr. President, the bill is open for further amendment.

UP AMENDMENT NO. 1611

(Purpose: To prevent the use of appropriated funds to reduce air carrier operations at Washington National Airport until the I-66 extension to the Dulles access road is completed)

Mr. MELCHER. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 1611:

Page 9, line 18, strike the period and insert immediately thereafter the following:

"*Provided further* That none of the funds here appropriate shall be used to require any reduction in the total number of flights at Washington National Airport below the number operated on September 12, 1980.

Mr. MELCHER. Mr. President, on August 15, the Secretary of Transportation announced a new policy statement for Washington National Airport. This statement was developed after a long and complicated administrative procedure. It becomes effective January 1, 1981.

The decision in many ways is a fine and balanced document and was carefully reviewed by the Senate Appropriations Committee. However it raises one serious matter of concern to Montana and all the States along the northern tier. The decision calls for an 18.5-percent reduction in scheduled operations.

So far the Secretary has not indicated how these reductions are to be made or which cities will lose convenient access to Washington. One thing is clear. An 18.5-percent reduction in flights will cause a number of cities to lose service or sustain substantial service reductions.

Most of the States along the northern tier have very limited service to Washington, D.C. All of the service from my State and most along the northern tier to Washington is via National Airport. For example, Montana now has two direct flights per day from Washington. We cannot accept forced reductions on these levels. Some States have unlimited service to Washington National Airport and that service is expected to continue even with the cutbacks. For example, Eastern Airlines operates a shuttle service to New York and may operate as many shuttle flights as it desires without regard to the 18.5-percent reduction. The CAB has indicated by approving Texas International's participation in the committee that allocates slots at National Airport that more service to New York is desirable. But I do not think service to the Upper Midwest and West should be reduced 18.5 percent when service to New York is not subject to the same cutbacks. We need protection for our service to Washington.

I want to emphasize that the amendment would have no import on the allocation of slots of any FAA operation, limited airports and, in particular, on the ability of FAA to allocate those slots in the absence of an agreement among competing air carriers.

Secretary Goldschmidt has proposed that flights that are canceled at Washington National could simply be moved to Dulles. That is not as easy as it sounds. First I-66 inside the beltway and the extension to Dulles have not been completed. It still takes about an hour to reach Dulles from downtown Washington in the rush hour against a few minutes to National Airport. There is no rapid rail transit system to Dulles as there is to National Airport, one of the best public transit systems in the country. Dulles has no system at all. A feasibility study of a transit system to Dulles is in this bill but completion is many years off. Cost is also a factor. A cab to Dulles is about $25 one way. Frankly, switching flights to Dulles is just not reasonable until the ground access is improved.

Even the Secretary of Transportation apparently believes access to Dulles is inadequate. The Secretary has decided to keep his own fleet of aircraft at National instead of moving to Dulles. The Coast Guard aircraft used by the Secretary and the Commandant are still at National. The FAA's fleet of executive jet aircraft are also based at National. I suspect the FAA fleet is something like 60 to 70 jets, and they have still got them at National rather than at Dulles. If the Secretary were convinced of the convenience of Dulles, there is no reason not to shift his aircraft there. I can only conclude he regards Dulles as inconvenient. If it is inconvenient for him, it is just as inconvenient and expensive for my constituents.

Mr. President, when we are talking about reducing commercial flights 18.5 percent out of National but not touching the shuttle, I think we are talking about eliminating a lot of cities from some service throughout the country. It must be that at least 20 to 25 different cities, perhaps 30 to 35 cities, will have reduced service. I do not believe this is worthwhile.

I think the Secretary of Transportation has many fine things in his proposal, but I do not believe that beginning in January of 1981, just a few months away, starting to lop off the number of flights that can be at National is appropriate, and I do not think we are ready for it.

If the amendment is accepted, it is going to freeze the number of flights for a year. Despite all the efforts of the Secretary in these long-winded hearings—and, believe me, I sympathize with the Department of Transportation and the FAA on their hearing procedures and the amount of data they have collected and the amount of effort they have put into this—I simply do not believe we are ready to make the step to start the reduction of these flights, and that is exactly what is going to happen as of January 1 if the rule goes into effect.

I hope, Mr. President, that Senators from various parts of the country are listening to this. I have spoken about the Northern Tier States and the Northwest, but I can assure you that if 20 to 25 cities have got to have a reduction in service, it is going to mean an awful lot of cities across the heartland of the United States and probably even in the Northwest are going to have a reduction in service.

Mr. WARNER. Mr. President, I rise in strong opposition to the proposed amendment.

During the course of the committee deliberations language was put into the report on page 27 which addresses the issues raised by this amendment, and I refer to that language:

> The Committee is pleased to see the FAA adopt a final metropolitan Washington airports policy regarding the operations of Washington National and Dulles International Airports.
>
> The Committee has raised no objections to the proposed changes in operating procedures at Washington National. It is concerned, however, that before any further reduction in the number of hourly flights, below the 36 which would be permitted under the new rule, the FAA should consult with this and other appropriate committees as well as all the carriers serving National Airport.
>
> The Committee expects prompt implementation of this policy through the issuance of appropriate Federal regulations.
>
> An obvious imbalance exists in the utilization of the three major airports serving the Baltimore-Washington metropolitan area. While on the one hand we have a gross underutilization of two large international airports, we find that on the other hand, National Airport absorbs approximately as much traffic as the other two combined. Although it is difficult to achieve a balance in addressing this problem, the Committee feels that the FAA's recent announcement of a metropolitan Washington airports policy is a step in the right direction.

I urge my colleagues to join me in rejecting this amendment, because the FAA policy was arrived at only after a thorough process in which all interested parties could come forward and express their viewpoints. It is a policy directed toward a reduction in noise, an improvement in safety, and the consequent improvement in health to those residents in nearby communities that are impacted by this airport.

I believe that it would be entirely inappropriate if we were to, at this unexpected moment on this bill, accept an amendment which would completely reject the work of that agency of the Federal Government; namely, the FAA, which has jurisdiction over these airports.

It is for that reason, Mr. President, that I strongly urge my colleagues to reject this amendment.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I join my colleague from Virginia in opposing this amendment and in underscoring the very long and considerable process in which the parties concerned have engaged in order to address this issue.

This is a very difficult matter to those of us who think that the FAA policy is not fully responsive to the problems which we confront with respect to the use of these airports. But at least, in our view, it is an effort to move to address some of these questions.

The proposed amendment would really preclude any effort to address the tremendous impositions now being made upon the areas surrounding National Airport, and also to address very important safety considerations with respect to the heavy use of National Airport, matters which have been underscored, in fact, by professionals in the airline field.

So I would very much hope that the Senate will not accept the amendment and will instead support the committee and the committee report.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, the Department of Transportation News in describing this rule, the proposed rule which will go into effect on January 1, 1981, says:

> The present FAA high density rule for National (14 C.F.R. 91.193) was adopted in 1969 and has never been changed. Air carrier operations, the principal source of noise impact on National's neighbors, have been limited to 40 per hour. This limitation no longer provides the same protection it originally did. Over the years, the carriers have increasingly substituted larger, heavier airplanes for the ones they originally flew. Jets have almost completely replaced propeller-driven aircraft. This trend has contributed to increased noise levels and airport congestion.

Mr. President, I use National and where we live in Maryland it is under a flight path that is sometimes used for National. So I understand exactly what the FAA has been trying to do and what the Secretary of Transportation has been trying to accomplish by this rule.

But the fact is that there are better ways of arriving at the reduction of noise and the congestion at National than what has been proposed in this rule. It could be a compromise worked out under the auspices of the FAA which will arrive at their very meritorious goals but which will not jeopardize the service to a number of cities throughout the United States from National.

I offer the amendment in this rather strong fashion on an appropriations bill not by choice but by a set of circumstances which forces us to recognize that unless something is done right now the rule will go into effect on January 1 and the carving up then or the reduction in the number of flights will start to take place.

I think it is too big of a reduction. I think it will be made, probably, with all good intentions. But I believe that the results would be damaging to too many cities throughout the United States. For that reason, I offer the amendment.

Mr. CANNON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. CANNON. Mr. President, I was going to address this question to the Senator from Maryland, but perhaps I should address it to the chairman of the committee.

I am wondering why it would not be advisable for this matter to come to the Commerce Committee and let us have a chance to look at it and see whether we wanted to approve the policy that is proposed to be put into effect which, of course, could be done if the Senator from Montana's amendment were approved.

In other words, as I understand his amendment, it would not permit any of the funds to be used for the purpose of reducing the number of flights in and out of National at the present time. Is that correct?

Mr. MELCHER. Yes. It would just freeze them. But if the chairman of the Commerce Committee is saying that the committee is willing to act on this prior to the implementation of the order, I would be perfectly satisfied.

Mr. CANNON. Well, I am not sure that we could act prior to the implementation of the order. What I am saying is that it ought to be something that we ought to look at. Perhaps the Senator's amendment would be the best way of permitting us to look at it, if his amendment were to freeze the system as it is now, and give us the opportunity in the Commerce Committee to look at the proposal in detail and see whether we did or did not want to approve it.

Maybe the chairman of the committee would like to comment on that.

Mr. WARNER. Will the Senator yield?

Mr. CANNON. Yes.

Mr. WARNER. Mr. President, I in no way mean to be disrespectful to the chairman. I am on the Commerce Committee.

But we see about to take place, when this order takes effect, a policy that has been derived only after considerable work by the executive branch. It is my opinion that we should let this policy go into effect and, in due course, within our committee, schedule the hearings to review the impact of the policy and whether or not we agree with it. Therefore, the hearings could take place in an orderly procedure following the implementation of the policy and some benefit of the experience under the policy.

Mr. CANNON. May I say to the distinguished member of our committee that our procedure is not normally to let a policy go into effect and then look at it.

The administration proposes a number of policies that we take a look at before they ever become effective. We are two independent branches of the Government. When they propose a policy, we frequently say: "We will take a look at it in committee and see whether it should or should not be put into effect."

Mr. WARNER. I agree wholeheartedly with my distinguished colleague, but I respectfully say that I testified when our counterpart committee in the House was reviewing this during the early spring, I believe. We were on full notice of the potential implementation of this policy and the fact that the FAA was formulating the policy. Yet our committee did not take any steps.

Mr. SARBANES. Will the Senator yield?

Mr. CANNON. Certainly.

Mr. SARBANES. It is my understanding that a formal policy statement on the traffic question at National was required by the courts before there could be any proceeding with respect to construction of improvements at National Airport. That is what has been formulated here, and this policy put forward. I think it is an effort to be responsive to a number of conflicting pressures. I do not think the policy should be set aside at this point. I think the policy should be allowed to be implemented. If the committee then chooses to hold oversight hearings on the policy and feels that the policy needs to be altered that is a matter that can be taken up and accomplished through the normal process.

This is an effort, first, to address some judicial questions that have been raised and, second, to deal with some of the very real problems which exist with respect to the heavy usage of National Airport and the problems that presents.

Mr. WARNER. I agree.

Mr. CANNON. If I may respond to the Senator, I am wondering if he is correct on what he said as to the Court's requirement. Was it not that the Court required an environmental impact statement be accomplished rather than requiring precisely what has been proposed here?

Mr. SARBANES. My understanding is that the environmental impact statement runs to the usage of the airport; that is what it is about. This formal policy statement, in effect, responds to the issues raised or seeks to respond to the issues raised, in the environmental policy statement; it addresses those very questions.

I simply do not think we ought to set it aside here.

The more logical and constructive way to proceed, it seems to me, is to reject this amendment. If the chairman then chooses to hold oversight hearings with respect to the matter, that would be a subsequent contribution in reviewing this issue.

Mr. CANNON. What I am suggesting here is that it might be better to take a look at it before we got to the stage of oversight hearings. For example, all of the questions have not been addressed. There has not been an addressing of the question as to how they are even going to allocate the reduced number of slots that will come out of this proposal. That is still floating around, as to what is going to be done. Will they draw straws to see who gets the allocations? Believe me, we will really have serious questions raised by a number of carriers and a number of cities as to the allocation of the reduced number of slots in and out of Washington National.

What I am suggesting is to take a look at the whole proposal they have made prior to having it put into effect.

Mr. MELCHER. Will the chairman yield to me?

Mr. CANNON. Yes.

Mr. MELCHER. I think I can add to this at this point and might resolve it.

The Senator from Virginia and the Senator from Maryland have very appropriately said that there is a lot of work that has gone into this and it seeks to resolve some tough questions.

The Senator from Virginia made the very pertinent remark, I believe reading from the committee report, that the Secretary of Transportation and the FAA would be discussing very diligently with the appropriate committees in the Congress the implementation of the rule on several aspects. That is principally the rule on the allocation of slots.

There are other very fine points in the rule, by the way, that I do not think should be interferred with or slowed down at all.

I would suggest as a compromise that I modify my amendment to read April 1, to have it held up until April 1. I do not think that would disturb the FAA or the Department of Transportation but it would give the Senate Commerce Committee a chance to look at it and to have some substantial input before the slot part is implemented. I wonder if that would be acceptable to the Senator from Virginia, the Senator from Maryland, and the chairman of the committee.

Mr. CANNON. If I could respond to the Senator, I want to say that we would have the opportnuity to investigate the issue, to hold a hearing, to consider the issue prior to that time. I think the Senator's amendment is defective in some particulars and perhaps ought to be restructured if he is going to do that.

As I read it now, all it does is to say that there shall be no reduction in the number of flights. So it does not address the other issues that are involved or would be involved with respect to freezing the entire system into place as it is now until we have had an opportunity to review it. The other Senators will have to speak for themselves on the part of the question addressed to them.

Mr. WARNER. Mr. President, I continue to oppose even the compromise because we have no assurance that the Commerce Committee will conclude its hearings within that brief period of time. Perhaps the chairman would want to address that aspect.

As I understand the proposal, it is a deferral until April 1. I presume he is going to revise this with that point. The effect of the revision would be to defer the implementation with respect to National Airport and Dulles until April 1.

Mr. CANNON. On the question of whether we would be able to address it, I would say yes, in that period of time I think we would be able to address it in the Commerce Committee. We would be able to hold hearings to consider the matter. January, February, and March would total 3 months.

Mr. WARNER. Mr. President, my concern is the safety and heatlh aspects of this policy. I am not at liberty, in my judgment, to continue to expose my constituents and those, I am certain, in Maryland, to a situation which I consider to be great jeopardy with respect to the present manner in which National Airport is operated and the equipment operating in and out of there. In that period of 90 days, January 1 to April 1, an accident might have been precluded by implementation of this new policy. It is for that reason that I am unable to accede to the Senator's request for a compromise and must continue to oppose the amendment.

Mr. MAGNUSON. Mr. Prsident, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BELLMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, the Transportation Subcommittee has worked diligently to bring us a bill that is within its allocation under the first budget resolution. However, as Senator McClure pointed out when the full Appropriations Committee marked up this bill, the transportation function—Function 400—would be cut substantially by the Budget Committee's recommendations in the second budget resolution as reported. He made the point then that, should those cuts be sustained through the conference on the second budget resolution, Congress would be faced with going back and cutting this bill further.

This bill is consistent with the first resolution in budget authority. With later requirements it will likely exceed the first resolution assumptions for outlays by at least $200 million. That estimate does not include any supplemental appropriations for Conrail or for Amtrak. Both Conrail and Amtrak have said they will need supplemental funding. Those supplementals are, however, discretionary—so I have not included them in my assumptions about later requirements. They can be denied; and if they are denied it is probable that transportation funding (at least with respect to budget authority) will be held to the levels allocated to the Transportation Subcommittee under the first budget resolution.

Mr. President, some will describe this as a very tight transportation budget. Some may even argue that the amounts in this bill are not sufficient to meet the need—particularly in view of our desire to encourage a shift to public transportation and save energy. Let me point out, Mr. President, that Federal outlays for transportation increased $3.5 billion from 1979 to 1980.

I think the Senate ought to be aware of that, that our outlays for transportation increased by $3.5 billion from 1979 to 1980.

$1.5 billion of that increase may be attributed to a change in accounting, but that still leaves a real increase of $2 billion. Most of the increased funds were provided in the supplemental appropriations bill. That bill came so late in the year that most of the increased funds will actually be spent in fiscal year 1981. We will, therefore, have significantly higher spending levels in 1981, whether we provide any funding over the 1980 levels or not. This bill will increase funding in fiscal 1981 $1.5 billion over fiscal 1980 levels. Adding that to the funds from the supplemental gives us a very substantial boost in the transportation area.

I commend the subcommittee, Mr. President, for reporting a bill with new budget authority consistent with the first budget resolution—and for its stated intent to stay within whatever amending levels are ultimately available for transportation in the final congressional budget. I remain concerned, however, that appropriation bills which have been reported thus far are at least $5 billion over the budget already. If we continue as we are going, we will wind up billions of dollars in deficit at a time when that is simply foolhardy because inflation remains high and threatens to get worse unless we adopt a sound fiscal policy.

I intend to vote for this bill, but do so with the reservations and concerns I have just expressed.

Mr. LONG. Mr. President, it seems to me that the Secretary of Transportation has done the best he can, like any public servant. He has tried to resolve the differences between the environmental concerns and the need for controlled growth. He has tried to consider the needs of every group. I believe that some of the fears of the Senator from Montana will not be realized. I believe that the Secretary's plans should be permitted to go into effect. Therefore, Mr. President, I move to lay the amendment on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MELCHER. Mr President, I suggest the absence of a quorum

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BELLMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1612

(Purpose: To establish a system for scheduling and reporting outlays)

Mr. BELLMON. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. Bellmon) for himself, Mr. Percy, Mr. Boschwitz, and Mr. Domenici, proposes an unprinted amendment numbered 1612.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert the following language at the appropriate place in the bill:

OUTLAY SCHEDULES AND REPORTS

Departments and independent agencies receiving appropriations in excess of $50 million under this act shall, within 30 days following enactment, submit to the Committees on Appropriations of the two Houses of Congress a schedule of anticipated Outlays for each month of the Fiscal Year beginning October 1, 1980. These departments and agencies shall also submit to the Appropriations Committees within 30 days after the end of each calendar quarter, reports showing actual Outlays for the preceding quarter and any necessary change in the schedule of Outlays originally submitted. In the event a Department or agency determines that its total Outlays during the Fiscal Year will vary by more than 1 percent from the total projected in its original schedule, it shall immediately submit to the Committee on Appropriations of the two Houses a revised schedule. Unless disapproved by both of the Appropriations Committees within 15 legislative days after submission, the Department or agency may implement the revised Outlay schedule.

Departments and agencies shall submit copies of the Outlay schedules and reports required herein to the Congressional Budget Office concurrently with their submission to the House and Senate Committees on Appropriations. The Congressional Budget Office shall analyze these schedules and reports and assess their implications for Congressional budget and appropriation policies and submit the results of its analyses on a timely basis to the Committees on Appropriations and Budgets of the two Houses of Congress.

Mr. BELLMON. Mr. President, this amendment addresses a problem that Congress must respond to if we are to fulfill our responsibility to deal with fiscal policy in an effective way. The problem I refer to is the incredible growth in outlays in recent years. I think Members ought to realize that when we deal with budget matters, we deal primarily with what is called budget authority.

Up to now, we have let outlays sort of take their own pace. The result is they are proceeding at breakneck speed, and we have no way to bring them under control so far.

Mr. President, I ask unanimous consent that a table which has been placed on each Senator's desk be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARISON OF BUDGET TARGETS AND CEILINGS WITH ACTUAL EXPERIENCE FOR FISCAL YEARS 1976–79 AND ESTIMATED ACTUALS FOR FISCAL YEARS 1980–81

[In billions of dollars]

	Fiscal year					
	1976	1977	1978	1979	1980	1981
First Budget Resolution targets:						
Budget authority	396.6	455.1	504.35	568.85	604.4	697.2
Outlays	367.8	414.2	461.85	498.8	532.0	613.6
Final Budget Resolution ceilings:						
Budget authority	408.8	471.1	501.0	559.2	[1] 658.85	
Outlays	375.8	410.1	459.15	494.45	[1] 572.65	
Actual fiscal year 1976–79, Estimate fiscal year 1980–81:						
Budget authority	416.1	466.1	501.5	556.7	657.3	699.6
Outlays	366.4	402.7	450.8	493.7	580.3	633.0
Outlay change (actual versus First Resolution)	−1.4	−11.5	−11.05	−5.1	+48.3	+19.4

[1] The ceiling figures shown for fiscal year 1980 are from the revised Second Budget Resolution, adopted in June 1980. The original Second Resolution, adopted in November 1979, contained ceilings of $638,000,000,000 for budget authority and $547,600,000,000 for outlays.

Mr. BELLMON. Mr. President, as shown by this table, in fiscal years 1979–79, total Federal outlays fell below the targets set by Congress. But in fiscal year 1980—I think Members will be shocked by this—outlays will exceed by about $48 billion the targets originally set by Congress in May 1979.

I say again, in fiscal 1980, the year that is about to conclude, our outlays will exceed our expectations by some $48 billion, and the target we set was set in May 1979.

Fiscal year 1980 outlays are now $32 billion above the outlay ceiling approved by Congress last November. This incredible growth in outlays did not result, for the most part, from deliberate congressional decisions to increase spending. Rather, most of it resulted from upward reestimates of spend-out rates under various Federal programs. The net result is that Federal fiscal policy shifted from the restrictive posture Congress initially approved—under which outlays would have grown by only 8 percent over fiscal year 1979—to a stimulative one under which fiscal year 1980 outlays are growing by 17.5 percent.

Mr. President, I am not sure how many Members are shocked by that, but the Senator from Oklahoma certainly is.

We wanted to hold our outlay growth in 1980 to 8 percent over the 1979 level. The actual result is that they have grown about twice as much, by 17.5 percent.

Mr. President, as elected representatives of the people of this country, Congress has the responsibility to oversee the movement of Federal funds into the economy. The Congressional Budget Act of 1974 requires Congress to specify in its budget resolutions the "appropriate level" of new budget authority, outlays, and deficit for a given fiscal year. Clearly, it was the intent of the Budget Act that Congress exert greater control over Federal outlays as well as new budget authority. It is outlays which are the most significant reflection of fiscal policy, outlays which determine the borrowing needs of the U.S. Treasury and outlays which determine the impact that this year's budget will have upon inflation and interest rates. By addressing only the question of how much new budget authority to grant in an appropriation bill without also examining seriously the potential outlays in the fiscal year to which the bill relates, we are attacking a long-term problem, which is commendable, but are ignoring the problem that confronts us right now—fiscal year 1981 outlays.

Mr. President, when the budget process was in its initial years, it was a difficult task for each of us to understand the significance of the "budget authority" concept. We have now learned too well that the concept represents total new obligations, commitments or programs entered into by the Federal Government. Some budget conscious individuals have maintained that controlling budget authority is all that is required to eventually control Federal spending. But I would maintain, Mr. President, that the control of outlays is equally important. Outlays do not merely "happen" once budget authority is granted, spend-out rates in many instances are conscious and crucial policy decisions.

The Congressional Budget Office estimated that as of January 1980, more than $775 billion in budget authority enacted in prior years had not yet resulted in outlays.

Mr. President, we have $775 billion, in effect, laying there ready to be spent when the agencies and the administration decide to spend that money and to outlay those funds. Based on earlier analyses, it appears that about $490 billion of this budget authority had been obligated, while about $285 billion of prior year authority remained unobligated. This means that Federal departments and agencies in the aggregate have tremendous flexibility in the use of resources at their disposal. Their decisions on the timing and rates of obligation and outlays can modify substantially the fiscal policy Congress thinks it has set for a given fiscal year.

Let me run those figures again: $775 billion of budget authority which Congress enacted, not yet spent, and of that about $490 billion already obligated, and will be spent, but $285 billion not obligated, and, therefore, that sum of money can be spent with great flexibility. Even for the money obligated, there is the possibility of exercising some control over the rates those funds spend out, as well.

Because of unanticipated increases in the rate of outlays, the fiscal year 1980 budget has shifted from a relatively restrictive 8 percent growth to an unintended but much more stimulative 17.5 percent growth, severely retarding the Congress battle against inflation. Moreover, Mr. President, I am of the view that the faster Government spends, the more it will spend in the long run.

Mr. MAGNUSON. Mr. President, this amendment was voted on, I think, twice in the Appropriations Committee and turned down every time. The last vote, I think, was 6 to 3, or something like that.

I would have to oppose the amendment to carry out the wishes of the Appropriations Committee.

Mr. BELLMON. I understand.

For that reason, Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BELLMON. Mr. President, when Congress treats outlay rates as being totally under the control of the executive branch, it is put in the reactive posture of adjusting its spending targets in response to the spending reports it receives from downtown. We are in danger of becoming little more than a validator of executive branch estimates.

For these reasons, Mr. President, I am proposing this amendment that would provide for increased congressional oversight of the actual outlays of Federal funds by the executive branch. Mr. President, my amendment requires the following:

First, departments and agencies receiving appropriations in excess of $50 million under this bill, within 30 days following enactment, must submit to the Committees on Appropriations of the two Houses of Congress a schedule of anticipated outlays for each month of the fiscal year beginning October 1, 1980.

That eliminates the small agencies. We are only going to the agencies that have major fiscal responsibility and income.

Second, the affected departments and agencies shall also submit to the Appropriations Committees, within 30 days after the end of each calendar quarter, reports showing actual outlays for the preceding quarter and any necessary change in the schedule of outlays originally submitted.

Third, in the event a department or agency determines that its total outlays during the fiscal year will vary by more than 1 percent from the total projected in its original schedule, it is required to immediately submit to the Committee on Appropriations of the two Houses a revised schedule. Unless disapproved by both of the Appropriations Committees within 15 legislative days after submission, the department or agency may implement the revised outlay schedule. If both committees disapprove the revised outlays schedule, the department or agency would be required to manage outlays according to the original schedule or as otherwise agreed by the Appropriations Committees.

The fourth requirement of this amendment is that departments and agencies submit copies of schedules and reports to the Congressional Budget Office concurrently with their submission to the House and Senate Commitees on Appropriations. The Congressional Budget Office is directed to analyze these schedules and reports and assess their implications for congressional budget and appropriation policies and submit the results of its analyses on a timely basis to the Commitees on Appropriations and Budget of the two Houses of Congress.

Mr. President, I understand that some of my colleagues are concerned because they believe this amendment may be inconsistent with the effort to reduce Federal paperwork.

Mr. President, it is not a question of generating more paperwork. The departments and agencies already prepare outlay schedules, and revisions of those schedules, for OMB. Departments and agencies submit monthly reports of actual outlays to the Treasury Department. The question this amendment addresses is whether Congress will receive on a timely basis the schedules and reports already being prepared and whether Congress has the opportunity to assure that Federal outlays are being managed in a manner consistent with congressional decisions.

The only new paperwork that this amendment imposes is the requirement that departments and agencies notify the Appropriations Committees immediately when they determine that their total outlays will vary by more than 1 percent from the fiscal year total originally scheduled. This seems to me a totally justifiable requirement and one that will generate very little additional paperwork on the part of the executive branch or on the part of Congress.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks two tables analyzing outlay growth beyond the congressional targets during fiscal year 1980.

The PRESIDING OFFICER (Mr. MITCHELL). Without objection, it is so ordered.

(See exhibit 1.)

Mr. BELLMON. Mr. President, I call attention to the fact that outlays in function 400—transportation—will be $2.8 billion higher in fiscal year 1980 than the targets set by Congress in June 1979. I believe that shows why this bill is an obvious vehicle to get this process started. This is a 15-percent increase. Moreover, we have already had considerable growth in fiscal year 1981 outlay estimates for transportation programs over the amounts predicted in the President's budget.

So we are not engaging in an academic exercise. The Transportation Subcommittee and the Full Appropriations Committee need to keep a closer eye on outlays in transportation programs. This amendment will give them that opportunity.

Mr. President, without more direct oversight of Federal outlays, Congress will continue to be seriously handicapped in its efforts to control fiscal policy and limit the size of the deficit. Outlays cause the deficit. I make that point again. It is the rate and amounts by which moneys are spent that produces the amount of spending and leads to the deficit we face at the end of the fiscal year. This amendment is a modest first step which will provide the Congress with tools it must have to discharge its responsibilities.

Mr. President, I am joined in this amendment, as cosponsors, by Senator PERCY, Senator BOSCHWITZ, and Senator DOMENICI and I thank them for their support of this proposal.

EXHIBIT 1

TABLE 1.—*Summary of spending change, fiscal year 1980: First Budget Resolution, fiscal year 1980 vs. latest CBO reestimates*

[Dollars in billions]

Economic	27.2
Non Economic (Higher discretionary spending, program reestimates, estimating errors, etc.)	21.0
Total	48.3

TABLE 2.—CAUSES OF SPENDING CHANGE BY FUNCTION, FISCAL YEAR 1980

[In billions of dollars]

Function	Outlay change	Cause
Economic:		
350	0.8	Timing of commodity sales from grain embargo due to agriculture commodity price levels.
370	5.0	Lower GNMA asset sales.
550	3.0	Medicare and medicaid.
600	10.0	Income support programs.
700	.2	Inflation impact on indexation.
900	8.3	Higher interest rates.
Subtotal	27.3	
Noneconomic:		
050	12.3	Higher spend out for existing contracts.
150	2.7	Shift in mix of ExIm financing and Saudi drawdown.
250	.2	Space Shuttle.
270	−.5	Reduction in SPRO.
300	2.5	More rapid spend out on water projects and EPA construction grants.
400	2.8	Shift in highway funding to emergency road repair and shift in mass transit funding to bus purchases.
450	2.2	Disaster funding and higher spend out of community development grants.
500	−.2	Lower spend out due to DOL hiring freeze in CETA title VI.
550	.8	Higher utilization of medicare.
750	.2	Pay raise.
800	.1	Miscellaneous estimates.
850	.5	Underestimate of payments in lieu of taxes.
950	−2.6	Increased royalty and rent payments.
Subtotal	21.0	
Total	48.3	

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. BELLMON. I yield.

Mr. YOUNG. As the Senator knows, the Stealth program is a good example. Only two or three members of the Appropriations Committee know how much money is allocated for secret weapons programs such as Stealth or money for intelligence purposes.

Would the Defense Department have to report each month the amount of money they have spent for intelligence and secret weapons and the amount of money they have remaining, or would an exception be made for them?

Mr. BELLMON. The answer to the question is, "No." The Defense Department would not be expected, nor would any other department be expected, to make a total breakdown. They would file with the Appropriations Committee, at the beginning of the fiscal year or 30 days after the bill is passed, how much they expect to outlay for each month, for whatever purpose. We would not use this means to determine where the money is going. We would ask the total amount. So they would not need to be specific as to where it is going.

Mr. YOUNG. I thank the Senator. This will help.

● Mr. PERCY. Mr. President, I am a cosponsor of the amendment being offered by the Senator from Oklahoma. In his capacity as ranking Republican of the Budget Committee, he is making a valid and important point with this amendment today.

We designed the Budget Reform Act back in 1974 as a tool to be used by Congress to deal more rationally with the spending priorities we face each year. When I first came to Congress from private industry, I was startled to see that there was no overall picture of the Federal budget. Rather, we only looked at Federal spending in the increments of individual appropriations bills.

The budget process has not had an easy time of it this year, but substantial progress has been made since it was first implemented in 1975. We now have a systematic way to gage Federal spending patterns in the upcoming fiscal year. We can also see the implications of spending decisions with the addition of multiyear spending projections. Those little programs that we are told will cost so little look much different when we can see they will cost billions in just a few years.

The process of writing a budget is not perfect, however. Our tools are limited. In recent years, some agencies have underspent their budgets and others have spent willy-nilly at the very end of the fiscal year, to avoid a budget cut in the next year. The Senator from Oklahoma has told us that agencies may spend as much as $32 billion over the budget ceilings we voted just last November. If this takes place, it will be the most significant breach in the budget process to date. We cannot let outlays take on a life of their own, independent of the congressional budget.

I support the innovative amendment of my colleague, which will require agencies to plan their spending at the start of the fiscal year. Major agencies will have to submit a monthly outlay schedule to the Appropriations Committees. It will serve as an anchor for Senator BELLMON's concept. The heart of his plan is to measure actual outlays against this initial schedule. In cases where outlays will diverge by 1 percent or more from the total projected in the schedule, agencies will have to report to Appropriations Committees which, in turn, have 15 days to consider and disapprove the revised outlay schedule.

This will bolster the budget process and I strongly support it.●

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Arizona (Mr. DECONCINI), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri (Mr. EAGLETON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS), the Senator from Alabama (Mr. STEWART), the Senator from Florida (Mr. STONE), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), the Senator from Iowa (Mr. JEPSEN), the Senator from Maryland (Mr. MATHIAS), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

Mr. MAGNUSON. Mr. President, may we have order in the well?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MAGNUSON. Mr. President, I call for the regular order.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 63, nays 17, as follows:

[Rollcall Vote No. 423 Leg.]

YEAS—63

Armstrong
Baker
Baucus
Bellmon
Biden
Boren
Boschwitz
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Cochran
Cohen
Cranston
Culver
Danforth
Dole
Domenici
Durenberger
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hayakawa
Heinz
Helms
Humphrey
Inouye
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
McClure
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Schmitt
Schweiker
Simpson
Stevens
Thurmond
Tower
Warner
Weicker
Young
Zorinsky

NAYS—17

Bentsen
Bradley
Bumpers
Burdick
Chiles
Church
Heflin
Hollings
Huddleston
Jackson
Johnston
Matsunaga
Sarbanes
Sasser
Stevenson
Tsongas
Williams

NOT VOTING—20

Bayh
DeConcini
Durkin
Eagleton
Goldwater
Hatfield
Javits
Jepsen
Kennedy
Long
Mathias
McGovern
Morgan
Ribicoff
Stafford
Stennis
Stewart
Stone
Talmadge
Wallop

So Mr. BELLMON's amendment (UP No. 1612) was agreed to.

Mr. MAGNUSON. Mr. President, the bill is open for further amendment.

UP AMENDMENT NO. 1613

(Purpose: To prevent the use of appropriated funds to reduce air carrier operations at Washington National Airport until the I-66 extension to the Dulles access road is completed)

Mr. MELCHER. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 1613:

After line 26, add a new section:

SEC. 326. "None of the funds in this Act shall be used to require any reduction in the total number of flights at Washington National Airport below the number operated on September 12, 1980 until April 1, 1981."

Mr. MELCHER. Mr. President, the effect of this modified amendment, which we have been discussing among various Senators during the past 2 hours, is to delay any reduction in scheduled operations until April 1, 1981.

As it stands now the reductions could begin to be implemented in flights out of National on January 1, 1981, under the proposed rule of the Secretary of Transportation.

How quickly he would start to reduce flights after January 1 is not clear. All I want, and all I am asking the Senate to agree to, is to hold off on this until April 1, 1981. Before any reductions are put into effect, the Senate Commerce Committee, which has jurisdiction, should be given a chance to look at the plan. The House Commerce Committee should have the same equal opportunity.

The plan will then automatically go into effect April 1, 1981. However, if my amendment is accepted, the implementation date will go over into next year so that congressional committees will have an appropriate opportunity to review the plan.

On August 15, the Secretary of Transportation announced a new policy statement for Washington National Airport. This statement was developed after a long and complicated administrative procedure. It becomes effective January 1, 1981.

The decision in many ways is a fine and balanced document and was carefully reviewed by the Senate Appropriations Committee. However, it raises one serious matter of concern to Montana and all the States along the northern tier. The decision calls for an 18.5 percent reduction in scheduled operations.

So far the Secretary has not indicated how these reductions are to be made or which cities will lose convenient access to Washington. One thing is clear. An 18.5-percent reduction in flights will cause a number of cities to lose service or sustain substantial service reductions.

Most of the States along the northern tier have very limited service to Washington, D.C. All of the service from my State and most along the northern tier to Washington is via National Airport. For example, Montana now has two direct flights per day from Washington. We cannot accept forced reductions on these levels. Some States have unlimited service to Washington National Airport and that service is expected to continue even with the cutbacks.

For example, Eastern Airlines operates a shuttle service to New York and may operate as many shuttle flights as it desires without regard to the 18.5 percent reduction. The CAB has indicated by approving Texas International's participation in the committee that allocate slots at National Airport that more service to New York is desirable. But I do not think service to the upper Midwest and West should be reduced 18.5 percent when service to New York is not subject to the same cutbacks. We need protection for our service to Washington. I want to emphasize that the amendment would have no impact on the allocation of slots of any FAA operation and limited airports, and in particular on the ability of FAA to allocate those slots in the absence of an agreement among competing air carriers.

I think that is wise and I think that accomplishes what is in the committee report when it says that the Secretary will consult with the appropriate committees of Congress and interested parties before making the reduction. I think this gives a little more practical basis for it, and I hope the managers of the bill will accept the amendment.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I oppose the amendment. The policy which is going to be implemented is one that was worked out after a great deal of effort. The specific issue before us is an integral part of that policy, and to freeze that part of it jeopardizes the entire policy.

The policy was developed in part in response to a court order, and to undertake now to amend it in this way I think negates all of what has been accomplished.

The committee report indicates that it has raised no objections to the proposed changes in the operating procedures, and goes on to say that there should be consultation before any reduction could take place below what is proposed.

It seems to me we ought to stick with this policy, which has been adopted by the Department of Transportation and reflects a great deal of work and effort, and is endorsed by committee's recommendation. Therefore, I hope Members of the Senate will reject the amendment.

Mr. MELCHER. Mr. President, will the Senator yield for just a moment?

Mr. SARBANES. I yield.

Mr. MELCHER. I wonder if the Senator is aware that the FAA has stated that so far they cannot properly project the impact of this reduction? I think that is an extremely important statement. All I am saying to the Senate and to my good friend from Maryland is let us make sure there is an opportunity for congressional input into this before the reductions are actually made. We are asking only 90 days.

Mr. SARBANES. I would say to the Senator there has been congressional input. What we are really talking about, and I think to some extent what is at stake here, is jeopardizing a solution which has been carefully developed to a very difficult and complicated problem.

There are some very real health and safety problems involved which have to be addressed. The policy is an effort to address them.

There is no guarantee that what we fear will not happen in any event. But I, for one, would not want to assume the responsibility after we have been warned about the safety and health by a number of experts of delaying this policy and conceivably jeopardizing it altogether—and then having to pay the consequences. Therefore, I hope the amendment will be rejected.

Mr. CANNON. Mr. President, as I said to the distinguished Senator from Montana earlier, the Commerce Committee would have the time to take a look at this proposal prior to April 1 and consider a number of issues that are likely to be raised. One of those are how the slots are to be allocated when the reductions start to take place. Another is how the service to West Virginia may be continued from Washington National if the slot reductions are about to take place.

We would like to have the opportunity to review this and take a good look at it. We can do that between now and April 1. I support the amendment.

May I say that the distinguished Senator from Louisiana also expressed the fact that he was in support of the amendment.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Mr. President, I continue to rise in opposition. Each Member of the Senate should clearly understand that a vote in favor of this amendment is taking unto yourselves the responsibility to make judgments with regard to safety at National Airport, because this policy which is to go into effect on January 1 and is now proposed by the amendment to be delayed to the 1st of April, touches on a number of basic considerations. And if, by delay of the policy, an accident were to happen, the responsibility would fall squarely on the shoulders of those supporting this amendment.

The distinguished Senator from Nevada, also the chairman of the Commerce Committee of which I am privileged to be a member, asked that the Senate, as it rightfully may through its committee structure, review this policy. I encourage that review.

But we must balance the review of the policy on a deferred basis against the safety considerations. It seems to me clearly that the safety considerations outweigh any possible disadvantage that might be incurred through the delay from January 1 to April 1.

It is going to be a most difficult task to review this policy, because I would dare say that two-thirds of the Members of this Senate, in one way or another, rely on air transportation out of National Airport that could be affected by this policy. You will have to weigh your own individual considerations along with what I view to be the overriding considerations of safety of the residents that live in areas adjoining this airport.

Mr. President, I ask unanimous consent that an editorial published in the Washington Post entitled "Is National Airport Really Safe?" be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

IS NATIONAL AIRPORT REALLY SAFE?

"National Airport is so dangerous, it's safe." That's what an aviation safety expert said recently to Post reporter Douglas Feaver. He explained that the landing approach down the Potomac River is so tricky that pilots never take it for granted. Thus, one of the causes of airplane accidents—pilot inattentiveness—is eliminated.

To aviation buffs, that may be an encouraging analysis of what goes on in the air around the Nation's 10th-busiest airport. And it may help explain National's enviable safety record—no fatal accident since 1949. But as airliners and electronic landing systems get better and more complex, does it make sense to continue to stake so much on the ability of pilots to wend their way down that curving approach over the Potomac River bridges?

The question arises now because of the proposal of the Federal Aviation Administration to open National to bigger and, it is claimed, quieter jets. The Air Line Pilots Association says it has doubts about the safety aspects of flying these planes in and out of that airport. But the FAA believes there will be no safety problems.

We haven't seen enough evidence yet to form an opinion on the ALPA's assertions. But there is an obvious conflict of interest here that is disturbing. The FAA is the final arbiter of the safety of airports. It is also the operator of National Airport. That means the FAA must decide whether its own proposal meets its own standards for airport safety.

In some situations, that conflict might be little more than routine. But this time, the FAA is being pressured by many members of Congress to permit as many passengers to use National as can be crammed into it. The FAA is also being pressured to reduce the noise made by the airplanes that use those runways. Letting bigger jets into National provides a tempting answer to those competing pressures—more passengers can travel in fewer and quieter big planes. But whether the FAA can pull off this solution depends upon whether the FAA decides the big planes can be operated safely there.

The situation is somewhat analogous to that which led to the breakup of the old Atomic Energy Commission. It was finally understood that the AEC's dual roles of promoting the use of atomic energy and ensuring it was used safely put the commission into a perpetual, and often difficult, internal conflict. Could the same thing be happening to the FAA with its legislatively imposed roles of promoting aviation, ensuring aviation safety and operating two major airports?

Congress could eliminate this conflict by

> getting the FAA out of the business of running airports and repealing the mandate of the agency to promote aviation. National and Dulles airports could be operated just as well by some other federal agency or, even better, by a regional or state authority. That might not have a direct impact on the airports' safety records, but it would remove one persistent question: does the FAA's prime interest at National lie in overseeing the safety of what happens there or in providing a convenient airport for members of Congress who oversee the agency's budget?

Mr. WARNER. Mr. President, I will also read the following from an article from the Washington Post:

> Twice in 1977, the captains of passenger-carrying Boeing 727s elected to abort their takeoffs from National's main runway. Both times it was raining; both times the airplanes rolled to halts in the mud just off the north end of the runway a few feet from the Potomac River.
>
> After the incidents the runway was regrooved to increase traction and airport officials speeded their efforts to build a still-unapproved 500-foot overrun for the runway.
>
> A jetliner captain's favorite approach to any airport is a nice, fully instrumented endeavor where he can line up straight with the center of the runway from a long way out and just follow his instruments and his nose to touchdown.
>
> National's down-river approach presents none of these niceties. To reduce noise, and to avoid flying over the White House, and through the Washington Monument, planes landing to the south snake down the Potomac River, glide to the left just over the Tidal Basin, then make a hard right turn on top of the 14th Street Bridge to line up with the runway and touchdown. Instruments are of no help once planes have passed the Georgetown Reservoir, because the instruments available now work only on straight-in approaches.

That is just but one example of the record that was before the FAA when they made the judgment that ultimately led to this policy. Therefore, I fervently ask my colleagues to let the policy, derived after due consideration by the appropriate officials in the executive branch entrusted with this heavy responsibility, take effect on January 1 and then, in due course, the Commerce Committee of the U.S. Senate may review that policy and make whatever adjustment in the ultimate wisdom of this body may be necessary.

Mr. MAGNUSON. Vote.

Mr. CANNON. Mr. President, I know the Senator from Virginia would not want to have the RECORD stated incorrectly. He said that the number per hour would be changed. That is not correct. The allocation is reduced for the air carriers but awarded to the commuters, so the same number per hour would still exist, the same number of flights. From the standpoint of number of flights, the safety impact is not affected.

Mr. WARNER. Mr. President, I respect that technical evaluation of the amendment, but it is my concern that the Secretary of Transportation might view the action of delaying any part of the policy as a basis on which to delay the entire policy. I think that is a risk that is unacceptable.

Mr. MELCHER. Mr. President, I just want to briefly state that what this amendment does is, just for 90 days further after January 1, it says that if you are going to remove flights from such cities as Kansas City or Miami or Boston or Tampa or Louisville or Minneapolis, we want to look at it before you do it. That is all this does. If you reduce those numbers flights, there has to be about 15 to 20, maybe 25 cities where there is reduced service.

I do not want to delay the policy or safety features of the Secretary's efforts and the FAA's efforts. I just want to know what cities are going to be reduced and try to work it out.

The best deal, after all, would be to put wide bodies in there, such as the DC–10, which makes less noise, lands on just as short a runway, and has a very fine landing record. Maybe that is the way to go.

Mr. WARNER. Will the Senator yield for a question?

Mr. MELCHER. I am delighted to yield.

Mr. WARNER. Mr. President, on the 11th of June, I went over to the House of Representatives to testify in a hearing that was, in a sense, an oversight of this very policy. Why did not the Senator from Montana at that time urge the Commerce Committee to initiate the hearings parallel with the House and review this matter in an orderly way, rather than wait here on the eve of a late vote on this appropriations measure?

Mr. MELCHER. I regret that I did not encourage the Senate Commerce Committee to do it earlier. But I do believe that it is appropriate to ask for a short period of time for it, so the Senate Commerce Committee can take a look at it.

I hope the amendment can be agreed to. I do not think it is a big request, but I think it is very appropriate that we do allow this time.

Mr. LONG. Mr. President, I wish to make clear my understanding of the intent of Senator MELCHER's amendment. Senator MELCHER's proposal would have the affect of maintaining the number of slots at National Airport at the current level through April 1, 1981. It would in no way preclude the implementation of other parts of the proposed new National Airport plan on January 1, 1981. Neither would Senator MELCHER's amendment preclude a reduction in the number of slots at National Airport after April 1, 1981.

● Mr. MATHIAS. Mr. President, on July 2, 1980, several of my colleagues, Senators WARNER, SARBANES, HARRY BYRD, HATFIELD, DOMENICI, GRAVEL, and JAVITS, joined me in a resolution designed to convey to the Secretary of Transportation and the Administrator of the Federal Aviation Administration the sense that a responsible attitude prevails in Congress in regard to the difficult subject of National Airport and the scope of its operations.

The FAA on August 15, 1980, adopted a policy which acknowledged the overutilization of National Airport and took a modest first step toward establishing a more balanced relationship among the three airports of our region, National, Dulles, and BWI.

Eleven years have passed since the Senate held hearings on the acute overuse of National Airport and the safety and environmental concerns which that facility generates. No changes in National's role as Washington's primary jetport have occurred since that time. National Airport continues to handle nearly 70 percent of the commercial jet operations in our region, even though it was built in 1941 in the "pre jet" age.

Dulles Airport, built in 1962 totally with Federal funds to be Washington's primary jetport, handles only 15 percent of our region's jet traffic. Indeed, there are fewer commercial jet flights at Dulles now than there were 10 years ago. Baltimore Washington International Airport has undergone major expansion of passenger freight terminals, as well as runway resurfacing.

In the past decade, however, passenger traffic at National has increased by almost 50 percent to the present level of 15,500,000 per year. Because of its proximity to downtown Washington, users of National Airport cannot avoid using the same routes that commuters take, further clogging our congested highways.

The safety issue at National cannot be ignored any longer. National Airport has a single main jet runway, only 6,800 feet long. By contrast, Dulles—like all modern jetports—utilizes parallel runways, and they are 11,500 feet in length. Baltimore Washington International has two major runways 9,500 feet in length fully instrumented as well as a separate general aviation runway.

While National operates at maximum capacity much of the day, squeezing more than 60 operations an hour into this airport, Dulles' runways are never used at more than 30 percent of capacity and BWI's is at 40 percent of capacity.

The FAA has not only crowded more and more operations into National, but has succumbed to airline pressure to utilize bigger and bigger aircraft. First, jets were brought in, and then "stretched" 727's were allowed into National in 1967.

Now, FAA proposes to bring in wide-bodied aircraft even though the Airline Pilots Association has said that this would present a serious safety hazard. Indeed, using FAA's own figures, the pilots tell us that the risk of accident at National Airport with such planes is 471 percent greater than the risk of accident at New York's La Guardia Airport.

The environmental problems at National are no less serious. The mall and recreation areas along the Potomac are difficult, and sometimes impossible, to enjoy. More importantly, tens of thousands of area residents are exposed to literally hundreds of overflights a day, with the constant thundering overhead becoming an unending and unfair intrusion into their lives.

The present use of National has been justified by some on the altar of convenience. But the facts belie this conclusion. In truth, National is more convenient only to some of the people, some of the time. It is closer to downtown Washington, of course, than either Dulles or BWI. But a 1968 Department of Transportation study shows that only 25 percent of the passengers using National are coming to or from downtown Washington.

Today, with the proliferation of business and industry in the Tyson's Corner, I-270, and Baltimore-Washington corridor, that percentage may even be lower. For thousands of others, Dulles or BWI would be a preferred choice, actually more convenient than National or no more than minutes further away. For example, BWI is served by scheduled limousine service from downtown Washington hotels 24 times a day. In October the Amtrak rail passenger station will open at BWI linking the airport to the Northeast Corridor rail project. This will provide yet another regularly scheduled connection from Washington to BWI from the Union Station Visitor Center.

Why then, if National is not overwhelmingly more convenient, do three out of every four travelers in our region use National? The answer is that they have no choice. Of 66 operations a day between Washington and Chicago, only 1 flight uses Dulles Airport. Of 90 flights a day between Washington and Atlanta, only 6 use Dulles. There are no rush hour flights to or from New York from Dulles and one cannot fly from Dulles at all to Buffalo, Pittsburgh, Cincinnati, Cleveland, Detroit, or Charlotte. Indeed, the only one-plane service to some 14 cities west of the Mississippi is from National Airport. The airlines force the public to use National, and National alone, because it is plainly more economical for them to build, staff, and maintain complete facilities at one airport, rather than three.

It is time, however, that we take such factors as safety and environmental considerations into account in establishing a regional airport policy. It is neither rational nor defensible to continue the gross overutilization of National Airport. It is bad enough that we have allowed the Potomac River corridor to become a "noise sewer." It would be far worse if we allow industry pressure to compel us to take no action until a major and tragic accident occurs at National Airport. I urge my colleagues to reject the Melcher amendment which seeks to thwart implementation of the FAA Metropolitan Washington airports policy.

• Mr. MATHIAS. Mr. President, I call to the attention of my distinguished chairman and ranking minority member an oversight in a part of our committee report on this appropriations bill having to do with Metropolitan Washington airports policy.

That report language which is found on page 27 of the committee report, lauds the adoption by the Federal Aviation Administration of a final Metropolitan Washington airports policy regarding the operations of Washington National and Dulles International Airports. My reading of that airports policy leads me to believe that future airline slot reductions (beyond the initial proposed four slots per hour) at National are contemplated by FAA and that such reductions are an integral part of that policy.

The Appropriations Committee report states, in part, however, that "before any further reduction in the number of hourly flights, below the 36 which would be permitted under the new rule, the FAA should consult with this and other appropriate committees as well as all the carriers serving National Airport."

It is that sentence, Mr. President, which causes problems. The policy adopted by the FAA makes clear that a 17 million annual passenger limit at Washington National will be adhered to. The policy notes that the FAA expects that ceiling to be reached in 1983. Concurrent with and implicit in that 17 million passenger "cap" is a limit on aircraft "slots" at National.

The FAA policy states, and I quote:

PASSENGER CEILING

National Airport will not be permitted to accommodate more than 17 million total passengers per year. That level will be maintained by periodically adjusting the number of "slots", or rights to schedule landings or takeoffs, that are available to certificated and commuter air carriers. The FAA expects the ceiling to be reached in 1983.

The policy goes on to note under "other issues" that:

A separate notice of proposed rulemaking will be issued within thirty days on the allocation of slots among carriers. It will contain one or more alternative methods to assure that nonstop service to National is equitably distributed among cities within the perimeter.

A second rulemaking will be issued to establish a mechanism for determining the number of slot reductions required in the future to assure that the number of passengers served at National does not exceed 17 million.

I would ask my chairman, the distinguished Senator from Indiana, if his reading of the Metropolitan Washington airports policy leads him to believe the FAA may well have to further reduce airline slots at National in the future.

Mr. BAYH. The Senator from Maryland is correct. The policy indicates that future slot reductions at National may have to be implemented in order to stay within the 17-million-passenger ceiling.

As the airlines begin to use wide-body jets with larger passenger volumes, it is fairly obvious that sooner or later, the number of those larger planes will have to be cut back to avoid the ground traffic jams which are already occurring and likely to occur in the future.

Mr. McCLURE. I would note to my colleague from Maryland, that this issue of the impact of heavy passenger loads on National's ground facilities are addressed in the FAA policy. I quote from the policy's "Underlying Considerations":

Existing limitations at National are simply not adequate to deal with the potential for growth. Although the number of flights per hour have been limited, the airlines have been able, through the introduction of larger two- and three-engine aircraft, to increase substantially the number of passengers. The readily observable result has been the continuing ground and terminal congestion passengers and carriers at National must face. The capacity of roadway and parking facilities has long been overwhelmed by growth. Aircraft aprons are undersized and crowded. Even counter space is too limited to handle passenger loads efficiently. The cure to this problem cannot be reconstruction of the terminal alone. National has limited space on which to expand, and there are further limits to the ground transportation network.

Mr. MATHIAS. I thank my colleagues for this clarification that, indeed, future airline slot reductions may be necessary at Washington National.•

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana (Mr. MELCHER). The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. BUMPERS), the Senator from Arizona (Mr. DECONCINI), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri (Mr. EAGLETON), the Senator from Alabama (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. McGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Arkansas (Mr. PRYOR), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS), the Senator from Alabama (Mr. STEWART), the Senator from Louisiana (Mr. STONE), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), the Senator from Iowa (Mr. JEPSEN), the Senator from Maryland (Mr. MATHIAS), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 47, nays 29, as follows:

[Rollcall Vote No. 424 Leg.]

YEAS—47

Baker
Baucus
Bellmon
Boren
Boschwitz
Bradley
Burdick
Byrd, Robert C.
Cannon
Chiles
Church
Dole
Durenberger
Ford
Garn
Glenn
Heflin
Helms
Huddleston
Humphrey
Inouye
Jackson
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Matsunaga
McClure
Melcher
Mitchell
Moynihan
Pell
Proxmire
Randolph
Riegle
Sasser
Schweiker
Stevens
Stevenson
Tower
Weicker
Williams
Young
Zorinsky

NAYS—29

Armstrong
Bentsen
Biden
Byrd,
Harry F., Jr.
Chafee
Cochran
Cohen
Cranston
Culver
Danforth
Domenici
Exon
Hart
Hatch
Hayakawa
Heinz
Hollings
Metzenbaum
Nelson
Nunn
Packwood
Percy
Roth
Sarbanes
Schmitt
Simpson
Thurmond
Tsongas
Warner

NOT VOTING—24

Bayh
Bumpers
DeConcini
Durkin
Eagleton
Goldwater
Gravel
Hatfield
Javits
Jepsen
Kennedy
Long
Mathias
McGovern
Morgan
Pressler
Pryor
Ribicoff
Stafford
Stennis
Stewart
Stone
Talmadge
Wallop

So Mr. MELCHER's amendment (UP No. 1613) was agreed to.

Mr. MELCHER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1614

(Purpose: To prevent the misuse of Federal funds for collective bargaining)

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1614:

On page 43, after line 21 add the following: None of the funds in this Act shall be used for training labor union or management personnel on matters relating to labor-management relations.

Mr. McCLURE. Mr. President, to protect the rights of workers to unionize and bargain collectively, the Federal Government created the National Labor Relations Board (NLRB). The Board determines the proper collective bargaining unit and eliminates unfair practices by which the unions and the employer might interfere with the rights of employees.

It is not, Mr. President, the function of the Board or any other tax-supported Federal agency to train labor and management representatives how to develop the necessary skills to participate in the collective bargaining process. Unfortunately, this prohibition has not been made clear to the Urban Mass Transportation Administration (UMTA). Indeed, the Glendale News Press recently printed an article which stated that UMTA awarded a $153,330 grant to a consortium of unions for the following purpose: "To develop and demonstrate a training and education program for local union representatives with respect to skills needed to carry out their responsibilities in administering collective bargaining contracts." Additional details concerning the purpose of this UMTA grant are reported in the article. I ask unanimous consent that the article be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. McCLURE. Mr. President, this grant is not only a misuse of the taxpayers' money, but it is also an insult to labor. Labor negotiators have proven time and time again that they can handle collective bargaining aggressively and effectively. They do not need a $153,000 crutch from UMTA or any other Federal agency.

It is unfortunate that this issue has to be raised in the U.S. Senate. Because I do not want this to happen again, I am today offering an amendment which would prevent the use of funds in this act to train labor and management personnel on matters relating to labor-management relations.

I am certain my colleagues will agree that the intent of my amendment is clear. I trust the administrative bureaucracy will also understand its purpose.

EXHIBIT 1

TAX MONEY GOING TO UNION CONSORTIUM

(By Howard Jarvis)

It always amazes me when I pick up a newspaper and read how our tax money is spent.

I don't mean the budget figures that run into the hundreds of millions of dollars—those are numbers you have to be in Congress to accept with nonchalance.

What I'm talking about is a $153,330 grant the Urban Mass Transit Administration (UMTA) recently awarded to a consortium of unions.

The purpose of this grant?

Why, to train union officials in the mass transit business how to deal with grievances, arbitration, contract administration and other subjects of concern to the taxpayer's who are funding the future union boss' on the job training.

In pure "bureaucrat-ese," UMTA, in its July 22, 1979, letter awarding the grant, said, "The purpose of this grant is to . . . develop and demonstrate a training and education program for local union representatives with respect to skills needed to carry out their responsibilities in administering collective bargaining contracts. It is anticipated that the activities conducted under this grant will improve transit system operations, reduce costs and increase passenger and employee safety and security."

That's just about the most ridiculous bit of bureaucratic double-talk I've ever heard!

I have a couple questions I'd like the UMTA people to answer, since they seem so eager to give our tax money away to union officials.

Question Number One: What does collective bargaining contract administration have to do with "passenger and employee safety and security?"

Question Number Two: Why in the hell are the taxpayers paying for what is essentially a union training program (and can we be assured that the participants in this publicly funded program will never in the future lead a strike against the public interest using the skills we paid for?)

But those are just two of the most obvious questions . . . questions I'm certain UMTA would hesitate to answer . . . even if there was any non-political justification for their $153,330 giveaway.

Mr. McCLURE. Mr. President, I understand that this amendment is acceptable to the majority.

Mr. BELLMON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. McCLURE. Yes, I yield.

Mr. BELLMON. Mr. President, I ask unanimous consent that Judy Albro be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Idaho.

So the amendment (UP No. 1614) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1615

(Purpose: To repeal the provisions of title 23 of the United States Code requiring a national maximum speed limit of 55 miles per hour)

Mr. HAYAKAWA. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) proposes an unprinted amendment numbered 1615.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. TSONGAS). Without objection, it is so ordered.

The amendment is as follows:

On page 43, after line 21, insert the following:

SEC. 326. Title 23 of the United States Code, relating to highways, is amended—

(1) in section 141 by striking out subsection (a) and redesignating subsections (b) through (e) as (a) through (d), respectively, and in such redesignated subsection (c) by striking out "141(c)" and inserting in lieu thereof "141(b)"; and

(2) by striking out section 154 and the reference thereto in the analysis of chapter 1.

Mr. HAYAKAWA. Mr. President, the purpose of this amendment is to restore to the States and the municipalities the right to establish speed limits. In other words, what I wish to do is abolish the national 55-mile-an-hour speed limit so as to give municipalities and cities and States the opportunity to set higher or lower speed limits, according to their knowledge of their own State and their own highways.

The 55-mile-an-hour speed limit is claimed to have saved many, many lives. But even if their figures are correct, the question is, Why have those lives been saved?

Mr. President, since March 4, 1974, the National Highway Traffic Safety Administration has been telling us how wonderful the national 55 mile-per-hour speed limit is, in terms of the number of deaths it has prevented and the amount of fuel it has saved. Recently, NHTSA stated that the 55 mile-per-hour speed limit has prevented in excess of 5,000 deaths per year, and saved 125,000 to 273,000 barrels of petroleum per day. Even if these figures were significant to the question of maintaining the national speed limit, I would object as an infringement of States' rights; the fact is, however, that these figures misrepresent the impact of the national speed limit on highway safety and fuel consumption.

Traffic fatalities for 1973 totaled 54,052; recent estimates for 1979 fatalities are 50,745. If a simple scale is used, these figures represent a 3,307 life savings over a period of 6 years, or 551 lives saved each year—hardly the 5,000 which

NHTSA boasts. However, a simple scale does not tell the whole story. After 1973, traffic fatalities dropped off dramatically, by 8,856 in 1974, to a low of 44,525 in 1975. These figures were immediately explained as the result of the national speed limit. Starting in 1976, though, fatalities began to increase, and continue to increase today. Since the decrease in fatalities was attributed to the 55 mile-per-hour speed limit, shall we attribute the increases as well? We cannot have it both ways.

In an effort to promote the benefits of the national speed limit, NHTSA and the Department of Transportation overlooked several factors which contributed to the change in traffic fatalities. First among these is the Arab oil embargo, which, in 1974, reduced the amount of gasoline available, and, in turn, reduced the volume of traffic. This reduction in traffic had a great impact on the number of accidents and traffic fatalities occurring in 1974. Its impact can be better viewed, moreover, by the increase in traffic which followed the resolution of the oil embargo, and the corresponding increase in traffic fatalities occurring at the same time.

The fact is that these figures of decreasing and increasing traffic deaths simply show an increase or decrease in the number of cars being driven.

Other significant contributions to the change in the fatality rate are the increased use of seatbelts, greater safety features on new cars, and safety inspections.

Similarly, gasoline consumption is less a factor of speed change than driving habits and automotive efficiency. In fact, Department of Energy figures show that gasoline consumption has increased from 6.674 million barrels per day in 1973 to 7.030 million barrels per day in 1979. While the national speed limit may have contributed to a possible savings, it would seem that educating the consumer and providing adequate mass transit alternatives is necessary to reduce our total gas consumption.

In effect, the national speed limit has extremely limited impact on either safety or fuel conservation. Moreover, the fact that at least half of all highway motorists travel at speeds in excess of 55 miles per hour demonstrates that the public does not support the national speed limit.

I am, therefore, offering an amendment to repeal the national speed limit and return the responsibility to the States to establish speed limits that meet the safety and economic needs of each State.

I urge adoption of this amendment.

I say, Mr. President, that the 55-mile-an-hour speed limit is a law that is not being observed in California, or in any other State.

The normal rate of travel on, for example, Highway 80, from San Francisco to Sacramento, is 65 miles an hour. So long as we do not go over 65, the police do not bother us.

On a great highway, engineered for high speeds, like Interstate 5 down the Central Valley, people normally drive 70 to 75 miles an hour and we do not get into trouble until we hit 80, although that highway was engineered for 80.

Throughout the State, we find these anomalies where it is routine to go over the 55-mile-an-hour speed limit. If we want to go at the 55-mile-an-hour speed limit, our car is in danger and we are endangering the lives of other people by getting in the way and obstructing the free flow of traffic.

This is the situation in California. The situation in Hawaii must be very, very different. It must be different in Delaware, which is a much smaller State. It is different in Nevada where we have vast areas of desert where at 80 we are not in danger of hitting anything.

So in many ways, the 55-mile-an-hour limit is something that should be decided by the States and municipalities themselves.

There are places where 25 miles an hour is far too fast, and places where 70 is far too slow.

But these are matters known to local authorities. It is not my function as a Senator from California to tell the people of Georgia at what speeds they should drive on their highways, and it is not the function of the people of Georgia, who have not driven our California highways, to tell us how we should drive on ours.

This national 55-mile-an-hour speed limit, as I say, is a law much more observed in the breach than in the observance.

Therefore, it is an anachronism, makes no sense, and, furthermore, wastes gasoline because truckers, with their CB radios, warn each other of police traps. So they slow down and stop, and slow down and stop as they go along. This is using more gasoline than otherwise, if they went steadily at 65 miles an hour. In fact, it is counterproductive in almost every way.

Therefore, Mr. President, I submit this amendment for the consideration of the Senate and urge its adoption.

Mr. PROXMIRE. Mr. President, what the amendment would do would be to repeal the 55-mile-an-hour speed limit. That is its purpose, clearly stated by the distinguished Senator from California.

Therefore, it is clear that it constitutes legislation on an appropriation bill. I make the point of order against the amendment on the grounds that it represents legislation on an appropriation bill.

Mr. HAYAKAWA. I ask for a ruling of the Chair on this.

The PRESIDING OFFICER. The amendment clearly is legislation on an appropriation bill, and the point of order is sustained.

Mr. HAYAKAWA. Is the point of order sustained?

The PRESIDING OFFICER. Yes.

Mr. HAYAKAWA. Mr. President, I will not appeal the ruling of the Chair.

I am of the conviction that we abuse the right of amendment very often, to legislate on a basis where it should not. So I shall be consistent with my own principles.

But I take this opportunity to submit the amendment, basically, because I want to inform my colleagues that I intend to offer this amendment at another more appropriate time.

I wish to warn my colleagues that this is an issue that matters to a lot of people in California and elsewhere, because it is an extremely irrational demand that we are making.

UP AMENDMENT NO. 1616

(Purpose: To establish ridesharing programs nationwide)

Mr. HAYAKAWA. Mr. President, I send to the desk another unprinted amendment, the purpose of which is to establish ridesharing programs nationwide.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) proposes an unprinted amendment numbered 1616.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 43, after line 21, insert the following:

TITLE IV—RIDESHARING

SHORT TITLE

SEC. 401. This title may be cited as the "National Ridesharing Act".

DEFINITIONS

SEC. 402. (a) The term "ridesharing", for purposes of this Act, means group travel by any mode, including carpooling, vanpooling, public or private buspooling, shareride taxi, fixed route or unregulated jitney, and public transit, either in mixed flow traffic or on exclusive high-occupancy vehicle facilities.

(b) The term "outreach effort" includes planning, survey analysis, implementation or evaluation of ridesharing programs, and marketing of rideshare activities.

FINDINGS AND PURPOSE

SEC. 403. (a) Congress finds that—

(1) a principal source of air pollution is the private automobile; and

(2) the automobile is a principal consumer of gasoline.

(b) The purposes of the National Ridesharing Act are to—

(1) promote and facilitate availability and use of alternatives available to the single occupant automobile for both work and non-work related trips;

(2) establish viable ridesharing programs in urbanized and nonurbanized areas where none currently exist; and

(3) support and enhance existing ridesharing programs.

(c) The benefits expected to result from the accomplishment of the objectives are—

(1) reductions in transportation related energy consumption, air pollution, and highway congestion;

(2) reduced dependency on foreign sources of oil;

(3) improvement of the balance of trade for the United States;

(4) strengthening of the United States dollar abroad;

(5) increases in disposable income available to United States citizens for non-transportation-related purposes; and

(6) increases in consumer transportation choice and mobility, especially in times of gasoline shortages.

ESTABLISHMENT OF NATIONAL OFFICE OF RIDESHARING

SEC. 404. The Secretary of Transportation (hereinafter referred to as the "Secretary") shall establish a National Office of Ridesharing. The director of such office shall report directly to the Secretary.

DEVELOPMENT OF THE PROGRAM

SEC. 405. (a) The National Office of Ridesharing shall develop a national ridesharing program to assist states, counties, municipalities, metropolitan planning organizations, other units of local and regional government, providers of ridesharing services, publicly owned operators of mass transportation services, and private entities in developing and implementing ridesharing programs.

(b) The National Office of Ridesharing shall have responsibility for the development and coordination of any and all ridesharing activities supported in total or in part by Federal funds. The National Office of Ridesharing shall administer funds and programs authorized under this legislation and shall coordinate those programs with other ridesharing activities within the Department of Transportation, the Department of Energy, and other branches of the Federal Government.

(c) The Director of the National Office of Ridesharing shall coordinate the development of ridesharing programs pursuant to this Act with the Administrator of General Services to ensure that such programs are consistent with and complementary to efforts made by other Federal agencies to promote ridesharing in accordance with Executive Order 12191 Federal Facility Ridesharing Programs.

(d) The Secretary of Transportation and the Secretary of Energy shall establish a process for coordinating their Departments' activities related to the planning and implementation of ridesharing programs. All ridesharing-related Department of Energy moneys shall be coordinated with the requirements of section 134 of title 23, United States Code.

FUNDING

SEC. 406. Commencing September 30, 1982, funds for the establishment of new programs or for significant expansions of existing programs shall be allocated at the discretion of the Secretary.

PLANNING PROCESS

SEC. 407. (a) The development of ridesharing programs shall be based upon the continuing, cooperative, and comprehensive planning process as required under section 134, title 23, United States Code, and section 1607, title 49, United States Code. The Secretary of Transportation shall not approve any project in an urbanized area unless he finds that the project is based on such process.

(b) The national ridesharing program shall be administered in a flexible manner to ensure participation of State departments of transportation, metropolitan planning organizations, counties, municipalities, providers of ridesharing services, publicly owned operators of mass transportation services, other local transportation planning and implementation agencies, and the private sector.

PUBLIC TRANSIT'S ROLE

SEC. 408. The national ridesharing program shall be developed to ensure that the various modes of ridesharing are implemented in a complementary rather than competitive manner. Carpooling, vanpooling, buspooling, jitneys, and other high occupancy vehicle programs shall be developed with full coordination with and participation by operators of publicly owned mass transportation systems. The Secretary shall not approve any programs which have not been developed pursuant to these requirements.

SPECIAL CONSIDERATION FOR LOCAL EFFORT

SEC. 409. The Secretary, in making discretionary apportionments to eligible recipients shall give special consideration to those applicants who have shown particular commitment to ridesharing by virtue of their use of non-Federal funds or eligible Federal highway funds in their ridesharing programs.

Mr. HAYAKAWA. Mr. President, I am offering an amendment to establish an Office of Ridesharing within the Department of Transportation to promote ridesharing, vanpooling, carpooling, and shared-ride taxis and jitneys.

This amendment will be similar to the National Ridesharing Act, S. 2696, which I introduced last May. This amendment, however, requires no additional appropriations for the Department of Transportation. Funding for the office, and the programs it will carry out, is left to the discretion of the Secretary.

Because many areas of the country are not adequately served by mass transit, I believe alternate forms of transportation must be made available. Many localities have already begun this by providing vanpool systems and other forms of shared-ride programs. I have concluded that a national ridesharing program is necessary to move us in the direction of energy self-sufficiency.

By establishing an Office of Ridesharing, activities of the Department of Transportation, the Department of Energy, and other branches of the Federal Government will be coordinated and spearheaded to promote efficient and reliable group transportation. This amendment is intended to encourage private ownership and operation of transportation alternatives. This will bring about the creation of new and innovative transportation ideas, and the emergence of others, perhaps used in the past but now long forgotten.

The energy savings potential of ridesharing is enormous. Moreover, traffic and parking congestion are relieved, air pollution is reduced, and personal expenses are cut. Certainly, the benefits of ridesharing are outstanding.

I urge adoption of this amendment.

Mr. PROXMIRE. Mr. President, the purpose of this amendment is to establish a national ride-sharing program. It would establish an office in the Department of Transportation. It is clearly legislation on an appropriation bill, and therefore I make the point of order that it is not in order.

The PRESIDING OFFICER. The Senator from Wisconsin is correct, and the point of order is sustained.

Mr. HAYAKAWA. Mr. President, I shall not appeal the ruling of the Chair on the point of order. As I said on my last amendment I wish to inform my colleagues of my concern about this matter. I intend to offer this amendment at another more appropriate time.

UP AMENDMENT NO. 1617

(Purpose: To delete funding for the National Highway Traffic Safety Administration)

Mr. HAYAKAWA. Mr. President, I send to the desk an amendment to delete funding for the National Highway Traffic Safety Administration.

The PRESIDING OFFICER. The amendment will be stated. The legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) proposes an unprinted amendment numbered 1617:

Beginning on line 6, page 14, strike out through line 2, page 15.

Mr. HAYAKAWA. Mr. President, this amendment is short in length, but long in history and ramifications. The amendment I am now proposing simply deletes all funding—we are dealing with appropriations now—for the National Highway Traffic Safety Administration.

This is not merely an exercise to amuse my colleagues. I believe in earnest that NHTSA has contrived statistics and manipulated them to support actions which are wholly unwarranted, and detrimental to the automobile industry, the public, and traffic safety in general. Among the actions taken by NHTSA to which I strongly object are: Promoting the national 55-mile-per-hour speed limit, which I have previously discussed; mandating passive restraints in automobiles, and especially endorsing airbags; persecuting the Ford Motor Co. for an alleged defect in their automatic transmissions; and promulgating useless regulations which are self-serving at best and dangerous to the safety and economical well-being of the country.

Inasmuch as I have argued the faults of the national 55-mile-per-hour speed limit just a few minutes ago before this body, I will not dwell on the subject. It will suffice to say that NHTSA has manipulated statistics and overlooked important matters relevant to fuel economy and highway safety which would otherwise render arguments in favor of this law void.

The 1977 rule mandating passive restraints on all automobiles by 1983 has been a source of constant discomfort to me for some time. Aside from safety considerations, which I will get to in a moment, I abhor this kind of cradle-to-grave security which the Federal Government feels is necessary to the well-being of the American people.

The Government likes to treat us as infants.

If we accept in theory that highway fatalities and injuries are serious enough to warrant Federal protection, we are free to accept responsibility for the many other serious risks in everyday life. Certainly the old adage, "a man's home is his castle," will not stand up under this scrutiny, and we can look forward to many more years of Government activity to assure that our citizens get the best protection that we can mandate in the construction of furnaces, kitchens, air conditioners, and everything else around the house. This, in my judgment, is further than a democratic government should go. The concern for safety is a worthy cause. Use of active and passive restraints should be encouraged and made available at the option of the automobile purchaser. But to force their use through mandatory rulings threatens an even worthier cause: The protection of our basic freedoms and rights.

With respect to the preferred choice

of NHTSA, I will say only that airbags have not been demonstrated to provide adequate security to passengers in a variety of circumstances. They do not protect passengers in accidents other than head-on collisions.

They do not protect passengers seated in the rear seats. They do not protect children who are not securely restrained by seat belts. In short, they are not a substitute for seat belts, which is what they have been billed to be. It has not been demonstrated to this Senator that there is any substitute for seat belts, and I believe the American people must be free to choose whether to use them.

The next matter of concern to me is the harassment which the Ford Motor Co. has experienced at the hands of NHTSA. On June 11, 1980, NHTSA announced that an initial determination of a safety defect had been made regarding transmissions manufactured by Ford.

The news release detailed the extent of the defect, and finally announced a scheduled meeting where views and arguments could be made. To date, no final determination has been made, but the Ford Motor Co. has been the victim of a trial by media accusation. Without being presented with the facts from both sides, I objected to this kind of scare tactic used to "alert" consumers about an undetermined safety defect.

Furthermore, the American people should be warned not to leave their cars unattended while the engine is running as a matter of course. Certainly, there are a number of problems which may occur in that situation. I do not believe, however, that a full-scale recall is in order.

Two rules, which were published in the Federal Register recently, caught me as being prime examples of overregulation.

They are docket No. 78–01, and docket No. 76–06. The rules are sufficiently absurd that I ask unanimous consent to have them printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[4910–59]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION; DEPARTMENT OF TRANSPORTATION

[Docket No. 78–01; Notice 1]

PART 510—INFORMATION GATHERING POWERS

Procedures and Requirements Governing the Use of Compulsory Process.

Agency: National Highway Traffic Safety Administration, DOT.

Action: Interim rule.

Summary: This rule establishes requirements and procedures governing the issuance and use of compulsory process by the National Highway Traffic Safety Administration in the course of investigations conducted to carry out its missions under the National Traffic and Motor Vehicle Safety Act, as amended, and the Motor Vehicle Information and Cost Savings Act, as amended. Recent Administration experience in both enforcement and rulemaking activities has shown the desirability of having compulsory information gathering powers available so that the agency may obtain such information as it deems necessary for a particular task. The Administration believes that it is in the public interest to set out the procedures it will use to implement those powers to gather information, and the rights that persons subject to those procedures will have. This notice is intended to inform the members of the public of those procedures and of the rights they have with respect to those information gathering powers.

Date: This rule will become effective, on an interim basis, on December 27, 1977. The deadline for commenting on this rule is February 10, 1978.

Address: Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that ten copies be submitted.

For further information contact: David A. Zisser, Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590, 202–426–9511.

Supplementary information: This regulation sets out the requirements and procedures relating to the agency's use of compulsory process. The agency will be able to issue subpenas requiring persons and business or other entities to testify and to produce documents or things. In addition, the agency will be able to hold investigational hearings for the purpose of taking testimony or receiving documents, and will also be able to require answers to written requests for information.

The regulation also sets out the rights of persons or entities subject to compulsory agency process, including the right to counsel when required to testify, and the right to seek to have a subpena quashed. In addition, any person required to testify will be allowed to make objections on the record and examine the transcript of the testimony before signature.

Compulsory process under this regulation will be available to the agency for investigations conducted in connection with any agency activity, including both rulemaking and enforcement. However, this rule does not govern discovery in formal adjudications. Such discovery will be controlled by regulations governing formal adjudications, which the agency is now preparing.

Because this rule is procedural, it is being issued without public notice or opportunity for comment as an interim final rule. Opportunity for public comment is provided before the agency adopts a permanent final rule.

The National Highway Traffic Safety Administration issues on an interim basis 49 CFR 510, as set forth below. This action is taken under the provisions of the National Traffic and Motor Vehicle Safety Act, as amended, (section 112 and 119, 15 U.S.C. 1401 and 1407), and the Motor Vehicle Information and Cost Savings Act, as amended, (Titles I, II, IV, and V) and the delegation of authority at 49 CFR 1.50.

The lawyer principally responsible for the development of this regulation is David A, Zisser.

Issued on December 19, 1977.

JOAN CLAYBROOK,
Administrator.

Accordingly, Part 510 of 49 CFR is added as follows:

Sec.
510.1 Scope and purpose.
510.2 Definitions.
510.3 Compulsory process and the service thereof.
510.4 Subpenas.
510.5 Investigational hearings.
510.6 General or special orders seeking information.
510.7 Supplementation of responses.
510.8 Fees.
510.9 Remedies for failure to permit authorized investigations.

AUTHORITY: National Traffic and Motor Vehicle Safety Act, as amended (sections 112 and 119, 15 U.S.C. 1401 and 1407), and the Motor Vehicle Information and Cost Savings Act, as amended (Titles I, II, IV, and V) and the delegation of authority at 49 CFR 1.50.

§ 510.1 Scope and purpose.

This rule governs the use of the information gathering powers of the National Highway Traffic Safety Administration in connection with its functions under the National Traffic and Motor Vehicle Safety Act, as amended, 15 U.S.C. 1381 et seq., and the Motor Vehicle Information and Cost Savings Act, as amended, 15 U.S.C. 1901 et seq.

§ 510.2 Definitions.

"Administration" means the National Highway Traffic Safety Administration.

"Administrator" means the Administrator of the National Highway Traffic Safety Administration.

§ 510.3 Compulsory process and the service thereof.

(a) The Administration may use any of the following means to conduct investigations, inspections, or inquiries to obtain information to carry out the Administration's functions under the National Traffic and Motor Vehicle Safety Act of 1966, as amended, 15 U.S.C. 1381 et seq., and the Motor Vehicle Information and Cost Savings Act, as amended, 15 U.S.C. 1901 et seq.:

(1) Subpenas;
(2) Investigational hearings; or
(3) General or special orders.

(b) Service of the compulsory processes specified in paragraph (a) of this section is effected:

(1) By personal service upon the person, or agent-in-charge of the sole proprietorship, partnership, corporation, or other entity being investigated, inspected, or inquired of; or

(2) By mail (registered or certified) or delivery to the last known residence or business address of such person or agent.

(c) The date of service of any of the compulsory processes specified in paragraph (a) of this section is the date on which the process is mailed by the agency, or delivered in person, as applicable. Whenever a party is required or permitted by compulsory process, under this part to do an act within a prescribed period after service, if service is by mail the party has until three days after the prescribed period to perform the act.

(d) Anyone submitting information in response to any of the compulsory processes specified in paragraph (a) of this section and desiring confidential treatment of that information shall state whether the information submitted is believed to contain or relate to a trade secret or other matter which should be considered by the agency to be entitled to exemption from disclosure by the agency under the provisions of the Freedom of Information Act (5 U.S.C. 552). Any statement asserting this claim of confidentiality must be in writing, and any request for exemption of the information from disclosure must be made in accordance with the Administration's Freedom of Information Act regulations.

§ 510.4 Subpenas.

(a) The agency may issue to any person, sole proprietorship, partnership, corporation, or other entity a subpena requiring the production of documents and things (subpena duces tecum) and/or the attendance and testimony of witnesses (subpena ad testificandum) rating to any matter under investigation.

(b) The person, sole proprietorship, partnership, or corporation under subpena may file with the Deputy Administrator of the Administration a motion to limit or quash the subpena. Any such motion must set forth the reasons why the subpena should be limited or quashed and may be accompanied by memoranda, affidavits, or other documents supporting the motion.

(c) All motions to limit or quash a subpena are ruled upon by the Deputy Administrator of the Administration. The Office of the Deputy Administrator serves the decision on the motion to limit or quash the subpena upon the moving party or the counsel of the moving party. The decision on the motion to limit or quash is final and is not subject to reconsideration.

§ 510.5 Investigational hearings.

(a) The Administration may issue a subpena to compel any person, sole prorietorship, partnership, corporation or other entity to provide information as a witness at an investigational hearing. Such hearings are for the purpose of taking the testimony of witnesses under oath and receiving documents and other information relating to any subject under investigation, including rulemaking or enforcement. The Administrator or his designee presides at the hearings. The hearings are stenographically reported, and a transcript thereof is made a part of the record.

(b) The transcript of the testimony of a witness who testified under subpena is submitted to him for his signature unless he waives the right to sign the transcript. If such witness desires to make any changes in form or substance in the transcript, he shall submit, together with the transcripts, a separate document setting forth the changes and stating the reasons for such changes. If the testimony is not signed by the witness within 30 days of its submission to the witness, or such shorter time as the Administration may designate, an Administration designee signs it and states on the record the fact of the waiver of the right to sign, or the fact of the witness' unavailability or inability or refusal to sign together with the reason, if any, given therefor. The testimony referred to herein may be used in any investigation or any administrative or judicial adjudicative proceeding.

(c) The release of the record of such hearing is governed by the Administration's regulations under the Freedom of Information Act, 5 U.S.C. 552, other applicable laws or regulations, or both.

(d) Any person, agent, or officer of a sole proprietorship, partnership, corporation, or other entity who is required by subpena to produce documentary evidence or give testimony as a witness at an investigational hearing conducted under this section may be accompanied by counsel. Any member of the bar of a Federal Court or the courts of any State or Territory of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, representative, or official or employee of the person, sole proprietorship, partnership, or corporation under subpena may act as counsel. However, a person who is subpenaed to produce documentary evidence or give testimony at an investigational hearing cannot act as counsel or representative for another witness at the same proceeding.

(e) During an investigational hearing:

(1) A witness appearing under subpena may confer, in confidence with his counsel or representative concerning any questions asked of the witness. If such witness, counsel, or representative objects to a question, he shall state the objection and basis thereof on the record. In the case of an objection based upon the privilege against self incrimination, the privilege must be asserted by the witness. If a witness appearing under subpena refuses to answer a question or provide other information, the presiding officer may immediately order such witness to answer the question or provide the information requested, except in circumstances where an immediate ruling would be unwarranted and except where such refusal is based upon the privilege against self incrimination, which shall be handled in accordance with the procedure set forth in 18 U.S.C. 6002 and 6004. All other objections shall be ruled upon by the presiding officer at the time the objection is made.

(2) Objections timely made under the section are noted on the record, are treated as continuing, and preserved, throughout the course of the proceeding.

(3) Except as provided by this section, counsel for or a representative of a witness may not interrupt the examination of the witness by making arguments or statements on the record.

(4) Upon completion of the examination of a witness, the witness may clarify on the record any of his answers.

(f) Any such person, agent, or officer who is required to appear in person at an investigational hearing may retain a copy of any document submitted by him. Upon payment of lawfully prescribed costs, he or she may procure a copy of his or her own testimony as recorded.

(g) The Administrator or the Administration designee who presides at an investigational hearing takes all necessary action to regulate the course of the hearing, to avoid delay and to assure that reasonable standards of orderly and ethical conduct are maintained in any case in which counsel for a witness has refused to comply with the designee's directions, or to adhere to reasonable standards of orderly and ethical conduct in the course of the hearing, the designee states on the record the reasons for the refusal and immediately reports the refusal to the Administrator. The Administrator thereupon takes such action as the circumstances warrant.

§ 510.6 General or special orders seeking information.

The Administration may require by the issuance of general or special orders, any person, sole proprietorship, partnership, corporation, or other entity to file with the agency in such form as the Administration may prescribe periodically and/or special reports or answers in writing to specific questions which furnish to the agency such information as it may require, including but not limited to information relating to its organization, business, conduct, practices, management, and relation to any person, sole proprietorship, partnership, corporation, or other entity. Such reports and answers must be made under oath, or otherwise, as the Administration may prescribe and must be filed with the Administration within such time as the Administration may prescribe.

§ 510.7 Supplementation of responses.

(a) A person, sole proprietorship, partnership, corporation, or other entity who has provided information under this Part in a response that was complete when made is under no duty to supplement his response to include information thereafter acquired, except:

(1) A person, sole proprietorship, partnership, corporation, or other entity is under a duty to supplement his response with respect to any question directly addressed to the identity and location of persons having knowledge of information obtainable under this Part.

(2) A person, sole proprietorship, partnership, corporation, or other entity is under a duty seasonably to amend a prior response if he obtains information upon the basis of which he knows that the response was incorrect when made, or he knows that the response, though correct when made is no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment.

(b) This section in no way limits the Administration's authority to obtain supplemental information by specific demands through the means specified in section 510.3 (a) of these regulations.

§ 510.8 Fees.

Any person compelled to appear in person in response to a subpena at an investigational hearing shall be paid the same attendance and mileage fees as are paid witnesses in the courts of the United States, in accordance with Title 28, United States Code, Section 1821.

§ 510.9 Remedies for failure to permit authorized investigations.

In the event of failure to comply with any investigative process or order authorized by these rules, the Administration may seek appropriate action pursuant to the authority conferred by the National Traffic and Motor Vehicle Safety Act or the Motor Vehicle Information and Cost Savings Act, including actions for enforcement, civil penalties, or other sanctions.

[FR Doc. 77-36696 Filed 12-29-77; 8:45 a.m.]

[49 CFR Part 510]

DEPARTMENT OF TRANSPORTATION: NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

[Docket No. 78-01; Notice 3]

INFORMATION GATHERING POWERS

Agency: National Highway Traffic Safety Administration, DOT.

Action: Final rule.

Summary: This notice establishes a final rule governing the issuance and use of compulsory process by the National Highway Traffic Safety Administration (NHTSA) in carrying out its duties under the National Traffic and Motor Vehicle Safety Act of 1966, as amended, (the Safety Act), and the Motor Vehicle Information and Cost Savings Act, as amended, (the Cost Savings Act). This final rule was preceded by an interim final rule, which set forth the procedures the agency would use in exercising its information gathering powers, and solicited comments on those procedures. This rule informs the public of those procedures, and of the rights which the public has with respect to those procedures.

Effective date: This rule will become effective June 16, 1980.

For further information contact: Steve Kratzke, Office of Chief Counsel, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-2992).

Supplementary information: A. Background. At 42 FR 64628, December 27, 1977, NHTSA published an interim final rule establishing 49 CFR Part 510, Information gathering powers. That regulation set forth the procedures to be followed by NHTSA in exercising its information gathering powers. It was issued as an interim final rule without prior notice or opportunity for comment. This is permitted by 5 U.S.C. 553(b)(3)(A), which allows rules which are strictly procedural to be issued without the normally required notice and opportunity for comment. However, because of this agency's policy of encouraging public participation in all agency activities. Part 510 was issued as an interim rule, and comments from interested members of the public were solicited. On February 2, 1978, the comment period was extended for an additional 20 days in response to a petition requesting such an extension; see 43 FR 5516, February 9, 1978. The agency received many comments on Part 510 from members of the automotive industry, automotive associations both large and small, associations of automobile users and consumers, and at least one private citizen who did not indicate any affiliation. All comments were considered and the most significant ones are addressed below.

In response to the comments received, several changes have been made to the interim rule. However, most of these changes are for the purpose of clarification or to make explicit what had been implicit in the interim rule. The most significant changes are outlined below.

B. Most significant changes. The following are the most significant differences between the interim rule and this final rule:

1. The final rule reorganizes the category of "investigational hearing" contained in the interim rule into two smaller categories. The first reorganized category is the "information gathering hearing" in which the agency can compel a witness to appear and answer questions under oath. The agency's rulemaking meetings are the most common example of this type of proceeding. Generally, these hearings will be public, and questioning of the witness will be limited to the presiding officer and any other members of a panel. The other reorganized category, which is derived from the interim rule's investigational hearing, is the "administrative deposition". This is used in investigations and is modeled after a deposition under the Federal Rules of Civil Procedure.

2. The final rule requires that any process issued under it recite the statutory authority under which the process is issued.

3. The final rule requires that any process issued under it contain a brief description of the investigation or inquiry in connection with which it is being issued.

4. The final rule adds a form of compulsory process, the written request for the production of documents and things. This was implicit in the concept of the general or special order established in the interim rule, but has been made explicit in this final rule to avoid any confusion as to the availability and proper uses of this form of process.

5. The final rule expands the right to counsel by deleting the authority for the agency to exclude a person as counsel if such person were counsel for a number of other witnesses in the same investigation or if such person had personally been subpoenaed to testify.

6. The interim rule had not specified any time limitations on the duty to supplement responses to compulsory process. This final rule includes the following limitations: with respect to process issued in connection with a rulemaking action, the duty to supplement terminates when a final rule is issued or the action is otherwise ended. With respect to process issued in connection with an enforcement investigation, the duty to supplement responses terminates when the defect investigation is closed. Finally, with respect to process not issued in connection with a specific rulemaking action or enforcement inminates 18 months after the date of the original response to the process.

C. Discussion of comments. 1. Comments on the procedure followed for issuing this rule. One commenter suggested that the interim rule may be void because it was issued without a prior notice of proposed rulemaking and opportunity for public comment. Moreover, this defect might not be cured by the publication of a final rule after consideration of comments received, according to this commenter, in which case the final rule would also be void.

The commenter asserted that any rule which substantially affects the rights of persons subject to the authority of an agency must be promulgated with notice and opportunity for comment, no matter whether the rule is labeled substantive or procedural. However, the authority cited by the commenter does not support that assertion. Instead, the cases suggest that when it is difficult to determine whether a rule is substantive or procedural, the court will consider the impact on the regulated parties. If that impact is significant, it is likely that the rule is substantive. Thus, in *Pickus* v. *United States Board of Parole*, 507 F.2d 1107 (D.C. Cir. 1974), the board of parole argued that its regulation was procedural, but the regulation also established some criteria for parole eligibility. In *Pharmaceutical Manufacturers Association* v. *Finch*, 307 F. Supp. 858 (D. Delaware 1970), the FDA established procedural regulations which also set up the requirements with which drug manufacturers would have to comply to establish that a new drug was safe and effective. And in *National Motor Freight Traffic Association* v. *United States*, 268 F. Supp. 90 (D.D.C. 1967), *aff'd*, 393 U.S. 18 (1968), the Interstate Commerce Commission's procedural regulations also established a remedy for the recovery of overcharges. In none of these cases did the court find the regulation to be purely procedural.

Numerous cases have upheld the validity of procedural rules issued without notice and opportunity for comment, even when the rules had a major impact on the parties. *See Eastern Kentucky Welfare Rights Organization* v. *Simon*, 506 F.2d 1278 (D.C. Cir. 1974) *vacated on other grounds*, 436 U.S. 26 (1976); *Shell Oil Co.* v. *Federal Power Commission*, 491 F.2d 82 (5th Cir. 1974); *Buckeye Cablevision, Inc.* v. *United States*, 438 F.2d 948 (6th Cir. 1971). The agency believes that Part 510 is purely procedural, since it does not even arguably establish any criteria for obtaining favorable consideration by the agency, nor does it establish any remedies for violations of substantive agency rules. Indeed, it appears to NHTSA that the regulation does not substantially affect the rights of any parties, since Part 510 only implements information gathering powers and remedies for violations of those powers granted to NHTSA in various statutes, without adding to or deleting from those powers and remedies in any way.

Furthermore, even if NHTSA accepts *arguendo* the commenter's claim that the interim rule should have been preceded by notice and opportunity for comment, that failure would be cured by the agency's solicitation of comments on the interim rule and the issuance of this final rule in response to the comments received. The commenter's position that no "cure" is possible is based on four cited cases. Three of those cases involved a situation where the agency involved never issued a notice indicating that there had been any consideration of the comments received and no modifications of the rule were ever made. Hence, the courts in *Community Nutrition Institute* v. *Butz*, 420 F. Supp. 751 (D.D.C. 1976), *NLRB* v. *Wyman-Gordon Co.*, 394 U.S. 759 (1969), and *National Motor Freight Traffic Association* v. *United States, supra*, were not presented with the issue of whether a defectively issued rule can be cured by soliciting and considering comments.

The other case cited by the commenter for the position that no cure is possible was *City of New York* v. *Diamond*, 379 F. Supp. 503 (S.D.N.Y. 1974). In that case, the Department of Labor published a rule as final without any prior notice or opportunity for comment. There was a statement in the rule that any comments received in response thereto would be acted upon as though the rule were a notice of proposed rulemaking. No final rule showing some consideration of comments was ever published.

The court held that this rule was void for failure to comply with the requirements of the Administrative Procedure Act. The rationale for the decision is explained at 379 F. Supp. 517, where the court said, "Permitting the submission of views after the effective date is no substitute for the right of interested persons to make their views known in time to influence the rulemaking process in a meaningful way." The court expressed doubts that an after-the-fact opportunity to comment would be meaningful since people would be unlikely to submit comments and the agency would be unlikely to consider changes after a *fait accompli*.

This reasoning is inapposite in the instant situation. There has been no claim by this or any other commenter that they were not allowed to make their views known in time to influence the rulemaking process. The doubts that comments would be submitted can be allayed with regard to this interim rule. A total of 26 written comments were submitted in response to the invitation for comments in the interim rule, and many of these were long and detailed. The comments have been considered at length. Changes outlined above have been made to the interim rule in response to the comments received.

Further, the remedy for a defectively issued rule is that the invalidly issued rule is void and the agency must follow the notice and comment procedures before promulgating any new rule on the subject. In this case, voiding the permanent rule and requiring the agency to solicit comments is unnecessary. Detailed comments have already been submitted by representatives of many different segments of the interested public. Reissuance of a proposal identical to the interim rule would serve no useful purpose.

2. *General comments*. Several commenters expressed concern that the issuance of Part 510 signalled an end to a relatively cooperative relationship concerning the agency's information gathering needs, and a beginning of a new, more adversarial relationship. NHTSA believes this concern is unfounded. The agency has always had the power to compel the production of information, and has in fact made numerous mandatory requests for information before the issuance of Part 510. Part 510 is simply an effort by the agency to state, its authority with regard to information gathering, and set forth the procedures it will follow in exercising that authority, as well as setting forth the rights parties have when confronted with compulsory process by this agency.

The existence of this rule will not change the agency's general reliance on the voluntary submission of information. For its part, the agency will continue where feasible to rely on persons and entities to voluntarily provide the agency with information if the party will do so. NHTSA believes that most parties will continue to do so, since it is in the interest of those persons, as well as that of the agency and the public, for NHTSA to be well informed in its activities.

There were also repeated concerns that the information gathering powers in Part 520 are potentially oppressive, and could violate the right to privacy. The information gathering authority of this agency has been used and will continue to be used in a responsible manner.

Persons subject to the agency's information gathering powers have protections more secure than this agency's assurances of good intent. Under the provisions of Part 510, persons may informally protest the exercise of the information gathering powers and seek to informally negotiate terms of compliance that would not be oppressive. If the party chooses, there are more formal ways of protesting at the administrative level such as filing motions to quash or modify the process before the Deputy Administrator. Finally, a person who has been served with compulsory process and exhausted the available administrative remedies may raise any available defense in an action brought by NHTSA to enforce the process in the appropriate United States District Court.

A number of commenters, particularly those representing small businesses, stated that additional Federal paperwork requirements would be unbearable. This agency is aware of the problems caused business, especially smaller businesses, by requirements which cause the business to prepare more paperwork. As explained above, issuance of this rule will not lead to a significant change in the information gathering practices of this agency.

One commenter inquired whether the agency would seek out differing opinions in the information gathering process. NHTSA has always tried to obtain a variety of views in its information gathering activities, particularly in the area of rulemaking, where the policy issues involved are best considered in the light of contrasting opinion. The agency has in the past sought information and views from various persons and entities. Typically, voluntary requests and compulsory process are sent to manufacturers, since they are most likely to possess the type of information needed by the agency. To inform the public of these information gathering efforts, copies of the process and requests are placed in the dockets. This information gathering has been supplemented at the notice and comment stage of rulemaking by such means as inviting public participation to ensure that a wide range of views is represented.

Several commenters expressed the view that the information gathering powers discussed in Part 510 were unnecessary, duplicative of the authority of the National Transportation Safety Board, and not contemplated by Congress. It is clear that Congress has given the agency broad information gathering powers. Before the 1974 amendments to the Safety Act, NHTSA's investigative and information gathering authority under that Act was relatively circumscribed. In 1974, the Congress amended the Safety Act to give the agency broad authority similar to the authority it already possessed under Title I of the Cost Savings Act. With respect to the 1974 amendments, the House Committee stated that the amendments authorize:

> the Secretary to conduct informational hearings and to obtain evidence from any person who has information relevant to the implementation of the Act. *Despite the vital importance of information gathering to successful implementation of the Act, the Secretary does not possess general authority for this purpose.* This lack is anomalous in view of the extensive information gathering authority in the property damage reduction provisions of the Motor Vehicle Information and Cost Savings Act. *This paragraph would give the Secretary similar broad authority in the more important pursuit of preventing highway deaths and injuries.* (emphasis added) H. Rept. 93–1191, 93rd Cong. 2d Sess. at 36–37.

In connection with the agency's duties under Title V of the Cost Savings Act, dealing with automotive fuel economy, Congress granted similar broad information gathering authority in section 505. To assist NHTSA in its duties to prevent odometer fraud, Congress also granted the agency broad information gathering powers in Title IV of the Cost Savings Act at section 414.

NHTSA's information gathering powers complement, but do not duplicate those of the National Transportation Safety Board (NTSB). The functions and information needs of the two agencies, even in the safety area, differ significantly. The function of the NTSB is to investigate significant transportation accidents, whether on the highways, rails, sea, or air, to determine the cause of those accidents. NTSB then publicly reports the results of these investigations. It also issues general recommendations for reducing the risks of accidents and publishes reports on the general transportation safety consciousness of other government agencies.

The functions of NHTSA include issuing specific rules to prevent highway deaths and injuries, reduce property damage in the event of an accident, increase the average fuel economy of automobiles, and prevent odometer fraud. Any validly issued rule which is violated subjects the violator to civil penalties. These differing functions illustrate why the two agencies have differing information needs. Further NTSB does not obtain any information which could be used to assist NHTSA in its fuel economy, damageability, or odometer fraud activities. With respect to NHTSA's safety activities, this agency is concerned with more than just the cause of an accident. NHTSA must also obtain information which could support the establishment of safety standards in the area, establish that there has been some noncompliance with such standards, or show the existence of a safety-related defect.

3. Specific comments. a. Recitation of authority. A commenter suggested that Part 510 require that any process issued thereunder indicate the statute that authorizes the particular process. The agency agrees that this is a reasonable requirement and § 510.3(b)(2) of the final rule includes this requirement. The agency would like to note that the practice under the interim rule has been to indicate the statutory basis for the process issued thereunder, although the interim rule did not require this.

b. Statement of purpose. There were also a number of comments suggesting that Part 510 should be amended to require that any compulsory process contain a brief description of the purpose and scope of the investigation in connection with which the process is issued, so that a respondent or a reviewing court would have a basis for determining whether the process is reasonably relevant to that investigation. This agency agrees to change the interim rule to add a requirement in § 510.3(b)(4) of the final rule that compulsory process contain a brief description of the purpose and scope of the agency's investigation. Again, the agency notes that process issued under the interim rule has routinely carried a brief description of the purpose of the agency's investigation.

It must be kept firmly in mind that the agency need not and will not go into a detailed and specific discourse about any investigation to support compulsory process. As stated by the Court of Appeals for the District of Columbia Circuit in *Federal Trade Commission* v. *Texaco,* 555 F.2d 864 (D.C. Cir.); cert. den., 431 U.S. 974 (1977):

> * * * an investigating agency is under no obligation to propound a narrowly focused theory of a possible future case. Accordingly, the relevance of the agency's subpoena requests may be measured only against the general purposes of its investigation. 555 F.2d at 874 (emphasis in original)

More recently, the District Court for the District of Columbia decided a case dealing specifically with the information gathering powers of NHTSA in *United States* v. *Firestone Tire and Rubber Co.,* 455 F. Supp. 1072 (D.D.C. 1978). The court there addressed this issue saying:

> The agency need not narrow its focus from the beginning, and it is not for this court to determine whether the information sought is relevant to whatever eventual action the agency might take. This court may look only to the *general* purpose of the investigation and determine if the information sought, however broad, is relevant to that purpose. 455 F. Supp. at 1083 (emphasis in original)

One commenter suggested that Part 510 be amended to require that compulsory process inform the respondent of the identity of the person or entity under investigation. In most enforcement investigations the agency now identifies the persons subject to the investigation in its information requests and compulsory process. The agency must be free, however, to gather information relevant to the general purpose of investigations which are not yet focused on potential violations and violators. There may also be investigations in which nondisclosure of the identity of those under investigation will be necessary to prevent harm to the outcome of the investigations or harm to informants. The Supreme Court has said that it is a proper purpose for an administrative subpoena "to discover and procure evidence, not to prove a pending charge or complaint, but upon which to make one if, in the Administrator's judgment, the facts thus discovered should justify doing so." *Oklahoma Press Publishing Co.* v. *Walling,* 327 U.S. 186, at 201 (1946). In other words, agency investigations and compulsory process issued in connection with those investigations need not be focused on a limited number of persons or entities, but can be intended simply to determine if there are violations of any standards; *United States* v. *Morton Salt Co.,* 338 U.S. 632 (1950). Adoption of the requirement urged by this commenter in all cases would unduly hamper NHTSA's ability to conduct these authorized and proper types of investigations and the comment is, therefore, rejected.

C. *Production of documents.* Interim Part 510 listed a subpoena *duces tecum* as the only form of compulsory process through which this agency could compel the production of documents. Although it was not specifically identified as such, the authority to issue general or special orders includes the authority to compel the production of documents.

The agency's authority to issue a type of compulsory process that required the production of documents outside the context of a hearing, in which a subpoena would be issued, was upheld in *United States* v. *Firestone Tire and Rubber Co., supra.* In that case, NHTSA issued a special order to Firestone commanding the company to produce and provide information about a group of documents. Firestone specifically challenged the agency's authority to compel the production of documents outside the context of a hearing. NHTSA argued that section 112(c)(2) of the Safety Act (15 U.S.C. 1401(c)(2)) gave the agency this authority. The court analyzed the legislative history of this section and found that Congress had intended to give the agency broad investigatory powers. In conclusion, the court said:

> Following Firestone's argument would emasculate these newly-granted investigatory powers. As such, the court must read the requirements of this Act within the context of Congressional intent. The Secretary's investigative power is broad enough to compel the production of documents and the analysis thereof. 455 F. Supp. at 1082.

It is clear from this analysis that NHTSA has the power to compel the production of documents by the use of general or special orders under the Safety Act. Sections 104(a)(2), 204(b), 414(c)(2), and 505(b)(1)(B) of the Cost Savings Act (15 U.S.C. 1914(a)(2), 1944(b), 1990d(c)(2), and 2005(b)(1)(B)) use language identical to that used in section 112(c)(2) of the Safety Act. The use of identical language shows the same intent to give NHTSA broad authority and necessarily grants that broad authority.

To make it explicit in this final rule that the agency may exercise this authority, a form of compulsory process not specifically set forth in the interim rule has been added to this rule. The process is called a written request for the production of documents and things. This process may be issued alone or as a part of a general or sepcial order. A written request for the production of documents and things is the functional equivalent of a subpoena *duces tecum.*

d. *Service of process; when and where returnable.* One commenter argued that service of compulsory process should be effected only by personal service, rather than allowing the agency the option of mail service, as is permitted by section 510.3(c). The reason offered for this requested change is that personal service is the only permissible service for process issued by the courts of the United States in civil matters, as set forth in Rule 45(c) of the Federal Rules of Civil Procedure. Personal service, of course, offers the greatest certainty that the person named in the process received actual notice thereof. However, a requirement of personal service would add a great deal of cost, time, and burden for the agency in connection with the issuance of compulsory process.

The commenter cited no authority which would prohibit the agency from effecting service by mail, nor is the agency aware of any authority. In fact, many Federal agencies use mail service for their compulsory process. *See, e.g.* 16 CFR 4.4(a) (Federal Trade Commission); 17 CFR 201.4(b)(3). (Securities and Exchange Commission). The judgment made by these agencies is that the possibility of a party not receiving notice by mail service is so slight that the additional expenditure of taxpayers' money required to effect personal service would not be justified. This agency concurs with that determination and will, therefore, permit service by registered or certified mail, if the respondent does not receive the process when it is served by mail, NHTSA will give that fact due consideration when determining the appropriate action to be taken in response to the respondent's failure to comply.

The same commenter raised the question of issuing compulsory process to foreign citizens or nationals of foreign countries residing abroad who are not served with process in the United States, or who have not appointed an agent for the service of process in the United States. The commenter argued that subpoenas to such persons would have to be considered requests, rather than commands, because such persons would be beyond the jurisdiction of the United States. The agency's compulsory process is bounded by the jurisdictional limits of the United States courts where the process is enforceable. The agency has no doubt, however, that a corporation or person amenable to service can be required to produce records located outside the territorial limits of the United States.

Several commenters suggested that when service is effected by mail, the date of service should be the date the respondent receives the process, rather than the date on which the service is mailed, with three additional days allowed to perform the required act, as is required by § 510.3(d). One commenter urged that the agency could easily determine the date of receipt by using return receipt mailing methods. The provision in the interim rule was adopted directly from Rule 6(e) of the Federal Rules of Civil Procedure. This provision has not led to any difficulties or unfairness in the Federal courts such as some commenters suggested would result from this provision in Part 510.

Return receipt mail would add costs for the agency and could add delay and cause other difficulties in delivering process. These burdens would not be outweighed by being able to ensure absolutely that the respondents actually had available to them the period to respond to the process which was stated in the process. The agency will always entertain motions to extend the return date of its process, if the respondent can show that the period available to it was inadequate. Since these motions can be filed for all process issued by the agency, the benefit of using return receipt mailing would be insubstantial.

One commenter suggested that Part 510 should allow service of compulsory process to a business to be made upon an agent designated to receive service, as an alternative to the agent-in-charge. NHTSA agrees with this suggestion, and the rule has been modified to reflect this new provision.

Many commenters addressed the issue of the amount of time which should be permitted to respond to compulsory process. Generally, the commenters indicated that compulsory process should be returnable in a reasonable amount of time. Although this was not specifically required by the interim rule, NHTSA intends to continue its policy of requiring that process be returnable in a reasonable amount of time. Further, NHTSA believes that the requirement for a reasonable amount of time to respond to compulsory process is so fundamental that it need not be explicitly stated in the final rule.

Some commenters suggested that a certain period of time, such as 30 days, be presumed by the agency to be a minimum reasonable time. Other commenters noted special factors which should lengthen the amount of time that could be considered reasonable. Examples of these special factors were language differences and the size of the companies to which the process was directed.

NHTSA concurs with the implicit statement in these latter comments that the determination of what is a reasonable period of time to respond must necessarily be an *ad hoc* one, which will of necessity consider the facts involved in each individual case. The agency notes that, in addition to the burden imposed on the respondents, the determination of what is a reasonable time period in which to respond must also consider the agency's need for the information so that it can perform its functions in a timely manner. However, the fact that a determination of what is a reasonable period of time must, almost by definition, be made on a case-by-case basis leads the agency to conclude that the establishment of even a presumptively reasonable amount of time in in which to respond would unnecessarily limit the ability to consider the particular facts of each case. In the past, NHTSA has been willing to grant extensions of time for responses to compulsory process where it appeared that such extensions were necessary and consistent with the public interest. No departure from that policy is contemplated.

One commenter inquired where NHTSA's compulsory process would be returnable. Although most compulsory process will be returnable at the offices of NHTSA, situations may arise where the process would be returned at some other place. This question of where process must be returned should also be considered on a case-by-case basis.

e. *Investigational hearings*. The interim rule set forth one section which was intended to cover all agency hearings and which referred to all hearings as investigational hearings. These hearings were structured to be a mechanism with which to gather facts, opinions, or other data relevant to an agency investigation, inquiry or rulemaking and were not adjudicative or quasi-adjudicative procedures. The presiding officer at these hearings would have had the authority to rule on objections, "unless an immediate ruling would be unwarranted, and except where a refusal to answer was based upon the privilege against self-incrimination. "This limitation was necessary because the presiding officer would not be a judicial officer, and so would not rule on any legal points.

The problem which became apparent with this formulation was that the differences between hearings in connection with rulemaking and hearings in connection with enforcement proceedings make it impossible to describe both hearings in one section. Although the section in the interim rule dealing with investigational hearings did set forth all fundamental points of the two types of hearings which the agency will hold, it was not an entirely accurate description of either hearing.

In the final rule, § 510.5 sets forth the procedures for hearings in connection with rulemaking, which are called "information gathering hearings." Section 510.6 sets forth the procedures for hearings held in connection with enforcement investigations, and these are now called "administrative depositions." By separating these types of hearings, this final rule provides a more accurate description of each.

The information gathering hearings will generally be open to the public. Information gathering hearings include hearings in connection with pending rulemaking actions, hearings on an initial determination by the agency of a safety-related defect or noncompliance with an applicable Federal motor vehicle safety standard, held pursuant to the authority of section 152 of the Safety Act (15 U.S.C. 1412), and hearings on whether a manufacturer has reasonably met its obligation to notify and remedy a defect or failure to comply, which hearings are held pursuant to the authority of section 156 of the Safety Act (15 U.S.C. 1416) In addition to the presiding officer, one or more other persons may be designated as members of the panel. The members of the panel may question any witness. If any person not a member of the panel wishes to pose a question to a witness, that person may write down the question and submit it to the panel. Any member of the panel may then pose the question if that member feels it appropriate to do so. The presiding officer at an information gathering hearing runs the hearing, and ensures that it proceeds in an orderly fashion.

The administrative deposition, which is held in connection with enforcement investigations, will generally be closed to the public. This proceeding has been adapted from the procedures for deposition procedures set forth in the Federal Rules of Civil Procedure. An officer authorized to administer oaths will put the deponent under oath and record the person's testimony. NHTSA will examine the witness first and then the witness' attorney may examine the witness.

A number of commenters argued that the right to counsel provided in interim Part 510 was too restrictive. One commenter stated that the provisions of the interim rule, which allowed any witness at an investigational hearing to be accompanied by counsel, to confer with counsel, and to allow counsel to raise and explain any objections to any question asked of the witness was a limitation on the right to counsel guaranteed in the Administrative Procedure Act at 5 U.S.C. 555, where a person compelled to appear in person before an agency is entitled to be "accompanied, represented and advised" by counsel. This commenter stated that the words "accompanied", "represented," and "advised" have different shades of meaning signifying varying rights under the law. NHTSA agrees with this latter statement. It is not clear to this agency, however, what the words "accompanied, represented and advised" mean in addition to the rights to have counsel present, to confer raise and explain and to have that counsel raise and explain objections, which were granted in the interim rule. Notwithstanding this point, NHTSA has no objections to modifying the language of Part 510 in this final rule to track the language of the Administrative Procedure Act.

Another commenter suggested that the rights of counsel to state and argue objections should be expanded. The interim rule provided that counsel could object to any question and state the basis for that objection on the record. This commenter believes that the right to counsel consists of, at a minimum, the right to make objections on the record and argue briefly the basis for the objections. NHTSA does not believe that it would be appropriate to modify the final rule to permit counsel to argue objections. In the information gathering hearings, the presiding officer will not be ruling on legal points, so no useful purpose would be served by airing legal points at length during the course of the hearing. With respect to the administrative depositions, the presiding officer as set forth in the interim rule has been replaced in this final rule by an officer authorized to administer oaths, and this officer will not rule on any objections. Accordingly, once the objection has been stated and the basis therefor explained, no purpose, other than delaying the deposition, would be served by arguing the objection.

Several commenters urged that the final rule should allow cross-examination of witnesses at investigational hearings. Since the investigational hearings in the interim rule have been divided into information gathering hearings and administrative depositions in this final rule, the comment has been considered with respect to both forms of hearings. At an information gathering hearing, there will be more than one witness, and these witnesses will be expressing differing views and opinions. If each of these witnesses could be cross-examined the hearing would be lengthened considerably. Especially since interested persons may submit questions to be asked by the presiding panel and are typically permitted a chance to supplement their comments after these hearings, the agency concludes that the rule should not be amended to permit cross-examination of witnesses.

Administrative depositions will focus on one witness, and the testimony of that witness will be considered by NHTSA in determining whether an enforcement action is necessary. If the agency decides to pursue an enforcement action it will be important that the testimony of the witness be as probative and accurate as possible. In this context, examination of the witnesses will generally be more administratively workable, because there will be only a single witness. The final rule has been accordingly modified to allow the witness's attorney or representative to examine the witness after NHTSA finishes its examination of the witness. Following this examination, NHTSA may reexamine the witness, and the witness's attorney may then reexamine the witness, and so forth, as appropriate.

Many objections were raised to the provision in the interim rule which excluded persons who were subpoenaed to testify at an investigational hearing from acting as counsel or representative for any other witnesses at that investigational hearing. One commenter argues that this provision could easily be abused by NHTSA to improperly exclude a counsel or representative. After a consideration of these comments and a reexamination of the exclusion, the agency has determined that the final rule should be modified.

The reason for including this authority was to prevent a situation where a counsel or representative advising a number of persons in the same proceeding could interfere with the investigation by, either consciously or subconsciously, tailoring testimony to conform with testimony already given. Several courts have stated that this general purpose is legitimate, and could support a decision to exclude a counsel or representative in these circumstances. *SEC* v. *Csapo*, 553 F.2d 7 (D.C. Cir. 1976); *SEC* v. *Higashi*, 359 F.2d 550 (9th Cir. 1966). However, both these cases indicate that authority to exclude counsel must be kept within permissible limits. The automatic exclusion of counsel has been deleted for both the information gathering hearings and the administrative depositions. For information gathering hearings § 510.5(e) of this final rule retains authority for the Administrator to take appropriate action if a counsel or representative refuses to comply with the presiding officer's directions or to adhere to reasonable standards of orderly and ethical conduct. Appropriate actions could include the exclusion of that counsel or representative from the hearing.

For an administrative deposition, the rule does not specifically provide for any exclusion, regardless of the behavior or conduct of a counsel or representative. In the event that it becomes necessary to prevent annoyance, embarrassment, oppression, or undue expense or delay to the witness or the agency, NHTSA will file an action in a United States District Court to seek an order to enforce the subpoena and to end the annoyance, embarrassment, oppression, or undue expense or delay, pursuant to the provision of § 510.6(c)(5). This motion would be analogous to a motion for a protective order, which could be filed under Rule 26(c) of the Federal Rules of Civil Procedure.

As an adjunct to this modification, the agency is changing the requirements of § 510.6(f) to provide that NHTSA may, in a nonpublic investigation and for good cause shown, decline to provide a copy of the transcript of his or her testimony to the witness. In those cases, the witness will be limited to an inspection of the transcript of the deposition. Such a limitation is explicitly authorized by the Administrative Procedure Act; 5 U.S.C. 555(c). The purpose of this change is to prevent witnesses from tailoring their testimony to conform to testimony given by previous witnesses.

One commenter sugested that the provision in Part 510 regarding the time in which a witness is allowed to sign the transcript of his or her testimony be made more flexible. The 30-day period included in the interim rule was drawn directly from Rule 30(e) of the Federal Rules of Civil Procedure, where experience has not shown it to be inadequate. Nonetheless, the language in § 510.6(d) has been modified to allow the agency to designate some period other than 30 days as the period by which the testimony must be signed. The agency will allow a longer or shorter period as appropriate in particular circumstances.

A section has been added to the final rule which would also permit the agency to correct errors in the transcript of the deposition. Upon receiving a copy of the testimony given at the disposition, NHTSA would note any errors it believed had occurred in the transcription of the deposition, and forward notice of the alleged errors to the witness at the deposition, along with the transcript of the deposition. The notice would ask the witness to stipulate that the errors had occurred and agree to the corrections. If the witness would not make this stipulation, NHTSA would ask the presiding officer to have the record of the testimony reflect the dispute and show the NHTSA's version of the testimony as well as the version signed by the witness. The parties could then attempt to get an affidavit from the stenographer as to which version was most accurate, or take other steps to try to verify their version as the most accurate.

f. Subsequent use of testimony. Several commenters objected to the interim rule insofar as it provided that testimony obtained pursuant to NHTSA's information gathering authority may be "used in any investigation or administrative or judicial adjudicative proceeding." It was claimed that that agency could not and should not attempt to control what a Federal judge or an administrative law judge would admit into evidence in a proceeding before the judge. It was further stated that the absence of certain procedural rights in the investigational hearings, such as the right to cross-examine witnesses, would automatically preclude the use of the testimony in a subsequent adjudicative proceeding.

NHTSA obviously cannot control, nor did it seek to control, what a presiding judge will admit into the record of the proceeding over which he or she presides. The reason that this language appeared in the interim rule was to put respondents on notice that any information obtained under Part 510 could be considered and used by NHTSA in the manner it deems most appropriate, including *offering* such information into the record of an administrative or judicial proceeding. Whether such information would be allowed into the record is, of course, a decision which must be made by the presiding judge, in accordance with the applicable rules of evidence.

g. Motions to modify, limit, or quash process. A number of comments were received addressing motions to quash compulsory process. A number of comments were received adagency has determined that the interim rule's provisions should be retained almost in their entirety.

Many commenters argued that the agency should expand the availability of these motions, so that a recipient of a general or special order could file a motion to modify, limit, or quash that process. Some of these commenters argued that NHTSA was required to permit these motions for general and special orders. If it chose to permit them for subpoenas. This issue was before the court in *United States* v. *Firestone Tire and Rubber Co., supra*, and the court held that the interim rule's provisions allowing motions to modify, limit, or quash subpoenas, but not allowing such motions for general or special orders, were legally acceptabe. 455 F. Supp. at 1080.

As a practical matter, NHTSA issues general and special orders and written requests for the production of documents and things far more frequently than it does subpoenas. To require the Deputy Administrator to consider all of the possible objections to each of these forms of compulsory process would place an overwhelming burden on that office. Furthermore, the practice under interim Part 510 and before of not allowing formal objections to be filed to these types of compulsory process has worked very satisfactorily for both the agency and the respondents to its compulsory process. Given the acceptability of the present procedures and the fact that expansion of motions to quash to include all forms of compulsory process could readily be abused to delay compliance for frivious and insubstantial reason, the agency has determined that only subpoenas should be the subject of motions to modify, limit, or quash.

One commenter stated that respondents to the agency's compulsory process should be permitted to informally negotiate the terms of compliance with that process. NHTSA believed that the opportunity for informal negotiation of the terms of compliance with process was implicit in the interim rule. However, the agency has no objection to modifying the final rule to state explicitly that informal negotiations as to the terms of compliance are permissible, so § 510.3(f) now states that the Chief Counsel is authorized to negotiate the terms of compliance with any process issued under Part 510.

As set forth in this final rule, motions requesting some change to the terms of process will be decided by the Deputy Administrator. If the Deputy Administrator is not available, these motions will be decided by the Associate Administrator for Administration. In response to a comment, the final rule makes explicit what the agency had considered to be implicit in the interim rule; i.e., the Deputy Administrator is free to structure relief, through modifications or limitations of the subpoena, to achieve the resolution he or she believes is most appropriate. The final rule has also been modified to require that any motions to modify, limit, or quash process be filed not later than 15 days after service of the process or five days before the return date of that process, whichever is earlier, except in the rare event that the return date is less than five days after the service of the process. This requirement, similar to time liimtations on these motions suggested in several comments, will eliminate last minute filings of these motions. the elimination of last minute filings will serve two important purposes. First, these motions will not be subject to abuse as a means of delaying compliance. Second, the prompt filing of these motions will facilitate more reasoned responses by the NHTSA to such motions.

It was suggested by many commenters that the filing of a motion to modify, limit, or quash should automatically toll the return date of the process. NHTSA has not adopted that suggestion, since any automatic tolling provision would be easily subject to abuse as a dilatory tactic. However, the agency will entertain requests to extend the return date of any process, and will consider such requests on the basis of the individual set of circumstances. The pendency of a good faith objection would be given due consideration.

One commenter suggested that the agency catalog the grounds upon which process can be modified, limited, or quashed. The rule has not been changed in this way, since the agency does not wish to foreclose any legitimate grounds for protesting some process. NHTSA will state that it believes that most objections will be based upon the alleged burdensomeness of the process, some assertion of privilege, or a question of the relevance of the information. However, this is not an exhaustive list of the possible objections, and any objections will be considered on their merits.

Many commenters objected to the provision that would have the Deputy Administrator deciding motions to quash. These commenters believed that the Deputy Administrator could not impartially decide these motions, because the process would have been issued by that individual, or with the concurrence of that individual or a superior, such as the Administrator. This situation was said to establish an institutional bias in favor of the validity of the process which, according to those commenters, violates the due process requirements of the Fifth Amendment.

NHTSA believes that this comment reflects a serious misunderstanding of the purpose of this agency level mechanism for considering objections to the compulsory process. This mechanism will not be and is not intended to be an adjudication of the rights of the affected parties. The due process rights to an impartial decisionmaker do not apply outside the context of a determination of the rights of the affected parties. The sole purpose of having an agency review of any objections is to provide a respondent with a means which guarantees that senior agency officials will consider any objections raised by respondents to compulsory process issued by this agency. This ensures that any position taken on the motion or objection is the final agency position. Given this purpose, it is perfectly proper to have an official as senior as the Deputy Administrator personally consider the respondent's objections and decide the validity thereof. Any respondent desiring a hearing which comports with the due process requirements and determines the rights of the respective parties can obtain this by resisting compulsory process and raising its objections in an enforcement action in a United States District Court.

h. Duty to supplement responses to process. Several comments were received relating to the duty to supplement responses to compulsory process based on after-acquired information. The language in the interim rule which imposed the duty to supplement responses was taken almost verbatim from Rule 26(e) of the Federal Rules of Civil Procedure, which requires that a response be supplemented when after-acquired information shows that the response was incorrect when made or the response, though correct when made, is no longer correct, and the failure to amend the response is a knowing concealment. Two basic objections were raised to this requirement. First, it was asserted that the duty to supplement was not limited by any time period, and would therefore impose a perpetual duty to provide the agency with information. The commenters stated that this result would be extremely burdensome to respondents while yielding minimal benefits to the agency, since much of the amended information would concern investigations which had been ended. These commenters pointed out that the duty imposed by the Federal Rules ends when the litigation ends.

NHTSA agrees with the commenters that the duty to supplement should not be open-ended. Accordingly, the final rule has modified the requirements of the interim rule to specify a limitation on the duty to supplement. If process is issued in connection with a rulemaking action or enforcement investigation, the duty to supplement terminates with the issuance of a final rule or termination of the rulemaking or with the closing of the investigation, respectively. In the case of process not issued in connection with a specific rulemaking action or enforcement investigation, the duty to supplement expires 18 months after the date of the response.

It should be noted that this amendment does not in any way diminish the agency's authority to specifically require a respondent to update some response after the duty under this part to supplement has expired. Further, the authority of the agency to require specific supplementation of responses while the general duty to supplement is in effect is not limited by that general duty.

The second basic objection to the duty to supplement as set forth in the interim rule concerned the burden imposed on respondents to correct "trivial" or "minor" errors. One commenter urged that the duty to supplement should be limited to instances where there is a "significant" change in the information originally given to NHTSA. The agency has not adopted this suggestion. Respondents are under a duty to give accurate responses to compulsory process. Errors which appear to be trivial or minor to a respondent exercising the utmost good faith may not be so judged by the agency in the context of all the information gathered by the agency. NHTSA believes that it must determine whether a change is trivial. This requirement does not impose any significant added burden on respondents, because it should typically be easier for a respondent to write down the changed information and send it to NHTSA than to inform a responsible agency official of the change and have him or her examine the change to determine whether it can properly be deemed trivial. Since there is a little additional burden imposed in requiring the change to be submitted to the agency and the information is necessary for NHTSA to properly perform its function of evaluating the significance of the change, the final rule does not limit the duty to supplement as suggested.

One frequent comment on the duty to supplement was that it would be extremely burdensome for the respondents to constantly check their responses for accuracy, even if the requirement were not open-ended. NHTSA disagrees with this assertion. The duty to supplement can be wholly satisfied by checking on a periodic basis with the sources within respondent having knowledge of the area to determine whether any new facts or information have arisen which might trigger a duty to supplement. If there are such new facts or information, the respondent promptly informs the agency about them. NHTSA agrees that this creates some burden for respondents, but does not agree that the burden is excessive or substantial. Moreover, NHTSA notes that much of the factual information which is subject to change, such as reports of warranty claims, is compiled for the respondents' own purposes on a regular basis. In those cases, the duty to supplement will be readily satisfied by making the update promptly available to the agency.

i. Confidentiality of information. Great concern was expressed over the confidentiality of alleged trade secret and confidential business information obtained by the agency by using its information gathering powers. NHTSA has published a notice of proposed rulemaking on this general subject entitled Part 512, *Confidential business information*; 43 FR 22412, May 25, 1978. That notice proposes a detailed scheme for the treatment of confidential business information received by NHTSA. The agency anticipates that the final rule on this subject will soon be published. When Part 512 is published, its requirements will supersede those set forth in § 510.3(e). Until that time, however, NHTSA will follow the procedures set forth in § 510.3(e) for handling and evaluating allegedly confidential information obtained by the use of compulsory process. That paragraph provides that any claims for confidentiality must be made in writing, that information for which confidential treatment is requested will be kept confidential until the confidentiality claim is evaluated, and that the agency will afford reasonable advance notice to the submitter of the information of the contemplated release of any information for which the submitter requested confidential treatment.

j. Fees. Several comments were received addressing the issue of compensation by NHTSA of persons or entities for expenses incurred in connection with the responses to the agency's compulsory process. One commenter suggested that the agency make explicit that the term "person", as used in the section which provides reimbursement for the travel expenses of "persons" subpoenaed to testify at hearings, includes officers, agents, and employees of corporations. NHTSA has amended the rule to state that the term "person" as used in this and all other sections of the rule includes agents, officers, and employees of corporations in their individual capacities.

One commenter stated that a witness compelled to testify orally before the agency should not be required to pay for a copy of his or her testimony. The agency still finds it reasonable to require a person who wishes to retain a copy of his or her testimony at either an information gathering hearing or an administrative deposition to pay for that copy in most circumstances.

Copies of transcripts will be furnished without charge or at a reduced charge if the Associate Administrator for Administration determines that a waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefitting the general public.

Any witness has the right to inspect the transcript of his or her testimony at no charge, and a provision is made in connection with administrative depositions for the submission of a copy of the witness' testimony to that witness for his or her signature. Hence, NHTSA does not believe that there is any financial barrier to the opportunity of any witness to thoroughly review his or her testimony.

Several commenters stated that respondents to compulsory process should be reimbursed completely for their expenses incurred in complying with the process. The agency does not believe that complete reimbursement is appropriate. First, it must be noted that the provision for reimbursement contained in NHTSA's authorizing statutes allows the agency to pay witnesses the same mileage and fees that can be paid witnesses in the courts of the United States. *See* section 112(c)(5) of the Safety Act, 15 U.S.C. 1401(c)(5) and sections 104(a)(5), 204(e), 414(c)(5), and 505(b)(3) of the Cost Savings Act, 15 U.S.C. 1914(a)(5), 1944(e), 1990d(c)(5), and 2005(b)(3). Part 510.11 of this rule expressly authorizes the payment of these fees.

NHTSA recognizes that the expense associated with complying with compulsory process is a major component of the burdensomeness of that process. The question, however, is whether an *undue* burden is imposed. If respondents believe the burden to be undue, they can file a motion with NHTSA to quash the process and can litigate this issue if the agency does not resolve it to their satisfaction.

k. Remedies for failure to comply with compulsory process. Several commenters made strenuous objection to the provision of the interim rule which allows the agency to seek civil penalties against a respondent which fails to comply with NHTSA's compulsory process. The arguments made were basically that the availability of civil penalties for failure to comply was not contemplated or authorized by the Cost Savings Act of the Safety Act, and that if the penalties were authorized, that authorization would be unconstitutional. NHTSA rejects these contentions for the reasons set forth below.

There were two primary arguments raised to support the view that the agency does not have the authority to seek the imposition of civil penalties for a failure to comply with compulsory process. First, it was asserted that the authorizing statutes provide judicial enforcement of compulsory process in a United States District Court as an exclusive remedy for the failure to comply with compulsory process. With respect to Titles I, II, and IV of the Cost Savings Act, this assertion is plainly inaccurate. Sections 106(a)(3), 206(1), and 416 of the Cost Savings Act (15 U.S.C. 1916(a)(3), 1946(1), and 1990(f)) state that no person shall fail to provide the information requested by the agency. A violation of this prohibition subjects the violator to civil penalties, which shall be assessed by the agency. Sections 107(a), 208(a), and 412(a) of the Cost Savings Act; 15 U.S.C. 1917(a), 1948(a) and 1990b(a).

The commenters specifically pointed to the fact that the Safety Act at section 112(c)(4), 15 U.S.C. 1401(c)(4), and Title V of the Cost Savings Act at section 505(c)(2), 15 U.S.C. 2005(c)(2), provide that the agency may seek judicial enforcement in the case of a failure to respond to compulsory process. However, the commenters did not point out that the respective Acts also authorize the agency to impose civil penalties for a failure to comply with any "rule, regulation, or order" issued under the information gathering authority contained in that title; section 108(a)(1)(E) and 109(a) of the Safety Act, 15 U.S.C. 1397(a)(4) and 1398(a), and section 507(3) and 508 of the Cost Savings Act, 15 U.S.C. 2007(3) and 2008. No commenter cited any language in the statutes themselves or the relevant legislative history which states that judicial enforcement was intended to be the exclusive remedy for a failure to comply.

NHTSA believes that the availability of civil penalties for a failure to comply with compulsory process is a necessary complement to judicial enforcement. If judicial enforcement were the sole remedy for failure to comply with the agency's compulsory process, a respondent could always fail to comply with the agency's compulsory process until such time as the agency began a judicial enforcement proceeding. Then, at any time before the court entered its order compelling compliance with agency process, the respondent could comply with the order, thereby mooting the enforcement action. Any respondent would have available to it a penalty-free mechanism for delaying compliance with NHTSA's compulsory process. There is no indication that Congress intended or sanctioned such a mechanism. Considering "the vital importance of information gathering to the successful implementation of the Act," H.R. Rep. 93–1191, 93 Cong., 2d Sess. at 37, and the absence of any indication whatsoever that judicial enforcement was to be the sole remedy, NHTSA is not persuaded by this argument.

The second argument raised to support the view that the agency lacks authority to impose civil penalties was that subpoenas and general and special orders were not "orders" within the meaning of section 108(a)(1)(E) of the Safety Act and section 507(3) of the Cost Savings Act, the violation of which can give rise to civil penalties. The argument is that subpoenas are not "orders", because both statutes discuss "order" and "subpoena" in the disjunctive. Since a subpoena is not an order, the argument concludes that general and special orders are not "orders" either, because general and special orders are the functional equivalent of subpoenas.

This argument is not convincing. It is a well established and accepted rule of statutory construction that the words of a statute are to be given their common meaning, absent some indication of a contrary legislative intent. 2A Southerland, Statutory Construction, § 47.28 and the cases cited therein (4th ed. 1973). The word "order" is defined in *Webster's Second International Dictionary* as "a rule or regulation made by competent authority; also a command; mandate; precept; direction". The *Oxford English Dictionary* defines "order" as "an authoritative direction, injunction, mandate; a command, oral or written; an instruction." It is obvious that both subpoenas and general and special orders fall within this common meaning of the word "order", and that the Acts must be construed in that manner unless there is a contrary legislative intent.

The only authority which has been cited by a commenter to show a contrary intent is the language in Section 112(c)(4) of the Safety Act, and section 505(b)(2) of the Cost Savings (called "the judicial enforcement sections" for the rest of this discussion) giving the district courts of the United States authority to compel compliance with any subpoena or order issued by NHTSA. General and special orders are specifically referred to as "orders" in these judicial enforcement sections. Sections 108(a)(1)(E) and 109 of the Safety Act and 507(3) and 508 of the Cost Savings Act (called the civil penalty sections for the rest of this discussion) give NHTSA authority to impose civil penalties for the violation of any "rule, regulation, or order". There is no reason to believe that the "order" referred to in the civil penalty sections does not include the forms of process included within the meaning of "order" in the judicial enforcement sections. Congress has shown its intent that the violation of general and special orders issued by NHTSA would subject the violator to possible civil penalties.

The reference to subpoenas and orders in the disjunctive occurs in the judicial enforcement sections, which provide that compliance with a subpoena or an order can be mandated by a court. NHTSA's authority to issue subpoenas and general and special orders comes from two different grants of authority, and so it is grammatically necessary to use the disjunctive to indicate that compliance with either can be mandated by a court. There is, however, no indication in the Acts or the legislative history that Congress intended for subpoenas and general and special orders to be enforced differently. Indeed, the judicial enforcement sections treat these forms of process identically for enforcement purposes. Accordingly, the agency concludes that the use of the disjunctive in the judicial enforcement sections is not by itself a sufficient showing of a Congressional intent that subpoenas not be included within the meaning of "order" as that term is used in the civil penalty section, and so Congress intended that the word "order" as used in the civil penalty sections have its common meaning. The common meaning embraces all compulsory process issued by NHTSA, whether general or special orders, subpoenas, or written requests for the production of documents and things.

The commenters raised two Constitutional arguments in support of the position that the civil penalties could not be imposed for failure to comply with the agency's compulsory process. The first argument was that the agency could not constitutionally impose civil penalties, since this self-enforcement would give judicial power to NHTSA, a grant Congress could not make. One commenter was concerned that NHTSA was trying to set up a procedure where the agency could hold a respondent in contempt. NHTSA has never intended to hold a noncomplying respondent in contempt of the agency, and the interim rule contained no such provision. To enforce and collect any civil penalty will require the agency to bring an action in a United States District Court, requesting the court to enforce the penalty. No question of self-enforcement arises in connection with this procedure.

A more complex issue was raised by commenters in the second Constitutional argument, which was that a party desiring to mount a good faith challenge to the validity of compulsory process issued by the agency could do so only by refusing to comply with that process. If the agency were to impose a penalty for this refusal, the argument runs, the respondent would have had a penalty imposed on it for exercising its right to have a judicial review of the validity of the process.

NHTSA agrees with the commenters' assertion that there is a due process right to contest the validity of a legislative or administrative order without having to pay substantial penalties if the suit is lost. However, this right does not mean that penalties begin to accrue only upon a final judgment in NHTSA's favor. In *St. Regis Paper Co.* v. *United States,* 368 U.S. 208 (1961), the FTC had ordered a company to file special reports with that agency. Section 10 of the Federal Trade Commission Act, 15 U.S.C. 50, specified a penalty of $100 for each day a special report was overdue. The company challenged this provision of the Act, alleging that it had been denied its day in court to challenge the validity of the underlying order to file special reports. The company alleged that, in effect, the order was not judicially reviewable except if the company paid the civil penalty, and that this scheme violated the due process requirements.

The Supreme Court found this penalty scheme to be consistent with due process, because the petitioner had an opportunity for judicial review without having to pay the penalty. Specifically, the Court found that the company could have filed an action for declaratory judgment and a concurrent motion to stay the effective date of the FTC order pending a ruling by the court on the validity of the order. This opportunity for review is sufficient to satisfy the requirements of due process. 368 U.S. at 225–227.

This reasoning has been applied to the civil penalty provisions for failure to comply with an NHTSA order requiring a manufacturer to furnish notification of a defect to owners, purchasers, and dealers, and to remedy the defect without charge, as specified in section 152 of the Safety Act (15 U.S.C. 1412). In *Ford Motor Co.* v. *Coleman,* 402 F. Supp. 475 (D.D.C. 1975) *aff'd,* 425 U.S. 927 (1976); it was asserted that this statutory provision violated the due process rights of the manufacturer by forcing the manufacturer to either comply with an erroneous order or risk a substantial civil penalty if it lost its challenge to the order. The court stated that this statutory provision did not offend due process rights, since a manufacturer which could present a substantial, nonfrivolous challenge to the validity of NHTSA's determination could obtain a preliminary injunction against the enforcement of the order. The court would have jurisdiction to issue a temporary order restraining the imposition of the penalties pending its determination of the motion for preliminary injunction, and to issue a preliminary injunction that would stay the accrual of penalties until the completion of the *de novo* enforcement proceedings in district court on the underlying order. The civil penalties would begin accumulating against the manufacturer only if the manufacturer could not convince the court to issue a preliminary injunction, i.e., if the manufacturer could not show that it had reasonable and substantial grounds for contesting the order. According to the opinion, the due process right to a judicial determination of the validity of the order does not require that a manufacturer be permitted to press a frivolous or insubstantial objection without risk of a penalty.

Several commenters cited *Reisman v. Caplin*, 375 U.S. 440 (1964) as authority for the proposition that the civil penalty scheme as set forth in the interim rule would violate due process rights. That case involved an order by the Commissioner of Internal Revenue to a taxpayer to furnish certain documents. The taxpayer contended that since he had to risk a large fine and imprisonment for not complying with the order, he had been effectively denied the due process right to a judicial review of the validity of the order. The Court disagreed with this contention, stating that the statute authorizing civil and criminal penalties for failure to comply with an order must be read so as not to apply while a respondent is making a good faith challenge to the validity of the order. In this agency's opinion, this reasoning is identical to that used in *St. Regis, supra*, and *Ford Motor Co. v. Coleman, supra*. The civil penalty provisions in the interim rule do not restrict the right of a respondent to process to obtain a judicial review of the validity of that process without a civil penalty, if the challenge is not insubstantial. Since this complies with the requirements of due process, no change has been made to the civil penalty section of this rule from that set forth in the interim rule.

In consideration of the foregoing, Chapter V of Title 49, Code of Federal Regulations is amended by revising Part 510, *Information Gathering Powers*, to read as set forth below.

The attorney principally responsible for the development of this final rule is Stephen Kratzke.

Authority: Sections 112 and 119 of the National Traffic and Motor Vehicle Safety Act 1966, as amended, 15 U.S.C. 1401 and 1407, and sections 104, 204, 414, and 505 of the Motor Vehicle Information and Cost Savings Act, as amended, 15 U.S.C. 1914, 1944, 1990d, and 2005; delegation of authority at 49 CFR 1.51.

JOAN CLAYBROOK,
Administrator.

PART 510—INFORMATION GATHERING POWERS

Sec.
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Authority: Secs. 112 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1401 and 1407); secs. 104, 204, 414, and 505 of the Motor Vehicle Information and Cost Savings Act, as amended (15 U.S.C. 1914, 1944, 1990d, and 2005); delegation of authority (49 CFR 1.51).

§ 510.1 Scope and purpose.

This rule governs the use of the information gathering powers of the National Highway Traffic Safety Administration contained in section 112 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended 15 U.S.C. 1401, and sections 104, 204, 414, and 505 of the Motor Vehicle Information and Cost Savings Act, as amended 15 U.S.C. 1914, 1944, 1990d, and 2005 .

§ 510.2 Definitions.

(a) "NGTSA" means the National Highway Traffic Safety Administration.

(b) "Administrator" means the Administrator of the National Highway Traffic Safety Administration.

(c) "Chief Counsel" means the Chief Counsel of the National Highway Traffic Safety Administration.

(d) "Deputy Administrator" means the Deputy Administrator of the National Highway Traffic Safety Administration.

(e) "Person" includes agents, officers, and employees of sole proprietorships, partnerships, corporations, and other entities.

§ 510.3 Compulsory process, the service thereof, claims for confidential treatment, and terms of compliance.

(a) NHTSA may use any of the following means to conduct investigations, inspections, or inquiries to obtain information to carry out its functions under the National Traffic and Motor Vehicle Safety Act of 1966, as amended, 15 U.S.C. 1381 *et seq.*, and the Motor Vehicle Information and Cost Savings Act, as amended, 15 U.S.C. 1901 *et seq.*:

(1) Subpoenas;

(2) Information gathering hearings;

(3) Administrative depositions;

(4) General or special orders; and

(5) Written requests for the production of documents and things.

(b) A person, sole proprietorship, partnership, corporation, or other entity served with compulsory process under this part shall be provided with the following information at the time of the service—

(1) The name of the person, sole proprietorship, partnership, corporation, or other entity to which the process is addressed;

(2) The statutory provision under which the compulsory process is issued;

(3) The date, time, and place of return;

(4) A brief statement of the subject matter of the investigation, inspection, or inquiry; and

(5) In the case of a subpoena *duces tecum* or a written request for the production of documents and things, a reasonably specific description of the documents or things to be produced.

(c) Service of the compulsory processes specified in paragraph (a) of this section is effected:

(1) By personal service upon the person, agent-in-charge, or agent designated to receive process under 15 U.S.C. 1399(e) of the sole proprietorship, partnership, corporation or other entity being investigated, inspected, or inquired of; or

(2) By mail (registered or certified) or delivery to the last known residence or business address of such person or agent.

(d) The date of service of any compulsory process specified in paragraph (a) of this section is the date on which the process is mailed by the agency, or delivered in person, as the case may be. Whenever a period is prescribed for compliance with compulsory process, and the process is served upon the party by mail, 3 days are added to the period.

(e)(1) Any person, sole proprietorship, partnership, corporation, or other entity submitting information or producing documents or things in response to any compulsory process issued under this part may request confidential treatment for all or part of that information or for those documents or things.

(2)(i) Except as provided in paragraph (e)(2)(ii) of this section, requests for confidentiality shall be in writing, and addressed to the Chief Counsel.

(ii) Requests for confidentiality made during an information gathering hearing or an administrative deposition may be made orally to the presiding officer. Any oral request for confidentiality shall be supplemented by a written request, and this written request must be addressed to the Chief Counsel and received by NHSTA within five days of the date of the oral request.

(iii) A written request for confidentiality under paragraph (e) of this section shall specify the information, documents, or things which are to be kept confidential, specify the grounds upon which the claim is based, provide such information as may be necessary to permit the NHTSA to determine whether the claim is valid, and specify the period of time for which confidential treatment is requested.

(f) The Chief Counsel, or his or her delegate, is authorized to negotiate and approve the terms of satisfactory compliance with any compulsory process issued under this part.

§ 510.4 Subpoenas, generally.

NHTSA may issue to any person, sole proprietorship, partnership, corporation, or other entity a subpoena requiring the production of documents or things (subpoena *duces tecum*) the testimony of witnesses (subpoena *ad testificandum*), or both, relating to any matter under investigation or the subject of an inquiry. Subpoenas are issued by the Executive Secretary. When a person, sole proprietorship, partnership, corporation, or other entity is served with a subpoena *ad testificandum* under this part, the subpoena will describe with reasonable particularity the matters on which the testimony is required. In response to a subpoena *ad testificandum*, the sole proprietorship, partnership, corporation, or other entity so named shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and set forth, for each person designated, the matters on which he or she will testify. The person so designated shall testify as to matters known or reasonably available to the entity.

§ 510.5 Information gathering hearings.

(a) NHTSA may issue a subpoena to compel any person, sole proprietorship, partnership, corporation, or other entity to provide information at an information gathering hearing. The subpoenas are used for the purpose of obtaining testimony from a witness under oath and obtaining relevant documents and things. The Administrator, or a NHTSA employee designated by the Administrator, presides at the hearing. Information gathering hearings are open to the public unless the presiding officer rules otherwise, and the hearings are stenographically reported.

(b) In addition to the presiding officer, one or more other persons may comprise the panel. Each member of the panel may question any witness at the hearing. No person who is not a member of the panel may ask questions of a witness. However, any person may submit to the panel, in writing, proposed questions to be asked of a witness. A member of the panel may pose these questions to the witness if that member deems the questions useful and appropriate. Proposed questions may be submitted to the panel at any time before or during the course of the hearing.

(c) The stenographic record of each witness's testimony will be available to the public, unless the testimony was not given publicly and the witness requests confidential treatment for some or all of his or her testimony. When an oral request for confidential treatment is made during the course of a witness's testimony, the presiding officer may order the hearing closed to the public at that point and continue the questioning of the witness, or may note the request for confidentiality and direct the witness not to answer the question at that time, but require the witness to answer the question in writing within some specified period, or take such other action as the presiding officer deems appropriate. If a request for confidential treatment is made, the release of the record is governed by the applicable laws or regulations relating to the handling of allegedly confidential information. To the extent that some or all of a witness's testimony is not publicly available, that witness may procure a copy of his or her testimony as recorded upon payment of lawfully prescribed costs.

(d) (1) Any person who is required by subpoena or designated by an entity that is required by subpoena to provide information at an information gathering hearing conducted under this section may be accompanied, represented, and advised by counsel. Any member of the bar of a Federal court or the courts of any State or Territory of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, and any representative, official, or employee of the sole proprietorship, partnership, corporation or other entity under subpoena may act as counsel.

(2) A witness appearing in response to subpoena may confer in confidence with his or her counsel or representative concerning any questions asked of the witness. If such witness, counsel, or representative objects to a question, he or she shall state the objection and basis therefor on the record.

(e) The presiding officer at an information gathering hearing takes all necessary action to regulate the course of the hearing, to avoid delay, and to assure that reasonable standards of orderly and ethical conduct are maintained. In any case in which counsel for or a representative of a witness has refused to comply with the presiding officer's directions, or to adhere to reasonable standards of orderly and ethical conduct in the course of a hearing, the presiding officer states on the record the reasons given, if any, for the refusal and, if the presiding officer is someone other than the Administrator, immediately reports the refusal to the Administrator. The Administrator thereupon takes such action as the circumstances warrant.

(f) Where appropriate, the procedures established in this subsection may be utilized in informal hearings conducted by NHTSA pursuant to its authority under sections 152 and 156 of the Safety Act (15 U.S.C. 1412, 1416) to receive data, views and arguments concerning alleged safety-related defects. The rights accorded to witnesses in this subsection may also be accorded to witnesses who appear voluntarily at such hearings.

§ 510.6 Administrative depositions.

(a) NHTSA may issue a subpoena to compel any person, sole proprietorship, partnership, corporation, or other entity to provide information as a witness at an administrative deposition. These depositions are for the purpose of obtaining information from the witness under oath and receiving documents and things relevant to an agency investigation. These depositions shall be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the deposition is taken. Unless otherwise ordered by the Administrator, administrative depositions are closed to the public.

(b) Any person who is required by subpoena or designated by an entity that is required by subpoena to produce documents or things or to give testimony as a witness at an administrative deposition conducted under this section may be accompanied, represented, and advised by counsel. Any member of the bar or a Federal court or the courts of any State or Territory of the United States, the Commonwealth of Puerto Rico, or the District of Columbia and any representative, official, or employee of the person, sole proprietorship, partnership, corporation, or other entity under subpoena may act as counsel.

(c) During an administrative deposition:

(1) The presiding officer before whom the deposition is to be taken puts the witness on oath and personally, or by someone acting under his or her direction and in his or her presence, records the testimony of the witness. The testimony is stenographically reported.

(2) After NHTSA has examined the witness at the deposition, that witness' counsel or representative may examine the witness. NHTSA may then reexamine the witness and the witnesses' counsel or representative may reexamine the witness and so forth, as appropriate.

(3) A witness appearing in response to a subpoena may confer in confidence with his or her counsel or representative concerning any questions asked of the witness. If such witness, counsel, or representative objects to a question, he or she shall state the objection and the basis therefor on the record.

(4) Objections to the qualifications of the officer taking the deposition, or to the manner of taking it, or, to the evidence presented, and any other objection to the proceedings shall be noted by the officer on the record, and shall be treated as continuing. Evidence objected to shall be taken subject to the objections. Errors and irregularities occurring at a deposition in the manner of the taking of the deposition, in the form of questions or answers, or in the oath or affirmation, and errors of any kind which might be obviated, removed, or cured if promptly presented shall be deemed to be waived unless reasonable objection is made thereto at the taking of the deposition.

(5) If the witness refuses to answer any question or answers evasively, or if the witness or his or her counsel engages in conduct likely to delay or obstruct the administrative deposition, such refusal, evasive answer or conduct shall be a failure to comply with the subpoena issued to the witness.

(6) Upon completion of the examination of a witness, the witness may clarify on the record any of his or her answers.

(d) the transcript of the testimony of a witness who testified in response to a subpoena at an administrative deposition is submitted to the witness for signature, unless the witness waives the right to sign the transcript. If a witness desires to make any changes in the form or substance contained in the transcript, the witness shall submit, together with the transcript, a separate document setting forth the changes and stating the reasons for such changes. If the deposition is not signed by the witness within 30 days of its submission to the witness, or such other period as the NHTSA may designate, the officer before whom the deposition was taken or a NHTSA employee signs the transcript and states on the record the fact of the waiver of the right to sign or the fact of the witness' unavailability or inability or refusal to sign together with the reasons, if any, given therefor.

(e) The transcript of the testimony of a witness will be inspected by NHTSA to determine if there are any errors in the transcription of the questions posed to the witness and the testimony in response to those questions. If NHTSA discovers any errors, it notes that fact and forwards the notation of errors together with the transcript to the witness, requesting the witness to stipulate that the transcript is in error and that the corrections made by NHTSA are accurate. If the witness will not make this stipulation, NHTSA may make a motion to the presiding officer to include its notation of error and its corrections in the record along with the version of the testimony signed by the witness.

(f) (1) Upon payment of lawfully prescribed costs, any person who is required by subpoena or designated by a sole proprietorship, partnership, corporation, or other entity that is required by subpoena to appear as a witness at an administrative deposition may procure a copy of the deposition as recorded, except that in a nonpublic investigatory proceeding, the witness may, for good cause, be limited to an inspection of the record of the deposition.

(2) A copy of the record of the deposition may be furnished to the witness without charge or at a reduced charge if the Associate Administrator for Administration determines that waiver of the fee is in the public interest because furnishing the copy can be considered as primarily benefitting the general public. Any witness who seeks a waiver of the copying charge may apply in writing to the Associate Administrator for Administration, and shall state the reasons justifying waiver of the fee in the application.

(g) The testimony obtained in an administrative deposition may be used or considered by the NHTSA in any of its activities, and may be used or offered into evidence in any administrative proceeding in accordance with the provisions of 5 U.S.C. 554, or in any judicial proceeding.

§ 510.7 General or special orders.

The NHTSA may require by the issuance of general or special orders any person, sole proprietorship, partnership, corporation, or other entity to file with the NHTSA, in such form as NHTSA may prescribe, periodic or special reports or answers in writing to specific questions. The responses to general or special orders will provide NHTSA with such information as it may require, including, but not limited to, information relating to the organization of that person, sole proprietorship, partnership, corporation, or other entity, its business, conduct, practices, management, and relation to any other person or entity. General or special orders which are required to be answered under oath are issued by the Chief Counsel. Any general or special order issued under this section contains the information specified in section 510.3(b). Reports and answers filed in response to general or special orders must be made under oath, or otherwise, as NHTSA may prescribe.

§ 510.8 Written requests for the production of documents and things.

The NHTSA may, by the issuance of a written request for the production of documents and things, require any person, sole proprietorship, partnership, corporation, or other entity to produce documents and things. A written request for the production of documents and things may be issued alone, or as a part of a general or special order issued under section 510.7. Written requests for the production of documents and things are issued by the Chief Counsel. Any written request for the production of documents and things issued under this section shall contain the information specified in section 510.3(b).

§ 510.9 Motions to modify, limit, or quash process.

(a) (1) Any person, sole proprietorship, partnership, corporation, or other entity served with a subpoena issued under section 510.4 may file with the Deputy Administrator a motion to modify, limit, or quash that subpoena. If there is no Deputy Administrator, or the Deputy Administrator is not available, such motions shall be filed with and decided by the Associate Administrator for

Administration. A motion to modify, limit, or quash must be filed not later than 15 days after the service of the process or five days before the return date specified in the process, whichever is earlier, except that, if the process is served within five days of its return date, such motion may be filed at any time before the return date. Any motion must set forth the grounds and theories of why and how the party believes the process should be modified, limited, or quashed and must contain all facts and arguments which support those grounds and theories.

(2) The Deputy Administrator may, upon receiving a motion filed pursuant to paragraph (a) (1) of this section—

(i) Deny the motion;

(ii) Modify the return date of the subpoena;

(iii) Modify, limit or quash the subpoena;

(iv) Condition granting the motion upon certain requirements; or

(v) Take any other action he or she believes to be appropriate in the circumstances.

(v) Take any other action he or she believes to be appropriate in the circumstances.

(3) The Office of the Deputy Administrator serves the decision on the motion on the moving party or the counsel or representative of the moving party. This service may be made by personal service, by registered or certified mail, or by reading a copy of the decision to the moving party or the counsel or representative of the moving party.

(4) A denial of any motion properly filed under this section shall be in writing, and shall contain a brief statement of the facts involved and the conclusions drawn from those facts by the Deputy Administrator.

(b) The Deputy Administrator's decision on the motion to modify, limit, or quash, filed under paragraph (a) of this section is not subject to reconsideration by NHTSA.

§ 510.10 Supplementation of responses to process.

(a) A person, sole proprietorship, partnership, corporation, or other entity which has provided NHTSA with information under this part, which information was complete and accurate at the time the information was given to NHTSA, is not required to supplement that information in the light of after acquired information, except:

(1) The person or entity to whom the process is addressed shall supplement the response with respect to any question directly addressed to the identity and location of persons having knowledge of information obtainable under this part.

(2) The person or entity to whom the process is addressed shall seasonably amend a prior response if that person or entity obtains information upon the basis of which the person or entity knows that the response was incorrect when made or the person or entity knows that the response, though correct when made, is no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment.

(b) The requirement to supplement information set forth in paragraph (a) of this section terminates when:

(1) The compulsory process stated that it was issued in connection with a contemplated rulemaking action, and a final rule is issued on that subject or a notice is isued announcing that the rulemaking action has been suspended or terminated.

(2) The compulsory process stated that it was issued in connection with an enforcement investigation, and the investigation is closed.

(3) The compulsory process does not state that it is issued in connection with a specific rulemaking action or enforcement investigation, and 18 months have passed since the date of the original response.

(c) This section in no way limits NHTSA's authority to obtain supplemental information by specific demands through the means specified in section 510.3.

§ 510.11 Fees.

Any person compelled to appear in person in response to a subpoena issued under this part at an information gathering hearing or an administrative deposition is paid the same attendance and mileage fees as are paid witnesses in the courts of the United States, in accordance with Title 28, United States Code, Section 1821.

§ 510.12 Remedies for failure to comply with compulsory process.

Any failure to comply with compulsory process authorized by law and issued under this part is a violation of this part. In the event of such failure to comply, NHTSA may take appropriate action pursuant to the authority conferred by the National Traffic and Motor Vehicle Safety Act or the Motor Vehicle Information and Cost Savings Act, as appropriate, including institution of Judicial proceedings to enforce the order and to collect civil penalties.

[FR Doc. 80-13444 Filed 4-29-80; 10:30 am]

[49 CFR Part 571]

DEPARTMENT OF TRANSPORTATION; NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

[Docket No. 76-06; Notice 9]

FEDERAL MOTOR VEHICLE SAFETY STANDARDS; SPEEDOMETERS AND ODOMETERS

Agency: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

Action: Final rule (response to petitions for reconsideration and final action on notice of proposed rulemaking).

Summary: This notice amends Federal Motor Vehicle Safety Standard (FMVSS) No. 127, *Speedometers and Odometers*. It reponds to petitions for reconsideration of FMVSS 127 and takes final action on a notice of proposed rulemaking.

This notice grants petitions for facilitating compliance with the odometer marking option, clarifying the odometer marking requirements, and providing an additional optional method of compliance with the odometer tampering requirements. It also grants a petition to exempt all police vehicles from the provision limiting the maximum speed which speedometers may indicate. The standard is amended accordingly.

Pursuant to the proposal, this notice amends FMVSS 127 by exempting motorcycles from the odometer tampering requirements, specifying the four tampering methods that odometers complying with the irreversibility option must resist absent breakage, specifying the tools to be used in each of those methods, requiring the differentiation of replacement odometers and wheels, and clarifying and further specifying the requirements for odometers complying with the encapsulation option. These amendments make the standard more effective and objective and thereby facilitate compliance.

Dates: Effective dates: The odometer requirements in sections S4.2 through S5.2 become effective September 1, 1981. This is the effective date previously established in the final rule published March 22, 1979 (44 FR 17500). The amendment of the speedometer provisions of section S4.1.3 becomes effective June 16, 1980.

For further information contact: Mr. John W. Carson, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-2720).

Supplementary information: On March 16, 1978, the NHTSA published a final rule establishing Federal Motor Vehicle Safety Standard (FMVSS) No. 127, Speedometers and Odometers (43 FR 10919). With respect to odometers, the standard is intended to reduce the incidence of odometer tampering in order to prevent consumer fraud and the presence of potentially dangerous vehicles on the nation's highways. As originally written, the final rule required that odometers be immovable in the reverse direction and that they indicate when the distance traveled by a vehicle had exceeded 99,999 miles or kilometers.

On July 27 1978, the NHTSA published a response to an initial set of petitions for reconsideration of the final rule (43 FR 3421). With regard to odometers, that response amended FMVSS 127 so that manufacturers could comply by choosing either (1) the marking option which required that odometers permanently mark the wheel registering ten thousands of miles or kilometers as it rotates, or (2) the irreversibility option which specified that odometers could be reversed up to a maximum of 10 miles but that any further reversal must render the odometer "permanently and totally inoperable."

Following receipt of a second set of petitions for reconsideration of the final rule, the agency published a response on March 22, 1979 (44 FR 17500). In that response, the irreversibility option was amended. The requirement that odometers be irreversible unless rendered "permanently and totally inoperable" was replaced with a less stringent one. It required that odometers be constructed so that reversal beyond 10 miles or kilometers could not be accomplished without breaking or destroying the odometer in one or more of five specified ways. In the preamble to the response to petitions, the agency designated the methods of tampering with which the five specified types of telltale breakage are associated and described ways in which manufacturers could ensure that these methods would result in the specified types of telltale breakage. The response to petitions also postponed the effective date of the odometer requirements from September 1, 1980, to September 1, 1981.

Following publication of the March 22, 1979, response to petitions for reconsideration, the agency received the third and current set of petitions for reconsideration. Petitions were submitted by General Motors Corporation, Ford Motor Company, Chrysler Corporation and Thomas D. Regan. The petitions addressed the provisions of FMVSS 127 as modified by the March 22, 1979, response to the second round of petitions for reconsideration. A discussion of the issues raised by these petitions and their resolution is presented in this notice in two parts, one concerning odometer requirements and the other concerning speedometer requirements. All petitions are denied except as otherwise noted.

Simultaneously with the publication of the March 22, 1979, response to petitions for reconsideration, the agency also issued a notice of proposed rulemaking (44 FR 17532, March 22, 1979). This notice did not propose that any changes be made in the marking option, but did propose that the irreversibility option be modified and reorganized into two separate but related options. It was proposed that the list of tampering methods which appeared in the preamble to the March 22, 1979, response to petitions be incorporated into the text of the irreversibility option. As published in the March 22, 1979, response to petitions, the irreversibility option required that odometers be constructed so that reversal beyond 10 miles or kilometers could not be accomplished at all or could not be accomplished without resulting breakage or destruction of the odometer in one or more of five specified ways which included breaking a rigid or semi-rigid shield that totally or partially encapsulated the odometer. The notice proposed that the encapsulation provision be taken out of the irreversibility option and made into a second option. Accordingly, compliance with the irreversibility option would require prevention of tampering by any of the designated methods, or alternatively resulting telltale breakage of the odometer, while the encapsulation option would require prevention of tampering, or alternatively resulting breakage of the encapsulation. The notice also requested comments concerning the possible need for further refinement of the odometer tampering provisions of FMVSS 127.

In addition, the notice of proposed rulemaking proposed that "each replacement wheel for an odometer and each wheel on a replacement odometer * * *" be visibly differentiated from wheels on odometer installed in new vehicles as original equipment. In the case of odometers built in compliance with the marking option, for example, the proposal was intended to prevent tamperers from replacing marked ten thousands wheels with identical new unmarked ones. In the case of odometers built to comply with the irreversibility option, the proposal was intended to prevent tamperers from simply removing reversal resistant odometers and replacing them with new identical odometers set to lower mileage readings. The notice also proposed to require that the ten thousand miles/kilometers wheel on each odometer be visibly differentiated from all other wheels on the odometer.

Today's final rule provides manufacturers with a wide range of compliance options which the agency believes will be reasonably effective in reducing the incidence of odometer tampering. However, manufacturers can improve the effectiveness of any option that they choose to adopt by notifying purchasers of the means they are using to deter and prevent tampering. The agency urges manufacturers to provide this information to purchasers of their vehicles and will monitor the efforts made to determine whether the provision of such information should be made mandatory.

RESPONSE TO PETITIONS FOR RECONSIDERATION CONCERNING ODOMETER REQUIREMENTS

In their petitions for reconsideration, General Motors Corporation, Chrysler Corporation and Ford Motor Company all requested modification of the odometer marking option. General Motors requested that the agency either (1) suspend the effective date of the odometer requirements of FMVSS 127 and provide a period of at least three years between the issuance of a new final rule and its effective date, or (2) modify the odometer marking option to allow a system that marks each numeral on the 10,000 miles/kilometers will wheel within 500 miles or kilometers after that numeral disappears from view. The agency has decided that the second alternative should be granted. The information on which this decision rests includes a June 14, 1979, meeting reported in the docket at which General Motors demonstrated its system. Rather than marking each numeral on the 10.000 miles/kilometers wheel as the numeral turns out of the driver's view, the General Motors' system employs a continually moving stylus which faintly scratches the numeral and/or the background after each mile of operation, gradually removing the original color and revealing an underlying contrasting color. With each mile travelled, the contrasting color becomes more visible. By the time the vehicle has travelled 500 miles after the rotation of the 10,000's wheel, the contrasting color is visible enough so that but for the wheel having turned the numeral out of view in order to register increased mileage, the color would be visible to a person occupying the driver's position. In addition, the contrasting color can be easily seen by the driver when the numeral reappears. The agency has concluded that this system will reduce compliance costs without compromising achievement of FMVSS 127's objective of reducing odometer tampering. Language implementing this decision has been incorporated into section 4.2.6.1 of the final rule being published today.

General Motors also proposed in a May 10, 1979, meeting with NHTSA officials that the language of section 4.2.7.1 as it appears in the March 22, 1979, response to petitions be clarified. Ford made the same request in its petition for reconsideration. Section 4.2.7.1 required that the odometer marking device mark by "permanent means, readily visible to the driver, each numeral on the wheel registering ten thousands of miles or kilometers as the numeral disappears from the driver's view." This provision has been clarified in section 4.2.6.1 of the final rule published today. Section 4.2.6.1(b) of today's final rule relaxes slightly the requirements for the location of the mark.

The agency suggests that manufacturers electing to use the marking option build their systems so that the numbers on the odometer wheels will not be totally obliterated and rendered illegible when marked. The course of action will ensure the readability of odometers on high mileage vehicles. The same suggestion is made for systems used to indicate (in accordance with section S4.2.3 of today's rule) that the number of miles/kilometers registered on the odometer has exceeded either 89,999 or 99,999. This suggestion has not been incorporated as a mandatory requirement in today's final rule due to the lack of notice. Further, NHTSA does not contemplate proposing the requirement since the agency believes that, due to consumer preferences, manufacturers would not be inclined to build odometers that will become unreadable after having recorded 100,000 miles.

General Motors and Chrysler both petitioned for deletion of the requirement that all odometers, including those built to comply with the requirements of the marking option, "* * * be movable in only the forward direction when driven through the odometer gear train * * * except as provided in S4.2.8." (S4.2.4, March 22, 1979, response to petitions). Section 4.2.8 indicated that this requirement would be moderated in the case of odometers built to comply with the irreversibility option to permit reversal up to a maximum distance of 10 miles. The petitioners stated that the section 4.2.4 requirement constituted a substantive change from the July 27, 1978, version of FMVSS 127, that it would not "enhance the security of marking type odometers, and that it would unnecesarily increase the cost of vehicles * * *" to consumers. The petitioners argued that an odometer complying with the marking provision alone would prevent rollbacks of 10,000 miles or more by providing a visible indication of those rollbacks. The marking option would also indirectly prevent rollbacks of lesser magnitude because such rollbacks are not cost effective to persons seeking to sell vehicles whose mileage has been altered.

The agency agrees with the petitioners that gear train drivability requirement of section 4.2.4 would not appreciably enhance the effectiveness of marking-type odometers. Therefore, the agency is granting General Motors' and Chrysler's petitions by deleting this requirement to the extent that it applies in marking-type odometers. However, this requirement will continue to be applicable to odometers complying with the irreversibility or the encapsulation options included in the final rule published today.

In their petitions for reconsideration, both Ford and General Motors discussed the modifications made to the irreversibility option by the March 22, 1979, response to petitions. Ford petitioned for the deletion of the language which made the irreversibility requirements specifically applicable to all odometers regardless of whether they are installed in or removed from vehicles. Ford stated that by adding this language, the agency had both added additional detail to the requirements and failed to provide manufacturers with prior opportunity for comment, thus negating design work undertaken by the company in order to make its odometers more tamper resistant. General Motors stated that the language should have been subject to public comment, and that it provides further evidence of the need to suspend the effective date of the standard.

In its petition, Ford also questioned the practicablity and effectiveness of the modified irreversibilty requirements. Ford expressed doubt that any available mechanical odometer could meet the requirements subsequent to its removal from a vehicle. Pointing to the provisions requiring that odometers be irreversible absent the prerequisite performance of one of five specified operations, Ford stated that three of the operations would not be obvious to a prospective vehicle owner and that the provision as a whole would "merely change the mode of operation . . ." of odometer tamperers. Ford also concluded that, by requiring that original equipment odometers be made more tamper resistant, the agency would simply encourage tamperers to substitute odometers from wrecks and stolen vehicles and would create another market for stolen parts.

The agency has concluded that Ford's petition should be denied. The agency does not agree that Ford and the other manufacturers have been deprived of an opportunity for comment. By specifically modifying the language of the final rule in the March 22, 1979, response to petitions, the agency simply clarified the language of earlier rulemaking actions concerning the applicability of the irreversibility requirements. Each of these rulemaking actions stated that Safety Standard No. 127 is both a vehicle and an equipment standard. It is applicable to specified vehicle types and to speedometers and odometers for use in those vehicle types. It also appears that Ford has been acting upon this same understanding about the broad applicability of the requirement since the company stated at a meeting with NHTSA officials on September 27, 1978, that it was designing an odometer that was difficult to remove from the vehicle. A description of this meeting may be found in the docket. Further, this requirement was included in the March 22, 1979, notice of proposed rulemaking and comments pertaining to any aspect of tamper resistance were requested.

The agency also rejects General Motors' comments regarding notice. The modification of the irreversibility option has the effect of easing the manufacturers' burden of compliance by providing more flexibility and greater opportunity to employ less costly and complicated technology. Further, as noted above, the March 22, 1979 proposal requested comments pertinent to these changes.

With respect to Ford's arguments concerning the practicability, effectiveness and probable consequences of the irreversibility requirements, the agency has reached the following conclusions. The modified requirements are practicable. This has been shown by, for example, the fact that Ford demonstrated at a meeting with NHTSA officials on April 4, 1979, an odometer that apparently meets the requirements of both of the March 22, 1979, rulemaking actions. It is true that if odometer reversal were accomplished after performance of three of the operations specified in the irreversibility option, it would not be obvious to the potential vehicle purchaser. However, the agency has concluded that an irreversibility option that will in all cases ensure that the potential purchaser sitting in the driver's seat is provided with evidence of tampering would be too costly at this time. Further, the irreversibility option as modified will serve the goal of decreasing the incidence of odometer tampering by making tampering more difficult and by providing evidence which investigators can detect.

With respect to Ford's statement that the irreversibility requirements will encourage greater use of odometers from wrecks or stolen vehicles, the agency agrees that this may be true in some cases. Partially in response to this potential problem, the agency proposed Section S4.2.9 of the notice of proposed rulemaking which would require that new replacement odometer components be different from original equipment components. The agency's action on that proposal is discussed at the end of this preamble.

In its petition, General Motors also took issue with the agency's statement in the preamble to the March 22, 1979, response to petitions that the tampering indicator used in the company's odometer design provided an insufficiently visible indication of reversal. General Motors' odometer operated so that upon an attempt to forcibly rotate any of the odometer wheels, a tear strip holding the opinion carrier plate tabs was torn and the carrier plates rotated to reveal shiny metal separations between the wheels rather than the normal black separations. At a meeting on June 14, 1979, General Motors stated that this design had been altered so that the carrier plates would rotate to reveal distinctively colored separations between the wheels and so that the tear strip could not be easily removed during tampering and then replaced afterward. General Motors stated in its petition that this modified design would comply with the requirements of the irreversibility option as published in the March 22, 1979, response to petitions, and therefore the agency should rescind its opinion that the odometer would not comply with FMVSS 127. The agency has concluded that this odometer design would be tamper resistant although it does not completely meet the requirements of any of the compliance options presented in the March 22, 1979, rulemaking actions. Consequently, the agency has granted General Motors' petition as it relates to this issue by incorporating a third tamper resistance option in section 4.2.5.3 of the final rule which will specifically enable this type of odometer to comply with FMVSS 127.

Mr. Thomas D. Regan submitted a petition seeking modification of FMVSS 127 as published on March 22, 1979, and resubmitted comments and petitions previously submitted in response to earlier versions of FMVSS 127. Since these earlier comments and petitions were considered and discussed in prior rulemaking actions, that discussion will not be repeated here. In his most recent petition, Mr. Regan requested that the agency amend FMVSS 127 by: (1) making the odometer requirements specifically applicable to all new and replacement odometers; (2) replacing the word "reversible" where it occurs, with the term "resettable" or "changeable in the forward or reverse direction at a rate not faster than its normal recording rate"; (3) restricting reversal to 10 miles for all types of devices; (4) prohibiting removal of component parts for all types of devices; (5) specifying that compliance with the irreversibility option requires that odometers be constructed so that they are resistant to tampering by any of the listed operations or so that performance of any of these operations will leave telltale damage; (6) specifying that compliance with the irreversibility option requires that odometers be constructed in accord with point 5 above or that they be encapsulated such that any attempt to breach the encapsulation would be obvious to anyone viewing the odometer while it is installed in the vehicle; (7) eliminating the marking option or requiring installation of a marking device that cannot be moved or removed without leaving telltale signs; and (8) revising the test procedures so that all odometers must be tested for compliance by a tester who would attempt to rollback the odometer.

The agency has taken the following action on Mr. Regan's petition. Point 1 of the petition is denied because FMVSS 127 already applies to all odometers intended for use in passenger cars, multipurpose passenger vehicles, trucks, and buses. Point 2 of the petition is denied. The agency agrees that replacing the word "reversible" with the word "resettable" would improve the irreversiblity option in the final rule by making it specifically applicable to tampering accomplished both by turning the odometer wheels backward and by turning the wheels forward past zero. However, the agency is not including a specific requirement to this effect in today's final rule due to the lack of notice. Nonetheless, the agency urges manufacturers who choose the irreversibility option to voluntarily build odometers resistant to tampering accomplished by moving the odometer wheels either forward or backward. The agency will monitor efforts made in this area in determining whether a mandatory requirement should be proposed. Point 3 of the petition is denied with respect to odometers complying with the marking option since, as discussed earlier, addition of the requirement would not enhance the tamper resistance of marking type odometers. Point 3 of the petition is moot with respect to odometers built in compliance with other options in the final rule since allowable reversal of such odometers is already limited to 10 miles. Point 4 of the petition is denied because it would be extremely difficult to measure compliance with a standard which prohibits removal of component parts from odometers. In support of Point 5 of his petition, Mr. Regan stated that the irreversibility option was faulty because it does not result in odometers that are resistant to tampering by the five specified operations and that these operations do not leave telltale evidence. Point 5 of the petition is denied for two reasons. First, the irreversibility option is not intended to prevent completely any reversal accomplished by one of the five specified operations. The option states that an odometer that can be reversed only as a result of one of these operations complies since performance of any one or more of these operations will generally leave telltale damage. Second, although in some cases the resulting telltale evidence will be apparent only to the trained investigator, the agency believes that making the requirements more stringent at this time would unduly increase the difficulty and cost of compliance. For the same reason, Point 6 of the petition is also denied. Point 7 of the petition is aimed at preventing premeditated alteration of vehicle mileage, i.e., the adjusting of a vehicle's odometer prior to sale of the vehicle in order to prevent proper recording of mileage or proper operation of a marking device. The agency does not believe that this type of tampering will be a significant problem. It is especially unlikely that individual vehicle owners, who own most vehicles, will engage in this sort of activity. Therefore, Point 7 of the petition is denied. Finally, Point 8 of the petition is denied because the agency lacks the wherewithal to test all odometers and because the petitioner's proposed test procedures are insufficiently objective and are unworkable since they put no limit on the time or ingenuity of the compliance tester who tries to tamper with an odometer. The agency believes that the testing procedures included in today's final rule and discussed later in this preamble provide a far more workable procedure.

The National Conference on Weights and Measures, a group comprised of Federal and State officials, did not submit a petition for reconsideration but did make suggestions pertinent to the March 22, 1979, response to petitions for reconsideration. The Conference suggested that section S4.2.2 of FMVSS 127 published March 22, 1979, be made consistent with the National Bureau of Standards' Handbook 44, *Code for Odometers*, which requiries that odometers be capable of indicating distances in units of one-tenth of either a mile or of a kilometer. The Conference stated that this change would be desirable in order to promote uniformity of all requirements concerning odometers. Since most vehicles already meet the Conference's proposed requirement, the agency did not include it in any notice of proposed rulemaking. Further, the agency does not currently contemplate undertaking any rulemaking to establish it.

RESPONSE TO PETITIONS FOR RECONSIDERATION CONCERNING SPEEDOMETER PROVISIONS

In its petition, General Motors requested that the agency exempt not only passenger cars sold to a law enforcement agency for law enforcement purposes, but all police vehicles from the requirement that speedometers not indicate speeds over 85 mph and 140 km/h (S4.1.4 in the March 22, 1979, response to petitions). The company indicated that law enforcement agencies are buying a significant number of multipurpose passenger vehicles and trucks and that these vehicles may be driven at high speeds. Based on its familiarity with several jurisdictions, the agency agrees. General Motors concluded and this agency agrees further that a speedometer that does not register over 85 mph (140 km/h) could be a safety hazard for the drivers of these vehicles. This agency therefore grants this portion of General Motors' petition for reconsideration and has included language to effect this action in section S4.1.3 of today's final rule.

In its petition, General Motors also requested that test conditions applicable to speedometer accuracy tests (section S5.2, FMVSS 127 as published March 22, 1979) be modified. According to General Motors, the requirement that the test vehicle be equipped with "tires recommended by the manufacturer" should be modified by insertion of the following language following the word "recommended": "and installed as original equipment . . ." The company stated that it does not control the installation of tires owned by certain truck and bus purchasers and should not be held liable for the effects of these tires on speedometer accuracy.

This aspect of General Motors' petition was previously granted. The speedometer accuracy requirements were deleted from FMVSS 127 by a final rule published at 45 FR 6404, January 28, 1980. The petitions leading to the deletion of the speedometer accuracy requirements submitted by both General Motors and International Harvester stated that the accuracy of both speedometers and odometers is dependent upon the same factors and that these factors made full compliance with the accuracy requirements impossible. In responding to these petitions and deleting the speedometer accuracy requirements, the agency inadvertently omitted language to delete the odometer requirements. Since the rationale for deleting accuracy requirements whether applicable to speedometers or odometers is the same and has already been published in the Federal Register this notice deletes the odometer accuracy requirements (section S5 of the March 22, 1979, final rule) without further explanation.

FINAL ACTION ON THE NOTICE OF PROPOSED RULEMAKING

As previously described, the notice of proposed rulemaking published March 22, 1979, proposed requirements intended to deter tamperers from circumventing the marking and irreversibility provisions by using replacement parts and odometer assemblies. Other proposed requirements were intended to refine and improve the provisions of the irreversibility option. Each of the sections of the proposed amendments will be discussed in numerical order with reference made to the new section numbers of the final rule.

In the final rule being published today, section 4.2.4 (section 4.2.5 in the notice of proposed rulemaking) states that all odometers except motorcycle odometers must comply with one of the options set out in sections 4.2.5 or 4.2.6 (i.e., the irreversibility, encapsulation, reversal indicator, or marking options). Motorcycles have been excluded in response to comments which pointed out that motorcycles have a relatively short useful life (approximately 7,400-18,600 miles) and that buyers of used motorcycles rely more heavily on inspection of the vehicles than on odometer readings in ascertaining the condition of the vehicles.

Section 4.2.6.1(a) of the proposed rule would have required that odometers not be reversible when subjected to any of four specified tampering techniques. One commenter stated that section 4.2.6.1 should apply only to the wheel registering ten thousands of miles or kilometers (the 10,000 miles kilometers wheel) since this is the only wheel likely to be manipulated. Chrysler stated that only one type of odometer would comply with the requirements of S4.2.6 and that the section should be modified to reflect this. Such an odometer would be movable in the forward direction only when driven through the odometer gear train, it would not be removable from the speedometer/odometer assembly unless the material used to hold the rolls shaft were broken and it would have inseparable rolls.

The agency has decided not to limit the application of section S4.2.6.1 (renumbered as S4.2.5.1 in today's final rule) to the ten thousands wheel alone because this would result in an odometer which could be reset by forcing the pinions on lower distance wheels out of mesh and driving the ten thousands wheel backward through the gear train. The agency declines to incorporate Chrysler's proposed requirements into the standard because they would be too design restrictive and other odometer designs that meet the requirements of section S4.2.5.1 of the final rule have been demonstrated to the agency's engineering staff.

Two commenters generally questioned the effectiveness of section S4.2.6.1 in reducing the incidence of odometer tampering. Ford noted that if, for example, the breakable feature of an odometer were the drive teeth, a driver would not notice for as much as 9,000 miles that the ten thousands wheel was incapable of advancing and that his odometer had been subjected to tampering. The provisions being discussed here are designed to reduce the incidence of odometer tampering at a reasonable cost. Ford's example does not demonstrate that the standard is ineffective in reducing the incidence of odometer tampering. It demonstrates only that the standard, like other standards, may not be totally effective in all instances. In Ford's example, it is true that if a tamperer broke the drive teeth on the 10,000 miles wheel when the 1,000 miles wheel indicated 0 a driver might not notice that the 10,000 miles wheel was incapable of advancing until after having traveled 9,000 miles. However, there is equal probability that the 1,000 miles wheel would indicate some other number from 1 to 9 at the time that the tamperer broke the drive teeth of the 10,000 miles wheel. In such instances, the driver would notice the tampering sooner.

General Motors' comments suggested that the section fails, in several respects, to provide the objectivity and specificity required by the National Traffic and Motor Vehicle Safety Act. First, the company expressed concern that the section would require a manufacturer to foresee all possible methods of odometer tampering which might fall within the outlines of the methods described in proposed section S4.2.6.1. Second, the company argued that the proposed subsection S4.2.6.1 (b) would not compensate for this lack of specificity despite its provision that odometers need not be resistant to the tampering methods in proposed section S4.2.6.1(a) if use of those methods would result in specified types of breakage. According to the company, information concerning the details of the tampering method, the dexterity to be used in employing that method and the physical characteristics of the tampering tool is a prerequisite for determining whether certain types of breakage will result from a given tampering technique and for producing replicable compliance test results. Finally, the company added that this section "invites compliance contractors to resort to extreme measures to demonstrate noncompliance which might include specially tailored tampering procedures and combinations of tools and techniques." The result would be, according to General Motors, that "any successful combination, whether it was ever used to defeat an odometer in the field . . . would constitute noncompliance."

Although the agency does not agree with all of General Motors comments, it does agree that proposed section S4.2.6.1 should be changed. The agency has concluded that the most effective method for improving proposed section S4.2.6.1 (S4.2.5.1 of the final rule) and in resolving the issues raised by the comments is to indicate in section S5 of today's final rule the tools to be used during compliance testing.

The specified tools are similar to those mentioned in the proposal. The proposal suggested that a dental pick, an ice pick, a small screwdriver, or other similar instruments or a person's hands could be used to force odometer wheels out of mesh with the pinion gears. It also noted that the hands or other means (e.g., pliers) could be used to apply rotational pressure to odometer wheels. All of the tools mentioned in the preamble and specified in this notice are readily available and useful for grasping or prying. Since none of the commenters questioned the appropriateness of those tools or suggested the use of others, the agency has relied on these factors and on its knowledge of various odometer designs in specifying the tools to be used alone or in combination for each of the techniques in section S4.2.5.1(a) of the final rule in the event that the technique cannot be performed with the hands alone. The tools listed in section S5.1 of the final rule are of specified dimensions and include the two types of pliers; a pick, which will serve as surrogate for any thin pointed instrument such as a dental pick or ice pick; and a probe, which will serve as a surrogate for any screwdriver or other type of flat blade. As to permissible combinations of tools, S4.2.5.1(a) and S5.2 of the final rule indicate the tools to be used for each tampering method.

General Motors also suggested that proposed section S4.2.6.1 should specify the precise details of each tampering technique and the dexterity to be employed in practicing the technique. The agency believes that the odometer is such a simple mechanism that the different ways in which the hands and the specified tools can be used to perform each tampering method are relatively few and do not differ substantially.

One commenter stated that complete enclosure of the odometer counter mechanism appeared to be the best means of adding tamper resistance but that this would be quite costly. According to the commenter, this cost could be reduced if proposed section S4.2.6.1 (b) were amended to require that odometers be tamper resistant only when installed in the vehicle or upon removal of the entire instrument panel. In the commenter's view, this would permit use of such simple methods of ensuring tamper resistance or telltale breakage as riveting the speedometer/odometer assembly base plate to the instrument panel or connecting the speedometer/odometer assembly to the instrument panel with a lead seal, which would leave evidence of tampering if disturbed. The agency has not allowed the use of a lead seal because a tamperer could remove the seal, reset the odometer and then replace the seal without leaving any evidence. The agency has not permitted the riveting method because it would neither deter nor provide evidence of tampering accomplished while the speedometer/odometer assembly remained in the vehicle.

Under section 4.2.6.2(a) of the proposed rule, manufacturers could have elected to comply with FMVSS 127 by providing either (1) total encapsulation of each odometer or (2) partial encapsulation accompanied by secure fixing of the odometer shaft in the odometer assembly. Two commenters stated that the section should be modified to permit the protrusion beyond the encapsulation of functional components such as the drive gear or emissions control system maintenance reminder. The latter device, which may be a flag appearing on the odometer or any other type of visible or audible indicator, must be provided on vehicles whose emissions control systems require maintenance more frequently than every 50,000 miles of vehicle travel.

The agency agrees that the language of the section concerning partial encapsulation should be modified to indicate that the functional protrusions such as the drive gear or emissions control system maintenance reminder need not be encapsulated. This is because these devices as currently designed could not operate properly if encapsulated. If for example, the drive gear on a mechanical partially encapsulated odometer were encapsulated, it would not engage with the other gear that eventually connects it to the speedometer cable input. This change has been added in section 4.2.5.2(a) of the final rule published today.

One commenter stated that total encapsulation is unnecessary since tampering could be discouraged by encapsulating only those odometer wheels registering thousands or ten thousands of miles or kilometers. The commenter added that fixing the odometer shaft as required in section 4.2.6.2(a)(2) of the proposed rule (4.2.5.2(a)(2) of the final rule) is unnecessary since any tampering accomplished by reorienting or rotating the shaft would be obvious to the driver. The agency has concluded that an odometer constructed so that only the 10,000 or 1,000 miles/kilometers wheel were encapsulated would be too vulnerable to tampering. Accordingly, the agency has not modified the final rule to permit this type of partial encapsulation. The agency believes, too, that the requirement for fixing the odometer shaft is necessary to deter tamperers from simply snapping out the partially encapsulated odometer drum, sliding the drum out of the capsule, resetting it, replacing it in the capsule and reinstalling the encapsulated drum in the speedometer/odometer assembly.

Section 4.2.6.2(b) of the proposed rule, would have required that no part of an encapsulated odometer be "contactable by fingers or by any instrument unless it is necessary to deflect, penetrate, or fracture the encapsulation in order to make the contact." One commenter raised four different objections to proposed section 4.2.6.2.(b). First, that prevention of contact is unnecessary and unjustifiable if the contact cannot result in a rollback. Second, that compliance with the requirement is impossible because a thin instrument could be slipped through the clearance which must be provided in a partially encapsulated odometer between the end of the capsule and the drive gear so that the gear can turn. Third, that the designation of "any" instrument" is too subjective. Fourth, that deflection (i.e., bending) of an odometer capsule would produce no evidence of tampering. The agency agrees with these comments and has rewritten the section

(section 4.2.5.2.(b) of the final rule). It now specifies, with two exceptions, that odometer wheels indicating tens of miles/kilometers or larger units of distance shall not be contactable by a straight rod .5 mm or more in diameter. The first exception permits contact which occurs when the rod is inserted essentially parallel to the odometer shaft. This exception makes compliance easier and rests on the fact that it would be extremely difficult if not impossible to tamper with an odometer built in compliance with the encapsulation option by using a rod inserted parallel to the odometer shaft. The second exception permits contact if it is necessary to first penetrate or visibly damage the encapsulation or other odometer components in order to make that contact. The size of the rod is specified so that manufacturers will be aware of the smallest size rod that may be used in compliance testing.

In section 4.2.6.2.(c) of the proposed rule, the agency stated that the encapsulation requirements must be met without the speedometer face or the speedometer/odometer lens in place. The faces and lenses were excluded because of the agency's concern that the encapsulation requirement could be defeated if an easily removable lens or face were considered a part of the encapsulation. Commenters stated that this proposed requirement is design restrictive because it eliminates potential innovative designs which might, for example, make use of the face or lens as part of the encapsulation by using fastener techniques that make removal of the face difficult or leave visible evidence if removal is attempted. The agency believes that these comments are valid and has modified section 4.2.5.2.(c) of the final rule so that the face or lens will be considered part of the encapsulation so long as it cannot be removed by removal of fasteners such as screws which are easy to remove and do not leave evidence of removal.

In section 4.2.6.2(d) of the proposed rule, the agency proposed that material used for encapsulation have resistance to deflection, penetration and fracture equivalent to the resistance of a 2 mm thickness of Lucite in the configuration of the encapsulation. Commenters stated that a strength requirement should not be specified. They also stated that a strength requirement of 2 mm Lucite would be inappropriate since "Lucite" is a registered trade name, and ineffective since this material is not difficult to cut, drill or melt through a weaker material would provide evidence of tampering. They also noted that current odometers cannot accommodate such a thick plastic without substantial redesign and retooling. It was stated, however, that a thinner encapsulation material would necessitate less extensive redesign and retooling. One of the commenters also noted that use of material, weaker or more brittle than Lucite, would suffice since it would break easily and leave evidence. The commenter also suggested that the deflection resistance requirement should be deleted.

Although a brittle encapsulating material could provide evidence of tampering, the agency is concerned that use of an excessively brittle material would allow a tamperer to break the encapsulation, completely remove it and reverse the odometer without leaving any evidence. In cases where the encapsulation is not part of the speedometer face or speedometer/odometer lens, this result is particularly likely since a person looking at the odometer through such a face or lens would be unable to determine whether the odometer encapsulation had been removed. Consequently, the agency seeks to prevent the use of excessively brittle encapsulating material and believes that this can best be accomplished by specifying a strength requirement. The agency does agree, however, that a strength requirement should not be based on the properties of 2 mm Lucite due to the availability of similar thinner materials, which manufacturers could use without undertaking extensive redesign. Since the agency believes that the properties of hardness and impact resistance exhibited by 2 mm Lucite are desirable but that the specified thickness is troublesome, the strength requirement in the final rule has been modified to specify a thinner plastic with similar hardness and impact resistance as described in terms of standardized measuring units. Section 4.2.5.2(d) of the final rule specifies a plastic with an IZOD number of 1 ft.-lb./inch, a Rockwell number (this is not a trade name) of R-75 and a thickness of 1 mm with an allowance for thinning down to .5 mm provided that the thinned areas do not exceed 10 percent of the total area of the encapsulation. Localized thinning is permitted to allow manufacturers needed flexibility in fashioning the encapsulating material into an appropriate shape. The agency believes that, because of the reduction in required thickness of the encapsulating material, these requirements are slightly less stringent than the proposed requirement of 2 mm Lucite. Accordingly, these requirements have been incorporated into section 4.2.5.2(d) of the final rule. The agency has decided not to delete the requirement that the encapsulation be resistant to deflection because it believes that this requirement is needed to prevent tamperers from resetting certain types of odometers by simply bending the encapsulation.

In the notice of proposed rulemaking, the agency requested comments on whether it should specify strength requirements for the staking, crimping, welding, and adhesives specified in sections 4.2.6.1(b) and 4.2.6.2(a)(2) (sections 4.2.5.1 and 4.2.5.2 of the final rule). The purpose of these sections is primarily to make tampering more difficult and to ensure that when tampering does occur some physical evidence will remain behind. Comments received indicated that "attempts to specify strength would be cumbersome and would probably become inadvertently design restrictive." One commenter also indicated that a strength requirement would create "compliance concerns when in fact erring on the minimum strength would have no effect on safety or prevention of fraud." Another commenter stated that a strength requirement should be specified as part of an objective test procedure but that it could not suggest specific requirements. The commenter also asserted that the proposed requirements for staking, crimping, welding and adhesives are not performance oriented. In light of these comments and the purpose of sections 4.2.5.1 and 4.2.5.2 of the final rule, the agency has decided not to specify strength requirements for the staking, crimping, or welding for two reasons. First, it would be difficult to specify a strength requirement without resorting to a level of detail that would make compliance testing by both the manufacturer and this agency unduly costly and complex. Second, such a requirement might not increase the effectiveness of these sections since breakage of the staking, crimping, or welding during tampering would in most cases leave telltale evidence. However, with respect to adhesives the agency had added interpretive language to clarify the fact that the adhesives used should be appropriate, according to general practice, for the materials being joined. The agency believes that this language makes the sections more objective but does not increase the difficulty of compliance.

The bulk of the comments received in response to the notice of proposed rulemaking concerned section 4.2.9, which would require differentiation of replacement odometers and wheels. This discussion initially focuses on those comments concerning the potential effectiveness and cost of the differentiation requirements and then on comments concerning the actual content of those requirements.

Manufacturers, in general, opposed the requirement in section 4.2.9(a) that each replacement wheel for an odometer and each wheel on a replacement odometer be visibly different from each wheel on an original equipment odometer. They also opposed the requirements in section S4.2.9(b) that the 10,000 miles/kilometer wheel be visibly differentiated on all odometers. The commenters argued that the agency failed to substantiate its contentions that the differentiation requirements would enhance the protection of consumers from fraud, that the requirements are responsive to a safety need or that their economic impact on manufacturers and consumers would be negligible. Some commenters stated that the requirements would be ineffective because tamperers would be able to obtain original equipment odometer wheels and assemblies from junk and scrap dealers for use as replacement parts. Others stated that consumers would be unwilling to purchase vehicles containing replacement odometer wheels or assemblies because they would conclude that the odometers on such vehicles had been reset even if the replacement components were installed for a legitimate purpose. Consequently, a stigma would be attached to vehicles containing replacement odometer components and the resale value of such vehicles would decline.

Commenters, all of them manufacturers, also stated that the differentiation requirements would increase costs for both manufacturers and consumers. Section 113 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1402) requires any manufacturer who opposes safety rulemaking on the ground of increased cost to submit cost information in sufficient detail to permit the agency to properly evaluate the manufacturer's statement. In this instance, the manufacturers stated that the differentiation requirements would increase costs because they would necessitate use of two production lines, lower the production volume of each type of odometer and increase the need for inventory control and additional storage of replacement parts. However, these comments did not provide estimates of just how much these factors would increase costs, or other detailed information helpful to the agency in evaluating their validity. Thus, the agency does not consider the manufacturers' unsupported comments sufficient to justify deletion of the differentiation requirements. In the agency's view, the safety need for these requirements, as described below, outweighs the costs likely to be incurred.

The agency proposed the differentiation requirements as a logical extension of the other provisions of FMVSS 127 which are intended to result in construction of odometers that are difficult to tamper with and will show some telltale sign of tampering. The agency believes that once these provisions go into effect, tamperers are likely to respond by using complete replacement of odometers (i.e., the shaft bearing wheels marked with numerals) or replacement speedometer/odometer assemblies as their prime method of tampering. To combat this, the agency proposed requirements whose purpose is to reduce the supply of new replacement equipment suitable for use in tampering. The differentiation requirements were not aimed directly at reducing the availability of original equipment odometers and parts from junk and scrap dealers for two reasons. The first is the difficulty of devising an effective Federal regulatory scheme to accomplish this goal. The second and more important reason is based on this agency's expectation that tamperers would frequently opt to replace the entire speedometer/odometer assembly rather than the odometer alone, since this more limited replacement might well leave remaining telltale evidence or breakage. This means that a tamperer would not only have to find a speedometer/odometer assembly with the appropriate mileage but one manufactured specifically for the type of vehicle being subjected to tampering because no other assembly would be likely to fit correctly in the vehicle's dashboard. In this agency's view, the process of combing junk yards and scrap businesses for such a speedometer/odometer assembly would be time consuming, thus expensive and not nearly so cost effective to the tamperer as simply installing a new replacement assembly bearing the appropriate mileage. This conclusion is based in part on the fact that NHTSA investigators have observed a tampering operation in which new replacement speedometer/odometer assemblies were installed in vehicles. In addition, NHTSA investigators have discovered that new replacement speedometer/odometer assemblies, preset to the mileage desired by the purchaser, can be easily obtained for about $25 apiece.

The agency does not agree that some consumers will attach a stigma to vehicles containing replacement odometer parts or assemblies. Ford already distinguishes its replacement odometers by using a red wheel for indicating tenth's of a mile instead of the usual white one included in original equipment odometers and has not experienced a decrease in the resale value of its vehicles. In addition, the presence of replacement odometers or parts in a vehicle is expected to encourage consumers to ask questions about the mileage of such vehicles and to request that they be shown the seller's disclosure of mileage statement which is required by section 408 of the Motor Vehicle Information and Cost Savings Act.

The agency believes that once consumers become familiar with these statements any stigma which may be associated with the presence of a replacement odometer would be dissipated. It is true, of course, that the disclosure form can be falsified but, the machinery for dealing with this problem, which includes both civil penalties and criminal prosecution, is already in place pursuant to the Motor Vehicle Information and Cost Savings Act.

With respect to the specific requirements of proposed section 4.2.9, one commenter suggested that the section be modified to require differentiation of odometer assemblies alone, rather than both assemblies and wheels, since odometer parts such as odometer wheels are not generally supplied to the automotive industry for replacement parts. According to the commenters, malfunctioning odometers are generally replaced with a new odometer or speedometer/odometer assembly. Others stated, in comments also directed to section 4.2.9(b), that there is no incentive to tamper with an odometer by replacing its wheels unless it is built in accordance with the marking option.

The agency does not agree that the requirements for differentiation of replacement wheels should be totally eliminated from the final rule due to information indicating that some replacement odometer wheels are produced and sold to the automotive industry. Accordingly, section 4.2.7 of today's final rule requires that each numeral on the wheels of an original equipment odometer be colored with a color other than red and that all numerals on replacement odometer wheels be colored red. The agency further agrees that use of replacement wheels is likely to become the tampering method of choice only with respect to odometers built in accordance with the marking and irreversibility options. With respect to a marking type odometer, for example, it might well be much easier for a tamperer to simply replace the marked 10,000 miles/kilometers wheel than to obtain a marking type replacement odometer or speedometer/odometer assembly bearing the appropriate mileage reading. Similarly, with respect to an odometer built in compliance with the irreversibility option such that the 10,000 miles/kilometers wheel among other odometer components must be broken in order to reset the odometer, it might well be more cost effective for the tamperer to simply replace the broken or inoperative wheel. Accordingly, section 4.2.7 of today's final rule is intended to reduce the supply of original equipment odometer wheels which could be used during tampering. The section requires that the 10,000 miles/kilometers wheel on each odometer built in compliance with either the marking or irreversibility options be differentiated from all other wheels on that odometer.

Two commenters addressed the question of how the 10,000 miles/kilometers wheel should be differentiated. One suggested that manufacturers be permitted to make the 100,000 miles/kilometers wheel the same color as the 10,000 miles/kilometers wheel. The agency has not adopted this suggestion because it would dilute the effectiveness of section 4.2.9(b) by increasing the number of wheels that could be used by tamperers as replacement parts. The other commenter suggested that manufacturers be permitted to differentiate the 10,000 miles/kilometers wheel from the other odometer wheels by making it mechanically noninterchangeable instead of unique in appearance. The agency believes that this modification of the rule would serve as further disincentive to tamperers seeking to use replacement parts. Accordingly, the agency has incorporated this suggestion in section 4.2.7(a)(2) of the final rule published today.

The notice of proposed rulemaking requested comments on what method should be used to differentiate replacement odometers and wheels from original equipment and stated the agency's initial preference for use of a particular color. Many of the comments suggested that manufacturers should be permitted to decide what method of differentiation to use and some noted that the development of different systems by different manufacturers would make circumvention more difficult. It was also suggested that standardization would lead to minor compliance problems on items like color value. Other commenters favored standardization because it would make it easier for potential vehicle purchasers to determine whether the odometer in a particular vehicle had been replaced.

The agency agrees with this last point and has also concluded that standardization will enhance the ability of investigators to detect instances of odometer tampering. It appears that the development of different systems by different manufacturers would make this task more difficult. Accordingly, today's rule specifies in section S 4.2.7 that all replacement odometers must have numerals that are the color red on all wheels.

To make this requirement as workable as possible, today's rule incorporates by reference the color tolerances established by the U.S. Department of Transportation, Research and Special Programs Administration, at 49 CFR § 172.407(d), for use in determining compliance with its labeling requirements for hazardous materials. This agency believes that use of this system of color tolerances will simplify compliance with today's rule in that it includes a set of color charts which show, for example, all of the various shades and tones of red that may be used. Use of these charts will enable both manufacturers and enforcement officials to check compliance with the standard by simple visual inspection and will preclude the need for sophisticated light measuring equipment.

The notice of proposed rulemaking also stated the agency's expectation that manufacturers will use their owners' manuals to inform consumers of the significance of the visible differentiation of replacement odometer equipment. In addition, the agency urges those manufacturers who do not provide owners' manuals to provide this information in some other written form that accompanies the vehicle when it is sold.

The agency has considered the economic impact of this final rule and determined that it is not significant within the meaning of Executive Order 12044 and the Department of Transportation's policies and procedures for implementing that order. The agency has determined further that the impact is so minor as not to require preparation of a written evaluation of it. The only new requirement imposed by this rule is the differentiation of original and replacement odometers and wheels. Compliance can be achieved simply and inexpensively by using a different colored ink. The agency believes that the remainder of the final rule published today clarifies and reorganizes the requirements previously included in the March 22, 1979, response to petitions and expands the range of compliance options that are open to manufacturers. Thus, the final rule imposes no new costs upon manufacturers and seeks to lessen the difficulties of compliance to the extent consistent with the goal of reducing the incidence of odometer tampering.

In consideration of the foregoing, 49 CFR 571.127 is amended in the manner set forth below. 49 CFR 571.127 is reprinted below in its entirety in order to set forth all amendments that have been made to the standard since its publication on July 27, 1978 (43 FR 32421). These amendments include deletion of the speedometer accuracy requirements previously included in section S 4.1.3 (45 FR 6404, January 28, 1980) and appropriate renumbering.

The lawyer and program official principally responsible for this rule are Debra Weiner and George L. Parker, respectively.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on June 9, 1980.

JOAN CLAYBROOK,
Administrator.

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49 CFR 571.127 is revised in the heading and text to read as follows:

§ 571.127 Standard No. 127, Speedometers and odometers. (Effective September 1, 1981.)

S1. *Scope.* This standard establishes requirements for the installation of speedometers and odometers in motor vehicles, limits the speed which can be indicated on a speedometer, and requires that odometers be tamper-resistant.

S2. *Purpose.* The purpose of this standard is to insure that each motor vehicle is equipped with instruments needed for monitoring driving speeds, maintaining proper vehicle maintenance schedules, and providing an indication of the vehicle's probable condition.

S3. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, motorcycles and buses, and to speedometers and odometers for use in vehicles to which this standard applies. Motor driven cycles whose maximum attainable speed in one mile is 30 mph or less are excluded.

S4. *Requirements.*

S4.1 *Speedometer.*

S4.1.1 Each motor vehicle shall have a speedometer that meets the requirements of S4.1.2 through S4.1.4 of this section.

S4.1.2 Each speedometer shall be graduated in miles per hour and kilometers per hour.

S4.1.3. No speedometer shall have graduations or numerical values for speeds greater than 140 km/h and 85 mph and shall not otherwise indicate such speeds. This paragraph does not apply to a speedometer designed for use in or installed in a vehicle sold to a law enforcement agency for law enforcement purposes.

S4.1.4 Each speedometer shall include the numeral "55" in the mph scale. Each speedometer, other than an electronic digital speedometer, shall highlight the number "55" or otherwise highlight the point at which the indicated vehicle speed equals 55 mph.

S4.2 *Odometer.*

S.4.2.1 Each motor vehicle with a gross vehicle weight rating (GVWR) of 16,000 pounds or less shall have an odometer that meets the requirements of S4.2.2 through S4.2.6 of this secton.

S4.2.2 Each odometer shall be capable of indicating distance traveled either, at the manufacturer's option, (1) from 0 to not less than 99,999 miles in 1-mile units, or (2) from 0 to not less than 99,999 kilometers in 1-kilometer units, or (3) both.

S4.2.3. As installed in the vehicle for which it is designed, each odometer, other than a motorcycle odometer, shall clearly indicate to the vehicle driver by a sixth wheel or digit, registering whole miles or kilometers, or by a permanent means such as inking, when the number of whole miles or whole kilometers, as appropriate, has exceeded either, at the manufacturer's option, 89,999 or 99,999.

S4.2.4 Each odometer, other than a motorcycle odometer, shall comply with, at the manufacturer's option, either S4.2.5 or S4.2.6.

S4.2.5 Each odometer manufactured in accordance with this section shall meet the requirements of S4.2.5.1, S4.2.5.2 or S4.2.5.3. Each odometer manufactured in accordance with S4.2.5.1 or S4.2.5.2 shall not be reversible beyond a maximum distance of 10 miles or kilometers when driven through the odometer gear train or when driven by manipulation of devices such as the drive gear or omissions control system maintenance reminder, which protrude beyond the encapsulation of an odometer manufactured in accordance with S4.2.5.2(a)(2).

S4.2.5.1(a) Except as provided in paragraph (b) of this section and in S4.2.5, each odometer shall not be reversible whether installed in or removed from the vehicle, by any of the following means:

(1) Manually forcing the odometer wheels to override the interference of the pinion gears through use, alone or in combination, of the hands, or the pliers or pick specified in S5.1;

(2) Manually forcing the odometer wheels apart or out of mesh with the pinion gears through use, alone or in combination, of the hands, or the pliers or probe specified in S5.1;

(3) Manually rotating the pinion gear carrier plates through use, alone or in combination, of the hands or the pliers specified in S5.1;

(4) Manually disassembling the odometer, adjusting the distance reading, and reassembling the odometer through use, alone or in combination, of the hands or any of the tools specified in S5.1.

(b) Each odometer may be reversible by one or more means specified in paragraph (a) of this section if one or more of the following operations must be performed in order to reverse the odometer by any of those means:

(1) Breaking one or more rigid or semi-rigid parts of the odometer so that its recording of distance is impaired;

(2) Breaking one or more rigid or semi-rigid parts of the odometer so that, when the odometer is installed in the vehicle, the breakage is visible to a person occupying the driver's seating position;

(3) Breaking or otherwise defeating the staking, crimping, welding or adhesive appropriate for the materials being joined, used to hold the odometer shaft in the speedometer/odometer assembly; or

(4) Breaking or otherwise defeating the staking, crimping, welding or adhesive appropriate for the materials being joined, used to secure the retainers that prevent the odometer wheels from moving along the shaft.

(c) Local cosmetic damage to the odometer caused by the teeth of the pliers specified in S5.1 and chips, less than 3mm^2 in area, caused by the probe specified in S5.1 do not constitute breakage for purposes of paragraph (b) of this section.

S4.2.5.2 Each odometer manufactured in accordance with this section shall meet the requirements in paragraph (a)–(d) of this section.

(a)(1) The odometer or speedometer/odometer assembly shall be totally encapsulated; or

(2) The odometer shaft shall be held in the speedometer/odometer assembly by staking, crimping, welding or adhesive, appropriate for the materials being joined, and all of the odometer shall be encapsulated except for functional protrusions, such as the drive gear or the emissions control system maintenance reminder, located at the ends of the odometer shaft.

(b) The odometer wheels indicating tens of miles or kilometers and larger units of distance shall not be contactable by a straight rod .5 mm or more in diameter unless such contact results when the rod is inserted essentially parallel to the odometer shaft or unless it is necessary either to penetrate the encapsulation or to damage the encapsulation or other odometer components to make that contact. This requirement applies both when the speedometer/odometer assembly, including all parts of the encapsulation, is installed in and when it is taken out of a vehicle.

(c) The requirements in paragraphs (a) and (b) of this section shall be met without the speedometer face or the speedometer/odometer lens in place, unless the speedometer face or speedometer/odometer lens forms part of the encapsulation, and cannot be removed by removing screws or other types of fasteners which can be removed and replaced without leaving any evidence of removal visible to a person occupying the driver's seating position.

(d) The material used for encapsulation under paragraph (a) of this section shall have:

(1) a thickness of 1 mm but it may have a minimum thickness of .5 mm in localized areas provided that the total area of the encapsulation having a thickness less than 1 mm does not exceed 10 percent; and

(2) resistance to deflection, penetration and fracture that is not less than the resistance of a piece of plastic having a hardness of Rockwell R–75 when tested in accordance with American Society for Testing and Materials (ASTM) D785–65. Test for Rockwell Hardness of Plastics and Electrical Insulating Materials, and an Izod impact resistance of 1 ft.-lb./inch when tested in accordance with ASTM D256–78. Test for Impact Resistance of Plastics and Electrical Insulating Materials.

S4.2.5.3(a) Upon the forcible reversal of any wheel or wheels for registering ten or hundred thousands of miles or kilometers, each odometer, whether installed in or removed from the vehicle, shall provide an indication of that reversal.

(b) The indication required by subsection (a) of this section shall be visible to a person occupying the driver's seating position.

(c) The shaft of each odometer shall be attached in the speedometer/odometer assembly by staking, crimping, welding or adhesive appropriate for the materials being joined.

(d) When installed in the speedometer/odometer assembly, the mechanism which controls the odometer reversal indicator shall not be contactable by a straight rod .5 mm in diameter inserted parallel to a line perpendicular to the odometer shaft. If such a rod is inserted parallel to the odometer shaft through any openings in the speedometer/odometer assembly, the rod shall be at least 3 mm away from the mechanism which controls the odometer reversal indicator. This requirement applies both when the speedometer/odometer assembly, including all parts of the reversal indicator, is installed in and when it is taken out of a vehicle.

S4.2.6

S4.2.6.1(a) Each mechanical odometer shall score, indelibly ink, or otherwise mark by permanent means each numeral on the wheel registering ten thousands of miles or kilometers within 500 miles or kilometers, as appropriate, after that numeral disappears from the driver's view.

(b) The mark required by paragraph (a) of this section, without further marking, shall be visible to a person occupying the driver's seating position if the ten thousands wheel is rotated so that the marked numeral reappears in the driver's view. The mark shall be located on each numeral or on the center 1/9 of the total area on the wheel for each numeral. The total area for a numeral is determined by orienting the odometer so that its shaft is horizontal and measuring that portion of the wheel that is bounded by horizontal lines midway between that numeral and the numerals immediately preceding and following it. The center 1/9 of that total area is determined by trisecting the area first with horizontal lines and then with vertical lines.

S4.2.6.2 Each electronic digital odometer, whose reading appearing in the position for registering tens of thousands of miles or kilometers has been reduced, shall visibly indicate to a person occupying the driver's seating position that such a reduction has occurred.

S4.2.7(a)(1) Each numeral on a wheel of an original equipment odometer shall be colored with a color other than red.

(2) Each 10,000 miles/kilometers wheel which either is on an original equipment odometer manufactured in accordance with S4.2.5.1 or is on an original equipment odometer manufactured in accordance with S4.2.6.1 shall be visibly different from or mechanically noninterchangeable with all other wheels on the odometer.

(b) Except for numerals on a replacement wheel registering tenths of a mile or kilometer, each numeral on a replacement wheel for an odometer and each numeral on a wheel of a replacement odometer shall be colored red.

(c) For purposes of this section, the color red on an odometer wheel, upon visual examination, must fall within the color tolerances established for that color by Title 49 Code of Federal Regulations Section 172.407(d).

S5 *Test procedures.*

S5.1 The tools used in determining compliance with S4.2.5.1 are:

(a) one slip joint pliers with jaws 25.4 mm or less in length.

(b) one chain nose pliers with a nose length of 45 mm or less,

(c) one hardened steel probe that is 5 mm wide, is tapered uniformly from a thickness

of 0.1 mm at its tip to a thickness of 0.5 mm at a distance of 5 mm from its tip and tapered uniformly from the latter point to a thickness of 1 mm at a distance of 25 mm from its tip, and is attached to a rigid handle, and

(d) one round hardened steel pick not less than 80 mm in length with a sharp tip that tapers uniformly from a diameter of 0.1 mm at its tip to a diameter of 4 mm at a distance of 40 mm from its tip and that has a uniform diameter of 4 mm from the latter point to its end, and is attached to a rigid handle.

S5.2 In determining compliance with S4. 2.5.1, the pick and pliers specified in S5.1 (a), (b) and (d) are used to turn the odometer wheels and the probe specified in S5.1(c) is used to separate the wheels, in cases where use of the hands alone is insufficient to achieve these results.

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Mr. HAYAKAWA. Mr. President, the first rule was published by NHTSA, and defines the powers of NHTSA. Not only does this rule establish, by regulation, the regulatory powers of the agency, it does so in two documents, which are separated in time of publication by 3 years. I find this kind of action totally unnecessary, and irresponsible on the part of NHTSA.

The other rule is merely a waste of time and effort. In 10 pages of small type in the Federal Register NHTSA has determined that the dials of odometers must be changed. I question the importance of this rule as a matter of traffic safety, and I commend the Agency to spend its time in a more useful manner. Maybe they should resign.

The last concern I will bring to the attention of this body is the poor performance report NHTSA received from the Comptroller General. I would advise all my colleagues to carefully read this document, if they have not done so already. I am sure that those who have read it will agree with me that NHTSA must go.

I ask for the adoption of the amendment, and call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Mr. President, I must rise in opposition to this proposed amendment. I serve as a member of the Commerce Committee and on the Subcommittee of Consumer Affairs which has oversight responsibilities with respect to this small Government Agency.

First, I wish to direct a question to my distinguished colleague from California. I have listened very attentively to his supporting argument. My question is, is there anything that this Agency is doing right today in his judgment?

Mr. HAYAKAWA. I must say I cannot think of anything.

Mr. WARNER. So if I understand the amendment it is to abolish in its entirety the entire Agency?

Mr. HAYAKAWA. That is right.

As the Senator knows, we won our elections on the promise to abolish agencies that are not necessary.

Mr. WARNER. I assure my distinguished colleague from California that this is rather painful for the Senator from Virginia to suggest that we continue on with this Agency from the standpoint of my overall objective to try to limit the growth of Government. But the Senator's amendment clearly implies there is not one single thing of value being done by this Agency today, and there is no basis for compromise.

Mr. HAYAKAWA. If the distinguished Senator from Virginia will produce evidence of utility and value of some of their regulations I shall be prepared to compromise, but I have had none presented to me.

Mr. WARNER. During the 2 years in which I have had the responsibility to participate in the oversight responsibilities, many actions of this Agency have come to my attention and I endorse them. While I do not agree with all of the proposals and steps, in my judgment the Agency does perform a very valuable function for the citizens of our United States and since there is no basis on which there is any compromise with the distinguished Senator from California I will have to oppose the amendment. Were he to select one program or two programs and convince me that they were ineffective and not worthy of the taxpayers' dollars, then I would be receptive perhaps to some curtailment, but just a complete eradication of a Government agency to me is an improper approach to the solution to the problem.

I am willing to assure the Senator from California that if he would reconsider his amendment, be willing to withdraw it, I personally would bring up at the forthcoming oversight hearing any issue he wishes to be raised and in that manner try and effectively through the exercise of our oversight responsibility require this Agency to conform to the legislative purpose for which it was established.

Mr. HAYAKAWA. I thank the distinguished Senator from Virgina for his comments and his objections which are rational ones.

As I have already indicated, I am ready to compromise this on being given evidence of the usefulness of the regulations promulgated by this Agency. Perhaps it takes more research on my part and more reading. He will help me in it, I trust, so that I can find out.

But to my knowledge up to this point the Agency has been nothing but a headache to manufacturers, raising costs of American cars to the great benefit of Japanese and German cars, and imposing upon us a kind of a Big Brother attitude of Government toward citizens. That kind of paternalism is something I profoundly resent.

Mr. President, I think that the Senator from Virginia and I have much more to discuss on this matter. So I shall withdraw my amendment at this time, giving notice that this is my point of view at present and it can be modified provided what I may learn from the Senator from Virginia. But I shall look forward to his cooperation in working out some reins upon the power of NHTSA.

Mr. WARNER. Mr. President, by way of clarification I am not able at this late hour to bring forth a documentation to support every possible program. I know from personal experience, particularly in the area of highway safety, that I do have confidence in the objectives of this agency and the personnel with respect to their actions on behalf of this particular area of responsibility.

Do I understand the Senator's representation to withdraw is based on my representation that I personally in the forthcoming oversight hearings will be willing to take up any matter which the Senator wishes addressed, or are we going to try to resolve it here in an hour and go back to the same amendment?

Mr. HAYAKAWA. No, we are not going to try to resolve it here in an hour. Let us resolve it over time because it requires more study on my part perhaps, as well as on the part of the Senator from Virginia and his committee. So I am perfectly content that we not resolve it now.

Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The yeas and nays were ordered on the amendment. The yeas and nays would have to be vitiated.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that the request for the yeas and nays be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is withdrawn.

Mr. WARNER. Mr. President, I thank my distinguished colleague from California for the very responsible way in which he has withdrawn this amendment and I give him my personal assurance that in the coming year of the Senate I will work with him and that I will represent his viewpoints at the forthcoming oversight hearings. While I do not have the authority, I am certain that Chairman Ford of the subcommittee, assuming that he is the chairman in the next Congress, will more than likely be pleased to have the Senator from California participate actively in the oversight hearing.

Mr. HAYAKAWA. I thank the distinguished Senator from Virginia and look forward to working with him.

UP AMENDMENT NO. 1602

Mr. PROXMIRE. Mr. President, earlier today the distinguished occupant of the Chair, the Senator from Massachusetts, offered an amendment on cooperative automotive research, it is my understanding, and that amendment was subject to compromise, and I understand that when it was submitted there was an order of provisos to be changed.

Mr. President, I ask unanimous consent that the second proviso, and it is clearly marked in the written copy of the amendment I have, be treated as the first proviso and the first proviso be treated as the second proviso.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will receive the revised provisos.

BICYCLE SPENDING

Mr. CHAFEE. Mr. President, I wish to express my regrets that this legislation fails to contain funds for the section 141 program encouraging bicycle transportation.

I believe that the demand for an effective bicycle program in this country is strong. There is a need to make roadway improvements—from separate paths to improve road shoulders and wider curb lanes—in order to provide a greater degree of safety for cyclists.

When an individual cycles to work, both the individual and the Nation benefit. The individual benefits with better health and in less expenditures for travel to work. The Nation benefits with less air pollution, less energy use, and less auto traffic, which means more congestion-free roads, allowing those who must drive to work to travel at a more convenient speed. It also lessens the demand for new roads and road maintenance.

Thus a few million dollars spent to encourage bicycling could save tens of millions of dollars in investment in other transportation modes.

I recognize that the committee does not see a need to appropriate new funds at this time due to the tardiness which the Department of Transportation has acted to obligate funds already available. Grant regulations were not published until last May, so, of course, the money has not been fully spent.

But the demand is there. State and local governments made over 500 project requests, totaling some $40 million, for these limited section 141 program funds. That clearly indicates to me that a strong need exists for this program.

I urge that the Department of Transportation move rapidly to obligate and expend that $4 million in fiscal year 1980 moneys. I would hope that once this occurs, that the administration and the Appropriations Committees will consider an appropriation for this very important section 141 program. It is a small program, but it will prove to be a significant investment.

I would make one further point regarding the increasing demand for bicycle transportation facilities. One of the impediments to commuter bicycling has been the unwillingness of both the public and private sectors to provide adequate and safe bicycle parking facilities for their employees. S. 2080, which the Senate passed earlier this year, mandates that the General Services Administration provide safe bicycle parking facilities at all Federal buildings. Once that occurs, we should confront even greater demand for safe bicycle routes. This is why this section 141 program is so essential.

TRUCK SAFETY

● Mr. SCHWEIKER. Mr. President, earlier this year Pennsylvania, in an attempt to insure greater safety on the State's highways, instituted a requirement that commercial vehicles in excess of 17,000 pounds display a valid vehicle inspection certificate. The requirement applies across the board—to trucks registered in Pennsylvania and trucks registered in other States.

Section 316 of H.R. 7831, the transportation appropriations bill, eliminates Federal funding "used to assist, directly or indirectly, any State in imposing mandatory State inspection fees or sticker requirements on vehicles which are lawfully registered in another State." Section 316, in effect, would prohibit Pennsylvania from implementing its new safety law.

The Pennsylvania inspection requirement has been challenged in the courts, and I will not comment on the validity of the statute itself. I would like to clarify the provisions of the Pennsylvania requirement, however, and express concern about the committee's action in restricting State motor safety efforts in section 316 of this bill.

Current Pennsylvania law simply requires that commercial motor vehicles in excess of 17,000 pounds display a valid inspection certificate from Pennsylvania, its State of registration, or any other State. The law does not impose Pennsylvania safety standards on inspected motor vehicles, since a trucker displaying a valid inspection certificate from any State is in compliance with Pennsylvania law. The law is not calculated to impose additional delays on motor vehicles crossing Pennsylvania, since enforcement is contemplated utilizing normal truck weight checks and standard speed and safety enforcement. And the law is not intended as a State revenue-raising measure, since the maximum fine for noncompliance is a modest $25.00.

Section 316 of this bill, by restricting States abilities to insure the safe operation of out-of-State vehicles traversing their highways, raises serious questions about the appropriateness of Federal limitations on State highway safety efforts.

I understand the committee's concern over unnecessary restrictions States may impose on interstate commerce. I am equally concerned, however, about the situation facing States which believe in the efficacy of vehicle inspections as a method of improving highway safety. Under section 316, States like Pennsylvania are forced to permit 80,000-pound uninspected vehicles on their roads.

The committee's bill does require that trucks be in compliance with Federal motor carrier safety regulations. I would like to remind my colleagues, though, that these regulations are being "flagrantly ignored," according to Commerce Committee report language accompanying the Truck Safety Act adopted by this body in February by a vote of 69 to 16.

I am hopeful that the conference on H.R. 7831 will provide an opportunity to modify section 316 to attempt to accommodate the legitimate highway safety interests of States like Pennsylvania. The House version of this bill does not contain restrictive language affecting interstate commercial motor vehicles and I am hopeful we can work together to reach a reasonable balance between the need for ease in interstate commerce and highway safety.●

RAILROAD REHABILITATION FUNDING

● Mr. DOLE. Mr. President, I am worried that this transportation appropriation bill includes only $100 million for the Federal Railroad Administration's railroad rehabilitation program. The administration had requested $250 million, and is likely to request an additional $200 million later this year. Over the course of the next year, $100 million simply will not do the job.

More distressingly, the House version of the DOT appropriations bill contains no funding for railroad rehabilitation.

The needs during the coming year will be great. Up to one-half of the Rock Island's system's 10,000 miles of track are likely to need assistance. The Midwest has other railroads in serious financial shape. In my State alone, several hundred miles of Rock Island track across northern Kansas are going to require massive rebuilding that can only be accomplished through this program. Costs have skyrocketed at the same time. The rehabilitation of main line track can run as high as $400,000 per mile.

This fall we will begin to get a better picture of our rehabilitation needs as disposition of the Rock Island proceeds. Moneys will be needed as the construction season begins next spring. We cannot do without this money.

I would hope that the conferees on the transportation appropriation bill would hold steadfast in support of at least the $100 million in the Senate bill for railroad rehabilitation. We cannot afford to compromise downward simply because the House failed to include any funding whatsoever for such a crucial program.

I would also hope that the appropriations committee will be open to a supplemental appropriations bill in the coming months. As we define our needs this fall and anticipate construction next spring, the need for additional funds is sure to become obvious. This should be a priority, even as we cut back on Federal spending. An efficient rail system can save energy and money in the long run. When that need is apparent, I urge the committee to act.●

● Mr. McCLURE. Mr. President, I can assure the Senator from Kansas we would not have adopted the level of funding we did without intending to support it in conference. The House failed to include rail rehabilitation moneys simply because the request was received too late for consideration. I am confident that the House will see the merits of rail rehabilitation in fiscal 1981.

I would also point out that the committee report includes language indicating the committee's willingness to consider supplemental appropriations during the coming year as rehabilitation applications are filed. The committee is aware of the seasonal nature of this rebuilding and the importance of providing funds next spring should present trends continue.●

THE PIONEER RURAL TRANSPORTATION SURVEY

● Mr. DURENBERGER. Mr. President, the American farmers' success in producing record grain harvests is unmatched anywhere in the world. Unfortunately, that success has been accompanied by a growing realization that our rural transportation system lacks the capacity to move these harvests to national and international markets in a timely, cost-efficient manner.

The Pioneer Hybrid International Corp. recently conducted a remarkable survey on the impact of these transportation problems in the 16 major grain-producing States. The project involved three steps:

First. A poll of farmers and grain elevator managers to determine how they are being affected by the grain transportation situation, and how they believe the problem should be addressed.

Second. Selection of an advisory panel of farmers and transportation specialists to suggest options for addressing the problems—in light of the farmers' and elevator managers' opinions and the realities of economics, transportation, and politics.

Third. Wide distribution of the options developed by the advisory panel to farmers and others who have an interest in efficient grain transportation.

The scope of the survey was remarkable—over 35,000 farmers and 2,000 elevator managers responded. The information compiled from those responses represents a base of data that should play an essential role in guiding the rural transportation policies of the future. Every legislator, every farmer, and every other person involved in planning those policies should take the time to read this study and reflect on its results. So that the Members of this body will have an opportunity to review those results, I submit for the RECORD a summary of the results and the policy options suggested.

The material follows:

COUNTY ROADS AND BRIDGES: A GROWING PROBLEM WITH NO SIMPLE ANSWERS

34 Percent of Farmers Say Roads and Bridges a Problem in Moving Grain and Farm Equipment.

For some farmers, grain transportation problems begin when they leave their driveways and head for the local elevator.

About one third of those replying to the Pioneer poll said deterioration of county roads and bridges is a current problem. Another 17 percent said they expect them to become a problem in 3 to 5 years.

A look at the farm equipment used to grow, harvest and haul crops to market tells you that county roads and bridges are going to be under increasing strains. Narrow bridges restrict movements of wider farm machinery unless railings can be removed. More and more farmers are buying tandem axle trucks. Grain wagons designed for pulling in tandem with 4-wheel drive farm tractors have reached a capacity of 600 bushels, a gross weight of 80,000 or more pounds for a pair of these trailers. A system built for half-ton trucks can't cope with these weights; bridges are the weakest link.

All of this is happening because of the fuel efficiency that is possible through moving larger loads. Labor savings are also important. And the farther grain moves by truck—whether it's in a farmer's truck to an elevator or from an elevator to a unit train loader or a barge terminal—the bigger those economies become.

So we have two forces moving toward one point, and that point is the strain on county roads and bridges. Loads are getting wider and heavier; the dollars spent for road and bridge maintenance or replacement buy less each year.

PROBLEM MOST SERIOUS IN SEVEN STATES

Concern over county roads and bridges varies greatly by state. When asked "Is the deterioration of county roads and bridges a problem affecting your area, insofar as moving farm machinery or hauling grain from the fields or to the elevator," state-by-state response ranged from 19% to as high as 61%. In seven of the 16 states polled, roads and bridges are already an important problem, according to farmers.

The wide range of opinions among states indicates the problem can probably best be dealt with on a state or local basis, the Advisory Panel feels. Whatever the source of funds, Panel members agreed that control over spending should be in local hands. Not only would priorities fit local needs better, but considerably more work could be accomplished for a given number of dollars.

[In percent]

	Roads and bridges already a problem	Not a problem now, but likely to be in 3 to 5 yr	Total
16-State average	34	17	51
Oklahoma	61	22	83
Missouri	59	19	78
Indiana	54	15	69
Illinois	50	19	69
Ohio	50	19	69
Kansas	48	18	66
Michigan	46	14	60

ACTIONS FAVORED BY FARMERS

While the seriousness of the problem seen by farmers varies greatly from state to state, the philosophy of what to do is fairly simple across the 16 poll states.

Nearly one-third (31 percent) were willing to try to live with the present system. This would require reducing weight limits on certain roads. Forty-two percent disagreed with this approach, with 27 percent being not sure or unwilling to answer the question.

Not surprisingly, the idea of "pruning" the county road system—upgrading certain key roads and dropping others from the system—was one of the least preferred solutions. Only 18 percent preferred this route, with 50 percent opposing it. Twenty percent were not sure.

There were four other choices, each aimed at getting more money for the county road system. They are listed on page five, followed by the percent agreeing, disagreeing, and not being sure/having no opinion. The three figures do not add up to 100 because there were some who did not answer certain questions.

[In percent]

	Agree	Disagree	Not sure
Additional Federal funds should be earmarked for repair and/or upgrading of bridges and county roads	57	18	14
Change allocation formula to take State funds from primary road system and apply them to county system	51	16	21
Reduce or eliminate agricultural motor fuel tax exemption, earmarking the added revenues for county roads and bridges	22	54	14
Levy a county tax on all real estate to bring the entire system up to needed standards	12	58	18

ADVISORY PANEL CONCLUSIONS

Based on these results, farmers obviously—and understandably—would prefer federal or state funds for upgrading county roads and bridges. In some states, like North Carolina, Virginia, West Virginia and Delaware, the state has taken over the maintenance and rehabilitation of the county road system.

But the Advisory Panel saw little chance of this being feasible. Federal and state road-building funds are also in a two-way squeeze: Higher prices of fuel are putting emphasis on more fuel-efficient cars and trucks and also reducing miles driven. Result: Fewer gallons of fuel on which taxes can be collected.

Highway building and maintenance costs have risen even faster than the general level of prices. With this kind of pressure on federal and state highway funds, the chances of getting more money for county roads and bridges seem slim.

That leaves two less-than-popular courses from which to choose: (1) Settling for less roads—fewer miles and perhaps less maintenance or (2) paying more in taxes. It's possible that you'll have to put up with both of these possibilities—paying more taxes and still having fewer miles of quality roads.

PRUNING COUNTY SYSTEM NOT POPULAR, BUT . . .

The farmer members of the panel wrestled with these alternatives. While slimming down the road system is a bitter pill, it may be impossible to avoid. The reasoning in favor of pruning includes:

1. Pruning would bring land now in roads back into production.
2. Field sizes and shapes could be laid out more efficiently. (Some of this has already taken place where Interstate highways have cut county roads.)
3. The level of maintenance on remaining roads could be maintained or improved.
4. Assuming that increased road and bridge costs are going to fall heavily on farmers, trimming the overall system could keep the farm tax burden from rising further.

Disadvantages of reducing the system include:

1. Travel distance to fields and trade centers could be increased.
2. Drainage patterns might be disrupted by putting roads back into farmland.
3. Some farms will be affected little, or could even benefit if they are located on roads marked for upgrading, while others will suffer inconvenience.

Who should pay for rural roads and bridges? As the recent downturn in the farm economy has once again proved, agriculture is basic to the economy. It therefore seemed reasonable to the Advisory Panel that the costs of maintaining the system of county roads and bridges ought to be shared by as many taxpayers as possible. Thus, a county level earmarked for this purpose—even though this was the least palatable choice among farmers polled—is more equitable than removing the motor fuel tax exemption.

SUMMARY OF OPTIONS

1. With the reduction in number of farmsteads, it appears that removing some roads from the county system should be feasible in order to properly maintain the remaining part of the system.

2. Those whose livelihoods depend upon doing business with farmers should share costs of maintaining an efficient system of county roads.

3. Reduction of weight limits in an effort to hang on to the current system is not a workable long-range solution.

4. Local control over the setting of priorities and supervision of work should be maintained, regardless of the source of funds.

ELEVATOR MANAGERS NOT AS AWARE OF COUNTY ROAD PROBLEM

Similar questions asked of grain elevator managers in the 16 poll states show they are not as aware of the road and bridge problem as are farmers. This is probably due to elevators being located on or close to hard-surfaced roads.

[In percent]

	Serious problem	Some problem	Little or no problem
Is the deterioration of county roads and bridges a problem for farmers in your area insofar as their hauling grain to your elevators?	7	33	55
Is the deterioration of county roads and bridges a problem for you in hauling feed, fertilizer and other inputs to farmers?	5	31	58

The same proposed solutions were offered to elevator managers as to farmers. Their choices differed considerably from those of farmers.

[In percent]

	Agree	Disagree	Not sure
Upgrade key county roads and drop others from the system	25	50	18
Change allocation formula to take State funds from primary system and apply them to county system	41	27	25
Reduce or eliminate agricultural motor fuel tax exemption, earmarking the added revenues for repair of county roads and bridges	36	42	15
Continue present program, reducing weight limits, where necessary, for vehicles using county roads and bridges	24	56	14
Earmark additional Federal funds for repair and/or upgrading of county roads and bridges	49	26	16
Levy a county tax on all real estate to bring the entire system up to needed standards	18	57	17

Because of their mutual interest in county roads and bridges, it would seem that farmers and elevator managers should get together on the preferred solutions. Some compromise on the part of both groups could help forge a strong and united opinion when the tough choices have to be made.

Local Elevators Face Major Adjustments in Next Decade

Successful elevators will have to adjust to fit transportation changes and needs of farmers.

The origin of many towns can be traced to the elevator. It is the major business and biggest employer in many small towns. So it's little wonder that elevators are thought of as much more than a piece of the marketing system.

That extra dimension which elevators have in the minds of many people was revealed by the response to the statement, "The primary goal of our grain transportation system should be to increase its efficiency even though such changes might work hardships on local elevators and small communities." Thirty-five percent agreed, but there were 40 percent who disagreed. Twenty-one percent of those answering were not sure or had no opinion.

When the Advisory Panel began discussing the place of local elevators in our grain marketing system, it began by looking at elevators' real purpose—their reason for existence. Panel members agreed that elevators which provide a competitive market for grain—competitive in both price and service—are likely to remain in business.

So the real question the Panel—along with farmers—must answer is this: Are those elevators which fall short of meeting this criteria over a period of time worth "saving" for some other purpose? How important is their contribution to keeping the local community alive, or in offering another marketing option to grain producers?

To answer that question, you have to put a price tag on the cost of saving the elevator . . . and decide who's going to pay it. Here are some of the options the Advisory Panel examined in regard to saving a non-competitive elevator.

1. Farmers could support such an elevator by continuing to sell at least some of their grain to it, or buying some of their supplies from the elevator. Assuming that they could get better grain prices or lower prices on inputs if they dealt with another elevator, this action reduces farmers' net income.

In fact, some farmers consciously do this. They may do it because they believe strongly in maintaining the local elevator. They may support an elevator in order to maintain some competition, giving them another option when marketing grain.

2. The local business community, recognizing the importance of the business the elevator brings to town, might decide to invest in or make a loan to the elevator. More than likely, they would only be willing to do this if they thought their funds were going to help the elevator become more competitive—by creating new facilities that would make it more efficient, such as a unit train loading facility, or by expanding its base of operations to spread fixed costs over more business volume.

3. Or, the elevator management or board of directors might decide to increase efficiency by merging with a nearby elevator, going into a joint venture with another elevator, or through some other arrangement that could make them more competitive.

Put quite simply, if you want to maintain more options for marketing your grain by keeping a less-efficient elevator in business, it's going to cost something. In some cases, that investment may be only your time and leadership in persuading others that a new direction is needed, but it's still going to cost something.

The important place that many people believe elevators occupy in preserving small towns is one reason that the question of branch line abandonment generates such heated discussion. In response to the statement "The loss of the elevator in a small town will cause the town to go downhill pretty rapidly", 61 percent agreed. Only 19 percent disagreed, and 15 percent weren't sure or had no opinion.

When people were then asked how they felt about the statement "An elevator won't stay in business very long if it loses its branch line service," 39 percènt agreed, 34 percent disagreed. Looking at the response in states where grain transportation is heavily dependent on railroads—primarily states west of the Mississippi River—the percentage agreeing with that belief rose sharply.

[In percent]

Response	North Dakota	Kansas	Nebraska	Texas	Oklahoma	Colorado
Agree	76	59	55	51	48	45
Disagree	16	20	25	26	17	25
Not sure/no opinion	7	17	16	20	30	25

Note that in many of these states, those agreeing outnumbered those disagreeing by more than two-to-one.

Is there evidence to show that elevators "die" when they lose their branch line service? Several midwestern universities have conducted studies on this question. All have concluded that elevators that have lost their rail lines have remained in business.

One study measured the volume of business done by elevators which had recently lost branch line rail service, and also the volume of retail business done in the town. These elevators survived by using alternate transportation and perhaps changing their business emphasis. They did not grow as fast as elevators on rail lines but they did grow and produce positive earnings—sometimes as large as other elevators'. In no case did the feared demise of the elevator occur as many people thought it might.

A similar question was asked of elevator managers in the Pioneer poll. Their questionnaire asked them to agree or disagree with this statement: "A local elevator must have rail service if it expects to stay in business." Notice the contrast in those who currently have branch line service and those who don't . . . and how distance from a barge terminal affects the answers.

[In percent]

Response	16-State average	Elevator location		
		Main	Branch	No rail
Agree	44	47	50	16
Disagree	46	44	40	73
	Distance from barge terminal (miles)			
	0-75	76-150	151-250	250 plus
Agree	26	39	44	62
Disagree	59	51	48	31

The question of the future of local elevators is one in which farmers can easily become involved and have some effect . . . in contrast to some other grain transportation issues which are more complicated and which require influencing a lot of other people—carriers, government, etc. This is particularly true if your town has a co-op elevator.

The Advisory Panel concluded that maintaining a local elevator which does not meet the test of helping move grain to its ultimate market efficiently is going to cost someone money. You may feel that the convenience and increased competition supplied by another outlet for your grain is worth that price. You may even be able to persuade others in the local community to help shoulder that cost.

It would seem logical, though, that at some point a move should be made to remedy the problems that are keeping that elevator from providing really effective competition. In the end, competitive forces have a way of winning out—unless some artificial factors are introduced. Support of a non-competitive elevator without insisting on improvement is more of a goodwill gesture than a business investment.

Almost certainly, the characteristics of local elevators are going to change in the next ten years. This is one area where you can take an active part once you decide what you expect from the elevator. As the customer, you can call the shots . . . and as the one who pays the bill for less-than-efficient operations, you have a right to be interested and active in guiding the change.

Decisions on Railroad Branch Lines Need To Be Based on Realistic, Long Range View

Farmers generally favor profit incentives, rejecting more regulation or takeovers.

Railroad branch lines are generally in bad shape. Overall, only 18 percent of the farmers responding to the Pioneer poll rated branch line conditions as excellent or pretty good. Variations among states are wide, ranging from 7 percent in South Dakota to 35 percent in Colorado and 36 percent in Texas.

Elevator managers were kinder in their appraisal. Nearly 29 percent of them said branch lines in their areas were in pretty good or excellent condition.

No matter how decrepit they may be, however, branch lines hold a special place in farmers' minds. Two questions in the poll reveal why.

Thirty-nine percent agree that "An elevator won't stay in business very long if it loses its branch line service." Sixty-one percent agree that "The loss of the elevator in a small town will cause the town to go downhill pretty rapidly."

So even though only 30 percent of the farmers responding see much of their grain being shipped over branch lines, there's a desire to hang onto these lines for reasons that go far beyond their grain transportation function.

CONSIDER ON INDIVIDUAL BASIS

"Branch lines" can't be lumped into one category. Some are thriving, providing good service for shippers and profits for the railroad. So the attention should be aimed at those that are in trouble.

A number of courses were outlined in the questionnaire. They can be grouped into three types of action:

(1) Force the railroads to operate all their branch lines, even those that are not profitable;

(2) Allow the railroals to earn enough on branch lines so they would have incentive to improve them and continue service;

(3) Inject money—loans or grants—from government or users of the railroad.

FORCING WON'T WORK

The Advisory Panel agreed with the poll results on the question of forced service. By a 42-to-28 margin, farmers rejected this idea. In only two states—Kansas and Oklahoma—were there more farmers favoring than opposing forced service. In both of these latter states, a high percentage of farmers ship a majority of their grain over branch lines.

The alternative to forcing continued operation of unprofitable branch lines is, of course, eventual abandonment. The Advisory Panel concluded that those farmers who implied approval of dropping unprofitable branches recognized that profits are necessary if railroads are to provide good service. Perhaps many of the current rail service problems are due to the past success of shippers in delaying or preventing abandonments of unprofitable branches.

The panel agreed with the majority view on this issue because forcing railroads to operate unprofitable branch lines reduces the earnings needed to repair track. Poor maintenance tends to shift traffic to nearby lines or to trucks . . . further cutting income on the poorly maintained line. This results in further declines in service.

Eventually, this vicious cycle results in abandonment of service—even though the line may not yet be officially abandoned. Branch lines must earn a profit or they face abandonment; experience bears this out.

INCREASING REVENUE MOST EFFECTIVE ANSWER

Instead of a "whip", the Panel—and a strong majority of farmers—felt that a "carrot" would be more effective. Nearly 56 percent agreed with the idea of letting railroads raise rates enough on branch line service to make it profitable. Only about 10 percent disagreed with this idea; 21 percent weren't sure.

Even in Kansas and Oklahoma, where branch line service is so important, farmers favored this "free enterprise" approach by 51-to-24 and 71-to-13 margins, respectively.

The Panel emphasized that rate changes—not necessarily increases—should be permitted. In some cases, lower rates could encourage enough additional traffic to make the line profitable. Rate increases may be needed, however.

The important point is that revenues—rates times volume—determine whether a line is profitable or unprofitable.

MIXED REACTIONS TO OTHER POSSIBILITIES

But if neither the whip nor the carrot seems to fit the situation, what about governments, individuals or groups investing in branch lines?

Of the half dozen such options offered in the questionnaire, only two received much support. By a 52–to–28 margin, farmers approved of state or federal longterm, low interest loans (not grants) to railroads for upgrading branch lines. By a 37–to–31 margin, they also favored similar loans to cooperatives made up of shippers and/or farmers for purchase or repair of branch lines. Grants, other kinds of loan and direct investments by governments, farmers or users were not popular.

And farmers were 71–to–7 opposed to state government buying and operating branch lines.

PANEL RECOMMENDS AGAINST SHIPPER INVESTMENTS

The repayment record on loans made to railroad branch lines is not good, especially if they are made to bankrupt or near-bankrupt railroads.

For example, many loans were made by shippers or by combinations of shippers and governments to the Rock Island Railroad. With the liquidation of the Rock Island, it is highly questionable whether all of these outstanding loans will ever be repaid in full. Some of these may, instead, turn out to be grants to the Rock Island estate.

Such loans, if made at all, should be secured by collateral or made with the condition that repayment comes ahead of unsecured creditors. And shippers on the line, whether or not they are tied in financially, should commit themselves to utilize the track.

TAKEOVERS SELDOM WORK

Takeover of a line by private industry or investors does not always work. Success is most unlikely in rural areas that lack the steady revenue from shipping by other, less-seasonal businesses along the route.

If the line offers the kind of potential needed for successful operation by a "takeover" group, it probably wouldn't have been threatened with abandonment in the first place. In fact, if shippers made the same degree of commitment to using a railroad branch line as they would if they owned it, its chances of survival would be good. This could be done through a contract specifying annual shipment volume, car supplies, rates and other aspects of service.

The Panel's final advice on branch lines: Farmers should not be bystanders. What to do about branch lines is not just a problem for elevator operators—because the outcome will affect the costs of moving grain from your area. And those costs are assessed, in most cases, to the farmer.

RAILROAD MAIN LINES: KEY TO INCREASED MOVEMENTS OF GRAIN TO PORTS

Improvements at terminals should come first, advisory panel says.

Probably no other issue in the Pioneer Poll on Grain Transportation received such a strong vote of agreement: Railroad main lines are important. Fifty-four percent said they are "very important". Another 19 percent said they are fairly important, for a total of 73 percent.

The percentage rises sharply among those who said grain transportation is a "serious problem." Seventy percent of these farmers said main lines are very important and another 15 percent said they are fair important.

As a result, three of the methods for puting money into main line improvements received strong approval from farmers.

[In percent]

	Agree	Disagree	Not sure
Long-term, low-interest loans from the State or Federal government should be made available to railroad companies for the purpose of upgrading main lines	58	21	14
Railroads should be allowed higher freight rates in order to make the rebuilding of main lines financially attractive to them	53	20	21
Federal grants should be made available for the upgrading of those main lines important in moving grain to market	45	33	15

Three other ideas—two of which involved direct federal investment—were not favored. When asked if railroads should be allowed to abandon unprofitable branch lines in order to provide additional earnings for rebuilding main lines, 41 percent disagreed and only 29 percent agreed. Another 24 percent were unsure.

The ideas of direct federal involvement were soundly defeated. The first, that of nationalizing the roadbeds but allowing railroads to continue operating the trains, went down by a 51-to-21 percent vote. Again, there was a large number that were not sure (21 percent).

Regarding total nationalization of the railroad industry, only 13 percent favored this step while 55 percent opposed it. More than 23 percent were unsure. In only four states—Minnesota, North Dakota, South Dakota and Wisconsin—were 15 percent or more of the farmers in favor of railroad industry nationalization.

In discussing the options for main line improvement, the Advisory Panel delved into some basic questions.

Is repairing of main lines the best investment that can be made to speed grain to export terminals?

Why have some main lines fallen into such a rundown state?

Should every main line be preserved?

IMPORTANT TO UNDERSTAND RAILROADS' HISTORY OF DEVELOPMENT

There was no "master plan" for railroads when their development took place. The government granted land to some investors willing to build railroads to help tap the frontier lands. Railroads, along with the rivers, brought people to the new land areas, hauled in the machinery and other supplies needed, hauled out grain and livestock. No highway system existed, so branch lines reached out from the main lines. Elevators sprouted every 5 to 10 miles so that farmers could haul grain and other products by horse and wagon.

By the time this "topsy-like" system was in place in Iowa, for example, nearly everyone was within a half-day's drive (with horses) of the railroad.

Ironically, railroad companies helped educate farmers and townspeople to the needs of an all-weather road system. They sent educational caravans to show how poor roads were keeping farmers from reaching railroad stations, especially in the rainy season. The better road movement, which began in the 1920's, reached its high point with passage of Interstate Highway system legislation.

During the 1930's, a system of locks and dams was built on the Mississippi River in order to maintain a 9-foot channel for barges. The big surge in barge traffic came after World War II. In 1945, for example, only 4 million tons of grain moved past St. Louis. By 1978, that had grown to 78 million tons.

Other changes took place that cut into railroad business. Hog and cattle slaughter moved from a few points such as Omaha, Chicago and Indianapolis to dozens of more modern plants located in major feeding areas. And most of the processed meat went to metropolitan centers by refrigerated trucks, high-balling along the Interstate system. Even fresh fruit and vegetables from the West Coast switched from refrigerated rail cars to trucks.

You can get arguments on both sides of the fence: Did railroad service decline because shippers switched to trucks and barges, or did shippers switch because railroads gave poor service?

Resolving that question isn't important now. The need is to understand what can be done, under today's situation, to make best use of railroad main lines.

TOO MUCH TRACK FOR THE BUSINESS

It is clear that many of the major grain producing states are "over-railroaded"—there are simply too many miles of track chasing too little business. For example, until the Rock Island line was ordered dissolved, there were five main lines between Omaha and Chicago, five between the Twin Cities-Chicago, Kansas City-St. Louis and Kansas City-Houston.

It is in such areas and others with an overabundance of trackage that main lines (and branch lines) are in the poorest shape. What is the cause?

One of the most widely held beliefs is that railroad tracks are in bad shape because earnings were not put back into the railroad, but were instead used to diversify by investing in other businesses.

This idea got its start with the Penn Central, which did, indeed, "bleed" the railroad in an attempt to diversify. It eventually became the heart of Conrail, the government-financed railroad serving much of the northeastern quarter of the U.S. at an annual cost to taxpayers of $200–$400 million.

Similar charges are made about the Illinois Central Gulf. But IC Industries, the parent company for the ICG railroad, claims it has put more back into the railroad than it has ever taken out. And an Interstate Commerce Commission investigation could find no widespread proof that railroad companies were diverting rail earnings into other kinds of businesses.

The "diversion earnings" idea persists, however. Elevator managers, 68 percent of whom believe their rail service is affected by lack of reinvestment in rail facilities, clearly blame diversion of earnings.

"If you feel lack of reinvestment is a problem, how much do you think is due to railroad companies diverting earnings from their rail operations into their non-railroad businesses?" When elevator managers were asked this question, 50 percent answered "A great deal" and another 38 percent said "Some."

And they felt so strongly that 63 percent agreed with the idea of prohibiting railroads from investing any of their rail earnings in nonrailroad businesses.

Elevator managers strongly disagreed (45-to-26 percent) with the idea of forcing railroads to continue operating unprofitable operations. And 78 percent felt that if railroads were allowed more freedom to set rates and drop unprofitable parts of their system, they should reinvest in roadbeds and equipment.

The most likely reason for lack of rail investment is simply lack of profits. Unlike locomotives and rail cars, which can be financed through banks and trusts, borrowing to build railroad track is not an option open to the majority of railroads. Except for a handful of railroad companies, the low rate of return (less than 3 percent) of most rail carriers keeps them from attracting the capital they need at a reasonable cost.

GOVERNMENT LOANS MADE FOR MAIN LINE IMPROVEMENT

Beginning in 1976, the federal government began making long-term, low interest loans for improvement of main lines. Decisions on where the money went were supposed to be based on the likelihood of enough earnings being generated to repay the loans.

Such loans have tended, in some cases, to perpetuate the "over-railroaded" condition of some areas. For example, $25 million was appropriated to improve one of the five lines from the Twin Cities to Chicago—and an additional $18 million has recently been added to bring this project to completion.

State governments have flirted with the idea of helping save main lines felt to be critically important. The Iowa legislature in 1980 authorized issuance of up to $100 million of revenue bonds for purchase of the Rock Island east-west main line. It required that repayment of the bonds was to come from profits, not from the state's general fund. This condition may make the bonds difficult to sell.

WHERE SHOULD INVESTMENTS BE MADE?

With repairs to severely beaten main lines costing $100,000 or more per mile, the question remains: Is this the best place to invest money to speed grain shipments?

Probably not, in the opinion of the Advisory Panel. Improvements at railroad terminals, like Kansas City and Houston, could probably pay bigger dividends and pay off more quickly.

Houston offers a prime example. Improvements could be made there for an estimated $4.5 million—the cost of upgrading about 40 miles of main line. These would permit unit grain trains to bypass two congested areas in the Houston yard and to be quickly reassembled after unloading for the trip north. One estimate places the time savings at 8 days—which means that unit grain trains could cut turnaround time by about 40 percent.

This possibility has existed for some time. But little happened until Iowa shippers, Houston rail terminal authorities and labor representatives were brought together. They discovered each would gain if changes were made to boost efficiency: Houston could continue to be a major grain export terminal, providing jobs for railroad and dock workers, and Iowa shippers would not have to divert grain to other ports.

Incidentally, proof that profitable railroads will invest in better facilities is evident at North St. Paul, Minnesota and North Platte, Nebraska. The Burlington Northern built a new terminal yard at North St. Paul and the Union Pacific built a huge classification yard at North Platte—both of which speed the movement of freight trains.

CONCLUSIONS OF ADVISORY PANEL

The following facts should be considered relative to railroad main lines, according to the Advisory Panel:

1. Loans by federal or state governments for main line improvement in areas which are "over-railroaded" should be made very selectively. Making a low-interest loan available may simply "prolong the agony" and draw off enough business on the improved line to keep more viable lines in the same area from getting enough traffic to be profitable in their own right.

2. Attempting to control how railroads invest their earnings would probably not be effective or practical.

3. Allowing railroads to increase rates or to reduce branch line mileage in order to increase earnings is the most effective way to improve service. Profitable railroads provide service, pay taxes, hire people and spend money in order to maintain or improve efficiency.

4. There is simply too much main line track in some areas for the amount of potential business. From a farmer's viewpoint, it is probably better to be served by elevators located on a single profitable railroad than to have the choice of selling to elevators located on two or more unprofitable lines. The biggest sacrifice or adjustment will fall on elevators formerly served by lines that do not survive.

RAIL CARS FOR SHIPPING GRAIN: HOW DO WE MAKE THEM WORK HARDER WHEN WE NEED THEM?

Better utilization may be only way to move larger volumes of grain.

It's common knowledge that there's a shortage of rail cars for hauling grain. Right?

Like a lot of other grain transportation issues, the answer needs to be hedged—

It depends on whether you're looking for boxcars or hopper cars.

It depends upon what time of year you ask the question.

It depends upon whether you recognize that the hauling capacity of the U.S. fleet of grain cars is a product of number of cars times the number of round trips they make each year.

A study made in 1979 showed that the average grain hopper car makes only 13 round-trips a year. If that could be increased to 17 trips—by shaving the turnaround time from 4 weeks to 3 weeks—the present number of cars is adequate for all but the biggest peak demands. And it would be adequate, based on expected export growth, until 1985!

In fact, getting more round trips from each grain car may be the only way to handle the expected surge of grain exports. Based on 5 to 6 percent annual growth in grain exports and 3.5 percent for other uses of hopper cars, a doubling of the hopper car fleet would be needed by 1990—unless round trips per year can be boosted beyond the current 13.

Not only would the cost of these added cars be staggering ($5 billion in 1980 dollars) but the increased car numbers would probably not solve the problem. In slack times, they would clutter up sidings and terminals. In periods of heavy shipments, more cars could aggravate congestion at terminals such as Kansas City and Houston.

ELEVATOR MANAGERS TELL VIEWS

Questions about the supply of grain cars were included in the Pioneer poll questionnaire sent to elevator managers. Two areas were explored. How can we increase the effective car supply and how much has the car allocation authority of the Interstate Commerce Commission helped spread cars where they're needed?

The managers had mixed reactions toward the ICC authority. During periods of car shortages, the ICC has the authority to reallocate rail cars among shippers. It can't increase the number of cars, however—only shift around the existing supply.

"Do you think this authority, as practiced by the ICC in the past five years, has improved the ability of the nation's grain transportation system to move more total grain?"

When that question was put to the elevator managers, the response looked like this:

21 percent said the ICC authority helped move more grain.

46 percent said the ICC authority didn't help;

28 percent were not sure whether the ICC had helped or not.

But when asked whether the ICC's authority to reallocate cars should be ended, more elevator managers voted to continue it than to end it. Thirty-five percent favored continuing the authority; only 21 percent said "end it" and 37 percent weren't sure or had no opinion.

HOW SHOULD SUPPLIES BE INCREASED?

If elevator managers aren't convinced that shifting cars around is the best way to move more grain, how would they go about increasing the effective supply of cars?

Four choices were offered, and the managers were to indicate their first, second, third and fourth choices. Here are the results based on first choices.

[In percent]

	1st choice of—
Shippers, receivers and carriers should work together to get more efficient use of present car fleets	63
Shippers and receivers should continue supplementing the supply of railroad-owned cars by owning or leasing cars	18
Railroads should be required to provide all the cars needed so elevators can ship grain whenever they wish	16
Federal or State governments should purchase or lease cars to meet peak demands and growing needs	4

BOX CARS ON WAY OUT

One fact which creates an actual shortage of grain shipping cars is the declining number of box cars. The number of box cars being junked far exceeds the number being built. Only the Burlington Northern still has a sizeable number of box cars suitable for grain.

So if your elevator sits on a branch line that can't take 100-ton hopper cars, there probably is a car shortage. Worse, some grain buyers will not accept grain in box cars because of the labor required to unload them. Unless a branch line can be upgraded to carry hopper cars, the only future for an elevator on that line is truck shipment to a nearby elevator that can handle hopper cars or to a sub-terminal or barge point.

TACKLING SLOW TURNAROUND PROBLEMS

Four factors are primarily responsible for stretching out the turnaround time for grain cars.

1. Cars get delayed by congestion at terminals or by grain inspection procedures.

2. They may not be started toward their destination promptly after loading or unloading.

3. Poor track, both branch line and main line, may slow the trip.

4. They may not get loaded and unloaded promptly.

Toward the solution of these problems, the Advisory Panel believes these actions would be helpful.

1. Terminal improvements referred to in the discussion of railroad main lines would be most helpful. Improvements in terminals that allow trains to move through in a shorter time can save days, whereas improvements in main line track generally shave only hours off the round-trip time. Railroad companies may have to be prodded by shippers to make these changes—and they also must see enough potential profit to make the changes attractive.

2. Demurrage charges levied against grain receivers should be increased. The charges now assessed against receivers if they fail to unload cars promptly are often not enough to make it profitable for them to pay overtime rates that may be needed to get cars unloaded promptly.

A similar penalty for railroads which fail to pick up cars when they're ready to move would also lead to better car utilization.

A contract between a shipper and a railroad includes some provision which gives the railroad an incentive to move cars as quickly as possible. Along with specifying rates, annual shipping volume and car supply terms, some contracts usually include a penalty or reward for the carrier based on turnaround time. For this reason alone, contracts are likely to become more frequent as we look for ways to beter utilize rail cars and move grain more efficiently.

3. When federal grading of grain cars is performed at a terminal, this can delay cars as much as 5 or 6 days. While terminals with grain grading staffs will resist being bypassed, efficient utilization of grain cars demands a better system.

OWNERSHIP OR LEASING OF HOPPER CARS

Even if the total hopper car fleet was at its optimum level, the attraction for an elevator to own or lease hopper cars is strong when the railroad can't deliver. But caution is needed in taking such a step.

Be sure the railroad will accept your cars by granting OT–5 authority before you lease or buy cars. Either purchase or lease is a long term commitment—5 or 12 years, typically, in the case of leases. If there are more cars available than grain to haul, cars owned or leased by the elevator may not be used. Or the railroad may insist that half the cars you load be theirs. A hopper car sitting empty is very expensive.

Large shippers have an advantage in that they can move cars around to get higher utilization. But the smaller elevators may lack that choice.

MAJORITY FAVOR EQUITY IN TREATMENT OF ALL TRANSPORTATION MODES

Past subsidies should be ignored in apportioning future aid.

Are barge companies, truckers and railroad companies subsidized by government? If so, are some getting more than their "fair share"?

Put those questions to representatives of the three major grain transportation modes and you'll generate a heated discussion. But you'll get very little agreement . . . for reasons explained later.

Both the farmer and elevator manager poll questionnaires contained a question on this issue. "Barge lines, unlike railroads or trucks, do not currently pay the cost of maintaining and operating their 'roadways.' What part, if any, of the costs of providing and maintaining the navigable waterway system do you think barge companies should pay? Assume that if they pay part of the costs, some of this additional expense would be added to the costs of shipping grain."

The answers were clearly in favor of equity. Sixty-three percent of the farmers and 60 percent of the elevator managers said all modes should pay the same share of costs incurred in the operation of their systems.

But defining that share is practically impossible. So the Advisory Panel finally said, in effect, 'There is no way to determine how much subsidy each mode has received in the past, so let's forget the past and consider each mode individually under today's circumstances."

TAXING FUEL USED BY BARGE TOWS

The need to replace Locks and Dam 26 near Alton, Illinois brought attention to waterway user charges three years ago. The Administration refused to approve funding for the new lock—a bottleneck that restricts Illinois and Upper Mississippi river traffic, much of which is agricultural products—unless Congress also approved a tax on fuel oil used by barge tows.

A tax, starting at 4 cents per gallon in 1980, and ranging up to ten cents by 1985, was put on the books. And funding was approved for Locks and Dam 26.

Construction finally began in the spring of 1980. Legal action by environmentalists and railroads delayed the start of the project over five years. Completion is expected to take a minimum of eight years unless another legal challenge is successful in stopping construction.

The tax will add from 0.4 cents to 1 cent per bushel for barging grain from Iowa to the Gulf. The U.S. Department of Transportation estimates that the ten cents per gallon tax will provide about a quarter of the operating costs of the inland waterway system. The new feedral fuel tax on barges is the same as the federal fuel tax currently being paid by the trucking industry. The trucking industry also pays state taxes for highway maintenance and construction.

INLAND WATERWAYS SERVE MANY PURPOSES

The Advisory Panel and a majority of the 35,000 farmers polled agreed that full recovery of all costs involved in the operation and maintenance of the waterways should not be levied against barge lines because of the wide range of benefits derived from waterway projects. The 27 dams between Minneapolis-St. Paul and St. Louis help control floods and increase the value of flood plain land. The system contributes to the stability of water supply to communities along the river. Locks are necessary to allow boats—including thousands of pleasure boats—to navigate past the dams. At some of the dams, turbines generate valuable electricity. Also, the dams form large lakes for recreational purposes, and result in bayous and marshes ideal for fish, waterfowl and other wildlife. Regional development of vast geographical areas adjoining the rivers is another major benefit of the water projects.

RAILROAD PICTURE ALSO CONFUSING

While the railroad industry contends waterway carriers are given an unfair advantage because the water right-of-way is subsidized by government and rail routes are not, the barge people, too, can bring up a number of difficult questions. Didn't railroads accept the right-of-way land grants from the government in exchange for extending their lines—land which has become a large revenue source because of its valuable resources? What about government subsidies to Conrail and the right-of-way loans and grants to railroads under the 4 R Act? Hasn't government subsidized the Railroad Retirement Act fund?

To which the railroads point out that until 1946 they hauled government freight—including millions of tons during World War II—at half price. Railroad penetration of the frontier made this land useful by giving it access to markets, and it tied the nation together—as did the inland waterway system. It is argued that Conrail exists for social purposes—to provide freight service where it is not economically feasible—not for the benefit of the railroads.

Truckers argue that their license fees and fuel taxes cover their share of highway costs, the same point the water carriers are trying to make now that user charges are being implemented. Another argument states that if it weren't for truck traffic, motorists wouldn't have the Interstate system. And the primary system would be a much slimmer network. A similar argument can be made on behalf of the inland waterway system.

It was because of this endless parade of competing viewpoints that the Advisory Panel finally decided there is no way to accurately determine whether past subsidies among modes of transportation have been equal.

The Panel suggests these guidelines or actions relative to inland waterways:

1. In making future charges to users of waterways, all past investments should be considered to have been expended for flood control or for other social purposes.

2. An appropriate portion of future investments and operating costs of the inland waterway system—apart from those necessary to maintain flood control and electrical generation—should be shared by recreational and commercial navigation, with regional development benefits considered as a cost offset.

3. A second 600-foot lock should be added at the same time that the new 1,200-foot lock is built at Locks and Dam 26, as recommended by the Rural Transportation Advisory Task Force earlier this year.

4. Since barge companies are now expected to pay a portion of maintenance and operational costs of inland waterways, they should have some "say" on what projects are developed. It is unfair to ask barge com-

panies—and the farmers whose grain they haul—to pay for projects which are built primarily to provide employment or to benefit a limited area.

5. Future subsidies in whatever form to the other transportation modes should likewise be considered for reasonable recovery. The Pioneer poll indicates that farmers want railroads and barge companies to repay loans and not consider them as grants. In short, do the best possible job of equitably recovering future government investment and subsidies to each transportation mode—separating out investments made for social or non-transportation purposes.

FARMERS AND PANEL FAVOR LESS FREIGHT RATE REGULATION, BUT TOTAL FREEDOM NOT PRACTICAL EVERYWHERE

Need for stable, predictable freight rates, protection of shippers prevents total deregulation.

Trucks and barges carrying grain are completely exempt from government control over their rates, which move up and down according to supply and demand.

Railroads, which must compete with trucks and barges, are required to follow specific procedures in changing rates. Changes generally require at least forty-five days to put into effect. The Interstate Commerce Commission also questions the railroad's rate decisions, particularly if shippers or competitors protest the change.

Question: Are there reasons to continue this different treatment of competing transportation modes?

Question: If not, which way do we move to equalize the situation? Do we give the railroads more freedom in rate setting? Or do we apply some of the railroad rate regulation machinery to trucks and barges?

Farmers—and elevator managers as well—put in their bid for less regulation, not more. While the Advisory Panel agreed, some reservations surfaced when the possibility of total deregulation was considered. "Regulatory reform" seemed more practical.

LESS OR MORE REGULATION OF RAILROAD RATES?

[In percent]

Option	Opinions of	
	Farmers	Elevator managers
Total grain rate deregulation	15	16
Deregulate where adequate competition exists	25	24
Continue ICC regulation—speed up changes	19	23
Total approving looser regulation	59	63
Regulate truck and barge rates like railroad rates	9	12
No change	7	14
Uncertain/no answer	24	13

Three proposals in the questionnaire dealt with easing or eliminating rail rate regulations. Together they earned the approval of about 60 percent of the respondents.

At the other extreme, a proposal to regulate truck and barge grain rates in the same way as rail rates was unpopular. So was a suggestion of leaving the situation as it now stands.

The Advisory Panel rejected complete deregulation of railroad freight rates on grain. But it believes changes need to be made, and chose a middle-of-the-road open-minded course. The reasons, though not simple, make sense.

WHY TOTAL DEREGULATION NOT PRACTICAL

Allowing railroads total freedom would almost certainly cause problems. The Panel felt that deregulation could boomerang and lead to even stricter regulation in the future.

Among the risks of total deregulation:

1. It is almost inevitable, especially in areas with limited competition, that there would be charges that railroads were abusing their power by setting rates too high.

2. Joint-line rates (rates for hauls that require movement by two or more railroads) would be more difficult to set. At present, such rates are set by "rate bureaus" whose meetings are granted anti-trust immunity because of the need for railroads to coordinate rates.

3. Perhaps most important, rapid fluctuations in grain shipping rates would seriously hamper grain marketers. Sales contracts for grain are made several weeks or months in advance of actual grain movement. Such business would be almost impossible under total deregulation unless shippers and carriers could write long-term contracts.

While the panel favors legalizing contracts, it does not believe that contract rates should be forced on shippers.

FREEDOM WITHIN LIMITS A POSSIBILITY

One step toward more freedom would be to set a "zone" within which rates could move freely. A floor rate, equal to variable costs for each particular route, would be set. Since variable costs cover only a portion of the full cost of staying in business, the ceiling rate would be set at perhaps 180 to 200 per cent of the floor.

Rates could be adjusted up or down between the floor and ceiling without any ICC involvement—but if a railroad wanted to charge rates outside the flexibility zone, it would have to present its case to the ICC.

While such a system offers advantages—it combines rate flexibility with some protection from abuses—it doesn't provide the stability needed by grain shippers. Another criticism is that rates might be moved up as barge rates move up, but might not be moved down when barge rates decline.

Seasonal rates also have shortcomings. These would rise and fall according to traffic and car supply.

Such rates would have to be on a fixed time schedule, or at least announced well in advance of changes. Therefore, they may not truly offer the needed flexibility to meet fast changing conditions.

Another possibility would be to allow railroads to publish rate changes for certain traffic on shorter notice. The Advisory Panel felt this would be of some benefit in making railroads more competitive. However, several members have reservations about full endorsement.

CONTRACT RATES: A NEW DEVELOPMENT

If you knew you had a volume of product to move between two points, it would seem to make sense to make a mutually-beneficial contract with the carrier. It would cover a specific period of time and would spell out the shipper's and the carrier's obligations.

A high percentage of barge freight is moved under such contracts. But until 1978, the Interstate Commerce Commission said that such contracts between shippers and railroads were illegal. Now that the ICC has changed its mind, another option is open to grain shippers.

A contract can provide many advantages:

1. Stable, predictable rail rates needed for long-range grain sales.

2. Incentives for more efficient use of rail cars, by rewarding the railroad for cutting down round-trip time or penalizing it for longer turn-around.

3. Guaranteed car supplies for shippers, and guaranteed minimum traffic volumes for the railroads.

4. Agreement on other specific services or conditions beneficial to one or both parties.

Contracts are not without problems, however. Shippers who do not want to sign contracts or who are not in a situation that adapts to contract rates worry that contract shippers will monopolize car supplies.

The idea of each shipper negotiating his own terms also raises the possibility that carriers would favor certain shippers over others. To answer this fear, some have proposed that all terms of contracts be made public . . . and that any shipper should be offered the same terms negotiated by any other shipper. However, some shippers feel this invades their privacy by revealing too much about their business operations.

It was agreed that permission for shippers and railroads to negotiate contract rates should be put into law, rather than being at the discretion of the ICC. There was a feeling that "what the ICC giveth, it may also taketh"—and that this uncertainty keeps many shippers who would like to try contract rates from negotiating them.

ADVISORY PANEL DIVIDED ON RATE FLEXIBILITY

While the Panel agreed that contract rates should be encouraged, it is divided on rail rate flexibility.

On one hand, rate flexibility could help improve car utilization and generate additional revenues from branch lines, improving their chances of remaining in service.

But the lack of stability and the possibility that railroads might abuse rate flexibility in "captive shipper areas" kept the Panel from fully endorsing complete rate flexibility.

Loosening regulation of railroad grain freight rates has its risks, as does increased use of contract rates. But the Panel believes the risks are necessary . . . to improve car supply and utilization, to reduce the inflexibility of government regulation and ultimately, to move grain in the most efficient ways.

If railroads are expected to correct their shortcomings without added regulation, they must have more freedom to change. With the exception of areas where competition is lacking, the law of supply and demand will penalize those transportation systems which attempt to extract unfair profits—and reward those which do a good job.

NEED FOR INCREASED PRODUCTIVITY REQUIRES CHANGES IN LABOR-MANAGEMENT RELATIONS

Advisory panel suggests compulsory arbitration when bargaining fails.

"Productivity per man hour on the railroads is very low. If railroad workers put in the effort that farmers have to, there would be no problems in the rail transportation system."

"The railroad system needs a shakeup or a change in its management and operators."

These are two comments typical of those received from Pioneer poll respondents. More than half of the farmers responding took the time to write comments at the end of the questionnaire—an indication of how strongly they feel on various grain transportation issues. Many of these dealt with railroad labor and management.

Farmers have little direct contact with either railroad labor or management. Their feelings are thus based on what they hear, read or observe. Their comments have the ring of conversations heard in a farm-town coffee shop.

Railroad management is felt to be lacking both in skills and willingess to push for innovations. Farmers were especially critical of management for failure to maintain tracks. Labor caught its share of brickbats, too, for having negotiated work rules that reduce efficiency, while collecting high wage rates and benefits that push up operational costs.

Most of the comments, whether applied to management or labor, boil down to complaints about lack of productivity. Many of the poll respondents drew a comparison between the increase in agriculture's efficiency and that made by railroads.

UNEQUAL BARGAINING POSITIONS

The process of railroads bargaining with labor has often been affected by the unique nature of the services supplied by railroads. As a result, such negotiations are frequently a lopsided contest.

When a manufacturer of a product is struck by a labor union, users of that product can usually find an alternate supplier. Or they can lay in a stockpile prior to the strike. You can't "store" railroad service, however, and doing without it may be next to impossible. At best, alternative transportation can be costly.

This essential, "perishable" nature of rail service often gives labor a stronger hand than railroad management in negotiating issues affecting productivity. Labor's "voting power" advantage over management's tends to deter government intervention.

Stoppage of railroad service—or the threat of it—brings a lot of pressure on railroad management to reach a settlement. Shippers dependent on rail service press for a settlement at nearly any cost.

Once a settlement is reached and service resumes, however, the railroad is faced with the task of getting approval of freight rate increases needed to cover higher labor costs. Those who urged settlement at any price are by this time worrying about whether they can pass on the increased freight rates.

The pressure applied to railroads to settle on a contract, and lack of provisions for compulsory arbitration if they fail to reach agreement, has helped preserve work rules that hinder efficiency, and wage rates and benefits to railroad workers that most farmers feel are out of line.

HUNDRED-MILE RULE MOST CRITICIZED

High hourly rates, an abundance of paid holidays and substantial pension plans for rail workers are criticized by farmers. But nothing riles them more than the 100-mile rule—a method of calculating railroad operating men's wages that has persisted for years.

The system came about when the federal government took over the railroads during World War I. To replace the variety of methods being used to compute wages of operating personnel (engineers, firemen, brakemen and conductors), a uniform system was installed. By the time the railroads were returned to private ownership in 1919, it was firmly entrenched.

The system paid by the mile while the train moved. For time spent on the job before and after the train began its run, each hour was considered to be the equivalent of 12.5 miles. This derived from the fact that in those days, the average crew working 8 hours covered about 100 miles—or 12.5 miles per hour.

Inflation has, of course, pushed the mileage rates higher since this system was put into place. At the same time, runs of 250 to 300 miles are commonly made in eight hours due to more powerful locomotives, better track and improved coordination. A typical mileage rate for a freight engineer of 80 cents per mile thus results in a day's pay ranging from $200 to $240—and on "hot trains" carrying perishable products, 350 miles might be covered for a payment of $280.

Of course, on railroads with track conditions or equipment restricting 8-hour runs to shorter distances, operating workers' pay is not as high. The basic problem is that the present system, which got its start with the 100-mile rule, does not allow railroads to benefit as much as they might from increasing the speed of their trains through investment in better equipment and track.

Railroad union spokesmen defend the 100-mile rule as being simply a different method for coming up with the same result as if workers were paid by the hour. Other work rules are defended as being necessary for safety of workers and the public.

The decline in the number of railroad workers during the past 25 years has no doubt given union management an incentive to preserve as many jobs as possible through work rules. Some of the decline has come about because of changes in railroad operations—substitution of diesel for steam locomotives, longer trains and dropping of passenger service, for example. The resulting increase in output per worker from these and other changes has not kept other modes of transportation from gaining a bigger share of freight volume, however.

With only modest increases in freight volume, railroads haven't been able to absorb the workers displaced by changes made to boost efficiency. This has made it difficult for railway labor unions and their members to accept the elimination of certain positions or reductions in crew sizes.

Even so, railroad worker numbers have declined sharply. Excluding Amtrak, employment shrank from over 1 million in 1955 to 471,000 in 1978.

HOPEFUL SIGNS OF CHANGING VIEWS

Economics say that changes in work rules leading to greater efficiency could result in more jobs through lowering unit labor costs. Even though this is a difficult principle to support when immediate jobs are at stake, some railroad labor leaders are now recognizing that certain work rules may be having the effect of reducing jobs rather than protecting them.

A prime example of how railroads lose business—and workers lose jobs—is cited by one Advisory Panel member. What could have been a one-day round trip shipment of grain to a processor ended up going by truck rather than rail because of "crew area" requirements. It happened that the 55-mile trip involved three crew areas; the changes in crew increased costs and delayed the shipment, making for inefficient utilization of grain cars.

The result: The grain moves by truck rather than rail. The railroad missed getting a good piece of steady business. Labor has less employment. Trucks put extra strain on the highway system.

But there are hopeful signs. Experiments aimed at increasing efficiency are taking place at the Houston and St. Louis terminals. These involve cooperation between rail operating unions and the railroads. Various practices not now permitted under the work rules are being tried on an experimental basis; those which are successful can then be negotiated into contracts. Those which fail can be dropped without disturbing present agreements.

LABOR NOT ONLY PRODUCTIVITY PROBLEM

The Advisory Panel recognizes that railroad labor is not the sole cause of low productivity. Productivity in any industry depends not only on its workers but on the facilities and equipment with which they are provided. If, for example, "slow orders" on a section of track reduce the speed of trains—thereby decreasing labor productivity—one can hardly blame the workers. Lack of investment in railroad property, often brought about by lack of profits, is the culprit in this instance.

Railroad management counters that high labor costs contribute to lack of profits, which result in poor track maintenance, which further increase labor costs due to low productivity. It's a vicious cycle.

PANEL RECOMMENDS EQUALIZING OF POWER

While recognizing that farmers want less, not more, government intervention in the railroad industry, the Advisory Panel believes government is needed to put railroad companies and labor unions on a more equal footing in labor negotiations.

It proposes that if the two parties cannot reach an agreement through collective bargaining, unresolved issues should go to compulsory, binding arbitration. Rail service would be continued during the arbitration period—so that the commerce of the nation and the jobs of its citizens can continue uninterrupted while the issues are being settled.

This position supports that taken by the USDA–DOT Rural Transportation Advisory Task Force. It recommended that "special legislation be enacted to set up a procedure by which, in the event collective bargaining over work rules reaches an impasse, compulsory binding national arbitration shall go into effect."

Perhaps the frustration relative to railroad management attitudes and workers' productivity was best summed up by one farmer responding to the poll. "We know how to get to the moon but we don't know how to solve the transportation problems here on earth."

Perhaps the fact that government was an essential part of the moon shot's success is a lesson for railroad labor relations. There may be no other way to resolve the problems. At least, the knowledge that binding arbitration can be applied might cause both sides to work harder to reach mutual agreement.●

THE COAST GUARD STATION IN NEWPORT, OREG.

Mr. HATFIELD. Mr. President, I bring to the attention of Senator BAYH a matter which has been of extreme concern to me and which he may already be aware of. Briefly, it concerns report language attached to the House bill as a result of conversations that I have had with Congressman DUNCAN concerning the need to repair damage and accomplish facility improvements at the Coast Guard station in Newport, Oreg. My staff and I have had numerous conversations with the Coast Guard as well as with the committee, and I must say that I am not at all pleased with the response of the Coast Guard to the urgent needs at the Newport facility.

Mr. BAYH. I can assure my colleague from the State of Oregon that the committee staff has made us well aware of his desires with respect to the Newport facility. I have seen his correspondence dated April 4, 1980, and can assure him that the committee intends to do all it can to see that repair and facility improvements occur at Newport during fiscal year 1981. I must say that I cannot understand the Coast Guard's reluctance to proceed with this project. His correspondence began with them in the early part of 1980, and we still have seen no progress in the direction of coming up with a contract award nor for that matter even completing any sort of design work.

Mr. HATFIELD. As the Senator knows the cost estimate for this project is approximately $3.2 million, and it is my firm hope that the committee would see fit to underscore in the conference the need to proceed with activities at this facility. I suppose, under the circumstances, the best way to assure that result may be to request that I be made a conferee in order that my views be made clear on this matter.

Mr. BAYH. There will certainly be no problem with the Senator being a conferee, although I can assure him that we have discussed this matter with Congressman DUNCAN and that we are fully apprised of the Senator's needs in this area and intend to do everything that we can do to help him. If necessary, we will perhaps even add additional funding for that project in the conference agreement.

Mr. HATFIELD. I thank the distinguished chairman of the Transportation Subcommittee and commend him for his cooperation in this matter.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. CULVER. Mr. President, I would like to ask the distinguished chairman of the Transportation Appropriations Subcommittee, Mr. BAYH, several questions concerning transportation issues of great interest to the citizens of Iowa.

As he knows, this bill contains $85 million for local rail service assistance. This is the program used by States to repair deteriorating branch lines, and is vitally important in States like mine with substantial miles of light density lines. Last year, the chairman and I worked to increase the appropriation for this program on the Senate floor and, as a result, the fiscal year 1979 appropriations bill approved by the conferees contained an additional $5 million for branch lines over the House version of the bill.

This year, the House only approved $75 million for branch line aid. I believe that it is vital that the conferees approve the full $85 million contained in the Senate bill. I would like to ask the chairman if he will do all he can, as I am confident he will, to convince the House conferees to approve branch line funding at the level of $85 million.

Mr. BAYH. Mr. President, the Senator from Iowa is right on target, as usual. We are going to do everything we can to defend the Senate position on that, because we think that funding level is absolutely necessary.

Mr. CULVER. Mr. President, I thank the chairman for his remarks. He understands very well the importance of the branch line rehabilitation program to small and rural States, because I know of his leadership with regard to his own State of Indiana, and I greatly appreciate his attempt to keep funding at the level provided by the Senate.

I would like to ask the chairman one other question. Currently, the Nation is trying to decrease its reliance on imported oil by expanding its use of domestic coal. I support this trend, and the evidence suggests that we can increase coal use without having an adverse impact on the environment.

One negative consequence of increased coal use has, however, occured. Many small communities have been bisected by coal-hauling unit trains. These trains, sometimes hundreds of cars long, have a severe impact on local transportation, disrupting traffic and often cutting residents off from essential community services.

In order to deal with this situation, the Senate recently enacted legislation to use windfall profit tax revenues to build grade separations where coal trains interfere with local transportation. This program would be of great benefit to a number of Iowa communities that are inconvenienced of unit trains.

Since the legislation has not been given final congressional approval, the fiscal year 1981 transportation appropriation bill contains no funding for this "energy impacted" road program. I would like to ask the chairman if he believes that it is possible to appropriate funds for this program—perhaps through a supplemental appropriation—once the final authorization has been completed?

Mr. BAYH. The Senator from Iowa correctly outlined the situation concerning these coal roads. I have cosponsored similar legislation myself. I think it is important to Indiana, Iowa, and elsewhere, that this matter be fully funded and dealt with appropriately, with adequate resources, as soon as the authorizing legislation is completed. We look forward to working with the Senator from Iowa to accomplish that goal.

Mr. CULVER. I appreciate the Senator's remarks. I know that his State has also been affected by the movement of unit trains, and I will continue to work with him to secure necessary appropriations once the authorizing legislation is signed into law.

Mr. CANNON. I would like to ask the distinguished chairman about the CAB's appropriation as it relates to their implementation of the airline deregulation law. Chairman BAYH, Majority Leader BYRD, and myself joined a number of our other colleagues in petitioning the Board to withdraw its interim decision that provides discriminatory upward fare protection based upon market lengths. That petition was filed several months ago, yet the Board still has not acted to provide equal protection for all markets and to demonstrate moderation in its zeal to accelerate the law's deregulation schedule. In addition, there have been disturbing reports that when the Board does act it may either adopt a new formula which continues to discriminate or establish a fair ceiling so high as to provide de facto deregulation of air fares more than 2 years in advance of the law's schedule for that event.

My question, Mr. President, is if it would be your opinion that the CAB's appropriation is being provided as to require the Board's equal implementation of the deregulation law in accordance with the legislative language and intent of Public Law 95–504? Or may the Board continue to administer the law on its own terms as I have described on the fare protection matter.

Mr. BAYH. I share the distinguished Commerce Committee chairman's concern about the Board's action in the fare flexibility case and, as you have noted, I was a signatory to the petition filed on this matter. I certainly am of the opinion that we are clearly providing the CAB operating funds to implement the deregulation law as intended by Congress, and I would note the conference report specifically told the Board members not to adopt their own deregulation schedule. Additionally, we expect all agencies to provide equal and nondiscriminatory protection in the programs under their jurisdiction. I certainly hope the Board moves swiftly to vitiate our concerns, but if not I believe we should confer to decide what further action might be appropriate by either or both of our committees.

Mr. ROBERT C. BYRD. I wish to join both my colleagues in their expressions of concern on this matter and pledge my help to see that all communities get fair and equal protection provided under the law.

Mr. PRESSLER. Mr. President, as the Senate considers the Department of Transportation appropriations legislation, I wish to join my colleagues in citing the air transportation problems in our rural areas.

As one of the six Members of the House of Representatives who voted against airline deregulation, I continue to fear its impact on smaller communities. During the 1978 debate, proponents promised lower fares and improved service. That has not been the case in our rural areas. In South Dakota, we are constantly threatened with loss of service. And this problem will be even more noticeable in 1983 when complete deregulation is mandated. In South Dakota, the absence of rail passenger service makes affordable, dependable air transportation essential.

The Civil Aeronautics Board (CAB) has now added to our burdens by proposing the elimination of all price controls on flights of 200 miles or less. While some price restraints would remain on longer hauls, the airlines could increase fares in short haul markets as so desired. Mr. President, I find this ruling to be a discriminatory action. Such a proposal is unfair to airline consumers in our rural communities where airline competition is minimal and often nonexistent. Citizens in these areas are being forced to pay exorbitant fares for air service while competition and Federal restraints will control fares in the long haul markets.

I realize the high costs airlines are experiencing. However, I am also aware of the transportation needs in our rural areas. The economic growth and development of these communities greatly depend on transportation services. Business and tourism would suffer greatly from such a discriminatory ruling.

Mr. President, we must safeguard our rural communities from bearing a disproportionate share of the air travel costs. I join my colleagues in urging the CAB to revise this proposed fare flexibility ruling. I trust that the Board will recognize the special conditions in the low-density markets and provide an equitable level of protection for these areas. The Federal Government should not overlook the air transportation needs of rural America.

Mr. President I have heard from many South Dakotans on this matter, and I ask that some of these letters be printed at this time.

The letters follow:

HURON AREA CHAMBER OF COMMERCE,
Huron, S. Dak., July 9, 1980.

Senator LARRY PRESSLER,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR PRESSLER: Thank you for your letter to our Transportation Committee on June 17.

For the past two years, the Huron Chamber has attended numerous De-Regulation hearings both in South Dakota and Minnesota to speak out in opposition to airline De-Regulation. I feel that the proposed under 200 mile ruling simply verifies that our position on the issue was correct. De-Regulation will do more harm than good for all communities of South Dakota.

Sincerely,

JAMES R. MARTIN,
Executive Vice President.

WESTERN SURETY CO.,
Sioux Falls, S. Dak., July 30, 1980.

Hon. LARRY PRESSLER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PRESSLER: I am sorry to be late in answering your letter of June 16, 1980, with regard to airline deregulation.

You are absolutely correct that the people of South Dakota are bearing a large burden in the price of airline tickets because of lack of competition. For instance, it is cheaper to get to the West Coast from Minneapolis than it is from Sioux Falls, although Minneapolis is about 200 farther. Another example is the rates charged between San Francisco, California, and Los Angeles, which is a distance longer than from Sioux Falls to Rapid City, and yet the California rate on Western Airlines, at latest count, was $53 whereas the South Dakota rate was $77.

This is not a new situation, however. Prices on locked-in routes have always been higher than they are where competition is available.

If Republic Airlines is successful in merging with Air West, the competition could change considerably.

The airlines are somewhat involved in a Catch 22 situation. While their ticket prices are going up as are their expense of operation, their passenger boardings are going down because of the price. I noticed in yesterday's paper that Western Airlines has lost $14 million for the quarter. Obviously, they are not losing that money in South Dakota at the fares they are charging, so they must be losing it on the competitive routes such as the California route mentioned above.

As a member of the Sioux Falls Airport Board, I am aware of the loss of revenue to the Airport since landing fees are based upon weight and with fewer people flying, the Airport's revenues have decreased and as has every other business, Airport expenses are increasing.

Air service to South Dakota is vital as you are well aware. It won't be too many years before we will find out whether or not commuter airline service will be installed to take the place of the regional carriers. I believe a good commuter airline could actually be an increased asset to communities now being served by the regional carriers. It could result in better service and more service. Hopefully, that will be the case.

I appreciate your correspondence.

Yours very truly,

TOM KIRBY, Jr.

NORTHWESTERN TRAVEL AGENCY,
Sioux Falls, S. Dak., June 24, 1980.

Senator LARRY PRESSLER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PRESSLER: Thank you for your letter of June 16th sharing your concern regarding the CAB removing all regulatory price restraints on flights under 200 miles.

While I am an advocate of the free enterprise system, I am concerned since this ruling may permit carriers to unjustifiably recoup increased costs on long haul markets on routes under 200 miles.

I agree that a viable air transportation system is essential to the prosperity of South Dakota. Further, we must be able to offer equivalent fare levels to those being offered in more populated markets such as Minneapolis/St. Paul to popular vacation and business destinations.

As a travel professional, I am aware of the discriminatory fare levels relative to South Dakota. If I can ever provide you with details, please feel free to contact me.

Sincerely yours,

JIM GREENE, *Manager.*

CITY OF SIOUX FALLS, S. DAK.,
June 25, 1980.

Senator LARRY PRESSLER,
Dirksen Senate Office Building,
Washington, D.C.

DEAR LARRY: In response to your letter of June 16 concerning the removing of all regulatory price restraints on flights under 200 miles: I'm 100% in agreement with you that by the lack of controls here in South Dakota it's hurting us badly.

I remember not long ago when a roundtrip to Pierre cost $39.00. Today it is well over $100.00. To me this seems ridiculous! I realize that some of this is paying for the security systems in airports. But in checking into charter lines, such as Business Aviation, the fares aren't all that much cheaper except when you take 6 or 8 persons.

I fully understand and appreciate that fuel costs have soared, but I agree with you that rural areas should not have to subsidize the longer distant flights, such as from New York to Los Angeles.

If there's any way that we can help here on the local level feel free to contact us.

We thank you for your concern in this very important matter.

Sincerely,

VERN WINEGARDEN,
Commissioner.

Mr. TSONGAS. It is my understanding that section 141 of the Surface Transportation Act has not been funded this year. Am I correct?

Mr. BAYH. Yes, that is correct. However, as the Senate committee report points out, the programs which were to be funded in section 141 shall be included as a substantial part of the auto use management program.

Mr. TSONGAS. I appreciate the chairman's attention to this important program. However, the report language expresses a concern that the program's funds were not obligated. This is not the case. The Department of Transportation intends to have obligated all the funds available by the end of the fiscal year. The difficulty was that the $4 million program generated $45 million worth of grant proposals. In light of the strong interest, in fact demand for the program, I ask that when the chairman has received authorizing legislation for the auto use management program, that he remember that the section 141 program was not funded in this bill and that he pledge to support funding for the auto use management program in order to provide funding for the bicycle grant program.

Mr. BAYH. I share your concern for this important program, Senator TSONGAS. As soon as the committee receives the authorizing legislation and we consider an appropriations bill. I will work to include funding for the bicycle grant program within the auto use management program.

MASS TRANSIT FUNDING FOR HOUSTON

Mr. BENTSEN. I would like to discuss an issue with Senator BAYH, the distinguished chairman of the Transportation Subcommittee and the majority floor manager of this bill, on a matter relative to the section 3 capital grant program of the Urban Mass Transit Administration described on pages 47 through 49 of the committee report. I am concerned regarding the new systems construction program funding. In this bill the funding level is set at $430 million; this is $5 million below the House bill and $35 million below the budget request. Is it the understanding of the committee that this $430 million would be adequate to cover existing commitments in Atlanta, Baltimore, Buffalo, and Miami as well as adequate funds to enable UMTA to initiate feasibility studies at other cities planning the development of fixed rail systems?

I am particularly concerned that the city of Houston—one of the fastest growing cities in the country and one is desperate need of an effective mass transit system—would not be able to begin the process of moving forward in developing such a system. For example, the city of Houston has raised its taxes to provide its matching funds for a mass transit system; it would be a severe consequence to the city of Houston if it could not begin to undertake the feasibility studies necessary to obtain subsequent new system funding this coming fiscal year.

Mr. BAYH. The distinguished Senator from Texas raises a good point. In developing this legislation, the committee staff discussed new system funding with UMTA and was given to understand that the $430 million figure was adequate to cover these needs. However, after the committee markup and a closer study of the funding demands, it now appears that the $430 million figure may be tight and may not be enough to meet all the needs. I want to assure my colleagues that it was the intent of the committee to provide adequate funding of the new system program, including funds to conduct the feasibility studies for the Houston system. I will carefully study the needs and funding levels in the new system program during the conference on this bill and will recede to the House funding level if necessary to carry out the program.

I would further state that I will recommend conference report language to state that it is the intent of Congress to fully fund the ongoing new system commitments plus the feasibility studies deemed appropriate by the UMTA Administrator including the Houston proposal. I would also like to say to my colleague from Texas that the committee is well aware of the efforts of the city of Houston to develop a sound mass transit system and fully appreciates the magnitude of such a task. I would like to compliment Houston in taking the responsible attitude of developing a solid funding source at the beginning of its efforts. The committee fully supports the city of Houston in its development of a mass transit system.

Mr. BENTSEN. I thank my distinguished colleague for his consideration of the matter and for his kind remarks about the largest city in Texas.

Mr. CANNON. I would like to ask the distinguished chairman a question about the Appropriations' report language which identifies individual ADAP projects. The Commerce Committee has become concerned about this spreading process which would seem to substitute the Appropriations Committee's priorities for those priorities established by the Commerce Committee in the ADAP authorization law.

Is it the distinguished chairman's intent that such report language require FAA to fund the listed projects before meeting higher priority safety needs of the system?

Mr. BAYH. Not at all. The chairman of the Aviation Subcommittee has identified a concern I also share. What we have done is to put a noninclusive list of projects in our report which are examples of the type of projects we expect to receive the FAA priority attention. We did not specify project amounts or the nature of these projects because we realize that safety needs must come first, and indeed not all of the identified projects may be able to receive their requested level of funds. We clearly expect the FAA to be guided by the priorities set out in the authorization legislation, however, a number of Members of the Senate and the Appropriations Committee felt it was important to draw the FAA's attention to projects in their State.

Mr. CANNON. I thank the distinguished Senator from Indiana. Your explanation does much to ease my concern, and I hope to see that FAA understands the proper context of this report language.

Mr. MELCHER. Mr. President, the committee report on this bill refers to pending applications for loan guarantee financing under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976. We want to be sure that the reference to the pending applications is no indication as to qualifications or eligibility of any of the pending applications mentioned. The financing under section 511 will be essential for the rehabilitation and improvement of marginal railroads and bankrupt railroads such as the Milwaukee and the Rock Island. We want to be sure that financing under section 511 continues to be limited to rehabilitation and improvement of existing rail facilities and can be used for limited new construction only as a necessary part of a rehabilitation and improvement project and will not be used for projects not directly incidental and related to rehabilitation and improvement of the existing railroad system.

Mr. President, I ask the managers of the bill whether they agree with that statement on section 511.

Mr. BAYH. Mr. President, I concur with the remarks of the Senator from Montana on the rehabilitation.

Mr. MELCHER. I thank the Senator. Does the minority concur, also?

Mr. McCLURE. Mr. President. I think this does conform and supplements the statement I made earlier that we intend to track how these funds are applied, to make sure it is pursuant to the authorizing legislation. We want to take a look and see how it is being administered.

I concur with the statement of the Senator from Montana.

Mr. MELCHER. I thank my colleague from Idaho.

Mr. STEVENS. As the chairman of the Appropriations Committee is aware, there have been some allegations recently concerning the water/rail rates of the federally owned Alaska Railroad. The committee has included report language which directs the Department of Transportation to examine the Alaska Railroad pricing policies to insure that these rates are fully compensatory and that the subsidy received by the Alaska Railroad does not result in predatory or noncompensatory water/rail service. I certainly support the committee's efforts but do want to discuss two concerns with the chairman of the Appropriations Committee if I may.

There is some concern in Alaska that the report language will affect the through rates to Fairbanks. It is my understanding from this language that, as long as the through rates are not predatory or noncompensatory they will not be affected simply because they are through rates. Is that understanding correct?

Mr. MAGNUSON. That is correct. The committee is simply concerned that the Alaska Railroad interstate water/rail contract rates and water/rail tariff charges may be predatory or noncompensatory. As long as the rates do not fall into these categories they will not be affected simply because they are through rates.

We are concerned that the Government owned railroad not use tax money to artificially reduce the rate and threaten the existence of private carriers.

Mr. STEVENS. I thank the chairman for clarifying that point and I certainly concur. I do have one other concern which I think can be worked out. I have just received a telegram from the Governor of Alaska this morning which indicates that the Governor has requested the attorney general of Alaska as well as the commissioners of the Alaska Department of Commerce and Economic Development and the Department of Transportation and Public Facilities to conduct a State-sponsored study of this issue. The Governor has requested that the study conducted by the Federal agencies be coordinated with the State study. I certainly think that coordination between the two would be beneficial and hope that the chairman would agree that the Department of Transportation and the State of Alaska should work together to resolve this.

In addition, the State of Alaska has indicated that it would be difficult for them to complete their study by April 1, 1981. Since the two entities will be working together on this, I wonder if the chairman would be willing to indicate to the Department of Transportation that their study should be completed not later than June 1, 1981. This will allow the information gathered by the State of Alaska to be considered in the report to be issued by the Department of Transportation.

Mr. MAGNUSON. I certainly agree with the Senator from Alaska that it would be beneficial to coordinate the Federal and State investigation of this matter. It will also allow for more time for participation by the Alaska Railroad as well as the affected private carriers. Both reports will undoubtedly be more complete as a result of this coordination. In order to have the information gathered by the State of Alaska considered in the report to be issued by the Department of Transportation, I think that it will be possible to indicate in the conference report that the study by the Department of Transportation be completed no later than June 1, 1981, instead of April 1, 1981.

Mr. STEVENS. I thank the chairman for discussing these matters with me and very much appreciate his cooperation. The allegations regarding the railroad's pricing policies are a serious concern to both of us as well as to the State of Alaska and it is my hope that these studies will resolve the question equitably. I ask unanimous consent that a letter written to me by Dr. William R. Wood regarding this issue be included in the Record at this time.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Fairbanks Industrial
Development Corp.,
Fairbanks, Alaska, August 14, 1980.
Senator Ted Stevens,
U.S. Senate,
Senate Office Building, Washington, D.C.

Dear Senator Stevens: As you know, the Fairbanks independent small business dealers in the building materials have been deeply concerned over the contract rates that have been established by the Alaska Railroad. They have met with the Railroad officials and also with the two competing carriers, Sea Land and Tote. Arrangements have been worked out, apparently, with Sea Land so that they will be able to survive this season. The picture for next year, however, remains bleak for all except the one large dealer from Anchorage that has a branch here and is able to take advantage of the special contract rates of the Railroad.

Yesterday the group whose names are attached met in my office for several hours, toward the end of which they asked me to join them and I agreed to send the materials which they are presenting directly to your office.

There was considerable discussion over the matter of federal subsidy for the Railroad. In no way are Fairbanks merchants opposed to essential subsidy for the Railroad, only if any part of the subsidy might be used in a manner that would be unfair to competing carriers from the private sector. They fully appreciate the great need which Alaska now has for improved and expanded service of the Railroad, especially a capability for bulk materials hauling: grain; coal; mineral ores; sand and gravel, as well as petrochemical products from the Interior to the coast. They also recognize the tremendous value for our growing tourist trade to maintain a passenger service to McKinley Park and Anchorage during the summer months, and look forward to the time when there will be attractive programs for visitors during the winter as well.

The Railroad problem is growing in significance for Alaska. Something major, even drastic in the present setup ought to be made without delay. Your long experience and knowledge in depth suggests that you might take the lead in bringing the issue to a point of decision. Hopefully, this will be a strong possibility following the November election.

Sincerely yours,
William R. Wood,
Executive Vice President.

● Mr. CANNON. Mr. President, I would like to commend the members of the Appropriations Committee for their thorough efforts on behalf of this bill. Considering the difficulty of their task during this period of extreme budgetary restraint, I believe the Appropriations Committee members have very carefully reviewed all transportation requests and needs in an extremely responsive manner.

The Senate Appropriations Committee recommends a total of $11,795,831,815 while the House bill recommends a total of $11,866,784,065. The Senate bill represents a reduction of $70,952,250. The Senate Appropriations Committee succeeded in reducing the amounts in new budget authority for fiscal year 1981 while also taking into account several areas of concern that the House bill did not address.

I do not want to comment on every agency and program in this bill since its contents have already been summarized, but there is an observation I would like to make with respect to an area that I judge to be of particular importance and relate directly to Commerce Committee jurisdiction.

With respect to section 505 of the railroad rehabilitation program—title II of the Commerce Committee's Employee Protection and Railroad Financing Modification Act of 1980, S. 2530 authorized an additional $400 million over a 2-year period, fiscal years 1981 and 1982. S. 2530 was limited to $180 million authorization for fiscal year 1981 for restructuring and rehabilitating our Nation's rail system. I was pleased to note that the Appropriations Committee's report states the extreme importance of railroad national transportation priority.

In light of the budgetary restraints I am in support of the Appropriation Committee's level of funding for rail service assistance, especially in view of the deferral of consideration of this matter by the House. I fully recognize the limitations placed on program funding by the Appropriations Committee and have confidence that this level can be increased at a later date. I have a letter that I would like to read into the record from Secretary of Transportation Goldschmidt, indicating his concerns with the Appropriations Committee's level of funding for this important program and the needs of railroad restructuring and a higher level of funding for the future.

The letter follows:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., September 17, 1980.

Hon. HOWARD CANNON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CANNON: I am gratified to hear of your concern about the adequacy of funds for restructuring and rehabilitating our nation's rail system in FY 1981. Since we have all struggled for enactment of forthcoming legislation to reduce regulation and provide funding assistance to the railroads, it would seem tragic not to capitalize on the opportunities which are about to present themselves.

As you know, we have not only requested an FY 1981 appropriation of $250 million for Restructuring Assistance, but also expect to submit a $200 million supplemental for this program, as recently announced by the President.

These estimates are based on our conviction that funds are needed and could be well used in the next fiscal year. Recognizing that some members of the Senate do not yet share this conviction, we would encourage you to point out to them:

That mainline track rehabilitation can be very costly—averaging $400 thousand per mile on the type of lines we would deal with. At this rate, $100 million would only pay for about 250 miles of work, perhaps only enough for a single major project;

That failure to appropriate sufficient funds for FY 1981 would mean that some important lines would continue to deteriorate until the summer of 1982, the beginning of the next work season;

That provisions of Title V excluded some key carriers from participation in the Section 505 program. Under the pending Section 518 program, however, we would be able to work with greater flexibility (e.g., labor protection) and with more participants. We therefore believe that FRA will be able to utilize available funds at an accelerated rate;

That the Rock Island Trustee will release engineering and real estate data in October, clearing the way for purchase and rehabilitation of these properties with Federal Assistance. Similarly, a court decision by January is expected to determine the future status of Milwaukee II, opening further funding opportunities.

If I can be of any help in providing you with further points to raise in this debate, please let me know. Your support in this matter is most appreciated.

Sincerely,

NEIL GOLDSCHMIDT.●

WHY THE DOT AND RELATED AGENCIES APPROPRIATIONS BILL IS TOO HIGH

Mr. PROXMIRE. Mr. President, I rise to state to the Senate my reasons for voting against this bill on final passage.

First of all I want to make clear that my reasons have nothing whatsoever to do with the managers of this bill and the job they have done.

The Senator from Indiana (Mr. BAYH) has worked hard to bring this bill in at $3.76 billion below the budget estimates. When one considers the pressures from the groups with economic interests in this bill—highways, airways, mass transit, waterways, the Coast Guard, and others, the Senator from Indiana's performance, and that of his counterpart, the Senator from Idaho (Mr. MCCLURE) are commendable.

I congratulate them for the job they have done and for the civic courage it has taken for them to beat back all the proposals to not only push this bill over the budget but massively so. The Senate and the public owes them its gratitude. So measured against the pressures for spending, this bill has great merit.

NEED TO CUT BUDGET AND BALANCE THE BUDGET

However, measured against the need to fight inflation and to cut the budget, we should do and must do more, not only on this bill but on every bill before us.

We were promised a balanced budget for fiscal year 1981. That has now vanished and the midyear estimate was for a deficit of at least $30 billion.

The inflation rate has dropped somewhat over the last 3 months but there is every reason, particularly if one looks at the wholesale or producer price indexes, to believe that it will rise in the near future. Today's wholesale prices are tomorrow's consumer prices, and the former have been rising.

Interest rates have dropped somewhat and housing starts have improved. But there is every indication that interest rates will rise, and especially mortgage rates, and the present improvement in housing starts at a 1.4-million annual rate is still far below the 2 million in 1977 and 1978 and the 1.75 million, last year.

SPENDING TOO HIGH

Therefore even though this bill is below the budget estimate and its managers have performed well, I believe it is still too high compared with the needs of the country and the economy.

First, it is about 16 percent more than the Congress appropriated last year and that was too high. So there has been no effective cut from last year.

Second, this bill contains massive subsidies of one kind or another for highways, railways, mass transit systems, and airways which the legislative committees have written into law over the past decade or more and which provide a base level of spending which I believe is far too high. It is no fault of the Appropriations Committees that these funds have been provided in the past. Nevertheless it is also true, in my view, that by any objective standard we spend too much of the taxpayers' hard-earned income for these purposes.

In fact, while the ordinary citizen over the last year has had to eat his or her share of inflation and to take a reduced level or standard of life, the institutions funded by this bill are kept whole because the increases are as much, if not greater, than the rate of inflation.

In relative terms, then, both the Federal Government agencies and the private, State and local institutions funded by this bill have it quite a bit better than the ordinary citizen.

Thus, while this bill is under the budget there is no real decline in spending compared with last year.

This country is still the victim of rampaging inflation.

Interest rates are excessively high and will remain high as long as the inflation rate remains high.

Because of all this our rate of economic growth and rate of productivity have fallen disastrously.

While Government spending is by no means the only cause of our problem, it is nonetheless a major cause and a major contributor to our problems.

In my view we need to cut spending even further on this bill and on every other bill.

Because of our overwhelming economic and inflationary problem, I am voting against this bill notwithstanding the extraordinarily high level of performance by its managers which resulted in a bill below the original budget estimates.

FISCAL YEAR 1981 TRANSPORTATION APPROPRIATIONS

Mr. ROBERT C. BYRD. Mr. President, section 1 of the Transportation Act of 1940, entitled "Transportation Policy," prescribes that the United States recognize and preserve the inherent advantage of each mode of transportation. The measure before the Senate today, H.R. 7831, making appropriations for the Department of Transportation and related agencies for fiscal year 1981, continues that mandate.

We have the able and experienced chairman of the Appropriations Subcommittee on Transportation, Mr. BAYH, to thank for the responsible approach and realistic recommendations contained in this bill. The distinguished senior Senator from Indiana has chaired the Transportation Appropriations Subcommittee since 1976. I might add that he took over the chairmanship of that subcommittee from me, so I know firsthand the rigorous demands of his job. As the bill clearly reflects, Senator BAYH is meeting those demands.

I know that he was ably assisted by Senator MCCLURE, the ranking minority member on the subcommittee. The members of this subcommittee, as well as the members of the full Appropriations Committee, have thoroughly reviewed every department and agency request and have made recommendations to meet those requests in a fiscally responsible manner.

This bill contains numerous important transportation programs—programs which reflect the need for a coordinated and coherent transportation policy for this country. This need has never been greater than it is today. The current energy situation has significantly altered the transportation requirements of this Nation. H.R. 7831 addresses those requirements in terms of both our present and our future needs.

Under title I, Department of Transportation, there is funding for such important programs as the Federal Highway Administration, the Federal Railroad Administration, and the National Highway Traffic Safety Administration. The FHA administers programs including motor carrier safety, highway safety and research development, and carpool and vanpool projects.

Title I also provides funds for Amtrak operating and capital expenses. The improvement of this important passenger rail network was a top priority of the 96th Congress, and the moneys provided here reflect cost savings accomplished by the Rail Passenger Service Act. It recognizes, however, that trains such as the Blue Ridge and the Cardinal, which serve my own State of West Virginia, are vital to meet the transportation needs of communities located in more rural areas.

The National Highway Traffic Safety Administration is responsible for maintaining the national 55-mile-per-hour maximum speed limit program. This national program was established to meet the goals of reducing highway fatalities and reducing motor fuel consumption. This policy has saved over 37,500 lives and reduced injuries by 2 million in a 5-year period. Fuel economy from the 55-mile-per-hour limit accounts for a savings of 3.4 billion gallons of gasoline each year.

The Federal Aviation Administration is also funded in this bill. The Transportation Appropriations Subcommittee has carefully and thoughtfully considered appropriation levels for the operation of the FAA, which is charged with the responsibility of assuring the air safety of the traveling public. The subcommittee has made a sobering assessment that the FAA has not done an effective job of managing the air traffic control system and has offered a series of detailed recommendations which it expects to be carried out expeditiously. This work exemplifies the type of program review and evaluation which is a key element of the appropriations process. In this instance, the Transportation Subcommittee has acted to insure the best use of Government resources to further public safety.

This bill is a good one. It reflects a recognition of changing energy realities and transportation needs. It successfully addresses these new realities and needs. Again, I commend the distinguished chairman of the Subcommittee on Transportation Appropriations, Mr. BAYH, the ranking minority member, Mr. MCCLURE, and the members of both the subcommittee and the full committee for their work.

Mr. HEINZ. Mr. President, I rise for the purpose of calling the attention of the Senate to a provision of the Department of Transportation appropriations bill which I believe will have potentially negative impact upon the efforts of States to protect their citizens from unsafe trucks. Specifically, this legislation, in section 316 of H.R. 7831, would in effect prohibit all State efforts to regulate the safety conditions of out-of-State trucks.

I am particularly concerned about the far-reaching impact this provision could have in my State of Pennsylvania. This past year, my home State of Pennsylvania enacted legislation to increase its truck weight limit to 80,000 pounds, thus joining the majority of States in adopting this standard. At the same time, in recognition of the greater threat heavier trucks pose to other highway users, Pennsylvania adopted legislation requiring trucks using its highways to display a valid safety inspection certificate. Section 316 of the legislation now before us would penalize the State of Pennsylvania for its efforts to promote highway safety by denying the State Federal highway funds which might be used directly or indirectly to implement its law.

The Pennsylvania law is now under litigation and it would be inappropriate for me to comment on it merits. However, I want to take this opportunity to express my deep concern over the committee's attempts, in section 316 of this bill, to prohibit in effect all State efforts at regulating the safety condition of out-of-State trucks. I am concerned that, if section 316 remains in its present form, States will have no choice but to permit on their highways 80,000-pound vehicles which must comply only with Federal regulations that are ineffectively enforced. I know the committee is concerned about unnecessary restrictions on interstate commerce and States using specific safety standards and sticker requirements as revenue-raising devices. These concerns should be addressed and can be addressed without placing an absolute prohibition on safety inspection requirements as is contained in section 316.

The point that must be stressed is that the move toward bigger, heavier trucks is being accompanied by increases in truck related accidents. Between 1977 and 1978, the total number of accidents involving motor carriers in interstate commerce increased from 30,563 to almost 34,000. Fatalities and injuries increased from 34,691 to 35,755.

It is also clear that if this trend is to be reversed, it will have to be done with the help of State law enforcement agencies. In its report on S. 1390, the Truck Safety Act, which was passed by the Senate earlier this year, the Senate Commerce Committee concluded that motor vehicle safety rules are being flagrantly ignored and that State enforcement powers should be upgraded. The Department of Transportation's Bureau of Motor Carrier Safety is currently responsible for enforcing Federal motor carrier safety regulations. This agency, however, has only 176 inspectors to cover the entire United States. With enforcement spread so thin, it is not surprising that the Bureau is finding that many trucks are not in compliance with its regulations. In fact, 59 percent of the trucks stopped by the Bureau of Motor Carrier Safety at a roadside inspection in Berwick, Pa., this past spring were placed out of service for failing to meet Federal standards.

In addition to its stifling effect on safety initiatives, section 316 raises the possibility of unintended consequences that the committee may have overlooked in its addition of this language to the bill without full debate on its merits. Pennsylvania utilizes vehicle strickers on trucks as road tax markers, for example, to facilitate revenue collection. Other States may use sticker requirements for similar valid purposes.

Mr. President, we cannot ignore the compelling interest and responsibility of the States in protecting their citizens, and I am extremely disappointed that the Senate Appropriations Committee has taken the action it has, before the courts have had the opportunity to rule on Pennsylvania's law. It is my hope that Congress will soon act to encourage rather than block State efforts to prevent needless deaths on our highways due to lax compliance with and enforcement of safety standards. I would ask that the members of the Appropriations Committee who will represent the Senate in conference on this legislation reexamine the action they have taken and be open to ways to assist States in addressing this critical problem.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill, having been read the third time, the question is. Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the

Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. BUMPERS), the Senator from Arizona (Mr. DECONCINI), the Senator from Missouri (Mr. EAGLETON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. MELCHER), the Senator from North Carolina (Mr. MORGAN), the Senator from Arkansas (Mr. PRYOR), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alabama (Mr. STEWART), the Senator from Florida (Mr. STONE), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Louisiana (Mr. LONG) would vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), the Senator from Iowa (Mr. JEPSEN), the Senator from Idaho (Mr. MCCLURE), the Senator from South Dakota (Mr. PRESSLER), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The result was announced—yeas 67, nays 10, as follows:

[Rollcall Vote No. 425 Leg.]

YEAS—67

Baker
Baucus
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
Dole
Durenberger
Durkin
Exon
Ford
Garn
Glenn
Gravel
Hatch
Hayakawa
Heinz
Hollings
Huddleston
Inouye
Jackson
Johnston
Kassebaum
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Randolph
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stevenson
Thurmond
Tower
Tsongas
Warner
Weicker
Williams
Zorinsky

NAYS—10

Armstrong
Byrd, Harry F., Jr.
Domenici
Hart
Heflin
Helms
Humphrey
Laxalt
Proxmire
Roth

NOT VOTING—23

Bayh
Bumpers
DeConcini
Eagleton
Goldwater
Hatfield
Javits
Jepsen
Kennedy
Long
McClure
McGovern
Melcher
Morgan
Pressler
Pryor
Ribicoff
Stafford
Stewart
Stone
Talmadge
Wallop
Young

So the bill (H.R. 7831) as amended, was passed.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HEINZ. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives, and that the Chair be authorized to appoint the conferees on behalf of the Senate.

The motion was agreed to; and the Chair appointed Mr. BAYH, Mr. MAGNUSON, Mr. STENNIS, Mr. ROBERT C. BYRD, Mr. EAGLETON, Mr. DURKIN, Mr. MCCLURE, Mr. MATHIAS, Mr. WEICKER, Mr. YOUNG, Mr. HATFIELD, and Mr. STEVENS conferees on the part of the Senate.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS, 1981

The PRESIDING OFFICER. Under the previous order, the Senate will now renew consideration of H.R. 7631, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 7631) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1981, and for other purposes.

The Senate resumed consideration of the bill.

ERISA—CONFERENCE REPORT

Mr. WILLIAMS. Mr. President, I submit a report of the committee of conference on H.R. 3904 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 3904) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployer plans, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings.)

Mr. WILLIAMS. Mr. President, the conferees on H.R. 3904, the Multiemployer Pension Plan Amendments Act of 1980, have resolved the differences between the House and Senate on the two matters previously in disagreement. The Senate had provided an exemption from the preemption provision of the Employee Retirement Income Security Act of 1974 for the Hawaii Prepaid Health Care Act. The House had not provided such an exemption.

On this matter, the House prevailed and the exemption for the Hawaii law has been deleted. I expect, however, that this important provision will be considered in the context of another bill in the near future.

The conferees also had to resolve the differences between the House and the Senate provisions for modifying the requirement of current law that unemployment compensation be reduced by the amount of any pension or retirement benefits.

The Senate provision allowed the States to apply the reduction in unemployment benefits only when the pension is maintained, or contributed to, by a base period employer or an employer who is chargeable for the unemployment compensation benefits. The Senate provision also allowed the States to limit the reduction in unemployment benefits in accord with the employee's share of contributions to the pension fund, so that an individual's investment from his own funds in the pension would not be used against him when he qualifies from unemployment compensation benefits after retirement by reason of being involuntarily unemployed, available for work, and seeking work.

The House provision retained the essential elements of the Senate language and made three significant changes therein. First, the House language also allowed the States to totally disregard any amount of retirement income under the Social Security Act or the Railroad Retirement Act. Second, it allowed the States to disregard pension maintained or contributed to by a base period employer, if eligibility for or the amount of such pension were not affected by postretirement earnings. Third, the House language applied the pension offset only when the pension is paid by a base period, but not a chargeable employer.

The Senate provision essentially prevailed, and the conference agreement departs from the Senate provisions only in one respect. Except in the case of retirement benefits received under the Social Security Act or the Railroad Retirement Act, the pension offset would not apply when postretirement income did not effect either eligibility for or the amount of the pension maintained or contributed to by a base period of chargeable employer.

In respect to this controversial issue, therefore, the Senate can be satisfied that its position has been sustained, in virtually every respect, by the conference agreement.

Mr. President, I am pleased that these remaining items of disagreement have been resolved, and urge support for this important measure to provide retirement security for 8 million Americans and their families.

Mr. BRADLEY. Mr. President, I am delighted that we are finally resolving a problem which created serious burdens, particularly for senior citizens, in my State and throughout the country.

Since April 1 of this year individuals who would otherwise qualify for full unemployment benefits are finding those benefits diminished—even wiped out totally—solely because they receive social security or other pension benefits. An effort which started long before I was a Member of this body to reform unemployment abuses has proven to be a major abuse itself.

Senator **John Chafee** and I sought to eliminate that injustice and offered a corrective amendment to the Multiemployer Pension Act amendments. I am pleased that the Senate-House conference committee has chosen to sustain that corrective effort.

I would like to outline for the record what we have accomplished by the adoption of the conference report. I offer some examples of how the new law will work as of 1981:

First, an individual at company A retires and begins to collect social security. For whatever reason, this person then goes to work for company B and, after 6 months there, is terminated. Assuming the individual is eligible for unemployment insurance because of the work done at company B, the level of unemployment insurance compensation will not be reduced at all. This is because the base period employer is not the same as the social security employer. The offset would apply, however, if the individual had returned to work for company A instead of working for company B. Under those circumstances, the base period employer and the social security employer would be the same.

Second. A worker at company A retires at age 65 after 35 years of service there and begins collecting a pension of $600 per month. He then unsuccessfully seeks new employment and files an unemployment insurance claim. The State computes this individual's unemployment benefit rate at $130 per week, or $520 per month, because of the past earnings reported to the State. This individual would not be eligible for unemployment insurance payments because the amount of the pension received from the base period employer exceeded the unemployment insurance payments that were to be paid.

Third. The individual described in examples 1 and 2 finds work with ABC Construction and works a sufficient number of weeks to establish eligibility for unemployment insurance payments under State law. This individual would be eligible for unemployment insurance payments not subject to the offset provision. This is because an individual whose unemployment insurance payments were reduced or taken away entirely because of the base period employer proviso could restore his eligibility for unemployment insurance payments not subject to the offset provision by gaining employment with an employer separate and apart from the past employer who is paying the worker's pension.

Fourth. Now, let us go back to example No. 2. Take the same individual who has worked for the same company, but with a different retirement plan. In this case, the individual contributed one-third of the value of the $600 pension payment received. So the portion of the pension subject to the offset would be $400. This person would be eligible for unemployment insurance payment of $30 per week because the total amount of the unemployment insurance payment this individual was otherwise eligible to receive would be reduced by the $400 pension received from the base period employer.

These examples show that older Americans who, under the law in operation since April 1, have been denied unemployment compensation, will now be eligible to receive it. Hardworking Americans and New Jerseyans have a right to unemployment benefits. Our amendment recognizes and assures that right.

Mr. STEVENS. Mr. President, is the matter before the Senate H.R. 3904?

The PRESIDING OFFICER. The conference report thereon; the Senator is correct.

Mr. WILLIAMS. Mr. President, I think we are ready to act on the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

RAIL TRANSPORTATION POLICY ACT OF 1980

Mr. CANNON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1946.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 1946) to reform the economic regulation of railroads, and for other purposes.

(The amendment of the House is printed in the Record of September 9, 1980, beginning at page 24883.)

UP AMENDMENT NO. 1618

Mr. CANNON. Mr. President, I move that the Senate agree to the House amendment to S. 1946 with an amendment which I send to the desk on behalf of myself and Mr. Packwood, striking all after the enacting clause and substituting the amendment I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. Cannon), for himself and Mr. Packwood, proposes an unprinted amendment numbered 1618.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amendment No. 1618

Strike all after the enacting clause and insert in lieu thereof the following:

TITLE I—RAILROAD TRANSPORTATION POLICY

SHORT TITLE

Sec. 101. This title may be cited as the "Railroad Transportation Policy Act of 1980".

Part A—General

RAILROAD TRANSPORTATION POLICY

Sec. 102. Section 10101 of title 49, United States Code, is amended—

(1) in subsection (a), by striking the first word and inserting in lieu thereof "Except where policy may have an impact on rail carriers, in which case the principles of subsection (b) of this section shall govern, to";

(2) by redesignating subsection (b) as subsection (c); and

(3) by adding immediately after subsection (a) the following new subsection:

"(b) In regulating transportation provided by rail carriers, the Commission shall consider the following as being in the public interest:

"(1) development and maintenance of a healthy, efficient freight transportation system, in the private sector, in which various modes of transportation are subject to impartial regulation;

"(2) maximum reliance on competitive market forces and on actual and potential intramodal and intermodal competition to provide transportation services at fair prices and to enable efficient and well-managed carriers to earn adequate profits and to attract capital;

"(3) avoidance of undue concentrations of market power on the part of rail carriers and the maintenance of regulatory protection for shippers and receivers against the abuse of market power;

"(4) reduction of regulatory barriers to entry into and exit from the industry;

"(5) maintenance of fair wages and working conditions;

"(6) operation of transportation facilities and equipment without detriment to the public health and safety;

"(7) development and maintenance of a transportation system responsive to the needs of the public and the national defense, in which regulatory decisions are reached fairly and expeditiously;

"(8) encouragement of the establishment and maintenance of reasonable rates for transportation without unreasonable discrimination or unfair or destructive competitive practices;

"(9) cooperation with each State and the officials of each State on transportation matters in an effort to assure that intrastate regulatory jurisdiction is exercised in a manner consistent with the standards established in this subsection;

"(10) elimination of noncompensatory rates for rail transportation; and

"(11) encouragement and promotion of energy conservation.".

Part B—Ratemaking

REASONABLENESS OF RAIL RATES

Sec. 103. Section 10701(b) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking the last two sentences; and

(2) in paragraph (2) (B), by striking "and incremental".

MAXIMUM RATE REGULATION

Sec. 104. Section 10701 of title 49, United States Code, is further amended by adding at the end thereof the following new subsection:

"(e) (1) A rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may establish any rate for such transportation if such rate yields a revenue-to-variable cost ratio that is equal to or less than the average ratio of revenue-to-variable cost established by the Commission pursuant to this subsection.

"(2) At regular intervals, but in no event less often than annually, the Commission shall determine on the record after a hearing and publish the average ratio of revenue-to-variable cost that rail carries would be required to realize from transportation provided by such carriers under honest, economical, and efficient management in order to cover total operating expenses including depreciation and obsolescence, plus a reasonable and economic profit or return (or both) on capital employed in the business sufficient to attract and retain capital in amounts adequate to provide a sound transportation system in the United States. The first such average ratio shall be determined and published by the Commission no later than 120 days from the date of enactment of this subsection, until which date a ratio of revenue-to-variable cost (expressed as a percentage) of 150 percent shall be considered to constitute such average ratio for the purposes of this section and the related provisions of sections 10704, 10705, 10707, and 11701 of this title.

"(3) Within 1 year after the date of enactment of this subsection, the Commission shall complete and submit to the Congress a study to determine the feasibility and desirability of the use of a return-on-investment standard as an alternative to the ratio of revenue-to-variable cost standard set forth in paragraph (2) of this subsection.

"(4) Notwithstanding any other provisions of this subchapter, the Commission shall not have authority to find any rate for transportation authorized under this subsection to be unjust or unreasonable on the basis that such rate exceeds a reasonable maximum for the service rendered or to be rendered, nor may the Commission suspend or investigate such rate as unreasonably high under section 10707 of this title.".

RAIL COST ADJUSTMENT INCREASES

Sec. 105. Section 10701 of title 49, United States Code, is further amended by adding at the end thereof the following new subsection:

"(f) (1) A rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may increase any rate for such transportation so long as the new rate is equal to or less than the adjusted base rate for such transportation plus any increases effected under subsection (g) of this section.

"(2) For the purposes of this subsection—

"(A) the base rate for the transportation of a commodity shall be the rate in effect on January 1, 1980 and on January 1 of every 5th year thereafter: *Provided, however,* That if the Commission finds such rate to be unreasonably high, the Commission may prescribe a different base rate for the transportation of such commodity: *And provided further,* That such base rate shall not include any rates authorized under section 111 of the Railroad Transportation Policy Act of 1980;

"(B) if no commodity rate existed for the transportation of a commodity on January 1, 1980, the base rate for the transportation of such commodity shall be the commodity rate for the most nearly comparable commodity and service, divided by the latest rail cost adjustment factor published by the Commission pursuant to paragraph (3) of this subsection at the time the transportation is commenced: *Provided,* That a base rate determined pursuant to this subparagraph shall be subject to challenge on the issue of whether it represents the most nearly comparable commodity or the most nearly comparable service; and

"(C) the adjusted base rate for the transportation of a commodity shall be an amount determined by multiplying the base rate for the transportation of such commodity by the latest rail cost adjustment factor published by the Commission pursuant to this subsection.

"(3) As often as practicable, but in no event less often than quarterly, the Commission shall publish, commencing with the fourth quarter of 1979, a rail cost adjustment factor which shall be a fraction, the numerator of which is the latest published Index of Railroad Costs (which index shall be compiled or verified by the Commission, with appropriate adjustments to reflect the quality and mix of material and labor), and the denominator of which is the same index for the fourth quarter of 1979 or for the fourth quarter of every 5th year thereafter as appropriate.

"(4) Notwithstanding any other provision of this subchapter, the Commission shall not have authority to find any rate for transportation authorized under this subsection to be unjust or unreasonable on the basis that such rate exceeds a reasonable maximum for the service rendered or to be rendered, nor may the Commission suspend or investigate such rate as unreasonably high under section 10707 of this title.".

RATE FLEXIBILITY ABOVE COST INCREASES

Sec. 106. Section 10701 of title 49, United States Code, is further amended by adding at the end thereof the following new subsection:

"(g) (1) During any calendar year a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may increase the rate for such transportation by an amount not exceeding 5 percent of the adjusted base rate for such transportation as defined in subsection (f) (2) of this section: *Provided,* That in no event shall the total increase under this subsection during the period from January 1, 1980, to December 31, 1984, or during each consecutive period of 5 years thereafter, result in rates which exceed an amount equal to 114 percent of the adjusted base rate for such transportation as defined in subsection (f) (2) of this section.

"(2) Any part of a rate increase authorized under paragraph (1) of this subsection which is not implemented in a calendar year may be implemented in the next succeeding calendar year: *Provided,* That in no event shall the total increase under this subsection in any calendar year result in rates which exceed an amount equal to 110 percent of the adjusted base rate for such transportation as defined in subsection (f) (2) of this section.

"(3) Notwithstanding the provisions of section 10707 of this title, the Commission may not suspend any rate increase authorized by this subsection as unreasonably high pending final Commission action, nor may it begin an investigation proceeding under section 10707 of this title with regard to the reasonableness of a rate increase authorized by this subsection, except as otherwise provided in paragraph (5) of this subsection: *Provided,* That an interested party may file a complaint under section 11701(b) of this title alleging that such increase violates the provisions of this subtitle.

"(4) Not later than 3 years after the date of enactment of this subsection, and at least every 3 years thereafter, the Commission shall submit to the Congress a report that analyzes the revenue needs of rail carriers and makes such recommendations for the modification of this subsection as the Commission determines may be necessary.

"(5) (A) Within 120 days after the date of enactment of this subsection, the Commission shall determine on the record, after a hearing a single ratio of revenue-to-variable cost (expressed as a percentage) which, for the purpose of this subsection and other rate increases which exceed those authorized under this subsection, and new rates which exceed the adjusted base rates authorized under subsection (f) of this section, shall constitute a point at which, upon challenge by an affected shipper, the Commission shall be authorized to investigate the reasonableness of the proposed rate or new rate. Notwithstanding the provisions of paragraph (3) of this subsection, any rate increase which is above that allowed under subsection (f) of this section which would reflect a ratio which is greater than the ratio determined by the Commission as provided in this subsection, to the extent of the increase, may be investigated by the Commission on complaint of a shipper, or may be investigated on the Commission's own motion, under section 10707 of this title and shall also be subject to challenge by filing of a complaint under section 11701(b) of this title.

"(B) In determining whether to investigate or not to investigate such proposed rate or new rate, the Commission shall set forth its reasons therefor, giving due consideration to the following factors:

"(i) the amount of traffic which is transported at revenues below variable cost and efforts made to minimize such traffic;

"(ii) the amount of traffic which contributes only marginally to fixed costs and the extent to which, if any, rates on such traffic can be changed to maximize the revenues from such traffic; and

"(iii) the impact of the proposed rate or rate increase on the attainment of the national energy goal, taking into account the railroads' role as a primary source of energy transportation and the need for a sound rail transportation system in accordance with the revenue adequacy goals of section 10704 of this title.

This subparagraph shall not be construed to change existing law with regard to the nonreviewability of such determination.

"(C) In determining whether a rate is reasonable, the Commission shall consider, among other factors, evidence of the following:

"(i) the amount of traffic which is transported at revenues below variable cost and efforts made to minimize such traffic;

"(ii) the amount of traffic which contributes only marginally to fixed costs and the extent to which, if any, rates on such traffic can be changed to maximize the revenues from such traffic; and

"(iii) the carrier's mix of rail traffic to determine whether one commodity is paying a disproportionate share of the carrier's overall revenues.

"(D) In establishing the ratio in accordance with subparagraph (A) of this paragraph, the Commission shall consider all relevant factors, including but not limited to:

"(i) the average ratio developed pursuant to the provisions of subsection (e) of this section and the need for a differential between that ratio and the ratio developed under this subsection in order to realize the revenue adequacy goals of section 10704 of this title, as measured by economical and efficient rail management;

"(ii) inflationary impact of various levels of revenue-to-variable costs, particularly as such impact relates to the attainment of national energy goals; and

"(iii) the extent to which railroad revenue shortfall is not the result of unprofitable branch line service, rail traffic moving below variable cost or only marginally contributing to fixed costs, and excess capacity and the extent to which these factors are not the result of existing regulatory practices.

"(6) Notwithstanding the provisions of this subsection (except the provisions of paragraph (5) (B) of this subsection), the Commission shall be authorized to investigate the reasonableness of a rate proposed under this subsection if such rate is proposed by a carrier or carriers which have achieved an adequate revenue level (including fair return on equity) developed by the Commission for the purpose of this paragraph in accordance with the provisions of section 10704 of this title.".

GENERAL RATE INCREASES

Sec. 107. Section 10701 of title 49, United States Code, is further amended by adding at the end thereof the following new subsection:

"(h) (1) A rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may put into effect a general rate increase described in section 10706(a) (3) (B) (i) of this title for the purpose of recovering increased costs, provided the increase does not exceed the following:

"(A) demonstrated cost increases if such general rate increase is filed with the Commission in the 1st year after the date of enactment of this subsection;

"(B) 90 percent of demonstrated cost increases if the increase is filed with the Commission in the 2d year after the date of enactment of this subsection, except that increases attributable to increases in the cost of fuel shall not be subject to such percentage limitation;

"(C) 85 percent of demonstrated cost increases if the increase is filed with the Commission in the 3d year or the first 180 days of the 4th year after the date of enactment of this subsection, except that increases attributable to increases in the cost of fuel shall not be subject to such percentage limitation; or

"(D) unless the Congress provides otherwise, 80 percent of demonstrated cost increases if such general rate increase is filed with the Commission at any time after the end of the 180th day of the 4th year after the date of enactment of this subsection, except that increases attributable to increases in the cost of fuel shall not be subject to such percentage limitation:

Provided, however, That increases taken under this section shall be considered in determining whether increases proposed under subsections (f) and (g) of this section equal or exceed the adjusted base rates for such transportation.

"(2) Each time that the Commission publishes a rail cost adjustment factor pursuant to section 10701(f)(3) of this title, it shall indicate what portion of any increase or decrease in such rail cost adjustment factor is attributable to an increase or a decrease in the cost of fuel used in providing rail transportation.

"(3) The Commission and the Secretary of Transportation shall each conduct a study of the need for general rate increases, the effect of the phase-down of general rate increases provided in this subsection, the impact of the additional rate flexibility provided by the amendments to this title made by the Railroad Transportation Policy Act of 1980, and the feasibility of eliminating general rate increases. At the end of the 3d year after the date of enactment of this subsection, the Commission and the Secretary shall separately transmit the results of such studies, along with any recommendations for legislative changes in this subsection, subsection (g) of this section, or any other provision of this title to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives.

"(4) As soon as practicable, but in no event later than 9 months after the date of enactment of this subsection, the Commission shall promulgate such final regulations as may be necessary to implement this subsection.

"(5) Nothing in this subsection shall be construed as limiting (A) the Commission's authority to deny or limit the application of general rate increases to particular movements; or (B) broad tariff changes described in section 10706(a)(3)(B)(ii) of this title.".

CONTRACT RATES

SEC. 108. (a) Title 49, United States Code, is amended by inserting the following new section immediately after section 10701:

"§ 10701a. Authority for rail carriers to establish contract rates and service

"(a) One or more rail carriers may enter into contracts with one or more purchasers of rail services to provide specified services under specified rates and conditions. Such contracts may contain provisions on subjects including, but not limited to, extension of credit to such purchasers, cancellation or termination, service, safety and inspection standards in excess of those required under existing law, escalation or reduction of charges, car compensation, force majeure, and financing of or investment in railroad equipment, plant and other facilities.

"(b)(1) Service under such a contract shall be deemed to be a separate and distinct class of service, and the equipment used in the fulfillment of such a contract shall not be subject to car service decisions under section 11123 of this title.

"(2) Notwithstanding the provisions of paragraph (1) of this subsection, the existence of a contract shall not eliminate the obligation of a rail carrier to provide transportation or service on reasonable request, as set forth in section 11101 of this title. Upon complaint, the Commission may limit the right of a rail carrier to enter into future contracts under this section following a determination that additional contracts would impair the ability of the rail carrier to fulfill its common carrier obligations under section 11101 of this title.

"(3)(A) A contract entered into under this section may be investigated or suspended under section 10707 of this title only upon the following grounds:

"(i) that fulfillment of the contract will cause the carrier to be unable to fulfill its common carrier obligations under section 11101 of this title,

"(ii) that the carrier has discriminated by refusing to enter into a contract for rates and services with a prospective purchaser of rail services under similar conditions to the contract at issue, and that the complainant or affected shipper was ready, willing, and able to enter into such a contract at a time essentially contemporaneous with the period during which the contract at issue was offered, or

"(iii) that the proposed contract constitutes a destructive competitive practice.

In making a determination under clause (iii) the Commission shall consider the difference between contract rates and published single car rates. If the Commission does not suspend or investigate a contract entered into under this section, it may not modify, abrogate, or otherwise impair the obligations under such contract: *Provided, however,* That the provisions of this subparagraph shall not interfere with the Commission's authority to order a carrier to provide rates and services substantially similar to the contract at issue upon a showing of discrimination.

"(B) If the Commission determines that the carrier has discriminated against a complainant or a prospective purchaser by failing to enter into a contract for rates and services under similar conditions to the contract at issue, and such complainant or prospective purchaser was ready, willing and able to enter into such a contract at a time essentially contemporaneous with the period during which the contract at issue was offered, the Commission shall order the carrier to provide rates and service substantially similar to the contract at issue with such differentials in terms and conditions as are justified by the evidence.

"(c)(1) Any carrier may, without specific authorization from the Commission, enter into contracts involving utilization of carrier owned or leased equipment not in excess of 35 percent of the capacity of such carrier's owned or leased equipment by major car type (plain boxcars, covered hopper cars, gondolas and open top hoppers, coal cars, bulkhead flatcars, pulpwood rackcars, and flatbed equipment, including TOFC/COFC): *Provided, however,* That with regard to proposed contracts between class I carriers and shippers originating an average of 1,000 cars or more per year during the past 3 years by major car type on a particular carrier, no more than 40 percent of carrier owned or leased equipment utilized on the average during the prior 3-year period may be used for such contracts without prior Commission authorization.

"(2) Carriers or other parties may seek relief from the limitations of paragraph (1) of this subsection, and the Commission may grant such relief as it deems appropriate, if it appears that additional equipment may be made available without impairing the carrier's ability to meet its common carrier obligations under section 11101 of this title.

"(3) Any interested party may request modification of the Commission's findings upon a showing of changed circumstances or other good cause.

"(d) Except as expressly provided in this section or in other sections of this title, contracts authorized under subsection (a) of this section shall not be subject to the provisions of chapter 107, subchapter II of chapter 111, or section 11701 of this title, except that complaints may be filed alleging violations of sections 11101 or 10741 of this title, subject to the limitation that available remedies for a violation of such sections shall not include modification or abrogation of contracts which have become effective without suspension or investigation. Contracts authorized under subsection (a) of this section shall be subject to the provisions of sections 10704, 10705, 10706, 10707, 10726, 10741, 10761, and 10762 of this title.

"(e) The Commission shall establish a railroad contract rate advisory service. The advisory service shall:

"(1) compile and disseminate to interested parties nonconfidential summaries of the provisions of individual contract information relating to the provisions of contracts entered into under this section with regard to various goods, items, and commodities covered by such contracts;

"(2) provide the Commission and interested parties with advice regarding contracts; and

"(3) assess the impact on competition among shippers of variations between contract rates for various shipments and the published single car rates and submit a report on such impact to the Congress not later than 90 days after the date of enactment of this section.".

(b) The index to chapter 107 of title 49, United States Code, is amended by inserting the following immediately after the item relating to section 10701:

"10701a. Authority for rail carriers to establish contract rates and service.".

EXPEDITIOUS DIVISIONS OF REVENUE

SEC. 109. Section 10705(e)(1) of title 49, United States Code, is amended to read as follows:

"(e)(1) The Commission may begin a proceeding under subsection (a) or (b) of this section on its own initiative or on complaint. The Commission must complete all evidentiary proceedings to adjust the division of joint rates for transportation by a rail carrier within 9 months after the complaint is filed if the proceeding is brought on complaint or within 18 months after the commencement of a proceeding on the initiative of the Commission. The Commission must take final action by the 180th day after completion of the evidentiary proceedings, except that—

"(A) when the proceeding involves a railroad in reorganization or a contention that the divisions at issue do not cover the variable costs of handling the traffic, the Commission shall give the proceeding preference over all other proceedings and shall take final action at the earliest practicable time, which in no event may exceed 100 days after the completion of the evidentiary proceedings; and

"(B) in all cases other than those specified in subparagraph (A) of this paragraph, the Commission may decide to extend such a proceeding to permit its fair and expeditious completion, but whenever the Commission decides to extend a proceeding pursuant to this subparagraph, it must report its reasons to Congress.".

RATE BUREAUS

SEC. 110. Section 10706 of title 49, United States Code, is amended—

(1) in the first sentence of subsection (a)(2)(A), by inserting immediately after "facilities and equipment" the following: "and including intrastate rates that affect interstate commerce";

(2) in subsection (a)(3)(A)(i), by striking "or" at the end thereof;

(3) in subsection (a)(3)(A), by redesignating clause (ii) as clause (iii);

(4) in subsection (a)(3)(A), by inserting immediately after clause (i) the following new clause:

"(ii) permit a rail carrier to participate in an agreement unless the terms of such agreement provide that transcripts or sound recordings shall be made of all meetings, that records of votes shall be made, and such transcripts or recordings and voting records shall be submitted to the Commission and made available to other Federal agencies in connection with their statutory responsibilities over rate bureaus: *Provided, however*, That such material shall be kept confidential and not subject to disclosure under the provisions of section 552 of title 5, United States Code or"; and

(5) by adding at the end of subsection (a)(3)(A) the following new sentences: "Notwithstanding clause (i) of this paragraph, a rail carrier may participate in discussions related to single-line rates proposed by another rail carrier or rates related to a particular interline movement. Such discussions may include such matters as whether the proposed rates are noncompensatory, would result in discrimination between shippers or localities, would adversely affect the movement of traffic, would result in violations of section 10726 of this title, or would necessitate adjustments in other rates. Such discussions shall be limited to comments upon the proposal and shall exclude any agreement, express or implied, to approve, modify, disapprove or withdraw the proposals, except that in the case of a proposed interline movement, such agreements may be made by a rail carrier that can practicably participate in that movement.".

INVESTIGATIONS AND SUSPENSIONS OF RATES AND ORDERS SETTING RATES

SEC. 111. (a) Section 10704(a)(1) of title 49, United States Code, is amended by inserting immediately before the period at the end thereof the following: ", subject to the limitations of sections 10701 and 10701a of this title".

(b) Section 10707 of title 49, United States Code, is amended—

(1) in the first sentence of subsection (a), by inserting immediately after "party," the following: "subject to the limitations of sections 10701 and 10701a of this subchapter,";

(2) in the first sentence of subsection (b)(1), by inserting immediately before the period at the end thereof the following: ", unless the proposed rate, classification, rule or practice is suspended, in which case the proceeding must be completed by the end of the 5th month after the rate, classification, rule or practice was to become effective";

(3) in the second sentence of subsection (b)(1), by inserting immediately after "7th month" the following: ", or the 5th month if suspension is involved,"; and

(4) in subsection (c)(1), by striking "7" and "10" and inserting in lieu thereof "5" and "8", respectively.

APPLICABILITY

SEC. 112. Section 10711 of title 49, United States Code, is amended—

(1) by designating the existing language as subsection (a); and

(2) by adding at the end thereof the following new subsection:

"(b) With respect to the relationship between water carriers and rail carriers, none of the amendments to this subtitle made by the Railroad Transportation Policy Act of 1980 shall be construed to modify the application of existing law with respect to competition and coordination, or to make lawful a competitive practice that is unfair, destructive, predatory or otherwise undermines competition.".

DEMAND-SENSITIVE RATES

SEC. 113. Section 10727 of title 49, United States Code, is amended to read as follows:

"§ 10727. Demand-sensitive rates

"A rail carrier may establish a tariff, subject to section 10701 of this title and other provisions of this chapter, for any movement or group of movements, under which rates, except those rates involving the movement of grain, may be raised and lowered, between published maximum and minimum levels, in response to either expected or actual fluctuations in demand for rail service. The Commission shall facilitate the establishment of such demand-sensitive rates.".

RELEASED RATES

SEC. 114. Section 10730 of title 49, United States Code, is amended—

(1) by designating the existing language as subsection (a);

(2) by inserting ", other than a rail carrier," immediately after "carrier" the first time it appears; and

(3) by adding at the end thereof the following new subsection:

"(b) A rail carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may, subject to the provisions and procedures set forth in this chapter and the general tariff requirements of section 10762 of this title, establish rates for the transportation of property under which the liability of the carrier for such property is limited to a value established by written declaration of the shipper or by written agreement between the carrier and the shipper.".

TRANSPORTATION OF RECYCLABLE MATERIALS

SEC. 115. Section 10731 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of this title or any other law, within 90 days after the date of enactment of this subsection, all rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title shall take all actions necessary to reduce and thereafter maintain rates for the transportation of recyclable or recycled materials at revenue-to-variable cost ratio levels that are equal to or less than the average revenue-to-variable cost ratios initially established and thereafter published annually by the Commission pursuant to section 10701(e)(2) of this title, and any such rate which equals or exceeds such average revenue-to-variable cost ratio established by the Commission shall not be required to bear any further rate increases. The Commission shall have jurisdiction to issue all orders necessary to enforce the requirements of this subsection.".

NOTICE AND PUBLICATION OF TARIFFS

SEC. 116. Section 10762 of title 49, United States Code, is amended—

(1) in the first sentence of subsection (a)(1), by inserting immediately after "motor common carrier" the following: "or service by a rail carrier pursuant to a contract authorized under section 10701a of this title";

(2) in subsection (a), by adding at the end thereof the following new paragraph:

"(3) A rail carrier which has entered into a contract authorized under section 10701a of this title shall publish and file with the Commission, in such manner as the Commission may provide, the essential terms of such contract. Such filing shall constitute a tariff for the purposes of compliance with the provisions of section 10761 of this title. Such contracts shall not be subject to the normal tariff rules promulgated pursuant to this section (49 CFR 1300 et seq.), but the Commission if necessary may promulgate special tariff rules for such contracts. Any party to such a contract may, with the consent of the other parties to the contract, elect to file with the Commission information in addition to the essential terms of the contract. In such cases, the Commission shall, upon the request of any party to the contract, place any such additional information (other than the essential terms of the contract) in a confidential file. Notwithstanding such a request, the information filed with the Commission and kept in a confidential file may, at the discretion of the Commission, be made available to any party to a proceeding as authorized under section 10701a or other provisions of this title.";

(3) in subsection (b)(1), by striking the first sentence and inserting in lieu thereof: "Except in the case of a rail carrier, the Commission shall prescribe the form and manner of publishing, filing, and keeping tariffs open for public inspection under this section. In the case of a rail carrier, the Commission shall insure that tariffs are published, filed, and kept open for public inspection and may, in its discretion, prescribe the form and manner of such publishing, filing, and keeping tariffs open for public inspection.";

(4) in subsection (c)(3), by striking the second sentence and inserting in lieu thereof the following: "Except in the case of a rail carrier, a proposed change or a new or reduced rate may not become effective for 30 days after the notice is published, filed, and held open as required under subsections (a) and (b) of this section. In the case of a rail carrier, a proposed change or a new or reduced rate shall not become effective for 20 days after the notice is published, except that, within the first 60 days after the date of enactment of this sentence, such change or rate shall not become effective for 30 days after the notice is published: *Provided, however*, That a contract authorized under section 10701a of this title shall not become effective for 30 days: *And provided further*, That a tariff authorized under section 10727 of this title shall not become effective for 30 days, nor shall rates raised or lowered within the published minimum and maximum levels of such a tariff become effective for 5 days, after the notice is published, filed, and held open as required under subsections (a) and (b) of this section."; and

(5) in subsection (d)(1), by striking "30-day" and inserting in lieu thereof "notice".

REPEALS

SEC. 117. (a) Section 10709 of title 49, United States Code, is repealed, and the item relating to section 10709 in the index to chapter 107 of title 49, United States Code, is stricken.

(b) Section 10729 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) A proposed rate, classification, rule or practice for transportation by a rail carrier may not become effective under this section unless notice of intent to establish such

* * * * *

SAVINGS PROVISION

SEC. 118. (a)(1) Notwithstanding any other provision of law, rail rates in existence on the date of enactment of this Act may not be challenged as exceeding maximum reasonableness, except in accordance with the procedures set forth in paragraph (2) of this subsection.

(2) A rail rate described in paragraph (1) of this subsection may be challenged as exceeding maximum reasonableness under the procedures set forth in chapter 107 and section 11701 of title 49, United States Code, if—

(A) such rate yields a revenue-to-variable cost ratio that exceeds the average ratio of revenue-to-variable cost described in section 10701(e)(2) of title 49, United States Code; and

(B) a complaint alleging that such rate exceeds maximum reasonableness is filed with the Interstate Commerce Commission within 270 days after the date of enactment of this Act.

(b) Effective on the date of enactment of this Act, rail rate increases may only be challenged in accordance with the provisions of chapter 107 of title 49, United States Code, as amended by this Act.

CAR UTILIZATION

SEC. 119. (a) Subchapter II of chapter 107 of title 49, United States Code, is amended by inserting at the end thereof the following new section:

"§ 10732. Car utilization

"In order to encourage more efficient use of freight cars, carriers shall be permitted to establish tariffs containing premium charges for special services or special levels of services not provided in any tariff otherwise applicable to the movement. The Commission shall facilitate development of such tariffs so as to increase the utilization of equipment.".

(b) The index to chapter 107 of title 49, United States Code, is amended by inserting the following immediately after the item relating to section 10731:

"10732. Car utilization.".

(c) The first sentence of section 511(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(a)) is amended by inserting immediately after "equipment" the following: "which includes but is not limited to computerized car management systems".

JOINT RATE SURCHARGE

SEC. 120. Section 10705 of title 49, United States Code, is amended by adding at the end thereof the following new subsections:

"(g)(1)(A) During the period in which this paragraph is effective, a rail carrier may publish and apply a surcharge increasing or decreasing a joint rate only in accordance with this subsection. This paragraph shall expire 3 years after the date of enactment of this subsection unless extended for 1 additional year by the Commission upon petition of any carrier and for good cause shown.

"(B) A carrier may publish and apply a surcharge increasing or decreasing any joint rate between any points without the concurrence of other carriers participating in such joint rate provided that the surcharge is applied in equal dollar amounts to all of the routes participated in by that carrier between each affected origin and destination and, when the surcharge increases the joint rate, to all of its competing single-line routes between each such origin and destination The change in revenue resulting from such surcharge shall accrue solely to, or be borne solely by, the carrier applying the surcharge.

"(C) A carrier applying a surcharge which would increase a joint rate must notify the other carriers party to the joint rate 45 days before the proposed effective date of the surcharge.

"(D) In addition to any other remedy available under this chapter, a carrier which participates in any route subject to a surcharge applied pursuant to subparagraph (B) of this paragraph may by tariff or tariff supplement cancel the application of such surcharge to any such route if such carrier demonstrates that, under the applicable joint rate without the surcharge, or a new rate division increasing the share of the surcharge proposing carrier, or a new lawful rate, the surcharging carrier's share of the revenues for its participation over such route is not less than 110 percent of its variable costs of providing service over such route. Such canceling tariff may be suspended by the Commission pursuant to section 10707 of this title only on the grounds that the carrier proposing the cancellation has not made or is not likely to make such demonstration. Any rate differential resulting from such a cancellation shall not constitute unreasonable discrimination or a destructive competitive practice. For purposes of this paragraph, variable costs shall be determined only by using the unadjusted costs of the surcharging carrier calculated using the Commission's Rail Form A cost finding methodology (or an alternative methodology adopted by the Commission in lieu thereof) and indexed to account for current wage and price levels in the region in which the surcharging carrier operates.

"(E) A carrier may not apply a surcharge pursuant to this paragraph unless, for 1 year prior to the surcharge, it has participated in all increases in rates of general applicability agreed to by all other parties to the rates in question.

"(F) For purposes of maximum rate regulation under this title, only the carrier proposing a surcharge shall be required to defend the surcharge, and the lawfulness of the surcharge shall be determined without regard to the amounts received and the services performed by other carriers party to the joint tariff to which the surcharge is applied. The Commission may not investigate the lawfulness if the joint rate resulting from the application of a surcharge. In any subsequent proceeding to investigate the lawfulness of the joint rate to which a surcharge applies, that surcharge shall not be taken into consideration unless the Commission determines that each carrier participating in the surcharge is earning adequate revenues as defined in section 10704 (a)(2) of subchapter I of this title.

"(2) A rail carrier may, without the concurrence of any connecting rail carrier, publish surcharges applicable to traffic originating or terminating upon any line of railroad originating and terminating less than 3,000,000 gross ton miles of traffic per mile in the most recent calendar year for which traffic data are available if, prior to the application of any such surcharge, the through charges applicable to traffic to and from any such line do not provide the surcharging carrier revenues adequate to cover 100 percent of the reasonably expected costs (including the cost of capital) of continuing to operate the line involved. The change in revenues resulting from any such surcharge shall accrue solely to the carrier applying the surcharge. The Commission shall not require, as a condition to the filing of an application to abandon a line of railroad or as a condition to the abandonment of such a line, a carrier to use the rights conferred herein; nor shall the Commission, in ruling upon any abandonment application, consider or give any weight to the failure of the application to have used the rights conferred herein.

"(h)(1) Notwithstanding any other law, prior agreement, or requirement of the Commission to the contrary, a carrier may cancel the application of such rate to any through route without the concurrence of any carrier party to the rate unless another carrier party to the rate over that route demonstrates to the Commission that the canceling carrier's share of the revenue under the joint rate or under a new rate division increasing the share of the carrier proposing to cancel the application of the rate or a new lawful rate is not less than 110 percent of the canceling carrier's variable cost of providing service over that route. For purposes of this subsection, revenue share may, at the option of the carrier canceling the application of a rate, be determined by reference to past revenue settlements actually made in the most recent calendar year by connecting lines, and variable cost shall be determined only by using the unadjusted costs of the canceling carrier calculated using the Commission's Rail Form A cost finding methodology (or an alternative methodology adopted by the Commission in lieu thereof) and indexed to account for current wage and price levels in the region in which the canceling carrier operates.

"(2) A carrier canceling the application of a joint rate pursuant to this subsection must notify the other carriers party to the rate 45 days before the proposed effective date of the cancellation.

"(3) When the application of a joint rate to a specific route or routes is canceled and a through rate other than a joint rate thereafter applies to such route or routes (irrespective of whether the newly applicable through rate displaces a higher applicable joint rate), the through rate shall divide as the separate factors of such rate are made. The cancellation of the application of a rate pursuant to this subsection shall not constitute unreasonable discrimination or a destructive competitive practice.

"(i) To ease the burden imposed upon small businesses desirous of challenging actions authorized by subsections (g) and (h) of this section, the Commission shall obtain, make readily available, and provide to class III railroads upon request analysis of the data necessary to support a challenge under subsection (g)(1)(D) and subsection (h) of this section. The Commission's Special Counsel or Public Counsel is authorized to assist such railroads in preparing actions under subsection (g)(1)(D) and subsection (h) of this section.".

PART B—STRUCTURE

MERGERS AND OTHER TRANSACTIONS

SEC. 121. (a) Section 11344 of title 49, United States Code, is amended—

(1) in subsection (b), by inserting immediately after "section" the following: "which involves the merger or control of at least two class I railroads, as defined by the Commission"; and

(2) by adding at the end thereof the following new subsection:

"(d) In a proceeding under this section which does not involve the merger or control of at least two class I railroads, as defined by the Commission, the Commission shall approve such an application unless it finds that—

"(1) as a result of the transaction, there is likely to be a substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States; and

"(2) the anticompetitive effects of the transaction outweigh the public interest in meeting significant transportation needs.

In making such findings, the Commission shall, with respect to any application that is part of a plan or proposal developed under section 5 (a) through (d) of the Department of Transportation Act (49 U.S.C. 1654 (a) through (d)), accord substantial weight to any recommendations of the Secretary of Transportation.".

(b) Section 11345 of title 49, United States Code, is amended to read as follows:

"§ 11345. Consolidation, merger, and acquisition of control: rail carrier procedure

"(a) If a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title is involved in a proposed transaction under section

11343 of this title, this section and section 11344 of this title also apply to the transaction. The Commission shall publish notice of the application in the Federal Register by the end of the 30th day after the application is filed with the Commission and after a certified copy of it is furnished to the Secretary of Transportation. However, if the application is incomplete, the Commission shall reject it by the end of that period. The order of rejection is a final action of the Commission under section 10327 of this title. The published notice shall indicate whether the application involves:

"(1) the merger or control of at least two class I railroads, as defined by the Commission, to be decided within the time limits specified in subsection (b) of this section;

"(2) transactions of regional or national transportation significance, to be decided within the time limits specified in subsection (c) of this section; or

"(3) any other transaction covered by this section to be decided within the time limits specified in subsection (d) of this section.

"(b) If the application involves the merger or control of two or more class I railroads, as defined by the Commission:

"(1) Written comments about an application may be filed with the Commission within 45 days after notice of the application is published under subsection (a) of this section. Copies of those comments shall be served on the Secretary of Transportation and the Attorney General, each of whom may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Commission by the end of the 15th day after the date of receipt of the written comments.

"(2) The Commission shall require that applications inconsistent with an application, notice of which was published under subsection (a) of this section, and applications for inclusion in the transaction, be filed with it and given to the Secretary of Transportation by the 90th day after publication of notice under that subsection.

"(3) The Commission must conclude evidentiary proceedings by the end of the 24th month after the date of publication of notice under subsection (a) of this section. The Commission must issue a final decision by the 180th day after the date on which it concludes the evidentiary proceedings.

"(c) If the application involves a transaction other than the merger or control of at least two class I railroads, as defined by the Commission, which the Commission has determined to be of regional or national transportation significance:

"(1) Written comments about an application may be filed with the Commission within 30 days after notice of the application is published under subsection (a) of this section. Copies of those comments shall be served on the Secretary of Transportation and the Attorney General, each of whom may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Commission by the end of the 15th day after the date of receipt of the written comments.

"(2) The Commission shall require that applications inconsistent with an application, notice of which was published under subsection (a) of this section, and applications for inclusion in the transaction, be filed with it and given to the Secretary of Transportation by the 60th day after publication of notice under that subsection.

"(3) The Commission must conclude any evidentiary proceedings by the 180th day after the date of publication of notice under subsection (a) of this section. The Commission must issue a final decision by the 90th day after the date on which it concludes the evidentiary proceedings.

"(d) For all applications under this section other than those specified in subsections (b) and (c) of this section:

"(1) Written comments about an application may be filed with the Commission within 30 days after notice of the application is published under subsection (a) of this section. Copies of those comments shall be served on the Secretary of Transportation and the Attorney General, each of whom may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Commission by the end of the 15th day after the date of receipt of the written comments.

"(2) The Commission must conclude any evidentiary proceedings by the 105th day after the date of publication of notice under subsection (a) of this section. The Commission must issue a final decision by the 45th day after the date on which it concludes the evidentiary proceedings.

"(e) If the Commission does not issue a decision that is a final action under section 10327 of this title, it shall send written notice to Congress that a decision was not issued and the reasons why it was not issued.

"(f) The Commission may waive the requirement that an initial decision be made under section 10327 of this title and make a final decision itself when it determines that action is required for the timely execution of its functions under this subchapter or that an application governed by this section is of major transportation importance. The decision of the Commission under this subsection is a final action under section 10327 of this title.

"(g) The Secretary of Transportation may propose changes in transactions governed by this section when a rail carrier is involved. The Secretary may appear before the Commission to support those changes.".

ABANDONMENT

SEC. 122. (a) Section 10903 of title 49, United States Code, is amended—

(1) in subsection (b)(1), by striking the first sentence; and

(2) by striking subsection (c).

(b)(1) Section 10904(a) of title 49, United States Code, is amended—

(A) by striking all after "Commission" through "effective" in paragraph (1);

(B) by striking "and" at the end of paragraph (2)(A);

(C) by striking the period at the end of paragraph (2)(B) and inserting in lieu thereof "; and";

(D) by adding a new paragraph (2)(C) to read as follows:

"(C) a statement that the line is available for subsidy or sale in accordance with section 10905 of this title; a statement that the carrier will promptly provide to each interested party an estimate of the subsidy and minimum purchase price required to keep the line in operation, calculated in accordance with section 10905 of this title; and the name and business address of the person who is authorized to discuss sale or subsidy terms for the carrier."; and

(E) by inserting in paragraph (3)(E) immediately after "satisfied" the following: ", and certifying that clauses (A)–(D) have been satisfied within the most recent 30 days prior to the date the application is filed".

(2) Section 10904(b) of title 49, United States Code, is amended to read as follows:

"(b) If no protest is received within 30 days after the application is filed, the Commission shall find that the public convenience and necessity require or permit the abandonment or discontinuance. In such a case, the Commission shall, within 45 days after the application is filed, issue a certificate which permits the abandonment or discontinuance to occur within 75 days after the application is filed.".

(3) Section 10904(c) of title 49, United States Code, is amended to read as follows:

"(c)(1) If a protest is received within 30 days after the application is filed, the Commission shall, within 45 days after the application is filed, determine whether an investigation is needed to assist in determining what disposition to make of the application.

"(2) If the Commission decides that no investigation is to be undertaken, the Commission shall, within 75 days after the application is filed, decide whether the present or future public convenience and necessity require or permit the abandonment or discontinuance, taking into consideration the application of the railroad and any materials submitted by protestants. If the Commission finds that the present or future public convenience and necessity require or permit the abandonment, it shall, within 90 days after the date of application, issue a certificate which permits the abandonment or discontinuance to occur within 120 days after the application is filed.

"(3) If the Commission decides that an investigation should be undertaken under this section, the investigation must be completed within 135 days, and an initial decision must be rendered within 165 days, of the date the application is filed. Thirty days after such decision, the initial decision shall become the final decision of the Commission unless, during the interim, the Commission decides to hear appeals. If an initial decision is appealed and considered by the Commission, the Commission shall issue a final decision within 255 days of the date of application. Whenever the Commission decides upon investigation that the present or future public convenience and necessity require or permit the abandonment or discontinuance of rail service, it shall, within 15 days of the final decision, issue a certificate which permits the abandonment or discontinuance to occur within 75 days of the date of the final decision.

"(4) The effective date of any certificate which permits abandonment or discontinuance may be stayed by the Commission pursuant to the provisions of section 10905 of this title.".

(4) Subsection (d) of section 10904 of title 49, United States Code, is redesignated as subsection (e), and immediately after subsection (c) the following new subsection is inserted:

"(d)(1) The burden is on the person applying for the certificate to prove that the present or future public convenience and necessity require or permit the abandonment or discontinuance.

"(2) For applications approved by the Secretary of Transportation as part of a plan or proposal under section 5 (a) through (d) of the Department of Transportation Act (49 U.S.C. 1654 (a) through (d)), the Commission shall consider whether any detriment from the abandonment or discontinuance exceeds the transportation benefit from the plan or proposal as a whole.".

(5) Section 10904(e) of title 49, United States Code, as redesignated by paragraph (4) of this subsection, is amended by inserting immediately before the period at the end thereof the following: ": *Provided, however,* That the requirement of such description or identification in such diagram may be waived by the Commission if the application was approved by the Secretary of Transportation as part of a plan or proposal under section 5 (a) through (d) of the Department of Transportation Act (49 U.S.C. 1654(a) through (d)), or the application is filed by a railroad in bankruptcy".

(c) Section 10905 of title 49, United States Code, is amended to read as follows:

"§ 10905. Offers of financial assistance to avoid abandonment and discontinuance

"(a) In this section—

"(1) 'avoidable cost' means all expenses that would be incurred by a rail carrier in providing transportation that would not be incurred if the railroad line over which the transportation was provided were abandoned or if the transportation were discontinued. Expenses include cash inflows foregone and cash outflows incurred by the rail carrier as a result of not abandoning or discontinuing the transportation. Cash inflows foregone and cash outflows incurred include—

"(A) working capital and required capital expenditure;

"(B) expenditures to eliminate deferred maintenance;

"(C) the current cost of freight cars, locomotives, and other equipment; and

"(D) the foregone tax benefits from not retiring properties from rail service and other effects of applicable Federal and State income taxes.

"(2) 'reasonable return' means—

"(A) if a rail carrier is not in reorganization, the cost of capital to the rail carrier, as determined by the Interstate Commerce Commission; and

"(B) if a rail carrier is in reorganization, the mean cost of capital of rail carriers not in reorganization, as determined by the Commission.

"(b) Any rail carrier which has filed an application for a certificate of abandonment or discontinuance shall provide promptly to a party considering an offer of financial assistance and shall provide concurrently to the Commission—

"(1) an estimate of the annual subsidy and minimum purchase price required to keep the line or a portion of the line in operation;

"(2) its most recent reports on the physical condition of that part of the railroad line involved in the proposed abandonment or discontinuance;

"(3) traffic, revenue, and other data necessary to determine the amount of annual financial assistance which would be required to continue rail transportation over that part of the railroad line; and

"(4) any other information that the Commission may deem necessary to allow a potential offeror to calculate an adequate subsidy or purchase offer.

"(c) When the Commission finds under section 10903 of this title that the public convenience and necessity require or permit abandonment or discontinuance, it shall, concurrently with service of the decision upon the parties, publish the finding in the Federal Register. Within 10 days following the publication, any person may offer to pay the carrier a subsidy or offer to purchase the line. Such offer shall be filed concurrently with the Commission. If the offer to subsidize or purchase the line is less than the carrier's estimate provided under subsection (b)(1) of this section, the offer shall explain the basis of the disparity, and the manner in which the offer of subsidy or purchase is calculated.

"(d) If, within 15 days after the publication required in subsection (c) of this section, the Commission finds that—

"(1) a financially responsible person (including a government entity) has offered financial assistance to enable the rail transportation to be continued over that part of the railroad line to be abandoned or over which all rail transportation is to be discontinued; and

"(2) it is likely that the assistance would be equal to—

"(A) the difference between the revenues attributable to that part of the railroad line and the avoidable cost of providing rail freight transportation on the line, plus a reasonable return on the value of the line; or

"(B) the acquisition cost of that part of the railroad line;

the Commission shall postpone the issuance of a certificate authorizing abandonment or discontinuance in accordance with subsections (e) and (f) of this section.

"(e) If the carrier and a person offering financial assistance enter into an agreement which will provide continued rail service, the Commission shall postpone the issuance of the certificate for so long as the agreement, or an extension or modification of the agreement, is in effect. If the carrier and a person offering to purchase a line enter into an agreement which will provide continued rail service, the Commission shall approve the transaction and dismiss the application for abandonment or discontinuance. If the carrier and a financially responsible person (including a government entity) fail to agree on the amount or terms of the subsidy or purchase, either party may, within 30 days after the offer is made, request that the Commission establish the conditions and amount of compensation. If no agreement is reached within 30 days after the offer is made and neither party requests that the Commission establish the conditions and amount of compensation during the same period, the Commission shall immediately issue a certificate authorizing the abandonment or discontinuance.

"(f)(1) Whenever the Commission is requested to establish the conditions and amount of compensation under this section—

"(A) the Commission shall render its decision within 60 days;

"(B) where subsidy has been offered, the Commission shall determine the amount and terms of subsidy based on the avoidable cost of providing continued rail transporation, plus a reasonable return on the value of the line; and

"(C) where an offer of purchase has been made in order to continue rail service on the line, the Commission shall determine the price and other terms of sale. In no case shall the Commission set a price which is below the fair market value of the line (including, unless otherwise mutually agreed, all facilities on the line or portion necessary to provide effective transportation services).

"(2) The decision of the Commission shall be binding on both parties, except that the person who has offered to subsidize or purchase the line may withdraw his offer within 10 days of the Commission's decision. In such a case, the Commission shall immediately issue a certificate authorizing the abandonment or discontinuance, unless other offers are being considered pursuant to paragraph (3) of this subsection.

"(3) If a carrier receives more than one offer to purchase or subsidize, it shall select the offeror with whom it wishes to transact business, and complete the sale or subsidy agreement, or request that the Commission establish the conditions and amount of compensation prior to the 40th day after the date on which notice was published under subsection (c) of this section. If no agreement on subsidy or sale is reached within the 40-day period and the Commission has not been requested to establish the conditions and amount of compensation, any other offeror may request that the Commission establish the conditions and amount of compensation. If the Commission has established the conditions and amount of compensation and the original offer has been withdrawn, any other offeror may accept the Commission's decision within 20 days of such decision, and the Commission shall require the carrier to enter into a sale or subsidy agreement with such offeror, if such sale or agreement incorporates the Commission's decision.

"(4) No purchaser of a line or portion of line sold under this section may transfer or discontinue service on such line prior to the end of the second year after consummation of the sale, nor may such purchaser transfer such line, except to the carrier from whom it was purchased, prior to the end of the fifth year after consummation of the sale.

"(5) Any subsidy provided under this section may be discontinued on notice of 60 days. Unless, within such 60-day period, another financially responsible party enters into a subsidy agreement at least as beneficial to the carrier as that which was or was to be discontinued, the Commission shall, at the carrier's request, immediately issue a certificate authorizing the abandonment or discontinuance of service on the line.".

ENTRY

SEC. 123. (a)(1) Section 10901(a) of title 49, United States Code, is amended by striking "will be enhanced by" and inserting in lieu thereof "permit".

(2) Section 10901 of title 49, United States Code, is further amended by adding at the end thereof the following new subsection:

"(d) Where a railroad has been issued a certificate of public convenience and necessity by the Commission authorizing the construction or extension of a railroad line, no other railroad may block the construction or extension by refusing to permit the carrier to cross its property: *Provided*, That (1) the construction does not unreasonably interfere with the operation of the crossed line; (2) the operation does not materially interfere with the operation of the crossed line; and (3) the owner of the crossing line shall compensate the owner of the crossed line. The carriers are responsible for establishing the conditions of such compensation. However, if the carriers cannot agree, the Commission may establish conditions of compensation.".

(b) Section 11103 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) The Commission may require railroads to enter reciprocal switching agreements where it finds such agreements to be practicable and in the public interest. The carriers are responsible for establishing the conditions and compensation for such agreements. However, if the carriers cannot agree, the Commission may establish the conditions and compensation for such agreements.".

(c) Section 11344 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) A rail carrier, or person controlled by or affiliated with a rail carrier may apply for approval of a transaction which involves motor carrier transportation prior or subsequent to rail transportation to serve inadequately served shippers located on another railroad. Such application shall be approved by the Commission if the shippers demonstrate present evidence of impaired rail service and inadequate motor common carrier service which results in the serious failure of the railroad serving the shippers to meet the rail equipment or transportation schedules of shippers or to seriously fail to otherwise provide adequate normal rail services required by shippers and which shippers would reasonably expect the railroad to provide. The Commission shall approve or disapprove applications under this subsection within 30 days after receipt of such application. The Commission shall approve applications which are not protested by interested parties within 30 days following receipt of such application.".

PART C—MISCELLANEOUS PROVISIONS

CAR SERVICE

SEC. 124. (a) Section 11123(a) of title 49, United States Code, is amended by striking "in a section of the United States,", and inserting in lieu thereof the following: "of such magnitude as to have substantial adverse effects on rail service to the Nation or a substantial region of the Nation,".

(b) Paragraph (3) of section 11123(a) of title 49, United States Code, is amended by striking "terminals, including mainline tracks for a reasonable distance outside of those terminals,", and inserting in lieu thereof "facilities,".

(c) Section 11123 of title 49, United States Code, is further amended by adding at the end thereof the following new subsection:

"(c) No action undertaken or order issued under the emergency powers of this section shall extend for more than 30 days from the date of initial Commission action unless, during the interim, the Commission has begun a proceeding to resolve the service problems on a more permanent basis. When the Commission has begun such a proceeding, an emergency order may be renewed and extended by the Commission for a maximum of 60 days.".

EXEMPTION

SEC. 125. Section 10505 of title 49, United States Code, is amended to read as follows:

"§ 10505. Authority to exempt rail carrier transportation

"(a) In a matter related to a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under this subchapter, the Commission shall exempt a person, class of persons, or a transaction or service when the Commission finds that the application of a provision of this subtitle is not necessary to carry out the transportation policy of section 10101(b) of this title and either the transportation or service is of limited scope of the application of a provision of this subtitle is not needed to protect shippers from the abuse of market power: *Provided, however*, That the Commission may not issue any exemption which will substantially lessen competition and coordination between water and rail carriers.

"(b) No exemption order pursuant to this section shall operate to relieve any common carrier by railroad from the common carrier liability for claims imposed under section 11707 of this title.

"(c) The Commission may where appropriate begin a proceeding under this section on its own initiative or on application by the Secretary of Transportation or an interested party. The Commission may specify the time during which the exemption is effective.

"(d) The Commission may revoke an exemption, to the extent it specifies, when it finds that application of a provision of this subtitle to the person, class, or transportation is necessary to carry out the transportation policy of section 10101(b) of this title.".

FEDERAL-STATE RELATIONS

SEC. 126. Section 11501 of title 49, United States Code, is amended—

(1) in subsection (a)(1), by striking the first word and inserting in lieu thereof the following: "Where the Interstate Commerce Commission under other sections of this title has the authority to do so, the";

(2) in subsection (b)(1)(B), by striking "120th" and inserting in lieu thereof "90th";

(3) in subsection (b)(2), by inserting the following immediately after "Commission" the second time it appears: ", subject to its authority as provided in the other sections of this title,"; and

(4) by adding at the end thereof the following new subsection:

"(d) Federal withdrawal from certain areas of regulation shall not be construed as relinquishing Federal jurisdiction and State authorities are encouraged to exercise their regulatory jurisdiction in a manner consistent with standards established in the railroad transportation policy set forth in section 10101(b) of this title.".

FUEL ADJUSTMENT SURCHARGES

SEC. 127. (a) Chapter 115 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 1508. State authority over fuel adjustment surcharges

"Notwithstanding any other provision of law, no State (including the Commonwealth of Puerto Rico) shall have authority to prevent a rail carrier providing intrastate rail transportation from increasing rates for such transportation in order to pass through increases in the cost of providing such transportation that are attributable to increases in the cost of fuel used in such transportation if such increases do not exceed increases in the cost of fuel used in rail transportation as determined by the Commission pursuant to section 10701(h)(2) of this title.".

(b) The index to chapter 115 of title 49, United States Code, is amended by inserting the following immediately after the item relating to section 11507:

"11508. State authority over fuel adjustment surcharges.".

CONVERSION OF ABANDONED RAILROAD RIGHTS-OF-WAY

SEC. 128. Section 809(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended—

(1) by inserting "(1)" immediately before the first sentence thereof; and

(2) by adding at the end thereof the following new paragraph:

"(2) There are authorized to be appropriated, for the purposes of carrying out the provisions of subsection (b)(2) of this section, not to exceed an aggregate amount of $20,000,000 for the fiscal years 1981, 1982, and 1983. Such sums shall remain available until expended: *Provided, however*, That, notwithstanding the provisions of subsection (b)(2) of this section, the Federal share for each grant made from the funds authorized to be appropriated pursuant to this paragraph may not exceed 80 percent of the total cost of any project.".

RAIL TECHNOLOGICAL IMPROVEMENTS AMENDMENT

SEC. 129. Notwithstanding any other provision of law, the Federal Railroad Administration shall have the authority and discretion to exempt from the mandatory requirements of the provisions of the Act of March 2, 1893, the Act of March 2, 1903, and the Act of April 14, 1910 (45 U.S.C. 1 through 16), also referred to as the Safety Appliance Acts, any railroad equipment, or equipment which will be operated on rails, when such requirements preclude the development or implementation of more efficient railroad transportation equipment or other transportation innovations under the existing statutes.

AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

Sec. 130. (a) Section 216(f)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(5)) is amended by adding the following sentence after the first sentence thereof: "For purposes of this subsection, the Railway Labor Executives' Association shall be deemed to represent all of the representatives of crafts or classes of employees of the Corporation and its subsidiaries as though that organization held powers of attorney from each representative of a craft or class for the limited purposes of negotiating and agreeing upon an employee stock ownership plan.".

(b) Section 216(f)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(5)) is further amended by adding the following sentence after the second sentence thereof: "The plan shall not be subject to change under the provisions of section 6 of the Railway Labor Act until after such time as securities have been distributed from the plan to the participants in the plan or their beneficiaries pursuant to the terms of the plan.".

(c) Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C 726(f)) is further amended by adding the following at the end thereof:

"(8)(A) Except as provided in subparagraph (B), no person described in subparagraph (C) shall have or be subject to any fiduciary responsibility, obligation or duty, nor shall any such person be subject to civil liability, under any Federal or State law, as a fiduciary or otherwise, (i) in connection with the employee stock ownership plan and related trust established by the Corporation pursuant to the requirements of this subsection or with ConRail Equity Corporation (x) on account of any reorganization or restructuring of the Corporation, its successors or assigns, or their assets or capital structure, or (y) on account of any action taken or not taken by the Corporation which may affect its ability to attain the performance levels established in connection with the plan pursuant to paragraph (2)(A)(ii) of this subsection, (ii) for or in connection with the establishment, continuation or implementation of the plan and related trust or of ConRail Equity Corporation or the acquisition of, investment in or retention of any security of the Corporation or ConRail Equity Corporation, or of any of their successors and assigns, by the plan or ConRail Equity Corporation, or the disposition of any such security to the extent that such disposition is made in connection with a reorganization or restructuring of the Corporation, its successors and assigns, or their assets or capital structure, as directed or approved by or on behalf of the Association or the United States, or the acquisition or retention of any cash, security or other property received in connection with any such reorganization or restructuring, or (iii) for or in connection with any other action taken or not taken pursuant to any term or condition of the plan or related trust agreement or of the articles of incorporation or bylaws of ConRail Equity Corporation: *Provided*, That any directions described in clauses (i)(x), (ii), or (iii) are taken at the directon, or with the consent, of the Association or of the Secretary or his designate.

"(B) Subparagraph (A) shall not be interpreted to relieve any person from any fiduciary or other responsibility, obligation or duty under any Federal or State law to take or not to take actions in respect to the plan in connection with (i) receiving contributions, (ii) exercising custodial responsibilities, (iii) determining eligibilty to participate in the plan, (iv) calculating, determining and paying benefits, (v) processing and deciding claims, (vi) preparing and distributing plan information, benefit statements, returns and reports, (vii) maintaining plan records, (viii) appointing plan fiduciaries and other persons to advise or assist in plan administration and (ix) other than as provided in subparagraph (A), acquiring, holding or disposing of plan assets.

"(C) The term 'person' as used in subparagraph (A) shall mean each of the following:

"(i) the trustee or trustees of the plan, the Corporation and its subsidiaries, ConRail Equity Corporation, the Association, and any of their successors and assigns;

"(ii) each director, officer, employee and agent of the Corporation of any of its subsidiaries, of ConRail Equity Corporation, of the plan, of the Association or of any of their successors and assigns; and

"(iii) each member of the Finance Committee and any of their employees and agents.

"(D) Neither this paragraph nor paragraph (9) shall be construed to grant immunity from any criminal law of the United States or of any State or the District of Columbia.

"(9) The United States shall indemnify, defend and hold harmless the persons described in paragraph (8)(C) from and against any and all liabilities, claims, actions, judgments, amounts paid in settlement, and costs and expenses (including reasonable fees of accountants, experts and attorneys) actually incurred in connection with the establishment, implementation or operation of the plan or ConRail Equity Corporation or with any transaction which is required by or is appropriate to effectuate fully the provisions of this subsection, except as may arise in connection with the execution of a responsibility, obligation or duty excluded from paragraph (8)(A) by paragraph (8)(B), if it is determined that such persons were acting in good faith. The indemnity provided in this paragraph shall be a full faith and credit obligation of the United States.

"(10) All securities of the Corporation, all securities of any subsidiary of the Corporation and of ConRail Equity Corporation and all interests in the employee stock ownership plan which are issued or transferred in connection with the employee stock ownership plan established by the Corporation pursuant to the requirements of this subsection shall be deemed for all purposes to have been issued subject to and authorized and approved pursuant to section 11301(b) of title 49 of the United States Code and any corresponding provision of any successor statute.".

TITLE II—EMPLOYEE PROTECTION AND RAILROAD FINANCING MODIFICATION

SHORT TITLE

SEC. 201. This title may be cited as the "Employee Protection and Railroad Financing Modification Act of 1980".

PART A—EMPLOYEE PROTECTION

FINDINGS AND PURPOSE

SEC. 202. (a) The Congress finds that the original provisions designed to protect railroad employees under title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) against deprivation of employment and reductions in railroad-related compensation contain inequities; that these inequities hinder the Consolidated Rail Corporation from achieving improved management of certain protected employees in its work force; and that elimination of these inequities would help reduce the cost levels of the Consolidated Rail Corporation, and thereby improve the Corporation's ability to provide carriage of goods in interstate commerce.

(b) It is declared to be the purpose of the Congress in this part to foster fair and equitable labor portection for certain railroad employees; to foster improvements in the ability of the Consolidated Rail Corporation to manage productively such employees in its work force; and to help reduce the cost levels of the Consolidated Rail Corporation by eliminating the inequities of the labor protection provisions, thereby improving the Corporation's ability to provide carriage of goods in interstate commerce by—

(1) revising the cash allowances for protected employees under title V of the Regional Rail Reorganization Act of 1973 to ensure that the employees receive a reasonable level of protection; and

(2) improving the ability of the Consolidated Rail Corporation to train or retrain certain protected employees for bona fide job vacancies.

(c) Nothing in this part is intended to affect any law, regulation, court order, or obligation pertaining to equal employment opportunity.

MONTHLY DISPLACEMENT ALLOWANCE

SEC. 208. Section 505(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(b)) is amended to read as follows:

"(b) MONTHLY DISPLACEMENT ALLOWANCE.—A protected employee shall be paid a monthly displacement allowance for any calendar month within the period identified in subsection (c) of this section in which the employee is deprived of employment or adversely affected with respect to his or her compensation, in accordance with the following:

"(1) PROTECTED EMPLOYEES OCCUPYING POSITIONS IN THE NONOPERATING CRAFTS.—Effective on and after the first day of the month immediately following the date of enactment of the Employee Protection and Railroad Financing Modification Act of 1980, the protected rate of pay of a protected nonoperating employee (other than a maintenance-of-way employee) who has been deprived of employment or adversely affected with respect to his or her compensation shall be based on the rate of pay of the position held by the employee on September 1, 1979, or if the employee held no position on that date, the rate of pay of the last position held by the employee prior to that date. A guaranteed hourly rate of pay will be computed for each protected employee, based on the aforesaid rate, and will be the actual hourly rate for hourly rated employees; the daily rate divided by 8 for daily rated employees; and the monthly rate divided by the working days in the claim month, further divided by 8 in the case of monthly rated employees. For employees occupying relief positions, the guarantee shall be computed on the basis of the weighted average daily rate of the positions relieved. Extra list employees will be guaranteed the extra list rate.

"(A) In the event a protected employee's position is abolished or he or she is displaced, and the employee is thereby required to occupy a position paying a lesser hourly rate than the employee's guaranteed hourly rate, the protected employee shall be paid the difference between the hourly rate of pay of the position the employee is occupying and his or her guaranteed hourly rate for all hours included in the straight-time work schedule of the employee's position for the month of claim, less any time lost on account of voluntary absences other than vacations. Hours worked in excess of the straight-time work schedule shall be paid in addition to the guarantee at the rate applicable to the position occupied, as provided for in the applicable collective bargaining agreement.

"(B) For any month or portion thereof in which a protected employee is deprived of employment, the protected employee shall be paid his or her guaranteed hourly rate for the number of hours the employee would have worked in the straight-time work schedule of his or her previously held position.

"(C) Notwithstanding the provision that the protected rate shall be the rate of the position held on or immediately preceding September 1, 1979, if a protected employee becomes the permanent incumbent of a higher rated position and is not disqualified therefrom, the higher rate shall become his or her protected rate.

"(2) PROTECTED EMPLOYEES OCCUPYING POSITIONS IN THE MAINTENANCE-OF-WAY CRAFTS.—Notwithstanding subsection (b)(1), effective on and after the first day of the month immediately following the date of enactment of the Employee Protection and Railroad Financing Modification Act of 1980, a protected maintenance-of-way employee shall be afforded his or her average monthly compensation computed in accordance with section 505(b) prior to such date (as used in this subsection (b), 'average monthly compensation'), but subject to a 'maximum', which maximum is defined as the employee's average monthly compensation divided by his or her average monthly time paid for, and further multiplied by 174 hours, or by his or her average monthly time paid for, whichever is less. If the average monthly compensation of a protected maintenance-of-way employee exceeds the maximum, the average monthly compensation of the employee will be reduced to the maximum for purposes of computing the employee's monthly displacement allowance, if any. If a protected employee is deprived of employment or if the employee's compensation in his or her current position is less in any month than the employee's average monthly compensation or the maximum, whichever is smaller, the employee shall be paid 75 percent of the difference between his or her earnings if any and the smaller figure, less any time lost on account of voluntary absences other than vacations. If, at the close of the calendar year, the sum of the protected employee's annual compensation (excluding overtime compensation earned by virtue of actually working in excess of 2 hours at the punitive rate of pay on any given day), monthly displacement allowance payments, and offsets applicable pursuant to this title is less than the employee's average monthly compensation subject to the maximum and multiplied by 12, the employee shall receive an additional payment representing the difference. In the computation of the monthly and the annual displacement allowance payments, earnings shall not include compensation received for overtime actually worked in excess of 2 hours at the punitive rate of pay on any given day. If in the previous calendar year an employee has received displacement allowance payments in excess of his or her annual entitlement, the excess payments shall be recovered from any current or future entitlement to monetary benefits afforded by this title, exclusive of benefits afforded by section 505(g) of this title.

"(3) PROTECTED EMPLOYEES OCCUPYING POSITIONS IN THE OPERATING CRAFTS.—Effective on and after the first day of the month immediately following the date of enactment of the Employee Protection and Railroad Financing Modification Act of 1980, a protected operating employee (defined as any protected employee in ICC classifications 107 through 128) who has been deprived of employment or adversely affected with respect to his or her compensation shall be afforded his or her average monthly compensation computed in accordance with section 505(b) prior to such date, but subject to a 'maximum', which maximum is defined as one-twelfth of the average annual earnings per employee, computed by cumulating the employee earnings reported to the Interstate Commerce Commission by the Corporation on a monthly basis for calendar year 1977 for the ICC classification of operating service in which the employee performed the preponderance of his or her work in calendar year 1974, increased by applicable general wage increases. If the employee performed no operating service in 1974, the ICC classification will be determined by the preponderance of the employee's operating service in an immediately preceding calendar year. If the average monthly compensation of a protected operating employee exceeds the maximum, the average monthly compensation of the employee will be reduced to the maximum for purposes of computing his or her monthly displacement allowance, if any. If the average monthly compensation of a protected operating employee is less than the maximum, the average monthly compensation of the employee will be used to compute his or her monthly displacement allowance, if any. If a protected employee is deprived of employment, or if the employee is adversely affected with respect to his or her compensation such that the compensation in his or her current position is less in any month than the average monthly compensation of the employee or the maximum, whichever is smaller, the employee shall be paid 75 percent of the difference between his or her earnings if any and the smaller figure, less any time lost on account of voluntary absences other than vacations. If, at the close of the calendar year, the sum of the protected employee's annual earnings, monthly displacement allowance payments, and offsets applicable pursuant to this title is less than his or her average monthly compensation subject to the maximum and multiplied by 12, the employee shall receive an additional payment representing the difference. In the computation of the annual payment, if during the calendar year an employee has been force assigned to, or has been required to exercise seniority to, a position in an ICC classification with a lesser maximum than the maximum applicable to that employee's 1974 ICC classification, the employee shall be paid the difference without credit being taken for compensation earned by virtue of actually working hours in the calendar year in excess of the number of hours paid for in the employee's average monthly compensation multiplied by 12 or his or her annual 1977 maximum, whichever is smaller. An employee's compensation for purposes of this subsection will not include savings sharing productivity payments received pursuant to paragraph (t) of the Crew Consist Agreement between the Corporation and the United Transportation Union dated September 8, 1978. If in the previous calendar year an employee has received displacement allowance payments in excess of his or her annual entitlement, the excess payments shall be recovered from any current or future entitlement to monetary benefits afforded by this title, exclusive of benefits afforded by section 505(g) of this title.

"(4) PROTECTED EMPLOYEES OCCUPYING NONCONTRACT POSITIONS.—Effective on and after the first day of the month immediately following the date of enactment of the Employee Protection and Railroad Financing Modification Act of 1980, a protected noncontract employee who has been deprived of employment or adversely affected with respect to his or her compensation shall retain his or her average monthly compensation and monthly displacement allowance computed in accordance with section 505(b) prior to such date. In the event such noncontract employee exercises or has exercised seniority in a craft or class of operating employees, the employee's entitlement to a monthly displacement allowance and fringe benefits, and his or her eligibility for transfer, will be the same as the entitlement and eligibility of other protected employees in the craft or class in which seniority is exercised. In the event such noncontract employee exercises or has exercised seniority in a craft or class of nonoperating employees, the entitlement of the employee to a monthly displacement allowance and fringe benefits, and his or her eligibility for transfer, will be consistent with the entitlement and eligibility of other protected employees in the craft or class in which seniority is exercised, except that the protected rate of pay shall be based on the rate of pay of the position first obtained through the exercise of seniority, rather than the rate of any position held on or prior to September 1, 1979.

"(5) Notwithstanding the preceding provisions of this subsection, employees who, prior to September 1, 1979, accepted transfer to positions requiring a change of residence pursuant to section 505(d) of the Act, shall retain their average monthly compensation and monthly displacement allowance computed in accordance with section 505(b) prior to the date of enactment of the Employee Protection and Railroad Financing Modification Act of 1980.

"(6) In determining compensation in his or her current employment, the protected employee shall be treated as occupying the position producing the highest rate of pay to which his or her qualifications and seniority entitle the employee under the applicable collective bargaining agreement and which does not require a change in residence. A protected operating employee will be considered to be occupying the position producing the highest rate of pay if the employee occupies a position producing compensation equal to his or her average monthly compensation subject to the maximum.

"(7) With respect to a protected employee who has been deprived of employment, the monthly displacement allowance shall be reduced by the full amount of any unemployment compensation benefits received by the protected employee and shall be reduced by an amount equivalent to any outside earnings of the employee.

"(8) A protected employee's average monthly compensation or protected rate of pay shall be adjusted from time to time thereafter to reflect subsequent general wage increases.

"(9) The average monthly compensation or protected rate of pay provided by this section shall in no event exceed $2,500 in any month, except that such amount shall be adjusted to reflect general wage increases subsequent to April 1, 1976.

"(10) A protected employee and the employee's representative shall be furnished with the protected employee's protected rate of pay, or average monthly compensation and average monthly time paid for, subject to the maximum, computed in accordance with the terms of this subsection. Each protected employee who has been deprived of employment, or his or her representative, and the employer shall agree upon a procedure by which the employee shall keep the employer currently informed of the unemployment compensation benefits received by the employee and the earnings of such employee in employment other than with the employer.".

DURATION OF MONTHLY DISPLACEMENT ALLOWANCE

SEC. 204. Section 505(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(c)) is amended to read as follows:

"(c) DURATION OF MONTHLY DISPLACEMENT ALLOWANCE.—The monthly displacement allowance provided for in subsection (b) of this section shall continue until the attainment of age 65 by a protected employee with 5 or more years of service on the effective date of this Act and, in the case of a protected employee who has less than 5 years of service on such date, shall continue for a period equal to the employee's total prior years of service: *Provided*, That such monthly displacement allowance shall terminate upon the protected employee's death, retirement, resignation, or dismissal for cause; shall not be paid with respect to any period of disciplinary suspension for cause, failure to work due to illness or disability, voluntary furlough, or failure to retain or obtain a position available to the employee by the exercise of the employee's seniority rights in accordance with the provisions of this section; shall not be paid to a protected employee deprived of employment with respect to any period of failure to work due to strike, fire, flood, snowstorm, hurricane, earthquake, tornado, or other similar natural occurrence that causes a suspension of operations in whole or in part and precludes performance of the work which would be performed by the incumbents of the positions to be abolished or the work which would be performed by the employees involved in the force reductions (provided that the payment of monthly displacement allowances shall be resumed upon termination of the emergency); shall not be paid with respect to any month that commences after the effective date of the Railroad Employee Protection Modification Act of 1980 for which the employee has failed to make a claim for such allowance within 3 full calendar months (unless otherwise agreed upon by the employee, or his or her representative, and the employer) after the last day of the month for which such allowance is sought, except that such 3-month limit shall not be applicable to claims which are the subject of or based upon arbitration decisions issued pursuant to section 507 and unless otherwise agreed upon by the employee, or his representative and the employer, the entitlement of an employee to an allowance shall be approved or denied within 150 days after the claim therefor is made for the first year following the date of enactment of the Railroad Employee Protection Modification Act of 1980 and within 90 days thereafter. Claims not approved or denied at the expiration of the time limits set forth in this subsection shall be deemed approved.".

TRAINING AND TRANSFER

SEC. 205. (a) (1) Section 505(d) (1) and (4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(d) (1) and (3)) are each amended by inserting "or other employers with employees protected under this section" immediately after "Corporation" wherever it appears.

(2) Section 505(d) (1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(d) (1)) is amended by inserting "or the system of other employers with employees protected under this section" immediatly after "Corporation's system".

(b) Section 505(d) (4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(d) (4)) is amended to read as follows:

"(4) Transfers to vacancies requiring a change in residence shall be subject to the following:

"(A) The vacancy shall be first offered to the junior qualified protected employee or employees deprived of employment in the seniority district where the vacancy exists, and each such employee shall have 20 days to elect one of the options set forth in paragraph (1) of this subsection. The Corporation or other employers with employees protected under this section shall determine the number of junior qualified protected employees deprived of employment (not to exceed four employees per offer) who will be included in the offer of transfer. The vacancy will be awarded to the most junior qualified protected employee who accepts transfer. Other qualified protected employees who have accepted the transfer will retain their status as employees deprived of employment. Employees junior to the acceptor who have elected one of the options set forth in paragraph (1) of this subsection shall retain the option. If the vacancy is not filled, it may be again offered in inverse seniority order to remaining qualified protected employee(s) deprived of employment (not to exceed four employees per offer) in the seniority district.

"(B) If there are no qualified protected employees deprived of employment in the seniority district where the vacancy exists, the vacancy may be offered in inverse seniority order to qualified protected employee(s) deprived of employment (not to exceed four employees per offer) on the system, in accordance with the procedure in paragraph (4) (A) of this subsection. Employees offered transfer pursuant to this paragraph (4) (B) will be afforded 30 days to elect one of the options set forth in paragraph (1) of this subsection.

"(C) The provisions of this paragraph shall not prevent the adoption of other procedures pursuant to an agreement made by the Corporation or other employers with employees protected under this section and representatives of the class or craft of employees involved.

"(D) When no bona fide vacancies exist in a marine craft or class on the Corporation's system or the system of other employers with employees protected under this section, or in the craft or class of a Penn Truck Lines, Incorporated, employee, the Corporation or other employers with employees protected under this section may offer such employee comparable employment for which the employee is qualified, or for which the employee can be trained, in another craft or class. The Corporation or other employers with employees protected under this section shall first attempt to locate a comparable position in a seniority district which encompasses the employee's last work location, and if successful, a transfer notice may be tendered pursuant to paragraph (4)(A) of this subsection. If no such position exists, the Corporation or other employers with employees protected under this section may tender the employee a transfer notice involving a position elsewhere on the system pursuant to paragraph (4)(B) of this subsection. In the event it is necessary to train an employee after his or her acceptance of a position pursuant to this subsection, such training shall be provided by the Corporation or other employers with employees protected under this section at no cost to the employee.".

(c) Section 505(i)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(i)(1)) is amended by adding the following immediately before the last sentence: "The Corporation may simultaneously offer a position to not more than four protected noncontract employees. The position will be given to the protected employee accepting transfer whom the Corporation considers to be best qualified for the particular position involved. Other protected employees who have accepted the transfer will retain their previous status. Employees who have elected a voluntary suspension of employment at their home location in lieu of protective benefits or a severance of employment shall retain the option elected.".

PAYMENT, PROGRAM AUDIT AND REPORT

SEC. 206. (a) Section 509 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 779) is amended to read as follows:

"PAYMENT, PROGRAM AUDIT AND REPORT

"SEC. 509. (a) PAYMENT.—The Corporation, the Association (where applicable), replacement operators, and acquiring railroads, as the case may be, shall be responsible for the actual payment of all allowances, expenses, and costs provided protected employees pursuant to the provisions of this title. The Corporation, the Association (where applicable), replacement operators, and acquiring railroads shall then be reimbursed for the actual amounts paid to, or for the benefit of, protected employees, pursuant to the provisions of this title (including such amounts paid by the employer prior to the effective date of the Railroad Employee Protection Modification Act of 1980 and training costs incurred by the Corporation pursuant to section 505(d)(4)(D) of this title), other than provisions with respect to employee pension benefits, not to exced an aggregate sum of $485,000,000, by the Railroad Retirement Board, upon certification to such Board in such detail as the Board may reasonably require, by the Corporation, the Association (where applicable), replacement operators, and acquiring railroads, of the amount paid such employees: *Provided*, That the aggregate amount of reimbursements made by the Board for the payment of monthly displacement allowances in the period after enactment of the Railroad Employee Protection Modification Act of 1980 shall not exceed $180,000,000. There is authorized to be appropriated to the Secretary annually such sums as may be required to meet the obligations payable hereunder, not to exceed the aggregate sum of $485,000,000. Upon the exhaustion of such authorization, the Corporation, the Association (where applicable), replacement operators, and acquiring railroads shall retain responsibility for the payment of benefits otherwise reimbursable under this title, but they shall not be reimbursed therefor. There is further authorized to be appropriated to the Secretary such sums as may be necessary to provide for additional administrative expenses to be incurred by the Railroad Retirement Board in the performance of their functions under this section. Appropriations authorized under this section may be allocated by the Secretary to the Railroad Retirement Board.

"(b) PROGRAM AUDIT.—Commencing October 1, 1980, the Association is authorized and directed to audit the payment of benefits pursuant to this title and to evaluate the effectiveness of the provisions of this title in improving the Corporation's management of certain protected employees in its work force who are entitled to receive monthly displacement allowances, including the manner in which the Corporation manages the overtime worked by maintenance-of-way employees. Such program audits and evaluations shall be conducted in accordance with such rules and regulations as the Association may prescribe. The representatives of the Association shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to, or in use by or in connection with the Corporation, replacement operators, acquiring railroads, or the Railroad Retirement Board which pertain to the benefits provided protected employees pursuant to this title and which are necessary to facilitate such program audit and evaluation.

"(c) REPORT.—The Association shall transmit to the Congress and the President, not later than 90 days after the end of each fiscal year, a comprehensive and detailed report on the payment of benefits under this title and the effectiveness of the provisions of this title in improving the Corporation's management of certain protected employees in its work force who are entitled to receive monthly displacement allowances."

(b) Notwithstanding any other provision of law, the authority of the Federal Railroad Retirement Board to make reimbursements provided under subsection (a) of this section shall not be effective until October 1, 1980. On and after such date, the Consolidated Rail Corporation and other employers with employees protected under title V of the Regional Rail Reorganization Act of 1973 may be reimbursed, from funds available pursuant to section 509 of such title, by the Federal Railroad Retirement Board for the amount of such payments, previously not reimbursed, as were made by the Corporation and other employers pursuant to the provisions of such title.

TECHNICAL AMENDMENTS

SEC. 207. (a) The table of contents of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) is amended by revising the caption

"Sec. 509. Payment of benefits."

to read

"Sec. 509. Payment audit and report.".

(b) Section 102(16) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702(16)) is amended to read as follows:

"(16) 'Secretary' means the Secretary of Transportation or the designated representative of the Secretary;".

(c) Section 201 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711) is amended by—

(1) revising subsection (d)(2) to read as follows:

"(2) three Government members, who shall be (A) the Secretary, acting directly or at any time through the Deputy Secretary of Transportation, the General Counsel of the Department of Transportation, the Federal Railroad Administrator, or the Deputy Administrator of the Federal Railroad Administration, (B) the Secretary of the Treasury, acting directly or at any time through an officer of the Department of the Treasury who has been appointed with the advise and consent of the Senate, and (C) the Chairman of the Commission, acting directly or at any time through the Vice Chairman of the Commission; and";

(2) striking "through their respective Deputy Secretaries" from the first sentence of subsection (i) and inserting in lieu thereof "in the case of the Secretary, through the Deputy Secretary of Transportation, the General Counsel of the Department of Transportation, the Federal Railroad Administrator, or the Deputy Administrator of the Federal Railroad Administration, and, in the case of the Secretary of the Treasury, through an officer of the Department of the Treasury who has been appointed with the advice and consent of the Senate"; and

(3) striking the first sentence from subsection (j)(4).

(d) Section 501 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771) is amended by—

(1) adding to paragraph (6) after "disability," in the last sentence "failure to work due to strike, fire, flood, snowstorm, hurricane, earthquake, tornado, or other similar natural occurrence that causes a suspension of operations in whole or in part and precludes performance of the work which would be performed by the incumbents of the positions to be abolished or the work which would be performed by the employees involved in the force reductions,"; and

(2) striking "and" after the semicolon in paragraph (10), striking the period after paragraph (11) and inserting in its place "; and", and adding the following new paragraph:

"(12) 'compensation' means earnings in employment subject to the Railroad Retirement Act.".

(e) Section 507 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 777) is amended by adding after "section 504(d)" the phrase ", section 509(b), section 509(c)".

SINGLE COLLECTIVE-BARGAINING AGREEMENT

SEC. 208. Section 504(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(d)) is amended to read as follows:

"(d) NEW COLLECTIVE-BARGAINING AGREEMENTS.—Not later than 60 days after the effective date of any conveyance pursuant to the provisions of this Act, the representatives of the various classes of crafts of the employees of a railroad in reorganization involved in a conveyance and representatives of the Corporation shall commence negotiation of a new single collective-bargaining agreement for each class and craft of employees covering the rate of pay, rules, and working conditions of employees who are employees of the Corporation, which collective-bargaining agreement shall include appropriate provisions concerning rates of pay, rules and working conditions but shall not include any provisions for job stabilization resulting from any transaction effected pursuant to this Act which may exceed or conflict with those established herein.".

PART B—FINANCING

EXTENSION OF REDEEMABLE PREFERENCE SHARE FINANCING

SEC. 209. Sections 505(e), 507(a), 507(d), and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(e), 827(a), 827(d), and 829) are each amended by striking "September 30, 1980" wherever it appears and inserting in lieu thereof "September 30, 1982" in each such place.

REDEEMABLE PREFERENCE SHARE FINANCING

SEC. 210. (a) Section 505(d)(3) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(d)(3)) is amended by striking "$700,000,000" and inserting in lieu thereof "$1,100,000,000".

(b) Sections 507(a) and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 827(a) and 829) are each amended by striking "$600,000,000" and inserting in lieu thereof "$1,100,000,000".

(c) Of the funds authorized to be appropriated pursuant to the provisions of title V of the Railroad Revitalization and Regulatory Act of 1976, not more than $180,000,000 is authorized to be appropriated in fiscal year 1981.

FINANCIAL ASSISTANCE TO APPROVED EMPLOYEE OR EMPLOYEE/SHIPPER OWNERSHIP GROUPS

SEC. 211. (a) Section 505(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(b)) is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any other provision of law, the Secretary may approve applications to provide financial assistance to any employee or employee/shipper ownership group formed pursuant to a plan for the purchase and/or rehabilitation of a line or lines of railroad and/or rail facilities which are considered to be in the public interest. The Secretary shall not authorize funds which exceed 20 percent of such total funds available under this section. In considering the allocation of available funds and priority of eligible projects under this subsection, the Secretary shall consider the availability of viable alternatives to the ownership and/or rehabilitation by the eligible employee/shipper group for the continuation of rail service. Projects with no such alternative shall receive highest priority.".

(b) Sections 506 through 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 826 through 829) are amended by—

(1) inserting "employee or employee/shipper group" immediately after the word "railroad" wherever it appears;

(2) inserting "employee or employee/shipper groups" immediately after the word "railroads" wherever it appears; and

(3) inserting "employee or employee/shipper group's" immediately after the word "railroad's" wherever it appears.

EMPLOYMENT EFFECTIVENESS IMPROVEMENT ASSISTANCE

SEC. 212. (a) Title V of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended by inserting the following new section immediately after section 505 thereof:

"EMPLOYMENT EFFECTIVENESS IMPROVEMENT ASSISTANCE

"SEC. 505A. (a) The Secretary is authorized under such terms and conditions as the Secretary shall prescribe to provide financial assistance to any class I railroad, not to exceed 10 percent of the funds available for the rehabilitation and improvement financing program pursuant to section 505 of this title, to cover up to 100 percent of the railroad's payments to any eligible employee or former employee to whom the railroad is obligated to make payments under a labor-management agreement which results in a significant change in railroad operating practices or work rules and which the Secretary determines will significantly improve manpower effectiveness. In making such determination, the Secretary shall consider the relationship of the railroad's labor costs to its revenues and any evidence of efficiency gains that the railroad and labor organizations may demonstrate.

"(b) Before providing any financial assistance under this section, the Secretary shall require the railroad receiving assistance to agree to such terms and conditions as are sufficient in the Secretary's judgment to assure that the railroad has, through a long-term change in operating practices or work rules, improved its manpower effectiveness.

"(c) Whenever a railroad receiving assistance under this section, defaults on any provision of a financing agreement or security purchased pursuant to the section, the Secretary shall be entitled to exercise all remedies in law or equity and may request the Attorney General of the United States to commence a civil action for damages, specific performance or any other available remedy in any appropriate court.".

(b) The table of contents of such Act is amended by inserting the following new item immediately following the item referring to section 505:

"Sec. 505A. Employment effectiveness improvement assistance.".

RESTRICTING AMENDMENTS

SEC. 213. Section 501 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821), as amended, is further amended by—

(1) striking "and" at the end of paragraph (7);

(2) inserting "acquisition or sale of assets or securities," immediately after "merger" in paragraph (8):

(3) striking the period at the end of paragraph (8) and inserting in lieu thereof a semicolon; and

(4) adding at the end thereof the following new paragraphs:

"(9) 'consolidation' means the combination of separate rail facilities and the abandonment of the excess facilities, except that 'consolidation' does not include the combination by a single railroad of multiple tracks into fewer tracks where the tracks do not constitute separate physical and operating lines of railroad; and

"(10) 'coordination' means the combination of rail freight traffic flows through the use of joint facilities arrangements or internally that result in a reduction of service on at least one facility and includes (but is not limited to) arrangements for joint use of tracks or other facilities and the acquisition or sale of assets.".

APPLICABILITY

SEC. 214. Section 505(h)(4) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(h)(4)) is amended to read as follows:

"(4) This subsection shall apply to purchase offers submitted to the Trustee of the Rock Island Railroad Estate and filed with the Commission prior to September 15, 1980, or purchase applications filed with the Commission prior to September 15, 1980, and approved by the court having jurisdiction over the reorganization of the Rock Island Railroad or the Milwaukee Railroad, as the case may be, and by the Commission.".

TITLE III—CONSOLIDATED RAIL CORPORATION AND UNITED STATES RAILWAY ASSOCIATION

PART A—CONSOLIDATED RAIL CORPORATION

FINDINGS AND PURPOSES

SEC. 301. (a) The Congress hereby finds that—

(1) pursuant to section 206(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(a)), formulation of a final system plan was intended to effectuate the creation of a financially self-sustaining rail system in the Region as defined in that Act;

(2) despite Federal financing for the Corporation in the amount of more than $3,000,000,000 since enactment of the Regional Rail Reorganization Act of 1973, the goal of self-sustainability has not been achieved;

(3) existing funding is nearly exhausted and a request for a new Federal authorization may be forthcoming by mid- or late-1981;

(4) additional Federal investment for the Corporation should not be authorized in a time of inflation and severe budget constraints without assurance that a program is in place which will enable that carrier to become financially self-sustaining;

(5) there has been a certain amount of confusion among various agencies with regard to responsibility for the future of the Corporation;

(6) in order to insure that Congress has adequate information and to further insure cooperation between involved Federal agencies and the Corporation, it is imperative that Congress mandate specific recommendations and proposals by a time certain; and

(7) all parties should be fully aware that additional measures, such as implementation of a plan of rationalization, may be necessary in the near future.

(b) It is the purpose of this part specifically to identify measures designed to ensure a self-sustaining system in the Region (as defined in section 102(15) of the Regional Rail Reorganization Act of 1973) (45 U.S.C.702(15)) in accordance with the goals of such Act. To that end, this part requires the submission to Congress of recommendations dealing with the future structure and activities of the Corporation and future funding requirements for that carrier. Additionally, this part assigns responsibilities to various Federal agencies subject to strict statutory deadlines, and provides for input from States and other interested parties. Wide participation is desirable, as it is the intent of Congress to take such further action as may be necessary, following consideration of the recommendations submitted pursuant to this part.

DEFINITIONS

SEC. 302. For purposes of this part, the term—

(1) "Association" means the United States Railway Association;

(2) "Commission" means the Interstate Commerce Commission;

(3) "Corporation" means the Consolidated Rail Corporation;

(4) "rail properties" means assets or rights owned, leased, or otherwise controlled by the Corporation which are used or useful in rail transportation service; and

(5) "Secretary" means the Secretary of Transportation.

RECOMMENDATIONS OF THE CORPORATION

SEC. 303. (a)(1) The Association shall, not later than November 15, 1980, make specific preliminary recommendations to the Congress with respect to future projected funding requirements of the Corporation. At the time of such submission, the Association shall also make specific preliminary recommendations to the Congress with respect to the future structure and activities of the Corporation in the Region (as defined in section 102(15) of the Regional Rail Reorganization Act of 1973) (45 U.S.C.702(15)) as it determines are necessary or appropriate to meet the goals set forth in section 206(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(a)), together with any specific legislation necessary to implement such recommendations.

(2) Following review of the preliminary recommendations by the Secretary and the Commission and comment by interested persons as provided in section 304 of this title, the Association shall develop and submit to Congress, not later than March 1, 1981, specific final recommendations with respect to (A) future projected funding requirements of the Corporation; (B) future structure and activities of the Corporation in the Region; and (C) legislative proposals if necessary to implement such recommendations. The specific preliminary and final recommendations shall set forth alternatives for the Congress to consider in the event it determines that modification of the Association's recommendations is warranted.

(b) In developing recommendations in accordance with this section, the Association shall identify measures designed to ensure a financially self-sustaining system in the Region. The recommendations shall be based on analyses of rail properties which might be proposed for abandonment or transfer to another railroad or qualified person and proposed operating efficiencies which could improve the Corporation's revenue/cost relationship. The Association shall, in developing recommendations under this part, analyze and consider—

(1) projections of the Corporation's future traffic, revenues, operating costs, and capital requirements;

(2) rail properties which might be proposed for abandonment or transfer to another railroad or qualified person, taking into account the potential impact of changes in the regulatory environment;

(3) the impact on communities served by lines proposed for abandonment or transfer;

(4) proposed operating efficiencies which could improve the Corporation's revenue/cost relationship;

(5) intercity and commuter passenger services provided by the Corporation and the impact of present and potential levels of train operations on both freight and passenger traffic on the Northeast Corridor;

(6) the impact on the Corporation of proposed mergers by connecting or competing railroads;

(7) employee motivation and labor productivity programs and a projection of labor protection costs which could result from the recommendations;

(8) the future capital structure of the Corporation; and

(9) any other factors identified by the Association to be relevant to the recommendations required to be developed and submitted pursuant to this part.

SUBMISSION OF RECOMMENDATIONS BY THE CORPORATION

Sec. 304. Not later than October 1, 1980, the Corporation shall submit to the Association its recommendations with respect to (1) proposed operating efficiencies; (2) rail properties which might be proposed for abandonment or transfer for continued operation to another railroad or qualified person; and (3) other recommendations which would assist in ensuring a self-sustaining system in the Region, together with proposed legislative changes necessary in connection with the proposed recommendation.

REVIEW AND EVALUATION

Sec. 305. (a) The Association shall, in the date of submission of preliminary and final recommendations to Congress, transmit copies of such recommendations to the Secretary, the Commission, the Governor and the public utility commissioner of each State which could be affected by such recommendations. Upon request, the Association shall furnish a copy of such recomendations to any interested person.

(b) As soon as practicable after submission to Congress of its preliminary and final recommendations, the Association shall publish in the Federal Register a summary of its recommendations and invite interested parties to comment on the recommendations.

(c) Within 30 days of receipt of the Association's preliminary and final recommendations, the Secretary and the Commission shall review such recommendations and submit a critique and evaluation thereof to Congress and the Association. In such evaluation, the Secretary and the Commission shall specifically indicate whether additional legislation is necessary or whether existing laws and procedures are adequate to implement such proposed recommendations.

RELATIONSHIP TO OTHER LAWS

Sec. 306. The antitrust laws, as defined in section 601(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791(a)(3)), are inapplicable with respect to any action taken in accordance with the provisions and under authority of this part.

AMENDMENT TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

Sec. 307. Section 210(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 720(e)) is amended by inserting immediately after "section" in the first sentence thereof the following: "or under subsection (a) of section 306 of this Act".

Part B—United States Railway Association

AUTHORIZATION OF APPROPRIATIONS

Sec. 308. Section 214(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(c)) is amended to read as follows:

"(c) ASSOCIATION. — There are hereby authorized to be appropriated to the Association for purposes of its administrative expenses such sums as are necessary, not to exceed $31,500,000 for the fiscal year ending September 30, 1981, and $25,500,000 for the fiscal year ending September 30, 1982, to remain available until expended.".

TITLE IV—CONSOLIDATED RAIL CORPORATION EMERGENCY FUNDING

SHORT TITLE

Sec. 401. This title may be cited as the "Consolidated Rail Corporation Emergency Funding Act of 1980".

FUNDINGS AND PURPOSES

Sec. 402. The Congress hereby finds that—

(1) pursuant to section 206(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(a)), formulation of a final system plan was intended to effectuate the creation of a financially self-sustaining rail system in the Region as defined in that Act;

(2) despite Federal financing for the Corporation in the amount of more than $3,000,000,000 since enactment of the Regional Rail Reorganization Act of 1973, the goal of self-sustainability has not been achieved;

(3) existing funding is nearly exhausted and the Corporation forecasts a large additional Federal financial requirement during the period 1981–1985;

(4) the Corporation further forecasts that substantial additional Federal funding will be needed for continuance of operations during fiscal year 1981;

(5) additional Federal investment for the Corporation should not be authorized in a time of inflation and severe budget constraints without firm assurance that a program is in place which will enable that carrier to become financially self-sustaining;

(6) it is primarily the responsibility of the shippers to support the rail services provided through a willingness to pay, at minimum, the cost of such service, and without adequate shipper or community support loss of such service should be anticipated;

(7) there exists a need for the Corporation's management and rail labor to promote and implement a philosophy that stresses maximum employee productivity;

(8) the ultimate responsibility for the success of the Corporation rests with the affected communities, shippers, employees and rail management and appropriate coordinated efforts on the part of these parties should be made to reduce the need for additional Federal funding;

(9) Congress presently has under consideration specific proposals to ensure identification and implementation of measures designed to ensure a self-sustaining system in the Region (as defined in section 102(15) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702(15)) in accordance with the goals of that Act; and

(10) as an interim measure, while Congress is considering further action, any authorization should be subject to conditions mandating action with regard to:

(A) reduction of losses on light-density lines which do not return costs of operation, and

(B) analysis of alternative changes in labor agreements and related operational changes.

(b) It is the purpose of this title to provide interim Federal funding for the Corporation for fiscal year 1981, subject to conditions set forth herein, while Congress identifies alternative measures, including structural changes, that will lead to a self-sustaining rail system in the Northeast. In taking this action, deemed necessary to preserve rail service while further action is considered, Congress expresses concern with the Corporation's progress toward becoming financially self-sufficient and directs the Corporation to take such economy measures as can be implemented without causing substantial harm to operations or jeopardizing the Federal investment in the Corporation.

DEFINITIONS

Sec. 403. For the purposes of this title, the term—

(1) "Association" means the United States Railway Associations;

(2) "Commission" means the Interstate Commerce Commission; and

(3) "Corporation" means the Consolidated Rail Corporation;

AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

Sec. 404. Section 216(b)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)(2)) is amended by adding a new paragraph (3) at the end thereof, as follows:

"(3) Unless the Finance Committee makes an affirmative finding as specified in paragraph 2, purchases of up to $329,000,000 of series A preferred stock shall be made by the Association, subject to the availability of appropriations, as required and requested by the Corporation, if the Finance Committee makes an affirmative finding that—

"(A) the Corporation has taken appropriate action to eliminate losses on lines which are classified in section 405 of the Consolidated Rail Corporation Emergency Funding Act of 1980 as both light density and unprofitable through (i) the negotiation of subsidy or trackage rights agreements which would ensure continued rail service; (ii) the sale or lease of those lines to other parties; (iii) the imposition of surcharges; or (iv) the abandonment of those lines; and

"(B) the Corporation has made good faith efforts to transfer lines classified as unprofitable but which are not classified as light density under such section to other interested parties.".

LIGHT DENSITY LINES

Sec. 405. (a)(1) Any line served by the Corporation which carried less than 3,000,000 gross ton miles of traffic per mile in the most recent calendar year for which traffic data is available shall be considered a "light density" line for the purposes of this section.

(2) Any line served by the Corporation which has revenues attributable to service on that line which are less than 110 percent of the Corporation's variable cost of transporting the traffic involved shall be considered an "unprofitable" line for the purposes of this section.

Such costs shall be determined by using the Corporation's unadjusted costs, calculated in accordance with the Commission's Rail Form A cost finding methodology (or an alternative methodology adopted by the Commission in lieu thereof) and indexed quarterly to account for current wage and price levels in the region in which the carrier operates: *Provided, however*, That the costs shall be adjusted to reflect a system-average amount for normalized maintenance of track.

(3) Not later than January 1, 1981, the

Corporation shall prepare separate and complete lists of:

(A) light density lines;

(B) lines which, upon the basis of preliminary analysis, the Corporation believes likely to be unprofitable lines under this section; and

(C) lines which are both light density and likely to be unprofitable.

The Corporation shall transmit lists to the Commission, the Association, the designated State transportation agencies, and the government of each political subdivision of each State in which rail properties are located, and to each shipper who has used such rail service during the previous 12 months.

(b) Upon not less than 45 days' notice, the Corporation may establish surcharges on traffic originating or terminating on lines which are both light density and unprofitable under this section. Such surcharges shall not be deemed to affect joint rates, to require the concurrence of any connecting carrier nor be challenged on any ground except that (1) they are not "light density" as defined in this section; or (2) the surcharges would result in total revenues attributable to service on that line exceeding 110 percent of the Corporation's variable cost of transporting the traffic involved as determined in accordance with the provisions of subsection (a)(2).

(c) Upon reasonable request from any person interested in purchasing, leasing, subsidizing, or obtaining trackage rights on any line which is classified as unprofitable under this section (or which the Corporation has indicated, based on preliminary analysis, is likely to be unprofitable), the Corporation shall promptly provide:

(1) its most recent reports on the physical condition of that line; and

(2) traffic, revenue, and other data necessary to determine the reasonable value of that line.

If the Corporation and the person offering to purchase the line enter an agreement for sale, lease, subsidy, or trackage rights, the Commission shall approve the transaction.

(d) When the Corporation files an application for abandonment of a railroad line and states that the line is both light density and unprofitable, the Commission shall determine, not later than 60 days after the application is filed, whether the line is light density and unprofitable under this section. Notwithstanding the provisions of subsections (a), (b)(1), or (c) of section 10903 of title 49, United States Code, if the Commission decides that the line is light density and unprofitable, the Commission shall issue a certificate of abandonment within 60 days, effective on date of issuance unless the Commission postpones the issuance under section 10905 of title 49, United States Code.

(e) The Commission shall adopt such regulations and expedited procedures as may be necessary to accomplish the intent of this section and to facilitate offers of financial assistance under section 10905 of title 49, United States Code.

RAIL LABOR STUDY

SEC. 406. Not later than January 1, 1981, the Corporation shall submit to the Congress an economic analysis that will forecast the full effects upon the Corporation and upon rail labor of alternative changes in labor agreements and related operational changes.

AUTHORIZATION OF APPROPRIATIONS

SEC. 407. (a) Section 216(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(a)) is amended by striking "$2,300,000,000" and inserting in lieu thereof "$2,629,000,000".

(b) Section 216(g) of such Act (45 U.S.C. 726(g)) is amended by striking "$3,300,000,000" and inserting in lieu thereof "$3,629,000,000".

Mr. CANNON. Mr. President, the text of the amendment which is before us is virtually identical to three railroad bills which the Senate previously has adopted—S. 1946, S. 2530, and S. 2527. The amendment includes technical corrections made necessary as a result of combining these bills.

Title I of the amendment which I have offered contains S. 1946, the Railroad Transportation Policy Act of 1980, which the Senate adopted on April 1, 1980, by a vote of 91 to 4. Title I is identical to S. 1946, as passed.

Title II of the amendment contains S. 2530, the Employee Protection and Railroad Financing Modification Act of 1980. The Senate adopted S. 2530 by unanimous consent on June 28 of this year. In section 205 of title II of the amendment which is before us, we have made one technical amendment in order to clarify the committee's and Congress intent in amending section 505(d) of the Regional Rail Reorganization Act of 1973. Under current law, Amtrak and other employers are not authorized to transfer surplus employees, as is Conrail, under section 505(d). Employees who work for different carriers, therefore, receive dissimilar treatment. This amendment would correct this discriminatory procedure by granting employers other than Conrail the same transfer rights with regard to all their protected employees.

In addition, the amendment which is before us includes an addition (section 210(c)) which specifies that not more than $180 million of the funds authorized to be appropriated pursuant to title V of the Railroad Revitalization and Regulatory Reform Act, which concerns railroad rehabilitation and improvement financing, is authorized to be appropriated in fiscal year 1981. This provision was included as part of the budget reconciliation measure adopted recently by the Senate, in S. 2885, but that measure contained instructions regarding S. 2530. Since S. 2530 is now being combined in this bill, it is necessary to include this provision once again in the bill which is before us.

Title III of the amendment contains S. 2527, an act which provides for the submission of recommendations regarding the future structure of Conrail, and for the authorization of appropriations for the U.S. Railway Association. S. 2527 was adopted by unanimous consent on May 22, 1980, and as included in this bill is identical to the version passed by the Senate.

Mr. President, title IV of this amendment is the one amendment which has not previously been considered by the Senate. Title IV will authorize the purchase by the U.S. Railway Association of an additional $329 million of Conrail series A preferred stock, to help assure the continuation of Conrail operations through fiscal year 1981, while the Congress attempts to resolve the future structure of that rail system.

Most of my colleagues are aware that railroads have played a decreasing role in the transportation market of this Nation. The impact of losing market share in freight to the trucking industry has been especially apparent in the Northeast quadrant of the Nation. The economy of that region has shifted from an industrial to a service-oriented, high-technology base. The result of this is the continuing decline, thus far over a period of 17 years, in the level of freight tonnage available in the region. The problem of decreasing freight tonnage and market share produced decreasing revenues for the predecessor bankrupted railroads which formed Conrail and continue to plague the 17,000-mile system.

Congress has authorized $3.3 billion in Federal funds since April 1, 1976, when Conrail began operations. While this Federal authorization has funded a considerable rebuilding of the rail plant Conrail inherited from the bankrupt predecessor railroads, Conrail has not been able to achieve the traffic levels originally planned or projected in the final system plan. As the 1980 recession has deepened, Conrail's traffic levels have continued the historic decline but at a more significant pace.

Conrail's traffic during the first week of July was about 30 percent below 1979 levels. As a result, Conrail's July 1, 1980, business plan for the 5-year period 1981–85 indicates a need for additional Federal funding ranging from $914 million to possibly more than $3 billion. The latest forecasts reveal a need for between $300 and $400 for fiscal year 1981 with existing funding to be used up by January 31, 1981.

If this Federal investment is not forthcoming, Conrail has indicated its only option will be further reduction in track rehabilitation, additions and improvements expenditures and severe reductions in some operations. Maintenance has already been reduced below normalized levels in an effort to minimize the required expenditures.

Mr. President, I would note here that the committee has received letters from the Department of Transportation, USRA and Conrail which all indicate strong concern that further reduction in normalized expenditures by Conrail could jeopardize the Federal investment already made in that rail system. They all support a limited additional authorization for Conrail's operations in fiscal year 1981. In addition to increasing Conrail's authorized Federal expenditures for fiscal year 1981, title IV of the amendment will also impose conditions requiring Conrail to take appropriate actions to eliminate or reduce losses from nonprofitable lines.

Expedited surcharge and abandonment procedures are provided for lines which are both light-density and unprofitable. The legislation also mandates an analysis of the impact of changes in labor agreements and related operational changes to assist in reducing Conrail's costs.

Mr. President, this amendment is unfortunately necessary to reserve the congressional option next year to de-develop a coordinated and comprehensive Conrail strategy without sacrificing the Federal investment made thus far in Conrail. This body has already passed S. 2527 which provides a mechanism for the reevaluation of Conrail's route, pricing and cost structures with a view toward implementing changes that will meet the needs of shippers in the region, but at the lowest cost to taxpayers.

I offer this amendment clearly as an insurance policy to obtain the necessary time next year to confront the difficult choices which we must face as to Conrail's future and to assure the public that Conrail's service will be continued pending such congressional decision. It should be stressed that the proposed authorization will assist Conrail in obtaining financing in the private sector, and it will avoid the necessity of drastic programs which could result in further plant deterioration.

Mr. President, I would call your attention to the fact that the amendment provides an additional authorization only upon the condition that Conrail take action to minimize the need for additional Federal investment.

Mr. President, I ask unanimous consent that the section-by-section analysis of title IV of the amendment be printed in full in the Record.

There being no objection, the analysis was ordered to be printed in the Record, as follows:

SECTION-BY-SECTION ANALYSIS OF TITLE IV

Title IV, the Consolidated Rail Corporation Emergency Funding Act of 1980, provides interim funding for fiscal year 1981 while Congress considers more comprehensive legislation. As a condition of such funding, the bill mandates action by Conrail to reduce losses on unprofitable light-density lines and an analysis of the impact of changes in labor agreements and related operational changes.

Section 401 states the short title of this title, the "Consolidated Rail Corporation Emergency Funding Act of 1980".

SECTION 402

Section 402(a) contains a statement of ten specific findings which may be summarized as follows: Despite more than $3 billion in federal funding, Conrail has not become a self-sustaining rail system and additional federal funding is needed for the continuance of operations during fiscal year 1981. Any interim funding to continue Conrail operations through 1981 while Congress deals with a more comprehensive long-run solution for Conrail should be accompanied by a requirement that Conrail undertake actions to reduce loses on light density lines and analyze changes in labor agreements and related operational changes.

Section 402(b) states the purpose of this title, which is to provide interim funding for fiscal year 1981 while Congress considers more comprehensive legislation which will lead to a self-sustaining rail system in the Northeast.

SECTION 403

This section defines key terms used in the title.

SECTION 404

Section 404 adds a new paragraph (3) to section 216(b) of the Regional Rail Reorganization Act of 1973 (the "3-R Act"). Section 216 of the 3-R Act outlines the manner in which the United States Railway Association provides funding to Conrail. New paragraph 216(b)(3) would direct the Association to purchase up to $329,000,000 of series A preferred stock if the Association Finance Committee (composed of the Secretary of the Treasury, the Secretary of Transportation, and the Chairman of the USRA Board) makes an affirmative finding that Conrail has taken appropriate action to eliminate losses on unprofitable lines.

SECTION 405

This section establishes expedited surcharge and abandonment procedures for lines which are both light-density and unprofitable. For purposes of the title, a line which carried less than 3,000,000 gross ton miles of traffic per mile in the most current year for which data is available is considered "light-density". Profitability is based on a comparison of the revenues attributable to the lines with the variable cost of transporting the traffic involved; any line which does not return 110 percent of variable cost shall be considered "unprofitable". Costs will be determined in accordance with Rail Form A costing methodology, indexed to current levels, with one exception: costs shall be adjusted to reflect normalized track maintenance. The adjustment is necessary, since lines cannot be operated on an ongoing basis without such expenditures.

The section also requires Conrail to prepare and transmit to shippers and other interested parties, including State transportation agencies, separate lists of light-density lines, unprofitable lines, and lines which are both light density and likely to be unprofitable.

To encourage purchase, lease, subsidy, or trackage rights agreements with respect to unprofitable lines, Conrail is to provide any interested person with appropriate reports on the physical condition of the lines, together with traffic, revenue and other relevant data necessary to determine the reasonable value of such line. If agreement is reached, the legislation mandates approval of the transaction by the Commission.

SECTION 406

Section 406 directs Conrail to conduct and submit to the Congress by January 1, 1981, an economic analysis which will analyze the effects on Conrail and rail labor of alternative changes in labor agreements and the associated operational changes.

SECTION 407

This section authorizes $329,000,000 of additional funding for Conrail by increasing the amount of series A preferred stock of the Corporation which may be purchased by USRA under section 216(a) of the Regional Rail Reorganization Act of 1973. Section 216(g) of that Act is similarly amended by increasing USRA's appropriation for the purchase of Conrail securities by $329,000,000.

UP AMENDMENT NO. 1619

(Purpose: To delete provisions of the bill relating to joint surcharge)

Mr. CANNON. Mr. President, I send an amendment to the desk on behalf of Senators Zorinsky and Exon and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. Cannon), on behalf of Mr. Zorinsky and Mr. Exon, proposes an unprinted amendment numbered 1619:

Amend the amendment to the House amendment to S. 1946 by striking out section 120 from Title I of the amendment to be inserted in lieu of the House amendment.

● Mr. ZORINSKY. Mr. President, the amendment I offer is a simple one. It strikes section 120. This section was not included in the bill as it was reported by the Committee on Commerce, Science, and Transportation, rather it was a last-minute amendment offered on the Senate floor. There was very little debate on the amendment, and even less explanation of its effect on American shippers—in particular agricultural shippers.

A number of Senators, including myself, were caught short by the amendment. Since April we have had the opportunity to review more carefully the provisions of section 120. Moreover, during consideration of the railroad deregulation legislation by the House, a wealth of new information was brought to light information which may well have changed the positions of a number of my Senate colleagues.

Section 120 as it presently stands in the Senate bill allows any rail carrier not receiving at least 110 percent of its variable costs on any joint route to add a surcharge to its portion of the joint rate. Further, it would allow any carrier to cancel any joint rate on which it does not recover 110 percent of its variable costs.

The section does not sound particularly harmful. But it could be devastating to shippers in many parts of this country. Some shippers, particularly agricultural shippers in the Plains States regions, who are now served by scores of branch and short lines, could be left high and dry if the giants of the rail industry use this broad authority with impunity—as I have no doubt they will.

The section puts in the hands of the country's large railroads a tremendously powerful weapon to manipulate the availability of alternate routes. The 110-percent figure is the trigger which activates that weapon.

Quite simply, once the trigger level is hit, a rail carrier has a virtual carte blanche to raise rates to any exorbitant level it desires through the use of a surcharge. It is easy to see that by jacking up the joint rate through this surcharge, any of the larger and more powerful railroads may render any joint route economically unviable.

The flip side of the coin is the new authority to simply cancel any joint route which does not return at least 110 percent of variable costs. Whether a rail carrier chooses heads or tails, the effect is the same—the shipper loses his rail service. And he has no recourse.

The legislation we passed last April also contains new expedited abandonment procedures. I do not quibble with this section, Mr. President. But the combination of the easier abandonment provisions and the very broad new freedoms provided in section 118 is deadly for thousands of shippers.

By manipulating the joint rates and artfully selecting less desirable routes for cancellation, a rail carrier could place itself in the very envious position of being a monopoly carrier. Shippers will find themselves the unwilling captives.

Mr. President, I think it is important to emphasize that the section of the bill was not included in the Rail Transportation Policy Act as it was reported by the Commerce Committee. In fact, as my colleague from Kansas, Senator Kassebaum, pointed out during the abbreviated floor debate on this section, joint rate and surcharge provisions were discussed by the committee during the markup of the bill, and it was the unanimous decisions of the committee at that time not to include any such provisions.

The House has already acted on this bill, Mr. President. And I am chagrined to report that provisions on joint rate surcharges and cancellation, even more harmful, have been included in the House bill.

The House and Senate will go to conference soon to iron out the differences in the two bills. This is our last chance to make the changes necessary in the Senate bill.

I recognize, Mr. President, that there is considerable interest in retaining some language on joint rates in the final bill. The House bill has a surcharge provision. Let us in the Senate knock it out of our bill so that the conferees will be able to discuss the questions of equity for farmers; equity for small businesses; and equity for rural America.●

Mr. CANNON. Mr. President, the amendment offered by Senator ZORINSKY and Senator EXON would strike the joint rate surcharge provision in S. 1946.

This is a provision that was carefully studied by the committee during the hearing process. Initially, the Commerce Committee did not make changes in the joint rate area. However, shortly before S. 1946 came to the floor, a substantial number of major railroads worked out a compromise. Since it was at that time (and continues to be) my view that effective rail reform legislation must address this important issue, I proposed a joint-rate surcharge provision along the lines of the compromise agreement; the amendment was adopted by the Senate on April 1, when we passed the rail bill by an overwheming vote.

I was very pleased that this amendment was adopted, since it goes a long way toward resolving the very difficult joint-rate issue. At the same time, I recognized that not all parties affected by the provision had time to fully study the matter.

For that reason, I offered assurance to my colleagues that appropirate changes would be made as we proceeded to the conference process. In the interim, the House has made a considerable number of changes in the provision—primarily to provide more adequate protection to short-line railroads and shippers. I am convinced that the compensatory joint-rate relief provision in the House bill (section 201 of H.R. 7235) represents a substantial improvement over section 118 of S. 1946.

Nevertheless, many of my colleagues have expressed concern with the House provision. Should further changes be warranted, they are afraid the Senate conferees might not have necessary flexibility, for example, if they wished to make changes in the light-density provision where both bills have similar wording and the same traffic figure: 3,000,000 gross ton-miles of traffic per mile.

While I believe we could find a way to handle the issue in conference if further changes in the surcharge provision are warranted, I do recognize and understand the very serious concerns of a number of my colleagues. Accordingly, I will agree to accept an amendment which will strike the joint rate provision of S. 1946 (title I of the amendment I have offered).

I would stress, however, the crucial need for a surcharge provision in the final legislation. I am accepting this amendment to insure that Senate conferees have flexibiilty to consider the matter further and to recommend such further changes as may be warranted.

Mr. LEVIN. Mr. President, I am pleased to join Senators ZORINSKY and EXON as a cosponsor of their amendment to S. 1946, the railroad deregulation bill. The Senate bill, as reported out of the Committee on Commerce, Science, and Transportation, maintained the status quo with respect to joint rate surcharges. When the bill reached the Senate floor, however, Senator CANNON introduced an amendment on joint rates which the Senate approved. This would strike that section, in part because of the concerns expressed that the section does not provide adequate protection from discriminatory pricing practices to short-line railroads.

Mr. President, when Senator CANNON introduced the amendment on joint-rate surcharges on April 1, 1980, he stated:

> I am aware that not all the railroads have had an opportunity to fully study the joint rate proposal and that there is some opposition to the language on the part of some carriers. But, as I said to my colleague earlier, I want to offer my assurance that appropriate changes can and will be made as we proceed to the conference process and that we try to satisfy the legitimate concerns of most everybody.

Since that time, representatives of many of Michigan's short-line railroads have brought to my attention their concerns about the joint-rate surcharge section, which they believe could place in jeopardy many short-line railroads throughout the country because it provides the larger railroads with the ability to cancel or increase a joint rate without the concurrence of other carriers. I believe that the amendment offered by Senators ZORINSKY and EXON will provide the conferees with the flexibility they need in order to expand upon the protections provided in the House railroad deregulation bill.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, it is my understanding that this was agreed to by the ranking member (Mr. PACKWOOD).

Mr. CANNON. The Senator is correct. It has been cleared with him.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1619) was agreed to.

● Mrs. KASSEBAUM. Mr. President, I rise in support of Chairman CANNON's decision to strike the surcharge provisions of the Senate rail bill. As you will recall, Mr. President, I made a similar motion during the Senate's original consideration of S. 1946.

I believed then, and I believe now, that the Senate provisions could have some very detrimental effects on agricultural interests. The House provisions are an improvement, but significant problems remain, particularly with regard to light-density lines which crisscross much of the Midwest.

I believe that removal of this section will give us the flexibility in the conference to fashion a provision generally satisfactory to all parties, and I appreciate the chairman taking this step.●

Mr. CANNON. Mr. President, I ask unanimous consent that Senator DOLE be added as a cosponsor to the Zorinsky amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I ask unanimous consent that Senator LEVIN be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion that the Senate agree to the amendment of the House with the amendments (UP No. 1618 and UP No. 1619) of the Senate.

The motion was agreed to.

Mr. CANNON. Mr. President, I move that the Senate request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. CANNON, Mr. LONG, Mr. EXON, Mr. PACKWOOD, and Mrs. KASSEBAUM conferees on the part of the Senate.

THE "SUPERFUND" BILL

Mr. CANNON. Mr. President, the Senate Committee on Commerce, Science, and Transportation has been examining with great concern S. 1480, the Environmental Emergency Response Act of 1980, which was reported by the Environment and Public Works Committee on July 11, 1980. This legislation would establish a mechanism for clean up of and compensation for damages resulting from releases of hazardous substances and would impose joint, several, and strict liability on those involved. I am strongly in support of the goals of this legislation. Senator RANDOLPH and the Senate Environment and Public Works Committee deserve credit for responding to these important societal concerns.

However, there is no doubt that, as the bill is presently drafted, it impacts greatly on the jurisdictional interests of the Senate Commerce Commitee in the areas of interstate commerce regulation, transportation and common carriage, and oceans and marine activities. As presently drafted, S. 1480 would have grave implications in these areas.

Since S. 1480 clearly affects areas within its jurisdiction, the Commerce Committee held 2 days of hearings on September 11 and 12 to explore the transportation and other commerce aspects of the bill. The committee received much revealing testimony from the Department of Transportation and the Environmental Protection Agency, the various transportation modes, shipper and manufacturing groups, insurance representatives, the U.S. Chamber of Commerce, representatives of the oil and natural gas industries, and the Sierra Club. The testimony received reinforced my doubts about the soundness of certain provisions in the bill in light of their potentially detrimental effect on transportation and commerce.

A principal concern raised by S. 1480 relates to the establishment of broad and unlimited liability. Numerous groups have testified before the committee that S. 1480 in fact would cause severe economic disruption. The Hartford Insurance Co., Crum & Forster Insurance Co., the American Insurance Association, and the National Association of Insurance Brokers all have informed the committee that in their view S. 1480 is uninsurable, particularly in view of the fact that the bill does not contain a dollar limit on liability. The Department of Transportation has testified in this regard that the insurance problems engendered by this liability would be particularly acute for the small railroads in this country. The Environmental Protection Agency testified in support of a dollar limit. Without any such limit, the liability exposure is potentially enormous.

These problems associated with unlimited liability are compounded by the uncertainty of coverage stemming from the broad scope of allowable damages for loss of natural resources, property loss, and economic loss, which could be collected by an unlimited group of claimants, and by the uncertain limits on removal costs which could be recovered pursuant to broad, unfettered Presidential authority to take "remedial action" as appropriate. In addition, S. 1480 would set up difficult apportionment procedures whereby anyone who is found liable could only seek apportionment and contribution after all claims have been paid. While strict liability may be advisable as a matter of policy to insure due care and compensation for damages, it is essential that unlimited liability does not create the greater risk of uninsurability.

Transporter, shipper, and manufacturing groups also have stated that this legislation would have enormous inflationary impacts and that it is anticompetitive. They argue that many small transporters and shippers would be forced out of the marketplace due to their inability to meet the financial responsibility requirements of S. 1480. It is clear that such a result would be in direct conflict with the Airline Deregulation Act of 1978 and the Motor Carrier Act of 1980, both of which were passed by Congress in an effort to increase competition in the transportation industry.

Other key problems in S. 1480 relate to its breadth and ambiguity. The bill states that the "transportation" of hazardous substances is an "ultrahazardous" activity. In view of the broad and virtually unlimited definition of hazardous substances, what effect will such a statement have on the future regulation of, or liability for, such activity?

Representatives of transportation, shipper, manufacturing, and insurance groups all have testified that many of the provisions in the bill are so vague as to invite substantial litigation and are so broad as to impose unnecessary and burdensome regulatory requirements. For example, "facility" covers any storage container, any equipment, or any area where a hazardous substance has been placed or otherwise come to be located. These terms are not defined anywhere in the bill, and the potential coverage of a vast array of products is staggering. Any "release," which means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, or dumping from a facility into the environment, triggers all of the detailed and significant reporting and liability provisions of the bill. It is essential that the coverage and meaning of these terms be fully clarified before we can responsibly act on this legislation.

S. 1480 contains no exclusion for consumer products. Therefore, it has been suggested that this would mean that an individual consumer is subject to strict, joint, and several liability for a "release" from any product that contains one of the numerous hazardous substances listed on pages 24 to 28 of the Senate Environment and Public Works Committee report. While staff has been informed that such a result was not intended, the term "facility" as it is presently defined would include consumer products, and the report does not in any way clarify that this term does not include consumer products. An amendment will be offered to clarify this matter.

"Environment" is not a defined term in the bill. The State Department has informed the committee that such a term thus could mean "global environment," thereby extending the provisions of S. 1480 beyond the United States or any area where it could assert jurisdiction. Therefore, S. 1480 threatens to have potentially grave foreign policy implications by appearing to provide authority for the United States to assert jurisdiction over foreign vessels and foreign nationals in a manner inconsistent with general principles of international law and specific U.S. treaty obligations.

S. 1480 establishes a fund for compensation of damages and cleanup costs. The Commerce Committee has clear jurisdictional interests in the use of this fund when such use is otherwise funded pursuant to the committee's authorizing jurisdiction. Moneys in the fund can be used for actions relating to damage assessment, restoration of natural resources, and investigation of and enforcement as a result of hazardous substances releases. These matters are specifically under the authority of the National Oceanic and Atmospheric Administration and the Coast Guard, over which the committee has authorizing jurisdiction. In the interest of efficient and coordinated oversight of these, and any other, groups within its jurisdiction, the Commerce Committee must be in a position to review the adequacy of their funding.

Mr. President, the Commerce Committee has followed closely the evolution of this "superfund" legislation. As early as February 21 of this year, Senator PACKWOOD and I wrote a letter to Senator RANDOLPH, the chairman of the Public Works Committee, in which we expressed support for the efforts of his committee in this regard. In addition, we requested sequential referral to the Commerce Committee for a time certain in light of the many areas covered by the proposed legislation within the jurisdiction of the Commerce Committee. At that time, the Public Works Committee was not willing to agree to a referral, claiming that they were working solely on a staff working draft.

In July, after S. 1480 was reported by the Public Works Committee, we again wrote the committee requesting referral and reiterating our multitudinous jurisdictional concerns, only to be once again refused. Our most recent correspondence with the Public Works Committee, dated August 22, 1980, included one last request for sequential referral and also set forth in detail many of the specific matters within the Commerce Committee's jurisdiction which are impacted by S. 1480. This letter received the same negative response on the issue of referral.

Mr. President, I strongly support the goal of making our environment safer from pollution by hazardous substances, but this goal must be carried out carefully in order not to have unintended and potentially disastrous impacts on the commerce of this country. Thus, even without formal referral, the Commerce Committee continues to examine the bill and remains concerned about these and many other concerns. Although the Senate Environment and Public Works Committee has introduced amendments to address some of these concerns, the amendments still do not address some of the most significant problems with the bill. Therefore, I have instructed staff to work on amendments, for introduction on the floor, which would respond to these problems.

Mr. President, I am hopeful that favorable consideration of these amendments by the Environment and Public Works Committee and the Senate will facilitate favorable consideration of S. 1480 during the 96th Congress.

For the benefit of my fellow Members, I have included for the RECORD a few representative letters received by the Commerce Committee in conjunction with its hearings, which relate to the many concerns within the committee's jurisdiction. They are from the following groups:

American Farm Bureau Federation;

Crum & Forster Insurance Cos.;

American Insurance Association;

Department of State;

Transportation Association of America;

Association of American Railroads;

American Trucking Associations, Inc.;

American Institute of Merchant Shipping; and

American Nuclear Energy Council.

Mr. President, I ask unanimous consent that these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN FARM BUREAU FEDERATION,
Washington, D.C., September 11, 1980.
Hon. HOWARD W. CANNON,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The American Farm Bureau Federation is a general farm organization representing more than 3.2 million member families in 49 States and Puerto Rico. Many Farm Bureau members use chemicals in crop and livestock production that would be classified as hazardous materials as defined in S. 1480. We are concerned that S. 1480, as reported by the Senate Environment and Public Works Committee, could have a serious effect on agricultural technology and production.

For purposes of discussion, we wish to divide the provisions of S. 1480 into three parts: (1) clean-up of waste disposal sites; (2) emergency federal response to hazardous materials spills; and (3) creation of a new liability scheme that would impose strict liability on the manufacturers and handlers of hazardous materials, including every farmer and rancher in the United States who uses pesticides as a part of the food and fiber production process.

Our principal concern with the bill involves the liability scheme provisions.

S. 1480 declares the transportation, storage, and use of hazardous materials to be an "ultrahazardous activity" subject to the liability provisions of S. 1480. Most farmers purchase pesticides, transport them home, and store them until the time of use when they are again transported to the site of application. The bill, at this time, specifically excludes field application from the liability scheme, although the farmer would be held strictly liable at all other times. We also suggest that any such exclusion granted by Congress could be subject to removal in the future.

We have not been able to quantify the magnitude of a farmer's financial exposure under this liability scheme; however, a couple of examples will serve to illustrate the potential problems if this bill becomes law.

A farmer, transporting pesticides in a farm truck, could be involved in an accident totally beyond his control. If the pesticide containers ruptured and the chemical spilled, the farmer would become liable for clean-up costs, any real or personal property loss, any loss or destruction of natural resources, and so on.

If a farmer stores chemicals on his farm prior to field use, in a manner prescribed by EPA, and a trespasser enters the property causing injury to himself, others, or the environment, the farmer would be liable.

If a farmer loads his tractor mounted spray tanks and must across a country road to reach his field, and is struck by an automobile, the farmer would be liable for any chemical-caused damages.

Recently, farmers in the midwest used a pesticide registered by EPA to protect corn from soil borne insects. Soybeans were planted in the fields the following year. Residuals of the pesticides were absorbed by the soybeans and eventually found their way into poultry feed, resulting in the condemnation of several million chickens ruled unsafe for consumption. The pesticide had been registered by the Federal EPA as safe for use on corn. The growers followed EPA use directions. No one anticipated the problem, nor can the blame for the subsequent problem be ascribed to an individual or company. The pesticide, of course, was disallowed. However, if this bill had been law, virtually every corn/soybean farmer involved in the production of that poultry feed would have been liable.

The committee bill provides a narrow exemption for the field application of pesticides. We do not believe a narrow exemption from a bad provision makes the provision any better. We urge deletion of the joint and several strict liability scheme from this bill.

The bill envisions three principal sources of funding. The fund would initially be built from a tax on industry and from appropriated funds. However, the fund would be replenished with additional monies recovered from parties, sued by the U.S. Justice Department, after initial payment for damages by the fund. This latter provision was intended to pit the Justice Department against major companies. The practical application of the provision, however, would subject any business—big or small—and individual farmers, to the force of virtually uncontestable litigation, should an accident occur.

Further, the industry tax will not be paid by big business, as envisioned by the bill, but instead be passed through as a cost of production to the consumer of the product—the farmer buying the pesticide.

We encourage this committee to amend S. 1480 in order to make it a responsible bill that addresses the legitimate problem of abandoned hazardous waste disposal sites and clarifies federal authority to respond to hazardous materials spills. The remainder of the bill should be deleted.

Sincerely,

VERNIE R. GLASSON,
Director, National Affairs Division.

CRUM & FORSTER INSURANCE COS.,
Washington, D.C., September 10, 1980.
Re S. 1480, The Environmental Emergency Response Act.
Hon. HOWARD W. CANNON,
Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Crum & Forster Insurance Companies, the Nation's 14th-ranked group of property-casualty insurers, are major writers of the kind of liability insurance that S. 1480 would virtually compel owners and operators of many hazardous substances disposal facilities or sites to buy in order to establish evidence of financial responsibility.

As eager as we are to make a market for those subject to the bill's requirements, we do not believe that the liability scheme established by S. 1480 is insurable. We are concerned that enactment of the bill in its current form will impose on many owners and operators an obligation they will be unable to fulfill through the purchase of insurance.

To be insurable, an event must be reasonably predictable both as to the frequency with which it occurs and as to the severity of losses it produces. S. 1480, in our view, makes the prediction of loss frequency and severity nearly impossible. Many of the legal rules it establishes, the categories of loss it makes compensable, and the classes of claimants it makes eligible for recovery, are entirely new, rendering past experience meaningless for purposes of estimating future costs (and, hence, premiums).

Unless major changes are made in S. 1480, we would strongly recommend that it not be enacted. As much as we appreciate the desirability of compensating the victims of hazardous substance releases into the environment, we believe there must be a better balance between this objective and the interests of owners and operators (and their insurers) than S. 1480 now strikes.

First, with respect to the legal framework in which losses are to be compensated, S. 1480 abandons all current and time-tested rules of liability in favor of an untried concept of joint, several and strict liability (section 4(a)) whose unfamiliarity is compounded by its retroactive applicability.

"Owner or operator" is defined in section 2(b)(15)(A) to "include the person who owned or operated or otherwise controlled activities at such facility or site *immediately prior to (its) abandonment or at the time of any discharge* . . ." (emphasis supplied). Section 4(a) subjects such owners and operators and "any person who *at the time of disposal of any hazardous substance* owned or operated any facility" to joint, several and strict liability for the universe of damages resulting from a discharge. The exceptions to this retroactivity in subsections 4(n)(1)–(3) are cold comfort, since they apply only to damages and releases occurring "wholly" before a specified date.

Thus, S. 1480 would apply entirely new statutory liabilities to actions taken and contracts made years, even decades, ago under traditional common law standards. We and other insurers would become subject, under contracts long since terminated, to liability exposures we never agreed to assume and could not possibly have foreseen, and the extent of our liability would be determined not according to the legal rules and the state of the waste disposal art at the time we entered into our contracts, but under an untried formula that would strip us and our former insureds of virtually all defenses.

We know it would be unfair, and we believe it would be unconstitutional, for the Congress to change the rules for hazardous substances liability retroactively as well as prospectively. We would not hesitate to challenge such a law if, pursuant to it, we were to be ordered to pay millions of dollars on behalf of former insureds for legal liability that did not exist when the actions involved were taken, and for which we collected no premium.

The strict liability dragnet in S. 1480 is so broad as to sweep within it any person who at any time had even the remotest connection with a facility or site, and to require that person to pay the entire damages from a discharge before he can seek either limitation or apportionment of his liability from the parties actually responsible for the damages (see section 4(f)(3)). From an insurer's perspective, this provision alone creates a contingent liability so enormous as to defy calculation, and would likely make it extremely difficult for persons utilizing disposal sites to obtain insurance protection.

The scope of the definition of "facility" in section 2(b)(9) of S. 1480 is so broad as to include farmers' tiny ponds and drainage ditches as well as massive commercial chemical dumps. No attempt is made to discriminate among "facilities" on the basis of their capacity, loss history or risk potential.

Thus, a farmer would be subject to the same one year's imprisonment or $10,000 fine that would be levied against a chemical dump operator for his failure to notify EPA of "the existence of (his) facility or site" and "the amount and type of any hazardous substances to be found there," and subject to the same *absolute* and *unlimited* liability for damages resulting from any subsequent discharge or lease (see section 3(a)(4)(A)).

We must ask if it is truly the desire of Congress to impose on a farmer who may have a pesticide residue in his pond or drainage ditches the draconian requirements set out in S. 1480. If not, surely some distinction should be drawn between those facilities which pose relatively little risk of environmental harm and those which pose a greater risk. Absent such distinctions, the owners of farms, motor vehicles and other onshore facilities will face a Hobson's choice: they will either be unable to obtain insurance protection against liability arising under S. 1480; or they will be able to obtain it only at prices reflecting the huge exposure the bill creates for even the smallest facility.

Ironically, the bill places no limit on the liability of any person subject to it, but permits any insurer acting as a guarantor of such a person under the bill's financial responsibility requirements (section 7) to escape liability by excluding, through restrictive endorsement, coverage for subrogation claims by the Hazardous Substance Response Fund (see section 6(b) (3) (E)). If a guarantor were to deny direct liability, forcing claimants to proceed against the Fund, and also excluded subsequent subrogation claims, the entire burden of the subrogated claim would rest on the insured. We doubt seriously that any reputable insurer would enter into such a contract, but point out that the bill contemplates the use of insurance policies as evidence of financial responsibility while permitting insurers to exclude liability by restrictive endorsement.

Second, the categories of loss that S. 1480 makes compensable are in many instances either entirely new or so broadly defined as to defy quantification. We do not believe that insurers will be able to accurately price coverage for unfamiliar or unquantifiable kinds of losses. Unless the elements of compensable loss are more precisely defined and limited, we believe they will further discourage insurer participation in the market for risks subject to S. 1480.

"Damages" are specified in section 2(b) (8) to include both "economic loss" and damages for "personal injury." The latter presumably would include such non-economic losses as pain and suffering, loss of consortium, etc., which are extremely difficult to estimate in advance. Non-economic losses typically constitute 60 per cent of automobile liability insurance payments, and, if permitted under S. 1480, would substantially increase the costs imposed by the bill. For example, would "psychic trauma" induced by disclosure of an orphan dump site next door to an established residential neighborhood constitute the sort of "personal injury" compensable under the bill?

"Remedial action" could, subject solely to Presidential discretion, impose on a discharger pursuant to section 4(a) (1) (A) such potentially staggering costs as "permanent relocation of residences, businesses and community facilities" and "the provision of permanent alternative drinking water supplies" (see section 2(b) (1)). Determination as to whether such costs are reasonable or necessary is entirely out of the hands either of the discharger or his insurer, but his liability for them is virtually absolute.

There is no requirement in section 4(a) (2) (B) that "loss of use of real or personal property" result from damage to the property itself, as is currently required under insurance contracts. Does this mean that a family is entitled to recover damages for loss of use of an island retreat if the bridge to the island is closed after a truck carrying a hazardous substance has overturned?

Similarly, there is no requirement in either sections 4(a) (2) (D) (loss of use of natural resources) or 4(a) (2) (E) (loss of income or earning capacity) that the claimant derive any income from either the natural resources or the property damaged. Does this mean that a weekend fisherman denied his sport on a contaminated local lake is eligible for recovery of damages? Does it mean that a gas station owner whose traffic to and from the same lake declines is entitled to seek compensation? If so, there is no end to the theoretical universe of damages that can be conjured up (bait suppliers to the fishermen, auto parts dealers with the gas stations, etc.).

We would also like to point out that S. 1480, in defining "release" (section 2(b) (16)), repeals the Price-Anderson Act's $560 million limitation on public liability arising out of a nuclear incident by providing that a "release" does not include "nuclear material . . . to the extent such release is covered by financial protection required" under the Price-Anderson Act. Thus, once the Price-Anderson limits have been reached, unlimited recovery would be permitted under S. 1480. We do not think it is sound public policy to bury an implied repeal of a major statute in the definitions section of an apparently unrelated 91-page bill.

Third, the classes of claimants that S. 1480 makes eligible for recovery of damages are nowhere, except with respect to loss of tax and other revenues and of natural resources by governments, limited. The impossibility of measuring the numbers of claims that might result from a given incident increases the likelihood that insurers will avoid exposures created by S. 1480.

Much of the imprecision in the classes of claimants eligible for recovery derives from similar imprecision (noted above) in the bill's description of compensable losses. We believe that a new section, specifying which classes of persons are eligible for recovery of which category of damages, would greatly improve this bill.

For example, recovery for "loss of use of real or personal property" (section 4(a) (2)) should be limited to those whose property is actually damaged by a release, discharge, or disposal.

Similarly, only those who derive a major portion of their livelihood from natural resources should be eligible to recover for loss of use thereof, and only those whose income-producing property is damaged should be able to seek damages for loss of income or profits or impairment of earning capacity (see sections 4(a) (2) (D) and (E)).

We would be pleased to work with your Committee and its staff in an effort to create an Environmental Emergency Response Act that better balances the interests of those victimized by hazardous substances discharges with those of potential dischargers and their insurers. We do not want to surrender yet another market to the taxing power of the Federal Government without working to make S. 1480 an insurable venture for ourselves and our competitors.

Sincerely yours,

LESLIE CHEEK III,
Vice President, Federal Affairs.

AMERICAN INSURANCE ASSOCIATION,
Washington, D.C., September 17, 1980.

Re S. 1480, the Environmental Emergency Response Act.

Hon. HOWARD W. CANNON,
Committee on Commerce, Science, and Transportation, U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR CANNON: The American Insurance Association (AIA) is a trade association of 152 stock, property and casualty insurance companies. If S. 1480 is enacted, the member companies of AIA will be the principal domestic source of liability insurance for onshore facilities to service the liability system established in the bill.

S. 1480 currently provides for a five year period following enactment of the bill during which financial responsibility (FR) requirements are not obligatory. FR requirements will then be phased-in over a period of 3 to 6 years. Without the provision of insurance, owner/operators who cannot self-insure will not be able to meet the financial responsibility certification requirement mandated by the bill.

The American Insurance Association opposes enactment of S. 1480 in its current form. The liability system created by S. 1480 presents an enormous liability exposure and for many insurers would represent an uninsurable risk.

The establishment of levels and categories of insurance coverage by federal legislative mandate is a serious problem for the insurance industry. The demand for insurance coverage to service federal liability systems may exceed the industry's capacity to provide protection. Legislation which imposes levels of financial responsibility on owner/operators as a prerequisite for doing business transforms insurance from a consumer product to a societal necessity. The supply of insurance to service a liability system which responds to toxic discharges and hazardous waste disposal is not perfectly elastic. It is largely a function of and limited by the general condition of the United States and foreign primary insurance and reinsurance markets, the competing demands for capacity from a variety of other insurance risks, and the specific economics of the risk of catastrophic loss associated with S. 1480.

The current limitations on pollution liability insurance are a result of public policy, rapidly developing common law liability theory, potential magnitude of loss associated with toxic waste and hazardous discharges, and the inevitable legal ambiguities of casual relationship and multiple causation associated with disease-related injuries.

The independent development of federal tort law concepts which would nationally codify the most advanced common law theories and add presumptions which are common to compensation systems but *not* liability systems will further impede the development of an insurance market for pollution liability.

"Superfund" legislation introduces broad new categories of claimants and compensable damages which will make risk assessment extremely difficult until a data base is generated through claims experience under the liability system. During this initial period insurers would be in the uncomfortable position of basing their rates more on conjecture than on responsible judgment supported by hard data.

Elements of concern which could preclude the development of an insurance market are as follows:

UNMEASURABLE CATEGORIES OF COMPENSABLE

The definition of "damages" and the ambiguity in sections 4(a) (2) A–D result in a lack of clarity with respect to whether "damages for . . . personal injury" includes non-economic loss such as pain and suffering. With respect to the latter subsection, it is not clear whether the specification of what is included in "all damages" implies that elements not listed (*e.g.*, pain and suffering) are therefore not included. The phrasing "economic loss or loss due to personal injury" would suggest that non-economic loss is included, although the ensuing list does not specify any non-economic losses.

The element of non-economic loss is the most unpredictable and the most easily manipulated portion of damages. If the bill intends to permit recovery for non-economic loss, it should clearly specify it. If recovery for such loss is permitted, it would further discourage insurer participation.

CLAIMANT STANDING

We are concerned with section 4(a) (1) (A) (2) (E) because the phrase "loss of income or profits or impairment of earning capacity" is totally unqualified as to the percentage of income a claimant must derive from damaged property or resources in order to be eligible for an award.

Neither does it qualify the time period over which such damages may be claimed. Without such qualifications, the subsection has the potential for allowing youthful claimants to seek lifetime income replacement awards, regardless of how little of their income was derived from the damaged property or resources and regardless of their ability to obtain other employment.

PRESUMPTIONS

Section 6(e) (2) and (3) provides for a rebuttable presumption in favor of "any determination or assessment of damages for . . . natural resources" and further directs that assessment should be made by the Administration's environmental agencies. The presumption would give extraordinary evidentiary weight to damage assessment concepts and assumptions which have not been fully developed or recognized by the courts or legal academicians. The presumption will make the burden of defending natural resources claims and reducing assessments nearly impossible.

CLAIMS SETTLEMENT PERIOD

S. 1480 currently provides for a period of 15 days for settlement of claims between claimants and owner/operators (and their guarantors).

Proper assessment of damages in speculative areas of liability such as loss of use of natural resources or loss of income cannot be made in a period of less than 120 days. Many cases which could be settled would be referred to the court or the Fund, not because the fact are contested, but because proper damage appraisal is impossible.

A period of 120 days also may be needed to designate the proper defendant. Locating the source of the discharge in situations involving vessels and offshore facilities will normally be easy due to the spiller's location. However, in situations involving onshore facilities, facilities may be grouped together or evidence of damage may device over a long period of time, making designation of defendant more difficult.

RETROSPECTIVE APPLICATION OF LIABILITY

"Owner or operator" is defined in section 2(b)(15)(A) to "include the person who owned or operated or otherwise controlled activities at such facility or site immediately prior to (its) abandonment or at the time of any discharge. . . ." Section 4(a) subjects such owners and operators and "any person who at the time of disposal of any hazardous substance owned or operated any facility" to joint, several and strict liability for the universe of damages resulting from a discharge. The exceptions to this retroactivity in subsection 4(n)(1)-(3) are inadequate because they apply only to damages and releases occurring "wholly" before a specified date.

S. 1480 would apply the most advanced common law theories of liability coupled with rebuttable presumptions in the areas of natural resources assessment and medical injuries to fact situations which took place and insurance contracts which were made years ago. Premiums collected for insurance contracts for pollution liability terminated years in the past were based on common law theories of liability such as negligence, trespass, nuisance and riparian rights. If the occurrence which results in alleged liability is continual, insurers which provided pollution liability coverage years ago may be subjected to the liability concepts in S. 1480.

MODIFICATIONS TO THE PRICE-ANDERSON ACT

S. 1480's definition of release appears to remove the $560 million limitation on owner/operator liability arising out of a nuclear incident. Section 2(b)(16) provides that a "release" does not include "nuclear material . . . *to the extent* (emphasis added) such release is covered by financial protection required by" the Price-Anderson Act. The above language could also be interpreted in a fashion which would apply the liability concepts of S. 1480 to nuclear incidents.

JOINT AND SEVERAL LIABILITY

In adopting a joint and several, strict liability theory, S. 1480 would permit a claimant to collect the entire award for damages from one defendant before that particular defendant can seek contribution from the remaining defendants. This approach creates a potential unforeseen liability for owner/operators and makes the process of underwriting and pricing a risk extremely difficult. A risk's individual potential for pollution liability becomes meaningless when he can be sued for an entire loss although he was only one of a number of participants.

FINANCIAL RESPONSIBILITY REQUIREMENT FOR ROLLING STOCK

Section 7(b)(2) provides for FR requirements for rolling stock of $300 per gross ton, or $5 million, whichever is greater. This FR requirement would be "in addition to those in existing law". The recently enacted "Motor Carrier Act of 1980" mandates FR requirements of $5 million for transportation of extremely hazardous materials and $1 million for transportation of other hazardous materials. The S. 1480 requirement for rolling stock would be in addition to the FR requirements in the Motor Carrier Act, thereby creating an intolerable burden on commercial automobile insurers.

In reviewing the basic criteria for determining insurability of losses as delineated by Commercial Liability Risk Management and Insurance, the difficulty in underwriting pollution insurance for hazardous discharges becomes evident.*

LOSSES MUST BE DEFINITE IN TIME, PLACE, AND AMOUNT

Many pollution losses cannot be pinpointed as to time and place, nor to any one source. They are attributable to prolonged misuses or exposures by many sources. For example, it would be almost impossible to determine whether, and to what extent, illnesses or property damages are solely attributable to an insured. Another difficulty would be to prove that the actual cause of some diseases—emphysema for example—is the air pollution. Such diseases can be caused by other factors, such as smoking, or working in a hazardous industry. Multiple causes of loss could pose causation problems, even when a pollution incident is sudden and accidental.

LOSSES MUST BE ACCIDENTAL IN NATURE

Without question, some of the pollution that culminates in damage is willful or done with flagrant disregard to its possible effects. Also, some acts are intentional, but the results are unforeseen. A typical example is the dumping of mercury into streams and rivers, an occurrence that went on for a number of years. It was thought that mercury would sink and do no harm. However, it was subsequently discovered that mercury so disposed of would produce another harmful substance.

LOSSES SHOULD NOT HAVE AN UNMANAGEABLE CATASTROPHE POTENTIAL

Pollutants and contaminants are obviously capable of producing catastrophic results. Whether the catastrophe potential of pollution liability can be managed now or in the future is not yet clear but the severe consequences of an error in making this judgment justify some caution on the part of insurers.

THERE SHOULD BE A LARGE NUMBER OF HOMOGENEOUS EXPOSURE UNITS

In order that losses may be predicted accurately, there should be a large number of homogeneous exposure units—i.e., similar type businesses or organizations in order to permit satisfactory predictions of the losses that will be incurred by firms that are actually insured. There also should be a substantial volume of credible loss experience and an acceptable means of forecasting significant increases in future losses. It would seem that there are ample numbers of similar firms interested in purchasing pollution liability insurance if the price is reasonable. Nonetheless, it is still a difficult task to predict the frequency and severity of insurable pollution liability losses for those who would constitute the insured group.

LOSSES SHOULD BE MEASURABLE IN TERMS OF MONEY

Measuring the dollar costs of property damage, bodily injury, sickness, death, loss of earning power, and loss of consortium and other such intangibles is sometimes difficult, though it is not impossible in the context of most types of legal liability. However, in some pollution cases, as mentioned earlier, it may well be impossible to determine the proper portion of a total dollar loss that was caused by a particular insured. There may be many causes involved, as well as many different polluters. Moreover, additional problems will surely arise if insurers are required to pay damages for such things as the aesthetic and/or enjoyment value of recreational areas or lakes.

INSURANCE MUST BE ECONOMICALLY FEASIBLE

If the statutory goals of curbing water, air, noise, and thermal pollution are met in the future, and if anti-pollution control devices and other effective techniques are implemented on a widespread basis, perhaps pollution liability insurance will become more readily available at economically feasible premiums. At present, however, these are not the realities. Pollution costs are enormously high and appropriate insurance is difficult to obtain, especially for premiums prospective buyers would pay.

In discussing the priority of importance insurers attach to the bill's "defects", it must be emphasized that it is difficult and perhaps misleading to establish such a priority because it fails to recognize that the concepts in S. 1480 interrelate with and thereby exacerbate each other. Enactment of S. 1480 in its current form will create an immediate availability and/or affordability of insurance problem as owner/operators attempt to obtain insurance protection from the risks presented in the bill's liability system. The availability problem will be acutely felt when FR requirements for onshore facilities become a prerequisite of doing business. Although insurers can avoid prospective liability by refusing to service S. 1480's liability system, insurers may not be able to avoid retrospective application of the liability system to existing claims. Accordingly, the American Insurance Association opposes passage of S. 1480.

Respectfully submitted,

JAMES L. KIMBLE, *Counsel*.

DEPARTMENT OF STATE,
Washington, D.C., September 15, 1980.

Hon. HOWARD W. CANNON,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR CANNON: I understand that the Senate Commerce Committee recently held hearings in regard to S. 1480, the Environmental Emergency Response Act. Since the Department of State was not called as a witness at those hearings, I wish to take this opportunity to express our serious concern regarding this legislation.

The Administration and the Department of State have for several years supported the concept of a comprehensive system of liability and compensation for oil spill damage and removal. We further believe in the desirability of similar legislation for damage occasioned by hazardous substance spills. Due to a number of policy and legal questions it has been an extremely difficult task to establish a unified scheme of liability and compensation for pollution caused both by oil and hazardous substances. We are, therefore, pleased to note that H.R. 85, the Comprehensive Oil Pollution Liability and Compensation Act, as reported by the House Committee on Public Works and Transportation adds to the original bill dealing only with oil spills a similar system for hazardous substances and merges these two systems into a single piece of legislation.

In particular, the Department is gratified to note that the jurisdictional and liability regimes established under H.R. 85, as amended, are consistent both with the prevailing international jurisdictional regime (particularly the port-state jurisdictional concept as applied by the United States) and with U.S. treaty obligations. Specifically, the imposition on the ship owner or operator of primary liability for damage up to a maximum of $30,000,000 and secondary liability up to the limitations of the fund on the refinery owner or owner of any terminal is consistent with international norms. As the jurisdictional bases established in the proposed legislation parallel those in Section 311 of the Federal Water Pollution Control Act (33 USC 134), as amended, the Department envisages no problems in this regard.

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*Requisites for insurability were excerpted from Commercial Liability Risk Management and Insurance, Volume II, ch. 11 "Special Liability Exposures and Their Treatment."

S. 1480, the Environmental Emergency Response Act, is intended to establish a similar system to that envisaged in HR 85 for hazardous substances. However, for many reasons, S. 1480 causes the Department considerable concern. In particular the jurisdiction asserted in the bill is overly broad, and is inconsistent with both existing and emerging principles of international law and specific U.S. treaty obligations. The absence of a finite definition of the term "environment," as that term is used, e.g., in the definition of "release" in Section 2(b)(16) (A) and (B), could very well be interpreted as meaning the "global environment," thereby extending the reach of S. 1480 beyond any legitimate nexus to the United States.

Such a broad jurisdictional grant, particularly insofar as it concerns foreign flag vessels not otherwise subject to the jurisdiction of the United States, would extend virtually worldwide U.S. jurisdiction and a consequent assertion of right by U.S. authorities to take enforcement action under the provisions of S. 1480. The Department recommends that for jurisdictional purposes beyond the territorial sea the bill be made to conform to the terms and definitions in Section 311 of the Federal Water Pollution Control Act, as amended. This approach, which was taken in H.R. 85, would obviate many of the difficulties now found in S. 1480. Alternatively, a disclaimer could be included in Section 2(b) to the effect that nothing in S. 1480 may be construed so as to assert jurisdiction over foreign flags or nationals not otherwise subject to the jurisdiction of the United States in accordance with general principles of international law and our treaty obligations.

In addition to its reservations respecting the jurisdictional elements of S. 1480, the Department has a number of comments relating to the relationship of S. 1480 to the Federal Water Pollution Control Act, with which S. 1480 overlaps at numerous points. We would welcome the opportunity to present our concerns before your Committee and to provide suggestions which may remedy the problems we perceive in S. 1480.

Sincerely yours,

J. Brian Atwood,
Assistant Secretary for Congressional Relations.

Transportation Association of America,
Washington, D.C., September 12, 1980.

Hon. Howard W. Cannon
Chairman, Senate Commerce, Science, and Transportation Committee, Washington, D.C.

Dear Chairman Cannon: Speaking for the across-the-board transportation interests within our Association, I should like to express TAA's appreciation of the decision to hold hearings before your Committee on S. 1480, the so-called Superfund Bill. While TAA to date has not expressed its views on this legislation, primarily because initial bills did not seriously impact on the transportation industry as a whole, we are greatly concerned about the very wide scope and heavy liability features of S. 1480 in its expanded form. Also, in line with the following TAA policy statement, as formally adopted by the Association's 115-member Board of Directors, we believe that transportation interests should be given the opportunity to express their views on legislation that can have such an adverse impact on them:

"Full opportunity for hearings on matters which affect transportation should be given to interested parties by committees of the Congress."

TAA certainly has no quarrel with the basic objectives of S. 1480, which is to protect the general public from spills and other releases of hazardous substances. However, we believe the sweeping approach taken by the bill as now written could very seriously harm the nation's transportation industry and discourage the movement of many products essential to the economy and its welfare. We particularly have in mind the "joint, several and strict liability" provisions in the bill, along with virtually unlimited liability burdens that could be imposed, which would create serious problems for publicly regulated common carriers because of their obligation to provide service to all who seek it.

In the event this bill becomes law, both self-insured and other carriers would find it very difficult, if not impossible, to buy the high-risk supplemental insurance that would be required if they are to transport products included in the hazardous substances covered by S. 1480. These carriers, we understand, also could find it very difficult to bear the burden of proof imposed on them by the bill for both past and future movements of such hazardous materials. Finally, as interstate carriers, they could face possible multiple liability suits because of their being regulated, from a safety standpoint, by both state and federal agencies.

TAA believes that S. 1480, as now written, is an example—particularly from the transportation industry's point of view—of a regulation that cannot be justified on a cost/benefit basis, as referred to in the following TAA policy:

"TAA supports the concept that an economic cost/benefit analysis must be determined by legislative bodies and regulatory agencies prior to the enactment of laws or the promulgation of regulations pertaining but not limited to the movement of persons and things; and that, prior to the enactment of such laws or the promulgation of such regulations and the implementation thereof, cost/benefit considerations (including productivity and inflation factors) must be taken into account."

We understand that a number of transport groups are presenting views to your Committee and making a specific proposal on ways to remove the undesirable features of S. 1480. Hopefully, your Committee will give such proposals careful consideration so that any final legislation will not adversely affect our nation's transportation industry and those shippers who must rely on it.

Sincerely,

Paul J. Tierney.

Association of
American Railroads,
Washington, D.C., August 21, 1980.

Hon. Howard W. Cannon,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

Dear Senator Cannon: I am writing to you as the Chairman of the Senate Committee on Commerce, Science, and Transportation to voice the serious concerns of the railroad industry with S. 1480, the Environmental Emergency Response Act, recently reported by the Committee on Environment and Public Works. This bill would, if enacted, have a major impact on the railroads in terms of both increased liability exposure and increased Federal and state involvement in railroad activities. We believe that the transportation issues raised by the bill have heretofore not been addressed and that no further action should be taken until they are thoroughly considered. Specific provisions of the bill which raise issues of concern to the railroad industry are discussed below.

Section 2(a)(16) of S. 1480 defines the term "release" for purposes of the bill, but the definition specifically excludes emissions from the exhaust of a motor vehicle. Consequently, motor carriers are relieved of liability exposure on account of their exhaust emissions whereas railroads remain subject to that exposure. We believe that such disparate treatment of competing transportation modes is unwarranted and inequitable.

Section 3(a)(4)(A) of the bill provides that "any person who owns or operates . . . a facility . . . at which hazardous substances are stored . . . shall notify the Administrator of the Environmental Protection Agency of the existence of such facility . . . specifying the amount and type of any hazardous substances to be found there, and any known, suspected, or likely discharges or releases of such substances from such facility . . ." A "facility" is previously defined in the bill to include railroad rolling stock. No definition of the term "stored," however, is contained in the bill. It is certainly arguable that a tank car sitting in a yard awaiting further movement or delivery, or a tank car delayed on a siding because of inclement weather could be considered a storage facility under this section of the bill. Under that interpretation, the railroads would be subject to an overwhelming and unreasonable reporting requirement. The bill should be changed to define a "storage facility" to exclude railroad rolling stock.

Section 3(d) of the bill states:

> (d) Notwithstanding any other provision of law, upon receipt of information that the . . . transportation . . . of any hazardous substance may present a danger to public health or welfare or the environment, the Administrator of the Environmental Protection Agency or the State . . . may require any person causing or contributing to such danger to take such actions as may be necessary to ascertain the nature and extent of such danger, or may bring suit in the appropriate district court of the United States to require any such person to take such actions.

The Secretary of Transportation is already empowered to conduct whatever investigations are necessary to ascertain the nature and extent of the danger arising from the transportation of a hazardous material. Moreover, the Secretary can compel the cooperation and assistance of the railroads in any investigation. Section 3(d) only serves to confer duplicate authority on the EPA Administrator and on the States. Because a single railroad will operate in and through many States, the potential for multiple, duplicate investigations by State authorities promises to be particularly burdensome. In light of the existing authority of the Secretary of Transportation, there is no justification for conferring duplicate investigatory authority on any other governmental body.

Section 4 of S. 1480 imposes joint, several, and strict liability for all damages resulting from release of a hazardous substance. The damages recoverable under this provision go far beyond those traditionally recoverable at law. The potential liability under Section 4 is huge, probably beyond the ability of any railroad to absorb. The railroads could not adequately protect themselves from the potential liability imposed by the bill. As common carriers, they cannot refuse to carry these hazardous substances, and because their economic affairs are so closely regulated, the railroads cannot freely raise their rates, exact the compensation they deem necessary to cover their liability exposure.

At the same time, the public safety is best served when hazardous substances are shipped by rail. Most authorities agree that the risk of shipping hazardous substances by rail is lower than the risk of shipping them by any other mode (excluding pipelines) and that hazardous substances shippers should be encouraged to use railroads. In recognition of the railroads' common carrier obligations and the desirability of encouraging shipment by rail, we believe that the rail industry should be accorded some avenue of relief from the potentially huge and ruinous liability imposed by Section 4.

The railroad industry appreciates the attention which your Committee has given and continues to give to the important transportation issues raised by S. 1480. We look forward to the opportunity to assist you in resolving them.

Sincerely,

Richard E. Briggs.

American Trucking Associations, Inc.,
Washington, D.C., August 26, 1980.
Hon. **Howard W. Cannon,**
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: I am writing on behalf of the motor carrier industry to express concern over several provisions of S. 1480, "Environmental Emergency Response Act," which appear to be inappropriate for truck operations, and to recommend changes in the bill which the trucking industry believes will improve the practicality of the legislation.

At the outset, I wish to assure you that the trucking industry is fully aware of the need for legislation to protect the population and the environment from indiscriminate discharging of hazardous substances and from the effects of accidental spills and releases of such substances. The motor carrier industry strongly believes that legislation and any resulting regulations must differentiate between legal truck operations and the patently illegal activities of "midnight dumpers," and to provide different standards of liability for them. We are also concerned about the need for coordination of efforts by various federal agencies and the need for uniformity of regulations for the transportation of hazardous materials, hazardous substances and hazardous wastes.

Our primary concern with S. 1480 is that, in addition to the provisions of strict liability, the legislation establishes transporter liability that extends far beyond the immediate transportation activity. Section 4(a)(iv) provides that a transporter is jointly, severally and strictly liable for releases from a disposal or treatment facility to which it has transported any hazardous substances. This provision establishes a long-term liability that is unjustified. We believe that the transporter should be liable only for releases that occur during the transportation of hazardous substances or which are a result of circumstances within the transporter's control. To that end, we ask for revision of Section 4(a)(iv) and for inclusion of a limitation of liability provision for transporters similar to that in Section 2(b)(15)(B)(ii) which limits the liability of generators of hazardous substances. Through such an amendment the transporter of hazardous substances "shall not be considered to have caused or contributed to any discharge or release" following such transportation "which resulted solely from circumstances or conditions beyond its control."

At your convenience, my staff is available to provide more details about our concerns and our views on the matter of transporter liability.

Our second major concern is that S. 1480 provides for regulatory controls but there is no provision to require cooperation and coordination by the various federal agencies which currently have authority to establish regulatory requirements for trucks transporting hazardous materials, hazardous wastes and hazardous substances. At the present time the Secretary of Transportation has an extensive list of hazardous materials, hazardous substances and hazardous wastes which is used to identify materials that the truck transporter must be aware of and for which regulatory requirements must be complied with. Section 2(b)(13)(G) of S. 1480 has the potential for identifying an infinite number and variety of substances that are not currently included in the Secretary's list and yet there is no provision for incorporation of such substances in the Secretary's list so that truck operators will have only one list with which to work. Section 3(a)(3)(A) of S. 1480, which requires notification of spill or discharge to the "appropriate government agency," establishes the potential for requirements which duplicate those of the Secretary of Transportation, acting under authority granted by Public Law 93-633 (Transportation Safety Act of 1974, Title I—Hazardous Materials). The trucking industry considers it essential that all notifications of spill or other emergencies be to a central reporting number representing a central response system.

Some sections of S. 1480, such as sections 3(b) and 3(d) gives specific authority to the Administrator of the Environmental Protection Agency that could lead to exercise of controls over packaging and vehicles. These are areas that have been under the jurisdiction of the Department of Transportation for many years and as a result the Secretary has hundreds of regulatory requirements with which EPA controls could be in conflict, unless there is a specific mandate from Congress for cooperation and coordination by the federal agencies.

Given the extensive experience of the Department of Transportation in governing the transportation of hazardous materials and substances, and given the need for uniformity of regulations governing shipping documents, packaging, identification of hazards, control of vehicle movements and emergency response requirements, it is our firm belief that the Secretary should be granted "lead agency" authority to carry out those provisions of S. 1480 that are applicable to the truck transportation of hazardous substances. At a minimum, there should be a provision of S. 1480 which assures cooperation by the agencies and coordination of regulations developed under this law with existing regulations of the Secretary of Transportation governing the transportation of hazardous shipments.

Section 30 of the recently enacted "Motor Carrier Act of 1980" contains provisions for "Minimum Financial Responsibility for Motor Carriers." We believe that these provisions are more appropriate for motor carriers than those in Sec. 7 of S. 1480 because they are directed at truck operations rather than at vessels and facilities, and because they establish the authority of the Secretary of Transportation to develop regulations for minimum levels of motor carrier financial responsibility. We urge that the provisions of the Motor Carrier Act relative to financial responsibility of motor carriers be substituted for the provisions of Section 7 of S. 1480 so that the requirements of the two Acts will be uniform and so that there will be a single agency with authority to establish motor carrier financial responsibility requirements.

Mr. Chairman, this letter has dealt only with the major and most immediate concerns of the trucking industry relative to the provisions of S. 1480. I hope that you will give these matters your attention and that you will provide an opportunity for my staff to present additional details on these and other provisions of S. 1480 about which the trucking industry is concerned.

We would be pleased to provide amendatory language to alleviate the concerns expressed in this letter. While it is our earnest desire that S. 1480 be amended, we take no position as to whether the changes we recommend are adopted on the floor of the Senate or by action of a Senate committee.

Yours very truly,

Bennett C. Whitlock, Jr.

American Institute of Merchant Shipping,
Washington, D.C., September 2, 1980.

Re S. 1480—The Environmental Emergency Response Act.

Hon. **Howard W. Cannon,**
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: The American Institute of Merchant Shipping (AIMS), representing over ten million deadweight tons of American-flag tankers owner/operators, is deeply concerned that S. 1480 as presently drafted would be uninsurable and, consequently, cause serious competitive disadvantage to the U.S. Merchant Marine. We urge you to interject the Commerce, Science and Transportation Committee into further deliberations on this legislation.

Liability in excess of insurable amounts would fall unfairly on domestic companies because their foreign competitors have greater ability to shield assets from U.S. courts. An accidental spill due to human error or mechanical failure could, under an unfortunate set of circumstances, cause catastrophic damage. Without a limit on liability to provide a means for allocating available funds among claimants, a U.S. company involved in accidental pollution damage could be forced into bankruptcy through no fault of its own. Its foreign competitor, on the other hand, would risk only the ship that comes within U.S. waters. While an American company may set up a one-ship corporation in an attempt to shield assets, this mechanism is unlikely to be as effective as locating assets outside U.S. jurisdiction. In this way, S. 1480 would be detrimental to U.S. merchant shipping, an industry whose promotional laws fall under the jurisdiction of your Committee.

A requirement for evidence of financial responsibility is presently the means by which American and foreign flag companies are held equally accountable under federal water pollution laws. However, such evidence or financial responsibility cannot be required to cover an uninsurable liability.

While some companies may be able to buy some insurance to cover part of the liability imposed by S. 1480, the rapidly evolving concept of environmental damage has already created enough uncertainty under present law to cause an insurance availability/affordability problem. This problem would be seriously compounded by the vagueness, redundancy and confusion in the liability provisions of S. 1480. If partial insurance becomes available, American companies would still face competitive disadvantages because their greater exposure to U.S. jurisdiction could be expected to increase their claims experience, with increased insurance costs directly resulting.

A responsible company must know the extent of its liability so that it can self-insure or buy adequate commercial insurance. Reasonable liability limits geared to credible damage-causing potential can significantly improve insurability by increasing certainty. Unless commercial insurance is reasonably available and affordable, smaller and medium size companies must expose themselves to bankruptcy to remain in the market-place with American companies large enough to self-insure or foreign companies able to shield assets. Bankruptcy may be an acceptable alternative in some areas of the private sector, but public policy considerations militate against it for essential transportation services.

In addition to posing competitive problems, S. 1480 would invite a large bureaucracy to settle claims with Government-administered funds. Under a more balanced, reasonable liability system, insurance would be available and claims could be settled fairly and promptly in the private sector.

We respectfully urge you to use your position as Chairman of the Commerce, Science and Transportation Committee to make improvements in S. 1480 so as to eliminate the problems we see causing detriment to the American Merchant Marine.

Yours truly,

W. M. BENKERT,
President.

AMERICAN NUCLEAR ENERGY COUNCIL,
Washington, D.C., September 10, 1980.

Hon. HOWARD W. CANNON,
Chairman, Senate Commerce Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR CANNON: I would like to bring to your attention certain problems inherent in S. 1480 which I believe are of interest to the Senate Commerce Committee.

As reported by the Committee on Environment and Public Works, the term "release" exempts any release covered by Price-Anderson—whether it is an "extraordinary nuclear occurrence" to which "strict" liability would attach, or simply a "nuclear occurrence" not subject to strict liability.

Nuclear is still in S. 1480 to the extent that an unpermitted release occurs at a site not covered by Price-Anderson, e.g. a mill site, off-site mill tailings, certain transportation situations, away-from-reactor spent fuel storage facilities, waste disposal sites, etc.

Therefore, we find ourselves at this point with a logical inconsistency on our hands. on the one hand, a nuclear incident (not an ENO) at a Price-Anderson covered facility such as Three Mile Island is, under Price-Anderson, subject only to ordinary tort law remedies, but a similar, or even lesser incident at a non-Price-Anderson site would under S. 1480 be subject to strict liability.

For example, releases from mill tailings would be subject to strict liability—a release such as Three Mile Island would not. A release (not an ENO) due to a transportation accident between two Price-Anderson covered facilities would be subject only to tort law remedies—but between other facilities would be subject under S. 1480 to strict liability. The bill also raises questions as to the liability regime which would apply to nuclear materials diverted by saboteurs.

The result is a random application of strict and ordinary tort liability depending on the happenstance of the complicated Price-Anderson law—and not on the magnitude of the danger to the public health and safety. It is, as earlier stated, logically inconsistent and bad public policy.

We believe this raises important issues involving particularly the application of liability and insurance issue to the transportation of nuclear fuel. Since this is a matter within the jurisdiction of your Committee we would urge that you press for referral of the bill to examine the issue in detail.

Sincerely,

GEORGE L. GLEASON,
Executive Vice President.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT-INDEPENDENT AGENCIES APPROPRIATIONS, 1981

The Senate continued with the consideration of the bill.

Mr. TSONGAS. Mr. President, if I may inquire of the chairman, I have an amendment to the HUD appropriations bill, as the chairman knows, which relates to the CDBG program. Does the Senator have any preference as to when he would like to have that raised?

Mr. PROXMIRE. I shoud be happy to have that called up any time. I think it is a very, very important and far-reaching amendment. As I understand it, it would provide for $200 million to be added to the community development block grant program. I hope it can be called up when we have as many Senators here as possible. For that reason, I think if we called it up tonight and tried to act on it, it would be unfortunate, because Senators would miss the opportunity to vote on it, so I hope it can be called up tomorrow.

Mr. TSONGAS. Could there be some assurance that I may be allowed to take it up early, since I am scheduled to leave here at 2 p.m. tomorrow?

Mr. PROXMIRE. As far as I am concerned, there could. Of course, it is a matter of getting the floor, but I know of no other requests to get action here tomorrow. As I understand it, we shall be on this by 10 a.m., so any time after that will be fine.

Mr. BRADLEY. Will the Senator yield for a question?

Mr. PROXMIRE. Yes, indeed.

Mr. BRADLEY. When does the Senator expect amendments on this bill to be taken up? Immediately this evening?

Mr. PROXMIRE. They can be taken up any time. I think if we are going to have a rollcall, it might inconvenience a number of Senators. But, of course, we are here to do business and if the Senator wants to call up an amendment and ask for a rollcall, it is up to the leader to determine when we go out.

Mr. BRADLEY. I think that I prefer to take it up tomorrow.

Mr. PROXMIRE. We would greatly appreciate it if we could have amendments which do not require a rollcall, do as much of that as possible.

Mr. TSONGAS. Mr. President, I am prepared to submit mine if the chairman will agree to it and we can avoid a rollcall.

Mr. PROXMIRE. I am afraid that would require a rollcall.

Mr. ROBERT C. BYRD. Mr. President, would the Senator lay down an amendment tonight? If the Senator has an amendment on which he desires a rollcall, could he at least lay it down tonight; then, tomorrow morning, the Senate could begin on that amendment. That amendment could be temporarily laid aside by unanimous consent if it is agreeable with the distinguished chairman.

Mr. TSONGAS. I would be pleased to do it. I do not have the amendment with me, though it is in the RECORD. It was put in yesterday.

AMENDMENT NO. 2335

(Purpose: To increase the appropriation for community development grants)

Mr. TSONGAS. Mr. President, I call up my amendment No. 2335 and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. TSONGAS), for himself, Mr. WILLIAMS, (Mr. SASSER, Mr. JAVITS, Mr. RIEGLE, Mr. LEVIN, Mr. SARBANES, Mr. CRANSTON, Mr. STEWART, and Mr. MOYNIHAN, proposes amendment numbered 2335:

On page 9, line 1, strike out "$3,750,000,000" and insert in lieu thereof "$3,950,000,000".

Mr. TSONGAS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEVIN. Mr. President, I rise in support of the amendment offered by my distinguished colleague from Massachusetts (Mr. TSONGAS). The restoration of the $200 million to the community development block grant program to bring the appropriation up to authorized levels is a critical need for our Nation's communities.

Under the CDBG program, communities' revenue fund must, by statute, be directed for the benefit of low- and moderate-income persons. These funds are used to assist property owners rehabilitate housing units; to repair streets and sewerlines; to provide recreation opportunities for city residents, and a host of other activities. By law and regulation, these funds must be targeted in areas in which the majority of residents are of low and moderate income.

The administration's request for this program in fiscal year 1981—and the amount authorized by this body in S. 2719, the Housing and Community Development Act of 1980—is $3.95 billion. This represents only a $150 million or 4-percent increase over the fiscal year 1980 level. I want to stress this level to my colleagues, because there should be no misunderstanding about the level of assistance being offered under the authorization. A 4-percent increase during a year when inflation has risen 13 percent or better amounts to a cut of almost 10 percent in local spending. And yet the Appropriations Committee says that we should cut this back further.

The Appropriations Committee believes this cut is justified. In their report, it is stated that unobligated balances in the program—that is, funds left over from previous appropriations—argue persuasively against further program increases. Let them spend the old money, the committee suggests.

Yet, I would point out to the Senate that no program like CDBG can help but have unobligated balances of funds at the end of every year. CDBG funds primarily physical development. That is the acquisition, clearance, and reconstruction of land and real estate. Over 16 percent of the funds nationally are targeted for housing rehabilitation assistance. These types of activities necessarily involve delay between the designation of a project and expenditure of money to finance it. In the case of public works, public bid procedures must be followed. Contracts must be negotiated. Construction delays sometimes follow, not because of local government actions, but often in spite of them. Yet the Appropriations Committee would penalize local governments for going about such work in a deliberate and careful fashion.

It is true that some jurisdictions have lagged in their ability to spend this money, and that this has been due to no other fault than their own. But I would ask my colleagues whether they think by cutting back on the overall program levels they will do anything to hasten the rate of spending in those communities. The CDBG program is based on formula entitlements. The kind of cut the Appropriations Committee has proposed—untargeted, across the board—will do nothing to spur greater efficiency on the part of those grantees. Instead, it will penalize those communities which have been high performers. Those with high drawdown rates and little backed up money will have to postpone, slow down, or cancel worthy projects for which they anticipated funding. This is scarcely a responsible way to save money in this program.

Mr. President, if there are serious problems facing CDBG recipients in being unable to draw down their funds, then hearings should be called to explore the problem fully. This is the appropriate oversight function of the Congress.

This amendment is modest. It makes sense and I hope it will enjoy majority support.

Mr. PROXMIRE. Mr. President, I ask unanimous request that two members of the Senate Banking Committee Staff—Al Eisenberg and Frank Shafroth—be given the privilege of the floor during the consideration of the HUD-Independent Agencies Bill, H.R. 7631.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished chairman allow me to announce, if he is in agreement with that, that there will be no more rollcall votes today?

Mr. PROXMIRE. Yes.

Mr. ROBERT C. BYRD. Mr. President, I make that announcement.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the Tsongas amendment be temporarily laid aside to consider another amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1620

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 1620:

On page 35, following line 25, insert the following paragraph: "For settlement of a contractor's claim involving the Veterans Administration Medical Center, Boston, Massachusetts, from existing balances, $1,150,000.

Mr. PROXMIRE. Mr. President, on September 4, when the bill before us today was being marked up in full committee, we received an amendment from the Office of Management and Budget which would allow the Veterans' Administration to use $1,150,000 from its current construction budget to pay a contractor's claim involving the Boston, Mass., VA Medical Center. This bill language is essential if the claim is to be paid because of a legislative restriction requiring the Congress to specifically provide funds to pay construction settlements in excess of $1 million.

Although the restriction arose because of a prior claim settlement that was reached in an arbitrary matter and did not seem to be based on sound audit principles of reasonableness and appropriateness, the settlement at issue today was agreed to by the Corps of Engineers pursuant to an order of the court of claims, and was audited as to reasonableness and appropriateness by the Defense Contract Audit Agency. Since the claim settlement seems to meet the standards set by the legislative restriction and since the language I am proposing does not add to the budget but simply allows funds to be shifted, I ask unanimous consent that the amendment be approved.

The PRESIDING OFFICER. Is there objection?

Mr. MATHIAS. Mr. President, reserving the right to object, I only comment that when the Senator from Wisconsin, with his well-known high degree of skepticism about any Government expenditure, approves this claim, I think it is likely to be justified and I think the Senate can, in fact, accept it in good conscience. So I do not object.

Mr. PROXMIRE. Mr. President, I thank my good friend from Maryland. I point out that this is not an additional expenditure. It does not add one nickel—not one penny—to the budget. It simply shifts money out of one account which is already there to pay a bill.

Mr. MATHIAS. Paying a bill which has been justly and honestly incurred by the United States of America.

Mr. PROXMIRE. The Senator from Maryland is absolutely correct.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1620) was agreed to.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who seeks recognition?

Mr. JOHNSTON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the HUD appropriation measure.

Mr. PROXMIRE. Mr. President, it is my understanding that the pending amendment is the amendment of the Senator from Massachusetts.

The PRESIDING OFFICER. That is correct.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that be laid aside temporarily so that an amendment can be offered by the Senator from Louisiana.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

UP AMENDMENT NO. 1621

(Purpose: To require public comment on sections of a regulation promulgated by the Federal Emergency Management Agency which establishes a veto power over actions by the Flood Insurance Administration)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an unprinted amendment numbered 1621.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 21, line 16, immediately prior to the period, insert the following: *Provided*, That no funds appropriated by this Act may be used to implement 44 CFR 9.9(e)(6) and 44 CFR 9.11(e)(4) pending publication in the Federal Register, receipt of public comment, and a determination by the Director of the Federal Emergency Management Agency, and in no event shall any funds provided in this Act be used to implement these sections prior to January 31, 1981.

Mr. JOHNSTON. Mr. President, this amendment states very simply that no funds appropriated by this act may be used to implement a certain new regulation pending publication in the Federal Register, receipt of public comment, and a determination by the Director of the

Federal Emergency Management Agency, and in no event shall any funds provided by this act be used to implement these sections prior to January 31.

What we have, Mr. President, is some new regulations that have been promulgated with respect to flood insurance by FEMA. FEMA, in my view, should not be the agency to promulgate regulations with respect to eligibility for flood insurance in the floodplain. That should be done by the Flood Insurance Administration.

In any event, FEMA has just proposed very complicated rules, which I will not attempt to fully explain here because they are some dozen pages in length. But the effect of this is to give to FEMA the right to deny flood insurance under certain very complicated situations as described in that rule to people who live in the flood plain.

The practical effect is that they would then have two sets of rules, those promulgated by the Flood Insurance Administration and those promulgated by FEMA, and the people living there and seeking to rely upon flood insurance would then have two agencies to speak to.

There may be justification for these rules. They may be perfectly legitimate. They may be good rules. But they have been promulgated without public comment and without receiving the kind of due process consideration that I believe they should receive.

Hence, this amendment simply says that they shall not be made effective until there has been publication in the Federal Register and public comment, and in no event shall they be implemented prior to January 31, 1981.

Mr. President, the amendment simply delays the implementation of two sections of a final regulation promulgated by the Federal Emergency Management Agency relating to Floodplain Management and Protection of Wetlands. My amendment prevents the Federal Emergency Management Agency from denying the availability of flood insurance to owners of buildings in communities participating in the national flood insurance program until the public has had an opportunity to review the manner and merits of such limitations.

As provided in this amendment, no funds appropriated to FEMA may be used to implement these sections until January 31, 1981. My staff has cleared this language with FEMA and with the staff of the distinguished floor manager and I have been informed that this compromise language is acceptable. Although I would have preferred legislative language which would have immediately precluded these sections from having current effect, I am confident that the agencies involved will exhibit good faith by immediately promulgating a revision of these sections to eliminate them from the existing regulation.

Mr. President, this amendment is necessary because the Federal Emergency Management Agency, in good faith but without public comment, amended its December 27, 1979 published interim regulations to include two sections prohibiting the Flood Insurance Administration from providing a new or renewed contract of flood insurance on a structure. Under these two sections, the regional directors of FEMA are empowered to veto actions undertaken by the Flood Insurance Administration pursuant to its statutory and regulatory responsibilities. Although I have some reservations about the substance of these prohibitions, I am offering this amendment particularly to address the procedures followed by FEMA in imposing such restrictions on the Flood Insurance Administration.

There is no doubt, Mr. President, that these restrictions were not subject to public comment in advance of their final promulgation. There is no doubt that these two sections are subject to disagreements as to their effect even within FEMA. There is also no doubt that the two sections can cause confusion as to the authoritative source for the policies and administration of the flood insurance program. Consequently, Mr. President, I am pleased that the Federal Emergency Management Agency has agreed to subject these sections authorizing its veto power over the Flood Insurance Administration to public comment and scrutiny.

Mr. PROXMIRE. Mr. President, I have discussed this amendment with the distinguished Senator from Louisiana.

This amendment, as he said, has been cleared with the Federal Emergency Management Agency. They have no objection to the amendment. It is an amendment that costs nothing. It is an amendment which does serve a very useful purpose.

I am happy to support the amendment.

Mr. MATHIAS. Mr. President, I have discussed this amendment with Mr. Macy at FEMA. I agree with the distinguished Senator from Wisconsin that it is an amendment the Senate should accept at this time.

Mr. JOHNSTON. I thank my colleagues.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (UP No. 1621) was agreed to.

HUD—HOUSING COSTS

Mr. MATHIAS. Mr. President, on Monday, the Washington Post ran a story entitled "Area Income Housing Bite Passes Traditional 25 Percent." In that article, Patricia Camp makes the following points:

> There are an estimated 110,000 families in the Washington metropolitan area who pay more than 35 percent of their income for housing—a steep increase from the traditional pattern in which housing costs normally consumed one-quarter of a household's income.
>
> Their growing ranks make up more than one out of every five tenant households in the area.
>
> Some are poor and pay disproportionate amounts of their incomes for housing simply because they have no choice. Government-subsidized housing, which could lower their housing costs based on income, is limited.
>
> Last year, more than half—51.2 percent—of the area's home buyers who bought their homes through savings and loans associations paid more than a quarter of their household income for housing. In 1977, only about 36 percent had done so.

I ask unanimous consent the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AREA INCOME HOUSING BITE PASSES TRADITIONAL 25 PERCENT

(By Patricia Camp)

For Madeline Vines, a Silver Spring receptionist with two teen-aged children, the rent bill looms large each month, monstrous necessity consuming two dollars out of every five that she and her husband earn.

"We're constantly robbing Peter to pay Paul," Vines said. "We really can't afford to vacation or to see a nice play. But occasionally we do it anyway, and then it throws us behind. We just can't make ends meet. It's causing family problems, family pressures. I don't know what to do. I need help so we can breathe."

The Vineses are among an estimated 110,000 families in the Washington metropolitan area who pay more than 35 percent of their income for housing—a steep increase from the traditional pattern in which housing costs normally consumed one-quarter of a household's income.

Their growing ranks make up more than one out of every five tenant households in the area. They include working people, young singles, the elderly, the unemployed, and those on fixed incomes. Some are poor and pay disproportionate amounts of their incomes for housing simply because they have no choice. Government-subsidized housing, which could lower their housing costs based on income, is limited.

Others who have more money willingly pay the high costs to live in a neighborhood they like.

The trend toward higher housing costs includes not only tenants but homeowners as well.

In a national study of home buyers, the U.S. League of Savings Associations found that more than 45 percent of the people who bought homes last year paid more than 25 percent of their household income for housing expenses, which included the mortgage payment, real estate taxes, utilities, and hazard insurance. In 1977, only 38.1 percent were in that situation.

Locally, the numbers were even more dramatic. Last year, more than half—51.2 percent—of the area's home buyers who bought their homes through savings and loans associations paid more than a quarter of their household income for housing. In 1977, only about 36 percent had done so.

As housing costs have risen, so has the willingness of the homebuying population to pay larger and larger portions of their income for housing. For many of these people, the traditional American dream of owning their own home has outweighed all other considerations. Their optimism remains strong that their salaries will rise steadily and eventually ease the burden of high monthly mortgage payments.

For years, the rule of thumb was that housing costs shouldn't exceed one-fourth of household income. Although it was a rule that often was broken depending on individual situations, it governed many decisions by both homeowners and lending institutions about how high a price people could pay for housing. But in recent years, that tradition has been abandoned by more and more people as rental housing has become scarce and homeownership has become more costly.

One Springfield couple pays about 35 percent of their gross income—and nearly half their take-home pay—to rent a house for $400 a month.

The expense means the couple, who have four children, are on a "very strict budget," said the wife, who asked not to be identified.

"You don't go to the doctor every time you have an ache or a pain. You go only when that ache is so bad you can't stand it," she said. "We do without quite a bit. I guess I must know about 8,000 ways to cook a potato."

The family gets about $90 a month in food stamps. Their entertainment is an occasional cookout in the backyard. The last movie they saw was "Star Wars" two years ago. They have little money to pay for gasoline, and the wife said she goes to the hairdresser maybe once a year.

Some months, utility costs add as much as several hundred dollars to the couple's already steep housing costs.

So why do they sacrifice, instead of renting a cheaper apartment or house? Because when she lived in a ramshackle apartment complex in Alexandria years ago, she dreamed of having her own rambler in Springfield, the woman said. Even though her house is rented, she considers it her own and doesn't want to give up its advantages.

"It's our first house, and the first yard for our children," she said. "Im not about to go backward now."

Some tenants who are better off find Washington apartments a bargain, a rent-controlled bonus that enables them to pay low portions of their income for housing. For others, the situation is often bleak.

In one Northwest Washington apartment building where the Metropolitan Washington Planning and Housing Association is helping tenants buy the project and convert it to cooperatives, half of the 26 tenants who filled out forms said they pay more than 30 percent of their income for rent. In a Southeast Washington building, about 40 percent of the 96 tenants said they pay more than 30 percent, according to Larry Weston, director of cooperative housing services for the organization.

"The numbers tell me how serious it is out there," Weston said . . . "Sometimes I get the feeling that half the people in the city are paying more than 30 percent of their income for housing."

A payroll clerk who lives in Silver Spring estimated that 46 percent of her gross income goes for rent. She asked that her name not be published because she fears eviction if her landlord discovers that she doesn't earn her monthly rent on one week's salary—the standard that many landlords use to determine if a tenant is qualified.

"We're broke most of the time," the woman said. "Every dime has to count. The rent comes first. Then we sit down and decide on the rest." Her three children got no new school clothes this year.

The rent on Cathy Osborne's two-bedroom Falls Church apartment was $240 a month when she moved in last August. It is now $300—only $45 less than her monthly income.

"I'm roughing it," Osborne said. "I'm looking for a babysitting job now. I haven't gotten anywhere this summer." Osborne said she gets $112 a month in food stamps, and bought her children school clothes from her savings. She is separated from her husband.

Osborne is optimistic about her future, nevertheless. The Fairfax County housing authority is trying to buy the Falls Church apartment complex where she lives. If it does, Osborne said she has been told the rent she pays may be decreased to about $89 a month with the assistance of government subsidies.

Until the mid-1970s, there was no reason for homeowners to stretch their income much more than the traditional one-quarter rule for housing, according to Thomas J. Parliment, an economist with the U.S. League of Savings Associations.

"But by 1979, 25 percent was no longer the rule," he said. "It was overruled by the marketplace."

Parliment noted that the character of the home buying market has changed. More people can afford higher housing costs now because they have little debt and few family expenses—more singles, young married couples without children, two-income couples, unmarried couples.

"There are really good reasons why people stretch," Parliment said. "There are the investment aspects of buying. It's a hedge against inflation, it's a tax subsidy, and there are capital gains. Those represent pretty heavy reasons.

"We have been asked if it's wise to allow people to stretch their budgets. You have to look at allowing a person to make a short-run sacrifice in their long-run interests."

James Caron, 32, stretched to buy his Capitol Hill row house last year. Caron went from sharing a house whose rent cost him about 10 to 15 percent of his monthly income to owning a home with a mortgage payment and property taxes eating up more than 35 percent of his salary—and that doesn't include utilities.

Last year, he took a vacation to South America. This year, he couldn't afford to go anywhere.

"It's tough," said Caron, an economist. "I'm buying furniture very slowly. Many of the things I did before, I don't do now. My house is liveable, but it needs extensive renovation—maybe $30,000 worth of work. But I'm willing to make the sacrifice."

Caron expects a salary increase later this month, which should drop his housing cost to about 30 percent of his income.

James Harris, president of Washington Federal Savings and Loan Association and of the Metropolitan Washington Savings and Loan League, said that many people buy homes with big mortgages because they expect salary increases.

"I always thought the 25 percent ratio was a little low, personally," Harris said. "It depends on the individual situation."

W. Bradley Griggs, senior vice president of National Permanent Federal Savings and Loan, noted that as interest rates climb—and they're now at about 13½ percent in the Washington area—monthly payments in turn increase.

"More and more people are spending more than 25 percent for housing," Griggs said. "It's more like 30 percent now."

One reason for increasing lender flexibility is that the two congressionally-chartered companies which buy mortgage loans from lenders have relaxed their loan underwriting standards in recent years.

Lenders have been notified that the old policy of a home buyer spending no more than 25 percent of monthly income to get a mortgage is only a benchmark, not a regulation cast in concrete.

Officials of a Federal Home Loan Mortgage Corp. said in a press release last year that the ratio is better stated "as a 25 to 28 percent range, and properly applied only as a general guideline."

Mr. MATHIAS. Mr. President, on Monday, when we began this debate on the appropriations for HUD and independent agencies, I thanked the distinguished chairman of the subcommittee, the Senator from Wisconsin (Mr. PROXMIRE) for his stewardship of the subcommittee, for his leadership in shaping this appropriation bill, and bringing it to the floor. However, today I should like to go beyond that and take a moment, before we close this evening, to thank the committee staff for their work.

In particular, I thank Mr. Tom van der Voort, Mr. Bobby Mills, Mrs. Barbara Kennedy, of the majority staff. I cannot really thank too much the minority staff, Mr. Wallace Berger and Miss Kathy O'Connor, who have done much to help prepare me to meet the responsibilities of helping to manage this bill as it is presented to the Senate.

The entire staff has acted with a great deal of knowledge and experience, and I believe they have contributed in a major way to the work of the Senate in making it possible for the Senate to have a clear and consistent and comprehensible document with which to work.

So we are very grateful to the staff on both sides of the aisle.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. MATHIAS. I yield.

Mr. PROXMIRE. Mr. President, I am delighted to add my praise to the staff. I am very proud of Tom van der Voort. As I have said a number of times, there is no better staff man in the Senate. He has done a great job for years; and his work on this enormously complicated bill—it is about the most complicated appropriation bill we have—has been outstanding. Bob Mills has ably assisted him, as has Barbara Kennedy.

Also, Wally Berger is a person not only of diligence and intelligence but also of real understanding, and he has helped us greatly to come together on issues on which the distinguished Senator from Maryland and I have been a part. Of course, Kathy O'Connor has been very helpful, too.

So I am very grateful to the Senator from Maryland for bringing to the attention of the Senate the fine work of what I believe is a great staff.

Mr. MATHIAS. I thank the chairman.

Mr. MAGNUSON. During the full committee markup of the HUD-independent agencies appropriations bill, H.R. 7631, I offered an amendment to add $12 million to the NASA R. & D. account to fund a new start for the solar electric propulsion system (SEPS) in fiscal year 1981. The committee, subsequently, adopted my amendment. I have noted, however, in reading the committee report accompanying H.R. 7631, that the addition of funds to initiate development of SEPS was inadvertently placed under the wrong R. & D. program, the space science program. SEPS should have been included in NASA's space transportation programs.

This is not a significant error inasmuch as the $12 million is correctly incorporated into the total appropriations for NASA R. & D. I, nevertheless, raise the issue so as to avoid any uncertainty as to the intent of my amendment.

Mr. PROXMIRE. I appreciate your calling my attention to this oversight.

The intent of the committee action is clear; it is that the development of the solar electric propulsion system should go forward in fiscal year 1981.

Mr. DANFORTH. Mr. President, during consideration of the HUD-independent agencies appropriations bill I plan to offer two amendments. In order that my colleagues may be apprised of the nature of these amendments I ask that a "Dear Colleague" letter distributed today be printed at this point in the RECORD.

The letter follows:

U.S. SENATE, COMMITTEE ON
GOVERNMENTAL AFFAIRS,
Washington, D.C., September 18, 1980.

DEAR COLLEAGUE: During consideration of the H.U.D.-Independent Agencies appropriations bill I intend to offer two amendments.

The first amendment would prohibit the Office of Consumer Affairs from intervening in agency regulatory or adjudicatory proceedings.

The Office of Consumer Affairs, directed by Esther Peterson, is not an independent agency. Created by Executive Order, not by Congress, it has no statutory authorization to intervene in regulatory or adjudicatory proceedings. Nonetheless, in FY '79 the Office intervened as a full party in a case before the Federal Energy Regulatory Commission and subsequently intervened in two additional proceedings before the Federal Communications Commission. In its budget submission for FY '81, the Office announced its intention "to allocate more staff to its interventions program," and for this purpose requested $118.069 including $30,000 for the "assistance of experts in intervention."

For more than twenty years, Congress has debated the merits of creating a Consumer Protection Agency to intervene in agency regulatory and adjudicatory proceedings on behalf of consumer interests. This debate has been among the most divisive issues that have faced the Congress. In the 92nd Congress and again in the 93rd Congress, filibusters blocked passage of Consumer Protection Agency bills in the Senate, and in 1978, despite vigorous lobbying by the current Director of the Office of Consumer Affairs, the House of Representatives defeated the most recent effort to establish an independent consumer agency. Mrs. Peterson has made no secret of her "disappointment" in that vote, nor her plans to make a Consumer Protection Agency, as best she can, out of her Office of Consumer Affairs.

Mrs. Peterson's zeal to represent consumer interests in agency proceedings is understandable, since she has long been at the forefront of the consumer movement. But her efforts to use her office to that end are without statutory authorization, a repudiation of the vote in the House of Representatives, and an affront to the Congress, which has spent two decades attempting to define the appropriate limits of such authority. In 1977, in reporting the Consumer Protection Act, the Senate Governmental Affairs Committee went to great lengths to define carefully the authority of the consumer advocate, including limitations on interventions in FCC license renewal proceedings, labor-management matters before the NLRB, matters affecting small businesses and family farming interests, and proceedings pertaining to the manufacture, sale, transportation or possession of firearms or ammunition. Of course, no such constraints bind Mrs. Peterson.

Given these considerations, further interventions by the Office of Consumer Affairs should be prohibited until Congress—by statute—authorizes such activities.

My second amendment would restore the House-passed prohibition on the use of appropriated funds "to pay the expenses of, or otherwise compensate, non-federal parties intervening in regulatory or adjudicatory proceedings," what is commonly known as public participation funding.

During consideration of this bill the Appropriations Committee retained the House provision, but adopted an amendment allowing the Consumer Product Safety Commission, the Office of Consumer Affairs, and the Environmental Protection Agency to reimburse intervenors for "travel, per diem and the costs of preparing materials for the public record." One might reasonably wonder what other expenses could possibly be associated with intervention. My amendment would strike these exemptions.

The wisdom of providing public funds to special interest intervenors in agency proceedings is a subject which has been debated by the Congress almost as long as the debate over the Consumer Protection Agency. Of the agencies affected by this bill, only the Environmental Protection Agency has statutory authority to fund intervenors and that authority is limited to proceedings under the Toxic Substances Control Act. It has been used once in the history of the EPA. Further activities have been curtailed in the past, awaiting Congressional guidance.

The sorry experience of the Federal Trade Commission with public participation funding illustrates the importance of providing strict statutory guidance for any such program. The few lines in the Appropriations Committee report which purport to guide the administration of these funding programs pale by comparison with the effort devoted to this issue by the Governmental Affairs Committee in drafting S. 262, the Regulatory Reform Act. No less than nine pages of that bill are taken to discuss the grant of authority to agencies to fund intervenors—and the limits on that authority. Even then the decision to authorize any funding program at all was reached by a 9–8 vote of the committee, and still remains one of the unresolved issues in the debate over regulatory reform.

Until Congress acts to authorize intervenor funding by the CPSC, EPA, or the Office of Consumer Affairs it is inappropriate for these executive branch agencies to provide funds to intervenors.

It is important to recognize, however, that the issue presented by these amendments is not whether intervenor funding is a good idea, nor whether the Office of Consumer Affairs should intervene in agency proceedings. At issue is whether executive branch agencies should be free to engage in such activities absent statutory authority, and in face of clear indications that Congress is neither ready nor willing to authorize such activities.

I urge you to support these amendments. If you wish to join as a cosponsor or if you have any questions please get in touch with me or have a member of your staff get in touch with Chris Brewster of my staff at 224–6154.

Sincerely,

JOHN C. DANFORTH.

SMALL VESSEL INSPECTION AND MANNING—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON, I submit a report of the committee of conference on H.R. 5164 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5164) to amend certain inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 17, 1980.)

The PRESIDING OFFICER. Without objection, the conference report is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ICE AGE NATIONAL SCENIC TRAIL

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 7825.

The PRESIDING OFFICER laid before the Senate H.R. 7825, an act to establish the Ice Age National Scenic Trail, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask that the bill be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT-INDEPENDENT AGENCIES APPROPRIATIONS, 1981.

The Senate continued with the considertion of the bill (H.R. 7631.)

UP AMENDMENT NO. 2335

Mr. BELLMON. Mr. President, the Tsongas amendment proposes to increase funding for the community development block grant program by $200 million above the level recommended by the Appropriations Committee.

The Senate simply must resist such add-ons to the fiscal year 1981 appropriation measures. In the 2-month period between the time we adopted our first budget resolution for fiscal year 1981 and the time the Senate Budget Committee marked up the second budget resolution, a balanced budget which we originally had planned for and which we had programed has disappeared and in its place we now have a deficit of somewhere between $18 billion and $50 billion for fiscal year 1981, depending upon what we do about a tax reduction. This, in itself, is to me terribly alarming. But the situation will only worsen if we do not constrain spending in these appropriation measures along the lines which we earlier contemplated in our first budget resolution.

So far, when considering later funding requirements, only one appropriation bill reported to the Senate so far this year has been within the allocation to it that would fit the first budget resolution. The Mathias amendment has taken this bill down close to its mark, but adding on these additional funds by adopting this or any other increase, without some offsetting reduction, will cause the bill to exceed its spending limits.

Mr. President, between fiscal year 1976 and fiscal year 1979, funding for the community development block grant program increased by more than 100 percent. In those 4 years, this program more than doubled. In the interest of constraining spending, it appears reasonable to hold this multibillion dollar program at the 1980 funding level. The fiscal year 1981 level recommended for this program represents only a 5-percent reduction in the administration's budget request. This is certainly not a Draconian reduction.

I urge my colleagues to join in opposing further add-ons to this bill by opposing this and other amendments which would increase program funding levels.

Mr. President, I also have a statement pertaining to an amendment which I had planned to offer tomorrow which I believe the manager of the bill will take regarding the outlay schedule which would cause the outlays in this bill to occur in an orderly manner. I may not be present tomorrow to offer that amendment. I am not sure what time the action on this bill will be concluded.

But I ask unanimous consent that my statement be in the RECORD at this time in anticipation of offering that amendment tomorrow if I am on the floor and if I am not, I hope I could convince the manager of the bill to offer the amendment in my behalf.

Mr. PROXMIRE. Mr. President, in response to the Senator from Oklahoma I will be delighted to offer it in his behalf.

I am happy to support the amendment. I am not sure about whether or not we could have the amendment taken tonight. If it is, I do not know how other Senators would feel about it. Is it an amendment about some controversial item to which other Senators will object?

Mr. BELLMON. It is an amendment adopted by a vote of 63 to 17 on the transportation bill. There is a controversy about the amendment but having won by what to me is a sort of overwhelming vote I am not sure how much opposition there would be on this bill, provided the managers saw fit to accept it.

But if there is no objection, let me simply put my statement in at this time and we will talk about the amendment later.

Mr. PROXMIRE. I will be happy to accommodate the Senator from Oklahoma any way he wishes, and I do enthusiastically support the amendment.

The PRESIDING OFFICER. Is the floor manager suggesting setting aside temporarily the Tsongas amendment to take up the amendment?

Mr. PROXMIRE. No.

It is my understanding that the distinguished Senator from Oklahoma was not going to offer the amendment now but have it offered in his behalf tomorrow.

Mr. BELLMON. I would offer the amendment now, but I doubt it is in order since the Tsongas amendment is pending.

Mr. PROXMIRE. No. We could have the Tsongas amendment set aside by unanimous consent if the distinguished Senator wishes to do so. We have done that two or three times already.

Mr. BELLMON. Excuse me.

Mr. PROXMIRE. We have set aside the Tsongas amendment temporarily two or three times before.

Mr. BELLMON. Mr. President, it might require 5 minutes for me to be ready, but I could do it at that time, 5 minutes from now.

Mr. PROXMIRE. Fine.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BELLMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1622

(Purpose: To establish a system for scheduling and reporting outlays)

Mr. BELLMON. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Does the Senator ask unanimous consent to temporarily lay aside the Tsongas amendment?

Mr. BELLMON. I make such request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) for himself, Mr. DOMENICI, Mr. PERCY, and Mr. BOSCHWITZ proposes an unprinted amendment numbered 1622.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and I will explain it.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert the following language at the appropriate place in the bill:

OUTLAY SCHEDULES AND REPORTS

Departments and independent agencies receiving appropriations in excess of $50 million under this act shall, within 30 days following enactment, submit to the Committees on Appropriations of the two Houses of Congress a schedule of anticipated outlays for each month of the Fiscal Year beginning October 1, 1980. These departments and agencies shall also submit to the Appropriations Committees, within 30 days after the end of each calendar quarter, reports showing actual Outlays for the preceding quarter and any necessary changes in the schedule of Outlays originally submitted. In the event a Department or agency determines that its total Outlays during the Fiscal Year will vary by more than 1% from the total projected in its original schedule, it shall immediately submit to the Committee on Appropriations of the two Houses a revised schedule. Unless disapproved by both of the Appropriations Committees within 15 legislative days after submission, the Department or agency may implement the revised Outlay schedule.

Departments and independent agencies shall submit copies of the Outlay schedules and reports required herein to the Congressional Budget Office concurrently with their submission to the House and Senate Committees on Appropriations. The Congressional Budget Office shall analyze these schedules and reports and assess their implications for Congressional budget and appropriations policies and submit the results of its analyses on a timely basis to the Committees on Appropriations and Budgets of the two Houses of Congress.

Mr. BELLMON. Mr. President, this is identical with the amendment the Senate approved earlier today by a vote of 63 to 17 when we were considering the Department of Transportation bill.

To explain it—and I will take only a moment, because I believe the floor manager of the bill fully understands the situation.

Mr. President, as we all know, it is not an easy task to restrain budget growth in an environment of increasing costs and pressing needs. The HUD appropriations bill before us today is certainly subject to all of these pressures.

I congratulate the appropriations subcommittee, its chairman, Senator PROXMIRE, and its ranking member, Senator MATHIAS, for their efforts to hold spending under this bill within budget targets. With an amendment to be offered by Senator MATHIAS, as I understand it, the HUD appropriations bill will be within the budget authority allocation given to it by the full Appropriations Committee and, therefore, consistent with the first budget resolution. This would be so, even after accounting for probable later requirements to which the subcommittee will need to respond.

This bill, as reported, appropriates $70.1 billion of budget authority. Appropriation of another $6.4 billion is anticipated later in the fiscal year—primarily for general revenue sharing and cost-of-living increases in the veterans compensation program. This would put the HUD subcommittee about $900 million over its $75.6 billion allocation were it not for the Mathias amendment. This amendment will reduce BA by about $1 billion thus providing about $100 million room between the bill and the BA allocated to the subcommittee by the full committee. I understand that this margin is likely to be used by another floor amendment.

Mr. President, I do regret that even with the Mathias amendment the bill will produce outlays well above the outlay target which was allocated to the subcommittee by the full Appropriations Committee—about $1.6 billion above the subcommittees allocation after taking account of probable later supplemental requirements. Half that overage is due to the fact that the full Appropriations Committee allocated $800 million less in outlay "room" to the subcommittee than the first budget resolution assumed would be necessary. The additional $800 million overage results from higher program levels and faster spendout than assumed in the first resolution. About $300 million of these outlays could not have been foreseen at the time of the first resolution.

Mr. President, the entire Senate should understand the budget implications of what is happening in the appropriations process. In my view, we are seriously eroding the budget discipline to which the Senate committed itself last spring. If we continue on our present track, 1981 spending will be $20 to $30 billion higher than the $613 billlion target set last June without a tax increase. Even the higher ceilings recommended by the Senate Budget Committee in late August but not yet approved by the whole Senate are being exceeded by most of the appropriation bills which have been acted on thus far.

Mr. President, I ask unanimous consent that there be printed in the RECORD a table comparing budget authority and outlays under the appropriation bills which have been worked on thus far with the first budget resolution and the proposed second resolution.

Mr. President, the Senate should understand that this bill is over the outlays total ascribed to it at the time the first concurrent budget resolution was passed. Moreover, the full Appropriations Committee allocated $800 million to the subcommittee less than was anticipated in the first budget resolution. Unless the outlays under this bill are reduced either here on the floor or in conference with the House. To live within the guidelines that the Senate has imposed upon itself, future appropriation bills will have to constrain outlay totals below those envisioned in the budget and below the outlay totals allocated by the Appropriations Committee to its subcommittees. In other words, the $1.6 billion outlay overage under this bill must be absorbed somewhere else. Otherwise, we are in reality increasing the budget deficit by $1.6 billion when we approve this bill.

As we all know, it is budget authority which determines the overall level of program activity—and it is budget authority that we must ultimately control to bring the Federal Budget within acceptable levels. Nearly $13.9 billion of outlays in the HUD and independent agencies appropriations bill result from budget authority granted in previous years and nearly $38.3 billion of the $70.1 billion budget authority granted in this fiscal year will spend out in future fiscal years.

But, it is outlays which most significantly impact fiscal policy, outlays which determine the borrowing needs of the U.S. Treasury and outlays which determine the impact that this year's budget will have upon inflation and interest rates. By solving the budget authority problem of this appropriation without addressing the outlay problem, we are attacking a long-term problem, which is commendable, but are ignoring the problem that confronts us right now—fiscal year 1981 outlays.

Mr. President, when the budget process was in its initial years, it was a difficult task for each of us to understand the significance of the budget authority concept. We have now learned too well that the concept represents total new obligations, commitments, or programs entered into by the Federal Government. Some budget-conscious individuals have maintained that controlling budget authority is all that is required to eventually control Federal spending. But I would maintain, Mr. President, that the control of outlays is equally important for it is our only means of regulating the rate at which budget authority is utilized. Outlays do not merely happen once budget authority is granted, their spendout rates in many instances are conscious and crucial policy decisions. Because of unanticipated increases in the rate of outlays, the fiscal year 1980 budget has shifted from a relatively restrictive 8-percent growth to an unintended but much more stimulative 17.5-percent growth, severely retarding the Congress battle against inflation.

Mr. President, to me that is a terribly important development that the Congress was not aware of and has had no control over. The outlays we expected to grow by 8 percent, but because of the increase in the rate that the executive branch is, in effect, pushing the money out the door, outlays are going to grow by almost twice that amount in fiscal year 1980 compared to what we were earlier anticipating.

This has severely retarded Congress battle against inflation. Moreover, Mr. President, I am of the view that the faster government spends, the more it will spend in the long run. To enable Congress to more adequately track and regulate outlay patterns I am proposing amendments to the various appropriation bills to require submission to the Appropriations Committee and CBO of monthly and quarterly outlay schedules in fiscal year 1981 by each Federal department and agency and advance notification of significant deviations from their schedules and that is what this amendment does.

Without the amendment Congress will continue to be seriously handicapped in these efforts to control fiscal policy, to limit the size of our deficit, and to take pressure off of the monetary authorities.

Remember, it is outlays that cause the size of the deficit to go up, and I feel strongly we need this control.

Mr. President, in conclusion I would like to congratulate the committee and its chairman and ranking member for restraining its budget authority totals. But I want to remind my colleagues of the future hard choices that will result from the outlay overage of this bill.

I ask unanimous consent, Mr. President, that a table showing a comparison of spending under appropriation bills be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARISON OF SPENDING UNDER APPROPRIATION BILLS (PLUS LATER REQUIREMENTS) WITH FISCAL 1981 FIRST BUDGET RESOLUTION AND PROPOSED SECOND RESOLUTION

Bill (status)	Over/under first budget resolution targets		Over/under proposed second budget resolution ceilings	
	Budget authority	Outlays	Budget authority	Outlays
Energy/water (passed by Senate)	+0.2	+0.1	+0.4	+0.4
Military construction (passed by Senate)	−.1	−.1	−.1	
HUD, independent agencies (present consideration)	+.9	+1.6	+.5	+.5
State, Justice, Commerce (reported)	+1.9	+1.9	+2.1	+2.0
Treasury, Postal Service (reported)	+.3	+.2	+.2	+.2
Transportation (reported)	+.3	+.6	+1.9	+.8
Effects of reconciliation	+.6	+.6		
Total overage	+4.1	+4.9	5.0	3.9

Mr. PROXMIRE. Mr. President, I congratulate the distinguished Senator from Oklahoma on this amendment.

As he pointed out, it was overwhelmingly adopted, a very similar amendment, on the preceding appropriation measure that was before us today on the Department of Transportation bill, and I think it will help to inform the Congress, the country, and the press on the spending by these agencies, and begin to give us the kind of control which is necessary if we are going to do an effective job of holding down spending.

I think the Senate has spoken clearly on this principle a little earlier so, of course, I am happy to accept the amendment and I hope the Senate will adopt it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

Mr. BELLMON's amendment (UP No. 1622) was agreed to.

Mr. BELLMON. Mr. President, I move to reconsider vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECESS TO 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:29 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1125) to improve and expand the Federal crop insurance programs, and for other purposes.

The message also announced that the House has agreed to the amendments of the Senate to the amendment of the House to the bill (H.R. 2443) to authorize the Department of Energy to carry out a high level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, N.Y.

The message also announced that the House has agreed to the amendment of the Senate to the text of the bill (H.R. 7511) to amend title 38, United States Code, to provide a cost-of-living increase in the rates of disability compensation for disabled veterans and in the rates of dependency and indemnity compensation for survivors of disabled veterans, and for other purposes, in which it requests the concurrence of the Senate; and that the House has agreed to the amendment of the Senate to the title of the bill, with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the bill (S. 1615) for the relief of James R. Thornwell, with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has disagreed to the amendments of the Senate to the bill (H.R. 7590) making appropriations for energy and water development for the fiscal year ending September 30, 1981, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Bevill, Mr. Boland, Mrs. Boggs, Mr. Chappell, Mr. Jenrette, Mr. Fazio, Mr. Hefner, Mr. Whitten, Mr. Myers of Indiana, Mr. Burgener, Mrs. Smith of Nebraska, and Mr. Conte were appointed managers of the conference on the part of the House.

The message further announced that the Speaker has appointed Mr. Thompson as a manager on the part of the House on the conference on the disagreeing votes of the two Houses to the bill (H.R. 7664) to amend the National School Lunch Act and the Child Nutrition Act of 1966 to extend the authorizations of appropriations contained in such acts, and for other purposes, vice Mr. Myers of Pennsylvania, resigned.

The message also announced that the House has disagreed to the amendment of the Senate to the bill (H.R. 7765) to provide for reconciliation pursuant to section 3 of the first concurrent resolution on the budget for the fiscal year 1981; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Giaimo, Mr. Ashley, Mr. Brodhead, Mr. Panetta, Mr. Latta, and Mr. Frenzel were appointed as managers of the conference on the part of the House; that Mr. Price, Mr. Nichols, Mr. Mollohan, Mr. Aspin, Mr. Charles H. Wilson of California, and Mr. Mitchell were appointed as managers of the conference for the consideration of title II of the Senate amendment; that Mr. Perkins, Mr. Ford of Michigan, Mr. Andrews of North Carolina, Mr. Miller of California, Mr. Ashbrook, and Mr. Goodling were appointed as managers of the conference for consideration of title II, subtitle A of the bill and title I of the Senate amendment; that Mr. Perkins, Mr. Beard of Rhode Island, Mr. Phillip Burton, Mr. Miller of California, Mr. Ashbrook, and Mr. Erlenborn were appointed as managers of the conference for the consideration of title II, subtitle B of the bill and title VII of the Senate amendment; that Mr. Perkins, Mr. Ford of Michigan, Mr. Brademas, Mr. Biaggi, Mr. Ashbrook, and Mr. Buchanan were appointed as managers of the conference for the consideration of title II, subtitle C of the bill and title VII of the Senate amendment; that Mr. Staggers, Mr. Waxman, Mr. Satterfield, Mr. Preyer, Mr. Broyhill, and Mr. Carter were appointed as managers of the conference for the consideration of title III, subtitle A and title VIII, subtitle A of the bill and title V, part F of the Senate amendment; that Mr. Staggers, Mr. Santini, Mr. Florio, Ms. Mikulski, Mr. Broyhill, and Mr. Madigan were appointed as managers of the conference for the consideration of title III, subtitles B and C of the bill and title III, section 303 of the Senate amendment; that Mr. Hanley, Mr. Ford of Michigan, Mr. Clay, Mrs. Spellman, Mr. Derwinski, and Mr. Taylor were appointed as managers of the conference for the consideration of title IV of the bill and title VI of the Senate amendment; that Mr. Johnson of California, Mr. Anderson of California, Mr. Howard, Mr. Roberts, Mr. Shuster, and Mr. Snyder were appointed as managers of the conference for the consideration of title V, subtitles A and B of the bill and title III, sections 301, 302, and 304 and title IV, section 401 of the Senate amendment; that Mr. Roberts, Mr. Satterfield, Mr. Montgomery, Mr. Hefner, Mr. Hammerschmidt, and Mrs. Heckler were appointed as managers of the conference for the consideration of title VII of the bill and title VIII of the Senate amendment; and that Mr. Ullman, Mr. Rostenkowski, Mr. Vanik, Mr. Corman, Mr. Gibbons, Mr. Pickle, Mr. Rangel, Mr. Cotter, Mr. Conable, Mr. Duncan of Tennessee, Mr. Archer, and Mr. Vander Jagt were appointed as managers of the conference for the consideration of title III, subtitles A and B; title VIII, subtitles A, B, C, and D and title IX of the bill; and title V, parts A, B, C, D, E, F, and G and title IX of the Senate amendment.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 935. An act for the relief of Jesse Kuo Tang and Sharon Kuo Tang;

H.R. 936. An act for the relief of Kit Tung;

H.R. 1316. An act for the relief of Kuo-Yao Cheung;

H.R. 3096. An act for the relief of Raymond M. Gee;

H.R. 3869. An act for the relief of Eileen Angella Crosdale;

H.R. 4033. An act for the relief of the Jefferson County Mental Health Center, Incorporated, and of certain current and former employees thereof;

H.R. 4139. An act for the relief of Feeronaih Abbosh;

H.R. 4522. An act for the relief of Annette Jutta Wohrle;

H.R. 4778. An act for the relief of Sada Kim;

H.R. 5157. An act for the relief of Lilia Ester Cantu;

H.R. 5379. An act for the relief of Jaramporn Sermsri and Akharata Sermsri;

H.R. 5745. An act for the relief of Michael Chinwe Ke;

H.R. 6030. An act for the relief of Elena Patricia Mattos;

H.R. 6538. An act to authorize and direct the Secretary of the Interior to reinstate oil and gas lease New Mexico 33955;

H.R. 6739. An act to confer United States citizenship posthumously upon Lopoldine Marie Schmid;

H.R. 7825. An act to establish the Ice Age National Scenic Trail, and for other purposes; and

H.R. 8105. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 215. An act for the relief of Renuka Pavla;

S. 670. An act to provide for the establishment and coordination of rural development policy, to extend until September 30, 1981, the authorizations for appropriations for title V of the Rural Development Act of 1972, and for other purposes;

S. 2223. An act to permit any Indian to transfer by will restricted lands of such Indian to his or her heirs or lineal descendents, and other Indian persons;

H.R. 3210. An act to terminate the authority to make grants to the Las Vegas Valley Water District under the Act of August 27, 1954; and

H.R. 6511. An act to designate the building known as the Federal Building in Morgantown, West Virginia, as the "Harley O. Staggers Federal Building".

The enrolled bills were subsequently signed by the President pro tempore (Mr. MAGNUSON).

ENROLLED BILLS SIGNED

At 6 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 1125. An act to improve and expand the Federal crop insurance program, and for other purposes;

S. 2443. An act to authorize the Department of Energy to carry out a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, New York;

H.R. 3292. An act to assist the States in developing fish and wildlife conservation plans and actions, and for other purposes; and

H.J. Res. 594. Joint resolution to authorize and request the President to issue a proclamation designating September 18, 1980, as "Constantino Brumidi Day".

The enrolled bills and joint resolution were subsequently signed by the President pro tempore (Mr. MAGNUSON).

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 935. An act for the relief of Jesse Kuo Tang and Sharon Kuo Tang; to the Committee on the Judiciary.

H.R. 936. An act for the relief of Kit Tung; to the Committee on the Judiciary.

H.R. 1316. An act for the relief of Kuo-Yao Cheung; to the Committee on the Judiciary.

H.R. 3096. An act for the relief of Raymond M. Gee; to the Committee on the Judiciary.

H.R. 3869. An act for the relief of Eileen Angela Crosdale; to the Committee on the Judiciary.

H.R. 4033. An act for the relief of the Jefferson County Mental Health Center, Incorporated, and of certain current and former employees thereof; to the Committee on Finance.

H.R. 4139. An act for the relief of Feeronaih Abbosh; to the Committee on the Judiciary.

H.R. 4522. An act for the relief of Annette Jutta Wohrle; to the Committee on the Judiciary.

H.R. 4778. An act for the relief of Sada Kim; to the Committee on the Judiciary.

H.R. 5157. An act for the relief of Lilia Ester Cantu; to the Committee on the Judiciary.

H.R. 5379. An act for the relief of Jaramporn Sermsri and Akharata Sermsri; to the Committee on the Judiciary.

H.R. 5745. An act for the relief of Michael Chinwe Ke; to the Committee on the Judiciary.

H.R. 6030. An act for the relief of Elena Patricia Mattos; to the Committee on the Judiciary.

H.R. 6739. An act to confer United States citizenship posthumously upon Leopoldine Marie Schmid; to the Committee on the Judiciary.

H.R. 8105. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes; to the Committee on Appropriations.

HOUSE BILL HELD AT THE DESK

The following bill was held at the desk by previous order:

H.R. 6538. An act to authorize and direct the Secretary of the Interior to reinstate oil and gas lease New Mexico 33955;

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, September 18, 1980, he had presented to the President of the United States the following enrolled bills:

S. 215. An act for the relief of Renuka Pavla.

S. 670. An act to provide for the establishment and coordination of rural development policy, to extend until September 30, 1981, the authorizations for appropriations for title V of the Rural Dvelopment Act of 1972, and for other purposes.

S. 2223. An act to permit any Indian to transfer by will restricted lands of such Indian to his or her heirs or lineal descendants, and other Indian persons.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4642. A communication from the President of the United States, transmitting a proposed amendment of the fiscal year 1981 in the amount of $1,500,000 for the Commission on Wartime Relocation and Internment of Civilians; to the Committee on Appropriations.

EC-4643. A communication from the Assistant Secretary of Defense, reporting, pursuant to law, on the value of property, supplies, and commodities provided by the Berlin Magistrate, and under German Offset Agreement for the quarter April 1, 1980 through June 30, 1980; to the Committee on Appropriations.

EC-4644. A communication from the Assistant Secretary of the Air Force (Research, Development, and Logistics), reporting, pursuant to law, that a study has been conducted with respect to converting the protective coating function at Chanute Air Force Base, Illinois, and a decision has been made that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC-4645. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, concerning 4 construction projects to be undertaken by the Air National Guard; to the Committee on Armed Services.

EC-4646. A communication from the Assistant Secretary of the Air Force (Research, Development, and Logistics), reporting, pursuant to law, that a study has been conducted with respect to converting the family housing maintenance function at Maxwell Air Force Base, Alabama, and a decision has been made that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC-4647. A communication from the Assistant Secretary of the Treasury (Legislative Affairs), transmitting, pursuant to law, project performance reports prepared by the International Bank for Reconstruction and Development (BRD) and the Asian Development Bank (ADB); to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SARBANES, from the Committee on Banking, Housing, and Urban Affairs, with an amendment and an amendment to the title:

S. 2990. A bill to amend Federal securities laws to facilitate the mobilization of capital for new small and medium sized companies by encouraging venture capital activities and promoting public investment (Rept. No. 96-958).

By Mr. HATFIELD, from the Committee on Energy and Natural Resources, without amendment:

S. 2318. A bill to revise the boundary of Crater Lake National Park in the State of Oregon, and for other purposes (Rept. No. 96-959).

By Mr. BUMPERS, from the Committee on Energy and Natural Resources, without amendment:

H.R. 7411. An act authorizing the Secretary of the Interior to accept the conveyance of the United First Parish Church in Quincy, Massachusetts, and authorizing the Secretary to administer the United First Parish Church as a national historic site, and for other purposes.

By Mr. KENNEDY, from the Committee on the Judiciary, without amendment:

S. 2373. A bill for the relief of Sandra Reyes Pellecer (Rept. No. 96-960);

S. Res. 291. A resolution to refer the bill S. 2052 entitled "A bill for the relief of the Merchants National Bank of Mobile" To The Court of Claims (Rept. No. 96-961).

S. 2228. A bill to grant the consent of the United States to the Caddo Lake Compact between the States of Louisiana and Texas (Rept. 96-962);

S.J. Res. 176. Joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning October 5, 1980, as "National Port Week", and for other purposes;

H.J. Res. 551. Joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning October 5, 1980 as "National Port Week", and for other purposes;

S.J. Res. 195. Joint resolution to designate September 1980, as "National Rehabilitation Month".

S. 2961. A bill for the relief of Viktor Ivanovich Belenko (Rept. No. 96-963); and

S. 2227. A bill to grant the consent of the United States to the Red River Compact among the States of Arkansas, Louisiana, Oklahoma, and Texas (Rept. No. 96-964).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, without amendment:

H.R. 6395. An act to amend the Consumer Product Safety Act to modify certain post-employment restrictions applicable to officers and employees of the Consumer Product Safety Commission (Rept. No. 96-965).

By Mr. MELCHER, from the Select Committee on Indian Affairs, without amendment:

S. Res. 522. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2829. Referred to the Committee on the Budget.

By Mr. STEVENS, from the Committee on Energy and Natural Resources, with amendments:

S. 1784. A bill to improve the electric generating efficiency of joint Federal-civilian pooling practices in Alaska, and for other purposes (Rept. No. 96-966).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

The following-named persons, to be members of the Board of Regents of the Uniformed Services University of the Health Sciences:

Robert Higgins Ebert, of New York;
Eugene M. Farber, of California;
Lauro F. Cavazos, of Texas;
Carlos Elise Luhrs, of the District of Columbia; and
William R. Roy, of Kansas.

Mr. NUNN. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the following nominations: Maj. Gen. James Mason Thompson, Army of the United States (brigadier general, U.S. Army) to be lieutenant general, and Maj. Gen. William Joseph Hilsman, Army of the United States (brigadier general, U.S. Army) to be lieutenant general. I ask that these names be placed on the executive calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, in addition, in the Regular Army, there are 144 appointments/reappointments to the grade of colonel and below (list beginning with Louis J. Zeleznikar), in the Army of the United States, there are 625 promotions to the grade of colonel (list beginning with James L. Abrahamson); in the U.S. Navy, there are 1,354 temporary promotions to the grade of lieutenant (junior grade) (list beginning with Jeffrey J. Ahern), in the U.S. Navy and Reserve of the U.S. Navy, there are 9 temporary/permanent appointments to the grade of captain and below (list beginning with Dennis D. Guy); in the Marine Corps, there is one permanent appointment to the grade of lieutenant colonel (Robert P. Doyle); in the Regular Air Force, there are 2,000 appointments to the grade of captain and below (list beginning with Daniel J. Abshire); in the Reserve of the Air Force, there are 568 promotions to the grade of lieutenant colonel (list begining with Lewis Aaronson); and, in the Reserve of the Air Force, there are 59 Air National Guard officers for promotion to the grade of lieutenant colonel (list beginning with James H. Addy). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of September 3, 4, and 9, 1980, at the end of the Senate proceedings.)

By Mr. WILLIAMS, from the Committee on Labor and Human Resources:

The following-named persons to be members of the Board of Directors of the Legal Services Corporation:

Steven L. Engelberg, of Maryland;
Cecilia Denogean Esquer, of Arizona;
Hillary Diane Rodham, of Arkansas;
Richard Allan Trudell, of California; and
Josephine Marie Worthy, of Massachusetts.

Mr. James E. Jones, Jr., of Wisconsin, to be Chairman of the Special Panel on Appeals.

Ethel Bent Walsh, of the District of Columbia, to be a member of the Equal Employment Opportunity Commission.

John Brooks Slaughter, of Washington, to be Director of the National Science Foundation.

The following-named persons to be members of the National Science Board, National Science Foundation:

Mary Lowe Good, of Louisiana;
Peter T. Flawn, of Texas;
Peter David Lax, of New York;
Homer A. Neal, of Indiana;
Mary Jane Osborn, of Connecticut;
Donald B. Rice, of California; and
Stewart A. Rice, of Illinois.

The following-named persons to be members of the National Council on the Humanities:

Marcus Cohn, of Maryland;
Samuel DuBois Cook, of Louisiana;
Roland Paul Dille, of Minnesota;
A. Bartlett Giamatti, of Connecticut;
George Alexander Kennedy, of North Carolina;
Louise Ano Nuevo Kerr, of Illinois;
Frances Dodson Rhome, of Indiana;
Philip Aaron Schaefer, of California; and
Anita Silvers, of California.

The following-named persons to be members of the National Commission on Libraries and Information Science:

Charles William Benton, of Illinois;
Gordon M. Ambach, of New York; and
Paulette H. Holihan, of Louisiana.

The following-named persons to be Members of the National Council on the Arts:

Kurt Herbert Adler, of California;
Margo Albert, of California;
Robert Joffrey, of New York;
Toni Morrison, of New York;
Ieoh Ming Pei, of New York;
Lida Rogers, of Mississippi; and
Erich Leinsdorf, of Massachusetts.

(The above nominations from the Committee on Labor and Human Resources were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 3125. A bill to authorize the Secretary of the Interior to assist in the preservation of historic Camden in the State of South Carolina, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEVIN (for himself, Mr. NELSON, Mr. STEWART, Mr. METZENBAUM, Mr. BUMPERS, Mr. RIEGLE, and Mr. HUDDLESTON):

S. 3126. A bill to authorize grants for the administrative expenses of regulatory negotiation commissions; to the Committee on Governmental Affairs.

By Mr. DOLE:

S. 3127. A bill to amend the "Presidential Election Campaign Fund Act" regarding a presidential candidate refusing to debate; to the Committee on Finance.

By Mr. BELLMON (for himself and Mr. BOREN):

S. 3128. A bill to remove certain lands from the Wichita Mountains Wildlife Refuge, Oklahoma; to the Committee on Environment and Public Works.

By Mr. BOSCHWITZ:

S. 3129. A bill for the relief of Mrs. Zahura Can; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 3125. A bill to authorize the Secretary of the Interior to assist in the preservation of historic Camden in the State of South Carolina, and for other purposes; to the Committee on Energy and Natural Resources.

CAMDEN, S.C.

● Mr. HOLLINGS. Mr. President, I am today introducing a bill to authorize the Secretary of Interior to take the necessary steps to assist in the preservation of the nationally significant resources associated with the town of Camden, S.C.

The 18th century town of Camden occupies an important place in the development of South Carolina and the military operations in the South during the American Revolution. Historic Camden's location along major transportation routes and its relation to other settlements made it a trade center of considerable economic and commercial importance in 18th century southern colonial development. The townsite was laid out by 1774 on a rectangular grid pattern by Joseph Kershaw, the major contributor to the founding and growth of Camden. The settlement consisted of small frame structures with the notable exception of Kershaw's house, which was apparently patterned after a large Charleston house.

The British occupied Camden in 1780–1781 during the Revolution. They constructed five redoubts, fortified the powder magazine and jail, and palisaded the community and the Kershaw house. The most intense military activity included the nearby battles of Camden and Hobkirk's Hill and the related battles at 96, Cowpens, and Kings Mountain. The colonial Generals Horatio Gates, Nathaniel Greene, Baron Johann DeKalb, and the British Charles Lord Cornwallis are among the primary military leaders associated with the town.

The British retreated in May 1781, burning the palisaded town in an effort to minimize the site's strategic value. The fall of Camden as a British stronghold was pivotal to the eventual defeat of the British.

Few vestiges of the once active town remained after the British departure, and the town was rebuilt to the north after the Revolution. Today, the main features of the historic Camden area include the site of the 1780–1781 revolutionary war community and several reconstructions—two redoubts (small earthen forts), a powder magazine, wooden palisades, and the Kershaw house (Cornwallis house). The combination of palisades and redoubts is notable as a unique defense system surrounding the frontier community during the revolution.

I hope that my colleagues will support this legislation and that it will be enacted at an early date.●

● Mr. THURMOND. Mr. President, I am pleased today to join with my distinguished colleague from South Carolina in sponsoring this bill to authorize the Secretary of the Interior to assist in the preservation of historic Camden, S.C.

The town of Camden has played a significant role in the history of our great country. During the Revolutionary War, Camden was the site of an important battle which helped turn the tide of the war in the Southern Colonies. After initially occupying the town, the British were forced to retreat in 1781, burning the town as they withdrew. The fall of Camden was a significant defeat for the British, and was a pivotal event in the American effort to regain control in the South. Among the military leaders associated with the town are Horatio Gates and Nathaniel Greene of the Colonial Army, and Lord Cornwallis of Great Britain.

Contemporary America reflects a pride and heritage which is the result of our Forefathers' noble struggle for freedom in the American Revolution. Historic sites relevant to that struggle must be preserved so that present and future generations of Americans will be able to observe these areas and reflect on the accomplishments and sacrifices of our ancestors. Historic Camden is such an area. I am pleased to join with the junior Senator from South Carolina in cosponsoring this bill.●

By Mr. LEVIN (for himself, Mr. NELSON, Mr. STEWART, Mr. METZENBAUM, Mr. BUMPERS, Mr. RIEGLE, and Mr. HUDDLESTON):

S. 3126. A bill to authorize grants for the administrative expenses of regulatory negotiation commissions; to the Committee on Governmental Affairs.

REGULATORY NEGOTIATIONS COMMISSIONS

● Mr. LEVIN. Mr. President, I am pleased to introduce, along with my colleagues, Senators NELSON, STEWART, METZENBAUM, BUMPERS, RIEGLE, and HUDDLESTON, a bill which encourages the utilization of a process called "regulatory negotiation."

Regulatory negotiation operates on the belief that industry and interested groups can sit down together and with the assistance of a "facilitator" attempt to fashion consensus agreements on regulatory policy issues affecting health, safety and the environment. This approach can be a more creative alternative to the adversarial process typically utilized in disputes over regulation where each side tends to put forth extreme positions.

The need for such an approach is apparent. Regulations often create a great deal of anxiety among all parties who have a stake in their promulgation and implementation. Businesses often see regulations as limiting their profits and infringing on their freedom to function as they would want. Other interested groups believe that the public welfare will be sacrificed in the regulatory process and that they will not be heard. The regulators themselves are often required to attempt to interpret a broad statute and apply it to very specific circumstances with the result being that they are often unable to please any of the parties involved. Legislators, who thought the problem was solved when they adopted legislation are faced with a continuing battle during the rulemaking and enforcement process.

Regulatory negotiation has been successfully demonstrated in several areas. The most well-known use of the approach has been the national coal policy project.

The national coal policy project was an outgrowth of the recognition that it was important for the United States to shift from oil and natural gas to coal. In order to accomplish this, there had to be a reconciliation of environmental and industrial interests.

At a July 1976, meeting, industrialists and environmentalists endorsed the regulatory negotiation concept and agreed to pursue important coal related environmental and energy policy issues. Initially, neither group was enthusiastic over the potential of such an approach, but were desirous of something better. Those who took part did so as individuals—not as company representatives.

The participants used the following principles—called the rule of reason—to resolve differences and to develop workable solutions:

1. Data should not be held from the other side;
2. Delaying tactics should not be used;
3. Tactics should not be used to mislead;
4. Motives should not be impugned lightly;
5. Dogmatism should be avoided;
6. Extremism should be countered forcefully . . . but not in kind;
7. Integrity should be given first priority.

The Georgetown University Center for Stragetic and International Studies (CSIS) served as the neutral meeting place for project participants. It also raised funds and provided administrative support for the project. The project itself was financed by grants and contributions from foundations, Government agencies, and industry. Expenses of participants representing environmental concerns were paid from foundation and governmental contributions.

Five task forces were established to cover coal policy issues: Mining; transportation; air pollution; fuel utilization and conservation; and energy pricing. Each side was equally represented. Each task force was assigned the reponsibility for developing recommendations on its issues.

The selection of task force participants and chairpersons was accomplished by each caucus—industry and environmental. These individuals were to be selected based on expertise in the task force's issues, intent to follow Rule of Reason, and respect of their peers.

The governing body for the project was called the plenary group which consisted of task force cochairmen and vice cochairmen, the national coal policy project (NCPP) cochairmen and the plenary chairman. The duties of the plenary group were: To define the nature and scope; to provide guidance; to review and finally approve task force recommendations, and to resolve task force disputes.

All of the 200 task force recommendations were not unanimously achieved. However 90 percent were: The really hard issues were debated until consensus was reached, while in a few cases, there was none.

The NCPP report found that the project was very successful in dispelling stereotypes:

> Quite apart from the substance of the recommendations, the project has been valuable in dispelling stereotypes. Those environmentalists who had previously regarded the position of industry on environmental and energy issues as being monolithic and intransigent were rather quickly disabused of that notion. This was largely because of the differing perspectives of the industry members. For example, producers of fuel, regulated utilities, and industrial users of large quantities of energy each tended to have different interests and views on questions of energy pricing.
>
> In a samilar fashion, those industrialists who expected the environmentalists to be opposed to economic growth and to the introduction of new technology, and in favor of governmental rather than marketplace decisions on the allocation of resources, were pleasantly surprised to find that their suppositions were incorrect. The environmentalists opposed a pattern of growth that produced a wasteful use of natural resources and an environmental impact which they felt was unacceptable; they did not oppose economic growth in itself. They welcomed new technology that would serve to increase efficiency and reduce adverse environmental impacts and demands on natural resources. The preferred marketplace decisions to economic regulation by government when markets were workably competitive; when this was not the case, or when important (external) environmental and social impacts were not properly valued in the market, the environmentalists were eager to explore methods of influencing the market (as with emission charges) so that the desired goals would be achieved while retaining the advantages of keeping detailed decisions in the private sector.

The report further states:

> We are not proposing that the process of discussion and negotiation in which we have participated should replace the adversary process. Indeed many of the policy recommendations on which we have agreed would have to be implemented through the traditional adversary system; that is, they require action by legislative and judicial bodies . . . there are others that simply do not lend themselves to negotiated agreements . . ."
>
> We believe, however, that exclusive reliance on adversarial processes is likely to produce decisions that are less desirable (from the point of view of either of the parties) than those in which a common position serving both interests could have been agreed to in a non-adversarial context.

The coal policy project's recommendations have received agency support by the Office of Surface Mining and the

Federal Energy Regulatory Commission. The first has adopted word-for-word project recommendations with respect to bonding concerns and operations. FERC has adopted the coal generation and small power recommendations.

Also, two bills were introduced in May 1980: H.R. 7464 and H.R. 7465, which adopted recommendations that called for the use of incentives to develop pollution control technology and the development of plant siting procedures.

Regulatory negotiation has been tried in the toxic substances area as well. The Conservation Foundation was involved in this approach during the implementation of the Toxic Substances Control Act.

Specifically, 12 to 14 business persons and environmentalists met to discuss the training of toxicologists; the testing of new chemicals and the prioritizing of what chemicals should be tested, and determining the nature and scope of agency followup on the chemical after it reaches the market.

With respect to the testing of new chemicals, the Conservation Foundation's committee made four recommendations:

First: That a conceptual framework for a testing program be developed to test chemicals using a tier system;

Second: That all relevant aspects of the potential impacts on human and animal health be tested, starting with inexpensive tests and ending with more complex tests;

Third: That the tests within each tier be required on a selective and necessary basis;

Fourth: That tier 0 (the first tier) should be viewed as a minimal test—therefore, all substances should be tested under the first two tiers at a minimum.

EPA is now developing guidelines (regulations) to effectuate the first recommendation.

In the area of labor relations, regulatory negotiations have emerged as well. For example, the Joint Labor Management Committee for the Retail Food Industry utilized the process to reach an agreement on an OSHA regulation for protective equipment for employees in the meat department of supermarkets. This consensus took several months of hard work but once labor and management agreed, the two groups were able to reach agreement with OSHA to everyone's satisfaction.

On July 29 and 30, 1980, the Subcommittee on Oversight of Government Management of which I am chairman, and the Select Committee on Small Business (of which I am a member) held hearings on the regulatory negotiation approach. We received testimony from representatives of both the private and public sectors who have had specific experiences in regulatory negotiations, including the National Coal Policy, the Conservation Foundation, and EPA. These witnesses supported regulatory negotiation as a valuable aid to achieving more flexible and workable regulatory policy and suggested ways to strengthen the process.

The bill reflects many of these suggestions.

Essentially, it creates a pilot project to encourage the voluntary formation of regulatory negotiation commissions. These commissions are to be composed of balanced interests representing industry and nonindustry groups, labor, State and local officials or others with a vital interest in the area being reviewed. These commissions are to develop recommendations representing a consensus of the commission participants.

The bill gives the chairman of the Administrative Conference the responsibility for administering the pilot project. A $1.4 million fund with a maximum of $250,000 per commission is established by the Conference over a 2-year period to fund regulatory negotiation commissions. Specifically, the chairman must announce the availability of grants in the Federal Register. Grants are available for projects in the areas of health, safety, and the environment—when a major law has been enacted but proposed rules and regulations have not been issued; when final rules and regulations have been issued, but are likely to be significantly revised; or when basic statutory changes are contemplated. It is my belief that regulatory negotiations will be most productive at these stages of the regulatory process—that is, before the affected parties have staked out seemingly irreversible positions.

Individuals with an identifiable interest in a regulatory area selected by the chairman can make application for a grant according to the conditions stated in the act. The chairman may approve such application only if there is a reasonable likelihood that negotiation will expand the existing areas of consensus among the affected parties, increase cooperation and develop regulatory policy alternatives.

The chairman also must determine whether a commission has properly balanced representation. If it is determined that a commission is not properly balanced, the chairman may include additional members.

The bill also indicates the manner in which grants may be used as well as the reporting responsibilities of each commission at the completion of its negotiations.

Agency participation is limited to observer status. Observers provide information, but are nonvoting and nonnegotiating participants.

Upon receipt of commission reports, the agency must comment on the report within 60 days.

The coal policy project and toxic substances activities show that vital progress can result from regulatory negotiations. This bill is the mechanism for encouraging that process.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with an article from the Providence Journal Bulletin, urging that this bill be adopted by the Senate.

There being no objection, the bill and article were ordered to be printed in the RECORD, as follows:

S. 3126

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Regulatory Negotiation Act of 1980".

TITLE I—GENERAL PROVISIONS

FINDINGS

SEC. 101. The Congress finds and declares that—

(1) Government regulation of the economy has increased rapidly in recent years due to an increased awareness of the environmental, social, and health effects of a variety of economic practices;

(2) although such increased regulation has commendable purposes, it has frequently resulted in contradictory, inefficient, unjustifiably expensive, and often counterproductive regulatory requirements;

(3) unnecessary regulation has reached a level where it is having a significant adverse effect on the economy;

(4) ineffective regulation has prevented the attainment of important national goals in the areas of the environment, , and safety;

(5) some of the problems in Government regulation are attributable to the adversarial process of setting regulatory policy, a process in which the best solutions to problems are often ignored by all parties to a dispute in order to maintain their bargaining positions; and

(6) an adversarial regulatory process frequently ignores the expertise and understanding of people working in the affected areas.

PURPOSE

SEC. 102. The purpose of this Act is to establish a pilot program to encourage the voluntary formation of regulatory negotiation commissions as an alternative to the adversarial process of establishing regulatory policy. Commissions receiving assistance under this Act shall be composed of a balanced representation of industry, public interest groups, labor, State and local officials, or other participants with a vital interest in the areas under consideration by the commission, and shall meet to negotiate recommendations on regulatory policy which represent a consensus of the viewpoints of the participants in the commission.

DEFINITIONS

SEC. 103. For purposes of this Act—

(1) the term "regulatory negotiation commission" means a group formed on a voluntary basis by private individuals and organizations to study one or more regulatory policies which (A) contains representatives of all or most or the major positions on the issues under consideration by the commission, and (B) attempts, through negotiation, to reach recommendations on regulatory policy which represent a consensus of the viewpoints of the participants in the commission;

(2) the term "Conference" means the Administrative Conference of the United States;

(3) the term "Chairman" means the Chairman of the Conference; and

(4) the term "agency" has the same meaning as in section 551(1) of title 5, United States Code.

TITLE II—GRANTS FOR REGULATORY NEGOTIATION COMMISSIONS

PILOT PROJECT AUTHORIZED

Sec. 201. (a) In order to carry out the purposes of this Act, the Chairman of the Conference shall establish a pilot program to make grants to five regulatory negotiation commission projects during each of the fiscal years 1981 and 1982. Grants made under this Act shall be for the payment of administrative expenses of regulatory negotiation commissions, shall be in an amount not in excess of $250,000 for each commission, shall remain available without fiscal year limitation, and may be augmented by funds from non-Federal sources.

(b)(1) By April 1, 1981, the Chairman shall announce, through publication in the Federal Register and through notices to appropriate journals, newsletters, and other media, the availability of grants under this Act, and shall take whatever other reasonable steps are necessary to provide notice to the public of such grants. The announcement required by the preceding sentence shall specify the areas of regulatory policy for which applications for grants for regulatory negotiation commission projects will be accepted. The Chairman shall only make grants for such projects for matters pertaining to regulatory policy in the areas of health, safety, and the environment, and for which—

(A) a major law has been enacted, but proposed rules and regulations have not been issued;

(B) final rules and regulations have been issued, but are likely to undergo major revision; or

(C) basic statutory changes are contemplated.

(2) The selection of areas of regulatory policy for regulatory negotiation commission projects under this Act shall be at the discretion of the Chairman and shall not be subject to judicial review.

(c) Individuals and organizations with an identifiable interest in any regulatory area selected by the Chairman under subsection (b) may make an application to the Chairman for a grant under this Act. Each such application shall—

(1) be signed by all proposed members of a regulatory negotiation commission applying for a grant;

(2) include a description of the regulatory area to be discussed, the need for a regulatory negotiation commission in such area, a proposed membership list for the commission and justification for that list, proposed rules for the operation of the commission, a statement of purpose for the commission, a proposed time period for the completion of the work of the commission, and an organization plan and an agenda for the commission;

(3) contain a written commitment signed by all proposed members of the commission to negotiate the issues under consideration in good faith, and to produce a report on the negotiations within a time period appropriate to the regulatory area under consideration; and

(4) include such other matters as the Chairman may by rule require.

(d)(1) The Chairman shall only approve an application under this Act if the Chairman determines that there is a reasonable likelihood that the regulatory negotiation commission applying for a grant under this Act—

(A) is able to produce a report that will significantly expand the existing areas of consensus among major affected parties in a regulatory area;

(B) is able to significantly increase cooperation between such parties;

(C) will include a balanced representation of the major affected interests in an area, including business and public interest organizations, in accordance with subsection (e)(1); and

(D) can recommend policy alternatives that will provide significant improvements over existing policy.

(2) A determination of the Chairman under this Act with respect to an application shall be at the discretion of the Chairman and shall not be subject to judicial review.

(e)(1) In determining whether a proposed commission meets the requirements of subsection (d)(1)(C), the Chairman shall consider whether the regulatory negotiation commission applying for a grant under this Act contains sufficient representation of the major positions of interest in the area of regulatory policy to be considered by the commission in order that each such interest is able to effectively express its views during the deliberations of the commission. The Chairman may not approve an application for a grant under this Act—

(A) in the case of a regulatory negotiation commission which will consider regulatory policy in the area of the environment, unless at least one-third of the members of the commission are representatives of business and at least one-third of such members are representatives of environmental organizations;

(B) in the case of any regulatory negotiation commission which will consider issues relating to the health and safety of workers, unless at least one-third of the members of the commission are representatives of workers; and

(C) the Chairman is satisfied that major interests other than the interests specified in subparagraphs (A) and (3), including, labor, consumer organizations, and State and local officials who have a significant contribution to make to the commission are provided with an adequate opportunity to make such contribution.

(2) In order to achieve a balanced representation of interests in a regulatory negotiation commission, the Chairman may suggest to an applicant for a grant under this Act additional members for inclusion in the regulatory negotiation commission to be supported by such grant. An applicant is not required to include members suggested by the Chairman in the commission and the Chairman may not deny an application under this Act for failure to include any such suggested member unless the Chairman determines that excluding such additional member will substantially impair the ability of the applicant to meet the requirements of subsection (d)(1)(C) and paragraph (1) of this subsection.

(f) Grants made under this Act may be used—

(1) to employ an administrative director for a regulatory negotiation commission, who—

(A) shall be responsible for the administrative operation of the commission and such other mediative or facilitative duties as the commission finds appropriate;

(B) shall not represent any member of the commission with respect to a particular viewpoint in a regulatory area;

(C) shall be compensated at a rate which is not in excess of $45,000 per year; and

(D) shall not be considered an employee of the Federal Government;

(2) to pay travel expenses for members of a commission and per diem expenses for such members at a rate which is not in excess of $200 per day and $10,000 per year; or

(3) to pay other administrative expenses of the commission, including expenses for printing of commission documents.

(g) Each commission receiving a grant under this Act shall issue a report at the conclusion of its negotiations outlining areas of consensus, areas of disagreement, and recommendations, and containing any background material the commission may consider appropriate.

(h) Any regulatory negotiation commission receiving a grant under this Act may change its membership, rules, or agenda at its discretion if the commission submits each such change to the Chairman for review. If the Chairman determines that any such change will substantially impair the ability of the commission to carry out the puposes of this Act, the Chairman may (1) suggest additional changes to assure consistency with the purposes of this Act, or (2) require the commission to repay the Government any funds provided by this Act which have not been obligated or expended. The Chairman may not require a commission to make repayment under this subsection unless the Chairman determines that efforts to assure consistency with the purposes of this Act have failed.

(i) Any meeting of a regulatory negotiation commission receiving a grant under this Act shall be open to the public unless a majority of the commission members vote to close the meeting. All open meetings shall be announced at least 15 days prior to their occurrence in the Fedeal Register and a record shall be prepared of such meetings.

(j) By April 1, 1981, the Chairman shall issue rules and regulations to carry out the provisions of this section.

GOVERNMENT PARTICIPATION IN COMMISSION NEGOTIATIONS

SEC. 202. An agency shall send an observer to any regulatory negotiation commission requesting an observer. An agency observer shall report to the agency concerning commission activities, shall provide information to the commission, and may make suggestions to the commission. An agency observer may not negotiate regulatory policy positions on behalf of his agency, and the view of the agency observer shall not be considered to represent the formal position of his agency. An agency observer may not be present at a closed meeting of a regulatory negotiation commission.

GOVERNMENT COMMENTS ON COMMISSION REPORTS

SEC. 203. (a) An agency shall comment on the report of a regulatory negotiation commission receiving a grant under this section within 60 days after the receipt of such report, except that in any case in which proposed regulations are pending with respect to an issue considered by a commission, any agency shall make such comments within 30 days after the issuance of final regulations with respect to such issue.

(b) Agency comments on commission reports shall be transmitted to all appropriate committees of Congress for potential review and action.

(c) All Federal agencies engaged in the areas of health, safety, and environmental regulation shall assure that the recommendations and reports of any regulatory negotiation commission which is voluntarily established by private parties and is not receiving a grant under this Act are seriously reviewed by the appropriate agencies.

TITLE III—MISCELLANEOUS

EXEMPTIONS

SEC. 301. (a) The provisions of any law or rule relating to prosecution for ex parte communications shall not apply to any communications between an agency of the Federal Government and any regulatory negotiation commission.

(b) Except as may be provided by rule promulgated by the Chairman, the provisions of sections 553 through 559 of title 5, United States Code, and the Federal Advisory Committee Act do not apply to any regulatory negotiation commission receiving a grant under this Act or the report of any such commission, the participation of agency observers in any such commission, the response of agencies to the recommendations of any regulatory negotiation commission, and any other function to carry out this Act or regulations promulgated pursuant to this Act.

CONFORMING AMENDMENT

SEC. 302. Section 575 (c) of title 5, United States Code, is amended by striking out "and" at the end of paragraph (14), by striking out the period at the end of paragraph (15) and inserting in lieu thereof a semicolon and "and", and by inserting after paragraph (15) the following new paragraph:

"(16) make grants under the Regulatory Negotiation Act of 1980.".

REPORT TO CONGRESS

SEC. 303. By January 1, 1983, and at such other times as he finds appropriate, the Chairman shall report to the Congress on the pilot program established pursuant to this Act, including an analysis of the activities of regulatory negotiation commissions supported pursuant to this Act and such recommendations the Chairman finds appropriate for further action to expand the use of such commissions.

AUTHORIZATION OF APPROPRIATIONS

SEC. 304. To carry out the purposes of this Act, there are authorized to be appropriated to the Administrative Conference of the United States not in excess of $1,400,000 for each of the fiscal years 1981 and 1982.

CONGRESS MULLS A SOUND REFORM TO THE REGULATORY PROCESS

While Congress has been struggling for the past several years with the idea of deregulation, some members are beginning to question the whole regulatory process. Testimony before congressional committees has shown how an agency, created as a watchdog to stop foxes from stealing chickens, can evolve into a fatcat with its own appetite for chickens.

All of this got some congressmen to thinking that someone ought to be watching the watchdog. Out of this line of reasoning has sprung a new bit of jargon—"reg-neg," standing for regulatory negotiation—and a bill, currently being written by three senators, that could evolve into a governmental reform along the order of sunset legislation and congressional budgetary review.

The senators hope their idea would help prevent the confrontations caused by regulations hatched in bureaucratic cloisters, and laid on industry as a fait accompli. The examples are familiar and legion: The EPA sets new standards of environmental purity. The CAB adopts a new fare schedule, or the FAA adopts a new air safety code. The FDA determines that a chemical substance is carcinogenic, bans it, then changes its mind after industry has spent huge sums developing alternative substances.

Arbitrary changes in regulations and masses of paper work create a pervasive negative attitude within the business community toward government. Billions of dollars are lost to the national economy every year from arbitrary decisions imposed on industries, sometimes justifiably and sometimes not. Millions of man-hours are lost fighting cases through boards of appeal and the courts. And many a firm has had its name irrevocably stigmatized by charges from government agencies which later proved unfounded.

The group of senators hope their new bill will transform the regulatory process from an adversary procedure to a cooperative one. They seek to set up a pilot program of panels in several regulatory agencies. The panels, made up of business, labor and public-sector representatives would have a say in policy direction, checking out proposed new regulations for potential trouble spots and trying to work the problems out before they happen.

The aim is to ensure that regulations are based on objective data rather than on bias or incorrect assumptions, to keep costly paperwork to a minimum, and to work out in advance potential direct conflicts between public policy and private practice so as to eliminate time-wasting and costly litigation later on.

Is this approach practical? A similar system has worked in Japan—admittedly a dissimilar society—and supporters cite a precedent in this country, the National Coal Policy Project.

"Reg-neg" would take deregulation one step forward. Useful as that effort has been, its results are limited because it attempts to dismantle structures already in place. As anyone who has tried to change bureaucratic ways has learned—including every president in recent memory—bureaucracies are enormously resistant to change. If "reg-neg" can minimize the perceived threat, and therefore the resistance, by working within and as part of the bureaucratic structure, a major cause of the distrust and disillusionment that has grown between the private sector and government might be removed.

It's certainly worth a try. The Senate should pick this one up and run with it.●

● Mr. NELSON. Mr. President, today, along with several of my colleagues, I am introducing a bill on the subject of regulatory negotiation. The bill calls on the Administrative Conference of the United States to establish procedures to encourage the voluntary formation of regulatory negotiation commissions in the areas of health, safety, and the environment. These commissions would be composed of business, labor and public interest representatives and would be designed to provide an opportunity for all interested parties to discuss ways in which regulatory policy can best serve all their interests.

The basic notion of regulatory negotiation is that if responsible people sit down together and make a commitment to find areas of agreement, regulations can be designed that are more appropriate, effective, and consistent than is now possible. Moreover, costly and lengthy litigation should be reduced as adversarial parties open up better lines of communication and understanding.

The use of negotiation between affected parties to address public policy issues has grown significantly in the last few years. Although still the exception rather than the rule, the approach shows considerable promise. The failure to develop it more broadly stems from many factors, but certainly our traditional reliance on adversarial proceedings, both before the courts and Congress, creates an atmosphere of distrust, parochialism, and even hostility—an atmosphere in which negotiation is very difficult. Nonetheless, the regulatory policy crisis has become so severe that negotiation may be the only rational alternative in many areas. No one stands to gain from the astronomical costs of endless litigation; no one will benefit from overlapping, inconsistent, unnecessary, and ineffective regualtions.

While the atmosphere may be better, however, getting this idea off the ground will require some encouragement from the regulators. Private parties need to know that the costs of negotiations will be paid for, since many vital interests could not otherwise afford to participate, that the government will take the process seriously, and that the negotiations will be fairly and impartially structured so that all points of view can be effectively represented. This is exactly what this bill would address.

Under the bill, the Administrative Conference would establish a $1.4 million fund for each of the next 2 years for the payment of administrative costs of the commissions. It would advertise the existence of the fund as widely as possible and establish a procedure for reviewing applications. Funds would be used to pay for a mediator to be selected by the applicants, to pay for travel and per diem costs up to $200/day (but not more than $10,00 per year/person), and to pay other administrative expenses.

Applications for the funds would be accepted on behalf of representatives of business, labor and public interest firms and organizations. In order to be approved, the Chairman of the Administrative Conference would have to determine that the applicants had achieved a balanced representation of parties affected in a particular area and that they had a reasonable prospect of achieving a significant consensus on important regulatory issues. The Chairman could suggest additional members, if appropriate, to assure balance. Applicants would also be required to select an administrative director and establish rules for the functioning of the commission. The affected agency would participate in the process as an observer and nonvoting member, providing information and making suggestions, but not negotiating on behalf of the agency, nor voting on any matters. The reason for this latter restriction is that an agency representative could not reasonably be empowered to bargain away positions developed by his or her agency pursuant to laws passed by the Congress.

The reports of the commissions would be made widely available, and agencies would be required to comment on them within 60 days. Congress, of course, could exercise its oversight responsibilities with respect to the reports, and given the impetus the consensus is likely to provide, it seems probable that if commission recommendations were ignored, Congress would investigate the matter.

This process would not work in many areas—there must be an incentive to negotiate. If regulatory policy is fairly settled in an area, if the major issues are already in court or before Congress, or if all sides are reasonably satisfied, for instance, there is little reason to believe that negotiations would occur. On the other hand, if important regulatory changes are being contemplated by an agency, but no proposals have been made or if a regulatory area is in clear need of policy redirection, but Congress has not seriously taken the issue on, then there would be considerable incentive to negotiate.

In the automobile industry, for instance, consideration is being given to changing emission and safety standards, but only the commitment to change exists—not the commitment to any particular changes. Both the industry and public interest groups have every incentive to try to sit down and find areas of agreement. In this way, it is entirely possible that new, innovative approaches could be found; that areas of disagreement could be limited; that costly litigation could be avoided.

The regulatory negotiation approach has been tried in several areas. Its broadest use has been at the local level, where issues such as facility siting have frequently been worked out through negotiations between industry and citizens' groups. At the national level, experience has been limited primarily to toxic substances and coal, but the results have been very encouraging.

In the toxic substances area an environmental organization, the conservation foundation, has devoted a great deal of its resources to encouraging people to get together to discuss very specific control issues. Reports on a number of issues have been made and the recommendations have frequently paralleled eventual change in regulatory policy. Of course, the conservation foundation does not claim that the process has directly caused the policy changes, since many factors are always involved in such decisions, but it is clear that industry and environmental representatives have been able to agree on a range of issues that neither side would have otherwise considered possible.

The most well-known experiment with regulatory negotiation was the coal project. The brainchild of Larry Moss, the former president of the Sierra Club and Gerald Decker, of Dow Chemical, the project was run with foundation support under the auspices of the Georgetown Center for Strategic and International Studies.

The project began in July of 1976 and completed its work a little over 2 years later. Participants included roughly 70 representatives from the environmental movement and the coal industry, and the subject matter covered virtually every area of coal policy except surface mining regulation, since that issue was the subject of legislation being simultaneously considered. Since most participants had taken public and firm positions on that issue, it was agreed that this area was not ripe for negotiation.

The participants all agreed to follow "a rule of reason" in their negotiations. The rules included agreements not to:

First, withhold data. Second, use delaying tactics. Third, use tactics designed to mislead. Fourth, impugn the motives of the other side lightly. Fifth, be dogmatic. Sixth, tolerate extremism.

The group broke down into several caucuses, each having several meetings to hammer out basic agreements to be approved by the full group. A summary of the consensus agreements will be attached to this statement, but a quick perusal will show some rather surprising areas of agreement. The project agreed, for instance, that facilities should be sited near the area where their power would be used, rather than in remote areas where pollution was not a significant problem. In this way, project beneficiaries would have to deal with the pollution, rather than allowing it to concentrate in areas receiving few project benefits. The participants also agreed that energy should be priced at its marginal cost in order to encourage conservation and alternative fuels; that the EPA should make exceptions to its standards to encourage the development of innovative technologies, allowing a utility to burn coal less cleanly and pay a fee for the difference until the new technology could take hold; that an emission charge and rebate plan should be tested; and that coal conversion orders should exempt small units. Several other areas were agreed on as well, but this list gives a fair impression of the remarkable work the project did.

These agreements, however, are not as important as the new lines of communication opened by the project.

As the cochairman of the project stated in their preface to the summary report:

> Many of our recommendations are matters of great controversy, so we expect our proposals and alternatives to them to be subject to further scrutiny and debate in adversarial processes. In this context the project's contribution, we think, is in better informing those engaged in the adversarial processes and broadening the constituency for energy policy initiatives which address long-festering problems in a way that we believe to be reasonable and in the national interest. The participants, as individuals, will work toward the implementation of these measures. Whether or not the recommendations gain wide acceptance, it is undeniable that the work of the NCPP stands in sharp contrast to the polarization and acrimony that has characterized much of the national debate over energy and environmental policy.

That, in itself, is a critical change in the way we have done regulatory business in this country, and if the Commissions this bill envisages only succeed in bettering understanding and communication, they will have been well worth the effort.

The idea of cooperation between Government, labor, business, and public interest groups, of course, has been implemented in many other areas besides regulation, especially in recent years. The steel tripartite commission and the recent efforts in the automobile industry are obvious examples. The retail food industry has used joint labor management committees to negotiate regulatory policy with OSHA, a process that resulted in the implementation of a worker safety regulations for meatcutters that OSHA, the industry, and the meatcutters all found acceptable. In Japan, most regulatory issues are handled in this way, so much so that the Government frequently simply accepts the recommendations of the negotiations.

I would not suggest we go as far as Japan. Our culture and our needs are different. Nonetheless, we have gone too far in attempting to solve everything through adversarial processes. Each side tends to stake out a position that it believes will maximize its bargaining power. This position may or may not have any relationship to the most reasonable approach to a problem. Neither side trusts the other, and a great deal of useful information is lost in the process. Government regulators are brought in to develop detailed rules to govern broad areas of public policy, seeking comments from those affected by the policy only after proposed regulations have been issued. After all the work involved in issuing proposed regulations, however, agencies are understandably reluctant to make major changes. More useful information is lost.

Government, being what it is, also tends to encourage the proliferation of rules and regulations by several agencies, as each responds to its own constituency, acting to protect and promote its own special interests. The resulting morass of regulation frequently ends up in court, where judges trained in law, not in advanced technologies or environmental science, are forced to make complex decisions. Important regulations are often delayed and everyone's legal costs soar. Business becomes frustrated by the impossibility of dealing with so many regulations and, as the New York Times recently reported, becomes increasingly defensive, while environmentalist harden their positions out of their frustrations with our inability to make progress against major ecological problems.

This whole process has been carried to such an extreme that it is simply no longer rational for any of its participants, except, perhaps, the lawyers. Regulatory negotiation could be a way to ease the problem.

To provide more information on this subject, I ask unanimous consent that a summary of the coal project be printed here in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

Summary

HISTORY

The idea of the National Coal Policy Project (NCPP) originated with Gerald L. Decker, Corporate Energy Manager of The Dow Chemical Company, and certain of his colleagues in industry. They believed, in part as a result of their participation in studies performed under the auspices of the Department of Commerce's Technical Advisory Board (CTAB), that it was important for the United States to shift from the use of oil and natural gas to coal. It appeared to them, however, that this would not occur without a reconciliation of environmental and industrial interests.

In connection with Decker's service on the Federal Energy Administration's Environmental Advisory Committee, he met Laurence I. Moss, former Sierra Club president and chairman of that committee. Decker, with the support and encouragement of key executives of several major companies, approached Moss and other environmentalists in January, 1976, to enlist their support for the project.

The environmentalists were not enthusiastic. Some had met with representatives from industry on previous occasions and found the discussions unproductive. The environmentalists felt they could not afford to set aside the considerable time required for the proposed project unless there was a reasonable likelihood that it would be productive. On the other hand, many of them were not fully satisfied with existing mechanisms for resolving disputes, and were receptive to exploring new approaches. From the environmental point of view, there was a growing feeling that industry had business to transact with the environmental movement (as it does with shareholders, labor unions, customers, and regulatory authorities). The lack of a non-adversarial forum to conduct such business was impeding progress on issues upon which agreement might be possible.

A test meeting

It was agreed, accordingly, to test the concept with a single two-day meeting on a limited agenda. This meeting, held in July, 1976, was judged productive by the participants.[*] Industrialists and environmentalists, meeting in separate caucuses, endorsed continuing and expanding the project to address important coal-related environmental and energy policy issues. Decker and Moss were elected Co-Chairmen by their respective caucuses.

Role of CSIS

Before the test meeting, Georgetown University's Center for Strategic and International Studies (CSIS) had agreed to provide a neutral institutional setting for that meeting as well as for any effort that might ensue. CSIS selected Harvard professor and former Secretary of Labor John Dunlop to chair the test meeting, and Francis X. Quinn, S.J., Special Assistant to the Dean of the Business School of Temple University, to chair the meetings of the project leadership body called the Plenary group.

CSIS provided administrative support and fundraising for the project. By design, they did not involve themselves in the substance of project discussions and recommendations. The National Coal Policy Project was financed by grants and contributions from foundations, government agencies, and industrial corporations. The contributors are listed in Appendix C. To avoid conflicts of interest, all environmental expenses were paid solely from funds contributed by foundations and government agencies.

The "rule of reason"

Finding solutions to difficult industry-environmental problems may, in some cases, require that certain conflicting energy, environmental, economic, and social priorities be weighed. Traditionally this task has been accomplished through the adversary process, whereby opposing groups meet at legislative hearings or in the courts to assert their positions. Advocates are forced by the nature of this process to present their case in the starkest terms in order to "win" a favorable decision. This precludes the search for a mutually agreeable outcome. Further, it can lead to additional delays and costs that are in no one's best interest.

The National Coal Policy Project emphasized reaching agreement, where possible, rather than seeking victories. To facilitate this effort, the project adopted a set of negotiating principles known as the "Rule of Reason." These principles, which were articulated in a book written by attorney Milton Wessel,[1] include the following:

Data should not be withheld from the other side.

Delaying tactics should not be used.

Tactics should not be used to mislead.

Motives should not be impugned lightly.

Dogmatism should be avoided.

Extremism should be countered forcefully . . . but not in kind.

Integrity should be given first priority.

Agreement to use these principles helped convince participants that the project could resolve some of their differences constructively, and as it turned out, conducting project meetings in the spirit of the Rule of Reason did facilitate the search for workable solutions to the difficult issues being addressed.

Task forces

Five Task Forces were organized to cover the spectrum of coal-related energy and environmental policy issues. They were: Mining; Transportation; Air Pollution; Fuel Utilization and Conservation; and Energy Pricing. Later an *ad hoc* task force, Emission Charges, was organized, drawing from members of the Air Pollution and Energy Pricing Task Forces. Each side was represented equally on each Task Force.

Selection of participants

Each Caucus was responsible for the selection of its Task Force participants and Chairmen. Individuals were sought who had expertise or displayed leadership on the issues of concern, expressed a willingness to abide by the Rule of Reason, and had the respect of their peers and constituents.

The industrialists established a formal selection process. Members of the Industry Caucus selected their Task Force Co-Chairmen, who in turn submitted nominations for membership on their Task Forces to the Industry Caucus for approval. These nominees were drawn from a broad range of coal-producing and coal-consuming industries throughout the U.S.

The procedure used by the environmentalists was less formal. The Environmental Caucus Chairman sought first nominations and then evaluations of prospective participants from many people in the environmental movement who were active on the issues to be discussed. A consensus on who should be selected to lead the Task Forces was reached. Subsequently, those individuals who had been designated as the Environmental Co-Chairmen and Vice Co-Chairmen of each Task Force selected, with the approval of the Environmental Caucus, the balance of the environmental membership of their task forces.

Most (though not all) who were asked to participate accepted the opportunity as unique and significant.

Plenary group

The Task Force Co-Chairmen and Vice Co-Chairmen were formal members of the Plenary group, the governing body for the project. Other members were the NCPP Co-Chairmen, Decker and Moss; and Quinn, the Plenary Chairman.

The Plenary group defined the scope of the Task Forces' activities, provided guidance and redirection, and reviewed and approved their recommendations. The Plenary was responsible for resolving disagreements between Task Forces.

The fact that the Plenary group approved the final Task Force reports does not mean that every member of the Plenary is in full agreement with the more than 200 recommendations contained therein. Most Task Force recommendations were accepted by the Plenary without dissent. The more controversial recommendations were discussed until a consensus of the Plenary group emerged, but, in a few cases, agreement was not unanimous. Those dissenting have been provided the opportunity to submit for the record their minority views (see Appendix B).

Individuals, not representatives

The participants in the project took part as individuals. Although they were selected in part because of their leadership roles in environmental and industrial organizations, they do not purport to speak either for their organizations or for the environmental and industrial communities at large. The issues are too complex and controversial for either side to speak with a single voice.

Dispelling stereotypes

Quite apart from the substance of the recommendations, the project has been valuable in dispelling stereotypes. Those environmentalists who had previously regarded the position of industry on environmental and energy issues as being monolithic and intransigent were rather quickly disabused of that notion. This was largely because of the differing perspectives of the industry members. For example, producers of fuel, regulated utilities, and industrial users of large quantities of energy each tended to have different interests and views on questions of energy pricing.

In a similar fashion, those industrialists who expected the environmentalists to be opposed to economic growth and to the introduction of new technology, and in favor of governmental rather than marketplace decisions on the allocation of resources, were pleasantly surprised to find that their suppositions were incorrect. The environmentalists opposed a *pattern* of growth that produced a wasteful use of natural resources and an environmental impact which they felt was unacceptable; they did not oppose economic growth in itself. They welcomed new technology that would serve to increase efficiency and reduce adverse environmental impacts and demands on natural resources. They preferred marketplace decisions to economic regulation by government when markets were workably competitive; when this was not the case, or when important (external) environmental and social impacts were not properly valued in the market, the environmentalists were eager to explore methods of influencing the market (as with emission charges) so that the desired goals would be achieved while retaining the advantages of keeping detailed decisions in the private sector.

The welcome variety of opinions and interests on both sides contributed substantially to the success of the project.

SCOPE

The question of the amount of coal to be used

Most reports dealing with national energy policy begin with a projection of "needs" or "requirements" for energy and various fuels in 1985, 2000, or some other year. For various reasons, we chose to do otherwise.

First, many of the participants believe that it is a conceptual error to refer to an average per capita use of energy at least several times the level necessary for subsistence—for food, clothing, and shelter—as a "requirement." It is more correct to speak of an economic "demand" for energy as for any other commodity, good, or service, with the demand being affected by such factors as national income and relative price.

The relative price of energy declined for many decades, thereby encouraging the substitution of energy for capital and labor. Beginning about five years ago, the long-term price trends reversed; this new trend is likely to continue for some time. Although the full measure of the higher cost of replacement supplies of energy has not yet been effectively communicated in the U.S. economy (because of price controls and the regulation of energy prices at average rather than marginal costs), and though the most significant potential savings of energy involve a long process of replacing energy-inefficient capital stock, changes in the relationship of energy to economic output are already occurring.

It is possible to estimate the effects of changing relative prices (as well as other factors) on future energy use, although until very recently most policy studies in which projections were made did not attempt this. We decided to leave the task of making projections to others. Perhaps our knowledge of the rapidity with which previous projections have been significantly revised gave us an appropriate degree of humility.

This decision, we think, greatly aided us in focusing on policy issues. We sought to establish the criteria under which coal would be produced and used in an environmentally and economically acceptable manner. Once these criteria have been set, other factors such as the marketplace can determine how much coal will be used.

Our recommendations, though they do not address and answer all relevant questions, go a long way toward this end. And we would make these same recommendations whether we expected coal use in 1985 to be 0.6 or 1.3 billion tons, or any level in between.

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[*] Funding for this meeting was provided by the Ford Foundation and The Dow Chemical Company, United States Steel, PPG Industries, and The Detroit Edison Company.

[1] *The Rule of Reason: A New Approach to Corporate Litigation*, Milton R. Wessel (Addison-Wesley, 1976).

Comments on other limits

The project also did not address coal-related questions in the areas of labor relations and occupational health and safety. This is not to imply that such issues are not important; they simply lie beyond the scope of the project.

It is important to understand that the project did not set out to develop a comprehensive national policy addressing all issues related to coal. We did seek to study, debate, and where possible resolve those issues which involve the use of coal and its impact on the environment, that is, issues which are at the forefront of the industry/environmental conflict.

What we hope to achieve

We do not expect everyone to agree with all the recommendations in this report, nor do we believe that what we have written is necessarily the final word. Our goals are more modest: By indicating where, and why, knowledgeable individuals from both sides agree (and in a few cases, where and why they must continue to disagree), the discussion of policy options can proceed in a more informed manner. Moreover, if others agree that our recommendations are reasonable, the prospects for their implementation will be enhanced. Thus the interests of environmentalists and industrialists—and the public—will be served.

We are not proposing that the process of discussion and negotiation in which we have participated should replace the adversary process. Indeed, many of the policy recommendations on which we have agreed would have to be implemented through the traditional adversary system; that is, they require action by legislative and judicial bodies. Furthermore, even if it were possible to bypass the adversary system on some issues, there are others that simply do not lend themselves to negotiated agreements, sometimes because they involve principles so deeply held by the different sides that there is no hope for negotiation, and sometimes because they involve the legal rights and obligations of the parties. In such cases, it is to be expected that each side will seek resolution in the duly-constituted adversarial forums.

We believe, however, that exclusive reliance on adversarial processes is likely to produce decisions that are less desirable (from the point of view of either of the parties) than those in which a common position serving both interests could have been agreed to in a nonadversarial context. In light of our experience with the National Coal Policy Project, we believe that the use of the Rule of Reason and similar nonadversarial methods can often supplement traditional adversarial processes by developing the facts and reducing the area of disagreement in such a way as to produce better reasoned and more effective policy decisions for all concerned.

SYNTHESIS OF POLICY RECOMMENDATIONS

Where We Agree, the report of the National Coal Policy Project, contains over 200 recommendations agreed upon by the project participants. Each recommendation is significant in its own right, though some are obviously more far-reaching than others. The presentation of individual recommendations, however, does not capture the feeling held by the participants that the whole is greater than the sum of its parts. At the end of the project's first phase we realized that the recommendations taken together represent a dramatic change in the formulation and implementation of national energy and environmental policy. Perhaps the point can best be made by showing how decisions would be made if our recommendations were implemented.

Mining should be encouraged in areas where ways to avoid significant environmental problems have been demonstrated and discouraged in areas where this has not been done. This is consistent with renewed emphasis on deep mining in the Illinois Basin and Appalachia (especially Southern Appalachia, where fewer acid drainage problems exist). Much of the nation's future coal can come from those regions. Fewer new and unsolved environmental problems exist there than in the arid regions of the West. These conclusions are reinforced by considerations of the total heat content of coals in various regions and at different depths, and by the probable impact of recent amendments to the Clean Air Act.

The goals of reclamation should be different in different regions. In Appalachia, reclamation should include restoration of a successional native forest ecosystem unless some better use can be demonstrated and approved; in the Midwest, return of mined land to at least its previous level of agricultural productivity; and in the arid regions of the West, establishment of a viable, progressive, self-regenerating ecosystem able to withstand periodic droughts. In all areas it means not damaging the quality and quantity of ground and surface waters. The ability to meet these goals has not been demonstrated in highly productive agricultural lands in the Midwest and in many areas of the West such as Ponderosa pine forest lands, actively subirrigated alluvial valley floors, areas with many springs, and areas with low precipitation and high rates of evapotranspiration. Until the long-term viability of reclamation techniques has been demonstrated, mining in these environmentally sensitive areas should be conducted only on a limited, experimental basis.

Certain important gaps in present policy should be filled. A policy should be adopted to prevent any significant increase in congestion, over that which existed in 1975, arising from railroad transport of coal. Construction and operation of a coal slurry pipeline should be approved only if it does not cause net depletion of ground or surface waters in the arid regions of the West. The builders of coal slurry pipelines should be granted the right of eminent domain contingent upon authorization for railroads to enter into long-term contracts for the hauling of coal, so that both modes can compete on a more equal basis.

Surface mining permits should be issued on a watershed basis and should be phased so as to control watershed impacts. Prior levels of productivity should be restored on all farmlands in the Midwest and not just those classified as prime farmlands. Minimum federal standards should be set for the control and mitigation of environmental impacts arising from underground mining of coal.

Policies that require the beneficiary to pay the full cost of using "public goods" should be encouraged. Public goods are those that are accessible to all and for which no private property right can be nor has been created. Navigable waterways, public highways, and the atmosphere are examples. When little or no charge is made for the use of such goods, as is now true in many cases, the use of public goods instead of private goods which must be paid for will naturally be favored. Thus, it is in the economic interest of shippers to use "free" waterways and "low-cost" highways instead of railroads. Similarly, it is in the economic interest of many to use the "free" atmosphere as a disposal medium for pollutants instead of paying for pollution abatement. It must be recognized that the use of public goods imposes costs on others, such as higher taxes needed for the construction and maintenance of waterways and roads, and medical and other costs incurred as a consequence of air pollution.

In the last few years much progress has been made in identifying certain social costs and prescribing minimum standards of conduct in the form of regulations concerning the use of public goods. The cost of compliance with the regulations then becomes the price of using the public goods. The existing system is working, but not as well as we believe would be in the best interest of society. Our approach would make use of economic incentives and disincentives to make private interest more consistent with the public interest. User charges should be set to cover the full development and maintenance costs of waterways and public highways. Specifically, commercial users of waterways should be required to pay charges covering their fair share of the full costs of the waterway segment being used. An innovative emission charge and rebate plan has been developed that should be tried in one or more areas in which the air quality standards are not now being met.

The government's role in the economic regulation of energy markets should be reduced by placing greater reliance on free-market mechanisms. Much of present government economic (price and market entry) regulation, in areas where natural monopolies are not evident, is both unnecessary and undesirable. It can lead to uneconomical investments in certain activities and the blocking of economically justifiable investments in others. This is particularly true in the transportation sector, where it is recommended that most such regulation be ended. If this is done, whatever coal transportation services are demanded by the market will be provided.

Policies should encourage the implementation of new technology. The Environmental Protection Agency should be allowed to issue variances for a limited number of first-of-a-kind plants using innovative combustion and pollution abatement technology. In the event performance fell short of design specifications, these variances would allow the continued operation of such plants, even though emissions were somewhat greater than would be permitted for a new plant using conventional technology. EPA would specify the maximum allowable excess as well as monetary charges proportional to the excess emissions. These charges would not exceed the cost advantage of the new technology.

Further, mandatory coal conversion orders and schedules should not foreclose the option of cleaner and/or more efficient coal-using technology, such as low-Btu gasification, fluidized bed combustion, and cogeneration of electricity along with heat and steam.

Finally, an emission charge and rebate plan which would reward those emitting less than an average level in relation to production and penalize those emitting more would provide a strong economic incentive to invest in more efficient and effective combustion and pollution abatement technology. This plan should be tested in one or more nonattainment areas. Present policy in such areas results in "the bad driving out the good," since existing emitters are in a strong position to deny trade-offs (reductions) in emissions to make room for new producers. The emission charge and rebate plan could well reverse this situation, since those emitters willing and able to use improved abatement technology would receive more under the rebate plan than they would pay into it. This would put economic pressure on those who were emitting more than the industry average to improve in order to avoid subsidizing their competitors.

Dollars spent on pollution abatement should be directed to achieve the maximum reduction in pollution. The national approach to pollution abatement should include careful and thoroughgoing cost/benefit analyses, with full consideration of the difficulties and uncertainties in quantifying and making commensurable many important factors involved. In considering how much money should be spent on pollution abatement, old power plants (20 years and older) should be required to spend as much but not more per killowatt-hour for the control of emissions than would be required for new plants. The environmental participants in the project favor requiring this expenditure for all existing plants, in order to produce decreases in area-wide total emissions. The industrial participants do not agree that this principle should be extended in this way and applied to all existing plants. The agreed-upon proposal imposes certain limits on both emissions and ambient concentrations of pollutants. It is intended to produce the most pollution abatement for each dollar spent. This may necessitate some shifting of investments from one plant to another, when more abatement can be achieved at the latter. The emission charge and rebate proposal previously described would encourage a similar result.

Major coal-burning power plants should be located, to the extent practicable, in the general areas where the energy is to be distributed. There is an urgent need to implement more effective and efficient pollution abatement technology for coal-burning plants. To the extent that damage results from pollution, it is equitable for those who benefit from the activity to bear these costs. A remote siting policy tends to run counter to these objectives.

Means should be established to expedite decisions regarding utility plant siting, with safeguards to insure that appropriate alternatives are considered and that all concerned parties are effectively represented. To this end, we propose a consolidated hearing process at the state level, early notification and discussion of possible alternatives, and public funding for responsible citizen groups so they can employ expert assistance and participate more effectively in the expedited process.

All parties stand to gain if these steps are taken. Reasonable alternatives (including nonconstruction alternatives) will be identified, sites with the greatest problems will be rejected before the proponents have invested enormous amounts of time and money in them, and the most acceptable sites will be more expeditiously approved.

This recommendation does not include the creation of a "superagency" with sole licensing authority. Such an action would raise more problems than it would solve.

Public policy should discourage the uneconomical use of energy. Users of energy have choices to make. How much energy they use depends on the cost of alternative ways of providing desired goods and services, the perceived value of those goods and services, and the price of energy. If energy prices truly reflected total market and nonmarket costs, the consumer would have more accurate information to guide his decision.

Today several forms of energy, most notably electricity, "old" oil, and natural gas, are priced on the basis of "rolled-in" average costs, which are derived from historical costs. In contrast to the general situation before 1970, these costs are at present much lower than the capital and operating costs (the incremental costs) incurred when the energy supply is expanded, since construction and other costs have risen so sharply during recent years.

Often the user of energy has a choice in considering how best to provide himself with a desired good or service. Perhaps it can be done with improved or alternative end-use technology—such as with heat pumps, heat storage systems, solar collectors, cogeneration of electricity along with the production of heat or steam, etc.—which would require the user to make an investment at incremental cost; or it can be done with purchased energy priced at average cost. Since average cost is frequently lower, the decision is usually to purchase energy. That decision requires the utility to expand capacity at incremental cost, which may be higher than the cost of using improved end-use technology. This results in more of the nation's limited resources being used to provide energy than is economically efficient. This inefficiency will lead to inflation and excessive reliance on imported fuels and may also have an adverse social and environmental impact.

Marginal cost analyses and principles should be used in the design of electric utility rate structures. We recommend that they be applied in a way that neither increases the total amount of revenue that would be permissible under current practice nor results in subsidy of one customer class by another. Each class of users would still pay a total amount based on historical or "embedded" costs, but most would pay a price close to incremental cost for at least the last units of their consumption and units consumed during times of peak demand on the system. This would provide a powerful incentive to make investment decisions that are more economically justified.

A strong government role in the funding of energy research, development, and demonstration is recommended. However, government should not subsidize (through grants, loan guarantees, and extra tax credits, etc.) the so-called "commercialization" of large centralized energy supply facilities. Such subsidies disguise the true cost of energy and lead to its uneconomical use. The unregulated private sector will produce the investment capital necessary for such facilities. when they are justified by market demand, if energy prices are allowed through appropriate federal policy to reach levels which permit returns on invested capital competitive with other undertakings of similar risk.

Energy policy and social policy should be addressed separately. A rational energy policy cannot also undertake the burden of solving all of the nation's social problems, including problems arising from the uneven distribution of wealth and income. It should not be required nor designed to do so.

While in general the idea of subsidies should be discouraged, exceptions should be made for cost-effective measures to improve the energy efficiency of the capital equipment (such as dwelling units, heating equipment, and appliances) used by low-income consumers. Income transfers might also be considered. On the other hand, policies which artificially depress energy prices cause distortions of market and investment decisions, lead to higher rates of inflation, and eventually produce an even greater adverse impact on those of low income.●

● Mr. STEWART. Mr. President, in the face of uncommon challenge, this Nation looks to innovative and creative solutions. Given the economic condition of this country, it is clear that the challenge is indeed uncommon. We face continuing inflation, rising unemployment, increasing foreign competition. It is time for innovation, to look at our problems anew, to break away from wornout procedures and methods.

Today, I am pleased to introduce, with my colleagues, what I feel to be an innovative response to the regulatory morass in America. This bill establishes the option of regulatory negotiation, a procedure which brings people together to work out sensible regulatory policy.

This bill encourages the formation of regulatory negotiating commissions which would be composed of all interested parties—business, labor, public interest groups—to formulate consensus agreements on what regulatory policy should be for a specific area of mutual interest. The Government's role would be restricted to that of facilitator. Agency representatives would act as observers. They may make suggestions, provide information, but they may not be voting members of the commission.

The measure we are offering today instructs the Administrative Conference of the United States to establish procedures to encourage the voluntary formation of these regulatory negotiation commissions. A special limited fund would be created to cover the costs of bringing the interested parties together and for a mediator that would be selected by the applicants.

Membership in the commission will operate essentially on the basis of self-selection. Individuals and organizations with an identifiable interest in a specific regulatory area can request to form a regulatory negotiating commission. Applications will be approved by the chairman of the Administrative Conference if there is a reasonable likelihood that the applicants can produce a document that will significantly expand the existing areas of consensus for the particular regulatory area involved, and can create a more cooperative environment between major affected parties for the formation of future regulatory policy.

Mr. President, the assumption underlying the formation of these regulatory commissions is that this country will be better off when we can transform the traditional adversary relationship between the various sectors in our economy to cooperative efforts.

This is a theme that I found repeatedly emphasized in the Small Business Committee hearings on economic growth which I chaired. During these hearings, thoughtful observers from all economic sectors suggested that the time is ripe for innovation in labor/management/Government relations. In order to get this country through current economic difficulties, it is time for labor, management, public interest groups, and the Government to work together in a new partnership for the economic growth of America.

I believe the regulatory area is a good place to begin. Our present system of adversary relationships puts business against Government with labor and the public caught in the middle. This adversary relationship often leads to court with the resulting delays and legal costs which we all have to pay for. Each side is forced into taking extreme positions for the purpose of these lawsuits, trust between parties evaporates, the public interest is not served.

It is time, I believe, to break away from these damaging traditions and begin to try new approaches emphasizing the areas of cooperative agreement between parties. In my discussions with leaders from the business, labor and public interest community, I have been impressed with the interest in this new approach of regulatory negotiation. Such experiments have been tried in other areas. The retail food industry has had success with a joint labor management committee, a similar committee has been effective for the men's tailored clothing industry. The steel industry has set up a tripartite advisory committee, and the construction industry has been working with national and regional coordinating committees.

Mr. President, I asked the Congressional Research Service to review the work of these various tripartite cooperative endeavors and I ask unanimous consent that this report be printed in the RECORD at this time.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

TRIPARTITE COOPERATIVE ENDEAVORS IN LABOR RELATIONS IN THE UNITED STATES

SUMMARY ANALYSIS

Over the past decade, new approaches to deal with complex problems which transcend the traditional collective bargaining system have been developing. These new approaches, however, are complementary and supplementary to collective bargaining. The problems dealt with have an influence on the environment and subject matter of collective bargaining.

Institutionally, the new approaches take the form of a tripartite relationship. With some variations, these tripartite relationships may take the form of either a joint labor-management committee with a neutral chairman, or a committee composed of business, labor and government representatives. The tripartite committees may operate on a regional basis, an industrywide basis or a national basis. Such committees now exist in the retail food industry, the steel industry, the construction industry and the men's tailored clothing industry as well as in several communities on an area-wide basis. Also, within the recent past there had existed a tripartite committee on a national basis in the form of the President's Labor-Management Committee. Tripartite committees for the auto industry and the coal industry are under consideration.

These formal trilateral arrangements involve cooperation among labor, management and the government on a broad range of issues such as regulation (OSHA, EEOC, EPA), training and manpower, foreign competition and trade (impact of imports), productivity, research and development, wage and price restraints, technological change, legislation, and labor-management relations. Through these tripartite mechanisms, the parties deal with long-range problems, the coordination of government regulation, and the development of economic policies. The tripartite groups explore problems of mutual concern, attempt to reach accommodations and arrive at a consensus on possible solutions to problems. In a nutshell, the underlying basis of the new institutional approaches is trilateral problem solving. Consensus is an essential ingredient in the operations of these groups.

None of the existing trilateral endeavors are legislatively mandated. However, the concept of cooperation beyond that of the traditional collective bargaining system has been incorporated in at least two recently enacted laws. Section 6 of Public Law 95-524, Comprehensive Employment and Training Amendments of 1978, encourages the formation of joint labor management committees to work on problems outside the scope of the collective bargaining process and to jointly seek more effective ways of utilizing human resources. Public Law 95-523, the Full Employment and Balanced Growth Act of 1978, directs the Federal government to seek cooperation of businesses, labor and State and local governments to coordinate and utilize all their plans, functions and resources for the purpose of creating and maintaining conditions which promote full employment and production.

An analysis of the history of the present cooperative endeavors reveals that the parties recognized the need for cooperation because of an adverse economic environment (mutual survival); that the parties were agreeable to participating in a cooperative experiment; and that a majority had some previous experience with joint cooperation. In the retail food industry and the construction industry the parties had experience on tripartite committees during the 1971-1974 Economic Stabilization Program.

An analysis of the operations of the committees indicates that the continued viability of the committees depends, in part, on some form of permanent independent staffing or a neutral third party chairman. The staff coordinator or neutral chairman needs to have credibility with both labor and management and a commitment to the concept that cooperation can resolve many of the problems in the industry. Generally, it is believed that, for the continuance of a committee, it is necessary to have strong full time guidance from a chairman who can maintain frequent communication with the committee members and provide long range guidance on the committee's programs and agenda.

Characteristically, the committees generally began their work by collecting data and information from the many and varied sources. One of the first steps in the committees' operations is gaining consensus on the facts. In several instances, the committees have jointly developed research projects to be conducted by independent organizations to provide necessary information for dealing with an issue. For the committees to operate effectively the representatives must have trust in and respect for each other in order to openly discuss sensitive issues. There must be a mutual desire to solve problems. Indications exist that the committees could become perfunctory ceremonial social gatherings unless there is a commitment from all the parties to follow through on the group consensus.

Some feel that to get frank and open discussions they should be off-the-record. It is believed that the absence of a verbatim transcript makes it easier for members to speak freely and to compromise or change positions as a result of discussion. A reason given for the absence of more Federal sponsored tripartite discussions at the national level is legislation (the Federal Advisory Committee Act of 1972) that requires advisory committees to conduct their discussions in public, open to the press and media. The parties demonstrate an apparent reluctance to engage in free open dialogue in a "goldfish bowl".

Generally, the committees have been successful in achieving positive results. However, even on clearly circumscribed problems of immediate concern such as OSHA or EPA regulations, it may take up to a year or longer to gather and agree on the facts, explore alternatives and arrive at a consensus on the resolution. For instance, it took at least nine months of negotiations between the Joint Labor Management Committee of the Retail Food Industry and OSHA to achieve consensus on an acceptable regulation dealing with personal protective equipment in meat departments. But, most importantly, the end result was one the three parties could live with.

A danger which could undermine any efforts to encourage cooperation in resolving economic or labor problems within any sector would be the continuation of concerted anti-union activities or of attempts to erode unions' influence as worker representatives by management. Most labor representatives feel that the broadside attacks on organized labor in recent years works against the prospect of holding worthwhile discussions, much less reach a consensus on problems and solutions. Therefore, for labor and management to join in a mutual quest to help resolve critical economic issues would require a reassessment on the part of industry regarding the campaign directed against unions. Labor representatives withdrew from the National Collective Bargaining Committee in Construction and the President's Labor Management Committee because of the assault directed at labor unions. Of course, businesses have their own undermining fears, namely, that through increased cooperative ventures with labor and Government they lose control, eroding management prerogatives.

JOINT LABOR MANAGEMENT COMMITTEE OF THE RETAIL FOOD INDUSTRY

Factors leading to formation. The parties had served on the Food Industry Wage and Salary Committee during Phase III of the 1971-1974 Economic Stabilization Program.

The parties feared government intervention in the form of new wage controls programs if nothing was done to deal with the problems in the industry

The parties recognized that they had to face accumulated collective bargaining problems in the industry

The parties felt the need to have a forum for continuing dialogue and relationship outside the normal collective bargaining process.

Date formed, April 1974.

Structure: Chairman: Neutral third party; Appointed by consensus of labor and management; serves full time, calls and presides over meetings, prepares agenda with input from the parties, keeps dialogue going in a constructive direction.

Policy level. Executive Committee: Presidents of unions; Chief executive officers of 11 major food chains; meets quarterly; approve work of subgroups; adopts policy statements.

Operational level: Steering Committee: 26 members includes chairman; Chief industrial relations officers of the 12 largest supermarket chains; Top international officers and/or district directors from each union; meets monthly; deals with day-to-day issues.

Subcommittees—on health, safety, equal employment, collective bargaining, technology; to deal with special problems on assignment; to recommend action to full Steering committee; to investigate special overall industry problems.

A FMCS national representative sits as a regular member of the committee and works closely with the committee and chairman on all disputes or threatened disputes in the industry.

Staffing: A small staff along with full time chairman.

Financial support: From the parties individually represented on the committee; and from 2 major trade associations: the National Association of Food Chains and the Super Market Institute.

Participants: Labor representatives: Retail Clerks International Union; Amalgamated Meat Cutters and Butcher Workmen (these two unions merged in 1979 to form the United Food and Commercial Workers); International Brotherhood of Teamsters.

Management representatives: American Stores Company, Acme Markets, Food Fair Stores, Giant Food Stores, Grand Union Stores, Great Atlantic and Pacific Tea Company, Jewel Food Stores, Lucky Stores, Patchmark Division of Supermarket General, Safeway Stores, Stop and Shop Company, and Super Valu Stores.

Goals and functions:

To improve collective bargaining in the industry; to promote long-range stability in the industry; to deal with the complex economic and technological developments in the industry; to encourage open and high level communication on a variety of issues and problems that face the industry in an increasingly complex economic environment.

The Joint Labor Management Committee for the Retail Food Industry (JLMC) has been viewed by labor relations experts as having some success in reducing the number and length of strikes in the industry. The JLMC has given particular attention to key negotiations in the industry providing assistance to help avoid strikes. The JLMC has also developed criteria for evaluating the reasonableness of collective bargaining settlements.

The JLMC faced a serious problem involving potential litigation over OSHA regulation requirements concerning the use of personal protective equipment in the retail meat departments of supermarkets. Neither the industry nor the unions had been consulted in the formulation of these regulations. Consequently, there was disagreement as to when and how this equipment should be used. Furthermore, OSHA had brought suit to enforce its interpretations. Through the JLMC both labor and management agreed on a common understanding of how the regulation should be applied. With this agreed upon position, the JLMC then negotiated with OSHA on a "clarification" of the regulation. After a nine month period of meetings, inspection trips, and consultations, an acceptable regulation was worked out. The JLMC efforts brought about the withdrawal of the possible costly, time consuming litigation. As a result, the JLMC feels it is in a position where it can in future cases with OSHA, and perhaps with other Federal regulatory agencies, either influence the formation of regulations or work out the appropriate language for the regulations as they are applied.

Another example of JLMC efforts deals with a health issue concerning reports linking employee respiratory problems to conditions and materials present in retail meat departments, specifically the thermal decomposition byproducts from hot wire cutting of polyvinyl chloride (PVC) meat wrapping film. A subcommittee on Health and Safety was established to study the use of PVC soft wrap film in the retail food industry and to develop recommendations for appropriate action, if required. After reviewing the available research on the subject, the joint committee concluded a more thorough scientific study would be helpful. In 1976, with financial support from the Society of the Plastics Industry, the joint committee contracted to have a study done by the Harvard University School of Public Health. The representatives elected to pursue the joint research approach because they recognized that, although a voluntary approach to joint independent research may take a little longer to develop in the short run, it was preferable to legislation and/or legal confrontations which would take years going through the courts. Labor and management representatives decided that jointly developing a plan to provide for the adequate research of an occupational health question under the auspices of a jointly retained university and through a procedure that provides for input by all effected parties was preferable to a case-by-case resolution of an industry-wide issue being decided on an ad hoc basis without the benefit of sufficient factual evidence.

The JLMC also has a subcommittee exploring health and welfare costs. The JLMC approved a study to be carried out in cooperation with the Martin-Segal Company on ways health and welfare costs may be controlled.

JOINT JOB TRAINING AND RESEARCH, INC.

(Men's tailored clothing industry)

Factors leading to formation:

In 1976, the Amalgamated Clothing and Textile Workers Union requested a study of the men's tailored clothing industry be conducted by the Harvard Business School. The study was undertaken with the full cooperation of the Clothing Manufacturers Association.

On the basis of the study, it became apparent to both parties that if the industry were to survive it would take a concerted effort by union and management to make the industry more competitive.

Date formed: 1978.

Structure:

Board of Directors; 3 union representatives; 3 management representatives; administers 2 basic programs:

1. National Training Program.
2. Research and Development.

Participants:

Amalgamated Clothing and Textile Workers Union.

Clothing Manufacturers Association.

Financial support:

For the Research and Development Program—Office of Technical Assistance, Economic Development Administration, Department of Commerce.

Goals and functions:

The National Training Program: to focus on labor productivity, to collect data on the selection, training, and retention of new hires; to have an independent academic evaluation of the data collected; to provide the industry with guidance on how to hire better people, on effective means of training sewing machine operators and on factors important for retaining skilled workers.

The Research and Development Program: to develop techniques and strategies for revitalizing the industry.

The Joint Job Training and Research, Inc., is a nonprofit corporation established by the Amalgamated Clothing and Textile Workers Union and the Clothing Manufacturers Association. The corporation was formed to provide a coordinating mechanism for the several research projects. The major focus is on improving productivity and instituting innovations in the production process. Efforts to reduce the high turnover among the workforce in the industry are expected to improve productivity. The parties have drawn on the resources available from the Department of Labor and the Department of Commerce.

STEEL INDUSTRY TRIPARTITE ADVISORY COMMITTEE

Factors leading to formation:

The 1977 report of the Federal government's Interagency Steel Task Force (the Solomon Report) called for a tripartite study of the steel industry problems.

The Steel Industry Tripartite Committee was set up to carry forward the study of the industry's problems as recommended by the Solomon Report.

Date formed, early 1979.

Structure policy level:

Steel Tripartite Committee:

Secretary of Labor, co-chairman.

Secretary of Commerce, co-chairman.

Secretary of Treasury.

Steel industry representatives (American Iron and Steel Institute).

United Steelworkers Union representatives.

To assess the current state of U.S. steel industry.

To advise Secretaries of Labor and Commerce on issues affecting the industry.

To focus on long term problem solving.

Operational level:

Five tripartite working groups:

1. International Trade.
2. Technology Research and Development.
3. Modernization and Capital Formation.
4. Environmental Protection.
5. Community and Labor Adjustment Assistance.

To develop a clear tripartite picture of the industry's status in these five areas.

To report their conclusions on areas needing action.

To present courses of action which might be considered in addressing the problems identified.

Functions of working group on modernization and capital formation:

Formation: To review the progress and problems of the U.S. steel industry in raising capital for modernization and investment; to evaluate existing or proposed research on capital formation and modernization; to provide policy input on the modernization and capital formation aspects of the proposed assessment of U.S. steel industry and labor.

On environmental protection: To provide a forum for discussing environmental policy issues as they affect the steel industry and the steel unions; to determine the areas of flexibility in regulatory policy affecting the iron and steel industry; to resolve the industry's long-term concerns about environmental protections efforts and their consequences; to improve industry's, labor's and EPA's understanding of mutual problems.

On technological research and development: To conduct a study of the role of R&D and technological innovation in promoting a strong domestic steel industry; to examine the adequacy of Federal R&D funding in the steel industry with specific reference to funding of research on conservation and pollution abatement technology; to evaluate the steel industry R&D venture proposals.

On community and labor adjustment assistance: To monitor and review the impact of policy decisions on steel workers and steel communities; to evaluate existing or proposed research on steel labor and community adjustment assistance problems; to provide policy input on the labor and community adjustment aspects of the Steel Tripartite Advisory Committee's proposed assessment of the U.S. steel industry and labor; to define where the industry stands in terms of labor and community adjustment assistance; to identify with some specificity the problems confronting the industry and labor in this area.

Since its formation in early 1979, the Steel Industry Tripartite Advisory Committee has met three times and deals with national policies. The basic work of the Tripartite Committee is done through tripartite working groups. While the Tripartite Committee is strictly advisory, the Federal representatives will follow up on suggestions accepted by the group. The two cabinet secretaries (co-chairmen) present the concurred upon suggestions from the committee to the President's Economic Policy Group for consideration.

The Working Groups work directly with the agency most involved in the issues under study. For instance, the Deputy Assistant Secretary of Commerce for Productivity, Technology and Innovation participates on the Working Group on Technological Research and Development; the Assistant Secretary of Treasury for Domestic Finance participates on the Working Group on Modernization and Capital Formation; the Assistant Secretary of Commerce for Economic Development and the Deputy Under Secretary of Labor for International Affairs participates on the Working Group on Community and Labor Adjustment Assistance; and the General Counsel of the Environmental Protection Agency participates on the Working Group on Environmental Protection.

While a few initial recommendations have been made to the Tripartite Committee, the Working Groups have spent most of the time to date in pulling together data and reaching agreement on the facts. These groups, however, have identified some specific problem areas and issues for future study. A few concrete results have been achieved.

The Working Group on Community and Labor Adjustment Assistance gave its attention to ways of responding to steel plant closings announced in September 1979. The Working Group recommended that an action-oriented special steel task force coordinate and expedite the adjustment process under the Commerce-Labor Adjustment Action Committee (CLAAC), an existing interagency mechanism designed to deal with labor and community adjustment assistance problems. The reported accomplishments of the special steel task force were: improved flow of information to the field regarding services under unemployment insurance, employment services, CETA programs and trade adjustment assistance (TAA) benefits; speeded up the applications for benefits under the TAA program; encouraged the resolution of short term bottlenecks in the payment of overdue TAA benefits and pressured for revamping the entire Illinois TRA system of payments; helped to draw CETA prime sponsors into the effort to provide training and other services; and led an effort to station four full-time Federal representatives in four of the most seriously affected communities (Departments of Commerce and Labor each paying half the costs).

These Federal officials began work in May 1980 and will serve 3 to 6 months. They are responsible for implementing available assistance programs as quickly as possible. These officials are to act as catalysts to coordinate with the respective governor's office, local elected officials, state and local chambers of commerce, central labor councils, the company and union as well as other appropriate public and private organizations in designating suitable economic adjustments assistance to remedy local adverse conditions. In addition, these officials will assist in bringing together labor, management, local community leaders, the state employment security agency, ETA prime sponsors and others to collaborate in providing job and training opportunities.

The Working Group developed guidelines and plans for use by a special action-oriented task force in addressing any subsequent plant closings. The Working Group intends to analyze fully the success of this experimental undertaking and report its conclusion at a future time. However, the Working Group feels that this concept has the potential to alleviate previously unmet needs thwarting community and labor adjustment.

The Working Group on Environmental Protection devoted most of their time discussing the replacement-in-kind issue. This involved an examination of the merits of exempting replacement-in-kind facilities (a new facility replacing an existing facility of the same type with no increase in capacity or emissions) from EPA's new source requirements such as lowest achievable emission rate and statewide compliance. As a result of these discussions, EPA developed an understanding of industry's case to an extent that it had not previously been able to. Consequently, EPA is seriously reconsidering its replacement-in-kind policy.

The Environmental Protection group has also initiated discussions on such topics as options available to marginal facilities; the effluent limitation guidelines for water pollution control in the iron and steel industry; the bubble concept, which is a policy designed to increase the flexibility that steel companies have to control emissions; and the criteria document for particulate standards, which represents the first step toward revising these standards.

COMMUNITY AREA-WIDE LABOR-MANAGEMENT COMMITTEES

Factors leading to formation:

The area was suffering economic problems resulting from a long-term trend of declining industry, plant closures, high unemployment and history of labor strife.

Committee formation was often triggered by a crisis.

In at least four instances the mayor of the city was the prime mover in getting the committee started.

Date formed:

There are about two dozen area-wide joint committees. A few examples are:

1946—Louisville, Ky.
1972—Jamestown, N.Y.
1975—Evansville, Ind.
1975—Cumberland, Md.
1975—Buffalo-Erie County, N.Y.
1976—Chemung County, N.Y.
1976—Springfield City, Ohio
1976—Clinton County, Ohio

Structure:

Full Committee:

Chairman—alternates between the parties.

Equal number of labor and management representatives selected by their own respective groups.

Agenda developed jointly.

Executive Board—determines the priorities and activities of the committee; may have public and/or government representatives; may establish working subgroups or study groups.

Staff:

Coordinators/directors; employed full or part-time.

Financial support: Partial Federal funding from such agencies as CETA, Appalachian Regional Commission, Economic Development Administration.

Goals and functions:

To work jointly to solve mutual problems; to open channels of communication between labor and management; to improve labor-management relations; to dispel a "poor labor image" of the area; to improve labor relations climate and human resources management; to establish plant level labor-management committees to improve cooperation and productivity; to stimulate industrial growth and development; to reduce the level or degree to which industry was leaving the area; to establish an environment conducive to industrial retention, economic development and increased employment opportunities; to coordinate efforts in manpower training and placement of unemployed workers.

Although community area labor-management committees date back to 1946, it has only been within the past five or six years that they have gained momentum. In 1978, the directors of 15 area labor-management committees formed the National Association of Area Labor-Management Committees. The purpose of the national association is to provide direct assistance to communities interested in organizing an area labor-management committee and to be a resource center for the exchange of information among existing committees.

Existing communitywide labor-management committees share the characteristic of being concerned primarily with relations between companies and unionized employees.

Most committees, especially those established in recent years, attempt to work closely with local governments while at the same time maintaining their independent identity. It is felt that some degree of separation from local government makes the committee less vulnerable to political changes in the community. According to participants, it ensures that the committee will be seen as a community effort by labor and management rather than as a program developed and dominated by local government. There are, however, exceptions. For instance, the Louisville committee is a formal part of the city government.

Evaluations of these areawide committees generally indicate that they are demonstrating a degree of success in achieving their goals. For example, the Buffalo-Erie County Labor-Management Council claims that it has significantly contributed to reversing the depressed economic situation in that area. Since its formation in 1976, the acclaimed accomplishments include increasing employment by 10 percent, reducing the area's unemployment rate to its lowest level in a decade, decreasing each year the working time lost due to strikes, and establishing a unified coordinated approach to the area's economic development. The Council suggested to the city and the county an organizational structure which would place all economic development agencies under one umbrella. Over an 18 month period, the recommendation went through a negotiations process which involved all the agencies concerned, all local political leaders and the state legislature. The end result was a broad based Erie County Industrial Development Agency with the co-chairmen of the Labor-Management Council serving as chairman and vice-president.

The Cumberland Area Labor-Management Committee has effectively lobbied against heavy-handed enforcement of environmental regulations impacting on local industry. In 1978, the EPA pressed to enforce a new standard it had recently developed on a local paper company. The EPA took this action without talking to anyone prior to enforcement and without giving cognizance to the fact that the company had been working with the state agency. The management and the union of the company requested help from the Cumberland Area Committee who, in turn, contacted their congressional representatives. Because the request for assistance in the situation came jointly from labor and management it received prompt attention and subsequently obtained satisfactory results.

NATIONAL COLLECTIVE BARGAINING COMMITTEE IN CONSTRUCTION

Factors leading to formation:

There was need to deal with an unstable collective bargaining situation in the construction industry.

There had been previous tripartite committees in construction: the Construction Industry Bargaining Committee established in 1969 by E.O. 11482 and its replacement, the Construction Industry Stabilization Committee established in 1971 by E.O. 11588 which was abolished at the end of the wage and price control program in 1974.

Through this experience, the national labor organizations and national contractor associations were prepared to participate and work on the industry's problems.

The general industry feeling that a federally established construction bargaining unit was necessary because of the large wage settlements and strike activity since the wage controls ended in 1974.

Date formed:

November 1974: Interim committee established by the Secretary of Labor.

April 1975: Formally established by Presidential Executive Order 11849.

Terminated:

January 1976: Became inoperative when labor leaders resigned over presidential veto of common situs picketing bill.

Structure:

Secretary of Labor, chairman; Director, Federal Mediation and Conciliation Service; 10 labor members; 10 management members.

To make recommendation to the Economic Policy Group and the President; to make periodic reports to the President; meet at least twice a month: technically a unit of the President's Labor-Management Committee created by E.O. 11809 (see p. 26); appointments made by the President.

Participants:

National union presidents of the:

Building and Construction Trades Dept., AFL-CIO.

Sheet Metal Workers.

International Brotherhood of Teamsters.

Laborer's International Union.

Bridge, Structural and Ornamental Iron Workers.

International Brotherhood of Electrical Workers.

Painters and Allied Trades.

United Brotherhood of Carpenters.

Plumbers and Pipe Fitters.

International Union of Operating Engineers.

Management Representatives from:

Contractors Mutual Association.

National Electrical Contractors Association Inc.

Mechanical Contractors Association of America.

Mason Contractors Association of America.

National Constructors Association.

National Associations of Home Builders.

Bechtel Corporation, San Francisco, Calif.

Associated General Contractors of America, Inc.

Council of Construction Employers, Inc.

The Volpe Construction Co., Inc., Malden, Mass.

Goals and functions:

To facilitate the collective bargaining process at local and area levels; to assist in providing a data bank on wage and benefit information; to encourage peaceful negotiation of responsible local and area agreements; to facilitate local coordinated bargaining and larger area bargaining wherever appropriate; to seek to resolve particular disputes that cannot otherwise be reasonably resolved; to review and analyze construction manpower including regional requirements and availability of skills, effectiveness of training programs, and to maintain a central data bank; to consider measures to reduce the instability of demand for construction labor; to consider measures to increase productivity in the industry; to consider problems arising from the activities of separate Federal government agencies as they affect the construction industry; to encourage the establishment of joint regional or local area committees; to consider long term developments in the industry and to develop appropriate policies in the national interest.

Since the late 1960s, there has been joint participation of management and labor in the construction industry on various national tripartite committees. The National Collective Bargaining Committee in Construction developed principles and procedures designed to resolve collective bargaining disputes in the industry. By unanimous endorsement, they were incorporated in the Construction Collective Act of 1975, Title II of the construction industry bill vetoed by the President because it was linked with the easing of common situs picketing restrictions. This veto led the union members to walk off the committee.

This committee believed that a coordinating committee of Federal government agencies was necessary to facilitate relations with the Federal government on many matters, to coordinate diverse activities, and to simplify communication and discussion of policy issues. In 1979 the Department of Labor established an office of construction.

Although the national committee is defunct, labor and management in the industry continue to work cooperatively in many areas. For example, in 1978, representatives of the contractors associations and the building trade unions formed a Joint Construction Industry Safety Committee to push for the creation of a single safety standard for the construction industry.

REGIONAL CONSTRUCTION COORDINATING COMMITTEES

Factors leading:

The idea of regional construction coordinating committees emanated from the Subcommittee on Seasonality of the Construction Industry Collective Bargaining Commission in 1971.

A mechanism was needed to explore ways of countering seasonal unemployment in construction and improving productivity.

Date formed:

1973—Chicago.

1978—Kansas City.

1978—San Francisco.

1979—Boston.

1980—Denver.

Structure:

25–35 members officially appointed by the Secretary of Labor—organized labor; management—contractors, architects, and engineers; government—Federal, State, and local; subcommittees may be given special assignments; monthly meetings; meetings are open to the public with as many as 100 persons from business, labor, banking, various associations and the press attending.

National coordination:

In February 1979, the Office of Construction Industry Services, Labor Management Services Administration (LMSA), Department of Labor, was established.

Staff:

A director is employed for each regional committee.

To provide supportive services.

To act as a facilitator.

To prepare reports related to the construction industry with the assistance from members.

Financial support:

Since 1976, LMSA has provided the financial support.

Five different Federal agencies have provided the source of funds for the Chicago committee.

Goals and functions:

To reduce seasonal unemployment and the need for unemployment insurance; to encourage inter- and intra-agency coordination in planning construction; to modify government practices that raise the cost of public construction; to explore ways to promote industry and government regulations which could enhance industry productivity; to encourage more efficient use of capital; to reduce inflationary seasonal demand for labor and materials; to stimulate use of cold weather building technology and nontraditional materials; to relate job training to industry requirements.

An evaluation of the Chicago Construction Coordinating Committee (CCCC) was done by a private research firm.[1] One of the study's major findings was that the CCCC greatly improved the interaction among the various groups involved in construction. The CCCC brought together representatives of different Federal agencies involved in construction. Previously, there was no mechanism for coordinating construction activities among Federal agencies. According to the study the interaction between government agencies and industry representatives resulted in improved coordination, application and enforcement of government regulations.

Also, according to the study, the CCCC has contributed to "a new, and evidently more efficient, system or framework for problem solving and conflict resolution," CCCC meetings have created a network of personal contacts which provides significant opportunities for members to deal with problems in a non-adversary, cooperative manner. The CCCC meetings also served a vital communication function whereby different viewpoints can be aired publicly among representatives from different segments of the construction industry.

The regular attendance at meetings by prominent individuals at decision-making levels had the dual effect of setting an example for other participants and establishing a reputation for the CCCC operations.

The Committee has been used as a "unified voice" to communicate industry concerns to national policy makers.

Members interviewed for the study indicated that (1) representatives of both industry and government were much better informed as a result of their participation in the CCCC; (2) all groups had a better understanding of the different perspectives and positions of labor, management and government, and (3) CCCC participants became integrated into the Committee's extensive system of personal contacts. In sum, it was felt that these factors have enabled the individuals to perform their own jobs more efficiently.

Factors contributing to the success of the committee, according to the study, included: (1) the staff was responsive to the needs of the members and receptive to suggestions; (2) the meetings were efficiently run and beneficial to all members; and (3) the issues discussed were relevant and timely. It was claimed that the impact of the committee, while not directly verifiable, included reducing the level of construction wage increases in Chicago (during the past four years has been lower than the national average); and keeping the level of increase in construction material prices lower in Chicago than in the nation as a whole.

PRESIDENT'S LABOR-MANAGEMENT COMMITTEE

Factors leading to formation:

This committee was established as follow up action flowing from the President Ford's "summit" Conference on Inflation held in September 1974.

Date formed:

September 1974, by Executive Order 11809.

Terminated:

August 1978, by resignation of labor members because of business's posture on labor law reform along with other anti-union activities by employers.

Structure:

A neutral coordinator; 8 labor leaders; 8 chief executive officers from management appointment by the President.

Participants:

Union presidents selected from:

AFL–CIO, Amalgamated Clothing and Textile Workers, International Brotherhood of Teamsters, Seafarers International Union, United Steelworkers, Plumbing and Pipe Fitting, United Autoworkers, United Mine Workers, and secretary-treasurer, AFL–CIO.

Company chairmen selected from:

Bechtel Corp., General Electric Corp., General Motors Corp., Jewel Companies, Inc., E.I. duPont de Nemours & Co., U.S. Steel Corp., Mobil Oil Corp., First National City Bank, Sears, Roebuck & Co., Aluminum Corp. of America, and Citicorp.

Goals and functions:

To study, to advise, and to make recommendations with respect to policies that may be followed by labor, management, or the public which will promote free and responsible collective bargaining, industrial peace, sound wage and price policies, higher standards of living, increased productivity, and related manpower policies, and such other matters which could contribute to the longer-run economic well-being of the Nation.

To encourage the establishment of labor-management committees, bipartite or tripartite, in particular sectors or industries as may be appropriate.

The President's Labor-Management Committee was formally a part of the White House hierarchy. Its coordinator was John T. Dunlop, former Secretary of Labor, who played a crucial role in setting the committee agenda and in directing research for its various initiatives. Both parties viewed his services to the committee as "indispensable." When Dunlop resigned from the Cabinet in February 1976, the committee became temporarily dormant. After a brief interim, some of the committee members conferred and agreed to continue the committee on a private basis reconstituting as the Labor-Management Group, again with Dunlop as coordinator. The group declined to become a

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[1] CSR, Inc., Evaluation of the Chicago Coordinating Committee Project, Executive summary, March 1979, p. 25–26.

Presidential committee because they were concerned, among other considerations, about pressures from Ralph Nader to force them to conduct their meetings publicly. The informal private Labor-Management Group, chaired by the President of the AFL–CIO and the chairman of the General Electric Corp., expressed a willingness, however, to cooperate in a voluntary, non-official manner with the President on a broad range of economic policy issues. The Group met frequently with members of the Cabinet and Presidential advisors at the Group's meeting place.

In the Spring of 1978, the sessions with the administration officials were terminated because of the Nader-sponsored threat to force the meeting to be held in public. The Group continued to perform until August 1978 when the labor members withdrew because of the business executives posture on labor law reform.

Although organized labor terminated its participation in this high level labor-management group, its work and functions had been viewed favorably by both parties. The committee's recommendations were claimed to have had a significant impact in policy discussions and their principles generally accepted. President Ford sat in on the discussions. These discussions were claimed to constitute the most realistic briefing the President received on the economy. Some believe the President's participation in the meetings to be the most important factor in the committee's effectiveness. Some maintain that the committee's influence depended to a great extent on its ability to get the regular attention of the President and on its maintenance of a low profile. The committee members felt they could serve the President most frankly and freely in a sort of private forum.

There was a degree of follow up on the committee's recommendations which had been a serious deficiency in previous Presidential committees. Extremely touchy issues on the part of either side generally were laid aside rather than allowed to become a stumbling block to discussion of other important issues.

According to some observers, the committee's discussions benefited from the absence of a panel of public members in that the free-flow of exchange was facilitated by not having public members commanding equal time.

In general, labor and management members showed respect for each others ability and know-how. Both parties gained a deeper understanding of their respective problems.

Mr. STEWART. Mr. President, I urge my colleagues to review this material and to support this new, cooperative approach to regulatory policymaking. I believe the commission concept has exciting potential as part of the revitalization of our economic system. Certainly, in times of challenge, we can and must be open to new ideas and procedures. The regulatory negotiation commissions may provide just the innovative alternative to redirect our energies along more positive and constructive lines.●

By Mr. DOLE:

S. 3127. A bill to amend the "Presidential Election Campaign Fund Act" regarding a Presidential candidate refusing to debate; to the Committee on Finance.

PRESIDENTIAL DEBATE: FAIR ACCESS AND INFORMATION AMENDMENT

● Mr. DOLE. Mr. President, the Federal Election Campaign Act of 1974 is predicated upon maximizing the public nature of elections. It is this underlying reality which some have used to justify the payment of public funds to private citizens and public officials alike who choose to run for elective Federal office.

This year the price tag for federally controlled elections will be $29.4 million to each of the major party candidates, and it has been announced by the FEC that Independent candidate JOHN ANDERSON may be eligible to receive an as yet undetermined amount based upon his showing in the November election.

The public character of the elective process is equally evident in the regulations and statutes which control the political use of the so-called electronic media. It is the essence of the political process which dictates our use of both financial and media reports.

Mr. President, the bedrock of these considerations is the public's right to fair participation in and fair access to the information necessary to form judgments on whom to support and vote for in an election. The usual complaint by candidates is that the Federal Election Campaign Act of 1974 and the FCC controls regarding equal time are too restrictive. Candidates always want more money and more air time.

Today, however, we are faced with a different situation. The various major Presidential candidates have been presented with the opportunity to openly state their views before a nationwide audience in a debate format. It is to the credit of the League of Women Voters that they have provided this forum which has become almost an institutionalized part of our electoral process.

Despite the fact that his accession to the Presidency was materially assisted by the existence of FECA funds, Mr. Carter now wishes to change the rules and the basic philosophical thrust of the purposes of the FECA and FCC laws. His refusal to debate both Governor Reagan and Congressman Anderson is defrauding to the taxpayer who funds the FECA on the assumption he is going to be informed by the candidates.

Up until now, all the legislative and regulatory concern has been on equalizing the candidates' access to those benefits, rather than on what the public receives for its financial contribution to the electoral process. Neither the legislator nor the regulator has considered the case of the hide-away candidate. One might think that as President there is no need to fund his access to the voter. However, there are two problems with this: First, the law contemplates giving identical sums to both challenger and incumbent alike; and second, nobody ever contemplated that the Presidential portion of FEC funds would be a rose garden fund to keep the President from public view.

Perhaps because of challenges within his own party, or perhaps because of what the last 3½ years have produced in this country, the President has begun to disappear from public view. When Jimmy Carter took office as President he promised to hold bimonthly press conferences. As evidenced by the numbers, President Carter's promise was not kept. To date Mr. Carter has held 58 press conferences but, more importantly, he has held only 5 since January 1, 1980.

THE ROSE GARDEN FUND

The candidate is given the taxpayers' money in order to provide him a fair chance to tell the electorate who he is and for what he stands. Neither this Senator nor any of his colleagues ever conceived that a Presidential candidate could use 29.4 million taxpayer dollars to hide himself from those very voters he wishes to serve.

If, in fact, we are committed to the idea that information is the life blood of the political process, then we must amend the Federal Election Campaign Act of 1974 to guarantee that candidates for the office of President must utilize the public funds provided to them to inform the electorate or suffer an appropriate penalty. It is in this context that I have proposed that a candidate refusing debate under controlled circumstances should lose his claim on the money of those whom he refuses to inform.

There is certainly no wrong done to a person who takes millions of taxpayers' dollars to send his message to his constituents in taking away his money if it is not used for the purpose given. Our political evolution must be toward sunshine in politics, not back to the political game and secret operations of a bygone day.

When the President takes millions from the taxpayer to finance his own voting activities, he necessarily undertakes a trust to be sure that that money is well spent. We in the Senate are charged with the responsibility of insuring that that trust not be compromised, either willingly or unwillingly. Public funds are not well spent by a candidate who fails to take his opportunity to let everyone know where he stands on issues of the day, regardless of the impact he personally feels such a public airing may have on his own political future.●

By Mr. BELLMON (for himself and Mr. BOREN):

S. 3128. A bill to remove certain lands from the Wichita Mountains Wildlife Refuge, Okla.; to the Committee on Environment and Public Works.

WICHITA MOUNTAINS WILDLIFE REFUGE

● Mr. BELLMON. Mr. President, I am today introducing a bill coauthored by my colleague, Senator BOREN, which is intended to solve a potentially difficult situation which has developed in connection with a portion of the lands of the Wichita Mountain Wildlife Refuge near Lawton, Okla. An identical bill is being introduced by members of the Oklahoma Congressional Delegation on the House side.

Mr. President, the problem is that 45 years ago improvements which have come to be known as the "Holy City" were constructed by the WPA under the administration of President Franklin D. Roosevelt for use in an Easter pageant. This pageant has continued over this lengthy span of time and now draws 15,000 or more persons each year for the sunrise ceremonies which are conducted on Easter morning. In recent weeks an organization has announced plans to file a legal action challenging the constitutionality of using Federal lands for a religious activity. The Secretary of Interior has made a determination that as long as a property is open to the public the existing structures may remain but this decision is also under challenge. If the challenge succeeds the Government may be required to destroy these structures.

I believe and I feel my colleague, Senator BOREN, agrees, that the conveyance of this tract of land to the Wichita Mountain Association, a legal nonprofit organization, is the best solution to this problem. The legislation which I am introducing would transfer the title to this organization with the caveat that ownership would return to the Federal Government at any time the lands are no longer used for public purposes.

Mr. President, the transfer of this 90-acre tract will not seriously or even appreciably damage the value of the Wichita Mountain Wildlife Refuge. The refuge consists of 59,019 acres and the tract being transferred is so situated that its transfer out of the refuge will not interfere with access to the refuge, its management or use by the public.

I strongly urge prompt affirmative action on this legislation as the best solution to a difficult problem.●

● Mr. BOREN. Mr. President, I am pleased today to cosponsor legislation offered by my distinguished colleague from Oklahoma, Senator Bellmon, which directs the Secretary of the Interior to convey 90 acres of land—part of the Wichita Mountains Wildlife Refuge near Lawton, Okla.—to the Wichita Mountains Easter Sunrise Service Association.

This land may be held as long as it continues to be used for public recreational and cultural activities. In the event that lands are no longer used for these purposes, title will revert back to the U.S. Government to be administered as part of the National Wildlife Refuge System.

This land has been used for almost 50 years as the site of a nationally-known Easter sunrise service. This service is part of a rich historical and cultural heritage which is cherished by Oklahomans and the tens of thousands of out-of-State visitors who travel to the Lawton, Okla., area each year to view the pageant.

This legislation is necessary to assure that the site is maintained as the location of this famous Easter spectacle.

The Wichita Mountains Easter sunrise service was started by the Reverend Anthony Mark Wallock in 1926 at a different site in the Wichita Mountains. The site was moved in 1933 because the over 20,000 persons who attended could not be accommodated at the smaller location.

From its inception, the pageant has operated by the policy that the service would always be nonsectarian and open to all persons.

When it became necessary to move the site, citizens of Lawton and nearby communities joined with the local Chamber of Commerce and officials in State government to secure Federal assistance. First, authority was granted by the U.S. Department of Agriculture for use of about 160 acres of land which was then part of the Wichita National Forest. Later, in 1936, the Bureau of Biological Survey of USDA took over control of the land which included "the Holy City," as it was referred to in WPA files.

At still a later date, the entire area of land became known as the Wichita Mountains Wildlife Refuge and was operated by the Bureau of Sport Fisheries and Wildlife, part of the Fish and Wildlife Service of the U.S. Department of the Interior.

A Federal grant of $13,000 was provided to make the site ready and to move props to the new location. Then, U.S. Senator Elmer Thomas and U.S. Representative Jed Johnson went to President Franklin D. Roosevelt with correspondence and resolutions from all of Oklahoma's major cities in an attempt to convince him that the pageant constituted a rich historical event for Oklahomans and all Americans.

A grant of $94,000 from Federal funds was unconditionally set aside for the pageant. It was handled through the Lawton Chamber of Commerce since no organization representing the service had been incorporated up to that time.

The WPA completed buildings on the grounds of the "Holy City." A ceremony to celebrate their completion and to dedicate the facilities was held on March 31, 1935.

By this time, the Wichita Mountains Easter Sunrise Association had been incorporated. On December 15, 1936, the association accepted the release of the buildings and improvements from the WPA, accepting full responsibility for maintenance and operation of these facilities.

Several important changes were made in 1938, the year in which over 180,000 people attended and heard Senator Thomas read a personal message from President Franklin D. Roosevelt. Because of the early arrival of so many worshippers, the performance was changed into an all-night service.

Audiences continued to grow. Special buses and trains brought spectators from all directions. In 1939, 30 large buses were used to take visitors out to the "Holy City."

The entire 1939 service, as well as the one in 1940, was broadcast by CBS.

The Reverend Wallock died in 1948, and the pageant was turned over to co-directors who continued the tradition.

Directors have included George Hutchins, Jimmy Hysaw, The Reverend Lambert Orton, Jack Batten, J. O. Smith, Craig Pierson, Dave Sandstrom, Col. Jack Rhodes, Millard Coody, Wes Miller and L. A. Ellis.

It was Reverend Wallock's lifelong dream that a statue of Christ be erected as part of the Holy City site. Children of the area were asked to donate pennies toward a fund for this purpose.

In 1970, the association began a new drive to secure funds for the statue. The fund was started with the money which had been saved from children's pennies. Dedication of the statue was held on November 9, 1975.

All funds used to operate the pageant are donated by private sources.

Mr. President, this Easter sunrise service means a great deal to all Oklahomans and to visitors who attend every year. For many years, the pageant has operated on a use permit granted by the U.S. Department of the Interior. This legislation would provide the association with the assurance that lands on which the Holy City is located could be retained. It offers a degree of certainty to pageant supporters which they have not had up until this time.

I urge my colleagues to join me in supporting this bill.●

ADDITIONAL COSPONSORS

S. 1638

At the request of Mr. ROTH, the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 1638, a bill to amend the Internal Revenue Code of 1954 to provide for the amortization of start-up expenditures paid or incurred in starting a new trade or business.

S. 2392

At the request of Mr. LUGAR, the Senator from Alabama (Mr. STEWART) was added as a cosponsor of S. 2392, a bill to repeal the Federal requirement of incremental pricing under the Natural Gas Policy Act of 1978.

S. 2581

At the request of Mr. CHURCH, the Senator from New Hampshire (Mr. DURKIN), and the Senator from Arkansas (Mr. BUMPERS) were added as cosponsors of S. 2581, a bill to amend title 5 of the United States Code and the Internal Revenue Code of 1954 to provide certain benefits to individuals held hostage in Iran and to similarly situated individuals.

S. 3012

At the request of Mr. WILLIAMS, the Senator from Vermont (Mr. LEAHY), and the Senator from New Hampshire (Mr. DURKIN) were added as cosponsors of S. 3012, a bill to amend the Internal Revenue Code of 1954 to eliminate the requirement that the States reduce the amount of unemployment compensation payable for any week by the amount of certain retirement benefits, and for other purposes.

SENATE JOINT RESOLUTION 121

At the request of Mr. ROTH, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of Senate Joint Resolution 121, a joint resolution calling for a constitutional amendment allowing voluntary prayer in public schools.

SENATE JOINT RESOLUTION 176

At the request of Mr. INOUYE, the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of Senate Joint Resolution 176, a joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the 7 calendar days beginning October 5, 1980, as "National Port Week," and for other purposes.

SENATE JOINT RESOLUTION 197

At the request of Mr. MOYNIHAN, the Senator from Washington (Mr. JACKSON), the Senator from New Jersey (Mr.

BRADLEY), the Senator from Mississippi (Mr. COCHRAN), the Senator from Tennessee (Mr. SASSER), the Senator from South Carolina (Mr. THURMOND), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Vermont (Mr. LEAHY), the Senator from Illinois (Mr. STEVENSON), the Senator from Indiana (Mr. LUGAR), the Senator from Maryland (Mr. MATHIAS), and the Senator from New York (Mr. JAVITS) were added as cosponsors of Senate Joint Resolution 197, a joint resolution to authorize and request the President to issue a proclamation designating September 18, 1980, as "Constantino Brumidi Day."

SENATE RESOLUTION 522—ORIGINAL RESOLUTION REPORTED TO WAIVE BUDGET ACT

Mr. MELCHER, from the Select Committee on Indian Affairs reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 522

Resolved, That Section 402(a) of the Congressional Budget Act of 1974, is waived with respect to S. 2829. Such waiver is necessary because S. 2829 authorizes the enactment of new authority which would first become available in fiscal year 1981, and such was not reported on or before May 15, 1980 as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible in this instance because S. 2829 embodies a negotiated settlement and negotiations were not initially concluded until March 14, 1980. A companion piece of legislation, the Maine Implementing Act, then had to be enacted by the Maine State Legislature. Finally, negotiations were not concluded on the S. 2829 until shortly before it was presented to the Senate Select Committee on Indian Affairs to be reported on September 16, 1980.

The effect of defeating consideration of this authorization would be to endanger the entire settlement by substantially increasing the possibility that option contracts on lands to be purchased to fulfill the purposes of S. 2829 and which are due to expire at the end of 1980 or by June of 1981, will expire. It will also complicate the ability of the Department of the Interior to acquire lands necessary to effect the terms of S. 2829 by the January 1, 1983 deadline contained in the Maine Implementing Act.

SENATE RESOLUTION 523—RESOLUTION SUBMITTED TO DESIGNATE "NATIONAL PRODUCTIVITY IMPROVEMENT WEEK"

Mr. NUNN (for himself, Mr. BENTSEN, Mr. CHILES, Mr. TOWER, Mr. HEFLIN, Mr. GRAVEL, Mr. PERCY, Mr. HATFIELD, Mr. FORD, Mr. DURENBERGER, Mr. THURMOND, Mr. GOLDWATER, Mr. RANDOLPH, Mr. SCHMITT, Mr. TALMADGE, Mr. HUDDLESTON, Mr. MORGAN, Mr. JEPSEN, Mr. ZORINSKY, Mr. RIBICOFF, Mr. JAVITS, Mr. NELSON, Mr. HELMS, Mr. STEWART, Mr. LEVIN, Mr. PELL, Mr. CRANSTON, Mr. BAUCUS, and Mr. HOLLINGS) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 523

Whereas inflation continues to present a serious threat to the economic fabric of the United States of America;

Whereas the deterioration of the economic well-being of the United States brings with it a lessening of the standard of living and quality of life for all American citizens, and endangers the national security;

Whereas increases in the rate of productivity in industry, business and government have been shown to have a significant influence in reducing inflation; and

Whereas the United States continues to experience an alarming slowdown in productivity growth: now, therefore, be it

Resolved that it is the sense of the Senate that the President of the United States by proclamation designate the week of October 6 through October 12, 1980, to be "National Productivity Improvement Week," for the purpose of providing for a better understanding of the debilitating effects of stagnating productivity on the economic well-being of the United States, for an increased public awareness of the potential for significantly reduced inflation offered by productivity growth, and for encouraging the development of methods to improve individual and collective productivity in the public and private sectors.

● Mr. NUNN. Mr. President, last year we passed Senate Resolution 248, designating the week of October 1 through October 7, 1979, as "National Productivity Improvement Week." The importance of providing a better understanding of the debilitating effects of stagnating productivity on the economic well-being of the United States is, if possible, even more important this year in light of our continuing inflationary crisis. For this reason, I am pleased to submit this resolution designating the week of October 6 through October 12 as "National Productivity Improvement Week for 1980."

Our Nation's dramatic decline in productivity growth has continued throughout 1980. During the second quarter of this year, productivity in the private business sector declined at an annual rate of 1.9 percent. Of the last nine quarters, this is the sixth in which a decline has been reported. While alarming, this decline is even more extreme for the manufacturing sector, where, for the second quarter of 1980, the annual rate was a shocking 4.5 percent.

As you may know, without labor productivity gains, increases in hourly wages must inflate unit labor costs. During the second quarter of the current year, unit labor costs in manufacturing rose at an annual rate of 20.7 percent. If productivity had been improving rather than declining in this sector, this increase could have been significantly less.

Simply put, productivity growth can reduce inflation. Not only can it help to wind down the wage-price spiral, but it can also serve to improve the security of American jobs. At a time when unemployment is on the rise, and efforts are being made to stimulate jobs creation, the retention of existing jobs must also be encouraged. Unfortunately, over the past 10 years, declining U.S. competitiveness has cost an estimated $125 billion in lost production and more than 2 million industrial jobs. This is directly related to the fact that, while American productivity growth has declined since 1967, our foreign competitors, such as Germany and Japan, have consistently attained average productivity gains at least three or four times that of the United States.

There are numerous ways in which productivity growth may be encouraged, such as increased rates of capital investment, reduced energy costs, and improved research and development efforts. Any successful solution to our productivity crisis, however, will require a clear appreciation of both the serious effects of declining productivity, as well as the potential that a reversal of this trend holds for significantly reducing the double-digit inflation that currently grips our economy.

Mr. President, I am therefore pleased to note that once again the American Institute of Industrial Engineers, whose members are actively engaged in management of plant design and engineering, systems engineering, production and quality, energy conservation, performance and operations standards, and material flow system and operation research, has launched a public information campaign to promote a better understanding of the critical aspects of productivity improvement. Efforts such as these are to be commended and encouraged, and I am pleased to join in the cosponsorship of this resolution designating October 6 through 12, 1980, as "National Productivity Improvement Week." I am hopeful that the Senate will act expeditiously on this resolution.●

AMENDMENTS SUBMITTED FOR PRINTING

PRIVACY ACT AMENDMENTS OF 1980—S. 503 SEC AUTHORIZATIONS—S. 2465

AMENDMENT NO. 2343

(Ordered to be printed and to lie on the table.)

Mr. WEICKER submitted an amendment intended to be proposed by him to S. 503, a bill to amend the Privacy Act of 1974 to provide for the confidentiality of medical records, and for other purposes.

AMENDMENT NO. 2344

(Ordered to be printed and to lie on the table.)

Mr. WEICKER submitted an amendment intended to be proposed by him to S. 2465, a bill to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1981 through 1983.

● Mr. WEICKER. Mr. President, I intend to offer, at the appropriate time, an amendment which would give businesses that are the subject of commercial credit reports the same basic rights presently enjoyed by individuals. This amendment will incorporate the provisions of S. 2359, the Fair Commercial Reporting Practices Act of 1980, which I introduced on February 28, 1980.

Louis D. Brandeis, as early as 1890, recognized the need to protect and preserve the right to privacy. He noted that:

> Gossip is no longer the resource of the idle and of the vicious, but has become a trade, which is pursued with industry as well as effrontery . . . Even gossip apparently harmless, when widely and persistently circulated, is potent for evil. It both belittles and perverts.

These words, in a free society such as ours, ring as true today as they did in 1890.

The right to privacy, which has been recognized as an inalienable right by the courts and buttressed by Congress through legislation, is not forfeited once a person goes into business. Unauthorized intrusions into the financial affairs of businesses by either Government or private enterprise are not only morally repugnant but also place businesses—particularly small businesses—at a disadvantage, in dealing with competitors, suppliers, and customers.

In 1977, the Privacy Protection Study Commission, after devoting 2 years to examining individual privacy rights and recordkeeping practices in many environments concluded that "the impact of commercial credit decisions on individuals is particularly acute when the business seeking credit is a partnership, sole proprietorship, or closely held corporation". The Commission recommended that since commercial reporting practices have a significant impact on business entities with which individuals are associated, further investigation and study in this area should be conducted.

Accordingly, the Select Committee on Small Business held 2 days of hearings earlier this Congress to review the impact of commercial reporting practices on small businesses. All witnesses, except for the commercial reporting agencies, testified that legislation is essential to protect the rights of businesses which, unlike individuals, have no statutory protection when victimized by inaccurate credit reports.

Complaints elicited during the hearings concerned the inaccuracy of credit reports, the use of outdated and obsolete information, the delay and unresponsiveness of reporting agencies in resolving complaints and the inability of businesses to discover and confront the sources of erroneous information. It was also learned that a business may be penalized for refusing to cooperate with the commercial reporting agency simply because the business has chosen not to provide information to the agency for indiscriminate dissemination.

The abuses depicted by witnesses during the hearings leave no doubt that legislation is needed to insure that commercial reporting agencies exercise their responsibilities with fairness, accuracy and a respect for a business' right to privacy. This will insure that commercial reporting agencies minimize the extent to which information about a business is a source of error or unfairness in any credit decision based on that information.

The amendment that I intend to offer would define fundamental obligations concerning the uses that can be made of information about a business or its representatives. It would require commercial reporting agencies to adopt "reasonable procedures" to insure the confidentiality, accuracy, and proper utilization of the information it reports.

The FTC will have no role to play in administering the provisions of the amendment. No new bureaucracy will be necessary to insure that the interest of small businesses are properly protected.

My amendment would provide that:

First: When a business is denied credit because of information in a commercial credit report, the user of the report must notify the subject of the report in writing that credit has been denied based on the report, provide the name, address, and telephone number of the commercial reporting agency supplying the report and notify the business of its right to obtain a copy of and correct the report.

Second: Upon request and proper identification, the commercial reporting agency must:

Clearly and accurately disclose to the business all information in its files on the business at the time of the request;

Permit the business to examine and copy any such information;

Clearly and accurately disclose to the business the sources of the information; and

Disclose to the business the names of all recipients of the commercial report which the agency has furnished for any purpose within the 6 month period proceeding the request.

Third: When the completeness or accuracy of any item of information in a business' file is questioned, the commercial reporting agency must reinvestigate the accuracy of the information within a reasonable time and if the reinvestigation does not resolve the dispute, the business is entitled to file a brief statement of disagreement.

Fourth: If inaccurate information has been deleted, or, when a brief statement of disagreement has been filed, the business may require that a corrected copy of the report be furnished to any person who received a copy of the erroneous report within the preceding 6 months.

Fifth: Each commercial reporting agency must maintain reasonable procedures to insure the maximum possible accuracy of the information it reports, and further, no commercial reporting agency shall:

Obtain information by implying that failure to do so will result in adverse consequences;

Furnish negative information or recommend that credit not be extended because of a business' failure or refusal to cooperate with the reporting agency; or

Lower a business' credit rating unless a business is notified in writing within 30 days of such action, accompanied by a statement of reasons for such action.

Mr. President, it is clear that under present commercial reporting practices an acceptable level of accuracy is commercial credit reports is not assured. The amendment I intend to offer will protect the interests of not only small businesses, but all businesses. It will insure that the same basic legal rights enjoyed by consumers are enjoyed by businesses and that commercial reporting agencies exercise their responsibilities with fairness, accuracy, and respect for the business' right to privacy. I urge my colleagues to support this measure.●

FAIR HOUSING AMENDMENTS—S. 506

AMENDMENTS NOS. 2345 THROUGH 2362

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted 18 amendments intended to be proposed by him to the bill (S. 506) to amend title VIII of the act commonly called the Civil Rights Act of 1968 to revise the procedures for the enforcement of fair housing, and for other purposes.

NOTICES OF HEARINGS

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. INOUYE. Mr. President, I would like to announce that the Committee on Commerce, Science, and Transportation will hold 2 days of hearings on S. 3003, a bill to establish a program in the Department of Commerce to promote U.S. service industries, enhance their competitiveness, and for other purposes, and on the issue of "The Competitiveness of U.S. Service Industries in the Global Economy". The hearings are scheduled for Wednesday, September 24, and Thursday, September 25, 1980.

The first day of hearings will begin at 10:30, in room 235, Russell Senate Office Building, and will be devoted to Government witnesses. The second day of hearings will begin at 10 a.m., in room 235, Russell Senate Office Building, and will be devoted to private sector witnesses. I shall preside on both days and make available a list of witnesses in the near future.

The Committee on Commerce, Science, and Transportation has jurisdiction over many of the industries involved, for example, merchant marine, travel and tourism, aviation, surface transportation, telecommunications, advertising, consulting, and others. I might also note that the distinguished chairman of our committee, Senator Howard Cannon, was the first Congressman last year during the International Trade Reorganization to suggest the need for the creation of an Assistant Secretary of Commerce for Service.

As in so many areas of public policy, the time has come for the Government to modify its adversarial relationship toward business. It is American business which carries the burden of earning profits to support our standard of living and they should be encouraged to do an even better job for the country.

Services and investments are becoming an increasingly crucial part of our international current accounts and make up for our dreadful performance in the export of manufactured goods. In fact, receipts from services and investments should bring our current account into rough balance this year.

Nevertheless, before the Department of the Treasury, which has hailed this development as proof of the health of our international accounts, celebrates this possible current accounts balance, we should be aware of several facts. First, we should and could be doing much better in the sale of our manufactured goods if we did not impose disincentives and other burdens on our own manufacturers.

Second, much of our service/investment income derives from old direct investments and not from new direct investments or rapidly rising service exports. We shall soon be facing foreign competition not only abroad but also at home in more than the banking sector.

As the March issue of the Survey of Current Business dryly noted, "Much of the increase in service income was in petroleum, and was due to higher operating rates, profit margins, and prices on final products." These facts hardly substantiate the optimism of many Treasury bureaucrats who choose to ignore our foreign counterparts' eagerness to compete with American businesses.

The hearings which the Commerce Committee will hold on September 24 and 25 will, I hope, be the first among many to examine the rising foreign competition to domestic firms in the United States, the nature of U.S. policy toward domestic and exported services, the prospects for the multilateral negotiations on services and investments, the observations of the private sector on U.S. Government organization toward service industries, and the steps which the government can take to promote and maximize the profits of U.S. service trades. These hearings will continue in the next Congress.

For more information, call staff counsel Eric Lee at (202) 224-6742.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. COHEN. Mr. President, the Committee on Governmental Affairs next week will hold public hearings on S. 2606, a measure introduced by Senator GARN of Utah, which would establish an independent Office of Strategic Trade. The hearings will be held in room 3302 Dirksen Senate Office Building, beginning at 10 a.m., on Wednesday and Thursday, September 24 and 25.

Our colleague Senator JACKSON will chair the hearings, which will focus on the affect S. 2606 in the context of current U.S. policies governing the export of strategic technology to Soviet bloc nations. Testimony will be received from administration and knowledgeable persons from the private sector.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MELCHER. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of an open business meeting before the Select Committee on Indian Affairs.

An open business meeting is scheduled for September 16, 1980, beginning at 1 p.m., in room 4200 of the Dirksen Senate Office Building. The following is to be considered for markup: S. 2829, a bill to provide for the settlement of land claims of Indians, Indian nations and tribes and bands of Indians in the State of Maine, including the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, and for other purposes.

For further information regarding the business meeting, you may wish to contact Timothy Woodcock of the committee staff on 224-2251.

SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION, AND FEDERAL SERVICES

Mr. GLENN. Mr. President, I wish to announce a hearing which will be held by the Subcommittee on Energy, Nuclear Proliferation, and Federal Services of the Committee on Governmental Affairs. Next Wednesday, September 24, 1980, at 10 a.m. the subcommittee will hold a hearing on the undercount in the 1980 census in room 1224 of the Dirksen Senate Office Building.

If you have any questions regarding this hearing please contact Martha Volner of the subcommittee staff at 224-2627.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CANNON. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold an oversight hearing on the growing importance of coal in international trade.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a hearing on the nomination of John C. Sawhill to be chairman of the Board of Directors of the U.S. Synthetic Fuels Corp.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

POLAND

● Mr. KENNEDY. Mr. President, no friend of freedom can fail to be stirred by the achievement of Polish workers in behalf of economic, political and religious rights in their country. I admire their courage and the power of their conviction. I congratulate them on achieving the right to strike and form independent trade unions. I welcome their success in lifting censorship, releasing arrested dissidents, increasing religious freedom, and reinstating dismissed workers and students.

I commend both the workers and the Polish Government for the restraint and persistence they displayed during the 17-day-long strike. The diligent efforts on both sides allowed a peaceful settlement to be reached—without violence and without outside interference.

All of Poland's friends should now support the full implementation of the agreements that were reached. I welcome the statement of the new Communist Party leader, Stanislaw Kania, who has declared that "we shall take care that all these agreements be implemented."

It is appropriate to recognize that the Polish people face serious economic problems, and they must count upon their friends and supporters for large-scale economic assistance. I believe that Western financial assistance to Poland can and should help create a positive climate for economic progress, further reforms, and the liberalization of societies throughout Eastern Europe. As the Polish Government carries out its part of the agreement, Americans and others should certainly be prepared to provide assistance that will benefit the people of Poland. I therefore welcome and support the administration's recent decision to grant $670 million in commodity credits to Poland. And I join with the Polish-American Congress and the American trade union movement in advocating expanded assistance over the critical months ahead.

Mr. President, the historic Gdansk agreements are a victory not only for the Polish people, but for the cause of freedom everywhere. At a time of increased confrontation in other parts of the world, their achievement without outside interference is of profound importance for peace and cooperation between East and West. These agreements will, in turn, strengthen the effort to implement fully the Helsinki accords at the upcoming Madrid review conference. Gdansk should represent, above all, fresh hope not only for Poland, but for all of Europe and the world.●

TAX REFORM

● Mr. DURENBERGER. Mr. President, last month, the Committee on Finance took a giant step into the 1980's by approving a landmark tax reform bill.

This legislation moves us closer to creating the tax system we must have to meet the challenges of the new decade. On one end, the Committee on Finance restructured individual tax rates. By doing so, the committee members took the first step toward indexing inflation out of the tax rates.

At the other end, the committee's bill moves us a bit closer to becoming a savings society instead of a consuming society. The committee's incentives for savings and investments are long overdue. Also, a significant point that many people have overlooked is the much needed assistance the bill will provide small businesses, especially in the form of accelerated depreciation.

The committee's tax reform legislation will set Congress on the course of spending every dollar more wisely. The committee members have taken recognition of the fact that our present system penalizes the investor and feeds Government's insatiable appetite at the expense of the wage earner who has no control over inflation.

The Committee on Finance took two more significant steps September 16. First, it voted to include the Packwood-Moynihan Charitable Deductions Act. By doing so, it sent a signal to the private, nonprofit sector that we are ready to provide incentives for financing the delivery of public services through the volunteer sector.

The second vote on September 16 made it clear that we will not succumb to election-year gimmickry by loading the bill with everyone's wish-list. This legislation is a landmark effort to reform the tax system, not an attempt to win votes.

Because of these actions, I voted for the bill in committee. The work in the committee gave me the opportunity to state my case for overhauling the tax system. However, this bill represents only half of the reform that is needed this year.

Unless the committee's legislation is accompanied by federal spending cuts, I will be forced to vote against the tax reform bill when it reaches the full Senate. We need to cut Government spending as well as taxes if we are to revive the economy. The inflation tax, fueled by Government spending, is a much greater burden on the American worker than the income tax.

That is the message the American public is sending us, and we will fail in our duty if we ignore the plea. Too often, politicians look upon the citizens of this country as being greedy; workers are expected to selfishly take any tax cut Congress might throw their way. Some politicians blame the public for the country's "malaise."

Yet, if we listen to what people are saying instead of relying on outdated perceptions, we will know that the message is clear: The American public wants Congress to cut spending first, then reform the tax system.

That message was reaffirmed in a questionnaire I sent to 40,000 Minnesotans in mid-August. Eighty-three percent of the respondents favored tax reform. But tied into their call for tax reform, an overwhelming majority of people took the time to write on the questionnaire, "Don't give me a tax cut without first cutting Government spending." That statement was made time and again on almost every returned questionnaire.

That is the message that I am delivering to Congress today. Do not offer half a solution and think we have solved the problem. Let us today commit to cutting spending and only then provide tax relief.

That is the same message my distinguished colleague from Oregon, Bob Packwood, delivered by way of his vote in the Committee on Finance. Senator Packwood cast the lone dissenting vote on the tax reform bill because, like me, he believes that Government spending must be cut before we reduce taxes. Senator Packwood's vote was a significant warning to this Congress. He is a person uniquely sensitive to the people he represents. He has recognized that even landmark tax reform, without spending reform, can be election-year gimmickry.

Senator Packwood and I have chosen different ways to express our feelings, but our message is the same.

Mr. President, I submit for printing in the Record the results of my questionnaire to my constituents and a series of editorials on Senator Packwood's vote in the Committee on Finance.

The material follows:

Questionnaire

A questionnaire was sent to 40,000 Minnesotans in mid-August. The results are based on a tabulation of 1,500 of the returned questionnaires selected at random.

1. Should there be a general tax cut to take effect in Fiscal Year 81? Yes, 83 percent; No, 17 percent.

2. If taxes are reduced, what kind of a tax cut should be implemented? (Respondents were allowed to select more than one answer.)

Permanently indexing inflation out of individual tax rates: 66 percent.

Providing incentives for savings and investment: 60 percent.

Accelerated depreciation: 39 percent.

Increasing personal deductions: 30 percent.

Reducing corporate taxes: 27 percent.

Providing an offset for the social security increase: 27 percent.

One-time restructuring of individual tax brackets: 12 percent.

[From the Eugene, (Oreg.) Register-Guard, Aug. 25, 1980]

Tax-Cut Fever Ought to Cool Down

Economics and politics are being turned upside down in Washington these days. It's hard to tell which team is on which side.

Late last week the Senate Finance Committee approved a $39 billion tax cut to go into effect Jan. 1. This happened on a vote of 19 to 1. The lone dissenter was Oregon's Sen. Bob Packwood.

Packwood is a Republican. Republicans are supposed to favor reducing taxes. Ronald Reagan has suggested an across-the-board 10 percent tax cut next year.

Packwood disagrees. He says it's time Congress got serious about balancing the federal budget. A big tax cut without compensating reductions in federal spending would be inflationary, he contends.

Some time back, Congress did approve a balanced budget plan for fiscal 1981, which begins Oct. 1, 1980. But the current recession knocked that plan off the track. According to the administration's latest projection, without countering governmental action the 1981 budget will wind up $30 billion in the red.

Many nationally prominent economists feel that some kind of 1981 tax cut would be desirable. Their main disagreement is over whether Congress should try to hurry through a bill in the remaining days of this session or wait until next year to do a more deliberate job. The Carter administration and the House Ways and Means Committee under Chairman Al Ullman of Oregon prefer the latter course, defying the tradition of "ins" throwing the electorate a tax-cut bone before a big election.

There are good economic arguments for a tax cut; it's not just politics. There is a need to provide incentives for more business investment, which would reduce unemployment. And in the area of personal income there is a need to ease what Walter Heller calls "the steadily growing tax overburden."

Personal income taxes have gone from 21 percent of personal income in 1978 to 22 percent this year, heading for 23 percent in 1981. Most of this is caused by the extra bite progressive rates take out of inflated salaries and wages.

Scheduled increases in both rates and the wage base will boost Social Security taxes by $18 billion next year. That, along with the "bracket creep" gain in regular personal income taxes, will produce a $35 billion increase in federal revenue.

So a tax cut in the neighborhood of $30 to $40 billion actually would only offset tax increases that are already going to occur. The $39 billion bill the Senate Finance Committee approved includes about $22 billion in personal income tax cuts and $17 billion in business reductions.

We can see that some tax cut is probably desirable in the coming fiscal year. At the same time, we admire Packwood for sticking to his budget-balancing guns in the face of a congressional tax-cut tide that is motivated more by election-year fever than serious economic concern.

On balance, we believe Congress should wait until its next session to consider a tax-cut plan. Waiting would eliminate the distorting influence of an election. It would bring into the deliberations the new members of Congress who are going to be chosen in that election and eliminate those who are going to be fired. And it would give everyone a few more months to watch the economy to decide whether a tax cut is appropriate medicine, and to determine which formula is best.

[From the Portland (Oreg.) Journal, Aug. 27, 1980]

Elections Spark Tax Cut Talk

Every elected official in Washington, D.C., wants a tax cut. But everyone else should beware because most of what is happening is bogus rhetoric.

The main reason is that every tax cut proposal being floated would be effective Jan. 1, 1981. Nobody is talking about a tax cut for the 1980 calendar year. The reason for all the talk is because the importance of 1980 is that it's an election year.

The reason the topic is being debated is because Ronald Reagan, in June, unveiled a tax cut package calling for a 10 percent, across-the-board tax cut for individuals plus faster depreciation schedules for businesses.

Now this may sound like step one of the Kemp-Roth 30 percent-over-three-years tax cut. Yet suggesting a one-year tax cut of 10 percent for individuals implies support while not committing Reagan to a 30 percent cut over three years. So while Kemp-Roth, or Roth-Kemp, is being criticized as extremely inflationary, Reagan can step away from the 30 percent proposal without acknowledging it. This is good politics on Reagan's part.

Last week the Senate Finance Committee buckled and sent out a $39 billion tax cut, effective in 1981. It's a typical Christmas tree of tax cuts, reducing both individual and business taxes.

The only dissenting vote on the package came from Sen. Bob Packwood, R-Ore., who should be congratulated for showing political courage and good mental processes when his colleagues are afflicted with "tax cut fever."

The Senate-inspired tax cut proposal isn't expected to travel far. Sen. Ernest F. Hollings, D-S.C. and chairman of the Senate Budget Committee, is resisting the bill. So is Rep. Al Ullman, D-Ore., who favors a tax cut but doesn't want one passed in the heat of the election campaign.

The Carter administration is expected to ask for a 10 percent tax credit for Social Security taxes as part of his economic program. This—or Reagan's tax proposals, should he be elected—can be considered early next year. So far Ullman and Packwood have taken an honorable position, trying to hold off campaign year tax cutting in hopes of curbing inflation.

[From the Portland (Oreg.) Oregonian, Aug. 24, 1980]

Senate Tax Plan Leaves Sticky Taste

Members of the Senate Finance Committee, with the exception of Sen. Bob Packwood, R-Ore., behaved last week as if they were running from a range fire. In fact, they may be stumbling toward one.

In just four days and in the face of wildly fluctuating national economic estimates, the committee spat out ("fashioned" or "crafted" would be inaccurate) a $39 billion tax cut plan for 1981, just in time for Chairman Russell B. Long to head back to Louisiana for a Sept. 13 primary election battle.

Packwood, also seeking re-election, was the only senator who voted against this inflation-bomb camouflaged as a tax treat.

The committee was aware that the Congressional Budget Office last January predicted 9.9 percent inflation for 1981 and that Chase Econometrics and Data Resources projected 9.3 percent. By July, the budget office was forecasting 9.3 percent and Data Resources 9.2 percent. Chase, however, which assumed a trifling $26 billion tax cut the others did not anticipate, levered its prediction to the 10.5 percent level—a striking clue as to what even a smaller tax cut than that of the Finance Committee would do to inflation.

While Packwood's committee colleagues traipsed through Wonderland, Senate Budget Committee members also suffered a seizure of election-year mania. They disregarded budget office data, as well as Carter administration fears of a $30 billion deficit. Apparently using nothing as authoritative, the committee arbitrarily reduced the projected budget deficit by $13.5 billion (with no provision for a tax cut) in what amounted to an exercise in economic fiction writing.

In the real world, the committees could be 1 percent to 2 percent off on their inflation predictions, and the budget-deficit estimates could miss the mark by as much as $50 billion.

And a guaranteed $40 billion tax cut on top of that? Bah!

Fortunately, although Packwood could not halt the Senate's misdirected gallop, another Oregon lawmaker, House Ways and Means Committee Chairman Al Ullman, can.

By relying on the constitutional directive that revenue bills must originate in the House of Representatives, after which the Senate can propose or concur in amendments, Ullman can rein in the Senate stampede. The Senate may try to tack its tax bill, as an amendment, to an unrelated revenue bill that originated in the House, but if a committee chairmanship has any clout left, Ullman should block that end run.

The two lawmakers from Oregon accurately sense that the public would rather forego a tax treat than gain one whose benefits would be dissolved by inflation as quickly as cotton candy melts in a child's mouth. Timely, targeted tax cuts that can cool inflation would be welcome. But an election-year bribe that leaves the nation in worse shape than before? No thanks.

[From the Salem (Oreg.) Statesman/
Journal, Aug. 21, 1980]

Senator Packwood Stands Firm

Sen. Bob Packwood, R-Oreg., acted both wisely and courageously Monday in being the only "no" vote among the members present of the Senate Finance Committee. He voted against seeking enactment this year of a $25 billion to $30 billion tax cut.

Unlike his brethren, Packwood knows that any tax cut would only fuel the nation's already distressingly high inflation rate. His vote was courageous because Packwood faces a stiff challenge for re-election this year, and his proxy "no" is bound to alienate some of his Oregon supporters.

Whether an election-year tax cut emerges from Congress remains to be seen. The House Ways and Means Committee, which writes tax legislation in that chamber, is hearing testimony all this week on a tax cut but has not begun work on a specific bill. It is presided over by another Oregon politician, Rep. Al Ullman, who also understands the stakes.

The proper course for Congress, we believe, is to hold firm. Tax cuts only increase deficits, and deficits increase inflation.

Packwood correctly recognizes that curbing inflation must be the primary task of government. It is one thing to recognize that, quite another to act on it before God and the voters, as Packwood did Monday. It took guts. Oregon voters should remember that when they go to the polls Nov. 4.

[From the Klamath Falls (Oreg.) Herald &]
News, Aug. 12, 1980]

Packwood On Target About Future Tax Cuts

Sen. Bob Packwood was on target last week when he spoke in Klamath Falls opposing an immediate tax cut.

Republicans and Democrats alike have been falling all over themselves to outpromise each other. President Carter isn't against a tax cut, exactly, but isn't really in favor of one, either. A lot of Democrats, however, seeing their reelection chances going up in smoke are trying to regain the tax cut initiative from the Republicans who struck first.

Ronald Reagan's call for a major tax cut was a shrewd political move, but a doubtful economic one.

The only thing we see coming from a major tax cut now is more money pumped into an overheated economy, making inflation even worse.

Packwood said he felt the public will sway the minds of congressmen during the current recess to oppose any major tax cuts.

We hope he's right and there have been indications he is.

A recent nationwide poll showed public opinion is opposd to a tax cut if it might increase inflation.

This could be a case where the public has a better sense of priorities than many members of Congress. Sound economics should not lose out to election-year politics.

[From the La Grande (Oreg.) Observer]
Sept. 4, 1980]

Tough This Year

Senate tax writers, with a single dissent, recently approved a bill which would reduce income taxes paid by American individuals and businesses by $39–40 billion next year.

The single dissent came from Oregon's Sen. Bob Packwood, who was on the lonely end of a 19–1 count as members from both parties, anxious to make a record in an election year, voted the cut. And, Packwood was right and the other 19 members of the committee were wrong.

Packwood is not one of your crusaders for higher taxes. Unlike Sen. Ted Kennedy he doesn't assume the government is entitled to every penny you receive, that you're allowed to spend only what the government leaves you.

But Packwood is worried about inflation, inflation in the past 10 years or so and what may be inflation as bad or worse in the future. Any tax cut above about $20 billion would, he is convinced, be very inflationary.

He's not alone in his opinion. The three experts used by Congress to project income and inflation figures all agree with Packwood.

A $39–40 billion tax cut, accompanied by a continuation of the present business downturn, could result in a federal deficit next year of as much as $90 billion. That would be the worst in history, higher even than in the hey-day of World War II.

This is an election year, as the vote of the vast majority of the committee demonstrated.

Packwood knows that; he's running for reelection this November. He is expected to win, but votes like this one are likely to cut somewhat into his expected margin of victory. He was willing to take that chance, and he's right.

[From the East Oregonian, Sept. 2, 1980]

Let's Move Against Inflation

In view of election-year pressures, the Carter package of tax cuts and economic stimulants for 1981 looks fairly responsible. But last week's proposals unfortunately contained nothing to fight the root cause of U.S. economic problems—inflation.

The President has been receiving much urging from members of his own Democratic Party to propose big tax cuts in this recession and election year. And Ronald Reagan's massive tax-cut scheme—30 percent of income taxes over three years—also puts pressure on Carter.

It's to Carter's credit that he has opposed the idea of a quickie tax cut before the election. Sen. Russell Long, chairman of the Senate Finance Committee, and many other members of Congress have panicked and pushed for tax cuts this year.

When members of the Finance Committee voted the other day on a $39 billion tax-cut proposal for 1981, it passed by 19 to 1. Oregon Sen. Bob Packwood was the only senator to show sound judgment and vote no.

Carter Administration officials estimate that next year's federal budget deficit will be at least $30 billion. To vote in a huge tax cut risks widening that deficit even more.

Any such tax cut is a gamble.

Some backers argue that tax cuts will encourage individuals and businesses to spend more, which would stimulate the economy which would in turn generate more tax revenue. A big catch in that theory in this era of inflation is that taxpayers are wary and conservative with their money. Because prices rise so fast, most people tend to save rather than spend.

The Carter tax proposal—$27.6 billion—also runs that risk. But some other parts of his package make sense.

One of the most encouraging is a request to Congress for $975 million for weatherization of homes, federal buildings, public housing, schools and hospitals. That would create jobs and save energy, and thus combat inflation.

Another move that might pay off is a proposal for an economic revitalization board of labor, business and government figures to recommend how to perk up industry and trade. The co-chairmen would be Irving Shapiro, of DuPont, and President Lane Kirkland of the AFL–CIO. We don't know about Shapiro, but Kirkland is smart and gutsy.

The most disappointing aspect of the Carter proposal is its lack of measures to fight basic inflation, the chief cause of American economic ills. High petroleum costs are one of the main causes of inflation. That is a subject on which members of Congress and presidents have yet to act decisively, but they must do so.

[From the Medford (Oreg.) Mail Tribune,
Sept. 3, 1980]

Courage and Realism

Sen. Bob Packwood is being widely acclaimed for his "courage" in casting the single vote in the Senate Finance Committee against a massive tax cut proposal.

Courage may be the proper word, all right, for voting against a tax cut in an election year may not be the most popular of all possible actions.

But courage or not, Packwood was right, for the tax measure proposed by the committee's majority would certainly heighten the fires of inflation, and John Q. Citizen would wind up with more money in his pocket that would buy less. And we think John Q. Citizen realizes that fact.

Fortunately there are other level heads in Congress, in addition to Packwood. Al Ullman, for one, chairman of the Ways and Means Committee of the House, is against such a massive and widespread cut, coming on top of a predicted deficit. The Senate Budget Committee is also opposed.

A selective tax cut, targeted to protect savings, encourage investments and stimulate productivity, may very well be in order. But a cut of $39 or $40 billion, spread so widely that no one would greatly benefit, would be like throwing gasoline on a raging fire.

And we suspect that, in their heart of hearts, Packwood's colleagues know it. It is disconcerting to know they did not act on that knowledge.—E.A.●

ROBERT S. SMALL SELECTED TEXTILE MAN OF THE YEAR

● Mr. HOLLINGS. Mr. President, the New York Board of Trade has just recently announced its selection as recipient of the 1980 "Textile Man of the Year" award. He is Robert S. Small, chairman of the board and chief executive officer of Dan River, Inc. Mr. Small will receive the award in New York City on December 1.

Robert Small is a native of Charleston, S.C. He took his higher education at the College of Charleston, graduating from that fine institution in 1936. From 1936 to 1947, he worked for the South Carolina National Bank in Greenville, S.C., in a number of capacities. He was soon involved in the textile business, with Ottaray Textiles, Haynesworth Mill, and Woodside Mills, the latter eventually acquired by Dan River.

An executive with vision as well as sound practical judgment, Robert Small is one of the most dynamic businessmen in the history of our textile industry, or indeed of any industry. When he entered the textile business, it had fallen on hard times, and the hard times were getting harder every day. With an industrial plant that was generally outmoded, and with inadequate capital investment, the textile future looked bleak. Now, in 1980, the industry is updated, retooled, competitive not only in the American market but in the world market, and the credit for that goes to a new generation of textile leaders, with Robert Small in the vanguard. Our industry still has problems to contend with in unfair trade and other burdens, but its 2.3 million workers face the future with more hope—and more reason for high hope—than ever before. Textiles—written off for years by so many economists and pundits—has rebuilt and its future is bright.

Robert Small has been a textile leader through all this change. He has served as president of the American Textile Manufacturers Institute, president of the South Carolina Textile Manufacturers Association, and director of Textile Hall Corporation. He is as active today as he was 35 years ago, and the industry is much the better for it.

Mr. Small has been not only a dynamic force within his industry, but also in his community, State, and Nation. Education has been one field fortunate to have Robert Small's dedication and driving energy. He is a trustee of the College of Charleston, and a member of the Furman University Advisory Board. Additionally, he has involved himself generously with a large number of charitable and civic causes. As a result, he is known far and wide as one of South Carolina's leading citizens—a reputation earned by commitment, vision, and hard work.

So it is a pleasure for me to bring this prestigious award to the attention of the Senate, and to single out its recipient to my colleagues. Many of them know Bob Small personally, and I know that they all join me in sending special congratulations to this public-spirited citizen whom many of us know also as a friend.●

BINARY NERVE GAS PRODUCTION

● Mr. BAYH. Mr. President, in 1969, the Nixon administration decided to maintain existing U.S. stockpiles of lethal chemical weapons at existing levels. At those levels, and even despite whatever degradation may have occurred since that time in the containers where these poisonous gases are stored, it is estimated that we have sufficient quantities on hand to sustain the battlefield requirements of 50 divisions for 100 days. In Europe, itself, we have stocks to permit retaliation against Soviet chemical attack for up to 2 weeks. The question, therefore, becomes, what do we gain by proceeding with construction of facilities to produce a new generation of lethal chemical weapons short of a requirement in law that the President certify such production is in the national security interests?

Mr. President, I opposed efforts here in the Senate during the past 2 days to begin construction of a nerve gas production facility at Pine Bluff, Ark. I did so in the belief that such a commitment adds little if anything to our national security and in fact may disrupt ongoing negotiations to formalize in a verifiable agreement the tacit United States-Soviet understanding not to produce nerve gas agents which has been in effect over the past several years.

The amendment which I supported on Tuesday offered by Senator HART of Colorado presented a much better way of dealing with the situation which finds Congress attempting to force the administration into an unwise decision prior to sufficient analysis involved in such a production decision. Such a decision threatens to complicate the agreements which we have reached with our European allies to permit the deployment on their territory of modern American theatre nuclear forces. Nor is there any assurance that the Europeans who actually saw in their own homelands the horrors of gas warfare during World War I would permit increased levels of modernized chemical warfare stocks on their home territories.

But in addition to these considerations of foreign policy, we must question the military utility of binary nerve gas and the circumstances under which it would be employable without causing widespread friendly civilian casualties in a conflict between NATO and the Warsaw Pact. While the inherent advantage of binary nerve gas is that it is safer to store and handle since it is made up of two nontoxic substances which are mixed after a weapon is dropped or fired, the key to successfully withstanding a chemical weapons assault is not so much possessing a similar offensive capability, but in the quality of protective clothing and other defensive and decontamination equipment available in the battle area.

But we do now possess a degree of offensive capability in chemical warfare. And it is very difficult to understand how any outbreak of military conflict between NATO and the Warsaw Pact could remain confined to an exchange of lethal chemical agents. Any serious analyst knows that chemical warfare is intended to support conventional weapons operations and for that reason has limited military value. To insist otherwise proposes that we prepare U.S. forces for a "first-use" of chemical agents directly contrary to our international obligations. And to commit us prior to Presidential certification required by law that production of binaries are in our national security interests is at best premature and at worst dangerous in terms of diminishing the chances of securing some verifiable agreement which could include onsite inspection to ban the production of binary nerve gas by both the United States and the Soviet Union.

But more fundamentally, it simply does not add to our conventional force capabilities in a meaningful way. If some projections of $2 billion to $4 billion are correct in terms of developing completely new arsenals of binary nerve gas weapons we will actually be diverting resources away from the kinds of conventional weapons programs which will contribute to our defense.

To the cold reasons of diplomacy and military strategy must be added the moral reservation against embarking upon a new gas warfare program. This must be a factor as well in considering whether to take a tentative first step in beginning to prepare to produce a new brand of nerve gas. For these reasons, I voted for the Hart amendment on Tuesday and in support of prudence and commonsense in trying to avert another weapons competition and in support of policy thinking which indiscriminately confuses greater numbers of weapons and greater tonnages of poison gas with greater national security.●

RETIREMENT OF MAJ. GEN. WALTER D. REED

● Mr. MORGAN. Mr. President, on September 1, 1980, Maj. Gen. Walter D. Reed culminated an outstanding and distinguished career in the U.S. Air Force when he retired. General Reed was the sixth Judge Advocate General of the Air Force, serving in that position for the last 3 years.

I have been a longtime friend and professional acquaintance of General Reed from the days when I served as a Reserve judge advocate here in Washington. Based on that long association with him and the Judge Advocate General's Department, I can fairly say that he accomplished much for the Department. The list of his acomplishments is long.

A major theme of his term was "Counsel for Commanders." He emphasized to both judge advocates and commanders throughout the Air Force that he wanted to give increased authority and discretion to the local unit level. Two of the most significant initiatives in this area gave increased authority to field commanders. The first authorized general court-martial convening authorities to approve plea negotiations in trials by courts-martial. The second gave to field commanders the authority to make the decision in individual cases as to the collateral effcts of nonjudicial punishment under article 15 of the Uniform Code of Military Justice, including the decision as to how long the punishment file would remain in the individual's personnel records. Authority in both of these areas had always before been retained at the Pentagon level. But General Reed was willing to trust the field commanders and they have been vocal in their appreciation.

A number of other initiations by General Reed in the military justice area deserve mention.

First: He initiated an enhanced prosecution program in which 15 additional full-time prosecutors were assigned. This has provided an effective balance to the existing area defense counsel program. The result has been better representation for the Government, better records of trial, and better advocacy training for young judge advocates.

Second: He established a centralized funding program for witnesses who must travel between Air Force commands to testify. This has eliminated budgetary problems at the local level due to unprogramed travel and has removed witness requests from being a defense device for seeking concessions from the Government. Military justice is now not seen as being in monetary competition with local operational needs.

Third: To improve the quality of court-martial judges, General Reed replaced the old selection process of relying only on personnel records with one in which the chief trial judge, the Director of Judiciary and General Reed himself personally interviewed all trial judge candidates. In addition, in order to keep the independent and impartial trial judges in contact with the Air Force community, he initiated a program of sending judges to the commander's seminars held at Air University and of encouraging judges to seek out and talk with commanders at each base they visit, when they have completed a case. The result has been a higher quality trial judiciary and one which remains aware of the perspective of the military community in which they function.

General Reed has been a manager and leader without peer. His improvements in the organization, management and training of the Judge Advocate General's Department demonstrate the tremendous value he has been to the Air Force. I would like to list a sampling of those accomplishments.

First: The total claims oversight function of the Air Force has been consolidated at the Pentagon. This has saved numerous manpower spaces and many dollars while standardizing claims activities and speeding up claims processing times to the point where they would put any commercial insurance claims adjusting system to shame. To further improve claims administration at the local base level, he has initiated a 4-week claims and tort litigation course at the Judge Advocate General's School at Maxwell Air Force Base, Ala., for officers, airmen and civilians who perform claims functions.

Second: In the area of labor law, General Reed exhibited great foresight. He established a Central Labor Law Office at Randolph Air Force Base, Tex., staffed by six judge advocates who have advanced degrees in labor law. This specialty office assists all Air Force installations on the issues which arise frequently in this increasingly complex area. This office is a model in the Federal Government, a concept which many agencies envy. It is a superb example of the remarkable foresight of General Reed.

Third: Because of the increasingly complex problems faced by Air Force judge advocates in areas outside of the traditional military problems—environmental law, equal employment opportunity, et cetera—General Reed expanded the training course for new judge advocates to 7 weeks. As a result, new Air Force lawyers are better prepared when they arrive at their first permanent duty assignment.

Fourth: General Reed initiated a worldwide program of upgrading legal facilities to provide a suitable professional environment in which the Air Force community could receive its legal services. This is a long-term program, but the payoffs have begun. I know that judge advocates appreciate this kind of professional concern.

General Reed appears to have mastered that great stumbling block to so many Washington arrivals—the bureaucracy. For 12 years the Judge Advocate General's office had been located in the Washington area but outside the Pentagon, most recently in that very exotic location—Buzzard Point. This meant that the legal advisor to the Air Force Chief of Staff and to the Air Staff was physically separated from the client he serves. By quiet persuasiveness and incredible persistence, General Reed accomplished what his predecessors had been unable to do, when his office returned to the Pentagon last year. This has resulted in significantly more timely, and therefore better, legal advice. Immediate availability to all Deputy Chiefs of Staff and special staff heads has again made the Judge Advocate General a full partner on the Air Force team. Professional relationships with the Air Force General Counsel, the principal legal advisor to the Secretary of the Air Force, have never been better. They, too, work as a team.

No Judge Advocate General has ever done more for Reserve judge advocates. In 1978, General Reed established the "Survey of Law," a weekend refresher course presented by Reserve judge advocates for Reserve judge advocates at five locations in the United States. The program is designed to improve their readiness posture, with attendance required every 2 years. This is in addition to the 2-week refresher course at Maxwell Air Force Base required every 6 years. Another initiative has been to have Air National Guard and Reserve judge advocates participate in the Staff Judge Advocate Course at Maxwell AFB. Reserve judge advocates are an integral part of the JAG Department and have never been more ready to serve than they are today.

When the President signed H.R. 5168 on September 8, this completed another of General Reed's efforts to improve the JAG Department. Included in that bill was an amendment I sponsored which would create the statutory position of Deputy Judge Advocate General in the Air Force. This alines the Air Force with the Army and Navy who have long had such statutory positions. This change in the law clarifies the legal status of actions taken by the Deputy in the absence of the Judge Advocate General and, more importantly, insures the independence of the Deputy Judge Advocate General so that his decisions and advice are not subject to improper outside influences. Again, General Reed accomplished what none of his predecessors had done.

General Reed is a truly remarkable officer and lawyer who will be greatly missed by the Air Force. I am certain that he would be the first to tell you that the support of his lovely wife, Dorothy, contributed immeasurably to his distinguished career. Together they served the Air Force. As you will see from his assignments, his tour as Judge Advocate General culminated a long career during which he became one of the foremost international lawyers not only in the Pentagon but throughout the Federal Government.

His career began when he enlisted in the U.S. Army Air Corps at Camp Dodge, Iowa, in August 1943, during World War II, and was accepted in the aviation cadet program in October 1943. He completed advanced navigation training at Hondo, Tex., and was commissioned a second lieutenant in December 1944. General Reed completed radar training in March 1945 at Boca Raton, Fla., and was assigned to a B–29 bombardment group at Salina, Kans. In February 1946 he was released from active duty at Denver, Colo., and entered Drake University.

General Reed was recalled to active duty in February 1951 and after attending a radar refresher course was assigned in February 1952 as Assistant Staff Judge Advocate at Holloman Air Force Base, N. Mex. In November 1952 he was transferred to Korea for 1 year as Staff Judge Advocate of the 18th Fighter-Bomber Wing.

From November 1953 to August 1958, General Reed served at the Air Force Missile Test Center at Patrick Air Force Base, Fla., first as Assistant Staff Judge Advocate in the Military Justice Division and later as Legal Staff Officer, Military and Civilian Affairs Division, Office of the Staff Judge Advocate. During this period he assisted in the formulation of implementing procedures to the international agreement establishing the Long Range Proving Ground.

He served the next 4 years with Headquarters U.S. Air Forces in Europe (USAFE) in the Directorate of International Law. In this position, he acted as legal advisor to the Ballistic Missile Committee which negotiated implementing arrangements for the establishment of certain NATO bases in Italy and Turkey. He also acted as legal advisor on the USAFE team which was responsible for negotiating technical arrangements regarding special ammunition.

General Reed entered McGill University, Canada, in September 1962 to study international air and space law. In May 1963 he became a member of the International Law Division, Office of The Judge Advocate General, Headquarters U.S. Air Force. From August 1967 to August 1969, he was assigned to the American Embassy in Bangkok where he served as the legal advisor to the U.S. Ambassador to Thailand with responsibility for the handling of status of U.S. forces problems with the Thai Government.

General Reed next was Assistant Staff Judge Advocate at Headquarters Air Force Systems Command, Andrews Air Force Base, Md. In April 1970 he was assigned as Chief of the International Law Division, Office of the Judge Advocate General, Headquarters U.S. Air Force, Washington, D.C. He was responsible for advising the Air Force on international legal implications of military operations and the applicability of international law and foreign law to the operation and status of U.S. forces and their personnel in foreign countries.

In May 1973 General Reed was reassigned within the Office of the Judge Advocate General as Director of Civil Law, with responsibility for administering civil legal matters affecting the U.S. Air Force, including international law, claims, activities relating to litigation, legislation, patents, and legal aid.

General Reed assumed duties as Assistant Judge Advocate General, Headquarters U.S. Air Force, in October 1973. He served as a member of the U.S. delegation to the Diplomatic Conference on the Law Applicable in Armed Conflict which convened in February 1974 and as vice chairman of the delegation for the final session ending in June 1977.

General Reed was appointed the Judge Advocate General, U.S. Air Force and promoted to the grade major general on October 1, 1977, with date of rank July 1, 1974.

I want to conclude by expressing my thanks and that of my colleagues in the Senate to a distinguished officer who has been a public servant in the finest sense of that term. As he leaves to become dean of the University of South Dakota Law School, we wish him well and Godspeed.●

FINANCE COMMITTEE AMENDMENT TO THE TAX CUT BILL RELATING TO THE DEDUCTION FOR CHARITABLE CONTRIBUTIONS

● Mr. LONG. Mr. President, on September 16, the Committee on Finance agreed to modify the tax cut bill we previously reported as an amendment to H.R. 5829. The modification would add a provision permitting an individual to take a deduction for charitable contributions whether or not he itemizes deductions. I submit for the RECORD a description of the provision and the text of the modification of the committee amendment.

The material follows:

MODIFICATION OF FINANCE COMMITTEE AMENDMENT TO H.R. 5289: DEDUCTION FOR CHARITABLE CONTRIBUTIONS FOR INDIVIDUALS WHO DO NOT ITEMIZE DEDUCTIONS

PRESENT LAW

Charitable deduction.—Under present law, a deduction for charitable contributions may be claimed by individual taxpayers as an itemized deduction from adjusted gross income in determining taxable income for the year in which the contributions are made. The amount of the deduction is subject to limitations depending on the nature of the contribution, type of donee, and the value of the contribution in relation to the taxpayer's adjusted gross income (without regard to net operating loss carrybacks).

Withholding exemptions. — Individuals whose wages are subject to withholding may be entitled to a number of exemptions. Each exemption is worth $1,000 and is claimed when filing a Form W-4. Among the withholding exemptions which taxpayers are entitled to claim are withholding allowances for tax credits and excess itemized deductions (including charitable contribution deductions to the extent reflected in excess itemized deductions). Each such additional allowance exempts $1,000 of annual wages from withholding.

REASONS FOR CHANGE

The committee is concerned that many individuals who make charitable contributions do not receive a full tax benefit from those contributions under present law. Under present law, for an individual to receive a tax benefit from charitable giving, the individual must be able to itemize deductions. This means that the amount of charitable contributions, along with other itemized deductions, must exceed the individual's zero bracket amount ($3,600, under the committee bill, for joint returns) before any tax benefit from the contributions is realized. The amount of tax benefit then realized depends upon the individual's marginal tax rate. (For example, if an itemizer in the 50-percent marginal tax bracket made a contribution of $1,000, his or her tax liability generally would be reduced by $500 as a result of the contribution.) Individuals who cannot itemize their deductions, because they do not have deductions in excess of their zero bracket amount, realize no tax benefit from charitable contributions.

The committee is concerned that increasing the zero bracket amount may have an adverse effect on charitable giving. For example, some current itemizers may not be able to itemize because of the increase in the zero bracket amount under the committee bill and may reduce their charitable contributions.

The committee believes that the provision will stimulate charitable giving, thereby providing more revenue for worthwhile organizations, many of which provide services that otherwise would have to be provided by the Federal government.

EXPLANATION OF PROVISION

The amendment, when fully phased-in, allows all individual taxpayers to deduct the full amount of their charitable contributions, whether or not they itemize their deductions. When the amendment is fully effective, individuals would deduct the full amount of their charitable contributions from their adjusted gross income.

The separate deduction for charitable contributions created by the amendment is phased-in incrementally over a four-year period. For 1981, an individual would be able to deduct 25 percent of his or her charitable contributions from adjusted gross income. The balance of the individual's contributions could be added to all other itemized deductions. This sum would be deductible to the extent that it exceeds the individual's zero bracket amount, as under present law. For 1982, an individual would be able to deduct 50 percent of his or her charitable contributions from adjusted gross income; and in 1983, the percentage of charitable contributions deductible from adjusted gross income would increase to 75 percent. For 1984 and subsequent years, the total amount of an individual's charitable contributions would be deductible from adjusted gross income.

The amendment also allows individuals to take their charitable contributions into account in determining their withholding exemptions. Thus, individuals who make substantial charitable contributions could have the reduction in their Federal income tax liability reflected currently in reduced wage withholding during the year.

The amendment also contains technical and conforming changes.

EFFECTIVE DATE

The changes made by the amendment apply for taxable years beginning after December 31, 1980, with respect to contributions made and remuneration paid after that date.

REVENUE EFFECT

On a fiscal year basis, the amendment would result in revenue losses of $114 million in 1981, $983 million in 1982, $2,064 million in 1983, $3,343 million in 1984, and $4.681 million in 1985.

On a calendar year basis, the amendment would result in revenue losses of $841 million in 1981, $1,895 million in 1982, $3,144 million in 1983, $4,621 million in 1984, and $5,069 million in 1985.

MODIFICATION

At the end of title I, insert the following new subtitle:

Subtitle D—Charitable Contribution Deductions

SEC. 131. DEDUCTION FOR CHARITABLE CONTRIBUTIONS TO BE ALLOWED FOR INDIVIDUALS WHO DO NOT ITEMIZE DEDUCTIONS.

(a) IN GENERAL.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsection (i) as subsection (j), and by inserting after subsection (h) the following new subsection:

"(i) Transitional Rule for Nonitemization of Deduction.—

"(1) IN GENERAL.—In the case of an individual, the applicable percentage of the deduction allowed by subsection (a) for the taxable year shall not be treated as an itemized deduction.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined under the following table:

"For taxable years beginning in—	The applicable percentage is—
1981	25 percent
1982	50 percent
1983	75 percent
1984 or thereafter	100 percent.".

(b) Conforming Amendments.—

(1) Paragraph (1) of section 57(b) (relating to adjusted itemized deductions) is amended by inserting "without regard to paragraph (3) thereof" after "section 63 (f)".

(2) Paragraph (1) of section 63(b) (relating to individuals) is amended—

(A) by striking out "and" at the end of subparagraph (A), and

(B) by inserting after subparagraph (B) the following new subparagraph:

"(C) the deduction for charitable, etc., contributions and gifts provided by section 170, to the extent that such deduction is not treated as an itemized deduction under section 170 (i), and".

(3) Subsection (f) of section 63 (relating to itemized deductions) is amended—

(A) by striking out "and" at the end of paragraph (1),

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a comma and the word "and", and

(C) by adding at the end thereof the following new paragraph:

"(3) the deduction for charitable, etc., contributions and gifts provided by section 170, to the extent that such deduction is not treated as an itemized deduction under section 170 (i).".

(C) Withholding.—

(1) The first sentence of section 3402 (m) (1) (relating to withholding allowances based on itemized deductions), as amended by sections 101 and 102, is amended to read as follows: "An employee shall be entitled to withholding allowances under this subsection with respect to a payment of wages in number equal to the number determined by dividing by $1,100 the sum of—

"(A) the excess of—

"(i) his estimated itemized deductions, over

"(ii) an amount equal to $3,600 ($2,400 in the case of an individual who is not married (within the meaning of section 143) and who is not a surviving spouse (as defined in section 2(a))), plus

"(B) that portion of the deduction allowed by section 170 for the taxable year which is not treated as an itemized deduction under section 170 (i).".

(2) Paragraph (2) of section 3402 (m) is amended by inserting ", the deduction referred to in paragraph (1) (B)," after "section 151".

(3) The caption for section 3402 (m) is amended by inserting "or charitable" before "deductions".

(d) Effective Dates.—

(1) The amendments made by subsections (a) and (b) shall apply with respect to taxable years beginning after December 31, 1980, and with respect to contributions payment of which is made after such date.

(2) The amendment made by subsection (c) shall apply with respect to remuneration paid after December 31, 1980.

In the table of contents immediately before the item relating to title II insert the following new item:

Subtitle D—Charitable Contribution Deductions

Sec. 131. Deduction for Charitable Contributions To Be Allowed for Individuals Who Do Not Itemize Deductions.●

STILL TIME FOR SUNSET

● Mr. SASSER. Mr. President, I shall submit for the Record a letter to me dated September 8, 1980, from Stuart Eizenstat, assistant to the President for Domestic Affairs and Policy.

I ask that the letter be printed because it responds to a very important question which I asked Mr. Eizenstat: Does President Carter still support a strong sunset bill? Mr. Eisenstadt's response was an enthusiastic "yes."

The President knows what the Senate Governmental Affairs Committee discovered in its deliberations on S. 2, "The Sunset Act of 1980"—that only a strong sunset bill, one which would force the Congress and the executive branch to review Federal programs on a regular schedule and will lead us to the vital work of revamping or eliminating outmoded programs.

Perhaps this point was best stated in a recent editorial of the Christian Science Monitor, in which the newspaper observed:

> Failure to mandate specific schedules for automatic review and termination of existing programs has made some . . . sunset laws largely ineffectual. Left to their own discretion and timing, lawmakers are virtually invited to choose the "easier" or less controversial programs for review and leave pet projects untouched.

Mr. President, the Governmental Affairs Committee version of S. 2 is the only sunset bill that addresses this concern. It is the only one which offers us the opportunity to begin the reevaluation of the many Federal programs we have created over the years. It is the only Sunset bill which offers a concrete basis for bringing about genuine change in the oversight responsibilities of the Congress. It is the only sunset bill which does not offer false hope to a public weary of runaway Government and empty congressional promises to pull in the reins on runaway spending. The Governmental Affairs version of S. 2 is the only bill which can legitimately wear the label: "Sunset."

The time is ripe for Senate action on S. 2. Win, lose, or draw, I believe that the Senate should be allowed to express its judgment on sunset. Too much effort has gone into S. 2 to let it wither on the vine.

The letter follows:

The White House,
Washington, D.C., September 8, 1980.

Hon. James R. Sasser,
U.S. Senate,
Washington, D.C.

Dear Jim: In response to your recent note, I want to reaffirm the President's support for strong sunset legislation. The bill recently reported by the Governmental Affairs Committee would make a dramatic contribution to sound management of the Federal Government. By forcing Congress and the Executive to review Federal programs on a regular schedule, it would promote the vital work of revamping or eliminating outmoded programs. Because the schedule groups related programs toegther, Sunset would make the existing reauthorization process more orderly and thorough, and it would extend periodic review to many of the programs that are now on permanent authorization.

I congratulate you for your leadership on this legislation, and I want you to know the Administration will continue to support your efforts as the bill moves forward.

Sincerely,

Stuart E. Eizenstat,
Assistant to the President for Domestic Affairs and Policy.●

THE INTELLIGENCE OVERSIGHT ACT OF 1980

● Mr. HUDDLESTON. Mr. President, on June 3 of this year, the Senate passed S. 2284, the Intelligence Oversight Act of 1980, by a vote of 89 to 1. On June 28, an amendment whose provisions are identical to S. 2284 was attached to S. 2597, the Intelligence Authorization Act of 1980, in order to assure that the bill would receive consideration in the House of Representatives.

When the Senate passed this bill, both the bill and its report language were supported by the executive branch. After passage, however, the executive branch expressed concern about a section of the colloquy that Senator Javits and I had had on the floor of the Senate on June 3. The Intelligence Committee and the executive branch have negotiated agreed language concerning the colloquy. This language is contained in a letter I have sent to the Attorney General explaining the point at issue in the colloquy between Senator Javits and myself. I submit for the Record both that letter and the Attorney General's reply as part of the legislative history of S. 2284.

Select Committee on Intelligence,
Washington, D.C., September 15, 1980.

Hon. Benjamin R. Civiletti,
The Attorney General,
Washington, D.C.

Dear Mr. Attorney General: It has come to my attention that concern has been expressed by some in the Executive branch regarding one statement in the legislative history of S. 2284, the Intelligence Oversight Act of 1980, as passed by the Senate on June 3 of this year. In floor debate on that bill, I engaged in a series of colloquies with Senator Javits which, to the extent that they might be inconsistent with the language of the report, would supersede such language. In response to questions relating to section 501(b), I noted that a "claim of constitutional authority is the sole ground that may be asserted for withholding prior notice of a covert operation."

This colloquy was not intended to be, and I do not regard it as being, inconsistent with the language of the star print of the Committee report in the second sentence of paragraph 6 on page 6 which states:

> . . . it is recognized that in extremely rare circumstances a need to preserve essential secrecy may result in a decision not to impart certain sensitive aspects of operations or collection programs to the oversight committees in order to protect extremely sensitive intelligence sources and methods.

This explanation of the intent of the second preambular clause in section 501(a) was not superseded by the colloquy which, as Senator Javits stated, was related to section 501(b). The construction of the second preambular clause was not intended to be affected by the statement made with regard to section 501(b).

In a recent court decision [*United States* v. *American Telephone & Telegraph Co.*, 567 F.2d 121 (D.C. Cir., 1977)], the court articulated an approach that the committee believes is a sound way to deal with any differences that might arise regarding the implementation of these provisions. This case raised many issues similar to those encountered in providing for the authorities of both branches for the governance of the intelligence activities of the United States. Two passages from the opinion in that case are of particular pertinence:

> The framers, rather than attempting to define and allocate all governmental power in minute detail, relied, we believe, on the expectation that where conflicts in scope of authority arose between the coordinate branches, a spirit of dynamic compromise would promote resolution of the dispute in the manner most likely to result in efficient functioning of our governmental system. Under this view, the coordinate branches do not exist in an exclusively adversary relationship to one another when a conflict in

authority arises. Rather, each branch should take cognizance of an implicit constitutional mandate to seek optimal accommodation through a realistic evaluation of the needs of the conflicting branches in the particular fact situation. This aspect of our constitutional scheme avoids the mischief of polarization of disputes.

The course of negotiations reflects something of greater moment than the mere degree to which ordinary parties are willing to compromise. Given our perception that it was a deliberate feature of the constitutional scheme to leave the allocation of powers unclear in certain situations, the resolution of conflict between the coordinate branches in these situations must be regarded as an opportunity for a constructive modus vivendi, which positively promotes the functioning of our system. The Constitution contemplates such accommodation. Negotiation between the two branches should thus be viewed as a dynamic process affirmatively furthering the constitutional scheme.

I hope this explanation of the legislative history of S. 2284 will help resolve the concerns expressed to you by some in the Executive branch. Should it appear necessary, I am confident that there would be no difficulty in making this clarification of the intent of the Senate a formal part of the legislative history.

Sincerely,

WALTER D. HUDDLESTON,
Chairman, Subcommittee on Characters and Guidelines.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., September 18, 1980.
Hon. WALTER D. HUDDLESTON,
Chairman, Subcommittee on Charters and Guidelines, Select Committee on Intelligence, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Your letter regarding the legislative history of S. 2284, the Intelligence Oversight Act of 1980, explains that the construction of the second preambular clause of section 501(a) was not intended to be affected by the statement made in your colloquy with Senator Javits relating to section 501(b). Thus, the second preambular clause may be interpreted without regard to the statement regarding section 501(b).

The Executive branch agrees with this explanation of the legislative history, and any differences that might arise should be resolved as you suggest. Therefore, it would seem appropriate to make this clarification a formal part of the legislative history.

Sincerely,

BENJAMIN R. CIVILETTI,
Attorney General.●

TAXES, TRADEOFFS, AND TIMING

Mr. TSONGAS. Mr. President, I believe the Senate should resist the temptation to rush through major tax cut legislation in the last days of this session. It is true that economists from Walter Heller to Alan Greenspan are calling for a cut. Each of the Presidential candidates brandishes a tax cut plan as the cornerstone of his "reindustrialization" package.

Nevertheless, given the vast myriad of legitimate needs reflected in both the public and private sectors of the economy today, we need desperately to get the most bang out of any enacted tax expenditure. To imagine that the Congress could perform so exacting a task during these final weeks of the session is surely the triumph of hope over reason.

Tax cuts, after all, are not free. True, cuts can be expected to generate both additional investment and increased output. But only the extremist "Laffer Curve" enthusiasts suggest that output will be increased so greatly as to increase government revenues. Prof. Walter Heller is right to call them the "mirage school."

To accommodate tax revenue losses, the Government's options are limited. Taxes can be cut, prudent monetary policy sustained and the revenue losses financed either through the sale of Government bonds, or through an equivalent reduction in Government expenditures. Or, taxes can be cut and money printed to finance the cut. Under each of these options, a significant portion of our population must endure economic loss.

Chairman Volcker, in his testimony of a week ago, assured the Congress of his commitment to a continuation of prudent monetary policies. If such a policy is to continue, any Federal deficit will need to be financed through the sale of Government bonds. Thus, a large tax cut, without associated cuts in outlays, will require capital markets to accommodate massive public offerings. The prime rate already is returning to an upward trend. Once we are in the midst of economic recovery, certain industries, auto and housing in particular, would have to decline due to exhorbitantly high interest rates.

Added to a big tax cut, massive reductions in Federal programs complete the Republican couplet. And although the Republicans claim to have an eye for waste, I believe Governor Reagan, if elected, soon enough will discover the limited ability to separate the wheat from the chaff. Given the Republican perception of the current defense budget as anemic, this means that drastic reductions will occur in social services. Head Start, Meals on Wheels, vocational training, food stamps, and other programs that serve basic human needs will be on the Republican chopping block.

Then again, there is always the printing press. No one would advocate such a policy, but it is not hard to imagine how it might result. A large tax cut is enacted. Somehow, the constituencies of social programs stave off drastic budget reductions. Therefore, the Treasury is forced to meet its revenue shortfall through a large sale of bonds. Interest rates begin to climb, and so do auto and housing industry lobbyists into Capitol Hill office windows. Soon the flow of new dollars becomes a flood. Numerous econometric models demonstrate that a large tax cut financed by easy money will yield few, if any, benefits. Accelerated inflation—a virtual certainty if we print money unwisely—will most probably erase any positive aspects that a tax cut might have had on our Nation's productivity.

Again, a tax cut is not unjustified, but it's not free either. Lagging productivity compels us to cut taxes for business. Moreover, the projected personal taxation levels justify some relief. But our critically tight budgetary situation and the constant threat of inflation compel us to craft a cut that provides the maximum amount of the desired effect from each dollar of lost Federal revenue.

I am convinced that our Nation needs tax reform to motivate production, investment and savings. The state of our economy compels us, however, to craft a cut able to restore our Nation's productive capability in a fair, effective and lasting manner. As elected officials, we stand the best chance of structuring such a cut without the extreme pressures of election month politics and with a clear indication of the future budgetary priorities of both the legislative and executive branch. Our economy, though in need of a tax cut, will fare far better if the cut is designed after January 1.●

WHAT MAKES AMERICA GREAT

● Mr. CRANSTON. Each week, I receive thousands of letters and hundreds of telephone calls from my constituents. Californians, like all Americans, are deeply concerned about the challenges before us: Inflation, jobs, the economy, defense, taxes, refugees, senior citizens, energy, abortion, and Iran.

The list goes on. The challenges are monumental and the victories slow. The differences among us seem to outweigh our similarities, particularly when we seem unable to work together to find solutions. But Americans generally look on the bright side in even the darkest of times. Optimism is a hallmark of our Nation and our people.

The tougher the problems, the stronger our commitment to finding the solutions. The more diverse our views, the harder we work to compromise our differences.

For in our occupation with the tasks before us, we have not lost sight of what has made America great. And what has made us a great Nation can best be discerned from a quote from the Little Prince by Antoine De Saint-Exupery: "It is only with the heart that one can see right; what is essential is invisible to the eye."

Our essence is our diversity, our freedoms and our exercise of those freedoms. America is great because we cherish challenge, we speak out, we care, because we share a common hope for the future.

America is great because of young people like Kenneth Lin, 12, of San Jose, and Robert Benson, 13, of Santa Clara, Calif. These young men have written outstanding, prize-winning essays on "What makes America Great." By pointing out the intellectual, emotional, economic, political, and ethnic diversities in us, Kenneth and Robert have captured our spirit and our strength. They deserve to be proud of their accomplishment.

I wish to thank KNBR Radio 68 and the San Jose Mercury News for their interest in and encouragement of the youth of California.

Mr. President, I ask that the essays be printed in their entirety in this place in the RECORD:

The essays follow:

WHAT MAKES AMERICA GREAT

(By Kenneth Lin)

America is great because it is made of many different races. While other countries have their own culture and traditions that are peculiar to their land. America is a country which comprises not one, but multiple cultures and traditions that its people brought here when they immigrated into this land in the years past. That is why in America one can see all kinds of food, clothes, religions as well as life-styles.

Because of its multiple ethnic backgrounds, America has learned not only to tolerate, but also to accept different customs, thoughts and philosophies. When other countries think that they are right and refuse to change their way of thinking and behavior, America is willing to listen to and take advice from other nations, and at the same time learn from its mistakes. And because America is willing to learn from others, it is able to adapt itself to the changes of the times and make progress accordingly.

America is a great pot-pourri—a giant melting pot in which many different flowers of all sizes, colors and fragrances, often bloom together, sometimes as if in rivalry, but always in harmony, because we are a nation of different, but undivided people who accept and enjoy the contributions of our neighbors.

America is great, not because it is big in size, but because it is big in heart, not because it can beat other countries in war and contests, but because it can forgive and help friends and enemies alike.

WHAT MAKES AMERICA GREAT?

(By Robert Benson)

Look at our flag! In the upper left-hand corner there is a blue field sprinkled with fifty white stars. Each star has five points, one for each of the five basic freedoms which we have as citizens of the United States of America.

The point at the top of each star represents the freedom of religion. While religion is being persecuted on a large scale in many countries, we, as Americans, have the right to believe in whatever faith we choose. Not only this, but we also have the freedom to practice our beliefs and openly declare our faith.

The second and third points of each star represent the freedom of speech and the freedom of the press. In this country, we have the right to say what we believe, in public or in private. We can also publicize our opinions and ideas through newspapers, magazines, radio, and television.

The fourth point of each star represents political freedom. As American citizens, we have the right to vote, elect our own officials, and even run for an office ourselves.

The fifth point of each star represents economic freedom. In the United States, we can choose our own jobs and careers. We also have the freedom to save our money and invest it in a way we feel is best.

Now, for the support of our unique freedom, let us also pledge to each other, "our Lives, our Fortunes, and our sacred Honor."

Freedom. This is what makes America great!

EVENTS IN SOUTH KOREA

● Mr. TSONGAS. Mr. President, this past Tuesday, the leading member of the South Korean political opposition, Kim Dae Jung, was sentenced to death by a military tribunal. Unless there is a reversal of this sentence and concrete steps taken toward democratic rule, I believe the time has come to reexamine our relations with South Korea.

Kim Dae Jung is the most dynamic of the leaders of South Korea's New Democratic Party. As that party's candidate for President in 1971, Kim received an impressive 46 percent of the popular vote against then President Park Chung Hee. After Park declared martial law and established what was essentially one-man rule, Kim exiled himself to Japan where he continued his call for a free press, academic freedom, and human rights in his native land. In 1973, Kim was kidnapped from a Tokyo hotel by the KCIA and brought back to South Korea where he faced years of political imprisonment. As soon as he won his freedom at the end of 1978, Kim, who is a devout Roman Catholic and self-professed Jeffersonian democrat, once again spoke out against the suppression of democracy. In February of this year, interim President Choi restored full civil rights to Kim.

Yet, only 3 months later, he was arrested on charges of sedition and other violations when General Chun declared martial law as part of a military takeover that dissolved the National Assembly, imposed press censorship and closed the universities. The day after Kim's arrest, a rebellion broke out in his home city of Kwangju. Over 50,0000 .citizens poured out into the streets and drove the armed forces out of the city. When the military finally recaptured Kwangju 10 days later, the reprisals were grim.

Before his trial, the man who was almost elected President of South Korea was kept in an underground cell, often stripped of his clothing, interrogated 15 hours a day for 60 days. He told his court-martial that "what I suffered mentally is beyond description." He was not allowed until the trial to see a lawyer of his own choosing or the members of his family. At the trial itself, Amnesty International and the International Commission of Justice were denied observer status. Kim admitted violations of the foreign currency control law and the martial law decree—charges that our own Government publicly stated "hardly amount to anything more than the charge that Kim Dae Jung was campaigning to be president." He vigorously denied that he violated the sedition and national security laws—charges that the State Department labeled "pretty far-fetched." Yet these are the charges for which Kim has been sentenced to death.

Although I have long followed events in South Korea, this is the first time that I have voiced my concerns about these events on the floor of the Senate. The sentencing of Kim Dae Jung has brought home to me the need to question publicly the future direction of our special relationship with South Korea. And it has awakened in many Americans new and serious doubts about the extent of our military and economic commitment to that country. We learned only a short time ago in another part of Asia that stability and security must rest on more than military authoritarianism. They depend as well on the support of the people. And we learned painfully in Iran that good will toward America can be rapidly dissipated when our professed ideals and actual practices diverge. The danger for us is that the people of South Korea will increasingly come to identify America, for whom they have long felt bonds of gratitude, trust, and affection with the military junta that has turned back the clock again on democratic reform.

For Kim's trial and sentencing symbolizes a broader tragedy in South Korea. After President Park's assassination last October, there was much promise of a gradual institution of democratic processes. Even after Chun Doo Hwan assumed control of the army in a coup de main in December, the transition government of that country seemed to be taking important if faltering steps toward a greater level of citizen participation. The fulfillment of those steps and the realization of those hopes could have led to the flowering of a democratic system in which the people felt not just an economic stake but a political stake as well. In the long run political vitality could have provided greater long-range security against the north. Then the contrast between the political systems on either side of the 38th parallel could not have been clearer to the Korean people and to the world.

But then came the martial law decree of May 17 and the virtual takeover of the government by General Chun. Since that time, Chun has closed down the popularly elected National Assembly, purged thousands of civil servants, ousted over 1,800 executives of state-run banks and corporations, and required the firing of more than 300 journalists critical of the government. The licenses of 172 periodicals have been canceled. The universities have been closed and their faculties purged. Leading politicians of all political parties have been arrested. All political dissent has been stifled. The news media has been placed under tight military censorship. Official American statements of disapproval of Chun's actions have been deliberately distorted and twisted into apparent endorsements, thereby contributing to rising anti-American feeling.

Even President Carter's letter calling for an acceleration of steps toward democracy was doctored so that it appears in the South Korean press as a ringing endorsement of General Chun. Against this background, the trial of Kim Dae Jung is just one more travesty.

Some will argue that we should stay out of South Korea's internal affairs. One could argue that if thousands of American soldiers had not lost their lives to preserve democratic freedoms in the southern half of the Korean peninsula. One could argue that if 38,000 American troops were not stationed in South Korea today. One could argue that if the Armed Forces of Korea were not under the joint command of an American four-star general. One could argue that if the Eximbank did not have an exposure of $3.1 billion in loans to South Korea, the highest to any nation. One could argue that, in short, if our economic and military investment in South Korea were not so overriding as to justify our interest in making good on those investments by insuring stability, security, and democratization.

There are others who will argue that South Korea is not ready for democracy. If that is true, why have so many South Koreans turned out for national elections? Why, when the military permitted it, did a two-party system flourish during the sixties and early seventies? In 1978, when there were relatively free elections for the National Assembly, the New Democratic Party outpolled President Park's party in a true demonstration of democracy. And if the people are not ready for democracy, why the demonstrations in Seoul and other South Korean cities before the May declaration of martial law? And what about the rebellion in Kwanju that followed it? Clearly the people of South Korea believe they are ready for democratic rule.

I have raised these questions because for me and many of our countrymen they cannot be wished away. I do not want to see another Iran in an area of the world as delicate and critical to us as the Korean peninsula. I am not yet prepared to suggest the particular course we should adopt in dealing with the new South Korean Government. But we must make clear that we will be watching very closely. We must make clear that for us, respect for human rights and the commitment to democratic political processes must be cornerstones of those principles on which we base alliance, friendship and favor in the conduct for our affairs with other nations.

I submit, for printing in the Record, an article in connection with this matter.

The article follows:

Kim Must Be Spared

(By Jerome Alan Cohen)

Cambridge, Mass.—The sentence of death that a military court in Seoul dealt yesterday to Kim Dae Jung, the opposition leader, demonstrates the bankruptcy of United States policy toward South Korea.

Four years ago, Jimmy Carter warned the dictator Park Chung Hee that continuing repression was undermining American support for his Government. Now, in Mr. Carter's re-election campaign, he will likely portray it as a victory for his statesmanship if American pressure manages to save Mr. Kim, South Korea's most dynamic democratic leader, from death, even if Mr. Kim is left unjustly to rot in prison for life while Koreans suffer under the even more repressive regime that seized power after Mr. Park's assassination.

We could savor the ironies were the situation not so tragic. Gen. Chun Doo Hwan literally shoots his way to power, violating the United Nations Command structure by his illegitimate use of troops. He then jails Mr. Kim to prevent him from taking part in a widely demanded popular Presidential election. When protests break out in Mr. Kim's native province, the savage reaction of General Chun's troops leads to an uprising in the provincial capital of Kwangju that results in a bloodbath that shatters the painstakingly nurtured modus vivendi between the army and civilian society. Mr. Kim then is accused of sedition for supposedly having fomented all this. To discredit the popular Mr. Kim, whose real "crime" is that in 1971 he almost unseated Mr. Park in South Korea's last relatively free election and is a persuasive proponent of the human rights that General Chun detests, the general fabricates charges that Mr. Kim is a Communist. This is doubly ironic: Mr. Kim is a Jeffersonian democrat and devout Roman Catholic who has kept his faith in the possibility of representative government despite all manner of intimidation including an auto "accident," kidnaping, house arrest, and repeated imprisonment.

General Chun, now President, has perfected the "big lie" technique, so well developed in North Korea. Mr. Park's Government was notorious for censorship that sanitized reality, but General Chun's goes beyond that, falsely telling the people that at his trial Mr. Kim admitted key charges of an indictment that sought to make up in length what is lacked in strength. Mr. Kim has admitted violations of the martial-law decree and the foreign-currency-control law, but has vigorously denied that he violated the sedition and national-security laws, under which the death penalty has been imposed.

Actually, the military judges, under command influence, had to rely on the "confession" extracted from Mr. Kim in long weeks of interrogation, 15 hours per day, in an underground cell where he was often stripped nude. Mr. Kim, like his 23 co-defendants, repudiated his coerced confession. Still, in a trial that travestied justice, they were all convicted—the 23 got prison terms—despite the prosecution's failure to prove what our State Department has called the "farfetched" charges. The Korean authorities' view was summed up by the chief prosecutor who, echoing General Chun's public statements, told the court: "Such an opportunist, agitator politician must be eliminated from this land for good."

Kim Dae Jung's life must be spared, and General Chun may well be prepared to spare it—at least for now—in return for the American support he so desperately needs for legitimacy. But for Washington to barter its support so cheaply would be tragic. The sedition and national-security charges should be dropped and Mr. Kim and the other defendants released, together with all political prisoners. More fundamentally, the country should be permitted to resume the quest for an open political system that it was embarked upon when General Chun shot his way to power.

President Carter recently stated that "the Koreans are not ready for [democracy] according to their own judgment." How could anyone possibly know that about a people who now greet each other by asking, "Did you pass the night safely?" Moreover, Mr. Carter is misguided if he believes that the only instrument of American pressure capable of loosening the totalitarian Chun grip is a threat to withdraw our forces from the peninsula, which might hurt our security interest in northeastern Asia. Many lesser, yet potent, pressures are available, such as ceasing military sales and discussions on providing F–16 jets, suspending negotiations for Export-Import Bank loans and other trade advantages, and using Korean-language broadcasts on the United States Armed Forces Network to correct General Chun's distortions of Washington's position. A failure to apply such pressures, in the name of preserving South Korean "stability," will leave us with a policy of mere tokenism and will convince many despairing democrats there that change can come only by revolution.●

BAN AGAINST RAIDS

Mr. HUDDLESTON. Mr. President, the September 17, 1980, Washington Post carried an article by Donnel Nunes about the decision of the Attorney General to ban the Immigration and Naturalization Service raids designed to ferret out illegal aliens. The article points out that the INS is angered by the ban and the possibility that the Attorney General will extend it even though there is no demonstrated need to do so. While this misguided concern about the rights of illegal aliens may come as a surprise to some people, it is just another example of an illogical and counterproductive policy on illegal aliens.

For reasons which are known only to those within the Department of Justice, there has been a longstanding policy which is designed to reduce the enforcement of our immigration laws against illegal aliens. Within the last 2 or 3 years, the number of internal investigative officers at INS was reduced by about one-third. These are the officers who apprehend illegal aliens once they are across our borders. This shortsightedness was made very clear when the President ordered the review of the status of all Iranians in this country. In order to make this determination, border patrol officers had to be taken off of our already under-patrolled borders to help in this internal investigation. Now, this decreased number of INS officers is being denied the most effective tool they have for enforcing our immigration laws against illegal aliens. In essence, the Attorney General has adopted a policy for illegal aliens which says that if they can get past our very thin line of border patrol officers, the Federal Government will not make a serious effort to enforce our immigration laws against them.

In other words, the U.S. Attorney General, who is responsible for enforcing all of our Federal laws, has devised an enforcement policy which gives sanctuary to a special class of individuals who knowingly and willingly violate our laws. If there were only a few of these individuals and their impact on this country was minimal, the policies of the Attorney General might be understandable. However, the magnitude of the problem only compounds the seriousness of this "special interest" policy.

Whether by accident or design, the article in the Washington Post directly above the story on Mr. Civiletti's illegal alien policy carried the headline that "15,000 Apply for 70 Federal jobs in Baltimore." At a time when millions of Americans are out of work and are fighting for the few new jobs that are available, the chief law enforcement officer of the United States is pursuing a policy which makes it easier for millions of illegal aliens to take and keep jobs in this country. One of the few things experts in the area of illegal aliens agree on is that illegal aliens come to the United States primarily for one reason—jobs. Yet, where is the concern for the unemployed American at the Department of Justice? It apparently does not exist. Before taking any further steps to curtail the enforcement of immigration against illegal aliens, I recommend that Mr. Civiletti educate himself a little more about the unemployment problem in this country. It might impress upon him more his responsibility to protect the rights of legal residents and citizens. In fact, the Attorney General should take time to read the reports of his own investigators in INS which show that illegal aliens in many cases are earning above $7.50 per hour in every type of industry in this country.

The article states that "Civiletti has been especially concerned with the Nation's Hispanic community, which is particularly sensitive to the illegal alien issue." While I agree that the Attorney General should be concerned about the rights of every minority group in this country, he should not let this blind him to the responsibility which he owes to all Americans, particularly those unemployed.

In order to demonstrate his concern about the Hispanic interest, the Attorney

General has created a special advisory committee and a position for a special assistant. Perhaps Mr. Civiletti should demonstrate as much concern for the vast majority of Americans who want something done about the illegal alien problem. I am certain that he could find more than enough citizens to serve on such an advisory committee from the 91 percent who now say that they want an all-out effort made to control the illegal alien problem. Or, he could help our unemployed problem by creating a position for special adviser on unemployed Americans.

The Attorney General's moratorium on the enforcement of our immigration laws was originally instituted in order to assist the Bureau of the Census in its efforts to count the millions of illegal aliens in the 1980 census. However, there has never been a valid explanation for the extension of this order on his own initiative after the census was taken. In fact, the Census Bureau made no official request for this extension. Why did the Attorney General extend an order which had only one possible purpose—to protect illegal aliens from detection and deportation?

The answer to this question is as unfathomable as his decision to go into Federal court and defend the right of illegal aliens to be represented in the U.S. House of Representatives. When the U.S. Bureau of the Census decided that the millions of illegal aliens should be counted in the 1980 census and included in the reapportionment base, the Department of Justice immediately came forward without hesitation to defend this demunition of political representation of U.S. citizens. Since the number of representatives is fixed, the net effect of this decision is to shift more political clout to those areas that have large concentrations of illegal aliens. Those areas that do not have these large numbers are of course the losers.

However, the Department of Justice was not content to argue that illegal aliens should be included in the reapportionment figures. Instead they went further than the issue at hand and argued that illegal aliens also could be given the right to vote. I cannot imagine anything so unreasonable than to argue that a person who has no legal right to be in this country has a right to vote. Yet, this is the position taken by the Department of Justice.

Mr. President, at a time when the American people are demanding stronger immigration laws and an all-out effort to control illegal aliens, the U.S. Department of Justice is doing everything in its power to keep from enforcing the immigration laws we already have on the books.

In essence, the chief law enforcement agency of the United States is standing idly by while illegal aliens pour across our borders to take jobs and political representation from our citizens. If the Department of Justice cannot be relied upon to protect citizens from this invasion, I think that it is time that some of the policymakers at the Department take a closer look at the growing unemployment lines in this country.

Mr. President, I ask unanimous consent to have printed in the Record the articles to which I have made reference.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Sept. 17, 1980]

INS Is Angered At 6-Month Ban Against Raids

(By Donnel Nunes)

Six months ago, in order to encourage the estimated 3.5 million foreigners here illegally to participate in the 1980 census, the Justice Department imposed a ban on immigration service raids designed to ferret them out. U.S. census takers finished their field work weeks ago, but Attorney General Benjamin R. Civiletti has refused to lift the ban.

Immigration investigators contend that the restrictions severely cripple their ability to locate and deport illegal aliens, that a continuation of the moratorium would amount to a de facto amnesty for the undocumented workers and that the ban is politically motivated because it is intended to placate the vast numbers of Hispanic votters who would oppose the deportation of friends or relatives.

"The attorney general hasn't formulated what his policy is going to be," said Justice spokesman John Russell yesterday in explaining why the moratorium has not been ended. He said Civiletti is studying the moratorium and one of the options under consideration is making the ban permanent. The spokesman denied that any political considerations were involved, but did say that Civiletti may discuss his decision with the White House before implementing it.

Civiletti has been especially concerned with the nation's Hispanic community, which is particularly sensitive to the illegal alien issue. Many undocumented workers are Hispanics, and several Hispanic leaders opposed his nomination as attorney general last year.

Those community leaders testified during the hearings that they felt he had not pushed hard enough to prosecute police brutality cases in the Southwest when he was head of the Justice Department's criminal division.

Since becoming attorney general, Civiletti has created a Hispanic advisory committee and named a special assistant for Hispanic affairs to work with Hispanic groups around the country. He has also made a concerted effort to find a Hispanic to fill the now vacant directorship of the Immigration and Naturalization Service.

The restrictions prohibit immigration service sweeps of worksites in search of illegal aliens unless investigators have documented proof or a witness willing to testify that undocumented workers are there.

The moratorium was ordered in an effort to create "an atmosphere conducive to [obtaining] complete participation and disclosure of information" by those in this country illegally, according to the order transmitted to INS offices around the country on March 31.

Despite repeated assurances by the Census Bureau that the information it collects is not disseminated to other federal agencies, federal officials had feared that, without the moratorium, the millions of illegal aliens in the United States might otherwise refuse to cooperate with census takers.

As an example of the possibilities for abuse, one official cited an incident that occurred just before the beginning of the census in which an INS agent in Texas visited the home of a Hispanic and identified himself as a census taker in an effort to gain entry.

The moratorium was initially slated to end June 30 but was extended through the end of July to allow census workers to complete their canvassing of neighborhoods.

On July 31, the INS central headquarters sent out a telegram authorizing its investigators to resume normal search operations in which they are allowed to conduct sweeps in businesses with the permission of the employer or, as in the case of construction sites, to lay in wait to question workers as they arrive for work.

But the next day, investigators were informed that Civiletti, who was attending a conference in Hawaii at the time, had ordered a continuation of the moratorium and had set no date for its end.

"Morale is already bad," said one investigator yesterday. "Now we have to consider the possibility that this thing will go on indefinitely."

One critic of the Carter administration's immigration policy, Roger Conner, director of the Federation for American Immigration Reform, charged yesterday that any extension of the moratorium is illegal.

"Congress passed a law that says that the attorney general 'shall' enforce the law. [A decision to extend it indefinitely] would be the kind of decision that breeds cynicism in the American people," he said.

A Census Bureau spokesman said yesterday that, "since our [census] counts are pretty well completed . . . the need to make use of that moratorium no longer exists. We feel that we've counted everyone we're going to count. The moratorium is moot."

15,000 Apply for 70 Federal Jobs in Baltimore

(By Dale Russakoff)

Baltimore, September 16.—Beatrice West a housewife, heard something in her Southwest Baltimore neighborhood that sounded too good to be true: the federal government had 70 job openings for unskilled workers. She rushed to tell her daughter, who told a friend, Wayne Fields.

Fields jumped in his car yesterday and headed downtown to apply. On the way, he saw his brother and a friend, both of them jobless, hanging out on a corner. He told them. They decided to come along.

About 15,000 people had the same idea. Almost all of them are black, most are unemployed, many are on welfare. All day yesterday and early today, they lined up for blocks and waited for hours to pick up applications for the 70 clerical and manual labor jobs coming open in January at the Social Security Administration here.

Local officials and welfare rights leaders called it an "astounding" and "unprecedented" demonstration of the severity of unemployment here, particularly at the lowest level of the economic ladder.

About 40,500 people in Baltimore are unemployed, according to the Department of Labor. That represents 9.9 percent of the work force, 2 percent above the national unemployment rate. The jobs being offered here are at the lowest level of the federal pay scale, paying from $7,210 to $11,555 per year. They are classified as worker trainee jobs, meaning that those who are hired will not become permanent federal employes in less than three years.

Despite the low pay and the potential job security problem many Baltimoreans standing in the lines to apply for the jobs said they knew of no better opportunities.

Serena White, 45, an unemployed mother of two who is now on welfare, took a bus downtown and hobbled on a crutch for the two blocks between the bus stop and the Garmatz Federal Office Building, one of the job application sites.

She was injured in a bus accident, she explained, pointing to broken toes on both feet and her mouth, which was missing several teeth.

"Whatever job there would be I would take," she said. "They say there are jobs in this city. I've called all the want ads. I've visited all the offices. There aren't even jobs that I don't want, much less jobs that I want.

"I might as well become a criminal. They do more for convicts and ex-convicts than they do for the people who are trying to walk a halfway straight line."

Social Security officials said they intentionally avoided publicizing the openings except to notify the state unemployment office and the federal jobs information center. "We knew we'd get a lot more people than we had hoped to use. You always do with entry-level jobs," one official said.

The speed with which the information spread, mainly by word of mouth, shows the desperation of Baltimore's poor to enter the work force, said Robert Cheeks, executive director of the city's Welfare Rights Organization.

Ministers announced the openings in church services over the weekend, and current Social Security Administration employes told their neighbors and friends. Serena White said she read about the openings in a Democratic women's club flyer.

"Everyone seems to be trying to do something to help people get jobs, but what it does is heighten the frustration," Cheek said. "Every time one person hears about a job, 25 or 50 people hear about it."

Cheek said his own organization recently had 1,100 applicants for 400 jobs in a work incentive program, "and that was before we could even advertise."

Wayne Fields said he could have picked up "a busload" of jobless people to bring to the application site yesterday instead of bringing only his brother and a friend. They call their southwest Baltimore neighborhood "The Valley," because so many people are out of work. He and his brother, Marvin, 20, and their friend Wayne Webster, 21, said they were discouraged to find that so many others had applied for the jobs.

"It's just danged hard," Wayne Fields said. Marvin Fields and Webster chimed in in a sort of chorus: "This place is tight," Marvin added. "There's no opportunity," said Webster.

Social Security officials said it will take three months to process the applications. They said they expect to fill 68 to 75 jobs in the Baltimore Social Security offices, and place the names of all other eligible applicants on federal job registers.

The lines at the Garmatz building Monday were the longest that formed at any of the three application sites. An estimated 5,500 people picked up applications Monday at the federal building, which stands about a block from Baltimore's glistening new harbor front developments. Cheek called the juxtaposition of the nationally renowned harbor and the job application lines ironic.

Marvin Fields put it this way: "They's putting up warehouses and buildings and all kinds of stuff, but there still ain't no work."

THE STEWARDSHIP OF ALFRED KAHN

Mr. PROXMIRE. Mr. President, Mr. Alfred E. Kahn, Chairman of the Council on Wage and Price Stability, probably has the toughest job in Washington. He is Chairman of the Council at a time of rampaging and unprecedented peacetime inflation. It is an inflation which he neither caused nor had the power to defeat. He has had little or almost no authority to control prices, wages, and inflation. He did not control either budget policy, monetary policy, nor the prices which the OPEC cartel charged for gas and oil. His was and is a thankless job.

Throughout it all he has been a man who exhibited extraordinary public buoyancy. He called it as he saw it. He did not pull his punches. He told the truth, or committed truth when it got him into trouble. He still went ahead.

Who can forget when the administration sat on him for calling the recession, a recession Kahn bounced up, saying that henceforth he would call the recession a "banana", and he did, and of course it became a pretty big banana.

Mr. President, before he headed COWPS he directed the CAB as Chairman. He led the fight for airline deregulation which has now come to pass with such great benefits for both the public and the industry, that has become the most successful single achievement of this administration.

Now Alfred Kahn is leaving to go back to teaching at Cornell. Hobart Rowen wrote a warm, sympathetic and honest article about him which appeared in Thursday's Washington Post. I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

KAHN: NOT GOING AWAY MAD, JUST GOING AWAY

Alfred E. Kahn, President Carter's "inflation czar," is leaving the administration immediately after the election whether the president wins or loses. He's not mad at anybody, but he's had one of the more thankless jobs in Washington and he wants out.

So with the president's assent—and Kahn's Capitol Hill house now sold—Kahn will return to his teaching post at Cornell University. There, he says, "I can be my own boss."

In his office the other day—shoes off, and relaxed in his cane-backed rocking chair—Kahn admitted that it's been frustrating "being an adviser without clear institutional responsibilities."

It was painfully evident from the start of Kahn's promotion to being chief inflation fighter that he had been Peter-principled out of his more comfortable role as chairman of the Civil Aeronautics Board, where he gave impetus to the deregulation of the airlines.

Although he was supposed to be in charge of Carter's anti-inflation program, Kahn's chief problem was that there was no program to be in charge of.

It was no secret that Kahn was not one of the inside group of Carter's economic policy-makers, including Economic Council Chairman Charles L. Schultze, White House aide Stuart Eizenstat and the secretary of the Treasury—at different stages, W. Michael Blumenthal and, currently, G. William Miller.

Kahn says he "never has been much good at jostling. I'm not the kind of guy who says: 'Let me into the huddle.' "

Thus, Kahn had little real effect on crucial policy questions. When the Chrysler Corporation appealed for government help, Kahn argued that the White House should not give its blessing to an inflationary wage increase for the United Auto Workers. But he was batted down by others in the Carter entourage who did not want to risk losing UAW support during the election.

When Miller, Schultze and other top Carter aides were forswearing a tax cut last spring (until, somehow, the budget was to get balanced), Kahn was saying plainly that tax reductions would be needed. His position is now official administration policy.

Despite his defeats, Kahn is a firm supporter of President Carter and is spending as much time as he can picking holes in the Ronald Reagan economic program for any reporter who will take the time to listen.

Kahn sees a number of "surprisingly optimistic signs" of economic recovery. But he isn't ready to endorse the rather amazing declaration by Commerce Department economist Courtenay Slater that the recession is already over and the upsurge has begun.

More realistically, Kahn admits that "everybody is troubled by the [recent] rise in interest rates." His own judgment is that with wage settlements in the 9.5 to 10 percent range, "there is no reason to see a decline in the basic inflation rate from about the 10 percent level." He acknowledges that any 1981 recovery will be painfully slow.

Like many academics (and he freely admits that he thinks more like a professor than a politician or a bureaucrat), Kahn says that the government must eventually use its taxing power to encourage wage and price restraint.

He favors a "TIP" system—TIP is an acronym for "tax-related incomes policy." There are many variants of the system, but the idea is to give a tax concession to companies and workers that hold down prices and wages. There are many practical complications to TIP, but it is short of formal wage-price controls.

Privately, the Carter team discussed the possibility of including a pro-TIP declaration in the recently announced "economic renewal" program. But they decided that there is not yet the necessary political consensus for it.

Nonetheless, in a recent interview, Eizenstat told me that "when there are income-tax cuts during the 1980s, we think they should be structured in such a way as to help with inflation, rather than hurt, and that might mean tying it to wage and price restraint." There are other possible ways, relating to offsets against local sales taxes, or food tax rebates.

It may be understandable that President Carter was gun-shy, constrained not only by election-year caution but by the absence of meaningful labor or business support for an incomes policy.

But given the continuing dangers of inflation, internal and external, no industrial policy is worthy of the name without such an approach.

As he leaves town, Kahn says that holding back increases in money wages and prices constitutes society's most important challenge. He is realistic enough to know that as "inflation czar" he didn't contribute much to the cause. But it was hardly his fault, and he leaves with his integrity intact.

THE REALITY OF SACRIFICE

Mr. PROXMIRE. Mr. President, the reality of sacrifice is that individuals often are not called upon to sacrifice equally. This surely is evident from the spirit of the recent program honoring the 1980 U.S. Olympic team. These young men and women were called upon to sacrifice their chance to realize a long-held dream. They made a more personal sacrifice to the principle for which this country boycotted the 1980 Olympics. While the world may note that it is the United States which boycotted the Olympics, our country recognizes that it is these individual athletes who made the greatest sacrifice for that end.

During the second World War, a single group of people also sacrificed more painfully and personally than any other. The Jewish people were the target of Nazi whim and cruelty. Their numbers were decimated. Their culture was threatened. Certainly none could forget the sacrifices of millions of Allied soldiers and volunteers. But none should presume to compare the sacrifices of these individuals to the sacrifices of the Jewish people. Many men and women gave their lives in opposition to the Nazis. But no other group suffered such a loss of property, life, and hope as did these targets of the harshest Nazi policies.

Mr. President, this Nation has honored the personal sacrifices of its 1980 Olympic team. This Nation has honored its veterans and volunteers who sacrificed their lives in World War II. The honor we have bestowed on these citizens can be a source of pride for this Nation and this body. For honor is sufficient when little other compensation can be granted.

The sympathy we have expressed for the Jewish victims of World War II is not a satisfactory symbol of our national concern. For we have the opportunity to ratify a convention which would make genocide an international crime. In the face of this opportunity, our expressions of sympathy and respect for the Jewish victims of Nazism are insufficient. Our only consistent course of action would be the immediate ratification of the Genocide Convention.

Mr. President, I urge my colleagues to add substance to this Nation's remorse over the sacrifice of millions of Jews during World War II, the Jews who were destroyed by Hitler with his hideous genocide. I urge my colleagues to add substance to this Nation's devotion to human rights. We must ratify the Genocide Convention.

HOW FEDERAL DRIVE TO CURB BILLBOARDS RAN OFF THE ROAD

Mr. CHAFEE. Mr. President, the current issue of U.S. News & World Report contains a very interesting article on the sad state of the Federal highway beautification program. The article demonstrates clearly, I believe, the validity of the position that has been taken by the senior Senator from Vermont (Mr. STAFFORD). Senator STAFFORD is convinced that the program can only work—and save the taxpayers a possible bill exceeding $1 billion—if control is returned to the States. His bill S. 344 and subsequent amendment on this issue may come to a vote before the conclusion of the 96th Congress.

Mr. President, I ask unanimous consent that the U.S. News article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOW FEDERAL DRIVE TO CURB BILLBOARDS RAN OFF THE ROAD

Millions have been spent to remove unsightly signs from U.S. highways. Yet in many areas they still clutter the landscape. What went wrong?

It was heralded as a major environmental breakthrough when it was enacted in 1965. Today, the Highway Beautification Act is viewed as a dismal failure.

Critics claim that instead of helping to rid federal roadways of unsightly billboards and junkyards, the law has been transformed into scarcely more than a high-priced subsidy for the outdoor-advertising industry.

Taxpayers have little to show for the hundreds of millions of public dollars spent so far on sign removal, environmentalists charge. Still standing are more than 14 billboards for every 10 miles of highway—signs that critics contend will never come down under existing law.

As a result, environmental groups, who once supported the law, now want it repealed, while sign owners, who originally opposed the law, are battling to keep it.

Senator Robert T. Stafford (R-Vt.) charges that the law's aims were never fully realized because "a steady stream of crippling amendments has thwarted the noble purposes of the Highway Beautification Act."

Billboard owners admit they sought and won changes in the statute but claim their purpose was only to clarify Congress's original intent. A measure of the program's success, they argue, is that it has kept 500,000 new signs from sprouting along highways. Yet the law's shortcomings are evident—

Despite 232 million dollars spent to take down offensive signs, the number of billboards along federal highways has actually increased in some states, such as Florida and Georgia.

Of some 839,000 signs originally targeted for removal, several hundred thousand are still standing.

Removal of the remaining signs would cost up to $40,000 each and take more than 100 years at present funding levels set by Congress.

Even if all the targeted billboards came down, motorists probably would not notice an improvement, because the law allows the erection of new signs and exempts many others from removal, a congressional study shows.

Efforts to spruce up roadside junkyards also have proved unsuccessful. Nearly 3 out of 4 of the 17,400 junkyards originally earmarked for relocation or screening still mar the scenery.

Ross Barrett, senior vice president of Metromedia, Inc., which owns a billboard-advertising subsidiary, contends the 1965 act was never intended to eliminate all signs. "Businesses like hotels and restaurants that depend on travelers are devastated without signs," Barrett adds. "Besides, studies show that the traveling public likes to have the information and misses it when it's gone."

What especially concerns Senator Stafford and other critics of the highway-beautification law is a 1978 amendment requiring the government to pay sign owners for every billboard taken down. Because Congress is unwilling—or unable—to appropriate sufficient money to undertake the enormous task, the amendment virtually guarantees the preservation of hundreds of thousands of signs.

Prior to 1978, some 420,000 signs were removed, at no cost to taxpayers through local zoning laws or amortization, a process that required signs to come down only after the owners had recouped their costs.

Expectations of the program have dropped so low that President Carter asked Congress—unsuccessfully—to suspend funding in 1980 pending a review by an outside advisory committee on better ways to curb billboards.

"We don't have much to show for 15 years," asserts Harry S. Kinter of the Federal Highway Administration, which oversees the program. Kinter concedes that most of the signs taken down were no longer wanted by the industry because they were dilapidated or located on bypassed routes.

Even while old signs were coming down, billboard operators were finding ways to erect more and bigger new signs. In some cases, local governments helped to thwart the law's intent by zoning lengthy stretches of interstate highway in rural areas for industrial use, specifically to allow signboards to go up. The law permits signs in commercial and industrial zones.

One Nevada county, for example, rezoned a 600-foot-wide swath of rural land along 137 miles of highway leading into Las Vegas.

NO FURTHER

Complains Marion Fuller Brown, a member of the Garden Club of America: "In my home state of Maine, we've removed over 2,000 billboards at a cost of 1 million dollars but we're no further down the road, because more signs have gone up."

Another unforeseen byproduct of the beautification program is the "jumbo" sign—the huge, usually lighted, billboard erected more than 660 feet from the road, the minimum permissible distance under the original law.

A prime task of the billboard advisory panel named by Transportation Secretary Neil Goldschmidt is to consider whether, in the light of its past failures, the highway-beautification program should be sharply curtailed. One proposal: Limit the law's coverage only to signs along scenic routes.

Meanwhile, Senator Stafford has introduced legislation to overturn the Highway Beautification Act by making state participation voluntary. But, with such formidable opposition as the billboard lobby, no one is optimistic about the bill's chances.

THE KANSAS CITY STAR CENTENNIAL: 100 YEARS OF DISTINCTIVE JOURNALISM

Mr. DOLE. Mr. President, today marks the centennial anniversary of one of this country's finest newspapers, the Kansas City Star. Founded on September 18, 1880, the Star has served its readers in my State of Kansas and the State of Missouri with distinction these past 100 years.

Ours is a Nation that cherishes the right of freedom of the press. With good reason, the Founding Fathers established it as one of our basic principles in the bill of rights. Throughout the history of this country, newspapers have covered the world events on a day-to-day basis and have crusaded for causes great and small. We cannot forget the invaluable role of newspapers in many reform movements dating back to colonial America, when the local tabloids in New England and Virginia aroused the populace against the mother country. Indeed, "the press," as it is so often referred to today, became an established and respected institution which protects our most basic freedoms. The Kansas City Star has carried on these traditions as one of the shining beacons and leaders of journalism in the Midwest.

The Star's founder, William Rockhill Nelson, wrote in the Star's inaugural issue that the paper would "spare no labor or expense to take and keep a place in the front rank of afternoon journalism." The Star has continued to live up to Nelson's pledge.

Nelson gave Kansas City a civic pride through his relentless crusades—movements which were in the best tradition of the newspaper business. He fought for inexpensive and efficient public transportation, bringing cable cars to the city's hills. He battled against corrupt politicians and gamblers. He campaigned for years to establish Kansas City's famous parks and boulevards, then himself built model homes along those boulevards and saw that residents planted trees and flowers. The Star helped to inaugurate the commission form of government in the city, and by its espousal of progressive reform of government, spread the doctrine throughout its circulation area in the Missouri Valley.

By 1890, the Star had spread its domain throughout Kansas City and well into Kansas, and before Nelson's death the Star's circulation hit 170,000, a quantum jump from its modest initial figure of 3,000. The subscription price was 10 cents a week at the start, but even after a Sunday edition had been added and the Morning Times had sold out to Nelson in 1901, the price for morning, evening, and Sunday editions remained a dime. The price formula, plus the Star's intensive coverage of its area and its human interest and literary qualities, made the paper invulnerable to the attacks of competitors who tried to win readers by using the sensational techniques which Nelson shunned.

Over the years, the Star has shaped a wealth of journalistic talent: The great William Allen White, who later earned fame as editor of the Emporia Gazette, spent part of his youth at the Star. There was Frank L. Martin, who became dean at the University of Missouri School of Journalism; and in later years, editor Wesley Stout of the Saturday Evening Post, columnist Raymond Clapper, and writer Russel Crouse.

Ernest Hemingway worked briefly at the Star before serving in World War I. Later he said his experience at the Star had vitally influenced his writing style.

Roy Roberts, president and publisher of the Star from 1938 to 1956, was a particularly noteworthy addition to the paper. A native Kansan, Roberts was the Star's resident political authority for two decades. In addition to his role as sage political columnist, he played a crucial part in the Republican nomination campaigns of both Alf Landon and Dwight Eisenhower. A man widely recognized for "cleaning up" Kansas City following the Pendergast regime, Roberts raised the Star's activity in strongly promoting good government to a new high.

From William Rockhill Nelson's time on, the Star has prided itself on being a vigorous proponent of change and growth, with a keen eye toward preserving the traditions which mark Kansas City as one of the most livable cities in the country. Capital Cities Communications, Inc., the Star's latest owner, is keeping the paper within that fine tradition.

Today the circulation is 273,758 for the Star, 314,007 for the Times, and 406,467 for the Sunday Star. As it embarks on its second century, the Star continues to build upon the quality which William Rockhill Nelson envisioned for it in 1880.

The Senator from Kansas extends best wishes to the staff and owners of the Kansas City Star on this centennial anniversary and expresses hope for continued success in the years to come.

KANSAS CITY STAR CELEBRATES 100TH ANNIVERSARY

Mr. DANFORTH. Mr. President, William Rockhill Nelson established the Kansas City Evening Star in 1880. On September 18, 1980, Kansas Citians and visiting dignitaries will pay tribute to the Kansas City Star as it celebrates its 100th year of service to the community and the Nation.

The publishers set forth in the first edition of the Kansas City Evening Star the news and editorial policies of the paper:

> The Kansas City Evening Star is offered to the people of the Missouri Valley, in order to meet a demand, which evidently exists, for a cheap afternoon newspaper, of the highest class, absolutely independent in politics, entirely disconnected from rings and cliques of all description, and wholly free to labor for the interests of the people and to wage warfare upon corrupt and extravagant tax eaters of all parties . . . The Evening Star will devote its best energies to aiding the work of building up the material and moral interests of Kansas City, and developing the great Missouri Valley, of which this is the metropolis.

The newspaper has kept faith with this concept over its long and illustrious history. Under the able leadership of Roy A. Roberts, Richard B. Fowler, Paul V. Miner, and William W. Baker, the Star has established its fine record and reputation.

Started as an evening paper, the Star absorbed the Kansas City Times in 1901 and since that time has printed both an evening and morning paper with a Sunday edition of the Star.

The Kansas City Star enters its second century under the ownership of Capital Cities Communications, Inc., and the direction of President and Publisher James H. Hale; editor Michael J. Davies; and editor, editorial page, James W. Scott.

I am honored today to ask my colleagues in the U.S. Senate to join with me in extending congratulations to the people of the Kansas City Star as they celebrate 100 years of service to Kansas City.

FAIR HOUSING AMENDMENTS ACT OF 1980

Mr. MOYNIHAN. Mr. President, I rise today in support of S. 506, the Fair Housing Amendments Act of 1980, to which I have added my name as a cosponsor. It is an honor to be associated with this bill, a milestone in the annals of civil rights legislation, and our first major initiative in this area in 12 years, and I would urge its early consideration by this body.

One would like to think that fair housing legislation is a redundancy; no precept seems clearer than that anyone who can afford a home may buy or rent it. Currency, not race, sex, religion, or health, should be the consideration. But alas it is not always so.

After more than 100 years of Government initiatives, housing markets are still plagued by discrimination. In 1866, the first Reconstruction Congress passed a law guaranteeing to

> all citizens of the United States . . . the same right in every state and territory, as is enjoyed by white citizens thereof, to inherit, purchase, lease [and] sell . . . real . . . property.

For 100 years this law has reflected an ideal favoring equality of housing opportunity. Not until 1962, however—96 years later—did the Federal Government attempt to realize this ideal. In Executive Order 11063, issued in November 1962, President Kennedy prohibited housing discrimination where Federal Housing Administration (FHA) and Veterans' Administration (VA) insurance programs were involved. But that order, and all amendments that could validly be added to it, were restricted to those elements of the housing problem under direct executive authority.

As a result of his dissatisfaction with this limitation, President Johnson introduced a Fair Housing Law in 1966, declaring resoundingly that—

> Discrimination in housing and all it breeds are a denial of justice and a threat to the development of our growing urban areas.

The Mondale-Brooke Act, as the President's legislation was later known, did just that. Passed as title VIII of the Civil Rights Act of 1968, it prohibits housing discrimination based on race, religion, sex, or national origin. It allows individuals, "testors," and the Department of Housing and Urban Development to bring civil suits in U.S. district courts if they are victims of housing discrimination or if they discern a pattern of discrimination. If their complaint is upheld, the court may assess actual and punitive damages at equity—usually a return to the status quo ante. Moreover, as an indication of the Federal Government's concern for fair housing, the Act created the position of Assistant Secretary of Fair Housing and Equal Opportunity within the Department of Housing and Urban Development.

But this bill, however laudable its intent, was not enough. In a prescient editorial, the New York Times noted at the time:

> A weakness of the Administration's program lies in its proposed methods. Enforcement of the housing . . . provisions would depend upon court suits by individuals and upon suits by the Justice Department where a pattern of discrimination is found to exist.

S. 506 responds directly to this flaw. As reported by the Senate Judiciary Committee, this bill would strengthen the 1968 act's enforcement provision. S. 506 would allow HUD to attempt to conciliate the dispute, or to refer it to a state housing agency, the Justice Department, or to the Fair Housing Review Commission—an administrative board established by this act and empowered to appoint administrative law judges. In addition to the legal enforcement procedures, the act also contains an economic incentive for equal treatment; those guilty of violating S. 506 can be fined up to $10,000.

The bill includes the handicapped among groups against whom discrimination is illegal. Surely it is time to recognize that the physically disabled need, and should have as a matter of right equal opportunities. Landlords and owners would not be burdened with the cost of alterations to accommodate the disabled, but they could not refuse to rent or sell a home solely because the prospective tenant is handicapped. In a superb editorial of last August 8, the New York Times highlighted the bill's merits and underscored the pressing need for its enactment; and just today this concern was reiterated in another editorial. I ask unanimous consent that both of these be printed in full at the conclusion of my remarks.

This is an equitable and effective fair housing bill; we must—in the name of justice—enact it. President Johnson spoke of his 1966 civil rights package as "the end of the beginning." By 1980, we have not progressed beyond that early point. We can enumerate rights, but we cannot insure them. The 1965 Civil Rights Conference was titled, "To Fulfill These Rights"; 15 years later it is time to make good on our promises.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the New York Times, Sept. 17, 1980]

Putting Teeth Into Fair Housing

What with Washington clamping down on social welfare spending, civil rights groups have had little to cheer about this year. Still a long-sought legislative victory finally seems imminent: forceful fair housing law, replacing a toothless predecessor. The House approved the measure in June and the Senate Judiciary Committee has sent a similar version on to the full Senate. When Congress returns, the bill deserves prompt approval.

The original fair housing law was regarded as one of the powerful civil rights enactments of the 60's. In truth, the legislation was defanged before its enactment and Federal enforcement has largely been a bust. The Department of Housing and Urban Development was empowered to conciliate complaints, but precluded from suing on behalf of complainants. The Justice Department could not sue when it uncovered individual instances of racial bias in the sale or rental of housing, only when patterns of such conduct could be proved.

The pending bill would create a system of administrative law judges to adjudicate complaints. This method promises speedier and cheaper resolution of housing cases than the alternative, defeated in both the Senate committee and the House, of relying on Federal magistrates who already have their hands full with more significant cases.

The two versions differ in one respect that could become an obstacle to enactment. The House would place the administrative judges in Justice; the Senate committee prefers a new Fair Housing Review Commission. The latter approach would please civil rights purists, but we question the desirability of creating a whole new bureaucratic entity.

Still, either location would do. What's most important is enactment of a tough fair housing bill. Its prospects ought not be jeopardized by a squabble over which agency the administrative judges eventually call home.

[The New York Times, Sept. 17, 1980]

The Fleeting Time for Fairness

There is, however, still time for Congress to complete a serious effort to strengthen the nation's law against discrimination in housing. A promising and fair law has passed the House, but the adjournment clock now threatens it in the Senate.

Under present law, the Department of Housing and Urban Development can act only as a conciliator, while the Justice Department may go to court only when it uncovers large patterns of discrimination in housing rentals or sales. A decade's experience has shown that most individual victims of discrimination, therefore, are left without a remedy.

The pending legislation would empower administrative judges to hear complaints and, where warranted, to issue cease-and-desist orders. The main remaining difference between the House and the Senate's Judiciary Committee concerns the bureaucratic home of the judges. The House prefers the Justice Department to escape the pressures in Housing and Urban Development; the Senate committee would create a new Fair Housing Review Commission. Either arrangement is vastly preferable to the plan of some senators to have such complaints sent to Federal court magistrates. Most disputes between landlords and tenants or sellers and buyers are not important enough for the courts.

Some senators want to avoid any election-year vote on the issue. Still others oppose the measure because it could be invoked when a discriminatory effect, rather than intent, has been proved. But a discriminatory effect has satisfied the appellate courts in housing cases; intent is much too easy to disguise.

Concern that the new administrative judges could override local zoning laws has been met in the pending bill. Some zoning regulations have been challenged as motivated by racial bias. But these cases, along with others that raise complex issues, would bypass the administrative judges and, if deemed worthy by the Attorney General, move directly to Federal court—where they have always been heard. There are, in sum, no longer any good reasons to avoid this measure.

THE DEATH OF EDITH R. STERN

Mr. LONG. Mr. President, it is my sad and painful duty to inform this Senate of the loss of Mrs. Edith R. Stern—a truly great lady. Mrs. Stern, known best for her lifetime of generosity, died on September 11, 1980, in New Orleans.

Mrs. Stern will be greatly missed because she spent most of her 85 years caring about persons less fortunate than she. She was loved because of her caring, she was admired for crusades in politics and education.

In remembrance of this outstanding philanthropist, I ask unanimous consent to have printed in the Record the article on Mrs. Stern which appeared last Friday in the New Orleans Times Picayune/States-Item.

There being no objection, the article was ordered to be printed in the Record, as follows:

Stern Wealth an "Investment in Humanity"

(By John Pope)

"Money is wasted on many people," said Edith R. Stern, who was born into one affluent family and married into another. "Our families always regarded wealth as a trust to be invested judiciously in humanity."

These "investments" touched nearly every major charity in New Orleans and, through the Stern Fund, many others that were headed by people she never saw.

In New Orleans, she founded the Newcomb Nursery School and the Metairie Park Country Day School; was a member of the boards that ran Dillard University and the New Orleans Museum of Art; supported reform candidates for public office, often providing substantial financial help; and established the Voters Registration League Inc.—later Voters Service Inc.—to weed out illegally registered persons and to encourage others to exercise their right to register and vote.

She and her husband, the late Edgar B. Stern Sr., set up the Stern Fund with his money and the fortune she had inherited from her father, Julius Rosenwald, a president of Sears, Roebuck and Co. More than $10 million has been given by the foundation to advance such diverse enterprises as Ralph Nader's campaign for a federal "sunshine" law and the Freedom of Information Act, the work of biologist Barry Commoner, studies into the side-effects of nuclear energy, and the establishment of the Fund for Investigative Journalism, which helped pay the expenses Seymour Hersh incurred while researching his Pulitzer Prize-winning story of the My Lai massacre.

Yet Mrs. Stern also was a mother, grandmother and great-grandmother who delighted in receiving letters from younger members of her large family. She gave Sears stock to the staff at her massive house on Garden Lane, and she helped some of her employees through their financial difficulties. And when she felt pride in a friend's accomplishments, she used to say, "I put on my 'mama' face when I think about what you've done."

She spent most of her life in New Orleans, but she was born in Chicago to parents she adored. She grew up with money, but, she said in a 1974 States-Item interview, "We were reared in the traditions of good works, culture and public service. If any of us indulged in personal extravagances, we had a guilt complex."

Her father was a model for the philanthropy she later practiced. Julius Rosenwald, who was Sears' president from 1910 through 1924, once remarked that it was easier to make $1 million honestly than to give it away wisely. He gave away more than $63 million.

He established Chicago's Museum of Science and Industry and contributed to Jewish charities and a wide array of educational, scientific and community causes and organizations. Through the Julius Rosenwald Fund, he helped finance the building of more than 5,000 schools for blacks, the establishment of clinics to treat their illnesses, and the development of grants to aid black artists, writers and musicians.

When she was growing up, Edith Rosenwald "went to a progressive education school in Chicago, one of those schools where you learn nothing," she recalled in the 1974 interview. "Then I went to high school but never graduated."

She also attended a finishing school in Germany, where she studied German and learned the language's guttural sounds because her teacher pressed her hand against her vocal cords as she spoke.

"I developed a basso profundo speaking voice," she said. "That was a blessing because Edgar told me later he could never have married a girl with a Chicago voice."

But before she met Edgar Stern, she was married at 18 to a man she later refused to name. The union did not last, and after a divorce, she went to live in New York City, where she met Stern, a Harvard student.

The two became engaged, but Edith Rosenwald's father summoned her back to Chicago, and she obeyed. She and Stern were eager to be married, but as an Illinois resident once more, she faced a legal problem: State law required a person to wait one year after his divorce decree became final before he could get a license for a second marriage.

By the time the couple learned of this hitch, they had already booked passage on a ship to Europe for their honeymoon. So they started looking for a state with more lenient laws, and they found Indiana.

"I had a brainstorm," she said. "Why not get a private railroad car, hitch it to the train going from Illinois to Indiana, get married on the train in Indiana and return home to Chicago for the reception?

"My parents agreed. The family decorated the car with so many flowers it looked like a gangster's funeral. About 30 guests, including family, crowded the car. The rabbi performed the ceremony as soon as we drew into Indiana. Then we got back to Ravinia, our family estate. We had a big reception—champagne, wedding cake, music—then off to New York to sail for Europe the next day."

The date was June 29, 1921. In the 1974 interview, she referred to it as "my finest hour."

The couple moved here, and, Mrs. Stern said, "I had three babies (two sons and a daughter) in less than four years, and I thought I was a much-put-upon young woman."

In 1926, when the Sterns' oldest child, Edgar B. Stern Jr., was 2, Mrs. Stern wanted to enroll him in nursery school like those she had seen in the East. No such school existed here, so she and a group of parents started one: the New Orleans Nursery School, which became the Newcomb Nursery School.

She went through a similar process when her children reached elementary-school age because, she said, she wanted them to attend a progressive coeducational school in a rural atmosphere. The result was Metairie Park Country Day School.

In adult education, Edgar B. Stern was a leader in negotiations that led to the formation of Dillard University in 1930 from two black colleges, New Orleans University and Straight College. He was the first president of Dillard's board of trustees, and Mrs. Stern succeeded him as a board member after his death in 1959.

On the Dillard campus, one building is named after her husband, and another is named after her father.

Mrs. Stern also was active in Democratic Party politics and attended several national party conventions. During the 1945–46 mayoral campaign of deLesseps S. "Chep" Morrison, the reform candidate, Mrs. Stern led a group of women marching with brooms across their shoulders from Lee Circle to Jerusalem Temple to dramatize Morrison's intention to sweep out the practices associated with his predecessor.

After Morrison's election, Mrs. Stern was appointed to the city Parkway and Park Commission. She also was executive secretary of the New Orleans housing projects, and in 1951, she was named Louisiana's representative to serve on a 48-woman commission—one member per state—to advise the Defense Department on matters relating to women in the armed forces. A decade later, President Kennedy appointed her to the National Cultural Center Advisory Committee on the Arts.

But her principal political activity was the organization of the Voters Registration League Inc., which fought with local and state officials to have the city's rolls purged of voters improperly registered as disabled and illiterate.

Through this crusade, the number of persons so registered dropped from nearly 10,000 in 1951 to 4,075 the next year, and the method of registering such persons was changed to require voters needing help at the polls to fill out colored cards.

Mrs. Stern also set up a filing system to give complete information on each voter and to ease the task of spotting improperly registered persons.

The organization mailed letters to voters urging them to correct or revise their registration forms to keep from being eliminated from the rolls and, to keep elections as honest as possible, worked to retain voting machines throughout the state.

"The vote is something so precious," Mrs. Stern said in a 1956 speech. "It should not be tampered with. The privilege of voting is one of the most priceless things we have in America today."

The organization was nonpartisan and nonprofit, but it had to raise money to meet its annual operating expenses of about $20,000. One fundraising method that candidates found invaluable was the sale—at $5 per precinct—of complete lists of voters for the entire city. These names were printed on gummed labels, ready to be stuck onto campaign literature to be mailed.

The Sterns lived on an estate on Garden Lane, a private path off Metairie Road near the New Orleans Country Club golf course. Among the scores of guests who stayed there were artists, musicians, Eleanor Roosevelt and Adlai Stevenson.

There, in 1940, Ellen Biddle Shipman, a landscape architect, laid out the large formal garden that become Longue Vue—a spot that took its name from the Hudson River estate where the Sterns became engaged.

In 1968, Mrs. Stern opened Longue Vue Gardens to the public. When she heard that admission fees would be charged to help pay for the site's upkeep, she quipped, "Can't you see me there with my tin cup?"

When she announced that she wanted to donate her house and surrounding land to the New Orleans Museum of Art to be operated as a museum, her neighbors were furious, fearing invasions of unwanted automobiles and tourist buses on their private street.

Several of them filed suit two years ago, but the matter was settled before it got to court. Instead of using Garden Lane as an approach for cars and buses, another road was built to provide public access to the house and Longue Vue Gardens.

The estate has been converted into a center of decorative arts, said E. John Bullard, director of the New Orleans Museum of Art. To underwrite the work, Mrs. Stern provided a $5 million endowment.

"It's going to be a center where people can come and be involved and be excited and not just be awed by a big house that somebody with a lot of money lived in," said Bullard while the conversion was in progress.

While her home was her most conspicuous gift to the museum, it was not her only donation. Among the art she gave were "Coup Ou Fruit," a sculpture by Jean Arp; "Balatrix C," by Victor Vasarely; "Suspended-Construction in Space," by Naum Gabo; and a sketch Wassily Kandinsky made for his painting "Several Circles."

She was instrumental in helping the museum develop its Arts of the Americas collection and in acquiring its trove of Peruvian art, which Bullard described as the most important such collection in the United States.

Mrs. Stern also paid for the construction of the museum's Stern Auditorium.

In The States-Item's centennial issue in June 1977, the Sterns were named the city's outstanding philanthropists during the newspaper's first century of existence.

NEED FOR INCREASED PLUTONIUM PRODUCTION

Mr. THURMOND. Mr. President, the critical need for increased weapons grade nuclear materials production was the subject of an article which appeared today on the editorial page of the New York Times newspaper.

The Senate Armed Services Committee increased the Carter administration fiscal year 1981 authorization budget by about $150 million to meet this problem.

Unfortunately the Senate Appropriations Committee did not follow our lead and I believe their failure to do so was a serious mistake and detrimental to our national security.

Mr. President, I ask unanimous consent to have printed in the Record this editorial entitled "The Plutonium Shortfall" by William Safire.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

The Plutonium Shortfall

(By William Safire)

San Francisco, September 17.—In national defense, all matters of missilery and budgetry pale into insignificance when this question arises: Are we producing enough weapons-grade nuclear material to make our warheads work?

The Senate Armed Services Committee, in a little-noticed report from Henry Jackson made public last month, says no: "The projected shortages of Special Nuclear Materials are of such potentially serious concern to our national security interests that the Administration's hesitation in taking corrective measures cannot be understood."

Let us try to understand how the Carter Administration has been playing fast and loose with the most important single element in our national survival. Unclassified portions of correspondence among the Secretary of Defense, the Joint Chiefs and the National Security Adviser are instructive: Sensitive, restricted data were properly blocked out—reporters do not seek nor do whistle-blowers reveal atomic energy secrets—but the remainder illustrates the way the Carter men treat national weaknesses by trying to deceive Congress and the public.

On Dec. 17, 1979, Secretary of Defense Harold Brown protested to the Office of Management and Budget that its cut of funds for a plutonium-uranium extraction plant would lessen our ability to defend ourselves. Despite that plea to "reconsider your decision," the O.M.B.—under political budget-balancing orders from the White House—turned down Defense.

President Carter's Defense Secretary then went before the Congress and misled it by attesting to the adequacy of nuclear materials production. But in an April 11, 1980, letter to the Energy Secretary, Mr. Brown confessed: "While I have concurred in the report to Congress concerning the adequacy . . . I remain concerned that over the next several years . . . resources may not be sufficient to meet requirements for the delivery of nuclear weapons to the stockpile . . ." In plain words, Good Team Player Brown was telling his Cabinet colleague that his Congressional testimony reflected the opposite of his personal convictions and professional judgment.

All this was too much for the Joint Chiefs. In late June, they complained to Brown that his internal papering of the file did not show the urgency of the situation, and recommended that he write to the National Security Adviser that further delays of funding would harm the national defense.

At that point, Secretary Brown—who was about to leak the plans for an invisible aircraft to show voters how well the nation was being defended—passed the Joint Chiefs' pressure on to Zbigniew Brzezinski. On July 24, a policy review committee meeting was held. Its summary of conclusions was sent to President Carter, urging him to move ahead on plutonium production. However, the President—according to an Aug. 7 memo from Brzezinski—"deferred" making a decision. (Why, on a matter on such urgency? I think the State Department was fretting about the effect on other nations of our producing more plutonium; also, environmentalists with "No Nukes" stickers on their made-in-Japan bumpers might defect to candidate John Anderson.)

The National Security Adviser, in the unclassified portion of his memo, then directed the Cabinet and Joint Chiefs to mislead the press: "All responses to press inquiries about Special Nuclear Materials should be low-key, and limited to the following points: (1) Our Special Nuclear Materials production is adequate for the near term [arguably false], (2) Long-term requirements are under review but are difficult to predict [palpably false: Defense Department predictions of shortfalls have been made for almost a year]. (3) If we determine that increased materials production is necessary, appropriate programs will be requested of the Congress." [False] that determination has already been made, but the Administration does not want to upset budgeteers or environmentalists until after Election Day.]

The distressing point about the deceptive, politics-as-usual approach is that we are not discussing a dam or a pet project about which defense analysts can differ. "Special Nuclear Materials" is the stuff that goes into our atomic warheads. If we do not produce more soon, all the boo-hah about MX missiles and invisible bombers will be meaningless.

It grieves me to knock a fellow alumnus of the Bronx High School of Science, but Harold Brown has turned out to be the most political, short-sighted Secretary of Defense since Louis Johnson. No man in that job can or should subscribe to all the budget requests that military men make, but on the truly important matters, the SecDef is expected to be more than a loyal member of a political team. He is expected to have the courage of his concerns and to obtain at least the minimum for national defense—or get out.

In 1960, the "missile gap" turned out to be a false issue. Today, even the politico-technocrats who make our military decisions agree internally that a serious shortfall will exist in our plutonium production—but President Carter "defers" his decision on this urgent matter through an election year.

The plutonium shortfall is a real issue—and no directives from the National Security Adviser on how to cover it up will make the issue go away.

THE AUTHORITY OF THE FEDERAL COURTS AND THEIR CONTINUING EXPANSION

Mr. THURMOND. Mr. President, Alexander Hamilton, one of this Nation's Founders and principal architects of our National Government, wrote in the Federalist Papers that the Supreme Court of the United States would possess—under the proposed Constitution of the United States—"neither force nor will but merely judgment." The implication was clear, as was the intent of the framers: the people would govern, according to their preferences as expressed at the ballot box, through their elected representatives in Congress and through an elected President. Essentially, Mr. Hamilton was reassuring the people in his day that they need have no fear that the national judiciary would threaten the idea of popular sovereignty—the proposition that the people shall rule.

Mr. President, we have come a long way since the ratification of the Constitution. The wisdom and foresight of the Founders have been evidenced time and time again in the resolution of problems and the averting of crises, in the decision of national policies and in the conduct of international diplomacy. In one important respect, however, I believe that we have allowed ourselves to stray from the plan of government envisioned by the Founders and which, in other respects, has served us so well.

I refer, Mr. President, to the imbalance in our structure of national government created by the occasional reckless and dogmatic jurisprudence practiced in our Federal courts, the effect of which has been to negate the will of the people as expressed at the ballot box and the authority vested in elected officials at the national and State levels.

Mr. President, an article appeared on this subject in the Washington Star on September 17, 1980. It was written by Mr. Csaba Vedlik, Jr., a former congressional aide. Mr. Vedlik contends, quite accurately, that we have allowed the U.S. Supreme Court to function essentially as a continuous constitutional convention, eroding, in the process, the powers of the other branches of our National Government and the prerogatives of the people of the various States.

Mr. Vedlik points out how the decisions of the Supreme Court and subordinate Federal courts often have been at odds with a reasonable reading of the Constitution and the intent of the framers, as well as the States which ratified that document. The question he poses is of continuing concern to me: "Who is to be master, the Federal courts or the people?" I would contend, as did Thomas Jefferson, that it is the people. Mr. Vedlik, however, gives us good reason to believe that it is otherwise.

Mr. President, I wish to share Mr. Vedlik's point of view with my colleagues. I therefore ask unanimous consent to have his article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LOOKING-GLASS COURTS

One cannot help but wonder whether members of the federal judiciary do not have, ready at hand, a copy of Through the Looking-Glass. For in that memorable work we find the following rather ominous colloquy between Alice and Humpty Dumpty:

"When I use a word," Humpty Dumpty said in rather a scornful tone, "it means just what I choose it to mean—neither more nor less."

"The question is," said Alice, "whether you can make words mean so many different things."

"The question is," said Humpty Dumpty, "which is to be master—that's all."

In similar fashion, the Constitution alledgedly means whatever the federal judges decide it should mean because they perceive themselves to be master. Thus we had Chief Justice Charles Evans Hughes arrogantly asserting that "the Constitution is what the Supreme Court says it is"—never mind the intent, of the framers or the requirements of Article V for ratification by the states.

Put simply, the Supreme Court perceives itself as a continuous constitutional convention. The Constitution in the hands of the federal judiciary becomes, in Jefferson's words, "a mere thing of wax which they may twist and shape into any form they please."

Recently a three-judge federal court in Philadelphia ruled that drafting men only is unconstitutional because it violates the equal protection provided by the Fifth Amendment. But, search as diligently as you may, you will find no equal protection clause in the Fifth Amendment. It has been manufactured out of whole cloth for result-oriented purposes (reading the ERA amendment into the Constitution before it has been ratified).

Another example: Federal courts have asserted since 1947 that the Bill of Rights has been incorporated into the due process clause of the 14th Amendment and thus applies to the states (rendering nugatory the Ninth and 10th Amendments). But the debates of the First Congress unequivocally show that the Bill of Rights was meant to apply solely to the federal government.

States were fearful of vesting power with a distant and potentially tyrannous federal government. Hence the federal government was to be one of delegated, enumerated and limited powers with all other powers reserved to the states or to the people. But since 1947, in accord with looking-glass logic, the Supreme Court and the lower federal courts have seen fit to hold otherwise, thus amending the Constitution without bothering about ratification by the states.

Similarly, since the 1890s, the federal courts have dogmatically asserted that the due process and equal protection clauses of the 14th Amendment apply to substantive legislation, initially to protect economic rights and later expanded to include civil liberties. But as Professor Raoul Berger of Harvard has demonstrated in his Government By Judiciary, due process for the Framers was a term of fixed historical meaning and precise technical import. It referred solely to proceedings of the courts (e.g., an impartial fair trial), never to an act of the legislature.

OF CHURCH AND STATE

One final illustration. The Supreme Court has interpreted the First Amendment establishment of religion clause to mean a separation of religion and state. But the debates in the First Congress show that the framers wished to prevent the establishment of a particular sect of Christianity. Religion was not to be excluded from the affairs of state as George Washington himself noted in his Farewell Address.

To return to our original colloquy between Alice and Humpty Dumpty, the fundamental question facing this Republic vis-a-vis the Constitution is: who is to be master, the federal courts or the people? As Thomas Jefferson wrote in 1820:

"You seem to consider the judges as the ultimate arbiters of all constitutional questions; a very dangerous doctrine, indeed, and one which would place us under the despotism of an oligarchy. The Constitution has erected no such single tribunal, knowing that to whatever hands confided, with the corruption of time and party, its members would become despots. . . . I know no safe depository of the ultimate powers of society but the people themselves."

THE INTELLIGENCE REFORM ACT OF 1980

Mr. THURMOND. Mr. President, more frequently than not when a first amendment issue arises with regard to legislation before Congress, the press and media react automatically and instinctively on the side of the first amendment. This would seem to be the case recently with the Senate's action on S. 2216, the

"Intelligence Identities Protection Act of 1980." Most of the testimony by press groups before the Senate Judiciary Committee has found "serious constitutional concerns" with this legislation. Fortunately, even the press has its voices of reason who take the time to carefully study a matter before crying "wolf" in the form of charges that "it violates the first amendment."

The Washington Star offered on editorial in its pages on Friday, September 5, 1980, which explores carefully and thoughtfully the impact of this legislation on the practice of naming the names of American intelligence agents simply for the sake of disarming our intelligence gathering capacity. As the editorial suggests, when the security of our Nation and certain constitutional principles are seemingly at odds, there must be boundaries to free speech or we will have no free speech at all.

Mr. President, I ask unanimous consent to have this editorial from the Washington Star printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE BOUNDARIES OF FREE SPEECH

Those who are resisting the current effort in Congress to protect U.S. intelligence agents against the marauding of Philip Agee and Louis Wolf offer two disclaimers. They are, they claim, as outraged as the rest of us by the disclosures of Mr. Agee and his free-lance protege, Mr. Wolf, who make it their business to identify covert agents and expose them to injury or death. They also protest that they do not consider First Amendment rights absolute, and ask only that the legislation not "chill" legitimate reportorial inquiry.

These disclaimers must be taken at face value and Congress would indeed waste its time if it passed a bill that would be easy prey for the first court to take formal notice of it.

Nonetheless, we may be sure that if the cavils of the ultra-libertarians are heeded, Congress will leave itself small leeway for effective legislation. If the handiwork of the Wolfs of this world is to be curbed, we must face the risk that legislation strong enough to curb it could tempt adventurous prosecutors to interfere with legitimate reporting.

But while the danger to be dealt with is real and present, the worries about a "chilling effect" on the press are, as we shall suggest below, dim and hypothetical. Moreover, the libertarians may have met their forensic match this time. There is no more zealous advocate of strong protective legislation for U.S. covert intelligence agents than Sen. John Chafee of Rhode Island, whose uncle, the late Zechariah Chafee of Harvard Law School, was in his day a pre-eminent authority on free speech. With those credentials, Senator Chafee is not easily depicted as an enemy of the First Amendment. In defense of the Senate bill he is co-sponsoring, he cites his uncle's dictum that "the boundary line of free speech . . . is fixed close to the point where words will give rise to unlawful acts."

If that is the proper boundary line, as we in fact believe, there is no doubt that the Agee and Wolf disclosures have crossed it. The 1975 assassination of Richard Welch, then the CIA's station chief in Athens, followed within a month the disclosure of his covert function in the Greek press; and that information came directly from Agee's *Counterspy magazine*. "Public identification of Richard Welch," as was said at the time, "was tantamount to an open invitation to kill him."

More recently, Wolf's bizarre public identification of 15 CIA agents serving in Jamaica (complete with details) was immediately followed by a nocturnal attack on the residence of one with submachine guns and explosives. No life was lost, but several U.S. agents and their families had to be evacuated.

Those who make it their ghoulish business to furnish the enemies of the U.S. with information that invites and facilitates violence against its public servants obviously do not approve of what those servants are doing. It is their right to disapprove; it is their right to agitate against the authority and policy that authorizes their activities.

But the issue before Congress is more basic; it has nothing at all to do with the free play of opinion or dissent and everything to do, rather, with outrageous disclosures that place the authorized intelligence operatives of the U.S. in physical peril and thereby tend to confound and thwart a function that Congress has seen fit to sanction. In the present state of the law, the Agees and Wolfs are apparently free to make these disclosures under cover of the First Amendment.

The absolutism of the First Amendment, so interpreted, lies in the impractical refusal of its interpreters to recognize the boundary line that commended itself years ago to Zechariah Chafee ("where words . . . give rise to unlawful acts") and still commends itself to most of us. Or indeed any other boundary line, for that matter.

The debating trick by which this absolutism is argued by critics of remedial legislation is familiar. It consists in raising endless hypothetical possibilities, all objectionable, which might eventuate if the law were misused. That way lies not free speech and press but constitutional paralysis.

The ultra-libertarians, dwelling upon their unsavory side-effects, in effect mount the disabling argument that we are powerless to defend the cover of U.S. intelligence agents abroad for fear of "chilling" legitimate inquiry and publication. Yet, interestingly, their objections, hypothetical as they are, have been heeded and reasonably answered, by Senator Chafee and others.

Consider one example. In a memorandum of August 4, the American Civil Liberties Union cites, among the conceivable "situations" that might arise from passage of the pending bills, the following: "An investigative reporter seeks to determine if the Watergate burglars have CIA connections. She discovers that several of them do and that one is a CIA agent. She prints that fact, naming the person."

Obviously, no such reporting should be thwarted. Would the bills now before Congress do so? The Senate bill supported by Senator Chafee and others—and more carefully drawn, as we see it, than the bill approved this week by the House Judiciary Committee—lays down a number of conditions designed to distinguish between malicious disclosure and mere reporting.

If the name of an agent, not previously acknowledged, were disclosed the disclosure would be unlawful only if it were within "a pattern of activities intended to identify and expose covert agents . . . with reason to believe that such activities would impair or impede the foreign intelligence activities of the U.S." In view of these provisos, the Senate intelligence committee's report of August 13 specifically rejects the ACLU's contention. "A journalist," it declares, "writing stories about the CIA would not be engaged in the requisite 'pattern of activities' even if the stories . . . included the names of one or more agents, unless the government proved that there was intent to identify and expose agents . . . with reason to believe it would impair or impede foreign intelligence activities." To meet the bill's standard of prosecution, the Senate report says, "a discloser must be engaged in . . . the business of 'naming names.' "

Probably no legislation can be both effective and foolproof; and there are fools about. But effective government is often a matter of choices, sometimes distressing and imperfect choices. The present no-holds-barred license for disclosure that covers everyone, while permitting the Agees and Wolfs to pursue their seditious business, is of debatable usefulness to free speech and press legitimately understood. But its perils and costs are not debatable. It tends to disarm and cripple U.S. intelligence capacity and to jeopardize the lives and limbs of U.S. agents serving in dangerous and sensitive missions.

No other free government on earth—to say nothing of others unfree—remotely begins to tolerate the casual (and sometimes malicious) interference with its intelligence services that Americans have come to countenance in the name of protective "exposure," by those who may or may not have the nation's interest at heart. We think Congress should do whatever is necessary, taking due but not paralyzing heed of constitutional scruples, to protect our covert intelligence and counterintelligence agents. Otherwise, it would be well to admit that we are too paralyzed by constitutional scruples to conduct an effective foreign intelligence system in this dangerous world, and stop asking our people to risk their lives in its service.

We can't have it both ways.

SENATOR JOHN GLENN

Mr. ROBERT C. BYRD. Mr. President, the 96th Congress has faced a wide array of difficult national security questions. On such issues, as on many other matters, the Senate has been fortunate to have the knowledge and counsel of my friend the senior Senator from Ohio (Mr. GLENN).

We know JOHN GLENN in the Senate as a man of vision and compassion, and a dedicated worker who does his homework. Time after time JOHN GLENN comes before this body and shares his unique grasp of complex and challenging issues. On the subject of strategic arms limitation, or Soviet military buildup, or detente, JOHN GLENN's analyses and careful thought have won deep respect among his colleagues.

Senator GLENN is a defender of freedom in the United States and abroad. He has repeatedly warned of the threat posed by Soviet expansionism in the Middle East, Africa, and Asia. In the wake of increased Soviet military expenditures—expenditures he has characterized as leading to the "greatest peacetime military buildup since Hitler's Germany"—JOHN GLENN has advocated increases in our own military budget to keep America's defense capabilities second to none. Among other remedial measures, he has presented a very persuasive case for building a new, multirole, manned bomber.

Senator GLENN's national stature and reputation in national security affairs have grown commensurately with his successful role in solving problems facing Ohio.

As chairman of the Energy, Nonproliferation and Federal Services Subcommittee of the Governmental Affairs Committee, JOHN GLENN has advocated specific short- and long-term measures to free us from dangerous dependence on imported oil. He has been in the vanguard calling for rapid and safe development of alternative energy sources.

He was an early and strong supporter of synthetic fuels projects such as coal gasification and liquefaction. As a fellow member of the Coal Caucus seeking to effect a reasonable balance between our energy and environmental needs, Senator GLENN has brought us closer to the day when we can meet our Nation's energy requirements through domestic resources. In addition, he helped bring about expansion of the nuclear enrichment facility near Portsmouth, Ohio. During the harsh winter of 1977, it was JOHN GLENN who sponsored the legislation which mandated emergency distribution of natural gas to States such as Ohio which were dangerously short of supplies.

It was the Senator from Ohio who reminded us that improved electrical energy storage could dramatically enhance our long-term supply picture by making feasible such diverse energy sources as solar, wind, geothermal, and biomass conversion.

Energy is also part of the problem facing the U.S. automobile industry. Ohio has been especially hard hit by competition of imported cars. Almost 20 percent of Ohio's autoworkers have been laid off off during the past year, pushing the State unemployment rate to nearly 10 percent.

In June 1979, JOHN GLENN organized a meeting with President Carter to discuss the auto industry's problems and to provide specific remedies. His efforts and those of several of our colleagues have been instrumental in eliciting the administration's recent actions in support of the industry. Senator GLENN continues to press for negotiation with the Japanese to set a voluntary restraint agreement to limit auto exports to the United States.

Another area of JOHN GLENN's concern has been the steel industry. He has been deeply involved in steel issues, which are of vital concern to Ohio, and especially the Mahoning Valley. As a founding member of the Senate Steel Caucus, he worked with a Presidential task force on development of the trigger price mechanism. He has consistently supported increases in trade adjustment assistance for workers who have lost their jobs because of imported products.

JOHN GLENN has correctly perceived that the problems confronting the U.S. auto and steel industries are manifestations of deeper problems facing all of America's mature industries. Senator GLENN has advocated a "new industrial policy" for the United States—a policy to revitalize American industrial strength. Like many Democrats, he advocates a partnership among industry, labor, and Government which will produce a concerted move toward national economic goals. He has also supported revision of our tax laws to encourage increased industrial productivity, regulatory reform to remove unnecessary regulations, and expanded industrial research and development to enhance the innovation our Nation needs to remain competitive.

He recognizes that increasing U.S. exports is a priority for our economy. Nationally Ohio ranks first in jobs related to exports, and Senator GLENN has missed no opportunity to facilitate U.S. sales to other countries. One specific project has been inviting Taiwanese missions to buy Ohio products. Since the first invitation 3 years ago, Ohio has exported more than $300 million worth of goods to Taiwan.

The List of JOHN GLENN's concerns and accomplishments is extensive. He has been an effective force in keeping Federal expenditures under close scrutiny. He has demonstrated his compassionate concern for the poor and the elderly, and cosponsored the Housing and Community Development Act of 1977 and 1980 which target Federal money to older industrial cities suffering from population decline. JOHN GLENN has always focused on the foundation of the American economy—our working men and women. He has supported increases in minimum wage and social security benefits, and he has opposed attempts to weaken job safety and health requirements. He has consistently stood with organized labor, in its fight to preserve its hard-won gains.

From his high distinction in the U.S. military to the orbital flight which made him a national hero, to his hard and effective work in the Senate on behalf of Ohio, JOHN GLENN has served his State and his Nation with dedication. The people of Ohio could have no better friend in Washington than Senator GLENN.

AIRLINE DEREGULATION ACT OF 1978

Mr. MITCHELL. Mr. President, I express my deep concern over the effect on rural areas of the Airline Deregulation Act of 1978. Although this legislation has increased the competition between major carriers to service our large population centers, it has achieved this competition at the expense of service to rural areas. In a State like Maine which only has the benefit of one major carrier, Delta Airlines, the effects of airline deregulation have been very negative.

For example, in 1978, before the Airline Deregulation Act went into effect, Delta Airlines had 23 flights to and between three cities in Maine—Presque Isle, Bangor, and Portland. Today, Delta has only 16 flights to and in Maine. Moreover, Delta Airlines no longer serves all three cities. In 1977, Delta Airlines assured the Maine congressional delegation that service to Maine would not be reduced if airline deregulation passed. However, it withdrew its service to Presque Isle in 1979. Delta Airlines did not withdraw its service to Presque Isle because it was unprofitable. Rather, Delta eliminated its service to Presque Isle in order to compete for a more profitable line within the United States.

The withdrawal of air service by a major carrier to Presque Isle has caused that community tremendous economic harm. The citizens of Presque Isle had voted in favor of a bond issue for money to increase the length of the runway at the airport in order to accommodate Delta Airlines. These local funds were matched by a substantial State and Federal contribution. The net effect is that we now have an airport in northern Maine, built at taxpayer expense, which is not fully utilized by the present carrier.

Second, airline deregulation caused a tremendous increase in prices between cities that are serviced by only one major carrier.

For example, today a roundtrip flight from Washington, D.C. to Bangor costs $274. Before airline deregulation, the same flight cost $150. The simple fact of the matter is that one can now fly roundtrip from Washington, D.C. to Los Angeles cheaper than one can fly roundtrip from Washington, D.C. to Bangor, Maine.

Moreover, Delta Airlines has now begun to reduce its service in another airport in Maine. In Bangor, they have recently dropped one of their flights. I am watching these actions very carefully, and I am very concerned that airline deregulation, which may have benefits for other areas of the country, does not further harm Maine. These benefits—and they are real ones—are today being achieved by a substantial reduction in service and a tremendous increase in prices to the rural areas of our country. I do not believe that outcome was intended. Nor do I feel it should be condoned.

RECESS TO 9:30 A.M. TOMORROW

Mr. PROXMIRE. Mr. President, in accordance with the previous order, I move that the Senate stand in recess until 9:30 a.m. tomorrow morning.

The motion was agreed to; and at 6:50 p.m., the Senate recessed until tomorrow, Friday, September 19, 1980, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 18, 1980:

U.S. RAILWAY ASSOCIATION

The following-named persons to be Members of the Board of Directors of the U.S. Railway Association for terms expiring July 8, 1986:

Stanton P. Sender, of the District of Columbia (reappointment).

Franklin D. Raines, of Washington, vice Samuel B. Payne, term expired.

DEPARTMENT OF STATE

Harry E. T. Thayer, of the District of Columbia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Singapore.

Robert Alan Frosch, of Virginia, Administrator of the National Aeronautics and Space Administration, for the rank of Ambassador during his tenure of service as head of the U.S. delegation to both the preparatory meetings and the subsequent United Nations Outer Space Conference as well as to related meetings of the United Nations Committee on the Peaceful Uses of Outer Space and its two subcommittees.

Board for International Broadcasting

John A. Gronouski, of Texas, to be a Member of the Board for International Broadcasting for a term expiring April 28, 1983 (reappointment).

In the Marine Corps

The following-named male officers of the Marine Corps Reserve for temporary appointment to the grade of lieutenant colonel under the provisions of title 10, United States Code, section 5902:

Robert L. Adams
James A. Aiken
Ronald J. Appel
David A. Ballentine
Clarke C. Barnes
James V. Barrios
Donald J. Beary
Robert L. Beavis
Richard F. Beirne IV
Robert H. Belknap
Ben H. Bell
Rodney E. Bell
Stanley L. Benson
William W. Benson
Cedric C. Bevis
Otto Biangardi
Kenneth M. Billingsley
Patrick J. Blessing
Richard N. Bloomberg
John R. Booth
Duncan E. Bossie
Roger A. Bourgery
George F. Braun
Terrence M. Breen
Dale L. Buchanan
Eugene G. Buglewicz
George E. Cadman III
Marshall M. Calef II
Charles P. Campbell, Jr.
James M. Campbell
William S. Campbell
William E. Capehart
Michael G. Carberry
Albert E. Carpenter, Jr.
John J. Cassidy, Jr.
David P. Connelly, Jr.
Richard A. Connor
John R. Connors, Jr.
James G. Custar
Benjamin R. Dadd, Jr.
Kevin R. Danehy
Robert R. Davis, Jr.
Terry L. Delong
Alexander C. Dickerson
Joseph P. Dyer, Jr.
John R. Elkins
Randall L. Erickson
Thomas D. Ewton
Jerry J. Farro
Michael S. Ferneau
James E. Flanagan
James J. Funcheon
Kenneth R. Furr
Donald S. Gallaspy, Jr.
Robert S. Gardner
John P. Gill
Marc H. Glasgow
James T. Gleason
Walter H. Goedeke
James G. Goodwin
Joseph E. Gott
David W. Gould
Paul R. Gregus
Gary U. Gretter
John S. Gruggel, Jr.
Donald J. Hager
Edward M. Hall
Donald D. Hamilton
Leonard D. Hanford
Francis T. Hankins
Lowell W. Hanson
John J. Hargrove
William J. Heller
James S. Herak
Dewey L. Herring
Robert L. Higginbotham
William W. Hobbs, Jr.
Russell E. Hohman
Bobby G. Hollingswort
Robert P. Horne, Jr.
William E. Torio
Anthony A. Johnson
James L. Johnson
Kari Johnson
Garland L. Jones
John L. Jones
George A. Jonic, Jr.
Francis J. Kaveney
Raymond W. Kelly
Robert M. Kestler
Alexander Kirk
Stephen A. Kirkpatrick
Matthew T. Kissane
Robert G. Kissling, Jr
William S. Knight
Larry M. Krilla
Edward Kufeldt
Harry E. Lake, Jr.
Frank J. Lamura
Malcolm V. Lane, Jr.
Elton R. Lanier
Paul J. Laveroni
Gavin D. Lee
Vincent M. Levitsky
James L. Lindemood
John K. Lower
Thomas J. Luciano
Walter M. Luy
Clifford H. Manning
David M. Marchand
Kenneth E. Martin
Raymond W. Martin
Robert A. McClellan, Jr.
Alexander McClinchie
Michael G. McCollum
Ronald D. McDaniel
Leland B. McDonough
Thomas H. Meeker
Quinten R. Meland
Leonard E. Miller
Peter M. Molloy
Leon H. Moore
James E. Morley, Jr.
Richard A. Muench
John J. Nelson, Jr.
Thomas F. Newman
Laurance S. Nowak
George J. O'Connell, Jr.
James T. O'Kelley, Jr.
George S. Olivas
William D. Palmer
Bill D. Parker
Robert E. Parnell, Jr.
Stanley J. Pasieka, Jr.
Robert E. Pearce
Stanley J. Pechalonis
Jeffrey C. Pickett
Darvin D. Pierce
Charles A. Pinney III
William A. Platt
William N. Price
Don E. Prichard
Charles L. Pritchard
Charles J. Quilter, Jr.
Gary L. Randall
Thomas C. Rauwald
Ronald D. Ray
Herbert D. Raymond III
Norbert V. Reardon
Anthony S. M. Reyna
Wayne A. Rich, Jr.
James D. Richards
Douglas S. Rider
Robert O. Riggs
Tomas M. Rodriguez, Jr.
Paul R. Rollins
David K. Rumsey
Earl R. Rutledge
Michael E. Sandlin
Gary A. Sargent
Michael J. Severson
Thomas M. Shea
Robert C. Shearer
Denis L. Shortal
William R. Singer
Kenneth P. Sirmon
Carl H. Slaski
Douglas L. Smith
Frederick J. Smith III
Norman W. Smith, Jr.
Neil A. Snider
John T. Somerville
Edward G. Southworth
Billy L. Speed
Michael R. Stanton
David M. Stout
Luther P. Stroud, Jr.
Bruce W. Sumner
Ronald J. Suter
Jack E. Swallows
Robert M. Talent
Albert G. Tase, Jr.
Arthur W. Tifford
Donald R. Treichler
Charles C. Turner
Charles S. Tutt
Richard A. Vansickle
Frederick J. Vogel
Richard E. Vosepka
David F. Wall
Paul F. Wendler, Jr.
Don E. Wheeler
Richard T. White, Jr.
John G. Wilhelm
James T. Williams
Russell L. Williamson
Richard O. Willich
Hugh A. Wilson III
Steven C. Wilson
John T. Winkler
Walter J. Wise, Jr.
Joseph C. Wolfe, Jr.
Howell F. Wright
Jack B. Zimmerman

The following-named woman officer of the Marine Corps Reserve for permanent appointment to the grade of lieutenant colonel under the provisions of title 10, U.S. Code, section 5802:

Sara J. Harper

HOUSE OF REPRESENTATIVES—*Thursday, September 18, 1980*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We rejoice and give thanks, O Lord, for the goodness of Your creation and the bounty that You have provided for the welfare of Your people. Remind us to be stewards of Your gifts to us, wisely using the resources committed to our care. As You have blessed our Nation with the riches of the Earth, so bless us with renewed understanding of our responsibility to nurture our land, not only in ourselves and those about us, but for the generations who come after us. May we be reminded that all the harvest of our Earth brings forth is a testimony of Your love for us, and may we respond with grateful hearts in praise and with eager hands in service. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 594. Joint resolution to authorize and request the President to issue a proclamation designating September 18, 1980, as "Constantino Brumidi Day."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 5625. An act authorizing the President of the United States to present a gold medal to the A. Phillip Randolph Institute; and

H.R. 6816. An act to provide for the exchange of certain Federal coal leases in the State of New Mexico for other Federal coal leases in that State.

DO NOT DELAY DEPRECIATION REFORM

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, every tax proposal before the Congress at this point includes in some form or another a depreciation reform measure greatly shortening the length of time over which a capital asset may be written off against income. This is entirely appropriate.

The simplest is the 10–5–3 proposal. The Senate finance proposal is somewhat more complicated. The President's is much more complex.

The President is urging that we put off a tax cut until next year. The unfortunate effect of doing that with respect to depreciation reform is that in cases where the manufacturer buying the machine or the person or company constructing the building has any control over the timing, it will delay the investment until the depreciation rules are known. These depreciation changes are prospective in each case, and, therefore, no person investing in a capital asset will want to do so, if he can avoid it, until he knows what the depreciation rules are so he can take advantage of the speedup. If we do not enact the reform until next July, we will discourage capital investment until that time. We can expect a capital goods recession to the extent tax policy has any effect at all, the longer we wait.

Mr. Speaker, this is an unfortunate side effect of delay of the tax cut, and I hope it will be seriously considered by this body.

LEGISLATIVE PRIORITIES SHOULD BE MET BEFORE RECESS

The SPEAKER. Does the minority leader seek time?

Mr. RHODES. I do, Mr. Speaker. I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Without objection, the gentleman is recognized.

There was no objection.

Mr. RHODES. Mr. Speaker, on behalf of the House Republican leadership, I have today invited the Speaker and the Democratic leadership to join with us to comply with existing law and complete the business of this Congress in a timely fashion.

The Congressional Budget Act requires that a second concurrent budget resolution be adopted prior to September 15. We already are in violation of that law, and we will be in worse violation if the House recesses before the election without adopting such a resolution.

Therefore, the House Republican leadership insists that at least three legislative objectives must be achieved before we would support a motion to recess or adjourn sine die.

They are: First, House approval of the second concurrent resolution on the fiscal 1981 budget; second, completion of all appropriations bills for fiscal 1981; and third, an up or down vote in the House on any tax cut bill passed by the Senate.

With these priorities established, the Speaker and the Democratic leadership can be assured of strong bipartisan cooperation in completing the people's business before the election. Otherwise——

The SPEAKER. Has the gentleman completed his remarks?

Mr. RHODES. I have, Mr. Speaker. I yield back the balance of my time.

APPROPRIATION AND BUDGET PROCESS IN A SHAMBLES

The SPEAKER. Does the minority whip of the House seek recognition?

Mr. MICHEL. I do, Mr. Speaker. I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Without objection, the gentleman is recognized.

There was no objection.

Mr. MICHEL. Mr. Speaker, I would like to simply piggyback on the remarks of our distinguished minority leader by saying that in all my 24 years in this House I have never seen the appropriation and budget process in such a shambles as this.

Here we are about to recess before the election, if the majority prevails, without enacting finally and sending to the President one appropriation bill. Now, it can be argued that we in the House have completed most of our work and adopted all but the foreign aid appropriation bill, but it seems to me that, with both bodies being controlled by the Democratic Party as they are, by such overwhelming majorities, there ought to be better coordination.

It may be because in the other body, there are over 20 Members of the majority party up for reelection and only 10 from our side, that has caused the majority to decide that we do not want to face the music before the election.

In my judgment, the American people ought to be told the truth as to what a sad state of affairs the appropriation and budget process is in before the election, rather than shoving everything aside and waiting until we can have the electorate go to the polls and then limping back here with a lameduck Congress to finish our work.

Mr. Speaker, I think it is unconscionable. We ought to stand up for our rights here and insist, as the minority leader says, that we finish our business before we go home.

CARTER SHOULD APOLOGIZE TO AMERICA

The SPEAKER. Does the gentleman from Maryland (Mr. BAUMAN) seek recognition?

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Mr. BAUMAN. I do, Mr. Speaker. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Without objection, the gentleman is recognized.

There was no objection.

Mr. BAUMAN. Mr. Speaker, good morning to you. I am happy to find you in such a good mood this morning, and I hope my remarks do not change your mood.

Mr. Speaker, since I first became active in politics as a teenager I have watched and heard a great many candidates campaign for election for office at all levels. I have to say that rarely if ever have I seen a more blatant campaign of smear and innuendo than that now being mounted against Ronald Reagan by President Carter and his political associates including some Members of this body.

Ronald Reagan is not a purveyor of hatred nor a racist, and even those character assassins who are uttering these lies know that to be so.

But those who are dragging this Presidential campaign down into the gutter led by the White House and its current occupant are doing a grave disservice to the office of the Presidency and to this Nation.

It is time to call a halt to this rotten mudslinging and address the true issues facing America. And the sooner the better.

Mr. Carter owes an apology to Governor Reagan, but more importantly, he should apologize to the people of America for his despicable conduct.

Mr. Speaker, I will include elsewhere in today's Record an editorial from the Washington Post on this subject.

AN INQUIRY BY ILLINOIS BUSINESSMEN ABOUT UPCOMING TAX RULES

(Mr. O'BRIEN asked and was given permission to address the House for 1 minute.)

Mr. O'BRIEN. Mr. Speaker, yesterday afternoon I received a telephone call from Robert K. Anderson, a long-time friend and chief executive officer of a prominant financial institution in my district.

Mr. Anderson asked me what our congressional tax policy was and what we were going to do. He also pointed out that he had in the last 2 days met with three businessmen who were interested in doing something to their plant that might involve additional equipment and additional jobs, and that if we could pass, or promise to pass a bill that would be retroactive to October 1 or October 15, he knew that it would be a morale stimulant to business in the 17th District of Illinois.

I regretted to have to tell him that I did not know what the congressional policy was and I did not think anyone else did, and that I thought if the administration continued to take the position that nothing was going to be done until the middle of next year, we would be plunged deeper in a recession that everyone really wants to avoid, thanks to the current occupant of the White House.

□ 1010

PRESIDENT ANASTASIO SOMOZA'S ASSASSINATION

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, I would like to rise in support of the remarks made by the distinguished minority leader, the minority whip, and the gentleman from Maryland, and to relate a sense of shame at learning of the assassination of the former President of Nicaragua, Anastasio Somoza, in Asuncion, Paraguay. yesterday, for it was the repudiation of President Somoza and his elected government by the Carter administration which set into motion the events leading to his resignation as Nicaragua's head of state, and his exile from his homeland, now ruled by a pro-Communist unelected regime.

President Somoza was a great friend and supporter of the United States in Central America.

He was educated at West Point, and spent much of his life in our country.

The timing of President Somoza's murder—only days after President Carter gave final approval to a $75 million U.S. aid package for the pro-Communist forces which overthrew him—is cause for grave concern.

VETERANS' DISABILITY COMPENSATION AND SURVIVORS' BENEFITS AMENDMENTS OF 1980

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 7511) to amend title 38, United States Code, to provide a cost-of-living increase in the rates of disability compensation for disabled veterans and in the rates of dependency and indemnity compensation for survivors of disabled veterans, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments with amendments.

The SPEAKER. The Clerk will report the Senate amendments and the proposed House amendments.

The Clerk read the Senate amendments and the House amendments to the Senate amendments, as follows:

Senate Amendments

Senate amendments: Strike out all after the enacting clause and insert:

That (a) this Act may be cited as the "Veterans' Disability Compensation and Housing Benefits Amendments of 1980".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—VETERANS' DISABILITY COMPENSATION BENEFITS

RATES OF DISABILITY COMPENSATION

Sec. 101. (a) Section 314 is amended by—

(1) striking out "$48" in subsection (a) and inserting in lieu thereof "$55";

(2) striking out "$88" in subsection (b) and inserting in lieu thereof "$101";

(3) striking out "$133" in subsection (c) and inserting in lieu thereof "$152";

(4) striking out "$182" in subsection (d) and inserting in lieu thereof "$208";

(5) striking out "$255" in subsection (e) and inserting in lieu thereof "$291";

(6) striking out "$321" in subsection (f) and inserting in lieu thereof "$367";

(7) striking out "$380" in subsection (g) and inserting in lieu thereof "$434";

(8) striking out "$440" in subsection (h) and inserting in lieu thereof "$503";

(9) striking out "$495" in subsection (i) and inserting in lieu thereof "$566";

(10) striking out "$889" in subsection (j) and inserting in lieu thereof "$1,016";

(11) striking out "$1,104" and "$1,547" in subsection (k) and inserting in lieu thereof "$1,262" and "$1,768", respectively;

(12) striking out "$1,104" in subsection (l) and inserting in lieu thereof "$1,262";

(13) striking out "$1,217" in subsection (m) and inserting in lieu thereof "$1,391";

(14) striking out "$1,383" in subsection (n) and inserting in lieu thereof "$1,581";

(15) striking out "$1,547" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$1,768";

(16) striking out "$664" and "$989" in subsection (r) and inserting in lieu thereof "$759" and "$1,130", respectively;

(17) striking out "$995" in subsection (s) and inserting in lieu thereof "$1,137"; and

(18) striking out "$192" in subsection (t) and inserting in lieu thereof "$219".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

Sec. 102. Section 315(1) is amended by—

(1) striking out "$54" in clause (A) and inserting in lieu thereof "$62";

(2) striking out "$91" in clause (B) and inserting in lieu thereof "$104";

(3) striking out "$121" in clause (C) and inserting in lieu thereof "$138";

(4) striking out "$151" and "$30" in clause (D) and inserting in lieu thereof "$173" and "$34", respectively;

(5) striking out "$37" in clause (E) and inserting in lieu thereof "$42";

(6) striking out "$67" in clause (F) and inserting in lieu thereof "$77";

(7) striking out "$97" and "$30" in clause (G) and inserting in lieu thereof "$111" and "$34", respectively;

(8) striking out "$44" in clause (H) and inserting in lieu thereof "$50".

(9) striking out "$98" in clause (I) and inserting in lieu thereof "$112"; and

(10) striking out "$82" in clause (J) and inserting in lieu thereof "$94".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

Sec. 103. Section 362 is amended by striking out "$240" and inserting in lieu thereof "$274".

TITLE II—SURVIVORS' DEPENDENCY AND INDEMNITY COMPENSATION BENEFITS

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

Sec. 201. Section 411 is amended by—

(1) amending subsection (a) to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	Monthly rate
E-1	$373
E-2	385
E-3	394
E-4	419
E-5	431
E-6	441
E-7	462
E-8	487
E-9	[1] 510
W-1	472
W-2	491
W-3	505
W-4	535
O-1	472
O-2	487
O-3	522
O-4	551
O-5	608
O-6	684
O-7	741
O-8	812
O-9	872
O-10	[2] 954

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $549.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,023.";

(2) striking out "$38" in subsection (b) and inserting in lieu thereof "$43";

(3) striking out "$98" in subsection (c) and inserting in lieu thereof "$112"; and

(4) striking out "$49" in subsection (d) and inserting in lieu thereof "$56".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 202. Section 413 is amended by—

(1) striking out "$165" in clause (1) and inserting in lieu thereof "$189";

(2) striking out "$237" in clause (2) and inserting in lieu thereof "$271";

(3) striking out "$306" in clause (3) and inserting in lieu there of "$350"; and

(4) striking out "$306" and "$62" in clause (4) and inserting in lieu there of "$350" and "$71", respectively.

RATES OF SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 203. Section 414 is amended by—

(1) striking out "$98" in subsection (a) and inserting in lieu thereof "$112";

(2) striking out "$165" in subsection (b) and inserting in lieu thereof "$189"; and

(3) striking out "$84" in subsection (c) and inserting in lieu thereof "$96".

TITLE III—SPECIAL HOME ADAPTATION GRANTS FOR CERTAIN SEVERELY DISABLED VETERANS

SEC. 301. (a) Section 801 is amended by inserting "(a)" before "The Administrator" at the beginning and adding at the end the following new subsection:

"(b) The Administrator shall, under regulations which the Administrator shall prescribe, assist any veteran (other than a veteran who is eligible for assistance under subsection (a) of this section) who is entitled to compensation under chapter 11 of this title for permanent and total service-connected disability—

"(1) due to blindness in both eyes, with 5/200 visual acuity or less, or

"(2) (A) due to the loss of both upper extremities at or above the wrist;

"(B) due to the loss of use of both upper extremities if such loss of use results in a degree of impairment that is not less than the degree of impairment such veteran would have suffered from the anatomical loss of both upper extremities at or above the wrist; or

"(C) due to the loss of one upper extremity at or above the wrist and the loss of use of the other upper extremity if such loss of use results in a degree of impairment that is not less than the degree of impairment such veteran would have suffered from the anatomical loss of such extremity at or above the wrist.

to acquire such adaptations to such veteran's residence as are determined by the Administrator to be reasonably necessary because of such disability, if the Administrator determines that such veteran is residing in (or, if such residence is to be constructed or purchased, will be residing in) and reasonably intends to continue residing in a home owned by such veteran or by a member of such veteran's family.".

(b) Section 802 is amended by—

(1) inserting "(a)" before "The" at the beginning;

(2) inserting "(a)" after "section 801"; and

(3) adding at the end the following new subsection:

"(b) Except as provided in section 804(b) (2) of this title, the assistance authorized by section 801(b) of this title shall be limited to the lesser of—

"(1) the actual cost of the adaptations determined by the Administrator under such section 801(b) to be reasonably necessary, or

"(2) $5,000.".

(c) Section 804 is amended by—

(1) inserting "(a)" before "Any veteran" at the beginning;

(2) striking out "the assistance authorized by this chapter" and inserting in lieu thereof "except as provided in subsection (b) of this section, the assistance authorized by section 801 of this title"; and

(3) adding at the end the following new subsection:

"(b) A veteran eligible for benefits under section 801(b) of this title shall not by reason of such eligibility be denied—

"(1) benefits for which such veteran becomes eligible under section 801(a) of this title; or

"(2) benefits relating to home health services under section 612(a) of this title,

but no particular type of adaptation, improvement, or structural alteration shall be provided to any such veteran more than once.".

(d) Section 805 is amended by striking out "unit, or necessary land therefor," and inserting in lieu thereof "unit, or necessary land therefor, or adaptation".

TITLE IV—VETERANS' ADMINISTRATION HOME-LOAN PROGRAM AMENDMENTS

CONVENTIONAL AND CONDOMINIUM HOME-LOAN PROVISIONS

SEC. 401. (a) Section 1803(c)(3)(A) is amended by inserting "or (b)(2) or section 1819(a)(4) of this title" after "section 1810 (a)(5)".

(b) Section 1810 is amended by—

(1) amending subsection (b) by—

(A) inserting "(1)" before "No "at the beginning;

(B) redesignating clauses (1) through (6) as clause (A) through (F), respectively;

(C) striking out in the second sentence "paragraph (5)" and inserting in lieu thereof "clause (E)"; and

(D) inserting at the end the following new paragraphs:

"(2) Notwithstanding subsection (a) of this section and paragraph (1) of this subsection, a loan to a veteran-obligor under a previous loan guaranteed, insured, or made under this chapter for which such veteran's entitlement was used (or, if such veteran is deceased and if such veteran's surviving spouse was a co-obligor under such previous loan, a loan to such veteran's surviving spouse who shall, only for the purposes of a refinancing loan under this paragraph, be considered to be a veteran eligible for benefits under this chapter) may be guaranteed under this chapter if—

"(A) the purpose of such loan is to refinance such previous loan and the interest rate of such refinancing loan is less than the interest rate of such previous loan;

"(B) such refinancing loan is secured by the same dwelling or farm residence as was such previous loan and such dwelling or residence is owned and occupied by the veteran concerned (or such veteran's surviving spouse) as such veteran's (or surviving spouse's home:

"(C) the principal balance of such refinancing loan does not exceed an amount equal to the total of the outstanding unpaid balance of such previous loan and such closing costs (including any discount permitted pursuant to section 1803(c)(3)(A) of this title) as may be authorized by the Administrator under regulations which the Administrator shall prescribe; and

"(D) the term of such refinancing loan does not exceed the term of such previous loan.

"(3) Notwithstanding any other provision of this chapter, the amount of guaranty entitlement used by a veteran for one or more of the purposes specified in subsection (a) of this section who applies, pursuant to paragraph (2) of this subsection, for a guaranty for a refinancing loan to be secured by the same property as the loan for which such veteran used such entitlement shall be deemed to be available to such veteran for such refinancing loan, and such veteran's entitlement shall not, as a result of any guaranty provided under paragraph (2) of this subsection, be further charged."; and

(2) amending subsection (c) by striking out "$25,000" and inserting in lieu thereof "$30,000".

(c) Section 1811 is amended by—

(1) amending subsection (b) by inserting "(but not including the refinancing of a loan under section 1810(b)(2) or 1819(a)(4))" after "section 1810(a) or 1819";

(2) amending subsection (d)(2)(A) by striking out "$25,000" both places it appears and inserting in lieu thereof "$30,000"; and

(3) amending subsection (d)(2)(B) by striking out "$17,500" both places it appears and inserting in lieu thereof "$20,000".

MOBILE HOME-LOAN PROVISIONS

(d) Section 1819 is amended by—

(1) amending subsection (a) by inserting at the end the following new paragraphs:

"(4) Notwithstanding any other provision of this section, a loan to a veteran-obligor under a previous loan guaranteed, insured, or made under this chapter for which such veteran's entitlement was used (or, if such veteran is deceased and if such veteran's surviving spouse was a co-obligor under such previous loan, a loan to such veteran's surviving spouse who shall, only for the purposes of a refinancing loan under this paragraph, be considered to be a veteran eligible for benefits under this chapter) may be guaranteed under this section if—

"(A) the purpose of such loan is to refinance a previous loan guaranteed under this section at an interest rate that is less than the interest rate of such previous loan;

"(B) such refinancing loan is secured by the same mobile home or mobile-home lot, or both, as was such previous loan and such mobile home (or a mobile home on such lot) is owned and occupied by the veteran concerned (or such veteran's surviving spouse) as such veteran's (or surviving spouse's) home;

"(C) the principal balance of such refinancing loan does not exceed an amount equal to the total of the outstanding unpaid balance of such previous loan and such closing costs (including any discount) as may be authorized by the Administrator under regulations which the Administrator shall prescribe; and

"(D) the term of such refinancing loan does not exceed the term of such previous loan.

"(5) Notwithstanding any other provision of this section, the amount of guaranty entitlement used by a veteran for one or more of the purposes specified in paragraph (1) of this subsection who applies, pursuant to paragraph (4) of this subsection, for a guaranty for a refinancing loan to be secured by the same property as the loan for which such veteran used such entitlement shall be deemed to be available to such veteran for such refinancing loan, and such veteran's entitlement shall not, as a result of any guaranty provided under paragraph (4) of this subsection. be further charged."; and

(2) amending subsection (c) by striking out "$17,500" each place it appears and inserting in lieu thereof "$20,000".

HOME-LOAN PROGRAM DISCLOSURES AUTHORITY

SEC. 402. Section 3301 is amended by—

(1) amending subsection (c) by inserting "(1)" after "(c)" at the beginning and adding at the end the following new paragraph:

"(2) Any appraisal report or certificate of reasonable value submitted to or prepared by the Veterans' Administration in connection with any loan program authorized under chapter 37 of this title shall be made available to any person who applies for such report or certificate.";

(2) redesignating subsection (g) as subsection (h) and inserting after subsection (f) the following new subsection (g):

"(g)(1) The Administrator may, pursuant to regulations which the Administrator shall prescribe and which shall not become effective until 30 days following publication in the Federal Register, release the name, address, and other information relating to the identity of an individual, to any person in a category of persons that is described in such regulations and specified as a category of persons to whom such information may be released, if the release of such information is necessary for the purpose of—

"(A) determining the credit worthiness, credit capacity, income, or financial resources of an individual who has (i) applied for any benefit under chapter 37 of this title, or (ii) submitted an offer to the Administrator for the purchase of property acquired by the Administrator under section 1820(a)(5) of this title;

"(B) verifying, either before or after the Administrator has approved an individual's application for assistance in the form of a loan guaranty or loan insurance under chapter 37 of this title, information submitted by a lender to the Administrator regarding the credit worthiness, credit capacity, income, or financial resources of such individual;

"(C) offering for sale or other disposition by the Administrator, pursuant to section 1820 of this title, any loan or installation sale contract owned or held by the Administrator; or

"(D) to the extent not otherwise authorized by this paragraph, providing assistance to any applicant for benefits under chapter 37 of this title or administering such benefits if the Administrator promptly records the fact of such release in appropriate records pertaining to the person concerning whom such release was made.

"(2) No contract entered into for any of the purposes of this subsection, and no action taken pursuant to any such contract or this subsection, shall result in the application of section 552a of title 5 to any consumer reporting agency or employee thereof.

"(3) For the purposes of this subsection, the term 'consumer reporting agency' (A) shall have the meaning provided in subsection (f) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), and (B) shall also mean any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of (i) obtaining credit information or other information on consumers from consumer reporting agencies (as defined in subsection (f) of section 603 of such Act) for the purpose of furnishing such information to third parties, or (ii) serving as a marketing agent under arrangements enabling third parties to obtain such information from such agencies."; and

(3) amending subsection (h), as redesignated by clause (2) of this section, by striking out "Any" and inserting in lieu thereof "Except as provided in subsection (g)(2) of this section, any".

TITLE V—MISCELLANEOUS AMENDMENTS

CONFIDENTIALITY OF MEDICAL QUALITY ASSURANCE DOCUMENTS

SEC. 501. (a) Subchapter I of chapter 57 is amended by adding at the end the following new section:

"§ 3305. Confidentiality of medical quality assurance documents

"(a) All records and documents which are created by the Veterans' Administration as part of a systematic Veterans' Administration medical quality assurance program shall be confidential and privileged and shall not be disclosed to any person except as provided in subsection (b) of this section.

"(b) A record or document described in subsection (a) of this section shall be disclosed in the following circumstances pursuant to regulations which the Administrator shall prescribe, except that name of and other identifying information regarding an individual Veterans' Administration patient or employee, or other individual associated with the Veterans' Administration for purposes of the quality assurance program, contained in such record or document shall be deleted if disclosure of such name and identifying information would constitute a clearly unwarranted invasion of personal privacy:

"(1) To a committee of either House of Congress, or any joint committee of Congress, if such record or document pertains to any matter within the jurisdiction of such committee or joint committee.

"(2) To a Federal agency or private organization as needed by such agency or organization to perform licensing or accreditation functions related to, or statutorily mandated monitoring of, Veterans' Administration health-care facilities.

"(3) To a Federal executive agency or a provider of health-care services as required for participation in health-care programs with such agency or provider.

"(4) To any criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such agency or instrumentality has made a written request that such records and documents be provided for a purpose authorized by law.

"(5) To medical personnel to the extent necessary to meet a medical emergency affecting the health or safety of any individual.

No person to whom a record or document has been disclosed under this subsection shall make further disclosure of such record or document except for a purpose provided herein.

"(c) For the purposes of this section, the term 'medical quality assurance program' means all Veterans' Administration systematic health care review activities designated pursuant to regulations which the Administrator shall prescribe and carried out by or for the Veterans' Administration for the purpose of improving the quality of medical care or the utilization of health-care resources in Veterans' Administration health-care facilities.

"(d) Any person who knowingly and willfully discloses any record or document described in subsection (a) of this section for any purpose other than those prescribed in subsection (b) of this section shall be guilty of a misdemeanor and be fined not more than $5,000 in the case of a first offense and not more than $20,000 in the case of any subsequent offense.".

(b) The table of sections at the beginning of chapter 57 is amended by adding after the item relating to section 3304 the following:

"3305. Confidentiality of medical quality assurance documents.".

LAND TRANSFER

SEC. 502. Public Law 89-345 (79 Stat. 1304) is amended by—

(1) amending section 2 by inserting "the first section of" after "pursuant to this"; and

(2) adding at the end the following new section:

"SEC. 3. (a)(1) A tract consisting of four acres, more or less, of the tract of land previously conveyed (pursuant to the first two sections of this Act) by the Administrator of Veterans' Affairs to the city of Cheyenne, Wyoming, by quitclaim deed dated November 1, 1966, may be used by city of Cheyenne, Wyoming, for roadway purposes in connection with the expansion and improvement of a roadway known as Converse Avenue and in a manner that will not, in the judgment of the Administrator of Veterans' Affairs, or his designee, interfere in any manner with the care and treatment of patients in the Veterans' Administration Center, Cheyenne, Wyoming.

"(2) The exact location and legal description of such tract of four acres, more or less shall be determined by the Administrator of Veterans' Affairs, and, if a survey is required in order to make such determination, such city shall bear the expense of such survey.

"(3) The Administrator of Veterans' Affairs is authorized to convey, without monetary consideration, to such city such tract of four acres, more or less, free and clear from the park and recreational use restrictions established by the first two sections of this Act and the deed of conveyance executed pursuant to section 2 of this Act.

"(b) Any deed of conveyance made pursuant to this section shall—

"(1) provide that the land so conveyed shall be used solely for roadway purposes and in a manner that will not, in the judgment of the Administrator of Veterans' Affairs, or his designee, interfere in any manner with the care and treatment of patients in the Veterans' Administration Center, Cheyenne, Wyoming;

"(2) contain such additional terms, conditions, reservations, easements, and restrictions as may be determined by the Administrator of Veterans' Affairs to be necessary to protect the interest of the United States;

"(3) provide that if the city of Cheyenne, Wyoming, violates any provision of such deed of conveyance or alienates or attempts to alienate all or any part of the land so conveyed, title thereto shall revert to the United States;

"(4) provide that a determination by the Administrator of Veterans' Affairs, or his designee, or any such violation or alienation or attempted alienation shall be final and conclusive; and

"(5) provide that, in the event of such reversion, all improvements made by such city on the land so conveyed during such city's occupancy thereof shall vest in the United States without payment of compensation therefor.".

POST-VIETNAM VETERANS' EDUCATIONAL ASSISTANCE PROGRAM (VEAP) PROVISIONS

Sec. 503. Section 1622 is amended by—

(1) amending subsection (a) by—

(A) striking out in the first sentence "Each" and inserting in lieu thereof "Except as provided in subsections (c) and (d) of this section, each"; and

(B) striking out in the second sentence "$50" and "$75" and inserting in lieu thereof "$25" and "$100", respectively;

(2) inserting after "Forces" in subsection (c) a comma and "including contributions in lieu of, or to reduce the amount of, monthly deductions under subsection (a) of this section"; and

(3) adding at the end the following new subsection:

"(d) Subject to the maximum contribution prescribed by subsection (a) of this section, a participant shall be permitted, while serving on active duty, to make a lump-sum contribution to the fund. A lump-sum contribution to the fund by any participant shall be in addition to or in lieu of monthly deductions made from such participant's military pay and shall be considered, for the purposes of paragraph (2) of section 1631(a), to have been made by monthly deductions from such participant's military pay in the amount of $75 per month or in such lesser amount as may be specified by such participant pursuant to regulations issued jointly by the Secretary and the Administrator.".

MODIFICATION OF CHAPTER 34 TERMINATION DATE

Sec. 504. Section 1662 is amended by—

(1) amending subsection (a) by—

(A) inserting after "1955" in paragraph (1) a comma and "and before January 1, 1980"; and

(B) adding at the end the following new paragraph:

"(3) An eligible veteran whose last discharge or release from active duty occurs after December 31, 1979, shall not be entitled to educational assistance under this chapter after (A) the expiration of the five-year period following the date on which such veteran first begins to pursue a program of education under this chapter after such discharge or release if such date occurs no later than two years after such discharge or release from active duty or (B) December 31. 1989, whichever is the later."; and

(2) striking out subsection (e) in its entirety.

ASSIGNMENTS BY VA INSURANCE BENEFICIARIES

Sec. 505. (a) Section 718 is amended by adding at the end the following new subsection:

"(c) Except as to insurance granted under section 722(b) of this title, in any case involving a dispute between two or more persons, each of whom is claiming proceeds of a policy maturing on or after the date of the enactment of this subsection, an assignment of all or any portion of the proceeds to a person other than a person specified in subsection (b) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the ground that—

"(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

"(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

"(3) such proposed assignee was named, during such insured's lifetime, in a judicial order or decree as a person whom the insured was ordered to designate as the beneficiary or to retain as the designated beneficiary.

Except in cases in which the insurance proceeds are payable in a lump sum, the desinated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated.".

(b) Section 753 is amended by inserting "(a)" before "Any" at the beginning and adding at the end the following new subsection:

"(b) In any case involving a dispute between two or more persons, each of whom is claiming proceeds of a policy maturing on and after the date of enactment of this subsection, an assignment of all or any portion of the proceeds to persons other than a person specified in subsection (a) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the ground that—

"(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

"(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

"(3) such proposed assignee was named, during such insured's lifetime, in a judicial order or decree as a person whom the insured was ordered to designate as the beneficiary or to retain as the designated beneficiary.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated.".

REVOLVING SUPPLY FUND PROVISIONS

Sec. 506. Section 5021 is amended by—

(1) inserting after "direct" in clause (2) of subsection (a) "cost (which may be based on the cost of recent significant purchases of the equipment or supply item involved)"; and

(2) striking out the last sentence in subsection (a) and inserting in lieu thereof the following:

"At the end of each fiscal year, there shall be covered into the Treasury of the United States as miscellaneous receipts such amounts as the Administrator determines to be in excess of the requirements necessary for the maintenance of adequate inventory levels and for the effective financial management of the revolving supply fund.".

TITLE VI—EFFECTIVE DATES

Sec. 601. (a) Except as provided in subsections (b) and (c) of this section, the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) The provisions of titles I, II, and III and section 401 (b)(2), (c)(2) and (3), and (d)(2) shall take effect on October 1, 1980.

(c) The amendments made by section 506 shall be effective retroactively to October 1, 1979.

Amend the title so as to read: "An Act to amend title 38, United States Code, to provide for a cost-of-living increase in the rates of service-connected disability compensation for veterans and dependency and indemnity compensation for surviving spouses and children of veterans, to provide for limited specially adapted housing grants for certain severely disabled veterans, to authorize Veterans' Administration loan guaranties for certain refinancing loans made to veterans, to increase the maximum loan guaranties for home loans made to veterans, and to provide for the confidentiality of certain Veterans' Administration medical-care quality assurance records; and for other purposes.".

House Amendments

House amendments to Senate amendments: In lieu of the matter proposed to be inserted by the Senate amendment to the text of the bill insert the following:

That (a) this Act may be cited as the "Veterans' Disability Compensation and Housing Benefits Amendments of 1980".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—VETERANS' DISABILITY COMPENSATION BENEFITS

RATES OF DISABILITY COMPENSATION

Sec. 101. (a) Section 314 is amended—

(1) by striking out "$48" in subsection (a) and inserting in lieu thereof "$54";

(2) by striking out "$88" in subsection (b) and inserting in lieu thereof "$99";

(3) by striking out "$133" in subsection (c) and inserting in lieu thereof "$150";

(4) by striking out "$182" in subsection (d) and inserting in lieu thereof "$206";

(5) by striking out "$255" in subsection (e) and inserting in lieu thereof "$291";

(6) by striking out "$321" in subsection (f) and inserting in lieu thereof "$367";

(7) by striking out "$380" in subsection (g) and inserting in lieu thereof "$434";

(8) by striking out "$440" in subsection (h) and inserting in lieu thereof "$503";

(9) by striking out "$495" in subsection (i) and inserting in lieu thereof "$566";

(10) by striking out "889" in subsection (j) and inserting in lieu thereof "$1,016";

(11) by striking out "$1,104" and "$1,547" in subsection (k) and inserting in lieu thereof "$1,262" and "$1,768", respectively;

(12) by striking out "$1,104" in subsection (l) and inserting in lieu thereof "$1,262";

(13) by striking out "$1,217" in subsection (m) and inserting in lieu thereof "$1,391";

(14) by striking out "$1,383" in subsection (n) and inserting in lieu thereof "$1,581";

(15) by striking out "$1,547" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$1,768";

(16) by striking out "$664" and "$989" in subsection (r) and inserting in lieu thereof "$759" and "$1,130", respectively;

(17) by striking out "$995" in subsection (s) and inserting in lieu thereof "$1,137"; and

(18) by striking out "$192" in subsection (t) and inserting in lieu thereof "$219".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

Sec. 102. Section 315(1) is amended—

(1) by striking out "$54" in clause (A) and inserting in lieu thereof "$62";

(2) by striking out "$91" in clause (B) and inserting in lieu thereof "$104";

(3) by striking out "$121" in clause (C) and inserting in lieu thereof "$138";

(4) by striking out "$151" and "$30" in clause (D) and inserting in lieu thereof "$173" and "$34", respectively;

(5) by striking out "$37" in clause (E) and inserting in lieu thereof "$42";

(6) by striking out "$67" in clause (F) and inserting in lieu thereof "$77";

(7) by striking out "$97" and "$30" in clause (G) and inserting in lieu thereof "$111" and "$34", respectively;

(8) by striking out "$44" in clause (H) and inserting in lieu thereof "$50";

(9) by striking out "$98" in clause (I) and inserting in lieu thereof "$112"; and

(10) by striking out "$82" in clause (J) and inserting in lieu thereof "$94".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$240" and inserting in lieu thereof "$274".

TITLE II—SURVIVORS' DEPENDENCY AND INDEMNITY COMPENSATION BENEFITS

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 201. (a) Subsection (a) of section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade:	Monthly rate
E-1	$373
E-2	385
E-3	394
E-4	419
E-5	431
E-6	441
E-7	462
E-8	487
E-9	[1] 510
W-1	472
W-2	491
W-3	505
W-4	535
O-1	472
O-2	487
O-3	522
O-4	551
O-5	608
O-6	684
O-7	741
O-8	812
O-9	872
O-10	[2] 954

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $549.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,023.".

(b) Subsection (b) of such section is amended by striking out "$38" and inserting in lieu thereof "$43".

(c) Subsection (c) of such section is amended by striking out "$98" and inserting in lieu thereof "$112".

(d) Subsection (d) of such section is amended by striking out "$49" and inserting in lieu thereof "$56".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC 202. Section 413 is amended—

(1) by striking out "$165" in clause (1) and inserting in lieu thereof "$189";

(2) by striking out "$237" in clause (2) and inserting in lieu thereof "$271";

(3) by striking out "$306" in clause (3) and inserting in lieu thereof "$350"; and

(4) by striking out "$306" and "$62" in clause (4) and inserting in lieu thereof "$350" and "$71", respectively.

RATES OF SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 203. Section 414 is amended—

(1) by striking out "$98" in subsection (a) and inserting in lieu thereof "$112";

(2) by striking out "$165" in subsection (b) and inserting in lieu thereof "$189"; and

(3) by striking out "$84" in subsection (c) and inserting in lieu thereof "$96".

TITLE III—SPECIAL HOME ADAPTATION GRANTS FOR CERTAIN SEVERELY DISABLED VETERANS

EXTENSION OF SPECIALLY-ADAPTED HOUSING GRANT PROGRAM

SEC. 301. (a) Section 801 is amended by inserting "(a)" before "The Administrator" and by adding at the end the following new subsection:

"(b)(1) Subject to paragraph (2) of this subsection, the Administrator, under regulations which the Administrator shall prescribe, shall assist any veteran (other than a veteran who is eligible for assistance under subsection (a) of this section) who is entitled to compensation under chapter 11 of this title for a permanent and total service-connected disability which—

"(A) is due to blindness in both eyes with 5/200 visual acuity or less, or

"(B) includes the anatomical loss or loss of use of both hands,

in acquiring such adaptations to such veteran's residence as are determined by the Administrator to be reasonably necessary because of such disability.

"(2) Assistance under paragraph (1) of this subsection may be provided only to a veteran who the Administrator determines is residing in and reasonably intends to continue residing in a residence owned by such veteran or by a member of such veteran's family or, if the veteran's residence is to be constructed or purchased, will be residing in and reasonably intends to continue residing in a residence owned by such veteran or by a member of such veteran's family.".

(b) Section 802 is amended—

(1) by inserting "(a)" before "The assistance";

(2) by striking out "section 801" and inserting in lieu thereof "section 801(a)"; and

(3) by adding at the end the following new subsection:

"(b) Except as provided in section 804(b)(2) of this title, the assistance authorized by section 801(b) of this title shall be limited to the lesser of—

"(1) the actual cost of the adaptations determined by the Administrator under such section 801(b) to be reasonably necessary, or

"(2) $5,000.".

(c) Section 804 is amended—

(1) by inserting "(a)" before "Any veteran";

(2) by striking out "the assistance authorized by this chapter" and inserting in lieu thereof "except as provided in subsection (b) of this section, the assistance authorized by section 801 of this title"; and

(3) by adding at the end the following new subsection:

"(b) A veteran eligible for assistance under section 801(b) of this title shall not by reason of such eligibility be denied benefits for which such veteran becomes eligible under section 801(a) of this title or benefits relating to home health services under section 612(a) of this title. However, no particular type of adaptation, improvement, or structural alteration provided to a veteran under section 612(a) of this title may be provided to such veteran under section 801(b) of this title.".

(d) Section 805 is amended by striking out "unit, or necessary land therefor," and inserting in lieu thereof "unit, or necessary land therefor, or adaptation".

TITLE IV—VETERANS' ADMINISTRATION HOME-LOAN PROGRAM AMENDMENTS

REFINANCING OF VETERANS' ADMINISTRATION HOME LOANS

SEC. 401. (a) Section 1810 is amended—

(1) by inserting after clause (7) of subsection (a) the following new clause:

"(8) To refinance in accordance with subsection (e) of this section an existing loan guaranteed, insured, or made under this chapter."; and

(2) by adding at the end the following new subsection:

"(e)(1) For a loan to be guaranteed for the purpose specified in subsection (a)(8) of this section—

"(A) the interest rate of the loan must be less than the interest rate of the loan being refinanced;

"(B) the loan must be secured by the same dwelling or farm residence as was the loan being refinanced and such dwelling or residence must be owned and occupied by the veteran as such veteran's home;

"(C) the amount of the loan may not exceed an amount equal to the sum of the balance of the loan being refinanced and such closing costs (including any discount permitted pursuant to section 1803(c)(3)(A) of this title) as may be authorized by the Administrator, under regulations which the Administrator shall prescribe, to be included in such loan;

"(D) the amount of the guaranty of the loan may not exceed the original guaranty amount of the loan being refinanced; and

"(E) the term of the loan may not exceed the original term of the loan being refinanced.

"(2) A loan to a veteran may be guaranteed by the Veterans' Administration under this chapter for the purpose specified in clause (8) of subsection (a) of this section without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such purpose. For purposes of section 1802(b) of this title, such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.

"(3) If a veteran is deceased and if such veteran's surviving spouse was a co-obligor under an existing loan guaranteed, insured, or made under this chapter, such surviving spouse shall, only for the purpose specified in subsection (a)(8) of this section, be deemed to be a veteran eligible for benefits under this chapter.".

(b) Section 1819(a) is amended—

(1) by adding at the end of paragraph (1) the following new clause:

"(F) To refinance in accordance with paragraph (4) of this subsection an existing loan guaranteed, insured, or made under this section."; and

(2) by adding at the end the following new paragraph:

"(4)(A) For a loan to be guaranteed for the purpose specified in clause (F) of paragraph (1) of this subsection—

"(i) the interest rate of the loan must be less than the interest rate of the loan being refinanced;

"(ii) the loan must be secured by the same mobile home or mobile-home lot, or mobile home and mobile-home lot, as was the loan being refinanced and such mobile home (or a mobile home on such lot) must be owned and occupied by the veteran as such veteran's home;

"(iii) the amount of the loan may not exceed an amount equal to the sum of the balance of the loan being refinanced and such closing costs (including any discount permitted pursuant to section 1803(c)(3)(A) of this title) as may be authorized by the Administrator, under regulations which the Administrator shall prescribe, to be included in such loan;

"(iv) the amount of the guaranty of the loan may not exceed the original guaranty amount of the loan being refinanced: and

"(v) the term of the loan may not exceed the original term of the loan being refinanced.

"(B) A loan to a veteran may be guaranteed by the Veterans' Administration under this chapter for the purpose specified in clause (F) of paragraph (1) of this subsection without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such purpose. For purposes of section 1802(b) of this title, such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.

"(C) If a veteran is deceased and if such veteran's surviving spouse was a co-obligor under an existing loan previously guaranteed, insured, or made under this section, such surviving spouse shall, only for the purpose specified in clause (F) of paragraph (1) of this subsection, be deemed to be a veteran eligible for benefits under this chapter.".

(c)(1) Section 1803(c)(3)(A) is amended by striking out "section 1810(a)(5)" and inserting in lieu thereof "clause (5) or (8) of section 1810(a) of this title or section 1819 (a)(1)(F) of this title".

(2) The second sentence of section 1811 (b) is amended by inserting "(other than the refinancing of a loan under section 1810(a) (8) or 1819(a)(1)(F))" after "section 1810 (a) or 1819 of this title".

INCREASES IN MAXIMUM AMOUNTS OF VETERANS' HOME-LOAN GUARANTIES

SEC. 402. (a) Section 1810(c) is amended by striking out "$25,000" and inserting in lieu thereof "$27,500".

(b) Section 1811(d)(2) is amended—

(1) by striking out "$25,000" both places it appears in subparagraph (A) and inserting in lieu thereof "$27,500"; and

(2) by striking out "$17,500" both places it appears in subparagraph (B) and inserting in lieu thereof "$20,000".

(c) Section 1819(c) is amended by striking out "$17,500" each place it appears and inserting in lieu thereof "$20,000".

TITLE V—MISCELLANEOUS PROVISIONS

EXTENSION OF AUTHORITY FOR VETERANS' ADMINISTRATION OFFICE IN THE REPUBLIC OF THE PHILIPPINES

SEC. 501. Section 230(b) is amended by striking out "1981" and inserting in lieu thereof "1985".

HEADSTONES AND MARKERS IN CERTAIN CASES

SEC. 502. Section 906(a) is amended by adding at the end of such section the following new paragraph:

"(4) Any individual described in section 1002(5) of this title who is buried in a veterans' cemetery owned by a State.".

PAYMENT OF PENSION IN CERTAIN CASES

SEC. 503. (a) Section 3104(a) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end of such subsection the following new paragraph:

"(2) Notwithstanding the provisions of paragraph (1) of this subsection and of section 3105 of this title, pension under section 521 or 541 of this title may be paid to a person entitled to receive retired or retirement pay described in section 3105 of this title concurrently with such person's receipt of such retired or retirement pay if the annual amount of such retired or retirement pay is counted as annual income for the purposes of chapter 15 of this title.".

(b) Section 3203(a)(1)(C) is amended by striking out "of not less than two full calendar months" and inserting in lieu thereof "in connection with which pension was reduced pursuant to subparagraph (A) or (B) of this paragraph".

LIMITATION ON PAYMENT OF COMPENSATION FOR SERVICE-CONNECTED DISABILITIES OR DEATH AND OF DEPENDENCY AND INDEMNITY COMPENSATION FOR INCARCERATION FOR FELONY CONVICTION

SEC. 504. (a) Chapter 53 is amended by adding at the end the following new section:

"§ 3113. Limitation on payment of compensation and dependency and indemnity compensation to persons incarcerated for conviction of a felony

"(a)(1) To the extent provided in subsection (d) of this section, any person who is entitled to compensation or to dependency and indemnity compensation and who is incarcerated in a Federal, State, or local penal institution for a period in excess of sixty days for conviction of a felony shall not be paid such compensation or dependency and indemnity compensation, for the period beginning on the sixty-first day of such incarceration and ending on the day such incarceration ends, in an amount that exceeds—

"(A) in the case of a veteran with a service-connected disability rated at 20 percent or more, the rate of compensation payable under section 314(a) of this title; or

"(B) in the case of a veteran with a service-connected disability not rated at 20 percent or more or in the case of a surviving spouse, parent, or child, one-half of the rate of compensation payable under section 314 (a) of this title.

"(2) The provisions of paragraph (1) of this section shall not apply with respect to any period during which a person is participating in a work-release program or is residing in a halfway house.

"(b)(1) All or any part of the compensation not paid to a veteran by reason of subsection (a) of this section may, as appropriate in an individual case, be apportioned under the same terms and conditions as are provided under section 3107 of this title.

"(2) All or any part of the dependency and indemnity compensation not paid to a surviving spouse or child by reason of subsection (a) of this section may, as appropriate in an individual case, be apportioned as follows:

"(A) In the case of dependency and indemnity compensation not paid to a surviving spouse, any apportionment shall be to the surviving child or children.

"(B) In the case of dependency and indemnity compensation not paid to a surviving child, any apportionment shall be to the surviving spouse or other surviving children, as applicable.

"(3) No apportionment may be made under this subsection to or on behalf of any person who is incarcerated in a Federal, State, or local penal institution for conviction of a felony.

"(c) The Administrator shall not assign to any veteran a rating of total disability based on the individual unemployability of the veteran resulting from a service-connected disability during any period during which the veteran is incarcerated in a Federal, State, or local penal institution for conviction of a felony.

"(d) The provisions of subsection (a) of this section shall apply (1) with respect to any period of incarceration of a person for conviction of a felony committed after the date of the enactment of this section, and (2) with respect to any period of incarceration on or after October 1, 1980, for conviction of a felony of a person who on October 1, 1980, is incarcerated for conviction of such felony and with respect to whom the action granting an award of compensation or dependency and indemnity compensation is taken on or after such date.

"(e) For purposes of this section—

"(1) The term 'compensation' includes disability compensation payable under section 351 of this title.

"(2) The term 'dependency and indemnity compensation' means death compensation payable under section 321 or 341 of this title, death compensation and dependency and indemnity compensation payable under section 351 of this title, and any benefit payable under chapter 13 of this title.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3113. Limitation on payment of compensation to persons incarcerated for conviction of a felony.".

CONFIDENTIALITY OF MEDICAL QUALITY-ASSURANCE RECORDS

SEC. 505. (a) Subchapter I of chapter 57 is amended by adding at the end the following new section:

"§ 3305. Confidentiality of medical quality-assurance records

"(a) Records and documents created by the Veterans' Administration as part of a medical quality-assurance program are confidential and privileged and may not be disclosed to any person or entity except as provided in subsection (b) of this section.

"(b)(1) Subject to paragraph (2) of this subsection, a record or document described in subsection (a) of this section shall, upon request, be disclosed as follows:

"(A) To a Federal agency or private organization, if such record or document is needed by such agency or organization to perform licensing or accreditation functions related to Veterans' Administration health-care facilities or to perform monitoring, required by statute, of Veterans' Administration health-care facilities.

"(B) To a Federal executive agency or provider of health-care services, if such record or document is required by such agency or provider for participation by the Veterans' Administration in a health-care program with such agency or provider.

"(C) To a criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of such agency or instrumentality makes a written request that such record or document be provided for a purpose authorized by law.

"(D) To health-care personnel, to the extent necessary to meet a medical emergency affecting the health or safety of any individual.

"(2) The name of and other identifying information regarding any individual Veterans' Administration patient or employee, or any other individual associated with the Veterans' Administration for purposes of a medical quality-assurance program, contained in a record or document described in subsection (a) of this section shall be deleted from any record or document before any disclosure made under this subsection if disclosure of such name and identifying information would constitute a clearly unwarranted invasion of personal privacy.

"(3) No person or entity to whom a record or document has been disclosed under this subsection shall make further disclosure of such record or document except for a purpose provided in this subsection.

"(4) Nothing in this section shall be construed as authority to withhold any record or document from a committee of either House of Congress or any joint committee of Congress, if such record or document pertains to any matter within the jurisdiction of such committee or joint committee.

"(5) Nothing in this section shall be construed as limiting the use of records and documents described in subsection (a) of this section within the Veterans' Administration (including contractors and consultants of the Veterans' Administration).

"(c) For the purpose of this section, the term 'medical quality-assurance program' means—

"(1) with respect to any activity carried out before the date of the enactment of this section, a Veterans' Administration systematic health-care review activity carried out by or for the Veterans' Administration for the purpose of improving the quality of medical care or improving the utilization of health-care resources in Veterans' Administration health-care facilities; and

"(2) with respect to any activity carried out on or after the date of the enactment of this section, a Veterans' Administration systematic health-care review activity designated by the Administrator to be carried out by or for the Veterans' Administration for either such purpose.

"(d)(1) Not later than 180 days after the date of the enactment of this section, the Administrator shall prescribe regulations to carry out this section. In prescribing such regulations, the Administrator shall specify those activities carried out before such enactment date which the Administrator determines meet the definition of medical quality-assurance program in subsection (c)(1) of this section and those activities which the Administrator has designated under subsection (c)(2) of this section. The Administrator shall, to the extent appropriate, incorporate into such regulations the provisions of the existing administrative guidelines and procedures governing such programs.

"(2) After the date on which such regulations are first prescribed, no activity shall be considered as having been designated as a medical quality-assurance program for the purposes of subsection (c)(2) of this section unless the designation has been specified in such regulations.

"(e) Any person who, knowing that a document or record is a document or record described in subsection (a) of this section, willfully discloses such record or document except as provided for in subsection (b) of this section shall be fined not more than $5,000 in the case of a first offense and not more than $20,000 in the case of a subsequent offense.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3304 the following new item:

"3305. Confidentiality of medical quality-assurance records.".

MINIMUM NUMBER OF EMPLOYEES OF AMERICAN BATTLE MONUMENTS COMMISSION

SEC. 506. The third paragraph of the first section of the Act entitled "An Act for the creation of an American Battle Monuments Commission to erect suitable memorials commemorating the services of the American soldier in Europe, and for other purposes", approved March 4, 1923 (36 U.S.C. 121), is amended by inserting after the second sentence thereof the following new sentence: "To ensure adequate care and maintenance of the cemeteries, monuments, and memorials under the jurisdiction of the Commission, the Commission, subject to the availability of appropriations, shall employ (1) not less than 50 personnel in the competitive service (as defined in section 2102 of title 5, United States Code), of whom not less than 43 shall be assigned to duty in foreign countries in which such cemeteries, monuments, and memorials are located, and (2) not less than 348 individuals who are citizens of the countries in which such cemeteries, monuments, and memorials are located, who shall be hired for local employment relating to the care and maintenance of such cemeteries, monuments, and memorials.".

LAND TRANSFER, CHEYENNE, WYOMING

SEC. 507. (a) Subject to subsection (b), the Administrator of Veterans' Affairs is authorized to execute such instruments as may be necessary to permit the city of Cheyenne, Wyoming, to use for public roadway purposes a tract of land consisting of four acres, more or less, which is a portion of a larger tract of land previously conveyed by the United States to such city under the authority of the Act entitled "An Act authorizing the Administrator of Veterans' Affairs to convey certain property to the city of Cheyenne, Wyoming", approved November 8, 1965 (Public Law 89–345; 79 Stat. 1304), for use by such city for park and recreational purposes only.

(b) Any instrument executed by the Administrator of Veterans' Affairs under this section shall—

(1) provide that the four-acre tract of land referred to in subsection (a) may be used only for park and recreational purposes or for public roadway purposes, or both, and only in a manner that will not, in the judgment of the Administrator of Veterans' Affairs, interfere in any manner with the care and treatment of patients in the Veterans' Administration Center, Cheyenne, Wyoming;

(2) contain such additional terms, conditions, and restrictions as may be determined by the Administrator of Veterans' Affairs to be necessary to protect the interest of the United States; and

(3) provide that, if the Administrator of Veterans' Affairs determines that the city of Cheyenne has violated any provision of any such instrument, title to the tract of land conveyed under the authority of such Act shall revert to the United States as provided in the deed of conveyance executed pursuant to such Act.

(c) The legal description of the four-acre tract of land referred to in subsection (a) shall be determined by the Administrator of Veterans' Affairs. If a survey is required in order to make such determination, the city of Cheyenne shall bear the expenses of the survey.

TECHNICAL AMENDMENTS TO PUBLIC LAW 96–330

SEC. 508. (a) Section 4107(c)(3) is amended by striking out "section 4507" and inserting in lieu thereof "sections 4507 and 5384".

(b) Section 4109(b) is amended—

(1) by inserting "after August 25, 1930," after "any period of service"; and

(2) by inserting "after such date" after "such service".

TITLE VI—EFFECTIVE DATES

EFFECTIVE DATES

SEC. 601. (a) The amendments made by titles I and II shall apply only to payments for months beginning after September 30, 1980.

(b) The amendments made by title III and by sections 402, 501, 503, and 506 shall take effect on October 1, 1980.

(c) The amendments made by section 502 shall apply only with respect to individuals who die after September 30, 1980.

(d) The amendments made by sections 401, 504, 505, and 507 shall take effect on the date of the enactment of this Act.

(e) The amendments made by section 508 shall take effect as of August 26, 1980.

In lieu of the amendment of the Senate to the title of the bill, amend the title so as read: "An Act to amend title 38, United States Code, to provide cost-of-living increases in the rates of compensation for veterans with service-connected disabilities and in the rates of dependency and indemnity compensation for surviving spouses and children of veterans, to provide for limited grants for special home adaptations for certain severely disabled veterans, to provide for Veterans' Administration guaranties for loans to refinance certain existing veterans' home loans and to increase the maximum loan guaranties for home loans made to veterans, and to provide for the confidentiality of certain Veterans' Administration medical quality assurance records; and for other purposes.".

The SPEAKER. Is there objection to the request of the gentleman from Mississippi (Mr. MONTGOMERY)?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object—and I do not plan to object—this is a substantial bill, and I would yield to the distinguished chairman of the subcommittee to explain the amendments and the compromise that has been made with the Senate.

Mr. MONTGOMERY. I thank the gentleman for yielding.

Mr. Speaker, on July 21, on the 50th anniversary of the Veterans' Administration, the House by a vote of 383 to 1 passed H.R. 7511, a bill that would have provided a 13-percent cost-of-living increase in disability compensation paid to service-connected veterans and in the dependency and indemnity compensation paid to eligible survivors of veterans who died of service-connected causes.

On August 6, the Senate amended our bill. One of its new provisions was to provide a 14.3-percent increase in these service-connected benefits.

At the time the House passed the 13-percent increase, I told you about the budget situation, that the 13-percent cost-of-living increase would be in line with the projected Consumer Price Index and about the fact that we were mandated to save $400 million by limiting current benefits and services for veterans, or in some cases, to terminate programs. This $400 million target was established by the budget resolution adopted by the Congress.

Mr. Speaker, as you know, our No. 1 priority is to this most deserving class of veterans and their dependents—these veterans who have suffered disease or injury in line of duty as well as the survivors of veterans who have died of service-incurred causes.

It would now appear as we are further down the road that our budget constraints will permit a more substantial increase. As I stated previously, our original provision called for 13 percent across the board in all of the categories of disability compensation, in the clothing allowance and in all of the rates for widows and children payable as a result of the service-connected death of the veteran.

The amendments I bring before you today provide for a 13-percent increase for those disabilities evaluated at 10, 20, 30, and 40 percent, with an increase of 14.3 percent recommended for disabilities evaluated 50 percent and higher, including special statutory disability payments, the clothing allowance, and dependency and indemnity compensation. Such a measure would benefit 2,272,793 veterans and 341,207 widows and children.

The Congressional Budget Office has advised us that they anticipate the increase in the Consumer Price Index from October 1, 1979, to October 1, 1980, will be 12.8 percent. If such projection holds true, the 13-percent increase provided for those with 10 to 40 percent evaluations of disability should keep up with the inflation rate and possibly exceed it slightly. For those with disabilities more profoundly affecting their employment opportunities, an increase of 14.3 percent is provided. This amount, while exceeding that which would be warranted by consideration solely of the increase in the Consumer Price Index, is not excessive particularly in view of the fact that last year's measure anticipated a lower cost of living than actual experience warranted.

Nor is it without ample precedent that we have elected to provide increases in a lower range for those suffering the lesser degrees of disability. Since July 1, 1952, there have been 14 cost-of-living increases provided by the Congress in service-connected benefits. Out of these, eight provided for a graduation in one form or another in the amounts provided for different evaluations. Not only is there precedence for this but the principle upon which this is based is the logical result of an attempt by the Congress to provide moneys proportionate to the reduction in the abilities of the individuals to engage in productive employment.

It is important to note that compensation for service-connected disability developed at a point in history in the Nation when there were no other broadly based programs for replacement of a loss in earning capacity due to disability. When the compensation program was first created, it was the basic means by which veterans could receive disability benefits if they had served less than 20 years in the military service. The rates of compensation were structured so as to recognize the average earning impairment caused by service-incurred conditions.

The Congress has historically provided compensation to replace that lost or diminished employment capability. These amendments provide a monthly compensation rate of $1,016 for a totally disabled veteran.

In addition to providing for this substantial cost-of-living increase, the proposed amendments contain certain housing provisions which would benefit service-connected veterans and veterans in general.

The first of these liberalizes the special home adaptation grant for certain severely disabled veterans. This basically would benefit veterans who, though permanently and severely handicapped, are not now entitled to the specially adapted housing grant.

Currently a $30,000 maximum specially adapted housing grant is provided to assist veterans whose severe disabilities make movement impossible without the aid of a wheelchair or prosthetic device and is intended to assist such veterans in acquiring specially adapted homes with major adaptations such as wheelchair ramps and extra-wide hallways to provide for the veteran's health and safety. Thus, the maximum specially adapted housing grant under current law is not appropriate in the case of totally blinded veterans or veterans suffering the loss or loss of use of both upper extremities above the wrist who do not have serious mobility problems.

This amendment provides a modification of the specially adapted housing benefit in an amount not to exceed $5,000 to blinded veterans who would need, for example, railings, sliding doors, various braille devices on appliances, the elimination of protruding cabinet fixtures and, in the case of certain blinded veterans, special lighting in order to assist them achieve maximum independence.

This benefit would also be extended to the veteran who has suffered the anatomical loss or loss of use of both upper extremities above the hands inasmuch as these veterans experience serious difficulties in coping with ordinary demands of living in a home environment. For such veterans, simple tasks like manipulating doornobs, opening and closing windows and operating appliances are extremely arduous and their need for special adaptations such as special bathroom and kitchen fixtures and other devices is readily apparent.

The proposed amendments also contain a provision which would enable certain veterans who have used their VA loan guaranty entitlement in obtaining a loan for the purchase of a conventional home, condominium apartment, or mobile home to refinance such loan at a lower interest rate with a VA loan guaranty for the refinancing rate.

Mr. Speaker, as we are all well aware, during the last 9 months, housing market interest rates fluctuated to an all-time high. These rates have now come down and those veterans who purchased homes during this period of time, will suffer the penalty of a substantial interest burden which will continue throughout their lives unlike the relief afforded someone who financed conventionally and may refinance.

At the time when VA interest rates were at their highest, more than 36,500 veterans purchased conventional homes with VA-guaranteed financing and more than 2,000 veterans purchased mobile homes. Many of these veterans needed their homes immediately for family reasons or feared that any delay in purchasing a home would be accompanied by a further substantial rise in housing prices. Thus, they could not await an eventual decline in interest rates.

Mr. Speaker, as you know, on July 28, the House overwhelmingly passed without opposition H.R. 7458,, a bill which would accomplish this purpose. It is quite obvious that my colleagues concur that a provision allowing for the refinancing of VA loans is not only necessary but urgent.

The last provision dealing with home loans looks at the feasibility of increasing the maximum guarantee amounts.

Mr. Speaker, there is no doubt that inflation has taken a heavy toll on the housing market. There is a definite need to increase the mobile home guarantee from $17,500 to $20,000. With the present housing crunch, more and more veterans have been turning to the mobile home. We see an even heavier demand for this type of housing from veterans buying their first homes or retirement homes. This alternative form of housing bears close watching inasmuch as it seems to be setting a trend for the future.

The maximum loan guarantee for conventional homes has also been considered and is being increased from $25,000 to $27,500.

Mr. Speaker, though the need to do this has not been as urgently demonstrated as in that for mobile homes, we must keep in mind that housing market trends keep fluctuating; and though we did plan to look at this issue closely during the next Congress, we feel that the market may have changed drastically by then and the veteran thus unduly, adversely affected by our inaction.

Mr. Speaker, this proposal also contains several miscellaneous provisions. Among other things, the bill would extend the authority of the Administrator of Veterans Affairs to operate and maintain a regional office in the Republic of the Philippines. Current authority will expire September 30, 1981. This proposal would extend the authority through September 30, 1985. There is a significant advantage in maintaining a regional office in Manila where the local employees' understandng of the Filipino culture and language greatly facilitates the processing of claims. This proposed extension would enable the Veterans' Administration to more effectively meet the needs of its 48,000 Filipino beneficiaries.

Another provision would provide headstones and markers for certain close relatives of veterans who are buried in a State veterans' cemetery. Under existing law, the Veterans' Administration provides grave markers for veterans and next of kin buried in national cemeteries; however, they are not provided for next-of-kin buried in State cemeteries. This provision would authorize the VA to furnish a headstone or marker for the grave of the spouse or other eligible dependent of a veteran if that individual were buried in a State veterans' cemetery rather than a national cemetery, and irrespective of whether the veteran died before or after such dependent.

Mr. Speaker, as you are aware, there is a shortage of space in national cemeteries and certain States are trying to meet that need by developing their own veterans' cemeteries. Maryland is one of these. While State cemeteries are expected to be patterned after the national cemetery system, total uniformity in the marking of graves can be achieved only at the expense of the State or the next of kin. This proposed change in current law supports the effort being made by these States to carry out the policy of uniformity in the markings of graves in State cemeteries.

The proposed amendments would provide full pension entitlement to military retirees after reducing pension by the amount of retired pay. The law has long precluded the concurrent payment of VA benefits and military retired pay inasmuch as each of these benefits is derived directly as the result of a veteran's military service.

Mr. Speaker, as you will recall, Public Law 95-588, the Veterans' and Survivors Pension Improvement Act of 1978, which became effective January 1, 1979, completely restructured the pension program. Not only did the act correct many inequities which had crept into the pension program under prior laws, but it did provide a substantially higher standard of living for needy disabled veterans who served during wartime. The basic principle upon which this new pension program is based calls for assuring an annual support level substantially above payments of other needs based programs.

The way the pension program works today assures that those veterans and dependents who are most in need receive the most pension. This is achieved by reducing the annual pension support level by the amount of income from other sources without favoring income from any particular source.

Mr. Speaker, we have been watching the operation of this new law with much interest and we are well pleased with the initial results. However, when any program needs fine tuning, efforts should be made to provide corrections.

This provision makes such a correction. As I stated previously, we have long believed that dual benefits based on the same period of service should not be made. To that end, no award of compensation or pension has been permitted when it duplicated a payment made under the military retired program unless retired pay equal to the VA benefit were waived.

This has worked well. However, the effect for the new pension law results in a reduction in pension equal to the amount of military retired pay after the retired pay has been totally waived.

Mr. Speaker, this provision would correct the situation by providing that for determining pension payments, their military retirement income be treated exactly as any other income—that is, the income from the outside source be used to offset maximum pension otherwise payable and that total income from all sources then be allowed to equal the annual support level. This will result in no duplication of benefits but will permit these few individuals to be treated precisely as retirees under any other program.

Mr. Speaker, the proposed amendments would add a new section to title 38 that would limit the payment of compensation or DIC, to certain individuals otherwise eligible, during confinement in a penal institution 61 days after imprisonment following conviction of a felony.

Mr. Speaker, the purpose of compensation is to replace the lost earning capability of a disabled veteran where the impairment is caused by a service-connected condition. I do not consider it unreasonable to recognize that individuals who are confined by our judicial system for commission of a serious offense against society are no longer available to the labor market. An economic detriment caused by a disability is not felt by such individuals during long periods of confinement.

As you know, if a member of the Armed Forces commits a violent act so severe as to require a dishonorable discharge, such individual is precluded from receiving any veterans' benefits at all for the rest of his life. To me it is not unreasonable to expect a similar standard of conduct to be applied to veterans. I have great difficulty, as do many members of the committee, in providing a full range of Federal benefits to individuals serving long sentences for the commission of felonies.

I do not see the wisdom of providing hundreds and thousands of dollars of tax free benefits to such individuals when at the same time the taxpayers of this country are spending additional thousands of dollars to maintain these same individuals in penal institutions. However, I do wish to point out that the amount of such benefits to which the recipient would be entitled if he or she were not incarcerated may, under our proposal, be apportioned and paid, at the administrator's discretion, to dependents on the basis of their need.

Mr. Speaker, our proposal would not affect those persons who were receiving benefits and were incarcerated on the effective date of the amendments. It would affect those individuals who commit a felony after the date of enactment as well as those who were in prison on the date of enactment and who only later begin to receive payments, regardless of when the felony was committed. It is felt that the limitation should reach those persons who are already in prison but who have not yet had an economic reliance on the benefits.

I would also point out that such individuals would be eligible for resumption of payment as of the date of their release from confinement. In other words, this limitation is intended to apply to prisoners as of the 61st day of their confinement and continue only during the balance of their incarceration. It is not a permanent or conclusive bar to future entitlement.

Mr. Speaker, the proposed amendments would also assure that the American Battle Monuments Commission continue to effectively carry out its mission in operating and maintaining overseas cemeteries and monuments within its jurisdiction by providing for a guaranteed minimum number of employees.

Budget cuts have resulted in a 20-percent loss in labor force while work requirements have increased due to structure aging demanding more maintenance and planting maturation requiring more care.

Mr. Speaker, currently the American Battle Monuments Commission administers and maintains 22 permanent American military cemeteries, memorials and 11 separate monuments in 9 foreign countries as well as other memorials in the United States. Interred in these overseas cemeteries are our war dead of World War I, World War II, and the Mexican War.

More than 6 million persons visit these shrines which commemorate the achievements and sacrifices of our Armed Forces every year. Therefore, it is important we continue to honor these war dead by providing for this much needed care and maintenance for our overseas cemeteries and memorials.

Mr. Speaker, another important provision of the amendments I propose would make records and documents created by the Veterans' Administration as part of the agency's medical quality assurance program privileged and confidential and would bar disclosure of such records and documents except to specified recipients in specified circumstances.

Section 505 makes all documents created as part of the VA's Health Services Review Organization programs confidential and privileged. The programs are medical quality assurance programs designed to improve the quality of medical care and treatment rendered in VA health care facilities. At the heart of the quality assurance programs are professional peer review activities where physicians review and evaluate the performance of their colleagues in an effort to identify and correct problems. Confidentiality is an essential ingredient in obtaining the frankness necessary to the success of these activities.

Although these excellent programs have existed at least since 1974, their continued viability is now seriously threatened by requests for disclosure of documents under the Freedom of Information Act. In at least one VA medical center, physicians actually refused to participate in the programs after a request for the documents was received. By making the candid views of VA physicians confidential and privileged, the full and complete cooperation of these doctors will be more easily obtained. Section 506 will prevent all disclosures of these valuable documents, whenever the documents were created, except in limited circumstances provided for in the bill.

The medical quality assurance program was created to determine if there are deficiencies in VA hospitals as well as to provide a means for taking corrective action. In its oversight capacity, documents are produced which contain information identifying individual VA patients, employees, or others involved with such review efforts, citing and describing the medical practices as well as any deficiencies discovered in the provision of health care.

It is imperative that these documents be kept confidential. Unless the individuals participating in the program can be assured that their remarks and evaluations will be kept confidential, the necessary level of candor will be lost.

Not only would this seriously undermine the value of the program, but it would ultimately adversely affect the quality of care being provided veterans in VA health-care facilities.

The last provision authorizes the VA to convey to the city of Cheyenne, Wyo., free and clear of existing restrictions, certain land needed for the expansion and improvement of a roadway. This tract of land is approximately 4 acres of a larger tract previously deeded to the city with restrictions limiting use to a park. It in no way would interfere with the care and treatment of patients in the VA center. This provision would simply eliminate certain restrictions imposed by Public Law 89–349 in 1966.

The Wyoming delegations in both Houses support this measure unanimously.

Mr. Speaker, there follows an explanation of the House-passed bill, the Senate amendments, and the proposed amendments:

H.R. 7511, "Veterans' Disability Compensation and Housing Benefits Amendments of 1980"—Explanatory Statement of House Bill, Senate Amendment, and Compromise Agreement.

TITLE I—VETERANS' DISABILITY COMPENSATION BENEFITS

Rate increases

Sections 101, 102, and 103. The House bill and the Senate amendment would amend chapter 11 of title 38, United States Code, effective October 1, 1980, to increase the basic rates of service-connected disability compensation for veterans, the rates payable for certain severe disabilities, the annual clothing allowance for certain severely disabled veterans, and the dependents' allowances payable to veterans rated 30-percent or more disabled. The House bill would increase those rates by 13 percent; the Senate amendment, by 14.3 percent.

The compromise agreement provides increases, effective October 1, 1980, of 14.3 percent in the rates for veterans rated 50-percent or more disabled and for veterans more severely disabled, the annual clothing allowance, and dependents' allowances and of 13 percent in the rates for veterans rated from 10- through 40-percent disabled.

TITLE II—SURVIVORS' DEPENDENCY AND INDEMNITY COMPENSATION BENEFITS

Rate increases

Sections 201, 202, and 203. The House bill and the Senate amendment would amend chapter 13 of title 38, United States Code, to provide, effective October 1, 1980, an increase of 13 percent and 14.3 percent, respectively, in the rates of dependency and indemnity compensation (DIC) payable to the surviving spouses and children of veterans whose deaths were service connected.

The compromise agreement provides a 14.3-percent increase in DIC rates effective October 1, 1980.

TITLE III—SPECIAL HOME ADAPTATION GRANTS FOR CERTAIN SEVERELY DISABLED VETERANS

Section 301. The Senate amendment would amend chapter 21 of title 38, United States Code, to provide, effective October 1, 1980, for limited specially adapted housing grants, up to a maximum of $5,000, to veterans who, as a result of service-connected disability, are totally blind or have lost or lost the use of both upper extremities to a specified extent. The House bill does not contain a comparable provision.

The House recedes with amendments clarifying that veterans who have lost or lost the use of both hands would be eligible and modifying a limitation provided for under the Senate amendment. This limitation would have precluded the VA from providing to any veteran who is eligible for home health services—which may include home improvements and structural alterations—under section 612(a) of title 38, United States Code, and also eligible under the new limited specially adapted housing grant program, any particular type of adaptation, improvement, or structural alteration more than once. This limitation would be modified under the compromise agreement to clarify that the VA may not furnish to a veteran under the new program a particular type of adaptation, improvement, or structural alteration that has been provided to the veteran under section 612(a) and to avoid any implication that the limitation applies to assistance under section 612(a). The Committees note that veterans eligible for grants under the new program would be eligible—as are veterans now eligible for specially adapted housing grants under chapter 21—for mortgage protection life insurance under section 706 of title 38 and direct home loans under section 1810(i) of such title. As in the Senate amendment, this section would become effective October 1, 1980.

TITLE IV—VETERANS' ADMINISTRATION HOME-LOAN PROGRAM AMENDMENTS

Refinancing loans

Section 401 (a), (b)(1), and (d)(1). The Senate amendment and H.R. 7458, passed by the House on July 28, 1980, would amend chapter 37 of title 38, United States Code, to authorize the VA to guarantee a refinancing loan made to a veteran who has previously used his or her loan-guaranty or direct-loan entitlement to purchase a conventional home or condominium. Under the Senate amendment, but not H.R. 7458, a refinancing loan guaranty could be provided only in the case of a refinancing loan with an interest rate that is lower than the interest rate on the previous loan; such a guaranty would be available for a loan to refinance a previous VA-guaranteed loan used to purchase a mobile home or mobile home lot (or both); and, in cases where the veteran is deceased the veteran's surviving spouse was a co-obligor under the loan to be refinanced, the surviving spouse would be able to obtain a VA loan guaranty for a refinancing loan with a lower interest rate. Under H.R. 7458, but not the Senate amendment, the amount of guaranty on the refinancing loan would be limited to the amount of guaranty on the loan to be refinanced; and the use of a direct loan for refinancing purposes would be permitted.

The House would recede with technical and clarifying amendments and an amendment that would limit the amount of guaranty of the refinancing loan to the amount of guaranty on the loan to be refinanced. As in H.R. 7458 and the Senate amendment to H.R. 7511, this provision would be effective upon the enactment of the compromise agreement.

Increases in loan guaranty maximums

Section 402. The Senate amendment would amend chapter 37 to increase, effective October 1, 1980, the maximum amounts of VA loan guaranty entitlement provided to veterans—from $25,000 to $30,000 for conventional homes, condominiums, and home improvements, and from $17,500 to $20,000, for mobile homes and lots. The House bill does not contain a comparable provision.

The House recedes with an amendment, effective October 1, 1980, providing a $2,500 increase in both maximum loan guaranty amounts.

TITLE V—MISCELLANEOUS PROVISIONS

Extension of Authority for Veterans' Administration Office in the Republic of the Philippines

Section 501. The House bill would amend section 230(b) of title 38, United States Code, to extend from September 30, 1981, to September 30, 1985, the VA's authority to maintain a regional office in the Republic of the Philippines. The Senate amendment does not contain a comparable provision.

The Senate recedes.

Headstones and markers in certain cases

Section 502. The House bill would amend section 906(a) of title 38 to provide that an appropriate headstone or marker may be furnished, upon request, for the grave of a veteran's spouse, surviving spouse, minor child, or, in the Administrator's discretion, unmarried adult child, if such person is buried in a State veterans' cemetery and the veteran is or was eligible, under chapter 24 of title 38, for interment in a National Cemetery. The Senate amendment does not contain a comparable provision.

The Senate recedes with a technical amendment. As in the House bill, this section would become effective with respect to persons who die after September 30, 1980.

Payment of pension in certain cases

Section 503 (a). The House bill would amend section 3104(a) of title 38 to remove, effective October 1, 1980, the prohibition on the concurrent receipt of military retired pay and VA need-based pension benefits under section 521 or 541 of title 38. This would enable the VA to pay pension to persons who receive military retired pay in the same way that pension may be paid to persons who receive income from the Social Security program or any other source. The Senate amendment does not contain a comparable provision.

The Senate recedes with a clarifying amendment. This subsection would become effective, as in the House bill, on October 1, 1980.

Section 503 (b). The House bill would amend section 3203(a)(1)(C) of title 38 to provide, effective October 1, 1980, that the reduction of pension required when a veteran without dependents is readmitted for care in a VA domiciliary, hospital, or nursing home facility within 6 months of a previous period of care will not be made unless a reduction was made under section 3203(a)(1)(A) or (B) in connection with the previous period of care. The Senate amendment does not contain a comparable provision.

The Senate recedes with a clarifying amendment. This subsection would become effective, as in the House bill, on October 1, 1980.

Limitation of compensation and DIC for incarcerated persons

Section 504. The House bill would amend chapter 55 of title 38, United States Code, to provied that, during a service-connected disabled veteran's confinement in a Federal, State, or local penal institution as the result of the veteran's conviction of a felony or misdemeanor, the veteran's compensation may not exceed $60 per month after the first 60 days. Under this provision, the reduction after 60 days of incarceration would apply only to veterans rated 20-percent or more disabled, as long as the 10-percent rate is less than $60 per month. Amounts not paid to the veteran could be apportioned to the veteran's dependents. A similar limitation would apply to incarcerated recipients of D G and death compensation payments. This provision would be effective with regard to payments for months after September 30, 1980. The Senate amendment does not contain a comparable provision.

The compromise agreement provides for a limitation along the lines of the House bill with the following provisions:

(1) The limitation would apply only to persons incarcerated for a felony conviction.

(2) The limitation would apply only to those whose offense is committed after the date of the enactment of this section and to those who are incarcerated on October 1, 1980, and awarded compensation or DIC after that date.

(3) The limitation would not apply to a person while he or she is participating in a work-release program or residing in a halfway house.

(4) Apportionments to dependents of veterans would be provided for under the same terms and conditions as are apportionments made pursuant to section 3107 of title 38, which governs apportionments in the cases of non-incarcerated compensation beneficiaries. Apportionments of D'C would be provided for in a similar manner. However, no apportionment of the compensation, DIC, or death compensation of a person to whom the limitation applies could be made to a dependent who is incarcerated for conviction of a felony.

(5) With respect to veterans, the com-

promise agreement would limit the monthly amount of compensation payable to veterans rated 20-percent or more disabled to the 10-percent rate ($54 under the compromise agreement) and, to veterans rated zero or 10 percent disabled, to half of the 10-percent rate ($27). The limitation would thus apply to all veterans rated as 10-percent or more disabled and to those whose rating is zero percent but who receive the rate provided under section 314(k) of title 38. With respect to DIC and death compensation recipients, the monthly amount payable would be limited to half of the 10-percent rate.

(6) No adjudications of total disability based on individual unemployability would be permissible during the period of the veteran's incarceration.

Under the compromise agreement, this section would be effective on the date of enactment.

The Committees note that it is their intention that the limitations provided for under the compromise agreement apply to persons convicted of felonies and sentenced to imprisonment while they are institutionalized in a hospital facility on transfer from (but not on parole from) a penal institution. In cases of prison-to-hospital transfer, the Committees consider that the hospital is serving as an agent of the penal institution. As has been noted, the limitation would not apply during a period during which the individual is participating in a work-release program even though, under such program, he or she returns to confinement during evenings or weekends. Restoration to the full rate would occur upon the person's release from incarceration, including release on parole. At such times, of course, any amount apportioned to dependents would be appropriately adjusted.

The Committees intend that, at the time action is taken to reduce an incarcerated veteran's or surivor's benefits under this section, the VA provide such veteran or survivor and those to whom apportionments may be made with notice of these apportionment provisions.

Confidentiality of medical quality-assurance documents

Section 505. The Senate amendment would amend chapter 57 of title 38, United States Code, to provide for the confidentiality of Veterans' Administration medical quality-assurance documents. The House bill does not contain a comparable provision.

The House recedes with technical amendments. The provision would be effective to protect the confidentiality of medical quality-assurance documents created before or after the date of enactment.

Minimum number of employees of American Battle Monuments Commission

Section 506. The House bill would amend the Act creating the American Battle Monuments Commission (ABMC), which was approved March 4, 1923 (36 U.S.C. 121), to provide that, subject to the availability of appropriations, the ABMC shall employ at least (1) 50 Federal civil-service employees, of whom not fewer than 43 shall be assigned to duty in countries where cemeteries, monuments, and memorials under ABMC jurisdiction are located, and (2) 348 citizens of such countries to maintain and care for such cemeteries, monuments, and memorials. The Senate amendment does not contain a comparable provision.

The Senate recedes. As in the House bill, this provision would be effective October 1, 1980.

Land transfer

Section 507. The Senate amendment would amend Public Law 89–345 (79 Stat. 1304)—which authorized the conveyance, subject to certain restrictions, of a tract of land adjoining the VA Center located in Cheyenne, Wyoming, from the VA to the city of Cheyenne—in order to remove the restriction relating to park and recreational use with regard to a certain 4-acre tract of the land so conveyed in order to permit the city to use the 4-acre tract to expand and improve a certain roadway. The park-and-recreational-use restriction would be removed by a second deed that would be authorized by the Senate amendment and would be required to impose a new restriction limiting the use of the 4-acre tract to public roadway purposes. The House bill does not contain a comparable provision.

The House recedes with technical amendments authorizing the VA to execute appropriate instruments to permit the 4-acre tract to be used for public roadway purposes and requiring that any such instrument provide that the 4-acre tract may be used only for park and recreational purposes or for public roadway purposes, or both.

As in the Senate amendment, this section would be effective on the date of enactment.

Technical amendments

Section 508 (a) and (b). The compromise agreement contains two technical amendments relating to Public Law 96–330, enacted on September 4, 1980, that are not contained in either the House bill or the Senate amendment. The first provision, contained in section 612 of S. 1188, the proposed "Disabled Veterans' Rehabilitation Act of 1980", passed by the Senate on September 4, 1980, would amend paragraph (3) of section 4107(c) of title 38, as added by Public Law 96–330, which allows VA non-physician hospital directors to be considered for bonuses as part of the Senior Executive Service (SES), in order to add a cross-reference, inadvertently not included in the text of Public Law 96–330, to a title 5 SES bonus provision (section 5384). Second, the compromise agreement would amend subsection (b) of section 4109, as added by Public Law 96–330, to correct a drafting error and thus clarify that that subsection, which changes the way in which retirement credit is awarded for the part-time service of certain VA health-care personnel, applies only to part-time-employment periods served after the enactment of that law.

Both provisions would take effect as of August 25, 1980, the date of the enactment of Public Law 96–330.

Costs

The following table shows the budget authority costs for fiscal year 1981 (as estimated by the Congressional Budget Office) of H.R. 7511 as passed by the House (plus H.R. 7458 as indicated below), as amended by the Senate, and as included in the compromise agreement:

[In millions]

Provisions of compromise agreement	As passed by House	Senate amendment	Compromise agreement
Titles I and II	$979.8	$1,087.5	$1,056.1
Title III		1.0	1.0
Title IV:			
Sec. 401	*(1)	(1)	(1)
Sec. 402		(1)	(1)
Title V:			
Sec. 501	(1)		(1)
Sec. 502	(1)		(1)
Sec. 503	1.0		1.0
Sec. 504	−3.0		(1)
Sec. 505		(1)	(1)
Sec. 506	(1)		(1)
Sec. 507		(1)	(1)
Sec. 508			(1)
Total	[2]977.8	1,088.5	1,058.1

[1] Less than $500,000.

[2] Provisions in the House bill not included in the compromise agreement would reduce this amount to $894,300,000.

*H.R. 7458.

The following tables reflect how veterans, their dependents and survivors will be benefited by the cost-of-living increase:

	Increase (monthly rate) From—	Increase (monthly rate) To—
Percentage of disability or subsection under which payment is authorized:		
(a) 10 percent	$48	$54
(b) 20 percent	88	99
(c) 30 percent	133	150
(d) 40 percent	182	206
(e) 50 percent	255	291
(f) 60 percent	321	367
(g) 70 percent	380	434
(h) 80 percent	440	503
(i) 90 percent	495	566
(j) 100 percent	889	1,016
Higher statutory awards for certain multiple disabilities:		
(k) (1) Additional monthly payment for anatomical loss, or loss of use of, any of these organs: 1 foot, 1 hand, blindness in 1-eye (having light perception only), 1 or more creative organs, both buttocks, organic aphonia (with constant inability to communicate by speech), deafness of both ears (having absence of air and bone conduction)—for each loss	62	62
(2) Limit for veterans receiving payments under (a) to (j) above	1,104	1,262
(3) Limit for veterans receiving benefits under (l) to (n) below	1,547	1,768
(l) Anatomical loss or loss of use of both hands, both feet, 1 foot and 1 hand, blindness in both eyes (5/200 visual acuity or less), permanently bedridden or so helpless as to require regular aid and attendance	1,104	1,262
(m) Anatomical loss or loss of use of 2 extremities so as to prevent natural elbow or knee action with prosthesis in place, blind in both eyes, either with light perception only or rendering veteran so helpless as to require regular aid and attendance	1,217	1,391
(n) Anatomical loss of both eyes or anatomical loss of 2 extremities so near shoulder or hip as to prevent use of prosthesis	1,383	1,581
(o) Disability under conditions entitling veteran to 2 or more of the rates provided in (l) through (n), no condition being considered twice in the determination, or deafness rated at 60 percent or more (impairment of either or both ears service-connected) in combination with total blindness (5/200 visual acuity or less)	1,547	1,768
(p) (1) If disabilities exceed requirements of any rates prescribed; Administrator of VA may allow next higher rate or an intermediate rate, but in no case may compensation exceed	1,547	1,768
(2) Blindness in both eyes (with 5/200 visual acuity or less) together with (a) bilateral deafness rated at 40 percent or more disabling (impairment of either or both ears service-connected) next higher rate is payable, or (b) service-connected total deafness of 1 ear next intermediate rate is payable, but in no event may compensation exceed	1,547	1,768
(3) Anatomical loss or loss of use of 3 extremities, the next higher rate in paragraphs (l) to (n) but in no event in excess of	1,547	1,768
(q) (This subsection repealed by Public Law 90–493.)		
(r) (1) If veteran entitled to compensation under (o) or to the maximum rate under (p); or (effective Oct. 1, 1979) at the rate between subsections (n) and (o) and under subsection (k), and is in need of regular aid and attendance, he shall receive a special allowance of the amount indicated at right for aid and attendance in addition to such rates	664	759
(2) If the veteran, in addition to need for regular aid and attendance, is in need of a higher level of care, a special allowance of the amount indicated at right is payable in addition to (o) or (p) rate	989	1,130
(s) Disability rated as total, plus additional disability independently ratable at 60 percent or over, or permanently housebound	995	1,137
(t) Additional monthly allowance for a veteran in receipt of compensation for a disability not evaluated more than 90 percent disabling who has suffered a service-connected loss or loss of use of an extremity evaluated not less than 40 percent and has suffered a nonservice connected loss or loss of use of the impaired extremity evaluated at not less than 40 percent	192	219

In addition to basic compensation rates and/or statutory awards to which the veteran may be entitled, dependency allowances are payable to veterans who are rated at not less than 30 percent disabled. The rates which follow are those payable to veterans while rated totally disabled. If the veteran is rated 30, 40, 50, 60, 70, 80, or 90 percent disabled, dependency allowances are payable in an amount bearing the same ratio to the amount specified below as the degree of disability bears to total disability. For example, a veteran who is 50 percent disabled receives 50 percent of the amounts which appear below.

	Increase (monthly rate)	
	From—	To—
If and while veteran is rated totally disabled and—		
(A) Has a spouse but no child living	$54	$62
(B) Has a spouse and 1 child living	91	104
(C) Has a spouse and 2 children living	121	138
(D) Has a spouse and 3 or more children living	151	173
(plus for each living child in excess of 3)	30	34
(F) Has no spouse but 1 child living	37	42
(F) Has no spouse but 2 children living	67	77
(G) Has no spouse but 3 or more children living	97	111
(plus for each living child in excess of 3)	30	34
(H) Has a mother or father, either or both dependent upon him for support for each parent so dependent	44	50
(I) For a spouse who is a patient in a nursing home or who is so helpless as to require regular aid and attendance	98	112
(J) For each child who has attained age 18 and who is pursuing a course of instruction at an approved educational institution	82	94

The proposed amendments would increase the annual clothing allowance from $240 to $274 for veterans whose service-connected disabilities require the wearing or use of a prosthetic or orthopedic appliance which tends to wear or tear the clothing.

The following chart depicts the 14.3 percent rate increase provided for surviving spouses of decreased veterans whose deaths are service-connected and who are receiving dependency and indemnity compensation (DIC) payments:

Pay grade	From—	To—
E-1	$326	$373
E-2	337	385
E-3	345	394
E-4	367	419
E-5	377	431
E-6	386	441
E-7	404	462
E-8	426	487
E-9	[1] 446	[1] 510
W-1	413	472
W-2	430	491
W-3	442	505
W-4	468	535
O-1	413	472
O-2	426	487
O-3	457	522
O-4	482	551
O-5	532	608
O-6	598	684
O-7	648	741
O-8	710	812
O-9	763	872
O-10	[2] 835	[2] 954

[1] If the veteran served as sergeant major of the Army, senior enlisted adviser of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps or master chief petty officer of the Coast Guard, the surviving spouse's rate is increased from $480 to $549.

[2] If the veteran served as Chairman of the Joint Chiefs of Staff; Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, the rate for the surviving spouse is increased from $895 to $1,023.

Increases by 14.3 percent from $38 to $43 monthly the additional DIC rate payable to surviving spouses for each child of the veteran under age 18.

Increases by 14.3 percent from $98 to $112 monthly the spouse's aid and attendance rate.

Increases by 14.3 percent from $49 to $56 monthly the spouses' housebound rate.

When there is no surviving spouse receiving dependency and indemnity compensation, payment is made in equal shares to the deceased veteran. These rates are increased as follows:

	From—	To—
1 child	$165	$189
2 children	237	271
3 children	306	350
Each additional child	62	71

(1) Increases from $98 to $112 the additional rate payable to a child who has attained the age of 18 but who became permanently incapable of self-support while under such age.

(2) Increases from $165 to $189 the rate payable concurrently with DIC payment to a widow with a child who has attained the age of 18 but who became permanently incapable of self-support while under such age.

(3) Increases from $84 to $96 the rate payable to a child who has attained the age of 18 but is no more than 22 and pursuing a course of instruction at an approved educational institution concurrently with DIC payment to surviving spouse.

In summary, Mr. Speaker, the proposed amendments, in my opinion, reflect much-needed benefits which will enhance the lives of our service-connected veterans and many other veterans who have served our country.

I have no reason to believe that the proposed amendments will be unacceptable in the other body. We have worked closely with the majority and minority of the Senate Veterans' Affairs Committee in reaching agreement on all these issues.

Mr. Speaker, the proposed effective date for the increase in compensation is October 1. By approving the amended proposal, the Senate will have an opportunity to express their desires on the amendments. An early passage by both bodies this week, together with approval by the President, will permit the Veterans' Administration to make the necessary adjustments so that the regular October compensation checks which are due the first of November will include this much deserved cost-of-living increase.

I urge that this measure be adopted.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I want to concur in the remarks of the distinguished gentleman from Mississippi (Mr. MONTGOMERY), and I rise in support of the amendment to the Senate amendment to the already House-passed H.R. 7511, a bill to increase the rates of compensation payable to veterans with service-connected disabilities.

This measure passed the House initially on July 21 by a vote of 383 to 1. In its original form, the measure authorized a 13-percent increase in monthly payments to disabled veterans and to the survivors of those who died in service or as the result of service-connected disabilities.

The other body, Mr. Speaker, amended the measure, and authorized a 14.3-percent increase. As the result of informal communications, we have reconciled differences in the House-passed bill and the Senate version approved on August 6.

The amendment offered by the distinguished chairman of the subcommittee, Mr. MONTGOMERY, contains the negotiated compromise.

Among other things, Mr. Speaker, the amendment authorizes the 14.3-percent increase in payments for those veterans whose service-connected disabilities are rated at 50 percent or more and for those widows and children who are in receipt of dependency and indemnity compensation payments. Veterans who are rated at 10- to 40-percent disabled will receive a 13-percent increase in monthly payments.

The compromise, Mr. Speaker, provides a well-deserved cost-of-living adjustment in the payments to service-connected disabled veterans and the survivors of those who died of service-related causes.

During the subcommittee markup of this bill, I was pleased to offer an amendment that would have authorized an across-the-board 14.3-percent increase in compensation rates and DIC payments. Unfortunately, budgetary restraints prevented the approval of the amendment at that time. I am pleased that revisions in the budget now permit the higher rate to be paid to the most seriously disabled. The service-connected disabled veteran and the survivors of our war dead are deserving of our highest priority consideration. This measure, Mr. Speaker, subject only to the limitations of the Nation's pocketbook, continues that philosophy.

The principal features of the original House-passed bill have been retained in this compromise, Mr. Speaker. Additionally, a number of meritorious provisions of the Senate-passed bill have been embraced.

These include a specially adapted housing grant for service-connected blinded veterans and double arm amputees and a $2,500 increase in the maximum loan guaranty amounts.

The amendment will also permit the refinancing of housing loans that have been closed at substantially higher interest rates than presently exist.

Mr. Speaker, this measure as revised, is a good bill and one that will be appreciated by those who were disabled in the defense of our Nation. The effective date of October 1 makes it necessary that both Houses act promptly if the increased payment are to be timely received.

I urge that it be approved.

Mr. MONTGOMERY. If the gentleman will yield further, I might say that this will be the last time this year that we will be handling a compensation bill and also the last time we will have with us our great chairman of the Veterans' Affairs Committee, the gentleman from Texas (Mr. ROBERTS).

Mr. HAMMERSCHMIDT. Further reserving the right to object, Mr. Speaker, I would be delighted to yield to the distinguished chairman, the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. I thank the gentleman for yielding.

Mr. Speaker, I want to thank both the chairman of the subcommittee and the ranking minority member of the full committee for the job they have done on this piece of legislation, and for what they have done in past years in support of my chairmanship. I am very grateful to them. I support this legislation. It has been a difficult job, and they have worked it out in such away that I think everybody is going to be pleased.

Mr. Speaker, the distinguished chairman of the Subcommittee on Compensation, Pension, Insurance and Memorial Affairs has explained the proposed amendments in great detail and I strongly support them.

The proposed amendments reflect a reasonable compromise on the rate issue. This measure would provide for a 13-percent increase for those veterans with disabilities rated 10 through 40 percent and an increase of 14.3 percent for the more seriously disabled veterans rated 50 percent or more.

In addition to providing for this substantial cost-of-living increase, the proposed amendments contain certain other provisions which would benefit our Nation's veterans in general.

The proposed amendments would:

First. Provide specially adapted housing for blinded veterans and certain other seriously disabled service-connected veterans.

Second. Increase the VA maximum home loan guaranty from $25,000 to $27,500.

Third. Increase the VA maximum loan guaranty for mobile homes from $17,500 to $20,000.

Fourth. Allow for the refinancing of VA home loans.

Fifth. Provide headstones for family members buried in State cemeteries.

Sixth. Assure confidentiality of VA peer review medical records.

The proposed amendments will provide much needed increases in benefits for our service-connected veterans and many other veterans who have served our country so well in the past.

I have every reason to believe that the proposed amendments will be acceptable by the other body and it is my hope we will have a bill to the President for his signature by the end of the week.

The administration supports the proposed compensation rate increase. It should be noted, Mr. Speaker, that the administration recommended a 14.3-percent increase in compensation and DIC benefits for fiscal year 1981. The President has strongly supported benefits for service-connected veterans. It should be clearly established that the 14.3-percent increase recommended by the President was not accepted by the House Committee on the Budget and we were therefore precluded from accepting the President's across-the-board recommendation.

Mr. Speaker, I have differed with the President on several matters pertaining to veterans and I want to applaud him on his strong commitment to our service-connected veterans. There is no doubt about his support of the proposed amendments, and we are grateful for his efforts in their behalf.

I urge my colleagues to adopt the amendments proposed by my distinguished colleagues from Mississippi.

● Mr. WYLIE. Mr. Speaker, the gentleman from Mississippi, chairman of the Veterans' Affairs Committee's Subcommittee on Compensation, Pension, Insurance and Memorial Affairs, has done an excellent job of explaining the legislation before us. I want to compliment him on the hard work he and other members of the subcommittee have put into the original bill and these amendments. I was one of those Members who conferred with Members of the other body to except this component. It has my full support.

Mr. Speaker, we are all aware of the budgetary restraints which the Veterans' Administration has been under this year. I am pleased that we have been able in this legislation to give a full 14.3-percent cost-of-living increase to those most severely disabled veterans rated 40 percent and above, and to still keep the Veterans' Affairs Committee portion of the overall budget within reason. Those disabled at a percentage of 40 percent and less receive 13-percent cost-of-living increase passed by the full House earlier this session. While it is not as much as we would have hoped, I am sure that those deserving individuals will be able to put such an increase to good use in their daily lives.

I would like to draw the attention of our colleagues to the amendment that would limit the amount of compensation paid to incarcerated felons, to take effect on the 61st day of their confinement. I fully appreciate that compensation benefits have always been awarded by a grateful nation for disabilities suffered in the line of duty, and without regard to later economic status, and I have no philosohical difficulties with that concept. But, Mr. Speaker, the cast of an individual imprisoned for a felony—a serious, intentional crime against the very people who are being asked to reach into their pockets and pay taxes to pay such compensation—is an entirely different matter.

Even the military treats this situation differently. If a serviceman is injured on active duty and commits a felony prior to being discharged, he may well receive a bad conduct or dishonorable discharge. If so, he will receive no benefits whatsoever for the remainder of his life. Contrarily, under present law if the same individual is discharged and then commits the same felony, such payments are unaffected. In the case of imprisonment, when a prisoner is being fully supported by tax dollars that fund the penal institution, it becomes ludicrous to continue payment of benefits designed to help him maintain a standard of living. Thus, I believe the reduced stipend of $60 a month is reasonable and, indeed, generous. Personally, I would stop all compensation during incarceration for a felony. But, this is a good compromise.

The amendment will not affect those who were receiving compensation benefits before the enactment of this bill. It was pointed out that an undue hardship might conceivably be imposed on the family of some who are incarcerated but whose family have come to rely on their veterans' benefits. Further, upon a finding of need by the Administrator of Veterans' Affairs, the dependents of incarcerated veterans may be paid some or all of the compensation benefits. The veteran will be eligible for the resumption of his payments upon the date of his release from confinement.

Please permit me to emphasize, Mr. Speaker, this provision is in no way a permanent bar to veterans' benefits entitlement. It is my opinion it is a fair and equitable provision to those individuals affected and to the American taxpayer.

Thank you.●

● Mr. ABDNOR. Mr. Speaker, I strongly support the proposed amendments to H.R. 7511, as amended by the Senate. But first I would like to commend the distinguished chairman of the Subcommittee on Compensation, Pension, Insurance, and Memorial Affairs, Mr. MONTGOMERY, the distinguished ranking minority member of the Subcommittee, Mr. WYLIE, and the chairman of the Subcommittee of Housing, Mr. BRINKLEY—with whom I have had the pleasure to serve on veterans' housing legislation during this Congress—for their excellent work in bringing about these amendments.

H.R. 7511, as it passed this body on July 21 by a vote of 383 to 1, embodies sound legislation for veterans. The bill as proposed to be amended today, carefully addresses more of the vital needs of our veterans, their surviving spouses and dependents.

I am especially gratified that the provision relating to a cost-of-living increase for veterans with service-connected disabilities moves the House more in line with the 14.3-percent automatic increase that went into effect on June 1 for social security beneficiaries and nonservice-connected pensioners. Certainly, there can be no other group of veterans to whom we are more indebted than those who suffered injury on account of their service to our country during periods of war and hostility.

There are other important provisions in the proposed amendments which have been well detailed by my colleagues, and which therefore do not require my further elaboration.

As to the provisions related to housing for veterans, I fully endorse them and urge your support as well. The bill as amended would not only permit refinancing of GI home loans on a footing available to other homeowners, but would also include direct VA home loans and loans on mobile homes, with or without lots. Most importantly, it would increase the VA guaranty from $25,000 to $27,500 on conventional homes and condominiums and from $17,500 to $20,000 on mobile homes. These increases in guaranty are most needed as the cost of homes—unfortunately—continues to escalate in this present day economy.

Mr. Speaker, I commend these amendments to my colleagues and urge their support of this legislation.●

Mr. HAMMERSCHMIDT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi (Mr. MONTGOMERY)?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 7765, OMNIBUS RECONCILIATION ACT OF 1980

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7765) to provide for reconciliation pursuant to section 3 of the first concurrent resolution on the budget for the fiscal year 1981, with the Senate amendment thereto, disagree to the Senate amendment, and agree to a conference thereon.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

MOTION OFFERED BY MRS. SPELLMAN

Mrs. SPELLMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mrs. SPELLMAN moves that the conferees on the part of the House on the disagreeing votes of the two Houses on the bill H.R. 7765, be instructed to insist on disagreement with sections 201 and 601 of the Senate amendment thereto, relating to semi-annual cost-of-living adjustment for Federal civilian and military retirees.

● Mr. DICKS. Mr. Speaker, I rise in wholehearted support of the motion by the gentlelady from Maryland to instruct conferees to insist on the provisions contained in the Bauman-Fisher amendment adopted by the House.

The retention of twice a year cost of living adjustments is a commitment made by the Congress to Federal and military retirees. The overwhelming 309 to 72 vote of the House indicates a strong belief that the commitment we made should be kept. The debate on the floor highlighted the many reasons why reduction in these inflation adjustments would be extremely unfair and unwise. It was made clear that Federal retirees face the same types of pressures that other retirees do with inflation and pointed out the many differences between Federal retirement systems and social security that make a direct comparison impossible.

The bill as passed by the House retains major reductions which will impact Federal employees. It is only fair that some portion of the burden be borne by them. But the proposed COLA cutback would not be a fair burden. It would require a single group to pay a disproportionate amount of our effort toward fiscal restraint.

The conference on this measure will require give and take. But I firmly believe we need to put the House on record as firmly as possible that the COLA question should not be part of that give and take, and thus strongly urge the House to instruct its conferees to stand by the Bauman-Fisher amendment.●

● Mr. HARRIS. Mr. Speaker, on September 5, by a vote of 309 to 72, the House overwhelmingly voted to retain the twice a year COLA for Federal retirees. For months I have been fighting attempts to reduce the earned benefits of our Federal and military retirees and I was pleased that a majority of the Members of this body stood up for the commitment they made in previous years to Government employees, and finally realized the devastating effect this sudden change would have on thousands of elderly Americans who have loyally served their country.

The House is today appointing conferees to reconcile the differences between the House and Senate versions of the budget reconcilation bill. Myself and three other congressional supporters of the twice-a-year COLA are offering a motion to instruct conferees to insist on the House position. Conference members must stand by the overwhelming House vote to retain the two COLA's. To divert from this position in any way would be a travesty against the Members of this body, and would be but another sad example to all Americans in the string of broken promises between the Government and its citizens.

The American people have expressed their views on this issue to their elected Representatives in Congress and we have voted accordingly. A few select Members must not change this basic treatise of democracy.●

● Mr. FAZIO. Mr. Speaker, I would like to lend my support to the motion offered by the gentlewoman from Maryland (Mrs. SPELLMAN), urging the House conferees on the Budget Reconciliation Act to hold firm in their opposition to the proposal to annualize the twice-a-year cost-of-living adjustment (COLA) for military and civilian retirees. The House mandate on September 4 for the twice-a-year COLA was both clear and overwhelming, indicating that this issue must not be conceded to the Senate.

Although I have consistently supported the entire reconciliation process, I must speak out for the more than 50,000 retired civilian and military employees living within my district, who have dedicated their lives in service to our Nation and have earned the benefits that the Senate now wishes to take away.

As you might expect, many of my constituents see the efforts to annualize the COLA as a direct attack on what is rightfully theirs. Moreover, they resent any congressional consideration of annualizing the COLA since that would be a reversal of the firm commitment they received from this body in 1976. At the time Congress stipulated that we would withdraw the 1-percent "kicker" and as a partial compensation, provide a twice-a-year COLA. The millions of Federal retirees across this great Nation trusted us and took our commitment seriously; but this will not be the case again if we fail to keep our word, adding to the deterioration of congressional credibility.

Also of great importance to me is the impact that such a reversal in congressional commitment would have on our ever-increasing problems of recruiting and retaining qualified and dedicated civilian and military personnel. As you are all aware, this problem is especially acute in the armed services where equipment goes unserviced, ships steam understaffed, and planes fly fewer hours, primarily due to an insufficient number of qualified personnel.

Like many of my colleagues, I have endorsed a number of proposals to address one of the major causes of low retention and recruitment: inadequate compensation. As a beginning, both Houses have agreed to, and the President has signed into law, the so-called Nunn-Warner amendments. My fear, however, is that the progress that we are making in these areas will be wholly negated, by any congressional action to reduce payments to our retirees. Members of the services will see Congress as the master accountant shifting items around, while the balance stays the same. In other words, you might get more now, but look out when you retire. Therefore, any hopes of improving retention and recruitment would be banished.

If we were to adopt the Senate plan, the average retiree would lose $380 per year. This might not sound like a substantial amount, but more than half of the retirees and dependents now receive monthly payments of $700 or less, making this loss significant.

I do not advocate that Federal workers should be exempt from the sacrifices necessary to reduce spending. But we cannot have a reconciliation bill which is placed on the backs of those who can least bear the burden. The Congress can do better than that and I am hopeful that our conferees will be successful in convincing our colleagues in the Senate of that fact.●

● Mr. FISHER. Mr. Speaker, the issue of semiannual cost-of-living adjustments for retired military and civilian personnel has generated much controversy. When the House considered the budget reconciliation bill on September 4, it voted 309 to 72 to retain the present law requiring two adjustments a year. This was the amendment I had originally presented.

Today in the vote on a motion to instruct the conferees on the budget bill to hold fast to the House position, the House once again voted overwhelming to keep the COLA as it is. I applaud the action of my colleagues in these votes and was happy to vote with the majority. It is only fair and just to keep faith with the military and civilian retirees who have served this country.●

The SPEAKER. The question is on the motion offered by the gentlewoman from Maryland (Mrs. Spellman).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mrs. SPELLMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 300, nays 73, present 2, not voting 57, as follows:

[Roll No. 559]

YEAS—300

Abdnor
Addabbo
Akaka
Albosta
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Applegate
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Byron
Campbell
Carney
Cavanaugh
Chappell
Cheney
Clausen
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Conyers
Coughlin
Courter
D'Amours
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Deckard
Derwinski
Dicks
Dingell
Dixon
Donnelly
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Fuqua
Gaydos
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Holt
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jeffries
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Leach, Iowa
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
Lungren
McCormack
McDade
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mavroules
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Nelson
Nichols
Nowak
Oakar
Oberstar
Ottinger
Patten
Patterson
Paul
Perkins
Petri
Peyser
Porter
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Roberts
Rodino
Roe
Rose
Rosenthal
Roth
Roybal
Royer
Russo
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stewart
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thompson
Traxler
Trible
Udall
Van Deerlin
Vento
Volkmer
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wolpe
Wright
Wyatt
Wydler
Yates
Yatron
Young, Fla.
Zablocki
Zeferetti

NAYS—73

Anderson, Ill.
Anthony
Archer
Ashbrook
Aspin
Badham
Beilenson
Butler
Carr
Carter
Cleveland
Collins, Tex.
Conable
Corcoran
Crane, Daniel
Crane, Philip
Daniel, Dan
Dannemeyer
Derrick
Devine
Dickinson
Duncan, Oreg.
Fenwick
Findley
Frenzel
Giaimo
Gibbons
Gradison
Gramm
Hagedorn
Hutchinson
Jacobs
Jeffords
Jenkins
Jones, Okla.
Kelly
LaFalce
Latta
McCloskey
McDonald
McEwen
McKinney
Mazzoli
Michel
Miller, Ohio
Mottl
Neal
O'Brien
Obey
Panetta
Pease
Pickle
Pritchard
Regula
Rhodes
Ritter
Robinson
Rostenkowski
Rousselot
Rudd
Sabo
Seiberling
Sharp
Simon
Snowe
Stanton
Stenholm
Stockman
Stratton
Thomas
Walgren
Wirth
Wylie

ANSWERED "PRESENT"—2

Moorhead, Pa.
Vanik

NOT VOTING—57

Alexander
Ambro
Ashley
Bedell
Bolling
Brademas
Brown, Ohio
Burton, John
Chisholm
Clay
Corman
Cotter
Davis, S.C.
de la Garza
Dellums
Dodd
Dornan
Erlenborn
Flippo
Garcia
Gephardt
Gingrich
Gray
Harkin
Hollenbeck
Holtzman
Howard
Ichord
Jenrette
Leach, La.
Lederer
Livingston
Lott
McClory
Mattox
Moffett
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nedzi
Nolan
Pashayan
Pepper
Santini
Satterfield
Shannon
St Germain
Stark
Steed
Stokes
Symms
Ullman
Vander Jagt
Waxman
Wilson, Bob
Young, Alaska
Young, Mo.

□ 1030

The Clerk announced the following pairs:

Mr. Ambro with Mr. Brown of Ohio.
Mr. Howard with Mr. Erlenborn.
Mr. Cotter with Mr. Gingrich.
Mr. Corman with Mr. Hollenbeck.
Mr. Brademas with Mr. Livingston.
Mr. de la Garza with Mr. Lott.
Mr. Dodd with Mr. McClory.
Mr. Flippo with Mr. Pashayan.
Mr. Stokes with Mr. Symms.
Mr. Lederer with Mr. Vander Jagt.
Mr. Murphy of New York with Mr. Bob Wilson.
Mr. Jenrette with Mr. Ashley.
Mr. Santini with Mr. Alexander.
Mr. Pepper with Mr. Bedell.
Mr. St Germain with Mr. Clay.
Mr. Stark with Mrs. Chisholm.
Mr. Moffett with Mr. Gray.
Mr. Murphy of Illinois with Mr. Gephardt.
Mr. Waxman with Mr. Garcia.
Mr. Steed with Mr. Young of Missouri.
Mr. Satterfield with Mr. Shannon.
Mr. Harkin with Mr. Nolan.
Mr. Nedzi with Mr. Ullman.
Mr. Myers of Pennsylvania with Ms. Holtzman.
Mr. John L. Burton with Mr. Ichord.
Mr. Davis of South Carolina with Mr. Dellums.
Mr. Mattox with Mr. Leach of Louisiana.

Messrs. THOMAS, CARTER, and McKINNEY changed their votes from "yea" to "nay."

Mr. YATES and Mr. HANSEN changed their votes from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. Roberts). Without objection, the Chair appoints the following conferees:

For consideration of the entire bill and Senate amendment: Messrs Giaimo, Ashley, Brodhead, Panetta, Latta, and Frenzel.

Solely for consideration of title II of the Senate amendment: Messrs. Price, Nichols, Mollohan, Aspin, Charles H. Wilson of California, and Mitchell of New York.

Solely for consideration of title II, subtitle A of the bill and title I of the Senate amendment: Messrs. Perkins, Ford of Michigan, Andrews of North Carolina, Miller of California, Ashbrook, and Goodling.

Solely for consideration of title II, subtitle B of the bill and title VII of the Senate amendment: Messrs. Perkins, Beard of Rhode Island, Phillip Burton, Miller of California, Ashbrook, and Erlenborn.

Solely for consideration of title II, subtitle C of the bill and title VII of the Senate amendment: Messrs. Perkins, Ford of Michigan, Brademas, Biaggi, Ashbrook, and Buchanan.

Solely for consideration of title III, subtitle A and title VIII, subtitle A of the bill and title V, part F of the Senate amendment: Messrs. Staggers, Waxman, Satterfield, Preyer, Broyhill, and Carter.

Solely for consideration of title III, subtitles B and C of the bill and title III, section 303 of the Senate amendment: Messrs. Staggers, Santini, and Florio, Ms. Mikulski, Mr. Broyhill, and Mr. Madigan.

Solely for consideration of title IV of the bill and title VI of the Senate amendment: Messrs. Hanley, Ford of Michigan, and Clay, Mrs. Spellman, Mr. Derwinski, and Mr. Taylor.

Solely for consideration of title V, subtitles A and B of the bill and title III, sections 301, 302 and 304 and title IV, section 401 of the Senate amendment: Messrs. Johnson of California, Anderson of California, Howard, Roberts, Shuster, and Snyder.

Solely for consideration of title VII of the bill and title VIII of the Senate amendment: Messrs. Roberts, Satterfield, Montgomery, Hefner, Hammerschmidt, and Mrs. Heckler.

Solely for consideration of title III, subtitles A and B; title VIII, subtitles A, B, C, and D and title IX of the bill;

and title V, parts A, B, C, D, E, F, and G and title IX of the Senate amendment: Messrs. ULLMAN, ROSTENKOWSKI, VANIK, CORMAN, GIBBONS, PICKLE, RANGEL, COTTER, CONABLE, DUNCAN of Tennessee, ARCHER, and VANDER JAGT.

There was no objection.

□ 1040

GENERAL LEAVE

Mrs. SPELLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks with reference to the measure just voted upon.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

DISAPPROVING THE PROPOSED EXPORT OF NUCLEAR FUEL TO INDIA PURSUANT TO EXPORT LICENSE APPLICATION XSNM-1569

Mr. BINGHAM. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution (H. Con. Res. 367) disapproving the proposed export to Indian of low-enriched uranium for the Tarapur Atomic Power Station pursuant to export license application XSNM-1569; and, pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 3 hours, the time to be equally divided and controlled by the gentleman from Washington (Mr. MCCORMACK), the gentleman from Michigan (Mr. BROOMFIELD), and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BINGHAM).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution (H. Con. Res. 367) with Mr. DINGELL in the chair.

The Clerk read the title of the concurrent resolution.

The CHAIRMAN. Pursuant to the provisions of section 308 of Public Law 95-242 and the unanimous-consent agreement, the time will be shared equally among the gentleman from New York (Mr. BINGHAM), the gentleman from Michigan (Mr. BROOMFIELD), and the gentleman from Washington (Mr. MCCORMACK). Each of the three gentlemen will be recognized for 1 hour.

The Chair now recognizes the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, there are, in effect, two resolutions before the House, House Concurrent Resolution 367, and House Concurrent Resolution 368. Under the procedure we can only consider one at a time and we will debate and vote on 367 first and then, following that, I will ask unanimous consent that 368 be taken up immediately.

These resolutions were introduced by myself and 24 other members of the Foreign Affairs Committee, including the chairman, shortly after the President sent to the Congress an Executive order authorizing 7 Indian nuclear export license applications, 2 for fuel and 5 for safety related reactor components.

The Nuclear Regulatory Commission had earlier voted unanimously against issuing all of the licenses, having determined under the Nuclear Nonproliferation Act that certain nonproliferation criteria could not be met. Pursuant to his authority under the same act, the President chose, I may say against the advice of many of us here today, to override the NRC on broader foreign policy and nonproliferation grounds.

Both Houses now have until September 27 to override the President's decision by concurrent resolutions.

Before I explain the committee's action let me back up a little and describe how we got here. In 1974 India misused Canadian and United States materials to explode a nuclear device, thus becoming the first nation ever to violate peaceful use contracts. For nearly 20 years before that event the United States had faithfully supplied India with nuclear reactors, on very, very favorable terms, I might say, and nuclear fuel, and had provided training for over 1,000 people in the peaceful uses of atomic energy.

After the 1974 Indian explosion Canada attempted to tighten its own safeguard arrangements with India. When this failed Canada quickly terminated its nuclear assistance to India.

The United States, by contrast, decided to forego or postpone the application of sanctions in the hope that through diplomacy and uninterrupted nuclear supplies a way could be found to persuade India to accept comprehensive safeguards and to pursue a more responsible nuclear posture.

Four years later, even though no apparent progress had been made, the Congress agreed in passing the Nuclear Nonproliferation Act to allow a 2-year export grace period so that the safeguard talks could continue.

□ 1050

Later that same year the Nuclear Regulatory Commission deadlocked 2 to 2 on a proposed export of more enriched uranium for India as new doubts arose as to the quality and continuity of U.S. safeguards over material that we had already supplied. That export license came before us, and, as you know, at that time we voted to let it go through.

I may say that I managed that resolution also and urged that we allow the shipments. The resolution was opposed by colleagues and good friends who argued that at that time we should turn it down. But we, the Congress, decided to give India and the administration more time to seek to improve the situation through negotiations. So the Congress demonstrated its forbearance and hope by allowing the fuel to go forward and the safeguard negotiations to run their course.

Now, 2 years after that and 6 years after the 1974 explosion, the United States is still empty-handed notwithstanding vigorous and commendable efforts by the Carter administration. We have not only made no progress, we have moved backward, because 2 years ago we had statements from Prime Minister Desai that India would not engage in any further nuclear explosions. Today we do not have those assurances. Prime Minister Gandhi has refused to renew those assurances which were, indeed, an important factor in the House's decision in 1978.

In light of these repeated executive branch and congressional efforts of flexibility, the committee believes that it is now necessary to draw the line. I would note, however, that even with the disapproval of the pending export licenses, the Indian reactors at Tarapur will be able to operate without interruption at least through 1982. Furthermore, we are not recommending disapproval of the five licenses providing for safety and other replacement parts for the reactors, although the NRC had recommended against those licenses.

The committee hopes that between now and 1982, and with some additional imagination and perseverance, a way might yet be found to resolve the difficult nuclear questions that divide our two governments.

Of primary concern to the committee are the very broad U.S. nonproliferation and, hence, national security interests at stake with these two licenses. For the Congress to back away now from the NNPA's most fundamental requirement, and to do so for India, the world's first nuclear violator, would critically undermine the credibility of the U.S. position in so many other nonproliferation negotiations now under way. These include efforts to upgrade dozens of deficient bilateral and multilateral nuclear cooperation agreements, to persuade allies like Italy and Switzerland not to transfer weapons-related technology to countries like Pakistan and Iraq, and to negotiate controls on future plutonium use.

A U.S. reversal would also come at the very moment other nuclear suppliers, at our persistent urging, are on the verge of considering full-scope safeguards requirements of their own. How can we expect Canada, which took the brave step in 1974 of cutting off nuclear trade with India, and which has maintained an unswerving commitment to full-scope safeguards, not to feel sorely undercut?

Finally, the United States risks sending the signal that countries may violate agreements and acquire nuclear arms without incurring any costly penalties. Such a precedent will surely not go unnoticed by those countries—Argentina, Iraq, Korea, and other danger areas down the road, that at some point themselves may calculate whether abrogating an agreement is worth it. The threat of sanctions in the nuclear nonproliferation area, as in every other aspect of our foreign and security policy, must be credible to have any deterrent effect.

You will hear arguments today that

the two nuclear fuel shipments must go forward in the name of promoting U.S. security interests in that region of the world and of assuring a continued nonproliferation dialog. For a number of obvious reasons, looking at events in India in recent months, these arguments seemed particularly hollow to the committee, especially when contrasted with the risks of failing to act.

More serious is the charge that the United States will be in violation of its 1963 agreement with India to supply nuclear fuel for the Tarapur reactors until 1993 and, hence, will lose its limited nonproliferation controls in India if the pending shipments do not go forward. The administration makes this case in connection with its claim that the two shipments in question do fall within the grace period under the NNPA.

First of all, this position ignores the fundamental fact that after the 1974 Indian explosion, the United States could have no confidence that India would comply with supply contracts and, indeed, that India remained committed to the peaceful uses of atomic energy, the basis under which all cooperation had been negotiated. That NNPA was a direct effort to guarantee that commitment through the requirement for comprehensive international safeguards.

Moreover, the NNPA is entirely consistent with the 1971 amendment to the United States-Indian contract of sale which obligates India to comply with all present and prospective U.S. licensing requirements and laws. And the NNPA certainly is such a law. I would add that the Congressional Research Service has prepared a legal analysis which clearly concludes that congressional disapproval would not constitute a breach of the 1963 agreement and its implementing contract.

Second, I would point out that the United States is under no legal obligation whatsoever to provide India with what would amount to a 3-year stockpile of fuel, in addition to the 2-year supply already in India.

Third, and more importantly in my mind, I would like to ask those who rest their case on the legalism of the 1963 contract, what if India were to explode another nuclear bomb today using other than U.S. materials; would they then not insist on termination of nuclear trade with India? Are they prepared to pursue their argument to its logical conclusion and continue to approve every Indian fuel liecnse application through 1993? Whether the present licenses fall within the grace period is really immaterial because the arguments made in favor of sending these shipments forward apply just as much to all shipments that would be made before 1993, and where a waiver of the full-scope safeguards provisions would necessarily be called for.

I would point out also that the administration's emphasis on the sanctity of the 1963 contract and the importance of our carrying it out contrasts with the administration's own efforts to persuade France and Italy and other countries to modify contracts that they have made with other countries in an earlier day before we realized the danger of proliferation. So I urge your support for these two resolutions.

I now yield 3 minutes to the chairman of the Subcommittee on Asian and Pacific Affairs, the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. Mr. Chairman, as chairman of the House Subcommittee on Asian and Pacific Affairs and a cosponsor of House Concurrent Resolution 367 and House Concurrent Resolution 368, I rise to urge passage of these two resolutions terminating the supply of nuclear fuel for the Tarapur reactor which passed our subcommittee unanimously. At the same time—and I think that it is important at this point to mention—I wish to emphasize that our actions today, and in response to this resolution, are not based on any ill will or prejudice toward the people of India. To the contrary, we seek to improve Indo-United States relations. Rather, they are based upon the principles and provisions of the Nuclear Nonproliferation Act of 1978. In the last request I voted against the resolution of disapproval to give time for negotiations.

Mr. Chairman, either the principles of nonproliferation prevail or we junk this provision altogether.

□ 1100

Either those principles and provisions apply to all or they apply to none at all. Either the laws of this land are observed or they should be stricken. We have just found no way scientifically or otherwise to be half pregnant.

For the past 2½ years, the administration has been engaged in negotiations with the Government of India to secure compliance with the full-scope safeguards provisions of a Nonproliferation Act. Thus far, successive governments of India have maintained their opposition in principle to the Nuclear Nonproliferation Treaty and to the full-scope safeguards.

Mr. Chairman, if India is to stand on principle, so too must the United States.

At a time when a number of nations may be approaching the nuclear weapons threshold, we dare not encourage their disregard of the principles of nonproliferation by our disregard of those very same principles. Indeed, the dangers posed by unabated and uncontrolled nuclear proliferation are a threat to the peace and security of not only India, of not only the subcontinent, but of the existing international order.

Moreover, to exempt India from the provisions of the Nonproliferation Act and to allow the continuing shipment of enriched uranium to the Tarapur reactor will not advance the cause of nonproliferation but will only serve to encourage international disregard of it.

To allow for exemptions in the case at hand will only pave the way for other exemptions in other yet unforeseen cases. And a policy now of universal application will shortly become a policy universal in its irrelevance.

I speak as well to the question of Pakistan at this point. We as a Congress and we as a nation have applied the Symington and Glenn amendments to cut off all sales, we have cut off all of our aid to Pakistan based upon the principle that Pakistan is engaged in the production of nuclear weapons.

Now, Mr. Chairman, if we do that at a time when Pakistan is threatened by the Soviet Union through Afghanistan, then we must apply the same principles exactly here to India and to do any less would be to exercise a policy of discrimination against the government of Pakistan as well, which we, I am sure as a Congress, do not wish to observe.

Only by reaffirming by word and deed our commitment to the principles and provisions of the Nonproliferation Act can we hope to check the spread of nuclear proliferation throughout the world. There are different circumstances here. We have not called into play the Symington or Glenn amendments and, therefore, my colleagues, I ask for the support for the resolution of this approval.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. BROOMFIELD).

Mr. BROOMFIELD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, recently the House Foreign Affairs Committee, correctly—and overwhelming—rejected the President's proposed sale of enriched uranium to India by supporting resolutions introduced by my colleague, Mr. BINGHAM, who should be congratulated on his perseverance in resisting administration pressure.

Just a few years ago, the President called the spread of nuclear weapons "one of mankind's most pressing challenges" and pledged to make nuclear nonproliferation a top priority of his administration.

Nothing has happened to lessen the danger of nuclear war in the years since the President made that pledge.

In fact more than a dozen nations are now believed capable of building nuclear devices and another half dozen are thought to be on the verge of perfecting the techniques.

Yet, today, the administration is lobbying hard for the sale of enriched uranium to India—one of the nations most adamant in its refusal to sign the Nuclear Nonproliferation Treaty.

As in so many other areas, our policy has come full circle and the administration is preparing to sacrifice its own principles for the sake of an expedient which is still unclear to me.

If we permit this sale, we will cast another long shadow on the credibility of American foreign policy—a policy already obscured by inconsistency and indecisiveness.

We will risk further destabilizing South Asia at a time when the Soviet troops are already fighting in nearby Afghanistan.

But most important, we will in a very real way be encouraging the spread of nuclear weapons and the prospects of nuclear war.

Even the most optimistic experts now concede that possibility grows more likely every year and the prospect is that it could be touched off by a Third World nation.

India has left no doubt about its intentions since 1974 when it detonated a nuclear device constructed from plutonium produced in a Canadian reactor and sold to India for peaceful purposes.

Since then, India has been contemptuous of our efforts to encourage nuclear nonproliferation and of our foreign policy initiatives generally.

It has steadfastly refused to sign the Nuclear Nonproliferation Treaty or to place its nuclear equipment and material under safeguard and will make no promises about building bombs.

Moreover, India has negotiated a trade agreement with Iran which undermines U.S. trade sanctions, viewed the Soviet invasion of Afghanistan as "understandable," and recognized the Palestine Liberation Orangization, while recently announcing a $1.6 billion weapons deal with the Soviet Union, a country with which India has enjoyed a close relationship. Overall, it is not that the United States has been an unreliable supplier, but that the nation of India has been an unreliable recipient.

A decision to approve the shipment of uranium to India would increasinbly destabilize what is already a deteriorating political and military situation in South Asia. Such a decision would establish a dangerous precedent for any future U.S. nonproliferation efforts with other countries.

The development of Indian nuclear weapons can only further exacerbate tensions with Pakistan, which, despite warnings, is taking steps to explode a nuclear device, and the People's Republic of China, which successfully completed its first major international ballistic missile test. India is spending billions of dollars on an independent space program which experts believe will provide that country with an intercontinental nuclear missile capability in this decade.

On July 18, India became only the sixth nation to launch a successful Earth satellite and as result its potential missile capability must be taken into account in any future assesment of the political and military balance in that region of the world.

The approval of the sale of uranium to India will also have an adverse impact upon the future of our nonproliferation policy. In short, administration and congressional responses to the Indian problem will be closely watched by other countries as a vital test case of the seriousness with which we are trying to prevent the spread of nuclear weapons technology around the world. Nuclear nonproliferation should be a key aspect of our foreign policy, and if we cave in to contemptible pressures from India, it will be difficult to justify our seriousness of purpose. At a time when the world is already dangerous and when substantive terms of the Nonproliferation Act should be taking effect, American efforts to induce other nations to abide by nonproliferation safeguards will be seriously undermined if the Congress decides to approve the shipment of nuclear fuel to India.

Given these persuasive conditions against the sale, I urge my colleagues to disapprove the shipment of uranium to India. In doing this, it is my belief that our national and international security interests can best be served by a policy more consistently adhered to, and a policy whereby America finally takes a stand.

☐ 1110

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I will be happy to yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank my colleague for yielding. I would like to congratulate my colleague on such a fine, sober, and comprehensive statement. I think we very rarely hear such a clear and responsible outline of an issue in the House, although we have this morning heard some equally serious and important dissertations. The effect on other nations, and our relations with those nations, of sending more uranium to India have been clearly explained. And, above all, we know what this would do to the whole horrible problem of proliferation.

Mr. BROOMFIELD. I thank the gentlewoman.

Mr. PURSELL. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Michigan.

Mr. PURSELL. Mr. Chairman, I want to associate myself with those of the Congressman from Michigan, who has given an outstanding presentation on behalf of this concurrent resolution (H. Con. Res. 367).

I fully support these House resolutions to disapprove President Carter's decision to ship nuclear fuel and components to India.

It must be pointed out that India exploded an atomic bomb in 1974 using plutonium derived in part from U.S.-supplied heavy water, despite formal U.S. communications in 1970 that such use was prohibited. Furthermore, it must be noted that India has also sought repeatedly to weaken International Atomic Energy Agency inspection policies.

On other foreign policy issues, despite billions in U.S. aid over the last 20 years, India recently signed a $1.6 billion arms deal with the U.S.S.R. and did not support the U.N. resolution on the Soviet invasion of Afghanistan. In addition, India negotiated a trade pact with the Ayatollah Khomeini that renders the U.S. trade boycott of Iran ineffective. In view of India's disregard of American foreign policy goals and that country's defiance of international agreements and standards on the use of nuclear energy, Congress must step in to prevent this shipment of nuclear fuel and components to India.

Unfortunately, this whole episode dramatizes the hypocrisy of the Carter administration foreign policy. This is seen by the posturing of the administration on the question of Argentina and Brazilian nuclear developments, which is in great contrast to the attitude toward India.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I would just like to pose a question to the gentleman from Michigan or to the chairman of the subcommittee. Of course, it has been alluded to, the point has been made concerning the fact that India has signed a nonproliferation treaty, and the implication is, as a result of that, we are not sending them the material.

Is the gentleman suggesting, or is the chairman of the subcommittee suggesting, that if they sign a nonproliferation treaty that we would send them the material?

Mr. BROOMFIELD. I would be happy to yield to the gentleman from New York.

Mr. BINGHAM. So far as I know, there is no consideration being given to the possibility that they will sign the NPT.

Mr. WYDLER. But I am asking the gentleman what if they did. The point I am trying to get at is simply this, their unwillingness to sign the NPT is really not what is keeping us from selling the material to India. We are using the Nuclear Nonproliferation Act passed by this Congress as the reason to deny the license. That was the reason the license was denied. Yet, we continually hear this discussion about the Nonproliferation Treaty, as if their refusal to sign was the reason we are not sending them the material.

But what I am trying to find out is, even if they were to sign a treaty tomorrow, would not we still refuse to ship them the material because they would not meet the requirements of the Nuclear Nonproliferation Act.

Mr. BINGHAM. If they were to sign the Nuclear Nonproliferation Treaty, they would be under that obligation, which would satisfy the requirements of the Nonproliferation Act.

Mr. WYDLER. Of course, I do not agree with that conclusion at all. Many countries that signed the Nonproliferation Treaty (NPT) still would have additional obligations under the way the NNPA is being interpreted by the people in the administration and the sponsors of this resolution. Under the NNPA we impose additional obligations on countries that want to deal with the United States. That is why we are denying ourselves nuclear markets all over the world today. Other countries supplying nuclear material, such as the West Germans, do sell nuclear material to Argentina, but we are not doing it.

How can that be if what the gentleman says about the NPT is the case? How can we be going ahead and dealing with those countries in this manner if we simply required signing of the NPT to fulfill the NNPA requirements?

So, there must be a difference between the law we are imposing on the nations of the world and the rule which the rest of the world accepts for nuclear sales.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Chairman, following up the discussion we have had with the gentleman from New York (Mr. WYDLER) can we assume that if these resolutions pass today, that India will not receive any fuel? Is that a safe assumption? Will some other country not sell them the fuel?

Mr. WYDLER. If the gentleman will yield further, I think it is obvious that if India becomes convinced that we are not going to sell them the fuel, they are going to get it somewhere else. There are many countries that will be glad to sell it. The problem will be that we no longer will be the supplier, and they will rely on those countries that will supply them with materials.

Some people speculate that that will be the Soviet Union. It may or may not be, but it will be one of the other countries, and there are plenty of them in the world, and the number of countries with enriched uranium is growing all the time.

Mr. MYERS of Indiana. What concerns me is that if we should pass this resolution—and it appears that probably the sentiment of the House is that we will pass these resolutions—we are not denying India the fuel, or other countries of the world. It has happened all over the world. We are not the only supplier of enriched fuel, and then we lose control. As long as there is some hope that we might sometime in the future get some type of agreement with India or any other country, it seems to me to be ill-advised for us to take this stance because there are other suppliers just waiting to sell uranium material to any country whatsoever. The gentleman cited Argentina, Brazil, and other countries where this has happend.

Mr. BINGHAM. Mr. Chairman, I yield 10 minutes to a member of the committee, the gentleman from Indiana (Mr. HAMILTON).

Mr. HAMILTON. Mr. Chairman, I oppose the resolutions of disapproval to two export licenses for the export to India of low-enriched uranium fuel, and I urge Members to vote no and approve the sales.

I do that with some reluctance. I certainly am reluctant to oppose the gentleman from New York, whose voice on nonproliferation has certainly been eloquent and articulate in this Chamber. But, my own view is that if we, approve the sale of these materials we will further our goals of nonproliferation.

The essential issue at stake here is not the principle of nonproliferation, but how best to maintain it. It is a close question.

On balance, I believe that proceeding with the shipments better serves the goal of nonproliferation. The key question, as Ambassador Smith said, is whether it is better to tolerate the present situation where the Tarapur Facility in India is under safeguards, or to terminate an agreement, undermine our relations, and leave India free to dispose of the one or more tons of plutonium as it sees fit.

My own conclusion is that by rejecting the sale, we increase the risk of nuclear proliferation. We renege on a written agreement to supply that promised fuel, and we threaten U.S. national interests in Southwest Asia.

Now, let me elaborate on those, if I may. First, a cutoff of India's nuclear energy supply will, in the longer run, more likely increase rather than reduce the spread of nuclear weapons capability. If we approve these shipments, the Indians will no longer feel that they are bound by the 1963 agreement, and important safeguards will be lost. Under that circumstance, India would be free to reprocess the U.S.-origin fuel in India, and use the plutonium in the Tarapur reactors. That is contrary to a major aim of U.S. policy, which is to discourage the thermal recycling of plutonium.

India would be free, if we broke the 1963 agreement, to withdraw the U.S.-supplied nuclear fuel from safeguards. India would be free to decide to disregard our veto over any other use of the material already supplied beyond its use as fuel at Tarapur, and India would be free to end the present U.S. veto over any retransfer to another country.

There would be other adverse consequences that would also flow from a disapproval of these shipments. If we do not supply the Tarapur reactor, the Indians can go elsewhere. They can always turn to the Soviets, as has previously been mentioned. Our dialog with India would be cut off.

□ 1120

We are able through the Tarapur agreement to continue talking to India on nuclear issues. If India cannot obtain low enriched uranium fuel for Tarapur from us, it calls into serious question the U.S. credibility as a dependable nuclear supplier. Our failure to meet the terms of our agreement with India would encourage nations to acquire complete final nuclear capabilities to protect their sovereignty and their national energy programs. That development would severely injure our long-term nonproliferation efforts.

So the point is that the best way we can advance the policy of nonproliferation is to continue the supply relationship.

Mr. Chairman, the second point is this: That the U.S. overall interests in Southeast Asia require that we strengthen our relations with India. If we disapprove these sales, our efforts to protect the U.S. interests in the region will be impaired.

India is the most important country in South Asia. It is the world's largest democracy. Its government, like ours, rests on the principle of the consent of the governed.

The crises in Iran and Afghanistan have profoundly affected U.S. security interests in South and Southwest Asia, and it is vitally important for the United States today to support stability and to systematically bolster our bilateral relationships with the states in this region.

United States-Indian relations have not always been smooth. They are not smooth today. We have good reasons to be unhappy with Indian policy on several matters. Our policy perceptions and our interests do not always coincide. But the best way to influence India to adopt policies beneficial to U.S. interests is to try to build a more reliable, steady, mutual bilateral relationship.

Tarapur has become a crucial indicator to the Indians of the seriousness with which we view our relationship with them, and a positive decision on Tarapur can help allay apprehensions about U.S. constancy and U.S. policies on issues sensitive to India.

The next point is this: Approval of these sales cannot be viewed as a precedent which weakens our important nuclear nonproliferation policies. The supporters of the cutoff of the fuel argue, as I understand it, that if we continue to supply India, the credibility of U.S. efforts to prevent proliferation elsewhere in the world will suffer and the world will think that we have abandoned the nonproliferation goal.

There are several responses to that point of view. First, approval of these exports is fully consistent with the Nuclear Nonproliferation Act. Since these exports fall within the grace period provided in that law, they are not subject to the full-scope safeguards requirement. Favorable action on them, therefore, does not set a precedent for future cases which are subject to this requirement, and it does not weaken the U.S. position on the importance of safeguards in our nonproliferation policy.

In any event, the law permits the President to authorize the exports if he determines, as he has, that withholding them seriously prejudices U.S. nonproliferation interests.

A second point is that if the Indian-United States agreement is terminated, India can take action which damages our nonproliferation goals. I have already indicated that. For example, the safeguards would be removed.

The third point in response to the argument that the world will think we have abandoned nonproliferation goals is to point out the experiences of the U.S. delegation, which has just returned from the Nonproliferation Treaty Review Conference in Geneva. The Indian situation did not come up. The U.S. delegation, without exception, said that the concern of other delegations concerning Tarapur was about the United States keeping its commitments in the nuclear field, not about the implications of these sales on nonproliferation. All of our allies in Western Europe—the United Kingdom, the Germans, and the French—support this sale.

Finally, in response to the argument that the world will think that we have abandoned the nonproliferation goal and the argument of proponents of the cutoff that other countries will refuse to accept full-scope safeguards if we supply India, I point out that over 100 nations are treaty-bound to accept safeguards under the Nonproliferation Treaty. A very few other countries interested in nuclear cooperation with the United States already have their nuclear installations under safeguards.

So the danger that shipments to India now would signal a general breakdown of U.S. nonproliferation policy is illusory.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield to me for a question or two?

Mr. HAMILTON. Yes, I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding.

I would just like to ask the gentleman whether he would take the same position with regard to the sanctity of the 1963 contract and our obligation to carry it out if the Indians were to carry out a new nuclear explosion using non-U.S. materials?

The CHAIRMAN. The time of the gentleman from Indiana (Mr. HAMILTON) has expired.

Mr. BINGHAM. Mr. Chairman, I yield 2 additional minutes to the gentleman from Indiana (Mr. HAMILTON).

Mr. HAMILTON. Mr. Chairman, in answer to the gentleman, if there was an explosion in India of another nuclear device, one thing we would do, it seems to me, is to cut off further shipments in accordance with the Nuclear Nonproliferation Act.

Mr. BINGHAM. Would that not be a violation of the contract, just as this would be?

Mr. HAMILTON. No, I do not think the agreement covers that point.

Let me say, with regard to this argument about violation of the agreement, that my view is that a failure to supply the fuel does violate the agreement, but, as the gentleman pointed out in his remarks, that may be a close legal question. There is some confusion about it. It may not be clear-cut, but it does seem to me that the important point is that India has physical possession of the spent fuel from Tarapur regardless of the legalities and regardless of whether the agreement has been maintained or not.

If the Indians decide that we have breached the agreement, which they likely will, then they can unilaterally start taking the steps to reprocess the spent fuel, and that will work against our nonproliferation goals. So it is not so much the legal question as it is the practical result of the cutoff.

Mr. BINGHAM. Mr. Chairman, if the gentleman will yield briefly further, would those same arguments not apply if the Indians conducted a new nuclear explosion?

Mr. HAMILTON. The important point is, it seems to me, that we want to protect our nonproliferation goals. By not supplying the fuel, we give the Indians a reason to break the agreement.

It is the Indian perception that is important, not our perception, and the Indians will move ahead to use the fuel to defeat our goals.

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Chairman, the President's decision to ship nuclear fuel to India, against the recommendation of the Nuclear Regulatory Commission, clearly contradicts his widely publicized policy of nuclear nonproliferation.

As a candidate 4 years ago, Mr. Carter said that—

> The State Department has become the country's chief advocate and apologist, even though India, not a Nonproliferation Treaty party, used our past aid to explode a nuclear device and even though there are no safeguards to prevent this from happening again.

In April 1977 he told Congress that—

> The need to halt nuclear proliferation is one of mankind's most pressing challenges.

His nuclear policy this season is a prime example of his administration's penchant for inconsistency.

The administration, by its machinations in the nuclear fuel to India matter, has also demonstrated the hypocrisy which has so marked its foreign policy decisions. It has postured on the question of nuclear developments in countries traditionally allied to the United States. On the other hand, it has attempted to gain India's favor despite the latter's defiance of international nuclear standards and its frequent foreign policy moves contrary to U.S. interests.

We must have a strong, consistent foreign policy, one which will restore the worldwide respect we must have to lead the free world. Long-term U.S. interests generally are much better served by well thought out policies, consistently adhered to. Obsequiously currying favor for perceived short-term gains, particularly when such actions lead to scorn, repudiation, and loss of respect, is clearly unproductive.

I urge favorable votes on these resolutions of disapproval.

Mr. Chairman, I think the exchange we heard between the gentleman from Indiana (Mr. HAMILTON) and the gentleman from New York (Mr. BINGHAM) really dramatizes the issue before us. The gentleman from Indiana, I thought, very effectively enunciated the State Department's tortured logic for the sale of nuclear material to India.

I reject the argument that was made that we need this shipment of nuclear material to keep strong United States-Indian bilateral relations, or because of the presumed Indian importance to the problems in Iran and Afghanistan. We already have sufficient evidence to show that the actions of the Government of India, by its foreign policy moves, are contrary to U.S. interests in both those countries.

I do not think we are going to gain any short-term benefit from currying the favor of the Indian Government at this time.

I urge approval of these resolutions of disapproval. I believe that to do so we are insisting that the long-term U.S. policy be maintained, and that is the issue before us. We want a long-term, consistent, strong U.S. policy in the field of nonproliferation. To guarantee that, in my judgment, requires action by the House this morning in support of these resolutions.

□ 1130

Again, I urge adoption of both resolutions.

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Chairman, I rise to speak against these resolutions before us. I wish to associate myself with the remarks of the gentleman from Indiana (Mr. HAMILTON), who has stated, I think, a thorough explanation of why it is not a good idea for this country to refuse to provide the nuclear material in question.

The issue, as I see it, is not as complicated as some of our argumentation might suggest. It is simple. The United States entered into an international agreement with the Government of India in 1963 under which we agreed to provide enriched uranium for a specific powerplant, at Tarapur, which would be fueled only with United States—provided uranium. Spent fuel from those reactors at Tarapur would be under safeguard, as would the facility itself.

Nothing in that agreement made it necessary for the Indians to obtain American approval with regard to materials or practices derived from other Indian nuclear facilities.

Now, as a consequence of internal American legislation, the United States would deny continued supplies of fuel for the Tarapur reactors under considerations introduced by the Antiproliferation Act of 1978.

The Indians have told us that failure to live up to the 1963 agreement will free them of any safeguards agreed to in 1963.

We can refuse to send the fuel, and thus in effect terminate the 1963 agreement. These resolution would, it seems to me, accomplish just that. We are dealing with a sovereign state, which is committed to development of nuclear energy as an alternative to fossil fuels. That is their business. What is our business, is making our original arrangement with the Indians continue to work as much as possible.

In short, we made a deal, the Indians have lived up to their part of it, and we are changing our rules so as to back out of our end of it. What will we do? If nonproliferation is our aim, then we have only one way to obtain the sort of result we want, and that is to go with the original 1963 agreement.

I might note that in a world where nuclear technology is no longer an American monopoly, we can not simply legislate for other nations. Where we attempt to impose unilateral restraints on even those countries which might be dependent on us, it is entirely likely that they will by hook or crook set out to obtain independently the technology necessary to develop nuclear power. And when that happens the United States has little or no influence.

I encourage my colleagues to join in defeating these resolutions.

Mr. McCORMACK. Mr. Chairman, in a moment I am going to yield to the gentleman from New York (Mr. WYDLER), the ranking minority member on the Committee on Science and Technology; but pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1150

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Mr. McCORMACK. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. WYDLER), the ranking minority member on the Committee on Science and Technology.

Mr. WYDLER. Mr. Chairman, I am going to revise and extend my remarks to a great extent on this debate and I will confine my statement to a few main points that I think bear on this decision that we are making today. I hope to do it in a commonsense way that will appeal to some Members of the House by trying to add up the pluses and the minuses that exist for our country in this decision.

I hope that you will come to the conclusion that I have come to, that commonsense really dictates that we disapprove this resolution today and allow the sale of the material to India to proceed.

Now, no matter what I have seen considered in many a year here in Congress lends itself more to the expression that "the road to Hell is paved with good intentions." The people that have put forth this resolution including the chairman of the subcommittee, the Members that are supporting it, have the noblest intentions in their minds. I recognize that and I pay respect to them for that.

Their intention is to try to stop nuclear proliferation in the world. I am suggesting to the Members of this House that no course we follow as a nation could be more damaging to that objective than what we are doing with this resolution, not only in the case of the Indian sale, but of our entire so-called nonproliferation policy in the world. Exactly the opposite result of what we intend to bring about will be achieved by this. We are, as a country which is determined to try to get a hold on the proliferation of nuclear materials, allowing our influence as a nation to be dissipated and allowing other countries in the world that do not have the kind of interest we have in this matter to seize control of the world's supply of nuclear materials. In the long run, that can only hurt the cause that the sponsors are espousing.

I only hope that this Congress will awake to that fact soon enough to change the course we are following, because with every passing day we are losing the influence we now have in the world to change other nations nuclear policies and to see that the course of nonproliferation is advanced.

Our present policy is based on an assumption and that assumption is incorrect and wrong and is growing more incorrect and wrong all the time. The assumption is that the United States has a monopoly on nuclear material and technology and so can control the supply of this material and technology to other countries in the world. At one time that may have been true or close to being true. It is no longer true and with each passing year it is becoming less true. Therefore, for the United States to maintain its position in the world on this issue, it is going to have to maintain good relations and close relations with those countries in the world that desire nuclear material and technology.

Now, the issue involved here unfortunately concerns India. I understand that is not a very popular country in this Congress and probably throughout our Nation. The leadership of that country certainly is not the most popular in the world, either; but I would point out to this House that we may have to wrestle with this same kind of an issue with respect to other countries that are very friendly to the United States, very close to the United States; countries, for example, such as Israel.

Now, Israel at the present time does not have a nuclear plant, but Israel wants a nuclear plant, wants one desperately and intends to get it. They are going to look around the world for somebody to supply them with nuclear materials and components for that plant, both in constructing it and for fueling it throughout its operation. One of the countries they would obviously look toward normally would be our country; but under the circumstances that we have put our country in, it is very likely our country will not be one of the suppliers for Israel's nuclear plant. They will have to go, as India would have to go under these circumstances, to other countries in the world to get those supplies. India will do that and Israel will do that, because the day will come when they will have to get this material, components, and assistance to build their nuclear plant.

Now, we suggest that one possibility for India is to turn to the Soviet Union and, indeed, it is. We have found out, I have found out in my travels, that when the Soviet Union supplies enriched uranium to a country, it does so under an agreement where the material must be sent back to the Soviet Union to be reprocessed. So the Soviet Union, in effect, gets a source of supply for plutonium by dealing with that country. They do that with the Finnish Government at the present time. They take the spent fuel back from the powerplant at Loimaa reprocess it, and they retain the plutonium. That, material, of course, is a source for making nuclear weapons in the Soviet Union.

We could be driving the Indians into this same sort of arrangement with the Soviet Union. Some people discount that. They say, well, the Soviets will not deal with India. Well, maybe they will not. Then the Indians will buy it from some other country in the world. They will probably buy it from the French. We find ourselves in a similar ridiculous position today in South America where the two nuclear nations, that is Brazil and Argentina, cannot buy nuclear material from the United States because of our special rules, regulations, and restrictions.

Does that mean they do not have any? Not a bit; they simply turn and they buy it from Switzerland, they buy it from West Germany and Canada and, they buy it from the Soviet Union. We lose the business, but the important thing is that we have not done anything to stop proliferation. That is still going on. It just means that we have no influence in those countries any longer. We no longer have any real influence in the nuclear field in those countries. We have achieved nothing toward trying to bring about the goals that we seek in our nonproliferation policy.

It is a losing policy that we are following at the present time and in each country that you go to you can see the effects of this policy, which is a policy that is an abject failure and we are clearly not attaining our objectives.

At some point we have to look at the effects of the policy and say that it is time to change it.

Now, I am suggesting what has happened to President Carter's policy. The point has been made here that he made all these statements about nonproliferation and its importance. I know that he believed it when he said it and I believe he believes it today. However. what has happened to him is that he has looked at the situation and he realizes that we can best serve our goals of nonproliferation in India, as we could in other countries in the world, by keeping involved with those countries, keeping our influence in those countries, rather than leaving a vacuum for some other country to fill that is much less concerned with these noble causes than ourselves.

□ 1200

So I do not think President Carter puts it that way, but I think there is a growing realization on his part and on the part of the administration itself that the present policy needs changes and corrections if it is to achieve the goals we all want. I think that is what my colleagues are seeing in the President's request today.

I obviously have no political points to make for President Carter. I am not of his party and, in general, I find many of his policies which I cannot support. But in this case I think his decision is in the best interests of the United States, and I say that also as a member of the other party which has taken a position in its platform against this very fuel shipment.

Of course, that platform position is based on a reaction to Indian policies, international policies, and on the nuclear issue. I understand that they feel that the Nation of India, and these points have been made here, has not cooperated with the United States, has been very friendly with the Soviet Union and, therefore, we should show them how unhappy we are with them. I could buy that viewpoint to some extent, since it is a matter of international policy.

The trouble with that approach is that if we wanted to be consistent we should be consistent, and that is, cut off our food sales to India. That would also show them our displeasure, or we could carry out other steps that would restrict our trade with them which would show our displeasure if that was what we really were intending to do.

But I think that policy loses sight of the importance of our keeping our foothold in the Indian nuclear business which is going to go on whether we are a part of it or not. We can get ourselves totally out of it, as we are trying to do here today. That will be the result of what we are doing. We will find that the United States will remove itself from supplying the Tarapur plant, all of the spent fuel at the Tarapur plant will become India's to do with what it wants, including maybe, although we never have discussed this one, sending it to the Soviet Union to be reprocessed. They might decide to do that. They could choose this course once our agreement with them was broken.

So I do not see, as I try to look at the matter, what we really gain in the cause of nonproliferation, what we gain by denying this sale to India if we go through with this resolution in the face of our existing agreement with India.

Let us talk about the U.S.-Indian agreement for a minute, and let us talk about it as a commonsense proposition. I know the legal arguments have been made and I am not going to repeat them. The State Department argues that the agreement's legality requires the United States to ship this material, and there are some other groups that say they have decided it is not so because the law was made subject to later rules adopted by the United States.

I ask my colleagues to use their common sense. Would they, would our country, would anybody in the world really enter an agreement which, in fact, said this agreement can be changed by the other party at any time in any way it wants? Is that an agreement? I submit that is not the agreement. That is a meaningless agreement if that is what the Indians agreed to, and I do not think that is what India agreed to. Would they consent to allowing the United States to rewrite the agreement any time it wanted, any way it wanted, and call that an agreement?

That is not an agreement and I do not think the Indians would ever accept that. I do not think we would agree to that type of arrangement and I do not think any Member of this House would agree to that. I do not think it is a sensible thought to put forth here that the agreement was subject to the whim of the United States so that we could do anything we wanted with the agreement at any time and India was bound by that. I do not think that is a commonsense, fair, rational way to expect to have an agreement written and how it was meant to be carried out.

The other point that has been raised here today, and I thought it was a good point, was raised by the gentleman from New York. That was what would we do, as a nation if, suddenly, tomorrow morning, India exploded another nuclear device? That is a good question. But it is a question that really goes far beyond the issue of what we would do with this sale or any other sale of nuclear materials to India.

That is a question of international importance. We might decide as a result of such an explosion to abrogate all of our agreements with India. That might be called for. I do not know. Maybe we would decide then we would have no more commerce or trade with India. We might decide that the issue would be of that magnitude as we size it up as to its international importance.

But I do not think that issue is limited to the relationship we have with India on the sale for the Tarapur plant.

India has lived up, and I have not heard that disputed by anybody here, to all of the agreements they made with the United States of America on the handling of the fuel at the Tarapur plant. I think they have in good faith lived up to those agreements and I think in good faith, and again I put it to my fellow Members here in the House, in the committee, we should live up to our part of that agreement.

Now we come to the question which we have this new set of rules which we have set and this particular sale now at this point in history would be apparently in contravention of those rules. The material was asked for quite some time ago by India and it seems to me, the fact of the matter is, it was delay on the part of the U.S. Government to supply the material that has put it beyond the pale or beyond the limitations of the grace period.

So now, because of basically the delay of our own country in handling the request, we have forced them into a position where they now do not technically meet the requirements of our present law. That seems again to me to be a fault, in a commonsense way, of the U.S. Government and not the fault of the Indian Government.

Gentlemen, I am suggesting today that the best course of action for our country now is to allow this sale to go forward. I think by this we gain more for our Nation in the nonproliferation field. I think also that it is a time for this Congress to think about the present act which we are trying to operate under in the world in nuclear matters. It is an act which, in my judgment, and I have seen its effects in many countries in the world, has been nonproductive and, in fact, counterproductive.

I have seen the counterproductive results of this act and of this policy in Argentina. Down in Argentina we have basically killed the "good neighbor policy" of F. D. R.

I have seen it in Sweden where we treated a nation that has unblemished nonproliferation credentials as if it were a high risk nuclear threat to the world.

In both of those cases we have driven those nations, which are friendly to us and should be very close to us in nuclear matters, we have driven Sweden and Argentina to obtain nuclear technology and material from the Soviet Union. As a result of these counterproductive results I believe that the President has decided to see the present contract for the Tarapur reactor fulfilled.

I ask my colleagues in closing these questions, which I asked previously in a letter I wrote to each Member. I hope each one will think about it and try to come to a conclusion about what we should do in meeting our responsibility to see that we follow a reasonable course for the United States of America in the nonproliferation field in the years ahead.

The questions are: What has the implementation of our present policy gained for the United States of America?

How were the real objectives of nonproliferation advanced by the approach we have taken to date?

What justifies the loss of all of the nuclear business and future influence in nuclear matters by the United States in India and other countries in the world?

When, if ever, will this country learn that our past policy has been an abject failure and that is why we should support the President in this case where he has shown some degree of flexibility in nonproliferation matters.

I thank my colleagues for their attention.

Mr. McCORMACK. Mr. Chairman, I yield myself such time as I may require.

☐ 1210

Mr. Chairman, I rise in strong opposition to House Concurrent Resolution 367, and House Concurrent Resolution 368. I urge a "no" vote on these resolutions. I have requested additional time for this debate today to try to help the Members, whether they are present in this room or in their offices watching their television sets, to understand some of the basic facts that are so important for treating this matter and so important for us all to understand before we vote. For that reason I am making myself available for questions that anyone on the committee may have when I have finished my presentation, and I hope you will feel free to aks me any questions, no matter how complex or confusing they may sound.

This is a subject on which there is a colossal amount of confusion overlaid with all too much emotionalism, and it is most unfortunate that we are voting now on a motion of such great importance to this Nation and to the free world. We are doing this in an atmosphere of confusion and emotionalism, based on a blizzard of misinformation.

The basic fact, the bottom line of this issue today, has nothing whatsoever to do with nuclear energy, nuclear weapons or nuclear proliferation. We are not going to deter India in any way from doing what it is doing if we do not ship this fuel to them. The question is only how much we, the House of Representatives, are going to critically damage our country if we vote to pass this resolution to cut off the shipment of fuel to India.

The gentleman from Michigan (Mr. Broomfield) said India has been contemptuous of the United States. Why not? Here we are, treating India as a second-class people, a second-class citizen of the world whom we are trying to blackmail, and for whom we assume we can dictate their domestic policies. The entire world knows that this is a ludicrous farce. We are the ones who are looking silly by trying to discipline India and by doing so selectively.

The gentleman mentioned that India is not a signatory to the Nonproliferation Treaty. That is true. Neither are some 31 other nations including France, China, Cuba, South Africa, Argentina, Israel, Brazil, Spain, or Pakistan. Are we undertaking any punitive action against them?

We know perfectly well that the Israelis are making nuclear weapons, and so are the South Africans. Their weapons are not peaceful nuclear explosives, as the Indians exploded 6 years ago following a similar test by us.

These are the countries that are today making nuclear weapons, and we know it perfectly well, yet we go right on in our commerce with them as if nothing matters at all. We are picking on India. Why? Why should they not be contemptuous of us?

I have a "Dear Colleague" letter here from the gentleman from New York (Mr. Ottinger) that says:

> We will soon decide whether the United States should ship 38 tons of nuclear fuel to India, enough to set off hundreds of atomic weapons as powerful as those used to destroy Hiroshima and Nagasaki.

The fact is that it is physically impossible to use this fuel for weapons. You can no more use this fuel for weapons than you can run an automobile on water. It is absolutely impossible to directly use this fuel for weapons. India has no equipment to do so. Before this fuel could be converted to weapons-grade material, it would have to be enriched from the present 3-percent level up to at least 50 percent. In making weapons, the United States takes nuclear fuel to above 90-percent enrichment. I think it is critically important to understand that.

The gentleman from New York (Mr. Bingham) responded to a question in an interview in U.S. News & World Report, and I will read the question and answer. The question was:

> Some proponents of the sale insist that it is not feasible to use enriched uranium from a power plant for arms development. If that is true, why all the concern?

Mr. Bingham responded:

> I am, frankly, amazed that anyone would make that statement. Administration officials have themselves acknowledged that in the sixties a nuclear test explosion was carried out using reactor-grade fuel.

With all deference and respect for the gentleman from New York (Mr. Bingham), he does not understand the subject. He is talking about plutonium extracted from a processing plant, extracted from spent fuel used in a nuclear powerplant, not the nuclear fuel that goes into a plant. There is no way to use the raw fuel; it cannot be done.

Second, India not only has no facilities for enriching fuel to convert it to weapons-grade material, but it also has no facilities designed for reprocessing spent powerplant fuel elements, to extract plutonium. The reactor grade plutonium is not any good for an explosive anyway.

I think what the gentleman from New York was referring to was that in the 1960's, the Atomic Energy Commission took some of this reactor-grade plutonium, made an explosive, and conducted an underground explosion. It worked as they expected. It was a very poor weapon of very low quality, but it worked, and it is possible for a nation with high expertise and technology to take a lot of this plutonium and make a very, very poor explosive of it. But no nation in the world has ever made a nuclear weapon from reactor-grade plutonium. Every weapon that has ever been made, including the one in India, was made from special facilities built and operated for that one purpose—to make weapons.

The United States had hundreds of nuclear weapons before it had any nuclear powerplants. Russia too, had hundreds of nuclear weapons before it had any nuclear powerplants. England and France had at least dozens of nuclear weapons before they had any nuclear powerplants. There is not a single weapon that has ever been made anywhere in the world from nuclear powerplant plutonium. We had one explosive device tested in the United States which proved exactly what the theoreticians knew—that it would make extremely poor explosive material.

But here we are saying to the Indians that unless you let us dictate to you, unless you let us control you, we are going to unilaterally abrogate an operating contract which we both signed. Here we are, the United States and Great Britain and Russia, all going on making weapons just as fast as we can. By what arrogance? By what hypocrisy is it that we try to stop India's nuclear energy program, which has nothing to do with weapons, because we do not like the fact that they are reserving their right to their own independence from our dictates? By what hypocrisy and arrogance is it that we are trying to stop their nuclear energy program because we do not like the fact that they are reserving the right to do what we have been doing pell-mell every week for the last 35 years—making nuclear weapons as fast as we can?

So the gentleman from Michigan's statement is probably correct when he says they have been contemptuous of us, because we are trying to set a double standard and force them to live by it. I think this is important.

The basic question is, why should we break our contract? That is what the committee is trying to do. They are saying we should override the President and break our contract with the Indians. The President, supporting a recommendation of the Department of State, has ordered that we honor our commitment to India and continue to ship this nuclear fuel for its two Tarapur plants. The Nuclear Regulatory Commission found it could not approve the licenses for export of this fuel. The Commission did not disapprove the licenses; it found the issue to be a highly complex legal one and referred the decision to the President.

The State Department said, for heaven's sake, go ahead and ship the fuel. Yet here we are proposing to terminate the contract. Such an impetuous and unthinking act by us today would serve no constructive purpose. It would be disastrously self-defeating for us. It is imperative that responsible Members of the House and Senate support the position of the President and uphold the continued shipment of fuel to India.

□ 1220

There are good reasons to do so, and one of the best is that this is the best way to reduce the potential for nuclear weapons proliferation anywhere in the world.

There are some other reasons. Let us remember that we have had an existing contract with India to supply this fuel for the two Tarapur plants, two of its three operational plants ever since 1963.

There are four more powerplants under construction in India and the Indians do not even try to buy fuel from the United States for them. They have long since learned we are not a reliable exporter of fuel, ever since we passed our Nuclear Nonproliferation Act.

Let us take a look at what has really happened here. Our contract with India came into existence in 1963 when we insisted that we be the sole supplier of fuel for India's Tarapur plants. India was obligated under this contract to store the spent fuel under International Atomic Energy Agency safeguards, return the fuel to us if requested to do so, and obtain our approval to transfer the fuel to any other nation. These were our conditions for selling the plants to India. They wanted the plants. We said, "We will sell you the plants if you will meet these conditions," and they have lived up to every minute detail of the contract. They have not violated it in any way at any time.

If we now violate this contract, only we will lose and the Indians will be free to do whatever they wish with the spent fuel they have on hand. They now have more than 200 tons of spent Tarapur fuel stored in India, including about 400 kilograms of plutonium. If we breach the contract, then they can do anything they want to with it.

However, I do not think they would use it for weapons because reactor grade plutonium is so unsuited for that use.

The next thing to remember is that the nuclear explosion by India did not involve the use of any commercial nuclear fuel which, as I say, is not good for weapons anyway. The explosive material came from a simple, small research reactor with a good potential for producing weapons grade plutonium. This plutonium was then separated and purified in simple, cheap equipment designed specifically for that purpose. You could not operate a weapons program by reprocessing fuel elements from nuclear powerplants in that equipment.

The Indians in short did exactly what the United States did, what Russia did, what Great Britain did and what France did before them. What they did had nothing to do with the Tarapur powerplants or with fuel we shipped to them.

I think it is important for us to understand as Dr. Glenn Seaborg, the discoverer of plutonium, has pointed out, that today there are three dozen nations in the world that could produce nuclear weapons without any nuclear powerplants at all, without any help from the United States, for 5 to 10 percent of the cost of one single commercial nuclear powerplant—that is, $50 million to $100 million for the whole system—and do so in half the time required just to build the powerplant.

The next point is in the near future we are going to have to decide about selling enriched fuel to the Euratom Supply Agency, which represents the Common Market nations of Europe. Similar issues will be cited for not shipping that fuel that are now cited for not shipping fuel to India. These same views will come up with Euratom. France is not a signatory to the Nuclear Nonproliferation Treaty. It is making weapons and does not allow inspection.

Mr. Chairman, we can be building a very dangerous trap for ourselves if we break our contract now with India.

Many of us felt at the time that the passage of the Nuclear Nonproliferation Act of 1978 was a serious mistake, and our fears have now become realities. That was based on the admirable objective of limiting the proliferation of weapons, one which I wholly support. However, the provisions of the act are dictatorial and unrealistic in attempting to achieve that goal, and they are being disregarded and circumvented by nations around the world by developing indigenous nuclear programs which are not subject to U.S. control.

Now, zealous attempts to use this ill-conceived law to arbitrarily, unilaterally and arrogantly impose our unrealistic requirements on other nations have brought international ridicule on our heads. It is serving to alienate us from the rest of the world. This is the most serious issue that most of these nations have with us; our arrogant attempt to impose our nuclear energy standards on them when they are trying to solve their energy crisis.

Such totally unreasonable and uncalled for conduct on our part increases rather than reduces the potential for nuclear weapons proliferation. Many nations have decided to establish their own nuclear facilities rather than subject themselves to the humiliation of United States dictates and the unrealiability of the United States as a nuclear supplier.

If any of us here are wondering about where we can find a country saying, "Three cheers for the United States" today, if they find one, I hope they will let me know which it is.

Congressional acceptance of this ill-advised resolution of disapproval, along with our unilateral and unsuccessful attempts to prevent nuclear indusrial development in other nations, has precipitated this crisis for us, not for the Indians.

Recent congressional hearings have revealed the foregoing, how our reputation has fallen and the fact that there is not a willingness among other nations to trust us.

In his comments on the proposed fuel shipments, NRC Commissioner Kennedy pointed out that we must act to avoid action which would adversely affect those whose cooperation is essential to our ultimate nonproliferation objective. This proposed action to prevent the fuel shipments to India is totally contrary to our objective of trying to minimize nuclear weapons proliferation. The time has come for us to recognize this fact and support the President and the State Department on this issue.

The thoughts of Mr. McGeorge Bundy on the matter of shipping this fuel to India for the Tarapur plants is equally cogent and is terribly important. Mr. Bundy knows that the likely alternate supplier of fuel for the Tarapur plants will be the Soviet Union.

Unfortunately, U.S. policies have produced the same results related to the supply of enriched fuel for our Western European trading partners. People in the business and in the State Department estimate that by 1985, the Soviet Union, which already provides a significant fraction of the enrichment requirements for Western Europe's nuclear powerplants, will be providing an even more significant portion in terms of total enrichment requirements.

Now, just about 5 years ago this was an exclusive U.S. market. We have thrown it all away because of our own ill-conceived notion that we could control the world. Situations such as this promote international instability and severely constrain our foreign policy options.

This Congress must no longer countenance the continued deterioration of our international credibility and our time honored reputation for integrity and leadership. The decision of the President in ordering that we proceed with the Tarapur shipment makes good sense. The Congress must now insure the shipment proceeds and that all nations know that the United States can be trusted, that we will be a reliable supplier under the conditions of existing agreements and existing contracts, until they are changed under mutually acceptable conditions. Until then, they will be binding on this Nation.

Mr. Chairman, I urge a no vote, in the interest of the United States, against these resolutions.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I will be glad to yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, the gentleman makes a very eloquent statement but it seems to me in large parts it amounts to an eloquent attack on the Nuclear Nonproliferation Act. I wonder how the gentleman would explain the fact that he voted for that Act.

Mr. McCORMACK. It is one of the votes that I most regret in my 10 years in Congress. I think it was a serious mistake for me to acquiesce. I acquiesced based on the word of the gentleman from New York that we were going to work out all the details with regard to quick response in monitoring reprocessing plants and other issues of concern to me. At the time, I had no idea that the act would be used in such a strict and arbitrary way and that our international nuclear policies would be so damaging to the goals of the act; that is, the furtherance of nonproliferation objectives.

If the gentleman will remember, the gentleman told me that the conference had worked out these problems.

Mr. BINGHAM. Mr. Chairman, I am talking about the gentleman's vote in the House of Representatives on a bill that was very similar to what was passed by the Senate and I do not recall any commitment that I might have made along the lines the gentleman is talking about.

□ 1230

Mr. McCORMACK. The gentleman may not remember, and I am not going to try to hold him to anything; but, the fact is, the way the bill is written and the way it is being applied today is slightly destructive to this country.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, I want the gentleman to know that I intend to vote for the resolution, but I also want him to know that I think he does this Congress a great service by clarifying for what indeed the plutonium is going to be used. I think that is very, very important.

The other point I want to make is, I think he also does us a great service by pointing out that many of our allies to whom we have given billions of dollars of foreign aid have refused to sign the Nuclear Nonproliferation Treaty, so there is a subtle form of hypocrisy here. I think we ought to insist that they sign that in the interest of world peace.

So, I think that while I am going to support the gentleman in his request for defeating the resolution, I do want him to know that his statement is very important in terms of identifying and pointing out the kind of hypocrisy in which we sometimes engage in this congressional body.

Mr. McCORMACK. I thank the gentlewoman. I would like to add, lest anyone mistake my position, that I am totally opposed to nuclear weapons, anyplace. I would like to see international agreements with adequate safeguards and universal inspection by which we could move forward toward an elimination of all nuclear weapons. I think they are a horribly damaging part of our existence today. I do not want anyone to mistake my position here.

The gentlewoman made one reference that I would like to elaborate upon. I would like to have everyone understand that the plutonium that is produced in nuclear powerplants, any kind of nuclear powerplants, is essentially useless as weapons materials. An expert nation with a huge amount of technical competence can make it explode, but it is useless as weapons material.

Plutonium is one of the most valuable substances in the entire world because of its fantastic energy potential. Our policies of self-denial and international blackmail to prevent its use by others will naturally lead to independent efforts to utilize this energy potential.

If we are to solve the nuclear nonproliferation problems of this world, we should move forward with a positive program which will permit the use of plutonium for power production and in that way provide some control over its use. We should initiate a program for regional reprocessing centers through which all fuel elements pass, and through which the plutonium and uranium that is in these spent fuel elements is recycled without ever being made into any form that can be used in an explosive. This is what we must do to control proliferation, and the action we have been talking about today in the passage of these resolutions is countercurrent to that concept.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, first I would like to comment, if I could, on the question asked by the gentleman from New York (Mr. BINGHAM) of the gentleman from Washington regarding his vote on the Nonproliferation Act. I too voted for the Nonproliferation Act. I do not think we made a mistake in the sense that he is trying to imply we did. Nearly everybody in the House and in the Senate voted for the Nonproliferation Act.

Mr. McCORMACK. That was a unanimous vote simply because there was not any debate.

Mr. WYDLER. Let us fully understand what the action was at that time, and where we are now. Most of us know that the world changes, and you have to change with it or you get left behind. That is the situation we are in. At the time the act was presented to us, it had a noble cause. The purpose of the act was nonproliferation. Everybody is for that. The act set up a system of trying to bring that about, and it imposed over a period of time new rules which were, at the time, exclusively U.S. rules on how the sale of nuclear material would take place in the world.

The hope was that the rest of the world would go along and do likewise. The facts are, the rest of the world did not go along and did not do likewise. We now have an act that we are trying to operate under which makes us unique in all the world. We find ourselves as a result refusing to sell nuclear material to countries that any of the other countries in the world that have signed nonproliferation treaties will sell to. We find ourselves a majority of one in the world. Now, I think that we have to look at where we are and analyze whether this act, which we passed in good faith and with high hopes, has really achieved anything for our country or for the world.

If we honestly can say that it has not, and we would be better off now trying to get back into the act in the world, make our country a real player in the world in the area of nuclear trade, because that would be good for the cause of nuclear nonproliferation; that would be a sensible policy for our country to follow in 1980. That is the point I think we should come away with here today. We have to deal with the situation that exists now, not the other way we hoped was going to exist many years ago.

If I could ask the gentleman a question, the thing that strikes me as odd—and I want his comment—is the fact that we are at the present time in our country building several new facilities, spending hundreds of millions of dollars for these facilities to enrich uranium.

One tremendous plant is going up in the State of Ohio which is going to be a tremendous processor of enriched uranium, and I cannot help wondering, as I traveled around the world to 13 major countries that use nuclear power and would be customers, and I find out that in nearly every case they are noncustomers or are ready to drop the United States as a supplier because either they do not trust us to supply as we have agreed to supply, or we will come up with new rules and regulations that they would be unwilling to agree to, and that they are turning to other sources for their enriched uranium and trying to get out from under U.S. supply agreements.

What are we going to do with all this enriched uranium? Who are we going to sell it to? Who is going to be pure enough to meet all our requirements? How are we going to compete in the world market?

I cannot understand it. I see our world market shrinking, and yet we are building vast new facilities to produce enriched uranium. What are we going to do with it? I am at a loss. Sometimes, as I sit in the committee and listen to the testimony on these vast new facilities we are building, where is it going to go? Who is going to use it?

Mr. McCORMACK. I thank the gentleman for his question, which is pretty much of a rhetorical question, of course. His point is exceptionally well taken. The fact is that our markets are dwindling rapidly. As I mentioned, between the mid-1970's and 1985, we will have lost a significant fraction of the European market to the Russians and to the French. This is a major export and a major contributor to the trade balance that we will be losing and throwing away, as well as a significant reduction in our influence in foreign nuclear programs.

The gentleman is completely correct, we are almost completely isolating ourselves from the rest of the nations in the world. The United States stands almost alone, as for instance in the studies under the international nuclear fuel cycle evaluation, known as INFCE, where the United States stood virtually alone against some 66 nations in defending its policies. We are isolating ourselves with this sort of thing. We may very well wind up with big, expensive white elephants with those enrichment plants and nobody to sell fuel to.

Mr. WYDLER. If the gentleman would yield further, I would just like to comment and have the gentleman comment on another point raised here today, that the perception of the world would be, if we ship this material to India, that we do not care about nonproliferation; we have lost our interest in it or are undermining our own policy. I traveled to all these nuclear-using countries in the world, and I have never heard anyone of them indicate that fear about that whatsoever. The one thing they do all talk about, every single one, is the reliability of the United States of America as a supplier.

Now, it is one thing for us to say, well, we do not like the Indians, they do not have a supportive policy for the U.S. Government and, therefore, you know, let it go. But, every other country in the world is following very carefully what we do here, and maybe some of those countries we do care about. They are friends and allies, and we would like to continue to do business with them, not only because it is good for our country and its economy, but because it keeps us in the forefront of nuclear matters around the world, which is a position that we operate from today, but which is slipping away. Every one of these countries watches very carefully how the United State reneges on its deals and changes the rules in midstream.

I have seen countries like Spain, which used to buy exclusively U.S. plants, enriched uranium, and they told me to my face, "We are through dealing with the United States. We are going to buy our plants elsewhere."

□ 1240

They are buying them from West Germany. That really increases our influence in Spain. We can see 10 years from today what influence we will have there in the nuclear field. They are going to get their enriched uranium elsewhere, and they are talking to the Soviet Union, too.

What kind of a policy is this that we are pursuing? We have to look at the results of the policy, not the hope of the policy.

Mr. Chairman, I can only assure the gentleman, I will say to my colleagues here today, that the rest of the world is looking at this in a different way than is being suggested here today. They are looking at this and asking, "Is the United States going to live up to its agreements? Is the United States going to be a reliable supplier of nuclear material or is it not?

I only hope that this House will give them an answer that will reassure them, and that we will continue to keep the friendship of our country growing with the world, particularly in the nuclear area.

Mr. Chairman, I would ask the gentleman from Washington (Mr. McCORMACK) if he would like to comment on that.

Mr. McCORMACK. Mr. Chairman, I thank the gentleman from New York (Mr. WYDLER) very much, and I think his points are very well taken. I have had similar experiences with a number of nations, Western European nations, Far Eastern nations, and South American nations. All of them have expressed great concern over what seems to be the blindness of this aspect of our foreign policy. They are literally sick with apprehension that we will so damage ourselves by passing this resolution.

I just want to say that the gentleman talked about our interest in nonproliferation, and there is one point in that regard I think we should make. The Committee on Science and Technology has taken a positive step toward attempting to reduce the potential of proliferation in the world, and that is by directing the Department of Energy to negotiate to buy the Barnwell, S.C., reprocessing plant. That is a plant which is built and has not been licensed to operate. We can establish it as a multinational fuel cycle center where fuel from many countries which really are too small to have reprocessing facilities could be shipped in. They could ship their fuel there for reprocessing and new fuel fabrication. We could supply them with fuel elements on condition that we will then have the reprocessing done here and have the material made into new fuel under IAEA supervision.

That would be a lucrative business for the United States, and it would also be beneficial to these small nations which have a hard time financing the massive expenditures involved in reprocessing. But if we cut them off, regardless of what they think about it, if we try to punish nations and have them do what we think is in their own best interests, we are not, of course, going to have any cooperation, and these nations are going to go on their own with their own nuclear technologies.

Mr. Chairman, I yield such time as she may consume to the gentlewoman from Tennessee (Mrs. BOUQUARD).

Mrs. BOUQUARD. Mr. Chairman, I thank my subcommittee chairman for yielding this time to me.

Mr. Chairman, I rise in support of the shipment of enriched uranium to India. I will vote no on this resolution because I feel that the outcome is much more far reaching than this issue alone in isolation.

This Congress has debated the pros and the cons of the administration's nonproliferation policy in connection with a number of legislative proposals. The goal of stemming the flow of nuclear weapons is clearly desirable, but our ability to achieve this goal through unilateral proclamation is what is in doubt.

The United States of America is not the sole supplier of either nuclear technology or nuclear fuel. We must accept this reality. By that I mean we must recognize that by removing ourselves as a source of this material, we do not make nuclear fuel unattainable. We simply drive our prospective customers, and in so many cases our potential allies, into the willing arms of the Soviet Union.

My good friend and my subcommittee chairman, the gentleman from Washington (Mr. McCORMACK), and I have argued vehemently on the floor of this Chamber that the most effective method of controlling the flow of nuclear technology is to use our position as a reliable supplier to help develop international safeguards, and that this will bring meaningful cooperation into our nonproliferation efforts.

I would say to my colleagues here that we only have to look at the situation that has developed in Pakistan as a result of a shortsighted, inflexible nonproliferation policy, and the strategic importance of that nation today exceeds anything that we could have anticipated 20 years ago.

So let us not make the same mistake with respect to India. We simply cannot afford to drive this nation further into the Soviet's sphere of influence.

There has been much criticism of India's nuclear weapons program, but I would remind the Members again that the weapons that were developed by India did not come from a violation of the nonproliferation agreement between the United States and India. Furthermore, the fuel under discussion consists of uranium enriched to a level sufficient to sustain the operation of a powerplant. In general, this level is in the 3- to 5-percent range. In contrast, weapons grade uranium must be enriched to a minimum level of 90 percent. Diversion of powerplant fuel into a weapons program is the single most expensive, most inefficient and most time consuming method to achieve a nuclear weapons capability. If we wish to maintain a realistic base for effective development of nonproliferation criteria, we must exhibit a willingness to live up to the agreements that indeed we have ourselves made.

Our vote today is going to be a crucial indication to the Indians of the seriousness with which the United States views its relationships with them. It is also our opportunity as a Congress to emphatically relate to the world the reliability of our word, signifying that we do not view our international agreements as a scrap of paper. This resolution in no way punishes India. They have a number of alternative sources of supply. A vote for this resolution harms only the United States and our strategic interests.

The **CHAIRMAN** pro tempore (Mr. FISHER). Let the Chair state to the Members that the time remaining in general debate is as follows:

The gentleman from New York (Mr. BINGHAM) has 32 minutes remaining, the gentleman from Michigan (Mr. BROOMFIELD) has 42 minutes remaining, and the gentleman from Washington (Mr. McCORMACK) has 7 minutes remaining.

Mr. BROOMFIELD. Mr. Chairman, I yield 6 minutes to the distinguished gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Chairman, the past year has been a very difficult one worldwide. Tumult, crisis, and conflict in all parts of the world have come in quick succession, and much of this has been directed at the United States.

But now, let us just imagine for a moment what the situation might have been this past year had each of the states involved in turmoil and conflict been armed with nuclear weapons. That in a nutshell is what we are talking about here today—nuclear nonproliferation.

We all recognize the difficulty that a nation or state, even one as large and influential as the United States, working in concert with many other nations, has in establishing a nuclear nonproliferation policy. But there can be no doubt that nuclear nonproliferation is clearly in the interests of the United States. We must do the best we can to advance that policy, and what we decide here today is whether we just want to talk about nuclear nonproliferation or whether we actually want to get something done.

We have the opportunity here today to do something about it and to take a stand. The question is: Will we do so?

In my view, the vote today is a historic event; it is a watershed vote. It is perhaps the single most important development in the effort of the United States to establish the nonproliferation of nuclear weapons. We can vote to block the fuel shipments and thus demonstrate our insistence upon an effective nonproliferation policy and adherence to the nuclear nonproliferation law that this body passed unanimously 2 years ago, or Congress can let the policy slide and allow the licenses for the fuel to go forward.

Mr. Chairman, I urge my colleagues to demonstrate the seriousness of the U.S. nuclear nonproliferation efforts and to vote yes on Concurrent Resolutions 367 and 368. I say that for several reasons. First of all, we must demonstrate our seriousness to the state of India. Since the fifties the United States has provided reactors and fuel for the Tarapur station in Bombay.

□ 1250

We provided the reactors in fact on very generous concessional terms, a $72 million loan at 1-percent interest. Of the $72 million, India has repaid $11 million.

The United States has supplied heavy water to India when our own capacity to produce heavy water was lagging; but, nevertheless, we came through for India. We trained more than 800 Indian nuclear scientists over the years.

In response to this very extraordinary level of cooperation, India detonated a nuclear bomb in 1974. And to set off this bomb, India diverted U.S. heavy water, in violation of U.S. peaceful-use guarantees and despite repeated warnings against this step by the United States. Still, even when Canada terminated its nuclear relations with India subsequent to that explosion, the the United States did not terminate its relations with India.

During this past 6 years, and especially during this past 2 years, the United States, while continuing its nuclear relationship with India, has attempted quietly and diplomatically to convince India to accept safeguards on all of its nuclear facilities and to renounce exploding any more nuclear bombs. India has refused to do so. Indeed, Mrs.

Gandhi stated categorically on the floor of the Parliament, in direct response to President Carter only this past spring, that India would explode nuclear devices whenever it saw fit.

Given this Indian position and its contention that it will explode nuclear bombs whenever it sees fit, the United States cannot ship this nuclear fuel and still assert that it means business on nuclear nonproliferation. Sending this fuel to India will rob our policy of all credibility, not only on our relationship with India, but with Pakistan, South Korea, Taiwan, Brazil, Argentina, West Germany, France, Italy, and all of the other countries who are watching us today.

If we ship this fuel, we will be throwing in the towel and signaling to the world that we do not mean business. We will not, thereby, be defending U.S. interests.

Now, if we do refuse to ship fuel, a very substantial U.S. relationship with India will continue, and I think it should. I would like to point out that this body has authorized $287 million in foreign economic aid for India for fiscal year 1981. This is up from fiscal year 1980, which was at the level of $200 million. The United States is sending TOW missiles to India, as well as nearly $200 million in howitzers. President Carter has sent Clark Clifford on a special mission to India to reassure the Indians after the Soviets invaded Afghanistan.

We have repeatedly, in nuclear and nonnuclear matters, tried to help India assure its interests, and I am sure we will continue to do that. But now, at this stage, I urge my colleagues to help the United States assure its own interests and to adhere to a nuclear nonproliferation policy designed to help this country meet those interests.

Therefore, I urge a "yes" vote on both of these resolutions.

Mr. BINGHAM. Mr. Chairman, I yield 7 minutes to the distinguished gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, the question before us today is whether or not the United States has a policy of nonproliferation. We are witnessing an attempt to collapse the Nuclear Nonproliferation Act of 1978 and replace it with a policy of "selective proliferation" by the State Department.

Humanity has made many mistakes in the past and has been able to survive. However, the spread of nuclear weapons has given us an unprecedented power to harm ourselves and, indeed, to destroy all life on this planet. India is a crucial test case which will determine whether we can control the awesome technology of nuclear power and nuclear weapons which we have created.

Other countries, including Brazil, Argentina, Pakistan, South Africa, Israel, and Iraq are watching these congressional deliberations with the closest attention. The mood of Congress is clear—the long term national security interests of our nonproliferation policy must take priority over the elusive short term goals of better relations with India envisioned by the State Department.

To make an exception for India, Mr. Chairman, will effectively "gut" our efforts to curb the spread of nuclear weapons. Other countries of the world will realize that the United States was never really serious about nonproliferation. They will realize that if they stonewall long enough, as India is doing, then the United States will eventually capitulate and grant them shipments of nuclear fuel and hardware even if they use part of our expertise or materials to develop nuclear bombs. They will simply call their nuclear bombs "peaceful" as India is doing and escape U.S. sanctions. We will be kidding no one, Mr. Chairman, if we approve the shipment of fuel to India. There will be no credibility, no integrity, no respect for U.S. efforts in this area.

Mr. Chairman, for the United States this is not simply a question of legality, equity, or interpretation of a vague 1963 agreement. This is a question of sanity. The national security of our generation and future generations will be severely weakened if we do not take a tough stand with India and protect a nonproliferation policy which I need not remind this House passed the Congress in 1978 with only 3 dissenting votes.

The question is whether we should acquiesce to a country which adamantly refuses international safeguards and controls and persistently asserts its right, as recently as 2 months ago, to future atomic tests. India is the only known country to have exploded a nuclear device using plutonium derived from a civilian nuclear program supplied by Canada and the United States. After the 1974 explosion, Canada halted all nuclear cooperation with India. The United States did not, but it should have drawn the line then.

Since 1974, India has refused U.S. efforts to gain assurances that U.S. supplied materials would not be used for nuclear bomb tests—"peaceful" or otherwise. India has stubbornly rejected during the last 6 years any concessions to apply greater controls and safeguard to its nuclear facilities. Is it any wonder that Pakistan, India's neighbor to the north, complains of a "double standard" when the United States asks for its agreement to nonproliferation requirements? The question is not whether the United States is a reliable supplier, but whether India is a reliable customer.

A July 22, 1980, opinion from the American Law Division of the Congressional Research Service argues that India's refusal to submit to full-scope safeguards is not in conformance with its 1971 undertaking to comply with all applicable U.S. laws and therefore India, not the United States, may be in actual or potential breach of the original agreement to supply fuel.

The United States is left with the choice of standing by its principles and defending its nonproliferation policy, or submitting to Indian pressure and supplying fuel, fully aware that India may develop nuclear bombs from this fuel and certainly will continue to reject international safeguards designed for the protection of all humankind.

It is my strong contention that the United States should not cave in to the demands of India, that we should stand firm and signal clearly to other countries of the world that there is substance to our nonproliferation policy.

I have reviewed the arguments of the Carter administration in favor of shipping fuel to India. They range from vague speculations about the need to placate India in light of the invasion of Afghanistan to unpersuasive legal arguments that India is exempt under the 1978 Nonproliferation Act, to an extraordinary argument that nonproliferation interests are actually advanced by shipping fuel to India. The one characteristic of all the State Department and Carter administration arguments is that they can be repeated again and again whenever a country wishes to be exempted from our nonproliferation requirements.

We are witnessing a backpedaling of President Carter's once strong belief in nuclear nonproliferation. It is the responsibility of the Congress to firmly draw the line with India and say "No" to nuclear cooperation with countries that do not agree to international safeguards and do not agree to renounce nuclear explosion programs. The State Department claims that the next time India detonates a nuclear bomb made with U.S. assistance, then we will stop cooperation. Does anyone really believe them?

And let us not forget that India may resolve this crisis by agreeing to modest international safeguards designed to protect all humanity. Until it does, our nuclear commerce with them should grind to a halt.

□ 1300

Mr. BINGHAM. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. I thank the gentleman for yielding and congratulate him for reporting out this resolution and for his superb leadership in promoting nonproliferation of nuclear weapons.

Mr. Chairman, I rise in strong support of the resolution.

Two years ago I led the fight in the House to deny nuclear shipments to India, and the gentleman from New York at that time, and the committee, felt we ought to give more time to negotiate with the Indians to try to persuade the Indians to adopt nuclear safeguards.

That effort has met with no success. Indeed, India has continued to refuse to subject its nuclear facilities to international safeguards or to sign the Nuclear Nonproliferation Treaty, or even to forswear use of these nuclear materials for further weapons explosions; Prime Minister Ghandi has said it will explode nuclear devices whenever it wishes.

It seems clear at this juncture if our nonproliferation efforts are to have any meaning whatsoever, if the credibility of the United States in a major foreign policy endeavor, perhaps the most important, the survival of the world, is to have any credibility, we simply must deny these shipments.

I think that is the real question, the credibility of our nonproliferation policies, and there is no question of credibility, as the opponents to this resolution assert, with respects to the United States being a reliable supplier of nuclear materials.

We have no obligation to be a reliable supplier to a nation that violated its agreements with the United States when it diverted heavy water to the making of a nuclear device.

We have no obligation to honor any agreement to supply nuclear fuel to a country that flouts international laws and refuses to subject itself to internationally agreed upon safeguards.

It is India that violated her agreements with us, not we who are violating any agreement by refusing to make these shipments.

Two years ago, when we considered this, the Nuclear Regulatory Commission was divided on this question. I believe only two members of the Nuclear Regulatory Commission had voted against the sale. This time we have a unanimous vote by the Nuclear Regulatory Commission that this sale ought not to proceed. At this time also we have a vote by both the House and the Senate committees that this sale should not proceed.

If our nonproliferation efforts are to mean anything, we simply have to deny this sale.

The arguments that are made on the other side by the administration are that we have to maintain our good relationship with India, but there is no indication whatsoever that India has been responsive to U.S. efforts to cooperate either in this field or any other.

India would not help us when the Russians invaded Afghanistan. They would not help us with the Iranian hostages. And India has shown no interest in negotiating with respect to nonproliferation of weapons. I think the administration's arguments about persuading India are just plain spurious. It is time that in our international negotiations that the United States showed a little guts and gumption and stood behind the principles we feel important. Otherwise we will never be believed.

I urge adoption of the resolution.

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York (Mr. GILMAN).

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support for House Concurrent Resolutions 367 and 368, disapproving the administration's proposed shipment of 38 tons of nuclear fuel to India and commend the gentleman from New York (Mr. BINGHAM) for bringing this issue to the floor of the House.

India exploded a nuclear device in 1974, reportedly from nuclear material supplied by the United States in a research reactor supplied by Canada, in violation of our agreement governing peaceful uses of transfers of heavy water nuclear material. Thereafter, Canada promptly terminated its nuclear cooperation with India. The United States sought to maintain its relationship in order to influence Indian adoption of a nuclear policy disavowing use of nuclear explosives.

When we adopted the Nuclear Nonproliferation Act of 1978 to control the spread of nuclear weapons, the Congress called for comprehensive international safeguards to regulate the use of nuclear fuel for energy production and research purposes. That act provided a 2-year grace period for nuclear supply agreements as a conciliatory step to encourage other nations, principally India, to adopt such safeguards. During that 2-year period, despite our patient diplomacy and congressional restraint, India failed to extend international safeguards to all its facilities and went so far as to renounce a pledge by former Prime Minister Desai not to conduct further nuclear explosive tests.

The issue before us is not the reliability of the United States, but India's willingness to rely upon and to abide by our Nuclear Nonproliferation Act of 1978.

Without assurances from India that it will renounce nuclear explosive testing in the future or submit all of its nuclear facilities to international safeguards, it is not proper, in my view, to approve any further shipments of low-enriched uranium for India's Tarapur Atomic Power Station and the export of replacement parts for this station.

If our commitment to curbing the spread of nuclear weapons is to have any credence in other nations of the world, we must not yield to the administration's pressure to make an exception for India. If such an exception were granted, it would certainly encourage other nations to seek special treatment, thereby further weakening the Nonproliferation Act.

As a member of the Committee on Foreign Affairs and a cosponsor of the resolutions of disapproval now before the House, I urge my colleagues to vote in favor of House Concurrent Resolutions 367 and 368 and, by so doing, to reaffirm America's commitment to prevent the proliferation of nuclear weapons.

Mr. BROOMFIELD. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. MCCLOSKEY).

Mr. McCLOSKEY. Mr. Chairman, I have listened to the debates. I have examined this issue over the past several weeks, as it has been pending, and I am impressed that this is an extremely close question. We have had distinguished Members on both sides speak for and against this resolution.

I would like to offer one addition to the debate. In close questions of foreign policy, it seems to me that the House should look to the basic constitutional principle that we have charged the President of the United States with conducting foreign policy, that foreign policy is not a matter which is susceptible to day-to-day congressional participation in changes in foreign policy because we may be concerned with the direction that that policy is taking.

Now it is, of course, true that in 1964 when we abandoned to the President the constitutional power of this body to declare war when we passed the Gulf of Tonkin resolution, that a President of the United States may have abused his trust in conducting a war which was not constitutionally declared, and we may have abdicated our own responsibility in continuing to fund that war through the successive appropriations bills that came before us.

But it seems to me that because of the Vietnam war under Lyndon Johnson and Richard Nixon, Watergate, and the demonstrated weaknesses of this past administration, that sometimes Congress has become too quick to enter into the conduct of foreign affairs. That is what makes this close question susceptible to examination. If it is a close question, and if we have a division in this body between respected, serious and experienced Members, should not this be a case where we leave the conduct of foreign affairs to the President and change that conduct in the election when we elect the President to conduct foreign policy as only he can conduct it from day to day.

Now, the closeness of the question, in my judgment, comes down to the arguments we have heard from previous Members as to whether the issue should be the reliability of the United States or whether some other principle is paramount.

I would not speak on this issue except that in February of this year I was privileged to go with five other Members to India and to Pakistan. This was the delegation headed by the gentleman from Wisconsin (Mr. OBEY). It included the gentleman from Texas (Mr. HIGHTOWER), the gentleman from New York (Mr. McHUGH), the gentleman from Washington (Mr. PRITCHARD), and the gentleman from Maine (Mr. EMERY).

We visited both Pakistan and India, if the Members will recall, in the wake of a U.S. mission sent by our administration, the Under Secretary of State Warren Christopher and Mr. Brzezinski, where Mr. Brzezinski went to the Khyber Pass and pointed a rifle in the direction of Pakistan and announced we were offering $400 million in military assistance to Pakistan. It is no wonder that may have caused some concern in India. India has fought three wars with the Pakistanis in the last 30 years, and they have fought one war with the Chinese. I am not so sure we should want to punish India for trying to develop weapons to use against the Pakistanis when, if the Members will recall, the Pakistanis are also attempting to develop atomic weapons and will not give assurances adequate to us that they are not developing atomic weapons.

When we visited Pakistan, for example, in February, after the Afghanistan invasion, we found that the 17 divisions in the Pakistan Army were lined up in the following order of battle: 16 of them were facing the Indians, and 1 was facing their long border with the Soviets.

☐ 1310

We became, I think, unanimously convinced in that congressional delegation that any military assistance to Pakistan would not necessarily be used against the Soviets or in assistance to the Afghan rebels, but would be used against India, where that lingering, festering sore still remains of that northern province of India, which is Islamic and which probably would like to go with Pakistan and which the Pakistanis would like to acquire and which, of course, is the potential source of a fourth war between the Indians and the Pakistanis.

Under those circumstances, it is not unreasonable for India to wish to have the kind of weaponry that can deter a Pakistani invasion, nor is it unreasonable, situated as they are between China and Pakistan, for the Indians to negotiate and deal with the Soviets in the acquisition of weapons.

The concept that somehow we should punish India under these circumstances seems to be somewhat of an extension of the concept that we in the United States are still the most powerful nation in the world and that we have the right to impose our rules, even though adopted only recently, on countries with whom we entered into contracts 17 years ago.

It seems to me that this borders on arrogance on the part of the United States. If we cannot effectively stop the flow of materials into India anyway; if the Indians are going to get these materials elsewhere and deal with others, then this arrogance may not be worthy of what we do here today.

I would suggest a vote against the resolution.

The CHAIRMAN pro tempore (Mr. FISHER). The time of the gentleman from California (Mr. McCLOSKEY) has expired.

Mr. McCORMACK. Mr. Chairman, I yield 2 additional minutes to the gentleman from California.

Mr. McCLOSKEY. Mr. Chairman, I yield to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, I think the point that the gentleman is raising about the normal deference of this body to the President to conduct the ordinary international affairs of the country is probably correct policy; but as we know, in 1978, we passed the Nuclear Nonproliferation Act to specifically do away with the problem that we had been confronted with over the years—that the United States had used the sale of nuclear materials, nuclear expertise, as a carrot to other countries to advance short-term diplomatic bilateral relations with other countries; so we were trying to substitute an overall international policy that would not be able to be gutted by short-term political objectives.

Mr. McCLOSKEY. If the gentleman will let me reclaim my time, and then I will yield back, I quite agree with the validity of that position; but I only point out this, that when we entered into a contract in 1963 for a 30-year supply of materials and then 15 years later we pass a new law in the Congress and we give a grace period to a nation which exceeds us in population, may exceed us, certainly exceeds us in importance on the Asian continent with whom we are dealing, and then we say to that country, "We give you 2 years. Either you abide by our new law or we refute the contract we entered into with you 14 years ago today," it seems to me that that is a little arrogant. I understand the gentleman's position and the policy behind the 1978 act.

Mr. MARKEY. Mr. Chairman, will the gentleman yield further?

Mr. McCLOSKEY. I would be glad to yield to the gentleman from Massachusetts.

Mr. MARKEY. What we did at the time we passed the Nuclear Nonproliferation Act was to establish a 2-year grace period that would give the State Department a period to enact agreements with countries such as India, so that they would be able to make it through the transition period.

At the time that the original contract was signed it was also stated that India would be subject to all applicable American law.

I think it is reasonable to assume that they could have anticipated that further sanctions would be placed upon these transactions in the future by the American Government. We did so; and in 1978 we gave the State Department a 2-year period to go through a transition period. The Indians have refused full scope safeguards, have refused to sign the Nuclear Nonproliferation Treaty and have specifically reserved the right to continue to experiment with the explosion of nuclear bombs.

The CHAIRMAN pro tempore. The time of the gentleman from California has again expired.

Mr. McCORMACK. Mr. Chairman, I yield 1 additional minute to the gentleman from California (Mr. McCLOSKEY), if the gentleman will share it with me.

Mr. McCLOSKEY. Yes. The gentleman from Massachusetts has made his point. It is precisely what the gentleman has stated.

The point that I challenge is whether or not a country like the United States should impose on a country like India the 2-year extension. That is the delicate, close question here. Should we give them perhaps 4 years under the current circumstances, rather than take this kind of action because they have not acted witin 2 years?

Now let me yield to the gentleman from Washington.

Mr. McCORMACK. I appreciate the gentleman's remarks. They are certainly quite wise.

I think the point we must understand is that we do have an existing treaty with the Indians. For us to point a gun at their heads and say, "Comply with our wishes or else, but now we will be nice to you, and give you 2 years to comply with our blackmail. To say to a sovereign nation, "We hereby demand that you yield to our wishes," is what the resolution is trying to do.

I appriciate the gentleman's point of view.

Mr. McCLOSKEY. If I may just add a single point, that India's lack of cooperation with us may be very much be due to the very administration we criticize here today, that Carter's zig-zagging policy of going over to Pakistan and threatening the Indians with aid to Pakistan could very well be the primary cause for India's recalcitrance.

Mr. BINGHAM. Mr. Chairman, I yield such time as he may require to the distingiushed chairman of the Committee on Foreign Affairs, the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of House Concurrent Resolutions 367 and 368. My decision in supporting this resolution is primarily based on India's past record.

In 1974, India misused U.S. materials and a Canadian research reactor in order to build and explode a nuclear device. Never before had a nuclear cooperating partner of this country defied its contractual pledge to use U.S. nuclear material solely for peaceful purposes.

The ramifications of that event were widespread. It shattered the prospect for greater regional tranquility. It stimulated a destabilizing nuclear arms race on the subcontinent. And it profoundly marred a nearly 20-year history of faithful, and up to that point nearly unquestioning, U.S. nuclear assistance. In short, U.S. supply to India was as "reliable" as any supply could possibly be until India herself, by exploding a nuclear device, called into question the fundamental premises upon which that supply had always been believed to be based

Rather than immediately curtailing nuclear cooperation in response to this unprecedented event, the United States sought to continue supply in order to further a dialog aimed specifically at gaining India's acceptance for comprehensive safeguards. This effort, though worthy in concept, proved unproductive in practice, despite the unstinting, dedicated, and imaginative efforts of the Carter administration and of those officials charged with the implementation of the U.S. nonproliferation policy.

Now, Mr. Chairman, some have suggested that the effort to disapprove Indian nuclear fuel shipments is based on a misguided and inherently inflexible approach to nonproliferation. This is just not the case. Throughout the course of its dealings on the Indian issue and on a broad variety of other proliferation matters, the Congress and the Committee on Foreign Affairs have exhibited patience and flexibility.

For example, we have permitted important retransfers of U.S. nuclear material to go forward in the hope of building better cooperation among supplier and recipient states. We have lifted nuclear fuel ceilings to enable countries to plan their uranium needs with greater confidence. We have allowed EURATOM an extension of time in order to renegotiate its agreement with the United States without undue pressure.

□ 1320

Finally we fought hard to win approval for the earlier contested Indian export as a demonstration of good faith.

There comes a point, however, at which

further accommodation is perceived as a sign of weakness rather than strength; when the requirements of security and principle outdistance those of reliable supply; and when painful action must be taken, not out of spite—we are not punishing India; I believe India punished itself—but we must take this action to avert larger and more dangerous consequences on down the road. It is a necessary issue that we must meet head-on. We are at such a point today.

The plain and simple facts of the matter are these: If the Congress, which has been in the forefront of the proliferation effort, were to give way to India others would question when, if ever, we are prepared to draw the line. If India, the only country ever to misuse U.S. nuclear material, were to go completely unchallenged, other countries would conclude that the international cost of proliferating was not merely low but virtually nonexistent. If other important countries see that the United States will not enforce its comprehensive safeguards law in the case of India, they may wonder why they should not seek a similar form of special treatment for themselves. If other supplier states see we are unprepared to put security and safeguards ahead of supply in our dealings with India, they may ask why the United States expects them to do just that very thing in their dealings with countries with whom we are concerned.

This, then, is why the signal we send today is of such importance. I personally think we are helping the administration in this effort because the administration can point out to India that under our system there is the executive branch and the legislative branch, and the legislative branch is firm in this decision and that India should therefore recognize that there is a limit to our patience and flexibility.

Mr. Chairman, speaking for myself, at least, I would have preferred to see the Congress and the executive branch reach agreement on a compromise that would have upheld the safeguard principles while allowing both branches to speak as one on this sensitive issue. A compromise indeed was proposed by the gentleman from Wisconsin to the executive branch. But for a variety of reasons, and particularly because of the complexity of the issues, this did not prove possible.

In saying this I do not fault the administration, whose task in this matter is, indeed, a most thankless and difficult one, and least of all do I fault the President, whose commitment to nonproliferation set an example for all of us to follow.

Lacking a compromise, therefore, at this point I submit we have no alternative but to disapprove the sale of nuclear fuels and, therefore, I urge an aye vote on the pending resolution.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I am happy to yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding and would like to congratulate him for an excellent statement.

I just recalled that there was a very parallel situation about 2 or 3 years ago in which we had a contract with India for then the supply of Rhesus monkeys for our research. There was a clause in that contract that said if we used these monkeys for development of weaponry that the contract would be canceled. The Indians discovered that, in fact, we were using some of these monkeys for weaponry development and they immediately cut off our supply of monkeys.

So I would like to suggest that the monkey is on the other back at this point and they can hardly complain in a much more important situation if we take parallel steps in this case.

Mr. ZABLOCKI. I thank the gentleman for his observation. It may be a similar situation as far as keeping a contract with a supplier, but I would not compare the example of the monkeys to the more far reaching question of protecting the security of U.S. nuclear exports.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I am glad to yield to the gentleman from New York.

Mr. WOLFF. I thank the gentleman for yielding. I am somewhat disturbed that this whole debate is taking the turn of coming down upon India per se. I do not think that we should be doing that. This is not directed at India, as I indicated in my earlier remarks. This is directed at the question of whether or not we have an overall nuclear nonproliferation policy.

I think it is unfortunate that criticism has been leveled specifically at India because there are many other countries that we are concerned about today and concerned with their policies for the future.

This is to insure that this policy of nuclear nonproliferation continues. I think that we as Members of this body are responsible enough to make that assertion and to see to it that it is not misunderstood in India. We have just concluded agreement and several other agreements are in the negotiating process with India to keep our relationships on a high plain, as I think they should be.

Mr. ZABLOCKI. I agree with the gentleman, that this action is aimed at any country that would choose not to comply with the safeguards requirement of U.S. law and, therefore, could not expect continuation of a supply of nuclear fuel from the United States.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I am glad to yield to the gentleman.

Mr. MARKEY. I think it is important to keep in mind that we are trying to keep, in fact, an overall, comprehensive nonproliferation policy. But I think at the same time it is also important to realize why we are here.

The reason for the talks upon which the Nonproliferation Act of 1978 were based were generated from the explosion of the Indian device in 1974. It was because they, the only country to date that has diverted nuclear materials for civilian purposes into military nuclear purposes that we had to pass this act and gave us the reason for doing it.

It is interesting to note although our relationships with Pakistan are strained again because of their efforts to gain a nuclear capacity, it is interesting to note in the immediate aftermath of that May 18, 1974, explosion in India that Prime Minister Bhutto of Pakistan announced that if India was going to build a nuclear arsenal then "We will eat leaves and grass, even go hungry, but we will get one of our own."

Their quest for nuclear weapons began in the immediate aftermath with the attempt of the purchase of reprocessing capacity from France, even though Pakistan had no use for that particular facility. I think it is important for us to understand that India is setting the example for the rest of the world, that not just Pakistan but all other countries seeking to gain the same kind of nuclear capacity are going to be pointing out if we make the exception in this case. I thank the gentleman for yielding.

Mr. ZABLOCKI. I thank the gentleman for his observation. He has identified a specific development which I referred to generally when speaking of the ramifications of the Indian explosion—ramifications that, indeed, contributed to the destabilization of the region. Immediately after the Indian explosion, Pakistan announced it would attempt to develop a nuclear bomb.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I am delighted to yield to the gentleman from Washington (Mr. McCormack) with whom I rarely disagree, but on this issue we have a difference of opinion.

Mr. McCORMACK. I thank the chairman for yielding. I want to express my great respect for him and his position.

However, there are a couple of points that I should like to discuss briefly with him. The gentleman has said never before has a nation violated an agreement with the United States regarding the use of nuclear materials. In view of the fact that France is not a signer of the Nuclear Nonproliferation Treaty and is making nuclear weapons and carrying out a vast panoply of secret nuclear research and that there is every likelihood that Israel, in its secret research facilities, nuclear facilities where they do not allow IEA inspection, and they are not being signatories to the nonproliferation treaty; and in South Africa where there is great suspicion they have already detonated a nuclear weapon, along with Pakistan's project now to build a reprocessing plant, along with Brazil and Argentina's plans to build reprocessing plants, would the gentleman say it is true India is the only nation that has violated this relationship?

☐ 1330

Mr. ZABLOCKI. I still stand by my statement. India is the only case where we have firm evidence that U.S. material was used to make a nuclear explosive. In other cases, like South Africa, we are not now supplying nuclear fuel.

Mr. McCORMACK. I beg the gentleman's pardon?

Mr. ZABLOCKI. We are not now supplying the nuclear fuel.

Mr. McCORMACK. All right, we have supplied a vast array of nuclear materials to every one of these nations.

Mr. ZABLOCKI. But France, for example, is recognized as a weapons state by other signatories to the treaty. In other cases, we insist on an agreement that nuclear supplies be used for peaceful purposes.

Mr. McCORMACK. Precisely.

Mr. ZABLOCKI. We have no confirmed evidence, that in the countries the gentleman has enumerated, that U.S. nuclear equipment or materials were used for military purposes.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding. Just to add to what the chairman has said, of course, at the present time we have no nuclear cooperative relationship with Israel or South Africa. We do not supply them with any nuclear materials. With regard to France, France has always been in a special category because France was a nuclear power from the beginning. At the time the Nuclear Nonproliferation Treaty was passed, France was a nuclear power, and there was no question of proliferation as far as France was concerned. Each country is in a different category, but the chairman's statement still stands that this is the only case of a major violation of an agreement with the United States.

Mr. McCORMACK. Will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Washington.

Mr. McCORMACK. I thank the gentleman for yielding. I would like to point out to the chairman that in the 1960's the United States advocated the peaceful use of nuclear explosives. It is written up in the international nonproliferation treaty that any nation may proceed with peaceful atomic explosives, and the United States itself detonated publicly nuclear explosives in Nevada and invited the whole world to come and witness this public demonstration of the peaceful use of a nuclear explosive. A short time later India did the same thing. India claimed exactly as the United States claimed that this was for peaceful purposes, and everyone knows that the explosive they used could not be used as a weapon. It was a complicated explosive. It was not weapons deliverable.

Mr. ZABLOCKI. Does the gentleman from Washington (Mr. McCormack) really believe that India exploded a peaceful bomb?

Mr. McCORMACK. It was exactly the same.

Mr. ZABLOCKI. The gentleman is an expert in this field. I defer to his judgment. But I do not think it is accurate to say that the bomb exploded in India was for peaceful purposes.

Mr. McCORMACK. I could not see inside the minds of the people of the Government of India at that time any more than the gentleman in the well. Maybe he can see better than I. But I was greatly disturbed when this explosion was made.

Mr. ZABLOCKI. What has changed the gentleman s concern?

Mr. McCORMACK. I am still concerned that anybody is detonating nuclear explosives anywhere in the world. But I want to point out to the gentleman that the actions by the Indians were totally in accordance with the Nuclear Nonproliferation Treaty which allowed the peaceful use of nuclear explosives, and that we had advocated this. We may not like the fact that India did it because we thought this was disturbing on an international level, but it seems strange to me that we come here now all these years later and say to India that we are going to cut off your nuclear energy program because you are imitating us.

Mr. ZABLOCKI. The U.S. explosion to which the gentleman refers was announced in advance, and was observed by other nations. The Indian explosion was done secretly. They invited nobody. They did not announce that they planned any kind of an explosion let alone "a peaceful explosion." So one does not have to understand what was in their mind; our concern is with the consequences of their action.

Mr. BINGHAM. Will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding. There was also the fact that before the explosion we had a suspicion of what was going on. We warned the Indians that we did not share their interpretation that this would be a peaceful nuclear explosion.

Mr. ZABLOCKI. And India did not invite any other nation to observe the explosion.

Mr. BINGHAM. That is right.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from New York.

Mr. WOLFF. I thank the gentleman for yielding. This discussion reminds me of past arguments—that we have to destroy a town to save it. We come back to the question, what is a peaceful nuclear explosion? I would like to take this time to ask the gentleman whether or not he believes we should repeal the Glenn amendment and the Symington amendment at this point.

Mr. ZABLOCKI. I yield to the gentleman from Washington (Mr. McCormack) to respond to the gentleman from New York.

Mr. McCORMACK. I am not quite up to speed on terminology. Would the gentleman be more specific?

Mr. WOLFF. The Glenn/Symington amendment to the Foreign Assistance Act prohibits providing economic or military assistance, military training or credits to countries which do not comply with the Nonproliferation Treaty's requirements: Specifically that nuclear materials, equipment, et cetera be under international auspices; and the safeguard system of the International Atomic Energy Agency (IAEA) be utilized.

Rather we are calling a halt to continued resupply to the Government of India as a result of nonconformance. The fact is that we are not in any manner, shape, or form cutting off India's ability to produce nuclear energy in any way at all. We are not. They have many more plants in addition to Tarapur. They are getting supplies from the Soviet Union and other places. We are not the sole supplier to the Indian Government today. What we are saying is that we do not want to continue to exacerbate a situation which is against our policy of nonproliferation.

Mr. McCORMACK. If the gentleman will yield, I will answer the question the gentleman asked me.

Mr. BINGHAM. I must reclaim my time because my time has just about expired, and I wish to explain the procedure that will follow the vote.

Mr. ZABLOCKI. If I could just take 30 seconds to conclude, I think we have but one decision here, as I said before. We have no other alternative. Either we should repeal the Nuclear Nonproliferation Act or show that we mean it and deny the sale of nuclear fuel to India at this time.

Mr. BINGHAM. I thank the Chairman for his comments.

The CHAIRMAN. The time of the gentleman has expired.

The Chair announces that the gentleman from New York (Mr. Bingham) has 30 seconds remaining; the gentleman from Michigan (Mr. Broomfield) has 29 minutes; the gentleman from Washington (Mr. McCormack) has 5 minutes.

Does the gentleman from New York desire recognition?

Mr. BINGHAM. May I reserve my seconds until later?

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. Broomfield).

Mr. BROOMFIELD. Mr. Chairman, I yield 4 minutes to the gentlewoman from New Jersey (Mrs. Fenwick).

Mrs. FENWICK. I thank my colleague for yielding. We have heard a great deal of most interesting and informative and serious and responsible talk, but I think somehow we seem to be missing something much more serious. India is a great and sovereign nation, and nobody pretends that what we do today is in the spirit of punishing such a nation, the greatest democracy in the world. That is not the point at all. It is fortunate that we are involved here with such a great and powerful nation, so that there is no mistake about what we are doing. We are not picking on some small country that has little standing in the family of nations. We are trying to cling to a principle which should fall, like mercy, on the just and unjust alike, on the large and the small, the powerful and the not so powerful. The principle is that this world, this planet, cannot afford the proliferation of nuclear explosions. That is what we are trying to say. We are trying to say that when we passed a law in this country against it that we meant it, that we were not playing games, that we were not going to bow every time we became involved with a great and powerful nation, but that we were going to apply it wherever it fell.

□ 1340

That, it seems to me, is the crux of what we are doing. We are trying to say, "Yes, we really mean it; yes, we think nuclear explosions and nuclear war are a danger to us all and we are going to try to spare the world from the effect of these things." That is what we are trying to say and it is fortunate we are involved, as I say, with such a country as India.

What are the other less large and less powerful nations going to think? That we have bowed because we think that India is too big to apply principles to? Justice has to be done. Nations have to stick to what they consider to be their duty and responsibility to the world.

Mr. MARKEY. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman.

Mr. MARKEY. Mr. Chairman, I wish to compliment the gentlewoman on her statement. I think the gentlewoman has hit the main issue here. I think it is unfortunate the track some of this debate has taken. It would appear to be punishment of India. That is certainly not the intent. I am sure I speak for many of the sponsors of this resolution. The basic thing is the principle involved and how that is going to be perceived by other nations throughout the world. That is what we are talking about today. It is the question of whether we are going to stand for principle as far as the Nuclear Nonproliferation Act is concerned. I thank the gentlewoman for a fine statement.

Mrs. FENWICK. Mr. Chairman, I would like to add one last word. I think the people of this country are tired of games, of people making great high blown promises and statements that they never intend to live up to. I think the people of the world are tired of that, also.

Mr. MARKEY. If the gentlewoman will yield for one brief moment, I believe the gentlewoman has really made the critical point which brings us back to what we are talking about and that is the limitation on this threat of nuclear armaments around the world.

As we sit here and debate the question, I think we really see the lunacy which underlines our debate here. We debate whether bombs are peaceful or military as they are exploding around the world. George Orwell somewhere is smiling as he listens to this debate as to whether we should allow countries to have peaceful bombs or not. We saw the effect it had on Pakistan. If we blow another hole into the act in addition to other exceptions to rules that are established, then I think we will relinquish forever our ability to really control the spread of nuclear weapons.

In the early 1970's, we passed the War Powers Act to limit the President's ability to commit us to war. In 1978, we passed the Nuclear Nonproliferation Act, because we understood the long-term consequences that the spread of nuclear bombs had on world security.

Mr. Chairman, I compliment the gentlewoman upon her statement. I think it is the most eloquent one made today.

Mrs. FENWICK. Mr. Chairman, I thank my colleague.

Mr. BROOMFIELD. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. QUAYLE).

Mr. QUAYLE. Mr. Chairman, I rise in support of the resolutions of disapproval against the shipment of uranium fuel to India. If the United States went ahead with the shipment it would be violating the spirit, if not the law, of the Nonproliferation Treaty which we signed in 1968 and the Nonproliferation Act which this Congress passed 10 years later.

Shipment of the fuel would indicate that the United States chooses to undermine its own announced policy of defusing nuclear proliferation—to subordinate a long-term goal for temporary diplomatic and geopolitical concerns. India still refuses to sign the Nonproliferation Treaty which the United States holds as the base for its own nonproliferation policy.

Furthermore, if India is exempted and receives this American shipment of uranium fuel, then other nations—nations that are on the brink of developing weapons-grade capabilities like Argentina, Brazil, and South Korea—are bound to ask justifiably for equal treatment under U.S. nuclear exporting policies.

Thus, I urge my colleagues to support the overwhelming decision made by the Foreign Affairs Committee to disapprove the administration's decision to proceed with the shipment of 38 tons of nuclear fuel to India.

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. GOLDWATER).

Mr. McCORMACK. Mr. Chairman, I also will yield to the gentleman from California 1 minute.

The CHAIRMAN. The gentleman from California is recognized for a total of 3 minutes.

Mr. GOLDWATER. Mr. Chairman. I rise and urge a no vote on this resolution. I think the question here is one of credibility, credibility of the United States, credibility on whether we are going to honor contracts we made with nations around the world. That is the question here.

The other question of credibility is one dealing strictly with nuclear energy, and I would suggest to you that with the bringing on of the Nuclear Nonproliferation Act and this current administration, that we no longer have any credibility in the area of nuclear energy or nuclear power or nuclear technology.

Back in the fifties under the atoms for peace program, we promoted and exported our technology and we gave the world assurance that we would be a supplier, that we would be a partner in the development of nuclear energy.

Along comes the current administration and we do a 180 degree turn and, as a result, assurance and dependability is replaced with uncertainty and lack of confidence. In our efforts to curb nuclear power and the nuclear bomb, we, in essence, have driven other nations to develop their own nuclear technology and that is precisely what India is trying to do.

We will further drive India and other nations along if we do not abide by and live up to the contract that was signed and negotiated in 1963.

In my opinion, India has not violated the agreements of 1963, but I concede it is questionable. Lawyers and diplomats will debate whether, in fact, they violated the intent or the purpose of their agreements with the United States. The point that has to be made here is that the credibility of the United States is on the line. The United States has interests in contracts of all types. If it is going to live up to its contracts, it should not change its point of view, terms or conditions in the middle of the stream.

A breach of contract, in my opinion, will further erode our reputation as a great nation and, our clout and ability to influence the proliferation of nuclear energy or nuclear weapons. If we eject ourselves from the system by denying and cancelling contracts, we are saying to the rest of the world, "Go on your own, develop your own technology, we will no longer give you any kind of assistance." In essence, what we are saying to the rest of the world is that we will no longer have any control or any influence by cancelling this particular contract. In my opinion, failure will certainly undermine the Nonproliferation Treaty.

Mr. McCORMACK. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, as I said in my first sentence when we started this debate, this is a subject on which there is a colossal amount of confusion, overlaid with all too much emotionalism. The arguments we have heard here today confirm this assessment. A prime example of this is the statement in justification of the resolution of disapproval, that we should cut off India's energy program in 1980 because India demonstrated a nuclear explosive in 1974, notwithstanding that India was imitating the U.S. peaceful nuclear explosion, the Sedan program of July 6, 1962, and that India was in full compliance with international law.

Now, I think it is important for us to remember exactly what the issue is before us. The issue is whether the United States should unilaterally and arrogantly break its contract with India, by overruling the President's decision to ship low enriched uranium for India's Tarapur nuclear powerplants.

The reasons why we should or should not break the contract should logically be based upon our decision as to whether it will further our nonproliferation goals, or whether it will endanger them. The President and the State Department believe that breaching our contract will do great harm to our nonproliferation goals and have, therefore, decided to approve the shipment. If one examines the issue without emotionalism, I firmly believe that one can reach no other decision but to agree with the President.

The Tarapur reactor and the nuclear fuel that we send to India will be under International Atomic Energy Agency safeguards control. The Indians cannot do anything with the spent fuel without our permission, unless we now breach the agreement. If we decide to do so, then India may remove international safeguards control and may utilize the 200 tons of spent fuel that they have accumulated for any purpose that they desire. Additionally, it must be remembered that any decision not to live up to our contract and not send the uranium to India will not mean that India will do without. It simply means that India will turn to a number of other possible suppliers who have fewer strings associated with their supply agreements, including the Soviet Union.

It has been said that the resolution of disapproval is not directed at India, per se, but is consistent with our foreign policy approach. This is nonsense. If consistency is our rationale, then we should also enact the same sort of restrictions against a half dozen or a dozen other countries in the world. This is directed at India, partially because India is politically associated with the U.S.S.R., partially because it is good propaganda here in the United States. However, it should be remembered that we are not going to harm India if we pass this resolution. As the gentleman from New York (Mr. WOLFF) said, they will get their fuel. Except for Tarapur, their nuclear powerplants utilize natural uranium for fuel, and that is being provided from indigenous resources. However, they will have to rely on enriched fuel sources for Tarapur.

□ 1350

They will get their fuel for the Tarapur plants, and they will draw closer to the Russians, because it is almost certain that they will get it from the Russians. We will be critically damaging ourselves and our reputation by these circumstances.

I was particularly distressed over the Indian explosion of 1974 and I would like to prevent any further explosions. That is why we must not cut our agreement with India on the basis of an unclear legal position with respect to the Nonproliferation Act.

If the United States wishes to retain its leadership in preventing the further spread of nuclear weapons during the 1980's and beyond, it will have to do so largely by influence and not by unilateral dictate. The era is gone, if indeed it ever was, when the United States could tell other countries what they could and could not do with nuclear energy, what fuels they might or might not use, and what facilities they were permitted by Washington to build. What Congress does about the pending exports to India can greatly affect that influence, by showing whether the United States will be seen as reasonable and patient in its determined pursuit of its nonproliferation goals, or whether it will be seen as petty and legalistic in its decisions, preoccupied more with the procedures rather than the substance of its policies.

The pending exports mark the first test of U.S. nonproliferation policy since the conclusion of the U.S.-inspired international nuclear fuel cycle evaluation last February. In responding to that test, I propose that Congress turn this case to the advantage of U.S. nonproliferation goals by permitting the shipments to go to India coupled with a clear understanding with the administration that during the interim, until India's next fuel exports come before the NRC, it will try some new, positive approaches to get India to move closer toward the goal of full-scope safeguards, which is the element of U.S. policy that has brought these exports before Congress, and to prepare for orderly termination of our cooperation if that becomes necessary.

As I said before, all of our friends across the world are cringing in apprehension that we will take this foolish step, and all of our adversaries are anxiously hoping that we will. Only the United States will lose. It is the silliest thing in the world to pretend that we are punishing India. It is like sticking our hand into a meat grinder and saying, "See?" That is just exactly what it amounts to.

If we continue to isolate ourselves, make ourselves look foolish, make ourselves look untrustworthy, if we want to do that, just go ahead and vote for this resolution.

I have been asked, would I repeal the Glenn amendment and the Symington amendment? I did not get a chance to answer that before, but my answer would have been that I would not repeal them. We are living in a totally different world now from when the United States was advocating the peaceful use of nuclear explosives. We have changed our position on this, and so has the rest of the world.

Now, it is preposterous for us to go back into history and pretend that we can read the minds of the Government leaders of India several governments ago, and know exactly what they really did intend. What arrogance it is for us to pretend that we know what they were thinking so long ago, and then try to punish today's Government of India. What hypocrisy.

Now, it is important for us to remember that we are not talking about weapons proliferation here at all. This debate has absolutely nothing to do with weapons proliferation. There are three dozen nations in this world that can make nuclear weapons today, and the facilities required would be cheaper than building one single nuclear plant. It can be done in half the time and at 5 to 10 percent of the cost without any help from us, without any information from us, without any permission from us.

Mr. Chairman, I urge a "no" vote on these resolutions for the sake of the people of the United States.

Mr. BROOMFIELD. Mr. Chairman, I would yield 5 minutes to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of resolutions 367 and 368. The President's decision to go ahead with the sale of nuclear material to India in spite of the unanimous action of the NRC (Nuclear Regulatory Commission) contradicts his own earlier position against nuclear proliferation. It also is in sharp contrast to his criticism of the previous administration during the 1976 campaign.

In one speech he made in San Diego during that campaign, Carter described the Ford administration policy as simply a diplomatic tool for selling atomic fuels. He charged, "When we look for evidence of our purported policy of support for nonproliferation objectives, we find only the faint footprints of secret diplomacy and official acquiescence to the nuclear industry, we have failed miserably, and that before the Nonproliferation Act of 1978.

Now, this same individual, having been elected with supposed strongly nonproliferation credentials, is trying to fuel the fires of atomic explosions by a country that has refused to renounce development of nuclear explosives, and that after the 1978 act.

On two recent occasions, Prime Minister Indira Gandhi has reaffirmed her nation's commitment to developing atomic energy and that those developments do not preclude nuclear explosions which would be carried on in the national interest. Mrs. Gandhi at least is honest enough to say so.

Moreover, India threatens to remove existing safeguards from nuclear energy facilities if the United States fails to deliver the 38 tons of nuclear fuel it has ordered. If India is so ready to blackmail the United States into submission now, there is plenty of reason to believe that India would be just as willing to try to blackmail the United States in 1993, when the current nuclear fuel supply agreement ends. At that time, if India were to threaten to divert spent nuclear fuel to nuclear explosives, that nation would have a great deal more spent fuel to use to blackmail us with.

Some say we should not resort to foreign policy considerations in support of our efforts to block the sale. That might be OK, but it is a foreign policy issue and, also, the administration and State Department strongly uses foreign policy arguments in support of the sale.

I find unconvincing those arguments based on foreign policy objectives as reasons for going ahead with the sale. Not only has India completed a multibillion dollar arms sale with the Soviet Union, it also has reportedly reached agreement with Iran to circumvent our economic embargo on that country. It seems to me we have little influence left to lose with India, and, even more important, a great deal more to gain in the eyes of the other nations of the world regarding our commitment to nuclear nonproliferation.

Since India has shown little interest in adopting full-scope safeguards for all its nuclear facilities, it seems unlikely that by allowing the sale of this nuclear fuel to go forward there will be any advantage gained to get greater Indian cooperation for such safeguards. By blocking the sale, the United States may very well improve its positon in seeking adherence to full-scope safeguards by those nations who do not already apply them.

Blocking the sale would also serve to discourage other nations from seeking exceptions to our nuclear nonproliferation policy and should prevent complaints that the United States offers discriminatory treatment in favor of countries that have not ratified the Nuclear Nonproliferation Treaty.

The United States is engaged in a series of negotiations with some 20 countries on bilateral nuclear cooperation. If we are to have any success in promoting the objectives of nuclear nonproliferation, then we must present a consistent, coherent policy. Approving the sale of nuclear fuel to India makes no sense when you consider the importance of America's overall objective of preventing the development and spread of nuclear explosives.

I urge my colleagues to support these resolutions and provide a clear message of America's commitment to nuclear nonproliferation.

Mr. Chairman, I include at this point three editorials from the Los Angeles Times on this subject:

[From the Los Angeles Times, May 1980]

FOR CARTER, A NUCLEAR HEADACHE

The U.S. Nuclear Regulatory Commission, by voting unanimously against granting two licenses for export of nuclear fuel to India, has created a king-sized headache for President Carter—and an opportunity for Congress.

The Nuclear Nonproliferation Act of 1978 bars the shipment of nuclear materials to any country refusing to accept the application of international safeguards to prevent the covert development or manufacture of atomic weapons.

India consistently refuses to make such a commitment. Prime Minister Indira Gandhi also won't promise that her government will not set off more "peaceful" nuclear explosions—the term that was used to describe the 1974 test blast that is widely regarded as having been military in purpose.

The State Department nonetheless urged the commission to approve the nuclear-fuel shipments, and warned that the President would use his authority to override any contrary decision.

Since then, however, Edmund S. Muskie has taken over as secretary of state, and has decided to involve himself personally in the issue. It's conceivable, therefore, that the Administration will change its mind and accept the NRC decision. But, in the end, Carter, who has become persuaded that the United States cannot risk a serious quarrel with India in the wake of the Soviet drive into Afghanistan, probably will use his authority to go ahead with the transaction.

Under terms of the 1978 law, his decision in that event will be final unless Congress votes within 60 days to overturn it. Normally Congress would be disposed to accept the President's judgment in such a case. However, Senate Democratic leader Byrd has made it plain that the Indian transaction will receive unusually close scrutiny. Certainly it should.

The proposed sale to India is a perfect example of what the 1978 antiproliferation law was designed to prevent. If the United States chooses to look the other way in the case of India—which has already tested a nuclear device and refuses to accept international safeguards—how can it enforce the nonproliferation act against anybody else?

It's probably true that enforcing the law against India might have adverse effects on U.S.-Indian relations, and on the American position in South Asia. But the virtual destruction of the U.S. nonproliferation program should not be taken lightly, either.

As Commissioner Victor Gilinsky said in his written opinion, a decision to exempt India from the central provision of the Nuclear Nonproliferation Act should not be made "without a full understanding of the price we may be forced to pay."

That price could be a world in which every confrontation of regional powers carries the danger of nuclear catastrophe for everybody.

Congress owes it to the American people—and to future generations everywhere—to make sure that the dangers that would be posed by withholding the nuclear fuel from India are really greater than the dangers of neutering the nonproliferation act.

[From the Los Angeles Times, June 22, 1980]

A COLLAPSE OF NUCLEAR WILL

President Carter's decision to go ahead with a controversial sale of nuclear reactor fuel to India was a mistake. Congress should now rectify that mistake by voting to override the President.

The facts of the case are clear.

Under terms of the 1978 Nuclear Nonproliferation Act, which is intended to prevent the diversion of "peaceful" nuclear materials into the development or manufacture of atomic bombs, countries that refuse to accept international inspection of all their nuclear facilities are ineligible to buy reactor fuel from the United States.

India, although willing to allow international inspection of the Tarapur reactor that actually uses the U.S.-supplied fuel, has flatly refused to accept full safeguards. The New Delhi government, which exploded a nuclear device in 1974, will not even make a formal pledge not to conduct similar "experiments" in the future.

The U.S. Nuclear Regulatory Commission, in light of the record and the law, unanimously refused in May to approve export licenses for the proposed new shipment of 38 tons of reactor fuel for the Tarapur reactor.

The President, using his authority under the 1978 law, proposes to go ahead with the sale anyway. But that decision can be overturned by a simple majority vote of both houses within 60 days, and that vote would not be subject to presidential veto.

The Administration, in proposing to go through with the shipment, offered several reasons—none persuasive.

The first is a legalistic argument, already rejected by the nuclear commission, that the 1978 law does not cover the sale to India because the order was placed before expiration of a statutory grace period.

The Administration also is concerned that, if the shipment were blocked, India might carry out threats to go ahead with the reprocessing of spent reactor fuel already in its possession to separate up to 1,000 kilograms of plutonium.

Although the Indians don't say so, the plutonium could be used to make nuclear weapons.

The United States, as a self-respecting country, obviously should not submit to crude blackmail of that sort.

The White House worries that the Indians, if denied a resupply of American fuel for the Tarapur reactor, might turn to the Soviet Union.

As Prof. Henry Rowen of Stanford University testified last week, the U.S. government should not be intimidated by that prospect, either. The Russians, after all, have a very strong nonproliferation program of their own; they require, for example, the return of spent fuel from their customers.

The President's main rationale, however, is that, in view of the delicate situation in South Asia created by the Soviet invasion of Afghanistan, this is not the time to provoke trouble with India.

One answer is that past deliveries of nuclear fuel have not made India a very helpful partner—especially during times when India has been under the leadership of Prime Minister Indira Gandhi—and there is no reason to believe that a new shipment will have any more effect.

By approving the nuclear sale to India, in fact, Washington seems to be rewarding a government that has been very half-hearted in its criticism of the Soviet invasion of Afghanistan.

The most serious objection of all to Carter's decision, however, is the grave damage that it would do to the whole U.S. attempt to prevent or discourage the spread of nuclear weapons around the world.

If the United States cannot enforce the nonproliferation law against India—which is in flat, unambiguous violation—how can it credibly exert pressure on Pakistan or any other country not to go ahead with suspect nuclear programs of its own?

Carter, despite his claims to the contrary, is proposing to sacrifice the credibility of this country's whole antiproliferation program for the sake of dubious, relatively short-term political considerations.

That is a potentially tragic mistake. Granted, the antiproliferation program has suffered some setbacks, anyway. But the effective abandonment of efforts to restrain the spread of nuclear weapons poses a far greater danger to world peace than does Gandhi's hurt feelings.

[From the Los Angeles Times, Sept. 12, 1980]

REWARDING INDIA FOR NONCOOPERATION

The Carter Administration, stunned by House and Senate committee decisions to block a proposed sale of nuclear fuel to India, is lobbying vigorously to have the committee actions reversed on the floor of one house or the other. This is a fight that we hope the Administration loses.

The White House proposes to ship 38 tons of enriched uranium fuel to India for use in Tarapur atomic power station. The transaction was disapproved by the Nuclear Regulatory Commission for the very good reason that it would violate the clear intent of the Nuclear Nonproliferation Act of 1978.

That law prohibits the transfer of nuclear materials to nations that not do accept international inspection of all their atomic facilities to prevent a diversion into nuclear bomb-making.

India exploded a nuclear device in 1974, using American and Canadian materials in violation of supply agreements with both nations. To this day, the government of Indira Gandhi refuses either to accept international inspection or to promise that more nuclear devices won't be exploded. India is also among the holdouts that have never signed the multinational Nonproliferation Treaty of 1970, aimed at preventing the spread of nuclear weapons.

President Carter used the authority provided by the 1978 antiproliferation law to override the regulatory commission's finding. But his decision in turn can be overridden by a vote of both houses. The deadline for such a congressional veto is Sept. 27.

The State Department argues that, especially in the wake of the Soviet invasion of Afghanistan, the United States shouldn't be in the business of irritating India and possibly nudging that country into an even chummier relationship with the Soviet Union.

This is an appealing argument as far as it goes. But it overlooks the fact that rewarding India for its flat refusal to accept international safeguards could have even worse consequences.

Such action might, to begin with, virtually eliminate any prospect of dissuading Pakistan from pursuing its own nuclear bomb-making program. Even more important, it would deal a heavy blow to the credibility of the Administration's entire antiproliferation effort.

If the United States is prepared to overlook

> India's calculated noncooperation with the nonproliferation effort, other countries are justified in assuming that they can get away with the same sort of behavior without suffering any serious consequences.
>
> We urge the House and Senate to back their committees and pass resolutions disapproving of the nuclear fuel deliveries.

Mr. PORTER. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Illinois.

Mr. PORTER. Mr. Chairman, the Nuclear Nonproliferation Act of 1977, adopted by the 95th Congress, established definitive guidelines regarding U.S. nuclear export policy. President Carter pushed this legislation and signed it into law and, in fact, had made nonproliferation a key issue in his 1976 election campaign.

Yet here we are, Mr. Chairman, with this same President intending to proceed with the sale of 38 tons of enriched uranium to India, despite a unanimous rejection of this transaction by the Nuclear Regulatory Commission on May 16, 1980.

President Carter has defended his position by declaring:

> These exports will help us maintain a dialogue with India in which we try to narrow our differences on these issues.

But this "buying time" argument holds little weight since Prime Minister Indira Gandhi has already declared her intention to pursue an independent nuclear policy. Moreover, other diplomatic avenues exist upon which the United States can seek to improve our relations. Nuclear fuel sales should not be one of these channels.

Another common argument, voiced by the State Department, is that the United States can no longer prevent other countries from acquiring nuclear capabilities. It is true that for 30 years the United States, without a clear export policy, distributed atomic materials worldwide. This is no reason we should continue this insane policy. Past blunders must be corrected. The gravity of the situation warrants a full-fledged effort to stop further nuclear proliferation. We in the Congress must force President Carter to take a tough stand, beginning with India. As the sixth nuclear power member, India is the only one of the six to have used plutonium from a civilian program. She clearly disregarded the Nuclear Nonproliferation Act in using U.S.-supplied heavy water to manufacture her first nuclear bomb. In essence, this proposed sale condones India's actions and makes a mockery of our nonproliferation policy.

We must not allow such a dangerous precedent to be set. Now is the time to draw the line, Mr. Chairman. Without that line, the arms race will only accelerate faster. Pakistan, Argentina, South Korea, Turkey, and Spain have all announced expanded civilian programs similar to India's. Should this sale to India go forward, can anyone doubt that these countries, too, will seek a waiver from the act's provisions? The sale of fuel to India now will render it difficult, if not impossible, to persuade other countries elsewhere in the world which have nuclear know-how not to proceed to develop their own weapons capability.

Mr. Chairman, we must realize the tension in the world caused by nuclear rivalry among the smaller nations as well as the larger ones. Even our allies cannot help but feel intimidated by the danger inherent in falling behind in the nuclear arms race. France's outrageous intent to supply Iraq with an advanced nuclear reactor and enriched, weapons-grade uranium has triggered vehement protests by Israel and Britain, both concerned about the possibility of a bomb getting into not only Iraqi, but also Pakistani, Libyan, or even PLO hands, a development that could only bring the entire world closer to nuclear war.

Two other developments also portend ill for the cause of peace. Last September, a U.S. intelligence satellite detected a burst of light that resembled a nuclear blast. The Carter administration refuses to accept the conclusions of two or three U.S. investigation reports that it was probably a small nuclear device, possibly exploded by South Africa, which that country denies. In addition, President Carter has acquiesced in the Swiss-German nuclear reactor and heavy-water plant sale to Argentina, despite Argentina's blatant intentions to develop nuclear capabilities.

It is my belief, Mr. Chairman, that these worldwide trends cannot be ignored, or worse yet, encouraged by the United States. Canada, our good neighbor to the north, is acting far more responsibly. Six years ago, Canada terminated nuclear cooperation with India because the 1974 Indian bomb was manufactured with diverted Canadian materials. In addition, Canada has refused the contract with Argentina because of the lack of full safeguards.

It is evident that U.S. negotiations with India have failed. The time has come to reevaluate this administration's policy. India should be required to dismantle her atomic testing program before the United States provides further assistance, and the same criterion must be applied to all other nations.

It is an uphill struggle that we face, without doubt; but this is no reason to abandon our commitment to preventing the spread of nuclear weapons. The security of the world and the prospects for peace for ourselves and our children compel a firm U.S. policy. The United States must take its leadership position in the world by setting this example. Stopping the Indian uranium sale is the first place that Congress and the United States can exercise that leadership.

Mr. BROOMFIELD. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, we are moving toward a vote on this issue, and before we do I wish to pay my compliments to the gentleman from New York (Mr. BINGHAM) who was the principal sponsor of these resolutions. I would like to point out to the House that 25 members of our committee were cosponsors of this resolution, and that only 2 that I know of on our committee opposed the resolutions as they were presented.

Our committee held extensive hearings. It has gone over this matter very carefully. I believe that this is probably one of the most important foreign policy issues that we will be voting on, at least in the closing weeks of this session, and I would urge that every Member vote in favor of this resolution.

I think that a basic principle is involved here, as was so ably outlined by the gentleman from California, with regard to our nuclear policy. I think it is important that we send a very clear signal to other countries that we are going to stand by this basic principle.

At this time, Mr. Chairman, I yield 1 minute to the member of the committee handling this resolution, the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, I thank the ranking minority member for his kind remarks. We have had a full debate. I do not intend to try to summarize it. I would simply like to say that following the vote on this resolution there will be an immediate vote on the second resolution; and following that, I will ask unanimous consent to take up a concurrent resolution putting the House action in the form in which it has been submitted in the Senate, that is, combining the two licenses. This will make sure that we are not out of sync with what the Senate does.

● Mr. WAXMAN. Mr. Chairman, we face today a momentous decision on whether we will remain faithful to our policy of preventing the spread of nuclear weapons. Other nations on the brink of becoming nuclear powers are watching closely what we do here. We face the solemn choice between the responsible sharing of nuclear power from one nation to another and helping to unleash an unholy reign of nuclear terror. I urge my colleagues to reject these proposed nuclear transactions.

Two years ago, President Carter helped Congress to build a strong and courageous policy to prevent the spread of nuclear weapons. Today, with his proposal to sell India uranium without any assurance it will not be diverted to make nuclear bombs, the President is on the verge of destroying our nuclear nonproliferation program.

We passed the Nuclear Nonproliferation Act in direct response to India's nuclear policies. In 1974, that country illegally manufactured and exploded a nuclear bomb. Since then, India has resisted every effort to obtain its agreement to the international system of nuclear safeguards and inspections. Last January, Prime Minister Gandhi reiterated her determination to continue to develop nuclear weapons—and to defy our nonproliferation laws.

If this sale is permitted to occur, we would be rewarding India for its consistent violations of international nuclear safeguards. And if India can act with such impunity—with our very encouragement—then no other nation will have any reason to accept the goals of nuclear nonproliferation.

Our entire policy will be in shambles.

The real motivation behind President Carter's decision is to entice India to act with us to oppose the Soviet invasion of

Afghanistan. This is linkage in its worst possible form. Soviet aggression and supplying India with nuclear fuel have nothing to do with each other. And India itself has proven the point. On May 29, India and the Soviet Union concluded a 17-year, $1.6 billion arms package—the largest India has ever reached with anyone. It had been under negotiation for months, demonstrating that the promise of American nuclear fuel has no bearing on India's relations with the Soviets, or her response to Afghanistan.

This transaction with India is the first real test of whether the Nuclear Nonproliferation Act will work. India has no intention of complying with our law. If this sale is completed, we will no longer have any credibility with any other nation to obtain their support for nonproliferation.

For President Carter to throw this entire policy away in a shortsighted and wholly ineffective response to the Soviet invasion of Afghanistan is to sacrifice a very great deal for less than nothing in return.

It is up to Congress to veto this terribly mistaken decision by the President.

All of us owe a debt of gratitude to Representative Jack Bingham and Representative Ed Markey for their tireless leadership on this issue. It is my hope the House will ratify their effort by voting overwhelmingly in support of these resolutions of disapproval.●

● **Mr. DODD.** Mr. Chairman when the House votes on House Concurrent Resolutions 367 and 368, I would urge my colleagues to vote in favor of these resolutions disapproving the sale of enriched uranium to India.

More than 2 years ago I introduced a similar resolution of disapproval on a previous nuclear fuel shipment because I felt that the chances India would agree to the requirements of the Nuclear Nonproliferation Act of 1978 and accept full-scope safeguards on their nuclear facilities were very slim. As events turned out, I was right. Absolutely no progress has been made during the 2-year grace period on convincing India to accept full-scope International Atomic Energy Agency safeguards. In fact, we have lost ground as India has now explicitly retained the option of conducting further nuclear explosive tests.

Considering the fact that India is the only nation which has exploded a nuclear device using materials covertly diverted from civilian reactors programs—including materials supplied by Canada and we believe by the United States—continuing to supply India with nuclear fuel would make a mockery of our nuclear nonproliferation policy.

This year, I also introduced a resolution of disapproval on these two proposed sales. I am very gratified that the Committee on Foreign Affairs saw fit to favorably report Mr. Bingham's resolutions which we are considering today.

I would urge my colleagues to support this reaffirmation of our nuclear nonproliferation policy by voting in favor of these resolutions.●

□ 1400

The CHAIRMAN. The time of the gentleman from New York (Mr. Bingham) has expired.

Are there further requests for time?

If not, the Chair announces that pursuant to section 308, Public Law 95-242, no amendments to the concurrent resolution are in order.

The Clerk will report the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 367

Resolved by the House of Representatives (the Senate concurring), That the Congress does not favor the proposed export of low-enriched uranium to India pursuant to export license application XSNM-1569 which would be authorized by the Executive order transmitted to the Congress by the President on June 19, 1980.

Mr. BINGHAM. Mr. Chairman, I move that the Committee do now rise and report the concurrent resolution back to the House with the recommendation that the concurrent resolution be agreed to.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Murtha) having assumed the chair, Mr. Dingell, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the concurrent resolution (H. Con. Res. 367) disapproving the proposed export to India of low-enriched uranium for the Tarapur Atomic Power Station pursuant to export license application XSNM-1569, had directed him to report the concurrent resolution back to the House with the recommendation that the concurrent resolution be agreed to.

The Clerk reported the concurrent resolution.

The SPEAKER pro tempore. Under the statute, the previous question is ordered.

The question is on the concurrent resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BROOMFIELD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 298, nays 98, not voting 36, as follows:

[Roll No. 560]

YEAS—298

Addabbo
Albosta
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.Dak.
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Baldus
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carr
Carter
Chappell
Cheney
Chisholm
Clausen
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conte
Conyers
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, R. W.
Daschle
Davis, Mich.
Deckard
Dellums
Derwinski
Devine
Donnelly
Dornan
Dougherty
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Evans, Del.
Evans, Ind.
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Ford, Mich.
Forsythe
Fountain
Fowler
Frenzel
Frost
Garcia
Gilman
Glickman
Goodling
Gore
Gray
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hammerschmidt
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Lee
Lehman
Leland
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McDade
McDonald
McHugh
McKinney
Maguire
Markey
Marlenee
Marriott
Martin
Matsui
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, N.Y.
Murphy, Pa.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Panetta
Patterson
Paul
Pease
Perkins
Peyser
Porter
Pursell
Quayle
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Ritter
Robinson
Rodino
Roe
Rose
Rosenthal
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shumway
Shuster
Simon
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stockman
Stratton
Studds
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Waxman
Weaver
Weiss
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wylie
Yates
Yatron
Young, Fla.
Zablocki
Zeferetti

NAYS—98

Akaka
Alexander
Andrews, N.C.
Annunzio
Anthony
Badham
Bailey
Barnard
Biaggi
Bouquard
Bowen
Brooks
Butler
Carney
Cleveland
Conable
Corcoran
Daniel, Dan
Danielson
Dannemeyer
Derrick
Dickinson
Dicks
Dingell
Dixon
Duncan, Oreg.
Duncan, Tenn.
Ertel
Evans, Ga.
Fary
Flippo
Florio
Foley
Fuqua
Gaydos
Gibbons
Ginn
Goldwater
Gonzalez
Gradison
Gramm
Grisham
Hall, Tex.
Hamilton
Hance
Hansen
Harsha
Heftel
Hightower
Hubbard
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Leath, Tex.
Lent
Lloyd
McCloskey
McCormack
McEwen
McKay
Madigan
Mathis
Miller, Ohio
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murtha
Musto
Myers, Ind.
Obey
Patten
Petri

Pickle
Preyer
Price
Pritchard
Railsback
Rinaldo
Roberts
Rostenkowski
Roth
Santini
Sawyer
Sebelius
Sensenbrenner
Shelby
Skelton
Steed
Stenholm
Stewart
Stump
Swift
Watkins
White
Whitehurst
Wyatt
Young, Alaska
Young, Mo.

NOT VOTING—36

Abdnor
Bolling
Brown, Ohio
Cavanaugh
Clay
Corman
Cotter
Davis, S.C.
de la Garza
Dodd
Erlenborn
Ford, Tenn.
Gephardt
Giaimo
Gingrich
Grassley
Howard
Ireland
Jenrette
Leach, La.
Lederer
McClory
Marks
Mattox
Myers, Pa.
Nedzi
Pashayan
Pepper
Satterfield
Shannon
Stokes
Symms
Ullman
Wilson, Bob
Wilson, C. H.
Wydler

☐ 1420

The Clerk announced the following pairs:

Mr. Howard with Mr. Abdnor.
Mr. Corman with Mr. Grassley.
Mr. Cotter with Mr. Pashayan.
Mr. Dodd with Mr. Symms.
Mr. Pepper with Mr. McClory.
Mr. Stokes with Mr. Erlenborn.
Mr. Ullman with Mr. Brown of Ohio.
Mr. Lederer with Mr. Gingrich.
Mr. Ford of Tennessee with Mr. Wydler.
Mr. de la Garza with Mr. Bob Wilson.
Mr. Cavanaugh with Mr. Leach of Louisiana.
Mr. Jenrette with Mr. Davis of South Carolina.
Mr. Ireland with Mr. Gephardt.
Mr. Clay with Mr. Marks.
Mr. Giaimo with Mr. Mattox.
Mr. Myers of Pennsylvania with Mr. Nedzi.
Mr. Shannon with Mr. Satterfield.

Messrs. CONABLE, SKELTON, DICKINSON, and STEWART changed their votes from "yea" to "nay."

Messrs. DANIEL B. CRANE, LOTT, and HEFNER changed their votes from "nay" to "yea."

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

DISAPPROVING THE PROPOSED EXPORT OF NUCLEAR FUEL TO INDIA PURSUANT TO EXPORT LICENSE APPLICATION XSNM-1379

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the concurrent resolution (H. Con. Res. 368) disapproving the proposed export to India of low-enriched uranium for the Tarapur Atomic Power Staion pursuant to export license application XSNM-1379.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 368

Resolved by the House of Representatives (the Senate concurring), That the Congress does not favor the proposed export of low-enriched uranium to India pursuant to export license application XSNM-1379 which would be authorized by the Executive order transmitted to the Congress by the President on June 19, 1980.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

DISAPPROVING THE PROPOSED EXPORT OF NUCLEAR FUEL TO INDIA PURSUANT TO EXPORT LICENSE APPLICATION XSNM-1379 AND XSNM-1569

Mr. BINGHAM. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 432) disapproving the proposed export to India of low-enriched uranium for the Tarapur Atomic Power Station pursuant to export license applications XSNM-1379 and XSNM-1569, and ask unanimous consent for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. BROOMFIELD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 432

Resolved by the House of Representatives (the Senate concurring), That the Congress does not favor the proposed export of low-enriched uranium to India pursuant to export license applications XSNM-1379 and XSNM-1569 which would be authorized by the Executive order transmitted to the Congress by the President on June 19, 1980.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the concurrent resolutions just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

CONFERENCE REPORT ON H.R. 3904, MULTIEMPLOYER PENSION PLAN AMENDMENTS ACT OF 1980

Mr. THOMPSON submitted the following conference report and statement on the bill (H.R. 3904) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployer plans, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 96-1343)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 3904) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployer plans, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

Amendments numbered 2 and 3: That the Senate recede from its amendments numbered 2 and 3 to the House amendment to the Senate amendment.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1 to the House amendment to the Senate amendment and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 414. TREATMENT OF CERTAIN RETIREMENT BENEFITS.

(a) GENERAL RULE.—Paragraph (15) of section 3304(a) of the Internal Revenue Code of 1954 (relating to requirements for approval of State laws) is amended by striking out the semicolon at the end thereof and inserting in lieu thereof the following:
"except that—

"(A) the requirements of this paragraph shall apply to any pension, retirement or retired pay, annuity, or other similar periodic payment only if—

"(i) such pension, retirement or retired pay, annuity, or similar payment is under a plan maintained (or contributed to) by a base period employer or chargeable employer (as determined under applicable law), and

"(ii) in the case of such a payment not made under the Social Security Act or the Railroad Retirement Act of 1974 (or the corresponding provisions of prior law), services performed for such employer by the individual after the beginning of the base period (or remuneration for such services) affect eligibility for, or increase the amount of, such pension, retirement or retired pay, annuity, or similar payment, and

"(B) the State law may provide for limitations on the amount of any such a reduction to take into account contributions made by the individual for the pension, retirement or retired pay, annuity, or other similar periodic payment;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to certifications of States for 1981 and subsequent years.

And the Senate agree to the same.

For Senate amendment No. 1:

AL ULLMAN,
JAMES C. CORMAN,
CHARLES RANGEL,
WILLIAM M. BRODHEAD,
BARBER B. CONABLE,
BILL FRENZEL,

For Senate amendments Nos. 2 and 3:

CARL D. PERKINS,
FRANK THOMPSON, Jr.,
JOHN BRADEMAS,
WILLIAM CLAY,
JOHN ASHBROOK,
JOHN N. ERLENBORN,
Managers on the Part of the House.

HARRISON A. WILLIAMS,
JENNINGS RANDOLPH,
HOWARD M. METZENBAUM,
DICK SCHWEIKER,
JACOB K. JAVITS,
RUSSELL B. LONG,
SPARK M. MATSUNAGA,
DAVID L. BOREN,
ROBERT DOLE,
JOHN H. CHAFEE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 3904) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployer plans, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TREATMENT OF CERTAIN RETIREMENT BENEFITS

The House amendment to the Senate amendment to the bill provides that the pension offset requirement of existing unemployment law would only apply to a pension which is paid under a plan maintained or contributed to by a base period employer and which is increased by reason of services performed after the beginning of the base period. The House amendment also provides that the pension offset requirement would not apply in the case of social security benefits and railroad retirement benefits. The House amendment also authorizes the State to make limitations in the amount of the pension offset to take into account contributions made by the individual for the retirement benefit.

The Senate amendment numbered 1 to the House amendment to the Senate amendment to the bill provides that the pension offset requirement of existing law would only apply to pensions paid under plans maintained or contributed to by base period or chargeable employers. The Senate amendment also allows States to make limitations to take into account employee contributions identical to that contained in the House amendment.

The conference agreement generally follows the Senate amendment.

PREEMPTION

The House amendment to the Senate amendment to the bill provides no exemption from the preemption provision of section 514 of the Employee Retirement Income Security Act of 1974 ("ERISA").

The Senate amendments numbered 2 and 3 to the House amendment to the Senate amendment to the bill provide an exemption from section 514(a) of ERISA for the Hawaii Prepaid Health Care Law as in effect on January 1, 1979, and require a study by the Secretary of Labor on the feasibility of extending the exemption to other State health care laws. The Secretary of Labor is to report to the Congress on the study within two years after the date of enactment.

The Senate recedes to the House position. In adopting the House position, the Conferees do not imply a position as to the effect of section 514 of ERISA on the Hawaii Prepaid Health Care Law or other similar State laws, or as to correctness of any court decisions in this area.

For Senate amendment No. 1:

AL ULLMAN,
JAMES C. CORMAN,
CHARLES RANGEL,
WILLIAM M. BRODHEAD,
BARBER B. CONABLE,
BILL FRENZEL,

For Senate amendments Nos. 2 and 3:

CARL D. PERKINS,
FRANK THOMPSON, Jr.,
JOHN BRADEMAS,
WILLIAM CLAY,
JOHN ASHBROOK,
JOHN N. ERLENBORN,
Managers of the Part of the House.

HARRISON A. WILLIAMS,
JENNINGS RANDOLPH,
HOWARD M. METZENBAUM,
DICK SCHWEIKER,
JACOB K. JAVITS,
RUSSELL B. LONG,
SPARK M. MATSUNAGA,
DAVID L. BOREN,
ROBERT DOLE,
JOHN H. CHAFEE,
Managers on the Part of the Senate.

□ 1430

CONTINUING APPROPRIATIONS, 1981

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 789 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 789

Resolved, That upon the adoption of this resolution it shall be in order to consider, clause 2(l)(6) of rule XI to the contrary notwithstanding, the joint resolution (H.J. Res. 610) making continuing appropriations for the fiscal year 1981, and for other purposes, in the House. Debate on said joint resolution shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, and the previous question shall be considered as ordered on the amendment recommended by the Committee on Appropriations now printed in the joint resolution and on the joint resolution to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield the usual 30 minutes for the minority to the gentleman from Tennessee (Mr. QUILLEN) for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 789 provides for the consideration in the House of continuing appropriations for fiscal year 1980, House Joint Resolution 610. The rule provides for 1 hour of debate, which will be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The necessity for this legislation is urgent as we approach the end of the fiscal year and no appropriations bills have yet been enacted for the new fiscal year. Thus the rule waives clause 2(1)(6) of rule XI, which requires a 3-day layover of committee reports.

Mr. Speaker, House Joint Resolution 610 provides for funding at existing levels to avoid the shutdown of agency operations should Congress fail to enact the necessary appropriations by the beginning of the new fiscal year on October 1. Under a decision by the Attorney General on April 25, the expiration of appropriations authority shall result in the closing of affected agencies.

The House has passed 12 of the 13 regular annual appropriation bills, but the Senate has passed only 2 as of yesterday. Conference outlook for the appropriations bills is uncertain, according to the chairman of the Commitee on Appropriations. The continuing resolution therefore provides funding for most current activities of the Federal Government as follows:

> Where the House and Senate have both passed a general appropriations measure by October 1 and the amounts or authority made available by the bills differ, the continuing resolution funds the project or activity under the lower amount or the more restrictive authority.
>
> Where only the House has passed an appropriations measure, the continuing resolution provides funding at the rate allowed by the House.

The resolution provides appropriations at the current rate for a number of programs not carried in 1981 appropriations bills for lack of authorizing legislation. It precludes appropriations for projects and activities not funded in fiscal year 1980.

In the case of programs funded by the foreign assistance appropriation, which has not yet been taken up by the House, the funding provided by that appropriation bill, H.R. 7854, which was reported on July 29, applies to projects and activities conducted in fiscal year 1980, at a rate of operations not to exceed the current rate or the rate provided in budget estimates, whichever is lower, and under the more restrictive authority.

The projects and activities of the legislative branch will be carried out under the provisions of H.R. 7593, the legislative appropriations bill passed by the House on July 21, 1980.

The continuing resolution includes certain restrictions from the House-passed Labor-HHS-Education appropriations bill. Section 109 repeats the language providing that no funds shall be available to prevent voluntary school prayer. Section 110 provides that no funds shall be available to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, and spells out that the States may exercise discretion in refusing to fund abortions. Section 111 prohibits the expenditure of funds pursuant to any Federal court order or injunction compelling use of funds for a purpose specifically prohibited by the House passed Labor-HHS-Education appropriations bill.

Mr. Speaker, the continuing resolution provides funding for the period from October 1, 1980, until enactment of the pertinent appropriations bill or December 15, 1980, whichever occurs first. Under the terms of the rule, House Joint Resolution 610 is not amendable, except by the committee amendment. Because the House has had the opportunity to perfect almost all the appropriations bills, the Committee on Appropriations did not recommend opening the continuing resolution to a redundant amendment procedure. The rule provides for the usual motion to recommit.

The minority did seek to shorten the time period covered by the resolution, by changing the date from December 15, 1980 to October 18, 1980. However, the Committee on Rules rejected this amendment since there is no way to assure that the other body would complete action on all appropriations bills within this abbreviated timeframe. There is no reason to get ourselves into an unnecessary bind for time.

I urge the adoption of H.R. 789 so that we may proceed to consider the continuing appropriations.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, I thank the gentleman for yielding.

Might I inquire of the distinguished gentleman from Louisiana if the gentleman said in his remarks that the resolution provided for the lower of the figure of the House-passed bill or this year's level of expenditure, because if he did, he was in error. It is the higher figure.

I was not sure if I misunderstood the gentleman on that point, because one of the differences in this resolution, as distinguished from previous continuing resolution, is that in the past we have settled for the lower figure, but this resolution calls for the higher figures.

Part of my concern and many on this side, and maybe even on the gentleman's side, would be that the resolution calls for the higher of the two figures.

Mr. LONG of Louisiana. If the gentleman will yield, the gentleman is correct.

Mr. QUILLEN. Mr. Speaker, when this resolution was before the Rules Committee yesterday, I offered an amendment to be made in order to make the date October 18, instead of December 15. December 15 certainly brings us back for a lameduck session and there is no question about it.

The Congress could go forward and wind up its business by October 18 and no lameduck session would be necessary.

I urge the Members of the House to vote down the previous question for a basic reason, not for the date of October 18, that will come in a motion to recommit; but to make in order the Senate Concurrent Resolution 119, the second concurrent resolution on the budget, because I think the House must face up to the situation and pass a second concurrent resolution before we adjourn. Under the law that we passed, this House passed, a second concurrent resolution on the budget must be passed by September 15. Already we are 3 days behind the law which says that it must be done.

We are operating now, not under the law passed by the Congress of the United States, we are violating the law. We are skirting it. We are lawbreakers. Why not face up to it? Why not vote down the previous question, make this in order?

Although it is nongermane, there is nothing wrong with this House making an amendment in order, and it will be rightly so and it would correct us from breaking the law and put us in the right order.

So, Mr. Speaker, the fact is today, and I ask everybody to join us, we do not want to be lawbreakers. We want to be lawmakers and abide by the law. So I would ask everybody to vote down the previous question so we can offer another rule to accomplish this.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I would be happy to yield to the gentleman from Indiana.

Mr. MYERS of Indiana. What would be the time consequences if we should vote down the previous question? How soon would the second concurrent resolution be before the body and when could we come back with similar legislation that we have today?

☐ 1440

Mr. QUILLEN. The second concurrent resolution, if the rule I would offer is passed, would be before the House. Of course, I would assume it would be before the House immediately.

Mr. MYERS of Indiana. It would come up today, would it not?

Mr. QUILLEN. Immediately. I assume there would be some parliamentary maneuvers, but I believe we could survive that and it would be before us immediately.

Mr. MYERS of Indiana. I am sure the argument is going to come up in order not to face the last-minute, 12th-hour circumstance that we so often have in this body, that we need to pass it today, but it could be passed today anyway with the gentleman defeating the previous question and it would come right back on a motion and we would accomplish it?

Mr. QUILLEN. That is right, and I think we must do this because it is obvious that Members of the House do not want to face the music back before the voters. They want to come back after the election on November 4 in a lameduck session so they can vote then to pass it. I say today we should face the music. I say today we should pass it. We should let the American people know exactly where we stand and how we feel.

Mr. MYERS of Indiana. If the gentleman will yield further, the important thing is defeating the previous question does not slow the process down nor does it defeat the legislation?

Mr. QUILLEN. Absolutely not.

Mr. LONG of Louisiana. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. LEVITAS) for purposes of debate only.

Mr. LEVITAS. Mr. Speaker, I rise to support the proposal by the gentleman from Tennessee (Mr. QUILLEN) that the previous question be defeated. I do so with a great deal of reluctance but I do so because I am concerned that many of the restrictions and limitations which this House has written into the appropriations process on a great number of matters, some of which I supported, some of which I opposed, will not have the opportunity of being made part of this continuing resolution that will fund programs contrary to the will of this House for a long time into the future.

If there were some assurance that these restrictions, some of which I have opposed, some of which I have supported, could be made part of the process during the period of continuation, then I would not take this position. But I am terribly concerned about some things that have been said during the last few weeks by the administration.

For example, without exception, this House adopted a restriction on funding any regulation that had been disapproved by action of Congress so that where a regulation would be otherwise put into effect, even though it had been vetoed by Congress, it would not be funded. The administration, through the Attorney General, has said that they will ignore the vetoes enacted by Congress and go forward and implement those rejected actions nevertheless.

This morning I participated in a hearing before the House Education and Labor Committee where the Assistant Attorney General, on behalf of the administration, testified that it is their policy not to follow congressional vetoes even though they have been made part of the law for many years and signed into law by the President.

There were four regulations which were vetoed out of the House Education and Labor Committee which the administration has said publicly they intend to go forward with. We have just finished passing a concurrent resolution rejecting the sale of nuclear material to India and the gentleman from New York, who managed that resolution, when I asked him does he have any assurances that the administration will follow that in light of their public positions, the gentleman said no.

Now, either we want to make our actions stick or we want to say that we are working out a charade. The only way to do that is to defeat the previous question so that an amendment can be offered which will restrict in the future, and I hope the gentleman from Mississippi would accept that.

Mr. LONG of Louisiana. Mr. Speaker, I would like to yield 3 minutes to the gentleman from Mississippi (Mr. WHITTEN), chairman of the Appropriations Committee, to discuss the matter.

Mr. WHITTEN. Mr. Speaker, as one who is in agreement with the intentions of the gentleman from Georgia (Mr. LEVITAS) as to the purpose of his amendment, I would like to point out that we should go ahead and favorably vote the previous question, because in my judgment by recommitting this bill he would delay the implementation of the provision he offered on the regular appropriation bills.

At present the situation is that the other body has passed only two bills. It is in the process of handling others. This continuing resolution continues necessary funding until December 15.

There have been over 160 amendments to the 12 regular appropriation bills that have passed the House, the gentleman is of course interested in his amendments, there are 159 others. If we were to open the resolution for this one in fairness we would have to open it for others. If this were to occur then we just as well say goodbye to any effort to keep the Government in business after October 1.

I am rather proud of what we have done here. We are doing the best we can, and I think the best is not bad. We have handled all of the bills but one, the foreign aid bill, and that is protected under a provision of the continuing resolution, by providing funding at the current rate of expenditures, so it is not being ignored. The Appropriations Committee has reported the bill but it has not passed the House. The other 12 bills that have passed the House have been delayed in the Senate, what we are doing with these bills is to put them all in a package and send them to the Senate and give them time to act now on the bills that we have heretofore passed in the House.

I might point out to my colleagues my understanding of the opinion of the Attorney General that when October 1 comes, if we have not passed this continuing resolution, or if they are not enacted into law then they will have to lock the door of every Federal building, and every Federal activity, so I do not think we can play around with this situation. There will be a lot of talk a little bit later about changing the date, but let me tell you, if you have to come back, you will have to come back because we cannot run away from the Attorney General's opinion about the Government.

So I say if you believe in good government then the thing to do is to vote the previous question and get this measure on over to the Senate so they can get busy on the regular bills, the appropriate place to contain the provisions which the gentleman talks about. It is hoped that the other body will act within a week or 10 days, but I say it would be optimistic for me to say I thought they would. But they could.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to our distinguished minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, I just want to know what is the hurry. Why are we now in such a big hurry that we have to recess this House on or about the 4th of October and get out of here? It actually is not very late in the year.

I just happened to look up the dates in election years when this House has adjourned and I find that very seldom have we adjourned by October 4. Actually the median date seems to be somewhere around October 15.

It will be our purpose to propose in the motion to recommit, to be offered by the gentleman from Massachusetts (Mr. CONTE) that this continuing resolution be amended so as to expire on October 18 instead of the date which is in the resolution. I think it is perfectly proper that we do that. We can get the work of the House done by October 18. That is a month from today.

When we look at the bills which could be classified as really "must" legislation, there are not really very many. As a matter of fact, as I stated earlier in the day, the Republican leadership wrote the Speaker and the Democratic leadership today and said that we would not, under any circumstances, support an adjournment or a recess until three things at least had been adopted. Those three things are: First, the second concurrent budget resolution; second, every appropriation bill; and third, if the other body sees fit to pass a tax bill, the House will have had a chance to vote on that tax cut bill.

□ 1450

That is a very bare-bones program but a very important program. It is not only important to the people of the House of Representatives and the Senate, it is important to the people of the country. Also, the people in the executive department need to know what they can count on for the next fiscal year. We changed the fiscal year to October 1 so we would not have this problem which we had had for so many years of not appropriating funds before the end of the fiscal year. Here we are, doing it again and losing much of the benefit we got from the new budget system.

Yes, here we are with the largest continuing resolution I remember in my career in the House. It is absolutely unnecessary.

Mr. Speaker, the institution of the House has suffered. The people in this country do not have the confidence in the House and the Senate that they should have. If we want to restore that confidence, we are going to have to act responsibly. Quitting almost 2 weeks before the time when we usually adjourn, with work undone, is no way, I submit, to restore the confidence of the people in this body, one of the three coequal branches of Government. We are fooling around with the reputation of an institution which our forefathers put forward to be the representative of the people of this country. It is not right; it is not smart; it is not proper for us to do this.

I do not know what the motivation is. I would like not to think it is political, but until somebody shows me a more logical motivation, I have got to assume that maybe the only reason we are leaving so soon is to keep Democrat Members from casting some very difficult votes, which their constituents might not like, before the election.

What we are actually doing is telling our own constituents we are not going to tell you how we feel about these important issues until after the election. I call that arrogance, and I do not think it will help this House's standing in the country.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. LONG of Louisiana. Mr. Speaker, I yield 8 minutes to the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT) for purposes of debate.

Mr. WRIGHT. Mr. Speaker, I cannot let go unanswered some of the things that have been said by my distinguished friend, the minority leader. He speaks of motivation and attributes to the majority the evil motive of not wishing to vote on legislation. I think it would be wise if the gentleman from Arizona were to follow that dictum which says it is best not to speak of rope in the house of a man who has been hanged. The gentleman full well knows that those on his side of the aisle are practicing here in the House Chamber the same kind of tactic that Abbie Hoffman and Rap Brown practiced in the streets of America in the 1960's—the politics of disruption. They are deliberately trying to create a situation in which the Government would come unglued a few days before the election. Fortunately, the Congress will not fall for that obvious trap.

Forever, as long as I have served in the Congress at least, it has been the prerogative of the majority to determine when we will recess. It has been known for months that we intend to recess on October 4. That was announced early this year. And now if there are Members on the Republican side who for their own reasons do not wish to go home and face their constituents and answer questions, they do not have to go. But this House is going to recess on or before October 4.

In that context let us examine the patent fraudulency of this motion to recommit and just what it is that the other side proposes. They would suggest that this resolution continue appropriations only until the 18th of October, when they know the Congress will be in recess. They would like to arrange it for all appropriations to expire on that date, quite obviously so that the Government would fall on its face, stall out, be unable to operate, within days before the national election. Now is that not patently obvious? Is that not fraudulent?

With mock sincerity the gentlemen of the minority party come before us with a letter today proclaiming that they will forever and eternally oppose any recess of this House until three things are accomplished. Let us judge the depth of their sincerity and the saltiness of their crocodile tears by how well they have performed on each of these three qualifications which they so somberly set out for the House to achieve.

The first is that they feel the House should not recess until the House has approved—they speak of House approval—of a second concurrent resolution on the budget. During the years that we have had the budget process, there have been 24 votes on final passage of budget resolutions in this House and conference committee reports that permitted budget resolution to become law. Twenty-four times my colleagues of the Republican persuasion have had the opportunity to achieve House approval of a concurrent budget resolution. How many of those times do you suppose a majority of our Republican Members have voted to approve? Not one single time. Not 1 out of 24. Not 1 time out of 24 has a majority of the Republican membership voted to approve a concurrent budget resolution.

For years they have prated piously about the importance of balancing the budget, a goal I share with them, and this year they have been talking so earnestly about the need to increase military expenditures. Well, in June and July we presented a balanced budget resolution and one that increased military expenditures by a sum greater than any increase in any single year since World War II. And how did our Republican colleagues vote? Of course, they voted no. They voted "no."

On July 12 these very same people, who come now with long faces and sham tears and mock sincerity saying, Oh, we must not permit this House to recess until we have approved a budget resolution, had the opportunity to vote to approve the conference report for the spring budget resolution. And how did the Republican Members vote? One hundred and forty against and only ten in favor. Fourteen to one against it. So it seems to me that in the case of their asking us not to adjourn or recess until we have passed this important budget resolution, they are in the position of the young man who slew both of his parents and then threw himself on the mercy of the court on the ground that he was an orphan.

In the second of their conditions, they say quite piously that we should not be permitted to recess until the completion—the completion—of all appropriations bills. My colleagues of the Republican persuasion have said that we should not under any circumstances recess until the completion of all appropriations bills. Yet they fully know that we in the House cannot control what the Senate does.

They know full well that we in the House have passed all but one of those appropriations bills. We have passed 12 of the 13. If they have confidence in the majority of the House, if they want the House to work its will and for that will to prevail, then they should be overjoyed to vote for this resolution without any change, because this resolution adopts until December 15 the spending levels that this House has approved.

☐ 1500

What better deal could there be for the Members of the House than that?

If they find it unconscionable that we have not yet completed all of these appropriations bills, I would simply call their attention to the fact that the House has kept pretty well on schedule. There have been 163 amendments offered to those appropriations bills this year, and three-fifths of those amendments that consumed the time that has been consumed were offered by Members of the Republican side. Of course, it was their privilege to do so and I am not criticizing them for doing so. I am simply saying that it comes in very bad grace for them to appear to criticize the majority for the fact that these bills were not more expeditiously passed.

Then the final suggestion they make is probably the most obvious of all, that we should not be permitted to recess until there is an up and down vote in the House—now get this—on any—any—Senate-passed tax cut bill.

Well, they would just love to vote on any kind of a tax cut bill. Those are their words. They insist that we wait and see if the Senate will pass "any" tax cut bill and vote on that, whatever it may be.

Now, they surely must know the responsible thing to do is not to try to rush into a tax cut bill in the supercharged atmosphere of an election year campaign. I think the American public appreciates the fact that we are not trying to out promise the Republican side. We are not trying to enter into a situation where each side will be vying with the other, trying to out promise and out bid the other on tax cuts just before election time.

Is it not a lot more responsible to do the right thing, to try to balance the budget, not to try to promise a tax cut when we know quite well that we cannot have a 30-percent tax cut and a $30 billion increase in defense expenditures and a balanced budget all at the same time? The American public appreciates a responsible attitude. The people do not want us to rush into a big promising tax cut just before the election. For one thing, all the continued and repeated, almost daily speculation of a tax cut is in itself inflationary. This talk contributes to a rise in interest rates, I am told.

So we will wait. Then, in the calm, deliberative atmosphere after the election is over, we will sit down and address ourselves in a responsible way to what kind of tax cut, if any, the economy may warrant at that time.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, I love to listen to my good friend from Texas even though I do not agree with him. He is very entertaining as he skirts the issue. You know he did not once mention anything about the law, but he wants to violate section 310 of the Budget Act which provides—let me read it to him—

> Not later than September 15th of each year the Congress shall complete action on the concurrent resolution on the budget referred to in subsection . . .

Not once did the gentleman mention that and never once did the gentleman mention that we are just dragging our feet in the Committee on the Budget. The gentleman is a member of this committee notwithstanding the fact that he only shows up once or twice during the year. We welcome his attendance, however, when he does show up.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I listened to the entire dissertation. The gentleman kept mentioning the majority. I wonder what majority the gentleman was talking about. He talked about the prerogatives of the majority but the majority cannot pass the budget. They evidently do not have a responsible majority if they cannot pass the budget. The gentleman tended to blame the minority party though he keeps talking about the prerogatives of this party which cannot pass a budget.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. LATTA. Can the gentleman get me more time?

Mr. SIMON. I do not have the time to yield but I will try and get some more.

Mr. LATTA. The gentleman has it in his pocket right next to him.

I will be happy to yield to the gentleman. If you want me to yield, get me some more time.

Mr. LONG of Louisiana. Mr. Speaker, I will be happy to yield 3 minutes to the gentleman from Illinois.

Mr. SIMON. The gentleman from Ohio will recall very vividly——

The SPEAKER pro tempore. The gentleman from Ohio has the floor. Does the gentleman from Ohio yield the floor?

Mr. LATTA. No.

I yield briefly but not for 3 minutes.

Mr. SIMON. Just very briefly, did the gentleman object last year when we did not pass the budget resolution until November 28?

Mr. LATTA. November 28?

Mr. SIMON. November 28, last year.

Mr. LATTA. Surely I was objecting all along to the resolution.

Mr. SIMON. I do not recall it but I will take the gentleman's word for it.

Mr. LATTA. Let me say, taking up where I left off with my friend from Texas—I do not even see the gentleman on the floor any more—the gentleman talked about rope, and talked about Abbe Hoffman. What in the name of sense have they go to do with this question before us? He talked about a balanced budget. We welcomed even the thought of a balanced budget from their side of the aisle but that came and went almost within the month of March of this year.

We have been talking about balanced budgets on our side for a long time and attempting to do something about them but check the record. You know, when the appropriations bills and all of these authorizations come along for more spending and more spending, who passes them? Who votes for them? Who has caused $200 billion of additional debt to be put in the backs of the American people just since Jimmy Carter became President? Who is responsible for the increased spending of this Government by over $200 billion in a year just since Jimmy Carter became President? We have seen spending leap from $400 billion to over $600 billion a year within this 3½-year period. They do not want to talk about this. They wish to talk about Abbe Hoffman and rope? Well, let us give them more rope.

We know where the big spenders are in this Congress, and so do the American people. They are going to become familiar with the spending records of the Members during this campaign. Maybe we ought to get out early and go out and make them aware of the record of some of these people who all of a sudden, all of a sudden at campaign time, say they are conservative and fiscally responsible? They should have to run on their records.

I would like to go into some of these districts and take the Congressional Record along and point out to the people how their Members have been voting all during this term and show how just before election, they become fiscal conservatives. The American people are too smart for this and they are starting to check the record for themselves.

The law says that we ought to pass this second concurrent budget resolution by the 15th of September.

Right here is the resolution the committee in the Senate Budget Committee has recommended. It is ready for floor debate over there. We have not even had a single markup session. Other than having the four administration spokesmen before the committee, nothing has been accomplished on the second budget resolution on our side.

The SPEAKER. The time of the gentleman has expired.

Mr. LATTA. May I have 1 additional minute?

Mr. LONG of Louisiana. I yield the gentleman 1 minute.

Mr. LATTA. Mr. Speaker, I thank the gentleman for his generosity.

We have not had a single outside witness on the second concurrent resolution. We have had MacIntyre, Schulze, Miller, and Volcker from the administration. We are not even meeting on our side. All we are saying on the Republican side is that we ought to get on with our work. The beginning of the fiscal year is upon us. We ought to be doing something about it instead of marking time in the Committee on the Budget.

What is wrong with this procedure. If we cannot do it in the Committee on the Budget what is wrong with taking the concurrent budget resolution that the Senate has recommended and bring it before this House so that we can mark it up and get on with our work the law says we should complete by the 15th of September. That is all we are asking.

I think it is proper for this House to obey the law and if you do not want to obey the law, change it. If you cannot get around to it by September 15, change the law but do not violate it. I think the American people want law abiders—not law violators—in this Congress.

The SPEAKER pro tempore. The gentleman from Tennessee has 17 minutes remaining; the gentleman from Louisiana has 10 minutes remaining.

Mr. LONG of Louisiana. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. Simon).

Mr. SIMON. Mr. Speaker, let me just remind the Members of a few simple realities. Last year—and we did not hear a lot of campaign speeches about it last year—because of some complications, we were not able to pass that second budget resolution until November 28. By November 28 of this year we will pass the second budget resolution despite all the campaign oratory that you hear in the election year.

There is a very fundamental reason why we have not passed it this year and that is that reconciliation is tied up in conference. We have the biggest conference in the history of the House going on right now with reconciliation.

□ 1510

We cannot know how to put these figures together until we know about this $9 billion item. And, until reconciliation is passed by the House and Senate, we cannot very well proceed. Once that is there, then we can put the figures together. We will start work immediately.

I would remind my distinguished friend from Ohio (Mr. Latta) that when it comes to some of these tough issues, preelection tough issues like cost of living twice a year for Federal retirees, I did not see very many votes, I regret to say, on either side of the aisle voting that tough way—and I believe I am correct that my colleague from Ohio (Mr. Latta) did vote that way.

It is tough—it is tough before an election to do that, but these are the kinds of tough things that we have to do, but we have been unwilling to do.

Finally, let me get one more matter in, and I will be glad to yield to my colleague from New Jersey. Finally, I would point out that regardless of party, and forgetting the second budget resolution temporarily, our colleague from Illinois (Mr. Michel) said something very significant during debate on the first budget resolution. He said we have to work toward a balanced budget in a solid, responsible way; and if we come in with these huge changes we are not fooling ourselves and we are not fooling the American people. That is a reality we all have to face.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. SIMON. I will be glad to yield to my colleague from New Jersey.

Mrs. FENWICK. Mr. Speaker, I thank my colleague for yielding. There is a commonsense observation I would like to make. We have a great deal of work to do, and I do not know how the public is going to understand that we are going to adjourn without doing it.

Mr. QUILLEN. Mr. Speaker, I yield 10 minutes to the gentleman from Massachusetts (Mr. Conte).

Mr. CONTE. Mr. Speaker, House Joint Resolution 610, the continuing appropriations for fiscal year 1981, is historic legislation. Under other circumstances, it would be good legislation. But we are making history here today for the wrong reasons, and it is time for some plain talk about where we are and how we got here.

The majority party controls the White House. It has a majority here in the House of 275 to 159. It has control of the Senate; it has 59 Democrats to 41 Republicans. And, with 9 working days left before the beginning of the fiscal year, the majority party has been unable to enact one single appropriation bill.

We are in a quagmire here to the Congress of the United States. I looked up in Webster's the definition of "quagmire." He says:

> Soft, wet, miry land that shakes or yields under the foot; a complex or precarious position where disengagement is difficult.

A disengagement is difficult here. We are almost mesmerized. We cannot get one bill—one bill—through the Congress of the United States.

This is the most disgraceful legislative record of any Congress in my memory.

Never has Congress been so far behind so close to the start of the fiscal year. And never has Congress considered a continuing resolution which would cover all of our regular annual appropriation bills, and may continue all Federal activities that are funded through annual appropriations.

The magnitude of this joint resolution is staggering.

If the status of appropriation bills, and the estimates for mandatory payments, are the same on October 1 as they are today, then the total of continuing appropriations available under this joint resolution would be $408 billion. Or to look at it another way, the majority leadership is ready to adjourn, and abandon $408 billion worth of the public's business.

That is why I will offer a motion to recommit to change the expiration date of the joint resolution from December 15 to October 18. This amendment would provide the Congress with the opportunity to complete the essential legislative business of this session.

At this point, I would like to outline the essential features of the joint resolution.

For 10 of the appropriation bills for fiscal 1981, the level of continuing appropriations will depend on the status of the bill as of October 1: Agriculture, Defense, D.C., HUD, Interior, Labor-HEW, military construction, State-Justice-Commerce-Judiciary, Transportation, Treasury-Postal Service.

Where 1 of these 10 bills has passed the House and not the Senate as of October 1, the level of continuing appropriations will be the level of the House-passed bill, to be expended under the authority and conditions in effect in fiscal 1980.

Where 1 of these 10 bills has passed the House and the Senate as of October 1, the level of continuing appropriations will be the House or Senate amounts, whichever is less, to be expended under the more restrictive authority.

Where an item is included in only one version of a bill that has passed both Houses as of October 1, the level of continuing appropriations is the current rate or the amount provided by the one House, whichever is lower, to be expended under the authority and conditions in effect in fiscal 1980.

Special provision is made for three bills:

Continuing appropriations for the legislative branch are provided at the rate and under the conditions of the bill as passed the House.

Continuing appropriations for energy and water development are provided at the current rate.

Continuing appropriations for foreign assistance are provided at the current rate or the budget estimate, whichever is lower, and under the more restrictive authority.

No general limitation or general provision passed by the House in any of these 10 bills will apply to fiscal 1981 unless the provision was in effect in fiscal 1980, or has been passed by the Senate in identical form as of October 1.

The joint resolution also makes specific provision for several individual issues and programs.

The school prayer language that passed the House on the Labor-HEW bill applies to activities covered by that bill.

The abortion language that passed the House on the Labor-HEW bill is applied to activities covered by that bill.

The abortion language from 1980 for the Defense, District of Columbia bills, and the 1980 foreign assistance continuing resolution, will apply to fiscal 1981 unless the Senate has passed the bill in question by October 1. In that case, revised abortion language will apply to 1981 only if passed in a form identical to the abortion language that passed the House for 1981. The abortion language on the Treasury bill will apply to 1981 only if passed in identical form by the Senate.

Continuing appropriations are provided at the current level for several activities that were not included in the House-passed bills, in most cases for lack of authorization.

The Council on Wage and Price Stability;

The Economic Development Administration;

The Regional Action Planning Commissions;

Annual contributions for assisted housing;

NASA research and development;

The National Health Service Corps;

Nursing research;

Health professions capitation grants and student financial assistance;

Nurse training;

Community mental health centers and rape research; and

Youth programs and the private section initiatives program under CETA.

The joint resolution also continues appropriations in indefinite amounts to provide mandatory payments and assistance under several specified programs:

Medicaid, grants to States for social and child welfare services, SSI, and AFDC under the Social Security Act;

The student loan insurance fund under the Higher Education Act;

Federal unemployment benefits, and advances to the unemployment trust fund;

Black lung benefits; and

Veterans' compensation, pensions, and readjustment benefits.

If any of you are considering voting against the joint resolution on final passage, I hope you have listened to this list of programs.

I also hope you know that there is a special urgency to our consideration of this continuing resolution, with an October 18 date, because of the Attorney General's opinion, and the implementing OMB Bulletin, that once appropriations have lapsed, obligations cannot be legally incurred except for the orderly termination of Government programs, and where otherwise authorized by law.

In the past, continuing resolutions have included language validating obligations incurred in anticipation of their passage. However, this joint resolution contains language validating only obligations incurred, in anticipation of its passage, to protect life and property, and for the orderly termination of programs and activities where appropriations have lapsed.

With these exceptions, and except where balances remain available until expended, and where OMB has provided funds through reallocations and reallotments, all other Government activities funded from current appropriations that have not been enacted by October 1 will stop.

This joint resolution must be enacted by October 1, with an expiration date of October 18, 1980.

□ 1520

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Speaker, here we go, being asked to participate in the biggest congressional cop-out in history. We are being asked to enact a continuing resolution until December 15, 1980.

Now, this is not just a little teeny continuing resolution like we usually enact to continue maybe a couple of departments or agencies. This is going to continue virtually the entire Federal Government.

This is not just to insure continuing the operation of Government and the payment of benefits after September 30, 1980. It is going to continue it until December 15 so this Congress can slip away out of town before election without fulfilling its duties to the American people and insure a lameduck session.

In the full Committee on Appropriations I offered an amendment to terminate this resolution before the election so we would continue to do the business of this Congress. That was rejected.

In the Committee on Rules the distinguished minority leader and I tried to get a rule that would permit amending this resolution to terminate it on October 18, but that was refused, too.

Let us be very clear. The skids are being greased. They are being greased to let us slide home for elections without passing a budget, without acting on a tax bill, and without passing or completing action on 12 of 13 appropriation bills.

The skids are being greased to take the focus away from a Congress that has failed to face up to the tough issues. They are being greased to take attention away from a Congress that has failed to govern effectively. They are being greased to focus attention away from a majority party that is unable to govern.

That is what this continuing resolution is about. That is what we are being asked to participate in. We are being asked to participate in a cop-out—a cop-out on the American people by a Democratic Party that has been unable to govern.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Speaker, I rise to urge the defeat of the previous question so that we might make in order the Senate budget resolution.

Now, it should be emphasized, it seems to me, that all we want to do here is bring to this floor a budget resolution which has already been reported by the Senate Budget Committee, and the reason we want to do this is not because we are enamored with the content of that resolution but, rather, because we think the law of the land should be upheld.

Previous speakers have already quoted from the Budget Act and from the law which says that we must have a budget resolution passed by September 15. Now, that law does not say, "except in an election year when the majority does not want to face up to tough votes." That law does not say, "except when the majority would rather go home and campaign for reelection than do the job that they were elected to do."

There is a very, very fundamental issue here, and it is the issue of facing up to doing the job we were elected to do and simply complying with the law. What is so wrong about complying with the law? And what can be right with violating the law or with the majority giving the back of their hand to the American people and saying, "We are going to ignore the law of the land; we are not going to face up to a budget resolution"?

Indeed the lameduck session which we are having foisted upon us is becoming the symbol of 25 years of Democratic leadership. It is absolutely mind-boggling that the Democrats, with a majority in both Houses and the Presidency, are unable to pass a single appropriations bill and unable or unwilling to conform with the law of the land and pass a budget resolution.

Indeed power corrupts, but power not only corrupts, power corrodes, and it obviously is corroding the vitality of the majority party so that they cannot do the job they were elected to do. Or, even worse, perhaps they do not want to do the job which they were elected to do. Or even worse, still, perhaps they are saying, "We are afraid to cast the votes which under the law we should be casting."

Instead, they are saying, "We want to go home and get reelected and duck the essential votes on appropriations to run this Government and duck the essential votes requiring a budget resolution."

So, Mr. Speaker, I urge my colleagues to vote against the previous question. And let us remember that the distinguished gentleman from Georgia (Mr. Levitas) rose in this well to oppose the previous question, so this is not purely a Republican stand; there is bipartisan support. Let us defeat the previous question.

Mr. LONG of Louisiana. Mr. Speaker, I yield 2 minutes for the purposes of debate, to the gentleman from Washington (Mr. Dicks).

Mr. DICKS. Mr. Speaker, I am supporting this resolution. I am particularly pleased with the fact that the Committee on Appropriations was willing to allow the House-passed levels to be the level of funding for appropriations until the regular appropriations bills are passed.

I rise because I am particularly concerned about the appropriations for national defense which have been increased more than any other aspect of the Federal budget between fiscal year 1980 and fiscal year 1981.

The total recommended in this year's House bill is $18.9 billion more than last year's. There is a strong consensus in both the House and the Senate to do more on national defense.

The continuing resolution at the fiscal year 1980 level would preclude proceeding with the product of this real growth for as much as one-quarter of the next fiscal year.

We could not proceed with new starts such as items relating to the rapid deployment force. We would be unable to take action on items added by the House, including funds for additional spare parts, more cost-effective aircraft procurement rates, or aggressive research into a new manned strategic bomber.

One example quickly identified by the Navy would be a delay in the contract for LAMPS Mark III antisubmarine helicopters, with a consequent delay in its initial operating capability.

Critically important operations and maintenance accounts would be particularly hard hit.

The disruptive impact on previous plans would result in cost increases and program delays.

□ 1530

Failure to provide needed funds will be a poor signal to send our allies who have also made commitments to increase the real defense spending. The bottom line for the American people would be that the Congress was unwilling to change traditional procedures once in order to meet our vital national defense needs.

I did not believe that this was the signal we wanted to send the American people and, therefore, I am delighted that the committee went ahead and accepted the higher level of funding for national defense.

I want to include in the Record a position paper on the consequences of not accepting the higher fiscal year 1981 levels for national defense:

Continuing Resolution Authority for Fiscal Year 1981

If the Department of Defense has to function under a continuing resolution for the first four or five months of FY 1981, all actions will be taken in consonance with currently approved programs of the Department of Defense and no action will be taken to accelerate or increase the scope of programs beyond those approved for presentation to Congress. No action will be initiated calling for the obligation of funds beyond the amount contained in the FY 1981 appropriations for military functions, military construction, and cemeterial expenses currently approved by either the House or Senate.

Military Personnel: The CRA will cause no legal problems but execution of certain new initiatives approved in the Authorization Bill could pose problems.

Operation and Maintenance: A potential problem facing O&M funded programs, under a protracted CRA in FY 1981, could be obtaining adequate Treasury Warrants to execute the baseline O&M program. High inflation rates and fuel cost increases combine to make FY 1980 O&M obligations through January 1980 significantly less than the obligation requirement for the same time frame in FY 1981. Readily apparent is the increase required for inflation including the immediate known cost increases associated with civilian personnel and stock/industrial fund purchases. A further increase in obligational authority over the FY 1980 level is essential because of the near doubling of fuel prices on February 1, 1980, and the related large increases in DOD transportation rates on March 1, 1980. Both of these increases will roll forward into FY 1981 costs and neither are reflected in FY 1980 first quarter obligations.

A protracted CRA will also create program funding uncertainties which could have a disruptive effect on program execution but which would be manageable. The effect on new program starts does not appear to be a serious problem to O&M.

Procurement: Under a CRA, the following FY 1981 programs will not be initiated:

Army: GUARDRAIL Aircraft, Advanced Attack Helicopters, HELLFIRE Missiles, DIVAD Guns, New Model Trucks.

Navy: SH-60 ASW Helicopters, HARM missiles, CV-59 & CV-60 Service Life Extensions, LSD-41 Ships, Maritime Prepositioning Ship, RO/RO Conversion Program, ARS Rescue Salvage Ship, CG-47 AEGIS Cruiser, AN/TPQ-27 Radars.

Air Force: GLCM

The most serious situation of the above programs being delayed involves the Shipbuilding and Conversion appropriation. The CV SLEP schedule is critical to the manning levels at Philadelphia Navy Shipyard and could lead to a wasteful and embarrassing predicament for DoD and Congress if delayed.

RDT&E: There will be no significant impact on RDT&E programs. There will be instances where Congressional action to date has altered proposed line item plans but these can be dealt with as needed to insure implementation of Congressional intent and to avoid program discontinuity or costly administrative hiatus.

Military Construction: No serious problems are expected; however, execution of the FY 1981 construction program will be delayed day-for-day with the delay in receipt of the Appropriations Act. Each construction project is a new start and new programs wouldn't be undertaken under CRA.

The inability to proceed with orderly execution of the FY 1981 construction program will result in increased costs and higher year end unobligated and unexpended balances.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Colorado (Mr. Kramer).

Mr. KRAMER. Mr. Speaker, Abraham Lincoln once said:

> You can fool some of the people all of the time, all of the people some of the time, but not all of the people all of the time.

However, that is what the Democratic leadership is trying to do. After repeatedly promising the American people a balanced budget to relieve them from the problems of inflation, we are now confronted with a continuing resolution which is going to try and not allow the American people the opportunity to examine the majority party's blueprint before the election, to come to grips with the problems of inflation, of unemployment, of high interest rates.

It is becoming increasingly apparent that the party which has controlled this Congress without cessation for 26 consecutive years is now running scared. They perceive their job not as being one to stay here and finish that job but to go home so that they can get reelected.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas (Mr. Bethune).

Mr. BETHUNE. Mr. Speaker, 3 weeks ago the Republican freshmen had a meeting down the hall wherein we predicted that there would be a lameduck session. We focused on the evils of a lameduck session and handed out a lot of material, but we did not get much reaction. We certainly did not get much reaction from the Democrat majority. But, you know, I think today, with the world watching and seeing the reality of this thing, we are getting a reaction.

We have hit a real nerve on that side, and I think that is the occasion for the majority leader taking the floor and coming forth with a plethora of excuses which will not wash. They just will not sell because the reality is that the Democrats have a two-third majority in this House. They have had the majority now for 25 consecutive years on that side of the aisle, and the simple fact is that with a two-thirds majority they cannot govern and they do not want to govern because they do not want to bite the bullet after having promised a balanced budget all spring long.

The great mystery has been whether or not we are going to have a lameduck session. Yes, we are going to have a lameduck session. However, there is an outstanding chance that it will turn into a dead-duck session when we will come back and piddle around for about 2 days.

Mr. QUILLEN. Mr. Speaker, I would suggest that unless we face up to our responsibilities under the Constitution and under the Budget Act and complete our action prior to election, there are going to be a lot of limping birds around the Chamber come a lameduck session.

I urge defeat of the previous question so we can get down to the business.

Mr. Speaker, I yield such time as he may consume to the gentleman from Delaware (Mr. EVANS).

Mr. EVANS of Delaware. Mr. Speaker, I rise in opposition to this lameduck resolution. If ever the American people needed a good reason to hold Congress in low regard, this bill before us today will certainly do the trick.

Instead of dealing with the basic problems facing the country, we are by this resolution saying, "Let's shove all our difficult problems under the rug, so the people of this Nation won't know how each Member of Congress really feels until the election is safely behind us."

In fact, this resolution ought to be called the "Incumbent's Reelection Act of 1980" because it tosses aside our responsibilities to the country so all those worried about their jobs in this House can hurry home to save them. Given the miserable record of this Congress, it is no wonder that the leadership of this body wants to clear out of town as fast as possible.

But I must remind my colleagues as they place one foot out the door with this resolution that we have a responsibility to act on the issues of deep concern to our constituents.

How many times have Members of Congress told the American people that they had to uphold the law, whether they like it or not. But here the Congress itself is violating the Budget Act of 1974 which requires us supposedly to complete the budget process by September 15. If the Congress itself does not have the discipline to make their own self-imposed deadline, how in the world can we ask the American people to have any confidence whatsoever in any actions of this body?

The American people are frustrated over high taxes, wasteful spending, and above all, over a Congress which does nothing about those problems. The time for politics as usual is over—the time for action is now. I urge the defeat of the continuing resolution, and ask that this Congress finally get down to work and begin doing the job we are supposed to be doing.

Mr. QUILLEN. I thank the gentleman for his contribution.

Mr. Speaker, I urge the defeat of the previous question.

The SPEAKER pro tempore. The time of the gentleman from Tennessee (Mr. QUILLEN) has expired.

Mr. LONG of Louisiana. Mr. Speaker, would the chair inform me how much time I have remaining?

The SPEAKER pro tempore. The gentleman from Louisiana has 5 minutes remaining.

Mr. LONG of Louisiana. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Wisconsin (Mr. OBEY), for the purpose of debate.

Mr. OBEY. Mr. Speaker, Abraham Lincoln has been quoted here today. I would like to suggest that Lincoln said something else which is appropriate to the occasion. At Gettysburg he said:

> People will little note nor long remember what we say here.

And I would suggest that the content of this debate today indicates that Lincoln's observation applies to us on this occasion as well.

I think that the real problem we are facing here is simply the fact that House rules are built in such a way that they guarantee almost in the extreme the rights of the individual on this floor. That is as it must be in a democracy. But as a consequence of the structure of those House rules, the House is really at the mercy of any organized minority which really wants to filibuster by amendment. And that is what has happened, in very large part, on almost all of the appropriation bills which we have dealt with this year.

I think we have only one legitimate question before us today. That is whether we want to, in a responsible manner, assure that the orderly processes of Government will continue until all of the appropriations bills can be conferenced out and passed or whether we do not. If you think that the Government ought to continue in an orderly way until we can finish our work, you vote for this resolution; and if you do not think the Government ought to continue and if you think we ought to run the risk of stopping social security checks and stopping veterans' checks and all the rest, which will happen, in light of the new Attorney General's opinion, then you vote against the resolution.

We really have one choice in the majority, I believe. We can go home on October 4 and listen to the real concerns of the people we represent or we can decide that we ought to stay here and listen to the political baby talk which we are going to run into on this floor between now and the election.

I would say that the content of this debate today illustrates more clearly than any other I can think of why it is wise for us to go home rather than continue the babbling which has been going on on this bill and others over the past 3 weeks.

Mr. LONG of Louisiana. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 237, nays 150, not voting 45, as follows:

[Roll No. 561]

YEAS—237

Addabbo
Akaka
Albosta
Ambro
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Burlison
Burton, John
Burton, Phillip
Byron
Carr
Chappell
Chisholm
Coelho
Collins, Ill.
Conyers
D'Amours
Daniel, Dan
Danielson
Dellums
Derrick
Dicks
Dingell
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
English
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Fountain
Fowler
Frost
Fuqua
Garcia

Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Gonzalez
Gore
Gramm
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hance
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Holland
Holtzman
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Ichord
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leath, Tex.
Lehman
Leland
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McHugh
McKay
Maguire
Markey
Mathis
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Natcher
Neal
Nelson
Nichols
Nolan

Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Peyser
Pickle
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Roberts
Rodino
Roe
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Santini
Satterfield
Scheuer
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stenholm
Stewart
Stratton
Studds
Stump
Swift
Synar
Tauzin
Thompson
Traxler
Udall
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whitten
Williams, Mont.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—150

Anderson, Calif.
Andrews, N.Dak.
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bereuter
Bethune
Broomfield
Broyhill

Buchanan
Burgener
Butler
Campbell
Carney
Carter
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte

Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dornan
Dougherty
Duncan, Tenn.

Edwards, Okla.
Emery
Erdahl
Evans, Del.
Fenwick
Findley
Fish
Forsythe
Frenzel
Gilman
Goldwater
Goodling
Gradison
Green
Grisham
Guyer
Hagedorn
Hamilton
Hammerschmidt
Hansen
Harsha
Heckler
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Hyde
Jacobs
Jeffords
Jeffries
Johnson, Colo.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Lee
Lent
Levitas
Livingston
Loeffler
Lott
Lujan
Lungren
McCloskey
McDade
McDonald
McEwen
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Myers, Ind.
O'Brien
Paul
Petri
Porter
Pritchard
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Spence
Stangeland
Stanton
Stockman
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Whitehurst
Whittaker
Williams, Ohio
Winn
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—45

Abdnor
Alexander
Anderson, Ill.
Bolling
Bonior
Brown, Calif.
Brown, Ohio
Cavanaugh
Clay
Corman
Cotter
Daschle
Davis, S.C.
de la Garza
Dickinson
Dixon
Dodd
Edwards, Ala.
Erlenborn
Ferraro
Ford, Tenn.
Gingrich
Grassley
Gray
Howard
Ireland
Jenrette
Leach, La.
Lederer
Lewis
McClory
Mattox
Murphy, N.Y.
Myers, Pa.
Nedzi
Pashayan
Pepper
Rose
Solomon
Stokes
Symms
Ullman
Wilson, Bob
Wilson, C. H.
Wydler

☐ 1550

The Clerk announced the following pairs:

On this vote:

Mr. Murphy of New York for, with Mr. Brown of Ohio against.

Mr. Lederer for, with Mr. Erlenborn against.

Mr. Clay for, with Mr. McClory against.

Mr. Cavanaugh for, with Mr. Pashayan against.

Mr. Stokes for, with Mr. Bob Wilson against.

Mr. Jenrette for, with Mr. Wydler against.

Mr. Dixon for, with Mr. Lewis against.

Mr. Ford of Tennessee for, with Mr. Symms against.

Mr. Bonior of Michigan for, with Mr. Abdnor, against.

Mr. Corman for, with Mr. Dickinson against.

Mr. Howard for, with Mr. Edwards of Alabama against.

Ms. Ferraro for, with Mr. Gingrich against.

Mr. Cotter for, with Mr. Grassley against.

Mr. Dodd for, with Mr. Solomon against.

Until further notice:

Mr. Brown of California with Mr. Daschle.

Mr. Davis of South Carolina with Mr. de la Garza.

Mr. Gray with Mr. Ireland.

Mr. Pepper with Mr. Leach of Louisiana.

Mr. Ullman with Mr. Charles H. Wilson of California.

Mr. Rose with Mr. Mattox.

Mr. Myers of Pennsylvania with Mr. Nedzi.

Mr. LUJAN changed his vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. WHITTEN. Mr. Speaker, pursuant to the rule just adopted, I call up the joint resolution (H.J. Res. 610) making continuing appropriations for the fiscal year 1981, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The Clerk read the joint resolution, as follows:

H.J. RES. 610

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1981, and for other purposes, namely:

SEC. 101. (a) (1) Such amounts as may be necessary for projects or activities (not otherwise specifically provided for in this joint resolution) for which appropriations, funds, or other authority would be available in the following appropriation Acts:

Agriculture, Rural Development, and Related Agencies Appropriation Act, 1981;

Department of Defense Appropriation Act, 1981;

District of Columbia Appropriation Act, 1981;

Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1981;

Department of the Interior and Related Agencies Appropriation Act, 1981;

Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981;

Military Construction Appropriation Act, 1981;

Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1981;

Department of Transportation and Related Agencies Appropriation Act, 1981; and

Treasury, Postal Service, and General Government Appropriation Act 1981.

(2) Appropriations made by this subsection shall be available to the extent and in the manner which would be provided by the pertinent appropriation Act.

(3) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this subsection as passed by the House as of October 1, 1980, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1980, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority: *Provided,* That where an item is included in only one version of an Act as passed by both Houses as of October 1, 1980, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1980.

(4) Whenever an Act listed in this subsection has been passed by only the House as of October 1, 1980, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the rate permitted by the action of the House, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1980.

(5) No provision which is included in an appropriation Act enumerated in this subsection but which was not included in the applicable appropriation Act of 1980, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in the joint resolution unless such provision shall have been included in identical form in such bill as enacted by both the House and the Senate.

(b) Notwithstanding section 10 of Public Law 91-672, and section 15(a) of the Act entitled, "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, as amended, such amounts as may be necessary for continuing projects or activities which were conducted in fiscal year 1980 and would be provided for in H.R. 7854, the Foreign Assistance and Related Programs Appropriation Act, 1981, as reported July 29, 1980, at a rate of operations not in excess of the current rate or the rate provided in the budget estimates, whichever is lower, and under the more restrictive authority.

(c) Such amounts as may be necessary for continuing projects and activities under all the conditions and to the extent and in the manner as provided in H.R. 7593, entitled the Legislative Branch Appropriation Act, 1981, as passed the House of Representatives, July 21, 1980.

(d) Such amounts as may be necessary for continuing the following activities not otherwise provided for, which were conducted in fiscal year 1980, but at a rate for operations not in excess of the current rate:

activities of the Council on Wage and Price Stability;

activities of the Economic Development Administration including salaries and expenses;

activities of the regional Action Planning Commissions;

activities of the Judiciary under the heading "Pretrial Services Agencies";

activities for which provision is made in the Energy and Water Development Appropriation Act, 1981, as passed the House of Representatives on June 25, 1980: *Provided,* That appropriations and funds made available to the Appalachian Regional Commission, including the Appalachian Regional Development Programs, by this or any other Act shall be used by the Commission in accordance with the provisions of the applicable appropriation Act and pursuant to the Appalachian Regional Development Act of 1956, as amended, notwithstanding the provisions of section 405 of said Act;

activities of the Department of Housing and Urban Development under the heading "Annual contributions for assisted housing";

activities of the National Aeronautics and Space Administration under the heading "Research and development";

activities for which disbursements are made by the Secretary of the Senate, and the Senate items under the Architect of the Capitol;

activities of the Water Resources Council;

activities of the National Health Service Corps under section 338(a) of the Public Health Service Act;

activities for support of nursing research under section 301 of the Public Health Service Act;

activities for support of health professions education and nurse training under titles

VII and VIII of the Public Health Service Act;

activities under the Community Mental Health Centers Act; and

activities under title IV, part A, subparts 2 and 3, and title VII of the Comprehensive Employment and Training Act.

(e) Such amounts as may be necessary to permit payments and assistance mandated by law for the following activities under the terms, conditions and limitations included in the applicable appropriation Act for 1980:

activities under title IV of the Federal Mine Health and Safety Act of 1977;

activities under the Social Security Act;

retirement pay and medical benefits for commissioned officers of the Public Health Service;

activities under title IV, part B, of the Higher Education Act;

notwithstanding any other provision of this joint resolution except section 102, activities of the Department of Labor, Employment and Training Administration for "Federal unemployment benefits and allowances" and "Advances to the unemployment trust fund and other funds";

activities of the Department of Labor, Employment Standards Administration for "Special benefits" and "Black Lung Disability Trust Fund";

Veterans Administration "Compensation and pensions"; and

Veterans Administration "Readjustment benefits".

(f) Such amounts as may be necessary for fiscal year 1981 for Department of Energy, Operating Expenses, Energy Supply, Research and Development Activities, to carry out the breeder reactor demonstration project or project alternative approved by Congress in authorizing legislation, and for no other purpose, at the current rate of operations notwithstanding the provisions of section 102 of this joint resolution.

(g) Notwithstanding section 15(a) of the Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, as amended, and section 10 of Public Law 91–672, activities of the Department of State to process, maintain, return or resettle Cuban and Haitian entrants shall be funded at not to exceed an annual rate provided in the budget estimate.

(h) Notwithstanding section 101(a) of this joint resolution, such amounts as may be necessary to continue the low income energy assistance program under the terms, conditions, and State allocations provided for in H.R. 7998 as passed the House of Representatives August 27, 1980, and in House Report 96–1244.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1980, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) December 15, 1980, whichever first occurs.

SEC. 103. Appropriations and funds made available or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 665(d)(2) of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 104. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such projects or activity are available under this joint resolution.

SEC. 105. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 106. Any appropriation for the fiscal year 1981 required to be apportioned pursuant to section 665 of title 31, United States Code, may be apportioned on a basis indicating the need (to the extent any such increases cannot be absorbed within available appropriations) for a supplemental or deficiency estimate of appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees and to active and retired military personnel. Each such appropriation shall otherwise be subject to the requirements of section 665 of title 31, United States Code.

SEC. 107. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution for the purposes of maintaining the minimum level of essential activities necessary to protect life and property and bringing about orderly termination of other functions are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

SEC. 108. No provision in any appropriation Act for the fiscal year 1981 that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 102(c) of this joint resolution.

SEC. 109. Notwithstanding any other provision of this joint resolution except section 102, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981, as passed the House of Representatives on August 27, 1980, shall be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

SEC. 110. Notwithstanding any other provision of this joint resolution except section 102, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981, as passed the House of Representatives on August 27, 1980, shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term: *Provided however*, That the several States are and shall remain free not to fund abortions to the extent that they in their sole discretion deem appropriate.

SEC. 111. Notwithstanding any other provision of this joint resolution except section 102, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981, as passed the House of Representatives on August 27, 1980, shall be expended pursuant to any order or injunction of any court of the United States which would compel the expenditure of such funds for a purpose for which such expenditure is specifically prohibited by such Act.

COMMITTEE AMENDMENT

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 5, line 6, after the colon insert: "*Provided*, That no appropriation or fund made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or authority were not available during fiscal year 1980:".

The SPEAKER. The gentleman from Mississippi (Mr. WHITTEN) will be recognized for 30 minutes, and the gentleman from Massachusetts (Mr. CONTE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution (H.J. Res. 610) and that I may include extraneous material.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are dealing with an unusual situation here today. Personally, it has been quite interesting to see the byplay between my friends on the left and my friends on the right, between the Democrats and the Republicans.

There is one advantage of being in the minority party of Congress. You can claim all the good things and on the bad things you can always claim you are in the minority.

I have always said there are two ways of serving in Congress. One is to record your views and the other is to do something about them.

I hope my colleagues will listen to what goes on here. The House has done its job. In this continuing resolution we have provided the amounts of money that were in the House passed appropriations bills and were sent to the Senate. There are several reasons we must pass this continuing resolution today.

The House has passed 12 of the 13 regular appropriation bills for 1981 and the remaining bill was reported back in July. But as of this date, no appropriation bills have been signed into law. Without this critical funding mechanism the entire Government faces program shutdowns at midnight, September 30. The Government will be confronted with payless paydays. Veterans' benefits, food stamp funding, black lung benefits, student loans, SBA disaster loans, disaster relief, highway and road construction, flood control projects, and revenue sharing would all be disrupted. The defense efforts would be adversely affected.

URGENT NEED FOR CONTINUING RESOLUTION

I would like to call attention to a recent opinion of the Attorney General and to circulars of the Office of Management and Budget concerning the shutdown of the Government. The Attorney General's opinion states in pertinent part as follows:

> "During periods of "lapsed appropriations," no funds may be expended except as necessary to bring about the orderly termination of an agency's functions, and that the obligation or expenditure of funds for any purpose not otherwise authorized by law would be a violation of the Antideficiency Act.

This removes what flexibility there was in previous years to carry on Government activities for a short period beyond the last day of the fiscal year. This year we just must pass a continuing resolution by October 1 to maintain necessary Government activities of defense, health, safety, and welfare.

RECORD OF THE APPROPRIATIONS COMMITTEE

As you know, under section 301(a) of the Budget Act, the committee is prohibited from reporting any appropriations measure until both Houses have completed action on the first budget resolution. This occurred June 12, 4 weeks past the statutory deadline of May 15. There were delays in the legislative process, some associated with the balanced budget effort despite the fact that the Budget Committee, in recognition of the problems confronting the Congress, accelerated their schedule and indeed reported the budget resolution early. But numerous difficulties persisted and final agreement was not reached until June 12.

Although this delay cost precious time, the Appropriations Committee acted swiftly, reporting out 7 of its 13 appropriations bills within 1 week in June. In fact, the Treasury, Postal Service bill and the State-Justice bill were reported on the day following adoption of the budget resolution. Seven bills were reported in June, three in July, two in August, and the final bill last week.

At this time 12 of the 13 appropriations bills have passed the House, most of them in June and July. Only the foreign assistance appropriations bill is pending floor consideration. We reported this bill on July 29 and have appeared before the Rules Committee seeking a rule.

The problem is that the Senate has passed only two bills as of this hour. Not a single bill has been signed into law. As my colleagues can see, the necessity for a continuing resolution is unquestioned.

PHILOSOPHY OF CONTINUING

The basic philosophy of this continuing resolution is simple, it is designed to carry forward activities of the Government into the fiscal year that begins on October 1. The resolution is effective only until December 15 and its applicability to programs and activities ceases as the regular bills become law.

The resolution is somewhat different than continuing resolutions of prior years in that it provides the House passed rate for those bills which have passed just the House by midnight September 30. In prior years, bills in that position at the close of the fiscal year were continued at the House rate or the current rate whichever was lower.

This year's continuing resolution changes only those rates. The mechanics of section 101(a) applicable to the terms and conditions of operations are the same as in other years. Only the dollar levels are different.

□ 1600

All the debate you have heard here today centers on the theory that we can make the other body do what the House would like. In the years I have been here I have never found a way to do that and I do not think you will find one now.

I am not going to find fault with the other body because they doubtless have their reasons for their actions. The fact remains that we must deal with the other body in order to complete our business and this continuing resolution must be adopted before October 1 to prevent the essential operations of the Federal Government from coming to a halt.

If the other body wished, they could take this resolution up immediately and we could have a conference and clear the measure before October 1.

The resolution before you has a cut off date of December 15. There is a whole lot of work to be done in connection with completing the appropriations and other business of Congress.

While the Senate could complete their business and we could complete action on our bills prior to October 1 under ideal circumstances, it is not likely.

In case we do not, we have given ourselves some elbow room with which to deal with the various subjects. Any shorter period of time would not allow the completion of the legislative business. There were 160 amendments offered on the House side to the various appropriations bills and a good many were adopted.

These amendments dealt with matters in the regular bills, and they will be taken up in conference with the other body once the other body passes them. Doubtless, judging by the past, they are likely to change those amendments and they will have additional amendments of their own.

The termination date for the continuing resolution of December 15 will allow the other body to take up the bills in regular order and we will have time to work them out, bill by bill. But in case they do not, we have provided a vehicle which carries the Government programs, in effect, at the dollar amount we have in the various bills which we have passed by the House. So today you are voting for the appropriations bills in one package which you have already voted for previously.

Now, I envy my friends on the left because they can claim, when things are unpopular, that they are in the minority party of Congress and had nothing to do with the issue. On the other hand, it is often good to be on the majority side so you have a chance to do something about the issues. I am proud of the record our Committee on Appropriations has made this year because, exclusive of national defense, these appropriation bills as passed by the House are $3.4 billion under the budget. Now, when you add in defense it makes a little different story. But both parties, all political candidates for President, the press and the people are more and more for increased defense.

I think the thing to do is to get on with our work and pass this resolution.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly supported the gentleman from Mississippi in full committee, and also in the Rules Committee, with one exception. I think this is a good continuing resolution, but I feel the date should be cut back from December 15 to October 18.

If we do not change that date and we go over to the other body, the other body is going to put a date in of January or February, because the other body does not want to come back. Here we are, late in September, and they have only passed two bills out of the other body. We have not gone to conference on one bill yet.

Are we ready to go home on a continuing resolution in the amount of $408 billion? We were elected by the people of the United States to come here and do our job, but we are not going to do it, we are going to wrap it all up in a continuing resolution and put it over until near Christmas.

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I am happy to yield to my good friend from Connecticut.

Mr. GIAIMO. I want to commend the gentleman for what I think is one of the most important statements that is being made in this Chamber today. Think of it, putting $400 billion on a continuing resolution because we have not completed the action on our appropriations and because, in fact, we will still have to come back and do that.

My colleagues should know that there are very heavy pressures being put upon the Congress in both Houses by some Members of the House and the other body to not come back in November after the election for a postelection session when, hopefully, we can conclude the work that should have been done. A necessary session to complete the careful analysis which should be done on these appropriations by the other body and then jointly, in the conference committees.

In addition thereto, as my colleagues know, we still have not adopted the second budget resolution which we will now have to do in November, which must be done before we complete work for the year. The main reason for that delay, as my colleagues know, has been the reconciliation process wherein we started the conference today and which hopefully will be completed next week. Then we can hopefully begin the markup of the Second Budget Resolution next week.

But to me, if the gentleman will yield further, it is unconscionable that we, the people's representatives, after being here all year, now find ourselves not having had the ability to adopt a budget and to adopt the spending bills of this Nation. I submit to my colleagues, I submit that we must come back here, we must come back and do this work, either continue to do the work now, and I know that is unrealistic because of the necessity of running for reelection, but certainly after the election recess we must come back here and complete the work on the spending bills and the budget. I say, therefore, that this continuing resolution is necessary, and I think quite properly at the House numbers.

I would have much preferred that it be at the House numbers or the budget amount, whichever was lesser, because I know what is involved in having the higher dollar amount, but certainly the termination date on the continuing resolution should be as brief as possible. One of the key items and areas of disagreement in conference will be whether or not to keep a December 15 termination date on the continuing resolution, which will compel Members to come back before December 15 to provide appropriations; or whether, in fact, the conference on the continuing resolution might well cave in to a suggestion which might come from the other body, suggesting a termination date not of December 15, but of sometime in January or February. This would then eliminate the need to come back for a post-election session. We would then be running the Government's spending programs, $400 billion worth of them, on a continuing resolution rather than appropriations which have been scrutinized by both bodies and worked out in conference.

□ 1610

Mr. WHITTEN. Will my colleague yield to me?

Mr. CONTE. Could the gentleman give me an extra minute?

Mr. WHITTEN. I certainly will.

Mr. CONTE. I will take a minute of the gentleman's time.

Mr. WHITTEN. I rise at this point so that the record might be corrected now. The impression was left that we as a House of Representatives had not done our job. Let me say that having to do with appropriations we have done our job. We have sent every bill to the other body. We have sent them individually. They have been in their hands and in their control. They are now. We realize that unless the two bodies get together, everything will come to a standstill the first of October. In view of that, we have brought this resolution here to continue the Government in business. I want to repeat again that the words used by my colleague who preceded me, and my friend, had to do with the Congress as a whole and does not apply to the House of Representatives.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield very briefly to the gentleman.

Mr. YOUNG of Florida. I thank the gentleman for yielding. Let me correct our distinguished chairman. The House has not sent every appropriations bill to the other body. Somewhere along the line the foreign aid appropriations bill got lost and is not going to come to this House before the election. I just want the record to be straight. We have not sent all appropriations bills to the Senate.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding. The gentleman from Connecticut (Mr. GIAIMO) has raised the specter of a change in this continuing resolution to a date in January or February. This fits in with a rumor I have heard for several weeks around here—rumors do become substance in this body—that people with junkets planned in the middle of November, have been told informally by the leadership, or someone on that side, "Do not worry. Get your bags packed. The planes will be leaving. We will not be around here in November." If that is the design, only to soothe the junketeers that they will not miss their trips, no one seems to be worrying about the American people. Apparently to some people the junkets are the important thing, not our duty to stay here and work. I believe we should stay here and finish our work.

Mr. CONTE. I want to compliment the gentleman from Connecticut (Mr. GIAIMO). He is going to leave a tremendous void in the House of Representatives as he departs here and goes back into the business world. He is absolutely right. He has always been a hard working, responsible public servant. I wish everyone—I wish this House were packed here today—would heed the gentleman's words. He did not say it outright, but you know what he is saying. Goodbye to the Budget Committee and the budget process. That is what he is saying exactly, because if you go home on October 1, 3, or 4, and then the Senate changes that resolution to January or February, you are not going to act on a second budget resolution. It is all over with, and you can say goodbye to budget restraint.

The gentleman is absolutely right, and he is right on target. Do not let anyone on the majority side here be intimidated that there is going to be a payless day if they adopt my amendment, that the veterans are not going to get their pensions, or the social security recipients are not going to get their checks. You adopt my amendment and on October 18 you clean up the work of the Budget Committee. You clean up the work of the Committee on Appropriations, and it is all over with.

Mr. Speaker, many times we have come in with another continuing resolution for another week or another 2 weeks. So there is no problem and do not let anyone—anyone—draw this red herring over the issue. The issue here is whether you want to go back to your people on October 3 and tell them that you have not lived up to your responsibility, that you advocated $408 billion wrapped up in one piece of paper in a continuing resolution. I say no.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my friend, the gentleman from Pennsylvania.

Mr. EDGAR. I thank the gentleman for yielding. I would like to associate myself with the gentleman's remarks. I think he is right on target. I think we ought to focus on the kind of issues the gentleman suggests. I think if we left here on October 18 as opposed to December, we would put more pressure on the Senate, and I think we would focus the issues on the appropriations process and the budget process. I am concerned, as the gentleman is, that otherwise we will throw the budget process out the window.

I would like to commend the gentleman.

Mr. CONTE. I thank the gentleman from Pennsylvania (Mr. EDGAR). Before I yield back time, my good friend, the gentleman from Wisconsin (Mr. OBEY), quoted Lincoln, but he did not go to the next line where Lincoln said:

> People will never forget what we do here, and they will never forget what we do here today.

Mr. BETHUNE. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Arkansas.

Mr. BETHUNE. I thank the gentleman for yielding.

I just want to get the nomenclature straight. If we leave on October 3 and come back after the election when we will have some lameduck Members that would be referred to as a lameduck session—but if we adjourn and do not come back until January 15, as the distinguished gentleman from Connecticut (Mr. GIAIMO) mentioned, it seem to me we ought to start referring to that as a dead-duck session, because that is what it would be. We would be leaving October 3 and not come back at all. So I just want to straighten that out. Is my understanding right? Is there some possibility we might be leaving October 3 and not come back at all?

Mr. CONTE. There is a very strong possibility. I have a feeling that is what the Senate is going to do with this continuing resolution. Then you have a new Congress, and you have just violated the budget process by not passing the second concurrent resolution on the budget. Then you have a new Congress acting again upon appropriations that have been worked on by the previous Congress.

Mr. WHITTEN. Mr. Speaker, I yield myself 1 minute. I wish to repeat again to my colleagues that when they use the word "we" in referring to the carrying out the legislative duties, I want to repeat again the House of Representatives has done its duty. This is the second time we have sent the appropriation bills to the other body. I do not want the impression left that the House of Representatives has not done its duty regarding the appropriations business, especially the Committee on Appropriations. As I said, the committee has reported all the appropriation bills and the House has passed all these bills except one. If you exclude the defense bill, the appropriation bills are $3.4 billion below the budget. We are sending the Senate a second package which includes all those bills. So when you say the word "we," let us add the Congress as a whole, because in the House of Representatives we have done our job twice. I just want to make the record clear on that.

I yield 5 minutes to the gentleman from Missouri (Mr. BURLISON).

Mr. BURLISON. I appreciate the distinguished chairman's yielding to me.

Mr. Speaker, the State of Missouri as well as the State of Iowa and others, has experienced severe agricultural losses due to the drought situation. Missouri has been declared a disaster State by the

Small Business Administration. I am very concerned, Mr. Speaker, that adequate moneys be available for the disaster programs when the Small Business Administration begins approval of applications for qualifying farmers, particularly. The State-Justice-Commerce appropriations bill following House action contained $287 million for the disaster programs. A budget amendment for disaster funds has been submitted by the President in the amount of $1.3 billion. It was submitted, however, too late for the House to consider it in the budget resolution or the State-Justice-Commerce appropriations bill for fiscal year 1981.

Mr. Speaker, because of my strong concern that 10th District of Missouri farmers have readily available the needed funds, I would like to enter into a colloquy with the very distinguished chairman of the Subcommittee on State, Justice, Commerce, and Judiciary, the gentleman from Iowa (Mr. SMITH).

Will the gentleman advise the House as to what sources of disaster moneys we have available at this time as included in the House authorization and appropriations bills to this point.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. BURLISON. I will be delighted to yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding. As I understand it, as of today there will be, it is estimated, between $500 and $600 million left over in the disaster loan fund at the end of the fiscal year. The payout in the next 3 or 4 months for disaster loans is expected to be at the rate of about $300 million per month. Applications for such loans are on a regional basis. Applications come into the SBA regional offices, and they notify the Washington office. The Washington office gives the regions authority to issue the checks. The checks are issued on the basis of the applications, and the dates they come in.

The SBA disaster loan program, of course, covers all kinds of disasters including tornadoes, hurricanes, as well as drought disasters. As I stated earlier, $600 million will be in the disaster loan fund at the end of the current fiscal year. Two hundred and eighty-seven million dollars is in the House bill for fiscal year 1981, and some of those funds will be available under the continuing resolution. So it would appear that more than 2 months', and perhaps 3 months' supply of money is available without the passage of the 1981 fiscal year appropriations bill.

□ 1620

In addition to that, as far as drought assistance, for crop loss is concerned, applicants can also apply to the Farmers Home Administration for emergency loans and those loans now are being made on the same basis as SBA. So as far as crop loans are concerned, there will be money available.

I believe that as of today, there is enough money to get us by until December 15 and there certainly is enough money to get us by until November 15 when it is expected the Congress will be back in session.

Mr. BURLISON. Finally, Mr. Speaker, would the gentleman from Iowa advise as to what action he would except to be taken if and when the funds we are discussing are exhausted.

Mr. SMITH of Iowa. I would say we are continuing to watch this situation closely. By the time that the continuing resolution gets to the Senate in the next few days, if any amendments are needed, we certainly will be in favor of them.

Mr. BURLISON. I thank the gentleman for his contribution. I thank the gentleman from Mississppi for yielding me the time.

Mr. CONTE. Mr. Speaker, I yield 6 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I do not believe that free elections are really free if the electorate must vote in ignorance.

They will be voting in ignorance this November if we persist in the course of action that we laid out in this resolution. This resolution calls upon us to relinquish our authority to a bureaucracy the people do not elect. This resolution calls upon us to abrogate the responsibilities those people entrusted to every single one of us 2 years ago. This resolution, in effect, disenfranchises the voters. What do they have left, if they have no record upon which to base their decision at the polls?

It is on our record that we are supposed to stand for reelection. This resolution essentially says the record of this House will not be written until after the elections but before the results of those elections take effect.

The majority in this House and in the other body have the votes to act. Yet we have not one single appropriation bill to send to the President and we have no formal budget to begin the fiscal year, beginning October 1. Federal programs are in limbo, the Federal Government is adrift in a sea of indecision. The power of the purse is being dropped in the lap of the bureaucracy, which has carte blanche authority under section 101(e) of this resolution.

Mr. Speaker, the only constraint on them is a sheepish, impish statement admonishing the agencies to "operate as cautiously as possible until the regular appropriations are enacted." Now, what rubbish is that?

In the eyes of those agencies, this Congress must appear to be an aging, decrepit old lion with rotting teeth and no claws.

Grover Cleveland once said that—

> Public officers are the servants and agents of the people, to execute the laws which the people have made.

On behalf of the people we have legislated. We have adopted the Grassley-Byrd amendment mandating a balanced budget and we enacted the Budget Act, mandating a second budget resolution by the 15th day of this month. We ought to honor those laws, not exploit them for the sake of political expediency.

The only other choice is to stand idly by while the Budget Act crumbles before our very eyes, as was eloquently expressed by the gentleman from Massachusetts (Mr. CONTE).

The reason we are in this predicament here today is very simple. The will of the people and the will of the leadership in this Congress are at odds. The leadership cannot do what it would like to do without alienating the people who will be going to the polls just 7 weeks from now.

The whole budget process would not be in jeopardy today had the leadership not blocked a host of measures designed to shore it up.

Time and time again, we sought votes on legislation to tie spending to the gross national product; to balance the budget; to initiate a budget "two step" that would establish macro figures prior to functional categories; to put some controls on entitlements; to set in place the outlays in the second budget resolution as a firm statutory ceiling and give the President impoundment powers; to enact a budget calendar which would highlight violations of the Budget Act; to provide for tax relief that, in concept, the administration, the House and the Senate have all conceded is necessary. The list is endless.

All of these proposals would have given the budget process the stability and the discipline it needs. They would have given the budget process some perspective and given the Nation some kind of economic policy, other than that dictated by public opinion polls.

Yet, in the House and in the other body, these measures have been ignored.

What do we have left? We have a continuing resolution larger than any in history. We have a resolution that allows unlimited expenditures for entitlements, that contains only a few of the limitations we added to various appropriation bills, and that allows the Government to operate at the House-passed levels in every circumstance. It is unheard of.

It seems to me we demean our system of representative government by deferring these important decisions embodied in this resolution until sometime after we are well into the next fiscal year. We are simply turning our backs on our obligation to budget and appropriate the public's money wisely. If we turn over that responsibility to the bureaucracy, and then walk out of here on October 2, this Congress must be judged, in my opinion, as a failure from start to finish.

I will concede, as the chairman has pointed out, that the House has passed all but one appropriation bill. However, the other body could act on these measures in the next couple of weeks and if we were to agree on an October 18 date as called for in the motion to recommit, we could have many of the necessary conferences. I concede the fact that perhaps one or two measures would not be enacted, and then a continuing resolution in that limited frame of reference makes some sense.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Illinois.

Mr. MICHEL. The truth is there is a complete lack of coordination between the two bodies that once did exist and the majority in control in both Houses has to share the responsibility for that lack of coordination.

One final point I might add: As I understand the Budget Control Act, we are not going to be able to adjourn until a second budget resolution is finalized. So, we have got to come back sometime in the life of this Congress to finalize a second budget resolution or again be in violation of what we set down as the law of the land. How can we in good conscience go back to the people out there and admonish them for violating a law, whether it is local, State or Federal jurisdiction, when right there in our own House we are violating our own law as of September 15, and every succeeding day. We ought to be very conscious of what we are doing here today.

Mr. Speaker, obviously I am opposed to the resolution.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Speaker, I rise in the strongest possible opposition to the resolution. This bill clearly represents an attempt to avoid congressional accountability for the huge deficit which the Federal Government will produce during fiscal year 1981. It is incredible to me that the leadership of this Congress is—by design—denying the American people the opportunity to judge each of us based on the record of this Congress.

Early this year there was much fanfare within this House about a balanced budget. It made good reading in the morning newspaper. However, now that Congress has proven its inability to meet the changes presented by a balanced budget, an now that the entire budget process is in a shambles, the leadership of this House has determined that it is in their best interest that the public not know the facts. This decision was obviously made with little regard for the public's best interest.

The fact that the resolution is even being brought up for consideration indicates that the decisionmakers in Congress feel Members are here to get reelected and not to legislate and oversee the operation of the Federal Government. Such overtly political motives are a disgrace and bring dishonor to this great institution. I would hope that the Members of the House could return home without having to be embarrassed about the lack of responsibility demonstrated by our actions today.

Mr. Speaker, it is not my desire to take the floor for partisan reasons. However, when the public's rights are placed second to political considerations, I am obligated to let my constituents know why.

If this resolution passes, the newspaper headlines from earlier this year will be replaced by allegations that Members of the House acted irresponsibly in order to protect their reelection prospects. This politically motivated attempt to hide the facts must be exposed and prevented. The American people must demand accountability. Those Members who are predisposed to ignore congressional responsibilities and support this continuing resolution must know that their actions will not go unnoticed.

We are honor bound to oppose this resolution and stay in Washington until our work is finished. Only then do we have the right to seek reelection.

Mr. WHITTEN. Mr. Speaker, I reserve the balance of my time.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Speaker, I was thrilled to hear some of the speakers on the other side of the aisle in this debate and the previous related debate give so much credit to the minority. Here we are, a little band about one-third of the House. Yet the distinguished majority leader said that we are practicing the politics of disruption, as if our little one-third minority could somehow control the actions of this House.

The gentleman referred to the minority's votes on measures in the past, to pass a budget resolution, again as if we somehow control the House.

Another Member of the majority said, "The House is at the mercy of an organized minority."

Well, Mr. Speaker, if we have that kind of awesome power and we are only a little band of one-third minority, just think what a good job we could do managing this House and this Congress if we had a majority.

□ 1630

No, Mr. Speaker, all the oil in Texas will not wash away the fact that the Democrats control this House; the Democrats contol the Senate; the Democrats control the Presidency. The Democrats have the votes to do anything they want to do, so the only conclusion must be that they do not want to face up to doing the job. They do not want to do the job. They do not want to pass appropriation bills. They do not want to comply with the law of the land.

If we pass this resolution today, we made it easy not to do the job. But, if we support the motion to recommit and adopt the October 18 date, we are saying to the American people that we want to stay here. We want to stay here for 2 more weeks and try to do the people's work. The American people have a right to know who supports wanting to stay here and do their work, and who wants to go home and campaign.

The record is clear. Starting 3 weeks ago with the Republican freshmen, it was the Republican Party and the Republicans in this Congress who focused on this issue. It is the Republicans who want to stay here and do their work; and it is the Democrats, apparently, who are refusing to do the job. So, if the Democrats do not want to govern, it is time to give somebody else a chance.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Speaker, I want to call particular attention to the motion to recommit that will be offered by the distinguished ranking minority member of the committee, Mr. CONTE, to change the termination date of this concurrent resolution to October 18. You know, that is the date that historically, in an election year, this House has adjourned. It is the date that the distinguished ranking minority member and the distinguished minority leader proposed in the Rules Committee that we put into this bill. It is a date that would allow us to at least complete some more of the work of this Congress on these appropriation bills, and a date that is realistic.

Let me just pose what happens for just 1 minute. Assuming that the Senate, the other body, extends the time of the continuing resolution until some date next year, do you know what that means we will have to do? That means that next year we will have to take the rest of this year's appropriations bills, reintroduce them, retake them through subcommittee and then through full committee, pass them again by the House; we will have to do two full cycles next year in addition to the fact that we have destroyed the budget process in the process. Is that the kind of scenario you want? Is that the kind of way you want this Congress to appear? We will look like idiots in the mind of the public, and next year we will be in a worse situation than we are this year.

I urge support of the gentleman from Massachusetts when he offers a motion to recommit, changing the date to October 18. If we cannot meet that date, we can always have another continuing resolution, but let us not get into that kind of morass.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. MYERS).

Mr. MYERS of Indiana. Mr. Speaker, there has been much said this afternoon criticizing the budget process, and I think we might spend the afternoon criticizing the budget process which obviously has not worked, but really, the budget process has not put us in this position we are in today. It would be wrong to leave the impression that the membership of that Budget Committee, on both sides of the aisle, has not done its job and tried to do everything possible to overcome the obstacles placed before them.

The gentleman from Connecticut (Mr. GIAIMO), who has been an outstanding chairman and who will be missed by this body, it certainly is not his fault that we are in this position today, or any member of his committee.

Also, I am proud to be a member of the Appropriations Committee, because, as has been said frequently here this afternoon, our committee, the appropriations subcommittees and the full committee, with one exception has done its job; and even the one exception, the Foreign Assistance Act, we have reported it out of the full committee. I understand there is even one session before the Rules Committee, and to suggest that it is lost is wrong. It is not lost. If we would hang around for the next couple of weeks, I am sure someone could find that bill and bring it to the floor.

But, it also is wrong to suggest—and

here is where I must take exception with my chairman, for whom I have great admiration and with whom I agree on just about everything, but the walls of the Government will not tumble on October 1 if this is changed to October 18, nor will they crumble on October 18 if we should—and I think we should—recommit this bill with the October 18 date.

Because, let us look at what is happening right now. The other body has passed two appropriations bills. The one, energy and water bill, we have already appointed conferees. We have had a preconference meeting between the chairman of this body and the chairman of the other body, and the ranking members of those committees. We have come to many agreements. We could well go to conference tomorrow or the next day, and probably on Monday or Tuesday of next week, be back on the floor by Wednesday with that conference.

The other bill is the military construction bill. It has already passed the other body. I have just been advised that the other body will probably pass their Department of Defense appropriation bill within the hour.

That means that 3 of the 13 major bills have already passed the other body and this body, and are ready to go to conference. So, we are well on the way. If we should decide to take that October 18 date, we have 11 working days left between now and the October 4 date that was announced earlier this year for sine die—11 days. A lot can be done in 11 days, but if we go on to the October 18 date, as has been suggested by the ranking minority member, Mr. Conte of Massachusetts, that would give us 11 or 12 more days on top of that. At the minimum, we would have 22 additional working days and, my friends, most of us have been through several elections around here.

The SPEAKER pro tempore. The time of the gentleman from Indiana has expired.

Mr. CONTE. Mr. Speaker, I yield 2 additional minutes to the gentleman from Indiana.

Mr. MYERS of Indiana. We have been through elections. If we have done our jobs at all, we do not have to rush home and have a crash program. I am sure our constituents know the kind of job we are doing. However, I think that if they were asked, they would rather see us complete our work than come back in a session, whatever you want to call it, after the election.

I am quite confident that most of the membership would rather stay and get their work done. I am sure the American taxpayer would rather see us complete our work. It might not take until October 18. Possibly, we could work 1 week beyond October 4, maybe on the 10th or 11th, and complete our work, but then we would not necessitate going through the anguish. I think it is altogether a good possibility that the other body would sign in on this, and I just a moment ago tried to ascertain what kind of thoughts they have.

The majority leader of the other body is silent. He is contemplating whether to ask for a lameduck session or go over to January. As Mr. Coughlin of Pennsylvania said, if we should adopt a resolution for January 15 or February 15, the whole process has to start over, and we are already behind.

So, I urge our membership on both sides of the aisle, this is not a partisan issue; it certainly is not the fault of the House of Representatives, and I assure the Members that it is not our committee's fault, but we are in this position. I think it would be well for us to recommit the bill with this October 18 date. It is reasonable. I think it is altogether possible that we can complete our work much earlier than that, because the other body is working now and we will be ready to go to conference on this budget and complete our work. Let us recommit and get our work done.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, I yield 2 additional minutes to the gentleman from Indiana.

Mr. Speaker, may I say that there is no Member of Congress with whom I enjoy working more or for whom I have more respect, both for his record and his ability.

My colleague has stated that everything will not fall apart, but we cannot afford to let it. So, if October 18 is put in there, I agree with the gentleman that something will be done. I will tell you what it looks like to me, our problem is on the other end of the Capitol. There is nothing we can say or do that will make them change their minds on whatever they intend to do. We must be both prudent and realistic or we will have to have another continuing resolution.

I hope the gentleman will agree with me. I want to repeat again that we have attended to our duty on the Appropriations Committee. We have sent the bills over there once, and now we are sending them back again all together. If there were any way to control the other body and make them do it by October 1, I would do it. We are trying to do that here. But, the 18th would not change it. The 18th would be just like the situation is today, as the gentleman knows.

☐ 1640

Mr. MYERS of Indiana. Mr. Speaker, let me state frankly to the committee chairman that I do not agree with him. October 18 might be a more realistic figure or date than December 15.

Would the gentleman deny that there is a real good chance that the other body will not want to come back in a lameduck session? They may want an extension, and they might extend that date to February 15 or February 1, and then we would have our backs to the wall. The other body is moving on these bills. They are pushing those bills over there. Housing and Urban Development has been under consideration every day this week, and they will have completed the job tomorrow. That will be four of the bills they have considered, and they are well down the road. They are moving. If we have to start them over again, then I would say, yes, they are slow starters.

Mr. WHITTEN. Mr. Speaker, it may be that the gentleman is more optimistic about what the other body has time to do than I am.

Mr. MYERS of Indiana. I am not optimistic, but I know that if we would come back in a lameduck session, they are going to be very slow. They are going to be much slower than they are today. October 18 is a realistic date, and I am not sure but I feel that they can complete it by October 1 or October 15.

The SPEAKER pro tempore (Mr. Bennett). The time of the gentleman from Indiana (Mr. Myers) has expired.

Mr. CONTE. Mr. Speaker, I reserve the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. Panetta).

Mr. PANETTA. Mr. Speaker, a great deal has been said here regarding both the budget process and the appropriation process, and also the dates that have been set for adjournment.

There are really two questions that I think Members have to face on this whole issue. One is obviously the question of the process, both the appropriations process and the budget process. But also I think we have to consider the orderly operation of the House and the commitments that have been made to Members with regard to the October 4 adjournment date.

That commitment has clearly been made for a long period of time. If we think a lameduck session is going to be bad, let us imagine a session while Members are struggling in their campaigns, meeting with their constituencies and trying to campaign, and face the pressure of coming back on periodic votes and House sessions as well. That would be as disorderly as any other approach that could be imagined.

As far as the budget process is concerned, clearly this has been an unusual year for the budget process. We are now in a reconciliation conference involving over 100 conferees on both the Senate and House side and dealing with almost $10 billion in legislative savings. That process has to be completed before we can legitimately proceed with the second budget resolution.

When the reconciliation process is completed—and we hope it will be completed within a week—the Budget Committee chairman has made the commitment that we will proceed with the markup of the second budget resolution.

In regard to the October 4 date, the Speaker has made a commitment to the House that we will be back for a lameduck session. We must rely on his commitment. Yes, there are probably forces that would like to extend that date in order to gut the budget process, in order to get beyond the period between the election and Christmas. But the fact is that we will then face a vote before October 4 if in fact the Senate does that. If they change the date, they will come back here, and then the House will face a vote on whether we want to postpone the session until February and indeed gut the budget process.

Mr. Speaker, that will be the vote that will determine where Members stand on the appropriation and budget process. I urge that the House go along with the date proposed in the continuing resolution.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I am pleased to yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I want to associate myself with the remarks of the gentleman from California (Mr. Panetta).

There has been so much political rhetoric today that it is pleasing, at least to this Member, that somebody finally got up and stated the case as well as anyone can on this issue.

We will have a chance to vote on this question of a date of December 15, January 15, or whatever it is. I think the gentleman from California (Mr. Panetta), who has done such an exceptional job on the Budget Committee, is to be commended for explaining the situation in which we find ourselves, particularly as it relates to the reconciliation process.

Mr. PANETTA. Mr. Speaker, I thank the gentleman from Washington (Mr. Dicks).

Mr. CONTE. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I think the gentleman from California (Mr. Panetta) has made the strongest case as to why this date should be changed from December 15 to October 18. He has made the strongest case for that—and I hope he reads his Record tomorrow—when he says that they are going to settle this reconciliation in a week.

If they are going to do that, then we ought to take up the second budget resolution, and we ought to take up the 13 appropriation bills and pass them before we go home.

Yes, the Speaker, made a commitment to let us out of here on October 4, but that was an adjournment date. Now it is a recess date for a lameduck session.

Can we imagine, Mr. Speaker, the situation faced by the Members of this House if we do not act on these appropriation bills this year and come back here with a new Congress? All of those bills, all 13 bills, will have to be acted upon by the House of Representatives, first by the subcommittee and the full Committee on Appropriations, then by the House, and we would start all over again.

All of those bills would have to be acted upon all over again. We would have to have hearings, and markups, and the whole process would have to be gone through in the House of Representatives, and we would have a Senate conference.

Then what is going to happen to the fiscal 1982 bills? One bill will be bumping up against the other. I do not think that is a healthy way to legislate.

Mr. Speaker, I hope the Members will adopt my motion to recommit.

Mr. WHITTEN. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I do not know any Member of the Congress today who can make a better presentation or make a better speech than my colleague and cohort, the gentleman from Massachusetts (Mr. Conte), with whom I have worked so well this year. But I am sure that he does not know of a single Member who would think about agreeing to let this resolution go over until the next calendar year.

Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. Peyser).

Mr. PEYSER. Mr. Speaker, first of all, I want to congratulate the chairman of the Committee on Appropriations and the entire committee for the way they have handled this. They have handled this matter in a very positive fashion and have really done something constructive to help our Government in this particular situation rather than something that might be destructive.

I have been listening for some time to this debate on this side of the aisle, on the Republican side of the aisle, and I am very concerned. One of the key factors in the whole democratic process in this country is the time that Members can take before an election to get back in front of their constituencies and let their constituencies know what has been happening and answer their questions.

May I say also that my friend, the gentleman from Indiana (Mr. Myers) was speaking of October 18, and so was my friend, the gentleman from Massachusetts (Mr. Conte). While he does not have a problem of a real opponent, there are probably many opponents out there of all of us who would welcome the opportunity to debate these issues during the next month before election, all of whom would be denied that opportunity if we followed the Republicans plan.

It is very easy, frankly, for Members of Congress to sit here. I can remember when Members on this side were criticizing a President for hiding in a rose garden and not being willing to debate a candidate. What we are talking about is taking away one of the rights of the American people, the right to have their Representatives out there at least a month or a month and a half before an election to hear them, to argue with them, and to hear what their opponents say. But it is wonderful if we want to hide in this Congress and not give the American people a crack at us.

Not only does this happen to be the right move in acting today on this legislation but it is the democratic move in terms of our democracy to get ourselves out of here as soon as possible and get in front of people. Then let us see who does come back here,

Mr. Speaker, I am not afraid to face that possibility.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I thank my colleague for yielding.

I do not think anybody is afraid, that is not the point. The point is that the people did not elect us to campaign. They do not pay our salaries to campaign.

Mr. PEYSER. Mr. Speaker, I beg the gentlewoman's pardon. I will say to the gentlewoman, if she will let me continue, that I think once every 2 years part of our job is going back to our districts, at least a month before an election, and giving the public a chance to speak. In this way we can be hiding down here until November 3, and I do not think that is the democratic process.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield further?

Mr. PEYSER. I am glad to yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I say to the gentleman that for the 2 weeks during the Republican Convention I was in my district. I was out there every morning, noon, and night.

Mr. PEYSER. Mr. Speaker, may I ask the gentlewoman, was her opponent out there debating her? Were organizations setting up debates?

In my area I have a whole string of debates set up from October on to give my opponent an opportunity to argue his case. I think that is what this is all about.

Mrs. FENWICK. Mr. Speaker, my opponent is all over my district every day.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, I thank the gentleman for yielding, and I join with my colleague, the gentlewoman from New Jersey (Mrs. Fenwick).

Our responsibility is not going back to our districts and running for reelection. Our responsibility is to do our job here.

The SPEAKER pro tempore. The time of the gentleman from New York (Mr. Peyser) has expired.

Mr. WHITTEN. Mr. Speaker, I yield 1 additional minute to the gentleman from New York (Mr. Peyser).

☐ 1650

Mr. PATTEN. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from New Jersey.

Mr. PATTEN. Mr. Speaker, in the 18 years I have been here, the best 4 days were when we got 4 feet of snow and none of the employees could come in. The State Department was no threat, no international incident took place, the taxes came in. It was the 4 best days for America.

The talk I hear is a lot of hogwash. If we go home, this country would be better off, the stock market would go up, and the American people would feel some peace. The best days are the days that the Congress leaves here and the country runs better.

Mr. PEYSER. I thank the gentleman for his remarks.

Mr. Speaker, I think we ought to be out of here on October 4, and pass this measure this afternoon.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. Lungren).

Mr. LUNGREN. Mr. Speaker, it seems to me that, in talking about a lameduck session, we have forgotten what it is we are talking about. There are 40 Members who will not return here. Estimates are that perhaps 100 will not be coming back here. If you go back and you look at the consideration on the floor of this House when we adopted the 20th amendment to the Constitution, the prime reason we did it was to get rid of lameduck sessions. Let me just quote from the debate that took place on this floor at that time from Congressman Dickenson from Missouri. He said:

> In the lameduck Congress, Members defeated for re-election in November continue to legislate and are more liable to listen to the influence of special interests who wish to defeat legislation desired by the people and to Executive influence rather than the expressed will of their constituents. . . . The rule of the people is the safety of the Republic. Representative government must be preserved.

What we are talking about is going on the record on important issues before we have to face the voters, not putting it off until afterward. Otherwise we are denying the rights of our constituents to be heard here.

And that was the subject of the debate on the floor of this House in 1932 when we tried to rid ourselves of the process of lameduck sessions which was the regular practice in this institution at that time.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from New York (Mr. Peyser) says he wants to go back home and debate. I wish he could convey that message to his President. But he says he wants to debate. What does he want to debate? He is going to tell his opponent, "Hey, look, four of the biggest issues facing this country today are the economy, unemployment, inflation, a balanced budget." Is he going to tell his opponent "I ducked the issues, I wrapped it up in a continuing resolution"?

Then he wants a lot of time to campaign. He says the Congress has to go home.

In 1978, the Congress went home on October 15, in an election year. In 1974, an election year, Congress went home on October 17. In 1972, an election year, Congress went home on October 18. In 1970, an election year, Congress went home on October 14.

While they stayed here, they were responsible Congressmen, they did their business, and then they went home and debated.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. Hefner).

Mr. HEFNER. Mr. Speaker, in listening to the debate, there is an awful lot of rhetoric. I did a little research this morning. People talk about going home and campaigning. I have a campaign, and maybe some debates, I do not know. But we have had 80 more votes this year, up until September 18, than we had last year. If you break that down, it takes at least 30 minutes for every vote, and we have voted on some very important things in those 80 votes, like going into Committee, quorum calls, very important quorum calls.

We have wasted at least one 40-hour week here in frivolous votes, going into the Committee, and calls of the House, that meant absolutely nothing. So if you want to complain about the time we have not had, if we had not engaged in these dilatory tactics we would have had another week to do our business.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. HEFNER. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, the gentleman is indicating that this body has not done its work. It has been time and time said this afternoon that the House has completed 12 of the 13 appropriation bills, and the 13th is ready. All that has to be done is for it to be scheduled for the floor. So it is the other body. We have to be here so they can finish their work, bring them back, and then we can finish our work.

It is not the criticism that we have not done our job here. But we have to stay here a few more days to complete after the Senate has finished.

Mr. HEFNER. I just got the impression that there was some criticism from the gentleman from Massachusetts (Mr. Conte). I must have misunderstood. If I did, I apologize to that side of the aisle.

Mr. WHITTEN. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, may I say again that what we have here with regard to the dates is a practical sort of judgment. I agree with my friend, the gentleman from Indiana, that they could on the Senate side, complete everything by the 18th of October. It is also my opinion that if they saw fit, they could do the whole thing between now and October 1. But having followed their announcement about what their plans are, and having absolutely no control over the other body, I, as chairman of the House committee, had to exercise the best judgment I had, trying to meet what they had announced they were going to do and what is best for the whole Government.

I want to pledge to the Members now—which I do not do often—that never will they have my name on anything that carries this resolution over to the next calendar year. And I do not think they will have the signature of a single Republican or Democrat on carrying it over to another Congress. I want to say that.

Taking into consideration the past announcement that had been made, it seemed to me that December 15 was the earliest possible date that we could hope to get those matters settled. In my judgment, it is realistic. So if you wanted to stay until October 18, we could all stay to continue the necessary work of Government. I am always ready to serve the people, to represent them in Congress, and be wherever my responsibilities call. But I just want to say that as I read all of the commitments that have been made, and using my best judgment, put this date in there, and may I say I hope the Senate will get busy and do their job by October 1.

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Connecticut.

Mr. GIAIMO. I just wanted to make sure if I understood what the gentleman from Mississippi said. Did the gentleman say he would not go along with any extension?

Mr. WHITTEN. Into the next calendar year. And I meant every word of it. It would be highly improper to have a new Congress write the bills.

Mr. GIAIMO. In other words, in a conference commitee meeting?

Mr. WHITTEN. Anywhere.

Mr. GIAIMO. I thank the gentleman, and think that is a very generous contribution and a necessary one.

● Mr. DASCHLE. Mr. Speaker, I rise in very reluctant support of the continuing resolution before us today. I strongly believe that it is the responsibility of this body to move the appropriations bills as quickly as possible. It would be the height of irresponsibility to delay any consideration of any appropriations legislation for pure political purposes. Time is of the utmost importance in acting quickly and deliberately on each of the appropriations bills still pending in the Congress.

As the chairman of the Appropriations Committee has indicated, the House has passed all but one of the bills already. The bulk of the work which remains is to be done in the Senate. Their expeditious consideration of each of these bills is absolutely essential.

The continuing resolution is necessary if we are to expect any continuity in the payments to be made to literally millions of people throughout the country. Without it, there would be little the Congress can do to prevent loss of paychecks to Government and military employees, to social security recipients, and to our veterans.

In voting for this resolution, we must demand that the other body act quickly and responsibly to insure that full consideration of each of the appropriations bills yet to be passed is made whether or not that consideration falls before the November election.●

The SPEAKER pro tempore. Under the rule, the previous question is ordered on the joint resolution.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the

gentleman opposed to the joint resolution?

Mr. CONTE. In its present form, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. CONTE moves to recommit the joint resolution, House Joint Resolution 610, to the Committee on Appropriations, with instructions to that committee to report the joint resolution back to the House forthwith, with an amendment as follows: On page 9, in line 5, strike out "December 15, 1980" and insert in lieu thereof "October 18, 1980".

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. CONTE) is recognized for 5 minutes in support of his motion.

Mr. CONTE. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will advise the gentleman that that is not in order at this point.

Mr. CONTE. Mr. Speaker, I move a call of the House.

The SPEAKER pro tempore. The Chair does not entertain that motion.

Mr. CONTE. Mr. Speaker, this amendment would provide the Congress with the opportunity to complete the essential legislative business of this session.

While there is no magic to the date of October 18, there is, it seems to me, a lot of commonsense.

It would allow us an additional 2 weeks beyond the currently scheduled adjournment date to complete the public's business.

It would allow us 2 weeks before the election to explain to the voters how responsible we have been in conducting the public's business.

And it is just about the average adjournment date during an election year.

I would like to remind my friends on the majority side of a few facts of political life.

Your party controls the White House, and has a majority of 275 to 159 in the House, and 59 to 41 in the other body.

With 9 working days left before the beginning of the fiscal year, your party and your leadership have been unable to enact a single appropriation bill.

This is the worst legislative record of any Congress in my memory.

Never has Congress been so far behind so close to the start of the fiscal year. And never has Congress considered a continuing resolution which would cover all of our regular annual appropriation bills, and may continue all Federal activities that are funded through annual appropriations.

The magnitude of this joint resolution is staggering.

If the status of appropriation bills, and the estimates for mandatory payments, are the same on October 1 as they are today, then the total of continuing appropriations available under this joint resolution would be $408 billion.

Or to look at it another way, your leadership is ready to adjourn, and abandon $408 billion worth of the public's business.

That is why I offer a motion to recommit to change the expiration date of the joint resolution from December 15 to October 18. The choice is clear.

Vote for this amendment, and give yourself an additional 2 weeks to complete the essential legislative business of this Congress, as well as 2 weeks before the election to tell your contituents how long and hard you worked.

Vote against this amendment, and you will adjourn this Congress with most of its important business unfinished, and you will have 4 weeks before the election to explain your record.

□ 1700

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. WHITTEN) is recognized for 5 minutes.

Mr. WHITTEN. Mr. Speaker, may I say that it is a great pleasure to serve with my colleague from Massachusetts. He can make a wonderful, rafter-ringing speech and without a moment's notice.

The gentleman asked how I was going to answer these questions that he raised. I am going to say that we sent the bills to the Senate once and now in this resolution twice.

I want to say once and for all to my friends who in their excitement, have used the word "we," that "We did our share," and that, "It was not our fault. We sent the appropriation bills over there." Remember the House did its job.

What we are doing, is to send over there all the bills, we are putting them in one package and saying please act by October 1.

Let us vote down this motion and give the Senate enough time where they can act responsibly on the House passed bills.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken and the Speaker pro tempore announced that the noes appeared to have it.

Mr. CONTE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage. Members will record their presence by electronic device.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 153, nays 228, not voting 51, as follows:

[Roll No. 562]

YEAS—153

Anderson, Calif.
Anderson, Ill.
Andrews, N.Dak.
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bereuter
Bethune
Broomfield
Broyhill
Buchanan
Burgener
Butler
Campbell
Carney
Carter
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Edgar
Edwards, Okla.
Emery
Erdahl
Evans, Del.
Fenwick
Findley
Fish
Forsythe
Frenzel
Gilman
Goldwater
Goodling
Gradison
Green
Grisham
Guyer
Hagedorn
Hamilton
Hammerschmidt
Hansen
Harsha
Heckler
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Hyde
Jeffords
Jeffries
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Lee
Lent
Livingston
Loeffler
Lott
Lujan
Lungren
McCloskey
McDade
McDonald
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
O'Brien
Ottinger
Paul
Petri
Porter
Pritchard
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roth
Rousselot
Royer
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Spence
Stangeland
Stanton
Stockman
Studds
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Weaver
Whitehurst
Whittaker
Williams, Ohio
Winn
Wylie
Yatron
Young, Alaska
Young, Fla.

NAYS—228

Addabbo
Akaka
Albosta
Ambro
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Byron
Carr
Chappell
Chisholm
Coelho
Collins, Ill.
Conyers
Corman
D'Amours
Daniel, Dan
Danielson
Daschle
Dellums
Derrick
Dicks
Dingell
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
English
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Gonzalez
Gore
Gramm
Gray
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hance
Hanley
Harkin
Harris
Hawkins
Hefner
Hightower
Holland
Holtzman
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Ichord
Jacobs
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leath, Tex.
Lehman

Leland
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Lundine
McCormack
McHugh
McKay
Maguire
Markey
Mathis
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Murphy, Pa.
Murtha
Musto
Nathcer
Neal
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Panetta
Patten
Patterson
Pease
Perkins
Peyser
Pickle
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Roberts
Rodino
Roe
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Satterfield
Scheuer
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stenholm
Stewart
Stratton
Stump
Swift
Synar
Tauzin
Thompson
Traxler
Udall
Van Deerlin
Vanik
Volkmer
Walgren
Watkins
Waxman
White
Whitley
Whitten
Williams, Mont.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—51

Abdnor
Alexander
Bolling
Bonior
Brown, Ohio
Cavanaugh
Clay
Cotter
Davis, S.C.
de la Garza
Dixon
Dodd
Edwards, Ala.
Edwards, Calif.
Erlenborn
Ferraro
Ford, Tenn.
Gingrich
Grassley
Heftel
Howard
Ireland
Jenrette
Johnson, Colo.
Leach, La.
Lederer
Lewis
Luken
McClory
McEwen
Mattox
Miller, Calif.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nedzi
Pashayan
Pepper
Preyer
Rose
Rudd
Santini
Solomon
Stokes
Symms
Ullman
Vento
Weiss
Wilson, Bob
Wilson, C. H.
Wydler

☐ 1720

The Clerk announced the following pairs:

On this vote:

Mr. Bob Wilson for, with Ms. Ferraro against.

Mr. Erlenborn for, with Mr. Vento against.

Mr. Grassley for, with Mr. Jenrette against.

Mr. McClory for, with Mr. Stokes against.

Mr. Rudd for, with Mr. Lederer against.

Mr. McEwen for, with Mr. Murphy of New York against.

Mr. Solomon for, with Mr. Clay against.

Mr. Wydler for, with Mr. Pepper against.

Mr. Brown of Ohio for, with Mr. Bonior of Michigan against.

Mr. Johnson of Colorado for, with Mr. Ford of Tennessee against.

Mr. Lewis for, with Mr. Santini against.

Mr. Pashayan for, with Mr. Cavanaugh against.

Mr. Symms for, with Mr. Miller of California against.

Mr. Gingrich for, with Mr. Preyer against.

Mr. Edwards of Alabama for, with Mr. Howard against.

Mr. Abdnor for, with Mr. Murphy of Illinois against.

Until further notice:

Mr. Cotter with Mr. Rose.

Mr. Weiss with Mr. Nedzi.

Mr. Alexander with Mr. Heftel.

Mr. Davis of South Carolina with Mr. Ireland.

Mr. de la Garza with Mr. Dodd.

Mr. Edwards of California with Mr. Leach of Louisiana.

Mr. Ullman with Mr. Mattox.

Mr. Myers of Pennsylvania with Mr. Luken.

Mr. Charles H. Wilson of California with Mr. Dixon.

Messrs. PHILLIP BURTON, MARKEY, CARR, and WAXMAN changed their votes from "yea" to "nay."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WEAVER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 223, nays 153, not voting 56, as follows:

[Roll No. 563]

YEAS—223

Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Byron
Carr
Chappell
Chisholm
Clausen
Coelho
Collins, Ill.
Conyers
Corman
D'Amours
Danielson
Daschle
Dellums
Derrick
Dicks
Dingell
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
English
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Fisher
Flippo
Florio
Foley
Ford, Mich.
Fountain
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Gore
Gray
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Hightower
Holland
Hollenbeck
Holtzman
Hubbard
Huckaby
Hutchinson
Hutto
Hyde
Ichord
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leath, Tex.
Lehman
Leland
Levitas
Lloyd
Long, La.
Lowry
McCormack
McHugh
McKay
Maguire
Markey
Matsui
Mavroules
Mica
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Murphy, Pa.
Murtha
Musto
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Perkins
Peyser
Price
Rahall
Rangel
Ratchford
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Rodino
Roe
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Shelby
Simon
Skelton
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stratton
Studds
Swift
Synar
Tauzin
Thompson
Traxler
Trible
Udall
Van Deerlin
Vanik
Volkmer
Walgren
Wampler
Watkins
Waxman
White
Whitehurst
Whitley
Whitten
Williams, Mont.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wyatt
Yates
Young, Mo.
Zablocki
Zeferetti

NAYS—153

Andrews, N.Dak.
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bereuter
Bethune
Broomfield
Broyhill
Buchanan
Burgener
Butler
Campbell
Carney
Carter
Cheney
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Edgar
Edwards, Okla.
Emery
Erdahl
Evans, Del.
Evans, Ind.
Fenwick
Findley
Fish
Fithian
Forsythe
Frenzel
Glickman
Goldwater
Goodling
Gradison
Gramm
Green
Grisham
Guyer
Hagedorn
Hamilton
Hammerschmidt
Hansen
Hillis
Hinson
Holt
Hopkins
Horton
Hughes
Jacobs
Jeffords
Jeffries
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Lee
Lent
Lewis
Livingston
Loeffler
Long, Md.
Lott
Lujan
Lundine
Lungren
McCloskey
McDade
McDonald
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Mazzoli
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
O'Brien
Panetta
Paul
Petri
Pickle
Porter
Pritchard
Quayle
Quillen
Railsback
Regula
Ritter
Robinson
Roth
Rousselot
Royer
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Spence
Stangeland
Stanton
Stenholm
Stockman
Stump
Tauke
Taylor
Thomas
Vander Jagt
Walker
Weaver
Whittaker
Williams, Ohio
Winn
Wylie
Yatron
Young, Alaska
Young, Fla.

NOT VOTING—56

Abdnor
Alexander
AuCoin
Bailey
Bolling
Bonior
Brown, Ohio
Cavanaugh
Clay
Cotter
Davis, S.C.
de la Garza
Dixon
Dodd
Edwards, Ala.
Edwards, Calif.
Erlenborn
Ferraro
Ford, Tenn.
Fowler
Gingrich
Grassley
Heftel
Howard
Ireland
Jenrette
Johnson, Colo.
Leach, La.
Lederer
Luken
McClory
McEwen
Mattox
Mikulski
Miller, Calif.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nedzi
Pashayan
Pepper
Preyer
Pursell
Rose
Rudd
Santini
Solomon
Stokes
Symms
Ullman
Vento
Weiss
Wilson, Bob
Wilson, C. H.
Wright
Wydler

☐ 1730

The Clerk announced the following pairs:

On this vote:

Ms. Ferraro for, with Mr. Brown of Ohio against.

Mr. Vento for, with Mr. Wydler against.

Mr. Preyer for, with Mr. Symms against.

Mr. Miller of California for, with Mr. McClory against.

Mr. Murphy of New York for, with Mr. Pashayan against.

Mr. Howard for, with Mr. Pursell against.

Mr. Stokes for, with Mr. Rudd against.

Mr. Lederer for, with Mr. Solomon against.

Mr. Santini for, with Mr. Erlenborn against.

Mr. Bonior of Michigan for, with Mr. Grassley against.

Mr. Murphy of Illinois for, with Mr. Abdnor against.

Until further notice:

Mr. Nedzi with Mr. Gingrich.
Mr. Pepper with Mr. Johnson of Colorado.
Mr. AuCoin with Mr. McEwen.
Mr. Cavanaugh with Mr. Dixon.
Mr. Clay with Mr. Fowler.
Mr. Cotter with Mr. Edwards of Alabama.
Mr. Ford of Tennessee with Mr. Heftel.
Mr. Edwards of California with Mr. Jenrette.
Ms. Mikulski with Mr. Rose.
Mr. Myers of Pennsylvania with Mr. Charles H. Wilson of California.
Mr. Wright with Mr. Mattox.
Mr. Ullman with Mr. Leach of Louisiana.
Mr. Luken with Mr. Ireland.
Mr. Weiss with Mr. Davis of South Carolina.
Mr. Bailey with Mr. Alexander.
Mr. de la Garza with Mr. Dodd.

Messrs. CONYERS and WAMPLER changed their votes from "nay" to "yea."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. AuCOIN. Mr. Speaker, I was called off the House floor and missed the 5-minute recorded vote (rollcall No. 563) on the final passage of House Joint Resolution 610 continuing appropriations for fiscal year 1981. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Mr. FOWLER. Mr. Speaker, I missed rollcall No. 563 today because of a meeting with some constituents. Had I been present, I would have voted in the affirmative.

CONFERENCE REPORT ON H.R. 5192, EDUCATION AMENDMENTS OF 1980

Mr. FORD of Michigan. Mr. Speaker, I call up the conference report on the bill (H.R. 5192) to amend and extend the Higher Education Act of 1965, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the statement.

Mr. FORD of Michigan (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement and that it be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

(For conference report and statement, see proceedings of the House of September 17, 1980.)

The SPEAKER pro tempore. The gentleman from Michigan (Mr. FORD) will be recognized for 30 minutes, and the gentleman from Alabama (Mr. BUCHANAN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, this is the second conference report on the reauthorization of the Higher Education Act, H.R. 5192. The previous conference report was brought before the House on August 28 and adopted by a vote of 373 to 16. The other body subsequently rejected the conference report by a vote of 43 to 45. We held a further conference with the Senate and reached a new agreement. This conference report is virtually identical to the first one except for several changes to achieve cost reductions and savings.

Mr. Speaker, I would like to briefly outline the differences between this conference report and the previous one.

First, with respect to funding the national direct student loan program, through the borrowing alternative, the Secretary is required to borrow if the Congress appropriates money to support borrowing. Further, the campus-based collections from previous direct loans will revert to the Treasury in each year in which the Secretary borrows at least $1 billion to support the program. This change achieves a savings for purposes of reconciliation of $378 million because of the recapture of the NDSL collections and their reversion to the Treasury.

Second, the option for parents under the parent loan program to begin repayment later than 60 days after taking out the loan is eliminated. All parents will be required to begin repayment within 60 days.

Third, the interest rate in the guaranteed student loan program for both students and parents is increased from 7 to 9 percent rather than to 8 percent as was agreed to in the previous conference. The 9-percent interest rate will decrease to 8 percent if the annualized rate of 91-day Treasury bills reach 9 percent or less.

Fourth, through the elimination of 2 new programs, two changes in the student aid programs and reductions in the authorizations for 10 programs, the total cost of the bill was reduced by an additional $1.4 billion below the previous conference report. This bill will cost $12.2 billion less than the version which the House passed last November, a reduction of more than $2 billion for each year authorized.

H.R. 5192 authorizes balanced increases in grant assistance to help needy and middle-income students meet the increased costs of college at all types of institutions—private and public, 2-year and 4-year, small colleges and research universities. It extends eligibility to unserved part-time students, and establishes fellowship opportunities for graduate and professional school. It makes important reforms in the loan programs aimed at reducing default rates. While extending the availability of need-based loans, the bill establishes a loan program for parents who are hard pressed in assisting their child to attend college. It strengthens authorities for support of such priorities as continuing education, developing institutions, libraries, international studies and urban universities.

Mr. Speaker, as we are today considering the conference report on higher education, I think it particularly fitting that our colleague from Indiana, the distinguished majority whip, the Honorable JOHN BRADEMAS, should have only this morning been awarded the honorary degree of doctor of humane letters by the American University here in Washington because of his leadership in education generally and in higher education in particular.

JOHN BRADEMAS has served on the subcommittee handling higher education legislation for nearly 22 years and has been one of the most effective leaders in the country in helping shape policy to support higher education.

Mr. Speaker, at this point in the RECORD, I insert the text of the citation accompanying the award by the American University of the degree of honorary doctor of humane letters to Mr. BRADEMAS. The award was presented by Richard Earl Berendzen, who was today invested as 11th president of the university.

JOHN BRADEMAS

As diligent scholar and eminent statesman, you, John Brademas, have succeeded in effecting a delicate, yet vital, balance between dreaming and doing. As idealist, you have understood the important role education can play in the growth and development of individuals, communities, and nations. As pragmatist, you have used your leadership in the House of Representatives to ensure that all who seek that growth should find it.

We honor you as a distinguished member of Congress, as a loyal friend of scholarship, and as a major architect of the nation's support of education. Without your vision and action, many of the students here today would not be students. For them, for all of us, we honor you, John Brademas.

By the authority of the Congress of the United States of America vested in the Board of Trustees of The American University, and by the Board of Trustees delegated to me, I confer upon you the degree of Honorary Doctor of Humane Letters and invest you with the hood appropriate to this degree.

AGREEMENT TO RESOLVE CONFERENCE DIFFERENCES BY PROVIDING FOR COST REDUCTIONS IN H.R. 5192

I. MODIFICATION OF THE NDSL ALTERNATIVE FINANCING MECHANISM

The NDSL program could be funded either as it exists under current law or through borrowing by the Secretary. The borrowing authority of the Secretary would be modified from the previous conference agreement. If appropriations are made to support borrowing, the Secretary would be required to borrow to support the program. If the Secretary in any year borrows $1 billion, then the NDSL collections available that year for loans on the campuses would revert to the Treasury.

The previous conference agreement required that the Secretary borrow the amount needed for full funding of the program—$3.4 billion—before the NDSL collections would revert to the Treasury. In other words, in fiscal year 1979 for example, there is $760 million available for the NDSL program, which is composed of a capital contribution appropriation of $286 million and $474 million in collections and interest from previously made loans. If the Secretary borrowed $1 billion under this proposal, there would be $1 billion available for loans at the campus level and the $474 million would revert to the Treasury.

The Secretary would have to borrow at least $1 billion in each subsequent year for future NDSL collections to revert to the Treasury. If the Congress chose not to appropriate funds to support borrowing, the program would continue as it currently exists. If the program is funded through borrowing, each campus would be held harmless at its 1979 level of available loan funds.

This proposal achieves a savings for purposes of reconciliation of $378 million because of the recapture of the NDSL collections and their reversion to the Treasury.

II. MODIFICATION OF THE PARENT LOAN PROGRAM

Eliminate all options for parents to begin repayment of a parent loan more than 60 days after taking out the loan. Increase the interest rate from 8 percent in the previous conference agreement to 9 percent. Thus, all parents desiring a parent loan would have to begin repayment within 60 days at 9 percent interest. CBO assumes that there will be very little volume in the parent loan program since they believe that families will have their children borrow the maximum available at 8 percent with the in-school interest subsidy under GSL before the parents borrow.

Under this assumption this change produces a GSL entitlement savings of $1 million in fiscal year 1981 and a savings of $5 million over the life of the bill. Others, including the administration, believe that there will be a substantial loan volume in the parent loan program and that the savings would be considerably higher, on the order of $50 million over the life of the bill. This proposal also counters the objection of those who erroneously interpreted the period of repayment deferment at 11 percent as a period during which parents would have "free money."

III. REDUCTIONS IN AUTHORIZATIONS AND OTHER PROGRAM CHANGES

First. Reduce the authorizations for title I, part B, Education outreach programs to: $20 million fiscal year 1981 in lieu of $20 million fiscal year 1981; $30 million fiscal year 1982 in lieu of $40 million fiscal year 1982; $40 million fiscal year 1983 in lieu of $60 million fiscal year 1983; $50 million fiscal year 1984 in lieu of $80 million fiscal year 1984; and $60 million fiscal year 1985 in lieu of $100 million fiscal year 1985.

This achieves a savings of $100 million.

Second. Reduce the authorization for the basic title III program to: $160 million fiscal year 1981; $175 million fiscal year 1982 in lieu of $185 million fiscal year 1982; $185 million fiscal year 1983 in lieu of $210 million fiscal year 1983; $200 million fiscal year 1984 in lieu of $245 million fiscal year 1984; and $220 million fiscal year 1985 in lieu of $280 million fiscal year 1985.

This achieves a saving of $300 million. At the request of the administration the effective date is delayed until fiscal year 1982. Therefore, the fiscal year 1981 authorization is dropped. The authorizations for the challenge grant program would remain unchanged.

Third. Reduce the authorization for initial year supplemental education opportunity grants to $350 million per year from $400 million per year. This achieves a saving of $250 million.

Fourth. Reduce the NDSL grace period before repayment begins to 6 months rather than 9 months. This would conform the grace period for NDSL to the new GSL grace period and facilitate loan consolidation. This achieves a saving of $70 million over the life of the bill.

Fifth. Establish the minimum room and board allowance for dependent students commuting from home at $1,100 rather than $1,150 as previously agreed to in the conference. This achieves a saving of $80 million over the life of the bill.

Sixth. Reduce the authorizations for title V, part A, Teacher Corps to: $45 million fiscal year 1981 in lieu of $45 million fiscal year 1981; $50 million fiscal year 1982 in lieu of $70 million fiscal year 1982; $60 million fiscal year 1983 in lieu of $75 million fiscal year 1983; $70 million fiscal year 1984 in lieu of $80 million fiscal year 1984; and $80 million fiscal year 1985 in lieu of $85 million fiscal year 1985.

This achieves a savings of $50 million.

Seventh. Reduce the authorizations for title VI, part A to: $45 million fiscal year 1981 in lieu of $45 million fiscal year 1981; $50 million fiscal year 1982 in lieu of $55 million fiscal year 1982; $60 million fiscal year 1983 in lieu of $70 million fiscal year 1983; $70 million fiscal year 1984 in lieu of $80 million fiscal year 1984; and $80 million fiscal year 1985 in lieu of $85 million fiscal year 1985.

This achieves a savings of $30 million.

Eighth. Reduce the authorization for title VII, part A to: $100 million fiscal year 1981 in lieu of $140 million fiscal year 1981; $100 million fiscal year 1982 in lieu of $140 million fiscal year 1982; $100 million fiscal year 1983 in lieu of $145 million fiscal year 1983; $100 million fiscal year 1984 in lieu of $150 million fiscal year 1984; and $100 million fiscal year 1985 in lieu of $155 million fiscal year 1985.

This achieves a savings of $230 million.

Ninth. Reduce the authorizations for title VII, part C, to $80 million for each fiscal year rather than $110 million for each year as is contained in the current conference agreement.

This achieves a savings of $150 million.

Tenth. Reduce the authorizations for title X, fund for the improvement of postsecondary education, to: $20 million fiscal year 1981 in lieu of $20 million fiscal year 1981; $30 million fiscal year 1982 in lieu of $30 million fiscal year 1982; $40 million fiscal year 1983 in lieu of $40 million fiscal year 1983; $45 million fiscal year 1984 in lieu of $50 million fiscal year 1984; and $50 million fiscal year 1985 in lieu of $50 million fiscal year 1985.

This achieves a savings of $5 million.

Eleventh. Reduce the authorizations for title XI, urban grant university program, to: $15 million fiscal year 1981 in lieu of $15 million fiscal year 1981; $25 million fiscal year 1982 in lieu of $25 million fiscal year 1982; $35 million fiscal year 1983 in lieu of $40 million fiscal year 1983; $45 million fiscal year 1984 in lieu of $50 million fiscal year 1984; and $55 million fiscal year 1985 in lieu of $65 million fiscal year 1985.

This achieves a savings of $20 million.

Twelfth. Drop title XIII of the conference report, women's worksite development demonstration program, which is duplicative of the authority contained in title I, part B, education outreach programs; that is, the Senate would recede on note 17 of the titles I, II, and III comparative print, page 97. This achieves a saving of $38 million.

Thirteenth. Eliminate entirely the administrative simplification study; that is, the Senate would recede on note 15 of the miscellaneous provisions comparative print, page 27, rather than the House receding with an amendment. This achieves a saving of $1 million.

Fourteenth. Reduce the authorizations for NIE to: $120 million fiscal year 1981 in lieu of $125 million fiscal year 1981; $130 million fiscal year 1982 in lieu of $145 million fiscal year 1982; $145 million fiscal year 1983 in lieu of $165 million fiscal year 1983; $160 million fiscal year 1984 in lieu of $190 million fiscal year 1984; and $175 million fiscal year 1985 in lieu of $215 million fiscal year 1985.

This achieves a savings of $110 million.

Items 1–14 above, achieve savings of $1.4 billion. With the adoption of this package, the total cost of the bill would be $48.389 billion, which would be $12.2 billion less than the House-passed version of H.R. 5192 and $12.1 billion more than the Senate-passed version. The original conference agreement was $11 billion less than the House-passed version and $13.5 billion more than the Senate-passed version.

IV

Increase the interest rate in the guaranteed student loan program from 7 to 9 percent rather than 8 percent as agreed to in the previous conference. The 9-percent interest rate in both the guaranteed student loan program as it applies to students and as it applies to parents will decrease to 8 percent if the annualized rate of 90-day Treasury bills decreases to 9 percent or below. All interest rate changes apply only to new borrowers.

Mr. Speaker, I would like to describe in more detail the provisions of the conference agreement.

Part A of title I establishes a new Commission on National Development in Postsecondary Education. The function of the Commission shall be to review national, State, and institutional policies to examine the effectiveness of Federal financial assistance to students and institutions in conjunction with State and institutional aid policies; to consider the research capacity of institutions and the public and private sector in promoting research; and to examine the resources of institutions and the effect of demographic changes which will impact on their ability to meet social and economic needs. At the initiative of Mr. BIAGGI of New York, the Commission will also conduct a study of the special needs of nontraditional and adult students in postsecondary education.

Part B of title I is renamed "Education Outreach Programs." It combines the authorization for comprehensive State planning from section 1203, the authority for education information centers from title IV, the current title I, community service and continuing education, and some essential elements of title VI, financial assistance for the improvement of undergraduate instruction, and title X, establishment and expansion of community colleges.

The planning, information services, and continuing education, including rural community education, activities are all focused on outreach to adults who have not been adequately served by postsecondary education.

Ninety percent of the funds are allocated to the States on an equal per State basis and on the basis of their adult population. The bill establishes a general allocation of the funds among the types of State activities authorized while leaving substantial flexibility for each State to set its own priorities. Each State is guaranteed a minimum of $187,500.

Ten percent of the funds are reserved for the Secretary to support projects and activities to expand access to education, particularly for underserved adults.

The following authorization levels are established:

[In millions]

Fiscal year 1981	$20
Fiscal year 1982	30
Fiscal year 1983	40
Fiscal year 1984	50
Fiscal year 1985	60

Title I substantially embodies and is built on H.R. 4531, the Lifelong Learning Act of 1979, introduced by Mr. RATCHFORD with 14 cosponsors. Title I also incorporates the longstanding interest of Mr. BIAGGI of New York in student data banks as embodied in H.R. 3513. A significant contribution to the title, particularly with respect to State planning, was drawn from H.R. 5051 which was introduced by Mr. JEFFORDS of Vermont with the cosponsorship of Mr. RATCHFORD.

Title II, college and research library assistance and library training and research, has been reorganized, by eliminating the supplemental grant, which has never been funded, and by transferring the special purpose grant program from part A into a more comprehensive part B. Assistance under part A will come in the form of resource development grants up to a maximum of $10,000, increased from the current $5,000, to institutions of higher education, combinations of institutions, branch campuses or public and private nonprofit library institutions serving higher education.

The maintenance of effort provisions have been strengthened, permitting only very unusual circumstances to qualify institutions for waivers.

The funding for an expanded part B, library training research and development, would be divided between three functions on a one-third, one-third, one-third basis, reflecting the addition of special purpose grants to part B from part A.

No major changes have been made in the substance of part C, strengthening research library resources, except the addition of a provision prohibiting recipients of part C grants from receiving grants under either parts A or B.

The conference substitute authorizes the following amounts:

Part A

[In millions]

Fiscal year 1981	$10
Fiscal year 1982	30
Fiscal year 1983	30
Fiscal year 1984	30
Fiscal year 1985	35

Part B

[In millions]

Fiscal year 1981	$10
Fiscal year 1982	30
Fiscal year 1983	30
Fiscal year 1984	30
Fiscal year 1985	35

Part C

[In millions]

Fiscal year 1981	$10
Fiscal year 1982	15
Fiscal year 1983	15
Fiscal year 1984	15
Fiscal year 1985	15

An important change in the college library programs in title II is the addition of a new part D, a study of the feasibility and advisability of establishing a National Periodicals System. The authorization for this study is $750,000 for fiscal years 1981 and 1982 and such sums for fiscal years 1983 through 1985, to be funded only in parts A, B, and C are funded at the fiscal 1979 appropriations level.

The conference substitute creates a title III program which contains three parts. Part A, strengthening institutions, is derived from the provisions of the House bill. Part B, aid to institutions with special needs, contains provisions that were in part A of the Senate amendment. Fifty percent of the appropriation will go to each of these parts. Under both parts, the purposes of the program are clarified to focus on strengthening institutions which enroll large numbers of disadvantaged students, lack resources and are taking steps to improve their chances for survival.

Under part B of the conference substitute, the institutions that historically have served substantial numbers of black students shall be assured that their sector will receive not less than 50 percent of the amount that the sector received in fiscal year 1979 under the current title III program. Community colleges are guaranteed a floor of 24 percent of the assistance under part A and 30 percent of the assistance under part B.

The conference substitute incorporates the provisions of the House bill pertaining to challenge grants to institutions eligible for assistance under part A or part B. An institution receiving a challenge grant will match Federal funds on a 50-50 basis. The institutional match must be new money and can be raised from alumni giving, foundation grants, increased State appropriations, et cetera.

The conference substitute modifies the provisions of the House bill establishing an application review process and a committee on review to provide only for an application review process.

The conference substitute authorizes the following amounts for parts A and B:

[In millions]

Fiscal year 1982	$175
Fiscal year 1983	185
Fiscal year 1984	200
Fiscal year 1985	220

The substitute provides the following authorizations for the challenge grant program:

[In millions]

Fiscal year 1982	$25
Fiscal year 1983	35
Fiscal year 1984	45
Fiscal year 1985	50

TITLE IV. STUDENT ASSISTANCE

BASIC GRANTS

The basic grant is renamed the Pell grant in recognition of the contribution of the chairman of the Senate Subcommittee on Education, Arts and Humanities, and the maximum award is increased. In addition, the limitation in the program that a student's basic grant may not exceed 50 percent of their cost of attendance is modified. The maximum grant amount is increased in steps from the current level of $1,800 to $2,600 in fiscal year 1985 and the percentage of cost limitation is also increased from the current level of 50 to 70 percent when the maximum grant reaches $2,600.

In the case of less-than-full funding, students whose eligibility for a basic grant is within $200 of the maximum grant will be paid the full amount of their grant first, then grants will be reduced according to a statutory schedule which gives the most protection to the lowest income students. The minimum basic grant award at less than full funding is increased from $50 to $200.

Students will be eligible for a grant during the period required to complete their first baccalaureate course of study. Current law provides for 4 years of full-time support.

The thresholds in current law requiring funding for the college work study, supplemental educational opportunity grant, and national direct student loan programs are retained. The level of the college work study threshold is revised from $500 million to $550 million, and the SEOG threshold increases from $370 million to $480 million in step with increases in the maximum grant and percentage of cost limitation. A new threshold is established for the State student incentive grant program at $76.75 million—the current appropriation.

SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT

The definition of student eligibility is simplified so that the program serves students with "need." The requirement that SEOG awards be matched at the campus with other forms of assistance is eliminated. Students are provided with the same eligibility as basic grants toward completion of their undergraduate studies.

The maximum yearly award is increased from $1,500 to $2,000. The $4,000 cumulative maximum in current law is repealed.

The conference substitute authorizes initial year appropriations of $350 million for fiscal years 1981 through 1985 and authorizes appropriations of such sums as may be necessary for continuing year SEOG awards for fiscal years 1981 through 1985.

The formula for the allocation of SEOG funds among the States is modified to be based on "undergraduates" rather than "persons" since the program only serves undergraduates and not graduate students who are included in the term "persons."

The conference substitute determines institutional need for supplemental grant funds by subtracting from 75 percent of the total student expenses the sum of family and student contributions, Pell grants, SSIG assistance and 25 percent of grants and awards made by the institution from its own resources. The substitute further provides a declining institutional hold-harmless related to increased availability of appropriations for the program.

For the purposes of determining each institution's need for SEOG funds, I believe that the conferees intend that SSIG funds be counted in each institution's SEOG application in a manner that reflects total State grants, the Federal SSIG contribution plus total State matching contribution, received for students at that institution. I have been advised that certain States, such as Missouri, maintain separate accounting procedures for distribution of Federal SSIG funds and State SSIG funds. Where this procedure is used, and given the manner in which the SEOG formula determines institutional need, certain institutions could be unfairly penalized.

Thus, I think it important to emphasize that for the purpose of determining SEOG need, SSIG funds allotted to a State and the State contribution shall be considered proportionately utilized in each State student grant.

Institutions will be permitted to use up to 10 percent of their SEOG funds to make awards to less-than-half-time students.

With respect to the relationship between the Basic educational opportunity grant, the supplemental educational opportunity grant and the State student incentive grant, a Federal policy objective is set of meeting 75 percent of a student's cost of education through a combination of family contribution and grant aid.

In sum, the SEOG program is simplified to make it a flexible source of campus-based grant assistance available to meet the diverse needs of students.

STATE STUDENT INCENTIVE GRANT PROGRAM

The distinction between authorizations for initial year and continuing year awards is removed and authorizations are provided as follows:

[In millions]

Fiscal year 1981	$100
Fiscal year 1982	100
Fiscal year 1983	150
Fiscal year 1984	200
Fiscal year 1985	250

The maximum award to a student is increased from $1,500 to $2,000. Current law is clarified to permit State grant programs which serve less-than-half-time students or graduate students to qualify. The requirement that eligible State programs serve students in all nonprofit institutions is modified to exempt State statutory restrictions enacted prior to October 1, 1978. The bonus allotment for States with State guarantee agencies is repealed.

TRIO PROGRAMS

The authorization is increased to $400 million in fiscal year 1982 and a such sums authorization is provided for subsequent years. The staff development authority is clarified to provide for greater involvement by professionals in the field. The unfunded service learning center authority is repealed. The Secretary is required to consider the prior experience of applicants in making TRIO awards.

The talent search program is focused as a community-based program serving youth. The services to be provided to clients are enumerated and include tutorial services. Two-thirds of those served must be both low-income, 150 percent of poverty, and first generation in college, neither parent completed a baccalaureate degree.

The Upward Bound program is focused on junior and senior high school youth and the services to be provided are enumerated. Two-thirds of those served must be low-income and first generation in college, and one-third can be either low-income or first generation.

The special services for disadvantaged students program is focused on those enrolled in postsecondary education and the services to be provided are enumerated. Two-thirds of those served must be low-income and first generation in college, or handicapped, and one-third of those served can be either low-income, first generation, or handicapped.

The educational opportunity centers are focused as a community-based program serving adults. Two-thirds of those served must be low-income and first-generation. The services to be provided are specified and language is included to prevent duplication between talent search and educational opportunity centers.

Statutory authority is provided for the special programs for students whose families are engaged in migrant and seasonal farm work. The authorization for this program is $9.6 million in fiscal year 1981, $12 million in fiscal year 1982, $14 million in fiscal year 1983, $16 million in fiscal year 1984 and $18 million in fiscal year 1985.

ASSISTANCE TO INSTITUTIONS OF HIGHER EDUCATION

Current law is retained unchanged.

VETERANS COST OF INSTRUCTION PROGRAM

The program is modified to provide greater encouragement for institutions to serve handicapped and disabled veterans. Consortia arrangements among institutions serving veterans and coordination among programs serving veterans are also further encouraged.

GUARANTEED STUDENT LOANS

Seven days of hearings by the subcommittee were devoted to this program. These deliberations identified five major areas of concern: The need to enhance the ability of parents to obtain the liquidity to pay their reasonable share of the costs of educating their children, the lack of capital availability in some areas of the Nation, the need to provide a mechanism for the consolidation of multiple student loans, the need to provide for extended and income sensitive repayment terms for borrowers with a large student loan debt and the problem of further curbing loan defaults. These concerns and suggested solutions were brought before the subcommittee by Mr. SMITH of Iowa, Mr. MAGUIRE of New Jersey, and Mrs. FENWICK of New Jersey among others.

The first of these concerns is addressed by the creation of a parent loan program. Under the parent loan program, parents could borrow up to $3,000 per year and $15,000 total for any one student.

Parents begin repaying on an installment basis within 60 days at 9-percent interest.

In all other respects, the parent loan would be identical to the current guaranteed student loan program.

The Student Loan Marketing Association—Sallie Mae—is given the authority to make loans directly to students and parents in areas where there is a severe shortage of student loan capital. In addition, State guarantee agencies may act as lenders of last resort using funds borrowed from Sallie Mae.

If a student or parent borrower has loans from more than one lender or under NDSL, GSL, or another Federal student loan program the aggregate amount of which exceeds $5,000, Sallie Mae could make a single consolidation loan to the borrower. If the total indebtedness of a student or a parent exceeds $7,500, Sallie Mae could make a new loan to the borrower with graduated or income-sensitive repayment terms of up to 20 years length. Sallie Mae is mandated to disseminate information on its consolidation and extended repayment loan options.

Incentives are also provided for State guarantee agencies to provide lender referral services to borrowers.

With respect to curbing defaults; making loans available to parents, providing for loan consolidation and providing for extended and income-sensitive repayment should effectively prevent defaults. In addition, a system is established for the Secretary to share information on defaulted loans with credit bureaus. Provision is also made for student borrowers to request lenders to report to credit bureaus their positive record of student loan repayment. The Department of Education is instructed to share information on student names and addresses with State guarantee agencies to facilitate the collection of defaulted loans. Lenders under the program are also required to provide thorough and accurate loan information to student borrowers.

Sallie Mae's dependency on Federal capital is reduced by prohibiting the Secretary of the Treasury from requiring that Sallie Mae raise funds through the Federal Financing Bank and by removing the guarantee of the full faith and credit of the United States in 1984. To complement these changes, Sallie Mae's ability to raise private capital is enhanced by permitting it to deal in debt obligations comparable to those offered by other secondary markets, to raise funds through the sale of nonvoting common stock and by removing the specification in the law of the par value of Sallie Mae's stock.

Finally, Sallie Mae's ability to effectively perform as a secondary market for student loans is enhanced by permitting Sallie Mae to advance to a lender up to 100 percent of the face value of a student loan in warehousing and in broadening the types of securities that Sallie Mae can accept in providing warehousing advances. Under current law, Sallie Mae can deal with lenders with assets of less than $50 million even if the lenders discriminate against borrowers on the basis of their banking relationship with the lender. This $50 million limit is increased to $75 million.

The annual loan limit for independent undergraduate students is increased from $2,500 to $3,000. The aggregate loan maximums for students are modified as follows:

	Current law	H.R. 5192
Dependent undergraduate	$7,500	$12,500
Independent undergraduate	7,500	15,000
Graduate student	15,000	25,000

The Secretary is given the authority to waive the aggregate maximum for graduate students enrolled in unusually expensive programs of professional studies.

The interest rate for new borrowers is increased from 7 to 9 percent, and the grace period before repayment begins is shortened from 9 to 12 months to 6 months for new borrowers. With respect to both students and parents, the interest rate decreases to 8 percent if the annualized rate of 91-day Treasury bills is 9 percent or less.

Limitations are placed on the payment of the special allowance for loan funds raised through the issuance of tax-exempt bonds to prevent abuses in this practice.

The allocation of administrative allowances among specified purposes by State guarantee agencies is removed and the definition of allowable administrative expenses is clarified.

COLLEGE WORK STUDY

Authorization for the program is provided as follows:

[In millions]

Fiscal year 1981	$670
Fiscal year 1982	720
Fiscal year 1983	760
Fiscal year 1984	800
Fiscal year 1985	830

Students employed under this program are required to be paid the minimum wage. Institutions are permitted to carry forward and carry backward up to 10 percent of their college work-study funds. The job location and development program is expanded by permitting institutions to use up to $25,000 for this purpose rather than $15,000 in current law.

Institutions are permitted to use up to 10 percent of their work-study funds for less-than-half-time students and are encouraged, at the suggestion of Mr. WEISS, of New York, to provide employment that complements the educational program of a student. Institutions are also permitted to use part of their administrative allowance to establish community service learning programs.

NATIONAL DIRECT STUDENT LOAN PROGRAM

Authorization for new capital contributions is provided as follows:

[In millions]

Fiscal year 1981	$400
Fiscal year 1982	400
Fiscal year 1983	475
Fiscal year 1984	550
Fiscal year 1985	625

The aggregate loan limits are modified as follows:

	Current law	H.R. 5192
First 2 years as an undergraduate	$2,500	$3,000
Undergraduate total	5,000	6,000
Undergraduate and graduate total	10,000	12,000

The interest rate for new loans is increased from 3 percent to 4 percent.

For both the national direct student loan program and the guaranteed student loan program four new circumstances under which borrowers can defer repayment of their loans are defined: First, periods of up to 3 years for temporary total disability—at the suggestion of Mr. BINGHAM, of New York; second, service in the Commissioned Corps of the Public Health Service—at the suggestion of Mr. STAGGERS, of West Virgina; third, service as a full-time volunteer with a nonprofit agency that engages in activities like the Peace Corps or VISTA; and, fourth, internships required to begin professional practice.

Efforts to curb defaults will be enhanced by a system for the exchange of information on defaulted loans between the Secretary and credit bureaus and by providing for the sharing of names and addresses of defaulters with lenders.

The conference substitute also requires the Secretary to attempt to collect defaulted loans for 4 years after they are assigned and requires institutions to provide thorough and accurate loan information to students.

The grace period prior to the beginning of repayment is reduced from 9 months to 6 months.

The definition of handicapped students for purposes of teacher loan cancellation is conformed to the definition used in the Education of the Handicapped Act, at the initiative of Mr. BAUMAN, of Maryland. The law is clarified with regard to the treatment of loan cancellations as income.

The conference substitute also provides an alternative financing mechanism through borrowing by the Secretary to meet the student loan capital needs of institutions of higher education through a procedure by which existing campus revolving funds revert to the Federal Treasury.

GENERAL PROVISIONS—TITLE IV

INSTITUTIONAL ELIGIBILITY

Institutions are required to provide students and prospective students with information on their academic programs, costs, student financial aid programs, tuition refund policy, special services for the handicapped, accreditation status and standards of satisfactory progress.

NEEDS ANALYSIS

The development of a single system of needs analysis for eligibility for student assistance is mandated. Participation by the higher education community in the development of an annual schedule of expected family contributions is required, and congressional review of the schedule is provided for.

An assessment rate of 14 percent on discretionary income is specified for adjusted gross family incomes less than $25,000.

The criteria to be used in formulating the expected family contribution schedule are specified for all of title IV rather than just for the basic grant program. The criteria in current law applicable to the basic grant program are retained with the following exceptions and modifications:

Reasonable child care expenses are included in the student's budget;

All individuals are provided with an asset reserve of not less than $10,000. All equity in the family's principle place of residence is excluded from consideration as an asset at the initiative of Mr. DRINAN of Massachusetts. An additional asset reserve of not less than $50,000 is provided to those with farm or business assets;

The assessment rate on the income of independent students with dependents will be the same as the rate for the families of dependent students;

In calculating student cost of attendance separate commuter budgets are provided for students who live with their parents and those who do not;

Simplified data requirements from institutions by eliminating the requirement that "actual" cost of attendance be provided for every student;

Permits the calculation of student budgets on the basis of the costs of study abroad where such study is included in a formal program at the institution;

Requires that a married student will be considered independent and be permitted to use current year income information; and

Expenses for the special services or equipment needed by handicapped students are included in the student's budget.

SINGLE FORM

Requires that student eligibility for title IV programs be established through a single form without cost to the student or the student's family. Also requires that the processing of such application bed ecentralized to the maximum extent practicable. The Secretary is also authorized to develop a system of preeligibility assistance to provide students with early notice of their potential eligibility for financial aid.

ADMINISTRATIVE ALLOWANCE

Provides institutions with an administrative allowance of $10 per each basic grant recipient and $10 per each holder of a guaranteed student loan. In addition, provides that from the campus-based programs each institution shall receive an administrative allowance equal to 5 percent of the amount of campus-based funds up to $2.75 million, 4 percent of the amount of campus-based funds greater than $2.75 million but less than $5.5 million, and 3 percent of the amount of campus-based funds in excess of $5.5 million, The ceiling on the amount of administrative allowance an institution can receive is removed, and institutions are required to use their administrative allowance solely for the purpose of administering the student financial aid programs.

CRIMINAL AND CIVIL PENALTIES

The criminal penalties for fraud which in current law apply only to the guaranteed student loan program are applied to all of the title IV programs. Institutions may be suspended or terminated from the program or civil penalties levied for substantial misrepresentation of educational programs, financial changes or the employability of graduates.

STUDENT FINANCIAL ASSISTANCE TRAINING PROGRAM

The program is modified to provide for training services through contracts with the Secretary for those involved in student financial assistance programs.

A National Commission on Student Assistance is established to undertake a 2½-year study of issues such as more effective means to curb defaults, capital availability, the most appropriate mix of gift aid and self-help, the status of financial aid for graduate students, the appropriate level of public subsidy of student loans and the impact of student assistance on student career choices and educational prices. In addition, special 1-year studies of the following topics will be made: Insurance premiums charged to students, the method of determining the special allowance, the academic progress standards required for student eligibility for financial assistance, and the recapture of interest subsidies paid on behalf of student borrowers by the Federal Government.

The President, the Speaker, and the President pro tempore of the Senate each appoint one-third of the 12 members. It was evident in the hearings that a great many questions concerning student loans in particular and student assistance generally cannot be answered and that radical changes in the current student loan programs cannot therefore be justified at this time. The Commission is created to provide answers to these questions so that Congress and the President will be better informed in future deliberations on these programs. An authorization of $10 million is provided.

TITLE V, TEACHER TRAINING PROGRAMS

The limitation on the salaries for teacher interns in the teacher corps programs is deleted. Cooperation between local educational agencies and institutions of higher education in the teacher center program is encouraged.

More emphasis is placed on updating teachers in the use of technology, telecommunications, and testing. The pool of eligible grantees for teacher centers is expanded with the inclusion of educational service agencies.

Direction is given to the Secretary to make at least one grant award for teacher centers in each State.

Grants to schools of education for upgrading their faculty and curriculum to meet current needs are authorized.

The conference substitute establishes an Office of Education Professional Development in the Department of Education to review professional development operations and to coordinate their activities among the various Federal education programs.

The conference substitute authorizes the following amounts for the Teacher Corps program:

[In millions]

Fiscal year 1981	$45
Fiscal year 1982	50
Fiscal year 1983	60
Fiscal year 1984	70
Fiscal year 1985	80

The conference substitute provides for the following authorizations for teacher training programs:

[In millions]

Fiscal year 1981	$20
Fiscal year 1982	30
Fiscal year 1983	40
Fiscal year 1984	50
Fiscal year 1985	55

The conference substitute authorizes a new program of training for elementary and secondary schoolteachers to teach handicapped children in areas where there is a shortage of such teachers. This training program is in the nature of fellowships to individual teachers who must within 5 years after completion of training teach for at least 2 years in a special education program or repay the stipend awarded to the individual.

The authorization levels for this new program are:

[In millions]

Fiscal year 1981	$2
Fiscal year 1982	3
Fiscal year 1983–85	5

Title VI of the current law is replaced by a new title VI, foreign studies and language development. The new title VI incorporates title VI of the National Defense Education Act, language and area studies, some provisions from the International Education Act as well as the recommendations of the President's Commission on Foreign Language and International Studies. Mr. SIMON of Illinois, who served as a member of the President's Commission, provided the leadership for the development of this title.

The conference substitute provides the following authorizations:

[In millions]

Fiscal year 1981	$45
Fiscal year 1982	50
Fiscal year 1983	60
Fiscal year 1984	70
Fiscal year 1985	80

The conference substitute authorizes a new part B of title VI, business and international education programs. This new part establishes a dollar for dollar matching grant program to postsecondary institutions which have entered into agreements with business enterprises, trade organizations or consortia of such organizations to establish or expand curricula to serve the international needs of the American business community.

There is authorized an annual appropriation of $7,500,000 for fiscal year 1981 through 1985 for the purposes of this new part.

TITLE VII, CONSTRUCTION, RECONSTRUCTION AND RENOVATION OF ACADEMIC FACILITIES

The title is simplified but retains the current State allocation formula. New authority to support improvement of research facilities including libraries and for compliance with section 504 is provided. Assistance for facilities in areas experiencing unusual increases in enrollments or requiring the detection or removal of asbestos hazards is also authorized. Part D, assistance in major disaster areas, is repealed. The interest rate for academic facilities loans is increased from 3 to 4 percent.

The conference substitute provides the following authorizations for part A, State grant program for the construction, reconstruction and renovation of academic facilities:

[In millions]

Fiscal year 1981	$100
Fiscal year 1982	100
Fiscal year 1983	100
Fiscal year 1984	100
Fiscal year 1985	100

The substitute provides an authorization of $80 million per year for part B, institutional grants for construction, reconstruction and renovation of graduate academic facilities.

The substitute authorizes $80 million per year for part C, loans for construction, reconstruction and renovation of academic facilities.

TITLE VIII, COOPERATIVE EDUCATION

The conference substitute authorizes $30 million for fiscal years 1981 through 1985 for the basic program. The maximum grant to a single institution is increased from $175,000 to $325,000, and the maximum grant to each member of a consortia is increased from $120,000 to $250,000. Different approaches to cooperative education are encouraged by permitting programs to include alternate or "parallel" periods of work and study.

An authorization of $5 million for each of the fiscal years 1981 through 1985 is provided for grants and contracts for training and research.

TITLE IX, GRADUATE PROGRAMS

The title is updated by striking references to the "expansion" of graduate programs. Part A, grants to institutions of higher education, is extended through fiscal year 1985 at its current authorization level of $50 million.

Parts B, C, and D of current law are revised by the conference substitute to provide a program of campus-based grant awards to graduate and professional students based on financial need. The maximum award to a student is $4,500 per year for 3 years. The substitute also provides for the maintenance of the level of awards, including institutional allowances, for the public service, mining and graduate and professional opportunity fellowship programs. The substitute authorizes $60 million for fiscal year 1981 and for fiscal year 1982 and such sums as may be necessary for fiscal years 1983 through 1985 for this new part B.

The conference substitute also provides

a new part C, national graduate fellowships. This part would provide 450 portable competitive fellowships each year in the arts, humanities, and social sciences. Selection of these fellowships would be based on merit, with the stipend awarded being related to the recipient's financial need. The National Graduate Fellows Program Fellowship Board would be created to select the areas in which the fellowships are to be awarded and to appoint panels for the selection of recipients.

The conference substitute extends the programs of assistance for training in the legal profession as a new part D of title IX with the following authorizations:

[In millions]

Fiscal year 1981	$5.0
Fiscal year 1982	5.0
Fiscal year 1983	7.5
Fiscal year 1984	7.5
Fiscal year 1985	10.0

The conference substitute continues the authority for the law school clinical experience program as part E in title IX, deleting such authority from title XI.

The following authorizations are provided:

[In millions]

Fiscal year 1981	$5
Fiscal year 1982	8
Fiscal year 1983	8
Fiscal year 1984	9
Fiscal year 1985	10

TITLE X

The vacated parts of this title are replaced by transferring the authority for the fund for the improvement of postsecondary education from the General Education Provisions Act. The board of the fund is given a statutory base. The following authorizations are provided:

[In millions]

Fiscal year 1981	$20
Fiscal year 1982	30
Fiscal year 1983	40
Fiscal year 1984	45
Fiscal year 1985	50

Part C of title X creating the bureau of occupational and adult education and the community college unit is retained in current law.

NEW TITLE XI, THE URBAN GRANT UNIVERSITY PROGRAM

This title is designed to provide assistance to urban educational institutions in developing, in conjunction with local officials, responses to needs and problems of the urban area. It builds on the idea that the urban university and the urban area in which it is located have a natural affiliation and that the institution can provide research and services to help address urban problems.

Under this program, grants will be awarded on a competitive basis to institution to provide applied research and service projects for their cities. The applications must indicate the degree to which the local government is involved with planning and is committed to a financial contribution to the project. The Federal share is limited to 90 percent of the project cost.

As defined in this title, an urban area is a SMSA with a 500,000 or more population—the State may designate an area in States where there is no such SMSA. An urban university is one which is located in an urban area, draws a substantial portion of its students from said area; has the capacity to provide the services authorized, and offers a sufficient range of graduate or professional programs to sustain its offerings of services. A consortium can qualify for this program as long as one member meets all the qualifications.

I would like to stress one point all the supporters of title XI have made at one time or another, and which I believe the Department of Education must take very much to heart. Title XI is a simple concept, and one which requires a bare minimum of Federal intervention. Under the terms of title XI, the cities are to decide what their problems are, and the universities are to decide how they can contribute to meeting those problems. The Secretary of Education has broad discretion in deciding whether or not a given city-university linkage is well developed enough to justify approval of an application under title XI, but those of us who have worked on urban grant for over 3 years now do not look upon the provisions of the act as providing the Secretary with a lot of blank spaces crying out to be filled with detailed regulatory prescription.

The conference report authorizes the appropriation of up to $15 million for fiscal year 1981 under this title. This is not a large amount, but it is enough to get the program under way and to fund some projects, perhaps of a demonstration nature, during the initial program year.

There are, Mr. Speaker, some urban universities which have already developed the kind of ties with their cities and counties which title XI calls for. I hope the distinguished members of the Appropriations Committee will give careful consideration to the appropriation of some funds for title XI so that a few, carefully chosen projects can get underway in fiscal year 1981. The regulation writing and application process should be completed very soon, and there is no good reason why, given some funding for fiscal year 1981, we cannot embark on the implementation of the Urban Grant Act in the immediate future. Urban grant, it seems to me, is in close harmony with the times. It does not call for massive expenditures; it does not involve major Federal intervention in local decisionmaking, and it is intended to bring the resources of the city and the resources of the urban university together in order to make the most effective and economical use of both.

The authorization levels are:

[In millions]

Fiscal year 1981	$15
Fiscal year 1982	25
Fiscal year 1983	35
Fiscal year 1984	45
Fiscal year 1985	55

I introduced this legislation in the last Congress with 57 cosponsors. Five days of hearings were held on the bill in 1978. The legislation was reintroduced in this as H.R. 3181, which simplified and clarified it on the basis of what was learned through the hearings. H.R. 3181 has 72 cosponsors.

TITLE XII, GENERAL PROVISIONS

The provision for State agreements are modified to simplify the mechanism through which States provide assurances to the Federal Government for their participation in programs authorized under the Higher Education Act.

The States are given more flexibility in establishing a structure through which to perform federally required planning under the Higher Education Act, but broad participation continues to be assured.

The conference substitute authorizes the Secretary to make such modifications of any program under the act as she deems necessary in order to adapt such programs to the needs of the territories, and requires the Secretary within 18 months after the time of enactment to conduct an analysis of the unique educational needs of the territories.

The conference substitute also authorizes $2 million for each fiscal year through 1985 to support the cost of postsecondary education programs in Guam for nonresident students from other Pacific Territories.

The conference substitute establishes a National Advisory Committee on Accreditation and Institutional Eligibility to advise the Secretary.

TITLE XIII, MISCELLANEOUS PROVISIONS

The conference substitute amends the contingent extension provision of the General Election Provisions Act to authorize the contingent extension of any forward-funded program for 2 fiscal years.

The conference substitute amends the General Education Provisions Act to authorize the Congress to disapprove Department of Education regulations in whole or in part.

The conference substitute authorizes appropriations to the Secretary of Education for fiscal year 1981 of $2.5 million for the college science teacher program, and $5 million for the minority institution science program.

The conference substitute extends the life of the Commission on the review of the Federal impact aid program until September 30, 1981.

The conference substitute amends the General Education Provisions Act to provide that no regulation affecting any institution of higher education in the United States shall become effective unless the agency promulgating such regulation publishes in the Federal Register an educational impact assessment statement which shall identify what information specified by the regulation is available from another authority of the United States.

The conference substitute adds, as a priority for research by the National Institute of Education, special problems of the nontraditional student. The authorization for the institute is extended at the following levels:

[In millions]

Fiscal year 1981	$120
Fiscal year 1982	130
Fiscal year 1983	145
Fiscal year 1984	160
Fiscal year 1985	175

The conference substitute establishes an advisory council to evaluate the needs of Native Hawaiians and the effectiveness of existing State and federally assisted educational programs in meeting such needs. A total of $500,000 is authorized for the period of fiscal years 1981 through 1983.

The conference substitute authorizes a 1-year provision amending the impact aid laws to provide special assistance to local school districts facing influxes of Cuban, Haitian, and Indo-Chinese refugee children.

The conference substitute extends the authorization of appropriations for construction at Navajo Community College for 1 year and changes the authorization to an amount based on the actual cost of operation and maintenance of the institution.

The conference substitute makes the College of Micronesia a land grant college.

The conference substitute authorizes an appropriation of $750,000 per year to be matched by funds from private sources for the Robert A. Taft Institute.

The conference substitute authorizes $6 milllion for fiscal year 1981 for a grant to establish the Gen. Daniel James Memorial Health Education Center to be located in the Tuskegee Institute in Tuskegee, Ala.

The conference substitute authorizes $750,000 for fiscal year 1981 to establish the William Levi Dawson Chair of Public Affairs at Fisk University at Nashville. Tenn.

Mr. Speaker, I urge my colleagues to adopt this conference report.

Mr. McHUGH. Mr. Speaker, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from New York.

Mr. McHUGH. I thank the gentleman for yielding. I would like to address a question to my colleague, the distinguished gentleman from Michigan (Mr. WILLIAM D. FORD) who has done an excellent job in his capacity as subcommittee chairman in guiding this complex and important legislation through the Congress and the conference committee.

I wish to draw the chairman's attention to section 422 of the conference report amending section 430(a) of the Higher Education Act. This provision calls for prompt action by the Federal Government in determining whether a lending institution has exercised due diligence in the processing of student loans.

I am particularly interested in this provision because it is my understanding that it will finally end the severe hardship which lending institutions have experienced at the hands of the Federal Government under the Federal insured student loan program. As you know, these lending institutions have participated in the student loan program at the behest of the Government and have made it possible for hundreds of thousands of students to obtain a postsecondary education. Under this program, lenders are insured by the Federal Government against default by student borrowers. In many cases, however, the Federal Government has withheld millions of dollars in insurance payments for several years without any finding of wrongdoing or lack of due diligence on the part of the lenders.

One lending institution in my own district has had nearly $2 million withheld by the Federal Government for more than 2 years pending an investigation of the school which was attended by the student borrowers. This lender has not been charged with any wrongdoing or lack of due diligence by the Federal Government and there is nothing, to my knowledge, in the present law which authorizes the Department of Education to continue to withhold funds which rightfully belong to this lending institution. Yet, this lender is without the use of a very substantial amount of money to which it is entitled under the Higher Education Act.

Mr. Speaker. it is my understanding that section 422 of the conference report will remove any doubts as to whether the Department of Education can continue to withhold these funds without first making a determination that a lending institution has failed to exercise due diligence. In the absence of such a finding, it is my understanding that it is our intent in enacting section 422 to require the Department of Education to make these payments promptly to lending institutions such as the one in my district. I would ask the chairman to confirm that my understanding is correct.

Mr. FORD of Michigan. Yes, the understanding of the gentleman from New York is correct. The law requires prompt insurance payments to lending institutions. This amendment merely clarifies present law which does not authorize the withholding of insurance payments by the Federal Government as in the situation which you have described.

Mr. McHUGH. I thank the gentleman for his comments and for yielding.

Mr. FORD of Michigan. Mr. Speaker, I have no further requests for time and reserve the balance of my time.

Mr. BUCHANAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report accompanying H.R. 5192, the Higher Education Act reauthorization. Regrettably this body is being asked to consider this conference report a second time because of an unfortunate relationship which exists between the authorizing committee and the Budget Committee in the other body.

On August 28, 1978, the House accepted the first conference report by a vote of 373 to 16. This overwhelming show of support was not unprecedented. For on November 7, 1979, the House accepted its own version of the reauthorization of the Higher Education Act by a vote of 385 to 16.

Throughout the entire reauthorization of the Higher Education Act—a period of time which extends back to the first day of hearings when then-Secretary Joseph Califano testified on March 20, 1979—Members of this body have shown strong support for the reauthorization and extension of the Higher Education Act. I can personally think of no other piece of legislation which is more critical to the future well-being of this country than this education reauthorization bill. As I have said repeatedly on the floor of this body, and I reaffirm again, our young people are this country's most important resource. To leave that resource undeveloped erodes the foundational premise upon which all other growth in this Nation depends—whether it is economic, political or social growth.

As I lifted my pen to sign the second conference report on the Higher Education Act I was reminded again of the cause necessitating a second conference on H.R. 5192. It is regrettable that the overwhelming support for this act which has been voiced by constituents of every Member of this body was not more accurately reflected in the vote of their representatives in the other body. With the precision of the surgeon's knife, the House was meticulous and careful in the original House-passed bill to keep the what was essential to preserve equality of opportunity and access in education and to trim the bare excesses of cost.

The conference report, which the other body considered on September 4, 1980, represented cost-cutting measures which went even further than the well-reasoned House-passed bill. In a startling defeat, the conference report was rejected by the other body and sent back to conference. The underlying cause of that defeat was the very evident misunderstanding between that body's authorizing and budget committees concerning the cost of this bill.

Never before in my 16 years as a Member of the House of Representatives, have I ever seen the power play that occurred in the other body with the consideration of the conference report on H.R. 5192. One might say it was almost as if the authorizing committee had to ask permission of the Budget Committee to set education policy.

We are all experiencing the difficulties in trimming and cutting costs to comply with the reconciliation requests. This is a fact of life. But I am pleased that the process of reconciliation in this body has shown a charitable and spirited understanding between the authorizing and Budget Committees. Simply put, there is a measured respect in this body for the authority of the authorizng committee to make policy within fiscal constraints, and the responsibility of the Budget Committee to insure the fiscal responsibility of those decisions.

The voice of the American people is afforded the constitutional protection of being heard in a representative fashion through 535 Members of Congress. In effect, the other body attempted to narrow the representation of the people of this country with regard to the vote on the conference report for the Higher Education Act to the thoughts and ideas of 20 members of the Senate Budget Committee.

When the authorizing committees had reached agreement a second time—netting savings of $1.4 billion in levels of authorization over the 5-year life of the bill, and $426 million in entitlement savings in fiscal year 1981—we were informed that the Senate Budget Committee was still unsatisfied. At that point we were forced to increase the interest rate on the guaranteed student loan program from the 8 percent originally agreed upon—up from current 7 percent—to 9 percent.

This second conference report on H.R. 5192, goes well beyond meeting the cost-cutting requirements imposed by the reconciliation measure in both the House and the Senate. The other body has further argued that the conference report does not have sufficient out-year savings. A reminder to the Senate Budget Committee that the reconciliation bill applies only to fiscal year 1981 is perhaps the strongest message this body can send back.

So it is with some measure of regret that, pen in hand, I was forced to sign again a conference report that on its merits is sound fiscal and educational policy for the present investment in the youth of this country. I regret only that our process of representative government must bear the caveat that we represent our people conditioned upon the blessing of the Senate Budget Committee. Notwithstanding, I urge the good will of this body, and in the "spirit of reconciliation" ask my colleagues to join me for 1 second—and hopefully final—time in adopting the conference report to H.R. 5192.

Mr. Speaker, I yield such time as he may consume to the distinguished ranking minority member of our committee, the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. I thank my colleague for yielding.

Mr. Speaker, I rise in support of the conference report to accompany H.R. 5192 presented to the House today. This is the third time I have come before the House recommending adoption of a bill to authorize the Higher Education Act of 1965, as amended.

On November 7, 1979, the House passed H.R. 5192 by a vote of 385 to 15. This bill was estimated to cost approximately $59 billion over its 5-year reauthorization period. Major concessions concerning cost-cutting amendments had been made in committee and were made by amendment on the floor to insure that the bill as presented to the House last November was cost conscious.

The dynamics of the budgetary process became more critical as we entered the second session of the 96th Congress, and the Senate reported bill was somewhat less costly than the House-passed bill. In all good faith and with the full intent of insuring that there was not a lot of waste in the conference agreement, we brought a conference report to the House floor on August 25 which was approximately $11 billion less than the House-passed version. Again, this body resoundingly passed the conference report by a vote of 373 to 16. Unfortunately, the Senate, at the urging of the Senate Budget Committee, narrowly rejected the same conference report several days later.

House and Senate conferees went back to the conference table earlier this week, and we come today with a conference report that is approximately $1.4 billion less expensive than the conference report considered by the House less than a month ago. Before detailing the changes made to the most recent conference report, I would like to try to clarify some of the misconceptions I believe that were presented to the Senate when they considered the first conference report. I believe that these misconceptions significantly affected the outcome of the vote in the Senate and, had the facts been more clearly presented and more widely understood, I believe that there would not have been a need to reconvene the conferees to further reduce the higher education programs. In fact, as one who considers himself fiscally conservative, I believe we may have gone too far with this latter conference report in trying to pare down the programs. It is my hope that we have not done injury to the program or caused injustice for the students who are the primary recipients of the programs.

During the Senate debate of the first conference report on September 4, 1980, the chairman of the Senate Budget Committee stated that the conference agreement on H.R. 5192 "would cost the taxpayers $51 billion over the next 5 years; $37 billion of this is virtually uncontrollable, including $11 billion in entitlement spending." It should be noted that the only cost that Congress must fund would be the estimated $11 billion in entitlements for the guaranteed student loan program. Most of the $51 billion cost comes from authorization levels, not from required entitlements. The $37 billion referred to as "virtually uncontrollable" comes from including with the $11 billion in GSL entitlement, another $19.6 billion for estimated BEOG costs over 5 years, and an additional $6.7 billion for the impact of the campus-based program triggers over the same 5-year period.

Two important points should be made about the budgetary impact of the first conference report. The funding level for the BEOG program can be adjusted by the appropriations process. There is no guarantee that the full funding estimates of the Congressional Budget Office would be realized. As a result, the increased campus-based program trigger for the SEOG program, dependent upon increased funding for BEOG's, may also not be realized.

Another point that was perhaps not clear to Members of the Senate when they voted on the first conference report was that the cost estimates asserted by the Senate Budget Committee were based on assumptions that the Congressional Budget Office did not accept. A first estimate of the conference report was made in a memo of August 27, 1980. A September 2 memo included a new estimate of the conference agreement based on a scenario outlined by the Senate Budget Committee. This estimate is totally a Senate Budget Committee assumption and the CBO stated that they stood behind their August 27 memo as "the official estimate of costs," not the September 2 memo which the Budget Committee referred to as a valid reflection of the true costs of this bill.

The conference report which you must consider today contains further savings of approximately $1.4 billion. The major portion of these savings result from a modification of the NDSL alternative financing mechanism. Under the previous conference report, the Secretary of Education was given the authority to borrow its loan capital to make NDSL's. The Secretary would have to had borrowed the amount needed for full funding of the program—$3.4 billion—before the NDSL collections would revert to the Treasury. Under the new conference agreement, the Secretary must borrow in order to provide the NDSL loan capital. If the Secretary in any year borrows $1 billion, then the NDSL collections available that year for loans on the campuses would revert to Treasury and an estimated savings of $378 million for the purposes of reconciliation would occur.

If the program is funded through borrowing, each campus would be held harmless at its fiscal year 1979 level of available loan funds. If in any year the Secretary did not borrow at least $1 billion, the NDSL program would remain as it is under current law and Congress would have to appropriate funds directly for loan capital.

It should be noted that in the new conference agreement, although the Secretary must borrow, the Congress still has the ability to appropriate funds or not appropriate funds to pay for the interest and default/disability/death claims on the borrowing for that year. In essence, Congress still would control the NDSL program.

Another significant modification in this new conference agreement would modify the parent loan program. All options would be eliminated for parents to begin repayment of the parent loan more than 60 days after taking out the loan, and the interest rate would increase from the 8-percent rate in the previous conference agreement to 9 percent. The guaranteed student loan interest rate for student borrowers would also be increased from 8 percent to 9 percent. In both the parent and student loan program, if the average Treasury bill rate for the prior year equaled or was less than 9 percent, the interest rate charged to new borrowers would be reduced to 8 percent.

Should the Treasury bill rate then increase in future years, it would take an affirmative legislative act of Congress to increase the rate once again to 9 percent. All borrowers must continue to pay the interest rate that they paid on the first loan they took out, but they would be able to consolidate these loans at an interest rate equal to the prevailing rate. Obviously, this prevailing rate could be less than the rate they have been paying on their loans.

The grace period in the NDSL program would be reduced to 6 months rather than the 9 months under current law. This would conform the NDSL grace period to the new GSL grace period and facilitate loan consolidation. It is estimated that this will result in a savings of $70 million over the life of the bill.

The new minimum room and board allowance for dependent students commuting from home would be set at $1,100 rather than $1,150 as previously agreed to in the conference. This achieves a savings of $80 million over the life of the bill.

Title XIII of the conference report, women's work site development demonstration program, would be eliminated as a separate authorization. In many ways it is duplicative of the authority already contained in title I, part B, of this bill. It is estimated that the elimination of title XIII results in savings of $38 million.

The new conference report reduced the authorization in the following programs: title I, part B, Education Outreach programs; title III, strengthening institutions programs; supplemental educational opportunity grant program; title V, part A, Teacher Corps; title V, part B, teacher training; title VI, part A, international and foreign language studies; title VII, part A, grants for the construction, reconstruction, and renovation of undergraduate academic facilities; title VIII, part C, loans for construction, reconstruction, and renovation of academic facilities; title X, fund for the improvement of postsecondary education; and title XI, urban grant university program. The combined savings for reducing authorizations in these programs would be $1.21 billion.

There are two major changes which were considered by the conferees, but were not adopted. There was a great deal of pressure from the press to include home equity as an asset from which a parent can find the funds to meet the expected family contribution for their son or daughter's education. In the original conference agreement, the consideration of home equity was eliminated in determining financial need for two excellent reasons. First, equity in a home is an illiquid asset and is an unfeasible source for paying for a college education. Second, there is no way that an applicant can adequately determine the equity in their home, nor can the student aid officer or the Department of Education verify that what the applicant has placed on the form is correct. It is ridiculous to assume, as do many members of the press, that the upper income family with an expensive house will be able to receive a basic grant if home equity is not considered when determining need. There are very few instances in which their income would not already disqualify them under the income portion of the financial needs test.

The Senate Budget Committee strongly urged that the conferees adopt some form of the Metzenbaum amendment to require, under most circumstances, deferral and eventual repayment of the GSL in-school interest subsidy now paid by the Government. For many reasons the conferees were correct in deciding to ignore the Metzenbaum amendment. Some entity must be responsible for determining who is eligible for the in-school subsidy and then for determining on each individual note for each individual student how much in-school subsidy had been paid so that it may be repaid to the Federal Government. Because the Government does not have this capability, it is most likely that the lenders would be given the responsibility. This additional administrative burden would predictably result in lender withdrawal from the program. At a minimum, the Student Loan Marketing Association estimates that every dollar collected would cost the Government approximately 65 cents to collect.

Of perhaps more significance is that the adoption of the Metzenbaum amendment would save only approximately $65 million in the first year and not $3 billion suggested by the author of the amendment. Additionally, 75 percent of this savings would result from reduced loan volume. In the State of Ohio, the Ohio Student Loan Commission estimates that if the Metzenbaum amendment was adopted, the projected loan volume figures for fiscal year 1981 through fiscal year 1983 would be reduced by about 40 percent. These "savings" would result in decreased benefits for the students which the guaranteed student loan program was intended to serve—the middle-income student who is not eligible for a grant, work study, or a more highly subsidized loan.

Congress must pass this conference report immediately, so that the changes proposed and benefits anticipated for students will go into effect as soon as possible. I urge unanimous support for this cost effective and highly responsible conference report.

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Mr. BUCHANAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Vermont (Mr. Jeffords).

Mr. JEFFORDS. Mr. Speaker, I rise in support of the second conference report on the Higher Education Amendments of 1980, H.R. 5192, but feel that a point of information must be made. One of the changes to which the House reluctantly agreed was to raise interest rates for the guaranteed student loan program and the parent loan program from 8 to 9 percent. We were able though, to get agreement to lower this rate to 8 percent should the interest on Treasury notes drop below 9 percent. The option also remains to consolidate loans made under differing interest rates to the lowest rate of any of the loans made.

The efforts made by the conferees to meet the reconciliation requirements imposed by the Senate Budget Committee may appear to be merely paper shuffling or of little consequence, but I believe that the increase of these interest rates will have a significant financial impact on the parents of students and the students themselves. This impact is compounded by the recognition that even with reconciliation, the budget will not be balanced, but instead show at least a $30 billion deficit. We may have created an unnecessary burden in the name of reconciliation and a balanced budget that will not be achieved.

● Mr. PURSELL. Mr. Speaker, I rise to speak in favor of the conference report for the reauthorization of the Higher Education Act.

I stand before you as the representative with the largest and perhaps most diverse student population in the country today. The institutions of higher learning in my district contribute not only to the surrounding communities but to the entire State, the Nation, and indeed the world. They range in size and scope from Madonna College to Washtenaw Community College to the University of Michigan. Consequently, I am well aware of the present problems and challenges of higher education in our Nation.

In addition, as a member of the Labor-HEW Subcommittee on Appropriations, I have gained a specialized budgetary knowledge of the use and limits of Federal funds in the higher education field. In the past, the distinguished chairman of my subcommittee, Mr. Natcher, and I have specifically acted to meet student needs as well as give a great deal of attention to education programs in general along with my other very able fellow subcommittee members.

The bill before us is a major piece of legislation with many months if not years of careful thought to maintaining and increasing the quality and the opportunities that all colleges and universities will have to offer their students.

A significant portion of the bill addresses student financial assistance. This portion is critical because it is the basic consideration for everyone deserving of and willing to go after a college education.

The measure before us responds to both that consideration and our responsibility to control Federal spending.

The provision that requires the Department of Education to borrow from the Federal financing bank, if we appropriate funds to support borrowing, coupled with a $1 billion loan collection figure will enable us to meet the reconciliation requirement of $378 million in fiscal year 1981.

The guaranteed student loan program was made to be responsive to the Nation's economy, while not creating an undue sacrifice on the part of the students and their families. It is true that the interest rate will now be 9 percent, but that rate will revert to 8 percent if the average Treasury bill rate becomes 9 percent or lower. For that loan interest rate to again rise from an 8-percent level. Congress must give its approval, meaning that we, as a body, will respond directly to our constituents as well as the prevailing economic conditions.

My good friend and colleague, Bill Ford, and his fellow conferees have labored with unmatched diligence and perseverance to arrive at a compromise bill that answers the concerns of both Houses. This legislation is a substitute for the original conference agreement which was defeated by the Senate. While the original legislation was better—this was the best we could get from the Senate.●

● Mr. PERKINS. Mr. Speaker, I rise in support of the conference report on H.R. 5192. On August 28, the House approved the first conference report on this bill by an overwhelming vote of 373 to 16. I believe that that first conference report represented a reasonable compromise between the House and the Senate.

Unfortunately, the Senate rejected that conference report by a vote of 45 to 43. The conference report before us today results from a new conference which was convened after the Senate's rejection of the first conference report.

This second conference report makes three basic changes from the original report of 2 weeks ago.

First, the national direct student loan program is amended to require the Secretary of Education to issue bonds in order to raise revenues to support the program, if the Congress appropriates funds to pay for the cost of this revenue-raising activity. The Secretary is also required to recover the revolving funds from local institutions of higher education if she is able to provide $1 billion of loan capital on college campuses.

If the Congress does not appropriate funds for the Secretary to raise revenues in this procedure, then the national direct student loan program would be continued as it is presently, with the revolving funds remaining on campus and with the Congress providing for new capital contributions through the appropriations process. And, I wish to emphasize this point, even if funds are appropriated for this new revenue-raising procedure, the Secretary can only recapture the revolving funds if this full $1 billion for loans is made available on college campuses.

Second, the new conference report reduces authorizations and various entitlements throughout the bill by $1.4 billion. Several of the programs affected are the following: strengthening developing institutions initial year supplemental opportunity grants; teacher training programs; and construction of graduate and undergraduate academic facilities.

Third, the revised conference report increases the interest rates in two programs. Students who are new borrowers in the guaranteed student loan program will now have to pay a 9-percent interest rate instead of the current 7 percent. The earlier version of this conference report had provided for an increase from the current level of 7 to 8 percent.

The interest rates are also modified in the new parental loan program. The previous conference report had provided that parents could pay 8 percent if they immediately began repayment on their loans, and they would have to pay 11 percent if they delayed payment until after completion of their child's education. The revised conference report provides that all parents must begin payments immediately, and that this repayment would be at the interest rate of 9 percent.

Mr. Speaker, I opposed all these revisions in the conference committee, and I believe that their adoption will make it more difficult for the citizens of our country to obtain an adequate education.

However, the Senate conferees were absolutely adamant in their position that they had to have these three modifications in order to return to the Senate floor with a conference report which would be adopted.

The House conferees were bitterly reluctant to agree to these demands, but to save the bill, we had to give in to the Senate in the face of their unbending position. All of the House conferees recognized that we could not jeopardize all of the Federal higher education programs by allowing this bill to die this year.

If we do not enact a bill this year, Federal student aid programs will not have authority next year to secure funding, nor will a score of other Federal aid programs be funded. The House conferees therefore had no viable alternative, but to go along with the Senate in these further modifications.

Mr. Speaker, I urge the House to approve this conference report—not because it is a good compromise, which I no longer feel it is—but because the legislation must be extended, the programs have to be reauthorized. It is my firm conviction that we are being pennywise and pound foolish. It is true that we will save a few dollars this year by adopting these restrictive amendments, but I am convinced that we will pay for these changes dearly in the years ahead, by having more made difficult the attainment of a postsecondary education by many of our citizens.●

● Mr. BIAGGI. Mr. Speaker, I rise in full and enthusiastic support of this conference report before us on H.R. 5192, the Education Amendments of 1980. As an original cosponsor of the bill, as well as a member of the conference committee which considered it, I believe that we have submitted to this body a better version of this legislation. I feel this way because we managed to substantially reduce both the short- and long-term costs in this bill without altering the structure of the programs.

This report provides us with an additional savings of $1.4 billion in authorizations above the previous conference report approved overwhelmingly by this body last month. The total cost of this bill is estimated at $43.389 billion which is $12.2 billion less than the original bill passed by this House. This is not to say that we were not cost conscious in the first report which we agreed upon. The report was $11 billion less than the original House-passed version of this bill. These savings are a commitment to reduce the long-term costs of this bill which are largely centered in the guaranteed student loan program.

We have retained our commitment to providing a fair and balanced approach to programs in both the public and private educational sector. We have held down the costs to students and have most importantly, maintained our firm commitment to the middle income families of this Nation by assuring that both parents and students will still be able to receive loans regardless of their family income.

The chairman of our full committee, Mr. PERKINS, deserves support for his continuing commitment to assuring that the neediest of our students will continue to receive grant and loan aid. Our subcommittee chairman, Mr. FORD, deserves the gratitude of this body for talent and his energies which brought us to this agreement today. The educational community has no greater friend than this man who has devoted himself to preserving the right of all students to pursue postsecondary educational opportunities.

This report deserves the full and unqualified support of this House and I urge its adoption.●

Mr. BUCHANAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FORD of Michigan. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report now pending.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. FORD of Michigan. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

INTERNATIONAL MONETARY FUND QUOTA INCREASE

Mr. NEAL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7244) to amend the Bretton Woods Agreements Act to authorize consent to an increase in the United States quota in the International Monetary Fund, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. NEAL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 7244, with Mr. BEILENSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, September 17, 1980, the bill had been read for amendment.

Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. HANCE

Mr. HANCE. Mr. Chairman, I offer an amendment.

Mr. LEACH of Iowa. Mr. Chairman, I reserve a point of order on the amendment.

The Clerk read as follows:

Amendment offered by Mr. HANCE: Page 9, line 23, strike out "SEC. 6." and insert in lieu thereof "SEC. 7.".

Page 9, after line 21, insert the following new section:

ASSISTANCE TO THE PRIVATE SECTOR OF EL SALVADOR AND OTHER NATIONS

SEC. 6. The Bretton Woods Agreements Act is further amended by adding at the end thereof the following new section:

"SEC. 37. It is the sense of the Congress that in providing assistance through loans or other means to any nation, in particular El Salvador, the Fund and the Bank should encourage programs which assist the private sector, and which provide funds to the private sector, to create an environment which will stabilize the economy of the nation. The United States representatives to the Fund and the Bank shall promote the use of assistance by the Fund and the Bank to encourage such programs.".

Mr. HANCE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. HANCE. Mr. Chairman, this amendment would state that it is the sense of Congress that in providing assistance through loans or other means to any nation, in particular El Salvador, that the fund and the bank should encourage programs which assist the private sector, which provide funds for the private sector, to create an environment to help stabilize the economy.

The reason I present this amendment in particular that mentions El Salvador is for that country to survive and have some stability. The junta in that country has been operating on a very uneven keel and has had many problems but for there to be survival, the private sector has to play a very important part in stabilizing the economy.

One group in particular, the Productive Alliance, has worked very hard in trying to work with the Government. They have been attacked from the left and from the right and I think it is very important that the private sector and particularly the Productive Alliance be involved in helping stabilize the economy and the country.

I offered this amendment today to point out the importance of American involvement in Central American countries, El Salvador in particular. I think it is extremely important for us to send a signal to the ruling junta in El Salvador—and also to the other countries who seek our aid.

The violence and destruction that is now occurring in El Salvador underscores the importance of the private sector in that country. Not only does the private sector hold the key for that nation's economic recovery, but it also represents the single remaining hope to check the growing polarization of the political forces.

The ruling junta in El Salvador desperately needs the support and technical advice of the private sector to insure that its recent reforms can succeed economically. In addition, the government needs to broaden its political base to preserve some degree of pluralism. Without the help of the private sector it will be impossible to create an atmosphere needed to provide the economic and political stability.

Any policy of the United States which calls for financial support of El Salvador, or any Central American country, should be centered around the idea that the private sector must play an important role in the government of that country.

I have had some very important discussions in recent weeks with a group of businessmen from El Salvador. These businessmen have formed the Productive Alliance and are trying to work with the ruling junta. These are very brave men who are dedicated to their country and are literally fighting to keep the free enterprise system—and democracy—alive in Central America. Because of their strong stand in favor of a free country, many of them have received death threats—but they continue their cause because they know they are right. I feel we should support them and show the world that America indeed supports free countries.

In my talks with these businessmen they have told me that their relations with the junta were based on a growing recognition by the junta members that the serious economic and political problems in El Salvador cannot be solved without a vigorous and healthy private sector.

We do see some good signs for optimism because of the efforts of the private sector in El Salvador. Just recently a majority of the junta in El Salvador went on record that it was against Marxism. We now have a chance and an "open door" to help them give the free enterprise system an opportunity to work—and the El Salvador businessmen are ready to work and become involved in the system.

It is up to us to send a clear signal that the United States is in favor of a free enterprise system. We do not need to stutter, but we must let our voice be clear that we want the private sector to play an important role.

Two other subjects also need to be addressed regarding our support of free enterprise in El Salvador.

First, regarding the reforms in El Salvador: One of the main so-called reforms in El Salvador included the confiscation of vast amounts of land. This was land which was productive and its confiscation considerably dropped the productivity of the country. There have been a few vague announcements by the Government saying that the landowners would be compensated, but we have seen no real action in this regard.

One of the major causes of economic chaos is to strip the country of its productive sector and of its management talent. Many of these Salvadoreans who had their property confiscated have left the country, but would be willing to return if some concrete steps were taken to compensate them for their holdings.

I would hope that the State Department, which has such an important role in this matter, would pressure the junta and let them know that if our aid is to continue then we expect the Government there to take steps to compensate the private landowners so that they can once again become productive. So far, however, this has not been done and without this assurance I feel we should take a second look at sending them aid.

Second. The second subject of major importance is the evidence that the private sector is dedicated to helping return El Salvador to a stable country. Recently the FDR, the Revolutionary Front, came to Washington and put up a false face that it was the true democratic sector of El Salvador. In truth the Frente has close ties with terrorists' organizations which advocate and carry out sabotage and violence against innocent people.

Recently the FDR called for a workers' strike in El Salvador. I think it is very important that we note here today that this leftist and terrorist strike was a total failure. The reason it was unsuccessful is that the Private Productive Alliance cooperated with the Government and urged its workers to stay on the job. As a result more than 90 percent of the work force turned out to work in spite of terrorists' threats. The call for a massive strike to cripple the Government did not work specifically because the private sector prevented it. When the terrorists saw the strike would be unsuccessful, they began large scale sabotage on the utility system of the country. This indicates to what ends the FDR will go when peaceful democratic solutions do not go like they want.

The overall failure of the strike indicates that the people and the private business sector do not support the left, and they do not support the terror. The people support the private sector and proved it.

In spite of its support for the junta, the private sector has not received the recognition it deserves from government authorities. This is why I feel it is incumbent on Congress and the administration to make it clear that we want support and aid to go out to the private sector.

The true middle class of El Salvador is represented by the Productive Alliance—this group of private businessmen. The Productive Alliance has impressed me, and many of my colleagues, with its sincerity, its willingness to work with the junta, and with its courage and dedication to stay in El Salvador and make the economy work.

It is the private sector that we should recognize and insure that free enterprise has the proper and important role in the political and economic life in El Salvador.

Thank you, Mr. Chairman.

Mr. GILMAN. Will the gentleman yield?

Mr. HANCE. I do yield to the gentleman from New York.

Mr. GILMAN. I commend the gentleman for offering this amendment.

I rise in support of the amendment offered by the gentleman from Texas (Mr. HANCE)

It is my strong belief that the private sector in the developing world and developed world alike holds the key to a nation's economic and political future. Particularly in those nations that are struggling to protect democracy, pluralism, and individual freedom, the private sector provided the necessary support and technical advice to insure economic and political stability.

The recent events in Nicaragua have underlined the importance of the private sector in a nation faced with radical influences and revolutionary change. Not only did the private sector play the key role in insuring the success of the revolution, its economic power has provided it with the only hope of offsetting those radical forces to protect the last remains of pluralism.

Likewise in El Salvador, where the radical left seeks to create unrest and instability by undermining the economy, the moderate democratic forces of the private sector have played a major role in helping the current Government maintain peace and order. The private sector through such organizations as the Productive Alliance have rallied to the call of their nation and have thrown their support to the forces of progressive, peaceful reform and not to those reactionary or radical proponents of violence.

The Hance amendment represents a step forward in support of those very concepts of free enterprise and pluralism that have over the years proved so successful. Not only have they been the basis in making this country what it is today, but they have provided the foundation for success in the most productive and stable developing nations in the world.

We must avoid the temptation to respond to the new challnges now facing our friends and allies in the developing world by adopting radical solutions. It is not necessary to throw out the baby with the bath water. Let us instead help those nations meet the needs of their people by supporting stability, pluralism, democracy, and individual liberty through a strong and independent private sector.

Accordingly, I urge my colleagues to join in support of this amendment.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield to me?

Mr. HANCE. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I wish to join in support of the amendment from the gentleman from Texas (Mr. HANCE), and commend him for his leadership in this important area.

I share with him a strong commitment to capitalism and the free enterprise system which is the foundation of our political and economic system. Perhaps the best assistance we can give to those countries in the developing world is to instill in them an understanding and respect for the role of the private sector in their development. It is this very political-economic structure led by a strong independent and responsible private sector which has produced the world's highest standard of living and protected our pluralistic form of government.

The all too vivid reminders of the Nicaraguan revolution clearly indicate the importance of the private sector. In that conflict it was the private sector who finally brought down the Somoza government through its collective actions. It is also that very same private sector which remains as the only hope in that nation of maintaining any semblance of pluralism and democracy.

Out of a growing concern over the threat to this important element in nations throughout Central America and particularly in El Salvador, Congressman HANCE and I sent a letter to Secretary of State Muskie stressing these very points. In that letter we pointed out that the ruling junta in El Salvador needs the support and technical advice of the private sector if its recent reforms are to succeed. At the same time the support of the private sector will enhance the much needed efforts of the Government to broaden its political base.

Perhaps the largest of the private sector organizations in El Salvador is the Productive Alliance. This moderate broadly based association of businessman's groups and professionals is typical of important kind skills and know-how that is so desperately needed to provide economic and political stability. Their goal as stated in the organization's charter "is the defense and consolidation of the democratic system through respect for the freedoms of individuals, ideologies, expressions, enterprise, religion and most importantly the freedom that every country has to choose its government."

I am happy to say that the State Department's response to our concerns was one of at least some understanding and better agreement. Concerning the Government of El Salvador's efforts to bring about meaningful reform and a more democratic process, the Department of State stated that "within this process the vitality and leadership of the private sector will be decisive."

Congressman HANCE's amendment is fully consistent with this thinking in restating congressional support for the private sector, and therefore calling upon our representatives in the Fund and the Bank to promote private sector participation as the foundation upon which to build stability, democracy, and individual liberty.

I urge my colleagues to join with me in support of the Hance amendment.

At this point, I would like to insert the entire text of our letter to Secretary Muskie and the Department's response.

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 22, 1980.

Hon. EDMUND MUSKIE,
Secretary of State, State Department, Washington, D.C.

DEAR MR. SECRETARY: The violence and destruction that is now occurring in El Salvador underscores the importance of the private sector in that country. Not only does the private sector hold the key for that nation's economic recovery, but it also represents the single remaining hope to check the growing polarization of the political forces.

The ruling junta desperately needs the support and technical advice of the private sector to ensure that its recent reforms can succeed economically. In addition, the government needs to broaden its political base to preserve some degree of pluralism. Without the participation of the private sector it will be impossible in the long run to create the atmosphere needed to provide economic and political stability.

During a recent visit to Washington the Productive Alliance of El Salvador, perhaps the largest private sector group in the country, expressed these very thoughts. Their goal as stated in the organization's charter "is the defense and consolidation of the democratic system through respect for the freedoms of individuals, ideologies, expression, enterprise, religion and most importantly, the freedom that every country has to choose its government." As a moderate broadly based association of businessman's groups and professionals, they possess the very skills and knowhow that is so desperately needed at this time to ensure the success of these important reforms.

Given the importance of the private sector to the ultimate success of the Government of El Salvador and its reform programs, we urge you to support the Productive Alliance and other enlightened members of the private sector in El Salvador. In turn, we urge you to use your influence with the ruling junta in encouraging them to utilize this valuable resource and talent.

Sincerely,
ROBERT J. LAGOMARSINO,
KENT HANCE,
Members of Congress.

DEPARTMENT OF STATE,
Washington, D.C., August 11, 1980.

Hon. ROBERT J. LAGOMARSINO,
House of Representatives.

DEAR MR. LAGOMARSINO: I am responding to your letter of July 22 to Secretary Muskie concerning the newly-formed Production Alliance of El Salvador.

United States policy toward El Salvador is designed to sustain the strength and effectiveness of all the forces of moderation. We believe that the current civilian-military Junta, which is committed to meaningful reforms and a more democratic process, offers the best hope for a non-extremist solution to that country's very difficult problems. Within this process the vitality and leadership of the private sector will be decisive.

Ambassador White and his staff are in almost daily contact with members of the Productive Alliance. As the most prominent private sector group supporting the government, the Alliance will be of critical importance both in assisting the government to carry out its reforms effectively and in helping to foster a transition to democracy in El Salvador.

Sincerely.
J. BRIAN ATWOOD,
Assistant Secretary for Congressional Relations.

Mr. NEAL. Mr. Chairman, will the gentleman yield to me?

Mr. HANCE. I do yield to the gentleman from North Carolina.

Mr. NEAL. I would just like to say that I appreciate what the gentleman is trying to accomplish here.

The major role of the IMF is to help free economies remain free. In almost every instance it is the goal of the IMF to encourage market economies and to do essentially what the gentleman is trying to accomplish by this amendment.

Mr. HANCE. Then if I have the assurance of the gentleman that the IMF would encourage those countries to participate with the private sector in developing and helping stabilize that economy then I would withdraw my amendment.

Mr. NEAL. Absolutely. In almost every instance I want to say in every instance, because the officials of the IMF are certainly market-oriented. They encourage economies to follow market principles. That is the policy of the IMF.

Mr. HANCE. Mr. Chairman, with that explanation, I ask unanimous consent to be allowed to withdraw the amendment.

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Does the gentleman from North Carolina (Mr. NEAL) withdraw his point of order?

Mr. NEAL. Mr. Chairman, I do not insist on the point of order but I have a substitute for the amendment.

The CHAIRMAN. The gentleman from North Carolina withdraws his point of order.

AMENDMENT OFFERED BY MR. NEAL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. HANCE

Mr. NEAL. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. NEAL as a substitute for the amendment offered by Mr. HANCE: Page 9, line 23, strike out "SEC. 6." and insert in lieu thereof "SEC. 7."

Page 9, after line 21, insert the following new section:

ASSISTANCE TO THE PRIVATE SECTOR OF EL SALVADOR AND OTHER NATIONS

SEC. 6. The Bretton Woods Agreements Act is further amended by adding at the end thereof the following new section:

"SEC. 37. It is the sense of the Congress that in providing assistance through loans or other means to any nation, in particular El Salvador, the Fund and the Bank should encourage programs which assist the private sector to create an environment which will stabilize the economy of the nation; and that the United States representatives to the Fund and the Bank shall promote the use of assistance by the Fund and the Bank to encourage such program.".

Mr. NEAL. Mr. Chairman, we have had some discussion of this concept. This is not a major change. We have just conformed it to the articles of agreement of the IMF. It embodies the intent of the gentleman. I would urge adoption of the amendment to the amendment.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I will be happy to yield to the gentleman from Ohio.

Mr. STANTON. Does the gentleman's amendment encompass all of the countries involved rather than referring just to El Salvador?

Mr. NEAL. It does and it is a sense-of-the-Congress resolution.

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AMENDMENT OFFERED BY MR. BAUMAN TO THE AMENDMENT OFFERED BY MR. NEAL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. HANCE

Mr. BAUMAN. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. BAUMAN to the amendment offered by Mr. NEAL as a substitute for the amendment offered by Mr. HANCE: In the 5th line of the amendment after the words "El Salvador" strike the comma and insert the words "and Nicaragua,".

Mr. BAUMAN. Mr. Chairman, I want to say that I am sorry that I had to object to the proposal of the gentleman from Texas (Mr. HANCE) to withdraw his amendment. We all know how sometimes we make points with amendments and underscore our concerns about certain things that are pending. But, I think the gentleman's amendment was a good one, and I do not think it should have been withdrawn.

While the gentleman from North Carolina (Mr. NEAL) has sought to remove one phrase that apparently offends some of the international bureaucrats at IMF, and the sensibilities of the lawyers who advise him, I think the amendment could have stayed as the gentleman from Texas offered it. However, his purpose in offering the amendment, as I understood it, was to spotlight El Salvador as a country in Central America which needs the assistance of the private sector through the IMF or any other means. If that is true in El Salvador, where in fact the entire nation is under siege by extremists of both camps, and in particular under siege by Communist internationals coming from both Cuba and Nicaragua, the same is true of Nicaragua, which is now under control of a Communist government.

When you passed a bill aiding Nicaragua, specifically Congress wrote into the legislation the express intention that the $75 million of aid from U.S. taxpayers would be channeled into the private sector. With my amendment to the substitute, I am simply adding and expressing the concern of this Member and, I hope, the majority of the Congress that in both El Salvador and Nicaragua the IMF will direct its attention to aiding the private sector instead of promoting governments which might be contrary to the private sector.

Mr. HANCE. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Texas.

Mr. HANCE. Mr. Chairman, I agree with the gentleman. I think it is very important that the private sector be involved not only in El Salvador, but also in Nicaragua. I associate myself with the gentleman's remarks.

Mr. BAUMAN. I thank the gentleman.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding. I think the gentleman's amendment is a worthy one. As he stated, there are dangers on the Nicaraguan aid, but we simply wrote into that legislation a requirement, which was generally agreed to by the State Department and the White House, that 60 percent of the funds would go to the private sector. In every statement that is made about the situation in Nicaragua, the White House and the State Department emphasize the importance of a pluralistic society and the importance of a private business sector. So, I do not see how anyone could really be in opposition to the gentleman's amendment, and I hope it is adopted.

Mr. BAUMAN. I thank the gentleman.

Mr. NEAL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I certainly have no objection to this amendment. In fact, I would have accepted it if we had added every country in the world. So, I would urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN) to the amendment offered by the gentleman from North Carolina (Mr. NEAL) as a substitute for the amendment offered by the gentleman from Texas (Mr. HANCE).

The amendment to the amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment, as amended, offered by the gentleman from North Carolina (Mr. NEAL), as a substitute for the amendment offered by the gentleman from Texas (Mr. HANCE).

The amendment, as amended, offered as a substitute for the amendment, was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. HANCE), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I offer an amendment

The Clerk read as follows:

Amendment offered by Mr. HYDE: On page 9, after line 21, insert the following new section 6 and redesignate accordingly:

"SEC. 6. The United States Executive Director to the Fund shall seek to insure (a) that Fund salaries do not exceed those levels endorsed by the Fund Bank Joint Committee on Staff Compensation Issues; and (b) that travel costs are minimized by limiting first class and supersonic travel to instances where no reasonable alternative exists."

Mr. HYDE. Mr. Chairman, the amendment calls upon the U.S. representative to the IMF to monitor salary levels of IMF staff employees to insure that they do not exceed levels established by the Joint Committee on Salaries of the Bank and Fund.

Primarily as a result of congressional pressure resulting from an amendment offered to the IMF Witteveen Facility legislation (Public Law 95–435) the Fund and the Bank began a 2-year review of their salary policy. In the amendment originally offered by Mr. HYDE, the Fund and the Bank were instructed to keep their salaries to a level comparable to what civil servants and private industry employees are paid.

The Fund and Bank Committee adopted a new salary structure which accomplishes the intent of the original Hyde amendment. According to the newly adopted plan, salaries at the Fund and Bank may not exceed the levels paid to U.S. civil servants and private industry employees in similar jobs plus a 10-percent-cost-of-living adjustment for employment in Washington.

The purpose of this amendment is to insure compliance with the new salary policy at the IMF.

In part (b) of the amendment, the U.S. representative is called upon to insure that travel by Fund staff in first class or supersonic transportation is limited to the absolute minimum. The World Bank recently adopted such a restriction, and it is now time for the IMF to follow suit.

This amendment has far more than symbolic importance. It is very important that we insure that administrative expenses in the international institutions are kept to an absolute minimum. While it is crucial that the Fund and Bank continue to hire a first-rate staff, we—as the legislature that provides the bulk of the funds—want to insure that most of the money ends up assisting member countries.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, I appreciate the gentleman yielding.

First of all, I want to compliment the gentleman on his amendment. The gentleman, as far as I can see, with his interest in the International Monetary Fund, is continuing what he has done to some of the multilateral development banks with regard to excessive salaries that have existed for years. It is primarily due to the result of congressional pressure resulting from his amendment to the Witteveen Facility. We are now following through, and the gentleman is to be congratulated, and certainly it is in the best interest of the taxpayers.

Mr. HYDE. I thank my friend for his generous comments.

Mr. NEAL. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I will be happy to yield to the gentleman from North Carolina.

Mr. NEAL. Mr. Chairman, I would also like to commend the gentleman for his effort. He is continuing the effort that he began in 1978 by getting an amendment added to legislation on the IMF Witteveen Facility. His 1978 amendment is now being implemented. I would like to commend him and urge adoption of this amendment.

Mr. HYDE. I thank the gentleman.

AMENDMENT OFFERED BY MR. JACOBS AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. HYDE

Mr. JACOBS. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. JACOBS as a substitute for the amendment offered by Mr. HYDE: Page 9, immediately after line 21, insert the following new section 6 and redesignate accordingly:

SALARIES AND TRAVEL EXPENSES OF FUND EMPLOYEES

SEC. 6. The Bretton Woods Agreements Act is further amended by adding at the end thereof the following new section:

"SEC. 37. Notwithstanding section 32 of this Act, the United States Governor of the Fund may not consent to the increase in the United States quota in the Fund which is described in that section unless—

"(1) the United States Governor is satisfied that the Fund has established, and will maintain, a requirement that employees of the Fund (including the Managing Director, Executive Directors, Alternate Executive Directors, and the staff of the Fund) may not be paid at a rate in excess of the rate payable for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code; and

"(2) the United States Governor is satisfied that the Fund has estabilshed, and will maintain and strictly enforce, a requirement that employees of the Fund (including the Managing Director, Executive Directors, Alternate Executive Directors, and the staff of the Fund) may not, when on Fund business, fly first class or on supersonic aircraft unless there is no reasonable alternative available and that employees of the Fund otherwise arrange their air travel so that the costs to the Fund of such travel are kept to a minimum.".

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Mr. JACOBS. Mr. Chairman, this is in substance or in objective the same as the amendment in chief. The only difference is that this substitute in essence says that we mean it.

In the case of the proffered amendment to the bill, I stand corrected; I am mistaken, because it is my understanding that if we say we will simply work toward that end and ask our representative at the IMF to try to persuade the folks to take smaller salaries, I predict massive failure in that effort to persuade.

The substitute, on the other hand, puts teeth into the amendment and says that we should not vote to increase the quota by 5½ billions of American dollars unless the salary schedules are held within reason to what I believe is called level IV in our own Government. That is about $53,000, a genteel sufficiency, I should think. And unless the employees and officials of the IMF are content to fly at the economy rates as they dart about the Earth, that is it. That in essence is it.

Mr. Chairman, this simply puts teeth into the amendment offered by the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I thank my friend for yielding.

I would just point out that we are but one of 130 countries that are members of the IMF, and it is just not appropriate that we dictate to the IMF matters like this.

All new employees are under the new salary schedule. The older employees are being phased down and out by attrition.

The gentleman's substitute amendment, if I may say so, is Draconian in that it stops our participation if the other 129 countries do not knuckle under to the position the gentleman is suggesting. I think it is too Draconian, and I think it could very much impair the operation of the IMF.

In addition, I do honestly take polite umbrage at the gentleman's statement that his amendment means that "we mean it" and our amendment means that we do not mean it. Actually the amendment says, "The * * * Executive Director to the Fund shall seek to insure * * *" and I think they are following the law. The information I have is that they are.

Mr. Chairman, I respectfully hope that the gentleman's substitute is defeated because I think it is decapitating for a case of dandruff.

Mr. JACOBS. Mr. Chairman, I meant no offense, of course, to the gentleman by suggesting that this puts teeth in it and says we mean it. But it certainly indicates that we mean it a tad more when we say, "You ain't going to get the money from the United States. You aren't going to get $5.5 billion in return for the 20-percent vote we have in the IMF unless you comply with the goals" the gentleman has indicated.

There is a big difference between that on the one hand and saying on the other hand that we shall seek to influence or achieve that goal. We have sought to achieve that goal on numerous occasions in the past without success.

Now, as far as dictating to the rest of the world how the IMF will be conducted or whether they will pay this, let me say this: What is it that some of them get? Is it $175,000? No; it is $103,000, as I read it here. That is the highest salary that is paid at present, $103,000.

We are not dictating to them. They can go right ahead and pay those salaries, yes, if we continue to pay this $5.5 billion.

I might add to that that this feature of my substitute is nothing more than our saying that we will not participate in an extravagant and lavish system like that.

As far as its being Draconian is concerned, I remind the gentleman that there was a guy named Count Dracula, and there is a lot of blood being sucked out of the United States, more than any other country on Earth.

Mr. HYDE. Mr. Chairman, will the gentleman yield further?

Mr. JACOBS. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, $103,000, depending on one's perspective, is an awful lot of money, but when we consider basketball players are signed up for $1 million—there was one just yesterday—and when we consider that the IMF is the most important international financing facility, with responsibilities that command the duties of someone of supreme executive ability, I do not think that is out of line at all.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. JACOBS) has expired.

(By unanimous consent, Mr. JACOBS was allowed to proceed for 3 additional minutes.)

Mr. JACOBS. Mr. Chairman, let me just respond to that by saying that that was a nice shot from center court, but as far as saying who is more responsible or who means it, let me comment. As for some public officials who have responsibility for the growing budget around here, I would defer to the gentleman from Illinois and his colleagues who in my opinion—and I do not mean to put it this way, but I simply think that the $60,000 salary for Members of Congress is out of line on the outside.

The gentleman is saying that almost twice as much is reasonable for some fellows who have never been elected by anybody to anything. We hand a fraction of that budget to Members of the Congress, too, and if they can make shots from the center court and if the gentleman can demonstrate to me that they are as good as a basketball player, I might follow the gentleman's argument.

Mr. HYDE. Mr. Chairman, I would suggest that the gentleman's use of our analogy suggests that perhaps we might change the name of this facility to "the International Mediocrity Fund."

Mr. JACOBS. Mr. Chairman, I think if the gentleman would check with his constituents, he would find that a $103,000 salary is a far, far altitudinous cry from mediocrity. I think this $53,000 just might be considered a genteel sufficiency by most Americans who are called upon to put up whatever money we can agree it is going to cost the U.S. Treasury to make these subinterest rate subsidies to other nations.

So for that reason I hope the committee would either adopt my substitute or reject the whole amendment, because in my opinion, this is necessary since we have asked them before and said, "Hey, fellows, won't you take less salary?" And they have said, "Well, we will think about it. Give us some time, and let us know next month."

Let us put the horse back where it belongs. This is $5.5 million, and let us get the cart behind the horse and see if the horse performs all right.

Mr. Chairman, I suppose we will pass the bill, but at least with this amendment, we say we mean it. Let us accept the substitute.

Mr. NEAL. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from North Carolina.

Mr. NEAL. Mr. Chairman, let me just say that we cannot dictate to the Fund.

Mr. JACOBS. That is quite true.

Mr. NEAL. The gentleman understands that and agrees with that. If the gentleman's amendment were adopted, it would kill our participation in this quota increase.

Mr. JACOBS. Mr. Chairman, is the gentleman saying that this $103,000 fellow is going to have a temper tantrum, or is he patriotic enough to say, "All right, I will take $53,000 a year if we can increase the quota and save man- and womankind

Mr. NEAL. Mr. Chairman, that is not the issue. We cannot dictate to the Fund.

The Fund has some 140 members, all of whom have a voice in the Fund's operation. The way the gentleman's amendment is drawn, it says that we cannot consent to the increase of the U.S. quota in the Fund unless we dictate to the Fund.

Mr. JACOBS. No, no, not dictate. They can go right ahead and do anything they want to with the funds available to them. We are simply saying that we are not going to contribute more. We will contribute as much as we have to, to meet the quota we have now, but we are not going to increase that quota or vote to increase that quota.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. JACOBS) has again expired.

(By unanimous consent, Mr. JACOBS was allowed to proceed for 3 additional minutes.)

Mr. JACOBS. Mr. Chairman, to continue, as I was saying we would say that we are not going to increase that quota when some of it is going to go into the pocket of a guy who is getting $103,000 a year and tripping around on the Concorde.

Mr. NEAL. Mr. Chairman, this amendment must be seen for what it is—its real aim is to defeat the main purposes of the legislation, by an attack on administrative expenses and unreasonable restraints on U.S. participation in the IMF. The motive is not to assure administrative efficiency, but to prevent the United States from participating in the quota increase. And if the United States is prevented from participating, it is the United States that will be the loser.

The United States cannot unilaterally set salaries in the IMF, nor unilaterally establish administrative policies on travel and other matters. We are one of 140 members of the IMF. Chaos would result if each of the 140 tried to assert its will over all the others in these administrative matters. We cannot do it and we should not try.

The job of running this major international financial institution, the job of Managing Director of the IMF, is not equivalent to a position of executive level IV. But even if we thought it were, these officials are not U.S. Government employees and we should not try to treat them as though they were.

Mr. Chairman, the IMF's Charter requires that it seek a broad geographical distribution of employees. Three-fourths or more of the staff is non-American, persons who must be attracted away from their native lands—including some countries where salary levels are higher than in the United States—to spend a lifetime as expatriates, persons whose competence must be of high quality, whose work requires a high degree of training in economics and other fields, and special language and other skills. IMF salary levels must reflect the special needs of that institution, recognizing that 75–80 percent of the staff is expatriate, not the salary levels the U.S. Government applies to meet its own particular needs.

Mr. Chairman, the United States has worked long and hard to assure that IMF salaries and administrative expenses are held to reasonable levels, and we shall continue to do so. The Witteveen Facility legislation enacted 2 years ago calls on the U.S. representatives to try to insure that IMF remuneration is similar to that paid in comparable positions in the U.S. public and private sectors. Subsequent to that legislation, U.S. representatives participated in a committee (the Kafka Committee) established to develop a system for determining IMF–IBRD salaries. Our representatives helped to get approval of a new system which keeps IMF–IBRD staff compensation basically to that paid for comparable jobs in the U.S. public and private sectors. The new system is now being implemented, and we have strong hopes that it will prove to be sensible and economical, providing a reasonable salary comparator, while taking account of the special needs of the IMF for staff of high competence, most of whom must be attracted from other countries. We regard this approach as the appropriate way to deal with this matter, rather than the approach in this amendment.

On air travel, again it is inappropriate and inconsistent with the concept of an international organization for each of 140 members to try to dictate its own policies over administrative expenses, be it transportation or stationery. The Managing Director must be allowed some discretion, under the general guidance of the Executive Board. On the Board our representatives have used their influence to the full to assure that the institution is run with maximum efficiency and budget costs held to a minimum, and they will continue to do so. But we should not limit our own participation in the Fund, to our own disadvantage and that of the world community, to coerce others to accept one particular view on an administrative matter such as air travel.

Mr. JACOBS. Mr. Chairman, may I ask the gentleman if his conclusion is based on the assumption that these fellows who are drawing these huge salaries would not come down or agree to come down to $53,000 a year to save the Earth?

Mr. NEAL. Mr. Chairman, if the gentleman will yield, I would say that it is doubtful we could get the kind of talented people we need in this most important of all of the international organizations.

Mr. JACOBS. Why, Mr. Chairman, I say to the gentleman, "Mr. Chairman, we got you for a lot less."

Mr. NEAL. I would just observe that by this amendment the gentleman wants to dictate to the Fund.

Mr. JACOBS. We got the gentleman from North Carolina for about half of that salary, and I cannot believe that any of those people are as talented as the gentleman from North Carolina. And I do not say that facetiously. I happen to have profound respect for the gentleman from North Carolina, and I do not happen to agree that these people are worth more, and the gentleman is tripping around on about half their salary.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from Iowa.

Mr. LEACH of Iowa. I would like to briefly provide some background on this. During a previous Congress the gentleman from Illinois offered a very powerful amendment which caused the Fund to restrict salary advances. What the gentleman from Indiana is doing in a very popular sense is trying to "out-Hyde" Mr. HYDE. I think all of us in this body know that that is a very difficult thing to do.

Mr. JACOBS. I say to the gentleman that I have nothing to "Hyde."

□ 1810

Mr. LEACH of Iowa. I would add that the analogy of the gentleman from Indiana about "teeth" is an appropriate one. We are all concerned about cutting waste. The trouble with this amendment is that the teeth involved will cut an umbilical cord between the United States and the IMF. It is the height of arrogance. I hope that the teeth would be those presented by the gentleman from Illinois, which prudentially cut waste without severing our ties with this very important international organization.

Mr. JACOBS. May I say to the gentleman that if the past efforts of the gentleman from Illinois were so successful, is this $103,000 salary all a bad dream? Is the transportation by Concorde and first class all a bad dream? Does the gentleman realize that most of our State Department people travel as many miles or board as much on airplanes? I think the figure is something like 85 percent of the time they fly economy class. Is that Draconian? I really do not think so.

Mr. STANTON. Mr. Chairman, I move to strike the requisite number of words.

Quickly, Mr. Chairman, I rise in opposition to the substitute amendment, and I am in agreement with the Hyde amendment.

All we can do, Mr. Chairman, is to point out that the gentleman from Illinois has offered an amendment as a followup to one that he has done for years, and I specifically read it. It "endorses the Fund Banks Joint Committee on Staff Compensation Issues."

What does this do? This requires that the Bank, after their own study, and as a result of their own study, would adopt a new plan, and a plan has been adopted, in part, that the salaries of the Fund and the Bank may not exceed the levels paid to U.S. civil servants and public employees.

This is something we could do, Mr. Chairman. It is very important. It certainly is not a meaningless amendment because it is an extremely important amendment expressing the sense of Congress in what we think. The other just completely kills the bill.

Mr. NEAL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just like to urge the defeat of the Jacobs amendment. It would severely weaken our participation in the International Monetary Fund.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. JACOBS) as a substitute for the amendment offered by the gentleman from Illinois (Mr. HYDE).

The question was taken; and on a division (demanded by Mr. JACOBS) there were—ayes 5; noes 17.

Mr. JACOBS. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1830

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Indiana (Mr. JACOBS) for a recorded vote.

A recorded vote was refused.

So the amendment offered as a substitute for the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. HYDE).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. One hundred four Members are present, a quorum.

A recorded vote was refused.

So the amendment was agreed to.

Mr. MITCHELL of Maryland. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take the 5 minutes, because I know the hour is late; but I take this time to again express some concern over the actions of the IMF in the nation of Jamaica.

Jamaica has a socialist form of government. It has broken with the IMF. It is facing enormous critical economic problems. That part I can understand, but according to the Wall Street Journal today, and I quote from the Journal:

> The opposition Jamaica Labor Party candidate for Prime Minister, Edward Seaga, says he is already negotiating with the IMF in anticipation of his winning.

Now if that is true, that violates every principle of law associated with the IMF. That is the kind of thing that is going to undermine this institution. That is the kind of thing that gives credibility to all the accusations that are raised that the IMF works in concert with the CIA and a half a dozen other agencies in order to control the internal politics of a sovereign state.

Mr. Chairman, I would urge that the chairman of the subcommittee go on record with the IMF, deploring this kind of involvement in the internal political affairs of any nation, because it is a violative of the law.

I would further state that I still intend to vote for this legislation, because I think it is important for our Nation and for many of the LCD's, but we cannot continue to let an agency, such as the IMF, act in a lawless fashion and demand lawful performance from other nations and other entities around the world.

Mr. NEAL. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the chairman of the subcommittee.

Mr. NEAL. I would like to say to the distinguished gentleman that I quite agree that the IMF has no business interfering in the political affairs of any nation.

We will ask the Treasury Department to look into the Jamaica question. I would not necessarily believe every word of this press report. The IMF attempts to deal with macro-economic policies of countries. The gentleman is quite correct, though in observing that the IMF has no business interfering in the politics of member countries.

□ 1840

Mr. MITCHELL of Maryland. I would indicate to the subcommittee chairman I do not take every press report with a great deal of validity. There was a press report on me recently that caused me some concern.

But I do say that if there is the slightest bit of evidence to demonstrate that this kind of involvement is taking place it ought to be stopped and stopped immediately. I will depend on the power and good will of the subcommittee chairman to see that is done.

I yield back the balance of my time.

AMENDMENT OFFERED BY MR. PAUL

Mr. PAUL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PAUL: Page 9, after line 21, insert the following new section 6 and redesignate accordingly:

ROLE OF GOLD IN INTERNATIONAL MONETARY SYSTEMS

SEC. 6. (a) The Secretary of the Treasury shall establish and chair a commission consisting of—

(1) three members of the Board of Governors of the Federal Reserve System and two members of the Council of Economic Advisors, all of whom shall be designated by the Secretary of the Treasury;

(2) one majority and one minority member each from (A) the Joint Economic Committee of the Congress, (B) the Committee on Banking, Housing, and Urban Affairs of the Senate, and (C) the Committee on Banking, Finance and Urban Affairs of the House of Representatives, who shall be designated by the Speaker of the House of Representatives and the President of the Senate, respectively, upon the recommendations of the majority and minority leaders of the respective Houses; and

(3) four distinguished private citizens with business, finance, or academic backgrounds who shall be designated by the Secretary.

(b) The commission shall conduct a study to assess and make recommendations with regard to the policy of the United States Government concerning the role of gold in domestic and international monetary systems, and shall transmit to the Congress a report containing its findings and recommendations not later than one year after the date of enactment of this Act.

(c) Sums appropriated pursuant to section 5 of Public Law 95-612 shall be available to the commission to carry out its functions.

Mr. PAUL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. PAUL. Mr. Chairman, this amendment merely sets up a commission to study the U.S. policy concerning the role of gold.

Yesterday I had an amendment which tried to designate what we should do on the long term with the gold in the IMF. I am sure that was premature because the committee was certainly not ready to respond to it.

I think this commission, if we can set it up, would certainly go in the direction of making some of the decisions regarding gold in a more deliberate fashion. The same amendment has been passed by the other body unanimously and I think it would be appropriate if we do this, as well.

It would merely set up a commission of 15 individuals, some from the Federal Reserve Board, some from the Council of Economic Advisers, as well as from the Congress itself and also 4 distinguished private citizens would be part of this commission. The main purpose is to study and to assess and make recommendations regarding the posible policy of the United States concerning the role of gold in the domestic and international monetary systems. It is then to report back to the Congress 1 year after the legislation is passed.

It will not cost us anything because the funding for the commission will come out of the Treasury Department funds, from the international account.

As you know, in 1976 the official role of gold changed. At that time the IMF had 150 million ounces of gold on hand. Since that time it has been reduced to 100. Twenty-five million ounces of gold were sold on the open market, as well as 25 million being returned to the nations that had contributed.

It is the official policy of the U.S. Government as well as the IMF to demonitize gold and yet there is obviously recognition, even among the committee members here, that the gold that the IMF holds has some real value and that we have to deal with that in a very definitive manner.

Since 1971 when the gold window was closed and we have not honored our commitment with any sort of redeemability, our money supply has doubled. Some people claim that the price of gold is too high and this is due to speculators and hoarders, but there are others who claim that this is due to the fact that we are depreciating our currency by printing too much. All these issues I do believe should be discussed fully and reported back to this Congress.

I would like to suggest, too, that in this commission they take into consideration that there are different economic views that respond differently to the ideas of gold. We have had the Keynesian views, and we have lived with that for a good many years. We have heard a lot in recent years about Monetarist views on monetary policy.

I would suggest and hope that the commission will take into consideration the viewpoint of the neoclassical economists better known as Austrian school economists. I would suggest their views be investigated and expressed in this commission report as well.

Mr. NEAL. Mr. Chairman, will the gentleman yield?

Mr. PAUL. I yield to the gentleman from North Carolina.

Mr. NEAL. I thank the gentleman for yielding. It appears that this is the same amendment that was adopted by the other body in its IMF bill.

Mr. PAUL. It is the same amendment.

Mr. NEAL. It calls for a study of the role of gold in the domestic and international monetary systems. We have examined the amendment on this side and are prepared to accept it.

I would like to say, however, that I hope we would study this issue carefully. At $600 an ounce, this country has about $159 billion worth of gold. Foreign claims against that gold, amount to almost that much.

The Soviet Union and the South Africans produce most of the world's gold. I think we should look very carefully at any proposal that might subject our economy to the whims of these other governments.

But, in any case, we are certainly prepared to accept the amendment. I commend the gentleman from Texas for offering it.

Mr. PAUL. I thank the gentleman for his support and yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. PAUL).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. JACOBS

Mr. JACOBS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JACOBS: Page 9, immediately after line 21, insert the following new section 6 and redesignate accordingly:

VIETNAM, AFGHANISTAN, AND IRAN

SEC. 6. (a) The Bretton Woods Agreements Act is further amended by adding at the end thereof the following new section:

"SEC. 37. The United States representatives to the Fund shall work actively against and oppose any credit trance purchases from the Fund by Vietnam, Afghanistan, or (until such time as all of the citizens and resident aliens of the United States who were taken hostage in Iran during November 1979 have been released) Iran.".

(b) The Special Drawing Rights Act (22 U.S.C. 286n–286r) is amended by adding at the end thereof the following new section:

"SEC. 8. United States participation in the Special Drawing Rights Department of the Fund shall not require the United States to accept, pursuant to a designation by the Fund under section 5(a) of article XIX of the Articles of Agreement of the Fund, any Special Drawing Rights from Vietnam, Afghanistan, or (until such time as all of the citizens and resident aliens of the United States who were taken hostage in Iran during November 1979 have been released) Iran.".

Mr. JACOBS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. JACOBS. Mr. Chairman, I think it would be helpful to go over just what these special drawing rights are and how they work. Periodically, I think annually perhaps, the International Monetary Fund allocates special drawing rights among the various member nations. The special drawing right, in a sense, is simply the creation of money.

When Vietnam, for example, receives special drawing rights, it, as well as any other country, is obligated to pay what is known as a charge or a fee to the International Monetary Fund but the Fund, in turn, pays a like amount in what they call interest to Vietnam or whatever country might be involved.

When any one of the member nations exercises its rights, its special drawing rights, it can draw currency from whatever nation is designated by the International Monetary Fund. How much a nation such as Iran or Afghanistan or Vietnam draws in U.S. currency is not a matter of general knowledge. It is not something that is generally made public. I believe it is known to officials in our Treasury, but beyond that it is obscure information.

Put the case of the country of Iran drawing down its special drawing rights and the IMF designating the United States, that is to say dollars, to redeem those special drawing rights. The United States surrenders, let us say, $100 million, or let us say $50 million to the country of Iran in response to that exchange. What happens with Iran is that it begins to pay not a washed transaction with the IMF but pays an interest charged to the IMF.

Now, where is the catch? The catch is that the United States, in order to come up with the $50 million, obviously since we are in a deficit posture, must go into the market here and borrow the money. Where is the subsidy, then, from the United States to Iran? The subsidy becomes the difference between the interest that the U.S. Government pays on the borrowed money and the amount of interest that Iran pays to the IMF.

□ 1850

So it is a subsidy in that sense to whatever country is involved. It may be argued that this amendment would be in violation of an agreement reached in which the United States participated in 1970 with other nations, that refusal to honor special drawing rights would deny a member nation further participation in those drawing rights. But let me point out that exceptions can be made to that agreement. The agreement contains language that allows the IMF to make exceptions.

Now let me say a word or two about international agreements. How do you feel about Vietnam's attitude toward international agreements? The United Nations clearly prohibits aggression. I was among those who believed that there was no aggression in Vietnam when North and South Vietnam were going at it. I was one of those who believed that we were just picking between two dictators in a civil war. But there can be no question that there is aggression on the part of Vietnam in Cambodia.

What about international agreements to protect the integrity of the Diplomatic Corps? Since the dawn of civilization these agreements have been honored. I know a country that is not honoring that kind of an agreement, and it is almost unique, Communist, non-Communist, Fascist, or otherwise, in that violation of an international agreement.

So far as Afghanistan is concerned, the evidence, it seems to me, is that Afghanistan at the moment is not Afghanistan but is an occupied land. For those reasons I believe that the United States should refrain from honoring calls by those three nations for U.S. dollars, which involve not only the exchange of U.S. dollars but also subsidies from the American taxpayers.

Mr. LEACH of Iowa. Mr. Chairman, I rise in opposition to the amendment. This is a very mischievous amendment because on the one hand it is simply meaningless in effect on the countries that the gentleman from Indiana wishes to hamstring. I stress this because it would not have the intended effect. There is nothing that would stop these countries from converting their SDR's to other foreign currencies and having done that, nothing could stop them from going into the open market and converting those other foreign currencies to dollars.

But the much bigger problem is that while the effect is meaningless on Vietnam, Iran, and Afghanistan, it is very meaningful in its effect on the United States. This is a very clear case of cutting off our nose to spite our face. The amendment requires that the United States violate the articles of agreement of the Fund. Such action on the part of the United States would result under the IMF Charter in the immediate freezing of all U.S. assets in the Fund.

In this regard I would like to cite article 23, section 2(a) of the Fund which states:

> If the Fund finds that a participant has failed to fulfill its obligations under Article XIX, Section 4, the right of the participant to use its special drawing rights shall be suspended.

In other words, the United States would find our SRD's frozen, about $4 billion in our Fund account would be worthless to the United States, although they would be meaningful to other foreign countries. It should be stressed that this is not simply "funny money." Two years ago we withdrew almost $2 billion of other countries' currencies within the Fund to defend the value of the dollar and, therefore, to restrain inflation in this country.

Finally, I think it should be stressed that under the Fund's charter, politics is to play no role whatsoever, and even such traditional adversaries as Greece and Turkey, Israel and Syria have never combatted each other within the Fund.

Unfortunately, the effect of the amendment of the gentleman from Indiana (Mr. JACOBS) will be for the first time to politicize the IMF, and this would be very, very damaging to a body that has sustained itself largely above politics for its entire history. While this amendment may be very popular, I believe it is ill considered, and I would hope this body would reject it resoundingly.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentleman from Ohio.

Mr. STANTON. I appreciate the gentleman's yielding because I want to find out if I am wrong. I cannot believe what I have just finished reading here. If the intent of the author is to somehow or other stop us from contributing to Afghanistan, Iran, and ignore Vietnam, or something, in no way will this amendment ever stop any funding of the IMF to these countries; is that correct?

Mr. LEACH of Iowa. The gentleman is correct.

Mr. STANTON. The amendment will not accomplish this job in that regard; is that correct?

Mr. LEACH of Iowa. That is correct.

Mr. STANTON. But this is an anti-United States of America amendment because it will freeze over $4 billion of our assets in the IMF; is that correct?

Mr. LEACH of Iowa. The gentleman's understanding is correct.

Mr. STANTON. I would ask the gentleman from Indiana (Mr. JACOBS) if he would think for a minute and perhaps in retrospect maybe withdraw this amendment.

Mr. JACOBS. I would answer the gentleman, if the gentleman from Iowa will yield.

Mr. LEACH of Iowa. Yes, of course I yield to the gentleman from Indiana.

Mr. JACOBS. I thank the gentleman for yielding. First of all, the agreement signed in 1970 does have an exception, as I mentioned before. The IMF can make an exception, and I think it is very likely that an exception in the case of the United States, particularly with our troubles with Iran, would be made. If they do not do that much for us, I do not know why we are increasing it.

Mr. LEACH of Iowa. Does the gentleman have any statement from any official of the IMF that they are willing to make this type of exception? As I read the IMF Charter, there is no exception for this provision whatsoever. Can the gentleman tell us, has the IMF Executive Director indicated to him that an exception of this nature is appropriate?

Mr. JACOBS. I would say that now that he has his salary back, he would probably be a little more friendly to our problems.

Mr. STANTON. If the gentleman from Iowa will yield, I do not think we should waste any more time on this. I really and truly do not. I strongly urge rejection of this amendment.

Mr. JACOBS. Will the gentleman yield?

Mr. LEACH of Iowa. I would yield in all fairness.

Mr. JACOBS. On the other point, I ask the gentleman, does the gentleman not agree that the 1970 agreement does have an exception?

Mr. LEACH of Iowa. But no exception of this nature.

Mr. JACOBS. Wait a minute, that it is not a "shall suspend" the drawing rights. It is a "may suspend" the drawing rights, that the IMF can choose not to suspend the drawing rights of the United States under this amendment.

Mr. LEACH of Iowa. I would like to read to the gentleman from the IMF article itself.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. JACOBS, and by unanimous consent, Mr. LEACH of Iowa was allowed to proceed for 3 additional minutes.)

Mr. LEACH of Iowa. I would appreciate if the gentleman would listen carefully to the use of the verbs. Article 23, section 2(a), states:

> If the Fund finds that a participant has failed to fulfill its obligations under Article XIX, Section 4, the right of the participant to use its special drawing rights shall be suspended.

Mr. JACOBS. Would the gentleman read further the "unless"?

Mr. LEACH of Iowa. Excuse me?

Mr. JACOBS. Would the gentleman read further, "unless"?

Mr. LEACH of Iowa. Oh, surely.

> Unless the Fund otherwise decides.

Mr. JACOBS. All right. That is all I said. If the gentleman will yield further just on the point of going around this amendment and whether this amendment is effective or not, let me point out to the committee that if Vietnam or Iran should choose to follow the course the gentleman has suggested and get other currency and then go into the market with U.S. dollars, there is one important difference. Through that difference, they would not get an interest subsidy from the U.S. taxpayers. Will the gentleman agree with that?

Mr. LEACH of Iowa. That is a very modest difference. I would concur, but it is of slight consequence compared to the fact that our assets would be frozen, and unless the gentleman can provide this body with a commitment in advance that the Fund would respond positively to an exception, I cannot believe that this is a responsible amendment. It truly is cutting our nose to spite ourselves.

Mr. JACOBS. I think the Fund would agree to it, particularly if we had not given the $5.5 billion as of yet.

Mr. NEAL. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I would like to reemphasize many of the things the gentleman from Iowa (Mr. LEACH) said.

Mr. Chairman, this amendment would require the United States to vote in the IMF on a purely political basis, reversing our longstanding effort to keep the IMF apolitical and functioning in an efficient, economic manner. It would fly directly in the face of all of the fine statements made yesterday deploring the PLO effort to "politicize" the IMF by observing the annual meeting. Moreover, it would do it in a much more important and damaging way: The observer states issue really has no effect on IMF operations; this amendment would directly politicize IMF operations.

Mr. Chairman, the IMF—as the institutional underpinning of the system—cannot operate on the basis of political roles. The need to maintian monetary stability and free and open world markets does not depend on whether country "A" happens today to have good or bad, political relations with country "B." It is a universal need—and the United States has the largest stake in a strong and open world economy.

This need is recognized throughout the IMF membership, despite the many political—even military—conflicts that inevitably crop up between members. The amendment would thus have the United States take the lead in destroying the IMF as a functioning institution. Countries have rights and obligations in the IMF. They will not meet their obligations—including their obligations to provide financing—if we try to subvert their rights. An important right is to have their financing requests voted on economic and not artificial grounds.

Mr. Chairman, in practical terms, the amendment could have no impact on the targeted countries. They would get their financing anyway, because others would reject this initial effort by the United States. But it would clearly do several things directly harmful to the United States:

Create resentment among our allies for acting improperly in the institutions;

Weaken our position of leadership in guiding the IMF in directions supportive of U.S. interests; and

Start a process that would inevitably spread, undermining the IMF's legal principles and ability to function.

Mr. Chairman, this amendment would have no practical effect on the targeted countries. They would sell their SDR's to other countries. But it would effectively freeze, in one swift stroke, nearly $4 billion of U.S. international monetary reserves that otherwise would be available to the United States to obtain foreign currencies when needed to stabilize the U.S. dollar in exchange markets.

The amendment would prohibit the United States from meeting its legal obligations in the IMF as a participant in the SDR system to provide dollars for SDR's whenever designated by the IMF. The IMF articles of agreement prescribe a penalty for reneging on that obligation—the member in violation can no longer use its own SDR holdings. Moreover, a member that persists in failing to meet its IMF obligations can be expelled from the fund.

Mr. Chairman, not only would this amendment harm U.S. interests clearly and directly in this way, but failure of the United States to participate in the SDR system according to the rules would destroy that system—and so would destroy any hopes of evolution of the SDR as the principal reserve asset in the international monetary system. This would be directly contrary to the objectives expressed by the Congress in 1976, in accepting the fundamental amendments to the IMF's charter, and to the Banking Committee amendment to H.R. 7244 on a dollar-SDR substitution account.

Mr. Chairman, not only is the amendment contrary to these basic U.S. policy interests, but the rationale upon which it appears to be based is unfounded. There is no reason to expect that over time dollars provided by the United States to other IMF members in exchange for SDR will result in any financial "cost" to the United States or any "subsidy" to the other members. U.S. financing costs may turn out to be higher or lower than the SDR interest rate, which is based on interest rates paid on comparable United States, United Kingdom, French, German, and Japanese government securities. In addition to interest rate differentials, exchange gains or losses on the shift from dollar to SDR holdings need to be taken into account in assessing cost. Thus there is no legitimate way to predict whether a cost or subsidy of any kind would be involved in these SDR/dollar transactions.

Mr. Chairman, in sum, it is impossible to predict whether U.S. borrowing costs will be above or below the rate of interest earned on SDR, and thus whether there would be any so-called subsidy. The amendment would have no effect on the target countries—they would sell their SDR's elsewhere. What is easy to predict is that the amendment would:

First, put the United States directly in violation of its obligations under the SDR system in the IMF;

Second, eradicate nearly $4 billion of U.S. international monetary reserves, critically needed to maintain the strength and stability of the dollar in the foreign exchange markets; and

Third, seriously undermine the SDR system, which has been supported and strengthened repeatedly by the Congress and which offers a major hope for orderly development of the international monetary system as a whole.

□ 1900

I wish the gentleman would rethink his position on this. There is nothing to be gained from this amendment. This will have no impact whatever on Iran or Afghanistan or Vietnam. The gentleman is not accomplishing anything by the amendment, but the cost to our own country and to the world economic order will be great.

Mr. LEACH of Iowa. I would like to stress one point the gentleman from North Carolina made and that is when you politicize the Fund you not only jeopardize the U.S. position, but you also particularly jeopardize all politically unpopular states in the world and it will be Israel which will suffer, it will be Taiwan which will suffer, it will be South Africa which will suffer—all the international pariahs. I would just hope that in international finance we will try to keep politics out to as great a degree as possible.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I do yield to the gentleman.

Mr. JACOBS. Let us just take up that question about the politicization of the IMF. I will say for the record that in 1945 during the hearings on the Bretton Woods Agreements. W. Randolph Burgess, president of the American Bankers Association and Senators Milliken and Fulbright discussed the possibilities that a Germany or an Italy might have been able to borrow from the IMF in the 1930's. They all agreed that the IMF should be political enough to prevent such lending.

As Herbert Feis, a State Department economist, was quoted in these hearings, "Shall we take political questions into account when making loans? It seems plain that we must. Our economic prospects, our safety, the chance that decency will prevail in this world"—you can just see this is someone from the State Department—"all these will be affected by the use that foreign countries will make of the economic strength for which we will provide the nourishment."

I am not going to rethink it. The people who began the IMF would have to rethink it in order to reject politicization of the IMF.

Mr. NEAL. I would observe that we have successfully avoided politicizing the fund for a great many years. It has been strictly a financial institution. That has enabled it to be effective.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. JACOBS).

The amendment was rejected.

Mr. PORTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the authorization for the International Monetary Fund.

The interdependence of the economic systems of the nations of the world, resulting from the ever-increasing level of world trade, is today undeniable. No one believes that we Americans are any longer insulated from what happens economically—as well as politically and militarily—anywhere else in the world. The monetary instability and economic difficulties of other nations concern us almost as much as our own. We are affected by their problems and they are affected by ours. Truly, in the world today, not only is no man an island, but no island is any longer an island.

In these circumstances, a fund of currencies of the trading nations of the world was needed, was bound to develop and did develop. And for 36 years the International Monetary Fund has facilitated international trade and promoted world economic stability, both to the substantial advantage of the United States, which has supported it strongly under administrations of both parties.

Now there is a need to make a recommitment to the viability of the IMF. The Fund's resources have for years been declining as a percentage of world trade, dropping from a level of about 12 percent 20 years ago to only 4 percent today. To remedy this deficiency the quota for all nations must be increased by 50 percent to insure that the IMF is able to continue its role of augmenting foreign exchange resources to facilitate trade and providing advice and financing to emerging nations desiring to enter world markets.

Just in case anyone should think that the IMF serves only the so-called developing nations, the United States itself has a record of drawing more heavily on IMF resources for our own purposes than any nation but one during the last 17 years, with 24 drawings for a total of $7.5 billion. These drawings have obviously had an important influence in shoring the American dollar and providing us with foreign currencies when needed for exchange market operations.

And lest anyone think that the United States is the only nation concerned with a viable IMF, it should be noted that the shares of the quota and voting rights of the United States in the Fund have been dropping for years. Originally our quota share was 34.72 percent; it is now projected at 21.01 percent. Our voting share was 30.67 percent at the IMF's inception and is now to be 19.88 percent. These are desirable trends and indicate the willingness of other countries to take some of the responsibility for world economic health. Because an 85-percent vote is necessary for modifications of quotas and other IMF business, the United States still holds a veto over any changes in the IMF and the international monetary system. Obviously, this veto power will be maintained only if this legislation is adopted and the United States meets its continuing responsibilities.

I am not unaware of the strong temptation evidence yesterday, for many Members (some of whom seem to be stirred this way only in the fall of the even-numbered years) to view this measure as an easy opportunity to show their proclivities for economy in Government. But, in this case, these opportunities simply are not present. The IMF is not easy to understand and is often confused with foreign aid. It should rather be thought of as a savings account, one incidentally, on which interest is earned, one that now needs to be increased. Although new budget authority is needed for this purpose, this involves no new outlays of U.S. funds. To say that there is no risk that sometime in the future outlays may be required would, of course, be nonsense. But the risk of not continuing our commitment to the IMF—the risk in undermining worldwide economic stability—is far greater.

Almost all of the non-Soviet nations of the world are members of the Fund and are undertaking the same responsibility for increasing their commitments to its continuing success. I urge my colleagues to take our responsibility to keep our country strong and respected in the free world community and to support this authorization.

AMENDMENT OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Chairman, I offer a technical amendment.

The Clerk read as follows:

Amendment offered by Mr. LONG of Maryland: Page 9, after line 21, insert the following new section 6 and redesignate accordingly:

"FULL APPROPRIATIONS REQUIRED"

SEC. 6. Section 32 of the Bretton Woods Agreements Act, as added by section 1 of this Act, is amended by striking "to such extent or in such amounts as are provided in appropriations Acts" and inserting in lieu thereof "limited to such amounts as are appropriated in advance in appropriation Acts."

Mr. LONG of Maryland. Mr. Chairman, this amendment as I said is essentially technical and procedural. It would improve the fiscal procedures of the authorization bill, enable the Congress to exercise fiscal control over the funds which are authorized in the bill before us. The language is identical to that contained in the Senate bill, and I know of no opposition to the amendment. I urge the adoption of the amendment.

Mr. NEAL. Mr. Chairman, we have examined the amendment and we are totally prepared to accept it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. LONG).

The amendment was agreed to.

● Mr. NEAL. Mr. Chairman, I would like to clarify the meaning of section 5 of this legislation. This section relating to the relationship of Taiwan to the Fund was added last May during subcommittee consideration. At that time, the Taiwan-Fund relationship was in a state of flux. Since that time the Taiwanese and the Fund have resolved all the issues between them to their mutual satisfaction. We expect that in the future Taiwanese will have whatever appropriate relationship they and the Fund agree upon. Therefore, I wish to make clear that the intent of section 5 is to state that it is the policy of the United States that "appropriate membership" shall be that form of participation that is mutually satisfactory to the Taiwanese and the Fund.

Mr. Chairman, the International Monetary Fund is the free world's major instrument for helping to keep free economies free. It, more than any other institution, helps balance and bring order to the world's economy.

Mr. Chairman, we have a big stake in a stable world economic order. One in seven manufacturing jobs in this country produce for export. One in three acres of agricultural production is for export. One in five dollars in profit is earned from international operations. Twelve percent of our GNP is derived from export trade.

Mr. Chairman, the resources of the IMF, the institution most capable of helping keep world trade open and free, have significantly declined. In 1960 it had between 10 and 12 percent of world imports in assets. Today that figure is 4 percent.

We need to strengthen the IMF and can do so by passing the bill before us.

Mr. Chairman, I would like to briefly respond to a few misconceptions about the IMF.

In the first place, it is not foreign aid.

We make no gift to the IMF. We exchange one asset for another. There is no net budget outlay. Our participation does not increase budget deficits.

There is no cost to taxpayers. In fact, we made over $200 million in capital gains on our investment in the IMF over the last 10 years. All the while enjoying the great benefits of world trade.

The IMF is not a bank bail-out. IMF loans are, in every case, too small to help any country pay any significant amount of its bank debt. Historically bank lending increases after countries come to agreement with the IMF.

Mr. Chairman, the IMF is the free world's major instrument for keeping free economies free. We need to strengthen it. I urge a strong vote in favor of this bill.●

The CHAIRMAN. Are there further amendments to the bill? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. BEILENSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7244) to amend the Bretton Woods Agreements Act to authorize consent to an increase in the U.S. quota in the International Monetary Fund, and for other purposes, pursuant to House Resolution 726, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment adopted by the Committee of the Whole? If not, the Chair will put them en gros.

The amendments were agreed to.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. PAUL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 199, nays 151, not voting 82, as follows:

[Roll No. 564]

YEAS—199

Addabbo
Akaka
Albosta
Ambro
Anderson, Ill.
Andrews, N.Dak.
Annunzio
Anthony
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Bereuter
Biaggi
Bingham
Blanchard
Boggs
Boland
Bonker
Bowen
Brademas
Breaux
Brodhead
Brooks
Broomfield
Brown, Calif.
Buchanan
Burgener
Burton, Phillip
Carr
Chisholm
Clinger
Coelho
Conable
Conte
Corman
D'Amours
Danielson
Davis, Mich.
Deckard
Dellums
Derrick
Dicks
Dingell
Dougherty
Downey
Drinan
Duncan, Oreg.
Edgar
Erdahl
Ertel
Evans, Del.
Fary
Fascell
Fazio
Fenwick
Fisher
Fithian
Florio
Foley
Ford, Mich.
Forsythe
Frenzel
Frost
Gephardt
Gibbons
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Green
Guarini
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hightower
Holland
Hollenbeck
Holtzman
Horton
Hughes
Hutchinson
Hyde
Jeffords
Johnson, Calif.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Lehman
Leland
Lloyd
Long, La.
Long, Md.
Lowry
Lundine
McCloskey
McCormack
McDade
McHugh
McKinney
Maguire
Markey
Matsui
Mavroules
Mazzoli
Mikulski
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Murtha
Musto
Neal
Nelson
Nolan
Nowak
Oakar
Obey
Panetta
Patten
Patterson
Pease
Petri
Peyser
Porter
Price
Pritchard
Pursell
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rosenthal
Rostenkowski
Royer
Sabo
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Shannon
Shumway
Simon
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Spellman
St Germain
Stack
Stanton
Stark
Steed

Stewart
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Thompson
Udall
Van Deerlin
Vander Jagt
Vanik
Walgren
Waxman
Williams, Mont.
Williams, Ohio
Winn
Wirth
Wolff
Wylie
Young, Mo.
Zablocki
Zeferetti

NAYS—151

Anderson, Calif.
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bauman
Benjamin
Bennett
Bethune
Bevill
Boner
Bouquard
Brinkley
Broyhill
Burlison
Burton, John
Butler
Byron
Campbell
Carney
Carter
Cheney
Clausen
Coleman
Collins, Tex.
Conyers
Corcoran
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Devine
Dickinson
Donnelly
Dornan
Duncan, Tenn.
Early
Edwards, Okla.
Emery
English
Evans, Ga.
Evans, Ind.
Findley
Flippo
Fountain
Fowler
Fuqua
Gaydos
Gilman
Goldwater
Gramm
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hammerschmidt
Hansen
Harsha
Hefner
Hillis
Hopkins
Hubbard
Huckaby
Hutto
Ichord
Jacobs
Jeffries
Jenkins
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kelly
Kindness
Kramer
Lagomarsino
Latta
Leath, Tex.
Lee
Levitas
Lewis
Livingston
Loeffler
Lott
Lungren
McDonald
McKay
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Mica
Miller, Calif.
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Ind.
Natcher
Nichols
O'Brien
Oberstar
Paul
Perkins
Pickle
Quillen
Ritter
Roberts
Robinson
Roth
Rousselot
Satterfield
Sensenbrenner
Sharp
Shelby
Shuster
Skelton
Snyder
Spence
Stangeland
Stenholm
Stockman
Stump
Taylor
Traxler
Trible
Volkmer
Walker
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Wilson, Tex.
Wolpe
Wyatt
Yatron
Young, Alaska
Young, Fla.

NOT VOTING—82

Abdnor
Alexander
Andrews, N.C.
Beard, Tenn.
Bolling
Bonior
Brown, Ohio
Cavanaugh
Chappell
Clay
Cleveland
Collins, Ill.
Cotter
Coughlin
Daschle
Davis, S.C.
de la Garza
Derwinski
Dixon
Dodd
Eckhardt
Edwards, Ala.
Edwards, Calif.
Erlenborn
Ferraro
Fish
Ford, Tenn.
Garcia
Giaimo
Gingrich
Grassley
Gray
Heftel
Hinson
Holt
Howard
Ireland
Jenrette
Johnson, Colo.
Kemp
Leach, La.
Lederer
Lent
Lujan
Luken
McClory
McEwen
Mattox
Michel
Moakley
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nedzi
Ottinger
Pashayan
Pepper
Preyer
Quayle
Rinaldo
Rodino
Roe
Rose
Roybal
Rudd
Russo
Santini
Schulze
Solomon
Staggers
Stokes
Symms
Thomas
Ullman
Vento
Weiss
Wilson, Bob
Wilson, C. H.
Wright
Wydler
Yates

☐ 1920

The Clerk announced the following pairs:

Ms. Ferraro with Mr. Abdnor.
Mr. Santini with Mr. Gingrich.
Mr. Preyer with Mr. Quayle.
Mr. Howard with Mr. Hinson.
Mr. Alexander with Mr. Beard of Tennessee.
Mr. Chappell with Mr. Brown of Ohio.
Mr. Cotter with Mrs. Holt.
Mr. Edwards of California with Mr. Kemp.
Mr. Jenrette with Mr. Lent.
Mr. Giaimo with Mr. Lujan.
Mr. Lederer with Mr. Schulze.
Mr. Moakley with Mr. Symms.
Mr. Murphy of New York with Mr. Thomas.
Mr. Nedzi with Mr. Bob Wilson.
Mr. Rodino with Mr. Wydler.
Mr. Rose with Mr. Michel.
Mr. Pepper with Mr. McEwen.
Mr. Roybal with Mr. Fish.
Mr. Russo with Mr. Erlenborn.
Mr. Staggers with Mr. Coughlin.
Mr. Stokes with Mr. Cleveland.
Mr. Vento with Mr. Andrews of North Carolina.
Mr. Weiss with Mr. Grassley.
Mr. Wright with Mr. Gray.
Mr. Myers of Pennsylvania with Mr. Rinaldo.
Mr. Murphy of Illinois with Mr. Pashayan.
Mr. Dodd with Mr. Rudd.
Mr. de la Garza with Mr. Solomon.
Mr. Clay with Mr. McClory.
Mr. Cavanaugh with Mr. Garcia.
Mr. Bonior of Michigan with Mr. Edwards of Alabama.
Mr. Moorhead of Pennsylvania with Mr. Eckhardt.
Mr. Ullman with Mr. Derwinski.
Mr. Ottinger with Mr. Davis of South Carolina.
Mr. Yates with Mr. Luken.
Mr. Heftel with Mr. Mattox.
Mr. Breaux with Mr. Charles H. Wilson of California.
Mr. Ford of Tennessee with Mr. Leach of Louisiana.
Mrs. Collins of Illinois with Mr. Ireland.
Mr. Daschle with Mr. Dixon.

Mr. APPLEGATE and Mr. WALKER changed their votes from "yea" to "nay."

Mr. LLOYD changes his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. NEAL. Mr. Speaker, pursuant to the provisions of House Resolution 726, I call up from the Speaker's table the Senate bill (S. 2271) to amend the Bretton Woods Agreements Act to authorize consent to an increase in the U.S. quota in the International Monetary Fund, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. NEAL

Mr. NEAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NEAL moves to strike out all after the enacting clause of the Senate bill, S. 2271, and to insert in lieu thereof the provisions of H.R. 7244, as passed, as follows:

INCREASE IN UNITED STATES QUOTA

SECTION 1. The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 32. The United States Governor of the Fund is authorized to consent to an increase in the quota of the United States in the Fund equivalent to 4,202.5 million Special Drawing Rights, to such extent or in such amounts as are provided in appropriation Acts.".

BASIC HUMAN NEEDS

SEC. 2. (a) The Bretton Woods Agreements Act is further amended by adding at the end thereof the following new section:

"SEC. 33. (a) The President shall instruct the Secretary of the Treasury, the Secretary of State, and other appropriate Federal officials to use all appropriate means to encourage countries, in formulating economic adjustment programs to deal with their balance of payments difficulties, to design those programs so as to safeguard, to the maximum feasible extent, jobs, investment, real per capita income, policies to reduce the gap in wealth between rich and poor, and social programs such as health, housing, and education.

"(b) To ensure the effectiveness of economic adjustment programs supported by Fund resources and the reinforcement of those programs by longer term efforts to promote sustained growth and improved living conditions—

"(1) United States representatives to the Fund shall recommend and shall work for changes in Fund guidelines, policies, and decisions that would—

"(A) permit stand-by arrangements to be extended beyond three years, as necessary to enable Fund members to implement their economic adjustment programs successfully;

"(B) provide that in approving any economic adjustment program the Fund shall take into account the effect such program will have on jobs, investment, real per capita income, the gap in wealth between the rich and poor, and social programs such as health, housing, and education, in order to seek to minimize the adverse impact of those adjustment programs on basic human needs; and

"(C) provide that letters of intent submitted to the Fund in support of an economic adjustment program reflect that the member country has taken into account the effect such program will have on the factors listed in subparagraph (B);

"(2) (A) before voting on the approval of any standby arrangement with respect to any economic adjustment program, the United States Executive Director shall review—

"(i) any analysis of factors prepared by the Fund or the member country in accordance with subparagraphs (B) and (C) of paragraph (1), or

"(ii) if no such analysis is prepared and available for such review, an analysis which shall be prepared by the United States Governor of the Fund which examines the effect of the program on the factors listed in subparagraph (B) of paragraph (1); and

"(B) the United States Executive Director of the Fund shall take into account the analysis reviewed pursuant to subparagraph (A) of this paragraph in voting on approval of that standby arrangement;

"(3) United States representatives to the Fund, to the Bank, and to other appropriate institutions shall work toward improving coordination among these institutions and, in particular, shall work toward formulation of programs in association with economic adjustment programs supported by Fund resources which (A) will, among other things, promote employment, investment, real income per capita, improvements in income distribution, and the objectives of social programs such as health, housing, and education, and (B) will, to the maximum extent feasible and consistent with the borrowing country's need to improve its balance of payments position within a reasonable period, ameliorate any adverse effects of economic adjustment programs on the poor;

"(4) United States representatives to the Fund and the Bank shall seek amendments to decisions on policies on the use of Fund and Bank resources to provide that, where countries are seeking Extended Fund Facility or upper credit tranche drawings from the Fund and are eligible to receive financing from the Bank, the Fund and Bank will coordinate their financing activities in order—

"(A) to take into account the effects of economic adjustment programs on the areas listed in clause (A) of paragraph (3),

"(B) to provide, to the extent feasible, Bank project loans designed to safeguard and further basic human needs in countries adopting economic adjustment programs supported by Fund resources, and

"(C) to provide, as appropriate, Bank financing for programs of structural adjustment that will facilitate development of a productive economic base and greater attainment of basic human needs objectives over the longer term; and

"(5) United States representatives to the Fund and the Bank shall request the Fund and the Bank to provide periodic analyses of the effects of economic adjustment programs supported by Fund or Bank financing on jobs, investment, real income per capita, income distribution, and social programs such as health, housing, and education.

"(c) The National Advisory Council on International Monetary and Financial Policies shall include in each of its annual reports to the Congress a statement detailing the actions and progress made in carrying out the requirements of subsections (a) and (b) of this section.".

(b) Section 30 of the Bretton Woods Agreements Act (22 U.S.C. 286e–9) is amended—

(1) in subsection (a) by striking out "entered into pursuant to loans from the Supplementary Financing Facility";

(2) in the first sentence of subsection (b) by striking out "entered into pursuant to loans from the Supplementary Financing Facility"; and

(3) in the second sentence of subsection (b) by striking out "by the Supplementary Financing Facility".

SEC. 3. Strike section 7 of P.L. 95–435, the Bretton Woods Agreements Act Amendments of 1978, which reads: "Beginning with Fiscal Year 1981, the total budget outlays of the Federal Government shall not exceed its receipts.", and insert in lieu thereof: "The Congress reaffirms its commitment that beginning with Fiscal Year 1981, the total budget outlays of the Federal Government shall not exceed its receipts".

RECYCLING BALANCE-OF-PAYMENTS SURPLUSES

SEC. 4. (a) It is the sense of the Congress that (1) the interests of the United States and those of other member countries require an effective International Monetary Fund equipped with resources adequate to facilitate orderly balance-of-payments adjustments; (2) persistent balance-of-payments surpluses in oil exporting countries have placed, and will continue to place, severe stains on the resources of oil importing countries and on the liquidity of the Fund; (3) these strains can only be relieved if the oil exporting countries assume a greater burden for financing balance-of-payments deficits through direct methods of recycling their surpluses and through proportionally greater contributions to the Fund and to the international lending institutions; and (4) the Fund must explore innovative proposals to encourage more direct recycling of oil surpluses and to increase its own liquidity.

(b) The Bretton Woods Agreements Act is further amended by adding at the end thereof the following new sections:

"SEC. 34. The Secretary of the Treasury, in consultation with the United States Executive Director of the Fund, shall study and, following consultations with member countries, shall report to the Congress prior to May 15, 1981, with respect to—

(1) the current adequacy of Fund resources, together with projected needs of the Fund over the next five years;

"(2) the feasibility of increasing Fund liquidity by encouraging the Fund to borrow directly from the governments of oil exporting countries;

"(3) the feasibility of increasing Fund liquidity by encouraging the Fund to borrow in private capital markets through the issuance of securities backed by Fund resources;

"(4) the feasibility of an offer by the Fund of incentives to oil exporting countries, including financial guarantees by the Fund for government-to-government loans to countries with blance-of-payments deficits, in order to promote more direct recycling of oil surpluses; and

"(5) methods to enhance cooperation between commercial banks and the Fund to promote the availability of adequate resources for balance-of-payments financing.

"SEC. 35. It is the sense of the Congress that the Secretary of the Treasury and the United States Executive Director of the Fund shall encourage member countries of the Fund to negotiate a dollar-Special Drawing Rights substitution account in which equitable burden sharing would exist among participants in the account, and shall report to the Congress prior to May 15, 1981, with respect to progress toward achieving this goal.".

DEBT RESCHEDULING COMPARABILITY

SEC. 5. Section 29 of the Bretton Woods Agreements Act is amended by striking out "on the use of the facility".

TAIWAN

SEC. 6. The Bretton Woods Agreements Act is further amended by adding at the end thereof the following new section:

"SEC. 36. It is the sense of the Congress that it is the policy of the United States that Taiwan (before January 1, 1979, known as the Republic of China) shall be granted appropriate membership in the Fund and that the United States Executive Director of the Fund shall so notify the Fund.".

PALESTINE LIBERATION ORGANIZATION

SEC. 7. The Bretton Woods Agreements Act is further amended by adding at the end thereof the following new section:

"SEC. 37. It is the policy of the United States that the Palestine Liberation Organization should not be given membership in the Fund or be given observer status or any other official status at any meeting sponsored by or associated with the Fund. The United States Executive Director of the Fund shall promptly notify the Fund of such policy.

"In the event that the Fund provides either membership, observer status, or any other official status to the Palestine Liberation Organization, such action would result in a serious diminution of U.S. support. Upon review of such action, the President would be required to report his recommendations to the Congress with regard to any further U.S. participation in the Fund."

ASSISTANCE TO THE PRIVATE SECTOR OF EL SALVADOR AND OTHER NATIONS

SEC. 8. The Bretton Woods Agreements Act is further amended by adding at the end thereof the following new section:

"SEC. 37. It is the sense of the Congress that in providing assistance through loans or other means to any nation, in particular El Salvador and Nicaragua, the Fund and the Bank should encourage programs which assist the private sector to create an environment which will stablize the economy of the nation; and that the United States representatives to the Fund and the Bank shall promote the use of assistance by the Fund and the Bank to encourage such programs.".

SEC. 9. The United States Executive Director to the Fund shall seek to insure (a) that Fund salaries do not exceed those levels endorsed by the Fund Bank Joint Committee on Staff Compensation Issues; and (b) that travel costs are minimized by limiting first class and supersonic travel to instances where no reasonable alternative exists.

ROLE OF GOLD IN INTERNATIONAL MONETARY SYSTEMS

SEC. 10. (a) The Secretary of the Treasury shall establish and chair a commission consisting of—

(1) three members of the Board of Governors of the Federal Reserve System and two members of the Council of Economic Advisors, all of whom shall be designated by the Secretary of the Treasury;

(2) one majority and one minority member each from (A) the Joint Economic Committee of the Congress, (B) the Committee on Banking, Housing, and Urban Affairs of the Senate, and (C) the Committee on Banking, Finance and Urban Affairs of the House of Representatives, who shall be designated by the Speaker of the House of Representatives and the President of the Senate, respectively, upon the recommendations of the majority and minority leaders of the respective Houses; and

(3) four distinguished private citizens with business, finance, or academic backgrounds who shall be designated by the Secretary.

(b) The Commission shall conduct a study to assess and make recommendations with regard to the policy of the United States Government concerning the role of gold in domestic and international monetary systems, and shall transmit to the Congress a report containing its findings and recommendations not later than one year after the date of enactment of this Act.

(c) Sums appropriated pursuant to section 5 of Public Law 95–612 shall be available to the commission to carry out its functions.

FULL APPROPRIATIONS REQUIRED

SEC. 11. Section 32 of the Bretton Woods Agreements Act, as added by section 1 of this Act, is amended by striking "to such extent or in such amounts as are provided in appropriations Acts" and inserting in lieu thereof "limited to such amounts as are appropriated in advance in appropriation Acts."

EFFECTIVE DATE

SEC. 12. This Act shall take effect on its date of enactment, except that funds may not be appropriated under any authorization contained in this Act for any period prior to October 1, 1980.

The SPEAKER pro tempore (Mr. BRADEMAS). The question is on the motion offered by the gentleman from North Carolina (Mr. NEAL).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MOORE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will count.

Two hundred and twenty Members are present, a quorum.

☐ 1930

On a division (demanded by Mr. MOORE) there were—ayes 118; noes 45.

RECORDED VOTE

Mr. MOORE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 184, noes 129, not voting 119, as follows:

[Roll No. 565]

AYES—184

Addabbo
Akaka
Albosta
Ambro
Anderson, Ill.
Annunzio
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Bereuter
Bevill
Biaggi
Bingham
Boggs
Bonker
Bowen
Brademas
Breaux
Brodhead
Brooks
Buchanan
Burgener
Burton, John
Carr
Chisholm
Clinger
Coelho
Conable
Conte
D'Amours
Danielson
Deckard
Dellums
Derwinski
Dicks
Donnelly
Dougherty
Downey
Drinan
Early
Edgar
Erdahl
Evans, Del.
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Fisher
Fithian
Florio
Foley
Ford, Mich.
Forsythe
Fowler
Frenzel
Frost
Fuqua
Gephardt
Gibbons
Ginn
Glickman
Gonzalez
Gore
Gradison
Green
Guarini
Gudger
Hamilton
Hance
Harkin
Harris
Hawkins
Heckler
Hefner
Hightower
Hollenbeck
Horton
Huckaby
Hughes
Hutchinson
Hyde
Jeffords
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kostmayer
LaFalce
Leach, Iowa
Lehman
Leland
Lloyd
Long, La.
Long, Md.
Lowry
McCloskey
McCormack
McDade
McHugh
McKinney
Maguire
Markey
Matsui
Mavroules
Mazzoli
Mikulski
Mineta
Minish
Mitchell, Md.
Moffett
Mollohan
Murtha
Musto
Neal
Nelson
Nolan
Nowak
Oakar
Obey
Panetta
Patterson
Pease
Petri
Peyser
Porter
Price
Pritchard
Pursell
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Rostenkowski
Royer
Sabo
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Shannon
Shumway
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Spellman
St Germain
Stanton
Stark
Steed
Stewart
Stockman
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Traxler
Walgren
Waxman
Whitley
Williams, Ohio
Winn
Wolff
Wright
Wyatt
Wylie
Young, Mo.
Zablocki
Zeferetti

NOES—129

Anderson, Calif.
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bauman
Beard, Tenn.
Benjamin
Bennett
Bethune
Boner
Bouquard
Brinkley
Broyhill
Burlison
Butler
Byron
Campbell
Carney
Carter
Clausen
Coleman
Collins, Tex.
Conyers
Corcoran
Courter
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Okla.
Emery
English
Evans, Ind.
Findley
Flippo
Fountain
Gaydos
Gilman
Goldwater
Gramm
Grisham
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hammerschmidt
Hansen
Hillis
Holt
Hopkins
Hubbard
Ichord
Jacobs
Jeffries
Jenkins
Jones, Okla.
Kelly
Kramer
Lagomarsino
Latta
Leath, Tex.
Lee
Levitas
Lewis
Livingston
Loeffler
Lott
Lungren
McDonald
McKay
Madigan
Marks
Marlenee
Marriott
Martin
Mica
Michel
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Ind.
Natcher
Nichols
O'Brien
Oberstar
Paul
Perkins
Pickle
Ritter
Roberts
Robinson
Rousselot
Satterfield
Sensenbrenner
Sharp
Shelby
Shuster
Snyder
Spence
Stangeland
Stenholm
Stump
Taylor
Thomas
Trible
Volkmer
Walker
Wampler
Watkins
Weaver
White
Whitehurst
Whittaker
Whitten
Wilson, Tex.
Wolpe
Yatron
Young, Alaska
Young, Fla.

NOT VOTING—119

Abdnor
Alexander
Andrews, N.C.
Andrews, N.Dak.
Anthony
Barnard
Blanchard
Boland
Bolling
Bonior
Broomfield
Brown, Calif.
Brown, Ohio
Burton, Phillip
Cavanaugh
Chappell
Cheney
Clay
Cleveland
Collins, Ill.
Corman
Cotter
Coughlin
Crane, Daniel
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Derrick
Dingell
Dixon
Dodd
Duncan, Oreg.
Eckhardt
Edwards, Ala.
Edwards, Calif.
Erlenborn
Ertel
Ferraro
Fish
Ford, Tenn.
Garcia
Giaimo
Gingrich
Goodling
Grassley
Gray
Hanley
Harsha
Heftel
Hinson
Holland
Holtzman
Howard
Hutto
Ireland
Jenrette
Johnson, Colo.
Kemp
Kindness
Kogovsek
Leach, La.
Lederer
Lent
Lujan
Luken
Lundine
McClory
McEwen
Mathis
Mattox
Miller, Calif.
Mitchell, N.Y.
Moakley
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nedzi
Ottinger
Pashayan
Patten
Pepper
Preyer
Quayle
Quillen
Ratchford
Richmond
Rinaldo
Rodino
Roe
Rose
Rosenthal
Roth
Roybal
Rudd
Russo
Santini
Schulze
Simon
Solomon
Stack
Staggers
Stokes
Symms
Thompson
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Weiss
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wirth
Wydler
Yates

☐ 1940

Messrs. FLIPPO, HAGEDORN, and CLAUSEN changed their votes from "aye" to "no."

So the motion was agreed to.

The result of the vote was announced as above recorded.

☐ 1950

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend the Bretton Woods Agreements Act to authorize consent to an increase in the U.S. quota in the International Monetary Fund, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 7244) was laid on the table.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time to inquire of the distinguished majority leader as to the program for the balance of the evening.

Mr. WRIGHT. Would the distinguished minority leader yield?

Mr. RHODES. I yield.

Mr. WRIGHT. I believe there has been somewhat general, if in some cases reluctant agreement, to a schedule of action which will let us make progress on the two bill which involve oil spills and chemical wastes, H.R. 85 and H.R. 7020. The plan would be to adopt both rules tonight and to conclude the general debate only on H.R. 85 tonight; to begin tomorrow with the general debate on H.R. 7020, stopping at that point and returning to the consideration of H.R. 85 under the 5-minute rule and hoping to conclude that bill by 3 o'clock tomorrow, arising in any event at 3 o'clock tomorrow. That is the present plan.

It has been discussed with Members on both sides and spokesmen for the various committees involved. I believe it is the best arrangement we can come to for the day.

Mr. RHODES. It is my understanding that H.R. 7020 would not be read for amendment under any circumstances until possibly some time next week.

Mr. WRIGHT. That is correct; it would not be read for amendment tomorrow nor this evening.

Mr. RHODES. General debate on H.R. 7020 would not start tonight?

Mr. WRIGHT. General debate on H.R. 7020 would not begin tonight. We would hope to adopt both rules and keep them somewhat in tandem, with H.R. 85 moving first, trying to complete general debate on H.R. 85 tonight, not getting into any 5-minute rule tonight, and then doing general debate first tomorrow on H.R. 7020, then returning to H.R. 85 attempting to conclude all action on H.R. 85 under the 5-minute rule and final passage of that bill tomorrow, if that can be done prior to the 3 o'clock adjournment time tomorrow. It would not be the plan to move into the 5-minute rule on H.R. 7020 this week.

Mr. RHODES. I thank the gentleman.

The SPEAKER pro tempore. Without objection, the Chair recognizes the gentleman from Texas (Mr. WRIGHT).

There was no objection.

Mr. LONG of Maryland. Mr. Speaker, would the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Speaker, I thank the gentleman for yielding.

Could I ask what the plans are for the International Monetary Fund appropriation, which had been scheduled for tonight, but had been taken off the calendar?

Mr. WRIGHT. We hope to reach that Tuesday.

Mr. LONG of Maryland. Not until Tuesday?

Mr. WRIGHT. Well, the agreement is that there will not be any votes on Monday. We are going to go through the suspensions Monday and try to conclude any debates that can be concluded without incurring substantive votes, putting off any substantive votes that would be required from action taken Monday until Tuesday.

Mr. LONG of Maryland. Could the majority leader tell us what time on Tuesday it would come; would it come the first thing or later on in the day?

Mr. WRIGHT. I guess I had better not

try to answer that question at this time, because there are so many clamorous demands from so many deserving sources, each in some ways more deserving than all others.

Mr. LONG of Maryland. I get the message.

Mr. FLORIO. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Speaker, I would respectfully suggest that since we will have completed general debate on H.R. 7020, a logical progression might be on Tuesday for the first bill to be H.R. 7020, to go forward under the 5-minute rule.

Mr. WRIGHT. It might be.

Mr. FLORIO. I thank the gentleman.

GENERAL LEAVE

Mr. NEAL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill, H.R. 7244, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF HOUSE AMENDMENT TO TEXT OF S. 2271, INTERNATIONAL MONETARY FUND

Mr. NEAL. Mr. Speaker, I ask unanimous consent that in the engrossment of the House amendments to the text of the Senate bill, S. 2271, the Clerk be authorized to correct section numbers, punctuation, and cross references, to reflect the actions of the House in amending the bill, H.R. 7244.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 4(e) of rule XI, the Chair announces that he will postpone further proceedings today on each resolution or on the previous question thereon, on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all debate has been concluded on each resolution, and after each question to be determined by a "nonrecord" vote has been disposed of, the Chair will then put the question on each resolution or on the previous question thereon, on which further proceedings were postponed.

PROVIDING FOR CONSIDERATION OF H.R. 85, COMPREHENSIVE OIL POLLUTION LIABILITY AND COMPENSATION ACT

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 772 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 772

Resolved, That upon the adoption of this resolution it shall be in order to move, sections 401(a) and 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 85) to provide a comprehensive system of liability and compensation for oilspill damage and removal costs, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and to the amendments made in order by this resolution and shall continue not to exceed three hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. In lieu of the amendments recommended by the Committees on Merchant Marine and Fisheries, Public Works and Transportation, and Ways and Means now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute printed in the Congressional Record of August 27, 1980, by Representative Breaux of Louisiana as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered for amendment by titles instead of by section and each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI and clause 5, rule XXI are hereby waived. No amendment to title V of said substitute shall be in order except pro forma amendments for the purpose of debate and amendments recommended by the Committee on Ways and Means which shall not be amendable except by pro forma amendments. After the consideration of title V of the substitute made in order as original text by this resolution, and any amendments thereto, no further amendment to the bill shall be in order. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 2000

The SPEAKER pro tempore. The gentleman from Louisiana, (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 772 provides for the consideration of the bill H.R. 85, to provide a comprehensive system of liability and compensation for oilspill damage and removal costs and for other purposes. This rule is an effort to achieve orderly consideration and amendment of a very complicated legislative package over which three committees of the House have exercised jurisdiction.

The rule provides for 3 hours of general debate with the time equally divided and controlled by the chairmen and ranking minority members of the Committees on Merchant Marine and Fisheries, Public Works and Transportation and Ways and Means.

The rule makes in order as original text for the purposes of amendment a compromise amendment in the nature of a substitute printed in the CONGRESSIONAL RECORD of August 27, 1980, by my colleague from Louisiana (Mr. BREAUX).

Mr. Speaker, this legislation would establish two funds to clean up oil and chemical spills into navigable waters and to compensate the victims of such spills. The bill establishes levels of strict liability for vessels and facilities up to a maximum which is intended not to exceed the amount of insurance the owner can obtain. The Public Works Committee added the second fund to the bill reported by the Committee on Merchant Marine in order to provide compensation for damage resulting from the pollution of navigable waters with hazardous chemicals. This title is not to be confused with legislation reported by the Committees on Interstate and Foreign Commerce and Ways and Means, also known as a superfund bill, but which would provide for the cleanup of abandoned and inactive hazardous waste sites.

Ways and Means reported a substitute, now incorporated into the Breaux substitute, which establishes two trust funds: one for the cleanup and compensation of victims of oilspills and the other for the cleanup and compensation of victims of spills of hazardous substances. The Ways and Means substitute, title V of the bill, imposes an excise tax of 1.3 cents per barrel of domestic crude oil and on imported crude oil and petroleum products for fiscal years 1981 through 1985. It imposes, for the same 5-year period, an excise tax of $1.18 per ton on the manufacturer, producer, or importer of specified petrochemical feedstocks, and an excise tax of 31 cents per ton on specified inorganic substances. Petroleum feedstocks used as fuel are exempt from the chemical tax.

The Ways and Means substitute allows claims for economic losses resulting from property or natural resource damage during the 2 years following a spill incident as long as the claimant derives at least 25 percent of his income from activities which utilize the damaged property or destroyed resource.

Mr. Speaker, this rule provides an orderly process for floor procedure. The first reading of the bill will be dispensed with. The first four titles of the bill will be open to amendment. Title V, reported by Ways and Means will be subject to amendment only by pro forma amendments for the purposes of debate and by Ways and Means Committee amendments which are not amendable except by pro forma amendments for debate. After consideration of title V and any amendments thereto, no further amendments to the bill will be in order. The Breaux substitute will be read for amendment by titles, and each title will be considered as having been read for amendment. The rule provides for one motion to recommit with or without instructions.

This rule includes several waivers of points or order. Clause 7 of rule XVI, the germaneness rule, is waived against the Breaux substitute, which includes the tax provisions reported by Ways and Means, which were not a part of the original bill. The provisions of clause 5, rule XXI, are also waived against the Breaux substitute since the trust funds, transfer of general revenue funds to the trust funds, and payment therefrom are not subject to appropriations acts.

The rule also grants two waivers of the Congressional Budget Act against consideration of the bill. Section 401(a) bars the consideration of a bill providing new contract authority unless it is limited to the extent or amounts provided in advance through appropriations acts. Section 402(a) requires that new budget authority for a fiscal year must be reported on or before May 15 preceding the fiscal year in which the budget authority becomes effective. The Breaux substitute cures the violation.

Mr. Speaker, this is extremely important and complex legislation which has been in the works for more than 6 years. It should be enacted without further delay so that we can protect our fragile environment from large-scale spills of oil and hazardous substances. The rule presented by House Resolution 772 provides a fair and orderly method whereby the House may work its will on this timely legislation. I urge the adoption of this rule.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am sure that we are all aware of the considerable amount of time that has gone into consideration of the "superfund" legislation. The bill is finally before this body, after extensive deliberation by three House committees and, in fact, after deletion of "superfund" provisions from the budget reconciliation legislation. Those provisions were stricken from the reconciliation bill, you will recall, to give the House an opportunity to consider H.R. 85 on its own merits and to avoid prejudging what might take place when the bill did finally reach the House.

Consideration of the measure could have been made very difficult, since the individual committees did report separate versions of the bill and since there are areas of conflict. However, a substitute version of H.R. 85 incorporates Ways and Means Committee changes into the bill reported by the Merchant Marine and Public Works Committees. The rule before us takes into account the agreement reached by the committee members.

House Resolution 772, a modified closed rule, has been adequately explained already. There are two waivers of the Budget Act. Section 401(a) and section 402(a) are waived against consideration of the bill. The debate time is to be divided among the three committees having jurisdiction over the bill.

However, instead of the amendments recommended individually by the three committees, the Breaux substitute is made in order as an original bill for amendment. It is to be read by titles instead of sections, with each title to be considered as having been read.

House Resolution 772 next waives clause 7 of rule 16 (the germaneness rule) and clause 5 of rule 21 (dealing with appropriations in a legislative measure) against the substitute.

Title 5 of the bill is the Ways and Means title of the bill. No amendments are made in order to this title except pro forma amendments and Ways and Means Committee amendments. These are not amendable except by pro forma amendments for the purpose of debate.

After consideration of title 5 and amendments to it, no further amendments of the bill are in order.

Lastly, the rule provides one motion to recommit with or without instructions.

I would like my colleagues to know that, under the circumstances of such complex legislation, I feel that this is about the best rule we could have. And, in fact, I supported it when it was reported from the Rules Committee on August 27.

The legislation itself is another matter.

As a Member from a coastal district, I am very familiar with the problems of oil spills into navigable waters and I am keenly aware of the necessity of cleaning up these contaminated waters quickly.

I do, however, have some reservations about the specific funds which are created by the bill. For example, the inclusion of the hazardous substances fund would be more appropriately considered separately and on its own merits, without jeopardizing the rest of this legislation.

Further, determining liability limits for hazardous waste pollution is extremely complex and is an issue which deserves special treatment which would be responsive to this particular problem.

It is likely that a number of amendments will be offered to H.R. 85. The pending rule allows such amendments and I have no objection to the rule itself.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. LONG of Louisiana. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

HAZARDOUS WASTE CONTAINMENT ACT OF 1980

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 773 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 773

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7020) to amend the Solid Waste Disposal Act to provide authorities to respond to releases of hazardous waste from inactive hazardous waste sites which endanger public health and the environment, to establish a Hazardous Waste Response Fund to be funded by a system of fees, to establish prohibitions and requirements concerning inactive hazardous waste sites, to provide for liability of persons responsible for releases of hazardous waste at such sites, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and each section of said substitute shall be considered as having been read. It shall be in order to consider the amendment to said substitute recommended by the Committee on Ways and Means now printed in the bill in boldface roman, and all points of order against said amendment for failure to comply with the provisions of clause 7, rule XVI and clause 5, rule XXI are hereby waived. No amendment to said amendment shall be in order except pro forma amendments for the purpose of debate and the following amendments which shall not be amendable except by pro forma amendments: (1) the amendments recommended by the Committee on Ways and Means; (2) the amendment printed on page H7926 in the Congressional Record of August 25, 1980, by Representative Ullman of Oregon; and (3) the amendment to be printed in the Congressional Record of September 5, 1980, by and if offered by, Representative Florio of New Jersey. Upon the adoption of the amendment recommended by the Committee on Ways and Means to the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce made in order as an original text by this resolution, no further amendment to the bill shall be in order. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute made in order as an original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 2010

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker,

I yield the usual 30 minutes to the gentleman from Maryland (Mr. BAUMAN) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 773 provides for the consideration of the bill H.R. 7020, a part of the vital superfund legislation to clean up our environment. The bill amends the solid waste Disposal Act to provide authorities to respond to releases of hazardous waste from inactive hazardous waste sites which endanger public health and the environment. The bill establishes a hazardous waste response fund to be financed through the joint participation of industry fees and general revenues. It also sets forth prohibitions and requirements concerning inactive hazardous waste sites and provides for liability of persons responsible for releases of hazardous waste at such sites.

Mr. Speaker, H.R. 7020 is legislation of urgent importance. On September 11, a report from the Surgeon General of the United States warned us that toxic chemicals seeping into the environment pose a "major and growing public health problem" that will plague our Nation for years. The extent of this problem is just now becoming evident and will take years to fully assess. It is believed that toxic chemicals are adding significantly to disease in the United States. A research study by the Library of Congress finds that many hazardous chemicals and pesticides "are so long-lasting and so pervasive in the environment that virtually the entire human population of the world" is affected. The findings have been characterized as the tip of an iceberg: We do not yet know what lies behind this frightful evidence which is just now coming into view.

House Resolution 773 dispenses with the first reading of the bill, and provides for 2 hours of general debate. One hour shall be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, and 1 hour shall be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The rule makes in order for purposes of amendment, the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce. The Commerce substitute is now printed in the bill, and each section shall be considered as having been read for amendment. All germane amendments to the Commerce substitute shall be in order during the consideration of this portion of the legislation. The rule waives points of order under section 402 (a) of the Budget Act against the bill. This section of the Budget Act requires new budget authority to be reported by May 15 of the preceding fiscal year for which it is effective. The Commerce substitute cures this technical violation of the Budget Act.

As reported by the Committee on Interstate and Foreign Commerce, the bill directly addresses the cleanup of inactive and abandoned hazardous waste sites. It provides for a systematic inventory of all hazardous waste sites. It establishes priorities among the sites based on the relative danger. It authorizes the Government to respond appropriately to protect the public health and the environment from the dangers posed by such sites. The Commerce Committee version of the bill establishes a $600 million fund, comprised equally of general revenues and industry fees to finance actions taken by the Administrator of the Environmental Protection Agency in providing emergency assistance and containment. The legislation also establishes a Federal cause of action in strict liability to enable the EPA Administrator to pursue rapid recovery of the costs incurred from cleanup from those who are liable.

There is little controversy about the need for legislation to facilitate the cleanup and containment of abandoned hazardous waste sites. There is, however, a difference of opinion about the way to finance the cleanup. The Ways and Means Committee reported a different version of the legislation; a substitute, which is now printed in the bill in boldface roman type. Ways and Means recommended a fund of $1.2 billion, twice the amount of the Commerce recommendation, composed three-fourths from industry excise taxes and one-fourth from general revenues. Because of the great disparity between the versions reported by the two committees, the Committee on Rules is recommending that Mr. FLORIO, on behalf of Commerce, have an opportunity to offer an amendment to the Ways and Means version in addition to the amendments requested by Ways and Means. Mr. FLORIO's amendment appears on page 24416 of the CONGRESSIONAL RECORD of September 5.

His amendment gives the House a third alternative and represents a compromise between the two positions. The Florio amendment proposes a fund of $1 billion composed of two-thirds industry fees and one-third general revenues.

This rule grants a waiver of the germaneness rule (clause 7, rule XVI) against the Ways and Means substitute. In addition to pro forma amendments for the purposes of debate only, the following are the only amendments in order to the Ways and Means substitute, and these amendments are not amendable (except by pro forma amendments): First, amendments recommended by the Committee on Ways and Means; second, an amendment printed on page 23068 in the CONGRESSIONAL RECORD of August 25 which exempts hazardous substances used as fuel from the excise tax; and, third, the Florio amendment as previously described.

Once the Ways and Means version of these amendments have been considered, no further amendments are in order.

The rule provides for one motion to recommit with or without instructions.

Mr. Speaker, I think this is a fair rule. I urge the adoption of House Resolution 773 so that the House may proceed to the consideration of this crucial environmental legislation, H.R. 7020.

Mr. BAUMAN. Mr. Speaker, I yield myself 30 minutes.

Mr. Speaker, I would say that the gentleman from Louisiana has adequately explained this rule at great length, perhaps greater than needed. I would also comment that the rule from the parliamentary point of view is a mongrelization. It is the usual waiving of the Budget Act, waiving of the germaneness rule, and waiving of the preparing of appropriate legislation. It is a closed rule on a bill dealing with Ways and Means. In other words, it is the way we usually run the railroad here in the House of Representatives.

Mr. Speaker, this rule provides for the consideration of H.R. 7020, the Hazardous Waste Containment Act, more commonly known as "superfund."

The rule contains waivers of points of order and restrictions on amendments.

First, there is a waiver of the Budget Act requirement that authorization bills be reported by May 15 before the beginning of the fiscal year the authorization takes effect. The waiver is required because the introduced version of the bill includes authorization for a study which would take effect this fiscal year. Since the bill was not reported by May 15, 1979, the waiver is included. The Commerce Committee has advised that they have a committee amendment making any authorizations in the bill effective on October 1, 1980, and this, if adopted, will cure the Budget Act violation.

The Commerce Committee substitute is in order as an original bill for the purpose of amendment, and the rule provides that a Ways and Means amendment to the substitute will also be in order. Points of order against the Ways and Means amendment are waived because of failure to comply with the germaneness rule and the rule prohibiting appropriations on legislation.

The germaneness waiver is necessary because the Ways and Means amendment changes the tax code, while the Commerce substitute does not.

The waiver for an appropriation on legislation is necessary because the bill appropriates certain tax receipts to this trust fund.

In addition, the rule provides that no amendments to the Ways and Means amendment will be in order except pro forma amendments for the purpose of debate, and three specified amendments which will not be amendable except by pro forma amendments.

The three amendments are:

First: Ways and Means Committee amendments;

Second: An Ullman amendment, printed in the RECORD, and;

Third: A Florio amendment printed in the RECORD.

Mr. Speaker, the purpose of the bill made in order by this rule is to provide for a national inventory of inactive hazardous waste sites and to establish a program for response action to protect public health and the environment.

The bill would provide authority to

take emergency containment actions with respect to hazardous waste sites and to establish a hazardous waste response fund.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from North Carolina.

Mr. BROYHILL. I appreciate the gentleman's yielding. I ask for this time to get clarification of this rule and the rights for amendment. As I understand this rule, title II has been added to H.R. 7020 by the Committee on Ways and Means, and that is found on page 55 of the bill and is in roman type. The language under title II, that part of the bill, it is my understanding is not subject to the amendment except a substitute that may be offered by the gentleman from New Jersey (Mr. FLORIO). My question is, is there the right to amend any other parts of the bill? There are nine sections which precede title II, and I assume, or my interpretation of the rule is, that amendments to any parts of those sections would be in order under the normal rule of the House; is that correct?

Mr. BAUMAN. Under the normal rules of the House, and under this rule the remainder of the bill, particularly the Commerce Committee section, is in fact amended.

Mr. BROYHILL. I thank the gentleman.

Mr. LONG of Louisiana. Mr. Speaker, I yield 5 minutes to the gentleman from Connecticut (Mr. MOFFETT).

Mr. MOFFETT. Mr. Speaker, I know the hour is late, and I will not take my 5 minutes, but I want to voice and reflect some sadness over the fact that we are not going farther with this bill this week. There is no doubt that it is controversial. There is no doubt that there are some who would like to kill this bill. It is a very sad thing, because I do not think there is anyone in this House who would wish upon communities the kind of problems associated with hazardous waste. The interesting thing is politically there is no Republican or Democratic position on this in the sense of how it affected all of us.

I know, having conducted hearings on the subcommittee I am privileged to chair, I have had as many people on this side of the aisle as I have had on my own side of the aisle, as many people from the South as from the North, come and say "I have got this problem in my very district," so we have an interest in getting this bill through.

On the heels of the debate on the continuing resolution, where so many of our friends on this side said we should finish the work of the House, and we should stay here and do business, and so forth—and they made some very persuasive points—I hope they will assist us in getting this bill up as soon as possible next week under the 5-minute rule so we can complete consideration of it and get together with the Senate on it.

Mr. Speaker, there is one thing we can all agree on, I think. If the energy shortage of the 1970's was important and critical, the hazardous waste problem of the 1980's and 1990's is going to be just as dramatic. I congratulate the Committee on Rules for this rule. It combines fairness with an expeditious kind of consideration of this matter. There are 30,000 to 50,000 waste sites scattered throughout this country, and as we sit here at this late hour, I hope we will remember that there are people in those communities begging and pleading with us to try and deal with this matter.

I know there is a lot of money involved in this bill. Some of my colleagues are very concerned about that. I think we all are, but the fact is 10 years from now when we really begin to see the magnitude of this, unfortunately there are going to be so many people come back and say that was chicken feed compared to what the problem really needs. I hate to say that, but I think many Members on both sides know that is a fact. It is chicken feed compared to what is really going to be needed to address this problem. It could be $50 billion by all estimates, and we are fighting here over who pays, and that is important debate to have. But let us not lose sight of the real problem and that is addressing this in the most expeditious fashion.

I thank the gentleman for yielding this time to me.

Mr. LONG of Louisiana. I thank the gentleman for his remarks. I yield 5 minutes to the gentleman from Tennessee (Mr. GORE).

Mr. GORE. Mr. Speaker, I will be very brief. I would like to first ask my colleagues to support this rule. It is a good rule.

Second, this legislation is good legislation. The Oversight and Investigations Subcommittee has held 18 hearings on this problem, both in this Congress and in the last. It is an enormous problem, and the solution embodied in this bill is well targeted on the problem.

Third, however, my colleagues on both sides of the aisle ought to be aware, particularly in light of the development this evening, that there is a determined effort to kill this legislation in both Houses of Congress.

I would hope that those of you who have constituents who are concerned about this program will resist the entreaties that will come your way during this weekend. I hope that you will resist the efforts to contribute to delay in the coming week.

This bill represents a bipartisan effort. Indeed, the minority members on the Commerce Subcommittee that has handled this legislation have contributed in a positive way to the legislation.

Many of my colleagues on this side of the aisle have helped out in investigating the problem and in coming up with the solution. So, I do not want it to be said at the end of this Congress that there is no clearer example of the difference between Democrats and Republicans than in the way this legislation has been approached. I have heard it said in the past that when a problem comes up and on one side of the problem is a narrow special interest and on the other side of the problem is the public interest, then it is the Democratic Party that identifies itself with the public interest and it is the Republican Party that takes it upon itself to speak up for the narrow special interest and say, "Wait, wait, we want a delay. We cannot move quite this fast. There are problems. It is going to take time to solve these problems. The public interest will have to be given a back seat. We will put it on the back burner. If there is not enough time here, then maybe in the next Congress we will take it up."

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I hope that does not happen, but if that is the result in this Congress then I will identify myself with those who say, yes: Look at this bill, look at this legislation, look at the way the two major parties in this country have approached the problem. Look at the way the Democrats have come up with a constructive solution for the problem, have worked on it until even responsible members of the industry now support this bill. And then look what happened when some of the irresponsible parties in the industry sent out telegrams and called up long distance to say, "Wait a minute. Do what you can to delay it. Hold it up. We do not want to tackle the problem of hazardous waste this year. The public is going to have to wait because we may not have time to work out all of these long difficulties."

I sincerely hope that it will not come to that, my colleagues, and I do not believe it will. I am convinced that a strong majority of the Republicans in this House are in support of this legislation and I am convinced that they will join with the majority in resisting efforts to delay it. I encourage everyone to support this rule and then join with us to beat back the effort to try to kill this bill by delaying it to death this year.

Mr. BAUMAN. Mr. Speaker, I yield myself 1 minute.

I would say, Mr. Speaker, I do not know what turned the gentleman from Tennessee on at this hour but now that he has denounced the entire party, I hope, too, there might be somebody over here who might agree with the gentleman. I have problems with hazardous waste in my district and other hazardous wastes like recent speeches by the President about Governor Reagan, but we will debate all those next week and I hope we reach some conclusion that will be fairminded. Our party is noted for that, especially the gentleman from Maryland.

Mr. Speaker, I yield 1 minute to the gentleman from Delaware (Mr. EVANS).

Mr. EVANS of Delaware. Mr. Speaker, I would like to respond briefly to the gentleman from Tennessee. First of all, I have certainly enjoyed working with all those members of the Committee on Merchant Marine and Fisheries, particularly the gentleman from New York (Mr. BIAGGI). As a Republican, I was an original cosponsor of the Oil Spill Liability and Compensation Act. We do have potential oil spill problems in the State of Delaware. Oil spills hurt everyone and they certainly do not distinguish between Republicans and Democrats. I am very sorry that anyone from Tennessee—since I was born in Tennessee—or Delaware or anywhere else would unfairly introduce the question of partisanship. I just think that we need to reduce some of the invectives in the Presidential campaign, the congressional campaigns and in this House of Representatives. We need to proceed with business, and I do believe very sincerely that there is a bipartisan effort as far as H.R. 85 is concerned and as far as H.R. 7020 is concerned. I am very pleased to join in bipartisan support of H.R. 85 and H.R. 7020.

Mr. BAUMAN. Mr. Speaker, I knew this would happen.

I yield 5 minutes to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Speaker, I thank the gentleman for yielding.

I was in my office preparing to watch the debate and do other work. I heard the two preceding speakers, the gentleman from Tennessee and the gentleman from Connecticut. They brought up points I thought had to be answered.

I come from the State of Louisiana which has chemical plants, a great number in my district. We also have some tremendous chemical storage sites which have to be cleaned up in my State and one in my district. These bills came before my committee. I supported them then and I intend to support them on the House floor.

Mr. Speaker, the reason I objected to H.R. 7020 being debated tonight is because by the time we got to it, it was going to be at 10 o'clock or 11 o'clock. I think every Member knows, with no votes being able to be cast or called at that point there would be nobody here to hear the debate, an important debate on an important bill. The things that concern me are this matter of funding and who is going to control that funding and who is going to determine which sites have to be cleaned up. Those are things that demand a responsible debate and those are things to which a substitute will be offered.

I do not think 10 o'clock at night with nobody here is the time to debate that, and second, I do not think a Friday afternoon when everybody is trying to get on the planes is the time to listen to that debate and vote responsibly on it.

I assure the two gentlemen whom I mentioned a moment ago, I am very much in favor of early consideration next week and I intend to vote for both of those bills, but I think it is not right to cast those sort of aspersions. There is no plot, it is a matter of concern for reasonable consideration of two important bills, especially H.R. 7020.

I thank the gentleman for yielding.

Mr. BAUMAN. Mr. Speaker, the honor of the minority being admirably upheld, I yield back the balance of my time.

Mr. LONG of Louisiana. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the resolution.

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMPREHENSIVE OIL POLLUTION LIABILITY AND COMPENSATION ACT

Mr. BIAGGI. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 85) to provide a comprehensive system of liability and compensation for oil-spill damage and removal costs, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BIAGGI).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 85, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

The gentleman from New York (Mr. BIAGGI) will be recognized for 30 minutes, the gentleman from Kentucky (Mr. SNYDER) will be recognized for 30 minutes, the gentleman from Texas (Mr. ROBERTS) will be recognized for 30 minutes, the gentleman from Kentucky (Mr. SNYDER) will be recognized for an additional 30 minutes, the gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 30 minutes, and the gentleman from New York (Mr. CONABLE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Chairman, H.R. 85 deals with an extremely important environmental problem—damage to natural resources and property and loss of income which results when oil and hazardous substances spill into navigable waters. All too frequently, the press reports the destruction which oil and chemical spills can cause to natural resources and to property, the disruption which they can cause to individuals' livelihoods, and the enormous costs which are necessary to remove these pollutants and to clean up the damage. Current programs are inadequate to deal with this problem. A reliable and available source of funds is urgently needed to assure prompt response to discharges of oil and hazardous substances. Title V of this bill, which was added by the Ways and Means Committee, provides these necessary funds.

Title V establishes trust funds whose balances are immediately available to pay removal costs and specified damages resulting from spills of oil and hazardous substances. Under procedures provided in other titles of this bill, individuals may be reimbursed directly by the funds for these costs and damages, thus sparing them from a costly and lengthy course of litigation. In turn, the funds, in most cases, will recover these costs from responsible parties under the strict liability provisions established elsewhere in the bill. However, in some cases, the funds will not be able to recover claims payments. This will occur, for example, if the spiller cannot be identified, or, in spite of the bill's stringent financial responsibility requirements, the spiller is unable to bear the financial burden of these claims. Thus, amounts must be available to pay claims which have not yet been recovered and which may never be recovered.

The new excise taxes in title V of the bill provide the necessary amounts for the trust funds. They reflect the judgment that the most appropriate way to raise funds to respond to discharges of oil and hazardous substances is through a tax on oil, and on the petrochemical feed stocks and inorganic substances used to produce hazardous substances. These new taxes will raise approximately \$150 million per year for 5 years.

EXCISE TAXES

Title V of the bill imposes two new excise taxes—a tax on crude oil and petroleum products, and a tax on petrochemical feed stocks and specified inorganic chemicals.

The oil tax is \$1.3 cents per barrel of domestic or imported crude oil or imported petroleum products. This tax will be collected at the refinery or at the point of import or export. The tax will generate approximately \$75 million per year and will terminate after September 30, 1985.

The chemical tax consists of two parts—a tax of \$1.18 on each ton of 13 specified feed stocks, and a tax of 31 cents on each ton of 23 specified inorganic substances. The tax is imposed on the producer or importer of the feed stock. For any petrochemical feed stock a principal use of which is as a fuel, the tax will not apply to fuel use; thus, for example, fuel use of methane will be exempt from the tax. The tax will not be imposed more than once on the same substance. The tax will generate approximately \$75 million per year (\$50 million from petrochemical feed stocks and \$25 million from inorganic substances) and will terminate after September 30, 1985.

TRUST FUNDS

Title V of the bill establishes two trust funds—the comprehensive oil pollution trust fund and the hazardous substance pollution liability trust fund. These trust funds receive the revenues of the oil and chemical taxes, respectively, and are used for damages and removal costs resulting from oil spills and hazardous substances, respectively. Penalties and recoveries from responsible parties also are deposited in the funds. In general, other provisions governing the operation of the trust funds apply uniformly to the two funds.

The trust funds may be used for paying claims for compensable damages, as defined in title V. Compensable damages include:

First: Removal costs.

Second: Injury to, or destruction of, real or personal property.

Third: Injury to, or destruction of, natural resources; and

Fourth: Loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources, for a 2-year period after a loss is first suffered, by individuals who derive more than 25 percent of gross income from activities which utilize the property or natural resources.

It should be noted that the Ways and Means Committee devoted considerable time to the definition of which damages are compensable from the funds; the committee balanced the need for quick compensation to affected parties against the difficulty of measuring certain damages and, thus, of estimating potential claims against the funds. The trust funds may be used only for the above damages as they were generally defined in the bill as reported by the Merchant Marine and Public Works Committees since this was the context in which the Ways and Means Committee made its decision. For example, since the Ways and Means Committee specifically rejected use of the trust funds to compensate for loss of use of real property, loss of use of natural resources, or loss of tax revenue, these uses may not be read into the definitions of other compensable damages under title V.

The bill also provides various limitations on claim payments. The only amounts available for claims payments are amounts in the trust funds, and, to insure that amounts are always available for emergency response, claims may not be paid for any amounts other than removal costs to the extent that such payments would reduce the balance in a fund below $30 million. The two funds may borrow from each other as needed, subject to the $30 million minimum balance restriction. In addition, each fund may borrow from the Treasury, before September 30, 1981, up to $75 million in order to be sure that sufficient amounts are available during the first year of operation.

In conclusion, title V raises revenues and provides for their use in a balanced, responsible manner. This legislation will provide a valuable tool in dealing with the disruptions and threats to public welfare caused by spills of oil and hazardous substances.

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Mr. Chairman, I have no further requests for time on behalf of the Ways and Means Committee on this side, and I yield back the balance of my time.

Mr. BIAGGI. Mr. Chairman, I yield as much time as he may consume to the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Chairman, throughout the 1960's and early 1970's we in the Congress worked long and hard to find answers to our Nation's water problems. Finally in 1972, over the veto of President Nixon, we enacted the most comprehensive environmental program in our Nation's history. Its purpose was to restore and maintain the chemical, physical and biological integrity of the Nation's waters.

That program dealt principally with surface waters, with rivers, lakes and streams, and it provided $18 billion in grants to the States for construction of waste treatment plants. After many delays that program has progressed apace.

Unfortunately, threats to the quality of the Nation's water supply still exist. As the two bills before the House today recognize, the purity of our water supply is threatened not only from oil and chemical spills into surface waters, including coastal bays, but also from the improper disposal of hazardous wastes throughout our environment.

What we are discovering is that nature's processes, which have filtered biological wastes since the beginning of time, cannot be depended upon to filter out and neutralize many of the new compounds we have created in the laboratory.

Valuable as many of these chemical compounds are, they pose a threat to our environment unless proper measures are taken to prevent their drainage into surface waters or seepage into our underground aquifers.

Perhaps the greatest threat we face today is in the number of water wells that are being contaminated by chemicals. Granted, half of our drinking supply comes from surface waters. But that means that the other half comes from ground water.

Nature protects us from biological impurities by percolating rain water through soil and porous rock to vast underground aquifers. In some cases it may take a century to penetrate to that depth.

But it seems that nature has no way of removing many chemical substances from these waters. And now we are finding that many petrochemicals thought to have been harmlessly disposed of long ago are showing up in wells on which we depend for our water supplies.

The legislation we will consider later today or tomorrow, H.R. 7020, will provide a trust fund to clean up the many dangerous chemical dumps we have in this country.

At the same time the bill now before us, H.R. 85, attacks another part of the problem, oil and chemical pollution of navigable waters. And this bill defines navigable waters, and wetlands, in a far more sensible way than the interpretations which have come to be placed upon Public Law 92-500, the Water Pollution Amendments of 1972, which for the first time set water quality standards for surface waters of the Nation and provided $18 billion in Federal grants to the States for the construction of waste treatment plants to clean up those waters.

That bill also directed the Administrator of the Environmental Protection Agency to study the special pollution problems arising from oil spills, marine sewage equipment, pesticides, waste oil, and other such causes.

What has been learned since then confirms the need for a program that will insure rapid cleanup of both oil and chemical spills and provide adequate compensation for damages. Time is of the essence in these incidents. There is always ample time later to determine who are the responsible parties and to assess damages from them. What this bill does is set up a mechanism to take care of both needs—timely response to an oil or chemical spill, and appropriate assignment of damages.

An example is the devastating blowout of Campeche Bay, Mexico, last year. While this spill occurred off the coast of Mexico, the oil spread to the coastline of Texas and did considerable short-term damage and as yet undetermined long-term damage to the ecology of the barrier islands and coastal environment of Texas. If any such spill should occur in the future, there would be a mechanism in place to pay for the cleanup whether or not responsibility could be fixed for the incident.

It is a source of considerable satisfaction to me that these two bills have been developed simultaneously. They speak well for the dedication of the committees involved.

I particularly want to commend the committees for going beyond the original proposal to establish an oil spill fund by proposing a hazardous substance fund as well. This was not an easy thing to do, for it amounted to breaking new ground. And yet a bill devoted to the cleanup of pollution that failed to provide for hazardous substances would leave the people of this country unprotected in the case of serious chemical spill.

The House today is responding to a number of very serious problems facing our people. In one sense it might be easier to put them off to another day, for there are people who do not want to see the Federal Government playing any more of a role than it is already. But decisive action is needed if we are to avoid future catastrophes.

Clean, safe water is basic to all life. We cannot, we must not take chances that might endanger our Nation's water supply. I urge the passage of both H.R. 85 and H.R. 7020.

Mr. BIAGGI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 85 contains five titles. Title I covers liability and compensation for oil pollution. Title III relates to liability and compensation for spills of hazardous substances. Title V establishes trust funds to deal with both oil and hazardous substances cleanup and compensation. Titles II and IV contain conforming amendments and supplementary provisions.

My remarks today will concern those portions of H.R. 85 that relate to oil spill liability and compensation.

For several years, the Congress has been dealing with the problem of oil pollution in our navigable waters and off our coasts. During those years, we have made significant strides in preventing oil spills and the accidents that cause them.

We have enacted legislation that has raised the standards for construction and operation of oil tankers.

We have given the Coast Guard broad powers to regulate vessels carrying petroleum products.

We have authorized the Coast Guard to establish and operate vessel traffic services in our ports.

We have raised the standards for personnel on board tankers.

We have prescribed meaningful penalties for violations of the laws or regulations affecting oil transporters.

And, we have provided the Coast Guard increased funds and personnel to inspect oil-carrying vessels and facilities.

In short, the Congress and the executive agencies have taken strong and effective action to prevent oil spills.

In the bill before us today, we recognize that, despite all our efforts, oil spills will continue to occur. Because of the massive amounts of oil that are transported and produced in the United States, and because human beings are involved, some accidents are inevitable. We will continue our efforts to prevent oil spills, but I think we must admit that it is impossible to eliminate them. That being the case, we need a mechanism to deal with the consequences of oil spills when they do occcur. H.R. 85 provides that mechanism.

In brief, the purpose of H.R. 85 is to insure that oil spills are promptly cleaned up and that persons who are damaged by oil spills are promptly compensated. To achieve these purposes, the bill follows the legislative pattern of, and incorporates, the Outer Continental Shelf Lands Act Amendments of 1978 and the Trans-Alaska Pipeline Authorization Act. Its enactment will result in a single comprehensive oil pollution liability and compensation scheme.

I think all Members should understand that the compensation for oil spill cleanup or damage proposed in this bill will not come from the Federal Treasury. The bill will not result in increased Federal expenditures. Instead, the bill provides that moneys for cleanup and compensation will come from the one who spills the oil. If the one who spills the oil cannot be identified, or refuses to pay for cleanup or for damage, then the compensation will come from a trust fund supported by a tax on oil. In brief, the bill will have no significant effect on the Federal budget.

During the past several weeks, as this bill has been considered by the Rules Committee and the Ways and Means Committee, most of the discussion has centered on the trust fund that is created by the bill to cleanup oil spills and to compensate those damaged by such spills. I think this emphasis on the fund provisions of the bill is unfortunate. While the fund is an important part of the bill, it is only one of the mechanisms that the bill utilizes to achieve its purposes.

It is important to remember that the fund is designed to be a "backup" fund. That is, it is there to be used only if the spiller of oil, for one reason or another, does not clean up the spill or compensate those injured by the spill. The bill places front-line responsibility on the spiller of oil to clean it up and to compensate its victims. It makes the spiller strictly liable for the consequences of oil spills—it removes many of his common law defenses—and, in effect, the bill gives the victim a Federal cause of action against the spiller.

Under the bill, we expect that, in the great majority of the cases, the spiller will clean up the spill and pay any claims resulting from it. The bill has incentives in it for him to do just that. Therefore, the Fund will only be called upon in those cases where the spiller is not known or where the spiller denies responsibility and refuses to pay. In the latter case, the Fund will pay the claims, and for cleanup, and then act to recover from the person who spilled the oil.

Thus, the chief emphasis in the bill is on the entity that spills the oil. That entity is made strictly liable for the consequences of the spill—is required to report it—is required to clean it up—and is required to compensate those damaged by it.

The bill also contains a requirement that transporters and producers of oil demonstrate financial responsibility to pay for the consequences of an oilspill. They must either qualify as a self-insurer or obtain insurance up to their limit of liability. Demonstration of this financial responsibility is a condition for use of our navigable waters by any vessel transporting oil, foreign or domestic. These provisions are designed to eliminate the possibility that oil will be carried by transporters who are financially insecure.

The financial responsibility provisions are also designed to eliminate claims against the Fund based on inability of the spiller to pay for cleanup and compensation. The Fund would only be called on where the costs of the spill exceed the limits of liability of the spiller, since, even if the spiller were unable to pay, his insuror would. Based on the past history of oilspills, cases where the costs of the spill exceed the limits of liability should be rare.

The bill requires that, with only limited exceptions, all claims must be first presented to the spiller. The spiller has 60 days in which to pay the claim or to deny his liability. If he denies the claim, the claimant can sue in Federal court or present his claim to the Fund. The Fund also has 60 days in which to act on the claim. If the Fund denies the claim, the claimant may appeal to the Secretary of Transportation or sue the Fund in Federal court.

The net effect of these provisions is to create a system for the rapid compensation of persons damaged by oil spills. These provisions also constitute an incentive for the spiller to settle claims, since, if he does not, he runs the risk of facing the Federal Government in court rather than an individual claimant. Thus, the spiller has nothing to gain, and quite a bit to lose, by failing to pay legitimate claims.

An important feature of this bill is the provision that makes a ship or facility owner and operator jointly, severally, and strictly liable for all damages from an oil spill from that ship or facility. This relieves a claimant from the necessity of proving negligence on the part of the vessel or facility.

On the other hand, the bill provides limits of liability for the various types of vessels and facilities. These limits are set sufficiently high that they are expected to cover all but the most extreme spills, but at a level that is insurable in today's insurance markets. The liability limits are not available to a spiller of oil if he is guilty of willful misconduct or gross negligence or of a violation of a Federal safety standard or regulation.

The bill contains extensive procedural and administrative provisions that are designed to facilitate cleanup of oil spills and payment of claims. It also contains a section that vests jurisdiction for oil spill claims in Federal court and prevents a State from creating a fund to accomplish the same purposes for which the fund in this bill is designed. The effect is to provide a uniform law to replace the multitude of varying State statutes on liability and compensation for damage from oil spills. Such uniformity is especially important in the case of vessels. The bill, however, leaves the States free to enforce State environmental laws—or to establish funds for the acquisition of pollution abatement equipment or for monitoring or research programs.

Mr. Chairman, this bill has been carefully developed over a period of several years. It has had the benefit of extensive hearings, numerous witnesses, and close scrutiny by the oil and insurance industries—environmental groups—the executive branch—the States—ship owners—drillers—and others. In its present form, it is generally acceptable to all interested and affected parties. I urge its enactment.

Before concluding my remarks, Mr. Chairman, I would like to note that—during the last few weeks—a great deal of concern has surfaced from several States as to the effect of this bill on existing State laws and State funds. Several States are concerned that H.R. 85 may restrict use of their existing funds or subject them to lawsuits if they expend those funds for oil pollution cleanup or compensation after the effective date of this bill.

Let me state categorically that there is nothing in this bill that affects the uses to which a State may put an existing oil spill fund. H.R. 85 is silent on that subject. Thus, a State may, after enactment of this bill, continue to spend its existing funds for any purpose that is lawful under the State law. If, after enactment of H.R. 85, a State continued to pay oil pollution damage claims from its State fund, that would not be contrary to any provision of H.R. 85.

What H.R. 85 does is to prohibit a State from requiring any person to contribute to any fund if the purpose of that fund is to compensate for an oil spill damage claim as defined in title 5 of the bill. Thus, the State cannot impose a fee or a tax on oil if that fee or tax is to go into a fund and the fund is for the purpose of paying oilspill damage claims.

Putting it simply, it is a prohibition against double taxation of the same purposes. It is not a prohibition on the uses that a State may make of its money. Nor does it prohibit a State from imposing fees or taxes for other purposes connected with oil pollution—such as the purchase of pollution abatement equipment or the hiring or training of personnel for pollution prevention programs.

In sum, this preemption provision is narrow in scope and limited to the particular purpose of preventing double taxation. I would be happy to discuss the effects of the preemption provisions of H.R. 85 further if any member needs additional clarification.

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Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the State of New Jersey has been and remains a strong proponent of the superfund legislation pending in the House and the Senate. We have been grappling with the serious environmental and health problems stemming from discharges and illegal and improper disposal of hazardous wastes and oil for several years. In 1977, the New Jersey Legislature enacted a comprehensive statute covering discharges of oil and chemicals into surface and groundwaters and onto land. The statute was amended in 1980 to expand coverage to include abandoned hazardous waste disposal sites and certain other "ancient" source discharges. The major source of revenues for the New Jersey Spill Compensation Fund is a tax applied to transfers of petroleum and a tax on nonpetroleum hazardous substances.

New Jersey and several of the other States with successful State spill funds (including Michigan, Florida, California, Maryland, and New York) have on repeated occasions expressed grave concerns that the preemption language contained in H.R. 85 (and the Breaux substitute) may work to slow down governmental response to spills of oils and hazardous wastes by creating questions as to the availability of State and or Federal funds to provide operating, up front dollars to finance emergency cleanup and containment actions. I understand the concern debated over the years in conjunction with superfund that industry not be forced to suffer a double tax for the same functions carried out by different levels of government. I also understand that it is not the intent of the sponsors of H.R. 85 to make prompt, effective and thorough response to such discharges more cumbersome.

Mr. Chairman, in order to clarify the remaining questions concerning allowable State activity under H.R. 85's preemption language, I wonder if the gentleman from New York would consent to respond to a few questions on this issue.

Am I correct in understanding that it is the purpose of section 110 to prohibit States from requiring any person to contribute to a fund for the purpose of reimbursing claims as described in title 5?

Mr. BIAGGI. Yes, that is the clear intent. The purpose is to prohibit States from creating duplicate funds to pay damage compensable under H.R. 85.

Mr. FLORIO. However, there is no such preemption of a State's ability to collect such taxes or fees for other costs associated with spills and discharges of oils and hazardous substances that are not compensable damages as defined in this legislation or that do not occur in or threaten the navigable waters of the United States.

Mr. BIAGGI. The gentleman is correct.

Mr. FLORIO. There is nothing in the language or intent of H.R. 85, section 110 or elsewhere in the bill which would prohibit a State from responding to a spill or discharge either under agreement with the Secretary, at the direction of the Federal on-scene coordinator or in the absence of timely response by any other party. In fact, the Federal Government's cleanup and containment capability is viewed as something of an appeal of last resort in the absence of any other adequate and timely response, if my understanding is correct.

Mr. BIAGGI. Yes, the gentleman understands the intent of the bill correctly.

Mr. FLORIO. In the event I have described, where a State or a contractor of the State is the respondent to the spill or discharge and incurs economic loss normally compensable under the provisions of H.R. 85, does this legislation intend that a State that has continued to collect taxes or fees to finance a State fund designed to cover expenses and economic loss not covered under the provisions of H.R. 85 have the right to use those State fund moneys to provide intermediate, up front capital to pay for these activities and seek reimbursement from the Fund established under H.R. 85.

Mr. BIAGGI. Nothing in the language or intent of H.R. 85 would prohibit a State from using its fund for the purposes you have inquired about. The purpose of section 110 is simply to preempt double taxation of the substances enumerated in the bill for the purposes of compensation of the covered damage. The situation described in your inquiry is a question of bookkeeping rather than a subject of preemption. The expenditures by a State from its fund are temporary in nature and would be reimbursed and therefore ultimately paid from the Fund established in this legislation. Any damage not reimbursed by the H.R. 85 Fund may similarly be the proper subject of a State fund if a State so chooses to construct its fund. Finally, H.R. 85 is not retroactive in its preemption. The preemption provision will take effect 180 days after the enactment of this bill. Any funds collected or generated by a State fund prior to this date may be spent under the provisions and coverage of the appropriate State guidelines without conflict with H.R. 85.

Mr. FLORIO. Mr. Chairman, I thank the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Chairman, let me state categorically that there is nothing in this bill that affects the uses to which a State may put the existing oilspill fund. H.R. 85 is silent on that subject. Thus a State may, after enactment of this bill, continue to spend its existing funds for any purpose that is lawful under the State law.

If, after enactment of H.R. 85, a State continued to pay oil pollution damage claims from a State fund, that would not be contrary to any provision of H.R. 85. What H.R. 85 does is to prohibit a State from requiring any person to contribute to any fund if the purpose of that fund is to compensate for an oilspill damage claim as defined in title V of the bill. Thus the State cannot receive a fee or a tax on oil if that fee or tax is to go into a fund and the fund is for the purpose of paying oilspill damage claims.

Putting it simply, this is a prohibition against double taxation for the same purposes. It is not a prohibition on the uses that a State may make of its money, nor does it prohibit a State from imposing fees or taxes for other purposes connected with oilspills, such as the purchase of pollution abatement equipment or the hiring or training of personnel for pollution prevention programs.

In summary, Mr. Chairman, this preemption provision is narrow in scope and limited to the particular purpose of preventing double taxation.

Mr. Chairman, I urge enactment of the bill.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, in connection with the colloquy which the gentleman had with the gentleman from New Jersey (Mr. FLORIO), could we carry his question one step further? Let me ask the gentleman this question for clarification:

In the case of revenues already in an existing State fund, will it be possible to use the revenues in that State on an ad hoc or temporary basis to make expenditures for purposes covered by H.R. 85 on a revolving basis, with the State fund being reimbursed from the Federal fund?

Mr. BIAGGI. Mr. Chairman, if I understand the question correctly, the notion is to use the present funds for the purpose of H.R. 85?

Mr. SNYDER. Just for clean-up and on a temporary, ad hoc basis.

Mr. BIAGGI. Yes, that is perfectly permissible, and the State or the trustees of that fund can then come against the fund in H.R. 85.

Mr. SNYDER. Mr. Chairman, I have a number of direct questions for the gentleman from New York with respect to the Federal preemption of certain activities now undertaken or contemplated by the States. My purpose is to get a precise definition of the boundaries of preemption from the standpoint of a State like New Hampshire, which now has an industry-financed revolving fund for response to oilspills and which is likely to establish a similar mechanism for toxic and hazardous substances.

As I understand it, the purpose of the bill's preemption provision is to prevent the States and the Federal Government from imposing a double burden on industry by levying taxes or fees to support funds that finance essentially the same types of activities.

Now, as I mentioned, New Hampshire has an emergency response capability in the case of oilspills financed by a tax on petroleum. And I understand that, once H.R. 85 is enacted, it will no longer be permissible to generate revenue for that fund if those revenues are to be expended for purposes which are compensable under H.R. 85.

My first question is this: In the case of revenues already in this existing State fund, will it be possible to use the revenues in that fund, on an ad hoc or temporary basis, to make expenditures for purposes covered by H.R. 85 on a revolving fund basis—with the State fund reimbursed by the Federal fund? It would appear to me that there would be no duplication there as long as no further levies for such purposes occur after the enactment of H.R. 85.

Mr. BIAGGI. The gentleman is correct. The preemption in this bill applies only to the financing of funds and the purposes for which their revenues are raised subsequent to the enactment of H.R. 85. Existing State funds may continue to be used for any purpose authorized by State law. H.R. 85 does not restrict the manner in which a State may expend any of its funds. It only restricts the raising of funds by a State.

I would only add that we can conceive of many instances in which States will incur costs for activities compensable under this act, use State funds for these purposes, and obtain reimbursement from the fund created by this act. The only effect of the preemption provision in this instance is to prohibit the raising of a State fund created by a tax or fee on oil and operated for the same purposes as H.R. 85 subsequent to enactment of H.R. 85.

Mr. SNYDER. Further with respect to the existing State fund, will it be permissible for the State of New Hampshire to maintain that fund and continue raising revenues for that fund and any purposes other than those covered by H.R. 85? Specifically, I refer to maintenance of a State staff as well as the purpose of prepositioning of equipment and materials for cleanup.

Mr. BIAGGI. The preemption provision in H.R. 85 would not prohibit the maintenance and operation of such a fund as the gentleman mentions for the purposes he cites.

Mr. SNYDER. In fact, cannot the State fund and the revenue system supporting it be maintained and used for any purposes, including compensation of damages, and cleanup for which the fund created by H.R. 85 is not available?

Mr. BIAGGI. Again, I would say to the gentleman that it is not the intent of H.R. 85 to preempt the States from financing by whatever means they choose those activities which are not compensable under H.R. 85.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I am delighted to yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Chairman, I rise in support of the bill. This legislation in various forms has been before the Congress for a number of years. Finally, in this Congress, we have been able to work out a compromise which not only addresses the problems of oilspills and hazardous substance spills in a rational way, but also fairly incorporates the views of the three committees involved.

H.R. 85 was orginally reported by the Committee on Merchant Marine and Fisheries. That committee's version of the bill dealt only with oilspills. Our committee on Public Works and Transportation, to which the bill was jointly referred, added a new title III dealing with spills of hazardous substances. The committee's rationale for doing this was that it was both logical and proper to treat hazardous substances the same as oil in this bill, since the two are treated the same in section 311 of the Federal Water Pollution Control Act which provides for the cleanup of, and liability for, spills.

Titles I and III provided for the collection of fees on petroleum and organic and inorganic feedstocks. These fees were to be deposited in funds which would be available for the cleanup of spills and for the payment of claims for certain economic damages suffered as a result of these spills.

The bill was then sequentially referred to the Committee on Ways and Means because of its revenue raising aspects. This committee provided for the imposition of excise taxes on petroleum and organic and inorganic feed stocks in lieu of fees. It also established two trust funds in the Treasury which are available to pay claims for specified economic damages, including removal costs and other costs associated with the evaluation claims.

The recoverable damages in the Ways and Means' version were not as extensive as in the other two committees' versions. The Ways and Means Committee deleted damages due to the loss of use of real or personal property or natural resources, loss of tax revenues, and loss of profits not associated with the harvesting of marine life. That committee subsequently met a second time and restored damages relating to loss of profits due to injury or destruction of real or personal property or natural resources.

The other two committees agreed with this revised version of the Ways and Means Committee as an acceptable compromise. We then developed the "Breaux substitute" which represents a combination of the three committees' versions of the bill. All three committees have agreed to this and the Rules Committee provided that this substitute would be considered as the original bill for purposes of floor action.

Mr. Chairman, this bill represents a sound approach to the serious problems associated with the cleanup of spills of oil and hazardous substances, the compensation of victims who suffer damages from these spills, and the imposition of liability on those who cause them. The owners and operators of vessels and onshore and offshore facilities are made jointly, severally, and strictly liable for discharges of oil or hazardous substances. They are required to maintain evidence of financial responsibility to cover their liability. Two trust funds are established—one for oil spills and one for hazardous substance spills—which are available to pay cleanup costs and claims for damages. The funds can then recover these costs where the spiller is known and liability can be established.

Legislation such as H.R. 85 has long been needed. It will provide a just mechanism for liability and compensation as well as encouraging the use of greater care in the manufacturing, handling, and transportation of oil and hazardous substances. I strongly urge passage of the bill.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Massachusetts (Mr. STUDDS), a member of the committee.

Mr. STUDDS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of H.R. 85, most particularly the oilspill components thereof.

I just want to take one moment, if I may, to extend my appreciation to the gentleman from New York (Mr. BIAGGI).

It is with some disbelief that I find this oilspill legislation once again before us, with the third consecutive Congress considering this legislation. The Committee on Merchant Marine and Fisheries reported legislation in the 94th Congress, and as the gentleman well knows, not only this House but the other body passed this legislation in the 95th Congress. And we are still here again in a third consecutive Congress attempting finally to get it into law.

It has now been 4 years since the *Argo Merchant* went aground off the shores of Nantucket, and one would have supposed that even this institution would have been able to respond somewhat more expeditiously than we have.

It has been almost 2 years since the *Amoco Cadiz* tragedy decimated the coast of Brittany in northwestern France. The time has long since come for this Congress to act both to provide, as the gentleman has said, an incentive to those who carry oil through the waters to take all such precautions as are humanly possible to avoid those spills and a means that is prompt and equitable to pay those who may be damaged by spills.

I suspect the owners of the *Argo Merchant*, whoever they may be—or whoever owns the owners of the owners, if we can find an answer to that puzzle—

would not have had that ship there in those conditions on the high seas had this bill been law, because had the owner of that vessel known that in the event of catastrophe he faced a very high order of liability, I suspect he would not have had that captain and he would not have had that crew on that ship. He would probably have had a functional gyroscope, and he would have had the right charts in the wheelhouse.

Mr. Chairman, those are the types of precautions one takes when one knows that he faces substantial liability. So it seems to me that this legislation is not only critical but long overdue, and I commend the gentleman from New York (Mr. BIAGGI) for the leadership he has shown.

Mr. Chairman, I rise in strong support of H.R. 85, a bill which I consider to be a landmark in environmental legislation and one which would provide us with some significant new protections against the dangers of an oilspill.

This bill, on which those of us on the Merchant Marine and Fisheries Committee have worked for the past 6 years—and which the Members of this body have enacted twice before—is designed to place the financial responsibility for oilspill incidents where it belongs—on the spiller. By establishing high standards of oil pollution liability, H.R. 85 would create a strong incentive for those transporting, producing, or storing oil to do so in the safest manner possible.

It would also provide those suffering economic damage as a result of an oilspill with a prompt and equitable means of obtaining compensation—a matter of particular importance to commercial fishermen and to persons employed in those tourist-related industries which are most vulnerable to the threat of massive economic damage from an oilspill. Past experience has demonstrated the need to improve the procedures by which these people can be compensated.

Most oilspill damage cases in the past have been settled out of court, apparently due to the reluctance of damaged parties to take on the major oil companies in court. They have instead elected to settle for partial payments of their claims, at a loss of many thousands of dollars.

H.R. 85 would provide oilspill damage claimants an alternative. While preserving the former options, a damaged party could also seek to recover his claim from a specifically created Government fund financed by a small fee on imported and offshore oil. If the claimant's request were judged valid and his claim was paid, the fund would then move against the spiller to recover an equal amount.

At present, international, Federal, and State oilspill liability laws constitute a maze of duplicative and contradictory statutes. However, since H.R. 85 would apply to all the potential sources of oilspills into navigable waters, its enactment would enable us to reduce the scope of an already small oilspill fund set up under the Federal Water Pollution Control Act, allow us to completely eliminate separate similar funds authorized by the Deepwater Port and Trans-Alaska Pipeline Acts, and eliminate the need for a fund to handle spills from offshore oil drilling activities under the Outer Continental Shelf Lands Act amendments.

It would, quite clearly, streamline the bureaucracy which has mushroomed as a result of these less coordinated and often overlapping attempts to deal with oil pollution.

The need for a strong oilspill liability bill is very clear—particularly to those of us from the coastal regions of this country whose memories of incidents like the *Argo Merchant* oilspill off New England 4 years ago are still quite vivid. As you know, Mr. Speaker, we in the House have gone on record on two previous occasions in support of legislation very similar to the one we are now considering. Unfortunately, because of stubborn opposition on the part of some—but by no means all—of the oil industry, and because of jurisdictional difficulties among the congressional committees involved—particularly those on the other side of the Hill—the last two Congresses have failed to enact this measure into law.

Our failure to do so despite the stern warnings provided by incidents like the *Argo Merchant* is inexcusable and has constituted one of the most frustrating experiences of my career.

As a result, we have had to bear the responsibility for continuing the current legal framework for oilspill liability, a framework full of conflicts and loopholes large enough to steer a Liberian tanker through; for allowing second-rate oil carrying vessels to continue to escape full legal responsibility for the damages they cause; for forcing communities and individual citizens injured by oil pollution to resort to difficult, expensive court fights against some of the largest corporations in the world; and for failing to provide damaged parties, particularly fishermen and those dependent on the tourist industry—like the residents of Brittany following the wreck of the *Amoco Cadiz*—with any fair and prompt legal recourse.

Let us correct this situation, Mr. Speaker, and protect the American people against the threat of devastating oilspills. I urge my colleagues to cast their vote in support of H.R. 85.

Mr. BIAGGI. Mr. Chairman, I thank the gentleman from Massachusetts (Mr. STUDDS).

Mr. Chairman, I would like to take this opportunity to acknowledge the contribution of all the members of the Subcommittee on the Coast Guard who labored long and hard over the years to bring this product to us for consideration on the House floor.

I might also add that this has been a total bipartisan effort. At no time were there any partisan considerations. The objective was sighted, and we pursued it.

I cannot thank the members of that subcommittee sufficiently for their patience and for their generous contributions. I give special thanks to the gentleman from Massachusetts (Mr. STUDDS), the gentleman from Kentucky (Mr. SNYDER), the gentleman from Louisiana (Mr. BREAUX), and the gentleman from California (Mr. MCCLOSKEY), along with a host of other Members, as the record will reveal.

The important point I wish to make is that this has been and is a total bipartisan effort, and I regret some of the comments that were made early on this evening.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Chair now recognizes the gentleman from Kentucky (Mr. SNYDER).

Mr. SNYDER. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Chairman, I am pleased to rise in strong support of H.R. 85, the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act. This legislation—which many refer to as one of the "superfund" bills—is part of what I believe history will consider the most significant environmental legislation developed by this 96th Congress, and, possibly, by any recent Congress.

As many of you know, the road has been a tortuous one. In the past 18 months, four House committees—Merchant Marine and Fisheries, Public Works and Transportation, Ways and Means, and Rules—have considered this bill and debated its thorny issues. A fifth committee—Interstate and Foreign Commerce—has also dealt with many of the same issues in H.R. 7020, the superfund bill which follows this one and which deals with dumpsites discharging hazardous substances, except into navigable waters. There have been differences, both within and among all five committees, concerning the best way to address these issues. All of the committees have prevailed on some matters and given way on others.

But most importantly, Mr. Chairman, I believe that all five committees are to be congratulated on the thorough and cooperative actions all have taken thus far to bring this legislation before us today. In our Public Works Committee, Chairman BIZZ JOHNSON and our ranking member, BILL HARSHA, as well as Chairman RAY ROBERTS of the Subcommittee on Water Resources, have once again provided the kind of encouragement and superb leadership that is essential with respect to major legislation such as this.

Special recognition should also go to the gentleman from Kentucky (Mr. SNYDER) and the gentleman from Louisiana (Mr. BREAUX), both of whom serve on Public Works and Merchant Marine Committees which have been working on this legislation for three consecutive Congresses and both of whom were especially instrumental in shaping this legislation and shepherding its way to the floor.

Mr. Chairman, we have come a long way since the first session of the 94th Congress when the then-President Gerald R. Ford requested submission of H.R. 9242, the Comprehensive Oil Pollution Liability and Compensation Act of 1975. Numerous days of hearings, debate, and markup have been held. In the 95th Congress, H.R. 6803—a successor bill to H.R. 9242 and a predecessor to the legislation before us today—was passed by the House on two separate occasions, the first, a recorded vote of 332 to 59.

On that occasion, almost exactly 3 years ago, I stood before you and urged enactment of what then was a bill dealing only with oil pollution. I stated that this bill "has the effect of replacing or coordinating a number of existing State laws, increasing overall the individual liability of parties responsible for oil spills, broadening the legal grounds for claiming damage, and extending the principle that oil-handling companies which create the danger of spills bear the responsibility for (resultant) damages."

The same statement still applies to H.R. 85, but the bill now also covers what many believe is a far more insidious problem—discharges into our Nation's water supplies of hazardous substances.

We bring the bill to the House floor in its present form—with hazardous substance incidents included—after long and thorough deliberation on this issue. In the 95th Congress, disagreement over inclusion of hazardous substances was one of the two key problems which could not be resolved between the House and Senate, causing the demise of that session's superfund legislation. The House position was that hazardous substances should not be included in the legislation and, at the same time, I believe that was the most reasonable and responsible position to take. Final regulations covering hazardous substances under section 311 of the Federal Water Pollution Control Act were not published until May 1978 and most of those were made nonimplementable by an industry lawsuit. No mandatory spill reporting requirements for hazardous substances were in effect. Very little data existed to justify including hazardous substances discharges in the bill's coverage.

However, since that time, there have been a number of occurrences that have persuaded the committees which have reported H.R. 85 to include hazardous substances.

The problem of Love Canal, of course, is well known to all of you, and I do not have to go into the details of how unfortunate that situation is. There is one aspect about it, however, that is positive. Publicity surrounding that incident has increasingly made us aware that Love Canal is not only a problem in its own right but it foreshadows other major problems to come. Whether there are as many as 2,000 potential "Love Canals," as a study commissioned by the Environmental Protection Agency concluded last year, or closer to 400, as the Chemical Manufacturers Association has stated, the real problem is a most serious one that cannot be permitted to go unaddressed any longer.

A second significant development was the publication in final form a little more than a year ago of section 311's hazardous substances reporting regulations. Prior to this, there were no mandatory regulations under the Clean Water Act requirements that discharges of hazardous substances be reported. Data on hazardous discharges were available only because some had been reported voluntarily, either to the Department of Transportation or to EPA. Now, however, we have almost a year's worth of data generated under mandatory reporting regulations and, as a result, we have a much better picture of how serious the problem of hazardous substance discharges is.

A third major factor arose out of the first round of hearings on H.R. 85 that our Subcommittee on Water Resources held last September. In those hearings EPA testified that their analysis of voluntary reported data indicated that there are about 3,500 significant chemical spills annually, about half of which reach navigable waters.

The Chemical Manufacturers Association, on the other hand, testified that CMA's examination of EPA's records showed that during calendar year 1978 only 60 hazardous chemical spills were reported to EPA. After the hearing, presumably at least partly because of the differences in testimony, EPA, using contract personnel, conducted a survey of all hazardous material incidents reported voluntarily to EPA during fiscal years 1978 and 1979. In addition, EPA subsequently again surveyed its regional offices and developed comparable data for the first 6 months of fiscal year 1980. The results of the two survey's appear to conclusively refute CMA's earlier statement about EPA's lack of data.

During the 2½ years from October 1978 to April 1980, 4,257 discharges of substances other than oil were reported to EPA. Of those, 2,225 are believed to involve substances now designated as hazardous under section 311. In 1978, 554 spills of designated hazardous substances were reported; in 1979, the figure was 855; and for the first 6 months of 1980, it was 811, which would indicate a full-year total of 1,622. As you can see, analysis of the data on an annual basis demonstrates a strong upward trend.

To further indicate the seriousness of the societal problem posed by discharges of hazardous substances, Administrator Doug Costle called our attention to the fact that a similar pattern had been noted in the past with respect to oil spills. Following promulgation of the reporting requirements for oilspills in 1970, by 1973 there had been more than a threefold increase in the number of spills reported. If a similar increase occurs for hazardous substances, as many as 5,000 to 6,000 reports of hazardous substances spills can be expected annually by 1983.

Mr. Chairman, I would like to insert in the record at this point a copy of a letter I received from Swep Davis, EPA's Associate Assistant Administrator for the Office of Water and Waste Management.

U.S. ENVIRONMENTAL
PROTECTION AGENCY,
Washington, D.C.

Hon. DON H. CLAUSEN,
House of Representatives,
Washington, D.C.

DEAR MR. CLAUSEN: In response to the requests you made during and subsequent to EPA Administrator Douglas M. Costle's April 17 testimony before the Water Resources Subcommittee, we would like to provide for the record additional materials relating to hazardous substance spills.

The point we wish to make, using the Hazardous Materials Incidents Report and other documentation, is that spills of hazardous substances occur with alarming frequency and consequences. While one may quarrel with the exact numbers, and the specific characterizations of the spill reports collected by our Regions, the fact that releases or threats of releases of hazardous substances into navigable waters do occur in substantial numbers, risking human health and the environment, is adequate justification for expanding H.R. 85 at this time to include hazardous substance spills into navigable waters.

To put the Report itself into proper perspective, it is essential to realize that the spills and threats of spills it documents occurred before the mandatory reporting requirement went into effect in September 1979. These spills were reported to us voluntarily. Thus, the Report does not have the kind of hard, standardized data which will be forthcoming now that the reporting system is in effect.

However, even if, as the Chemical Manufacturers Association asserts, only 29 percent of these spills were "potentially serious" (948 of the 3,076 spills reported), this number is cause for concern and prompt action by Congress. This is particularly so because 1) the spills voluntarily reported to EPA are by no means all those which occurred during the 2-year period covered by the Report; 2) based on experience with oil, we expect reporting hazardous substances to increase threefold during the 1980–1983 period; and 3) only 1 percent of oilspills are classified by the Coast Guard as "major" (over 10,000 gallons in inland waters, over 100,000 gallons in coastal waters) as contrasted to the 29 percent under CMA's own analysis for hazardous substances.

Examples of the kind of incident we consider serious, and for which expanded funding is necessary, include Love Canal, Valley of the Drums, Pittston, and Hagerstown, which have been described to you in our various statements.

Additionally, we received 811 reports between October 1979 and April 1, 1980. During this period the Section 311(k) fund was used in 20 cases: EPA went on scene to observe or supervise response in approximately 121 additional situations involving designated substances, which the Agency also considers serious. This does not include those cases where the Coast Guard responded.

Attached are further materials documenting actions EPA has taken under Sec. 311, and other cases we would classify as "serious." We are in the process of polling the Regions now to further document recent 311 actions, and will provide this information as it becomes available.

We believe therefore that Congress is justified in expanding available resources to provide for emergency response, clean-up and third party compensation for such releases. The 311(k) fund which is activated only where the responsible party is unwilling or unable to take appropriate action will be exhausted within a matter of weeks. The depletion of this fund is clear indication that the need for an adequate and assured funding source is here now, and that there is not adequate response and clean-up by responsible parties.

We respectfully request the Committee to focus your attention on the major incidents as justification for expanding upon the ongoing Sec. 311 program for Hazardous substances, as you would for oil spills under H.R. 85.

Sincerely,

SWEP T. DAVIS,
Associate Assistant Administrator,
Office of Water and Waste Management.

A fourth factor is related to the third. In addition to the Environmental Protection Agency, the Coast Guard also receives reports of hazardous substances spills into navigable waters. We have been told that, in the past, very little of the discharge data reported to EPA has also been reported to the Coast Guard, and vice verse.

Thus, if this is true—and we have seen nothing to indicate that it is not—most of the spills of hazardous substances that are reflected in Coast Guard data should be added to EPA's data in order to get a more complete picture of the extent of the hazardous spill problem.

Two years ago, there was not as much Coast Guard data available as there is today on hazardous spills. Today we know that there were 347 actual or potential spills of section 331 hazardous substances reported to the Coast Guard in 1977 and 308 in 1978. The total volume of materials involved in those reports was more than 12½ million gallons of liquid substances and more than 3 million pounds of dry bulk designated hazardous substances. When this data was combined with EPA's discharge data, it became even more evident that H.R. 85 should address hazardous substances incidents and not just be limited to oilspills.

Mr. Chairman, I could go on. I could discuss the "Report of the Interagency Task Force on Compensation and Liability for Releases of Hazardous Substances," which was published in June of 1979 under the auspices of the Department of Justice.

We could review the conclusions of the report, "Compensation for Victims of Water Pollution," which was prepared last year for the Committee on Public Works and Transportation by the Congressional Research Service.

We could go into the details surrounding incidents like the Maria Costa pesticide incident in Norfolk; the derailment near Point Pleasant, W. Va., of a train carrying epichlorohydrin; the chlorine gas incident near Youngstown, Fla., that killed 8 people, seriously injured 45 and hospitalized 200; the Chem Control explosion and fire along the banks of the Elizabeth River in Elizabeth, N.J.; the Pollution Abatement Services incident in Oswego, N.Y., requiring the expenditure of $2 million in State and Federal funds so far: 23 other uncontrolled waste site incidents costing the Federal Government more than $5 million in section 311 moneys as of August 26 of this year; the 12 Clean Water Act lawsuits filed in the Federal District Courts as part of the administration's Hazardous Waste Enforcement Task Force efforts; and, just a few weeks ago, the pentachlorophenol (PCP) spill near New Orleans.

The list of other incidents, and other reports, and other studies—all of which have occurred in the past 2 years—could probably consume what little time remains to debate this bill. Suffice it to say that, when we in the Public Works Committee decided to add hazardous substances to H.R. 85, we did it after a great deal of thought and consideration of the facts as we knew them. We acted in the face of substantial chemical industry pressure not to add hazardous substances.

And I am convinced, Mr. Chairman, that we acted wisely and well when we took the action we did. I also predict that before too long the more moderate and reasonable voices in industry, that up until now have been kept in the background, will succeed in convincing their more strident brethren that this legislation is ultimately in their own best interests as well as in the best interests of the general public.

I would like to go on to discuss some of the specifics of H.R. 85's provisions, what it hopes to accomplish, and how; but I know others have spoken on these matters and still others plan to discuss them further, so I will defer to them in the interests of time. Let me just conclude with one thought that, perhaps more than any other, expresses why enactment of H.R. 85 is so important and should be supported.

Mr. Chairman, one of my favorite quotations is—

> We do not inherit the Earth from our fathers, we borrow it from our children.

When we are trying to make the tough choices that face us on this and other legislation, I believe we would all do well to keep this thought in mind. And with that, Mr. Chairman, I am proud to be able to urge all of our colleagues here today to join me in passing this major environmental legislation.

☐ 2050

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from New York.

Mr. BIAGGI. I thank the gentleman for yielding.

Mr. Chairman, I would like to take this opportunity to acknowledge the cooperation we have received from the subcommittee chairman of the Public Works Committee, the gentleman from Texas (Mr. Roberts). He has exemplified the best of legislative characteristics. He knew the problems. He was most cooperative and dealt practically with the problems, did not engage in any esoteric undertakings. He knew exactly what the objective was and recognized all of the obstacles and met them head on.

The cooperation we have received between the Public Works Subcommittee and our committee has been just a wonderful relationship. Even in this closing congressional session, where the Ways and Means Committee came into the picture, I believe, after considerable debate and tugging and pulling, they recognized what had to be done, and the chairman, the gentleman from Oregon (Mr. Ullman), is to be commended and we are thankful for the contribution of their staffs and the members involved.

Mr. CLAUSEN. I thoroughly concur in the gentleman's statement, and I thank him for his addition.

Mr. SNYDER. Mr. Chairman, I yield myself such time as I may consume.

Mr. LIVINGSTON. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Chairman, I rise in strong support of H.R. 85, the superfund bill which addresses the problem of actual or threatened discharges of oil and designated hazardous substances.

At the outset, I would like to join in the remarks of previous speakers who acknowledged the outstanding leadership that has been demonstrated in connection with this legislation by the senior members of the Merchant Marine, Public Works, and Ways and Means Committees. From my perspective, this sense of direction and willingness to tackle really tough issues in the face of great pressure to act otherwise has been especially evident in the Public Works Committee.

Without the leadership of the chairman of the committee (Mr. Johnson) and its ranking member (Mr. Harsha), the chairman of the Water Resources Subcommittee (Mr. Roberts) and its ranking member (Mr. Clausen), and the fine bipartisan efforts of my colleague from Louisiana (Mr. Breaux), and the gentleman from Kentucky (Mr. Snyder), this legislation would probably not be before us today. A great deal of recognition and thanks belong to these outstanding public servants, and I would just like to add my voice to the others that have been raised this morning in appreciation of their efforts.

Mr. Chairman, a number of thoughts have been offered thus far in explanation of H.R. 85 and, as one who has dealt with this legislation for two consecutive Congresses and who has participated in numerous days of related hearings and markup sessions, I would just like to add a few more remarks. I will try to focus on why the members of the committees which have dealt with this legislation believe it is so important and also on a brief discussion of some of the bill's more significant provisions.

The problem of oil spills is well known to this body, and I will not dwell on it. Suffice it to say that, during the past 5 years. there has been an average of about 11,000 oil spills per year from all sources in the United States, with an average of 17 million gallons being spilled per year. And, in many respects, the problem seems to be getting worse, not better. More oil was spilled in 1978 from tankers, for instance, than had ever been the case in prior years. It took only 7 months in 1979 for that record to be exceeded, according to the Tanker Advisory Center in New York. The superfund legislation before us today in H.R. 85 will provide a much-needed mechanism to allocate the risks of damages resulting from most of these kinds of spills between potential spillers and others who benefit from the transportation and handling of this oil.

With respect to hazardous substances, our ranking minority member of the Water Resources Subcommittee (Mr. Clausen), who has been so instrumental in advancing this legislation, has already discussed a number of factors that persuaded committee members to include hazardous substances discharges in H.R. 85's coverage. Let me just expand on his remarks a little.

The use of chemicals in the 20th century has become so widespread that it can be said that their presence is ubiquitous. For all the advantages that chemicals have given society—and these advantages have been overwhelming—there have also been disadvantages which have proven striking. In fact, we are only recently beginning to realize how extensive these disadvantages are and how much industrialized societies like ours need to develop remedial measures to respond to the more serious problems chemicals pose to the environment and public health.

Mr. Chairman, I must point out that I speak with as much experience in this area as anyone in this House; since on July 22 of this year, my district suffered one of the most potentially dangerous chemical spills in history.

I will elaborate on the details of this bill later on, for I have offered an amendment to this bill, which will call for a detailed discussion of this matter at the proper time.

Suffice it to say that through no fault of their own, hundreds of fishermen, as well as wholesalers and retailers in the fishing industry, and many people in the Louisiana maritime industry were adversely impacted when this spill occurred. Under existing law, they have virtually no viable recourse, but had this very same bill, which passed the Public Works Committee in May, been signed into law at that time of the spill, they would have had some redress for their injuries.

Ours is not the only Nation faced with this enormous task. Unintended adverse impacts associated with the use of chemicals and hazardous substance are faced by virtually every industrialized nation in the world. As these nations move to implement their respective national programs, I believe they should attempt to address the same two major goals that we on the Public Works Committee attempted to incorporate in adding title III to H.R. 85: First, protection of public health and the environment; and second, recognition that economic impacts associated with hazardous substances legislation should not unduly impede or create unnecessary economic barriers to technological innovation and substitution of hazardous substances with materials that are less ecologically threatening.

Since the Public Works Committee added hazardous substances discharges to the bill in May of this year, a number of encouraging and, I believe, ratifying developments have taken place.

In June the National Advisory Committee on Oceans and Atmosphere, in its ninth annual report, strongly urged Congress to enact H.R. 85, as reported by the Public Works and Transportation Committee, with both oil and hazardous substances regimes included.

Also in June, a Harris Survey poll indicated that Americans clearly want remedial action taken with respect to toxic contamination. The poll concluded, among other things, that an 86 to 11 percent majority nationwide favors "giving this problem of toxic chemical dumps and spills a very high priority for Federal action." More recently, the National Governors' Association, August 5, approved a new policy endorsing enactment of legislation to provide broad coverage for responding to hazardous substances spills as well as releases from abandoned hazardous waste disposal sites.

Mr. Chairman, as each day passes, more and more people are coming to appreciate the wisdom of Public Works' action in adding hazardous substances spills to H.R. 85, and I am proud to have been a part of that process.

Let me now briefly address some of the more significant provisions of the bill. As has already been described, H.R. 85 establishes two funds for cleaning up and compensating certain victims of discharges of oil and designated hazardous substances. The funds will be financed through excise taxes of 1.3 cents per barrel on crude oil and petroleum products received at U.S. ports or refineries, in the case of the oil fund, and of $1.18 per ton on petrochemical feedstocks and 31 cents per ton on various inorganic chemicals, in the case of the hazardous substances fund.

The fundamental purposes underlying creation of both funds are twofold: to insure that sufficient financial resources are available for the Government to be able to move immediately to contain and clean up oil or designated hazardous substance discharges and, second, to provide greater assurance that those suffering defined economic damages resulting from such discharges will be adequately compensated for those damages.

With respect to the first purpose, I would like to focus just for a minute on the concept of immediate response. There is no question that this bill anticipates and, in fact, attempts to encourage, those responsible for actual or threatened discharges of oil and hazardous substances to act in the first instance to immediately clean up those discharges.

At the same time it is also intended that the Federal Government, most probably in the person of the Environmental Protection Agency and the Coast Guard, have immediate access to both funds' resources to respond where necessary without delay to incidents covered by the bill. Thus, section 102(b) of the Breaux substitute provides that—

> In addition to the processing and settlement of claims under section 107, the (oil) fund is immediately available to pay those removal costs defined in section 101(bb)(1) arising out of or directly resulting from an oil pollution incident.

The same result is intended with respect to hazardous substances incidents under title III and is accomplished through language already in effect in section 311(c)(1) of the Federal Water Pollution Control Act and which is consciously left unchanged by H.R. 85.

That language provides that—

> Whenever any oil or a hazardous substance is discharged, or there is a substantial threat of such discharge . . . the President is authorized to remove or arrange for the removal of such oil or substance at any time, unless he determines such removal will be done properly by the owner or operator of the vessel, onshore facility, or offshore facility from which the discharge occurs.

While it could be argued that because title I's section 102(b) language specifically speaks in terms of immediate fund availability and title III contains no such language, and because both oil and hazardous substances are covered under FWPCA's section 311(c)(1) unchanged language, the words "at any time" are somehow meant to exclude immediate response authority with respect to hazardous substances incidents. Such an argument would clearly be erroneous as it is and always has been the intention that both funds are to be immediately accessible to Federal response efforts where such immediate response efforts are deemed to be in the public interest.

Mr. Chairman, I would also like to briefly explain the preemption provisions of the bill. As others have mentioned before me, H.R. 85 preempts in both titles I and III State laws and funds that are duplicative of what is provided under H.R. 85. Both sections 110 and 302 of H.R. 85 contain the following identical preemption language:

> Except as provided in this title—no action may be brought in any court of the United States, or of any State or political subdivision thereof, for damages for an economic loss . . . , a claim for which may be asserted under this title . . .

The basic tenet underlying these provisions is that duplicative and conflicting statutory schemes are inefficient and burdensome and that transporters, especially, may be particularly disadvantaged by a proliferating variety of State and Federal requirements. Thus, we have provided that damages for the types of losses defined as compensable damages in the bill are the only types of damages for which claims can be asserted under this bill. Recoveries for such damages can only be recovered, either from H.R. 85's fund or in Federal court, under this bill. This is not to say that all other possibly related State laws are being preempted. Such is not the case. Damages for other types of losses may be sought through means outside this bill, including through State courts.

For instance, if a State wishes to continue or create a cause of action, either statutorily or pursuant to common law, providing damages for personal injuries resulting from oil or hazadous substances pollution, it would be free to do so. If a State wishes to do the same with respect to the three categories of claims that were in the bill as reported by the Public Works Committee but are not in the Breaux substitute before us now, it would be free to do so.

With respect to hazardous substances, if a State wishes to continue or create a cause of action for damages caused by hazardous substances other than those designated as such pursuant to the Federal Water Pollution Control Act, it would not be precluded from doing so by this bill, even where the damages compensable under the State law were the same four categories of damages included in H.R. 85.

If a State wishes to create or continue a cause of action for discharges of any oil or any hazardous substance, even designated hazardous substances, which discharge is unconnected to navigable waters, it again is not prevented from doing so by the language of H.R. 85's preemption provisions.

Concerning the creation of State funds, Mr. Chairman, H.R. 85 takes a similar approach. Both section 110, with respect to oil, and section 302, with respect to designated hazardous substances, provide that "no person may be required to contribute to any fund, the purpose of which is to compensate for a loss, which is compensable under title V * * * to establish or maintain evidence of financial responsibility relating to the satisfaction of a claim for such a loss."

Under both titles I and III, then, the purpose of each of the funds established by H.R. 85 is to compensate those who incur one or more of the bill's defined compensable damages and who have not otherwise been fully compensated. No one may be required to contribute to any other fund which has that same purpose and such duplicative funds are preempted by the above quoted language of sections 110 and 302.

However, other funds are not preempted and this bill does not preclude States from requiring persons to contribute to such funds. If for example a State desires to establish a fund to cover any or all of the causes of action or damages which I just described are not preempted by H.R. 85 and if that State desires to require certain persons to contribute to that fund's financing nothing in this bill—in its "Breaux substitute" form—prevents a State from so acting. This bill does not totally preempt the field; it only preempts State and local enactment which would duplicate the purpose of the funds established in H.R. 85.

Mr. Chairman, there is only one other item that I would like to call to the attention of our colleagues here on the House floor. The State of Florida requires a water quality certificate to be obtained before maintenance dredging could be performed on inland waterways. Earlier this year, the Corps of Engineers applied for a water quality certificate to maintain water dredging in the gulf waterways. The State review extended beyond the period in which the corps could perform dredging to maintain standard project depths. Realizing this problem, the corps issued a navigation notice on February 8, warning that four locations on the GIWW, Gulf Intercoastal Waterway, were below standard project depths and that same day, February 8, the grounding and subsequent oilspill occurred at one of the shallow points.

I have a concern that accidents like that which occurred in Florida will occur continually if Government does not feel constrained to approve actions within a reasonable time that insures safe inland waterways.

Under H.R. 85, an owner or operator, unless he is guilty of gross negligence or willful misconduct on safety regulations, is not liable for damages caused by a spill to the extent that discharge or spill is caused by the actions of a third party.

In this instance, such as took place earlier in Florida, the discharge might not be deemed the fault of the individual carrier and the State of Florida could be found to be at blame and, to that extent, the discharger would not be held liable.

Mr. Chairman, I have consumed more than my share of time. Allow me, if you will, to close by quoting some language contained in the recently released work, "The Global 2000 Report to the President," which speaks to the issue of toxic pollution of the world's water supplies.

> Global society is currently in a reactionary mode in its dealings with the marine environment: Problems develop, and society reacts—after a time. Considering the magnitude of the short- and long-term problems to be faced, a determined shift to a more anticipatory mode is now appropriate. Although dead or dying global oceans will not be in evidence by the year 2000, what happens over the next two decades will be a major determinant of the health and productivity of the marine environment in the 21st century.

I cannot think of a better reason why we should act today to pass H.R. 85 than the need to get out of this "reactionary mode" and I am proud to urge all of my colleagues here today to join me in supporting H.R. 85.

Mr. SNYDER. Mr. Chairman, I came down to the well for my remarks. I hope the gentleman from Tennessee is still here. I wanted him to see the partisanship that exists in this. It just does not. There was no justification whatsoever for the unjustified tirade that he unleashed. It is the first evidence of partisanship that has been shown about this legislation by the Merchant Marine and Fisheries Committee or the Public Works Committee or the Ways and Means Committee, by either side, one way or the other.

I want to thank the gentleman from New York (Mr. BIAGGI) for making that so very eminently clear, and I hope the gentleman from Tennessee is around here or watching the monitor, because he needs to be straightened out on this. That is the first evidence of partisanship that has been shown about this bill.

Mr. Chairman, I rise in support of H.R. 85, the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act. This bill represents over 6 years of effort to address an increasingly serious and complex environmental problem. The dependence of our society on imported oil and the remarkable advances in the quality of life attributable to the chemical revolution have created problems which necessitate a new approach to cleaning up of oil and hazardous substances pollution of our Nation's waters and assuring that the victims of these events are compensated. H.R. 85 embodies this needed change.

Mr. Chairman, I have the honor to represent today the minority members of both the Committees on Public Works and Transportation and Merchant Marine and Fisheries. These two committees have joint jurisdiction over titles I and II, which deal with oil pollution legislation, and Public Works has exclusive jurisdiction over title III which address hazardous substances issues and also added title IV, congressional review of agency regulations to the bill. Title V, which establishes trust funds for the oil and hazardous substances programs established by titles I and II, is the exclusive jurisdiction of the Committee on Ways and Means. My statement on titles I and II addresses the intent of both committees, from the perspective of the minority.

The fact that these committees have been able to reach agreement on this important legislative initiative, as incorporated in the Breaux substitute, indicates the bipartisan nature of this legislation. I would like to compliment the leadership of these committees for their ability to bring this bill to the floor without any jurisdictional conflict.

Mr. Chairman, if H.R. 85, as amended by the Breaux substitute, is passed today this will be the second Congress in which the House has approved a comprehensive approach to oil pollution liability and compensation. In the 95th Congress we passed a simliar bill, H.R. 6803, but final enactment was not possible. Since that time we have been apprised of a growing and serious problem. Virtually every evening we see chronicled by the media some hazardous pollution issue in such areas as Love Canal, N.Y.; Valley of the Drums, Ky.; Pittston, Pennsylvania; et cetera. The bill before you today will help address these issues.

H.R. 85 was reported from the Committee on Merchant Marine and Fisheries on May 15, 1979, as an oil only superfund. Following that action, the administration forwarded to Congress in June 1979 a proposal to establish a $1.6 billion program for cleanup and compensation for pollution events resulting from spills of oil or hazardous substances, and threats posed by chemical dump sites. Members of the Committee on Public Works and Transportation visited the Love Canal, N.Y., dump site and conducted hearings in Washington last fall and this spring and field hearings in Alma, Mich. As a result, the bill has been amended by the Committee on Public Works and Transportation to add a comprehensive hazardous substance pollution liability and compensation program and two funds, now financed by taxes as the result of Ways and Means Committee action on oil (1.3 cents per barrel) and specified petrochemical feedstocks ($1.18 per ton) and specified inorganic substances (31 cents a ton) to implement the legislation. The Committees on Interstate and Foreign Commerce and Ways and Means developed legislation to address other hazardous waste containment problems and that legislation will be before the House immediately following consideration of H.R. 85.

H.R. 85 represents a reasoned approach to the problems of oil and chemical pollution of our environment. I find it interesting that when I read of opposition to either of these initiatives, that opposition is usually based not upon what is contained in these bills, but rather, what the Senate proposes and the fear that the Senate view will prevail. While I recognize the legitimacy of some of these concerns, I must say to my colleagues that the legislation before them today is reasonable and can be supported in good conscience by all Members and it is my belief that the final product sent to the President will be a legislative initiative which reflects commonsense as well as sound environmental protection.

Mr. Chairman, H.R. 85 is a very necessary bill. Existing law—State and Federal—has proven inadequate to handle claims arising from oil spills. Recovery under common law, usually under rules of negligence has proved extremely difficult. Claimants have had to identify a spiller and have the burden of proving that the spiller failed to exercise reasonable care to prevent that spill. Second, under certain circumstances a vessel owner has been able to limit his liability to the value of a vessel and its cargo after the incident. This value may often be little or nothing in a case where a vessel is destroyed and the cargo lost. Numerous initiatives such as the Federal Water Pollution Control Act, the Trans-Alaska Pipeline Authorization Act, Deepwater Port Act, and the Outer Continental Shelf Lands Act attempt to address this problem but are limited in scope and have resulted in a mish-mash with some provisions in conflict with others.

Also, they do not cover all situations necessary to provide for liability and compensation. Comprehensive oilspill liability legislation has been considered a necessity since the 94th Congress. Incidents involving the breakup of the *Argo Merchant*, and the grounding of the *Amoco Cadiz* and the Campeche oil well blowout highlight and underscore the pressing need for this legislation. These incidents demonstrate the potential for extensive damage to real property, personal property, and natural resources. In the 95th Congress we enacted the Port and Tanker Safety Act of 1978, which took steps to prevent oilspills. Now this legislation, H.R. 85, takes an additional step to facilitate cleanup and provide for the damaged party who may have been innocently victimized by oil or hazardous substances pollution.

H.R. 85 consolidates these various provisions into a uniform scheme of liability and compensation and I would like to discuss some of these provisions for the benefit of the Members.

TITLE I—OIL POLLUTION LIABILITY AND COMPENSATION

The bill makes the owners or operators of the sources of oil discharges strictly liable for cleanup costs and damages. However, the bill recognizes that limitation of liability should be provided to owners or operators who are in effect "innocent of any personal faults."

Basically, the amounts to which an owner or operator may limit his liability depends on whether the source is an offshore facility, with a limitation of removal costs plus $50 million; an onshore facility with a limitation of $50 million or such lesser limit as is established by the Secretary of Transportation; a ship, with a limitation of $250,000 or $300 per gross ton—up to a maximum of $30 million—whichever is greater; a vessel which has a limitation of $150 per gross ton; or an inland oil barge which has a limitation of $150 per gross ton, up to a maximum of $150,000.

I would point out that H.R. 85 makes a distinction between a "ship," a "vessel" and an "inland oil barge." Section 101(e) defines the term vessel as follows:

> "Vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water; . . .

Similarly, section 101(g) defines the term ship as follows:

> "Ship" means either of the following types of vessels carrying oil in bulk as cargo or in residue: (1) a self propelled vessel, or (2) a non-self propelled vessel other than an inland oil barge; . . .

Section 101(h) defines inland oil barge as follows:

> "Inland oil barge" means a non-self propelled vessel carrying oil in bulk as cargo and certificated to operate only on the internal waters of the United States while operating in such waters; . . .

These distinctions are intended to recognize that these vessels, ships or inland oil barges pose a different degree of threat of pollution to the navigable waters of the United States.

The bill provides that the owner or operator will incur no liability to the extent that the incident is caused by an act of war or insurrection; a natural phenomenon of an exceptional, inevitable, and irrestible character, which could not have been prevented or avoided by the exercise of due care or foresight; to the extent that the incident is caused by an act or omission of a person other than—the claimant, the owner or operator, an employee or agent of the claimant, the owner, or the operator, or one whose act or omission occurs in connection with a contractual relationship with the claimant, the owner, or the operator; or the gross negligence or willful misconduct of the claimant.

To insure compensation by the spiller, the bill requires owners or operators to establish and maintain evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which they would be exposed in a case where they would be entitled to claim a limitation of liability.

Evidence of financial responsibility may be established by evidence of insurance, guarantee, surety bond, or qualification as a self-insurer. In cases where an owner or an operator owns, operates, or charters more than one vessel, evidence of financial responsibility need be established only to meet the maximum liability applicable to the largest of such vessels.

The bill allows compensation for damages arising from a spill. The damages for which a claim may be presented to the fund include the following:

First: Removal costs which are defined by section 101(bb);

Second: Injury to or destruction of real or personal property which includes expenditure for repair, replacement or restoration of damaged property;

Third: Injury to, or destruction of, natural resources as defined by section 101(aa);

Fourth: Loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources to the extent that such damages were sustained during the 2-year period beginning on the date the claimant first suffered such loss.

A procedure is established for processing claims. Basically, the primary response to a claim should be from the owner or operator of the source of the spill. If the spiller fails to provide prompt settlement, the claimant may either proceed against the spiller in court or file his claim with the fund, however, the decision is irrevocable. Where the fund fails to settle the claim promptly, the claimant may submit his dispute to the Secretary of Transportation for adjudication, or, in certain cases may proceed directly in court against the fund.

The bill contains a preemption section to prevent duplicate sources of compensation for damages covered by the bill. It provides that no action may be brought in a State or local court for damages covered by the bill. Also, no one can be required: First, to contribute to a State fund to pay compensation for losses covered in the bill; or, second, to maintain evidence of financial responsibility relating to the satisfaction of a claim for such losses. The bill does not, however, preclude a State from creating a fund to purchase pollution abatement equipment or hire a professional and support staff, or a fund for the prevention, detection, or observation of oil pollution such as environmental monitoring or research programs. A State may compel payment of a tax or fee to finance such a fund.

Mr. Chairman, at the appropriate time the gentleman from New York (Mr. BIAGGI) will offer an amendment on behalf of the committees to address issues which have arisen since H.R. 85 was considered. These provisions clarify that a guarantor's liability is limited to that for which he certifies financial responsibility, as long as he acts in good faith; the amendment also deletes the reference to the Canal Zone since the implementation of the Panama Canal Treaty vacates the application of this statute to the Canal Zone; and the final provision allows a leasehold owner to indemnify an owner or operator of a facility, such as a drilling rig, which is operating on the leasehold. The amendment also enables the owner of a leasehold to satisfy the financial responsibility requirements of the act for all facilities on the leasehold by filing one certificate of responsibility for the leasehold as opposed filing one for each facility on the leasehold.

TITLE II—CONFORMING AMENDMENTS

Title II sets forth the effective dates for implementing the provisions of the act, the integration of other Federal statutes dealing with oilspill liability and compensation, and certain conforming amendments. The variety of Federal liability and compensation schemes and procedures which are now in existence in various statutes would be replaced by this legislation, providing for a comprehensive approach to oilspill liability and compensation.

At the appropriate time, an amendment will be offered to title II to clarify the procedure for disposing of funds remaining in the fund established by the Trans-Alaska Pipeline Authorization Act to assure that the excess funds will be returned to those which paid into the fund. I support the amendment and urge my colleagues to do likewise.

TITLE III—HAZARDOUS SUBSTANCES POLLUTION LIABILITY AND COMPENSATION

Mr. Chairman, title III of H.R. 85 establishes a comprehensive hazardous substance liability and compensation program under section 311 of the Federal Water Pollution Control Act. This provision was added by the Public Works Committee following extensive hearings. Virtually every witness that came before the Public Works Committee recommended this approach, with the clear exception of the chemical manufacturer's association. However, by letter dated September 17, 1980, the chemical manufacturer's association indicate they now support this title, subject to approval of the "harmful quantities" amendment to be offered by the Committee on Public Works and Transportation. I and the committee did not accept the proposition that the existing law is adequate to respond to any potential problem that might arise. I think an objective reading of the record and a thorough analysis of the issue indicates that existing law is inadequate. Certain points underscore this sentiment and I would like to review them for the benefit of my colleagues. From the period of October 1, 1979, to April 1, 1980, EPA has been involved in the following actions. (This is the first 6-month period since the regulations went into effect.)

Section 311, Hazardous substances:

Received 811 notifications of discharges,

Directed 20 on-scene responses,

Monitored 121 discharges on-scene where owner/operator assumed responsibility, and

Activated the 311(k) response fund 20 times.

Environmental emergencies other than section 311 using authority of section 104 of the Clean Water Act:

Received 37 notifications of discharges,

Directed nine on-scene responses,

Monitored 305 discharges other than on-scene, and

Used section 104 nine times to fund on-scene responses.

These statistics do not include discharges reported and responded to in coastal areas and U.S. Coast Guard jurisdiction.

The committee reported this amendment on a voice vote with only one objection. Subsequently, the Ways and Means Committee successfully asserted jurisdiction and changed the financial mechanism for the hazardous substance compensation fund. I personally feel that the committee adopted an unfortunate mechanism to finance the fund by ignoring the opportunity to impose a tax based upon the threat to the environment posed by a particular substance rather than by adopting the administration's approach of imposing the tax upon certain petrochemical feedstocks because it is alleged to be more administratively feasible.

I believe that a toxicity-based fee approach can be made to work, that it is administratively feasible, and that it is even more equitable than the compromise which I have agreed to. That is not to say that I do not support the Ways and Means amendment because exactly the opposite is the case. I do support it.

But what I would like to say is this: I do not feel that I can ask my colleagues to agree with my personal solution to this important issue just because I feel that the toxicity-based approach may be the best way to go. You deserve—and in fact are entitled to—more than that. We should all have hard data supporting the toxicity-based concept before we are willing to commit to it.

This has never been a secret. When I originally offered my toxicity-based amendment in subcommittee, it was with the clear understanding that it was meant to be a first step toward setting up a hazardous fee scheme that was more equitable than a flat fee on feedstock. It was also clearly understood that more supporting data was needed in order to justify maintaining this approach in any legislation.

Unfortunately I cannot develop at this time the data demonstrating that this approach is administratively feasible. But if EPA can administer the Toxic Substances Control Act, which covers more than 43,000 existing chemicals and requires the Agency to screen all known data on the health and environmental effects of approximately 1,000 new chemicals each year; if EPA can propose the Resource Conservation Recovery Act regulations that take a cradle-to-grave approach to regulating hazardous wastes and, as part of that approach, specifically identify some 416 hazardous substances and 118 extremely hazardous substances—the very same concept that I used in my toxicity-based fee; if EPA can spend some 5 years collecting and evaluating and analyzing the data supporting its section 311 regulations, somehow, I suspect that the Agency is capable of figuring out how to make a toxicity-based approach for 297 substances administratively feasible.

Unfortunately, this position will not prevail and I will not offer an amendment to change the decisions already reached. However, I note that the Senate Committee on Environment and Public Works has adopted a similar concept in that they propose to redirect the assessment of their fee when sufficient data is available to indicate what substances are involved in those incidents for which the fund is called upon to respond. I hope that in conference the concept can be retained so that we will have legislation requiring those posing the problem to pay.

Mr. Chairman, one issue which I think needs to be addressed is that of the coverage of the 311 program with respect to abandoned or inactive hazardous waste sites. Under current law, and I believe that point needs to be underscored, under current law the Federal Government is responding to events where a discharge or a threat of a discharge of a designated hazardous substance, in quantities that may be harmful, EPA is currently involved in the following locations in cleaning up and mitigating threats caused by hazardous substances:

ONGOING AND COMPLETED 311 ACTIONS AT UNCONTROLLED SITES, AUGUST 26, 1980

Region, site name and location, and 311(k) expenditures and status*:

I

Western Sand & Gravel, Burrillville, R.I., $300,000–Ongoing.

Picillo Site, Coventry, R.I., $10,000–Ongoing.

Motollo Site, Raymond, N.H., $3,000–Ongoing.

Gilson Road Site, Nashua, N.H., $2,000–Ongoing.

Chem Waste, New Brunswick, Maine, $10,000–Completed.

II

Chem Control, Elizabeth, N.J., $700,000–Completed.

Lipari Landfill, Pitman, N.J., $100,000–Ongoing.

Kin-Buc Landfill, Edison, N.J., $135,000–Ongoing.

PAS, Oswego, N.Y., $2,000,000–Ongoing.

Black Creek, Niagara Falls, N.Y., $400,000,-Ongoing.

III

Grigco Facility, Sharptown, Md., $630,000–Completed.

National Wood Preservers, Haverford, Pa., $200,000–Ongoing.

Butler Tunnel, Pittston, Pa., $1,800,000–Ongoing.

Dracup Warehouse, Youngsville, Pa., $15,000–Ongoing.

IV

Farm Site, New Rockton, Ala., $5,000–Completed.

Sapp Battery Salvage, Alford, Fla., $18,000–Completed.

Ferguson Site, Rock Hill, S.C., $120,000–Completed.

Spires Property, Wellford, S.C., $60,000–Ongoing.

North Hollywood Site, Memphis, Tenn., $51,000–Completed.

V

Seymour Recycling, Seymour, Ind., $900,000–Ongoing.

VI

Gurley Pit, West Memphis, Ark., $70,000–Ongoing.

French Limited, Barrett, Tex., $70,000–Ongoing.

Motco, Lamarque, Tex., $120,000–Completed.

VII

Farm Site 1, Verona, Mo., $50,000–Completed.

VIII

None.

IX

Stringfellow, Riverside, Calif., $560,000–Ongoing.

X

None.

TOTAL (As of 8/26/80):

311(k) Expenditures at uncontrolled sites—$8,329,000.

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*Section 311 is used only to provide emergency assistance and containment to halt a discharge or the threat of a discharge into navigable waters of the United States. Any "completed" actions may still require EPA and/or State agency involvement at a site, but 311(k) funds are no longer being utilized at this time.

Number of 311 Actions at Uncontrolled Sites—25.

The committee currently intends these activities to be continued under the program established by H.R. 85. The reasons are simple. There must be a response to the discharge or threat of discharge of a designated hazardous substance into the navigable waters. Victims of these events must be compensated. H.R. 7020, the Hazardous Waste Containment Act, will clean up 100 to 200 sites and covers releases into air, land, or groundwater—but specifically excludes releases into navigable waters. Thus, the only long-term response effort for discharges into navigable waters is section 311, as amended by H.R. 85.

Section 311 addresses all discharges, a defined term at section 311(a)(2) which states:

> Discharge includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping, but excludes (A) discharges in compliance with a permit under section 402 of this Act, (B) discharges resulting from circumstances identified and reviewed and made a part of the public record with respect to a permit issued or modified under section 402 of this Act, and subject to a condition in such permit, and (C) continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of this Act, which are caused by events occurring within the scope of relevant operating or treatment systems.

As you can see, section 311 is intended to include far more than just spills. And note, if you will, the absence in the definition of any requirement for a discharge to be episodic before the definition applies. Exactly the opposite is the case. Discharge means any—and I underscore any—"spilling, leaking, pumping, pouring, emitting, emptying or dumping."

Thus, section 311 already includes coverage of dump sites when they discharge impermissibly to a navigable water or groundwater threatening navigable waters. I would note that to exclude dump sites from H.R. 85 would be to retard, not advance, existing law and the need to find a solution to the problem of hazardous substances pollution. In fact, it would be a pulling back by the Congress from existing law. Currently, 25 communities, as I already stated, are receiving assistance under the Clean Water Act to mitigate and clean up the threats to public health and welfare arising from hazardous waste sites. However, the current effort is limited to clean up and removal costs and this is usually further restricted by EPA to efforts to prevent or mitigate the immediate threat versus pursuit of a long-term solution—that has been left to non-Federal interests due to limitations of Federal funds for the program. H.R. 85 will remedy this problem to provide the financial resources to allow a complete cleanup effort. Also, no Federal cause of action for compensation for damages is available under current Federal law—those aggrieved must seek relief from the responsible party under State or common law—and in these cases, there usually is no adequate resolution of the problem and so the victims are uncompensated.

With the changes to section 311 that are proposed in title III of H.R. 85 there will be a comprehensive hazardous substances liability and compensation scheme—just as we will have for oil pollution. I urge my colleagues to approve this important legislation.

Mr. Chairman, when title III is considered, the gentleman from Louisiana (Mr. BREAUX) will offer an amendment on behalf of the Merchant Marine and Fisheries and Public Works and Transportation Committees. The first two parts of this amendment will be virtually identical to those of title I. That is, it limits the guarantors liability to that which he certifies financial responsibility and the deletion of the Canal Zone from coverage under this act. The amendment also adds a new definition to section 311 to define the term "ship" which is not currently a defined term for the purposes of this section. This definition is identical to that contained in title I.

The final part of the amendment, Mr. Chairman, will be a provision to clarify that, in the case where a hazardous substance designated under section 311 is not being discharged in a quantity that may be harmful, EPA will continue to have authority to respond to remove the pollution threat and that funds for the removal cost will come from the fund established by title V. The amendment further clarifies that when a discharge of a designated hazardous substance occurs in a quantity that is less than that which may be harmful, recovery is not permitted under section 311 from a responsible party.

Mr. Chairman, I will support these amendments when offered by the gentleman from Louisiana.

□ 2100

Mr. Chairman, I yield back the balance of my Merchant Marine time.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Chairman, H.R. 85 is a comprehensive approach to the problems posed by and the damages associated with spills into the Nation's waters of oil and hazardous substances.

This bill represents years of effort on the part of our committee and the committee on merchant marine and fisheries. In addition, the Committee on Ways and Means has given the legislation its very thorough consideration.

H.R. 85, as originally reported by the Merchant Marine and Fisheries Committee, dealt with oilspills. It established a system of liability for spillers and a mechanism for the recovery of economic losses caused by spills. Our committee added title III, dealing with spills of hazardous substances into the navigable waters. Then the Committee on Ways and Means, to which the bill was sequentially referred, added title V, which imposes excise taxes on oil and petrochemical and inorganic feedstocks and establishes trust funds to pay for the cleanup of spills and compensate victims of spills for economic losses.

This bill is on the floor today because of the efforts of the three committees involved in its consideration. A compromise has been reached which embodies the views and recommendations of these committees. This is represented by the "Breaux substitute" which is, under the rule, to be considered as the original bill.

I wish to commend the members of all three committees for their efforts in enabling this important legislation to come to the floor. Our committee's part in this legislation was assisted by the usual fine leadership of our chairman, the gentleman from California (Mr. JOHNSON), as well as by the significant support provided by the ranking minority member of the full committee, the gentleman from Ohio (Mr. HARSHA) and the ranking minority member of the Subcommittee on Water Resources, the gentleman from California (Mr. DON H. CLAUSEN) and the gentleman from Kentucky (Mr. SNYDER) and the gentleman from Louisiana (Mr. BREAUX).

These gentlemen, together with all the members of the three committees and the chairmen and ranking minority members, share the credit for enabling the House to consider one of the most significant pieces of legislation before it in the 96th Congress.

H.R. 85 addresses the very serious problems associated with spills of oil and hazardous substances into our waters, liability for these spills, and compensation of persons who suffer economic damages as a result of the spills.

Title I of the bill, which deals with oil spills, and title III, which deals with spills of hazardous substances, each establish a comprehensive system of liability and compensation. The owner and operator of a vessel or an offshore or onshore facility are jointly, severally, and strictly liable for cleanup costs and specified damages which result from a spill of oil or hazardous substances.

If the pollution incident is caused primarily by willful misconduct or gross negligence or by a violation of applicable Federal safety construction or operating standards, there is no limitation on liability. In other instances the following limitations on liability apply:

First: A vessel other than a ship or inland oil barge, $150 per gross ton;

Second: For an inland oil barge $150,000 or $150 per gross ton, whichever is greater;

Third: For a ship $250.000 or $300 per gross ton up to a maximum of $30 million, whichever is greater;

Fourth: For a deepwater port, $50 million;

Fifth: For an offshore facility under the authority of the Outer Continental Shelf Lands Act, removal costs plus $50 million;

Sixth: For other facilities such as onshore, $50 million or such lesser amount as established by regulation.

The bill also requires that the owner or operator of a vessel or offshore facility establish and maintain evidence of financial responsibility equal to these limits of financial responsibility.

H.R. 85 also provides a means whereby claims for damages for economic loss arising from spills may be asserted. The damages for which claims may be made are:

First: Removal costs;

Second: Injury to, or destruction of, real or personal property;

Third: Injury to, or destruction of, natural resources (claim may be asserted by President or by a State);

Fourth: Loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources to the extent that such damages were sustained during the 2-year period after the loss is first suffered.

Claims are first presented to the owner, operator, or guarantor except where the source of the discharge cannot be designated or the designation is denied. If the claim is denied or not settled within 60 days, the claimant may present the claim to the fund. Also, where the claim exceeds a limit of liability or the owner, operator, and guarantor are financially incapable of paying the claim in full, a claim for the uncompensated damages may be presented to the fund. If the fund denies liability or does not settle the claim within 60 days, the claimant may submit the dispute to the Secretary of Transportation for decision or may commence an action in court against the fund. Final orders of the Secretary under the disputes procedure are reviewable in the district courts of the United States.

The bill also preempts certain State actions in order to insure that duplicate funds and taxes are not established.

No action may be brought in any court of the United States, or any State or political subdivision thereof, for damages for which a claim may be asserted under the act. No one may be required to contribute to a fund, the purpose of which is to compensate for damages recoverable under the act, a State may, however, impose a tax or fee in order to finance the purchase and prepositioning of pollution cleanup and removal equipment.

Title V of the bill, which will be discussed in detail by the Committee on Ways and Means, imposes taxes and establishes the funds which are available to cover cleanup costs and payment of eligible claims.

Mr. Chairman, H.R. 85 addresses the problem of spills of oil and hazardous substances in a manner which is reasonable, fair and responsible. It is a good bill, which has been refined by years of effort and by three committees. It deserves to become law this year, and I urge my fellow Members to support it.

● Mr. JOHNSON of California. Mr. Chairman, I rise in support of the bill. I wish to commend the chairman of the Subcommittee on Water Resources, the gentleman from Texas (Mr. Roberts) for the fine job he has done in bringing this bill to the floor. I wish also to cite the usual fine cooperation and distinguished leadership of the ranking minority member of the full committee, the gentleman from Ohio (Mr. Harsha) and the ranking minority member of the Subcommittee on Water Resources, the gentleman from California, (Mr. Don H. Clausen.) I wish also to acknowledge the invaluable support of the gentleman from Louisiana (Mr. Breaux) and the gentleman from Kentucky (Mr. Snyder).

The Breaux substitute, which we are considering today, represents the work of three committees—our Committee on Public Works and Transportation, the Committee on Merchant Marine and Fisheries, and the Committee on Ways and Means. It is the result of years of effort and a fine example of what can be achieved through the dedicated cooperation of three committees of Congress.

H.R. 85 is a landmark bill. It establishes a comprehensive scheme of liability for damages caused by spills of oil and hazardous substances, provides for the cleanup of these spills, and provides a mechanism for recovery by injured parties for damages suffered as a result of spills. This is one of the most important pieces of environmental legislation to be considered by this Congress.

Title I of the bill relates to oilspills and title III relates to spills of hazardous substances. Each title provides that the owner and operator of a vessel or an onshore or offshore facility are jointly, severally, and strictly liable for cleanup costs and specified economic damages which result from a spill.

Except where the pollution incident is caused primarily by willful misconduct or gross negligence or by a violation of applicable Federal safety or operating standards, limitations on liability are provided. These are detailed in the statement of our chairman of the Water Resources Subcommittee. Owners and operators are also required to establish and maintain financial responsibility. These provisions insure that where claims are involved against the spiller, the spiller will be able to pay.

Individuals who suffer economic damages, as specified in the bill, may file claims to recover such damages. These claims are first filed against the spiller and then against the trust fund established in title V if the spiller does not settle within 60 days. There are two funds established in title V—one for oilspills and one for spills of hazardous substances. The proceeds in the funds are derived from excise taxes on oil and on organic and inorganic feedstocks.

Mr. Chairman, this bill represents an innovative and responsible approach to the problems posed by spills of oil and hazardous substances into the navigable waters. It provides for a uniform system of liability and for a means of compensating victims of spills. Moreover, it does not involve expenditures from the general Treasury but rather from trust funds derived from taxes on the substances which are involved in the spills. The bill is necessary, and the need for its early passage is urgent.●

☐ 2110

The CHAIRMAN. The Chair now recognizes the gentleman from New York (Mr. Conable) for 30 minutes.

Mr. CONABLE. Mr. Chairman, I support the Ways and Means Committee amendment to H.R. 85. The Ways and Means Committee approved title V, called the "Environmental Revenue Act of 1980."

Title V establishes an excise tax on crude oil and specified chemical feedstocks. It imposes an excise tax of 1.3 cents per barrel on crude oil which will be deposited into a new "Comprehensive Oil Pollution Liability Trust Fund." The crude oil excise tax is projected to raise $75 million in revenues annually. An excise tax also is imposed on specified petroleum feedstocks and inorganic chemicals which will be deposited into a "Hazardous Substance Pollution Liability Trust Fund." The excise tax on petroleum feedstocks is projected to raise $50 million in revenue annually and the excise tax on inorganic chemicals will raise $25 million annually. The excise taxes will sunset after September 30, 1985.

Both trust funds contain similar terms governing the type of claims which may be paid out of the funds. The claims eligible to be paid by the funds are: First, the costs for cleanup or removal of spilled substances; second, property damage; third, damage to public natural resources; and fourth, the loss of profits or earning capacity due to property or natural resource damage suffered by a person who derives at least 25 percent of his earnings from the utilization of the damaged property or natural resource. The last category of eligible claims may not compensate for more than 2 years of lost profits.

During the first year of the trust funds' operations they may borrow up to $75 million from the Treasury if it is necessary to carry out the purposes of the legislation. This will enable the funds to respond to any emergency claims filed before the excise tax deposits have an opportunity to build up.

After the first year the funds may not borrow from the Treasury. Furthermore, a claim against the trust funds does not constitute an entitlement from the United States.

Title V specifies that each fund will maintain a $30 million reserve for cleanup activities. The payment of economic damage claims will be deferred until the fund deposits exceed the $30 million cleanup reserve. This will assure that funds for the cleanup and removal of spills will not be depleted by the payment of economic damages suffered by persons in earlier spills.

Mr. Chairman, title V provides the revenue foundation on which to build a responsible program to clean up hazardous spills and to provide a source of compensation for a limited category of property and economic damage claims.

Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina (Mr. Martin).

Mr. MARTIN. Mr. Chairman, it is a tribute to a lot of work by so many committees that this bill H.R. 85 has been brought before the House this evening. Although there were many complexities to be resolved, I was pleased that the Committee on Ways and Means cleared its responsibilities with dispatch.

I support H.R. 85 and its objective of cleaning up and dealing with oil and chemical spills. The fund establishes the capability for cleaning up and repairing the damages resulting from oil and chemical spills in the oceans and harbors and navigable waters. It goes beyond that, to compensate innocent victims whose property is damaged or whose livelihood is impaired as a result of such oil or chemical spills. My amendments agreed to in Ways and Means thereby incorporate the administration's view on these questions.

It is intended thereby to reimburse anyone whose property is damaged for the cost of repairing and cleaning that property and restoring it to use. Further, those businesses, like commercial fishing or harvesting of other marine resources, like public accommodations, and like related food processing enterprises, that suffer loss of income and business due to such spills will be compensated for a reasonable period of time, 2 years, until the lost business can be restored or replaced.

Our committee also addressed the need to protect the Federal Government from claims other than as provided by this fund for accidental or negligent spills and damages. Similarly, a time limit for claims is provided in the interest of producing timely reporting by injured parties and to avoid each episode having open-ended expenses.

It is our hope, Mr. Chairman, that this legislation will create a greater commitment to marine safety both in our harbors and on the high seas for these precious but potentially hazardous cargoes.

Mr. Chairman, I want to express my personal respects to the distinguished gentleman from New York (Mr. BIAGGI), for his personal dedication, as well as that of Mr. SNYDER and Mr. BREAUX, to working fairly with Members of both parties and all committees and all points of view, even when they differed from their own approach, to the end that a bill is before us now of which we can all be proud and confident. The gentlemen were ever respectful of different opinions on aspects of this legislation, and that greatly helped us to expedite action on H.R. 85.

● Mr. ASHLEY. Mr. Chairman, the bill before the House, H.R. 85, is complex legislation that has been developed in this Congress through careful and searching consideration by three committees of the House. I believe that a brief history of the bill will be helpful to Members as we enter debate on its merits and consider possible amendments.

The Committee on Merchant Marine and Fisheries reported H.R. 85 on May 15, 1979. As reported by this committee, the bill had two titles: Title I to establish the comprehensive system for oilspills and title II containing effective dates, a savings provision, and conforming amendments.

On May 16, 1980, the Committee on Public Works and Transportation to which H.R. 85 had been jointly referred, reported the bill, making minor amendments to title I and II and adding two titles. Title III would establish a system for hazardous substance spills similar to that in title I for oil. Title IV would provide for congressional review of regulations promulgated by responsible agencies pursuant to the act.

Thereafter, the Committee on Ways and Means requested and received sequential referral of the bill. That committee amended the bill by adding a new title. Title V restructured the funding mechanisms established by title I and III and also altered, to some degree, the scope of compensable damages set out by the earlier titles.

Subsequently, after discussions among the three committees involved, a substitute was developed, incorporating title V as adopted by the Ways and Means Committee on August 21 and conforming titles I, II, and III to title V. This amendment, in the form of a substitute, was offered by Mr. BREAUX on August 27, and appears in the RECORD of that date. In accordance with the rule, that substitute is before us today as an original bill. We, therefore, now consider a bill that is an integrated and internally consistent product of the work of three com-

I will limit the balance of my remarks to titles I and II which together constitute comprehensive liability and compensation legislation for oil pollution.

In brief, titles I and II would establish a comprehensive and uniform system for fixing liability and settling claims for oil pollution damage in the United States. This legislation imposes strict liability for oil pollution damage and provides strong economic incentives to prevent oil spills. It requires the spiller of oil to clean up the spill and to compensate anyone suffering an economic loss as a result of the spill. To insure compensation for victims of oilspills, the bill provides a backup fund supported by a tax on imported and domestically produced oil.

This legislation closes a gap in the quest for a comprehensive system for preventing oilspills and for dealing with their consequences. It is consistent with international treaties on the subject and mittees.

takes account of experience under existing law, notably the Trans-Alaska Pipeline Act, the Outer Continental Shelf Lands Act, and the Deepwater Port Act, each of which establishes oilspill pollution funds.

The Superfund bill for oilspills was initially developed by a task force consisting of representatives from several cognizant Executive branch agencies. It has been thoroughly considered in three Congresses. It has been examined in great detail by representatives of industry, environmental and consumer groups, State governments, and the various interested executive agencies. It represents a consensus that has the general support of almost all those interested in the subject of oilspill cleanup and compensation. Predecessor bills were tested in the legislative process: for example, H.R. 6803, a bill virtually identical to H.R. 85 as reported by this committee, passed the House of Representatives in the 95th Congress. The result of all this extensive preparatory work is sound legislation. The provisions of which are intermeshed and interdependent. The system of compensation and liability for oilspills to be established is comprehensive and internally consistent. Accordingly, I urge that this legislation receive the full support of my colleagues.

I yield now to the distinguished chairman of the Coast Guard and Navigation Subcommittee, Mr. BIAGGI, who early in this Congress introduced H.R. 85 and who has worked so diligently and effectively in its behalf.●

● Mr. RATCHFORD. Mr. Chairman, I rise in support of the superfund legislation, H.R. 85 and H.R. 7020. These two pieces of legislation have been created in response to the enormous problem of chemical wastes and their effect on the health and environment of our Nation.

There is an urgent need for a comprehensive solution to the problem of hazardous waste contamination. The House of Representatives must pass legislation which addresses the problem and provides for adequate contributions from the industries who created these chemical nightmares.

One of the most publicized cases of contamination is in the Love Canal area, near Buffalo, N.Y., where chemical wastes from a buried, abandoned dump seeped into yards and basements. Higher incidences of cancer, birth defects, and other illnesses have been noted in the area.

I am concerned about this, because I too have had incidences of hazardous wastes and contaminated water supplies in my district. In Beacon Falls, Conn., hazardous waste sites have been found and private wells have been shut down. In Prospect, a municipal well was closed due to chemical contamination. Danbury, Derby, Cheshire, and perhaps Wilton, Conn., have all experienced similar problems. The lists continue to grow as more communities discover contamination of their resources and illegal dumping and improperly handled dump sites.

The Environmental Protection Agency estimates that there are between 30,000 and 50,000 hazardous waste sites in the United States. Between 1,200 and 2,000 of them pose serious environmental and health risks. A report released by the Surgeon General described chemical dump sites as one of the most serious threats to public health facing our Nation. Until these sites are examined thoroughly, it is impossible to predict where the next Love Canal will be. It could be anywhere—in my district or in one of my colleagues.

For this reason, it is essential that we address this problem as quickly as possible. The mechanisms must be in place for dealing with already-found hazardous waste sites, and for cleaning up the sites which have not yet been discovered.

I support H.R. 85—the Oil and Chemical Pollution Liability and Compensation Act—as introduced by Representative JOHN BREAUX. I also support H.R. 7020 and the Committee on Ways and

Means' amendments which would strengthen the cleanup fund and industry's contributions to it.

I urge passage of these pieces of legislation as they represent comprehensive treatments of a serious and growing problem for the health and the security of the people of our Nation.●

● Mr. CORRADA. Mr. Chairman, I rise in strong support of H.R. 85, the Oil and Hazardous Substance Pollution and Liability Compensation Act. This legislation, together with H.R. 7020, the Hazardous Waste Containment Act, represents a major achievement in our efforts to provide solutions to the problem arising from the contamination of our waters and lands by oilspills and hazardous wastes disposal.

In the past few years we have experienced accidents which have focused attention on these problems. It seems as though oilspills have become an accepted risk we must endure because of our dependence on oil for energy. However, to those persons directly affected by the spills that kill fish, pollute the beaches, and generally endanger our health, it is small comfort to be told that, eventually, nature will dissipate the oil and that all will be well again.

This legislation is urgently needed. It provides for complete and speedy compensation to the victims of oil and chemical spills while simplifying the vast number of present liability laws. The bill provides for the creation of two funds, one for oil spills and the other for hazardous substance spills. These two funds will insure that the cost of cleanup and damage compensation will be borne by those who cause the pollution and not by the taxpayer.

I urge all my colleagues to support the amendments that will be offered that will strengthen the provisions of H.R. 85. We need a very forceful and comprehensive legislation on record to be able to provide protection to the unfortunate victims of oil and hazardous substances spills.●

● Mr. YOUNG of Alaska. Mr. Chairman, today we consider H.R. 85, the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act. I rise in support, in particular, of the amendment to H.R. 85 offered by Mr. Breaux. In addition, I support the committee amendments which are to be offered to make technical and clarifying changes in the Breaux substitute to carry out the intended purpose of the legislation.

This legislation establishes a comprehensive system of liability and compensation for damages caused by oil and hazardous substances pollution. It establishes strict liability, with specific limits, for owners, operators, and leaseholders of sources of discharges and creates a backup compensation fund to respond to damage claims which are not satisfied by the party responsible for the discharge and damage claims where the responsible party cannot be identified. The Breaux substitute amendment is the integration of the various reported versions of H.R. 85 from the Committees on Merchant Marine and Fisheries, Public Works, and Transportation, and Ways and Means. Title I addresses oil pollution liability and compensation. Title II also addresses oil pollution and sets the effective dates for regulation, and makes certain conforming amendments which eliminate the various oil pollution compensation schemes contained in other Federal statutes.

The oilspill liability and compensation provision of the Trans-Alaska Pipeline Authorization Act, the Federal Water Pollution Control Act, the Deepwater Port Act of 1974, and the Outer Continental Shelf Lands Act of 1978 are subsumed into H.R. 85. Thus, this title insures a comprehensive and unified approach to oilspill liability and compensation. Title III addresses hazardous substance liability and compensation and title IV provides for a review of regulations issued under the authority of titles I through IV. Title V establishes a trust fund in the Treasury of the United States derived from taxes on petroleum and certain chemicals and sets forth the fiscal mechanics for the operation of the fund.

Mr. Chairman, the need for a uniform law to provide a comprehensive system of liability and compensation for damage caused by pollution is well recognized. The dramatic incidents of the *Torrey Canyon*, Santa Barbara platform blowout, *Argo Merchant*, and *Amoco Cadiz* demonstrates the potential for extensive damage to the property and natural resources, particularly along the coastline of our Nation. We have already taken steps to prevent pollution damage of our coastal and marine environment through the Port and Tanker Safety Act of 1978. This legislation today is the logical complement to the preventative legislation so that cleanup is facilitated and innocently victimized and damaged parties are compensated.

In the process of the consideration of this bill by the various committees with jurisdiction, the categories for damages for economic loss which may be assertive under this bill have been condensed into four categories. These categories are: First, removal costs; second, loss of property; third, loss of natural resources; and fourth, loss of profits or earning capacity in certain justified instances.

In particular, I am pleased to note that the second item has been retained in the original form as reported by both the Committee on Merchant Marine and Fisheries and the Committee on Public Works and Transportation, including the claimant provision. Through this provision, therefore, those persons who are commercial and subsistence users of fish, wildlife, and other natural resources may be compensated.

Mr. Chairman, I urge adoption of the Breaux substitute of H.R. 85.●

● Mr. CLEVELAND. Mr. Chairman, I support the passage of H.R. 85 for what it is intended to do despite serious reservations as to whether it will in fact do it.

There is no question that there is merit in trying to come up with a unified program of liability, cleanup and compensation for damages in the case of discharges of oil and hazardous substances.

And there is merit in the bill's provisions for cleanup of toxic dump sites where contamination of groundwater poses a threat to surface waters.

But my years as ranking minority member of the Public Works Oversight Subcommittee lead me to question whether the Environmental Protection Agency can do its piece of the job.

Years ago, for example, when EPA had far fewer programs to administer than it does today, it made a hash of the construction grants program under the Clean Water Act. Fortunately, we in the Congress were able to undo some of the damage by making it possible for States to run much more of the program.

Today, on the basis of our subcommittee's recent hearings on the monitoring and control of toxic chemical discharges, we again have found cause for dissatisfaction. And again, I for one, am moved to wonder whether the States should not be given a larger role in that program.

I am not alone in my concern, Mr. Chairman.

In our recent toxic hearings, former EPA Deputy Administrator John Quarles testified that, and I quote:

> Regulatory requirements have become excessively complex and are overwhelming the capacity of both the government agencies and private industry to come anywhere near carrying out the totality of their respective obligations.

Focusing on EPA, he cited remaining problems with the Clean Water Act, the Clean Air Act, the Federal Insecticide, Fungicide, and Rodenticide Act, the Noise Control Act, the Toxic Substances Control Act, and the Resource Conservation and Recovery Act.

At the same hearings, EPA Administrator Costle said:

> We are getting closer to getting a reasonable handle on the question of toxics through the Clean Water Act than through virtually any other statute that we are dealing with.

Mr. Chairman, as I said, the environmental regulatory program I know best is the Clean Water Act. So when Doug Costle starts talking like that, I really start worrying.

So as I ponder this legislation, I again find myself asking whether there is not a larger role for the States. And to their credit, the water pollution control people in New Hampshire are also wondering the same thing.

Instead, at this point, H.R. 85 contains a preemption provision precluding the operation of State funds based on taxes or fees levied on oil and chemicals, if the revenues are to be used for purposes compensable under this bill.

I can certainly understand that there is a case for national uniformity in liability and compensation, and a need to avoid imposing on industry the burden of paying into a Federal fund and a proliferating number of State funds to support similar activities.

At the same time, I am concerned lest the funds created by H.R. 85 constrict the functioning of a fund created by the State of New Hampshire to support an emergency response capability in the case of oilspills. I also am concerned about its impact on a pending proposal for the State to create a similar fund dealing with hazardous substances.

I am willing to support this legislation, in fact, only on the understanding that H.R. 85 does not preempt any State fund or activity or form of compensation not explicitly provided in the Federal legislation. In other words, we are not making the mistake of saying, in effect, if the Feds do not do it, nobody else can.

Despite such reservations, I favor passage of this bill. It should expand the funds available for cleanup of eligible sites in New Hampshire, including Nashua and perhaps other communities. Such an expansion of funds also should remove any excuse for EPA not to move in when ground water is contaminated and surface waters are threatened, instead of waiting until toxics actually are found in the surface waters.

And I support the bill, finally, in the hope that the way it is carried out is subjected to vigorous oversight and a disposition to modify it to give the States a larger role as warranted.●

● Mr. MURPHY of New York. Mr. Chairman, I rise in support of H.R. 85 in the form of the substitute before us today.

H.R. 85 was introduced early in the 96th Congress and was referred jointly to the Committee on Merchant Marine and Fisheries and the Committee on Public Works and Transportation. The bill was patterned closely after H.R. 6803, which passed the House in the 95th Congress. The bill's provisions parallel existing law, specifically title III of the Outer Continental Shelf Lands Act, as amended in 1978. Title III contains all the ingredients of a comprehensive liability and compensation system for oil pollution but, of course, is limited in its application to Outer Continental Shelf activities. The statute is in place, however; necessary regulations have been promulgated and the system is working.

Two other statutes have established compensation and liability systems for oil pollution: The Trans-Alaska Pipeline Act and the Deepwater Ports Act. In each case, a claim for oil pollution damage is referred first to the polluter and then, if the polluter cannot or will not pay or if the polluter is unidentified, the claim is filed against a backup fund, established by fees assessed on oil. H.R. 85, therefore, is a logical and evolutionary development of existing law.

The events of the summer of 1979 underscored the urgency of problems associated with oil pollution, particularly the need to provide a means of relief to those who suffer damage.

On June 30, 1979, the container ship *Sea Speed Arabia* ran aground off Staten Island, resulting in the discharge of 100,000 gallons of diesel oil that virtually surrounded Staten Island and polluted the waters of upper and lower New York Bay. Beaches and parks were closed and marine life was damaged many miles from the origin of the spill.

On July 19, 1979, the supertankers *Aegean Captain* and *Atlantic Empress* collided off the coasts of the Island nation, Trinidad and Tobago. Both ships were holed, creating a gigantic oilspill that only chance took out to sea instead of onto the resort beaches so vital to the economy of the islands. The *Atlantic Empress* sank several days after the collision, taking with her to the bottom the oil trapped in intact cargo tanks She was the largest ship in history to sink.

In the first week of August last year, oil from the Mexican oil well Ixtoc I, which suffered a blowout on June 3, reached the waters and beaches of south Texas. The well discharge oil variously estimated as 10,000 to 50,000 barrels per day until it was finally capped in March 1980. This was the largest oilspill in history. Its true dimensions have yet to be determined. Its ultimate impact upon Texas, upon other States littoral to the Gulf of Mexico, and on the resources of the gulf itself, remains to be measured.

On November 1, 1979, the freighter *Mimosa* collided with the tanker *Burmah Agate* at the mouth of the Houston Ship Channel. *Burmah Agate* burned for 2 months, discharging oil all the while, resulting in pollution that impacted the nearby Texas beaches and the adjacent rich fishing grounds.

More recently, in May of this year, the 640-foot tanker *Esso Portland* was flooding in position 65 miles off the North Carolina coast with a cargo of 300,000 barrels of heavy fuel oil. Only the prompt assistance of commercial divers and the Coast Guard pollution strike team prevented the ship from sinking. Had this rescue effort not succeeded, yet another major oilspill would have occurred in a sensitive coastal area of the United States.

These concrete examples are cited to underscore the need for prompt enactment of H.R. 85. I concentrate on the provisions of the bill that pertain to oil because those are the provisions on which the Committee on Merchant Marine and Fisheries has so long labored.

The concept behind title I of H.R. 85 is simple and straightforward. The title would establish a comprehensive compensation and liability regime for oil pollution damage. It would streamline claim procedures, claims to be made first against the polluter and second against a backup fund where the polluter refuses or is unable to pay or cannot be identified. It would facilitate cleanup of oil pollution by creating incentives for the polluter to act promptly and by providing a ready source of federally administered funds, less limited than now exists, for use by Federal and State agencies in cases where the polluter does not institute proper cleanup measures. All the features of the title mesh to form sound, workable, and internally consistent legislation.

A superfund bill should provide a means to assure compensation where only inadequate and fractional means now exist. While superfund legislation can have some indirect effect in preventing pollution from vessels and facilities, that should not be viewed as its principal purpose. Environmental protection is best achieved by a direct attack on the root sources of pollution.

Such an approach is exemplified by measures such as the Port and Tanker Safety Act of 1978, the International Tanker Safety and Pollution Prevention Protocols of 1978, and the Coast Guard regulations already published, which implement the act and the protocols. These measures establish new high standards for oil tankers, together with a strict enforcement regime. In contrast, H.R. 85 is designed to facilitate cleanup and to provide a ready remedy for those injured by oil pollution when it does occur, despite strict preventive measures in force.

What we seek is legislation that will provide adequate and timely relief for those affected by oil pollution. This includes individuals harmed by oil pollution from any source. It includes the Federal Government, which uses its resources to clean up the oil and restore the environment to its prespill condition. And it means State and local governments that assist in cleanup and act in the capacity of trustees for natural resources.

In this light of what the bill is and what it is not, major features of H.R. 85 fall into perspective. These features, including Federal preemption provisions, limits of liability, and claims procedures, are the result of long and careful consideration. Each feature is an essential part of a carefully designed whole. H.R. 85 deserves wide support, and I urge my colleagues to vote in favor of its passage today.●

● Mr. HARSHA. Mr. Chairman, I rise in support of H.R. 85, the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act. To understand why this bill is necessary, I think it is important to review the bidding on Federal legislation. The first initiative of modern day importance is generally regarded to be section 11 of the 1970 Water Quality Improvement Act which established a comprehensive oil pollution cleanup and liability program and authorized the implementation of a national contingency plan. In 1972, Congress expanded this program to add designated hazardous substances—the first time oil and hazardous substances were linked under one program.

However, EPA was unable to promulgate regulations to implement the hazardous substances program authorized by the 1972 amendments until 1978. When they did the American Waterways Operators and the Chemical Manufacturers Associations' predecessor organization successfully challenged the regulations in court. It took legislation to resolve the problem—and I might add that effort was a cooperative undertaking between EPA, CMA, AWO, and the Congress—all supported the final product which demonstrates what can be accomplished. The regulations were finally promulgated in August 1979 (a date that would become important in later legislative considerations) and for the first time the complete program was in place to address pollution of the navigable waters by spills of oil and hazardous substances.

The use of petroleum in the United States has played a major role in the tremendous growth of our national industrial complex. The continued need for oil for the foreseeable future is unquestioned. Currently, the United States imports about 45 percent of its oil requirements and it is estimated that this dependence will continue to increase. This need to import large volumes of oil presents a serious threat of oil pollution to our waters.

The 1970 act resulted in part from events such as the grounding of the tanker *Torrey Canyon* off the southeast coast of England in 1967, and the blowout of the production platform off Santa Barbara, Calif., in 1969; recently the grounding of the *Amoco Cadez* and sinking of the *Argo Merchant* and the Campeche spill in the Gulf of Mexico have again focused public attention on the problem of oil pollution. Existing law has proven inadequate to handle the claims arising from oilspills. First, recovery under common law theories of negligence proved difficult. In order to recover, claimants had to identify the spiller and had the burden of proving that the spiller failed to exercise reasonable care to prevent the spill. Second, statutory law allows a vessel owner under certain circumstances to limit his liability to the value of the vessel and its cargo after the incident. In the case of collisions, groundings, or other circumstances which result in extensive oilspills, this value may often be little or nothing since the vessel is destroyed and the cargo list.

In response to these problems, Congress has enacted several statutes which contain provisions governing oilspill liability. These include: The Federal Water Pollution Control Act which I have discussed; the Trans-Alaska Pipeline Authorization Act; the Deepwater Port Act; and the Outer Continental Shelf Lands Act. In addition, many of the States have enacted legislation concerning liability for oilspills. This patchwork of laws contained sometimes conflicting provisions relating to oil pollution liability and compensation. In 1974, Congress began work on a comprehensive oil pollution liability and compensation bill to consolidate the provisions of these many acts with regard to damages caused by oil pollution.

A bill finally passed the House in 1976—H.R. 6803, which was virtually identical to title I of H.R. 85 and dealt with oil pollution liability and compensation. The bill died, however, because the Senate would not accept preemption of State programs which duplicated the Federal law and, and this was important, because the bill did not address hazardous substances pollution issues.

In this Congress a House bill was introduced which was virtually identical to the ill-fated H.R. 6803—H.R. 85. The bill was approved by the Merchant Marine and Fisheries Committee on May 15, 1979, but had to also receive approval by Public Works and Transportation, which shared jurisdiction over the bill. In June of 1979 the administration announced its comprehensive superfund bill dealing not only with oil pollution of navigable waters but also hazardous substances pollution and cleanup of dump sites.

This initiative was in response to growing perception of a major environmental concern which was brought to public attention by Love Canal, N.Y.; Valley of the Drums, Ky.; Pittston, Pa., and a number of other incidents.

The Public Works Committee held hearings in the fall of 1979 and the spring of 1980 on the legislation. Additionally, members of the Subcommittee on Water Resources visited the Love Canal, and a separate hearing on PCB contamination was conducted at Alma, Mich. The outcome of these investigations was to add to H.R. 85 a new title, and a separate fund, to address hazardous substances pollution in the same manner as oil pollution. While the Ways and Means Committee changed the bill slightly, including converting the fees imposed to a tax and establishment of dedicated trust funds, the key point is that the bill has moved to the point of floor consideration without substantial change and with widespread support in Congress. Why?

A review of some points made at the hearings is helpful—Mr. Douglas Costle, Administrator of the Environmental Protection Agency testified in April that:

The historical treatment of oil and hazardous substances under a single regime would be jeopardized if oil was treated differently than hazardous substances;

The problem of hazardous spills is acute and more threatening than oil;

Between October 1978 and April 1980, 4,257 discharges of substances other than oil were voluntarily reported to EPA, of which 2,225 involved designated hazardous substances under the 311 program;

EPA forecasts that by 1983, 5,000 to 6,000 hazardous substances spills may be reported annually;

As more response to hazardous pollution is required the Federal fund has been repeatedly drawn down and more demands are placed on the Treasury for taxpayer dollars;

H.R. 85 would solve the financial problem for oil pollution response but not for hazardous pollution; creating operational problems and inequities; thus, there would no longer be a unified scheme.

Opponents of the legislation stressed these themes for the committee:

Oilspills should be handled separately from chemical spills; their different nature justifies separate consideration;

Chemical spills should be handled separately from waste disposal incidents. I would note parenthetically that existing law authorizes cleanup at dump sites when they pose a threat to navigable waters and 24 areas are currently receiving assistance for emergency cleanup.

Common law and statutory law in various States provide a flexible and responsive system for compensating individuals for personal injury and property damage that may occur from spills of hazardous substances;

Legislation to clean up old dump sites should be adopted for emergency assistance and containment when there is an imminent threat and no other party is taking responsible action, financed by Federal appropriations, recovery from dumpers and matching State money.

The committee did not concur with the position of the opponents. In its report it noted that:

> The Committee on Public Works and Transportation agrees with the need for a comprehensive scheme to provide for recovery of damages caused by oil spills, recovery of cleanup costs, and establishment of liability and requirements for financial responsibility. The Committee believes there is a similar need with regard to certain hazardous substances which are discharged into navigable waters, and accordingly added a new Title III to H.R. 85 which addresses this need in essentially the same fashion as oil spills are addressed in Title I. The Committee notes that the response effort with respect to spills of oil and hazardous substances has been carried out under a single Federal statutory authority since 1972 when section 311 of the Federal Water Pollution Control Act Amendments was enacted. Under section 311, a Federal cause of action with respect to removal costs of certain discharges of hazardous substances was created and the National Contingency Plan, originally established by section 11 of the Water Quality Improvement Act, was expanded to include hazardous substances. In light of this history, the committee believes that it is appropriate to address the liability, cleanup and economic damage recovery issues associated with spills of designated hazardous substances in the same manner as Title I or H.R. 85 addresses for spills of oil.

This decision was based upon the premise that there is a bona fide problem; that existing law does not provide adequate resources to address the problem; that the victims do not receive adequate compensation and thus a backup mechanism is necessary; that the problem is likely to increase, not decrease, in the future; that the taxpayers generally should not be forced to pay the tab through Federal appropriations—rather, those that pose the problem (and ultimately the consumers of these goods) should pay—just as they do for airport and airway services and highway improvement programs.

If legislation fails to be enacted by this Congress the problem is not going to go away. This is the third Congress for oil superfund legislation. If the Senate bill were a little more reasonable with respect to cost and especially liability issues, I feel we would enact legislation this year. When Members are contacted by opponents of H.R. 85 the usual basis for opposition is generally not founded upon the purpose of the bill, but rather that H.R. 85 could provide the impetus to enact S. 1480, the Senate measure. To those concerned with the sweeping nature of the Senate initiative I would say to them that this posture is consistent with the Senate's past actions. In 1971 and 1972, the Senate passed legislation amending the Federal Water Pollution Control Act that, if adopted, might have shut down the economy.

Yet, the House version of the legislation was a reasonable initiative which struck a balance between environmental and economic concerns—and that position prevailed in the final bill. Again in 1977 the Senate adopted overly strict controls but the House view again prevailed and the 1977 Clean Water Act has been hailed as a reasoned environmental initiative. Now in 1980 we again have concern over the pending Senate bill. I would say to my colleagues that I will not support unreasonable legislation. H.R. 85 is a reasoned, well-thought-out measure. When the House Members of the conference return to the membership of this distinguished body it will be with a balanced bill—just as we have every time in the past.

Mr. Chairman, I would like to discuss two provisions for the purpose of establishing legislative history. The first is the definition of "owner" contained in title I of H.R. 85. During consideration of this measure by the Public Works Committee I offered an amendment to clarify the definition, as reported by the Committee on Merchant Marine and Fisheries. This change was necessary because the original definition inadvertently subjected those who hold title to a vessel or facility, but do not participate in the management or operation and are not otherwise affiliated with the person leasing or operating the vessel or facility, to the liability provisions of the bill.

While the Merchant Marine Committee report indicates this situation was not intended the statutory language is unclear. Therefore, I offered clarifying language to truly exempt those who hold title but do not participate in the operation or management activities. My amendment also requires that those that hold title cannot be affiliated in any way with those who lease or charter the vessel or facility. This was done to prevent the establishment of "dummy" corporations, with few assets, which would be the responsible party for the purpose of the act.

Mr. Chairman, I also offered an amendment to require that tank motor carriers have a maximum minimum liability and establish and maintain evidence of financial responsibility for that minimum. Under H.R. 85 as reported by Merchant Marine and Fisheries, onshore facilities were subject to a maximum liability of $50 million, but the Secretary, by regulation, could reduce that liability—theoretically to zero. Also, there was no requirement to establish and maintain evidence of financial responsibility to meet this liability.

My amendment establishes a lower limit of liability below which the Secretary cannot establish a tank motor vehicle's liability. My amendment establishes, for carriers of oil with a capacity of 3,500 gallons or greater, a minimum liability of $2 million; for carriers of hazardous substances the minimum is $5 million. Carriers with a capacity of less than 3,500 gallons are exempt from these requirements. These levels are insurable and at reasonable cost. With this amendment a loophole has been stopped, which could have potentially exempted certain carriers from meaningful liability and financial responsibility requirements. This is an important consideration when considered in the context of the problem of "midnight dumpers." Without the amendment there would be no requirement to maintain evidence of financial responsibility.

Thus, a dumper might not be in violation of H.R. 85 until the actual discharge and there would be no assurance that he would have the resources to pay the compensation for damages. My amendment assures that those resources will be available and that the midnight dumper will be in violation of the law when he transports hazardous substances without evidence of financial responsibility.

Mr. Chairman, I would note that the recently passed Motor Carrier Act of 1980 establishes certain requirements relative to minimum financial responsibility for transporters of oil and hazardous substances, section 30. I would expect that the Secretary will exercise maximum flexibility in implementing the requirements of the Motor Carrier Act of 1980 and the requirements of H.R. 85. One approach would be to treat the amendments made by H.R. 85 as applicable to a special class of carrier. This would allow the regulations implementing the Motor Carrier Act to also address the requirements of H.R. 85.

Mr. Chairman, I believe that the bill before you is a reasoned approach to the problems of oil and hazardous substances pollution of navigable waters. It builds upon existing programs and makes them better. It addresses the needs of the American public in a cost-effective manner. It is supported by the administration, environmentalists, and now by industry. I urge my colleagues to support its passage.●

● Mr. LENT. Mr. Chairman, I rise in support of H.R. 85, the Comprehensive Oil Pollution Liability and Compensation Act. I do so with a sense of deja vu for this is the third Congress in which we have tried to enact a comprehensive system of liability and compensation for damage caused by oil pollution.

This legislation is designed to deal with oil and chemical spills in the U.S. navigable waters and their adjacent shores. The potential for oil spills and consequent environmental damage is increasing as a result of the very large volume of petroleum and petroleum products moving within our Nation. We are importing about 8 million barrels of crude oil per day—or more than one-fourth of the total crude oil moving in worldwide trade. Our domestic oil and resources from the Outer Continental Shelf add approximately another 11 million barrels of crude oil moving each day; with exploratory drilling underway in the Baltimore Canyon area of the Atlantic Ocean, there is no reason to believe that those figures will decrease in the foreseeable future. In all likelihood they will increase. With more and more petroleum products being transported, the likelihood of spills is, unfortunately increasing.

My Fourth Congressional District is located on Long Island, one of the areas in the Nation most vulnerable to oil pollution damage. The hundreds of miles of Long Island coastline contain some of the finest beaches, harbors, estuaries, fishing grounds, and wildlife refuges to be found anywhere in the Nation. We on Long Island have fought for many years for adequate protection for these fragile areas, and the equally fragile ecosystems they support. The Comprehensive Oil Pollution and Liability Act offers much needed additional protection for Long Island's fragile coastline and surrounding waters.

It is also absolutely necessary that we establish appropriate procedures to facilitate cleanup and provide compensation for parties adversely affected by oilspills. H.R. 85 is designed to meet that need by guaranteeing a prompt and adequate response.

H.R. 85 establishes two funds, one for oilspills and one for hazardous substance spills, which would be used to pay for a cleanup and compensation if the spiller were unknown or did not pay the costs voluntarily. The oil pollution liability and compensation trust fund, which could recover its costs from responsible parties, would be financed through a 1.3-cent-per-barrel excise tax on all crude oil received at U.S. refineries and imported petroleum products. Fund revenues would be supplemented by assets of funds it supersedes—for example, it will acquire the assets and liabilities of the trans-Alaska pipeline liability fund; fines, including penalties for oilspills under the Clean Water Act; and compensation payments recovered through subrogation from parties liable for oil pollution under the bill.

This financing structure assures that those who cause pollution pay for it, rather than the taxpayers as is usually the case under the existing patchwork of Federal, State, common, and admiralty law governing liability, cleanup, and compensation for oilspills.

As well, the bill provides that owners and operators of the polluting vessels or facilities would be liable for damages, and would be required to carry insurance or otherwise establish financial responsibility for spill incidents.

I focus on the oil pollution aspects of this legislation because I believe they essentially are without controversy and our experience over the past 9 years convincingly demonstrates the need for corrective legislative action.

Oilspills are serious. Blackened dying birds and fish, oil slicks, and beaches fouled by tar are only the most obvious signs of environmental pollution resulting from oilspills. However, oil can also be toxic to a range of marine organisms. Fish can become disoriented and lose their ability to migrate, reproduce, or secure food. Fishing grounds can be severely damaged and shellfish made unfit for human consumption. Thus, the environmental and economic effects of oil pollution are both serious and wide-ranging.

Since 1971, Federal cleanup costs for oilspills have been compiled. The figures are in and they are high. For example, the Coast Guard reports that in 1977, 10,620 spills—none of them labeled catastrophic—released 17.6 million gallons of oil, at a Federal cleanup cost amounting to nearly $9 million. If one large spill had occurred, the figure would be far higher; consider the 1967 *Torrey Canyon* wreck which released 29 million gallons of crude oil, costing some $15 million to cleanup and $25 million in damages were claimed. More recently, the 1978 grounding of the *Amoco Cadiz* off the coast of France released 67 million gallons of crude and damage claims totaled more than $1 billion.

Clearly the time has come for prompt and favorable action on this needed legislation to insure rapid cleanup of spills and adequate compensation for damages. H.R. 85 can assure that and I urge my colleagues to join in voting for the proposed Oil Pollution Liability and Compensation Act.●

● Mr. BOWEN. Mr. Chairman, I rise in support of H.R. 85 and wish to commend the Committee on Public Works and Transportation and its distinguished chairman, the gentleman from California, for adding to this bill a new section which addresses some very legitimate concerns about the direction of Federal regulatory policies as they pertain to water pollution control. Clarifying language contained in title II of this bill restores the original intent of Congress by specifying that the Secretary of the Army alone shall make any determinations under section 404 of the 1972 Federal Water Pollution Control Act.

As a result of executive action and judicial review, Federal agencies—such as the Environmental Protection Agency and the U.S. Fish and Wildlife Service—have become involved in the section 404 process in a way never intended by the Congress. The section 404 process, unfortunately, has evolved from one of regulating water pollutant activities to one of preventing incursions into wetlands regardless of costs. It also has created a duplication of effort, and, too often, allows specific interest agencies and groups to impede development.

This kind of agency involvement has placed tremendous financial, as well as timing burdens on a number of important State public works projects. For example, in my own State, I can cite at least four vital highway projects the cost of which have skyrocketed and the time schedules for which have been significantly delayed because of objections raised by these agencies. In one particular instance involving U.S. Highway 78 in Itawamba County, the direct cost of the project was increased by some $5,000,000 as a result of EPA and U.S. Fish and Wildlife Service participation in the process. In addition to the direct costs indicated above, it is estimated that inflation costs associated with the delay will add still another 10 to 20 percent to overall project costs.

The adoption of this legislation including this new subsection will be a great step forward in saving tax dollars, in expediting badly needed public works projects throughout the entire Nation, and in doing away with unnecessary bureaucratic redtape by returning the administration of the section 404 process to the Secretary of the Army where it belongs.

Mr. Chairman, for all these reasons, I strongly urge the adoption of this bill and again I applaud the Committee on Public Works and Transportation for its outstanding work on this important legislation.●

Mr. SNYDER. Mr. Chairman, I have no further requests for time. I yield back the balance of my time.

Mr. ROBERTS. Mr. Chairman, I have no further requests for time. I yield back the balance of my time.

Mr. BIAGGI. Mr. Chairman, I have no further request for time.

Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BENNETT) having assumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 85) to provide a comprehensive system of liability and compensation for oilspill damage and removal costs, and for other purposes had come to no resolution thereon.

GENERAL LEAVE

Mr. SNYDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 85, just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

ABOLISHING FOMC MEANS WHITE HOUSE WOULD CONDUCT NATION'S MONETARY POLICY

(Mr. STANTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STANTON. Mr. Speaker, last week the Domestic Monetary Policy Subcommittee of the House Banking Committee voted to abolish the Federal Open Market Committee or FOMC as it is known in financial circles. For those Members who are not familiar with this committee, the FOMC is responsible, by law, for conducting the Federal Reserve's open market operations which are the principal instrument used to implement our Nation's monetary policy.

The subcommittee action of a 4-to-2 vote was strictly along partisan political lines. Democratic members of the subcommittee voted for the bill reluctantly, only after being told that it would be reviewed more carefully by the full committee. In its present form the bill abolishes the FOMC for all intent and purposes, and transfers the total responsibility for the conduct of our Nation's monetary policy with the Federal Reserve Board here in Washington.

The significance of the subcommittee's action is that for the first time the White House would be squarely in the seat of calling the shots regarding the conduct of our country's monetary policy, a responsibility that is clearly left to the Congress under the articles of the U.S. Constitution. Until now, monetary policy always has been within the realm of the Federal Reserve. I can only surmise that the White House is behind this legislation for the following reason.

Ever since my friend and colleague on the Banking Committee, HENRY REUSS, became chairman of the committee he has consulted me before proceeding on every major piece of banking legislation. That he did not do so in this instance leads me to believe that the administration is behind this move and would like to see the legislation pushed rapidly through this Congress. The political motivations behind such a move should be readily apparent to all of my colleagues in this election year.

Mr. Speaker, this kind of change in the conduct of our monetary policy would jeopardize the independence and integrity of the Federal Reserve. By removing this power from the FOMC, which is comprised of the Fed's Board of Governors plus 5 of the 12 independently elected Reserve Bank presidents, and granting it solely to the Board of Governors, all of whom are appointed by the President, the White House would be that much closer to the day-to-day operations of the Fed. Furthermore, removal of the Reserve Bank presidents from the FOMC would make it clearly less responsive to the regional needs of commerce, industry and agriculture. Chairman Paul Volcker of the Federal Reserve says it best in a letter to all subcommittee members dated September 8:

> It [the subcommittee's bill] would also make it more likely that a single President could appoint a clear majority to the monetary policy making body; in that sense the bill would impinge upon the independence of the Federal Reserve.

Finally, Mr. Speaker, I believe that all Republican Members of the Banking Committee and in the Congress unanimously will be opposed to this blatant attack by the administration on the independence of the Federal Reserve. I hope that the President immediately would disavow his support for such a drastic move. The administration should respect the independence of the Federal Reserve and do everything that it can to aid the Fed in its task of fighting inflation by maintaining its current and necessary policy of monetary restraint. The American people are entitled to know where the President stands on this important issue before the election.

☐ 2120

VICIOUSNESS OF THE CARTER CAMPAIGN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina (Mr. CAMPBELL) is recognized for 30 minutes.

Mr. CAMPBELL. Mr. Speaker, a couple of weeks ago I took the floor to wonder aloud how low Jimmy Carter is willing to stoop in his frantic fight to keep the Presidency.

This week, the answer is clear. There is no limit to the personal invective, mud-slinging and fear tactics Mr. Carter will employ to reach his goal—regardless of the divisiveness; regardless of the distortion; regardless of the good of the country.

Mr. Speaker, no matter what happens in November, this country has been ill-served by the viciousness of the Carter campaign and the mean spirit exhibited by the President.

No one has ever accused American politics of being an easy business, and candidates traditionally attack each other on their records and their views. Mr. Carter; however, ignores the record and concentrates on ugly, empty attacks on the very character of his political opponents.

This is nothing new; Jimmy Carter has consistently ducked accountability in favor of name-calling since his 1970 compaign for the Georgia statehouse.

But it is a particularly disgusting personality trait in a sitting President. It is a particularly disgusting personality trait in a man who, 4 years ago, told us piously that—

> If I ever lie to you . . . of if I ever mislead you . . . please don't vote for me.

If Carter is suggesting that Governor Reagan is today a racist because of expressed reservations about the Civil Rights Act made 16 years ago has any relevance to this year's campaign, which it does not, I wonder why no one has bothered to look at the Carter record for the same period of time.

In fact, according to an article in the St. Louis Post-Dispatch, May 23, 1976, titled "Carter, As State Senator, Opposed Integration, Open Accommodations."

> Democratic Presidential candidate Jimmy Carter, as a member of the Georgia Senate in 1964, voted for a state constitutional amendment aimed at preventing school integration, official state records show; and
>
> Carter voted also for a constitutional amendment that would have prevented the enactment of open-accommodation and fair-employment laws by counties in Georgia, according to the records.

Mr. Speaker, 1964 was the year Congress passed the landmark Civil Rights Act. At that very time, Mr. Carter was busily working for legislation which was designed by its sponsor, says the Post-Dispatch article, to accomplish in State law what the two U.S. Senators from Georgia were then trying to do in Federal law—and that is defeat the Federal Civil Rights Act.

I certainly do not consider Jimmy Carter a racist in 1980, Mr. Speaker, but in 1964—in a very different atmosphere—Jimmy Carter's stand on racial equality, according to his Georgia Senate voting record, was questionable.

Jimmy Carter obviously does not expect the American people to know or care about his record in 1964, although he flaunts Governor Reagan's as gospel truth. As this morning's Washington Post editorial put it, Carter "displays a certain contempt for the evidence of our own eyes, asserting these things that run counter to what we can see and already know, as if he believed it didn't matter, that people would believe anything they were told."

Mr. Speaker, unlike some, I am not here to call names or to document the many instances in Mr. Carter's political career where his stance on racial equality is suspect, because his position today is well known—as is Governor Reagan's.

I am here today to lament—yes, lament—Mr. Carter's bent to, as Germond and Witcover put it in yesterday's Washington Star, "lash out at political opponent when under stress."

As is documented in the article, "Jimmy Carter's Pathetic Lies," (Harpers magazine, March 1976, by Steven Brill), personal attacks on his opponent were a "Carter trademark" as early as his 1970 gubernatorial race.

Governor Carl Sanders, running against Carter then, must have never known what hit him! According to Brill:

> Beginning in June, Carter repeatedly claimed that he had a "list" of occasions on which Sanders, as governor, had used his office for personal financial gain. Finally, on August 26, he gave reporters the "Carter proof packet" of charges against Sanders. The list, it turned out, consisted of an allegation that Sanders had interceded on behalf of a friend with the Federal Communications Commission. That allegation was never substantiated, nor in fact was there any charge of illegality or personal gain.
>
> Perhaps the lowest blow was dealt by an anonymous leaflet which showed Sanders . . . being given a champagne shampoo by two of the (Atlanta Hawks basketball) team's black players during a victory celebration. The leaflet was mailed statewide to white Baptist ministers and white barbershops. Carter denies any knowledge of the leaflet, saying, "The campaign was not involved in any way." However, Ray Abernathy, an Atlanta public-relations man who worked for Carter's media director, Rafshoon, in 1970 says, "We distributed that leaflet. It was prepared by Bill Pope, who was then Carter's press secretary. It was part of an operation we called 'the stink tank'."

The stink tank, indeed, Mr. Speaker. What kind of a president do we have?

Carter continued his mud-slinging in the 1976 Presidential race, which he reportedly started running for in 1972.

According again to Germond and Witcover,

> Four years ago . . . he reacted to his defeat in the Massachusetts primary by rushing to Florida and accusing the man who defeated him, Sen. Henry M. Jackson, of using racist tactics.

Sound familiar?

And, to quote Eric Sevaried in 1976:

> What has been going on . . . is a daily calculated effort by Jimmy Carter to discredit Mr. Ford, not just as a constitutional leader, but as a man.

But as a man. Mr. Speaker, it is nothing less than a disgrace for a sitting president to attempt in this, very frankly, nasty way to discredit the character, the very integrity of any person who has the temerity to oppose him in a political campaign. For Mr. Carter to malign the nominee for the Presidency—the highest office in the land—of a major political party, the choice of a large percentage of Americans, is irresponsible to say the least.

As Richard Reeves said several weeks ago:

> The Carter campaign is as mean-spirited as any you'll see in American politics.

No wonder the country is in the dispirited state it is in.

Mr. EVANS of Delaware. Mr. Speaker, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. I would like to associate myself with the remarks of the gentleman from South Carolina (Mr. CAMPBELL). I think it is sad indeed when invectives are spewed forth from anyone's mouth in an unfair manner.

We have a wonderful system of government in the United States of America, a constitutional system of government that needs to be preserved and enhanced. I am very concerned about the erosion of confidence in our system of government, and I think that unfair remarks, whether they be made on the floor of the House of Representatives or whether they be made in a congressional campaign, or whether they be made in a Presidential campaign, do erode the confidence that the American people have in our constitutional system of government.

I am deeply saddened at some of the remarks that have been made in the Presidential campaign.

Mr. COLLINS of Texas. Mr. Speaker, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from Texas.

Mr. COLLINS of Texas. Mr. Speaker, I want to commend the gentleman from South Carolina for bringing this matter up, because today where we need to build sound race relations, when we need to have America stand solidly together, it disturbed me the other day to hear the President of the United States, Mr. Carter, talk when he has done so much to set the minorities of this country back. I know today that among young people who want a job, minorities today have the worst unemployment that they have ever had. It is his responsibility down there in the White House, and this smokescreen cannot conceal the true facts.

I commend the gentleman for bringing this subject up on the floor because it is something all America is concerned with.

Mr. CAMPBELL. I thank the gentleman from Texas. I would like to say further that I think the record is very clear again as far as Mr. Carter and Mr. Reagan are both concerned. Neither men are racist. Both are promoting, I hope, sound furtherance of racial understanding and opportunity for all people. That is the way it should be.

But the hypocrisy that does exist and the effort to divide for political gain is something that cannot go unnoticed. It is something that cannot be left to lie by the side of the road. It is something that must be called to the forefront so that if identified it can be stamped out.

I hope that by taking this special order today and pointing out the facts and the record of those who would be so pious and those who would try to inject this type of issue into a campaign, it will help to eliminate that type of injection in the future.

I yield back the remainder of my time, Mr. Speaker.

BUILD BUSINESS TO BUILD AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Collins) is recognized for 15 minutes.

Mr. COLLINS of Texas. Mr. Speaker, jobs are a primary concern of America. With Congress overinvolvement in excessive legislative programs, we miss the key incentives and developments that we should provide to create jobs.

Last night I read some interesting charts in U.S. News & World Report. Let us look at the comparisons of our country with Japan between 1967 and this year. The productivity in Japan which shows the output per worker hour in manufacturing is up from 100 to 231. Whereas in the United States, productivity is only up from 100 to 129. Even Great Britain is 133 and progressive Germany is 184 while France tops this at 190. When you see American productivity is only up 29 percent per worker while wages have more than doubled in this period, you see a heavy inflation impact.

Why has America fallen behind? Some of it is due to the fact that industry did 25 percent more R. & D. back in 1967 than we do today. But the major factor is the lack of capital formation. A liberal Congress has been harassing and limiting business with excessive taxation. During the 1970's, we have seen that Japan, relating to output, has invested 60 percent more in plant and equipment than we have in the United States. Today this 60 percent of better equipment and more modern machinery reflects the present automobile crisis where Japan is outproducing us with lower costs and better quality in automobiles.

But look at the broad picture. Back in 1967 America was getting 33 percent more of our share of world exports and manufactured goods than we are today. Our manufactured goods simply cannot compete with foreign companies that have more modern machinery.

If you will look at the balance of merchandise, trade, you will see how progressively this is moving downward in recent years. In 1975, we had a $9 billion surplus. But the United States can anticipate this year a $38 billion deficit in merchandise trade.

Many in Congress seem to feel that being against business and for the little man is representing Main Street. Do they realize that the little man is very much concerned with business doing well. Business prosperity means he has a better job. When we build business in America we are building America.

In Texas we believe in encouraging the growth and development of business. Congress must take constructive measures of encouragement. This could best be done through taking the excessive taxation load off the back of business. Here are some positive suggestions. Accelerate depreciation, so that plants would be charged off in 10 years and equipment in 5 years. Reduce the capital gains tax.

Provide a large tax credit for corporation sales of goods produced in the United States and sold abroad. Reduce corporate tax to 25 percent on the first $50 million of profit each year. Eliminate bureaucratic regulations that are not required by foreign companies competition and are not essential to Americans' health and environmental needs.

America today has more Government than we need. We have more regulations than we want. And we have more taxes than we can afford to pay.

Let us always bear in mind that when we are building business we are building America.

AN OUTRAGE TO ALL OF HUMANKIND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Phillip Burton) is recognized for 5 minutes.

● Mr. PHILLIP BURTON. Mr. Speaker, the following editorial in the New York Times of September 18, 1980 and the accompanying article expresses the outrage of the American people and the overwhelming majority of our colleagues in the U.S. Congress.

This infamous act—if not reversed—will decisively poison United States-South Korean relations for a long time to come.

Kim Must Be Spared

(By Jerome Alan Cohen)

Cambridge, Mass.—The sentence of death that a military court in Seoul dealt yesterday to Kim Dae Jung, the opposition leader, demonstrates the bankruptcy of United States policy toward South Korea.

Four years ago, Jimmy Carter warned the dictator Park Chung Hee that continuing repression was undermining American support for his Government. Now, in Mr. Carter's re-election campaign, he will likely portray it as a victory for his statesmanship if American pressure manages to save Mr. Kim, South Korea's most dynamic democratic leader, from death, even if Mr. Kim is left unjustly to rot in prison for life while Koreans suffer under the even more repressive regime that seized power after Mr. Park's assassination.

We could savor the ironies were the situation not so tragic. Gen. Chun Doo Hwan literally shoots his way to power, violating the United Nations Command structure by his illegitimate use of troops. He then jails Mr. Kim to prevent him from taking part in a widely demanded popular Presidential election. When protests break out in Mr. Kim's native province, the savage reaction of General Chun's troops leads to an uprising in the provincial capital of Kwangju that results in a bloodbath that shatters the painstakingly nurtured modus vivendi between the army and civilian society.

Mr. Kim then is accused of sedition for supposedly having fomented all this. To discredit the popular Mr. Kim, whose real "crime" is that in 1971 he almost unseated Mr. Park in South Korea's last relatively free election and is a persuasive proponent of the human rights that General Chun detests, the general fabricates charges that Mr. Kim is a Communist. This is doubly ironic: Mr. Kim is a Jeffersonian democrat and devout Roman Catholic who has kept his faith in the possibility of representative government despite all manner of intimidation including an auto "accident," kidnaping, house arrest, and repeated imprisonment.

General Chun, now President, has perfected the "big lie" technique, so well developed in North Korea. Mr. Park's Government was notorious for censorship that sanitized reality, but General Chun's goes beyond that, falsely telling the people that at his trial Mr. Kim admitted key charges of an indictment that sought to make up in length what it lacked in strength. Mr. Kim has admitted violations of the martial-law decree and the foreign-currency-control law, but has vigorously denied that he violated the sedition and national-security laws, under which the death penalty has been imposed. Actually, the military judges, under command influence, had to rely on the "confession" extracted from Mr. Kim in long weeks of interrogation, 15 hours per day, in an underground cell where he was often stripped nude. Mr. Kim, like his 23 codefendants, repudiated his coerced confession. Still, in a trial that travestied justice, they were all convicted—the 23 got prison terms—despite the prosecution's failure to prove what our State Department has called the "farfetched" charges. The Korean authorities' view was summed up by the chief prosecutor who, echoing General Chun's public statements, told the court: "Such an opportunist, agitator politician must be eliminated from this land for good."

Kim Dae Jung's life must be spared, and General Chun may well be prepared to spare it—at least for now—in return for the American support he so desperately needs for legitimacy. But for Washington to barter its support so cheaply would be tragic. The sedition and national-security charges should be dropped and Mr. Kim and the other defendants released, together with all political prisoners. More fundamentally, the country should be permitted to resume the quest for an open political system that it was embarked upon when General Chun shot his way to power.

President Carter recently stated that "the Koreans are not ready for [democracy] according to their own judgment." How could anyone possibly know that about a people who now greet each other by asking, "Did you pass the night safely" Moreover, Mr. Carter is misguided if he believes that the only instrument of American pressure capable of loosening the totalitarian Chun grip is a threat to withdraw our forces from the peninsula, which might hurt our security interest in northeastern Asia. Many lesser, yet potent, pressures are available, such as ceasing military sales and discussions on providing F-16 jets, suspending negotiations for Export-Import Bank loans and other trade advantages, and using Korean-language broadcasts on the United States Armed Forces Network to correct General Chun's distortions of Washington's position. A failure to apply such pressures, in the name of preserving South Korean "stability," will leave us with a policy of mere tokenism and will convince many despairing democrats there that change can come only by revolution.

Samurai Justice in Korea

Millions of people watching television this week need no further instruction in samurai justice. The loser's penalty in early 17th-century Japan was predictable and brutal—a quick thwack of the sword, a suddenly headless neck. In "Shogun," the NBC miniseries based on James Clavell's novel, the feudal savagery is rooted in Asian history which viewers may assume is mercifully past. It isn't. Samurai swords are still flashing in ostensibly civilized South Korea.

Last November, the old shogun, President Park Chung Hee, was assassinated by a trusted lieutenant. Now there is a new military overlord, Gen. Chun Doo Hwan. He may bear the more modern title of President. But he seems intent on governing in the feudal manner.

He had scores to settle, especially after a humiliating student uprising in Kwangju. That uprising was blamed on the seditious intrigues of South Korea's foremost democratic leader, Kim Dae Jung. But the evidence was tenuous; Mr. Kim and his codefendants were already in jail when the Kwangju riots occurred. So Government prosecutors duly came up with another charge, that Mr. Kim was plotting subversion during a trip to Japan in 1973. But the evidence was tainted, since Mr. Kim had been kidnapped from Tokyo by Korean agents. The abduction outraged the Japanese, who obtained a promise that no evidence developed in Japan would be used against him. The promise was broken.

Yesterday, as expected, Mr. Kim was found guilty of sedition by a military tribunal after a semi-secret trial marred by charges of fraud and crude Government pressure. And, as feared, the sentence is death by hanging. Under President Chun's samurai code, there is seemingly no mercy for losers.

The comparison with feudal Japan may be offensive to Koreans; they are a proud people with bitter memories of their past as an imperial colony of the Japanese. Defenders of General Chun insist that Korea's judiciary is independent, and that appeals or executive clemency are still possible. They assert that a new constitution is being shaped that will give Koreans a more or less democratic system.

American policy-makers have been indulgent to a fault in accepting these assurances. While the Chun shogunate was assuming power, President Carter saw fit to remark that "the Koreans are not ready for democracy . . . according to their own judgment." Washington's tolerance has now been repaid with the Kim death sentence. Official pragmatism notwithstanding, that verdict is an affront to civilized opinion everywhere. A human rights policy that winks at samurai justice can hardly "ready" South Korea for democracy.●

AMENDMENT TO H.R. 6331

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEVITAS) is recognized for 5 minutes.

● Mr. LEVITAS. Mr. Speaker, when the House considers H.R. 6331 I will offer on behalf of the House Committee on Public Works and Transportation Committee an amendment to H.R. 6331, as reported on April 24, 1980, which will be offered during consideration of the bill on the Suspension Calendar on September 22, 1980, as follows:

On page 16, line 10, after the words "owned property contained in" insert the following: "lot 49 in square 582; lot 70 in square 640 and".

On page 17, line 1, strike "$3,500,000" and insert "$11,500,000." ●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. MAZZOLI) is recognized for 5 minutes.

● Mr. MAZZOLI. Mr. Speaker, I was unavoidably absent on Thursday, September 4, and Friday, September 5, 1980. Had I been present, I would have voted:

THURSDAY, SEPTEMBER 4, 1980

"Aye" on rollcall No. 516, on ordering the previous question on the rule providing for the consideration of H.R. 7765, the omnibus budget reconciliation bill;

"Aye" on rollcall No. 517, on the rule providing for the consideration of H.R. 7765, the omnibus budget reconciliation bill;

"Nay" on rollcall No. 518, an amendment to H.R. 7765 to strike that part of the bill which provides a once-only delay in one of the two cost-of-living adjustments which Federal civilian and military retirees are to receive in fiscal year 1981 under current law;

"Aye" on rollcall No. 519, passage of H.R. 7765, the omnibus reconciliation bill; and

"Aye" on rollcall No. 520, passage of H.R. 7115, fiscal year 1981 National Science Foundation authorization bill.

FRIDAY, SEPTEMBER 5, 1980

"Aye" on rollcall No. 521, that the House resolve itself into the Committee of the Whole for the consideration of H.R. 7235, the Rail Act of 1980.●

AGENCY FOR INTERNATIONAL DEVELOPMENT RECEIVES HELEN KELLER INTERNATIONAL AWARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

● Mr. BRADEMAS. Mr. Speaker, nations and their governments can aspire to no higher goal than the relief of human misery, and no more urgent battle can be fought in pursuit of that goal than the battle against blindness. In the world today, more than 42 million people are blind and, sadly, 80 percent of those afflicted need not have suffered. They lacked basic medical care.

It is with that regrettable statistic in mind that I commend the tireless efforts of the Agency for International Development in the battle against blindness, efforts which recently gained worldwide recognition through AID's receipt of the 1980 Helen Keller International Award for contributions in the field of blindness. This marks only the second time that an organization, rather than an individual, has received the award, the only such international award in existence.

On every continent AID sponsors or contributes to programs to relieve the misery of those who suffer from blindness and prevent the spread of blindness to others, especially children. The award is a tribute to the Agency, and to its able Administrator, Douglas J. Bennet, Jr.

At this point, Mr. Speaker, I insert in the RECORD the remarks of Mr. John Crowley, the president of Helen Keller International, at the Award ceremony this past September 15:

HELEN KELLER AWARD PRESENTED TO A.I.D.

(Remarks by John Crowley, President, Helen Keller International, Blair House, September 15, 1980)

Mr. Bennet, Distinguished Guests, Friends:

As we gather today in this historic and beautiful house, it is my special privilege to cite the contributions that a distinguished American organization, the Agency for International Development, has made to alleviate one of the most devastating problems in the developing world—blindness.

Unfortunately, many people are little aware of the extent to which blindness not only leads to human suffering, but also takes a heavy social and economic toll, particularly in nations with limited capacity to curb it, or to aid its victims.

A few figures tell much of the story. There are more than 42 million blind people in the world today, the vast majority the poorer citizens of the poorest countries of the world . . . and their numbers are expected to double by the year 2000 unless strong action is taken . . . a quarter of a million young children in Asia alone going blind each year because of lack of vitamin A . . . some 500 million people suffering from trachoma, a viral disease that can lead to blindness . . . three and one half million people in India blind because of cataracts that have not been treated . . . 20 million Africans afflicted by river blindness caused by the bite of a small black fly . . .

Four-fifths—eighty percent—of all this blindness is preventable, and A.I.D. is in the forefront of global efforts to see that it is prevented.

Since 1974, A.I.D. has been participating in the international struggle to avert the blindness in preschool children caused by vitamin A deficiency. It has sponsored an organization of experts in the field—the International Vitamin A Consultative Group—designed to share scientific findings and develop new methods of treating the disease, while promoting prevention efforts.

Because of A.I.D.'s interest and support of work by government and private voluntary organizations, hundreds of thousands of children in Africa, Asia, and Latin America can look forward to lifetimes of vision.

A.I.D. is supporting a cooperative program to control and reduce river blindness in seven West African countries, where visitors to rural areas can still find villages where all the adults are being led around by children, so high is the rate of blindness.

In more than 30 countries, A.I.D. has supported the voluntary sector in its provision of eye care service. Programs in many places emphasize the prevention of eye disease and training of physicians and other health workers to combat blindness. With A.I.D.'s help, corneas have been supplied for sight-saving transplants in 62 countries.

During the past 20 years, A.I.D. has assisted American institutions overseas in attempts to demonstrate the best of U.S. achievements in education and medicine. Many of these U.S. hospitals and medical centers have ophthalmological programs, particularly in the field of trachoma and river blindness.

Assistance to the victims of blindness—so many of whose sight could have been saved if help had arrived in time—is another important aspect of A.I.D. involvement. The first blind children in Indonesia are going to school along with sighted peers because of an A.I.D.-supported program that has already reached 15,000 people and will ultimately reach every blind child in Indonesia. A new A.I.D. grant will extend this opportunity to blind children in Fiji, and provide rehabilitation services as well.

A full-scale nationwide project to enable blind adults to live independent and self-supporting lives is underway in the Philippines, with the help of A.I.D. funds. The aim is to reach all 600,000 blind persons in that area.

Mr. Bennet, it is because of these, and many more, contributions that the Agency for International Development has made to the worldwide fight against blindness, that the Board of Trustees of Helen Keller International takes pleasure in presenting the Helen Keller International Award in this, Helen Keller's centennial year, to the agency that you lead so effectively.

We can only say, with deep respect and gratitude, that the Agency for International Development has made outstanding efforts to help prevent blindness and eye disease, and to create better lives for those who have lost their sight, in the developing world. Because of A.I.D.'s assistance, millions of people can see today, and hundreds of thousands of blind persons are leading purposeful lives.●

RUNNING MEAN

(Mr. BAUMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BAUMAN. Mr. Speaker, in connection with my 1-minute speech before the House today entitled "Carter Should Apologize to America," I wish to insert at this point an editorial that appeared in the Washington Post on today, September 18, 1980, as follows:

Running Mean

It is a staple of this year's cynical political wisdom that running for office is what Jimmy Carter does best. We have a different view. We think it may be what he does worst. Mr. Carter, as a candidate, tends to convey a mean and frantic nature. This has been demonstrated in many ways over the past several weeks—and months.

First, the president seems determined to discredit, rather than to prevail over, his opposition. It's as if he doesn't quite believe they are entitled to run against him, and so he won't actually fight them, but rather will only provide an endless series of complaints about their candidacies and their character. You don't have to be a John Anderson fan to be made uncomfortable by the way in which Mr. Carter has sought to paint the Anderson effort as somehow illegitimate, not entitled to a hearing. And you don't have to be a Reagan fan to have noticed that Mr. Carter has abandoned all dignity in his round-the-clock attack on Mr. Reagan's character and standing, jumping him (in a most sanctimonious tone of voice) for "offenses" similar to many Mr. Carter himself has committed, and, most recently, concluding from all this that Mr. Reagan is a "racist" and a purveyor of "hatred." This description doesn't fit Mr. Reagan. What it fits, or more precisely, fits into is Jimmy Carter's miserable record of personally savaging political opponents (Hubert Humphrey, Edward Kennedy) whenever the going got rough.

Ronald Reagan is not a hater and he is not a racist; there are real reasons to challenge his claim to the presidency, but these are not those reasons. Mr. Carter's "evidence" for his charges is so weak as to be pitiable and also puts one in mind of a series of comparable failures and defaults of his own over the years, from "ethnic purity" in 1976 to silence on the civil rights bill in 1964 that could as easily have been distorted by an opponent. In a way, the most disturbing feature of the Carter campaign technique is that he displays a certain contempt for the evidence of our own eyes, asserting these things that run counter to what we can see and already know, as if he believed it didn't matter, that people would believe anything they were told. Only the day before his racism-and-hatred remarks, for instance, Mr. Carter—the man who has managed to keep out of debates with his competitors for a year now, and who has reduced his press conferences to the merest trickle—was telling the public, in his most outraged-for-democracy fashion that it was a terrible thing that Mr. Reagan was refusing to be "cross-examined" as anyone who aspired to the presidency should be.

So the president calls names, and he baldly recreates his own record (for the better) and that of everyone else (for the worse) and he displays and alarming absence of magnanimity, generosity and size when he is campaigning. No, of course, the other candidates are not just going around tossing basketfuls of May flowers to each other either, and yes, their campaigns are full of borderline fouls and blurrings of the record. But Jimmy Carter, as before, seems to have few limits beyond which he will not go in the abuse of opponents and reconstruction of history.

The purpose of a campaign is to get elected. But a campaign can win at too great a cost. A campaign can be conducted in a way that casts doubt on the purposes and policies of an incumbent's own government and record. And a campaign can offend and turn off the very people the candidate expects to win, people who want to and normally would support him, if he is ruthless and reckless in seeking their vote. There must be a better case for his reelection than the one the president is now making.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. Cavanaugh (at the request of Mr. Wright), for September 17 through 26, on account of attending the meeting of the Inter-American Development Bank.

To Mr. Clay (at the request of Mr. Wright), for today, on account of a necessary absence.

To Mr. Corman (at the request of Mr. Wright), after 10:10 a.m. today, on account of official business.

To Mr. Derwinski (at the request of Mr. Rhodes), for the week of September 22, on account of official business.

To Mr. McClory (at the request of Mr. Rhodes), for the week of September 15, on account of official business.

To Mr. Stokes (at the request of Mr. Wright), for today, on account of a necessary absence.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Evans of Delaware) to revise and extend their remarks and include extraneous material:)

Mr. Campbell, for 30 minutes, today,

Mr. Collins of Texas, for 15 minutes, today.

(The following Members (at the request of Mr. Biaggi) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 15 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Phillip Burton, for 5 minutes today.

Mr. Levitas, for 5 minutes, today.

Mr. Mazzoli, for 5 minutes, today.

Mr. Brademas, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Wylie, and to include extraneous matter immediately following remarks of the gentleman from Mississippi on H.R. 7511.

Mr. Clausen to insert extraneous material on remarks made during debate on H.R. 85.

Mr. Johnson of California to revise and extend his remarks and insert in the Record immediately before remarks of Mr. Roberts.

(The following Members (at the request of Mr. Evans of Delaware) and to include extraneous matter:)

Mr. Winn.
Mr. Derwinski in two instances.
Mr. Moorhead of California.
Mr. Rousselot.
Mr. Porter in two instances.
Mr. Lagomarsino in three instances.
Mr. Rinaldo.
Mr. Sebelius.
Mr. Erdahl.
Mr. O'Brien.
Mr. Broyhill.
Mr. Petri.
Mr. Ritter.
Mr. Dornan.
Mr. Bereuter in two instances.
Mr. Hillis.
Mr. Dannemeyer.
Mr. Regula.

(The following Members (at the request of Mr. Biaggi), and to include extraneous matter:)

Mr. Ottinger.
Mr. Ford of Tennessee.
Ms. Ferraro.
Mr. Gaydos.
Mr. Simon in two instances.
Mr. Preyer.
Mr. Fauntroy.
Mr. Dodd.
Mr. Oberstar.
Mr. Mazzoli in three instances.
Mr. McDonald in two instances.
Mr. Levitas.
Mr. Rosenthal.
Mr. Fazio.
Mr. McHugh.
Mr. Stark.
Mr. Baldus.
Mr. Santini.
Mr. Long of Louisiana.
Mr. Duncan of Oregon.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 670. An act to provide for the establishment and coordination of rural development policy, to extend until September 30, 1981, the authorizations for appropriations for title V of the Rural Development Act of 1972, and for other purposes;

S. 1125. An act to improve and expand the Federal crop insurance program, and for other purposes; and

S. 2443. An act to authorize the Department of Energy to carry out a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, N.Y.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. NEDZI, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3292. An act to assist the States in developing fish and wildlife conservation plans and actions, and for other purposes; and

H.J. Res. 594. Joint resolution to authorize and request the President to issue a proclamation designating September 18, 1980, as "Constantino Brumidi Day".

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. NEDZI, from the Committee on House Administration, reported that that committee did on September 16, 1980 present to the President, for his approval, bills and a joint resolution of the House of the following titles:

H.R. 5766. An act to authorize additional Reserve Officers' Training Corps scholarships for the Army, to authorize the Secretary of the Army to provide that cadets awarded such scholarships may serve their obligated period of service in the Army Reserve or Army National Guard of the United States, to authorize the Secretary concerned to require an individual furnished post-secondary education by an Armed Force to reimburse the United States for the cost of such education in the event such individual fails to comply with such individual's active-duty obligation, to provide that certain full-time training duty of members of the National Guard shall be considered as active duty for training in Federal service for certain purposes, and for other purposes;

H.R. 6940. An act to amend the Federal Food, Drug, and Cosmetic Act to strengthen the authority under that act to assure the safety and nutrition of infant formulas, and for other purposes, and

H.J. Res. 607. An act making an urgent supplemental appropriation for the Veterans' Administration for the fiscal year ending September 30, 1980.

ADJOURNMENT

Mr. BIAGGI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 35 minutes p.m.), the House adjourned until tomorrow, Friday, September 19, 1980, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees, and delegations traveling under an authorization from the Speaker, concerning the foreign currencies and U.S. dollars utilized by them during the second quarter of calendar year 1980 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1980

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. James Johnson	4/3	4/5	France		188.00						
	4/5	4/8	Egypt		225.00						
	4/8	4/12	Israel		320.00						
	4/12	4/14	Tunisia		246.00						
	4/14	4/15	Spain		96.00						
Total transportation via military aircraft							3,228.00				
Total per diem					(1,075.00)						
Committee total					1,075.00		3,228.00				

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

Sept. 3, 1980.

THOMAS S. FOLEY, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO COSTA RICA AND NICARAGUA, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 6 AND 10, 1980

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency
Jim Wright	6/6	6/7	Costa Rica	640.50	75.00			644.86	75.51	1,285.36	150.51
	6/7	6/10	Nicaragua	2,250	225.00			1,708.80	170.88	3,958.80	395.88
Military air transportation							839.82				839.82
Bill Alexander	6/6	6/7	Costa Rica	640.50	75.00			644.86	75.51	1,285.36	150.51
	6/7	6/10	Nicaragua	2,250	225.00			1,708.80	170.88	3,958.80	395.88
Military air transportation							839.82				839.82
Stephen L. Neal	6/6	6/7	Costa Rica	640.50	75.00			644.86	75.51	1,285.36	150.51
	6/7	6/10	Nicaragua	2,070	207.00			1,708.80	170.88	3,778.80	377.88
Military air transportation							839.82				839.82
Kent Hance	6/6	6/7	Costa Rica	640.50	75.00			644.86	75.51	1,285.36	150.51
	6/7	6/10	Nicaragua	2,250	225.00			1,708.80	170.88	3,958.80	395.88
Military air transportation							839.82				839.82
Katherine Mitchell	6/6	6/7	Costa Rica	640.50	75.00			644.86	75.51	1,285.36	150.51
	6/7	6/10	Nicaragua	2,250	225.00			1,708.80	170.88	3,958.80	395.88
Military air transportation							839.82				839.82
Wilson Morris	6/6	6/7	Costa Rica	640.50	75.00			644.86	75.51	1,285.36	150.51
	6/7	6/10	Nicaragua	2,250	225.00			1,708.80	170.88	3,958.80	395.88
Military air transportation							839.82				839.82
Kirk O'Donnell	6/6	6/7	Costa Rica	640.50	75.00			644.86	75.51	1,285.36	150.51
	6/7	6/10	Nicaragua	2,250	225.00			1,708.80	170.88	3,958.80	395.88
Military air transportation							839.82				839.82
Elizabeth Daoust	6/6	6/7	Costa Rica	640.50	75.00			644.86	75.51	1,285.36	150.51
	6/7	6/10	Nicaragua	2,250	225.00			1,708.80	170.88	3,958.80	395.88
Military air transportation							839.82				839.82
George M. Ingram	6/6	6/7	Costa Rica	640.50	75.00			644.86	75.51	1,285.36	150.51
	6/7	6/10	Nicaragua	2,250	225.00			1,708.80	170.88	3,958.80	395.88
Military air transportation							839.82				839.82
J. Edward Fox	6/6	6/7	Costa Rica	640.50	75.00			644.86	75.51	1,285.36	150.51
	6/7	6/10	Nicaragua	2,250	225.00			1,708.80	170.88	3,958.80	395.88
Military air transportation							839.82				839.82
Hal Lacy	6/6	6/7	Costa Rica	640.50	75.00			644.86	75.51	1,285.36	150.51
	6/7	6/10	Nicaragua	2,250	225.00			1,708.80	170.88	3,958.80	395.88
Military air transportation							839.82				839.82
Edward A. Lee	6/6	6/7	Costa Rica	640.50	75.00			644.86	75.51	1,285.36	150.51
	6/7	6/10	Nicaragua	2,250	225.00			1,708.80	170.88	3,958.80	395.88
Military air transportation							839.82				839.82
Committee total					3,582.00		10,077.84		2,956.68		16,616.52

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

Sept. 10, 1980.

JIM WRIGHT, Chairman.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5332. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report that no gifts of more than minimal value purchased with appropriated or unappropriated funds were given to foreign individuals by the U.S. Government during fiscal year 1979, pursuant to section 515(b)(2) of Public Law 95-105; to the Committee on Foreign Affairs.

5333. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report that no gifts of more than minimal value purchased with appropriated or unappropriated funds were given to foreign individuals by the U.S. Government during fiscal year 1980, pursuant to section 515(b) (2) of Public Law 95-105; to the Committee on Foreign Affairs.

5334. A letter from the Director, Federal Emergency Management Agency, transmitting a draft of proposed legislation to authorize the Director of the Federal Emergency Management Agency to provide transportation for certain persons engaged in activities at the Federal Emergency Management Agency Special Faciltiy; to the Committee on Government Operations.

5335. A letter from the Chairman, U.S. Commission on Civil Rights, transmitting a report on civil rights issues in immigration, pursuant to section 104(c) of Public Law 85-315, as amended; to the Committee on the Judiciary.

5336. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend title 14, United States Code, to provide for selective preappointment travel to the Coast Guard Academy for cadet applicants; to the Committee on Merchant Marine and Fisheries.

5337. A letter from the Comptroller General of the United States, transmitting a report on equal opportunity in referrals of the U.S. Employment Service (HRD-80-95, Sept. 17, 1980); jointly, to the Committees on Government Operations and Education and Labor.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. THOMPSON: Committee of conference. Conference report on H.R. 3904 (Rept. No. 96-1343). Ordered to be printed.

Mr. ULLMAN: Committee on Ways and Means. House Concurrent Resolution 376. Concurrent resolution relative to Japan-United States trade; with amendment (Rept. No. 96-1345). Referred to the House Calendar.

Mr. ULLMAN: Committee on Ways and Means. H.R. 7942. A bill to approve and implement the protocol to the trade agreement relating to customs valuation, and for other purposes (Rept. No. 96-1346). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 8081. A bill to establish the United States Holocaust Memorial Council; with amendment (Rept. No. 96-1347, pt. 1). Ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HARRIS: Committee on the Judiciary. H.R. 3459. A bill to waive the statute of limitations with regard to the claim of Eazor Express, Inc., of Pittsburgh, Pa., against the United States; with amendments (Rept. No. 96-1344). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. PERKINS (for himself, Mr. Ford of Michigan, Mr. Goodling, and Mr. Ashbrook):

H.R. 8145. A bill to dismiss certain cases pending before the Education Appeal Board; to the Committee on Education and Labor.

By Mr. CORMAN (for himself, Mr. Rangel, Mr. Brodhead, and Mr. Downey):

H.R. 8146. A bill to provide a program of Federal supplemental unemployment compensation; to the Committee on Ways and Means.

By Mr. CLAUSEN:

H.R. 8147. A bill to provide a comprehensive system of liability and compensation for damage and removal costs resulting from spills of oil and hazardous substances, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries, Public Works and Transportation, and Ways and Means.

By Mr. CORMAN:

H.R. 8148. A bill to allow an income tax deduction for certain motor carrier operating authorities to offset the impact of the Motor Carrier Reform Act of 1980; to the Committee on Ways and Means.

By Mr. DERWINSKI:

H.R. 8149. A bill to extend duty-free treatment to prayer shawls, bags for the keeping of prayer shawls, and certain headware used in religious observances; to the Committee on Ways and Means.

By Mr. DUNCAN of Oregon (for himself and Mr. Ullman):

H.R. 8150. A bill to amend the Internal Revenue Code of 1954 to exempt from the Federal motor fuels excise taxes fuel used in aircraft while engaged in certain activities related to planting, caring for, and harvesting of trees; to the Committee on Ways and Means.

By Mr. DORNAN:

H.R. 8151. A bill to amend title 18 of the United States Code to make rape a Federal crime if committed after travel in interstate commerce with the intent to commit rape, and to provide for the establishment within the Federal Bureau of Investigation a rape prevention information center; to the Committee on the Judiciary.

By Mr. FISHER:

H.R. 8152. A bill to amend the Internal Revenue Code of 1954 to encourage foreign pension plans to invest in the United States; to the Committee on Ways and Means.

By Mr. JENKINS (for himself, Mr. Smith of Iowa, and Mr. Frenzel):

H.R. 8153. A bill to amend the Internal Revenue Code of 1954 to clarify the tax-exempt status of agricultural and horticultural organizations operated for the purpose of bargaining collectively for the sale of members' products; to the Committee on Ways and Means.

By Mr. JENKINS (for himself, Mr. Heftel, and Mr. Holland):

H.R. 8154. A bill to provide that Revenue Ruling 80-60 shall not require a change in the taxpayer's method of accounting for taxable years beginning before 1980; to the Committee on Ways and Means.

By Mr. ROUSSELOT:

H.R. 8155. A bill to amend the Internal Revenue Code of 1954 to cut in half the capital gains tax on the sale of certain stocks and bonds of qualified small corporations; to the Committee on Ways and Means.

By Mr. ULLMAN:

H. R. 8156. A bill to extend for an additional 3 years certain provisions relating to controversies involving whether individuals are employees for purposes of the employment taxes; to the Committee on Ways and Means.

By Mr. SWIFT (for himself, Mr. Staggers, Mr. Udall, Mr. Dingell, Mr. Brown of Ohio, Mr. Clausen, Mr. Kazen, Mr. Lujan, Mr. Sharp, Mr. Symms, Mr. Ullman, Mr. Foley, Mr. Pritchard, Mr. McCormack, Mr. Duncan of Oregon, Mr. Bonker, and Mr. Dicks):

H.R. 8157. A bill to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River power system to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce.

By Mr. AuCOIN:

H.R. 8158. A bill to amend the Agricultural Adjustment Act to authorize marketing research and promotion projects, including paid advertising for filberts; to the Committee on Agriculture.

By Mr. DOWNEY:

H.R. 8159. A bill to provide for the same standard mileage rate to be used in determining the amount of income tax deductions for charitable and medical uses of automobiles as is used in determining the amount of income tax deductions for business uses of automobiles; to the Committee on Ways and Means.

By Mr. FISHER:

H.R. 8160. A bill to amend the Safe Drinking Water Act to permit small communities to comply with certain notice provisions by an appropriate means other than through publication in a newspaper of general circulation; to the Committee on Interstate and Foreign Commerce.

By Mr. GAYDOS:

H.R. 8161. A bill to designate the U.S. Federal Building in Pittsburgh, Pa., as the "William S. Moorhead Building"; to the Committee on Public Works and Transportation.

By Mr. HOLLAND:

H.R. 8162. A bill to authorize the Secretary of the Interior to assist in the preservation of historic Camden in the State of South Carolina, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. McKINNEY (for himself, Mr. Stark, Mr. Harris, Mr. Fisher, and Mr. Fauntroy):

H.R. 8163. A bill to amend the National Capital Transportation Act of 1969 to authorize additional Federal contributions for the designing, construction, and equipping of a rail rapid transit line to the Dulles International Airport; jointly, to the Committees on District of Columbia and Public Works and Transportation.

By Mr. SEIBERLING:

H.R. 8164. A bill to amend the trade adjustment assistance provisions of the Trade Act of 1974 in order to include periods of authorized sick leave or absence from work due to work-related injury within the computation of weeks of employment for purposes of establishing worker eligibility for such assistance, and for other purposes; to the Committee on Ways and Means.

By Mr. CORMAN:

H.J. Res. 613. Joint resolution authorizing the President to proclaim May 13 of each year as "National Indian Day"; to the Committee on Post Office and Civil Service.

By Mr. GUARINI:

H. Con. Res. 433. Concurrent resolution expressing the sense of the Congress that the U.S. Postal Service and the Postal Rate Commission should take such action as may be necessary to establish a special "citizen's rate" for domestic first-class mail that affords individual nonbusiness mail users a reduced domestic first-class mail rate; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

529. By the SPEAKER: Memorial of the Legislature of the State of California, relative to energy conservation financing; to the Committee on Interstate and Foreign Commerce.

530. Also, memorial of the Legislature of the State of California, relative to funding the Olympic games; jointly, to the Committees on Ways and Means and the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DEVINE:

H.R. 8165. A bill for the relief of (present and former) employees of the (Defense Supply Agency) at the Defense Construction Supply Center in Columbus, Ohio; to the Committee on the Judiciary.

By Mr. PRICE:

H.R. 8166. A bill for the relief of Phyllis Steiner; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 312: Mr. Long of Maryland.

H.R. 389: Mr. Murphy of New York.

H.R. 654: Mr. Downey.

H.R. 2552: Mr. Spence.

H.R. 3609: Mr. Nowak, Mr. Roth, and Mr. Dougherty.

H.R. 5330: Mr. Ullman.

H.R. 6664: Mr. Anthony, Mr. Dickinson, Mr. Ullman, Mr. Bowen, Mr. Fithian, Mrs. Fenwick, Mr. Gramm, Mr. Studds, Mr. Applegate, Mr. Conte, Mr. Sebelius, Mr. Synar, Mr. Lundine, and Mr. Marlenee.

H.R. 6709: Mr. Fish.

H.R. 7006: Mr. Gingrich.

H.R. 7348: Mr. Hubbard, Mr. Hightower, Mr. Stenholm, and Mr. Stump.

H.R. 7716: Mr. Hance, Mr. Rose, Mr. Leach of Louisiana, Mr. Barnard, Mr. Fish, Mr. Loeffler, Mr. Lehman, Mr. Hightower, Mr. Young of Missouri, and Mr. Nichols.

H.R. 7773: Mr. Breaux and Mr. Moore.

H.R. 7983: Mr. Forsythe, Mr. Moore, Mr. Marriott, Mr. Guarini, Mr. Porter, Mr. Hollenbeck, Mr. Horton, Mr. Marks, Mr. Albosta, Mr. Goldwater, Mr. Whitehurst, Mr. Grisham, Mr. Jeffords, Mr. Kramer, Mr. Lewis, Mr. Lott, Mr. Stangeland, and Mr. Lloyd.

H.R. 8019: Mr. Weaver.

H.R. 8081: Mr. John L. Burton, Mr. Ashley, Mr. Cotter, Mr. Horton, and Mr. Santini.

H.R. 8117: Mr. Corcoran, Mr. Hyde, Mr. Marlenee, Ms. Mikulski, and Mr. Derwinski.

H.J. Res. 596: Mr. Fazio, Mr. Frenzel, Mr. Lundine, Mr. Bedell, Mr. Santini, Ms. Ferraro, Mr. Goldwater, Mr. Downey, Mr. Dicks, Mr. Erdahl, Mr. Jenrette, Mrs. Fenwick, Mr. Donnelly, Mr. Fowler, Mr. Ginn, Mr. Ford of Tennessee, Mr. Fountain, Mr. Flippo, Mr. Howard, Mr. Leland, Mr. Mathis, Mr. Moore, Mr. Murphy of Pennsylvania, Mr. Moffett, Mr. Heftel, Mr. Wolpe, Mr. Hefner, Mr. Martin, Mr. O'Brien, Mr. Pashayan, Mr. Natcher, and Mr. Nolan.

H. Con. Res. 134. Mr. Hyde and Mr. Clinger.

H. Con. Res. 171: Mr. Lehman.

H. Con. Res. 293: Mr. Chappell.

H. Con. Res. 395: Mrs. Heckler.

H. Con. Res. 422: Mr. Sebelius.

H. Res. 760. Mr. Spence, Mr. Bereuter, Mr. Marriott, Mr. Collins of Texas, Mr. Winn, Mr. Corcoran, Mr. Kramer, Mr. Michel, Mr. Lent, Mr. Shumway, Mr. Whittaker, Mr. Lungren, Mr. Forsythe, Mr. Gilman, and Mr. Rudd.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 85

By Mr. WYATT:

—Page 37, after line 14, insert the following:

IXTOC I OILSPILL

Sec. 114. (a) Claims may be asserted by any United States claimant against the Oil Pollution Trust Fund established in section 521 of this Act for any compensable damage (within the meaning of section 531 of this Act) incurred by such claimant and arising out of, or directly resulting from, oil pollution caused by the discharge of oil on or after June 3, 1979, in connection with the blowout of Ixtoc I, Bay of Campeche, Mexico, on June 3, 1979; *Provided, however*, That the obligations of the Oil Pollution Trust Fund to carry out this subsection shall not exceed $75 million. If compensable damages exceed $75 million, they shall be reduced proportionally as determined by the Secretary.

(b) The provisions of this title, other than those provisions determined by the Secretary to be inconsistent with this section, shall apply to claims under subsection (a).

(c) (1) Except as provided in paragraphs (2) and (3) of this subsection, no United States claimant shall be eligible to receive compensation under subsection (a) of this section for any damage referred to in such subsection for which such claimant has not been compensated if such claimant has presented a claim for compensation for such damage under any other Federal or State law.

(2) Any United States claimant who presents a claim for any damage referred to in subsection (a) of this section, under any other Federal or State law, which is not reduced to judgment before the date of enactment of this Act may be eligible to receive compensation under such subsection. Presentation by such claimant of a claim for compensation under subsection (a) of this section shall be irrevocable, shall constitute the exclusive relief which may be granted with respect to the damage for which such claim is presented, and shall constitute a waiver by such claimant of any right to relief to which such claimant may be entitled under such other Federal or State law with respect to such damage.

(3) Any United States claimant who presents a claim for any damage referred to in subsection (a) of this section, under any other Federal or State law, which is reduced to judgment before the date of the enactment of this Act may be eligible to receive compensation under such subsection. Such claimant may present such judgment to the Secretary. If the Secretary determines that such claimant is entitled to receive compensation under either such subsection, then the Secretary shall offer to pay such compensation, not to exceed the amount of any award made in such judgment, in satisfaction of such judgment. Acceptance of such offer by such claimant shall constitute full satisfaction of such judgment with respect to each claim for any damage which is referred to in subsection (a) of this section and which is merged in such judgment.

By Mr. YOUNG of Alaska:

(Amendment to the amendment offered by Mr. Breaux.)

—Page 40, after line 4, insert the following:

"(4) The amount of any TAP fund surplus not used as an advance payment under section 541(d) shall be rebated by the Secretary directly to the operator of the trans-Alaska oil pipeline for payment, on a pro rata basis, to the owners of the oil at the time it was loaded on the vessel."

H.R. 4370

By Mr. FLORIO:

(Amendment to the amendment in the nature of a substitute.)

—Page 7, line 11, strike out "and".

Page 7, line 15, strike out the period and substitute "; and".

Page 7, after line 15, insert:

(6) the Interagency Task Force established under subsection (i) has reviewed the application for issuance of such certificate in the manner required under such subsection and that the Commission has taken into account any terms and conditions recommended by the Task Force.

Page 11, after line 25, insert:

(i) (1) The Secretaries of the Interior, Transportation, and Energy and the Administrator of the Environmental Protection Agency shall jointly establish an Interagency Task Force for purposes of carrying out the review and making recommendations to the Commission under this subsection. Such departments and agency shall make available to the Task Force such personnel of the department and agency as the Task Force deems necessary to carry out its funtions under this subsection.

(2) Whenever application is made to the Commission for a certificate of pubilc convenience and necessity under this section, the Commission shall promptly transmit a copy of such application to the Interagency Task Force established pursuant to paragraph (1). Upon receipt thereof, the Task Force shall review—

(A) the effects of the proposed pipeline and related facilities on water quality at the point of discharge;

(B) the extent to which solid waste (within the meaning of the Solid Waste Disposal Act) will be disposed of in connection with the operations of the pipeline and the hazards associated with such waste disposal; and

(C) any other effects which such pipeline may have on public health and the environment.

For purposes of such review, the Task Force may. in addition to any other information available to it, utilize information developed pursuant to the requirements of subsection (f) of this section.

(3) Following its review under paragraph (2) with respect to any application for a certificate of public convenience and necessity, the Interagency Task Force shall report to the Commission on its findings under (i) (2) (A) (B) (C) and shall make recommendations to the Commission, for inclusion in the certificate, the terms and conditions necessary to ensure that the proposed pipeline will not—

(A) create undue adverse effects on water quality at the point of discharge;

(B) result in solid waste disposal which presents an unreasonable risk to public health or the environment; and

(C) present an unreasonable likelihood of releases of any material from the pipeline or related facilities which may endanger public health or the environment.

Page 20, beginning in line 1, strike out "air and water quality standards" and substitute "standards and requirements relating to air quality, water quality, and solid waste."

—Page 40, line 12, strike out "and".

Page 40, line 16, strike out the period and substitute "; and".

Page 40, after line 16, insert:

(6) the Interagency Task Force established under subsection (k) has reviewed the application for issuance of such certificate in the manner required under such subsection and that the Commission has taken into account

any terms and conditions recommended by the Task Force.

Page 46, after line 16, insert:

(k)(1) The Secretaries of the Interior, Transportation, and Energy and the Administrator of the Environmental Protection Agency shall jointly establish an Interagency Task Force for purposes of carrying out the review and making recommendations to the Commission under this subsection. Such departments and agency shall make available to the Task Force such personnel of the departments and agency as the Task Force deems necessary to carry out its functions under this subsection.

(2) Whenever application is made to the Commission for a certificate of public convenience and necessity under this section, the Commission shall promptly transmit a copy of such application to the Interagency Task Force established pursuant to paragraph (1). Upon receipt thereof, the Task Force shall review—

(A) the effects of the proposed pipeline and related facilities on water quality at the point of discharge;

(B) the extent to which solid waste (within the meaning of the Solid Waste Disposal Act) will be disposed of in connection with the operations of the pipeline and the hazards associated with such waste disposal; and

(C) any other effects which such pipeline may have on public health and the environment.

For purposes of such review, the Task Force may, in addition to any other information available to it, utilize information developed pursuant to the requirements of subsection (f) of this section.

(3) Following its review under paragraph (2) with respect to any application for a certificate of public convenience and necessity, the Interagency Task Force shall report to the Commission on its findings under (k)(2)(A)(B)(C) and shall make recommendations to the Commission, for inclusion in the certificate, the terms and conditions necessary to insure that the proposed pipeline will not—

(A) create undue adverse effects on water quality at the point of discharge;

(B) result in solid waste disposal which presents an unreasonable risk to public health or the environment; and

(C) present an unreasonable likelihood of releases of any material from the pipeline or related facilities which may endanger public health or the environment.

Page 56, line 4, strike out "air and water quality standards" and substitute "standards and requirements relating to air quality, water quality, and solid waste."

H.R. 6386

By Mr. HUCKABY:

—Page 2, after line 12, add the following new sections:

SEC. 2. Section 1004(f) of the Legal Services Corporation Act of 1974 (42 U.S.C. 2996c(f)) is amended—

(1) by striking out "advisory" each place it appears in the subsection; and

(2) by adding at the end the following new sentence: "The council shall have the power to approve or disapprove the making of each grant and the entering into of each contract under this title which affects such State, as determined by the president of the Corporation.".

SEC. 3. Section 1007 of the Legal Services Corporation Act of 1974 (42 U.S.C. 2996f) is amended—

(1) by striking out "and" at the end of paragraph (9) of subsection (a);

(2) by striking out the period at the end of paragraph (10) of subsection (a) and inserting in lieu thereof "; and" and the following new paragraph:

"(11) insure that the councils established pursuant to section 1004(f) have the opportunity to approve or disapprove the making of grants and the entering into of contracts under this title."; and

(3) by adding at the end of subsection (e) the following new sentence: "No grant may be made and no contract entered into under this title unless the council, established pursuant to section 1004(f), of the State most directly affected by such action, as determined by the president of the Corporation, approves such action.".

—Page 2, after line 12, add the following new section:

SEC. 2. Section 1003(b) of the Legal Services Corporation Act of 1974 (42 U.S.C. 2996b(b)) is amended—

(1) by striking out "principal" in the first sentence; and

(2) by adding at the end the following new sentence: "The Corporation may not maintain any office at any location except in the District of Columbia.".

—Page 2, after line 12, add the following new section:

SEC. 2. Section 1006(f) of the Legal Services Corporation Act of 1974 (42 U.S.C. 2996e(f)) is amended by striking out "for the sole purpose of harassment of the defendant or that the Corporation or a recipient's plaintiff maliciously abused legal process" and inserting in lieu thereof "vexatiously or in bad faith".

—Page 2, after line 12, add the following new section:

SEC. 2. Section 1007 of the Legal Services Corporation Act of 1974 (42 U.S.C. 2996(f) is amended—

(1) by inserting at the end of subsection (e) the following new sentences: "No grant may be made and no contract entered into under this title if the governing body of any of the political subdivisions of a State directly affected by such action, as determined by the president of the Corporation with the advice and consent of the council established pursuant to section 1004(f) of such State, disapprove such action not later than 60 days after the affected political subdivision receives notification of the action pursuant to subsection (f). Any disapproval under this subsection shall include a specification of changes proposed in the method of making the grant or entering into the contract."; and

(2) by inserting in the first sentence of subsection (f) "each political subdivision of a State directly affected by such action (as determined pursuant to subsection (e) by the president of the Corporation with the advice and consent of the council of such State)," after "the Governor,".

By Mr. LUNGREN:

—Page 2, line 11, strike out "$380,000,000", and insert in lieu thereof "$343,791,000".

—Page 2, line 12, strike out "$450,000,000", and insert in lieu thereof "$367,856,000".

H.R. 7020

By Mr. MILLER of California:

—Page 35, after line 7 insert:

"WORKER SAFETY

"SEC. 3044. (a) As promptly as practicable after the date of the enactment of the Hazardous Waste Containment Act of 1980, the Secretary of Labor shall promulgate occupational safety and health standards under the Occupational Safety and Health Act of 1970 to assure safe working conditions for employees involved in relocation, containment, clean-up or other remedial actions undertaken with respect to hazardous waste sites. Such standards shall contain procedures requiring employers to notify their employees of the specific dangers associated with exposure to the hazardous substances located at any hazardous waste site at which such employee is employed. The rules promulgated as provided in this subsection shall not contain an exemption from the requirements of such rules for any employer on the basis of the number of employees employed by the employer or on any other basis.

"(b) No funds appropriated pursuant to this or any other Act may be used in the relocation, containment, cleanup, or other remedial action with respect to any hazardous waste site unless the Administrator determines that such action will be carried out in a manner consistent with the rules promulgated under subsection (a) of this section.

"(c) The provisions of the Occupational Safety and Health Act of 1970 shall apply for purposes of the standard required to be promulgated as provided in this section, and the terms 'employee' and 'employer' shall, for purposes of this section, have the same meanings as when such terms are used in the Occupational Safety and Health Act of 1970.".

Page 51, before line 1, after the item relating to section 3043 insert:

"Sec. 3044. Worker safety."

H.R. 7112

By Mr. WALGREN:

—Page 3, after line 21 insert the following new subsection (and redesignate the succeeding subsection accordingly):

"(c) AUTHORIZATION OF APPROPRIATIONS FOR ADDITIONAL ALLOCATIONS TO LOCAL GOVERNMENTS.—There are authorized to be appropriated to the Trust Fund to make additional allocations to local governments under section 107 for such entitlement period—

"(1) $500,000,000 for the entitlement period beginning October 1, 1981, and ending September 30, 1982; and

"(2) $1,000,000,000 for the entitlement period beginning October 1, 1982, and ending September 30, 1983.

Page 6, line 3, strike out the close quotation marks and the following period and insert after such line the following:

"SEC. 107. ADDITIONAL AND ALTERNATIVE ALLOCATIONS TO LOCAL GOVERNMENTS.

"(a) IN GENERAL.—Except as provided in subsection (b), from any amount appropriated pursuant to section 105(c) for any entitlement period beginning on or after October 1, 1981, there shall be allocated to each unit of local government an amount which bears the same ratio to the amount so appropriated for that period as the entitlement of that unit under section 108 bears to the sum of the entitlements of all units of local government under such section.

"(b) ALTERNATIVE ALLOCATION.—If the amount appropriated pursuant to section 105(c)—

"(1) for the entitlement period beginning October 1, 1981, and ending September 30, 1982, equals or exceeds $460,000,000; or

"(2) for the entitlement period beginning October 1, 1982, and ending September 30, 1983, equal or exceeds $920,000,000,

then the sum of the amount appropriated under sections 105(b) and 105(c) shall be allocated among the States in accordance with section 106, and the amount so allocated to each State shall be allocated among the units of local government of such State in accordance with subsections (c), (d), (e) and (f) of this section and shall not be allocated under section 108.

"(c) ALLOCATION AMONG UNITS OF LOCAL GOVERNMENT.—

"(1) IN GENERAL.—The amount allocated for any entitlement period (for which this subsection applies) to a State under section 106 shall be allocated among the units of local government within such State in accordance with this subsection and subsections (d), (e), and (f), except that, for the entitlement period beginning October 1, 1981, and ending September 30, 1982, the amount allocated to any State for such entitlement period shall be allocated among the units of local government within such State by—

"(A) determining the amount which would be allocated to each such unit from such amount if such amount were allocated in accordance with section 108,

"(B) adding the amount to the amount which would be allocated to each such unit from such amount if such amount were allocated in accordance with this subsection and subsections (d), (e), and (f), and

"(C) dividing that sum by two.

"(2) Allocation to units of local government.—Except as otherwise provided in this section, the amount allocated to a State under section 106 shall be allocated among the units of local government (other than Indian tribes and Alaskan native villages) located in that State so that each unit of local government will receive an amount which bears the same ratio to the total amount to be allocated to all such units as—

"(A) the population of that unit of local government, multiplied by the general tax effort factor of that unit of local government, multiplied by the relative income factor of that unit of local government, bears to

"(B) the sum of the products determined under subparagraph (A) for all such units.

"(3) Indian tribes and Alaskan native villages.—If within a State there is an Indian tribe or Alaskan native village which has a recognized governing body which performs substantial governmental functions, then before applying paragraph (2) there shall be allocated to such tribe or village a portion of the amount allocated to the State for the entitlement period which equals the product resulting from multiplying—

"(A) the population of that tribe or village within that State, by

"(B) an amount equal to 110 percent of the amount allocated to such State as determined under section 106, divided by the population of that State.

"(d) Entitlement.—

"(1) In general.—Except as otherwise provided in this subsection, the entitlement of any unit of local government for any entitlement period shall be the amount allocated to such unit under section (c).

"(2) Maximum and minimum per capita entitlement.—Subject to the provisions of paragraphs (3) and (4), the per capita amount allocated to any unit of local government within a State under this section for any entitlement period shall not be less than 20 percent nor more than 145 percent of the amount allocated to the State under section 106, divided by the population of that State.

"(3) Limitation.—The amount allocated to any unit of local government under this section for any entitlement period shall not exceed 50 percent of the sum of—

"(A) such government's adjusted taxes (as determined without regard to subsection 109(d)(3)); and

"(B) the intergovernmental transfers of revenue to such government (other than transfers to such government under this subtitle).

"(4) Entitlement less than $200, or governing body waives entitlement.—If (but for this paragraph) the entitlement of any unit of local government—

"(A) would be less than $200 for any entitlement period, or

"(B) is waived for any entitlement period by the governing body of such unit, then the amount of such entitlement for such period shall (in lieu of being paid to such unit) be distributed to other units of local government in the State in accordance with regulations prescribed by the Secretary.

"(e) Adjustment of Entitlement.—In adjusting the allocation of any unit of local government, the Secretary shall make any adjustment required under subsection (d)(2) first, any adjustment required under subsection (d)(3) next, and any adjustment required under subsection (d)(4) last.

"(f) Definitions.—The definitions and related rules contained in section 108(d) shall apply for purposes of this section.".

By Mr. WYDLER:

—Page 3, line 22, redesignate subsection (c) as subsection (d) and after line 21 insert the following new subsection:

"(c) Authorization of Appropriations for Allocations to State Governments.—

"(1) In general.—In the case of each entitlement period described in paragraph (2), there are authorized to be appropriated to the Trust Fund $2,300,000,000 for such entitlement period to make allocations to State governments in accordance with section 107.

"(2) Entitlement periods.—The following entitlement periods are described in this paragraph:

"(A) The entitlement period beginning October 1, 1981, and ending September 30, 1982; and

"(B) The entitlement period beginning October 1, 1982, and ending September 30, 1983.

Page 6, line 3, strike out the close quotation marks and the following period and insert after such line the following:

"Sec. 107. Allocation to State Governments.

"From any amount appropriated pursuant to section 105(c)(1) for any entitlement period described in section 105(c)(2), there shall be allocated to each State government an amount which bears the same ratio to the amount so appropriated for that period as the amount allocable to that State under section 106(b) bears to the sum of the amounts allocable to all States under section 106(b).".

Page 6, strike out lines 5 through 20 and insert in lieu thereof the following:

(1) Payments.—Section 102(a)(1) of the Act is amended by striking out "the entitlement" and inserting in lieu thereof "the allocation, if any,".

Page 7, line 3, insert "and" after the semicolon; strike out lines 4 through 24: and, on page 8, line 1, redesignate the succeeding subparagraph accordingly.

H.R. 7385

By Mr. GAYDOS:

—Page 1, line 3, strike all after the enacting clause and insert the following:

—That (a)(1) the Secretary of the Interior is authorized to enter into a contract with Carnegie-Mellon University, whereby the United States agrees to convey, and Carnegie-Mellon University agrees to accept, all right, title, and interest of the United States in and to the property described in subsection (b) hereof. The contract shall provide, inter alia, that Carnegie-Mellon University, at the time of the conveyance of title to said property, shall pay to the United States the amount which the Secretary of the Interior determines to be the fair market value of the property conveyed, or $5,400,000, whichever is greater. Should the cost of the engineering, design, and construction of the facility and related improvements authorized by section 2 of this Act and the fair market value each amount to less than $5,400,000, Canegie-Mellon University shall pay the higher of the two amounts.

(2) The conveyance shall not be effective until (i) the facility authorized pursuant to section 2 of this Act is completed and ready for occupancy; and (ii) Carnegie-Mellon University enters into a long-term agreement with the Secretary of Labor on behalf of the Mine Safety and Health Administration to lease to the Mine Safety and Health Administration all of that portion of the property designated as Building A (Main Building) and Building B (Service Building) and adjacent parking areas until such time as the Secretary of Labor determines that the property is no longer needed for occupancy and use by the Mine Safety and Health Administration.

The property referred to in subsection (a) includes land and improvements thereon owned by the United States and used for the Pittsburgh facility of the Bureau of Mines, such land being situated in the Oakland area of Pittsburgh, Pennsylvania, and known as 4800 Forbes Avenue.

(c) The Secretary of Labor, on behalf of the Mine Safety and Health Administration, is authorized to enter into a lease agreement with Carnegie-Mellon University and take such other actions as are necessary to occupy and use the space referred to in clause (ii) of subsection (a)(2) at a fair and reasonable price and under terms to be determined by the Secretary of Labor.

Sec. 2. (a) After a duly authorized representative of Carnegie-Mellon University has executed the contract referred to in paragraph (1) of subsection (a) of section 1 of this Act, the Secretary of the Interior may, with funds appropriated for such purposes, enlarge, equip, and improve the research facility of the Bureau of Mines near Bruceton, Pennsylvania, and may transfer such operations as he deems appropriate to such facility from the facility at Pittsburgh, Pennsylvania.

(b) In order to carry out this section, there is hereby authorized to be appropriated not more than $5,400,000 for the engineering, design, and construction of facilities and related improvements at the research facility of the Bureau of Mines near Bruceton, Pennsylvania.

EXTENSIONS OF REMARKS

THE CAPTAIN MINE

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. SIMON. Mr. Speaker, in the July 1980 magazine, Coal Mining & Processing, there is a feature story about the Captain Mine operated by the Southwestern Illinois Coal Corp. in my district.

I had the opportunity to visit that remarkable mine a few weeks ago and saw what can only be described as an automated surface mine. About 20 feet of soil is dug at one point, conveyed around the belt, and then returned after the coal is removed.

The only somewhat sour note in my visit was to learn that most of the high-priced equipment that this mine requires is manufactured in Germany and Japan. I say that with no disrespect to our good friends, but to suggest that we ought to be doing more of that kind of thing in our country.

I think my colleagues will be interested in the story.

CAPTAIN MINE: A NATIONAL SHOWCASE FOR SURFACE MINING AND RECLAMATION

(By Wes Blakely)

When it comes to setting superlative reclamation standards from coal mining operations, Southwestern Illinois Coal Corp. may be one of the hardest acts to follow in the nation. The company started its ambitious reclamation program in 1936 by planting several varieties of pines and hardwoods. That's some 30 years before the umbrella of environmentalism was to become the popular politically "safe harbor" that it is today for so many bureaucrats and elected office-holders alike.

Now a division of Arch Mineral Corp. out of St. Louis, Southwestern's efforts have resulted in hundreds of acres of reforested woodlands, beautiful recreational areas, productive farmlands and scenic lakes all stocked with game fish. Today, over 15% of Southwestern's mined property is comprised of successfully reforested timberland, while wildlife, such as squirrel, rabbit, deer, fox, and possum abound on their lands.

From 1935, when he helped found Southwestern Illinois Coal Corporation, until his retirement as president in 1973, William E. "Bill" Mullins was the driving force behind Southwestern's endeavors in this field. His foresight and imagination were instrumental in helping the company become an industry leader in returning spoiled land to productive usefulness. Under his direction, Southwestern began Galum Creek Farms, now Arch Farms, as a management subsidiary in 1961. The farm feeds and raises some 2,800 head of cattle which roam free on the "range" all year long. Most of the pasture is actually previously mined land. Reclamation work began almost simultaneously with the first mining activity at the company's Streamline Mine in 1936.

Don McCaw, a forty-year veteran with Southwestern and now beltline superintendent at the Captain Mine, recalls that the company planted some 40,000 trees in 1937 and then planted up to 150,000 each year through 1947 when it went to pasture land reclamation. The Captain Mine was opened in 1964 and is one of the nation's largest surface mining operations. The overall mine site comprises about 30,000 acres in southwestern Illinois near Percy, 60 miles southeast of St. Louis, Mo.

One of the most popular, if not scenic, attractions constructed by Southwestern on reclaimed land is the Bill Mullins Recreation Area, known to most people in the region as Southwestern Lakes. This outstanding recreational retreat—largely the result of filling the final cut with water on the completion of the mining cycle—has more than 350 acres of lakes and ponds, stocked in abundance with channel cat, bluegill, small and large mouth bass, crappie and pike. Over 1500 families hold fishing permits. An especially popular feature of this area is the Southwestern Lakes Golf Course, one of the longest, and best maintained 9-hole courses in southern Illinois. Approximately 250 families hold memberships in the club.

Thousands of people annually take advantage of the good reclamation fruit yielded from Southwestern's expertise in restoring mined lands, a tribute to the company's farsightedness in relation to this important aspect of their operations.

CAPTAIN MINE OPERATIONS

From a production standpoint, Southwestern is no slouch either.

The Captain Mine produces 400,000 tons a month from the Illinois Nos. 5 and 6 seams, working 24 hours a day, 7 days a week. Its total production is committed to the midwestern and southern steam markets.

Two pits are operated at Captain with one of the world's largest shovels in one, a Marion 6360 180-cu-yd production machine, and a Bucyrus-Erie 2570 100 cu-yd machine works the other. The two huge shovels work towards each other from boundaries of the property with the pit lengths ranging from 4000 ft on the 2570 operation to 6000 ft with the Marion.

Ratio of overburden, consisting of limestone, shales, clay and unconsolidated material is 8 and one-half to one at the 2570 pit and 9 and one-half to one at the 6360 pit. The two coal seams are separated by 25 ft of overburden. The upper or No. 6 seam runs 5.7 ft in thickness while the lower No. 5 runs up to 3.7 ft.

One of the more interesting aspects at Captain is the "new kid on the block," so to speak, in mining-reclamation equipment—the new Mitsubishi spreader. The first spreader has been in operation since January in helping the company to meet super-stringent reclamation stipulations of the new surface mine laws and is the first of its kind to be employed at a surface mine in the United States. Since that time, Southwestern has purchased another similar unit.

Each machine is so well balanced that it exerts only a 4.5-psi ground pressure, while weighing in at 230 short tons. Described as the key units in the Captain Mines's reclamation activities, the spreaders are fully integrated into a land recovery system designed to accommodate the restructuring of the topmost soil horizons in accordance with the law, reclaiming to a minimum of one-foot as required. Other components of the system include an O & K bucket wheel excavator and belt wagon and a Weserhutte 54-inch wide conveyor belt system, with steel cord belt, that delivers the material to the spreaders.

The new reclamation system was installed after a previous prototype system was installed and operated, according to Ken Kraus, chief engineer at Captain. "The other equipment combination we had installed first, allowed us to develop certain design features which are being used in the new equipment," says Kraus. The Commonwealth of Illinois classifies two general horizons in Perry County: the "A" horizon involves up to 18 in. of topsoil, while the "B" horizon constitutes the clays which average up to 3-ft. thick. "The spreaders," reports Don McCaw "do remarkably well traveling the clays, and even in soft conditions they still advance."

"In large pit operations such as Captain," says Kraus, "where the upper third of the overburden is more or less soft materials, the system we now have allows for longer life of the conventional equipment. Prestripping the upper third of the material with such a system is particularly important as the mining ratios creep upward, too."

"We looked at applications and operations all over the world," he adds, "before purchasing the system we have now. In fact, when we asked for bids on the spreader that called for a 4.5 psi ground pressure, Mitsubishi Heavy Industries, Ltd. of Japan was the only manufacturer who responded." Kraus points out that Southwestern absolutely needed that kind of low ground pressure in order to obtain satisfactory crop yields on the reclaimed portions.

Different areas of the high Captain Mine are permitted for either row crops, timberland or pasture while Southwestern maintains its own 100-acre soils test plot at Captain where it experiments with various combinations of trees, shrubs, grasses and crops. Perry County has a good amount of pasture with the chief crops being corn, soybeans, and winter wheat.

"The alternative to the system now in use," says Kraus, "would have been a sizeable investment in scrapers and tractors, which in turn would have meant long cycle times and low productivity due to the heavier compaction of the top soils."

DRAINAGE CONTROL

"To succeed with this kind of conveyor-spreader system", McCaw says, "you simply have to control the drainage—that's absolute in the spreading area in order to minimize mucky conditions.

"Our goal is to get between a 500 to 600-ft wide bench ahead of the stripping equipment. This creates a large surface area that's below drainage and now that this area is increased we are designing a water collection system to pump and drain the water off. We also control digging the grades and elevations with a laser beam."

"In addition," McCaw adds, "we create our own topography to near original contour as the law says and design the slopes not in excess of 5%. This assures a good drainage but also allows the farm machinery to traverse it later on."

In the winter time when the material in the reclamation area is frozen the company uses a dozer to break it up. The Mitsubishi spreaders are reclaiming an area of 200 to 220-ft wide on each pass. This is compatible with the bucket wheel excavator and represents the maximum reach of the spreader.

"Of course," McCaw says, "our operators with the system are improving each day as they get more comfortable in handling the equipment. As the operators gain experience, we'll see an improvement, I'm sure, in our moving times, too. This is as critical to us as the time involved underground with moving a longwall mining system."

At the same time, even Southwestern's nearly 45 years of experience in reclaiming mined lands is being put to the severest of tests today as a result of the stringent new laws—as is all of the nation's surface coal mine operations for that matter. This means the environmentally vital role of the spreader in restoring soils for eventual grading and planting will undoubtedly grow in importance. As Ken Kraus puts it, "I can see where these machines can be an integral part of surface mine operations not only in the midwest but in such areas as the Texas lignite fields, too."●

A DEDICATED GROUP

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. RITTER. Mr. Speaker, volunteer firemen are dedicated people, serving their communities with deep pride. They are available at a moment's notice—day or night—whenever an alarm sounds. Risk and danger do not enter their minds as they come to the aid of their fellow man.

Typical of this group is the Fountain Hill Hose Company, which will mark the 75th anniversary of its founding at a public celebration on October 10.

This volunteer fire company has played a vital role in its community of 4,000 residents in Lehigh County. It has not been an easy road. There were many struggles, especially in the early years, which predated the company's official founding.

Thirteen men signed up on the night of July 30, 1894, when the borough fathers organized a fire department. Within a year, the volunteers had doubled. A barn was rented for $3 a month to store hose and a hose cart.

The evolution was slow. Fire plugs were installed when the borough's water system came into being in 1894. Four push-button alarm boxes were added in 1901. Application was made in October 1905 for a charter. A new firehouse was completed in 1911, the alarm system updated and a rebuilt steam engine purchased for $2,300. In 1920, a fund drive raised $12,000 to purchase a triple combination truck. Several used trucks were purchased through the years and used until 1977 when a fund drive raised $60,000 toward the purchase of a new Mack pumper.

Today, Chief James Bobal heads a group of 20 firefighters. In addition, there are 450 social members and a ladies auxiliary which assists in various fundraising efforts.

The entire Fountain Hill community owes much to this dedicated group of volunteers. As their Congressman, I salute them for making their community a better, safer community in which to live and grow.●

BLOOD ALLEY

HON. W. J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. TAUZIN. Mr. Speaker, I am introducing legislation to help resolve one of the most serious situations in highway safety in our country. A 30-mile section of U.S. Highway 90, stretching between Morgan City, La., and Gray, La., has become infamously known as Blood Alley, claiming 50 lives and causing 1,263 injuries between 1974-78. Planning for a new, more direct, and safer route between Morgan City and the intersection of Louisiana Highway 311 began in 1972, but due to bureaucratic delays, the project remains incomplete. At this time, no Federal funds are involved in the project and the environmental questions have long since been answered.

Originally planned by the FHWA in 1972 using Federal funds, the project was abandoned before construction began. No further action was taken until August 4, 1977, when a bridge permit application was submitted by the State to the 8th Coast Guard District to construct the highway using State funds. The initial draft EIS was completed by the Coast Guard and filed with EPA on May 26, 1978. After review of the DEIS, strong objections were voiced by the EPA, U.S. Fish and Wildlife Service, and the Corps of Engineers to the proposed highway alinement because of its adverse impact on the existing wetlands. As a result, alternative routings were examined for over 1 year. In the interim, other specialized studies had to be conducted because of new laws and regulations or because of the realinement or both. In November 1979, the EPA, U.S. Fish and Wildlife Service, and the State agreed upon a new routing alinement that satisfied previous objections. A rewrite of the DEIS was required by the U.S. Coast Guard, for which the State has hired a contractor to complete.

With no major objections to the proposed project by any agency involved, only bureaucratic delays stand in the way of mitigating this hazardous, urgent situation.

I urge the House to take action on this critical matter at the earliest possible date.●

REAGAN IS RIGHT ON THE HOSTAGES

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. WINN. Mr. Speaker, Governor Reagan has shown great decisiveness, sensitivity, and competence in his comments on the Ayatollah Khomeini's latest statement on the American hostages.

The Republican Presidential candidate has stated simply and forthrightly that the United States should agree to cancel American claims against Iran, release Iran's frozen assets, and promise not to intervene in its internal affairs in exchange for the release of the hostages. The ayatollah's fourth demand—the return of the shah's property—is not, as Governor Reagan stated, in U.S. Government hands.

The Washington Post, in its lead editorial of September 15, recognized the importance of Ronald Reagan's statement. I recommend it to my colleagues:

Governor Reagan on the Hostages

Governor Reagan said the right thing about the hostages. Responding to Ayatollah Khomeini's latest set of demands, themselves seemingly pared down from an earlier and longer list, the Republican presidential candidate said the United States should simply agree to most of them. It should cancel American claims against Iran, release Iran's frozen assets and promise not to intervene in its internal affairs. The only Khomeini demand Mr. Reagan set aside was one for return of the former shah's property; that, he explained, is not in the U.S. government's hands. He recommended agreeing to do all of this, moreover, right off: not to engage in a long negotiation about it but just to agree to the three Khomeini demands and then to insist that the 52 American hostages be returned at once. Be done with it.

It is possible that Mr. Reagan will now be charged at home with barging in and yielding too much too soon. The answer, it seems to us, is that he is not negotiating in the first instance with Tehran; Jimmy Carter is. Gov. Reagan is in the first instance addressing Jimmy Carter. He is freeing the administration of the anxieties it has felt that Mr. Reagan would hover on the right, threatening to undercut any Carter effort to negotiate the hostages' return. Mr. Reagan would now seem to have left the president plenty of room over the next few months to continue his policy of cautiously but energetically exploring Iran's terms.

This is not to say the Reagan initiative has no political dimension. It will probably strike many Americans as an example of fair-minded, no-nonsense, presidential decisiveness—a quality that Mr. Carter has had full opportunity to show in the White House. But the Reagan response does more than that. A large part of Mr. Carter's re-election strategy has been to suggest that, on foreign policy in particular, Gov. Reagan is an unlettered, ineducable primitive, capable for political cause of savaging necessarily sensitive diplomatic affairs. On the Iran issue at least, that particular campaign strategy now may be frustrated.

> As to whether the Reagan approach would work if it were to become official policy, only a test could tell. There is a real question whether the new Khomeini demands represent either his final formulation or that of the Iranian parliament or of the particular terrorists holding the Americans. A case can be made, however, that there is a point beyond which it is self-defeating to wait until everything shakes down on the Iranian side. That could take forever. The Americans have already been captive nearly a year. It is at least conceivable that a clear, clean American position, forthrightly stated, could make its own contribution to untying the political knots that bind the hostages still.

Notably lacking from the ayatollah's latest set of conditions on the release of the hostages and from Governor Reagan's statements is any hint of any U.S. apology to Iran over past American misdeeds in that country.

This contrasts sharply with recent statements by the Department of State spokesman regarding the possibility of a U.S. apology to Iran.

In a September 10, 1980, briefing to the press, the State Department spokesman refused to rule out a U.S. apology to Iran. Furthermore, when asked if the Department were prepared to discuss the question of apologies, he stated:

> I think we're prepared to discuss anything and everything. I wouldn't want to give you to think that we would end up agreeing to do so; but I think we're ready to discuss, as the Secretary's letter says, anything that the Iranians want to discuss.
>
> Our prime objective is to get the hostages safely released; and, in the context of that, there are a lot of things that can be discussed and that can be done. I think we've enunciated some of those before.

I am shocked by this statement and am opposed to any U.S. apology to Iran or willingness to discuss Iranian grievances against the United States.

Indeed, I trust that the following passage from Secretary of State Edmund Muskie's August 20 letter to the Iranian Prime Minister Rajai does not suggest a U.S. apology to Iran:

> We also recognize that in Iran, as in the United States, there are deep feelings as a result of grievances perceived in the past. There are many difficult issues between the United States and Iran. For our part, we are willing to proceed fairly and to approach each of these issues on a basis of mutual respect and equality.

Secretary of State Muskie's letter was supplied to the Subcommittee on Europe and the Middle East. It has, of course, subsequently been released to the press.

As one of the 187 Members of Congress who sent a letter on July 2, 1980, to the Speaker of the newly formed Iranian Parliament urging him to give the hostage issue "your highest and earliest priority," I would support a dialog between the United States and Iran. However, this dialog must be on an honorable basis. Its objective must not be the humiliation of the United States through demands for apologies or incantations of grievances against this country.●

SOUTH KOREAN REGIME PASSING POINT OF NO RETURN

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. PORTER. Mr. Speaker, yesterday a South Korean military court sentenced Kim Dae Jung to death. His crime? Leading the opposition to the present military regime and allegedly plotting to overthrow by violence a regime itself founded upon the violent overthrow of its predecessor.

For 35 years the United States has supported South Korea, not only with our national treasure but with the lives of over 30,000 American GI's. Our intent was not altruistic but to establish a nation to show the people in that part of the world that our system of democrary can make a better life for all. Yet in those 35 years scant evidences of democracy in South Korea have been observed.

Clearly, with North Korea bellicosely breathing down its neck, the South Korean situation is difficult. Clearly, the liberties we want assured would all be lost if the Communist North gains control.

But clearly, too, if the South has become the North in its failure to observe the basic tenets of due process and justice under law for all its people, our support has been misplaced and our American lives lost in vain.

This sham trial and the continued trampling of the democratic processes and basic rights by the military regime in South Korea is intolerable and has placed further support for that country by ours in extreme jeopardy.

Kim's execution would pass the point of no return.●

SNITCHING ON CIA

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. DERWINSKI. Mr. Speaker, the House of Representatives is scheduled to take up the Intelligence Identities Protection Act in a few days. The bill was reported out of the House Permanent Select Committee on Intelligence unanimously, and the Committee on the Judiciary with a wide margin. I have received press comment on the bill from widely separated areas of the country. Here is a favorable editorial in the Indianapolis Star of June 1, 1980, written before the July 4 attack on the home of the CIA station chief in Jamaica:

> SNITCHING ON CIA
>
> What some call snitching and some call ratting is making life tough for American spies in assignments that are dangerous enough without such treachery.
>
> Too many American agents overseas have been assassinated. Marking them—disclosing their names—smacks of treason.
>
> Anyone caught doing this kind of thing in a communist country would be punished with death.
>
> In the United States a group is doing it and getting away with it.
>
> An outfit that calls its periodical the Covert Action Information Bulletin published, on Wednesday, the names and some biographical details on what it described as 40 Central Intelligence Agency officers and agents operating in 31 countries.
>
> The list purportedly named 13 chiefs of station, eight deputy chiefs and 19 senior "case officers," officers who supervise local agents. One of the deputy chiefs working in a foreign assignment was identified as a woman.
>
> Among those named were CIA personnel said to be operating in such potentially dangerous posts as Algeria, Guatemala, Jerusalem, Libya and Zaire.
>
> The periodical remarked that legislation is pending in Congress to make a criminal offense of the unauthorized identification of intelligence personnel.
>
> It stated that it would continue to do so even if the practice were outlawed.
>
> "We do not believe that it can be constitutionally suppressed by the government," it stated. "If any of the proposed laws designed to censor this column out of existence are passed we can assure our readers that we will fight them in the courts."
>
> Perhaps in some courts this twisted and degraded conspiracy will find sympathy. Much of the United States anti-espionage apparatus was dismantled by ill-conceived and misguided court decisions during the late 1950s.
>
> Considering the peril and difficulties faced constantly by many U.S. intelligence agents overseas, disclosing their identities and posts is comparable to giving an enemy defense and troop movement secrets in wartime. It is treacherous and potentially deadly. Those guilty of such misdeeds should be punished.
>
> The authors of the bulletin state their object to be the destruction of American intelligence agencies. It is a purpose which coincides with those of the KGB, GRU and other hostile and dangerous espionage and assassination forces.
>
> If those responsible for the bulletin meant to wage a campaign in behalf of the friends of freedom instead of the enemies of freedom, they would disclose the identities of totalitarian secret agents operating in the United States.●

AVIATION FUEL TAX AMENDMENT

HON. ROBERT DUNCAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. DUNCAN of Oregon. Mr. Speaker, the bill my distinguished colleague, the chairman of the Ways and Means Committee, Al Ullman, and I introduce today corrects a gross injustice in the aviation fuel excise tax, the revenues of which currently flow into the Airport and Airway Trust Fund (49 U.S.C. 1742, et seq.).

Congress established the Airport and Airway Trust Fund in 1970 to meet the financial obligations of the Federal Aviation Administration and the Department of Transportation in their statutorily required activities of planning, research and development, construction, or operation and maintenance of: (i) air traffic control, (ii) air navigation, (iii) communications, [and] (iv) supporting services, and for the administrative expenses connected with these activities (49 U.S.C. 1742 (f) (1) (A)-(C)).

In creating the trust fund, Congress gave statutory form to a very simple precept: that those who use our airports and airways systems and facilities ought to bear a fair share in the expenses incurred in their operation. To this end, we levied an excise tax on aviation fuel used in noncommercial aviation (26 U.S.C. 4041 (c) and (d)). For aircraft using the airports and airways and enjoying the air traffic control and support services of the FAA and DOT, this makes plain commonsense. In fact, in 1970 when we enacted the legislation, specific report language provided that:

> * * * there will be a direct relationship between the use of the system and the money generated to meet the needs required by the users. It is fitting that the primary financial burden will be assumed by the direct users * * *. H. Rept. 91-601, 91st Congress, 2d session (1970).

Early on, however, it became clear that certain types of noncommercial aviation—agricultural aviation in particular—did not utilize the benefits of the airports and airways and, in all fairness, should be exempted from the excise tax (26 U.S.C. 4041(f)).

The bill we introduce today creates an analogous exemption from the excise tax for those aircraft used in timber cultivation and harvesting, and the prevention and fighting of forest fires.

Like agricultural aviation, aerial logging and timber cultivation require no use of this country's airport and airway system. They do, however, provide an economical and necessary means of timber production and add immeasurably to the health of the economy of the country, and particularly to the Pacific Northwest. They also allow the timber industry and environmentalists with a means of striking a balance acceptable to both. If we are to provide adequate housing and woods products for our citizens and future generations, it is imperative that we increase the allowable cut. Simultaneously, environmentalists exert heavy pressure to restrict the harvesting of timber so as not to damage our forests and drainage systems.

Aerial logging offers an opportunity, already tried, tested and proven practical, to satisfy both of these national objectives. With proven economic feasibility, the harvesting of timber and forest products by aircraft eliminates the erosion problem caused by road construction and by the scarifying of the soil by dragging logs to the yard. The only damage done is when the tree itself is felled. In mixed species, the understory is not destroyed and as much as a 15-year headstart on the next cutting cycle can be obtained. Visits to aerial logging operations by environmental groups have, without exception, resulted in enthusiatic praise for the results.

In addition, most of the businesses engaged in aerial logging, harvesting and cultivation are small and lack the resources of major lumber companies. For this reason, they operate on much smaller budgets, and unnecessary expenses damage the businesses themselves and their future expansion and development, and the refinement of this type of timber harvesting. The excise taxes paid annually into the trust fund for the upkeep of airports and airway systems that these businesses do not use, represent just such an expense and should be eliminated if we are to encourage the most judicious use of our national timber resources. Whenever these aircraft use the airports and airways facilities they should, and under this amendment would, pay the tax.

But because of our national interest in increasing the allowable cut without impairing the environmental quality of the land; because in this activity, aerial loggers are not users of the airports or airways facilities; and because of the economic importance of this small business enterprise to the employment picture of the Northwest and the Nation, this amendment to the aviation fuel excise tax that we propose today is fair, equitable and wholly in keeping with the intent of Congress in allocating the financial burden of operating airports and airways to those who use them.●

TRIBUTE TO CONGRESSMAN WILLIAM S. MOORHEAD OF PENNSYLVANIA

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 16, 1980

● Mr. FASCELL. Mr. Speaker, I am very grateful to our colleagues from Pennsylvania, Mr. GAYDOS and Mr. MCDADE, for this opportunity to thank BILL MOORHEAD formally for his effective service in the House and to wish him well as he returns to private life. We have been extremely fortunate, both as a Congress and as a nation, to have a man of BILL's ability as a legislator for these past 22 years. It is his turn, now, to enjoy his family and pursue his many interests, and our sincere good wishes go with him as he retires.

It has been a pleasure for me to serve on the Committee on Government Operations with BILL. We share a great interest in the issues that come before the committee and I have tremendous admiration for all that BILL has accomplished in promoting accountable, responsible government.

His efforts to stabilize the economy and to promote the production of synthetic fuels have been outstanding. The legislation which he has authored and guided through the House will have a lasting, positive effect on countless thousands of Americans. BILL MOORHEAD is a gentleman, in the truest and finest sense of the word, a man of conscience, conviction and action. He should look back at his work here with a great sense of pride.

I am proud to serve with BILL and proud to know him. As he prepares to leave the House, I want to say thank you for his leadership, his friendship and for the job he has done. May his retirement be a happy and fulfilling one.●

IN RECOGNITION OF EDWARD P BAKER

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. FLORIO. Mr. Speaker, I would ask my colleagues to join with me today in recognizing the service and achievements of a distinguished constituent of mine, Mr. Edward P. Baker. Tomorrow evening the Semper Fidelis Detachment of the Marine Corps League will present Ed Baker with the Marine Corps League Certificate of Appreciation and the League's Bronze Distinguished Citizen's Medal.

Ed Baker has a long and colorful history of service to his country in the Army of the United States. As a young member of the Texas National Guard, Ed Baker was called upon to serve with General Pershing as an interpreter during the general's forays against the Mexican revolutionary Pancho Villa. At the onset of World War I, he volunteered for service with the French Army as an ambulance driver. Upon the entry of the United States into the war, he once again served with General Pershing as a member of the U.S. Expeditionary Force. He received numerous Purple Hearts for wounds received and was honored by the French Government with the Croix de Guerre.

Ed Baker has been a fixture in the leadership ranks of a variety of veterans organizations. He has, at various times, served as department chaplain of the Veterans of Foreign Wars of New Jersey, county commander of the American Legion, commander of Barracks 1740 of World War I Veterans, and has been honored as a life member of the American Legion, VFW, and the Disabled American Veterans.

In addition to his service to the veterans of Gloucester County, Ed Baker has also given unselfishly of his time to the community at large. He has served as civil defense director of Gloucester County for the past 21 years. He has also served as chaplain to the Board of Chosen Freeholders for the past 18 years. As supervisor of veterans interment, Ed has for the last 12 years been responsible for maintaining the final resting places for the veterans of Gloucester County.

I would like to add my congratulations, as well as those of my colleagues, to those he will receive tomorrow evening. It is small compensation for the years of service to his community and country.●

MCPL NUCLEAR ALERT XII

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday September 18, 1980

● Mr. SIMON. Mr. Speaker, as chairman of Members of Congress for Peace Through Law, I have had the opportunity to become heavily involved with matters dealing with the United States nuclear strategy. This involvement has led me to the chilling conclusion that we are moving ahead with a poorly defined policy in this critical area that is determined more by events and weapons development than through sober, reflective, and rational discussion and debate. We are being unnecessarily stampeded into decisions about our nuclear strategy as embodied in PD-59, about our weapons systems as in the case of the MX, and about arms control as we cannot rise above events of the present in order to assure a safer world.

In a recent Op-Ed piece in the Washington Post, Jeremy Stone notes that we are now faced with a number of critical decisions that will affect our nuclear strategy for decades to come. I would urge my colleagues to consider these arguments carefully and to answer for themselves Mr. Stone's question: "Would it not be wise to stop and think?"

[From the Washington Post, Sept. 16, 1980]

TWO PATHS IN NUCLEAR STRATEGY

(By Jeremy Stone)

The United States and the Soviet Union continue to move steadily into strategic postures and toward the adoption of related doctrines that interact with each other in such a way as to encourage rapid escalation rather than deliberate response. Presidential Directive 59 appears to be more than just another milestone in this evolution, incorporating, among other things, an important, previously unannounced and highly inflammatory threat to attack the Soviet command and control. But the root issue lies deeper than PD59, in a fundamental choice for U.S. (and Soviet) strategic planning: whether to move forward or back in maintaining land-based missiles.

At bottom, there are two general paths open to the U.S. Defense Department in response to the growing vulnerability of our 1,000 land-based Minuteman missiles. In the first course, we would redouble our effort to resist technological trends, in a strategy worthy of King Canute, in order to match Soviet maintenance of land-based missiles and Soviet threats against our missiles. Here the vulnerabilities of our land-based force are resolved by purchasing a new (MX) land-based missile force, but one whose improved security rests unreliably on deception in a deployment shell game.

If the new land-based missile force were suddenly to be deemed, like the old, vulnerable to Soviet attack, more and more MX holes (and MX missiles) would be constructed—an expensive proposition in which good money is thrown after bad.

When and if this failed, an anti-ballistic missile system would be built to protect the MX missiles. (This would require amending the ABM treaty, thereby risking the destruction of an agreement that has saved both the United States and the Soviet Union untold tens of billions of dollars in useless expenditures.)

And if this ABM solution were to seem infeasible, the missiles would be prepared to "launch on warning" (i.e., to launch on the 20-minute warning of enemy attack); this is a cheap but absurdly dangerous fix, as recent computer failures have shown. (Nevertheless, it is already part of U.S. doctrine that we might fire on warning.)

There is another path that accepts the inevitability of land-based missile vulnerability but "finesses" the Soviet attack. This strategy would put less—rather than more—emphasis on land-based missiles. We could keep Minuteman missiles (which are only about 25 percent of our strategic force) as a waning asset, or phase them down. We would make whatever compensating adjustments might be desired in our bomber and sea-based forces. The finessing path tends to move a major part of America's deterrent, and hence America itself, out of the line of fire of limited war.

This choice between the two paths has important implications for firing doctrines and hence for the overall likelihood of war. If one side has vulnerable missile forces, it has a defensive motivation to fire them more quickly ("use them or lose them"). And to the extent that the other side possesses vulnerable land-based missiles, one has also an offensive motivation ("time-urgent targets"). Worst of all, if both sides find themselves with vulnerable missile forces, both would have both motivations, and a cycle of reciprocating expectations ("better first than second") would increase the likelihood of preemptive escalation. Some catalytic outbreak of violence in Europe or wherever might then bring down the roof.

The finessing path would leave the Soviet land-based missiles (which are 70 percent of their force) vulnerable, in time, to our sea-based force. But since the reverse would not be true, the corresponding cycle of expectations would not exist. Thus, in fact, the path of finessing the Soviet threat leaves the Soviets trumped. More important, it depresses the likelihood of wars nobody wants by diminishing first-strike incentives.

The Defense Department fears that the path of finessing, and outmoding, the Soviet missile threat—by removing U.S. land-based missile targets—would seem a kind of acquiescence in coercion, even if compensating steps were taken with our other strategic forces, such as new kinds of sea-based forces. It argues also that some as-yet-unforeseeable future vulnerability of our sea-based deterrent in the 1990s might be importantly backstopped by land-based forces. But land-based force vulnerabilities (including those of MX) are already all too foreseeable to make this very plausible. Really, the choice appears to be one between inertia and agility.

The issues obviously go deeper than space here permits; unfortunately, no suitable forum really exists to decide issues of this magnitude. The situation cries out for a high-level commission, as proposed by Sen. Kennedy (and endorsed by both hawks and doves), that would consider U.S. Strategic posture in the next two decades in the light of Afghanistan, SALT II, PD59, the very possible congressional defeat of the MX basing scheme, the growth of Soviet forces and all the rest.

With weapon systems taking 10 years to build and designed to function for 20 years beyond that, America can no longer afford to examine its defense posture only in the annual snapshots of congressional review. Now, while we are still at the fork in the road, would it not be wise to stop and think? ●

RECENT WESTCHESTER ASSOCIATION OF RETARDED CITIZENS ACTIVITIES

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. OTTINGER. Mr. Speaker, I would like to take this opportunity to let my colleagues know about recent activities that have been sponsored by the Association of Retarded Citizens.

Earlier this year, the New York Association of Retarded Citizens sponsored a statewide poster contest. Winners chosen by the Westchester Association for Retarded Citizens were: Daniel Levine, Ossining High School; Sybil Walsh, School of the Holy Child, Rye; Randi Rosh, Ossining High School; and Brett Lawrence, Woodlands High School.

In April, the following represented Westchester Association for Retarded Citizens at "A Very Special Arts Festival" which was held at the State University of New York at Purchase. They are: Mike Connor, Robert Dawkins, Martin Dimond, Sam Flagg, Ralph Greco, Carolyn Holokak, Meyer Isaacs, Sonjia Joseph, Laurie Lecker, Bruce Legler, Patricia Levine, Joan Novotny, Maxine Paul, Martin Wasserman, and Debbie Williams.●

NEW SOVIET SALT VIOLATION IGNORED BY CARTER ADMINISTRATION

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. KEMP. Mr. Speaker, for more than 2 years I have been a member of the congressional delegation to the Strategic Arms Limitation Talks, and as a consequence have taken an interest in the Strategic Arms Limitation Talks since the accords were signed in June 1979. During the long course of the negotiations, one of the most controversial elements of the Soviet-American dialog was the question of the Backfire bomber. During the course of the negotiations, the American delegation took the position that the Backfire was a strategic bomber capable of intercontinental missions, and therefore should be counted as such. In its efforts to obtain an agreement prior to the 1980 elections, President Carter capitulated to the Soviets on this point, but with the proviso contained in an exchange between Presidents Carter and Brezhnev that the Backfire not be modified for performing intercontinental missions. Such modifications could be done in a number of ways such as by replacing the existing engines with more fuel-efficient ones to increase the range of the aircraft, or by providing it with in-flight refueling to enable it to carry out intercontinental missions. The Soviets have chosen refueling.

Recently, a Saab SH-37 Viggen maritime reconnaissance aircraft of the Swedish Air Force intercepted the current model of the Backfire bomber in a flight over the Baltic Sea—deployed with the Soviet Navy—equipped with a refueling probe. A Swedish Air Force photograph of the Backfire equipped with a refueling probe was published in the August 1980 edition of the British journal, Air International (p. 55). The article stated that the Backfire "appears to have its in-flight refueling probe reinstated, this item of equipment having been removed during the SALT negotiations." The refueling probe on the Backfire is a SALT violation.

The failure of the administration to take vigorous action in the face of such an obvious violation of the SALT II agreement—and the subsequent understanding that both sides would abide by its terms pending Senate action—illustrates its casual attitude toward Soviet compliance with SALT. I strongly urge the administration to provide the Congress with a full accounting on an unclassified basis of all Soviet SALT violations that have occurred since 1972. In view of the serious jeopardy the administration acknowledges that our own strategic nuclear forces face, the public has a right to know the extent to which Soviet SALT violations have enabled them to gain unilateral military advantage over the United States.●

TRIBUTE TO DR. H. RALPH JACKSON

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. FORD of Tennessee. Mr. Speaker, there is nothing more certain in all the world than the fact that our lives are brief and transient. Given the short period of time we are here, it is most important that we make a contribution to our fellow man and to our society. Unfortunately, some of us are not able to leave our mark in history. Today, I pay tribute to an outstanding citizen of the Eighth District of Tennessee, who indeed left his impression on our Nation, the great State of Tennessee, and the city of Memphis. The late Dr. H. Ralph Jackson was an unselfish public servant who gave tirelessly and endlessly of his energies for the betterment of humanity. I would like to share with my colleagues a resolution given by the Department of Minimum Salary Division of the A.M.E. Church which characterized his life:

As we stand before your throne,
Dressed in beauty not our own,
As we gaze at Christ in glory,
Looking on life's finished story,
Now, omnipotence, we know—
Not till now—how much we owe.

Dr. H. Ralph Jackson, ambassador extraordinarie, soldier with impeccable credentials, master pulpit technician, champion for human rights, and one of God's chosen troubadours!

The announcement of his death was premature. He did not really die—he was transferred. His transfer was an open one, for God is not through with him yet.

In the spendor of the land to which he has embarked there remains a task yet to be completed. Dr. Jackson would not dare touch that task until all of God's children are gathered. We will then "crown him Lord of all"!

Whereas our Heavenly Father for a reason bathed in mystery and wrapped in divine providence, saw fit to summon home His faithful creation, Dr. H. Ralph Jackson, and

Whereas "Ralph" as he was affectionately known had written his name high upon the pages of history in religious, civic, political and social concerns, and

Whereas his name is eternally etched in African Methodist lore as Founder of the Brotherhood, originator, author, instigator, and creator of the Department of Minimum Salary, writer, champion and facilitator of the General Budget and many other innovative movements, and

Whereas Dr. Jackson's contribution to the African Methodist Episcopal Church and its ongoing is without parallel in history's time span, and

Whereas his consuming love for the ministry and young ministers endeared him to all he touched and legions of future theologians delighted to follow his leadership, and

Whereas Dr. Jackson had a deep and abiding affection for human beings in general and young people in particular, and

Whereas his whole life was a symphony of concern for the poor, the rejected, the downtrodden, and the outcast: Be it

Resolved, That the Department of Minimum Salary which was his first A.M.E. love do enshrine his memory in the archives of our most sacred and secret thoughts reserved for those things which time's ravage does not tarnish; and be it further

Resolved, That we still our troubled hearts over our loss and join in the celebration of his home going; and be it finally

Resolved, That a copy of this resolution be directed to our Department of the Historiographer so that it shall be forever hereafter a part of our legacy; a copy be offered the family for its cherished memories; and a copy be reserved for the Department's use in its next Annual Report to our General Board and retained in its protected files "ad infinitum."●

DR. CHESTER McKINNEY—DISTINGUISHED SCIENTIST

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. PICKLE. Mr. Speaker, the U.S. Navy recently presented its Distinguished Public Service Award to Dr. Chester M. McKinney, the retiring director of the applied research laboratories at the University of Texas at Austin. This award is the Navy's highest civilian honor.

I would like to join the Navy in paying tribute to Dr. McKinney, who for 15 years as director has developed the applied research laboratories (ARL) at the university into one of the Nation's best known university-operated labs in underwater acoustics. Dr. McKinney has put these facilities on the map, so to speak, during his 27 years at the facility.

The ARL is well regarded by the Department of Defense for its quality research, as evidenced by the $14 million worth of defense research and development. But the facility has also become the training ground as well for many researchers and a practical learning experience for dozens of students. The center has over 500 employees conducting sophisticated research.

The Distinguished Public Service Navy Award cites Dr. McKinney for his innovation, guidance, and leadership that significantly aided the U.S. Navy in meeting its challenges and in developing a strong undersea warfare capability. As a specialist in underwater acoustics, Dr. McKinney has been a pioneer in developing the latest sonar techniques and knowledge about the acoustic properties of sediments.

Under Dr. McKinney's tenure, the ARL has become a sophisticated research facility, contributing to the defense of our country and contributing to the excellence of higher education at the University of Texas. We wish Dr. McKinney the best during his retirement and salute him for his dedication and hard work.●

SEEDS OF NEGLECT, HARVEST OF DEVASTATION

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. GAYDOS. Mr. Speaker, recently three of our colleagues returned from a trip to Japan and reported on the gross discrepancy in trade between the United States and that nation. They described the deficits compiled by our country, which totals $47 billion over the past decade including $4 billion in the first 5 months of this year, as devastating. America, they said has become "Japan's plantation

* * * haulers of wood and growers of crops in exchange for high technology * * *."

This report serves to confirm what I, and others, have expounded for years; that is, the trade policies of this Nation, entwined with international foreign relations, have converted the Nation which once was the world's greatest exporter of goods into one that has become the greatest buyer. Virtually every nation in the world has unlimited access to our domestic markets. We, as a nation, have become an international garage sale. America supplies the garage; other countries supply the goods for sale.

We have found it easier, and perhaps more profitable, to hawk the wares of others while ignoring our own industrial crops. Our home markets have become fertile fields for foreign industrialists. The seeds of our neglect have reaped a harvest of devastation.

One such industry whose domestic market is threatened to be reduced to stubble is the auto industry. Another is steel. As a representative in this House from a heavily industrialized area, the 20th District of Pennsylvania, I would like to trace for my colleagues what has been wrought within the domestic steel industry over the past 20 years and what must be done to revitalize this most basic of all industries if it is to survive in the face of growing worldwide competition.

Let us examine the upheaval in domestic steel in the brief span of two decades. The U.S. share of world steel production has declined from 50 percent after World War II to just 18 percent today. Imports have increased from 5 to 20 percent of domestic demand.

The industry's percent return on net worth declined by one-third and, except for 1974, was at or near the bottom of all manufacturing industries. Net income as a percent of sales has declined from approximately 5.4 to just 1.5.

Approximately 100,000 steelworkers have lost their jobs permanently. Hundreds of thousands more faced economic strain and uncertainty in the wake of sporadic disruptions in production.

What caused these disruptions? There were many reasons, many factors. Industry has been accused of being too greedy, too anxious to reap profits while allowing their production facilities to grow old and incapable of meeting the challenge of international competition from developing nations. Labor also has been accused of being too greedy, seeking too much too fast and thereby draining off capital which might have been used to modernize equipment and renovate plants.

But industry and labor both agree—and with considerable justification—that the primary cause of the decline of the domestic steel industry has been the actions—or the inaction—on the part of the Federal Government. There can be no denying the truth of that charge. I, for one, and our former colleague, John Dent, for another, for more than a decade have repeatedly warned of the impending disaster our steel industry would encounter unless the Federal Government took firm steps to reverse the situation. Unfortunately, our warnings, for the most part, were ignored.

The Federal Government continued to duck the enforcement of existing trade laws as relating to the dumping of steel on domestic markets and other unfair trade practices by foreign competitors. Instead, it continued to impose restraints upon the domestic industry. During periods when market conditions would have permitted higher returns, the Government held down the industry's revenues and earnings. They used jawboning from 1960 to 1970, mandatory controls from 1971 to 1974, and more recently the informal controls mandated by the Council on Wage and Price Stability.

Tax law provisions for the recovery of capital, which would have allowed a remodernization of the industry, were—and are—inadequate in that they do not provide for the impact of inflation upon the replacement cost of plants and equipment. In fact, it is said present tax laws provide for payment of taxes on "phantom profits" because the full cost of doing business in the industry is understated.

Government regulations and paperwork requirements have had a severe negative impact on the industry. Of primary concern is the requirement to invest billions in environmental control facilities and concomitant millions in annual operating costs without balancing costs and benefits.

No one will argue that a cleanup of air and water in industrial areas was long overdue. The Pittsburgh area stands as a landmark of what can be done if proper steps are taken to rid the environment of pollutants. Every citizen, every worker in an industrial area is entitled to decent air and water, in and out of the plant. We, in the Pittsburgh area, now enjoy both. And, yes, the Federal Government, along with State and county levels of government, can pride themselves on the role they played in bringing this situation about.

But, there can come a point where stringent enforcement of rigid and unreasonable regulations becomes oppressive and counterproductive. The steel industry reached that point this summer.

It was under intensive assault on several fronts. Inflation was taking its toll. So were foreign imports. The Federal Government, unwilling to enforce old trade laws to defend the industry against the predatory trade practices of foreign competitors, now challenged industry's right to seek redress under the new multinational trade law. Pressure was being exerted to force the industry to spend money it did not have on expensive environmental projects that would return little in the way of benefits to the industry or to the employee. Those same "phantom funds" also were needed for major capital improvement projects to modernize plants and equipment if the industry hoped to remain competitive on a worldwide basis.

The industry's reaction to all this sent shockwaves through the Nation. It severely cut back production. Plants were closed. Some permanently. Hundreds of thousands of steelworkers were furloughed. Many with the knowledge they would never go back to work. Steel's retrenchment was felt in related industries. More closings occurred. More layoffs took place. The Nation's unemployment rate soared.

That economic disaster brought home the realization a revitalization of the steel industry is of paramount importance to provide for national security needs and steel's contribution in other areas; that is, the exploration, production and distribution of almost all types of energy.

As a result, a segment of the industry has proposed a 10-year program which it feels should be initiated immediately with governmental support. The proposal includes:

(A) Quantitative restraints upon imports of all steel products to be established through negotiation of government-to-government voluntary agreements. Such agreements should reflect a maximum of 13 percent import penetration of the domestic market for carbon steel products and the quantitative levels of specialty steel restraints so effective during the 1976-79 period.

(B) Because of the present recession and the shortfall of capital for near-term investment in required air and water control facilities, the deadlines for compliance should be set back 3 years: to December 31, 1985, under the Clean Air Act and to July 1, 1987, under the Water Pollution Control Act. This deferment, of course, would require action by Congress.

Furthermore, the Environmental Protection Agency should be directed to adopt:

(1) A viable bubble policy—the existing policy permits use of this concept only in attainment areas and is of little use to most steel companies.

(2) Best available technology (BAT) effluent guidelines for the steel industry (Clean Water Act Amendments of 1977) equal to the best practical control technology (BPT) guidelines similar to the treatment afforded the rubber industry.

(3) Regulations stating replacement of facilities in kind with no increase of rated capacity of allowable emissions should not be classed as new sources.

(4) A special regulatory approach to limited life facilities subjecting such facilities to limited environmental regulations for a specified period of time.

Congress should review and amend existing environmental laws to achieve a balance between environmental control and economic reality. Requirements based on secondary air quality standards that are related to welfare (not health) should be eliminated or at least subject to rigorous cost-benefit analyses and local options.

The mandatory requirement of the Clean Water Act that all streams must be fishable and swimmable and the unrealistic goal of zero discharge of pollutants must be amended to practical requirements for the protection of human health.

(C) The Capital Cost Recovery Act of 1979, permitting accelerated depreciation in simplified fashion should be enacted into law immediately. In view of the fact that approximately 5 years will be required for the depreciation benefits to flow to the industry and the current recession is providing critical cash flow problems, Congress should provide for the refundability of investment tax credits for a 10-year period—5 years back and 5 forward.

(D) Pending completion of government-to-government voluntary steel trade agreements, an improved trigger price mechanism (TPM) should be instituted. Improvements should include:

(1) Adjustment to the TPM cost calculation formula to reflect the higher average costs of non-Japanese suppliers to the United States.

(2) Provision for monitoring home market prices of foreign suppliers.

(3) Provision of more accurate statement of Japanese costs by requiring the methodology and definition of costs should be fully transparent and concurred in by the domestic industry.

(4) Preclusion of foreign producer sales anywhere in the United States at a lower price than the trigger price prevailing at the U.S. port of entry closest to the foreign producer's mill.

(5) Expansion of the TPM to include specialty steel products and all other steel products produced domestically.

Mr. Speaker, it would be unrealistic to think that all of this particular proposal would meet with the approval of all Members in this House. However, I strongly believe that, in light of past warnings and present problems it would behoove my colleagues to give the proposal their closest attention.

Over the past two decades this Nation has lost its lead. Indeed, it has lost its domestic markets to industries such as television product, leather, textiles, glass, and so forth. Congress in the past has sat by and watched it happen. In the past decade this Nation has seen what can happen to its most basic industry—steel. Until now, little has been done to heed the warnings.

We know what has happened. We know what can happen. I urge my colleagues to remember that an industrial nation which loses the ability to produce for itself stands in grave danger of losing the capability to survive.●

PERSONAL EXPLANATION

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. O'BRIEN. Mr. Speaker, on Tuesday, September 16, I was in Chicago fulfilling a longstanding commitment to address the Professional Standards Review Organizations of Illinois, Indiana, Minnesota, Michigan, Ohio, and Wisconsin. As a result, I was absent for several recorded votes that took place in the House.

If present, I would have voted aye on final passage of the defense appropriations bill for fiscal year 1981, which passed by a vote of 351 to 42.

On the amendment which increased appropriations for Armed Forces personnel, and operation and maintenance for recruitment purposes by $100 million, I would have voted aye. The vote was 390 to 13.

I would have opposed an amendment to strike language that prohibits the use of funds to make price differential payments on contracts to relieve economic dislocations. This amendment was accepted bv a vote of 220 to 179.

On the amendment that sought to prohibit the use of funds for the production of binary weapons, I would have voted no. The amendment was rejected 125 to 276.

Had I been present, I would have voted against an amendment that sought to prohibit the use of funds for a basing mode for the MX missile until April 1, 1981. The amendment was rejected 141 to 256.●

SURFACE TRANSPORTATION ACT OF 1980

HON. ARLEN ERDAHL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. ERDAHL. Mr. Speaker, the city of Rochester, Minn., has developed an excellent transportation system for handicapped citizens. Eligible handicapped persons can "dial-a-ride" and have a vehicle which accommodates wheelchairs come to the person's home for a reasonable fee and be taken directly to his or her destination.

Under the committee language in H.R. 6417, such services could be continued, but if the city of Rochester had to provide accessible mass transit on the established routes, it is unlikely that both forms of transportation for the handicapped would be economically feasible. Consequently, the mayor has written to me in behalf of the proposal in H.R. 6417.

I submit the text of the mayor's letter to me on this issue to be printed in the Congressional Record at this point for the information of my colleagues:

ROCHESTER, MINN.,
September 4, 1980.

Hon. ARLEN ERDAHL,
U.S. House of Representatives, 1017 Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN ERDAHL: It is my understanding that within the next few days the House will be considering passage of the H.R. 6417 "Mass Transit Section 504 Handicapped Rules." On behalf of the City of Rochester and its citizens, I urge your support of this bill.

H.R. 6417, in comparison to existing U.S.D.O.T. regulations and the recently proposed changes by the Senate (S. 2720), provides the needed flexibility to ensure the availability of usable public transportation services for the handicapped and disabled community.

The current regulations which requires that all buses purchased after July 2, 1979 be specially equipped for handicapped accessibility and placed on regular fixed route transit, is an expensive nationwide experiment. The regulations provide few answers or assurances concerning the obvious technical and operating problems that will be cause for concern to this country's mass transit systems.

Our support for H.R. 6417 is not based upon the opposition to accessible mass transit. It is to encourage a responsible and practical approach to providing mass transit services to all our citizens. On the local level we see two very distinct groups within the handicapped population. One group supporting the mandate for accessible buses on fixed route but not convinced among themselves that the best technology is available. The other group views this mandate as a threat to existing special services such as dial-a-ride in the Rochester area.

Our existing regular route fleet averages twenty years of age. We are now in the process of purchasing new buses which, under current regulations, will be equipped with wheelchair lifts. Both the U.S.D.O.T. and handicapped organizations have admitted that lifts are not the most preferable technology. The Urban Mass Transportation Administration considers 12 to 15 years as the useful life of a bus. If improvements in accessibility technology are made within the next five years, will the Urban Mass Transportation Administration provide the necessary funds to replace or retrofit buses being purchased now?

Some of the comments we have heard on the local include:

"What happens if all wheelchair positions are full when the bus gets to your stop and the temperature is below freezing?"

"How will some of the less mobile handicapped get to the bus stop?"

"Will sidewalks and bus stops be shoveled out immediately after a snowfall?"

Considering the above testimony, I urge your support of H.R. 6417.

Thank you.

Sincerely,

CHUCK HAZAMA, *Mayor.*●

CHILE, UNITAS, AND THE FREE WORLD

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. McDONALD. Mr. Speaker, our Department of State, in its continuing efforts to alienate free world nations, decided that Chile should not participate in the annual inter-American naval exercise UNITAS this year. The reason expressed was pique over the failure of the Chilean Supreme Court to rule in favor of the U.S. request for extradition of some persons associated with the Letelier case. Since the Chilean side of this matter has not been presented to the American people, I am hereby inserting in the Congressional Record the statement of the Chilean Ministry for Foreign Relations on this subject:

STATEMENT OF THE CHILEAN MINISTRY FOR FOREIGN RELATIONS

The Ministry for Foreign Relations has learned that, in spite of the considered opinion of the Navy and congressional circles of the United States, this year the Department of State appears to have imposed, exclusively for political reasons, its decision to exclude Chile from the UNITAS exercises, the joint maneuvers of the United States Navy with one or various Latin American countries which take place annually in accordance with their work program.

This United States' decision does not damage Chile but, rather, the entire defense system of the hemispheric alliance.

The Government of Chile is certain that these arbitrary measures will not impair the efficiency of its Navy. They will, however, introduce new elements which, brought up by a political decision of a discriminatory nature, go against the principle of sovereign equality of the States. The Chilean Government categorically rejects them.●

MIDDLE-INCOME TAXPAYERS' TAX BURDEN INCREASES

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. BROYHILL. Mr. Speaker, the Internal Revenue Service has recently completed a study of the 1979 tax returns which the Service processed during the first 7 months of this year. The results of the Service's study spell bad news for middle-income taxpayers, and the forecast for years ahead is even gloomier, if present trends continue.

The figures contained in the IRS survey of 1979 tax returns indicate that individuals in the $15,000 to $50,000 income range bear the greatest portion of our Federal income tax burden. According to the Internal Revenue Service, taxpayers in this income range paid 60.1 percent of all income taxes paid for 1979. This statistic is even more disturbing when it is compared with an earlier figure indicating the past tax burden of this particular income group. In 1977, taxpayers in the $15,000 to $50,000 income range paid just barely 60 percent of all income taxes paid for that year. In 1979, individuals whose income was under $10,000 paid 4.4 percent of the total income tax liability, compared with 5.6 percent 2 years before. Those whose income fell in the $10,000 to $15,000 range paid 8 percent of all 1979 income taxes, compared with 10.7 percent of all 1977 income taxes.

The figures contained in the IRS study indicate an alarming shift of the Federal income tax burden toward the middle income class, concentrating an ever-increasing portion of all Federal income taxes on these taxpayers.

A number of studies have forecast future tax burdens on various income groups, based upon current trends, and these have borne out the prediction that middle-income taxpayers will be paying a greater and greater portion of all Federal income taxes in the future. One such recent study was conducted by the Tax Foundation, Inc., and was based upon the earnings of a typical worker earning the national median income of $20,000 and supporting a spouse and two children. Based upon present tax laws, the foundation predicted that the tax burden for such a worker will increase from 1979 to 1980 by over one-half percentage point. Last year, the foundation said, a median income worker earned $20,000 and paid $4,814 in direct and indirect Federal taxes, or 26.7 percent of his earnings. This year, his taxes will eat up $5,451 from his paycheck, or 27.3 percent of his earnings. For a worker earning $20,000 a year and supporting a family, a tax increase of $600 in 1 year will take a substantial bite out of his paycheck, particularly as inflation continues to eat away at the value of each dollar he takes home.

According to the Internal Revenue Service, Federal income taxes took 13.78 percent of all gross income in 1977, but this figure grew to 14.79 percent in 1979. Unless this trend is reversed in the very near future, the middle-income worker, upon whose labors our Nation's economy has always depended, is no longer going to be able to afford to work and pay taxes. The recent study conducted by the Internal Revenue Service serves to emphasize the urgent need for legislation to reduce income taxes and to index income tax rates to the rate of inflation. I hope my colleagues will agree with me that such legislation is long overdue, and will act now to reform our crippling tax laws.●

T. GRADY GREEN, JR., INVOCATION

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. LEVITAS. Mr. Speaker, I recently had the pleasure of speaking to the DeKalb County Grand Jurors Association in Decatur, Ga. I was deeply moved by the invocation given that evening by T. Grady Green, Jr., chaplain of the association. He is a longtime active citizen of the community, also serving as chaplain of the Decatur Lions Club. I wanted to share the message of his invocation with the other Members of the House.

Our Heavenly Father, we are thankful for our country, a land of beauty and wonder; a land of freedom; a land of opportunity and equality. Because of our greed and carelessness we sometime fall short of our standards; we have poverty and unemployment and we do not have equality. For this we ask Thy forgiveness. Help us to know that great is a nation where You are Lord. Happy are those who dwell in that land. Strong is the country that follows Your will, and freedom and liberty abound within its borders. Help us to see America through the eyes of love. Be with our speaker in his important work; give him the courage and strength needed. We commend to You our sick, be with them and care for them. Be with those who have recently lost loved ones, comfort them. . . .

Mr. Speaker, this message is truly one of conviction and inspiration.●

SUPERFUND

HON. JIM JEFFRIES

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. JEFFRIES. Mr. Speaker, I would like to call the attention of the House to the issues surrounding the proposed environmental superfund. The consequences of this legislation, should it be passed, require a careful examination by all Members of Congress. Recently, an insightful look at "Superfund" was provided in a nationally distributed newspaper article by Louis J. Cordia, environmental policy analyst for the Heritage Foundation. Mr. Cordia's piece is as follows:

EPA FRAUD: SELLING CONGRESS ON AN ENVIRONMENTAL "SUPERFUND"

The continuing saga of New York's "Love Canal" has focused needed public and government attention on problems associated with the hazardous wastes which are a byproduct of modern industrialized society.

We obviously need to know more about the safe transportation, storage and disposal of chemical, biological and military wastes. We also need to move ahead with efforts to clean up waste disposal sites that have been abandoned and now appear to pose environmental or health hazards. More hazardous than hazardous wastes, however, is how the Carter administration exploits them.

Even though the Environmental Protection Agency (EPA), in particular, lacks scientific and medical evidence to support their claims, EPA is determined to convince the American people that everyone is endangered by toxic wastes. This propaganda campaign gives rise to a new health hazard each morning; it would appear that the objective is to seduce Congress into more readily granting the countless billions of dollars that the environmental bureaucrats say they need for "our" protection. Crises are created to justify the existences of most regulatory programs. However, surpassing even this pursuit, EPA is attempting to exploit the public's fear of serious illness in launching its 1980s campaign against hazardous wastes. It's a cynical and deceitful effort.

The main thrust of the campaign is to coax Congress into creating an environmental "superfund." The several major pieces of "superfund" legislation would create a fund of anywhere from $100 million to $4.1 billion, financed totally or in part by industry and government (federal and state), to pay for clean-up of any or all hazardous waste disposal sites, chemical spills and oil spills, and in some cases for compensation of victims allegedly injured by these substances. (The costs, of course, would really be borne by consumers, either in higher taxes or higher prices.)

Yet, it has not been shown that such a fund is even needed.

Usually, some understanding can be made, some compromise struck, or some guidelines offered before a legislative proposal reaches the floors of the House and Senate. Not this time.

Who would pay, how much, and for what, are questions that the full House and Senate will have to deal with from scratch.

Each proposal has gymnastically undergone complete reversals as it has moved from subcommittee to full committee and, by sequential referral, to other committees. No one has found a reasonable answer.

On the House and Senate floors, the three key issues of liability, funding and scope undoubtedly will not be decided on their merits. There just will not be enough time for full consideration. Instead and unfortunately, instilled public apprehension about hazardous wastes will cause Congress to act, to do something, especially in light of this campaign year.

Although Love Canal fuels EPA's campaign before Congress, the government's attack against hazardous wastes is not limited to "superfund." At the request of EPA, the Department of Justice has filed the largest environmental lawsuit ever, seeking $124 million from Hooker's parent company in connection with Love Canal. On top of this sum, about 1,000 claims for personal and property damages seek more than $2 billion, and New York is suing for $635 million.

In addition to Love Canal, the Justice Department also has investigated other possible violations by Hooker. Though Hooker is the prime target, more than 100 other cases also are under investigation.

To bolster the government's case against Hooker. EPA collected in its administrative capacity what turned out to be more legal, than scientifically valid, evidence. The agency sparked near-hysteria when it announced in a special press conference that its study suggested chromosome damage in the families living near the Love Canal site. With a preselected sample of people, it found evidence "so alarming"—11 residents out of 36 showed signs of chromosome breakdown—that many residents responded with near panic, taking two federal officials hostage; even President Carter joined in the excitement by declaring an evacuation of 710 families. The total number of relocated families now nears 1,000. Belatedly, a scientific panel reviewed the EPA preliminary study and found an "inadequate basis for any scientific or medical inferences from the data (even of a preliminary nature)".

Still, "superfund" appears to be the prime candidate in this campaign. Introduced in June 1979, the expensive, punitive proposal attracted little support—at first. To provoke a response, it took another EPA-funded study by F. Hart and Associates, claiming that there were 32,000 to 50,000 disposal sites scattered throughout this country, of which 1,200 to 2,000 may be extremely dangerous.

The study was misleading—and its use as a propaganda vehicle by EPA was equally dishonest. Last year, for example, the House Commerce Subcommittee on Oversight and Investigation found drastically fewer dumpsites than did Hart and Associates. It identified 3,383 sites; which compares to the preliminary results this year from a Chemical Manufacturers Association study, showing 4,196 sites.

The total number of dumpsites, identification of those that are dangerous and the parties responsible for them, the cost for clean-up, and compensation for purported victims of hazardous wastes, are all important environmental concerns. EPA should address these unknowns; but it should do so honestly and dispassionately, employing sound science, medicine and technology.

The expansive "superfund" proposal is deficient on all counts—and the way it is being promoted is closer to being superfraud than sound public policy.●

ITALIAN AMERICAN HERITAGE WEEK

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. ZEFERETTI. Mr. Speaker, I want to take this opportunity to indicate my wholehearted support for the enactment of a resolution designating the week of October 12 through October 19 as Italian American Heritage Week. The measure, which I joined in cosponsoring, was approved by the House of Representatives earlier this week.

As a descendant of Italian immigrants myself, I was made well aware of the invaluable contributions made by Italian Americans at an early age. The influx of millions of Italians into the American melting pot contributed greatly to the building and growth of our great Nation. Though they were often faced with ethnic discrimination and the language barrier, the native Italians overcame these obstacles and established themselves as perhaps the most vibrant and productive ethnic group to set foot on our shores.

While having become assimilated into the mainstream of American life over the years, Italian Americans have preserved the rich heritage of our homeland, a culture unique in its character and unsurpassed as a monument to the advancement of civilization.

I am particularly proud of the achievements of Italian Americans in the growth of New York City and, in particular, my hometown of Brooklyn. Contemporary Brooklyn is a community of ethnic neighborhoods, each maintaining its own cultural identity while working as a whole for the revitalization of the metropolitan area. The Italian American community there has been in the forefront in achieving progress in every field of endeavor: Business, government, education, and the arts.

We are proud of our heritage, and the designation of the days surrounding Columbus Day is a fitting testimony to the culture and contributions made to American society by the sons and daughters of Italia.●

CONNECTICUT FARMS CHURCH 250TH ANNIVERSARY

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. RINALDO. Mr. Speaker, one of America's oldest churches, whose roots were planted in the New World before the American Revolution, is celebrating its 250th anniversary of service to God, man, and country. It has a distinguished history that I wish to bring to the attention of my colleagues in Congress.

In the summer of 1667, a group of families in Connecticut decided to move to a new settlement. After traveling for weeks under the most adverse conditions, the Rev. Abraham Pierson and his followers settled down to build a new community in the gentle hills and rich farmland of Union, N.J. Perhaps to feel more at home, they called the site Connecticut Farms.

For a long time, the people of Connecticut Farms traveled 4 and 5 miles to worship at the First Presbyterian Church in Elizabeth. When the worshippers could not get to Elizabeth, they held informal church prayer meetings and worship services in one of the farmhouses scattered through the fields and woods.

About 1730, they decided to build their own church.

With the same spirit that brought their forefathers to this land, the farmers went about the business of organizing and building a church. The original structure was erected on the rise of a hill, along the main road. At the foot of the hill was the town peat bog.

The church was chartered in the year 1730 and belonged to the Presbytery of Philadelphia. The first presbyteries had already been established in 1716 and were those of Long Island, Philadelphia, New Castle, and Sun Hill.

In its early history, Connecticut Farms Church men and women helped to forge the American Revolution. The farmers left behind their plows and fought in the American Revolution. Indeed, the parson, Rev. James Caldwell, was named the "fighting parson."

On June 7, 1780, Rev. Caldwell's wife Hannah, was shot by a Redcoat through the window of the parsonage, killing her instantly.

This incident incited great indignation and determination among the townspeople that the Revolution must succeed.

On June 23, 1780, the people of Connecticut Farms rallied to the defense of Gen. Nathaniel Greene and the American troops in Connecticut Farms. They fought enemy soldiers under the command of Gen. Baron Wilhelm von Knyphousen.

The fighting was fierce and the village was destroyed but the enemy troops were halted and driven back to Elizabethtown.

The church survived and has remained an important institution in Union and the surrounding area. From 1928 to 1963, it was under the pastorate of Rev. Fred W. Druckenmiller, and from 1979 to the present, the church has been led by Rev. R. Sidney Pinch. It has undergone extensive renovations, but retains the style and spiritual force of the original church. It was the first church in New Jersey to be listed on the National Register of Historic Places.

Through 250 years, Connecticut Farms Church has served as a spiritual home and beacon for thousands of families seeking spiritual comfort, education for their children, and a means of serving God by helping their fellow man.

I want to commend the parishioners and pastor of Connecticut Farms Church on its 250th anniversary. In honor of all the men, women, and children who have been part of the history of this church, I have had a flag flown over the Capitol for presentation to Connecticut Farms Church on this important milestone in its history.

I am proud to present the flag to the church in recognition of the courage and sacrifice of all those parish members who have contributed so much to our great country.●

THE NEED FOR A CHANGE IN THE TRADE ACT OF 1974

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. SEIBERLING. Mr. Speaker, I am today introducing legislation to amend the Trade Act of 1974 in order to rectify what I believe is an unfortunate inequity in the current law.

The bill I am introducing would amend paragraph 2 of section 231 of the Trade Act by adding the following sentence: "In determining weeks of employment, any period of authorized sick leave or absence from work due to work-related injury shall be treated as a period of employment." This addition would permit the counting of authorized sick leave or absence from work due to work-related injury toward the requirement that employees have worked at least 26 of the 52 weeks immediately preceding their layoff in order to qualify for trade adjustment assistance. Current law does not permit sick leave to be counted toward the 26-week requirement. My bill would also require the Secretary of Labor to apply this provision retroactively to any worker who has been denied trade adjustment assistance because they were absent from work on authorized sick leave or due to a work-related injury, and did not, therefore, meet the 26-week work requirement. Workers who have been denied trade adjustment assistance under these circumstances would have to refile for certification.

I believe that the need for this legislation is compelling. One worker in my congressional district, for example, worked for 22 years for a tire company. Because he worked only 19 of the 52 weeks immediately preceding his layoff due to a work-related injury, he was not eligible for trade adjustment assistance, thus negating his 21 prior years of work. At the same time, an employee who had worked only 3 years for the same company was declared eligible for trade adjustment assistance. I have heard of similar cases in other parts of Ohio, and perhaps other Members of the House have also heard from constituents in similar straits. I am convinced that my bill will help to right this injustice.●

ON INTRODUCTION OF THE "AMERICAN INNOVATION TAX INCENTIVE ACT OF 1980"

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. ROUSSELOT. Mr. Speaker, today I am introducing the "American Innovation Tax Incentive Act of 1980." This bill is unique because it simultaneously solves two important problems that stand in the way of the creation of innovative new companies. First, it would help provide the risk capital that is necessary to finance new ventures. Second, it would provide a way for new companies to hire the talent they need away from the big, established corporations.

The bill accomplishes these objectives by cutting the long-term capital gains tax in half for firms that are small, and that are in part owned by their employees.

Under current law, 40 percent of long-term gain is taxable as ordinary income. But under this bill, the deduction for individuals would be increased to 80 percent, leaving 20 percent to be taxed as ordinary income. For corporations, the alternative tax would be reduced from 28 percent to 14 percent. To qualify for this special capital gains tax treatment, the investment would have to be in a small company that has diversified share ownership among its employees.

To be considered "small," a company must have at least two of the following characteristics: total gross revenues of not more than $30 million; net worth of not more than $15 million; no more than 1,000 employees.

To qualify under the employee ownership criterion, 25 percent or more of a company's employees must own at least 15 percent of the total outstanding shares of the company. The bill defines nonmanagement personnel as all employees other than officers and member of the board of directors of the company. This provision insures that lower level managerial and support staff as well as hourly employees can own shares.

Under this bill, employee ownership can be achieved in a number of ways. An employee stock ownership trust is an obvious method; but stock could also be distributed by giving shares as bonuses, selling stock to employees at concessional prices, or granting it through employee stock options.

Mr. Speaker, this bill has several important attributes. First, the net effect on Federal revenues will be positive. Second, it encourages employee stock ownership, and thus stimulates employee productivity at a key point in a new firm's existence. Third, it encourages the investors in a company—rather than the Government—to finance the distribution of stock to the employee.

Let me briefly explain these three points. First, the bill would result in a net positive flow to the Treasury because of the inevitable sequence of the revenue flow of a new company. When an investor or group of investors first invests in a company, they typically do so with the expectaton that they will not be able to sell a portion of their shares in the company for 3 or 4 years. During this period, of course, the company has hired personnel, has invested in plant, equipment and R. & D., and these activities have created tax revenues. This economic activity must take place before any of the investors can sell their shares at a profit and thus realize capital gain. In the real world, the investors will not be able to sell their shares, realize a capital gain, and take advantage of the special tax treatment until the company has become profitable. In the interim, a whole chain of economic activity has occured which inevitably must contribute to tax revenues. In effect, it is very difficult to see how this bill could ever result in a net loss to the Treasury.

Second, the bill addresses the problems of productivity and employee stock ownership in a new way. The most critical phase of a new company's existence is its first several years. It is at that time that a company needs all the dedication and creativity its employees and management can provide. Productivity and innovation are the result of a team effort—employees and management working together to make the company successful. Employee stock ownership is key to creating such motivation at this stage in a company's existence. Yet it is at this stage that a new company is least likely to use employee stock ownership plans (ESOP's). That is because ESOP's are legally rigorous to structure and legal fees can be high, and because there is no incentive for a new company which has no profit and thus no tax liability to take advantage of the tax breaks available to ESOP's.

So this bill helps fill a void. It creates a strong new incentive for management to diversify ownership among employees at the point when motivating employees to greater creativity and productivity is most critical to the company's success. This is also the period during which a company's stock can achieve the most appreciation. Employees will benefit most if they are able to acquire stock, at the outset of their company's existence, then sell it later after the company has become successful. The result of such sales is that the individual employee can take out a significant pool of capital which he can even use as seed money to start his own business.

Third, the bill approaches the goal of employee stock ownership from a new angle. Previous efforts to bias the tax code so as to bring about employee stock ownership have focused on ESOP's. This bill provides an incentive for investors and management to choose voluntarily to diversify share ownership in any number of ways—most likely through share stock options. It creates such favorable tax treatment for ultimate capital gain that investors have a strong incentive to dilute their ownership by setting aside a block of shares for disposal to nonmanagement employees. Thus, in effect, the investors finance employee ownership of shares, the Government does not.

The bill by no means precludes the use of ESOP's. ESOP's are one of a number of means that can be used to achieve employee ownership under the bill. But it encourages investors to assume the burden of financing employee ownership.

It might be useful to give an example of the effect of the bill in practice.

Let's say that young Tom Edison has invented a terrific new device called a phonograph and wants to produce it. He has no record of business experience and cannot obtain conventional loans and so he goes to a group of investors and asks them to invest. They do so, normally in exchange for about 75 to 80 percent of the shares in the company. They typically will permit the investor 15-percent ownership and will, because of the provisions of this bill, further dilute their ownership by setting aside another 15 percent for employees. This 15 percent is set aside and when the company has hired employees the shares will be offered to the employees through options or as a bonus.

Having now obtained his investment capital, Edison proceeds to hire employees, invest in plant and equipment, and manufacture and market his product. By the third year of business, he has made a profit, and has even paid Federal income taxes and the Federal payroll taxes. At this point, several of the investors decide to sell some of their shares, so that they can reinvest in other new startup ventures.

They do so, and at that time, are eligible for an 80-percent deduction from their captial gain. They are taxed on only 20 percent of the gain. To be eligible for this treatment, they need only show that, at the time of their investment, the company was a qualifying small business, and that it had distributed its pool of employee shares so that at least 25 percent of the employees owned at least 15 percent of the shares. Should employees who own shares wish to sell them, they do not get the benefit of the special capital gains tax treatment. They have already benefited by having obtained the shares in the first place—at the expense of the dilution of the investors' ownership of the company. The special capital gains treatment is reserved for the investors who took the risk that young Tom's phonograph would sell.

In short, Mr. Speaker, I believe the bill would accomplish a number of highly important objectives.

It would make it easier for individuals who have innovative ideas to obtain investment capital;

It would in general increase the availability of venture capital for investment in new enterprise;

It would give more working men and women an ownership stake in American business, making each of them capitalists with their own claim to the company for which they work, and

It would stimulate productivity because it would provide an incentive for employees at all levels of the enterprise to propose innovative, cost-saving ideas.

Mr. Speaker, this is a bill to stimulate American innovation. It says to the men and women with new ideas that our Government wants them to try out their ideas in the marketplace.

In testifying before the Ways and Means Committee on August 19 of this year, Mr. Nolan Bushnell, chairman of the Alliance for American Innovation and a highly creative and successful inventor in his own right, said: "The central problem for a truly innovative new business is finding adequate investment capital. The availability of such risk capital is at the very heart of the problem of the innovativeness, productivity and competitiveness of the American economy."

This bill goes to the root of these problems, Mr. Speaker, and I commend it to the attention and cosponsorship of my colleagues.

The text of the American Innovation Tax Incentive Act of 1980 follows.

H.R. 8155

A bill to amend the Internal Revenue Code of 1954 to cut in half the capital gains tax on the sale of certain stocks and bonds of qualified small corporations

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Innovation Tax Incentive Act of 1980".

SEC. 2. CAPITAL GAINS TAX CUT IN HALF WITH RESPECT TO SALES OF CERTAIN STOCKS AND BONDS OF QUALIFIED SMALL CORPORATIONS.

(a) REDUCTION IN AMOUNT OF NET CAPITAL GAIN INCLUDED IN INCOME OF INDIVIDUALS.—Subsection (a) of section 1202 of the Internal Revenue Code of 1954 (relating to deduction for capital gains) is amended to read as follows:

"(a) IN GENERAL.—If for any taxable year a taxpayer other than a corporation has a net capital gain, there shall be allowed as a deduction from gross income an amount equal to the sum of—

"(1) 80 percent of the portion of such gain equal to the qualified small corporation net capital gain, plus

"(2) 60 percent of the excess (if any) of the net capital gain over the portion to which paragraph (1) applies."

(b) REDUCTION OF ALTERNATIVE CAPITAL GAIN TAX RATE FOR CORPORATIONS.—Subsection (a) of section 1201 of such Code (relating to alternative tax for corporations) is amended—

(1) by striking out "plus" at the end of paragraph (1), and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) a tax of 14 percent of the portion of the net capital gain equal to the qualified small corporation net capital gain, plus

"(3) a tax of 28 percent of the excess (if any) of the net capital gain over the portion of which paragraph (2) applies."

(c) DEFINITIONS AND SPECIAL RULES.—

(1) IN GENERAL.—Part I of subchapter P of chapter 1 of such Code (relating to treatment of capital gains) is amended by adding at the end thereof the following new section:

"SEC. 1203. DEFINITIONS AND SPECIAL RULES RELATING TO QUALIFIED SMALL CORPORATION NET CAPITAL GAIN.

"(a) QUALIFIED SMALL CORPORATION NET CAPITAL GAIN.—For purposes of this part, the term 'qualified small corporation net capital gain' means the net capital gain of the taxpayer for the taxable year resulting from a sale or exchange of qualified securities of qualified small corporations.

"(b) QUALIFIED SECURITIES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified securities' means any stock or other security acquired by the taxpayer from the corporation solely in exchange for property transferred by the taxpayer to the corporation following in a transaction which did not result in the deferral of gain.

"(2) EXCEPTIONS.—The term 'qualified securities' does not include any stock or other security—

"(A) issued for services, or

"(B) if, as part of the consideration for the exchange, the corporation assumes a liability of any person or acquires property subject to a liability.

"(c) QUALIFIED SMALL CORPORATION DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified small corporation' means any domestic corporation if—

"(A) it is reasonable to believe that the corporation will meet the requirements of paragraphs (2) and (3) for the taxable year in which the taxpayer has acquired qualified securities, and

"(B) the corporation meets the requirements of paragraphs (2) and (3) for each of the 2 taxable years (if any) preceding that taxable year.

"(2) REQUIREMENTS RELATING TO SIZE.—A corporation meets the requirements of this paragraph for a taxable year if the corporation satisfies the requirements of any 2 of the following subparagraphs for such year:

"(A) A corporation meets the requirements of this subparagraph if the gross income of the corporation does not exceed $30,000,000 for such year.

"(B) A corporation meets the requirements of this subparagraph if the net worth of such corporation does not exceed $15,000,000 at any time during such year.

"(C) A corporation meets the requirements of this subparagraph if the number of employee-years of service of such corporation does not exceed 1,000 for such year.

"(3) REQUIREMENTS RELATING TO EMPLOYEE OWNERSHIP.—A corporation meets the requirements of this paragraph for a taxable year if—

"(A) not less than 15 percent of the total value of shares of all classes of stock of such corporation is owned by qualified employees of the corporation, and

"(B) the employees so owning such stock constitute at least 25 percent of the total employees of such corporation.

"(d) OTHER DEFINITIONS.—

"(1) EMPLOYEE-YEAR OF SERVICE.—For purposes of subsection (c)(2)(B), the term 'employee-year of service' means 2,000 hours of service.

"(2) Qualified employee.—For purposes of subsection (c)(3)(A), the term 'qualified employee' means an employee of the corporation who is not an officer of the corporation.

"(e) Special Rules.—For purposes of this section—

"(1) Time for determining whether corporation is qualified small corporation.—The time for determining whether a corporation is a qualified small corporation with respect to the acquisition by the taxpayer of qualified securities shall be made at the time of such acquisition, except that a corporation shall be deemed to have satisfied the requirements related to employee ownership in paragraph (3) of subsection (c) if said corporation meets such requirements within 18 months following the acquisition of qualified securities by the taxpayer.

"(2) Controlled groups.—

"(A) In general.—In the case of a corporation which is a member of a controlled group, all persons which are component members of such group at any time during the calendar year shall be treated as one corporation for such year.

"(B) Controlled group defined.—Persons shall be treated as members of a controlled group if such persons would be treated as a single employer under the regulations prescribed under section 52(b).

"(3) Stock attribution rules.—The rules of section 318 shall apply for purposes of determining employee ownership of stock under subsection (c)(3)."

(b) Clerical Amendment.—The table of sections for part I of subchapter P of chapter 1 of such Code is amended by inserting after the item relating to section 1202 the following new item:

"Sec. 1203. Definitions and special rules relating to qualified small corporation net capital gain."

(c) Effective Date.—The amendments made by this section shall apply to stock and other securities acquired after the date of the enactment of this Act in taxable years ending after such date.●

TOBACCO EXPORTS

HON. RICHARDSON PREYER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. PREYER. Mr. Speaker, as we become more aware of the need to increase U.S. exports in order to maintain a high level of economic prosperity, the importance of the tobacco industry to the American economy strikes us with renewed force. Tobacco and tobacco products are natural U.S. exports. According to Fortune magazine, 3 tobacco companies—Philip Morris, R. J. Reynolds Industries, and Universal Leaf Tobacco—were among the top 30 U.S. corporations in export sales in 1979. These three corporations alone had export revenues of over $1.3 billion last year. There can be no question that tobacco is already one of our major export industries, and that there is potential for even greater sales of tobacco and tobacco products abroad. We must do all we can to encourage development of this potential.

U.S. governmental action is, of course, particularly appropriate when foreign governments unfairly restrict access to their markets, and this has clearly been the case in Japan's treatment of U.S. exports of tobacco products. Cigarette retail prices are set by the Japanese Government, and imported brands, subject to a 90-percent import duty, are now priced over 60 percent higher than domestic ones. Yet American manufacturers are forced by the Government monopoly to sell at prices below their worldwide export prices. In addition, even under tentative agreements now being worked out, imported cigarettes could be sold at only 8 percent of the retail cigarette outlets in Japan. Finally, imported cigarette brands face severe restrictions with regard to advertising and a mandatory test-market period for new brands.

Imported cigarettes now hold 1.2 percent of the Japanese market. Industry sources estimate that if the present trade barriers were eliminated, imported cigarettes could be expected to account for 10 percent of that market. This increase could improve our balance of trade position with Japan by nearly one-half billion dollars a year, according to an industry figure, and would mean that U.S. manufacturers would be purchasing an additional 45 million pounds of leaf tobacco from American farmers.

Progress has been made in negotiations with the Japanese regarding American exports of tobacco products, but we must continue to work until all the unfair trade barriers now imposed by Japan are eliminated. The U.S. Congress must make its position clear—that we expect Japan to deal fairly with our export industries, just as we have done with theirs.●

BEHIND THE BATTLE OVER JERUSALEM

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. ROSENTHAL. Mr. Speaker, the question of the future status of Jerusalem, in particular who shall have sovereignty over the city, though more visible today than it has been previously, has loomed large in the Arab-Israel, conflict since 1948.

Last week in the New York Times, Arnold Forster, general counsel of the Anti-Defamation League Foundation of B'nai B'rith, offered a cogent and helpful essay on the recent diplomacy concerning Jerusalem. I commend Mr. Forster's analysis to my colleagues and present it here today:

BEHIND THE BATTLE OVER JERUSALEM

To the Editor:

Now that the Egyptian-Israeli peace talks are once again resuming, it is worthwhile to examine what caused the most recent interruption.

Prime Minister Begin sometimes takes actions regarded as unnecessary, controversial and irritating. It was upsetting to many people and counterproductive for him to allow a bill to reach the floor of Israel's Parliament that declares that all Jerusalem, is, as a matter of law, the capital of Israel; it has been so in fact since 1967. And for Mr. Begin now to announce the long-planned removal of his offices from West to East Jerusalem seems to be thumbing his nose at the world.

The world reacted in the expected fashion—angry, critical, vengeful. But who is to blame for the present conflict over Jerusalem?

For a very long time, the Arabs have waged an intensive international campaign challenging Israeli sovereignty over Jerusalem. An array of U.N. resolutions have been spread on the record, thanks to the pro-Arab clique that controls the U.N., admonishing Israel for trespassing on what Israel regards as its own most sacred city.

Typically, last March the Security Council adopted a resolution requiring the dismantling of Israeli settlements, including Jerusalem. And the Arab League met just before the present donnybrook and threatened to crush Israel unless it surrendered the Holy City and the West Bank. Unfortunately, our own Government long ago joined this Arab effort with respect to Jerusalem.

At Camp David two years ago, President Carter told Mr. Begin that the U.S. did not recognize Israel's claim to East Jerusalem. A month later, then Assistant Secretary of State Harold Saunders violated Camp David accords in assuring East Jerusalem residents of participation in the proposed West Bank autonomy plan. This was followed by countless U.S. announcements and symbolic actions to show again and again its rejection of Israel's 13-year de facto governance of the eastern side of its Eternal City.

When, as a result, Israel defiantly proclaimed all Jerusalem its capital, the Security Council immediately adopted a resolution ordering embassies out of the city. Secretary of State Muskie bitterly condemned the resolution—but refused to vote against it.

Crown Prince Fahd followed with an invitation to all Arab nations to join Saudi Arabia in a holy war to sweep Israel out of Jerusalem. President Sadat was compelled to go along with all this in his effort to break Egypt out of its isolation. And the world took up the cry, blaming Mr. Begin for again throwing roadblocks in the path of peace.

The simple truth is that Mr. Begin's "provocations" are Arab masks for their never-changing, basic purpose: the elimination of Israel.

During the 18 years that Jordan occupied East Jerusalem and the West Bank, the Arabs nevertheless wanted the Jewish state driven into the sea. In the 32 years before the Knesset declared all Jerusalem de jure its capital, the Arabs refused to recognize Israel's right to any part of the city.

Long before Mr. Begin's announced removal of his office to East Jerusalem, the Arabs demanded all of Israel, including Jerusalem, for themselves.

Obviously, then, the so-called obstructionist tactics of the Israeli Prime Minister are only Arab excuses, not the real reasons, for continuing the Jihad against Israel. Yet it is true that when Mr. Begin reacts to Arab actions deliberately designed to challenge his Government's positions, he creates the desired grist for Arab propaganda mills.

In short, Mr. Begin can be faulted for providing Israel's enemies with spurious pretexts for their unending struggle against his country. But he cannot be blamed for their basic attitude toward the Jewish state or their efforts to destroy it. Let us recognize the difference.

Arnold Forster,
General Counsel,
Anti-Defamation League Foundation.●

GLENDALE FEDERAL SAVINGS & LOAN ASSOCIATION

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. MOORHEAD of California. Mr. Speaker, if it can be said that an institution has an avocation, it can be said that the avocation of Glendale Federal Savings & Loan Association is the enrichment of the later years for thousands of California residents.

Glendale Federal's primary reason for being is, of course, the operation and maintenance of a trustworthy and efficient financial organization, which seeks to serve everyone.

As a special part of this operation, Glendale Federal sponsors an advertising campaign which touts, "the second half can be the better half."

In keeping with this theme, but apart from its commercial aspects, the institution has directed significant amounts of time, muscle, and resources toward meeting the social, cultural, and health needs of senior citizens.

For example, during the nationally acclaimed Senior Citizen Month of May, this financial institution provided free estate planning clinics, blood pressure clinics, and senior citizen survival kits, which are digests of valued, seniors-related information.

Glendale Federal has demonstrated over and over again through its senior sports programs, that enthusiasm for game playing and physical exercise does not disappear with youth. It sponsors and promotes statewide golf and bowling events, and it has the Great Second Halfers softball team. The capstone of this unique athletic program is the highly successful senior olympics.

The institution has and makes available what is probably the finest collection of California art in the world. It was the founder and remains a firm and committed patron of the Glendale Symphony Orchestra, a superb community organization in which we all take pride and pleasure.

Mr. Speaker, I want to take this opportunity to express my appreciation to Glendale Federal Savings & Loan Association for its long-term dedication to the senior citizens of the State of California.●

DEDICATION OF THE TEMPLE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. MAZZOLI. Mr. Speaker, on Sunday, August 24, 1980, along with other dignitaries, I had the privilege to speak at the dedication of the temple, a beautiful new structure built to serve the merged congregations of Adath Israel and Brith Sholom.

The spirit of unity which I experienced at this dedication evidenced by the attendance of community and church leaders of all denominations, made all of us in Louisville, aware that the temple will make enormous contributions to the community in the future just as its predecessors made in the past.

I am thankful to the members of the congregation of the temple for their hard work and dedication. And, I wish Rabbi Emeritus Herbert S. Waller and co-Rabbis Leonard H. Devine and Chester B. Diamond all health, happiness and success in the years ahead.●

RUNNING MEAN

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. LAGOMARSINO. Mr. Speaker, it would be an understatement to say I don't always agree with the editorial positions of the Washington Post. However, with regard to the following editorial "Running Mean," I say "Amen."

It is a staple of this year's cynical political wisdom that running for office is what Jimmy Carter does best. We have a different view. We think it may be what he does worst. Mr. Carter, as a candidate, tends to convey a mean and frantic nature. This has been demonstrated in many ways over the past several weeks—and months.

First, the president seems determined to discredit, rather than to prevail over, his opposition. It's as if he doesn't quite believe they are entitled to run against him, and so he won't actually fight them, but rather will only provide an endless series of complaints about their candidacies and their character. You don't have to be a John Anderson fan to be made uncomfortable by the way in which Mr. Carter has sought to paint the Anderson effort as somehow illegitimate, not entitled to a hearing. And you don't have to be a Reagan fan to have noticed that Mr. Carter has abandoned all dignity in his round-the-clock attack on Mr. Reagan's character and standing, jumping him (in a most sanctimonious tone of voice) for "offenses" similar to many Mr. Carter himself has committed, and, most recently, concluding from all this that Mr. Reagan is a "racist" and a purveyor of "hatred." This description doesn't fit Mr. Reagan. What it fits, or more precisely, fits into is Jimmy Carter's miserable record of personally savaging political opponents (Hubert Humphrey, Edward Kennedy) whenever the going got rough.

Ronald Reagan is not a hater and he is not a racist; there are real reasons to challenge his claim to the presidency, but these are not those reasons. Mr. Carter's "evidence" for his charges is so weak as to be pitiable and also puts one in mind of a series of comparable failures and defaults of his own over the years from "ethnic purity" in 1976 to silence on the civil rights bill in 1964 that could as easily have been distorted by an opponent. In a way, the most disturbing feature of the Carter campaign technique is that he displays a certain contempt for the evidence of our own eyes, asserting these things that run counter to what we can see and already know, as if he believed it didn't matter, that people would believe anything they were told. Only the day before his racism and hatred remarks, for instance, Mr. Carter—the man who has managed to keep out of debates with his competitors for a year now, and who has reduced his press conferences to the merest trickle—was telling the public, in his most outraged-for-democracy fashion that it was a terrible thing that Mr. Reagan was refusing to be "cross-examined" as anyone who aspired to the presidency should be.

So the president calls names, and he badly recreates his own record (for the better) and that of everyone else (for the worse) and he displays an alarming absence of magnanimity, generosity and size when he is campaigning. No, of course, the other candidates are not just going around tossing baskets of May flowers to each other either, and yes their campaigns are full of borderline fouls and blurrings of the record. But Jimmy Carter, as before seems to have few limits beyond which he will not go in the abuse of opponents and reconstruction of history.

The purpose of a campaign is to get elected. But a campaign can win at too great a cost. A campaign can be conducted in a way that casts doubt on the purposes and policies of an incumbent's own government and record. And a campaign can offend and turn off the very people the candidate expects to win, people who want to and normally would support him, if he is ruthless and reckless in seeking the vote. There must be a better case for his reelection than the one the president is now making.●

GASOHOL TAX REPEAL ACT

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. PETRI. Mr. Speaker, on September 10, I introduced legislation entitled the "Gasohol Tax Repeal Act," H.R. 8100.

Much has been done in this country to encourage the production of alternative fuels such as gasohol. However, a tax that costs more to administer than it generates in revenue impedes this effort.

This outdated Federal law requires a yearly tax of $55 for manufacturing gasohol plants, and a tax of $22 on each still and condenser manufactured for a gasohol plant. Most of these taxes are passed on to people who buy gasohol plants for their own energy needs, such as farmers who purchase gasohol plants for on-farm use.

The Gasohol Tax Repeal Act would repeal these taxes and thereby further encourage the development of gasohol.

These taxes were established many years ago to help Internal Revenue agents keep track of alcohol stills. This need for the tax no longer exists, for today the Service has other administrative ways of keeping track of stills.

The IRS reports that these taxes generate only about $6,000 a year in revenue. Accordingly, Treasury officials say the cost involved in administering them is much higher than the actual revenues these taxes bring in. By eliminating administrative expenses needed to keep these taxes on the books, repeal would result in a net saving to the Government. In addition it would cut out useless paperwork for private businesses.

Whether it is a major energy research program, or a repeal of an outdated tax, everything that can be done must be done to lessen America's energy crisis. These needless and restraining taxes should be repealed.●

TRIBUTE TO GEORGE STAFFORD

HON. KEITH G. SEBELIUS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. SEBELIUS. Mr. Speaker, today I would like to pay tribute to George Stafford, former Commissioner, Vice Chairman, and first permanent Chairman of the Interstate Commerce Commission. George announced his retirement from the Commission 2 weeks ago.

Following George's announcement, a story appeared in the Wichita Eagle that sums up George's contributions to his State and Nation, and I would like to commend it to my colleagues.

I have had the privilege of representing rural and small town America for the past 12 years in Congress. My tenure in this body roughly coincides with the 14 years George championed rural interest on the ICC. He will be sorely missed.

In the Eagle article there is a quote, "In George Stafford's view, government in general and the ICC in particular should serve people and by God, protect the little guy." I cannot think of a finer tribute to George than that statement. He has been protecting the little guy during his entire public service career.

I know I speak for the many people who know George, his wife, Lena, and their family and call them friends in saying well done and best wishes.

The article follows:

[From the Wichita Eagle, Sept. 2, 1980]

LAST OF THE OLD-TIME REGULATORS LEAVES ICC

(By Dave Bartel)

WASHINGTON.—Above George Stafford's sprawling desk at the Interstate Commerce Commission hangs a watercolor painting of a Kansas grain elevator surrounded by fields of golden wheat ripe for harvest.

The painting, at the focal point of the spacious, pale yellow office, is the tip-off to where Stafford's heart has always been in nearly 14 years of helping manage the nation's transportation network.

"My philosophy has always been simple," said the silver-haired Stafford. "We must maintain adequate service at reasonable rates for consumers."

The statement is government shorthand for traditional regulation of railroads, trucks, barges and everything that moves freight.

It is a statement now out of fashion in Washington, where the new catch-word for the transportation industry is "deregulation."

Stafford, the last of the old-time regulators at the ICC, is out of fashion, too. In bittersweet acknowledgement of that fact, he has retired effective Aug. 31, ending an ICC career that began in 1967 and included a seven-year stint as the commission's first permanent chairman.

The bantam-sized Stafford, who vaguely resembles Harry Truman, isn't pleased by what he has seen happening around him. He is bowing out, defeated but undaunted.

"All we talk about any more is competition," he said, feet propped on the credenza beneath the watercolor. "Nobody talks about service anymore. To me, that's the bottom line."

He doesn't point to the painting and the hundreds of small grain elevators across the Great Plains that it symbolizes. He doesn't mention the thousands of farmers whose livelihoods depend on ripened wheat and railcars to move the grain to market.

He doesn't have to. The painting and all it represents are firmly embedded in Stafford's mind. He recalls vividly the grain elevators, the dust-streaked farmers and the small farm towns of his boyhood in Valley Falls, Kan.

"People who have been there—and there aren't many here, it appears to me, who have been there—realize the all-consuming passion of the whole harvesting scene with its hits," Stafford said. "Wheat is the all-consuming passion. And the need for railcars to move the grain is absolute."

That keen awareness guided Stafford through his career at the ICC, an agency that can decide who prospers and who fails on the rolling plains of the nation's grain belt.

Railroads and trucks are the vital link between farm and market, and Stafford has made clear in thousands of pages of opinions how he thinks the ICC should supervise that link.

In Stafford's view, government in general and the ICC in particular should serve people and, by God, protect the little guy.

To do that, Stafford wouldn't trust railroads to move grain cars into harvest areas at a reasonable price for farmers. He would order them to do it.

Stafford wouldn't trust trucking companies to fan out over the countryside to serve little towns and villages. He would order them to in plain government-backed black and white.

"Sure you have to maintain a healthy carrier in the process," Stafford said, "but he's got to deliver the service. I don't see that concern around here now."

Indeed, the tide of opinion at the ICC, the White House and in Congress has been running against Stafford-style regulation for years. Lately, the deregulators have succeeded in starting an overhaul of the ICC's 93-year-old traditions.

Legislation to reduce trucking regulations sharply was approved earlier this year by Congress. It makes it easier for small truck companies to get started, but it also gives established firms more freedom to abandon unprofitable areas.

Similar legislation to let railroads have more control over their rates and services is stalled in Congress, but could still become law by year's end.

To Stafford, the trend is clear and the future for rural areas is plain.

"Big shippers in the big cities are able to command service, but when you get to the smaller towns and the smaller businessmen, it appears to me that before we're through they're going to have to pay a premium to get any service," he said.

Service in rural areas also will deteriorate or halt completely, Stafford predicts. If proposed mergers between major railroads are approved, as expected, the change could be brutal, he adds.

For example, a proposed merger of the Union Pacific and Missouri Pacific railroads could badly hurt smaller railroads in Kansas and neighboring grain states, Stafford says.

"I think the Denver and Rio Grande (Railroad) will lose maybe 40 percent of its business from that merger and the Katy (Missouri-Kansas-Texas Railroad) also would be materially harmed," he said. "But the new philosophy is not to provide any protection for smaller railroads the way we always did in the past.

"If the present approach continues," he added, leaning forward, "small railroads will die."

Then he leaned back in his big chair and spread his arms in surrender with the comment: "These are things that will have to be taken care of in the next year or two."

In the past, Stafford would have fought the tide, as he did in President Ford's administration by lining up farm-state senators to sink another rail deregulation scheme.

But now he is retiring from the regulatory wars. He insists the philosophical change at the ICC, where he is the only member from a rural Midwestern state, did not force the decision.

"My term is up at the end of the year and I did not want to be considered in any way for reappointment," Stafford said. "I just decided finally that this was a good time to quit."

Stafford said he has no definite plans about what he will do in retirement, but he will talk with some friends about joining a Washington consulting firm.

Before that, however, he must box the Kansas watercolor, hundreds of awards and thousands of speeches and other documents.

With his departure, an era of sorts ends at the ICC.

"The theory of deregulation has won out," he said with a wry, Truman-like smile. "Now we'll just see what happens."●

TRIBUTE TO JACK NORTHROP

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. DORNAN. Mr. Speaker, John K. "Jack" Northrop is truly a living legend. On Tuesday night, September 23, at 8 p.m., the aerospace community will gather at the Beverly Hilton Hotel to honor one of a handful of living pioneers who created history unique to the story of mankind—the conquest of flight and now space itself. I sincerely regret that our duties here, as this session winds to a close, will prevent me from attending Jack Northrop's dinner, one of the most significant commemorative events ever held by the aerospace industry. However, I wanted to take this opportunity to pay my own special tribute.

Mr. Speaker, I am sure that everyone in this room has benefited in some way as a result of Mr. Northrop's work in aviation design and technology. Most of the significant aviation breakthroughs since the 1920's have in some way employed design or technical innovations which originated with Jack.

He began his career in aviation on the ground floor as a draftsman for the Loughead Bros.—as Lockheed was then known—who were building a twin engine flying boat in 1916. Before World War I, he designed the wings for that craft, which was then one of the world's largest flying boats.

Jack served in the Army in World War I in the Army Signal Corps, which had jurisdiction on all aircraft matters for the armed services.

After the war, he went back to work for the Loughead Bros. Co. until they went out of business in 1920.

After trying the construction business for a while as an employee of his father's firm, Jack joined the Douglas Aircraft Co. in 1923. While on the job, Jack designed the fuel tanks for the Army Air Services' "Round the World" cruisers, which made aviation history.

In 1927, Jack joined with Allan Lockheed and two others in forming the company we now know as the Lockheed Aircraft Corp. In the early years of Lockheed, Jack firmly established his reputation as an aviation wizard by designing the superadvanced Lockheed Vega, a high wing, full cantilever, monocoque airplane that was far in advance of any aircraft ever produced at that time. The Vega was used by such flight pioneers as Wiley Post and Amelia Earhart to set world records for speed and endurance.

Jack left Lockheed in 1928 to form the Avion Corp., in order to further research on all-wind and all-metal aircraft. While he was with Avion, he designed the Northrop Alpha, Beta, Gamma, and Delta aircraft. The Alpha, you may be interested to know, can be seen by anyone who visits the National Air and Space Museum just down the Mall.

In 1930, Avion was purchased by the United Aircraft and Transport Corp. because of William Boeing's interest in Jack's all metal Alpha model. While Jack was working with United Aircraft, the first Northrop Aircraft Corp. was formed as a division of United Aircraft.

During the depression, Jack left United Aircraft and formed a new Northrop Corp. in partnership with Douglas Aircraft. This venture later evolved into the Douglas El Segundo division. While with this organization, Jack directed the design and production of the Army A-17 attack aircraft, the Navy B-1 dive bombers, and military attack aircraft used by many other foreign air forces during World War II. Together with the Douglas Co.'s renowned engineering group, Jack participated in the development of the famous Douglas commercial aircraft series, the DC-1, DC-2, and DC-3.

In 1939, Jack left Douglas to form yet another Northrop enterprise, Northrop Aircraft, Inc. At Northrop Aircraft, Jack finally was able to devote enough time to bring to pass his dream of creating an operational flying wing aircraft. The concept of Northrop's flying wing was years ahead of its time. Even now it serves as an example to NASA and others interested in transport aircraft as an illustration of using a greater part of the aircraft's surface for lift, which provides increased fuel efficiency, together with greater range and load carrying capacity.

While Jack is one of the giants of the aerospace industry, his name ranking with those of Boeing, Lockheed, Douglas, and McDonnell, all of whom Jack worked with in essentially creating today's aerospace technology world. Jack has also contributed much in the field of industrial relations.

Jack has been a model employer, one whose door was always open to any employee wishing to discuss his ideas or seeking solutions to job-related or personal problems. Jack held frequent meetings to which every employee was invited, where the firm's goals and projects were discussed. Jack wanted his employees to feel that they were working together in a team effort. He also orginated the Christmas holiday shutdown, a practice now nearly universal in the industry, because he felt that the holidays were a time that families should spend together.

Jack has also done much to alleviate the suffering of paraplegics, in contributing to the design of lightweight, precision prosthetic devices.

Inspired by his work with World War II veterans and wounded, Jack made it possible for those with missing limbs to continue productive work. His own company made significant use of wounded vets during World War II, paying them comparable wages to his other employees. As a result, the morale of these wounded vets was significantly improved.

Jack is a legend in his own time—a member of both the Aviation and Aerospace Halls of Fame. He has contributed more to the growth and development of aviation and aerospace technology than any other individual alive today. I can best describe his contribution by quoting Donald Douglas Sr., who once said "every major airplane in the skies today has some Jack Northrop in it."

As a pilot who has flown many kinds of military and civilian aircraft, I admire Jack's thorough grasp of the problems of manned flight. And as a Representative of the people of the United States who have reaped the benefits of a 64-year career, one of the most inspirational of our time, I say thanks to Jack Northrop, a patriot who walks among America's greatest citizens of all time.●

TRIBUTE TO CONGRESSMAN WILLIAM S. MOORHEAD

HON. JIM WRIGHT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 16, 1980

● Mr. WRIGHT. Mr. Speaker, a number of my colleagues have spoken of the leadership shown by BILL MOORHEAD in the area of synthetic fuels. There is no one in the House who is more acquainted with his contribution to that cause than I am, and I can tell you that it was considerable.

For years there have been attempts in the Congress to enact legislation that would stimulate the development of a synthetic fuels industry. The need has been apparent for years, but support was lacking until last year.

What made it possible for us to move ahead was an innovative approach developed by Congressman MOORHEAD. As chairman of the Subcommittee on Economic Stabilization of the Committee on Banking, Finance and Urban Affairs, Mr. MOORHEAD saw an opportunity to amend an old law, the Defense Production Act, to utilize the fuel purchases of the Department of Defense as a way to stimulate creation of a synthetic fuels industry.

By the time the final bill went to the President last June there were a great many Members of both bodies who had been involved in this effort. But it was BILL MOORHEAD in the solitude of contemplation 2 years ago who first conceived of a way to get the job done.

That to which he gave birth ultimately grew into a comprehensive program with many facets. It has already begun, and it will continue for another dozen years until this Nation is no longer at the mercy of foreign oil producers.

When the day comes that America achieves energy independence, it will be a direct result of the contributions of our great and distinguished colleague, BILL MOORHEAD.

It saddens me to know that BILL is retiring this year. He and I have worked together on many occasions. His conscientious attention to detail, his powers of persuasion, his devotion to what is best for the country, are qualities I shall always remember.

He is a leader who knew how to lead. Through all those long months of the conference on the Energy Security Act BILL MOORHEAD never lost sight of the goal, nor did he ever abandon hope when, indeed, some of the problems seemed insurmountable.

The same strong hand was evident in everything he handled. With BILL MOORHEAD in the Chair even the impossible did not take very long.

Mr. Speaker, I would like to conclude with a personal message. To BILL MOORHEAD and his lovely wife Lucy I would say this: No matter what achievements you have made, and no matter how many joys you have known, I hope that the best and happiest days of your lives are yet to come.●

BALLARD'S 100TH ANNIVERSARY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. LAGOMARSINO. Mr. Speaker, I am pleased to announce to my colleagues that Ballard, Calif., marks its 100th anniversary in the Santa Ynez Valley this month. Paul Halme, a Solvang attorney, was in charge of organizing the Ballard Labor Day centennial celebration.

The town of Ballard was founded by George Lewis. He named the town after William N. Ballard, superintendent of the stagecoach line that ran through Ballard between San Francisco and Yuma, Ariz.

The guests of honor include the Stewart Norris family who are descendants of George Lewis, Ballard's founder. The Norrises dedicated a plaque to be placed on Lewis' grave in Oak Hill Cemetery identifying him as Ballard's founding father.

Another honored guest is Jeannette Lyons, 93, a native of Ballard. Miss Lyons is one of the oldest living descendants of a Ballard family to participate in centennial festivities.●

TWENTY-FIRST OBSERVANCE OF CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. DERWINSKI. Mr. Speaker, the week of July 13-19 marked the 21st observance of Captive Nations Week. The commemoration of this week is a salute to those nations held captive under Soviet Russian domination.

Throughout our Nation, freedom-loving Americans voiced their support for national rights of the peoples held captive. In Massachusetts, a rally was scheduled and speeches were given by Edward F. King and Orest Szczudluk, chairman of the Massachusetts Captive Nations Week Committee. I wish to insert Governor Edward J. King's proclamation Edward F. King's speech, along with the remarks by Mr. Szczudluk. The program and the press release announcing the captive nations commemorative rally proceed these statements:

1980 CAPTIVE NATIONS WEEK OBSERVANCE, 21ST ANNIVERSARY

PROGRAM OF THE CAPTIVE NATIONS WEEK COMMEMORATIVE RALLY

Wednesday, July 16, 1980, Between 12 and 1 o'clock, Massachusetts State House, Beacon Street, Boston

Opening welcome: Orest Szczudluk, chairman, Captive Nations Week Committee, who will also serve as chairman of the commemorative rally.

Invocation: Very Rev. Peter Ohirko, pastor of Christ The King Ukrainian Catholic Church in Boston.

Governor's welcome: His Excellency Edward J. King, Governor of the Commonwealth of Massachusetts.

List of Captive Nations: Mrs. Maria Walzer (Ukrainian).

President Carter's Proclamation: Miss Dana Austras (Lithuanian).

Governor King's Proclamation: Mr. Aivars Oga (Latvian).

Principal speaker: Edward F. King, a well known civic and political leader in Massachusetts.

Patrick Henry's Advice For the Free World: Miss Isabel Rivero-Argüelles (Cuban).

Downfall of the Soviet Russian empire: Skit performed by children representing following captive countries: Ukraine, Latvia, Lithuania, Estonia, Hungary, Cuba, Afghanistan.

Statement: Narrator: Don Meier.

Benediction: Arijs Kuceris, minister of the Latvian Trinity Mission Church.

God Bless America: Led by Mrs. Carmen Sanchez (Cuban).

PRESS RELEASE FROM: CAPTIVE NATIONS WEEK COMMITTEE, JAMAICA PLAIN, MASS.

BOSTON.—"Freedom and independence" will be the theme of the Captive Nations Week Commemorative Rally scheduled for Wednesday, July 16, 12:00 noon, in front of the Massachusetts State House on Beacon Hill. The event will salute all captive nations under Russian communist domination.

The principal address will be delivered by Edward F. King, chairman of the Boston Finance Commission and well known political and civic leader. Governor Edward J. King will extend greetings.

A feature attraction of this event will be the presentation of a skit, which portrays the occupation and oppression of the captive nations, followed by the overthrow of Russian communist tyranny by the captive nations and the re-establishment of freedom and independence in these counties.

The public is cordially invited to attend the rally and express their strong support for the freedom and national independence of all captive nations.

The Captive Nations Week Resolution of 1959 listed 22 original captive nations: Ukraine, Lithuania, Latvia, Estonia, Armenia, Azerbaijan, Georgia, Byelorussia, Idel-Ural, Cossackia, Turkestan, Poland, Hungary, Czecho-Slovakia, Rumania, Bulgaria, Albania, East Germany, Mainland China, North Vietnam, North Korea, Tibet. Added were: Serbia, Croatia, Slovenia, Cuba, Cambodia, South Vietnam, Laos; and in 1979—Afghanistan.

The 21st anniversary of the CNW presents a timely opportunity for all Americans to voice their support for the national rights and independence of all captive nations in the Soviet Russian colonial empire and under Soviet Russian domination; to demand the withdrawal of Soviet forces from Afghanistan and all occupied countries; and to support all sanctions against the Soviet Union which condemn Soviet Russian imperialism.

A PROCLAMATION, 1980

Whereas the week of July 13-19, 1980, is observed nationally as "Captive Nations Week" dedicated to nations under Communist domination; and

Whereas the imperialistic policies of Russian Communists have led to the enslavement of the peoples of Ukraine, Armenia, Poland, Byelorussia, Cossackia, Georgia, Idel-Ural, North Caucasia, Turkestan, Estonia, Latvia, Lithuania, Azerbaijan, Albania, Romania, Czecho-Slovakia, Bulgaria, North Korea, Hungary, East Germany, Tibet, North Vietnam, Cuba, Cambodia, South Vietnam, Laos, and Afghanistan; and

Whereas the establishment of national and independent States by all captive nations and the decolonization of the Soviet Union Empire would contribute significantly to a just and lasting peace in the world and the freedom of all nations; and

Whereas the 1980 "Captive Nations Week" serves as an appropriate forum to manifest public support for freedom and independence of all captive peoples everywhere: Now, therefore, I, Edward J. King, Governor of the Commonwealth of Massachusetts, do hereby proclaim the week of July 13-19, 1980, as Captive Nations Week and urge all citizens of the Commonwealth to take cognizance of this event and to participate fittingly in its observance.

Given at the Executive Chamber in Boston, this second day of July, in the year of our Lord, one thousand nine hundred and eighty, and of the Independence of the United States of America, the two hundred and fourth.

EDWARD J. KING.

SPEECH OF EDWARD F. KING

I sincerely wish that it were not necessary for us to be here today. I wish that I could tell you that we will never again have to meet and rally. I wish that men and women of good will held all of the highest governmental offices in every country on this earth. And, finally, I wish that all Americans could understand and appreciate the freedoms that we enjoy and that are systematically being denied to our brothers and sisters in communist lands. But these are idle dreams. Because the facts are harsh. The momentum of international power politics in 1980 is all too clear.

Even as we meet here today, the Red Army is rampaging through Afghanistan and solidifying its grip on a new Captive Nation. And, even as that oppression takes place, the once-proud United States is dismantling its vital base at the Panama Canal and is standing helplessly by while over 50 of our countrymen are held hostage in a foreign nation. And so we meet in troubled times. We meet when our morale is low and we meet in the midst of retreat. But there are some signs of hope, and it is to these signs that we must cling.

Our boycott of the Moscow Olympics is a symbol of a new awakening. We can be intensely proud that no real American could participate in games and sports in a host country that is systematically slaughtering thousands of innocent people and subjugating another nation. Our flag never flew higher or with more glory than it does by its absence from the guilt-ridden city of Moscow.

The partial trade embargo and the wheat boycott, overwhelmingly supported by the American people, are certain signs that this great country and its citizens, can and do place certain values above the pursuits of profit and gain.

But these are only small steps, there is much to be done, and the hour is late. We must act—all of us must do our part. This country—the United States of America—must resolve to accept what we are—the leader of the free world and the last and only hope of millions of people who yearn only to breathe free air, who ache only to worship God in their own way, and who would cherish and covet the rights that we take for granted. There are some of us who scoff at you and at what I say, they call you relics of the past—"Cold War Warriors"—they say that we are unrealistic. Some even say that we lie and distort—that conditions are not so bad in communist countries. There are those in America who have praise for Fidel Castro, for Ho Chi Minh, for Mao Tse Tsung. Indeed, we even had American citizens like Jane Fonda who acted as apologists for North Viet Nam in the midst of that country's invasion and takeover of a neighboring land. But I have some questions for Jane Fonda and her friends. How come, everytime the door is opened, even a crack, why is it that thousands, even millions of people risk life and limb to escape and they always come in this direction? How many people climb over the Berlin wall from west to east? How many American ballet dancers or athletes defect to Moscow or Peking or Havana? No, Jane, there aren't any. All of these refugees—all of these defectors—all of the boat people—by the thousands—are pouring out of Cuba, out of Cambodia, out of Viet Nam and they will continue to come as long as their native lands are ruled by red thugs who masquerade as responsible governments.

This is the twenty-first year that we have observed Captive Nations Week in the United States. And the prospects are that we will have to observe many more before the flag of freedom is hoisted again in those unhappy lands for which we pray. But we must do more than pray. We must urge our own government to expand its concern for human rights to include national rights. For the two are inseparable. Our country, its leaders, and its diplomats, should insist on self-determination and full national independence for all nations. There can be no compromise, no retreat, and no acceptable alternative to that demand.

We cannot trade with, or encourage in any way, a nation that does not respect that basic principle. We should challenge the Soviet Union, and the Russian leaders in Moscow to free all of their political prisoners—from concentration camps, from jails and from so-called insanity wards. Russian Jews should be allowed to emigrate at will; those who were exiled to Gorki and other parts of Siberia should be released. We must keep the world spotlight on these atrocities at all times. And we must remember that an atrocity, an outrage, does not become less of an atrocity, or less of an outrage, with the passage of time. Time may heal all wounds—but time will not release the people of Ukraine—or Poland—or Hungary or Cuba, only firm and decisive action by the free world can do that.

But how long? Lord, how long will it take? We don't know. But as long as there is a United States—as long as there is a Captive Nation's Week—as long as we care—the hope will exist. And someday that spark of hope will ignite the action that will consume the Captive Nations and free the oppressed. Those of us who were born here in this country must never take it for granted.

We are proud of you and lend our support to this just cause, but we must be ever mindful that, if America is not here in strength and in freedom, no nation will remain to observe a Captive Nations Week for us. And a new dark ages, more terrible than ever, will encircle our globe.

And so our cause is one. And like Moses, we will cry, "Let our people go." And like Moses, we will repeat again and again—"Let our people go." And we will pray that someday in our lifetime, or beyond, the flags of sovereignty, of justice and of freedom, will be raised over all the nations of this earth.

May God bless you for your suffering and your courage and may He reward you for your patience. You have honored me beyond words by inviting me to be among you on this day and I thank you from the bottom of my heart.

CAPTIVE NATIONS WEEK OBSERVED IN BOSTON

(By Orest Szczudluk)

BOSTON, MASS.—"'Captive Nations Week' gives us a chance to recognize the courage and persistence of those people who today still search and fight for their own freedom. As our proclamation declares, 'The establishment of national and independent states by all captive nations and the decolonization of the Soviet empire would contribute significantly to a just and lasting peace in the world,'" stated Massachusetts Governor Edward J. King in his welcoming address as the Captive Nations Week commemorative rally in front of the Massachusetts State House on July 16.

The noon rally was opened by Orest Szczudluk, chairman of the Captive Nations Week Committee and vice president of the Boston Chapter of the Ukrainian Congress Committee of America, who said: "Today, Americans of all walks of life salute all captive nations and restate their support for the freedom and national independence of all captive nations under Russian communist domination." Very Rev. Peter Ohirko, pastor of the Christ the King Ukrainian Catholic Church, delivered the invocation. Present were also Rev. Anthony Baltrashunas, a Lithuanian Catholic priest and Arijs Kuceris, a Latvian Lutheran minister.

The principal address was delivered by Edward F. King, 1978 Republican candidate for governor, present chairman of the Boston Finance Commission and well known political and civic leader in Massachusetts. He stated: "Our boycott of the Moscow Olympics is a symbol of a new awakening. We can be intensely proud that no real American could participate in games and sports in a host country that is systematically slaughtering thousands of innocent people and subjugating other nations. Our flag never flew higher or with more glory than it does by its absence from the guilt-ridden city of Moscow . . . We must urge our own Government to expand its concern for human rights to include national rights. For the two are inseparable. Our country, its leaders, and its diplomats, should insist on self-determination and full national independence for all nations. There can be no compromise, no retreat, and no acceptable alternative to that demand. We cannot trade with, or encourage in any way, a nation that does not respect that basic principle . . . We should challenge the Soviet Union, and the Russian leaders in Moscow to free all of their political prisoners—from concentration camps, from jails, and from so-called insanity wards. And we must remember that atrocity, an outrage, does not become less of an atrocity, or less of an outrage, with the passage of time. Time may heal all wounds, but time will not release the people of Ukraine, or Poland, or Hungary, or Cuba. Only firm and decisive action by the free world can do that."

Mrs. Maria Walzer, Ukrainian, read the list of captive Nations. Miss Dana Austras, Lithuanian, read President Carter's proclamation; Aivars Oga, Latvian, delivered Governor King's proclamation. Mrs. Isabel Rivero-Arguelles (Cuban) recited a passage from Patrick Henry's speech.

The feature attraction was the presentation of a skit by children, representing Ukraine, Latvia, Lithuania, Estonia, Hungary, Cuba and Afghanistan. The skit displayed the occupation and oppression of the captive nations, followed by the overthrow of Russian communist tyranny by the captive nations and re-establishment of freedom and independence in these countries.

The rally was concluded by benediction, offered by Arijs Kuceris, minister of the Latvian Trinity Mission Church, and by "God Bless America," sung by Mrs. Carmen Sanchez (Cuban) and all the present. Over 200 people attended the rally, braving the 90 degrees temperature. Many came in their national costumes. Among the present was a group of Ukrainian students from the summer school at Harvard University Ukrainian Studies Center, who brought with them and displayed many posters.

NEWS MEDIA INFORMED

All news media in Boston received a special press release about the CNW rally and CNW objectives. The Boston Globe reported on the rally in its July 17 morning edition. The Pilot, the official organ of the Boston Catholic Archdiocese, carried an editorial in its July 13th edition: "A third group of non-Russians including Lithuanians, Ukrainians and Georgians wish to exercise their rights to preserve their culture and their language and to govern themselves. The Captive Nations desire a restoration of their human rights, be they personal, civil or even natural. It remains our duty to insist on their rights." Jamaica Plain Citizen, Hyde Park Tribune, Dorchester Argus and Mattapan Tribune of July 17, 1980, carried Orest Szczudluk's letter, "Captive Nations Week." Edward F. King, who was the principal speaker at the rally and who is also a syndicated columnist, reported on the CNW observance in his column, "Our flag flew higher by its absence," which appeared in West Roxbury Transcript and Parkway Transcript of July 30. The Citizens' Forum, a monthly, carried an excellent editorial and several articles on Captive Nations Week in its July-August edition.

PRAYERS IN CHURCHES

On Sunday, July 13, priests of the Catholic Archdiocese of Boston, offered prayers for all captive nations and for those suffering persecution in Russian communist jails. Prayers were requested by Humberto Cardinal Medeiros, Archbishop of Boston. Prayers were also offered in Ukrainian Catholic, Very Rev. Peter Ohirko—pastor, and Ukrainian Orthodox, Very Rev. Mykola Newmerzyckyj—pastor, Churches.

CAPTIVE NATIONS WEEK COMMITTEE

This year's observance of the CNW was sponsored by the Captive Nations Week Committee, which consisted of the following organizations: American National Latvian League of Boston, Facts About Cuba, Free Afghanistan Alliance, Lithuanian American Council of Boston, Lithuanian Community and Boston Chapter of the Ukrainian Congress Committee of America. It was chaired by Orest Szczudluk, vice president for public relations, Boston UCCA.●

DULLES AIRPORT

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. FISHER. Mr. Speaker, Dulles International Airport, which should one day be the major airport in the Washington area, needs promotional and developmental assistance. It is an excellent facility, but for a variety of reasons it is taking the brunt of the recession in the air travel industry in the Washington area. Improved ground transportation would be a step toward helping the airport attract business. One form of ground transportation to the airport would be a Metro rail line.

I have cosponsored legislation to authorize funds for the construction of a Metro rail line to Dulles. This bill will help to draw attention to this important issue. It is a complement to other legislation that I have also cosponsored for a comprehensive study of the feasibility of the Dulles line as well as several others around the region. Various studies, projections, and plans will have to be prepared before commitments to construction can be made. The important factor in the bill to authorize funds for the Dulles line is to exhibit congressional interest in moving forward; it shows confidence in the future status and growth of Dulles Airport.

Another component of ground transportation to Dulles is highway access. The 13-mile Dulles Access Road now terminates at the I-495 Beltway. Nearby I-66 is under construction. When I-66 is completed from the Beltway to the Potomac, it should be connected to the Dulles Access Road to provide convenient limited access transportation from the District of Columbia all the way to the airport. The FAA has long planned to build a total of 4 miles of road to provide the connection with I-66. The plans are in the final stage and, with the early completion of the environmental impact process, will be ready for construction bids.

It is vital for this project that the necessary funds be included in the Transportation Appropriations legislation for fiscal year 1981. I will be working to make certain that the final version of the bill contains the funds.

I am pleased to see congressional interest in the vitality of Dulles Airport and in the provision of ground transportation to it.●

WE MUST HEED THE LESSONS OF HISTORY IN THIS YEAR'S ELECTION

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. LAGOMARSINO. Mr. Speaker, I am bringing the following letter from my constituent, Mr. Claude C. Coffman, to the attention of my colleagues because it points up the basic fallacy in the Carter administration's campaign of fear against Ronald Reagan.

Democrats are not the insurers of peace that Mr. Carter's campaign rhetoric would have us believe, and Ronald Reagan is not the trigger-happy hawk they have painted him to be. Reasonable thinking people know this to be true and, as outlined below, history bears them out:

SEPTEMBER 14, 1980.

HON. ROBERT J. LAGOMARSINO: I remember when President Wilson was re-elected after he promised to keep the U.S. out of World War I. The United States was at war within a month of when he began his second term after being re-elected.

When President Roosevelt was re-elected, in 1940, after promising to keep us out of World War II, he asked and got the right to send the anti-German allies war supplies under the "Lend-Lease" act. In order to help get these supplies through Roosevelt had U.S. destroyers escorting convoys of allied ships part way across the Atlantic and pinpoint German submarines, which the allied warships attacked. When a German submarine fired a torpedo at the American destroyer Greer, Roosevelt who had not told the people what he was doing feigned surprise and outrage and ordered U.S. warships to shoot on sight at hostile German ships. The destroyer Greer was torpedoed in September 1941, before the U.S. was at a declared war. Roosevelt got us into World War II by his actions. President Truman pulled our troops out of South Korea and North Korea invaded South Korea. President Johnson got us into war in South Vietnam after claiming Goldwater, if elected President would get us involved in a war in South Vietnam! Now Carter is claiming Reagan is a war monger! What's new?

Sincerely,

CLAUDE C. COFFMAN.●

HOUSE JOINT RESOLUTION 610

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. BEREUTER. Mr. Speaker, earlier I voted against House Joint Resolution 610, the continuing appropriations measure. This bill would provide funding for existing Federal activities until December 15, 1980, or until Congress completes all of its appropriations measures. An earlier motion to recommit, which I supported, was defeated; it would have extended the continuing resolution until only October 18, 1980—before the election.

On the surface, a continuing resolution is a routine procedural matter—a process that permits funding for various governmental activities until Congress can complete the regular appropriations process. That is not the case this time.

This resolution was presented to us today for one reason, and one reason only, to "get the majority party off the hook"—to insure that they do not have to vote on the key spending proposals until after the November election.

Those who control Congress want a lameduck session and have so stated their intention. They do not want to stand on their record when the people go to the polls on November 4. Indeed, they are afraid to even compile a record.

The only hitch in their plans is that the Government needs money to keep running regardless of whether we complete action on all of the necessary appropriations measures before we adjourn. This continuing resolution, with its December 15 date, gives them the break they need. By approving this resolution, Congress can recess before the election, without a guilty conscience, knowing that the Government will continue. Once the pressures of facing the electorate are removed, they expect to return to Washington and deal with the tough spending decisions they could not—or would not—face before the election.

The decisions left remaining are indeed difficult ones, particularly for an administration and majority party that began the year with promises of a balanced budget. They can not deliver—and know it. Now, they do not want to prove it by having to vote before November 4.

I reject that philosophy. We should not let those who control Congress off the hook. The problems are of their own creation. They have stymied any reasonable effort to solve our budgetary problems. They control the committee structure of Congress, the flow of legislation to the floor—indeed, the entire scheduling process. To say we can not get the job done is an indictment of their leadership—both substantively and procedurally.

Mr. Speaker, I oppose this resolution. I am prepared to work around the clock if need be, but I think we have an obligation to complete the work of this Congress by November 4. And, then, it is up to the people to judge the merits of that record.●

KIM DAE JUNG

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. OBERSTAR. Mr. Speaker, the people of this country in the post-war period have shown their deep commitment to the goal of an independent and democratic South Korea. Unfortunately, the leaders of that country have shown a flagrant disregard for democratic processes and for the rights of its own citizens.

I want to see the United States enjoy good relations with South Korea. Our Government, and even the most enthusiastic supporters of the Korean regime, however, must recognize that the death sentence imposed on Kim Dae Jung stands as a most serious threat to United States-Korean relations. The Korean Government must recognize the reaction of our people and of all free people to a government which deals with opposition and dissent by executing the principal leader of that opposition. I join with my colleagues in making an appeal to the Government of South Korea: Do not execute Kim Dae Jung. Such an act can only serve to unleash even more desperate opposition to the Chun regime.

As the leader of the free world, the United States cannot condone or ignore the fate of Kim Dae Jung.

It is my firm conviction that the Government of South Korea can most effectively fight communism by protecting the rights of its citizens and by allowing free and peaceful expression of dissent.●

NATIONAL BOY OF THE YEAR

HON. RALPH S. REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. REGULA. Mr. Speaker, it is with considerable pleasure that I call my colleagues' attention to the accomplishment of still another champion from the city of champions, Massillon, Ohio.

Jace Smith, a senior at Washington High School, which has produced many Ohio champion football teams, was selected Wednesday as the Boys' Clubs of America's 1980-81 National Boy of the Year.

We are very proud of Jace in the 16th District of Ohio. He has been an outstanding young man in the Massillon Boys' Club program and well deserves the honor bestowed upon him.

A member of the Massillon club 11 years, he overcame a severe case of bronchial asthma to become one of the club's most active members. Following his graduation from high school, he plans to attend Ohio State University where he will study to become a surgeon.

Jace, who currently is president of his school's Keystone Club, served as cochairman of the 1980 National Keystone Club Conference. In 1979, he was the Boys' Clubs of America's alternate representative to the International Year of the Child Commission.

He has coached his club's Quiz Bowl teams, served as club librarian, and conducted "Reading Is Fundamental" programs. He frequently speaks on behalf of his club.

His father died when Jace was 7 and since then Jace has been the man of the house. He works part time to meet his personal needs and help with household expenses.

Jace is active in church and community activities and at school he was a member of the student council, a gym leader, manager of the Tigers' football and basketball teams, and a staff member of the school newspaper.

Jace has been the recipient of many honors since being named Boy of the Year, including a meeting with President Jimmy Carter in the Oval Office. He will be a spokesman in the coming months for the nationwide boys' club program which has benefited thousands of youths through the years in all sections of the Nation.

Our communities, in turn, have benefited from the activities and from the graduates of the boys' clubs.

I am especially pleased that one of our 16th District clubs has produced a national Boy of the Year. I congratulate Jace Smith, his director, Joe Hibbard, and the staff of the Boys' Clubs of Massillon for bringing this honor to the city of Massillon and the 16th District.●

PLEASE STICK TO THE ISSUES, MR. PRESIDENT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. MAZZOLI. Mr. Speaker, the President has been getting—and following, it now appears—some very bad campaign advice.

He should have rejected out of hand advice that he charge his Republican opponent with practicing the politics of racism and hatred.

The President should remain positive and constructive in this campaign. He should discourse on the issues and not be caught up in a mud-slinging match.●

SAMURAI JUSTICE IN KOREA

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. McHUGH. Mr. Speaker, yesterday, as expected, a Korean military tribunal reached a preordained conclusion that Kim Dae Jung was guilty of a variety of charges that our own State Department has characterized as "farfetched," and sentenced Mr. Kim to death.

Having now concluded one charade, we are about to see another unfold. We have been told that there is every reason to believe that the military rules of South Korea will now step in to commute this sentence of death if sufficient concern is expressed by the international community. I certainly hope that such concern will be expressed and that the death sentence will not be carried out.

At the same time, however, such a demonstration of humanity by the South Korean Government will no doubt be lost on Mr. Kim, who will undoubtedly be consigned to life in prison in order to prevent him from participating in the political life of South Korea. That message will not be lost on other Koreans who share Mr. Kim's vision of a truly democratic Korea.

Mr. Speaker, as the New York Times pointed out in an editorial this morning the verdict that was reached yesterday is a fraud. It was based upon trumped up charges, tainted evidence, and a coerced confession that Mr. Kim later repudiated.

The only crime of which Mr. Kim is guilty is that of almost defeating the former ruler of Korea, Gen. Park Chung Hee, in the 1971 Presidential election, and of continuing to speak out in favor of a restoration of democracy and respect for humam rights.

Mr. Speaker, I would find it extremely difficult to support providing continued U.S. assistance to a regime capable of executing Kim Dae Jung. Thus, I hope that the present leaders of South Korea will reverse course and order Mr. Kim and his fellow codefendants released.

For the benefit of those Members who may not have seen the Times editorial, I am inserting a copy into the RECORD at this point.

[From the New York Times, Sept. 18, 1980]

SAMURAI JUSTICE IN KOREA

Millions of people watching television this week need no further instruction in samurai justice. The loser's penalty in early 17th-century Japan was predictable and brutal—a quick thwack of the sword, a suddenly headless neck. In "Shogun," the NBC miniseries based on James Clavell's novel, the feudal savagery is rooted in Asian history which viewers may assume is mercifully past. It isn't. Samurai swords are still flashing in ostensibly civilized South Korea.

Last November, the old shogun, President Park Chung Hee, was assassinated by a trusted lieutenant. Now there is a new military overlord, Gen. Chun Doo Hwan. He may bear the more modern title of President. But he seems intent on governing in the feudal manner.

He had scores to settle, especially after a humiliating student uprising in Kwangju. That uprising was blamed on the seditious intrigues of South Korea's foremost democratic leader, Kim Dae Jung. But the evidence was tenuous; Mr. Kim and his co-defendants were already in jail when the Kwangju riots occurred. So Government prosecutors duly came up with another charge, that Mr. Kim was plotting subversion during a trip to Japan in 1973. But the evidence was tainted, since Mr. Kim had been kidnapped from Tokyo by Korean agents. The abduction outraged the Japanese, who obtained a promise that no evidence developed in Japan would be used against him. The promise was broken.

Yesterday, as expected, Mr. Kim was found guilty of sedition by a military tribunal after a semi-secret trial marred by charges of fraud and crude Government pressure. And, as feared, the sentence is death by hanging. Under President Chun's samurai code, there is seemingly no mercy for losers.

The comparison with feudal Japan may be offensive to Koreans; they are a proud people with bitter memories of their past as an imperial colony of the Japanese. Defenders of General Chun insist that Korea's judiciary is independent, and that appeals or executive clemency are still possible. They assert that a new constitution is being shaped that will give Koreans a more or less democratic system.

American policy-makers have been indulgent to a fault in accepting these assurances. While the Chun shogunate was assuming power, President Carter saw fit to remark that "the Koreans are not ready for democracy . . . according to their own judgment." Washington's tolerance has now been repaid with the Kim death sentence. Official pragmatism notwithstanding, that verdict is an affront to civilized opinion everywhere. A human rights policy that winks at samurai justice can hardly "ready" South Korea for democracy.●

KIM DAE JUNG: KOREAN PATRIOT CONDEMNED TO DEATH

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. STARK. Mr. Speaker, I join in the worldwide outcry protesting the death sentence handed down by the South Korean general court-martial in the case of Kim Dae Jung. Once before the South Korean Government maneuvered to snuff out the life of Mr. Kim, South Korea's best known and most impressive democratic politician. The U.S. Government played a decisive role in saving Kim Dae Jung's life once before and it is my strong belief and hope that the United States will again play that role. Mr. Kim must live and serve the South Korean people. Those now ruling that country must be brought to see the error of their ways.

At this point, I would like to place in the RECORD a statement concerning the trial of Mr. Kim originated by the United Movement for Democracy in Korea and the Korean Congress for Democracy and Unification.

A STATEMENT ON KIM DAE JUNG

The Court-Martial in South Korea is about to mete out death-sentence to Kim Dae Jung and other opposition leaders for alleged conspiracy to overthrow the government.

The court procedures that this military tribunal used in this case can hardly be called a "trial" in any civilized society. The sedition charges under which these democratic leaders were brought to penal process suffer more than lack of specificity of facts; they are, indeed, downright lies intended for public deception and political vengeance. Thus, the Court-Martial, controlled by newly-emerged dictator Chun Doo Whan, did not even bother with the ceremonial "burden of proof" or legal syllogism in its deliberations on the case. Not a single element of civility guaranteed in due process of law, such as the right to counsel and other judicial equities, has been observed in the entire process.

What General Chun Doo Whan laid bare throughout this incident is his intention to physically eliminate the opponents who may challenge his dictatorship in the future. The strength of his determination is derived from his understanding that the governments of the United States and Japan will support whatever extreme measures he may employ in silencing the opposition, as long as he keeps South Korea subservient to respective interests of these countries.

We are confident, however, that the South Korean people will not remain passive while the scope of injustice is widening both at domestic and international levels. We call it straightforwardly to the attention of the leaders in Washington and Tokyo that, unless Chun is stopped right here and now, a political upheaval of serious consequences will erupt in Korea. Chun may kill a few thousand more Koreans; but their aspirations for democracy, the tenacity of which we witnessed in Kwangju, shall never die in Korea.

SUGARMAN AGAINST FTC SUGGESTS NEED FOR EQUAL ACCESS TO JUSTICE ACT

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. PORTER. Mr. Speaker, It is an exaggeration, perhaps, to say that each day we hear another horror story of Goverment regulation gone wild. But there can be little doubt that in every agency, some, likely, far more than others, examples of regulatory excesses can be found. These excesses not only sap the lifeblood of our economy and undermine the productivity of the business enterprises so essential to providing jobs for our citizens and revenue for the Federal Treasury, they also undermine the very agencies which pursue them. For when yet another story is heard, the credibility of the agency involved and its ability, therefore, to carry out its mission is tarnished.

Normally, Mr. Speaker, I would not bring one of these matters to the attention of the Members. They have heard so many so often before. But the story that is related below by a businessman from my district illustrates so clearly the absolute necessity for legislation to require an agency which wrongly prosecutes or persecutes a business to reimburse that business for its costs and attorneys fees to defend itself, that the opportunity cannot be allowed to pass. This legislation, of course, is the Equal Access to Justice Act, which has passed out of the Small Business Committee and is awaiting action in the Judiciary Committee. I am a cosponsor of the bill, H.R. 6429.

The narrative which follows is provided by Joseph Sugarman, president of the J.S. & A. Group, Inc. of Northbrook, Ill. I realize, of course, that this is only one side of the story and do not wish in any way to prejudge the outcome. But if Mr. Sugarman is right, surely he should not have to bear the cost of his defense against the massive power of the Federal bureaucracy and surely he should be the recipient not only of our admiration for his courage and strength but also of our commitment to change the law so that others like him in the business community cannot be similarly set upon. His story follows:

I'm pretty lucky. When I started my business in my basement eight years ago, I had little more than an idea and a product.

The product was the pocket calculator. The idea was to sell it through advertisements in national magazines and newspapers.

Those first years in the basement weren't easy. But, we worked hard and through imaginative advertising and a dedicated staff, JS&A grew rapidly to become well recognized as an innovator in electronics and marketing.

THREE BLIZZARDS

In January of 1979, three major blizzards struck the Chicago area. The heaviest snowfall hit Northbrook, our village just 20 miles north of Chicago.

Many of our employees were stranded unable to get to our office where huge drifts made travel impossible. Not only were we unable to reach our office but our computer totally broke down leaving us in even deeper trouble.

But we fought back. Our staff worked around the clock and on weekends. First, we processed orders manually. We also hired a group of computer specialists, rented outside computer time, employed a computer service bureau, and hired temporary help to feed this new computer network. We never gave up. Our totally dedicated staff and the patience of many of our customers helped us through the worst few months in our history. Although there were many customers who had to wait over 30 days for their parcels, every package was eventually shipped.

WE OPENED OUR DOORS

During this period, some of our customers called the FTC (Federal Trade Commission) to complain. We couldn't blame them. Despite our efforts to manually notify our customers of our delays, our computer was not functioning making the task extremely difficult.

The FTC advised JS&A of these complaints. To assure the FTC that we were a responsible company, we invited them to visit us. During their visit we showed them our computerized microfilm system which we use to back up every transaction. We showed them our new dual computer system (our main system and a backup system in case our main system ever failed again). And we demonstrated how we were able to locate and trace every order. We were very cooperative allowing them to look at every document they requested.

The FTC left. About one week later, they called and told us that they wanted us to pay a $100,000 penalty for not shipping our products within their 30-day rule. (The FTC rule states that anyone paying by check is entitled to have their purchase shipped within 30 days or they must be notified and given the option to cancel.)

NOT BY CONGRESS

The FTC rule is not a law nor a statute passed by Congress but rather a rule created by the FTC to strengthen their enforcement powers. I always felt that the rule was intended to be used against companies that purposely took advantage of the consumer. Instead it appears that the real violators, who often are too difficult to prosecute get away while JS&A a visible and highly respected company that pays taxes and has contributed to our free enterprise system is singled out. I don't think that was the intent of the rule.

And when the FTC goes to court, they have the full resources of the U.S. Government. Small, legitimate businesses haven't got a chance.

We're not perfect. We do make mistakes. But if we do make a mistake, we admit it, accept the responsibility, and then take whatever measures necessary to correct it. That's how we've built our reputation.

BLOW YOUR KNEECAPS OFF

Our attorneys advised us to settle. As one attorney said, "It's like a bully pulling out a gun and saying, 'If you don't give me a nickel, I'll blow your knee caps off.'" They advised us that the government will subpoena thousands of documents to harass us and cause us great inconvenience. They warned us that even if we went to court and won, we would end up spending more in legal fees than if we settled. He said the fight wasn't worth it.

But I refused. Although I admitted that we did ship some products late, all products were shipped and not one consumer lost a penny. I also accused the FTC of applying their rules to legitimate companies while leaving the real rip-off artists alone.

At first we tried to settle. We met with two young FTC attorneys and agreed in principle to pay consumers for any damages caused them. But there were practically no damages, just a temporary computer problem, some late shipments, and some bad weather. The FTC then issued a massive subpoena requesting documents that will take us months to gather and which we feel was designed to harass or force us to accept their original $100,000 settlement request.

Remember, the FTC publicizes their actions. And the higher the line, the more the publicity and the more stature these two attorneys will have at the FTC.

If this all sounds like blackmail—that's just what it appeared to be to us.

We did ship our products late—something we've admitted to them and which we publicly admit here, but we refuse to be blackmailed into paying a huge fine at the expense of our company's reputation—something we've worked hard eight years to build.

It is now over a year since the start of the FTC investigation of our company, and the FTC has still been unable to prove a case against us. Our massive advertising campaign not only made our case public, but would have certainly generated an outpouring of complaints against us, if indeed there were any.

Even more serious however, was a discovery we made while trying to convince the FTC to get off our backs. I was in the office of the FTC's head of the Bureau of Consumer Protection in Washington. I asked him why he did not go after companies that do defraud the consumer, when my company, a highly respected firm, did not defraud anybody.

He said, "We're not set up to deal with real fraud." This supported what I always suspected, but I never expected the head of the Bureau of Consumer Protection to admit it so openly. Incidentally, this statement was later confirmed by a high-ranking FTC official. Yes, the FTC is not set up to go after companies that purposely defraud the consumer.

SERIOUS FLAWS

This leaves me with serious concerns for our free enterprise system. If an agency responsible for the protection of the consumer is ineffectual against the real frauds, yet goes after the legitimate companies, then they are deceiving Congress and the public.

Ironically, they point to statistics which show a rise in mail order complaints as a good reason for their stiff rules, yet their rules are totally ineffective against the companies that cause most of those complaints anyway.

I WON'T GIVE UP

I am an American small businessman—an entrepreneur who started my company in my basement eight years ago, and through a lot of hard work built it into one of America's most respected electronics marketing companies.

I refuse to let my reputation be slandered and discredited by a few publicity-seeking bureaucrats whose efforts attack legitimate companies, thus undermining our free enterprise system, while leaving the crooks free to rip-off the unprotected American consumer. And it is the consumer footing the bureaucratic waste, who thinks the FTC is doing a good job and needs to be strengthened. I am running this campaign to help a sick agency so that Americans can get the protection they think they are getting while allowing the free enterprise system to function without bureaucratic harassment.

ALL AMERICANS AFFECTED

Federal regulation and the whims of a few career-building bureaucrats is costing taxpayers millions, destroying our free enterprise system, affecting our productivity as a nation and as a result is lowering everybody's standard of living.

America was built on the free enterprise system. Today, the FTC is undermining this system. Freedom is not something that can be taken for granted and you often must fight for what you believe. I'm prepared to lead that fight.●

TRIBUTE TO VASHTI McKENZIE

HON. WALTER E. FAUNTROY

OF DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. FAUNTROY. Mr. Speaker, I am priviledged to bring to the attention of this House, the special recognition being given Mrs. Vashti McKenzie. Mrs. McKenzie by profession is program director of WYCB radio station here in the District of Columbia. The station, under her leadership and direction, has grown to become one of the foremost religious broadcasters in the National Capital area.

Mrs. McKenzie is being honored, not because of her achievements in broadcasting—though they are outstanding—but rather for her contributions and commitment to toiling on behalf of the poor.

Mrs. McKenzie is the founder and president of Love and Peace, Inc., a group of Christian volunteers contributing their time and skills freely to help the least among us. She has consistently answered the call—without hesitation or reservation—to aid the Shaw community food project which provides free food to hundreds of District residents at Thanksgiving.

When I think of Mrs. McKenzie's service, I recall a prayer of the former chaplain of the House of Representatives, Rev. Edward G. Latch:

> . . . above the multitude of many voices clamoring for our attention may we hear Thy voice summoning us to walk in Thy ways and to live in Thy love that we may worship Thee in Spirit and in truth and in work through this day with dedicated, devotion and disciplined diligence.

Mrs. McKenzie in the clamouring, glamorous, exciting world of broadcasting has listened and heard and answered the call of those desparately in need of a helping hand.

For her courage and faith and Christian love, I am proud to join the Mayor of the District of Columbia in saluting Vashti McKenzie for Christian stewardship.●

A FEDERAL PROCUREMENT NIGHTMARE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. McDONALD. Mr. Speaker, in the last Congress another bureaucratic nightmare was unleashed on society. Public Law 95-507 is its official designation. It mandates that prime contractors must have a plan to see that their subcontracts go to an acceptable percentage of small women owned, small disadvantaged owned, small minority owned businesses. As is so often the case, well-intended projects pursued with blind emotional attachment produce wholly unworkable ends. In fact, they often turn out hurting those they were most meant to help. The following editorial by C. W. Borklund from Government Executive, September 1980, details the futility of the above cited public law. I commend it to the attention of my colleagues:

PUBLIC LAW 95-507: A SOCIALIST NIGHTMARE

In a recent Government Purchasing Outlook newsletter, GAO (General Accounting Office) Assistant Director Robert Hall charged, "The leverage of Federal procurement has been increasingly applied over the past half century to pursue social and economic ends, e.g. small and minority business set-asides, fair employment practices, safe and healthful working conditions, rehabilitation of the handicapped and cleaning up the environment."

The pile heaped on the procurement process, especially in the past half-dozen years, has now grown so mountainous and monstrous, "they threaten breakdown of the Federal procurement process. Some would say that process is already collapsing." It's considerably more than "some," Mr. Hall. The full count has been masked by the simple, almost traditional notion that dedicated, experienced civil servants and military-contracts experts will do their valiant best to deliver, uncomplaining (except to each other) what the politicians ask—even when they know in their gut it's a stupid request.

Current case-in-point is Public Law 95-507. Enacted a year ago, its implementing instructions are just beginning to flow out of OFPP (Office of Federal Procurement Policy), GSA (General Services Administration), and "in draft" at the headquarters of other major Federal buying Agencies such as Defense, NASA and Department of Energy.

It mandates that prime contractors must have, and must see that their subcontractors (on construction jobs over $1 million and on other contracts in excess of $500,000) have, a plan and an auditable, enforceable program to see that an "acceptable"—the definition of that, theoretically, being in the eyes of the Small Business Administration (SBA)—percentage of that work go to small minority-owned, small women-owned, small disadvantaged-owned, etc., etc. businesses.

Robert McDermott of the SBA told a National Contract Management Association seminar last February that, in effect, even through it looked unworkable and a dire threat to the presumed otherwise impartial integrity of the Federal procurement process, SBA was going to do its best to make this exercise in futility work. And an industry group which includes, among others, former Pentagon contracting expert Dale Babione is urging OFPP to re-write its implementing "Policy Letter 80-02" so that both Federal contract auditors and industry suppliers have some small prayer of keeping the reporting requirements relevant to the real world of Federal contracts management.

P.L. 95-507, and the implementing abscesses spewing out of it, are fraudulent because they purport to advance a high moral judgment when, in fact, they are doing the opposite. As one angry aerospace industrialist has summarized.

Appears to be unconstitutional because of its discriminatory provisions, i.e. de facto discrimination against large business;

Diminishes the national defense effort by forcing the diversion of literally billions in Defense and Defense-contractor dollars into a non-productive paperwork factory;

Dilutes Defense efforts to improve productivity, reliability and reduce costs;

Flies in the face of a White House Memorandum of February, 1977, placing "a high priority" on reducing the reporting burden the Federal Government places on the Public;

Contributes to restraint of trade and diminution of the free enterprise system;

Creates an environment for labor disputes when union workers are laid-off to achieve subcontracting goals.

Dale Church, Deputy Undersecretary of Defense for acquisition Policy, estimates implementing 95-507 will cost the Pentagon, alone, $1.2 billion. Defense Director of Contracts and Systems Acquisition, Bob Trimble, told OFPP Administrator Karen Hastie Williams recently, "I believe we have reached that point" where 95-507-type exercises "are adversely affecting our primary mission" of "providing for the country's defense needs."

More succinctly, a member of the National Audio-Visual Association told Hall (after reading the *Government Purchasing Outlook* item) in part, "I concur with your views and NAVA would be pleased to serve on the Executive/Congressional/industry task force you propose. We currently are trying to discourage the GSA from proceeding with a lengthy contract—replete with all the socio-economic goals you mentioned—because it means imposing all of these goals on companies that stand to receive $1-3,000 worth of Federal business per year if they agree to the contract.

"Most companies in our industry refused to bid on the contract because they thought it was a farce—the sales generated would not even pay for the time it took to read and understand the contract. So you are right * * * the breakdown (in the procurement process) is already underway."

One, just one, of the Pentagon's top 50 contractors, a large Midwestern avionics firm, estimates—based on projections of what they've spent already—that the people and paperwork cost of compliance to (a) issue new policies and practices to subs; (b) issue new contract terms and conditions; (c) send out new purchase-order attachments; (d) develop new subcontracting plans and percentage goals; (e) revise and update their supplier directories; (f) update their procurement-commitment system in their 24 different buying centers; (g) keypunch subcontractor data; (h) prepare and file monthly and quarterly reports; (i) pass-through the program to subcontractors; (j) do analysis and provide data on how all this is going to impact their other contract-incurred obligations, e.g. labor-surplus, environmental protection certificates, veterans preference, etc., will cost them just under $14 million annually.

And that's just one company. P.L. 95-507 passed Congress overwhelmingly when it slid through that "august" body and was praised by the White House when they signed it. Which just goes to show you can, indeed, fool some of the people all of the time. Noted Dr. Walter E. Williams (an economics professor at Temple University), in a speech to Hillsdale College, in part: "Most of the problems that poor people face in the U.S. are a direct result of coercion and the absence of free markets * * * this cause has gone virtually unnoticed by policy makers, researchers and many other groups who express a concern for the socioeconomic welfare of the poor. * * * All too often the problems that minorities face are viewed in terms of collective conspiracies, societal preferences, or good and evil. * * * Such an approach will at best suggest policies that are relatively ineffectual and at worst harmful to the intended beneficiaries."

Williams is a black American, incidentally, so the socialist minority-bigots among us can hardly justify calling his frank, honest, unemotional analysis "racist"—which is their favorite retort when they can't win an argument on merit.●

RESUME GESMO

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. BEREUTER. Mr. Speaker, today, I wrote the editor of the Washington Post in response to a recent editorial regarding GESMO—generic environmental statement on mixed oxide fuel. In that editorial, the Post failed to present the full story behind this matter. The record on this issue must be set straight. For that reason, I request that my response to the Post be printed in the Record in order that Members of this body may determine for themselves the proper position to take on a key energy issue which shortly will come before the House.

The letter follows:

House of Representatives,
Washington, D.C., September 18, 1980.

Editor,
The Washington Post,
Washington, D.C.

Dear Sir: On Sunday, September 7, 1980, the Washington Post presented a convoluted presentation of the "facts" surrounding Congressional efforts to revive the GESMO rulemaking proceeding. The unquestioning editorial support for a Carter Administration policy which has been universally rebuffed by the international community runs contrary to the journalistic tradition of the Post. This matter deserves a second look.

In October, 1977, the Carter Administration pressured the Nuclear Regulatory Commission (NRC), an independent regulatory agency established by Congress, into terminating a public proceeding convened pursuant to the National Environmental Policy Act (NEPA). The purpose of this proceeding was to determine the health, safety, and environmental impacts associated with reprocessing and recycling of plutonium—a nuclear fuel. The Administration argued that continuation of the proceeding would interfere with Administration efforts to study alternative fuel cycles not involving direct access to plutonium.

In February of this year, the International Fuel Cycle Evaluation (INFCE) completed its two-year effort to study the risks of nuclear energy. Sixty-six countries and five international organizations participated in some form of the INFCE study. The principal conclusion of the INFCE study was that no fuel cycle is proliferation free and that "reprocessing in itself is important because it is an essential preliminary to many of the possible fuel cycles."

Since NRC's termination order specifically provided for reconsideration of the matter after such studies had been completed, the NRC now has asked for public comment on whether the NRC should resume the GESMO proceedings. The Administration was quick to respond negatively to the resumption, again principally citing proliferation concerns.

The GESMO issue transcends any arguments between the technical pundits on economics, waste disposal, or safeguard considerations. What is at stake is the public's right to know. The Administration is intent on interrupting a process designed to answer fundamental questions of concern to the Congress and the public. By terminating the process, the Administration is suppressing both the study and its conclusions.

In short, the Administration seems to be saying, "Don't give us the facts. We might not like those facts; those facts may be inconsistent with the Administration's policies." Rather than take the intelligent, responsible approach to the problem it apparently chooses to bury its head in the sands of ignorance.

The Administration's position on this matter puzzles me. Why should the Administration be so concerned about the proceeding since, after all, there is no guarantee that GESMO will culminate with a favorable finding with respect to reprocessing and recycling? The situation is analogous to terminating a trial and declaring the defendant guilty before the jury has announced its verdict.

Contrary to the Administration's point of view, I believe that GESMO should go forward in order that Congress may obtain the benefit of a fair and open hearing on this most important matter.

Sincerely,

Douglas Bereuter.●

A CONGRESSMAN ADJOURNS

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. HILLIS. Mr. Speaker, our colleague from Kentucky, Dr. Tim Lee Carter, is retiring at the end of this session and thus, as one headline writer has put it, will be making "a final house call in Congress."

The Rural Kentuckian magazine, published by the Kentucky Association of Electric Cooperatives, this month carries an excellent article describing the varied career of Dr. CARTER.

I offer this article for inclusion in the RECORD at this time:

[From the Rural Kentuckian, September 1980]

A CONGRESSMAN ADJOURNS

(By Gary Luhr)

When voters go to the polls in Kentucky's 5th Congressional District this year, a familiar name will be missing from the ballot. For the first time since 1964, Dr. Tim Lee Carter won't be the Republican candidate from one of the country's most Republican districts.

When a new Congress convenes in January, Carter, who turned 70 this month, will be home at his farm near Tompkinsville preparing to resume the medical practice he never completely abandoned.

"There have been so many times I've landed in Louisville after working hard all week in Washington and driven the 133 miles from the airport home. I've got 29 counties in my district. I go home almost every weekend, and traveling hundreds of miles is pretty hard. I thought I would enjoy being at home," he said in explaining why he chose not to run for a ninth term that he surely would have won.

"I've enjoyed every bit of it. I enjoy meeting people," he said. "And really, when 80 percent of the people vote for you, you've got to be nice to all of them."

The 5th Congressional District stretches from Monroe, Metcalfe and Green Counties on the west to Leslie and Harlan Counties on the east, and from Jessamine, Madison and Estill Counties on the north to the Tennessee border. Within it are coal, timber and good farmland, but many poor areas as well. At one time, the median income of its residents was the lowest of any congressional district.

"They might have been poor in worldly goods but never in spirit," Carter said.

Many of the improvements that have occurred in the district over the past 16 years were due largely to Carter's success in funneling federal dollars to the area.

GOVERNMENT HAS A ROLE

"Since I was first elected to Congress, we've seen many hospitals built; we've seen vocational schools built in nearly every county; we've seen pure water systems and sewage disposal systems built," he said.

"I'm a conservative in many ways in that I believe in fiscal responsibility. But you might consider me progressive in health issues and economic development," he said, adding that he believes government has a legitimate role to play in both.

His natural support of health measures not only won him recognition—the American Medical Association presented him its highest award in 1978—but also helped him achieve a better record than otherwise might have been possible for a Republican in a Democratic Congress.

"Health involves people in all areas of the country," Carter said. "When you support measures to improve research for cancer, for example, then you get the support of both sides of the aisle." (Carter's only son died of a form of cancer in 1977 at age 22.)

A fellow physician was partly responsible for Carter's decision to run in 1964, for the seat being vacated by former Congressman Eugene Siler. "Dr. C. C. Howard of Glasgow, a food friend of mine, encouraged me to run. He said, 'More and more, the federal government is going to be legislating in health matters, and we need someone up there to represent us,' " Carter said.

The son of James Clark and Idru Tucker Carter was born in Tompkinsville on September 2, 1910. After attending public schools in Tompkinsville and Lindsey Wilson College, he became a teacher in a one-room school at age 17. He coached basketball at Tompkinsville from 1932 through 1934 and, at age 21, was the youngest coach ever to take a team to the boy's State High School Tournament.

Carter graduated from Western Kentucky University in 1934 and the University of Tennessee Medical School in 1937. He practiced medicine in Tompkinsville until he enlisted in the U.S. Army in 1942. He was a captain in the 38th Infantry Division for 42 months during World War II, receiving a Bronze Star and Combat Medical Badge as a medic in the Pacific Theater.

DELIVERING THE VOTERS

Carter spent his internship in 1937 and 1938 at the U.S. Marine Hospital in the Chicago Maternity Center. It has been said one reason he had so little trouble winning elections years later was that he delivered so many of his constituents.

"I shouldn't be surprised if I didn't deliver about half of them in Monroe County," he said. "I delivered some in Cumberland and Metcalfe; some in Barren, Allen and Clay Counties; some even from Macon (a nearby county in Tennessee). Some of those counties are not even in my district."

Looking at some of the changes that have taken place in Congress during his tenure, Carter said member turnover and an increase in the number of congressional subcommittees had hurt the legislative process. Still, he wouldn't discourage someone from running for the office today.

"Particularly if he was a well-balanced young man or woman and seemed to have plenty of horse sense," Carter said. "I think it takes a pretty well-rounded man to be an effective member. He should be knowledgeable about how people make their way in life.

"One of the first things I would tell him would be to get the feeling of the people he represents. I had public meetings every year in each county seat. I'd advise him to do that and to let the people express themselves to him.

"Of course, there is a matter of conscience too. If a man opposes legislation which a majority of people are for, or if he has information which they might not know about, then I think he should vote his conscience."

A MATTER OF CONSCIENCE

It was a matter of conscience that made Carter one of the first representatives in Congress to oppose this country's involvement in the Vietnam war. In a speech to the House of Representatives in August 1967, Carter said the United States was not so threatened that it should send men to that part of the world.

"Actually I opposed the war in 1964 when I was a candidate," he said. "I knew that Cuba was 90 miles off our shore. If we were going to fight communism, we didn't have to go that far to fight it.

"I visited Vietnam in 1965. We went there at our own expense and saw firsthand what was going on. In our country, the poor boys were being drafted. The fellows who were in college or who went into the reserves or the national guard didn't have to go. There were five men in my county who were killed. Four of them had no more than a high school education, if that much. One man had one year of college. It was a tragic thing.

"I was a member of the House Speaker's committee that went to Vietnam again in 1966. At that time I could see we were not winning. When we reported to the President, I was the only one who told him, 'No, Mr. President, we're not winning the war.' He spoke for about 30 minutes and gave me the same old rigamarole that we'd heard for a long time, but he didn't become vindictive or angry. Lyndon Johnson was very nice to me even though I differed with him."

Carter is less charitable in his view toward certain members of the news media.

PRESS DESTROYED NIXON

"Some of our reporters, I regret to say, like nothing better than to write something that is embarrassing to a member of Congress."

He believes Watergate showed how much damage the press can do.

"Richard Nixon was the brightest president we've had, particularly in foreign affairs, but even in economic affairs. I'm not defending his character, (but) revenue sharing came into being under him, détente with Russia, peaceful relations with the People's Republic of China. The European press and European officials recognize this.

"The press is like the power to tax, it has the power to destroy. They never liked Nixon, and they got him."

Carter also criticized the country's failure to move faster in developing new energy sources.

"I think we should start immediately to use gasohol, which can be made from grain or any other substance that will ferment, even garbage. (Gasohol is a mixture of 90 percent gasoline and 10 percent alcohol that can be used in place of gasoline.) I introduced legislation to do this is 1973. We found out in 1970 we were going to have an oil shortage. But the liberals in Congress thought the money might go to the oil companies, and the conservatives thought it was too much."

Carter would also like to see coal gasification and liquefaction plants built in the minefields of southeastern Kentucky.

Periodically, throughout his career in Congress, Carter's name was mentioned for other elective offices in Kentucky including governor. He seriously considered running for the U.S. Senate seat vacated in 1972, by Republican Senator John Sherman Cooper. Doubts by family members about his chances of getting the party's nomination finally made him decide against it.

"I wanted to run, but my wife went into a tizzy, and my other brother, Jimmy, it scared him half to death," Carter recalled.

At age 70, Carter has no future political plans, though he expects to remain interested in government "as long as I live." He acknowledged that he might accept a position in a Republican administration should one be offered.

For now, however, he looks forward to practicing a little medicine in Monroe County and to raising some cattle, tobacco, corn and soybeans. And he leaves Washington with this thought: "My hope for Kentucky and my prayers for our country are that we elect people who are deeply dedicated, highly intelligent and impeccably honest." ●

DEPARTMENT OF DEFENSE APPROPRIATION BILL

HON. ALVIN BALDUS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 1980

● Mr. BALDUS. Mr. Speaker, I wish to make a few remarks on the Department of Defense appropriations bill, which was recently approved by this Chamber.

I know that there is not one Member of this House who does not regard the Nation's military security as his first personal concern and first legislative priority. In good conscience, however, I could not voice my approval nor cast my vote for the Department of Defense appropriations bill as it was presented for floor consideration.

I do support the higher levels of spending contained in the bill; my recorded votes on the budget resolution and the reconciliation measure attest to that. I strongly support the substantial increases in procurement and in operation and maintenance; I strongly support substantial increases in military pay and benefits to insure the retention of highly trained and qualified personnel in our Armed Forces. However, on two points—critical points in my judgment—the final Defense Department appropriations bill was unacceptable: funding for the MX missile and funding for the construction of a binary chemical munitions plant.

As the RECORD of Tuesday, the 16th of September, will show, I recorded my positive votes on the two amendments that would have deleted funding for these two programs. Those amendments failed, however, and funding for the two programs was left intact in the bill. Without these two programs, I would have voted for the bill; with them, I could not. Mr. Speaker, I support a stronger defense. However, I can not in good conscience support what I view as a reckless defense.●

SENATE—*Friday, September 19, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. EDWARD ZORINSKY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God in whom we live and move and have our being, we thank Thee for this moment when we lift our hearts to Thee.

When the burdens are heavy, give us strength to carry them. When the pressures are great, grant us inner peace. When the days are long and duties irksome, give us a poise and power to think clearly and act wisely for the Nation's welfare.

O Father, give us grace to bear the wounds of criticism, the hurt of misunderstanding, the pain of misjudged motives, and the monotony of daily toil.

In the turbulent days in which we live, grant to us a steadfast faith, an enduring hope, and the will to seek the Kingdom of God and His righteousness, in the sure knowledge all else will be in order. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Magnuson).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 19, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable EDWARD ZORINSKY, a Senator from the State of Nebraska, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. ZORINSKY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I have no need for my time. I will be glad to yield it to the distinguished Republican leader.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I thank the majority leader for his offer. As it turns out, I have no need for my time as well. I yield back my time under the standing order.

Mr. ROBERT C. BYRD. Mr. President, I do the same.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, not to extend beyond 30 minutes, and that Senators may speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

VESSELS DOCUMENTATION

Mr. ROBERT C. BYRD. Mr. President, this has been cleared on the other side of the aisle.

Mr. President, on behalf of Mr. CANNON, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1442.

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1442) entitled "An Act to authorize the documentation of the vessel, Sara, as a vessel of the United States with coastwise privileges", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That, notwithstanding the provisions of title 46 of the United States Code, particularly but not limited to section 27 of the Merchant Marine Act of 1920, as amended (46 U.S.C. 883), or any other provision of law, the Secretary of the department in which the Coast Guard is operating, shall cause the vessels Sara (vessel numbered 530082), Aurelia Four, Alice (vessel numbered 289731), Albatross (vessel numbered 299537), Hillbilly I, and Kailua (registration numbered AK-7716-B) to be documented as vessels of the United States, with the privileges of engaging in coastwise trade so long as each such vessel being so documented is owned by a citizen of the United States.

SEC. 2. The vessel Sara which was constructed in a country other than the United States, is, pursuant to section 1, granted the privilege of engaging in coastwise trade only so long as the vessel is owned by a citizen of the United States and is operated for a nonprofit purpose.

SEC. 3. Section 502 of the Merchant Marine Act, 1936, is amended by adding at the end of subsection (g) thereof two new subsections to read as follows:

"(h) The Secretary of Commerce is authorized to construct, purchase, lease, acquire, store, maintain, sell, or otherwise dispose of national defense features intended for installation on vessels. The Secretary of Commerce is authorized to install or remove such national defense features on any vessel (1) which is in the National Defense Reserve Fleet as defined by section 11(a) of the Merchant Ship Sales Act of 1946, (2) which is requisitioned, purchased, or chartered under section 902 of the Merchant Marine Act, 1936, (3) which serves as security for the guarantee of an obligation by the Secretary of Commerce under title XI of this Act, or (4) which is the subject of an agreement between the owner of such vessel and the Secretary of Commerce to install or remove such national defense features. Title to such national defense features which the Secretary of Commerce determines are not to be permanently incorporated in a vessel shall not be affected by such installation or removal unless otherwise transferred in accordance with the provisions of this title V.

"(i) The Secretary of Commerce shall submit the plans and specifications for such national defense features and the proposals for their acquisition, storage, utilization, or disposition to the Navy Department for examination thereof and suggestion for such changes therein as may be deemed necessary or proper in order that such features shall be suitable for the use of the United States Government in time of war or national emergency. If the Secretary of the Navy approves such plans, specifications, or proposals as submitted, or as modified in accordance with the provisions of this subsection, he shall certify such approval to the Secretary of Commerce.".

SEC. 4. Section 209(b) of the Merchant Marine Act, 1936, is amended by (a) deleting from clause (2) the words "and cost of national defense features"; (b) inserting after clause (2) the following new clause: "(3) cost of national defense features;"; and, (c) renumbering the remaining clauses accordingly.

SEC. 5. Notwithstanding any other provisions of law, any vessel engaged in the coastwise transportation of coal produced in the United States, from a port in the United States to another port in the United States, shall until June 30, 1987, have the priority to berth at any such ports ahead of any waiting vessels engaged in the export trade of coal produced in the United States: *Provided,* That the Secretary of Commerce may, if he determines that it is in the national interest, eliminate priority berthing, as provided herein, at any such port or ports, and to report such action to the Congress within 30 days.

Amend the title so as to read: "An Act to authorize the documentation of certain vessels as vessels of the United States, and for other purposes.".

UP AMENDMENT NO. 1623

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON, I send to the desk an amendment to the House amendment.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for Mr. CANNON, proposes an unprinted amendment numbered 1623.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the end of the House amendments, insert the following new section:

SEC. 6. Notwithstanding section 27 of the Merchant Marine Act, 1920, as amended (46 U.S.C. 883), or any other provision of law to the contrary, the vessel known as the Scuba King, official numbered 532376, owned by Bernard Despins, shall be entitled to be documented to enage in the fisheries and the coastwise trade upon compliance with the usual requirements, so long as such vessel is, from the date of enactment of this section, continuously owned by a citizen of the United States. For the purposes of this section, the term "citizen of the United States" includes corporations, partnerships, and associations, but only those which are citizens of the United States within the meaning of section 2 of the Shipping Act, 1916 (46 U.S.C. 802).

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (UP No. 1623) was agreed to.

UP AMENDMENT NO. 1624

(Purpose: Technical perfecting amendment to House amendment)

Mr. WARNER. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia (Mr. WARNER) proposes an unprinted amendment numbered 1624.

Mr. WARNER. I ask unanimous consent that further reading be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

In Section 5 of the House Amendment, strike the word "berth" and insert in lieu thereof the word "load", and strike the word "berthing" and insert in lieu thereof the word "loading".

Mr. WARNER. Mr. President, I wish to make just a few brief comments on my technical amendment to section 5. Specifically, my amendment would change the words "to berth" and "berthing" in the House-passed amendment to "to load" and "loading".

My amendment is intended to reflect more accurately the intent of the House when it adopted the amendment relating to the priority berthing for vessels transporting U.S.-produced coal in the coastwise trades.

Under the amendment as passed by the House, vessels would be allowed to tie up to a pier for the purposes of loading coal whether or not that coal was currently present and available for loading. If the coal were immediately available, the ship could be quickly loaded and speeded on its way—thus avoiding costly delays and incurring as little expense as possible for domestic users of our Nation's coal. This was the result which the House intended by its amendment.

However, under the House language, another result is possible. If the coal designated for the priority-berthed vessel were not immediately available at the terminal for loading, the coal pier at which the vessel was berthed could potentially be kept idle for long periods until the coal designated for that vessel arrived and was actually loaded onto it. This kind of delay is not what the proponents of this provision had in mind.

The technical amendment I propose, which will substitute the words "to load" and "loading" for "to berth" and "berthing" will allow a vessel the right to receive priority treatment—that is, the right to tie up and to load—at a coal pier when the coal designated for that vessel is present at the terminal and available to be loaded onto that vessel.

Mr. President, this amendment has been cleared on both sides of the aisle and I urge its immediate adoption.

Mr. ROBERT C. BYRD. Mr. President, this amendment has been cleared with the chairman, Mr. CANNON. There is no objection on this side.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (UP No. 1624) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendments with the amendments previously agreed to by the Senate.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS FOR 15 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 15 minutes.

The motion was agreed to and at 9:45 a.m., the Senate recessed for 15 minutes; whereupon, the Senate reassembled when called to order by the Acting President pro tempore (Mr. ZORINSKY).

QUORUM CALL

The ACTING PRESIDENT pro tempore. The Chair, in his capacity as a Senator from the State of Nebraska, suggests the absence of a quorum.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AN AWAKENED CONSCIENCE

Mr. PROXMIRE. Mr. President, a single incident is able to change an individual's life. In late 1942 such as incident forever changed the life of Jan Mosdorf.

A Polish lawyer and politician, Jan Mosdorf was a prominent man before the begining of World War II. He was the leader of a vehemently anti-Jewish organization called the Camp of Radical Nationalists. Through this organization, Jan staged anti-Jewish demonstrations and riots. But with the beginning of Nazi racism, Jan's activities were forced underground. He continued to practice anti-Semitism independently of Nazi edicts. Soon Jan was tracked down and arrested. Then this confirmed anti-Semite was deported along with hundreds of Jews to the death centers at Auschwitz.

He was cast amid the company of those who had long been the subject of his hatred. He was forced to confront the Jews at Auschwitz as fellow victims of nazism. Hunger, despair, and death became the common lot of Jan and the Jews at Auschwitz. The Nazis became their common enemy.

His Christianity entitled Jan to privileges unknown by the Jewish prisoners. Jan was allowed to receive parcels from outside the camp. Jan was allowed to work in the camp office. His kinship with the Jews for awhile escaped Nazi notice. Jan distributed among the Jews the food and clothing he received from the outside. He risked his life to carry letters between the camp prisoners and their families.

We know the details of Jan Mosdorf's activities inside Auschwitz not because he survived to tell them. He was shot by the Germans. We know the details of his activities inside Auschwitz only because they made such deep impressions on those few who survived to tell them.

I hope his activities will make a similar deep impression on this body. I hope the example of Jan's awakened conscience will prompt this body to question the state of its own conscience. Have we become isolated from the true horror of genocidal policies? Do we like Jan need a personal encounter with inhumanity before we aspire to humane ways?

Mr. President, I remind my colleagues that we need not await an encounter with inhumanity. I remind my colleagues that the Genocide Convention is intended to prevent such inhumanity. We have the example of one's man conversion of conscience. I urge my colleagues to display their own awakened sensitivity by the immediate ratification of the Genocide Convention.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT-INDEPENDENT AGENCIES APPROPRIATIONS, 1981

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now resume consideration of H.R. 7631, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 7631) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1981, and for other purposes.

The ACTING PRESIDENT pro tempore. The pending question is on amendment No. 2335, by the Senator from Massachusetts (Mr. TSONGAS).

Mr. ROBERT C. BYRD. Mr. President, I believe the yeas and nays have been ordered on the amendment. Am I correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

CALL OF THE ROLL

Mr. ROBERT C. BYRD. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk called the roll and the following Senators answered to their names:

[Quorum No. 32 Leg.]

Burdick
Byrd,
  Robert C.
Levin
Proxmire
Riegle
Tsongas
Zorinsky

The ACTING PRESIDENT pro tempore. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia (Mr. ROBERT C. BYRD) to instruct the Sergeant at Arms to request the attendance of absent Senators. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. BUMPERS), the Senator from Arizona (Mr. DECONCINI), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from South Dakota (Mr. McGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Georgia (Mr. NUNN), the Senator from Arkansas (Mr. PRYOR), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alabama (Mr. STEWART), the Senator from Georgia (Mr. TALMADGE), and the Senator from Alabama (Mr. HEFLIN) are necessarily absent.

I also announce that the Senator from Montana (Mr. MELCHER) is absent because of illness.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Oklahoma (Mr. BELLMON), the Senator from Mississippi (Mr. COCHRAN), the Senator from Maine (Mr. COHEN), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), the Senator from Iowa (Mr. JEPSEN), the Senator from Idaho (Mr. McCLURE), the Senator from Oregon (Mr. PACKWOOD), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The PRESIDING OFFICER (Mr. BOREN). Are there any Senators in the Chamber desiring to vote?

The result was announced—yeas 65, nays 2, as follows:

[Rollcall Vote No. 426 Leg.]

YEAS—65

Baker
Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cranston
Culver
Danforth
Dole
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hatch
Heinz
Helms
Huddleston
Humphrey
Jackson
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
Metzenbaum
Mitchell
Moynihan
Nelson
Pell
Percy
Proxmire
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stevenson
Stone
Thurmond
Tower
Tsongas
Warner
Williams
Young
Zorinsky

NAYS—2

Hayakawa
Weicker

NOT VOTING—33

Armstrong
Bayh
Bellmon
Bumpers
Cochran
Cohen
DeConcini
Domenici
Goldwater
Gravel
Hatfield
Heflin
Hollings
Inouye
Javits
Jepsen
Johnston
Kennedy
Long
Matsunaga
McClure
McGovern
Melcher
Morgan
Nunn
Packwood
Pressler
Pryor
Ribicoff
Stafford
Stewart
Talmadge
Wallop

So the motion was agreed to.

The PRESIDING OFFICER. With the additional Senators voting who did not answer the quorum call, a quorum is now present.

AMENDMENT NO. 2335

Mr. TSONGAS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Massachusetts, amendment No. 2335.

Mr. TSONGAS. Mr. President, the community development block grant program, in the judgment of those people who are mayors and city managers involved with the whole issue of urban revitalization, is probably the best program to come out of Washington, with the possible exception in some cases of the UDAG program that was enacted 3 years ago.

What my amendment does is to bring the CDBG program back up to where it was when it came out of the President's recommendations. It is $200 million and, in fact, if you take account of inflation, it is actually a decrease from where we were last year.

My understanding is that given the small number of Members who are here today, there is some interest in having this put off until Monday.

There are also discussions taking place to try to resolve the amendment in some sort of compromise. We will know that shortly. For that reason, I will not go into a discussion of the amendment in detail, but hold that either until Monday or if, indeed, there is a settlement of the issue, simply insert it into the RECORD. I would just like to inform my colleagues as to what is happening at this point.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1625

(Purpose: To provide an additional $113,800,000 for public housing operating subsidies to cover increased utility costs)

Mr. MATHIAS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. There is a pending amendment. Does the Senator ask unanimous consent that the pending amendment be temporarily laid aside?

Mr. MATHIAS. I ask unanimous consent that the pending amendment may be laid aside.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MATHIAS. I ask that my amendment be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes an unprinted amendment numbered 1625:

On page 4, line 25, strike "$862,000,000" and insert $975,800,000.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, utility rate increases that have taken place during the past year are very familiar to every American household whether we are talking about the electric bill or the gas bill or the coal bill, whatever it is. Utility increases are a bad dream for all of us.

The cost of fuel oil, as well as some

of the other utilities, exceeds the increases anticipated in developing the estimates for public housing operating subsidies for fiscal year 1980, so that the same bad experience that every private household in the country has had is haunting public housing.

The original estimate for public housing operating subsidies assumed a 12-percent increase in utilities. The anticipated increase is now expected to be somewhere in the range of 25 to 28 percent. So as we are hurting at home we are hurting in public housing. Consequently, the operating subsidy requirements for this year will be below the amounts contained in the original budget estimate by a total sum of $113.8 million, and the Department of HUD has, therefore, submitted a budget amendment for this amount.

This determination was made after operating subsidy payments for public housing agencies (PHA's) with fiscal years beginning in the first and second quarter of 1980 were obligated in full pursuant to regulatory provisions. To avoid an overrun of the appropriation, it was, therefore, necessary for the Department to absorb the total amount of the shortfall by reducing the operating subsidies to be obligated for PHA's with fiscal years beginning in the third and fourth quarters—approximately 1,400 out of 2,800 PHA's. If this had been done entirely through a proportionate reduction of all operating subsidy obligations, the affected PHA's would have received approximately 65 percent of the amounts for which they are eligible.

To equalize the impact of the shortfall between the affected PHA's, the Department determined that operating reserve levels would be taken into consideration in the distribution of the remaining funding. By doing so, it was determined that, in the approval of the operating budgets of the affected PHA's, expenditure levels that could be supported by supplemental funding equivalent to 84 percent of the full PFS subsidy could be authorized. This was accomplished by requiring utilization of the operating reserves of all affected PHA's—where such reserves exist.

It should be noted that a recent departmental evaluation of the operating subsidy funding system indicates that, even with full PFS funding, some PHA's were unable to maintain their properties and provide a reasonable level of services.

EFFECTS OF THE REDUCTION

First. While the cause of the shortfall in the appropriation was utility rate increases, the impact of the reduction will necessarily be felt almost entirely in the nonutility areas of PHA operations, notably management and maintenance; these are the expenses over which a PHA can exercise some measure of control. A 16-percent reduction in total subsidy payments would cause a reduction of more than 13 percent in these accounts. PHA's could not absorb a reduction of this magnitude. It would have the following consequences:

An increase in vacancies;

Deterioration of rent collection efficiency;

A reduction in operating services—janitorial and exterminating;

A reduction of maintenance services—plumbing repairs, et cetera;

Accelerated deterioration of public housing properties;

Probable elimination of tenant and protective services;

Deterioration in accounting and other administrative activities; and

Reduction or elimination of payments in lieu of taxes to local governing bodies.

Second. The financial situation of many of the affected PHA's will be seriously impaired. This will be the result of the operating reserve reduction which was required in order to mitigate the impact of the shortfall on current operations. The most serious problems will arise in the smaller PHA's where deferred charges—prepaid insurance, et cetera—constitute a substantial proportion of a PHA's operating reserve. The reserve reduction in some cases may be such as to impair the cash position of the PHA to an extent that it will be unable to pay its bills on a timely basis. The effects of the reserve reduction will be compounded by the fact that it will result in a loss of interest income to PHA's. The required reduction, particularly if it is not restored, would also compromise the incentive for PHA's to operate economically and efficiently.

Third. Payment of the amounts derived from the subsidy formula computation are a firm obligation of the Federal Government. A failure to pay, at the very least, would have serious public relations repercussions.

Fourth. If PHA's fail to make reductions in operating expenditures in accordance with the reduced funding levels, their financial position will deteriorate very rapidly to the point where intensive Federal intervention, some kind of intervention, and I would hestitate at this moment to predict what might be required, would be necessary to maintain essential services to residents; that is, some PHA's may then attempt to abandon their public housing operations.

Fifth. Delays in the payment of operating subsidies—even if they are ultimately paid—have a serious impact upon PHA operations because they impair the PHA's cash position, require deferral of necessary work, and really make a shambles of the budgetary and operational planning process.

Last year, the National Low Income Housing Coalition pointed out in testimony on HUD appropriations that the administration's request for public housing operating subsidies was inadequate. Not only were fuel costs underestimated, but the "performance funding" formula used for many years to calculate operating subsidy needs and allocate assistance to housing authorities is seriously deficient. Lack of funds for maintenance and prompt repairs has been a major contributing factor to deterioration of the physical plant and quality of life in too many public housing projects. Nor have housing authorities had the resources to undertake badly needed weatherization and retrofitting for energy conservation.

Local public housing agencies have been informed that, unless additional funds are provided, they can expect no more than 84 percent of the operating funds which they should receive under the current, faulty subsidy formula. There is no margin of reserves, management savings, or increased income to fund this shortfall.

Mr. President, I want to pay tribute to the work that was done in this body for years by our former colleague, the former Senator from Massachusetts, Mr. Brooke, whose influence in this whole area has been so strong, and I have used the memorandum that he has submitted in formulating the remarks which I have delivered to the Senate.

Mr. PROXMIRE. Mr. President, I realize the distinguished Senator from Maryland has the votes on this matter. I have agreed to have this decided on a voice vote. I must personally resist this amendment, however, as worthy as this amendment clearly is—and it is a worthy amendment. After all you have to recognize the grim fact that utility costs are rising very, very sharply, more sharply than any other element for many people and the income of people who live in public housing is extremely limited. It seems that it is virtually impossible for them to meet these high utility costs.

But, Mr. President, this is $113.8 million, and there is no corresponding reduction elsewhere. This amendment was submitted by the administration on August 28, well after the Appropriations Committee had made allocations to the subcommittee under the first budget resolution. No provision was made for this expense in the allocation. So it will be very difficult to live within the ceiling imposed by the first concurrent resolution on the budget if we accept this amendment without offsetting reductions in other accounts.

Under the circumstances, I must oppose the amendment. I recognize the Senator from Maryland has wide support for the amendment, so I presume that it will be accepted by the Senate on a voice vote.

Mr. WILLIAMS. Mr. President, I want to applaud the distinguished ranking member of the HUD Appropriations Subcommittee for his amendment to provide $113 million to help meet unavoidable and unanticipated public housing operating costs.

The Nation has, at present, a $19 billion investment in public housing projects, involving 1.2 million units in communities large and small. This investment represents a portion of our commitment to insure safe, decent, and sanitary housing for low-income persons. But for hundreds of thousands of low-income Americans, it represents a home.

Each of us in the Senate recognizes the importance of maintaining our homes and the costs that can result if we allow them to deteriorate. It is the same with our public housing stock. The need for concern is especially pressing today, for many public housing units are threatened by alarming, unforeseen increases in operating costs that just cannot be covered by rents or by the operating assistance the Federal Government has already agreed to provide.

Over the last decade, rental income for public housing authorities has increased only 49 percent, while operating costs have gone up 13 percent. In the last year alone, fuel oil costs were 67 percent higher than they were at the time the 1980 budget was submitted. The inadequate funding level in the bill to meet operating costs will force public housing authorities to reduce services, defer maintenance, and dip into dwindling reserves to meet daily operating and utility expenses.

I know from testimony before my own committee about the gravity of this problem. I know that when an authority only has sufficient funding for 84 percent of its operating costs, it is the beginning of the end. The boiler that needs replacing is patched up. The pipe that leaks is left alone. The essential maintenance is deferred. The units begin to decay, and it is not long until they are beyond salvage. According to a recent report issued by HUD as many as 180,000 public housing units are in deep physical and financial trouble with many thousands more suffering varying degrees of problems.

Mr. President, I am fearful that rejection of this amendment will ultimately mean enormous cost for the Federal Government. Failure to meet public housing operating costs, as we have promised to do, will reap a harvest of abandoned, vandalized units, on which the Federal Government will still be obligated to pay amortization costs for many years into the future. The loss of these units will mean a waste of the billions of dollars we have put into these projects, and will mean the expenditure of still more billions if they are replaced.

We know that deteriorated public housing projects are closely related to increased crime rates, to neighborhood disinvestment, and to a growing lack of public confidence in the Government's ability to develop practical, effective solutions to serious national problems. And of course, the loss of public housing stock exacts an incalculable toll on the families who must be displaced as their units are shut down because they are no longer habitable.

Today, any unnecessary loss of housing is a cause for grave concern. The Nation is in the midst of a housing crisis, especially with respect to rental housing. Production has fallen off to the point that we are actually losing more units every year than are being built. In some areas of the country vacancy rates have reached dangerously low levels. Because the demand for housing is exceeding the supply, heavy pressures are placed on housing costs. The preservation of the public housing stock must be a part of any overall strategy to ease this shortage.

Finally, Mr. President, I should speak about our commitment. When the Federal Government agreed to underwrite the development costs of public housing, it also took on the obligation of helping to finance the operating costs of these projects. A performance funding system was set up to allocate operating subsidies, based on a profile of a well-run public authority.

Unfortunately, the distribution formula is anything but perfect, and the allocations often do not match individual housing authority needs. When unusual costs increases such as those that have occurred for utilities arise, then the system's shortcomings become even more apparent and all public housing authorities suffer.

The imperfections of the performance funding system, however, do not erase the Federal Government's obligation to help public housing authorities keep their projects properly maintained and in good order. When deficiencies occur, we must make up for them. This does not mean that we must reward inefficiency or mismanagement to the extent this occurs. But the solution is clearly not the wholesale denial of badly needed funds to all.

The administration, to its credit, has acknowledged that we have fallen short, and has requested $113 million in additional operating subsidies for this year. This is not new money for a new program. It is the fulfillment of an agreement we have made with each and every housing authority, and we cannot abandon that responsibility.

Mr. President, the issue here is a matter of basic principle, commitment, and fiscal prudence. Again, I commend the distinguished Senator from Maryland for his sincere and capable leadership on this amendment, which I earnestly hope my colleagues will support.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maryland (Mr. MATHIAS).

The amendment (UP No. 1625) was agreed to.

Mr. MATHIAS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BRADLEY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. Does the Senator from New Jersey ask that the Tsongas amendment be further laid aside as the pending business?

Mr. BRADLEY. Mr. President, I do ask that the Tsongas amendment be laid aside temporarily to consider the amendment of the Senator from New Jersey.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1626

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY) proposes an unprinted amendment numbered 1626.

Mr. BRADLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, following line 1, add:

PAYMENTS TO STATE AND LOCAL GOVERNMENT FISCAL ASSISTANCE TRUST FUND

For payments to the State and local government fiscal assistance trust fund, as authorized by the State and local fiscal assistance act of 1977, as amended (31 U.S.C. 1221–1263), $4,569,949,000.

Mr. BRADLEY. Mr. President, this amendment concerns provisions of the bill that relate to general revenue sharing local shares. This appropriations bill contains no funds for the general revenue sharing program in 1981.

The House had approved an appropriation of $4.6 billion to provide full funding for the local share of general revenue sharing, but the Senate Appropriations Committee "deferred" action pending markup of the authorization bill in the Finance Committee.

Yesterday, Mr. President, the Finance Committee marked up the legislation authorizing the general revenue sharing program for fiscal year 1981 and beyond at a level of $4.6 billion for almost 39,000 local governments across this country. The bill should be reported by Monday.

Therefore, Mr. President, I am offering this amendment to restore to the appropriations bill the $4.6 billion approved by the House to fund the local share of general revenue sharing. In this, I am joined by a number of my colleagues. Senator DANFORTH, Senator LONG, Senator DOLE, Senator DURKIN, Senator DURENBERGER, Senator SASSER, Senator KASSEBAUM, Senator MOYNIHAN, Senator CHAFEE, Senator LEVIN, and Senator PERCY, all signed the "Dear Colleague" letter in support if this amendment. Since then, Senators GARN and HATCH have formally joined in.

The consequence of failing to restore these funds now will be to disrupt the payment schedule for revenue sharing funds. For the funding would have to await a supplemental appropriations bill whose arrival cannot be expected before spring. Yet the first payment to local governments under the newly authorized GRS program is due in the early days of January.

I would only remind my colleagues of the critical importance of these funds to recipient governments, both large and small, in maintaining essential public services. We should not, in a time of considerable economic uncertainty and fiscal strain, add unnecessarily to the planning and budgeting problems confronting so many of our communities across the country.

General revenue sharing is one of very few Federal programs that has not created a massive Washington bureaucracy. It is an efficient intergovernmental program which helps communities provide essential services as they see fit. The predictability of regular GRS payments and the flexibility inherent in the GRS program are both very important to local governments, especially as they adjust their budget plans to the new realities of decreased Federal funding in many Federal categorical grant programs.

We all recognize the need to hold down the budget deficit, and for that reason the reauthorization provisions approved yesterday by the Finance Committee would continue the GRS program at the same funding level for local governments as they have enjoyed since 1976. These dollars are unadjusted for inflation, and they have been unadjusted since 1976, nor will they be adjusted before 1985. In real terms, today's $4.6 billion represents a decline in buying power for recipient governments. If the inflation rate of the last 5 years continues for the next 5 of this authorization, the value of these moneys will be halved. Seen in this light, the reauthorization of general revenue sharing at its current funding level—and this amendment to restore $4.6 billion, the current dollar figure for local governments—is a fiscally responsible act.

Mr. President, I see no reason to put local governments in jeopardy by disrupting the GRS payments schedule. I, therefore, would hope that my colleagues would accept this amendment, and that the chairman would see fit to accept it and not push it to a rollcall vote. I think that this amendment reflects clearly the sentiment of the Senate. I urge the manager of the bill to accept the amendment.

Mr. SASSER. Mr. President, I rise today in support of the amendment offered by Senator BRADLEY, Senator DANFORTH, and many of my colleagues on the Governmental Affairs Committee to restore $4.6 billion in local revenue sharing funds to the HUD-independent agencies appropriations bill.

I support this amendment for two basic reasons.

First, the general revenue sharing program for local governments has worked well. In the nearly 8 years of operation, local governments nationwide have received $36 billion in general revenue sharing funds. In my own State of Tennessee, cities and counties have received $674 million during this same time. This unconditional aid program has been well-received in Tennessee because the general revenue sharing money received under this program permit local governments to provide essential local services and still help keep local property and sales taxes down.

Failing to appropriate funds for general revenue sharing at this time would have very negative effects on local governments.

For example, Mayor Richard Fulton of Nashville, who is the past president of the Tennessee Municipal League testified before the Intergovernmental Relations Subcommittee last year about the need for local revenue sharing. He cited the case of the city of Columbia, Tenn., population 22,000, where the cessation of general revenue sharing funds would result in a $350 tax increase in just 1 year for a family living in a $50,000 home. Property tax hikes or service cutbacks will be commonplace if we failed to appropriate this $4.6 billion now. And in Tennessee where revenue-sharing is the only Federal aid that a considerable number of our smaller local cities and towns receive, the loss of local revenue-sharing funds would be catastrophic.

To create uncertainty in this appropriations bill over the fate of local revenue sharing would be a disservice to local governments in Tennessee and elsewhere in the country.

Second, we should pass this amendment because there really is no doubt that local revenue sharing will be reauthorized. The House Government Operations Committee has reported out a 3-year extension of the program, and just this morning the Senate Finance Committee started its markup to extend the program. Since local revenue sharing will be reality before this Congress adjourns, it makes little sense not to appropriate the funds on a contingency basis for this essential program now.

I urge my colleagues to support this important amendment to reinstate local revenue-sharing funds.

Mr. PROXMIRE. Mr. President, I realize my good friend from New Jersey has support on this amendment and that it would undoubtedly pass if there was a rollcall, and pass, probably, by a big margin.

Nevertheless, I must state the reasons why I. as one individual, would oppose it, although, as the Senator correctly stated, we have agreed to a voice vote on it, and I am sure it will be accepted by the Senate.

Mr. President, I am reluctant to accept this amendment for a whole series of reasons. For one thing, I think it is a gross mistake on our part to appropriate funds without having an authorization. That is the whole purpose of an authorization.

The Senator from New Jersey says the authorization will be forthcoming Monday. Maybe; maybe not. We do not know.

It seems to me the monkey should not be on the back of the Appropriations Committee, if they do what we have always done and should do as a matter of policy, and that is wait until we get an authorization before we act. This is a very, very big program. It is a program that provides, if the State funding is included, $6.5 billion a year for probably 5 years. That is a colossal commitment of Federal money.

I am very much opposed to it, because I have studied the revenue sharing program for a long, long time. And, Mr. President, I think all of us recognize that if there is one thing the Federal Government does not have, it is revenue to share.

I can recall when Walter Heller came before the Joint Economic Committee back in the 1960's. He said:

> Gentlemen, you are going to have a very difficult problem over the next few years, because the Federal Government is going to run such colossal surpluses that we are going to push ourselves to a recession and a depression. Therefore, you have to get rid of the extra money.

The best way to get rid of the extra money is to hand it over to local governments to spend. This money is given to the local governments without any strings attached, without any directions, without any priorities. It is money that some people said that you leave it on the stump and run.

There is no accounting for it.

The League of Women Voters made a 2-year study of revenue sharing. They found that Governors, State legislators, and even reporters covering the State legislatures, in many cases had no idea where the money went. It is not money for which there is any effective accountability.

Nevertheless, as the Senator has pointed out, this is a program which now has a very, very powerful constituency. Not only the Governors but the mayors, the city council members, and many others want this money more than any other money the Federal Government provides, and for obvious reasons.

Can you think of an easier way to spend money in your community than one in which you do not have an accountability to your local taxpayers? If the mayor would like a golf course built near his home, if he wants a limousine, if he wants extra firetrucks that he cannot justify, he says, "Well, we are taking that out of revenue sharing."

It is an unfortunate program, in my judgment, but I must admit that I am apparently a member of a small minority in that respect, or at least a minority. I must say that this policy of having us appropriate money which has not been authorized, for which we do not have guidelines, where we do not have the authorizing committee go through the process of indicating how much is necessary, where there is a very strong possibility we may or may not have State revenue sharing, I think it is a serious mistake. Nevertheless, I recognize that the Senate is going to take this. We will not have a rollcall vote. It will be passed on a voice vote.

Let me just say to summarize, neither House has passed legislation reauthorizing the revenue-sharing program. To appropriate funds under such circumstances, without knowing how the funds are to be spent, would be a serious mistake. It would be like signing a blank check, with the authorizing committees deciding how the money is to be spent.

For that reason, I oppose the amendment, although I recognize the amendment is going to be accepted, as I say.

Mr. MATHIAS addressed the Chair.

The PRESIDING OFFICER (Mr. CANNON). The Senator from Maryland.

Mr. MATHIAS. Mr. President, I have great respect for the views of my colleague, the Senator from Wisconsin, but I take a little more positive view of this amendment than he does. Mr. President, you just have to consider the impact on an enormous number of communities across this country, 39,000 communities across the length and breadth of the United States who will be adversely affected by the sudden cessation of what has come to be viewed as an entitlement program. The fiscal shock would be very great.

I know one of the arguments that the opponents of revenue sharing use is that it is the States which have surpluses. But that is an argument that does not bear too close inspection because it is very few States. Some mineral rich and oil rich States have surpluses, but most of the States are having a tough time, and many of the communities in this country are having a tough time. I, for one, am happy to lend my support to the adoption of this amendment.

I join with the Senator from Wisconsin in saying I think we should take it on a voice vote.

Mr. BAKER. Mr. President, I am delighted to see the Senate today moving, in the housing and urban development independent agencies appropriations bill, toward the restoration of what I believe to be one of the most worthy programs this Congress has enacted in the last five decades.

As I have stated on so many occasions on this floor and elsewhere, Federal revenue sharing is the one program in existence which has reversed the otherwise inexorable flow of revenues and power to the central Government and away from the States and local governments which best know what needs to be done and how to do it.

The inclusion in this legislation before us today of the full, $4.6 billion revenue sharing allocation to local governments for fiscal 1981 will surely be welcome news to the thousands of city and county officials who based their budgets for the year on the availability of those funds.

And equally as important as fulfilling and renewing our pledge to local governments, we have today restated our faith in the concept of revenue sharing and, more importantly, the concept of disbursing the vast powers and resources of the Federal Government to levels of government more responsive to the public needs.

I commend the distinguished Senator from New Jersey (Mr. BRADLEY) for his amendment.

My only regret, Mr. President, is that we will not have, in fiscal 1981, revenue sharing with our States. That program is as worthy of merit and continuation as the local governments' revenue sharing.

And while I am dismayed at the lack of a States' share program this year, I am encouraged by the knowledge that the full revenue sharing program, for both States and local governments, which I was proud to sponsor with our late colleague Hubert Humphrey in 1972, will be restored in full for fiscal years 1982–85.

It is unfortunate we have interrupted the program for the coming year. But our action today in behalf of local governments signals what I hope and believe is the concurrence of the Senate that this most worthy program will not again be unnecessarily tampered with.

Mr. MOYNIHAN. Mr. President, the Senator from Wisconsin, having been generous enough to indicate he will accept the amendment the Senator from New Jersey and I have proposed, and our friend from Maryland having, in effect, joined in that proposal, I will be brief, but I wish to be understood as not sharing the same view that the chairman of the Banking Committee has of this matter.

The issue involved here is far larger than the amount of money involved. There is an issue of how we conceive the Federal system.

I happened to have been involved in the early discussions in the executive branch in revenue sharing, an idea which originated among economists who noted that there was an effect upon the nature of government in this country that arose unintentionally but inexorably from the nature of the progressive income tax.

In the early 1960's it began to be seen that for each increase in 1 percent, you might say, in the gross national product, the revenues to the Federal Government would increase by approximately 1.5 percent, the revenues of State and local governments by no more and, occasionally, less than 1 percent, such that there was an inexorable movement up in the system of available resources to the Federal Government, and with the consequence that the functions that it assumed increased regularly. Rodent control, police functions, and social welfare services, for example, which had been traditionally local in nature, began to find themselves on the Federal agenda because of the availability of Federal funds.

That began to distort the whole operation of the National Government.

No one has been more eloquent in pointing out the absurdities of the details in which the Federal Government has gotten itself involved in government than the Senator from Wisconsin himself. His Golden Fleece award is practically a compendium of the absurdities that arise from the Federal Government assuming functions which are properly those of local or the State governments.

If we are not to continue such absurdities and not, indeed, to compound them, we have to see that the resources in this Federal system for carrying out local functions are available at the level of local government.

This is not an issue of golf courses. This is not an issue of swimming pools.

This is an issue of the capacity of local governments in a national economy where the largest sources of revenue have been monopolized by the Federal Government having, at the local level, the capacity to perform functions which properly are local.

The Golden Fleece awards are brilliant testimony to the absurdity of having to try to carry out and monitor these functions at the Federal level. They are best done locally. They clog this national system.

Here we are in mid-September, the work of the Congress uncompleted, and it will not be finished. Why will it not be finished? Why are we in session yearround? Because we are trying to do things which are inappropriate to our national status. Revenue sharing is fundamental to a restoration of this imbalance.

In any event, I would like to thank the chairman of the Banking Committee for his generosity in this matter.

Mr. President, it fell to me on March 1, 1979, to introduce the first bill of this Congress extending the existing general revenue sharing program. Under the leadership of my friend and colleague from New Jersey, whose subcommittee has jurisdiction over this matter, the Finance Committee has agreed to report out this bill. I ask unanimous consent to place in the RECORD the statement I made on March 1 which elaborates the arguments that I have made in brief this morning.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR MOYNIHAN

Mr. MOYNIHAN. Mr. President, I am today introducing a bill to extend the State and Local Fiscal Assistance Act of 1972 in its present form and at its present levels for two years beyond its current expiration date of September 30, 1980. This program, commonly known as General Revenue Sharing, represents one of the most creative accomplishments of American federalism in the past decade. It is based on a simple but fundamental fact: the progressive nature of federal taxation is such that as the economy grows the revenues of the Federal government grow faster than do the revenues of state and local governments.

In order to preserve a balanced federal system, it is of central importance that we preserve the ability of state and local government to respond to their distinctive circumstances in their own ways. In that spirit, the idea began to be developed in the Kennedy and Johnson administrations that the Federal government ought to direct a portion of its growing revenues to states and localities without the restrictions and specifications required in categorical programs. This was a large idea. It was developed and advanced by such distinguished political economists as Walter Heller and Joseph Pechman. In time, it was proposed to Congress by President Nixon and adopted in its present form in 1972.

In recent weeks, we have begun to see in many quarters a willingness to revise some of our most fundamental governmental arrangements and to undo some of our hardest won achievements so as to accommodate the politics and economics of the next 18 to 36 months. It is not necessary here even to speak of those who would amend the Constitution of the United States for that purpose. It is not necessary to speak of those who say we should sharply reduce federal spending but who are unwilling or unable to say which forms of spending should be reduced. I have the utmost respect for those who are courageous enough to specify a particular program and suggest that it be reduced or eliminated. That is a responsible act performed by responsible public officials. It is the proper subject for public debate and political decisionmaking.

In the case of General Revenue Sharing, it is my view that the program is important and should be continued. The conception of federalism which underlies it, and the durable economic trends on which it is based, seemed valid to me. It may be the case that some states and localities are experiencing surpluses in their current budgets and it is indisputably the case that the Federal government is experiencing a deficit. But these surpluses are mostly cyclical. Some reflect different accounting practices more than they represent true differences in fiscal condition.

We must not overlook the long-term trends. Even with revenue sharing, state and local taxes as a percentage of personal income more than tripled between 1961 and 1977. The federal income tax has remained almost constant in this respect. Notwithstanding the rapid increases in their taxes, many of which are burdensome and regressive in impact, states and localities have grown more dependent on revenues from Washington. Had the Federal government kept its aid at the levels experienced before enactment of revenue sharing. State taxes would have risen still further, or services would have diminished or—more likely—the Federal government would have stepped in with yet more detailed and complicated categorical efforts to replace state effort and thereby inevitably to reduce the ability of the states to manage their affairs.

This ought not to happen. At least it ought not to happen casually. If it is to happen, it must be the result of as sustained and serious an examination of the proper workings of a federal system as that which produced revenue sharing. In that spirit I propose that we agree now to continue the present arrangement for an additional two years, and I seek the support of my colleagues for that proposition.

Mr. DANFORTH. Mr. President, I believe it is clear that appropriations for general revenue sharing will be included in this bill. It was a matter of great concern to many of us when the committee did not provide it. I think it is clear from the votes on revenue sharing that there is very strong support for the concept of this program in the Congress.

I do not think there is any doubt, Mr. President, that the Federal Government is committed to providing economic resources for State and local governments.

This has been the case for a long number of years and there is no doubt that it will be the case in the future as well.

Really, Mr. President, the issue that is presented by revenue sharing is the form in which such support should come. The problem with some categorical grant programs is that the decisions which previously had been made at the local level or at the State and local levels of government are transferred to the Federal Government simply because of the leverage power of the Federal dollar. It is well known to those of us who have been officials at the State level that, so often, the State government becomes little more than the administrator of a Federal program. The same is true at the local level: decisions which should be made at the local level in a pluralistic society become preempted by Washington simply because the dollars are here and the strings attached to Federal dollars are notorious.

The value of revenue sharing is that it is a means of providing financial assistance to State and local governments, which assistance will be provided in any event, but it is a means of allowing the decisions on how those dollars are to be spent to be made locally. Therefore, Mr. President, I am delighted that the managers of the bill will accept this amendment. I commend Senator BRADLEY for his outstanding leadership in this matter, both on the floor of the Senate and in the Finance Committee. The battle of general revenue sharing moves on from month to month in Congress. I am confident that, not only in this short term but in the long term as well, the battle will be won.

Mr. BRADLEY. Mr. President, I am pleased to yield to the Senator from Minnesota, who, I think, wants to make a statement.

Mr. DURENBERGER. I thank the Senator.

Mr. President, I speak today with some feeling on behalf of the amendment offered by the Senator from New Jersey and supported by my eminent colleagues on the Committee on Finance and other committees on which I serve. I, too, am very pleased that the managers of this bill have agreed to accept the amendment.

Mr. President, it has been a great frustration to me, as one who has been close to revenue sharing for the 8 years of its existence and many years before that, to watch what has happened to it during the 1½ years I have served in the U.S. Senate.

The amendment offered by the Senator from New Jersey would restore $4.6 billion to the appropriations bill to fund the local governments' share of the revenue sharing program.

The Finance Committee reported a revenue sharing reauthorization bill yesterday, and in light of this action, the appropriations bill should be amended; the funding for local governments should be restored.

A great number of the States of this Nation, and their local governments, are facing serious financial problems. A recent survey conducted by the National Governors' Association found that 34 States are facing severe financial problems because of the recession. The recession is being felt in all parts of the country, but the Northeast, Midwest, and Northwest are bearing the brunt of the economic slump.

What has that to do with local governments? Mr. President, faced with revenue shortfalls and mounting welfare costs, a number of States have reduced their aid to local governments; others have maintained the aid at current levels, but their cities and counties had been promised increases.

The NGA study is consistent with recent projections by Data Resources, Inc. (DRI), which expects the State-local sector to incur average deficits of $11.7 billion in 1980, $14.9 billion in 1981, and $13.3 billion in 1982. In the last recession, the State-local deficit added up to a mere $6 billion. DPI further indicated that due to cutbacks in Federal aid, and changes in State tax structures, State and local governments will not be able to counter this recession with higher spending, as they have in the past. I ask unanimous consent that the NGA study be printed in the RECORD immediately following my remarks. Most of my colleagues will find their States mentioned in the report.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DURENBERGER. Mr. President, we cannot deal the local governments of this country another blow by cutting their revenue sharing funds. They have already been handed a severe recession near record unemployment, and unconscionable inflation rate, record high interest rates, and withdrawal of Federal and State aid. The obvious impact of all this is clear. This Congress—in its economic failures—has increased the cost of public service delivery by local government while reducing the income and excise tax base from which these services can be locally funded.

At the same time—and as a consequence of the same failure—we have so inflated the Federal Government's income tax take from the working people that they are left with little or no financial resources with which to respond to local—or State—tax increases.

When we cut aid to local governments, we are taking money away from the governments that give direct service to the people. The Federal Government is primarily a transfer agent, taking money in—money raised through a highly inflationary income tax, I might add—and then redistributing it. By contrast, local governments must deliver the goods. Ninety-six percent of all local expenditures are directly related to providing those services—services that are necessary to the quality of life and health of the people of this country.

As I mentioned earlier, many States have been forced to cut back on their aid to local governments. States obtain about 86 percent of their tax revenues from income and sales taxes. These sources are highly sensitive to recessions. It is clear that when people are unemployed, they do not pay income taxes and they do not buy consumer goods. To make their problems more difficult, most States have taken on the responsibility to finance the recession-sensitive services—to pay the bills such as AFDC payments and medicaid—that go up during financially difficult times, just when State revenues are going down. Clearly, if the State is to continue meeting its obligations to the poor and needy, it will have to cut back in another place. And now, that place seems to be the budgets of local governments.

The budgets of local governments have few, if any, financial cushions. If we do not restore the $4.6 billion for the fiscal year 1981 revenue-sharing payments, the funds they are counting on in January and April will not be sent. In fact, assuming the Congress enacts a revenue sharing program—and I believe it will because it must—if the appropriation is not included in this bill, the local governments will have to wait until a supplemental appropriation is made to receive their money. That would bring chaos to many of our 39,000 units of local government, and the millions of Americans who rely on them for services.

Our local governments need these revenue-sharing funds. Let's not eliminate the appropriation for the one Federal assistance program that works.

Mr. President, my compliments to the author of the bill and to the managers of this appropriations bill.

Exhibit 1

Recession's Bite Felt in All Regions as States Cope With Revenue Shortfalls

A National Governor's Association survey of 34 states finds the recession causing fiscal difficulties in all regions of the nation but particularly severe problems in the Northeast, industrial Midwest, and Northwest. Hard-hit states include Michigan, Ohio, Illinois, and Pennsylvania but also Vermont, Minnesota, Oregon, and Utah. South Carolina and Alabama are among southern states experiencing fiscal pressures. Faced with revenue shortfalls and mounting welfare costs, a number of states have been forced to reduce local aid but others have maintained or increased it. The survey's findings are consistent with recent projections by economic forecasters such as Data Resources Inc. (DRI), which expects the state-local sector of the economy to incur average annual deficits of $11.7 billion in 1980, $14.9 billion in 1981, and $13.3 billion in 1982. (Analyses of previous deficits, such as the $6 billion incurred in the last recession, have shown state governments bearing most of the burden.) DRI analysts indicate that federal aid cutbacks and more prevalent tax and expenditure limitations have prevented state and local governments from countering the recession, as they have in the past, with higher spending. Reports from the states follow:

NORTHEAST

Vermont reported a $7.2 million deficit at the end of fiscal year 1980, or about 2.5 percent of its operating budget. The governor has directed agencies to reduce expenditures by 3 percent and has instituted hiring and travel freezes.

New Hampshire revenues for 1980 are expected to be $4 million to $6 million below estimates, with program cuts of $9.5 million, resulting partly from a loss of general revenue sharing funds, projected for 1981. State agencies are under a mandated, 2 percent across-the-board cut, with aid to local government exempted from the reductions.

Maine and Connecticut revenues were slightly above projections in 1980 but both states are projecting 1981 general fund balances of only $300,000, less than one-tenth of one percent, and both budgets assume full funding of general revenue sharing.

In New York, revenues were slightly above projections for fiscal 1980 (ending March 31) but the state's projection of a balanced 1981 budget depends on a 13.6 percent growth in revenues. The 1981 budget reflects cuts in local aid and continuation of a hiring freeze.

Pennsylvania experienced a $2.3 million revenue shortfall in 1980, projects slower growth in 1981; more than 3,000 salaried positions have been eliminated since January 1979, and the state reports that special education funding may be curtailed if the full amount of revenue sharing is not received. Pennsylvania's unemployment compensation fund is in debt to the federal government by $1.44 billion with the debt growing by $1 million a day. The state has raised unemployment compensation taxes and reduced benefits.

New Jersey's revenues for fiscal 1980 were 2.5 percent above estimates, but the state is projecting growth of only 3 percent for fiscal 1981, despite an increase in the corporate net income tax from 7.5 to 9 percent. The state has increased aid to school districts and local governments.

Delaware and Maryland report revenues on target for 1980 with slower growth projected for 1981. Maryland expects to borrow from the federal government to meet unemployment compensation costs.

MIDWEST

In Michigan, where 600,000 persons are unemployed, the state's 1981 budget will be below the 1980 budget in actual dollars. Revenues from withholding tax collections are down 6 percent.

FEDERAL TAXES RISE, GRANTS DECLINE AT WRONG TIME FOR STATES

	Federal receipts as percent of GNP	Federal aid to State-local governments as percent of GNP
1972	18.8	3.1
19/5	19.3	3.4
1978	20.1	3.8
1981	22.2	3.2

In September, the governor ordered the 19 major state departments to turn back $60 million to the treasury; in April, he issued an executive order cutting $97.5 million from the budget for across-the-board reductions. He also has ordered all agencies to prepare plans for 20 percent reductions in fiscal 1981 (beginning October 1) and to implement as many of the cuts as feasible effective immediately. Virtually every state program has been reduced, and aid to local governments will be cut in fiscal 1980 and 1981.

Illinois revenues were slightly below projections in 1980, and the state has postponed planned tax relief and spending measures. The unemployment compensation fund will be bankrupt in November, and the highway trust fund is at the lowest level in nine years.

Minnesota revenues were $91.4 million below estimates in 1980, expecting more severe problems in 1981. Department heads have been told to develop plans to control expenditures by August 1; agency administrative costs, use of consultants, and travel will be curtailed. The gas tax was increased by two cents, enough for road maintenance but not new construction. Ohio revenues were $188 million below estimates in 1980, and the state has imposed a 3 percent across-the-board spending reduction.

Indiana revenues were slightly above estimates, but the state is projecting its general fund balance to drop from $216 million in 1980 to $93 million in 1981. The state is in the process of imposing a hiring freeze and reports motor fuel tax revenues are lagging.

Revenues were slightly above projections for 1980 in the farm states of North Dakota, South Dakota, Kansas and Nebraska, but reduced farm income is expected to lead to slower revenue growth in fiscal 1981, and difficulties were reported in meeting highway needs.

SOUTH

South Carolina, which is projecting no 1981 balance beyond the constitutionally mandated reserve fund, has given state agencies no inflation adjustment in 1981 beyond employee pay raises, has postponed education aid increases and has delayed $14 million in new capital expenditures.

Alabama is projecting revenue shortfalls in fiscal 1980 (ending September 30) and in 1981; the governor will call a special session of the legislature to alleviate budget problems in the fall.

Georgia revenues were slightly above estimates in 1980, expected to increase by 6.3 percent in 1981. The state's 1980 balance was $80 million, or 3 percent of expenditures, and the 1981 budget includes $25 million in revenues that must be replaced with state funds if general revenues sharing is cut back further.

Louisiana revenues were $390 million above projections, are estimated to increase by $750 million in 1981, due largely to decontrol of oil prices.

Mississippi reports revenues slightly above estimates in 1980, but projects slower growth in 1981, a drop in the general fund balance from $63.3 million (6.6 percent of expenditures) in 1980 to $14.6 million in 1981 and a $9.6 million decline in capital improvements.

Virginia reports revenues slightly above projections in 1980, but slower growth in 1981. The state reports major increases in local aid, a 2-cent increase in the gasoline tax, and signs of trouble in the unemployment compensation fund.

Tennessee revenues were $50 million, or 2.5 percent, below estimates in 1980, and another $25 million shortfall is expected in 1981. The state has reduced employment by 3,000 positions, cut $6 million from medicaid funding, and imposed freezes on hiring and equipment purchases. The highway fund shortfall was $20 million.

Kentucky reports a revenue shortfall in the general fund and highway fund in 1980 and has revised its 1981 revenue estimate downward. The state terminated 2,800 employees, reduced education and human services funding, froze capital expenditures and mandated cutbacks in consultant services and travel.

The Virgin Islands report a revenue shortfall of 9.5 percent in 1980, 8.7 percent in 1981; public works maintenance programs are being curtailed, and an increase in the unemployment compensation tax is under consideration.

WEST

California projects slower revenue growth in 1981, a drop in the general fund balance from $1.8 billion in 1980 to $12 million (less than one percent of expenditures) in 1981. Local aid increases following enactment of Proposition 13 have been made permanent.

Oregon revenues were $53 million below estimates in 1980, are projected to be down $151 million, excluding the loss of $13.6 million in general revenue sharing, in fiscal 1981. The $204 million shortfall represents 12.5 percent of the 1979–81 biennial budget. A special session of the legislature has been called for August 4 to consider proposed cuts in higher education, human resources, and other state programs, and a $21.5 million saving in deferred capital construction.

Colorado projects revenue growth will slow from 22 percent in 1979 and 17 percent in 1980 to 12 percent in fiscal 1981.

New Mexico is projecting 15 percent growth in its general fund for 1981 but lagging revenues, aggravated by federal cuts, in its highway fund.

Utah is projecting a $44.7 million shortfall in its 1981 budget; the governor has ordered a 4 percent across-the-board cutback in state programs and local aid, and a hiring freeze is in effect.

Montana revenues are expected to increase slightly in 1981; the state reports a rapid decline in its highway fund balance.

Idaho reports revenues $11 million below estimates in 1980, projects little or no growth in 1981. The state underfunded its departments in 1980, forcing unspecified reductions, but increased school aid by 27.4 percent.

Washington state revenue receipts are approximately $40 million, 2 percent, below projections of last November. Projections for fiscal 1981 have been lowered by $48 million as a result of lower economic projections. Welfare payments have been reduced by $43 million by executive order of the governor.

● Mr. DOLE. Mr. President, I am pleased to cosponsor the amendment proposed by Senator **Bradley** to the HUD appropriations bill. This is not the first time that we have had to deal with general revenue sharing in an appropriations bill, but I hope it is the last. These recurring attempts to attack the revenue-sharing program through the appropriations process take up valuable time that could be better spent on other matters. In fact, these efforts do nothing more than cause uncertainty in the plans of financial managers of State and local governments.

The issue is clear—local governments should not be left hanging, uncertain whether their next allocation of revenue-sharing funds will be forthcoming. The Appropriations Committee argues that it cannot include revenue sharing in the fiscal 1981 appropriation at this time because action has not been completed on authorizing legislation to renew the revenue-sharing program. I would just point out that the House is expected to approve such legislation in the next few weeks. The Senate Finance Committee acted to report such legislation Thursday. Everyone expects revenue sharing for all local governments to be renewed. There is no justification for jamming up the works in the appropriations process.

Revenue sharing has become an important tranfusion of funds to cities, counties and townships across our country. Its effectiveness is well documented and its importance is undeniable. It provides over $40 million to my State of Kansas and is critical to large and small cities alike. The $39,000 that Colby receives and the $176,000 that Great Bend receives are just as necessary to those communities as the $1.5 million going to Topeka and the $3.3 million Kansas City, Kans., relies on each year. The counties cannot afford to have their revenue-sharing moneys pulled out from under them either. My State's three largest counties—Johnson, Sedgwick, and Wyandotte—receive over $3.5 million annually from revenue sharing. I am simply trying to emphasize the breadth of revenue sharing in concrete terms. The need is even greater in more populous States. If this funding is withheld, the entire range of basic services will be underminded.

It is regrettable that revenue sharing—one of the most effective and cost-efficient Federal programs—should be the subject of continued attacks, when there is so much waste and inefficiency elsewhere in the Federal budget. Strenuous efforts to eliminate the States from the program have already undermined it. We are concerned about controlling the budget—that is why I introduced legislation to let the States participate if they accept a reduction in categorical grant funding. But, the arbitrary invocation of a technicality in the appropriations process does nothing to aid the budget situation. It merely opens Congress up to charges of inconsistency, indecision, and poor planning.

Mr. President, we do want to cooperate with the Appropriations Committee when it is in the interest of fiscal restraint to do so. But, the whole notion of an entitlement is to insure that funding will not be subject to an annual battle in the authorization process and the appropriations process. It is true that we are now at the point in the cycle when the revenue-sharing program must be renewed. But, that is no reason for the Appropriations Committee to jump in, before action to renew the program has been completed, and attempt to short-circuit the funding mechanism for revenue sharing. Clearly the program will be renewed. If it were not renewed, the appropriation would be meaningless.

Mr. President, I am an enthusiastic cosponsor of this amendment, and I urge my colleagues to join us.●

Mr. BRADLEY. Mr. President, I want to reassure the chairman of the Appropriations Subcommittee that the Finance Committee will report this revenue-sharing legislation and he should not worry that that will not happen. I have, on many occasions, listed my disagreement with the Senator on this issue and I shall not go into them at any length.

Mr. President, I am prepared now to move. I ask unanimous consent to withdraw my amendment and then to vitiate the Appropriations Committee action on page 31, lines 2 through 7.

The amendment (UP No. 1626) was withdrawn.

The PRESIDING OFFICER. The question is on agreeing to the request to vitiate the agreement to the committee amendment on lines 2 through 7 on page 31.

Mr. PROXMIRE. Before we act on that, Mr. President, let me say that Senator BRADLEY is accomplishing precisely what he wanted to do before. The Bradley motion will do what he has indicated, that is restore the $4.569 billion for local revenue sharing. I think it should be made clear that it is on the Bradley initiative that this was done in the Senate.

Mr. BRADLEY. Mr. President, this is a request to vitiate action on the Appropriations Committee amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the committee amendment.

The Chair is uncertain.

Mr. PROXMIRE. Mr. President, will the Chair state the question again?

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was rejected.

Mr. MOYNIHAN. I move to reconsider the vote by which the committee amendment was rejected.

Mr. BRADLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1627

(Purpose: Relating to reduction in funds for advertising and public relations activities)

Mr. BAUCUS. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. Does the Senator request that the Tsongas amendment be laid aside?

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Tsongas amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the amendment.

The second assistant legislative clerk read as follows:

The Senator from Montana (Mr. BAUCUS) proposes an unprinted amendment numbered 1627:

At the appropriate place in the bill, insert the following new section:

SEC. . Notwithstanding any other provision of this Act, any amount appropriated by this Act for the fiscal year ending September 30, 1981, for any department, agency, or instrumentality of the United States Government, which is available to pay for or conduct advertising or public relations activities is reduced by 10 percent.

Mr. BAUCUS. Mr. President, this amendment I am offering is very similar to the amendment I offered to the transportation appropriations bill. Essentially, it proposes to cut the advertising budget of the agencies included in this bill by 10 percent. I think all of us, not only Members of the Senate, but all of us as Americans, have an intuitive sense or feeling that the Government is spending too much money on advertising generally. I know that it is my view often, watching television, when I see a Government-sponsored advertisement. Frankly, it rankles me a little bit and I wonder what Uncle Sam is doing spending this money on advertising. I decided to conduct a little investigation to try to determine whether we are spending too much on advertising and whether it is effective.

Mr. President, I first discovered that we do not know how much Uncle Sam is spending for advertising. The reason is, very simply, that in all the budgets submitted to Congress, there is no line item for advertising or public relations expense. All the advertising that money presently is spent for these days is built in, it is sandwiched in, it is padded within the various line items in one place or another. We just do not know where it is.

Second, different agencies have different ideas of what constitutes public relations and advertising and so forth. So we really do not know how much is spent on advertising.

As a result, I asked the GAO to do a little investigating.

Mr. PROXMIRE. Mr. President, will the Senator yield long enough to get the yeas and nays?

Mr. BAUCUS. Yes, I yield.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAUCUS. Mr. President, GAO reported a couple of years ago to me that they, too, do not know how much we are spending on advertising, for the same reasons: it is not a line item, not specifically stated in the budget. GAO, too, had some interesting observations.

GAO has observed that, as far as GAO was able to determine—and this was a couple of years ago—we do not know whether this advertising is effective. There have been only three studies done by the Federal Government, so far as I am able to determine, to try to determine the effectiveness of Uncle Sam's advertising.

Mr. President, the interesting point is that although these studies are inconclusive, they show that probably all the advertising that we are spending money on as part of the Federal budget has little effect. That even includes advertising to try to encourage young Americans to enter the Volunteer Army. The Department of Defense study itself shows that that advertising is probably inconclusive.

Mr. President, I decided that, since GAO said we do not know, and since the budgets do not indicate how much is being spent, I would try to investigate this as well as I could. So I asked my office to go down to just one agency this morning, the Department of Housing and Urban Development. I had one person go down and we conducted a little raid. We just walked into the office and asked for one copy each of reports, of periodicals, of printed materials that HUD distributes. And I stress, we looked only at printed material. We did not even begin to look at radio, TV, and other electronic media advertising.

Mr. President, as we can see, I have on my desk a cardboard box. It is chockfull. It weighs about 40 pounds. It is filled up with one item of each of the various different periodicals, different publications, that HUD distributes.

I will just read or indicate what a couple of them say. Here is one little brochure entitled "Interoffice Safety Memo to the Entire Staff." It notes 12 steps to office safety.

First is this little number: "Walk, Don't Run, and Watch Out at Corners."

Second, "Pick up pencils, clips. Papers on the floor are fall traps."

Third, "Get aid fast, even if it is just a scratch."

Fourth, "Close file drawers. They are a trip hazard when open."

Here is another: "On stairs, don't run, walk."

It says, "Use the handrails."

Here is another: "Use ashtrays, never drop ashes in wastebaskets."

Another: "Use the stepstool. Don't climb on chairs or shelves."

Another: "Learn to lift right. Lift with your legs, not your back."

Well, Mr. President, I do not want to belabor the point. I favor any productive measure making working conditions safe. But I cannot believe the money invested in this brochure really contributes very much to that end.

Here is another, Mr. President. This is called International Bulletin. This is kind of interesting, this big article that HUD distributed somewhere. I do not know where it goes.

"How to Get an Apartment in Poland."

I must say, HUD is probably fairly impressed with recent developments in Poland because this is printed in July of this year.

It says:

> According to reports, housing in Poland is a subject which is endlessly discussed, written about, and worried over.

I did not know we were all worried about that, but, apparently, HUD thinks so. The article continues:

> While not as volatile a public concern such as the availability of meat, housing is just as basic and pervasive. Though newspapers, magazines and television report progress being made, the extent to which the Polish government is fulfilling—or failing to fulfill—a basic societal need is causing considerable debate.

I will not read the rest of this. But, again, it is just another example.

Here is another, a big glossy print. It is a kind of glossy report one would expect to receive as a shareholder of General Motors.

This is from NASA, a nice picture of a tiger from NASA. A big glossy print.

This is expensive. We do not grind this out on a mimeograph machine.

There is another picture of a zebra here. A nice office building. A lot of stuff here does not say anything.

My office thought we should try to get some NASA publications. We called and the man said, "I am sorry, but you would have to get an 18-wheeler to carry away one copy of all the publications NASA puts out."

Mr. President, that is a big truck that would have to be filled up to get one copy of each of the publications NASA puts out annually, according to a NASA official this morning.

Mr. PROXMIRE. If the Senator will yield, that is astonishing.

I think the Senator from Montana is doing a marvelous job because the difficulty with so much of this is that we do not really get down to the specific kind of waste or expenditure, and that is exactly what he is doing here.

This example, that NASA puts out so many publications that it would take an 18-wheel truck to take one copy of each publication to your office is shocking. He has an example of a glossy print NASA publication. I know. I used to be in the printing business, and I know how much they cost. The cost of the paper, the reproduction, and the color is very high.

I am sure what NASA does is very good. It is a fine agency, and one of the most efficient. But I think there is no question that they can save 10 percent of their public relations and advertising budget.

So I commend the distinguished Senator from Montana. I think this is a very helpful demonstration, particularly the way he brought it to the attention of the Senate, not by some general statement that they are wasting money, but giving us the specific documentation.

I could not resist mentioning that 18-wheel truck needed to haul one single copy of each publication.

Mr. BAUCUS. That is correct.

I thank the Senator from Wisconsin. I am very honored to have him speak in favor of this amendment, particularly because the Senator is known nationwide, and probably in other parts of the world, for his Golden Fleece Awards every month in honor of the most glaring examples of waste in Government.

Mr. President, I think the problem is obvious. I have two or three other very quick points in my proposal, which is simply to cut the advertising budgets by 10 percent.

I, frankly, think it is too little and probably could be cut 50 percent very easily, and does a world of good, but I am willing to take the 10 percent and see what happens.

In the meantime, I intend to look at this very closely, conduct hearings in the subcommittee I chair to try to find what we are wasting in this area in advertising.

There are various problems. One is the problem of definition. If we simply cut advertising 10 percent here, various agencies will define it different ways, and probably as narrowly as they can, to cut their budgets as little as possible.

This is a problem we will have to take up next year.

Mr. President, I also bring to the attention of the Senate a statute enacted in 1913 directly on point, but which has not been enforced at all.

Very simply, it is one sentence in the United States Code. It has existed 67 years. Next month is the 67th anniversary of the statute:

> Appropriated funds may not be used to pay a publicity expert unless specifically appropriated for that purpose.

There is a statute in the law which is on this point. There are no line items in the budget we received from the administration. I think this statute is very clear. The intent of the specific statute is that money spent for publicity experts must be line items.

I think the Committee on Governmental Affairs in this next year could look at some way to require budgets to include a line item for advertising. It certainly could require departments and agencies to abide by the law.

Mr. President, the real question here is manifold. One is waste. We all want to stop waste. But there is another basic question. That is, should the Government be involved in advertising?

Sure, I think various companies, like Colgate, should be able to put on TV ads, like Colgate toothpaste is better than Gleem, and Gleem should be able to say why they think Gleem is better than Colgate. Product differentiation, that is the free enterprise system.

But should the Government be involved in advertising? What is it they are trying to sell?

I have an idea that these agencies are trying to sell themselves to their own constituencies, and they are pretty good at it. They know they can mail out these tons of materials to their constituencies, that the constituents will write us and make it much more difficult for us to cut their budgets.

It is a vicious circle. They send out all this junk, send out all this stuff in the public domain, and then those people think they have to support their agencies because they get all this junk.

That is, I think, the basic problem.

Mr. PROXMIRE. If the Senator will yield. Of course, the irony is that the taxpayer is having the money spent to lobby against his interests because what happens with much of this is that it promotes the agency.

The poor old taxpayer has to pay the bill. I am sure that if we had any kind of poll of the American people, they would say that one of their top priorities is to hold down the cost of Government. Obviously, it is against their interests to have the Government promote increasing in size, increasing its burden, and then have the taxpayer pay for it.

So I believe that what the Senator is trying to reach here is of the greatest importance. I do believe that there are some information functions that the Government should perform which are very helpful and vital. Certainly, the Government has the duty to try to help us live a safer life and a healthier life, and so forth, and it can accomplish a great deal through information. However, as the Senator has pointed out, a great deal of this is simply to build up the image of the administration.

I am glad the Senator has started on this tack. I noticed that he did this the other day on the transportation bill, successfully. I hope he will continue to do this and that we can develop the kind of data in the future so that we will not have the agencies simply coming in and asking for 10 percent more, figuring that the Baucus amendment is going to cut them down. I believe this amendment is most constructive.

Mr. BAUCUS. I thank the Senator.

Mr. President, that concludes my statement. I ask unanimous consent to have printed in the RECORD a table displaying the advertising and public relations expenses of those departments and agencies covered by this particular appropriations bill.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

	In-house	Outside	Total
FISCAL YEAR 1978			
Department of Housing and Urban Development	$1,425,988	$141,171.00	$1,567,159
Independent Agencies			
American Battle Monuments Commission	0	0	0
Consumer Product Safety Commission	0	25,844.28	25,844.28
Environmental Protection Agency	840,300	362,600	1,202,900
U.S. Regulatory Council (did not exist in 1978).			
Federal Emergency Management Agency (did not exist prior to April 1979).			
General Services Administration	86,604	767,555	854,159
National Aeronautics and Space Administration	0	1,649,000	1,649,000
National Credit Union Administration	0	0	0
National Science Foundation	422,318	256,000	678,318
Neighborhood Reinvestment Corporation	0	0	0
Selective Service System	0	0	0
Veterans' Administration	921,479	110,760	1,032,239
FISCAL YEAR 1979			
Department of housing and Urban Development	2,435,819	59,840	2,495,659
Independent Agencies			
American Battle Monuments Commission	0	0	0
Consumer Product Safety Commission	245,145	366,236	611,381
Environmental Protection Agency	933,600	289,800	1,223,400
U.S. Regulatory Council	55,000	0	55,000
Federal Emergency Management Agency	6,200	11,400	17,600
General Services Administration	$76,608	$299,208	$375,816
National Aeronautics and Space Administration	0	1,856,742	1,856,742
National Credit Union Administration	0	0	0
National Science Foundation	464,200	350,000	814,200
Neighborhood Reinvestment Corporation	0	0	0
Selective Service System	0	0	0
Veterans' Administration	1,013,876	133,675	1,153,551
Grand total	5,230,448	3,373,901	8,603.349
FISCAL YEAR 1980 (TO DATE)			
Department of Housing and Urban Development	852,111	75,378	927,489
Independent Agencies			
American Battle Monuments Commission	0	0	0
Consumer Product Safety Commission	0	0	0
Environmental Protection Agency	1,013,200	219,900	1,233,100
U.S. Regulatory Council	55,000	0	55,000
Federal Emergency Management Agency	185,800	265,600	451,400
General Services Administration	84,961	251,129	336,090
National Aeronautics and Space Administration	0	861,034	861,034
National Credit Union Administration	0	0	0
National Science Foundation	308,090	219,000	527,090
Neighborhood Reinvestment Corporation	0	0	0
Selective Service System	0	0	0
Veterans' Administration	740,033	96,118	836,151
Grand total	3,239,195	1,988,159	5,227,354

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. BUMPERS), the Senator from Arizona (Mr. DECONCINI), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Michigan (Mr. LEVIN), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Georgia (Mr. NUNN), the Senator from Arkansas (Mr. PRYOR), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alabama (Mr. STEWART, and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I also announce that the Senator from Montana (Mr. MELCHER) is absent because of illness.

Mr. GARN. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Maine (Mr. COHEN), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), the Senator from Iowa (Mr. JEPSEN), the Senator from Idaho (Mr. MCCLURE), the Senator from Oregon (Mr. PACKWOOD), the Senator from South Dakota (Mr. PRESSLER), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 66, nays 0, as follows:

[Rollcall Vote No. 427 Leg.]

YEAS—66

Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cranston
Culver
Danforth
Dole
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hayakawa
Heflin
Heinz
Helms
Huddleston
Humphrey
Jackson
Kassebaum
Laxalt
Leahy
Lugar
Magnuson
Mathias
Matsunaga
Metzenbaum
Mitchell
Moynihan
Nelson
Pell
Percy
Proxmire
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stennis
Stevenson
Stone
Thurmond
Tsongas
Warner
Weicker
Williams
Zorinsky

NOT VOTING—34

Armstrong
Baker
Bayh
Bellmon
Bumpers
Cohen
DeConcini
Domenici
Goldwater
Hatfield
Hollings
Inouye
Javits
Jepsen
Johnston
Kennedy
Levin
Long
McClure
McGovern
Melcher
Morgan
Nunn
Packwood
Pressler
Pryor
Ribicoff
Stafford
Stevens
Stewart
Talmadge
Tower
Wallop
Young

So Mr. BAUCUS' amendment (UP No. 1627) was agreed to.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER (Mr. PELL). The Senator from Nebraska.

Mr. EXON. Mr. President, if I could have the attention of the floor manager of the bill, I would like to pose a question to him. How much additional money have we added to this program so far in our consideration of this bill on the floor of the Senate?

Mr. PROXMIRE. As the Senator knows, the big addition was revenue sharing which the House had in it. The administration requested it. The budget request allowed for it. We did not put it in because it was not authorized. We added $4.6 billion for that, and then we added $113.8 million for public housing operating subsidies, adding up to well over $4.7 billion.

Mr. EXON. Have we saved any money at all so far in our consideration of this bill?

Mr. PROXMIRE. Well, this morning—we saved some. I hardly know how much, maybe $30 million, $40 million in the Baucus amendment.

Mr. EXON. Would it be safe to assume that we have overall increased expenditures rather than reduced them?

Mr. PROXMIRE. No question, the increase in spending is, as I say, at least $4.7 billion.

Mr. EXON. I thank my friend from Wisconsin.

Mr. MATHIAS. May I suggest, Mr. President, at the point at which the bill reached the Senate floor under the able guidance and leadership of the Senator from Wisconsin, we had already saved $4,335,237,000 under the President's request, so there has been a very stringent effort in economy made even before we reached the floor.

Of course, the unanimous vote of the Senate on the last amendment was an economy vote.

Mr. PROXMIRE. The Senator from Nebraska is absolutely correct. Furthermore, to stay within the first budget resolution, and we barely stayed within it as the bill came to the floor, we had to accept an across-the-board reduction in the Appropriations Committee. So now with this addition we would be very grateful for any kind of an amendment that would reduce spending in the bill. At least I would be as manager of the bill.

Mr. EXON. Mr. President, in keeping with the request, the statements just made by the distinguished floor manager, I am about to offer an amendment that will give the Senate an opportunity to show some fiscal restraint, if not caution, in this particular area.

Mr. President, I take the floor to offer a simple amendment which will somewhat restrain the growth of the section 8 assisted housing program. The purpose of my amendment which I am about to introduce is to allow the addition of 240,000 total assisted housing units in fiscal 1981, the same number which the Congress approved for fiscal year 1980.

Mr. President, you will note that the amendment I am about to offer does not propose to cut funding for section 8 assisted housing. Last year, this body agreed to the addition of 240,000 housing units to the assisted housing programs already in operation. The only "cut" I am proposing is a reduction from the Appropriations Committee's recommendation for approximately 280,000 additional units.

In view of the committee report on H.R. 7631, I can hardly believe that the committee has recommended such a significant increase in the number of additional units compared to 1980. The committee is recommending an increase of over 16 percent in the number of additional units, and an increase in budget authority of over 11 percent. These figures are hardly compatible with language on page 9 of the committee report, which states:

> Last year . . . the Committee recommended that HUD include in subsequent budget justification documents estimates of the long-term costs of new section 8 assistance agreements. . . . At that time, the Committee was particularly concerned that HUD's long-range estimates, on the basis of which budget authority is appropriated, did not adequately take into account likely future inflation in rent levels. . . . However, the Committee remains concerned about the long-term budget consequences of the section 8 program and directs the Department to continue its efforts to refine its cost projections.

Indeed, it is the long-term costs that give this Senator a great deal of concern about section 8 programs. Even if no additional units were added from here on out, the liability of the Federal Government for current assisted housing units is in the hundreds of billions of dollars. If rents in the future increase faster than income, which is not an unlikely prospect, this liability is going to continue to grow by leaps and bounds until the section 8 liability will begin to rival the size of the national debt itself.

Mr. President and fellow Senators, many aspects of the section 8 program disturb me. For example, the program is not as well targeted as it should be.

Families with incomes of over $20,000 per year are eligible for section 8 assistance while only 1 out of every 13 households with income below $6,000 per year is currently receiving benefits under housing subsidy programs. Families are able to receive subsidies of over $6,000 per year, which is much more than is typically provided by other income security programs. Furthermore, many of our welfare programs are designed to be temporary means of assistance to those who will soon be able to support themselves. This is not so with section 8 subsidies. I quote from the GAO report:

> We found very little in the way of incentives in the Section 8 Program for the beneficiaries to ever give up the substantial benefits they receive. The cost of much of the housing the program provides is equal to or exceeds the income of many of the families being served. For a family receiving housing assistance equal to its income, a quadrupling of income would be required before that family could pay its rent with no more than 25 percent of its income. We are concerned about this captivating effect of this program.

In other words, Mr. President, most of our country's other large income security programs, such as food stamps, aid to families with dependent children, and other costly programs, are based on the premise that some people need a helping hand from time to time. Not so with section 8, for we are creating a permanent dependency with this program as it now operates.

During the Senate Budget Committee markup of the second concurrent budget resolution, I offered a motion to reduce the assisted housing mission by approximately $5.6 billion. That motion would have assumed that section 8 renters pay 30 percent of their income toward rent, and that the new construction to existing housing ratio be modified to provide the same number of additional units at a lower cost per unit. These suggestions are not new, and have been made by GAO, CBO, or other responsible groups as a means to get section 8 costs under better control. My motion in the Senate Budget Committee failed by one vote.

I am not offering at this time the same amendment I did in the Budget Committee deliberations. I am merely saying at this point, at a maximum, we should accept the 1980 authorized level in view of the need for fiscal restraint and the uncertainty about where section 8 is actually leading us.

Mr. President, the Senate has tried to act fiscally responsible on many occasions during the current session. At times we have achieved some successes. In our budget and appropriations decisions, we have limited many programs to no increases, and have made several tough decisions actually to cut and eliminate certain Federal spending. Although the record, unfortunately, is spotty, let us not blemish it further with approval of an unwarranted 16-percent increase in assisted housing units above our current year's level. With every day that passes, it becomes more and more clear that inflation—not recession—is our country's greatest domestic problem.

Mr. President, at this point I ask unanimous consent that the portion of the GAO report on positive and negative aspects of the section 8 program be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Chapter 2: Positive and Negative Aspects of the Section 8 Program

Following the January 1973 suspension of most federally subsidized housing programs, the Section 8 Program emerged in August 1974 as the alternative to several past programs. It was announced as a program which would take the Federal and local governments out of the housing production subsidy business by providing direct subsidies to consumers. A key objective was mixed income housing. It was designed to correct some of the problems of the past programs. While it does, in fact, have certain advantages over some of the earlier programs and while it provides significant aid to those families given the opportunity to participate in it, it too has cost, equity, and incentive problems similar to those of the earlier programs.

POSITIVE ASPECTS OF SECTION 8

The Section 8 Program has advantages over its predecessor programs in that it:

Provides recipients a greater freedom of choice of where and in what they live.

Allows the use of newly constructed, rehabilitated, and existing units, according to each community's particular needs.

Promotes deconcentration of lower income families needing housing assistance, thus encouraging racial and income integration.

Provides a subsidy which keeps up with increases in operating costs. Recipient families never experience rent hikes unless their incomes have likewise risen. Owner and developers are insulated from default, since the Federal subsidy rises with increases in operating costs and rental levels.

Eliminates the income gap problem prevalent in other subsidy programs since section 8 can aid the full range of lower income families.

The existing housing segment of the overall program has additionally been cited by HUD as a program which has proven to be very effective and which offers the advantages of

"* * * rapid delivery of housing assistance at relatively low cost, freedom of housing choice by families, dispersion of lower-income families, maintenance and improvement of the existing housing stock, neighborhood preservation and avoidance of displacement in areas undergoing revitalization activities, and involvement of owners which have not previously participated in federally subsidized housing programs."

NEGATIVE ASPECTS OF SECTION 8

Notwithstanding the various positive aspects of the Section 8 Program, the program has not overcome some of the problems of the past. In certain instances, its problems may even be more severe and of more consequence than those of yesteryear.

For example, budget and cost considerations were among the major reasons earlier programs were suspended and terminated. The fact that some families were receiving annual subsidies of as much as $1,850 caused alarm. So did the fact that the principal subsidy programs were relying too much on new construction as its higher unit costs per assisted family.

Today, costs under the Section 8 Program appear to be much higher. HUD estimated for fiscal year 1979 average annual unit costs of $2,670 for existing units, about $4,300 for newly constructed units, and about $4,700 for substantially rehabilitated units. Some families are receiving annual subsidies at much greater rates than even these estimates which do not consider the amount tenant families pay toward their rent. We found numerous examples of families receiving annual subsidies in the $5,000 to $7,000 range with some going even higher.

As of September 30, 1979, approximately 77 percent of the occupied section 8 units were in the existing housing segment of the program. Due, in part, to a shrinking supply of rental housing in recent years, there has been increased emphasis placed on new construction and substantial rehabilitation. For example, in the HUD budget for fiscal year 1980, almost 60 percent of the 250,000 section 8 unit reservations estimated for the year are to come from the new construction and substantial rehabilitation segments of the program—segments which are nearly twice as costly as the existing housing segment.

Long-term cost implications of the Section 8 Program are interesting to observe. For example, the Congressional Budget Office (CBO) in a March 1979 budget issue paper entitled "The Long-Term Costs of Lower-Income Housing Assistance Programs," projected the long-term direct subsidy costs for one unit of section 8 new construction/substantial rehabilitation under 30 year commitments to range from $161,200 to $343,400, depending upon the rate of inflation. Under 40 year commitments, the costs are estimated to range from $242,600 to $710,300. With almost one million units now being assisted under section 8, it is easy to see that the long-term costs of the program have reached large proportions. In a June 5, 1978, "Business Week" article it was estimated that if the program was terminated on September 30 of that year, ongoing costs could amount to $83 billion; if the program continued a year beyond that, costs would rise to $107 billion. The article indicated that if annual cost increases were more than 6 percent, the long-term cost estimates would be even greater.

A long-term cost estimate being considered by the House Committee on Appropriations in June 1979 was higher. Relative to the HUD-Independent Agencies Appropriation Bill, 1980 (H.R. 4394), the committee report stated that

"When the Section 8 low-income housing assistance program was first proposed, the Committee raised a number of questions concerning its ultimate cost and workability. Those concerns were well founded. The following points illustrate the magnitude of subsidized housing costs in the United States today:

"An appropriation of $5,529,000,000 is required in fiscal year 1980 to liquidate obligations previously made on various subsidized housing programs. If not a single housing unit is supported beyond 1980, the appropriation requirement will continue to climb—reaching $9,494,000,000 by fiscal year 1990.

"Without a single additional housing unit added beyond 1980, the Federal government is committed to pay out approximately $231,000,000,000 for subsidized housing assistance over the next 40 years."

Eariler subsidized programs were criticized for being inequitable because they served only a small fraction of the poor. This is another major reason why the programs were suspended. Is the Section 8 Program's track record in terms of equity any better? The information we gathered during our review indicated that section 8 serves only a fraction of the poor and that, additionally, there are significant disparities in the types of housing and level of benefits provided program participants.

Approximately 40 percent, or 30 million, of the Nation's 76 million households are eligible for assistance under section 8 and other housing assistance programs. CBO has estimated that of the households income—eligible for assisted housing (the case of section 8, this means those households making * * * percent or less of median income), 12.9 million pay more than 25 percent of their incomes for rent, and 5.4 million live in housing that is substandard.

The Congressional Research Service (CRS) recently estimated in a report prepared for the Subcommittee on Housing and Urban Affairs, Senate Committee on Banking, Housing, and Urban Affairs, that a total of 12.4 million new, substantially and moderately rehabilitated units over a 10-year period are required to meet the housing needs of the country's low-income residents. In its report, CRS stated that much of the need has occurred because of the number of inadequate (5.7 million) or over-crowded (3.4 million) units, and growing numbers of units which are lost through conversion and obsolescence.

Concerning housing assistance needs, the Office of Management and Budget (OMB) estimated in a paper supporting welfare reform that, of the households eligible for assistance, only 8 percent were then receiving housing subsidies. Further, OMB stated that of the households earning less than $6,000, only 1 out of every 13 was receiving benefits under a housing subsidy program.

The above estimates indicate that, today, there continues to exist in this country a tremendous need for housing assistance. Inequities in our housing programs continue to prevail. An official of HUD wrote in an article entitled "American Housing Policy: Perverse Programs By Prudent People" that—

"* * * after much toll and trouble, the program (section 8) pulled out of the federal legislative cauldron retained the faulty features of the previous programs. In fact, the criticisms made of the old programs in 1973 by the Nixon Administration apply with full force to the new:

"Our present approach is highly inequitable. Rather than treating those in equal circumstances equally, it arbitrarily selects only a few low-income families to live in federally supported housing, while ignoring others. Moreover, the few often get a new home, while many other families—including those who pay the taxes to support these programs—must make do with inferior older housing. . . The present approach is also very wasteful, for it concentrates on the most expensive means of housing for the poor, new buildings."

One final point needs to be made at this juncture. The Section 8 Program, as was typical with its predecessors, lacks certain incentives which would help to hold down program costs and offers little incentive or inducement for the participating family to want to move from section 8 into unsubsidized housing. Much of the housing being produced by the program is of high cost and quality. Much of the new and substantially rehabilitated housing we observed was of high standard, very attractive and had rental values in excess of what many families would be willing and able to pay on an unsubsidized basis. Many section 8 families, particularly the elderly, are not upwardly mobile. The Section 8 Program may be likened somewhat to a lottery in which only a few strike it big. For those families fortunate enough to get into the program many can be expected to stay in it for a long time in the future.

CONCLUSIONS

The Section 8 Program is the most recent in a series of Federal programs aimed at solving the problem of providing housing assistance to the poor. While the program offers advantages over and corrects certain weaknesses of the earlier programs, it too is plagued by high costs and an inability to serve no more than a small fraction of the households defined to be in need. There are disparities in the type of housing and level of benefits provided to program participants. Additionally, there is a lack of certain incentives which would help control costs and encourage participating families to work themselves up and out of the program.

These problems are interrelated in many ways. The problems, and some of their causes, are discussed more fully in the remaining chapters of this report. The chapters also contain recommendations to HUD which will help to (1) reduce program and individual unit costs, (2) improve program equity, and (3) create a more acceptable program image.

AGENCY COMMENTS AND OUR EVALUATION

HUD commented that while there may have been savings expected initially from the Section 8 Program, these savings were predicated on the extensive use of existing rather than newly constructed housing. HUD stated that these initial expectations were thrwarted by (1) the Congress' insistence that HUD comply with the proportions of new, rehabilitated, and existing housing, as expressed in local housing assistance plans, (2) a shrinking supply of rental housing in the later 1970s, and (3) the general increase in construction, financing, and operating costs.

HUD stated that any disparities in the type of housing and level of benefits being provided program participants is basically due to the fact that occupants of new units generally have nicer units at higher rents than those who occupy older, existing units. Regarding our statement that, collectively, Federal housing programs serve only a small fraction of eligible households, HUD stated that Federal housing programs can be viewed as serving a small fraction of the needy only if they are viewed separately and if the need is substantially overstated. Finally, HUD stated that there is no basis for our suggesting that there are insufficient incentives to encourage families to work out of the program.

Our estimates of the number of households in need of housing assistance were obtained from HUD and CBO. They show that between one-tenth and one-fifth of the eligible households get housing aid.

We found very little in the way of incentives in the Section 8 Program for the beneficiaries to ever give up the substantial benefits they receive. The cost of much of the housing the program provides is equal to or exceeds the income of many of the families being served. For a family receiving housing assistance equal to its income, a quadrupling of income would be required before that family could pay its rent with no more than 25 percent of its income. We are concerned about this captivating effect of the program. (See pp. 106 to 111 for HUD's comments and our response.)

Mr. EXON. Mr. President, at this time, I call up my unprinted amendment to accomplish what I have just suggested.

Mr. MATHIAS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending question is the amendment of the Senator from Massachusetts. For another amendment to be offered, unanimous consent would be required. The Senator from Nebraska needs unanimous consent. Does the Senator from Nebraska ask for unanimous consent?

Mr. EXON. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. MATHIAS. Mr. President, reserving the right to object, I would hope that at any time on any subject that is within my personal discretion, I would yield to any request that the distinguished Senator would make.

On this matter, however, I do not have discretion. I have been placed under some constraint by colleagues who wish to participiate in the debate on the subject matter of the amendment which the Senator has just so eloquently described to us. Therefore, I really do not have the option of agreeing to the unanimous-consent request which has just been propounded.

And so, with great personal reluctance, I discharge my official responsibilities by objecting.

The PRESIDING OFFICER. The objection is heard.

Mr. EXON. Mr. President, I thank my colleague from Maryland for his explanation. I reserve the right to bring this up when the Senate gets back on course and when the Senate decides to take up the matters that are properly before it.

I would say at this time, Mr. President, that during my short stay here I have never been able to understand why we bring up amendments and then lay them over for consideration at a later date. It is not without some personal sacrifice, Mr. President, that the junior Senator from Nebraska is here on the floor today rather than being elsewhere.

If the Senate is in session, I think it would be wise if we moved ahead in a more expeditious manner than to have delays of legitimate Senate business, as the Senator from Nebraska has just proposed.

But I recognize the rules under which the Senate operates. I will live by those rules. I advise the Chair that I will bring this up at an appropriate time when and if the Senate gets back on course.

The PRESIDING OFFICER. The Senator has that right.

Mr. MATHIAS. Mr. President, I would like to assure the Senator from Nebraska that, as far as I am concerned, I am ready to debate it now, I will debate it with him tomorrow, I will debate it with him Monday. Whenever he brings it up, I am ready.

I share his sense of frustration that we cannot go forward and complete this business expeditiously.

Mr. HUDDLESTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

UP AMENDMENT NO. 1628

(Purpose: To increase certain sums to be appropriated for the Environmental Protection Agency to deal with improper disposal of hazardous wastes)

Mr. HUDDLESTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. It would take unanimous consent.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the pending amendment be set aside and it be in order that I offer an amendment at this time.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Kentucky? Hearing no objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON), for himself and Mr. BAKER, proposes an unprinted amendment numbered 1628.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SECTION 1. In Title II, following "Environmental Protection Agency":

(a) On p. 16, line 15, strike "$541,647,000" and insert in lieu thereof, "$547,558,000";

(b) On p. 16, line 22, strike "$251,276,000" adn insert in lieu thereof, "$253,520,000"; and

(c) On p. 16, line 25, strike "$543,338,000" and insert in lieu thereof, "$551,183,000".

Mr. HUDDLESTON. Mr. President, this amendment is cosponsored by the distinguished minority leader, the Senator from Tennessee (Mr. BAKER). Our amendment is a pared-down version of an administration budget request that was not received in time to gain the attention of the Appropriations Committee. The original budget request was $27 million; however, we have had the Agency take a close look at the figures, and now we are requesting a $16 million increase for EPA. This increase will be utilized by the Agency to enhance development of an already in place emergency uncontrolled hazardous waste and oil and hazardous spills program. Also, the timely appropriation of these funds will enable EPA to properly prepare for the transition to the operation of the so-called superfund legislation should that program be approved by the Congress.

As a representative of the citizens of the State in which one of the worst illegal dumping grounds in the Nation is located, the infamous "Valley of the Drums," I am well aware of the serious situation created by the improper disposal of hazardous waste. However, that incident was not unique. It was merely the largest and most perilous dumping of uncontrolled hazardous waste on Kentucky's countryside. Kentucky has been used as a dumping ground not only for its own waste but for the poisonous by products of other States' industries. Over a million tons of hazardous waste are dumped in Kentucky every year, much of it illegally and irresponsibly. Inevitably, such poisons find their way into streams and groundwater, the sources of drinking water for almost half the Nation. There must be a cleanup.

The Federal Government must play a large role, both in making it possible to clean up dangerous situations created in the past and in preventing new ones. We have made substantial progress in preventing future "Valleys of the Drums." Companies responsible for producing hazardous waste are now responsible for these wastes from generation to final disposal. However, the Environmental Protection Agency now faces the substantial challenge of responding to environmental emergencies caused by an increasing number of hazardous substance spills and intense public pressure to solve the complex problems created by abandoned waste sites.

Media coverage of exploding waste storage facilities, train derailments pouring highly toxic fumes into the air, and the suffering of residents living in proximity to abandoned waste sites have focused the Nation's attention on the dangers of the situation. Such incidents are increasing EPA's workload substantially and straining the Agency's limited resources to deal with the problem.

EPA has already compiled a list of 7,000 potential waste sites requiring some type of followup action. It is receiving reports of new sites at the rate of 400 per month. The uncontrolled hazardous waste problem is quickly becoming the Agency's No. 1 priority. We must provide the Agency with the additional resources needed to solve this new and dangerous problem. It is not a problem confined to Kentucky, the South or any one area in particular. It is a national problem, requiring a national solution.

This amendment provides resources for the Agency to intensify its efforts to respond to the problem of uncontrolled hazardous waste sites and spills of oil and hazardous substances. This stepped up effort includes the development of a national inventory of prioritized sites and an accelerated program of site assessments. These assessments will involve taking samples, developing supporting laboratory analysis protocols, processing and analysis of samples and operation of a quality assurance program to insure accuracy of final reports and tests.

Resources are also provided to develop prototype site engineering studies as models for enforcement compliance actions and use in future long-term remedies. Also included are resources to support a thorough review of the current uncontrolled sites and spills program to assure maximum coordination, elimination of duplication and inefficiency and the distribution of data, knowledge and experiences among involved programs within the Agency and throughout the entire Federal Government. Additionally, the Agency will build its understanding of the most efficient interrelationships among its regional efforts, State governments and private sector services and capabilities.

Funds will be used to assess the current environmental condition and evaluate the already applied containment measures at Love Canal in New York. The results of these investigations will serve to expand the Agency's understanding of potential problems the country faces at known waste sites.

Resources are also provided to increase management and administrative support for an accelerated effort. The Agency will take steps to insure field personnel are adequately trained and provided with appropriate safety equipment and medical examinations.

The Agency will begin developing a comprehensive system to insure proper accountability and management by expanding activities under financial management, contracts management and procurement, legal services, personnel management and the Office of the Inspector General.

In conclusion, this is an important and critical expansion of the Agency's current hazardous response program to insure that the Federal Government has the capability to respond to emergency incidents threatening the health and well-being of our citizens and the potential destruction of our environment. We must make this investment now. I urge my colleagues to support this amendment.

Mr. BAKER. Mr. President, I am glad to join my colleague from Kentucky in sponsoring this amendment. I feel that it is imperative that the Federal Government be financially capable of quickly responding to and investigating potential hazardous waste problems. The money contained in this amendment will help provide the Environmental Protection Agency with such a capability in fiscal year 1981.

A few months ago, as part of the supplemental appropriations process for fiscal year 1980, I proposed and the Congress accepted an amendment that would assure an adequate source of funding to this agency for investigation in the Memphis/Shelby County region of my home State of Tennessee. I view today's amendment as a follow-up effort to assure adequote resources for EPA to meet its responsibilities not only in Memphis/Shelby County, but also in other areas which have hazardous waste problems or suspected problems in Tennessee and around the Nation.

Experience in Memphis and Toone, Tenn., has taught us that we must immediately begin to expand and strengthen the Agency's capability to identify and respond to emergencies at uncontrolled hazardous waste sites using current authority. Efficient and safe response to dangerous sites requires careful planning and in many instances a lengthy lead time. Many if not most of the problems in dealing with a hazardous waste problem are complex and almost always expensive to address. The Congress should, in my opinion, begin now to invest in order to achieve effective implementation of the necessary programs at the earliest possible time. Today's amendment will assure that this agency will be able to make necessary commitments early in fiscal year 1981 to meet this goal.

While the amendment will enhance EPA's capability in a number of ways, a few aspects will be of particular importance to existing concerns in Tennessee. One element of the amendment will allow the agency to initiate engineering studies at 5–10 selected sites to determine least cost, practical remedies. I believe that information developed in these studies could be of imminent value to residents of Toone in Hardeman County, Tenn. This is a situation where already completed investigations have revealed that a site containing approximately 300,000 55-gallon drums of pesticide production residues is posing a serious health risk to residents in the area. Some method of eliminating or containing the risks from this site must be determined and put into place. I hope that the engineering studies in this amendment will be enlightening in this regard.

Another part of the moneys in the amendment will be used to accelerate the current program of site assessment, investigation and case development. The acceleration of this EPA program will be of particular interest to citizens in the Memphis/Shelby County region of my State who are extremely anxious to learn about the total number of and potential seriousness of sites located near their homes.

Finally, certain moneys in this provision for which we seek approval today will be used to improve coordination among the various Federal agencies with responsibilities at hazardous waste sites and spills. It has become apparent from the Agency effort being made in Memphis that a greater degree of coordination will be necessary. Questions have been raised about which of the Federal agencies should be responsible for certain elements of an overall response effort, particularly health surveys and studies. I would hope that EPA will use the authority in this amendment to address this question and thereby assure in the future a smooth, efficient, and understandable process is in place to address all aspects of the problems that can arise at abandoned sites and spills containing hazardous wastes. I intend to monitor Agency progress in this regard and make sure that all Federal agencies involved in these efforts have the necessary capability to meet their responsibilities in fiscal year 1981 and beyond.

Mr. President, 50 years of uncontrolled hazardous waste disposal has left us with a grim legacy which we must immediately begin to address. Our EPA task force has already identified close to 7,000 sites which could require some form of remedial action. This list is growing at a rate of almost 400 per month. It is for this reason and because of recent experiences in Tennessee that I support through this amendment the enhancement of EPA's capability and I urge the committee and my colleagues in the Senate to do the same.

Mr. HUDDLESTON. Mr. President, I believe this amendment has been cleared on both sides of the aisle and, as far as I know, there is no objection.

Mr. PROXMIRE. Mr. President, I have Kentucky. It is a necessary amendment. with the distinguished Senator from Kentucky. It is a necesary amendment. I am very reluctant to accept an amendment which costs $16 million, but under the circumstances I just do not see any alternative. We do have this problem that has to be met, hazardous waste. I think all of us know how tragic that problem can become if it is not dealt with appropriately. So, reluctantly, I am willing to accept the amendment.

Mr. MATHIAS. Mr. President, the Environmental Protection Agency faces a very grave challenge in its efforts to respond to the increasing number of hazardous substance spills, and, in fact, has compiled a list of some 7,000 potential wastes that require some kind of action, some sort of follow up. It is receiving reports of new trouble spots around the country involving hazardous materials at the rate of about 400 a month. So the amendment that the Senator from Kentucky has brought to the attention of the Senate is one which is very pertinent and very current. I think we owe him a debt of thanks for bringing this matter to the attention of the Senate.

I not only support it and urge the Senate to adopt it, but I would say this further: There is talk in the air these days of a continuing resolution. Of course, a continuing resolution would not contemplate the problem embodied in this amendment. I would suggest, in fact, that he contemplate the preparation of an amendment to the continuing resolution which would accomplish the purpose of the amendment of the Senator from Kentucky.

Mr. HUDDLESTON. I thank the distinguished Senator from Maryland for his comments and suggestion.

Mr. CHAFEE. Mr. President, I ask unanimous consent that I be added as a cosponsor to the amendment dealing with the increased funding of the EPA hazardous waste program.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I am pleased to join my distinguished colleagues, Senator BAKER and Senator HUDDLESTON in offering this amendment. I know from my conversation with them that many people in Tennessee and Kentucky, like my own State of Rhode Island, are facing grave consequences from the improper disposal of hazardous wastes. Indeed, EPA has listed the sites in Toone, Tenn., and the "Valley of the Drums" in Kentucky among the worst hazardous waste sites in the country.

Until we can pass a superfund bill, EPA will continue to have a limited capacity to respond to emergencies at uncontrolled hazardous waste sites and hazardous waste spills.

This amendment will give EPA additional resources to intensify its inventory of hazardous waste sites around the Nation and identify those sites which pose the greatest threat to the public health. It will also enable EPA to determine the best technology for collecting and analyzing hazardous waste samples from sites. Funds will also be provided for prototype engineering studies at a select group of sites. When a superfund bill is passed, these studies will provide EPA with a tested model program to help them move quickly on enforcement compliance actions and future site containments.

Mr. President, I urge adoption of this amendment because the scope of our hazardous waste problem becomes clearer and more serious each day. It has been estimated that the total number of hazardous waste sites range between 32.000 and 50,000 and new sites are turning up at a rate of 200 a month.

The number of significant problem sites is estimated between 1,200 and 2,000. In addition, over 3,000 spills of hazardous substances were voluntarily reported to EPA during fiscal year 1978–79.

My own State of Rhode Island—the smallest State in the Union—has had more than its share of incidents involving hazardous wastes. The EPA hazardous waste enforcement task force has reported 11 potential waste sites identified in Rhode Island. Six of these sites have been assessed at a medium to high seriousness rating and two are tentatively identified as requiring remedial work.

Some of these sites, located in Smithfield, North Smithfield, Coventry, Bristol and Cumberland are located on aquifers or are adjacent to marshland and streams. Wastes from several of these sites have contaminated wells and surface waters. Just last week the Farmers Home Administration announced that it will temporarily ban loans for construction of homes in two of these towns if they are built within half a mile of two hazardous waste sites—Western Sand and Gravel in Burrillville and Landfill Resource and Recovery, Inc., in North Smithfield. The Farmers Home Administration said the new policy will apply where there is a risk that water supplies have been polluted by chemical waste dumping.

Mr. President, earlier this year the Senate passed the EPA research and development bill, S. 2726, that authorized EPA to conduct testing and demonstration cleanup technologies at sites in Coventry, Burrillville, North Smithfield, and Smithfield, R.I. If this amendment is adopted I hope these additional funds will be used in the effort to clean up these sites.

EPA has provided some assistance in the effort of monitoring and cleaning-up some sites in Rhode Island. But only the surface of this enormous task—not only in Rhode Island but across the country—has been scratched. Until EPA is given the resources and authority under a superfund bill to tackle the serious problems posed by hazardous waste dumps, it is important that we give the agency adequate funding to address these problems.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (UP No. 1628) was agreed to.

Mr. HUDDLESTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MATHIAS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOREN. Mr. President, I ask unanimous consent that the pending matter be set aside temporarily, and that I may be allowed to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE STATE OF OUR NATIONAL DEFENSE

Mr. BOREN. Mr. President, earlier this year, I spoke on the Senate floor of my concerns about the state of our national defense. I said at that time that I would continue to speak out about both over-all defense policy as well as its various components—from strategic nuclear weapons, the exotic and most publicized aspect of national defense—to the less publicized, but equally critical aspect like operations and maintenance and conventional warfare preparedness.

As I have mentioned, Mr. President. the spotlight seems continually trained on the question of the strategic nuclear balance between the United States and the Soviets. The debate swings from superiority to essential equivalence—and from counterforce to countervalues—from warheads and throw weight to deterrents and launch on warning.

Given the doomsday effect such weaponry harbors, it is not surprising that fear and fascination center on the silos sunk into the wind-swept landscapes of Montana and North Dakota or into the hills of Arkansas where tragedy struck at a missile site only this morning.

Like moths to a flame, public attention is drawn to the B–52's of the Strategic Air Command and the submarine pens that shroud our lethal fleet of SLBM's.

It is no wonder that this branch of our national defense is poked and prodded more than any other. In a very real sense, it is the one place where a mistake or miscalculation can obviate all else.

So as not to be misunderstood, let me emphasize, as I have since becoming a Member of this body, my commitment to the absolute necessity of adequate U.S. strategic capability. I support the MX missile. I support the need for a new manned-penetrating bomber. I favor deferring action on the SALT II treaty, the present version of which is unfairly weighted against U.S. interests, and I firmly believe the maintenance of the Triad is essential.

But, Mr. President, while the possibility of an all-out nuclear exchange must be recognized and dealt with equal consideration must also be given to the more likely possibility of conventional combat, full-scale or regional—long-term, or short, with quick displays of ability and will.

It is generally accepted, in these Halls and, indeed, across the Nation, that America's military might is no longer accorded the respect it once enjoyed. That lack of respect is most often blamed on the failure of the United States to keep the Soviets from closing the strategic nuclear gap that once existed between our two countries.

Certainly another important element in the lack of respect for our military capability is the perception that we have not maintained sufficient conventional capability. The nuclear balance must be maintained but the perception of conventional capacity is a very important part of the world's geopolitical posture.

The Soviets know, that given our ethical and moral standards, we would resort to the use of nuclear weapons under only the most extreme circumstances. This means that they will seek to move in geographical areas where they believe that we lack a capability to check their advances with conventional forces. The move into Afghanistan might well have been deterred if the United States had been perceived as having the capability to rapidly deploy conventional forces in the area.

The dangers in the Middle East will be greatly lessened when the United States develops forward supply bases in the area and a rapid deployment force to protect our vital interests in an emergency. The level of increased Soviet aggressive behavior around the world parallels the perceived decline of America's military capability.

The fact is that in conventional terms, we are not prepared—we know it. The Soviets know it. The Cubans know it, and so do our other friends and enemies around the world.

It is very possible that what has sometimes appeared as a lack of will to act on the part of our own leaders is at least, in reality, a reflection of the knowledge of those in power of how little there is to deploy.

In this connection, Mr. President, I recommend to the Senate the reading of three articles by reporter Jack Taylor which appeared in the Daily Oklahoman on Sunday, August 31, Sunday, September 7, and the following Sunday, September 14. I ask unanimous consent that the articles and the charts they contain be printed in the RECORD immediately following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. BOREN. Mr. President, the headlines of the three articles tell the story. On August 31—"Shortages Cripple U.S. Military Readiness" and on September 7—"U.S. Forces Not Ready for Prolonged War." and on September 14—"Military Suffers Manpower Crisis." The essential facts and figures contained in these articles are very close to those I have gathered in my own ongoing look into U.S. defense capacity.

As a measure, let me refer to a chart contained in the first article which shows that of the 10 Army combat divisions stationed in this country, all of which were rated as combat ready in December, 1977—all had deteriorated to the point that by December, 1979, none of them were rated combat ready; 7 of the 10 divisions had gone from a rating of C–1 (combat ready) through C–2 (substantially combat ready) through C–3 (marginally combat ready) to C–4, which is the designation for not combat ready.

The truth of these contentions appeared in the September 10 edition of the Washington Post.

The first paragraph reads:

> The Pentagon acknowledged yesterday that 6 of 10 army combat divisions stationed in the United States are not fully ready to fight, but insisted that that is common in peacetime.

I must add parenthetically, Mr. President, that two of the three divisions that are to become part of the rapid deployment force are among those that are not now combat ready.

Let me touch on some other highlights contained in these articles:

> All services are critically short of war reserve materiel and equipment, ammunition and supplies prepositioned in Europe for use in the event of war there. America's North Atlantic Treaty Organization allies are in the same shape.

This next quote is from a secret report by Gen. David Jones, Chairman of the Joint Chiefs of State, and printed in the Oklahoman articles:

> Reinforcing units from the United States may experience selected equipment shortages ranging from 30–50 percent just so some equipment can be prepositioned reducing the Army's ability to train and diminishing the ability of those troops to respond to non-NATO emergencies, Jones said.
>
> Shortages of ordinance and fuel also are hurting everyday readiness. The Navy has current fuel shortage capacity in Europe for only 71 percent of needed aviation fuel and 66 percent of necessary surface ship fuel.
>
> All services are short of ammunition prepositioned in Europe, ranging from 34 percent for the Air Force to about 50 percent for the Army and Navy, according to Jones' secret report.
>
> General Frederick J. Kroesen, the Army's Commander in Europe, says by the end of this year his troops will have only 27 days of supplies of a minimum 30–60 day requirement, and the Army's ability to keep from losing will depend, simply put, on reinforcement and resupply from the United States.
>
> Prepositioned war reserve materiel for the II Marine Amphibious Force, 52 thousand men headquartered in North Carolina, and committed to reinforce NATO, was found sorely lacking, according to a secret GAO report issued last year, which the Marines recently declassified.
>
> Operational readiness of fighters in the Air Forces' Tactical Air Command was dropped to less than 55 percent overall, when it should be at least 70 percent.
>
> During the past two years, it was found that fewer than 65 percent of all navy and marine corps aircraft were fully combat operational on any given day, a study by the Congressional Research Service noted last June. There have been continuing reports of significant numbers of aircraft unprepared for combat, sometimes ranging as high as half of every squadron on some bases."
>
> One Capitol Hill source said a recent Air Force briefing disclosed that when a squadron of F–111's was tested last Spring, it was able to achieve only 50 percent operational readiness—and that by constantly cannibalizing parts from planes that just landed in order to get more in the air.

That is in order to get into the air the 50 percent that they were able to fly.

> When the GAO checked the II MAF, investigators found that the unit's 457 fixed wing and helicopter aircraft were operationally ready only 58 percent of the time due to supply shortages and maintenance problems. For readiness reporting purposes, aircraft the Marines think they can have flying within 72 hours are counted as ready.

In other words, we reached only 58 percent, and that by counting as ready those that would be ready for flight in 72 hours.

And finally, Mr. President:

> The backlog in maintenance and repair to real property—ranging from cracked runways to leaky barracks roofs—has grown to a staggering 2 billion dollars plus because of budget constraints and inflation. In the Army in Europe alone, the backlog is more than 800 million dollars and is expected to increase to 900 million by the end of 1981.

The problems are pervasive, Mr. President, they cut deeply into all services and, tragically, they are only one part of the preparedness issue. If all the equipment worked and was maintained, with spare parts in abundance, there remains the question of who would use it.

A spare engine is a spare engine, unless there is a skilled person to make it useable. Without someone to aim and shoot, a gun is only a potential weapon, and a perfectly operating aircraft remains grounded unless a qualified crew climbs aboard.

Modernization and development of sophisticated equipment is useles unless we have capable people to utilize it. Yet, while equipment becomes more complex, the capability of new recruits, according to test scores, is declining. Test scores indicate that in 1979, 46 percent of the Army recruits were in the lower 30 percent of the population on intelligence tests.

We need qualified people, Mr. President, people who must be fed, housed, and paid if they are to be—the most important thing of all—retained.

People with families, Mr. President, who must be willing to be moved and separated—not once in a while, but often.

In the Armed Forces, as anywhere else, retention is the basic element of gaining and benefiting from experience. If we do not pay attention to the amount of a serviceman's paycheck, or the roof over his or her head—if we do not look forward with them to retirement or understand what it means when a base commander's mission depends on food stamps—then the confidence of experience will continue to fade away.

A qualified pilot can fly a B–52 to its target by the book. But a pilot with 1,500 hours in a B–52 can reach his target, even under extremely adverse circumstances, with tricks not in the book. That is experience and that is the pilot, Mr. President, I want defending the United States when the chips are down.

The statistics regarding retention are extremely alarming. Retention of Navy pilots, for example, has dropped from 62 percent in 1977 to 31 percent last year and is projected to be 28 percent this year. The dropout rate in the Army is running close to 40 percent. A failure to adequately fund a personnel program for the military is obviously a large part of the problem.

No real increases in compensation for military personnel are projected during the next 5 years. In fact, there have been no such increases since 1972. Pay caps already placed on all Government employees have resulted in the pay of active duty personnel declining by 15 percent in real terms over the last 7 years.

On the matter of housing: Over the next 5 years, expenditures for family housing will grow by about 31 percent, which is about the projected rate of inflation. This level of funding will not permit the Department of Defense to make a significant dent in the current shortage of military family housing. As is noted in a recent American Enterprise Institute report, "since Government housing is available to only 20 percent of the members of the armed services, and since the cost of housing in the civilian economy is well beyond the housing allowance paid to most military personnel, this comparatively low level of funding for family housing could have a significant impact upon the ability of the Department of Defense to maintain a viable All-volunteer Force."

As to retention, Mr. President, it has become a particularly serious problem among second and third term personnel. Between fiscal year 1975 and fiscal year 1979, the over-all career reinlistment rate dropped 13 percentage points in just 4 years. That means the Armed Forces have a shortage of 70,000 noncommissioned or petty officers.

The answer to both the hardware and personnel problems, Mr. President, is not the recognition that they exist—we all know that they exist; the answer is the determination to allocate the resources necessary to correct the problem.

Can we afford it? We cannot afford not to. Let me give you one small example involving both equipment and personnel.

The Department of Defense is currently short 4,000 pilots. Correspondingly, accident rates climbed in 1979. Last year, 74 Navy personnel were killed in 127 crashes, the majority of which were caused by lack of proficiency or poor maintenance of aircraft.

The problems are diverse, costly and pressing.

We are dealing with unprecedented complexity, as seen in the fact that the Pentagon has 109 different weapons systems at various stages of production, and another 27 in research and development. Today, the Department of Defense is spending $25 billion on the procurement of 27 separate aircraft programs, 33 different missile programs, 13 distinct types of ships, 11 separate combat vehicles. and 25 different miscellaneous programs as diverse as torpedoes and satellite communications systems. All of that money and all of that work will be wasted without a proper maintenance program.

The cost of replacing obsolete weapons systems is high. And it is going to come all at once. From the mid-1960's to the mid-1970's, many of our general purpose weapons systems for conventional warfare were not replaced because funds were diverted from new procurement of conventional weapons—initially to pay for the war in Vietnam and lately to absorb personnel costs. There is thus a need to replace a great many conventional weapons at once.

The XM–1 tank will cost three times more than the M–60; the MX will cost seven times more than Minuteman III; the F–14 is eight times more expensive than the F–4.

There, in the briefest of terms, are the dimensions of the problem, Mr. President, and why it is true, in the words of Gen. Edward Meyer, the Army's Chief of Staff, that America has a hollow army.

Will the answer be cheap? No. Will the

answer be quick? No. Will it be done? Mr. President, it must be.

I believe that the American people have the will and the determination to make whatever sacrifices are necessary to keep our Nation strong. Recently I mailed approximately 500,000 questionnaires to citizens in my home State. To date, over 150,000, almost one third have responded. The level of response indicates a deep level of concern about the decisions confronting us, 94 percent of those responding said they felt that our Nation was not strong enough militarily. In an even more telling point, 90 percent responded that they would be willing to make whatever cuts were needed in the rest of the budget to improve our military strength.

The people know that for two many years decisionmakers in Washington, in both political parties, and in both the executive and legislative branches, have turned our budgetary priorities upside down.

The Federal Government was established to provide for the common defense. The States were primarily responsible for domestic programs. The Federal Government was formed for the purpose of protecting our Nation's security through the conduct of foreign affairs and the maintenance of adequate defense.

Clearly the national defense responsibility should be met first.

Just the opposite has happened dur- the past decade. There has been a vast expansion of social programs while the vital area of national defense has been forced to take what was left. As a result the Soviets have outspent us on military items in real terms by as much as 30 percent according to some experts.

As a result we face a grave threat to our Nation. Norman Podhoretz in his recent book, "The Present Danger," speaks directly to the point. He notes that in 1947 George Kennar called Soviet expansionism an "implacable challenge" to the United States and free institutions of the western world. Podhoretz points out that if the challenge presented a great threat in 1947 when the West had a nuclear monopoly, it is as, he says, a far greater danger and an even more implacable challenge in this time in which we have lost our proponderance of power.

Alexander Solzhenitsyn issued a chilling warning to us when he wrote:

> All warnings to the West about the pitiless and insatiable nature of Communist regimes have proved to be in vain because the acceptance of such a view would be too terrifying. Most amazing is that the Communists themselves have for decades loudly proclaimed their goal of destroying the bourgeiosie world which the West merely smiled at what seemed to be an extravagant joke.

Mr. President, too many Americans have been looking at the world as we desire it to be, not as it really is. We do not want war and so we chose to believe that others will avoid it at all costs. We feel that nuclear war is unthinkable and so we close our eyes to published Soviet doctrine that clearly shows that they believe that a nuclear war is both thinkable and winable.

How far we will go to explan away Soviet aggressiveness is demonstrated by the way in which some commentators have tried to explain away Soviet aggression in Afghanistan. They explained that the move was a sign of Soviet weakness because the Soviets were concerned about having a base of Moslem militants on their borders who might stir up minorities within the U.S.S.R. This hypothesis was advanced in spite of a total lack of evidence of any increase of action by minorities within the Soviet Union.

It shows, Mr. President, how far we will go to avoid facing the real world. Our own Presdent confessed that he was shocked by the Soviet invasion of Afghanistan.

None of us should have been surprised. The Soviets have struck before when they felt that the balance of power favored them and that they could obtain what they wanted for an acceptable price. They will strike again when the right conditions prevail again. Hopefully we will have become realistic enough not to be shocked again.

Earlier this year when I spoke on the Senate floor on this same subject, I quoted a column by George Will. On it, he spoke of the wishful thinking of those who hoped that the threat by Hitler would somehow go away. The leaders of the day shrank from the need to draw lines and contain the threat.

He said:

> After Hitler's first great gamble, the remilitarization of the Rhineland in 1936, there was a growing sense of the need to confront Hitler. But there were always those who said not here, not now. Not about the Rhineland, or the Sudetenland, or the rest of Czechoslovakia and, why die for Danzig?

He quotes Eric Sevareid speaking of the collapse of France in 1946 as saying:

> Their last experience (in World War I) had taught them that there is no such thing as true victory for civilized men who have no desire to conquer others. Their tragedy was that they had reached a point of human progress too soon; they were living before their time. They were the last people on Earth who should have had Germany for a neighbor.

Will goes on to point out that while war, because of its terrible suffering, may never bring true victory, still there are lesser victories worth winning, such as avoiding the fate of France in 1940.

As the column points out, we must not allow our genuine hatred of war and our love of peace to blind us to the need to have a military capacity necessary to resist "barbarians." In the real world there are often "barbarians at the gates" who do not share our values and our revulsion at war.

George Will aptly concludes his column by saying:

> Barbarians are a fact of life, as is the fact that nations cannot choose their neighbors. And because if its military capacity and ideological appetite for a global reach. Russia is everybody's neighbor.

This is the real world, to the Soviets, the bottom line is power. If we want to keep the peace, we must begin by convincing the Soviets that we mean business about repairing America's strength and positioning it where it can be effectively used if the situation merits it.

Mr. President, the times are fraught with danger. The Soviets not only perceive that the balance of power now favors them, they also believe that we may be waking up and might take steps to repair the balance. In other words, the Soviets perceive that their advantage may be temporary.

If a perception of an advantage leads a nation to be aggressive, the perception of a temporary advantage may well be an even more dangerous encouragement for aggression in the short run.

We do not have time to wait. We must act immediately to close this perceived Soviet window of opportunity.

Mr. President, we are clearly unprepared as a nation to adequately resist Soviet aggression. While it appears that Congress will make some small amount of progress this year because of the tireless efforts of several of our colleagues like Senator SAM NUNN of Georgia who have tried to alert us all. Nevertheless, we will still be a long way from achieving a level of preparedness necessary to protect our Nation's security. We are behind in strategic weapons. We do not have conventional military supplies and equipment to face either a short-term or long-term struggle. Perhaps, most alarming of all, even if we had the equipment and supplies with which to defend ourselves, we do not have the trained people to use them and maintain them.

Mr. President, the parallels with earlier periods in our history are all to clear. Podhoretz in "The Present Danger" points to them with great clarity. He says:

> Walter Laqueur divides the British response into four distinct stages. In stage one, it was claimed that the reports of German rearmament were grossly exaggerated; in stage two, the reports were acknowledged as true, but it was alleged that Germany was so far behind that it would never catch up; in stage three, it was admited that Germany had achieved parity with or even surpassed Britain, but it was also said that this did not constitute a military threat since the Germans had to defend themselves against potential enemies in the East as well as in the West; and in stage four, when the full extent of German superiority was finally faced, it was said that survival now had to be the overriding consideration, and the counsels of appeasement prevailed.
>
> Compare this to the description by Harvard's Richard Pipes (who also headed a team of nongovernmental experts appointed during the Ford administration to review the CIA's estimate of Soviet military capability) of the American response to the Soviet military build-up of the past few years: "The frenetic pace of the Soviet nuclear build-up was explained first on the ground that the Russians had a lot of catching up to do, then that they had to consider the Chinese threat, and finally on the grounds that they are inherently a very insecure people and should be allowed an edge in deterrent capability."
>
> Churchill, thinking of the ancient adage *si vis pacem para bellum* ("If you want peace, prepare for war"), later called World War II "the unnecessary war." It could, he thought, have been prevented if the democ-

racies had rearmed earlier instead of allowing the military balance to tip in Hitler's favor.

Mr. President, as I have on an earlier occasion, I want to quote the words of Gen. Douglas MacArthur in the hope that we will not be condemned to repeat the mistakes of the past.

In the late 1930's from the Philippines, General MacArthur wrote to William Allen White:

> The history of failure in war can be summed up in two words . . . "too late." Too late in comprehending the deadly purpose of a potential enemy; too late in realizing the mortal danger; too late in preparedness; too late in uniting all possible forces for resistence; too late in standing with one's friends.

Mr. President, we do not have the luxury of having time to waste. If we are to avoid war and keep the peace, we must not be too late.

EXHIBIT 1

[From the Sunday Oklahoman, Aug. 31, 1980]

SHORTAGES CRIPPLE U.S. MILITARY'S READINESS

(By Jack Taylor)

The combat readiness of America's armed forces has been so crippled by shortages in manpower, equipment, supplies, fuel, ammunition and money that the U.S. military no longer has the punch to back up commitments the public is told it can support.

Combat units have been cannibalized for men and flyable planes for parts. Proficiency has dropped because of slashes in training and cuts in flying hours. War Reserve Stocks (WRS) have been reduced to critical levels.

Maintenance has declined and the backlog of repairs is in the billions of dollars. Morale has sagged. Critically needed, skilled combat officers and enlisted men are abandoning service careers in record numbers.

Objectives have been lowered in manpower, recruiting, training, maintenance and equipment readiness—giving a deceptive picture and false sense of security.

Some members of Congress have accused military leaders of being less than candid, even deliberately deceptive, about readiness. There is evidence to support those charges.

Based on interviews with military officials in Washington, commanders in the field, defense specialists and top secret documents obtained by The Oklahoman, the condition of America's armed forces is far worse than suggested by even the generally bleak public perception that now prevails.

Seven of the Army's 10 continental U.S.-based divisions dropped from fully combat ready to not combat ready status in just two years. The Army in Europe, where an emphasis has led to cutbacks damaging the readiness of reinforcements at home, is suffering its own cutbacks and shortages, reducing readiness and hurting morale.

A fourth of the Army's divisions lack one brigade each, and others are missing one or more maneuver battalions. There are weaknesses in recruiting and retaining enough men, getting and maintaining enough equipment and in the ability to mobilize in an emergency.

It is truly, in the words of Gen. Edward C. Meyer, the Army's chief of staff, a "hollow Army."

The readiness ratings, a management tool for crisis managers in the Pentagon, were compiled in December. Military analysts on Capitol Hill say little has changed since then because there simply aren't enough men and money to fill the gaping holes.

Yet during testimony last February before the House Appropriations Committee's defense subcommittee, Armv Secretary Clifford L. Alexander Jr. claimed the Army is "adequately ready" and that strengths are "combat ready."

Pentagon officials at Army headquarters and those at the U.S. Army Forces Command headquarters at Fort McPherson, Ga., flatly refuse to reveal authorized and assigned strengths of the Army's combat divisions, though that information has always been readily available and today still is not classified.

Spokesmen for several divisions provided strength figures, however, that show only the 82nd Airborne Division and the 24th Infantry Division (Mechanized) have enough manpower to be rated fully combat ready. Seven others are so short they can be rated no higher than substantially combat ready with minor deficiencies in the manpower area.

The III Corps Artillery at Fort Sill, which would reinforce units in Europe in the event of war, is worse off, rated only marginally combat ready in the personnel category.

The Navy has been sailing ships and deploying aircraft rated not combat ready for the first time, crippled by shortages of skilled petty officers and depleted fuel supplies. It is stretched thinner, as Adm. Thomas Hayward, chief of naval operations, says, than at any time since the late 1940s, trving to meet a three-ocean commitment with an 1⅙-ocean Navy.

In the fleets, 24 percent of all ships—currently only 20 in the 6th Fleet, 32 in the 7th Fleet and 18 in the Indian Ocean task force—are less than fully ready because of skilled personnel shortages. The Navy has been shuffling sailors to make up only minimum crews, and at least two captains have refused to sail because of what they considered unsafe operating conditions caused by crew shortages.

Naval aircraft mission capability ratings have declined, repairs have been postponed and even shipboard materiel readiness has dropped.

The Air Force, crippled by a pilot exodus, suffers from lack of spare parts and reduced flying hours because of the high cost of fuel. Many planes are not considered mission capable. Some critical squadrons are only half ready to fight. Even the high-priority Strategic Air Command has cut back, with only 30 percent of its bombers now on daily alert.

Even the Marine Corps, smallest and most elite of the armed forces, rates all three of its divisions and air wings as only substantially, not fully combat ready. The corps is hurt by old and poorly maintained equipment, shortages in critical jobs and a critically inadequate air and sealift capability.

Reserve components, which provide half the nation's combat power and two-thirds of its support capabilities, struggle to stay alive on one-twentieth of the defense dollar. The reserves and National Guard are even harder hit.

"Our concern now is that we don't have the reinforcement capability back here in the states, either in our guard or reserve or active components," Gen. Meyer said during a commanders' conference at Fort Hood, Texas, in July.

The cumulative effect on the state of American military readiness can be expressed in a single word: Unprepared.

There is a critical decline in the readiness needed to meet commitments and support the nation's strategy of maintaining enough military power to fight a major war in Europe and simultaneously engage in a mini-conflict elsewhere—the so-called 1½ War Strategy."

That raises a serious question about effectiveness of the new, highly touted Rapid Deployment Joint Task Force of soldiers, airmen and Marines organized on President Carter's orders in the wake of the Soviet invasion of Afghanistan. It is designed as a reaction force for potential flare-ups in such hot spots as the Persian Gulf.

But two of the three Army divisions committed to the force are among the seven not combat ready. The 101st Airborne Division (air assault) has combat ready helicopters, but not enough pilots. Moreover, there isn't enough air and sealift power to get them anywhere in the time needed or to provide supplies.

In a speech last May, W. Graham Claytor Jr., deputy secretary of defense, contended "our programmed airlift assets are possibly adequate to meet the requirements of a NATO-Warsaw Pact conflict in Europe alone."

A top-secret Pentagon report states, however, that "studies indicate the current capability is less than 20 percent of U.S. cargo requirements for the first 20 days of a NATO conflict," even when 373 long-range passenger aircraft committed by civilian airlines to the Civil Reserve Air Fleet are thrown in.

"That," says a defense specialist on Capitol Hill, "is a long way from adequate."

Many generals and admirals have spoken openly, if guardedly, about the crisis and the urgency to find more money, men, weapons, equipment and supplies to improve American combat readiness.

But the public, and in some cases even Congress, has not been told just how bad things really are. The services are keeping their overall readiness ratings closely guarded, even from Congressional inquiries.

As one Army general staff member said, they don't want anyone to know how "embarrassingly low" our readiness levels really are.

"The size, readiness and sustainability of U.S. conventional forces cannot ensure the success of the strategy they are required to support," Gen. David C. Jones, chairman of the Joint Chiefs of Staff, bluntly warns in a still top-secret assessment of the military's capabilities.

"The mismatch between the declaratory strategy and the level of forces available to sustain it has been apparent for several years and has grown more acute as the Soviet Union and its allies have increased and improved their forces at a pace unmatched by the United States and its allies.

"One means of redressing the strategy-force mismatch is to lower objectives, that is to reduce the range and depth of U.S. commitments. This step, however, cannot be taken without degrading the strategic position of the United States."

American strategic deterrence, however, also is suffering.

The military's stated objectives are to prevent the outbreak of war in Europe and, if deterrence fails, contain an attack without losing significant ground. Then, the objective is to bleed Soviet armies so they will be forced to negotiate and withdraw. Short of that, the U.S. and its allies will have to hold off until full mobilization can provide needed reinforcements.

But a recent Congressional Budget Office study noted: "It should be clear that the first objective—deterrence—depends very much on having what the Soviets perceive as a reasonable capability to attain the second and third objectives, containing and holding the Warsaw Pact armies. Deterrence also depends upon the perceived capability of U.S. strategic nuclear and tactical nuclear forces and the chance they might be used."

Gen. Richard H. Ellis, commander-in-chief of the Strategic Air Command's bomber and intercontinental ballistic missile forces, told Defense Secretary Harold Brown in a secret letter as long ago as April 1979 tht strategic nuclear forces no longer have the capability to support U.S. policy, short of initiating a first strike or launching while under attack—strategies the United States has consistently rejected.

Yet last week, Brown enunciated the very policy Ellis rejected—the so-called "countervailing strategy" of aiming at selected military and political targets in the Soviet Union instead of relying on so-called mutual assured destruction (MAD), the strategy of annihilating the entire civilian population.

"It is apparent that the principle of maintaining a countervailing strategy cannot be supported in the 1979–86 time period short of an LUA (launch under attack) or initiative attack (first strike)," Ellis warned.

The Army has the equivalent of more than five divisions stationed in Europe for defense of NATO, with another division in Korea. The remaining 11 divisions are committed as NATO reinforcements. Three of them also are committed to the Rapid Deployment Force.

According to Gen. Jones' secret evaluation, written this spring, four divisions are available for contingencies in the Pacific, Persian Gulf and elsewhere, but only "in the absence of a NATO/Warsaw Pact confrontation."

That clearly suggests the Rapid Deployment Force would be fighting in Europe, in the event of a war there, leaving nothing to react to a so-called "half-war" elsewhere.

The Navy's long-time advantage over the Soviet fleet is being lost in several critical areas. Current and planned capabilities to wield significant tactical nuclear clout "are inadequate to deny the Soviet Union a significant advantage if a war at sea escalated above the conventional level," Jones' assessment states.

The Navy's nuclear anti-surface ship capability provided by the A–6 and A–7 carrier-based, attack aircraft is limited by too few planes and "inadequate countermeasures against increasingly sophisticated Soviet air defense and continuing Soviet emphasis on anti-carrier-forces," Jones said.

There is no current U.S. nuclear anti-ship program in progress, and there are no nuclear-powered surface ships in the Navy's current five-year defense plans.

The Navy's mine-clearing capability also is inadequate. It amounts to 25 aging ocean minesweepers—22 of them reserve—and 21 RH–53D Sea Stallion helicopters—seven of them lost in last April's aborted attempt to rescue American hostages in Iran.

The Pentagon has stated publicly that minesweeping is an "area of serious concern." But Gen. Jones' secret report leaves no doubt that program is bleak, and the consequent threat to both surface ships and submarines is substantial.

The Navy can clear only moored, magnetic and acoustic mines, Jones said, but it cannot clear buried or pressure-activated mines. And, the forces are "inadequate for operations in deep water or in areas distant from their bases."

Americans air defense is virtually non-existent. Warning systems are inadequate and vulnerable.

"Present U.S. surveillance systems can provide warning of aircraft attacking at high or medium altitudes through the polar region," Jones has stated publicly. But in his secret assessment, he adds: "But they have virtually no capability to provide warning or attack characteristics from any other threat axis."

The ability to provide a logistics pipeline to support combat also is inadequate.

Jones said in his secret report that only the support system is adequate "and it is marginal." And, he added. "The WRM is dangerously inadequate to support a strong initial defense capability. Current U.S. government and privately-owned industrial bases lacks the capability to compensate appreciably for WRM deficiencies or influence defense production during the early months of a major conflict."

Unstable world-wide petroleum supplies have caused wholesale military petroleum inventories to drop 14 percent in the last year, "requiring the use of WRS to provide continued support of daily readiness and training," Jones said.

Even basic ammunition to provide a fighting chance is critically short, with some estimates of the dollar value of the shortage as high as $20 billion.

According to secret Pentagon figures on the level of only the ammunition pre-positioned as war reserve stocks as of last December, the Army was short 50 percent of what it needs in Europe and 30 percent in the Pacific. The Navy was short 49 percent in Europe and 36 percent in the Pacific, and the Air Force was short 34 percent in Europe and 10 percent in the Pacific.

Those stocks are supposed to support deployed forces until the supply pipeline has been established and is fully supported by the U.S. industrial base. But the industrial base cannot influence the first six months of a NATO war, even if a national emergency were declared, according to Jones, because of the time it would take to gear up and the fact that the facilities are undersized.

Why has military readiness dropped to "embarrassingly low" levels?

The big reasons are money, desire and priorities.

The U.S military now has only a fourth of the bases it had in the 1960s and only a third of the overseas troops it had in 1968.

"Since 1960, the Soviet Union has fielded 60 new systems—tanks, surface-to-air and antitank missiles, attack and troop carrying helicopters and sophisticated electronic warfare equipment. There is no indication that the impetus of this effort is slowing," Army Secretary Alexander and Chief of Staff Meyer said in their joint posture statement on the Army for 1980.

"For our part during that period, we applied incremental improvements to those systems already in the field and in the early 1970s began investing heavily in research and development of new systems.

"Today, we are on the threshold of the largest peacetime modernization in the Army's history. The fruits of our research and development programs are ready to buy—and they are desperately needed."

The trouble is that many of the new weapons systems and improved equipment—for the Air Force and the Navy as well as the Army—are months, sometimes years away from actual use.

There is clear evidence that readiness has suffered so that more money could be spent for new hardware for the future.

Dr. Percy A. Pierre, assistant secretary of the Army for research, development and acquisition, and his military counterpart, Lt. Gen. Donald R. Keith, explained in a joint statement called "Equipping the Army of the '80s."

"Our presently fielded systems are now largely inferior in quality to their Soviet counterparts," they said. "They are obsolescing rapidly as the Soviet modernization drive continues. We cannot, therefore, mortgage the future of the Army by building readiness and sustain ability at the expense of modernization."

During the last decade, the Soviet Union spent $104 billion more on defense than the United States. That, as calculated by the authoritative "Aviation Week & Space Technology," is "enough money to have paid for the entire U.S. Air Force B–1 bomber program, the MX advanced intercontinental ballistic missile program with missiles and shelters, Trident submarines and ballistic missiles for them, for 7,000 Army XM–1 battle tanks and the same number of infantry fighting vehicles, 300 of the cancelled advanced medium short takeoff and landing transport (AMST) and all the tactical aircraft needs of the Air Force and Navy."

As Army Maj. Gen. Dewitt C. Smith, commandant of the Army War College, said in an address to the graduating class shortly before he retired in June, "Our total defense is inadequate to face the threats and challenges of today, let alone those which may exist tomorrow. . The greatest technological society on earth has been caught by the Soviet Union in terms of quality of military equipment. . . Our strategic stockpiles are inadequate . . . In weaponry, except for strategic nuclear forces, we are not even close to the requirement."

Retired Gen. Maxwell Taylor, former chiarman of the joint chiefs of staff, wrote in a recent letter to editors of The Washington Post that "our armed forces in the aggregate are dangerously deficient in their capability to deter conflict, conduct sustained combat overseas even on a limited scale or to provide the military backing necessary to support our foreign policy, present or projected."

The decline has been most pronounced during the years since President Carter took office and successively curtailed or cancelled programs the military has repeatedly warned it needs.

As long as two years ago, Adm. Elmo Zumwalt, former chief of naval operations, said in a speech in Oklahoma City that because of "naivete" of the Carter administration, U.S. military capabilities have become so ineffective that if involved in a nuclear war with the Soviet Union, more than half the American population would be annihilated.

Sen. John Tower, ranking Republican on the Senate Armed Services Committee, placed the blame squarely on Presdient Carter in a scathing speech on the Senate floor last May.

"During my 19 years in the Senate, spanning the administrations of five presidents, I have always tried to work with the chief executive as the symbol of our nation's power and prestige in the world. But the time has come for us in the Senate to realize that this president is not protecting our vital interests," Tower said.

"The perfidy and deception Jimmy Carter has used to mislead the American people and our allies on defense spending has resulted in a fundamental shift in the strategic nuclear balance. The dangerous international environment which has been kinded by the president's weakness and vacillation hold grave risks for our economic well-being and our security and cannot be allowed to continue.

"For more than three years, while hiding behind a smoke screen of tough rhetoric, Jimmy Carter has presided over the most ominous shift in the balance of power in modern history."

[From the Sunday Oklahoman, Sept. 7, 1980]

U.S. Forces Not Ready for Prolonged War

(By Jack Taylor)

Severe shortages in weapons, ammunition, equipment and supplies and critical shortcomings in maintaining what is available, have so stymied American armed forces that they would have trouble winning a prolonged major war without resorting to nuclear weapons.

War reserve stocks and pre-positioned material are inadequate to support even a short war. Equipment readiness has deteriorated because of sloppy maintenance and a shortage of spare parts.

Reinforcing equipment and supplies have been depleted and existing supply lines cannot fill the void in time of war.

Combat proficiency has declined. Overall readiness of the Army, Navy, Air Force and Marine Corps can be summed up in a word: unprepared.

Based on interviews with Pentagon officials, field commanders, military specialists and on top secret documents obtained by The Oklahoman, there is for the first time in 40 years a serious question about America's ability to fight.

Equipment shortages are so severe and maintenance has so deteriorated in the Army that many soldiers now rank the problem above such traditional grievances as low pay.

Late last year, the Army surveyed 45,000 soldiers in every major command about their likes and dislikes. The startling results showed every category—from first-term enlisted men to officers—ranked dissatisfaction with their equipment high on the list. It was the No. 1 grievance in most categories and No. 3 among first-termers.

Col. Lanny Standridge, who heads the Army's so-called Quality of Life Program at the Pentagon, minimizes the significance of the survey results by saying they haven't been fully analyzed.

And, Maj. Larry Candeleria, who works for Standridge, says bluntly he's not sure the survey "necessarily gave us the results we were looking for."

William D. Clark, principal assistant secretary of the Army for manpower and reserve affairs, told the House Armed Services Committee earlier this year that the Quality of Life Program "has a direct impact on the ability to man the force on the near-term readiness of those forces."

All services are critically short of war reserve materiel and equipment, ammunition and supplies prepositioned in Europe for use in the event of war there. America's North Atlantic Treaty Organization allies are in the same shape.

By contrast, the Soviet Union and its Warsaw Pact allies have nearly twice as much stored materiel in some crucial categories, such as aviation fuel. In a showdown, that could be disastrous for NATO.

Warsaw Pact nations will rely on superior numbers to quickly overwhelm NATO troops, which must rely on reinforcements and resupply from the United States, where air and sealift capabilities are inadequate.

In major, computerized mobilization and deployment war games called Nifty Nugget/Rex-78, conducted by U.S. military and civilian authorities in November 1978, it was concluded American forces would have lost the war. One of the critical weaknesses was in materiel stockpiles—shortages of everything from weapons and armored personnel carriers to spare parts and uniforms.

Just before those exercises, the Army reported its prestocked supply shortages amounted to $1.7 billion, with major shortages involving $991 million in clothing, $415 million in high-priority equipment and $157 million in aviation spares and repair parts.

"The deficiency, if valid, would appear to leave the Army unprepared for an armed conflict," the General Accounting Office noted at the time.

The GAO found inconsistencies in planning such stocks, an even found the Defense Logistics Agency had $654 million worth of high-priority Army equipment somewhere in a lower priority war reserve inventory.

Last year, a few months after Nifty Nugget, the GAO reported that Air Force units in Europe were not fully combat ready and aircraft were not fully mission capable because they needed maintenance or supplies. There were critical shortages in war reserve spare parts and ammunition.

"U.S. air forces in Europe would have varying degrees of difficulty transitioning to a wartime posture, particularly in a surprise attack," the GAO said. Investigators added that the Air Force was seriously short of missiles and "no quick solutions are in sight."

"Although shortages of pre-positioned stocks were well known by military planners prior to Nifty Nugget/Rex-78, the exercises demonstrated those shortfalls for senior military and civilian officials in a simulated crisis situation," the Defense Department said in a highly censored evaluation report released this June.

"The result was heightened concern about the shortfalls and, until those stocks had reached their objective levels, (about) steps to include them in the transportation plans," the report said.

Translating that concern into action is difficult, particularly when there isn't enough money to buy all the equipment and supplies needed, and especially when that, in turn, forces repeated use of those stored materials just to maintain daily operations.

Consequently, shortages remain critical.

In a top-secret assessment of the American military by Gen. David C. Jones, chairman of the Joint Chiefs of Staff, a much more pessimistic picture than is generally known emerges.

War reserve materiel "is dangerously inadequate to support a strong initial defense capability," Jones warned. Petroleum, ammunition and crucial weapons systems stockpiles are critically short, with the fuel pinch so severe that war reserves have been constantly depleted "to provide continued support of daily readiness operations and training."

Reinforcing units from the United States may experience selected equipment shortages ranging from 30 to 50 percent just so some equipment can be pre-positioned, reducing the Army's ability to train and diminishing the ability of those troops to respond to non-NATO emergencies, Jones said.

Shortages of ordnance and fuel also are hurting everyday readiness. The Navy has current fuel storage capacity in Europe for only 71 percent of needed aviation fuel and 66 percent of necessary surface ship fuel.

All services are short of ammunition pre-positioned in Europe, ranging from 34 percent for the Air Force to about 50 percent for the Army and Navy, according to Jones' secret report.

Even NATO's Long-Term Defense Program, approved at a summit meeting in Washington in May 1978 to structure the alliance's defenses for the 1980s and beyond, "lags far behind" in storing ammunition for a European war—what Jones called a "general failure of nations to meet war reserve stock levels for ammunition to support a minimum of 30 days of combat."

The Warsaw Pact is much better prepared.

"Soviet doctrine emphasizes that pre-positioned war reserve stocks should be sufficient for a minimum of 20 to 25 days of intense combat within each front," Jones said in his secret assessment. "Petroleum, oils and lubricants (POL) stocks exceed anticipated ground forces requirements in all theaters.

"Ground force ammunition stocks in the German Democratic Republic, Poland Czechoslovakia and the three western military districts of the Soviet Union are sufficient to support five fronts in a series of successive operations against NATO's central region. These stocks would support sustained operations for 50 to 75 days.

"In conventional operations, Warsaw Pact stocks of aviation POL could support about 55 days of flying. Aviation ordnance stock levels would support operations for about 35 days."

In shocking contrast, the U.S. Army's European stockpile was still critically short of some of the most essential weapons and equipment even a year after Nifty Nugget, according to Jones' report.

There was only 13 percent of the minimum, 60-day requirement for 3,673 tanks; none of the 540 needed 155mm and 8-inch howitzers; none of the necessary 2,005 armored personnel carriers, and one-tenth of 1 percent of the needed 2,665 trucks.

That, Jones said, is of "great concern" to the Army, because its troops "are dependent upon these stocks for sustaining combat operations in Europe until a resupply pipeline across the Atlantic has been established."

Maintenance capabilities of U.S. forces are deficient "even for a short war," Jones said. The Army is so short of maintenance units it cannot meet even minimum requirements for the early stages of a major conflict. Air Force and Navy aircraft have only enough spare parts for 30 days or less.

"Maintenance," as Dr. Martin Reuss, an Army Corps of Engineers historian, noted in a recent issue of Army Logistician magazine, "critically influences the other functional areas of logistics and affects the ability of any force to accomplish its mission."

Last year, the Army's backlog of maintenance repairs swelled to more than $240 million worth of equipment, with the Army continuing to emphasize buying new hardware—most of which is not yet in the hands of the troops while repairable equipment simply piled up in rear-echelon depots.

Gen. Frederick J. Kroesen, the Army's commander in Europe, says by the end of this year his troops will have only 27 days of supplies of a minimum 30 to 60-day requirement, and the Army's ability to keep from losing will depend, simply put, on reinforcements and resupply from the United States.

The present state of the military's equipment and supplies raises serious questions about how candid Pentagon officials have been with the public and even with the Congress.

In a report issued shortly after Nifty Nugget, the GAO concluded that the Army had made considerable progress in managing its pre-positioned equipment stocks and in equipment maintenance, and had eliminated a large maintenance backlog.

Ammunition has become so expensive that some Air Force and Navy pilots seldom get to fire live missiles in training, and Army missilemen launch the real thing only once every two or three years. The Air Force now provides simulators for make-believe flying. The Army uses similar devices for make-believe firing by tank and anti-tank gunners.

Lt. Col. Larry R. Tinberg, who commands a Pershing missile battalion at Fort Sill, which has a NATO-reinforcing commitment, says, "It would obviously be better if we could fire more missiles. It's always good if a soldier sees that that thing really does work."

Partly because of rising costs for all types of ammunition, the Army's field artillery center at Fort Sill is using less than one-third the amount of ammunition each year to train new cannoneers than during the peak Vietnam War year of 1968.

Last year, the Army fired only 208,609 rounds of all types of artillery ammunition at Fort Sill—32 percent of what was used in 1968 and down 5 percent from what was used in 1978.

The Army also is critically short of some ammunition. Some that is stockpiled is so old and has been so poorly maintained it is considered unusuable.

The Marines contend they are short less than one-half of 1 percent of their ammunition requirements, though trucks and engineering equipment are critically short in all three Marine divisions.

Pre-positioned war reserve materiel for the II Marine Amphibious Force, 52,000 men headquartered in North Carolina and committed to reinforce NATO, was found sorely lacking, according to a secret GAO report issued last year which the Marines recently declassified.

That report noted that the II MAF was so short of its amphibious assault vehicles that more than 6,700 Marines would not have the required armored protection and mechanized mobility in any amphibious assault. Spare parts shortages were so severe that one crucial part, for example, would take more than two years to obtain.

Of all the weapons systems and equipment, aircraft in the Air Force, Navy, Army and Marine Corps are particularly hard hit by readiness problems because of their complexity and sophistication, and by critical space parts shortages.

Nothing is more perplexing, Adm. Thomas Hayward, chief of naval operations, said in a recent speech, "than the problem of highly sophisticated, extremely capable, and therefore very complex equipment, which is down more than it's up simply because we have failed to design the kind of reliability and maintainability into it that the best talent in American industry is capable of producing."

Operational readiness of fighters in the Air Force's Tactical Air Command has dropped to less than 55 percent overall, when it should be at least 70 percent.

The Strategic Air Command's B–52 bomber force has reduced readiness, which is somewhat disguised by cutting the number of planes on daily alert from 40 percent to 30 percent. The Navy, which has crashed more planes than it has bought in the last two years, has disguised readiness ratings by cutting back on the number of aircraft composing squadrons of the A–6 Intruder, the all-weather, carrier-based attack plane considered one of the best aircraft in the U.S. arsenal.

During the past two years, it was found that fewer than 65 percent of all Navy and Marine Corps aircraft were fully combat operational on any given day, a study by the Congressional Research Service noted last June. There have been continuing reports of significant numbers of aircraft unprepared for combat, sometimes ranging as high as half of every squadron on some bases.

The Navy's F–14 is the "best plane in the skies today," Adm. Hayward says, "but it requires over three times as many maintenance man-hours as an A–4M and has twice the down time for parts and maintenance."

In testimony before a House Armed Services subcommittee this year, Lt. Gen. William J. White, deputy chief of staff for Marine aviation, said because of shortages in money and planes, the Marine Corps has been forced to cut its A–6E attack force by 11 aircraft, or 17 percent.

"My concern," he said, "remains that adequate close air support in periods of darkness and during inclement weather will not be available to our young Marines on the ground."

Air Force Secretary Hans M. Mark and Gen. Lew Allen Jr., his chief of staff, told the House Appropriations Committee in their prepared posture statement this year that materiel readiness deficiencies are of "grave concern," and added: "Our maintenance activities continue to be complicated by inadequate inventories of support equipment and spare parts and munitions, seriously detracting from our ability to sustain combat."

Tactical air forces in Europe would run out of spare parts in "30 days or less," according to Gen. Jones' secret report.

Because the highly praised F–15 fighters have been grounded for lack of engine spare parts, Congress added $75 million to the new budget for just that item.

Fying hours on virtually every aircraft have been cut because of the high cost of aviation fuel. That hurts pilot training and proficiency and affects confidence and morale—all of which reduces readiness.

"It's less than what our goals are," Maj. Gen. John T. Chain Jr., director of Air Force operations and readiness at the Pentagon, told The Oklahoman. "We only have so many dollars in our budget and they just don't spread that thin. And money is short in every conceivable area to include things to get the airplanes that exist today flying at the rates that we want them to fly."

One Capitol Hill source says a recent Air Force briefing disclosed that when a squadron of F–111s was tested last spring, it was able to achieve only 50 percent operational readiness—and that by constantly cannibalizing parts from planes that just landed in order to get more in the air.

Because of fuel and funding constraints, the Navy has had to cut flying time for both carrier aircraft and non-deployed planes ashore "to less than 70 percent of the hours required to attain primary mission readiness status," Gen. Jones said in his top-secret assessment.

When the GAO checked the II MAF, investigators found that the unit's 457 fixed wing and helicopter aircraft were operationally ready only 58 percent of the time due to supply shortages and maintenance problems. For readiness reporting purposes, aircraft the Marines think they can have flying within 72 hours are counted as ready.

However, the GAO reported that the Marines could have serious problems getting some of the deadlined planes into the skies on short notice because of significant parts problems. "A number of critical repair parts and components, which were deadlining aircraft at the time of our review," the GAO noted, "were not available in the entire Navy supply system."

Although the Defense Department spends $20 billion each year to maintain readiness of its weapons systems and equipment valued at hundreds of millions of dollars, no one in the Pentagon knows how much readiness a dollar will buy or can determine how much readiness is really needed, the GAO reported following an investigation last year.

That investigation was prompted by the Senate Armed Services Committee's dissatisfaction with the Pentagon's first materiel readiness report. A source familiar with the committee's action said some senators believed the Pentagon "deliberately obfuscated" its report and avoided detail that would have given an accurate measure of equipment readiness.

The second report, submitted in February and kept secret by the Pentagon, provided more detail and showed an overall "downward trend" in equipment readiness, the source said. Although readiness ratings of some weapons were high, others were extremely low, particularly for more complex weapons systems like aircraft.

In another GAO report last year, the Pentagon was said to be experiencing "increasing difficulty" simply managing its "burgeoning maintenance manuals," considered indispensible to maintaining equipment.

Auditors found in checks of 131,000 aviation manuals containing 13 million pages that some were too complex for even trained mechanics to read, some were out of date and others were inaccurate. All of that, the GAO noted, adversely affects equipment readiness.

The Air Force estimates it could save $108 million of its annual $3.6 billion maintenance tab if it could simply improve its manuals so mechanics could read them.

The Defense Department initiated a reorganization study to correct the manuals problems, the GAO noted in its report. But when asked about that recently, Samuel P. Miller, acting director of the Defense Materiel Specifications and Standards Office, said he could not even locate such a study.

He did say a number of actions have been taken by the Pentagon since September 1979, mostly involving studies and evaluations on what to do about the problem.

In a report earlier this year about the Pentagon's readiness reporting to Congress, the GAO noted that military officials had not used the time they were given to develop a better report.

"In the last two years, the GAO added, "the Readiness Management Steering Group has failed to take the necessary action to carry out the secretary of defense's directive to establish a long-range plan for relating resources to readiness."

The Navy spends more than $3 billion a year to maintain its ships, the GAO said in a 1978 report, though Navy brass have never really related readiness requirements to maintenance costs, or even developed a system for measuring readiness.

Navy ships cost an average of $2 million a year to maintain, compared with only $400,000 annually for similar commercial vessels, even though Navy ships are at sea about 20 percent of the time compared with 40 to 70 percent for commercial ships.

Part of that disparity, the GAO noted, is the weapons systems and larger crews peculiar to naval vessels. But part also is caused by the Navy's policy of regularly overhauling ships and equipment without a comprehensive ship maintenance plan which considers equipment damage and failure rates and their effects on ship missions and readiness levels, the GAO said.

Adm. Hayward says the average cost of ship overhauls has tripled since 1973, partly because of inflation but also because ships are more complex and the Navy is trying to modify them to improve reliability and maintainability.

Last year, the GAO found that damage caused by the high incidence of fires on Navy ships was greater because of poorly maintained firefighting equipment and improperly trained sailors. Since 1969, fires have caused $26 million in damage to aircraft carriers and $135 million to other ships.

Yet when the Navy tested firefighting equipment on aircraft carriers during a two-year period, four of 13 types of equipment failed more than 28 percent of the time. "According to Navy inspection records," the GAO noted, "the reduced system readiness was a direct result of improper or incomplete maintenance."

In another GAO report earlier this year, auditors said the Navy has never figured into its mobilization plans exactly what it would need to repair electronic and electrical equipment—now costing about $275 million annually—during wartime. "As a result," the GAO said, "it has no basis for measuring if existing capacity is too much, too little or the right kind."

Although the Army's highest priority is to support troops that can perform their combat mission effectively, the GAO found some units had difficulty maintaining equipment because problems were undetected and unreported, soldiers lacked motivation, maintenance was improperly done and repair parts weren't always available or correctly ordered.

In checking just five combat units, GAO auditors found nearly 800 problems that needed immediate correction—and half had not even been recognized or reported.. "Even when equipment deficiencies were recognized, they were not always reported," the GAO said.

"Because of this, daily equipment condition reports provided unit commanders with invalid information that was of little use in effectively planning maintenance workloads and setting unit priorities."

In another report last year, the GAO found the Army unnecessarily spends millions of dollars to repair parts when there are more than enough of the same serviceable parts already available. The same problem had been pinpointed by the Army Audit Agency in 1972 and Army brass supposedly had taken corrective action. But when the GAO checked in 1979, auditors found the Army had done nothing.

In February 1979, the Army did initiate

a new "maintenance management improvement program" in an effort to encourage better maintenance in the field, improve training, streamline maintenance procedures and improve equipment readiness.

But the principal result of the new program so far has been distribution of a handy, pocket-sized "Maintenance Guide for Leaders" showing how to appraise maintenance operations.

Still, problems persist.

The Army recently found its artillery men were experiencing frequent breakdowns of their 155mm and 8-inch self-propelled howitzers, the key support weapons for infantry divisions. Hundreds of incidents were analyzed from a 1½-year period.

Theorists at the Army's artillery center at Fort Sill decided most of the breakdowns were caused by carelessness and neglect of crewmen and mechanics. Their solution: better supervision.

Part of that problem, however, may stem from field commanders' misuse of their own soldiers, another study at Fort Sill indicated. Commanders were constantly complaining they didn't have enough artillery mechanics. Fort Sill checked early this year and found that in 18 commands, only 62 percent of authorized mechanics were even assigned.

But when the units themselves were checked, the shortage looked even worse: Only 34 percent were actually assigned to mechanics jobs, partly because artillery mechanics were being used to fill other critical job shortages.

GAO investigators also found serious problems with poorly maintained, combat-essential equipment, complicated by critical spare parts shortages, within the II MAF.

"A significant amount of II MAF's equipment is not combat ready," the GAO reported in the secret study released by the Marine Corps after a request by The Oklahoman. "As a result, mobilization of this force could be delayed while repairs and maintenance are performed to get the equipment into combat shape, or these units could be deployed in a degraded readiness condition."

GAO investigators checked over 500 pieces of combat-essential equipment, such as howitzers, emphibious tractors, missile launchers, mortars and recoilless rifles. They found the Marines had reported 17 percent not combat ready because of serious maintenance or spare parts problems.

But the severity was much greater with some crucial pieces of equipment, ranging as high as 50 percent not ready for 8-inch howitzers. Worse, GAO investigators checked the Marines' reporting and found it wanting. They concluded, based on a comparison of reporting on 58 items of the same equipment, that actually 38 percent was not combat ready.

In short, the Marines were not ready to fight.

One reason for the deterioration of readiness is the traditional lower priority given to mundane operations and maintenance (O&M) budget requests. Those are handled through congressional appropriations committees and have neither the push nor the high visibility of research and development and military procurement requests handled by the Armed Services committees.

Currently, there is an estimated $40 billion shortage in O&M, not counting ammunition supplies, which could add another $20 billion and take years to reverse.

This year, Defense Secretary Harold Brown contended he has tried to avoid the tendency to shortchange O&M and sought a 25 percent increase in funds to buy spare parts.

Overall, however, the O&M budget increased just over 5 percent—less than inflation—and cutbacks, particularly in flying hours to save fuel costs, are expected to continue into 1981 for many types of aircraft.

An example of the effects of funding shortages in those mundane areas is illustrated by how it has forced cutbacks even in the Strategic Air Command, where B-52 bombers and intercontinental ballistic missiles command the highest priority of any part of American defense.

"The austerity of O&M funding in the current and prior fiscal years also continues to be a matter of concern," Gen. Richard H. Ellis, SAC's commander, wrote in a secret letter to Brown last year. "In striving to live with the SAC FY 79 shortfall of $67 million in O&M funding, we must once again limit essential tasking and aircrew training and reduce or defer important mission support programs to future years.

"The cumulative effects of these O&M shortfalls have deferred security requirements to succeeding years, minimized fuel inventories, deferred facility maintenance, inhibited our quality of life improvement, reduced our civilian work-force, and curtailed equipment purchases. More and more tradeoffs are being made that will inevitably impact on SAC readiness."

The backlog in maintenance and repair to real property—ranging from cracked runways to leaky barracks roofs—has grown to a staggering $2 billion-plus because of budget constraints and inflation. In the Army in Europe alone, the backlog is more than $800 million and is expected to increase to $900 million by the end of 1981.

That, Gen. Kroesen told Congress, is a source of dissatisfaction among soldiers since the "rundown condition of barracks, offices, motor pools and maintenance and recreation facilities" leads them to the "conclusion they are working for a second class organization."

"That perception," Kroesen added, "has a direct though unmeasurable impact on readiness because it drives some number of soldiers out of the service."

[From the Sunday Oklahoman, Sept. 14, 1980]

Military Suffers Manpower Crisis

(By Jack Taylor)

Seven years after military conscription was scrapped in the wake of the Vietnam war, American armed forces are suffering a manpower crisis. The concept of an all-volunteer force is on the verge of failure.

Recruiting and retaining enough competent men and women to operate and support the sophisticated weapons of today's 2-million man Army, Navy and Air Force have become such enormous problems that a critical deterioration of combat readiness has resulted.

Re-enlistments of skilled career enlisted men and officers are at all-time lows. Recruiting has sagged despite lowered goals and expectations. Morale, motivation, discipline and confidence are all down, especially in Europe.

Based on interviews with Pentagon officials, field commanders, defense specialists and on classified military documents obtained by The Oklahoman, the crisis in manpower, aggravated by equipment shortages, suggests the American military is unprepared.

"Without adequate manpower, training is difficult and modernization begins to lose its point," Gen. Edward C. Meyer, the Army's chief of staff, has said. "If we are to continue the volunteer force as a viable concept to meet today's needs, the full dimensions of the cost to fully meet requirements need to be made clear."

But even Gen. Meyer's abrupt departure last week from his policy of maintaining key combat units in Europe and Korea are above authorized strength levels may be only a token gesture, considering the eroded strengths of Army divisions at home.

Meyer said he plans to shift 7,000 noncommissioned officers from Europe and Korea to beef up his sagging U.S.-based divisions, improve training and enhance readiness.

He added he is considering several other measures, including authorizing berets for every soldier, prompting one critic on Capitol Hill to remark: "You're not going to solve readiness problems by letting people wear a beret."

The same defense specialist said Meyer's decision to simply shuffle his troops is "stupid" and won't solve the crisis.

Confidential Army documents reflecting the anthorized and assigned strengths of every major combat unit overseas and at home show that 7,000 men is far short of what is required.

Major combat units in the United States and the Panama Canal Zone are more than 17,200 men short—more than a full division.

Overall, combat units in Europe are only 2,267 men over authorized strengths. And the 2nd Infantry Division in Korea is 2,643 men short, manned at only 83 percent of authorized strength.

Even considering the beefed up divisions and brigades in Europe, the Army's combat capability is more than 17,600 men short.

The shortages of experienced, supervisory enlisted men—from infantry sergeants in the Army to aviation petty officers in the Navy—are so critical that combat readiness has declined in all services.

In some cases, the drop has been so sharp that entire Army divisions and some ships, including a nuclear-powered aircraft carrier, have been rated not combat-ready.

The Army concedes it is short of skilled NCOs, particularly in the combat specialties of infantry, armor and artillery. But it claims overall it has the necessary manpower—just not in the right ranks or in the right places.

"We've got plenty of privates," one officer said. "We just don't have enough sergeants."

The severity is illustrated by the shortages of NCOs in the 1st Cavalry Division and the 2nd Armored Division, both at Fort Hood, Texas. Overall, the 1st Cavalry is manned at 85 percent of its authorized strength, and the 2nd Armored at 93 percent of its strength.

But when viewed in the context of key NCOs, the shortages are so critical they impair those divisions' ability to fight.

The 1st Cavalry is short 37 percent and the 2nd Armored 35 percent of the required NCOs. And both divisions are short 44 percent of NCOs in combat jobs.

Throughout the Army, the shortage is so critical that Forces Command headquarters at Fort McPherson, Ga., is using 1,000 volunteer retirees who have returned to active duty to fill critical jobs at four Army posts.

The program is designed to test the validity of drawing on a potential pool of 260,000 retirees in the event of mobilization.

The Navy is short more than 18,700 experienced, supervisory petty officers—about 9 percent of the 209,800 key sailors needed to insure that ships can sail and fight. The shortages are particularly severe in radar, sonar and aviation ratings, which affect the readiness of the Navy's 13 aircraft carriers.

When the carrier Eisenhower sailed for the Indian Ocean to replace the Nimitz in April, it was short 579 sailors and airmen, mostly in key supervisory jobs. That amounts to more than 10 percent of the giant carrier's 5,634-man crew.

The carrier Constellation a month later was similarly operating 533 men short, or about 10 percent of its 4,929-man crew.

Last month, when the carrier Kennedy sailed for the Mediterranean to replace the

Saratoga, it had to borrow 50 sailors from other ships to fill critical engine room and aircraft maintenance jobs. Manpower shortages still classified it, the cruiser Daniels and the destroyer Coontz as not combat-ready.

Earlier this year, Adm. Thomas B. Hayward, chief of naval operations, told the Senate Armed Services Committee that manpower shortages have caused combat readiness to decline throughout the Navy.

The Air Force also has been hardhit by manpower shortfalls, particularly among pilots, navigators, doctors, engineers, air traffic controllers, computer technicians, electronics and communications specialists.

The Marine Corps is short of critically needed air traffic controllers, enlisted flight crews and signal intelligence and communications maintenance specialists.

The shortage of critically skilled enlisted men has become so acute in the Air Force that the Carswell Sentinel, the newspaper for the Strategic Air Command's 7th Bomb Wing at Fort Worth, commented recently: "The Air Force has not grounded any squadron because there were not enough mechanics and avionics personnel to maintain the aircraft. But you would be kidding yourself if you think it couldn't happen."

Last year, for the first time since the military began relying entirely on volunteers, every service failed to meet recruiting goals. The decline, which began in 1976, was especially sharp in 1979, when the armed forces enlisted only 92.8 percent of the number of men and women needed.

The drop was most severe in the Army, which achieved only 88.5 percent of its goal and wound up 17,800 recruits short—more than enough to fill a heavy division.

The Navy, which recruited 94 percent of the new sailors it needed last year, wound up 4,500 short—enough to man an aircraft carrier and its air wing.

The recruiting decline "has had a pronounced effect on overall force readiness," Gen. David C. Jones, chairman of the Joint Chiefs of Staff, said in an assessment of the military. "Not only do the active forces have fewer people, but the United States must increasingly rely on reserve components to meet wartime requirements."

The reserves, however, are even worse off, particularly because of manpower shortages in National Guard combat units.

Recruiting shortfalls have occurred despite such inducements as special enlistment bonuses, training preferences, educational benefits, guaranteed job assignments and enlistment options designed to make the military more attractive.

And they have occurred despite earmarking nearly 20 percent of all military personnel and $7 billion a year to recruit and train the recruits.

The Army alone spent $326.4 million on recruiting last year. In just one program, the Army spent $1.7 million to send 87 special teams straight from combat divisions to help recruiters in 30 cities.

The result was a dismal 259 more recruits—at a cost of more than $6,744 each.

The Navy, which spent $70.3 million last year to recruit 88,345 new sailors, has been able to meet its recruiting goals only 10 percent of the time in the last four years. It was forced to reduce its standards and goals to accomplish that meager return.

Pressures on Army recruiters have been immense. In effect, they must recruit a number of men and women every year that would be the rough equivalent of the entire Marine Corps.

Despite lowered objectives, the pressures have led to fraudulent enlistments and irregular recruiting practices.

In turn, recruiting malpractice has led to widespread investigations, disciplinary actions and even an unprecedented action earlier this year, when 87 Army recruiting sergeants sued the secretary of the Army in an effort to prove the officer corps knew about and condoned improper practices.

The same pressures have led to Navy malpractices and even some courts-martial and reassignments—including the Navy's recruiter of the year for 1978.

Gen. Lew Allen Jr., Air Force chief of staff, could have been speaking for all the services when he emphasized the manpower problem in testimony before Congress.

"My single greatest concern lies not with hardware, nor maintenance, nor training—it is with people," he said. "In the history of the U.S. Air Force, our manpower situation has never been more critical than it is today, nor have there been forecasts of difficulties more serious than those we face as we enter the decade of the 1980s."

The outlook is indeed bleak.

The pool of available manpower is shrinking. Fewer high school graduates—the services' most coveted and most difficult recruiting target—are willing to enlist. Youth unemployment rates have steadily declined in the last five years, meaning fewer are forced to turn to the military for jobs.

The military is becoming less attractive because of declining pay benefits, compared with civilian jobs; an elimination of the GI Bill of Rights in 1977; unfavorable publicity about armed services' living conditions, particularly overseas; and a generally negative image of military life.

Some of those factors have led to an exodus of active military officers and enlisted personnel, particularly in the highly trained technical skills, where civilian jobs sometimes offer five times more pay.

"The downward trend in the retention of our more experienced service members causes me serious concern and may well have a more important impact on the readiness of our military forces than any recruiting shortfall," said Robert B. Pirie, the Defense Department's manpower chief.

Career re-enlistment rates have declined from a high of 81 percent in 1974 to slightly more than 68 percent last year. During the first six months of this year, the decline was even sharper, to 54 percent with all services hit equally hard.

The crisis has reached the stage where some combat units may simply have to be disbanded because there are not enough skilled people to fight.

Retention of Navy pilots, for example, has dropped from 62 percent in 1977 to 31 percent last year. It is projected to drop even more, to 28 percent, this year.

"If we do not stop this loss of talent, which has already depressed the readiness of many of our air squadrons," the Navy says in an official statement, "it will impose severe limitations on what we can do with the Navy.

"We are approaching the point where we may have no realistic alternative but to stand down some aviation units."

Even the elite nuclear submarine force is suffering, and the impact is even more critical there because it forms a key leg of America's stategic triad of nuclear deterrent forces.

Retention of experienced nuclear officers is significantly below what is required and is expected to drop even more this year and next. Because of that, today's sea-to-shore rotation is projected to deteriorate for the next three years with an even worse effect on morale and retention.

One former first class petty officer, who quit after nine years on nuclear submarines, told The Oklahoman he simply got fed up with 15-hour workdays caused by manpower shortages and equipment breakdowns.

Adm. Hayward put it bluntly in a recent speech to the Navy League: "Some of these sailors have been at sea for over 90 continuous days without touching foot on solid land—without so much as a cold can of beer. You can't buy that kind of dedication, that kind of skill, that kind of talent.

"The regrettable truth is we not only can't buy that kind of talent, but the country isn't doing enough to hang onto it. The hemorrhage of talent represented by the loss of mid-grade petty officers and officers today is a matter of concern to all of us, and is an issue that sooner or later will become a national one."

The retention problem is so critical that the Army is offering re-enlistment bonuses up to $12,000 and wants to go as high as $20,000, and the Marine Corps is allowing key NCOs to stay three years past mandatory retirement.

Regular Army officers also are getting out sooner and in greater numbers than ever before. Many lieutenants are serving in command positions normally reserved for captains. Many captains are assigned key headquarters jobs normally filled by majors and lieutenant colonels.

The Army is 28 percent short of its needed lieutenants and captains, and it is trying to reduce that to a 14 percent shortage by recalling reservists and promoting lieutenants faster.

Even women are now failing to complete their first enlistments in greater numbers than their male first-term counterparts.

The Army has estimated the dropout rate for women will be nearly 48 percent this year—13.5 percent greater than men.

"If scoring well and a high school diploma equates to a "quality" service person, a person with high potential for training," one recruiter asked, "then why is the dropout rate of this elite group the highest in the Army?"

The erosion of skilled manpower is expected to worsen, especially in the Army, which has recently protested to Defense Secretary Harold Brown that additional reductions in recruiting goals and training funds anticipated in 1981—proposed on the assumption that retention will improve—will seriously jeopardize the Army's ability to main its units.

The crisis in military manpower and the failure of all services to meet recruiting quotas has led to lowered goals and standards. More recruits than ever have been enlisted from the lowest acceptable mental category. Intelligence test scores for those so-called low ability Category IV recruits put them in the lower 30 percent of the population as a whole.

They are more difficult to train, are less likely to stay in the service and are more likely to have disciplinary problems.

Although the Army was threatened earlier this year with an overall cut of 25,000 men authorized by Congress as an inducement to recruit more high school graduates, reports so far this year indicate that fewer graduates are enlisting.

Critics complain that filling the lower enlisted ranks with such recruits has created an "Army of dummies" and a "Navy of zeroes." Pentagon officials, particularly Army brass, argue that how a recruit scores on his entrance test is not a measure of how he will perform in the unit.

"It is critically important to bear in mind that what we are discussing here is a problem in the meaning and utilization of our test scores—not a problem with the ability of our active forces," Pirie said in a May speech in Florida.

"This country is served—and served well—by a dedicated group of highly skilled and professional men and women. Insults to their competence do a disservice to them and to the nation."

A few weeks after that speech, Pirie reported to Congress that armed forces entrance examination test scores had been inflated since 1976 and the military actually had taken in six times as many lower mentality recruits than previously reported.

In 1979 alone, the Army took in 46 percent Category IV recruits instead of the 9 percent it had reported. The Navy and Marine Corps had enlisted 16 and 26 percent, respectively, instead of the 4 percent each had reported.

And the Air Force, which had claimed it had enlisted none from Category IV, actually had taken in 9 percent, the Defense Department report disclosed.

"It's not an Army problem. It's a nationwide problem," one Army recruiter said. "The Army isn't taking in dummies. The high schools of the nation are turning out dummies. Some high school graduates can't even fill in their job applications."

Army Secretary Clifford L. Alexander Jr., stung by criticism from Congress, asserted that test scores do not provide a valid indication of a recruit's intelligence or performance.

Alexander's first action was to order the removal of such test scores from the military personnel records maintained in the field for every soldier in the Army. That has the effect of denying commanders information many feel crucial to determining suitability for a variety of assignments.

There has been a tendency to misuse the tests and categorize or label soldiers, the Army said, with the result that "many dedicated, effective soldiers have been improperly demeaned, either unknowingly or maliciously."

Whatever misuse there may have been, one of the Army's own important, internal studies concluded that the test scores are helpful in measuring soliders' abilities to perform.

"There is evidence that these indicators do in fact measure potential for military performance (not precisely, but not trivially either) and it would be imprudent to ignore them in the absence of other measures," the study by the Army's human resources development directorate at the Pentagon concluded last year.

Three of every four commanders in the field view the influx of such "low ability" soldiers as problems in their units, the same study noted. Most commanders think the problem is becoming more severe.

Training and discipline problems involving such recruits are increasing.

Although the Army is rewriting its training manuals to the 7th-grade reading level, nearly one of every three recruits still has trouble reading them.

The Army concedes that 4 percent of its recruits are functionally illiterate—with reading and arithmetic skills at or below the 5th-grade level. Another 2 percent speak foreign languages and require special instruction in English before they can be trained.

In a survey of more than 3,000 officers last year, more than 84 percent considered junior NCO leadership to be the No. 1 problem. Another 83 percent thought low ability personnel also was a serious problem.

The Pentagon is quietly planning to replace the current series of recruit entrance tests with new exams, effective Oct. 1, which are designed to cut back on the number of low mentality recruits taken into the armed forces. But they may also make recruiting goals even harder to achieve.

"It's going to be a disaster. Forty percent of our market will go up in smoke," one discouraged recruiter said. "There are areas where we might as well close the station. There's some areas where you're doing good to find one Category IV out of 10 prospects."

The perceptions reflected in the Army's recent surveys are based on soldiers' current performance in the field, not on how they scored on recruit exams. Although the Army's leaders have downplayed the value of the recruit tests, they are having more difficulty defending similarly low scores on current job proficiency tests which have been no less controversial.

Those tests, called Skill Qualification Tests, have been given to thousands of soldiers since 1977. The results in many job categories indicate many soldiers don't know their jobs—from driving trucks to rigging parachutes—which may be a direct outgrowth of the influx of low mentality recruits.

This summer, Sen. Sam Nunn, D-Ga., and four colleagues from the Senate Armed Services Committee, accused the Army's civilian leaders of covering up a "significant deterioration" in the quality of the Army by scrapping as invalid some SQT scores because of high failure rates.

Nunn was so incensed that he told fellow committee members during a closed meeting on Aug. 21 that he is considering blocking Army general officer promotions until the Army stops "lying at all levels" about readiness and manpower.

Army Secretary Alexander was as defensive about that criticism as he was over the recruit scores.

"Any fair reading of Skill Qualification Test scores demonstrates beyond a shadow of a doubt that more and more soldiers each year are better able to perform their military missions," he said. "This is why SQTs were put into place; so that we could know where our training deficiencies were and seek to correct them.

"The evidence shows, as greater numbers pass these tests each year, that our soldiers are learning their jobs."

What he didn't say was that the Army has changed the concept of its testing, from emphasis on written exams to actual field performance, which has influenced the passing rate. But even that has not always helped.

An analysis of the results of every job proficiency test administered by the Army since testing began shows only 42 percent of 1,600 Hawk missile crewmen passed SQTs when first tested in 1977. Another 1,300 were tested in 1979, and the passing rate improved to 65 percent.

Test results from 1980 show 100 percent passing. But only eight missilemen were tested.

In 1977, the Army tested more than 45,000 infantrymen—one of the most basic, yet most critical Army jobs—and 70 percent passed. Yet in 1978, nearly 52,000 were tested and only 69 percent passed. The following year, another 31,000 were tested, and still only 70 percent passed.

Artillerymen have scored even lower. In 1979, only 57 percent of nearly 26,000 cannon crewmen passed their job tests. This year, another 3,900 were tested, and only 15 percent passed.

In one of the few jobs where significant numbers were tested every year—military policeman—the results have shown an overall decline, from 74 percent in 1977 to 55 percent this year.

Many military policemen are used today more as security guards than police, one retired Army sergeant said. "Most of these guys don't ever see anything but a hunk of barbed wire fence or an ammo bunker," he said. "They're no more than night watchmen. How are you going to learn military police work as a night watchman?"

The cumulative effect of enlisting soldiers who can't master today's sophisticated technology well enough to do their jobs is not only declining proficiency, morale and discipline, but also diminished confidence in an ability to fight.

An internal Army study found last year that soldiers' own perceptions about unit readiness and an ability to fight has declined during the last four years. The study also suggested the all volunteer force, which Army leaders have consistently said is working, may no longer be working at all.

"Most available indicators imply that unit climate (generally improving during the first all-volunteer force years) has been gradually worsening during the past two years," the report concluded. "This trend is consistent with declining motivation, morale and discipline, and has been accompanied by enlisted (junior and NCO) perceptions of decreasing unit readiness."

In a broad sense, the increasing frequency of such pessimistic reports raise questions about how the military, and especially the Army, manages its manpower and trains its troops.●

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. BOREN. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I believe that the Senator from Oklahoma had delivered a most significant speech this afternoon, and I congratulate him on doing so.

I can agree with a great deal of what he has said, but I should like to ask him about some other elements of it.

The Senator from Oklahoma is right in talking about Soviet intentions. There is no question in my mind that the Soviets do believe in world revolution by force and violence. They say so. Just as Hitler, in "Mein Kampf," indicated what he was going to do, they have indicated what they would like to do, if they had the power to do it.

It would be most naive and foolish of us not to recognize that if we permit them to get any substantial advantage in power which they could use, they will take advantage of it. There is no question about that. I am delighted that the Senator from Oklahoma has made that clear.

At the same time, I believe it does not necessarily mean that those of us who have resisted weapons systems such as the MX, the neutron bomb, nerve gas, the B-1, and so forth, are being naive about the Soviet Union. We just think those are wasteful, ineffective, and counterproductive investments, that they are highly inflationary at a time when our economic strength is important to our military strength, and that they will not do the job they are supposed to do. The cruise missile is an effective system. On the other hand, the B-1 bomber makes no sense.

With respect to pay, we certainly have to spend more in order to get people who are competent to come into and stay in the military service. I agree with that wholeheartedly.

What this Senator has done over the last 10 years is to have a hearing every year before the Joint Economic Committee, of which I am chairman. We have the CIA and the Defense Intelligence Agency testify on the military and economic strength of the Soviet Union and China compared to the economic and military strength of the United States. They are coming in again next week. It will be an executive session. We have it off the record because much of what they say is classified. They have said consistently that we are ahead of the Soviet Union in almost every technological respect.

I challenge the Senator from Oklahoma or anybody else to say where their technology is better than ours. It is not.

Furthermore, the best evidence I have

now is that the attempt to compare their military spending with ours, by saying that if we try to reproduce the Russian military with American dollars, it would cost 50 percent more than we spend on our military, is wholly irrelevant, because they have 4.2 million people in the military. If we paid them American pay, it would cost a great deal more. By that standard, the Chinese military would be more powerful than the Russian and the American combined. So that comparison does not stand up.

What I am trying to say to my good friend from Oklahoma is that he has made a significant statement, a very good statement, and I agree that the Soviet Union will take advantage of us if they can. However, those of us who resist some of these weapons systems are not being naive. We just do not think they work.

Technologically, we are ahead. We are not behind. The Senator argues that we are behind in strategic weapons. We have more warheads than they have. We have a submarine program with not as many submarines as they have, but our missiles are more accurate and more reliable and are far more ready.

It is hard to argue that the Soviet Union is ahead of us strategically and in conventional forces and that, therefore, we have to have a huge military buildup in order to stand up to their obvious intention, if they can do so, to achieve world revolution.

Mr. BOREN. Mr. President, I have not said that they are clearly ahead of us in all these areas. I have said that I do not believe we have been progressing at the rate at which we should, both in the strategic and conventional areas.

I believe it is clear that if we allowed the present trend lines to continue, they very well could surpass us. In fact, in certain geographical areas of the world—Afghanistan and the East, for example—where, by reason of their geographic location, they are given some advantage, we have the need to improve our position, particularly in terms of conventional strength and our presence in those areas, with supply bases and with rapid deployment forces and others.

I hope the Senator from Wisconsin does not take what I have said in any personal manner, because I believe there is room in this area, as there is in the nondefense area, for careful scrutiny of every expenditure, and there should be.

The Senator from Wisconsin knows that I support strongly his efforts to scrutinize all expenditures in the military and nonmilitary areas.

Mr. PROXMIRE. I say to the Senator that I welcome that very much, because, as the Senator pointed out, there is an overwhelming public sentiment in favor of strengthening our military force. However, there is no question that there is substantial waste in the military, as there is in every other Federal program; and we should not hesitate to make judgments as to whether an enormously expensive system is wasteful.

Mr. BOREN. The Senator and I agree in some areas and disagree in others—for example, on the question of binary gas, where I felt that before we start to produce more, we should develop our own defensive capabilities toward it. So there have been occasions when we have agreed and when we have disagreed.

However, we have to put proper emphasis on our conventional strength, and that is one of the thrusts of what I have said today, as well as looking at a strategic balance. It will do us no good to continue to develop complex weaponry, the strategic systems, even new pieces of conventional equipment, if we do not have the personnel to use it and to maintain it. We saw this very clearly in terms of Iranian capability during the upheaval there. It will do little good unless we have the people with the knowledge to use this equipment.

So there are areas in which we disagree and there are areas in which we agree with respect to placing priorities and getting the most out of every dollar in defense and nondefense areas.

Mr. President, I have taken the time today, from the schedule of the Senate, to make these remarks because I am sincerely concerned.

The articles written by Mr. Taylor and published during the last 3 weeks point out that six of our combat divisions in this country are not ready. When our rapid deployment forces show shortages in critical areas of supply and equipment, I believe there is reason for every Member of this body to be concerned and reason for us to renew our dedication to trying to remedy the weakness we clearly have in critical areas so far as our military capability is concerned.

Mr. President, I thank my colleagues for allowing me this time to present these views.

Mr. MATHIAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. RIEGLE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. EXON. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The reservation is heard.

Mr. EXON. May I inquire from the Senator from Tennessee——

The PRESIDING OFFICER. If the Senator will suspend, the Chair has been advised that a Member cannot reserve the right to object in terms of a call to suspend the quorum and must either object or not object.

Mr. EXON. I object to the suspension of the quorum call.

The PRESIDING OFFICER. Objection is heard.

Mr. SASSER. Mr. President, I might say to the Senator from Nebraska——

The PRESIDING OFFICER. The Chair would advise that a quorum call is in progress and, therefore, debate is not in order and the clerk will continue calling the roll.

The legislative clerk continued the call of the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. MATHIAS. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue the call of the roll.

The legislative clerk continued the call of the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

TVA IS BUILDING EXCESS GENERATING CAPACITY

Mr. SASSER. Mr. President, accelerating TVA electric rates are taking a toll on the economy of the Tennessee Valley region.

Recent figures indicate that the valley's economy is growing at a much slower rate than the rest of the Nation and many people believe that the escalating cost of TVA electricity is a contributing factor to that slower growth.

Let me cite some of these examples.

During the period of 1973 to 1979 industrial electric prices in the valley grew at a rate of 13.4 percent, using 1972 dollars and price levels as a base. During this same period the national industrial electricity prices were increasing only 7.6 percent. In other words, the cost of electricity to industry in the valley increased at a rate almost twice as fast as the national average.

At the same time the valley economy grew at a much slower rate. While the gross national product of the country increased 2.5 percent during this 7-year period, the valley regional product increased only 2 percent.

In terms of jobs, employment increased in the Nation by 3.4 percent. Jobs increased in the Southeast at a 3.2-percent rate. But in the valley, jobs grew at only a 1.9 percent rate.

I ask unanimous consent that three tables outlining these trends be included in the RECORD, immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SASSER. Mr. President, this trend cannot continue. The people of the valley are suffering from the oppressive weight of high electric bills.

Certainly the cost of operations is going up, but the people of the valley have a right to wonder why TVA rate increases are outstripping the rest of the Nation. This brings to mind legitimate questions regarding the efficiency of TVA's power program.

I have been working closely with the General Accounting Office for the past several years, in an effort to monitor TVA's power program. Although this program is self-supporting and does not come before the Congress for funding, I believe that a Senator from the valley has a special obligation to closely follow TVA issues and developments, and make recommendations and observations where appropriate.

Today I would like to update the Senate on the status of two ongoing GAO investigations of TVA.

Following numerous reports of problems at TVA to the nationwide fraud hotline which I established at the General Accounting Office almost 2 years ago, the GAO set up a permanent office in Knoxville.

In November the GAO will issue a letter report outlining problems which exist with materials management at TVA construction sites. I believe GAO will have several recommendations to the TVA regarding methods of tightening up what appears to be rather lax security procedures at TVA facilities.

Next year, in late February, the GAO should have completed the first comprehensive study of TVA's coal procurement activities. Since the cost of coal represents more than half of TVA's total direct operating expenses, it is important that the fossil fuel procurement program be as efficient as possible. Therefore, I believe this particular GAO report will be a very valuable tool in the oversight of TVA coal buying and usage. Should the GAO report reveal substantial recommendations, I plan to hold public hearings on TVA's coal policies.

Today, however, I would like to concentrate on one aspect of TVA's cost of operations—its massive nuclear powerplant construction program. Next year, TVA's interest costs will reach the $1 billion mark—primarily debt service on the bonds issued to finance powerplant construction. According to TVA figures the increase in interest costs accounted for a third of the most recent rate increase.

Because of the enormous costs of these nuclear generating facilities, there should be clear and convincing proof that these powerplants are needed for future generating requirements before construction is undertaken. Otherwise they are an unnecessary drain on the ratepayers and artificially increase the rates.

On February 15, 1979, during hearings of the Senate Budget Committee which I chaired in Knoxville, I closely questioned TVA officials regarding GAO's allegations that TVA might be overbuilding its nuclear generating capacity, and that the agency's load forecasts were 17 to 40 percent too high.

TVA vigorously objected to the GAO report and my conclusions. Yet several months later, the agency announced it was deferring four of its nuclear units, an action which indicated that TVA had revised its load predictions and had realized it was indeed overbuilding its capacity.

Earlier this year, during hearings of the Senate Subcommittee on Energy and Water Development Appropriations, I again raised questions regarding TVA's demand forecasting. TVA testified that it was implementing a comprehensive corporate planning system which should improve the process.

However, despite these improvements, it appears TVA is still building more powerplants than it needs to serve its customers.

Even with the deferral of the four units, TVA still may have an excess capacity of 40 percent and some predictions indicate that it could reach 45 to 50 percent by the mid-1980's. I am asking GAO to look into these figures to see if the excess capacity is, indeed, that great. If it is true, this is a very serious situation for the average TVA ratepayer. It means that ratepayers are paying for powerplants today that may not be needed tomorrow. It means that at least some of the rate increases may have been unnecessary.

Officials at TVA have been hoping for a 24-percent reserve margin—which is roughly in line with other utilities. But inaccurate demand forecasts have misled TVA into overbuilding at the ratepayers expense.

I am today announcing a renewed investigation into TVA's demand forecasting and related nuclear construction program. I would anticipate this investigation will lead to hearings on the subject during November. I feel the public should be made aware of this situation. The officials of TVA should answer in public session why the 1978 GAO report recommendations have not been fully implemented and why the unnecessary construction program has been undertaken.

Because TVA has failed to respond promptly to the recommendations of myself and GAO, the people of the valley may have to pay the price for years to come.

What can now be done to improve the situation?

Will TVA be forced to cancel some of its projects?

Should TVA export power to utilities outside the service area?

Should TVA consider phasing out some of its older coal-fired plants in an effort to reduce capacity?

These are not easy questions, but my hearings will fully explore them with TVA officials and the public.

Many suspect that TVA has made some serious misjudgments. This excess capacity could cost the ratepayers perhaps billions of dollars unnecessarily.

I hope that my investigation and hearings will shed some light on this matter and result in a more realistic approach of the TVA to its electric power demand forecasts.

EXHIBIT 1

COMPARISON OF GROWTH—ELECTRICITY CONSUMPTION AND INDUSTRIAL ELECTRICITY PRICES, TVA VERSUS UNITED STATES

Period	TVA growth rates (percent)			U.S. growth rates (percent)	
	Consumption		Industrial price, 1972 dollars	Consumption total	Industrial price, 1972 dollars
	Less DOE	Total			
1960–70	8.2	4.1	0.6	7.4	−3.0
1970–73	5.2	5.6	3.8	7.0	2.2
1973–79	2.1	1.6	13.4	3.4	7.6
1980–90	1.9	2.6	2.3	[1]2.3	[2]4.1
1990–2000	2.2	1.4	1.6	[1]2.6	[2].9

[1] Wharton.

[2] DRI.

GROSS NATIONAL PRODUCT AND GROSS REGIONAL PRODUCT

	Gross national product (constant dollars)				Gross regional product (constant dollars)			
	1981 forecast		1980 forecast		1981 forecast		1980 forecast	
	Billions (1972 dollars)	Growth rate (percent)	Billions (1972 dollars)	Growth rate (percent)	Millions (1972 dollars)	Growth rate (percent)	Millions (1972 dollars)	Growth rate (percent)
1970	1,075.3		1,075.3		23,085.3		23,085.3	
1975	1,202.3	2.3	1,202.3	2.3	27,344.1	3.4	27,344.1	3.4
1980	1,414.7	−1.2	1,431.5	.5	31,902.6	−.1	31,566.6	.4
1981	1,426.2	.8	1,473.0	2.9	32,009.0	.3	32,721.1	3.7
1985	1,611.4	3.1	1,651.5	2.9	36,400.4	3.3	37,548.2	3.5
1990	1,859.0	2.9	1,910.8	3.0	41,009.5	2.4	44,504.0	3.5
1995	2,134.3	2.8	2,204.4	2.9	47,035.2	2.8	52,116.1	3.2
2000	2,450.6	2.8	2,558.0	3.0	54,350.9	2.9	61,079.0	3.2
1970–80		2.8		2.9		3.3		3.2
1973–79		2.5		2.4		2.0		1.8
1980–90		2.8		2.9		2.5		3.5
1990–2000		2.8		3.0		2.9		3.2
1980–2000		2.8		2.9		2.7		3.4

COMPARISON OF EMPLOYMENT GROWTH—TVA VERSUS SOUTHEAST VERSUS NATION

Period	TVA region	Southeast[1] less TVA	Nation
	Manufacturing employment growth rate (percent)		
1960–70	4.4	3.2	1.4
1970–73	4.8	3.4	1.3
1973–79	.4	1.0	.7
1980–90	1.2		.5
1990–2000	.3		.1
	Total employment growth rate (percent)		
1960–70	3.6	3.8	2.7
1970–73	4.7	5.4	2.7
1973–79	1.9	3.2	3.4
1980–90	1.4		1.4
1990–2000	1.2		1.1

[1] The southeast includes the States of West Virginia, Virginia, Kentucky, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, Tennessee.

Mr. SASSER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. MATHIAS. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue the call of the roll.

The bill clerk continued with the call of the roll.

(Mr. HART assumed the chair.)

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the following staff members from the Senate Intelligence Committee staff be granted floor privileges during consideration of the conference report on S. 2597:

William G. Miller, Dennis P. Sharon, Danny Childs, Ted Ralston, Edward Levine, John Elliff, Keith Raffel, Thomas Crowley, James Roche, and Spencer Davis.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTELLIGENCE AUTHORIZATION ACT—CONFERENCE REPORT

Mr. HUDDLESTON. Mr. President, I submit a report of the committee of conference on S. 2597, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2597) to authorize appropriations for fiscal year 1981 for intelligence activities of the United States Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. HUDDLESTON. Mr. President, included in the intelligence authorization bill is an amendment containing the complete text of S. 2284, the Intelligence Oversight Act of 1980. The Senate passed S. 2284 as a separate measure by a vote of 89 to 1 on June 3 of this year. The mechanism envisioned by the bill and the amendment will insure proper congressional oversight of intelligence activities. The heads of the intelligence agencies are to keep the two Intelligence Committees fully and currently informed, provide full access to information, and report significant activities before their initiation. Of course, the intelligence committees are explicitly given the duty of keeping other committees in the two Houses of Congress informed on intelligence activities that fall within their jurisdiction.

The amendment also alters the requirements of the Hughes-Ryan amendment on prior notice of covert operations. Rather than reporting CIA operations abroad to seven "appropriate" committees in a timely fashion, under the amendment in this bill the President will give prior notice of such operations only to the two intelligence committees.

It is not my intention to discuss in detail the various provisions of this amendment. The Intelligence Committee report on S. 2284, and the floor debate on June 3, including the colloquy between Senator Javits and myself, all of which should be regarded as part of the legislative history of this amendment, have dealt with its meaning in detail. The amendment envisions a partnership between the two branches of Government in exercising responsibility for intelligence activities. Specific responsibilities are placed on both branches. The executive branch has the duty to provide information to the two Intelligence Committees. At the same time, the Intelligence Committees, have a duty—which they share with the executive branch—to protect sources and methods from unauthorized disclosure. An amendment offered by the House in conference makes clear that the committees are not to be denied information by the executive branch on the grounds that giving them information would be unauthorized disclosure.

Without doubt, passing a statutory framework for congressional oversight into law is a historic step. It is the result of a long process encompassing countless negotiating sessions.

In working out the delicate compromise which sets forth the duties and authority of both branches in the area of intelligence activities, the executive branch should be commended. I know that this issue has had the personal attention of both the President and Vice President. This bill has evolved under the guidance of the two chairmen of the Senate Intelligence Committee, my colleague from Hawaii, Daniel K. Inouye, and my colleague from Indiana, Birch Bayh, without whose judgment and political skill this plan for statutory congressional oversight would never have been brought to a successful conclusion.

Other Senators, including my friend from Arizona (Senator Goldwater), from Utah (Senator Garn), from Delaware (Senator Biden), from New York (Senator Moynihan), from Vermont (Senator Leahy), from Indiana (Senator Lugar), and my esteemed colleague from Maryland, Charles McC. Mathias, the vice chairman of the Subcommittee on Charters and Guidelines, have had a major role in shaping this legislation. Our colleagues from the other side of Capitol Hill, including Mr. Zablocki, the chairman of the Foreign Affairs Committee, Mr. Boland, the chairman of the House Intelligence Committee and Mr. Robinson, the ranking member of the House Intelligence Committee, also deserve no small part of the credit for passage of this bill.

Mr. MATHIAS. Mr. President, the oversight provisions contained in the bill before the Senate mark the culmination of a remarkable effort to restore constitutional balance to our system of Government. In the aftermath of the Second World War, the United States assumed world leadership and had to act in ways and in areas of governmental activity that our Founding Fathers had never contemplated. That created strains on the constitutional system of Government that were unique in our history. What has been achieved today marks a restoration of constitutional checks and balances in the area of secret Government activities. What the Senate approves today is, in essence, a consensus between the legislative and executive branch of how the secret activities of the United States are to be governed.

What we have constructed are understandings and procedures which respect the constitutional authorities, duties, and prerogatives of both branches. The provisions we have written provide a framework of shared responsibilities for the intelligence activities of the United States based upon a recognition that only with full information can these vital instruments of power be governed. But we have done so in such a way that respects duties and authorities of both branches.

A heavy burden has been placed on the oversight committees to insure that secret activities are governed in accordance with the Constitution and the law. Equally important, the provisions we enact today give the power necessary to do the task effectively. The combination of fully empowered oversight committees, and carefully drawn internal guidelines can serve as an appropriate constitutional means of Government. In coming years, it may be necessary to enact a charter or statutory framework for the activities of the intelligence agencies. It may be that consensus on charters will not be arrived at for some time, but there is no question that what has been established today has given the Nation the capacity to have an effective intelligence system within the Constitution and the law.

This has been a very difficult, complicated process, but it has had the support of the Carter administration and the predecessor Ford administration. The leadership of the Senate has supported this activity in the best spirit of bipartisanship. The President, the Vice President and their chief advisers have worked closely with the Senate Select Committee on Intelligence to achieve this restoration of checks and balances and shared responsibility. Without that desire to arrive at a consensus of shared responsibility, this bill would not have been possible. We owe special thanks to the chairman of the Subcommittee on Charters and Guidelines, of which I have the honor to be the vice chairman. Senator HUDDLESTON, with patience and diligence has spent untold hours to bring this bill to its successful conclusion. The country owes him its gratitude.

I want also to commend my two chairmen who have guided the way, Senator INOUYE, our first chairman, and the present chairman, Senator BAYH. I also want to thank Senator BARRY GOLDWATER, the vice chairman who has encouraged this effort.

Mr. HUDDLESTON. Mr. President, I thank the distinguished Senator from Maryland.

• Mr. BAYH. Mr. President, today's vote on the conference report to S. 2597 marks the end of an effort begun 5 years ago when the Senate received a recommendation in the final report from the Church committee that a fully empowered oversight committee be created. The recommendation made 5 years ago was that effective oversight would require full access to information, effective monitoring of all the activities of the intelligence agencies, vigorous annual authorization procedures, and the formulation of a competent, professional, nonpartisan staff to assist the committee. With the passage of this bill today, and particularly the provisions which contain the procedures for Senate oversight previously passed by the Senate on June 3, 1980, in S. 2284, all of these objectives have been achieved.

This is the fourth annual authorization bill for the intelligence activities of the United States. The committee, through this action, has sought to strengthen all areas of intelligence activities through the allocation of funds and general policy guidance for the use of these funds. It is our view that the work of the committee in this area has, in fact, strengthened the intelligence capabilities of the United States.

I wish to commend Senator DANIEL K. INOUYE, the first chairman of the full committee and presently the chairman of the Budget Subcommittee, for the leadership and wisdom he has given to his colleagues. The procedures he established over the past 4 years have proven to be an effective guide for those who follow.

The oversight provisions of the authorization bill are of great significance. They are based on 4 years of difficult negotiation with the intelligence agencies, the House of Representatives, and the President, Vice President and his chief advisers. We have agreed upon a formula which we believe serves the duties of both branches, and fully respects the constitutional authorities and duties of both branches. The procedures contained in the oversight provisions are based on the practical experience of the past 4 years. They are predicated on the guidelines set forth in Senate Resolution 400, which have been in force since 1976, and Executive Order 12036.

Access to information and the power of the purse are the bedrock of an effective oversight system. The underlying intention of these provisions is that all the information that the oversight committee requires will be provided when the committees require it and in the detail that the particular occasion demands. There is, however, a recognition of the authorities and duties of both the Congress and the executive branch, including the constitutional authorities of each branch. There is further a duty on the part of both branches to insure that intelligence information is handled with care and discretion so that the interests of the United States are protected.

The process by which these oversight provisions have been developed is, in my view, the only way that such a consensus could have been reached. The President, the Vice President and their chief advisers, the intelligence agencies and the legislature all recognized the necessity to work together, to respect each other's duties, authorities and prerogatives in developing agreed upon procedures. Neither branch was asked to give up any powers. Rather, the guiding principle was to establish procedures by which both branches could carry out their separate and joint responsibilities.

The procedures of the oversight provisions concern four ways by which the oversight committees will receive and use information. The first is an obligation on the executive branch to keep the select committees on intelligence fully and currently informed of all intelligence acivities. This places upon the intelligence agencies the obligation to tell the intelligence committees those things which in their judgment are of importance, current interest, and useful to policymakers and to bring this information to the attention of the committees in a reasonably timely fashion.

Second, the intelligence agencies are required to provide advance information on significant anticipated activities such as covert operations and other intelligence activities specified by the intelligence committees in consultation with the executive branch. Third, in order to carry out inquiries which arise from time to time, the intelligence agencies are to furnish any information or material concerning intelligence activities that are requested by the oversight committees. Finally, they are to provide timely reports on any illegal activities or significant intelligence failures. What is embodied in these provisions is the essence of the practices and procedures that we have developed over the past 4 years.

There has been concern that a full charter has not been enacted this year. Until a comprehensive charter is enacted, these oversight procedures must serve as the principal means of governing the intelligence activities of the United States in combination with guidelines provided by the Attorney General, the Director of Central Intelligence, and the intelligence agency heads. Effective oversight that will assure that the intelligence activities of the United States serve both the foreign policy and defense needs of the country and do so within the limits of the law is now a major burden of the intelligence oversight committees. The committees now have the full means to carry out this task.

Senator DEE HUDDLESTON deserves the special thanks of the committee, the Senate and the country for his devoted leadership in bringing the oversight provisions to enactment. He and his subcommittee vice chairman, Senator CHARLES McC. MATHIAS, have worked since 1975 as members of the Church committee and as the chairman and vice chairman of the Subcommittee on Charters and Guidelines to write oversight provisions that would have a broad consensus in the legislative and executive branches. They deserve our gratitude for achieving success in this very difficult task. They have spent hundreds of hours in negotiations. They have led us in dozens of discussions with the President, Vice President and other officials in the executive branch repeatedly over the past 4 years and have done so with patience and determination.

And finally, I want to take this occasion to express my gratitude to the vice chairman of the Select Committee on Intelligence, my good friend, Senator BARRY GOLDWATER. I have been very fortunate to have been able to work with Senator GOLDWATER over the 4 years that the Select Committee on Intelligence has been in existence. For the past 2 years we have shared the burden of the leadership of the committee's activities. I want to say that his advice and counsel have served the committee and the Senate well. With his help we have been able to conduct the committee's work in a spirit of nonpartisanship. The important work of the committee requires no less. Senator GOLDWATER's commitment to making the Select Committee on Intelligence an effective instrument of oversight of the Nation's intelligence activities has been a major reason why the committee has been successful thus far in carrying out its mandate.

His long experience in the Government of the United States has been an invaluable help. His unfailing good humor has lightened many occasions that were very difficult indeed. I know all the members of the committee would agree with me that we have been very fortunate to have Barry as vice chairman. Speaking personally, our friendship has deepened even though we may approach some issues from very different perspectives. In these overriding matters of vital importance to the security of our country, I could ask for no firmer colleague.●

● Mr. INOUYE. Mr. President, the Intelligence Oversight Act of 1980, which has been approved in conference as an amendment to the intelligence authorization bill, will, I am sure, become known as "the Huddleston amendment," in recognition of Senator Dee Huddleston's tireless and effective leadership since 1976 in guiding this landmark legislation through Congress. Along with the rest of the Select Committee on Intelligence, I salute Dee Huddleston for his unflagging efforts and congratulate him on this important accomplishment.

The Huddleston amendment will make the intelligence community function more efficiently and securely by repealing Hughes-Ryan and reducing reporting of intelligence activities to two committees instead of eight. In addition, this legislation continues the significant consultative role of the intelligence oversight committees of Congress by requiring advance notice of significant intelligence activities and access to all information.

The Huddleston amendment also provides for a more "limited prior notice" in those cases in which the President determines it is essential to limit prior notice to meet extraordinary circumstances affecting the vital interests of the United States. For these cases, the President shall limit prior notice to the chairmen and ranking minority members of the House Permanent Select Committee and the Senate Select Committee on Intelligence, the Speaker and the minority leader of the House of Representatives, and the majority and minority leaders of the Senate.

The purpose of this limited prior notice in extraordinary circumstances is to preserve the secrecy necessary for very sensitive cases while providing the President with advance consultation with the leaders in Congress and the chairman and ranking minority members who have special expertise and responsibility in intelligence matters. Such consultation will insure strong oversight, and at the same time share the President's burden on difficult decisions concerning significant activities. Because the limited prior notice provision preserves the secrecy necessary for very sensitive cases, I am of the firm belief that the only time the President has the constitutional authority to withhold prior notice to the intelligence committees would be in matters of extreme exigency. In my experience as chairman of the Intelligence Committee and as a continuing member of that committee, and after 4 years of reviewing the covert operations of our intelligence system, I cannot conceive of any circumstance which would require the withholding of prior notice except where the Nation is under attack and the President has no time to consult with Congress before responding to save the country.●

Mr. HUDDLESTON. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. HUDDLESTON. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. MATHIAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT-INDEPENDENT AGENCIES APPROPRIATIONS, 1981

The Senate continued with the consideration of the bill (H.R. 7631).

Mr. CRANSTON. Mr. President, I ask unanimous consent that I may send to the desk for consideration an amendment relating to veterans' matters.

The PRESIDING OFFICER. Is there objection?

Mr. MATHIAS. Reserving the right to object, Mr. President, the Senator from California wishes to lay aside the Tsongas amendment temporarily?

Mr. CRANSTON. Yes, I would.

Mr. MATHIAS. The Tsongas amendment would then become the immediately pending business upon the completion of the Cranston amendment.

Mr. CRANSTON. Actually, I have two amendments, both relating to veterans' matters, and then we would return to the Tsongas amendment.

Mr. MATHIAS. The unanimous-consent request is that the Tsongas amendment be temporarily laid aside until both Cranston amendments are completed. Would it then be the intention of the Senator from California to put in a quorum call at that point?

Mr. CRANSTON. Yes.

Mr. MATHIAS. Under those conditions, Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1629

(Purpose: To increase by $31.7 million the Veterans' Administration medical care account to provide funding for 1,000 additional direct health-care personnel and for 500,000 additional outpatient visits)

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. Cranston) for himself, Mr. Simpson, Mr. Talmadge, Mr. Randolph, Mr. Stone, Mr. Durkin, Mr. Matsunaga, Mr. Thurmond, Mr. Stafford, Mr. Humphrey, Mr. Tower, Mr. Williams, Mr. Hatfield, and Mr. Laxalt proposes an unprinted amendment numbered 1629.

Mr. CRANSTON. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 34, line 5, strike out "$5,953,268,000" and insert in lieu thereof "$5,984,968,000".

Mr. CRANSTON. Mr. President I have called up this amendment on behalf of myself and all of the other members of the Committee on Veterans' Affairs, Senator Simpson, Senator Talmadge, Senator Randolph, Senator Thurmond, Senator Stafford, Senator Stone, Senator Durkin, Senator Matsunaga, and Senator Humphrey—as well as Senators Tower, Williams, Hatfield, and Laxalt.

As chairman of the Committee on Veterans' Affairs, I urge my colleagues to support this amendment to provide an increase of $31.7 million in fiscal year 1981 appropriations for the Veterans' Administration medical care account. This additional funding which can be provided without exceeding the targets in the first concurrent resolution on the fiscal year 1981 budget for function 700—veterans' benefits and services—would provide $21.1 million for an additional 1,000 badly needed direct patient-care, full-time employee equivalents and $10.6 million to restore funding for 500,000 outpatient visits that was cut on the assumption that non-service-connected disabled military retirees would be excluded from VA outpatient health-care services during fiscal year 1981.

Mr. President this amendment is supported by the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, and the Paralyzed Veterans of America. I ask unanimous consent that the letters I received from those organizations in support of this amendment be printed at this point in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

The American Legion,
Washington, D.C. September 11, 1980.

Dear Senator: This is to advise you of The American Legion's support for two amendments to H.R. 7631, the FY 1981 HUD-Independent Agencies Appropriations Act. These proposals are the product of deliberations within the Senate Committee on Veterans Affairs and they have been unanimously endorsed by the membership of that Committee.

The first of these amendments would delete from H.R. 7631 a rider prohibiting the expenditure of FY 1981 funds for GI Bill flight training benefits. We feel strongly that these benefits should be continued for those veterans who seriously pursue flight careers. In fact, the Senate registered its support for the concept of this program earlier in the year by approving language in H.R. 5288 designed to eliminate a recurrence of past abuses.

The second amendment would increase the VA medical care account by $31.7 million for the purpose of providing additional direct patient care personnel and restoring funds for some 500,000 out patient visits. The amount of funding requested by this amendment is not excessive. It simply seeks to restore a minimum of personnel necessary to improve the quality of health care in areas of the VA hospital system where staff levels are at the critical point. We request your support for this amendment as an expression of your commitment to the quality of VA health care.

Both of these proposals can be adopted without damaging the budget process or exceeding those targets already established by you and your colleagues. They deserve your support.

Sincerely,

Mylio S. Kraja, *Director,*
National Legislative Commission.

Veterans of Foreign Wars,
of the United States,
Washington, D..C, September 12, 1980.

Hon. Alan Cranston,
Chairman, Committee on Veterans' Affairs,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: I am advised that when H.R. 7631, the FY 1981 HUD-Independent Agencies Appropriations Act, is considered by the Senate, you will offer two amendments thereto on behalf of the entire membership of the Veterans' Affairs Committee.

The first amendment will delete a rider from the bill that would prohibit the expenditure of funds for flight training benefits under the GI Bill effective October 1, 1980. As we have stated in testimony before your Committee, the Veterans of Foreign Wars is opposed to the elimination or deduction of any earned veterans' benefit and our position in this regard is reiterated in Resolution No. 697 passed by the voting delegates to our 81st National Convention held in Chicago, Illinois last month and a copy thereof is enclosed.

The second amendment would increase the medical care account of the Veterans Administration by $31.7 million to restore funding for 500,000 outpatient visits by veteran Armed Forces retirees and increase funding for health-care personnel. Although we support this increase of $31.7 million and, for the record, we sincerely believe that to adequately provide needed health-care for those so entitled, the House-passed add-on of $85.4 million is the minimum amount that should be agreed to if the Veterans Administration is to properly and timely carry out the mandates of Congress. Our current Resolution No. 609, also enclosed, stipulates in part, ". . . that we continue our unabated efforts for an adequate budget that will insure that the health-care needs of our nation's veterans are met . . ."

With best wishes and kind regards, I am

Sincerely,

T. C. Selman,
Commander-in-Chief.

[Resolution No. 609]

Veterans Administration Budget

Whereas, the Veterans Administration budget has been cut in proportion to the federal budget every year since 1975 when it was 5.1 percent to a programmed 3.4 percent in outlays in the Fiscal Year 1981 budget; and

Whereas, as a result, 7,000 hospital beds have been cut under the present Administration and 8,000 health-care personnel were eliminated or scheduled to be eliminated until through our efforts, Congress mandated the restoration of 3,800 of these positions; and

Whereas, veterans in need of hospitalization and medical care to which entitled by the laws are denied such by the VA and referred to community resources which in many instances means lining up with welfare recipients; and

Whereas, compensation increases for those with service-connected disabilities and DIC for their survivors has not kept abreast with inflation; and

Whereas, only in this election year has the President recommended a meager 10 percent increase for Vietnam veterans availing themselves of educational benefits under the GI Bill notwithstanding that the Congressional Budget Office opined they need a 20 percent increase in October, 1979 to catch-up and by October, 1980, would probably need a 30 percent increase; and

Whereas, medical programs passed by Congress and signed into law have been underfunded and under-staffed; and

Whereas, even though the F.Y. 1981 budget submitted by the President was approximately $750 million short of funding needed to meet the demand for health-care for our veteran population and adequately fund the benefit programs, the President and his Office of Management and Budget cut an additional $321.7 million; now, therefore

Be it resolved, by the 81st National Convention of the Veterans of Foreign Wars of the United States, that we continue our unabated efforts for an adequate budget that will insure that the health-care needs of our nation's veterans are met and that all other benefit programs are kept abreast with the cost-of-living.

[Resolution No. 697]

Oppose Curtailment or Elimination of Earned Veteran Benefits and Privileges

Wheareas, there is a growing trend toward reduction of the earned benefits and entitlements of veterans, their spouses, dependents and survivors which were explicitly promised or provided by law or regulation in recognition of the hardships and dangers of service life; and

Whereas, the erosion of the earned benefits and entitlements are detrimental to the morale of veterans, active, reserve and retired; and

Whereas, the continued erosion and reduction of earned benefits and entitlements will adversely affect maintaining an effective and efficient military force needed for the security of the United States; now, therefore

Be it Resolved, by the 81st National Convention of the Veterans of Foreign Wars of the United States, that we oppose all efforts by any individual, group, organization, government office, bureau or agency, or the United States Congress, to discriminate against a veteran, discharged under honorable conditions, or to eliminate or curtail in any manner their earned benefits or privileges.

Disabled American Veterans,
Washington, D.C., September 12, 1980.

Hon. Alan Cranston,
U.S. Senate,
Washington, D.C.

Dear Senator Cranston: On Monday, September 15, 1980 H.R. 7631, the FY 1981 HUD-Independent Agencies Appropriations Act, is scheduled for Senate consideration.

A matter of serious concern to the more than 630,000 members of the Disabled American Veterans is the quality of health care services that would be provided to veterans under the funding levels now contained in the measure. We find them to be inadequate.

The members of the Senate Veterans' Affairs Committee share this belief and they intend to propose a modest amendment that will, among other things provide $21.1 million for an additional 1,000 badly-needed direct patient-care personnel and $10.6 million to restore funding for 500,000 outpatient visits.

Serious concern over quality health care for veterans and recent information from the Veterans Administration revealing system-wide shortages of more than 750 physicians and nearly 3700 nurses has convinced the Senate Veterans' Affairs Committee members of the necessity for additional medical care funds.

Restoration of the $10.6 million for the 500,000 outpatient visits is related to the Senate Veterans' Affairs Committee's rejection of a proposal to divert military retirees to the Department of Defense CHAMPUS Program when it became evident that the cost to DOD would be greater than the dollars saved by the Veterans Administration.

I strongly urge, on behalf of this nation's wartime service-connected disabled veterans, that you support the amendments offered by the entire membership of the Senate Committee on Veterans' Affairs.

Sincerely yours,

Stan Pealer,
National Commander.

Paralyzed Veterans of America,
September 15, 1980.

Hon. Alan Cranston,
Chairman, Senate Committee on Veterans' Affairs, Russell Senate Office Building,
Washington, D.C.

Dear Senator Cranston: On behalf of the 11,000 members of Paralyzed Veterans of America, I would like to strongly support your efforts to amend H.R. 7631, the FY 1981 HUD-Independent Agencies Appropriations Act. These very beneficial amendments are critical if the Veterans Administration is to provide adequate, quality health care for America's veterans.

The increase of $31.7 million to the VA care needs of veterans are to be met. This medical care account is essential if the health additional funding would provide for badly needed direct patient-care personnel and restore moneys for out-patient visits. As the veteran population increase in age and places greater demands on a VA health care system, which has already been weakened by personnel shortages and reduced funding, it is extremely important that these weaknesses be corrected.

The improved out-patient services and increased staffing provided for by these amendments will allow the VA to provide quality health care services to all eligible veterans in a timely and thorough manner.

Again, on behalf of the members of Paralyzed Veterans of America, and all veterans, I strongly support your actions to increase funding for the Veterans Administration by amending H.R. 7631, the FY 1981 HUD-Independent Agencies Appropriations bill.

Sincerely yours,

George A. Conn,
National Legislative Director.

Mr. CRANSTON. Mr. President, with respect to the restoration of funding—$10.6 million—for the 500,000 outpatient visits, the committee has considered and rejected the administration's proposal to exclude from eligibility for VA outpatient health-care services those non-service-connected disabled veterans who are military retirees. During the markup on our fiscal year 1981 budget views and estimates report to the Budget Committee in March, the committee specifically rejected as unfair and unwise this exclusion of veterans who have served 20 years or longer in our Armed Forces.

If this assumption were to become VA policy, one can easily imagine a situation in which a non-service-connected disabled veteran with 30 years of service is turned away from a VA outpatient clinic while a non-service-connected disabled veteran with equivalent financial means and the identical medical condition but only 2 years of service is accepted and provided with treatment. I fail to see the justice in this situation.

Moreover, Mr. President, the military retiree who is turned away from a VA outpatient clinic can be expected to turn to the Defense Department's CHAMPUS program for needed health-care services. Under CHAMPUS, the non-service-connected disabled military retiree will be required to pay for approximately 25 percent of the total bill for such services because CHAMPUS will not only pay 75 percent of the charges, whereas his non-service-connected 2-year-service counterpart would get his health-care services free of charge.

Mr. President, I believe I have demonstrated that this proposal makes no policy sense. Neither does it make any budgetary sense. The transfer of the military-retiree workload to DOD's CHAMPUS program would require the Defense Department to pick up the tab for approximately $15 million in increased CHAMPUS costs associated with the outpatient visits in fiscal year 1981, plus an additional $7 per claim for processing, which would necessitate either a supplemental appropriation or the diverting of funds from other high priority defense programs.

Thus, Mr. President, this cut that our amendment would restore is unfair to veterans of career service and would produce an unwise diversion of funds intended to strengthen the Nation's military posture.

Mr. President, with respect to the funding—$21.1 million—for 1,000 additional direct patient-care staff, the Committee on Veterans' Affairs continues to be very concerned about the adequacy of staffing levels—particularly with respect to health-care professionals who directly provide care in the VA medical system.

Since fiscal year 1978, when the VA was required to fund much of the October pay raise out of funds provided by the Congress for additional staff, we on the committee have been deeply involved in efforts to assure that the VA has sufficient resources to carry out its vitally important health-care mission. On October 25, 1979, a special joint hearing of the House and Senate Committees on Veterans' Affairs was held in order to investigate reports we had received that administration-imposed budgetary restraints were affecting adversely the VA's ability to provide necessary health-care services to eligible veterans. The testimony indicated that, throughout the 172-hospital system, the VA was seriously understaffed in critical direct patient-care categories. Personnel in shortest supply were reported to be physicians and nursing staff—certainly important individuals in any scheme of health-care delivery.

Since the time of that hearing, some positive steps have been taken that have helped to improve staffing in these categories and stabilize management of VA medical centers—specifically the allocation of the 3,800 FTEE's provided by Public Law 96–103 and the exemption of certain VA direct patient-care personnel from the executive branch hiring freeze. However, grim reports on health-care staffing inadequacies continue to come to the committee. VA medical centers in such diverse States as New York, Louisiana, Florida, Washington, Minnesota, the District of Columbia, and California indicate that badly needed nursing personnel could be recruited if only the money and personnel ceiling were available. In addition, a recent survey of the entire VA health-care system revealed shortages of 759 physicians and 3,665 nurses.

I also note that during my August 7, 1980, unannounced visit to the Long Beach, Calif., VA Medical Center, it was clear to me that that facility was definitely thinly staffed with regard to nursing personnel. Thus, I am convinced that the additional staff that our amendment would provide for are clearly needed and would be well utilized in the provision of care to sick and disabled veterans.

Mr. President, the $31.7 million that would be provided by this amendment would help to insure that veterans receiving health care from the VA during fiscal year 1981 are provided with quality services. Our Nation's veterans deserve nothing less.

Let me stress to my colleagues that this amendment, while exceeding the President's revised appropriations request for the VA medical care account, will leave the VA fully $281 million below the President's revised appropriations request for total appropriations for VA programs—and $117.4 million below the budget request for total VA medical programs. Moreover, Mr. President, our committee concurred in a $298 million cut by the President from his January budget for the VA—$252.2 million of that cut in health care programs.

Let me say again that this amount—$31.7 million—can be added without exceeding the targets for function 700—veterans' benefits and services—under the first congressional budget resolution for fiscal year 1981.

Finally, even with this add-on, the VA medical care account would be $59 million below the House-passed amount and $60 million below the House level in total VA medical programs.

Thus, Mr. President, this is not a budget-busting amendment. Rather, we propose a modest, though badly needed, additional amount for veterans' health care programs.

I urge my colleagues to support this amendment.

Mr. PROXMIRE. Mr. President, I recognize that my good friend from California has the votes on this amendment, so I am not going to ask for a rollcall on it. Nevertheless, I want to make my personal position clear on it.

I reluctantly oppose the amendment for two reasons, Mr. President. First, the amendment is not supported by the administration. It busts the medical care budget submitted by the administration earlier this year.

Second, it is clear that the $31.7 million that the Senator from California wishes to add to this bill to provide important medical services to veterans will be provided in conference in any event.

The bill as passed by the House contains $90,745,000 more for medical care costs than the legislation we are considering today. If we split the difference in conference, which I can assure my colleagues is the least we will do, then we will come back with a conference report that adds more than $45 million to the administration's budget request—$14 million more than is being proposed by the distinguished senior Senator from California.

On the other hand, if we pass the proposed amendment and then split the difference between the House and Senate bills, we will emerge from conference with a bill that contains about $63 million more than the President asked for in his medical care budget request—twice as much as my colleague proposes to add here today and clearly more than is needed to meet the most essential needs of the VA medical care system. At a time when we are concerned about inflation in general and soaring medical care costs in particular, this clearly is the wrong place to add nonessential resources to the President's budget.

Mr. THURMOND. Mr. President, I rise in support of the unprinted amendment offered by my colleague (Mr. CRANSTON) to the pending HUD-Independent Agencies Appropriations Act, H.R. 7631.

Mr. President, this amendment will provide an additional $31.7 million to the medical care account of the Veterans' Administration. I am pleased to cosponsor this legislation with the entire Committee on Veterans' Affairs. These additional funds will be used for basically two purposes.

First, $21.1 million will be used to employ approximately 1,000 badly needed hospital personnel. These would be nurses, doctors, and other health-care professionals that render direct care to our Nation's hospitalized veterans. A recent survey of the VA health-care system revealed shortages of 759 physicians and 3,665 nurses.

Second, $10.6 million of the proposed $31.7 million will be used to restore funding for 500,000 outpatient visits at VA hospitals. This will provide funds for outpatient treatment for non-service-connected military retirees. There was a proposal by the administration in its fiscal year 1981 budget request that recommended the termination of treatment for these veterans.

The Committee on Veterans' Affairs considered this proposal and rejected it during the committee budget markup. It is my opinion that it is unfair and unwise to eliminate care at VA hospitals to certain military retirees. The purpose of the VA is to serve veterans, and who is more a veteran than a person who has given 20 or 30 years to the military? Moreover, these veterans would not go untreated. They simply would obtain the needed health care at a Department of Defense hospital or clinic, or they would be treated under CHAMPUS—all at the Federal Government's expense. Therefore, the argument by the administration that termination of treatment for these retirees would save money is unfounded.

Mr. President, it can be argued that this amendment for $31.7 million would exceed the President's request of $5,958,582 billion in the fiscal year 1981

VA medical care account. However, this argument only emphasizes the current administration's callous and uninformed attitude toward veterans issues—especially health related issues.

I believe the current administration's grasp of VA health care issues and our Nation's veterans was clearly demonstrated by the President's recent veto of H.R. 7102. This legislation would provide authority to the Administrator of the VA to grant salary increases to much-needed VA physicians and other health care personnel. These increases would assist in stopping the attrition rate of VA physicians and assist in the recruitment of additional physicians. This veto was overridden in the House 401 to 5 and 85 to 0 in the Senate.

Mr. President, in the past 4 years the administration's requested VA budgets have dwindled in proportion to the Federal budget. In 1975, the VA's share of the Federal budget was 5.1 percent and this year, 3.7 percent. As a result of these repeated inadequate budgets, the VA has already reduced the operation of approximately 10,000 hospital beds. In 1976, the VA had 94,075 hospital beds in operation; now, there are 84,527—a reduction of 9,548 beds.

Mr. President, these actions by the administration concerning veterans health care have been done when our veterans population is the largest in history—30 million. Of this number, World War II veterans total 12.5 million and their average age is 59. As these veterans grow older, the demand on the VA health care system will surely increase and the system must be prepared to treat these wartime veterans. Now is not the time to arbitrarily cut spending in this area; rather, we must equip these hospitals with the needed personnel to treat those who served our Nation.

Mr. President, although this amendment exceeds the President's medical care account request for fiscal year 1981, it does not exceed the ceiling set by the first concurrent budget resolution; in fact, even with the adoption of this amendment to increase this account, the total VA budget would be $281 million below the President's fiscal year 1981 budget request for the VA.

Mr. President, I have letters of support for this amendment from the American Legion, Veterans of Foreign Wars and the Disabled American Veterans. For the benefit of my colleagues, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE AMERICAN LEGION,
Washington, D.C., September 11, 1980.

DEAR SENATOR: This is to advise you of The American Legion's support for two amendments to H.R. 7631, the FY 1981 HUD-Independent Agencies Appropriations Act. These proposals are the product of deliberations within the Senate Committee on Veterans Affairs and they have been unanimously endorsed by the membership of that Committee.

The first of these amendments would delete from H.R. 7631 a rider prohibiting the expenditure of FY 1981 funds for GI Bill flight training benefits. We feel strongly that these benefits should be continued for those veterans who seriously pursue flight careers. In fact, the Senate registered its support for the concept of this program earlier in the year by approving language in H.R. 5288 designed to eliminate a recurrence of past abuses.

The second amendment would increase the VA medical care account by $31.7 million for the purpose of providing additional direct patient care personnel and restoring funds for some 500,000 outpatient visits. The amount of funding requested by this amendment is not excessive. It simply seeks to restore a minimum of personnel necessary to improve the quality of health care in areas of the VA hospital system where staff levels are at the critical point. We request your support for this amendment as an expression of your commitment to the quality of VA health care.

Both of these proposals can be adopted without damaging the budget process or exceeding those targets already established by you and your colleagues. They deserve your support.

Sincerely,

MYLIC S. KRAJA,
Director, National Legislative Commission.

VETERANS OF FOREIGN WARS,
Washington, D.C., September 12, 1980.
Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, Washington, D.C.

DEAR MR. CHAIRMAN: I am advised that when H.R. 7631, the FY 1981 HUD-Independent Agencies Appropriations Act, is considered by the Senate, you will offer two amendments thereto on behalf of the entire membership of the Veterans' Affairs Committee.

The first amendment will delete a rider from the bill that would prohibit the expenditure of funds for flight training benefits under the GI Bill effective October 1, 1980. As we have stated in testimony before your Committee, the Veterans of Foreign Wars is opposed to the elimination or reduction of any earned veterans' benefit and our position in this regard is reiterated in Resolution No. 697 passed by the voting delegates to our 81st National Convention held in Chicago, Illinois last month and a copy thereof is enclosed.

The second amendment would increase the medical care account of the Veterans Administration by $31.7 million to restore funding for 500,000 outpatient visits by veteran Armed Forces retirees and increase funding for health-care personnel. Although we support this increase of $31.7 million and, for the record, we sincerely believe that to adequately provide needed health-care for those so entitled, the House-passed add-on of $85.4 million is the minimum amount that should be agreed to if the Veterans Administration is to properly and timely carry out the mandates of Congress. Our current Resolution No. 609, also enclosed, stipulates in part, ". . . that we continue our unabated efforts for an adequate budget that will insure that the health-care needs of our nation's veterans are met . . ."

With best wishes and kind regards, I am

Sincerely,

T. C. SELMAN,
Commander-in-Chief.

[Resolution No. 609]

VETERANS ADMINISTRATION BUDGET

Whereas, the Veterans Administration budget has been cut in proportion to the federal budget every year since 1975 when it was 5.1 percent to a programmed 3.4 percent in outlays in the Fiscal Year 1981 budget; and

Whereas, as a result, 7,000 hospital beds have been cut under the present Administration and 8,000 health-care personnel were eliminated or scheduled to be eliminated until through our efforts, Congress mandated the restoration of 3,800 of these positions; and

Whereas, veterans in need of hospitalization and medical care to which entitled by the law are denied such by the VA and referred to community resources which in many instances means lining up with welfare recipients; and

Whereas, compensation increases for those with service-connected disabilities and DIC for their survivors has not kept abreast with inflation; and

Whereas, only in this election year has the President recommended a meager 10 percent increase for Vietnam veterans availing themselves of educational benefits under the GI Bill notwithstanding that the Congressional Budget Office opined they needed a 20 percent increase in October, 1979 to catch-up and by October, 1980, would probably need a 30 percent increase; and

Whereas, medical programs passed by Congress and signed into law have been underfunded and under-staffed; and

Whereas, even though the FY 1981 budget submitted by the President was approximately $750 million short of funding needed to meet the demand for health-care for our veteran population and adequately fund the benefit programs, the President and his office of Management and Budget cut an additional $321.7 million; now, therefore

Be it resolved, by the 81st National Convention of the Veterans of Foreign Wars of the United States, that we continue our unabated efforts for an adequate budget that will insure that the health-care needs of our nation's veterans are met and that all other benefit programs are kept abreast with the cost-of-living.

[Resolution No. 697]

OPPOSE CURTAILMENT OR ELIMINATION OF EARNED VETERAN BENEFITS AND PRIVILEGES

Whereas, there is a growing trend toward reduction of the earned benefits and entitlements of veterans, their spouses, dependents and survivors which were explicitly promised or provided by law or regulation in recognition of the hardships and dangers of service life; and

Whereas, the erosion of the earned benefits and entitlements are detrimental to the morale of veterans, active, reserve and retired; and

Whereas, the continued erosion and reduction of earned benefits and entitlements will adversely affect maintaining an effective and efficient military force needed for the security of the United States; now, therefore

Be it resolved, by the 81st National Convention of the Veterans of Foreign Wars of the United States, that we oppose all efforts by any individual, group, organization, government office, bureau or agency, or the United States Congress to discriminate against a veteran, discharged under honorable conditions, or to eliminate or curtail in any manner their earned benefits or privileges.

DISABLED AMERICAN VETERANS,
Washington, D.C., September 12, 1980.
Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: On Monday, September 15, 1980 H.R. 7631, the FY 1981 HUD-Independent Agencies Appropriations Act, is scheduled for Senate consideration.

A matter of serious concern to the more than 630,000 members of the Disabled American Veterans is the quality of health care services that would be provided to veterans under the funding levels now contained in the measure. We find them to be inadequate.

The members of the Senate Veteran's Affairs Committee share this belief and they intend to propose a modest amendment that will, among other things provide $21.1 million for an additional 1,000 badly-needed direct patient-care personnel and $10.6 million to restore funding for 500,000 outpatient visits.

Serious concern over quality health care for veterans and recent information from the Veterans Administration revealing systemwide shortages of more than 750 physicians and nearly 3700 nurses has convinced the Senate Veterans' Affairs Committee members of the necessity for additional medical care funds.

Restoration of the $10.6 million for the 500,000 outpatient visits is related to the Senate Veterans' Affairs Committee's rejection of a proposal to divert military retirees to the Department of Defense CHAMPUS Program when it became evident that the cost to DOD would be greater than the dollars saved by the Veterans Administration.

I strongly urge, on behalf of this nation's wartime service-connected disabled veterans, that you support the amendments offered by the entire membership of the Senate Committee on Veterans' Affairs.

Sincerely yours,

STAN PEALER,
National Commander.

Mr. MATHIAS. Mr. President, the amendment of the Senator from California does involve an extra expenditure. It is an expenditure that has been carefully weighed in the other body and is included in the House bill. I think the justification for it is clear. I think the need for it is clear. Unhappily, medical costs have risen. Therefore, I believe the Senator from California, the distinguished chairman of the Committee on Veterans' Affairs, is entirely justified in making this proposal and I intend to support it.

Mr. CRANSTON. I thank the Senator very much.

Mr. President, I move the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REPORTS ON END-OF-YEAR SPENDING

Mr. CRANSTON. Mr. President, I note with interest that section 414 of the pending measure, which is of special interest to the distinguished chairman of the Committee on Appropriations (Mr. MAGNUSON) includes provisions that would require the agencies involved and OMB to submit certain reports to the Committees on Appropriations relating to certain agency expenditures in an effort to avoid excessive and often wasteful end-of-year spending.

In my view, such reports would be of equivalent value to the authorizing committees with jurisdiction over the agencies involved. As chairman of the Committee on Veterans' Affairs, I know that such reports on the VA's end-of-year spending would be of great interest to that committee.

Was it the committee's intention to assure that copies of the reports required by this section would be provided to the appropriate authorizing committees as well?

Mr. MAGNUSON. Mr. President, that indeed was the committee's intention, for we believe that the authorizing committees should be equally aware of any excessive last-quarter spending by agencies they oversee.

Our committee report makes clear that all agencies covered by this bill would be required to comply strictly with this provision and implement the necessary management practices to carry it out. The Appropriations Committees will monitor agency performance in this regard, and I think it would be helpful if the authorizing committees were kept fully informed as to the performance of the agencies as well.

Thus, I believe it is entirely appropriate that the authorizing committees be provided copies of the reports that would be required pursuant to section 414 of the bill. I thank the chairman of the Committee on Veterans' Affairs (Mr. CRANSTON) for raising this point.

VA READJUSTMENT COUNSELING

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs and also on behalf of the Senator from Wyoming (Mr. SIMPSON), the ranking minority member of the Committee on Veterans' Affairs, I would like to discuss with the distinguished floor managers the Appropriations Committee's action to add $6 million for the VA's readjustment counseling program as described on page 97 of the committee's report on H.R. 7631—Senate Report No. 96–926—without the need for additional VA medical care appropriations.

We are very grateful to the committee and especially the Senator from Vermont (Mr. LEAHY) for carrying out this recommendation of the Veterans' Affairs Committee on behalf of this very important and long-overdue program to help Vietnam-era veterans who continue to have difficulty in making successful transitions to civilian life. We made this recommendation in our March budget reviews and estimates report and this was communicated to the floor manager in my August 15 letter and to the full Committee on Appropriations in my August 29 letter, and I ask unanimous consent that these letters be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., August 15, 1980.

Hon. WILLIAM PROXMIRE,
Chairman, Subcommittee on HUD-Independent Agencies, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR BILL: This letter contains my recommendations with respect to fiscal year 1981 appropriations for the Veterans' Administration. These recommendations reflect my very strongly held view that it is extremely important to the goal of fighting inflation that every reasonable effort be made to limit Federal spending, but that we must resist any plan to deny veterans a fair and rightful share in Federal expenditures. I believe that you share this view and am deeply appreciative of your continuing cooperation in serving the needs of our veterans.

As Chairman of the Committee on Veterans' Affairs, I have worked hard to keep this Committee's budget recommendations and legislative agenda for fiscal year 1981 in line with the efforts of Congress to fight inflation by reducing Federal spending. At the same time, however, the Committee acted with great care to assure that veterans' programs would be maintained in the manner intended by the Congress—as indicated, in part, by the amounts appropriated for veterans' programs in recent years—and in a manner that is fair to those Americans who have served in our Armed Forces, particularly those who became disabled as a result of that service.

As you know, the Committee met on June 25 and, pursuant to section 3(a)(20) of the first concurrent resolution on the budget for fiscal year 1981, reported a resolution—a copy of which, along with a copy of the Committee's report that accompanied the resolution, was provided to your Subcommittee staff—that contained our recommendations for legislation to reduce fiscal year 1981 spending by $441.5 million in budget authority and $447.5 million in outlays. On June 30, the Senate passed, in title VIII of S. 2885, our recommendations to achieve these reductions by, for the most part,

(1) reducing and delaying a much-needed cost-of-living increase in G.I. Bill benefits—a recommendation made by the Committee with great reluctance;

(2) modifying—in ways designed to eliminate program abuse—flight and correspondence training programs under the G.I. Bill; and

(3) Vastly improving the VA's ability to collect delinquent debts owed to it by persons participating in VA benefit programs.

Against this background and in order to provide adequate and fair funding for veterans' programs in fiscal year 1981, I strongly urge your favorable consideration of the following recommendations:

1. Medical Care: In our Committee's deliberations to reduce spending in the area of veterans' benefits and services, we have held four principles paramount. In terms of VA medical programs, those principles are as follows:

First, the Committee believes that the reductions it has recommended from levels in the Administration's January request, including the deferred acquisition of equipment and supplies, must not be made in isolation. Such a belt-tightening effort is well advised and appropriate only if it is part of a Government-wide effort in all executive branch agencies to reduce spending in these areas.

Second, the Committee is convinced that the VA healthcare system must be protected from any reduction in personnel levels and any arbitrary restrictions on hiring. The VA health-care system has suffered severe dislocations in the past 2 years, and it cannot afford further reductions in personnel ceilings.

Third, the Committee is dedicated to assuring that there be no closing of VA health-care facilities and no reduction in the level of health-care services to which veterans are entitled.

Fourth, the Committee believes that the selective improvement and enhancement of VA health-care programs by means of new, high-priority legislative initiatives must not be abandoned.

With respect to appropriations for the medical care account, I recommend that, at a minimum, your Subcommittee provide an increase of $31.669 million. This amount can and should be provided for the medical care account without increasing the total fiscal year 1981 appropriation requested by the President for the VA and without making arbitrary reductions in other high priority areas, such as the VA construction program, as a result of a comparable amount that I recommend be saved in the readjustment benefits account, which I will describe in more detail below.

a. Increased staffing: The larger portion of this $31.7 million increment I am recommending—$21.069 million for 1,000 additional direct patient care FTEE's—is included in the House-passed bill. I strongly support this increase.

As you know, this Committee has long been concerned about the adequacy of staffing levels in the VA health-care system. Thus, on October 25, 1979, a special joint hearing of the House and Senate Committees on Veterans' Affairs was held to give both Committees an opportunity to investigate carefully reports we had received that Administration-imposed budgetary restraints were having profound adverse affects on the VA heatlh-care system. With respect to the adequacy of personnel levels in VA medical facilities, the testimony we received painted a grim picture of a seriously under-staffed system.

However, since that hearing, some positive steps have been taken—specifically the allocation of the 3,800 FTEE's provided by Public Law 96–103 and the exemption of certain VA direct patient care personnel from the executive branch hiring freeze—that have helped to improve staffing and stabilize the management of most VA medical centers. Too many VA hospitals, however, still report severe shortages in some areas of direct patient care personnel, most notably nursing personnel.

In fact, on August 7, 1980, during an unannounced visit I made to the Long Beach VA Medical Center, it was my opinion that that hospital seemed to be thinly staffed with regard to nursing personnel. Regrettably, this situation exists throughout the VA health-care system. As I pointed out on August 1 during Senate consideration of the Veterans' Administration Health-Care Amendments of 1980 (H.R. 7102), ". . . a recent survey of the VA health-care system found . . . 3,665 full- and part-time nursing vacancies where funding and ceiling were not available but the VA facility directors concerned felt they needed nurses."

That bill, which represents another step toward improving the situation with respect to VA health-care staffing by enhancing the VA's ability to recruit and retain health-care professionals, including nurses, currently is at the White House awaiting the President's action. I believe a staffing increase is badly needed and urge that an additional $21.069 million be specifically appropriated in the medical care account for 1,000 additional direct patient care FTEE's.

b. Increased outpatient visits: The rest of the increase I am recommending—$10.6 million to restore funding for 500,000 outpatient visits that was cut in the President's revised budget—is also included in the House-passed bill.

I strongly believe that the restoration of this funding is necessary. The reduction was based on an assumed decrease in VA outpatient workload that might result if nonservice-connected disabled military retirees were no longer eligible for treatment at VA facilities. I believe there is serious question about the VA's current statutory authority to make such a categorical exclusion without taking into account other factors such as the urgency of the need for health care, and I have requested the VA's General Counsel to provide a legal opinion in support of the authority to implement this budget proposal administratively.

However, even if such a change were made, I do not believe the savings the VA could realize would come close to the amount assumed by the Administration. Our Committee expressly rejected this recommendation in preparing our budget views and estimates submitted to the Budget Committee in March. Thus, if not restored, this cut will adversely affect outpatient services for veterans who are entitled under law to, and need and use, VA health care including service-connected disabled veterans, veterans 65 years of age or older, and other eligible veterans who are unable to defray the cost of private health care.

In addition, the VA health-care system has been providing, since September 1978, medical examinations to Vietnam veterans who are concerned about the possible adverse long-term health effects of exposure to Agent Orange in Vietnam. The concern of Vietnam veterans, the public, and the Congress about Agent Orange and its possible long-term health effects is great. We must do all we can to address these concerns. Vietnam veterans deserve nothing less.

I believe a very important part of ultimately resolving the Agent Orange issue is the VA's effort, which should be a high priority at every VA medical center, to provide these exams, gather and analyze data from them, and assure necessary follow-up treatment. As increasing numbers of Vietnam veterans request Agent Orange exams, particularly in areas with large Vietnam veteran populations, the VA should have the flexibility to provide Agent Orange exams without turning away other eligible veterans.

A cut in funding for outpatient visits would jeopardize this situation. To date approximately 27,000 such exams have been provided nationwide—6,811 in May and June alone. With the anticipated intensification of VA efforts to advise Vietnam veterans of the availability of these exams, it can reasonably be anticipated that demand will continue throughout fiscal year 1981.

c. Readjustment counseling program expansion: Another high-priority area in which I would urge that additional medical care funding be provided is for the VA's new readjustment counseling program for Vietnam-era veterans. I worked for 8 years to provide the statutory authority—under Public Law 96–22, which went into effect on October 1, 1979—for this very important and long-overdue program to help those Vietnam-era veterans who continue to have difficulties in making successful transitions to civilian life. During a May 21, 1980, oversight hearing which I chaired on the readjustment counseling program, I heard testimony from the Administrator, members of Vet Center counseling teams, veterans' organizations, and others in strong support of the expansion of this program.

I am very pleased with the enthusiastic and, in many areas, overwhelming response to existing centers—currently 83 are in operation and 8 more will be opened in the very near future—by Vietnam-era veterans and the communities where the centers are located. However, there are several areas of the country with large numbers of Vietnam-era veterans warranting establishment of a center—more than 20,000 Vietnam-era veterans in the appropriate catchment area—that will not be served directly on the basis of the present Vet Center sites.

In addition, our Committee strongly believes that the top leadership of the program has been stretched far too thin in terms of being able to administer the program adequately. All these points were made and documented at our May 21 oversight hearing.

This program represents a major, positive effort on the part of the Federal Government to deal responsibly and effectively with the difficulties that some Vietnam-era veterans are continuing to experience as a result of their war-time service. Our Committee believes that the establishment of the readjustment counseling program and its success in areas where Vet Centers are in operation have done much to raise the expectations of Vietnam-era veterans with respect to our National commitment to bear fully our responsibilities, as part of providing for the cost of war, as those responsibilities relate to the important readjustment needs that this program meets.

Restraining this program, from expanding to its full potential—and, thus, failing to reach thousands of Vietnam veterans who might benefit from this program—would mean adding disappointed expectations to the frustrations that have already been impeding the successful transition to civilian life for too many of these veterans.

Thus, I urge that additional resources be appropriated for the readjustment counseling program to increase the number of sites, the staffing at existing sites where warranted, and the Central Office and field administrative staff. For fiscal year 1981, the Administration has requested a total of $17,933 million and an additional 30 FTEE's for the Vet Centers. I strongly urge that an additional $6 million be provided for up to 44 additional Vet Centers, increased staffing at existing centers, and improved administrative support.

However, I do not recommend an increase in the President's request for this account for this purpose. Rather, I believe that this modest funding increase can be achieved, without increasing the overall total in this account, by reducing funds for supplies and equipment and urge that this reduction and concomitant increase be made and explicitly stated in the Committee report; also, the necessary personnel resources could be provided for this program without any overall FTEE ceiling (other than the 1,000 FTEE's I've already recommended and the House has approved) in the President's request.

2. Medical and Prosthetic Research: With respect to the research account, I strongly support the VA's request for $5.314 million—urgently needed to provide adequate support for several high-priority areas of research, such as schizophrenia, alcoholism, aging, spinal cord injury, and delayed stress—above the Administration's formal March amended request. The House did not provide this increase.

The President's January request included $134.8 million for VA research programs; however, only $129.5 million was requested for this account in the March amended budget. Prior to the submission of the budget amendments, I was assured by the Administration that it did not intend to cut the VA's research program—which the Committee views as a program that contributes greatly to high-quality patient care directly and through enhanced academic affiliations and is of substantial value to the VA's efforts to recruit and retain qualified physicians.

Thus, because I was concerned that the haste with which the VA prepared its recommendations for reductions in spending may have resulted in an unintended oversight with regard to the VA research program, I asked the Administrator, during our May 21 Committee hearing, what the Administration's position is with respect to funding the medical and prosthetic research account for fiscal year 1981. The Administrator responded, and has subsequently notified you in a June 27, 1980, letter, that OMB is agreeable to increasing this account by means of reducing the medical care account by a like amount, which the VA would accomplish by reducing the supplies and equipment object account in the medical care account by $5.314 million. I strongly urge that this increase in VA research be made in this fashion.

I would add that Public Law 96–151 requires the VA to design and conduct an epidemiological study of the long-term health effects in Vietnam veterans of exposure to Agent Orange in Vietnam. As I noted above, assuring Vietnam veterans and the public that the Federal Government is doing all it can to find answers to the questions that have been raised about Agent Orange is a matter of very high priority to our Committee.

Thus, this study must proceed as expeditiously as possible. Public Law 96–151 authorizes the appropriation of "such sums as may be necessary" for the conduct of the study, which is estimated to require at least $5 million and three years to complete; resources for the design of the protocol for the study will be provided out of previously appropriated VA research funds.

I anticipate that a supplemental appropriation for fiscal year 1981 will be required for the conduct of this very important study and will keep you fully informed about this matter so that the necessary funds can be made available in a timely manner.

3. Medical Administration and Miscellaneous Operating Expenses: I recommend that the full amount requested by the Administration for this account be appropriated. In this connection, I would note that the House Appropriations Committee made a proposal—which the full House rejected—to reduce the Administration's request by the $4.894 million and 10 FTEE's that the Administration requested for development of health-care information systems. I am very pleased that this amount was restored by the full House and strongly urge you to retain this amount in the bill that your Subcommittee reports, thereby helping to assure that no delays will occur in the developing, and long overdue, utilization by the VA health-care system of modern computer technology.

The Congressionally-mandated 1977 study by the National Academy of Sciences, entitled "Health Care for American Veterans", included a very strong recommendation that the VA's Department of Medicine and Surgery (DM&S) develop and implement a management information system "that would meet the program planning, accounting, and management needs both of the hospitals and the DM&S Central Office" (recommendation No. 37, page 288).

Thus, because it is clear that a well-integrated information system is essential for the effective management of the VA health-care system, the VA began development of the Health Care Information System (HCIS) soon after the NAS report was submitted in 1977. At present, the Administration's support for the development of HCIS, as evidenced by the appropriations request, cannot be questioned. I cannot emphasize enough the general inadequacy of the existing information system in DM&S, a situation that add to the perpetuation of poor management practices and inefficient use of Federal funds at VA medical centers.

With respect to the small reductions proposed by the House in this account, I would note that a $240,000 (6 FTEE's) reduction is proposed in conjunction with the particular reductions that the House Appropriations Committee recommended in the VA's medical-facility construction program. Since, as I will describe in more detail below, I do not believe that the House-proposed construction program reductions are warranted in light of the need for and status of VA construction projects, I urge the restoration of the MAMOE cut proposed by the House—a cut that would hamper the VA's efforts to keep its construction program on schedule and, given the current rate of inflation, would very likely contribute to additional funding requirements in the VA construction program in future years.

4. Major Construction: Based on a thorough examination of the Administrations request for this account and my knowledge of the VA health-care system. I recommend that an appropriation of $406.814 million be made for VA major construction projects. This amount is $112.754 million less than requested.

My recommendation takes into account that six projects, each requiring more than $2 million, for which the Administration requested a total of $15.32 million and which both Committees on Veterans' Affairs now have approved, are, pursuant to our agreement this spring which you expressed in your April 14 letter, to be considered major construction projects for the purposes of Senate consideration.

The House and Senate Committees on Veterans' Affairs have approved, pursuant to section 5004(a) of title 38, United States Code, 30 of the 31 major construction projects requested by the Administration, the sole exception being the expansion of a general warehouse and supply depot at Hines, Illinois, which the Senate Committee's resolutions do not include (the House Committee approved it) because section 5004 relates only to medical-facility construction projects.

The approval of these major construction projects represents our shared judgment that, based on the best available information, these projects should go forward as presently planned by the Administration. For your ready reference, I am enclosing a copy of the Senate Committee on Veterans' Affairs' June 25 resolution and an explanatory memorandum (previously sent to you) which describes our June 25 resolution and also describes our May 1 resolution approving the Administration's request for $15 million for design and site preparation of the replacement hospital at Minneapolis, Minnesota.

You will note that this Committee's approval of the Minneapolis project does not include a recommendation as to the number of beds to be included in the new facility. Our Committee's view is that that judgment should be deferred until more information about the proposed hospital construction project at the affiliated medical school, the University of Minnesota School of Medicine, can be reviewed—particularly with respect to plans for specialized medical services in that new hospital—later this year following action by the Metropolitan Health Board, the local Health Systems Agency, in September.

Also, four of the requested construction projects—those at New Orleans, Louisiana; Temple, Texas; Tucson, Arizona; and Palo Alto, California—have been approved by this Committee only to the extent that design and site preparation funding will be required in fiscal year 1981. The Committee's action in this regard reflects its total agreement that, following careful study of the VA's needs for the proposed scope of each of these projects, all three projects are badly needed and should proceed without any delay. I would emphasize that this action in no way indicates that the Committee on Veterans' Affairs is adopting a policy of approving phased funding of VA major construction projects.

Rather, the Committee believes that it is clear that these projects will not require, for expenditure or obligation, in fiscal year 1981 the total amount of the funding requested. On that basis, the Committee approved only the design and site preparation portions of these projects, thereby reducing by $109.55 million the requirements for appropriations in fiscal year 1981—an important goal of the Congress which this Committee fully supports. Knowing of your concern—which I certainly share—about escalations in the cost of construction projects, I would suggest that perhaps an acceptable and appropriate way of assuring that the cost of these critical projects does not ultimately exceed the amount requested by the Administration in its fiscal year 1981 appropriations request would be for your Subcommittee to include specific report language stating that no additional funds above the amount requested in fiscal year 1981 for each of these projects will be appropriated for future construction requirements unless economic conditions clearly justify increases for inflation—much in the same spirit as funding limitations have been placed on the construction of the new VA Medical Center at Camden, New Jersey, and the replacement hospital at Portland, Oregon.

In addition, I would strongly urge that appropriations be made for several other major construction projects for which the VA would not receive appropriations for fiscal year 1981 under the House-passed bill. These projects include:

The clinical addition at Denver, Colorado ($42 million);

The outpatient addition, renovation, and spinal cord injury unit relocation at Miami, Florida ($26.65 million);

The research and education building at Long Beach, California ($12.171 million);

The supply depot expansion at Hines, Illinois ($8.8 million);

The 60-bed nursing home care unit and underground drainage culvert at Wichita, Kansas ($6.8 million);

The relocation and expansion of processing and distribution at Danville, Illinois ($5.6 million);

The elimination of fire and safety deficiencies at Sepulveda, California ($3.686 million); and

The warehouse and engineering building at Atlanta, Georgia ($1.54 million).

With respect to three of the projects listed—Denver, Miami, and Sepulveda—the House Appropriations Committee, on page 49 of its report on H.R. 7631 (H. Rept. No. 96–1114), stated that no funds will be required in fiscal year 1981. However, the VA has advised me to the contrary stating that it currently plans to obligate funds for each of these projects during the coming fiscal year.

The next award planned in connection with the Denver project—$2.5 million—is scheduled to be made in December 1980, at Miami the next award—$1.765 million—is scheduled for November 1980, and at Sepulveda the award of construction funding—the entire $3.686 million requested—is scheduled for June 1981. In addition, funding to initiate the Denver and Sepulveda projects was appropriated in prior fiscal years; in my view it would be highly unwise for these approved, ongoing projects to be subjected to unnecessary, inflationary delays as a result of Congressional funding actions.

I would also note that the House-passed bill would not provide appropriations for four projects—Long Beach, Danville, Hines, and Atlanta—identified by the House Appropriations Committee as being low-priority projects at the lower end of the Administration-proposed priorities. The deletion of projects on that basis, of course, does not reflect a reasoned judgment or analysis regarding the need for or value of each of the projects involved, and I strongly object to so arbitrary an approach to funding VA medical projects.

I strongly urge you to consider favorably the Administration's request for $12.171 million for the urgently-needed research and education building at the Long Beach VA Medical Center. This is a matter of immediate, personal concern on my part. As you know, $429,000 was available for the design of this project in fiscal year 1980. In my recommendations to you regarding VA appropriations for fiscal years 1978 and 1979, I stressed that the research program at the Long Beach VA Medical Center is a very major part of a meaningful affiliation relationship with the College of Medicine at the University of California at Irvine (U.C.I.)—a relationship which has grown, intensified, and greatly benefited patient care.

Indeed, as a result of my urging, your Committee specifically directed, in your report accompanying the 1978 appropriation bill for HUD and the independent agencies (S. Rept. No. 95–280, p. 69), that funding be provided for this "badly needed" research and education building. I am very pleased that funds were appropriated last year for the design of this long-planned and much-needed project and strongly urge that there be no delay in providing funds for the construction portion of the project.

It is extremely important for the VA to be able to offer potential staff members at affiliated VA medical centers with an academic environment that generates the highest quality of treatment capacity. As you know, the structural deficiencies of the present research buildings at Long Beach make a carefully controlled research environment almost impossible to maintain. This situation has had a serious adverse effect on the VA's ability to recruit and retain qualified physicians at the Long Beach VA Medical Center and has jeopardized that medical center's affiliation relationship with the U.C.I. College of Medicine.

In fact, I am advised that many first-rate professionals currently on the staff at Long Beach who hold faculty positions at the College of Medicine very likely will leave the VA if their expectation that construction of the new research and education building is moving without delay is frustrated. I strongly disagree with the House Appropriations Committee's view that this is a low-priority project and urge that the $12.171 million requested be fully appropriated for this project now.

Regarding the actual merits of the other projects involved, the storage capacity at the Hines supply depot—which serves 76 VA medical centers and 150 other governmental facilities—is approaching 100-percent utilization. Without sufficient storage space, the Government will be precluded, to a great extent, from buying certain items in bulk at discount, thereby reducing potential savings with respect to certain necessary purchases. Thus, the project is needed for the effective, economical operation of the supply system that the depot serves.

The projects in Danville and Atlanta were scrutinized carefully by this Committee as to the need for and the scope of the requested construction projects, and each was approved and included in our June 25 resolution. The Danville project would include relocating the processing and distribution service, but also would permit needed expansion of the surgery service, provide space for a 9-bed intensive care unit, and renovate the vacated intensive care area for surgical nursing bed space. The surgery and processing and distribution services at Danville now are operating in space that is only 35 percent of acceptable criteria.

The Atlanta project will bring warehouse space at that facility up to accepted criteria—space in that warehouse is currently 30 percent below such criteria—and will provide a connecting corridor between the hospital and the nursing home care unit so that patients will no longer have to move between the hospital and the nursing home care unit through a congested parking lot. I believe that the need for these projects is great and urge that the funds requested be appropriated.

In addition, the House-passed bill would reduce by $3 million the Administration's request for appropriations for the VA's advanced planning fund. However, no justification for this reduction is offered by the House. If, as both the House and Senate Appropriations Committees have directed, the VA is to improve its management of its construction program and its ability to accurately estimate funding requirements, then adequate advanced planning funds must be provided for proper development of plans for construction projects.

5. Minor Construction: I recommend that $125.134 million be appropriated for this account. This amount—which is $15.32 million less than that requested by the Administration—reflects our two Committee's agreement that the cut-off between major and minor VA medical construction projects will be $2 million. Thus, as noted above, six projects, each requiring appropriations of more than $2 million, requested as minor construction projects by the Administration are included in my recommendation for the VA's major construction account.

Beyond making that shift, I would urge that no further reduction be made from the Administration's request for appropriations for the VA's minor construction account. Any such reduction would be seriously detrimental to the VA's efforts to eliminate long-existing safety hazards, more vigorously pursue energy conservation measures, make several needed clinical improvements, and correct patient-privacy deficiencies. I am greatly concerned that delays encountered in making these kinds of modifications also have an adverse impact on the VA's efforts to maintain a level of high-quality patient care throughout the VA health-care system, thus shortchanging our Nation's sick and disabled veterans.

6. Grants for Construction of State Extended-Care Facilities: I strongly urge that $20 million—an increase of $5 million over the Administration's request—be appropriated to support the efforts of the States to provide cost-effective alternatives to VA-operated extended-care facilities.

For fiscal year 1981, the Administration requested $15 million for matching fund grants to assist the States to construct, remodel, or renovate State veterans' home domiciliary, nursing home, and hospital facilities. This is equal to the amount authorized for this program for fiscal year 1980 by Public Law 96–151 (which extended the authorization for annual appropriations for this program until September 30, 1982), although only $7.5 million actually was appropriated for fiscal year 1980.

With respect to fiscal years 1981 and 1982, Public Law 96–151 extended the authorizations of annual appropriations for "such sums as may be necessary". In light of the fact that VA-operated extended-care facilities generally are filled to capacity and that veterans' needs for extended-care services are and will be increasing rapidly, I urge you to appropriate the $20 million in order to provide more cost-effective alternatives to VA long-term care facilities. I would also note that the VA reports that it has in hand more than 20 unfunded, approvable grant applications for construction, renovation, and remodeling projects in 16 States—more than enough to make effective, economical use of the $20 million that I am recommending.

7. General Operating Expenses: With respect to appropriations for this account, I recommend an increase of $11.98 million (for 411 FTEE's) over the House-passed amount.

The major portion of the additional amount that I am recommending—$10.88 million (including 396 FTEE's)—is necessary for the administrative costs of collecting delinquent debts that the VA will incur in fiscal year 1981 in the likely event that our Committee's reconciliation resolution, passed by the Senate on June 30 in title VIII of S. 2885, the proposed "Reconciliation Act of 1980", is enacted into law. As you know, section 5 of our Committee's reconciliation resolution, in response to your strong recommendation, and a series of reports by the General Accounting Office urging Congressional action to improve Federal agency debt-collection procedures, would greatly enhance the VA's authority to collect debts owed to it by persons participating in VA benefit programs. These provisions would:

(1) require such debts to be offset from future VA benefit payments;

(2) clarify that the 6-year statute of limitations under 28 U.S.C. 2415, which pertains to collection actions by the Federal Government, does not apply to VA administrative debt-collection efforts;

(3) require the VA to charge interest and reasonable collection costs on certain delinquent amounts;

(4) require the Administrator to take steps to authorize VA attorneys to bring debt-collection suits under the supervision of the Attorney General; and

(5) authorize the Administrator, in connection with VA debt-collection efforts, to release certain information about persons determined to be indebted to the United States to consumer reporting agencies;

With the exception of the provision regarding the use of VA attorneys to bring collection suits (item (4)), similar provisions are included in the House Veterans' Affairs Committee's reconciliation recommendations and, in addition, have already passed the House in H.R. 7394, the proposed "Veterans' Rehabilitation and Education Amendments of 1980". Based on discussions with House Committee members, I am confident that all of the above-described provisions will be enacted this year.

Several departments in the VA will require additional resources—$10.43 million (including 381 FTEE's)—in order more rapidly to implement these expected new debt-collection authorities, which, according to a June 25 CBO estimate, would result in collections of $155 million in fiscal year 1981. The Office of the General Counsel will require an increase of $3.744 million (including 120 FTEE's); the Office of Data Management and Telecommunications will require an increase of $2.65 million—of which $1 million is a non-recurring hardware cost—(including 48 FTEE's); the Department of Veterans' Benefits will require an increase of $3.81 million (including 205 FTEE's); and the Controller's staff will need to be expanded by 8 FTEE's at a cost of $226,000.

In addition, $450,000 (for 15 FTEE's) is urgently required by the General Counsel's office to restore the staff resources for the currently authorized pilot project which you and I have so strongly supported—in which the VA is using its own attorneys to pursue collection actions against individuals whose debts are less than $600—that were reduced by half in the Administration's revised March budget.

8. Readjustment Benefits: With respect to the readjustment benefits account, I very much regret that the House-passed bill includes language to eliminate flight and correspondence training under the G.I. Bill. I strongly urge that this language be deleted from the bill the Committee reports. The Committee on Veterans' Affairs has considered carefully the effectiveness of these programs and has recommended, and the Senate has twice approved, that the programs be modified to limit the use of G.I. Bill benefits for such training for genuine vocational purposes and, thus, to eliminate abuses in these areas without precluding appropriate, legitimate use of these benefits. Our recommendations are included in H.R. 5288 as passed by the Senate on January 24, 1980 (S. Rept. No. 96–314, pages 55–59), and section 2 of our Committee's reconciliation resolution, which was passed by the Senate as section 802 of S. 2885.

On June 25, 1980, the Congressional Budget Office estimated that these provisions would produce cost savings of $35.4 million in fiscal year 1981. However, a somewhat modified version of this provision—which is estimated to produce a cost savings in fiscal year 1981 of $31.9 million—very likely will be enacted as part of the compromise now being developed between our Committee and the House Veterans' Affairs Committee on the pending G.I. Bill legislation.

Thus, I urge that you follow the Senate's repeated action in this area and delete the rider in the House passed bill that would totally eliminate flight and correspondence training under the G.I. Bill. Instead, I recommend that you reduce the Administration's budget request in this account by $31.9 million.

9. Compensation and Pension: Finally, I would appreciate your Subcommittee's favorable action on the Administration's pro-

posal of making a division of the compensation and pension account into three separate accounts: compensation, pension, and burial benefits and miscellaneous assistance. This division would greatly facilitate the tracking of expected reductions in pension workload, and, thus would provide a clearer view of the resource requirements of the VA's pension program as the effects of the implementation of the new pension program established by Public Law 95-588 are realized in the years ahead.

Bill, I deeply appreciate your consideration of my recommendations for veterans' programs for fiscal year 1981. Your dedication to the maintenance of appropriate levels of funding for veterans' programs is well known and greatly appreciated. I am pleased with the continued cooperation between your Subcommittee and this Committee and look forward to working closely with you toward our common goal of better serving our Nation's veterans. If I or the Committee staff can be of further assistance to you, I hope you will not hesitate to let me know.

With warmest regards,

Cordially,

Alan Cranston,
Chairman.

Senate Committee on Veterans' Affairs Explanation of the May 1, 1980, and June 25, 1980, Committee Resolutions Approving Certain V.A. Medical Construction Projects

Pursuant to section 5004(a) of title 38, United States Code, the Committees on Veterans' Affairs must adopt resolutions approving medical construction projects involving a total expenditure of more than $2 million before appropriations may be made for them. The Administration has proposed 31 such projects for fiscal year 1981.

On May 1, 1980, the Committee approved the design and site preparation portion for the construction of a replacement facility for the Veterans' Administration Medical Center at Minneapolis, Minnesota. In this regard, the Committee notes that the Administration had requested fiscal year 1981 appropriations, in the amount of $15 million, for only that portion of the Minneapolis project. The total estimated cost of the Minneapolis project—design, site preparation, and construction—is $221.4 million.

The Committee deferred the decision on the actual construction portion of that project because, although the Committee believes there is a need for a replacement VA facility at Minneapolis, the Committee did not believe that it had received all the information it required to make a final decision on the size of the project, and, therefore, wanted to assure that the full amount for the project would not be appropriated. In this regard, the University of Minnesota Medical School, with which the Minneapolis VA Medical Center is affiliated, is also proposing a large construction project, at an estimated cost of $220 to $250 million, to replace approximately two-thirds of its inpatient facilities and specialized services. Some sharing of specialized services may be possible to reduce the cost and size of these construction projects. The local health systems agency, the Metropolitan Health Board, made the recommendation that the VA construction project for Minneapolis be significantly reduced in size. The University of Minnesota currently plans to submit its proposal for comments to the Metropolitan Health Board in September. The Committee intends to review the HSA's comments on the proposals, as well as the VA's response to the HSA's recommendations of specialized services prior to the final Committee approval of the entire amount of the project.

Based on additional information received from and discussions with the VA on the remaining 30 projects, the Committee adopted a June 25, 1980, resolution for 29 of the remaining 30 projects.

The resolution includes the approval of 25 of the medical construction projects listed therein at the total cost estimated by the VA.

One of the other projects included in the VA submission for fiscal year 1981—the expansion of a warehouse and supply depot for general VA and other federal-agency use at Hines, Illinois—is not a medical facility construction project. The Committee-approval process contained in section 5004(a) of title 38 relates only to medical facility construction. Therefore, this project does not require Committee approval.

The June 25 Committee resolution—as with respect to the Minneapolis project—includes the approval of only the design and site preparation portion of the remaining projects—those at New Orleans, Louisiana: Palo Alto, California; Temple, Texas; and Tucson, Arizona. These projects will clearly not require in fiscal year 1981 the construction portion of the funding requested, for all but Palo Alto, by the Administration. Thus, given present budgetary constraints, the Committee does not believe there is a need to appropriate unnecessary for them at this time. By approving only the design and site preparation portion for these projects for fiscal year 1981, the Committee would reduce by $109.55 million the requirements for budget authority in fiscal year 1981.

This approval of only the design and site preparation portion of these 5 projects requiring Committee approval in fiscal year 1981 does not indicate that the Committee on Veterans' Affairs is adopting the policy of approving phased funding for construction projects, a policy which has been disfavored by both the House and Senate Appropriations Committees in recent years on the basis that it leads to increased spending due to inflation in construction costs and interruptions in the construction process. Rather, this action is in response to the tight budgetary constraints under which the Congress is working this year, and the Committee believed it necessary to determine which of the larger projects would most clearly not require for expenditure or obligation in fiscal year 1981 the total amount of funds required for fiscal year 1981. On that basis, the Committee has approved only the design and site preparation portions of these five projects.

Resolution of the Committee on Veterans' Affairs

Resolved by the Committee on Veterans' Affairs of the United States Senate that, pursuant to section 5004(a) of title 38, United States Code:

(1) The following medical construction projects are approved at the following total estimated costs shown:

Veterans' Administration Medical Center, project, and estimated cost:

Altoona, Pennsylvania, ambulatory care addition, $10,400,000.

Amarillo, Texas, central air conditioning, patient privacy, and elimination of fire and safety deficiencies, $6,139,000.

Bath, New York, ambulatory care addition, $4,400,000.

Biloxi, Mississippi, clinical addition, $20,750,000.

Boston, Massachusetts, secondary generator and updating of interior wiring, $2,550,000.

Bronx, New York, 120-bed nursing home care unit, $11,700,000.

Castle Point, New York, relocation and replacement of boiler plant $2,800,000.

Chillicothe, Ohio, modernization, $13,700,000.

Coatesville, Pennsylvania, 120-bed nursing home care unit, $8,500,000.

Dallas, Texas, 120-bed nursing home care unit, $7,850,000.

Danville, Illinois, relocation and expansion of processing and distribution $5,600,000.

Fayetteville, Arkansas, clinical addition, $4,500,000.

Hampton, Virginia, relocation and expansion of spinal cord injury unit, $5,150,000.

Iowa City, Iowa, elimination of fire and safety deficiencies, $2,700,000.

Kerrville, Texas, 120-bed nursing home care unit, $7,750,000.

Long Beach, California, addition and renovation for expansion and supply processing and distribution, $2,550,000.

Martinez, California, education building, $2,300,000.

Memphis, Tennessee, ambulatory care addition, $9,250,000.

Miami, Florida, outpatient addition renovation, and spinal cord injury relocation, $26,650,000.

Palo Alto, California, Elimination of fire and safety deficiencies, $4,000,000.

Pittsburgh, Pennsylvania, Elimination of fire and safety deficiencies, $8,400,000.

Reno, Nevada, 60-bed nursing home care unit, $5,100,000.

Reno, Nevada, Laundry, $2,420,000.

Togus, Maine, Renovation of bed building, $5,100,000.

Wichita, Kansas, 60-bed nursing home care unit and underground drainage culvert, $6,800,000.

(2) The development of the design and the site preparation for the following medical construction projects are approved, effective with respect to appropriations in an amount not to exceed the estimated costs shown:

Veterans' Administration Medical Center, project, and estimated cost:

New Orleans, Louisiana, Expansion of clinical, outpatient, research, and education space, $4,485,000.

Palo Alto, California, Correction of seismic deficiencies, $2,000,000.

Temple, Texas, Clinical expansion, $1,830,000.

Tucson, Arizona, Clinical expansion, $1,250,000.

Alan Cranston,
Chairman
Alan K. Simpson,
Ranking Minority Member

Committee on Veterans' Affairs,
Washington, D.C., August 29, 1980

Hon. Warren G. Magnuson,
Chairman,
Committee on Appropriations,
Washington, D.C.

Dear Mr. Chairman, as you know, on August 21, the Subcommittee on HUD-Independent Agencies completed its markup on H.R. 7631, the bill to make fiscal year 1981 appropriations for HUD and various independent agencies, including the Veterans' Administration. As Chairman of the Committee on Veterans' Affairs, I am very concerned that veterans' programs be adequately funded in fiscal year 1981 in order to assure that the Nation can meet its commitment to those who have served in our Armed Forces, particularly those with service-connected disabilities.

In connection with the full Appropriations Committee's upcoming markup of H.R. 7631, I would like to raise several VA-related matters that are of great importance to me some of which I emphasized in the recommendations I made in this regard in my August 15 letter to Subcommittee Chairman Proxmire (copy enclosed).

With respect to the VA readjustment benefits account, I strongly urge the full Committee to delete from the bill the rider—passed by the House on July 28 and modified by the HUD-Independent Agencies Subcommittee on August 21—that would terminate flight training benefits under the GI Bill as of October 1, 1980. For the following reasons, the rider is unnecessary, inconsistent with the Senate's recently adopted policy in this area, and a matter more appropriately dealt with in the authorization process.

As I pointed out on pages 13 and 14 of my August 15 letter, the Committee on Veterans' Affairs has carefully considered the effectiveness of flight and correspondence training programs and the Senate has *twice* passed our Committee's recommendation to eliminate abuses in these programs and limit the use of GI Bill benefits for such training for genuine vocational purposes and, thus, not preclude appropriate, legitimate use of these benefits.

I also stressed in that letter that a somewhat modified version of the Senate-passed flight and correspondence training provisions—recently reestimated by CBO to save $25.3 million in fiscal year 1981—will very likely be enacted as part of a compromise now being negotiated between our Committee and the House Committee on Veterans' Affairs on the pending GI Bill legislation (H.R. 7394).

In this regard, I would note that the fiscal year 1981 savings associated with the termination of flight training benefits included in H.R. 7631 as reported by the Subcommittee, along with the maintenance of correspondence training benefits, would be approximately $24.5 million. Therefore, assuming your Committee agrees to maintain the previously twice-established Senate position in this area, there would be no reason to change the amount of fiscal year 1981 savings assumed by the Subcommittee on HUD-Independence Agencies in connection with flight and correspondence training programs.

However, I am concerned that the bill as reported by the Subcommittee would not provide adequate funding for the VA in either the medical care account of the medical administration and miscellaneous operating expense (MAMOE) account. I strongly urge your favorable consideration of the recommendation I made in my August 15 letter to provide an additional $31.7 million in the medical care account, including $21.1 million to provide 1,000 badly-needed direct patient care personnel and $10.6 million to restore funding for 500,000 outpatient visits (which was cut based on the assumption that non-service-connected disabled military retirees would no longer be provided VA outpatient health-care services—a notion rejected by our Committee in March in connection with our budget views and estimates report for fiscal year 1981).

In addition, as I explained on page 4 and 5 of my August 15 letter, I believe that an expansion of the VA's new readjustment counseling program for Vietnam-era veterans—$6 million for up to 44 additional Vet Centers or expansions of the capacities of existing Centers—should be accorded very high priority in fiscal year 1981. This long overdue program to help Vietnam-era veterans who continue to have difficulties in making successful transitions to civilian life has generated a very large demand for assistance, and, for the reasons outlined in the enclosed letter, is definitely in need of expansion. My recommendation to provide for this expansion does not, however, entail the need for additional medical care appropriations.*

With respect to the MAMOE account, I believe that the full amount requested by the Administration for this account should be appropriated. I am especially concerned that the $4.894 million and 10 FTEE's that the Administration requested for development of health-care information systems (HCIS) be provided. My concern in this regard is discussed fully on pages 6 and 7 of my August 15 letter. In addition, I recently received a copy of the August 21 letter from the Administrator of Veterans' Affairs to Senator Proxmire (copy enclosed) which responds to the concerns raised during the Subcommittee markup with respect to the VA's initial conceptual planning of HCIS. In my view, development of system-wide modern computer technology in the VA is extremely important to the provision of quality health-care services to veterans and should not be further delayed.

Finally, in connection with our Committee's June 25 authorization of appropriations for only the design and site preparation portions of the major construction projects at VA medical centers in New Orleans, Louisiana; Temple, Texas; and Tucson, Arizona, I would note that our Committee provided this limited authorization for these three projects because we believed it was necessary to reduce the overall VA fiscal year 1981 budget authority requirement in order to help ensure adequate funding for the medical care account.

However, because of the additional budget authority that would now be available under the Subcommittee reported bill as a result of the sizable reductions in the readjustment benefits account ($155 million of which is for anticipated savings from vigorous VA implementation of new debt collection authorities—passed by the Senate in title VIII of S. 2885, the proposed "Reconciliation Act of 1980", provisions which will very likely be enacted in the pending GI Bill legislation, H.R. 7394), our Committee determined that it was no longer desirable to withhold approval of the construction portion of those three projects for FY 1981 appropriations, and, on August 26, our Committee authorized the construction portion of these three projects ($108.435 million in budget authority). I sent you a copy of the resolution on that date (copy enclosed).

I greatly appreciate your consideration of the recommendations I have made in this letter.

With warm regards,
Cordially,

ALAN CRANSTON,
Chairman.

VETERANS ADMINISTRATION,
Washington, D.C., August 21, 1980.

Hon. WILLIAM PROXMIRE,
Chairman, Subcommittee on HUD-Independent Agencies, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I would like to take this opportunity to provide you with information on the current status of certain priority initiatives concerning the Veterans Administration's Automatic Data Processing (ADP) activities. Of particular importance is our investment in health care activities, and the establishment of certain controls we have placed over the acquisition of all ADP hardware and software.

In the area of health care, initiatives are being pursued through a systems approach. This approach to a VA Health Care Information System (HCIS) is a planning process approved by the Office of Management and Budget which encompasses both a long term phased solution to needs for ADP services in all VA facilities and interim, or short term, solutions to give us the capability to provide critical ADP support for current and pressing health care delivery system needs.

In this HCIS initiative, we have worked very closely with the Office of Management and Budget (OMB) to assure that our strategy is in compliance with the requirements of OMB Circular A–109. In this regard, we have entered Phase II of the A–109 process with the completion of the first phase of a study of computer-based health care information systems in the private sector, and the first phase of a management plan and strategy for Health Care Information Systems acquisition. I have enclosed a copy of the acquisition strategy and plan (Enclosure No. 1). All of these studies are available if required.

In addition, and also in accordance with OMB guidance, we have assured user involvement in the formulation of requirements and user accountability with respect to the accuracy of those requirements. Five user committees have formulated functional requirements for specific systems, and a sixth user group has insured completeness of system interrelationships. We are enclosing copies of each user generated functional requirement document (Enclosure No. 2). The VA is also exchanging information and ideas with the Department of Defense and the Department of Health and Human Services, through the established channels of the Federal Health Resources Sharing Committee.

The $4.9 million provided by the House action on the 1981 Medical Administration and Miscellaneous Operating Expenses appropriation request is proposed for two uses. $3.6 million will be used to complete the OMB directed consultant studies and to support 10 employees for development of the Health Care Information System. The purpose of one of these studies is to obtain specific information about computer systems, in the private sector, which might be implemented in VA Medical Centers. Another will provide technical assistance for additional Functional Requirements Documents, including radiology and dietetics. A third will provide continuing assistance to the Program Manager in meeting the A–109 requirements. A fourth will complete the information systems study in specific VA Medical Centers. A final study will provide us with a costing methodology for the HCIS planning process.

The remainder, $1.3 million, is proposed for related pharmacy systems. This would require these funds to be provided in the Medical Care appropriation. Our interim solution to ADP support for health care includes extension of the VA-based pharmacy system now operating in District No. 26. This extension is required to support unit dose systems at VAMCs. As was expressed in testimony earlier this year, the pharmacy losses are high and cannot be controlled without a pharmacy computer system.

To complement this system the VA has requested $900.000 and (10 employees) from the allowance provided by the House for the General Operating Expenses appropriation to partially restore funding and employment to provide technical support for the Health Care Information System effort. This would provide for the development of a management plan, a mission need statement, Request for Proposals, and technical support for the studies.

The House action on the 1981 General Operating Expenses appropriation request added $900 thousand and 43 employees to implement functional medical (non-HCIS) computer systems. We have requested that $700.000 and 33 employees be allowed to permit the VA to pursue a prudent and systematic approach to interim health care delivery support pending development of the long-range Health Care Information System program. As noted previously, $900.000 and 10 employees are proposed for the Health Care Information effort.

The effective control of ADP resources, in an agency as complex in scope and size as the VA, requires that management at the highest level participate in the planning and decision-making process. In recognition of this fundamental requirement I have established a new management policy for VA automated data processing. I have provided this for your information in Enclosure No. 3. In summary, this policy provides for the following:

I am chairing the ADP Review Group and the Deputy Administrator is serving as vice chairman.

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*On page 5 of my August 15 letter, I proposed that this point be explicitly stated in the Committee report.

Department and Staff Office Heads serve as principal members of the ADP Review Group.

The ADP Review Group provides guidance and establishes priorities through a formal planning process which will allow for orderly and comprehensive procedures for future procurement actions on a competitive basis. Because users are represented in the review group, responsiveness to their need is insured early in the process.

The ADP Review Group has the responsibility to review and approve requests from the users for new systems and modifications to existing systems when the dollar value exceeds prescribed limitations.

The ADP Review Group is meeting at least once a month to discuss and consider appropriate emerging issues. The review group also insures that approvals of systems, acquisitions and modifications are made at a high level and are based on adequate project definitions and cost benefit analysis.

All Senior Executive Service personnel where appropriate, will be required to include specific goals and objectives regarding ADP in their areas of responsibility as part of their SES performance evaluation.

The Office of Planning and Program Evaluation will monitor system acquisitions, including those covered by OMB Circular A-109, and ensure, where possible, that the VA will have the capacity to make maximum use of interrelationships (interdependence) among systems. The Office of Planning and Program Evaluation will also provide support to the ADP Review Group through appropriate studies and recommendations concerning the cost effectiveness of ADP projects and management.

The Office of Data Management and Telecommunications has been strengthened and will closely monitor the progress of all ADP work to ensure the timely completion of the projects, the quality of work, and that the cost is within the amount planned.

This policy, together with newly published Interim Issues which provide specific details on policy and procedures for the entire life cycle of an ADP system, will provide the necessary controls for improved ADP management. The VA has been criticized in the past for the lack of such controls. I have also enclosed a copy of these Issues for your information (Enclosures No. 4 and No. 5).

In summary, I believe the VA has both a very realistic plan for health care ADP related activities, and has also implemented the proper controls over all ADP projects and computer equipment acquisitions. We would be happy to provide you and/or your staff with any additional supportive documentation or provide a detailed briefing at your convenience.

Sincerely,

MAX CLELAND,
Administrator.

RESOLUTION OF THE COMMITTEE ON VETERANS' AFFAIRS

Resolved by the Committee on Veterans' Affairs of the United States Senate that, pursuant to section 5004(a) of title 38, United States Code, the following medical construction projects are approved at the following total estimated costs shown:

Veterans' Administration Medical Center projects, and estimated cost:

New Orleans, Louisiana, expansion of clinical, outpatient, research and education space, $67.65 million.

Temple, Texas, clinical expansion, $27.60 million.

Tucson, Arizona, clinical expansion, $16.00 million.

This resolution supersedes the portion of the June 25, 1980, Committee resolution relating to these projects.

ALAN CRANSTON,
Chairman.
ALAN K. SIMPSON,
Ranking Minority Member.

Mr. CRANSTON. However, Mr. President, I note that, although the report language on page 97 pertaining to this increase makes clear that the additional funds may be used for additional administrative support and up to 44 new centers, it does not explicity state that those funds may be used to enhance the capacities of the existing 91 Vet Centers—as was intended in our recommendation and, as I understand it, by the Senator from Vermont (Mr. LEAHY). The option to expand staffing at the existing centers to meet the very large demand for assistance the centers are encountering is very important. The numbers of Vietnam-era veterans going to Vet Centers for help have increased steadily over the past six months.

During the month of May, a total of 3,699 new clients came to the Vet Centers; in June the number of new clients was 3,910; in July, the number of new clients was 4,364; and in August, 5,476. According to the most recent survey of the actual workload of the program, conducted on August 28, 1980, a total of 64,528 in-person contacts have been made by Vet Center teams and a total of 72,767 telephone contacts have been made, 51,275 of which were made by family members or friends on behalf of Vietnam-era veterans.

Many Vet Centers experiencing very high levels of demand have had their staffs augmented by temporary part-time staff members who are scheduled to be withdrawn by the start of fiscal year 1981. If not corrected, this situation will directly reduce the ability of these Vet Centers to provide the needed counseling and other services.

Our March budget recommendation was to provide $6 million for 187 FTEE's, to enhance or expand existing vet centers, as well as to initiate up to 44 new ones. As I stated before, I believe it was the intention of the Senator from Vermont (Mr. LEAHY) that the $6 million he was successful in including for this program would provide the additional staff and be available for the VA to expend in the manner intended by our committee.

Mr. PROXMIRE. Mr. President, the Senator from Vermont (Mr. LEAHY) has informed me. that, in fact, that was his intention in making his motion during the August 28 markup, and that is thus the intended purpose of the committee action regarding the $6 million.

Mr. CRANSTON. With respect to the 187 FTEE's, I note that section 5010 (a)(4)(A) of title 38, United States Code, requires OMB to provide to the VA the personnel ceiling for VA health-care staffing, in this instance the 187 FTEE's, for which appropriations are made. In addition, in order to insure that the VA actually receives the personnel ceiling for the health-care staff for which funds are appropriated, OMB must certify to Congress, within a specified time period, that the funded personnel ceilings have been provided to the VA.

Thus, I strongly urge the Senate conferees to do all possible to see to it that the joint explanatory statement in accompanying the conference report makes clear that the VA's readjustment counseling program is to be provided, in fiscal year 1981, an additional $6 million for 187 FTEE's—to be allocated pursuant to 38 USC 5010(a)(4)(A)—and that the additional funds and FTEE's may be used for up to 44 additional vet centers and for expansions of the capacities of existing centers, and for improved administrative support.

Mr. PROXMIRE. I agree that this is a very important program and that the VA ought to use the $6 million add-on and the 187 FTEE's to supplement staff at the existing vet centers, where warranted by demand, in order to provide the services for which they were established, as well as to staff new centers.

I also state that I will do all I can to insure that the report language outlined by the chairman of the Committee on Veterans' Affairs is included in the joint explanatory statement.

Mr. MATHIAS. Mr. President. I was pleased to support the amendment offered by the Senator from Vermont (Mr. LEAHY) in committee. We are all keenly aware of the problems we have had with OMB relative to VA positions and I certainly would agree that an explicit statement in the conference report on this issue would be helpful.

UP AMENDMENT NO. 1630

(Purpose: To delete the provision terminating the GI Bill flight training program)

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from California (Mr. CRANSTON), for himself and Mr. SIMPSON, Mr. TALMADGE, Mr. RANDOLPH, Mr. STONE, Mr. DURKIN, Mr. MATSUNAGA, Mr. THURMOND, Mr. STAFFORD, Mr. HUMPHREY, Mr. TOWER, Mr. BAUCUS, Mr. GRAVEL, Mr. WILLIAMS, Mr. HATFIELD, Mr. LAXALT, and Mr. GARN, proposes an unprinted amendment numbered 1630.

Mr. CRANSTON. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 32, line 24, strike out the semicolon and all that follows through "October 1, 1980." on page 33, line 3, and insert in lieu thereof a period.

Mr. CRANSTON. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CRANSTON. Mr. President, this amendment, in which I am joined by all the members of the Veterans' Affairs Committee—as well as Senators TOWER, BAUCUS, GRAVEL, WILLIAMS, HATFIELD, LAXALT, and GARN—would add no money to the pending bill. Rather it would simply delete from H.R. 7631, as reported, the fiscal year 1981 HUD-Independent Agencies Appropriations Act, a rider that would prohibit the expenditure of funds for GI bill flight training benefits as of October 1, 1980.

The reason I am asking for a rollcall is to make plain the position of the Senate, since there is a provision similar to the one we are proposing to strike out of the Senate version in the House-passed bill. We want to establish a clear record on the Senate's position on this matter for the conference.

Mr. President, as Senators may know, the complete termination of GI bill benefits for flight training has been recommended by two administrations on four occasions on the grounds that this type of training does not lead to jobs for the majority of trainees and that the courses tend to serve avocational, recreational, and personal enrichment rather than basic employment objectives. On three of those occasions, adequate justification to substantiate this assertion was not submitted to the authorizing committee—the Veterans' Affairs Committee—or to the Congress.

Indeed, the evidence we did have at those times tended to suggest exactly the opposite of that assertion. As our committee noted in submitting its recommendations to the Budget Committee in March 1979, a report that we had received from the VA on vocational objective courses indicated that the rate of employment of flight training graduates was 90.3 percent in flight-related courses—as computed by the VA itself for the purposes of approval of vocational objective courses by determining compliance with what is known as the VA's "50-percent employment rule."

Last year, Mr. President, the Veterans' Affairs Committee, in order to evaluate more fully the administration's proposals—for which an adequate factual basis had still not been provided—and to obtain more definitive data, I requested the General Accounting Office to conduct a survey to assess the accuracy of the VA's assertion as compared to its statistical data. That GAO report, published on August 24, 1979, while substantiating many of the VA's assertions with respect to this type of training, still did not—in the committee's view—present sufficient justification to terminate completely GI bill benefits for flight training.

Mr. President, I believe it would be neither justifiable nor fair to terminate these benfiets totally. It is undeniable that, for some veterans, flight training serves a legitimate vocational purpose. Indeed, flight training with GI bill benefits facilitates a more direct and successful transition from a military occupational specialty to a civilian occupation than is the case with respect to most any other occupation. Terminating benefits for flight training thus represents an unfair, meat-ax approach to reducing abuse of GI bill benefits. It would be a complete denial of a specific benefit to some veterans who we know would make appropriate constructive use of it.

Mr. President, the Veterans' Affairs Committee is convinced that the problems and failures cited by both the VA and the GAO can be curbed by provisions to modify the benefit and tighten certain aspects of the administration of the program. Such provisions were painstakingly crafted by our committee following hearings on the subject and our review of the GAO report and have been passed by the Senate twice—on January 29, 1980, in H.R. 5288, the proposed "GI Bill Amendments Act of 1980," and on June 30, in S. 2885, the proposed "Reconciliation Act of 1980."

We believe that these provisions are fully responsive to the concerns expressed by the VA, GAO, and the Appropriations Committee that some veterans have used their GI bill benefits in flight training courses for nonvocational purposes.

First, in order to carry out congressional intent regarding GI bill benefits and to help assure that the vocational-objective training programs for which GI bill benefits are used to lead to jobs for veterans, these Senate-passed provisions would strengthen the rules by which vocational-objective courses—which include flight training courses—are approved. Thus, under these bills, in order to be approved for GI bill benefits, vocational objective courses would have to demonstrate that 50 percent of those who enroll in a course complete it, and that 50 percent of those who complete it subsequently obtain their primary employment in the field for which trained.

Second, H.R. 5288 and S. 2885 would reduce from 90 percent to 60 percent the VA's share of the cost of the course and make the veteran eligible for a VA education loan which could be canceled if the veteran later becomes employed in a flight-related occupation. The measures would thus require the veteran to have a very substantial financial stake in obtaining a flight-related job and discourage use of benefits for this type of training for recreational purposes.

I would also point out that the provisions of H.R. 5288 and S. 2885 allow for considerable savings while being responsive to both the needs of veterans and the need to assure responsible expenditure of tax dollars for GI bill programs. The Appropriations Committee assumes that $24.5 million in fiscal year 1981 savings would result from the provision to terminate flight training benefits. The proposal which has twice passed the Senate for modifying the VA's flight training program is estimated by CBO to save $21.9 million in fiscal year 1981.

When incorporated into a total anticipated compromise agreement on H.R. 5288 and the comparable house measure dealing with GI bill benefits, the $24.5 million reduction is a realistic reduction in the readjustment benefits account, taking into account other savings in the administration of the GI bill that are not assumed by the appropriations committee. Our amendment would not involve any increase in appropriations for the account involved. Thus, as my colleagues can see, the rider is both unnecessary and inconsistent with the Senate's recently adopted policy with regard to VA flight training benefits.

In closing, Mr. President, we strongly believe that the substantive, programmatic, and legislative issue of terminating or modifying a VA entitlement program is more appropriately dealt with in the authorization process than in the appropriation process, and it has been dealt with responsibly and conscientiously in this instance in the authorization process.

Mr. President, for those reasons, I urge my colleagues to support this amendment.

Mr. THURMOND. I rise in support of the unprinted amendment offered by my colleague (Mr. CRANSTON) to the pending HUD-Independent Agencies Appropriations Act, H.R. 7631.

Mr. President, this amendment would delete the rider which would discontinue funding of GI bill flight training benefits for veterans not enrolled in a flight training course on October 1, 1980.

Mr. President, the current administration has requested the termination of flight training benefits for veterans for each of the past 4 years. The Senate Committee on Veterans' Affairs held hearings on this issue on June 6, 1979. The testimony indicated that termination of these benefits would be unwise and totally unwarranted. Therefore, the committee proposed legislation that would tighten certain administrative provisions and increase the veteran's share of his monetary participation in this program. This legislation has passed the Senate twice this year as part of two different legislative initiatives—H.R. 5288 on January 24, and S. 2885 on June 30. I am hopeful that a compromise on this issue and others will be reached soon by the House and Senate Committees.

Mr. President, the amendment before us to delete this rider from H.R. 7631 would not change the dollar amount that currently exists in the appropriation bill for the VA readjustment account. It only eliminates language that would prohibit the payment of flight training benefits after October 1, 1980. The Appropriations Committee has appropriated the necessary funds and the Veterans Committee has authorized the program. For these reasons, I urge my colleagues to support this amendment.

Mr. President, I have received letters of support for this amendment from the American Legion and the Veterans of Foreign Wars. For the benefit of my colleagues, I ask unanimous consent that these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE AMERICAN LEGION,
Washington, D.C., September 11, 1980.

DEAR SENATOR: This is to advise you of The American Legion's support for two amendments to H.R. 7631, the FY 1981 HUD-Independent Agencies Appropriations Act. These proposals are the product of deliberations within the Senate Committee on Veterans Affairs and they have been unanimously endorsed by the membership of that Committee.

The first of these amendments would delete from H.R. 7631 a rider prohibiting the expenditure of FY 1981 funds for GI Bill flight training benefits. We feel strongly that these benefits should be continued for those veterans who seriously pursue flight careers. In fact, the Senate registered its support for the concept of this program earlier in the year by approving language in H.R. 5288 designed to eliminate a recurrence of past abuses.

The second amendment would increase the VA medical care account by $31.7 million for the purpose of providing additional direct patient care personnel and restoring funds for some 500,000 out-patient visits. The amount of funding requested by this amendment is not excessive. It simply seeks to restore a minimum of personnel necessary to improve the quality of health care in areas of the VA hospital system where staff levels are at the critical point. We request your support for this amendment as an expression of your commitment to the quality of VA health care.

Both of these proposals can be adopted without damaging the budget process or exceeding those targets already established by you and your colleagues. They deserve your support.

Sincerely,

Mylio S. Kraja,
Director, National Legislative Commission.

Veterans of Foreign Wars,
Washington, D.C., September 12, 1980.

Hon. Alan Cranston,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: I am advised that when H.R. 7631, the FY 1981 HUD-Independent Agencies Appropriations Act, is considered by the Senate, you will offer two amendments thereto on behalf of the entire membership of the Veterans' Affairs Committee.

The first amendment will delete a rider from the bill that would prohibit the expenditure of funds for flight training benefits under the GI Bill effective October 1, 1980. As we have stated in testimony before your Committee, the Veterans of Foreign Wars is opposed to the elimination or reduction of any earned veterans' benefits and our position in this regard is reiterated in Resolution No. 697 passed by the voting delegates to our 81st National Convention held in Chicago, Illinois last month and a copy thereof is enclosed.

The second amendment would increase the medical care account of the Veterans Administration by $31.7 million to restore funding for 500,000 outpatient visits by veteran Armed Forces retirees and increase funding for health-care personnel. Although we support this increase of $31.7 million and, for the record, we sincerely believe that to adequately provide needed health-care for those so entitled, the House-passed add-on of $85.4 million is the minimum amount that should be agreed to if the Veterans Administration is to properly and timely carry out the mandates of Congress. Our current Resolution No. 609, also enclosed, stipulates in part, ". . . that we continue our unabated efforts for an adequate budget that will insure that the health-care needs of our nation's veterans are met . . ."

With best wishes and kind regards, I am

Sincerely,

T. C. Selman,
Commander-in-Chief.

[Resolution No. 697]

Oppose Curtailment or Elimination of Earned Veteran Benefits and Privileges

Whereas, there is a growing trend toward reduction of the earned benefits and entitlements of veterans, their spouses, dependents and survivors which were explicitly promised or provided by law or regulation in recognition of the hardships and dangers of service life; and

Whereas, the erosion of the earned benefits and entitlements are detrimental to the morale of veterans, active, reserve and retired; and

Whereas, the continued erosion and reduction of earned benefits and entitlements will adversely affect maintaining an effective and efficient military force needed for the security of the United States; now, therefore

Be it resolved, by the 81st National Convention of the Veterans of Foreign Wars of the United States, that we oppose all efforts by any individual, group, organization, government office, bureau or agency, or the United States Congress, to discriminate against a veteran, discharged under honorable conditions, or to eliminate or curtail in any manner their earned benefits or privileges.

Mr. PROXMIRE. Mr. President, I am happy to support the amendment by the Senator from California.

As he said, this is not an amendment that adds any money to or takes any money away from the readjustment benefits appropriation. It has no effect on the money part of the section. It simply strikes language.

In the past, the authorizing committees have not taken final action to curtail flight training benefits. Today the chairman of the Veterans' Affairs Committee (Mr. Cranston) assures us they will shortly take final action.

For that reason, I am happy to concur in his recommendation that we take the language out of the bill.

Mr. MATHIAS. Mr. President, as a matter of fact, the amendment of the Senator from California is precisely the same amendment I offered in subcommittee which, as the Senator from Wisconsin said, was not acted on at that time because of lack of authorization.

So, it is one I support very fully. I am glad he has brought it up at this time, with the authority of his position as chairman of the Veterans' Affairs Committee, which makes it possible for us to properly act at this moment.

Mr. CRANSTON. I thank both Senators very much.

Mr. MAGNUSON. Call the roll.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California. The yeas and nays have been ordered and the clerk will call the roll, as the President pro tempore requests.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Arkansas (Mr. Bumpers), the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Culver), the Senator from Arizona (Mr. DeConcini), the Senator from South Carolina (Mr. Hollings), the Senator from Hawaii (Mr. Inouye), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Michigan (Mr. Levin), the Senator from South Dakota (Mr. McGovern), the Senator from North Carolina (Mr. Morgan), the Senator from Georgia (Mr. Nunn), the Senator from Arkansas (Mr. Pryor), the Senator from Connecticut (Mr. Ribicoff), the Senator from Alabama (Mr. Stewart), the Senator from Georgia (Mr. Talmadge), and the Senator from Massachusetts (Mr. Tsongas) are necessarily absent.

I also announce that the Senator from Montana (Mr. Melcher) is absent because of illness.

I further announce that, if present and voting, the Senator from Michigan (Mr. Levin) and the Senator from North Carolina (Mr. Morgan) would each vote "yea."

Mr. PACKWOOD. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Mississippi (Mr. Cochran), the Senator from Maine (Mr. Cohen), the Senator from Arizona (Mr. Goldwater), the Senator from Utah (Mr. Hatch), the Senator from Oregon (Mr. Hatfield), the Senator from New York (Mr. Javits), the Senator from Iowa (Mr. Jepsen), the Senator from Idaho (Mr. McClure), the Senator from Alaska (Mr. Stevens), the Senator from Texas (Mr. Tower), and the Senator from Wyoming (Mr. Wallop) are necessarily absent.

I also announce that the Senator from Vermont (Mr. Stafford) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 66, nays 2, as follows:

[Rollcall Vote No. 428 Leg.]

YEAS—66

Armstrong
Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cranston
Danforth
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hayakawa
Heflin
Heinz
Helms
Huddleston
Humphrey
Jackson
Kassebaum
Laxalt
Leahy
Lugar
Magnuson
Mathias
Matsunaga
Metzenbaum
Mitchell
Moynihan
Nelson
Packwood
Pell
Percy
Pressler
Proxmire
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stennis
Stevenson
Stone
Thurmond
Warner
Weicker
Williams
Young
Zorinsky

NAYS—2

Bellmon
Long

NOT VOTING—32

Baker
Bayh
Bumpers
Church
Cochran
Cohen
Culver
DeConcini
Goldwater
Hatch
Hatfield
Hollings
Inouye
Javits
Jepsen
Johnston
Kennedy
Levin
McClure
McGovern
Melcher
Morgan
Nunn
Pryor
Ribicoff
Stafford
Stevens
Stewart
Talmadge
Tower
Tsongas
Wallop

So Mr. Cranston's amendment (UP No. 1630) was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MATHIAS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILLIAMS. Mr. President, I will be supporting final passage of the Housing and Urban Development-Independent Agencies appropriations bill, but I do so only because it represents the best bill that can be achieved at this time.

Among the important provisions of this bill is funding adequate to support 280,000 additional units of section 8 and public housing. Although this level is insufficient to meet low income and elderly housing needs, it does assist a substantial number of American families and individuals who are unable to afford decent, safe, and sanitary housing.

I should advise my colleagues that this provision has been made in the face of strong criticisms of both section 8 and public housing. Unfortunately, much of this criticism has been negative, and few have offered solutions which would be innovative in terms of providing housing for low income and elderly Americans. Rather, these criticisms have sought to cut back our assisted housing programs, because they are not perfect.

However, I would like to commend the manager of this bill, the distinguished chairman of the Banking Committee. This year, he proposed a new multifamily housing initiative program to increase production and to expand decent housing opportunities for low income people. Although this body did not ultimately support that effort, my colleague from Wisconsin made a positive contribution in responding to concerns about existing housing assistance programs.

At the same time, I feel equal recognition should be given to my colleague from Utah, the distinguished ranking minority member of the Banking Committee. Although Senator GARN successfully opposed our new initiative, he has fully recognized that there are a great number of Americans who are not adequately housed, that the number is growing, and that many of these citizens will not attain shelter without our help.

The committee is to be commended for its inclusion of funding to provide for an aggregate total of 20,440 unit reservations under the section 202 program of housing for the elderly and handicapped. Assistance under this program includes health, continuing education, welfare, recreation, counseling, referral, and transportation. As the number of elderly persons without sufficient resources increases in our society, it is critical that we assure them that they will not become isolated and forced to live their remaining years in miserable circumstances.

However, I must express deep concern about the manner in which this level was achieved, because I believe that it represents a net loss for the elderly and handicapped. As I understand the committee's action, $50 million in budget authority was shifted from the section 8 rental assistance program to the section 202 program for use as loans. By making this shift, there was necessarily a reduction in the number of section 8 units that could be assisted. I think this is particularly unfortunate because the committee's action gives the appearance of giving more to the elderly and handicapped when its effect is precisely the opposite.

I am especially pleased that this bill includes funding for the third year of the congregate housing services program. This program was authorized to promote and encourage handicapped elderly and nonelderly to be able to maintain maximum independence within a home environment. It is my hope that the level in the bill will make assistance available for up to 5,200 individuals. This is a program with which I have been closely involved for many years, and one which I regard as critical to the respect and dignity of handicapped persons.

The bill, as proposed does not provide sufficient levels for the operation and maintenance of public housing authorities, nor is it nearly adequate for the troubled projects operating subsidies. I intend to support efforts to provide reasonable levels for these programs, because I believe it is critical that we not permit previous investments in this housing to be lost due to an inability to maintain them. We already suffer from wasteful levels of abandonment due to deterioration and high utility bills. A moderate investment now would avoid prohibitive replacement costs in the future.

This bill also appropriates the first funding ever for the Solar Energy and Energy Conservation Bank with which to provide grants to financial institutions for low interest solar loans and for energy conservation improvements in commercial and residential buildings. This marks an important step in our efforts for energy independence and for assisting low and moderate income persons to decelerate increasing utility costs.

In the area of community planning and development, the bill provides full funding for the comprehensive planning program and the urban development action grant program. At the same time, the bill as reported by the committee, makes a substantial cut in funding for the community development block grant program. The level is considerably less in real dollars than what the Congress authorized for the program for fiscal year 1980, and it would mean a reduction in real terms for more than 13 percent from last year's appropriation. At a time of high inflation and unemployment, city and community resources are already stretched thin. By the committee's reduction in the program, its usefulness would be diminished, and I shall support efforts to increase it.

In sum, Mr. President, and with reservations, I will vote for the bill. It is a must for on-going programs for housing and community development. It provides funding for newly authorized programs. Despite intense budgetary pressures, the bill speaks to human needs and concerns, and takes cognizance of the importance of the health of our neighborhoods and of our shelter.

VETERANS' DISABILITY COMPENSATION AND HOUSING BENEFITS AMENDMENTS OF 1980—H.R. 7511

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on H.R. 7511.

Mr. MATHIAS. Mr. President, reserving the right to object, I am reluctant to object, but I believe this has not been cleared with the leadership on this side of the aisle, and until I can get that clearance, I am wondering if the majority whip will hold his unanimous-consent request?

Mr. CRANSTON. May I speak one moment during the course of this objection, and I may be willing to withhold, but I would like to state, first, that this matter relates——

Mr. MATHIAS. We never oppose the veterans.

Mr. CRANSTON. Then the Senator will not oppose this.

This measure embodies a compromise agreement between the Committees on Veterans' Affairs of the two Houses. It is, I believe, a fair and reasonable compromise that was worked out after extensive discussions and negotiations. It would provide for a much-needed cost-of-living increase in the rates of compensation for service-connected disabled veterans, and dependency and indemnity compensation for survivors of veterans who have died from service-connected causes.

This has had the full approval of the Veterans' Affairs Committees of both Houses and, in effect, the approval of both bodies.

We are now simply trying to work out final passage of a measure that embodies this compromise. If this measure is not acted upon today or Monday some 2,300,000 checks containing this cost-of-living increase will not go out, and there will be a lot of innocent veterans and their survivors who will be deprived of money they need at this time. So I hope there will not be any prolonged objection to this measure at this time.

Mr. MATHIAS. I am equally hopeful there will not be any delay. It will go through the normal procedure of clearance and can be acted on promptly. But I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. CRANSTON. I would like to point out that I will bring this veterans' compensation bill up when I can. When unanimous consent is not required to bring it up, H.R. 7511 will be brought up.

Mr. MATHIAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BAUCUS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OH, FOR MENCKEN

Mr. MATHIAS. Mr. President, the city of Baltimore recently celebrated the centennial of the birth of H. L. Mencken with a round of festivities and intellectual feasts that brought visitors to Maryland from all over the country.

H. L. Mencken, as I am sure every Member of the Senate knows, was a celebrated Baltimore journalist. For many years his columns appeared in the Baltimore Sun and delighted the readers of that great Maryland newspaper.

He also was the editor of several magazines, and was known around the world for his wit and for his political insight.

H. L. Mencken is one of the most quotable of American authors. In fact, I have frequently had occasion to quote that line of his which says that for every problem there is a solution which is simple and easy and wrong.

H. L. Mencken's colleagues on the Baltimore Sun have obviously missed him. On Friday, September 12, they wrote an editorial entitled, "Oh, For Mencken!"

I ask unanimous consent that this editorial which appeared in the Sun on that date appear in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

Oh, for Mencken!

"The Nineteenth century was the era of the novelist," James Reston of the New York Times once said. "The Twentieth is the era of the journalist." If that is true, certainly the Baltimorean whose centennial is today is largely responsible. H. L. Mencken was the most influential American journalist during his active career as a Baltimore newspaperman (1899–1948) and as magazine editor and writer. The Times described Mencken in the 1920s as "the most powerful private citizen in the United States." Walter Lippmann, perhaps the century's second most influential journalist, said Mencken had become "the most powerful personal influence on this whole generation of educated people."

Not all of that influence was due to his newspaper work. As professor William H. Nolte has pointed out, Mencken as literary critic and magazine editor probably "almost single handedly created a sophisticated reading public and did more than anyone else in paving the way for the literature that came into being in the 1920s. . . ." Then there was his scholarly "The American Language." Mencken did as much as anyone to make Americans aware that their brand of English was its own language.

We are proud that Mencken chose to live and work in Baltimore all his life and from 1906 through 1948 on The Sunpapers. Most of his Sunpapers writing was about politics (more on that in a moment) and for The Evening Sun. He wrote an almost daily column for that paper's editorial page 1911–1915 and his famous Monday Articles for the same page 1920–1938. But he also wrote regularly for The Sun, editorials, reporting and commentary. Much of this was not the wonderfully outrageous criticism of individuals, institutions and ideas for which he became internationally famous, but rather it was benign: obituary editorials of local luminaries, lengthy histories of the University of Maryland and of Johns Hopkins Hospital, etc.

That writing today attracts only historians and Baltimore buffs. His literary and cultural criticism is of interest to a limited audience. Also his work on the language. But not his political commentary. Forty years before that Reston quote was uttered, Mencken said, "We live, not in a literary age, but in a fiercely political age." He particularly enjoyed presidential politics. Mencken could lambaste a politician in a manner so fierce and stylish that people not born in the '20s today relish a Mencken attack on Warren G. Harding. Mencken lives in anthologies and is quoted in the press almost daily.

Mencken did not say, as is supposed, "There is but one way for a newspaperman to look at a politician, and that is down." That was Frank H. Simonds, but Mencken immortalized that wisdom in his "New Dictionary of Quotations." What Mencken said was, "A good politician is as unthinkable as an honest burglar." And "the average democratic politician, of whatever party, is a scoundrel and a swine." And . . . but there is too much. That style! That attitude! How we have yearned for them lately—the style while dipping into the new, dull biography of the above-mentioned great Lippmann; and the attitude while watching famous journalist Theodore White obsequiously interviewing Richard Nixon on the Today Show.

Can you imagine what H. L. Mencken would have done with a Nixon? Or a Carter? Or a Reagan? Or an Anderson? . . .

Mr. PROXMIRE. Mr. President, I am delighted the Senator from Maryland has spoken about his distinguished favorite son.

This editorial is a fascinating tribute to him.

Incidentally, I take great pride in being a politician. I have been in the Senate now for 23 years and I think those people who have said they are not politicians but who run for public office are either hypocrites or self-deluded.

For that reason, I have mixed feelings about H. L. Mencken, a marvelous man with a terrific intellect.

This editorial points out one of the difficulties I have.

He says:

> Mencken did not say, as is supposed, "There is but one way for a newspaperman to look at a politician, and that is down." That was Frank H. Simonds, but Mencken immortalized that wisdom in his "New Dictionary of Quotations." What Mencken said was, "A good politician is as unthinkable as an honest burglar." And "the average democratic . . .

With a small "d," not meaning a member of the Democratic Party but a democratic politician.

> Politician, of whatever party, is a scoundrel and swine." And . . . but there is too much. That style! That attitude! How we have yearned for them lately—the style while dipping into . . .

Well, I do not yearn for that kind of categorization. I must say it is good to get people who oppose the usual kind of meaningless praise of people without much distinction, but I think that Mencken went a little too far the other way, often. While I certainly honor his great intellect and his delightful wit, I must say that I was somewhat concerned with what seemed to be an attitude toward all politicians as being all bad.

When I look at my good friend from Maryland, and the distinguished Senator from Montana who is occupying the chair, I know that there are some very good politicians.

Mr. MATHIAS. Mr. President, the Senator from Wisconsin has, of course, noted H. L. Mencken's propensity to get the impact on his reader through a form of exaggeration. He applied that technique with uniformity across the human race. There were very few categories or groups of men who escaped that treatment. Not least did he apply it to his fellow journalists. He was as savage in describing his own colleagues in the field of journalism as he was in describing politicians.

Franklin D. Roosevelt, who had been feeling the barbs and stings of outrageous press treatment, took great pleasure in quoting Mencken to a press dinner. Of course, it was very stinging criticism which the President could lay upon the shoulders of a journalist and could utter the words without having to shoulder the full responsibility for them himself. If they were bad enough for Franklin Roosevelt to apply to his critics in the press, you can well imagine they were very bad.

I am told that Mr. Mencken did not particularly relish having the President of the United States usurp his words. But he was a colorful figure. He expressed the feelings of America in a colorful age, and he helped to make the Baltimore Sun the influential journal that it was throughout the generation in which he was writing.

It was for that reason, Mr. President, that the Mencken Festival was organized in the City of Baltimore. It was for that reason that Alistair Cooke came down to preside over some of those events and, I think, for that reason that Members of the Senate will enjoy reading the editorial which I have placed in the Record.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal, which were referred to the appropriate committees.

(The nominations and withdrawal received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 3:49 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 3904) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployer plans, and for other purposes.

The message also announced that the House has agreed to the report of the committee of further conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill

(H.R. 5192) to amend and extend the Higher Education Act of 1965, and for other purposes.

The message further announced that the House has passed the following joint resolutions, in which it requests the concurrence of the Senate:

H.J. Res. 560. Joint resolution to proclaim March 19, 1981 as "National Agriculture Day"; and

H.J. Res. 568. Joint resolution to proclaim and request the President to issue a proclamation designating October 12 through October 19, 1980, as "Italian-American Heritage Week".

HOUSE MEASURES REFERRED

The following joint resolutions were read twice by their titles, and referred as indicated:

H.J. Res. 560. Joint resolution to proclaim March 19, 1981 as "National Agriculture Day"; to the Committee on the Judiciary.

H.J. Res. 568. Joint resolution to authorize and request the President to issue a proclamation designating October 12 through October 19, 1980, as "Italian-American Heritage Week"; to the Committee on the Judiciary.

ENROLLED BILLS PRESENTED

The Secretary reported that today he had presented to the President of the United States the following enrolled bills:

S. 1125. An act to improve and extend the Federal Crop insurance program, and for other purposes; and

S. 2443. An act to authorize the Department of Energy to carry out a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, N.Y.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources, with an amendment (in the nature of a substitute):

S. 1440. A bill to enable the Secretary of Energy to utilize revenues from power marketing, to carry out his responsibilities related to Alaska Power Administration, Southeastern Power Administration, Southwestern Power Administration, and Western Area Power Administration, and for other purposes (with additional views) (Rept. No. 96-967).

By Mr. JACKSON, from the Committee on Energy and Natural Resources, with amendments:

H.R. 5048. An act to amend the Act entitled "An Act to preserve within Manassas National Battlefield Park, Virginia, the most important historic properties relating to the battle of Manassas, and for other purposes", approved April 17, 1954 (68 Stat. 56; 16 U.S.C. 429b). (Rept. No. 96-968.)

By Mr. CHURCH, from the Committee on Foreign Relations, without amendment:

S. Con. Res. 62. Concurrent resolution urging the Soviet Union to allow Irina Astakhova McClellan to emigrate to the United States, and for other purposes.

By Mr. LEAHY, from the Committee on Appropriations, with amendments:

H.R. 8061. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1981, and for other purposes (Rept. No. 96-969).

By Mr. STEVENS, from the Committee on Energy and Natural Resources, with an amendment (in the nature of a substitute):

S. 1715. A bill for the relief of Jerry L. Crow (Rept. No. 96-970).

By Mr. GLENN, from the Committee on Governmental Affairs, with amendments and an amendment to the title:

S. 1814. A bill to provide for a National Afro-American History and Culture Commission, which shall establish the National Center of Afro-American History and Culture, and for other purposes (Rept. No. 96-971).

By Mr. SASSER, from the Committee on Governmental Affairs, with an amendment (in the nature of a substitute) and an amendment to the title:

S. 878. A bill to streamline and simplify the generally applicable requirements attached to Federal assistance programs and their implementation; to facilitate the consolidation of assistance programs; to provide for multiyear funding of certain grant programs; to expedite the processing of applications for Federal assistance involving more than one grant; to extend and amend the law relating to intergovernmental cooperation; and for other purposes (Rept. No. 96-972).

By Mr. MORGAN, from the Select Committee on Small Business, with an amendment (in the nature of a substitute) and an amendment to the title:

H.R. 6626. An Act to provide the Small Business Administration with additional authority to assist small business concerns in obtaining financing and for other purposes (Rept. No. 96-973).

By Mr. MORGAN, from the Select Committee on Small Business, with an amendment (in the nature of a substitute) and an amendment to the title:

H.R. 5612. An act to amend section 8(a) of the Small Business Act (with additional views) (Rept. No. 96-974).

By Mr. JACKSON, from the Committee on Energy and Natural Resources, and on behalf of Mr. RANDOLPH, from the Committee on Environment and Public Works, jointly; with amendments:

S. 2686. A bill to direct the Secretary of the Interior to provide for the protection of the Barrier Islanders, and for other purposes (with additional views) (Rept. No. 96-975).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Wayman D. Palmer, of Ohio, to be Director of the Office of Self-Help Development and Technical Assistance, National Consumer Cooperative Bank.

(The above nomination from the Committee on Banking, Housing, and Urban Affairs was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PROXMIRE. Mr. President, I send a nomination to the desk from the Banking Committee for Mr. Wayman D. Palmer, to be Director of the Office of Self-Help Development and Technical Assistance, National Consumer Cooperative Bank.

This nomination has been approved by the Banking Committee and I hope we can act on it before we go out.

By Mr. WILLIAMS, from the Committee on Labor and Human Resources:

Odessa Komer, of Michigan, to be a Member of the National Council on the Handicapped.

Marian B. Javits, of New York, to be a Member of the National Council on the Humanities.

John C. Truesdale, of Maryland, to be a Member of the National Labor Relations Board.

(The above nominations from the Committee on Labor and Human Resources were reported with the recommendation that they be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

ADDITIONAL SPONSORS

S. 2910

At the request of Mr. NELSON, the Senator from Washington (Mr. JACKSON) was added as a cosponsor of S. 2910, a bill to provide for the payment of interest by the Federal Government on any amount due for more than 30 days to any person under the terms of a contract entered into by the Federal Government and such person.

S. 2958

At the request of Mr. PERCY, the Senator from Minnesota (Mr. DURENBERGER) was added as a cosponsor of S. 2958, a bill to insure the development and implementation of policies and procedures to encourage the Veterans' Administration and the Department of Defense to cooperate in the efficient and effective use of Federal medical resources, and for other purposes.

S. 2967

At the request of Mr. NELSON, the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 2967, a bill to amend the Internal Revenue Code of 1954 to provide estate and gift tax equity for family enterprises, and for other purposes.

S. 2970

At the request of Mr. TOWER, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 2970, a bill to amend section 404 of the Federal Water Pollution Control Act to restrict the jurisdiction of the United States over the discharge of dredged or fill material to discharges into waters which are navigable and for other purposes.

S. 2979

At the request of Mr. METZENBAUM, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 2979, a bill to amend the Railroad Retirement Act of 1974 and the Internal Revenue Code of 1954 to assure sufficent resources to pay current and future benefits and to extend certain cost-of-living increases.

AMENDMENTS SUBMITTED FOR PRINTING

TREASURY, POST OFFICE, EXECUTIVE OFFICE OF THE PRESIDENT, AND INDEPENDENT AGENCIES APPROPRIATIONS H.R. 7583

AMENDMENTS NOS. 2363 THROUGH 2365

(Ordered to be printed and to lie on the table.)

Mr. WEICKER submitted three amendments intended to be proposed by him to the bill (H.R. 7583) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1981, and for other purposes.

HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS, H.R. 7631

AMENDMENT NO. 2366

Mr. WILLIAMS (for himself, Mr. CRANSTON, and Mr. STEWART) submitted an amendment intended to be proposed by them to the bill (H.R. 7631) making appropriations for the Department of Housing and Urban Development and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1981, and for other purposes.

AMENDMENT NO. 2367

(Ordered to be printed and to lie on the table.)

Mr. EXON submitted an amendment intended to be proposed by him to the bill H.R. 7631, supra.

COLLECTION OF DEFAULTED STUDENT LOANS

AMENDMENT NO. 2368

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON submitted an amendment intended to be proposed by him to the bill (H.R. 4155) to amend the Internal Revenue Code of 1954 to allow the Internal Revenue Service to disclose the mailing address of individuals who have defaulted on certain student loans solely for the purposes of collecting such loans.

Mr. CRANSTON. Mr. President, I am today submitting for printing and appropriate reference an amendment to H.R. 4155, a bill passed by the House on June 17, 1980, to amend the Internal Revenue Code of 1954 to allow the Internal Revenue Service—IRS—to disclose to the Secretary of Education the mailing addresses of taxpayers who have defaulted on certain student loans administered by the Department of Education. This House-passed measure, which is now pending in the Committee on Finance, would permit the Secretary to redisclose IRS-provided addresses to lenders or State or nonprofit guarantee agencies participating in the guaranteed student loan program and to educational institutions participating in the national direct student loan program for use by officers, employees, or agents of those institutions for purposes of locating defaulters in order to collect defaulted loans.

Mr. President, this amendment would further amend the Internal Revenue Code to provide a comparable authority with respect to indebtedness to the Veterans' Administration. Specifically, it would authorize the Administrator to redisclose an address, obtained from IRS under section 6103(m)(2) of the Internal Revenue Code, which authorizes the IRS to disclose the mailing address of a taxpayer to officers and employees of Federal agencies for their use in administrative and judicial proceedings pertaining to the collection or compromise of a claim under the Federal Claims Collection Act of 1966, 31 U.S.C. 951–53, to contractors of the VA and consumer reporting agencies—CRA's—for certain specified debt-collection purposes.

Mr. President, the basic purpose of the amendment is to facilitate VA debt-collection efforts. The dollar amount of accounts receivable due the VA—active accounts with respect to which collection efforts have not been terminated—is enormous and is increasing. The total accounts receivable increased from $577 million as of March 31, 1979, to $620.4 million as of March 31, 1980. Educational assistance overpayments represent the largest portion of the accounts receivable due the VA—$405.8 million. Also, as of March 31, 1980, the VA was owed $23 million as a result of education loan defaults. Despite certain administrative actions, the VA education loan default rate remains alarmingly high—78 percent as of June 30, 1980.

Mr. President, the Senate Committee on Veterans' Affairs has been working diligently this year in attacking this problem. On January 23, the committee favorably reported S. 1518, a bill to improve current VA debt-collection procedures, including provisions to authorize the VA to disclose to CRA's certain information regarding an individual who has been determined to be indebted to the VA in order to obtain current address information or consumer reports which the VA would then use to pursue collection efforts and, in appropriate cases under carefully prescribed procedures, to affect a debtor's credit rating. On January 24, the Senate passed the provisions of S. 1518 in H.R. 5288, the proposed GI Bill Amendments Act of 1980.

Subsequently, on June 25, the committee recommended, in section 5 of its reconciliation resolution (Committee Print No. 28), provisions substantively identical to the debt-collection provisions of S. 1518, together with provisions to remove any time bars which might prevent the VA from taking administrative action to offset debts against future benefits payments; to authorize the VA to charge interest and administrative costs on delinquent debts; and to authorize the VA to use its own attorneys, under the direction and supervision of the Department of Justice, to pursue collection actions in court. These committee-recommended provisions were passed by the Senate both in title VIII of S. 2885, the proposed reconciliation Act of 1980, on June 26, and again on September 4 as an amendment to S. 1188, the proposed Disabled Veterans Rehabilitation Act of 1980. The House has passed comparable provisions to the S. 1518 provisions, and I expect agreement with the House and enactment of these provisions in the context of an education bill very shortly.

However, if these provisions are to be as effective as possible in facilitating the VA's ability to collect outstanding debts, it is essential that the VA have better and more economical access to current address information.

At an August 2, 1979, hearing of the Senate Committee on Veterans' Affairs on VA debt-collection efforts, the VA testified that one of the greatest obstacles to the effectiveness of VA debt-collection efforts is its inability to locate the debtor. At that hearing, the VA indicated that it did not have current addresses for at least 180,000 of those from whom it was attemtping to collect debts and that a high percentage of an additional 653,000 inactive accounts were lacking current addresses.

Mr. President, our amendment is intended to provide the VA with a quick and inexpensive way of locating individuals who are indebted to the VA. The cost to the VA of obtaining mailing addresses from the IRS is $0.11 per name. Although provisions passed by the Senate in H.R. 5288, as well as in S. 2885 and S. 1188, would permit the VA to disclose information in VA files to CRA's in order to obtain current address information, the costs to the VA of obtaining such information from CRA's is much more expensive—$1.80 to $2.50 per name. Moreover, there will doubtless be many cases in which either the CRA's will not be able to provide an address that IRS would have for particular individuals or the CRA address will not be as current as the one in the IRS files. Thus, the amendment could give the VA a way of substantially reducing administrative costs in collecting delinquent debts and obtaining current addresses not otherwise available to it for debt-collection purposes.

Although the VA is presently authorized to obtain current address information from Internal Revenue Service files at this $0.11 per individual rate, under section 6103(m)(2) of the Internal Revenue Code, the VA's use of IRS-provided addresses is, under the IRS interpretation of that provision, very limited. The address may be disclosed only to VA employees engaged in debt-collection efforts, and disclosures to non-Federal agencies are not permitted even solely for debt-collection purposes. For example, the VA is unable to provide an IRS-provided address to a VA contractor for the purposes of obtaining asset and income information or to a CRA for the purposes of obtaining a consumer report to help evaluate the individual's ability to repay the debt.

Yet, under current regulations (4 C.F.R. 105.3) issued pursuant to the Federal Claims Collection Act of 1966 (31 U.S.C. 951–53), the VA must, in referring a debt to the Department of Justice for collection action, provide evidence of the debtor's ability to repay. Furthermore, it will be necessary for the VA to obtain such information—when the Senate-passed provisions in S. 2885 and S. 1188, which would authorize the VA to use its own attorneys to pursue collection actions in court, are enacted into law—to make its own assessments of ability to repay in deciding whether to bring suit. Thus, this amendment would authorize the VA to disclose IRS-provided information to a contractor or CRA in order to obtain information that is necessary for the VA to refer a debt to the Justice Department or to make its own decisions whether to initiate court action.

In addition, where an IRS-provided address is not current, this amendment would allow the VA to provide the address to a VA contractor to use—but not disclose—in tracing the debtor through the use of that address.

Our amendment also would authorize the VA to disclose IRS-provided addresses to CRA's to the same extent authorized in section 3301 of title 38 for the purposes of giving notice of delinquent debts. The provisions of H.R. 5288 as passed by both the House and Senate and S. 2885 as passed by the Senate that I described earlier would amend section 3301 to authorize the VA to disclose to CRA's the name and address of an individual who has been determined to have failed to respond to reasonable VA debt-collection efforts for the purpose of giving notice of the indebtedness. In our committee's view, the possibility of such disclosures, which would affect the individual's credit reputation, would serve to encourage repayment. I would note, however, that, under the proposed Internal Revenue Code amendment, CRA's would not be authorized to make any further disclosure of IRS-provided addresses disclosed to them by the VA. To comply with this restriction, it would be necessary for the VA and the CRA to establish special arrangements to insure that any IRS-provided addresses are specially flagged as such and are not included in any documents or computerized records that the CRA would disclose to third parties.

Mr. President, the Federal Claims Collection Act of 1966—FCCA—requires Federal agencies to refer claims of more than $20,000 to the Department of Justice for collection action. In addition, regulations issued pursuant to that act (4 C.F.R. 105.1-7) provide for Federal agencies to refer certain claims to the General Accounting Office or the Department of Justice for collection. However, section 6103(m)(2) of the Internal Revenue Code does not expressly authorize a Federal employee or officer who has received an IRS-provided address to disclose the address to employees of other Federal agencies—including employees engaged in debt-collection activities. Thus, this amendment would make clear that the VA may disclose IRS-provided addresses to employees of Federal agencies to which the VA refers a claim for collection action for those employees to use in preparation for any administrative or judicial proceeding pertaining to the collection or compromise of a claim under the FCCA.

Similarly, although section 6103(m)(2) permits the IRS to disclose the mailing addresses of taxpayers for use by officers and employees of a Federal agency for use "in preparation for" any administrative or judicial proceeding pertaining to the collection or compromise of a claim, it does not expressly authorize the disclosure of such addresses "in" a judicial proceeding pertaining to such a claim. Thus, our amendment would make clear that the VA—or other Federal agencies to which the claim has been referred—may disclose an IRS-provided address in a collection or compromise of a claim under the FCCA.

Mr. President, this amendment would also authorize the IRS to disclose to the VA the mailing address of a taxpayer for purposes of conducting evaluations or studies authorized by section 219 of title 38 or required by other Federal law, and would permit the VA to redisclose the IRS-provided address to a contractor hired by the agency for the specific purpose of carrying out such evaluations or studies. The section 219 studies generally involve contacting veterans to determine what VA benefits they have or have not utilized, and why they have not utilized some or any benefits, and to elicit information bearing on whether VA programs are accomplishing their intended goals. These studies are generally carried out by agency contractors.

Prior to the Tax Reform Act of 1976 (Public Law 94-455), the VA had been using IRS taxpayer address information to locate veterans in connection with these studies. However, section 6103(m)(2) of the Internal Revenue Code currently limits IRS disclosures of addresses to the VA to those VA employees engaged in debt-collection efforts and prohibits redisclosures to others or the use of the information for non-debt-collection purposes. As a consequence, the VA now has a backlog of studies which it testified on August 2, 1979, it cannot complete without being able to locate large numbers of veterans for whom it does not have current addresses. For example, the VA testified that it is unable to carry out the program evaluation study mandated by section 304(b) of the GI Bill Improvement Act of 1977, Public Law 95-202, which requires the VA to conduct an independent study of the extent to which eligible veterans have utilized VA benefits and have readjusted successfully to civilian life.

Mr. President, although the Senate- and House-passed provisions I've described would permit the VA to disclose names and addresses from its files in order to obtain current addresses from CRA's for purposes of conducting these studies, the same issue arises with respect to the high cost to the VA of obtaining addresses from CRA's—$1.80 to $2.50 per individual—rather than from the IRS—approximately $0.11 per name.

In addition, under current credit reporting industry practice, a VA inquiry for current address information on an individual would be noted in the CRA's files. Although such a notation would, under industrywide practices, generally be made in the CRA's files in such a way as to indicate that it does not reflect adversely on the individual concerned, it is conceivable that some persons unfamiliar with credit reporting industry practices might interpret such a notation as possibly indicating the existence of an indebtedness or as being otherwise adverse.

It is for this reason that the Senate-passed provisions of S. 2885 and S. 1188 would require that before the VA may disclose information to a CRA for the purposes of locating an individual in connection with carrying out section 219 and other studies, the Administrator must determine, first, that the individual's inclusion in the study—in light of other alternatives reasonably available to develop information for the study and the comparative costs of the alternatives and the possible consequences for the individual resulting from disclosure—warrants the disclosure, and, second, that neither the release of the information nor the fact of the inquiry would create any substantial possibility that the individual's credit rating would be adversely affected. However, it would be highly preferable to enact the amendment in order to authorize the VA to obtain address information from the IRS for purposes of conducting these studies rather than taking any chance, however slight it might be, of harming the individual's credit standing or reputation as a result of a CRA notation of a VA inquiry in the individual's files.

I would also note, Mr. President, that, consistent with both the existing provisions of the Internal Revenue Code and of H.R. 4155 as passed by the House, the amendment would make the unauthorized disclosure of IRS-provided addresses by VA employees or by contractors, including CRA's, to whom the VA has disclosed such addresses a felony punishable to a fine of not more than $5,000 or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

Thus, Mr. President, I believe that this amendment represents a cost-effective, prudent approach that would both be protective of the legitimate privacy interest of the individuals involved and helpful in enabling the Federal Government to collect the moneys owed to it.

Mr. President, provisions contained in the conference report on H.R. 5192, the Education Amendments of 1980, would mandate the Department of Education to use the services of CRA's for debt collection purposes. However, under current law and under the amendments to section 6103(m)(4) proposed in H.R. 4155, the Department of Education is not and would not be authorized to disclose IRS-provided information to CRA's. The Department of Education, however, has indicated that it believes that such disclosures may be made if, before disclosing taxpayer address information received from the IRS, the Department of Education verifies the IRS address—for example by sending out a collection letter to which the defaulter responds—and that such an address would no longer be considered an IRS-provided address.

The General Counsel of the Veterans' Administration disagrees with the Department of Education in this regard on the basis that such a practice would conflict with the purposes of the IRS confidentiality provisions contained in section 6103(m) of the Internal Revenue Code. Thus, our amendment is intended to provide express authority for the VA to disclose IRS address information to agency contractors for carefully delineated purposes of collecting debts and carrying out certain studies mandated by Federal law.

Mr. President, I ask unanimous consent that the amendment be printed in the Record at this point.

There being no objection, the amendment ordered to be printed in the Record, as follows:

Amendment No. 2368

On page 3, between lines 7 and 8, insert the following new subsection (b):

(b) Section 6103(m) of such Code is amended by adding at the end the following new paragraphs:

"(5) Individuals who are indebted as a result of participation in Veterans' Administration programs.

"Any mailing address disclosed under paragraph (2) of this subsection to an officer or employee of the Veteran's Administration may be further disclosed by the Administrator of Veterans' Affairs—

"(A) in a judicial proceeding pertaining to the collection or compromise of a claim under the Federal Claims Collection Act of 1966 (31 U.S.C. 951–53) and regulations prescribed thereunder;

"(B) to employees of Federal agencies to which a claim has been referred by the Administrator of Veterans' Affairs under such Act for their use in or in preparation for any administrative or judicial proceeding pertaining to the collection or compromise of a claim under such Act and such regulations;

"(C) to a contractor of the Veterans' Administration for the purpose of obtaining from such contractor information that (i) pertains to the location of a debtor, or (ii) is necessary for collection or compromise of a claim under such Act and such regulations; or

"(D) to a consumer reporting agency for either such purpose and to the extent that the Administrator is authorized under the provisions of section 3301 of title 38, United States Code, to disclose to such agencies the names and addresses of the individual concerned for the purposes of giving notice of certain debts owed to the United States.

"(6) Veterans' Administration evaluations and studies.

"(A) Upon written request by the Administrator of Veterans' Affairs, the Secretary may disclose to the Administrator the mailing address of any taxpayer for use by officers and employees of the Veterans' Administration for the purposes of conducting evaluations or studies provided for by section 219 of title 38, United States Code, or required by any other provision of law pertaining to the evaluation of veterans' benefits programs.

"(B) Any mailing address disclosed under subparagraph (A) of this paragraph may be further disclosed by the Administrator of Veterans' Affairs to a contractor of the Veterans' Administration for the purposes of conducting an evaluation or study described in subparagraph (A) of this paragraph.".

On page 3, line 8, strike out "(b)" and insert in lieu thereof "(c)".

On page 3, line 15, insert a comma and "(5), or (6)" after "(4)".

NOTICES OF HEARINGS

SELECT COMMITTEE ON SMALL BUSINESS

Mr. NELSON. Mr. President, the Select Committee on Small Business will hold a hearing on the investment of pension funds in farmland.

The hearing will begin at 10 a.m., on Wednesday, October 8, 1980, in room 424 RSOB.

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

Mr. HARRY F. BYRD, JR. Mr. President, I wish to announce that the Subcommittee on Taxation and Debt Management of the Finance Committee will hold a hearing on Monday, September 29, 1980, on S. 3006, the Industrial Energy Efficiency and Fuel Conservation Tax Incentive Act of 1980, introduced by Senator Wallop.

The hearing will begin at 10 a.m. in room 6226 of the Dirksen Senate Office Building.

S. 3006 is of general application and is directed toward energy conservation through an increase in the energy investment tax credit to 20 percent and the addition of another category of investment eligible for the expanded credit. Investments in this category must result in the utilization of less energy per unit of output and not increase the amount of oil or gas consumed. Revenue estimates will be available at the time of the hearing.

Witnesses who desire to testify at the hearing must submit a written request, including a mailing address and phone number, to Michael Stern, staff director, Committee on Finance, room 2227 Dirksen Senate Office Building, Washington, D.C. 20510, by no later than the close of business on September 24, 1980.

CONSOLIDATED TESTIMONY

The committee urges all witnesses who have a common position or the same general interest to consolidate their testimony and designate a single spokesman to present their common viewpoint orally to the committee. This procedure will enable the committee to receive a wider expression of views than it might otherwise obtain.

WRITTEN STATEMENTS

Witnesses who are not scheduled to make an oral presentation, and others who desire to present their views to the subcommittee, are urged to prepare a written statement for submission and inclusion in the printed record of the hearing. These written statements should be typewritten, not more than 25 double-spaced pages in length, and mailed with five copies to Michael Stern, staff director, Committee on Finance, room 2227, Dirksen Senate Office Building, Washington, D.C. 20510, not later than October 27, 1980.

AUTHORITIES FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, September 22, 1980, to consider pending committee nominations and various resolutions including Senate Concurrent Resolution 60, the treatment of Christians by the Soviet Union, and Senate Concurrent Resolution 73, International Year of Disabled Persons.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PERMANENT INVESTIGATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Permanent Investigations Subcommittee of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Tuesday, September 23, 1980, to hold an executive session in order to take testimony in connection with the oversight inquiry of the Labor Department's investigation of the Teamsters Union Central States Pension Fund.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE AND THE SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Science, Technology, and Space Subcommittee of the Committee on Commerce, Science, and Transportation and the Energy Research and Development Subcommittee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, September 23, 1980, to hold a joint hearing on methane transportation research and development.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold an oversight hearing on the growing importance of coal in international trade.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PERMANENT INVESTIGATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Permanent Investigations Subcommittee of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Monday, September 22, 1980, to hold a hearing on the role of the Department of Energy in the U.S. energy emergency preparedness.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS 1981

● **Mr. MAGNUSON.** Mr. President, it has been brought to my attention that a statement of mine from a colloquy which Senator Bayh and I had on the 1980 transportation appropriations bill has been construed in differing ways recently. I feel it appropriate that the followup correspondence I had with the Federal Railroad Administration clarifying this colloquy be printed in the Record in order to minimize any ambiguity that there may have been in the colloquy's intent.

Mr. President, I ask that my letter of February 29 to Mr. John Sullivan of the FRA and his response be printed in the Record at this point.

The letters follow:

February 29, 1980.

Mr. John M. Sullivan,
Administrator, Federal Railroad Administration, Department of Transportation,
Washington, D.C.

Dear Mr. Sullivan: In connection with the passage of the FY 1980 Department of Transportation Appropriations Bill, Senator Bayh and I had a colloquy on the floor of the Senate on November 1, 1979, in which we discussed the funding for redeemable preference shares and loan guarantee financing under Title V of the Railroad Revitalization and Regulatory Reform Act of 1976. At that time, I expressed my concern over the need to assure that adequate funds were available to assist in the rehabilitation and improvement of existing properties of marginal railroads such as the Milwaukee and the Rock Island. As you know, I am still a strong supporter of rehabilitating the Milwaukee, which will help assure competitive rail service and increased ability to transport coal and other commodities. It is my understanding that your Department now believes it has sufficient funds available to assist in any rehabilitation efforts in connection with the rights of way of these troubled carriers. If I can be of assistance in helping to provide additional funding, please do not hesitate to let me know.

Since enactment of the 1980 Appropriations Bill, it has been brought to my attention that applications for Section 511 assistance for construction of new lines into coal producing areas in the West might be hampered by the colloquy Senator Bayh and I engaged in. That was not our intent, and it is my belief that the Federal Railroad Administration should actively consider applications for assistance to both existing railroads and new railroad companies to construct new lines into coal producing areas in order to help meet the increasing need to transport coal as part of our national energy program. This is entirely consistent with my desire to see a continued and improved Milwaukee to help serve these areas. In any case, given the wording of Section 511, it would appear to me that the FRA is explicitly authorized to consider applications for construction of new lines.

I hope this letter clarifies any uncertainty that may exist.

Sincerely yours,

Warren G. Magnuson, U.S.S.

Federal Railroad Administration,
Washington, D.C., March 26, 1980.

Hon. Warren G. Magnuson,
Chairman, Committee on Appropriations,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Thank you for your letter of February 29, 1980, regarding the availability of Federal financial assistance under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 for the construction of new rail lines into coal producing areas.

I appreciate having the benefit of your clarification of the colloquy between Senator Bayh and yourself with respect to this matter. I wish to assure you that FRA will continue to fully consider section 511 financial assistance for all such projects, consistent with the statutory and regulatory requirements.

Sincerely,

John M. Sullivan,
Administrator.●

A COLLUSIVE LAW SUIT

● Mr. LAXALT. Mr. President, the Legal Services Administration brought a class action against the Community Services Administration some time ago alleging that CSA had not disbursed some $18 million of a $200 million appropriation made by Congress in 1979 to assist the poor to cope with high energy costs. The case was recently settled, in a most disturbing way, and an order entered by the Federal court in the District of Columbia ordering disbursement of the money.

The nine named plaintiffs, all poor people, got a total of $2,000. The other $17,998,000 was distributed among various Government agencies, public community action groups, and public interest lawyers. I think it is an understatement to say that such a division of the funds is not exactly what Congress had in mind when it appropriated the money.

This appears to be a collusive law suit between Government agencies of the worst kind, which is not only contrary to our adversary system of justice and law, but which allows administrative agencies, with a concurrence of the Federal courts, to contravene the intent of Congress.

I have written a letter to the Community Services Administration asking for an accounting of the funds disbursed so far, and asking CSA to hold the disbursement of any additional funds until I have had a chance to look into the matter more closely.

The Wall Street Journal carried an extensive story of the case in its August 20, 1980 issue, and I would ask that both the Journal article and a copy of my letter be included, in full, in the Record.

The material follows:

U.S. Senate,
Washington, D.C., September 16, 1980.

Mr. Richard Rios,
Community Services Administration,
Washington, D.C.

Dear Mr. Rios: The matter of *Simer et al.* v. *Olivarez et al.*, has recently come to my attention, and I am disturbed by reports that our adversary system of justice may have been compromised by the settlement in the case. I have asked my staff to look into the matter more carefully.

It is my understanding that some of the monies authorized in the settlement have already been disbursed, but that others are still under the control of the Community Services Administration. I request that your office prepare and deliver to me an accounting showing funds which have been disbursed, to whom, and the authority stemming from the Court's order of April 25, 1980 for such disbursement. Also, please advise of funds still under your control, indicating plans to disburse them.

Until such time as the aforementioned accounting has been delivered to me, and I have had a chance to review it, I request that no additional funds be disbursed by the Community Services Administration.

Sincerely,

Paul Laxalt,
U.S. Senator.●

AIRLINE DEREGULATION

● Mr. CANNON. Mr. President, I submit for the Record an editorial which appeared in the Boston Globe issue of August 24, 1980, into the Record. It speaks clearly to the point that far from exacerbating the current economic problems of the airline industry, deregulation has kept the situation from being far worse.

The editorial follows:

The Battle of the Airways

The latest financial reports show that most of the major American airlines have taken a dive in the first half of 1980. Pan Am; United and American Airlines each lost over $100 million. For Braniff, things were so bad it was forced to withdraw a stock sale in December 1979 and to sell 15 of its Boeing 727s to meet payments on a bank loan last month.

It's a wild and woolly story that may yet have a happy ending for passengers if not for all of the airlines.

There are those who would like to blame the crash on the 1978 Airline Deregulation Act. Freed from the fare and route regulations of the Civil Aeronautics Board, the major air carriers rushed to drop unprofitable routes and add new ones. Northwest Orient began flying to Scandinavia. Braniff sent planes to 18 U.S. cities and eight foreign countries. The competition hurt Pan Am, which dropped some overseas service and sought access to domestic routes through the acquisition of National Airlines.

But the pilots of the board rooms had not forecast the recession, which cut passenger traffic by 4 percent in June, nor had they planned on the Iranian oil crisis, which more than doubled the cost of fuel. Their response, in the tradition of free enterprise, was a fare war, which has not helped anyone's balance sheet.

Only Delta kept its flaps down, refusing to get into the fray and turning a half-year profit of $73.9 million. Meanwhile, the vacuum caused by the departure of big carriers from over 100 cities is being filled by regional airlines and commuter services that, in a couple of cases, can offer a round-trip ticket at half the price charged by the majors.

By the time the smoke clears, we would bet that deregulation, far from being a villain, will be vindicated.●

SENATOR JOHN HEINZ' VFW SPEECH

● Mr. TOWER. Mr. President, in recent weeks the Senate has approved the first concurrent budget resolution and the Department of Defense Authorization Act both of which make significant increases in the allocation of funds for military and defense activities. By these actions, the Senate has recognized that serious deficiencies currently exist in our Nation's defense capabilities.

The signs of our inadequate military record over the last 3½ years are numerous. In the area of strategic nuclear deterrence our forces are entering a period of vulnerability, while at the same time our conventional military capabilities continue to deteriorate. The Navy has found it increasingly more difficult to stretch its dwindling numbers to all corners of the globe, and still have the ability to project a meaningful presence in crisis areas. Similarly, our Air Force has become outmoded and frequently susceptible to breakdowns. The Army, meanwhile, cannot retain or attract the top quality personnel needed to meet the demands of a technologically oriented military.

Mr. President, above all else, we need new and creative leadership which can forge a foreign policy based on defined national goals and which takes into account historical trends and current geopolitical realities. The deficiencies in our current defense posture must be addressed by providing the necessary funds for personnel and equipment. However, it is equally important that a new national emphasis on our defense needs be directed by strong leadership with a sound vision on the role our country will play in world affairs.

Mr. President, I recently had the opportunity to review a speech given by Senator Heinz which clearly defines the crisis of leadership imperiling our Nation's global defense posture. I recommend this speech to my Senate colleagues and submit the text of Senator HEINZ' remarks before the Veterans of Foreign Wars in Philadelphia be printed in the RECORD.

The speech follows:

Speech by Senator John Heinz

Mr. Chairman, Ladies and gentlemen, I would like to start my talk this morning with a few quotes from the Joint Chiefs of Staff on the current state of our defenses: General E. C. Meyer, Army Chief of Staff: "Right now we have a hollow Army."

Admiral James D. Watkins: "President Carter's defense budget . . . falls short of Navy requirements."

General Lew Allen, Jr., Air Force Chief of Staff: "Increased defense spending is required to meet the increased danger of growing world wide Soviet aggression."

And the most telling statement of all, from Marine Corps Commandant General Robert Barrow. When asked if President Carter's Defense Budget was adequate, Barrow said: "In a word—no."

Ladies and gentleman, the said truth is that our military record for the past three and a half years has been almost completely inadequate. . . . and the outlook is equally bleak.

We are rapidly approaching a period of strategic vulnerability— possibly within the next two years—when an enemies first strike could wipe out most of our land-based missile system.

In several areas, the Soviet Union already has conventional military superiority and will for the foreseeable future. World leaders can add and subtract and when they see that the Soviets have 164 divisions and we have only 17, their response is obvious.

Our Naval force cannot carry out its missions in the Persian Gulf without dangerously weakening its capabilities elsewhere and without subjecting its personnel to extremely prolonged periods of sea duty. . . . The Soviet Navy is rapidly becoming a "blue water navy" capable of going anywhere in the world . . . and who knows where they'll want to go next.

We have an Air Force that has been losing more planes through accidents than it has been getting through supply lines and a procurement level for new planes that is so low that the Soviets give away more planes each year than we produce.

And we have an Army that is understrength and cannot attract or retain the top quality personnel who are fundamental to carrying out the mission of technologically-oriented military machine.

There is only one real explanation for the sorry state of our defenses . . . we have in Washington, an administration which doesn't seem to understand what a defense policy is.

Let me give you a few examples, some of which are probably familiar to you. . . .

The administration has cancelled the Minute Man III production.

The administration has failed to provide adequately for a new generation of aircraft to replace the B–52.

The administration has failed to obtain a quid pro quo from the Soviets for its decision not to deploy the neutron bomb.

The administration has supported "stretching out" the production time on several vital programs including the MX missile, the SSN–688 attack submarine program, the Tomahawk cruise missile and the F–15 fighter. This "stretching out" has delayed considerable the time table for completion of these programs.

The administration has advocated a naval program that would give the Navy less than half the number of ships President Ford planned to supply it with.

And finally, the administration has blindly advocated American arms sales reductions at a time when the Soviets have greatly stepped up arms transfers.

My friends . . . why are we in this mess?

Well, first of all, this administration has been incredibly naive—and I'm being very kind here—about the realities of world politics.

Mr. Carter came into office pledging to reduce defense spending by up to $7 billion per year. If we're bad off now just imagine where we would be if the Congress had allowed that to happen?

Mr. Carter came into office pledging to reduce substantially U.S. arms sales around the world . . . and I applaud the good intentions behind that pledge.

But unfortunately, Mr. Carter forgot to check with our enemies—or even some of our close allies—who have continued and even increased the pace of their sales.

Just recently, the Senate Foreign Relations Committee concluded that the administration's policies have been a failure . . . and even the administration has finally had to admit it.

Mr. Carter came into office believing that good will and rational discussions would make the tensions between the Soviets and ourselves disappear . . . once again, Mr. Carter forgot to check with the Soviet Union.

It took the brutal invasion of Afghanistan to convince him that they are in the deadly serious business of exploitation and military intervention . . . anytime the opportunity arises.

But above all, Mr. Carter and his associates came into office without any intelligent understanding of where they wanted to get . . . they had—and still have—no long range foreign policy goals.

They have been inexcusably inconsistent in their conduct. . . .

First we say that Soviet troops in Cuba are unacceptable—a few weeks later we accept them. . . . First we say that the Shah of Iran is our friend—then we quietly conspire with his opponents. . . . First we condemn the invasion of Afghanistan—and then we refuse to give the freedom fighting rebels the kind of weapons aid that would enable them to be truly effective.

Ladies and gentlemen, the President of the United States has been playing an amateur's game for too long.

Today's national leadership has consistently downplayed the need for more defenses spending.

Even now, the President refuses to give full and consistent support to policies he has belatedly admitted were correct. Believe it or not, this administration has actually lobbied against the defense spending level agreed to by members of the House and Senate Budget Committees.

These are my main criticisms of the Carter administration's defense and foreign policies . . . to my mind, this is the easy part.

It is more difficult to present new policies that will truly help this Nation once again become respected and admired by both friend and foe . . . . but I do have a few ideas I would like to share with you this morning.

I believe we must have national leadership that has a sense of geopolitics and a sense of history. For the past three and one half years we have approached each problem as though it existed in a historical vacuum . . . . the current administration does not—or cannot—see the inter-relationship between the different international problems.

In the coming decade, we cannot afford to go for the quick fix—the instant solution . . . . we must have the kind of leadership that will spell out precisely what this country's long-range foreign policy goals are to be . . . . and a leadership that will reaffirm our strategic western alliances, broadening and strengthening them to meet Soviet expansionism.

Beyond this, we must have political leadership that has a realistic understanding of the Soviet Union—who can face up to the unpleasant realities of the world and not hide behind the illusions of detente.

Because, whether impelled by ideology or imperialism, or merely by opportunism, the Soviet Union today is clearly an aggressively expansionist power . . . . they have a realistic view of the world . . . and they have a sense of history: their recent incursion into the Persian Gulf is the fulfillment of an ambition the Kremlin has had since the time of the Czars.

We must make certain—and we will fight to make certain—that we have real increases in our defense budget.

There are many forces at work that undermine our defense preparedness. Let me give you one example. In a few months, the carrier U.S.S. *Saratoga* will pull into the Philadelphia Naval Shipyard as part of the Navy's efforts to maintain and modernize our fleet to counter the Soviet naval expansion.

This is vital for our overall defense posture and . . . vital for the economic growth and well-being of our tri-State area. There are some in the Congress who will seek to derail or halt this vital program, or who will seek, a great cost and delay, to divert it elsewhere.

That is why I have joined with other Senators from the Delaware valley to fight the narrow special interests who would interrupt the service life extension program almost before it has a chance to begin . . . and we're going to do everything we can to bring the U.S.S. *Forrestal* to Philadelphia where it belongs.

We must therefore, as we prepare to increase our defense budget, be alert to those who, by subterfuge, seek to block our effort to regain our lost defense posture. We must attend to our manpower needs, and part of that is that we must make certain that all our veterans—whatever conflict they served in—receive equal benefits. . . . And we must make certain that pay scales are improved so we can attract and keep the trained personnel that this country must have to defend itself.

To help make certain that all our veterans receive the kind of services they need. . . . I helped introduce last fall the Vietnam Veterans Act, the most comprehensive veterans assistance legislation since the GI bill which when passed will assist them with jobs, health problems—particularly agent orange contamination, education and housing.

We need leadership that recognizes the pressing need for our own economic recovery—for a comprehensive plan to rebuild our research and industrial base so we can assure once again our world economic leadership—a position we have abrogated in the last few years to Western Europe and Japan—nations we helped into that position with the Marshall Plan.

But beyond all these specifics, we must have leaders who have a vision of this country . . . a vision beyond politics . . . beyond narrow special interests . . . a vision for all Americans.

This is where you and I come in . . . the final and most important recondition for a stronger America is a united and self-confident people.

We must rededicate ourselves to the task of rebuilding our economy—for without a strong economic base, a strong foreign policy cannot be sustained.

We must rededicate ourselves to equal opportunity and justice for all Americans—because only those who feel a part of our society will want to protect it.

And we must rededicate ourselves to the proposition that our veterans are owed a debt for their sense of responsibility and dedication to duty. . . . For if we cannot honor those who have already served, how can we expect anyone to serve in the trying times ahead.

Thank you.●

PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is available to the full Senate, I ask to have printed in the RECORD at this point the notifications which have been received. The classified annexes referred to in several of the covering letters are available to Senators in the office of the Foreign Relations Committee, room S-116 in the Capitol.

The notifications follow:

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., September 9, 1980.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-101, concerning the Department of the Army's proposed Letter of Offer to Australia for defense articles and services estimated to cost $19.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 80-101]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Australia.

(ii) Total Estimated Value:

[In millions]

Major Defense Equipment*	$16.0
Other	3.0
Total	19.0

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: Thirty-six M198 155mm towed howitzers.

(iv) Military Department: Army (YTA).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defensive Services Proposed to be Sold: None.

(vii) Section 28 Report: Included in report for quarter ending 31 March 1980.

(viii) Date Report Delivered to Congress:

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., September 10, 1980.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-99, concerning the Department of the Air Force's proposed Letter of Offer to the Federal Republic of Germany for defense articles and services estimated to cost $31.3 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 80-99]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: The Federal Republic of Germany.

(ii) Total Estimated Value:

[In millions]

Major Defense Equipment*	$0.0
Other	31.3
Total	31.3

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: Cooperative logistics supply support (FMSO II) for follow-on spares and supplies in support of F-4 aircraft and other systems/subsystems of U.S. origin.

(iv) Military Department: Air Force (KBS).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: Sept. 10, 1980.

DEFENSE STUDY
ASSISTANCE AGENCY,
Washington, D.C., September 10, 1980.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-100, and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Air Force's proposed Letter of Offer to Australia for defense articles and services estimated to cost $36.7 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 80-100]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTON 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Australia.

(ii) Total Estimated Value:

[In millions]

Major Defense Equipment*	$33.8
Other	2.9
Total	36.7

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: Ten PAVE TACK Pods (AN/AVQ-26), including government furnished aeronautical equipment, support equipment, and spares.

(iv) Military Department: Air Force (YAS).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Reported Delivered to Congress: September 10, 1980.

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., September 10, 1980.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-102 and under separate cover the classified annex thereto. This Transmittal concerns the Deparment of the Navy's proposed Letter of Offer to Belgium for defense articles and services estimated to cost $24.9 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 80-102]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Belgium.

(ii) Total Estimated Value:

[In millions]

Major Defense Equipment*	$22.9
Other	2.0
Total	24.9

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: Two hundred AIM-9 series missiles with logistics support.

(iv) Military Department: Navy (ACG).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See annex under separate cover.

(vii) Section 28 Report: Included in report for quarter ending June 30, 1980.

(viii) Date Report Delivered to Congress: September 10, 1980.

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., September 10, 1980.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-104 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Navy's proposed Letter of Offer to Canada for defense articles and services estimated to cost $22.6 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 80-104]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Canada.

(ii) Total Estimated Value:

[In millions]

Major Defense Equipment*	$15.7
Other	6.9
Total	22.6

*Included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: One hundred eighty-two AIM-9 series missiles with spares and support.

(iv) Military Department: Navy (AGZ).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 Report: Included in report for quarter ending June 30, 1980.

(viii) Date Report Delivered to Congress: September 10, 1980.●

THE DOMESTIC VIOLENCE BILL

● Mr. HUMPHREY. Mr. President, recently my staff assistant for health matters, Dr. Ron Preston, drafted for me a reply to a constituent who wrote asking me to support the domestic violence bill. Dr. Preston's reply constitutes a brilliant analysis of the dilemma which faces us in the Senate as we are asked on almost a daily basis to fund yet another new program of one kind or another.

Dr. Preston's letter, which obviously, reflects my own thinking and philosophy, is so incisive, I thought I would share it with my colleagues, and I submit it for the Record.

The letter follows:

U.S. Senate,
Washington, D.C., September 18, 1980.

Dear Mrs. Jones: It greatly pleased me to know that there is a grass-roots effort to combat domestic violence in New Hampshire. Organizations, such as the New Hampshire Coalition Against Family Violence are just what our state needs to address any number of special problems. The 78,490 hours that you and your associates devoted last year to your cause is a credit to you and our state. We as a nation have long been known for the vigor and effectiveness of our voluntary associations, and it is gratifying to know that this tradition still lives. I would place my trust any day in association of dedicated local citizens over the most high powered bureaucracy in Washington.

That you should want financial assistance from the federal government is entirely understandable. You want to do the best job that you can, and for that you need resources. An annual allocation from the federal government would allow you to expand projects, and this money would be had without the rigors of private fund-raising.

Raising money is always difficult. One must confront indifference and sometimes hostility on the part of one's neighbors, and endeavor to win them over. At a time of crushing inflation and lean family budgets, fund-raising now would be particularly difficult.

Years ago great works were done entirely through private contributions. Many of our hospitals stand as memorials to these earlier efforts. In our country that is far wealthier now than at the turn of the century, it would seem that far greater private resources would be available for far greater deeds. But, this is not the case. The federal government has taken these private resources unto itself. Its ever swelling share of the national economy is squeezing the private sector that produces the material wealth that sustains us all. The private economy is stifled, and individual families bear the burden of soaring inflation and dropping real income. The duties the federal government has taken upon itself are in many cases important or even necessary, but the federal government is bureaucratic and inefficient. What is more, it is central source of political power, stifling freedom of action for local citizens.

I shall continue to oppose the Domestic Violence Prevention Act, and I suspect this will not please you. If I should win, you would be deprived of an additional source of federal funding. The bottom line is that you would have less for your projects, and this in your eyes cannot be seen as good. Therefore, I, in your eyes, must be seen as uncaring, at least as far as domestic violence is concerned, whatever I might say.

But, you must realize that I, as a United States Senator, have a responsibility to all of the citizens of New Hampshire, to all of the citizens of our country. Therefore, I must think first of the general welfare, which is comprised of innumerable important concerns, household tranquility being one of these, but only one of these. For me, my opposition to the domestic violence bill is not an isolated action, for this bill is but another straw on the camel's back, that is, it is just one more example of the federal government's arrogation of private resources and assumption of local responsibilities. I oppose this trend, and therefore I oppose all legislation that would further this trend.

In the greater scheme of things, in terms of the massive federal budget and bureaucracy, the forestalling of this domestic violence bill would not amount to much in terms of savings to the taxpayer and liberty for the individual or the community. Society would not seem to benefit much; whereas the domestic violence projects would seem to lose a great deal. But, one can only oppose the federal government's dominance of our society an item at a time. Bills deal only with specific subjects, and must be considered individually. If the domestic violence bill were joined in its demise by other like-minded bills, and if our swollen federal government were to shrink to more reasonable proportions, monies that the Federal government now expropriates, through taxes—inflation would be retained in the pockets of the people. As wealthier and more secure, citizenry would be better able to fulfill community obligations. In this way, domestic violence projects would ultimately benefit.

Domestic Violence programs would benefit because community resources would be greater. They would benefit because they would be subject to the scrutiny of communities that have financial stakes in them. Social service projects are inherently labor intensive, and therefore potentially very expansive. Communities would pay only for what they really want, then they would see to it they got value for their money. This is rarely the case with the federal government which funds every interest group that can field a few lobbyists, and cares little for efficiency, since it spends not its own money, but the taxpayers'.

I frequently hear the lamentation from the proponents of various causes that federal money is absolutely essential because the people of New Hampshire will not support these projects. These advocates always seem to feel that their projects are mandated by God, and must be furthered, whatever their neighbors think. In some cases, I agree that the projects are worthy; in others, I do not. However, worthy or not, the neighbors should be convinced before their money is spent. Running to the federal government, has become a form of stealing. If the neighbors won't contribute, they'll be made to pay in tax dollars. This is hardly what I call liberty. It has been my experience that the people of New Hampshire are practical and tough-minded, but also compassionate. Convincing the people of New Hampshire of a proposal's merit before the money is transferred is not only an imperative of a free society, it is also excellent discipline.

The difference between you and me is that you are endeavoring to advance a worthy cause by the standard methods of the day, while I am endeavoring to alter these methods. Of necessity, your goals are more immediate than mine. In a short time, domestic violence projects can be set up and operating, whereas years may be required to turn this government around. I must stick to this longer goal because of its vast importance to ourselves and to our children, but your work is important too, and I wish you well with it.

Sincerely yours,
Gordon J. Humphrey,
U.S. Senate.●

WESTERN JUDGES IN THE 1980'S

● Mr. HART. Mr. President, I would like to call my colleagues' attention to a recent speech to the Annual Judicial Conference of the 10th Circuit Court of Appeals in Denver this summer by William H. Hornby. Mr. Hornby is the editor of the Denver Post, and the immediate past president of the American Society of Newspaper Editors.

Mr. Hornby has perceptively described the situation we face in the West as our resources are developed, our land is targeted for the new MX missile system, and our population booms overnight. He calls the West "the new Arabia, a Persian Gulf without water," and outlines the very complicated issues facing our Western States as we begin to cope with the realities of the many national goals our part of the Nation is being asked to fill. His focus is on the challenges to our judicial system, but I believe Mr. Hornby has many important messages for Congress, too, as we consider far-reaching legislation which will affect the West.

I commend this speech highly, and ask that it be printed in the Record.

The speech follows:

WESTERN JUDGES IN THE 1980s

When Judge Seth extended your very kind invitation to appear here in the lion's den, there was a caveat. Would I kindly stay away from First Amendment topics and rhetoric about the role of a free press in an open society. I think he was quite right in the implication that I may have worn down my welcome in legal quarters on that topic after these past few years of evangelical service for the national editors society.

But this kind suggestion posed quite a problem for an editor lately partly obsessed with the vision of judges closing trials or extracting the identity of sources from reluctant reporters. How to regain a more balanced view of the judiciary—how to take off the gloves and calm down?

Fortunately two soothing events occurred. The Supreme Court handed down the Richmond Newspapers decision which eloquently reminds us that, for all the problems, the federal judiciary is still the best friend the First Amendment has. And on top of that, Chief Justice Burger sent out a copy of the 1976 Pound Conference report on "Perspectives on Justice in the Future," which I take to be a reasonably current summary of ideas the legal fraternity is applying and pondering to improve the administration of justice.

One common theme of both the Richmond decision and the Pound Conference was that justice unperceived is justice undone. In the words of the majority opinion, "the means used to achieve justice must have the support derived from public acceptance of both the process and its results . . . people in an open society do not demand infallibility from their institutions, but it is difficult for them to accept what they are prohibited from observing."

This thought—that if we cannot deliver infallibility as the leaders of society's institutions, we should at least deliver openness and candor—this thought is not a bad formula for both judges and editors to reconsider as we enter a new decade. And particularly so here in our West. I don't think it is overly paranoid for us to agree that our region faces staggering problems in the 80s, problems that so far our governmental institutions, including the press as a quasi-public institution, have not managed to address in adequate fashion.

The other day one regional governor was in my office lamenting in extremely candid fashion that he felt his state's institutions were running out of control, that the scope of the problems being heaped on his desk were beyond the capacities of the executive powers he had been given, and beyond the legislative strength or wisdom being currently exhibited. He ticked off the proposed MX missile defense system being projected by one set of crisis enthusiasts from Washington—the largest public works project yet envisioned from Washington—the largest public works project yet envisioned by man anywhere on the planet. He noted the Exxon sketch of a massive synthetic fuels/oil shale development which might require water transportation from North Dakota to Colorado, and which Exxon was saying might demand some new regional administrative authority, presumably bypassing the state government system.

He spoke of slurry pipelines competing for groundwater which has yet to be judicially allocated as between farmers and speculators. He spoke of prospective coal trains splitting communities in half, of federal boards being proffered powers to bypass state regulation, and of course he spoke of the ever-present fact that all of these potential developments compete for a western water supply which by no stretch of the imagination can be developed to slake the thirst of all. This was just one governor agonized by the massive problems stemming from the energy crisis. The scare is bottom-lined by the "inside" advice this governor gets that Saudi Arabia is sure to fall—then the crunch will really be on.

As an example of the change in scope these crisis scenarios foretell, Exxon suggested that a 15-million-barrel daily synthetic fuel production could be in place in the West by 2010, 15 million barrels a day. Our total national consumption now is 17 million barrels daily. So you can see that in this big thinking being laid on the West, we are tapped to supply almost the total national requirement.

Of that 15-million barrels, 8 would come from our Colorado shale, and 7 from the coal in the Powder River basin of eastern Wyoming, Montana, and the Dakotas. Our West is seen as the new Arabia, a Persian Gulf without water.

The cost? $800 billion in today's dollars. The social impact? An industry of some 870,000 persons. Just to produce 8-million barrels a day in the Colorado shale fields would require, 150 processing plants and a growth of population from the low thousands to better than a million in that sparise corner of our state.

The projected impacts of one national goal—the development of a Western synthetic fuels industry to eliminate dependence on oil imports—are so staggering that you forget we are hearing about this in one instant and the MX missile system and slurry pipelines in another. The wars over the waterholes, the impact on state financing—the number of potential legal conflicts facing our West should stagger even the most judicial of imaginations. And we haven't even mentioned conflicts between the states and the federal government as to jurisdictions, or the questions of allocating water resources such as underlay the groundwater controversy, or the conflicting pressures on resources embodied in the wilderness movement. Or the growing problems of ethnic pluralism as the composition of the Western population changes—such matters as controversy over bilingual education, or classroom integration, or equable school financing. Or the impact of urbanization—crime and penitentiaries.

In sucking in our wind and speculating about this West of the 1980s, let's ask ourselves which West we are talking about. The historian of early exploration, William Goetzman, in a recent think-tank session at Sun Valley underscored the fact that each of us really has two Wests in his mind.

"There is a dichotomy," Goetzman said, "between the West as action and the West as myth. A romantic myth has persisted through Western history and has, in many ways, obscured the realities of the action taking place in the West. When one thinks of the West one thinks about Thomas Moran's beautiful landscapes, William H. Jackson's romantic photographs, and especially Frederic Remington's troopers and cowboys, all of which preserve the myth or myths of the West. (As a Montanan, I wish he'd stick Charlie Russell in there.)

But "the real action that took place was rather brutal action if one looks at it with a cold eye," Goetzman goes on. "The early pioneers and settlers here were 'hard cases' with their obliteration of the buffalo, their annihilation of the Indian, their casual violation of the lands, their careless mining practices. One only has to go to Virginia City (Montana) to see miles and miles of mine tailings littering the landscape (early versions of the strip mines further to the east in Montana and Wyoming) to realize that the 'hard case' in the West is no new phenomenon, but he also will not go away. While we are in a strange technological turning point, in many ways the mentality remains the same."

We do see the problems of two Wests before us today. The nostalgia for the family farm and the independent yeoman versus the agribusinessman as victim of corporate business cycles and international trade disruptions. The great portion of romantic myth in the wilderness movement with its romanticists facing the "hard case" actions of the needs for water and other resource development on sequestered land. Each of us does have a somewhat mythic and mental West in which we want to live, and we shut out as much as we can of the reality of technological and urban intrusion.

Yet I do not think we need to abandon either of the two Wests—we just need to realize their nature and seek balance between their imperatives. And there, in the seeking of the balance, like it or not, is where you Western judges come in. If the executive and legislative branches of our governments, particularly our Western state governments, had not lost their capacity to reach balanced decisions, then your thin black-robed line of the bench would not be all that stands between the Westerner of the 1980s and the massacre of the regional dream. But the legislatures and executives do not seem able to strike the balance, or at least we can say their capacity to strike balance in the face of the new scope of the problems is in real doubt.

But when we contemplate the growth of the judiciary as the sole balancing force, we face other problems, or so it seems to a layman.

How has the judiciary been moved by a variety of historic forces from the resolving of disputes where there are legal rights and wrongs to the ever more common solving of social problems where there is probably no totally ascertainable right or wrong, no pure winner or loser?

As Simon H. Rifkind of the New York bar told the Pound Conference, "The adversary process is well-honed for us in the resolving of disputes. The burden of proof stands as to one side or the other of a relatively well-defined issue bearing directly on, and only on, the parties to the dispute. Though, of course, the precedent of the decision slowly but surely enters the mosaic of the law for application to resolving future disputes." "But," Rifkind says, "each new decision is thus a small tile in a great mosaic, the design of which changes subtly and gradually and thus avoids the disasters which frequently overtake those who drive principles to the extreme ends of their logical conclusions."

But he goes on, "Problem solving (as opposed to dispute resolving) is a different enterprise. There one finds little refuge in the burden of proof. The edict is not confined to the parties before the bar. The consequences are by no means 'tile-sized'. The Judge," Rifkind says, "frequently administers 'avulsive changes,' requiring in a democracy not only wisdom and inventiveness but a keen perception of political implications."

He goes on to pay tribute to the number of excellent judges who have had the rewarding and exhilirating experience of turning their courts into mini-legislatures, but questions whether the court system is capable of digesting by sole reliance on the adversary system the great problem-solving burdens ahead.

But I doubt if it does us much good to question the wisdom of putting all these issues before the courts. Your courts are where most of the Western problems I've mentioned are already lodged, or will certainly be lodged by the decade's end. And you are the ones to whom a litigating, interest-group society is bound to turn. Our legal tradition has always placed a good deal of reliance on judicial discretion—on the ability of the judge to temper the general rule to individual facts and even to invent new rules. And with the great growth of complex government in the 20th Century, the tendency of legislators to set judges to watching administrators has made judicial law-making commonplace.

As one expert has put it, judges can only brand administrative conduct illegal by substituting their own version of the law for that proclaimed by the administrators. For a period, as administrative law was mushrooming, it was the dominant thought that judges should restrain their intervention against the administrators who knew a complex field best. But latterly, as faith in government administrators has waned, there has been a new growth of judicial intervention, the emergence of what one commentator sees as the "judge as post-industrial hero."

As Martin Shapiro, professor of law at Berkeley and author of "Law and Politics in the Supreme Court" puts it,

"This resurgence of judicial presumption is, of course, part and parcel of the very currents of opinion that have led to constant talk of 'the greening of America,' 'appropriate technology,' 'ecology,' 'the limits of growth,' 'the new property,' 'small is beautiful,' 'humanistic values,' and the 'post-industrial' society. We are in the midst of a revolt of the intellectuals against the establishment technocracy and the methods and goals it has traditionally espoused. At the heart of this revolt are a number of key premises. One is that the lay consumer of technology, not the technician, must be the ultimate decision maker about how and where technology will be applied. Another is that division of labor among technologists has gone so far, and the self-interest of the technologists has been so enlisted in the technical programs they operate, that they cannot be trusted to present or evaluate their own technologies impartially and with an eye toward the general good.

"Now that the technologists have allegedly failed us," Shapiro goes on, "it follows that we need new champions of the public good and the higher human values. Such champions must be uncorrupted by technology, unattached to the bureaucracy, and independent of the 'special interests' with whom the technocrats have become allied.

"Enter the judge: by constitution separated from the technological bureaucracy and the special-interest-dominated legislature; by education and experience devoid of technical expertise; by popular mythology armed with impartiality; and by his service to 'the law,' 'the constitution,' and 'justice' pledged to the highest and most universal human values. In a society in revolt against expertise, the judge emerges as the prophet armed—armed in his ignorance of every one of the technologies that make the society run. The judge is transformed, in his own eyes as well as those of others, from the industrial idiot to the post-industrial hero and wise man."

So, for better or worse our society of the 1980s sees the judge as the problem solver, as the balancer between great and competing social interests, the law-maker. The judge has become the superintendent of schools, the warden of the penitentiaries, the allocator of water, the ranger at the gate of our scenic attractions—you name it. And nowhere is this tendency stronger than in the West.

Here in the early West the circuit judge was often the only law a remote community knew—far more familiar than the legislator or the far away state official. So in this region you already wear the historic and sentimental mantle of the governor of last resort, and find the people accepting your role as law-maker, if they can see you make it.

The question in the real West of today is whether you can innovate in your procedures to reach the kinds of balancing decisions required in managing these regional social and economic problems. The role is yours. We can't expect the political system to be reformed in time for the problems to end up in any other forum but the courts.

You judges, more than any other body of government officials, are going to decide the shape of the West in the 1980s. We laymen can only hope your collective value system places a high priority on finding a balance that will allow both Wests to survive—the West of the romanticist who thinks that indeed this region is different and deserves to have some of that quality preserved, and the West of the action "hard cases" who motivated by presumed national needs are the engine of impacts that may well dry up the waterhole and block the pass.

It seems to a lay editor that there are two great problems with the ability of the judiciary to play this balancing role.

The first is that courts too often speak in the language of rights, and sometimes quite narrow interest groups seem ever more adept at asking the judge to rule that their interest is their "right." Courts that habitually rule that a particular interest be given priority as an absolute right, rather than as an interest to be balanced with others—these are the courts that must ask themselves if their techniques for balancing interests are sufficient to the problems of the modern West.

And, in addition to problems with balancing interests, as opposed to declaring rights, courts must also weigh the costs of unilateral policy making. One analyst has said, "Policymaking through the vehicle of litigation means that the judge enters highly complex ongoing situations just far enough and just long enough to pull out a crucial brick and then scampers away, leaving it to the rest of the political system to somehow make sure that the wall does not fall down."

A second problem is that many of us would reflect that we want to better understand your decisions, and the humanity of your processes. We recognize that in the era when the greater body of your work was the resolution of disputes, the role of the judge was somewhat above the battle. The tradition of the antiseptic judiciary grew up. Judges don't run for office. Many are nominated by secretive and elitist commissions. The processes of the courts are kept as remote as possible, and so on.

In my mind this antiseptic tradition is symbolized by the absurd custom in many jurisdictions of not allowing modern, unobtrusive photography of court proceedings. Hence the image of the judge on the TV screen—crayola judges where Your Honor looks like a monster from Star Wars as drawn by remote artists. And where the entire depiction brings to a whole new generation of Americans the idea of a judge as something inhuman delivering inexplicable rules. Is a crayola judiciary really serving a people facing the need to empathize with your decisions on vast social and economic problems?

I don't argue that judges should return to all-out politics, though this was a humanizing process, and an accountable one. I do argue that in an era when judges are also stuck with the role of administrators and legislators, they need more than before to place a higher premium on the accurate public perception of their humanity and their burden.

Judges need to more clearly explain their roles and the process by which they reach their decisions. The public seeks to know, and should be told, that in weighing all the factors leading to a decision, the judges did indeed consider the various issues about which they were concerned and resolved them in a certain way. If the decision process is more clearly explained—in language the layman can understand—and then if that process is more adequately communicated to the press and the public, some additional understanding can be gained. While judges seek rightfully to maintain their independence, that may not mean maintaining a distance from the public so great that understanding is lost. Independence and distance are not the same thing.

The chore of the media in bringing the perception of the courts and the administration of justices to the public is more important in the 1980s and beyond than it ever has been before. If the judiciary is to see to it that justice is perceived as being done, in practical terms this means that it must help the media perceive that it is being done.

Obviously judicial processes that are closed, courts that hamper print and broadcast coverage of their proceedings, judicial nomination and selection processes that are behind the screens—we can all recite a litany of practices of the past that have prevented a closer working relationship between the media and the judiciary. The side issue which has unconsciously distracted us from the central problem of proper communication is that of the relationship of press coverage to fair trial. I don't propose to warm over that old turkey today. Surely we can see, and the Supreme Court has several times ruled, that the judiciary has ample power to shape trial processes to protect the rights of a defendant. And surely we can further see that in the 1980s both of these parts of our governmental process—the judiciary and the media—must turn their attention to another great area equally as important as the right of fair trial. That is the right of the people to truly understand the judicial process, and to truly perceive your expertise in ruling over increasing portions of their lives.

The federal judiciary can't be above this battle. This isn't just a matter of quarrels in lower courts. The communication rules the federal judiciary adopts have a compelling effect on the whole system. The lifetime tenure granted federal judges properly insulates you from the ruckus of the moment. This not only preserves your necessary independence, but also enables you to take the longer-range view of the philosopher about where our judicial system is heading.

The problems of the 1980s mandate a reconsideration about the judiciary's communicating its own processes to the public. You can't go on being crayola judges. You are post-industrial heroes and true philosophers of government. Perhaps, thus titled, you will be more in the mood, at least here in the West, to take a new look at this problem of public perception as the 1980s dawn.

None of us can envy the role of the Western judiciary as these staggering years loom. You are the only balancers left in the world of the real West, and you are the cavalry riding to the rescue of those of our mythic regional qualities as may feasibly and justifiably be preserved.

All we can hope is that the judicial machinery can be used to not only separate legal right from legal wrong in specific disputes, but also to deliver balanced and perceived justice to a region sorely beset by great social and economic problems, and by trends and thrusts from those who do not see our regional needs, or dreams, as having a very high priority. None of us can envy you your task, and you surely deserve our support in its execution.●

OFFICE OF EXPORT ADMINISTRATION

● Mr. GARN. Mr. President, I would like to take this opportunity to announce that hearings will take place on September 24 and 25 on S. 2606—legislation to remove the Office of Export Administration from the Commerce Department, to be replaced by an independent Office of Strategic Trade. More and more interest is being focused on the bill, both in the media and in the Congress. Therefore, I would like to announce that Senator WARNER, who has shown great interest in the issue of strategic trade has become a cosponsor of this important legislation.●

TECHNOLOGY TRANSFER AND NATIONAL SECURITY

Mr. WARNER. Mr. President, I have been concerned for some time now about the considerable amount of strategic technology that has been flowing to the Soviet Union through the poorly administered export policies of the Commerce Department. For too long the United States has been supplying the Russians with the equipment and technical know-how critical to the development of their military. I along with Senators HARRY BYRD and WILLIAM COHEN have advocated much tougher trade policies at hearings held by the Senate Armed Services and Commerce Committees.

At the same time Senator GARN, as ranking minority member on the Senate Banking Committee, which has jurisdiction over the U.S. Export Administration

Act, has been a leading advocate of more stringent controls on East-West trade, as means of protecting what little technological advantage this country has left over our main adversary—the Soviet Union. Consequently, Senator GARN recently introduced legislation—S. 2606, to remove the Office of Export Administration from the Commerce Department, and to make it the core of a new independent Office of Strategic Trade—free from the extreme export promotion bias of the Commerce Department.

I am proud to join the growing amount of supporters of this much needed legislation, and would like to bring to this body's attention a fine editorial, entitled "Selling Away Security" that recently appeared in the Richmond Times-Dispatch. It is a very accurate reflection of the concern by the American people of this very serious problem. I strongly urge my colleageus to read and give close attention to this editorial, and ask that it be printed in the RECORD.

The editorial follows:

SELLING AWAY SECURITY

One would not expect to find in a technical publication for those who make their living developing and selling the latest in electronic equipment and other highly sophisticated devices a well documented argument for restricting the market for their wares. Such an argument is presented, however, in the July 1980 issue of Dun & Bradstreet's Industrial Research & Development in an admirable article entitled "The Dark Side of Technology Exports."

The editors of Industrial Research & Development warn that the United States may carry the ignominious distinction of having become the "arsenal of communism" unless lax policies and enforcement practices against export of strategically valuable technology are strengthened. The publication reports, as has been noted here in several editorials this year, that the federal government's "export control" apparatus is fundamentally flawed in that any decision by strategic trade analysts to deny a proposed export for national security reasons can be overridden by an official concerned primarily with promotion of exports: the secretary of commerce. Military experts believe that the Soviets would not have the strategic advantage they now enjoy if American administrations during the past decade had not allowed the export of certain high-technology devices.

Perhaps the most interesting argument that the editors of Industrial Research & Development present is that the export of strategic technology to the Soviets benefits the Soviets much but rewards American industry very little. American enterprise, the magazine says, has profited "only on a very small scale" from exporting technology to the Soviets. This is so because "the Russians 'skim off' the fruits of hard-earned U.S. technology by purchasing only what is essential; then through 'reverse engineering' they attempt to duplicate the commodity. This not only has saved them millions of dollars in (research and development), it also has fostered a steady erosion of the U.S. lead in technical expertise which, trade experts say, will cause the eventual loss of Kremlin-controlled markets anyway."

Control of strategic exports could be made much more effective if an Office of Strategic Trade, divorced from the promotion-conscious Commerce Department, were established under the direct authority of the president. Sen. Jake Garn, R-Utah, has a bill to accomplish just that, as was described here in a June 24 editorial.

The more sensible organization of an export control office as proposed by Sen. Garn cannot be effective, however, without a president determined to enforce trade controls strictly. Jimmy Carter has an ignominious record in this matter. In January, soon after the Soviet invasion of Afghanistan, when Mr. Carter was seeking to gain as much attention as possible for his purportedly "hard-line" decision to suspend the granting of licenses for export of certain technological devices to the Soviet Union, the president promised Virginia's Sen. Harry F. Byrd Jr. and South Carolina's Sen. Strom Thurmond that the ban would be applied to the Soviets' East European satellite countries as well. That promise was never kept and was repudiated publicly by Carter aide Rex Granum in February. Two months later, the largely ineffective ban against Soviet technology trade was lifted, returning America to "business as usual" with the invaders of Afghanistan.

The Carter administration's profligacy in allowing the transfer of critical technology to communist tyrannies was shown again last week when it was announced that more than 400 export licenses had been approved for the sale of electronic gear and other sophisticated equipment to communist China. The sale has profound strategic significance, since most of the material to be sold may be used for military purposes. The wisdom of Mr. Carter's decision to allow the sale is highly debatable, and indeed the whole matter of strategic trade and Mr. Carter's record on it ought to be a topic of discussion during the presidential campaign.●

PD-59 TESTIMONY

● Mr. CHURCH. Mr. President, on Tuesday, September 16, Secretary of State Muskie and Secretary of Defense Brown appeared before the Foreign Relations Committee, in executive session, to discuss the recently issued Presidential directive on nuclear war strategy, known as PD-59. The committee's purpose in holding this hearing was to insure that it fully understands the strategic rationale, as well as the foreign policy and arms control implications, of PD-59.

The committee's session with Secretaries Muskie and Brown proved to be extremely useful. It layed to rest many of the more exaggerated interpretations of this new directive and gave the committee an opportunity to examine its implications in detail. I should mention, in this regard,.that the two Secretaries emphasized to the committee that neither they, nor President Carter, believe it likely that a nuclear war, once begun, can stay limited. Nor do they believe that there is such a thing as a "winnable" nuclear exchange between the superpowers.

Mr. President, I submit for the RECORD at this point the prepared statements of Secretaries Muskie and Brown for the Committee's session on PD-59. I believe both of these statements will be helpful to Members in their examination of the issues which surround this important new Presidential directive.

The statements follow:

STATEMENT BY EDMUND S. MUSKIE

Mr. Chairman and members of the Committee, I am pleased to have this opportunity to join Harold Brown to discuss our nuclear targeting strategy with you. When I was a member of this Committee, I strongly believed we had a responsibility to concern ourselves with issues of strategic nuclear policy. Over the years, I probed a series of Administration officials and outside experts on how changes in our nuclear doctrine, forces, and strategy affected our security and international stability.

I did not leave those concerns behind when I became Secretary of State. Indeed, it is a central part of my responsibilities to ensure that foreign policy considerations—in the broadest sense—are taken into account in decisions about defense programs and doctrine.

As Secretary of State, I am particularly concerned with the ways in which our strategic doctrine bears on our overall foreign policy toward our allies and adversaries. To support our basic foreign policy and national security objectives, our nuclear strategy should satisfy the following conditions:

It should ensure that potential adversaries are fully convinced of our determination to resist nuclear aggression on any scale, at all times and in all circumstances.

It should avoid stimulating a cycle of superpower misperception and miscalculation that could undermine strategic stability.

It should be fully consistent with our arms control objectives, so that we preserve the opportunities to strengthen security and stability by means of equitable and verifiable arms control agreements.

It should encourage and justify the willingness of our friends and allies to link their security with our own.

I believe the countervailing strategy meets these tests.

The countervailing strategy underscores and unmistakably communicates to the Soviets two fundamental truths. First, they could derive no conceivable benefit from initiating the use of nuclear weapons, no matter how limited or extensive the attack and no matter at what stage in a conflict they might be launched. Second, nuclear conflict cannot be an instrument for achieving national policy goals, either for us or the Soviet Union; there surely will be no victor in a nuclear war.

Our strategy, and our capability to inflict massive destruction in retaliation, provide the bases for convincing the Soviets of both propositions. The countervailing strategy builds on and complements this traditional doctrine. It enhances our ability to launch selective as well as massive retaliatory attacks, and to cover the full range of targets the Soviet value. It makes clear our capacity to respond to any Soviet nuclear attack—whatever its magnitude and form—at an appropriate scale, intensity and focus. We have moved in this direction in order to ensure that the Soviets—whatever their notions about nuclear war or the utility of nuclear weapons—do not mistakenly conclude they could achieve some advantage by initiating the use of nuclear weapons or by launching limited strikes.

As such, the countervailing strategy is not a radical departure from previous policy. It is rather the result of a gradual evolution of our doctrine over a period of years in response to changing conditions and new knowledge. The credible capacity to devastate the Soviet Union under any circumstances remains its cornerstone. Thus, we will continue to include the full spectrum of political and military, as well as urban-industrial, targets in our planning. PD-59 does not signify a shift to a warfighting strategy nor to a first-strike doctrine.

It does underscore—and I believe strengthen—the credibility of our capability to retaliate against any nuclear attack under any circumstances, be it a massive strike against the U.S., or a more limited one against our forces or our allies.

The public reaction of the Soviets is what one would expect. They claim the countervailing strategy is a warfighting strategy, and a U.S. effort to achieve a first strike capability that would undermine strategic stability. They also charge that PD–59 is the real explanation for NATO's decision on TNF modernization and reflects a U.S. intent to confine any nuclear war to Europe while the U.S. remains immune from attack. These claims are neither surprising nor true.

But we should expect the Soviets to try to use PD–59 to split us from our Allies and deprive us of European support for our post-Afghanistan efforts. We can expect the Soviets to focus their energies on undermining the NATO consensus in favor of TNF modernization.

These Soviet accusations, in fact, ring hollow in view of their own doctrine, their attention to nuclear warfighting, and the size and character of their strategic nuclear forces. Moreover, they have never been particularly comfortable with what they regard as our "city-killing" philosophy of nuclear deterrence. I do not believe they genuinely regard this evolution in our nuclear strategy as a move to a first-strike, warfighting doctrine. The central purpose of our deterrence policy is to underscore the consequences for the Soviets if they should ever initiate the use of nuclear weapons.

We want to make sure the Soviets get that message. But we also want to ensure that they get the message right. We need to remain fully alert to the risks of misperceptions and miscalculation, to the danger that the Soviets may see provocation where we intend none. I do not want anyone to wrongly conclude that we suddenly have become confident about our ability to orchestrate nuclear exchanges and control escalation, or that we have become complacent about the use of nuclear weapons.

We will continue to emphasize to the Soviets that our intentions are peaceful and that we pose no threat to their legitimate security interests. At the same time, we will continue to insist that they respect the interests and rights of others and remind them of the consequences if they resort to nuclear weapons.

In this connection, I need hardly add that we do not regard the countervailing strategy as in any way a substitute for arms control or as a symptom of disenchantment with the arms control process. On the contrary, the countervailing strategy is fully consistent with the SALT II Treaty and our longer term arms control objectives. Nothing in the countervailing strategy changes or challenges our belief that nuclear arms control can make a significant contribution to our security and to international stability. Nothing in the evolution of our nuclear doctrine has led us to reassess the benefits of equitable and verifiable arms control agreements with our chief adversary. In particular, I continue to believe strongly that SALT II would make a crucial contribution to our national security. We will ask the Senate to act on ratification at the earliest feasible time.

The Allies share our concern about the need to deter the full range of Soviet nuclear threats, as well as our continued commitment to arms control and to the maintenance of strategic stability. By reinforcing Allied confidence in the credibility of our nuclear guarantee, the countervailing strategy will strengthen alliance cohesion and solidarity as well as directly reduce the likelihood of conflict. The countervailing strategy reflects and supports the NATO strategy of flexible response by underscoring the availability of a full spectrum of nuclear responses.

We have discussed the evolution of our nuclear strategy and its relationship to flexible response in the normal course of consultations with our Allies. The detailed discussion of the countervailing strategy in Secretary Brown's annual report to the Congress last January provided an excellent basis for our dialogue this year. Secretary Brown also gave an extensive briefing to the NATO Nuclear Planning Group this past June.

In the course of these consultations and in the aftermath of press reports about PD–59, the Allies have indicated they understand the countervailing strategy and appreciate the ways in which it strengthens the U.S. strategic linkage to their security. I do not want to leave the impression that we take their support for granted: it has to be earned and then protected in the face of Soviet efforts to undermine Alliance solidarity. I do want to emphasize, however, that the Allied leaders appreciate the rationale behind the countervailing strategy. I am confident that, in the course of our continuing consultations, their support will be sustained.

Nuclear strategy and doctrine are properly sober subjects. This should not, however, obscure the important positive contribution that the countervailing strategy makes to our most basic foreign policy objectives.

I am confident that the countervailing strategy not only strengths deterrence, but also establishes a firmer basis for our diplomacy with the Soviets. It underlines our determination to respond to any challenges to our vital interests, at the same time it confirms that we pose no threat to the legitimate interests of other states. As such, it leaves the Soviets no room for doubt about our will or our peaceful intentions.

The countervailing strategy, of course, will not transform the basically adversarial relationship we have with the Soviets. But it reduces the chances for superpower miscalculation and increases Soviet incentives to cooperate on managing and containing the competition between us. It therefore contributes to the prospects for reaching arms control agreements that limit the dangers of war.

For like reasons, the countervailing strategy reaffirms to our Allies and friends that the United States is committed—in equal measure—to protecting our mutual security interests and to international stability. I expect it will serve to solidify our relationship with them and to strengthen our role as leader of the Western Alliance.

Let me conclude my opening statement by briefly addressing the question of the involvement of the State Department and the Secretary of State in the formulation of the countervailing strategy. I have carefully reviewed the record. I have concluded that Secretary Vance and the State Department were involved as the major concepts of the policy were being developed and were in a position to make their views known.

The development of the main lines of the strategy was substantially completed well before I took office, and it had already been outlined in public statements, especially in Secretary Brown's January 1980 Report to the Congress. Given my Senate responsibilities, I was of course aware of the direction of the Administration's strategic thinking. In fact, I had addressed some of the same concerns and concepts in a speech I delivered last year.

That said, the preparation and issuance of a Presidential Directive that codifies our nuclear strategy is itself an important action that has a significant foreign policy dimension. It therefore is clear that I, as Secretary of State, and the State Department should have been appropriately involved in the action.

I consider the situation that developed here to be an unintended exception to this Administration's record of substantially increased State Department involvement in national security issues. I have discussed this episode with the President as well as with Secretary Brown and Dr. Brzezinski. The President has assured me that I and others at the Department as needed will be fully consulted on the foreign policy implications of such major national security policy decisions.

Statement By the Honorable Harold Brown

Mr. Chairman, I welcome this opportunity to join Secretary Muskie in testifying before the Committee. In the past in this room, I found him to be a formidable questioner, determined in seeking the facts and dedicated to reaching correct judgments on policy. I am very glad to be together with him today on this side of the table.

Our subject this morning is strategic nuclear policy. As this Committee well knows, the principal objective of our strategic nuclear forces is to deter nuclear war. Deterrence requires stability, and to achieve strategic nuclear stability, three requirements must be met:

First, we must have strategic nuclear forces that can absorb a Soviet first strike and still retaliate with devastating effects.

Second, we must meet our security requirements and maintain an overall strategic balance at the lowest and most stable levels made possible by our own force planning and by arms control agreements.

Third, we must have a doctrine and plans for the use of our forces (if they are needed) that make clear to the Soviets the hard reality that, by any course leading to nuclear war and in any course a nuclear war might take, they could never gain an advantage that would outweigh the unacceptable price they would have to pay.

I have testified extensively before this Committee on our strategic forces themselves and on arms control—most particularly during the thorough and searching hearings you conducted on the SALT II treaty last year. My conviction that SALT II serves and advances our national security interests remains intact, and its ratification at the earliest feasible time is still very important.

Today, we are here to examine the third of the three requirements for strategic nuclear stability—our strategy itself. Our doctrine must:

Set forth the requirements that must be met to maintain deterrence;

Guide our procurement strategy for the acquisition of strategic nuclear forces and the corresponding command, control, and communications systems; and

Shape our operational planning for the use of our forces in war, if necessary.

I need not review for the members of this Committee the entire historical evolution of American nuclear strategy. Let me begin with a few basic points, and then concentrate on the most recent developments.

The United States has never had a doctrine based simply and solely on reflexive, massive attacks on Soviet cities and population. We have always planned both more selectively (options limiting urban-industrial damage) and more comprehensively (a range of military targets). Previous administrations, going back almost two decades, recognized the inadequacy of a strategic doctrine that would give us too narrow a range of options. As former Secretary of State Kissinger testified before this Committee as recently as July of 1979, "the side that can defend its interests only by threatening to initiate the mutual mass extermination of civilians will gradually slide towards strategic, and therefore eventually geopolitical, paralysis."

The fundamental premises of our countervailing strategy today are a natural evolution of the conceptual foundations built over a generation by men like Robert McNamara and James Schlesinger.

Because of our strategic doctrine, like our strategic forces, is designed to deter the Soviets, it must both take into account Soviet perspectives and be made clear to the Soviets, so as to deter them. Not only must we have the forces and the will to retaliate, we must also, if we are to deter them, convince the Soviets that we do. Thus, while the operational details of our nuclear weapons and plans must remain secret, their existence and certain essential information about them must be made public and made clear, so that deterrence will be effected.

With that as backdrop, let me discuss the analytic and operational steps taken by this Administration to maintain effective deterrence, as well as some of the key issues raised in the context of our countervailing strategy. I have already submitted detailed answers to the written questions you have raised. We can explore those further, if you wish. But, in my brief remarks here, I will try not to duplicate too much of what I have submitted in writing.

In the summer of 1977, President Carter ordered a fundamental review of our targeting policy. Over the course of the next 18 months, that study was conducted and reviewed by military and civilian experts in the various appropriate agencies, taking into account our forces, plans, problems, and capabilities, as well as Soviet perspectives, strengths, and vulnerabilities.

Since my report to the President on that analysis, we have been moving deliberately to implement its basic principles. I outlined the major precepts of this countervailing strategy in my defense report in early 1979, and in more detail in January of this year. In general terms, I discussed it during the SALT hearings last year.

In June of this year, at a meeting of the NATO Nuclear Planning Group in Bodo, Norway, I briefed our Allies on the conclusions we reached and the actions we are taking. They fully support the need for the United States to have a wide range of strategic nuclear options. Our countervailing strategy is fully consistent with NATO's flexible response, and it indicates our determination to carry out that Alliance strategy. Indeed, I have received separate communications from some of my NATO counterparts indicating their concurrence in that view.

On July 25, 1980, President Carter signed an implementing directive—Presidential Directive No. 59—codifying our restated doctrine, and giving guidance for further evolution in our planning and systems acquisition.

In the public discussion about PD–59 over the last month or so, a number of misconceptions have appeared. One useful result of today's hearing would be to lay these misconceptions to rest.

PD–59 is not a new strategic doctrine; it is not a radical departure from U.S. strategic policy over the past decade or so. It is, more precisely, a refinement, a recodification of previous statements of our strategic policy. PD–59 takes the same essential strategic doctrine, and restates it more clearly, more cogently, in the light of current and prospective conditions and capabilities—Soviet and U.S.

PD–59 does not assume that we can "win" a limited nuclear war, nor does it intend or pretend to enable us to do so. It does seek both to prevent the Soviets from being able to win such a war and to convince them that they could not. I do not believe that either side could "win" a limited nuclear war; I want to ensure as best we can that the Soviets do not believe so either.

PD–59 does not assume that nuclear war will necessarily be protracted over a period of many weeks or even months, because we are not at all convinced that it would be, or even could be. PD–59 does take into account Soviet literature which considers such a scenario to be a real possibility. As recently as last year, Marshall Ogarkov (who is the counterpart of our Chairman of the Joint Chiefs of Staff) wrote in the Soviet Military Encyclopedia:

". . . the possibility cannot be excluded that the war could also be protracted. Soviet military strategy proceeds from the fact that if a nuclear war is foisted upon the Soviet Union, then the Soviet people and their armed forces must be ready for the most severe and prolonged trials. In this case, the Soviet Union and the fraternal Socialist states . . . [have] objective possibilities for achieving victory." We must convince them—and PD–59 is a key part of that effort—that such beliefs are unfounded and dangerous.

PD–59 also does not assume that a nuclear exchange could remain limited, and I, for one, have very serious doubts that one could. PD–59 does, however, reconfirm and refine our ability to be able to respond to a limited Soviet nuclear strike—should one occur—other than by a single, massive, all-out retaliation against Soviet cities, population, and industry.

PD–59 does not substitute primarily military for primarily civilian targets. It does increase the number and the variety of options available to the President in the event of Soviet attack, at any level. As in the past, these options cover a wide range of kinds of targets. We will retain the option of a general attack on the entire target system including the industrial capacity of the USSR.

PD–59 is not a first strike strategy. It is a strategy of deterrence, which deals with what we could and (depending on the nature of a Soviet attack) would do in response to a Soviet attack. Nothing in PD–59 contemplates that nuclear war can be a deliberate instrument of achieving our national security goals, because it cannot be. But we cannot afford the risk that the Soviet leadership might entertain the illusion that nuclear war could be an option—or its threat a means of coercion—for them to use to their advantage.

In summary, Mr. Chairman, Presidential Directive 59 is the latest formal expression of U.S. strategic doctrine as it has been evolving for more than a decade. It is a sound and sensible expression, reflecting a sound and sensible doctrine.

Thank you.●

CONSULTATION ON U.S. REFUGEE PROGRAMS FOR 1981

○ Mr. KENNEDY. Mr. President, this morning the Judiciary Committee conducted a hearing on the President's proposed admission of refugees to the United States for fiscal year 1981 under the terms of The Refugee Act of 1980, Public Law 96–212.

At the hearing the President's representatives, Attorney General Benjamin Civiletti and Ambassador Victor Palmieri, U.S. Coordinator for Refugee Affairs, submitted the report on United States refugee programs required by section 207(e) of the act.

In fulfillment of the statutory obligation that the committee act to have the results of the hearing be printed in the RECORD, I am submitting today the summary of the President's report to Congress, the Attorney-General's prepared statement, and my opening statement.

I ask that they be printed at this point in the RECORD.

The material follows:

SENATOR KENNEDY'S OPENING STATEMENT AT JUDICIARY HEARING ON U.S. REFUGEE PROGRAMS FOR 1981

Below is the text of Senators Edward M. Kennedy's opening statement at the Judiciary Committee's hearing on United States refugee programs for fiscal year 1981:

We meet today in the shadow of a refugee crisis that is global in its scope and staggering in its dimension of human misery. Over 13 million men, women and children are refugees in the world today—homeless and helpless, destitute, totally dependent on others for the assistance essential to preserve life itself.

There are more refugees today than at any other time in modern history. In the past three years, the world total has grown by more than 2,000 new refugees each day. In the past five months, more than 2 million new refugees have fled war, famine or persecution. Time and again, the mounting tide of refugees has overwhelmed the planet's ability to respond.

America can be proud of its humanitarian heritage. More than any other nation, this country has responded nobly to the call for help from refugees in every corner of the world.

Now, in this difficult period in our effort to deal with the current crisis, a new law—The Refugee Act of 1980, approved by Congress and signed into law by President Carter earlier this year—is providing important new tools to accomplish our goals. In part, the purpose of this hearing is to explore what action the United States will take to help refugees under this far-reaching legislation.

But the task is not ours alone. If real progress is to be made, America's voice is not the only voice that must be heard. The refugee crisis is an international tragedy requiring international action. If massive human suffering is to be prevented, other nations in the world community must also work, and work together, to meet the need.

Last year, this Committee issued a Library of Congress report calling for an international conference on refugees as the most effective possible step toward the goal of concerted action by the world community. Today, I renew that call for an international conference—to help strengthen the mandate and authority of such crucial agencies as the United Nations High Commissioner for Refugees. I urge our government and others to examine the recommendations in the Committee's report for additional significant steps essential to improve the coordination of our global effort in behalf of refugees.

Today's witnesses will add to our understanding of the complex aspects of the issue.

Among the issues facing us are a number of pressing questions. We need to know what more can be done to cope with the continuing tragic flow of refugees in Indochina, and what more our diplomacy can do to improve conditions, especially in Cambodia.

We need to know why Jewish refugees are suddenly encountering new difficulties in leaving the Soviet Union.

We need to know what we can do to alleviate the plight of Afghanistan refugees in Pakistan, and to respond to the desperate pleas for food and relief in Somalia, Sudan, Uganda and elsewhere in Africa.

These well-known issues are only the beginning of our concern. In many other regions of the globe, there are refugees living in fear and desperation. Their plight demands action from us all. Their faces are pressed against our windows, and they are waiting for our answers.

STATEMENT OF BENJAMIN R. CIVILETTI

I am pleased to have this opportunity to consult with you, in accordance with the Refugee Act of 1980, regarding the plans of the Administration for refugee admissions and resettlement for FY 1981. With me this morning are Ambassador Victor Palmieri, U.S. Coordinator for Refugee Affairs, and representatives of the other agencies with refugee responsibilities.

The Refugee Act of 1980 represents a major step toward establishing a uniform, coherent, and manageable policy necessary for handling refugee admissions to this country. However, as both the Congress and the Administration recognized at the time of passage and in our first consultation in April of this year, the Act also signals the beginning of the long and difficult task of formulating a more rational and equitable basis for our refugee programs. Our FY 81 proposals and the progress we have made in implementation of the Act since last spring are steps in that direction.

Today I would like to review briefly the increasingly serious refugee problems we have experienced in recent years and expect to see persist in the near future, as well as the specific details of our proposed FY 81 refugee admissions and resettlement programs.

In accordance with the requirements of the Act, you have received a comprehensive set of background materials to support our program recommendations. As you know, the worldwide refugee problem remains serious, widespread, long-term and growing. Several situations with refugee dimensions were resolved during the year, permitting voluntary refugee repatriation in Zimbabwe and Nicaragua. But developments in Southeast Asia, the Horn of Africa, Afghanistan, and the Caribbean have continued to generate large numbers of refugees. Our overall approach remains the pursuit of active diplomacy, economic and security assistance programs, and practical support for progress in human rights, as a means of ameliorating the underlying conditions that give rise to large numbers of refugees. At the same time, it speaks well of our national character and is in our national interest to respond generously to mounting refugee problems.

Since April, the United States has found itself in the position of serving as a first asylum nation. We have come to understand firsthand the enormous burden which falls on first asylum countries. We must bear our own burden with compassion, even though we would hope others would recognize the need to share it—just as we have consistently aided other countries of first asylum.

Accordingly, the first objective of our refugee policy continues to be joining in international efforts to provide relief to refugees wherever they are and to facilitate voluntary repatriation wherever possible.

Where resettlement of refugees is a practical necessity, we are willing to continue responding generously, in an effort to relieve human suffering and encourage other countries to do their share in providing resettlement opportunities.

The guiding principles which have shaped the FY 1981 admission levels and groups include the following:

We continue to give priority to refugees with close ties to the United States through relatives in this country or past employment with the U.S. government.

Where the United States has stood uniquely as a symbol of freedom from oppression for particular groups, we seek to respond to their aspirations for safe haven.

We are mindful that refugee resettlement efforts can advance broader foreign policy objectives, in particular to promote stability in friendly, democratic countries of first asylum.

We have also taken into consideration the opportunities for resettlement in other countries and the practical limits on United States resources.

For fiscal year 1981, we propose to admit to the United States 217,000 refugees. This figure is 14,700 less than of fiscal year 1980 admissions. The proposed 217,000 includes 168,000 from Indo-China, 33,000 from the Soviet Union, 4,500 from Eastern Europe, 4,500 from the Near East, 4,000 from Latin America, and 3,000 from Africa.

With regard to the Indochinese program, our proposals calls for continuing the 14,000 monthly level President Carter pledged to establish in June, 1979. The situation in Southeast Asia continues to be fraught with uncertainty and hardship, and there are approximately 235,000 Indochinese refugees in first asylum countries, some of whom have been waiting for resettlement offers for more than five years. In addition to the very real and pressing humanitarian concerns, the political problems in the region and the need to maintain stability and support the ASEAN group are in the forefront of our concerns.

In addition, we propose to admit 37,500 refugees from areas that have long been of concern to the United States, the U.S.S.R. and Eastern Europe. Emigration from the Soviet Union has unfortunately been subject to more stringent controls than usual in the past year, but we expect that the departure rates will rise again this coming year.

Our proposal for the Near East is set at 4,500. Numbers will be allocated to various groups depending on the emergence of special conditions or needs, Afghans, Iraqi-Assyrians and Iraqi-Kurds have applied for admission as refugees from this area of the world. In addition, large numbers of people are still fleeing the chaotic conditions in Iran, and while there is not yet a clear patterm of persecution, there may well be need for a refugee resettlement program for Iranian religious minorities.

The recommendation for Latin America is for 4,000 refugee admissions. These numbers would be used for 2,500 Cuban refugees, approximately one-half of whom would come from Madrid before we terminate that program. The remainder would be Cubans who have already been processed and who were ready to travel to the United States prior to the mass exodus from Mariel. Our first priority for the Latin American program will be given to political prisoners and their families and to former political prisoners.

The Latin American figure represents the biggest reduction of any of the groups for fiscal year 1981. The fiscal year 1980 proposal was for 20,500, of which 19,500 was to be for Cubans. The reduction reflects the massive influx of Cubans to the United States in contravention of both U.S. law and our guiding principle of refugee admissions—orderly processing and departure to the United States from abroad.

The proposal calls for admission of 3,000 African refugees, a number double the fiscal year 1980 level. This represents our best estimate of the number of eligible refugees who may wish to apply for admission to the U.S. The largest proportion is likely to continue to be Ethiopians but Africans from other regions of the continent are also expected to seek resettlement.

In addition to the refugee groups and numbers I have outlined, the Act authorized adjustment to permanent resident status of up to 5,000 persons in the United States who have been granted political asylum in previous years. The adjustment of these 5,000 brings to 222,000 the total number of admissions and adjustment to permanent resident of refugees for fiscal year 1981. Although large regional disparities in the number of proposed admissions remain, we have attempted to modify those disparities in this proposal in an evaluation fashion. We are committed to a system which permits refugees in all parts of the world to apply freely for admission to the United States. and we believe we are taking reasonable steps toward that objective.

The cost to the Federal Government of processing, transporting and initially resettling refugees for FY 1981 will be approximately $690 million. The Department of Health and Human Services administers the bulk of federal assistance to refugees and is the lead federal agency in domestic resettlement in consultation with the U.S. Corodinator for Refugee Affairs.

As you know, the private sector, particularly voluntary agencies, contributes enormously to our refugee efforts, particularly with regard to resettlement. The federal/private agency relationship is the centerpiece of our efforts and its role cannot be overemphasized in the success of our program to date.

Refugee problems are inherently unpredictable, since their causes are usually beyond our control. The Cuban-Haitian crisis of recent months has presented a new and even more difficult challenge than ever. It has strained the compassion and generosity of the American people and the resources and capacity of government at all levels. We remain committed, however, to upholding faithfully our humanitarian tradition to help those uprooted persons around the world who face persecution. We recognize that this task is made considerably more difficult by circumstances in which our hospitality and values are abused. I am confident we can meet this challenge and continue to contribute in important ways in relieving the misery and suffering of people around the world, some of whom will begin new, productive lives in this country.

Thank you.

Summary of Report to the Congress on Proposed Refugee Admissions and Allocations for Fiscal Year 1981

SUMMARY

This is a summary of extensive beckground materials submitted in "Report to the Congress: Proposed Refugee Admissions and Allocations for Fiscal Year 1981" prepared in compliance with the Refugee Act of 1980. The Act requires that the Committees on the Judiciary of the House and the Senate be provided with information on six areas of concern, a summary of which follows.

(1) Nature of the Refugee Situation:

The world-wide refugee problem is serious, wide-spread, long-term and growing. Although several refugee-generating situations which were resolved during the year resulted in voluntary refugee repatriation to countries including Zimbabwe and Nicaragua, developments in Southeast Asia, the Horn of Africa, Afghanistan and the Caribbean continue to generate large numbers of refugees.

In Asia, the number of Indochinese refugees in first-asylum countries hovers around 235,000. Refugees departing for third country resettlement are almost as rapidly replaced by new refugee arrivals who add to the economic, political and social strains on ASEAN countries. In the Soviet Union, the changed character of relations between the United States and the Soviet Union has made departures for Soviet Jews particularly difficult this year. Reports of increased harassment emphasize the need for freedom of movement. In the Near East, over 1,000,000 Afghan refugees, some with special ties to the United States, have fled their country. A growing number of Afghans and other refugees from the region are seeking resettlement outside the region. In Africa, Somalia is providing a haven for over 1.3 million refugees from Ethiopia while additional refugees from Ethiopia and other parts of Africa search for resettlement opportunities outside the region. In Latin America, the movement of people from the Caribbean has provided critical new dimensions to the worldwide refugee problem.

(2) Proposed Number and Allocations of Refugee Admissions:

Within the framework of the Refugee Act of 1980 and in response to humanitarian needs and foreign policy concerns, the Administration proposes the admission of 217,000 refugees to the United States during Fiscal Year 1981 and the adjustment of status of up to 5,000 persons previously granted asylum in the United States, pursuant to Title II Section 209(b) of the Refugee Act of 1980.[1]

The proposed 217,000 includes 168,000 from Indochina, 33,000 from the Soviet Union,

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[1] See Table I.

4,500 from Eastern Europe, 4,500 from the Near East, 4,000 from Latin America and 3,000 from Africa.

Indochinese refugees

The proposal calls for a continuation of the 14,000 monthly level of Indochinese to be admitted to the United States in Fiscal Year 1981. The Indochinese refugee situation continues to present problems of serious dimensions. Not counting the Khmer in holding centers, there are approximately 235,000 boat and overland refugees in first asylum countries awaiting resettlement. A continuum of the current U.S. level of commitment provides leverage in encouraging third countries to continue their share of the resettlement burden.[2] The situation in the region is unstable. There is no assurance that the Vietnamese moratorium on organized boat departures will hold.

U.S.S.R. and Eastern Europe

The proposal calls for the admission of 33,000 refugees from the Soviet Union. While the vast majority of Soviet refugees are Jewish, there are Armenians and members of other Christian groups admitted under the Soviet program. A clear distinction is made between the members projected for admissions and the strong U.S. commitment to the principles of freedom of emigration.[3]

Romanian refugees are the largest group admitted to the United States under the Eastern European program. As a result of the Most Favored Nations treatment grants to Romania under the Jackson-Vanik amendment, increasing levels of Romanians have been permitted to emigrate. Other Eastern Europeans who have been traditionally admitted and continue to be considered for admission under this program are refugees in Warsaw Pact countries.

Near East

The proposal calls for the admission of 4,500 refugees from this region during Fiscal Year 1981. A single numerical level has been set for all refugees from the Near East. Numbers will be allocated to various groups depending on the emergence of special conditions or needs of refugees of special humanitarian concern for our country. Afghans, Iraqi Assyrians and Iraqi Kurds, many claiming persecution and with relatives in the United States, have applied for admission as refugees.

The continuing chaotic conditions in Iran are stimulating an increasing number of Iranians who have fled their country and have arrived in Europe to seek permanent resettlement elsewhere, including the United States. Atlhough a clear general pattern of persecution facing Iranians of various political and religious persuasions has not emerged definitively, there are many instances of persecution and proven danger to individuals. While at the present time we do not have a program for admitting persons from Iran as refugees, we remain ready to consider at a later date the admission on a case-by-case basis of those Iranians who can demonstrate compelling humanitarian reasons to come to the United States in family reunification cases and who can demonstrate that they fulfill all of the requirements of the Refugee Act. These admissions would be part of the 4.500 admissions allocation level for refugees from the Near East.

Latin America

The proposal calls for the admission of 4,000 refugees from Latin America during Fiscal Year 1981.

These numbers will be used for 2,500 Cuban refugees. Approximately one-half will come from Madrid as we terminate that program. Cubans who have already been processed and were ready to travel to the United States prior to the recent mass exodus from Mariel will be considered for admission.

In addition to Cuban refugees, the proposal calls for the admission of 1,500 refugees from other Latin American countries including the Caribbean region.

First priority will be given to political prisoners and their families including former political prisoners. Second priority will be given to those under UNHCR protection. Third priority will be given to family reunification cases.

Africa

The proposal calls for the admission of 3,000 African refugees in Fiscal Year 1981. It is our best estimate of the number who qualify for refugee status and may wish to apply.

Although the largest number of Africans seeking admission to the United States is expected to continue to be Ethiopians, Africans from other regions of the continent who have suffered persecution are also seeking resettlement.

(3) Proposed Plans and Cost of Their Movement and Resettlement:[4]

Most refugees will be processed at Immigration and Naturalization Service (INS) posts which have traditionally prepared refugees for movement to the United States. Additional refugees will be processed by other designated U.S. Government officials. Regardless of where refugees are processed, INS retains the ultimate statutory authority to determine refugee admissibility under the Refugee Act of 1980.

The new grant agreements with resettlement agencies define the basic minimum services which these agencies are expected to make available to refugees. This includes pre-arrival services, reception, counseling referral, consultation with public agencies and assistance to unaccompanied minors. When sponsorship assurance is received, the Intergovernmental Commission for European Migration (ICEM) provides support in outprocessing and transportation. Health screening is provided abroad and a visual inspection and medical records review takes place at U.S. ports of entry by Center for Disease Control (CDC) quarantine officers. Refugees arriving at resettlement locations are met by representatives of voluntary agencies responsible for reception placement and initial resettlement assistance. The voluntary agencies will continue to play an important role in the resettlement process, which starts overseas while the refugee is awaiting permission to enter the United States and includes ongoing follow-up services to assure the refugee's successful adaptation, integration and progress.

The lead Federal agency in domestic resettlement is the Department of Health and Human Services (HHS) which administers the bulk of Federal assistance to refugees in the United States, in consultation with the U.S. Coordinator for Refugee Affairs. Refugee related programs of Department of Agriculture, Department of Education and Department of Labor are described in the report.

(4) Anticipated Social, Economic, and Demographic Impact of Their Admission to the United States:

The admission rate of 217,000 refugees will increase the population of the United States by less than one-tenth of one percent (0.1%). Because the United States gives high priority for admission to family reunification cases, it is expected that areas of current resettlement will continue to grow. The economic impact of refugees, while on occasion producing temporary local difficulties, is expected to be positive overall. However, the process of adjusting to a new country is not always as rapid as might be desired by either a host country or the refugees themselves. Refugees admitted to the United States in Fiscal Year 1981 should have no significantly different impact on this country than has been witnessed in the past.[5]

(5) Resettlement Efforts of Other Countries:

During the first ten months of the fiscal year, of the 235,682 Indochinese resettled, 141,166 were admitted to the United States and 94,516 were resettled in third countries. Only informed speculation can be made now as to future third country resettlement programs. Of almost 800,000 Indochinese who have been resettled to date, nearly 390,000 have been resettled in the United States. Australia has indicated that it will resettle 1,100–1,200 monthly. The traditional initial response from third countries to UNHCR and U.S. demarches over the years has been noncommittal. Canada, second only to the United States in acceptance of Indochinese refugees, is expected to continue as a major country of resettlement. France will probably continue its resettlement program at an average of 1,100 a month.[6]

The resettlement pattern of Soviet Jews leaving the U.S.S.R. is roughly comparable to that of the past several years. Approximately one-third go to Israel and some 10 percent of the remaining two-thirds go to countries other than the United States.

Spain and Italy have resettled large numbers of refugees from Latin America and France and Germany and have resettled large numbers of Ethiopian refugees.

(6) Foreign Policy Implications:

The U.S. refugee resettlement program has strengthened our leadership role in the international community and is of critical importance in furthering our humanitarian as well as political objectives. To the ASEAN countries, it is one of the most vital elements in the U.S. commitment to that region's stability and progress.

TABLE I.—PROPOSED REFUGEE ADMISSIONS, FISCAL YEAR 1981

Area of origin	Admissions fiscal year 1980	Proposed admissions fiscal year 1981	Percentage change
Indochina	168,000	168,000	Same.
Asia	1,200	0	Eliminated.
Soviet Union	33,000	33,000	Same.
Eastern Europe	5,000	4,500	9 percent lower.
Near East	2,500	4,500	92 percent higher.
Latin America	[1] 19,500	----------	
	1,000	4,000	400 percent higher.
Africa	1,500	3,000	100 percent higher.
Total	231,700	217,000	6.3 percent lower.
Asylum status adjustments	5,000	5,000	Same.

[1] Cubans.

TABLE II.—UNITED STATES AND 3D COUNTRY RESETTLEMENTS OF INDOCHINESE REFUGEES FROM OCTOBER 1979 THROUGH JULY 1980

	United States	3d countries	Total
October 1979	12,873	12,807	25,680
November	14,373	11,604	25,977
December	14,013	9,573	23,586
January 1980	14,512	12,648	27,160
February	14,437	11,209	25,646
March	14,057	6,158	20,215
April	13,902	7,801	21,703
May	14,385	8,633	23,018
June	13,599	7,622	21,181
July	15,055	6,461	21,516
Total	141,166	94,516	235,682

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[2] See Table II.

[3] See Table III.

[4] See Table IV.

[5] See Table V for Geographic Distribution of Indochinese Refugees in the United States.

[6] See Table VI.

TABLE III.—REFUGEE FLOWS FROM THE SOVIET UNION, FISCAL YEAR 1980

	Soviet Jews[1]	Non-Jews (principally Armenians)[2]	Monthly total
October	4,867	169	5,036
November	3,616	464	4,080
December	3,300	512	3,812
January	3,272	423	3,695
February	2,868	441	3,309
March	2,563	497	3,060
April	2,012	470	2,482
May	2,131	719	2,850
June	1,489	1,229	2,718
July	680	200	880
August (projected)	1,000	150	1,150
September (projected)	1,000	250	1,250
Total	28,798	5,524	
Grand total	34,322		

[1] Source: Department of State. Note: Figures for August and September are considered conservative estimates.

[2] Source: U.S. Mission Geneva. Note: Figure for August is incomplete, and September figure is an estimate.

TABLE IV.—ANALYSIS OF THE COST IN FISCAL YEAR 1981 OF THE PROPOSED FISCAL YEAR 1981 REFUGEE ADMISSIONS[1]

[In millions of dollars]

Agency/program	Estimated fiscal year 1981 cost
Department of State:	
Care and maintenance of refugees abroad[2]	169.00
Admissions processing	14.75
Transportation to the United States	132.40
Initial reception and placement grants	105.45
Administrative and operational expenses	5.00
Subtotal	426.60
Department of Health and Human Services:	
Office of Refugee Resettlement:	
Cash assistance	56.2
Supplemental security income	3.7
Medical assistance	29.5
Social services	70.0
State administrative costs	12.5
Aid to unaccompanied minors	2.0
Aid to non-Cuban, non-Indochinese refugees	20.0
Administrative budget for ORR	6.5
Public Health Service:	
Center for Disease Control	3.0
Health Services Administration	4.8
Subtotal	208.2
Department of Agriculture: Food stamps program	29.4
Department of Education: Refugee educational assistance[3]	17.8
Grand total	682.00

[1] The 1981 appropriations now pending before the Congress provide funding for the admission of 210,000 refugees to the United States. The administration will attempt to meet any additional costs associated with the revised projected admissions for fiscal year 1981 by reprograming. If necessary, the administration may have to seek supplemental appropriations.

[2] This figure may overstate the cost of care and maintenance for refugees resettled in the United States in fiscal year 1981, since it represents U.S. contributions to international and private organizations whose caseloads also include refugees not destined for the United States. However, in some areas such as Southeast Asia, the majority of the refugees resettled leave for the United States, yet third-country contributions account for 70 percent of the UNHCR budget.

[3] These funds are appropriated to the Department of Health and Human Services but are administered by the Department of Education.

TABLE V.—INDOCHINESE REFUGEES IN THE UNITED STATES

[Partially adjusted for secondary migration]

	July 31, 1980	Aug. 15, 1980
1. Alabama	1,995	2,008
2. Alaska	292	298
3. Arizona	2,799	2,843
4. Arkansas	2,774	2,806
5. California	123,971	126,348
6. Colorado	7,636	7,758
7. Connecticut	3,565	3,609
8. Delaware	220	220
9. District of Columbia	4,827	5,001
10. Florida	7,866	7,974
11. Georgia	3,926	4,046
12. Hawaii	5,706	5,767
13. Idaho	701	706
14. Illinois	14,105	14,299
15. Indiana	3,575	3,582
16. Iowa	6,285	6,335
17. Kansas	4,914	4,993
18. Kentucky	1,869	1,884
19. Louisiana	10,296	10,369
20. Maine	596	605
21. Maryland	3,744	3,787
22. Massachusetts	5,391	5,508
23. Michigan	6,870	7,003
24. Minnesota	12,419	12,622
25. Mississippi	1,169	1,184
26. Missouri	3,644	3,673
27. Montana	1,093	1,042
28. Nebraska	2,152	2,170
29. Nevada	1,969	2,007
30. New Hampshire	271	271
31. New Jersey	3,344	3,444
32. New Mexico	2,001	2,090
33. New York	11,332	11,545
34. North Carolina	3,470	3,518
35. North Dakota	667	673
36. Ohio	5,390	5,467
37. Oklahoma	5,839	5,919
38. Oregon	11,885	12,101
39. Pennsylvania	15,669	15,970
40. Rhode Island	2,329	2,351
41. South Carolina	1,315	1,317
42. South Dakota	729	762
43. Tennessee	3,867	3,921
44. Texas	34,944	35,450
45. Utah	5,052	5,203
46. Vermont	182	186
47. Virginia	10,159	10,256
48. Washington	15,816	16,138
49. West Virginia	391	391
50. Wisconsin	5,293	5,386
51. Wyoming	273	273
52. Virgin Islands	11	11
53. Guam	385	386
54. Puerto Rico	28	28
Unknown	1,475	1,475
Total	388,432	394,979

Source: Prepared by HHS.

TABLE VI.—INDOCHINESE REFUGEES CUMULATIVE 3D COUNTRY RESETTLEMENT—LAND AND BOAT REFUGEES, APRIL 1975 TO JULY 1980

	Cumulative resettlement
Resettlement country:	
Argentina	1,281
Australia	39,464
Austria	1,136
Belgium	3,282
Brazil	68
Canada	60,625
China	265,554
Denmark	1,570
Finland	115
France	66,245
Germany, Federal Republic of	14,297
Greece	95
Hong Kong	9,368
Iceland	34
Ireland	212
Israel	366
Italy	2,486
Japan	557
Luxembourg	70
Malaysia	2,142
Netherlands	3,022
New Zealand	2,825
Norway	1,931
Paraguay	31
Philippines	13
Spain	508
Sweden	1,727
Switzerland	7,192
United Kingdom	10,721
Other	794
Total	497,731
United States	388,802
Grand total	[1] 886,533

[1] Based on UNHCR reports through May 1980 and Department of State reports for June and July 1980. ●

AIRLINE TAX BILL

● Mr. CANNON. Mr. President, I was most disappointed by the action of the Finance Committee yesterday in their decision to continue the excessive taxation of our Nation's airline passengers. Rather than accepting a well-constructed compromise put together by Senator PACKWOOD, the Finance Committee reported a bill which simply extends the existing tax level. It is that same existing tax level to which we owe thanks for a $3.7 billion surplus in the aviation trust fund. Every day that these taxes are collected the surplus continues to grow; continues to sit in Washington and cannot be spent for any purpose; and continues to embarrass those of us who get asked why we should collect billions more than we need for this program. To be exact, a continuation of the Finance Committee's suggested tax level through fiscal year 1985 will result in a surplus of $11.4 billion.

I, of course, will continue my complete opposition to this tax extension. If the Congress takes no action at all, the airline ticket tax will fall from 8 to 5 percent on October 1, 1980. That 5 percent tax will begin to feed the General Treasury where the money can be put to some use while we try to decide next year how to continue this trust fund, or perhaps more appropriately whether to continue this trust fund at all. This user fund was based upon a good concept in my opinion, but the Federal Government seems unable to find the will to match the users' revenues with expenditures from this fund.

Therefore, I believe that we should rethink our starting points for next year on how we might reconstruct this program. First, we should examine the possibility of abandoning the trust fund concept. Second, since the expenditure program will lapse along with the taxes on October 1, we can consider how many airports should be put into a new program, rather than the decision of the Senate this year to take only 72 airports out of an existing program. I believe we should examine many more of the Nation's air carrier, hub airports to see if they can justify the need for Federal aid. I believe such a total reexamination of the program would be healthy and useful considering our apparent inability to balance this trust fund.

Mr. President, at the beginning of this year, I had high hopes we could continue this trust fund program without interruption and return it to a fiscally prudent balance by fiscal year 1985. Unfortunately, we appear unable to continue this program without gouging airline passengers for money we do not need and will not spend. So I see no ready alternative to the October 1 sunset of ADAP. Regrettably, some of the Nation's 3,000 smaller public airports will be hurt by this lack of funds, because they really do need Federal assistance.

The largest airports which were to be defederalized anyway will, indeed, be able to survive without Federal aid despite their claims that they are afraid of negotiating with their tennants to collect the cost of services provided. It is time these monopoly landlords learned how to run their multimillion dollar business without help from Washington.

But, even I must admit that immediate defederalization of all our Nation's public airports—both large and small—is a much larger step than any new legislation would have logically taken us with this program. Yet that is exactly what we are getting 1 week from next Wednesday.

Clearly, we must start anew next year and develop a sensible program which only provides assistance to those airports which must receive Federal aid, and which properly balances the airline passenger's taxes and benefits.●

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following Calendar Orders Nos. 1021, 1058, and 1059.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

HEALTH PROFESSIONS EDUCATION AND DISTRIBUTION ACT OF 1980

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 2375) to amend the Public Service Act to revise and extend the programs of assistance under titles VII and VIII for training health professionals and to extend the National Health Service Corps program.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources with an amendment to strike all after the enacting and inserting the following:

SECTION 1. This Act may be cited as the "Health Professions Education and Distribution Act of 1980".

SEC. 2. (a) The Congress makes the following findings:

(1) The goals of the health care system in the United States are to provide all Americans with access to high quality health care at a reasonable cost, to promote good health and prevent disease, to return individuals who are acutely ill to good health, and to improve the quality of life for individuals who are chronically ill or disabled.

(2) The attainment of these goals in the 1980's is dependent, in part, on the training of well qualified health professionals in sufficient numbers, and encouraging health professionals to practice among populations and in locations presently lacking adequate health services, and in types of practice for which there is an urgent need for additional practitioners.

(3) The Nation's ability to utilize fully its human resources to meet its health care needs is now in jeopardy because many low- and middle-income Americans cannot, from existing sources, meet the price of education in the health professions.

(4) The representation of minorities within most health professions remains far below their representation in the population.

(5) Women are underrepresented within certain health professions, including many medical specialties.

(6) The capacity of the Nation's health professions schools, established over the last two decades, is, in general, sufficient to meet the Nation's needs for health professionals. However—

(A) there is a continuing need for health professionals trained in primary care, mental health care, prevention and rehabilitation, among other areas of care;

(B) there exists a wide disparity in the availability of physicians and other health professionals, including podiatrists, in many urban and rural areas;

(C) there remains, in many of our Nation's communities, a critical inability to obtain and retain nurses; and

(D) there is a continuing need for increased utilization of physician assistants, nurse practitioners, and expanded function dental auxiliaries in the provision of health care services.

(7) Because of the rising demand for mental health services and wide disparities in the distribution of psychiatrists, clinical psychologists, psychiatric nurses, and psychiatric social workers, psychiatry is a medical shortage specialty and there are distinct needs for other health professionals.

(8) Special programs designed to meet the needs of the underserved continue to be necessary.

(b) Therefore, the Congress declares that the Federal Government's partnership with the Nation's health professions schools and students is reaffirmed so that, with Federal assistance—

(1) all Americans can be assured equal opportunities to enter a health career;

(2) all Americans can be assured access to qualified health professionals; and

(3) the health professions schools can assist in accomplishing these objectives.

SEC. 3. (a) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

(b) For purposes of this Act, the term "Secretary" means the Secretary of Health and Human Services.

SEC. 4. The amendments made by this Act shall take effect October 1, 1981, unless otherwise specified.

TITLE I—EDUCATION OF HEALTH PERSONNEL

SEC. 101. (a) The title of title VII is amend-to read as follows:

"TITLE VII—EDUCATION OF HEALTH PERSONNEL".

(b) Section 700 is amended to read as follows:

"GENERAL DUTIES OF SECRETARY

"SEC. 700. The Secretary shall, after consultation with appropriate public and private entities, conduct and support activities under titles VII and VIII designed to—

"(1) train sufficient numbers of health professionals to meet the health care needs of the United States;

"(2) distribute health professionals, by geographic area and specialty practice, to meet the health care needs of the United States;

"(3) provide career opportunities in health care to individuals without regard to income background;

"(4) assure the maintenance of high-quality health professions education; and

"(5) maximize the cost effectiveness of health professions education.".

SEC. 102. (a) (1) Section 701(2) is amended to read as follows:

"(2) The term 'nonprofit' refers to the status of an entity owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.".

(2) Section 701(3) is repealed, and paragraph (4) of section 701 is redesignated as paragraph (3) of such section.

(3) Section 701(3) (as redesignated by paragraph (2) of this subsection) is amended—

(A) by inserting "'school of chiropractic'," after "'school of veterinary medicine',";

(B) by inserting "a degree of doctor of chiropractic," after "a degree of doctor of veterinary medicine or an equivalent degree,";

(C) by striking out "a school which" and inserting in lieu thereof "an accredited public or nonprofit private school in a State that"; and

(D) by adding at the end thereof "The term 'graduate program in health administration' means an accredited graduate program in a public or nonprofit private institution in a State that provides training leading to a graduate degree in health administration or an equivalent degree. The term 'graduate program in clinical psychology' means an accredited graduate program in a public or nonprofit private institution in a State that provides training leading to a doctoral degree in clinical psychology or an equivalent degree. For purposes of determining eligible institutions under parts C and F of this title, the term 'school of medicine' includes any public school in a State that offers an accelerated integrated program of study combining undergraduate premedical education and medical education leading to advanced entry, by contractual agreement, into an accredited four year school of medicine which provides the remaining training leading to a degree of doctor of medicine.".

(4) Section 701 is amended by inserting the following new paragraph after paragraph (3) (as redesignated by paragraph (2) of this subsection):

"(4) The term 'accredited' when applied to a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, chiropractic, pharmacy or public health, or a graduate program in health administration or clinical psychology, means a school or program that is accredited by a recognized body or bodies approved for such purpose by the Secretary of Education, except that a new school or program that, by reason of an insufficient period of operation, is not, at the time of application for a grant or contract under this title, eligible for accreditation by such a recognized body or bodies, shall be deemed accredited for purposes of this title, if the Secretary of Education finds, after consultation with the appropriate accrediation body or bodies, that there is reasonable assurance that the school or program will meet the accrediation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of the first entering class in such school or program. For purposes of parts C and F of this title, whenever a school of medicine may be eligible for a grant or contract if such school is accredited, the requirement that such school be accredited shall not preclude from eligibility for such grants or contracts any public school in a State that offers an accelerated, integrated program of study combining undergraduate premedical education and medical education leading to advanced entry, by contractual agreement, into an accredited four year school of medicine which provides the remaining training leading to a degree of doctor of medicine.".

(5) Paragraphs (9) and (10) of section 701 are redesignated as paragraphs (11) and (12), respectively.

(6) Section 701 is amended by inserting the following new paragraphs after paragraph (8) thereof:

"(9) The term 'allied health personnel' means individuals trained at the associate, baccalaureate, master's, or doctoral degree level in a health care related science, with responsibility for the delivery of health care or health care related services (including services related to the identification, evaluation and prevention of diseases and disorders, dietary and nutrition services, health promotion, rehabilitation, and health systems management), but who, for the purposes of this title, are not graduates of schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, chiropractic, pharmacy, public health, or nursing, or a graduate program in health administration or clinical psychology.

"(10) The term 'school of allied health' means a public or nonprofit private junior college, college, or university—

"(A) which provides, or can provide, programs of education in a discipline of allied health leading to a baccalaureate or associate degree (or an equivalent degree of either) or to a more advanced degree;

"(B) which provides training for not less than a total of twenty persons in the allied health curricula;

"(C) which includes or is affiliated with a teaching hospital; and

"(D) which is accredited by a recognized body or bodies approved for such purposes by the Secretary of Education, or there is satisfactory assurance afforded by such accredited agency to the Secretary that reasonable progress is being made toward accreditation.".

(7) Section 701(11) (as redesignated by paragraph (5)) is amended by adding "the Commonwealth of" before "the Northern Mariana Islands,".

(8) Section 701(12) (as redesignated by paragraph (5)) is amended by striking out "Department of Health, Education, and Welfare" and inserting in lieu thereof "Department of Health and Human Services".

(b)(1) The heading of section 702 is amended to read as follows:

"NATIONAL ADVISORY COUNCIL ON HEALTH PERSONNEL"

(2) Section 702(a) is amended—

(A) by striking out "Professions Education" after "National Advisory Council on Health" and inserting in lieu thereof "Personnel";

(B) by striking out "(or his delegate)" and inserting in lieu thereof "(or the delegate of the Secretary)";

(C) by striking out "twenty" after "who shall be Chairman of the Council, and" and inserting in lieu thereof "twenty-four";

(D) by inserting "among" before "persons who because of their education";

(E) by striking out "parts B, C, D, E, F and G of";

(F) by striking out clause (1) and inserting in lieu thereof "(1) fifteen shall be representatives of the schools and graduate programs assisted under this title, including at least one representative from each of the types of schools and programs defined in sections 701(3) and 701(10),";

(G) by striking out "two" and inserting in lieu thereof "three"; and

(H) by inserting "or interns or residents," after "health professions schools,".

(3) Section 702 is amended—

(A) by striking out "(other than subpart II of part G thereof)" each place it appears; and

(B) by striking out "he" in subsection (c) and inserting in lieu thereof "the Secretary".

(c) Section 703 is amended—

(1) by striking out "(a)" after "SEC. 703."; and

(2) by striking out subsection (b).

(d) Section 705 is amended—

(1) by striking out "shall" after "Such records" in subsection (a) and inserting in lieu thereof "may"; and

(2) by striking out "he" after "at such time and in such manner as" and inserting in lieu thereof "the Secretary".

(e) Section 707 is amended by striking out "Professions Education" after "National Advisory Council on Health" and inserting in lieu thereof "Personnel".

(f) Section 708 is amended to read as follows:

"HEALTH PERSONNEL DATA

"SEC. 708. (a) The Secretary shall undertake or support a program to collect, compile, and analyze data at least biennially, regarding health personnel in the States including physicians, nurses, dentists, pharmacists, optometrists, podiatrists, chiropractors, veterinarians, public health personnel, health administrators, health planners, physician assistants, expanded function dental auxiliaries, clinical psychologists, allied health personnel, and any other health personnel in the States designated by the Secretary to be included in the program. Such data shall include data respecting the training, licensure status (including permanent, temporary, partial, limited, or institutional licensure status), location or locations of practice, professional specialty, practice characteristics, place and date of birth, sex, and socioeconomic background of health personnel, the impact of titles VII and VIII on the training and distribution of health personnel, and such other information regarding health personnel.

"(b) In carrying out subsection (a), the Secretary shall collect available information from public or private entities. The Secretary may make grants to and enter into contracts with public and private entities for the collection of information not otherwise available.

"(c) The Secretary, in cooperation with appropriate public and private entities, shall—

"(1) analyze or provide for the analysis of health personnel data collected under this section;

"(2) conduct or provide for the conduct of—

"(A) analytic and descriptive studies of health personnel information including the need for, and supply of, health personnel; and

"(B) projections relating to such need and supply in the future, compiled according to type of personnel, practice specialty, and geographic location; and

"(3) conduct or provide for the conduct of analytic and descriptive studies of information on health students, interns, residents, and practitoners who are participating in health professions education, and on health personnel education programs and institutions, including institutional resources, student financial requirements and indebtedness, student characteristics such as age, sex, race, ethnicity and socioeconomic background, and apparent career choices such as practice specialty and geographic location.

"(d) Any school, program, or training center receiving funds under this title or title VIII shall submit an annual report to the Secretary. Such report shall contain such information as is necessary to assist the Secretary in carrying out this section. The Secretary shall not require the collection or transmittal of any information under this subsection that is not readily available to such school, program, or training center. Information provided pursuant to this subsection shall be collected or transmitted only to the extent permitted under subsection (f).

"(e) The Secretary shall submit to Congress the following reports:

"(1) a comprehensive report regarding the status of health personnel according to profession, including a report regarding the analytic and descriptive studies conducted under this section. Such report shall be submitted on October 1, 1982, and biennially thereafter;

"(2) a comprehensive report regarding applicants to, and students enrolled in, programs and institutions for the training of health personnel, including in such report descriptions and analyses of student indebtedness, student need for financial assistance, financial resources to meet the needs of students, student career choices such as practice specialty and geographic location and the relationship, if any, between student indebtedness and career choices. Such report shall be submitted on March 31, 1982, and biennially thereafter;

"(3) a report on the status of health personnel teaching facilities, including an analysis of the need for new facilities and the replacement and renovation of existing facilities, estimated aggregate construction, renovation and replacement costs, and available and appropriate sources for meeting such costs in order to meet national needs for health personnel. Such report shall be submitted on May 15, 1983; and

"(4) a report on the status of underrepresented groups among health personnel and students. Such report shall be submitted on October 1, 1982, and biennially thereafter.

"(f)(1) The Secretary and each program entity shall in securing and maintaining any record of individually identifiable personal data (hereinafter in this subsection referred to as 'personal data') for purposes of this section—

"(A) inform any individual who is asked to supply personal data whether the individual is legally required, or may refuse, to supply such data and inform the individual of any specific consequences, known to the Secretary or program entity, as the case may be, of providing or not providing such data;

"(B) upon request, inform any individual if the individual is the subject of personal data secured or maintained by the Secretary or program entity, as the case may be, and make the data available to the individual in a comprehensible form;

"(C) assure that no use is made of personal data which use is not within the purposes of this section unless an informed consent has been obtained from the individual who is the subject of such data; and

"(D) upon request, inform any individual of the use being made of personal data respecting such individual and of the identity of the individuals and entities which will use the data and their relationship to the programs under this section.

"(2) Any entity which maintains a record of personal data and which receives a request from the Secretary or a program entity for such data for purposes of this section shall not transfer any such data to the Secretary or to a program entity unless the individual whose personal data is to be so transferred gives an informed consent for such transfer.

"(3)(A) Notwithstanding any other provision of law, personal data collected by the Secretary or any program entity under this section may not be made available or disclosed by the Secretary or any program entity to any person other than the individual who is the subject of such data unless (i) such person requires such data for purposes of this section, or (ii) in response to a demand for such data made by means of compulsory legal process. Any individual who is the subject of personal data made available or disclosed under clause (ii) shall be notified of the demand for such data.

"(B) Subject to all applicable laws regarding confidentiality, only the data collected by the Secretary under this section which is not personnel data shall be made available to bona fide researchers and policy analysts (including the Congress) for the purposes of assisting in the conduct of studies respecting health professions personnel.

"(4) For purposes of this subsection, the term 'program entity' means any public or private entity which collects, compiles, or analyzes health professions data under a grant, contract, or other arrangement with the Secretary under this section.

"(g) In carrying out this section, the Secretary shall not be subject to the provisions of chapter 35 of title 44, United States Code.

"(h) There is authorized to be appropriated to carry out this section $3,000,000 for the fiscal year ending September 30, 1982, $3,000,000 for the fiscal year ending September 30, 1983, and $3,000,000 for the fiscal year ending September 30, 1984.".

(g) Section 709 is amended—

(1) by amending subsection (a)(1) to read as follows:

"(1) maintain any approved residency training program for physicians; and";

(2) by striking out subsection (b) thereof and redesignating subsection (c) as subsection (b); and

(3) by striking out "two-thirds but not more than three-fourths" in subsection (b) thereof (as designated by paragraph (2)) and inserting in lieu thereof "one-half".

(h) Section 710 is amended to read as follows:

"APPLICATIONS, PAYMENTS AND ASSURANCES UNDER GRANTS

"SEC. 710. (a) Grants made under this title may be paid (1) except for grants under section 770, in advance or by way of reimbursement, (2) at such intervals and on such conditions as the Secretary may find necessary, and (3) with appropriate adjustments on account of overpayments or underpayments previously made.

"(b) No grant may be made or contract entered into under this title unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(c) Whenever in this title an applicant is required to provide assurances to the Secretary, or an application is required to contain assurances or be supported by assurances, the Secretary shall determine before approving the application that the assurances provided are made in good faith.

"(d) The Secretary may provide technical assistance for the purpose of carrying out any program or purpose under this title.".

(i) Section 711 is amended to read as follows:

"DIFFERENTIAL TUITION AND FEES

"SEC. 711. The Secretary may not enter into a contract with, or make a grant, loan guarantee, or interest subsidy payment under this title or title VIII to or for the benefit of, any school, program, or training center if the tuition levels or educational fees at such school, program, or training center are higher for certain students on the basis that such students are the recipients of scholarships, traineeships, loans, loan guarantees, service scholarships, or interest subsidies from the Federal Government.".

SEC. 103. (a) Section 720(a)(1) is amended—

(1) by striking out "construction of" and inserting in lieu thereof "renovation or modernization of, or the conversion of existing facilities to,"; and

(2) by striking out "and" and inserting in lieu thereof "or".

(b) Section 720(a)(2)(A) is amended by striking out "and dentists" and inserting in lieu thereof ", dentists, pharmacists, optometrists, podiatrists, veterinarians or professional public health personnel".

(c)(1) The first sentence of section 720 (a)(2)(B) is amended to read as follows: "For purposes of this section the term 'ambulatory, primary care teaching facilities' means facilities or areas dedicated for the training of students in the diagnosis and treatment of ambulatory patients.".

(2) The second sentence of section 720(a) (2)(B) is amended by striking out "of physicians and dentists in such specialties".

(d)(1) Section 720(b) is amended to read as follows:

"(b) In the case of a project for renovation modernization or conversion of facilities which are primarily (as determined by the Secretary) for teaching purposes and for which a grant may be made under section 720(a)(1), but which also are for research purposes or research and related purposes, in the sciences related to health or for medical library purposes (within the meaning of part J of title III), the project shall, insofar as all such purposes are involved, be regarded as a project for facilities with respect to which a grant may be made under this part.".

(2) Section 720 is amended by adding the following new subsection at the end thereof:

"(c) For payments under grants under this part there is authorized to be appropriated $1,000,000 for the fiscal year ending September 30, 1982, $1,000,000 for the fiscal year ending September 30, 1983, and $1,000,000 for the fiscal year ending September 30, 1984.".

(e) Section 721(b) is amended to read as follows:

"(b)(1) To be eligible to apply for a grant under section 720, the applicant must be a public or other nonprofit school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, or public health, or any combination of such schools.

"(2) An application for a grant under section 720 or loan guarantee or interest subsidy under section 726, which would involve the construction, conversion, renovation, or modernization of all or part of an ambulatory, primary care teaching facility which is affiliated with but not owned by a school eligible for such grant under section 720 or loan guarantee or interest subsidy under section 726, shall be submitted jointly by the eligible school and the affiliated facility.

"(3) In the case of a joint application submitted under paragraph (2), assistance under section 720 or a loan guarantee or interest subsidy under section 726, shall be provided only for that portion of the proposed construction, conversion, renovation, or modernization which the Secretary determines to be reasonably attributable to the needs of such school for teaching or research purposes.".

(f) Section 721(c) is amended to read as follows:

"(c) A grant under section 720 may be made only if the application therefor is approved by the Secretary upon a determination that—

"(1) the applicant meets the eligibility conditions set forth in subsection (b);

"(2) the application contains or is supported by reasonable assurances that (A) the facility is intended to be used for the purposes for which the application has been made, (B) sufficient funds will be available to meet the non-Federal share of the cost, and (C) sufficient funds will be available for effective use of the facility when completed;

"(3) the plans and specifications are in accordance with regulations relating to minimum standards of construction and equipment;

"(4) in the case of an application for a project for the construction of a facility intended, at least in part, for the provision of health services, the applicant and the Secretary have complied with the appropriate provisions of title XV; and

"(5) the application contains or is supported by adequate assurance that any laborer or mechanic employed by a contractor or subcontractors in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a-5, known as the Davis-Bacon Act).

The Secretary of Labor shall have, with respect to the labor standards specified in paragraph (5), the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c). Before approving or disapproving an application under this part, the Secretary shall secure the advice of the National Advisory Council on Health Personnel established by section 702 (hereinafter in this part referred to as the 'Council').".

(g)(1) Subsections (d), (e), (f), and (g) of section 721 are repealed.

(2) Section 721 is amended by adding at the end thereof the following new subsection:

"(d) In considering applications for grants under section 720 for the fiscal years ending September 30, 1982, and September 30, 1983, the Secretary shall give special consideration to applications submitted by medical schools for the expansion of a two-year program to a degree granting program.".

(h)(1) Section 722(a) is amended—

(A) by striking out "(1)" each place it appears;

(B) by striking out "80" and inserting in lieu thereof "70"; and

(C) by striking out paragraph (2).

(2) Section 722(b) is amended—

(A) by striking out "The Secretary's reservation of any amount under this section may be amended by him, either" and inserting in lieu thereof "The reservation of any amount under this section may be amended by the Secretary,"; and

(B) by striking out "or upon revision of the estimated cost of construction of the facility".

(3) Subsection (d) of section 722 is repealed.

(i) Section 723 is amended—

(1) by striking out subsection (a);

(2) by striking out "he" in subsection (b)(2) and inserting in lieu thereof "the Secretary";

(3) by striking out "b"; and

(4) by striking out "720(a)(2)" and inserting in lieu thereof "720".

(j) Section 724(b) is amended by striking out "he finds" after "such other regulations as" and inserting in lieu thereof "are".

(k)(1) Section 725 is amended to read as follows:

"ENROLLMENT COMMITMENTS

"SEC. 725. The Secretary shall unilaterally release all recipients of grants, loan guarantees, and interest subsidies under sections 720(a) and 726 (as such sections existed prior to October 1, 1980) from any contractual obligation to fulfill enrollment increases incurred pursuant to such sections or under regulations published to implement such sections.".

(2) The provisions of section 725 of the Public Health Service Act shall be effective on the date of the enactment of this Act.

(l) Section 726(a) is amended by striking out "September 30, 1980" after "and ending with the close of" and inserting in lieu thereof "September 30, 1984".

(m) Section 726(b) is amended—

(1) by striking out "September 30, 1980" after "with the close of" and inserting in lieu thereof "September 30, 1984"; and

(2) by inserting before the period at the end thereof "and for loan guarantees and interest subsidies first made after September 30, 1981, such amounts as are sufficient to reduce the net effective interest rate otherwise payable on such loan—

"(1) by 6 percent per annum; or

"(2) to 7 percent per annum;

whichever is less".

(n) Section 726(d)(2) is amended by striking out "he determines it to be" after "by the Secretary to the extend" and inserting in lieu thereof "it is".

(o) Section 726(e) is amended—

(1) by striking out "him to discharge his responsibilities" in clause (1) and inserting in lieu thereof "the discharge of responsibilities";

(2) by striking out "by him" in clause (1);

(3) by striking out the second sentence and inserting in lieu thereof "There is authorized to be appropriated to the fund $5,000,000 for the fiscal year ending September 30, 1982,

$5,500,000 for the fiscal year ending September 30, 1983, and $6,100,000 for the fiscal year ending September 30, 1984.";

(4) by striking out "by him from his operations" after "property or other assets derived" and inserting in lieu thereof "from operations";

(5) by striking out "his" after "enable the Secretary to discharge" and inserting in lieu thereof "the";

(6) by striking out "by him" after "guarantees issued";

(7) by striking out "he" after "authorized by this section," and inserting in lieu thereof "the Secretary";

(8) by striking out "he" after "for that purpose" and inserting in lieu thereof "the Secretary of the Treasury"; and

(9) by striking out "him" after "other obligations acquired by" and inserting in lieu thereof "the Secretary of the Treasury".

(p) Section 726(f)(2) is amended to read as follows:

"(2) In any fiscal year no loan guarantee may be made under subsection (a) and no agreement to make interest subsidy payments may be entered into under subsection (b) if the making of such guarantee or the entering into of such agreement would cause the total of—

"(A) the principal of the loans first guaranteed under subsection (a) in such fiscal year, and

"(B) the principal of the loans for which no guarantee has been made under subsection (a) and with respect to which an agreement to make interest subsidy payments is first entered into under subsection (b) in such fiscal year,

to exceed $10,000,000 in such fiscal year.".

SEC. 104. (a)(1) Section 728(a) is amended—

(A) by striking out "and" after "September 30, 1979;";

(B) by inserting ", $100,000,000 for the fiscal year ending September 30, 1982, $120,000,000 for the fiscal year ending September 30, 1983, and $140,000,000 for the fiscal year ending September 30, 1984" after "the fiscal year ending September 30, 1980"; and

(C) by striking out "1982" in the last sentence thereof and inserting in lieu thereof "1987".

(2) Section 728(c) is amended by inserting "consolidate," after "sell,".

(b) Section 729(a) is amended to read as follows:

"(a) The total of the loans made to a student in any academic years or its equivalent (as determined by the Secretary) which may be covered by Federal loan insurance under this subpart may not exceed $20,000 in the case of a student enrolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or chiropractic, and $12,500 in the case of a student enrolled in a school of pharmacy or public health, a graduate program in health administration or clinical psychology, an advanced training program in a collegiate school of nursing, a program for the training of physician assistants, or a program for the training of expanded function dental auxiliaries. The aggregate insured unpaid principal amount for all such insured loans made to any borrower shall not at any time exceed $80,000 in the case of a borrower who is or was a student enrolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or chiropractic, and $50,000 in the case of a borrower who is or was a student enrolled in a school of pharmacy or public health, a graduate program in health administration or clinical psychology, an advanced training program in a collegiate school of nursing, a program for the training of physician assistants, or a program for the training of expanded function dental auxiliaries. The annual insurable limit per student shall not be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any year in excess of the annual limit.".

(c) Section 731(a)(1)(A) is amended—

(1) by striking out subdivisions (iii) and (v) thereof and redesignating subdivisions (iv) and (vi) as subdivisions (iii) and (iv); and

(2) by amending subdivision (iii) thereof (as redesignated by paragraph (1)) to read as follows:

"(iii) has agreed that all funds received under such loan shall be used solely for tuition, other reasonable educational expenses, including fees, books, and laboratory expenses, and reasonable living expenses incurred by such student;".

(d) Section 731(a)(2) is amended—

(1) by striking out "by him" in subclause (A);

(2) by striking out "he was" before "not a participant in such a program" in subclause (B);

(3) by inserting "and interest" after "periodic installments of principal" in subclause (C);

(4) by striking out "and be paid" after "accrue" in subclause (C);

(5) by striking out "three" in subdivision (ii) of subclausee (C) and inserting in lieu thereof "five";

(6) by striking out "three" each place it appears in subdivisions (iii), (iv), (v), and (vi) of subclause (C) and inserting in lieu thereof "four"; and

(7) by inserting "for the purposes of calculating a repayment schedule" after "added to the principal" in subclause (D).

(e) Section 731(a)(2) is amended by redesignating subclauses (E) and (F) as subclauses (G) and (H), and by inserting the following new subclauses after subclause (D):

"(E) offers the borrower a graduated repayment option with larger payments due later in the repayment period, pursuant to criteria set by the Secretary;

"(F) provides for variable interest rates offered at the option of the lender at the time the loan is made, to be accepted at the option of the borrower, not to exceed a rate based on the average of the bond equivalent rates of the 91-day Treasury bills auctioned for the previous quarter, plus 2.5 percent, such variable interest to be determined quarterly;".

(f) Section 731(b) is amended by striking out "12 percent" after "may exceed" and inserting in lieu thereof "the average of the bond equivalent rates of the 91-day Treasury bills auctioned for the previous quarter plus 2.5 percent".

(g) Section 731(c) is amended by inserting ", except as provided in section 731(a)(2)(C)" after "the annual interest on the outstanding principal".

(h) Section 732 is amended by adding the following new subsection at the end thereof:

"(f) Nothing in this section shall be construed to preclude the lender and the borrower, by mutual agreement, from consolidating all of the borrower's debts into a single instrument, except that the portion of such debt that is insured under this subpart shall not be consolidated on terms less favorable to the borrower than if no consolidation had occurred.".

(i)(1) Section 733(d) is amended—

(A) by striking out "he" after "Federal loan insurance premiums," and inserting in lieu thereof "the Secretary"; and

(B) by striking out "he is" after "pursuant to this subpart until".

(2) Section 733(g) is amended to read as follows:

"(g) A debt which is a loan insured under the authority of this subpart may be released by a discharge in bankruptcy under title 11 of the United States Code only if such discharge is granted—

"(1) after the expiration of the five-year period beginning on the first date, as specified in section 731(a)(2)(B) and (C), when repayment of such loan is required;

"(2) upon a finding by the Bankruptcy Court that the nondischarge of such debt would be unconscionable; and

"(3) upon the condition that the Secretary shall not have waived the Secretary's rights to apply subsection (f) to the borrower and the discharged debt.".

(j) Section 734 is amended—

(1) by striking out "by him" after "insured" in subsection (a);

(2) by striking out "his" each place it appears in subsection (a) and inserting in lieu thereof "the";

(3) by striking out "he" after "hereunder and for that purpose" in subsection (b); and

(4) by striking out "by him" after "or other obligations acquired" in subsection (b).

(k) Section 735(a) is amended—

(1) by striking out "him" after "and duties vested in" and inserting in lieu thereof "the Secretary";

(2) by striking out "his" after "Secretary or property under" and inserting in lieu thereof "the Secretary's";

(3) by striking out "his" after "and payment of interest, relating to" and inserting in lieu thereof "the Secretary's";

(4) by striking out "he determines" after "may be modified by the Secretary if" and inserting in lieu thereof "it is determined"; and

(5) by striking out "by him" after "evidencing a loan which has been insured".

(l) Section 735(c) is repealed.

(m)(1) Section 737 (1) and (2) are amended to read as follows:

"(1) The term 'eligible institution' means, with respect to a fiscal year, a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, chiropractic, pharmacy, or public health, a graduate program in health administration or clinical psychology, a program for the training of physician assistants, a program for the training of expanded function dental auxiliaries, or a collegiate school of nursing providing an advanced training program.

"(2) The term 'collegiate school of nursing' means a school of nursing as defined in section 853(3).".

(2) Subpart I is amended by adding the following new section after section 737:

"SEC. 737A. For purposes of determining eligible students under this part, in the case of a public school in a State that offers an accelerated, integrated program of study combining undergraduate premedical education and medical education leading to advanced entry, by contractual agreement, into an accredited four-year school of medicine which provides the remaining training leading to a degree of doctor of medicine, whenever in this part a provision refers to a student at a school of medicine, such reference shall include only a student enrolled in any of the last four years of such accelerated, integrated program of study.".

(n)(1) Section 739(a) is amended—

(A) by striking out clause (1) thereof and redesignating clauses (2) and (3) thereof as clauses (1) and (2), respectively;

(B) by striking out "and" at the end of clause (1) thereof (as redesignated by subparagraph (A));

(C) by striking out the period at the end of clause (2) thereof (as redesignated by subparagraph (A)) and inserting in lieu thereof "; and ";

(D) by striking out "whether" in clause (2) thereof (as redesignated by subparagraph (A)) and inserting in lieu thereof "whenever"; and

(E) by inserting the following at the end thereof:

"(3) collection of information from the borrower, lender, or eligible institution to assure compliance with the provisions of section 731.".

(2) Section 739(b) is amended to read as follows:

"(b) The Secretary shall require an eligible institution to record, and make available to the lender and to the Secretary upon request, the name, address, postgraduate destination, and other reasonable identifying information for each student of such institution who has a loan insured under this subpart.".

SEC. 105. (a) (1) Section 740(a) is amended by striking out "which is located in a State and is accredited as provided in section 721 (b)(1)(B)".

(2) Section 741(f)(3) is amended by striking out "him" after "to entitle" and inserting in lieu thereof "the borrower".

(b) Section 741(f)(5)(B) is amended—

(1) by striking out "he terminates" after "such loan cancellation until"; and

(2) by inserting before the period at the end thereof "is terminated".

(c) Section 741(k) is amended by striking out "to him" after "all the outstanding loans made".

(d) Section 741(l) is amended to read as follows:

"(l) A school may make loans for the fiscal year ending September 30, 1982, out of the loan fund established under section 740 to students enrolled in the last year of a full-time course of study at such school and who have previously received a loan out of the fund.".

(e) The second sentence of section 742(a) is amended by striking out "and each of the two succeeding fiscal years,".

(f) Section 743(a) is amended by striking out "1983" each place it appears and inserting in lieu thereof "1982".

(g) Section 743(b) is amended—

(1) by striking out "1983" each place it appears and inserting in lieu thereof "1982"; and

(2) by inserting the following at the end thereof: "Of the sums received by the Secretary each fiscal year pursuant to this subsection, the Secretary shall have available, depending upon need, up to $5,000,000 to make loan forgiveness payments under section 760(c), and deposit any remaining sums in the fund provided for in section 749E.".

SEC. 106. (a) Section 797 is repealed and sections 749 and 748 are redesignated as sections 797 and 799, respectively.

(b) The heading of subpart III of part C of title VII is repealed.

(c) Part C of title VII is amended by inserting the following new subpart after subpart II:

"Subpart III—Service Contingent Loan Program

"LOAN PROGRAM

"SEC. 745. The Secretary shall enter into an agreement at the request of any school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, or public health, school of nursing, graduate program in health administration, program for the training of physician assistants, program for the training of expanded function dental auxiliaries, or program for the training of nurse anesthetists, to establish and operate at such institution a service contingent student loan program in accordance with this subpart.

"AGREEMENTS WITH INSTITUTIONS

"SEC. 746. Each agreement between the Secretary and the requesting school entered into under section 745 shall—

"(1) provide for the submission of a request for funds by an institution for the subsequent academic year for loans to students, the amount of the request to consist of the sum of the aggregate amount needed by the students of such institution for loans under this subpart and no more than 5 percent of such aggregate amount to be set aside as a reserve for unexpected student needs as provided under section 749H;

"(2) provide that such funds shall be used only for loans to eligible students as described in section 747 in accordance with the terms and conditions described in section 748 and section 749;

"(3) provide that the school enter into an agreement with each student receiving a loan under this subpart as provided in section 749;

"(4) provide that the institution may collect from the borrower a reasonable loan origination fee or reasonable collection fees, as determined by the Secretary;

"(5) provide that upon the beginning of the repayment period, the note or evidence of obligation may, at the option of the school, be assigned to the Secretary or, with the approval of the Secretary, to any other entity for collection;

"(6) provided that the institution notify students that they must enter into an agreement with the Secretary under section 749C as a condition of receipt of a loan under this subpart; and

"(7) include such other provisions as may be necessary to protect the financial interest of the United States and further the purposes of this subpart.

"ELIGIBLE STUDENTS

"SEC. 747. (a) In order to receive a loan under this subpart an individual shall—

"(1) (A) be a full-time student at a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or pharmacy;

"(B) be not less than a half-time student at a school of nursing;

"(C) be not less than a half-time student in a graduate degree program in a school of public health, a graduate program in health administration, an advanced training program in a collegiate school of nursing, or a program for the training of nurse anesthetists; or

"(D) be a full-time student in a program for the training of physician assistants or expanded function dental auxiliaries; and

"(2) (A) be in need of the amount of the loan (as determined by such individual's school) to pursue a course of study;

"(B) be capable, in the opinion of the institution, of maintaining good standing in such course of study;

"(C) be accepted for enrollment in the institution, or, in the case of a student already in attendance at such institution, a student in good standing; and

"(D) enter into an agreement with the Secretary under section 749C prior to receipt of such loan.

In any case in which a student fails to maintain good standing at the institution, the eligibility of such student shall be suspended, and further payments to, or on behalf of, such student shall not be made until such student regains good standing.

"(b) No student may receive a loan under this subpart for an academic year in which such student receives a scholarship under the National Health Service Corps Scholarship Program or the Indian Health Service Scholarship Program, the program authorized in subpart V, or the Armed Forces Health Professions Scholarship Program under chapter 105 of title 10, United States Code.

"AMOUNT OF LOAN

"SEC. 748. (a) The amount of a loan to a student by an institution shall not exceed—

"(1) in the case of a student at a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, or podiatry, $20,000 in any one fiscal year, and $80,000 in all fiscal years; and

"(2) in the case of a student at a school of pharmacy, public health, or nursing, a graduate program in health administration, or a program for the training of physician assistants, expanded function dental auxiliaries, or nurse anesthetists, $12,500 in any one fiscal year, and $50,000 in all fiscal years.

"(b) In determining the amount of the loan under subsection (a), the school shall take into consideration—

"(1) the amount necessary for the student to attend such school, including any special needs of the student; and

"(2) the financial resources available to the student.

"TERMS OF LOAN AGREEMENT

"SEC. 749. An institution shall enter into an agreement with a student for a loan under this subpart. Such agreement shall—

"(1) be evidenced by note or other written instrument which provides for repayment of the principal amount of the loan, together with interest thereon, over a period beginning 12 months (except as provided in section 749A) after the date on which the student is awarded the degree or diploma in the course of study for which such student received such loan, and ending at a date not more than 15 years (except as provided in section 749A) after such date, in installments which shall not be less frequent than quarterly;

"(2) provide for acceleration of the whole, or any part, of such loan (without penalty) at the option of the borrower;

"(3) provide that, except as provided in section 749B, the loan shall bear interest, on the unpaid balance of the loan, at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities, plus 1.5 percent at the time such agreement is entered into, in the case of a loan to a student borrower attending a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or pharmacy, and at the rate of one-half of the rate determined under this clause with respect to a school of medicine, or 7 percent per annum, whichever is less, in the case of a loan to a student borrower attending a school of nursing or public health, a program in health administration, or a program for the training of physician assistants, expanded function dental auxiliaries, or nurse anesthetists;

"(4) unless the borrower is a minor and the note or other evidence of obligation executed by the borrower would not, under applicable law, create a binding obligation, provide that the loan shall be made without security and without endorsement;

"(5) provide that the liability to repay the loan shall be discharged upon the death of the borrower, or if the borrower becomes permanently and totally disabled as determined by the Secretary;

"(6) provide that any deferral of payment under section 749A or reduction of interest under section 749B may be permitted only upon the request of the borrower; and

"(7) contain such other terms and conditions that the Secretary deems necessary to protect the financial interests of the United States and further the purposes of this subpart.

"DEFERRAL OF REPAYMENT

"SEC. 749A. (a) At the request of the student borrower, no repayment of principal of, or interest on, any loan under this subpart shall be required but interest shall accrue and be compounded during any period in which such student—

"(1) is serving in a national priority position under section 749C(c);

"(2) is in the first 4 years of service in the National Health Service Corps or the Indian Health Service;

"(3) is in the first 4 years of service as a member of the Armed Forces of the United States;

"(4) is in the first 4 years of service as a volunteer under the Peace Corps Act;

"(5) is in the first 5 years in an approved internship or residency, if such student borrower has completed a course of study at a school of medicine or osteopathy;

"(6) is in the first 3 years in an approved internship or residency, if such student borrower has completed a course of study at a school of dentistry, veterinary medicine, or podiatry;

"(7) is in the first 2 years in an approved internship or residency if such student borrower has completed a course of study at a school of optometry or pharmacy; or

"(8) is in the first 3 years, or such additional period as determined by the Secretary, not to exceed 5 years, of advanced research training or in a doctoral or postdoctoral program leading to a career in biomedical research or clinical investigation, or an academic career in a health profession.

"(b) Any period during which repayment is deferred under subsection (a) shall not be included in computing the 15-year maximum repayment period provided in paragraph (1) of section 749.

"(c)(1) A repayment period may be interrupted without penalty for any period during which a borrower who has completed a course of study, enters school again as a student meeting the criteria of section 747(a).

"(2) After the repayment period has begun, the repayment of principal or interest by a student borrower may be deferred for no more than 9 months, if the collecting entity determines, in accordance with criteria of the Secretary, that absent such deferral, the student borrower would default on such loan due to inability to pay.

"(3) A loan repayment installment is overdue if such payment is not received within 120 days after the date such installment is due, or, in the case of a quarterly repayment installment, if such payment is not received within 180 days after the date such installment is due.

"(d) Notwithstanding other provisions of this subpart, the total period of the loan may not exceed 30 years from the date of execution of the note or written agreement evidencing such loan to final repayment.

"INTEREST RATE REDUCTIONS

"SEC. 749B. The rate of interest for a loan under this subpart shall be reduced, at the request of the borrower, as follows:

"(1) The rate of interest shall be reduced to 3 percent per annum during any period that the borrower is attending a school of nursing as an eligible student described in section 747(a).

"(2) The rate of interest shall be reduced to one-half of the rate determined under section 749(3) with respect to a school of medicine, or 7 percent per annum, whichever is less, during any period that—

"(A) the borrower is attending a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or pharmacy, as an eligible student described in section 747(a);

"(B) the borrower, having completed the course of study at a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or pharmacy, is participating in the first year of graduate training;

"(C) the borrower, having completed the course of study at a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or pharmacy, is—

"(i) serving in a health manpower shortage area designated pursuant to section 332;

"(ii) serving in the Armed Forces;

"(iii) providing health care services for a Federal, State, or local government entity;

"(iv) performing full-time teaching at a higher education institution;

"(v) performing research on a greater than half-time basis as part of a full-time position on the faculty or staff of a health professions school, nonprofit biomedical research institute, or Federal biomedical research institute; or

"(vi) receiving training in public health, or engaging full-time as a public health professional;

"(D) the borrower, having completed the course of study at a school of medicine or osteopathy, is participating in an internship or residency in, or engaging full-time in the practice of general or family practice, general internal medicine, general pediatrics, preventive medicine, psychiatry, or rehabilitative medicine;

"(E) the borrower, having completed the course of study at a school of dentistry, is participating in an internship or residency in, or engaging in the full-time practice of, general dentistry or pediodontics;

"(F) the borrower, having completed the course of study at a school of veterinary medicine, is participating in an internship or residency, or engaging in a full-time practice, relating to food or fibre producing animals, toxicology, laboratory animal medicine, or pathology;

"(G) the borrower, having completed the course of study at a school of pharmacy, is participating in an internship or residency in, or engaging in a full-time practice of, clinical pharmacy; and

"(H) the borrower is participating in the first three years, or such additional period as determined by the Secretary, not to exceed 5 years, of advanced research training or in a doctoral or postdoctoral program leading to a career in biomedical research or clinical investigation, or an academic career in a health profession.

"AGREEMENT WITH SECRETARY FOR SERVICE

"SEC. 749C. (a) As a condition for entering into a loan agreement with an institution under section 749, the student borrower shall, at the same time, enter into a contingent service agreement with the Secretary. Such agreement shall—

"(1) provide that the borrower shall be required, at the option of the Secretary, to provide 1 year of service in a national priority position (as defined in subsection (e)) for each year such student receives a loan under this subpart (not to be less than 2 years), except that a student shall provide 1 year of service for any two years for which such student received loans to complete only one year of such student's course of study;

"(2) provide that if the borrower fulfills the entire period of service required by the Secretary under paragraph (1), the Secretary shall discharge such student's total loan obligation under this subpart, and such student's loan obligation for any education loan financed or insured by the Federal Government for any year in which such student also received a loan under this subpart which is discharged due to the fulfillment of such period of service;

"(3) provide that if the borrower fails to provide any required service (for any reason not specified under subsection (b) or (c)), the United States shall be entitled to recover from the borrower, to discharge the borrower's obligations under all agreements entered into pursuant to this subpart, an amount determined in accordance with the formula:

$$A=3*\frac{(t-s)}{t}$$

in which 'A' is the amount the United States is entitled to recover; '*' is the sum of the amounts paid under this subpart to or on behalf of the individual and the interest on such amounts which would be payable if at the time the amounts were paid such loans were bearing interest at the applicable rate provided under section 749(3), as determined by the Secretary of the Treasury; 't' is the total number of months in the individual's period of obligation service; and 's' is the number of months of such period served by such student. Any amount of damages the United States is entitled to recover under this subsection shall, within the 1-year period beginning on the date of the breach of the written contract, be paid to the United States;

"(4) contain a fair summary of the rights and liabilities of an individual, including a clear explanation of the damages to which the United States is entitled under this section in the case of the individual's breach of such agreement;

"(5) contain such other information, written in a manner calculated to be understood by the average individual applying to participate in the loan program under this subpart, as may be necessary for the individual to understand the individual's prospective service participation;

"(6) evidence the written consent of the student to participate in service as required under subsection (d);

"(7) require the borrower to keep the Secretary informed on a regular basis of the borrower's education and employment plans so that the Secretary can prepare the list required by subsection (d); and

"(8) contain such other terms and conditions that the Secretary determines necessary to further the purposes of this subpart.

"(b)(1) The Secretary may, after notice and opportunity for a hearing, cause to be reduced Federal reimbursements or payments for health services under any Federal law to borrowers who are practicing their professions and have defaulted on their loans insured under this subpart in amounts up to the remaining balance of such loans.

"(2) A debt which is a loan insured under the authority of this subpart may be released by a discharge in bankruptcy under title 11 of the United States Code only if such discharge is granted—

"(A) after the expiration of the five-year period beginning on the first date, as specified in sections 749 and 749A, when repayment of such loan is required;

"(B) upon a finding by the Bankruptcy Court that the nondischarge of such debt would be unconscionable; and

"(C) upon the condition that the Secretary shall not have waived the Secretary's rights to apply paragraph (1) to the borrower and the discharged debt.

"(3) Any obligation of an individual under any agreement made under this subpart for service or payment shall be canceled upon the death or permanent disability of the individual.

"(c) The Secretary shall provide to a student borrower a waiver or deferral of any service obligation or monetary damages under an agreement entered into under this section whenever—

"(1) fulfillment of a service obligation would be impossible, involve extreme hardship, or be unconscionable; or

"(2) such student fails to maintain an acceptable level of academic standing in the educational institution in which the student is enrolled (such level determined by the educational institution), such student is dismissed from such educational institution for disciplinary reasons, or such student voluntarily terminates the training in such an educational institution for which the individual is provided a loan under such contract, before the completion of such training.

"(d)(1) The Secretary shall prepare an ongoing list of students receiving loans under this subpart and such students' education and employment plans. A student shall be eligible to be called to service only in the year for which the student would first be required to make repayment for a loan under this subpart.

"(2) In any fiscal year for which funds are appropriated by Congress to the Loan Discharge Fund established under section 749F, the Secretary shall utilize the following procedures to determine which student borrowers shall be called to service:

"(A) On October 1 of each year, the Secretary shall compile, after consultation with appropriate public and private entities, a list of national priority positions (as defined in subsection (e)) that need to be filled by July 1 of the next year.

"(B) On October 1 of each year, the Secretary shall notify the student borrowers that the Secretary determines are eligible to provide service under paragraph (1) that they could be called to service beginning on July 1 of the next year and shall provide such student borrowers with a copy of the list compiled under subparagraph (A).

"(C) Student borrowers eligible to provide service may volunteer to fill such positions by December 31 of each year.

"(D) By January 31 of the next year, the Secretary, by lottery, shall select student borrowers to fill the unfilled positions from among the remaining eligible student borrowers.

"(e)(1) In listing national priority positions under subsection (d)(2)(A), the Secretary shall take into consideration the civilian personnel needs of the National Health Service Corps, the Indian Health Service, federally supported health service programs, Federal health care facilities, including such facilities of the Veterans' Administration the need for professionals in health manpower shortage areas designated under section 332 or nurse shortage areas designated under section 836(h)(1), the needs of States that meet the requirement of paragraph (2) for health personnel positions, and other factors as determined by the Secretary.

"(2) The Secretary shall only include in such listing a State's health personnel positions if such State has made a commitment to the Secretary to pay 75 percent of the loan repayment on behalf of each individual filling any of such State's positions.

"(f) No scholarships may be awarded under subpart IV or V in any fiscal year in which the Secretary does not offer loans under this subpart.

"ISSUANCE OF OBLIGATIONS

"SEC. 749D. Upon receipt of the requests submitted by institutions that have entered into agreements with the Secretary under section 746, the Secretary shall determine the aggregate amount needed by each institution for the academic year beginning in the fiscal year in which such determination is made. To enable the Secretary to discharge the responsibilities of this subpart, the Secretary shall issue to the Secretary of the Treasury obligations in such forms and denominations, bearing such maturities, subject to such terms and conditions, and subject to limitations as may be provided in appropriation Acts, as may be prescribed by the Secretary of the Treasury, except that such obligations shall not exceed $150,000,000 in the fiscal year ending September 30, 1982, $250,000,000 in the fiscal year ending September 30, 1983, and $350,000,000 in the fiscal year ending September 30, 1984. In each fiscal year there shall be available if needed, for loans to students in schools of nursing, not less than 25 percent of such amounts issued to the Secretary of the Treasury in obligations. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the obligations acquired under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations shall be treated as public debt transactions of the United States. Sums borrowed under this section shall be deposited in the Service Contingent Loan Fund established under section 749E and redemption of such notes and obligations shall be made by the Secretary from such Fund.

"SERVICE CONTINGENT LOAN FUND

"SEC. 749E. (a) There is established in the Treasury of the United States a Service Contingent Loan Fund (hereinafter in this section referred to as the 'Fund'), which shall be available to the Secretary without fiscal year limitation, consisting of—

"(1) moneys borrowed from the Secretary of the Treasury pursuant to section 749D;

"(2) all notes, obligations, or other property delivered or assigned to the Secretary pursuant to agreements made under section 746;

"(3) all collections of principal and interest received from loans made under section 748;

"(4) capital and interest distributions made to the Secretary pursuant to section 743 and section 839;

"(5) damages for failure to serve;

"(6) all appropriations by the Congress to discharge loan obligations under subsection (c), to meet interest insufficiencies, or administrative expenses; and

"(7) transfers from the Loan Discharge Fund established under section 749F to discharge loan obligations and interest expenses.

All sums received in the Fund, except sums received from notes and obligations issued under section 749D, shall be set aside in the Fund for payments to the Treasury on such notes and obligations, and shall be available to the Secretary only for purposes of making such payments. Any sums not so set aside may be available to the Secretary for appropriate investments.

"(b)(1) The notes of the Secretary to the Secretary of the Treasury to obtain funds for loans under this subpart, and all other liabilities against the appropriations or assets in the Fund in connection with loan program operations shall be liabilities of the Fund.

"(2) The assets of the Fund shall be available for—

"(A) payments for loans made by institutions having an agreement with the Secretary under section 746;

"(B) payments in connection with the discharge of loans upon the death of a student borrower, or if a student borrower becomes permanently and totally disabled as determined by the Secretary;

"(C) payments of costs and expenses incurred by the Secretary in connection with the administration of the Fund; and

"(D) payments to the Treasury on notes and obligations incurred under section 749D.

"(c) There are authorized to be appropriated to the Fund $13,000,000 in the fiscal year ending September 30, 1982, $20,000,000 in the fiscal year ending September 30, 1983, and $40,000,000 in the fiscal year ending September 30, 1984, and thereafter such sums as the Secretary may request from time to time, to meet the insufficiencies of the Fund to make payments of interest on account of the outstanding obligations issued by the Secretary to the Secretary of the Treasury under this subpart, to discharge loans under this subpart upon the death or disability of a borrower, and to meet costs of the Secretary in connection with the administration of the Fund.

"LOAN DISCHARGE FUND

"SEC. 749F. The Secretary shall establish a Loan Discharge Fund (hereinafter in this section referred to as the 'Fund') to be used in connection with the discharge of loans to borrowers who are serving in national priority positions pursuant to section 749C. Congress may appropriate funds to such Fund, from time to time, at the request of the Secretary. The number of student borrowers whom the Secretary first requests to provide service in lieu of repayment in any fiscal year shall be limited by the amounts in such Fund available to discharge such students' loan obligations (less any portion of such obligations to be paid by a State as described in section 749C(e(2)). The Fund may not contain moneys from any source other than appropriations made by Congress directly to the Fund or State payments made pursuant to section 749(e)(2). The Secretary shall transfer from such Fund, to the Service Contingent Loan Fund, moneys sufficient to discharge the principal and interest obligations on behalf of borrowers who have entered a national priority position under this subpart.

"PRO RATA REDUCTION OF FUNDS

"SEC. 749G. If the aggregate amount of funds determined to be needed by institutions exceeds the limit on the amount of obligations the Secretary may issue to the Secretary of the Treasury under section 749D, the maximum amount of funds to be received by each institution requesting funds shall be ratably reduced.

"SET ASIDE

"SEC. 749H. No more than 5 percent of the funds received by a school under this subpart may be set aside as a reserve to be used for unexpected student needs during the academic year. If such reserve is not expended within such fiscal year, the request for allocated funds in the following fiscal year shall be reduced by the amount remaining. Unexpended funds in such reserve shall be invested in Treasury approved market securities bearing the highest rate of interest and the proceeds of the investment shall be placed in the reserve.".

SEC. 107. (a)(1) Section 751(a) is amended by inserting "clinical psychologists" after "(as defined in section 822),".

(2) Section 751(d) is amended by striking out clauses (1) and (2) thereof and inserting in lieu thereof the following:

"(1) first, to applications made (and contracts submitted) by individuals who have previously received scholarships under the Scholarship Program;

"(2) second, to applications made (and contracts submitted) by individuals who have previously received scholarships under section 759; and

"(3) third, to applications made (and contracts submitted) by all other individuals eligible to apply.

To the extent necessary to meet the needs of the Indian Health Service, the Secretary shall give priority within each category enumerated above to individuals who will make a commitment to provide medical or dental services to Indians through the Indian Health Service.".

(b) Section 751(e)(1) is amended by inserting the following at the end thereof: "The Secretary shall approve or disapprove the individual's application submitted under subsection (b)(3), and contracts submitted under subsection (b)(4) no later than July 1 of each year.".

(c) Section 751(e)(2) is amended by inserting the following at the end thereof:

"The Secretary shall promptly notify the educational institution at which the individual is accepted for enrollment or is enrolled under subsection (b)(1) when such individual applies to participate in the Scholarship Program, and when the contract submitted by such individual is approved by the Secretary.".

(d) Section 751(f)(1)(A)(i) is amended by striking out "(not to exceed four school years)".

(e) Section 751(g)(1) is amended—

(1) by striking out "or under section 758 (relating to scholarships for first-year students of exceptional financial need)," after "under the Scholarship Program"; and

(2) by striking out "(except as provided in section 711)" in clause(A) thereof.

(f)(1) Section 752(b)(1) is amended by striking out "his" after "the full-time clinical practice of" and inserting in lieu thereof "the individual's".

(2) Section 752(b)(4) is amended by striking out "his" after "the full-time clinical practice of" and inserting in lieu thereof "the individual's".

(3) Section 752(b)(5)(B) is amended by striking out "his" after "the individual completes".

(4) Section 752(d) is amended by striking out "his" after "such individual to serve" and inserting in lieu thereof "the".

(5) Section 752(e) is amended by striking out "his" after "such individual to perform" and inserting in lieu thereof "the".

(g)(1) The heading of section 753 is amended to read as follows:

"INDEPENDENT PRACTICE"

(2) Section 753(a) is amended—

(A) by striking out "shall" in the first sentence and inserting in lieu thereof "may, to the extent permitted by, and consistent with, the requirements of applicable State law,";

(B) by striking out "his" before "service obligation" each place it appears and inserting in lieu thereof "the";

(C) by striking out "his" before "health profession" and inserting in lieu thereof "the individual's";

(D) by inserting after "section 752(a)" the following: "or under section 225 as in effect prior to October 1, 1977";

(E) by striking out "private clinical practice" and inserting in lieu thereof "independent practice";

(F) by striking out "(A)" after "designated under section 332) which" in paragraph (2);

(G) by striking out ", and" after "under section 333(c)" and inserting in lieu thereof a period in paragraph (2);

(H) by striking out clause (B) in paragraph (2); and

(I) by striking out the last sentence thereof.

(h) Section 753(b) is amended—

(1) by striking out "private practice" in paragraph (1) and inserting in lieu thereof "independent practice";

(2) by adding at the end of paragraph (1) the following new subparagraph:

"(C) The individual, in providing health care services covered by part A or part B of title XVIII of the Social Security Act, shall agree to accept assignment and to accept the reasonable charge as payment in full, and;" and

(3) by redesignating paragraph (2) as paragraph (3) and inserting the following new paragraph after paragraph (1):

"(2) provide for the submission of periodic reports as required by the Secretary;".

(i) Section 753 is amended by adding at the end thereof the following new subsections:

"(c) The Secretary shall provide to each individual released from service obligations under this section technical assistance to assist such individual in fulfilling his or her agreement under this section.

"(d) Failure to meet the terms of the agreements under subsection (b) shall be considered a breach of the scholarship contract as provided in section 754.

"(e) The Secretary shall, out of appropriations authorized under section 338, pay to individuals participating in independent practice under this section the cost of such individual's malpractice insurance and the lesser of—

"(1)(A) $10,000 in the first year of obligated service;

"(B) $7,500 in the second year of obligated service;

"(C) $5,000 in the third year of obligated service; and

"(D) $2,500 in the fourth year of obligated service; or

"(2) an amount determined by subtracting such individual's net income before taxes from the income the individual would have received as a member of the Corps for each such year of obligated service.".

(j) Subsection (a) of section 754 is repealed and subsections (b), (c), and (d) of such section are redesignated as subsections (a), (b), and (c) thereof.

(k) Section 754(a) (as redesignated in subsection (j)) is amended—

(1) by striking out "he" after "the educational institution in which" and inserting in lieu thereof "the student";

(2) by striking out "or" at the end of clause (2) thereof;

(3) by striking out "he" after "in such an educational institution for which" in clause (3) and inserting in lieu thereof "the individual";

(4) by inserting "or" at the end of clause (3) thereof;

(5) by inserting the following new clause after clause (3) thereof:

"(4) fails to accept payment, or instructs the educational institution in which the individual is enrolled not to accept payment, in whole or in part, of a scholarship under such contract,"; and

(6) by striking out "to him, or on his behalf," after "for the amount which has been paid" and inserting in lieu thereof "to or on behalf of, the individual".

(l) Section 754(b) (as redesignated in subsection (j)) is amended—

(1) by striking out "his" after "an individual breaches" and inserting in lieu thereof "the"

(2) by inserting "not specified in subsection (a)" after "for any reason" and

(3) by striking out "him" after "such period served by" and inserting in lieu thereof "the individual".

(m) Section 755(a) is amended—

(1) by striking out "(other than an individual who has entered into an agreement under section 753)"

(2) by striking out "his" in clause (1) thereof and inserting in lieu thereof "the";

(3) by striking out clause (2)(A) and inserting in lieu thereof the following:

"(A) to engage in the private full-time clinical practice of the individual's profession in a health manpower shortage area (designed under section 332) for a period (beginning not later than one year after the date the individual completed the period of obligated service in the Corps) of not less than one year;"; and

(4) by inserting before the period at the end thereof "or as a direct subsidy of such individual's net income or of such individual's employer".

(n) Section 755(d) is amended—

(1) by striking out "he" after "subsection (a))," and inserting in lieu thereof "the Secretary";

(2) by striking out "his" after "is not practicing" and inserting in lieu thereof "the individual's";

(3) by striking out "he" after "Secretary that" and inserting in lieu thereof "the individual";

(4) by striking out "his profession" after "to practice"; and

(5) by striking out "his profession" after "individual practices".

(o) Section 756 is amended—

(1) by striking out "and" after "September 30, 1979,";

(2) by inserting ", $55,000,000 for the fiscal year ending September 30, 1982, $48,000,000 for the fiscal year ending September 30 1983, and $48,000,000 for the fiscal year ending September 30, 1984" after "September 30, 1980";

(3) by striking out "1981" in the second sentence thereof and inserting in lieu thereof "1985"; and

(4) by striking out "1980" in the second sentence thereof and inserting in lieu thereof "1984".

Sec. 108. (a) Subpart V is redesignated as subpart VI.

(b) Section 759 is repealed.

(c) Section 758 is redesignated as section 759.

(d) Part C of title VII is amended by inserting the following new subpart after subpart IV thereof:

"Subpart V—Grants to States for Service Scholarships

"GENERAL

"Sec. 758. (a) For the purposes of assisting States in meeting the health care delivery needs of health manpower shortage areas, the Secretary shall make grants to States in accordance with this subpart to assist in the establishment or expansion of State service scholarship programs.

"(b) Grants under this subpart shall be made solely to fund the cost of service scholarships provided by a State service scholarship program.

"(c) The Secretary shall report to Congress on March 1 of each year regarding—

"(1) the allocation of funds for service scholarships to each State;

"(2) the number of service scholarship awards made by each State; and

"(3) the distribution of such service scholarships by each State among the health professions;

in the previous fiscal year.

"STATE SERVICE SCHOLARSHIP PROGRAMS

"Sec. 758A. (a) To be eligible to receive a grant under this subpart, a State shall establish or have established a State service scholarship program (hereinafter referred to in this subpart as 'State program') that at a minimum meets the following requirements:

"(1) The State provides assurances that funds received under the grant will be used to fund contractual agreements between the State and individuals who are needed to meet State reqiurements and who are students in schools of medicine, osteopathy, dentistry, nursing, veterinary medicine. optometry, pharmacy, podiatry, public health, or allied health, graduate programs in health administration, or programs for the training of physicians assistants, expanded function dental auxiliaries, clinical psychologists or nurse practitioners.

"(2) As part of such contractual agreements, the State will pay all or part of the educational expenses of the individual, but not to exceed tuition, reasonable educational expenses, and a monthly stipend of the same amount and adjusted in the same manner as the amount provided under section 751 of this Act.

"(3) The State provides assurances that it will—

"(A) assign such individual to provide service in a health manpower shortage area for one year for each year such individual received scholarship funds (but not less than two years), and shall assure such individual, either by direct employment or salary guarantee, a salary, during such period of obligated service, not less than the comparable entry-level salary provided by the State to employees who possess a similar educational background;

"(B) permit such individuals, to the extent permitted by State law, upon application, to enter independent clinical practice in a health manpower shortage area in lieu of providing services pursuant to an assignment by the State provided that such practice option is subject to terms and conditions no less stringent than terms and conditions provided under section 753; and

"(C) enforce the agreement with such individuals on the same basis as provided in section 754.

"(4) The State, in entering into agreements with individuals, provides—

"(A) adequate notice to the individual of the rights and liabilities of such individual under such agreement; and

"(B) that the individual shall—

"(i) maintain enrollment in a course of study described in this section until the individual completes the course of study;

"(ii) maintain an acceptable level of academic standing (as determined by the educational institution offering such course of study); and

"(iii) agree to serve for a period of time equal to one year in a health manpower shortage area for each school year for which the individual was provided a scholarship under the State program (the total not to be less than 2 years), such health manpower shortage area (as designated pursuant to section 332) to be selected by the State, or as otherwise provided in this subpart.

"(b) No State or school may require a student to accept such a contractual agreement as a condition of admission into a school or program.

"(c) Individuals who have previously received a National Health Service Corps scholarship under subpart IV of this part may not receive a scholarship under this subpart.

"(d) Any State that has a total of three or more schools of medicine, osteopathy, or dentistry, shall not allocate more than 50 percent of available service scholarships under this subpart to students at any one health professions school.

"(e) No State may receive a grant under this subpart unless such State provides assurances to the Secretary that in the fiscal year for which the grant is made such State shall expend for the scholarship program from non-Federal sources an amount of funds which is at least as great as the amount of funds expended by such State for such program from non-Federal sources in the previous fiscal year.

"ALLOCATION OF FUNDS

"SEC. 758B. (a) The Secretary shall make matching grants to the States that commit one dollar for service scholarships under the State program for every $6 made available through a matching grant to such State.

"(b) Funds shall be allocated to the States in accordance with the formula:

$$A=\frac{B(1/C+D/E)}{2}$$

in which 'A' is the amount a State shall be allocated; 'B' is the total of funds available for matching grants; 'C' is the number of States participating in the matching grant program; 'D' is the population of a participating State; and 'E' is the population of all States participating in the matching grant program except that no State shall receive more than 10 percent of the funds appropriated under section 758B(c) in any fiscal year.

"(c)(1) To carry out the purposes of this section there are authorized to be appropriated $6,000,000 in the fiscal year ending September 30, 1982, $13,500,000 in the fiscal year ending September 30, 1983, $15,000,000 in the fiscal year ending September 30, 1984.

"(2) Funds appropriated under this subsection but not expended shall be available to the Secretary for scholarships under subpart IV of this part.".

(e)(1) Section 759(a) (as redesignated by subsection (c)) is amended by striking out "which is accredited as provided in section 721(b)(1)(B)".

(2) Section 759(b)(2) (as redesignated by subsection (c)) is amended by striking out "the scholarship described in section 751(g)" and inserting in lieu thereof "in an amount equal to the lesser of (A) tuition and fees plus $2,500, or (B) $5,000".

(3) Section 759(c) (as redesignated by subsection (c)) is amended to read as follows:

"(c) The Secretary shall distribute grants under this section to each eligible school for two scholarships. In addition, the Secretary shall further distribute grants for scholarships to schools of medicine, osteopathy, and dentistry based upon the proportionate enrollment of students at such schools who are of exceptional financial need and who are in their first year of study at such school.".

(4) Section 759(d) (as redesignated by subsection (c)) is amended to read as follows:

"(d) For the purposes of making grants under this section, there are authorized to be appropriated $15,000,000 for the fiscal year ending September 30, 1982, $16,000,000 for the fiscal year ending September 30, 1983, and $17,000,000 for the fiscal year ending September 30, 1984.".

(f) Part C of title VII is amended by adding the following new subpart at the end thereof:

"SUBPART VII—REPAYMENT

"SEC. 760. (a)(1) In the case of any individual—

"(A) who is a graduate of a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, or podiatry, a graduate program in public health, health administration, or clinical psychology, a school of nursing, or a program for the training of physician assistants or expanded function dental auxiliaries;

"(B) who (i) obtained one or more loans under this part, or (ii) obtained, under a written loan agreement, any other educational loan for the costs of attending a school or program described in clause (A); and

"(C) who enters into an agreement with the Secretary to practice such individual's profession (as a member of the National Health Service Corps or otherwise) for a period of at least 2 years in a health manpower shortage area designated under section 332 or a nurse shortage area designated under section 836(h)(1) in a State;

the Secretary shall make payments in accordance with paragraph (2), for and on behalf of such individual, on the principal and interest on any loan described in clause (B) which is outstanding on the date the borrower begins the practice specified in the agreement described in clause (C) of this paragraph.

"(2) The payments described in paragraph (1) shall be made by the Secretary as follows:

"(A) Upon completion by the individual for whom the payments are to be made of the first or second year of the practice specified in the agreement entered into with the Secretary under paragraph (1), the Secretary shall pay 10 percent, or $6,000, whichever is greater, of the principal of, and the interest on, each loan of such individual described in paragraph (f)(B) which is outstanding on the date the borrower began such practice.

"(B) Upon completion by the individual of the third or fourth year of such practice, the Secretary shall pay 15 percent, or $9,000, whichever is greater, of the principal of, and the interest on each such loan in each year. Not more than 50 percent of the principal of any such loan shall be paid pursuant to this paragraph. No payment may be made under this paragraph with respect to a loan described in paragraph (1)(B)(ii) unless the person on whose behalf the payment is to be made has submitted to the Secretary a certified copy of the agreement under which such loan was made.

"(3) Notwithstanding the requirement of completion of practice specified in paragraph (2), the Secretary shall, on or before the due date thereof, pay any loan or loan installment which may fall due within the period of practice for which the borrower may receive payments under this paragraph, upon the declaration of such borrower, at such times and in such manner as the Secretary may prescribe (and supported by such other evidence as the Secretary may reasonably require), that the borrower is then engaged as described by paragraph (1), and that the borrower will continue to be so engaged for the period required (in the absence of this subsection) to entitle the borrower to have made the payments provided by this subsection for such period.

"(4) A borrower who fails to fulfill an agreement with the Secretary entered into under paragraph (1) shall be liable to reimburse the Secretary for any payments made pursuant to paragraph (2) or (3) in consideration of such agreement.

"(5) In the case of an individual who received a loan under this part or under title VIII prior to October 1, 1981, for which the Secretary may make payments for or on behalf of such individual pursuant to a provision other than this subsection, such student may select the repayment provision that provides the terms for payment by the Secretary most favorable to the student.

"(6) In carrying out the repayment program under this subsection, the Secretary shall give priority to borrowers who remain eligible for cancellation of all or part of a loan under section 741(f)(5).

"(b) There is authorized to be appropriated to carry out subsection (a) $5,000,000 for the fiscal year ending September 30, 1982, $7,000,000 for the fiscal year ending September 30, 1983, and $9,000,000 for the fiscal year ending September 30, 1984.

"(c)(1) The Secretary shall make loan forgiveness payments to forgive education loans financed or insured by the Federal Government under this title, title VIII, title IV of the Higher Education Act of 1965, or title II of the National Defense Education Act of 1958, for and on behalf of a student—

"(A) from a family with an income less than the greater of twice the amount of the tuition charged such student in the last year such student was enrolled or twice the Federal poverty level for a family of four as defined by the Office of Management and Budget; and

"(B) who, after October 1, 1981, completed the first year exams at a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, or podiatry but failed to be advanced to the second year at such school and upon any subsequent attempt to retake the first year courses or exams was unsuccessful in achieving such advancement.

"(2) Loan forgiveness payments under this subsection shall be made on behalf of a student described in paragraph (1) for loans made for the first year of study to meet the cost of attending such school. No loan forgiveness payments made under this subsection shall exceed the amount of nonreimbursable tuition and fees charged the student by the school for such first year.

"(3) Loan forgiveness payments under this subsection may cover any loans made to an individual to enable such individual to retake the first year courses, if, as a result, the individual does not succeed in advancing to the second year.

"(4) The Secretary may commit loan forgiveness payments but shall not expend such payments for any individual under this subsection unless and until the school at which such individual was enrolled provides assurances that such individual cannot reasonably be expected to resume studies at such institution within two years following the date upon which such individual terminated such studies.

"(5) If at any time within two years following the date upon which any individual terminated studies in an institution and was provided loan forgiveness payments under the terms of this subsection, such individual rematriculates in such institution or an institution providing a comparable degree, and such individual subsequently advances to the second year, the Secretary shall reinstate the original loan obligation.".

(g) The provisions of section 760(c) of the Public Health Service Act shall become effective on October 1, 1982.

Sec. 109. Part E of title VII is amended to read as follows:

"PART E—GRANTS TO SCHOOLS OF MEDICINE, OSTEOPATHY, DENTISTRY, VETERINARY MEDICINE, OPTOMETRY, PHARMACY, PODIATRY, AND PUBLIC HEALTH TO MEET NATIONAL NEEDS

"NATIONAL PRIORITY INCENTIVE GRANTS

"Sec. 771. The Secretary shall make annual grants to schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, and public health to support the educational programs of such schools and projects and activities that are in the national interest.

"AMOUNT OF GRANTS

"Sec. 772. (a) The amount of any grant in any fiscal year under section 771 shall be the amount as provided in this section for full-time student enrolled in such school multiplied by the number of full-time students enrolled (or in the case of schools of public health, the number of full-time and full-time equivalents of part-time students).

"(b) Notwithstanding subsection (a), if the aggregate of the amounts of the grants to be made in accordance with such subsection for any fiscal year to schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or publice health with approved applications exceeds the total of the amounts appropriated for such category of schools under the appropriate provision of section 774 for such grants, the amount of a school's grant with respect to which such excess exists shall for such fiscal year be an amount which bears the same ratio to the amount determined for the school under subsection (a) as the appropriate provision of section 774 for grants to schools of the same category bears to the amount required to make grants in accordance with subsection (a) to each of the schools of such category with approved applications.

"(c) Each school of medicine shall receive $250 for each full-time student enrolled at the school in the fiscal year ending September 30, 1982, $250 for each such student in the fiscal year ending September 30, 1983, and $250 for each such student in the fiscal year ending September 30, 1984 for each of the following objectives that are met by the school in the year in which a grant application is made:

"(1) The school conducts, or will conduct within twelve months, 10 percent or more of its undergraduate clinical education in areas in which medically underserved populations reside or in ambulatory, primary care settings geographically remote from the main site of the teaching facilities of the school.

"(2) All fourth-year students have had, or will have had before graduation, a significant educational experience in at least two of the following areas: nutrition, geriatrics, rehabilitation, occupational and environmental health, or health care economics and health policy, with emphasis on the application of such areas to direct patient care.

"(3)(A) Of the school's filled first-year positions in direct or affiliated approved residency training programs, at least 65 percent of such positions are in general internal medicine, general pediatrics, or family practice; or

"(B) Twenty percent or more of the school's graduating students enter approved family practice residencies.

"(4) The school, in cooperation with other appropriate entities, conducts or provides substantial evidence that it will conduct within twelve months, a substantial community program of preventive health services (including health promotion and health information) designed to reduce the risk factors of the leading causes of death or morbidity in the community (including the risk factors among special population groups such as prisoners or institutionalized children), and ensure appropriate health care followup, and in which students of the school reecive substantial education in preventive and community medicine.

"(5) Twenty percent or more of the students graduating from the school have had a substantial educational experience in clinical investigation and research.

"(6) Twelve percent or more of the first-year fulltime students of the school are from underrepresented minority groups, except that such percent shall be 15 percent or more for grants made in the fiscal year ending September 30, 1983, and 18 percent or more for grants made in the fiscal year ending September 30, 1984.

"(d) Each school of osteopathy shall receive $250 for each full-time student enrolled at the school in the fiscal year ending September 30, 1982, $250 for each full-time student in the fiscal year ending September 30, 1983, and $250 for each full-time student in the fiscal year ending September 30, 1984, for each of the following objectives that are met by the school in the year in which a grant application is made:

"(1) The school conducts, or will conduct within twelve months, 10 percent or more of its undergraduate clinical education in areas in which medically underserved populations reside or in ambulatory, primary care settings geographically remote from the main site of the teaching facilities of the school.

"(2) All fourth-year students have had, or will have had before graduation, significant educational experience in at least two of the following areas: nutrition, geriatrics, rehabilitation, occupational and environmental health, or health care economics and health policy, with emphasis on the application of such areas to direct patient care.

"(3) The school has a program, or will have a program within 12 months, for the training of full-time or part-time faculty for primary care education, in which at least ten individuals, who otherwise would not be prepared to assume a faculty role, will, during the year, obtain such preparation.

"(4) The school, in cooperation with other appropriate entities, conducts or provides substantial evidence that it will conduct within 12 months, a substantial community program of preventive health services (including health promotion and health information) designed to reduce the risk factors of the leading causes of death or morbidity in the community (including the risk factors among special population groups such as prisoners or institutionalized children), and ensure appropriate health care followup, and in which students of the school receive substantial education in preventive and community medicine.

"(5) Twenty percent or more of the students graduating from the school have had a substantial educational experience in clinical investigation and research.

"(6) Twelve percent or more of the first-year full-time students of the school are from underrepresented minority groups, except that such percent shall be 15 percent or more for grants made in the fiscal year ending September 30, 1983, and 18 percent or more for grants made in the fiscal year ending September 30, 1984.

"(e) Each school of dentistry shall receive $250 for each full-time student enrolled at the school in the fiscal year ending September 30, 1982, $250 for each such student in the fiscal year ending September 30, 1983, and $250 for each such student in the fiscal year ending September 30, 1984, for each of the following objectives that are met by the school in the year in which a grant application is made:

"(1) The school provides, or will provide within 12 months, either itself or in cooperation with other appropriate entities, a substantial program of comprehensive dental care to underserved populations, such as prisoners, public nursing home residents, and mental health institution residents, in which each student, before graduation, participates.

"(2) All fourth-year students have had, or will have had before graduation a significant educational experience in at least two of the following areas: nutrition, use of expanded function dental auxiliaries, or health care economics and health policy.

"(3) The school, in cooperation with other appropriate entities, conducts or provides substantial evidence that it will conduct within 12 months, a substantial community program of preventive dental services (including dental health promotion and health information) designed to reduce the risk factors of the leading causes of dental disease in the community (including risk factors among special population groups such as the handicapped, elderly, indigent, prisoners, or institutionalized children) and ensure appropriate dental care followup for preventable and controllable dental diseases and conditions, and in which students of the school receive substantial education in preventive and community dental medicine.

"(4) Seventy percent of the new first-year positions in dental specialty programs established at the school after September 30, 1979, are in general practice or pedodontics, provided that at least six new first-year positions in such programs have been established since September 30, 1979.

"(5) Fifteen percent or more of the first-year students at the school are from States in which there is no school of dentistry.

"(6) Twelve percent or more of the first-year full-time students of the school are from underrepresented minority groups, except that such percent shall be 15 percent or more for grants made in the fiscal year ending September 30, 1983, and 18 percent or more for grants made in the fiscal year ending September 30, 1984.

"(f) Each school of veterinary medicine shall receive $150 for each full-time student enrolled at the school in the fiscal year ending September 30, 1982, $150 for each such student in the fiscal year ending September 30, 1983, and $150 for each such student in the fiscal year ending September 30, 1984, for each of the following objectives which are met by the school in the year in which a grant application is made:

"(1) The predominant emphasis of the school's clinical training is on care for food-producing animals, or fiber-producing animals, or both.

"(2) At least 25 percent of full-time, first-year students of the school are residents of States in which there are no schools of veterinary medicine.

"(3) All fourth-year students have had, or will have had before graduation, a significant educational experience in at least two of the following areas: toxicology, laboratory animal medicine, or animal and human nutrition.

"(4) The school expands, or will expand within twelve months, the total number of filled positions in postdoctoral education at the school by at least 25 percent or six positions, whichever is greater, over the total number of filled positions in the preceding year, in toxicology, pathology, and laboratory animal medicine.

"(5) (A) The school increases its first-year enrollment of full-time students from underrepresented minority groups by 25 percent or 10 students, whichever is greater, over the number of such students enrolled on September 30, 1979, or

"(B) Twelve percent or more of the first-year full-time students of the school are from underrepresented minority groups, except that such percent shall be 15 percent or more for grants made in the fiscal year ending September 30, 1983, and 18 percent or more for grants made in the fiscal year ending September 30, 1984.

"(g) Each school of optometry shall receive $75 for each full-time student enrolled at the school in the fiscal year ending September 30, 1982; $75 for each such student in the fiscal year ending September 30, 1983; $75 for each such student in the fiscal year ending September 30, 1984, for each of the following objectives which are met by the school in the year in which a grant application is made:

"(1) All fourth-year students have had, or will have had before graduation, a significant educational experience in at least two of the following areas: rehabilitative optometry, geriatrics, or health care economics and health policy.

"(2) At least 25 percent of full-time first-year students of the school (or 50 percent if the applicant is a nonprofit private school) are residents of States in which there are no schools of optometry.

"(3) All fourth-year students have had, or will have had before graduation, a significant clinical education experience in geographic areas in which underserved populations reside or in ambulatory eye care settings geographically remote from the main site of the teaching facilities of the school.

"(4) The school, either itself, or in cooperation with other appropriate entities, provides, or will provide within twelve months, a comprehensive program of eye care (including preventive eye care) to an underserved population, such as local prisoners, public nursing home residents, or other individuals whose institutionalization reduces access to eye care, and in which each student, before graduation, will participate.

"(5) (A) The school increases its first-year enrollment of full-time students from underrepresented minority groups by 25 percent or 10 students, whichever is greater, over the number of such students enrolled on September 30, 1979, or

"(B) Twelve percent or more of the first-year full-time students of the school are from underrepresented minority groups, except that such percent shall be 15 percent or more for grants made in the fiscal year ending September 30, 1983, and 18 percent or more for grants made in the fiscal year ending September 30, 1984.

"(h) Each school of podiatry shall receive $100 for each full-time student enrolled at the school in the fiscal year ending September 30, 1982; $100 for each such student in the fiscal year ending September 30, 1983; and $100 for each such student in the fiscal year ending September 30, 1984, for each of the following objectives which are met by the school in the year in which a grant application is made:

"(1) All fourth-year students have had, or will have had before graduation, a significant educational experience in at least two of the following areas: health care economics and health policy, rehabilitative procedures, or geriatrics.

"(2) At least 40 percent of full-time first-year students of the school are residents of States in which there are no schools of podiatry.

"(3) The school conducts a program to recruit students who reside in areas having a shortage of podiatric manpower (as determined by the Secretary), and the school provides opportunities to such students to receive the equivalent of at least eighteen months of clinical training at a site located in such an area.

"(4) The school, either itself, or in cooperation with other appropriate entities, provides, or will provide within twelve months, a comprehensive program of foot care (including preventive care) to underserved populations in which each student, before graduation, will participate.

"(5) (A) The school increases its first-year enrollment of full-time students from underrepresented minority groups by 25 percent or 10 students, whichever is greater, over the number of such students enrolled on September 30, 1979, or

"(B) Twelve percent or more of the first-year full-time students of the school are from underrepresented minority groups, except that such percent shall be 15 percent or more for grants made in the fiscal year ending September 30, 1983, and 18 percent or more for grants made in the fiscal year ending September 30, 1984.

"(i) Each school of pharmacy shall receive $70 for each full-time student enrolled at the school in the fiscal year ending September 30, 1982, $70 for each such student in the fiscal year ending September 30, 1983, and $70 for each such student in the fiscal year ending September 30, 1984, for each of the following objectives that are met by the school in the year in which a grant application is made:

"(1) Each student who is enrolled in the school participates in a training program in clinical pharmacy which, at a minimum, includes—

"(A) an inpatient and outpatient clerkship experience in a hospital, extended care facility, or other clinical setting;

"(B) interaction with physicians and other health professionals;

"(C) training in the counseling of patients with regard to reactions to, and the appropriate use of, drugs; and

"(D) training in drug information retrieval and analysis in the context of actual patient problems.

"(2) All fourth-year students have had, or will have had before graduation, a significant educational experience in at least two of the following areas: nutrition, geriatrics, drug abuse or misuse, or health care economics and health policy.

"(3) Each student will have before graduation, a substantial clinical training experience in geographic areas in which underserved populations reside, or in ambulatory, primary care settings in areas geographically remote from the main site of the teaching facilities of the school.

"(4) The school expands, or will expand within twelve months, the total number of filled positions in postdegree education at the school by at least 25 percent or 6 positions (whichever is greater) over the total number of filled positions in the preceding year in clinical pharmacy.

"(5) (A) The school increases its first-year enrollment of full-time students from underrepresented minority groups by 25 percent or 10 students, whichever is greater, over the number of such students enrolled on September 30, 1979, or

"(B) Twelve percent or more of the first-year full-time students of the school are from underrepresented minority groups, except that such percent shall be 15 percent or more for grants made in the fiscal year ending September 30, 1983, and 18 percent or more for grants made in the fiscal year ending September 30, 1984.

"(j) Each school of public health shall receive $250 for each full-time and full-time-equivalent student enrolled at the school in the fiscal year ending September 30, 1982, $250 for each such student in the fiscal year ending September 30, 1983, and $250 for each such student in the fiscal year ending September 30, 1984, for each of the following objectives that are met by the school in the year in which a grant application is made:

"(1) (A) Seventy percent or more of the full-time and full-time-equivalent students are pursuing a course of study in epidemiology, biostatistics, health administration, nutrition, women's health and child health, occupational health, or environmental health; or

"(B) the percent of such students in (i) epidemiology and biostatistics, (ii) health administration, or (iii) occupational or environmental health, exceed 20 percent, 30 percent, or 20 percent, respectively.

"(2) Fifty percent or more of the students receiving graduate degrees will enter public service or will utilize the skills obtained in areas designated by the Secretary as needing such personnel.

"(3) The school provides, or will provide within twelve months, a range of courses during evening and weekend hours to enable students to matriculate on a part-time basis and receive a degree while working.

"(4) The school provides, or will provide within twelve months, a comprehensive program of continuing education for health professionals who are involved, full-time or part-time, in public health or health administration and for graduates of a school of public health or graduate program in health administration.

"(5) Twelve percent or more of the first-year full-time students of the school are from underrepresented minority groups, except that such percent shall be 15 percent or more for grants made in the fiscal year ending September 30, 1983, and 18 percent or more for grants made in the fiscal year ending September 30, 1984.

"(k) For the purposes of this part, a reference to a year is a reference to an academic year unless otherwise specifically identified.

"ENROLLMENT DETERMINATIONS

"SEC. 773. (a) For purposes of this part, regulations of the Secretary shall include provisions relating to the determination of the number of students enrolled in a school or in a particular year-class in a school on the basis of estimates of the number of students who in an earlier year were enrolled in a school or in a particular year-class, or on such other basis as the Secretary deems appropriate for making such determination, and shall include methods of making such determination when a school or a year-class was not in existence in an earlier year at a school.

"(b) (1) For purposes of this part, the term 'full-time student' (whether such term is used by itself or in connection with a particular year-class) means a student pursuing a full-time course of study leading to a degree of doctor of medicine, doctor of osteopathy, doctor of dentistry or an equivalent degree, doctor of veterinary medicine or an equivalent degree, doctor of optometry or an equivalent degree, doctor of podiatry or an equivalent degree, bachelor or master of science in pharmacy or an equivalent degree, or to a graduate degree in public health or equivalent degree.

"(2) In the case of a training program of a school designed to permit the students enrolled in such program to complete, within 6 years after completing secondary school, the requirements for a degree of doctor of medicine, doctor of osteopathy, or doctor of dentistry or an equivalent degree, the term 'full-time student' shall only include a student enrolled on a full-time basis in the last 4 years of such program, and a student enrolled in the first of the last 4 years of such program shall be considered a first-year student, and a student enrolled in the last of the last 4 years of such program shall be considered a fourth-year student.

"(3) For purposes of this part, the term 'full-time student' when applied to a student in a school of pharmacy, shall only include a student enrolled on a full-time basis in the last 4 years of such program. A student enrolled in the first of the last 4 years of such program shall be considered a first-year student, and a student enrolled in the last of the last 4 years shall be considered a fourth-year student.

"(c) For purposes of this part, the number of full-time equivalents of part-time students for a school of public health for any school year is a number equal to—

"(1) the total number of credit hours of instruction in such year for which part-time students of such school, who are pursuing a course of study leading to a graduate degree in public health or an equivalent degree, have enrolled, divided by

"(2) the greater of—

"(A) the number of credit hours of instruction that a full-time student of such school was required to take in such year, or

"(B) 9;

rounded to the next highest whole number.

"(d) For purposes of computing the amount of any grant under section 772, the number of full-time students or full-time-equivalents of part-time students, as the case may be, who are from underrepresented minority groups, shall be doubled.

"(e) For purposes of administering the requirements of section 772, a reference to a year-class of students is a reference to students enrolled in such class for the first time.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 774. (a) There are authorized to be appropriated $37,000,000 in the fiscal year ending September 30, 1982, $40,700,000 in the fiscal year ending September 30, 1983, and $44,500,000 in the fiscal year ending September 30, 1984, for payments under grants under section 771 to schools of medicine.

"(b) There are authorized to be appropriated $3,100,000 for the fiscal year ending September 30, 1982, $3,410,000 for the fiscal year ending September 30, 1983, and $3,650,000 for the fiscal year ending September 30, 1984, for payments under grants under section 771 for schools of osteopathy.

"(c) There are authorized to be appropriated $12,900,000 for the fiscal year ending September 30, 1982, $14,190,000 for the fiscal year ending September 30, 1983, and $15,400,000 for the fiscal year ending September 30, 1984, for payments under grants under section 771 for schools of dentistry.

"(d) There are authorized to be appropriated $2,900,000 for the fiscal year ending September 30, 1982, $3,190,000 for the fiscal year ending September 30, 1983, and $3,500,000 for the fiscal year ending September 30, 1984, for payments under grants under section 771 to schools of veterinary medicine.

"(e) There are authorized to be appropriated $1,100,000 for the fiscal year ending September 30, 1982, $1,210,000 for the fiscal year ending September 30, 1983, and $1,320,000 for the fiscal year ending September 30, 1984, for payments under grants under section 771 to schools of optometry.

"(f) There are authorized to be appropriated $1,000,000 for the fiscal year ending September 30, 1982, $1,100,000 for the fiscal year ending September 30, 1983, and $1,210,000 for the fiscal year ending September 30, 1984, for payments under grants under section 771 to schools of podiatry.

"(g) There are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1982, $5,500,000 for the fiscal year ending September 30, 1983, and $6,050,000 for the fiscal year ending September 30, 1984, for payments under grants under section 771 to schools of pharmacy.

"(h) There are authorized to be appropriated $7,000,000 for the fiscal year ending September 30, 1982, $7,700,000 for the fiscal year ending September 30, 1983, and $8,370,000 for the fiscal year ending September 30, 1984, for payments under grants under section 771 to schools of public health.

"APPLICATIONS FOR GRANTS

"SEC. 775. (a) The Secretary may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications for grants under this part for any fiscal year shall be filed.

"(b) To be eligible for a grant under section 771, the applicant shall be a public or other nonprofit school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, or public health.

"(c) The Secretary shall not approve or disapprove any application for a grant under this part except after consultation with the National Advisory Council on Health Personnel.

"(d) A grant under this part may be made only if the application therefor—

"(1) is approved by the Secretary;

"(2) contains such additional information as the Secretary may require to make the dedeterminations under the section authorizing the grant for which the application is made; and

"(3) provides for such fiscal control and accounting procedures and reports, including the use of standard procedures for the recording and reporting of financial information, as the Secretary may prescribe and access to the records of the applicant, as the Secretary may require to ensure proper disbursement of, and accounting for, funds paid to the applicant under such grant.

"STARTUP ASSISTANCE GRANTS

"SEC. 776. (a) (1) For the purpose of meeting national or regional needs for veterinarians, optometrists, podiatrists, or public health personnel, the Secretary may make a grant to a new school of veterinary medicine, optometry, podiatry or public health which begins instructions after July 1, 1980. No school may receive a grant under this subsection unless the number of full-time students enrolled in its first school year of operation will exceed 23.

"(2) The amount of any grant under this subsection may not exceed the following:

"(A) In the year preceding the first year in which such school has students enrolled, an amount equal to the product of $10,000 and the number of full-time and full-time equivalent students the Secretary estimates will enroll in such school in such first year.

"(B) In the first year in which such school has students enrolled, an amount equal to the product of $10,000 and the number of full-time and full-time equivalent students enrolled in such school in such year.

"(C) In the second year in which such school has students enrolled, an amount equal to the product of $5,000 and the number of full-time and full-time equivalent students enrolled in such school in such year. Estimates of the number of full-time and full-time equivalent students enrolled in a school may be made on the basis of assurances provided by the school.

"(3) The Secretary shall give priority in the award of grants under this subsection to applicants for whom the receipt of such grant would facilitate the acceleration of the date upon which instruction would begin or increase the number of students enrolled in the entering class. The Secretary shall also give priority to applicants who will, by virtue of an affiliation with one or more existing health professions institutions, be able to make use of existing facilities and resources, including in the case of a new school of podiatry the use of the basic sciences faculty of a school of medicine or osteopathy.

"(4) The Secretary shall give special consideration to any application submitted by a school for a grant under this subsection if—

"(A) such school will be located in a health manpower shortage area (designated under section 332); or

"(B) such school will be located in a State that has no other such school.

"(5) For purposes of this subsection, any school of veterinary medicine, optometry, podiatry, or public health shall be considered a new school for any year if such year is—

"(A) the year preceding the first year in which such school has students enrolled;

"(B) the first year such school has students enrolled; and

"(C) the year following the first year such school has students enrolled.

"(6) Any school that first received a startup assistance grant under the authority of section 788(a) (as it existed prior to October 1, 1980) and would have reasonably expected to have received subsequent grants under such authority in fiscal year 1982, or 1983, shall be eligible to receive such grants under this subsection on the same terms and conditions as were contained in section 788(a) (as it existed prior to October 1, 1980).

"(b) For the purpose of making grants to carry out this section, there are authorized to be appropriated $1,700,000 in the fiscal year ending September 30, 1982, and in each of the succeeding two fiscal years.

"CONVERSION GRANTS

"SEC. 777. (a) (1) The Secretary shall make a single grant to any private 2-year school of medicine (or any school accredited as such a 2-year school) to assist such school in converting to a school accredited to grant the degree of doctor of medicine. The amount of such grant shall be equal to the product of $50,000 and the number of third-year students that will be initially enrolled in such school.

"(2) Upon request of a school, a grant received under this section may be used in the year preceding the initial enrollment of third-year students in such school.

"(b) No grant may be made under this subsection unless—

"(1) an application therefor has been submitted to the Secretary no later than September 30, 1982;

"(2) the school enrolls third-year students not later than the school year beginning in the fiscal year ending September 30, 1984; and

"(3) the Secretary receives satisfactory assurances that the school will be affiliated with an accredited hospital in the fiscal year for which such grant is made.

"(c) For the purpose of making grants to carry out this section, there is authorized to be appropriated $2,700,000 for the fiscal year ending September 30, 1982. Funds provided under this subsection shall remain available until expended without regard to any fiscal year limitation.

"FINANCIAL DISTRESS GRANTS

"SEC. 778. (a) The Secretary may make grants to, and enter into contracts with, a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, public health, or nursing that is in serious financial distress for the purposes of assisting such school to—

"(1) meet the costs of operation if such school's financial status threatens its continued operation;

"(2) meet applicable accreditation requirements if such school has a special need to be assisted in meeting such requirements; or

"(3) carry out appropriate operational, managerial, and financial reforms.

"(b) Any grant or contract under this section may be made upon such terms and conditions as the Secretary determines to be reasonable and necessary, including requirements that the school agree to—

"(1) disclose any financial information or data necessary to determine the sources or causes of such school's financial distress;

"(2) conduct a comprehensive cost analysis study in cooperation with the Secretary; and

"(3) carry out appropriate operational, managerial, and financial reforms including the securing of increased financial support from non-Federal sources.

"(c) No school may receive a grant under this section if such school has previously received support for three or more years under this section or under section 788(b) (as it existed prior to October 1, 1981).

"(d) For the purpose of making grants and entering into contracts to carry out this section, there are authorized to be appropriated $3,000,000 for the fiscal year ending September 30, 1982, and for each of the two succeeding fiscal years.

"ADVANCED GRANTS FOR INSTITUTIONS WITH SPECIAL NEEDS

"SEC. 779. (a) The Secretary may enter into a multiyear contract or cooperative agreement with a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health or nursing, to provide financial assistance to such institution to meet incurred or prospective costs of operation, payment of such costs having been determined by the Secretary to be essential to remove the institution from serious and long-standing financial instability. To be eligible for a contract or cooperative agreement under this section, a school must have previously received financial support under section 778 or under section 783 (b) (as it existed prior to October 1, 1981) for a period of not less than 3 years.

"(b) No school may enter into a contract or cooperative agreement under this section unless—

"(1) the school has submitted to the Secretary a plan providing for the school to achieve financial solvency within five years and has agreed to carry out such plan;

"(2) such plan includes securing increased financial support from non-Federal sources;

"(3) such plan has been reviewed by a panel selected by the Secretary and consisting of three experts in the field of financial management who are not directly affiliated with the school or the Federal Government; and

"(4) the Secretary determines, after consultation with such panel, that such plan has a reasonable likelihood of achieving success.

"(c) The panel described in subsection (b) (3) shall be appointed by the Secretary within thirty days after the date of receipt of the school's plan and shall be dissolved no later than forty-five days after the panel's recommendation has been transmitted to the Secretary. Members of the panel shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which they perform duties.

"(d) Any contract or cooperative agreement under this section may be entered into upon such terms and conditions as the Secretary determines to be reasonable and necessary, including requirements that the school agree to—

"(1) disclose any financial information or data necessary to determine the sources or causes of such school's financial distress;

"(2) conduct a comprehensive cost analysis study in cooperation with the Secretary; and

"(3) carry out appropriate operational, managerial, and financial reforms including the security of increased financial support from non-Federal sources.

"(e) Pursuant to the approved plan in subsection (b), funds received under this section may be used to pay short-term or long-term debts of such schools, meet accreditation requirements, or meet other costs, payment of which is essential to the continued operation of the institution or to permit such institution to achieve financial solvency within the period of the contract or cooperative agreement.

"(f) No school may receive support under this section for more than five years. No contract or cooperative agreement may be entered into under this section, or continued, in a fiscal year in which the school receives support under section 778.

"(g) An application for a contract or cooperative agreement under this section shall contain or be supported by assurances that the applicant will, in carrying out its function as a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, public health or nursing, as the case may be, expend during the fiscal year for which such contract or cooperative agreement is sought, an amount of funds from non-Federal sources (other than funds for construction and any contract or cooperative agreement under this section) at least as great as the average annual amount of funds from non-Federal sources expended by such applicant in the preceding two years.

"(h) For the purpose of entering into contracts or cooperative agreements to carry out this section, there are authorized to be appropriated $9,000,000 for the fiscal year ending September 30, 1982, and for each of the succeeding four fiscal years. Funds provided under this section shall remain available until expended without regard to any fiscal year limitation.".

SEC. 110. Part F of title VII is amended by inserting the following after the heading "Part F—Grants and Contracts for Programs and Projects":

"Subpart I—Special Programs".

SEC. 111. Section 780 is amended—

(1) by striking out "meet" in subsection (a) thereof and inserting in lieu thereof "assist in meeting";

(2) by striking out "and" after "to establish" in subsection (a) thereof and inserting in lieu thereof a comma;

(3) by inserting ", and improve" after "maintain" in subsection (a) thereof;

(4) by striking out "clinical" in subsection (a) thereof;

(5) by striking out "satisfactory to the Secretary" in subsection (b)(1) thereof;

(6) by inserting "generally" before "comparable" each place it appears in subsection (b)(1) thereof;

(7) by inserting ", or a close affiliation with," after "having control over" in subsection (b)(1)(D) thereof;

(8) by striking out "and" after "1979," in subsection (c) thereof; and

(9) by inserting "$9,000,000 for the fiscal year ending September 30, 1982, $10,000,000 for the fiscal year ending September 30, 1983, and $11,000,000 for the fiscal year ending September 30, 1984," after "1980," in subsection (c) thereof.

SEC. 112. (a) Subpart I of part F of title VII is amended by adding the following new section after section 780:

"PREVENTIVE MEDICINE OR DENTISTRY, OCCUPATIONAL HEALTH, AND ENVIRONMENTAL HEALTH

"SEC. 780A. (a) The Secretary may make grants to or enter into contracts with schools of medicine, osteopathy, or dentistry, or other appropriate public or nonprofit private entities, to assist in meeting the costs of projects to—

"(1) plan, develop, and operate, or maintain training programs in preventive or community medicine or dentistry for medical, osteopathic, or dental students;

"(2) plan, develop, and operate, or maintain academic administrative units (including departments, divisions, or other units) in the field of preventive or community medicine or dentistry;

"(3) plan, develop, and operate, or maintain joint programs between faculties in the field of preventive or community medicine or dentistry and other clinical faculties for the purpose of improving the knowledge and skills of students, interns, residents, practicing physicians or dentists who specialize or plan to specialize in other clinical fields, particularly the fields of primary care and psychiatry;

"(4) plan, develop, and operate, or maintain continuing education programs in preventive or community medicine or dentistry; or

"(5) plan, develop, and operate, or maintain programs to train faculty in the fields of preventive or community medicine or dentistry.

"(b) The Secretary may make grants to schools of medicine, osteopathy, or public health, or other public or nonprofit private entities to—

"(1) develop curricula in such schools relating to occupational health for instruction of medical or osteopathic students;

"(2) provide occupational health clerkships for medical or osteopathic students;

"(3) plan, develop, and operate graduate degree public health programs for medical or osteopathic students or graduate degree public health students relating to occupational health;

"(4) design, develop, and operate innovative programs relating to the assessment of occupational hazards and the delivery of occupational health services with regard to small business;

"(5) support continuing education programs in occupational medicine for physicians in the field of occupational medicine; or

"(6) support training institutes in occupational medicine for practicing physicians.

"(c) The Secretary may make grants to schools of medicine, osteopathy, public health or other public or nonprofit entities to plan, develop, and operate, or maintain training programs (including continuing education programs) in environmental health with special emphasis on chemically induced illnesses and diseases for medical or osteopathic students, interns, residents, or practicing physicians.

"(d) There are authorized to be appropriated to carry out this section $3,000,000 for the fiscal year ending September 30, 1982, $3,200,000 for the fiscal year ending September 30, 1983, and $3,400,000 for the fiscal year ending September 30, 1984.".

(b) Section 781(d)(2) is amended—

(1) by inserting "(in coordination with the activities of the local health systems agency or agencies relating to such health manpower needs of the area)" after "the center" in subclause (B) thereof; and

(2) by striking out "serving" in subclause (E) thereof and inserting in lieu thereof "and professionals serving under comparable State programs".

(c) Section 781(g) is amended—

(1) by striking out "and" after "September 30, 1979,"; and

(2) by inserting ", $21,000,000 for the fiscal year ending September 30, 1982, $23,000,000 for the fiscal year ending September 30, 1983, and $24,000,000 for the fiscal year ending September 30, 1984" after "September 30, 1980".

(d) The heading of section 783 is amended by striking out "DENTAL TEAM PRACTICE" and inserting in lieu thereof "INTERDISCIPLINARY TRAINING".

(e) Section 783 is amended—

(1) by inserting "(1)" after "(a)" in subsection (a) thereof;

(2) by redesignating clauses (1), (2), and (3) of subsection (a) as clauses (A), (B), and (C), respectively;

(3) by striking out subsection (c);

(4) by redesignating subsections (b) and (d) as paragraphs (2) and (3), respectively;

(5) by redesignating subsection (e) thereof as subsection (c);

(6) by striking out "under subsection (a)" in paragraph (2) thereof (as redesignated by this subsection) and inserting in lieu thereof "under paragraph (1)";

(7) by striking out "section" in paragraph (3) thereof (as redesignated by this subsection) and inserting in lieu thereof "subsection";

(8) by inserting the following new subsection after subsection (a) thereof:

"(b) The Secretary may make grants to any public or nonprofit educational institution for the development of programs for cooperative interdisciplinary training among schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, chiropractic, nursing, public health, or allied health, graduate programs in health administration, or other appropriate public or nonprofit private entities. Such programs shall emphasize—

"(1) the use of the interdisciplinary team approach to the delivery of health services, including the training of individuals from two or more of the health professions disciplines identified in this subsection with respect to the organization, management, and effective integration of the skills of other appropriate practitioners, assistants, and auxiliaries to encourage the coordinated delivery of health services; or

"(2) the training of physician assistants and nurse practitioners with physicians, the training of expanded function dental auxiliaries with dentists or the training of other auxiliaries with other health professionals.";

(9) by striking out "and" after "1979," in subsection (c) thereof (as redesignated by this paragraph); and

(10) by inserting ", $16,100,000 for the fiscal year ending September 30, 1982, $18,000,000 for the fiscal year ending September 30, 1983, and $19,000,000 for the fiscal year ending September 30, 1984" after "1980" in subsection (c) thereof (as redesignated by this paragraph).

(f) Section 784 is amended to read as follows:

"REMOTE SITE TRAINING AND SUPPORT SERVICES IN UNDERSERVED AREAS

"SEC. 784. (a) (1) The Secretary may make grants to and enter into contracts with schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or pharmacy, or other appropriate public or nonprofit private entities, to assist such schools or entities in meeting the costs of projects to provide clinical training to students of such schools in areas that are geographically remote from the main site of the teaching facilities of the school and that are in areas in which medically underserved populations reside.

"(2) No grants or contracts under this section shall be made to carry out a project in an area health education center that is receiving funding under section 781. In carrying out this subsection, the Secretary shall give special consideration to projects at schools which have not received support under section 781.

"(b) (1) The Secretary may make grants to and enter into contracts with schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, or other appropriate entities to assist in meeting the costs of planning, establishing, and operating projects to provide support services to health professionals practicing in health manpower shortage areas (designated under section 332). Such support services may include continuing education, relief services, specialist referral services, and placement of students in a preceptorial relationship with the practitioner.

"(2) No grant may be made to or contract entered into with an entity under paragraph (1)—

"(A) unless the entity agrees to provide support services to any physician, dentist, veterinarian, optometrist, podiatrist, or pharmacist (as appropriate to the category of health professionals proposed to be served by the grant or contract) who requests such services within the health manpower shortage area proposed to be served, including any member of the National Health Service Corps or any member of a service program of health professionals who received a scholarship from funds appropriated under section 758B(c); or

"(B) to carry out activities required to be carried out under section 781.

"(3) Not more than 20 percent of the funds available to carry out this subsection may be used by the Secretary to fund eligible recipients to carry out research relating to the support needs of practitioners in health manpower shortage areas, nor shall more than 40 percent of such funds be used to provide continuing education.

"(c) There are authorized to be appropriated to carry out the provisions of this section $4,000,000 for the fiscal year ending September 30, 1982, $4,600,000 for the fiscal year ending September 30, 1983, and $4,900,000 for the fiscal year ending September 30, 1984.".

(g) Section 785 is amended to read as follows:

"EDUCATIONAL PROGRAM DEVELOPMENT

SEC. 785. (a) (1) For the purposes of improving and strengthening the curriculum of health professions schools, the Secretary may make grants to and enter into contracts with schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, chiropractic, or pharmacy, graduate programs in clinical psychology, or other appropriate public or nonprofit private entities, to assist in meeting the costs of projects to plan, develop, and establish courses, or expand or strengthen instruction, in the following areas:

"(A) geriatrics;

"(B) nutrition;

"(C) disease prevention and health promotion;

"(D) physical medicine and rehabilitation;

"(E) toxicology; or

"(F) social and behavioral sciences, the biopsychosocial aspects of patient care, and humanities and human values, as applied to direct patient care.

"(2) The Secretary may set aside not more than 20 percent of any amounts available to carry out this subsection to make grants to assist schools to plan, develop, and implement innovative curriculum programs in health areas not specified in paragraph (1).

"(b) The Secretary may make grants to and enter into contracts with schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, chiropractic, pharmacy, or allied health to assist in meeting the costs of projects to—

"(1) develop innovative approaches to teaching students at such schools about health policy and health care economics; or

"(2) develop, establish, improve, or expand the curriculum and clinical training of such schools with regard to health policy and health care economics.

"(c) (1) For the purposes of improving and strengthening the clinical training provided to students in schools of veterinary medicine, optometry, podiatry, chiropractic, or pharmacy, the Secretary may make grants to or enter into contracts with such schools to assist in meeting the costs of projects to—

"(A) establish new affiliations and expand existing affiliations with hospitals, ambulatory care centers, and practitioners, in order to provide students with clinical training; or

"(B) develop, establish, strengthen, or expand programs that provide students with clinical training.

"(2) The Secretary shall give special consideration under paragraph (1) to applications for a grant or contract under this subsection for projects that emphasize clinical training in ambulatory settings.

"(3) In the case of a school of veterinary medicine, the Secretary shall not make a grant under paragraph (1) unless such school provides assurances that the grant will not be used to establish, expand, or improve a clinical program which emphasizes care to companion animals.

"(d) (1) The Secretary may make grants to and enter into contracts with schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, chiropractic, pharmacy, allied health, or public health, or graduate programs in health administration or clinical psychology, or other appropriate public or nonprofit private entities, to assist in meeting the costs of projects to—

"(A) evaluate the effectiveness of current efforts to assure the continuing competency of health personnel through continuing education;

"(B) enhance the evaluation and self-evaluation of the competency of health personnel, including the establishment of new or improved methods for awarding credentials to health professionals;

"(C) assess future needs in the areas of continuing education;

"(D) develop innovative approaches to providing continuing education; or

"(E) provide continuing education programs for health professionals and allied health personnel who are in medically underserved areas or who do not have adequate access to such programs.

"(2) No grant or contract may be made under paragraph (1)(E) to carry out any activities which are funded, directly or indirectly, by funds provided pursuant to section 781 or section 784.

"(3) The Secretary shall give special consideration under this subsection to applications which emphasize the continuing education needs of health professionals who are involved in delivery of primary care.

"(e) The Secretary may make grants to and enter into contracts with appropriate public or nonprofit private entities (determined by the Secretary to be capable of carrying out grants and contracts under this section) to develop and conduct management training programs for physicians, nurses, other providers of health care, managers and administrators in health care facilities and institutions, or in State and local health agencies.

"(f) There are authorized to be appropriated to carry out the provisions of this section $5,500,000 for the fiscal year ending September 30, 1982, $6,000,000 for the fiscal year ending September 30, 1983, and $6,500,000 for the fiscal year ending September 30, 1984."

"(h) Section 786 is amended to read as follows:

"EDUCATIONAL COST

"SEC. 786. (a) The Secretary may make grants to and enter into contracts with schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, allied health, or public health, or graduate programs in health administration or clinical psychology, or other appropriate public or nonprofit private entities, to assist in meeting the costs of projects to plan, develop, and demonstrate methods of reducing the total cost of education in such schools and such graduate programs without impairing the quality of such education.

"(b) There are authorized to be appropriated to carry out the provisions of this section $300,000 for the fiscal year ending September 30, 1983, $500,000 for the fiscal year ending September 30, 1983, and $500,000 for the fiscal year ending September 30, 1984.".

(i) Section 787 is amended to read as follows:

"EDUCATIONAL ASSISTANCE TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS

"SEC. 787. (a) For the purpose of assisting individuals from disadvantaged backgrounds (as determined in accordance with criteria prescribed by the Secretary), to undertake education to enter a health profession, the Secretary may make grants to or enter into contracts with schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, public health, or allied health, graduate programs in health administration or clinical psychology, or other public or nonprofit private health or educational entities, to assist in meeting the costs of—

"(1) establishing secondary education programs designed to increase the number of students from disadvantaged backgrounds who pursue careers in the health professions;

"(2) establishing joint programs between baccalaureate degree institutions and health professions schools, or other appropriate entities designed to increase the number of students from disadvantaged backgrounds in health professions schools;

"(3) providing, for a period prior to the entry of such individuals into the regular course of education of health professions schools, preliminary education designed to assist such individuals in successfully completing such regular course of education at such schools, or referring such individuals to institutions providing such preliminary education;

"(4) identifying, recruiting, and selecting individuals from disadvantaged backgrounds, for education and training in a health profession;

"(5) facilitating the entry of such individuals into health professions schools;

"(6) providing counseling or other services designed to assist such individuals to complete successfully their education at such schools and to plan for appropriate graduate education and career selection; or

"(7) publicizing existing sources of financial aid available to students in the education program of such school or who are undertaking training necessary to qualify to enroll in such program.

"(b)(1) There are authorized to be appropriated for grants and contracts under this section, $22,000,000 for the fiscal year ending September 30, 1982, $24,000,000 for the fiscal year ending September 30, 1983, and $26,000,000 for the fiscal year ending September 30, 1984. No less than 80 percent of funds appropriated in each fiscal year shall be for grants or contracts to institutions of higher education.

"(2) Funds provided under grants and contracts under this section may be used to provide stipends to students in programs under subsection (a)(3) if such students would not otherwise be able to participate.".

(j) Subpart I of part F of title VII is amended by inserting the following new section after section 787:

"PROJECTS FOR WOMEN IN HEALTH

"SEC. 787A. (a) The Secretary may make grants to or enter into contracts with schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or chiropractic, or appropriate public or nonprofit private entities, to meet the costs of projects to increase the participation of women in health careers and to encourage the advancement of women by—

"(1) assisting counselors and advisers in pre-professional schools and in postgraduate programs to provide information to women about courses of study and access to professional careers in health;

"(2) providing information to women about sources of student financial assistance;

"(3) recruiting women for education and training in a health profession;

"(4) providing counseling designed to assist such women to complete successfully their education at such schools and plan for appropriate graduate education and career selection;

"(5) providing courses or programs designed to assist women health professionals, who have interrupted their practice, to reenter the active practice of their professions.

"(b) There are authorized to be appropriated for grants and contracts under this section $2,000,000 for the fiscal year ending September 30, 1982, $2,200,000 for the fiscal year ending September 30, 1983, and $2,400,000 for the fiscal year ending September 30, 1984.".

(k) Section 788 is amended to read as follows:

"PROJECTS AND ADVANCED TRAINEESHIPS FOR ALLIED HEALTH PROFESSIONALS

"SEC. 788. (a) The Secretary may make grants to and enter into contracts with schools of allied health or other public or nonprofit private entities to assist in meeting the costs of planning, developing, demonstrating, operating, and evaluating projects relating to the following:

"(1) The establishment of regional resources centers for the coordination and management of data and research on the training of allied health personnel in educational institutions and clinical settings.

"(2) The development and implementation of programs to—

"(A) improve the clinical training of allied health personnel;

"(B) demonstrate the utilization of allied health personnel in containing health care costs; or

"(C) develop multiple competency allied health personnel.

"(3) The establishment of new or improved methods of qualifying allied health personnel and awarding credentials, including techniques for appropriate recognition (through equivalency and proficiency testing or otherwise) of previously acquired training or experience, developed in coordination with the Secretary's program under section 1123 of the Social Security Act.

"(4) The development and implementation of new or improved curriculum offerings in health promotion and disease prevention, environmental health, geriatrics, nutrition, rehabilitation, public health, management, or health policy.

"(5) The establishment or improvement of programs of recruitment, training, and retraining of allied health personnel, including such programs which emphasize the needs of medically underserved areas.

"(6) The demonstration of methods of meeting new health services needs without creating new allied health occupations or specialties.

"(7) Establishment or improvement of programs to increase clinical competency in special areas, subjects, or functions, particularly long-term care, hospice care, disease prevention, health promotion, and the application of new technologies.

"(8) Development, improvement, or expansion of allied health programs for the training of students, including students with industrial experience, in occupational safety and health.

"(b)(1) The Secretary may make grants to schools of allied health to provide traineeships for allied health personnel for advanced training to enable such personnel to teach other allied health personnel or to serve in administrative or supervisory positions.

"(2) Grants shall be limited to such amounts as the Secretary finds necessary to cover the cost of tuition, fees, stipends, and allowances (including travel and subsistence expenses and dependency allowances) for the trainees.

"(c) There are authorized to be appropriated to carry out the provisions of this section $8,000,000 for the fiscal year ending September 30, 1982, $9,000,000 for the fiscal year ending September 30, 1983, and $10,000,000 for the fiscal year ending September 30, 1984.".

SEC. 113. (a) Sections 790 and 791 are redesignated as sections 799B and 795, respectively.

(b) Sections 792 and 793 are repealed.

(c) Subpart II of part G is repealed.

(d) Part F of title VII is amended by adding the following new subpart after subpart I:

"SUBPART II—GRADUATE EDUCATION

"FAMILY MEDICINE

"SEC. 790. (a) The Secretary may make grants to, or enter into contracts with, any public or nonprofit private hospital, school of medicine or osteopathy, or public or private nonprofit entity (which the Secretary has determined is capable of carrying out such grant or contract)—

"(1) to plan, develop, and operate, or participate in, an approved professional training program (including an approved residency or internship program) in the field of family medicine for medical or osteopathic students, interns (including interns in internships in osteopathic medicine), or residents;

"(2) to provide financial assistance (in the form of traineeships and fellowships) to medical or osteopathic students, interns (including interns in internships in osteopathic medicine), or residents, who are in need thereof and who are participants in any such program;

"(3) to plan, develop, and operate a program for the training of physicians who plan to teach in family medicine training programs; or

"(4) to provide financial assistance (in the form of traineeships and fellowships) to physicians who are participants in any such program and who plan to teach in a family medicine training program.

"(b) Not less than 10 percent of the amount appropriated in each fiscal year to make grants under this section shall be made available for grants under paragraphs (3) and (4) of subsection (a).

"(c) There are authorized to be appropriated to make grants under this section $32,000,000 for the fiscal year ending September 30, 1982, $36,500,000 for the fiscal year ending September 30, 1983, and $37,-

500,000 for the fiscal year ending September 30, 1984.

"GRANTS FOR TRAINING, TRAINEESHIPS, AND FELLOWSHIPS IN PRIMARY CARE INTERNAL MEDICINE AND PRIMARY CARE PEDIATRICS

"SEC. 791. (a) The Secretary may make grants to or enter into contracts with schools of medicine or osteopathy, or appropriate public or nonprofit private entities, including hospitals to assist in meeting the costs of projects to—

"(1) plan, develop, and operate, or maintain approved residency training programs in internal medicine or pediatrics, that emphasize the training of residents for the practice of primary care internal medicine or primary care pediatrics;

"(2) plan, develop, and opearte, or maintain program for the training of physicians who plan to teach in primary care internal medicine or primary care pediatrics;

"(3) provide financial assistance to residents who are participants in a residency program described in paragraph (1), and who plan to specialize or work in the practice of primary care internal medicine or primary care pediatrics; or

"(4) provide financial assistance for physicians who are participants in a program described in paragraph (2) and who plan to teach primary care internal medicine or pediatrics.

"(b) There are authorized to be appropriated to carry out the provisions of this section $17,000,000 for the fiscal year ending September 30, 1982, $18,500,000 for the fiscal year ending September 30, 1983, and $19,000,000 for the fiscal year ending September 30, 1984.

"GRANTS OR TRAINING IN PREVENTIVE MEDICINE AND DENTISTRY

"SEC. 792. (a) The Secretary may make grants to and enter into contracts with schools of medicine, osteopathy, dentistry, or public health, or other appropriate public or nonprofit private entities, to assist in meeting the costs of such schools or entities of providing projects to—

"(1) plan, develop, and operate or maintain an approved residency training program in preventive medicine (including environmental medicine and occupational medicine) or advanced postgraduate training in preventive dentistry; or

"(2) provide financial assistance (in the form of traineeships and fellowships) to residents in any such program in need of financial assistance and who plan to specialize or work in preventive medicine (or public health or environmental medicine or occupational medicine) or dentistry.

"(b) There are authorized to be appropriated $2,000,000 for the fiscal year ending September 30, 1982, $2,200,000 for the fiscal year ending September 30, 1983, and $2,400,000 for the fiscal year ending September 30, 1984.

"GRANTS FOR TRAINING IN PHYSICAL MEDICINE AND REHABILITATION

SEC. 793. (a) The Secretary may make grants to and enter into contracts with schools of medicine or osteopathy or other appropriate public or nonprofit entities to assist in meeting the costs of such schools or entities of providing projects to—

"(1) plan, develop, and operate or maintain a physician residency training program in physical medicine and rehabilitation; or

"(2) provide financial assistance (in the form of traineeships and fellowships) to residents in any such program in need of financial assistance and who plan to specialize or work in physical medicine and rehabilitation.

"(b) There are authorized to be appropriated to carry out the provisions of this section $1,000,000 for the fiscal year ending September 30, 1982, $1,100,000 for the fiscal year ending September 30, 1983, and $1,200,000 for the fiscal year ending September 30, 1984.

"GRANTS FOR TRAINING IN GENERAL PRACTICE OF DENTISTRY

"SEC. 794. (a) The Secretary may make grants to, and enter into contracts with, schools of dentistry or other public or nonprofit private entities to assist in meeting the costs of such schools or entities of providing projects to—

"(1) plan, develop, and operate or maintain an approved residency program in the general practice of dentistry; or

"(2) provide financial assistance (in the form of traineeships and fellowships) to residents in such program in need of financial assistance and who plan to specialize in the practice of general dentistry.

"(b) There are authorized to be appropriated to carry out the provisions of this section $3,500,000 for the fiscal year ending September 30, 1982, $3,900,000 for the fiscal year ending September 30, 1983, and $4,300,000 for the fiscal year ending September 30, 1984.

"SPECIAL PROJECTS FOR PHYSICIAN GRADUATE

"SEC. 794A. (a) The Secretary may make grants to schools of medicine or osteopathy, hospitals with approved residency training programs in internal medicine, pediatrics, family practice, psychiatry, or obstetrics and gynecology, or to other appropriate health care entities affiliated with such schools or hospitals, to meet the costs of innovative educational projects for physicians in such residency programs designed to encourage physicians to locate their practice in health manpower shortage areas designated under section 332 or in appropriate ambulatory care settings.

"(b) The Secretary may make grants to schools of medicine or osteopathy, hospitals, and other appropriate entities to meet the educational costs of innovative projects for residents in approved residency training programs. Such projects shall—

"(1) develop, implement, and evaluate educational activities for physician residents in the social and behavioral sciences, biopsychosocial aspects of patient care, humanities and human values (including medical ethics), principles of cost containment, organization of health services, and epidemiology, as such programs apply to direct patient care in inpatient and outpatient health care settings; or

"(2) prepare residents for teaching medical students and other hospital staff by providing for training in techniques of teaching, supervision, and consultation, and evaluation methods suited to the clinical setting.

"(c) Grants under this section may not be used solely for the training of residents receiving support under any other section of this part.

"(d) There are authorized to be appropriated for grants under this section $2,000,000 for the fiscal year ending September 30, 1982, $2,200,000 for the fiscal year ending September 30, 1983, and $2,400,000 for the fiscal year ending September 30, 1984.".

SEC. 114. (a) The heading of part G of title VII is amended by striking out "ALLIED HEALTH" and inserting in lieu thereof "PUBLIC HEALTH".

(b) The heading of subpart I of part G of title VII is amended to read as follows:

"Subpart I—Health Administration Personnel"

(c)(1) Section 795 (c)(2)(A)(i)(II) (as redesignated by section 113(a)) is amended by striking out "$100,000" and inserting in lieu thereof "$150,000".

(2) Section 795(c)(2)(A)(ii) (as redesignated by section 113(a)) is amended—

(A) by striking out "1978" and inserting in lieu thereof "1982"; and

(B) by striking out "1976" and inserting in lieu thereof "1980".

(3) Section 795(c)(2)(A) (as redesignated by section 113(a)) is amended—

(A) by striking out "and" at the end of subclause (ii)(II); and

(B) by redesignating subclause (iii) as subclause (vi) and by inserting the following new subclauses after subclause (ii):

"(iii) contains assurances that the program for which such application was submitted shall provide, or plans to provide within 12 months, either directly or through agreement with an appropriate entity, at least three courses, or a comparable amount of instruction in other courses, in any of the following disciplines:

"(I) finance (particularly is applied to health care),

"(II) marketing (particularly as applied to health care),

"(III) economics (including macroeconomics and microeconomics, and with special emphasis on health economics),

"(IV) epidemiology for administration and planning,

"(V) health planning,

"(VI) health policy, law, and regulation, and

"(VII) information systems;

"(iv) contains assurances that the program for which such application was submitted shall provide a concentration or special emphasis on one or more of the following:

"(I) health planning,

"(II) health policy,

"(III) ambulatory care services,

"(IV) long-term care,

"(V) home health care,

"(VI) multi-unit care systems,

"(VII) comprehensive prepaid service systems,

"(VIII) mental health administration, and

"(IX) any other health care delivery system determined by the Secretary to require special emphasis;

"(v)(I) the program provides, or plans to provide within 12 months, a range of courses during evening and weekend hours to enable students to matriculate on a part-time basis and receive a degree, or

"(II) the program provides, or plans to provide within 12 months, a program of continuing education for health professionals who are involved full-time or part-time in health administration and for graduates of a graduate program in health administration; and".

(4) Section 795(d) (as redesignated by section 113(a)) is amended—

(A) by striking out "and" after "1979,"; and

(B) inserting ", $3,000,000 for the fiscal year ending September 30, 1982, $3,300,000 for the fiscal year ending September 30, 1983, and $3,600,000 for the fiscal year ending September 30, 1984" after "1980".

(d) Part G of title VII is amended by inserting the following new section after section 795 (as redesignated by section 113(a)):

"SPECIAL PROJECTS FOR GRADUATE PROGRAMS IN HEALTH ADMINISTRATION

"SEC. 796. (a) The Secretary may make grants to assist education institutions with accredited graduate programs in health administration to meet the costs of developing curricula designed to improve training in health care management. Such curricula may include—

"(1) finance (particularly as applied to health care);

"(2) marketing (particularly as applied to health care);

"(3) economics (including macroeconomics and microeconomics, and with special emphasis on health economics);

"(4) epidemiology and health planning;

"(5) health policy, law, and regulation;

"(6) quality assurance and assessment;

"(7) information systems;

"(8) health services organization and management for students in health disciplines other than health administration; and

"(9) management of ambulatory care services.

"(b) (1) The Secretary may make grants to assist accredited schools of public health and other education institutions with accredited graduate programs in health administration to meet the costs of establishing and operating faculty development programs that—

"(A) train individuals in management or other disciplines that are, in the judgment of the Secretary, underrepresented in programs of health administration and necessary to improve training in health care management; and

"(B) train individuals experienced in such management disciplines with respect to health care issues relating to the teaching of health administration.

"(2) The Secretary may not approve an application for a grant under this subsection unless such application contains assurances that at least three individuals shall complete the program in each year for which an application is made.

"(3) Grant funds awarded under this section shall be used to provide fellowships for 12 months to individuals who—

"(A) have received a doctoral degree or equivalent terminal professional recognition in a discipline determined by the Secretary to be underrepresented in programs of health administration and necessary to improve training in health care management; and

"(B) agree to serve as a faculty member for a period of not less than two years in an accredited school of public health or other educational program with accredited programs in health administration.

"(c) There are authorized to be appropriated for grants under this section, $3,000,000 for the fiscal year ending September 30, 1982, $4,000,000 for the fiscal year ending September 30, 1983, and $4,500,000 for the fiscal year ending September 30, 1984.".

(e) (1) Section 797(a) (as redesignated by section 106(a)) is amended by inserting "who are citizens of the United States, or lawfully admitted to the United States, or permanent residence as defined in section 101(a) (20) of the Immigration and Nationality Act, or citizens of the Northern Mariana Islands, American Samoa, or the Trust Territory of the Pacific Islands" after "train students".

(2) Section 797(b) (2) (as redesignated by section 106(a)) is amended by inserting ", based upon the need of students attending such program" after "as the Secretary may deem necessary".

(3) Section 797(b) (3) (as redesignated by section 106(a)) is amended to read as follows:

"(3) In awarding traineeships under this section, each applicant shall provide assurances to the Secretary that the funds received under this section shall be awarded for traineeships to individuals who have received a baccalaureate degree.".

(4) Section 797(c) (as redesignated by section 106(a)) is amended—

(A) by striking out "and" after "September 30, 1979;"; and

(B) by inserting ", $2.000.000 for the fiscal year ending September 30. 1982. $2.500.000 for the fiscal year ending September 30, 1983, and $3.000.000 for the fiscal year ending September 30. 1984" after "September 30. 1980".

SEC. 115. (a) The Secretary shall enter into a contract with an appropriate public or private entity or entities to conduct an evaluation of health care management and submit a report, including recommendations, to the Secretary. Prior to submission of such report, the Secretary shall make such report available to interested parties and affected Federal agencies for comment. The Secretary shall submit such report in original form, accompanied by comments provided by the Secretary, any interested parties, and any Federal agencies, to the Committees on Labor and Human Resources and Finance of the Senate, and the Committees on Interstate and Foreign Commerce and Ways and Means of the House of Representatives, within 24 months after the date of the enactment of this Act.

(b) The report submitted pursuant to this section shall contain—

(1) an analysis of current and future requirements for management in health care and a comparison of health care management and management in other major industries;

(2) an identification and evaluation of management skills utilized in major industries and underutilized in health care with respect to the application of such skills to health care management;

(3) an assessment of the educational needs of individuals in or entering health care management positions;

(4) an evaluation of Federal policy with regard to reimbursement of health care services, the application of the antitrust laws, consumer representation and participation, the imposition of limitations on administrative costs, and any other Federal policies that, in the judgment of the Secretary, have an impact on the management of health care facilities or institutions;

(5) a comparison of incentives to individuals to encourage the pursuit of management careers in health care and management careers in other major industries, and an evaluation of incentives to individuals to encourage careers in various types of facilities;

(6) an evaluation of the interaction between the health care industry and other industries with regard to management; and

(7) any other issue specified by the Secretary.

SEC. 116. (a) Part G of title VII is amended by adding the following new subpart after section 797 (as redesignated by section 106 (a)).

"Supart II—Public Health Personnel

"SPECIAL PROJECTS FOR SCHOOLS OF PUBLIC HEALTH

"SEC. 798. (a) The Secretary may make grants to or enter into contracts with schools of public health to meet the cost of special projects to develop new programs or to improve or expand existing programs (including continuing education or part-time programs for advanced training of practicing professionals in need of new knowledge or skills) in—

"(1) disease prevention or health promotion;

"(2) biostatistics or epidemiology;

"(3) health administration, health planning, health policy analysis and planning, or cost-containment;

"(4) environmental or occupational health;

"(5) dietetics or nutrition;

"(6) women's health or child health; or

"(7) geriatrics.

"(b) The Secretary shall give special consideration under subsection (a) to midcareer leadership programs.

"(c) There are authorized to be appropriated for grants and contracts under this section $4,000,000 for the fiscal year ending September 30, 1982, $5,000,000 for the fiscal year ending September 30 1983, and $5,500,000 for the fiscal year ending September 30, 1984.".

(b) (1) Section 799(a) (2) (as redesignated by section 106(a)) is amended by striking out "section 749" and inserting in lieu thereof "Section 797".

(2) Section 799(b) (1) (as redesignated by section 113(c)) is amended by inserting "with paragraph (3) and" after "shall be awarded in accordance".

(3) Section 799(b) (2) (as redesignated by section 106(a)) is amended by inserting "based on the need of individuals eligible for such traineeships under paragraph (3)" at the end of the sentence.

(4) Section 799(b) (3) (as redesignated by section 106(a)) is amended to read as follows:

"(3) Traineeships awarded under grants made under subsection (a) shall be awarded to individuals who—

"(A) are citizens of the United States, or lawfully admitted to the United States for permanent residence as defined in section 101(a) (20) of the Immigration and Nationality Act, or citizens of the Northern Mariana Islands, American Samoa or the Trust Territory of the Pacific Islands, and

"(B) have previously received a baccalaureate degree.".

(5) Section 799(b) (4) (as redesignated by section 106(a)) is repealed.

(6) Section 799(c) (as redesignated by section 106(a)) is amended—

(A) by striking out "and" after "September 30, 1979;"; and

(B) by inserting "; $7,000,000 for the fiscal year ending September 30, 1982, $8,000,000 for the fiscal year ending September 30, 1983, and $9,000,000 for the fiscal year ending September 30, 1984" after "September 30, 1980".

(c) Subpart II of part G of title VII is amended by adding the following new section at the end thereof:

"OTHER PUBLIC HEALTH PROJECTS

SEC. 799A. (a) The Secretary may make grants to assist educational institutions not eligible for support under section 795, 796, or 798 in meeting the costs of special projects in—

"(1) biostatistics or epidemiology;

"(2) health administration, health planning, or health policy analysis and planning;

"(3) environmental or occupational health; or

"(4) dietetics or nutrition.

"(b) There are authorized to be appropriated to carry out this section $500,000 for the fiscal year ending September 30, 1982, $600,000 for the fiscal year ending September 30, 1983, and $700,000 for the fiscal year ending September 30, 1984.".

(d) Section 799B (as redesignated by section 113(a)) is amended—

(1) by striking out "this part" each place it appears and inserting in lieu thereof "part F, or G";

(2) by striking out "Professions Education" in paragraph (1) and inserting in lieu thereof "Personnel".

TITLE II—NURSE EDUCATION AMENDMENTS

SEC. 201. This title may be cited as the "Nurse Education Amendments of 1980".

SEC. 202. (a) (1) The heading of title VIII is amended to read as follows:

"TITLE VIII—EDUCATION OF NURSES".

(2) The heading of part A of title VIII is amended to read as follows:

"PART A—ASSISTANCE FOR NURSE EDUCATION".

(b) Section 801 is amended—

(1) by striking out "and" after "fiscal year 1978,"; and

(2) by inserting ", $500,000 for the fiscal year ending September 30, 1982, $500,000 for the fiscal year ending September 30, 1983, and $500,000 for the fiscal year ending September 30, 1984" after "September 30, 1980".

(c) Section 802(b) is amended by striking out "his determination" after "approved by the Secretary upon" and inserting in lieu thereof "determining".

(d) The second sentence of section 803 (b) is amended—

(1) by striking out "Secretary's"; and

(2) by striking out "by him" and inserting in lieu thereof "by the Secretary".

(e) Section 805 is amended—

(1) by striking out "1980" each place it appears in subsections (a) and (b) thereof and inserting in lieu thereof "1984";

(2) by striking out "by not to exceed 3 per centum" in subsection (b);

(3) by inserting "by the lesser of 6 percent per annum or such percentage per annum necessary to reduce such net effective interest rate to 7 percent for loan guarantees and interest subsidies first made after October 1, 1981" after "otherwise payable on such loan" at the end of subsection (b);

(4) by striking out "he" each place it appears in subsections (c) and (d) and inserting in lieu thereof "the Secretary";

(5) by striking out "to enable him to discharge his responsibilities' 'in subsection (e) and inserting in lieu thereof "to enable the discharge of the Secretary's responsibilities";

(6) by striking out "by him" in subsection (e);

(7) by striking out the second sentence of subsection (e) and inserting in lieu thereof the following: "There is authorized to be appropriated to the fund $300,000 for the fiscal year ending September 30, 1982, $600,000 for the fiscal year ending September 30, 1983, and $900,000 for the fiscal year ending September 30, 1984.";

(8) by striking out "derived by him from his operations" in subsection (e) thereof and inserting in lieu thereof "derived from the operations";

(9) by striking out "the Secretary to discharge his responsibilities" in subsection (e) thereof and inserting in lieu thereof "the discharge of the Secretary's responsibilities";

(10) by striking out "by him" in the fourth sentence of subsection (e) thereof;

(11) by striking out "he" in the fourth sentence of subsection (e) thereof and inserting in lieu thereof "the Secretary";

(12) by striking out "he" in the sixth sentence of subsection (e) thereof;

(13) by striking out "him" in the seventh sentence of subsection (e) thereof and inserting in lieu thereof "the Secretary of the Treasury";

(14) by striking out "cumulative" after "would cause the" in subsection (f)(2) thereof;

(15) by inserting "first" after "loans" in subsection (f)(2)(A) thereof;

(16) by inserting "first" after "subsidy payments is" in subsection (f)(2)(B) thereof;

(17) by striking out the period at the end of clause (B) of subsection (f)(2) thereof and inserting in lieu thereof a semicolon;

(18) by striking out "the amount of grant funds obligated under this subpart in such fiscal year for construction grants; except that this paragraph shall not apply if the amount of grant funds so obligated in such fiscal year equals the sum appropriated for such fiscal year under section 801." and inserting in lieu thereof "$5,000,000 for such fiscal year."; and

(19) by striking out subsection (g) thereof.

SEC. 203. Subpart II of part A of title VIII is amended to read as follows:

"Subpart II—Startup Assistance

"STARTUP ASSISTANCE

"SEC. 810. (a) For the purposes of meeting national and regional needs for nurses, the Secretary may make a grant to a new school of nursing which begins instruction after July 1, 1980. No school may receive a grant under this section unless the number of full-time students enrolled in its first school year of operation will exceed twenty-three.

"(b) The amount of any grant under this section may not exceed the following:

"(1) In the year preceding the first year in which such school has students enrolled, an amount equal to the product of $5,000 and the number of full-time students the Secretary estimates will enroll in such school in such first year.

"(2) In the first year in which such school has students enrolled, an amount equal to the product of $5,000 and the number of full-time students enrolled in such school in such year.

"(3) In the second year in which such school has students enrolled, an amount equal to the product of $2,500 and the number of full-time students enrolled in such school in such year.

Estimates of the number of full-time students enrolled in a school may be made on the basis of assurances provided by the school.

"(c) The Secretary shall give priority in the award of grants under this section to applicants for whom the receipt of such grant would facilitate the acceleration of the date upon which instruction would begin or increase the number of students to be enrolled in the entering class. The Secretary shall also give priority to applicants who will, by virtue of an affiliation with one or more existing health professions institutions, be able to make use of existing facilities and resources.

"(d) The Secretary shall give special consideration to any application submitted by a school for a grant under this section if such school will be located in a nurse shortage area (designated under section 836(h)).

"(e) For purposes of this section, any school of nursing shall be considered a new school for any year if such year is—

"(1) the year preceding the first year in which such school has students enrolled;

"(2) the first year such school has students enrolled; and

"(3) the year following the first year such school has students enrolled.

"(f) For the purpose of making grants to carry out this section, there are authorized to be appropriated $500,000 in the fiscal year ending September 30, 1982, and in such of the succeeding two fiscal years.".

SEC. 204. (a) Subpart III of part A of title VIII is repealed.

(b) Subpart IV of part A of title VIII is redesignated as subpart III.

(c) Section 820 is amended to read as follows:

"SPECIAL PROJECT GRANTS AND CONTRACTS

"SEC. 820. (a) For the purposes of encouraging schools of nursing to provide support for practicing nurses and nursing aides, the Secretary may make grants to, and enter into contracts with, schools of nursing and other public or nonprofit private entities to assist in meeting the cost of projects to provide—

"(1) appropriate retraining opportunities for nurses who (after periods of professional inactivity) desire to engage actively in the nursing profession;

"(2) continuing education for nurses;

"(3) programs, including continuing education, to provide professional support for nurses, including nurse practitioners practicing in health manpower shortage areas;

"(4) training and education to upgrade the skills of licensed vocational or practical nurses and nursing assistants, especially with regard to providing nursing services to special populations such as geriatric patients in nursing homes; or

"(5) programs to assist graduates of diploma and associate degree schools of nursing to enhance their educational credentials.

"(b) For the purposes of improving the availability of nursing personnel and the utilization of nurses, the Secretary may make grants to and enter into contracts with schools of nursing and other public or nonprofit private entities, to assist in meeting the cost of projects to—

"(1) help to increase the supply or improve the distribution of adequately trained nursing personnel (including nursing personnel who are bilingual) by geographic area or by specialty group;

"(2) plan, develop, establish, or maintain programs of research in nursing education; or

"(3) demonstrate and evaluate new or improved patterns of nursing care that will promote the full utilization of nurses or assist in the retention or reentry of nurses in active nursing practice.

"(c) For the purposes of improving and strengthening the curriculum of schools of nursing, the Secretary may make grants to and enter into contracts with schools of nursing to assist in meeting the costs of projects to plan, develop, and establish courses or expand or strengthen instruction in the following areas:

"(1) health policy and health care economics;

"(2) women's health or child health, including pediatrics;

"(3) geriatrics;

"(4) diet or nutrition;

"(5) public health or community health education;

"(6) occupational health;

"(7) social and behavorial sciences or humanities and human values, as applied to direct patient care; or

"(8) innovative curriculum programs in other appropriate health areas.

"(d) For the purpose of strengthening clinical education, the Secretary may make grants to or enter into contracts with schools of nursing, or other appropriate public or nonprofit entities, to—

"(1) maintain, improve, increase, or extend the clinical education of students in schools of nursing, including providing for the establishment of new training opportunities relating to primary nursing care; or

"(2) assist in the establishment of arrangements between programs at schools of nursing and nursing practice settings in order to facilitate the clinical education of nursing students, or assist in demonstrating and evaluating new or improved arrangements.

"(e) Contracts may be entered into under this subsection without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(f) The Secretary may, with the advice of the National Advisory Council on Nurse Training, provide assistance to the heads of other departments and agencies of the Government to encourage and assist in the utilization of medical facilities under their jurisdiction for nurse training programs.

"(g) No grant or contract may be made under this section unless an application therefor has been submitted to and approved by the Secretary. The Secretary may not approve or disapprove such an applicatin except after consultation with the National Advisory Council on Nurse Training. Such an application shall provide for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Secretary may require to assure proper disbursement of and accounting for Federal funds paid to the applicant under this section.

"(h) For payments under grants and contracts under this section there are authorized to be appropriated $13,000,000 for the fiscal year ending September 30, 1982, $15,000,000 for the fiscal year ending September

30, 1983, and $17,000,000 for the fiscal year ending September 30, 1984.".

(d) Section 821 is amended to read as follows:

"ADVANCED NURSE TRAINING PROGRAMS

"SEC. 821. (a) The Secretary may make grants to and enter into contracts with collegiate schools of nursing to meet the costs of projects to—

"(1) plan, develop, and operate programs;

"(2) significantly expand programs; or

"(3) maintain existing programs;

for the advanced training of professional nurses to teach in the various fields of nurse training, to serve in administrative or supervisory capacities, or to serve in various fields of advanced clinical practice.

"(b) The Secretary shall give special consideration under subsection (a) to applications—

"(1) which would provide a program for advanced training in geographic areas lacking such a program; or

"(2) which provide for opportunities for advanced training on a part-time basis.

"(c) For payments under grants and contracts under this section there are authorized to be appropriated $12,000,000 for the fiscal year ending September 30, 1982, $13,000,000 for the fiscal year ending September 30, 1983, and $14,000,000 for the fiscal year ending September 30, 1984.".

(e) Section 822 is amended—

(1) by striking out "who are residents of a health manpower shortage area (designated under section 332)" in subsection (b) (1);

(2) by striking out "and" after "1978," in subsection (e); and

(3) by inserting ", $13,000,000 for the fiscal year ending September 30, 1982, $14,000,000 for the fiscal year ending September 30, 1983, and $15,000,000 for the fiscal year ending September 30, 1984" after "1980" in subsection (e).

(f) Subpart III of part A of title VIII is amended by adding the following new section after section 822:

"EDUCATIONAL ASSISTANCE TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS

"SEC. 823. (a) (1) For the purpose of increasing nursing education opportunities for individuals from disadvantaged backgrounds (as determined in accordance with criteria prescribed by the Secretary), the Secretary may make grants to and enter into contracts with schools of nursing and other public or private nonprofit health or educational entities to assist in meeting the costs described in paragraph (2).

"(2) A grant or contract under paragraph (1) may be used by such school or other entity to meet the costs of—

"(A) identifying, recruiting, and selecting individuals from disadvantaged backgrounds for education and training in nursing;

"(B) facilitating the entry of such individuals into schools of nursing;

"(C) providing counseling or other services designed to assist such individuals to enter and successfully complete their education at such a school;

"(D) providing, prior to the entry of such individuals into the regular course of education of such school, preliminary education designed to assist such individuals in successfully completing such regular course of education at such a school, or referring such individuals to institutions providing such preliminary education; or

"(E) publicizing existing sources of financial aid available to students in the education program of such a school and to students who are undertaking training necessary to qualify them to enroll in such a program, with particular emphasis on individuals—

"(i) who are in high school; or

"(ii) who are practical nurses or nursing assistants who want to enhance their educational credentials.

"(b) Not more than 20 percent of the funds appropriated under this section may be used for grants or contracts to entities that are not schools of nursing.

"(c) Funds provided under grants and contracts under this section may be used to provide stipends to students in programs under subsection (a) (2) (D) if such student would not otherwise be able to participate.

"(d) There are authorized to be appropriated to carry out the provisions of this section $4,000,000 for the fiscal year ending September 30, 1982, $4,500,000 for the fiscal year ending September 30, 1983, and $5,000,000 for the fiscal year ending September 30, 1984.".

(g) Part A of title VIII is amended by adding the following new subpart after subpart III:

"Subpart IV—Incentive Grants

"NATIONAL PRIORITY INCENTIVE GRANTS

"SEC. 824. (a) The Secretary shall make annual grants to schools of nursing to support the education programs of such schools and other projects and activities that are in national interest.

"(b) (1) For purposes of this part, regulations of the Secretary shall include provisions relating to determination of the number of students enrolled in a school, or in a particular year-class in a school, or the number of graduates, on the basis of estimates or on the basis of the number of students who were enrolled in a school, or in a particular year-class in a school, or on such basis as the Secretary deems appropriate for making such determination, and shall include methods of making such determination when a school or a year-class was not in existence in an earlier year at a school.

"(2) For purposes of this part, the term 'full-term students' (whether such term is used by itself or in connection with a particular year-class) means students pursuing a full-time course of study in an accredited program in a school of nursing.

"(c) For purposes of computing grants under this subpart the enrollment of a school shall be—

"(1) in the case of a collegiate school of nursing, the number of full-time and full-time equivalent of part-time undergraduate students of such school enrolled in the last two years in a fiscal year;

"(2) in the case of an associate degree school of nursing, the number of full-time and full-time equivalent of part-time students of such school in the first year divided by 2, and the number of full-time and full-time equivalent of part-time students of such school in the last year in a fiscal year; and

"(3) in the case of a diploma school of nursing, the number of full-time and full-time equivalent of part-time students of such school in a fiscal year.

"(d) If the total of the grants to be made under this section for any fiscal year to schools with approved applications exceeds the amount appropriated under subsection (i) for such grants, the amount of the grant for such fiscal year to each such school shall be ratably reduced.

"(e) The amount of a grant to a school under this section shall be the amount as provided in subsection (f) multiplied by the enrollment of such school (as determined under subsection (c)).

"(f) (1) In determining the amount of a grant in a fiscal year to a school under subsection (e), the Secretary shall multiply the amount specified in paragraph (2) by the number of objectives under paragraph (3) met by such school.

"(2) (A) A collegiate school of nursing shall receive $75 in the fiscal year ending September 30, 1982, for each enrolled student as determined under subsection (c) (1), $75 in the fiscal year ending September 30, 1983, for each such enrolled student ,and $75 in the fiscal year ending September 30, 1984. for each such enrolled student.

"(B) An associate degree school of nursing shall receive $50 in the fiscal year ending September 30, 1982, for each enrolled student as determined under subsection (c) (2), $50 in the fiscal year ending September 30, 1983, for each such enrolled student, and $50 in the fiscal year ending September 30, 1984, for each such enrolled student.

"(C) A diploma school of nursing shall receive $50 in the fiscal year ending September 30, 1982, for each enrolled student as determined under subsection (c) (3), $50 in the fiscal year ending September 30, 1983, for each such enrolled student, and $50 in the fiscal year ending September 30, 1984, for each such enrolled student.

"(3) For purposes of making the determination under paragraph (1), the Secretary shall determine the number of the following objectives that the school meets in the fiscal year in which an application is made:

"(A) (i) The school's first year student enrollment is the same or greater than the first year student enrollment in the previous school year; or

"(ii) the school's final year student enrollment is the same or greater than the final year student enrollment in the previous school year.

"(B) (i) The school enrolls, or will enroll within twelve months, a number of students such that 15 percent or more (or 10 students, which ever is greater) of the school's entering class are individuals who are licensed practical or vocational nurses: or

"(ii) the school enrolls, or will enroll within twelve months, a number of part-time students such that at least 15 percent of all students enrolled for the first time (regardless of full-time or part-time status and regardless of year class) are part-time students.

"(C) A collegiate school of nursing enrolls, or will enroll within twelve months, a number of full-time or part-time students who have successfully completed training in an associate degree or diploma school of nursing such that such students comprise at least 15 percent of all students enrolled in the school for the first time (regardless of full-time or part-time status and regardless of year class).

"(D) The school provides, or will provide within twelve months, a comprehensive program of continuing education for practicing nurses and nurses reentering nursing practice after their careers have been interrupted.

"(E) All students, before graduation, have had, or will have had within twelve months, a significant educational experience in at least two of the following areas: nutrition, geriatrics, occupational or environmental health, rehabilitation, or health care economics and health policy, with emphasis on application to direct patient care.

"(F) The school enrolls a number of students such that no less than 12 percent of its entering class are students from underrepresented minority groups, and the school has a program designed to recruit, retain, and graduate such students, except that such percent shall be 15 percent or more for grants made in the fiscal year ending September 30, 1983, and 18 percent or more for grants made in the fiscal year ending September 30, 1984.

"(g) For purposes of this section, a reference to a year is a reference to a school year unless otherwise stated.

"(h) There are authorized to be appropriated for grants under this section $20,000,000 for the fiscal year ending September 30, 1982, $22,000,000 for the fiscal year ending September 30, 1983, and $24,000,000 for the fiscal year ending September 30, 1984.

"APPLICATION FOR GRANTS

"SEC. 825. (a) The Secretary may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications under this subpart for any fiscal year must be filed.

"(b) The Secretary shall not approve or disapprove any application for a grant under this subpart except after consultation with the National Advisory Council on Nurse Training.

"(c) A grant under this subpart may be made only if the application therefor—

"(1) is from a public or nonprofit private school of nursing;

"(2) contains such additional information as the Secretary may require to make the determinations required under this subpart and such assurances as the Secretary may find necessary to carry out the purposes of this subpart; and

"(3) provides for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Secretary may require to assure proper disbursement of and accounting for Federal funds paid to the applicant under this subpart.".

SEC. 205. (a) Section 830(a) is amended—

(1) by striking out clause (D) of paragraph (1) thereof and inserting in lieu thereof the following:

"(D) to serve in various fields of advanced clinical practice.";

(2) by striking out paragraph (2) thereof and redesignating paragraph (3) as paragraph (2);

(3) by inserting before the period in paragraph (2) thereof (as redesignated by this subsection) ", whether full-time or part-time".

(b) Section 830(b) is amended—

(1) by striking out "and" after "1978"; and

(2) by inserting the following before the period at the end thereof: ", $13,000,000 for the fiscal year ending September 30, 1982, $14,000,000 for the fiscal year ending September 30, 1983, and $15,000,000 for the fiscal year ending September 30, 1984".

(c) Section 831(b) is amended by inserting the following after "1980": ", $1,000,000 for the fiscal year ending September 30, 1982, $1,000,000 for the fiscal year ending September 30, 1983, and $1,000,000 for the fiscal year ending September 30, 1984".

SEC. 206. (a) Section 835(b)(4) is amended by striking out ", and that while the agreement remains in effect no such student who has attended such school before October 1, 1980, shall receive a loan from a loan fund established under section 204 of the National Defense Education Act of 1958".

(b) Section 836 is amended—

(1) by striking out "he" in subsection (b)(4) thereof and inserting in lieu thereof "the borrower";

(2) by striking out "him" each place it appears and inserting in lieu thereof "the borrower";

(3) by striking out "his" in subsection (d) and inserting in lieu thereof "the borrower's";

(4) by striking out "he" in subsection (i) and inserting in lieu thereof "the borrower"; and

(5) by striking out "his determination" in subsection (j) thereof and inserting in lieu thereof "determining".

(c)(1) The second sentence of section 837 is amended by striking out "and for each of the next two succeeding fiscal years".

Section 837 is amended by adding the following new sentence at the end thereof: "A school may make loans for the fiscal year ending September 30, 1982, out of the loan fund established under section 835(b) to students enrolled in the last year of study at such school and who have previously received a loan out of the fund.".

(d) Section 838 is amended—

(1) by striking out "to him" in subsection (a) and inserting in lieu thereof "to the Secretary";

(2) by striking out "he" and inserting in lieu thereof "the Secretary"; and

(3) by striking out "to him" in subsection (b)(2).

(e) Section 839 is amended—

(1) by striking out "1983" each place it appears and inserting in lieu thereof "1982";

(2) by adding the following at the end of subsection (b) thereof: "The Secretary shall deposit amounts received pursuant to this section in the service contingent loan fund established under section 749E.".

(f) Section 841 is repealed.

SEC. 207. (a)(1) Section 845(b) is amended to read as follows:

"(b) The amount of the grant under subsection (a) for the fiscal year ending September 30, 1982, and for each of the next 2 fiscal years to each such school shall be equal to $3,000 multiplied by one-tenth of the number of full-time students of such school. For the fiscal year ending September 30, 1985, and for each of the two succeeding fiscal years, the grant under subsection (a) shall be such amount as may be necessary to enable such school to continue making payments under scholarship awards to students who initially received such awards out of grants made to the school for fiscal year ending before October 1, 1984.".

(2) Section 845(c)(1) is amended—

(A) by striking out "June 30, 1976,", in clause (A) thereof and inserting in lieu thereof "September 30, 1982,";

(B) by striking out "four" in clause (A) thereof and inserting in lieu thereof "two"; and

(C) by striking out "1980," and "1981," in clause (B) thereof and inserting in lieu thereof "1984," and "1985,", respectively.

(3) The first sentence of section 845(c)(2) is amended by striking out "who need" and inserting in lieu thereof "who have applied for and received the maximum payment available under basic educational opportunity grants under subpart 1 of part A of title IV of the Higher Education Act of 1965, and who still need".

(4) Section 845 is amended by adding the following new subsection at the end thereof:

"(f) There are authorized to be appropriated to carry out this section, $7,000,000 for the fiscal year ending September 30, 1982, $8,000,000 for the fiscal year ending September 30, 1983, and $9,000,000 for the fiscal year ending September 30, 1984.".

(b) Section 846 is repealed.

SEC. 208. (a)(1) Section 851(a) is amended—

(A) by striking out "his" and inserting in lieu thereof "the Secretary's"; and

(B) by striking out "and the Commissioner of Education, both of whom shall be ex officio members,".

(2) Section 851(b) is amended by striking out "his" and inserting in lieu thereof "the Secretary's".

(b)(1) Section 853(1) is amended by inserting "the Commonwealth of the Northern Mariana Islands," after "the Virgin Islnds,".

(2) Section 853(2) is amended by inserting "in a State" before the period.

(3) Section 853(6) is amended by striking out "Commissioner of Education" each place it appears and inserting in lieu thereof "Secretary of Education".

(c) Section 856 is amended by striking "Health, Education, and Welfre" and inserting in lieu thereof "Health and Human Services".

TITLE III—NATIONAL HEALTH SERVICE CORPS PROGRAM

SEC. 301. (a) Section 331 is amended by redesignating subsections (c), (d), (e), (f), (g), and (h) as subsection (e), (f), (g), (h), (i), and (j), respectively.

(b) Section 331 is amended by inserting after subsection (b) the following new subsections:

"(c) The Secretary shall conduct or support (through grant or contract) at schools of medicine, osteopthy, dentistry, and as appropriate, nursing and other schools of the health professions and at other appropriate entities, service preparatory programs for recipients of Corps scholarships. Such programs shall include—

"(1) course work and clinical education in primary care in health manpower shortage areas as defined in section 332(a), including the establishment of preceptorships at existing Corps sites;

"(2) exposure to the unique problems of medically underserved populations; and

"(3) information dissemination and career counseling on practice and residency training opportunities in such manpower shortage areas.

"(d) The Secretary may enter into cooperative agreements with one or more schools or entities described in subsection (c) to accomplish the purposes set forth in subsections (b) and (c).".

(c) Section 331(f)(1)(B) (as redesignated by subsection (a)) is amended by striking out "his" and "he" each place it appears.

(d) Section 331(j) (as redesignated by subsection (a)) is amended by—

(1) striking out "Health, Education, and Welfare" in paragraph (a) and inserting in lieu thereof "Health and Human Services", and

(2) inserting "the Commonwealth of" before "the Northern Mariana Islands".

SEC. 302. Section 332 is amended by adding the following subsection at the end thereof:

"(l)(1) In addition to any other provision relating to the assignment of a Corps member to a hospital under this Act, a Corps member may be assigned under section 333 to a public or private nonprofit hospital if—

"(A) such hospital serves a medically underserved population as defined in section 330(b)(3);

"(B) such hospital provides one or more accredited programs for graduate medical education or training;

"(C) one or more aliens have been permitted to enter the United States pursuant to the exemption under section 212(j)(2)(A) of the Immigration and Nationality Act in order to participate in any such program at such hospital at any time prior to December 31, 1980; and

"(D) such assignment shall assist such hospital in reducing the number of such aliens described in subparagraph (C) participating in any such program.

"(2) Hospitals described in paragraph (1) shall be considered among the areas and facilities with the geratest health manpower shortage for purposes of assigning Corps personnel.

"(3) A Corps member may not be assigned pursuant to this subsection unless—

"(A) such hospital provides assurance to the Secretary that such assignment will result in a reduction in the number of aliens for whom an exemption will be requested under section 212(j)(2)(A) of the Immigration and Nationality Act for participation in a program of graduate medical education or training at such hospital; and

"(B) such hospital provides the Secretary with a description of actions being taken by such hospital to reduce the number of such aliens in such programs.

"(4) The provisions of this subsection shall expire December 31, 1985.".

SEC. 303. (a) Section 333(d) is amended by adding at the end thereof the following new sentence: "Prior to making any assignment in any health manpower shortage area other than to a medical facility as defined in section 332(a)(2), the Secretary shall first seek to find service obligated scholarship recipients who wish to enter practice in such area pursuant to section 753.".

(b) Section 333(e) is amended by adding before the period at the end thereof the following: ": *Provided*, That the Secretary shall first seek to assign to such area a Corps member who has such characteristics and who has completed training, an internship, or a residency in the State where such area is located".

Sec. 304. (a) Section 334(a)(3)(B) is amended by striking out "the number of days in his period" and inserting in lieu thereof "the number of days in the period".

(b) Section 334(b)(1) is amended by striking out "he" each place it appears and inserting in lieu thereof "the Secretary".

(c) Section 334(b) is amended by inserting the following after paragraph (3):

"(4)(A) In the case of one or more Corps members assigned to a hospital described in section 332(i), the Secretary shall waive the application of subsection (a)(3) to the extent provided in subparagraph (B). In order for the application of subsection (a)(3) to be waived, the hospital shall demonstrate to the satisfaction of the Secretary that the position available for the Corps member or members is attributable to the termination of one or more positions filled by an alien graduate of a foreign medical school in a residency training program within the previous twelve months who entered the United States pursuant to section 212(j) of the Immigration and Nationality Act by virtue of a waiver granted under section 212(j)(2) of such Act.

"(B) If the Secretary determines that the hospital has demonstrated satisfactorily that the position filled by such Corps member or members is attributable to the termination of a position filled by an alien graduate of a foreign medical school as provided in subparagraph (A), the Secretary shall reduce the sum paid to the United States under subsection (a)(3) to the extent that such sum exceeds the sum paid by the hospital to such alien.".

Sec. 305. (a) Section 335 is amended by striking out "he" each place it appears and inserting in lieu thereof "the Secretary".

(b) Section 336(3) is amended by inserting "and individuals released under section 753 from their service obligation" after "the number and types of Corps members".

Sec. 306. The provisions of this title shall become effective on October 1, 1980.

TITLE IV—MISCELLANEOUS

Sec. 401. (a)(1) Section 212(j)(1)(D) of the Immigration and Nationality Act is amended to read as follows:

"(D) The duration of the alien's participation in the program of graduate medical education or training for which the alien is coming to the United States is limited to the lesser of seven years or the time typically required to complete such program as determined by the Director of the International Communication Agency, or the Director's delegate, at the time of the alien's entry into the United States, based on criteria established by the Secretary of Health and Human Services, however, the alien may, with the approval of the Director, or the Director's delegate, change the designated program of graduate medical education or training, but such change may not be made more than once or later than two years after the alien enters the United States as an exchange visitor or acquires exchange visitor status, provided that the commitment and written assurances under subparagraph (C) of this paragraph have been filed and approved with respect to the alien's new program.".

(2) Section 212(j)(1)(D) of the Immigration and Nationality Act, as amended by this subsection, shall be applicable to any alien entering the United States as an exchange visitor on or after January 10, 1978, or acquiring exchange visitor status on or after such date, for a program under which the alien will receive graduate medical education or training.

(b) Section 212(j)(2) of the Immigration and Nationality Act is amended to read as follows:

"(2)(A) Except as provided in subparagraph (B), the requirements of subparagraph (A) and (B) of paragraph (1) shall not apply between January 10, 1978, and December 31, 1985, to any alien who seeks to come to the United States to participate in an accredited program of graduate medical education or training if—

"(i) there would be a substantial disruption in the health services provided in such program because such alien was not permitted, because of such alien's failure to meet such requirements, to enter the United States to participate in such program;

"(ii) the number of aliens permitted to enter the United States to participate in such program has not exceeded the applicable limitations provided in subparagraph (B); and

"(iii) a plan that includes such program has been developed and approved in accordance with subparagraph (C).

"(B) An alien seeking to come to the United States to participate in an accredited program of graduate medical education or training shall not be permitted to enter the United States pursuant to the exemption provided by subparagraph (A) if—

"(i) with respect to the calendar years 1981 and 1982, the entry of such alien would result in the total number of aliens entering the United States in either year under such exemption to participate in such program exceeding the total number of such aliens that entered the United States under such exemption to participate in such program in the calendar year 1980;

"(ii) with respect to the calendar year 1983, the entry of such alien would result in the total number of aliens entering the United States in such year under such exemption to participate in such program exceeding 75 percent of the total number of aliens who entered the United States under such exemption to participate in such program in the calendar year 1980;

"(iii) with respect to the calendar year 1984, the entry of such alien would result in the total number of aliens entering the United States in such year under such exemption to participate in such program exceeding 50 percent of the total number of aliens who entered the United States under such exemption to participate in such program in the calendar year 1980; or

"(iv) with respect to the calendar year 1985, the entry of such alien would result in the total number of aliens entering the United States in such year under such exemption to participate in such program exceeding 25 percent of the total number of aliens who entered the United States under such exemption to participate in such program in the calendar year 1980.

"(C) An alien seeking to come to the United States to participate in an accredited program of graduate medical education or training shall not be permitted to enter the United States pursuant to the exemption provided by subparagraph (A) unless such program is included in a plan developed by the sponsoring hospital, and the appropriate State and local government health authorities, to provide for the reduction to zero by January 1, 1986, of the number of such aliens entering the United States pursuant to such exemption to participate in such program. Such plan shall provide an explanation of the manner in which such reduction shall be implemented, including the State, local, and private resources to be utilized. Each plan shall be submitted to the Secretary of Health and Human Services for consideration. The Secretary of Health and Human Services shall approve the plans determined to have a reasonable likelihood of success. The Secretary of Health and Human Services shall require each hospital for which a plan has been approved to submit annual reports regarding the implementation of the plan.

"(D) In the administration of this subsection, the Secretary of Health and Human Services shall provide the Attorney General with current information regarding the number of aliens who, pursuant to an exemption under subparagraph (A), are participating in a program providing graduate medical education or training in the United States. The Attorney General shall take such action as may be necessary to enforce the numerical limitations provided in this paragraph, and to insure that the total number of aliens participating (at any time) in all such programs does not, due to the exemption provided in subparagraph (A), exceed the total number of aliens participating in such programs on January 10, 1978.".

Sec. 402. (a) The Secretary shall conduct controlled clinical trials to assess the safety and efficacy of chiropractic care, through spinal adjustments, for the relief of certain neuromuskuloskeletal disorders and certain visceral or organic disorders. Such clinical trials shall include human subjects suffering from a broad range of such disorders, and shall be conducted for a time period necessary to collect conclusive data with regard to chiropractic care, not to be less than five years.

(b)(1) The Secretary shall establish within ninety days after the effective date of this title, a peer review board (hereinafter referred to in this section as the 'board') to review, advise, consult with, and make recommendations to, the Secretary regarding the conduct of controlled clinical trials under subsection (a).

(2) The board shall be composed of eight members appointed by the Secretary. One member shall be an individual who represents the medical specialty of physical medicine and rehabilitation, one member shall be an individual who represents the medical specialty of neurology, one member shall be an individual who represents the medical specialty of orthopedic surgery, one member shall be an individual who represents osteopathic medicine, and four members shall be individuals who represent chiropractic. Each member of the board shall, by training and experience, be exceptionally qualified to carry out the functions of the board.

(c) On the date one year after the date of the establishment of the board under subsection (b), and annually thereafter, the Secretary shall submit, after consultation with the board, a report to Congress and the Committee on Labor and Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives regarding the controlled clinical trials conducted under this section. Such report shall include—

(1) a complete summary of the controlled clinical trials conducted in the preceding twelve months;

(2) any findings of the Secretary regarding the safety and efficacy of chiropractic care as determined as a result of such controlled clinical trials; and

(3) the plans of the Secretary for the subsequent twelve months regarding the conduct of controlled cilinical trials.

Sec. 403. The provisions of this title shall become effective on October 1, 1980.

TITLE V—RADIATION HEALTH AND SAFETY

Sec. 501. This title may be cited as the "Jennings Randolph Consumer-Patient Radiation Health and Safety Act of 1980".

Sec. 502. Congress finds that—

(1) it is in the interest of public health

and safety to minimize unnecessary exposure to potentially hazardous radiation due to medical and dental radiologic procedures;

(2) it is in the interest of public health and safety to have a continuing supply of adequately educated persons with appropriate credentials to administer radiologic procedures pursuant to accreditation and certification programs administered by State governments;

(3) the protection of the public health and safety from unnecessary exposure to potentially hazardous radiation due to medical and dental radiologic procedures and the assurance of efficacious procedures are the responsibility of State and Federal governments;

(4) persons who administer radiologic procedures, including procedures at Federal facilities, should be required to demonstrate competence by reason of education, training, and experience; and

(5) the administration of radiologic procedures and the effect on individuals of such procedures have a substantial and direct effect upon United States interstate commerce.

SEC. 503. It is the purpose of this title to—

(1) provide for the establishment of minimum standards by the Federal Government for accreditation of educational programs for persons who administer radiologic procedures and certification of such persons; and

(2) insure that medical and dental radiologic procedures are consistent with vigorous safety precautions and standards.

SEC. 504. Unless otherwise expressly provided, for purposes of this title, the term—

(1) "radiation" means ionizing and nonionizing radiation, in amounts beyond normal background levels, from such sources as medical and dental radiologic procedures;

(2) "radiologic procedure" means any procedure or article intended for use in—

(A) the diagnosis of disease or other medical or dental conditions in humans (including diagnostic X-rays); or

(B) the cure, mitigation, treatment, or prevention of disease in humans;

that achieves its intended purpose through the emission of radiation;

(3) "radiologic equipment" means any radiation-emitting electronic product used or intended for use to—

(A) diagnose disease or other medical or dental conditions (including diagnostic X-ray equipment); or

(B) cure, mitigate, treat, or prevent disease in humans;

if such product achieves its intended purpose through the emission of radiation;

(4) "practitioner" means any licensable doctor of medicine, osteopathy, dentistry, podiatry, or chiropractic, who prescribes radiologic procedures for other persons;

(5) "persons who administer radiologic procedures" means any person, other than a practitioner, who intentionally administers radiation to other persons for medical purposes and includes medical radiologic technologists (including radiographers), dental auxiliaries (including dental hygienists and assistants), radiation therapy technologists, and nuclear medicine technologists;

(6) "Secretary" means the Secretary of Health and Human Services; and

(7) "State" includes in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

SEC. 505. (a) No later than the date twelve months after the effective date of this title, the Secretary, in consultation with the Radiation Policy Council, the Administrator of Veterans' Affairs, the Administrator of the Environmental Protection Agency, appropriate professional organizations shall by regulation promulgate minimum standards for the accreditation of educational programs to train individuals to perform radiologic procedures. Such standards shall distinguish between programs for the education of (1) medical radiologic technologists (including radiographers), (2) dental auxiliaries (including dental hygienists and assistants), (3) radiation therapy technologists, and (4) nuclear medicine technologists. Such standards shall include minimum accreditation criteria for such programs determined by the Secretary to be necessary to educate and train individuals to perform radiologic procedures. Such standards shall not be applicable to educational programs for practitioners.

(b) No later than the date twelve months after the effective date of this title, the Secretary, in consultation with the Radiation Policy Council, the Administrator of Veterans' Affairs, the Administrator of the Environmental Protection Agency, interested agencies of the States, and appropriate professional organizations, shall by regulation promulgate minimum standards for the certification of persons who administer radiologic procedures. Such standards shall distinguish between certification of (1) medical radiologic technologists (including radiographers), (2) dental auxiliaries (including dental hygienists and assistants), (3) radiation therapy technologists (including radiographers), and (4) nuclear medicine technologists. Such standards shall include minimum certification criteria for individuals with regard to accredited education, practical experience, successful passage of required examinations, and such other criteria as the Secretary shall deem necessary for the adequate qualification of individuals to administer radiologic procedures. Such standards shall not apply to practitioners.

SEC. 506. In order to encourage the administration of accreditation and certification programs by the State, the Secretary shall provide a model law for radiologic procedure safety to the States. Such model law shall provide that—

(1) it shall be unlawful in the State for individuals to perform radiologic procedures unless such individuals are certified by the State to perform such procedures; and

(2) any educational requirements for certification of individuals to perform radiologic procedures shall be limited to educational programs accredited by the State.

SEC. 507. (a) If a State continues to permit nonpractitioners to perform radiologic procedures without having provided an accreditation and certification program consistent with the minimum Federal standards promulgated under this title within three years after the effective date of this title, the Secretary shall, until such programs are in effect, take the following action:

(1) during the first twelve months after the expiration of such period of time, the Secretary shall reduce by 5 percent the amount of each allotment, grant, loan, and loan guarantee made to, and each contract entered into with, such State during such period under the Public Health Service Act; and

(2) after the expiration of such twelve-month period, the Secretary shall reduce by 10 percent the amount of each such allotment, grant, loan, loan guarantee, and contract.

(b) A State may utilize an accreditation or certification program administered by a private entity if—

(1) such State delegates the administration of the State accreditation or certification program to such private entity;

(2) such program is approved by the State; and

(3) such program is consistent with the minimum Federal standards promulgated under this title for such program.

(c) The Secretary may by regulation exempt any specific grant, loan, contract, or other form of financial assistance from the requirements of this section if the Secretary determines such exemption is in the public interest and would not present an unreasonable risk to any person or to the public health and safety.

(d) (1) The Secretary shall be responsible for continued monitoring of States in order to determine which States are in compliance with this section. The Governor of each State shall be responsible for notifying the Secretary of changes in approved accreditation and certification programs. If a State fails to comply with the provisions of this section, after notice and a hearing on the record, the Secretary shall reduce by 10 percent the amount of each allotment, grant, loan, and loan guarantee made to, and each contract entered into with, such State during such period of noncompliance under the Public Health Service Act.

(2) Upon the application of a Governor of a State, the Secretary may extend the effective date of subsection (a) for not more than 2 years from the date of such application if the Secretary determines that good faith efforts to comply with this section have been made by the State, and reasonable assurance is provided that an effective certification and accreditation program will be provided by the State within the subsequent 2 years.

(e) Notwithstanding any other provision of this section, in the case of a State which has, prior to the effective date of standards and guidelines promulgated pursuant to this title, established standards for the accreditation of educational programs and certification of radiologic technologists, such State shall be deemed to be in compliance with the conditions of this section unless the Secretary determines, after notice and hearing, that such State standards do not meet the minimum standards prescribed by the Secretary or are inconsistent with the purposes of this title.

SEC. 508. The Secretary shall, in consultation with the Radiation Policy Council, the Administrator of Veterans' Affairs, the Administrator of the Environmental Protection Agency, appropriate agencies of the States, and appropriate professional organizations, promulgate Federal radiation guidelines with respect to radiologic procedures. Such guidelines shall—

(1) determine unnecessary radiation exposure due to radiologic procedures and the techniques, procedures, and provide methods to minimize such exposure;

(2) provide for the elimination of the need for retakes of diagnostic radiologic procedures;

(3) provide for the elimination of unproductive screening programs;

(4) provide for the optimum diagnostic information with minimum radiologic exposure; and

(5) include the therapeutic application of radiation to individuals in the treatment of disease, including nuclear medicine applications.

SEC. 509. (a) Except as provided in subsection (b), standards promulgated pursuant to this title shall apply to each department, agency, and instrumentality of the executive branch of the Federal Government.

(b) (1) The Administrator of Veterans' Affairs, through the Chief Medical Director of the Veterans' Administration, shall, to the maximum extent feasible consistent with the responsibilities of such Administrator and Chief Medical Director under title 38, United States Code, prescribe regulations making the standards promulgated pursuant to this title applicable to the provision of radiologic procedures in facilities over which the Administrator has jurisdiction. In prescribing and implementing regulations pursuant to this subsection, the Administrator shall, from time to time, consult with the Secretary in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which the Secretary and the Administrator prescribe under this title.

(2) Not later than 180 days after standards are promulgated by the Secretary pursuant to this title, the Administrator shall submit to the appropriate committees of Congress a full report with respect to the regulations (including guidelines, policies, and procedures thereunder) prescribed pursuant to paragraph (1) of this subsection. Such report shall include (A) an explanation of any inconsistency between standards made applicable by such regulations and the standards promulgated by the Secretary pursuant to this title; (B) an account of the extent, substance, and results of consultations with the Secretary respecting the prescribing and implementation of the Administrator's regulations; and (C) such recommendations for legislation and administrative actions as the Administrator determines are necessary and desirable. The Administrator shall timely publish such report in the Federal Register.

SEC. 510. The provisions of this title shall become effective on October 1, 1980.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. KENNEDY, I ask unanimous consent that the reported committee amendment be adopted and that it be considered as original text for the purpose of further amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

UP AMENDMENT NO. 1631

(Purpose: Technical amendments to comply with Budget Act)

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. KENNEDY, I send a technical amendment to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for Mr. KENNEDY, proposes an unprinted amendment numbered 1631.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 281, line 4, insert ", only to such extent and in such amounts as are provided in advance in appropriation acts," after "entities".

On page 309, line 12, insert a new subsection as follows:

"(g) If the sum of the grants under subsection (b) exceeds the funds appropriated under subsection (f) in any fiscal year, each grant awarded under subsection (a) shall be ratably reduced.".

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. KENNEDY, I ask unanimous consent that a statement by Mr. KENNEDY be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR KENNEDY

I am pleased to lay before the Senate for its consideration S. 2375, "the Health Professions Education and Distribution Act of 1980." This bill is a comprehensive revision of title VII of the Public Health Service Act, concerning the education of health personnel and title VIII concerning nurse education.

When S. 2375 was first introduced, I noted that over the last two decades, we have established a partnership with the Nation's health professions schools and students in order to meet our needs for qualified health professionals. Significantly, we have doubled the Nation's capacity to train health professionals, we have encouraged a renewed interest in primary care, and we have established the National Health Service Corps which now employs over 2,000 health professionals who are meeting the needs of the underserved. However, I also noted that although we have come a long way to solving problems that were first identified years ago, much remains to be done. I noted our continuing problems of geographic and specialty distribution, a problem which is not new to Congress. I noted how vital our Nation's nurses are to our ability to provide health services but that in every region of the country, there appears to be a shortage. I noted how our abilities as a Nation to utilize fully our human resources to meet our health care needs is being jeopardized because many low and middle income Americans can no longer afford the price of education in our health professions schools. And I noted that despite our deep and abiding concern for equal opportunity, minorities and women continue to be underrepresented among the health professions.

The Committee on Labor and Human Resources has given these concerns careful deliberation. Senator Schweiker, the ranking Minority Member on the Committee, offered his proposal to address these problems in S. 2144. Senator Javits, in S. 2378, offered substantial amendments concerning health administration, graduate physician education, and the entrance of alien foreign medical graduates. The committee bill and its accompanying report, sets forth a strategy for the '80s, building on all three proposals. Furthermore, the committee has held two days of hearings, received testimony from over sixty organizations, and has consulted with literally hundreds of concerned people.

The bill before us offers a comprehensive approach to increasing the availability of professionals where they are most needed and in the fields in which they are most needed, to assuring that students will not be denied an education because they do not have sufficient financial resources, to improving the availability of nurses across the country, and to providing increased educational opportunities to underrepresented groups.

First, the bill increases the amount of money available to students to pursue their education. While maintaining scholarship programs for the exceptionally needy students, it offers three choices to students by which they may finance their education—service connected scholarships, through the national health service corps scholarship program or state service scholarships financed in part by the federal government; a program of private, federally insured, market rate loans; and a new program with substantial interest subsidies in which the obligation to repay the loan could be discharged through national service. This new loan program would meet the objectives of providing students access to loan money that does not impose excessive interest expenses, and of overcoming high debt loads which will discourage students from meeting the needs of underserved populations. But the program also provides a way for the country to meet its more pressing needs for health professionals that are not being met through other programs.

The bill ends the current capitation grant program. It authorizes a new and entirely different program to provide significant incentives for the health professions schools to meet national objectives. The level of support to each school would be increased if objectives are met related to improved geographic and speciality distribution, to curriculum development in such fields as nutrition and geriatrics, to improved education in prevention, and to increase opportunities to students from minority groups. Rather than capitation grants which provided the same amount to each eligible school, proportionate to enrollment, this incentive program rewards performance in areas that are tailored to unique contributions that each type of professional school offers. Furthermore, the bill strengthens our ability to assist institutions such as Meharry Medical College, Tuskeegee Institute School of Veterinary Medicine, and Xavier School of Pharmacy to achieve fiscal solvency and restore their hope in the future.

Special programs to meet targeted needs are also included. Several porgrams that the committee has found to be extremely effective have been continued, including support for training in family medicine, primary care internal medicine and pediatrics, the establishment of area health education centers, training of physician's assistants and expanded function dental auxiliaries, the training of professionals in public health and health administration, education for allied health professionals, and special programs to increase the recruitment and retention of students from underrepresented minority groups and from disadvantaged backgrounds. Several authorities have been added to support the training of health professionals in remote sites where underserved populations reside; programs to support educational development in nutrition, geriatrics, health policy and economics, environmental and occupational health, among others; demonstration projects to control the cost of education in health professions schools, and new initiatives in prevention and rehabilitation.

A separate title in the Public Health Service Act for nurse education is maintained and strengthened. Everyone of us is concerned about the nation's capacity to meet its needs for nurses. The reason for our current problems may be complex. But the fact remains that the increasing intensity of health services as a result of improved health care technology and the extremely low unemployment rate for nurses, has made recruitment and retention of nurses a matter of national concern. While some estimate that 100,000 to 150.000 nursing positions remain unfilled today, the enrollment in our nation's nursing schools is declining. The committee recognizes that not all the problems that led to the current situation can be addressed in this legislation.

However, the bill significantly strengthens our ability to address some of them. A new incentive grant program is authorized to stabilize enrollments and increase the opportunity for students to enter part time training programs or become RNs after being employed as vocational or practical nurses. It provides new opportunities for RNs to complete degree programs and enter advanced training.

It provides special support to overcome the imbalance in the distribution of nurses, to improve the curriculum of nursing schools, to increase the enrollment of disadvantaged students in nursing schools, and to support the clinical education of nurses in all nursing settings.

This bill clearly identifies the problems we must address during the 1980s and charts the course for their solution. We must now reaffirm our partnership with our Nation's health professions schools so that with Federal assistance all Americans can be assured equal opportunity to enter a health career and so that all Americans can be assured access to qualified health professionals.

I believe we can make this affirmation and be fiscally responsible at the same time. Current authorizations for title VII and title VIII of the Public Health Service Act total $912 million. The bill before us authorizes $441.6 million in fiscal year 1982, $486.1 million in fiscal year 1983, and $539.0 million in fiscal year 1984.

I commend this bill to my colleagues and ask their prompt and favorable consideration.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1631) was agreed to.

● Mr. SCHWEIKER. Mr. President, I support S. 2375, the Health Professions Training and Distribution Act of 1980, and urge the Senate to adopt this measure today. This bill constitutes a comprehensive revision of titles VII and VIII of the Public Health Service Act, affecting the training of health personnel and nurses.

Health professions education legislation has existed since 1963 and has been renewed several times since then, most recently in 1976. On December 27, 1979, I became the first to introduce legislation to comprehensively reauthorize these two titles. The goal of my bill, S. 2144, was to maximize Federal impact on the health professions and nursing without extravagant spending or regulation and while meeting the legitimate needs of both students and schools.

Subsequently, Senator Kennedy introduced S. 2375, a somewhat different proposal for revising titles VII and VIII, and Senator Javits introduced a bill, S. 2378, dealing with support for health administration programs and foreign medical graduates. A compromise set of programs, combining elements of all three bills, was adopted by the Subcommittee on Health and Scientific Research on May 24 and by the full committee on June 27.

When I introduced S. 2144, I noted that I was particularly proud of this bill because I believe it met three important tests by which legislation should be judged. First, it would accomplish national goals in a direct and positive manner. Second, it represented a fiscally sound approach, blending needed budgetary restraint with adequate funding for programs that met serious educational and health care problems. Third, the bill carefully avoided the imposition of further regulatory schemes upon our citizens.

I noted my conviction that with encouragement from us, many health professionals would do voluntarily what we could not ask them to do otherwise. My bill provided considerable encouragement for individuals to practice their health profession in underserved areas and to provide primary care, and for health professional schools to each more about health promotion and disease prevention, health care policy and economics, and nutrition. The principles of my bill—achievement of national goals, fiscal restraint, and use of inducements rather than regulations—are well represented in the final version of S. 2375, as well as many programs and concepts from my bill.

The key elements of S. 2375 as amended are:

STUDENT ASSISTANCE

An existing market rate loan program (HEAL) is continued. A new partially subsidized loan program is created for individuals willing to enter into a contingent service agreement with the Federal Government under which the individual's loans would be repaid in exchange for service in a medically underserved area if Congress specifically appropriates money for this purpose. Scholarship programs for needy students are continued with modifications.

SERVICE PROGRAMS

A new State service scholarship program is created. National Health Service Corps (NHSC) scholarships are continued but at a reduced rate. The service component of the NHSC program will be considered in 1981 along with other service delivery programs.

INSTITUTIONAL SUPPORT

The current capitation program is discontinued. A new national priority incentive grant program is proposed, starting in fiscal year 1982. Under this program, schools which undertake one or more priority initiatives would receive grants equal to: the number of initiatives completed, times a fixed amount of money—$250 for medical schools—times the number of students at the school.

SPECIAL PROJECTS

A number of current special projects are continued, such as area health education centers (AHECS) and primary care residency training. A number of new areas are added, such as support services for health professionals in underserved areas and curriculum development.

I am particularly pleased that this bill continues institutional support for health professions schools, although on a completely different basis than before and one more responsive to national needs.

At our Labor and Human Resources Committee markup, I was delighted to learn, via letter, that my colleague and chairman of the Appropriations Committee, Senator Magnuson, has agreed to work for full funding of this program. This bill also contains another important and vitally necessary program I have fought very hard and long to achieve: an equitable, partially-subsidized loan program for health professions students which provides genuine inducements for them to enter private practice in underserved areas and in specialty fields that are in short supply.

This is a worthy bill and I hope my Senate colleagues will support it.●

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be discharged from further consideration of H.R. 7203, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 7203) to amend the Public Health Service Act to revise and extend the programs for the National Health Service Corps, and so forth, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed immediately to the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all after the enacting clause of H.R. 7203 be stricken and that the language of S. 2375, as amended, be inserted in lieu thereof.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 7203) was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate bill, Calendar Order 1021, S. 2375, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL PORT WEEK

The joint resolution (H.J. Res. 551) authorizing and requesting the President of the United States to issue a proclamation designating the 7 calendar days beginning October 5, 1980, as "National Port Week," and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was passed.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Order 1057, which is the companion measure, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL REHABILITATION MONTH

The joint resolution (S.J. Res. 195) to designate September 1980 as "National Rehabilitation Month" was considered, ordered to be engrossed for a third reading, read the third time, and passed.

S.J. RES. 195

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of September 1980 is designated as "National Rehabilitation Month", and the President is authorized and requested to issue a proclamation calling upon Federal, State, and local government agencies, and the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there any order for the recognition of a Senator on Monday?

The PRESIDING OFFICER. At present, there are no orders for the recognition of Senators on Monday.

ORDER FOR RECESS UNTIL 10 A.M., ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, has the meeting hour been agreed to for Monday?

The PRESIDING OFFICER. The hour has been established as 12 noon.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 10 o'clock on Monday morning.

After the two leaders or their designees have been recognized under the standing order, the Senate will resume consideration of the HUD appropriation bill, on which there will be rollcall votes throughout the day.

Upon the disposition of the HUD appropriation bill, the Senate will proceed to the consideration of the State-Justice-Commerce and related agencies appropriation bill, upon the disposition of which the Senate will proceed to the consideration of the Interior appropriation bill, with the proviso that on Tuesday, when the Senate comes in at 9 and the leaders have been recognized under the standing order, the Senate will proceed to the consideration of the disapproval resolution with respect to the sale of nuclear fuel to India. That measure is under a built-in time agreement by law, and as much as 10 hours may be utilized for debate thereon.

That is about it with respect to the next four subject measures to be considered by the Senate, including the pending one on HUD appropriations.

There will be rollcall votes on Monday and, of course, daily for the remainder of next week.

RECESS UNTIL 10 A.M. MONDAY, SEPTEMBER 22, 1980

Mr. ROBERT C. BYRD, Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 10 a.m. on Monday next.

The motion was agreed to; and at 3:52 p.m. the Senate recessed until Monday, September 22, 1980, at 10 a.m.

NOMINATIONS

Executive nominations recorded by the Senate September 19, 1980:

IAEA CONFERENCE REPRESENTATIVES

The following-named persons to be the Representative and an Alternate Representative of the United States of America to the 24th session of the General Conference of the International Atomic Energy Agency:

Representative:

Gerald C. Smith, of the District of Columbia.

Alternate Representative:

Joseph Mallam Hendrie, of New York.

INTERNATIONAL COMMUNICATION AGENCY

John William Shirley, of Illinois, to be an Associate Director of the International Communication Agency, vice Harold F. Schneidman, resigned.

U.S. SYNTHETIC FUELS CORPORATION

The following-named persons to be Members of the Board of Directors of the U.S. Synthetic Fuels Corporation for the terms indicated (new positions):

John D. DeButts, of Virginia, for a term of 1 year.

Catherine Blanchard Cleary, of Wisconsin, for a term of 2 years.

Frank Savage, of New York, for a term of 3 years.

Cecil D. Andrus, of Idaho, for a term of 4 years.

Joseph Lane Kirkland, of the District of Columbia, for a term of 5 years.

Frank T. Cary, of Connecticut, for a term of 6 years.

WITHDRAWALS

Executive nominations withdrawn from the Senate September 19, 1980:

The following-named persons to be the Representative and an Alternate Representative of the United States of America to the 24th session of the General Conference of the International Atomic Energy Agency which were sent to the Senate on August 26, 1980:

Representative:

John C. Sawhill, of the District of Columbia.

Alternate Representative:

Gerard C. Smith, of the District of Columbia.

HOUSE OF REPRESENTATIVES—*Friday, September 19, 1980*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. Brademas).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

Washington, D.C.,
September 18, 1980.

I hereby designate the Honorable John Brademas to act as Speaker pro tempore on September 19, 1980.

Thomas P. O'Neill, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We know, O God, that You are creator of all the peoples of this Earth and that Your providence is over everyone, no matter what the background or circumstances of life might be. We admit that we are limited by our experience of Your presence and by the traditions we have known, but we celebrate this day that Your love and forgiveness and guiding spirit are available freely to all. We confess that we often do not see the wholeness of Your creation and the heritage of our common humanity. Give us wisdom, O God, to reflect the glory of our oneness in You.

That together all people may live and work in harmony and in peace. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3904) entitled "An act to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployer plans, and for other purposes."

The message also announced that the Senate agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5164) entitled "An act to amend certain inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes."

The message also announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 7825. An act to establish the Ice Age National Scenic Trail, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 6790. An act to promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes; and

H.R. 7301. An act to authorize certain construction at military installations for fiscal year 1981, and for other purposes.

The message also announced that the Senate insist upon its amendment to the bill (H.R. 7301) entitled "An act to authorize certain construction at military installations for fiscal year 1981, and for other purposes," request a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and appoint Mr. Hart, Mr. Stennis, Mr. Jackson, Mr. Cannon, Mr. Harry F. Byrd, Jr., Mr. Nunn, Mr. Thurmond, Mr. Warner, Mr. Humphrey, and Mr. Cohen conferees on the part of the Senate.

DELAY IN HOUSE CONSIDERATION OF AIRPORT AND AIRWAY IMPROVEMENT ACT

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ANDERSON of California. Mr. Speaker, I must express my very serious concern and frustration over the scheduling of the Airport and Airway Improvement Act for floor consideration. This important legislation was first placed on the schedule for September 4 or 5—4 months after the bill was reported from the Committee on Public Works and Transportation. The bill was unable to be debated and voted upon that week due to Congressional preoccupation with the Rail Act of 1980. Since that first postponement, we have been told for 3 consecutive weeks that the bill will be scheduled for consideration "next week," only to find that on the schedule for each week the bill was mysteriously absent.

The primary reason for this delay I am told, is that the leadership is concerned that the bill, which contains revenue-raising measures in title II, will be used as a vehicle in the Senate for an amendment to substantially cut income taxes. I believe that it is absolutely unfair to hold needed aviation safety funds hostage, funds which are generated by users of the aviation system, based on mere speculation that the Senate may amend the legislation in a manner that is not to the liking of the House leadership. Around here, we used to believe in "letting the Congress work its will." Besides this so-called Republican tax cut proposal cannot possibly be adopted in the Senate without support from a significant number of Democrats.

Allowing an important 10-year-old program to lapse is a serious matter. If the Airport and Airway Improvement Act of 1980 is not enacted by September 30, there will be no Federal funds for airport development, noise compatibility programs, research and development, or facilities and equipment funds to purchase vitally needed air safety navigational aids. A construction season will be lost for a minimum of 20 States. Airport sponsors and States will lose $20 million in carryover apportionments from fiscal years 1979 and 1980.

Specific airports will suffer cash flow problems because their construction projects will be stopped in midstream. For example, Brainard Airport in Minnesota may lose air service if its runway extension is not completed without a work stoppage, and the new airport in Fort Myers, Fla., will be delayed because of cash flow problems if fiscal year 1981 airport development funds are not approved this year.

The National Association of State Aviation Officials has just completed a study to determine which airport runways are more than 15 years old—normal design life is 10 to 12 years, and to determine those airport runways which have deteriorated to the point that, without replacement or reconstruction, could face closure within the next 18 to 24 months. This survey found that preservation needs—not expansion or improvement needs—total $144,543,142 for 27 States, and that needs for air carrier, commuter, and reliever airports alone total $70,165,000 in these 27 States. Some details and statistics from this study are worth noting. Scottsdale, Ariz.'s Municipal Airport, a reliever airport, requires $3.5 million to preserve a critically deficient runway. The air carrier airport in Merced, Calif., requires $485,000 to preserve its cracking runway. The air carrier airport in Nantucket, Mass., which is over 25 years old and in poor condition, needs $780,000 to preserve its runway. Statewide needs in the State of Florida to preserve existing runways at commercial airports total $10,426,000. The total for Illinois is $19,450,000. For Minnesota, $8,750,000.

For general aviation airports, statewide needs in Arizona total $6,329,700 to preserve safe runway operations for this important sector of aviation. Similar needs in Arkansas total $3,565,000. The needs in California total $8,809,219. For Florida, $23,458,630. For Illinois, $25,520,000. For Minnesota, $14,957,050. For North Carolina, $8,700,000.

Mr. Speaker, I ask the leadership of this House to seriously review the decisions to delay this vital legislation. We in the Public Works Committee worked diligently to report this legislation by the May 15 budgetary deadline—a dead-

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

line which is now regarded by most of us as a joke—only to watch the bill and the committee report collect dust in the Rules Committee and at the Speaker's desk. We have a trust with the users of the aviation system—they provide the funds in the form of special taxes, in return for which the Federal Government assures them that it will maintain a safe and efficient airport and airway system. We must not allow this program to lapse due to congressional inaction and lethargy.

THE TITAN II'S: WE NEED HONEST ANSWERS AND CORRECTIVE ACTION

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GLICKMAN. Mr. Speaker, those Members who have been watching the news have noted there has been a major accident involving Titan II missiles in the State of Arkansas that injured 10 people. Last year I requested and was successful in putting an amendment on the 1980 defense authorization bill which required the Air Force to do a study of these old liquid fuel missiles to see if they were safe.

The report of the Air Force that came back to Congress generally indicated these missiles were safe. I am now beginning to doubt what the Air Force has been telling us. I might go so far as to say that the report could have been a whitewash, although I hope it is not.

Mr. Speaker, today I call upon the Armed Services Committees of both the House and the Senate to hold an onsite series of investigative hearings at the sites in Arkansas, Kansas, and Arizona to determine if these large liquid fuel missiles are safe, are strategically important, and are necessary for the defense of the United States. My constituents who live around these missiles have reason to worry. Accident after accident, leak after leak. We wonder whether these missiles are safe. We hope these hearings can be held.

PERSONAL EXPLANATION

Mr. FITHIAN. Mr. Speaker, on September 9, 1980, we had the rail deregulation bill on the floor. At one point in the proceedings the Staggers-Rahall amendment compromise was offered. I was on the floor, I remember distinctly voting; however, I am recorded as not voting. I would like to have the record show that, had my vote been properly recorded. I was in favor of the Staggers-Rahall compromise.

NO U.S. DIPLOMATS IN AFGHANISTAN SPEAK RUSSIAN

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, I was distressed to read in Wednesday's Washington Post that there are no U.S. diplomats in our Embassy in the Afghan capital of Kabul who can speak Russian. After the tragic murder of our Ambassador to Afghanistan last year, the State Department should have learned a painful lesson about the importance of having personnel in our embassies who speak the local language. And clearly, knowledge of Russian in today's Afghanistan must be considered essential for the effective functioning of our Embassy in that beleaguered country.

The Russian soldier who defected and sought asylum in our Kabul Embassy had to resort to sign language to convey the idea that he was a defector and sought asylum. The U.S. Embassy then had to request permission of the Afghan authorities to send in a Russian-speaking diplomat to communicate with the Russian soldier.

When will the United States learn its lesson with regard to foreign language competence? Nearly a year after the report of the President's Commission on Foreign Language and International Studies called attention to our scandalous incompetence in foreign languages, an incompetence which affects our intelligence capability, our diplomacy, our foreign trade, and our ability as a nation to understand and to cope with a world in change, we still do not have Russian-speaking diplomats in Afghanistan, the scene of a Soviet invasion which has so profoundly affected our relations with the Soviet Union and world stability. I think it is long past time for the State Department and the Congress to recognize the need to staff our embassies with language-competent personnel.

DEPENDENT CARE AMENDMENTS OF 1981

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, last Monday, I introduced a bill to expand the income tax credit for work-related dependent care expenses, resolve some minor problems in the existing credit, and make it easier for nonprofit organizations providing work-related dependent care services to qualify for tax exempt status.

There has been a revolution in this country. Families now rely on two paychecks, and many children are raised by only one parent. Day care is no longer a negligible issue of concern to only unconventional or unfortunate families. It is a fact of life for the typical family, and one which Federal policies must take into account.

The goal of my bill, accordingly, is to assure an adequate supply of good quality, affordable dependent care and to enable parents to obtain dependent care suited to their and their children's needs.

I hope anyone interested in this issue will look over the description of this bill in last Monday's Extension of Remarks and pass on to me any suggestions to strengthen the proposal. I plan to reintroduce this bill early in the next Congress. I hope that legislative action will follow shortly thereafter.

CARTER PUNISHES AIDE FOR GRAND JURY TESTIMONY

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, it was astonishing to read in this morning's Washington Post that President Carter personally made the decision to bar Evan Dobelle, deputy chairman of the Democratic Party from the Presidential plans after Dobelle testified to a grand jury that Carter aide Tim Kraft used cocaine and specifically "because of strong feelings from top aides over the role Dobelle played as an accuser against Kraft." I truly hope this story is in error because if it is accurate, we have Jimmy Carter who piously proclaims how good he is at every opportunity sending a clear message to those around him. "Don't cooperate with a Federal grand jury investigation of people around me. For if you do you will incur the wrath of the President." Some performance from the man who asked "Why not the best?"

EXPLOSION AT TITAN MISSILE SITE

(Mr. BETHUNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BETHUNE. Mr. Speaker, today the Nation is rocked with the news of the accident at the Titan missile site in Demascus, Ark. Most of these missile sites in the State of Arkansas happen to be in my district. I would like to remind the Congress that during the last year we have been somewhat responsive to this problem that does exist with Titan missiles and that we ordered the Air Force study and the Senate just this last week passed a measure which would call for warning devices.

However, the Air Force report contained a number of soothing assurances. Now, in the aftermath of this accident, I would caution we guard against hysteria until we get the facts in, but once we get the facts in, I think we are going to see a need for the Air Force to reconcile the events of early this morning, with the soothing assurances in the report. In that respect I think the gentleman from Kansas is on track when he suggests we perhaps should have an onsite investigation as soon as possible to inquire into this matter.

□ 1010

CARTER CAMPAIGN TACTICS POISON OUR ELECTORAL SYSTEM

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, yesterday, during his press conference, President Carter indicated that he does not really believe that Ronald Reagan is a racist, and he is sort of sorry that these things crept into the campaign. Yet, he failed to really respond to a question as to whether he has instructed the people in his campaign to stop utilizing this tactic.

Unfortunately, today in the Washington Post there is a story with a headline saying, "Mondale Echoes Carter Attack on Reagan."

In other words, now that President Carter during his press conference has done his mea culpa before the American people that somehow he really did not want to insert these issues into the campaign, it becomes perfectly obvious that it is part and parcel of the entire campaign.

I call upon President Carter to instruct those people within his campaign, including his Vice President, that his campaign has little use for these types of innuendo, these types of assertions. All they do is poison the system at a time when we already know that many American people are turned off about the political system and the way we elect our people.

PRESIDENT'S HISPANIC POLITICS IS PAR FOR THE COURSE

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. ASHBROOK. Mr. Speaker, yesterday President Carter told the Hispanic Caucus that he strongly opposes the Ashbrook amendment on bilingual education.

Typically—and sadly—he was putting politics above good sense. The President clearly misrepresented our amendment—I say our because we passed it. The Ashbrook amendment does not prevent any school from offering bilingual instruction. Rather, it prevents Federal bureaucrats from going beyond the law and intimidating local school officials to require bilingual education for children who most need intensive English-language instruction. It permits schools to use their best judgment as to how they can most effectively help children who are not yet fluent in English. Educators all across the country have indicated strong support for the Ashbrook amendment.

Earlier in the day President Carter deplored the use of "code words" in the Presidential campaign. But he knows very well that "bilingual education" has become a code term—not for bilingual instruction where it truly is helpful, but for Spanish-language maintenance programs in the public schools. There is convincing evidence that such programs—far from helping students who speak Spanish—actually have the effect of retarding educational progress and of handicapping children linguistically. These maintenance programs likely will result in hundreds of thousands of Hispanic young people leaving school without sufficiently good English to get a decent job or go on to college.

Thus Mr. Carter, who professes to be concerned with equal education and employment opportunities, rashly pursues a contrary course calculated to woo the Hispanic vote. It will not work. Most Americans of Hispanic origin will not be so easily misled and other Americans will be offended by his crass politics. This most political of presidents again demonstrates why his is a failed Presidency; and why the American people should reject Carter on November 4.

NEA IS WRONG, TEACHERS ARE RIGHT

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. MICHEL. Mr. Speaker, the other day I saw a report which said the National Education Association got some surprising news from its membership.

The union polled its members and found the membership did not think much of the political plum they got from Jimmy Carter, the new Department of Education. In fact, 55 percent of those polled believed the Department would have little or no impact on public education.

The NEA responded in typical big lobby fashion. They said the teachers do not know what they are talking about when it comes to politics. The teachers are not political animals, as NEA put it.

I submit that the teachers do know what they are talking about. They are talking about quality education, the freedom to teach, and an educational system free of the manipulation and regulation of a big bureaucracy.

The NEA on the other hand, is preoccupied with political power, patronage, influence peddling and clout. That is the way they perceive education. The NEA is wrong. Dead wrong. Political power corrupts education. I hope the Nation's teachers never become political animals, not the kind the NEA is trying to breed. The NEA apparently wants a bunch of trained animals they can keep caged up and bring them out only when they need to boast about how many votes they can deliver. What they do not want are professional educators capable of independent thought.

WHAT IS WRONG WITH STATE DEPARTMENT'S PERSONNEL ALLOCATION FOR AFGHANISTAN?

(Mr. DERWINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERWINSKI. Mr. Speaker, when the news broke that a Soviet soldier had defected to the U.S. Embassy in Kabul, subsequent reports centered on the fact that none of the U.S. Embassy personnel were able to communicate with him in Russian. This is a truly amazing omission in the Department of State's personnel allocation for Afghanistan. I believe this should not only be corrected immediately, but I am asking for an investigation of this inexcusable lack of proper personnel assignment.

Soviet involvement in Afghanistan was a highly visible and important phenomenon even before last December's large-scale invasion of that country. There were numerous Soviet advisers in high Afghan Government posts, including Soviet security officers attached to the Afghan police. Then in late 1979, Soviets by the tens of thousands entered the country, swept away the leaders of one government and replaced them with others. Soviet officials are now assigned to almost all levels of the Afghan administration.

Simply speaking, our Embassy is the eyes and ears of our Government in Afghanistan. Soviet, largely Russian, involvement in the country is massive and has been growing over the years.

It is shocking that our Department of State has not assigned a Russian-speaking diplomat to our Embassy in Kabul.

HAZARDOUS WASTE CONTAINMENT ACT OF 1980

Mr. FLORIO. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7020) to amend the Solid Waste Disposal Act to provide authorities to respond to releases of hazardous waste from inactive hazardous waste sites which endanger public health and the environment, to establish a Hazardous Waste Response Fund to be funded by a system of fees, to establish prohibitions and requirements concerning inactive hazardous waste sites, to provide for liability of persons responsible for releases of hazardous waste at such sites, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. FLORIO).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 307, nays 1, answered "present" 1, not voting 123, as follows:

[Roll No. 566]

YEAS—307

Akaka
Albosta
Anderson,
  Calif.
Andrews, N.C.
Andrews,
  N.Dak.
Annunzio
Archer
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broyhill
Burgener
Burlison
Burton, Phillip
Butler
Campbell
Carney
Carr
Carter
Cheney
Clay
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio

Foley
Forsythe
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Harkin
Harris
Hawkins
Heckler
Hefner
Hightower
Hollenbeck
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutchinson
Hyde
Ichord
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leath, Tex.
Lee
Lehman
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lundine
Lungren
McCormack
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pursell
Quayle
Rahall
Railsback
Rangel
Reuss
Rhodes
Ritter
Roberts
Robinson
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Sabo
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thompson
Trible
Udall
Vander Jagt
Vanik
Volkmer
Walgren
Walker
Wampler
Watkins
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yatron
Young, Fla.
Young, Mo.

NAYS—1

Holt

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—123

Abdnor
Addabbo
Alexander
Ambro
Anderson, Ill.
Anthony
Applegate
Atkinson
Barnard
Beard, Tenn.
Bethune
Bonior
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burton, John
Byron
Cavanaugh
Chappell
Chisholm
Clausen
Cleveland
Conyers
Corman
Cotter
Crane, Philip
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dixon
Dodd
Donnelly
Edwards, Ala.
Edwards, Calif.
Erlenborn
Ford, Mich.
Ford, Tenn.
Fountain
Gephardt
Giaimo
Gibbons
Gingrich
Glickman
Grassley
Gray
Hanley
Hansen
Harsha
Heftel
Hillis
Hinson
Holland
Holtzman
Howard
Hutto
Ireland
Jacobs
Jenrette
Johnson, Colo.
Kelly
Latta
Leach, La.
Lederer
Leland
Lent
Lloyd
Luken
McClory
McCloskey
McDade
McDonald
McEwen
McKinney
Mathis
Mattox
Mavroules
Mazzoli
Mica
Mitchell, Md.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nedzi
Pashayan
Pepper
Pritchard
Quillen
Ratchford
Regula
Richmond
Rinaldo
Rodino
Roe
Rousselot
Rudd
Russo
Santini
Satterfield
Simon
Skelton
Stark
Stockman
Symms
Thomas
Traxler
Ullman
Van Deerlin
Vento
Waxman
Weaver
Williams, Ohio
Wilson, Bob
Wright
Wydler
Yates
Young, Alaska
Zablocki
Zeferetti

□ 1030

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 7020, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from New Jersey (Mr. FLORIO) will be recognized for 30 minutes; the gentleman from Illinois (Mr. MADIGAN) will be recognized for 20 minutes; the gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 30 minutes; and the gentleman from New York (Mr. CONABLE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, improper hazardous waste management is the most serious environmental problem facing our Nation today. The bill we are about to consider—H.R. 7020—will, upon enactment, make significant strides in correcting this problem.

For over a year now, the Subcommittee on Transportation and Commerce, which I chair, has been considering the problem of hazardous waste disposal sites which are releasing dangerous substances into the environment and seriously endangering the public health.

Our committee held extensive hearings on this subject. We do not believe it is an exaggeration to say it is the number one environmental challenge facing us in this decade.

Hundreds, possibly thousands, of neglected, leaking disposal sites presently dot the country—threatening to release their lethal contents, despoiling water supplies and menacing public health. Preventive measures are needed immediately to stop further releases. Remedial action is urgently needed at those sites which are presently causing serious problems.

The Environmental Protection Agency is currently investigating over 7,000 disposal sites as suspected or known hazards to public health or the environment. And these are but a fraction of the total number of sites, of the 7,000-plus sites under investigation, most have not yet been fully characterized. However, EPA has already identified 397 sites as needing remedial actions to protect public health and the environment.

Hazardous waste releases from inactive and abandoned disposal sites include highly toxic organic chemicals, pesticides, heavy metals, acids, radioactive substances, explosives, and flammable materials. These wastes are capable of producing the full range of toxic effects in humans. In addition to acute poisoning, such chronic responses as cancer, mutations, and promotion of miscarriages and birth defects are also produced. Death and personal injury from fires or explosions are another threat.

A recently released Surgeon General's report on the health effects of toxic pollution finds that exposure to toxic chemicals is a major health concern. The report concludes that the control of the future introduction of chemicals will not in itself be sufficient to address this major health problem. Serious efforts will have to be made to provide for the identification and cleanup of existing sources of chemical contamination.

It was only a little over 2 years ago that the dangers posed by chemical dump sites began to arouse the national consciousness. The Nation awoke to the abandoned dump site problem with the tragedy of Love Canal. Unfortunately we learned that Love Canal was not a unique event. Other hazardous waste incidents came to light.

In Toone, Tenn., Grey, Maine, and Jackson Township, N.J., people drank water poisoned by releases of hazardous waste from inactive chemical dump sites. A "Valley of the Drums" was created in Kentucky by the indiscriminate dumping of 17,000 industrial waste drums, representing the ultimate obscenity in desecrating land and endangering public safety. Water supplies of 300,000 people in eastern Iowa are currently threatened by leaking arsenic, benzene, chloroform, and other hazardous wastes from a single inactive dump site.

Just last April, fire raged through the chemical control site in Elizabeth, N.J. The fire burned 15,000–20,000 improperly stored barrels of hazardous waste, spewing black smoke over a 15-mile radius of the New York Metropolitan Area. Schools on Staten Island and Elizabeth were closed and residents advised to stay indoors.

A major catastrophe was only averted because weather conditions were favorable for dispersal of the fumes and the high energy content of the drums resulted in relatively complete combustion. Otherwise millions of people could have been exposed to the extremely toxic fumes of a black cloud hovering over New York City.

□ 1040

Documentation of the serious and far-reaching nature of the problem goes well beyond the few most publicized incidents. Using only existing data, EPA has documented damages at 250 known hazardous chemical dumpsites. These include 27 sites at which injuries to the health of surrounding residents have been found. Leakage from 32 of these sites has caused the closing of 452 drinking water wells which supplied water to hundreds of thousands of people. Chemical contamination of groundwater has been found at 130 of these sites.

I am including at this point in the RECORD a full range of horror stories from sites around the Nation.

[Dollar amounts in millions]

Site and location: Problem	Case filed [1]	Estimated cost [2]
La Marque, Tex.: Chemical dump in floodplain (abandoned).	No	$2–$4.0
Kin Buc, Inc., Edison, N.J.: Dumped chemical wastes.	Yes	[3] 25.0
Woodland Park, Mich.: Train derailment chemical contamination.	No	3-5.0
Gratiot Co. landfill, Michigan: PBB contamination.	No	4–8.5
Montague, Mich.: Barrels dumped	No	15.0
Jacksonville, Ark.: Pesticides dumped, buried.	No	[4] 4.0
Occidental site, Lathrop, Calif.: DBCP contamination.	No	15.0
Gary, Ind., site: Wastes stored in open fields.	No	5.0
Subtotal (19 sites) (using low estimate).		314.5

[1] Federal hazardous waste enforcement case.

[2] Of clean up, or where case filed, amount requested either for bond or in damages.

[3] Requested.

[4] Plus.

SITES NOT INCLUDED IN SUBTOTAL (ESTIMATES VARY TOO GREATLY)

[Dollar amounts in millions]

Site: Problem	Suit filed	Estimated cost
St. Louis Park, Minn.: Creosote	No	$20–$200
Velisicol Hardeman, Tenn.: Dump site	No	6–165
Saltville, Va.: Mercury	No	4–32
Neville Island, Pittsburgh, Pa.: Dump site.	No	7–24
Globe, Ark.: Asbestos	No	1–5
Hudson River, N.Y.: PCB in sediments	No	25–204

In addition, the Library of Congress compiled a catalog of toxic chemical damages. The catalog was based on a search of existing literature conducted on relatively short notice. It cannot be considered a complete inventory by any measure, but it is a factual catalog of some damages. It turned up 1,363 well closings as a result of chemical contamination. Of these 242 were from organic chemicals, 619 were from poisonous heavy metals, and 185 from industrial waste disposal of unknown origin.

In my own State of New Jersey, State officials have already closed 500 individual domestic wells and 13 wells operated by municipalities and water supply companies.

The price tag to secure public health and environmental threats from inactive sites, clean up leaking hazardous wastes, and prevent future releases will be large. EPA estimates the average expected remedial action costs to be about $3 million per site. And, at the more serious sites, the average may be closer to $10 million. Although costs will vary significantly from site to site, one principle will operate at all sites—the sooner action is taken, the lower the costs will be. Early containment simply means less to clean up.

An example is illustrative. At Love Canal, the Government has spent on the order of $30 million for response measures. In addition, damage suits amount to billions of dollars in claims. By contrast, the site could have been secured properly at the time of disposal for an estimated $3 million.

Existing statutes are inadequate to cope with the inactive waste site problem. Both funds and emergency response authority to clean up problem chemical dumps are lacking under current law.

The inescapable conclusion of all this—even to the casual observer—is that there is a serious, widespread problem and no existing authority to solve the problem.

The bill we are considering now—H.R. 7020—is designed to provide the solution to the problem of dangerous, chemical dump sites. The goals of the legislation are to eliminate unsafe inactive hazardous waste sites and to remove hazardous waste threats to public health and the environment in a cost effective manner.

The bill has four basic elements to achieve its goals. First, it establishes an information gathering and analysis system. This system will enable Federal and State governments to characterize inactive site problems more accurately and develop priorities for investigation and response.

Owners of inactive sites would notify States of the presence of sites and the nature of the wastes buried there. States would develop inactive site inventories and priority lists using the notification data. From State priority lists, the Federal Government would be able to develop a national priority list for action.

Second, the bill establishes Federal authority to respond to hazardous waste emergencies and clean up leaking inactive dump sites. Federal response actions are limited to cases where the responsible party either cannot be found or does not take the proper actions. In cases where States wished to conduct response actions and had the capability to do so, resources from the fund would be required to be directed to them.

Third, the bill creates a response fund to pay for inactive site cleanup. Under the version of the bill reported by the Commerce Committee, a $600 million fund would be established over a 4-year period. The fund would be financed equally from two sources. Half would come from general revenues; half would come from an industry fee placed on oil, petrochemical feedstocks and toxic inorganic chemicals.

The Ways and Means Committee amendment to H.R. 7020, which I will support, would double the size of the fund to $1.2 billion and increase the industry share to 75 percent. As I mentioned earlier, EPA has currently cataloged 397 sites which require remedial actions. At an estimated $3 million per site, there are already enough sites which need cleanup to justify the authorization of a $1.2 billion fund.

It is wholly appropriate and equitable for the industries which have benefited most directly from cheap, inadequate disposal practices, and which have generated the wastes which imposed the risks on society to contribute a substantial portion of the response costs. Both the Commerce Committee and Ways and Means Committee agree on this principle.

Fourth, the bill makes those persons who cause or contribute to hazardous waste releases at inactive sites strictly liable for cleanup costs. Such persons would also be jointly and severally liable unless they could show that they were responsible for only a portion of the cleanup costs.

The liability provision accomplishes three objectives. It assures that the costs of chemical poison releases are borne by those responsible for the releases. It creates a strong incentive both for prevention of releases and voluntary cleanup of releases by responsible parties. Finally, it replenishes the fund so that additional emergencies may be responsed to and additional sites cleaned up, if necessary.

The path this legislation has traveled has been a long and tortuous one, one marked by controversies at every turn. In particular, the funding components of the bill have been especially controversial. As a result, these provisions have received the closest scrutiny. The industry fee or tax system has been very carefully crafted. It achieves a balance between equity to those paying the fee or tax, administrative simplicity, an effort to minimize economic impacts. Therefore, I can tell you with confidence that the imposition of these costs on industry will not have adverse impacts.

The economic impact of the bill reported by the Commerce Committee is minimal. Resulting price increases would not produce production deadlines or employment impacts, and would have a negligible effect on chemical sales.

If the Ways and Means amendment is adopted, the conclusions reached about the economic impacts of these price rises are not substantial differences. Throughout the development of this legislation, industry has not presented evidence that this industry fee or tax would cause any significant economic dislocation.

I am pleased to report that H.R. 7020 enjoys a wide range of support from many sectors of our society. Key industry groups support the bill as reported by the Commerce Committee. These include the chemical industry, as well as mining, paper, textile, and steel interests. Especially important to note is that the chemical industry, which would be responsible for the lion's share of the industry contribution, is even willing to support this legislation.

The bill is also supported by State and local governments, organized labor, and the environmental community, additionally, I am inserting in the RECORD a list of the Members who have expressed their support for the bill. In fact, it is difficult to think of a constituency which does not support the bill.

The list follows:

Mr. Harold C. Hollenbeck (N.J.).
Mr. Norman E. D'Amours (N.H.).
Mr. Edwin B. Forsythe (N.J.).
Mr. Joe Moakley (MASS.).
Mr. Michael D. Barnes (MD.).
Mr. Fortney H. Stark (CA.).
Mr. Henry J. Nowak (N.Y.).
Mr. John J. LaFalce (N.Y.).
Mr. Paul Findley (ILL.).
Mr. Anthony C. Beilenson (CA.).
Mr. Thomas J. Downey (N.Y.).
Mr. Edward J. Markey (MASS.).
Mr. William J. Hughes (N.J.).
Mr. Bruce F. Vento (MINN.).
Mr. Richard L. Ottinger (N.Y.).
Mr. Brian J. Donnelly (MASS.).
Mr. Parren J. Mitchell (MD.).
Mr. Phillip Burton (CA.).
Mr. Vic Fazio (CA.).
Mr. Bob Edgar (PA.).
Mr. Gus Yatron (PA.).
Mr. Mike Lowry (WASH.).
Mr. Lester L. Wolff (N.Y.).
Mr. Peter W. Rodino, Jr. (N.J.).
Ms. Millicent Fenwick (N.J.).

Mr. Robert A. Roe (N.J.).
Mr. Andrew Maguire (N.J.).
Mr. Doug Walgren (PA.).
Mr. Lionel Van Deerlin (CA.).
Mr. Matthew F. McHugh (N.Y.).
Mr. Edward P. Boland (MASS.).
Mr. Robert Garcia (N.Y.).
Mr. James M. Jeffords (VT.).
Mr. Austin J. Murphy (PA.).
Mr. David E. Bonior (MICH.).
Mr. Henry A. Waxman (CA.).
Mr. Frank J. Guarini (N.J.).
Mr. William H. Gray, III (PA.).
Mr. Louis Stokes (OHIO).
Mr. Claude Pepper (FLA.).
Mr. John D. Dingell (MICH.)
Mr. Fernand J. St Germain (R.I.).
Mr. Edward P. Beard (R.I.).
Mr. Harold L. Volkmer (MO.)
Mr. James A. Courter (N.J.).
Mr. William F. Clinger, Jr. (PA.).

Therefore, I urge your support for this bill. We have two tasks before us then. The first is resisting any weakening amendments to the bill. There simply is no reason for them. The second is enacting the legislation in a timely manner. The health and well-being of the American people cannot afford anything else.

● Mr. STAGGERS. Mr. Chairman, I rise in support of H.R. 7020, the Hazardous Waste Containment Act of 1980. This legislation addresses a genuine environmental crisis unfolding around our Nation today—the serious adverse health and environmental consequences of past improper and unsafe hazardous waste disposal practices. As we are only too well aware, the consequences of these practices are of growing magnitude and concern in our society.

The tragic human health effects and environmental contamination, particularly of groundwaters, resulting from indifferent, negligent and reckless chemical waste disposal practices have become all too evident in many areas of our country. The glare of national publicity has been focused on the disaster at Love Canal. Scores of other toxic waste disposal incidents and hazards have alarmed the public and elevated the awareness of public officials to the national proportions of the problem.

The Environmental Protection Agency estimates that in 1980 some 57 million metric tons of hazardous waste will be generated and as much as 90 percent of this may be disposed of in an environmentally unsound fashion.

Nationwide, although estimates vary widely, as many as 50,000 abandoned and inactive sites are believed to contain toxic chemical wastes, of which up to 2,000 may pose serious health hazards.

One particularly disturbing threat posed by some sites is to groundwater. EPA data on surface impoundments of chemical wastes indicate that many of these sites are inadequate to prevent wastes from leaking into the ground where they may contaminate subsurface waters. In a number of instances, chemical contamination of groundwater has rendered it unfit for human consumption as drinking water.

Fortunately, prospects for improvement of our ability to handle toxic wastes safely are on the horizon. Existing law addressing hazardous waste problems, the Resource Conservation and Recovery Act of 1976, established a cradle-to-grave regulatory regime to govern prospectively the handling and disposal of chemical waste generated as a byproduct of industrial and commercial processes. Final regulations under that act have not yet been fully promulgated by EPA.

However, EPA has promulgated regulations implementing the manifest system required under the law, which would track, for the first time, the movement of hazardous wastes through final disposal. Final standards for disposal facilities should be promulgated by the end of this year. Enforcement of the manifest system and facility standards will represent a giant step toward preventing and assuring safe handling of hazardous waste and recurrence of unsafe and past disposal practices that have resulted in environmental disasters.

Presently, however, there are inadequate statutory authorities to cope with these unfortunate legacies of the past. Although existing law does provide authority and some funding for Federal cleanup of oil and chemical spills into navigable waters, no parallel authority exists for cleanup of leaking chemical dump sites creating land-based and groundwater hazards. Existing law authorizes the EPA Administrator to go to court to restrain activities which are contributing to the hazard, but does not authorize cleanup action or provide for an assured source of funding for such action if persons responsible for the hazard cannot be located, are insolvent, or refuse to take remedial action.

There is a clear and compelling need for comprehensive legislation to fill these gaps in existing law. H.R. 7020 represents such an approach. It was overwhelmingly approved by the Committee on Interstate and Foreign Commerce and deserves the support of every Member of this body.

H.R. 7020 contains a number of essential elements. First the bill provides for a systematic national inventory of inactive sites to be undertaken by the EPA Administrator with strong input from the States. The inventory will provide the basis for the establishment of cleanup priorities among the sites on the basis of the seriousness of hazards posed to human health and the environment.

Second, the bill requires present and, in some cases, past owners of sites which pose a health or environmental hazard to monitor the sites for releases of hazardous waste into the environment. If a dangerous release occurs, the owner is required to notify EPA and appropriate State and local authorities. Appropriate remedial actions would then be pursued depending on the nature and extent of the hazard and in accordance with the standards governing the new environmental response authorities created by the bill.

Third, the bill provides the Administrator of the Environmental Protection Agency with necessary environmental response authorities to provide emergency assistance, contaminant, and cleanup action when an inactive hazardous waste site poses a health or environmental hazard and persons responsible for creating that hazard or permitting it to continue to exist cannot be located, are insolvent, or refuse to take appropriate remedial action.

These new response authorities fill a gap in existing law. Response actions taken by the Administrator and financed out of a newly created hazardous waste response fund are circumscribed by cost-effectiveness considerations and State cost-sharing requirements. Ultimately, response actions will have to conform to a new national hazardous waste response plan, similar to the national contingency plan in effect under the Clean Water Act.

Fourth, H.R. 7020 establishes a hazardous waste response fund to finance environmental response action by the Administrator. This fund is to be drawn from both Federal appropriations and industry-based fees. Shared responsibility for financing of the fund recognizes that many segments of our industrial society, and particularly the chemical industry, have benefited from cheap, and all too often, unsafe hazardous waste disposal practices and should make a major contribution toward dealing with the consequences of these practices. It also represents an acknowledgment that while certain members of these industries have been negligent and even reckless in disposing of their wastes, not all companies have acted in an irresponsible fashion; that we as a society have benefited by the scientific and technological advances that have occurred in these high-growth industries; and that to a degree the problem is societal in nature and calls for a commitment from the Federal Government as well as from the industrial sector.

Finally, the bill establishes a liability regime that will enable the EPA Administrator to pursue recovery of moneys expended for emergency assistance, containment and cleanup from persons responsible for the problems requiring the Administrator to incur these costs. H.R. 7020 provides a Federal cause of action for the Administrator against such persons. The issues of liability were perhaps the most difficult confronting the committee in fashioning this legislation. In many instances, it will be difficult to determine precisely what the responsibilities of a generator or transporter of hazardous waste or the owner or operator of the hazardous waste disposal site should have been and what a particular defendant's portion of cleanup costs should be.

The committee bill provides that defendants who caused or contributed to hazardous waste situations necessitating response action by the Administrator shall be strictly, jointly and severally liable for the costs of such action. Certain defenses and exceptions to this general rule of strict, joint and several liability, which take into account the uniqueness of the factual circumstances and of questions of causation frequently surrounding these situations, are provided for defendants who can prove that they took all reasonable precautions in their activities with respect to hazardous waste and that only a portion of total costs of cleanup were attributable to their activities. The liability provisions will enable the Administrator to rapidly recover moneys expended for cleanup and serve as an incentive to potentially liable persons to ferret out and address hazardous waste problems with which they may be associated.

Mr. Chairman, H.R. 7020 represents the product of considerable time and effort by the Committee on Interstate and Foreign Commerce over two Congresses. The Ways and Means Committee has also contributed to the development of this legislation. Both committees have overwhelmingly recommended favorable action by the House. This legislation deserves the support of every Member of this body, and I urge adoption of the bill.●

Mr. CARTER. Mr. Chairman, as we begin debate on H.R. 7020, the Hazardous Waste Containment Act of 1980, I urge my colleagues, in considering a complicated response to a complicated problem, not to miss that forest for the trees.

The "superfund" proposal, as it is popularly known, addresses the serious consequences resulting from the indiscriminate dumping of lethal chemical and industrial wastes; a problem we are only now discovering may have been with us since the dawn of the industrial age.

The waste disposal problem has been brought to our attention on several occasions: Valley of the Drums, in Kentucky; Love Canal, in New York; and Chemical Control Corp., in New Jersey. I have long believed that the problem of the dumping sites, as shown by these dramatic illustrations, poses a tremendous threat to the people of our country.

Smaller scale attempts have been made before to ease some of the effects of the improper disposal of hazardous waste. During consideration of the Safe Drinking Water amendments of 1977, I included an authorization of $8 million with the intention of cleaning up the Valley of the Drums site in Kentucky. Unfortunately, this sum was never appropriated.

H.R. 7020 presents a balanced and comprehensive approach to cleaning up the hundreds of existing dangerous dumping sites in cases where the culprit is known, as well as instances where the persons or entities responsible for the dumping cannot be found.

Much has been made, in the creation of this bill, of the issues it raises. Many have spoken of liability and the various concepts of law that determine it. Others have spoken of expenses, and the cost of preserving the health of our citizens.

The issue, however, is greater than a fine point of law, or a bottom line dollar amount. It is the issue of responsibility.

The Hazardous Waste Containment Act of 1980 encourages those who create this polluting waste, whether an individual, a corporation, or an entire industry, to take the responsibility to insure that waste generated will be disposed of in a safe, secure, and lasting manner. I commend this bill and endorse it heartily.

□ 1050

Mr. MADIGAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 7020 and I would like to say at the outset and in response to some remarks that I understand were made on the floor of the House last night that H.R. 7020 is not a majority party proposal. The bill that is before us now is a compromise that was drafted by the gentleman from New Jersey (Mr. Florio) and myself in the Commerce Committee when the majority party proposal failed to receive enough support so as to be able to move ahead.

This compromise essentially represented in H.R. 7020 was reported from the Commerce Committee, my recollection is by a vote of 21 to 3, with substantial support from the minority party.

So I want to express my regrets that anyone would represent the minority party in debate on the floor of the House as being opposed to doing something about this problem.

I would like at this moment to yield to the gentleman from New Jersey (Mr. Florio) and ask the gentleman if I have correctly represented the minority involvement in this issue thus far.

Mr. FLORIO. Mr. Chairman, I thank the gentleman for yielding and would just say that the support on the one hand and the opposition on the other hand has been presented in a very bipartisan way, the opposition much to my regret and embarrassment on occasion; but the gentleman is correct. He has been helpful and he and many of the Members of the minority on the Commerce Committee have been extremely helpful. That is not universally the case.

Mr. GORE. Mr. Chairman, will the gentleman yield to me on that point?

Mr. MADIGAN. Yes. I will be happy to yield.

Mr. GORE. I had a feeling that the gentleman might have been making reference to some remarks I made last night. Since the gentleman was not here, I wanted to have them clarified exactly.

I said in my remarks last night, and I repeat today, that the minority members of the Subcommittee on Commerce that has handled this bill have contributed in a productive way to reaching a responsible solution for this problem. I said that last night and I am happy to repeat it here again today and also to repeat my belief that a strong majority of Members on both sides of the aisle in this House support this legislation and want to see it enacted.

Mr. MADIGAN. Mr. Chairman, I want to thank the gentleman for his comments.

Mr. Chairman, I rise in support of H.R. 7020.

Mr. Chairman, I am sure that many Members have found, as I have found during my service in Congress, that it is extremely difficult to develop legislation dealing with environmental concerns. It is unfortunate that we are often hampered by the attitude of those interest groups that are most actively involved in the development of this legislation. It is also unfortunate that the process often takes a "good guy" versus "bad guy" tone and that those who profess great concerns about the state of our environment tend to take an all-or-nothing approach to legislation.

During the 1970's, when the Congress was considering and creating environmental legislation, we all became increasingly aware of the dangers posed by the movement of hazardous waste in our society. The Congress provided through the Resource Conservation and Recovery Act a regulatory mechanism to insure the proper disposal of hazardous waste and to end the negligent practices of the past.

However, as many of us on the Commerce Committee recognized early on, there was definitely a gap in existing law in dealing with abandoned or "orphan" dump sites.

I want to take this opportunity to point out that the minority members of the Commerce Committee were willing early last year to support legislation dealing with this gap in existing law. We wanted to see legislation passed on so that we would not have wasted an entire year before providing a means to address this problem of abandoned hazardous waste sites. The minority of the Commerce Committee was ready last year to support the creation of a fund of $600 million that would have been funded by fees raised by the oil and chemical industry. It is unfortunate that in the closing hours of this session of Congress we still have not been able to establish a framework for legislation to deal with the cleaning up of these abandoned toxic waste sites.

I am sure that the Members are aware that this session of Congress was inundated by many proposals for "superfunds," "ultrafunds," and other assorted funds to address various environmental problems. Many of these proposals were extremely broad and attempted to create new concepts of environmental law and toxic tort law. I have been concerned from the beginning that many proponents of this environmental legislation would bog the Congress down by insisting on new "zero release" environmental concepts and punitive and unreasonable liability provisions. The guiding philosophy behind these various legislative proposals was summed up by one of its principal architects at the Department of Justice who said, "Government is perfectly prepared to punish the innocent for the sins of the guilty." With so little time remaining in this session, it is essential that we avoid these unnecessary controversies.

Mr. Chairman, with little over two weeks remaining in this session, the Senate has not yet completed committee action on similar legislation and the House will not complete floor action until next week. I would hope that the Senators who know the need for legislation this year, and those in the administration who want legislation this year, would recognize that in order to get a bill, we should be satisfied with establishing a framework to deal with the problem this year and in future years we can fine tune this important effort.

The issue, Mr. Chairman, of the fee has not been the stumbling block to developing a responsible bill. The stumbling block has been the punitive approach that many proponents insist that this legislation follow. Advocates of this legislation have at times been more concerned with creating new Federal tort law standards, without regard to the already crowded Federal courts than they have about the problem of the waste sites themselves. They seem to forget that our principal concern ought to be the problem of cleaning up hazardous waste sites that have been abandoned.

Mr. Chairman, it is important that in considering this bill the House take into consideration the attitudes expressed not only by the administration and various House Members, but also recognize what is being proposed in the Senate. I am concerned that many people who have urged Members of Congress to support these various superfund proposals have not been aware of many of the new concepts that these proposals advocate. People in the Senate have made it quite clear that they intend to push the "zero release" concept. That "zero release" concept would serve as a regulatory tool against anything that escapes the four walls of a plant.

This outrageous concept undercuts existing environmental regulations, and, if enacted and enforced, could possibly bring most industrial activity to a complete stop. Many proponents of superfund legislation are insisting that any organization having contributed in any degree to a hazardous waste release be held responsible for the entire amount of the cleanup and damages. These punitive attitudes have created an environment that has not been conducive to the development of a good legislative product. These attitudes are why we are going into the final days of this session without having passed legislation to deal with the cleanup of hazardous waste sites.

Mr. Chairman, H.R. 7020 is a reasonable and balanced bill. As I am sure the Members know, this bill was sequentially referred to the House Ways and Means Committee. The Ways and Means Committee doubled the amount of funding to a total of $1.2 billion, imposing a new tax of $900 million. While I do not quarrel with the Ways and Means jurisdiction on this portion of the bill, I can say that this bill would not have been reported by the Commerce Committee if it had contained this $900 million tax. In fact, the full Commerce Committee rejected efforts to increase the funding for this program by a more than 2-to-1 vote. I am hopeful that my colleague from New Jersey will properly represent the Commerce Committee position to this House, but I want the Members to know that compromise and agreements were essential in developing this balanced bill, and those agreements were essential for this bill having been reported for consideration by the full House today.

Of particular concern to me and a number of my colleagues on the Commerce Committee were the liability issues of this legislation. Especially difficult were the ramifications of retroactive application of statutory liability provisions to past activities of potential defendants. As the committee report succinctly points out, the committee rejected any notion of absolute liability in this regard. While this may be somewhat of a hybrid liability provision, it provides fundamental fairness.

Mr. Chairman, although I have not been very encouraged by the legislative process surrounding this issue, I have been encouraged by much of the activity being promoted by other State and local government entities. States are moving forward in their efforts to inventory all hazardous waste sites. In Illinois, for example, the State has imposed its own plan to help control the movement and disposal of hazardous wastes within the State. In addition, States are moving forward to have money available to clean up hazardous waste sites.

Industry recognizes the need for legislation this year. Various "superfund" proposals have generated vigorous opposition from segments of industry, but industry has been willing to compromise, and this bill, as the gentleman from New Jersey has indicated, has wide support from the Chamber of Commerce, the National Association of Manufacturers, the oil industry, and the chemical industry.

I would like to insert in the record the testimony of Dr. Louis Fernandez, vice chairman of the Monsanto Chemical Co., which was given in the Senate on behalf of the Chemical Manufacturers Association supporting H.R. 7020.

We need the cooperation of industry in our efforts to clean up abandoned waste sites and we need industry's continued cooperation with the cleanup effort, because this country needs its technical expertise and resources if we are going to do this job promptly.

Mr. Chairman, H.R. 7020 is an important legislative proposal. I would urge the Members of the House to support this bill, but also to support efforts to see that this bill is not distorted or expanded in such a way that would result in its failure to pass this year.

TESTIMONY ON BEHALF OF THE CHEMICAL MANUFACTURERS ASSOCIATION GIVEN BY DR. LOUIS FERNANDEZ, VICE CHAIRMAN OF MONSANTO CO., BEFORE THE SENATE FINANCE COMMITTEE ON SEPTEMBER 11, 1980

First, Mr. Chairman, I want it known clearly and without any doubt that the CMA and its member companies strongly support new legislation to solve the problem of abandoned hazardous waste sites. Our industry does support a federal response fund which could take action when there is danger to public health or the environment or when no other party is taking responsible action. For more than a year, we've been trying to work with the Congress to achieve sound dumpsite legislation. And finally, Mr. Chairman, although our industry opposes fees in principle, we are prepared to contribute a fair share to help pay for cleanup.

Let me summarize our views. The chemical industry supports H.R. 7020 as it was reported by the House Interstate and Foreign Commerce Committee. We oppose S. 1480 which is a legislative disaster. It's too broad. It tries to punish the chemical industry. It sets up a revolutionary federal toxic tort liability scheme for past actions which were perfectly legal at the time. And its funding levels are far, far in excess of what is needed.

As to the funding mechanism of 1480, we believe the bill goes at it the wrong way. If Congress wants to draw any relationship between problem and solution, then the fee should be placed on waste—not on the purchase of feedstock raw materials.

This committee—and the Senate itself—owes a responsibility to society to look at the problem and the solution as dispassionately as possible. The enormity of the fund proposed in 1480—together with the broadened liability exposure—will clearly have a negative effect on the domestic chemical industry and would be inflationary. The more than $4 billion proposed by this bill won't just slip between the cracks; it will have a very large impact.

S. 1480 is a revenue measure. It levies a substantial fee or tax on our industry to pay the lion's share of Superfund. And it is certain to affect our ability to export. I've supplied some figures for the record, but let me just remind the committee that our industry is one of the few which is still very competitive around the world. We are making positive contributions to the balance of trade in the amount of about $10 billion annually.

So that is why, Mr. Chairman, the chemical industry and other concerned industry groups oppose S. 1480 in its present form and support instead H.R. 7020. We urge you to look very closely at H.R. 7020. It's a tough, effective bill that will work to solve the abandoned hazardous waste site problem.

What we are asking this committee to do is the following:

1. Reduce the funding.—The chemical industry has documented that orphan dump sites can be cleaned up at a cost of about $400 million, or about $1 million per site.

2. Adopt a waste end fee.—A waste fee would create a broad tax base without taking a bite out of any specific industrial category. After all, some 17 industry groups—not just the chemical industry—contribute to the generation and disposal of hazardous waste. A feedstock fee falls heavily on just 15 major petrochemical-based companies. And that's simply unfair.

Moreover, there's no incentive in a feedstock fee to reduce waste. But a waste-end fee would encourage manufacturers to further reduce their generation of hazardous waste end fee. Regulations recently promulgated under the Resource Conservation and Recovery Act (RCRA) set up the necessary record-keeping and reporting requirements for industry. We disagree strongly with the EPA on this point. Our analysis indicates that it would be a relatively simple matter to set up a tax payment form.

In my prepared remarks, I have submitted background information on what we consider one of the most dangerous and precedent-shattering parts of S. 1480—the liability section. I'd like to give you an example of our concern. Let's envision, for a moment, that an orphan dumpsite has been discovered. It is known that at least 50 disposers have used the site. But the Justice Department decides that just one of those companies—likely to be one with sales exceeding several billion dollars per year—should be singled out for attack. Under 1480, it would be entirely possible that one company might have to bear the entire cost of the cleanup, while at the same time it has been making fee payments into the cleanup fund. This is what is meant by joint and several liability. I might just add that the Justice Department—in testimony by Assistant Attorney General James W. Moorman—clearly looks to the liability provisions as a further revenue raising system. The entire thrust of his testimony was not whether joint and several liability is fair or necessary or proper . . . but rather that it is needed to help "replenish" the Superfund. This aspect of the proposed legislation is one that should be directly addressed by members of this committee.

There are other points in my prepared remarks. But to sum up, I'd like to reflect on my own experience with Monsanto and with the American chemical industry. There is no doubt that many disposal practices of the past do not meet today's high standards. That's understandable. We know more today than we did 35 years ago. My company and others are investing hundreds of millions of dollars in new and improved environmental safeguards of all types, especially the handling of hazardous waste. I am concerned though, Mr. Chairman, about a thread which weaves its way throughout S. 1480. And it is that the chemical industry is evil, that it needs to be punished for the sins of the past, that it does not care about its workers or the citizens of this country, and that it has enormous "profits" which can be tapped indefinitely to solve societal ills. I am here today to state flatly that this is a false assumption on the part of some Superfund advocates. We've all heard a lot about midnight dumpers. There will always be some bad apples in the barrel—midnight dumping must be rooted out and prosecuted wherever it occurs. The American chemical industry is prepared to work cooperatively and positively with federal, state and local governments to solve this problem so we can get on to the job of creating new jobs, new products and making new discoveries which service all of mankind.

Thank you, Mr. Chairman, I will be glad to respond to any questions.

Mr. FLORIO. Mr. Chairman, I yield 6 minutes to the gentleman from Tennessee (Mr. Gore).

Mr. GORE. Mr. Chairman, I would like to begin by paying my respects to the chairman of this subcommittee, the gentleman from New Jersey (Mr. Florio) and the ranking minority member, the gentleman from Illinois (Mr. Madigan) for bringing this legislation out of the Commerce Committee and to the floor in order to address this most serious environmental problem facing the United States of America.

I would also like to compliment the gentleman from New York (Mr. Downey) for the work done in the Ways and Means Committee to improve the bill and encourage my colleagues to support the Ways and Means substitute.

I would also like to thank the gentleman from New Jersey (Mr. Guarini) for his excellent work on the liability sections in the debate during the Ways and Means Committee markup.

☐ 1100

The Oversight and Investigation Subcommittee of the Committee on Interstate and Foreign Commerce is not a legislative committee. But in pursuit of our responsibilities to conduct oversight of the areas within the jurisdiction of the Committee on Interstate and Foreign Commerce we began in the last Congress a series of 18 hearings which have lasted up through this year into the problems associated with hazardous chemical waste disposal. First of all, we have found that the magnitude of this problem is incredibly large.

One hundred billion pounds of hazardous chemical waste is dumped in this country every single year, 100 billion pounds, 90 percent of it improperly. And that figure grows by a rate of 6 or 7 percent each year.

There are abandoned hazardous waste sites in virtually every part of this country. They are threatening the groundwater of this country upon which 50 percent of Americans rely for their water supplies.

It could well be that before the end of this century tens of millions of Americans will find that the water supplies on which they have relied for centuries are now poisoned and polluted. So we must address this problem.

There are two major aspects to the problem: First, the prospective dumping, that is, dumping that will occur in the future. Second, dumping that has already occurred in the past.

As the gentleman from New Jersey pointed out, the prospective dumping will be addressed in a regulatory program to take effect later this fall pursuant to the mandate of the Resource Conservation and Recovery Act.

What we are addressing in this legislation is the dumping that occurred in the past. There is, of course, a connection between the two because the same industry that is principally responsible for dumping now and in the future has also been principally responsible for the dumping that has occurred in the past.

As my colleagues look at this second subdivision of the problem, the one we are focusing on with this legislation, past dumping practices, again we have two parts to that problem. First, abandoned dump sites where the party or parties responsible can be identified. Second, abandoned dump sites where the party or parties responsible are either unknown or insolvent or have covered their tracks sufficiently so that they cannot be assigned responsibility for the problem.

With regard to that first part of the problem where the party or parties responsible are known, this bill addresses the liability faced by those companies. I will be offering amendments to the liability portions of this bill in order to clarify the effect of the law where we know the parties responsible.

I think we can agree on the general principle that where we know the party responsible we ought to affix responsibility for the problem upon that party.

The bill, as it currently stands, has some difficulty with regard to affixing responsibility. I anticipate broad support for the amendments that I will offer in order to eliminate that difficulty. A great deal of work has been done in an effort to reach some compromise and I am highly optimistic about the outcome.

With regard to the second part of the problem, those abandoned dump sites where the party or parties responsible are unknown or insolvent, this bill addresses that problem in a responsible way by creating a fund that can be used to clean up the problems that were created in the past. It puts a tax on the chemical feedstocks that go into the manufacture of chemical compounds.

When this was first proposed I frankly had some questions about the approach being taken. However, upon examination of the approach taken I became thoroughly convinced that it is an ingenious approach and, indeed, by far the most effective approach that we could take.

I would ask my colleagues to support in the strongest possible way the Committee on Ways and Means' substitute to title II so that the industry primarily responsible for this problem will bear the lion's share of the burden for solving this problem.

I would also ask my colleagues to support the liability amendments that I will offer.

I would like to close by again thanking those who have worked so hard to craft this legislation.

Mr. MADIGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. Lee).

Mr. LEE. Mr. Chairman, I rise in support of H.R. 7020, as passed by the Interstate and Foreign Commerce Committee on which I serve, and urge my colleagues to quickly endorse this much-needed legislation.

It is vitally important that we insure, in this 11th hour of the 96th Congress, that positive action is taken to protect present and future generations of Americans from contamination by chemicals from abandoned toxic waste sites.

Last year, both Congressman Madigan and I designed and supported legislation to solve this serious problem, but unfortunately that measure failed in committee. The risk is too great, and the dangers too real, Mr. Chairman, to delay action on this proposal any further.

Collectively or individually the estimated thousands of chemical and industrial waste dumping sites represent serious threats to this Nation's communities. Fortunately, they all are not of the same severity of Love Canal in my home State of New York. Yet no one—in Government, in industry, or in the communities themselves—can honestly determine the extent of the threat these waste materials represent, or even where all the dumps are located.

I would like to highly commend my colleagues Congressmen Madigan and Florio for the leadership they have provided in shaping this legislation in the full Commerce Committee. I am pleased to be associated with these gentlemen in their outstanding leadership to cleanup the Nation's poisonous waste sites, before they do additional damage to our people and environment.

Because the precise number of potentially hazardous waste sites is in question, our first step is to establish as its highest priority a State-by-State inventory of the number of inactive sites, and their relative danger to the public. Once completed, each inventory will be forwarded to the Administrator of the U.S. Environmental Protection Agency. Cleanup operations will be placed in a priority order, according to their immediacy of need. This process is designed to insure the most potentially dangerous sites are addressed first.

I am encouraged by the partnership the commerce bill forges between Government and the chemical industry that will develop a fund to provide the monetary resources required to address the serious problem. I am hopeful this partnership will continue and grow, and that chemical manufacturers across the Nation will do all they can to encourage the speedy discovery and cleanup of abandoned hazardous waste sites.

☐ 1110

Mr. MADIGAN. Mr. Chairman, I yield such time as he may consume to the distinguished ranking minority member of the Committee on Interstate and Foreign Commerce, the gentleman from North Carolina (Mr. Broyhill).

Mr. BROYHILL. I thank the gentleman for yielding.

Mr. Chairman, as minority members have pointed out in supplementary views on H.R. 7020, we do support legislation to deal with this problem of cleaning up abandoned and inactive hazardous waste sites. Also I would point out that minority members in their views before, in a report issued by the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce, wrote that "we believe that the issue of hazardous waste disposal should be one of the first priorities of this Nation."

However, we do continue to express concerns about parts of these bills, and we do not like to hear, because we do question certain sections, that we are opposed to the bill or trying to block the legislation. I would point out that I note that the other body has not gotten as far as we have with respect to this legislation. I have listened very carefully to the gentleman from Massachusetts (Mr. Markey) who just preceded me in the well and certainly recognize the problems that he has outlined in his statement.

Certainly we recognize that there are gaps in existing law. We are dealing with the establishment of programs to contain these orphan sites or sites over which there is no control. I believe that we should have a program where the people responsible for these particular problems are made to pay.

I think there are problems with the fees contained in this bill because what we are doing in this program is bringing in and punishing the innocent along with the guilty.

I would outline for the benefit of my colleagues an editorial in the Washington Post which pinpointed one of the major problems with the fee that is contained in the bill, and I quote from that editorial:

> The trouble (with the fee) is that this approach makes no distinction between companies that are careful with their waste and those that are careless or even grossly negligent. Consequently, it removes most of the incentive to improve. If you have already paid once (into the fund), it is hardly good business to pay twice by, for example, redesigning your process so it generates less waste. Thus, Superfund violates the tenet that regulation should be designed to encourage a higher standard of care: to prevent damage, not punish.

Perhaps maybe we could have discussed—we discussed it only briefly earlier this year—a program where we might have had a fee attached to the disposal of waste. Perhaps that would have provided far more incentive for people to clean up and to be more careful in the disposal of potentially hazardous waste. So I do hope that as we go along we would pay careful attention to some of the concerns that some of us have with various parts of the bill in the hope that we can arrive at a program that is workable and will offer some hope to clean up these orphan sites.

I might point out that in the subcommittee consideration the gentleman from Illinois (Mr. Madigan) and I offered a substitute when this bill was considered there in subcommittee, and this proposal would have established a hazardous waste site program along these lines:

First, it established an inventory program in conjunction with the States in order to identify each and every hazardous waste site in the Nation;

Second, it required any owners or operators of hazardous waste sites to notify EPA;

Third, it provided EPA with an emergency response authority to respond to dangerous releases from hazardous waste sites;

Fourth, it put into position a national hazardous waste response plan;

Fifth, it provided for cost-sharing with the States, requiring that States pay 10 percent of the containment and cleanup costs for those sites where there is no responsible organization able to pay the full cost;

Sixth, it established a plan for the siting of facilities which encourages State cooperation on a regional basis in order to identify and locate for the storage or relocation of hazardous waste;

Seventh, it established the hazardous waste containment fund, providing $100 million for each of the years 1981, 1982, and 1983; and

Eighth, the substitute imposed strict liability, requiring the owner or operator of the site which is the source or potential source of a release to be responsible for those costs associated with the containment or relocation or cleanup of that site.

I did want to point out for the record another alternative that had been offered at an earlier time.

□ 1120

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Tennessee.

Mr. GORE. First, the gentleman talked about the alternative of putting a fee on the disposer. This was one of several alternatives that was considered early in the formation of this legislation. I would like to briefly point out, the real problem with taking that approach is that you encourage the use of the so-called midnight dumper. Part of this trouble is that irresponsible disposing companies who seek to evade the currently existing regulations, where there are some in some States, so if you put the fee on the disposers, you might really make that aspect of the problem worse.

Second, the gentleman talks about lumping the innocent with the guilty. I have two things in response to that. First, this has been an industrywide practice by and large and the prospective dumping incentives are addressed in the RCRA legislation.

Second, this legislation really does help those who are trying to be responsible by removing the unfair advantage that irresponsible companies have taken by dumping their waste in an unacceptable fashion.

Mr. BROYHILL. That last point the gentleman makes I do not understand. What you are doing is taxing people who are perhaps operating in a responsible way and you are not taxing the people who are dumping in an irresponsible way.

Mr. GORE. Well, the industry as a whole is being asked to accept a substantial part of this burden along with the taxpayer, largely because it has been an industrywide practice in the past.

Mr. BROYHILL. Perhaps the irresponsible dumper has not ever paid the tax because he is not manufacturing the feedstocks that would be taxed under this bill.

Mr. GORE. And this illustrates the wisdom of the feedstock approach because it is then passed on to all dumpers.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from New Jersey.

Mr. FLORIO. This is a very interesting conversation. I would just suggest we probably have gone beyond the point of discussing these points because there has been a consensus that all parties to the discussion have signed off with regard to appropriate allocations.

I would like to commend the gentleman and say that he has been perhaps a bit too modest because the substitute to which the gentleman referred—it was not accepted by the subcommittee—did have in it some of the key provisions of this bill which are subsequently adopted. That is the siting question which is a very important question; the inventory provisions and many of the other key provisions, were offered by the gentleman from North Carolina (Mr. Broyhill) and the gentleman from Illinois (Mr. Madigan) in the subcommittee, and the merits of those provisions were seen and perceived by the rest of the committee as being very important and the merits were determined to justify their inclusion into this bill. I think in many respects the two gentlemen particularly as well as all of the minority members may feel a kinship with the final product. That is commendable and I appreciate the contribution.

Mr. BROYHILL. It was not my point to make the fee the center part of this debate. I did want to point out that other alternatives had been presented in the past, other ideas for dealing with this particular problem.

Mr. FLORIO. Mr. Chairman, I yield 4 minutes to the gentleman from New Jersey (Mr. Maguire).

Mr. MAGUIRE. Mr. Chairman, I thank the gentleman for yielding. I think there is a broad consensus in this body that this is one of the most important bills that we are dealing with in this session. Indeed, it may be the most important. I do not think there is anything Americans are more fearful about than the possibility that their families or their children or their children's children will be exposed to cancer, nerve disorders, birth defects, from substances that may not have been dealt with as carefully as they ought to have been, substances that may be found in drinking water, in consumer products, in play areas where children may amuse themselves. A kind of silent, unseeable threat which is all the more fearful because it cannot be adequately measured or understood.

There have been the spectacular incidents: Love Canal in New York, "Valley of the Drums" in Kentucky, the Chemical Control Corp. in New Jersey, but there are also hundreds and hundreds of communities around this country who are beginning to find things like trichloroethylene in their drinking water supply. This is true in Mahwah and Fair Lawn in my district. In Jackson Township, N.J., thousands of people have had their water supply shut down because of contamination. In Wood-Ridge in my own district in Bergen County we have the largest mercury dump ever discovered anywhere in the world.

The problem is people in the past have walked away from their responsibilities to dispose carefully of the material which has the hazardous effects.

Earlier on in our history we used to do pretty well. Once we discovered something we would act on it. If we had a problem with typhoid, diphtheria, smallpox, or polio, people went to work to figure out what to do about it and determine how people could be protected, how they could be cured, how they could be afforded preventive measures. We acted on that information as soon as the scientists came up with it.

I would suggest that perhaps we were so good at doing that because nobody was harmed. Now when we have manmade hazards and threats which are more difficult to measure but are no less lethal, we find we are falling way behind what we ought to be doing to protect people.

Mr. Chairman, may I suggest it may be that we were so good earlier because there were no well-paid lobbyists in favor of the typhoid bacillus, there were no law firms representing polio.

Mr. Chairman, today we have a problem of very specific economic interests. Some of the same folks who walked away from this problem earlier would like to do the minimum now. I would suggest we cannot afford to do just the minimum, that we need the strongest possible bill that will enable us to deal with hundreds, indeed thousands of toxic dump sites across the country.

I want to congratulate my colleague, the gentleman from New York (Mr. Downy) and the gentleman from Tennessee (Mr. Gore) for the excellent work they have done on this legislation in the two committees concerned. I think the public interest requires that we act in this session and that we have the strongest possible bill.

I yield back the balance of my time.

Mr. MADIGAN. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. Paul).

Mr. PAUL. Mr. Chairman, I thank the gentleman for yielding.

So far today we have heard the many good reasons why we have to introduce and pass this bold new legislation. Some days I get very discouraged here in Washington. There are other days I am encouraged because I do hear talk of balanced budgets and other good things mainly because the American people are anxious to hear about it. In action we do not generally follow through. Today we all express great concern for the people who may be suffering the consequences of pollution from toxic waste sites and I, too, am concerned.

Mr. Chairman, I am also concerned with this legislation today because in contrast to what has been said, I feel this legislation is very unfair. I cannot conceive of it working because I think it will work just like any other Government program and I believe sincerely it will do a great deal of harm as well.

□ 1130

Yes, there is always danger in a free society. There is always danger everywhere, but the egalitarians insist that we have perfect safety, perfect remuneration, and perfect redistribution of wealth. This is the ultimate goal of the egalitarians. Yes, it is an accepted fact that for the past 50 years we have assumed that it is a proper function of Government to spread the fruits of labor by acts of the Government and at the discretion of the politicians. But must we go to the next step and assume that we will share the penalties as well? I believe sincerely that we should hold individuals responsible for all their acts.

Recently one of our colleagues was convicted of a felony and sentenced to prison.

If anyone had suggested that we, his colleagues, collectively share his guilt and share his punishment by each serving part of his sentence, he would have rightfully been laughed off the floor.

If a murder is committed in your hometown, how would you react if someone proposed that everyone in town assume the guilt and share a part of the sentence? I am sure you would be outraged and rightfully so, and yet that is exactly the principle we are following here today by creating a superfund.

The real issue we are dealing with in this legislation is whether or not we as individuals are responsible for our acts. Passage of this bill would clearly indicate that we as a legislative body do not accept the notion of self-responsibility, and that innocent people should pay a penalty for the negligence of others.

In the past several decades, the concept of personal and corporate liability has been systematically undermined. This legislation will continue this process, as well as further damaging the right to private property ownership.

Certainly the concept of individual rights, as compared to collective rights, and individual responsibilities needs attention for it is legislation of this sort that fritters away this ideal that took so long to develop. The question we must all ask is this: Are rights collective or individual? Can guilt be passed on to society in general or can laws based on individual responsibility and liability satisfactorily compensate injured parties in a free society?

No one can deny that danger exists with toxic waste just as it exists with thousands of other things we deal with daily in modern America.

It is obvious that life and life's activities are never without danger. The goal, no matter how well intended, of perfect protection from all potential danger is an illusion. It is doomed to frustrate the egalitarians even more than the utopian goal of equitable distribution of wealth—by force of the state—they also eagerly seek.

Although one would get the impression from the debates on the House floor that only one type of solution is available to us in solving problems such as toxic wastes, we do have another option.

I do not accept the contention that intervention by the Federal Government is necessary when it is said that "responsible owners no longer exist"—for responsible owners always exist in a free society. The contention that a modest Federal program with financial assistance to the States can handle these problems is going in the wrong direction for even a limited program.

Tragically, for the past 50 years our solutions to similar problems generally have been based on the notion that rights are collective and guilt and responsibility are not individual matters. By claiming society is an entity in itself and the Government must always act in the best interests of society, those in charge failed to note that some person in power had to make a value judgment as to just what in particular is in the best interest of particular individuals. Society becomes just what they say it is.

The goals sought by legislation become the biases of special interests, of lobbyists and politicians representing the special welfare or benefit of a few, while the general welfare of all the rest is being abused. With the absence of a clear understanding of individual rights and responsibilities our society and political process will drift into chaos, because the power of lobbyists and bureaucrats will eventually rule competely.

We see in this legislation bold new emergency powers being granted to the EPA. It essentially cancels State tort laws and mandates that settlements be taken out of the court and put into the bureaucracy without access to due process law and trial by peers. All this on top of the outrageous expense that this bill will entail.

The absence of a clear understanding of individual responsibility is apparent in our judicial system as well today. Our sociological judges are "soft" on criminals, giving minimal sentence to vicious criminals because they have been "victims of an unfair society" and are not responsible for their acts. Since society hurt them, society must pay. Yet we must remember someone in particular will decide who society is, who in particular benefits, and who in particular pays. In the meantime individual rights and freedom will be further diminished for all Americans. Legislation like the superfund will mandate that the injured be compensated by the innocent. The discussion concerning the specifics of personal liabilities has been confused and will continue to be confused if we insist on Federal programs that mandate our financing an outrageous system of so-called justice that ignores property rights and supersedes the traditional legitimate court system.

It has been argued that the present judicial system is too slow and complex to handle the problems that may arise from hazardous waste suits. That is not the case at all. Were our courts allowed to function under the common, tort law, any suits that might arise could be settled equitably and quickly. It is not the judicial system, but the regulatory system that has been imposed by both State and Federal governments, that is slow and complex. Were this system abolished, the judicial system could function properly. Bypassing our judicial system and leaving the regulatory system intact is the precise opposite of what should be done.

The Love Canal episode demonstrates so well how government—the City of Niagara Falls and the Niagara Falls Board of Education—creates a problem and then how that problem is compounded by the hysteria of an EPA pseudo-scientist. Government is the problem, not the solution, and the sooner we learn this the better off the country will be.

The same ethical standards which insist that the fruits of one's labor be shared forcefully and arbitrarily at the command of the State accept, quite consistently, the notion of "spreading the pain" of paying for personal injury or property damage to everyone "equally." Some will claim that this legislation will make the responsible companies pay. Yet if past experience is of any value, we can be sure it will not work that way. So far the only companies that have lobbied for this bill have been those involved with waste disposal. The taxpayer one way or another, will eventually get stuck with this bill, through higher costs for production or higher taxes or more inflation. We can be certain also from past experience not to expect any help whatsoever in solving the problem of handling toxic wastes. It is most likely that the problem will get worse, not better.

Ignoring individual rights and individual liberty is unfair, immoral and is doomed to failure. That is the message the economic mess we are facing today is trying to tell us. Even though the funds we vote on today are huge, they will prove miniscule when this principle of collective guilt for all injury becomes accepted throughout our economic system.

There is an alternative to the economic egalitarian notions that have driven us to the point of economic stagnation, social upheaval and potential war. That alternative is easily applied, moral, just, and workable. It is sad that we rarely describe and discuss the alternative to the ancient tradition of collectivism. That alternative is embodied in the concept of individual rights, the recognition that we have a right to our own lives and to the fruit of our labor, but no right to anybody else's. All association under these conditions must be voluntary and contracts must be held inviolate.

Private ownership virtually precludes any injury to another, and if there is injury or damage to property, the responsible person is 100 percent liable. Tort law should not be tampered with. It may not be a perfect solution to all our personal injury problems, but it is the best. Increasing the power of an EPA bureaucrat and establishing a superfund certainly cannot even be classified as a solution. They are problems in themselves.

Malpractice in medicine is a good example of how voluntarism and the marketplace solves personal injury problems. Doctors now run malpractice insurance companies, and these are a godsend to both the patients and the medical doctor. The chemical companies would do the same if we would just get out of the way and define their liabilities based on rules of private property ownership and individual responsibility.

Mr. FLORIO. Mr. Chairman, I yield myself so much time as I may consume.

As we start to wrap up this debate as far as the Commerce Committee portion is concerned, I think it is important to know what the bill does, and perhaps respond to the comments of the previous gentleman who spoke. This is a bill that is designed to deal with a real problem, now. All too frequently, were we to rely on the traditional approach, such as litigation, prosecution, or more studies, we go forward at a very slow pace. This problem cannot tolerate the slow pace that has been the traditional response, when there has even been a response.

Provisions in this bill provide the authority for immediate cleanup and containment response authority; provide for the funding for that cleanup and containment; and provide the authority to then go and determine who it is that is responsible. So, no one should have then thought that we are letting those who have done inappropriate and irresponsible things walk away. That is not the thrust behind the bill.

I would just ask that we go forward and consider this legislation in an expeditious fashion. There may very well be philosophical differences, and I am convinced that during the course of our deliberations in the next week, hopefully, we will resolve those problems and we will go forward in order to induce the other body to enact legislation this year. The American people are demanding that we have a legislative response to this problem. For this Congress to go home without superfund legislation would be very unfortunate to the people's perception of whether we have a legislative body that is responsive to the people's needs.

There will be amendments that will be offered to provide more studies. We do not need more studies. There will be amendments offered to provide for State grants, to let the States start to formulate programs. The States are looking to us. We have had testimony from State associations, from the Governors' associations, saying that they do not have uniformity or expertise or resources; they need guidelines. That is, in essence, what this is. This is not a new bureaucracy which is being created. In essence, what we are saying is there must be a Federal capacity to respond to these problems, but EPA is charged with the responsibility of deferring to those who are onsite, who have the capacity and inclination to clean up and contain. They are charged with the responsibility of dealing with the States when the States indicate that they do desire to go forward. EPA has a mandatory requirement imposed upon them to enter into agreements with the States to let the States and the onsite people deal with cleanup and containment.

So, this should not be construed as a large new bureaucratic program that is being created. I would just ask that we go forward with this legislation, deal with it so that we can have a response formulated for the benefit of the people.

Mr. MADIGAN. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, the name of William Grigsby does not ring a bell with most Americans, but to the few hundred citizens of Sharptown, Md., on the banks of the Nanticoke River, he is a very real person. Mr. Grigsby, a citizen of Delaware has already been convicted in the courts of Wicomico County, Md., for responsibility for abandoning a number of tanks full of toxic chemicals including PCB's and waste oil 50 feet from the banks of one of the most fertile rivers that flows into the Chesapeake Bay, a spawning ground for fish, crabs, and oysters.

A year and a half ago, the gentleman from Maryland and officials of the State of Maryland became aware of Mr. Grigsby and his activities because Sharptown's mayor, Ralph Corddrey, alerted us to the fact that toxic chemicals were leaking from those tanks. In the ensuing hours spent by my staff and myself seeking a solution to this problem we sank into one of the worst legal quagmires I have ever seen. The answer that we finally reached was that no one seemed to be responsible—not Mr. Grigsby, not the State of Maryland, not the Coast Guard, not the EPA or any other Agency.

It was only through the good offices of the gentleman from New York (Mr. MURPHY), the gentleman from New York (Mr. BIAGGI) and others who worked with us to solve the problem that the U.S. Coast Guard finally accepted the responsibility under a very liberal interpretation of the statute under which they now act as one of the agencies charged with cleaning up chemical spills.

The Sharptown situation convinced me that there is in fact not only a national and interstate responsibility for dealing with this, but that the Congress had to act. I am not sure that this legislation before us today is in its most acceptable form. I am not sure the Congress has the collective capacity to write a bill that would solve all the problems of all the Sharptowns in our country. I look forward to the perfecting amendments that may be offered, but I do know, as one who has a major concern about Federal intrusion and the irresponsible acts of Federal agencies, that someone must act to prevent future occurrences such as happened in my State and are happening all over this country.

I also think the responsibility for these toxic chemicals has to be placed individually, as the gentleman from Texas (Mr. PAUL) suggests, but also collectively to some degree. I would hope that all Members would approach this legislation with the thought in mind that this is a growing and serious national problem which must be addressed and soon.

Mr. MADIGAN. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Chairman, I appreciate the gentleman yielding to me. I think the last several speakers, including the chairman of the subcommittee, touched on something that I would like to comment on very briefly; that is, the role the States play in this.

Louisiana has passed legislation in this area. Louisiana has a great, complex chemical industry, and unfortunately the storage sites. The problem in Louisiana has not been not knowing how to handle it or needing guidelines, but needing money.

I think that is the key, the State and local governments are looking toward the Federal Government to provide the money. I would agree with the gentleman from Maryland that there is a collective responsibility of this Nation as a whole to clean up these sites that have long since been abandoned, where we cannot find the responsible companies, or they are no longer in business.

But, the real key is the lack of money rather than technical ability or the lack of administrative know-how.

Mr. MADIGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina (Mr. Martin), an active participant in the development of this bill thus far.

Mr. MARTIN. Mr. Chairman, I thank my colleague from Illinois for his work on this legislation, as well as the gentleman from New Jersey (Mr. Florio) who has provided excellent leadership in bringing us to the point where we are today.

Mr. Chairman, I agree with the gentleman from New Jersey (Mr. Florio) in his remarks in debate here on the need to go forward with this legislation. I would express my personal hope that we can air our differences on how best to go forward, but do so in a timely fashion. There are some who want to put the burden for delay on those who oppose what they regard as extreme amendments.

☐ 1140

But it would seem to me that burden must at least be shared by those who insist on overloading this bill.

So I say, let us move forward to adopt legislation now to start the effort needed to clean up these abandoned, hazardous chemical dumpsites and avoid overloading the bill with amendments that could risk dragging our feet until it is too late.

It is my hope, Mr. Chairman, that we can continue to debate this issue and resolve it without, in one direction, accusing one another of evil motives when we are all trying to deal with a very difficult problem and trying to do it in a timely fashion. Secondly, I hope that in continuing to do this, we can resist the impulse to try to create a general phobia about chemicals.

The chemical industry is an industry which has produced many products which have added to our quality of life, to our life expectancies, and to our ability to produce food in this country and around the world. As we move to clean up these hazardous dumpsites that have festered about the country as an offshoot from this industry, let us be very careful that we do not engage in trying generally to create a phobia and a general fear among the public about this industry and about the important chemical products which are of such great value to us.

Mr. Chairman, I thank the gentleman for yielding me this time.

The CHAIRMAN. The gentleman from Illinois (Mr. Madigan) has 1 minute remaining.

Mr. MADIGAN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. Rostenkowski).

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. ROSTENKOWSKI. Mr. Chairman, the Ways and Means Committee amendment to H.R. 7020, the Hazardous Waste Containment Act of 1980, adds a new title II which will raise the minimum revenues necessary to fund the program for cleanup of inactive chemical waste sites created by title I of the bill. The committee believes a reliable and available source of funds is needed to respond to the growing threats to the public health and environment which arise from inactive hazardous waste sites such as the Love Canal in New York, the Valley of the Drums in Tennessee and numerous others. To assure that the tax revenues collected from the chemical industry for this vital cleanup program will be available for that use, the committee has established a trust fund.

THE EXCISE TAX

The committee amendment provides for $900 million in revenues over a 5-year period. This revenue will be raised by two new taxes, one on crude oil and imported petroleum products, the other on petrochemical feedstocks and certain inorganic chemicals. The substances subject to the tax are the basic raw materials out of which most hazardous substances are created.

The tax on oil and imported petroleum products is .6 cent per barrel. This tax will be collected at the refinery or at the point of import or export. If crude oil is used without passing through a refinery, the tax will be imposed on the user unless the oil is used at the point of production to fuel further production.

The tax on petrochemical feedstocks is $2.54 a ton and is imposed on the producer or importer of feedstocks. The tax on specified inorganic chemical is $2.33 a ton. This tax is also imposed on the producer or importer. The feedstock and chemical tax will be imposed only once on the same substance. Title II as reported by the Ways and Means Committee would provide only one exemption from the tax; that is, an exemption for feedstocks and chemicals used to produce fertilizers. A further committee amendment will also require the Treasury to provide an exemption for the fuel use of any feedstock, a principal use of which is use as a fuel. The effect of this amendment will be to exempt from the tax the fuel use of methane, for example.

The tax on crude oil and imported petroleum products is expected to raise $35 million a year. The tax on petrochemical feedstocks will raise $108 million a year and the tax on inorganic chemicals will raise $36 million a year. These taxes will expire after September 30, 1985. Thus, over the life of the taxes, $900 million will be generated for use in the cleanup of inactive hazardous waste sites. This amount, supplemented by $300 million in appropriations authorized over the same period, is the absolute minimum necessary to begin a responsible effort to solve the Nation's hazardous waste problem. It is estimated that this amount will finance cleanup of only the 250 most critical sites.

THE TRUST FUND

The taxes raised by title II will be placed in a hazardous waste response trust fund together with appropriated amounts and certain recoveries from persons responsible for the waste sites.

The fund will be available, subject to appropriations, for purposes of emergency response, removal, containment, cleanup, or other action taken under title I of the bill. The trust fund may not be used for purposes other than those specified in title I nor to pay for costs incurred at sites owned or operated by the U.S. Government. This is consistent with the provisions reported by the Committee on Interstate and Foreign Commerce. If in the future a proposal is made to expand the scope of this hazardous waste response program, the Committee on Ways and Means would expect to look at that proposed change, after the authorizing committee has made its recommendations, to see if the change is consistent with the general purposes of the fund and further whether sufficient revenues are available or if a tax increase is necessary to pay for the proposed changes. This is only natural because in this bill we are enacting a specific level of taxation to address specific problems.

In this regard, the hazardous waste response program is totally consistent with other trust fund arrangements which have worked smoothly over the years. Such funds include the airport and airway trust fund, the black lung disability trust fund, and inland waterways trust fund, and the highway trust fund. In the past, when the authorizing committees have sought to amend the programs supported by these trust funds, we have worked successfully with those committees.

To assure adequate oversight and governmental participation in the fund, total spending from the trust fund may not exceed 10 times the amount actually appropriated to the fund. In addition, the trust fund may not borrow from the U.S. Government.

Spending from the trust fund will not be permitted after September 30, 1985 unless the fund is extended by the Congress.

The CHAIRMAN. The gentleman from Illinois (Mr. Rostenkowski) has consumed 6 minutes.

The Chair now recognizes the gentleman from New York (Mr. Conable).

Mr. CONABLE. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, without going into the bill as a whole, I would like to say that I support the Ways and Means Committee amendment to H.R. 7020 which is contained in title II, the Hazardous Waste Revenue Act of 1980, as it is called.

Title II, as my friend, the gentleman from Illinois, has already described, would impose excise taxes on crude oil, specified petrochemical feedstocks, and specified inorganic substances. The revenues from these excise taxes are to be deposited into a "hazardous waste response trust fund." The fund will be available to finance the containment or cleanup of inactive hazardous waste sites which are causing or threatening to cause harm to the public health and environment.

The tax on crude oil is expected to raise $35 million in revenue annually. There is $108 million annually coming from petrochemical feedstocks and $35 million annually coming from inorganic chemicals. The excise taxes will "sunset" the provisions of the law after September 30, 1985.

The trust fund will receive moneys both from excise tax deposits and transfers from general revenues. This has been a matter of some contention in the development of the bill.

Excise tax receipts are intended to make up 75 percent of the fund's total assets, following the Downey amendment in the Committee on Ways and Means, whereas transfers from general revenue will make up 25 percent of the fund's total assets. There was a 50–50 division as it came from the other committee earlier.

As a further safeguard to assure that the general revenue transfers will occur, the bill limits expenditures from the fund to 10 times the amount of general revenues actually appropriated to the fund. That insures, of course, that there will be some public involvement in the creation of this fund, if we are to have any use of it.

□ 1150

The excise taxes in title II will produce the revenue to support a responsible program to clean up abandoned, hazardous waste sites. The authority to pay for removal and cleanup costs is defined by the provisions currently in subpart C of part 2 of subtitle C of the Solid Waste Disposal Act. This provides a fixed reference point by which to measure the legitimacy of payments from the fund. This is an essential safeguard.

Mr. Chairman, I am not sure exactly what is going to happen to the Florio amendment which was printed in the Record. I hope if it is offered that some accommodation will be made to the section which would in effect open up the purposes for which the trust fund may be spent, make it subject to the sole control of the other committee. The Ways and Means Committee is not terribly enthusiastic about creating trust funds for which the purposes will be defined by someone else, without any review by the Ways and Means Committee. I personally have some resistance to trust funds generally because they impinge on the discretion of the Congress to expend money raised by the Congress according to its unfettered discretion; and clearly, to set up a trust fund which then could be expended in any way which one of the legislative committees saw fit would be to discourage the creation of further trust funds. We should avoid such a precedent.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from New Jersey.

Mr. FLORIO. I thank the gentleman for yielding.

Of course, I can understand the gentleman's concern about the possibility of this scenario occurring which he described. Likewise, as the authorizing committee, we are very much concerned about the Ways and Means Committee perhaps making substantive changes in the provisions of the legislation which relate to programs authorized by the Commerce Committee.

I have been talking with the gentleman from Oregon (Mr. Ullman). We think we have reached an accommodation which perhaps can be read into the Record at the appropriate time, and we are planning on doing that. I think that will resolve the gentleman's apprehensions as well as mine.

Mr. CONABLE. Yes. I call the gentleman's attention to the fact that every trust fund we have set up has the kind of language in it which the gentleman's amendment suggested striking. In other words, whether you are talking about airways safety or the Highway Trust Fund, in general we retain the right to review the purposes for which the money we are asked to raise is spent. And I hope that we will not change that practice, so that the Ways and Means Committee will be expected to raise money generally for whatever purpose the fertile mind of any committee can devise at some time in the future.

The purpose of a trust fund is to have a fairly limited use of the money raised rather than to have it purely discretionary.

Mr. FLORIO. If the gentleman will yield, I am very optimistic that we will be able to work out the difficulties and have it read into the Record.

Mr. CONABLE. That is fine. If we are not going to do that, we ought to go the appropriations route, I think, and have it subject to the safeguards that are usually involved in that practice.

Mr. Chairman, I believe title II contains a responsible and workable approach to financing the cleaning up of abandoned hazardous waste sites. There have been arguments made that we should not put a tax on petrochemical feedstocks, but I think they have been resolved to the satisfaction of everybody concerned.

The CHAIRMAN. The Chair now recognizes the gentleman from Illinois (Mr. Rostenkowski).

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. Weiss).

Mr. WEISS. Mr. Chairman, I rise in support of the two bills before us today commonly known as the superfund, H.R. 7020, and H.R. 85.

Since the close of World War II, the chemical and petrochemical industries have enjoyed uncomparable growth. Unfortunately, there has not been a parallel development of preventive safeguards against oil and chemical spillages and sites where potentially hazardous wastes are located. Within the last few years almost daily reports of leaking chemical dump sites, oilspills, and other hazardous substance spills appear in the news. The Coast Guard reports that 10,620 spills released a total of 17.6 million gallons of oil in 1977, a year which saw no catastrophic single spill. EPA estimate there are 3,500 spills a year.

In my own State, the department of conservation has listed 680 sites which are known or thought to have received industrial wastes. The most notorious, of course, is the Love Canal site. A total of 157 of these sites are classified as "high priority", that is, posing the most danger to the public's health and the environment.

The Surgeon General has stated:

> It is clear that it is a major and growing health problem. We believe that toxic chemicals are adding to the disease burden of the United States in a significant way.

A report issued just last month by the Library of Congress entitled "A Brief Review of Selective Environmental Contamination" concluded that enough toxic pollutants have been released to have affected every citizen in the Nation. It is apparent that we are practically drowning in our own toxic wastes.

Existing environmental, common, compensatory, and liability laws are not adequate to meet the dangers of existing and potential accidents. The variety of laws and regulations provide little or no relief for cleanup and compensation, limit liability, and provide insufficient funds. EPA Administrator Douglas Costle testified before the Senate Finance Committee that—

> Confronted by these problems we were forced to realize that existing legal authorities are inadequate to deal with them in many ways.

The legislation we consider today, H.R. 85, the Comprehensive Liability and Compensation Act, and H.R. 7020, The Hazardous Waste Sites Act would replace this maze of current laws and regulations. Both bills provide for cleanup of oil and many hazardous substances spills, and hazardous wastes sites, and determine conditions for liability and compensation. The bills establish funds made up of excise taxes on the oil and chemical industries and some Federal moneys. The problem of toxic chemical sites and spills and oilspills will not disappear with the passage of this legislation. But it will be a first step toward the solution of a problem which endangers the health of every person and the environment in which we live.

Though I support this important first step, these House bills do not adequately address the real danger of chemical wastes and oilspills. I am hopeful that the other body which is currently conducting hearings on more comprehensive, stronger legislation, will report their bill, S. 1840, intact. S. 1840 includes stronger liability provisions, coverage of toxic releases not only into a navigable body of water, but to land and air as well, provisions for health damages to victims, and a fund of $4 billion.

The critical importance of this legislation cannot be overemphasized. As the Surgeon General's report states—

> The public health risk associated with toxic chemicals will continue to increase . . . until we are successful in controlling the introduction of these chemicals into our environment.

I urge my colleagues to join me in support of this legislation.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Chairman, I rise to express my support for immediate passage of H.R. 7020, the Hazardous Waste Containment Act of 1980. Let me state from the outset that my preference as to the best possible legislation would be H.R. 7020 with the Ways and Means amendments attached.

This is the second part of the so-called "superfund" package proposed by the administration. I am the author of the first legislative component of this measure, H.R. 85, the Comprehensive Oil Spill Liability and Compensation Act. This bill is expected to come before the House later today.

The bill H.R. 7020 addresses itself to the proliferating national problem of toxic chemical dumping and release of hazardous wastes from inactive and abandoned sites. The U.S. Surgeon General, Julius Richmond, in what Time magazine this week calls "the most authoritative warning yet," declared that throughout the 1980's, this Nation will confront "a series of environmental emergencies" posed by toxic chemicals that "are adding to the disease burden in a significant, although as yet, not precisely defined way."

This legislation goes after the problem in two sound ways—it proposes a procedure to both identify and take steps to remove poisonous materials from sites, and second, it insure that compensation is available for costs incurred by this action.

Let me emphasize this point from the very outset—this issue which we are debating today is a major social and environmental issue. But above all, it is a profoundly human issue. The presence of hazardous chemicals, literally in the backyards of thousands, if not millions of American homes, has evoked a growing national fear for the well-being of our families.

Perhaps the catalyst for this growing sense of uneasiness is the ongoing tragedy of Love Canal. Contaminants from an old landfill loaded with dangerous chemicals at and below surface levels, had seeped into a residential area where some 1,200 homes and a school are located. For an inordinate period of time, the complaints of the residents of the area went unheeded by the Federal Government until it finally called for detailed tests of each individual in the area. New York State was finally compensated by the Federal Government earlier this month for costs incurred in relocating the families from the Love Canal area. Estimates indicate that the State of New York has already expended some $35 million on Love Canal and clearly needed help from the Federal Government.

In earlier research I had done on the Love Canal issue, based on materials submitted by the Hooker Chemical Co. which owned the landfill, records indicated that as far back as the late fifties, problems related to the chemical landfill were being reported. In this particular case, the assistant technical supervisor of the school system in the Love Canal area reported the serious burning of four children by materials in the grounds of a school playground which had been deeded to the school. Prior to its use as a playground, the area had stored chemicals which proved to be the source of the children's burns.

Love Canal, N.Y., Elizabeth, N.J., Montague, Mich., Seymour, Ind.—these are all places where the presence of dangerous chemicals pose a serious threat to the health and safety of local residents.

Let us examine the scope of this problem. Based on a 1979 Environmental Protection Agency survey—there are between 30,000 and 50,000 inactive and uncontrolled hazardous waste sites in the United States. Of these, as many as 2,000 present a serious risk to public health. In my home State of New York, there may be as many as 157 high-risk sites posing serious health threats to residents.

H.R. 7020 provides that the owners and operators of chemical dump sites that are not being used, to file reports with appropriate State and local officials detailing the types of chemicals which are stored, the method of waste treatment and storage, and other germane activities.

Further, States would be required to compile an inventory of chemical dump sites and transmit this information to the EPA. If they fail to do so, the EPA would step in and do the job.

Within 15 months of enactment of this legislation, States must establish priorities among inactive sites in their State using EPA guidelines. Within 6 months of enactment, EPA must establish a national priority list of sites which present a substantial threat of releasing hazardous substances.

After this, EPA may take emergency action if a dump site presents an unreasonable risk to public health or the environment. If the site is among the top 100 in ranking, EPA could relocate, contain or clean up the materials or take other remedial action to eliminate the hazard.

These are all-important steps which are common to both bills. The issue of who pays—how the fund will be financed—and liability and enforcement issues—I will discuss during the debate on the Ways and Means Committee substitute.

It is essential that both H.R. 85 and H.R. 7020 pass this year. The problem is too severe to overlook—the potential for greater problems in the future is highly possible. It is currently estimated that only 10 percent of some 77 billion pounds of hazardous wastes produced each year are disposed of in an environmentally safe fashion. The unsafe methods range from slipshod to downright dangerous. This bill will protect present and future homeowners by identifying the location of sites which pose a threat to health and safety.

What is most important about this legislation is its offering of first-time protection of the public from the damages and hazards caused by unknown polluters, bankrupt companies, or those who successfully avoid liability. Where are the victims to turn in this case? Are they supposed to simply accept property damage or worse—damage to their health?

The issues appear to be very clear. This Nation has a relatively new, but decidedly dangerous problem on its hands with the presence of chemicals and other hazardous substances in our lands. H.R. 7020 presents the first real legislative remedy to this national problem. It is not a complete answer but an important start. I urge adoption of the strongest version of H.R. 7020 which will demonstrate to the American people that we are committed to promoting a safe and healthy environment for all.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 6 minutes to the gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY. Mr. Chairman, I would like to begin by congratulating both the gentleman from New Jersey and the gentleman from Tennessee for the work that they have done. I want to single out the work of the gentleman from Tennessee, who has a remarkable grasp of this issue. It is my privilege to count him as a friend and to have learned from him on this subject.

Mr. Chairman, I want to explain very briefly what we did in the Ways and Means Committee, because I think we have improved on the good work of the Commerce Committee. Commerce came to us, basically, with a $600 million proposal that was divided equally between Government revenue and the industry. The Ways and Means Committee understood, along with other members of the Commerce Committee, the magnitude of the toxic waste problem.

At a minimum, there are 300 sites that need immediate attention. The cost of providing that attention will range anywhere between $3 million and $4 million, and probably a lot more, and will eat up the entire $1.2 billion. The $1.2 billion is a start. It is not adequate, but I think it represents a reasonable beginning.

So we needed to, right away, increase the size of the fund, and that is what the Ways and Means Committee did.

We next addressed the question of who should pay, and that, of course, centers around who is responsible. And this is a matter of some controversy. Clearly, in those situations where the generator of the waste is clearly identifiable, they should pick up the tab for cleanup. But in those hundreds and possibly thousands of instances where no one can be identified, we have to provide a mechanism for a quick reaction and also for a long-term solution.

The Commerce Committee held 18 hearings, and I think it is fair to say that the large and small chemical companies are responsible for the problem.

Let me just quickly thank the chemical industry for the bounty they have provided us: Polyester, clothing, a whole range of synthetic fibers, chemicals, pharmaceutical changes in our lives that have made our lives more attractive and certainly more comfortable. But with that creativity and that productivity also comes the need to save money; and the industry found, unfortunately, that this is a big country and that it is very cheap to find an abandoned farm and dump these chemicals or have somebody come up with a flatbed truck and for 75 cents a barrel dispose of the chemicals. And that is what happened. It is clear, from the Commerce Committee's work, that the Fortune 500 companies are as responsible and probably more responsible than the small ones.

So what the Ways and Means Committee said was, "We will take 75 percent of the revenue from the industry and 25 percent will come from the taxpayers of this country."

Now, something needs to be said with respect to the apportionment between private and public money, because when we say 75-25, that does not take into consideration the fact that this tax, along with all other taxes, is deductible. And if you figure for a large corporation a 40-percent marginal rate, that means that, out of every $75 of tax, about $30 of it is going to be coming back to the various companies, or $30 in addition to the $25 will be picked up by the Federal Government. So it is not a 75-25 split after taxes; it is closer to a 55-45, 55 public, 45 private. I think that is very equitable.

One of the other things that concerns me and concerned the committee is what impact this tax would have on the consumers of chemicals and on the competitive position of the chemical industry abroad.

Now, the Environmental Protection Agency, through one of their studies, did an econometric model that found out that this was such a small tax and it was diffused so carefully and thoroughly through the production chain that it would have no impact on the chemical companies, domestic chemical companies' competitiveness in this country versus foreign companies, and that the cost to the end user, the consumer, would be also negligible. This was something that concerns me.

I asked each of the witnesses who came before the committee to address the question of foreign competition.

□ 1200

Not one of them said that this would be onerous. Not one of them could point to any competitive disadvantage that this fee would provide. It is minuscule. But this minuscule fee spread out over the various feedstocks will generate the $1.2 billion along with public money that we need to begin this process.

From my community of Long Island, we have had 36 private wells shut down. We, like much of the rest of this country, get our water from glacier actifers underneath the ground. Two million people on Long Island are potentially at risk because of the hazardous dumping that has gone on over the last 20 years.

So from my community, this is a parochial interest, but for the thousands of others of the sites throughout this country, it becomes not only a parochial, but a national interest.

The Committee on Ways and Means has changed this bill beneficially. I hope that the Members can support it.

Mr. CONABLE. Mr. Chairman, I yield 9 minutes to the distinguished gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Chairman, I thank the gentleman for yielding.

I come from Louisiana, which is one of the biggest producers of chemicals and have a number of chemical plants in my district and also a number of storage chemical sites in my district. I would like to think I have some indication and some awareness of both sides of the issue.

As a matter of fact, I recently went to a meeting with constituents in my district who were suffering from one of these sites and the problems being caused by it.

From my vantage point, I think there are two conclusions I have reached and we have all reached. First, abandoned toxic chemical storage sites are indeed a serious problem, and they do indeed demand the attention of the Congress.

Second, it appears necessary that this is truly an example of where the Federal Government must be involved. I accept that.

There is a third point that is clear to me, that has yet gone unnoticed in this debate that I would like to touch upon. That is the point of the method of payment of moneys into this fund and what I think its eventual impact may be on international trade.

I am concerned about the arguments that were raised during the debate by members of the Committee on Interstate and Foreign Commerce that this bill essentially causes good chemical companies to pay for mistakes of the bad chemical companies, and the bad chemical companies are riding the backs of the good ones who have tried to obey the law and tried to properly dispose of these toxic chemicals

While that concerns me as an equitable matter, the real thing I am concerned about, that we have not touched upon, is that of trade.

I am privileged to serve on the Subcommittee on Trade of the Committee on Ways and Means, and I am very concerned that we do not adversely impact our competitive edge in the export of chemicals. I think we should all be aware of the result of excessive taxation and our corresponding industrial inability to compete with foreign producers. We have already seen this as is now painfully evident with shoes, automobiles, television sets, steel and many other items.

Meanwhile, the chemical industry has enjoyed a substantial trade surplus of some $5 billion annually, and without the help of this industry, which is one of the few manufacturing exporters we still have left, our trade deficits would be far worse than they are. Whether one calls it a fee, as the Committee on Interstate and Foreign Commerce bill does, or a tax, as the Committee on Ways and Means amendments properly do, it does not really matter, because in each instance it increases the cost of production with no increased productivity.

The gentleman from New York just mentioned that nobody has complained this is going to be an onerous burden. That is not entirely true, but largely so. But when one considers this new burden with other existing ones and other factors, somewhere in the future it is going to be a problem.

Already the clouds of economic decline are beginning to appear for the chemical industry. Even if H.R. 7020 is not enacted, and even if this fund is not changed as to how it is paid, this industry is going in the future to be squeezed, and squeezed hard, in foreign competition for two reasons.

The first is that crude oil is the basic feedstock of the chemical industry, in particular, the petrochemical industry. It is clear that when crude oil prices are completely decontrolled, the abilities of the chemical companies to market their products in the world market are going to be significantly endangered. Crude oil feedstock costs constitute 20 percent of the cost of the chemical companies' overall operational costs.

Over the last few years the U.S. companies have enjoyed a substantial cost advantage in the world market solely because of the cheaper feedstock costs in this country as compared to European or Japanese chemical companies.

Just as we have seen in the decontrol of oil causing gasoline and heating prices to go up, this is true in the oil feedstock costs as well.

As we phase out the artificial price control program for oil, which I support, we are increasing the cost of doing business of the chemical companies. Foreign chemical companies have had to operate on the world market price of oil for many years now. The Japanese and European companies have not paid an artificially low price for oil like they have in the United States. They have paid the world price. That has largely been the reason we have been able to compete and export chemicals.

The second reason why we are going to have problems in the future in international trade of chemicals is that this industry worldwide is already suffering from overcapacity and undertilization. The U.S. trade advantage in chemicals has been primarily due to our inherent price advantage due to crude oil prices being regulated rather than our superior technology or a world shortage of chemical industry capacity.

Both European countries and Japan, our major industrial trading partners, are welcoming the day when U.S. chemical companies will have to pay the same prices they now have to pay for oil and further, the OPEC countries are beginning to forge ahead to construct additional petrochemical production capacities or expanding the ones that they have in order to be able to take advantage of the United States lessening ability to compete.

Both the underutilized worldwide capacity and the additional planned capacity of the OPEC countries will most certainly weaken our competitive advantage. With the structure of the fund as it is in this bill, we are now adding a third reason, this new tax or fee on this industry that is already going to face these two other factors in the very near future.

Let me give the Members a specific example of what I fear is going to happen. Metallic nickel and metallic cobalt are covered by this bill. They are not in themselves generally considered to be toxic or hazardous. In fact, as the Members know, we use pure nickel in most of our coins. Any intermediate products produced by a process that purifies nickel ores and cobalt ores are already being regulated in Louisiana and most States under subchapter C, of the Resource Recovery and Conservation Act.

It just so happens that the only pure nickel and cobalt produced in the United States is produced in the State of Louisiana at the Port Nickel facility. This plant supplies 10 percent of the U.S. needs of pure nickel. All of the remaining nickel, the other 90 percent, and cobalt metal is imported from unreliable sources across the world.

With the imposition of this fee or this tax, it is likely that this plant will close and we will then get 100 percent of this material from overseas.

This plant is already in a marginal economic situation mainly from foreign competitive measures, and the parent company is already considering closing this domestic plant and building one overseas. If this plant in Louisiana is closed, we lose 700 jobs. We also lose something we will have to import more of thereby further weakening our trade balance and economy. I figure this will not happen just with this plant, but at some point in the future with additional chemical companies and plants.

Unfortunately, this situation was not learned by me until after this bill was considered by my committee and after a rule was granted by the Committee on Rules which prevents me from offering an amendment when this bill is considered under the 5-minute rule to remove the nickel and cobalt provision from this bill's coverage and the resulting requirement of the payment of the tax.

□ 1210

Therefore, I feel this bill should be amended to have this adverse trade impact for the future and the present removed, and yet preserve the fund.

I understand the Stockman substitute, which I will support, will accomplish this end.

I will support this bill, even without the passage of this needed amendment, just as I did in committee; but this debate would be neither responsible nor complete without consideration being given to the connection between increased taxes and decreased ability to compete in international trade. We have ignored this point so many times in the past and our economy is today suffering for that reason. We must not do it again.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from Texas.

Mr. ECKHARDT. I am rather surprised at the gentleman's statement that the chemical industry is not sufficiently efficient to compete unless it has an advantage price-wise.

I would have thought that if, in the gentleman's State, as in mine, that the chemical industry was able to compete when foreign oil sold during the sixties to European chemical plants at only $2.90, whereas domestic oil was being sold to U.S. plants at about $3.40, the chemical industry could compete when the cost to them and to their European competitors are the same.

The CHAIRMAN. The time of the gentleman from Louisiana has expired.

Mr. CONABLE. Mr. Chairman, I yield 1 additional minute to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. In the 1 additional minute, let me attempt to respond to the gentleman's question, which is a good one and a fair one.

Times have changed since the prices then. Most chemical plants in my State were built back before that time. There are newer ones that have been built that are really more efficient in other parts of the world. Today we can compete. Tomorrow, next year, 5 years from now, when oil is totally decontrolled, we may still be able to compete, but will enjoy less of an advantage than we have now. It is only commonsense as the cost of raw materials goes up, so does the cost of the finished product. We are not going to be able to compete or as well as now considering increased capacity overseas, coupled with this burden that we are going to place by virtue of this new fee or tax, and coupled with the increased technologies of foreign countries. We are going to have difficulty in the future.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield further?

Mr. MOORE. If I have time, I will certainly yield.

Mr. ECKHARDT. But it was true at the time I am referring to that foreign plants had an absolute advantage in price over American plants the European plants buying oil at around $2.90 per barrel. At that time American plants were paying around $3.40. Certainly our chemical industry should be able to compete when the cost is equal.

The CHAIRMAN. The time of the gentleman from Louisiana has again expired.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 4 minutes to the gentleman from Connecticut (Mr. MOFFETT).

Mr. MOFFETT. Mr. Chairman, occasionally in this debate we have tried to look at some of the human dimensions that are part of the toxic waste problem. I would like to point out, and I think the gentleman from Louisiana (Mr. MOORE) and the gentleman from Michigan (Mr. STOCKMAN) must be aware of this, the tremendous and volatile nature of this issue with regard to the population.

There was a 20-minute segment, as I understand it, on a television show called "Speak Up America," last Friday, 1 week ago tonight. It was about this very issue. Perhaps some of my colleagues saw it. Some of us were mentioned on that program. I was one because I had chaired hearings on this matter, and the gentleman from Tennessee (Mr. GORE) because he has been so involved in it, and some others. Just from that one program, that one 20-minute segment, came 130 letters from 28 States.

I see the gentleman from Minnesota (Mr. STANGELAND) here. He is a member of our subcommittee. I think he knows from the testimony we have had from around the country that citizens from all geographic regions are deeply concerned about this problem. Here is just one from Tampa, Fla. This is a young mother. She says:

> I am the wife of a hardworking man with a low income.
>
> I know we'll never be rich enough to buy our own home, or land, and we work hard just to maintain a house and feed our two children.
>
> But it breaks my heart and scares my children when we see on T.V. the dumpings of chemical waste that kills the land, rivers, and lakes.
>
> Now we're only 24 years old and my husband and I can't afford to buy even one acre of land, but the rich businessmen of this country are killing the land.
>
> We can't afford to go to football games, or take the kids rollerskating. The only form of family entertainment that we have is camping. We take a tent, some hot-dogs and the kids to a lake about 30 miles from home. There's no charge for the camp site. All we have to pay for is the gas to get there.
>
> The four of us love going to the lake. We swim and take walks in the woods.
>
> Please don't let someone kill our lakes and land. Inflation has taken everything we used to enjoy.

Now, that kind of message is very, very common in this group of letters. I do not need to belabor the point because we are all getting this kind of mail. I think that is why we will not have more than 20 or 25 votes against this bill on final passage.

But I think there is another message in these letters. People are begging us not to weaken this bill. If anything, strengthening it with the Gore amendments, strengthen it with the amendment of the gentleman from Texas (Mr. ECKHARDT) to provide minimal funding for the study of health effects, something we are not even doing now; but by all means, let us pass the legislation intact, the Ways and Means version with regard to industry contribution.

There is one final point that emerges from these letters. People are willing to pay even more to see that we do not totally destroy this planet.

Mr. CONABLE. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota (Mr. STANGELAND).

Mr. STANGELAND. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the serious problem of abandoned and inactive hazardous chemical dump sites throughout the country has been well-documented and requires immediate corrective action by Congress in order to avoid irreparable harm to the environment and public health. National estimates indicate that up to 2,000 dumps may pose grave health hazards to a significant number of our citizens. In my home State of Minnesota, there are seven identified high-risk dumps which ranks Minnesota fifth among all States regarding the number of such high-risk hazardous dumps. A specific example of the pervasiveness of this problem can be found in Perham, Minn., located in my congressional district where 11 people were affected by arsenic poisoning from a small well in the early seventies. Other examples of groundwater contamination and pollution caused by improperly disposed chemicals and hazardous wastes may be found in almost every congressional district in America.

Such incidents graphically demonstrate the need for urgent action by the Congress to pass a strong bill to deal with one of the most serious environmental problems facing America during the 1980's. For these reasons, I rise to express my wholehearted support for the Hazardous Waste Containment Act, as amended by the Ways and Means Committee to increase the size of the cleanup fund to $1.2 billion and call for a 75-percent contribution by industry, with the remaining 25-percent portion coming from the Federal Government. In addition to provisions concerning the cleanup fund, this legislation will also provide standards for assessing liability, establish an inventory of hazardous waste sites, require monitoring of these sites and set up a priority list of the most dangerous dumps that require immediate attention.

By passing strong "superfund" legislation, Congress has the opportunity to belatedly address the problems of oil and chemical spills and toxic waste disposal. The people of this Nation rightfully demand action now. As elected representatives of the people, we cannot afford to delay implementing a national toxic waste policy any longer. I reiterate my support for the Ways and Means Committee amendment to double the size of the hazardous waste trust fund and increase industry's share to 75 percent. This is desperately needed and is certainly an appropriate area for Federal expenditures.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Chairman, I, too, rise in support of H.R. 7020 and commend the Committee on Ways and Means, the Commerce Committee, and especially the gentleman from New Jersey (Mr. FLORIO) for their activities.

Controlling hazardous wastes is one of the most pressing problems currently facing our Nation. The amount of such waste that is generated every day is enormous and the danger it presents to society is great indeed. For too long we have ignored the problem of disposal of hazardous wastes and we are now paying the price for that inattention. Almost daily another clandestine chemical dump is discovered and another threat to our health and the environment is known.

I firmly believe, as do most Americans, that strong Federal action in this area is necessary. A recent survey showed that almost 93 percent of the American public thought that coping with hazardous wastes was a proper role for the Federal Government. The cost of cleanup is enormous, far beyond the capabilities of the average individual and even dwarf the capabilities of most States. In Missouri alone it is estimated that cleanup of known sites could cost up to $100 million. Federal assistance in this area, therefore, is necessary if we are to make our Earth safe again.

I, for one, think that at some point in the future the Federal Government is going to have to take action to prevent placing any more hazardous wastes in the ground. Incineration, recycling and chemical treatment technologies are developing so as to make the goal of isolating hazardous wastes from our environment a reality. We must do whatever we can to expedite the development and utilization of such technologies.

While this legislation does not directly prevent the improper dumping of wastes, I believe that it too is of critical importance. Creation of a superfund will lead to the prompt cleanup of hazardous dumps once discovered and thus will lessen the risk of harm to human beings. Once a dump site is discovered, nothing is more important than protecting the people around that site from its dangers. All too often, however, disputes over fault and liability preclude such rapid cleanup. Creation of the fund will allow prompt cleanup, with resolution of liability questions at a later date.

Because of the enormity of the problem that hazardous wastes present a large fund will be needed to cope with cleanup. Even a $1.2 billion fund will cover only the tip of the iceberg as far as complete cleanup of all waste sites is concerned. Furthermore, while I understand the claims of the chemical industry that society has benefited from their products and should pay the cost of cleaning up the wastes, I believe that the burden of cleanup must be placed on that industry. Placing the cost of cleanup on waste generating industries will prevent the externalization of costs for products developed by such industries and thus will make it clear to society what the true costs of such products are. Only if such a path is followed will the generation of hazardous wastes be controlled in the future.

Lastly, while this bill is primarily a cleanup mechanism, the inclusion of a strong liability section is a step forward. In my mind, imposition of strict standards regarding releases from hazardous waste sites will be a strong deterrent to improper storage of such wastes. The threat of protracted litigation and large financial liability will force waste disposers to implement more stringent safeguards for disposal in the future.

I applaud the efforts of the gentleman from New Jersey for the fine work he has done on this bill. This is much needed legislation and the country will be better off if it passes.

☐ 1220

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. AMBRO).

Mr. AMBRO. Mr. Chairman, I rise in support of H.R. 7020, as reported by the Ways and Means Committee.

Throughout the United States, groundwater is being grossly contaminated by careless, uncontrolled dumping of hazardous wastes produced by a large number of industries. Yet, this same groundwater is the only source of drinking water for many millions of Americans. Residents of my district on Long Island are among those, being totally dependent on aquifers designated as "sole-source" by the U.S. Government in 1978. Sadly, these aquifers are already contaminated in some places and face further serious and long-term contamination by enormous amounts of hazardous chemicals which have been dumped for decades by uncaring industries in so-called sanitary landfills and in recently discovered dumpsites on industrial properties owned by these industries.

The dimensions of this threat have been delineated by a recent comprehensive report painstakingly compiled by the Toxic Chemicals Project of the New York Public Interest Research Group, Inc. released July 1980, entitled "Toxics on Tap," which is included, and I support this legislation. This report documents an alarming array of cases of hazardous waste dumping in disposal sites located mostly on the morainal spine of the island, which is the primary recharge zone of the aquifer system. Notable among the cases documented is long-term, continuous dumping of industrial wastes by the infamous Hooker Chemicals & Plastics Corp. In 1978 alone, Hooker dumped more than 1,600,000 pounds of industrial wastes in the Old Bethpage landfill in Nassau County. Despite Hooker's knowledge that these wastes were largely hazardous and constitute a threat to human health as they leach into the groundwater supply, there was no surveillance by the corporation of the site.

Although the worst offender on Long Island and throughout the Nation, Hooker is by no means alone. With few exceptions, the chemical industry as a whole has been guilty of a callous disregard for the health and very lives of citizens into whose ground water supplies they have dumped all manner of noxious substances.

Until recently, these same industrial polluters were asking this body to vote down a measure which will require them to assume a part of the fiscal burden of cleaning up the heritage of their blatant disregard for the health and safety of the citizens of this Nation. For us in this House to heed the erstwhile pleas of these magnates of pollution and vote against this bill which properly places part of the burden on those who created this problem in the first place, would be to display an arrogant disregard for the lives of our constituents at least as callous as the actions and attitudes of the polluters themselves.

Mr. Chairman, I urge passage of the bill, H.R. 7020, and urgently request that my colleagues support the comprehensive approach offered us by the Committee on Ways and Means.

The report follows:

NASSAU COUNT ON-SITE LANDFILLS

The Cerro Wire and Cable Company located in Syosset, N.W. has three dumps on the ground of its Robbins Lane plan. None has been investigated thoroughly. Nevertheless, they are a major potential source of contamination, particularly heavy metal pollution. Cerro has been known to landfill highly toxic industrial sludges containing iron, nickel, chromium, copper, cadmium, lead, and zinc at the Syosset municipal landfill adjacent to its property. It is possible that similar wastes are buried on-site. For a description of the manufacturing processes used at this plant and a discussion of the kinds of hazardous waste they generate, refer to the State Pollutant Discharge Elimination System permit program section of this report. Refer also to the profile of the Syosset municipal landfill.

Grumman Aerospace Corporation in Bethpage, New York has operated an on-site dump since 1945. There has been no study investigating the problem of toxics leaching from this landfill. Nevertheless, the potential for intense groundwater contamination exists. The manufacture of aircraft equipment typically utilizes a wide variety of toxic compounds and generates many toxic wastes. Moreover, this plant's wastewater has been designated as a principal toxic discharge both for heavy metals and organic compounds.

The Hooker Chemical and Plastics Corporation operated at least four dumps at its New South road plant site in Hicksville, New York. Three were used between 1955 and 1974; the other dump's period of activity is unknown. These dumps, and the plant site in general, hold massive amounts of extremely toxic and carcinogenic materials. Consequently, they are a major source of groundwater pollution. Because of Hooker's involvement with investigations and lawsuits, specific information is available detailing the types and quantities of compounds landfilled on-site at its Long Island facility.

The Hooker Chemical and Plastics Corporation/Ruco Division's plant in Hicksville is a manufacturing operation characterized by Standard Industrial Classification (SIC) codes: 282 (plastics, materials and synthetic resins, synthetic rubber, synthetic and other manmade fibers, except glass), and 286 (industrial organic chemicals). From the data presented in appendix A, there is no doubt that these SIC industries generate many toxic and persistent wastes. The plant produces or has produced: polyesters, polyvinyl chloride (PVC) compounds, plasticizers, and polyurethanes through the industrial processes of esterification, polymerization, dry blending, pelletizing, and emulsification. Raw materials required for these processes include, but may not be limited to: organic dibasic acids, aliphatic alcohols, polyvinyl chloride resins, resin stabilizers and lubricants, diisocyanates, pigments, fatty acids, antioxidants, aromatic solvents, catalysts and water. The industrial wastes generated by the plant include, but again, may not be limited to: solvent flushes, latex flushes, filter cake, aqueous organics, resin dusts, boiler room runoff, tar heels, chemical packaging, a variety of laboratory chemicals, strip glycols waste, sludges and waste lube oil. Much of the hazardous wastes were landfilled in local dumps. The details of that disposal method are discussed in the profiles of individual sites. However, a great deal of hazardous waste was also buried or discharged on-site.

Any large industrial plant handling raw chemicals in bulk inevitably has spills, accidental releases, and leaks. Over a long period of time significant problems can develop. During the years 1951–1978, when the Ester plant was in operation, its truck loading areas became heavily contaminated with several toxic chemicals. Finished plasticizer and raw material alcohol leaked from blown-out truck lines and plant-bulk lines; these compounds included styrenebutadiene latex. Occasional tank overflows in this area have also been documented. Because for many years the area was not diked, rainfall caused direct leaching of the compounds. Also they were washed into the nearby backsump. The same kind of plasticizer contamination occurred at the East Rear Plant 1 trucking area.

There is also documented evidence of periodic spills of PCBs (polychlorinated biphenyls) at the plant. The Hicksville Pilot Plant therminol system originally used PCB therminol. Occasionally the system would malfunction, resulting in the discharge of PCB's from a relief pipe onto the ground. PCB's are extremely toxic and potentially carcinogenic chemicals. They are also among the most stable compounds known, with a half-life of more than 50 years. Released into the groundwater system, PCB's could eventually cause widespread contamination.

Before hundreds of drums of aqueous organic waste and filter cake were removed from the plant site, they were stored outdoors for long periods of time. This took place in two major holding areas north and south of Plant 2. Exposure to the elements, combined with the corrosive qualities of some of the drummed wastes, perforated many of the containers. Wastes which were released included: 2-ethyl-hexanol, perchloroethylene, waste plasticizer, solution urethane, dimethylformamide, methylethylketone, toluene and isopropyl alcohol.

These leaking drums of highly toxic compounds are a major source of air pollution and groundwater contamination. For example, perchloroethylene was shown to be carcinogenic in a 1977 National Cancer Institute study. Moreover, when perchloroethylene reacts with other pollutants in air, it can break down to form the World War I chemical warfare agent, phosgene. Phosgene exceeds the toxicity of chlorine gas ten-fold. Other documented waste releases were also hazardous. Dimethylformamide is exceptionally toxic; it is also specifically fetal toxic. It must also be noted that mixing together many kinds of toxic chemicals is capable of producing other compounds of unknown toxicity.

The plant's tower water system and main boiler are both sources of toxic pollution. Industrial cooling systems are frequently purged during operation. The effluents that result from "blow downs" are contaminated with a variety of treatment chemicals, such as algicides and anti-corrosion compounds. Hooker's first cooling tower was installed in 1956; four years later a second system went on-line. For the first twelve years of operation an extremely toxic anti-algae additive, potassium dichromate, was used. By 1968 regulatory pressure forced Hooker to switch to other treatment chemicals.

On the average over 10,000 gallons of "blow downs" per day and 3,600,000 gallons per year have flowed to the Pilot Plant sump. This discharge is known to have contained the following toxic additives: silicate, sodium hydroxide, hexametaphosphate, sodium salt of nitrilotriacetic acid, sodium lignosulfate, polyacrilate, phosphonate, zinc sulfate, Derma Brown G dye, diethylaminoethanol, hydrazine, sodium sulfite, disodium alginate, and minimal sodium salt of pentachlorophenol. The recharge or leaching of these compounds into the groundwater system is a significant pollution problem.

A variety of bulk toxic compounds have been buried on the plant site. They are major potential sources of pollution. In 1974, for example, three latex storage tanks containing solidified latex were filled with sand and buried between the plant's parking lot and the railroad right-of-way. Around 1962, a trailer truck with heavy encrustrations of solid styrene-butadiene latex was buried between the Plant 2 solvent tank farm and the polyvinyl chloride catalyst cold room. Neither site has been monitored for contamination problems.

Beginning in 1951 vast volumes of wastewater contaminated with carcinogenic and otherwise highly toxic materials were discharged into sand sumps on the plant's property. This direct recharge of pollution could potentially cause heavy deterioration of groundwater quality below the plant site.

Starting in 1951 four ester reactors were put into operation. These produced a wide variety of compounds, including: trimellitate, phthalate, and adipate plasticizers, maleate esters, fumarate esters, polyesters, caprylates, and pelargonates. These industrial processes generated huge volumes of highly polluted wastewater which typically contained 1 percent to 10 percent of mixed alcohols and glycols such as: 2-ethylhexanol, diethylene glycol, and ethylene glycol. It also contained significant quantities of organic acids, such as isophthalic, phthalic, trimellitic, and adipic, as well as methanol and perchloroethylene.[18] All of these compounds have toxic pollution potential.

Between 1951 and 1978 ester production increased from five million pounds per year to 26 million pounds per year. A conservative estimate of the pollution loads generated equals 50,000 pounds of organic wastes annually in the early years and 250,000 pounds annually towards the end. Until 1974 all these wastes were dumped directly into the Ester Plant sand sump. Recharge and leaching of wastes has not been monitored.

The toxicities of the various compounds used, produced and discharged by the Ester Plant are, in general, extremely hazardous. Trimellitate plasticizers, for example, were produced by reacting trimellitic anhydride with alcohols, such as 2-ethylhexanol. Trimellitic anhydride has been designated as an extremely toxic agent in the workplace by the National Institute of Occupational Safety and Health. Exposure to the compound can result in irritation of the pulmonary tract, noncardiac pulmonary edema, and immunological sensitization. Maleic anhydride is another highly toxic raw material whose vapors are extremely irritating. As has been described previously, perchloroethylene is potentially carcinogenic. The overall toxicity of these compounds and others that may have been formed inadvertently by the combined dumping practice is unknown.

Wastewater discharges from other production lines were also fed directly into groundwater sumps. Between 1956 and 1975 a polyvinyl chloride resin facility manufactured approximately ten million pounds per year of vinyl chloride homopolymer and vinyl chloride/vinyl acetate copolymer. The wastewater from this process contained approximately 0.1 per cent polyvinyl chloride resin solids, 600–1200 mg/l vinyl chloride, methocel, gelatin, cadium and barium soaps in mineral spirits, trichloroethylene and high levels of vinyl acetate. The average annual discharge volume per year totalled 2,000,000 gallons; all of it was dumped into sand sumps. For the 19 year term of operation this equals nearly 38,000,000 gallons of heavily polluted wastewater discharged directly into the aquifier system below the plant site.

This massive release of toxic pollution is potentially devastating. A conservative estimate of the vinyl chloride fed into the sand sumps totals approximately 380,000 pounds. This compound is an extremely potent carcinogen, known to cause liver cancer in humans. It also causes Acroosteolysis, a degenerative disease of fingertip and hand bones. The other compounds are also highly toxic. Yet no regular surveillance of these sumps has been made. In all likelihood this is a major source of past and present groundwater pollution.

For 15 years between 1956 and 1975, one and sometimes two reactors produced styrene-butadiene latex. Their wastewaters contained styrene condensate, butadiene and rosin acid soaps. The entire discharge was disposed of on-site in sand sumps, generating another obvious source of groundwater pollution.

In short, the toxic manufacturing wastes that were landfilled and discharged on this site have created a massive potential contamination problem. Some of the deadliest and most non-biodegradable compounds known to science have been discharged directly into the aquifer system. Unquestionably, the potential for long-term leaching of toxic compounds also exists. The full magnitude of the problem is uncertain, however. Much data concerning the precise amounts and toxic qualities of on-site wastes is unavailable to the public. Before a precise determination of the area's hazard can be made, this information must be reviewed.

Eleven other industries in Nassau and Suffolk are known to be operating or to have operated on-site landfills. To date, a comprehensive study of the potential groundwater problems at each site has not been made. Nevertheless, there is presumptive evidence that most of the industries generate toxic compounds.

Liberty Industrial Finishing, located at Motor Avenue in Farmingdale, New York, operates a factory engaged in electroplating, plating, polishing, anodizing, and coloring, according to its 3471 Standard Industrial Classification code. This kind of manufacturing process is certain to generate toxic heavy metal sludges and organic chemical wastes. Its State Pollutant Discharge Elimination System permit designates it as a principal toxic discharge of heavy metals and organics.

Mergenthaler Linotype, located on Mergenthaler Drive in Plainview, New York operates a diversified machinery factory that is likely to generate a variety of toxic wastes, according to its 3553, 3573, and 3861 Standard Industrial Classification codes. Refer to Appendix A for a description of typical pollutants in 3861 Classified industrial wastewaters. The plant makes woodworking machinery, electronic computing equipment and photographic equipment and supplies. The wastewater discharge from this facility is regulated by the State Pollutant Discharge Elimination System permit program for toxic heavy metals and organic chemicals.

Servo Corporation of America, located at 111 New South Road in Hicksville, New York, operates an optical instruments and lens manufacturing business. According to its 3832 Standard Industrial Classification code, this plant is likely to generate a variety of hazardous wastes. Its wastewater discharge is regulated by the State Pollutant Discharge Elimination System permit program for toxic heavy metals.

Two other industries in Nassau County operate on-site dumps for which there is little information: Mattiace Chemical, located in Glenwood Landing and Photocircuits, located on Sea Cliff Avenue in Glen Cove. Both are potential sources of organic chemical wastes or heavy metal sludges.

SUFFOLK COUNTY ON-SITE LANDFILLS

At least six industries in Suffolk County are known to operate or to have operated on-site hazardous waste landfills. No comprehensive pollution study has been made of any of these sites. Nevertheless, there is reason to believe that they all are potential sources of groundwater contamination.

Dayton T. Brown, Inc., located on Church St. in Bohemia, New York, operates two dumps on its property. According to its 3444 Standard Industrial Classification number, this sheet metal plant is certain to generate toxic wastes. Its State Pollutant Discharge Elimination System permit characterizes it as a principal discharger of toxic heavy metals and organic chemicals.

Deutsch Relays, Inc., located at 65 Daly in East Northport, New York, has an on-site dump. According to its 3679 Standard Industrial Classification number, this plant generates toxic wastes. Appendix A details the pollutants that probably are in the wastewater discharge of this facility. Its State Pollutant Discharge Elimination System permit characterizes it as a principal discharger of toxic heavy metals and organic chemicals.

Fairchild Republic Aircraft Company, located at Broad Hollow Road in Farmingdale, New York, has a dump on its plant property. As a large manufacturer of aircraft engines and engine parts, according to its 3724 Standard Industrial Classification number, this plant is certain to generate toxic wastes. Its State Pollutant Discharge Elimination System permit characterizes the factory as a principal discharger of toxic heavy metals.

Jameco Industries, Inc., located at 248 Wyandach Ave. in Wyandach, New York, has two dumps on its property. This plant manufactures a wide range of electrical and metal products. According to the following Standard Industrial Classification numbers, the facility produces: 3599-machinery and parts, except electrical, not elsewhere classified; 3432-plumbing fixture fittings and trim (brass goods); 3629-electrical industrial apparatus, not elsewhere classified. All these industrial processes generate toxic wastes. The facility's State Pollutant Discharge Elimination System permit characterizes the plant as a principal wastewater discharger of toxic heavy metals and organic chemicals.

Two other Suffolk County industries have on-site dumps. Hazeltine Corporation on Cuba Hill Road in Greenlawn, New York, has a single landfill. Edwin B. Stimpson, located at 900 Sylvan Avenue in Bayport, New York, has two landfills. The pollution potential of these sites is unknown.

NASSAU COUNTY NON-INDUSTRIAL LANDFILLS

Table I outlines non-industrial landfills in Nassau County. Three landfills in Nassau County have received combined industrial, municipal, and hazardous wastes. They are Old Bethpage, North Hempstead, and Syosset municipal landfills.

The Town of North Hempstead landfill, at Denton Avenue in New Hyde Park received primarily incinerator residues while it was active from 1951 to 1974. This site has not been comprehensively studied as a source of groundwater contamination.

The Old Bethpage Landfill, located at Winding Road and Sweet Hollow Road in Old Bethpage, New York, has been in operation since 1957. For ten years, this dump was the primary landfill used by the Hooker Chemicals and Plastics Corporation/RUCO Division plant in Hicksville. During that time, it became one of the greatest hazards to environmental and groundwater quality on Long Island.

According to an internal Hooker memo prepared in the days immediately following the Love Canal emergency, the Bethpage Municipal Landfill was described as follows:

> Used by Hooker plant since 1968 for disposal of our liquid and solid wastes including: drums of waste filter cake (mixture of celite, decolorizing carbon spent toluene solfonic acid catalyst, bicarbonate, trimellitate plasticizer, traces of free 2-ethylhexanol); drums of solution urethane wastes (urethane polymer, solvents such as toluene, DMF, MEK isopropyl alcohol); waste alcohol and glycol "strips" (mixture of 2-ethylhexanol and other similar alcohols, glycols such as ethylene glycol, perchloroethylene). Also some PCB therminol wastes, urethane latex waste water. Also solid waste such as emptied TMA bags, emptied adipic bags, emptied phthalic bags, thousands of wound cartridge filter elements filled with polyester. Also pallets, PVC floor sweeps, pallets, cardboard boxes, vinyl compound floor sweepings, PVC sump scrapings (containing PVC, vinyl chloride, vinyl acetate, trichloroethylene, barium and cadmium soap stabilizers), drums, urethane latex coagulum, TPU waste, waste organic heels in drums including polyester, solution urethane, monoester. Also spent lube oils (300 gallons/year).
>
> Time of use 1968–1978. At maximum use (1978) we are putting out an estimated 1-600,000 lbs. per year mixed wastes, solid plus liquid, into the Bethpage municipal landfill.
>
> No segregation at this municipal dump. No surveillance by Hooker.

TABLE 1.—NASSAU COUNTY LANDFILLS AND COMPOSTING SITES

Town: Nassau County Health Department I.D.	N.Y.S. Department of Environmental Conservation facility No.	Name and location—Type of refuse	Open	Closed	Size (acres)
Hempstead:					
108	30S02	Garden City (landfill and compost), Cherry Valley Rd.—Incinerator residue	×		12.0
114		Hempstead Village, Coes Neck Rd., Baldwin—Incinerator residue		×	100.0
120		Lynbrook, Ocean Ave.—All	×	(Old dump) compost	3.0
123	30S11	Warren Bros. (private), Coes Neck Rd., Baldwin—Rubble		× (1976)	32.0
131	30S06	Oceanside, Long Beach Rd.—Mixed municipal	×		198.0
132	30S05	Merrick, Merrick Rd.—Mixed municipal	×		168.0
140		Valley Stream State Park, Brush and trash	×		
141	30S03	Hempstead Lake State Park, Brush and trash	×		2.0
142	30S04	Jones Beach State Park, Brush and trash	×		4.0
143	30S18	Roosevelt Raceway, Trash and agricultural	×		.5
144		Lawrence		(Old dump) × (1950) compost	
145		Sanitary District No. 1, Bay Blvd., Inwood—Incinerator residue	×	Transfer station	5.0
146		Freeport, Albany Ave., Freeport—Incinerator residue	×	Transfer station (1965)	50.0
		Valley Stream No. 1, 200 Arlington Ave		× (1949)	
		Valley Stream No. 2, Hungry Harbor Rd		× (1962)	

Town: Nassau County Health Department I.D.	N.Y.S. Department of Environmental Conservation facility No.	Name and location—Type of refuse	Open	Closed	Size (acres)
North Hempstead:					
310		Denton Ave. (New Hyde Park), Denton Ave.—Incinerator residue		Transfer station (1974)	37.0
315	30S09	Mineola, Westbury Ave. and 2d St.—Rubbish/demolition	×		21.0
316	30S08	Nassau County DPW, West Shore Rd.—Grass and leaves			25.0
321		Great Neck Estates		× Compost	
333		Roslyn L-1, West Shore Rd.—Incinerator residue		× (1974)	23.0
334		Roslyn L-2, West Shore Rd.—Incinerator residue		× (1972)	8.0
335		Roslyn L-3, West Shore Rd.—Incinerator residue		× (1972)	7.0
336		TNH L-4 (lined with PVC), West Shore Rd.—Mixed municipal	×		53.0
	30S10	Port Washington, Port Washington	×		
Oyster Bay:					
211		Glen Cove		Transfer station	
217	30S14	NYS Planting Fields, Brookville—Agricultural	×		1.0
222	30S12	AGO (Private), West John St., Hicksville—Rubble	×		10.0
224	30S13	Garvies Point, Glen Cove—Sewage grit		× (1976)	1.0
225	30S15	Old Bethpage, Winding Rd.—Mixed municipal	×		50.0
226		Plainview		Proposed	65.0
227	30S01	Duffy Ave., Wantagh Pkwy, and Country Rd.—Agricultural			5.0
228	30S19	Beechwood, Old Tappan Rd.—Agricultural			3.0
229		Bethpage State Park—Agricultural	×		2.0
230		Syosset, Miller Place—Industrial wastes, mixed municipal		× (1975) compost	50.0

Source: New York State Department of Environmental Conservation, Region I Resource Conservation and Recovery Act Inventory, Nassau-Suffolk Regional Planning Board 208-K Study.

According to 1978 calculations over 800,000 pounds per year of industrial waste was dumped by Hooker at this site. Approximately 60 percent of that material are the following chemicals:

	Pounds year
Trimellitic anhydride	10,000
Adipic acid	27,000
Phthalic anhydride	300
Isophthalic anhydride	1,000
Maleic anhydride	1,000
PVC	400
Kane Ace	7,000
26TM and other plasticizers	240,000
Polyester	7,600
Speedi-Dri mixed organics	16,000
PVC Compounds (90 percent PVC by content)	165,000
Spent Lub Oil	3,000
Total	478,300

A description of the individual processes used to generate these wastes and the toxic effects of the individual compounds is found in the Hooker Hicksville plant profile in the hazardous waste section of this report.

The landfill is not designed in any way to prevent the recharge or leaching of toxic pollutants. Consequently, this landfill represents a severe environmental hazard. Toxic chemical groundwater contamination is not monitored at the site. Other industries may also have discharged toxic wastes at this dump.

The Syosset municipal landfill was operated by the Town of Oyster Bay between 1936 and 1975.[3] During that time, vast amounts of toxic and hazardous waste were landfilled there. In fact, the site holds such huge volumes of deadly chemicals that it must be considered at this time as one of the most potentially devastating sources of toxic pollution on Long Island.

The landfill occupies approximately 40 acres of land on a site immediately north of the Long Island Expressway. It is bounded on the south by Miller Place, by Cerro Wire and Cable Corporation to the southwest, by the Long Island Railroad to the west, and by a large residential neighborhood to the north and east. An abandoned incinerator and an unused sludge processing unit are located on-site. Over 4,000 people live in 1,200 suburban homes located within 1.25 mile radius of the dump. Within 100 feet of its eastern border there are two schools. Furthermore, in excess of 300,000 people per day are calculated to be potentially affected by the dump as they pass within 150 feet of it on the Long Island Expressway. Beneath the landfill at a depth of 70 feet, lies the groundwater table and 5,000 feet away are drinking water supply wells for the adjacent town of Syosset where over 40,000 people reside.

A staggering volume of wastes was dumped into this landfill. Hundreds of millions of pounds of domestically-generated waste, septic tank sludges, and hazardous wastes are buried in this site. Septic tank sludges, for example, were disposed of in the landfill for twenty eight years at a rate of approximately 18,250,000 gallons per year. These wastes were dumped into an open pit. In 1967, this practice was finally halted when a sludge processing unit went into use. The analysis data presented in Table II indicate processed sludge contained high levels of lead, chloride, phenols, iron, zinc, copper, and chromium. All of these toxic compounds have significant pollution potential.

TABLE II.—TOWN OF OYSTER BAY SCAVENGER WASTE TREATMENT PLANT EFFLUENT ANALYSIS,[1] NASSAU COUNTY HEALTH DEPARTMENT

Constituent	Plant effluent		Filtrate
	Mar. 5, 1974	June 26, 1974	Mar. 5, [2] 1974
pH	11.2	9.6	
Manganese	.10	<.05	0.468
Iron	1.46	.62	49.2
Chloride	260.0		
Total dissolved solids		2,082	
Chromium (total)	.04	2.34	3.18
Chromium (hexavalent)	<.01	2.17	
Silver	<.05		.6
Copper	.18	1.10	22.8
Zinc	.37	3.20	18.0
Lead	.13	.04	.288
Cadmium	<.005	<.005	.6
Phenols	.296	.2	
Sulfate	50		
Cyanide	.003	<.007	
Nickel	.24	.29	2.8
Mercury		<.0005	.0012

[1] This shows the metal constituents in the plant and filtrate effluent. Significant are the pH, TDS, chromium (total and hexavalent), copper, zinc, and phenols.

[2] Analyses performed by New York State Department of Health

Sometime during the late 1940's or early 1950's, the Cerro Wire and Cable Corporation began disposing of highly toxic and concentrated sludges at the dump, at a rate of approximately 670,000 pounds per year. This practice has never been studied in detail, but there is reason to conclude that these industrial wastes are a major pollution hazard. Table III indicates that extremely high concentrations of toxic heavy metals were found in the sludges Cerro Wire and Cable Corporation dumped. These wastes are capable of migrating within groundwater systems and causing widespread pollution problems. Refer to the profiles on Cerro Wire and Cable Corporation in the hazardous waste dump section of this chapter and the State Pollutant Discharge Elimination System direct discharger chapter for a description of the plant's industrial processes and the toxic effects of pollutants they are known to, or are likely to, discharge.

TABLE III.—*Cerro Wire and Cable Corp. industrial sludge analysis*[1]

(*By Nassau County Health Department—Date of analysis: Oct. 8, 1974*)

Constituent:	*Value*[2]
Solids (in percent)	20.3
Moisture (in percent)	79.7
Volatiles (in percent)	17.9
Iron (total)	45,000.0
Copper	32,000.0
Zinc	95,000.0
Lead	1,800.0
Cadmium	5.5
Chromium (total)	212.5
Nickel	35.0

[1] These analyses indicate the significant amount of metals present in the sludge from Cerro Wire and Cable Corporation.

[2] All values are expresed as mg/kg unless otherwise noted.

Columbia Corrugated Container Corporation is also known to have discharged hazardous wastes at this site. Table IV indicates that its sludge was also highly contaminated with heavy metals, though the levels are uniformly below the levels of pollutants in Cerro Wire and Cable Corporation's wastes. An estimated 108,000 gallons per day were dumped. These contaminated sludges are a major source of potential groundwater pollution. For a discusion of the industrial processes used at this plant, refer to its profile in the State Pollutant Discharge Elimination System direct discharger chapter.

TABLE IV.—COLUMBIA CORRUGATED CONTAINER CORP., INDUSTRIAL SLUDGE ANALYSIS,[1] NASSAU COUNTY HEALTH DEPARTMENT

Constituent	Date of analysis		
	Dec. 5, 1974		Jan. 13, 1975, dried sample[2]
	Dried sample	Liquid sample	
Chromium (total)	22.0	3.1	42.1
Copper	126.0	1.77	59.4
Cadmium	2.5	.07	.58
Nickel	9.5	.17	2.3
Zinc	58.0	3.2	88.8
Lead	300.0	15.2	277.0
Iron	336.0	16.6	265.0
Titanium			115.0
Manganese			1.15
Magnesium			19.6

[1] This represents the relative contribution of slude from Columbia on the Syosset site. Concentrations are much lower than those from Cerro.

[2] Analyses performed by consultant for Columbia.

Note: Dried samples expressed as mg/kg. Liquid sample expressed as mg/l.

The largest quantity of hazardous wastes discharged in the Syosset Municipal landfill came from the Hooker Chemicals and Plastics/RUCO Division plant in Hicksville, New York. This landfill was used exclusively by Hooker for hazardous wastes disposal during the period 1946–1968. The same internal Hooker memo that characterized the Old Bethpage site described the Syosset landfill in this way:

Over the period 1946–1968, Hicksville Plant sent any and all solid and liquid waste in drum quantities to this facility. Also tank trucks of Ester Plant wastes from our concrete pits (alcohols, glycols, perchloroethylene, latex waste material and SBR).

Drummed waste would include alcohol/water/perchlor, purified latex, coagulated latex, alum, filter cake, PVC sludge, PVC floor scrapings, and reactor scrapings, vinyl chloride recovery still bottoms, spent lube oils, about 300 gallons/year, and waste PCB therminol waste. Also drums of waste alcohol and glycol "strips" (mixture of 2-ethylhexanol and other similar alcohols, glycols such as ethylene glycol, perchloroethylene). Also some PCB therminol wastes. Solid wastes including 55 gallon drums, 5 gallon pails, pallets, 50 lb. bags, gaylords, cardboard drums, cheesecloth with latex coagulum, emptied PVC bags, emptied TMA bags, emptied adipic bags, emptied phthalic bags, emptied maleic bags. Also drums of waste filter cake (mixture of celite, decolorizing carbon, spent toluene solfonic acid catalyst, bicarbonate, and trimellitate plasticizer). Also pallets, cardboard boxes, vinyl compound floor sweepings. Also PVC sump scrapings (combined PVC, vinyl chloride, vinyl acetate, trichloroethylene, barium and cadmium soap stabilizers). Also organic heels in drums.

Time of use of this municipal dump facility 1946–1968. Use was lower until 1952–1955 and then heavier thereafter. At maximum output we disposed of in estimated 800,000 lbs./year of total solid and liquid waste. This includes 10,000 gallons/year liquid waste (in bulk) from our annual pumpout of our concrete pits. Solids were trucked away by our own licensed dump truck. Liquid wastes (10,000 gallons per year) were hauled away by McGuinnigle. We discontinued using the Syosset dump in 1968. We use no surveillance or testing on the dump.

We had several complaints from the municipal operations' personnel regarding our materials: messiness from broken SBR latex drums; acidic odors from acetic acid wastes.

There was no segregation at the Syosset landfill of Hooker wastes from other wastes. The landfill personnel did segregate liquid from solid wastes in two general areas of the dump.

Refer to the Hicksville plant's hazardous waste profile for a description of the manufacturing processes that generated these wastes and a summary of the toxic effects some of them are capable of producing.

The Syosset Municipal Landfill is a huge source of potential environmental contamination. There is no doubt that massive amounts of extremely carcinogenic and otherwise toxic pollutants have been disposed of unsafely in this dump. Table V indicates extremely high levels of toxic heavy metals are present in the landfill. These pollutants are capable of migrating through the groundwater system. There is evidence that groundwater contamination has already developed from the leaching of some of these toxic compounds. Whether widespread pollution is taking place is uncertain, due to the total absence of adequate monitoring at the site. Consequently, the full range of problems this dump poses to public health and the environment remains a mystery.

TABLE V.—SYOSSET LANDFILL, TOWN OF OYSTER BAY INDUSTRIAL SLUDGE ANALYSIS,[1] NASSAU COUNTY HEALTH DEPARTMENT, AUG. 14, 1974

Constituent	Values[2]			
	Sample 2	Sample 3	Sample 4	Sample 5
Moisture (percent)	23.9	51.0	68.0	32.3
Volatiles (percent)	26.9	27.0	26.4	33.1
Solids (percent)	76.1	49.0	32.0	67.7
Iron	41,000	69,000	73,700	71,500
Copper	45,750	17,600	44,500	27,400
Zinc	90,000	130,000	105,000	105,000
Lead	3,190	3,885	3,830	7,260
Cadmium	6.40	6.35	10.75	8.05
Chromium	335	225	225	295
Nickel	45.5	46.0	51.0	52.0

[1] Sludge samples collected at 4 locations on the Syosset site indicate significantly high concentrations of iron, copper, zinc, lead, cadmium, chromium, and nickel. The sampling locations are in the area primarily used by Cerro Wire & Cable Corp.

[2] All values are expressed as mg/kg unless otherwise noted.

Only three critical facts are not in doubt: 1) The dump is located precisely in the deep recharge zone of the Long Island aquifer system. Consequently pollution discharged from the landfill would cause a maximum amount of irreparable damage to the water supply. 2) While the dump is known to hold massive amounts of some of the deadliest substances known to exist, a comprehensive study of its environmental impact has never been made. 3) Unless the landfill is made secure, environmental contamination will increase in the future. The health of hundreds of thousands of people could be affected. In conclusion, the securing of this dump must immediately become a top environmental priority for the Long Island community.

SUFFOLK COUNTY NON-INDUSTRIAL LANDFILLS

Table VI outlines the non-industrial landfills in Suffolk County. Many landfills in Suffolk County are also sources of potential toxic chemical groundwater contamination. Unfortunately, data detailing the types and quantities of industrial and hazardous wastes landfilled in Suffolk County dumps is presently unavailable. However, grandwater contamination caused by two landfills in Suffolk County has been studied jointly by the United States Geological Survey and the Suffolk County Department of Environmental Control. The Babylon landfiill, in operation since 1947, is the primary refuse disposal site for approximately 200,000 people. The landfill covered 125 acres and contained an estimated 2.3 million cubic yards of refuse as of 1973. Combustible waste has been incinerated at this site since it began operation. From 1968 to 1972, this amounted to an average of 368 tons per day. Non-combustible solid waste is dumped directly into the landfill. Scavenger waste from pumped out septic tanks has also been disposed of in vast amounts at this site since 1966. Though an accurate assessment of the total amount discharged into the dump has not been made, in 1972, an average of 40,000 gallons per day were handled. Scavenger waste has also been dumped directly on top of the huge rubbish piles.

The plume of leachate extending from the dump has been traced in the Upper Glacial aquifier. From a point at the earliest pile of rubbish, located in the northwest corner of the site, a tongue-shaped plume flows southward over 10,000 feet. It is approximately 2,000 feet wide at the landfill and tapers toward its southern tip. The plume is 70 feet deep and occupies the full thickness of the Upper Glacial aquifier. It contains an estimated 2 billion gallons of contaminated water.

The second landfill that was studied is the Town of Islip dump, located in Sayville. This landfill is one of three sites used to dispose of solid waste generated by a local population of 290,000 people. It holds an estimated 0.8 million cubic yards of material. The site was originally a sand and gravel pit. Refuse presently extends from the bottom of the pit, located 30 feet below the land surface, to an approximate height of 16 feet above land. In 1973, refuse covered 17 acres. This dump is known to contain several thousand gallons of perchloroethylene.

The Islip dump contains roughly one half the amount of solid waste found in the Babylon landfill. Combustible materials have been incinerated at the site since it began operation. Between 1970 and 1972, an average of 151 tons of refuse was incinerated per day. Scavenger wastes were also disposed of at this site, but this practice was discontinued. A total assessment of the amount and kinds of wastes buried in this landfill has not been made.

The leachate plume extending from this dump is smaller and not as uniformly shaped as the Babylon landfill's plume. It is approximately 5,000 feet long. At a width of 1300 feet thick it is 170 feet thick and at a wide of 660 feet it is 100 feet thick. The entire plume is estimated to contain approximately 1,000,000,000 gallons of contaminated water, approximately one half the amount calculated to be in the Babylon dump's plume.

TABLE VI.—SUFFOLK COUNTY LANDFILLS AND COMPOSTING SITES

Town	N.Y.S. Department of Environmental Conservation facility No.	Name and location—Type of refuse	Open	Closed	Size (acres)
Babylon		West Babylon, Glean St. and Hall St.—Mixed municipal	X		63
	52S01	Babylon, Babylon			
Bay Shore	52S19	Hubbard Sand and Gravel, Bay Shore			
Brentwood	52S23	Pilgrim State, Brentwood			
Brookhaven		Holtsville, Blue Point Rd		X	75
		Brookhaven (lined with PVC), Horseblock Rd.—Mixed municipal	X		200
		Center Moriches			
		Manorville	X	Compost	
		Pine Rd., Pine Rd			
	52S20	Brookhaven Lab			
East Hampton		Acabonack Rd., between Acabonack and Spring—Mixed municipal	X		40
		Acabonack Rd. (new), Acabonack Rd.—Brush	X		18
		Bull Path Rd., Bull Path Rd.—Agricultural and demolition	X		4
		Hither Hills, Mountauk Route 27—Mixed municipal	X		30
Hauppauge	52S07	Blydenburgh Rd., Hauppauge			
	52S25	East Hampton, East Hampton			
	52S04	Montauk, East Hampton			
	52S04	Fire Place Rd., East Hampton			

Town	N.Y.S. Department of Environmental Conservation facility No.	Name and location—Type of refuse	Open	Closed	Size (acres)
Huntington		East Northport, Town Line East—Mixed municipal	×		65
	52S04	Huntington, Huntington			
Islip		Sayville, Lincoln Ave.—Incinerator residue	×		20
		Hauppauge, Blydenburg Rd.—Mixed municipal	×		65
		Sonia, Sonia Rd., Brentwood—Brush and leaves	×	Transfer station	45
		Saltaire			
		Point-o-Woods			
Riverhead		Riverhead, Youngs Ave.—Mixed municipal	×		100
Shelter Island		Shelter Island, Bowditch and Montauk Rds.—Mixed municipal	×		20
Smithtown		Kings Park, Old Northport and Indian Head Rds.—Mixed municipal	×		90
		Middle Country Rd., Middle Country Rd. and Southern Blvd		×	22
	52S21	Smithtown, Kings Park			
	52S24	Star Sand & Gravel, Kings Park			
South Hampton		North Sea, Major Paths and Great Hill Rd.—Mixed municipal	×		125
		West Hampton Beach at Quogue, N.Y. 27 and Old Country Rd.—Mixed municipal	×		15
		Sag Harbor, Bridgehampton Turnpike and Laurel Lane—Brush and cardboard		Transfer station	10
		Hampton Baus, Jackson Ave. and Old Riverhead Rd.—Brush and bulky	×	Transfer station	25
		Quogue, Old Country Rd. and Riverhead Rd		×	12
		Eastport, Northway Lane and Old Country Rd	×	Transfer station	10
		East Quogue	×		
Southold		Southold, North Rd. between Cox and Depot Lanes	×		
Fishers I		Fishers Island	×		35

Source: New York State Department of Environmental Conservation, Region I Resource Conservation and Recovery Act Inventory, Nassau-Suffolk Regional Planning Board 208-K Study.

Both of these dumps are known sources of groundwater contamination. Both are also known to contain vast amounts of potentially toxic waste. Moreover, although they are already causing groundwater contamination, future pollution could increase dramatically as massive volumes of contaminated leachate continue to disperse into broad areas of the aquifer system. The data from the investigation of the dispersal of the leachate plumes suggests the amount of waste at landfill sites is more closely related to the length and volume of the plume than the age of the dump. As larger amounts of waste are landfilled, the potential for pollution increases commensurately. Thus, there is clear scientific evidence that pollution releases to Long Island's sensitive groundwater system will increase dramatically in the future.

CONCLUSION

The landfills outlined in Tables I and VI are potential sources of toxic groundwater contamination to the Long Island aquifer system. Even dumps that are generally believed to contain only non-hazardous refuse discharge some toxic chemicals and there is also good reason to presume that most, if not all, landfills on Long Island also hold extremely toxic industrial and hazardous wastes.

Hundreds of industries on Long Island generate highly toxic wastes. The New York State Department of Environmental Conservation conducted a statewide survey in 1979 that ranked Suffolk and Nassau Counties eleventh and fourteenth, respectively, among the state's leading hazardous waste generating counties. A total of 155 waste streams in Suffolk County were shown to generate 22,575 tons of hazardous waste; 5,388,472 gallons of liquid waste; and 132 tons of solid waste. A total of 123 waste streams in Nassau County were shown to generate 18.264 tons of hazardous waste; 3,206,870 gallons of liquid waste; and 4,932 tons of solid waste during the same period. The individual breakdown of the wastes of 160 industries is presented in Table VII.

TABLE VII.—HAZARDOUS WASTE GENERATION BY COUNTY BY TYPE

Type and description		Quantity	
		Gallons	Tons
Nassau:			
101	Acid solutions—Heavy metals	112,000	0
103	Acid solutions—Other metals	122,320	0
105	Other acid solutions	191,370	0
106	Spent etchant	14,400	0
112	Alkali solution—Heavy metals	0	25
117	Spent etchant	268,220	0
121	Nonsolvent inorganic liquid	400	0
301	Halogen solvent—Heavy metals	2,160	0
303	Other halogenated solvents	5,100	0
304	Nonhalogenated solvents	59,000	0
310	Mixture of solvents	83,635	0
314	Other organic liquids	16,000	0
504	Drag-out sludge	11,800	0
506	Filter press sludge or solid	0	95
508	Heavy metal sludge	335,530	1,312
509	Ink solids and sludges	8,580	0
511	Metal finishing sludge	1,200	1
513	Paint solids and sludges	4,875	0
522	Wastewater treatment sludge	409,450	0
602	Dust collector waste	0	53
609	Contaminated containers	0	1,300
612	Nonemulsified waste oil	23,980	0
613	Emulsified oil	1,835	0
615	Epoxy waste	60	0
619	Halogenated still bottoms	13,200	0
620	Halogenated tank residue	700	0
628	Lab chemicals	1,530	0
630	Nonhalogenated tank residue	208,900	0
633	Off-spec pharmaceuticals	0	5
636	Photographic chemical waste	99,040	420
650	Rinse water and wastewaters	1,105,000	0
651	Mixed oils	36,200	0
653	Other mixed waste	70,385	960
655	Lab animals and human blood	0	4
657	Obsolete or rejected goods	0	609
661	Aluminum or tin dross	0	150
	Total county	3,206,870	4,933
Suffolk:			
101	Acid solutions—Heavy metals	71,600	0
103	Acid solutions—other metals	743	0
105	Other acid solutions	13,787	0
106	Spent etchant	4,800	0
112	Alkali solution—Heavy metals	28,400	0
114	Alkali solution—Other metals	9,600	0
116	Other alkaline solutions	24,575	0
117	Spent etchant	20,480	0
121	Nonsolvent inorganic liquid	220	0
122	Inorganic liquid—Heavy metal	2,600	0
302	Halogen solvent—Other metals	2,000	0
303	Other halogenated solvents	5,069	0
304	Nonhalogenated solvents	15,790	0
310	Mixture of solvents	104,530	0
314	Other organic liquids	660	0
317	Halogenated organic solids	65	0
502	Degreasing sludge	8,500	0
508	Heavy metal sludge	235,136	0
509	Ink solids and sludges	12,000	0
513	Paint solids and sludges	750	0
522	Wastewater treatment sludge	635	0

Type and description		Quality	
		Gallons	Tons
602	Dust collector waste	0	12
612	Nonemulsified waste oil	45,900	0
613	Emulsified oil	139,500	0
617	Fly ash	0	2
619	Halogenated still bottoms	65	0
628	Lab chemicals	660	0
630	Nonhalogenated tank residue	28,000	0
633	Off-spec pharmaceuticals	0	1
635	Mineral oil	660	0
636	Photographic chemical waste	4,875	90
636	Scrap batteries	0	27
641	Solder flux or wave oil	110	0
650	Rinse water and wastewaters	4,522,310	0
653	Other mixed waste	61,812	0
657	Obsolete or rejected goods	22,640	0
	Total county	5,388,472	132

Source: New York State Department of Environmental Conservation (1979). "An inventory of Industrial Hazardous Waste Generation in New York State."

Moreover, there is a great deal more evidence indicating manufacturers on Long Island use and generate toxic chemicals. The industrial chemical survey discussed previously in this report shows that vast amounts of toxic raw materials are used annually. The Standard Industrial Classification codes of many Long Island industries also prove that a wide range of industrial processes are in operation that are certain to generate hazardous wastes. Therefore, the only critical unanswered question is where all the toxic chemical wastes generated over the years on Long Island have gone.

One fact is certain. There are no secure hazardous waste landfills anywhere on Long Island. Consequently, it is known that industries in Nassau and Suffolk Counties did not dump their manufacturing wastes into a single site. Some wastes were buried at sea, but hazardous residues landfilled over the course of decades probably lie buried at locations scattered all over both Nassau and Suffolk Counties and are leaching into groundwater. This is known to be the case to Old Bethpage and Syosset landfills where industrial discharge data has documented dumping. Little information exists regarding dumping at other sites, but there is no evidence indicating that they are not similarly contaminated.

It is a possibility that without a rigorous hazardous waste control program in effect, industries may have dumped indiscriminantly into many of Long Island's landfills. For example, a dumpsite investigation team from the Environmental Protection Agency interviewed the Superintendent of Environmental

Control for the Town of Ovster Bay during a study of the Syosset municipal dump. According to the EPA's report, the superintendent stated that "he knew nothing about alleged dumping of their (Hooker Chemical Company) wastes at the Syosset site." He was also reported to say "that landfill personnel did not question the source of incoming waste . . ." Later, it was learned that Hooker Chemical Company dumped its Wastes at the site for 22 years. Their rate of dumping ultimately reached an estimated total of 862.9 metric tons/year. In the past, many of Long Island's dumps have been loosely run, in a similar haphazard fashion.

Landfills on Long Island probably contain hazardous industrial waste, but they are also known to hold other kinds of toxic wastes. For example, over 20 million gallons of septic tanks sludges are incinerated or landfilled annually in Nassau and Suffolk Counties. These sludges are typically contaminated with a host of chemical residues. Perhaps the most toxic are the chemicals found in cesspool cleaning products. These solutions are known to contain high concentrations of benzene, methylene chloride, and other chemicals of toxic concern. Their application to septic systems results in widespread groundwater pollution and eventual contamination of septic tank sludges. Hundreds of thousands of gallons of these products are estimated to be used annually on Long Island. Landfilled in dumps, these chemicals could be a major cause of groundwater pollution.

In short, toxic solid wastes have not been managed well on Long Island. Large areas of land have been turned into dumps. Piles of waste, hundreds of feet tall, are located in the island's most environmentally sensitive areas. None of them are constructed to contain toxic wastes securely over the long run, despite the necessity of total security. Already dump problems exist. Some sites have been identified as sources of toxic chemical groundwater contamination. Other dumps are potential Love Canals; several sites containing thousands of tons of toxic and hazardous waste are situated in the vicinity of homes. An overall study of the island-wide solid waste disposal problem desperately needs to be made, for without such a study sound groundwater quality management will be difficult or impossible to accomplish.

There is no doubt that groundwater quality in areas of Nassau and Suffolk counties is jeopardized by intense contamination emanating from numerous landfills. For decades, domestic, industrial and hazardous wastes have been disposed of indiscriminately, without adequate concern for strict environmental safeguards. These wastes contain some of the deadliest toxic compounds known to exist. Nearly all of the landfills are incapable of holding these wastes securely in the short run, much less for the centuries ahead. Consequently, water quality deterioration is guaranteed to increase. Extremely toxic and persistent chemicals are already known to be flowing through sandy soils that optimize groundwater dispersal. That problem will only be worse in the future. Theoretical estimates predict that a typical 100-acre landfill located in characteristic Long Island soil conditions could generate 40 million gallons of contaminated leachate per year. In all, there are hundreds of acres of landfills on Long Island.

At present, environmental institutions are wholly incapable of adequately managing the landfill problems on Long Island. A comprehensive study of the threats these dumps pose to public health and the environment has never been made. Until such a study is completed, it will be virtually impossible to protect drinking water supplies and public health properly. Meanwhile, the deterioration of Long Island's sole source of drinking water will continue.

Mr. CONABLE. Mr Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. Martin).

Mr. MARTIN. Mr. Chairman, I thank the gentleman for yielding.

There are, of course, many chemical substances and processes which are known from scientific evidence to present a toxic hazard to humans exposed to them. For some, the actual hazard is very low because the potency and the exposure is very low and controlled.

With carcinogens, those substances the exposure to which might increase the risk of cancer, there is a greater concern because in some instances a small exposure may be harmful.

The International Agency for Research on Cancer has published a number of monographs evaluating the evidence of carcinogenicity. Because during the debate today there have been several references to compounds about which there is some question that they may or may not be carcinogenic, I thought it would be helpful to submit for the Record, as I will do when we return to the full House of Representatives the latest evaluation of this question. I will report on the September 1979 monograph on the evaluation of the carcinogenic risks of chemicals to humans prepared by the International Agency for Research on Cancer.

Mr. Chairman, in the excerpts which I will submit for the Record there will be a summary of the method that they use for evaluation of the various papers which have been published in the scientific literature and which have been subjected to peer review and for which there is general agreement on the validity of those studies; and a table and a summary of their findings with regard to a list of substances, some of which they show have only evidence which is based on animal testing, others which they will show there is evidence based on both animal testing and on human epidemiology and others for which they find no substantive evidence of carcinogenicity.

I thought it would be helpful to members of the committee and the House to have that summary at their disposal.

I yield back my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I have no further requests for time and I yield back the balance of my time.

Mr. CONABLE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois (Mr. Findley).

Mr. FINDLEY. Mr. Chairman, I rise in support and urge passage of H.R. 7020, the Hazardous Waste Containment Act of 1980.

After having listened to accounts of the tragic and senseless disposal of hundreds of thousands of pounds of hazardous chemical wastes in poorly designed and ill-conceived waste dumps, it is now time for Congress to act with decisiveness to deal with this problem.

Through technology and man's ingenuity, we create over 1,000 new chemical compounds a year. At last count, 50,000 different chemical compounds were on the market to be used for producing everything from fertilizer to makeup. Yet the U.S. Environmental Protection Agency has classified almost 35,000 of these chemicals as being either definitely or potentially hazardous to human health. Although cause-and-effect relationships are difficult to prove, evidence is beginning to mount that some of these chemicals may cause cancer. What is truly alarming is that these wastes have been disposed of in giant landfill dumps with little thought given to long-term health effects and the potentially disastrous impact these chemical wastes might have on our Nation's underground drinking water supply.

Over half of the people in this country depend on wells for their drinking supply. Water that may have fallen to Earth as long as a century ago has percolated slowly down through soil and porous rock to collect in vast underground aquifers that were virtually void of chemical impurities. Now substances, mostly petrochemicals thought to have been harmlessly disposed of years ago, are beginning to show up even in the deeper U.S. wells. This contamination will grow as those forgotten chemicals of the past steadily reach more of the underground reservoirs from which Americans will drink in the future.

The residents of Wilsonville, Ill., a small community of 800 in my district, are acutely aware of the threat of contamination of their water supply by buried chemicals and their water supply.

In 1977, a hazardous waste disposal dump was constructed within the city limits of Wilsonville. When the residents discovered that the company, Earthline. Inc., was burying large amounts of PCB's, dirt contaminated with mercury, cyanides, mercuric sulfide, dioxin, and other highly lethal chemical compounds within their city limits, they chose to go to court and try to force the dump to shut down. In August of 1978 Illinois District Court Judge John Russell ordered Earthline to halt all processing, storing, burying, and disposing of hazardous waste at Wilsonville and to disassemble and remove completely their waste disposal facility located there.

Judge Russell justified his sweeping order on two important grounds. At no time did Earthline officials make known to residents of Wilsonville what was to be buried at the site prior to the granting of construction permits. The judge noted that in a letter written by Earthline officials to the village president and board of trustees:

> There is no mention or indication that hazardous toxic waste substances that are dangerous to human beings and other living things are to be buried at the site.

Second, Wilsonville depends, to a large degree, on underground water for drinking. Although Earthline proclaimed that the dump poses no harm to the water supply, the Illinois attorney general argued, and the court agreed, that it was impossible to predict that chemicals leaching from the dump would not reach this underground water and thus poison the town's water supply.

As a result of the problems encountered by Wilsonville, last year I introduced H.R. 5617, the Hazardous Waste Disposal

Act. My bill was designed to—require that new chemical disposal sites be located away from populated areas—require the U.S. EPA to conduct an extensive inventory of active and abandoned waste dumps—establish a trust fund to clean up and contain spills of hazardous waste from abandoned sites and to provide compensation to victims who are exposed to these wastes—and require that public hearings be held prior to the granting of permits and that full disclosure be made of all hazardous wastes to be buried there. Only then could a permit be issued. If this provision had been law, Earthline would have been required to tell the residents of Wilsonville precisely what dangerous chemicals would be stored in their community.

I am very pleased that H.R. 7020 contains many of the provisions included in my bill. For example, both bills would:

First, require U.S. EPA to conduct an inventory of sites and create a list of those sites which need immediate attention;

Second, create a "superfund" made up of Government and industry contributions to pay for cleaning up of hazardous wastes from abandoned waste sites; and

Third, establish strict lines of liability for those who engage in the waste disposal business.

EPA estimates that 57 million metric tons of hazardous waste are produced annually. Eighty to 90 percent of these wastes are disposed of in what EPA calls an environmentally unsound manner. There are more than 50,000 inactive hazardous waste disposal sites in the United States and of these, nearly 2,000 may pose an immediate threat to the environment and public health. I am convinced, as I know a number of my colleagues are, that passage of H.R. 7020 would be an important step forward in helping to prevent future catastrophies such as occurred at Love Canal, the Valley of the Drums, and Wilsonville.

● Mr. RODINO. Mr. Chairman, I strongly support H.R. 7020, the Hazardous Waste Containment Act, with the Ways and Means Committee's amendment to authorize increased funding and a change in formula for financing the hazardous waste response trust fund.

Americans throughout the country are becoming increasingly concerned and alarmed by the pervasiveness of chemicals and other toxic substances in our environment. Despite considerable improvements and benefits from such strong environmental protection legislation as the Clean Air Act, the Water Pollution Control Act, and the Resource Conservation and Recovery Act enacted in 1976, we have come to recognize the urgent need for further action to meet the emerging problem of hazardous wastes.

In 1979 the Environmental Protection Agency estimated that there are between 30,000 and 50,000 inactive and uncontrolled hazardous waste sites in the United States, of which between 1,200 and 2,000 are considered as serious risks to public health. The horrors of Love Canal and the more recent incident at Chemical Control in Elizabeth N.J., have demonstrated the need for passage of H.R. 7020.

The Resource Conservation and Recovery Act is highly inadequate, for it does not authorize action if a financially responsible owner of a hazardous dump site cannot be identified; nor does it authorize the Federal Government to subpena documents or persons in investigating hazardous waste disposal; nor does it require companies to reveal the existence of chemical dumps and to monitor inactive dumps for possible pollution; nor does it provide sufficient funds for State hazardous waste control.

I believe our experience in New Jersey clearly shows the desperate need for enactment of H.R. 7020.

Because our State has many industries and businesses using and manufacturing chemicals and toxic substances, the New Jersey Department of Environmenal Protection has moved with energy and effectiveness to deal with the hazardous waste problem.

The State is currently submitting proposed rules and standards for assuming management of the hazardous waste disposal program from the Environmental Protection Agency. In addition, New Jersey has moved ahead to establish a strong State management program which serves as a national model. It includes a spill compensation and cleanup fund financed by a tax or fee on petroleum substances and other hazardous materials which has been in effect since April of 1977. It has also established a criminal strike force to apprehend and prosecute illegal dumpers, a manifest system to track the movement of hazardous wastes and a program to site, license, and operate new environmentally sound disposal facilities.

However, the scope of the problem is beyond any individual State's capabilities to resolve alone. New Jersey has identified over 200 sites which are now targeted for priority cleanup at a cost which is estimated now at over $45 million. Department of environmental protection recovery teams have cleaned up 18 sites throughout the State, removing between 3 and 4 million gallons of liquid chemicals and 43 pounds of hazardous solids. Based on this work, the Department estimates that hazardous dump sites will cost between $5 and $10 million to clean up. Yet the Chemical Control site at Elizabeth alone has already cost over $11 million for cleanup. The $3 million per year authorized by the legislature from the spill compensation and cleanup fund for remedial work or cleanup of abandoned hazardous waste disposal sites has already been committed for fiscal year 1981.

Mr. Chairman, I urge approval of H.R. 7020 to deal with this urgent national problem.

● Mr. MURPHY of New York. Mr. Chairman, I rise in support of H.R. 7020, the Hazardous Waste Containment Act of 1980. As a member of the Interstate and Foreign Commerce Committee, I am pleased that this proposed legislation has made such significant progress in this session of the Congress.

The need for legislation to clean up hazardous wastes sites is clear and compelling. The combination of this bill and the oil pollution liability measure (H.R. 85), provides a direct and definitive congressional response to the problems of oil and chemical spills and the cleanup of hazardous waste sites. Together these pieces of legislation constitute a most impressive "superfund" proposal to deal with the growing problem of the impact of hazardous substances on public health and the environment.

From the *Amoco Cadiz* to Love Canal to the PCB contamination of the Hudson River, our modern age has shown that, with technological and scientific advances, also come substantial risks. These bills, which we are considering today and with which I have had a long involvement, will provide the necessary controls and money for addressing a wide range of human health and marine ecosystem problems coming from hazardous substances.

The funding established in this legislation is essential for Government at all levels to address the serious problems of the release of toxic substances into the environment from abandoned chemical dump sites. In my State of New York we have serious problems in this regard. Industry in the State generates approximately 1.36 million tons of hazardous waste each year. These generators are concentrated in southeastern New York, Niagara and Erie counties, the Syracuse area, and the capitol district.

Although New York's hazardous waste problem is most graphically demonstrated in the Love Canal case, the State's dumpstite impacts go far beyond that area at Niagara Falls. For example, at the Chelsea Positive Chemical Corp. site on Staten Island and at College Point in Queens County, serious chemical problems have been discovered and immediate cleanup is necessary. Also, ground water contamination on Long Island is presently being monitored at a price tag of over a half million dollars.

Clearly, remedial action is necessary not only to estabilsh clear governmental response mechanisms but also a fund to finance such cleanup so that the limited resources of State and local governments will not be drained.

In 1979, the New York State Department of Environmental Conservation inventoried 520 abandoned hazardous waste sites. More recent research indicates that the number of sites may range from 800 to 1,000 within the State. Clearly, the need for this legislation was never more evident. We must vigorously address the environmental emergencies that form almost daily headlines in our newspapers.

The bill before us today, in addition to providing the necessary financial resources for the Federal and State governments, also requires a nationwide inventory and prioritization of hazardous waste sites to give the Government more solid information on the existence and the extent of the problem. The sites will be given priority according to the relative danger they present to the public health and environment. This will permit a more systematic approach to cleanup and containment.

H.R. 7020 authorizes the Government to respond to releases of hazardous waste sites. In those States capable of carrying out responsive actions, the Environmental Protection Agency can enter into cooperative agreements with States in order to allow them to take action with financial assistance from the fund.

There are some major differences between the House version of superfund—composed of H.R. 85 and H.R. 7020—and the legislation being considered by the Senate. Given the short time we have left before our recess, it is imperative that the House move expeditiously on this bill so that a conference committee can be called quickly and a suitable response to the problem of oil pollution and hazardous substance cleanup can be enhanced.●

● Mr. BROWN of California. Mr. Chairman, the ability to respond to emergencies such as the much publicized Love Canal incident, and to prevent such occurrences from being repeated in the future is provided for in the "superfund" legislation (H.R 7020) which we are considering today. As one who has a major abandoned hazardous waste dump in my district, I have closely followed this legislation. I am pleased that both the leadership in the House as well as the leadership in the Senate have made it clear that we need to act on this legislation in this Congress. I hope that the other body will move forward on their bill in time to pass legislation this year.

As a member of the Science and Technology Committee and the Technology Assessment Board, I have long been involved with the interface of science, technology, and society. It is clear that we have neglected, in our scientific and technological approaches to many industrial processes, the deleterious effects of products and byproducts of industry. The impacts have been widespread, and while sometimes discovered late, nevertheless these problems are critically in need of attention. This legislation fills a gap in existing law to allow for cleanup of identified sites. I will be supporting the most comprehensive bill possible, and urge my colleagues in the House to do the same.

Mr. Chairman, in all candor, I should note that I have other reasons for supporting this legislation beyond those of the general welfare and the national interest. One of those reasons is somewhat embarrassing; I was closely involved with the 1976 amendments to the Resource Conservation and Recovery Act (RCRA) as chairman of the Subcommittee on Environment and the Atmosphere of the Committee on Science and Technology.

While the parts of that legislation which I handled related solely to research, development, and demonstration, I believed, as did many other Members of Congress, that the 1976 amendments closed the gap in the law as it existed then. Under those amendments to RCRA, which predated the Love Canal incident, we attempted to draft legislation which would regulate the dumping of hazardous wastes. Our significant mistake in 1976 was to underestimate the national scope of this problem, and the extent of hazardous wastes already dumped throughout our land. Some of the information which has lead to the legislation before us came out of the 1976 amendments, but too little has been done by industry, government at all levels, and the Congress for any of us to be proud of our record.

My second exceptional reason to support this legislation, and the strengthening amendments to it has already been mentioned; I have, within my congressional district, one of the major abandoned hazardous waste dumps in the Western United States. The now-closed Stringfellow Class I disposal site in western Riverside County, Calif., has been known to me and my staff as a serious problem since before my election from this area in 1972. Like Love Canal and other sites, the severity of the problem varies with the climatic conditions and has yet to be fully assessed. Like Love Canal, this site will take many millions of dollars to clean up. Unlike Love Canal, the harm to individuals has not yet become a serious problem, and with effective action and some luck, no health damage will develop.

As I have worked with local citizens, State and local government, the regional office of the Environmental Protection Agency and other interested parties, I have come to truly appreciate the complexity of the issue of old chemical dumps and all of the ramifications of programs aimed to cleaning them up. The legislation before us is a constructive step, and together with several strengthening amendments, I believe H.R. 7020 will truly fill the gap I had hoped the Congress was filling several years ago.

The need for this comprehensive legislation is clear. A study done for the Environmental Protection Agency estimates that there are between 1,200 and 2,000 hazardous waste sites which could pose serious health risks and environmental damage. The bill fills a critical gap in current law by providing EPA with the authority and resources to clean up inactive hazardous waste sites. There is no other authority under which EPA can act at this time. Neither the Resource Conservation and Recovery Act nor the Clean Water Act provide adequate authority; and H.R. 85 only covers chemical and oilspills in navigable waterways. EPA has a major inventory program underway of the hazardous waste sites in the country. Funding is crucial at this time if work is to begin on the already identified sites.

Mr. Chairman, I understand that the chemical industry has reluctantly agreed to the $1.2 billion fund called for in the Ways and Means version of the bill. This would allow for the cleanup of approximately 250 sites. This by no means would cover nearly the number of sites that need work, but would allow work to begin on the most urgent cases. EPA's task, far from one of coming up with a list of sites in need of attention, is one of prioritizing them.

The chemical industry understandably has placed great pressure on the Members of Congress to keep the size of the fund as well as the industry contribution to a minimum. But the truth is, there is no equitable reason why the cost of the cleanup of hazardous waste sites should be the burden of the taxpayers. Industry points out correctly that the cost will be passed on to the consumer; this simply means that the true cost of a product in its broad sense will include the hidden costs which were previously omitted. This seems to me to be the only reasonable solution to a problem brought on by past improper waste disposal practices. I support, as a minimum, a 75-percent industry contribution and urge my colleagues to do the same.

It is critical that the liability provisions of the bill be amended to conform with prevailing State common law and the purposes of this act. This is why I urge my colleagues to support Mr. GORE's amendments. State common law generally holds that abnormally hazardous activity justifies the imposition of strict liability. In my own State of California, strict liability is already imposed in cases involving spills of hazardous substances involving surface waters. A bill just passed this year implements strict liability now for spills involving possible contamination of ground water as well. This means that a defendant is held liable even if he or she demonstrates due care in the prevention of harm. H.R. 7020 specifically counters strict liability provisions by relieving the defendant of liability if the defendant can show that the injury involved "an act or omission of a third party." This is inconsistent with strict liability as it is understood and practiced in my State and I believe in many other States.

In California, a defendant must prove nonnegligence—the burden of proof is on the defendant—and third party defenses are only acceptable if the defendant can prove that the act of the third party causing the harm was intentional and could not have been prevented by due care or foresight. Mr. GORE's amendment, which would limit third party defense to instances which the defendant did not have a contractual relationship with the third party, is an acceptable compromise. The amendment should clarify defense by a third party as defined in the bill.

A second matter of concern regarding liability provisions of H.R. 7020 involves the joint and several liability question. The bill as it is now drafted would require a court to apportion liability among defendants if they cannot demonstrate what their percentage of the damages should be. Mr. GORE's second amendment would simply allow the court the option of apportioning liability and not require the court to do so as the bill now provides. In California, a party that is held jointly liable is generally also held fully liable and there is no mandatory apportionment. Mandatory apportionment undermines the concept of joint and several liability to definition.

Finally, in light of the often controversial and not thoroughly understood correlation between exposure to hazardous material and specific health effects, I urge your support of Mr. ECKHARDT's amendment that would set aside $10 million of the fund to finance a major health effects research effort. Adequately funded studies would alleviate anxiety resulting from poorly conducted and inconclusive studies as well as providing valuable information regarding the targeting of funds for specific sites and adding to the pool of much needed information on the effect of chemicals on health.

Labor, industry, and Government leaders all agree that this legislation is needed. I trust that we will see the benefit of a strong and comprehensive bill.●

● Mr. RAILSBACK. Mr. Chairman, I rise in support of H.R. 7020, the Hazardous Waste Containment Act of 1980. I feel the potential danger faced by people living near inactive, hazardous waste sites is too great to allow these sites to remain unmonitored and, in many cases, unknown.

No comprehensive list of inactive, hazardous waste sites exists. Last October, the Interstate and Foreign Commerce Subcommittee on Oversight and Investigations published a survey of sites used by the 53 largest domestic chemical companies which, according to the subcommittee report, represents about 14 percent of operating chemical facilities in the country. The percentage is not large and does not include sites used by small industries whose disposal practices may not be as modern.

So, legislation requiring an inventory of inactive, hazardous waste sites; the development of a national hazardous waste response plan; and monitoring of sites by owners as well as setting up a fund for cleanup of especially dangerous sites is absolutely necessary. I would like to add that I feel industries which contributed to the problem should bear most of the responsibility for cleanup costs. The Ways and Means Committee amendment to increase industry's share of the fund to 75 percent and to provide a $1.2 billion fund. I do not feel taxpayers should bear an equal share of cleanup costs, especially since the industry's fee is tax deductible from income taxes.

The fund, itself, must be large due to the magnitude of the problem. The Environmental Protection Agency (EPA) estimates that $44 billion is needed to clean up hazardous waste sites. I understand that the contractor conducting the study for EPA has been criticized, since it estimated that 32,254 to 50,664 abandoned hazardous waste sites exist while the Subcommittee on Oversight and Investigations estimates that only 891 sites must be cleaned up. However, even 891 sites will be expensive, and the $1.2 billion authorized by the Ways and Means Committee's amendment does not seem unreasonable.

I am personally concerned because the subcommittee's waste disposal site survey indicated that Illinois has 50 closed disposal sites and an additional 20 are possibly closed. Only six other States have more inactive sites than Illinois. My concern also stems from the fact that I feel responsible disposal practices must be encouraged now. The chemical and nuclear waste facilities located near Sheffield border on Illinois' 19th Congressional District, which I represent. People in the area are constantly indicating to me that they are worried about how the waste will affect them, their children, their livestock, and their land. I think a bill such as the Hazardous Waste Disposal Act will force chemical companies to look closely at the effects of poor disposal methods and help encourage better practices in the future. Therefore, because Illinois has so many inactive, waste disposal sites—reported by only the 53 largest chemical companies—and because many of my constituents live near a hazardous waste site, I support the legislation with the Ways and Means amendment to increase private industry's share of the hazardous waste response trust fund.●

● Mr. DANNEMEYER. Mr. Chairman, the key question in the debate over H.R. 7020 is not whether abandoned waste sites should be cleaned up but who can do the job best, and quickest. I think most Members would agree, and certainly this one does, that if a site has been abandoned, or if the current owner cannot afford the cleanup, and the site is dangerous, then Government has an obligation to step in. But what level of Government? A little Government can go a long way; too much Government and bureaucratic inertia sets in, slowing things down rather than speeding them up as the people close to these sites understandably want.

As for the money, whether it is $600 million or $1.2 billion, I think most Members would agree, and this one does, that it should be spent wisely, not just thrown at the problem willy-nilly so we can claim we have done something about it. But this bill would have us spend all that money, whichever the amount is, before we have found out how many of these sites there are, what the best means are of disposing of them, how much money is really needed, and what procedure should be followed in case of a hazardous waste emergency. Somewhat ironically, and unfortunately, the bill provides for studies to obtain this information, but does not wait for the results before giving the EPA administrator both the money and authority to act.

Understandably, there are those who say we cannot wait for studies; that we study things to death, that what is needed is action now—and I agree with much of what they say. Sure, problems can and have been studied to death; that is one reason I am reluctant to see EPA play a lead role in the cleanup. And yes, 24 months is too long for proper studies to take; they can and should be done in 18, as will be provided for in the amendment I will be offering. But, there is a distinction that has to be made between obtaining necessary information and studying just for the sake of studying. In this case, one thing that surely needs to be looked into, and the studies called for in the Commerce Committee's version of the bill will look into it, is the extent to which private enterprise might be willing to undertake hazardous waste cleanup on a "no-cost, or low-cost, to the taxpayer" basis. Farfetched, you say. Well, down in Texas—Harris County, Tex.—they do not think so. Just last spring the Gulf Coast Waste Disposal Authority in Harris County requested bids on the construction of a comprehensive waste disposal facility featuring three high-temperature incinerators. Would you believe that 22 of the 28 firms contacted actually submitted bids, 11 of the bids met all the criteria and now 2 firms have been selected to build and operate the facility without any subsidy from the Harris County taxpayers. In exchange for the use of a site, those firms will finance the building of the facility and will pay a "percentage of revenue" fee to the Gulf Coast Authority.

How could that solve the problem of inactive sites you ask? Well, if private enterprise is as eager to get into hazardous waste cleanup on a profitmaking basis as the Texas example would indicate, what is to prevent other units of government which might choose to go this route, from specifying in their criteria and in the final contract, that the successful bidder will be required to clean up inactive sites—either in exchange for a particular site or a reduction of the fees the firm will pay, or whatever. Not only would such an approach be cheaper but, given the track record of EPA, it is likely to be both quicker and more respective of the wants and needs of the people in the areas affected. And if anyone has any doubts about how slow EPA can be in the area of hazardous waste, check how long it has taken them to get RCRA regulations in place.

Granted, the aforementioned approach may seem novel to some, but it is technologically feasible and it has the advantage of getting rid of the wastes once and for all instead of moving them to another landfill. Just because it is new, is there any reason that it should not be explored before we leave ourselves, and all the people who have a personal interest in cleanup, to the tender mercies of EPA. After all, it may just turn out that private enterprise can solve the problem more quickly and cheaply than EPA, and that superfund and superbureaucracy is not really all that necessary. Certainly we ought to find out; for even if it turns out EPA is the only agency that can handle the problem, the time spent in completing the studies will result in better use of the funds that will subsequently be spent. In short, either way, the American people win by checking out the alternatives and I urge this body to give consideration to that sort of an approach. ●

● Mr. LENT. Mr. Chairman, there is an urgent need for this body to adopt a "superfund" measure to deal with the cleanup of abandoned and inactive hazardous waste sites. Unfortunately, because of a gap in the Resource Conservation and Recovery Act, no legal authority currently exists which can adequately cope with this growing national dilemma. Therefore, it is incumbent on us to enact legislation to fill the gap.

During the past year and a half, the Oversight and Investigations Subcommittee, of which I am ranking minority member, held over 13 days of hearings on the issue of hazardous waste disposal, including one in my district of Long Island. The results were disquieting indeed. The subcommittee found that negligent dumping practices over the years have made many disposal sites extremely hazardous and in need of immediate cleanup. Our findings were documented in two reports, one of which contained a list of the waste disposal sites used by 53 major U.S. chemical companies since 1950 and the wastes disposed of in those sites. The other report cataloged much of the current knowledge about the hazardous waste disposal situation in this country, and including numerous legislative and regulatory recommendations for helping to solve existing problems. In my opinion, these two reports standing alone provide ample documentation of the need for a superfund bill.

Mr. Chairman, I have been a staunch supporter of the superfund legislation from the start. I worked closely with the key Commerce Committee sponsors of this measure in developing a carefully honed bipartisan compromise which was reported out of committee by a 21 to 3 vote. That compromise, while unsatisfactory to some, did provide the essential first step toward passage of this vital legislation.

However, I believe there are ways in which the Commerce Committee's bill can be improved. I think that the amendment offered by the gentleman from Texas, Mr. ECKHARDT, which would earmark $10 million of the fund for health studies, is one way.

In essence, that amendment will assist in devising a better system for conducting health studies of residents living near possibly dangerous hazardous waste sites. The recent debacle involving EPA's attempts to come up with reliable health studies of Love Canal residents is ample evidence of the need for a better system.

Mr. Chairman, in closing I reiterate my support for a superfund bill. This country needs a system for coping with the dangers of abandoned and inactive hazardous waste sites. Any further delay in enacting that system will increase the risk to the lives and health of the citizens of this country. I believe it is our responsibility to minimize that risk by passing a superfund bill today.●

● Mr. RINALDO. Mr. Chairman, I am pleased to rise in support of H.R. 7020.

This bill would close a gap in existing Federal environmental laws by providing Federal authority and funding for the cleanup of abandoned hazardous waste sites. The extent of the present dangers and the future hazards posed by the existence of abandoned hazardous waste sites throughout the Nation is staggering. It is a problem which originated many years ago as American industry began to use more and more chemical substances and to generate increased amounts of toxic waste. Such tragedies as Love Canal and Chemical Control Corp. are the result of improper and often negligent disposal of hazardous wastes in the past.

As a member of the Commerce Committee's Oversight and Investigations Subcommittee, I participated actively in the extensive study of hazardous waste disposal which was conducted in 1979. The subcommittee compiled an extensive record documenting the massive health and environmental problems caused by toxic waste sites throughout the Nation. Many of the subcommittee's recommendations are contained in the bill before us today.

I am personally well acquainted with the monumental problems which can arise from the presence of abandoned hazardous waste sites in our communities. Last April, a very serious accident involving extremely toxic chemicals occurred in Elizabeth, N.J., in my congressional district. The Chemical Control Corp., the site of thousands of drums of chemical waste which had been accumulated and stored there illegally, caught fire. Thousands of drums of chemicals, many of the contents of which were unknown, exploded and burned at very high temperatures.

The potential damage was great—the fire could have sent clouds of extremely toxic fumes over my entire congressional district, Staten Island, and lower Manhattan. Fortunately, because of favorable weather conditions, the cloud of smoke did not linger over residential areas.

Less than 3 months later, a major fire occurred in the chemical waste storage area of a paint manufacturing company and spread toxic fumes over the city of Carlstadt, N.J. And within a few days of this incident, storage drums at a chemical disposal plant in Perth Amboy, N.J., exploded and caught fire, causing the complete destruction of 7 buildings and 16 businesses in an industrial park, and forcing evacuation of nearby residences.

But New Jersey is certainly not the only State which is plagued by the dangers of hazardous waste sites. The contamination of drinking water supplies on Long Island, the Valley of the Drums in Kentucky, and the ground and water contamination by toxic chemicals in Montague, Mich., indicate that this problem is indeed nationwide. The cover story in Time magazine last week on "The Poisoning of America" presents a compelling picture of the situation our country is facing in dealing with toxic waste dump sites, and I commend it as very educational reading for all Members of this House.

This bill provides much-needed Federal authority for the Environmental Protection Agency to take charge of abandoned hazardous waste sites which pose dangers to public health and the environment. It also establishes a Government-operated fund which is financed by an excise tax on oil, petrochemical feedstocks, and inorganic materials, and by Federal appropriations.

An important feature of this bill is the inventory of inactive hazardous waste sites which would be compiled by the States. States would also be required to compile priority lists of inactive sites, from which EPA would compile a national priority list based on the threat to public health and the environment. I feel it is most important, faced with the gigantic task of cleaning up thousands of waste sites, to establish priorities so the most dangerous sites can receive attention first.

As I have indicated, I know from personal experience the very great dangers posed by the existence of abandoned hazardous waste sites. I urge the passage of this legislation so that we can begin the long process of cleaning up these blights on the American landscape.●

Mr. CONABLE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. FLORIO. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BRADEMAS) having assumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7020), to amend the Solid Waste Disposal Act to provide authorities to respond to releases of hazardous waste from inactive hazardous waste sites which endanger public health and the environment, to establish a Hazardous Waste Response Fund to be funded by a system of fees, to establish prohibitions and requirements concerning inactive hazardous waste sites, to provide for liability of persons responsible for releases of hazardous waste at such sites, and for other purposes, had come to no resolution thereon.

CONFERENCE REPORT ON H.R. 3904, MULTIEMPLOYER PENSION PLAN AMENDMENTS ACT OF 1979

Mr. THOMPSON. Mr. Speaker, I call up the conference report on the bill (H.R. 3904), "An act to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployers plans, and for other purposes," and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 18, 1980.)

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. THOMPSON) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. ASHBROOK) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House has twice before passed the substance of this bill as it concerns multiemployer pension plans by an overwhelming vote. The first time on May 22 by a vote of 374 to 0, the second time on August 25 by a vote of 363 to 0.

On August 26 we requested a conference on two amendments made by the Senate which did not change in any respect the substance of the bill as it affects multiemployer plans. On the first item, the special exemption from ERISA preemption for the Hawaii Health Care Act, the Senate receded to the House deleting the exemptions; on the second item, the unemployment compensation offset, the House conferees were limited to members of the Ways and Means Committee and I will be happy to yield in a few seconds to a gentleman from that committee to explain the compromise that was worked out.

Mr. Speaker, the House has before it today the very same provisions affecting multiemployer pension plans which the House approved by the vote of 363 to 0 on August 25. I only wish to note once again that this bill is a product of 3 years of work by the administrative agencies involved, the majority and minority members of four committees in the House and Senate, and concerned labor, management, and retirees groups. I would add also that much work remains to be done in this area to insure better coverage under retirement income programs for all American workers. This is only the beginning.

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks.

Mr. Speaker, before yielding time, I would like to express my appreciation to the members of the ERISA task force on both sides and, in particular, the gentleman from Illinois (Mr. ERLENBORN), who cannot be with us today, and the gentleman from Ohio (Mr. ASHBROOK) who is with us today, as well as the members of the Committee on Ways and Means (Mr. CONABLE) the chairman, the gentleman from Oregon, Representative ULLMAN, and others.

I also want to say this is a terribly complex issue which has been reduced, I think rather beautifully, into a bill which can and will work and has really amazing support in terms of the business community, the labor community, and other groups.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. ASHBROOK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today with the consideration of the conference report on H.R. 3904, the Multiemployer Pension Plan Amendments Act of 1980, we will have written the next to the last chapter on the checkered history of this most complex of legislative measures. I will not recount the history at this time, but suffice it to say that today's action by this body culminates 6 years of intensive study and effort by the Pension Benefit Guaranty Corporation (PBGC), business and labor pension groups too numerous to mention, and the Congress in formulating a workable program of insolvency insurance for multiemployer pension plans.

The struggle for enactment has left its mark, not the least of which is the unique coalition of business and labor groups who joined forces in order to insure passage of the legislation. The need for a change in the present ERISA law applicable to multiemployer plans has been demonstrated even in the last few days. When on July 31, 1980, and again on August 1, I asked for unanimous consent to delay the effective date for mandatory coverage of multiemployer plans, I warned the Congress that the provisions of current law could encourage unstable multiemployer plans to trigger plan terminations.

Unfortunately my warning went unheeded and objection was heard to my request. Now we learn that Local 50 Candy and Confectioners Union and Industry Pension Fund in New York has submitted a termination notice to the PBGC. The President's signature on H R. 3904 should stem any further flow of terminations which might otherwise be triggered by this first notice.

Only time will tell whether the provisions of H.R. 3904 will be adequate to contain the costs of the multiemployer program at a level at which employers and unions are willing to pay without assistance from general revenues. Vigorous congressional oversight will be needed to quickly identify any major defects in the law and corrections will have to follow if the integrity of the self-financing aspects of the program are to be maintained.

The bill is penultimately complex, although I doubt if a more simplified version had been fashioned it would have received the necessary support for passage. Given the intricate and, in many cases, the esoteric nature of H.R. 3904, I offer the following clarification of several of the provisions added by the House in its consideration of the bill on August 25, 1980.

First, a provision amending section 4022A(g) restored the rule passed by the House on May 22, 1980, requiring plans to have a 15-to-1 ratio of plan assets to annual benefit payments before they are eligible for the supplemental benefit guarantee program; the PBGC may modify this requirement but only in the extreme case where a soundly funded plan is likely to achieve a 15-to-1 ratio at a later date, or where the 15-to-1 ratio is not indicative of sound funding or a small probability of termination or insolvency.

Second, an actuarial concept, that of "unfunded vested benefits," needs clarification as it relates to the determination of employer withdrawal liability and the minimum contribution requirement. In H.R. 3904, "unfunded vested benefits" is defined as the excess of the value of nonforfeitable benefits under a plan, as defined under title IV, over the value of the assets of the plan.

Generally it is expected that the actuarial assumptions and methods employed in the calculation of the value of nonforfeitable benefits will follow the practice illustrated in interpretation 1 of recommendation A(6) found on pages 369–371 of the 1979 Yearbook of the American Academy of Actuaries. It is also expected that such values will be included on schedule B of the ERISA annual report form 5500 (relating to the items, present value of vested benefits).

Third, the intent of the amendment to section 4219(c)(1)(D)(ii), relating to mass employer withdrawals, is as follows. The provision was included in order that the total unfunded vested benefits of a plan be allocated to contributing emloyers and payable as employer withdrawal liability in the event of a mass withdrawal. There was no intent that employers who had completely withdrawn from a plan prior to the April 29, 1980, effective date have withdrawal liability under this provision.

In addition, it was intended that the PBGC prescribe regulations under this provision to take into consideration the limitation on the amount of unfunded vested benefits allocated to certain employers under section 4217 and to reallocate the unfunded vested benefits arising from such limitation to other employers, in order that the total unfunded vested benefits be allocated to all employers and made payable as withdrawal liability.

Another matter that needs clarification relates to the operation of the "presumptive" method of computing the amount of unfunded vested benefits allocable to an employer under section 4211(b). In connection with the broad authority to write regulations which is extended to the Pension Benefit Guaranty Corporation under H.R. 3904, it is expected that the regulations promulgated by the PBGC under section 4211(b) will provide for the allocation of unfunded vested benefits to employers in such a manner that a plan's unfunded vested benefits are completely allocated in a manner consistent with the purposes of the act.

□ 1230

Mr. Speaker, I rise in support of this conference report. I think the long, tortuous process has brought us to a point where we can be reasonably proud of what has been accomplished. We have made many changes that are necessary, and as I indicated earlier to my friend, the chairman, my colleague from New Jersey, undoubtedly further oversight will bring forth further corrective legislation, and I would say not necessarily because we have been inept in this body. We have charted a new course that is very difficult, very difficult to understand, so there are going to be technicalities which I am sure will be necessary to address ourselves to in the near future.

Mr. Speaker, I have several requests for time, but I would reserve them at this point.

Mr. THOMPSON. Mr. Speaker, I yield such time as he may consume to my distinguished colleague and friend, the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. I thank the chairman.

Mr. Speaker, I rise to confirm with my distinguished colleague, the gentleman from New Jersey (Mr. THOMPSON), the withdrawal liability provisions. I am concerned with whether withdrawal liability provisions do not apply retroactively to events such as, for example, a closing of a facility which occurred prior to April 29, 1980, the effective date of the withdrawal liability provisions.

Specifically, I would like to confirm my understanding of section 4217. My understanding is that neither contributions nor base units attributable to facilities closed before April 29, 1980, will be taken into account in any of the following determinations: First, whether or not a partial withdrawal, as defined in section 4205, has occurred; second, the amount of unfunded vested benefits allocable to a withdrawing employer pursuant to section 4211; third, the partial withdrawal adjustment set forth in section 4206; and fourth, the determination of annual liability payments pursuant to section 4219(c).

Is that understanding correct, Mr. Chairman?

Mr. THOMPSON. If the gentleman will yield, yes, I will say to the gentleman from Illinois; that is correct.

Mr. ROSTENKOWSKI. I would also like to review with my distinguished colleague from New Jersey the purpose of a technical amendment he sponsored to section 4219(c)(1)(D)(ii). I am particularly interested in the intended effect of the phrase "notwithstanding any other provision of this part," which was added at the beginning of section 4219 (c)(1)(D)(ii).

My understanding is that the purpose of the amendment was to assure that no part of a plan's unfunded vested benefits remains unallocated and payable as withdrawal liability after there has been a mass withdrawal. Is that understanding correct, Mr. Chairman?

Mr. THOMPSON. It is correct, yes.

Mr. ROSTENKOWSKI. Is it also payable as withdrawal liability?

Mr. THOMPSON. That is correct. This amendment was a technical amendment.

□ 1240

I would also, Mr. Speaker, like to confirm that the amendment does not permit either plans or the PBGC to disregard the substantive protections set forth in section 4217(a) and section 4225.

Mr. THOMPSON. That is correct. The amendment was a technical amendment intended to correct potential technical problems. It was not intended to affect section 4217(a) and section 4225, since those provisions do not interfere with the full allocation of all unfunded vested benefits so that they are payable as withdrawal liability.

Mr. ROSTENKOWSKI. Mr. Speaker, I thank the gentleman from New Jersey.

Mr. ASHBROOK. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I want to compliment all the members of the conference committee. I believe the report is a reasonable one. The compromises achieved are about the best one could expect from such a conference. I think this report, the ERISA amendment, is one which is desperately and immediately needed.

I know this is going to be approved forthwith. The country needs it to preserve the multiemployer pension funds and to preserve the benefits of those employees who are included therein.

My principal interest in this conference is related to unemployment compensation. It is specifically related to the so-called pension offsets, which are really the offset of unemployment compensation benefits because of pension earnings.

Under the current law, that offset is universal. Under the version that now appears in this bill we have restricted the offsets and allowed most benefits to be paid without offset.

Mr. Speaker, I would at this time ask my distinguished colleague from Michigan (Mr. BRODHEAD) a question about the language.

In Section 414(a)(a)(2), there appears some language that I as a conferee have seen only in separate sections, and I am not really certain what it means. As I recall our intent in this instance was to provide that military personnel who had earned pensions and then went to work in other areas of Government would not have an offset against unemployment compensation based on the pension they had earned in military service. Is that the understanding of the gentleman of that section?

Mr. BRODHEAD. If the gentleman would yield, yes, that is the purpose the conferees had in mind.

Mr. FRENZEL. Is it also true that the offset then pretty much boils down to BARE and social security recipients who may have 50 percent of their benefits offset at State option?

Mr. BRODHEAD. The rule with respect to social security is that the States are required to offset one-half of any social security benefits.

Mr. FRENZEL. They are required to offset 50 percent, but they may offset the whole thing, is that correct?

Mr. BRODHEAD. The gentleman is correct.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman for explaining that.

Mr. Speaker, I think that, overall, we have weakened the offset provision and caused moneys to be spent for unemployment compensation that will not go to the worthiest of beneficiaries. I believe that, if such funds are available, they are needed for beneficiaries who are more worthy.

On the other hand, as I said before, this conference report is needed now. The compromise was the best that could be achieved under the circumstances. Therefore I hope the bill is promptly passed.

Mr. THOMPSON. Mr. Speaker, I yield such time as he may consume to our colleague from Michigan (Mr. BRODHEAD).

Mr. BRODHEAD. Mr. Speaker, I thank the gentleman for yielding. I have a statement on behalf of the gentleman from California (Mr. CORMAN) who is unable to be with us today.

As of April 1, 1980, Federal law requires all States to reduce a person's unemployment compensation benefits dollar for dollar by the amount of any governmental or private pension or retirement pay received by the individual. This pension offset requirement applies to all pensions or retirement pay based on the previous work of the unemployment compensation claimant including social security pensions.

The conference agreement on H.R. 3904 generally limits this offset requirement to cases in which the pension or retirement pay in question is based in whole or in part upon work performed by the individual during the period just prior to unemployment, which period will be counted in determining his or her eligibility for unemployment benefits.

The agreement further allows States to reduce the amount of the required offset by an amount consistent with any contribution the employee made toward the pension. For example, this would allow a State to limit the offset to one-half of the amount of the social security pension received by an individual who qualifies for unemployment benefits.

Mr. THOMPSON. Mr. Speaker, I have no further requests for time and yield back the balance of my time.

Mr. ASHBROOK. Mr. Speaker, I have no further requests for time and yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 324, nays 1, not voting 107, as follows:

[Roll No. 567]

YEAS—324

Albosta
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Clausen
Clay
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Courter
D'Amours
Daniel, Dan
Crane, Daniel
Daniel, R. W.
Danielson
Dannemeyer
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Okla.
Emery

English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Harkin
Harris
Hightower
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Leland
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lundine
Lungren
McCloskey
McCormack
McDonald
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Rangel
Reuss
Rhodes
Ritter
Roberts
Robinson
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thompson
Traxler
Trible
Udall
Vander Jagt
Vanik
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NAYS—1

Akaka

NOT VOTING—107

Abdnor
Addabbo
Alexander
Anthony
Applegate
Barnard
Beard, Tenn.
Bethune
Bonker
Brooks
Brown, Ohio
Broyhill
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Cleveland
Collins, Ill.
Corman
Cotter
Coughlin
Crane, Philip
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Dixon
Dodd
Early
Edwards, Ala.
Edwards, Calif.
Erlenborn
Findley
Ford, Mich.
Ford, Tenn.
Gingrich
Goodling
Grassley
Gray
Hanley
Hansen
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Hinson
Holland
Holtzman
Howard
Hutto
Ireland
Jenrette
Johnson, Colo.
Jones, N.C.
Kindness
Leach, La.
Lederer
Lent
Lloyd
Luken
McClory
McDade
McEwen
Mathis
Mattox
Mavroules
Mazzoli
Mica
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nedzi
Nichols
Nolan
Nowak
Pashayan
Pepper
Quillen
Railsback
Ratchford
Regula
Richmond
Rinaldo
Rodino
Roe
Rousselot
Rudd
Russo
Santini
Stark
Stockman
Symms
Thomas
Ullman
Van Deerlin
Vento
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wright
Wydler
Yates
Zeferetti

□ 1300

The Clerk announced the following pairs:

Mr. Vento with Mr. Abdnor.
Mr. Rodino with Mr. Gingrich.
Mr. Richmond with Mr. Pashayan.
Mr. Applegate with Mr. Beard of Tennessee.
Mr. Addabbo with Mr. Goodling.
Mr. Zeferetti with Mr. Quillen.
Mr. Jenrette with Mr. Bethune.
Mr. Murphy of New York with Mr. Grassley.
Mr. Moorhead of Pennsylvania with Mr. Railsback.
Mr. Edwards of California with Mr. Brown of Ohio.
Mr. Howard with Mr. Harsha.
Mr. Hawkins with Mr. Rinaldo.
Mr. Hanley with Mr. Broyhill.
Mr. Barnard with Mrs. Heckler.
Mr. Chappell with Mr. Rousselot.
Mr. Cotter with Mr. Cheney.
Mr. Corman with Mr. Carter.
Mr. Davis of South Carolina with Mr. Hillis.
Mr. de la Garza with Mr. Hinson.
Mr. Mazzoli with Mr. Rudd.
Mr. Mavroules with Mr. Stockman.
Mr. Van Deerlin with Mr. Symms.
Mr. Yates with Mr. Johnson of Colorado.
Mr. Ullman with Mr. Kindness.
Mr. Santini with Mr. Coughlin.
Mr. Russo with Mr. Cleveland.
Mr. Roe with Mr. Lent.
Mr. Nichols with Mr. McClory.
Mr. Murphy of Illinois with Mr. Thomas.
Mr. Pepper with Mr. Williams of Ohio.
Mr. Cavanaugh with Mr. Philip M. Crane.
Mrs. Chisholm with Mr. Edwards of Alabama.
Mr. Dodd with Mr. McDade.
Mr. Ford of Michigan with Mr. McEwen.
Mr. Mathis with Mr. Bob Wilson.
Mr. Mica with Mr. Wydler.
Mr. Nedzi with Mr. Davis of Michigan.
Mr. Gray with Mr. Erlenborn.
Mr. Alexander with Mr. Findley.
Mr. Anthony with Mr. Hansen.
Mr. Bonkers with Mr. Regula.
Mr. Brooks with Mrs. Collins of Illinois.
Mr. Daschle with Mr. Dixon.
Mr. Early with Mr. Ford of Tennessee.
Mr. Hefner with Mr. Heftel.
Mr. Hutto with Mr. Holland.
Mr. Ireland with Ms. Holtzman.
Mr. Jones of North Carolina with Mr. Leach of Louisiana.
Mr. Lederer with Mr. Lloyd.
Mr. Luken with Mr. Mattox.
Mr. Nolan with Mr. Nowak.
Mr. Stark with Mr. Myers of Pennsylvania.
Mr. Wright with Mr. Ratchford.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 2597, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1981

Mr. BOLAND submitted the following conference report and statement on the Senate bill (S. 2597) to authorize appropriations for fiscal year 1981 for intelligence activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Conference Report (H. Rept. No. 96–1350)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2597) to authorize appropriations for fiscal year 1981 for intelligence activities of the United States Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1981".

TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

Sec. 101. Funds are hereby authorized to be appropriated for fiscal year 1981 for the conduct of the intelligence and intelligence-related activities of the following agencies of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The Drug Enforcement Administration.

CLASSIFIED SCHEDULE OF AUTHORIZATIONS

Sec. 102. The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1981, for the conduct of the intelligence and intelligence-related activities of the agencies listed in such section, are those specified in the classified Schedule of Authorizations prepared by the committee of conference to accompany S. 2597 of the 96th Congress. That Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

CONGRESSIONAL NOTIFICATION OF EXPENDITURES IN EXCESS OF PROGRAM AUTHORIZATIONS

Sec. 103. During fiscal year 1981, funds may not be obligated or expended for any program for which funds are authorized to be appropriated by section 101 in an amount in excess of the amount specified for that program in the classified Schedule of Authorizations described in section 102 unless the Director of Central Intelligence or the Secretary of Defense notifies the appropriate committees of Congress of the intent to make such obligation or expenditure not less than fifteen days before such obligation or expenditure is made.

RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES

Sec. 104. Nothing contained in this Act shall be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

AUTHORIZATION OF APPROPRIATIONS FOR COUNTERTERRORISM ACTIVITIES OF THE FEDERAL BUREAU OF INVESTIGATION

SEC. 105. In addition to the amounts authorized to be appropriated under section 101(9), there is authorized to be appropriated for fiscal year 1981 the sum of $11,400,000 for the conduct of the activities of the Federal Bureau of Investigation to counter terrorism in the United States.

TITLE II—INTELLIGENCE COMMUNITY STAFF

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1981 the sum of $17,824,000.

AUTHORIZATION OF PERSONNEL END-STRENGTH

SEC. 202. (a) The Intelligence Community Staff is authorized two hundred and forty-five full-time personnel as of September 30, 1981. Such personnel may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1981, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(c) During fiscal year 1981, any officer or employee of the United States or member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

SEC. 203. During fiscal year 1981, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a–403j) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1981 the sum of $55,300,000.

TITLE IV—GENERAL PROVISIONS

FUNDS TRANSFERS BY THE SECRETARY OF DEFENSE

SEC. 401. (a) Chapter 4 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 140a. Secretary of Defense: Funds transfers for foreign cryptologic support

"The Secretary of Defense may use funds available to the Department of Defense for intelligence and communications purposes to pay for the expenses of arrangements with foreign countries for cryptologic support. Payments under this section may be made without regard to section 3651 of the Revised Statutes of the United States (31 U.S.C. 543).".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"140a. Secretary of Defense: Funds transfers for foreign cryptologic support.".

ADMINISTRATIVE PROVISIONS RELATING TO THE NATIONAL SECURITY AGENCY

SEC. 402. (a)(1) The Act entitled "An Act to provide certain administrative authorities for the National Security Agency, and for other purposes" approved May 29, 1959 (50 U.S.C. 402 note), is amended by adding at the end thereof the following new sections:

"SEC. 9. (a) Notwithstanding section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), section 5536 of title 5, United States Code, and section 2675 of title 10, United States Code, the Director of the National Security Agency, on behalf of the Secretary of Defense, may lease real property outside the United States, for periods not exceeding ten years, for the use of the National Security Agency for special cryptologic activities and for housing for personnel assigned to such activities.

"(b) The Director of the National Security Agency, on behalf of the Secretary of Defense, may provide to certain civilian and military personnel of the Department of Defense who are assigned to special cryptologic activities outside the United States and who are designated by the Secretary of Defense for the purposes of this subsection—

"(1) allowances and benefits comparable to those provided by the Secretary of State to officers and employees of the Foreign Service under paragraph (1), (2), (7), (9), (10), and (11) of section 911, and under sections 912, 914, 933, 941, 942, and 945, of the Foreign Service Act of 1946 (22 U.S.C. 1136(1), (2), (7), (9), (10), (11), 1137, 1138a, 1148, 1156, 1157, 1160); and

"(2) housing (including heat, light, and household equipment) without cost to such personnel, if the Director of the National Security Agency, on behalf of the Secretary of Defense determines that it would be in the public interest to provide such housing.

"(c) The authority of the Director of the National Security Agency, on behalf of the Secretary of Defense, to make payments under subsections (a) and (b), and under contracts for leases entered into under subsection (a), is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

"SEC. 10. The Director of the National Security Agency, on behalf of the Secretary of Defense, may, without regard to section 4109 (a)(2)(B) of title 5, United States Code, pay travel, transportation, storage, and subsistence expenses under chapter 57 of such title to civilian and military personnel of the Department of Defense who are assigned to duty outside the United States for a period of one year or longer which involves cryptologic training, language training, or related disciplines.

"SEC. 11. The Administrator of General Services, upon the application of the Director of the National Security Agency, may provide for the protection in accordance with section 3 of the Act of June 1, 1948 (40 U.S.C. 318b), of certain facilities (as designated by the Director of such Agency) which are under the administration and control of, or are used by, the National Security Agency in the same manner as if such facilities were property of the United States over which the United States has acquired exclusive or concurrent criminal jurisdiction.".

(2) Such Act is further amended by inserting after the enacting clause the following: "That this Act may be cited as the 'National Security Agency Act of 1959' ".

(b) Any individual who is liable to the United States for any overpayment which was made to or on behalf of such individual before October 1, 1980, under chapter 57 of title 5, United States Code, while such individual was an employee of or assigned to duty with the National Security Agency and which was subsequently determined to be subject to the limitations contained in section 4109(a)(2)(B) of such title is hereby relieved of liability to the United States for such overpayment.

AUTHORITY TO PAY DEATH GRATUITIES

SEC. 403. (a) The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a–403j) is amended by adding at the end thereof the following new section:

"AUTHORITY TO PAY DEATH GRATUITIES

"SEC. 11. (a)(1) The Director may pay a gratuity to the surviving dependents of any officer or employee of the Agency who dies as a result of injuries (other than from disease) sustained outside the United States and whose death—

"(A) resulted from hostile or terrorist activities; or

"(B) occurred in connection with an intelligence activity having a substantial element of risk.

"(2) The provisions of this subsection shall apply with respect to deaths occurring after June 30, 1974.

"(b) Any payment under subsection (a)—

"(1) shall be in an amount equal to the amount of the annual salary of the officer or employee concerned at the time of death;

"(2) shall be considered a gift and shall be in lieu of payment of any lesser death gratuity authorized by any other Federal law; and

"(3) shall be made under the same conditions as apply to payments authorized by section 14 of the Act of August 1, 1956 (22 U.S.C. 2679a).".

(b)(1) Chapter 75 of title 10, United States Code, relating to death benefits, is amended by adding at the end thereof the following new section:

"§ 1489. Death gratuity: Members and employees dying outside the United States while assigned to intelligence duties

"(a) The Secretary of Defense may pay a gratuity to the surviving dependents of any member of the Armed Forces or of any employee of the Department of Defense—

"(1) who—

"(A) is assigned to duty with an intelligence component of the Department of Defense and whose identity as such a member or employee is disguised or concealed; or

"(B) is within a category of individuals determined by the Secretary of Defense to be engaged in clandestine intelligence activities; and

"(2) who after the date of the enactment of this section dies as a result of injuries (excluding disease) sustained outside the United States and whose death—

"(A) resulted from hostile or terrorist activities; or

"(B) occurred in connection with an intelligence activity having a substantial element of risk.

"(b) Any payment under subsection (a)—

"(1) shall be in an amount equal to the amount of the annual basic pay or salary of the member or employee concerned at the time of death;

"(2) shall be considered a gift and shall be in lieu of payment of any lesser death gratuity authorized by this chapter or any other Federal law; and

"(3) shall be made under the same conditions as apply to payments authorized by section 14 of the Act of August 1, 1956 (22 U.S.C. 2679a).".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"Sec. 1489. Death gratuity: Members and employees dying outside the United States while assigned to intelligence duties.".

SPECIAL PROVISIONS RELATING TO THE WELFARE OF PERSONNEL OF THE CENTRAL INTELLIGENCE AGENCY

SEC. 404. The Central Intelligence Agency Act of 1949 is amended by adding after section 11 (as added by section 403(a)) the following new section:

"AUTHORITY TO ACCEPT GIFTS, DEVISES, AND BEQUESTS

"Sec. 12. (a) Subject to the provisions of this section, the Director may accept, hold, administer, and use gifts of money, securities, or other property whenever the Director determines it would be in the interest of the United States to do so. Any gift accepted under this section (and any income produced by any such gift) may be used only for artistic display or for purposes relating to the general welfare, education, or recreation of employees or dependents of employees of the Agency or for similar purposes, and under no circumstances may such a gift (or any income produced by any such gift) be used for operational purposes. The Director may not accept any gift under this section which is expressly conditioned upon any expenditure not to be met from the gift itself or from income produced by the gift unless such expenditure has been authorized by law.

"(b) Unless otherwise restricted by the terms of the gift, the Director may sell or exchange, or invest or reinvest, any property which is accepted under this section, but any such investment may only be in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

"(c) There is hereby created on the books of the Treasury of the United States a fund into which gifts of money, securities, and other intangible property accepted under the authority of this section, and the earnings and proceeds thereof, shall be deposited. The assets of such fund shall be disbursed upon the order of the Director for the purposes specified in subsection (a) or (b).

"(d) For purposes of Federal income, estate, and gift taxes, gifts accepted by the Director under this section shall be considered to be to or for the use of the United States.

"(e) For the purposes of this section, the term 'gift' includes a bequest or devise.".

AUTHORITY TO REMEDY UNJUSTIFIED PERSONNEL ACTIONS

Sec. 405. (a) Whenever the Director of Central Intelligence finds during fiscal year 1981 that an employee or former employee of the Central Intelligence Agency has unfairly had his career with the Agency adversely affected as a result of allegations concerning the loyalty to the United States of such employee or former employee, the Director may grant such employee or former employee such monetary or other relief (including reinstatement and promotion) as the Director considers appropriate in the interest of fairness.

(b) Any action of the Director under this section is not reviewable in any other forum or in any court.

(c) The authority of the Director to make payments under subsection (a) is effective only to the extent that appropriated funds are available for that purpose.

GRANTING OF ADVANCED DEGREE AT DEFENSE INTELLIGENCE SCHOOL

Sec. 406. (a) Part III of subtitle A of title 10, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 108—GRANTING OF ADVANCED DEGREES AT DEPARTMENT OF DEFENSE SCHOOLS

"§ 2161. Defense Intelligence School: Master of science of strategic intelligence

"Under regulations prescribed by the Secretary of Defense, the Commandant of the Defense Intelligence School may, upon recommendation by the faculty of such school, confer the degree of master of science of strategic intelligence upon graduates of the school who have fulfilled the requirements for that degree.".

(b) The table of chapters at the beginning of subtitle A of title 10, United States Code, and the table of chapters at the beginning of part III of such subtitle are each amended by inserting after the item relating to chapter 107 the following new item:

"108. Granting of Advanced Degrees at Department of Defense Schools..2161".

CONGRESSIONAL OVERSIGHT OF INTELLIGENCE ACTIVITIES

Sec. 407. (a) Section 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422) is amended—

(1) by striking out "(a)" before "No funds";

(2) by striking out "and reports, in a timely fashion" and all that follows in subsection (a) and inserting in lieu thereof a period and the following: "Each such operation shall be considered a significant anticipated intelligence activity for the purpose of section 501 of the National Security Act of 1947."; and

(3) by striking out subsection (b).

(b) (1) The National Security Act of 1947 (50 U.S.C. 401 et. seq.) is amended by adding at the end thereof the following new title:

"TITLE V—ACCOUNTABILITY FOR INTELLIGENCE ACTIVITIES

"CONGRESSIONAL OVERSIGHT

"Sec. 501. (a) To the extent consistent with all applicable authorities and duties, including those conferred by the Constitution upon the executive and legislative branches of the Government, and to the extent consistent with due regard for the protection from unauthorized disclosure of classified information and information relating to intelligence sources and methods, the Director of Central Intelligence and the heads of all departments, agencies, and other entities of the United States involved in intelligence activities shall—

"(1) keep the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives (hereinafter in this section referred to as the 'intelligence committees') fully and currently informed of all intelligence activities which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States, including any significant anticipated intelligence activity, except that (A) the foregoing provision shall not require approval of the intelligence committees as a condition precedent to the initiation of any such anticipated intelligence activity, and (B) if the President determines it is essential to limit prior notice to meet extraordinary circumstances affecting vital interests of the United States, such notice shall be limited to the chairman and ranking minority members of the intelligence committees, the Speaker and minority leader of the House of Representatives, and the majority and minority leaders of the Senate;

"(2) furnish any information or material concerning intelligence activities which is in the possession, custody, or control of any department, agency, or entity of the United States and which is requested by either of the intelligence committees in order to carry out its authorized responsibilities; and

"(3) report in a timely fashion to the intelligence committees any illegal intelligence activity or significant intelligence failure and any corrective action that has been taken or is planned to be taken in connection with such illegal activity or failure.

"(b) The President shall fully inform the intelligence committees in a timely fashion of intelligence operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, for which prior notice was not given under subsection (a) and shall provide a statement of the reasons for not giving prior notice.

"(c) The President and the intelligence committees shall each establish such procedures as may be necessary to carry out the provisions of subsections (a) and (b).

"(d) The House of Representatives and the Senate, in consultation with the Director of Central Intelligence, shall each establish, by rule or resolution of such House, procedures to protect from unauthorized disclosure all classified information and all information relating to intelligence sources and methods furnished to the intelligence committees or to Members of the Congress under this section. In accordance with such procedures, each of the intelligence committees shall promptly call to the attention of its respective House, or to any appropriate committee or committees of its respective House, any matter relating to intelligence activities requiring the attention of such House or such committee or committees.

"(e) Nothing in this Act shall be construed as authority to withhold information from the intelligence committees on the grounds that providing the information to the intelligence committees would constitute the unauthorized disclosure of classified information or information relating to intelligence sources and methods.".

(2) The table of contents at the beginning of such Act is amended by adding at the end thereof the following:

"TITLE V—ACCOUNTABILITY FOR INTELLIGENCE ACTIVITIES

"Sec. 501. Congressional oversight.".

INCREASES IN EMPLOYEE BENEFITS AUTHORIZED BY LAW

Sec. 408. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such benefits authorized by law.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

Edward P. Boland,
Bill D. Burlison,
Clement J. Zablocki,
Norman Y. Mineta,
J. K. Robinson,
G. William Whitehurst,
For consideration of matters within the jurisdiction of the Armed Services Committee under clause 1(c) of Rule X:
Melvin Price,
Richard H. Ichord,
Bob Wilson,
Solely for consideration of such provisions of sections 408 and 409 and modifications thereof as fall within the jurisdiction of the Foreign Affairs Committee under clause 1(h) of Rule X:
Dante B. Fascell,
Wm. Broomfield,
Edward J. Derwinski,
Managers on the Part of the House.

Birch Bayh,
Adlai Stevenson,
Walter D. Huddleston,
Daniel K. Inouye,
Henry M. Jackson,
Daniel Moynihan,
Joseph Biden,
Barry Goldwater,
Charles McC. Mathias,
John H. Chafee,
Malcolm Wallop,
David Durenberger,
Richard G. Lugar,
For consideration of matters of interest to the Armed Services Committee:
Sam Nunn,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2597) to authorize appropriations for fiscal year 1981 for intelligence activities of the United States Government, the Intelligence Community Staff and the Central Intelligence Agency Retirement and Disability System, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The difference between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—INTELLIGENCE ACTIVITIES

Due to the classified nature of intelligence and intelligence-related activities, a classified annex to this joint explanatory statement serves as a guide to the classified Schedule of Authorizations by providing a detailed description of program and budget authority contained therein as reported by the Committee of Conference.

The actions of the conferees on all matters at difference between the two Houses as stated in such classified annexes and supplement are shown below or in the classified annex to this joint statement.

In view of the differences in committee jurisdiction between the two Houses over intelligence-related activities (IRA), the differences in IRA programs between the House and Senate were resolved by a special conference group. This group consisted of members of the House and Senate Committees on Armed Services and the House Permanent Select Committee on Intelligence.

The amounts listed for IRA represent the funding levels jointly agreed to by the IRA conferees and the House and Senate conferees for the Department of Defense Authorization Act, 1981, for those programs subject to annual authorization and contained in the Department of Defense Authorization bill. In addition, the IRA conferees have agreed on the authorization level, as listed in the classified Schedule of Authorizations, the joint statement and its classified annex for IRA programs which fall into the appropriation categories of Military Pay, Operations and Maintenance, Other Procurement, and Military Construction.

Section 103 of the House amendment provided that each individual ceiling established specifically in the Schedule of Authorizations will be a limitation on obligation and expenditure except by notification of the appropriate committees of Congress. The Senate bill contained no similar provision.

The Senate agreed to the House provision.

Section 105 of the House amendment authorized appropriations of $11,400,000 for the counterterrorism activities of the Federal Bureau of Investigation. The Senate bill contained no such specific provision.

The Senate agreed to the House provision.

TITLE II.—INTELLIGENCE COMMUNITY STAFF: CONFERENCE ACTIONS, FISCAL YEAR 1981 (SEC. 201)

[In millions of dollars]

Project	Fiscal year 1981 budget request[1]	House action	Senate action	Conference authorization
External contracts	2.6	−0.7	--------	1.9
Not subject to conference	15.9	--------	--------	15.9
Total, IC staff funding	18.5	−.7	--------	17.8

[1] As amended Apr. 14, 1980.

The Senate agreed to the House position which provides for a reduction of $700,000 for Intelligence Community Staff external contracts.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

There was no conference difference to be resolved on title III. Both the House and the Senate authorized $55,300,000, the amount requested.

Fund transfers by the Secretary of Defense (sec. 401)

The Senate bill contained a provision (Sec. 403) amending Chapter 4, Title 10, United States Code, authorizing the Department of Defense to use funds authorized and appropriated to the Department to pay expenses of arrangements with foreign countries for cryptologic support. The House amendment (Sec. 402) provided for similar authority during fiscal year 1981 only.

TITLE IV—GENERAL PROVISIONS

The conferees agreed to the Senate language with minor drafting changes.

Administrative provisions relating to the National Security Agency (sec. 402)

The Senate bill contained a provision (Sec. 404) amending the Act of May 29, 1959 (50 U.S.C. 402 note) providing certain administrative authorities for the National Security Agency (NSA). The Senate amendments would enable the Director of the NSA to lease or rent facilities overseas for special cryptologic activities and for housing for personnel assigned to such activities, to provide benefits comparable to those of State Department and Central Intelligence Agency to certain employees in special assignments overseas, and to provide certain allowances to cryptologic personnel assigned overseas for long term training. This section of the Senate bill also contained an authorization to waive any claims by the United States for overpayments made to cryptologic personnel previously assigned overseas for long term training and relieves those employees of liability for any claim based on such overpayment.

The House amendment (Sec. 403 and Sec. 404) provided for similar authority to the Director of the NSA during fiscal year 1981.

The conferees agreed to revised language incorporating similar authorities contained in both the House and Senate versions.

The Senate bill (Sec. 405) and House amendment (Sec. 404) also contained a provision authorizing the Administrator of the General Services Administration (GSA) to provide police protection for certain NSA installations in the same manner as Federal Protective Service police protect federal buildings under the control of GSA. The House amendment limited this authority to fiscal year 1981. The conferees agreed to the House language without the single fiscal year limitation. The conference report appends all the above mentioned provisions to, and provides a new title for, the Act of May 29, 1959 (50 U.S.C. 402).

Authority to pay death gratuities (sec. 403)

Section 406 of the Senate bill authorized payment of a death gratuity to dependents of employees of the Central Intelligence Agency and the National Security Agency who die as a result of injuries sustained outside the United States when it has been determined that death resulted from hostile or terrorist action, or occurred in connection with an intelligence activity having a substantial element of risk.

The House amendment (Sec. 406) contained similar authority for fiscal year 1981, but included in addition to survivors of Central Intelligence Agency employees, survivors of all Department of Defense officers or employees or members of the Armed Forces assigned to and serving undercover in an intelligence component of the Department of Defense, or engaged in clandestine intelligence activities involving a substantial element of risk.

The conferees agreed to the House language without the single fiscal year limitation, amended the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a–403j) and Chapter 75 of Title 10, United States Code, to provide death gratuity payment authority for Central Intelligence Agency and Department of Defense personnel, respectively.

The conferees wished to reemphasize that death gratuities of the type authorized by the conference report are intended to be in addition to any other pension, health insurance or other death related payments made by the Federal Government, but are not meant to be in addition to other lump-sum death gratuities unrelated to the above type payments. The intent of new section 11(b)(2) of the Central Intelligence Agency Act and new section 1489(b)(2) of title 10, United States Code, is to make clear that when an individual's surviving dependents would, but for the language of these provisions, be eligible for two such lump-sum payments from the Federal Government, that the payment authorized by sections 11(a) or 1489(a) respectively would supersede the other payment if the payment under section 11(a) or 1489(a) is larger, and that it would be the exclusive payment of a lump-sum death gratuity unrelated to Federal retirement, health insurance or other survivor benefits.

Special provisions relating to the welfare of personnel of the Central Intelligence Agency (sec. 404)

The Senate bill (Sec. 402) contained a provision authorizing the Director of Central Intelligence to accept gifts, bequests, and property on behalf of the Agency whenever he determines that it is in the interest of the United States to do so. The House amendment contained no similar provision.

The conferees agreed to the Senate provision with minor changes. The conferees agreed further to request periodic reports to the intelligence committees concerning the operation of this section.

Authority to remedy unjustified personnel actions (sec. 405)

The Senate bill (Sec. 402) contained a provision authorizing the Director of Central Intelligence to grant monetary or other relief to employees or former employees of the Central Intelligence Agency whenever the Director determined that an employee's, or former employee's, career had suffered due to unjustified personnel or administrative action. The House amendment contained no similar provision.

The conferees agreed to the Senate provision with minor changes except that the Director's authority to make findings concerning unjustified personnel actions can be exercised only during fiscal year 1981 and is limited to those cases resulting from allegations concerning the employee's, or former employee's, loyalty to the United States. The conferees wish to emphasize that the enactment of a provision to remedy unjustified personnel actions is not intended to eliminate any cause of action an employee or former employee may have. Appropriate settlements entered into by such employees or former employees in connection with remedial actions taken pursuant to this provision may resolve such causes of action.

Granting of advanced degrees at Department of Defense schools (sec. 406)

The Senate bill (Sec. 407) contained a provision amending Title 10, United States Code, to authorize the granting of a degree of Master of Science in Strategic Intelligence by the Defense Intelligence School. The House amendment contained no similar provision.

The House agreed to the Senate provision.

Presidential findings and congressional oversight for intelligence activities (sec. 407)

The Senate bill contained provisions (Sec. 408 and Sec. 409) providing for comprehensive oversight of all intelligence activities by the intelligence committees of the House and Senate, including a revision of the so-called Hughes-Ryan amendment to the Foreign Assistance Act (22 U.S.C. 2224) which requires reporting to Congress of certain CIA activities conducted abroad.

The House bill contained no comparable provisions.

The congressional oversight provisions of the Senate bill establish a permanent statutory basis for the oversight procedures that have been developed by the select committees and the executive branch over the past four years. They are predicated on two general principles. The first is respect for the authorities and duties of both the Congress and the executive branch, including the constitutional authorities of each branch. The second is the duty of both branches through mutual consultation to ensure that sensitive information is securely handled so that the interests of the United States are protected.

Both of these principles are to be taken into account as limitations on the obligations imposed by the statute. For example, the statute would not preclude an executive branch assertion of constitutional authority to take actions to defend the nation, nor does the statute limit the congressional power of inquiry under the Constitution. Moreover, since both branches agree upon their duty to protect intelligence sources and methods, the select committees have worked out procedures and practices under which by agreement certain information is usually not sought by the committees. Examples of such information may include the identities of agents or other sources of intelligence collection.

It is agreed by both the committees and the executive branch that the protection of intelligence sources and methods is not to be used as a device to place one branch in a position of advantage. By agreement both branches recognize that particular circumstances will require the exercise of unusual care and discretion. The protection of sources and methods is a means to protect the vital interests of the U.S. and is not an end in itself. Consequently, over the past four years the intelligence oversight committees have consulted with the executive branch to determine those areas where, on the basis of past experience and a reasonable sense of future needs, there might be good and sufficient reason to withhold information when some compelling reasons arise from extraordinary circumstances where the vital interests of the U.S. are involved.

The clear intent of these two principles is to ensure that the legitimate concerns of both branches and the interests of the nation as a whole are respected. Neither the executive branch nor the legislative branch is giving up any powers, authorities or rights it may have; rather, both branches recognize the powers, rights, authorities and duties of the other. Through this legislation there are established procedures by which both branches may carry out their separate and joint responsibilities and duties to protect the nation through the use of intelligence information.

Four duties are imposed upon executive branch officials. First, they are to keep the select committees "fully and currently informed" of intelligence activities.* Second, they are to provide advance information to the select committees regarding "significant anticipated intelligence activities," such as covert operations and certain other intelligence activities specified in consultation with the executive branch. Third, they are to furnish any information or material concerning intelligence activities requested by the select committees in order to carry out the select committees' authorized responsibilities. Fourth, they are to provide timely reports on illegal intelligence activities and significant intelligence failures.

Provision is also made for procedures to be followed in those rare, extraordinary and compelling circumstances when advance information might be withheld from the select committees. If the President determines it is essential to limit prior notice to meet extraordinary circumstances affecting vital national interests, such prior notice is to be given to eight congressional leaders. If prior notice of a covert operation is not given, the President must fully inform the select committees in a timely fashion and provide a statement of the reasons for not giving prior notice.

The statute authorizes the President and the select committees to establish the procedures necessary for carrying out these requirements. In addition, each House is to establish procedures for protecting sensitive information furnished under the statute from unauthorized disclosure, and for notifying each House and other appropriate committees of matters requiring their attention.

Concern was expressed by the House conferees that the provisions for the protection of information from "unauthorized disclosure" might be construed as authority to withhold information from the select committees on the grounds that providing the information to the select committees would constitute unauthorized disclosure of classified information or information relating to intelligence sources and methods. Therefore, a final provision is included to make clear that nothing in the statute may be construed in such a manner.

As stated in the report to accompany S. 2284, a separate Senate-passed bill the provisions of which are identical to the Senate oversight provisions (S. Rept. 96–730), the select committees "are authorized to receive such information." The authority of the select committees to receive highly sensitive information is reflected in other contexts as well. For example, the recently reported House and Senate versions of the Intelligence Identities Protection Act, which provides criminal penalties for disclosing identities of covert agents to any individual not authorized to receive classified information, defines the term "authorized" to include "having authority, right, or permission pursuant to the provisions of . . . any rule of the House of Representatives or resolution of the Senate which assigns responsibility within the respective House of Congress for the oversight of intelligence activities." The conferees expect that mutual agreement on the need to protect vital intelligence sources and methods may result in decisions that certain information, such as the identities of covert agents, need not be furnished to the select committees in particular circumstances. Although differences have occasionally arisen under the current procedures, and may arise on future occasions after the enactment of this statute, it is the view of the conferees that, as in the past, such differences must be resolved on the basis of comity and mutual understanding. Moreover, both branches agree that the select committees continue to have the right to obtain information they require by subpoena. As stated in the Senate report accompanying S. 2284, the statute does not provide a statutory right to withhold information from Congress when subpoenaed by Congress.

The House agreed to the Senate provision with an amendment.

TITLE OF THE BILL

The conferees agreed to the title of the House bill which reads: An Act to authorize appropriations for fiscal year 1981 for the intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, and for the Central Intelligence Agency Retirement and Disability System, and for other purposes.

EDWARD P. BOLAND,
BILL D. BURLISON,
CLEMENT J. ZABLOCKI,
NORMAN Y. MINETA,
J. K. ROBINSON,
G. WILLIAM WHITEHURST,
For consideration of matters within the jurisdiction of the Armed Services Committee under clause 1(c) of Rule X:
MELVIN PRICE,
RICHARD H. ICHORD,
BOB WILSON,
Solely for consideration of such provisions of sections 408 and 409 and modifications thereof as fall within the jurisdiction of the Foreign Affairs Committee under clause 1(h) of Rule X:
DANTE B. FASCELL,
WM. BROOMFIELD,
EDWARD J. DERWINSKI,
Managers on the Part of the House.

BIRCH BAYH,
ADLAI STEVENSON,
WALTER D. HUDDLESTON,
DANIEL K. INOUYE,
HENRY M. JACKSON,
DANIEL MOYNIHAN,
JOSEPH BIDEN,
BARRY GOLDWATER,
CHARLES McC. MATHIAS,
JOHN H. CHAFEE,
MALCOLM WALLOP,
DAVID DURENBERGER,
RICHARD G. LUGAR,
For consideration of matters of interest to the Armed Services Committee:
SAM NUNN,
Managers on the Part of the Senate.

ANNOUNCEMENT BY CHAIRMAN OF PERMANENT SELECT COMMITTEE ON INTELLIGENCE

Mr. BOLAND. Mr. Speaker, I wish to announce at this time that the classified annex to accompany the conference report on the Senate bill (S. 2597) to authorize appropriations for fiscal year 1981 for intelligence activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes is available to Members of the House in the rooms of the Permanent Select Committee on Intelligence, room H–405 of the Capitol, from 9 a.m. until 5 p.m., Monday through Friday, until consideration of the conference report in the House.

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* The conferees agree that the term "intelligence activities" is intended to encompass the full range of intelligence and intelligence-related activities within the jurisdiction of the two select committees.

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO FILE SUNDRY REPORTS

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs may have until midnight tonight to file sundry reports.

The SPEAKER pro tempore (Mr. BENNETT). Is there objection to the request of the gentleman from Ohio?

There was no objection.

COMPREHENSIVE OIL POLLUTION LIABILITY AND COMPENSATION ACT

Mr. BIAGGI. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 85) to provide a comprehensive system of liability and compensation for oil-spill damage and removal costs, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BIAGGI).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOTTL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 302, nays 5, answered "present" 1, not voting 124, as follows:

[Roll No. 568]

YEAS—302

Akaka
Albosta
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Butler
Byron
Campbell
Carney
Carr
Clausen
Clay
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, R. W.
Danielson
Dannemeyer
Deckard
Dellums
Derrick
Derwinski
Devine
Dicks
Dingell
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Harris
Hightower
Hollenbeck
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutchinson
Hyde
Ichord
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Leland
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lungren
McCloskey
McCormack
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marriott
Martin
Matsui
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Patten
Patterson
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Rangel
Reuss
Rhodes
Ritter
Roberts
Robinson
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thompson
Traxler
Trible
Udall
Vander Jagt
Vanik
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NAYS—5

Dickinson
Holt
McDonald
Mitchell, Md.
Paul

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—124

Abdnor
Addabbo
Alexander
Anthony
Applegate
Barnard
Beard, Tenn.
Bereuter
Bethune
Boner
Bonker
Brooks
Brown, Ohio
Burton, Phillip
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Cleveland
Collins, Ill.
Corman
Cotter
Crane, Philip
D'Amours
Daniel, Dan
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Dixon
Dodd
Early
Edwards, Ala.
Edwards, Calif.
Erlenborn
Evans, Ga.
Findley
Foley
Ford, Mich.
Ford, Tenn.
Garcia
Gingrich
Goodling
Grassley
Gray
Hammerschmidt
Hanley
Hansen
Harkin
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Hinson
Holland
Holtzman
Howard
Hutto
Ireland
Jacobs
Jenrette
Johnson, Colo.
Jones, N.C.
Kelly
Kindness
Leach, La.
Lederer
Lent
Lloyd
Luken
Lundine
McClory
McDade
McEwen
McKinney
Marlenee
Mathis
Mattox
Mavroules
Mazzoli
Mica
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nedzi
Nichols
Nolan
Pashayan
Pepper
Quillen
Rahall
Railsback
Ratchford
Regula
Richmond
Rinaldo
Rodino
Roe
Rousselot
Rudd
Russo
Santini
Smith, Iowa
Stanton
Stark
Steed
Stockman
Symms
Thomas
Ullman
Van Deerlin
Vento
Volkmer
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wright
Wydler
Yates
Zeferetti

□ 1320

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 85, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Thursday, September 18, 1980, all time for general debate on the bill had expired.

Pursuant to the rule, an amendment in the nature of a substitute printed in the CONGRESSIONAL RECORD of August 27, 1980, by the gentleman from Louisiana (Mr. BREAUX) shall be considered by titles as an original bill for the purpose of amendment under the 5-minute rule, in lieu of the amendments recommended by the Committees on Merchant Marine and Fisheries, Public Works and Transportation, and Ways and Means, now printed in the bill, and each title shall be considered as having been read.

No amendment to title V of said substitute shall be in order except pro forma amendments for the purpose of debate and amendments recommended by the Committee on Ways and Means which shall not be amendable except by pro forma amendments.

After the consideration of title V of the substitute and any amendments thereto, no further amendment to the bill shall be in order.

The Clerk will designate section 1.

Section 1 reads as follows:

That this Act may be cited as the "Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act".

The CHAIRMAN. Are there amendments to section 1? If not, the Clerk will designate Title I.

Title I reads as follows:

TITLE I—OIL POLLUTION LIABILITY, COMPENSATION, AND FUND

DEFINITIONS

SEC. 101. For the purposes of this title, the term—

(a) "Secretary" means the Secretary of Transportation;

(b) "fund" means the fund established by title V of this Act;

(c) "person" means an individual, firm, corporation, association, partnership, consortium, joint venture, or governmental entity;

(d) "incident" means any occurrence or series of occurrences, involving one or more vessels, facilities, or any combination thereof, which causes, or poses an imminent threat of, oil pollution;

(e) "vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water;

(f) "public vessel" means a vessel which—

(1) is owned or chartered by demise, and operated by (A) the United States, (B) a State or political subdivision thereof, or (C) a foreign government, and

(2) is not engaged in commercial service;

(g) "ship" means either of the following types of vessels carrying oil in bulk as cargo or in residue;

(1) a self-propelled vessel, or

(2) a non-self-propelled vessel other than an inland oil barge;

(h) "inland oil barge" means a non-self-propelled vessel, carrying oil in bulk as cargo and certificated to operate only on the internal waters of the United States while operating in such waters;

(i) "facility" means a structure, or group of structures (including a mobile drilling rig when in the drilling mode), used for the purpose of transporting, drilling for, producing, processing, storing, transferring, or otherwise handling oil;

(j) "onshore facility" means any facility, (including, but not limited to, any motor vehicle or rolling stock) located in, on, or under any land within the United States;

(k) "offshore facility" means any facility located in, on, or under the navigable waters or, if the facility is subject to the jurisdiction of the United States, the high seas;

(l) "terminal" means a permanently situated facility, located within the territorial limits of the United States and not owned by an agency of the Federal Government, which receives oil in bulk directly from a vessel, offshore production facility, offshore port facility, onshore pipeline, or the pipeline constructed under the provisions of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.);

(m) "refinery" means a terminal that receives crude oil for the purpose of refinement;

(n) "oil pollution" means—

(1) the presence of oil, either in an unlawful quantity or which has been discharged at an unlawful rate—

(A) in or on the navigable waters or on land within the United States immediately adjacent thereto; or

(B) in or on the waters of the contiguous zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606); or

(2) the presence of oil in or on the waters of the high seas outside the territorial limits of the United States—

(A) when discharged in connection with activities conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.) or the Deepwater Port Act of 1974, as amended (33 U.S.C. 1501 et seq.);

(B) causing injury to or loss of natural resources belonging to, appertaining to, or under the exclusive management authority of the United States; or

(C) when discharged from a ship that received oil at the terminal facilities of the pipeline constructed under the provisions of the Trans-Alaska Pipeline Authorization Act, as amended (43 U.S.C. 1651 et seq.), for transportation to a port in the United States, and was discharged from that ship prior to being brought ashore in such a port; or

(3) the presence of oil in or on the territorial sea, internal waters, or adjacent shoreline, of a foreign country, in a case where damages are recoverable by a foreign claimant under section 103(b)(5) of this title;

(o) "navigable waters" means the waters of the United States, including the territorial seas;

(p) "United States claimant" means any person residing in the United States, the Government of the United States or an agency thereof, or the government of a State or a political subdivision thereof, who asserts a claim;

(q) "foreign claimant" means any person residing in a foreign country, the government of a foreign country, or any agency or political subdivision thereof, who asserts a claim;

(r) "United States" and "State" include the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, and any other territory or possession over which the United States has jurisdiction;

(s) "oil" means petroleum, including crude oil or any fraction or residue therefrom;

(t) "cleanup costs" means costs of reasonable measures taken, after an incident has occurred, to prevent, minimize, or mitigate oil pollution from that incident;

(u) "barrel" means forty-two United States gallons at 60 degrees Fahrenheit;

(v) "claim" means a demand in writing for a sum certain;

(w) "discharge" means any emission, intentional or unintentional, and includes spilling, leaking, pumping, pouring, emptying, or dumping;

(x) "owner" means any person holding title to, or in the absence of title, any other indicia of ownership of, a vessel or facility, but does not include a person who (either directly or through a trust or singly or in combination with others) holds title to or any indicia of ownership of a vessel or facility and without participating in the management or operation of such vessel or facility, leases or charters to any other person (with whom such person is not otherwise affiliated), or holds indicia of ownership primarily to protect his security interest in the vessel or facility;

(y) "affiliated" means a relationship in which a person owns (in whole or in part), is owned by (in whole or in part), or is under common control with, another person;

(z) "operator" means—

(1) in the case of a vessel, a charterer by demise or any other person, except the owner, who is responsible for the operation, manning, victualing, and supplying of the vessel, or

(2) in the case of a facility, any person, except the owner, responsible for the operation of the facility by agreement with the owner;

(aa) "natural resources" includes fish, wildlife, biota, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Fishery Conservation and Management Act of 1976), any State or local government, or any foreign government;

(bb) "removal costs" means—

(1) costs incurred under subsection (c), (d), or (l) of section 311 of the Federal Water Pollution Control Act, as amended, section 5 of the Intervention on the High Seas Act, or subsection (b) of section 18 of the Deepwater Port Act of 1974 as amended; and

(2) cleanup costs, other than the costs described in clause (1);

(cc) "guarantor" means the person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator;

(dd) "internal waters of the United States" means those waters of the United States lying inside the base line from which the territorial sea is measured and those waters outside that base line which are a part of the Gulf Intracoastal Waterway.

FUND ESTABLISHMENT, ADMINISTRATION, AND FINANCING

SEC. 102. (a) There is in the Treasury of the United States a fund known as the Comprehensive Oil Pollution Liability Trust Fund established in title V of this Act.

(b) In addition to the processing and settlement of claims under section 107, the fund is immediately available to pay those removal costs defined in section 101(bb)(1) arising out of or directly resulting from an oil pollution incident. The Secretary may issue regulations designating the person or persons who may obligate available money in the fund for those purposes.

DAMAGES AND CLAIMANTS

SEC. 103. (a) Claims for damages for economic loss, incurred on or after the effective date of this section and arising out of or directly resulting from oil pollution, may be asserted for—

(1) removal costs;

(2) injury to, or destruction of, real or personal property;

(3) injury to, or destruction of, natural resources; and

(4) loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources to the extent that such damages were sustained during the 2-year period beginning on the date the claimant first suffered such loss.

(b) A claim authorized by subsection (a) may be asserted—

(1) under item 1, by any claimant: *Provided*, That the owner or operator of a vessel or facility involved in an incident may assert such a claim only if he can show that he is entitled to a defense to liability under section 104(e)(1) or 104(e)(2) or, if not entitled to such a defense to liability, that he is entitled to a limitation of liability under section 104: *Provided further*, That where he is not entitled to such a defense to liability but entitled to such a limitation of liability, the claim may be asserted only as to the removal costs incurred in excess of that limitation;

(2) under item 2 by any United States claimant, if the property involved is owned or leased, or the natural resource involved is utilized, by the claimant;

(3) under item 3, by the President, as trustee for natural resources over which the United States Government has sovereign rights or exercises exclusive management authority, or by any State for natural resources within the boundary of the State belonging to, managed by, controlled by, or appertaining to the State: *Provided*, That compensation paid under this item may be used only for restoration of the damaged resources or for acquisition of equivalent resources;

(4) under item 4, by any United States claimant if the claimant derives at least 25 percent of his earnings from activities which utilize the property or natural resource;

(5) under items 2 through 4, by a foreign claimant to the same extent that a United States claimant may assert a claim if—

(A) the oil pollution occurred (1) in the navigable waters or (2) in or on the territorial sea or adjacent shoreline of a foreign country of which the claimant is a resident;

(B) the claimant is not otherwise compensated for his loss;

(C) the oil was discharged from a facility or from a vessel located adjacent to or within the navigable waters or was discharged in connection with activities conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.) or the Deepwater Port Act of 1974, as amended (33 U.S.C. 1501 et seq.); and

(D) recovery is authorized by a treaty or an executive agreement between the United States and the foreign country involved, or if the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that such country provides a comparable remedy for United States claimants: *Provided, however*, That condition (C) shall not apply where the claim is asserted by a resident of Canada and where the oil pollution involves oil that has been transported through the pipeline constructed under the provisions of the Trans-Alaska Pipeline Authorization Act, as amended, has been loaded on a ship for transportation to a port in the United States, and is discharged from the ship prior to being brought ashore in that port; and

(6) under any item, by the Attorney General, on his own motion or at the request of the Secretary, on behalf of any group of United States claimants who may assert a claim under this subsection.

(c) If the Attorney General fails to act under clause (6) of subsection (b) within sixty days of the date on which the Secretary designates a source under section 106, any member of a group may, in accordance with rule 23 of the Federal Rules of Civil Procedure, maintain a class action to recover damages on behalf of that group. Failure of the Attorney General to act shall have no bearing on any class action maintained by any claimant for damages authorized by this section.

LIABILITY

SEC. 104. (a) Subject to the provisions of subsections (b), (c), (d), and (e), the owner and operator of a vessel other than a public vessel, or of a facility, that is the source of oil pollution, or poses a threat of oil pollution in circumstances that justify the incurrence of the type of costs described in section 101(bb)(1) of this title, shall be jointly, severally, and strictly liable for all damages for which a claim may be asserted under section 103.

(b) Except when the incident is caused primarily by willful misconduct or gross negligence, within the privity or knowledge of the owner or operator; or is caused primarily by a violation, within the privity or knowledge of the owner or operator, of applicable safety, construction, or operating standards or regulations of the Federal Government; or except when the owner or operator fails or refuses to report the incident or to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup activities, the total of the liability under subsection (a) and any removal costs incurred by, or on behalf of, the owner or operator shall be limited to—

(1) in the case of a vessel other than a ship or other than an inland oil barge, $150 per gross ton;

(2) in the case of an inland oil barge, $150,000 or $150 per gross ton, whichever is greater;

(3) in the case of a ship, $250,000 or $300 per gross ton (up to a maximum of $30,000,000), whichever is greater;

(4) in the case of a deepwater port subject to the Deepwater Port Act of 1974 (including the liability of the owner or operator of such deepwater port for a discharge from a ship moored at such port), $50,000,000;

(5) in the case of an offshore facility operated under authority of the Outer Continental Shelf Lands Act, as amended, the total of removal costs plus $50,000,000; or

(6) in the case of a facility other than one described in clause (4) or (5), $50,000,000 or such lesser limit as is established under subsection (d).

The Secretary shall, from time to time, report to Congress on the desirability of adjusting the limitations of liability specified in this subsection.

(c) The Secretary may, by regulation, reduce the limitation of liability for facilities subject to clause (5) of subsection (b), to the total of all removal costs plus an amount not less than $35,000,000, if he determines that the limitation will have either a significant adverse impact on small business enterprises or a significant anticompetitive impact.

(d) The Secretary shall issue regulations establishing limits of liability, up to $50,000,000, for various classes of facilities other than those described in clauses (4) and (5) of subsection (b). These regulations shall take into account the size, type, location, oil storage and handling capacity, and other matters relating to the likelihood of incidents involving those classes. These limits shall, to the extent practicable, be comparable to the limits established under clause (3) of subsection (b), taking into account the relative potential threat of oil pollution, but in no case shall such a limitation be less than $2,000,000 for any tank motor vehicle operated on highways and transporting oil in bulk with a water capacity of more than 3,500 gallons.

(e) There shall be no liability under subsection (a)—

(1) to the extent that the incident is caused—

(A) by an act of war, hostilities, civil war, or insurrection; or

(B) by a natural phenomenon of an exceptional, inevitable, and irresistible character, which could not have been prevented or avoided by the exercise of due care or foresight;

(2) to the extent that the incident is caused by an act or omission of a person other than—

(A) the claimant,

(B) the owner or operator,

(C) an employee or agent of the claimant, the owner, or the operator, or

(D) one whose act or omission occurs in connection with a contractual relationship with the claimant, the owner, or the operator;

(3) as to a particular claimant, where the incident or economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

(4) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

(f)(1) Except as provided in title V the fund shall be liable, without any limitation, for all damages which are compensable damages under title V of this Act, to the extent that the loss is not otherwise compensated.

(2) Except for the removal costs specified in clause (1) of section 101(bb), there shall be no liability under paragraph (1) hereof—

(A) where the incident is caused primarily by an act of war, hostilities, civil war, or insurrection;

(B) as to a particular claimant, where the incident or economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

(C) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

(g)(1) In addition to the damages for which claims may be asserted under section 103, and without regard to the limitation of liability provided in section 104, the owner, operator, or guarantor shall be liable to the claimant for interest on the amount paid in satisfaction of the claim for the period from the date upon which the claim was presented to such person to the date upon which the claimant is paid, inclusive, less the period, if any, from the date upon which the owner, operator, or guarantor shall offer to the claimant an amount equal to or greater than that finally paid in satisfaction of the claim to the date upon which the claimant shall accept that amount, inclusive. However, if the owner, operator, or guarantor shall offer to the claimant, within sixty days of the date upon which the claim was presented, or of the date upon which advertising was commenced pursuant to section 106, whichever is later, an amount equal to or greater than that finally paid in satisfaction of the claim, the owner, operator, or guarantor shall be liable for the interest provided in this paragraph only from the date the offer was accepted by the claimant to the date upon which payment is made to the claimant, inclusive.

(2) The interest provided in paragraph (1) shall be calculated at the average of the highest rate for commercial and finance company paper of maturities of one hundred and eighty days or less obtaining on each of the days included within the period for which interest must be paid to the claimant, as published in the Federal Reserve Bulletin.

(h) No indemnification, hold harmless, or similar agreement shall be effective to transfer from the owner or operator of a facility, to any other person, the liability imposed under subsection (a), other than as specified in this title: *Provided*, That this provision does not preclude an agreement whereby the holder of a leasehold interest or permit for the exploration of oil agrees to indemnify for, or hold harmless from, such liability, the owner or operator of a vessel or facility which is, by contract or other agreement, engaged in activity on behalf of the holder of the leasehold interest or permit.

(i) Nothing in this title shall bar a cause of action that an owner or operator, subject to liability under subsection (a), or a guarantor, has or would have, by reason of subrogation or otherwise, against any person.

(j) To the extent that it is in conflict with, or otherwise inconsistent with, any other law relating to liability or the limitation thereof, this section supersedes such other law, including section 4283(a) of the Revised Statutes, as amended (46 U.S.C. 183(a)).

FINANCIAL RESPONSIBILITY

SEC. 105. (a)(1) The owner or operator of each vessel (except a non-self-propelled barge that does not carry oil, as that term is defined in section 311(a)(1) of the Federal Water Pollution Control Act, as amended, or hazardous substances), over three hundred gross tons that uses an offshore or onshore facility or the navigable waters, shall establish and maintain, in accordance with regulations promulgated by the President, evidence of financial responsibility sufficient to satisfy the maximum amount of liability under this Act to which the owner or operator of such vessel would be exposed in a case where he would be entitled to limit his liability in accordance with section 104 of this title and subsection (g) of section 311 of the Federal Water Pollution Control Act, as amended. Financial responsibility may be established by any one, or any combination, of the following methods, acceptable to the President: evidence of insurance, guarantee, surety bond, or qualification as a self-insurer. Any bond filed shall be issued by a bonding company authorized to do business in the United States. In cases where an owner or operator owns, operates, or charters more than one vessel subject to this subsection, evidence of financial responsibility need be established only to meet the maximum liability applicable to the largest of such vessels.

(2) The Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States of any vessel, subject to this subsection, that does not have certification furnished by the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

(3) The Secretary, in accordance with regulations issued by him, shall (A) deny entry to any port or place in the United States or navigable waters to, and (B) detain at the port or place in the United States from which it is about to depart for any other port or place in the United States, any vessel subject to this subsection that, upon request, does not produce certification furnished by the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

(b)(1) The owner or operator of each offshore facility shall establish and maintain, in accordance with regulations issued by the Secretary, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the owner or operator of the facility would be exposed in a case where he would be entitled to limit his liability in accordance with section 104 of this title, or $50,000,000, whichever is less. These regulations shall take into account the size, type, location, arrangement and degree of consolidation of the structure, platform, well, or pipeline. The regulations shall also take into account the various groupings of multiple offshore facilities owned or operated by the same person or persons or under joint venture. In cases where the owner or operator owns, operates or leases more than one facility subject to this subsection, evidence of financial responsibility need be established only to meet the maximum liability applicable to the largest of such facilities.

(2) Where an offshore facility is owned or operated by more than one person, evidence of financial responsibility covering the facility may be established and maintained by any one of the owners or operators, or, in consolidated form, by or on behalf of two or more owners or operators. When evidence of financial responsibility is established in a consolidated form, the proportional share of each participant shall be shown. The evidence shall be accompanied by a statement authorizing the applicant to act for and in behalf of each participant in submitting and maintaining the evidence of financial responsibility.

(3) The owner or operator of each tank motor vehicle operated on highways and transporting oil in bulk, with a water capacity of more than 3,500 gallons shall establish and maintain, in accordance with regulations issued by the Secretary, evidence of financial responsibility in such amounts as the Secretary, by regulation, shall establish, but in no event less than $2,000,000.

(c) Any claim authorized by section 103(a) may be asserted directly against any guarantor providing evidence of financial responsibility as required under this section. In defending such a claim, the guarantor may invoke all rights and defenses which would be available to the owner or operator under this title. He may also invoke the defense that the incident was caused by the willful misconduct of the owner or operator, but he may not invoke any other defense that he might have been entitled to invoke in proceedings brought by the owner or operator against him.

DESIGNATION AND ADVERTISEMENT

SEC. 106(a)(1) When the Secretary receives information of an incident that involves oil pollution, he shall, where possible, designate the source or sources of the oil pollution and shall immediately notify the owner and operator of the source, and the guarantor, of that designation.

(2) When a source designated is a vessel or a facility, and the owner, operator, or guarantor fails to inform the Secretary, within five days after receiving notification of the designation, of his denial of such designation, such owner, operator, or guarantor, as required by regulations promulgated by the Secretary, shall advertise the designation and the procedures by which claims may be presented to him. If advertisement is not otherwise made in accordance with this paragraph, the Secretary shall, as he finds necessary, and at the expense of the owner, operator, or guarantor involved, advertise the designation and the procedures by which claims may be presented to that owner, operator, or guarantor.

(b) In a case where—

(1) the owner, operator, and guarantor all deny a designation in accordance with paragraph (2) of subsection (a),

(2) the source of the discharge was a public vessel, or

(3) the Secretary is unable to designate the source or sources of the discharge under paragraph (1) of subsection (a),

the Secretary shall advertise or otherwise notify potential claimants of the procedures by which claims may be presented to the fund.

(c) Advertisement under subsection (a) shall commence no later than fifteen days from the date of the designation made thereunder and continue for a period of no less than thirty days.

CLAIMS SETTLEMENT

SEC. 107. (a) Except as provided in subsection (b), all claims shall be presented to the owner, operator, or guarantor.

(b) Claims for compensable damages under title V of this Act shall be presented to the fund—

(1) where the Secretary has advertised or otherwise notified claimants in accordance with section 106(b), or

(2) where the owner or operator may recover under section 103(b)(1).

(c) In the case of a claim presented in accordance with subsection (a), and in which—

(1) the person to whom the claim is presented denies all liability for the claim, for any reason, or

(2) the claim is not settled by any person by payment to the claimant within sixty days of the date upon which (A) the claim was presented, or (B) advertising was commenced pursuant to section 106(a)(2), whichever is later,

the claimant may elect to commence an action in court against the owner, operator, or guarantor, or, in the case of claims for compensable damages under title V, to present the claim to the fund; that election to be irrevocable and exclusive.

(d) In the case of a claim for compensable damages under title V presented in accordance with subsection (a), where full and adequate compensation is unavailable, either because the claim exceeds a limit of liability invoked under section 104 or because the owner, operator, and guarantor are financially incapable of meeting their obligations in full, a claim for the uncompensated damages may be presented to the fund.

(e) In the case of a claim which has been presented to any person, under subsection (a), and which is being presented to the fund, under subsection (c) or (d), such person, at the request of the claimant, shall transmit the claim and supporting documents to the fund. The Secretary may, by regulation, prescribe the documents to be transmitted and the terms under which they are to be transmitted.

(f) In the case of a claim presented to the fund, under subsections (b), (c), and (d), and in which the fund—

(1) denies all liability for the claim, for any reason, or

(2) does not settle the claim by payment to the claimant within sixty days of the date upon which (A) the claim was presented to the fund or (B) advertising was commenced under section 106(b), whichever is later,

the claimant may submit the dispute to the Secretary for decision in accordance with section 554 of title 5, United States Code. However, a claimant who has presented a claim to the fund under subsection (b) may elect to commence an action in court against the fund in lieu of submission of the dispute to the Secretary for decision; that election to be irrevocable and exclusive.

(g)(1) The Secretary shall promulgate regulations which establish uniform procedures and standards for the appraisal and settlement of claims against the fund.

(2) Except as provided in paragraph (3), the Secretary shall use the facilities and services of private insurance and claims adjusting organizations or State agencies in processing claims against the fund and may contract for those facilities and services. Any contract made under this paragraph may be made without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), upon a showing by the Secretary that advertising is not reasonably practicable. The Secretary may make advance payments to a contractor for services and facilities, and the Secretary may advance to the contractor funds to be used for the payment of claims. The Secretary may review and audit claim payments made under this subsection. A payment in excess of $100,000 to a single claimant, or one aggregating in excess of $200,000 to multiple claimants shall be first approved by the Secretary. When the services of a State agency are used in processing and settling claims, no payment may be made on a claim asserted on behalf of that State or any of its agencies or subdivisions unless the payment has been approved by the Secretary.

(3) To the extent necessitated by extraordinary circumstances, where the services of such private organizations or State agencies are inadequate, the Secretary may use Federal personnel to process claims against the fund.

(h) Without regard to subsection (b) of section 556 of title 5, United States Code, the Secretary is authorized to appoint, from time to time for a period not to exceed one hundred and eighty days, one or more panels, each comprised of three individuals, to hear and decide disputes submitted to the Secretary under subsection (f). At least one member of each panel shall be qualified in the conduct of adjudicatory proceedings and shall preside over the activities of the panel. Each member of a panel shall possess competence in the evaluation and assessment of property damage and the economic losses resulting therefrom. Panel members may be appointed from private life or from any Federal agency except the staff administering the fund. Each panel member appointed from private life shall receive a per diem compensation, and each panel member shall receive necessary traveling and other expenses while engaged in the work of a panel. The provisions of chapter 11 of title 18, United States Code, and of Executive Order 11222, as amended, regarding special Government employees, apply to panel members appointed from private life.

(i)(1) Upon receipt of a request for decision from a claimant, properly made, the Secretary shall refer the dispute to an administrative law judge, appointed under section 3105 of title 5, United States Code, or a panel appointed under subsection (h).

(2) The administrative law judge and each member of a panel to which a dispute is referred for decision shall be a resident of the United States judicial circuit within which the damage complained of occurred, or, if the damage complained of occurred within two or more circuits, of any of the affected circuits, or, if the damage occurred outside any circuit, of the nearest circuit.

(3) Upon receipt of a dispute, the administrative law judge or panel shall adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code. In any proceeding under this subsection, the presiding officer may require by subpena any person to appear and testify or to appear and produce books, papers, documents, or tangible things at a hearing or deposition at any designated place. Subpenas shall be issued and enforced in accordance with subsection (d) of section 555 of title 5, United States Code, and rules promulgated by the Secretary. If a person fails or refuses to obey a subpena, the Secretary may invoke the aid of the district court of the United States where the person is found, resides, or transacts business in requiring the attendance and testimony of the person and the production by him of books, papers, documents, or any tangible things.

(4) A hearing conducted under this subsection shall be conducted in the United States judicial district within which the damage complained of occurred, or, if the damage complained of occurred within two or more districts, in any of the affected districts, or, if the damage occurred outside any district, in the nearest district.

(5) The decision of the administrative law judge or panel under this subsection shall be the final order of the Secretary, except that the Secretary, in his discretion and in accordance with rules which he may issue, may review the decision upon his own initiative or upon exception of the claimant or the fund.

(6) Final orders of the Secretary made under this subsection shall be reviewable under section 702 of title 5, United States

Code, in the district courts of the United States.

(j)(1) In any action brought against an owner, operator, or guarantor, both the plaintiff and defendant shall serve a copy of the complaint and all subsequent pleadings therein upon the fund at the same time those pleadings are served upon the opposing parties.

(2) The fund may intervene in the action as a matter of right.

(3) In any action to which the fund is a party, if the owner, operator, or guarantor admits liability under this title, the fund upon its motion shall be dismissed therefrom to the extent of the admitted liability.

(4) If the fund receives from either the plaintiff or the defendant notice of such an action, the fund shall be bound by any judgment entered therein, whether or not the fund was a party to the action.

(5) If neither the plaintiff nor the defendant gives notice of such an action to the fund, the limitation of liability otherwise permitted by section 104 of this title is not available to the defendant, and the plaintiff shall not recover from the fund any sums not paid by the defendant.

(k) In any action brought against the fund, the plaintiff may join any owner, operator, or guarantor, and the fund may implead any person who is or may be liable to the fund.

(l) No claim may be presented, nor may an action be commenced for damages recoverable under this title, unless that claim is presented to, or that action is commenced against, the owner, operator, or guarantor, or against the fund, as to their respective liabilities, within three years from the date of discovery of the economic loss for which a claim may be asserted under section 103(a), or within six years of the date of the incident which resulted in that loss, whichever is earlier.

SUBROGATION

SEC. 108. (a) Any person or governmental entity, including the fund, who compensates any claimant for an economic loss, compensable under section 103, shall be subrogated to all rights, claims, and causes of action which that claimant has under this title.

(b) Upon request of the Secretary, the Attorney General may commence an action, on behalf of the fund, for the compensation paid by the fund to any claimant under this title. Such an action may be commenced against any owner, operator, or guarantor, or against any other person or governmental entity, who is liable, under any law, to the compensated claimant or to the fund, for the damages for which the compensation was paid.

(c) In all claims or actions by the fund against any owner, operator, or guarantor, under subsections (a) and (b), the fund shall recover—

(1) for a claim presented to the fund (where there has been a denial of source designation) under section 107(b)(1), or (where there has been a denial of liability) under section 107(c)(1)—

(A) subject only to the limitation of liability to which the defendant is entitled under section 104(b), the amount the fund has paid to the claimant, without reduction;

(B) interest on that amount, at the rate calculated in accordance with section 104(g)(2), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the fund is paid by the defendant, inclusive, less the period, if any, from the date upon when the fund shall offer to the claimant the amount finally paid by the fund to the claimant in satisfaction of the claim against the fund to the date upon which the claimant shall accept that offer, inclusive; and

(C) all costs incurred by the fund by reason of the claim, both of the claimant against the fund and the fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs, and attorney's fees; and

(2) for a claim presented to the fund under section 107(c)(2)—

(A) in which the amount the fund has paid to the claimant exceeds the largest amount, if any, the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

(i) subject to dispute by the defendant as to any excess over the amount offered to the claimant by the defendant, the amount the fund has paid to the claimant;

(ii) interest, at the rate calculated in accordance with section 104(g)(2), for the period specified in clause (1) of this subsection; and

(iii) all costs incurred by the fund by reason of the claim of the fund against the defendant, including but not limited to, processing costs, investigating costs, court costs, and attorneys' fees; or

(B) in which the amount the fund has paid to the claimant is less than or equal to the largest amount the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

(i) the amount the fund has paid to the claimant, without reduction;

(ii) interest, at the rate calculated in accordance with section 104(g)(2), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the defendant offered to the claimant the largest amount referred to in this subclause: Provided, That if the defendant tendered the offer of the largest amount referred to in this subclause within sixty days of the date upon which the claim of the claimant was either presented to the defendant or advertising was commenced under section 106, the defendant shall not be liable for interest for that period; and

(iii) interest from the date upon which the claim of the fund against the defendant was presented to the defendant to the date upon which the fund is paid, inclusive, less the period, if any, from the date upon which the defendant shall offer to the fund the amount finally paid to the fund in satisfaction of the claim of the fund to the date upon which the fund shall accept that offer, inclusive.

(d) The fund shall pay over to the claimant that portion of any interest the fund shall recover, under clause (1) and subclause (A) of clause (2) of subsection (c), for the period from the date upon which the claim of the claimant was presented to the defendant to the date upon which the claimant was paid by the fund, inclusive, less the period from the date upon which the fund offered to the claimant the amount finally paid to the claimant in satisfaction of the claim to the date upon which the claimant shall accept that offer, inclusive.

(e) The fund is entitled to recover for all interest and costs specified in subsection (c) without regard to any limitation of liability to which the defendant may otherwise be entitled.

JURISDICTION AND VENUE

SEC. 109. (a) The United States district courts shall have exclusive original jurisdiction over all controversies arising under this title, without regard to the citizenship of the parties or the amount in controversy.

(b) Venue shall lie in any district wherein the injury complained of occurred, or wherein the defendant resides, may be found, or has his principal office. For the purposes of this section, the fund shall reside in the District of Columbia.

PREEMPTION

SEC. 110. (a) Except as provided in this title—

(1) no action may be brought in any court of the United States, or of any State or political subdivision thereof, for damages for an economic loss described in section 103(a), a claim for which may be asserted under this title, and

(2) no person may be required to contribute to any fund, the purpose of which is to compensate for a loss which is a compensable damage under title V, nor to establish or maintain evidence of financial responsibility relating to the satisfaction of a claim for such a loss.

(b) Nothing in subsection (a) shall preclude any State from imposing a tax or fee upon any person or upon oil in order to finance the purchase and prepositioning of oil pollution cleanup and removal equipment.

(c) Nothing in subsection (a) shall prohibit an action by the fund, under any other provision of law, to recover compensation paid under this title.

PENALTIES

SEC. 111. (a) Any person who, after notice and an opportunity for a hearing, is found to have failed to comply with the requirements of section 105, the regulations issued thereunder, or with any denial or detention order shall be liable to the United States for a civil penalty, not to exceed $10,000 for each violation. The amount of the civil penalty shall be assessed by the President in connection with section 105(a)(1) and by the Secretary in connection with all other sections, by written notice. In determining the amount of such penalty, the appropriate Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(b) The Secretaries may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

(c) If any person fails to pay an assessment of a civil penalty after it has become final, the Secretaries may refer the matter to the Attorney General of the United States, for collection in any appropriate district court of the United States.

APPROPRIATIONS

SEC. 112. There are authorized to be appropriated for those fiscal years which begin on or after October 1, 1980, such sums as may be necessary to carry out the provisions of this title.

ANNUAL REPORT

SEC. 113. Within six months after the end of each fiscal year, the Secretary shall submit to the Congress a report on the administration of this title during that fiscal year, and his recommendations for any legislative changes he finds necessary or appropriate to improve the management of, and the administration of the liability provisions of, this title.

AMENDMENT OFFERED BY MR. BIAGGI

Mr. BIAGGI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BIAGGI: On page 1, line 10, strike "title V" and substitute "section 521".

On page 6, lines 3 and 4, strike "the Canal Zone,".

On page 7, line 7, strike "facility;" and substitute "facility, and in the case of an offshore facility, the term includes the operating holder of a leasehold interest or permit for the exploration of oil;".

On page 11, lines 23 and 24, strike "claimants: *Provided, however,* That condition (C) shall not apply" and substitute "claimants, except that".

On page 12, line 7, strike "port; and" and substitute "port only condition (B) of this paragraph shall be applicable to that claim; and".

On page 21, line 9, add "In the case of an owner who is the holder of a leasehold interest or permit for the exploration of oil offshore, evidence of financial responsibility established for the leasehold to meet the maximum liability applicable under paragraph (1) of this subsection shall cover the liability of that owner for all facilities located on the leasehold.".

On page 22, after line 2, add a new subsection:

"(d) The total liability under this title of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility under this title, except that nothing in this subsection shall be construed to limit the liability of a guarantor for negotiating, or failing to negotiate, in bad faith a settlement of any claim.".

Mr. BIAGGI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BIAGGI. Mr. Chairman, the amendments I am offering have been worked out jointly by the Merchant Marine Committee and the Public Works Committee. They do not amend title V of the bill or in any way affect its provisions.

I would like to briefly explain those amendments that are not merely technical and conforming:

On page 7 of the bill, the amendment would, in the case of an offshore facility on a leasehold where the facility owner and leaseholder are different entities, make both liable for damages resulting from oil pollution. Under the present form of the bill, only the facility owner—usually the drilling contractor—is liable. The proposed amendment would also make the leaseholder liable. He is the one who hires the drilling contractor, controls his operations, and receives the benefits of the leasehold. He is also generally better able to show financial responsibility. The amendment should provide an additional incentive to leaseholders to select competent drillers and supervise them carefully. The amendment is consistent with present industry practices.

Another aspect of the problem of leaseholds is found in the amendment to page 21 of the bill. This allows a leaseholder to make one showing of financial responsibility to cover all facilities on the leasehold. This provision will simplify administration of the bill and reduce paperwork requirements. It is consistent with the comparable provision applicable to vessel fleet owners, and should result in a showing of financial responsibility by the entity best able to afford it and with the most interest in the drilling enterprise.

The amendment to page 22 of the bill provides that a guarantor who provides a certificate of financial responsibility will not be liable for claims or removal costs in excess of the amount stated in that certificate. This amendment is necessary in order to assure that insurors will provide insurance under the bill. They are reluctant to do so because of certain language in the bill that they believe could be construed to make them liable for claims in excess of the certificate limits. They have not, in fact, provided insurance coverage under similar language enacted in 1978 when the outer continental shelf oil spill pollution fund was established. The amendment would express specifically what has always been the intent of the bill—that the guarantor's liability under the legislation is limited to the amount stated in the certificate of financial responsibility he supplies.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Texas.

Mr. ROBERTS. I thank the gentleman for yielding.

I agree with the gentleman's amendment. I think it clears up an area here that was in doubt.

I support the amendment.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Louisiana.

Mr. BREAUX. I thank the gentleman for yielding.

Mr. Chairman, I have a question for Mr. BIAGGI in connection with the effect of his amendment regarding the filing for certificates of financial responsibility. Historic and industry practice in offshore drilling operations has placed the financial responsibility for oil spill pollution damage on the leaseholder. The reason the oil company leaseholder is willing to assume that burden is because the service companies who are the owners of the mobile offshore drilling units are:

First, unable to secure sufficient insurance coverage for risk;

Second, the operations of the rig are under the direction, control and supervision of the oil company leaseholder for whom they work; and

Third, there are numerous other service contractors aboard the mobile rig from time to time conducting operations and using their own equipment under the direction, control and supervision of the oil company leaseholder.

If I understand correctly, the proposed definition of owner of a facility and the expanded concept that a facility includes a leasehold or permit right, allows the requirements of the law regarding the filing for a certificate of financial responsibility to be met completely for all the service contractors owning equipment, include mobile drilling rigs, when the leaseholder files for the certificate.

If this is so, I heartily endorse this provision which would eliminate the potential need for duplicate filings by each and every service company contractor working for a leaseholder.

The liability of the parties can then be determined individually based upon their own contractual relationship with the oil company leaseholder who hired them and directed their activities. Is this, indeed, a correct interpretation of the gentleman's amendment?

□ 1330

The CHAIRMAN. The time of the gentleman from New York (Mr. BIAGGI) has expired.

(At the request of Mr. BREAUX, and by unanimous consent, Mr. BIAGGI was allowed to proceed for 2 additional minutes).

Mr. BIAGGI. The gentleman is, indeed, correct in his observation. This problem developed as a result of title III of the 1978 Outer Continental Shelf Lands Act Amendments. Our effort here today is to insure that the same problems do not exist in this legislation.

Very clearly, the insurer should be limited in liability to the amount of money that is expressed in the certificate. There is no question that his liability ceases at that point.

Mr. BREAUX. I thank the gentleman for the clarification.

Mr. LIVINGSTON. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I would be delighted to yield to the gentleman from Louisiana (Mr. LIVINGSTON).

Mr. LIVINGSTON. Mr. Chairman, I rise to seek clarification on a technical amendment that has been offered by my colleague from the State of New York (Mr. BIAGGI) and has been supported by the gentleman from Kentucky (Mr. SNYDER). As I understand it, the amendment seeks to clarify or set the aggregate liability of any guarantor at that amount which the guarantor has provided as evidence of financial responsibility. It does not change the rights of any claimant to recover for damages for economic loss limits under the liability scheme established, and is meant to secure and solidify the provision of financial responsibility from the insurance market.

However, due to the construction of the exception clause to the amendment, insurers have advised me that they remain unwilling to provide the evidence of financial responsibility, since the provision can be construed to expose them beyond the limits set forth in their certification of financial responsibility. I would like to clarify my understanding that the purpose of this exception clause is merely to preserve the rights and obligations of any owner or operator for whom evidence of financial responsibility is provided, arising under common law, or out of the contract with his guarantor.

It is not to be viewed as a means for undermining the absolute certainty that insurers will require concerning their liabilities as guarantors by allowing outside parties to raise rights inherent in the guarantee contract. Without this certainty, insurers and other guarantors will be reluctant to provide the required evidence of financial responsibility.

Does the gentleman concur in my understanding?

Mr. BIAGGI. The gentleman from Louisiana is correct in his understanding of the amendment. The purpose of this amendment is to clarify that there is no intention to impose liability on guarantors under the direct action provisions of this statute in excess of the amount provided as evidence of financial responsibility by the guarantor.

The exception clause is to make certain that nothing in the amendment shall be construed to change or limit the common law or contractual liability of any guarantor to the owner or operator for whom evidence of financial responsibility is provided. That clause does not affect the liability of a guarantor to those not party to the contract between the guarantor and the owner or operator.

Mr. LIVINGSTON. I thank the gentleman for his clarification.

Mr. SNYDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the committee amendments being offered on title I of H.R. 85 dealing with oil pollution liability and compensation. The Committees on Merchant Marine and Fisheries and Public Works and Transportation have worked together to prepare these amendments. They are technical or clarifying in nature to carry out the intent of H.R. 85 as reported out by these two committees. In addition, they are totally consistent with the funding provision of title V.

These amendments include the following provisions:

The modification of the definition of "owner" to include the operating holder of a leasehold interest or permit in the case of an offshore facility to make not only owners and operators of facilities liable for damages from oil pollution, but also the leaseholder who receives the benefit of offshore exploration and exploitation.

The clarification that Canadian claimants have the same rights as existed under the trans-Alaska pipeline legislation.

A simplification of the establishment of financial responsibility on a leasehold, allowing an umbrella certificate of financial responsibility for all facilities on one leasehold similar to the provision regarding vessels.

A limitation of the liability of a guarantor in a direct action suit to the amount of the certificate of financial responsibility provided by the guarantor.

I want to make a particular note about the amendment addressing the limitation of the liability of a guarantor to the amount of the certificate of financial responsibility. This amendment is made to insure certainty of liability which will facilitate the ability of insurers to provide certificates of financial responsibility for owners, operators, and leaseholders offshore. This provision does not excuse an insurer from the responsibilities and obligations to an insured which exists independent of the statute. That is, this insurance or guarantor provision applies only to the direct action suit situation under section 105 and does not alter the relationship between an owner, operator, or leaseholder and the guarantor.

Thus, an insurer would not be able to use this provision to deny compensation under the insurance provided to an owner, operator, or leaseholder. In this regard, the remedies available at common law and other statutes would still be available.

In particular, this provision limits the liability of a guarantor in a direct action suit to the face amount of the certificate of financial responsibility the guarantor provides in accordance with section 105 of this bill. Thus, in this situation, once a guarantor has paid a cumulative or aggregate amount of claims for one incident in an amount that equals the face amount of this certificate of financial responsibility, the guarantor would no longer be liable for damages to a party bringing suit under the direct action provision. In the event that liability should exceed the face amount of the certificate of financial responsibility, the direct action claimant would still have a cause of action against the spiller under section 103.

In this instance, the spiller may be found liable in excess of the amount of the certificate of financial responsibility. It would be at this point that the insurance or other guarantee, provided to the spiller in addition to a certificate of financial responsibility, would be generally available to compensate a claimant. However, the availability of this additional compensation would be a function of the relationship between the owner, operator or leaseholder and the guarantor.

Mr. Chairman, I urge the adoption of the committee amendments to H.R. 85.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in support of the committee amendments developed by the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

Particularly, I would like to underscore one of the committee amendments. That amendment is one which includes the provision setting forth the disposition of funds remaining in TAPS, once the claims certified by the Secretary of the Interior have been adjudicated. This restores a provision in H.R. 85 which was inadvertently omitted by the Breaux amendment in the nature of a substitute. This provision was also incorporated in the bills that passed the House and Senate in the 95th Congress. This concerns the relationship between the TAPS fund and the fund established through H.R. 85. The bill provides that at the time of transfer of the TAPS funds into the H.R. 85 fund, the Secretary of the Interior must certify the amount of outstanding claims. If the assets of the TAPS fund are greater than the certified claims by the Secretary of the Interior, the excess will be transferred to the H.R. 85 fund.

The provision offered by this amendment addresses those funds which remain in the TAPS fund to satisfy the certified claims. If the amount of claims actually settled is less than the amount certified, the difference shall be returned to the pipeline operator for rebate to the owners of the oil on a pro rata basis.

The disposition of funds which may remain in the TAPS fund after the disposition of certified claims is not addressed or contemplated in any other title of H.R 85. Therefore, not only does this amendment restore the provision in the Breaux amendment to H.R. 85, it also serves to provide for the administrative disposition of any money remaining in the TAPS fund in an equitable manner to those who made payments into that fund. Furthermore, since this provision deals with funds remaining in the TAPS fund, it would not be inconsistent with the funding provisions of title V.

Mr. Chairman, I urge adoption of the proposed committee amendments.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BIAGGI).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SNYDER

Mr. SNYDER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SNYDER: Page 15, line 4, strike out "$2,000,000" and insert in lieu thereof "$1,000,000".

Page 21, line 16, strike out "$2,000,000" and insert in lieu thereof "$1,000,000".

Mr. SNYDER. Mr. Chairman, my amendment would simply reduce the minimum level of financial responsibility for owners of tank trucks transporting oil from $2,000,000 to $1,000,000.

This amendment is needed in order to bring the requirements of H.R. 85 in line with the insurance requirements recently enacted by the Congress in the Motor Carrier Act of 1980, Public Law 96-296.

The Motor Carrier Act of 1980 establishes a comprehensive scheme of financial responsibility for motor carriers. All trucks of 10,000 pounds or more carrying oil or hazardous materials are required to have at least $1,000,000 insurance covering public liability, property damage, and environmental restoration. This would include tank trucks of 3,500 gallons or more carrying oil.

Under H.R. 85, which was reported by our committee prior to enactment of the Motor Carrier Act, tank trucks of 3,500 gallons or more carrying oil would be required to carry at least $2,000,000 in insurance. This is twice the minimum level established in the Motor Carrier Act. Rather than having two different requirements apply to these trucks, my amendment would make the provisions consistent by reducing the level in H.R. 85 to the same $1,000,000 level as is in the Motor Carrier Act.

I want to assure the Members that this action in no way compromises any of the protections embodied in H.R. 85. The $1,000,000 is the minimum level that the Secretary of Transportation can set. He or she will have the discretion to set higher levels, including $2,000,000, if the public interest so requires. I also want to emphasize that the amended provisions in H.R. 85 would in no way abrogate any of the insurance requirements in the Motor Carrier Act. All of the requirements of Public Law 96-296 would remain intact.

I urge the adoption of my amendment.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I have no objection to the amendment. I will accept it, and as the gentleman from Kentucky stated, it is consistent with the newly passed legislation, the Trucking Deregulation Act of 1980.

Mr. DONNELLY. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman.

Mr. DONNELLY. Mr. Chairman, I rise in support of the amendment. I would like to associate myself with the remarks of the gentleman from Kentucky

Mr. Chairman, I rise in support of the amendment of my colleague from Kentucky. Unless this legislation is amended, the small- and medium-sized oil dealers in New England would be faced with a situation threatening their very existence. Under the Motor Carrier Act of 1980, these companies are required to uphold a financial responsibility of $1 million. The provision we are trying to amend would increase that financial responsibility to $2 million. This would have a disastrous effect on small operators.

Currently, New England, New Jersey, New York, and Pennsylvania consume well over 50 percent of our Nation's home heating oil. Under passage of this legislation the cost of insurance for the companies would surely rise and would be forced to be passed on to the consumers. The average dealer in New England operates 2.6 trucks. We cannot continue to pass legislation which will overregulate our country's small businessmen. The sum suggested, $2 million, is certainly not commensurate with a spill from trucks of such small capacities. Instead, the $1 million figure which is already in the existing law will cover the financial responsibility adequately.

I ask the support of my colleagues for this amendment. Unless this amendment is acted on favorably, we would be compelling thousands of small businessmen to take on a tremendous and unnecessary financial burden. We have the great opportunity in this vote to cast our support for both small business and the consumers, I urge my colleagues to support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky (Mr. Snyder).

The amendment was agreed to.

The CHAIRMAN. Are there additional amendments to title I?

AMENDMENT OFFERED BY MR. WYATT

Mr. WYATT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Wyatt: Page 37, after line 14, insert the following:

IXTOC I OILSPILL

Sec. 114. (a) Claims may be asserted by any United States claimant against the Oil Pollution Trust Fund established in section 521 of this Act for any compensable damage (within the meaning of section 531 of this Act) incurred by such claimant and arising out of, or directly resulting from, oil pollution caused by the discharge of oil on or after June 3, 1979, in connection with a blowout of Ixtoc I, Bay of Campeche, Mexico, on June 3, 1979: *Provided, however,* that the obligations of the Oil Pollution Trust Fund to carry out this subsection shall not exceed $75 million. If compensable damages exceed $75 million, they shall be reduced proportionally as determined by the Secretary.

(b) The provisions of this title, other than those provisions determined by the Secretary to be inconsistent with this section, shall apply to claims under subsection (a).

(c)(1) Except as provided in paragraphs (2) and (3) of this subsection, no United States claimant shall be eligible to receive compensation under subsection (a) of this section for any damage referred to in such subsection for which such claimant has not been compensated if such claimant has presented a claim for compensation for such damage under any other Federal or State law.

(2) Any United States claimant who presents a claim for any damage referred to in subsection (a) of this section, under any other Federal or State law, which is not reduced to judgment before the date of enactment of this Act may be eligible to receive compensation under such subsection. Presentation by such claimant of a claim for compensation under subsection (a) of this section shall be irrevocable, shall constitute the exclusive relief which may be granted with respect to the damage for which such claim is presented, and shall constitute a waiver by such claimant of any right to relief to which such claimant may be entitled under such other Federal or State law with respect to such damage.

(3) Any United States claimant who presents a claim for any damage referred to in subsection (a) of this section, under any other Federal or State law, which is reduced to judgment before the date of the enactment of this Act may be eligible to receive compensation under such subsection. Such claimant may present such judgment to the Secretary. If the Secretary determines that such claimant is entitled to receive compensation under either such subsection, then the Secretary shall offer to pay such compensation, not to exceed the amount of any award made in such judgment, in satisfaction of such judgment. Acceptance of such offer by such claimant shall constitute full satisfaction of such judgment with respect to each claim for any damage which is referred to in subsection (a) of this section and which is merged in such judgment.

Mr. WYATT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. WYATT. Mr. Chairman, on June 3, 1979, Ixtoc I, an oil well in the Bay of Campeche, Mexico, blew out and began what has become the largest oil spill in history. Estimates of the amount of oil spilled ranged from 120 to 350 million gallons in the 9 months the well flowed uncontrolled.

It took only 2 months for the oil to travel the 500 miles on Gulf of Mexico waters between the well and the U.S. coastline where the well caused economic losses to many businesses, most associated with tourism, and shrimpers who had to leave their normal fishing grounds and ports of call.

The United States has spent almost $8 million cleaning up the oil and that does not include the assessment or the extent of damages. Although $355 million in claims have been made in the numerous lawsuits filed, the remaining uncompensated damages are, in my estimate, no more than $20 million, and probably around $10 million.

The House has already expressed its will in this matter. Chairman John Murphy and Ray Roberts set hearings in Corpus Christi, Tex., last September. These hearings were cochaired by Chairmen Roberts and John Breaux, and attended by Messrs. Studds, Livingston, McCloskey, and Gonzalez. I again thank you for sacrificing a weekend to hear testimony with Mr. de la Garza and me. As a result of those hearings, 17 Members, including myself and Mr. de la Garza, have sponsored or cosponsored one or more Ixtoc relief bills. I would like to take this opportunity to again thank those Members.

In hearings before committees of the House, the administration has repeatedly stated it favored a comprehensive compensation and liability scheme which would cover incidents such as Ixtoc I oil pollution. Had this spill occurred after the date of enactment of such a scheme as is contained in this bill, compensation would be available for provable losses as this amendment provides.

H.R. 5338 by Mr. Roberts, Mr. Breaux, Mr. de la Garza, and myself was passed by the House this June with both Chairman Bizz Johnson and Mr. Clausen speaking in its behalf. Thus far, the Senate has not acted. Fellow Members, we need this amendment to insure that Ixtoc relief will be a subject of conference on H.R. 85.

Briefly stated, this amendment allows Ixtoc damages to be paid from the fund not to exceed $75 million—in which case compensable damages would be reduced proportionally—and provides that compensation is available to litigants even after a judgement is rendered to allow all claims to be consolidated with the fund.

I will not take any more time repeating the arguments for Ixtoc relief as the House has already determined it is necessary. In fact, the House-passed relief measure provides compensation for a broader range of damages.

Mr. Chairman, I feel this amendment is both reasonable and necessary and I move its adoption.

Mr. BIAGGI. Mr. Chairman, I rise in opposition to the amendment. I do so most reluctantly, because the gentleman from Texas (Mr. Wyatt) is a valuable member of the Committee on Merchant Marine and Fisheries and he has supported the total concept of H.R. 85. We appreciate deeply his contribution. The fact is, as he has stated, the House has acted previously. They passed a bill that would provide some $80 million. Such sums would come from appropriations, however. It would seem in the light of that, that there should not be any opposition to this amendment at this time, except that the situation is somewhat different.

The moneys from the original bill would come out of general revenues. These moneys—the amendment is limited to $75 million—would go directly against the fund that has not yet been created. The moneys that would go to that fund would be from two sources initially and that is from the Trans-Alaska Pipeline Act and from the Outer Continental Shelf. Those moneys will amount to some $75 million.

It is conceivabe that if the gentleman's amendment was to be enacted the claims against the fund from the Ixtoc spill would wipe out the fund. Moreover, what makes it even more difficult to accept the amendment is that the fund would then be required to go against the spiller, which is in the normal course of events. Under ordinary circumstances we would expect to recover. However, in this case the spiller is the Mexican Government, or at least that is the contention.

I can see, and I am sure the gentlemen understands, that could be litigation that could be endless and in the end fruitless.

Then there is the question of retroactivity.

Mr. WYATT. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I am delighted to yield.

Mr. WYATT. In regard to the last point, is it not also true that if compensation is not provided that the Mexican Government could also become involved and, in fact, litigation currently is pending before the Federal courts in Houston that the Mexican Government is becoming very reluctantly involved in, and suits have been filed by Citco and Citco has asked that Pemex, which is the Mexican oil company, be involved in the suits. They are going to have to pay off these damages under the law that we live under and also under the law that Mexico lives under.

Mr. BIAGGI. They are in court. That is the best that I will concede, they are in court. The contention is the Mexican Government is involved. I think the operative word is that the Mexican Government is becoming "reluctantly" involved. That may even be a modification of their original position, which was most vehement in its denial to its responsibility.

Let us deal with the question of retroactivity. If we open the door for retroactive spills, my colleagues can envision a number of other requests. I know there is at least one other amendment being prepared to submit if this amendment carries. If this amendment carries that amendment will be offered and it will be difficult then to deny that amendment.

If that occurs I am sure a number of Members would also have similar amendments to deal with some local spills. If I understand correctly, the gentleman from Massachusetts (Mr. STUDDS) in a discussion I had with him, was thinking of offering an amendment that would include the spill of the *Argo Merchant*, and then the thing becomes one beyond reasonable acceptance.

I know the point the gentleman might argue, that it only happened a year ago. Some argue it happened 3 months ago. I would like to offer the gentleman an analogy. We had a survivors' benefit bill enacted in this Congress, and a proper one, that would provide for the survivors of policemen and firemen who were killed in the line of duty. It passed and has done great good in its implementation.

However, I have received a number of requests from the survivors' widows who came tearfully to my office and said that their husbands died in the line of duty 1 day, 2 days, 3 days before the line of demarcation, before the enactment of the legislation. It is pitiful. It is sad. But a line of demarcation had to be made.

To apply this retroactively or to make the fund liable retroactively is to jeopardize the fund.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent Mr. BIAGGI was allowed to proceed for 2 additional minutes.)

Mr. BIAGGI. Assume even further that this bill, or the claims the gentleman from Texas would like to have the superfund respond to were successful, we would now be looking at a fund that has absolutely no money in it.

I would suggest very strongly that this amendment be defeated. I repeat: I feel bad about taking the position I take, but we are talking about a concept that we have labored with in this Congress and in this committee for almost 6 years, a concept that finally appears to be coming to fruition, a concept and legislation that should not be diminished or threatened. I suggest very strongly that the acceptance of this amendment would threaten the existence, or at least the possibility of enacting this legislation. If it were to be accepted, it would threaten the practical application of the provisions of H.R. 85.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. WYATT).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. WYATT. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Twenty-two Members are present, an insufficient number. A quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The Chair announces this is a regular quorum call followed by a 5-minute vote.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 569]

Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.Dak.
Annunzio
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnes
Bauman
Beard, R.I.
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carney
Carr
Chisholm
Clausen
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Deckard
Dellums
Derrick
Derwinski
Devine
Dicks
Dingell
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Okla.
Emery
English
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Flippo
Florio
Forsythe
Fountain
Fowler
Frenzel
Frost
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Green
Grisham
Guarini
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hawkins
Hightower
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Hughes
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Leland
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lundine
Lungren
McCormack
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Nelson
Nolan
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Panetta
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Price
Pursell
Quayle
Rangel
Reuss
Rhodes
Ritter
Roberts
Robinson
Rose
Rosenthal
Rostenkowski
Roybal
Royer
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
Stack
Staggers
Stangeland
Stark
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thompson
Traxler
Trible
Vander Jagt
Vanik
Walgren
Walker
Watkins
Weaver
Weiss
White
Whitehurst
Whittaker
Whitten
Williams, Mont.
Wilson, Tex.
Winn
Wirth
Wolff
Wyatt
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

☐ 1400

The CHAIRMAN. Two hundred eighty-eight Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Texas (Mr. WYATT) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 43, noes 264, not voting 125, as follows:

[Roll No. 570]

AYES—43

Archer
Bailey
Boggs
Breaux
Brinkley
Byron
Collins, Tex.
Deckard
Donnelly
Dougherty
Eckhardt
Fazio
Frost
Gonzalez
Gramm
Hall, Ohio
Hance
Hightower
Jones, Okla.
Kazen
LaFalce
Leath, Tex.
Leland
Livingston
Loeffler
Long, La.
Long, Md.
Lowry
Maguire
Murtha
Musto
Paul
Pickle
Sensenbrenner
Stenholm
Stump
Swift
Tauzin
Watkins
White
Wilson, Tex.
Wirth
Wyatt

NOES—264

Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.Dak.
Annunzio
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Baldus
Barnes
Bauman

Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Bolling
Bonker
Bouquard
Bowen
Brademas
Brodhead
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Campbell
Carney
Carr
Chisholm
Clausen
Clay
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Dellums
Derrick
Derwinski
Devine
Dicks
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Edgar
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ind.
Fary
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Forsythe
Fountain
Fowler
Frenzel
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Goldwater
Gore
Gradison
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Harris
Hawkins
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Hughes
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kelly
Kildee
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Lee
Lehman
Levitas
Lewis
Lott
Lujan
Lundine
Lungren
McCloskey
McCormack
McDonald
McHugh
McKay
McKinney
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murphy, Pa.
Myers, Ind.
Natcher
Neal
Nelson
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Petri
Peyser
Porter
Preyer
Price
Pursell
Quayle
Rangel
Reuss
Rhodes
Ritter
Roberts
Robinson
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stark
Stewart
Stokes
Stratton
Studds
Synar
Tauke
Taylor
Thompson
Traxler
Trible
Udall
Vander Jagt
Vanik
Walgren
Walker
Waxman
Weaver
Weiss
Whitehurst
Whittaker
Williams, Mont.
Winn
Wolff
Wolpe
Wylie
Yatron
Young, Alaska
Young, Fla.
Zablocki

NOT VOTING—125

Abdnor
Addabbo
Alexander
Anderson, Ill.
Andrews, N.C.
Anthony
Applegate
Barnard
Beard, Tenn.
Bethune
Boland
Boner
Bonior
Brooks
Brown, Ohio
Carter
Cavanaugh
Chappell
Cheney
Cleveland
Corman
Cotter
Crane, Philip
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Dickinson
Dingell
Dixon
Dodd
Early
Edwards, Ala.
Edwards, Calif.
Erlenborn
Evans, Ga.
Fascell
Findley
Ford, Tenn.
Fuqua
Garcia
Gibbons
Gingrich
Goodling
Grassley
Gray
Hanley
Hansen
Harkin
Harsha
Heckler
Hefner
Heftel
Hillis
Hinson
Holland
Holtzman
Howard
Huckaby
Hutto
Ireland
Jenrette
Johnson, Colo.
Jones, N.C.
Kemp
Kindness
Leach, La.
Lederer
Lent
Lloyd
Luken
McClory
McDade
McEwen
Mathis
Mattox
Mavroules
Mazzoli
Mica
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nedzi
Nichols
Pashayan
Pepper
Pritchard
Quillen
Rahall
Railsback
Ratchford
Regula
Richmond
Rinaldo
Rodino
Roe
Rousselot
Rudd
Russo
Santini
Skelton
Snowe
St Germain
Stanton
Steed
Stockman
Symms
Thomas
Ullman
Van Deerlin
Vento
Volkmer
Wampler
Whitley
Whitten
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wright
Wydler
Yates
Young, Mo.
Zeferetti

☐ 1410

Mr. TAUZIN changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. SNYDER. Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The remainder of the bill reads as follows:

TITLE II—EFFECTIVE DATES; SAVINGS PROVISION; CONFORMING AMENDMENTS

Sec. 201. (a) This section, section 101, section 112, section 203, and each provision of title I that authorizes the promulgation of regulations shall be effective on the date of enactment of this Act.

(b) All other provisions of title I, the regulations issued thereunder, and section 202 shall be effective on the one hundred and eightieth day after the date of enactment of this Act: *Provided,* That the penalty prescribed by section 111 for failure to comply with the requirements of section 105 or the regulations issued thereunder shall not be effective until the ninetieth day after issuance of those regulations or the two hundred and seventieth day after the date of enactment of this Act, whichever is earlier.

(c) Any regulation respecting financial responsibility, issued pursuant to any provision of law repealed by section 202 of this title, and in effect on the day immediately preceding the effective date of section 202 of this title shall remain in force until superseded by regulations issued under title I of this Act.

Sec. 202. (a) Subsection (b) of section 204 of the Trans-Alaska Pipeline Authorization Act (87 State. 586) is amended, in the first sentence, by inserting after "any area", the words "in the State of Alaska"; by inserting after "any activities", the words "related to the trans-Alaska oil pipeline", and by inserting at the end of the subsection a new sentence to read as follows: "This subsection shall not apply to removal costs resulting from oil pollution as that term is defined in section 101(n) of the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act.".

(b)(1) Subsection (c) of section 204 of the Trans-Alaska Pipeline Authorization Act is repealed. The Trans-Alaska Pipeline Liability Fund is abolished. All assets of that fund, as of the effective date of this section, shall be transferred to the Comprehensive Oil Pollution Liability Trust Fund established by title V of this Act. The Comprehensive Oil Pollution Liability Trust Fund shall assume all liability incurred by the Trans-Alaska Pipeline Liability Fund under the terms of subsection (c) of section 204 of the Trans-Alaska Pipeline Authorization Act, and shall assume all liability incurred by the officers or trustees in the execution of their duties involving the Trans-Alaska Pipeline Liability Fund, other than the liability of those officers or trustees for gross negligence or willful misconduct.

(2) The Secretary of the Interior shall certify to the Secretary of the Treasury the total amount of the claims outstanding against the Trans-Alaska Pipeline Liability Fund at the time the transfer of assets required under paragraph (1) is made.

(3) If an owner of oil (as that term is used in section 204(c)(5) of the Trans-Alaska Pipeline Authorization Act) who prior to enactment of this Act paid fees to the operator of the pipeline for transfer to the Trans-Alaska Pipeline Liability Fund receives the benefit of an advance payment of taxes under section 541(d)(1)(A) of this Act, such owner of oil shall compute, based upon accepted accounting procedures, what the oil production tax and what the royalty paid to the State of Alaska would have been had payments not been made to the Trans-Alaska Pipeline Liability Fund in the amount of fees waived. The difference between the amounts so computed and amounts actually paid to the State of Alaska shall be paid by each such owner to the State of Alaska.

(c) Section 17 of the Intervention on the High Seas Act (88 Stat. 10) is amended to read as follows:

"Sec. 17. The fund established under title V of the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act is available to the Secretary for actions and activities, relating to oil pollution (as defined in section 101 of that Act), taken under section 5 of this Act. The revolving fund established under section 311(k) of the Federal Water Pollution Control Act, as amended, is available for actions and activities, relating to other pollution, taken under section 5 of this Act.".

(d) Section 311 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321) is further amended as follows:

(1) Subsection (a) is amended by replacing the period at the end of clause (17) with a semicolon and adding a new clause (18) to read as follows:

"(18) 'person in charge' means the individual immediately responsible for the operation of a vessel or facility.".

(2) Paragraph (5) of subsection (b) is amended in the last sentence, by inserting after the word "person", the words "or his employer".

(3) Clause A of paragraph (6) of subsection (b) is amended—

(A) in the first and second sentences, by striking the phrase "or person in charge" each time it appears and inserting in lieu thereof "person in charge, or employer of such person in charge"; and

(B) in the third sentence, by striking "the owner or operator" and inserting in lieu thereof "whoever being".

(4) Clause B of paragraph (6) of subsection (b) is amended in the first and second sentences by striking the phrase "or person in charge" each time it appears and inserting in lieu thereof "person in charge, or employer of such person in charge,".

(5) Clause (H) of paragraph (2) of subsection (c) is amended by inserting after the words "of this section" the words "or the fund established under title V of the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act, as appropriate,".

(6) Subsection (d) is amended by striking the last sentence and inserting in lieu thereof "Any expense incurred under this subsection or under the Intervention on the High Seas Act (or the Convention as defined in section 2(3) thereof) shall be reimbursed from the fund established under subsection (k) of this section or the fund established

under title V of the Comprehensive Oil and Hardous Substances Pollution Liabilityat, and Compensation Act, as appropriate. Any expense incurred thereunder for which reimbursement may be had from the fund established under subsection (k) of this section shall be recoverable from the owner or operator of the vessel in accordance with this section.".

(7) Subsection (l) is amended by deleting the period at the end of the second sentence and by inserting in lieu thereof the words "respecting discharges or imminent discharges of oil (other than petroleum, crude oil, or any fraction or residue therefrom) and hazardous substances.". Such subsection (l) is further amended by striking out "subsections (c) and (i)" and inserting in lieu thereof "subsection (c)".

(8) Subsection (p)(1) is amended by inserting after "oil" each place it appears the following: "(other than petroleum, crude oil, or any fraction or residue therefrom)".

(9) Subsection (q) is repealed, and subsection (r) is redesignated as subsection (q).

(e) Section 404 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(u) Notwithstanding any other provision of this section, the Secretary shall make any determination with respect to those navigable waters to which the provisions of this section shall apply."

(f) The Deepwater Port Act of 1974 (88 Stat. 2126) is amended as follows:

(1) In section 4(c)(1), strike "section 18(l) of this Act;" and insert in lieu thereof "section 105 of the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act;".

(2) Subsections (b), (d), (e), (f), (g), (h), (i), (j), (l), and (n) of section 18 are repealed.

(3) Clause (3) of subsection (c) of section 18 is amended by striking "Deepwater Port Liability Fund established pursuant to subsection (f) of this section." and inserting in lieu thereof "fund established under title V of the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act.".

(4) Subsection (k) of section 18 is amended to read as follows:

"(k) This section shall not be interpreted to preclude any State from imposing additional requirements, not inconsistent with the provisions of the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act, for any discharge of oil from a deepwater port or a vessel within any safety zone.".

(5) Subsections (c), (k), and (m) of section 18 are redesignated (b), (c), and (d), respectively.

(g) Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (Public Law 95-372) is repealed. Any fees or moneys deposited in the Offshore Oil Pollution Compensation Fund established under section 302 of that title shall be deposited in the fund established by title V of this Act. The Comprehensive Oil Pollution Liability Trust Fund shall assume all liability incurred by the Offshore Oil Pollution Compensation Fund under title III of the Outer Continental Shelf Lands Act Amendments of 1978.

Sec. 203. No part of any moneys in the Comprehensive Oil Pollution Liability Trust Fund established by title V of this Act shall be obligated or otherwise expended for any of the administrative expenses of the Environmental Protection Agency.

Sec. 204. If any provision of this Act or the applicability thereof is held invalid, the remainder of this Act shall not be affected thereby.

TITLE III—HAZARDOUS SUBSTANCE LIABILITY, COMPENSATION, AND FUND

HAZARDOUS SUBSTANCE LIABILITY

Sec. 301. (a)(1) Subsection (a) of section 311 of the Federal Water Pollution Control Act is amended by striking out the period at the end thereof and inserting in lieu thereof a semicolon and the following:

"(19) 'supplier' means, with respect to subsection (k) of this section, any person who produces, manufactures, or imports any substance identified in paragraphs (2), (3), (4), or (5) of subsection (k) of this section at a place or for removal to a place other than the site of production, manufacture, or importation, or a site that adjoins, or uses those feedstocks or elements and compounds himself at a place other than the site of production, manufacture, or importation or a site that adjoins the site of production, manufacture, or importation.

"(20) 'United States claimant' means any person residing in the United States, the Government of the United States or an agency thereof, or the government of a State or a political subdivision thereof, who asserts a claim;

"(21) 'foreign claimant' means any person residing in a foreign country, a government of a foreign country, or any agency or political subdivision thereof, who asserts a claim;

"(22) 'guarantor' means the person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator;

"(23) 'removal costs' means—

"(A) costs incurred under subsection (c), (d), or (l) of this section; and

"(B) cleanup costs, other than those described in clause (A);

"(24) 'cleanup costs' means costs of reasonable measures taken, after a discharge has occurred, to prevent, minimize, or mitigate pollution from that discharge;

"(25) 'affiliated' means a relationship in which a person owns (in whole or in part), is owned by (in whole or in part), or is under common control with, another person.".

(2) Paragraph (6) of subsection (a) of section 311 of the Federal Water Pollution Control Act is amended to read as follows:

"(6)(A) 'owner' means any person owning title to, or in the absence of title, any other indicia of ownership of, a vessel or facility, but does not include a person who (either directly or through a trust or singly or in combination with others) holds title to or any indicia of ownership of a vessel or facility and without participating in the management or operation of such vessel or facility, leases or charters to any other person (with whom such person is not otherwise affiliated), or holds indicia of ownership primarily to protect his security interest in the vessel or facility;

"(B) 'operator' means (i) in the case of a vessel, a charterer by demise or any other person, except the owner, who is responsible for the operation, manning, victualling, and supplying of the vessel or (ii) in the case of a facility, any person, except the owner, responsible for the operation of the facility by agreement with the owner;".

(b) Subsections (f), (g), (h), and (i) of section 311 of the Federal Water Pollution Control Act are amended to read as follows:

"(f)(1) Claims for damages for economic loss, incurred on or after the effective date of title III of the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act and arising out of or directly resulting from the discharge of oil (other than petroleum, crude oil, or any fraction or residue therefrom), or hazardous substances, may be asserted for—

"(A) removal costs;

"(B) injury to, or destruction of, real or personal property;

"(C) injury to, or destruction of, natural resources; and

"(D) loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources to the extent that such damages were sustained during the 2-year period beginning on the date the claimant first suffered such loss.

"(2) A claim authorized by paragraph (1) may be asserted—

"(A) under item (A) of paragraph (1), by any claimant: *Provided*, That the owner or operator of a vessel or facility involved in a discharge may assert such a claim only if he can show that he is entitled to a defense to liability under subsection (g)(5)(A) or (g)(5)(B) or, if not entitled to such a defense to liability, that he is entitled to a limitation of liability under subsection (g): *Provided further*, That where he is not entitled to such a defense to liability but entitled to such a limitation of liability, the claim may be asserted only as to the removal costs incurred in excess of that limitation;

"(B) under item (B) of paragraph (1), by any United States claimant, if the property involved is owned or leased, or the natural resource involved is utilized, by the claimant;

"(C) under item (C) of paragraph (1), by the President, as trustee for natural resources over which the United States Government has sovereign rights or exercises exclusive management authority, or by any State for natural resources within the boundary of the State belonging to, managed by, controlled by, or appertaining to the State: *Provided*, That compensation paid under this item may be used only for restoration of the damaged resources or for acquisition of equivalent resources;

"(D) under item (D) of paragraph (1), by any United States claimant if the claimant derives at least 25 percent of his earnings from activities which utilize the property or natural resource;

"(E) under items (B) through (D) of paragraph (1), by a foreign claimant to the same extent that a United States claimant may assert a claim if—

"(i) the discharge occurred (I) in the navigable waters, or (II) in or on the territorial sea or adjacent shoreline of a foreign country of which the claimant is a resident;

"(ii) the claimant is not otherwise compensated for his loss;

"(iii) the discharge was from a facility or from a vessel located adjacent to or within the navigable waters or was discharged in connection with activities conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331, et seq.) or the Deepwater Port Act of 1974, as amended (33 U.S.C. 1501, et seq.); and

"(iv) recovery is authorized by a treaty or an executive agreement between the United States and the foreign country involved, or if the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that such country provides a comparable remedy for United States claimants; and

"(F) under any item, by the Attorney General, on his own motion or at the request of the Secretary, on behalf of any group of United States claimants who may assert a claim under this subsection.

"(3) If the Attorney General fails to act under clause (F) of paragraph (2) within sixty days of the date on which the Secretary designates a source of discharge, any member of a group may, in accordance with rule 23 of the Federal Rules of Civil Procedure, maintain a class action to recover damages on behalf of that group. Failure of the Attorney General to act shall have no bearing on any class action maintained by any claimant for damages authorized by this section.

"(g)(1) Subject to the provisions of paragraphs (2), (3), (4), and (5), the owner and operator of a vessel other than a public vessel, or a facility, that is the source of a discharge of oil (other than petroleum, crude oil, or any fraction or residue therefrom) or a hazardous substance, or poses a threat of such a discharge in circumstances that justify the incurrence of removal costs, shall be jointly, severally, and strictly liable for all damages for which a claim may be asserted under subsection (f).

"(2) Except when the discharge or threat of discharge is caused primarily by willful misconduct or gross negligence, within the privity or knowledge of the owner or operator; or is caused primarily by a violation, within the privity or knowledge of the owner or operator, of applicable safety, construction, or operating standards or regulations of the Federal Government; or except when the owner or operator fails or refuses to report the discharge or to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup activities, the total of the liability under paragraph (1) and any removal costs incurred by, or on behalf of, the owner or operator shall be limited to—

"(A) in the case of a vessel other than a ship or other than an inland oil barge, $150 per gross ton;

"(B) in the case of an inland oil barge, $150,000 or $150 per gross ton, whichever is greater;

"(C) in the case of a ship, $250,000 or $300 per gross ton (up to a maximum of $30,000,000), whichever is greater;

"(D) in the case of a deepwater port subject to the Deepwater Port Act of 1974 (including the liability of the owner or operator of such deepwater port for a discharge from a ship moored at such port), $50,000,000;

"(E) in the case of an offshore facility operated under authority of the Outer Continental Shelf Lands Act, as amended, the total of removal costs plus $50,000,000; or

"(F) in the case of a facility other than one described in clause (D) or (E) $50,000,000 or such lesser limit as is established under paragraph (4).

The Secretary shall, from time to time, report to Congress on the desirability of adjusting the limitations of liability specified in this paragraph.

"(3) The Secretary may, by regulation, reduce the limitation of liability for facilities subject to clause (E) of paragraph (2), to the total of all removal costs plus an amount not less than $35,000,000, if he determines that the limitation will have either a significant adverse impact on small business enterprises or a significant anticompetitive impact.

"(4) The Secretary shall issue regulations establishing limits of liability, up to $50,000,000, for various classes of facilities other than those described in clauses (D) and (E) of paragraph (2). These regulations shall take into account the size, type, location, storage and handling capacity, and other matters relating to the likelihood of discharges involving those classes. These limits shall, to the extent practicable, be comparable to the limits established under clause (C) of paragraph (2), taking into account the relative potential threat of pollution, but in no case shall such a limitation be less than $5,000,000 for any tank motor vehicle operated on highways transporting oil (other than petroleum, crude oil, or any fraction or residue therefrom) or a hazardous substance, in bulk, with a water capacity of more than 3,500 gallons.

"(5) There shall be no liability under paragraph (1)—

"(A) to the extent that the discharge is caused—

"(i) by an act of war, hostilities, civil war, or insurrection; or

"(ii) by a natural phenomenon of an exceptional, inevitable, and irresistible character, which could not have been prevented or avoided by the exercise of due care or foresight;

"(B) to the extent that the discharge or threat of discharge is caused by an act or omission of a person other than—

"(i) the claimant,

"(ii) the owner or operator,

"(iii) an employee or agent of the claimant, the owner, or the operator, or

"(iv) one whose act or omission occurs in connection with a contractual relationship with the claimant, the owner, or the operator;

"(C) as to a particular claimant, where the discharge or threat of discharge or economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

"(D) as to a particular claimant, to the extent that the discharge or economic loss is caused by the negligence of that claimant.

"(h)(1) Except as provided in title V the fund shall be liable, without any limitation, for all damages which are compensable damages under title V of the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act, to the extent that the loss is not otherwise compensated.

"(2) Except for removal costs (other than cleanup costs), there shall be no liability under paragraph (1) hereof—

"(A) where the discharge or threat of discharge is caused primarily by an act of war, hostilities, civil war, or insurrection;

"(B) as to a particular claimant, where the discharge or threat of discharge or economic loss is caused, in whole or in part, by the gross negligence or willfull misconduct of that claimant; or

"(C) as to a particular claimant, to the extent that the discharge or threat of discharge or economic loss is caused by the negligence of that claimant.

"(3) In addition to the damages for which claims may be asserted under subsection (f), and without regard to the limitation of liability provided in subsection (g), the owner, operator, or guarantor shall be liable to the claimant for interest on the amount paid in satisfaction of the claim for the period from the date upon which the claim was presented to such person to the date upon which the claimant is paid, inclusive, less the period, if any, from the date upon which the owner, operator, or guarantor shall offer to the claimant an amount equal to or greater than that finally paid in satisfaction of the claim to the date upon which the claimant shall accept that amount, inclusive. However, if the owner, operator, or guarantor shall offer to the claimant, within sixty days of the date upon which the claim was presented, or of the date upon which a source of discharge is designated, whichever is later, an amount equal to or greater than that finally paid in satisfaction of the claim, the owner, operator, or guarantor shall be liable for the interest provided in this paragraph only from the date the offer was accepted by the claimant to the date upon which payment is made to the claimant, inclusive.

"(4) The interest provided in paragraph (3) shall be calculated at the average of the highest rate for commercial and finance company paper of maturities of one hundred and eighty days or less obtaining on each of the days included within the period for which interest must be paid to the claimant, as published in the Federal Reserve Bulletin.

"(i)(1) No indemnification, hold harmless, or similar agreement shall be effective to transfer from the owner or operator of a facility, to any other person, the liability imposed under subsection (g), other than as specified in this title: *Provided*, That this provision does not preclude an agreement whereby the holder of a leasehold interest or permit for the exploration of oil agrees to indemnity for, or hold harmless from, such liability, the owner or operator of a vessel or facility which is, by contract or other agreement, engaged in activity on behalf of the holder of the leasehold interest or permit.

"(2) Nothing in this title shall bar a cause of action that an owner or operator, subject to liability under subsection (g), or a guarantor, has or would have, by reason of subrogation or otherwise, against any person.

"(3) To the extent that it is in conflict with, or otherwise inconsistent with, any other law relating to liability or the limitation thereof, subsections (g), (h), and (i) supersede such other law, including section 4283(a) of the Revised Statutes, as amended (46 U.S.C. 183(a)).".

(c) Subsection (k) of section 311 of the Federal Water Pollution Control Act is amended to read as follows:

"(k) There is in the Treasury of the United States a fund known as the Hazardous Substance Pollution Liability Trust Fund established under title V of the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act.".

Sec. 302. (a) Subsection (o) of section 311 of the Federal Water Pollution Control Act is amended to read as follows:

"(o)(1) Except as provided in this title—

"(A) no action may be brought in any court of the United States, or of any State or political subdivision thereof, for damages for an economic loss described in subsection (f)(1), a claim for which may be asserted under this title, and

"(B) no person may be required to contribute to any fund, the purpose of which is to compensate for a loss, which is a compensable damage under title V of the Comprehensive Oil and Hazardous Substances, Pollution Liability and Compensation Act, nor to establish or maintain evidence of financial responsibility relating to the satisfaction of a claim for such a loss.

"(2) Nothing in paragraph (1) shall preclude any State from imposing a tax or fee upon any person or any oil (other than petroleum, crude oil, or any fraction or residue therefrom), or hazardous substance in order to finance the purchase and prepositioning of any oil (other than petroleum, crude oil, or any fraction or residue therefrom), or hazardous substance, pollution cleanup and removal equipment.

"(3) Nothing in paragraph (1) shall prohibit an action by the fund, under any other provision of law, to recover compensation paid under this title.".

(b) Section 311 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsections:

"(r)(1) When the Administrator receives information of a discharge in violation of this section, he shall, where possible, designate the source or sources of the discharge and shall immediately notify the owner and operator of the source, and the guarantor, of that designation.

"(2) When a source designated is a vessel or a facility, and the owner, operator, or guarantor fails to inform the Administrator, within five days after receiving notification of the designation, or his denial of such designation, such owner, operator, or guarantor, as required by regulations promulgated by the Administrator, shall advertise the designation and the procedures by which claims may be presented to him. If advertisement is not otherwise made in accordance with this paragraph, the Administrator shall, as he finds necessary, and at the expense of the owner, operator, or guarantor involved, advertise the designation and the procedures by which claims may be presented to that owner, operator, or guarantor.

"(3) In a case where—

"(A) the owner, operator, and guarantor all deny a designation in accordance with paragraph (2) of this subsection,

"(B) the source of the discharge was a public vessel, or

"(C) the Administrator is unable to designate the source or sources of the discharge under paragraph (1) of this subsection,

the Administrator shall advertise or otherwise notify potential claimants of the procedures by which claims may be presented to the fund.

"(4) Advertisement under this subsection shall commence no later than fifteen days from the date of the designation made hereunder and continue for a period of no less than thirty days.

"(s)(1) Except as provided in paragraph (2), all claims shall be presented to the owner, operator, or guarantor.

"(2) Claims for damages which are compensable damages under title V of the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act shall be presented to the fund under subsection (k)—

"(A) where the Administrator has advertised or otherwise notified claimants in accordance with subsection (r), or

"(B) where the owner or operator may recover under subsection (f)(2)(A).

"(3) In the case of a claim presented in accordance with paragraph (1), and in which—

"(A) the person to whom the claim is presented denies all liability for the claim, for any reason, or

"(B) the claim is not settled by any person by payment to the claimant within sixty days of the date upon which (i) the claim was presented, or (ii) advertising was commenced pursuant to subsection (r)(2), whichever is later,

the claimant may elect to commence an action in court against the owner, operator, or guarantor, or, in the case of damages which are compensable damages under title V of the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act, to present the claim to the fund under subsection (k); that election to be irrevocable and exclusive.

"(4) In the case of a claim for damages which are compensable damages under title V of the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act presented in accordance with paragraph (1), where full and adequate compensation is unavailable, either because the claim exceeds a limit of liability invoked under subsection (g) or because the owner, operator, and guarantor are financially incapable of meeting their obligations in full, a claim for the uncompensated damages may be presented to the fund under subsection (k).

"(5) In the case of a claim which has been presented to any person, under paragraph (1), and which is being presented to the fund under subsection (k), under paragraph (3) or (4), such person, at the request of the claimant, shall transmit the claim and supporting documents to the fund. The Administrator may, by regulation, prescribe the documents to be transmitted and the terms under which they are to be transmitted.

"(6) In the case of a claim presented to the fund under subsection (k), under paragraphs (2), (3), and (4), and in which the fund—

"(A) denies all liability for the claim, for any reason, or

"(B) does not settle the claim by payment to the claimant within sixty days of the date upon which (i) the claim was presented to the fund or (ii) advertising was commenced under subsection (r)(3), whichever is later,

the claimant may submit the dispute to the Administrator for decision in accordance with section 554 of title 5, United States Code. However, a claimant who has presented a claim to the fund under paragraph (2) may elect to commence an action in court against the fund in lieu of submission of the dispute to the Secretary for decision; that election to be irrevocable and exclusive.

"(7)(A) The Administrator shall promulgate regulations which establish uniform procedures and standards for the appraisal and settlement of claims against the fund under subsection (k).

"(B) Except as provided in subparagraph (C), the Administrator shall use the facilities and services of private insurance and claims adjusting organizations or State agencies in processing claims against the fund and may contract for those facilities and services. Any contract made under this subparagraph may be made without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), upon a showing by the Administrator that advertising is not reasonably practicable. The Administrator may make advance payments to a contractor for services and facilities, and the Administrator may advance to the contractor funds to be used for the payment of claims. The Administrator may review and audit claim payments made under this paragraph. A payment in excess of $100,000 to a single claimant, or one aggregating in excess of $200,000 to multiple claimants shall be first approved by the Administrator. When the services of a State agency are used in processing and settling claims, no payment may be made on a claim asserted on behalf of that State or any of its agencies or subdivisions unless the payment has been approved by the Administrator.

"(C) To the extent necessitated by extraordinary circumstances, where the services of such private organizations or State agencies are inadequate, the Administrator may use Federal personnel to process claims against the fund.

"(8) Without regard to subsection (b) of section 556 of title 5, United States Code, the Administrator is authorized to appoint, from time to time for a period not to exceed one hundred and eighty days, one or more panels, each comprised of three individuals, to hear and decide disputes submitted to the Administrator under paragraph (6). At least one member of each panel shall be qualified in the conduct of adjudicatory proceedings and shall preside over the activities of the panel. Each member of a panel shall possess competence in the evaluation and assessment of property damage and the economic losses resulting therefrom. Panel members may be appointed from private life or from any Federal agency except the staff administering the fund. Each panel member appointed from private life shall receive a per diem compensation, and each panel member shall receive necessary traveling and other expenses while engaged in the work of a panel. The provisions of chapter 11 of title 18, United States Code, and of Executive Order 11222, as amended, regarding special Government employees, apply to panel members appointed from private life.

"(9)(A) Upon receipt of a request for decision from a claimant, properly made, the Administrator shall refer the dispute to an administrative law judge, appointed under section 3105 of title 5, United States Code, or a panel appointed under paragraph (8).

"(B) The administrative law judge and each member of a panel to which a dispute is referred for decision shall be a resident of the United States judicial circuit within which the damage complained of occurred, or, if the damage complained of occurred within two or more circuits, of any of the affected circuits, or, if the damage occurred outside any circuit, of the nearest circuit.

"(C) Upon receipt of a dispute, the administrative law judge or panel shall adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code. In any proceeding under this paragraph, the presiding officer may require by subpena any person to appear and testify or to appear and produce books, papers, documents, or tangible things at a hearing or deposition at any designated place. Subpenas shall be issued and enforced in accordance with subsection (d) of section 555 of title 5, United States Code, and rules promulgated by the Administrator. If a person fails or refuses to obey a subpena, the Administrator may invoke the aid of the district court of the United States where the person is found, resides, or transacts business in requiring the attendance and testimony of the person and the production by him of books, papers, documents, or any tangible things.

"(D) A hearing conducted under this paragraph shall be conducted in the United States judicial district within which the damage complained of occurred, or, if the damage complained of occurred within two or more districts, in any of the affected districts, or, if the damage occurred outside any district, in the nearest district.

"(E) The decision of the administrative law judge or panel under this paragraph shall be the final order of the Administrator, except that the Administrator, in his discretion and in accordance with rules which he may issue, may review the decision upon his own initiative or upon exception of the claimant or the fund under subsection (k).

"(F) Final orders of the Administrator made under this paragraph shall be reviewable under section 702 of title 5, United States Code, in the district courts of the United States.

"(10)(A) In any action brought against an owner, operator, or guarantor, both the plaintiff and defendant shall serve a copy of the complaint and all subsequent pleadings therein upon the fund at the same time those pleadings are served upon the opposing parties.

"(B) The fund may intervene in the action as a matter of right.

"(C) In any action to which the fund is a party, if the owner, operator, or guarantor admits liability under this title, the fund upon its motion shall be dismissed therefrom to the extent of the admitted liability.

"(D) If the fund receives from either the plaintiff or the defendant notice of such an action, the fund shall be bound by any judgment entered therein, whether or not the fund was a party to the action.

"(E) If neither the plaintiff nor the defendant gives notice of such an action to the fund, the limitation of liability otherwise permitted by subsection (g) of this section is not available to the defendant, and the plaintiff shall not recover from the fund any sums not paid by the defendant.

"(11) In any action brought against the fund, the plaintiff may join any owner, operator, or guarantor, and the fund may implead any person who is or may be liable to the fund.

"(12) No claim may be presented, nor may an action be commenced for damages recovered under this section, unless that claim is presented to, or that action is commenced against, the owner, operator, or guarantor, or against the fund under subsection (k), as to their respective liabilities, within three years from the date of discovery of the economic loss for which a claim may be asserted under subsection (f) of this section, or within six years of the date of the discharge which resulted in that loss, whichever is earlier.

"(t)(1) Any person or governmental entity, including the fund under subsection (k), who compensates any claimant for an economic loss, compensable under subsection (f), shall be subrogated to all rights, claims, and causes of action which that claimant has under this section.

"(2) Upon request of the Administrator, the Attorney General may commence an action, on behalf of the fund, for the compensation paid by the fund to any claimant under this section. Such an action may be commenced against any owner, operator, or guarantor, or against any other person or governmental entity, who is liable, under any law, to the compensated claimant or to the fund, for the damages for which the compensation was paid.

"(3) In all claims or actions by the fund against any owner, operator, or guarantor, under paragraphs (1) and (2), the fund shall recover—

"(A) for a claim presented to the fund (where there has been a denial of source designation) under subsection (s)(2)(A), or (where there has been a denial of liability) under subsection (s)(3)(A)—

"(i) subject only to the limitation of liability to which the defendant is entitled under subsection (g), the amount the fund has paid to the claimant, without reduction;

"(ii) interest on that amount, at the rate calculated in accordance with subsection (h)(4), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the fund is paid by the defendant, inclusive, less the period, if any, from the date upon which the fund shall offer to the claimant the amount finally paid by the fund to the claimant in satisfaction of the claim against the fund to the date upon which the claimant shall accept that offer, inclusive; and

"(iii) all costs incurred by the fund by reason of the claim, both of the claimant against the fund and the fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs, and attorneys' fees; and

"(B) for a claim presented to the fund under subsection (s)(3)(B)—

"(i) in which the amount the fund has paid to the claimant exceeds the largest amount, if any, the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

"(I) subject to dispute by the defendant as to any excess over the amount offered to the claimant by the defendant, the amount the fund has paid to the claimant;

"(II) interest, at the rate calculated in accordance with subsection (h)(4), for the period specified in clause (A) of this paragraph; and

"(III) all costs incurred by the fund by reason of the claim of the fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs, and attorneys' fees; or

"(ii) in which the amount the fund has paid to the claimant is less than or equal to the largest amount the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

"(I) the amount the fund has paid to the claimant, without reduction;

"(II) interest, at the rate calculated in accordance with subsection (h)(4), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the defendant offered to the claimant the largest amount referred to in this clause: *Provided*, That if the defendant tendered the offer of the largest amount referred to in this clause within sixty days of the date upon which the claim of the claimant was either presented to the defendant or advertising was commenced under subsection (r), the defendant shall not be liable for interest for that period; and

"(III) interest from the date upon which the claim of the fund against the defendant was presented to the defendant to the date upon which the fund is paid, inclusive, less the period, if any, from the date upon which the defendant shall offer to the fund the amount finally paid to the fund in satisfaction of the claim of the fund to the date upon which the fund shall accept that offer, inclusive.

"(4) The fund under subsection (k) shall pay over to the claimant that portion of any interest the fund shall recover, under subparagraph (A) and clause (i) of subparagraph (B) of paragraph (3), for the period from the date upon which the claim of the claimant was presented to the defendant to the date upon which the claimant was paid by the fund, inclusive, less the period from the date upon which the fund offered to the claimant the amount finally paid to the claimant in satisfaction of the claim to the date upon which the claimant shall accept that offer, inclusive.

"(5) The fund under subsection (k) is entitled to recover for all interest and costs specified in paragraph (3) without regard to any limitation of liability to which the defendant may otherwise be entitled.

"(u) No part of any moneys in the fund shall be obligated or otherwise expended for any of the administrative expenses of the Environmental Protection Agency.

"(v) The owner or operator of a tank motor vehicle operated on highways transporting oil (other than petroleum, crude oil, or any fraction or residue therefrom) or a hazardous substance, in bulk, with a water capacity in excess of 3,500 gallons shall establish and maintain in accordance with regulations issued by the President evidence of financial responsibility in such amounts as the President determines necessary but not less than $5,000,000.".

SEC. 303. Nothing in this Act or the amendments made by this Act shall be construed to authorize any officer or employee of the United States or any department, agency, or instrumentality of the United States to prohibit, control, or otherwise regulate the use of any groundwaters.

SEC. 304. This title and the amendments made by this title shall take effect one hundred and eighty days after the date of enactment of this Act.

TITLE IV

SEC. 401. (a) Notwithstanding any other provision of law, simultaneously with promulgation or repromulgation of any rule or regulation under authority of titles I through IV of this Act or of any amendment made by titles I through IV of this Act, the head of the department, agency, or instrumentality promulgating such rule or regulation shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in subsection (b) of this section, the rule or regulation shall not become effective, if—

(1) within ninety calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: "That Congress disapproves the rule or regulation promulgated by the   dealing with the matter of   , which rule or regulation was transmitted to Congress on   .", the blank spaces therein being appropriately filled; or

(2) within sixty calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within thirty calendar days of continuous session of Congress after such transmittal.

(b) If, at the end of sixty calendar days of continuous session of Congress after the date of promulgation of a rule or regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such sixty calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than ninety calendar days of continuous session of Congress after such rule is prescribed unless disapproved as provided in subsection (a) of this section.

(c) For purposes of subsections (a) and (b) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of thirty, sixty, and ninety calendar days of continuous session of Congress.

(d) Congressional inaction on, or rejection of, a resolution of disapproval shall not be deemed an expression of approval of such rule or regulation.

TITLE V—ENVIRONMENTAL REVENUE ACT OF 1980

SEC. 501. SHORT TITLE: AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This title may be cited as the "Environmental Revenue Act of 1980".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SUBTITLE A—IMPOSITION OF TAXES

SEC. 511. IMPOSITION OF TAXES.

GENERAL RULE.—Subtitle D (relating to miscellaneous excise taxes) is amended by inserting after chapter 37 the following new chapter:

"CHAPTER 38—ENVIRONMENTAL TAXES

"SUBCHAPTER A. Tax on petroleum.
"SUBCHAPTER B. Tax on certain chemicals.

"Subpart A—Tax on Petroleum

"Sec. 4601. Imposition of tax.
"Sec. 4602. Definitions and special rules.

"SEC. 4601. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax of 1.3 cents a barrel on—

"(1) crude oil received at a United States refinery, and

"(2) petroleum products entered into the United States for consumption, use, or warehousing.

"(b) TAX ON CERTAIN USES AND EXPORTATION.—

"(1) IN GENERAL.—If—

"(A) any domestic crude oil is used in or exported from the United States, and

"(B) before such use or exportation, no tax was imposed on such crude oil under subsection (a),

then a tax of 1.3 cents a barrel is hereby imposed on such crude oil.

"(2) EXCEPTION FOR USE ON PREMISES WHERE PRODUCED.—Paragraph (1) shall not apply to any use of crude oil for extracting oil or natural gas on the premises where such crude oil was produced.

"(c) PERSONS LIABLE FOR TAX.—

"(1) CRUDE OIL RECEIVED AT REFINERY.—The tax imposed by subsection (a)(1) shall be paid by the operator of the United States refinery.

"(2) IMPORTED PETROLEUM PRODUCTS.—The tax imposed by subsection (a)(2) shall be paid by the person entering the product for consumption, use, or warehousing.

"(3) TAX ON CERTAIN USES OR EXPORTS.—The tax imposed by subsection (b) shall be paid by the person using or exporting the crude oil, as the case may be.

"(d) TERMINATION.—The taxes imposed by this section shall not apply after September 30, 1985.

"SEC. 4602. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) CRUDE OIL.—The term 'crude oil' includes crude oil condensates and natural gasoline.

"(2) DOMESTIC CRUDE OIL.—The term 'domestic crude oil' means any crude produced from a well located in the United States.

"(3) PETROLEUM PRODUCT.—The term 'petroleum product' includes crude oil.

"(4) UNITED STATES.—

"(A) In general.—The term 'United States' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(B) United states includes continental shelf areas.—The principles of section 638 shall apply for purposes of the term 'United States'.

"(C) United states includes foreign trade zones.—The term 'United States' includes any foreign trade zone of the United States.

"(5) United states refinery.—The term 'United States refinery' means any facility in the United States at which crude oil is refined.

"(6) Refineries which produce natural gasoline.—In the case of any United States refinery which produces natural gasoline from natural gas, the gasoline so produced shall be treated as received at such refinery at the time so produced.

"(7) Premises.—The term 'premises' has the same meaning as when used for purposes of determining gross income from the property under section 613.

"(8) Barrel.—The term 'barrel' means 42 United States gallons.

"(9) Fractional part of barrel.—In the case of a fraction of a barrel, the tax imposed by section 4601 shall be the same fraction of the amount of such tax imposed on a whole barrel.

"(b) Only One Tax With Respect to Any Product.—No tax shall be imposed under section 4601 with respect to any petroleum product if the person who would be liable for such tax establishes that a prior tax has been imposed by such section with respect to such product.

"Sec. 4651. Imposition of tax.

"Sec. 4652. Definitions and special rules.

"Sec. 4651. Imposition of Tax.

"(a) General Rule.—There is hereby imposed a tax on any taxable chemical sold by the manufacturer, producer, or importer thereof.

"(b) Amount of Tax.—The amount of the tax imposed by subsection (a) shall be—

"(1) $1.18 a ton in the case of specified petrochemical feedstocks, or

"(2) 31 cents a ton in the case of specified inorganic substances.

"(c) Termination.—The taxes imposed by this section shall not apply after September 30, 1985.

"Sec. 4652. Definitions and Special Rules.

"(a) Definitions.—For purposes of this subchapter—

"(1) Taxable chemical.—The term 'taxable chemical' means any substance—

"(A) which is specified petrochemical feedstock or a specified inorganic substance, and

"(B) which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing.

"(2) Specified petrochemical feedstock.—

"(A) In general.—The term 'specified petrochemical feedstock' means any of the following substances: ethylene; propylene, butylene; butadiene; butane; propane; benzene; toluene; xylene; napthalene; methane; carbon black; ethane.

"(B) Special rule for certain substances.—Under regulations prescribed by the Secretary, any substance listed in subparagraph (A) for which is a principal use is use as a fuel shall be treated as a specified petrochemical feedstock only if it is used otherwise than as a fuel (and, for purposes of section 4651(a), the person so using it shall be treated as the manufacturer thereof).

"(3) Specified inorganic substance.—The term 'specified inorganic substance' means any of the following substances:

"(A) arsenic, cadmium, chromium, lead, mercury, and the equivalent weight of the foregoing elements in arsenic trioxide, chromite, chromic acid, sodium dichromate, potassium dichromate, and lead oxide;

"(B) chlorine, hydrochloric acid, hydrofluoric acid, and the equivalent weight of bromine in methyl bromide and ethylene dibromide;

"(C) phosphoric acid, sulfuric acid, nitric acid, potassium hydroxide, and sodium hydroxide; and

"(D) ammonia and the equivalent weight of ammonia in ammonium nitrate.

"(4) United States.—The term 'United States' has the meaning given such term by section 4602(a)(4).

"(5) Importer.—The term 'importer' means the person entering the taxable chemical for consumption, use, or warehousing.

"(6) Ton.—The term 'ton' means 2,000 pounds. In the case of any taxable chemical which is a gas, the term 'ton' means the amount of such gas in cubic feet which is the equivalent of 2,000 pounds on a molecular weight basis.

"(7) Fractional part of ton.—In the case of a fraction of a ton, the tax imposed by section 4651 shall be the same fraction of the amount of such tax imposed on a whole ton.

"(b) Use by Manufacturer, Etc., Considered Sale.—If any person manufactures, produces, or imports a taxable chemical and uses such chemical, then he shall be liable for tax under section 4651 in the same manner as if such chemical were sold by him.

"(c) Refund or Credit for Certain Uses.—Under regulations prescribed by the Secretary, if—

"(1) a tax under section 4651 was paid with respect to any taxable chemical, and

"(2) such chemical was used by any person in the manufacture or production of any other substance the sale of which by such person would be taxable under such section,

then an amount equal to the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by such section. The amount of any such credit or refund shall not exceed the amount of tax imposed by such section on the other substance so manufactured or produced."

(b) Clerical Amendment.—The table of chapters for subtitle D is amended by inserting after the item relating to chapter 37 the following new item:

"CHAPTER 38. ENVIRONMENTAL TAXES.".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 1980.

Subtitle B—Establishment of Trust Funds

Part I—Establishment of Trust Funds

Sec. 521. Establishment of Comprehensive Oil Pollution Liability Trust Funds.

(a) Creation of Trust Fund.—There is established in the Treasury of the United States a trust fund to be known as the "Comprehensive Oil Pollution Liability Trust Fund" (hereinafter in this subtitle referred to as the "Oil Pollution Trust Fund"), consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or as may be transferred to such Trust Fund under this Act.

(b) Transfer to Oil Pollution Trust Fund of Certain Amounts.—There are hereby appropriated to the Oil Pollution Trust Fund amounts determined by the Secretary of the Treasury (hereinafter in this subtitle referred to as the "Secretary") to be equivalent to—

(1) the amounts received in the Treasury under section 4601 of the Internal Revenue Code of 1954,

(2) the amounts recovered or collected on behalf of the Oil Pollution Trust Fund under title I of this Act, and

(3) any penalties imposed under title I of this Act or under section 311 of the Federal Water Pollution Control Act (insofar as it relates to petroleum oils).

(c) Expenditures From Oil Pollution Trust Fund.—

(1) In general.—Amounts in the Oil Pollution Trust Fund shall be available only for purposes of paying claims for compensable damages which are recognizable under title I of this Act (as in effect on the date of the enactment of this Act).

(2) Claims include certain expenses.—For purposes of paragraph (1), the amounts payable out of the Oil Pollution Trust Fund shall include the costs incurred by the United States by reason of any claim referred to in paragraph (1) (including processing costs, investigating costs, court costs, and attorney fees).

Sec. 522. Establishment of Hazardous Substance Pollution Liability Trust Fund.

(a) Creation of Trust Fund.—There is established in the Treasury of the United States a trust fund to be known as the "Hazardous Substance Pollution Liability Trust Fund" (hereinafter in this subtitle referred to as the "Hazardous Substance Trust Fund"), consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or as may be transferred to such Trust Fund under this Act.

(b) Transfer to Hazardous Substance Trust Fund of Certain Amounts.—There are hereby appropriated to the Hazardous Substance Trust Fund amounts determined by the Secretary to be equivalent to—

(1) the amounts received in the Treasury under section 4611 of the Internal Revenue Code of 1954,

(2) the amounts recovered or collected on behalf of such Trust Fund under section 311 of the Federal Water Pollution Control Act. and

(3) any penalties imposed under section 311 of such Act (insofar as it relates to substances other than petroleum oils).

(c) Expenditures From Hazardous Substance Trust Fund.—

(1) In general.—Amounts in the Hazardous Substance Trust Fund shall be available only for purposes of paying claims for compensable damages which are recognizable under section 311 of the Federal Water Pollution Control Act (as in effect on the date of the enactment of this Act).

(2) Claims include certain expenses.—For purposes of paragraph (1), the amounts payable out of the Hazardous Substance Trust Fund shall include the costs incurred by the United States by reason of any claim referred to in paragraph (1) (including processing costs, investigating costs, court costs, and attorney fees).

Part II—General Provisions Applicable To Trust Funds

Sec. 531. Purposes for Which Trust Funds Are Available.

(a) Definition of Compensable Damages.—

(1) In general.—For purposes of this subtitle, the term "compensable damages" means damages asserted for—

(A) removal costs,

(B) injury to, or destruction of, real or personal property,

(C) injury to, or destruction of, natural resources, and

(D) loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources, but—

(i) only if the person asserting the claim meets the income requirements of paragraph (2), and

(ii) only to the extent that the damages were sustained during the 2-year period beginning on the date the claimant first suffered such loss.

(2) INCOME REQUIREMENTS.—For purposes of paragraph (1), a person meets the income requirements of this paragraph if—

(A) for the taxable year which includes the day on which such person first suffered the loss described in paragraph (1)(D), or for the preceding taxable year, such person's gross income from activities which utilize the property or natural resources referred to in paragraph (1)(D), exceeds; and

(B) 25 percent of his total gross income from all sources for the taxable year (or preceding taxable year, as the case may be).

(b) RESTRICTION ON INTEREST PAYABLE OUT OF TRUST FUNDS.—No amount in any Trust Fund established by this subtitle may be used to pay interest on any claim for any period before the 46th day after the day on which such claim is finally determined.

(c) CERTAIN INTERFUND LOANS PERMITTED.—

(1) IN GENERAL.—Amounts in any Trust Fund established by this subtitle (hereinafter in this subsection referred to as the "lending fund") may be loaned to the other Trust Fund established by this subtitle if—

(A) the Secretary (after consultation with the appropriate Federal official) reasonably expects that the amount to be loaned will not be needed by the lending fund for the period of such loan,

(B) interest is payable on such loan at a rate comparable to the investment yield (as of the date of the loan) on interest-bearing obligations of the United States having maturities similar to that of such loan, and

(C) immediately after the making of such loan, the amount in the lending fund equals or exceeds $30,000,000.

(2) APPROPRIATE FEDERAL OFFICIAL.—For purposes of paragraph (1), the appropriate Federal official is—

(A) the Secretary of Transportation in the case of the Oil Pollution Trust Fund, and

(B) the Administrator of the Environmental Protection Agency in the case of the Hazardous Substance Trust Fund.

(3) AMOUNT IN TRUST FUND.—For purposes of this subsection and section 532(a), the amount in any Trust Fund shall be the sum of any cash in such Trust Fund and any public debt securities held by such Trust Fund.

SEC. 532. LIMITATION ON PAYMENT OF CLAIMS BY FUND

(a) GENERAL RULE.—No amount in any Trust Fund established by this subtitle shall be used to pay any claim (other than a claim for removal costs) to the extent that the payment of such claim would reduce the amount in such Fund to an amount less than $30,000,000.

(b) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—**If at any time any Trust Fund established by this subtitle is unable (by reason of subsection (a)) to pay all of the claims (other than for removal costs) payable out of such Trust Fund at such time, such claims shall, to the extent permitted under subsection (a), be paid in full in the order in which they were finally determined.**

SEC. 533. LIABILITY OF UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.

(a) GENERAL RULE.—Any claim for damages filed against any Trust Fund established by this subtitle may be paid only out of such Trust Fund. Nothing in this Act (or in any amendment made by this Act) shall authorize the payment by the United States Government of any additional amount for damages with respect to any such claim out of any source other than a Trust Fund established by this subtitle.

(b) BORROWING FROM GENERAL FUND OF TREASURY.—

(1) PROHIBITION.—Except as provided in paragraph (2), nothing in this Act (or in any amendment made by this Act) shall be construed to authorize any Trust Fund established by this subtitle to borrow any money from the general fund of the Treasury.

(2) FIRST YEAR AUTHORITY.—

(A) IN GENERAL.—There are authorized to be appropriated to each Trust Fund established by this subtitle, as repayable advances, such sums as may be necessary to carry out the purpose of such Fund.

(B) LIMITATIONS.—

(i) The maximum aggregate amount which may be appropriated pursuant to subparagraph (A) to any Trust Fund may not exceed $75,000,000.

(ii) No advance may be made under this paragraph after September 30, 1981.

(C) REPAYMENT OF ADVANCES.—Advances made pursuant to this paragraph shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Trust Fund to which the advance was made. Such interest shall be at rates computed in the same manner as provided in section 534(b)(2) and shall be compounded annually.

SEC. 534. ADMINISTRATIVE PROVISIONS.

(a) METHOD OF TRANSFER.—The amounts appropriated by section 521(b) or 522(b) shall be transferred at least monthly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the amounts referred to in such section. Proper adjustments shall be made in the amount subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(b) MANAGEMENT OF TRUST FUNDS.—

(1) REPORT.—The Secretary shall be the trustee of each Trust Fund established by this subtitle, and shall report to the Congress for each fiscal year ending on or after September 30, 1981, on the financial condition and the results of the operations of such Trust Fund during such fiscal year and on its expected condition and operations during the next 5 fiscal years. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(2) INVESTMENT.—It shall be the duty of the Secretary to invest such portion of each Trust Fund established by this subtitle as is not, in his judgment, required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable for the needs of the Trust Fund and bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities, adjusted to the nearest one-eighth of 1 percent. The income on such investments shall be credited to and form a part of the Trust Fund.

Subtitle C—Coordination With Other Provisions of This Act

SEC. 541. COORDINATION WITH OTHER PROVISIONS OF THIS ACT.

(a) GENERAL RULE.—Nothing in this Act (or in any amendment made by this Act) other than this title shall authorize—

(1) the establishment of any fund,

(2) the payment out of any Trust Fund created by this title,

(3) the levy or collection of any fee, or

(4) the imposition of any requirement with respect to the procedure applicable to rules and regulations prescribed under this title (or under any amendment made by this title).

(b) REFERENCE TO FUND.—To the extent not inconsistent with this title—

(1) any reference in titles I and II of this Act (or in any amendment made by either of such titles) to a fund shall be deemed to be a reference to the Comprehensive Oil Pollution Liability Trust Fund established by this title, and

(2) any reference in title III of this Act (or in any amendment made by such title) to a fund shall be deemed to be a reference to the Hazardous Substance Pollution Liability Trust Fund established by this title.

(c) CERTAIN LIABILITIES ARISING BEFORE OCTOBER 1, 1980.—If any provision of this Act provides that the balance in any fund (hereinafter in this subsection referred to as the "transferor fund") is to be transferred to any Trust Fund established by this title (hereinafter in this subsection referred to as "transferee fund"), any claim which arises before October 1, 1980 (to the extent such claim would have been payable out of the transferor fund), shall be payable out of the transferee fund notwithstanding any of the limitations imposed by subtitle B of this title.

(d) ADJUSTMENT IN TAX FOR BALANCE IN TRANS-ALASKA PIPELINE LIABILITY FUND.—

(1) IN GENERAL.—If the Secretary of the Treasury (or his delegate) determines—

(A) that there is a TAP fund surplus, the amount of such surplus shall be treated as an advance payment of the tax imposed by section 4601 of the Internal Revenue Code of 1954 on crude oil first transported through the Trans-Alaska Pipeline after the date of such determination, or

(B) that there is a TAP fund deficit, the tax imposed by section 4601 on crude oil first transported through the Trans-Alaska Pipeline after the date of such determination shall be increased by 2 cents per barrel until such time as the total amount of such increased tax equals such deficit.

(2) DEFINITIONS.—For purposes of paragraph (1)—

(A) TAP FUND SURPLUS.—The term "TAP fund surplus" means the excess (if any) of—

(i) the total amount of the assets transferred from the Trans-Alaska Pipeline Liability Fund to the Comprehensive Oil Pollution Liability Trust Fund established by this title, over

(ii) the amount certified by the Secretary of the Interior as the total amount of the claims outstanding against the Trans-Alaska Pipeline Liability Fund at the time of such transfer.

(B) TAP FUN DEFICIT.—The term "TAP fund deficit" means the excess (if any) of—

(i) the amount certified by the Secretary of the Interior as the total amount of the claims outstanding against the Trans-Alaska Pipeline Liability Fund at the time the assets of such fund are transferred to the Comprehensive Oil Pollution Liability Trust Fund established by this title, over

(ii) the total amount of the assets transferred from the Trans-Alaska Pipeline Liability Fund to the Comprehensive Oil Pollution Liability Trust Fund established by this title.

Subtitle D—Study

SEC. 551. STUDY.

(a) GENERAL RULE.—The Secretary of the Treasury (in consultation with the Secretary of Transportation, the Administrator of the Environmental Protection Agency, the Secretary of Commerce, and the United States Trade Representative) shall conduct a study—

(1) on the feasibility of—

(A) taxes which are based on the frequency of hazardous substances pollution and the degree of harm to the environment which results from such pollution, and

(B) adjustments in the amount of taxes on different modes of transportation to reflect different risks of pollution.

(2) an exemption from the taxes imposed by section 4651 of the Internal Revenue Code of 1954 for feedstocks when used as a fuel, and

(3) on the impact of the taxes imposed by sections 4601 and 4651 of the Internal Revenue Code of 1954 on the Nation's balance of trade with other countries.

(b) REPORT.—Not later than January 1,

1985, the Secretary of the Treasury shall submit to the Congress a report on the results of the study conducted under subsection (a), together with such recommendations as he deems feasible.

Mr. SNYDER. Mr. Chairman, I ask unanimous consent that all debate on the bill and all amendments thereto conclude at 2:40 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was agreed to will be recognized for 1 minute each.

The Chair recognizes the gentleman from New York (Mr. BIAGGI).

AMENDMENT OFFERED BY MR. BIAGGI

Mr. BIAGGI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BIAGGI: On page 39, line 15, add "In the event that the total amount of the actual claims settled is less than the total amount of the outstanding claims certified, the difference between these amounts shall be rebated by the Secretary directly to the operator of the trans-Alaska oil pipeline for payment, on a pro rata basis, to the owners of the oil at the time it was loaded on the vessel.".

On page 40, line 1, strike "fees waived." and substitute "the advance tax payment credited under title V of this Act.".

On page 40, strike line 12 and substitute "The fund referred to in section 311(k) of the".

On page 41, line 4, strike "Clause A" and substitute "Subparagraph (A)".

On page 41, line 13, strike "Clause B" and substitute "Subparagraph (B)".

On page 41, line 18, strike "Clause" and substitute "Subparagraph".

On page 42, line 2, strike "established under" and substitute "referred to in".

On page 42, line 7, strike "established under" and substitute "referred to in".

Mr. BIAGGI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BIAGGI. Mr. Chairman, these amendments are technical and conforming. They correct errors and omissions in title II of the bill. The amendment to page 39 of the bill merely returns to the bill language that was erroneously removed in the process of drafting the Breaux substitute. It is language that was in the bill as reported by the Merchant Marine and Public Works Committees.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, these are the amendments the committee and the staffs have been over, and we are in agreement with them in all committees, so far as I know.

Mr. BIAGGI. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BIAGGI).

The amendment was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from Alaska (Mr. YOUNG).

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Alaska: Page 40, after line 4, insert the following:

"(4) The amount of any TAP fund surplus not used as an advance payment under section 541(d) shall be rebated by the Secretary directly to the operator of the Trans-Alaska oil pipeline for payment, on a pro rata basis, to the owners of the oil at the time it was loaded on the vessel."

Mr. YOUNG of Alaska (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. YOUNG of Alaska. This amendment addresses the equitable disposition of money transferred to the H.R. 85 trust fund from the trans-Alaska pollution liability fund if the 1985 sunset provision regarding taxes takes effect. As provided in the Breaux substitute, the TAPS fund surplus transferred to the oil pollution liability trust fund under section 202(b) is to be treated as an advance payment of the tax on oil imposed by H.R. 85.

The TAPS fund is a corporation created by act of Congress and administered by the holders of the trans-Alaska pipeline right-of-way, subject to the regulations promulgated by the Secretary of the Interior. Thus, unlike other funds, the TAPS fund is not part of the U.S. Treasury. Therefore, if the balance of the TAPS fund is transferred to the oil pollution liability trust fund, this would not merely be the transfer of money within the Treasury but rather the taking of property of a privately funded corporation and placing that property in the Treasury of the United States. The granting of credit for an advanced payment may offset this situation. Nevertheless, it would be inequitable to require the owners of oil shipped through the trans-Alaska pipeline to contribute disproportionately to the oil pollution liability trust fund.

However, this is exactly what may happen should the 1985 sunset provision regarding taxes come into effect. The amount of funds available from the TAPS fund to be transferred to the H.R. 85 fund could approximate nearly $70 million. However, the amount of taxes paid by owners of oil shipped through the trans-Alaska pipeline may not equal that amount by 1985. Therefore, if the sunset provision goes into effect, the owners of oil shipped through the trans-Alaska pipeline would not be able to receive the benefit of an advance payment credit of the taxes on oil as contemplated by H.R. 85. This amendment would return that portion of the TAPS fund surplus not used as an advance payment directly to the owners of the oil shipped through the trans-Alaska pipeline on a pro rata basis. This then would afford these owners equitable treatment under H.R. 85.

Mr. Chairman, I note that if the sunset provision is extended beyond 1985, then the provision in this amendment would not go into effect because it is based on the termination of the ability to use the TAPS fund surplus as an advance payment. Once the owners of oil shipped through the trans-Alaska pipeline have received the full amount of the advance payment credit afforded by this legislation, then this provision would no longer apply.

Mr. Chairman, I urge adoption of this amendment.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, as I understand it, the purpose of the amendment is to direct the Secretary to rebate any Trans-Alaska Pipeline Authorization Act surplus not used as an advanced payment under section 541(d) directly to the operator of the Trans-Alaska Oil Pipeline, for payment, on a pro rata basis, to the owners of the oil at the time it was loaded on the vessel. We have no objection.

Mr. YOUNG of Alaska. I thank the gentleman.

Mr. BIAGGI. Mr. Chairman, if the gentleman will yield, we have no objection to the amendment.

Mr. YOUNG of Alaska. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alaska (Mr. YOUNG).

The amendment was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana (Mr. BREAUX).

AMENDMENTS OFFERED BY MR. BREAUX

Mr. BREAUX. Mr. Chairman, I offer a series of amendments, which consist of technical and conforming changes to title III of the bill. I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Clerk read as follows:

Page 72, after line 8, insert the following: Amendments offered by Mr. BREAUX:

(c) Paragraph (3) of subsection (p) of section 311 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new sentence: "The total liability under this section of any guarantor shall be limited to the aggregate amount which such guarantor has provided as evidence of financial responsibility under this section, except that nothing in this sentence shall be construed to limit the liability of a guarantor for negotiating, or failing to negotiate, in bad faith a settlement of any claim.".

Page 47, after line 16, insert the following:

(3) Paragraph (5) of subsection (a) of section 311 of the Federal Water Pollution Control Act is amended by striking out "the Canal Zone,".

Page 45, strike out lines 8 through 19 inclusive and insert in lieu thereof the following:

"(19) 'ship' means either of the following types of vessels carrying oil (other than petroleum, crude oil, or any fraction or residue therefrom) or a hazardous substance in bulk as cargo or in residue:

"(A) a self-propelled vessel, or

"(B) a non-self-propelled vessel other than an inland oil barge;

Page 48, line 1, after "substances" insert "in violation of subsection (b)(3) of this section".

Page 48, line 13, insert the following:

In any case where the discharge of a hazardous substance is not in violation of (b)(3) of this section all removal costs for such discharge shall be paid from the fund referred to in subsection (k) of this section and no other person shall be liable for any part of such costs, notwithstanding any other provision of this section to the contrary.

Mr. BREAUX (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BREAUX. Mr. Chairman, the first amendment makes it clear that the total liability under the bill of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility. This is to insure that an insurance company, for example, would not be held liable for more than the face amount of the policy it has issued in accordance with title III. The amendment provides, however, that it shall not be construed to limit the liability of a guarantor when he negotiates, or fails to negotiate, in bad faith the settlement of any claim. This preserves existing law in regard to bad faith negotiations.

The second amendment is a purely technical one. It deletes the reference to the Canal Zone since we no longer exercise jurisdiction over that area.

The third amendment, also technical, includes a definition of "ship" which was inadvertently left out of the bill in title III. It also deletes the definition of "supplier" because the term "supplier" no longer appears in title III.

The fourth amendment retains the existing framework of section 311 of the Federal Water Pollution Control Act.

Under existing law, discharges of oil or hazardous substances are prohibited only if they are "in such quantities as may be harmful." The Environmental Protection Agency must establish a "harmful quantity" level for each of the hazardous substances. Below that level, there is no duty to notify of a discharge, no civil penalty, and no liability for cleanup costs. EPA or the Coast Guard may still act to clean up a discharge of less than a harmful quantity of a hazardous substance, but the costs they incur in doing so may not be recovered from the discharger.

This amendment is designed to conform H.R. 85 to exactly the same scheme. It provides that none of the claims for damages can be asserted for discharges in less than harmful quantities. As under existing law, Federal agencies can act to clean up spills of any magnitude, but if a spill is of less than a harmful quantity, the costs of the cleanup cannot be recovered from the discharger under this law. This is precisely the same arrangement contained in existing law.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, we have no objection to these conforming amendments.

Mr. BREAUX. I thank the gentleman.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, we have been over the amendments and helped in their preparation, and are satisfied with them.

The first two parts of this amendment are virtually identical to those which were offered to title I. That is, they: First, limit a guarantors liability to that which he certifies financial responsibility; and second, delete the Canal Zone from coverage under this act. The amendment clarifies the amount of liability imposed on guarantors under the direct action provisions of H.R. 85, section 105(c). Without the amendment the current liability provisions may preclude insurers and other guarantors from providing the evidence of financial responsibility required by the bill for offshore facilities.

Some feel that there is nothing in the bill that would clearly limit a guarantor's liability to a specific sum; that is, that provided as evidence of financial responsibility. Under section 105(c) of H.R. 85 any claim authorized by section 103(a) may be asserted directly against any guarantor providing the evidence of financial responsibility required. In defending such a claim the statute allows a guarantor only those defenses of the owner and operator for whom the guarantee is provided, and that of his willful negligence, but it specifically excludes defenses and limitation under the terms of a policy or contractual agreement between them.

Since the liabilities of the offshore facility owner or operator for whom the guarantee is provided are $50 million plus removal costs, the committee has been informed that this is considered the practical equivalent of unlimited liability by potential guarantors. Insurers and other guarantors are precluded by law and prudence from insuring unlimited liability.

While it appears that this unlimited liability for guarantors is inadvertent (the bill seems to contemplate limits to the amounts of financial responsibility required to be evidenced by the owner and operator), the language does not clarify any limits of liability for guarantors. The proposed amendment would solve the problem for guarantors by fixing the limits of the guarantor's aggregate liability at amount of evidence of financial responsibility furnished. It creates no other obligations for guarantors, nor does it avoid any obligations of the guarantor to negotiate in good faith. I would note that the issue of good faith can only be raised by the insuree and not by a third party.

The amendment also adds a new definition to section 311 to define the term "ship" which is not currently a defined term for the purposes of this section. This definition is identical to that contained in title I, and is necessary due to the fact that with the enactment of title III, section 311 will make important distinctions between a vessel, a ship, and an inland oil barge, and "ship" is the only term not currently defined in section 311.

The final part of the amendment, Mr. Chairman, is a provision which clarifies that, in the case where a hazardous substance designated under section 311 is not being discharged in a quantity that may be harmful, EPA will continue to have authority to respond to remove the pollution threat and that funds for the removal effort will come from the fund established by title V. The amendment further clarifies that when a discharge of a designated hazardous substance occurs in a quantity that is less than that which may be harmful, as established by the section 311 regulations, recovery is not permitted under section 311 from a responsible party.

Mr. Chairman, I support these amendments offered by the gentleman from Louisiana and urge my colleagues to do likewise.

Mr. BREAUX. I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Louisiana (Mr. Breaux).

The amendments were agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Peyser).

AMENDMENT OFFERED BY MR. PEYSER

Mr. PEYSER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Peyser: Page 56, after line 15, insert the following:

"(5) In addition to the processing and settling of claims under subsection (e) of this section, the fund referred to in subsection (k) of this section is available to pay for removal costs for the removal of in-place toxic pollutants which are present in the navigable waterways of the United States on the effective date of this paragraph, but only to the extent that the removal of such pollutants is approved in advance by the Administrator. Not to exceed $10,000,000 shall be available from the fund referred to in subsection (k) of this section for purposes of this paragraph.

Mr. PEYSER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

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Mr. PEYSER. Mr. Chairman, first of all, I want to thank the gentlewoman from New York (Ms. Ferraro), a member of the Committee on Public Works and Transportation, for her work on this amendment, and as well my thanks go to the subcommittee chairman and the ranking minority member on both sides who have helped.

My amendment provides funding for the first time for cleanup of "in place" toxic pollutants deposited in our navigable waterways. As most of you are aware, the superfund bill as it is now structured only allows for cleanup of hazardous substance spills and discharges occurring in the future. My amendment would allow the fund to also be used for cleanup of those toxic pollutants which have already been discharged and are now imbedded in the sediments of our harbors and waterways.

This sedimentary pollution is an extremely serious and chronic problem which has plagued our Nation's waterways for many years and one which superfund should address if it is to be a comprehensive and effective bill. To site a few examples: there are numerous waterways and harbors in the Great Lakes region which are infested with high levels of PCB's and other toxic chemicals.

In my own State of New York, there are a number of highly concentrated PCB deposits called hot spots on the Hudson River which leach out and flow downstream polluting the New York Harbor and upper Hudson River. Because of this pollution, EPA recently threatened to stop all dredging activities in and near the harbor and upstream and thus to ultimately close the harbor. Many businesses in my own district, not to mention the entire New York Port area, are threatened by such actions. This situation is crying out for a solution and needs to be addressed as quickly as possible. There are many other examples, including Waukegan Harbor and other areas in the Great Lakes region, the Tennessee River in Alabama, the Baltimore Harbor, the James River in Virginia, and the Housatonic River in Connecticut. These all need to be dealt with, and unless my amendment is approved, they may never be addressed.

I would like to point out to my colleagues that my amendment has the support of the major environmental groups including the National Wildlife Federation, the Sierra Club, Natural Resource Defense Council, and the Environmental Defense fund. It also has the support of the American Association of Port Authorities whose members are so adversely affected by the problem of sedimentary pollution. This amendment is crucial to the survival of our ports and waterways and I urge my colleagues to support it.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I am glad to yield to the gentleman from Texas.

Mr. ROBERTS. Mr. Chairman, as far as the Committee on Public Works and Transportation is concerned, this was in the original bill, and the gentlewoman from New York (Ms. FERRARO) was one of the authors. This amendment is perfectly in order, and I have no objection to it.

Ms. FERRARO. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentlewoman from New York.

Ms. FERRARO. Mr. Chairman, this amendment has the effect of restoring to the bill language covering a kind of pollution that was included in the Public Works Committee version of the bill. By doing so, it helps complete the consolidation of Federal hazardous waste cleanup efforts in one piece of legislation.

As currently written, the Federal Water Pollution Control Act contains several different sections which address the problem of cleaning up hazardous substances in our Nation's waterways. Section 311 establishes a revolving fund to be used for three purposes: removal costs of hazardous substances; injury to, to destruction of, either real or personal property or natural resources; or the loss of profits due to destruction of property. Section 115 provides specifically for the cleanup of in-place toxicants.

The problem is that Congress never clarified exactly what types of situations the revolving fund in section 311 could be used to clean up. EPA interpreted the act to mean that section 311 could only be used to clean up pollutants discharged after the date of enactment of the Clean Water Act and held that a separate appropriation under section 115 would be needed for the cleanup of in place of toxicants.

One of the reasons EPA sought to maintain this distinction was the potentially staggering cost of cleaning up all the in-place toxicants in our Nation's navigable waterways. While nobody has hard information on the exact extent of this problem, it is generally believed to be massive.

The amendment before us meets this objection by placing limitation of $10 million on the amount of money that can be used out of the "superfund" for the removal of in-place toxicants. In addition, any cleanup of in-place toxicants must be approved in advance by the EPA Administrator. So there are ample safeguards against any possible depletion of the fund.

The argument that the section 311 revolving fund is not intended to cover removal of in-place toxicants goes straight to the heart of the purpose of superfund. What superfund is all about is bringing all Federal hazardous substance cleanup efforts under one roof. A truly comprehensive program to clean up hazardous substances from our Nation's waterways must provide for removal of in-place pollutants as well as pollutants discharged in the future.

There are numerous examples, all over the country, of major waterways that are infested with dangerous levels of hazardous substances. While the original discharge of these substances may have occurred in the past, the damage to the environment and the threat to human health continue. Many parts of the Great Lakes are infested with PCB's and other toxic pollutants. The James River in Virginia contains dangerous levels of Kepone. A tributary of the Tennessee River near Huntsville, Ala., has been polluted by the discharge of 1,000 tons of DDT.

The case with which I am most familiar is the pollution of the Hudson River with PCB's. New York State's Department of Environmental Conservation estimates that there are some 630,000 pounds of PCB's in the bottom sediments of the Hudson River over a 190-mile stretch of the river north of New York City. As a result of these deposits, all fishing has been banned in the upper Hudson, and more than 60 percent of commercial fisheries in the lower Hudson have been closed.

In addition, some 5,000 pounds of PCB's are washed down the Hudson into New York Harbor each year. The resulting pollution has created problems for the Port of New York in dredging the harbor to keep it deep enough to accommodate the passenger and container ships that berth at the harbor. Earlier this year, last-minute negotiations were needed between EPA and the Port Authority of New York and New Jersey to avoid the cancellation of the scheduled berthing of the *Queen Elizabeth II* in early April. By cleaning up the "hotspots" in the upper Hudson, we can reduce the cost of the cleanup, the extent of the environmental damage, and the problem of disposing of the dredged materials. Under the existing system, the solution for New York Harbor was to dump the dredged materials in the ocean, which simply amounts to transferring the poison.

As I have said, the purpose of superfund is to consolidate Federal efforts to clean up hazardous wastes. The kinds of situations covered by this amendment are a critical part of that effort. I urge all my colleagues to join me in supporting this amendment.

● Mr. YATES. Mr. Chairman, I rise in strong support of the amendment offered by my colleague from New York (Mr. PEYSER) and I commend the gentleman for his initiative.

The Peyser amendment would allow for cleanup of toxic pollutants which are already "in place" in navigable waterways. A host of contaminants—PCB's, kepone, mercury, and other very hazardous substances—already pose a clear and present range in waterways throughout the Nation. Just north of Chicago, for example, Waukegan Harbor contains the largest concentration of PCB's ever found, and the dangers of PCB's are well-documented. These substances must be removed as quickly as possible. Indeed, it is the knowledge of these hazards that contributes to the sense of urgency which has helped build the consensus behind the need for a "superfund." It would be illogical and imprudent to exclude these known hazards from the proposed remedy.

I might add, Mr. Speaker, that, if the Peyser amendment does not pass, we are simply delaying the problem. These hazards—the kepone, the mercury, the PCB's—must be cleaned up. If we do not act now to insure that we address these problems in an orderly, comprehensive fashion, we are insuring that we will confront them later—most probably, in the same chaotic, inadequate, ad hoc manner with which we have tried to deal with them in the past. Now is the time to put in place a workable, feasible, rational plan for cleaning up toxic pollutants in our navigable waterways. H.R. 85 does that—and the Peyser amendment helps I urge its passage.●

● Mr. FISH, Mr. Chairman, I rise in strong support of the Peyser amendment to H.R. 85.

The purpose of the Comprehensive Oil Pollution Liability and Compensation Act, as ably expressed by my colleagues in their debate, is to provide an industry-financed cleanup fund for oil and hazardous substance spills in navigable waterways throughout the United States. The funds will replace all other Federal funds for similar purposes. This is vital legislation, and as one concerned with the state of our environment for many years, I wholeheartedly support H.R. 85.

The bill as approved by both the Public Works and Merchant Marine Committees provided funds for future spills of oil and hazardous substances, as well as money for toxic pollutants presently found in our waterways. Unfortunately, the Ways and Means Committee version, as embodied in the Breaux substitute, effectively removes the authority to clean up in-place pollutants.

The problems of kepone, mercury, and PCB's in our Nation's waters have long been well documented. Efforts have been made to clean up these substances, but there is much that remains to be done. The James River in Virginia still contains harmful amounts of kepone. The Great Lakes have deposits of hazardous sediments that must be removed. The Chesapeake Bay, recently the subject of articles in the Washington Post regarding its lost beauty, still suffers from kepone pollution. And the Hudson River, supplying water to much of central New York State and New York City, continues to pose serious health hazards due to PCB pollution.

Unless we restore the measure approved by two of the three committees which considered H.R. 85, we may never remove these in-place toxic substances and restore these vital national and natural resources to their former grandeur or, more importantly, to safe and healthy levels.

The Peyser amendment is very direct in accomplishing its important purpose. The amendment applies only to waterways containing toxic pollutants as of the date of enactment of H.R. 85. It does not increase liability. Use of funds up to $10 million per year is solely at the discretion of the EPA Administrator.

I am happy to report that the Peyser amendment, which will help the Nation resolve many chronic pollution problems, was included in the final-passage version of H.R. 85.●

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Chairman, I would like to ask the gentleman a few questions about this, because this is a rather substantive amendment.

The CHAIRMAN. The time of the gentleman from New York (Mr. PEYSER) has expired.

AMENDMENT OFFERED BY MR. SOLOMON TO THE AMENDMENT OFFERED BY MR. PEYSER

Mr. SOLOMON. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON to the amendment offered by Mr. PEYSER: At the end of the matter proposed to be inserted, add the following: "No pollutants removed pursuant to this paragraph shall be placed in any landfill unless the Administrator first determines that disposal of the pollutants in such landfill would provide a higher standard of protection of the public health, safety, and welfare than disposal of such pollutants by any other method including, but not limited to, incineration or a chemical destruction process.".

Mr. SOLOMON. Mr. Chairman, my colleague from New York's amendment will enable the cleanup of PCB's from approximately 30 miles of the Hudson River adjoining my congressional district. However, I am concerned that EPA in carrying out this amendment will not use the best disposal method available. Nothing in the gentleman's amendment, nor any other provision of the bill, requires that EPA either incinerate or use a new technology which strips the chlorine molecules from the PCB's—turning them into harmless salt and other residual products. This technology has recently been advanced by the Goodyear Corp. and Sun Oil, respectively.

Therefore, Mr. Chairman, my amendment requires EPA to exhaust these options before they select a landfill option. The reason for my amendment is simple. Encapsulating these PCB materials does not necessarily mean that the problem will be solved. We may find instead that down the road the landfill presents a threat to human health or welfare for one reason or another. I think I need only to point to a recent "60 Minutes" show on the cleanup of the nuclear waste in the Pacific (Enewetak and Bikini Islands) wherein the U.S. Army went in and collected all the nuclear contaminated material and deposited it in a deep concrete disposal facility. Yet, less than 2 years later we find that facility is leaking. This clearly demonstrates that we cannot say with certainty that encapsulation provides the environmental solution to a problem. That is why I offer my amendment and I hope my colleagues can support it.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the ranking minority member.

Mr. SNYDER. Mr. Chairman, on behalf of the minority I am prepared to accept the amendment. As I understand it, a new process has been developed for destroying the PCB's, or at least reducing these highly toxic substances to environmentally safe compounds. This certainly seems preferable to disposing these materials in landfills.

I think the gentleman's amendment improves the legislation and assures that the public interest will be protected—by a Republican amendment. I hope our colleague, who felt that only his party was interested in the public interest, is listening.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. SOLOMON) to the amendment offered by the gentleman from New York (Mr. PEYSER).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. PEYSER), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. LIVINGSTON

Mr. LIVINGSTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LIVINGSTON: Page 72, after line 16, insert the following:

SEC. 305. Notwithstanding section 311(f)(1) of the Federal Water Pollution Control Act, this title and the amendments made by this title shall be applicable to claims for removal costs and economic loss incurred as a result of the discharge of pentachlorophenol into the Mississippi River Gulf outlet on July 22, 1980, in the same manner and to the same extent as this title and the amendments made by this title apply to claims to removal costs and claims for economic loss incurred after the effective date of this title.

Mr. LIVINGSTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. LIVINGSTON. Mr. Chairman, title III, as members are now aware, addresses the release of hazardous substances into navigable waterways. The Public Works Committee which has jurisdiction reported its version of H.R. 85 to the House on May 16, 1980, over 4 months ago.

Since that time a terrible chemical spill has occurred in southern Louisiana when two vessels, a West German container ship and a Panamanian freighter, collided on July 22 in the Mississippi River Gulf Outlet. The accident released over 12 tons of the highly toxic herbicide pentachlorophenol into the waterway and surrounding bays and estuaries.

The Mississippi River Gulf Outlet was immediately closed to all transportation, virtually paralyzing a major section of the Port of New Orleans by closing its second busiest vessel route. Furthermore, seven days later, at the height of the brown shrimp season, health authorities closed over 400 square miles of water to all fishing.

For four weeks the port was helpless as vessels destined for New Orleans through the Mississippi River Gulf Outlet were rerouted to Houston and Mobile, causing a trade loss of $1.6 million. Similarly, fisherman unable to use the productive fisheries in the closed area lost an estimated $2.4 million.

The PCP spill was a classic example of environmental pollution from the release of a hazardous chemical in a navigable waterway, the very type of case intended to be addressed by the provisions of title III. My amendment, therefore, actually is a technical matter making the provisions of title III applicable to claims for removal costs and economic loss as a result of the spill.

Approval of my amendment merely makes PCP claims eligible under the provisions of the bill, allowing businesses and persons tragically harmed by PCP the opportunity for compensation. Had this bill been passed 3 months ago, this incident would have been covered under this bill.

However, I understand that this is basically the same situation as that which transpired before this body a few minutes ago when the Campeche spill was discussed.

At this time I would offer my amendment, but I would also ask the chairman of the Subcommittee on Water Resources this question: Is this not basically the same kind of incident which was intended to be covered by this particular bill?

Mr. ROBERTS. Mr. Chairman, if the gentleman will yield, the gentleman is correct. It is retroactive and accomplishes the same thing. It should be the subject of a separate bill and should receive special consideration.

Mr. LIVINGSTON. Mr. Chairman, would the gentleman entertain the possibility of hearings at a later date on this important matter so it might be covered in a separate bill sometime down the line?

Mr. ROBERTS. Mr. Chairman, in the short period I am going to be here, I cannot guarantee the gentleman that I will have time to do it, but it will be done. I am sure that will be done later.

Mrs. BOGGS. Mr. Chairman, will the gentleman yield?

Mr. LIVINGSTON. I am delighted to yield to the gentlewoman from Louisiana.

Mrs. BOGGS. Mr. Chairman, I would like to associate my remarks with those of my colleague, the gentleman from Louisiana (Mr. LIVINGSTON).

I am very pleased that the gentleman has entered into a colloquy with the subcommittee chairman, and certainly I will be supportive of his efforts to have a separate bill on this if we are unable to have this matter covered today. This is a problem that has brought us much difficulty.

Mr. LIVINGSTON. I thank the gentlelady from Louisiana (Mrs. BOGGS).

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. LIVINGSTON).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. SNYDER. Mr. Chairman, on that I ask for a division.

The CHAIRMAN. Does the Chair understand that the gentleman asks for a division?

Mr. SNYDER. Mr. Chairman, I understood the gentleman was going to withdraw the amendment, and he did not.

The CHAIRMAN. Does the gentleman from Kentucky (Mr. SNYDER) insist on a division?

PARLIAMENTARY INQUIRY

Mr. SNYDER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SNYDER. Mr. Chairman, was the amendment withdrawn?

The CHAIRMAN. The amendment was not withdrawn.

Mr. SNYDER. Mr. Chairman, did the Chair announce that the amendment carried?

The CHAIRMAN. The Chair announced that by voice vote the amendment was agreed to.

Mr. SNYDER. Then, Mr. Chairman, I demand a division.

On a division (demanded by Mr. SNYDER) there were—ayes 4, noes 30.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. BREAUX

Mr. BREAUX. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BREAUX: Page 72. after line 13, insert the following new section:

SEC. 304. Nothing in this title and nothing in the amendments made by this title, other than the application of these provisions to removal costs, shall be applicable to the use or the supervision of use of any pesticide (including one classified for restricted use) by any person who is a private applicator within the meaning of section 2(e)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act. Except in the case of removal costs, the use of pesticides by any such person shall be subject to section 311 of the Federal Water Pollution Control Act as in effect prior to the effective date of this title. Any person having a claim for damages for economic loss incurred on or after the effective date of this title as the result of the use or supervision of use of a pesticide by such a private applicator shall assert such claim in accordance with the provisions of this title and the amendments made by this title except that the Hazardous Substance Pollution Liability Trust Fund shall be the sole source liable for the payment of such claim.

Renumber the succeeding section accordingly.

Mr. BREAUX (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BREAUX. Mr. Chairman, this amendment was brought to our attention by the chairman of the Committee on Agriculture, the gentleman from Washington, (Mr. FOLEY).

The amendment merely provides that farmers who apply chemicals on their own property would come under existing laws as far as damage claims against the farmer are concerned, but the fund could be used to pay for removal costs.

Commercial applicators under this amendment would be totally subject to the provisions of this legislation, however, and claims by persons against farmers could be made. They could bring their claim against the farmer personally but not against the fund.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, as I understand this amendment, it is meant to produce the following consequences:

When a farmer uses pesticides on his crops:

First. Anyone suffering any of the four categories of compensable damages covered under the bill can be compensated by the trust fund;

Second. The trust fund may go against the farmer to recover only removal costs;

Third. The trust fund cannot go against the farmer for any other types of compensable damages;

Fourth. In evaluating the farmer's liability for removal costs, H.R. 85 provides the standard to be used; and

Fifth. Where State, local, or other Federal causes of actions exist for types of damages not compensable under this bill, those causes of action are not preempted and claims for them may be brought in the appropriate State, or other, courts.

Mr. BREAUX. Mr. Chairman, the gentleman is correct in what he has stated.

Mr. SNYDER. It is with this understanding that I support the amendment.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. BREAUX) has expired.

The Chair will inquire, does the gentleman from Kentucky (Mr. SNYDER) desire to use his time at this time?

Mr. SNYDER. No, I do not, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. BREAUX).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 25, noes 3.

So the amendment was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. STUDDS).

Mr. STUDDS. Mr. Chairman, because of the lateness of the time and the complexity of the statute before us, I will not offer the amendments which I had planned to introduce.

I would like to take this moment, if I may, to remind the Members that the statutory complexity of this measure notwithstanding, its intent and its thrust are simple. It both provides a method by which those damaged by spills can be promptly and equitably compensated, and it provides an incentive for those who carry oil to take the minimal amount of precaution necessary to avoid a spill.

Our current laws are full of loopholes large enough to sail a Liberian tanker through, and this problem at long last will be solved by this bill.

Mr. Chairman, I urge the Members to support the bill strongly and unanimously.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, as a member of the Committee on Merchant Marine and Fisheries and a cosponsor of the bill, I rise in support of this legislation.

Mr. Chairman, as we come to the close of the consideration of H.R. 85, the Comprehensive Oil Pollution Liability and Compensation Act, I would like to commend the members of the Committee on Merchant Marine and Fisheries, including Mr. BREAUX, Mr. STUDDS, and Mr. BIAGGI, who have worked so hard to bring this legislation to fruition. As a cosponsor of this and similar bills over the last several years it has been a continuing frustration to me to see this important legislation delayed.

As one who has the honor to represent the Eastern Shore of Maryland and a large part of the western shore of the Chesapeake Bay, as well as the Potomac River, I am acutely aware of the continuing problem presented by oil and chemical spills in the waters of Maryland and Virginia.

The State of Maryland has on its statutes a comprehensive oilspill law which I understand will be protected by this new legislation in many respects. One of my concerns was that a Federal law would preempt our State statute, making it impossible for the State to act on its own. This problem has been addressed in the bill.

Mr. Chairman, H.R. 85 will present a comprehensive system of liability and compensation for oilspill damage and removal and will also act as a strong incentive for shippers and oil handlers to take the necessary steps to avoid the accidents that pollute our waters.

For the watermen, boaters, shoreline residents, and others in Maryland, this should serve as both a protection and means of preserving our bay and rivers which is so important to us.

I urge passage of the bill.

Mr. EVANS of Delaware. Mr. Chairman, I rise in strong support of H.R. 85, the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act, as modified by the Breaux substitute.

As a member of the Subcommittee on Coast Guard and Navigation, my primary interest in H.R. 85 has concerned oil spills. In this Congress I was one of the original cosponsors of H.R. 85, as an oil spill bill, just as I was a cosponsor of the oil spill bill the House passed in the 95th Congress.

As a representative of a coastal State, I have been greatly distressed that the House has twice passed an oil spill bill, only to have the Senate fail to respond with passage of a similar measure. Each new incident, such as the 1979 blowout of the Mexican-owned exploratory well in the Bay of Campeche, reminds us of the urgency of getting a liability and compensation system in place.

Catastrophic oil spills always happen somewhere else, if you are lucky, but never at home. But believe me, the people of Delaware are acutely aware that it can happen at home. Some 70 percent of the crude oil delivered to the east coast travels up the Delaware Bay and River to refineries in Delaware, Pennsylvania, and New Jersey. Delawareans, as well as the millions of others who flock to enjoy our clean beaches, sit on the shore and watch these tankers enter the bay and anchor off Big Stone Beach where lightering operations transfer the crude oil to barges for transport farther upriver.

In spite of the best efforts of the oil companies, the shipping lines, and others, these behemoths are accidents waiting to happen on some icy, foggy winter day. I hope and pray that day never comes in Delaware Bay, but if and when it does, I hope this bill is law, because the people of Delaware who rely on our precious coast for their livelihoods must have something to fall back on. It is only fair that they clearly know who to turn to for help, who is responsible for the damages, and how long it will take to recover their lost income. This bill will go a long way toward taking care of these problems.

When I cosponsored H.R. 85 in 1979, it addressed only the problem of oilspills. Now, because of the contribution of the Committee on Public Works and transportation, it also addresses the matter of spills of hazardous chemicals in navigable waters and adjacent areas. I think this is most appropriate, and I fully support the contribution of the Public Works Committee as it is now embodied in the Breaux substitute.

At this time last year we had an incident at Sharptown, Md., near the Delaware-Maryland line on the Nanticoke River, which dramatically underscored in my mind the need for legislation addressing spills of hazardous chemicals. At Sharptown, located within 25 feet of the Nanticoke River and within a few blocks of hundreds of people, they suddenly discovered that what were thought to be empty storage tanks actually contained tens of thousands of gallons of hazardous chemicals, including some 9,000 gallons of cancer-causing PCB's. What followed this discovery were weeks of misinformation, confusion, charges, and countercharges while different Federal and State agencies were trying to decide who was going to do and pay for what. While all the agencies bickered, the townspeople quivered in their sleep, hoping that the tanks did not spill their guts into the town and river.

Ultimately, the Coast Guard decided that there was an "imminent threat" to navigable waters and the hazardous substances were removed to a safer storage area at a reported cost of half a million dollars to the Government. What would have happened if the tanks had not held until the Government could get its act together? Who would have protected the citizens and the river? Who would have paid the cleanup costs and compensated the innocent victims of Sharptown, Md., especially in the event that a financially responsible owner could not be located? The answer is that the people from Sharptown would still be reeling from that incident, with no end of their problems in sight.

Critics of H.R. 85 contend that it is not needed because existing laws such as section 311 of the Clean Water Act give the Federal Government adequate authority to respond to spills of oil and hazardous chemicals. But the fact of the matter is that the law pertaining to oil or chemical spills is severely fragmented among the Clean Water Act, the Outer Continental Shelf Lands Act, the Deepwater Ports Act, and other Federal laws, to say nothing of State, common, and maritime laws. One of the major shortcomings of existing law, and specifically section 311 of the Clean Water Act, is that the $35,000,000 revolving fund can only be used to clean up oil and chemical spills in navigable waters and adjacent areas. It cannot be used to compensate the innocent victims of these spills.

Compensation of the innocent victims of chemical or oil spills is absolutely crucial. That person who derives a livelihood from fishing or operating a beachside motel is likely to go broke waiting to be compensated if he has to go through a long, expensive court fight. And if no financially responsible spiller can be located, it is just like a thief who disappears into thin air with your life savings. There is nothing that can be done about it.

Under H.R. 85, liabilities and responsibilities are clearly delineated. Separate oil and chemical funds are established out of which cleanup expenses can come, and if an innocent victim of a spill is not rapidly compensated by a spiller, compensation can be claimed from the fund. I think it is a fair and equitable approach, and it is one which recognizes that the cost of doing business in the oil and chemical industries must cover the inevitability of accidental spills. No matter how careful and responsible the industry is—and most of the industry is careful and responsible—spills have and will occur. We can best prepare for those incidents by establishing a comprehensive liability and compensation system in advance of the next catastrophe.

Mr. Chairman, in the last decade the Congress has approved a long list of landmark measures to protect the environment and public health and we are starting to reap the benefits of those actions. Legislation concerning the problems of oil and chemical spills, and the problem of abandoned waste disposal sites which will be considered in H.R. 7020, are yet unfinished on our agenda. I am convinced that these problems are some of the most serious we will face on the domestic front in the 1980's, and we can start today by passage of a comprehensive liability and compensation system. We owe it to ourselves and to all the victims—past and future—of oil and chemical spills.

● Mr. GILMAN. Mr. Chairman, I rise in support of the amendment to H.R. 85, the Comprehensive Oil Pollution Liability and Compensation Act of 1980, being offered by my distinguished colleague from New York (Mr. PEYSER).

The amendment being offered by my colleague would provide $10 million from the title III chemical spill fund for the cleaning up of PCB deposits in our Nation's rivers.

Mr. Chairman, the Hudson River is in danger. The entire river has probably one of the worst problems of PCB deposits along its banks and the longer one delays in its cleanup, the more complicated and expensive it becomes—simply because the deposits break up and filter into the entire body of water. The means to extract the deposits from the river are readily available. It is now merely a matter of the Congress showing its concern and recognition of the true extent of the damage. The $10 million fund proposed is not too much funding for something so imperative. Indeed, it is still far short of what is actually needed to complete the job.

Accordingly, I support this amendment and urge my colleagues on both sides of the aisle to vote in favor of this amendment which is a first and important step toward cleaning up our Nation's rivers.●

The CHAIRMAN. The Chair recognizes the gentleman from Kentucky (Mr. SNYDER).

Mr. SNYDER. Mr. Chairman, I just want to take my minute to say that I appreciate so very much the cooperation of the House this afternoon in helping us dispose of this rather complicated bill. It is complicated, and we did move fairly fast.

I want to assure the Members that both sides of the aisle have worked for about 6 years on most of this bill, and I feel that now we have a good bill.

☐ 1430

There has been bipartisan cooperation. Certainly the minority has been allowed to participate to the fullest extent and we support this bill as a result. I want to give the best tribute I can to the chairman of the Coast Guard Subcommittee, the gentleman from New York (Mr. BIAGGI), and the Water Resources Subcommittee, the gentleman from Texas (Mr. ROBERTS), for the fine cooperation they have given, and I hope that the House will give a substantial vote of confidence this afternoon, and I thank those gentlemen for the cooperation and for the participation that we have all been allowed to have in what we believe is a good bill.

Mr. BIAGGI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we are coming to the close of debate and consideration of all amendments on this legislation. It has been a long pull. It has been some 6 years since we embarked on this undertaking. It is fortunate that we seem to be doing this in tandem with H.R. 7020. It is Congress response to the Nation's needs so far as pollution is concerned. Both of them are most comprehensive, dealing with critical matters. H.R. 85, the predecessor legislation by some 5 years, has suffered its ups and downs, and the Members who have been involved with it during that arduous period have had the patience and fortitude to persist, and we are delighted that we have come to this point.

I would be remiss if I did not recognize the contribution and the invaluable assistance that we received from the gentleman from Texas (Mr. ROBERTS), who is serving his last term and will not be with us in the next Congress. Of his own volition, he seeks to retire. But it is most appropriate that he affixes his name and label to this landmark legislation. We have had an extraordinary relationship. We have never invloved ourselves with the esoteric arguments. The question was practical application, how can we implement this notion, how can we transform it into reality. And, notwithstanding all of the obstacles—and I can assure you that there were many from many quarters—we reconciled the differences and overcame the obstacles.

From all of the elements involved, all of the component people involved and their representatives, even they participated. They were hostile at the outset. With some reconciliation, with some thought and persuasion, they are in a unified position in support of this legislation.

A special thanks goes to my colleague, the gentleman from Massachusetts (Mr. STUDDS), who, like myself, worked tirelessly; and, of course, the gentleman from Kentucky (Mr. SNYDER), the members of the committee and the staff. Without the heroic work of the staffs of all of the members of the various committees, we could not have reached this point today.

I also wish to mention the gentleman from Louisiana (Mr. BREAUX), whose contribution was essential.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BENNETT) having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 85) to provide a comprehensive system of liability and compensation for oil-spill damage and removal costs, and for other purposes, pursuant to House Resolution 772, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. SNYDER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 288, nays 11, not voting 133, as follows:

[Roll No. 571]

YEAS—288

Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.Dak.
Annunzio
Archer
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Bolling
Boner
Bonior
Bonker
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Chisholm
Clausen
Clay
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Deckard
Dellums
Derwinski
Devine
Dickinson
Dicks
Dingell
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Forsythe
Fountain
Fowler
Frenzel
Frost
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Harkin
Harris
Hightower
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Hughes
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kildee
Kostmayer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Leland
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lundine
Lungren
McCloskey
McCormack
McHugh
McKay
McKinney
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Michel
Mikulski
Miller, Ohio
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pursell
Quayle
Rangel
Reuss
Rhodes
Ritter
Roberts
Robinson
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Sabo
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stark
Stewart
Stokes
Stratton
Studds
Swift
Tauke
Tauzin
Taylor
Traxler
Trible
Udall
Vander Jagt
Vanik
Volkmer
Walgren
Walker
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whittaker
Whitten
Williams, Mont.
Wilson, Tex.
Winn
Wolff
Wolpe
Wylie
Yatron
Young, Alaska
Young, Fla.
Zablocki

NAYS—11

Ashbrook
Collins, Tex.
Crane, Daniel
Gramm
Kelly
McDonald
Paul
Stenholm
Stump
Synar
Wyatt

NOT VOTING—133

Abdnor
Addabbo
Alexander
Anderson, Ill.
Andrews, N.C.
Anthony
Applegate
Barnard
Beard, Tenn.
Bethune
Boland
Bouquard
Brooks
Brown, Ohio
Cavanaugh
Chappell
Cheney
Cleveland
Corman
Cotter
Courter
Crane, Philip
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Derrick
Dixon
Dodd
Early
Edwards, Ala.
Edwards, Calif.
Erlenborn
Evans, Ga.
Findley
Ford, Tenn.
Fuqua
Gibbons
Gingrich
Goodling
Grassley
Gray
Hammerschmidt
Hanley
Hansen
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Hinson
Holland
Holtzman
Howard
Huckaby
Hutto
Ireland
Jenrette
Johnson, Colo.
Jones, N.C.
Kazen
Kemp
Kindness
Kogovsek
Kramer
Leach, La.
Lederer
Lent
Lloyd
Luken
McClory
McDade
McEwen
Maguire
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Miller, Calif.
Mineta
Mitchell, N.Y.
Montgomery
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nedzi
Nelson
Nichols
Pashayan
Pepper
Pritchard
Quillen
Rahall
Railsback
Ratchford
Regula
Richmond
Rinaldo
Rodino
Roe
Rousselot
Rudd
Russo
Santini
Satterfield
Skelton
Snowe
St Germain
Stanton
Steed
Stockman
Symms
Thomas
Thompson
Ullman
Van Deerlin
Vento
Wampler
Whitley
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wirth
Wright
Wydler
Yates
Young, Mo.
Zeferetti

□ 1450

The Clerk announced the following pairs:

Mr. Addabbo with Mr. McClory.

Mr. Zeferetti with Mr. Stanton.

Mr. Richmond with Mr. Rousselot.

Mr. Rodino with Mr. Railsback.

Mr. Alexander with Mr. Quillen.

Mr. Hawkins with Mr. McEwen.

Mr. Pepper with Mr. Edwards of Alabama.

Mr. Montgomery with Mr. Brown of Ohio.

Mr. Murphy of Illinois with Mr. Abdnor.

Mr. Nedzi with Mr. Beard of Tennessee.

Mr. Mineta with Mr. Hammerschmidt.

Mr. Mica with Mr. Harsha.

Mr. Mazzoli with Mrs. Heckler.

Mr. Nichols with Mr. Kemp.

Mr. Russo with Mr. Findley.

Mr. Santini with Mr. Bob Wilson.

Mr. Skelton with Mr. Davis of Michigan.

Mr. St Germain with Mr. Cleveland.

Mr. Steed with Mr. Kindness.

Mr. Lloyd with Mr. Hinson.

Mr. Kazen with Mr. Lent.

Mr. Jones of North Carolina with Mr. Wydler.

Mr. Jenrette with Mr. Williams of Ohio.

Mr. Howard with Mr. Symms.

Mr. Huckaby with Mr. Thomas.

Mr. Ireland with Mr. Rudd.

Mr. Fuqua with Mr. Regula.

Mr. Hanley with Mr. Rinaldo.

Mr. Edwards of California with Mr. Pritchard.

Mr. Early with Mr. Mitchell of New York.

Mr. Dixon with Mr. Pashayan.

Mr. de la Garza with Mr. Hillis.

Mr. Anthony with Mr. Grassley.

Mr. Applegate with Mr. Bethune.

Mr. Boland with Mr. Cheney.

Mr. Barnard with Mr. Courter.

Mr. Cotter with Mr. Philip M. Crane.

Mr. Corman with Mr. Gingrich.

Mr. Chappell with Mr. Goodling.

Mr. Brooks with Mr. Kramer.

Mrs. Bouquard with Mr. McDade.

Mr. Dodd with Mr. Johnson of Colorado.

Mr. Derrick with Mr. Hansen.

Mr. Ratchford with Mrs. Snowe.

Mr. Roe with Mr. Stockman.

Mr. Wirth with Mr. Wampler.

Mr. Whitley with Mr. Erlenborn.

Mr. Vento with Mr. Maguire.

Mr. Van Deerlin with Mr. Luken.

Mr. Satterfield with Mr. Nelson.

Mr. Matsui with Mr. Mattox.

Mr. Mavroules with Mr. Mottl.

Mr. Murphy of New York with Mr. Myers of Pennsylvania.

Mr. Yates with Mr. Charles H. Wilson of California.

Mr. Thompson with Mr. Ullman.

Mr. Lederer with Mr. Holland.

Mr. Kogovsek with Ms. Holtzman.

Mr. Cavanaugh with Mr. Andrews of North Carolina.

Mr. Daschle with Mr. Davis of South Carolina.

Mr. Mathis with Mr. Moorhead of Pennsylvania.

Mr. Miller of California with Mr. Rahall.

Mr. Wright with Mr. Gray.

Mr. Ford of Tennessee with Mr. Evans of Georgia.

Mr. Young of Missouri with Mr. Leach of Louisiana.

Mr. Hutto with Mr. Gibbons.

Mr. Hefner with Mr. Heftel.

Mr. CHARLES WILSON of Texas changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked for this time for the purpose of inquiring of the acting majority leader the program for next week.

Mr. FOLEY. Mr. Speaker, will the distinguished minority whip yield?

Mr. MICHEL. I am happy to yield.

Mr. FOLEY. Mr. Speaker, this will conclude the business for the week.

The House will meet at noon on Monday. All recorded votes will be postponed until Tuesday, September 23, 1980. There will be no votes on Monday.

There will be 22 bills on Suspension, as follows:

H.R. 5340, extend authorizations for water resources research;

H.R. 5898, Rattlesnake Wilderness, Montana;

S. 1464, Indian lands for Mille Lacs Band of Minnesota Chippewas;

H.R. 8081, Holocaust Memorial Act;

H.R. 8087, Omnibus National Trails Act;

H.R. 8096, Wild and Scenic Rivers Act;

H.R. 7919, Maine Indians settlement bill;

H.R. 7385, transfer of land for the Bureau of Mines;

H.R. 6331, Capitol buildings and grounds;

H.R. 7878, transfer of certain naval vessels;

S. 91, United States Code title X amendments, survivor benefits;

H.R. 7540, Customs Court;

S. 658, Bankruptcy Act;

H.R. 8117, safe drinking water amendments;

H.R. 7104, Federal Railroad Safety Authorization Act of 1980;

H.R. 7554, Small Business Investment Incentive Act of 1980;

H.R. 7939, Securities Investor Protection Act amendments;

H.R. 6959, salmon and steelhead resources conservation;

H.R. 7039, American Fish Promotion Act;

H.R. 3486, Documentary Materials Privacy Protection Act;

H.R. 7085, relating to the hostages in Iran; and

H.R. 4736, Classified Information Criminal Trial Procedure Act.

Now, Mr. Speaker, on Tuesday, there will be one Suspension, that is H.R. 6228, Communications Cross Ownership Act of 1980.

Recorded votes ordered on Monday and debated on Monday will be taken up on Tuesday.

Then in addition to that we will consider House Joint Resolution 601, International Monetary Fund appropriations, fiscal year 1981.

We will then consider the following bills: H.R. 7020, Hazardous Waste Containment Act of 1980, completing consideration.

H.R. 6806, public utility treatment under Internal Revenue Code, under a modified rule, with 1 hour of debate.

H.R. 6979, Coastal Zone Management Improvement Act, under an open rule, with 1 hour of debate.

On Wednesday, the House will meet at 10 a.m. to consider the following bills:

H.R. 7112, State and local fiscal assistance amendments, under an open rule, with 2 hours of general debate.

There is an unnumbered H.R. bill, Federal Supplemental Unemployment Compensation Act of 1980, subject to a rule being granted.

S. 885, Pacific Northwest Electric Power Planning and Conservation Act, subject to a rule being granted.

H.R. 4370, Coal Pipeline Act of 1980, under an open rule, with 2 hours of general debate.

H.R. 6777, Council on Wage and Price Stability authorization extension, under an open rule, with 1 hour of general debate.

H.R. 7265, Department of Energy authorizations of defense programs, under an open rule, with 1 hour of general debate. The rule has already been adopted.

On Thursday, September 25, the House will meet at 10 a.m. This is Special District Day, with two bills. The first is H.R. 7782, Secret Service pay adjustment; and the second is H.R. 7658, authorization to study extending Metro Subway to Dulles.

We will then consider the following bills:

H.R. 5615, Intelligence Identities Protection Act, under an open rule, with 1 hour of general debate.

H.R. 6704, Juvenile Justice and Delinquency Prevention Act, under an open rule, with 1 hour of general debate.

H.R. 6667, Water Pollution Control Act, under an open rule, with 1 hour of general debate.

H.R. 7548, Farm Credit Act Amendments of 1980, subject to a rule being granted.

The House will not be in session on Friday.

The House will adjourn next week at an hour that Members should expect might be rather late on each evening, subject to the requirements of the schedule.

Mr. MICHEL. Might I inquire, on those two District bills, will there have to be a unanimous-consent request to take them up on Thursday?

Mr. FOLEY. Yes, and I will make the appropriate unanimous-consent request.

Mr. MICHEL. And then are we planning on coming in early on Tuesday?

Mr. FOLEY. We are planning a noon meeting on Tuesday. There is no present plan to come in prior to noon.

Mr. MICHEL. I just was wondering in view of the numerous votes that might very well be carried over from Monday whether or not it might be appropriate to come in early.

Mr. FOLEY. We would be glad to ask unanimous consent that when the House meets on Tuesday next, it meet at 11 a.m.

The SPEAKER pro tempore. Is the gentleman making that request now?

Mr. FOLEY. I will at this time make that request.

Mr. MICHEL. I would certainly have no objection.

HOUR OF MEETING ON TUESDAY, SEPTEMBER 23, 1980

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House meets on Tuesday next, it meet at 11 a.m.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to my friend, the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, I thank the gentleman for yielding.

I have two questions that I would like to ask. The first question is relating to the gentleman's announcement that there would be no votes on Monday. A similar announcement was made last week and, in fact, there was a vote on Monday.

Mr. FOLEY. Mr. Speaker, will the gentleman from Illinois yield?

Mr. MICHEL. I am happy to yield.

Mr. FOLEY. Well, it is never possible for the leadership to assure Members that votes will not occur on procedural matters. There is an understanding between the leadership on both sides that there will be no planned requests for votes, but in certain procedural matters any Member of the House is at liberty to take action which might bring about a procedural vote. We know of no such intention and I hope none occurs.

Mr. LEVITAS. Mr. Speaker, I thank the gentleman.

Mr. Speaker, would the gentleman from Illinois yield further?

Mr. MICHEL. Yes.

Mr. LEVITAS. My next question relates to the Regulation Reform Act. As the acting majority leader knows, we have tried for a number of weeks now to have this bill reported out of the Committee on the Judiciary. The Committee on the Judiciary did, in fact, this week report out the Regulation Reform Act.

It is also a matter of record that the chairman and the chairman of the subcommittee of the Committee on the Judiciary have indicated they will seek an open rule. I am told that a formal written request for hearings before the Committee on Rules has been presented. Since this piece of legislation is a centerpiece—the centerpiece of the administration's regulatory reform effort, I would like to inquire whether or not the acting majority leader can assure the Members of the House that the Committee on Rules intends to respect the request of the committee and have hearings on a rule for the Regulation Reform Act next week.

☐ 1500

Mr. FOLEY. Much as I would like to accommodate the gentleman from Georgia, if the gentleman from Illinois will continue to yield, I cannot at this time make any assurances on behalf of the Rules Committee or the distinguished chairman. To my knowledge, the gentleman just informed me, I was not aware that a formal request had yet reached the Rules Committee. The report on the bill in question has not yet been filed and is expected to be filed on Monday.

As the gentleman knows, under normal circumstances the Rules Committee does not grant a hearing until a report is available to the committee 24 hours prior to the hearing. So I think the answer to the gentleman's question would probably have to wait both the filing of the report and an opportunity for the chairman of the Committee on Rules to respond. But if the appropriate requests have been made, I have no knowledge that there will not be a hearing. I just cannot assure the gentleman there is any decision.

Mr. LEVITAS. If the gentleman will yield further, I thank the acting majority leader for his response. I would simply like to emphasize that this is very important legislation to the administration as well as to the Members of the House. I would hope that the leadership of this House will diligently, persistently, and consistently do everything that can be done to assure that an appropriate rule, open rule, will be obtained as soon as it is procedurally possible for this to occur. The gentleman from Georgia will do all he can to assist in this process as one Member of this House.

I thank the gentleman from Illinois.

Mr. MICHEL. If I might inquire of the acting majority leader possibly one further question, in a conversation I recall having with the Speaker, maybe better than a week ago, relative to the previously announced recess date of October 4, the Speaker responded to me in private saying he doubted very much whether we would want to be around here on Saturday and I concurred. As a matter of fact, there was some discussion of possibly winding up for sure on the 2d rather than having a Friday session of that week. Does the gentleman have any intelligence in that regard that he could nail down more specifically?

Mr. FOLEY. I would say to the gentleman the only information I can impart to him is it is still the plan to meet the week after next and that it is the target to adjourn by the 4th of October. I believe that target is firm as the ultimate date on which the House will meet in order to complete its work.

Whether it will be possible to conclude at a slightly earlier date such as the 2d is not, I think, a matter that can be determined yet but I can assure the gentleman that the target date beyond which we will not go is the 4th, and perhaps somewhat earlier than that. There was definitely a plan to work that week.

Mr. MICHEL. I thank the gentleman for his response and yield back the balance of my time.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule shall be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

ADJOURNMENT TO MONDAY, SEPTEMBER 22, 1980

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 12 noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

MAKING IN ORDER DISTRICT OF COLUMBIA BUSINESS ON THURSDAY, SEPTEMBER 25, 1980

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that District of Columbia business in order on Monday, September 22, 1980, be in order on Thursday, September 25, 1980.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

EVALUATION OF THE CARCINOGENIC RISK OF CHEMICALS TO HUMANS

(Mr. MARTIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MARTIN. Mr. Speaker, the debate on H.R. 7020 today I promised to submit for the RECORD a useful excerpt from a monograph of the International Agency for Research on Cancer, entitled "Evaluation of the Carcinogenic Risk of Chemicals to Humans." I am pleased to present this at this point.

Several colleagues have asserted that various chemicals have been shown to be carcinogenic; that is, posing an increased risk of cancer. Others have cited cases which they believe not to be carcinogenic. It will be useful, I think, to assist in such suppositions by sharing with our colleagues the conclusions of this highly respected international authority on oncology, established by the World Health Organizaion.

This monograph was published in September of 1979. It is, therefore, subject to amendment when conflicting evidence has been evaluated by appropriate review. However, I would caution Members against using rumors, claims, or other representations that seek to create a general chemophobia amongst the public. We are daily deluged with claims, such as against saccharin and nitrite which upon examination turn out to be of little significance.

MONOGRAPH ON THE EVALUATION OF THE CARCINOGENIC RISK OF CHEMICALS TO HUMANS

(International Agency for Research on Cancer, September 1979)

(World Health Organization)

METHODS

The data on each chemical were reviewed in detail before the meeting by two members of the group; the animal studies by an experimentalist and the human studies by an epidemiologist. Data that had become available since the publication of the relevant monograph were included in this review.

Separate assessments of the human and animal evidence of carcinogenicity were debated and adopted by the Working Group. An overall evaluation of carcinogenicity for humans was made based on the combined evidence. Brief descriptions of the data used to support the assessments and the evaluations appear in the Appendix. The reader is encouraged to consult these notes together with the summary Table 3. For each chemical the appropriate volume in the *Monographs* series is given and also, where applicable, papers that have been published subsequently.

Assessment of evidence of carcinogenicity from experimental animal studies

These assessments were classified in five groups:

1. Sufficient evidence of carcinogenicity indicates that there is an increased incidence of malignant tumors: (a) in multiple species or strains, or (b) in multiple experiments (preferably with different routes of administration or using different dose levels), or (c) to an unusual degree with regard to incidence, site or type of tumor, or age at onset. Additional evidence may be provided by data concerning dose-response effects, as well as information on mutagenicity or chemical structure.

ii. Limited evidence of carcinogenicity means that the data suggest a carcinogenic effect but are limited because: (a) the studies involve a single species, strain, or experiment; or (b) the experiments are restricted by inadequate dosage levels, inadequate duration of exposure to the agent, inadequate period of follow-up, poor survival, too few animals, or inadequate reporting; or (c) the neoplasms produced often occur spontaneously or are difficult to classify as malignant by histological criteria alone (e.g., lung and liver tumors in mice).

iii. Inadequate evidence indicates that because of major qualitative or quantitative limitations, the studies cannot be interpreted as showing either the presence or absence of a carcinogenic effect.

iv. Negative evidence means that within the limits of the tests used, the chemical is not carcinogenic. The number of negative studies is small, since in general, studies that show no effect are less likely to be published than those suggesting carcinogenicity.

v. No data indicates that data were not available to the Working Group.

The categories sufficient evidence and limited evidence refer only to the strength of the experimental evidence that these chemicals are (or are not) carcinogenic and not to the extent of their carcinogenic activity. The classification for any chemical may change as new information becomes available.

Assessment of evidence for carcinogenicity from human studies

Evidence of carcinogenicity from human studies comes from three main sources:

1. Case reports of individual cancer patients who were exposed to the chemical or process.

2. Descriptive epidemiological studies in which the incidence of cancer in human populations was found to vary spatially or temporally with exposure to the agents.

3. Analytical epidemiological (case-control and cohort) studies in which individual exposure to the chemical or group of chemicals was found to be associated with an increased risk of cancer.

Three criteria must be met for a causal association to be inferred between exposure and human cancer (3):

1. There is no identified bias which could explain the association.

2. The possibility of confounding has been considered and ruled out as explaining the association.

3. The association is unlikely to be due to chance.

In general, although a single study may be indicative of a cause-effect relationship, confidence in inferring a causal association is increased when several independent studies are concordant in showing the association, when the association is strong, when there is a dose-response relationship, or when a reduction in exposure is followed by a reduction in the incidence of cancer.

The degrees of evidence for carcinogenicity in human studies were categorized as:

1. Sufficient evidence of carcinogenicity indicates a casual association between exposure and human cancer.

ii. Limited evidence of carcinogenicity indicates a possible carcinogenic effect in humans, although the data are not sufficient to demonstrate a causal association.

iii. Inadequate evidence of carcinogenicity indicates that the data are qualitatively or quantitatively insufficient to allow any conclusion regarding carcinogenicity for humans.

Dividing lines were by no means firmly drawn between sufficient evidence and limited evidence from animal studies and between inadequate evidence and limited evidence from both human and animal studies. When differences of opinion occurred among the members of the Working Group, the classification was made by majority vote.

Evaluation of the carcinogenic risk to humans

Presently, no objective criteria exist to interpret the animal data directly in terms of human risk. Thus, in the absence of sufficient evidence from human studies, evaluation of the carcinogenic risk to humans was based on consideration of both the epidemiological and experimental evidence. Furthermore, the breadth of the categories for human and animal evidence defined above allows substantial variation within each, and the decisions reached by the group regarding overall risk incorporated these differences, even though they could not always be adequately reflected in the placement of a chemical into a particular category in the Table 3. The evidence in support of these decisions is summarized in the notes for each chemical in the Appendix.

The chemical, group of chemicals, or industrial process is carcinogenic for humans. three groups:

Group 1

The chemicals, groups of chemicals, or industrial processes were placed into one of This category was used only when there was sufficient evidence to support a causal association between the exposure and cancer.

Group 2

The chemical or group of chemicals is probably carcinogenic for humans. This category includes chemicals for which the evidence of human carcinogenicity is almost 'sufficient' as well as chemicals for which it is only suggestive. To reflect this range this category has been divided into higher (group A) or lower (group B) degrees of evidence. The data from experimental animal studies played an important role in assigning chemicals to category 2, and particularly to those in group B.

Group 3

The chemical or group of chemicals cannot be classified as to its carcinogenicity for humans.

RESULTS AND CONCLUSIONS

The separate evaluations of animal and human evidence are presented in Table 3.

The Working Group concluded that the following 18 chemicals, groups of chemicals, and industrial processes are carcinogenic for humans (Group 1):

4—Aminobiphenyl.

Arsenic and certain arsenic compounds.

Asbestos.

Manufacture of auramine.[1]

Benzene.

Benzidine.

N,N-bis(2-chloroethyl)-2-naphthylamine (chlornaphazine).

Bis(chloromethyl)ether and technical grade chloromethyl methyl ether.

Chromium and certain chromium compounds.[1]

Diethylstilboestrol.

Underground haematite mining.[1]

Manufacture of isopropyl alcohol by the strong acid process.[1]

Melphalan.

Mustard gas.

2-Naphthylamine.

Nickel refining.[1]

Soots, tars and mineral oils.[1]

Vinyl chloride.

The following 18 chemicals and groups of chemicals are probably carcinogenic for humans (Group 2).

Group A (six chemicals)

Aflatoxins.

Cadmium and certain cadmium compounds.[1]

Chlorambucil.

Cyclophosphamide.

Nickel and certain nickel compounds.[1]

Tris(1-aziridinyl)phosphine sulphide (thiotepa).

Group B (12 chemicals)

Acrylonitrile.

Amitrole (aminotriazole).

Auramine.

Beryllium and certain beryllium compounds.[1]

Carbon tetrachloride.

Dimethylcarbamoyl chloride.

Dimethylsulphate.

Ethylene oxide.

Iron dextran.

Oxymetholone.

Phenacetin.

Polychlorinated biphenyls.

The following 18 chemicals and groups of chemicals could not be classified as to their carcinogenicity for humans (Group 3):

Chloramphenicol.

Chlordane/helptachlor.

Chloroprene.

Dichlorodiphenyltrichloroethane (DDT).

Dieldrin.

Epichlorohydrin.

Haematite.

Hexachlorocyclohexane (technical grade HCH/lindane).

Isoniazid.

Isopropyl oils.

Lead and certain lead compounds.[1]

Phenobarbitone.

N-Phenyl-2-naphthylamine.

Phenytoin.

Reserpine.

Styrene.

Trichloroethylene.

Tris (aziridinyl)-para-benzoquinone (triaziquone).

Mining and manufacturing processes

For some of the chemicals, part or all of the evidence indicating a carcinogenic effect for humans comes from an increased incidence of cancer in individuals involved in the mining or manufacture of these chemicals. There is sufficient evidence that the manufacture of auramine, the underground mining of haematite, the manufacture of isopropyl alcohol by the strong acid process, and the refining of nickel are carcinogenic to humans, at least in the situations in which they have been studied. Because these occupations include exposure to other factors in addition to the chemical under consideration, the responsible carcinogen(s) cannot be specified precisely; therefore, the results cannot be generalized to all situations involving these processes. Nonetheless, these processes should be assumed to carry a carcinogenic risk to humans unless proven otherwise.

THE NEED TO STRENGTHEN THE LOCAL CAPABILITY TO CARRY OUT SOIL AND WATER CONSERVATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Vermont (Mr. JEFFORDS) is recognized for 5 minutes.

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[1] The specific compound(s) which may be responsible for a carcinogenic effect in humans cannot be specified precisely.

● Mr. JEFFORDS. Mr. Speaker, this country is facing an agricultural crisis—a crisis caused by the loss of topsoil from this Nation's agricultural land.

Soil erosion is by far the most significant and widespread threat to the continued productivity of the Nation's resource base. In the short 300 years or so that our U.S. society has existed, compared to other cultures thousands of years old, we have seen our topsoil depth depleted from an average of 3 feet to 6 inches. We have lost over one-third of the topsoil on the cropland in use today.

Soil erosion is not a newly discovered problem. Over $15 billion has been spent on soil conservation since 1930, and yet after billions of dollars in expenditures the soil erosion problem is still very much with us. Total voluntarism has not produced the desired conservation performance. If soil erosion continues at its present rate, it could limit the ability of this country to feed its own population and that of other nations. We know, for example, that we must produce more food by the turn of the century than has been produced since the dawning of time.

The Global 2000 Report to the President raises some disturbing points. It concludes:

> Arable land (worldwide) will increase only 4 percent by the year 2000, so that most of the increased output of food that will be needed will have to come from higher yields on the remaining land.

Thus, this remaining land will be used more intensively, increasing the likelihood that soil erosion will continue to be a serious problem unless we develop and implement some fresh strategies.

I stress that soil and water conservation programs established over the past four decades have helped considerably to insure that the Nation's natural resources are sustained. We must not abolish these programs. We only need to develop new strategies to help these programs be more effective in limiting future environmental damage and thus minimize future Federal expenditures.

Because of my longstanding concern for protecting agriculture, the natural environment, and the American economy, I am today introducing a soil and water conservation bill which will:

First, provide matching grants to those conservation districts which have developed and are implementing effective programs for furthering the conservation of soil and water resources. Conservation districts are local units of government created by State enabling legislation. These districts have been very responsive to local and national needs, responsive to resource and people needs. Yet they too often lack the financial resources necessary to carry out their programs. Thus, the legislation which I am introducing provides assistance to those districts which are truly active in soil and water conservation. It is these districts and local agricultural stabilization and conservation committees which are closest to local farmers and the community. They know the local needs.

Let me reemphasize that if we act now to limit future environmental damage through a sustained soil and water conservation program, we can limit the future need for spending Federal money to prevent environmental hazards.

Second, increase the conservation of soil and water resources in those instances where a local conservation district finds, and certifies to the Secretary, that annual soil loss on a unit of land is more than twice the "T" value as expressed in the universal soil loss equation, or where the conservation district or the State soil conservation agency finds that the public health, safety, and welfare are being seriously harmed by land or water management practices. As a way of increasing participation in soil and water conservation programs, the landowner or operator would be required to implement a conservation plan as a condition of eligibility to receive any grant, payment, loan, loan guarantee, or other benefit under any program of the Department of Agriculture. Under my approach, the farmer or operator would be expected to cost-share 50 percent of the cost of his conservation needs. The Federal Government would contribute the remainder because of the benefit to society of preventing environmental problems.

We should, I emphasize, provide every opportunity for a landowner or operator to participate in voluntary programs to conserve our—and his—soil and water resources. However, we should never force every landowner to participate neither should we continue to provide financial support, without question or criterion, to those who are seriously harming soil and water resources.

The text of the bill follows:

H.R. 8171

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Soil and Water Resources Conservation Act of 1980."

FINDINGS

SEC. 2. The Congress finds and declares that—

(1) There is a growing demand on the soil, water and related resources of the Nation to meet present and future needs.

(2) Soil and water conservation programs established over the past four decades have helped considerably to insure that the Nation's natural resources are sustained; but severe resource problems still remain that require accelerated attention and fresh strategies in order to limit future environmental damage and minimize future Federal expenditures.

(3) Studies by the Department of Agriculture have shown that four billion tons of soil are lost annually from non-Federal lands in the United States, with approximately two billion tons lost from cropland. Nearly one-half of America's cropland acreage in 1977 was comprised of soils with an unacceptably high risk of damage by sheet and rill erosion. Over the next fifty years, the loss of cropland productivity because of soil erosion may be equivalent to the loss of twenty-five to sixty-two million acres.

(4) It is in the public interest to help landowners and operators with soil erosion and other related natural resource problems in order to protect agricultural productivity, improve water quality, facilitate energy conservation and production, and promote economic growth while protecting the environment and assuring sustained use of natural resources to meet the needs of people.

(5) Natural resource conservation programs must be tailored to address the unique and varying local conditions that exist. National goals and policies should as much as possible blend with, rather than override, the concerns of the local community.

(6) Conservation districts have proven to be extremely capable local units of State government in dealing with a wide range of natural resource management questions within their boundaries, in channeling State and Federal information and assistance to people who need it, and in helping set priorities for conservation assistance programs.

(7) The Congress, the Department of Agriculture, cooperative extension services, and others should adequately provide for assistance to meet needs and problems identified by conservation districts in cooperation with other local, State, and Federal agencies and organizations.

(8) It is in the public interest to provide significantly greater support to conservation districts to strengthen their capability in formulating and leading the implementation of long-range conservation programs requiring staff, space and equipment, and other specialized needs.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "Secretary" means the Secretary of Agriculture;

(2) "Department of Agriculture" means the U.S. Department of Agriculture;

(3) "conservation district" means that unit of government organized under a State enabling act to be responsible for soil and water conservation within its boundaries, and which may be known as a conservation district, soil conservation district, soil and water conservation district, natural resource conservation district, natural resource district, the other terms as defined by the State;

(4) "State soil conservation agency" means that unit of State government charged by State law with assisting conservation districts within the State and guiding and coordinating their programs. It may be known as an agency, board, commission, committee, or council;

(5) "ASC committee" means the county committee elected pursuant to Section 8(b) of the Soil Conservation and Domestic Allotment Act (49 Stat. 1149, as amended; 16 U.S.C. 590h(b));

(6) "long-range program" means a natural resource conservation and improvement plan which is developed by a conservation district through an orderly process; which is designed to meet the district's multi-year objectives for both study and action as well as contributing toward objectives of State and national agencies, and which is updated every five years;

(7) "annual work plan" means a plan developed or updated annually by a conservation district based on its long-range program and designed to set priorities for studies and activities by the conservation district and cooperating public agencies, landowners, and operators during a calendar or fiscal year;

(8) "Universal Soil Loss Equation" means the formula for predicting long-term soil loss under varying conditions on cropland which was developed and modified by the Department of Agriculture;

(9) "United States" includes all of the fifty States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

GRANTS TO CONSERVATION DISTRICTS

SEC. 4. (a) The Secretary shall formulate and implement a program for furthering the conservation of soil, water, and related resources through annual grants to conservation districts located in the United States for the purpose of carrying out locally developed soil, water and related resources conservation objectives, including establishing or increasing public services and activities; educational programs; staff assistance; or related purposes.

(b) A conservation district shall be eligible for a grant under subsection (a) only if it:

(1) has in effect a current long-range program which is developed and approved as specified in subsection (e) of this section;

(2) has in effect a current annual work plan which is developed as specified in subsection (e) of this section and which the Secretary determines is adequate to carry out the long-range program; and

(3) certifies to the Secretary that it has arranged for equal matching funds or in-kind services to the conservation district from regional, State, local, or private sources (except as provided in subsection (d)).

(c) Whenever a federal agency, including any agency of the Department of Agriculture, and a conservation district have signed a memorandum of understanding or other agreement based on mutual priorities or targets for study or action, any financial assistance provided by that agency to the district shall be considered as part of the State, local and other matching funds required in subsection (a)(3) of this section.

(d) Whenever the Secretary determines that a component of the long-range program or annual work plan of a conservation district involves a national, as opposed to a local or State, objective, the State or local matching funds required for the national component of the long-range program or annual work plan shall not exceed 25 per centum of the total funds required to accomplish the national objective. The Secretary, by regulation, shall define those objectives which are national in scope.

(e) In developing and revising long-range programs and annual work plans, conservation districts shall seek the input and cooperation of the ASC committee and such other local and State agencies as the conservation district may deem appropriate, and shall consult with the State soil conservation agency and the Secretary. Adequate provision for participation by the public residing in the district shall be made. In reviewing programs and work plans, the State soil conservation agency and the Secretary may recommend additions or changes in order to meet urgent State, multi-state, and national conservation needs or priorities as developed through the Soil and Water Resources Conservation Act of 1977 or similar process. The programs and plans shall, to the extent feasible, provide for meeting multiple objectives. Long-range programs and revisions thereof must be approved by the State soil conservation agency and by the Secretary. Such approval shall be granted if it is determined that the program adequately will carry out the objectives of this Act.

(f)(1) Long-range programs and annual work plans shall include one or more of the following soil, water, and related resources conservation objectives: (A) soil erosion prevention and control; (B) cropland, forest, woodland, pasture or rangeland improvement; (C) water conservation, development and management and water quality improvement; (D) agricultural land retention or preservation, and (E) demonstration projects to test and publicize the effectiveness of natural resource management system adapted to local conditions.

(2) Long-range programs and annual work plans may also include one or more of the following objectives: (A) fish and wildlife habitat improvement; (B) animal waste management; (C) watershed protection and flood prevention; (D) sediment control and stormwater management in urbanizing areas; (E) energy conservation and production; (F) leadership in natural resources aspects of rural community planning and development; and (G) any other purpose authorized or required by the State enabling act for conservation districts.

(g) Where a priority or objective has been identified which will require more than one year to complete or reach, the Secretary may enter into a long-term agreement of not more than 10 years with the conservation district to provide funding assistance for the term of the agreement. Such assistance shall be contingent upon the amount of funding provided pursuant to Sec. 6 of this Act.

(h) Each conservation district receiving assistance under this section shall keep such records as the Secretary shall, by regulation, prescribe, including records which fully disclose the amount and disposition by such district of the proceeds of such grants, the total cost of the projects or undertakings in connection with which such funds are given or used, and the amount of that portion of the costs of the projects or undertakings supplied by other sources, and such other records as will facilitate an effective audit. The Secretary and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records of the conservation districts that are pertinent to the grants received under this section.

INCREASING PARTICIPATION

Sec. 5. (a) Notwithstanding any other provision of law, in areas where—

(1) the conservation district finds, and certifies to the Secretary, that annual soil loss on any unit of land is more than twice the "T" value as expressed in the Universal Soil Loss Equation, or

(2) the conservation district or the State soil conservation agency finds, and certifies to the Secretary, that the public health, safety, and welfare are being seriously harmed by land or water management practices on any unit of land,

the Secretary shall (except as provided in subsection (d) of this section) require that a landowner or operator develop and implement (or make reasonable and satisfactory progress toward implementing) a soil and water conservation plan which is approved by the conservation district as a condition of eligibility to receive any grant, payment, loan, loan guarantee, or other benefit under any program of the Department of Agriculture except programs designed to provide food or food assistance to needy individuals.

(b) Before the Secretary denies any person any grant, payment, loan, loan guarantee or other benefit under a Department of Agriculture program because of failure to develop and implement (or make reasonable and satisfactory progress toward implementing) a conservation plan as required by subsection (a) of this section, the Secretary shall afford such person an opportunity to be heard on the matter.

(c) When a conservation plan is called for under subsection (a), the Secretary shall assure the landowner or operator through a written agreement that cost-sharing or loan assistance, or both, will be provided under one or more existing programs of the Department to help defray at least 50 per centum of the costs of installing and maintaining the conservation practices or systems called for in the plan.

(d) When the Secretary cannot make the assurance under subsection (c) because sufficient authority or funds are not available, the requirement under subsection (a) shall be suspended until sufficient authority and funds are available.

FUNDS AND REGULATIONS

Sec. 6. (a) Effective October 1, 1981, there are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, not to exceed $50 million annually, such sums to remain available until expended.

(b) No funds shall be appropriated to carry out this Act for the fiscal year beginning October 1, 1991, and subsequent fiscal years, except as authorized by law enacted after the effective date of this Act.

(c) The Secretary is authorized to prescribe such regulations as are determined to be necessary to carry out the provisions of this Act. Interim regulations shall be promulgated within six months after enactment of this Act. Final regulations shall be promulgated within 18 months after enactment of this Act.

REPORTING

Sec. 7. The Secretary shall report biennially to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry on the progress of the programs authorized by this Act. The first such report shall be submitted upon completion of the first two years of operation of the programs and shall include an evaluation of the program and the Secretary's recommendations for strengthening them.●

AMERICA'S URBAN POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Kemp) is recognized for 30 minutes.

● Mr. KEMP. Mr. Speaker, when Bob Garcia and I introduced H.R. 7563, the Urban Jobs and Enterprise Zone Act, we emphasized that we wanted above all to reopen the debate over America's urban policy. Just 3 months later I believe we can claim significant progress toward this goal. On September 16 and 17 the Subcommittee on the City of the House Committee on Banking, Housing, and Urban Affairs held hearings on urban revitalization and industrial policy. Several of the witnesses discussed a new approach to generating jobs and economic growth in the city: The enterprise jobs zone. Bob Garcia, who serves on this subcommittee, and I also had an opportunity to discuss our bill to establish these zones in the poorest areas of our Nation. I would like to submit my own testimony for the Record:

TESTIMONY OF HON. JACK KEMP

Mr. Chairman, I appreciate this chance to testify before the Subcommittee on the City about a new strategy for restoring jobs, growth, and hope to America's inner cities.

I would like to begin by quoting Jane Jacobs, a well-known commentator on the economic development of cities.

"The overwhelming fact about cities is that if they do not maintain self-generating economies, they will ultimately stagnate and decline. . . . Cities, individually, must generate their own economic bases, and cities taken collectively, must generate the innovations that make developing economies possible."

When Jane Jacobs wrote this, over ten years ago, she admitted she was swimming against the tide of public policy. Even as she suggested that the war on urban poverty couldn't be won by invasion, urban experts were everywhere devising new ways for the government to impose growth on America's recalcitrant cities. If urban renewal had already been exposed as a destructive failure, well, model cities and new towns, development loans and public works employment still held out hope for saving the cities.

Yet two years ago, when President Carter stood on Charlotte Street and promised to rebuild the South Bronx "brick by brick and block by block," he was greeted with skepticism and even despair. His heralded new urban program was, after all, just more of the same. Not even the urban development professionals could get excited about a new round of government grants, loans, and public employment schemes. Congress would have almost none of it.

It's little wonder. By 1979 the Federal

government was spending close to one-fourth its non-defense budget in central cities. Yet, as a recent study by Brookings economist Richard Nathan shows, most cities which were declining in the 1960s are even worse off today. My own city of Buffalo has now achieved the dubious distinction of ranking number one on Brookings' Urban (Bad) Conditions Index. Likewise, though social welfare expenditures have more than quadrupled since 1965, there are more poor people—both absolutely and relatively—in America's central cities today than there were two decades ago. Their unemployment rate is well over twice the national average, while for minority youths in the inner city the unemployment rate is nearing 50 percent.

This doesn't mean the situation is hopeless. Even in areas as devastated as the South Bronx I have seen small self-help groups create islands of enterprise and progress. It is they, and not the Federal government, as Bob Garcia has pointed out, who quite literally are rebuilding the South Bronx brick by brick and block by block. There are hardy small businessmen as well, who individually are battling economic decline by offering jobs and services to their communities.

I believe that Jane Jacobs was right. Economic growth must be generated from within. This doesn't mean there is no role for government, or that we should blithely abandon cities and their people. It does suggest that we should reexamine our strategy for combating urban poverty and decay.

Recent studies by the Program on Neighborhood and Regional Change, at the Massachusetts Institute of Technology, have supported Jane Jacobs' conclusions about the process of economic change in cities. They also point the way to a new approach. After examining over 5 million American firms, the M.I.T. researchers concluded that cities and suburbs, Frostbelt and Sunbelt lost jobs at pretty much the same—rapid—rate. The trouble with cities isn't so much that they are losing jobs to the suburbs as that they aren't generating new jobs themselves.

Where will these jobs come from? The M.I.T. study showed that two-thirds of all new jobs are created by small businesses employing 20 or fewer persons. In the Northeast, 100 percent of all net new jobs came from these small businesses. Yet these were the very businesses that development grants, loan guarantees, and job training programs will fail to reach. As M.I.T. economist David Birch has observed, "the very spirit that gives them their vitality is the same spirit that makes them unpromising partners for the development administrator."

Economic change in the cities has always come from entrepreneurial individuals. Professor Peter Hall, a distinguished British specialist in urban affairs, has described the process this way:

"Some entrepreneurs succeeded and grew large. As they did, they (often) took their business out of the city in search of larger scale, rationalized production processes. Others stagnated or even died; but there were always others to take their place, and again some would succeed. Now we have succeeded in killing off an abnormal proportion, and too little innovation is happening to fill the gap."

As my good friend and colleague Bob Garcia has pointed out, "the history of urban development is the history of opportunity development." These waves of entrepreneurship and innovation brought more than just business expansion to America's cities. The small, struggling businesses that started up there also opened a new life, new possibilities for the people who were living there. The people of America's cities had come from across the sea, from farms and small towns, all seeking in the city an opportunity to better their own lives and the lives of their children. Many of them would move on, too, but a group of hopeful newcomers would always move in to replace them.

Today our cities are filled with people who also came to the cities full of hope—and have seen it die. As innovation and economic growth have dried up in the cities, so has the opportunity to get on that crucial bottom rung of this nation's ladder of opportunity. And now the growth and expansion which generations of Americans rode to better lives has given way to poverty and despair.

But this new generation of city residents isn't handicapped only by the economic decline and high unemployment of their inner city communities. They face a welfare trap as well.

Do not mistake my meaning. I support a strong safety net of basic social services. But I also believe we have too often attacked only the symptoms of urban poverty, and trapped the people we mean to help into dependence.

Black columnist William Raspberry recently commented that:

"A lot of us are beginning to question the assumption, implicit in many of our social welfare programs, that poor people are essentially beyond salvation and that the only humane thing to do is to take care of them. We are learning, at last, that the better care we take of people, the more helpless they become. And we are starting to think less about how best to take care of people and more about ways to move them toward self-sufficiency."

I sometimes get the feeling that just because people are poor, policymakers think they are economically illiterate. Our inner city poor may, in fact, understand more about economic disincentives and price theory than many of our most learned members of the Council of Economic Advisors. Below income levels of about $10,000 a year, someone who wants to take a taxpaying job must give up welfare and unemployment benefits which pay nearly as much as—and in some cases more than—after-tax take home pay. For every extra dollar they could earn by working all year, they would lose 70, 80, 100 cents or more in benefits and taxes and work-related expenses. The resulting marginal tax rates of 70 percent, 80 percent, 100 percent or more are higher than the government charges any millionaire.

I believe that the poor are motivated by exactly the same things as everyone else. They want to be productive, and to be self-sufficient in providing for their own families. They respond to incentives. They become discouraged when their efforts are not met with reward. In other words, when it comes to personal welfare, the poor, just like the rest of us, are entrepreneurs. They make calculations about the costs of available choices. And they will take a chance on even a low-paying job if they see a real chance for moving up the ladder of opportunity.

In the same way, the experienced entrepreneurs who have left the city, and the potential entrepreneurs who are discouraged from taking risks, are also making economic calculations. Yet without them innovation and enterprise dry up, along with the jobs they would otherwise create.

Only individuals can restore economic growth to our inner cities. Government will not—cannot—create enough jobs for city residents. Nor, experience has shown, should it even try to pick out the job creators or specify the paths economic growth should take. What government can do, however, is help change the economic calculus facing would-be workers, and would-be entrepreneurs, in the inner city. Above all, government can help restore, in the words of Milton Stewart, Chief Counsel of the Small Business Administration, "an entrepreneurial environment far more favorable to innovation and risk-taking." This is the aim of the Kemp-Garcia Urban Jobs and Enterprise Zone Act.

The Urban Jobs and Enterprise Zone Act is designed to "greenline" the inner city by decreasing the costs, and increasing the rewards, for economic activities in the poorest areas of the nation. The bill introduces a new concept—the Enterprise Jobs Zone. These Zones would be established voluntarily in areas with very high levels of unemployment and poverty where the local or state government agrees to reduce effective property tax rates. Within the Zones the Federal government would provide major tax incentives for employment and economic growth.

To encourage job creation in the inner city, particularly for the young, the bill would reduce Social Security payroll taxes on employers and employees by 90 percent for workers under 21, 50 percent for workers 21 and older.

To encourage small enterprise investment and job creation, the bill would reduce the capital gains tax rate on investment in the Zones by 50 percent.

To encourage business expansion and to retain existing enterprises, the bill would reduce the business tax rates 15% across the Board for any business located in and employing at least half its employees in one or more Zones.

To increase small business incentives the bill would allow three-year, straight-line depreciation for the first $500,000 of assets purchased each year, and (b) would allow the use of cash or accural accounting for firms with gross sales below $1.5 million, and (c) would extend the loss carryforward to 10 years.

In order to receive these incentives a business would have to employ at least 50% of its employees from within the Zone itself. Safety, environmental, and other regulations are not affected by the bill.

Unlike so many of our past urban programs, the Enterprise Zones would not be costly. Government loses not a dime, after all, by dramatically lowering the tax rate on the unemployed black or Hispanic teenager. He or she is producing no taxable income for the government to lose. Nor does it lose by lowering small business tax rates in burned out areas of the city. Almost all small enterprises have already left these areas. Unless we devise new strategies these areas will continue to consume far more in taxes than they contribute.

So far, the Enterprise Zone idea has met with a wide and favorable reception. Cosponsors of the Kemp-Garcia bill include a number of Democrats and members of the Congressional Black Caucus. Newspapers across the country have endorsed the idea—including the Detroit Free Press and Detroit News, the Washington Star, the Wall Street Journal, the Cincinnati Enquirer, and the Columbus Dispatch. The Urban League, the National League of Cities, and the NAACP have all expressed an interest in working with us in developing the concept of Enterprise Zones.

Of course, our supporters recognize that there is no single answer to the problems of urban poverty and decay. They acknowledge—as Bob Garcia and I have—that the bill, which is attempting something completely untried, could be further refined. Already we are exploring ways to make the property tax requirement more flexible, and the targeting and administration more manageable. Yet, as the letters which I am inserting for the record will indicate, even individuals and groups that have criticized particular elements of the bill remain enthusiastic about its general approach.

When Bob Garcia and I introduced the Urban Jobs and Enterprise Zone Act we emphasized that our purpose, above all else, was to reopen the debate over how we could restore jobs, growth, and hope to our inner city communities. This I believe we are already accomplishing. Even more important, to my mind, is that we have generated—and in many cases exposed—widespread agreement on two crucial points. The first, made over a decade ago by Jane Jacobs, is that growth, change, and even hope are created from within cities by individuals. Governments can, indeed must, give them a fighting chance to produce new opportunities. But the opportunities come from people themselves. The second point is that we cannot attack urban poverty only by relieving its symptoms. The poor need more than care; they need opportunity as well. And I believe that, given half a chance, they will seize it.●

ABSOLUTE ZERO RISK GOAL UNOBTAINABLE FOR CHEMICAL HAZARDS

The SPEAKER. pro tempore. Under a previous order of the House the gentleman from North Carolina (Mr. MARTIN) is recognized for 10 minutes.

Mr. MARTIN. Mr. Speaker, earlier today I commented on the tendency that some activate have of going beyond the question before us of cleaning up hazards to life and property from oil and chemical spills and abandoned chemical dumpsites. Not settling for that, they seek to stir up a general fear of chemicals, when in fact there is nothing else in the material world. They hope that a phobia of chemicals will scare people into closing down not only hazardous sites, but the chemical industry in general.

Their thinking has guided the Occupational Safety and Health Administration in its proposed rules regarding occupational exposures to carcinogens, those substances the exposure to which poses an increased risk of cancer. Fortunately, more reasonable attitudes in the Environmental Protection Agency and the Consumer Product Safety Commission have persuaded the President's Regulatory Agency Review Group that an absolute zero risk goal is not obtainable, nor practical. By an ensuing Executive order, the President has directed these agencies to base related regulations on a concept of relative risk assessment instead of the absolute safety illusion.

The most respected institution in this field is the International Agency for Research on Cancer, established in Lyon, France, by the World Health Organization. Its earlier report, showing that 85 to 90 percent of human cancer is attributable to environmental facts, as opposed to purely genetic factors or unknown causes has led many to mistakenly translate that into a burden of occupational exposure to industrial chemicals. The IARC annual report for 1979, on pages 16 through 23, summarizes clearly its conclusion that most of that environmental contribution to cancer is due to lifestyle, dietary, tobacco, alcohol, and sunlight factors.

Contrary to the spurious but highly publicized claim of former HEW Secretary Califano, the IARC concludes that in industrialized countries occupational factors (including but not limited to chemical exposures) amount to 6 percent among males and 2 percent among females of all cancer incidence. Secretary Califano essentially took World War II data on exposure to asbestos and added another 15 percent risk factor, which is not justified today when asbestos exposure are greatly reduced from the wartime shipbuilding situation.

International Agency for Research on Cancer, Annual Report 1979

(World Health Organization)

GENERAL DEVELOPMENTS IN THE FIELD OF ENVIRONMENTAL CARCINOGENESIS

That most cancers are associated to some degree with the environment is now widely accepted. Unfortunately, this is often misinterpreted as implying that a large proportion of cancers are preventable now, through simple regulatory control directed predominantly at man-made chemicals. Nonetheless, as early as 1950, leading workers in epidemiology and experimental carcinogenesis were stressing that while geographical variations in cancer incidence in man were largely related to the environment, this should be considered not only in terms of discrete carcinogens, but also in relation to such factors as diet and behavioural habits.[1] This view was soon reinforced by the demonstration of the causal role of cigarette smoking for cancers at several sites. While the etiological factors of a considerable proportion of human cancers have been established with some certainty—e.g., cigarettes and lung cancer, alcoholic beverages and cancer of the oesophagus, betel chewing and oral cancer, sunlight and skin cancer, occupational exposures to antioxidants and bladder cancer—there remains a large group of cancers in which the environment appears to be important but the nature of the environmental factors involved are poorly understood and are only now beginning to be extensively studied. This group includes cancers of the breast, uterus, prostate and gastro-intestinal tract, and comprises approximately 60 percent of female cancers, and 40 percent of male, in many countries. Specific attention has centered either on exposures to multiple carcinogens at low doses or on lifestyle factors.

Nature of "carcinogenic" stimuli in man

Many human cancers are considered to have a multifactorial origin. While the concept of a defined carcinogenic stimulus is widely understood, irrespective of its mode of action, there are a number of factors associated with an increased cancer risk which cannot readily be defined as carcinogens in the usual sense. These include "absence of fibre", "excess dietary fat", "obesity" and such behavioural patterns as "age at first pregnancy". In practice "carcinogenic risk index" is a convenient descriptive term for such factors, without implying understanding of the biological mechanisms involved.

Berenblum [2] has suggestd that initiation, due to either extrinsic or intrinsic factors, may be frequent but often incomplete and thus control or intervention in the promotional phase of carcinogenesis may offer a more effective approach to the prevention of some human cancers through, for example, chemoprevention. Furthermore, identification, evaluation and control of the vast number of potential carcinogens present in low levels in the general environment (as distinct from high levels in a limited environment) may prove exceedingly difficult. Metabolic processes prior to or after initiation may be of major importance in cancers associated with discrete chemical carcinogens, as well as providing a biochemical background to certain 'carcinogenic risk indices'. Many carcinogenic risk factors in man, such as lack of dietary fibre and excess of dietary fat are also theoretically explicable in terms of multistage carcinogenesis. Some of these problems and their implications for cancer control are discussed below.

Cancer in industrialized societies

The effects of high level or point-source occupational exposures are usually relatively easy to investigate but evaluation of the effects of numerous chemical carcinogens which may be diffusely distributed in the environment is more difficult. It is often assumed that industrial and urban environments are more heavily contaminated by chemical carcinogens, mutagens, promoters, etc., and that comparison with non-industrial areas should provide a measure of their effect. However, such comparisons are complicated by many other variables including diet and behaviour.

Significance of time trends

Contamination of the environment by such carcinogens as polycyclic aromatic hydrocarbons is long-standing but it is only since 1950 that cancer morbidity statistics have become reasonably reliable in a number of countries. Nonetheless, sufficient data are available to permit some comment on cancer patterns in Europe and North America in the early part of the century. With the major exceptions of cancer of the lung and stomach, these would appear not too dissimilar from those seen today [3]. It would seem that, if cancers related to alcohol or tobacco consumption are excluded, despite long-standing industrialization, and an increasing awareness of occupational hazards, cancer rates have been relatively stationary or have even fallen in most countries, with the notable exception of those for black males in the United States [4]. The increased rates observed in this group are largely attributable to cancers of the prostate and esophagus, two cancers for which it appears unlikely that industrial contamination could play any major part.

Significance of residence

Many attempts have been made to correlate cancer patterns with place of residence, population density and urban/rural environments [5,6]. No consistent patterns have emerged from such studies especially where the confounding variables are taken into consideration. Where population groups with homogeneous lifestyles are examined, for example, the Mormons [7], urban/rural differences largely disappear. An association between chemical and allied industries with bladder cancer has been demonstrated in the United States, but not in Japan. In the United States prostatic cancer is twice as frequent in blacks than in whites, resident in the same area, but in both groups it is much higher than in industrialized areas of the United Kingdom and many times more frequent than in Japan. [8]. Cadmium, the only industrial chemical so far associated with this cancer, is present in higher concentration in the tissues of Japanese than in North Americans or Europeans, yet it is only when they migrate to the United States, that the frequency of prostatic cancers increase in the Japanese.

Occupational cancer and confidentiality

The identification of occupational groups at high risk for a given cancer has proved to be an effective method of identifying exposures to specific chemical carcinogens in the past. However, exposures at the individual level are often difficult to quantify but such data are becoming available for a variety of industries, e.g. man-made mineral fibres and petroleum. Unfortunately it is frequently not possible to trace those exposed—not necessarily due to opposition from industry—but as a result of the confidentiality attaching in some countries to the certification of an individual's cause of death. It is well known that epidemiological studies never publish names, only grouped data, yet research workers in epidemiology are still unable to have access to nominal data.

Data processing techniques today are such that names can be encoded in a virtually unbreakable format. Whilst respecting individual rights to privacy, the social importance of facilitating this type of research is obvious, and it is hoped that the authorities concerned will ensure that epidemiologists have access to such death certificate information for studies of possible carcinogenic risk.

Footnotes at end of article.

"Job-associated" cancer

Not all differences in occupational cancer frequency necessarily reflect chemical expostures. For example, in the United Kingdom, although certain occupations are associated with a greater or lesser cancer risk than the population average, nearly 90% of such variations are eliminated if comparison is made between individuals of similar habits and social class[9]. Such findings indicate that the problems of occupational cancers are not limited to chemical exposures, but also include the many other factors implied in the "lifestyle" of the population from which the work force is recruited. Cancers may be "job-associated", without being due to specific occupational exposure.

The general pattern of cancer observed in North American and European studies shows higher frequencies of cancer of the lung, large intestine, breast and uterus than are seen in Africa and Asia, and this may suggest some common environmental factors. However, it is not easy simply to link the geographical and secular changes observed in Europe and North America for cancers of several sites—breast, colon, uterus, ovary, pancreas, prostate—with changes over the last few decades in the nature of food additives or contaminants, or in ambient environmental pollution from industrialization. Other explanations would appear more plausible, at least for the variations in breast, ovary and uterus, which can be related partly to changes in reproductive patterns.

'Lifestyle' and co-carcinogenesis

Aspects of 'lifestyle,' quite apart from the defined habits of smoking and alcohol consumption, may significantly influence the development of tumours of the gastro-intestinal tract, breast, uterus, prostate and of these, diet, cultural and behavioural patterns are probably the most important.

Diet: In the evaluation of the effect of diet not only must known food additives be considered, but also such variables as (i) exogenous carcinogens like aflatoxin; (ii) carcinogenic precursors like nitrite or secondary amines; (iii) the type and relative proportion of different nutrients, especially fat and protein; (iv) non-nutrients, whether relatively inert like fibrous matter or biologically active; and (v) even total calorie intake. Because of this the role of dietary factors has been difficult to determine and many such studies show inconsistencies, as, for example, those related to the role of fat in breast cancer. This only emphasizes the importance of repeating this type of study in differing cultural and dietary environments.

Behavioural patterns: Behavioural patterns dependent on the cultural background may significantly influence incidence of tumours in the endocrine-dependent systems. 'Age at first intercourse or marriage', 'number of children', 'celibacy', are all culturally-determined and are recognized risk factors, which may in fact reflect subtle changes in hormonal status some of which are also related to diet—changes that still remain difficult to measure. Thus, diet is important in determining height, weight, and age at menarche, all of which are also considered to be risk factors for cancer of the breast and endometrium. The importance of developing appropriate studies in man in terms of a multistage theory including promotion, offers a possible approach to the study of intestinal and endocrine-dependent tumours.

Proportion of cancers related to various aspects of the environment

It is not possible to determine, with any precision, an upper limit to the sum of all attributable risks in relation to the total cancer burden in a community which may exceed 100 percent. However, the upper limit to which a predominant factor may contribute to the total cancer incidence may be estimated in the sense that in the absence of that factor, a defined number of cancers would not occur.

One approach to such calculations is to examine cancer risk site by site for a given population and to calculate the proportion or excess number at each site due to known or suspected predominant causes. The remainder would then be assumed to be due to as yet unidentified stimuli or represent background incidence.[10]

This approach is illustrated by the following histograms based on three populations in England, India and Africa (Figs 2a–c) and that methodology for these estimates is further summarized elsewhere.

Assigning a specific cancer to a particular cause does not mean that other factors are not involved but only that the factor listed is probably the predominant cause in the sense that in its absence a certain proportion of the cancers would not occur.

Risk factors

Tobacco: Most studies in countries where cigarette smoking has been of long duration, indicate that 80–85% of lung cancers are due to cigarettes. Smoking has also been implicated in cancers of the mouth, larynx, oesophagus, pharynx, cardiac end of the stomach, bladder and pancreas. In Bombay the proportion due to cigarettes is lower since tobacco seems to have a greater impact in the oral cavity, pharynx and upper oesophagus through use of betel quid and bidis.

Tobacco/alcohol: Heavy drinkers are nearly always heavy smokers, and the combined habits have been associated with cancers of the mouth and oesophagus. There is, however, some evidence that alcohol consumption may be responsible *per se* for tumours of the liver and oesophagus.

Sunlight: Sunlight is regarded as the major cause of skin cancer, especially in Caucasian populations living in tropical and near-tropical zones. Where exposure is associated with leisure activities, it may be possible to limit its effect, but where exposure is occupational, as for the farmer or outdoor manual worker, it is far less easy to reduce the risk.

Occupation: The role of occupation in human cancer should be considered from the viewpoint of high risk, point-source chemical exposures at the workplace. Case-control studies indicate that lung, bladder and hemopoietic system are the major sites most affected by occupational hazards. In only a small number of cancers at other sites, such as nasal or skin cancers, have occupational factors been identified or been suggested as important. 'Job-associated' cancers, such as oesophageal cancer in barmen, are assigned to the alcohol/tobacco group.

'Lifestyle' factors: The majority of tumours of the gastro-intestinal tract and endocrine-dependent organs have been attributed to the effects of 'lifestyle'. The risk factors so far identified are, however, ill-defined and often insufficient to explain the large geographical and temporal variations between, say, Birmingham and Bombay, nor have the reasons for the low incidence of cancer of the prostate and the breast in Japaneses been explained. That the percentage given here is not unreasonable, however, is suggested by the lower frequency of non-alcohol and non-tobacco cancers found in Mormons and Seventh Day Adventists. It would appear premature at the present time to attribute precise proportions to diet, cultural or behavioural patterns, apart from tobacco or alcohol.

In conclusion, these estimates are population averages and the pattern for groups within these large areas could be quite different.

CONCLUSIONS

These comments indicate that although fashions in environmental carcinogenesis have changed over the last decades, the major direction for research efforts was apparent nearly 30 years ago.

Much of the present knowledge on the comparative importance of the environmental factors in human cancer has come from geographical pathology studies which have permitted evaluation of cancer patterns in different communities. Unfortunately, although the cause of nearly 50% of cancers in males has been identified, there remains a large body of cancers of environmental origin, especially in females, for which no satisfactory hypothesis as to causation and prevention is yet possible. However, a number of risk factors have been identified for breast, cervix, uterus and large intestine. The mechanisms of action of such risk factors have been difficult to explain in objective biochemical terms, and are not readily studied in any experimental model. Nor do they offer obvious practical possibilities for prevention. Nonetheless, the importance of intensifying research on these cancers was recognized early by the Scientific Council of the Agency but effective field programmes were hindered by lack of suitable hypothesis for testing and adequate technology for associated biochemical studies, as well as by limited resources.

With increased understanding of carcinogenic mechanisms and renewed interest in the possible role of co-carcinogenesis, including promotion, a number of hypotheses suitable for testing in field studies suggest themselves. For example, the role of dietary fat and fibre in large bowel cancer is now being studied systematically. Furthermore, recent epidemiological evidence has tended to emphasize the importance of general 'lifestyle' factors. These views if further confirmed will have significant implications in determining the future direction of the Agency's programme in environmental research.

Firstly the present programme directed to identifying and evaluating discrete carcinogens within the environment should be intensified. Such a programme is not only essential for identifying hazards already present, but also in giving early warning of potential new hazards.

Within this programme there are a number of questions which require study,—the reversibility of lesions produced by carcinogens at low doses; whether no-effect exposure levels exist in man; and what is the impact of long-term but very low exposures to a multiplicity of chemical carcinogens on the overall cancer burden.

Secondly, the role of multistate mechanisms in human cancer must be studied, especially related to tumours of the liver, the endocrine-dependent systems and the gastro-intestinal tract. Certain studies, for example, would suggest that maternal infection with hepatitis B virus may be an important and perhaps essential co-factor for aflatoxin carcinogenesis in liver cancer, and studies of breast and large bowel cancer may also reveal the importance of co-carcinogenic factors.

The Agency is intending in the first instance to explore these different possibilities through appropriate workshops. Further, in view of its ability to organize and execute geographical pathology studies on an international scale, the Agency may be able to test appropriate hypotheses through comparative studies in different populations.

These comments, overall, would indicate that cancer as a disease should be considered as part of a total approach to environmental health and not treated in isolation, in view of the fact that a number of other diseases are today clearly linked to social and 'lifestyle' factors, for which public health authorities have been unable as yet to make effective suggestions for prevention.

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☐ 1510

OLD BUREAUCRACIES NEVER DIE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. WIRTH) is recognized for 5 minutes.

● Mr. WIRTH. Mr. Speaker, over the past several months it has become clear that the Department of Energy is about to demonstrate yet again one of the oldest truisms in Government: Old bureaucracies never die—they do not even fade away.

Last year the House took one of the most important steps toward laying a rational foundation for a bold national energy policy for the 1980's. By an overwhelming margin last October, the House rejected attempts to extend the Federal Government's 7-year-old price control program for domestically produced oil—a program which not only seriously restrained domestic oil production, but also, by artificially restraining oil prices, has seriously retarded the development and commercialization of alternative energy sources like solar energy and other renewables. It was not a politically popular measure, but one whose benefits are already apparent: Decontrol has contributed to the 8-percent drop in U.S. oil consumption during 1980, and has spurred strong growth in oil exploration and production—there are more drilling rigs in operation today than at any time since 1956.

As chairman of the majority leader's task force on decontrol, I worked with my colleagues to bring an end to this program, and I believe that these developments confirm the House's decision last fall that decontrol will make a substantial contribution to relieving our Nation's increasingly dangerous dependence on foreign oil.

The debate over decontrol involved strongly held feelings on both sides of the issue, and I am aware that a number of my colleagues continue to have reservations about the wisdom of the deregulatory policy we have adopted. However, the decision has been made, and I think that even those who disagree with it will share the belief that if we are to pursue the policy, we should take an additional step which was among our intentions in our vote last fall.

The 1973 Emergency Petroleum Allocation Act, which created the price control system and the associated entitlements program for domestic refiners, still expire on September 30, 1981. It is administered by a huge Department of Energy bureaucracy which now numbers approximately 1,400—1,400 regulators, attorneys, economists, clerks, typists, and associated support staff.

On October 1 of next year, there will be nothing for these people to do—nothing for them to administer, nothing for them to oversee.

Unless, of course, the Department finds something—which is precisely what the administration is trying to do.

With the customary centrifugal force of bureacracy, the Department is searching high and low for a meaningful task for this army of regulators to perform. The proposals are endless—and predictable. We are told, for example:

> There are innumerable pricing cases which have risen under the EPAA—situations in which oil companies have overpriced their products. We must return those funds to consumers, and the court cases against major oil companies cannot be completely resolved before the program expires. We must maintain an adequate staff to accomplish that goal.

Fine. The attorneys who are working on these cases should be retained until they are completed—no one would object to that. But let us not argue that they need the entire Economic Regulatory Administration as a support staff.

> We have new responsibilities—the alcohol fuels program, for example. And we have virtually no staff to handle these responsibilities. We only want to reassign these Department employees to take on these new responsibilities.

How many times has this body heard that argument? It is the oldest excuse in the world for maintaining bloated staffs. It is the excuse that keeps Federal bureaucracies growing. It is the excuse that they feed upon. But I cannot take seriously the argument that these price regulators can be transformed overnight into experts in alcohol fuels production.

Mr. Speaker, it is time for us to make clear what I believe Congress intended as part of our vote to end the price control program.

We do not just want the policy to go—we want the bureaucracy to go with it.

I have today introduced a simple, two-sentence bill telling the Department in plain English what should have been quite clear from our decision to end price controls. I invite my colleagues to join me in sponsoring it.

The bill, H.R. 8174, spells out to DOE the message we sent a year ago: First, when the price control program goes, so do the administrators whose functions are being terminated, 1,000 of them, and second, in the remaining 12½ months during which controls will be phased out, the Secretary shall establish a progressive timetable for phasing out these 1,000 positions, beginning immediately. The positions will terminate, once and for all, on October 1, 1981.

There are those who bear a grudge against the Federal employees who have administered the price control program and its offshoots—who believe that these Federal employees are bunglers, meddlers, and incompetents. I am not one of them. The responsibility lies here, with the Congress, and we cannot evade it by blaming bureaucracy for poor policy. In establishing the price control and entitlements programs, we set a contradictory, confusing policy. We cannot expect such a policy to suddenly become rational when it is administered by anyone. Terminating these positions is not, and should not be construed as, some sort of retribution for Federal employees.

It is commonsense. If the Members of the House are serious in their often-repeated belief that we must reduce the size of Government, then we must take the responsibility not only for cutting back on regulation but also for following through to eliminate positions whose functions have been terminated.

One version of the legislation I have introduced today as H.R. 8174 has been adopted by the Senate, in the form of an amendment to the 1981 Department of Energy authorization legislation. When the House version of that bill is considered, I will offer H.R. 8174 as an amendment to assure that these provisions emerge from conference.

I strongly urge my colleagues to join with me now in cosponsoring this bill, sending a clear message to DOE that Congress will not close its eyes to empire building.●

PRODUCTION OF NUCLEAR MATERIAL FOR WEAPONS

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PRICE. Mr. Speaker, there is an urgent need to produce special nuclear material—tritium and plutonium—for our nuclear weapons stockpile. This need is recognized and addressed in both the House and Senate versions of the Department of Energy's fiscal year 1981 authorization bills for national security activities which are awaiting our action.

Recent articles in the media recognize this urgent need also. For example, an article in the August 27 Washington Post which I reviewed and placed in the RECORD of August 28 on pages 23716-23717 provided an excellent insight to a public understanding of the problem of special nuclear material production. One of the latest articles on this matter, written by William Safire, was published in the New York Times of Thursday, September 18, on page A31. In this article Mr. Safire in his usual succinct and forceful way sets down the facts concerning this critical national security need and cites politically motivated foot-dragging in carrying out the solutions to our production problem. I am including Mr. Safire's article at the close of my remarks since I believe the matters he discusses should be considered when we take action on the legislation I referred to previously.

I am also including at the close of my remarks a very informative article on the matter by Richard Burt which was published in the September 16 issue of the New York Times.

Action on the Department of Energy authorization bill, H.R. 7265, is becoming more and more urgent. This bill was reported by the Armed Services Committee on May 13, 1980. It has been listed on the House program for over 6 weeks but other business has precluded its consideration. In my view we must give higher priority to this piece of legislation since its provisions are so important to our national security.

The articles follow:

[From the New York Times, Sept. 18, 1980]

THE PLUTONIUM SHORTFALL

(By William Safire)

SAN FRANCISCO, September 17.—In national defense, all matters of missilery and budgetary pale into insignificance when this question arises: Are we producing enough weapons-grade nuclear material to make our warheads work?

The Senate Armed Services Committee, in a little-noticed report from Henry Jackson made public last month, says no: "The projected shortages of Special Nuclear Materials are of such potentially serious concern to our national security interests that the Administration's hesitation in taking corrective measures cannot be understood."

Let us try to understand how the Carter Administration has been playing fast and loose with the most important single element in our national survival. Unclassified portions of correspondence among the Secretary of Defense, the Joint Chiefs and the National Security Adviser are instructive: Sensitive, restricted data were properly blocked out—reporters do not seek nor do whistle-blowers reveal atomic energy secrets—but the remainder illustrates the way the Carter men treat national weaknesses by trying to deceive Congress and the public.

On Dec. 17, 1979, Secretary of Defense Harold Brown protested to the Office of Management and Budget that its cut of funds for a plutonium-uranium extraction plant would lessen our ability to defend ourselves. Despite that plea to "reconsider your decision," the O.M.B.—under political budget-balancing orders from the White House—turned down Defense.

President Carter's Defense Secretary then went before the Congress and misled it by attesting to the adequacy of nuclear materials production. But in an April 11, 1980, letter to the Energy Secretary, Mr. Brown confessed: "While I have concurred in the report to Congress concerning the adequacy . . . I remain concerned that over the next several years . . . resources may not be sufficient to meet requirements for the delivery of nuclear weapons to the stockpile . . ." In plain words, Good Team Player Brown was telling his Cabinet colleague that his Congressional testimony reflected the opposite of his personal convictions and professional judgment.

All this was too much for the Joint Chiefs. In late June, they complained to Brown that his internal papering of the file did not show the urgency of the situation, and recommended that he write to the National Security Adviser that further delays of funding would harm the national defense.

At that point, Secretary Brown—who was about to leak the plans for an invisible aircraft to show voters how well the nation was being defended—passed the Joint Chiefs' pressure on to Zbigniew Brzezinski. On July 24, a policy review committee meeting was held. Its summary of conclusions was sent to President Carter, urging him to move ahead on plutonium production. However, the President—according to an Aug. 7 memo from Brezezinski—"deferred" making a decision. (Why, on a matter of such urgency? I think the State Department was fretting about the effect on other nations of our producing more plutonium; also, environmentalists with "No Nukes" stickers on their made-in-Japan bumpers might defect to candidate John Anderson.)

The National Security Adviser, in the unclassified portion of his memo, then directed the Cabinet and Joint Chiefs to mislead the press: "All responses to press inquiries about Special Nuclear Materials should be low-key, and limited to the following points: (1) Our Special Nuclear Materials production is adequate for the near term [arguably false]. (2) Long-term requirements are under review but are difficult to predict [palpably false: Defense Department predictions of shortfalls have been made for almost a year]. (3) If we determine that increased materials production is necessary, appropriate programs will be requested of the Congress." [False: that determination has already been made, but the Administration does not want to upset budgeteers or environmentalists until after Election Day.]

The distressing point about the deceptive, politics-as-usual apporach is that we are not discussing a dam or a pet project about which defense analysts can differ. "Special Nuclear Materials" is the stuff that goes into our atomic warheads. If we do not produce more soon, all the hoo-hah about MX missiles and invisible bombers will be meaningless.

It grieves me to knock a fellow alumnus of the Bronx High School of Science, but Harold Brown has turned out to be the most political, short-sighted Secretary of Defense since Louis Johnson. No man in that job can or should subscribe to all the budget requests that military men make, but on the truly important matters, the SecDef is expected to be more than a loyal member of a political team. He is expected to have the courage of his concerns and to obtain at least the minimum for national defense—or get out.

In 1960, the "missile gap" turned out to be a false issue. Today, even the politico-technocrats who make our military decisions agree internally that a serious shortfall will exist in our plutonium production—but President Carter "defers" his decison on this urgent matter through an election year.

The plutonium shortfall is a real issue—and no directives from the National Security Adviser on how to cover it up will make the issue go away.

[From The New York Times, Sept. 16, 1980]

LACK OF PLUTONIUM FOR WARHEADS STIRS DEBATE ON INCREASING OUTPUT

(By Richard Burt)

WASHINGTON, September 15.—The Carter Administration is facing the sensitive question of whether to increase production of bomb-grade plutonium at the very time the United States is discouraging foreign governments from acquiring stockpiles of such materials.

According to Government officials, the Defense and Energy Departments have concluded that the United States is not producing enough plutonium and other bomb-grade substances to create a new generation of nuclear weapons over the next decade. In documents obtained by The New York Times, top Administration officials, including Secretary of Defense Harold Brown, have reported that existing stockpiles of bomb-grade materials are so low that delays have already occurred in some nuclear weapons programs.

The growing shortage in plutonium and another nuclear-weapons material, tritium, is said to have put heavy pressure on President Carter to approve a plan for expanding American production of bomb-grade substances for the first time in more than 15 years.

Mr. Brown and the Joint Chiefs of Staff, in internal discussions, are said to have supported that course. But in recent interviews some State Department and arms-control agency aides have asserted that such a step would severely undercut the Administration's policy of curbing the spread of nuclear weapons to other countries.

The United States has produced only small amounts of plutonium and tritium since 1964, when President Johnson closed several Government-operated nuclear reactors, in part to persuade other nations to give up bomb-related activities. Since 1977, President Carter has pressed a number of countries to forgo the production of plutonium and the construction of so-called nuclear reprocessing plants, which can be used to extract bomb-grade substances from fuel burned in civilian power reactors.

But at the same time Mr. Carter has approved several new nuclear weapons for deployment in the 1980's, including the MX mobile missile and the Trident submarine-launched rocket, as well as air- and sea-launched cruise missiles. Pentagon officials and military specialists on Capitol Hill say it is highly unlikely that the warheads for those systems could be made without starting up old reactors at Barnwell, S.C., and a reprocessing plant in Hanford, Wash.

The plutonium issue has aroused a lively debate within the Administration, with State Department and arms control aides maintaining that any decision to increase production would be viewed abroad as hypocritical. The question has also stimulated Congressional concern. The House and Senate Armed Forces Committees have inserted funds in the Administration's budget request for the fiscal year 1981 to increase plutonium production.

In the last five years, the Soviet Union has deployed a larger number of nuclear weapons than the United States and is not believed to be experiencing any shortage in nuclear materials.

At a meeting in the White House last month, senior Administration aides decided to defer a decision on expanding production until after the conclusion of the review conference of the 1968 Nuclear Nonproliferation Treaty in Geneva. The confernce ended two weeks ago and officials said that Mr. Carter was likely to * * * near future. At the review conference, both the United States and the Soviet Union were strongly criticized by many countries for continuing to expand their nuclear arsenals.

Several officials said that the dilemma over plutonium production formed part of a wider debate over the future of the Government's nuclear weapons complex. Most of the factories, laboratories and testing facilities used to develop and build nuclear weapons were built in the 1950's. In the early 1960's, the Government was operating 13 nuclear reactors around the nation, producing more than a thousand warheads each year.

American warhead production, officials said, was cut back substantially in the late 1960's after President Johnson's decision to shut down several nuclear plants and the beginning of arms control negotiations with the Soviet Union.

Pentagon and Energy Department officials said that over the last decade, the Government's facilities for producing bomb-grade materials and fabricating warheads had deteriorated. They said that existing facilities could be relied on to build a few hundred new weapons each year, the rate maintained in the 1970s, but that they could not meet the requirements for warheads laid down by Mr. Carter for the coming decade.

For instance, a confidential report on the state of the nuclear weapons complex, prepared last year for Congress by the Energy Department, concluded that "serious deterioration of equipment and utilities had occurred over the past several years which could seriously impair our ability to meet the nuclear weapons forecast for the 1980's."

At a minimum, officials said, the United States, under existing plans, must build about 2,000 new warheads for the MX; some 5,000 warheads for the sea-launched Trident; 1,500 warheads for air- and ground-launched cruise missiles and another 1,000 bombs for aircraft.

BROWN EXPLAINS PROBLEM

Although Administration officials indicated in testimony on Capitol Hill early this year that the Government could meet the higher warhead requirements, Secretary Brown suggested otherwise in a letter last April to Secretary of Energy Charles W. Duncan Jr. "Our projected nuclear weapons programs will result in the deployment of virtually a new or improved nuclear capable system in each year through the 1980's," Mr. Brown wrote. He went on to express concern that in the next few years available resources of the Energy Department "may not be sufficient to meet requirements for the delivery of nuclear weapons to the stockpile as approved by the President."

Mr. Brown also wrote that "technical problems" and the "increasing production workload" had already resulted in delays in building new warheads. The letter was made available by political opponents of Mr. Carter in an apparent effort to cast doubt on the adequacy of the Administration's nuclear programs.

Officials said that one option under consideration for increasing plutonium supplies was to resume operation of the so-called "L" and "R" reactors at the nuclear plant at Barnwell, S.C. Currently, all of the plutonium used in the nation's warheads is produced by three other reactors at the South Carolina complex.

SECOND OPTION IS PROPOSED

Another alternative, they said, was to convert the "N" reactor in Hanford for weapons-grade plutonium production. That step would require a reprocessing plant at Hanford to resume operation, they said.

The proposal for restarting the reprocessing plant is particularly controversial because the Administration has pressed Britain, France, Japan and other countries to renounce that technique as a means of holding down worldwide plutonium stockpiles.

Experts at the State Department and the arms control agency contended that it was too early to tell whether the United States would encounter a shortfall in plutonium in years ahead. One specialist also said that it might be possible to avoid increased plutonium production by retiring large numbers of older nuclear bombs and using the plutonium in them in new warheads.

Pentagon aides said that plans had been made to extract plutonium from older weapons, but they contended that this would not make up for the expected gap in bomb-grade materials and warhead requirements in coming years.●

WHY CORPORATIONS CLOSE PROFITABLE PLANTS

(Mr. DELLUMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. DELLUMS. Mr. Speaker, "Who would milk a healthy factory, mismanage it, fail to modernize it, and then shut the place down in the name of efficiency? Only the Fortune 500."

Mr. Bluestone and Mr. Harrison find that many local factories owned by absentee conglomerates often are needlessly shut down. This article gives vivid examples of this kind of management by major companies in this country. I urge my colleagues to continue reading:

WHY CORPORATIONS CLOSE PROFITABLE PLANTS

(By Barry Bluestone and Bennett Harrison)

Plant closings are becoming a grimly familiar story. The parent conglomerate, usually from a remote home office, announces one day that a well-established local factory is no longer competitive. Typically, the handwriting has been on the wall for years. The machinery is outmoded; the company's more modern factories are using newer equipment—and nothing foreshadows a shutdown like failure to reinvest. The workers have been told to hold down wages, or the plant will have to move; the town has been warned that property taxes must be abated or they will lose the plant altogether. Often these demands have been met.

But the dread day arrives anyway. Hundreds of jobs will be lost; the tax base will be devastated. The town elders wring their hands. Workers with seniority (those with roots in the community) are invited to pull up stakes and take lower wage jobs in company plants out of state.

A last ditch effort by workers to buy the plant fails: they can't raise the necessary capital. Although the factory is obsolete, oddly enough it is worth a king's ransom. Anyway, it must be a real lemon, or why would the company shut it down?

Why indeed?

The editorial pages of the Wall Street Journal suggest the reasons for plant relocation are obvious. Don't credit the sunbelt's climate, says the Journal. The real cause of the sunbelt's economic growth is its superior attitude toward business. Labor costs (translation: wages) are lower; tax burdens (translation: public services) are lower. Plants must relocate, therefore, because in the high-cost Northeast and Midwest workers have greedily demanded decent wages, and communities have insisted on adequate school, police, fire, and sanitation services.

And anyway, plant closings, despite their human toll, mean that the system is performing the way it should. Capital mobility is an essential ingredient in our free-market economy. The profit-maximizing entrepreneur must be free to invest capital where it will return the highest possible yield. Otherwise, we are sanctioning inefficiency: letting the economy as a whole operate below its optimum potential means allowing lower productivity and falling wages. And we surely don't want that.

Again and again, trade unions and state legislatures grappling with plant closings listen to business executives insist that plants close because they've ceased to be profitable: "If it could make money, do you really think we would shut it down?"

The contention seems plausible at first but, like so much in textbook economics, is simply fails to describe real life. Large modern corporations—and conglomerates in particular—will and frequently do close profitable branch plants or previously acquired businesses. They may do so for a variety of reasons that flow from the way conglomerates are organized. Centralized management and control produces pressure to meet corporate growth objectives and minimum annual profit targets; it also siphons off subsidiaries' profits to meet other corporate needs. Sometimes management by "remote control" actually creates the unprofitability of the subsidiary that eventually leads to shutdown—as when the home office is far removed from the production site or unfamiliar with the industry in which a subsidiary competes. Again, the textbook model of competition among entrepreneur-owned and -managed businesses utterly fails to explain why plants relocate.

Modern industrial theory says large corporations are under constant pressure to grow, to expand their market share. Stability is often seen as a sign of decline, no matter how well run and steadily productive the plant. In a letter to an executive of the K-Mart discount department chain, Paul McCracken, former head of the President's Council of Economic Advisors, wrote: "History suggests that companies which decide to 'take their ease' are apt to be on the route to decay."

This pressure is reinforced by the corporation's need to offer growth stock in order to attract equity capital. Investors in growth stocks make their money from capital gains realized when they sell their stock rather than from steady dividends paid out by the firm. The purchase price of the stock is thus high in relation to the dividends it earns. However, only by growing can a company keep the price-to-earnings ratio high, and continue to attract investors to its stocks. In many situations it is easier for a corporation to boost its price-earnings ratio by acquiring efficient and profitable businesses—often in unrelated markets—than by developing new ventures or expanding existing operations. This option was particularly attractive during the mid-1960s and the late 1970s when the stock market tended to undervalue real assets. Then a corporation or conglomerate seeking to expand could acquire those assets at "bargain" prices.

Plants must also meet target rates of return. Many companies that are divisions or subsidiaries of parent corporations or conglomerates are now routinely required to meet minimum annual profit targets as a condition for receiving finance or executive "perks" from the home office. Many are ultimately shut down because they cannot achieve what the managers describe as the parent corporation's current "hurdle rate."

At Cornell University, studies of conglomerate destruction of viable businesses have found many cases in which conglomerates abandoned going concerns that did not meet the specified target rates of return. For example.

"The Herkimer [New York] plant, producing library furniture, had been acquired by Sperry Rand in 1955. The plant had made a profit every year except one through the next two decades, and yet Sperry Rand decided to close the plant and sell the equipment [in part because it] was not yielding a 22 percent profit on invested capital. That was the standard used by this conglomerate/management in determining an acceptable rate of return on its investments."

Another example is the experience of the Bates Manufacturing Company, a leading Maine textile operation. After several changes of ownership after World War II, all the mills except the one at Lewiston were sold to textile conglomerates. The Lewiston facility, along with a coal and energy business Bates had acquired, was then sold to two New York investors. At the time, Bates offered a steady but low return of 5 to 7 percent. The energy business, however, promised a 15 to 20 percent return. As one long-time manager at Bates put it, "These boys were not textile men; they were money men." And sure enough, they decided to close the textile plant in 1977, in order to put all their money into the energy business.

Again, in the lower Pioneer Valley of central Massachusetts, the Chicopee Manufacturing Company was generating an estimated 12 percent rate of return on its apparel products. The parent firm, Johnson & Johnson (whose principal line is pharmaceuticals), was dissatisfied with anything short of a 16 percent minimum, and announced that Chicopee would be shut down.

As times change, the hurdle rate may rise. In textiles and apparel, for example, Royal Little, the founder of Textron, told a Congressional investigative committee in 1948 that his conglomerate generally insisted that each of its subsidiaries earn 10 percent on total invested capital before taxes or risk being shut down. By the late 1970s, according to its own corporate reports, another clothing conglomerate, Genesco, was imposing a 25 percent hurdle rate on its various companies.

Whatever the target rate in a particular company at a particular time, the existence of the corporate hurdle rate means that in the era of monopoly capital, viable businesses can be closed even though they are making a profit—because it is not enough of a profit. Perhaps the most dramatic example of this phenomenon involved Uniroyal's closing of its eighty-seven-year-old inner tube factory in Indianapolis in 1978. The Wall Street Journal reported the story in the following way:

"The factory has long been the country's leading producer of inner tubes. It operates profitably. Its $7 million to $8 million annual payroll sustains the families of nearly 600 employees.

"The company, in a formal statement, cited 'high labor costs' and 'steadily declining demand.' Union and management officials who worked at the plant tell another story. They say that Uniroyal could have kept the plant operating profitably if it wanted to but that under pressure from the securities markets management decided to concentrate its energy on higher-growth chemical lines. Interviews with securities analysts support this theory. Richard Haydon, an analyst at Goldman, Sachs and Co., says: 'You have one very large entity looking at a very small entity, but the small entity being very large to those people that work there. I think it's a truism that many companies have grown too big to look at small market.'"

One consultant advises his corporate clients that, when the wage bill as a percent of sales rises, or when the rate of return on investment falls below some standard—he proposes the current money market interest rate—it is time to think about shutting down. "If capital does not work for you effectively, it should be invested elsewhere."

The case histories of Bates, Chicopee, and Uniroyal all have happy endings of one kind or another. Jobs at Bates were saved when the mill workers and some of the former managers chose to buy it. They were able to do so through an Employee Stock Ownership Plan arrangement, and in the first year after it was bought Bates earned a 17 percent after-tax profit. (See "Employee Ownership: How Well Is It Working?" by Daniel Zwerdling in Working Papers May/June 1979.) To keep Chicopee from closing, twenty-one savings banks in the Pioneer Valley created a fund for high-risk business development. This enabled Chicopee's management to buy the company. And Uniroyal factory workers saved their jobs with the help of the presidents of the Indianapolis City Council and the Rubber Workers Union. They persuaded local financiers to put up the capital to purchase the plant from Uniroyal. The profit forecast for the first year of operation predicts that $500,000 will be distributed among the workers, and another $500,000 invested in new machinery. At the moment, all three plants are operating in the black, reconfirming that the corporations had been about to shut down basically profitable enterprises.

Subsidiaries' profits are prey to corporate appropriation. Not only do many parent companies deny their branches and conglomerate subsidiaries the power to establish their own performance criteria, but the profits they do earn are generally repatriated to the parent firm, to be reallocated according to the latter's priorities. For example, in one subsidiary of a Fortune 500 corporation, the profits from its local specialty paper products operation are taken by the parent, which returns only enough capital to the mill to meet Environmental Protection Agency and basic maintenance requirements. "In fact, only 5 percent of capital expenditures over the past five years have gone for growth. In that period net assets have declined 26 percent and employment has declined 9 percent . . ."

A healthy subsidiary that generates excess capital is sometimes termed a "cash-cow." An example of this would be a regional industry that has run out of opportunities for local growth: the New England market for department store sales is thought by industry leaders to be more or less saturated. Therefore, "the local [New England] units of national holding companies and department store chains are made to serve as cash-cows for [stores in other] areas of the country."

The appropriation of a subsidiary's or a branch's surplus by the parent corporation introduces potentially severe structural imbalance into a plant's operations. During years when sales are good, the profits accrue to the parent. When times go bad, the operating company has been stripped of its revenues, and may be forced to go into the local capital markets for a loan. However, lack of control over its own future profit stream makes the servicing of this loan uncertain, and local banks or other lenders will deal with this uncertainty by charging a higher interest rate—and of course the parent firm may not even permit the branch or subsidiary to borrow on its own.

Thus, by becoming the banker to its various constituent plants or companies, the centralized corporation is able to enforce its own growth goals. At best, the subsidiaries are forced to compete directly with one another for access to their own profits. But in fact, conglomerates (and, since 1976, more and more large single-product corporations) have tended to place the capital so obtained into other, often totally unrelated, acquisitions instead of reinvesting in the sector—let alone the specific company—from which the surplus was redistributed.

The managers of K-Mart, for example, believe that their continuing operations will be throwing off far more cash than the department store business has traditionally been able profitably to absorb. As a result, industry sources estimate that by 1981 fully one-quarter of K-Mart's available cash will have no place to go. One executive told *Fortune* magazine: "Time is running out and we are aware of it. K-Mart must search out new directions."

Yet at the same time—just to show the chaos and irrationality of the economic era in which we now live—Mobil Oil Corporation used a substantial part of its post-1973 inflated international oil profits not to expand domestic petroleum production, but to purchase Montgomery Ward, an established department store chain!

The diversification in the steel industry that led to the famous shutdown in 1977 of the Campbell plant of the Youngstown Sheet and Tube Company in Ohio began early in the decade. Between 1970 and 1976 the steel industry as a whole paid out 43 percent of after-tax profits in dividends. This rate was above average for all industry, yet the steel industry was simultaneously complaining that required pollution-control expenditures prevented them from upgrading their old plants and equipment. Some Wall Street analysts have seen the high dividend rate as a strategy for holding on to investors while developing a plan for diversifying into new fields. In the late 1970s the industry has done just that—it has shifted capital into cement, petrochemicals, coal, natural gas, nuclear power plant components, containers and packaging, and real estate.

According to U.S. Steel's annual reports, for example, the share of that corporation's annual plant and equipment investment going into actual production of steel fell from 69 percent in 1976 to just over half in 1979. For every dollar of old plant and equipment written off, only $1.40 in new investment was undertaken (in fact, the ratio of new capital spending to depreciation in the steel operations fell by 100 percent, from 2.9 to 1.4). But for every dollar of capital depreciation in its nonsteel operations, U.S. Steel spent nearly three dollars in new capital investment. By 1978, 44 percent of U.S. Steel's total worldwide assets were in nonsteel operations.

Youngstown Sheet and Tube Company was not owned by U.S. Steel, but by a New Orleans-based conglomerate, the Lykes Corporation. Lykes purchased it in 1969, when Sheet and Tube was the nation's eighth largest steel-making firm. The acquisition was financed mainly by a major loan package, which Lykes promised to pay off out of Sheet and Tube's very substantial cash flow. During the next eight years, Lykes used Sheet and Tube's cash to amortize that debt and to expand its nonsteel operations. Figure 1 shows pre- and post-merger annual capital investment in Youngstown. Before the merger, investment in plant and equipment averaged almost $10 million a year. After the acquisition by Lykes, the average fell to about $3 million per year, and would have had a zero trend if not for a few investment projects that were quickly abandoned during the 1975–76 recession. Clearly, Lykes was pursuing a pattern of planned disinvestment in its recent acquisition. This has led most financial analysts to agree that "Lykes must bear responsibility for a good deal of the failure at Youngstown Sheet and Tube." As Business Week put it in its October 3, 1977, issue: "The conglomerators' steel acquisitions were seen as cash boxes for corporate growth in other areas." In a rather absurd postscript to the closing—which cost 4,100 Ohio workers their jobs—Lykes merged in 1978 with the owners of the nation's next largest steelmaker, the conglomerate Ling-Temco-Vought. The argument used in court by Lykes and LTV to overcome antitrust objections to the merger was that their steel business was "failing", and could only be rescued by achieving financial scale economies through merger! The merger now makes Lykes-LTV the nation's third largest producer of steel. Thus does corporate profit appropriation encourage economic concentration.

This concentration in turn makes it possible for management to impose other costs by "remote control." Centralized control by a home office can impair the profitability of a newly acquired branch or subsidiary, and can even make the business actually unprofitable.

Sometimes the home office requires its new acquisition to carry additional management staff from headquarters, staff the subsidiary did without before and that are probably redundant. For example, in a recent issue of a New England trade magazine, a small manufacturer with 40 percent of the domestic hypodermic needle market was offered for sale by its conglomerate parent. The market analyst notes that "the parent corporation, a Fortune 500 company, . . . has imposed an excess of staff and other requirements which add nonproductive costs to the operation. A *pro forma* [simulated balance sheet] eliminating this overlay of corporate expenses shows a much better picture." Recently freed from its former parent (the Esmark conglomerate), the Peabody tannery in Massachusetts projects a reduction in overhead and administrative support services of almost $500,000 during its first year.

In 1978, the New England Provision Company (NEPCO) of Dorchester, a Boston neighborhood, had its meatpacking operations shut down by the same LTV conglomerate that recently merged with the Lykes Corporation. The firm had been consistently profitable prior to its acquisition by LTV in the late 1960s. One factor turning profits into losses seems to have been LTV's insistence that NEPCO pay a fee to the parent for management services. This practice was also found to be present in the case of the Colonial Press in Clinton, Massachusetts, acquired in 1974 by Sheller-Globe, primarily a maker of auto parts, school buses, and ambulances, and closed three years later, in 1977. Colonial was charged an average of $900,000 a year in corporate overhead charges. Some months it was charged $200,000.

There was little justification for these charges. The Press was being forced to pay the costs of larger corporate activities from which it did not benefit. For example, Sheller-Globe maintained an entire department that was solely responsible for security. Given the conditions in the automotive industry there was some justification for these costs. However, Sheller-Globe's corporate policies meant that the security department applied the same systems to all divisions. The corporation built a link fence around three sides of the Colonial Press plant and hired twenty-two security guards. Upon exiting the plant, employees would often be searched for stolen goods. The level of theft at the Press could not possibly justify the cost of the fences and guards, yet Colonial Press was forced to bear part of these costs.

Sometimes the parent firm forces the subsidiary to purchase from particular distant providers, even if the subsidiary's managers could cut costs by purchasing locally. In the NEPCO case "the firm was required to buy the meat it processed and packaged from [another LTV subsidiary, Wilson Foods and Sporting Goods] at inflated prices; and an inept marketing company was hired . . ., the result of a "sweetheart" contract arranged for the benefit of a former LTV executive vice-president. . . ."

Lykes imposed the same burden on Youngstown Sheet and Tube. According to the Senate hearings, YST ended up paying more for raw materials (coal and iron ore) from Lykes' mines after the merger than it would have paid on the open market. After the merger, YST began purchasing parts and equipment, which had previously been supplied locally, from a Lykes subsidiary at higher rates. This arrangement cost YST $60 million a year.

To tax the subsidiary in order to subsidize the operations of the headquarters (or its friends) is bad enough. But perhaps most serious of all are the cases where home office policy actually creates the unprofitability of the (previously profitable) subsidiary, through clumsy interference with the local managers who know the situation best. William F. Whyte's case study of the Library Bureau, a furniture plant in Herkimer, N.Y., revealed just such a problem.

"The plant had always had its own sales force and was not dependent upon Sperry Rand for its market. In fact, being part of the conglomerate imposed serious barriers in marketing. For example, it was a rule of Sperry Rand that the Library Bureau salesmen could not call on any customers served by Sperry Rand. While this left the Library Bureau its main markets with public and educational institution libraries, the rule barred the plant from selling to a large number of industrial and business firms that used library equipment. The [subsidiary] could only enter these markets through Sperry Rand salesmen who were unfamiliar with Library Bureau products and had more important things to sell. The handicaps were similar in the export field. . . . [According to the former] head of sales for the Library Bureau . . . "We were not officially barred from exporting, but to sell anything outside of the country, we had to send our proposal to the international division, and it would just die there. We would never hear anything back."

Similarly, after its acquisition of the Colonial Press, Sheller-Globe immediately brought in outside management that, except for the newly installed president, had no experience in the publishing industry. Yet this outside group was given control over the most important decisions. In particular, Sheller-Globe wanted to change Colonial's orientation from sales to manufacturing. It wanted to emphasize producing books more efficiently rather than satisfying more clients. This decision impaired long-standing relations with the publishing companies that were Colonial's clients (these included Reader's Digest and Random House), since Sheller-Globe believed there was not a great deal of difference between "producing a steering wheel and producing a book."

Flexibility to accommodate customers' publication schedules was reduced. Colonial was no longer allowed to offer free warehouse space to publishers. The customer service and order departments were merged, resulting in misplaced orders and deteriorated customer relations. An expensive computerized management information system was installed, which so fouled up operations that "books were lost and there was often general confusion about what materials there were and where they were located." Publishers were no longer given itemized cost estimates, and in general, the management under Sheller-Globe mistreated its customers. As a result of all this, "the publishing industry became alienated and sales declined. . . . Decisions which were appropriate to the automotive industry proved disastrous in the book-printing industry."

This disaster has been somewhat mitigated by the reopening of the Press in 1979, as the Colonial Cooperative Press. With the help of the Massachusetts Community Development Finance Corporation and the Industrial Cooperative Association, the press was sold to the workers as a full-scale cooperative. However, it is a much smaller enterprise and it isn't clear whether or not it will succeed. The Colonial Press had over 1,000 workers. Colonial Cooperative Press has 75. Furthermore, in the two years it took to reorganize the plant, the Press lost many of its customers.

Whether or not it survives, this worker-purchase is another example of an ad hoc solution pulled together by the workers and their community as the conglomerate-owner abandoned them. There is no institution in the U.S. economy to which viable businesses can turn when they are sold out by a parent-corporation. Each plant must find its own solution within its particular local economy. Unlike the Chrysler Corporation they cannot turn to the federal government. But, also unlike the Chrysler Corporation, many of these conglomerate subsidiaries do not need to be bailed out, for they were not actually losing money to begin with. What they need is assistance in setting up autonomous, decentralized, locally owned operations.

The conventional wisdom about highly centralized management is that it makes possible a higher degree of efficiency in information and personnel management than ever before. But the evidence suggests that the managers of the giant corporations and conglomerates frequently "overmanage" their subsidiaries, milk them of their profits, subject them to strenuous or impossible performance standards, interfere with local decisions, and are quick to close them down when other, more profitable, opportunities appear. In 1975–76 Gulf and Western almost dumped the Brown Paper Company of Holyoke, Massachusetts, a leading producer of quality papers, and actually did sell off its most profitable product line to a Wisconsin competitor. By 1977 the plant's sales were up again to over $450 million.

Highly centralized organizations like Gulf and Western and Textron have positioned themselves so as to be able to make a profit either from a subsidiary's success or from failure that requires divestiture (since it can be treated as a tax loss and used to offset profits earned in other operations). From the point of view of capital asset management this may be the pinnacle of capitalist institutional creativity. But from the perspective of economic stability for working people and their communities, these clever capitalist giants are a disaster. The much-discussed trade-off between efficiency and equity turns out to mean capital management efficiency, but tremendous inefficiency at the level of actual production, to go along with the inequities imposed on workers and communities.

In short, modern monopoly capitalists will sell off or shut down profitable businesses if they think they can make even more money somewhere else. This strategy is not a recent one, nor have its harmful effects ever been unforeseeable. Here is Emil Rieve, president of the Textile Workers Union of America before a Congressional committee thirty years ago:

"Mr. Little is a capitalist, but in the field of finance rather than the field of production . . .

"I say this in the same sense that Hitler and Stalin are in the tradition of Napoleon and Alexander the Great. We have changed our attitude toward financial conquerors, just as we have changed our attitude toward military conquerors. Success is not the only yardstick.

"I do not know whether Mr. Little has broken any laws. But if he has not, our laws ought to be changed."

"Mr. Little" is Royal Little, founder of Textron, the Rhode Island conglomerate that first developed many of the strategies now in use. Textron was initially a textile company. This year the Securities and Exchange Commission has charged it with paying over $5 million in bribes to officials in eleven foreign countries in order to "stimulate" sales of its Bell Helicopters. Its chairman at the time was G. William Miller, the current Secretary of the Treasury.

Just as the law in other areas has gradually evolved over the years to recognize that property rights, though dominant, are not absolute, the law must be changed to temper arbitrary plant relocation. Fifty years ago, tenants had no rights arising from their occupancy of a building. Today, the law stipulates that a landlord must keep the building habitable, that he must provide heat and hot water, and that tenants may not be arbitrarily evicted. Some communities have authorized rent control and even rent strikes when the property is not kept in good repair.

Family law has undergone a similar evolution. A wife is no longer her husband's property, and a couple's tangible property is no longer assumed to be the fruits of the husband's labor. Even banking law has been amended to deny banks the right to shut down when the community would be denied essential banking services.

But laws dealing with plant relocation are back in the eighteenth century. Profitability is considered an absolute right, not a relative one; and the right of a plant to relocate in the name of greater profitability is still sacrosanct, even where management's judgment or motive is specious.

As Emil Rieve observed thirty years ago, laws that sanction promiscuous relocations must be changed. A handful of states are considering requiring a year's notice before companies may shut down plants. Legislation is also under discussion to require severance pay, as well as compensation to the community. Companies could be required to pay back all tax abatements; labor contracts could also demand that the parent company not shift the production to other plants; tax write-offs for shut-downs could be prohibited. The proposed legislation to require federal chartering of the largest corporations could also include a range of sanctions against arbitrary relocations.

Far from interfering with industry's "right" to use capital optimally, these sanctions could force parent companies that acquire independent firms to operate them efficiently. As things stand now, conglomerates are being rewarded for running their subsidiaries into the ground—and the employees along with them.●

WEST BERKELEY HEALTH CENTER'S 10TH ANNIVERSARY

(Mr. DELLUMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DELLUMS. Mr. Speaker, on September 27, 1980, the West Berkeley Health Center will commemorate its 10th anniversary. I am inserting into the RECORD a brief history and description of the center because I believe its commitments to the community it serves and its articulated goals will serve as a model to other communities throughout this country. It is with great respect that I pay tribute to 10 years of dedicated and effective service by the West Berkeley Health Center.

WEST BERKELEY HEALTH CENTER'S 10TH ANNIVERSARY

The West Berkeley Health Center is a nonprofit tax exempt organization that was incorporated in 1970 for the purpose of providing health care services to indigent persons of South and West Berkeley.

The Center, located in a designated medically underserved area of Berkeley, was developed by residents who had organized as the West Berkeley Neighborhood Association around their concerns for improving the neighborhood in areas of recreation, housing, employment and health. Energies were expended to improve living conditions of residents to find ways on increasing their access to needed care. As an outgrowth of the West Berkeley Neighborhood Association, the West Berkeley Health Center was incorporated with its own policy making board, after two years of dedicated community effort.

The West Berkeley area is typical of any poverty area. There is a high degree of unemployment, underemployment, substandard housing, welfare recipients and all of the problems these conditions tend to encompass. Additionally, there are inadequate health and social services, with preventive health services being almost non-existant. There is an increased number of former mental patients who have been released from state and county institutions with services and facilities totally inadequate to meet these needs.

This area can be characterized as a rather stable community with a substantial number of elderly persons in residence. It is common knowledge that the elderly suffer more than the younger segment of a poverty area, because of lack of mobility and a host of other factors. Nutritional problems are indicative of poverty areas—South and West Berkeley are no exceptions.

The Center opened its doors in 1970 with two staff members in quarters donated by the City Health Department and renovated by community volunteers using donated materials and equipment.

The Center represents a unique, mutual endeavor by consumers and traditional health providers who work together to improve health and health related conditions in the community. The policy making board is composed of ten consumers and/or community representatives and seven representatives of community agencies that provide health related or medical services: Alta Bates Hospital, Children's Hospital Medical Center, Herrick Memorial Hospital, Berkeley Unified School District, Adelante, Asians for Job Opportunities in Berkeley and La Raza Coalition. Leadership is in the hands of the Chairperson, who is a community member of the board. The board is totally committed to the welfare of the community.

West Berkeley Health Center since its inception, has promoted the philosophy of attempting to address the total needs of an individual. The need for basic medical services is often indicative of other related problems of unemployment, housing, nutritional needs, etc. The Center therefore, attempts to provide the highest degree of comprehensive support services that funding levels will allow. By taking this approach, the Center is constantly expanding services and redefining goals and objectives in an attempt to meet the ever changing need as expressed by those for whom the services are designed, and for those patients utilizing the services.

Due to the receipt of federal funds for an Urban Health Initiative Grant, the Center is now in a transition period. The Center is charged with development of a patient care management program to assure and document that patients receive proper care, follow-up services, and referral resources.

Although services are directed to the immediate community, the Center, because of its location, serves Albany, Oakland and transients as well as the Berkeley community. Because of the dedication of the Center to the community needs, it has kept the trust and involvement of the community upon which it began. The Center is indeed a vital part of the community. West Berkeley Health Center's ability to plan and effectuate meaningful health and medical services for the community it serves is attested by the fact that the Center has received increased financial support from the City of Berkeley and County of Alameda.

West Berkeley Health Center is designed to supplement other sources of health care which exist in the community. Efforts are maintained to avoid duplications of services. In this regard the Center has developed liaisons with other health services.

The Center provides medical services, health education, information and referrals to low income patients without regard to age, ethnicity, sex or handicap. The area has the largest minority population in Berkeley, including Spanish-speaking. The Center therefore, has maintained Spanish bilingual staff and board representation. Services are provided Monday through Friday except on holidays. Limited dental services are provided for children between the ages of three and twenty. Patients are billed on a sliding scale based on ability to pay. However, no one is turned away who has need of services.

CURRENT SERVICES

Medical clinic.—The medical clinic provides medical services by general practice, internal medical or family practice physicians. Examination and treatment are provided for acute and chronic illness. Referrals are made for patients who need speciality care.

Pediatric clinic.—The pediatric clinic serves infants to age 18. This clinic provides routine physical examinations, immunizations, and counseling on well-child care. Sick children are seen on a drop-in basis as well as by appointment. School and sports physicals are provided for those who have no other resources.

Gynecological clinic.—Diagnosis, treatment, consultation and advice are provided for a variety of GYN problems.

Dental services.—The dental clinic provides preventive dental care such as screening, dental health education, cleaning and application of topical fluoride. Minor restorative work is also provided.

Podiatric services.—Podiatric services are offered with the availability of a podiatrist. A variety of foot problems are seen and special counseling given for patients with diabetes and obesity.

Outreach and advocacy services.—Assistance is provided in a number of ways through referrals and actually assisting in the process of clients getting through various health and social agencies. Requests for transportation, food, clothing, medical or social help are handled through this activity. Community Health Workers disseminate information door to door and meet with groups using flyers, films and discussion to provide community education.

Follow-up.—Follow up is provided for all patients who need this service as a reminder or as an aide to follow through on treatment, directions or referrals.

Health education services.—Health Education is an integral part of all programs and services. The Center provides education and information that serves to reduce barriers to existing health services, helping to maximize their use. The Center serves to facilitate community participation and involvement in health issues and activities. Health education group sessions are designed around chronic diseases such as hypertension and diabetes. Healthful living and health issues are also addressed including nutrition.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. ANTHONY (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. CHAPPELL (at the request of Mr. BENNETT), on account of business in the District.

Mr. CORMAN (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. MURPHY of New York (at the request of Mr. WRIGHT), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LUNGREN) to revise and extend their remarks and include extraneous matter:)

Mr. JEFFORDS, for 5 minutes, today.

Mr. KEMP, for 30 minutes, today.

Mr. MARTIN, for 10 minutes, today.

(The following Members (at the request of Mr. GUDGER) to revise and extend their remarks and include extraneous material:)

Mr. Wirth, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 15 minutes, today.

Mr. Ullman, for 60 minutes, on September 25.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Dellums, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,179.

Mr. Carter, following the remarks of Mr. Florio during general debate on H.R. 7020 in the Committee of the Whole today.

Mr. Evans of Delaware, to revise and extend his remarks before the vote on H.R. 85.

(The following Members (at the request of Mr. Lungren) and to include extraneous matter:)

Mr. McKinney.

Mr. Dannemeyer.

Mr. Fish.

Mr. Carter in three instances.

Mr. Schulze.

Mr. Evans of Delaware in two instances.

Mr. Martin in two instances.

Mr. Findley.

Mr. Williams of Ohio.

Mr. Marriott.

Mr. Derwinski in two instances.

Mr. Michel.

(The following Members (at the request of Mr. Gudger) and to include extraneous matter:)

Mr. Matsui.

Mr. Mineta in two instances.

Mr. Dan Daniel.

Mr. Nolan.

Mr. Blanchard.

Mr. Drinan.

Mr. Conyers.

Mr. Solarz.

Mr. Vento.

Mr. Thompson.

Mr. Ford of Michigan.

Mr. Ottinger.

Mr. Donnelly.

Mr. Zeferetti.

Mr. Weiss in two instances.

Mr. Walgren.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. NEDZI, from the Committee on House Administration, reported that that committee did on September 17, 1980, present to the President, for his approval, bills and a joint resolution of the House of the following title:

H.R. 3210. An act to terminate the authority to make grants to the Las Vegas Valley Water District under the act of August 27, 1954;

H.R. 6511. An act to designate the building known as the Federal Building in Morgantown, W. Va., as the "Harley O. Staggers Federal Building"; and

H.J. Res. 594. Joint Resolution to authorize and request the President to issue a proclamation designating September 18, 1980, as "Constantino Brumidi Day."

ADJOURNMENT

Mr. GUDGER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 13 minutes p.m.), under its previous order, the House adjourned until Monday, September 22, 1980, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5338. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a report on the value of property, supplies, and commodities provided by the Berlin Magistrate, and under the German Offset Agreement for the quarter ended June 30, 1980, pursuant to section 720 of Public Law 96–154; to the Committee on Appropriations.

5339. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken by the Air National Guard, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

5340. A letter from the Acting Assistant Secretary of the Air Force (Research Development, and Logistics), transmitting notice that a decision has been made to convert the clothing alterations function at Lackland Air Force Base, Tex., to contractor performance, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

5341. A letter from the Principal Deputy Assistant Secretary of the Air Force (Research, Development, and Logistics), transmitting notice that a decision has been made to convert the commissary shelf-stocking and custodial service functions at Mather Air Force Base, Calif., to contractor performance, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

5342. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee and insurance transactions supported by Eximbank during July 1980 to Communist Countries; to the Committee on Banking, Finance and Urban Affairs.

5343. A letter from the Chairman, Architectural and Transportation Barriers Compliance Board, transmitting a draft of proposed legislation to increase the Board's authorization of appropriations; to the Committee on Education and Labor.

5344. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Francis J. Meehan, Ambassador-designate to Poland, and by members of his family, pursuant to section 6 of Public Law 93–126; to the Committee on Foreign Affairs.

5345. A letter from the Assistant Secretary of the Treasury for Legislative Affairs, transmitting project performance audit reports prepared by the International Bank for Reconstruction and Development and by the Asian Development Bank, pursuant to section 301(e)(3) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

5346. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense services to Germany (Transmittal No. 80–106), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

5347. A letter from the Assistant Secretary of Housing and Urban Development for Administration, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

5348. A letter from the Comptroller General of the United States, transmitting a report on Government use of electronic funds transfer (FGMSD–80–80, Sept. 19, 1980); to the Committee on Government Operations.

5349. A letter from the Comptroller General of the United States, transmitting a report on the management of recruiting in the armed services (FPCD–80–64, Sept. 18, 1980); jointly, to the Committees on Government Operations and Armed Services.

5350. A letter from the Comptroller General of the United States, transmitting a report on the impact on rising hospital costs of prospective ratesetting programs (HRD–80–72, Sept. 19, 1980); jointly, to the Committees on Government Operations, Interstate and Foreign Commerce, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6959. A bill to provide for the conservation and enhancement of the salmon and steelhead resources of Washington State, assistance to the treaty and nontreaty harvesters of those resources, and for other purposes; with amendments (Rept. No. 96–1243, pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. WAXMAN: Committee on Interstate and Foreign Commerce. H.R. 8117. A bill to amend the Safe Drinking Water Act, and for other purposes; with amendments (Rept. No. 96–1348). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANLEY: Committee on Post Office and Civil Service. H.R. 7085. A bill to amend title 5 of the United States Code and the Internal Revenue Code of 1954 to provide certain benefits to individuals held hostage in Iran and to similarly situated individuals; with amendments (Rept. No. 96–1349, pt. 1). Ordered to be printed.

Mr. FASCELL: Committee on Foreign Affairs. H.R. 7085. A bill to amend title 5 of the United States Code and the Internal Revenue Code of 1954 to provide certain benefits to individuals held hostage in Iran and to similarly situated individuals; with amendments (Rept. No. 96–1349, pt. 2). Ordered to be printed.

Mr. ULLMAN: Committee on Ways and Means. H.R. 7085. A bill to amend title 5 of the United States Code and the Internal Revenue Code of 1954 to provide certain benefits to individuals held hostage in Iran and to similarly situated individuals; with amendments (Rept. No. 96–1349, pt. 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLAND: Committee of Conference. Conference report on S. 2597 (Rept. No. 96–1350). Ordered to be printed.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 7770. A bill to name the Environmental Research Center in Cincinnati, Ohio, the "Andrew W. Breidenbach Environmental Research Center" (Rept. No. 96–1351). Referred to the House Calendar.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 6228. A bill to amend the Communications Act of 1934 to provide that the Federal Communications Commission, in considering applications for the renewal of broadcasting station licenses, shall not take into account any ownership interests of the applicant in other broadcasting stations or in other communications media, and for other purposes; with amendments (Rept. No. 96–1352). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 7919. A bill to provide for the settlement of land claims of Indians, Indian nations, and tribes and bands of Indians in the State of Maine, including the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, and for other purposes; with amendment (Rept. No. 96–1353). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 2398. A bill to extend the provisions of the General Exchange Act, as amended, to certain lands in order that they may become parts of the Umatilla and Wallowa National Forests, and for other purposes (Rept. No. 96–1354). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6309. A bill to provide for the conveyance of any right, title, or interest which the United States may have in certain real property in the State of Utah to the owners of the adjacent properties; with amendment (Rept. No. 96–1355). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 341. A bill to authorize the Three Affiliated Tribes of the Fort Berthold Reservation to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the U.S. Constitution, and for other purposes (Rept. No. 96–1356). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL. Committee on Interior and Insular Affairs. S. 1795. A bill to authorize the Blackfeet and Gros Ventre Tribes to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the U.S. Constitution, and for other purposes (Rept. No. 96–1357). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1796. A bill to authorize the Assiniboine Tribe to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the U.S. Constitution, and for other purposes; with amendment (Rept. No. 96–1358). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL. Committee on Interior and Insular Affairs. H.R. 8096. A bill to amend the Wild and Scenic Rivers Act to provide for the study of certain river segments for potential inclusion in the National Wild and Scenic Rivers System and to designate certain river segments for inclusion in such system, and for other purposes; with amendment (Rept. No. 96–1359). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ASHBROOK:

H.R. 8167. A bill to provide that the Congress shall have authority under section 431 (d) of the General Education Provisions Act to disapprove any final regulations promulgated by the Department of Education for the proposed rules on nondiscrimination under programs receiving Federal financial assistance through such Department, as published in the Federal Register on August 5, 1980; to the Committee on Education and Labor.

By Mr. BREAUX:

H.R. 8168. A bill to reform the Powerplant and Industrial Fuel Use Act of 1978 to encourage a reduction of air pollution and oil consumption by existing electric powerplants; to the Committee on Interstate and Foreign Commerce.

By Mr. COURTER:

H.R. 8169. A bill to amend title II of the Social Security Act to increase to $24,000 in 1981 (with automatic adjustments thereafter) the amount of outside earnings which a beneficiary age 65 or over may have in any taxable year without suffering reductions in the amount of his benefits; to the Committee on Ways and Means.

By Mr. FLORIO (by request):

H.R. 8170. A bill to authorize a flexible environmental program of integrated financial assistance to States and local governments to plan, manage, and implement abatement and control strategies in a more efficient and effective manner; to the Committee on Interstate and Foreign Commerce.

By Mr. JEFFORDS:

H.R. 8171. A bill to further local and State efforts to conserve, protect, and enhance the Nation's soil, water, and related resources for sustained uses, and for other purposes; to the Committee on Agriculture.

By Mr. McKAY:

H.R. 8172. A bill to amend the Clean Air Act to provide that coal-fired stationary sources may meet emission requirements through the use of coal having low pollution characteristics, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PICKLE:

H.R. 8173. A bill to provide for distribution in the United States of certain International Communication Agency films relating to Lyndon Baines Johnson; to the Committee on Foreign Affairs.

By Mr. WIRTH:

H.R. 8174. A bill to eliminate 1,000 of the positions within the Department of Energy associated with the administration of the Emergency Allocation Act of 1973, effective at the expiration of that act; to the Committee on Interstate and Foreign Commerce.

By WEISS (for himself, Mr. Dodd, Ms. Holtzman, Mr. Bonker, Mr. Derwinski, Mr. Bedell, Mr. Bowen, Mr. Fithian, Mr. Hall of Ohio, Mr. Bingham, Mr. Wolff, Mr. Rosenthal, Mr. Pritchard, Mr. Gilman, Mr. Barnes, Mr. Wolpe, and Mr. Gray):

H. Con Res. 434. Concurrent resolution to honor Raoul Wallenberg, and to express the sense of Congress that the U.S. delegation to the Madrid Conference on Security and Cooperation in Europe urge consideration of the case of Raoul Wallenberg at that meeting, and to request that the Department of State take all possible action to obtain information concerning his present status and secure his release; to the Committee on Foreign Affairs.

By Mr. ZABLOCKI (for himself, Mr. Wright, Mr. Brademas, Mr. Fountain, Mr. Fascell, Mr. Rosenthal, Mr. Bingham, Mr. Yatron, Mr. Solarz, Mr. Bonker, Mr. Pease, Mr. Barnes, Mr. Hall of Ohio, Mr. Wolpe, Mr. Bowen, Mr. Fithian, Mr. Bedell, Mr. Broomfield, Mr. Derwinski, Mr. Buchanan, Mr. Winn, Mr. Gilman, Mr. Lagomarsino, Mr. Guyer, Mr. Goodling, Mr. Pritchard, Mrs. Fenwick, Mr. Quayle, Mr. Foley, Mr. Bailey, Mr. Annunzio, Mr. Fary, Ms. Mikulski, Mr. Kemp, Mr. Beilenson, Mr. Nowak, Mr. Murphy of Pennsylvania, Mr. Minish, Mr. Yates, Mr. Boland, Mr. Cavanaugh, Mr. Brooks, Ms. Oakar, Mr. Nedzi, Mr. Gibbons, Mr. Murtha, Mr. Ritter, Mr. Rousselot, and Mr. Vanik):

H. Con. Res. 435. Concurrent resolution relating to the situation in Poland; to the Committee on Foreign Affairs.

By Mr. STARK:

H. Res. 790. Resolution requesting the President to furnish certain information to the House of Representatives concerning U.S. involvement in Iran; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

531. The SPEAKER presented a memorial of the Legislature of the State of California, relative to National Port Week, which was referred jointly, to the Committees on Post Office and Civil Service and Public Works and Transportation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. LOWRY presented a bill (H.R. 8175) to authorize the documentation of the vessel, *Pacific Pride*, as a vessel of the United States with coastwise privileges, which was referred to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 7129: Mr. Symms.

H.R. 7704: Mr. Bowen, Mr. Evans of Delaware, Mr. Jeffries, and Mr. Quillen.

H.R. 7773: Mr. Hinson.

H.R. 7814: Mr. Forsythe.

H.R. 7822: Mr. Forsythe, Mr. Stark, Mr. Florio, Mr. Bonior of Michigan, Mr. Seiberling, Mr. Edwards of California, Mr. Wolpe, Mr. Mineta, and Mr. Simon.

H.R. 8083: Mr. Rosenthal, Mr. Nowak, and Mr. Green.

H.J. Res. 511: Mr. Ottinger, Mr. Royer, Mr. Rousselot, and Mr. Charles H. Wilson of California.

H.J. Res. 516: Mr. Beilenson, Mr. Florio, Mr. Forsythe, Mr. Levitas, Mr. McCormack, Mr. Martin, Mr. Porter, and Mr. Waxman.

H.J. Res. 579: Mr. Davis of Michigan, Mr. Dixon, Mr. Dougherty, Mr. Howard, Mr. Ichord, Mr. Tauke, Mr. Erdahl, Mr. Forsythe, and Mr. McClory.

H. Con. Res. 106: Mr. Jenrette, Mr. Patterson, Mr. Duncan of Tennessee, Mr. D'Amours, Mr. Anthony, Mr. Kindness, Mr. Pepper, Mr. Robert W. Daniel, Jr., and Mr. Scheuer.

H. Con. Res. 122: Mr. Forsythe.

H. Con. Res. 363: Mr. Broomfield, Mr. Guyer, Mr. Wolpe, Mr. Bonior of Michigan, Mr. Dingell, Mr. Ford of Michigan, Mr. Traxler, Mr. McDade, Mr. Marks, Mr. Stockman, Mr. Sawyer, Mr. Hillis, Mr. Michel, and Mr. Wylie.

H. Con. Res. 422: Mr. Skeleton, Mr. St Germain, and Mr. Jacobs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6386

By Mr. FISH:

—On page 2, after line 12, add the following new section:

Sec. . That section 1007(a)(10) of the Legal Services Corporation Act, 42 U.S.C.

2996f(a)(10) is amended by adding the following new language:

"In order to prevent the persistent incitement of litigation and to encourage the resolution of controversies through compromise and settlement rather than through litigation, the Corporation shall require recipients to inform potential defendants in writing of their clients' grievances and attemp to negotiate a settlement of those grievances before filing suit. Nothing in this section, however, shall preclude attorneys from immediately filing suit where the circumstances of the case as determined by the local program director require immediate action to protect the interests of the client.'

H.R. 7020

By Mr. SOLOMON:

—Page 36, line 21, after "for" insert "(1)".

Page 36, line 24, before the period insert: ", or (2) in the case of fiscal years beginning after September 30, 1981, assistance under section 3012 for the construction of State or regional hazardous waste facilities. Not more than 25 percent of the amount credited to the Fund for any such fiscal year may be used for purposes of providing assistance under section 3012".

Page 50, after line 11, insert the following:

(c) Subtitle C of the Solid Waste Disposal Act is amended by adding the following new section at the end thereof:

"ASSISTANCE FOR STATE OR REGIONAL FACILITIES

"Sec. 3012. (a) Grant Authority.—After September 30, 1981, the Administrator is authorized to make grants to any State or interstate agency for the construction of publicly owned or State permitted facilities for the neutralization, incineration, or recycling of hazardous waste. No amount of any such grant may be used for the construction of any secure landfill or other facility for the storage of hazardous waste for periods in excess of one year.

"(b) Federal Share.—The amount of any grant for any facility under this section shall not exceed 50 percent of the cost of such facility.

"(c) Limitations, Requirements, and Conditions.—(1) Each applicant for assistance under this section shall submit to the Administrator for his approval such plans, specification, and estimates for the proposed facility as the Administrator deems necessary.

"(2) Before making any grant under this section, the Administrator shall determine that—

"(A) the proposed facility will meet the requirements of this subtitle; and

"(B) the applicant for such grant has made provisions satisfactory to the Administrator for assuring payment of the non-Federal share of the costs of such facility and for assuring proper and efficient operation.

"(d) Allotment.—Grants under this section shall be allotted annually by the Administrator among the applicants in accordance with regulations promulgated by him. Such regulations shall provide for the annual allocation of grants among States and regions in proportion to the relative amounts of hazardous waste generated in each such State and region during an appropriate prior annual period.".

Page 50, after line 15, insert:

"Sec. 3012. Assistance for State or regional facilities.".

Page 67, line 23, after "for" insert "(1)".

Page 68, line 6, before the period insert: ", or (2) in the case of fiscal years beginning after September 30, 1981, assistance under section 3012 for the construction of State or regional hazardous waste facilities. Not more than 25 percent of the amount credited to the Fund for any such fiscal year may be used for purposes of providing assistance under section 3012".

EXTENSIONS OF REMARKS

MUSHROOM DAY COMMEMORATED

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. SCHULZE. Mr. Speaker, earlier this week, we commemorated here on Capitol Hill the third annual "Mushroom Day."

As chairman of the bipartisan Mushroom Caucus, I had the pleasure to serve as master of ceremonies for this event and to share with my colleagues what I believe was one of the finest lunches ever served.

While many things may have changed since our initial luncheon 3 years ago, regrettably, I must report that the domestic mushroom industry continues to suffer adversely because of ongoing tidal waves of foreign canned mushroom imports.

While it is encouraging that the International Trade Commission has, for the third time in the last 5 years, unanimously recommended that import relief be provided to the U.S. mushroom industry, the final decision on this matter now rests with the President.

It is my sincere hope that the President will grant meaningful trade relief to this important domestic industry and will allow these hard-working Americans to continue to do what they do best—mushroom farming and canning.

At this point, I would like to have included in the RECORD two excellent statements which were presented during our Mushroom Day activities. The first statement was given by Mr. Thomas DiCecco, Jr., a constituent of mine who is the president of the Oxford Corp. and who is one of the foremost experts in the American mushroom canning industry.

The second statement was delivered by Mr. Lewe B. Martin, who is the special trade counsel for the American Mushroom Institute. Both of these statements, I believe, accurately reflect the industry's long battle to obtain the relief and justice they are entitled.

I urge my colleagues to closely read these fine statements.

REMARKS OF THOMAS DICECCO, JR., PRESIDENT, OXFORD CORPORATION, MUSHROOM DAY, SEPTEMBER 16, 1980

On behalf of the American Mushroom Institute, I welcome you to the Annual National Mushroom Day Celebration. We wish to express our deepest appreciation for your past efforts in allowing a voice from our industry to be heard in Washington.

The serious injury caused by increased imports of Taiwan, Korea, Hong Kong, and most recently, Mainland China, has reached such a level that in the past seven years, one-third of the U.S. mushroom canners had to close down. For the past several months, the return to mushroom growers for their crops have been about 25 to 50 percent under their costs. Imported canned mushrooms have reached 56 percent of the total U.S. consumption. Unemployment and operating losses are rapidly increasing.

The AMI, on June 9, 1980, appeared before the International Trade Commission and requested relief from the market disruption caused by the Far Eastern imports. The ITC unanimously decided that imports had caused serious injury to our industry and recommended various methods of relief to provide an adjustment period for us. The ITC recommendations of a 5-year or 3-year quota are outlined in the brochure you have received today.

Those recommendations now rest before the Trade Policy Staff Committee who shall soon forward its advice to the President.

We ask your assistance to request the TPSC recommend to President Carter that the ITC finding of injury be accepted and the remedy of a quota be proclaimed.

We ask that you join our appeal to the White House by endorsing Congressman Schulze's letter to President Carter to approve this quota to provide the mushroom industry with the adjustment period we so direly need.

Now, we have not sat idly by during this time of devastation by imports. There have been significant improvements in productivity in both mushroom growing and canning. In ten years time there has been a 25 percent in yield per square foot achieved by growers and a 45 percent increase in output per cannery worker. Further improvements have been provided by continuous research and development which we cannot afford to implement without import relief.

The ITC has monitored the mushroom industry for years. They have determined that the injury is serious; they have determined that a quota would permit our adjustment to imports. We believe that given a period of restrained imports we can adjust; we can become competitive through consolidation of small operations and better marketing techniques. The Congress in passing the Trade Act specifically provided industries be given such an opportunity. Our request is that you urge the President that it is in the national interest to proclaim the quota limitations recommended by the ITC.

REMARKS OF LEWE B. MARTIN, SPECIAL TRADE COUNSEL FOR AMERICAN MUSHROOM INSTITUTE, MUSHROOM DAY, SEPTEMBER 16, 1980

May I briefly describe the effects the operation of our trade agreements program has had upon the U.S. mushroom industry.

The President, using his delegated authority under the Trade Agreements Acts entered into negotiations with France in 1948, 1951 and 1962 to reduce the duty on canned mushrooms. The duties on canned mushrooms imported into the three major world markets today are 13.1 percent in the U.S.; 20 percent in Canada and 23 percent in West Germany.

Instead of these duty reductions benefitting France they stimulated the creation of mushroom exports industries in the Far Eastern countries of Taiwan and Korea. As to Taiwan, the International Trade Commission (ITC) reported to the President in 1965 that "The U.S. Agency for International Development provided assistance to the Taiwanese mushroom industry in the early 1960's in the form of grants and loans. These funds were used to develop mushroom growing and canning procedures. AID was in the process of giving such assistance to develop a mushroom industry in Korea but stopped when Senators Scott and Schweiker called to their attention the fact that increasing imports from Taiwan were already injuring the U.S. industry.

In this regard, the U.S. industry has petitioned the ITC three times for relief under the escape clause of the Trade Act. In 1977 and 1980 the Commission found that increased imports had caused serious injury to the domestic industry and recommended that the President proclaim tariff relief. The most recent recommendation is for quantitative limitations.

Domestic industry over the years has urged Congress to include a provision in the Trade Acts that such recommendations of relief be mandatory on the President. Congress in its wisdom has not only continued to give the President discretion in such matters but has included seven new criteria to be considered by the President in making his determination as to whether to provide import relief:

(1) The probable effectiveness of the import relief as a means to promote adjustment, the efforts being made or to be implemented by the industry concerned to adjust to import competition, and other considerations relevant to the position of the industry in the nation's economy;

(2) The effect of import relief on consumers and on competition in the domestic markets for such articles;

(3) The effect of import relief on the international economic interest of the United States;

(4) The impact on United States industries and firms as a consequence of any possible modification of duties or other import restrictions which may result from international obligations with respect to compensation;

(5) The geographic concentration of imported products marketed in the United States;

(6) The extent to which the United States' market is a focal point for exports of such articles by reason of restraints on exports of such articles to, or on imports of such articles into, third world country markets; and

(7) The economic and social costs which would be incurred by taxpayers, communities and workers if import relief were not provided.

The President has delegated the responsibility for investigating these criteria to Committees in the Office of the U.S. Trade Representative specifically the Trade Policy Staff Committee and the Trade Policy Review Group.

As to the extent to which the United States is the focal point of exports because of restrictions in other markets—the EEC has restricted imports of canned mushrooms since 1975 by a combination of a 23 percent ad val tariff and import licensing systems. These EEC quota limitations start as soon as third country shipments come close to the 30 percent mark of total imports. China has been the main beneficiary of this program for in 1979 that country was given licenses for 30 percent and Taiwan and Korea were excluded. Mushroom industries in France and the Netherlands supplied the other 70 percent.

Not only are Taiwanese and Korean mushrooms programmed for sale in the EEC being diverted to the U.S. but large quantities have been exported from China to the U.S. following granting of lower duties to that country in February 1980 under the Most Favored Nation provision of our trade laws.

As a result, imports in the year July 1, 1979 to June 30, 1980 were 114 million pounds which impacted 56 percent on U.S. consumption.

U.S. escape clause legislation was modeled after Article XIX of GATT, the General Agreement on Tariffs and Trade which provides for member countries imposing import restrictions when increased imports injure a domestic industry. That language stated that the remedy could be in force to the extent and for such time as may be necessary to prevent or remedy such injury. Please note that the Safeguards Code proposed during the Tokyo Round negotiations was not accepted by the negotiating parties, so the international accord on this matter is still Article XIX of GATT. Congress in enacting the Trade Act of 1974 provided that any import relief proclaimed under our escape clause, Section 201, shall terminate in five years and that the relief be phased down during that period. Thus, the United States in restricting the time limits of its escape clause relief, is the only major GATT member country which does not exercise its rights under Article XIX of GATT for relief for such time as may be necessary to remedy the injury.

As to the probable effectiveness of the import relief recommended by the ITC both programs (five years vs. three years) would restore a substantial percentage of the market to domestic mushroom canners. The five year recommendation of Commissioner Moore, however, would have the greatest chance of promoting adjustment. Particularly significant is Commissioner Moore's statement, "that a quota set at this level (78 million pounds per marketing year) must be in effect for at least two years in order for the industry to begin to adjust to the injury it has already experienced.

The message to us is clear that we must go forward from this Mushroom Day and convince the President that he should agree with the statement of three International Trade Commission members, "Thus we have determined that the domestic industry producing canned mushrooms is entitled to relief."●

IN SUPPORT OF H.R. 85 AND H.R. 7020

HON. ED BETHUNE

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. BETHUNE. Mr. Speaker, I will be brief, but I would like to take a moment to express my strong support for the concepts within H.R. 85, the oil and hazardous substance spill bill, and H.R. 7020, the abandoned hazardous waste sites bill.

These bills result from 2 years of careful study, drafting, and compromise. During that time, the need for a responsible policy for dealing with the estimated 34.4 million metric tons of hazardous industrial waste became very evident. We are all familiar with the Love Canal and the "Valley of the Drums." These are only two instances among many that have attracted national attention. I guess one really doesn't understand the depth of a problem until it happens close to home. My awareness of the chemical waste problem grew when water contaminated with deadly dioxins—which some chemical experts have claimed is one of the most deadly chemical compounds ever produced—were discovered at a hazardous substance site near Jacksonville, Ark., at the Vertac Corp. plant.

I am very pleased by the responsiveness of this Congress and the many groups who have cooperated closely with us, to put together this sorely needed legislation.

I had hoped to deliver these remarks during today's debate, but I had to leave the floor to return to my district because of the unfortunate explosion of a Titan II installation. Had I been in attendance, I would have participated in the debate and argued for the legislation. I would have voted "aye" on H.R. 85 and it is my intention to support H.R. 7020 next week.●

PENINSULA ORAL SCHOOL

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. MINETA. Mr. Speaker, it gives me great pleasure to rise today to honor one of the San Francisco Bay Area's and Santa Clara County's leading research and education establishments for deaf children, the Peninsula Oral School for the Deaf.

This year, Peninsula Oral School celebrates its 10th year of research and education of deaf children. In recognition of this milestone and the continued need for community support, Anastasia's Athletic Club in Los Gatos is conducting a fundraising event on behalf of the school on September 27, 1980.

Through the efforts of Peninsula Oral School, many deaf children have benefited greatly from formal class training, private tutorial sessions, and improved methods of education and amplification. In addition, Peninsula Oral School's techniques of cognitive development and residual hearing have resulted in the Program of the Year Award from the Alexander Graham Bell Association. The school's materials are requested by other schools from all over the world.

I would like to take this opportunity to ask my colleagues in the House of Representatives to join me in commending Peninsula Oral School for the Deaf and its director, Ms. Leahea Grammatico, for their achievements and wish them continued success in the future.●

JAPANESE AUTO IMPORTS

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. BLANCHARD. Mr. Speaker, the number of Japanese auto imports in this country continues to grow while some 300,000 U.S. autoworkers and thousands more workers in related industries are on indefinite layoff. Although there are several reasons for the problems of the American auto industry, certainly one factor is the uncontrolled growth of auto exports from Japan to the United States.

Recently, I had the opportunity to testify before the House Subcommittee on Asian and Pacific Affairs on a bill I am cosponsoring, House Concurrent Resolution 363. The bill calls upon the President to begin negotiating an agreement with the Japanese to temporarily restrain the amount of cars that they are exporting to the United States. The following is the text of my testimony:

STATEMENT OF CONGRESSMAN JAMES J. BLANCHARD

Mr. Chairman, I appreciate the opportunity to testify on the issue of U.S. Japanese trade relations, specifically, on House Concurrent Resolution 363 of which I am a cosponsor. I believe that the various issues involving U.S.-Japanese economic relations have crucial long term as well as short term significance.

Japanese auto imports and their effect on the American auto industry have become a controversial and much discussed topic. As is frequently the case when a particular segment of American society is directly affected by a problem, issues become cast in simplistic "us versus them" terms. So it is said that the Japanese are responsible for the economic downturn in our domestic auto industry, or conversely, that the U.S. auto industry can only blame itself and its own poor management for the current slump in auto sales. Unfortunately, the issue is not that simple, and I am concerned that both the important questions and the need for action are being buried by a barrage of slogans that have polarized, politicized, and regionalized this issue.

The fact is, trade relations with the Japanese and the health of the American auto industry are matters of national importance. There is no question about the vital role that the American automobile industry plays in our national security. It drives and sustains our basic industries such as aluminum, rubber, steel, etc. There is no question about the impact that the auto industry has on the number of available jobs in this country. Various estimates calculate that one out of six jobs directly and indirectly are related to the auto industry. And there is no question about the need to maintain a close and cooperative relationship with our Japanese allies. They are our most important ally in the North Pacific.

That is why I think that House Concurrent Resolution 363, or something similar to it, represents the most workable and effective course of action that we can take to solve the Japanese trade problem. It merely calls upon the President to begin negotiating a temporary restraint in the exportation of automobiles to the United States. Needless to say, this is far preferable to legislatively mandated quotas or restrictions.

The problem, as you know, is that American companies are not yet equipped to produce enough fuel efficient cars to compete fully with the Japanese. The major reason is the radical shift in the allocation and pricing of oil from a loose market to a strict cartel and the eventual decision in this country to begin decontrolling the price of oil. The U.S. auto companies are reaping windfall losses for the same reason that the U.S. oil companies are reaping windfall profits. While there is plenty of blame for the current situation to go around, it is now clear that U.S. auto companies are investing many billions of dollars and moving as quickly as possible to retool plants for the production of new fuel efficient cars. But most industry analysts believe that there will be at least a two to three year period of transition before our industry is geared up to effectively take on the Japanese.

Increasingly, the perception, if not the reality, is that the Japanese are trying to take advantage of this transition period in the American industry by producing more cars than ever before for export to the United States. Japan has pursued a conscious government policy to cultivate and develop their own auto industry over a period of years, with substantial government assistance and cooperation. In just two years the Japanese share of the U.S. market has increased from 12 to 20 percent, and indications are that the Japanese are planning to further expand their production over the course of the next few years, with the U.S. market serving as their exclusive target. The Japanese have encountered trade restrictions in virtually every other country in the world where they currently send auto exports, and they have been willing to work out agreements with those countries on trade restrictions. They have now turned to the massive and especially vulnerable American market during this time of rebuilding by our domestic manufacture to step up their export sales. Japanese workers are now working overtime to produce greater numbers of cars for export to the U.S. while, as you know, one third of U.S. auto workers are on lay off.

In addition to the obvious short term problems facing our domestic auto industry, the impact of the current Japanese auto trade problem could become more far-reaching in terms of both economic and foreign policy in the long run.

Allowing the Japanese free reign during our industry's current transition period could inflict permanent, or at least long lasting damage on the American auto industry, and in turn, on the American economy. Of course, we all know that the purchase of a car is the second largest investment that most people make in their lives. In many cases the purchase of a particular company's product becomes traditionalized by people or by whole families. I am sure you are familiar with the common phenomenon of the family who over generations has preferred one particular car manufacturer over another. Historically that has always been a major factor that influences the choice of what kind of car a person buys—and what his sons and daughters will buy as well. This is something which is important to remember when considering the long term impact of allowing the Japanese to gain the foothold they are after in our market. Certainly our companies will be able to more effectively compete in three years, if they can stay alive that long in some cases. But even then, Japan's head start will leave our companies at a marked disadvantage, if not in a permanently weakened condition.

This will weaken our national security. This will weaken our job market. And this will substantially increase joblessness and the cost of welfare.

It is also important to realize that growing resentment for Japanese trade policies could become a threat to overall relations with Japan if people continue to perceive that the Japanese have some responsibility for the level of unemployment in the U.S. auto industry. This will not only weaken American attitudes toward alliances with other countries, but also toward assistance to our friends around the world. Some may argue, in the short run, there could be some energy savings with more Japanese cars on our highways, and that intense Japanese competition will help keep prices lower. But I do not believe that people are willing to trade off the long term benefits of a viable healthy domestic auto industry, employing directly or indirectly one out of every six people in this country, for short term energy savings that might result from more Japanese cars in the American market. And while the Japanese have been helpful to us on the international front, their efforts will ring hollow in the minds of thousands of Americans who believe that they have permanently lost their jobs as a result of the Japanese taking unfair advantage of the U.S. market.

We cannot allow short term, short-sighted considerations, however valid, to result in: permanent damage being done to a vital American industry, the possible loss of thousands of American jobs, and the possibility of damaged future relations with an important American ally in the Western Pacific.

It is my understanding that the President could act now to seek a resolution of this problem through a negotiated agreement with the Japanese. We have received some mixed signals from the Administration regarding the possibility of seeking a temporary restraint of exports agreement with the Japanese.

First the Administration indicated that any such negotiations with the Japanese would result in infractions of U.S. antitrust laws. Then, when legislation was introduced in Congress to change those laws to make it possible for such action to take place, that legislation was referred to by the Administration to substantiate their argument that there was in fact a problem with antitrust laws.

The purpose of House Concurrent Resolution 363 is to encourage the President to take action now through administrative means rather than seeking to change long established antitrust laws that have questionable relevance to his ability to address this problem. Besides, we need to act now, not in a few months or a few years. Failure to act will not only cause greater economic harm in the short run but could result in far more disastrous long term consequences. The strength of economic recovery in the domestic auto industry may well depend on some limitation of Japanese imports into the United States. Just as importantly, however, the long term alliance between the United States and Japan will weaken if not be undermined by a failure to amiably resolve this important problem.●

TRIBUTE TO HON. CLAUDE PEPPER

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 8, 1980

● Mr. PANETTA. Mr. Speaker, it is a great pleasure to be able to pay tribute to CLAUDE PEPPER on the occasion of his 80th birthday.

CLAUDE, in his long career in both the House and Senate, has always fought to maintain the Federal Government as a strong, compassionate force in our society. Through victory and defeat, he has steadfastly worked to improve services for people, and his influence has been immense.

In addition, he has provided this body with a warmth and humor that are too often lacking in our deliberations. For this alone, he has been invaluable.

Mr. Speaker, I am sure my colleagues will unanimously agree with me in my hope that CLAUDE PEPPER is in this Chamber 10 years from now so that we can celebrate his 90th birthday. Surely he will continue to be as important to us then as he is now.●

PERSONAL EXPLANATION

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. FISH. Mr. Speaker, I was unable to be present for rollcall votes Nos. 530, 531, 532, and 534 on Tuesday, September 9, 1980, as I had left for New York late in the afternoon to vote in the Republican primary. The following is an explanation of how I would have voted on those measures.

Rollcall No. 530, the Eckhardt substitute to the Staggers amendment to H.R. 7235, the Staggers Rail Act of 1980. The measure failed by a vote of 83-296. Had I been present, I would have voted against the measure.

Rollcall No. 531, the Staggers amendment to H.R. 7235. The measure passed by a vote of 369-6. Had I been present, I would have voted in favor of the measure.

Rollcall No. 533, the Albosta amendment to H.R. 7235. The measure failed by a vote of 45-310. Had I been present, I would have voted against the measure.

Rollcall No. 534, final passage of H.R. 7235. The measure passed by a vote of 337-20. Had I been present, I would have voted for the measure.

Mr. Speaker, I was also unavoidably absent on Tuesday, September 16 due to illness. There were nine rollcall votes on Tuesday. The following is an explanation of how I would have voted on those measures.

Rollcall No. 541, passage of H.R. 7825, Ice Age National Scenic Trail.

The measure passed by a vote of 397-3. Had I been present, I would have voted for the measure.

Rollcall No. 542, passage of H.R. 7084, Pre-Trial Services Act. The measure was not passed under suspension of the rules, receiving a favorable vote of 243-155. Had I been present, I would have voted for the measure.

Rollcall No. 543, passage under suspension of the rules of H.R. 2514, Treasury International Affairs Authorization. The measure was not passed under suspension, receiving a favorable vote of 238-164. Had I been present, I would have voted for the measure.

Rollcall No. 544, the Addabbo substitute amendment to the White amendment to H.R. 8105, Defense Appropriations, to increase Army personnel and operations for recruitment by $51 million. The measure failed by a vote of 66-329. Had I been present, I would have voted against the measure.

Rollcall No. 545, the White amendment to H.R. 8105 to increase Army maintenance, operations, and personnel for recruitment by $100 million. The measure passed by a vote of 390-13. Had I been present, I would have voted for the measure.

Rollcall No. 546, the Moffett amendment to H.R. 8105 to prohibit the use of funds for production of binary weapons. The amendment failed by a vote of 125-276. Had I been present, I would have voted against the measure.

Rollcall No. 547, the Simon amendment to H.R. 8105 to prohibit use of funds for a basing mode for the MX missile until April 1981. The measure failed by a vote of 141-256. Had I been present, I would have voted against the measure.

Rollcall No. 548, the Addabbo amendment to H.R. 8105 to strike the Maybank amendment provisions of the legislation. The measure passed by a vote of 220-179. Had I been present, I would have voted for the measure.

Rollcall No. 549, final passage of H.R. 8105, Defense Appropriations for 1981. The measure passed by a vote of 351-42. Had I been present, I would have voted for the measure.●

GESMO: DEBATE THE ISSUE

HON. DAN MARRIOTT

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. MARRIOTT. Mr. Speaker, on September 7, 1980, the Washington Post characterized the congressional efforts to require NRC to revive GESMO—generic environmental statement on mixed oxide fuel. The Post editorial does not do justice to the issue or to the intent of the Congress in this matter.

During the Interior Committee consideration of the Nuclear Regulatory Commission authorization last April, I introduced an amendment that would have required the NRC to resume and complete the GESMO proceedings. The amendment was hotly debated and in the end was not accepted in our committee. The bipartisan support that was evidenced in both the voting and debate is expressed in the supplemental views filed with the committee report. I commend my colleagues in the Commerce Committee for continuing the debate on this important issue.

The supplemental views filed in our committee report provide a useful and factual base for consideration of the GESMO issue. I urge my colleagues to read it.●

DETROIT'S JOB CORPS: A TRAINING SUCCESS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. CONYERS. Mr. Speaker, one of the effective job training programs during the past decade and more has been the Job Corps, which was created in 1964 to provide vocational training and new opportunities to disadvantaged youths. Tens of thousands of young people, school dropouts, and troubled youth, have participated over the years, and the record shows a remarkable accomplishment as measured by the minimal attrition rate and high degree of success in placing graduates in jobs.

It is to President Carter's credit that the administration has vigorously supported the Job Corps program and its expansion.

It is a particular source of pride that the Job Corps program in the city of Detroit has evolved into one of the most successful programs in the Nation. This could not have taken place without the strong commitment of Mayor Coleman Young's administration and the fine leadership of Cato Howard, the Detroit center's director during the past 3 years. A new innovation—to create a support organization for the center among the more than 1,500 Job Corps veterans in the Detroit area—will render Detroit's Job Corps program even stronger in the future.

My colleagues may not be aware of the fact that of all the urban areas in the country, Detroit is the hardest hit by unemployment and economic decline as a result of the current recession. While its overall jobless rate was 18.3 percent in August, a third of the city's black labor force was unemployed and close to two-thirds of black teenagers were out of work. The tragedy of this situation calls for the most intensive efforts possible to find and create the most effective programs for the job training and placement of disadvantaged youth. The Job Corps is a model for this effort, and as one Member of Congress my hope is that it will be greatly expanded in the coming years.

Robert Emmers, a staff writer with the Detroit Free Press, wrote an excellent article on the success of Detroit's Job Corps program that appeared in Free Press on September 10. I recommend that my colleagues read the following article and consider the conditions that have made the Detroit program so highly successful:

REBORN JOB CORPS TAPS ALUMNI

(By Robert H. Emmers)

Horace Jackson leans back so that the Golden Gloves T-shirt stretches tight across his chest. He did a little boxing once. He also, he will tell you smiling, was raised around Twelfth Street, (now Rosa Parks Blvd.) "one of the worst sections in Detroit."

That was eight, nine years ago. Now he is 24. Back then he hung around, ran around, tried to go to school.

"And I tried to do good in school," he says, waving his huge hands, nodding his head, "but there always seemed to be a gap between the teachers and the students. The teachers just didn't seem to make that strong an effort."

He shakes his head. Well, whatever the reason, he dropped out of school and went to work. Then something happened. It might have been boredom, it might have been lack of money, it might have been . . .

Jackson shakes his head again. "I just somehow found myself at a point where I wanted to do something," he says.

What Jackson did was join the federal government's Job Corps. "It was a place to live," he says slowly, as if the thought is just preceding the word. "And it was a place to learn, to learn. You just can't beat that."

He pauses, then says, "It was a second opportunity that you only get once and I took it. I took it and I'm proud and I can't think of anything I'd rather have done."

The Job Corps, the last intact remnant of Lyndon Johnson's Great Society, is alive and recently returned to good health, its budget swollen, new training centers opening up.

Now, buoyed by its resurrection, the Job Corps hopes to take advantage of people like Jackson and hopes to get an even bigger return on its investment.

By the end of the year, officials plan to have established Job Corps alumni groups in 10 urban centers across the country, including Detroit. The idea, officials say, is to tap the so-far untapped resources of the thousands of men and women who have graduated from the Job Corps since the agency was established in 1964 to provide vocational training for underprivileged youths.

"We want the people who made it through to get involved with the kids now in the program and show them what can be done with their lives," Richard Jaffe, director of the agency, said from Washington, D.C. "We want them to lend a hand and we want to give them a sense of camaraderie as well."

In practical terms, said Ron Abernathy, director of the national alumni organization, local chapters will provide speakers to schools and churches to reach potential Job Corps recruits and help organize recreation and other activities at the centers. The volunteers, who will raise their own operating funds, also will provide an information network on job leads and employment services for members, he added.

The Detroit chapter is to be chartered at a dinner Wednesday and hopes to draw on what officials estimate is a pool of about 1,500 former corps members in the area.

Local chapter activities haven't been set yet, said Cynthia Ferguson-Reid, placement supervisor at the Detroit center who is helping organize the local chapter. But they will probably include establishing a job bank and holding seminars on leadership and job hunting.

Not incidentally, corps officials also hope the alumni association will prove to be a public relations boon to the agency. "One thing we want to show is that it's been worth it," Jaffe said.

There have been times when the Job Corps has needed such help.

As established by Johnson, the corps had a budget of more than $300 million, supporting 123 centers across the country. But President Nixon frustrated by Congress in his attempts to dismantle the program, cut the agency's budget about in half. By 1976, the Job Corps had a budget of only $175 million. That supported 60 centers but, because of inflation and spiraling fuel costs, allowed no expansion and only minimal replacement of equipment and staff.

President Carter, however, decided to resuscitate the program and bring it back to its original size. Now, the corps' budget of $600 million supports 90 centers (with 110 planned for next year) and the training of nearly 40,000 members.

Controversy has dogged the Job Corps along with budget problems. In the early years some centers were plagued with discipline problems and sporadic outbreaks of violence. In addition, the cost to train each corps member was at one time as high as $10,000 a year. Critics, among them the federal General Accounting Office, often cited that figure along with a high dropout rate and uneven record of finding jobs for graduates.

The critics also pointed out that while corps members were overwhelmingly black, the staffs of many centers were mostly white.

Now, however, the Job Corps seems to have overcome many of its problems. And those that it hasn't eliminated it has at least learned to live with.

The Detroit center provides a case in point. Operated by the Singer Corp. under a contract with the Labor Department, it has an average of 305 students enrolled, some in a residential program. The center budget is $2.6-million a year.

Discipline problems have almost disappeared and, according to center officials, the dropout rate is only 19 percent compared to a figure as high as 30 percent in the program's early years, while the rate of placing graduates is 90 percent. Said Cato Howard, who has been center director three years: "The change is due to the ability of the staff to better run the programs because they are now veterans," Howard said. "Also the students don't give us unacceptable behaviour because they understand we won't put up with it."

Still, Howard said, the student population of the center remains 98 percent black. "But the staff is 80 percent black. Besides more black kids are unemployed and out of school here than any other group. You also have to consider our location; it's a black area.

"I might like to change that preponderance of blacks to prevent us from operating in a vacuum, but I don't see a realistic way of doing that. So we do the best we can. And we remember that it's the students who are important."

"It's the Corps members who have to be No. 1," Horace Jackson says. "They're here to try to make it and you've got to show them you think they can."

Jackson is standing in the lobby of the Job Corps Center, a former YMCA on E. Jefferson Avenue. He is a resident advisor at the center. "My job is to make sure the corps members stay cool," he says.

There are bars across the windows all around the building. The main door is locked against non-students who might come in and cause trouble, and a visitor must buzz for entrance. In the lobby a security guard keeps watch. (But there are few real problems, Jackson says. "I'd say 85 percent of the students are cool. Sometimes you got to have a little fight but nobody's cutting each other. They'd be losing too much if they fought. They know they got too much to lose.")

Beyond the appearance of security in the lobby, however, the center where Jackson works seems a school like any other. It offers vocational courses in auto mechanics, building maintenance, welding, nursing aides and clerical work. A special class introduces students to the realities of the job world. Academic courses are available for students who want to complete a high school diploma, and some college work is offered. To be admitted to the center for a two-year program, students must be between 16 and 21 and not in school. They also must meet income requirements (a maximum income of $6,200 a year for a family of four). Students are paid a living allowance that can be as much as $100 a month.

Discipline is tight. There is a curfew. No drugs or fights are allowed. Students can be fined for minor infractions; for serious rulebreaking they can be kicked out of the program. Still, says Jackson, the rules are mostly for the "bad heads" who are few. And, he adds, in no way is discipline so tight as when he first entered Job Corps. At that time many centers were at military installations and many staff members were former military men.

"It has been changing," Jackson says. "Staff people seem to be looser, seem to have a better grip on what they're doing; that comes from experience."

He looks forward to the alumni association for that reason, as a way to return even more practical experience where it can be most useful, in the training centers.

Jackson looks out over the lobby, crowded with students heading for their next class. "Still," he adds, "some things don't change, the students and why they're here."

In the welding shop students are waiting for the oxygen to arrive so they can get to work. Kevin Arnold, who is 17, who "skipped school and just really messed up and then dropped out," stands there looking at the mobile hanging from the ceiling, a sculpture welded from bits of discarded metal.

He wants to get his diploma and go to college. "But," he says, looking at the sculpture, "I like welding, too. I like making things."

He likes going to school here, Arnold says, because he gets that living allowance check.

Then his face grows serious. "But I had messed up and, when I realized what I needed to do in school, it was too late. Here you can work at your own pace, and the teachers take time to work with you."

He adds: "It was a second opportunity that maybe wouldn't come around again. You realize that this is your last chance for real.

"A last chance and I'm glad I took it."●

UNIVERSITY OF DELAWARE SOLAR BREAKTHROUGH

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. EVANS of Delaware. Mr. Speaker, as one of the earliest supporters of the Solar and Energy Conservation Bank established under the terms of the historic Energy Security Act of 1980, I am pleased to announce that a major advance in thin-film solar cell technology has been achieved by the University of Delaware. Solar cells are solid state devices that convert sunlight directly into electricity. By developing a solar cell with a conversion efficiency of 10.2 percent in actual sunlight testing, the Institute of Energy Conversion at the University of Delaware has surpassed a key goal of the national photovoltaic program in the U.S. Department of Energy. A 10-percent conversion efficiency has long been considered the minimum requirement for thin-film solar cells to become economically feasible. This important breakthrough significantly increases the possibilities for harnessing the light of the Sun to produce electricity and move the United States toward greater energy self-sufficiency.●

HAZARDOUS WASTE LEGISLATION

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. VENTO. Mr. Speaker, I would like to take this opportunity to comment on the superfund legislation before us today, H.R. 7020 and H.R. 85. I am in full support of legislation designed to attack this major environmental problem. It is my belief that these bills offer important contributions in the long battle ahead to clean up our environment due to past, present, and future oil spills and hazardous waste disposal sites.

There are nearly 50,000 different chemicals on the market to date and 35,000 of those used have been classified by the Environmental Protection Agency as definitely or potentially hazardous to human health. Recently in the Surgeon General's report to the Senate, he stated that "The public health risk associated with toxic chemicals is increasing, and will continue to do so until we are successful in identifying chemicals which are highly toxic and controlling the introduction of these chemicals into our environment." It has been estimated by the EPA that more than 77 billion pounds of hazardous chemical wastes are generated a year by the United States and only 10 percent of these wastes are being properly disposed of in a safe manner.

It is impossible to find out exactly how many of the toxic waste dumps really exist. Thus far, we have had to rely upon the detection of some of these sites through explosions, floods that uncover rusting, leaking drums, or complaints of strange, unidentifiable odors in specific areas. The EPA estimates that there are at least 50,000 hazardous wastes sites where toxic wastes have been dumped.

Our ground water supplies are becoming more contaminated, and with approximately 50 percent of Americans relying on ground water rather than surface water for their drinking supply we must act as quickly as possible to rectify this dangerous situation.

The widely publicized Love Canal incident and several New Jersey incidents are not the only evidence of hazardous waste contamination. In Minnesota alone, there are 10 known hazardous waste sites, including one in St. Paul, several potential hazardous waste sites, and who knows how many unknown, unidentified illegal sites that will remain undetected until it is too late to undo the damage. An additional threat in my district is the coal tar residues that have drained into an aquifer under the metropolitan area of Minneapolis and St. Paul, thus threatening the water supply for the Twin Cities area residents.

This legislation is extremely necessary and should go into effect as soon as possible. We have many definite problems before us. Our environment is being threatened by unknown and uncontrolled chemicals; our waterways, drinking water supplies, the air we breathe, all are being contaminated more and more each day. These problems need immediate action. It is a tough burden to bear but must be shared by the Federal and State Government and private industry together. The battle to save our environment, our health and our lives is just beginning.

I urge my colleagues to join me in supporting this necessary legislation to combat the long-term problems before us.●

H.R. 7112

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. ZEFERETTI. Mr. Speaker, scheduled for action on the House floor next week will be H.R. 7112, State and Local Assistance Act Amendments of 1980. This is a major piece of legislation and one of great importance to many of my fellow colleagues.

Since I expect a lively debate—and I understand that several Members have expressed a desire to improve this measure through the amendment process—I felt I should remind these Members of the rule adopted by the House Rules Committee earlier this week.

The rule states that no amendment to the bill or to the substitute will be in order except those printed in the CONGRESSIONAL RECORD. There is no time constraint on when amendments need appear in the RECORD, only that they appear prior to consideration of the bill.

I hope you find this information useful.●

REPRESENTATIVE PEYSER PRAISES GRAIN EMBARGO IN CHRISTIAN SCIENCE MONITOR

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. DRINAN. Mr. Speaker, the value of the grain embargo against the Soviet Union has been hotly contested in the Congress in recent months. Some have questioned the embargo's true impact on Soviet grain supplies. Others have criticized its effect on American farmers.

In a recent commentary in the Christian Science Monitor, our colleague from New York, PETER PEYSER, has eloquently and convincingly outlined the reasons for continuing the boycott. Bucking criticism from both parties for his forthright stand, Representative PEYSER has described the hardships that the embargo has inflicted on Soviet food supplies.

Citing the recent rebellion in Poland over rising food prices and other economic difficulties, Representative PEYSER suggests that someday similar demands could be made by Soviet workers.

I commend the article, which appeared in the Wednesday, September 17, 1980, edition of the Christian Science Monitor, to my colleagues.

The article follows:

LET'S KEEP THE GRAIN EMBARGO

(By PETER A. PEYSER)

During the past month there have been attempts in Congress to lift the grain embargo imposed against the Soviet Union. The embargo was originally imposed to register United States concern and disgust with the Soviets over their invasion of Afghanistan.

I firmly believe that one of the reasons that the Soviets did not move in with force against the strikers in Poland was because we stood by our guns on the embargo and other measures we had taken against the Soviets.

The claim has been made by members of the agriculture bloc, both Republicans and Democrats, that the embargo is of little value and that we really should lift it so that American farmers can continue to reap substantial profits from the sale of wheat.

Prominent members of each party, including Ronald Reagan on the Republican side and Sen. George McGovern on the Democratic, have espoused this view.

It should be exposed for the sheer hypocrisy it is.

Is it not hypocrisy to impose a grain embargo, halt the sale of technical equipment, take away fishing rights, and boycott the Olympics, only to say a few months later: "Well, listen, things are getting pretty tough on the farm and we need a little more money, so we are going to waive the biggest weapon we have—the grain embargo?"

Let's make no mistake about it; the grain embargo has caused the Russians severe hardship. They can no longer merely place their order for 17 million tons of American grain and buy it at a low price. Now they must buy whatever they can from many different sources at higher prices.

The Soviets have a long-standing problem with food shortage. They can't get enough grain and other foodstuffs to feed their people, much less their animals.

As a result, Soviet cattle production has been cut back because of lack of feed. Consequently, meat prices have gone up drastically. We have seen in recent developments in Poland the social effects of rising food prices. The strike of 100,000 workers there has been attributed largely to the rise in meat prices in the country.

The communist-ruled Poles finally stood up and shouted.

It might someday happen in the Soviet Union. But not if Congress doesn't have the courage to maintain our clear message to the Soviets that aggression will be met with retribution. If we remove this embargo now, at the whim of the farm bloc, we will forfeit our credibility among our allies.

There is another factor to be considered here. The House of Representatives a few months ago voted in favor of registration for the draft, a move that will involve millions of young men and could potentially lead to the necessity of them going into the service and having to fight to defend our country against the Soviet Union.

As I put it to my colleagues in the House of Representatives during debate on lifting the embargo, how can we call on our young men to make this kind of sacrifice, and then, out of the other side of our mouths, say it is really business as usual with the communists?

As I stood outside the chamber of the House a month ago preparing to vote on this issue, two young men, who evidently had been listening to the debate, came over to me and said, "You know, we both registered yesterday, and we want to know if you people are kidding with what you are talking about and doing on the floor"?

The hypocrisy of lifting the grain embargo is self-evident. The President has shown courage in not giving in to political pressures from the farm belt in an election year. A slim majority of us in the Congress have managed to defeat these pressures up to now and it is my hope that the American public will urge the Congress and the President not to give in on this issue.

It would be a tragic day when we would be willing to equate young American lives with the economics of a special-interest group.●

COMMUNICATIONS WORKERS INCLUDE NORTHERN IRELAND IN ANNUAL FOREIGN POLICY STATEMENT

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. BIAGGI. Mr. Speaker, as chairman of the ad hoc Congressional Committee for Irish Affairs, which now enjoys the membership of 133 Members of Congress, I am always glad to learn of the activities of concerned citizens on behalf of peace and justice in Northern Ireland. Their work is always an important component to our own.

The 42d Annual Convention of the Communications Workers of America, AFL-CIO, was held in Los Angeles. At that convention, attended by 2,500 delegates, a resolution was passed and included in the foreign policy statement of the convention which states that the United States has a vital role to play in helping to bring peace to Ulster. This statement is consistent with the work of the ad hoc committee, which seeks to bring about a just solution to the people of Northern Ireland.

The Communications Workers is one of the Nation's largest unions, representing more than 625,000 men and women who work for both public and private employers, with 900 locals in 10,000 communities. The president of CWA Local 1116, Mr. Jim Devine, is to be commended for his work in bringing this issue to national attention by having it included in the foreign policy section of the union platform.

At this point, I insert the text of the Northern Ireland plank for the benefit of my colleagues. I hope that it will serve as encouragement for other labor organizations to focus attention on this issue as well:

NORTHERN IRELAND

Although we have addressed this subject in several previous conventions, the problem still exists and the incidents of violence continue to occur daily, affecting all segments of their society and especially the poor in this beautiful but ravaged land. Evidence of human rights violations in the detention centers has come from several reliable sources.

It is our feeling that the United States government can no longer neglect the cause of peace in Northern Ireland merely because the numbers of people involved is small or because their struggle has become embarrassing to the British, a nation which has been our ally in wars and our desired friend in peacetime.

We urge the Administration to make a genuine effort for a peaceful resolution of the difficult problems and to encourage the British government to conscientiously plan and act decisively in order to bring about peace in that troubled land.●

SOUTH KOREAN MILITARY GOVERNMENT ATTEMPTS TO CRUSH OPPOSITION

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. NOLAN. Mr. Speaker, I am disturbed by the recent news that the military government of South Korea has condemned Kim Dae Jung to death. Kim Dae Jung, leader of South Korea's opposition political party and its nearly successful Presidential candidate in a previous election, opposed the military takeover of his country's government.

The trial and sentencing of Kim Dae Jung make a mockery of the South Korean military government's assertion that it is committed to the ideals of a liberal democracy. Many U.S. citizens, including Bishop Jesse Dewitt, president of the General Board of Global Ministries of the United Methodist Church, are calling upon President Carter to exercise the power of his office to influence the South Korean Government to release Kim Dae Jung and to restore civil liberties.

I wish to share Bishop Dewitt's telegram to President Carter with my colleagues and to add my voice to those expressing concern.

The telegram follows:

[Telegram]

SEPTEMBER 16, 1980.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR PRESIDENT CARTER: In my capacity, as president of the General Board of Global Ministries of the United Methodist Church, I have been authorized to convey to you the grave concern of its members for the situation developing in South Korea related to the martial law trial of Kim Dae Jung and 23 others. It is our understanding from press reports and direct word from contacts in Seoul that the prosecution in its final argument demanded the death penalty for Mr. Kim and life imprisonment for the other defendants.

We have also been informed of related developments which are equally disturbing. For example we have heard that the prisoners testified that they had been subjected to weeks of severe beatings while under questioning, suffering broken bones, internal bleeding, and other agonies. They also reported that they had been forced to stand naked for hours while under questioning. They have also been denied adequate legal counsel.

In light of our national involvements in South Korea we strongly urge you to do all within the power of your office to intervene in this situation. A failure to do so will drastically alter the future of United States-Korea relationships and will have a negative effect upon freedom of religion. This has been demonstrated already in the present action of the Korean Government to interfere in the affairs of the churches. For example it has been reported to us that the Korean Government has prevented Chan Kook Kim, elected general secretary of Korean National Council of Churches, from assuming his responsibilities. Your immediate attention to this denial of human rights is prayerfully sought.

Respectfully,

Bishop JESSE DEWITT.●

THE SOFT BUT TREACHEROUS ENERGY PATH

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. WYDLER. Mr. Speaker, we have had a number of claims about the advantages of adopting "the soft energy path" during the past several years of heated debate on energy policy. More recently, there have been an increasing number of objective analyses and serious criticisms of these naive scenarios. One of the more interesting articles about these approaches, which particularly focuses on the philosophy of soft energy proponents, appeared in the Futurist, June 1980 issue. I am including a series of excerpts from the article, "The Soft Energy Path—Where Does It Lead?" by A. David Rossin, which I recommend to my colleagues for a keener appreciation of this energy issue.

THE SOFT ENERGY PATH—WHERE DOES IT LEAD?

DECENTRALIZED ENERGY

One of the greatest threats posed by our energy problems is that they will lead to greater concentrations of political power and more centralized control over people's lives. Hence the concept of decentralized energy is very exciting.

Unfortunately, the proponents of decentralized energy production (the "soft" path) offer a road map that would most likely lead to what they abhor—a society of centralized control. Their road map calls for commitments to phase out conventional methods of supplying electric energy to homes, factories, offices, and farms. The soft path offers instead an array of alternative energy sources, such as solar and wind power, that are said to be benign, environmentally desirable, close to the people, and well-suited to local control by individuals or communities. Some of these alternatives may prove viable, but, according to many of the most vocal proponents of the "soft" path, a crucial part of the strategy is the decreased reliance on transmission lines and power plants, particularly nuclear power plants.

The part of the soft path that is seldom discussed is what might happen if the capability to supply electricity begins to fall short of what people need. If there is not enough to go around, somebody will have to set priorities; and in this event, priorities would not be set by individuals, but by governments—big, centralized government. The real question is whether it is desirable to pursue the decentralization of sources of energy as an absolute goal or to permit the diversity we have now in which anyone who wishes to can use decentralized alternatives. Without sufficient, reliable, centralized electricity, the individual no longer has that choice: the one we take for granted today.

EXAMINING THE SOFT PATH

The problem is that the soft path just might not lead where its proponents claim. There is a serious lack of data on the cost and performance of solar, wind, wood-burning, and other soft-path options, especially on a broad enough scale to show how following this path might affect the need for more electric power plants. Indeed decentralized energy systems are generally discussed in the abstract. Alternatives, almost by definition, are said to be better than what works today. Yet we know little about just how decentralized solar or wind systems would work in cities, large towns, or other locations where they might be called upon to serve large numbers of people. We do not know the environmental impacts, the costs, or the resources required.

DECENTRALIZATION AS A PHILOSOPHY

The other part of Lovins's strategy, seldom examined by the public, is revealed in the following quotation from Soft Energy Paths: "Many who work on energy policy and in other fields have come to believe that in this time of change, energy—pervasive, symbolic, strategically central to our way of life—offers the best integrating principle for the wider shifts of policy and perception that we are groping toward." The soft energy path, it seems, involves more than merely changing the way in which energy is produced. It entails, Lovins suggests, "wider shifts of policy and perception"—in short, new concepts not only of energy use, but of society, something like a whole new philosophy for society.

If the debate is about the philosophy (indeed, the ideology) of individual self-sufficiency, rather than costs, risks, and benefits, it is appropriate to explore the concepts of decentralization and self-sufficiency themselves. Like other general approaches, decentralization and self-sufficiency are not universally beneficial. How many Americans, for example, would desire to return to a decentralized system for providing their drinking water? What about sewage treatment? Although few Americans remember it, as recently as 100 years ago some major American cities were without centralized water and sewage systems. The massive effort necessary to create these systems has resulted in incalculable benefits to society, wiping out some of America's most common and deadly diseases. One can hardly conceive of public health authorities, let alone the average person, taking even the slightest chance of a resurgence of typhoid, cholera, and dysentery in order to satisty a philosophical objective.

Furthermore, the promoters of the soft path admit that it would take time to move from a centralized system for producing energy to a decentralized energy society. In the transition period, which is generally conceded to be several decades, the centralized system must be kept around. Almost every residence would require central electricity to back up the solar systems or windmills, and to supply electricity when the sun isn't shining or the wind isn't blowing or when the motors, pumps, or seals need repair and the neighborhood fix-it person can't come. There would still be electric motors, electronic equipment, and electric lights for which no alternate source is available. In New York, Chicago, and other cities where people live in apartments and large commercial buildings are common, the central system would still have to carry most of the load. Moreover, central electric supply would also be essential to supply the tremendous energy needs of the huge industry that would have to be brought into being to manufacture the solar devices and other equipment necessary to make the transition to a soft energy society.

AN ENVIRONMENTAL IMPACT STATEMENT

Before they undertake major construction projects or other large programs, many industries, including those that build conventional power plants and nuclear reactors, must prepare an environmental impact statement. Such a statement must examine the project itself, its effects on the environment, the alternatives, and even the alternative of not proceeding with the project at all. But no such examination has been offered for the soft path, and the people of the U.S. need such an examination if they are seriously to consider soft path policies. No one seems to have answered any of the hard questions yet.

What would happen, for example, if a societal decision were made that no more new, large electric generating plants would be built in the U.S.—either nuclear or coal? Voluntary conservation becomes the national byword, but meanwhile a growing population and the aspirations of people who still hope for a better future for themselves and their children mean growing demands for energy. Whether or not the government has subsidized local solar and wind generators, in a few years there will be gaps in various parts of the nation between the capability of the centralized energy system to supply energy and what is needed to meet the legitimate expectations of individuals, households, communities, and industries. In that event, one traditional political response might well be for the government to take over the generation of electricity and ration it. Then, facing the same realities utilities face now, government would have to build the central generating plants that the various individual utilities were stopped from building because they were "philosophically undesirable."

The cost to every individual would likely be higher because of the delays that forced the crisis. Catch-up building would be necessary instead of prudent and logical planning. Philosophically, the problem is that energy would be supplied by an even bigger and more centralized system, that is, the government, as opposed to local or regional utilities. There might be no time or money for community or neighborhood sources.

IMPACT ON THE FUTURE

If energy supply falls short of demand during the promised transition to the soft energy era, on occasion there would be brownouts or blackouts, and the emergency curtailment of electric supply to avoid lengthy breakdowns. Short-term emergencies are costly, as any New Yorker knows. But the more serious impacts are long-term—and more subtle. Before blackouts and brownouts become widespread, the fact that possible shortages of electricity are coming would be common knowledge among utility experts, urban planners, and many businessmen. And this knowledge would be crucial to new businesses looking for attractive locations to set up shop.

Businesses don't just appear. Any company considering the construction of a new manufacturing plant that would employ a substantial number of people, or a large office building, shopping center, hospital, or housing development, asks some basic questions early. They go to the utility company that serves the area in which they are considering building and ask if they can be assured that electricity will be available at the site both during construction and afterwards to meet their power needs when their plant or shopping center goes into operation. They also want to know if telephone service will be available. They ask the municipality for assurance that water and sewage services will be installed on schedule and at a reasonable cost. They have to know if roads will be built and maintained, and by whom. If they get unsatisfactory answers to one or more of these questions, they will begin looking for a site somewhere else. With it will go the jobs and the benefits that the project was designed to bring.

If they get a lot of negative answers in a lot of different places, they will be receiving a warning that perhaps the market they expected to serve will not be able to buy their products, pay for their services, or get a mortgage for their housing units. Instead of raising more capital and taking more risks, they may decide to stay on the sidelines.

If the time comes when more and more people who would have been the builders and the doers remain on the sidelines because of energy shortages, growth will stagnate and we could enter into what some people remember as a depression. That is a dangerous risk for society to take.

REAL RISKS

There are some people who claim that energy growth and economic growth must be stopped in order to halt ever-increasing environmental problems. The theory is that by halting growth, conservation will become essential, everybody will take only his fair share, and everyone will live happily ever after.

History shows us that things don't work that way. If there is not enough electricity to go around, some decisions will have to be made about who gets priority for the limited amounts that are available. If more than one group wants to build, priorities will have to be established. Who makes these decisions? Decisions could no longer be made on a decentralized, individual basis. They would have to be made centrally. By whom? By big government.

Is that really what the proponents of the soft path have in mind? Is that really what people who are impressed by the promises of decentralized energy supply understand as the potential consequence of taking the soft path? Because if necessary commitments to keep up the centralized energy supply system are foreclosed, and the extravagant promises of decentralized energy are not achieved, these potential consequences become inevitable.

Here is the basic reality: Today we have centralized electric energy supply produced by large utilities. The individual can still make his own decisions about whether or not he wants to buy a new appliance, build a new home that will have electricity in it, or start up his own business and assume that, if he wants to sell something that has to be plugged in, people will be permitted to buy it and use it. He can build his own windmill, his own solar panels, or even buy his own diesel generator and generate his own electricity, if he can afford the fuel for it.

Utilities do not decide who gets electricity and who does not. The state gives them a charter that requires them to provide reliable service to all customers. If this is to be changed, the decision to do so should be made by the elected representatives of the people (the State Legislature), who could order the State Utility Commission to do the allocating. Certainly utility managers should not be the ones making decisions about which users are more deserving than others. But if there is not enough capacity to provide electricity to all those who ask for it, someone will have to make exactly that kind of decision.

TOWARD ENERGY POLICY

When the concept of energy decentralization is discussed, what is it we should really be concerned about? What are the risks if the promises fail? Certainly, some kind of energy rationing, and the centralized government control that rationing implies, would become real possibilities. Under such a system, the threat or reality of acute energy shortages around the country would discourage the individual entrepreneur and curtail individual freedom of choice.

In addition, the restriction of energy supplies could well result in a serious risk of loss of economic growth. Growth has environmental impacts—these are fairly well known—but lack of growth also has impacts on the environment. The risks that accompany both need to be studied carefully and discussed openly, along with the risks that a particular energy policy might push things one way or the other. The environmental impact statement for the soft energy path should be published widely. Then the public will be able to rationally evaluate the risks of a failure to have enough power plants.

Which risk is to be most feared: the network of transmission lines and centralized electric power plants that are commonplace today, or the possibility of centralized control of how each corporation, group, and person uses electricity? A policy or a philosophy that promises to solve energy problems by curtailing centralized power generating systems turns out to be bankrupt on close examination.

Proponents of the soft energy path envision not only an energy system, but a way of life in which large power plants—especially nuclear plants—have no place; and perhaps the fact that the soft energy path is as much a philosophy as a platform of policies helps explain the intense polarization that currently marks the nuclear debate. What the advocates of the soft energy path neglect to point out is that without centralized power plants, including nuclear power plants, the threat of energy allocation grows. And the allocation of energy may well mean not decentralization, but infringement on individual freedom and the ultimate in centralized control of people's lives.●

NATIONAL AGRICULTURE DAY

HON. THOMAS S. FOLEY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. FOLEY. Mr. Speaker, House approval of House Joint Resolution 560, which proclaims March 19, 1981, as "National Agriculture Day," is a step forward toward an era of better understanding between rural and urban people. This is important for all Americans, because it is only when we appreciate each other's problems and needs that we can deal effectively with those problems and needs.

Every American is affected by agriculture. Obviously we depend on farmers for the food and fiber we must have to support life, but in these times when most people take an adequate food supply for granted, it is useful to remember that the economic health of American agriculture also goes a long way toward determining the quality of life for the rest of the country.

When farmers can earn a fair living in return for their labor and investment, they can continue the strides toward greater efficiency which give Americans the world's best diet at what is—in real terms—a very low cost. If farmers are driven out of business because of cycles of low prices, on the other hand, consumers could be faced with cycles of reduced supplies and dramatically high food costs.

Many Americans, I believe, already understand that our whole Nation benefits when individual segments of our economy, like agriculture, are able to earn decent and stable returns. But we need to do more to encourage this understanding in a society in which most people do not live on farms and have little direct contact with the producing segment of agriculture. We need to do more to promote both direct people-to-people contact and broader knowledge of the facts of economic life about our domestic food and fiber industries and our vital role as a supplier to much of the rest of the world.

These are some of the reasons why I introduced House Joint Resolution 560, and why I am glad to see it approved in the House with unanimous bipartisan support.

The resolution not only proclaims next March 19 as National Agriculture Day for 1981, it calls on the President to issue a proclamation calling on the people of the Nation to observe the day with appropriate ceremonies.

National Agriculture Day has been celebrated under the leadership of farmers and others in agriculture since 1972. Next year, however, our resolution would—for the first time—provide the added emphasis of official Government recognition of the observance. I hope and believe this will spur increased efforts by the farm, commodity, agribusiness, and other leaders who will be working together on a wide range of activities during the 1981 observance.●

A TRIBUTE TO RAOUL WALLENBERG

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. WEISS. Mr. Speaker, Congressman DODD and I are joined today by several distinguished members of the House Foreign Affairs Committee and other colleagues in resubmitting a concurrent resolution on Raoul Wallenberg.

The new concurrent resolution represents a melding of the two measures which Mr. DODD and I sponsored in the House earlier. A copy of the resolution with the list of cosponsors is printed below.

This version was unanimously approved on September 16 by the Subcommittee on International Organizations under the leadership of Subcommittee Chairman DON BONKER and EDWARD DERWINSKI, the ranking minority member.

The resolution honors Raoul Wallenberg for his outstanding contribution in saving 90,000 Jewish lives from the Nazi death camps. The resolution expresses the sense of Congress that the U.S. delegation to the Madrid Conference on Security and Cooperation in Europe in its November 11 meeting later this year urge consideration of the case of Raoul Wallenberg at that meeting. In addition, the resolution requests the State Department to take all possible action to obtain information concerning the present status of Wallenberg and to secure his release if he is still alive.

The text of the resolution follows:

H. CON. RES. 434

A concurrent resolution to honor Raoul Wallenberg, and to express the sense of Congress that the U.S. delegation to the Madrid Conference on Security and Cooperation in Europe urge consideration of the case of Raoul Wallenberg at that meeting, and to request that the Department of State take all possible action to obtain information concerning his present status and secure his release

Whereas in January 1944 the War Refugee Board was established by the United States to organize rescue operations to free persons being persecuted during World War II; and

Whereas the War Refugee Board requested Sweden to send a representative to Hungary; and

Whereas the Swedish representative, Raoul Wallenberg, is considered responsible for having saved the lives of twenty thousand Jewish citizens in Hungary through the issuance of protective Swedish passports beginning in July 1944; and

Whereas Raoul Wallenberg is recognized as saving indirectly the lives of an additional seventy thousand Jewish citizens in Hungary through collaborative efforts in the latter half of 1944 with neutralist representatives in Budapest and the Jewish Community in Hungary; and

Whereas Raoul Wallenberg was taken into Soviet "protective custody" on January 13, 1945, in violation of international standards of diplomatic immunity; and

Whereas Soviet officials originally denied having custody of Wallenberg, but subsequently stated that a prisoner named "Wallenberg" died in a Soviet prison on July 17, 1947; and

Whereas in 1949 he was nominated by Albert Einstein for the Nobel Peace Prize; and

Whereas reports from the Soviet Union, as recent as May 1, 1978, suggest that Raoul Wallenberg is alive; and

Whereas the continued internment of Wallenberg, if indeed he is still alive, is in direct contravention of the Final Act of the Helsinki Conference on Security and Cooperation in Europe which requires signatories to "fulfill in good faith their obligations under international law"; and

Whereas the Madrid Conference on Security and Cooperation in Europe, to be held on November 11, 1980, provides an occasion to discuss the status of Raoul Wallenberg with the Soviet government as part of the review of the Helsinki Final Act; and

Whereas document released by the Swedish Foreign Ministry in January 1980 indicate diplomatic efforts by the Swedish Government have not fully clarified the status of Raoul Wallenberg: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress honors Raoul Wallenberg for his outstanding work on behalf of those persecuted in Hungary during World War II, and it is the sense of Congress that the United States delegation to the review meeting of the Conference on Security and Cooperation in Europe which will be held in Madrid in November 1980 should urge that the case of Raoul Wallenberg be considered at that meeting by the signatory countries to the Final Act of the Helsinki Conference on Security and Cooperation in Europe; and it is further

Resolved, That the Congress requests the Department of State to take all possible steps to discern from the Soviet Union the whereabouts of Raoul Wallenberg and, if he is alive, to secure his return to his native country.●

RETIREMENT OF CARLYLE REED

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. MATSUI. Mr. Speaker, September 30, 1980, marks a "final run" in the journalistic history of the Sacramento Valley. On this date, Carlyle Reed, professor emeritus and columnist for the Sacramento Union, will retire from a distinguished career in the newspaper publishing business which has spanned more than 40 years.

Following in the footsteps of his father, Henry C. Reed, a pioneer newspaper editor and publisher, Carlyle Reed began his career as the publisher of the Ed Cajon Valley News. He then went on to the San Diego Union & Evening Tribune where he rose to the position of assistant to the publisher. One of his principal responsibilities was to cover the California Legislature. It was during this tenure that Carlyle came to love Sacramento.

In 1966 Carlyle was afforded the opportunity to trade the sandy golden shores of San Diego for the rolling hills of the gold country. With the spirit of a 49'er, he served as the publisher of the Sacramento Union. Carlyle transformed the Union into one of the best dailies in the West. His journalistic expertise joined with the dynamism of Sacramento truly made the perfect "union."

Carlyle's reputation soon spread beyond the Sacramento Valley. Attesting to his fame was his recognition in 1973 as the "Publisher of the Year" by the California Press Association. His peers furthermore elected him the 1977 president of the California Newspaper Publishers Association.

His community of interest was not, however, reserved exclusively to publishing. He has devoted his energy, his time, and his tenacious spirit to the entire community of Sacramento. He is a member of the Board of Directors of the Sacramento Symphony Association, and a member of both the Advisory Board of the California State University at Sacramento, and Empire Council, Boy Scouts of America. His service to Sacramento includes his tenure on the Board of Governors of Mercy Hospital's Foundation, a commodore of the Port of Sacramento, and a director of the Sacramento Chapter of the Navy League.

Carlyle Reed is a man whose commitment, dedication, and spirit matches the majestic mountains which tower over the Sacramento Valley.●

FUTURES EXCHANGES FOR THE MARKETPLACE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. FINDLEY. Mr. Speaker, the following is an abbreviation of a presentation which Leo Melamed, special counsel to the Chicago Mercantile Exchange Board of Governors, made to the Commodity Futures Trading Commission a few weeks ago when the CFTC was contemplating actions that jeopardized free competition.

The Commission, whose authorizing legislation comes from the Agriculture Committee, on which I serve, challenged the ability of the Chicago Mercantile Exchange and Chicago Board of Trade to compete openly and fairly for the markets in financial instruments those exchanges have painstakingly nurtured.

I commend Mr. Melamed's presentation to my colleagues for insights into the financial futures markets as expressed by one of the leading pioneers in those markets.

TESTIMONY OF LEO MELAMED

Not many in this room can identify with the era when the idea of financial futures was first conceived. Indeed, of the four present Commissioners, I believe only two were in office back in 1975, and I doubt whether even they have any real recollection of the conception—birth—and after-birth ordeals of T-Bill futures. Certainly, very few of C.F.T.C. current staff nor any of today's senior officials were present in those days.

But you couldn't have been expected to have any real inkling or understanding of the magnitude of the undertaking launched by the International Monetary Market Division of the Chicago Mercantile Exchange. Because to have any real conception of the magnificent new concept officially initiated in January of 1976, you would have had to have first lived through the previous year and a half process of deliberations, discussions, analysis, examination, argumentation and testing. You would have had to have begun by sitting with us and debating the very first crucial issue as to which interest-bearing instrument to utilize in this venture.

Then you would have had to have participated in the months of deliberations relating to the exact specifications which might best work, knowing that each decision might be the difference between success and failure.

It would also be necessary for you to have partaken in the process of justifying to your Board of Directors and membership that such a project was worth the anticipated cost of millions of dollars—even though you had to admit that its chances of success were slim.

You would have had to have taken part in the unending effort of convincing the most respected financial series of that day that T-Bill futures was a good idea, a necessary business tool, not harmful to the national economy or debt management, and that such a market would prove successful once launched or at least was worthy of a try.

And yes, you would have had to have been on our side of the fence to convince the then-Commissioners and staff of the C.F.T.C. that there was sufficient economic justification and that license ought to be granted for this startling off-the-wall idea.

Had you taken part in this process—which lasted approximately four years and which today is impossible to describe—then and only then could you fully appreciate and understand the recent decision of the Board of Governors of the Chicago Mercantile Exchange and conclude, as they did, that their decision was not only justified but mandatory lest they be guilty of treason to all of the labors of the past.

Mr. Chairman, I am prompted to ask you if during the C.F.T.C. deliberations which culminated in this hearing, did anyone speak out to suggest that just maybe the Merc was justified in its actions? Did anyone consider that the Chicago Merc was not an institution with a record of irresponsible actions and that just maybe their record justified an honest appraisal of their decision? Did anyone bother to note that the C.M.E. was, more often than not, considered even by the C.F.T.C. itself the best example of the most responsible contract market in the U.S. today and that such a record at least deserved a fair and careful review of the pros and cons before one jumped to the conclusion that this Exchange would willy-nilly act irresponsibly or violate some rule of the C.F.T.C.?

I dare say I doubt it. For any just appraisal of this issue would have never led to this action against our Exchange. To conclude that the C.M.E. violated Section 5a(12) can only be achieved by the use of contrived and twisted logic with a predestined bias of where you want to land.

When we were granted the license for T-Bills, there was never a proscription of which trading months to use. Indeed, we, ourselves, debated this issue for months—finally choosing the December cycle as a test with the full knowledge that if we were wrong or if different or additional months were needed, we could and would list them at our discretion.

And at no time since inception, did we promise or convey to anyone the guarantee that we would voluntarily preclude ourselves from a broader spectrum. Indeed, it is sheer nonsense for anyone, especially a Federal agency, to ask the inventor to limit the marketing of his product to a given period of the year.

The listing of contract months has since time immemorial been the province of the directors of contract markets. For it to be otherwise would be contrary to every dictate of logic or practicability. Contract months in futures are chosen on the basis of numerous and often diverse principles and considerations. The directors must take into account such things as production, consumption and storage cycles, the practices of the trade, supply and demand, conformity with commercial use and needs, future market liquidity, competition from other markets, availability of brokers and traders, floor trading space, priority based on chances of success, and many other factors that affect the use of commodity futures by both the commercial and the speculative worlds. Often, the contract markets will experiment and add or subtract months in a constant attempt to keep the market viable and in conformance with use and demand. Such decisions can only be made by someone in constant and daily touch with trading activities, whose expertise, knowledge and experience is professionally acquired, and whose motivation, as well as point of view, stems from market participation.

I, therefore, cannot assume that the C.F.T.C. intends now to change this practice and assume responsibility for contract month designation. The only reasonable explanation for the present C.F.T.C. view has to be based on the assumption by the agency that contract month designation in Treasury Bill futures is an exception to the otherwise all inclusive general principle. While we would seriously argue such a contention, we admit that the agency's view is probably based on the fact that the U.S. Federal Reserve has advanced a concern about deliverable supply and, therefore, might have objections about the same contract month being listed at more than one contract market.

Although this view is arguable as well since there are many other methods to prevent any problems and alleviate Federal concern other than a blanket prohibition, this problem is technically not the issue at this time. When the C.M.E. listed for trading the January cycle, no other contract market had this cycle open for trading nor was any other contract market yet designated for those months. Indeed, the Federal Reserve several weeks ago issued a statement which stated that it did not foresee any deliverable supply problems with the January cycle to be listed for futures trade.

Thus, the only concern the C.F.T.C. can legitimately have as a result of the C.M.E. action must be based on the fact that such action might prevent it from approving a new contract market for the same monthly cycle. The following questions, therefore, come to mind. Has the C.F.T.C. or any of its officials made a private commitment to or a secret agreement with a new contract market that the January cycle in T-Bills would be saved for it? If so, by what right or authority did it do so? More importantly, why should it do so? Or was it merely the private intention of the C.F.T.C. to reserve the January cycle for a new contract market? If so, the same question comes to mind—why?

Isn't it a fact that the C.M.E./I.M.M. was the inventor, developer and successful implementor of Treasury Bill futures? Isn't it a fact that its T-Bill futures market has demonstrated viability and growth which confirms that the business world has overwhelmingly accepted this market as an important business tool which they can trust and feel confident in using? Isn't it a fact that the C.M.E./I.M.M. has an exemplary record in maintaining free and open market liquidity in its futures contracts? Isn't it a fact that the C.M.E./I.M.M. has a record of strong rule enforcement especially as it relates to potential market manipulation?

Are those reasons for the C.F.T.C. to preclude our institution from expanding our T-Bill futures market? Was it the intention of the C.F.T.C. to exclude our market from the January cycle because we have a fine history of new market development as well as efficient market implementation? Is such a prohibition some sort of reward for past exemplary performance? Because we had the foresight and fortitude to develop this new market, are we now forever to be excluded from additional months of trading? Is it equitable to limit our Exchange's participation in this market to no more than equal partnership with new exchanges who are just now beginning to enter the futures arena?

It would seem to me that either the C.F.T.C.'s analysis of the situation was totally without logic or it did not think about it at all. In either case, to prohibit the Chicago Mercantile Exchange from expanding its successful market invention is without precedence in the business world and would be completely inequitable. If the C.F.T.C. or its staff must now suffer embarrassment as a result of its faulty intentions, or institution cannot be blamed for this result nor can we be faulted for doing what it was our every right to do.

Is there some other special unknown motivation on the part of the Federal regulator to come to the aid of a competitor? That is not as farfetched a possibility as it may seem. Back in Chicago, we wonder why the C.F.T.C. has not been able in the course of 16 months to institute Section 8a(7) proceedings against a competitor of ours in a rule dispute where the C.F.T.C. has admitted that the I.M.M. rule is better. Indeed, the C.F.T.C. inaction in the gold settlement dispute has forced our Exchange to go to court in an attempt to have the C.F.T.C. act in this matter. And yet—in the case at hand—the C.F.T.C. is able to institute Section 8a(7) proceedings against our Exchange in less than seven days.

We also wonder whether the uncharacteristic speed of the C.F.T.C. action in this matter is directly related to the gravity of the C.M.E.'s action. Was such ruthless dispatch warranted—even at the expense of the C.F.T.C.'s own procedural requirements—because our Board of Governors failed to act in some emergency situation? Did we fail to prevent some impending market manipulation? Was there reason to believe that our Exchange was on the brink of a vast number of defaults or some impending financial collapse of one of our firms?

From the deliberate speed of these proceedings, it must be assumed that our offense was much graver than any of those mentioned. Obviously, our listing of additional months, in an approved contract, allegedly without sufficient advance notice to the C.F.T.C., must have more serious consequences for futures markets than any previous futures market problem. In fact, if one considers alacrity of Federal action or intensity of Federal criticism as a measure of the gravity of the crime, then one must conclude that the C.M.E.'s alleged improper procedural etiquette has much graver implications for our industry than, say a potato default, or even a silver fiasco.

Not only are we forced to come here to defend our totally legal action to expand our T-Bill contract use, we are advised that our irresponsible action has irreparably damaged the C.F.T.C.'s exclusive jurisdiction issue.

I submit that that kind of reasoning is really hard to take. With all due respect, if the exclusive jurisdiction of the C.F.T.C. is in jeopardy—and we sincerely hope it is not—it will be for a myriad of causes over a period of many years, none of which can be laid at the doorstep of our Exchange.

Then we are told that our action is fraught with an attempt to monopolize T-Bill futures. That accusation borders on the ridiculous. It is like telling General Motors not to produce a better automobile or not to market it during part of the year because it will put Toyota out of business.

Mr. Chairman, in all due fairness, we must point out that we did not come to the C.F.T.C. and ask for a protective patent on our invention, as could have been granted in other areas of business. We did not suggest to any of the other exchanges that they could not lift our invention and list it for trading at their place of business. We did not scream foul when we saw our competitors attempt to capitalize on our labors, on our educational efforts, on our marketing success and on our millions of dollars of expenditure. Nor did we suggest to our competitors that perhaps they should try to develop their own and different futures vehicles rather than attempt to reproduce our proven success. Nor did we go to the C.F.T.C. and suggest that there was little need for another T-Bill or foreign currency futures market, while there was perhaps good reason to believe that other financial instruments could use a futures contract.

We did not do any of those things—because that would have been contrary to our philosophy of free competition. We were more than willing to do battle with our competitors fairly and squarely by allowing the marketplace to determine where the business should flow. Why does the C.F.T.C. feel compelled to enter this competitive fray—or take sides in a purely business decision between two potential competitors?

What we did do was list additional contract months for trade—as was our legal right—as we have done countless times in many other competitive situations and for many other good reasons, and as was our very obligation if we were worthy of our office as directors of our institution.

For that sin we are here today. I submit, Mr. Chairman, Commissioners of the C.F.T.C., it was no sin. I implore you to reconsider your action.●

REAUTHORIZATION OF THE HIGHER EDUCATION ACT: H.R. 5192

HON. FRANK THOMPSON, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. THOMPSON. Mr. Speaker, yesterday the House adopted the conference report on H.R. 5192, which reauthorizes the Higher Education Act for 5 additional years. I am proud to have participated in the development of this legislation during the past 2 years. This legislation reflects the finest spirit of hard work, accommodation, conciliation, and bipartisan cooperation among the members of the Education and Labor Committee. I would like to particularly commend the gentleman from Michigan (Mr. FORD), chairman of the Subcommittee on Postsecondary Education, for his leadership and dedication in bringing this legislation to fruition. It is a tribute to the legislative skill of the gentleman from Michigan (Mr. FORD) that this legislation reflects a consensus which enjoys the support of the entire higher education community, students, parents, college presidents, and faculty members.

The bill authorizes increases in student grant assistance to help poor and middle-income students meet the increased cost of college at all levels. It maintains the promise and the spirit of Middle Income Student Assistance Act, which we enacted in 1978, that makes some form of Federal student assistance available to every American student. It extends program eligibility to unserved part-time students, recognizing that these students too would like to pursue the dream of a college education. It makes important reforms in the loan programs aimed at reducing default rates and improving the administration of the loan programs. While the bill extends the availability of need-based loans, it also establishes a loan program for parents who are hard pressed in finding ways to finance their children's college education. And the legislation strengthens authorities for support of such national priorities as continuing education, developing institutions, libraries, international studies, research programs, and urban universities.

Mr. Speaker, I would like to call particular attention to important improvements that the bill makes in the title IX graduate programs.

Parts B, C, and D of current law are revised by the conference substitute to provide a program of grant awards based on financial need. The maximum award to a student is $4,500 per year for 3 years. The substitute also provides for the maintenance of the level of awards—including institutional allowances—for the public service, mining, and graduate and professional opportunity fellowship programs. The substitute authorizes $60 million for fiscal year 1981 and for fiscal year 1982 and such sums as may be necessary for fiscal year 1983 through 1986 for this new part B.

The conference substitute also provides a new part C, national graduate fellowships. This part would provide 450 portable competitive fellowships each year in the arts, humanities, and social sciences. Selection of these fellowships would be based on merit, with the stipend awarded being related to the recipient's financial need. A National Graduate Fellows Program Fellowship Board will be created to select the areas in which the fellowships are to be awarded and to appoint panels for the selection of recipients.

I believe that it is particularly important to establish a broad-based program to provide assistance to graduate and professional students on the basis of financial need. The future of our Nation, particularly its economic productivity, is closely tied to developing to the fullest extent possible our human capital through graduate education.●

AN ALTERNATE TRANSPORTATION PLAN FOR THE HANDICAPPED

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. McKINNEY. Mr. Speaker, in conjunction with my remarks of September 17, 1980, concerning the Cleveland amendment to the Surface Transportation Act of 1980—H.R. 6417—I am inserting in the RECORD a letter written to the New York Times by the Mobility Advisory Group of the Westport Transit District. Westport's alternative transportation service for the handicapped has been a tremendous success. It may serve as an inspiration and example of what can be achieved in other communities, in their efforts to most efficiently and reliably serve the handicapped.

The letter follows:

MINNYBUS,
WESTPORT TRANSIT DISTRICT,
Westport, Conn., June 17, 1980.

THE NEW YORK TIMES CO.
(Attention: Editor)

To the EDITOR: We have been following the debate in the editorial pages of your newspaper on accessible transportation for the handicapped. Because we are knowledgeable about the needs of the handicapped community and because accessible public transportation is provided here in Westport in a unique manner, we have some valuable contributions to make to the debate.

Two previous letters on this issue have expressed opinions which seemed to be in opposition. Hugh Gallagher's letter of May 9th protested "the expenditure of several billions of dollars of public funds to make existent mass-transit systems accessible to severely handicapped people mobile only by wheelchair." John Gerity's letter of May 2nd, urged us to "stop delaying and get to work implementing a truly integrated, accessible transportation system."

The Handicapped Mobility Advisory Group of the Westport, Conn. Transit District was organized in October, 1979 to assess the accessibility of the public transportation system in Westport and make recommendations for future handicapped service in the community. Our membership includes representatives from a broad range of Westport organizations as well as members of the handicapped community. Two of our members are confined to wheelchairs. We suggest that other communities look to Westport as an example of effective service integration which mainstreams the disabled into service available to the general public while sensitively serving the individual needs of the handicapped population. The Westport system addresses both Mr. Gallagher's concern that the public should not bear the burden of paying for expensive, seldom used lifts on fixed route buses as well as Mr. Gerity's demand for accessible, affordable integrated transportation.

Westport's hilly terrain, lack of sidewalks on winding narrow roads, and capricious New England weather prevent the wheelchair-bound from getting to a bus route. Recognizing this the Westport Transit District has developed an innovative, integrated transportation system comprised of both fixed-route fixed-schedule "Minnybuses" and the shared-ride, demand-responsive paratransit service called "Maxytaxy." Accessible transportation to any area of Westport is comparable or better in every way to service to the able-bodied:

Any handicapped person (we are all not confined to wheelchairs) is eligible to utilize the fixed-route Minnybus for a 25 cent fare, one-half the regular cash fare.

Any handicapped person whose physical limitations or impairments prevent access to the Minnybus is eligible to use the demand-responsive, shared-ride Maxytaxy for door-to-door service at the same 25 cent fare.

The advance time required to use the Maxytaxy for the handicapped is about 30-40 minutes, the same time required for general population using Maxytaxy. In comparison, the Minnybus operates every 35 minutes on its routes.

The important difference between the Westport approach to handicapped mobility and most other communities is that Maxytaxy is not a separate or specialized service used solely for the handicapped. By serving the general population as well, trips may be grouped to efficiently manage transportation resources. This brings the cost per trip (including the handicapped) to $4.00. According to a report by the Congressional Budget Office regarding the costs of providing accessible public transportation, other communities have experienced a cost per trip ranging between $7.00 and $40.00.

We believe we have in Westport the "multi-modal approach" to which Mr. Gerity referred. We have fixed route accessible service to all but those whose physical limitations prevent them from getting to a bus route. However, their individual transportation needs are met sensitively and in a cost-effective manner with mainstreamed Maxytaxy services at fares, wait-time, service area and operating hours which are truly comparable or better to that offered on the fixed route service.

We agree with Mr. Gerity that everyone in a community served by accessible transportation benefits. We do not agree with him, however, that the only effective way to provide accessibility is to require fixed route buses to be lift-equipped as stated in federal regulations. In Westport, for instance, a hydraulic lift for a bus (not the bus, only the lift) ranges in price from $8,000 to $20,000. The estimated cost of a lift-equipped Maxytaxy van (the complete vehicle) is $15,000 to $20,000. In a political climate in which bus purchase funds are severely constrained, the federal requirement to lift-equip Westport's fixed route buses would severely reduce or eliminate the funds available for purchasing replacement Maxytaxy vans. It seems to use that in the particular instance of Westport Mr. Gerity's suggestion which is intended to enhance or improve our accessibility would in effect eliminate our accessibility. We believe that the federal requirement is not only contradictory in its intent as it applies to Westport but also capricious and arbitrary in its representation that the only way to achieve accessibility for us is through lift equipping fixed-route buses.

The complimentary Maxytaxy service has proven to be more cost effective and certainly more accessible given Westport's topography than accessible fixed-route bus service. Furthermore, Maxytaxy is comparable or better in service characteristics to any accessible fixed-route bus system. If Maxytaxy were lost in order to adhere to the federal mandate to purchase accessible fixed-route buses, the mobility options and the expanded opportunities to access all parts of the Westport community would be lost not only by us, the Westport handicapped community, but also the general Westport community.

We have passed a unanimous resolution requesting the Secretary of Transportation to grant Westport a waiver of the federal regulations requiring that all new buses be lift-equipped. The waiver would enable Westport to continue to operate the integrated, accessible Minnybus-Maxytaxy system so well suited to the particular needs of the handicapped in this community. We are also urging our representatives in Congress to support the Cleveland amendment to the Surface Transportation Act of 1980 which offers communities the local option to provide mandated accessiblility in the manner which best serves the handicapped community rather than requiring only accessible fixed route bus service.

We are proud of Westport's excellent, accessible integrated public transportation system. We invite Mr. Gallager, Mr. Gerity and any other advocates of truly accessible public transportation to visit us and view the integrated Minnybus and Maxytaxy system. We might not have the only answer, but we believe we're on the right track!

—HANDICAPPED MOBILITY
ADVISORY GROUP.

Any questions or inquiries can be directed to: Westport Transit District, Gordon Aoyagi, Executive Director.●

OCCUPATIONAL THERAPISTS

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. WALGREN. Mr. Speaker, the Medicare Amendments of 1980—H.R. 3990—were recently reported by the Ways and Means Committee and the Committee on Interstate and Foreign Commerce. Several provisions contained in the bill recognize the cost-saving role that occupational therapists—OT's—can assume in the delivery of health services.

I am very impressed with the therapeutic and restorative work done by these professionals. In my home district of Pittsburgh, I have become personally aware of the fine efforts of one of my constitutents, Emilie Staisey, in providing OT services through the Easter Seal Society. Because of her dedication and that of other OT's, I would like my colleagues to have some background on the occupational therapy profession—its purposes, activities, and importance in the health care arena.

Occupational therapy is a health care service whose purpose is to assist individuals whose lives have been threatened or impaired by physical, psychological, or developmental problems. The therapist aims toward maximal independent functioning of the patient. OT is based on the belief that occupation, engaging in purposeful activity, is effective in preventing or reducing disability and promoting independence.

OT's work with people of all ages in a variety of settings. Among these settings are acute care hospitals, rehabilitation centers, community mental health centers, well baby clinics, day care centers, home health agencies, centers for the mentally handicapped, nursing homes, schools, industry, and private practice. OT's perform such services as assisting a stroke patient to regain use of the affected limb, train patients in essential activities of daily living, such as feeding, dressing, and personal hygiene, and helping mental patients with work therapy.

Occupational therapists perform a valuable service while concurrently making every effort to insure quality care to the health consumer. I applaud the very fine efforts of this profession and hope they will continue to provide excellence of care in the health care arena.●

POSSIBLE HIDDEN FLAW IN HOUSE-PASSED BILL

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. MICHEL. Mr. Speaker, in the September 1980 issue of the Government Executive there is an intriguing, and I must say disturbing, article that makes rather serious allegations about an act passed by this body on March 24, 1980. The core allegation is that there is a "hidden agenda" in the "Paperwork Reduction Act of 1980," H.R. 6410. Indeed, I have reviewed the RECORD for that date and find no substantive discussion of provisions of the act that would radically expand the General Services Administration's authorities with respect to acquisition and use of automated data processing equipment and telecommunications equipment by all Federal agencies. The article persuasively argues that the bill potentially creates very real and debilitating difficulties for our intelligence and defense establishments. While it is, and has been, most difficult to argue against the stated purpose of the act—reduction of paperwork to ease burdens imposed upon the public—I do question the hidden agenda provisions of this bill if the article is on target. Because I have these reservations, I would hope to see the bill returned by the Senate substantially stripped of any offending language. I commend this article to my colleagues to prepare us for when we reconsider the bill should it be returned by the Senate.

THE PAPERWORK BOMB—THE HIDDEN FLAW IN THE STATUTORY ATTEMPT TO CUT DOWN GOVERNMENT'S REDTAPE

The official title of the bill is "The Paperwork Reduction Act of 1980." But H.R. 6410 is misnamed.

The bill's title alone brings cheers from almost every element of our society. Who could possibly be against paperwork reduction? It strangles the public sector and cripples the Federal bureaucracy. The bill empowers the Office of Management and Budget to set up a formidable organization to insure data requested from the public by the Federal Government are needed, sensible, and not duplicative. Executive Order 12174, issued on November 30, 1979, by President Carter, requires OMB to establish such an office and to develop a Federal Information Locator System (FILS) which will list all information collected by Federal agencies. Before an agency collects information it will check this system to see if another agency already has the data—which makes one wonder why legislation is needed since the Executive Branch has a fix on the problem in place.

To be sure, legislation requires the "choke point" to remain in place regardless of a change in administration, and gives the Congress a hammer if the objectives of the law are not fulfilled. Further, by specifically authorizing funds to operate the program, Congress gains direct control of the system.

But there is a hidden agenda to H.R. 6410.

Paper is used to record data and data is only one element of an information system. Information is fed to devices, stored, and manipulated by computers and transmitted by telecommunication systems. So by some very imaginative logic, H.R. 6410 established controls over the requirement, acquisition and use of the span of technologies involved in collecting, processing, and displaying information—ostensibly to reduce the paperwork burden placed on the public. It does not appear to matter that the use of this technology rarely relates to imposing a reports burden on the public. Systems such as those involved in collecting foreign intelligence, controlling energy use in a federal building, paying employees or developing strategic procedures to knock out Russian warheads are all controlled by the processes established by the Paperwork Reduction Act of 1980 (H.R. 6410).

Now, add the classic Peter Principle to this imaginative logic by assigning the General Services Administration authoritative and supportive roles in controlling the requirement determination, acquisition and usage of the technical elements of a system an agency critically needs to accomplish an assigned mission.

Since 1965 with the passage of P.L. 89-306, referred to as the "Brooks Bill" after the Chairman of the House Government Operations Committee (HGOC), Mr. Jack Brooks (D-TX), GSA has been responsible for procurement of computer resources for the Federal government. According to using Federal agencies, GAO, the President's Reorganization Program, and reports of the HGOC itself, GSA has not performed well at all in obtaining more effective and efficient ADP systems for its customers.

With passage of H.R. 6410 as presently written, GSA will retain procurement authority, which for 15 years has not been executed well and will pick up additional authority and responsibilities for reviewing agency requirements and determining if the need is valid and evaluating the use of the technology by those agencies. In addition, GSA will be a party to auditing its own reviews of such agency systems; and influencing, through OMB, the budget of an agency in these areas.

H.R. 6410 states in section 3504(g), The automatic data processing and telecommunications functions of the Director shall include—(1) establishing policies, principles, standards, and guidelines for automatic data processing and telecommunications functions and activities, and overseeing the establishment of standards under section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)). . . . (3) providing in coordination with the Administrator of General Services, advice and guidance on the acquisition and use of automatic data processing and telecommunications equipment, and coordinating through the review of budget proposals and otherwise, agency proposals for acquisition of such equipment and . . .

In case the legislation itself is not clear, House Report No. 96-835, March 19, 1980 accompanying H.R. 6410 and providing the legislative history states "GSA, in its reviews of requests for authority to acquire information technology, is to review the need for the technology and whether it will improve the agencies operation". Further on the report states ". . . providing advice and guidance in accordance with the Administrator of General Services on the acquisition and use of information technology including, but not limited to, computer technology, communications technology and related information handling, storage, and retrieval technology".

CONGRESSIONAL CONTRADICTION

Hence, while H.R. 6410 does not directly amend Public Law 89-306 which would cause that Act to be reviewed; the Brooks Bill is, in reality, essentially and cleverly amended. H.R. 6410 and the accompanying report language explicitly permit GSA to review agency requirements and needs as well as the use an agency subscribes to the information technologies acquired. These functions are expressly prohibited by the present Brooks Bill section 111(g) which states Authority so conferred upon the Administrator shall not be so construed as to impair or interfere with the determination by agencies of their individual automatic data processing equipment requirements. . . . The Administrator shall not interfere with, or attempt to control in any way, the use made of automatic data processing equipment or components thereof by any agency.

GSA is, in fact, not equipped with the resources or personnel to determine whether an agency has a valid need for such systems as electronic fund transfer for social security payments or to validate the means used to interpret intelligence data or to evaluate the methods to process sensor data on incoming hostile forces. That GSA is at the improper organizational level in the Federal Bureaucracy to influence any need determination appears to be of no consequence to the authors of H.R. 6410. Further, the fact that the Administrator of GSA, Admiral Rowland Freeman, has stated in a recent speech to the Interagency Committee for ADP that GSA has enough problems to solve and does not need to interfere with an agencies requirement determination is again of no consequence. How did this bill get off track? From a laudable effort to reduce the paperwork burden on the public, H.R. 6410 is of questionable usefulness by imposing unnecessary controls and bureaucratic layering on tools needed by Federal agencies to conduct government business effectively.

The original author of the bill, Representative Frank Horton (D-NY) was determined to respond to constituent complaints that the paperwork burden placed on the public by the Federal bureaucracy was reaching untenable proportions. His experience on the Commission on Federal Paperwork further convinced him that action was required. Congressman Horton authored legislation in 1979 addressing the problem. Simultaneously, Senator Lawton Chiles (D-FL), did the same. Two bills, one sponsored by the House and one by the Senate, were almost identical; but neither addressed controls to be placed on ADP and telecommunications. Then mysteriously, in the fall of 1979, the original House version of the Paperwork Reduction Act was expanded to address ADP and telecommunications and identified as H.R. 6410. It now carries Jack Brook's name as well as Frank Horton's. The dressedup bill passed the House with lightning speed after perfunctory hearings on the ADP and telecommunications aspects of it. Senator Chiles was not aware of the magnitude of the changes; and S-1411 the Senate counterpart to H.R. 6410 remained in the original form—solely addressing reduction of paper reports. As late as July 1980, a good six months after the House version of the Paperwork Reduction Act had been expanded, the Senate Bill included none of the elements covering control of information technology. Since the President is pushing for a bill this session to alleviate the expense the public presently incurs in dealing with the Federal government, Senator Chiles appears obligated to include the House additions to his bill or there may be no bill at all. Chairman Brooks as the principal individual supporting the ADP and telecommunication additions to the House bill, will probably not allow a bill through conference which does not satisfy his desires.

PROBLEM RECOGNITION

Recently, the Department of Defense attempted to have Senator Chiles delete the ADP and telecommunications sections of S. 1411. The Joint Chiefs of Staff are on record to the Secretary of Defense stating ". . . the ADP and telecommunications aspects of the bill (sic H.R. 6410) introduce unnecessary and unwarranted complexities in the management of these resources that will cause delay in satisfying critical operational requirements. The bill fails to recognize that these resources have unique applications in weapon and C^3I systems that are totally unrelated to their information management objectives."

DOD has reasonable cause for alarm. Many military systems have undergone mitigated procurements and delays imposed by interpretations of the present Brooks Bill Public Law 89-306. Public Law 89-306 essentially covers off-the-shelf commercially available ADP only. In this limited area the Army, Navy, Air Force and even the Marine Corps have had to adjust or delay procurements for ADP that were not sanctioned by the GSA—in reality, the staff of the House Government Operations Committee exerts more than considerable influence on whether an agency may procure ADP resources. GSA, by authority vested in it by the Brooks Bill, must procure the ADP or delegate the procurement to an agency. An agency submits an agency procurement request (APR) to GSA when the ADP requirement is known.

If the procurement is over $500,000 competitive or $50,000 sole source, a summary of the APR is prepared by GSA and sent to the HGOC. More often than not, GSA waits for a nod from the Committee before issuing the delegation and frequently imposes constraints which the agency must accept or essentially go back to square one. For example, numerous delegations for sole source, upgrades were granted with a dictate that the total system would be competitively upgraded at an arbitrary point in time; whether the total upgrade made mission or economic sense was hardly addressed. But the agency would commit to the dictate in order to achieve the ADP relief it needed.

The interpreters of the Brooks Bill appear to believe that maximum competition must be pursued at any cost. By some convoluted logic three vendors competing against each other for a government procurement for an equivalent architecture is considered a sole source procurement. Further an agency may have tens of millions of dollars invested in software with a need to expand the system at a fraction of the sunk cost. To avoid delays, criticism and intimidation, the agency is wise to discard the software investment for a "fully competitive" upgrade, thereby disregarding the initial software investment and introducing considerable risk in the sytem by forcing a software conversion to occur. As more of our defense systems use off-the-shelf commercially available equipment the GSA and HGOC will have more systems to influence. It is no wonder the JCS have taken a stand against giving away more authority in this area. Other Federal agencies must have similar concerns but have yet to formally protest.

To appreciate Federal agency concerns understand that the exploitation of computer and telecommunication technologies are critical to the ability of the Federal Government to function. We are irreversibly tied to this technology and as the technology takes rapid and giant steps in the state of the art it becomes more pervasive. What was impossible ten years ago is routinely performed today. A recent GAO publication shows Federal employment as a percentage of per capita income dropping more than 25 percent since 1960 with over 40 percent more of the population receiving benefits during the same period. This impressive increase in productivity is tied to an increase in computers from 900 in 1960 to 15,800 in 1980. Any future progress will be directly proportional to the government's ability to collect, store, process and transmit data faster, cheaper and more accurately. The fast growth of this technology and its rapid employment by all agencies at all levels has led the hand wringers in the Federal bureaucracy to over-control and slow the exploitation of this marvelous capability.

BLOCKING THE POTENTIAL

Elmer B. Staats, Comptroller General said it clearly in the GAO pamphlet "Computers in Government," "Concerns are often voiced about complicated subjects when people do not fully understand them or know something about them".

Although computers have proven beneficial, though not perfect, in assisting government, the future looks dim. The President's Reorganization Study on ADP reveals that over 50 percent of the computers in the Federal Government are obsolete. The acquisition of commercially available systems takes two years and quite frequently longer.

Therefore, legislation is sorely needed to solve these problems and to recognize that the existing environment is not conducive to fully realizing the capabilities the information revolution has dropped at our doorstep. The Brooks Bill should be taken out, dusted off, and modernized in recognition of the vast changes that have occurred since 1965. The Paperwork Reduction Act should be cleared of incumberances that have little to do with reducing the public's paperwork burden and stand or fall on the merits of that premise. H.R. 6410 in its present form is in jeopardy. It now appears that the public will not get a paperwork reduction act unless the controls on ADP and telecommunications ride with it.

Legislation needed to reduce the burden paperwork is placing on the public will become law only by unnecessarily complicating the acquisition, use, and control of information technologies. Why not call it what it really is: "The Information Reduction Act of 1980."●

JOHN SHERMAN COOPER

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. CARTER. Mr. Speaker, John Sherman Cooper is truly one of Kentucky's and this Nation's most distinguished citizens. He also, I am proud to state, is my lifelong friend and my preceptor.

Together we have traveled from Fountain Run to Kingdom Come, from Clay's Ferry to Jellico, from the Bluegrass to the coalfields, to the farming lands of central Kentucky. It has been an honor to be with him and to study at his feet as Saul of Tarsus did at the feet of Gamaliel, the tentmaker.

John Sherman Cooper is Kentucky's famous former U.S. Senator, Ambassador to India and Minister Plenipotentiary to Nepal, and Ambassador to the German Democratic Republic. To the long list of his honors and accomplishments he can now add a special humanitarian award presented to him yesterday by the Kentucky-southern Indiana region of the National Conference of Christians and Jews.

I include for the Record a news account from today's Courier-Journal about that award and an editorial about this exceptional Kentuckian and great American.

John Cooper Honored as Humanitarian

(By Michael Days)

One of Kentucky's most distinguished citizens, John Sherman Cooper, was honored by more than 1,000 people Wednesday night during an awards banquet at the Galt House in Louisville.

The accolades poured forth for Cooper, a U.S. senator for more than 20 years and ambassador to India, Nepal and East Germany. He is now with the law firm of Covington and Burling, based in Washington, D.C.

Cooper, a native of Somerset, seemed almost embarrassed by the special humanitarian award given by the Kentucky-Southern Indiana region of the National Conference of Christians and Jews for his "outstanding leadership and human service."

He told the audience that he wished he had his life to start again to make himself worthy of the honor.

Cooper, who was a stalwart initiator and supporter of civil-rights legislation in Congress, spoke briefy about the civil-rights gains that have been made. And he said that America is in the midst of difficult times that can awaken in Americans a greater sensitivity to one another.

Also honored by the group Wednesday night were Evelyn Waldrop, director of Louisville's Department of Sanitation, and James Rosenblum, chairman of the board of Fulton Seafood Industries. Both received the conference's brotherhood awards.

The humanitarian and brotherhood awards are given to people who best exemplify the ideals and objectives of the conference.

Gov. John Y. Brown Jr. gave the main address at the banquet.

The National Conference of Christians and Jews is a human-relations organization that strives to build better relationships among people regardless of religion, race or nationality.

Mr. Cooper's Warning Is Always Timely

It was typical of John Sherman Cooper to say this week that he felt undeserving of the special humanitarian award given him by the Kentucky-Southern Indiana region of the National Conference of Christians and Jews. But it also was typical that he then spoke out once more, as so often in the past, against bigotry and discrimination.

The former ambassador and Kentucky senator, now 79 and a lawyer in Washington, never has been one to blow his own horn—which is one reason he kept getting re-elected so easily. But he always was a congressional leader in the civil rights movement of the 1950s and '60s. And he always has deplored the intolerance and hatred—as he reminded his Louisville audience this week—that he saw at its cruelest at Buchenwald concentration camp in the waning days of World War II.

If we're lucky, the world will never again witness such horrors as the Holocaust, in which Hitler tried to exterminate the Jews. But bigotry has a way of sneaking up on people: one minute it just seems to be the sick frothing of a few on the lunatic fringe: the next minute it's a bitterly divisive wedge through the middle of society.

Economic slumps, social dislocation and large influxes of immigrants tend to fan this racist hatred, which doubtless helps to explain why membership in the Ku Klux Klan is estimated to have grown from about 4,000 to 10,000 over the past decade. The tendency of many people to blame bad news on an undefined, consspiratorial "them," whether it's at city hall or in Washington or New York, is fertile ground for those—like Hitler but also like Joe McCarthy and an endless string of lesser demagogues—who are all too ready to precisely identify "them."

As Mr. Cooper observed in accepting the special award for "outstanding leadership and human service," America has made great strides toward full justice, equal opportunity and the protection of civil liberties. But he, more than most who aren't members of minorities and thus especially alert to discrimination, knows the importance of eternal vigilance. Like Louisville's aldermen, who last month denounced the Klan, he recognizes the seeds of potential trouble. We wish there were more like him in positions of leadership these days.●

PERSONAL EXPLANATION

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. OTTINGER. Mr. Speaker, yesterday, because of an unannounced change in the House schedule, I missed votes on rollcall Nos. 564 and 565, final passage of the International Monetary Fund authorization, H.R. 7244, and then the pro forma vote on substitution of the Senate bill, S. 2271. Had I been present I would have voted "aye" on both votes.●

REAUTHORIZATION OF THE HIGHER EDUCATION ACT: H.R. 5192

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. FORD of Michigan. Mr. Speaker, yesterday the House by voice vote overwhelmingly approved the second conference report on H.R. 5192. I would like to take this occasion to acknowledge and express my appreciation to the members and staff of the Subcommittee on Postsecondary Education for their contribution to this legislation.

I would like particularly to express my appreciation to the gentleman from Alabama (Mr. Buchanan), the ranking minority member on our subcommittee, for his very hard work and for the amount of time that he has spent working with me, as chairman, in close and full partnership in the development of this legislation, as well as in shepherding it through the committee, the House, and the conference committee.

Also, Mr. Speaker, I would like to extend a special thanks to the chairman of our full Committee on Education and Labor, Mr. Carl Perkins, of Kentucky, who once again lived up to his reputation as one of the greatest friends to education in the history of this House. I do not think that anyone who has had the opportunity, as I have had for the past 16 years, to observe the efforts of Carl Perkins would doubt for 1 minute the validity of the suggestion that no person has given as many years and as much of his life to developing education legislation than Carl Perkins. No person in the history of this body has a record that parallels that of Carl Perkins, and we on the committee were very cognizant of his presence throughout the entire development of the legislation and the value of his prestige in moving legislation of this importance.

The gentleman from Ohio (Mr. Ashbrook), the ranking minority member on the full Committee on Education and Labor, was also a very constructive and active participant in the development of this legislation. We are particularly grateful on the majority side for his constant cooperation.

Mr. Speaker, this bill reflects in many ways extraordinary individual effort by members of the committee who had a special concern and for that reason developed a special expertise and made special contributions.

The gentleman from Connecticut (Mr. Ratchford) is clearly that person most responsible, among all of us, for the development of the new title I of this legislation, which expands upon a number of ideas that have been around for some time, to make these programs more efficient and more effective in serving nontraditional students.

The gentleman from New York (Mr. Biaggi), who has made a study of nontraditional students and the student data bank and has championed the supplemental education opportunity grant program for a long time, was primarily responsible for the improvements made in this part of the legislation.

The gentleman from Ohio (Mr. Ashbrook) asked us to go to Ohio for hearings where we discovered the special problem of married students and the way in which they were treated for the purposes of receiving grants. This hearing provided an important perspective on the special needs of students at private liberal arts colleges.

The gentleman from Iowa (Mr. Tauke) is responsible in large part for the changes we have made in the administration of title III program and for the development of the supplemental educational opportunity grant trigger.

The gentleman from Illinois (Mr. Simon), who is an expert, I might say, on the subject of international education and has succeeded our colleagues, the gentleman from Indiana (Mr. Brademas) in responsibility for keeping the National Institute of Education alive and kicking in Washington, contributed a great deal more than all of the rest of us in the field of international education.

Mr. THOMPSON, of New Jersey, and Mr. BRADEMAS, of Indiana, are the two most senior members of the Subcommittee on Postsecondary Education and two of the most expert Members of the House on education legislation. Despite their demanding schedules and responsibilities, they made a continuous and valuable contribution to the development and enactment of this legislation at every stage. The entire bill reflects their wisdom, experience, knowledge, and commitment to higher education.

The gentleman from New York (Mr. WEISS) worked very hard on improvement of programs for schools of education and particularly with the idea of linking work study with educational goals.

The gentleman from New York (Mr. PEYSER) made great contributions with respect to title III administration, and it should be noted that one of the areas that we think is most important in the adoption of this legislation is the correction of problems that have been brought to our attention through a great deal of publicity in recent years with respect to administration of title III. We think that this legislation will put problems behind us.

The gentleman from Vermont (Mr. JEFFORDS) collaborated in the title I drafting and gave a perspective to the bill that might not otherwise be there, in that the gentleman from Vermont had us go to Vermont for hearings and demonstrated the need for changes to put emphasis on outreach to rural citizens of America.

He worked with the gentleman from Connecticut (Mr. RATCHFORD) in developing title I so that it reflected the interests of those States with large urban areas, while preserving and enhancing the activities that are directed toward rural populations.

The gentleman from Wisconsin (Mr. PETRI), a new member of the committee, has been particularly helpful in streamlining and modernizing the loan programs.

Mr. Speaker, during the consideration of this legislation, we lost an old and dear friend to all of us who participated in fashioning it as the chief staff member of the full committee. Bill Gaul, who worked on higher education longer than anyone else on our staff, was taken by death during the time that we were in conference with this bill. The Members will see the unusual, but certainly fitting tribute to Mr. Gaul entered by the chairman of the committee, the gentleman from Kentucky (Mr. PERKINS) in the statement of the managers accompanying this conference report.

Mr. Speaker, all of us are deeply grateful to the staff, both majority and minority, and note that development of this legislation is an outstanding example of staff people who are not only competent, but capable of working past partisan considerations to develop legislation that ultimately had the approval of all of the majority and minority members on the committee. The staff, particularly Tom Wolanin, Pat Rissler, Bill Clohan, and Jenny Vance, are very largely responsible for it.●

MENSA TO CELEBRATE 20TH ANNIVERSARY

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. SOLARZ. Mr. Speaker, I would like to take this opportunity to congratulate the members of American Mensa, Ltd., on their 20th anniversary, which will be celebrated at their annual convention next year. This nonprofit organization has its headquarters in my district in Brooklyn, N.Y.

This very worthwhile group has three main activities as an organization: to conduct research in psychology and social science, to identify and foster human intelligence, and to provide for social contact among its members. They have established a foundation to carry out education and research projects and also manage a scholarship program for gifted students.

Mr. Speaker, I would like to share with my colleagues a short text from Mensa which explains the workings of their group in greater detail. I would also like to once again offer my best wishes as we approach the 20th anniversary of Mensa.

The text follows:

MENSA—AN ORGANIZATION OF EXCEPTIONAL MINDS

Mensa members seem to be a series of contradictions. They claim to be non-joiners and skeptical of any organization. Yet, they have banded together.

They say they are "just like everyone else," but are more intelligent than 98 per cent of the population.

These inconsistencies may confuse the average mind, but the minds of Mensa members are far from average. M's as members call themselves—score in the top two percent of the population on IQ tests, and that is their sole requirement for membership. Members must score between 130 and 133 on most standard IQ tests, and at least 136 on the Army General Classification Test or 68 on the Navy General Classification Test to join.

M's represent an incredibly wide variety of professions, age groups and interests. Corporate executives mix easily with firemen at many of the Mensa-sponsored parties. Housewives, college professors and high school students gather at monthly meetings.

Mensa, the Latin word for table (signifying a roundtable of equals), was founded in 1945 by two English barristers. Conceived to provide contact between highy intelligent people, Mensa has become an international organization with more than 50,000 members in 14 countries.

American Mensa was founded in New York as a non-profit organization in 1961. Membership has grown to 42,000 in 120 local groups across the country. Local groups elect their own officers, and are responsible for arranging activities in their particular region. American Mensa also has national officers and international representatives.

Sander Rubin, former chairman of American Mensa, says, "Officially, we have three activities as an organization: to conduct research in psychology and social science, to identify and foster human intelligence, and to provide for social contact among our members. Mensa has no overall political, religious or social dogma."

Mensa has established the Mensa Education and research foundation (MERF) which carries out educational and research projects. MERF also manages the Mensa scholarship program for post-secondary-education students; grants are awarded on the basis of ability and there are no restrictions as to sex, race, age, creed, financial status or even Mensa membership. Mensa also has several groups of members working with prisoners, hopes to foster the recognition of gifted children, and holds seminars and lectures on a wide variety of subjects. But mostly it is a social organization.

"Many marriages have been made in Mensa," claims Lya Korda, a Hungarian artist and textile designer. She joined Mensa when she moved to New York and eventually married an M.

Within the intentionally-loose structure of Mensa, there are several smaller groups, called special interest groups, in which M's pursue a common interest or hobby, such as bridge, horseback riding, Chinese Go, and gourmet dining. Special interest groups are organized within local groups, and frequently have their own social activities in addition to those sponsored by the local group.

"The social aspects of Mensa are the biggest attraction for most new members," says Rubin. "The U.S. group has grown from 700 in 1964 to 42,000 today."

Anyone curious too know if he qualifies for Mensa can arrange to take an at-home IQ test by sending $6.00 in check or money order to Mensa, Dept. PK—2, 1701 West 3rd Street, Brooklyn, NY 11223.●

LETTER BY GEN. SAMUEL V. WILSON

HON. DAN DANIEL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. DAN DANIEL. Mr. Speaker, Gen. Samuel V. Wilson, U.S. Army, retired, who lives in the district I represent, served as a member of the Special Operations Review Group established to investigate the hostage rescue mission in Iran.

Perhaps I am somewhat biased, since I am privileged to call General Wilson my friend, that the Joint Chiefs showed such good judgment in selecting him for this group.

The letter he has written to the editor of the Richmond Times-Dispatch might well have been sent to most of the editors in this country. Since I am not aware this was done, I enter his letter in the RECORD at this point:

GENERAL VIEWS IRANIAN EXPEDITION

To the EDITOR:

As a member of the Special Operations Review Group set up by the Joint Chiefs of Staff to find out what went wrong and why with our hostage rescue mission in Iran, I was both impressed and gratified with the tone and thrust of your editorial on the same subject Aug. 27.

From the outset of its investigation, the Review Group was faced with the difficult and sensitive chore of steering between the Scylla and Charybdis of "whitewashing" on the one hand and "scapegoating" on the other. Our efforts were sharply focused on getting at the simple truth so that the same mistakes might not be made the next time around, if there is to be a next time—in Iran or elsewhere.

In our approach to this task—after all the interviews had been completed and all the pertinent documents reviewed—we put together a first draft of our findings and explained how we arrived at them. Then we systematically went back over the draft and purged it of adjectives and modifiers that might hinder the final report from being anything but factual, low-key and unemotional. We wanted to deal only with hard facts and our best professional analysis of them. I think we succeeded. Your editorial comment regarding our sparing use of adjectives implies that you perceived what we tried to do.

I am disappointed, however, that neither you nor any other commentators, as far as I am aware, appear to have discerned a significant fundamental regarding the Iranian mission and its follow-up critique.

We can take some pride in the fact that the United States is the only nation in the world with the technological capacity even to comtemplate an operation of such mind-boggling complexity. Time/space tactical and logistical factors stretched men and machines to the absolute limits of human performance and engineering design. But that is not all.

Of far greater meaning to our country in the final analysis is to recognize that the Chairman of the Joint Chiefs of Staff and his senior colleagues in the aftermath of a failed mission seized the moral high ground and commissioned an independent group of experts to carry out a critically objective, comprehensive review and analysis of the operation in its entirety. Then, when the report was completed, its findings were openly presented to the American public, however pointed and painful these findings may have been to the architects of the operation.

In an era of political cover-ups and sleight of hand, obfuscations, ABSCAM and double-speak, we should pause to mark this example of basic integrity on the part of our nation's top military leadership.

Diogenes would have been proud. I know I am.

SAMUEL V. WILSON,
Lieutenant General, U.S. Army (Retired).●

SOVIET DEFECTOR AWAITS TRIAL IN UNITED STATES

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. DONNELLY. Mr. Speaker, I recently introduced House Concurrent Resolution 430, expressing the Congress belief that the U.S. Government should treat in an impartial manner all persons who violate the laws of our Nation.

Simas Kudirka is an American citizen who embodies the deep yearning for freedom from tyranny of all mankind. Simas Kudirka is one of the Lithuanian Americans who was arrested after a peaceful demonstration outside the gates of the Soviet Embassy in Washington on July 18 of this year. While 192 pro-Khomeini zealots were granted what amounts to a blanket amnesty following a violent clash with District and U.S. Park Police on July 27, the Lithuanian Americans, all citizens of the United States, are being prosecuted by the U.S. Attorney's Office in October.

I insert a Washington Post article of this Monday at this point in the RECORD which traces Simas Kudirka's moving commitment to our system of democracy and justice.

A NEW COUNTRY AND A NEW COURTROOM

(By Benjamin Weiser)

Ten years ago, on a chilly November day in the swells off Martha's Vineyard, seaman Simas Kudirka, seeking political asylum, leaped from a Soviet fishing vessel and onto the U.S. Coast Guard cutter *Vigilant.*

After the United States rejected his pleas for freedom, Kudirka was returned to the Soviet Union, where he was sentenced to 10 years in desolate prison camps.

Now, a decade later, the 41-year-old Lithuanian whose forcible return to Soviet jurisdiction caused a national furor is about to go on trial again—this time in a D.C. Superior Courtroom thousands of miles from home, on charges that he violated a federal law prohibiting political demonstrations within 500 feet of a foreign embassy. In this case, it was the Soviet Embassy on 16th Street NW.

Compared to the notorious Vladimir prison near Moscow, the crumbling Vilnius jail in Lithuania or the special "reeducation center" hidden in the Ural Mountains at Perm, the prospect of spending time at the D.C. jail after his arrest in July seemed relatively sanguine. Yet the intrepid, dark-haired Kudirka was left shaken.

"At least in the Soviet Union," he said afterward, "the prisoners were political like myself. Here, there was a woman who actually had stabbed somebody!"

The trial that led Kudirka from the company of Soviet political prisoners to that of Washington cellmates began with his fateful leap into prominence 10 years ago. Kudirka, a radio operator aboard the fishing trawler Sovietskaya Litva hated the Russians, who occupied his native Lithuania when he was an infant. When the opportunity arose, he threw himself onto the deck of the Vigilant, moored several feet away, begging for asylum.

Fearing that Kudirka's defection would endanger U.S.-Soviet fishing treaty talks, the Vigilant's captain, acting on instructions radioed from his superiors, allowed four Soviet seamen to board and drag the kicking, screaming Kudirka back to their vessel. He was eventually tried before a high Soviet Court and sentenced to a prison camp.

After Kudirka had served nearly half of his sentence, some American sympathizers discovered that Kudirka was in fact entitled to American citizenship because his mother had been born in Brooklyn. He was subsequently released.

American officials called the Kudirka episode—which set off a national furor—a "tragic mistake" caused by a bureaucratic bungle. After a government investigation, three senior Coast Guard officers were suspended, and President Nixon issued new guidelines on treatment of persons seeking asylum.

That did little for Kudirka. Figuring all was lost when he was taken before a Soviet court in 1971, Kudirka made a strong political statement against the Soviet Union. When he was offered the services of a court-appointed attorney, he refused.

"Who needs two prosecutors?" he recalls saying. "One is quite sufficient. The prosecutor, the attorney, the judge—they are all stones on your grave."

Kudirka's first prison cell in Vilnius was a dank, smoke-filled chamber, where KGB officials interrogated him for hours.

"The Americans don't want you," he quoted one official as saying. "You have no secrets. You have no money. You are not an inventor. You are as valuable to the Americans as last year's snow. You would clean toilets there."

"I'll clean toilets in America," Kudirka said he responded. "I saw the facilities on the Vigilant and they didn't smell as bad as the office of the KGB."

Kudirka's journey through Soviet prison camps from 1970 to 1974 brought him in contact with other political prisoners, some not so political as he.

While he was imprisoned in Vilnius, Kudirka shared a cell with a man named Zubavicius, a fellow Lithuanian who had been jailed virtually his entire life for petty offenses, then finally imprisoned for a crime Zubavicius said he did not commit. Kudirka said he convinced his cellmate that he, too, was a political prisoner.

Zubavicius drew an unflattering cartoon of Soviet leader Leonid Brezhnev. He tattooed the words "Death to the Judge" on his own cheeks, and wrote "I am a slave of the Soviet Union" on his forehead, Kudirka said.

A Soviet prison doctor cut the tatoos from his flesh without using anesthesia, and Zubavicius was put on trial for his insolence. When during that trial Zubavicius railed against the Soviet justice system, a Soviet psychiatrist stood up on the spot and declared: "This man is insane."

Zubavicius was subsequently transported to the Serbsky Psychiatric Institute in Moscow. He sent Kudirka a note saying: "Thank you for the soap, the little piece of meat and the orange. Now I've had my feast and I'm going to the hospital."

He never heard from Zubavicius again.

In another prison camp—a special "reeducation" and work camp at Perm for the most resistant political prisoners—Kudirka and many of the other inmates worked in a prison factory producing heating elements for electric irons.

One day, Kudirka said, the guards beat a prisoner for a minor infraction, and he led 25 inmates on a protest strike. The Soviets demanded to know the names of the strike leaders. "Tell us, and we will talk with them," the prison officials said, according to Kudirka. Realizing that leading a Soviet prison strike was a capital offense, Kudirka and all the others had the same response: "We are all the leaders," they said.

At a prison camp south of Moscow in 1972, Kudirka said, he and his fellow prisoners learned that Nixon was visiting the Soviet Union. He secretly made a cloth replica of the United Nations flag. Before dawn on the day Nixon arrived, Kudirka scaled a flagpole on the prison grounds and attached the flag to a wire at the top. The flag remained up for two hours before enraged prison authorities tore it down.

Kudirka was released by the Soviets after a baptismal certificate belonging to his mother was discovered in a Brooklyn church. He went to live in New York City.

where he now works for a pro-Lithuanian rights organization. Last July he participated in an anti-Soviet demonstration in Washington protesting the opening of the Moscow Olympics.

Kudirka and 17 fellow Lithuanian-Americans swooped down on the Soviet Embassy, stopped traffic and attempted to handcuff themselves to the embassy gates.

D.C. police reacted quickly. They approached the crowd, asking the demonstrators innocently: "Who are your leaders? Tell us who your leaders are so we can talk to them." Kudirka recalled. Like his colleagues in the Russian prison camp, the demonstrators replied, "We are all the leaders."

All 18 were arrested. Kudirka waited anxiously for the police paddy wagon, recalling distinctly that in the Soviet Union, the paddy wagons were black and known as "juodoji varna" for the black crows that haunt Soviet cemeteries and carry premonitions of bad events. But instead, a white police wagon arrived, and the relieved demonstrators sang Lithuanian folk hymns on their way to the police station.

Kudirka spent one day in D.C. jail before his release on bond.

"The jail was not so bad," Kudirka said. "I expected a little brutality from the police—a little kicking, for example—but it never happened."

Instead, jail guards recognized his name and offered cigarettes and congratulations. He obliged them with stories, but there was a more immediate concern—the jail's intense heat.

"It was a hot summer day we picked. It was not Siberia."

In several weeks, Kudirka will appear before a D.C. Superior Court judge on a charge that could result in 60 days in jail and a $100 fine. Kudirka says he won't make excuses. He was demonstrating for something he believes in, and he is willing, he says, to take his chances with the District of Columbia courts. "In the Soviet Union, you just assume the judge is the executioner. Here there are no army people behind him."

Kudirka suspects his erstwhile Soviet captors would gloat at the scene of him in an American courtroom. "They are rubbing their hands and they are saying, 'Is good, is good. We told him not to trust the capitalists.' "●

WINNING IS NOT EVERYTHING

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. EVANS of Delaware. Mr. Speaker, winning is not everything, whether it be in sports, in politics, or in life.

How you play the game is the most important thing. The standards of conduct one applies to life are fundamentally more important than winning a game, a political race, or rising to the top of a company or union.

Along these lines, the recent remarks made by President Carter in a desperate effort to win an election saddens me greatly.

Unfair criticism of an opponent that is designed to polarize our Nation will ultimately hurt Jimmy Carter and from my vantage point I am not going to shed crocodile tears over that.

However, those remarks also hurt our country by setting such a horrible example—especially for young Americans.

They further erode confidence in our constitutional system of government.●

CIVIL RIGHTS IN SOUTH KOREA

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. MINETA. Mr. Speaker, the steadily deteriorating situation in South Korea prompts me to bring my colleagues' attention to the lack of civil rights in that country, as underscored by the recent imprisonment and sentencing to death of Kim Dae Jung. Mr. Kim is charged with responsibility for the Kwangju student uprising though he was already in prison at the time of the riots. This is a clear case of political harassment, and if the death penalty is carried out, a clear case of government sanctioned murder by the Korean military leaders. It is my belief that we, as representatives of the American people, should do everything in our power to express our dismay and regret at the recent turn of events in South Korea, and to put General Chon and the other South Korean military authorities on notice that the suppression of democracy and human rights in any part of the world is a matter of utmost concern to the United States.●

H.R. 7020

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1980

● Mr. DANNEMEYER. Mr. Speaker, as a member of one of the committees which had jurisdiction over H.R. 7020, I can certainly appreciate the concern that has prompted the reporting of this legislation. Moreover, it is impossible not to sympathize with people who have bought homes in good faith, as they did at Love Canal in New York, only to find themselves exposed to noxious odors and health hazards through no fault of their own. The choice before us, is therefore, not between acting and not acting; rather it is a matter of how best to solve what everyone agrees is a serious problem.

Were all these inactive waste sites identified, the best means of cleanup known, and an emergency response plan formulated, then the next step might logically be to decide whether $600 million, or $1.2 billion, or whatever should be spent on the cleanup itself. But all this information is not known; in fact, collecting it is one of the major purposes of this bill. Moreover, and this is most important, the case for Federal preemption in the field of hazardous waste cleanup has yet to be made; instead, growing evidence that private enterprise could handle the cleanup better and quicker suggests that we should await the results of the studies before letting the Federal Government spend a lot of money and throw its weight around.

In that regard, I should note that the siting study portion of H.R. 7020 not only provides for private participation in the preparation of the study but it calls on the EPA Administrator to solicit and analyse proposals from private enterprise to build and operate hazardous waste management facilities on a profitmaking basis. Lest one think such an idea preposterous, let me point out that, just last May, the Gulf Coast Authority, down in the Houston area, solicited bids from 28 firms worldwide to build and operate a waste disposal facility capable of handling 520,000 tons of waste per year, or 20 to 25 percent of the wastes produced each year in Harris County. No less than 22 of the firms submitted bids, 11 of which met all the established criteria. Finally, one firm—I.T. Corporation of California—was selected to build and operate three high-temperature incinerators that will burn organic wastes while another—Stablex, Inc.—was selected to deal with the inorganic wastes. Both firms will build and operate these facilities using their own capital; the Gulf Coast Authority—GCA—will provide the land and, in exchange, will receive a percentage of the revenues the facilities generate. Not a dime of taxpayers money will be involved.

But how does this affect, or even relate to, the cleanup of inactive sites you ask? Well, let me answer that several ways. First of all, these incinerators operate most efficiently and profitably when dealing with a maximum volume of waste so, if the volume of current waste slacks off, there is some benefit to be derived from feeding in waste from inactive sites. Moreover, some of the steam generated by the incineration process can be converted to power and sold so, to the extent the burning of abandoned wastes adds to the steam produced, the cost of picking up those wastes is further offset. Of course, these two factors may not be enough to compensate for the cost of moving hazardous wastes from an abandoned site to the incinerators entirely, and the difference may have to be made up by the taxpayers, but surely paying the difference is a whole lot cheaper than footing the bill for both shipping and disposal of these wastes as H.R. 7020 will have us do. Also, there is absolutely no reason why some other jurisdiction, any jurisdiction, that wanted to set up a similar operation could not require, as part of the bid criteria or the contract itself, the successful bidder to arrange for cleanup of neighboring abandoned sites as partial payment for the leasehold privileges which he is to enjoy.

All of which brings us down to the bottom line, which is—if private enterprise is willing to dispose of over one-half million tons a year at no cost to the taxpayer, the Harris County, Tex., because it thinks it can make money, then it should be interested in doing the same thing for hazardous wastes elsewhere. And if private enterprise is, in fact, so inclined then why do we need an expensive new Federal bureaucracy that will cost millions, if not billions each year? As history will show, bureacrats have a vested interest in managing a problem, not solving it. Take PCB's, for example. For years, EPA has been trying to get them cleaned up with marginal success; now Goodyear Tire & Rubber and Sunohio Corp., both private firms, think they have found ways to convert them to common table salt.

By now, I am sure you are thinking, if it is so easy, why have these privately operated high-temperature—2500°F—incinerators not been used before, or why have I not heard of them before this? Those are good questions, but the fact of the matter is at least three of these incinerators are already in operation here in the United States and more are operating in Europe. As for the lack of publicity, it has only been in the last few years that enough has become known about the dangers posed by hazardous waste sites to make them newsworthy. But, now all that is changing; in fact, last year, the Oversight Subcommittee of the Commerce Committee held a series of hearings focused on both the dangers and the options for cleanup. During one of those hearings, one witness, the secretary of Kentucky's Department of Natural Resources and Environmental Protection, went as far as to suggest that private firms, using high temperature incinerators, could dispose of hydrocarbon based wastes at inactive sites without receipt of tax dollars. As it happens, the witness could have been articulating a phase one blueprint for what is now being tried in Harris County, Tex.

Of course, there will be some problems with the private enterprise approach. For one thing, there will always be those who want such a facility anywhere but near them. For another, there is the problem of obtaining a sufficient volume of waste to keep such a facility running at optimum efficiency and profitability. For a third, incineration will only take care of 70 to 80 percent of the wastes at these abandoned sites; other means will have to be found to deal with the remainder. But these are all problems that can be overcome and, to a large degree, they would have to be dealt with anyway if EPA were to call the shots. So, what it really boils down to is this—do we want superfund and superbureaucracy at the Federal level, or do we want to see if private enterprise, working with local officials, can do the job in a less taxing manner?

When H.R. 7020 comes to the floor, I plan to offer an amendment in the nature of a substitute that will give life to this second option. Basically, what it does is authorize $40 million out of general revenues to complete the four studies called for in the Commerce Committee version of H.R. 7020—that is: First, the inventory of sites, second, the siting study—including the solicitation and analysis of proposals from private enterprise to operate hazardous waste management facilities on a profitmaking basis, third, the funding study—which should be influenced by the results of the siting study—and the preparation of a national response plan—in 18 months instead of 24. What it does not do is provide for the so-called superfund, and a sweeping grant of authority of the EPA Administrator that goes with it, on the grounds that a decision on these items should wait until the studies are complete and the facts necessary for sound decisionmaking, are available. In short, this a look before you leap approach and, in these times of rising popular protest against inflation and excess or unnecessary Government regulation, I urge my colleagues to give it their support.●

HOUSE OF REPRESENTATIVES—*Monday, September 22, 1980*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O sing unto the Lord a new song, for he has done marvelous things!—Psalms 98: 1a.

In gratitude and praise, O Lord, we laud Your name for all the blessings that You have bestowed upon our Nation and our people. Help us to walk in paths of righteousness and honor that reflect the purpose for which we were created. Encourage us to bring strength and wisdom to our tasks that we may be messengers of peace and partners in reconciliation, and that Your message of love and good will among all people will be heard throughout the land and in our world. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Saunders, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and joint resolutions of the House of the following titles:

On August 29, 1980:

H.J. Res. 589. Joint resolution providing additional program authority for the Export-Import Bank.

On September 4, 1980:

H.R. 507. An act to authorize Federal participation in stream rectification, Trinity River Division, Central Valley project, California, and for other purposes.

On September 8, 1980:

H.R. 5168. An act to extend certain expiring provisions of law relating to personnel management of the Armed Forces, to provide a variable housing allowance for members of the uniformed services to reflect housing costs in different areas of the United States, to improve certain special and incentive pays for members of the uniformed services, and for other purposes;

H.R. 5892. An act to provide for an accelerated program of wind energy research, development, and demonstration, to be carried out by the Department of Energy with the support of the National Aeronautics and Space Administration and other Federal agencies, and for other purposes;

H.R. 6974. An act to authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, track combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1981 for civil defense, and for other purposes; and

H.R. 8010. An act to amend the Comprehensive Employment and Training Act to designate a Job Corps Center as the "Earle C. Clements Job Corps Center."

On September 10, 1980:

H.R. 7072. An act to amend sections 5702 and 5704 of title 5, United States Code, to increase the maximum rates for per diem and actual subsistence expenses and mileage allowances of Government employees on official travel, and for other purposes.

On September 12, 1980:

H.R. 1781. An act to amend title 5, United States Code, to provide that civilian air traffic controllers of the Department of Defense shall be treated the same as air traffic controllers of the Department of Transportation for purposes of retirement, and for other purposes; and

H.R. 1967. An act to modify the White River National Forest in the State of Colorado.

On September 15, 1980:

H.R. 2538. An act to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes; and

H.R. 4627. An act to authorize the enlistment of citizens of the Northern Mariana Islands in the Armed Forces of the United States of America.

On September 17, 1980:

H.J. Res. 607. Joint resolution making urgent supplemental appropriation for the Veterans' Administration for the fiscal year ending September 30, 1980.

On September 19, 1980:

H.J. Res. 594. Joint resolution to authorize and request the President to issue a proclamation designating September 18, 1980, as "Constantino Brumidi Day."

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 551. Joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the 7 calendar days beginning October 5, 1980, as "National Port Week," and for other purposes.

The message also announced that the Senate agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2597), entitled "An act to authorize appropriations for fiscal year 1981 for intelligence activities of the U.S. Government, the intelligence community staff, the Central Intelligence Agency retirement and disability system, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 5278. An act to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments, and for other purposes;

H.R. 7592. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes; and

H.R. 7831. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

The message also announced that the Senate insist upon its amendments to the bill (H.R. 7592) entitled "An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes, and request a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and appoint Mr. HUDDLESTON, Mr. JOHNSTON, Mr. INOUYE, Mr. SASSER, Mr. MAGNUSON, Mr. LAXALT, Mr. STEVENS, and Mr. YOUNG be the conferees on the part of the Senate.

The message also announced that the Senate insist upon its amendments to the bill (H.R. 7831) entitled "An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1981, and for other purposes, request a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and appoint Mr. BAYH, Mr. MAGNUSON, Mr. STENNIS, Mr. ROBERT C. BYRD, Mr. EAGLETON, Mr. DURKIN, Mr. MCCLURE, Mr. MATHIAS, Mr. WEICKER, Mr. YOUNG, Mr. HATFIELD, and Mr. STEVENS be the conferees on the part of the Senate.

The message also announced that the Senate agree to the amendments of the House with amendments to a bill of the Senate of the following title:

S. 1442. An act to authorize the documentation of the vessel, *Sara*, as a vessel of the United States with coastwise privileges.

ADVERTISING DIRECTED AT CHILDREN

(Mr. KILDEE asked and was given permission to address the House for 1 minute.)

Mr. KILDEE. Mr. Speaker, there is an increasing trend in advertising for some products today which is very disturbing in the way in which some advertisers are using strong sexual themes to sell their wares to children. I wish to call to the attention of my colleagues a column in the September 20 issue of the Washington Post by Ellen Goodman in which she is sharply critical of this growing development and points out some of the more outrageous examples. The article very clearly points out how both pornographers and some advertisers can exploit our children sexually for the purpose of making money.

ELIMINATING SO-CALLED TAX ON MARRIAGE

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, I rise to inform my colleagues of an action which

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☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

I am taking, somewhat reluctantly, this morning. Today I am introducing a discharge petition on H.R. 3609, a bill which I and 240 cosponsors have introduced to eliminate the so-called tax on marriage.

I think every Member of this House has received letters from irate constituents who are upset by this unfair tax, so I will not take very much time to explain it.

The issue is simple: When two working people decide to marry, under current law they usually pay more tax than they would if they had remained single. A policy which discourages marriage and families does not make sense. In addition, this tax has the effect of providing a disincentive for married women who want to go to work, which has led the Justice Department to call it "the major form of tax discrimination on the Tax Code."

I believe we should eliminate this tax by allowing married couples the option of paying as if they were single.

The President has called for a reduction of this "marriage tax," and the Senate Finance Committee has reported a bill which contains a similar reduction. The Ways and Means Committee has had hearings on my bill, for which I am grateful, but it does appear that the committee is not prepared to take any further action in this session. This bill is cosponsored by a majority of the House, and it is supported by the majority of Americans—83 percent, according to a recent Gallup poll.

I urge my colleagues to sign the discharge petition and to eliminate the tax on marriage.

THE EFFECT OF THE FEDERAL DEFICIT ON HOUSING STARTS

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, homebuilding in 1980 has been an unqualified disaster. The free fall in housing starts was uninterrupted for 5 full months and by May had set the annual rate to only 920,000 units equal to the slim total of the trough of the 1974–75 slump.

There is some thought today that mortgage rates may be creeping up, which will further defer the turnaround in the housing industry.

Mr. Speaker, we have it in our power in the Congress to do something constructive about this by eliminating the deficit of $60 billion. If the Federal Government would get out of the credit market to that extent, it would make that credit available in the housing market which would decrease the interest rates which all of us as consumers must pay to buy a home and put a mortgage on it.

The SPEAKER pro tempore (Mr. WRIGHT). The Chair recognizes the gentleman from Illinois (Mr. HYDE).

HOUSING UNDER JIMMY CARTER

(Mr. HYDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, when Jimmy Carter took office in January 1977, the FHA interest rate was at 8 percent and the average sales price of a new single-family home was $51,300. The monthly payments to amortize the loan on the average new home based on a $50,000 mortgage for 30 years at 8 percent was $367.

Today, September 22, the FHA interest rate is 13 percent (down from 14 percent in April and up from 11½ percent in early August) and the latest average sales price of a new single-family home (in June) is $77,900. The monthly payments necessary to amortize the loan on the average new home, based on a $75,000 mortgage for 30 years at 13 percent, is $830.

These figures show an increase of 126 percent in the monthly payment necessary to purchase the average price new home in the approximately 3½ years since Jimmy Carter became President. These figures do not take into account the points charged to buyers and sellers in order to bring the FHA rate up to a market yield. Today's FHA interest rate is widely regarded as too low, but these figures illustrate why, under the Carter administration the great American dream of owning your own home is still a dream and not a reality.

□ 1210

MISSING LINK IN DEBATE

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I know the city of Baltimore appreciated the national television coverage it got last night, but beyond that I see little reason to repeat the performance.

We heard two good distinct points of view from Governor Reagan and Congressman ANDERSON, but what good are they if we do not hear the third?

The reason there are two distinct points of view in this contest is the dismal record of the Carter administration. Without that record there would be no need for a debate. And unless the person responsible for that record has the courage to stand up and defend it, what is the use in continuing? As long as President Carter continues to hide away in the flower beds of the Rose Garden, we will never know how the Carter record stands up against the platforms of Reagan or Anderson. President Carter is not only hiding from the debates, he is hiding from the political system, the elective process and the American public and the media compounds the problem by giving the Carter camp free air time to react to the debates, after the fact, out of the line of fire. Jimmy has it made under those circumstances.

I do not see much sense in having debates if the reason for the debates refuses to show up. I would suggest to the League of Women Voters that they cancel the rest of the debates until someone can drag the President to them.

MEMORIAL TREE FROM CITIZENS OF WISCONSIN IN HONOR OF AMERICANS HELD HOSTAGE

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, in honor of our 52 Americans held hostage in Iran, the people of Wisconsin have donated to the United States a red oak tree to be planted on the grounds of the U.S. Capitol. In a truly patriotic endeavor Wisconsinites have joined together to bring this tree from the Nicolet National Forest to Washington, D.C. This oak tree will stand for generations to come as a constant reminder and living memorial to our courageous Americans held hostage.

Today I introduce a resolution expressing the hopes of the American people for the immediate release of the hostages in Iran and dedicating this tree to the principles of individual freedom and world peace. I would welcome my colleagues to join in cosponsoring this measure.

STATISTICAL SUBTERFUGE AND POLITICS

(Mr. BETHUNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. BETHUNE. Mr. Speaker, it is amazing how long HUD held out before it hiked the FHA/VA mortgage interest ceiling Friday, the 19th. Although that ceiling is raised historically whenever there are 5 or 6 discount points, HUD allowed the discount points to reach 10 to 12 during the last few weeks. When this is allowed to happen, sellers are often boxed in and the transaction is not consumated—setting off a chain reaction—the home buyers and home sellers are dislocated, the realtor loses the sale, and the lender loses the business.

Could preelection inflation figures be involved? The Bureau of Labor Statistics tells me that the Consumer Price Index figures that will be released right before the election are collected between August 15 and September 15. Why did they wait until after the cutoff date to make the increase? Since FHA and VA rates factor heavily into the CPI formula, the natural suspicion is that someone is playing a game of statistical subterfuge. I think the House made a wise decision when it approved the amendment to the Housing Act Amendments of 1980 to let 10 percent of the FHA-insured mortgages be set at interest rates negotiated by the buyer and the seller, rather than within the confines of HUD's interest ceiling and interests.

INCREDIBLE FARE INCREASES FOLLOW DEREGULATION OF AIRLINES

(Mr. VANIK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VANIK. Mr. Speaker, during the recent year I have been more seriously concerned about the rapid and enormous escalation in airline fares which followed deregulation of the airline industry.

To the present, the deregulation of airlines has resulted in incredible increases in fares and a reduction in services to all points in America.

In November of 1978, my roundtrip to Cleveland was $102. Since that time the following increases have occurred:

June 1979	$106
August 1979	120
October 1979	130
December 1979	133
September 1980	165

In 1978 air fares increased 6¼ percent. In 1979 air fares increased 38½ percent. So far this year the fare has increased to $165, or an increase of 75 percent.

This unjustifiable increase in air fares is completely unrelated to the cost of energy. Airline deregulation has resulted in less service at a higher cost to the citizens of America. The person who needs to travel today relies more and more on the family automobile—the ultimate victor over expensive air travel.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE CONFERENCE REPORT ON H.R. 7590, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, 1981

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a conference report on the bill (H.R. 7590) making appropriations for energy and water development for the fiscal year ending September 30, 1981, and for other purposes.

The SPEAKER pro tempore (Mr. Natcher). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. BEVILL submitted the following conference report and statement on the bill (H.R. 7590) making appropriations for energy and water development for the fiscal year ending September 30, 1981, and for other purposes.

Conference Report (H. Rept. No. 96–1366)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7590) making appropriations for energy and water development for the fiscal year ending September 30, 1981, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 4, 8, 9, 10, 13, 21, 25, 26, 29, 45, 46, 48, 54, 55, 56, 57, and 58.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 14, 18, 19, 24, 44, 50, and 51, and agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$378,015,000"; and the Senate agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,890,623,000"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$390,324,000"; and the Senate agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$126,400,000"; and the Senate agree to the same.

Amendment numbered 17: That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$600,005,000"; and the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$134,013,000"; and the Senate agree to the same.

Amendment numbered 23: That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$1,585,742,000"; and the Senate agree to the same.

Amendment numbered 30: That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$232,519,000"; and the Senate agree to the same.

Amendment numbered 32: That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$902,605,000"; and the Senate agree to the same.

Amendment numbered 37: That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$38,629,000"; and the Senate agree to the same.

Amendment numbered 38: That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$38,579,000"; and the Senate agree to the same.

Amendment numbered 47: That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "447,520,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 3, 7, 12, 15, 22, 27, 28, 31, 33, 34, 35, 36, 39, 40, 41, 42, 43, 49, 52, and 53.

Tom Bevill,
Edward P. Boland,
Lindy (Mrs. Hale) Boggs,
Bill Chappell,
Vic Fazio,
Jamie L. Whitten,
John T. Myers,
(except Dickey-Lincoln, Maine project in amendment No. 23),
Clair W. Burgener,
Virginia Smith,
(except Dickey-Lincoln, Maine project in amendment No. 23),
Silvio O. Conte,
(except Dickey-Lincoln, Maine project in amendment No. 23),
Managers on the Part of the House.

J. Bennett Johnston,
John C. Stennis,
Warren G. Magnuson,
Robert C. Byrd,
Ernest F. Hollings,
Walter D. Huddleston,
Quentin N. Burdick,
Jim Sasser,
Dennis DeConcini,
Mark O. Hatfield,
Milton R. Young,
Richard S. Schweiker,
Henry Bellmon,
James A. McClure,
Jake Garn,
Harrison Schmitt,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7590) making appropriations for energy and water development for fiscal year ending September 30, 1981, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effects of the action agreed upon by the managers and recommended in the accompanying conference report.

Report language included by the House which is not changed by the report of the Senate, and Senate report language which is not changed by the conference is approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein.

TITLE I—DEPARTMENT OF ENERGY

OPERATING EXPENSES

Energy supply, research and development activities

Amendment No. 1: Appropriates $2,268,754,000 for Operating Expenses, Energy Supply, Research and Development Activities, as proposed by the House instead of $2,268,575,000 as proposed by the Senate.

Solar Energy

The conferees have accepted the new budget structure for solar energy programs proposed by the Department and reflected in the Senate report. The Department should include an appropriate crosswalk between the old and new structures in future justification materials for comparison purposes.

The conference allowance provides the following funding for Solar Applications for Buildings:

Active Systems:	
Systems Development	$17,750,000
Market Test and Applications	11,300,000
Market Development and Training	13,400,000
Subtotal	42,450,000
Passive Systems:	
Systems Development	13,500,000
Market Test and Applications	5,700,000
Market Development and Training	13,700,000
Subtotal	32,900,000
Photovoltaics:	
Technology Development	133,000,000
Market Test and Applications	20,200,000
Subtotal	153,200,000
Total	228,550,000

The conferees agree with the Senate report language regarding the need for identification and justification of funding for the four Regional Solar Energy Centers in future budget requests. Identification and justification of funding and programs for the Solar Energy Research Institute should be included in this information in order to permit full assessment by the Committees on

Appropriations of the effectiveness of these programs.

The conferees agree with Senate report language earmarking $2,000,000 for the Region X wood derived fuels programs.

Geothermal Energy

The conferees agree with the Senate report language directing that adequate levels of support be maintained in funding the several states to establish geothermal commercialization plans, and directing that the Appropriations Committees be notified if the Department intends to change its method of funding for this program. The conferees agree that there is no reduction in the request for the Hot Dry Rock program.

Hydropower

The conferees agree with the Senate allowance of $11,011,000 for small scale hydroelectric development, including $4,800,000 for small scale construction grants for renovation and development of hydroelectric generation facilities at the Jackson Mills and Mine Falls Dams located in Nashua, New Hampshire.

Commercial Nuclear Waste Management

The conferees note that at this point in time there are several different nuclear waste management bills under consideration in the House, including the Nuclear Waste Policy Act, S. 2189, recently passed by the Senate. Accordingly, the funding provided reflects the levels considered appropriate for the programs likely to emerge from the legislation now being considered. Specifically:

The conferees agree with the $4,000,000 added by the Senate which provides $3,500,000 for investigation, research and support studies for monitored, retrievable repositories, and preparation of a site-specific report for a monitored, retrievable repository; and $500,000 for alternate concepts, to include documentation and studies for alternative high-level waste repositories. The conferees have also agreed to the $1,500,000 added by the Senate for the support program line to provide necessary support for the state planning council on radioactive waste management and other state financial assistance approved by Congress in authorizing legislation.

The conferees are in agreement that neither the House nor Senate report language relating to disposal of spent fuel should be construed to preclude the continued investigation of the suitability of spent fuel as a waste form, including ways to incorporate spent nuclear fuel into a multi-barrier waste package, nor to preclude the use of spent fuel in the various research and development programs to determine the suitability of various geologic and other media for disposal of nuclear waste.

Interim Spent Fuel Storage

The conferees agreement regarding the resolution of House and Senate differences in the interim spent fuel storage account is discussed under the Plant and Capital Equipment appropriation for Energy Supply, Research and Development Activities.

Environment

The conferees agree with the Senate report language regarding the multi-technology marine program.

Fiscal Year 1980 Deferrals/Unobligated Balances

The funding levels in the conference allowance reflect the availability of $2,500,000 from FY 1980 deferrals and $3,171,000 from miscellaneous unobligated balances from prior year appropriations.

Data from the Department shows substantial slippage in the FY 1980 obligations for the solar and geothermal energy accounts through the first 11 months of the fiscal year, which is unlikely to be recovered in the last month without undesirable yearend "dumping." Accordingly, the conferees have applied anticipated unobligated balances of $20,200,000 for solar energy and $5,000,000 for geothermal energy against the allowances for these accounts.

Allocation of Funds

The funds are allocated as shown in the following tables:

	Fiscal year 1981	
	Budget estimate	Conference allowance
ENERGY SUPPLY RESEARCH AND DEVELOPMENT OPERATING EXPENSES		
Solar Energy		
Solar applications for buildings:		
Active systems	$42, 450, 000	$42, 450, 000
Passive systems	32, 900, 000	32, 900, 000
Photovoltaics	153, 200, 000	153, 200, 000
Subtotal	228, 550, 000	228, 550, 000
Solar applications for industry:		
Biomass	45, 750, 000	45, 750, 000
Solar thermal	129, 400, 000	119, 950, 000
Subtotal	175, 150, 000	165, 700, 000
Solar power technology:		
Wind energy conversion systems	83, 700, 000	83, 700, 000
Ocean systems	38, 300, 000	38, 300, 000
Subtotal	122, 000, 000	122, 000, 000
Alcohol fuels	20, 800, 000	20, 800, 000
Solar international	15, 000, 000	12, 000, 000
Solar information	1, 400, 000	1, 400, 000
Program direction	6, 786, 000	6, 786, 000
Total, solar energy	569, 686, 000	557, 236, 000
Geothermal		
Hydrothermal commercialization	10, 000, 000	8, 000, 000
Hydrothermal resources development	42, 089, 000	42, 000, 000
Geopressured resources development	35, 800, 000	35, 600, 000
Geothermal technology development	51, 890, 000	48, 800, 000
Program direction	1, 400, 000	1, 400, 000
Total, geothermal	141, 179, 000	135, 800, 000
Hydropower		
Small scale hydroelectric development	8, 211, 000	11, 011, 000
Feasibility studies loan program	10, 000, 000	10, 000, 000
Program direction	789, 000	789, 000
Total, hydropower projects	19, 000, 000	21, 800, 000
Nuclear Fission		
Converter reactors:		
Thermal reactor technology	45, 000, 000	39, 500, 000
Thermal reactor fuel cycle		21, 500, 000
High temperature reactors		38, 000, 000
Advanced reactor systems	3, 000, 000	1, 000, 000
Program direction	1, 465, 000	1, 465, 000
Total, converter reactors	49, 465, 000	101, 465, 000
Commercial nuclear waste management:		
Terminal isolation research and development	192, 939, 000	161, 439, 000
Waste treatment technology	17, 450, 000	14, 850, 000
Support programs	7, 500, 000	3, 000, 000
Program direction	1, 762, 000	1, 762, 000
Total, commercial nuclear waste management	219, 651, 000	181, 051, 000
Interim spent fuel storage:		
International spent fuel storage	4, 200, 000	3, 000, 000
Domestic spent fuel storage	14, 800, 000	8, 000, 000
Program direction	513, 000	513, 000
Total, interim spent fuel storage	19, 513, 000	11, 513, 000
Breeder Reactors		
Liquid metal fast breeder reactor base program	222, 669, 000	290, 469, 000
Water cooled breeder reactor	59, 000, 000	59, 000, 000
Fuel cycle research and development	11, 600, 000	20, 600, 000
Program direction	$11, 181, 000	$11, 181, 000
Total, breeder reactors	304, 450, 000	381, 250, 000
Total, nuclear fission	593, 079, 000	675, 279, 000
Space Nuclear Systems		
Space and terrestrial applications	35, 400, 000	35, 400, 000
Advanced systems evaluations	3, 000, 000	3, 000, 000
Program direction	981, 000	981, 000
Total, space nuclear systems	39, 381, 000	39, 381, 000
Magnetic Fusion		
Confinement systems	92, 800, 000	92, 800, 000
Development and technology	62, 600, 000	62, 600, 000
Applied plasma physics	65, 800, 000	65, 800, 000
Planning and projects	34, 500, 000	34, 500, 000
Program direction	3, 117, 000	3, 117, 000
Total, magnetic fusion	258, 817, 000	258, 817, 000
Electric Energy Systems		
Power supply and system management	19, 000, 000	19, 000, 000
Power delivery	18, 500, 000	18, 500, 000
Program direction	923, 000	923, 000
Total, electric energy systems	38, 423, 000	38, 423, 000
Energy Storage Systems		
Battery storage	37, 800, 000	37, 800, 000
Thermal, mechanical and other storage	31, 300, 000	31, 300, 000
Program direction	1, 000, 000	1, 000, 000
Total, energy storage systems	70, 100, 000	70, 100, 000
Environment		
Environmental research and development:		
Overview and assessment	52, 470, 000	50, 470, 000
Biological and environmental research	155, 051, 000	154, 051, 000
Subtotal, environmental R. & D	207, 521, 000	204, 521, 000
Program direction	11, 133, 000	11, 133, 000
Total, environment	218, 654, 000	215, 654, 000
Basic Energy Research		
Basic energy sciences:		
Nuclear sciences	33, 400, 000	32, 400, 000
Material sciences	90, 400, 000	87, 750, 000
Chemical sciences	61, 200, 000	60, 700, 000
Engineering, mathematical and geosciences	26, 600, 000	24, 100, 000
Advanced energy projects	7, 200, 000	6, 350, 000
Biological energy conversion and conservation	8, 300, 000	7, 250, 000
Program direction	2, 444, 000	2, 444, 000
Total, basic energy sciences	229, 544, 000	220, 994, 000
Technical assessment projects:		
Assessment projects	3, 200, 000	2, 500, 000
Advanced technology projects	12, 000, 000	8, 000, 000
Advanced electric vehicles battery development		2, 000, 000
Program direction	540, 000	540, 000
Total, technical assessment projects	15, 740, 000	13, 040, 000
University research support	11, 000, 000	7, 800, 000
Program direction	320, 000	320, 000
Total, university research support	11, 320, 000	8, 120, 000
Tech program and policy analysis	1, 981, 000	1, 981, 000
Total, basic energy research	258, 585, 000	244, 135, 000
Remedial Action Programs		
Management of surplus radioactively contaminated DOE facilities	11, 800, 000	11, 800, 000
Remedial action for former DOE contractor installation MED/AEC sites	11, 000, 000	11, 000, 000
Grand Junction remedial action	2, 000, 000	2, 000, 000
Remedial action for inactive uranium mill tailing sites	13, 200, 000	13, 200, 000

	Fiscal year 1981	
	Budget estimate	Conference allowance
West Valley, N.Y.	$5,000,000	$5,000,000
Total, remedial action	43,000,000	43,000,000
Total, operating expenses	2,249,904,000	2,299,625,000
Fiscal year 1980 deferrals/unobligated balances		—30,871,000
Total, energy supply, research and development—operating expenses	2,249,904,000	2,268,754,000

OPERATING EXPENSES

Uranium supply and enrichment activities

Amendment No. 2: Appropriates $1,009,-040,000 for Operating Expenses, Uranium Supply and Enrichment Activities as proposed by the Senate instead of $1,007,040,000 as proposed by the House.

Amendment No. 3: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which merges the appropriation for Operating Expenses, Uranium Supply and Enrichment Activities as well as all prior year balances with the Uranium Supply and Enrichment Activities, Plant and Capital Equipment appropriation.

Amendment No. 4: Deletes language proposed by the Senate which would have prohibited the use of funds in this or any other act to enrich feed material of foreign origin for a domestic utilization facility where the fraction of feed material of foreign origin exceeds 10 percent (except for contracts entered into prior to October 1, 1980); and to provide such sums as are necessary for the Secretary to conduct a rulemaking pursuant to 5 U.S.C. 553, 556 and 557, to establish restrictions on enrichment of foreign origin uranium for domestic use.

Advanced Isotope Separation Technology

The conferees agree with the Senate report language regarding the provision of adequate funds to assure that the industrial atomic vapor laser isotopic separation process will compete on an equal footing with existing programs during the evaluation and selection process. The Department is directed to provide the Committees on Appropriations with a report not later than December 31, 1980, describing the steps and milestones associated with the selection process, as well as the additional development activities required before the process selection can be completed.

Allocation of Funds

The funds are allocated as shown in the following tables:

	Fiscal year 1981	
	Budget estimate	Conference allowance
URANIUM SUPPLY AND ENRICHMENT ACTIVITIES, OPERATING EXPENSES		
Uranium resource assessment	$22,825,000	$24,625,000
Program direction	4,630,000	4,830,000
Total, uranium resource assessment	27,455,000	29,455,000
Advanced isotope separation technology	63,355,000	63,355,000
Program direction	944,000	944,000
Total, advanced isotope separation technology	64,299,000	64,299,000
Uranium enrichment	862,226,000	862,226,000
Contract prefinancing		50,000,000
Program direction	$3,060,000	$3,060,000
Total, uranium enrichment	865,286,000	915,286,000
Total, uranium supply and enrichment activities	957,040,000	1,009,040,000
Less uranium enrichment revenues applied	−929,585,000	−979,585,000
Revenues net to Treasury	(61,515,000)	
Net uranium supply and enrichment activities, operating expenses	27,455,000	29,455,000
Reclassification of Revenues		
Departmental administration		(53,000,000)
Uranium supply and enrichment activities		(8,515,000)
Revenues, net to Treasury	−61,515,000	

OPERATING EXPENSES

General science and research activities

Amendment No. 5: Appropriates $378,-015,000 for Operating Expenses, General Science and Research Activities, instead of $367,515,000 as proposed by the House and $382,015,000 as proposed by the Senate. The funds are allocated as shown in the following table:

	Fiscal year 1981	
	Budget estimate	Conference allowance
GENERAL SCIENCE AND RESEARCH, OPERATING EXPENSES		
Basic Sciences		
Life sciences research and nuclear medicine applications:		
General life sciences	$25,650,000	$24,000,000
Nuclear medicine applications	20,000,000	20,000,000
Total, life sciences research	45,650,000	44,000,000
High energy physics:		
Physics research	76,500,000	76,000,000
Facility operations	114,300,000	116,800,000
High energy technology	50,580,000	50,580,000
Program direction	865,000	865,000
Total, high energy physics	242,245,000	244,245,000
Nuclear physics:		
Medium energy physics	45,555,000	46,000,000
Heavy ion physics	35,975,000	36,500,000
Nuclear theory	7,000,000	7,000,000
Program direction	270,000	270,000
Total, nuclear physics	88,800,000	89,770,000
Total, general science and research, operating expenses	376,695,000	378,015,000

OPERATING EXPENSES

Atomic energy defense activities

Amendment No. 6: Appropriates $2,890,-623,000 for Operating Expenses, Atomic Energy Defense Activities, instead of $2,756,-023,000 as proposed by the House and $2,890,-623,500 as proposed by the Senate.

Inertial Confinement Fusion

The conference allowance of $140,500,000 for inertial confinement fusion is allocated as shown in the following table:

Glass Laser Program:	
Lead Laboratory (LLNL)	$51,725,000
National Laser Users Facility	5,400,000
Industrial Participant (KMSF)	9,300,000
Other Laboratories	2,100,000
Subtotal	68,525,000
Gas Laser Program	38,000,000
Pulse Power Fusion	15,700,000
Supporting Research:	
Heavy Ion	5,000,000
Advanced Laser/System Studies	12,000,000
Subtotal	17,000,000
Program Direction	1,275,000
Total	140,500,000

The conference allowance also provides $12,600,000 for Capital Equipment funding in order to meet the funding needs associated with the operating programs for the various participants at a reasonable level of effort.

The conferees are in agreement with the Senate report language directing the Department to specify in its budget requests the funding allocations planned for the various research centers.

Weapons Activities

The conference allowance reflects consideration of budget amendments considered by the Senate but received too late for consideration by the House.

Allocation of Funds

The funds are allocated as shown in the following tables:

	Fiscal year 1981	
	Budget estimate	Conference allowance
ATOMIC ENERGY DEFENSE ACTIVITIES OPERATING EXPENSES		
Inertial confinement fusion	$159,500,000	$140,500,000
Naval reactors development	250,350,000	250,350,000
Weapons activities:		
Research and development	501,064,000	501,064,000
Testing	241,000,000	261,000,000
Production and surveillance	980,100,000	980,100,000
Program direction	37,659,000	37,659,000
Total, weapons activities	1,759,823,000	1,779,823,000
Verification and control technology	38,591,000	38,591,000
Materials production:		
Materials production	200,907,000	200,907,000
Processing of nuclear materials	92,019,000	92,019,000
Supporting services	65,939,000	80,939,000
Flourinel processing of nonproduction fuels and related activities	26,890,000	26,890,000
Special isotopes separations research	4,815,000	9,815,000
Program direction	1,330,000	1,330,000
Total, materials production	391,900,000	411,900,000
Defense waste management:		
Interim waste operations	139,940,000	135,940,000
Long term waste management technology	99,000,000	75,500,000
Terminal storage		5,000,000
Decontamination and decommissioning	6,000,000	4,000,000
Transportation R. & D	5,000,000	5,000,000
Program direction	1,715,000	1,715,000
Total, defense waste management	251,655,000	227,155,000
Nuclear materials security and safeguards	43,304,000	43,304,000
Fiscal year 1980 deferrals		−1,000,000
Total atomic energy defense activities, operating expenses	2,895,123,000	2,890,623,000

OPERATING EXPENSES

Departmental Administration

Amendment No. 7: Reported in technical disagreement. Appropriates $4,892,000 for the Office of the Secretary instead of $4,872,000 as proposed by the House and stricken by the Senate. The managers on the part of the House will offer a motion to restore the matter stricken by the Senate, amended to read as follows:

Restore the matter stricken by said amendment, amended to read as follows:

Office of the Secretary

For salaries and expenses for the Office of the Secretary of Energy necessary for administering the Department in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), and for official reception and representation expenses (not to exceed $35,000), $4,892,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 8: Restores the heading "General Administration" stricken by the Senate.

Amendment No. 9: Restores language as proposed by the House for the General Administration account.

Amendment No. 10: Deletes matter proposed by the Senate for official reception and representation expenses.

Amendment No. 11: Appropriates $390,324,000 for Operating Expenses, General Administration, instead of $388,572,000 as proposed by the House and $397,443,000 as proposed by the Senate.

Intergovernmental and Institutional Relations:

The conferees agree with the Senate allowances for the Intergovernmental and Institutional Relations account except that $500,000 is included for the Local and Tribal Government Assistance Program recommended by the House for technical assistance to local and tribal Governments.

General:

The conferees agree with the Senate report language encouraging the Department to use its authority under section 161g of the Atomic Energy Act of 1954, as amended, to sell land on the Hanford Reservation to utilities wishing to purchase such land for construction of nuclear powerplants to serve the region when such sales do not jeopardize Department activities.

Allocation of Funds:

The funds are allocated as shown in the following table:

	Fiscal year 1981	
	Budget estimate	Conference allowance
DEPARTMENTAL ADMINISTRATION, OPERATING EXPENSES		
Office of the Secretary		
Salaries and expenses:		
Office of the Secretary	$2, 555, 000	$2, 555, 000
Executive secretary	1, 495, 000	1, 495, 000
Other expenses	842, 000	842, 000
Total, Office of the Secretary	4, 892, 000	4, 892, 000
General Administration		
Salaries and expenses:		
General management:		
Board of Contract Appeals	203, 000	203, 000
Equal opportunity	1, 273, 000	1, 273, 000
Minority economic impact	459, 000	459, 000
Office of the Controller	9, 160, 000	9, 160, 000
Inspector General	5, 275, 000	5, 275, 000
Procurement and contracts management	7, 416, 000	7, 416, 000
Administration	16, 333, 000	16, 333, 000
General Counsel	11, 503, 000	11, 503, 000
Assistant to the Secretary for Legislative Affairs	1, 620, 000	1, 620, 000
Assistant Secretary for Policy and Evaluation	6, 530, 000	6, 530, 000
Assistant Secretary for International Affairs	4, 305, 000	4, 305, 000
Assistant to the Secretary for Public Affairs	2, 966, 000	2, 966, 000
Consumer affairs	781, 000	781, 000
Intergovernmental affairs	2, 499, 000	2, 499, 000
Subtotal, general management	70, 323, 000	70, 323, 000
Program administration:		
Assistant Secretary for Nuclear Energy	$489, 000	$489, 000
Assistant Secretary for Resources Applications	598, 000	598, 000
Assistant Secretary for Environment	2, 620, 000	2, 620, 000
Assistant Secretary for Defense Programs	2, 007, 000	2, 007, 000
Assistant Secretary for Conservation and Solar Energy	817, 000	817, 000
Office of Enery Research	876, 000	876, 000
Subtotal, program administration	7, 407, 000	7, 407, 000
Field offices:		
Operations offices	55, 700, 000	55, 700, 000
Regional representatives	5, 681, 000	5, 681, 000
Regional counsels	3, 400, 000	3, 400, 000
Power marketing coordination	471, 000	471, 000
Subtotal, field offices	65, 252, 000	65, 252, 000
Subtotal, salaries	142, 982, 000	142, 982, 000
General reduction		−6, 355, 000
Total, salaries	142, 982, 000	136, 627, 000
Other expenses:		
Other salary expenses	8, 283, 000	7, 810, 000
Benefits	18, 830, 000	15, 431, 000
Travel	5, 903, 000	5, 803, 000
Services	101, 775, 000	96, 595, 000
Subtotal, other expenses	134, 791, 000	125, 639, 000
Total, salaries and expenses	277, 773, 000	262, 266, 000
Program support:		
Policy analysis and systems studies	18, 600, 000	16, 500, 000
Intergovernmental and institutional relations	36, 743, 000	34, 343, 000
International cooperation in nonnuclear technologies	3, 600, 000	2, 000, 000
International policy studies	500, 000	500, 000
In-house energy management	3, 900, 000	3, 900, 000
Security investigations	15, 012, 000	15, 012, 000
Cost of work for others	43, 803, 000	43, 803, 000
Changes in inventories	12, 000, 000	12, 000, 000
Total, program support	134, 158, 000	128, 058, 000
Subtotal, general administration	411, 931, 000	390, 324, 000
Miscellaneous revenues	−131, 267, 000	−184, 267, 000
Total, General administration	280, 664, 000	206, 057, 000

PLANT AND CAPITAL EQUIPMENT

Energy supply, research and development activities

Amendment No. 12: Reported in technical disagreement. Appropriates $373,287,000 and, in addition, $10,000,000 for away from reactor storage capacity instead of $330,837,000 as proposed by the House and $376,337,000 and $10,000,000 for away from reactor storage capacity as proposed by the Senate. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

$373,287,000 and in addition, $10,000,000 for the construction or acquisition by the Secretary of Energy of capacity for the away from reactor storage of spent nuclear fuel from electric powerplants licensed under the Atomic Energy Act of 1954, all

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Solar Energy

Project 79-1-Q, Solar Energy Research Laboratory. Funding is provided to complete Title II design, the Test Site Infrastructure and preliminary site construction activities only. The conferees are concerned by reports that the facility as presently designed is unnecessarily expensive in relation to requirements. Therefore, no funds are provided for, nor should be used for, facility construction activities until the Committees are provided a complete report detailing the requirements for the facility, the appropriateness of the design to meet these requirements and the steps being taken to ensure that the facility construction costs are reasonable and commensurate with the minimum requirements for the facility. The Department is also directed to consider the concept of phased, modular construction such that the total cost of the project can be maintained at no more than the current estimate by deleting lower priority requirements to stay within the total estimated cost.

Project 80-ES-19, Small Communities Systems Application Experiment. The conference allowance includes $3,750,000 for the small communities systems application experiment. The initial budget justification material for this project was inadequate to support a recommendation in the reports of either of the Committees on Appropriations. However, the Department has recently submitted additional data to support inclusion of funding for this project.

The conferees remain concerned, however, by the deficiencies in the budget justification materials for solar energy projects. In future requests, the Department is directed to provide sufficient information in the request to show the need for and relationships of the various projects in meeting solar energy goals, the cost and performance of tradeoffs with competing systems for the same market, and sufficient project detail so that the committees can consider project funding requirements in relation to other priorities.

Project 76-2-B, 10 MWe Central Receiver Solar Thermal Power Plant, Barstow, California. The conferees agree that the Department may transfer to this project up to $10,000,000 from unobligated balances accruing from savings and slippages in the solar energy operating expenses account in order to continue the project as rescoped to meet repowering objectives.

Geothermal Energy

Projects 80-G-1 and 80-G-2 are funded at $10,911,000 and $8,000,000, respectively, in order that these projects can be completed expeditiously and economically.

Nuclear Commercial Waste Management

The conferees have deferred funding of any of the new terminal isolation research and development test facilities or demonstration facilities for consideration in future appropriations actions pending enactment of authorizing legislation to resolve the key elements of the terminal isolation R&D program. The Committees on Appropriations are willing to consider an appropriate method of funding for such new facilities by reprogramming, transfer of funds or in a supplemental request promptly once the program content is resolved.

General Purpose Facilities

The conference allowance for general purpose facilities includes, as a minimum, funding for the following projects:

80-ES-11	$2, 000, 000
81-E-308	2, 000, 000
81-E-309	1, 000, 000
81-E-310	1, 000, 000
81-E-311	2, 500, 000
81-E-312	5, 300, 000
81-E-317	3, 300, 000
81-E-321	700, 000
81-E-324	3, 400, 000
81-E-325 (Senate No.)	[1] 1, 000, 000

[1] Energy Technology Laboratory, Sandia National Laboratory.

Interim Spent Fuel Storage

Domestic Spent Fuel Storage: Aquisition of AFR Capacity. The conference allowance provides $10,000,000 to initiate preliminary activities and allow negotiations for acquisition of AFR's pursuant to the Nuclear Waste Policy Act (S. 2189) as passed by the Senate on July 30, 1980, or similar legislation as it may be enacted by the Congress. A specific language provision is also recommended for inclusion in the bill to permit construction or negotiation and eventual acquisition of AFR capacity.

In making this recommendation to initiate the steps necessary to meet the urgent AFR requirements, the conferees direct that final contracts, transfer arrangements, or agreements in accordance with the provisions of S. 2189, or other legislation enacted by Congress, cannot be consummated without further, expressed congressional approval. The conferees have taken this action in compliance with the spirit and intent of recent action on DOE authorization measures.

Allocation of Funds

The funds are allocated as shown in the following table:

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT, PLANT AND CAPITAL EQUIPMENT

	Fiscal year 1981	
	Budget estimate	Conference allowance
CAPITAL EQUIPMENT		
Solar Energy		
Solar applications for buildings:		
Active systems	$1,250,000	$1,250,000
Passive systems	500,000	500,000
Photovoltaics	7,000,000	7,000,000
Subtotal	8,750,000	8,750,000
Solar applications for industry:		
Biomass	750,000	750,000
Solar thermal	4,250,000	4,250,000
Subtotal	5,000,000	5,000,000
Solar power technology:		
Wind energy conversion systems	2,100,000	2,100,000
Ocean systems	700,000	700,000
Subtotal	2,800,000	2,800,000
Total, solar energy	16,550,000	16,550,000
Geothermal		
Geopressured resources	200,000	200,000
Geothermal technology development	1,110,000	1,110,000
Total, geothermal	1,310,000	1,310,000
Nuclear Fission		
Converter reactors:		
Thermal reactor technology	2,000,000	2,000,000
High temperature reactors		2,000,000
Total, converter reactors	2,000,000	4,000,000
Commercial nuclear waste management:		
Terminal isolation R. & D	9,760,000	8,000,000
Waste treatment technology	3,550,000	3,550,000
Total, commercial waste management	13,310,000	11,550,000
Spent fuel storage: Domestic spent fuel storage	1,000,000	1,000,000
Breeder reactors:		
Liquid metal fast breeder reactor base program	10,500,000	10,500,000
Water cooled breeder reactor	1,200,000	1,200,000
Fuel cycle research and development	400,000	5,400,000
Total, breeder reactors	12,100,000	17,100,000
Total, nuclear fission	28,410,000	33,650,000
Space Nuclear Systems		
Space and terrestrial applications	$2,600,000	$2,600,000
Magnetic Fusion		
Confinement systems	18,100,000	17,700,000
Development and technology	8,700,000	8,400,000
Applied plasma physics	6,700,000	6,400,000
Reactor projects	4,400,000	4,400,000
Total, Magnetic fusion	37,900,000	36,900,000
Electric Energy Systems		
Power delivery	1,500,000	1,500,000
Energy Storage Systems		
Battery storage	700,000	700,000
Chemical mechanical and other storage	1,000,000	1,000,000
Total, energy storage systems	1,700,000	1,700,000
Environment		
Environmental research and development:		
Overview and assessment	2,040,000	2,040,000
Biological and environmental research	11,700,000	11,700,000
Total, environmental R. & D	13,740,000	13,740,000
Basic Energy Research		
Basic energy sciences:		
Nuclear sciences	1,300,000	1,300,000
Material sciences	7,300,000	7,100,000
Chemical sciences	4,300,000	4,000,000
Engineering, mathematical and geosciences	1,760,000	1,760,000
Advanced energy projects	300,000	300,000
Biological energy conversion and conservation	400,000	400,000
Other capital equipment	140,000	140,000
Total, basic energy sciences	15,500,000	15,000,000
Remedial Action Programs		
Management of surplus radioactively contaminated DOE facilities	550,000	550,000
Total, capital equipment	119,760,000	123,500,000

Project No.		Fiscal year 1981	
		Budget estimate	Conference allowance
	CONSTRUCTION PROJECTS		
	Solar Energy		
	Alcohol fuels:		
81-T-305	Ethanol from biomass facility	$2,500,000	$2,500,000
80-B-1	Thermo chemical experimental facility	2,000,000	
	Total, alcohol fuels	4,500,000	2,500,000
	Solar applications for industry:		
81-T-306	Industrial cogeneration facility	1,900,000	
76-2-B	10MWe central receiver solar thermal powerplant, Barstow, Calif.	10,000,000	8,000,000
80-ES-2	Shenandoah large scale experiment, Shenandoah, Ga.	5,800,000	5,800,000
80-ES-19	Small communities systems application experiment No. 1.	3,750,000	3,750,000
	Total, solar applications for industry	21,450,000	17,550,000
79-1-Q	Solar Energy Research Institute: Solar energy research laboratory.	1,000,000	5,000,000
	Geothermal		
	Hydrothermal resources:		
80-G-1	50MWe geothermal demonstration, Valles Caldera, N. Mex.	$10,911,000	$10,911,000
80-G-2	50MWe 2d demo power plant, site undetermined.		8,000,000
	Total, geothermal	10,911,000	18,911,000
	Nuclear Fission		
	Commercial Waste Management		
	Terminal isolation R. & D.:		
81-T-301	General plant projects (fiscal year 1980—$3,300,000).	2,000,000	2,000,000
81-T-302	Salt test facility	6,800,000	
80-ES-12	Near surface test facility phase 2, Richland, Wash.	3,576,000	3,576,000
	Total, terminal isolation R. & D	12,376,000	5,576,000

Project No.		Fiscal year 1981	
		Budget estimate	Conference allowance
	Spent Fuel Disposition		
	Domestic Spent Fuel Storage: Spent LWR fuel storage facilities, sites undetermined (away from reactor storage).	-------------	$10,000,000
	Breeder		
	Liquid metal fast breeder reactor:		
81-T-310	General plant projects (fiscal year 1980—$12,300,000).	$11,500,000	10,800,000
79-1-C	Security Improvements, Richland, Wash	3,000,000	3,000,000
78-6-C	Safety Research Experimental Facility, Idaho National Engineering Laboratory, Idaho (A&E, long-lead procurement and limited construction only).	150,000	150,000
78-6-E	Liquid Metal Engineering Center Modifications, Santa Susana, Calif., (A&E and long-lead procurement only).	-------------	5,000,000
78-6-F	Fuels and Materials Examination Facility, Richland, Wash.	52,000,000	52,000,000
	Total, breeder	66,650,000	70,950,000
	Total, nuclear fission	79,026,000	86,526,000
	Magnetic Fusion		
	Confinement systems:		
80-MF-3	EBT—Proof of principle experiment	5,400,000	5,400,000
81-T-314	ISX-C Modifications ORNL	4,500,000	4,500,000
	Total, confinement systems	9,900,000	9,900,000
80-MF-4	Development and technology: Large coil test facility, phase I, ORNL	6,500,000	6,500,000
	Reactor projects:		
81-T-313	General plant projects (fiscal year 1980—$4,000,000)	5,400,000	4,400,000
78-3-B	Fusion materials irradiation test facility, HEDL, Wash., (A. & E. and long-lead procurement)	22,600,000	22,600,000
76-5-A	Tokamak fusion test reactor, Princeton, N.J	30,000,000	30,000,000
78-3-A	Mirror fusion test facility, Livermore, Calif	25,000,000	25,000,000
	Total, reactor projects	83,000,000	82,000,000
	Total, magnetic fusion	99,400,000	98,400,000
	Environment		
	Biological and environmental research:		
81-E-305	General plant projects (fiscal year 1980—$2,500,000)	3,000,000	3,000,000
81-E-306	Modifications and additions to biomedical and environmental research facilities, various locations	$3,400,000	$3,400,000
	Total, environment	6,400,000	6,400,000
	Basic Research		
	Basic energy sciences:		
81-E-301	Materials sciences: General plant projects (fiscal year 1980—$250,000)	300,000	300,000
	Chemical sciences:		
81-E-304	Acc. improvements and modifications, ORNL	200,000	200,000
80-ES-10	Chemical sciences addition, LBL, Berkeley, Calif	6,300,000	3,000,000
	Total, chemical sciences	6,500,000	3,200,000
	Total, basic energy sciences	6,800,000	3,500,000
	General purpose facilities:		
81-E-308	Energy systems research lab (ORNL)	2,000,000	-------------
81-E-309	Rehab of gen pur plant (ANL)	4,100,000	-------------
81-E-310	Trans & dist system upgrade (RL)	1,000,000	-------------
81-E-311	Energy sci & tech build (BNL)	2,500,000	-------------
81-E-312	Environment & energy tech fac. (PNL)	13,700,000	-------------
81-E-313	Central energy conservation fac (BNL)	5,900,000	-------------
81-E-314	Energy utilization improvements (BNL)	2,000,000	-------------
81-E-315	Centralized cogeneration (ANL)	2,000,000	-------------
81-E-316	Boiler No. 3 replacement (BNL)	3,000,000	-------------
81-E-317	Roof replacement (INEL)	3,300,000	-------------
81-E-318	Upgrade primary substation (ORNL)	3,500,000	-------------
81-E-319	Install coal-fired afb boiler (ANL)	7,100,000	-------------
81-E-320	Central supply facility (ANL)	1,000,000	-------------
81-E-321	Site utilities project (LLL)	700,000	-------------
81-E-322	Scoville substation dist sys (INEL)	1,000,000	-------------
81-E-323	Fire safety improvements (ANL)	4,100,000	-------------
81-E-324	Fire protection improvements (INEL)	3,400,000	-------------
81-E-325	General purpose facilities, various locations	-------------	25,000,000
	Total, general purpose facilities	60,300,000	25,000,000
	Remedial Action Programs		
81-T-303	Remedial action: Test reactor area cleanup (INEL)	-------------	4,000,000
	Total construction	289,787,000	267,787,000
	Total capital equipment	119,760,000	123,500,000
	Fiscal year 1980 deferral	-------------	−8,000,000
	Total, energy supply, research and development—plant and capital equipment	409,547,000	383,287,000

SMALL COMMUNITY SOLAR DEMONSTRATION PROJECT

Amendment No. 13: Deletes Senate amendment which proposed language for the Small Community Solar Demonstration Project. This project has been included in the appropriate account.

PLANT AND CAPITAL EQUIPMENT

Uranium supply and enrichment activities

Amendment No. 14: Appropriates $276,760,000 for Plant and Capital Equipment, Uranium Supply and Enrichment Activities as proposed by the Senate instead of $275,760,000 as proposed by the House.

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which merges the appropriation for Plant and Capital Equipment, Uranium Supply and Enrichment Activities as well as all prior year balances with the Uranium Supply and Enrichment Activities Operating Expenses appropriation.

Allocation of Funds

The funds are allocated as shown in the following table:

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES, PLANT AND CAPITAL EQUIPMENT

Project No.		Fiscal year 1981	
		Budget estimate	Conference allowance
	CAPITAL EQUIPMENT		
	Uranium resources assessment	$500,000	$500,000
	Advanced isotope separation technology	9,000,000	9,000,000
	Uranium enrichment	27,300,000	27,300,000
	Less uranium enrichment revenues	−36,300,000	−36,300,000
	Total, Capital Equipment	500,000	500,000
	CONSTRUCTION PROJECTS		
81-R-501	Uranium resource assessment: General plant projects (fiscal year 1980—$1,500,000)	800,000	800,000
	Advanced isotope separation technology:		
81-T-501	Isotope R. & D. lab, LASL, New Mexico	1,175,000	1,175,000
81-T-502	AIS lab, Livermore, Calif	6,500,000	1,800,000
81-T-504	General plant projects (fiscal year 1980—$800,000)	2,970,000	2,970,000
78-5-C	Advanced isotope pilot plant facility, Richland, Wash	-------------	1,000,000
	Total, advanced isotope separation technology	10,645,000	6,945,000
	Uranium Enrichment Activities		
	Gaseous diffusion operations and support:		
81-R-501	General plant projects (fiscal year 1980—$16,200,000)	$17,500,000	$17,500,000
81-R-502	UF-6 cylinders and storage yards, gaseous diffusion plants (fiscal year 1980—$7,000,000)	8,000,000	8,000,000
81-R-503	Utilities upgrading, GDP's	10,000,000	10,000,000
81-R-504	Supervisory control and data acquisition systems, Paducah, Ky., and Portsmouth, Ohio, gaseous diffusion plants	6,000,000	6,000,000
81-R-505	Instrumentation for purge cascades and withdrawal areas, gaseous diffusion plants	6,000,000	6,000,000
81-R-506	Environmental protection and safety improvements, phase I GDP's	10,000,000	-------------
80-UE-1	Control of gaseous effluents, gaseous diffusion plants	3,500,000	3,500,000
80-UE-2	Control of water pollution, gaseous diffusion plants	9,500,000	9,500,000
80-UE-3	Plant facilities security improvements, gaseous diffusion plants	12,500,000	9,500,000

Project No.		Fiscal year 1981	
		Budget estimate	Conference allowance
80-UE-4	Power recovery demonstration cells, gaseous diffusion plants	$7,000,000	$7,000,000
80-UE-5	Motor and switchgear upgrading, gaseous diffusion plants	12,000,000	12,000,000
71-1-F	Process equipment modifications, gaseous diffusion plants		25,000,000
74-1-G	Prior year projects		15,000,000
	Total, gaseous diffusion operations and support	102,000,000	129,000,000
	Gas centrifuge operations and support:		
79-2-D	Technology test facilities, various locations (A&E and long-lead procurement only) proposed deferral		4,000,000
76-8-G	Enriched uranium production facilities, Portsmouth, Ohio	$149,000,000	$284,215,000
	Total, gas centrifuge operations and support	149,000,000	288,215,000
	Revenues	−261,645,000	−238,160,000
	Fiscal year 1980 deferrals		−185,000,000
	Total, uranium enrichment activities	−10,645,000	−5,945,000
	Total, construction	800,000	1,800,000
	Total, capital equipment	500,000	500,000
	Total, uranium supply and enrichment activities, plant and capital equipment	1,300,000	2,300,000

PLANT AND CAPITAL EQUIPMENT

General science and research activities

Amendment No. 16: Appropriates $126,400,000 for Plant and Capital Equipment, General Science and Research Activities instead of $120,100,000 as proposed by the House and $132,200,000 as proposed by the Senate.

Allocation of Funds

The funds are allocated as shown in the following table:

GENERAL SCIENCE AND RESEARCH PLANT AND CAPITAL EQUIPMENT

Project No.		Fiscal year 1981	
		Budget estimate	Conference allowance
	CAPITAL EQUIPMENT		
	Basic Sciences		
	Life sciences research and nuclear medicine applications: General life sciences	$2,900,000	$1,900,000
	High energy physics:		
	Facility operations	36,200,000	34,700,000
	Other capital equipment	2,800,000	2,800,000
	Total, high energy physics	39,000,000	37,500,000
	Nuclear physics:		
	Medium energy physics	8,100,000	8,100,000
	Other capital equipment	1,300,000	1,300,000
	Total, nuclear physics	9,400,000	9,400,000
	Total, capital equipment	51,300,000	48,800,000
	CONSTRUCTION PROJECTS		
	High Energy Physics		
	Facility operations:		
81-E-218	Tevatron, phase I, Fermi lab	2,000,000	2,000,000
81-E-219	Improvements and modifications, various locations (fiscal year 1980—$5,000,000)	6,000,000	6,000,000
81-E-220	General plant projects (fiscal year 1980—$4,500,000)	$5,000,000	$5,000,000
79-9-B	Energy saver, Fermi National Accelerator Laboratory, Batavia, Ill	19,600,000	17,300,000
78-10-B	Intersecting storage accelerator (Isabelle) 400×40 Gev, Brookhaven National Laboratory, Upton, N.Y	41,000,000	41,000,000
	Total, high energy physics	73,600,000	71,300,000
	Nuclear Physics		
	Medium energy physics:		
81-E-221	AIP various locations	1,600,000	1,600,000
81-E-222	General plant projects	2,800,000	2,800,000
	Total medium energy physics	4,400,000	4,400,000
	Heavy ion physics:		
80-GS-5	National Superconducting Laboratory, Michigan State University (A. & E. and long-lead procurement)	8,900,000	6,900,000
	Total, nuclear physics	13,300,000	11,300,000
	Total construction	86,900,000	82,600,000
	Total capital equipment	51,300,000	48,800,000
	Fiscal year 1980 deferrals		−5,000,000
	Total, general science and research—Plant and capital equipment	138,200,000	126,400,000

PLANT AND CAPITAL EQUIPMENT

Atomic energy defense activities

Amendment No. 17: Appropriates $600,005,000 for Plant and Capital Equipment, Atomic Energy Defense Activities instead of $533,205,000 as proposed by the House and $618,205,000 as proposed by the Senate.

Allocation of Funds

The funds are allocated as shown in the following table:

ATOMIC ENERGY DEFENSE ACTIVITIES, PLANT AND CAPITAL EQUIPMENT

Project No.		Fiscal year 1981	
		Budget estimate	Conference allowance
	CAPITAL EQUIPMENT		
	Inertial confinement fusion	$11,000,000	$12,600,000
	Naval reactors development	39,000,000	37,000,000
	Weapons activities:		
	Research & Development	47,306,000	47,306,000
	Testing	18,930,000	18,930,000
	Production and surveillance	47,300,000	40,000,000
	Program direction	164,000	164,000
	Total weapons activities	113,700,000	106,400,000
	Verification and control technology	800,000	800,000
	Materials production:		
	Production reactor operations	13,300,000	13,300,000
	Processing of nuclear materials	9,300,000	9,300,000
	Supporting services	7,400,000	7,400,000
	Flourinel processing of nonproduction fuels and related activities	5,100,000	5,100,000
	Total, materials production	35,100,000	35,100,000
	Defense waste management:		
	Interim waste operations	$17,462,000	$12,462,000
	Long term waste management technology	5,493,000	2,993,000
	Decontamination and decommissioning	70,000	70,000
	Transportation R. & D	1,975,000	1,975,000
	Total, defense waste management	25,000,000	17,500,000
	Nuclear materials security and safeguards	3,400,000	3,400,000
	Total, capital equipment	228,000,000	212,800,000
	CONSTRUCTION PROJECTS		
	Inertial confinement fusion:		
81-D-101	Particle beam fusion accelerator—II, Sandia Laboratories, N. Mex.	5,000,000	5,000,000
80-AE-11	Target fabrication facility, Los Alamos Scientific Laboratory, N. Mex.	7,000,000	7,000,000
80-AE-12	Target fabrication facility, Lawrence Livermore Laboratory, Calif.	5,500,000	5,500,000

Project No.		Fiscal year 1981	
		Budget estimate	Conference allowance
78-4-A	High energy laser facility (NOVA), Lawrence Livermore Laboratory, Calif.		$25,000,000
75-3-B	High energy laser facility, Los Alamos Scientific Laboratory, N. Mex.	$14,000,000	14,000,000
	Total, inertial confinement	31,500,000	56,500,000
	Naval Reactors Development		
	Submarine propulsion reactors:		
81-T-111	General plant projects (fiscal year 1980—$3,300,000).	3,300,000	3,300,000
81-T-112	Modifications and adds to prototype, various locations.	10,000,000	10,000,000
81-T-113	Fuel materials exam area upgrading, Bettis Atomic Power Lab., West Mifflin, Pa.	2,700,000	2,700,000
	Total, naval reactors development	16,000,000	16,000,000
	Weapons Activities		
	Weapons research and development:		
81-D-102	General plant projects (fiscal year 1980—$22,400,000).	24,900,000	24,900,000
81-D-106	Weaponization facilities, Lawrence Livermore Laboratory, Calif.	4,600,000	3,300,000
81-D-107	Utility system restoration, various locations	23,320,000	19,320,000
81-D-108	Reactor support facility, Sandia Laboratory		2,000,000
81-D-110	Upgrade industrial liquid waste treatment plants, LASL, N. Mex.	5,000,000	5,000,000
81-D-111	Water system upgrade, Los Alamos Scientific Laboratory, N. Mex.	2,000,000	2,000,000
81-D-133	Earthquake damage restoration, LLNL		2,000,000
81-D-134	Earthquake damage restoration, Sandia Livermore.		1,000,000
	Total, weapons research and development	59,820,000	59,520,000
	Testing:		
81-D-102	General plant projects	2,000,000	2,000,000
81-D-104	Heavy duty drill repair facility, Nevada test site, Nevada.	1,700,000	1,700,000
81-D-105	Engineer office bldg., NTS, Nevada	1,800,000	1,800,000
81-D-107	Utility system restoration, various locations	7,680,000	7,680,000
	Total, testing	13,180,000	13,180,000
	Weapons production and surveillance:		
81-D-103	Plant engineering and design	4,600,000	4,000,000
80-AE-13	Pershing II airburst warhead production facilities, various locations.	5,000,000	5,000,000
81-D-114	Exhaust plenum modifications, Rocky Flats, Colo.		
81-D-115	MX warhead production facilities, various locations.	5,000,000	5,000,000
81-D-116	Utilities and equipment restoration, replacement and upgrade, phase II, various locations.	30,500,000	25,000,000
81-D-119	Reclamation facility improvements, Savannah River Plant, S.C.	1,200,000	1,200,000
81-D-120	Control of effluents and pollutants, Y-12 Plant, Oak Ridge, Tenn.	3,000,000	3,000,000
78-17-D	Steam plant improvements, Y-12 Plant, Oak Ridge, Tenn.	5,000,000	5,000,000
79-7-P	Facilities for a new modern strategic bomb, various locations.	19,500,000	19,500,000
80-AE-5	Ground launch cruise missile, production facilities, various locations.	3,000,000	3,000,000
80-AE-6	Utilities restoration, equipment replacement upgrade, various locations.	30,300,000	25,300,000
80-AE-8	Advanced size reduction facility, Rocky Flats Plant, Golden, Colo.	5,000,000	5,000,000
79-7-N	Utilities system restoration, Y-12 Plant, Oak Ridge, Tenn.	2,500,000	2,500,000
79-7-E	Production and assembly facilities—Pantex	1,300,000	1,300,000
71-9	Fire, safety, and adequacy of operating conditions, various locations.		5,000,000
	Total, weapons production	115,900,000	109,800,000
	Total, weapons activities	188,900,000	182,500,000
	Materials Production		
	Production reactor operations:		
81-D-125	N reactor safety and environmental improvements, Richland, Wash.	$2,100,000	$2,100,000
81-D-129	Supplemental N reactor irradiated fuel storage beyond KW basin capacity, Richland, Wash.	5,000,000	
81-D-141	Hangers for N reactor, Richland, Wash		5,000,000
	Total, production reactor operations	7,100,000	7,100,000
80-AE-2	Processing of nuclear materials: Replace obsolete processing facilities, H-B line, Savannah River, S.C.	5,800,000	9,800,000
	Supporting services:		
81-D-123	General plant projects (fiscal year 1980—$15,000,000).	12,500,000	12,500,000
81-D-124	Plant engineering and design (fiscal year 1980—$2,400,000).	4,200,000	5,400,000
81-D-128	Restoration of production capabilities, various locations.	9,000,000	9,000,000
70-18-E	Environmental Safety and Security Inps. to Waste Mang. and Mat. Processing Fac., Richland, Wash.		3,000,000
79-7-1	Transmissions and Distribution Systems Upgrading, Richland, Wash.		5,000,000
	Flourinel processing of nonproduction fuels and related activities:		
81-D-123	General plant projects, Idaho fuels processing facility, Idaho.	2,100,000	2,100,000
81-E-131	Remote analytical facility upgrade and expansion, ICPP. INEL, Idaho.	5,000,000	5,000,000
80-AE-3	Steam generation facilities, Idaho Chemical Processing Plant, Idaho Falls, Idaho.	13,500,000	11,500,000
79-7-H	Utilities replacement and expansion, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho Falls, Idaho.	2,300,000	2,300,000
77-13-A	Flourinel dissolution process and fuel receiving improvement, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho.	34,000,000	34,000,000
	Total, materials production	95,500,000	106,700,000
	Defense Waste Management		
	Interim waste management:		
81-T-102	Plant engineering and design (fiscal year 1980—$2,000,000).	2,665,000	3,665,000
81-T-101	General plant projects (fiscal year 1980—$2,000,000).	8,140,000	6,140,000
81-T-103	6th set of calcined solids storage bins, ICPP, INEL, Idaho.	15,000,000	7,500,000
81-T-104	Radioactive waste facilities improvements, ORNL, Tenn.	20,000,000	5,000,000
79-7-K	Waste management facilities, Savannah River, S.C.	2,000,000	2,000,000
78-18-B	High level waste storage facilities, Savannah River, S.C.	4,000,000	4,000,000
	Total, interim waste operations	51,805,000	28,305,000
	Long term waste management technology:		
81-T-102	Plant engineering and design	7,200,000	11,200,000
81-T-101	General plant projects	1,000,000	1,000,000
	Total, long term waste management technology.	8,200,000	12,200,000
77-13-F	Terminal storage: Waste isolation pilot plant, Delaware Basin, Southeast New Mexico.		15,000,000
	Total, defense waste management	60,005,000	55,505,000
	Total construction	391,905,000	417,205,000
	Total capital equipment	228,000,000	212,800,000
	Fiscal year 1980 deferrals		−30,000,000
	Total, atomic energy defense activities, plant and capital equipment.	619,905,000	600,005,000

POWER MARKETING ADMINISTRATIONS

Operation and Maintenance, Alaska Power Administration

Amendment No. 18: Deletes language proposed by the House which would have provided for an appropriation transfer of $20,000 to the U.S. Fish and Wildlife Service. The language is no longer required.

FEDERAL ENERGY REGULATORY COMMISSION

Salaries and Expenses

Amendment No. 19: Appropriates $74,374,000 for Salaries and Expenses as proposed by the Senate instead of $72,949,000 as proposed by the House.

Allocation of Funds

The funds are allocated as shown in the following table:

FEDERAL ENERGY REGULATORY COMMISSION

	Fiscal year 1981	
	Budget estimate	Conference allowance
Salaries and benefits	$51,083,000	$49,083,000
Travel	2,925,000	2,925,000
Transportation of things	176,000	176,000
Communications, utilities and rents	7,015,000	7,015,000
Printing and reproduction	1,806,000	1,806,000
Other services	12,271,000	12,271,000
Supplies and materials	1,098,000	1,098,000
Total Federal Energy Regulatory Commission	76,374,000	74,374,000

DEPARTMENT OF ENERGY

Program costs

The following table reflects the program costs and outlay levels associated with the appropriations provided for in the bill. The Department is expected to manage its programs so as not to exceed the cost and outlay levels provided in the table.

DEPARTMENT OF ENERGY—PROGRAM COSTS
[Dollar amounts in thousands]

	Fiscal year 1981	
	Budget estimate	Conference allowance
Operating Expenses		
Energy supply, research and development:		
Solar applications Solar technology	$518,266	$509,000
Geothermal	132,894	130,000
Hydropower projects	21,000	23,000
Fission	714,706	776,000
Fusion	281,227	281,000
Electric energy systems and storage	113,723	114,000
Environment	213,098	211,000
Basic research	253,585	243,000
Total, energy supply, R. & D	2,248,499	2,287,000
Uranium Supply and Enrichment Activities		
Uranium resource assessment	42,945	44,945
Advanced isotope separation technology	61,044	61,044
Uranium enrichment	855,951	855,951
Less uranium enrichment revenues	−991,100	−991,100
Total, uranium supply and enrichment	−31,160	−29,160
General science and research	371,050	372,000
Atomic Energy Defense Activities		
Inertial confinement fusion	158,770	141,000
Naval reactors development	259,650	259,600
Weapons activities	1,689,209	1,689,200
Verification and control technology	37,455	37,400
Materials production	389,300	404,300
Defense waste management	257,356	239,000
Nuclear materials security and safeguards	39,704	39,700
Total, atomic energy defense activities	2,831,444	2,810,200
Departmental administration	285,256	212,000
Total, operating expenses	5,705,089	5,652,040
Capital equipment	362,378	360,000
Construction	1,103,021	1,086,000
Total, plant and capital equipment	1,465,399	1,446,000
Power marketing	99,561	99,561
Federal Energy Regulatory Commission	75,538	74,374
Special foreign currency	$75	$75
Geothermal resources development fund	1,247	1,247
Proposed fiscal year 1980 changes	+20,450	−58,800
Grand total	7,367,359	7,214,497

TITLE II—DEPARTMENT OF DEFENSE—CIVIL, DEPARTMENT OF THE ARMY, CORPS OF ENGINEERS—CIVIL

The line referred to on the bottom of the tables as savings and slippage is savings and slippage from FY 1980 and prior years which are anticipated to be unobligated on September 30, 1980, and will be applied to the 1981 projects. This does not include savings and slippage anticipated in the 1981 projects.

GENERAL INVESTIGATIONS

Amendment No. 20: Appropriates $134,013,000 for general investigations instead of $140,238,000 as proposed by the House and $133,367,000 as proposed by the Senate.

Amendment No. 21: Deletes Senate language which would have made $200,000 available for cooperative efforts with foreign governments.

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

": *Provided*, That none of the funds made available in this paragraph shall be obligated or expended for the study of Diversion of Lake Michigan at Chicago, if such study would result in adverse diminution of generation at hydroelectric facilities on the Niagara or St. Lawrence Rivers."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The funds appropriated are to be allocated as shown on the following table:

Type of project, general investigations—State and project		Fiscal year 1981	
		Budget estimate	Conference allowance
	Alabama:		
(N)	Apalachicola River below Jim Woodruff lock and dam		$50,000
(N)	Mississippi River navigation system—adequate mooring facilities for watercraft	$300,000	300,000
(Spec)	Tennessee-Tombigbee Waterway	1,500,000	1,500,000
(N)	Warrior-Tombigbee Rivers, Alabama and Mississippi	391,000	841,000
	Alaska:		
(FDP)	Small hydroelectric plants	500,000	500,000
(FDP)	Southcentral Railbelt area	533,000	533,000
(N)	Southcentral region, deep draft navigation		180,000
	American Samoa:		
(N)	Harbors and rivers in American Samoa	225,000	225,000
	Arizona:		
(FDP)	Gila River and tributaries, Arizona and New Mexico	440,000	870,000
(FDP)	Metropolitan area of Tucson	559,000	559,000
	Arkansas:		
(FDP)	Arkansas River in the vicinity of Fort Smith-Van Buren	310,000	310,000
(N)	Arkansas River and tributaries, hydropower and other purposes	800,000	800,000
(FDP)	Poxeau River, Arkansas and Oklahoma		200,000
(FDP)	Ouachita River basin	1,250,000	1,250,000
(COMP)	Red River below Denison Dam authority report, Arkansas, Louisiana, Oklahoma, and Texas	50,000	50,000
(COMP)	White River basin authority report, Arkansas and Missouri	242,000	242,000
(FDP)	White River basin reservoirs, Arkansas and Missouri	400,000	400,000
	California:		
(SP)	City of Alameda shoreline	55,000	55,000
(N)	Coast of Northern California (light-draft harbors)		140,000
(N)	Crescent City Harbor	220,000	220,000
(N)	Humboldt Harbor and Bay		$375,000
(FDP)	Lake Elsinore		175,000
(FDP)	Los Angeles County drainage area review	$457,000	457,000
(N)	Los Angeles-Long Beach Harbors (includes San Pedro Bay Model Study)	125,000	125,000
(FDP)	Northern California streams		275,000
(N)	Oakland Inner Harbor	200,000	200,000
(N)	Redondo Beach Harbor (King Harbor)		65,000
(FDP)	Sacramento River and tributaries (bank protection and erosion control)		500,000
(FDP)	Sacramento-San Joaquin Delta	175,000	175,000
(FDP)	San Diego County streams	300,000	300,000
(N)	San Francisco Bay area (in depth)	110,000	110,000
(FDP)	San Francisco Bay shoreline		350,000
(FDP)	San Joaquin River Basin	1,000,000	1,300,000
(FDP)	San Lorenzo silt removal		100,000
(N)	San Pedro Bay ports	200,000	325,000
(FDP)	Santa Ana River Basin and Orange County	350,000	350,000
N)	Sunset Harbor	100,000	100,000
(FDP)	Whitewater River	230,000	230,000
	Colorado:		
(FDP)	Arkansas River above John Martin Dam (phase I)	200,000	200,000
	Connecticut:		
(N)	Bridgeport Harbor	300,000	300,000
(COMP)	Connecticut River basin authority report, Connecticut, Maine, New Hampshire, and Vermont	480,000	480,000
(SPEC)	Long Island Sound (dredged material containment study)	400,000	400,000
	Delaware:		
(N)	Delaware River estuary, salinity intrusion	120,000	120,000

Type of project, general investigations—State and project		Fiscal year 1981	
		Budget estimate	Conference allowance
	District of Columbia:		
(Spec)	Metropolitan Washington water supply	$600,000	$600,000
	Florida:		
(FDP)	Brevard County (water resources study)	405,000	405,000
(FDP)	Central and Southern Florida, Canal 18	150,000	150,000
(FDP)	Central and Southern Florida water supply	446,000	446,000
(N)	Choctawhatchee River	252,000	252,000
(SP)	Flagler County		70,000
(FDP)	Golden Gates Estates		150,000
(N)	Jacksonville Harbor	233,000	233,000
(FDP)	Kissimmee River-Lake Okeechobee	555,000	555,000
(BE)	Nassau County (Amelia Island)		50,000
(N)	Okeechobee Waterway (St. Lucie Canal) (EIS)		100,000
(SP)	Pinellas County	44,000	44,000
(FDP)	Shark River Slough area	150,000	150,000
(N)	Tampa Harbor, Alafia River and Big Ben	120,000	120,000
(FDP)	Withlacoochie River		100,000
	Georgia:		
(FDP)	Dalton Lake (phase I)		200,000
(FDP)	Metropolitan Atlanta area	100,000	100,000
(FDP)	Metropolitan Savannah area	325,000	325,000
(N)	Savannah Harbor comprehensive study	110,000	110,000
	Guam:		
(N)	Harbors and Rivers in the territory of Guam	325,000	325,000
	Hawaii:		
(FDP)	Harbors and Rivers in Hawaii	265,000	265,000
(N)	Hilo area comprehensive study	325,000	325,000
(FDP)	Kihei District	160,000	160,000
	Idaho:		
(FDP)	Columbia River and tributaries	700,000	1,000,000
(FDP)	Upper Snake River and tributaries, Idaho and Wyoming	330,000	330,000
	Illinois:		
(Spec)	Carlyle Lake and Lake Shelbyville	300,000	300,000
(FDP)	Chicago—South end of Lake Michigan	220,000	220,000
(FDP)	Chicagoland underflow plan (phase I)	2,500,000	2,500,000
(FDP)	Decognia and Fountain Bluff L and DD and Grand Tower D and LD	93,000	93,000
(Spec)	Diversion of Lake Michigan Water at Chicago	300,000	300,000
(FDP)	Fox River and tributaries, Illinois and Wisconsin	355,000	355,000
(FDP)	Illinois shore of Lake Michigan		100,000
(FDP)	Mississippi River, Coon Rapids Dam to Ohio River, Illinois, Iowa, Missouri, and Wisconsin	550,000	550,000
(N)	Mississippi River, year-round navigation, Illinois, Iowa, Minnesota, Missouri, and Wisconsin	400,000	400,000
(FDP)	Ohio River main stem, Illinois, Indiana, Kentucky, Ohio, Pennsylvania, and West Virginia	600,000	700,000
(FDP)	Quad-Cities urban study	54,000	54,000
(FDP)	Richland Creek	300,000	300,000
(FDP)	Rock River at Rockford	70,000	70,000
	Indiana:		
(FDP)	Little Calumet River (phase I)	440,000	440,000
(COMP)	Wabash River Basin Authority Report, Indiana and Illinois	400,000	400,000
	Iowa:		
(FDP)	Iowa and Cedar Rivers, Iowa and Minnesota	166,000	166,000
	Kansas:		
(FDP)	Arkansas River, Great Bend, Kans., to John Martin Dam, Colorado	275,000	275,000
(FDP)	Arkansas River and tributaries, Great Bend, Kans., to Tulsa, Okla	400,000	400,000
(FDP)	Kansas and Osage Rivers	1,000,000	1,000,000
(FDP)	Verdigris River, Kans., and Okla. (including navigation)	440,000	440,000
	Kentucky:		
(FDP)	Camp Ground Lake (phase I)	250,000	300,000
(FDP)	Kentucky River and tributaries	300,000	300,000
(N)	Lower Cumberland and Tennessee Rivers below Barkley Canal, Ky. and Tenn	100,000	100,000
(FDP)	Upper Cumberland River basin, Ky. and Tenn	200,000	200,000
	Louisiana:		
(FDP)	Aloha Rigolette area		135,000
(N)	Gulf IWW. La.-Tex. section, La. and Tex	440,000	440,000
(FDP)	Lake Ponchartrain, Jefferson Parish		50,000
(FDP)	Louisiana coastal areas		150,000
(FDP)	Mermentau, Vermilion, Calcasieu Rivers, and Bayou Teche		100,000
	Maine:		
(N)	Searsport Harbor	120,000	120,000
	Maryland:		
(SPEC)	Chesapeake Bay study, Md. and Va	2,497,000	2,497,000
(N)	Chesapeake City Bridge	23,000	23,000
(N)	Crisfield Harbor	50,000	50,000
(FDP)	Monongahela-Youghiogheny River Basin, Md., Pa., and W. Va	450,000	450,000
(N)	Smith Island	45,000	45,000
	Massachusetts:		
(N)	East Boat Basin, Sandwich, Mass		100,000
(FDP)	Housatonic River Basin, Mass. and Conn	325,000	325,000
(N)	Lynn Harbor	155,000	155,000
(COMP)	Southeastern New England Authority Report, Mass., R.I., and Conn	250,000	250,000
	Michigan:		
(N)	Great Lakes Connecting Channel and Harbor	1,100,000	1,100,000
(FDP)	Great Lakes, particularly Lakes Ontario and Erie	860,000	860,000
(SPEC)	Water levels of the Great Lakes, Mich., Ill., Ind., Minn., N.Y., Ohio, Pa., and Wis	400,000	400,000
	Minnesota:		
(SPEC)	Great River resources management study, Minn., Ill., Iowa, and Wis	575,000	575,000
	Mississippi:		
(N)	Biloxi Bay, East Harrison County	35,000	35,000
(N)	Mississippi Sound and adjacent areas	385,000	385,000
(N)	Pascagoula Harbor		165,000
(FDP)	Pascagoula River Basin	235,000	235,000
(FDP)	Pearl River Basin	500,000	2,015,000
(FDP)	Sowashee Creek (phase I)	148,000	148,000
	Missouri:		
(FDP)	Cape Giradeau-Jackson metropolitan area	$60,000	$60,000
(FDP)	Prosperity Lake (phase I)	83,000	83,000
(N)	St. Louis Harbor, Mo., Ill	285,000	285,000
(FDP)	St. Louis metropolitan area, Mo. and Ill	350,000	550,000
(FDP)	White River Basin, County Line Lake	150,000	150,000
	Nebraska:		
(FPD)	Nemaha and Little Nemaha Rivers		100,000
	Nevada:		
(FPD)	Truckee Meadows	150,000	150,000
	New Hampshire:		
(N)	Portsmouth Harbor and Piscataqua River, N.H. and Maine	55,000	55,000
(FDP)	Southeastern New Hampshire	256,000	256,000
(FDP)	Winnipesaukee River	200,000	200,000
	New Jersey:		
(N)	Barnegat Inlet (phase I)	50,000	50,000
(FDP)	Hackensack River, N.J. and N.Y	306,000	306,000
(N)	New York Harbor Claremont Terminal		50,000
(FDP)	Passaic River Basin, N.J. and N.Y. (phase I)	2,700,000	2,700,000
(FDP)	Raritan River Basin	560,000	560,000
(FDP)	Third River	99,000	99,000
(FDP)	Wallkill River (Black Dirt area), New Jersey and New York, (phase I)	155,000	155,000
	New Mexico:		
(FDP)	Rio Grande and tributaries Rio Puerco Rio Salado, (phase I)	447,000	447,000
(FDP)	Rio Grande and tributaries, N. Mex. and Colo	450,000	450,000
	New York:		
(N)	Arthur Kill Channel, Howland Hook Terminal	100,000	100,000
(N)	Buffalo Harbor	400,000	400,000
(FDP)	Delaware River tributaries in New York State	175,000	175,000
(FPD)	Irondequoit Creek	65,000	65,000
(N)	Jones Inlet and Freeport, Long Island	150,000	150,000
(SP)	Lake Ontario shoreline protection		400,000
(FDP)	Oswego River Watershed	520,000	520,000
(N)	St. Lawrence Seaway, additional locks	500,000	500,000
(COMP)	Susquehanna River Basin Authority Report, New York, Pennsylvania, and Maryland	425,000	425,000
(FDP)	Upper Allegheny River, Basin, N.Y. and Pa	75,000	75,000
(FDP)	Wallkill River, N.Y. and N.J	86,000	86,000
	North Carolina:		
(SP)	Bogue banks and Bogue Inlet	48,000	48,000
(FDP)	Lumber River Basin, N.C. and S.C	215,000	215,000
(FDP)	Pee Dee and Little Pee Dee Rivers, N.C. and S.C		50,000
(FDP)	Roanoke River (South Boston and vicinity), North Carolina and Virginia	487,000	487,000
(SP)	West Onslow Beach and New River Inlet		95,000
(SP)	Wrightsville Beach	69,000	69,000
	North Dakota:		
(FDP)	Grafton (phase I)	345,000	345,000
(FDP)	Pembina River (phase I)		475,000
(FDP)	Red River of the North, N. Dak. and Minn	635,000	635,000
	Ohio:		
(FDP)	Central Ohio Survey	300,000	300,000
(N)	Cleveland Harbor (phase I)	130,000	130,000
(FDP)	Grand Lake St. Marys	40,000	40,000
(Spec)	Lake Erie, wastewater management, Ohio, Michigan, New York, Pennsylvania, and Indiana	800,000	800,000
(N)	Lorain Harbor	340,000	340,000
(FDP)	Miami River, Little Miami River and Mill Creek	350,000	350,000
(FDP)	Muskingum River Basin	200,000	200,000
(FDP)	Western Lake Erie shore	250,000	250,000
	Oklahoma:		
(FDP)	Canadian River and tributaries, Oklahoma, Texas, and New Mexico	200,000	200,000
(FDP)	Tenkiller Ferry Lake	110,000	110,000
(FDP)	Tulsa urban study	400,000	400,000
	Oregon:		
(N)	Columbia River at the mouth, Oreg. and Wash	130,000	130,000
(N)	Coquille River and Bar		100,000
(FDP)	Klamath River Basin, Oreg. and Calif		350,000
(N)	Rogue River at Gold Beach		135,000
(COMP)	Willamette River Basin		160,000
	Pennsylvania:		
(FDP)	Beaver River Basin	250,000	250,000
(FDP)	Delaware River Basin, Pa., N.J., N.Y., and Del	400,000	400,000
(N)	Delaware River dredging disposal study, Pennsylvania, New Jersey, and Delaware	250,000	250,000
(FDP)	Kiskiminitas River Basin	150,000	150,000
(FDP)	Lehigh River Basin	175,000	175,000
(SP)	Presque Isle Peninsula (phase I)	150,000	150,000
(FDP)	West Branch—Susquehanna River, Williamsport and South Williamsport		475,000
(FDP)	Wyoming Valley (phase I)	205,000	205,000
	Rhode Island:		
(FDP)	Pawcatuck River and Narragansett Bay drain basin, Rhode Island, Maine, and Connecticut	150,000	150,000
	South Carolina:		
(N)	Charleston Harbor	180,000	180,000
(N)	Georgetown Harbor	100,000	100,000
(FDP)	Gills Creek		150,000
(FDP)	Lynches River		150,000
(FDP)	Waccamaw River		80,000
	South Dakota:		
(FDP)	Missouri River, S. Dak., Nebr., N. Dak., and Mont	580,000	580,000
	Tennessee:		
(FDP)	Memphis metropolitan area	374,000	374,000
(FDP)	Metropolitan region of Nashville (urban study)	425,000	425,000
	Texas:		
(FDP)	Brazos Natural salt pollution control (phase I)	450,000	450,000
(FDP)	Brazos River and tributaries	250,000	300,000
(FDP)	Buffalo Bayou and tributaries	860,000	860,000
(FDP)	Colorado River and Tributaries	260,000	260,000
(FDP)	Denison Dam-Lake Texoma, Texas and Okla	24,000	24,000
(N)	Galveston Bay area navaigation study	610,000	610,000

Type	Type of project, general investigations—State and project	Fiscal year 1981 Budget estimate	Fiscal year 1981 Conference allowance
(SP)	Galveston County shore erosion study	$79,000	$79,000
(N)	Guadalupe River, channel to Victoria	100,000	100,000
(FDP)	Guadalupe and San Antonio River	100,000	100,000
(FDP)	Lake Texoma water supply facilities, Texas and Okla	228,000	228,000
(FDP)	Little Cypress Creek		200,000
(FDP)	Palo Blanco and Cibolo Creeks	250,000	250,000
(FDP)	Pine Island Bayou watershed		100,000
(FDP)	Red River and tributaries above Denison Dam, Texas, Okla., and N. Mex		300,000
(N)	Sabine River navigation	400,000	400,000
(FDP)	San Diego Creek, Alice		120,000
(FDP)	Walnut Branch in vicinity of Sequin	80,000	80,000
	Utah:		
(FDP)	Colorado River and Tributaries, above Lee's Ferry, Utah, Ariz., Colo., N. Mex., and Wyo	100,000	100,000
(FDP)	Jordan River Basin	170,000	170,000
	Virgin Islands:		
(FDP)	Puerto Rico-Virgin Islands pipeline study, Virgin Islands and Puerto Rico	710,000	710,000
	Virginia:		
(FDP)	Chowan River, Va. and N.C	150,000	150,000
(N)	Hampton Roads drift removal	100,000	100,000
(SP)	Norfolk vicinity Willoughby Spit	78,000	78,000
(FDP)	Roanoke River Upper Basin	262,000	262,000
(FDP)	Virginia Beach (phase I)	352,000	352,000
	Washington:		
(FDP)	Chehalis River and tributaries	455,000	455,000
(N)	Grays Harbor and Chehalis River, Hoquiam River	481,000	870,000
(Comp)	Puget Sound and adjacent waters	646,000	646,000
(FDP)	Puyallup River		100,000
(N)	Seattle Harbor (Duwamish Waterway)		900,000
	West Virginia:		
(N)	Big Sandy River, W. Va., Ky., and Va	500,000	500,000
(FDP)	Guyandotte River Basin, vicinity of Logan and Mullens	300,000	300,000
(Comp)	Kanawha River Basin Authority Report, West Virginia, North Carolina, and Virginia	400,000	400,000
(FC)	Upper Tug Fork, W. Va		300,000
	Wisconsin:		
(N)	Duluth-Superior Harbor		185,000
(FDP)	Wisconsin River at Portage	$150,000	$150,000
	Total, all States	62,258,000	75,022,000
	Coordination studies with other agencies	4,380,000	4,380,000
	Nationwide studies:		
(Spec)	National waterways study	755,000	755,000
(Spec)	National hydroelectric power resources study	1,600,000	1,600,000
	Review of authorized projects:		
	Restudy of deferred projects	377,000	777,000
	Alamogordo, N. Mex		(50,000)
	Cliff Walk Recreational Trail, R.I		(150,000)
	Camelsback Dam, Gila River Basin, Ariz		(200,000)
	Rockland Lake and Dam A, Texas		(50,000)
	Review of completed projects (Sec. 216)	1,654,000	2,100,000
	Lower Snake River enhancement plan		(200,000)
	Prospect Beach, West Haven, Conn		(50,000)
	Village Creek, Jackson and Woodruff Counties, Ark. (Taylor Bay siltation study)		(196,000)
	Review for deauthorization	8,000	8,000
	Total, review of authorized projects	2,039,000	2,885,000
	Collection and study of basic data:		
	Stream gaging (U.S. Geological Survey)	535,000	535,000
	Precipitation studies (National Weather Service)	276,000	276,000
	International water studies	100,000	100,000
	Flood plain management services	8,215,000	8,215,000
	Hydrologic studies	307,000	307,000
	Scientific and technical information centers	228,000	228,000
	Coastal data collection	1,700,000	1,700,000
	Transportation systems	300,000	300,000
	National program of inspection of non-Federal dams	23,200,000	23,200,000
	Total, collection and study of basic data	34,861,000	34,861,000
	Research and development	21,625,000	21,625,000
	Reduction for anticipated savings and slippage		−7,115,000
	Total, general investigations	127,518,000	134,013,000

Type of study: (N) navigation; (MP) multiple-purpose, including power; (FDP) flood damage prevention; (SP) shoreline protection; (Spec) special; (Comp) comprehensive; (Phase I) authorized for phase II stage of advance engineering and design in the Water Resources Development Act of 1974 or 1976.

CONSTRUCTION, GENERAL

Amendment No. 23: Appropriates $1,585,742,000 for construction, general instead of $1,657,095,000 as proposed by the House and $1,534,703,000 as proposed by the Senate.

The conferees concur and approve the acceptance of an advance of up to $10 million from the Brazos River Harbor Navigation District of Brazoria County, Texas to the Corps of Engineers for construction of the Freeport Harbor, Texas project, and the acceptance of an advance of approximately $1.5 million from the State of New Jersey to the Corps of Engineers for preparation and construction of the Liberty State Park Seawall and Levee, New Jersey, Project; both in accordance with 33 U.S.C. 561. It is agreed that these approvals are with the understanding that reimbursement will be made from the Federal Government only when and if construction funds are appropriated for these projects

The conferees agree that upon approval of legislation modifying the authorization for the Burlington Dam, North Dakota project, the Corps of Engineers is to provide such funding as may be necessary to carry out preconstruction activities during fiscal year 1981.

The conference agreement includes $400,000 for the St. Johns small boat basin, Oregon and $150,000 for the Sesuit Harbor, Massachusetts under Section 107, Small Navigation Projects and $500,000 for Oakland Beach, Rhode Island under Section 103, Small Beach Erosion Control Projects.

The Committee of Conference has agreed that the Corps of Engineers should finish planning for the Dickey-Lincoln School Lakes, Maine project in fiscal year 1981.

Amendment No. 24: Deletes language proposed by the House that would have made funds available from the Inland Waterways Trust Fund.

Amendments No. 25 and 26: Deletes funds and language proposed by the Senate relating to revetment repairs adjacent to Mt. Baldy at the Indiana Dunes National Lakeshore.

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds language relating to the Siuslaw River and Bar, Oregon project.

Amendment No. 28: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds language relating to the Oceanside, San Diego County, California project.

Funds are provided for beach nourishment at Oceanside, San Diego County, California, as a temporary solution to the threat that beach erosion presents to the coast south of the Camp Pendleton Jetty. The conferees note that the erosion problem stemming from construction of the Camp Pendleton Jetty extends beyond the limits of the existing project and directs that the Corps of Engineers complete the ongoing survey investigation and proceed with the preparation of a report to the Congress on the appropriate permanent solution.

Amendment No. 29: Deletes language proposed by the Senate providing that, within available funds, $6,000,000 shall be available to carry out the purposes of section 202 of this Act. This project is included within the appropriation totals and on the report table and the amendment is no longer required.

The funds appropriated are to be allocated as shown on the following table:

Type	Type of project, construction, general—State and project	Fiscal year 1981 budget estimates: Construction	Fiscal year 1981 budget estimates: Planning	Fiscal year 1981 conference allowance: Construction	Fiscal year 1981 conference allowance: Planning
	Alabama:				
(MP)	Jones Bluff lock and dam	$1,051,000		$2,060,000	
(N)	Mobile Harbor (Theodore ship channel)	17,800,000		17,800,000	
(N)	Montgomery to Gadsden, Coosa River channel				$4,000,000
(N)	Tennessee-Tombigbee Waterway, Ala. and Miss	208,070,000		212,000,000	
(MP)	West Point Lake (McCosh Mill restoration)			200,000	
	Alaska:				
(MP)	Bradley Lake power project		$1,315,000		1,315,000
(FC)	Chena River Lakes	20,550,000		20,550,000	
	Arizona:				
(FC)	Indian Bend Wash	3,550,000		3,550,000	
(FC)	Phoenix and vicinity (stage 2 and remaining work)	10,900,000		10,900,000	
	Arkansas:				
(N)	McClellan-Kerr Arkansas River navigation system, locks and dams, Arkansas and Oklahoma	10,500,000		10,500,000	
(FC)	McKinney Bayou, Ark. and Tex		255,000		255,000
(MP)	Norfolk Lake—Highway bridge	13,350,000		13,350,000	
(MP)	Norfolk Lake—Power units 3 and 4		400,000		400,000

	Type of project, construction, general—State and project	Fiscal year 1981 budget estimates		Fiscal year 1981 conference allowance	
		Construction	Planning	Construction	Planning
(N)	Ouachita and Black Rivers, Ark. and La. (1960 act)	$18, 460, 000		$18, 460, 000	
(FC)	Red River levees and bank stabilization below Denison Dam, Ark., La., and Tex	3, 600, 000		3, 600, 000	
(FC)	Red River Waterway, Index, Ark. to Denison Dam				$100, 000
	California:				
(FC)	Cottonwood Creek		$1, 400, 000		1, 400, 000
(N)	Crescent City Harbor	200, 000		200, 000	
(FC)	Cucamonga Creek	19, 179, 000		19, 179, 000	
(FC)	Dry Creek (Warm Springs) lake and channel	28, 390, 000		30, 500, 000	
(FC)	Goleta and vicinity		400, 000		400, 000
(BE)	Imperial Beach	1, 262, 000		1, 262, 000	
(N)	Los Angeles—Long Beach Harbors	9, 510, 000		13, 500, 000	
(FC)	Merced County streams		1, 300, 000		1, 300, 000
(MP)	New Melones Lake	6, 900, 000		6, 900, 000	
(N)	Noyo River and Harbor		160, 000		160, 000
(BE)	Oceanside, San Diego County			3, 000, 000	
(FC)	Sacramento River Bank Protection Project	3, 600, 000		3, 600, 000	
(FC)	Sacramento River, Chico Landing to Red Bluff			1, 000, 000	
(FC)	Sacramento River and major and minor tributaries	200, 000		200, 000	
(N)	San Diego River and Mission Bay	250, 000		250, 000	
(N)	San Francisco Bay to Stockton	250, 000		850, 000	
(FC)	San Luis Rey River		400, 000		400, 000
(FC)	Santa Maria Valley levees	2, 000, 000		2, 000, 000	
(FC)	Santa Paula Creek	250, 000		250, 000	
(FC)	Walnut Creek	5, 045, 000		5, 045, 000	
	Colorado:				
(FC)	Bear Creek Lake	560, 000		560, 000	
(FC)	Chatfield Lake	1, 913, 000		1, 913, 000	
	Connecticut:				
(FC)	New London	1, 765, 000		1, 765, 000	
(FC)	Park River	4, 865, 000		4, 865, 000	
	District of Columbia:				
(FC)	Potomac Estuary Pilot Water Treatment Plant	4, 100, 000		4, 100, 000	
	Florida:				
(BE)	Broward County (REIMB)	750, 000		750, 000	
(FC)	Central and southern Florida	10, 540, 000		10, 540, 000	
(FC)	Dade County	5, 000, 000		5, 000, 000	
(FC)	Four River Basins	4, 900, 000		4, 900, 000	
(N)	Port Everglades Harbor	12, 335, 000		12, 335, 000	
(N)	St. Lucie Inlet (sec. 201)	1, 210, 000		1, 210, 000	
(N)	Tampa Harbor (Main channel)	23, 600, 000		23, 600, 000	
	Georgia:				
(MP)	Hartwell, Lake, Ga. and S.C. (fifth unit)	6, 800, 000		6, 800, 000	
(MP)	Richard B. Russell Dam and Lake, Ga. and S.C	60, 374, 000		60, 374, 000	
(N)	Savannah Harbor extension	4, 563, 000		4, 563, 000	
	Hawaii:				
(N)	Barbers Point (deep draft) harbor	10, 700, 000		700, 000	
(FC)	Kahoma Stream		200, 000		200, 000
(N)	Kawaihae small boat harbor		50, 000		50, 000
	Idaho:				
(MP)	Dworshak Dam and Reservoir	3, 984, 000		3, 984, 000	
(MP)	Dworshak additional unit		375, 000		375, 000
(MP)	Lewiston-Clarkston Bridge, Idaho and Wash	9, 200, 000		9, 200, 000	
(FC)	Placer Creek			1, 000, 000	
	Illinois:				
(FC)	East Moline	3, 300, 000		3, 300, 000	
(FC)	East St. Louis and vicinity	2, 400, 000		2, 400, 000	
(FC)	Eldred and Spankey drainage and levee district		300, 000		300, 000
(FC)	Fulton	4, 200, 000		3, 200, 000	
(FC)	Hartwell drainage and levee district				275, 000
(FC)	Hillview drainage and levee district		300, 000		300, 000
(N)	Illinois Waterway, Dresden Island lock and dam (rehab)	3, 770, 000		2, 500, 000	
(N)	Illinois Waterway, Starved Rock lock and dam (rehab)	4, 620, 000		3, 500, 000	
(FC)	Kaskaskia Island drainage and levee district	3, 500, 000		3, 500, 000	
(N)	Kaskaskia River navigation	5, 500, 000		5, 500, 000	
(N)	Little Calumet River	100, 000		100, 000	
(N)	Lock and dam 26, Mississippi River, Alton, Ill. and Mo	43, 000, 000		43, 000, 000	
(N)	Locks and dam 52, Illinois and Kentucky (rehab)	4, 500, 000		4, 500, 000	
(N)	Locks and dam 53, Illinois and Kentucky (rehab)	2, 100, 000		2, 100, 000	
(FC)	McGee Creek drainage and levee district	6, 000, 000		6, 000, 000	
(FC)	Meredosia, Ill., Meredosia Lake and Willow Creek D. & L.D		140, 000		140, 000
(FC)	Meredosia, Willow Creek and Coon Run D. & L.D		250, 000		250, 000
(FC)	Milan	1, 100, 000		1, 100, 000	
(N)	Mississippi River between the Ohio and Missouri Rivers (regulating works), Illinois and Missouri	2, 675, 000		2, 675, 000	
(FC)	Nutwood drainage and levee district		270, 000		270, 000
(FC)	Rock River agricultural levees		245, 000		245, 000
(FC)	Rockford	2, 400, 000		2, 000, 000	
(N)	Smithland locks and dam, Illinois, Indiana and Kentucky	3, 608, 000		3, 608, 000	
(FC)	Wood River drainage and levee district	225, 000		225, 000	
	Indiana:				
(FC)	Evansville	5, 300, 000		5, 300, 000	
(FC)	Patoka Lake	2, 000, 000		3, 300, 000	
(N)	Uniontown locks and dam, Indiana and Kentucky	1, 100, 000		1, 100, 000	
	Iowa:				
(FC)	Bettendorf	560, 000		560, 000	
(FC)	Clinton	3, 682, 000		1, 682, 000	
(FC)	Coralville Lake	1, 100, 000		1, 100, 000	
(FC)	Evansdale (sec. 201)	2, 400, 000		2, 400, 000	
(FC)	Missouri River levee system, Iowa, Nebraska, Kansas, and Missouri	7, 329, 000		7, 329, 000	
(N)	Missouri River, Sioux City to mouth, Iowa, Kansas, Missouri, and Nebraska	4.5, 000			
(FC)	Red Rock Dam—Lake Red Rock			1, 000, 000	
(FC)	Saylorville Lake	2, 000, 000		2, 500, 000	
(FC)	Waterloo	4, 600, 000		4, 600, 000	
	Kansas:				
(FC)	Big Hill Lake	2, 700, 000		2, 700, 000	
(FC)	Clinton Lake	988, 000		988, 000	
(FC)	El Dorado Lake	4, 912, 000		4, 912, 000	
(FC)	Hillsdale Lake	6, 970, 000		6, 970, 000	
	Kentucky:				
(FC)	Big South Fork National River and Recreation Area, Kentucky and Tennessee	21, 400, 000		21, 400, 000	
(FC)	Cave Run Lake	4, 095, 000		4, 095, 000	
(FC)	Dayton	4, 966, 000		4, 966, 000	
(MP)	Laurel River Lake	3, 664, 000		3, 664, 000	
(FC)	Paintsville Lake	2, 900, 000		2, 900, 000	
(FC)	Southwestern Jefferson County	5, 500, 000		5, 500, 000	
(FC)	Taylorsville Lake	29, 620, 000		25, 000, 000	

	Type of project, construction, general—State and project	Fiscal year 1981 budget estimates		Fiscal year 1981 conference allowance	
		Construction	Planning	Construction	Planning
(MP)	Wolf Creek Dam—Lake Cumberland (rehab)	$3, 000, 000		$3, 000, 000	
(FC)	Yatesville Lake			2, 000, 000	
	Louisiana:				
(N)	Atchafalaya River and Bayous, Chene, Boeuf and Black	3, 400, 000		5, 800, 000	
(BE)	Grand Isle and vicinity (section 201)	2, 800, 000		6, 000, 000	
(FC)	Lake Pontchartrain and vicinity (hurricane protection)	10, 800, 000		10, 800, 000	
(FC)	Larose to Golden Meadow (hurricane protection)	6, 215, 000		6, 215, 000	
(N)	Mississippi River Baton Rouge-Gulf Mexico-Southwest Pass and Bar	1, 380, 000		1, 380, 000	
(N)	Mississippi River, gulf outlet	1, 200, 000		1, 200, 000	
(FC)	New Orleans to Venice (hurricane protection)	2, 250, 000		2, 250, 000	
(N)	Overton Red River Waterway (lower 31 miles)	3, 630, 000		3, 630, 000	
(N)	Petit Anse, Tigre and Carlin Bayous		$65, 000		$65, 000
(N)	Red River emergency bank protection, Louisiana, Arkansas, Oklahoma, and Texas	5, 010, 000		5, 010, 000	
(N)	Red River Waterway, Mississippi River to Shreveport	99, 100, 000		99, 100, 000	
(FC)	Red River Waterway, Shreveport, La. to vicinity of Index, Ark		300, 000		300, 000
(N)	Vermilion Lock (replacement)	3, 800, 000		3, 800, 000	
(FC)	West Agurs levee		80, 000		80, 000
	Maine:				
(MP)	Dickey-Lincoln School Lakes		795, 000		795, 000
	Maryland:				
(N)	Baltimore Harbor and channels, Md. and Va. (1958 modification)	5, 300, 000		5, 300, 000	
(FC)	Bloomington Lake, Md. and W. Va	19, 620, 000		19, 620, 000	
	Massachusetts:				
(N)	Cape Cod canal highway bridges (rehab.)	7, 080, 000		7, 080, 000	
(FC)	Charles River natural valley storage areas	1, 510, 000		1, 510, 000	
(N)	Fall River Harbor			300, 000	
(FC)	North Nashua River	900, 000		900, 000	
(FC)	Phillips Lake		150, 000		150, 000
(BE)	Revere Beach		200, 000		200, 000
	Michigan:				
(N)	Cross Village Harbor		130, 000		130, 000
(FC)	Red Run Drain and Lower Clinton River		700, 000		700, 000
(FC)	Saginaw River	1, 050, 000		1, 050, 000	
	Minnesota:				
(FC)	Bassett Creek		170, 000		170, 000
(FC)	Big Stone Lake—Whetstone River, Minn. and S. Dak	570, 000		570, 000	
(FC)	Chaska		200, 000		200, 000
(FC)	East Grand Forks		140, 000		140, 000
(FC)	Mankato and North Mankato	5, 100, 000		5, 100, 000	
(N)	Mississippi River, lock and dam 1 (rehab)	14, 000, 000		14, 000, 000	
(FC)	Rochester (phase I)		330, 000		330, 000
(FC)	Roseau River	500, 000		500, 000	
(FC)	Wild Rice River, south branch and Felton Ditch	1, 900, 000		1, 900, 000	
(FC)	Winona	5, 300, 000		4, 800, 000	
	Mississippi:				
(N)	Yazoo River, Belzoni Bridge (advance participation)	660, 000		660, 000	
(N)	Yazoo River		450, 000		450, 000
	Missouri:				
(FC)	Blue River channel, Kansas City	5, 000, 000		3, 000, 000	
(MP)	Clarence Cannon Dam and Reservoir	14, 600, 000		14, 600, 000	
(MP)	Harry S Truman Dam and Reservoir	16, 870, 000		17, 670, 000	
(FC)	Little Blue River channel	2, 800, 000		2, 800, 000	
(FC)	Little Blue River lakes	27, 180, 000		27, 180, 000	
(FC)	Mississippi River, agricultural area No. 8, Elsberry	916, 000		916, 000	
(FC)	Perry County drainage and levee districts 1, 2, and 3	2, 684, 000		2, 684, 000	
(FC)	Pine Ford Lake		500, 000		500, 000
(FC)	Smithville Lake	5, 780, 000		5, 780, 000	
	Montana:				
(FC)	Flathead River near Kalispell		300, 000		300, 000
(FC)	Great Falls	3, 900, 000		1, 000, 000	
(MP)	Libby additional units and reregulating dam	10, 100, 000		10, 100, 000	
(MP)	Libby Dam, Lake Koocanusa	3, 093, 000		3, 093, 000	
	Nebraska:				
(FC)	Bank Stabilization and rec. dev., Nebraska and South Dakota				100, 000
(FC)	Papillion Creek and Tributaries Lakes			1, 000, 000	
	Nevada:				
(FC)	Humboldt River and tributaries				300, 000
	New Jersey				
(FC)	Elizabeth	7, 300, 000		7, 300, 000	
(N)	Manasquan River (rehab) (north and south jetties)	3, 295, 000		3, 295, 000	
	New Mexico:				
(FC)	Los Esteros Lake	2, 700, 000		2, 700, 000	
(FC)	Rio Grande floodway, Truth or Consequences (Hot Springs) unit		150, 000		150, 000
(FC)	Santa Fe River and Arroyo Mascaras		190, 000		140, 000
	New York:				
(FC)	Ardsley		100, 000		100, 000
(N)	Cattaraugus Harbor	450, 000		450, 000	
(FC)	Dansville and vicinity		45, 000		45, 000
(N)	Dunkirk Harbor	150, 000		150, 000	
(BE)	East Rockaway Inlet—Rockaway Inlet and Jamaica Bay (part 1)	700, 000		700, 000	
(FC)	Ellicott Creek	660, 000		160, 000	
(FC)	Fire Island Inlet to Montauk Point	6, 500, 000		6, 500, 000	
(N)	Irondequoit Bay	100, 000		100, 000	
(N)	New York Harbor collection and removal of drift, New York and New Jersey	2, 200, 000		3, 200, 000	
(FC)	Scajaquada Creek	810, 000		810, 000	
(FC)	Yonkers	2, 552, 000		2, 552, 000	
	North Carolina:				
(N)	AIWW—Replacement of Federal highway bridges	1, 440, 000		1, 440, 000	
(FC)	B. Everett Jordan Dam and Lake	3, 562, 000		3, 562, 000	
(FC)	Carolina Beach and vicinity (hurricane protection)	2, 300, 000		2, 300, 000	
(FC)	Falls Lake	13, 789, 000		13, 789, 000	
(BE)	Fort Fisher and vicinity		415, 000		415, 000
(N)	Manteo (Shallowbag) Bay	11, 900, 000		11, 900, 000	
(FC)	Wrightsville Beach	1, 100, 000		1, 100, 000	
	North Dakota:				
(FC)	Sheyenne River		200, 000		200, 000
	Ohio:				
(FC)	Alum Creek Lake	1, 320, 000		1, 320, 000	
(N)	Ashtabula Harbor (rehab)	1, 100, 000		1, 100, 000	
(FC)	Caesar Creek Lake	3, 491, 000		3, 491, 000	
(FC)	Chillicothe	3, 600, 000		3, 600, 000	
(N)	Cleveland Harbor (rehab)	1, 900, 000		1, 900, 000	
(FC)	Cuyahoga River Basin	2, 900, 000		1, 300, 000	
(FC)	East Fork Lake	1, 429, 000		1, 879, 000	
(N)	Geneva-on-the-Lake (Sec. 201)		225, 000		225, 000
(FC)	Mill Creek	4, 000, 000		4, 000, 000	
(FC)	Muskingum River Lakes (rehab)	4, 000, 000		4, 000, 000	
(FC)	Newark	1, 800, 000		1, 800, 000	
(FC)	Point Place, Toledo	660, 000		660, 000	

	Type of project, construction, general—State and project	Fiscal year 1981 budget estimates		Fiscal year 1981 conference allowance	
		Construction	Planning	Construction	Planning
(FC)	Reno Beach—Howard Farms area		$90,000		$90,000
(N)	West Harbor	$800,000		$800,000	
	Oklahoma:				
(FC)	Arcadia Lake	8,000,000		8,000,000	
(FC)	Arkansas-Red River basins chloride control, Oklahoma, Kansas, and Texas		2,100,000		2,100,000
(FC)	Candy Lake	3,400,000		3,400,000	
(FC)	Clayton Lake	7,725,000		7,725,000	
(FC)	Copan Lake	4,850,000		4,850,000	
(FC)	Skiatook Lake	15,800,000		15,800,000	
(FC)	Waurika Lake	1,000,000		1,300,000	
	Oregon:				
(FC)	Applegate Lake	8,663,000		10,600,000	
(MP)	Bonneville Second Powerhouse, Oregon and Washington	72,332,000		73,932,000	
(MP)	John Day lock and dam—Lake Umatilla, Oregon and Washington			1,382,000	
(MP)	John Day lock (rehab)	2,400,000		2,400,000	
(FC)	Johnson Creek				180,000
(FC)	Lower Columbia River bank protection, Oregon and Washington	1,500,000		1,500,000	
(MP)	Mcnary lock and dam, Lake Wallula, Oregon and Washington	9,200,000		6,950,000	
(N)	Nehalem Bay (rehab)	5,200,000		5,200,000	
(N)	Siuslaw River				185,000
(FC)	Willamette River Basin bank protection	1,435,000		1,435,000	
(FC)	Wilow Creek Lake	7,591,000		8,300,000	
	Pennsylvania:				
(FC)	Chartiers Creek	1,600,000		1,600,000	
(FC)	Cowanesque Lake	3,630,000		3,630,000	
(N)	Emsworth locks and dam (rehab)	6,000,000		6,000,000	
(FC)	Francis E. Walter Reservoir (modification)				200,000
(FC)	Hay Creek, Birdsboro		50,000		50,000
(N)	Monongahela River, locks and dam 3 (rehab)	4,380,000		4,380,000	
(BE)	Presque Isle Peninsula	850,000		850,000	
(FC)	Tioga—Hammond Lakes	1,155,000		1,155,000	
	Puerto Rico:				
(FC)	Portugues and Bucana Rivers	14,600,000		14,600,000	
	Rhode Island:				
(N)	Bristol Harbor		150,000		150,000
	South Carolina:				
(N)	Cooper River, Charleston Harbor	50,072,000		50,072,000	
(N)	Little River Inlet, S.C. and N.C	4,100,000		4,100,000	
	Texas:				
(FC)	Aquilla Lake	9,675,000		9,675,000	
(FC)	Aubrey Lake			5,000,000	
(FC)	Arkansas—Red River basins chloride control, area VIII	7,400,000		7,400,000	
(FC)	Big Sandy Lake		350,000		350,000
(N)	Brazos Island Harbor	5,200,000			
(FC)	Buffalo Bayou and tributaries	200,000		200,000	
(FC)	Clear Creek		300,000		300,000
(FC)	Cooper Lake and channels			400,000	
(N)	Corpus Christi ship channel	4,200,000		4,200,000	
(FC)	El Paso	12,500,000		12,500,000	
(FC)	Freeport and vicinity (hurricane flood protection)	100,000		100,000	
(N)	GIWW—Chocolate Bayou	1,900,000		1,460,000	
(FC)	Highland Bayou	1,400,000		1,400,000	
(FC)	Lakeview Lake	31,550,000		31,550,000	
(FC)	Lavon Lake modification and East Fork channel improvement	3,300,000		3,300,000	
(FC)	Lewisville Dam (rehab)	900,000		900,000	
(FC)	Millican Lake		415,000		415,000
(N)	Mouth of Colorado River	2,600,000		2,600,000	
(N)	Neches River and tributaries salt water barrier at Beaumont		350,000		350,000
(FC)	Port Arthur and vicinity (hurricane flood protection)	2,200,000		2,200,000	
(FC)	San Antonio channel improvement	1,500,000		1,500,000	
(FC)	San Gabriel River	1,907,000		1,907,000	
(FC)	Taylors Bayou	100,000		100,000	
(FC)	Texas City and vicinity (hurricane flood protection)	4,100,000		4,100,000	
(N)	Texas City channel industrial canal	4,100,000		4,100,000	
(FC)	Three Rivers	1,100,000		1,100,000	
(MP)	Trinity River project		950,000		950,000
(FC)	Vince and Little Vince Bayous	100,000		100,000	
	Virginia:				
(FC)	Gathright Dam and Lake Moomaw	3,052,000		3,052,000	
(BE)	Virginia Beach (1962 modification) (reimb)	320,000		320,000	
(FC)	Virginia Beach streams, canal No. 2		145,000		145,000
	Washington:				
(MP)	Chief Joseph Dam additional units	4,258,000		8,258,000	
(MP)	Ice Harbor additional units	678,000		868,000	
(MP)	Little Goose additional units	1,901,000		2,401,000	
(MP)	Lower Granite lock and dam	995,000		3,459,000	
(MP)	Lower Snake River F. & W.L. compensation; Washington, Idaho, and Oregon	25,200,000		25,200,000	
(FC)	Mill Creek Lake (rehab)	6,500,000		6,500,000	
(FC)	Willapa River at Raymond		148,000		148,000
	West Virginia:				
(FC)	Beech Fork Lake	750,000		750,000	
(FC)	Burnsville Lake	2,210,000		2,210,000	
(FC)	Levisa and Tug Fork of the Big Sandy River and Cumberland River, W. Va., Va., and Ky			6,000,000	
(FC)	Oceana		300,000		300,000
(FC)	R.D. Bailey Lake	1,050,000		2,000,000	
(FC)	Stonewall Jackson Lake	15,885,000		15,885,000	
	Wisconsin:				
(FC)	Prairie du Chien	1,000,000		1,000,000	
(FC)	State road and Ebner coulees		300,000		300,000
	Miscellaneous:				
(N)	Small navigation projects (sec. 107)	8,770,000		12,090,000	
(FC)	Small projects for flood control and related purposes (sec. 205)	16,230,000		16,230,000	
(BE)	Small beach erosion control projects (sec. 103)	1,000,000		1,500,000	
	Emergency streambank and shoreline protection (sec. 14)	2,500,000		2,500,000	
	Recreation facilities at completed projects	12,200,000		13,600,000	
	Streambank erosion control evaluation and demonstration (sec. 32)	3,460,000		3,460,000	
	Shoreline erosion control demonstration (sec. 54)	1,500,000		1,500,000	
	Aquatic plant control (1965 act)	3,400,000		4,900,000	
	Employees compensation	5,051,000		5,051,000	
	Reduction for anticipated savings and slippage	−96,673,000		−65,673,000	
	Subtotal	1,503,483,000	19,243,000	1,561,209,000	24,533,000
	Total, construction, general	1,522,726,000		1,585,742,000	

Type of project:
- (N) Navigation.
- (FC) Flood control.
- (BE) Beach erosion control.
- (MP) Multiple-purpose, including power.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

Amendment No. 30: Appropriates $232,519,000 for flood control, Mississippi River and tributaries instead of $239,324,000 as proposed by the House and $228,970,000 as proposed by the Senate.

There is an urgent need to provide flood protection from the runoffs into the rivers and tributaries from the hill lands in the Delta Foothills Area, Mississippi. Recent floods have had a devastating impact on this area. Authority exists in the Yazoo Basin Comprehensive Study for the Corps of Engineers in cooperation with the Soil Conservation Service, the Soil Conservation Districts and the ASCS to investigate the feasibility of cooperatively storing floodwaters in the tributary basins above the foothills. Within available funds, the Corps is directed to utilize such funds as are necessary to initiate such investigation.

The Committee understands that the Corps of Engineers has studied a serious bank erosion problem on the Sunflower River at Mile 175.8 in Coahoma County, Mississippi. However, the results of this study did not take cognizance of the serious effects of disruption of traffic, difficulty in obtaining suitable routes for mail delivery and school buses, and general disruption of the longstanding social and economic makeup of the area. Accordingly, the Corps is directed to proceed with an appropriate solution for correction of the erosion problem up to the maximum amount allowed within the Section 14 Emergency Streambank program.

Amendment No. 31: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate relating to the Tensas Basin Red River Backwater Area, Louisiana project.

The funds appropriated are to be allocated as shown on the following table:

	Type of project, flood control, Mississippi River and tributaries	Fiscal year 1981	
		Budget estimate	Conference allowance
	GENERAL INVESTIGATIONS		
	Surveys:		
	General studies:		
(FDP)	Boeuf-Tensas Basin, south Arkansas and north Louisiana		$785,000
(FDP)	Helena and vicinity, Arkansas	$100,000	100,000
(FDP)	Larto Lake—Sa line Lake area, Louisiana		200,000
(FDP)	St. Francis River Basin below Wappapello Lake, Ark. and Mo	454,000	454,000
(FDP)	St. Francis River, Ark. and Mo. (fish and wildlife)	175,000	175,000
(FDP)	West Memphis, Ark	200,900	200,000
(FDP)	Atchafalaya Basin (water and land resources), Louisiana	300,000	300,000
(FDP)	Mississippi and Louisiana estuarine area		275,000
(FDP)	Yazoo River Basin, Miss	781,000	781,000
(FDP)	Wolf and Loosahatchie Rivers, and Noncomah Creek, Tenn. and Miss.	100,000	100,000
	Phase I stage of advance engineering and design:		
(FDP)	Horn Lake Creek and tributaries, including Cowpen Creek, Miss. and Tenn		200,000
(FDP)	Nonconnah Creek, Miss. and Tenn		245,000
(FDP)	Mississippi River, east bank, Vicksburg-Yazoo area, Mississippi	50,000	50,000
(FDP)	Collection and study of basic data	155,000	155,000
	Subtotal, general investigations	2,315,000	4,020,000
	CONSTRUCTION AND PLANNING		
(FC)	Harris Fork Creek, Tenn. and Ky		170,000
(FC)	L'Anquille River Basin, Ark		150,000
(FC)	Mud Lake pumping station, Tennessee	1,500,000	1,500,000
(FC)	Mississippi River levees, Arkansas, Illinois, Kentucky, Louisiana, Missouri, Mississippi, and Tennessee	20,360,000	20,360,000
(FC)	Channel improvement, Arkansas, Illinois, Kentucky, Louisiana, Missouri, Mississippi, and Tennessee	40,800,000	40,800,000
(FC)	Bayou Cocodrie and tributaries, Louisiana	100,000	100,000
(FC)	Bushley Bayou area, Louisiana	300,000	300,000
(FC)	Eastern Rapides—South central Avoyelles	300,000	300,000
(FC)	Old River, La	5,100,000	5,100,000
(FC)	Lower Red River—South bank levees, Louisiana	1,500,000	1,500,000
(FC)	Atchafalaya Basin, La	24,350,000	24,350,000
(FC)	St. Francis Basin, Ark. and Mo	7,900,000	7,900,000
(FC)	Teche-Vermilion Basins (additional surface water supply), Louisiana	7,500,000	7,500,000
(FC)	Tensas Basin, Ark. and La.:		
	Boeuf and Tensas Rivers, except Lake Chicot pumping plant	350,000	350,000
	Boeuf and Tensas Rivers, Lake Chicot pumping plant	13,400,000	13,400,000
	Red River backwater area, except Tensas Cocodrie pumping plant	1,150,000	1,150,000
	Red River backwater area, Tensas Cocodrie pumping plant	6,700,000	6,700,000
	Tensas River National Wildlife Refuge, La		200,000
(FC)	West Kentucky tributaries, Kentucky	1,900,000	1,900,000
(FC)	West Tennessee tributaries, Tennessee	1,900,000	1,900,000
(FC)	Yazoo Basin, Miss.:		
	Arkabutla Lake	$195,000	$195,000
	Big Sunflower River, etc	2,984,000	2,984,000
	Enid Lake	50,000	50,000
	Greenwood	11,000	11,000
	Grenada Lake	4,300,000	4,300,000
	Main Stem	201,000	701,000
	Sardis Lake	2,576,000	2,576,000
	Streambank erosion control evaluation and demonstration	309,000	309,000
	Tributaries:		
	Except Ascalmore-Tippo and Opossum Bayous	194,000	1,894,000
	Ascalmore-Tippo and Opossum Bayous	1,589,000	2,589,000
	Upper Yazoo projects (formerly auxiliary channel)	4,681,000	4,681,000
	Yazoo backwater	1,100,000	1,100,000
	Subtotal, construction and planning	153,300,000	157,020,000
	Major rehabilitation;		
(FC)	Old River control structure, Louisiana (rehabilitation)	7,300,000	7,300,000
	MAINTENANCE		
FC)	Boeuf and Tensas Rivers, Ark	79,000	79,000
(FC)	Channel improvement, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee	39,419,000	39,419,000
FC)	White River backwater, Arkansas	373,000	373,000
FC)	Mapping, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee	259,000	259,000
FC)	Mississippi River levees, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee	6,518,000	6,518,000
(FC)	North bank, Arkansas River, Ark	40,000	40,000
(FC)	South bank, Arkansas River, Ark	90,000	90,000
(FC)	St. Francis River Basin and tributaries, Arkansas and Missouri	2,453,000	2,453,000
(FC)	Atchafalaya Basin, Louisiana	6,100,000	6,100,000
(FC)	Bayou Cocodrie and tributaries, Louisiana	42,000	42,000
(FC)	Bonnet Carre Spillway, Louisiana	206,000	361,000
(FC)	Lower Red River, south bank levees, Louisiana	386,000	386,000
(FC)	Old River Louisiana	4,829,000	4,829,000
(FC)	Red River backwater area, Louisiana	88,000	88,000
(FC)	Arkabutla Lake, Miss	1,286,000	2,000,000
(FC)	Big Sunflower River, Miss	46,000	46,000
(FC)	Enid Lake, Miss	1,938,000	3,000,000
(FC)	Greenwood, Miss	219,000	219,000
(FC)	Grenada Lake, Miss	2,628,000	5,500,000
(FC)	Yazoo Basin, main stem, Mississippi	984,000	984,000
(FC)	Sardis Lake, Miss	2,445,000	7,700,000
(FC)	Yazoo Basin, tributaries, Mississippi	735,000	735,000
(FC)	Whittington auxiliary channel, Mississippi	199,000	199,000
(FC)	Yazoo backwater, Mississippi	117,000	117,000
(FC)	Yazoo City, Miss	156,000	156,000
(FC)	Wappapello Lake, Mo	1,677,000	1,677,000
(FC)	Inspection of completed works	274,000	274,000
	Subtotal, operation and maintenance	73,586,000	83,644,000
	Reduction for anticipated savings and slippage	−12,965,000	−19,465,000
	Total, flood control, Mississippi River and tributaries	223,536,000	232,519,000

Type of study or project:
(FC) Flood Control.
(FDP) Flood Damage Prevention.
(Phase I) Authorized for Phase I Stage of Advance.
Engineering and Design in the Water Resources Development Act of 1974 or 1976.

OPERATION AND MAINTENANCE, GENERAL

Amendment No. 32: Appropriates $902,605,000 for operation and maintenance, general instead of $951,259,000 as proposed by the House and $900,397,000 as proposed by the Senate.

Within funds available for operation and maintenance, the conferees direct that necessary work on the clean up of the North Branch of the Chicago River, Illinois project be accomplished in FY 1981.

Pending the development of agreements with local law enforcement agencies, the Corps of Engineers shall provide for law enforcement on Corps property within available funds.

Amendment No. 33: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate which provides that not to exceed $1,000,000 shall be available to reimburse non-Federal public interests for the costs of diking dredging disposal areas at Federal projects.

Amendment No. 34: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds language relating to the East Pass Channel, Florida project.

The funds appropriated are to be allocated as shown on the following table:

	Type of project, operation and maintenance—State and project	Fiscal year 1981	
		Budget estimate	Conference allowance
	Alabama:		
(N)	Alabama-Coosa Rivers	$$2,044,000	$$3,053,000
(N)	Bayou Coden		183,000
(N)	Bayou La Baire	127,000	127,000
(N)	Black Warrior and Tombigbee Rivers	6,305,000	6,305,000
(N)	Bon Secour		223,000
(N)	Dauphin Island Bay	80,000	80,000
(N)	Dog and Fowl River	85,000	85,000
(N)	Gulf Intracoastal Waterway (Mobile District)	2,048,000	2,048,000
(MP)	Jones Bluff lock and dam	2,750,000	2,750,000
(MP)	Millers Ferry lock and dam—William "Bill" Dannelly Reservoir	3,130,000	3,738,000
(N)	Mobile Harbor	2,355,000	3,793,000
(N)	Perdido Pass	122,000	122,000
(N)	Removal of aquatic growth	62,000	62,000
(N)	Tennessee-Tombigbee Waterway, Alabama and Mississippi	3,298,000	3,298,000
(MP)	Walter F. George lock and dam	5,709,000	5,709,000
	Alaska:		
(N)	Anchorage Harbor	1,480,000	1,480,000
(FC)	Chena River Lakes	352,000	352,000
(N)	Dillingham Harbor	282,000	282,000
(N)	Homer Harbor	184,000	184,000
(N)	Ninilchik Harbor	217,000	217,000
(N)	Nome Harbor	814,000	814,000
(N)	Stikine River	23,000	23,000
	Arizona:		
(FC)	Alamo Lake	423,000	423,000
(FC)	Painted Rock Dam	317,000	317,000
(FC)	Whitlow Ranch Dam	163,000	163,000
	Arkansas:		
(MP)	Beaver Lake	1,624,000	1,624,000
(MP)	Blakely Mountain Dam—Lake Ouachita	1,907,000	1,907,000
(FC)	Blue Mountain Lake	499,000	499,000
(MP)	Bull Shoals Lake	2,586,000	2,586,000
(MP)	Dardanelle lock and dam	3,002,000	3,002,000
(MP)	Degray Lake	1,872,000	1,872,000
(FC)	Dequeen Lake	481,000	481,000
(FC)	Dierks Lake	462,000	462,000
(FC)	Gillham Lake	415,000	415,000
(MP)	Greers Ferry Lake	3,138,000	3,452,000
(N)	Helena Harbor	174,000	174,000
(N)	McClellan-Kerr Arkansas River navigation system, Arkansas and Oklahoma	13,364,000	15,000,000
(FC)	Millwood Lake	893,000	893,000
(MP)	Narrows Dam—Lake Greeson	1,714,000	1,714,000
(FC)	Nimrod Lake	555,000	555,000
(MP)	Norfork Lake	1,695,000	1,695,000
(N)	Osceola Harbor	244,000	244,000
(N)	Ouachita and Black Rivers Arkansas and Louisiana	2,544,000	2,544,000
(MP)	Ozark-Jeta Taylor lock and dam	2,080,000	2,080,000
(N)	White River	1,084,000	1,084,000
	California:		
(FC)	Black Butte Lake	1,168,000	1,168,000
(FC)	Buchanan Dam—H. V. Eastman Lake	647,000	647,000
(N)	Channel Islands Harbor	235,000	235,000
(FC)	Coyote Valley Dam (Lake Mendocino)	1,634,000	1,634,000
(N)	Crescent City Harbor	1,632,000	1,632,000
(N)	Drift removal San Francisco Bay and Harbor	1,198,000	1,198,000
(FC)	Dry Creek (Warm Springs) Lake and channel	534,000	534,000
(FC)	Farmington Dam	78,000	78,000
(FC)	Hidden Dam—Hensley Lake	634,000	634,000
(N)	Humboldt Harbor and Bay	1,505,000	1,505,000
(FC)	Isabella Lake	1,465,000	1,465,000
(FC)	Los Angeles County drainage area	3,353,000	3,353,000
(N)	Los Angeles-Long Beach harbors	1,088,000	1,088,000
(N)	Los Angeles-Long Beach Harbor model	82,000	82,000
(FC)	Merced County stream group	81,000	81,000
(FC)	Mojave River Dam	421,000	421,000
(N)	Morro Bay Harbor	649,000	649,000
(N)	Moss Landing Harbor	240,000	479,000
(FC)	New Hogan Lake	813,000	813,000
(MP)	New Melones Lake (downstream channel)	311,000	311,000
(N)	Newport Bay Harbor	327,000	327,000
(N)	Noyo River and Harbor	380,000	380,000
(N)	Oakland Harbor	1,070,000	1,070,000
(N)	Oceanside Harbor	650,000	650,000
(FC)	Pine Flat Lake	1,047,000	1,047,000
(N)	Redondo Beach Harbor (King Harbor)		250,000
(N)	Redwood City Harbor	1,089,000	1,089,000
(N)	Richmond Harbor	740,000	740,000
(N)	Sacramento River	2,706,000	2,706,000
(N)	Sacramento River and tributaries (debris control)	431,000	431,000
(N)	San Diego Harbor	540,000	540,000
(N)	San Francisco Harbor	1,437,000	1,437,000
(N)	San Francisco Bay—Delta model structure	451,000	451,000
(N)	San Joaquin River	108,000	108,000
(N)	San Pablo Bay and Mare Island Strait	1,611,000	1,611,000
(FC)	Santa Ana River Basin	1,704,000	1,704,000
(N)	Santa Barbara Harbor	541,000	541,000
(N)	Santa Cruz Harbor	353,000	675,000
(FC)	Success Lake	686,000	686,000
(N)	Suisun Bay channel	267,000	267,000
(N)	Suisun Channel	51,000	51,000
(FC)	Terminus Dam (Lake Kaweah)	689,000	689,000
(N)	Ventura Marina	534,000	534,000
(N)	Yuba River	27,000	27,000
	Colorado:		
(FC)	Bear Creek Lake	193,000	193,000
(FC)	Chatfield Lake	268,000	268,000
(FC)	Cherry Creek Lake	268,000	268,000
(FC)	John Martin Reservoir	575,000	575,000
(FC)	Trinidad Lake	288,000	288,000
	Connecticut:		
(FC)	Black Rock Lake	143,000	143,000
(N)	Bridgeport Harbor	1,401,000	1,401,000
(FC)	Colebrook River Lake	171,000	171,000
(N)	Connecticut River below Hartford	678,000	678,000
(FC)	Hancock Brook Lake	65,000	65,000
(FC)	Hop Brook Lake	$194,000	$194,000
(FC)	Mansfield Hallow Lake	148,000	148,000
(FC)	Northfield Brook Lake	94,000	94,000
(N)	Norwalk Harbor	1,039,000	1,039,000
(FC)	Stamford hurricane barrier	100,000	100,000
(FC)	Thomaston Dam	312,000	312,000
(FC)	West Thompson Lake	266,000	266,000
	Delaware:		
(N)	IWW, Chincoteague Bay to Delaware Bay	7,000	7,000
(N)	IWW, Delaware River to Chesapeake Bay, Del. and Md.	6,464,000	6,464,000
(N)	IWW, Rehoboth Bay to Delaware Bay	42,000	42,000
(N)	Murderkill River	108,000	108,000
(N)	Wilmington Harbor	1,137,000	1,137,000
	District of Columbia:		
(N)	Potomac and Anacostia Rivers drift removal, District of Columbia, Maryland, and Virginia	364,000	364,000
(N)	Washington Harbor	31,000	31,000
	Florida:		
(N)	Apalachicola Bay	26,000	26,000
(N)	Apalachicola, Chattahoochee, and Flint Rivers	3,138,000	3,138,000
(N)	Canaveral Harbor	1,210,000	1,210,000
(FC)	Central and southern Florida	3,415,000	3,415,000
(N)	Charlotte Harbor	1,831,000	1,831,000
(N)	Cross-Florida Barge canal	758,000	758,000
(N)	East Pass Channel	208,000	208,000
(N)	Fernandina Harbor	1,841,000	1,841,000
(N)	IWW, Caloosahatchee River to Anclote River	1,417,000	1,417,000
(N)	IWW, Jacksonville to Miami	2,485,000	2,485,000
(N)	Jacksonville Harbor	1,781,000	1,781,000
(MP)	Jim Woodruff lock and dam—Lake Seminole	4,404,000	4,404,000
(N)	Okeechobee Waterway	1,475,000	1,475,000
(N)	Oklawaha River	37,000	37,000
(N)	Palm Beach Harbor	41,000	41,000
(N)	Panama City Harbor	249,000	249,000
(N)	Pensacola Harbor	1,310,000	1,310,000
(N)	Ponce de Leon Inlet	253,000	253,000
(N)	Port St. Joe Harbor		1,328,000
(N)	Removal of aquatic growth (Hyacinths)	2,394,000	2,846,000
(N)	St. Augustine Harbor	733,000	733,000
(N)	St. Johns River, Jacksonville to Lake Harney		288,000
(N)	St. Lucie Inlet	352,000	352,000
(N)	Tampa Harbor	1,305,000	6,461,000
	Georgia:		
(MP)	Allatoona Lake	4,487,000	4,487,000
(N)	Atlantic Intracoastal Waterway (Savannah District)	1,112,000	1,112,000
(N)	Brunswick Harbor	2,341,000	2,341,000
(MP)	Buford Dam—Lake Sidney Lanier	4,951,000	4,951,000
(MP)	Carters Lake	2,413,000	2,413,000
(MP)	Clark Hill Lake	4,759,000	4,759,000
(MP)	Hartwell Lake	4,419,000	4,419,000
(N)	Savannah Harbor	6,843,000	7,843,000
(N)	Savannah River below Augusta	434,000	434,000
(MP)	West Point Lake, Ga. and Ala	2,779,000	2,779,000
	Hawaii:		
(N)	Hilo Harbor	758,000	758,000
(N)	Kahului Harbor, Maui	107,000	107,000
	Idaho:		
(MP)	Albeni Falls Dam	1,468,000	1,468,000
(MP)	Dworshak Dam and Reservoir	3,918,000	3,918,000
(FC)	Lucky Peak Lake	351,000	351,000
	Illinois:		
(N)	Calumet Harbor and River, Ill. and Ind	227,000	227,000
(N)	Calumet Harbor and River, Ill. and Ind. (diked disposal)	1,742,000	1,742,000
(FC)	Carlyle Lake	2,197,000	2,197,000
(N)	Chicago Harbor	445,000	445,000
(N)	Chicago Harbor (diked disposal)	762,000	762,000
(N)	Chicago River (diked disposal)	1,742,000	1,742,000
(FC)	Farm Creek Reservoirs	103,000	103,000
(N)	Illinois Waterway, Ill. and Ind.	851,000	851,000
(N)	Illinois Waterway, Ill. and Ind.	12,990,000	12,990,000
(N)	Kaskaskia River	1,048,000	1,048,000
(FC)	Lake Shelbyville	2,301,000	2,301,000
(N)	Mill Creek and south slough	31,000	31,000
(N)	Mississippi River between Missouri River and Minneapolis, Minn., Ill., Wis., and Iowa	6,815,000	6,815,000
(N)	Mississippi River between Missouri River and Minneapolis, Minn., Ill., Wis., and Iowa	27,922,000	27,922,000
(N)	Mississippi River between Ohio and Missouri Rivers	8,691,000	8,691,000
(N)	Ohio River locks and dams, Illinois, Pennsylvania, Indiana, Ohio, West Virginia, and Kentucky	20,920,000	20,920,000
(N)	Ohio River open channel work, Illinois, Pennsylvania, Indiana, Ohio, West Virginia, and Kentucky	5,392,000	6,278,000
(FC)	Rend Lake	1,486,000	1,486,000
(N)	Waukegan Harbor	224,000	224,000
	Indiana:		
(FC)	Brookville Lake	361,000	361,000
(N)	Burns Waterway Harbor	239,000	239,000
(FC)	Cagles Mill Lake	285,000	285,000
(FC)	Cecil M. Harden Lake	327,000	327,000
(FC)	Huntington Lake	364,000	364,000
(FC)	Mississinewa Lake	342,000	342,000
(FC)	Monroe Lake	319,000	319,000
(FC)	Patoka Lake	267,000	267,000
(FC)	Salamonie Lake	324,000	324,000
	Iowa:		
(FC)	Coralville Lake	1,280,000	1,280,000
(FC)	Missouri River, Kenslers Bend, to Sioux City, Iowa and Nebraska	77,000	77,000
(N)	Missouri River, Sioux City to mouth, Iowa, Kansas, Missouri, and Nebraska	7,789,000	7,789,000
(FC)	Rathbun Lake	1,046,000	1,046,000
(FC)	Red Rock Dam—Lake Red Rock	1,215,000	2,363,000
(FC)	Saylorville Lake	1,338,000	3,145,000
	Kansas:		
(FC)	Big Hill Lake	184,000	184,000
(FC)	Clinton Lake	926,000	926,000
(FC)	Council Grove Lake	378,000	378,000

Type of project, operation and maintenance—State and project		Fiscal year 1981	
		Budget estimate	Conference allowance
(FC)	El Dorado Lake	$233, 000	$233, 000
(FC)	Elk City Lake	353, 000	353, 000
(FC)	Fall River Lake	576, 000	576, 000
(FC)	John Redmond Dam and Reservoir	527, 000	527, 000
(FC)	Kanopolis Lake	807, 000	807, 000
(FC)	Marion Lake	384, 000	384, 000
(FC)	Melvern Lake	908, 000	908, 000
(FC)	Milford Lake	1, 872, 000	1, 872, 000
(FC)	Perry Lake	1, 592, 000	1, 592, 000
(FC)	Pomona Lake	900, 000	900, 000
(FC)	Toronto Lake	170, 000	170, 000
(FC)	Turtle Creek Lake	877, 000	877, 000
(FC)	Wilson Lake	714, 000	714, 000
	Kentucky:		
(MP)	Barkley Dam—Lake Barkley	3, 895, 000	3, 895, 000
(FC)	Barren River Lake	894, 000	894, 000
(FC)	Buckhorn Lake	608, 000	608, 000
(FC)	Carr Fork Lake	722, 000	722, 000
(FC)	Cave Run Lake	331, 000	331, 000
(FC)	Dewey Lake	706, 000	706, 000
(FC)	Fishtrap Lake	722, 000	722, 000
(FC)	Grayson Lake	476, 000	476, 000
(N)	Green and Barren Rivers	855, 000	855, 000
(FC)	Green River Lake	838, 000	838, 000
(N)	Hickman Harbor	152, 000	152, 000
(N)	Kentucky River	704, 000	2, 500, 000
(MP)	Laurel River Lake	576, 000	576, 000
(FC)	Martins Fork Lake	407, 000	407, 000
(FC)	Middlesboro	33, 000	33, 000
(FC)	North Lake	965, 000	965, 000
(FC)	Paintsville Lake	159, 000	159, 000
(FC)	Rouch River Lake	1, 084, 000	1, 084, 000
(MP)	Wolf Creek Dam—Lake Cumberland	2, 397, 000	2, 397, 000
	Louisiana:		
(N)	Atchafalaya River, Morgan City to Gulf of Mexico	3, 120, 000	3, 120, 000
(N)	Barataria Bay Waterway	833, 000	833, 000
(FC)	Bayou Bodcau Reservoir	565, 000	565, 000
(FC)	Bayou Pierre	21, 000	21, 000
(N)	Bayou Teche	576, 000	576, 000
(N)	Bayou Teche and Vermillion River	41, 000	41, 000
(FC)	Caddo Lake	124, 000	124, 000
(N)	Calcasieu River and Pass	7, 855, 000	7, 855, 000
(N)	Freshwater Bayou	1, 029, 000	1, 029, 000
(N)	Gulf Intracoastal Waterway	7, 967, 000	7, 967, 000
(N)	Houma navigation channel	1, 405, 000	1, 405, 000
(N)	Lake Providence Harbor	139, 000	139, 000
(N)	Mermentau River	2, 385, 000	2, 385, 000
(N)	Mississippi River, Baton Rouge to Gulf	18, 319, 000	23, 319, 000
(N)	Mississippi River, Gulf outlet	6, 639, 000	6, 639, 000
(N)	Mississippi River outlets at Venice	604, 000	604, 000
(N)	Red River Waterway, Mississippi River to Shreveport	1, 225, 000	1, 225, 000
(N)	Removal of aquatic growth	956, 000	956, 000
(FC)	Wallace Lake	144, 000	144, 000
	Maine:		
(N)	Kennebec River	254, 000	254, 000
	Maryland:		
(N)	Baltimore Harbor (drift removal)	155, 000	155, 000
(N)	Baltimore Harbor (prevention of obstructive deposits)	233, 000	233, 000
(N)	Baltimore Harbor and channels	3, 271, 000	3, 271, 000
(FC)	Bloomington Lake, Md. and Va	340, 000	340, 000
(N)	Chester River	386, 000	386, 000
(FC)	Cumberland, Md. and Ridgeley, W. Va	38, 000	38, 000
(N)	Knapps Narrows	485, 000	485, 000
(N)	Ocean City Harbor and inlet and Sinepuxent Bay	868, 000	868, 000
(N)	Tilghman Island Harbor	217, 000	217, 000
(N)	Wicomico River	543, 000	543, 000
	Massachusetts:		
(FC)	Barre Falls Dam	268, 000	268, 000
(FC)	Birch Hill Dam	270, 000	270, 000
(FC)	Buffumville Lake	221, 000	221, 000
(N)	Cape Cod Canal	2, 803, 000	2, 803, 000
(FC)	Conant Brook Dam	70, 000	70, 000
(FC)	East Brimfield Lake	135, 000	135, 000
(FC)	Hodges Village Dam	144, 000	144, 000
(FC)	Knightville Dam	270, 000	270, 000
(FC)	Littleville Lake	262, 000	262, 000
(FC)	New Bedford, Fairhaven, and Acushnet hurricane barrier	121, 000	121, 000
(FC)	Tully Lake	235, 000	235, 000
(FC)	West Hill Dam	144, 000	144, 000
(FC)	Westville Lake	172, 000	172, 000
	Michigan:		
(N)	Arcadia Harbor	94, 000	94, 000
(N)	Big Bay Harbor	118, 000	118, 000
(N)	Bolles Harbor	140, 000	140, 000
(N)	Caseville Harbor		340, 000
(N)	Channels in Lake St. Clair	604, 000	604, 000
(N)	Charlevoix Harbor	400, 000	400, 000
(N)	Detroit River	6, 454, 000	6, 454, 000
(N)	Detroit River (diked disposal)	11, 597, 000	11, 597, 000
(N)	Frankfort Harbor	321, 000	321, 000
(N)	Grand Haven Harbor and Grand River	1, 060, 000	1, 060, 000
(N)	Harbor Beach Harbor	997, 000	997, 000
(N)	Holland Harbor	288, 000	288, 000
(N)	Inland route	155, 000	155, 000
(N)	Keweenaw Waterway	166, 000	166, 000
(N)	Little Lake Harbor	298, 000	298, 000
(N)	Ludington Harbor	150, 000	150, 000
(N)	Manistee Harbor	134, 000	134, 000
(N)	Monroe Harbor	707, 000	707, 000
(N)	Monroe Harbor (diked disposal)	2, 165, 000	2, 165, 000
(N)	Muskegon Harbor	185, 000	185, 000
(N)	Pentwater Harbor	119, 000	119, 000
(N)	Rouge River	1, 128, 000	1, 128, 000
(N)	Rouge River (diked disposal)	3, 512, 000	3, 512, 000
(N)	Saginaw River	2, 942, 000	2, 942, 000
(N)	Saginaw River (diked disposal)	611, 000	611, 000
(FC)	Sebewaing River	$24, 000	$24, 000
(N)	St. Clair River	725, 000	725, 000
(N)	St. Joseph Harbor	375, 000	375, 000
(MP)	St. Marys River	9, 929, 000	9, 929, 000
	Minnesota:		
(FC)	Big Stone Lake—Whetstone River, Minn. and S. Dak	93, 000	93, 000
(N)	Duluth-Superior Harbor, Minn. and Wis	1, 740, 000	1, 740, 000
(N)	Grand Marais Harbor	36, 000	36, 000
(FC)	Lac Qui Parle Lake	181, 000	181, 000
(FC)	Lake Traverse and Bois de Sioux, Minn. and S. Dak	187, 000	187, 000
(N)	Minnesota River	204, 000	204, 000
(FC)	Orwell Lake	326, 000	326, 000
(FC)	Red Lake Reservoir	51, 000	51, 000
(N)	Reservoirs at Headwaters of Mississippi River	1, 483, 000	1, 483, 000
(N)	St. Croix River, Minn. and Wis	127, 000	127, 000
	Mississippi:		
(N)	Biloxi Harbor	391, 000	391, 000
(N)	Cadet Bayou	201, 000	201, 000
(N)	Gulfport Harbor	1, 468, 000	1, 468, 000
(FC)	Okatibbee Lake	537, 000	537, 000
(N)	Pascagoula Harbor	1, 871, 000	1, 871, 000
(N)	Pearl River, Miss. and La	137, 000	137, 000
(N)	Rosedale Harbor	84, 000	84, 000
(N)	Yazoo River	44, 000	44, 000
	Missouri:		
(N)	Caruthersville Harbor	152, 000	152, 000
(MP)	Clarence Cannon Dam and Reservoir	1, 020, 000	1, 020, 000
(FC)	Clearwater Lake	1, 237, 000	1, 237, 000
(MP)	Harry S. Truman Dam and Reservoir	3, 621, 000	3, 621, 000
(FC)	Long Branch Lake	468, 000	468, 000
(FC)	Meramec Park Lake	205, 000	205, 000
(N)	New Madrid Harbor	197, 000	197, 000
(FC)	Pomme de Terre Lake	1, 471, 000	1, 471, 000
(FC)	Smithville Lake	597, 000	597, 000
(MP)	Stockton Lake	1, 833, 000	1, 833, 000
(MP)	Table Rock Lake	2, 610, 000	2, 610, 000
	Montana:		
(MP)	Fort Peck Lake	1, 930, 000	1, 930, 000
(MP)	Libby Dam, Lake Koocanusa	2, 065, 000	2, 065, 000
	Nebraska:		
(MP)	Gavins Point Dam—Lewis and Clark Lake, Nebr. and S. Dak	3, 428, 000	3, 428, 000
(FC)	Harlan County Lake	1, 527, 000	1, 627, 000
(FC)	Papillion Creek and tributaries lakes	175, 000	175, 000
(FC)	Salt Creek and tributaries lakes	830, 000	830, 000
	Nevada:		
(FC)	Martis Creek Lake, Nev. and Calif	210, 000	210, 000
(FC)	Pine and Mathews Canyons Lake	54, 000	54, 000
	New Hampshire:		
(FC)	Blackwater Dam	210, 000	210, 000
(FC)	Edward MacDowell Lake	215, 000	215, 000
(FC)	Franklin Falls Dam	220, 000	220, 000
(FC)	Hopkinton-Everett Lakes	374, 000	374, 000
(FC)	Otter Brook Lake	201, 000	201, 000
(FC)	Surry Mountain Lake	280, 000	280, 000
	New Jersey:		
(N)	Absecon Inlet	181, 000	181, 000
(N)	Barnegat Inlet	334, 000	334, 000
(N)	Cold Spring Inlet	176, 000	176, 000
(N)	Delaware River, Philadelphia to Trenton	1, 766, 000	1, 766, 000
(N)	Delaware River, Philadelphia to the sea	13, 107, 000	13, 107, 000
(N)	New Jersey Intracoastal Waterway	794, 000	794, 000
(N)	Newark Bay, Hackensack, and Passaic Rivers	951, 000	951, 000
	New Mexico:		
(FC)	Abiquiu Dam	484, 000	484, 000
(FC)	Cochiti Lake	738, 000	738, 000
(FC)	Conchas Lake	954, 000	954, 000
(FC)	Galisteo Dam	150, 000	150, 000
(FC)	Jemez Canyon Dam	221, 000	221, 000
(FC)	Los Esteros Lake	258, 000	258, 000
(FC)	Two Rivers Dam	321, 000	321, 000
	New York:		
(FC)	Almond Lake	163, 000	163, 000
(FC)	Arkport Dam	247, 000	247, 000
(N)	Black Rock channel and Tonawanda Harbor	939, 000	939, 000
(N)	Buffalo Harbor	1, 835, 000	1, 835, 000
(N)	East River (South Brother Island channel)		1, 200, 000
(N)	East Rockaway Inlet	640, 000	640, 000
(FC)	East Sidney Lake	156, 000	156, 000
(N)	Fire Island Inlet to Jones Inlet	1, 773, 000	1, 773, 000
(N)	Hudson River	1, 338, 000	1, 338, 000
(N)	Jones Inlet	855, 000	855, 000
(FC)	Mt. Morris Lake	922, 000	922, 000
(N)	New York Harbor	1, 391, 000	1, 800, 000
(N)	New York and New Jersey channels	1, 592, 000	1, 592, 000
(N)	New York Harbor (prevention of obstructive deposits)	925, 000	925, 000
(N)	New York Harbor (drift removal)	2, 719, 000	2, 719, 000
(N)	Oswego Harbor	138, 000	138, 000
(N)	Rochester Harbor	565, 000	565, 000
(FC)	Southern New York flood control projects	314, 000	314, 000
(FC)	Whitney Point Lake	154, 000	154, 000
	North Carolina:		
(N)	Atlantic Intracoastal Waterway (Wilmington district)	4, 079, 000	5, 779, 000
(FC)	B. Everett Jordan Dam and Lake	528, 000	528, 000
(N)	Beaufort Harbor	258, 000	258, 000
(N)	Cape Fear River above Wilmington	346, 000	346, 000
(N)	Channel back sound to Lookout Bight	156, 000	156, 000
(N)	Lockwoods Folly River	501, 000	501, 000
(N)	Manteo (Shallowbag) Bay	800, 000	800, 000
(N)	Morehead City Harbor	2, 425, 000	2, 425, 000
(N)	Ocracoke Inlet	719, 000	719, 000
(N)	Silver Lake Harbor	378, 000	378, 000
(FC)	W. Kerr Scott Dam and Reservoir	733, 000	733, 000
(N)	Wilmington Harbor	3, 159, 000	3, 159, 000
	North Dakota:		
(FC)	Baldhill Dam—Lake Ashtabula	1, 810, 000	1, 810, 000
(FC)	Bowman-Haley Lake	303, 000	303, 000

Type of project, operation and maintenance—State and project		Fiscal year 1981	
		Budget estimate	Conference allowance
(MP)	Garrison Dam, Lake Sakajawea	$3,871,000	$3,871,000
(FC)	Homme Lake	191,000	191,000
(FC)	Pipestem Lake	180,000	180,000
	Ohio:		
(FC)	Alum Creek Lake	372,000	372,000
(N)	Ashtabula Harbor	394,000	394,000
(N)	Ashtabula Harbor (diked disposal)	161,000	161,000
(FC)	Berlin Lake	1,386,000	1,386,000
(FC)	Caesar Creek Lake	364,000	364,000
(FC)	Clarence J. Brown Dam	392,000	392,000
(N)	Cleveland Harbor	6,003,000	6,003,000
(N)	Conneaut Harbor	213,000	213,000
(FC)	Deer Creek Lake	424,000	424,000
(FC)	Delaware Lake	316,000	316,000
(FC)	Dillon Lake	333,000	333,000
(FC)	East Fork Lake	352,000	352,000
(N)	Fairport Harbor	955,000	955,000
(N)	Huron Harbor	393,000	393,000
(N)	Lorain Harbor	474,000	474,000
(FC)	Massillon	11,000	11,000
(FC)	Michael J. Kirwan Dam and Reservoir	547,000	547,000
(FC)	Mosquito Creek Lake	523,000	523,000
(FC)	Muskingum River reservoirs (14 reservoirs)	4,284,000	4,284,000
(FC)	Newark	11,000	11,000
(FC)	North branch of Kokosing River Lake	133,000	133,000
(FC)	Paint Creek Lake	450,000	450,000
(FC)	Roseville	11,000	11,000
(N)	Sandusky Harbor	2,342,000	2,342,000
(N)	Sandusky Harbor (diked disposal)	31,000	31,000
(N)	Toledo Harbor	3,025,000	3,025,000
(FC)	Tom Jenkins Dam	184,000	184,000
(FC)	West fork Mill Creek Lake	297,000	297,000
	Oklahoma:		
(FC)	Arkansas-Red chloride control data stations, Oklahoma, Kansas, and Texas	318,000	318,000
(FC)	Birch Lake	483,000	483,000
(MP)	Broken Bow Lake	737,000	737,000
(FC)	Canton Lake	973,000	973,000
(FC)	Clayton Lake	117,000	117,000
(FC)	Copan Lake	512,000	512,000
(MP)	Denison Dam—Lake Texoma, Oklahoma and Texas	2,874,000	2,874,000
(MP)	Eufaula Lake	1,886,000	1,886,000
(MP)	Fort Gibson Lake	1,889,000	1,889,000
(FC)	Fort Supply Lake	972,000	972,000
(FC)	Great Salt Plains Lake	197,000	197,000
(FC)	Heyburn Lake	822,000	822,000
(FC)	Hugo Lake	692,000	692,000
(FC)	Hulah Lake	380,000	380,000
(FC)	Kaw Lake	1,289,000	1,289,000
(MP)	Keystone Lake	1,567,000	1,567,000
(FC)	Oologah Lake	814,000	814,000
(FC)	Optima Lake	302,000	302,000
(FC)	Pensacola Reservoir—Lake of the Cherokees	5,000	5,000
(FC)	Pine Creek Lake	457,000	457,000
(MP)	Robert S. Kerr lock, dam and reservoir	1,847,000	1,847,000
(MP)	Tenkiller Ferry Lake	1,478,000	1,478,000
(FC)	Waurika Lake	761,000	761,000
(MP)	Webbers Falls lock and dam	1,567,000	1,567,000
(FC)	Wister Lake	281,000	281,000
	Oregon:		
(FC)	Applegate Lake	198,000	198,000
(FC)	Blue River Lake	99,000	99,000
(MP)	Bonneville lock and dam	5,492,000	5,492,000
(N)	Chetco River	376,000	376,000
(N)	Columbia and Lower Willamette Rivers below Vancouver, Washington and Portland, Oregon	6,000,000	6,000,000
(N)	Columbia River between Vancouver, Washington and the Dalles	425,000	425,000
(N)	Columbia River at the mouth Oregon and Washington	4,451,000	4,451,000
(N)	Coos and Millicoma Rivers	111,000	111,000
(N)	Coos Bay	4,642,000	4,642,000
(N)	Cooqville River	482,000	482,000
(FC)	Cottage Grove Lake	297,000	297,000
(MP)	Cougar Lake	478,000	478,000
(MP)	Detroit Lake	1,160,000	1,160,000
(FC)	Dorena Lake	151,000	151,000
(FC)	Fall Creek Lake	209,000	209,000
(FC)	Fern Ridge Dam and Lake	307,000	307,000
(MP)	Green Peter—Foster Lake	1,911,000	1,911,000
(MP)	Hill's Creek Lake	315,000	315,000
(MP)	John Day lock and dam	4,959,000	4,959,000
(MP)	Lookout Point Lake	1,641,000	1,641,000
(MP)	Lost Creek Lake	1,906,000	1,906,000
(MP)	Monary lock and dam, Lake Wallula, Oregon and Washington	5,292,000	5,292,000
(N)	Port Orford	62,000	62,000
(N)	Rogue River Harbor at Gold Beach	936,000	936,000
(N)	Siuslaw River	885,000	885,000
(N)	Skipanon Channel	77,000	77,000
(N)	Tillamook Bay and bar	189,000	189,000
(N)	Umpqua River	1,050,000	1,050,000
(N)	Willamette River above Portland and Yamhill River	80,000	80,000
(FC)	Willamette River bank protection	113,000	113,000
(N)	Willamette River and Willamette Falls	411,000	411,000
(N)	Yaquina Bay and Harbor	590,000	590,000
	Pennsylvania:		
(N)	Allegheny River	2,735,000	2,735,000
(FC)	Alvin R. Bush Dam	140,000	140,000
(FC)	Aylesworth Creek Lake	94,000	94,000
(FC)	Beltzville Lake	253,000	253,000
(FC)	Blue Marsh Lake	389,000	389,000
(FC)	Conemaugh River Lake	576,000	576,000
(FC)	Cowanesque Lake	577,000	577,000
(FC)	Crooked Creek Lake	$458,000	$458,000
(FC)	Curwensville Lake	187,000	187,000
(FC)	East branch Clarion River Lake	498,000	498,000
(N)	Erie Harbor	310,000	310,000
(FC)	Foster Joseph Sayers Dam and Reservoir	306,000	306,000
(FC)	Francis E. Walter Dam	226,000	226,000
(FC)	General Edgar Jadwin Dam and Reservoir	115,000	115,000
(FC)	Johnstown	20,000	20,000
(MP)	Kinzua Dam and Allegheny Reservoir	863,000	863,000
(FC)	Loyalhanna Lake	630,000	630,000
(FC)	Mahoning Creek Lake	411,000	411,000
(N)	Monongahela River	5,130,000	5,130,000
(FC)	Prompton Lake	182,000	182,000
(FC)	Punxsutawney	5,000	5,000
(FC)	Raystown Lake	1,169,000	1,169,000
(N)	Schuylkill River	631,000	631,000
(FC)	Shenango River Lake	1,334,000	1,334,000
(FC)	Stillwater Lake	121,000	121,000
(FC)	Tioga-Hammond Lakes	818,000	818,000
(FC)	Tionesta Lake	735,000	735,000
(FC)	Union City Lake	229,000	229,000
(FC)	Woodcock Creek Lake	491,000	491,000
(FC)	York, Indian Rock Dam	204,000	204,000
(FC)	Youghiogheny River Lake	986,000	986,000
	Puerto Rico:		
(N)	Arecibo Harbor	289,000	289,000
(N)	Mayaguez Harbor	289,000	289,000
(N)	Ponce Harbor	289,000	289,000
	South Carolina:		
(N)	Atlantic Intracoastal Waterway (Charleston district)	2,481,000	2,481,000
(N)	Charleston Harbor	4,226,000	4,226,000
(N)	Folly River	181,000	181,000
(N)	Georgetown Harbor	2,982,000	2,982,000
(N)	Port Royal Harbor	310,000	310,000
(N)	Shipyard River	382,000	382,000
(N)	Town Creek	238,000	238,000
(N)	Village Creek	121,000	121,000
	South Dakota:		
(MP)	Big Bend Dam—Lake Sharpe	3,462,000	3,462,000
(FC)	Cold Brook Lake	100,000	100,000
(FC)	Cottonwood Springs Lake	86,000	86,000
(MP)	Ft. Randall Dam, Lake Francis Case	4,884,000	4,884,000
(MP)	Oahe Dam, Lake Oahe, S. Dak. and N. Dak	4,714,000	4,714,000
	Tennessee:		
(MP)	Center Hill Lake	2,009,000	2,009,000
(MP)	Cheatham lock and dam	2,197,000	2,197,000
(MP)	Cordell Hull Dam and Reservoir	2,128,000	2,128,000
(MP)	Dale Hollow Lake	2,112,000	2,112,000
(MP)	J. Percy Priest Dam and Reservoir	1,686,000	1,686,000
(MP)	Old Hickory lock and dam	3,170,000	3,170,000
(N)	Tennessee River	5,015,000	5,015,000
(N)	Wolf River	461,000	461,000
	Texas:		
(FC)	Bardwell Lake	525,000	525,000
(FC)	Belton Lake	632,000	632,000
(FC)	Benbrook Lake	672,000	672,000
(N)	Brazos Island Harbor	2,447,000	2,447,000
(FC)	Buffalo Bayou and tributaries	610,000	610,000
(FC)	Canyon Lake	742,000	742,000
(N)	Cedar Bayou	463,000	463,000
(N)	Channel to Port Bolivar	71,000	71,000
(N)	Corpus Christi ship channel	5,742,000	6,742,000
(FC)	Estelline Spring experimental project	36,000	36,000
(FC)	Ferrells Bridge Dam—Lake O' the Pines	1,194,000	1,194,000
(N)	Freeport Harbor	1,304,000	1,304,000
(N)	Galveston Harbor and channel	2,363,000	5,000,000
(FC)	Granger Lake	472,000	472,000
(FC)	Grapevine Lake	763,000	763,000
(N)	Gulf Intracoastal Waterway	12,168,000	12,168,000
(FC)	Hords Creek Lake	330,000	330,000
(N)	Houston ship channel	1,316,000	2,066,000
(FC)	Lake Kemp	144,000	144,000
(FC)	Lavon Lake modification and east fork channel improvement	777,000	777,000
(FC)	Lewisville Dam	1,641,000	1,641,000
(N)	Matagorda ship channel	3,168,000	3,168,000
(FC)	Navarro Mills Lake	616,000	616,000
(FC)	North Fork Lake	536,000	536,000
(FC)	O. C. Fisher Dam and Lake	419,000	419,000
(FC)	Pat Mayse Lake	504,000	504,000
(FC)	Proctor Lake	557,000	557,000
(N)	Sabine-Neches Waterway	5,986,000	6,993,000
(MP)	Sam Rayburn Dam and Reservoir	2,242,000	2,242,000
(FC)	Somerville Lake	775,000	775,000
(FC)	Stillhouse Hollow Lake	796,000	796,000
(N)	Texas City Channel	1,336,000	1,336,000
(MP)	Town Bluff-B. A. Steinhagen Lake	402,000	402,000
(N)	Trinity River and tributaries	965,000	965,000
(FC)	Waco Lake	760,000	760,000
(MP)	Whitney Lake	1,876,000	1,876,000
(FC)	Wright Patman Dam and Lake	1,229,000	1,229,000
	Vermont:		
(FC)	Ball Mountain Lake	202,000	202,000
(N)	Narrows of Lake Champlain	26,000	26,000
(FC)	North Hartland Lake	402,000	402,000
(FC)	North Springfield Lake	403,000	403,000
(FC)	Townshend Lake	304,000	304,000
(FC)	Union Village Dam	347,000	347,000
	Virginia:		
(N)	Atlantic Intracoastal Waterway	1,385,000	1,385,000
(N)	Chincoteague Inlet	382,000	382,000
(FC)	Gathright Dam and Lake Moomaw	984,000	984,000
(N)	Hampton Creek	848,000	848,000

Type of project, operation and maintenance—State and project		Fiscal year 1981	
		Budget estimate	Conference allowance
(N)	Hampton Roads, Norfolk and Newport News Harbor, Va. (drift removal)	$175, 000	$175, 000
(N)	James River	1, 000, 000	1, 000, 000
(MP)	John H. Kerr Dam and Reservoir' Va. and N.C	3, 200, 000	3, 200, 000
(FC)	John W. Flannagan Dam and Reservoir	778, 000	778, 000
(N)	Little Wicomico River	215, 000	215, 000
(N)	Norfolk Harbor	2, 201, 000	2, 201, 000
(N)	Norfolk Harbor (prevention of obstructive deposits)	202, 000	202, 000
(FC)	North Fork of Pound River Lake	446, 000	446, 000
(MP)	Philpott Lake	1, 350, 000	1, 350, 000
(N)	Tangier channel	530, 000	530, 000
(N)	Thimble Shoal channel	1, 170, 000	1, 170, 000
(N)	Waterway on the coast of Virginia	142, 000	142, 000
	Washington:		
(MP)	Chief Joseph Dam	4, 662, 000	4, 662, 000
(N)	Columbia River at Baker Bay	678, 000	678, 000
(N)	Columbia River between Chinook and Sand Island	201, 000	201, 000
(N)	Cowlitz River	52, 000	52, 000
(N)	Ediz Hook	52, 000	52, 000
(N)	Everett Harbor and Snohomish River	507, 000	507, 000
(N)	Grays Harbor and Chehalis River	3, 061, 000	3, 061, 000
(FC)	Howard A. Hanson Reservoir	599, 000	599, 000
(MP)	Ice Harbor Lock and Dam	2, 899, 000	2, 899, 000
(N)	Lake Washington ship canal	2, 588, 000	2, 588, 000
(N)	Lewis River	43, 000	43, 000
(MP)	Little Goose Lock and Dam, Lake Bryan	2, 103, 000	2, 103, 000
(MP)	Lower Granite Lock and Dam	2, 578, 000	2, 578, 000
(MP)	Lower Monumental Lock and Dam	2, 129, 000	2, 129, 000
(FC)	Mill Creek Lake	175, 000	175, 000
(FC)	Mud Mountain Dam	1, 198, 000	1, 198, 000
(N)	Neah Bay	436, 000	436, 000
(N)	Puget Sound and its tributary waters	1, 319, 000	1, 319, 000
(N)	Quillayute River	114, 000	114, 000
(N)	Seattle Harbor	333, 000	333, 000
(N)	Skamokawa Creek	39, 000	39, 000
(FC)	Stillaguamish River	38, 000	38, 000
(N)	Swinomish channel	326, 000	326, 000
(FC)	Tacoma-Puyallup River	26, 000	26, 000
(MP)	The Dallas lock and dam	4, 134, 000	4, 134, 000
(N)	Willapa River and Harbor and Naselle River	52, 000	52, 000
(FC)	Wynoochee Lake	751, 000	751, 000
	West Virginia:		
(FC)	Beech Fork Lake	$402, 000	$402, 000
(FC)	Bluestone Lake	505, 000	505, 000
(FC)	Burnsville Lake	533, 000	533, 000
(FC)	East Lynn Lake	747, 000	747, 000
(FC)	Elkins	5, 000	5, 000
(N)	Kanawha River	3, 053, 000	3, 053, 000
(FC)	R. D. Bailey Lake	440, 000	440, 000
(FC)	Summersville Lake	1, 123, 000	1, 123, 000
(FC)	Sutton Lake	888, 000	888, 000
(N)	Tygart Lake	494, 000	494, 000
	Wisconsin:		
(N)	Algoma Harbor	105, 000	105, 000
(N)	Ashland Harbor	68, 000	68, 000
(N)	Cornucopia Harbor	48, 000	48, 000
(FC)	Eau Galle River Lake	943, 000	943, 000
(N)	Fox River	1, 613, 000	1, 613, 000
(N)	Green Bay Harbor	1, 141, 000	1, 141, 000
(N)	Kewaunee Harbor (diked disposal)	1, 633, 000	1, 633, 000
(N)	Kewaunee Harbor	82, 000	82, 000
(N)	Manitowoc Harbor	379, 000	379, 000
(N)	Milwaukee Harbor	1, 236, 000	1, 236, 000
(N)	Port Washington Harbor	171, 000	171, 000
(N)	Saxon Harbor	51, 000	51, 000
(N)	Sheboygan Harbor	94, 000	94, 000
(N)	Sheboygan Harbor (diked disposal)	3, 266, 000	3, 266, 000
	Miscellaneous:		
	Environmental and water quality operational studies	4, 900, 000	4, 900, 000
	Inspection of completed works	4, 080, 000	4, 080, 000
	Scheduling flood control reservoir operations	1, 488, 000	1, 488, 000
	Monitor completed coastal projects	500, 000	500, 000
	Protection of navigation:		
	Removal of sunken vessels and obstructions	2, 200, 000	2, 200, 000
	Prevention of obstructive and injurious deposits	(1, 360, 000)	(1, 360, 000)
	Protection, clearing, and straightening channels (sec. 3)	200, 000	200, 000
	General regulatory functions	41, 900, 000	41, 900, 000
	Project condition surveys	4, 396, 000	4, 396, 000
	Surveillance of northern boundary waters	1, 265, 000	1, 265, 000
	Reduction for anticipated savings and slippage		−10, 000, 000
	Total, operations and maintenance	878, 379, 000	902, 605, 000

Type of project:
(N) Navigation.
(FC) Flood Control.
(BE) Beach Erosion Control.
(MP) Multiple-Purpose, Including Power.

REVOLVING FUND

Amendment No. 35: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which deletes $34,725,000 for design and construction of hopper dredges and appropriates $43,225,000 for the design and construction of hopper dredges and earmarks $8,500,000 for the purchase of one aircraft.

GENERAL PROVISIONS

Amendment No. 36: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds language relating to the Levisa and Tug Fork of the Big Sandy River and Cumberland River, West Virginia, Kentucky, and Virginia project.

TITLE III—DEPARTMENT OF THE INTERIOR, WATER AND POWER RESOURCES SERVICE, GENERAL INVESTIGATIONS

Amendment No. 37: Appropriates $38,629,000 for general investigations instead of $40,079,000 as proposed by the House and $36,946,000 as proposed by the Senate.

Amendment No. 38: Provides that $38,579,000 is to be derived from the reclamation fund instead of $40,029,000 as proposed by the House and $36,896,000 as proposed by the Senate.

The appropriations are to be allocated as shown on the following table:

GENERAL INVESTIGATIONS

General investigations, State and project	Fiscal year 1981	
	Budget estimate	Conference allowance
ARIZONA		
Boulder Canyon, Hoover Powerplant modification	$50, 000	$50, 000
Colorado River Basin information base program	80, 000	
Lower Colorado River water conservation and efficient use studies	$415, 000	$415, 000
Reclamation and energy resources, LMNRA wilderness designation	140, 000	140, 000
CALIFORNIA		
Central Valley:		
Sacramento River division, Red Bluff Diversion Dam Powerplant	5, 000	5, 000
Sacramento River division, West Sacramento Canal unit reformulation	130, 000	130, 000
Shasta division, Keswick Powerplant enlargement	25, 000	25, 000
Delta support studies	601, 000	1, 074, 000
Fish and wildlife management study	371, 000	371, 000
Energy conservation study	50, 000	
Geothermal resource investigations	60, 000	60, 000
Orland, Stony Gorge-East Park Powerplants	21, 000	21, 000
Palo Verde Hydropower	50, 000	50, 000
Solar energy opportunities study	50, 000	
Truckee River Basin study—Boca Prosser Powerplants	5, 000	5, 000
Water conservation opportunities, Imperial Irrigation District	455, 000	455, 000
Wind-hydro opportunities study	140, 000	140, 000
COLORADO		
Dominguez Reservoir	70, 000	70, 000
Grand Mesa project reformulation	142, 000	142, 000
Low-head hydroelectric evaluation and inventory	470, 000	470, 000
Water resources planning and engineering research	5, 139, 000	5, 139, 000
IDAHO		
Boise project power and modification study	161, 000	161, 000
Owyhee Powerplant	108, 000	108, 000
Upper Snake River water management study	230, 000	230, 000
KANSAS		
Solomon River Basin water management study (P–SMBP)	283, 000	283, 000
MONTANA		
Fort Benton reformulation	$150, 000	$150, 000
Offstream storage, Yellowstone River	100, 000	100, 000
Regional wind energy study	200, 000	200, 000
NEBRASKA		
Farwell unit water conservation study (P–SMBP)	170, 000	170, 000
Little Blue unit reformulation (Blue division, P-SMBP)	255, 000	255, 000
Platte River study	450, 000	450, 000
Republican River Basin water management study (P–SMBP)	270, 000	270, 000
Sparks unit (P–SMBP)	99, 000	
NEW MEXICO		
Llano Estacado Playa Lake resources study (formerly Llano Estacado total water management study)	139, 000	139, 000
Santa Cruz Dam and Reservoir		150, 000
Tularosa Basin water and energy study	250, 000	250, 000
NORTH DAKOTA		
Garrison diversion unit, M & I water facilities (Garrison division, P–SMBP)	75, 000	75, 000
OREGON		
Grande Ronde River Basin	125, 000	125, 000
Hermiston water conservation	150, 000	150, 000
Klamath project, main diversion, A-canal		175, 000
Lower Deschutes River Basin	110, 000	110, 000
Rogue River Basin, Medford division, reformulation	100, 000	100, 000
Rogue River Basin, Grants Pass division	190, 000	190, 000
Upper John Day	130, 000	130, 000
Umatilla Basin	110, 000	110, 000
SOUTH DAKOTA		
Lower Brule Indian Reservation area (P–SMBP, formerly Kaspapi unit)	125, 000	125, 000

General investigations, State and project	Fiscal year 1981 Budget estimate	Fiscal year 1981 Conference allowance
Lower James-Fort Randall water diversion proposal	$250,000	$250,000
Oahe Riverside irrigation study	250,000	------------
Total water management study, Missouri River upstream of Gavins Point (P-SMBP)	136,000	136,000
Web pipeline study	150,000	------------
TEXAS		
Nueces River Basin study	250,000	250,000
Texas Basin, Big Cow Creek	250,000	250,000
Texas Basin, Bon Wier	310,000	310,000
UTAH		
CRSP power peaking capacity	800,000	800,000
WASHINGTON		
Yakima project, CLE Elum and Tieton Powerplants	100,000	100,000
Yakima River Basin water enhancement study	------------	10,000
Yakima Valley water management study	130,000	130,000
WYOMING		
Wind-hydroelectric energy project	5,113,000	5,113,000
VARIOUS		
Colorado River water quality improvement	4,260,000	4,260,000
General engineering and research:		
Advanced scientific and technical applications	200,000	1,000,000
Atmospheric water resources management	7,734,000	8,234,000
Development cloud seeding techniques	(361,000)	(861,000)
General planning studies	350,000	350,000
Special investigations:		
Environmental and interagency coordination activities	2,276,000	2,276,000
Investigations of existing projects	659,000	659,000
Minor work in connection with completed project investigations	$936,000	$936,000
Print reports	35,000	35,000
Technical assistance to States	770,000	770,000
Projects not yet identified	25,000	25,000
Classified pay raise	989,000	989,000
Distributive charges for service facilities, unliquidated obligations, etc	−47,000	−47,000
General reduction due to slippage, savings, and carryover balances	−550,000	−1,175,000
Total, various	17,637,000	18,312,000
Total, general investigations	37,825,000	38,629,000

CONSTRUCTION PROGRAM

Amendment No. 39: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $570,641,000 for the construction program instead of $596,216,000 as proposed by the House and $580,741,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 40: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that no funds shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument.

Amendment No. 41: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds language relating to the Wellton-Mohawk Irrigation and Drainage District, Gila Project, Arizona.

Amendment No. 42: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, with an amendment, which reads as follows:

In lieu of the matter proposed by said amendment, insert the following:

": *Provided further*, That of the amount herein appropriated not to exceed $10,000 shall be available to initiate a rehabilitation and betterment program with the Fremont-Madison Irrigation District to rehabilitate the facilities of the Marysville, Farmer's Own, Yellowstone, Squirrel Creek, and Silky Canal Companies under the act of October 7, 1949 (63 Stat. 724), as amended, to be repaid in full by the lands served and under conditions satisfactory to the Secretary of Interior"

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree with action of the Senate regarding transfer of $10,000 from Teton Basin Project to the Rehabilitation and Betterment Program of the Fremont-Madison Irrigation District. These funds will allow the Service to review the proposed North Fremont Gravity Pressure Irrigation Rehabilitation and Betterment Report, the environmental assessment and to begin negotiation of the necessary repayment contracts. Because of the estimated cost of the proposed work, the North Fremont irrigators are not eligible for Federal assistance under the small reclamation projects loan program. Similarly, because the districts were not constructed as Federal reclamation projects they do not qualify for assistance under the rehabilitation and betterment program. However, as has been done in the past, language has been added to the bill which provides specific eligibility for the irrigation districts to participate in the rehabilitation and betterment program.

The appropriations are to be allocated as shown on the following table:

Construction program, State and project	Fiscal year 1981 budget estimates		Fiscal year 1981 conference allowance	
	Construction	Planning	Construction	Planning
CALIFORNIA				
Central Valley project:				
Sacramento River division	$30,320,000	---------	$30,320,000	---------
San Luis unit	10,335,000	---------	10,335,000	---------
Auburn-Folsom South unit:				
Auburn Dam and Reservoir	771,000	---------	771,000	---------
All other Auburn-Folsom South unit facilities	10,799,000	---------	10,799,000	---------
Subtotal, Auburn-Folsom South unit	11,570,000	---------	11,570,000	---------
Miscellaneous project programs	8,150,000	---------	8,150,000	---------
San Felipe division	18,316,000	---------	27,000,000	---------
Total, Central Valley project	78,691,000	---------	87,375,000	---------
New Melones Dam	---------	---------	2,000,000	---------
COLORADO				
Fryingpan-Arkansas project	39,454,000	---------	39,454,000	---------
San Luis Valley project, Closed Basin division	2,347,000	---------	2,347,000	---------
IDAHO				
Teton Basin project, Lower Teton division	1,000,000	---------	1,000,000	---------
NEVADA				
Southern Nevada water project	23,726,000	---------	23,726,000	---------
NEW MEXICO				
Brantley project	3,300,000	---------	3,300,000	---------
OKLAHOMA				
McGee Creek project	9,785,000	---------	9,785,000	---------
TEXAS				
Nueces River project	15,040,000	---------	15,040,000	---------
WASHINGTON				
Chief Joseph Dam project, Oroville-Tonasket unit	$5,500,000	---------	$5,500,000	---------
Columbia Basin project:				
Irrigation facilities	20,850,000	---------	16,430,000	---------
3d powerplant	11,207,000	---------	11,207,000	---------
Subtotal, Columbia Basin project	32,057,000	---------	27,637,000	---------
VARIOUS				
Drainage and minor construction:				
Boise project, Payette division, Idaho	556,000	---------	556,000	---------
Chief Joseph Dam project, Manson unit, Washington	100,000	---------	100,000	---------
Chief Joseph Dam project, Whitestone Coulee unit, Washington	100,000	---------	100,000	---------
Gila project, Wellton-Mohawk irrigation and drainage district	---------	---------	1,500,000	---------
Klamath project, Oregon-California	1,006,000	---------	1,006,000	---------
Leadville Drainage Tunnel project, Colorado	20,000	---------	20,000	---------
Little Wood River project, Idaho	150,000	---------	150,000	---------
Mann Creek project, Idaho	180,000	---------	180,000	---------
Miscellaneous engineering services, Colorado	10,000	---------	10,000	---------
Mountain Park project, Oklahoma	100,000	---------	100,000	---------
Palmetto Bend, Tex	1,405,000	---------	1,405,000	---------
Recreation facilities at existing reservoirs, various States	139,000	---------	139,000	---------
San Angelo project, Texas	500,000	---------	500,000	---------
Tualatin project, Oregon	500,000	---------	500,000	---------
Washita Basin project, Oklahoma	700,000	---------	700,000	---------
Washoe project, Nevada-California	1,733,000	---------	1,733,000	---------
Total, drainage and minor construction	7,199,000	---------	8,699,000	---------

Construction program, State and project	Fiscal year 1981 budget estimates		Fiscal year 1981 conference allowance	
	Construction	Planning	Construction	Planning
Safety of dams:				
Boise project, Black Canyon Dam, Idaho	$250,000		$250,000	
Hyrum project, Hyrum Dam, Utah	5,000,000		5,000,000	
Milk River project, Lake Sherburne Dam, Mont	700,000		700,000	
Minidoka project, Island Park Dam, Idaho	2,500,000		2,500,000	
Minidoka project, Jackson Lake, Wyo	500,000		500,000	
Newlands project, Lahontan Dam, Nev	2,720,000		2,720,000	
Orland project, East Park Dam, Calif	500,000		500,000	
Orland project, Stony Gorge Dam, Calif	1,049,000		1,049,000	
Rapid Valley project, Deerfield Dam, S. Dak	600,000		600,000	
Safety of dams studies, various States	1,000,000		1,000,000	
Salt River project, Stewart Mountain Dam, Ariz	1,000,000		1,000,000	
Sun River project, Gibson Dam, Mont	430,000		430,000	
Sun River project, Willow Creek Dam, Mont	2,650,000		2,650,000	
W.C. Austin project, Altus Dam, Okla	500,000		500,000	
Total, safety of dams	19,399,000		19,399,000	
Rehabilitation and betterment:				
Carlsbad project, New Mexico	350,000		350,000	
Central Valley project, Georgetown Divide public utility district, California	1,655,000			
Huntley project, Montana	800,000		800,000	
Lower Yellowstone project, Montana	1,000,000		1,000,000	
P-SMBP, Frenchman-Cambridge division, Nebraska	700,000		700,000	
Roosevelt Water Conservation district, Arizona	700,000		700,000	
Shoshone project, Garland division, Wyoming	650,000		650,000	
Shoshone project, Willwood division, Wyoming	275,000		275,000	
Shoshone project, Frannie division, Wyoming	200,000		200,000	
Sun River, Greenfields division, Wyoming	1,000,000		1,000,000	
Yakima project, Grandview Irrigation District, Washington	100,000		100,000	
Total, rehabilitation and betterment of existing projects	7,430,000		5,775,000	
PICK-SLOAN MISSOURI BASIN PROJECT				
MONTANA				
Lower Marias unit, Tiber Dam modifications	3,400,000		3,400,000	
NEBRASKA				
North Loup division	17,491,000		17,491,000	
O'Neill unit	2,100,000		2,100,000	
SOUTH DAKOTA				
Oahe unit	100,000		100,000	
WYOMING				
Riverton unit	4,400,000		4,400,000	
VARIOUS				
Drainage and minor construction:				
Canyon Ferry unit, conservation and wildlife enhancement, Montana	300,000		300,000	
Dickinson unit, North Dakota	1,311,000		1,311,000	
East Bench unit, Montana	50,000		50,000	
Farwell, unit, Nebraska	575,000		575,000	
Frenchman Cambridge division, Nebraska	110,000		110,000	
Helena Valley unit, Montana	100,000		100,000	
Owl Creek unit, Wyoming	$70,000		$70,000	
Total, drainage and minor construction	2,516,000		2,516,000	
Total, Pick-Sloan Missouri Basin program	30,007,000		30,007,000	
Total, construction and rehabilitation	274,935,000		281,044,000	
UPPER COLORADO RIVER STORAGE PROJECT PARTICIPATING PROJECTS				
COLORADO				
Dallas Creek project	8,800,000		8,800,000	
Dolores project	31,719,000		31,719,000	
an Miguel project		$100,000		$100,000
est Divide project		100,000		100,000
UTAH				
Central Utah project, Bonneville unit	74,092,000		74,092,000	
Central Utah project, Jensen unit	5,808,000		5,808,000	
Central Utah project, Uintah unit		500,000		500,000
Central Utah project, Upalco unit	1,358,000		1,358,000	
VARIOUS				
Drainage and minor construction:				
Upper Colorado River storage project:				
Modifications and additions to completed facilities	3,076,000		3,076,000	
Participating projects: San Juan-Chama project, Colorado-New Mexico	133,000		133,000	
Subtotal, Upper Colorado River storage project	125,686,000		125,686,000	
Recreational and fish and wildlife facilities:				
Recreational facilities	11,530,000		11,530,000	
Fish and wildlife facilities	10,739,000		10,739,000	
Subtotal recreational and fish and wildlife facilities	22,269,000		22,269,000	
Total, Upper Colorado River storage project	147,955,000		147,955,000	
COLORADO RIVER BASIN SALINITY CONTROL PROJECTS (TITLE II)				
COLORADO				
Grand Valley systems improvement and management unit	6,289,000		6,289,000	
Paradox Valley unit	3,027,000		3,027,000	
VARIOUS (TITLE I)				
Measures below Imperial Dam	48,112,000		38,112,000	
Total, Colorado River Basin salinity control	57,428,000		47,428,000	
COLORADO RIVER BASIN PROJECT				
CENTRAL ARIZONA PROJECT				
ARIZONA				
Central Arizona, water development	144,080,000		144,080,000	
Total, Colorado River Basin project	144,080,000		144,080,000	
Undistributed reduction based on anticipated delays	−33,866,000		−49,866,000	
Total, construction program	590,532,000		570,641,000	

OPERATION AND MAINTENANCE

Amendment No. 43: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, with an amendment appropriating $101,117,000 for operation and maintenance instead of $114,117,000 as proposed by the House and $111,117,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Due to the anticipated unobligated balances available on September 30, 1980, the conferees have agreed to a total reduction of $13,000,000 below the House approved amounts for operation and maintenance.

LOAN PROGRAM

Amendment No. 44: Appropriates $22,924,000 for the loan program as proposed by the Senate instead of $26,128,000 as proposed by the House.

The appropriations are to be allocated as shown on the following table:

LOAN PROGRAM

Loan program, State and project	Fiscal year 1981	
	Budget estimate	Conference allowance
ARIZONA		
Gila River Farms	$2, 614, 000	$2, 614, 000
CALIFORNIA		
Alpaugh Irrigation District	691, 000	691, 000
Eastern Municipal Water District	3, 000, 000	3, 000, 000
Glenn-Colusa Irrigation District	2, 735, 000	2, 735, 000
Rainbow Municipal Water District	4, 310, 000	4, 310, 000
Rainbow Municipal Water District, Annex 3	1, 000, 000	1, 000, 000
San Benito County Water District		200, 000
COLORADO		
Overland Ditch and Reservoir Co	266, 000	266, 000
IDAHO		
Lewiston Orchards Irrigation District	1, 685, 000	
MONTANA		
Cooney Dam		481, 000
NEBRASKA		
Central Nebraska Public Power and Irrigation District	2, 200, 000	2, 200, 000
TEXAS		
Hidalgo County Water Control and Improvement District No. 1	1, 000, 000	1, 000, 000
Hidalgo County Water Control and Improvement District No. 2	2, 000, 000	2, 000, 000
Hidalgo and Willacy Counties Water Control and Improvement District No. 1 (Willacy supplemental)	2, 500, 000	2, 500, 000
Hidalgo County Water Improvement District No. 5	439, 000	439, 000
WYOMING		
Garland Canal power project		1, 000, 000
VARIOUS		
Construction cost increases	3, 000, 000	
Administration of loan program	633, 000	633, 000
Subtotal	3, 633, 000	633, 000
Undistributed reduction based on anticipated delays	−1, 945, 000	−2, 145, 000
Total, loan program	26, 128, 000	22, 924, 000

TITLE IV—INDEPENDENT AGENCIES

FUNDS APPROPRIATED TO THE PRESIDENT

APPALACHIAN REGIONAL DEVELOPMENT PROGRAMS

Amendment No. 47: Appropriates $447,520,000 for the Nuclear Regulatory Commission, programs as proposed by the House instead of $329,300,000 as proposed by the Senate.

Amendment No. 46: Earmarks $214,600,000 for the Appalachian development highway system as proposed by the House instead of $209,600,000 as proposed by the Senate.

NUCLEAR REGULATORY COMMISSION

Salaries and Expenses

Amendment No. 46: Appropriate $447,520,000 for the Nuclear Regulatory Commission, Salaries and Expenses, instead of $437,220,000 as proposed by the House and $452,520,000 as proposed by the Senate. The conference allowance is shown in the following tables:

	Fiscal year 1981	
	Budget estimate	Conference allowance
Nuclear reactor regulation	$69, 385, 000	$77, 400, 000
Personnel	(722)	(722)
Standards development	16, 390, 000	16, 100, 000
Personnel	(161)	(161)
Inspection and enforcement	53, 889, 000	52, 000, 000
Personnel	(947)	(947)
Nuclear materials safety and safeguards	43, 680, 000	38, 000, 000
Personnel	(335)	(331)
Research	228, 228, 000	215, 300, 000
Personnel	(178)	(164)
Program technical support	$18, 861, 000	$18, 520, 000
Personnel	(294)	(275)
Program direction and administration	38, 057, 000	36, 700, 000
Personnel	(753)	(744)
Total	468, 490, 000	454, 020, 000
Amended budget-reduction in personnel costs	−2, 255, 000	
Reduction in administrative support expenses		−1, 500, 000
Unobligated balances		−5, 000, 000
Total	466, 235, 000	447, 520, 000
Personnel	(3, 390)	(3, 344)

The conferees agree that within the funding provided, up to $180,000 and six additional positions shall be included in the Division of Safeguards for the regulatory improvement of material control and accounting safeguards, and the development of improved regulatory requirements for safeguarding the transportation of spent fuel.

The conference allowance includes $10,000,000 over the budget request for continued fast breeder reactor research and an additional $3,300,000 for advanced converter research related to fuel integrity and core physics.

Amendment No. 48: Deletes Senate amendment which proposed language which would have provided $180,000 and six positions in the Division of Safeguards.

NUCLEAR SAFETY OVERSIGHT COMMITTEE

Amendment No. 49: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $1,500,000 for the Nuclear Safety Oversight Committee.

TENNESSEE VALLEY AUTHORITY, PAYMENT TO TENNESSEE VALLEY AUTHORITY FUND

Amendment No. 50: Appropriates $269,563,000 for payment to the Tennessee Valley Authority Fund as proposed by the Senate instead of $290,563,000 as proposed by the House.

COLUMBIA DAM AND RESERVOIR

Amendment No. 51: Appropriates $18,000,000 for the Columbia Dam and Reservoir as proposed by the Senate instead of $17,000,000 as proposed by the House.

WATER RESOURCES COUNCIL

Water resources planning

Amendment No. 52: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

"WATER RESOURCES COUNCIL

Water Resources Planning

"For the Water Resources Council for expenses necessary in carrying out the provisions of the Water Resources Planning Act of 1965 (42 U.S.C. 1962–1962d–3), as amended, including services as authorized by 5 U.S.C. 3109 and 42 U.S.C. 1962a–4(5), and hire of passenger motor vehicles (42 U.S.C. 1962a–4(6)), $24,777,000 to remain available until expended, including $4,748,000 for expenses in administering the Act (42 U.S.C. 1962d(b)), $4,186,000 for preparation of assessments and plans (42 U.S.C. 1962d(c)), $3,443,000 for expenses of river basin commissions under title II of the Act (42 U.S.C. 1962d(a)), $10,000,000 for grants to States under title III of the Act (42 U.S.C. 1962c (a)), and $2,400,000 for Upper Mississippi Comprehensive Management Plan (42 U.S.C. 1962b–3)."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees direct that no funds be expended for the Independent Project Review function until enactment of authorizing legislation.

The conferees agree with the Senate comments concerning the necessity for completion of all elements of the Upper Mississippi Comprehensive Master Management Plan within the time limits specified in Public Law 95-502. The Commission, under the direction of the Chairman, is directed to take the necessary steps, including revising and rescoping the current plan of study, work agreements, etc., to insure the completion of the entire plan by January 1, 1982.

TITLE V—GENERAL PROVISIONS

Amendment No. 53: Reported in technical disagreement. Deletes language proposed by the House that would have required two percent of the appropriations to be withheld from obligation and expenditure and deletes language proposed by the Senate which would have required that no appropriations made available in this Act be obligated in a manner that would cause obligations from the total budget authority available to any department or establishment to exceed 30 per centum for the last quarter of such fiscal year or 15 per centum for any month in the last quarter of such fiscal year and inserts a new Section 504 which appropriates $60,663 to the widow of Harold Runnels, late a Representative from the State of New Mexico, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

"SEC. 504. There is appropriated, out of any money in the Treasury not otherwise appropriated, for payment to Dorothy Runnels, widow of Harold Runnels, late a Representative from the State of New Mexico, $60,663."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 54: Deletes Senate language relating to unresolved audits pending within agencies and departments.

Amendment No. 55: Deletes Senate language relating to the collection of overdue debts owed to the United States.

Amendment No. 56: Deletes Senate language relating to the procurement of consultant services.

Amendment No. 57: Deletes Senate amendment.

Amendment No. 58: Deletes Senate language limiting the salary or pay rate of individuals in the legislative, executive and judicial branches, and in the government of the District of Columbia.

The House has passed H.J. Res. 610 making continuing appropriations for fiscal year 1981 which includes the limitation on salaries of Federal employees. That Resolution applies government-wide and is the vehicle in which such a restriction should be addressed.

Conference Total—With Comparisons

The total new budget (obligational) authority for the fiscal year 1981 recommended by the Committee of Conference, with comparisons to the fiscal year 1980 amount, the 1981 budget estimates, and the House and Senate bills for 1981 follow:

New budget (obligational) authority, fiscal year 1980	$11, 680, 674, 000
Budget estimates of new (obligational) authority, fiscal year 1981	[1] 11, 988, 111, 000
House bill, fiscal year 1981	11, 955, 113, 000
Senate bill, fiscal year 1981	12, 064, 270, 163
Conference agreement	12, 080, 831, 663

[1] Includes $136,252,000 of budget estimates not considered by the House.

Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1980	+400, 157, 663
Budget estimates of new (obligational) authority, fiscal year 1981	+92, 720, 663
House bill, fiscal year 1981	+125, 718, 663
Senate bill, fiscal year 1981	+16, 561, 500

TOM BEVILL,
EDWARD P. BOLAND,
LINDY (MRS. HALE) BOGGS,
BILL CHAPPELL,
VIC FAZIO,
JAMIE L. WHITTEN,
JOHN T. MYERS
(except Dickey-Lincoln, Maine project in amendment No. 23),
CLAIR W. BURGENER,
VIRGINIA SMITH
(except Dickey-Lincoln, Maine project in amendment No. 23),
SILVIO O. CONTE
(except Dickey-Lincoln, Maine project in amendment No. 23),
Managers on the Part of the House.

J. BENNETT JOHNSTON,
JOHN C. STENNIS,
WARREN G. MAGNUSON,
ROBERT C. BYRD,
ERNEST F. HOLLINGS,
WALTER D. HUDDLESTON,
QUENTIN L. BURDICK,
JIM SASSER,
DENNIS DECONCINI,
MARK O. HATFIELD,
MILTON R. YOUNG,
RICHARD S. SCHWEIKER,
HENRY BELLMON,
JAMES A. MCCLURE,
JAKE GARN,
HARRISON SCHMITT,
Managers on the Part of the Senate.

APPOINTMENT OF CONFEREES ON H.R. 7831, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1981

Mr. BENJAMIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7831) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1981, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana? The Chair hears none and, without objection, appoints the following conferees: Messrs. DUNCAN of Oregon, BENJAMIN, LEHMAN, SABO, STEWART, FAZIO, YATES, WHITTEN, CONTE, EDWARDS of Alabama, MILLER of Ohio, and COUGHLIN.

There was no objection.

EXECUTIVE SUMMARY OF SECOND BIENNIAL REPORT ON NATIONAL URBAN POLICY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Banking, Finance, and Urban Affairs:

(For message, see proceedings of the Senate of today, September 22, 1980.)

ANNUAL REPORT OF DRUG POLICY OFFICE OF DOMESTIC POLICY STAFF—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interstate and Foreign Commerce.

(For message, see proceedings of the Senate of today, September 22, 1980.)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, September 23.

EXTENDING AUTHORIZATION FOR WATER RESOURCES RESEARCH

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5340) to extend certain authorities of the Secretary of the Interior with respect to water resources research and development and saline water conversion research and development programs, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5340

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Section 401 of the Water Research and Development Act of 1978 (Public Law 95-467; 92 Stat. 1305), is amended as follows:

(1) In paragraph (a)(1), delete all after "institute, on a cost-sharing basis, for" and insert in lieu thereof "each of the fiscal years 1981 and 1982.".

(2) In paragraph (a)(2), delete all after "this Act" and insert in lieu thereof "the sum of $1,000,000 for each of the fiscal years 1981 and 1982, all to remain available until expended.".

(3) In paragraph (b), delete "for the fiscal year ending September 30, 1979, the sum of $6,000,000, and for the fiscal year ending September 30, 1980, the sum of $8,500,000," and insert in lieu thereof "the sum of $8,500,000 for each of the fiscal years 1981 and 1982,".

(4) In paragraph (c), delete "for the fiscal year ending September 30, 1979, the sum of $5,200,000, and for the fiscal year ending September 30, 1980, the sum of $8,000,000" and insert in lieu thereof "the sum of $8,000,000 for each of the fiscal years 1981 and 1982,".

(5) In paragraph (d), delete "for the fiscal year ending September 30, 1980," and insert in lieu thereof "fiscal years 1981 and 1982,".

(b) In section 402 of the Water Research and Development Act of 1978, delete "the fiscal year ending September 30, 1979, the sum of $12,000,000, and for the fiscal year ending September 30, 1980, the sum of $14,000,000," and insert in lieu thereof "each of the fiscal years 1981 and 1982, the sum of $14,000,000,".

(c) In section 403 of the Walter Research and Revelopment Act of 1978, delete "$4,464,000 for the fiscal year ending September 30, 1979, and the sum of $5,100,000 and for the fiscal year ending September 30, 1980," and insert in lieu thereof "$6,000,000 for each of the fiscal years 1981 and 1982,".

(d) In section 411 of the Water Research and Development Act of 1978, delete "rules, regulations, guidelines, interpretations, orders, or requirements of general applicability prescribed" and insert in lieu thereof "rules and regulations promulgated".

SEC. 2. (a) Section 2(a) of the Act of August 2, 1977 (Public Law 95-84; 91 Stat. 400) is deleted and replaced with a new section 2(a) to read as follows:

"SEC. 2. (a) The Secretary of the Interior is authorized and directed to demonstrate the engineering and economic viability of membrane and phase-change desalting processes. Such demonstrations shall include the study, design, construction, operation, and maintenance of desalting plants at locations in the United States (which may include the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Virgin Islands, the Mariana Islands, and the Trust Territory of the Pacific Islands): *Provided*, That at least two such plants shall demonstrate desalting of brackish ground water: *And provided further*, That the plants constructed pursuant to this section shall be for the purpose of showing that the technology being demonstrated is ready for application; such plants shall be no larger than necessary to demonstrate the specific application of the technology, and shall be significantly different in operation and process so as not to duplicate any other demonstration plant constructed pursuant to this section. The Secretary is further authorized to conduct such demonstrations or any portion thereof by means of cooperative agreements (as defined and authorized by 41 U.S.C. 504, et seq., the Federal Grant and Cooperative Agreement Act of 1977; Public Law 95-244) with duly authorized non-Federal publice entities. Title to demonstration facilities constructed by the non-Federal public entity under a cooperative agreement shall vest in the non-Federal public entity.".

(b) Section 2(b) of said Act is hereby amended by inserting after "but is not limited to," the phrase, "how the plant being proposed differs from others already constructed under this section," and further, by deleting all after "ancillary facilities." and inserting the following: "Such report shall be accompanied by a proposed contract (or cooperative agreement) between the Secretary and a duly authorized non-Federal entity, in which such entity shall agree to provide not less than 15 per centum and not more than 35 per centum of the total cost of the demonstration; such cost to include, without being limited to necessary water rights, water supplies, rights-of-way, power source interconnections, brine disposal facilities, land, construction, ancillary facilities, and the operation and maintenance costs for a period of four years following final acceptance of the construction of the plant from the plant contractor. The contributions of the non-Federal entity under such proposed contract may be inkind. During the participation by the Secretary in the construction and the operation and maintenance of such demonstration, access to the demonstration and its operating data will not be denied to the Secretary or his representatives. The Secretary shall participate in the operation and maintenance of any such demonstration for a period of four years in accordance with the operation and maintenance cost sharing provisions of this section. The Secretary is authorized to include in the proposed contract a provision for conveying as appropriate, and in such amounts as are appropriate, rights, title, and interest of the Federal Government in the demonstration project to the non-Federal public entity.".

(c) Section 2(c) of said Act, is revised to read as follows: "There is authorized to be appropriated, to remain available until expended, for the fiscal year ending September 30, 1978, and thereafter, the sum of $50,000,000 to finance the total Federal share of the cost of the demonstration plans authorized by this section; such cost to include, without being limited to, necessary water rights, water supplies, rights-of-way, power source interconnections, brine disposal facilities, land, construction, ancillary facilities, and the operation and maintenance costs for the four-year period of Federal participation in such costs." Section 205(c) of the Act of October 17, 1978 (Public Law 95-467) is hereby repealed.

SEC. 3. Authority to enter into contracts or cooperative agreements under this Act shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

☐ 1220

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 5340 is to authorize appropriations for fiscal years 1981 and 1982 for the Office of Water Research and Technology in the Department of the Interior.

The Office of Water Research and Technology was created in 1974 to combine the functions of the Office of Saline Water and the Office of Water Resources Research. The Office of Saline Water was responsible for carrying out a program begun in 1952 to attain processes and techniques for economical production of usable water supplies from saline, brackish, and other impaired water supplies. The Office of Water Resources Research was created in 1965 to carry out a series of programs designed to stimulate research and development in all aspects of water resources management and utilization under the provisions of the Water Resources Research Act of 1964.

The 95th Congress enacted Public Law 95-84 which authorized to be appropriated the sum of $40 million for the construction, in cooperation with local entities, of four desalting plants demonstrating the engineering and economic viability of membrane and phase-change desalting processes. Additional sums "as necessary" were authorized for operation and maintenance. Public Law 95-84 requires the local entity involved in each plant to provide the necessary water rights, water supplies, rights-of-way, power source interconnections and, when appropriate, brine disposal facilities for each plant, although the local entities are not required to contribute funds to help finance the cost of constructing the plants. The law was subsequently amended by Public Law 95-467 to allow the construction of one additional plant at a cost of $10 million.

Also, Public Law 95-467 was enacted which updated, extended, modernized, and clarified the organic charter for the two programs by repealing the various organic acts for the programs and reenacting them in one multititled law. Title I of the law covers the programs previously carried out under the authority of the Water Resources Research Act of 1964 and provides for a State water research and development institutes program, a matching grant program, a water research and development grant program, and a water system demonstration program. Title II of Public Law 95-467 reenacts the saline water research and development program begun in 1952 and, in summary, authorizes the Secretary of the Interior to engage in saline water conversion research and development. Title III of the law provides for a technology transfer and information dissemination program while title IV sets out the general authorities of the Secretary of the Interior and authorizes appropriations for the programs outlined above.

Mr. Speaker, enactment of H.R. 5340 is required to keep those important programs operational for the future since the appropriations authorizations contained in Public Law 95-467 were limited to fiscal years 1979 and 1980. In addition, although authorization of appropriations for the saline water demonstration program of Public Law 95-84 is not required, experience has demonstrated that certain changes in the law are necessary and desirable.

H.R. 5340 does not, Mr. Speaker, increase the authorization levels for the programs contained in Public Law 95-467. On the contrary, the bill would decrease those levels somewhat from the level of authorization for fiscal year 1980.

As amended by the Committee on Interior and Insular Affairs, H.R. 5340 removes the limitation of five saline water demonstration plants which can be constructed under existing authority. It also modifies the cost-sharing requirement in connection with such plants. Existing law does not require the local entities to provide any funding for the construction and operation and maintenance costs of the plants, but does require them to provide certain facilities and services for the plants. As amended, H.R. 5340 would require these entities to provide in cash or kind between 15 and 35 percent of the total cost of the plants, including operation and maintenance costs.

The committee amendment deletes a provision in H.R. 5340, as introduced, which prohibits local entities from utilizing the water produced from the desalting demonstration plants to substitute for or supplant conventional water supplies. This deletion will provide an inducement for local entities to participate in the demonstration plant program and reaffirms a principal purpose of the law to provide new sources of water for communities at a reasonable cost and prove to other communities that the desalinization of brackish and saline water is a viable alternative to conventional water supply projects.

Mr. Speaker, an effective water research program will enable the United States to use its existing water supplies more efficiently and to develop methods for utilizing new sources of water. Many experts agree that the next major natural resource crisis to confront us will involve water, its quantity and quality. The continuation of an effective water resources research program is vital in preparation for this crisis.

I urge the approval of H.R. 3540, as amended.

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the bill as amended by our committee and concur in the remarks of the gentleman from California (Mr. MILLER). I will only add a few observations on where we are in the desalting program today, and where we are going.

As most of the Members know, the Congress has had to hold the administration's feet to the fire for 4 years to keep this vital program alive. We have come a long way since we first authorized Federal research into the desalting of seawater and underground brackish water, and we are now very close to our objective of bringing the costs down to the reach of American communities. This is no time to stop the program.

When the program first began, back in the fifties, reverse osmosis had never been heard of, and reversible polarity ion exchange was simply a theory. Today, thanks to this program—and thanks to the far-sighted Members of this body who have kept the program alive year after year—today both of these technologies have been perfected and the hardware for both processes is being sold around the world.

And that is the problem: We have brought the processes to the point where the hardware is economically attractive to desert countries, where water is a bargain at $3 or $4 per 1,000 gallons, but we still do not have the cost down to where it is attractive to most American communities who need it. Yet, both this administration and the previous administration have looked at the fact that overseas markets have been developed and have wanted to stop further Federal R. & D. The Congress has consistently directed the Interior Department to keep the Office of Research and Technology alive and functioning until ways are found to bring the cost into line for domestic markets. And we are very close to doing that.

In the meantime, there are some communities in the United States where the need for new water supplies is so great that the present state of the art is adaptable to meet that need at prices they are willing to pay. But no community wanted to be the first to install a desalting plant. We recognized that if the Federal Government could help demonstrate to a few communities that the systems work and can be used here at home as well as overseas, we could help develop a larger domestic demand and thus bring the costs of the component parts down through mass production.

That is why we authorized a demonstration program in the 95th Congress, offering attractive Federal cost sharing to the first four communities that agreed to sponsor a local plant to either desalt seawater or underground brackish water. We received an excellent response, as more than 20 communities have now applied for such demonstration plants. Two plants are now ready to go to final design and construction. Their success will encourage more water-short communities to take a positive look at this method of increasing their water supplies from brand new sources.

But the use of desalting hardware to make seawater and brackish water drinkable is only a part of the OWRT program. They have also been pursuing a second line of research to develop plant strains that can grow and thrive on seawater or brackish water without the need to change the salt content of the water. This line of research has led to some revolutionary developments. An OWRT-funded program at Colorado State University, for example, has developed a method of cloning plants so that salt-resistant strains can be reproduced in a matter of months instead of years. They already have developed strains of tobacco that can be grown in water with twice the salt content of seawater. With funding assistance from OWRT, other State universities are picking up that technology and applying it to other food and fiber plants.

It is impossible to overstress the importance of these two programs to the United States. We are right now in the midst of a national shortage of drinkable fresh water supplies—not just in the arid and semiarid States of the West, but in the urban centers of the East as well. As a matter of fact, one of the two demonstration plants that is ready to go to contract will be located in Virginia Beach, Va., where the water shortage has reached critical proportions.

By continuing to attack the water problem on two fronts—desalting the water itself and developing salt-resistant food and fiber plants that can thrive on heavy brine levels without the need to desalt the water—we will be adding to the Nation's water supply rather than fighting among ourselves for allocations of water presently available.

For these reasons, I urge support of the bill as amended by the committee.

☐ 1230

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LUJAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Speaker, I would like to pose a couple of questions on this bill which is on suspension, and it seems to me that perhaps additional debate may be necessary.

The bill limits the 30-day congressional review period to formerly promulgated rules and regulations and to exclude guidelines, interpretations, and orders or requirements of general applicability from the congressional review process. It seems to me the limitations placed there turns the decisions on formulation of regulations by agencies on the guidelines they might make for themselves without review of that particular part by Congress.

Mr. MILLER of California. If the gentleman will yield, it is the intent of the legislation that we draw a distinction between major and minor guidelines here. In starting a research program like this, and the continuation of a research program, especially in a technologically sophisticated program such as this, every little guideline does not come before the Congress. But in terms of formal contracts or participation, those rules and regulations of participation, the guidelines by local entities, we would have that ongoing review; but not on the application of the program on an ongoing basis, because we simply do not have the time to get engaged in that.

Mr. RUDD. I thank the gentleman for that response. I have listened to part of the debate. The $50 million will simply continue what is going on now. But the strides that have been made in the production of usable water makes me wonder how much further we have to go, because we know what it takes to make brackish water potable and we know what it takes to desalinize water.

I would remind the gentleman of the very impressive success Mexico has made in desalinization and turning brackish water into potable water at little expense.

I am wondering why we need so much money for continuing experimentation, I guess, along those lines when we know what we have to do already.

Mr. MILLER of California. I think there is no question that we know there are desalinization plants around the world, in various countries, that are working. But it is also a determination to try to find that technology which fits the needs in various localities in our own country. I have only been involved in this a short time. The gentleman from New Mexico has been involved much longer. But I know this is an on-again, off-again program.

As the energy situation changed, as prices escalate, it was thought it would be too expensive; and then all of a sudden desalinization started to make sense again in this country. I think that is the reason you see those renewed commitments for these research efforts.

I would be happy to yield to the gentleman from New Mexico (Mr. LUJAN), who has a much more detailed history of this program to give us.

Mr. LUJAN. If the gentleman will yield, I might just tell the gentleman from Arizona that, as the gentleman from California says, this whole history is one that new things keep coming up. Originally, we would just desalt water by distillation. Well, that clearly does not work today because of the energy costs.

Then we moved into other areas, reverse osmosis, now ion exchange. Those types of production have come about. That is the reason for this. The real purpose of this is to really get some demonstration plants. We want four demonstration plants around the country to actually do the desalting right at the point where it is needed, and that is why we have this additional authorization.

I might also tell the gentleman from Arizona that he would be pleased to know that this entire authorization for this year is about $1 million less than the previous year, so we are making good progress without having to just throw money at the problem. We are doing it selectively.

Mr. RUDD. Is the gentleman saying, then, that last year it was $51 million?

Mr. LUJAN. Last year it was $47 million, and this year it is $46 million-something.

Mr. RUDD. There is some success in any reduction, be it only $1 million from the many millions of dollars.

I thank the gentleman from New Mexico for his response.

Mr. LUJAN. Mr. Speaker, I yield such time as he mav consume to the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Speaker, I rise in strong support of the bill and wish to associate mvself with the remarks of my friend from California (Mr. MILLER) and those of my good friend from New Mexico, the ranking member of our Water and Power Subcommittee (Mr. LUJAN). He has hit the nail right on the head.

The desalting program, which has been the stepchild of two administrations, has proven to be one of the most valuable programs in Government. It deserves our support.

I will remind my colleagues that 6 years ago, when the Office of Water Research and Technology was on the verge of being phased out of existence, I stood here and predicted that the next time that the next big crisis in this country would be a water crisis. I urged at that time that this program be kept alive as a major tool to meet that crisis. Since that time, we have gone through several years of drought in the West, and the municipal water supplies on the eastern seaboard have reached critical shortage levels. The crisis is upon us—and we can thank the foresightedness of the Interior Committee and of the Congress for the tools we now have in place to alleviate that crisis.

We have two desalting demonstration plants ready to go to contract. That is a start, but it is a start that should have been made 4 years ago. And, thanks to the OWRT research program that operates through State universities, we have several university laboratories working on the plant cloning program mentioned by the gentleman from New Mexico. I want to expand just a bit on his remarks about that program.

The irrigation farming of the West, and particularly in California, is the envy of the world. We are producing more food at less cost for more people than any other country in the world.

But at the same time, our urban centers are growing, placing more and more demands on our limited supplies of fresh water. And now, to meet the energy shortage brought about by the higher cost of imported oil, we are faced with still more demand on our scarce water as we look toward the possible development of oil shale, coal gasification, and coal slurry pipelines.

Since agriculture is by far the largest water user in the West, the pressures are increasing to cut into irrigation's share of the water and reallocate it to other uses. That would result in higher food costs as farmers are forced to pay more for less water.

With those facts in mind, the successful plant cloning program funded by the Office of Water Research and Technology takes on a new significance.

Scientists at Colorado State University found that in virtually every plant strain there are 4 or 5 percent of genes that are strongly salt resistant. By identifying plants with a high percentage of those genes, and then by cloning those plants to produce thousands of plants identical to them, the scientists have been able to produce plants that do not need fresh water. They can thrive in brackish water or even seawater.

Through the technology-transfer portion of this program, OWRT is spreading this know-how to universities and agricultural colleges throughout the West. The results are full of tremendous promise. We may be able, in a year or two, to maintain our irrigated farming without the need of some of the fresh water we are now using. And the water made available through this program can be used to help solve our energy problems without disruption in the food marketplace.

It is a great success story and one of which we can all be proud. I strongly urge you to support this bill so we can keep this program moving.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. MILLER) that the House suspend the rules and pass the bill, H.R. 5340, as amended.

The question was taken.

Mr. RUDD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ESTABLISHING THE RATTLESNAKE NATIONAL EDUCATION AND RECREATION AREA AND WILDERNESS IN THE STATE OF MONTANA

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5898) to establish the Rattlesnake National Education and Recreation Area and Wilderness in the State of Montana, as amended.

The Clerk read as follows:

H.R. 5898

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

STATEMENT OF FINDINGS AND POLICY

SECTION 1. (a) The Congress finds that—

(1) certain lands on the Lolo National Forest in Montana have high value for watershed, water storage, wildlife habitat, primitive recreation, historical, scientific, ecological, and educational purposes. This national forest area has long been used as a wilderness by Montanans and by people throughout the Nation who value it as a source of solitude, wildlife, clean, free-flowing waters stored and used for municipal purposes for over a century, and primitive recreation, to include such activities as hiking, camping, backpacking, hunting, fishing, horse riding, and bicycling.

(2) certain other lands on the Lolo National Forest, while not predominantly of wilderness quality, have high value for municipal watershed, recreation, wildlife habitat, and ecological and educational purposes.

(b) Therefore, it is hereby declared to be the policy of Congress that, to further the purposes of the Wilderness Act of 1964 (16 U.S.C. 1131) and the National Forest Management Act of 1976 (16 U.S.C. 1600), the people of the Nation and Montana would best be served by national recreation area designation of the Rattlesnake area to include the permanent preservation of certain of these lands under established statutory designation as wilderness, and to promote the watershed, recreational, wildlife, and educational values of the remainder of these lands.

DESIGNATION AND MANAGEMENT OF RATTLESNAKE WILDERNESS AREA

SEC. 2. (a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131), certain lands within the Rattlesnake National Education and Recreation Area as designated by this Act, which comprise about thirty-three thousand acres as generally depicted as the "Rattlesnake Wilderness" on a map entitled "Rattlesnake National Education and Recreation Area and Wilderness—Proposed," and dated September 1980, are hereby designated as wilderness and shall be known as the Rattlesnake Wilderness.

(b) Subject to valid existing rights, and further subject to section 4(c)(2) of this Act, the Rattlesnake Wilderness as designated by this Act shall be administered by the Secretary of Agriculture, hereafter referred to as the Secretary, in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness: *Provided*, That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

DESIGNATION AND MANAGEMENT OF RATTLESNAKE NATIONAL EDUCATION AND RECREATION AREA

SEC. 3. (a) An area of land comprising approximately sixty-one thousand acres as generally depicted as the "Rattlesnake Education and Recreation Area" on a map entitled "Rattlesnake National Education and Recreation Area and Wilderness—Proposed," and dated September 1980, is hereby established as the Rattlesnake National Education and Recreation Area.

(b) The Secretary shall administer the Rattlesnake National Education and Recreation Area in accordance with the laws and regulations applicable to the national forests in such a manner as will best provide for—

(1) promotion, support, encouragement, and increase of public awareness and understanding of the significance of our wildlands as a national resource;

(2) the protection and management of water quality and supply;

(3) the preservation, enhancement, and management of wildlife and wildlife habitat values;

(4) public recreation and enjoyment; and

(5) the conservation and development of the scenic, natural, historic, and pastoral values of the area.

(c) The Secretary shall develop an overall management plan for the Rattlesnake National Education and Recreation Area. This plan shall be developed in consultation with State and local political subdivisions and other interested persons, and shall comply with the intentions of Congress as such intent is expressed in this Act.

(d) The Secretary shall permit hunting, fishing, and trapping on lands and waters under the Secretary's jurisdiction within the Rattlesnake National Education and Recreation Area in accordance with the laws of the United States and the State of Montana.

LAND ACQUISITION AND EXCHANGE

SEC. 4. (a) Within the boundaries of the Rattlesnake National Recreation Area and Rattlesnake Wilderness, the Secretary is authorized and directed to acquire with donated or appropriated funds including amounts appropriated from the Land and Water Conservation Fund, by exchange, gift, or purchase, such non-Federal lands, interests, or any other property, in conformance with the provisions of this section. Nothing in this Act shall be construed to limit or diminish the existing authority of the Secretary to acquire lands and interests therein within the Rattlesnake National Recreation Area or Rattlesnake Wilderness.

(b)(1) The Secretary of the Interior, in consultation with the Secretary of Agriculture, is authorized to consider and consummate an exchange with the owner of the private lands or interests therein within the boundaries of the Rattlesnake National Recreation Area and Rattlesnake Wilderness, as described in sections 2 and 3 of this Act, by which the Secretary of the Interior may accept conveyance of title to these private lands for the United States and in exchange issue bidding rights that may be exercised in competitive coal lease sales, or in coal lease modifications, or both, under sections 2 and 3 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 201(a), 203). Any lands so acquired shall become national forest lands under the jurisdiction of the Secretary of Agriculture to be managed in accordance with the provisions of this Act and other laws applicable to the management of national forest lands. Nothing in this Act shall be construed to limit or diminish any existing authority of the Secretaries of the Interior and Agriculture to acquire private lands and interests therein in Rattlesnake National Education and Recreation Area and Rattlesnake Wilderness.

(2) The coal lease bidding rights to be issued may be exercised as payment of bonus or other payment required of the successful bidder for a competitive coal lease, or required of an applicant for a coal lease modification. The bidding rights shall equal the fair market value of the private lands or interests therein conveyed in exchange for their issuance. The use and exercise of the bidding rights shall be subject to the provisions of the Secretary of the Interior's regulations governing coal lease bidding rights, to the extent that they are not inconsistent with this Act, that are in effect at the time the bidding rights are issued.

(3) If for any reason, including but not limited to the failure of the Secretary of the Interior to offer for lease lands in the Montana portion of the Powder River region, or the failure of the holder of the bidding rights to submit a successful high bid for any such leases, any bidding rights issued in an exchange under this Act have not been exercised within three years from the date of enactment of this Act, the holder of the bidding rights may, at its election, use the outstanding bidding rights as a credit against any royalty, rental, or advance royalty payments owed to the United States on any Federal coal lease(s) it may then hold.

(4) It is the intent of Congress that the exchange of bidding rights for the private lands or interests therein authorized by this Act shall occur within three years of the date of enactment of this Act.

(5) In order to facilitate the exchange authorized by this Act, the Executive order captioned "Order of Withdrawal", of June 6, 1929, creating "Coal Reserve Numbered 1, Montana, Numbered 1", is hereby revoked to the extent that it constitutes a withdrawal of the lands therein from disposal under the Mineral Lands Leasing Act of 1920, as amended.

(c)(1) As non-Federal lands and interests in the Rattlesnake National Education and Recreation Area are acquired, the lands shall become part of the Rattlesnake National Education and Recreation Area. As non-Federal lands and interests in the Rattlesnake Wilderness are acquired, the lands shall become part of the Rattlesnake Wilderness. The Secretary shall publish from time to time a notice of such classifications in the Federal Register. It is the intention of Congress that acquisition of the non-Federal lands shall be completed no later than three years after the date of the enactment of this Act.

(2) Nothing in this Act shall be construed to permit the Secretary to affect or diminish any water right which is vested under either State or Federal law at the time of enactment of this Act, nor the rights of the owner of such water right to the customary and usual access, including necessary motorized use over and along existing roads and trails to any facilities used in connection therewith, and the right to operate and maintain such facilities.

ESTABLISHMENT OF AN EDUCATION AND RESEARCH CENTER

SEC. 5. The Secretary shall establish a Rattlesnake Wildland Education and Research Center at an appropriate site within the Rattlesnake National Education and Recreation Area. Such facility shall be established for the purpose of public education about the Rattlesnake Wilderness and Rattlesnake National Education and Recreation Area as well as for the promotion of education pertaining to all aspects of wildlands management.

FILING OF MAPS AND DESCRIPTIONS

SEC. 6. As soon as practicable after enactment of this Act, a map and legal description of the Rattlesnake National Education and Recreation Area and a map and legal description of the Rattlesnake Wilderness shall be filed with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and such maps and legal descriptions shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal descriptions and maps may be made.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. Effective October 1, 1981, there is hereby authorized to be appropriated funds necessary for the acquisition of lands and interests to carry out the purposes of this Act. Such funds shall remain available until expended without fiscal year limitation. There is further authorized to be appropriated for the construction of the Rattlesnake Wildland Education and Research Center facility, as provided for in section 5, not more than $250,000 in fiscal year 1982, and not more than $275,000 annually in succeeding years for facility administrative and program costs. Amounts appropriated to carry out this Act shall be expended in accordance with the Budget Reform and Impoundment Control Act of 1974 (88 Stat. 297).

The SPEAKER pro tempore. Is a second demanded?

Mr. CLAUSEN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes, and the gentleman from California (Mr. CLAUSEN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5898, which would designate a 61,000-acre Rattlesnake National Education and Recreation Area, with an incorporated 33,000-acre wilderness area, in the Lolo National Forest, Mont. By and large, the area encompassed by this legislation comprises the urban watershed for the city of Missoula, Montana's third largest city. Since 1972, when the first waterworks were developed in the Rattlesnake Creek watershed, the area has provided Missoula with high quality and quantity water which requires minimal treatment. This water supply is virtually cost free, because the gravity flow pristine water can be utilized without the construction of major impoundments, conduits, or other expensive developments. The permanent protection of the watershed in its present largely natural and undeveloped condition is the major goal of H.R. 5898.

Due to its high watershed values, the proposed national education and recreation area (NERA) and wilderness is unsuited for livestock grazing, timber harvest, mining, or other resource development, and there is strong local support for eliminating offroad vehicle use in much of the area. As such, I believe it is fair to say that the national education and recreation area and wildernesses designations of H.R. 5898 will have minimal conflicts with other potential uses, and will not adversely impact needed resource production. Indeed, the protection afforded by the bill should enhance the local economy by insuring permanent watershed integrity and promoting educational and primitive recreational values.

In addition to its paramount watershed values, the proposed national education and recreation area also possesses outstanding wildlife habitat, opportunities for primitive recreation and scenic scientific and educational resources. Peaks in the heart of the area can be seen from downtown Missoula, and some 41 lakes lie within the area, as well as numerous streams. The lakes and streams and peaks are popular for primitive recreation such as fishing, hiking, hunting and camping and add to the area's overall appeal for those seeking a nonmotorized wilderness-type experience. According to a study by the University of Montana, approximately 85 percent of the current use of the area is nonmotorized. In recent years, this nonmotorized use of the area has grown dramatically including an 87-percent increase between 1975 and 1978.

The area encompassed by the designations of the bill also contains important habitat for 14 wilderness-associated wildlife species including resident grizzly bear, elk, the endangered Northern Rocky Mountain wolf, and bald eagle. There are plans to reintroduce mountain goats to the area.

Due to its close proximity to Missoula and the University of Montana, and I note that the southern boundary of the proposed national education area lies only 5 miles from the University of Montana, all the above mentioned values enhance the area's significance as an extremely accessible recreational, research, and educational resource. To the best of my knowledge, no other existing or potential wilderness area in the Western United States lies in such close proximity to a major educational institution. In recognition of these values, H.R. 5898 stresses the educational and research as well as the recreational attributes of the area, and provides for the establishment of a modest education and research center within the Rattlesnake NERA. Such a facility will compliment research and educational facilities at the University of Montana, and will afford the general public of all ages an opportunity to study and experience firsthand the various aspects of wildlands management and protection. In particular, the bill's combination of a specially designated national education and recreation area and a wilderness area will provide exceptional opportunities to study comparative ecosystems under differing levels of management intensity. This should prove to be of great value in furthering understanding of the consequences of alternative land management designations and classifications.

Mr. Speaker, in light of all of the above mentioned values, I believe it is clear that H.R. 5898 is a highly meritorious proposal and one that enjoys strong support in Montana. I urge my colleagues vote in favor of the bill.

□ 1240

Mr. Speaker, I reserve the balance of my time.

Mr. CLAUSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. Mr. Speaker, I will be happy to yield to the gentleman from Arizona (Mr. RUDD) for the purpose of directing a question to the chairman.

Mr. RUDD. I thank the gentleman for yielding.

That is my purpose.

I would like to enter into a colloquy with the gentleman from Ohio, if I may.

The information that is available to me is that we are designating 61,350 acres of land as the Rattlesnake National Education and Recreation Area which includes 33,665 acres as wilderness. It seems to me we are putting millions upon millions of acres into wilderness and now this is another way to just nip away at adding additional wilderness land.

The thing I would like to ask the gentleman about is we are authorizing $250,000 for construction of the Wildland Education and Research Center with a $275,000 annual appropriation for operations of the center in all of the years that come.

I would first like to ask the distinguished chairman of the subcommittee, the gentleman from Ohio, what we are going to get for this?

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Well, we are going to get a facility which will enable an in-depth and continuing study comparing, for example, the effects of wilderness and recreational use with other types of multiple use in similar areas, developing new ways of resource protection and wildlife management and in general contributing to our knowledge and also disseminating that knowledge on this type of question.

Mr. RUDD. If we are going to put that many acres into wilderness area, that strictly, and very strictly, prohibits multiple use of the area. In fact, it prohibits any other use of the area at all, does it not?

Mr. SEIBERLING. Sixty-one thousand acres is the entire size of the recreation area, and slightly more than half of that would be in wilderness. That presents a very useful benchmark so that we can compare the effects on what the quality, for example, of the area that is non-wilderness, with that which is wilderness and compare the total recreation area with a similar tract of land in the same State that is open for logging, mining and other activities. But one of the main purposes of the wilderness designation, as I mentioned, is to protect the pristine quality of the water which is presently used and available to the city of Missoula from this particular valley without significant treatment or alteration in any way. That has, therefore, a practical multiple use purpose right there.

Mr. RUDD. That means the entire water system for the beautiful city of Missoula is going to come from within this 33,000 acres of wilderness area?

Mr. SEIBERLING. That is my information. It does at present and would continue to do so. Obviously, if the area were open to intensive use, that water quality would be jeopardized, and that is one of the objectives of this legislation, to continue the protection that we afford it.

Mr. RUDD. Does that mean all great cities should have their water supply areas in wilderness?

Mr. SEIBERLING. It would be a nice thing if they could. But this is a rather unique situation here.

Mr. RUDD. I thank the gentleman.

Mr. CLAUSEN. Mr. Speaker, the chairman of the Subcommittee on Public Lands, the gentleman from Ohio (Mr. SEIBERLING), has accurately outlined the contents of the legislation, H.R. 5898, before the House. Let me just briefly state that this bill proposes a rather unique combination of management initiatives within the proposed 61,000-acre Rattlesnake National Education and Recreation and Wilderness Area.

□ 1250

I happen to have in my hand a copy of the administration's RARE II map for the State of Montana. I note that this particular area is listed on the map under a further planning category. It was contemplated that an ultimate management decision would be made by the Forest Service.

Immediately contiguous to this area and surrounding the area there are approximately 300,000 to 400,000 acres that are, in fact, in a multiple-use category commitment.

As proposed by the bill the overall designation would create a 33,000-acre wilderness area that would be administered and managed by the Forest Service under the provisions of the Wilderness Act of 1964.

The remaining 28,000 acres are designated as a national education and recreation area. The bill contains guidelines regarding the special management provisions which are to apply to this particular area. These provisions instruct the Forest Service to develop a management plan and implement that plan to promote the use of the area as an education and research area relating to the conservation and protection of wildlife and wildlife habitat; water quality, and natural, historic and scenic values.

In addition, the management framework would provide for some public recreation. These special management provisions are to be incorporated in an overall management plan to be developed by the Forest Service in cooperation and conjunction with the State and local governments, as well as private individuals in the area.

The bill, as amended in the committee, and which was, incidentally, adopted by a voice vote, also provides a method by which the problems involving "checkerboarded" land patterns of alternating private and public lands can be resolved in this particular area. The language provides for the exchange of the privately held lands for "bidding rights" which the landowners may exercise on future competitively offered Federal coal leases. This is one method of attempting to resolve a very serious problem, not only in Montana, but other Western States, regarding the use and management of these "checkerboarded" land patterns to meet private needs, as well as to satisfy the purposes of sound Federal land management in the West.

As my colleagues know, the Interior Committee has had with increasing frequency to address some of these checkerboarded ownership patterns wherein private and public lands are intermingled, thereby causing ingress and egress problems. The overall objective is to try to set in motion a framework for an exchange arrangement in order to, the maximum extent feasible, consolidate them into a very constructive workable land management plan.

This legislation is intended to accomplish this objective.

Mr. HALL of Texas. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I would be happy to yield to the gentleman from Texas.

Mr. HALL of Texas. I have just read something about this bill. Do I understand the purpose of this bill is to set aside 61,000 acres for some purposes regarding rattlesnakes?

Mr. SEIBERLING. Mr. Speaker, would the gentleman yield? I can answer that.

Mr. CLAUSEN. I would be happy to yield.

Mr. SEIBERLING. No. That happens to be the name of the valley where this is located. It has nothing to do with the study of rattlesnakes.

Mr. HALL of Texas. Is that the name of it, the Rattlesnake bill?

Mr. SEIBERLING. That is the name of the area, the Rattlesnake Area.

Mr. HALL of Texas. Is this area, let

me put it this way, will this 61,000 acres be available for any oil or gas development of any nature in the event that it may become feasible in the future? Are we taking this land out of production altogether?

Mr. SEIBERLING. Well, the 61,000 acres of the recreation area, of that total only 33,000 would be in wilderness.

Now, the part that is nonwilderness is open to oil and gas development, for example, but it is my understanding that this is not an area of high potential for oil and gas or for other types of development.

Furthermore, it is surrounded by the remaining part of the Lolo National Forest. We are talking about many tens of thousands of acres beyond this small area. This is a relatively small part of the total national forest.

Mr. HALL of Texas. Well, what will the 61,000 acres be used for?

Mr. SEIBERLING. It will be used for outdoor recreation and scientific study of the water supply.

Mr. HALL of Texas. And rattlesnakes?

Mr. SEIBERLING. No, not rattlesnakes. That just happens to be the name of the area.

Mr. HALL of Texas. I thank the gentleman.

Mr. SEIBERLING. Mr. Speaker, I yield 10 minutes to the gentleman from Montana (Mr. Williams).

Mr. WILLIAMS. Mr. Speaker, I thank the distinguished chairman of the subcommittee.

Lying along the 114th meridian in the Rocky Mountains of western Montana, within the district which I represent, there is a marvelous chunk of land, which folks out our way refer to as "the Rattlesnake." It derives its name from one of the small creeks that meanders through the drainage.

The Rattlesnake area is adjacent to the city of Missoula, Mont. With approximately 60,000 people, Missoula is the most populous city in the congressional district which I represent.

This city has for a 100 years depended upon the Rattlesnake watershed for its potable water supply. Thus, this area, particularly in its upper reaches, has, with few exceptions, been carefully protected from overuse by either industry or recreationists through the years.

Of the 61,000 acres, approximately 43 percent or 26,000 acres are privately owned. The vast bulk of that 21,000 acres is held by Montana's major private electric utility. To facilitate a trade of those lands, members of the Montana congressional delegation have been negotiating for most of this year with the private owners, the Forest Service, and the Bureau of Land Management. An agreement has been reached and a public hearing about those exchanges was held in the Senate earlier this month.

The exchange, agreed to by Interior, Agriculture, and the major private holder, is a unique one, which condition should be considered to lend itself only to this particular circumstance. The private utility company owner will, under the agreement, exchange Rattlesnake lands for bidding credits on federally owned coal lands located on BLM lands in eastern Montana. The remainder of private holdings will be traded under the traditional manner for Forest Service lands.

I have delayed this bill, which was introduced a year ago, until these trades could be fully and publicly negotiated. That has now been accomplished.

The western slopes of the area are shadowed by glaciated mountains, rising 3,000 to 4,000 feet from the valley floors. Being glaciated, the Rattlesnake exhibits hanging valleys, cirque basins, and 41 alpine glacial lakes.

The area is home for much wildlife, including the bald eagle, timberwolf, elk, the cutthroat trout, the wolverine, the soon to be reintroduced mountain goat, and the grizzly bear.

Mr. Speaker, on July 4, 1806, the Lewis and Clark Journals carried this sentence:

> We crossed a small stream 15 yards wide and entered the mountains.

That is the first known reference to the Rattlesnake. Since then it has been a favorite of folks in the area.

The mountain water from its creeks has been the primary water resource for the city of Missoula for the past 106 years. In the early 1900's, homesteaders settled in a few of the Rattlesnake valleys, and always the area has been protected, most recently by its two major owners, the Forest Service and the major private utility, the Montana Power Co. Together they have for years managed this area with great care, thus continually protecting its precious watershed characteristics. That protection has included restricting and in some areas banning motorized access.

One final point: This bill is named the Rattlesnake National Education and Recreation Area and Wilderness. Of the approximately 60,000 acres, the area will be divided roughly in half with the lower area managed as recreation area and the upper half preserved as wilderness.

I envision, however, that the entire area will be utilized uniquely as an educational resource, a 61,000-acre classroom; a laboratory where we will study, explore, catalog and learn.

We will improve our understanding of wildlife, their patterns of hibernation, territoriality, migration, and nesting; learn more about the land, the water, and the seasons.

This wilderness is particularly suited as an educational resource, located as it is adjacent to the northern regional office of the U.S. Forest Service; the Montana Department of Fish, Wildlife, and Parks; the resource offices of the Bureau of Land Management, and the University of Montana School of Forestry with its nationally unique wilderness institute.

□ 1300

This legislation establishes a modest wildlands, education and research center to be constructed within the lower part of the recreation area. This center will be the focal point for the administration of the education and research effort.

Mr. Speaker, this bill represents compromise. It has been endorsed by the Missoula City Council and the mayor of Missoula. The wilderness for this area has been endorsed by the Salish Creek Nation, and also endorsed by county commissioners and the Governor of the State of Montana. After 5 years of careful preparation by Montana citizens and 1 year of legislation, the Rattlesnake is deservant of passage through this House.

Mr. SEIBERLING. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. Udall).

Mr. UDALL. Mr. Speaker, I simply wanted to endorse this bill and to commend my colleague from Montana for putting it together. It was very difficult. It was one of these emotional situations in the local area. The gentleman from Montana (Mr. Williams) has put together a good, sound, solid bill that we can all live with, and I congratulate him for an excellent job. I hope the bill will be passed.

Mr. SEIBERLING. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. Phillip Burton).

Mr. PHILLIP BURTON. Mr. Speaker, I rise in support of this legislation. I would like to further associate myself with the remarks of our distinguished colleague, our committee chairman, the gentleman from Arizona (Mr. Udall).

I think our colleague from Montana, Mr. Williams, deserves the plaudits of one and all for being able to reconcile the many differences that initially existed with reference to this proposal. It is a great tribute to his legislative skill and I would hope this matter would be approved by the House.

Mr. SEIBERLING. Mr. Speaker, I would simply like to add that this is a very creative and imaginative approach combining a wilderness and a national recreation and education area, providing means whereby senior citizens and handicapped can get into the primitive part of the area, and providing also for an educational center to make wilderness studies. I think the gentleman from Montana (Mr. Williams) deserves all our commendation for doing this pioneer work on this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. CLAUSEN. Mr. Speaker, I yield 1 minute to the gentleman from Arizona (Mr. Rudd) to ask a question.

Mr. RUDD. I thank the gentleman for yielding.

Mr. Speaker, I have one question for the distinguished chairman of the subcommittee, the gentleman from Ohio (Mr. Seiberling). This research center is going to be funded at a rate of $275,000 a year from this year on. What sort of review is that subject to?

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. RUDD. I yield to the gentleman.

Mr. SEIBERLING. The Appropriations Committee would have to appropriate the funds and so there is no guarantee that it will get anything unless there is an appropriation. That would have to be an annual appropriation each year.

Mr. RUDD. But this was the gentleman's recommendation that we have this.

Mr. SEIBERLING. That is an authorization which merely makes it possible to have an appropriation. But the gentleman from Montana (Mr. WILLIAMS) in future years would have to, or whoever is representing that area, would have to go before the Appropriations Committee each time to obtain the necessary funding. Whether they decide to give any funding or not would be up to them.

Mr. RUDD. But unless there was a specific reason for changing it, this would not really come up.

Mr. SEIBERLING. The authorization would be there but not necessarily the appropriation.

Mr. RUDD. I thank the gentleman.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 5898, as amended.

The question was taken.

Mr. RUDD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. RUDD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may may have 5 legislative days within which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 7301, MILITARY CONSTRUCTION AUTHORIZATION ACT, 1981

Mr. BRINKLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7301), to authorize certain construction at military installations for fiscal year 1981, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia? The Chair hears none and, without objection, appoints the following conferees: Messrs. PRICE, NEDZI, CHARLES H. WILSON of California, BRINKLEY, DAVIS, and WON PAT, Mrs. BYRON, Messrs. BOB WILSON, WHITEHURST, BEARD of Tennessee, MITCHELL of New York, and DICKINSON.

There was no objection.

DIRECTING SECRETARY OF THE INTERIOR TO ACQUIRE LANDS FOR BENEFIT OF MILLE LACS BAND OF MINNESOTA CHIPPEWA INDIANS

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1464), to direct the Secretary of the Interior to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians, as amended.

The Clerk read as follows:

S. 1464

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of November 2, 1978 (92 Stat. 2452; Public Law 95–571) is amended to read as follows: "That (a) the Secretary of the Interior is authorized and directed to enter into an agreement to acquire the interest of the fee title holders of the record in and to the following described land located in township 43 north, range 27 west, fourth principal meridian, Mille Lacs County, Minnesota—

(1) Government Lot 4, section 28;

(2) southwest quarter southwest quarter, section 29; and

(3) southeast quarter southeast quarter, section 29, containing 105.51 acres, more or less.

"(b) Title to such land shall be held by the United States in trust for the Mille Lacs Band of Chippewa Indians as a part of their reservation, subject to any valid existing rights-of-way or other easements.

"SEC. 2. (a) The cost of acquisition of such land shall be an amount which shall be the sum of (1) an amount not less than the value of the land as determined by an appraisal conducted for the Bureau of Indian Affairs by Douglas L. Gibson, SREA, dated January 9, 1980, and (2) the amount agreed to as representing the outstanding debts and obligations of Sherman A. Holbert, also doing business as Indian Bay 1973, Incorporated, which are directly attributable to the development of such lands, but not to exceed $240,000.

"(b) The Secretary of the Interior shall require in such agreement that all development plans and other work products relating to the development of the subject land in the possession of Sherman A. Holbert, also doing business as Indian Bay 1973, Incorporated, shall be transferred to the Mille Lacs Band of Chippewa Indians.

"SEC. 3. (a) The cost of acquisition agreed to in the agreement entered into pursuant to section 1 of this Act shall be treated as if it were a final judgment of the Court of Claims pursuant to section 2517 of title 28, United States Code.

"(b) No part of such acquisition cost shall be considered as an offset against any judgment against the United States in favor of the Mille Lacs Band of Chippewa Indians or any other component band of the Minnesota Chippewa Tribe.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Arizona (Mr. UDALL) will be recognized for 20 minutes, and the gentleman from Utah (Mr. MARRIOTT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1464 directs the Secretary of the Interior to enter into an agreement to acquire certain private lands for the benefit of the Mille Lacs Band of Chippewa Indians.

Mr. Sherman Holbert, private land developer in the State of Minnesota, acquired the fee title to a 25-acre tract of land on the shores of Mille Lacs Lake in Minnesota in 1972 for resort and recreational development purposes.

Mr. Holbert invested his own financial resources and borrowed extensively in furtherance of this project. However, in 1978, the Mille Lacs Band of Chippewa Indians and officials of the Bureau of Indian Affairs claimed that the 25-acre tract belonged to the Indians based upon an 1898 law. That law provided that the tract of land would be perpetually reserved as a burial place for the Indians.

This Federal law cast a cloud on Mr. Holbert's title and brought his development project to a complete halt. His credit sources have dried up and he faces imminent bankruptcy. Even though the Interior Department solicitor has since held that his title is good, it is impossible for him to proceed further.

While the United States has no legal obligation to Mr. Holbert, it is the direct result of a Federal law that has brought him to his current situation. Some moral responsibility is owing to the gentleman.

S. 1464, as reported by the committee provides for the acquisition of Mr. Holbert's interest in the subject lands at a price which will give him the appraised value for the lands plus an amount which will compensate him for his out-of-pocket expenses.

Mr. MARRIOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in effect the Congress reserved lands for these Indians which it did not own and, without some kind of legislative relief for Mr. Holbert, he would lose his investment, his time, and his money.

This bill would eliminate a situation in which a private citizen is being forced to bear the burdens brought about by an error of Congress some 80 years ago. It is strongly supported by Senator DURENBERGER and is supported by the Members who represent the District.

The administration is not yet on record, but I understand Vice President MONDALE would be pushing for the passage of the bill.

It is a most equitable bill, Mr. Speaker, and I would urge the Members of the House to vote in favor of it.

Mr. Speaker, at this time I yield such time as he may consume to the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Speaker, I rise in support of S. 1464 and urge its approval by the House under suspension of the rules.

This bill is intended to resolve a dispute in Mille Lacs County, Minn., that has its roots in an 1898 act of Congress that reserved land that the United States did not own for use as an Indian tribal burial ground.

S. 1464 directs the Secretary of the Interior to acquire 105 acres of land from Mr. Sherman A. Holbert, a private businessman, for the Mille Lacs Band of Chippewa Indians.

The lands were part of the band's original reservation under an 1855 treaty, but were ceded to the United States by another treaty in 1864. In 1871, the most valuable portion of the land, known as Government lot 4, was patented to the State of Minnesota, which subsequently patented it to private parties.

Mr. Holbert acquired the land in the early 1970's and began investing considerable time and money to develop it as a resort. Five years into this effort, however, his plans were brought to a halt by the assertion of ownership to the land by the tribe under the 1898 act of congress. Assertion of ownership caused Mr. Holbert's investors to withdraw from his project and left him facing the loss of the fruits of the labor of nearly 10 years of his life and considerable financial liability.

In the 95th Congress House and Senate committees reviewed the history of the problem and concluded that Mr. Holbert was entitled to legislative relief as a matter of equity. This conclusion was based on the belief that he should not have to bear the full burden of claims that arose through no fault of his own. No one had raised a question about the 1898 resolution or about title to the subject property for 80 years.

The 95th Congress passed legislation authorizing, but not directing, the Secretary of the Interior to acquire Mr. Holbert's land at fair market value. Unfortunately, a dispute arose over the value of the land which has stymied the purchase.

S. 1464, as amended and reported by the Interior Committee, represents a second effort to purchase the land for the Mille Lacs Indians and provide relief for Mr. Holbert.

The bill provides for the acquisition of the property by the Secretary at a cost that includes the department's most recent appraisal of the property plus an amount which would retire the outstanding obligations of Mr. Holbert that are directly attributable to the development of the land. It further provides for the tribe to receive all development plans and other work products relating to the development.

The administration opposed S. 1464 as it was passed by the Senate but has not taken a position on the bill as it is now before the House. It is hoped that the committee version will be found more acceptable, and that the administration will accept it as a fair and reasonable solution to the problem at Mille Lacs.

It is simply not right for Congress to make the mistake of creating a second chain of title to a single piece of property, and then 80 years later allow a private citizen to pay for that mistake. S. 1464 would provide a long overdue remedy.

I urge the Members of the House to approve it.

Mr. MARRIOTT. Mr. Speaker, I have no further requests for time and yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL) that the House suspend the rules and pass the Senate bill, S. 1464, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1310

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

OMNIBUS NATIONAL TRAILS ACT

Mr. PHILLIP BURTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8087) to amend the National Trails System Act by designating additional national scenic and historic trails, and for other purposes, as amended.

The Clerk read as follows:

H.R. 8087

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Trails System Act Amendments of 1980".

TITLE I—AMENDMENTS TO THE NATIONAL TRAILS SYSTEM ACT

Sec. 101. Section 2 of the National Trails System Act (82 Stat. 919; 16 U.S.C. 1241 et seq.) is amended—

(1) in subsection (b), by striking out "the purpose" and inserting in lieu thereof "The purpose"; and

(2) by adding at the end thereof the following new subsection:

"(c) The Congress recognizes the valuable contributions that volunteers and private, nonprofit trail groups have made to the development and maintenance of the Nation's trails. In recognition of these contributions, it is further the purpose of this Act to encourage and assist volunteer citizen involvement in the planning, development, and management of trails.".

Sec. 102. Section 3 of the National Trails System Act is amended—

(1) by redesignating paragraphs (a) through (d) as paragraphs (1) through (4), respectively, and by inserting "(a)" after "Sec. 3.";

(2) in paragraph (2) of subsection (a) (as so redesignated), by adding at the end thereof the following: "National scenic trails may be located so as to represent, but need not be limited to, desert, marsh, grassland, mountain, canyon, river, or forest areas, as well as landforms which exhibit significant characteristics of the physiographic regions of the Nation.";

(3) in the fourth sentence of paragraph (3) of subsection (a) (as so redesignated), by striking out "Act, are established as initial" and inserting in lieu thereof "Act are included as";

(4) in the fifth sentence of paragraph (3) of subsection (a) (as so redesignated), by striking out "subsequently"; and

(5) by adding at the end thereof the following new subsection:

"(b) For purposes of this section, the term 'extended trails' means trails or trail segments at least one hundred miles in length, except that historic trails of less than one hundred miles may be designated as extended trails. While it is desirable that extended trails be continuous, studies of such trails may conclude that it is feasible to propose one or more trail segments which, in the aggregate, constitute at least one hundred miles in length.".

Sec. 103. Section 4 of the National Trails System Act is amended by adding at the end thereof the following:

"(c) As used in this section, the term 'reasonably accessible' means accessible by local public transportation, or accessible within three hours driving time by major portions of the population to be served by the trail.".

Sec. 104. (a) Section 5(a) of the National Trails System Act is amended by adding at the end thereof the following:

"(11) The Santa Fe National Historic Trail, a route of approximately seven hundred and eighty miles extending from Independence, Missouri, to Santa Fe, New Mexico, following the route as depicted on a map identified as 'The Santa Fe Trail (figure 2)' in 'The Santa Fe Trail', a study report prepared by the Department of the Interior and dated July 1976. The map shall be on file and available for public inspection in the office of the Director of the National Park Service, Washington, District of Columbia. The trail shall be administered by the Secretary of the Interior.

"(12) The Chisholm, Shawnee, and Western National Historic Trails, consisting of—

"(A) the Chisholm National Historic Trail, a trail of approximately six hundred and forty-eight miles extending from San Antonio, Texas, to Abilene, Kansas;

"(B) the Shawnee National Historic Trail, a trail of approximately four hundred and sixty miles extending from Belton, Texas, to Baxter Springs, Kansas;

"(C) the Western National Historic Trail, a trail of approximately six hundred and fifty-two miles extending from San Antonio, Texas, to Dodge City, Kansas;

which trails follow routes as depicted on a map identified as 'Old Cattle Trails of the Southwest: Western-Chisholm-Shawnee (figure 1)' in the 'Old Cattle Trails of the Southwest', a report prepared by the Department of the Interior and dated April 1975. The map shall be on file and available for public inspection in the office of the Director of the National Park Service, Washington, District of Columbia. The Secretary may also designate an additional segment of the Chisholm trail consisting of approximately one hundred miles and extending from Cuero, Texas, to San Antonio, Texas, by publication of a route description thereof in the Federal Register. The trails shall be administered by the Secretary of the Interior.

"(13) The Potomac Heritage National Scenic Trail, a corridor of approximately eight hundred and seventy-four miles, extending from the mouth of the Potomac River to its source (except for one segment extending into Pennsylvania) following the route as generally depicted on the map identified as 'National Trails System, Proposed Potomac Heritage Trail' in 'The Potomac Heritage Trail', a report prepared by the Department of the Interior and dated December 1974. The map shall be on file and available for public inspection in the office of the Director of the National Park Service, Washington, District of Columbia. The trail shall initially consist of only those segments of the corridor located within the exterior boundaries of federally administered areas. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Potomac Heritage Trail. The Secretary of the Interior may designate lands outside of federally administered areas as segments of the trail, only upon application from the States or local governmental agencies involved, if such segments meet the criteria established in this Act and are administered by such agencies without expense to the United States. The trail shall be administered by the Secretary of the Interior.

"(14) The Natchez Trace National Scenic Trail, a trail system of approximately six hundred and ninety-four miles extending from Nashville, Tennessee, to Natchez, Mississippi, as depicted on the map entitled 'Concept Plan, Natchez Trace Trails Study' in 'The Natchez Trace', a report prepared by the Department of the Interior and dated August 1979. The map shall be on file and available for public inspection in the office of Director of the National Park Service, Department of the Interior, Washington, District of Columbia. The trail shall be administered by the Secretary of the Interior.

"(15) The Florida National Scenic Trail, a route of approximately thirteen hundred miles extending through the State of Florida as generally depicted in 'The Florida Trail', a national scenic trail study draft report prepared by the Department of the Interior and dated February 1980. The report shall be on file and available for public inspection in the office of the Chief of the Forest Service, Washington, District of Columbia. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Florida Trail except with the consent of the owner thereof. The Secretary of Agriculture may designate lands outside of federally administered areas as segments of the trail, only upon application from the States or local governmental agencies involved, if such segments meet the criteria established in this Act and are administered by such agencies without expense to the United States. The trail shall be administered by the Secretary of Agriculture.".

(b) Section 5(b) of the National Trails System Act is amended—

(1) by inserting "(1)" after "(b)";

(2) by inserting the following after the second sentence: "The feasibility of designating a trail shall be determined on the basis of an evaluation of whether or not it is physically possible to develop a trail along a route being studied, and, if so, whether the development of the trail would be financially feasible.";

(3) by striking out "The studies listed" and inserting in lieu thereof "Subject to paragraph (2), the studies listed";

(4) by striking out "Such studies, when submitted" and all that follows down through the colon and inserting in lieu thereof the following:

"(2)(A) If, during the course of conducting a study under this section, the appropriate Secretary determines that it is not feasible to develop a national scenic or national historic trail along the proposed route and that there is no significant need for such a trail, he shall submit a report containing such determination to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate. Unless a resolution of disapproval of the determination is adopted by either of such committees within the period of 30 calendar days of continuous session of Congress after the date of their receipt of the report, the Secretary may terminate further study of the proposed trail by publication of notice thereof in the Federal Register.

"(B) Before submitting any report under subparagraph (A) containing a recommendation against designation of a trail, the Secretary shall examine (i) whether the route affords an opportunity to commemorate a significant event in the development of the Nation or the region or to memorialize an individual whose activities had a far-reaching effect on the development thereof, and (ii) whether any segments of the route have the potential to be developed as national recreation trails. Based on such examination, any such report containing a recommendation against designation of a trail shall indicate whether the route provides an opportunity to memorialize or commemorate such an event or individual or whether any segments of the route could potentially be developed as national recreation trails, and, if so, shall contain suggestions for appropriate methods for carrying out the memorialization or commemoration or the trail development, including an estimate of the anticipated costs for each such activity.

"(C) For the purpose of this paragraph—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

"(3) Completed studies, when submitted under paragraph (1), shall be printed as a House or Senate document, and shall include, but need not be limited to—";

(5) by redesignating paragraphs (1) through (10) as subparagraphs (A) through (J);

(6) in paragraph (3)(C) (as so redesignated), by inserting "16" before "U.S.C.";

(7) in paragraph (3)(I) (as so redesignated) by inserting "and" after the semicolon at the end of the paragraph;

(8) in paragraph (3)(J) (as so redesignated), by striking out "; and" and inserting in lieu thereof a period;

(9) by striking out "(11) to" and inserting in lieu thereof "(4) To"; and

(10) in paragraph (4) (as so redesignated) by inserting "exploration," after "commerce" in the first sentence of subparagraph (B).

(c) Section 5(c) of the National Trails System Act is amended—

(1) in paragraph (9), by striking out "Sante Fe" and inserting in lieu thereof "Santa Fe"; and

(2) by adding after paragraph (23) the following:

"(24) Goodnight and Goodnight-Loving Trails, extending from Fort Sumner, New Mexico, to Cheyenne, Wyoming, and from Concho, Texas, to Denver, Colorado, respectively.

"(25) Juan Bautista de Anza Trail, following the overland route taken by Juan Bautista de Anza in connection with his travels from the United Mexican States to San Francisco, California.

"(26) Trail of Tears, including the associated forts and historic properties, extending from the vicinity of Murphy, North Carolina, through Georgia, Alabama, Tennessee, Kentucky, Illinois, Missouri, Arkansas, to the vicinity of Tahlequah, Oklahoma.

"(27) Illinois Trail, extending from the Lewis and Clark Trail at Wood River, Illinois, to the Chicago Portage National Historic Site, generally following the Illinois River and the Illinois and Michigan Canal.

"(28) Jedediah Smith Trail, to include the routes of the explorations led by Jedediah Smith—

"(A) during the period 1826–1827, extending from South Pass, Wyoming, through the Great Salt Lake, Sevier, Virgin, and Colorado River Valleys, and the Mojave Desert, to the San Gabriel Mission, California; thence through the Tehachapi Mountains, San Joaquin and Stanislaus River Valleys, Ebbetts Pass, Walker River Valley, Bald Mount, Mount Grofton, and Great Salt Lake to Bear Lake, Utah; and

"(B) during 1828, extending from the Sacramento and Trinity River valleys along the Pacific coastline, through the Smith and Willamette River valleys to the Fort Vancouver National Historic Site, Washington, on the Columbia River.".

(d) Section 5(d) of the National Trails System Act is amended—

(1) by inserting after the first sentence the following: "If the appropriate Secretary is unable to establish such an advisory council because of the lack of adequate public interest, the Secretary shall so advise the appropriate committees of the Congress."; and

(2) by redesignating paragraphs (i) through (iv) as paragraphs (1) through (4), respectively, and by amending paragraph (1) (as so redesignated) to read as follows:

"(1) the head of each Federal department or independent agency administering lands through which the trail route passes, or his designee;".

(e) Section 5(f) of the National Trails System Act is amended—

(1) in paragraph (1), by striking out "national recreational" and inserting in lieu thereof "national historic", and by striking out "and" after the semicolon;

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(3) a protection plan for any high potential historic sites or high potential route segments; and

"(4) general and site-specific development plans, including anticipated costs.".

SEC. 105. Section 6 of the National Trails System Act is amended—

(1) in the first sentence, by inserting "by the appropriate Secretary" after "marked"; and

(2) by striking out ": Provided" and all that follows through the period and inserting in lieu thereof the following: ", or, where the Secretary deems necessary or desirable, on privately owned lands with the consent of the landowner. Applications for approval and designation of connecting and side trails on non-Federal lands shall be submitted to the Secretary of the Interior."

SEC. 106. (a) Section 7 of the National Trails System Act is amended—

(1) by striking out "SEC. 7. (a)" and inserting in lieu thereof "(2)"; and

(2) by inserting immediately after the section heading the following new paragraph:

"SEC. 7. (a)(1)(A) The Secretary charged with the overall administration of a trail pursuant to section 5(a) shall, in administering and managing the trail, consult with the heads of all other affected State and Federal agencies. Nothing contained in this Act shall be deemed to transfer among Federal agencies any management responsibilities established under any other law for federally administered lands which are components of the National Trails System. Any transfer of management responsibilities may be carried out between the Secretary of the Interior and the Secretary of Agriculture only as provided under subparagraph (B).

"(B) The Secretary charged with the overall administration of any trail pursuant to section 5(a) may transfer management of any specified trail segment of such trail to the other appropriate Secretary pursuant to a joint memorandum of agreement containing such terms and conditions as the Secretaries consider most appropriate to accomplish the purposes of this Act. During any period in which management responsibilities for any trail segment are transferred under such an agreement, the management of any such segment shall be subject to the laws, rules, and regulations of the Secretary provided with the management authority under the agreement, except to such extent as the agreement may otherwise expressly provide."; and

(3) in the second sentence of paragraph (2) of subsection (a) (as so redesignated), by inserting before the period "consistent with the purpose of this Act".

(b) Section 7(c) of the National Trails System Act is amended by adding at the end thereof the following: "The appropriate Secretary may also provide for trail interpretation centers, which shall be located at historic sites along the route of any national scenic or national historic trail, in order to present information to the public about the trail, with emphasis on that portion of the trail passing through the State in which the center is located. With respect to any such trail, only one trail interpretation center may be provided for by the Secretary in each State. Wherever possible, the centers shall be operated and maintained by a State agency under a cooperative agreement between the appropriate Secretary and the State agency.".

(c) Section 7(f) of the National Trails System Act is amended by inserting "(1)" after "(f)" and by adding at the end thereof the following:

"(2) When a tract of land lies partly within and partly without a national scenic or national historic trail right-of-way, the appropriate Secretary may, with the consent of the owner thereof, acquire the entire tract. Land so acquired outside the right-of-way may be exchanged for non-Federal land within such right-of-way, and any portion of the land not used for such exchanges may be disposed of in accordance with the provisions of section 5 of Public Law 90-401. The proceeds from any such disposal shall be credited to the appropriation account bearing the cost of land acquisition for the affected trail right-of-way.".

(d) Section 7(g) of the National Trails System Act is amended—

(1) by inserting immediately before the last sentence the following: "Notwithstanding any other provision of this Act or any other provision of law, the United States may not utilize condemnation proceedings or any other form of eminent domain power without the consent of the owner to acquire any lands, or interests in lands, located in Wyoming in connection with the Goodnight, Goodnight-Loving, and Jedediah Smith trails studied or designated under this Act.";

(2) in the last sentence by striking out "No" and inserting in lieu thereof "Except for designated protected components of the trail, no";

(3) in the last sentence by striking out "or" the second place it appears and inserting in lieu thereof ", "; and

(4) in the last sentence by adding at the end before the period the following: ", or the sites for trail interpretation centers described under subsection (c), as authorized under section 10 of this Act".

(e) Section 7(h) of the National Trails System Act is amended—

(1) by inserting "(1)" after "(h)";

(2) by inserting after the second sentence the following: "Such agreements may include provisions for limited financial assistance to encourage participation in the operation, development, or maintenance of such trails, provisions providing volunteer in the park or volunteer in the forest status (in accordance with the Volunteers in the Parks Act of 1969 and the Volunteers in the Forests Act of 1972) to individuals, private organizations, or landowners participating in such activities, or provisions of both types. Such Secretary shall also initiate consultations with affected States and their political subdivisions to encourage the development and implementation by such entities of appropriate measures to protect private landowners from trespass resulting from trail use and from unreasonable personal liability and property damage caused by trail use, and the development and implementation by such entities of provisions for land practices, compatible with the purposes of this Act, for property within or adjacent to trail rights-of-ways. After consulting with States and their political subdivisions under the preceding sentence, the Secretary may provide assistance to such entities under appropriate cooperative agreements in the manner provided by this subsection."; and

(3) by striking out "Whenever the" in the last sentence of such subsection and inserting in lieu thereof the following:

"(2) Whenever the".

(f) Section 7(i) of the National Trails System Act is amended by adding at the end thereof the following new sentence: "The Secretary responsible for the administration of any segment of any component of the National Trails System (as determined in a manner consistent with subsection (a)(1) of this section) may also utilize authorities related to units of the national park system or the national forests, as the case may be, in carrying out his administrative responsibilities for such component.".

SEC. 107. Section 8 of the National Trails System Act is amended—

(1) by redesignating subsection (d) (and any reference thereto) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) The Secretary of Transportation, in administering the Federal aid program, together with the Chairman of the Interstate Commerce Commission and the Secretary of the Interior, in administering the Railroad Revitalization and Regulatory Reform Act of 1976, shall encourage State and local agencies and private interests to establish such trails using the provisions of such programs.".

SEC. 108. Section 10 of the National Trails System Act is amended—

(1) by inserting "(a)(1)" after "SEC. 10.";

(2) by striking out "(a) The" in the second sentence and inserting in lieu thereof "for the";

(3) by striking out "It is the express intent" and inserting in lieu thereof the following:

"(2) It is the express intent";

(4) in subsection (a)(2) (as so redesignated), by inserting "Applachian" before "Trail"; and

(5) in subsection (c)—

(A) by inserting "(1)" after "(c)";

(B) by inserting before the period at the end of paragraph (1) (as so redesignated) ", except that funds may be expended for the acquisition of lands or interests therein for the purpose of providing for one trail interpretation center, as described in section 7(c), along each such trail in each State crossed by the trail"; and

(C) by adding at the end of such subsection the following:

"(2) Effective October 1, 1981, there is hereby authorized to be appropriated such sums as may be necessary to implement the provisions of this Act relating to the trails designated by paragraphs (9) through (16) of section 5(a) of this Act. Not more than $3,000,000 may be appropriated for the purposes of acquisition of land and interests therein for the trail designated by section 5 (a)(14) of this Act, and not more than $16,500,000 may be appropriated for the purposes of the development of such trail.".

SEC. 109. The National Trails System Act is amended by adding the following new sections at the end thereof:

"VOLUNTEER ACTION TRAILS DEMONSTRATION PROGRAM

"SEC. 11. (a)(1) In addition to the cooperative agreement authority contained in this Act, there is authorized to be established a volunteer action trails demonstration program (hereinafter in this section referred to as the 'program') to encourage volunteers and volunteer organizations to plan, develop, and manage trails throughout the Nation. The program shall be administered by the Secretary of the Interior (with respect to lands and programs primarily under the jurisdiction of such Secretary) and by the Secretary of Agriculture (with respect to lands and programs primarily under the jurisdiction of such Secretary).

"(2) Together with the grant authority provided under this section, the Secretaries are encouraged to utilize wherever appropriate, in furtherance of the purposes of this section, existing authorities available to them under the Volunteers in the Parks Act of 1969, the Volunteers in the Forests Act of 1972, and section 6 of the Land and Water Conservation Act of 1965 (relating to the development of Statewide Comprehensive Outdoor Recreation Plans).

"(b)(1) Under the program each Secretary may make grants of not more than $25,000 to volunteer trail groups which are committed to managing, maintaining, or developing trails, or which agree to conduct such activities. During any fiscal year, no volunteer trail group may receive under this section, in the aggregate, an amount exceeding $25,000. Grants under this section may be made available, as provided under paragraph (2), only for the purposes of—

"(A) developing or maintaining (i) trails which are components of the National Trails System, or (ii) trails which, if so developed and maintained by such groups, could qualify for designation as components of the National Trails System; or

"(B) operating programs to organize and supervise volunteer trail building efforts with respect to the trails referred to in subparagraph (A), conducting trail-related research projects, or providing education and training to volunteers on methods of trail planning, construction, and maintenance.

"(2) Financial assistance made available to volunteer trail groups under this subsection for the purposes described in subparagraphs (A) and (B) of paragraph (1) shall be used for—

"(A) providing tools to volunteers engaged in trail-related work projects organized by the group;

"(B) providing reimbursement for incidental expenses incurred by volunteers, such as transportation, lodging, and subsistence;

"(C) providing resource materials for the programs referred to in paragraph (1)(B);

"(D) assisting in defraying the incidental costs of office operations of the group (including postage, telephone expenses, duplicating, and clerical supplies), other than the costs of salaries or benefits for staff or the costs of rent, insurance, or similar charges for office space;

"(E) constructing or maintaining trail-related public use facilities, including historic features where appropriate;

"(F) providing insurance protection for the trail group and its volunteers (as determined to be adequate by the Secretary); or

"(G) any combination of the items specified under subparagraphs (A) through (F).

"(3) No grant shall be made available under this section to a volunteer trail group unless the group submits an application to the appropriate Secretary. The Secretary shall not approve any such application unless—

"(A) in the application, the group (i) agrees to provide funds, or services pertaining to trails, the value of which is equal to the amount of the grant (as determined under criteria established by the Secretary), and (ii) describes the services, if any, to be provided under clause (i);

"(B) in the application, the group agrees to abide by such procedures as the Secretary may establish under subsection (c) to ensure accountability for any funds made available to the group under this section; and

"(C) the application specifies the manner in which the funds sought by the group would be used if made available under this section.

"(c)(1) The Secretaries shall develop a uniform format for the grant applications required under this section and for any reports required to be submitted by grant recipients, and the Secretaries shall establish such uniform procedures and requirements as may be necessary to ensure that funds made available under this section are used for the purposes for which the grant was made. Each Secretary shall be responsible for establishing such criteria as may be necessary to evaluate applications submitted under this section.

"(2) To the maximum extent practicable, applications and program information shall be made available, and grants shall be administered, at appropriate agency field offices.

"(3) The program shall be carried out, to the maximum extent practicable, in consultation with interested State and Federal agencies and volunteer trail groups.

"(d)(1) There is authorized to be appropriated to the Secretary of the Interior to carry out the program not more than $400,000 for the fiscal year ending September 30, 1982, not more than $425,000 for the fiscal year ending September 30, 1983, not more than $450,000 for the fiscal year ending September 30, 1984, not more than $475,000 for the fiscal year ending September 30, 1985, and not more than $500,000 for the fiscal year ending September 30, 1986.

"(2) There is authorized to be appropriated to the Secretary of Agriculture to carry out the program not more than $400,000 for the fiscal year ending September 30, 1982, not more than $425,000 for the fiscal year ending September 30, 1983, not more than $450,000 for the fiscal year ending September 30, 1984, not more than $475,000 for the fiscal year ending September 30. 1985, and not more than $500,000 for the fiscal year ending September 30, 1986.

"(e) For purposes of this section, the term 'volunteer trail group' means any private organization—

"(1) which is devoted to providing for or fostering the development, management, maintenance, or public appreciation of hiking, horseback, bicycling, or related trails;

"(2) which has a membership composed of citizens willing to donate services in order to further the trail-related objectives of the organization;

"(3) which has a staff composed of either volunteers or paid employees; and

"(4) no part of the net earnings of which inures to the benefit of any private shareholder or individual.

"(f) No grants may be made, or contracts entered into, under this section except to such extent, or in such amounts, as may be provided in advance in appropriation Acts.

DEFINITIONS

"Sec. 12. As used in this Act:

"(1) The term 'high potential historic sites' means those historic sites related to the route, or sites in close proximity thereto, which provide opportunity to interpret the historic significance of the trail during the period of its major use. Criteria for consideration as high potential sites include historic significance, presence of visible historic remnants, scenic quality, and relative freedom from intrusion.

"(2) The term 'high potential route segments' means those segments of a trail which would afford high quality recreation experience in a portion of the route having higher than average scenic values or affording an opportunity to vicariously share the experience of the original users of an historic route.

"(3) The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific, the Northern Mariana Islands, and any other territory or possession of the United States.".

Sec. 110. Section 6(a) of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601–6a) is amended at the end of the first paragraph by adding the following new sentences:

"Notwithstanding my other provision of law, no Federal fee shall be imposed for entrance or admission to any national recreation area, any unit of the National Wild and Scenic Rivers System, or any unit of the National Trails System. Notwithstanding any other provision of law, effective June 1, 1981, no Federal fee shall continue to be imposed for entrance or admission to any unit of the National Park System at which the receipts collected for entrance fees exceeded the cost of collection of said fees by less than $2,000 in calendar year 1979 (as determined by the National Park Service report entitled 'Report of Entrance Fee Rates, Collections and Costs to Collect CY 1979' and dated May 13, 1980): *Provided*, That, if the Secretary of the Interior, prior to April 1, 1981, makes a specific determination that fee collection will be reasonably necessary to protect park resources in an individual unit affected by this sentence, he may continue an entrance fee at that unit after providing notice of his intention to do so to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate.".

Sec. 111. Section 3(a) of the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467), is amended in the first sentence by—

(1) striking out "to include but not be limited to representatives competent in" and inserting in lieu thereof "each of whom shall possess knowledge and expertise related to the protection and management of the National Park System, including but not limited to"; and

(2) by striking out "and natural science, who" and inserting in lieu thereof "resources management and the natural sciences, who".

TITLE II—STUDY COMMITTEE

Sec. 201. The Congress finds that those portions of the Mississippi, Saint Croix, and Minnesota River corridors lying within the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington Counties in the State of Minnesota—

(1) represent a significant recreation resource which would benefit a large population in the immediate vicinity;

(2) represent a significant historical and cultural resource worthy of preservation for the enjoyment and benefit of present and futuro generations;

(3) contain significant natural and scientific values that enhance the diversity and aesthetic character of the metropolitan area;

(4) are important commercial resources vital to the continued economic well-being of the region and the Nation;

(5) are of national significance and constitute an area of national concern; and

(6) are in need of cooperative recreational planning and management so as to improve efforts to further the preservation, enhancement, and use of these recreational resources.

Sec. 202. (a) A study committee (hereinafter in this title referred to as the "committee") consisting of fifteen members shall be established in accordance with this section to examine methods by which Federal, State, regional, and local governments can cooperate to enhance the recreational opportunities along those portions of the Mississippi, Minnesota, and Saint Croix Rivers described in section 201 of this title. The committee shall be responsible for carrying out the study described under section 204.

(b)(1) The committee shall consist of fifteen members as follows:

(A) A Chairperson, who shall be appointed by the Secretary of the Interior from among individuals designated in a list of nominees submitted by the Governor of Minnesota.

(B) A Vice Chairperson, who shall be a member designated by the Secretary of the Interior.

(C) Four members, one of whom shall be designated by each of the following: the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Transportation, and the Secretary of Defense.

(D) Nine members, who shall be appointed by the Secretary of the Interior from among individuals designated in a list of nominees jointly submitted by the Governor of Minnesota, the Metropolitan Council, and the Mayors of Minneapolis and Saint Paul.

Members appointed under this subsection shall include representatives of each of the interests described under section 204(e) of this title.

(2) The Governor of Minnesota, the Metropolitan Council, and the mayors of Minneapolis and Saint Paul shall submit the nominations required under this subsection within forty-five days after the date of the enactment of this Act. All appointments of members required under this subsection shall be made within sixty days after the date of the enactment of this Act.

(c) Members of the committee who are full-time officers or employees of the United States shall receive no additional pay, allowance, or benefits (except for expenses under subsection (d)) by reason of their service on the committee.

(d) All members of the committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties for the committee from funds appropriated for such purpose.

(e) The Chairperson of the Study Committee, if other than one to whom paragraph (c) applies, shall receive per diem at the maximum daily rate for a GS 11 of the general schedule when engaged in the actual performance of duties vested in the Study Committee from funds appropriated for this purpose.

(f) The committee shall terminate within two years and two months after the date of the enactment by the Congress of the law providing for the initial appropriation to carry out this title. Any funds appropriated under this title shall be available until expended.

Sec. 203. (a) If a multifunctional regional agency (hereinafter in this title referred to as the "Regional Planning Agency") authorized by State law to plan for and coordinate the development of the seven counties described in section 201 is in existence on the date of enactment of this Act, the Governor of the State of Minnesota shall, if permitted under State law, require such agency to assist in carrying out the study described under section 204 of this title.

(b)(1) To the extent that funds are appropriated for this purpose, the Regional Planning Agency shall provide the committee with financial, administrative, and other necessary support services.

(2) The Regional Planning Agency, after consultation with the committee, shall have the power to appoint and fix the pay of such additional personnel as may be necessary to carry out its duties under this title. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and

subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, from funds appropriated for such purpose.

(3) The Regional Planning Agency, after consultation with the committee, may also procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed $100 per day.

(c) To the extent of available appropriations, the Regional Planning Agency may obtain, by purchase, donation or lease, such facilities, equipment, and services as may be needed to carry out the duties of such agency under this title.

(d) To the extent feasible and practicable, the Regional Planning Agency may utilize personnel available under the authority provided in the Intergovernmental Personnel Act of 1970 to assist such agency in carrying out its duties.

(e) Within forty-five days after receiving the report required by section 204, the Regional Planning Agency shall provide the committee with written comments on that report. Upon receipt of those comments, the committee shall submit the report, together with such written comments, to the President, the Congress, and appropriate State, regional, and local government units.

SEC. 204. (a) The committee shall conduct a study on the preservation, enhancement, protection, and use of the designated recreation areas along the river corridors described in section 201 of this title. For the purpose of this title, designated areas shall be defined as those park, open space, recreation, or historical sites designated in an adopted Federal, State, regional, or local governmental plan. In carrying out the study, the committee shall review and utilize existing studies, and shall consider existing plans, programs, and policies as they affect the present and future recreational use of the river corridors described in section 201 of this title.

(b)(1) Within two years after the date of the enactment by the Congress of the law providing for the initial appropriation to carry out this title, the committee shall provide the Regional Planning Agency with a written report on the findings and conclusions of study described under subsection (a), together with recommendations for policies which should be adopted, and actions which should be taken, to optimize the recreational, fish and wildlife, historic, natural, scientific, scenic, and cultural values of the river corridor areas referred to in section 201 of this title. The study may also include recommendations for any institutional changes which the committee deems desirable and feasible to provide permanent management of the designated recreational areas along these river corridors, as well as recommendations for specific areas of local, regional, State, and Federal agency cooperation for river corridor management of the designated recreational areas.

(2) All policies and actions recommended by the committee shall be compatible with, and shall assure the integrity of, existing federally designated management programs and units on the Saint Croix and Minnesota River corridors. The committee shall recommend no policy or action which would place unreasonable restrictions on existing or compatible economic uses of these resources.

(c) The committee shall provide for public participation in the panning process in order to take into account the concerns of recreational, commercial, cultural, and environmental interests, and State, regional, and local governments.

SEC. 205. Effective October 1, 1981, there are authorized to be appropriated $300,000 to carry out this title.

The SPEAKER pro tempore. Is a second demanded?

Mr. SEBELIUS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. PHILLIP BURTON) will be recognized for 20 minutes, and the gentleman from Kansas (Mr. SEBELIUS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I bring before the House today a noncontroversial measure, H.R. 8087. H.R. 8087 was reported by the Committee on Interior and Insular Affairs without dissenting vote. It would amend the National Trails System of 1968. The original act established a framework within which Congress could encourage the development of trail opportunities. H.R. 8087 builds on the past work of the Congress by designating three new national scenic trails; the Florida Trail, the Potomac Heritage Trail and the Natchez Trace Trail.

Four new national historical trails are designated: the Santa Fe Trail, the Chisholm Trail, the Shawnee Trail and the Western Trail.

While in each case the initial trail designation will only give recognition to trail segments which currently exist on Federal lands, the bill also includes amendments to the act which will encourage cooperative activities to foster recreation opportunities on trails.

Six additional trail routes are also authorized to be studied and reports made to the Congress in accordance with the existing provisions of the act. These are: The Goodnight Trail (H.R. 4250), the Goodnight-Loving Trail (H.R. 4250), the Juan Bautista de Anza Trail (H.R. 4276 and H.R. 4587), the Trail of Tears (H.R. 5694), the Illinois Trail (H.R. 5516), and the Jedediah Smith Trail.

Mr. Speaker, I want to at this time pay tribute to the Members of this body who have worked to make this legislation possible.

Representative JIM JOHNSON is quite simply the person who is most responsible for there being a national historic trail category in the act at all.

His efforts last Congress led to the generic amendments which were adopted at that time. His continuing leadership during the current session is responsible for the designations as national historic trails of the Santa Fe, Chisholm, Shawnee, and Western Trails. He also has authored the provision directing the study of the Goodnight and Goodnight-Loving Trails.

Representatives ROBERT LAGOMARSINO and NORMAN MINETA have each authored legislation incorporated in H.R. 8087 which would provide for a study of the de Anza trail in our State of California. Congressman LAGOMARSINO has also exhibited long-term interest in the development of the National Trails System.

H.R. 8087 also contains authorization for a study of the Illinois Trail, thanks to the work of Representative TOM CORCORAN.

In addition to our members and the committee staff who have worked on this legislation, I want to recognize the dedicated work and absolutely invaluable assistance of the office of the legislative counsel in this matter. Paula Silberthau of that office has, through her individual efforts, enabled our committee to bring this legislation to the attention of the House of Representatives today.

Mr. Speaker, H.R. 8087 also establishes a limited duration program of small grants which the Secretaries of Interior and Agriculture may make to volunteer trail organizations to encourage the development of recreation trails. Other amendments to the act include direction for the Secretaries to encourage the States to adopt legislation which will assist landowners along trail areas by limiting their liability.

Other sections adopted by the committee include an amendment to the Land and Water Conservation Fund Act to prohibit the charging of entrance fees at national recreation areas, national wild and scenic rivers, and national scenic or historic trails, as well as eliminating entrance fees at a number of national park system units where collection costs either exceed revenues, or where profits are so marginal that their continuation appears to be an exercise in bureaucratic inertia rather than a thoughtful program. Of particular concern to me is the imposition of such fees of national historic sites, where we should be offering every encouragement to our citizens to learn something of their heritage.

Our language in H.R. 8087 restricting the imposition of Federal entrance fees in certain areas has been worked out in consultation with the ranking minority member of our subcommittee, Representative KEITH SEBELIUS. We have agreed on this compromise which will further restrict the number of Federal recreation areas where entrance fees can be imposed. I want to make clear that this further restriction does not in any way alter the circumstance at areas where an entrance fee is already prohibited, thanks to earlier actions taken by this Congress. No resumption of fees may occur at any area where a fee is not now collected, as prohibited in earlier legislation. Our language today does give the Secretary of the Interior the ability to continue fees in certain individual areas otherwise affected by our new restriction today, if he makes a specific determination that there is an unusual justification to continue collections. I want to serve notice to the Interior Department that this Member, for one, will not find an indiscriminate use of this exemption to be in any way acceptable. At this point in my statement I am inserting the detailed chart from the National Park Service which shows receipts from entrance fees nationwide. I have added notations showing those areas which would be affected by enactment of the language contained in H.R. 8087.

REPORT OF ENTRANCE FEE RATES, COLLECTIONS, AND COSTS TO COLLECT, CALENDAR YEAR 1979

Area	Rate	Receipts	Collection costs
Adams NHS, Mass	0.50	$7,607.50	$1,900.00
Andrew Johnson NHS, Tenn[1]	.50	1,377.50	0
Appomattox Courthouse NHP, Va	.50	13,376.00	11,071.00
Arches National Park, Utah	.50	30,228.00	16,500.00
Aztec Ruins NM, N. Mex	.50	12,521.00	6,362.00
Badlands NM, S. Dak	.50	64,175.00	46,440.00
Bandelier NM, N. Mex	.50	30,316.00	3,046.76
Black Canyon of the Gunnison NM, Colo	.50	20,889.50	19,800.00
Bryce Canyon National Park, Utah	.50	151,978.00	30,875.00
Capulin Mountain NM, N. Mex	.50	9,407.00	3,776.00
Carlsbad Caverns NP, N. Mex	1.00	361,951.00	29,774.00
Casa Grande Ruins NM, Ariz	.50	22,691.50	3,625.00
Castillo de San Marcos NM, Fl	.50	227,712.50	64,400.00
Chickamauga-Chattanooga NMP, Ga.-Tenn	.50	6,790.50	1,863.38
Chiricahua NM, Ariz	.50	9,042.00	4,800.00
Colonial NHP, Va	.50	212,797.00	29,400.00
Colorado NM, Colo	.50	17,214.00	11,484.00
Crater Lake NP, Ore	.50	114,720.00	41,173.00
Craters of the Moon NM, Idaho	.50	14,291.00	6,668.00
Devils Tower NM, Wyo	.50	32,835.00	12,658.00
Edison NHS, N.J	.50	9,475.00	3,000.00
El Morro NM, N. Mex	.50	----------	----------
Everglades NP, Fl	.50	216,800.00	98,700.00
Fort Davis NHS, Tex	.50	8,767.00	5,400.00
Fort Pulaski NM, Ga.[1]	.50	13,414.50	13,129.00
Glacier NP, Mont	.50	239,081.00	141,533.00
Grand Canyon NP, Ariz	.50	861,512.00	89,590.00
Grand Teton NP, Wyo	.50	284,507.00	91,952.00
Great Sand Dunes NM, Colo	.50	29,018.25	8,910.00
Gulf Islands NS, Fla-Miss	.50	83,978.00	31,700.00
Home of FDR and Vanderbilt Mansion NHS, N.Y	1.50	96,902.00	36,400.00
John F. Kennedy NHS, Mass.[1]	.50	6,242.50	5,906.00
John Muir NHS, Calif.[1]	.50	5,438.00	4,986.00
Kings Canyon NP, Calif	.50	(Combined with Sequoia)	
Lassen Volcanic NP, Calif	.50	46,096.00	37,700.00
Longfellow NHS, Mass.[1]	.50	3,082.00	2,587.00
Mesa Verde NP, Colo	.50	128,28 .50	20,000.00
Minute Man NHP, Mass.[1]	.75	2,532.00	2,000.00
Montezuma Castle NM, Ariz	.50	68,454.00	29,405.00
Morristown NHP, N.J	.50	12,331.00	4,600.00
Mount Rainier NP, Wash	.50	246,243.00	79,700.00
Natural Bridges NM, Utah [2]	.50	5,120.00	5,900.00
Petrified Forest NP, Ariz	.50	125,614.00	92,776.00
Pinnacles NM, Calif	.50	17,846.33	10,241.00
Pipe Spring NM, Ariz	.50	4,406.00	1,730.00
Rocky Mountain NP, Colo	.50	763,685.00	171,866.00
Sagamore Hill NHS, N.Y	.50	25,532.00	13,224.00
Saguaro NM, Ariz	.50	22,494.00	16,806.00
Saint-Gaudens NHS, N.Y.[2]	.50	2,612.00	3,330.00
Scotts Bluff NM, Nebr.[2]	.50	7,346.00	10,699.00
Sequoia and Kings Canyon NP, Calif	.50	280,962.50	172,349.00
Shenandoah NP, Va	.50	588,487.00	202,223.00
Theodore Roosevelt BP, NHS, N.Y.[3]	.50	2,907.50	4,553.00
Theore Roosevelt NMP, N. Dak	.50	26,317.00	11,122.00
Tonto NM, Ariz.[2]	.50	6,718.50	8,000.00
Tumacacori NM, Ariz.[2]	.50	10,596.50	12,500.00
Tuzigoot NM, Ariz.[1]	.50	12,131.00	12,000.00
Walnut Canyon NM, Ariz.[1]	.50	16,716.00	16,504.34
White Sands NM, N. Mex	.50	69,076.00	38,999.00
Yellowstone NP, Mont.-Wyo.-Idaho	.50	686,310.50	229,653.23
Yosemite NP, Calif	.50	1,159,746.00	303,058.00
Zion NP, Utah	.50	248,202.00	39,000.00
Total		7,806,906.58	2,429,347.71

[1] 9 units—receipts marginally exceed expenses.

[2] 6 units—expenses exceed receipts.

Also included are an amendment to the Historic Sites Act of 1935 to require that members of the advisory board on the national park system will have certain qualifications, and the inclusion of a rewritten text to conduct a study of certain river corridors in the Minneapolis-St. Paul area, an earlier version of which was passed by the House this year in H.R. 3.

Mr. Speaker, I urge my colleagues to join me in approving H.R. 8087 at this time.

Mr. SEBELIUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill principally represents amendments to the National Trails System Act of 1968. It encompasses the following: First, additions of three designated new national scenic trails and two new national historic trails; second, provision for study of five new trail routes; third, substantive changes in and additions to various generic provisions of the act; fourth, initiation of a pilot program for a volunteer action trails demonstration program; and fifth, numerous technical changes in the existing law. The bill also contains several other provisions which are not particularly relative to the trails act.

One of the most positive new features of this bill is the inauguration of the volunteer action trails demonstration program. Some of the best work ever done in this country to benefit of our Nation's trails has come from interested citizens volunteering their efforts in trail planning and construction. This bill has a provision constituting a seed money approach to draw that effort out even more. This new program should be very productive in advancing the development of more trails. Its progress needs to be closely monitored by the administering agencies of the executive branch and by the authorizing committees of the Congress.

This bill also contains two other features to add more flexibility in the administration of the trails program by the executive agencies. If the process of studying a study trail candidate proves in its early stages to indicate no logical chance of coming out to be positive, there is a process whereby the complete study can be curtailed, to save time and money. There is a similar process whereby the setting up of designated trail advisory councils can be avoided if good faith efforts prove to be fruitless in assembling such a council. I believe all the forementioned are good positive features to be added to the trails act. Now I would like to make a comment on what is probably the very core of this bill, and that which also constitutes the very core or the trails act itself—and that is with regard to the specific trails which are designated to become part of the national system or are studied for their potential to so become.

In the preceding several years, and also in this bill, numerous new trails have been and are being added to the trails system. At the same time, the same Congress has weakened, and continues to weaken, the working provisions and tools of the trails act to the extent that the true workability of most of the trails system is greatly reduced. In the simplest words, we love to designate trails, while at the same time we seriously curtail their workability on the ground. This is principally done by prohibiting protection of the trail routes through acquisition. We are indeed deeply in the rut of creating "paper trails"—good stuff on paper, but fairly worthless on the ground where they really count. The committee does not adequately scrutinize the candidates proposed for study or for designation. The committee, by law, requires comprehensive reports to be prepared and submitted on the study trails—and then virtually overlooks them, by not seriously scrutinizing them in making further decision on them for designation to the system. Indeed, we are preoccupied with the glamor of designation and creating new stuff, but are unwilling to make the stuff work well that we create. The attitude of general noninterest and low priority attention to the trails system by all administrations since the 1968 inception of the trails system act has also constituted a significant part of the overall problem.

Mr. Speaker, I believe that henceforth, no more trails should be added for designation or study until the entire Trails Act is the subject of a comprehensive oversight scrutiny by both the administration and the authorizing committees of the Congress. I will not be here to participate, but I leave this as a strong recommendation for future participants in both branches of Government having responsibilities in this area.

Mr. Speaker, there are two other items I want to make brief comment on, both of which are near the end of the bill.

On the item of admission fee elimination for some areas—section 110 of the bill—I do not object generally to the elimination or reduction of admission fees to Federal recreation-type areas. However, I believe that in many cases there are some collateral pluses associated with the charging of fees—most of which are subtle and psychological in nature. I do not believe fees should be totally eliminated without some further attention and thought being given to this entire matter.

On the matter of adjustments in qualification criteria for service on the Secretary of the Interior's National Park System Advisory Board—section 111 of the bill—I believe it is most important to assure that all Members possess expertise of some type which is very relevant to the administration of the national park system. This language change is intended to reinforce that point, and it is also designed to urge consideration for a strengthening of representation in natural resources and natural sciences expertise. Concern over the thrust of the observations from the May 1980 "State of the Parks" report, submitted by the National Park Service to the Congress, is a significant factor in reinforcing the advisability of this change.

Mr. Speaker, this concludes my remarks on this bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. CLAUSEN), the ranking minority member of the committee.

Mr. CLAUSEN. Mr. Speaker, I rise in support of H.R. 8087, a bill making amendments to the National Trails System Act.

Briefly, the bill adds seven new trails to the National System (Santa Fe, Chisholm, Shawnee, Western, Potomac Heritage, Natchez Trace and Florida National Trails).

It provides studies for six additional trails (Goodnight, Goodnight-Loving, Juan Bautista de Anza, Trails of Tears, Illinois and Jedediah Smith Trails).

In addition, a volunteer action trails demonstration program is established which encourages volunteer groups and individuals to plan, develop and manage trails for biking, hiking, and horseback riding throughout the Nation. A provision is also included which perfects the authorities and responsibilities of the Minnesota, Mississippi, and St. Croix Rivers Study Committee passed by the House earlier this Congress. Numerous technical and clarifying amendments are also made to the National Trails System Act.

Mr. Speaker, I know of no opposition to this bill and urge my colleagues to support H.R. 8087.

Mr. PHILLIP BURTON. Mr. Speaker, I yield such time as he may consume to the distinguished dean of the Mississippi delegation, the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, I rise in support of this bill. I especially appreciate the consideration of the Natchez Trace Parkway which is quite prominent in the history of this country and which will mean a lot to an area stretching all the way from New York to New Orleans.

I thank my colleague from California.

Mr. PHILLIP BURTON. Mr. Speaker, I thank the gentleman from Mississippi for his leadership, determination, and effectiveness that led to this result.

● Mr. CORCORAN. Mr. Speaker, I urge my colleagues to support the bill now under consideration, H.R. 8087, which will designate several new national scenic and historic trails. I commend the author of this bill, my colleague from California, the Honorable PHIL BURTON, for his leadership and the expeditious manner in which he moved this bill through the Interior Committee to the House floor in a matter of 2 short weeks.

Of particular importance to me is the Illinois Trail, because this omnibus legislation includes language from a bill which I introduced last year (H.R. 5516) to develop the Illinois Trail as a national scenic trail. The proposed trail extends from the Chicago Portage National Site to Wood River, Ill., generally following the Illinois River and the Illinois-Michigan Canal. Although the trail extends from northeastern Illinois to southwestern Illinois, I am primarily interested in the development of the portion in my district, the Illinois-Michigan Canal. Not only does this section include unique historical, cultural, and recreational sites, but it is also located in a region in which the demand for recreation facilities exceeds the current supply, according to a recent Illinois outdoor recreation plan.

The Illinois-Michigan Canal extends from the Chicago Portage to La Salle-Peru, a distance of about 90 miles. Most of the historical and recreational sites are clustered between Lockport and La Salle-Peru—60 miles. The canal was constructed in the mid-19th century to link the Great Lakes with the Mississippi River and was believed to be the greatest of the Midwest canals, promoting Chicago into the leading grain market and meatpacking center of the Midwest. Although the canal lost prominence as a transportation corridor by the end of the 1800's and was virtually abandoned in the 1930's, it continues to elicit much interest from public and private entities and is becoming increasingly popular as a recreation attraction in northcentral Illinois. Many farsighted individuals have continually worked to restore sections of the canal as best they could with only manual labor and little money.

In the early 1970's, the State developed a preservation plan for the canal; however, due to a lack of funds, it has not pursued this development.

Because of the growing interest in the development and preservation of this area, last year Senators PERCY and STEVENSON and I cosigned a letter to the Interior Department urging that a reconnaissance survey for the canal be conducted to determine the feasibility of further study and possible development based on the bill I had introduced. In November 1979, we were notified that such a survey was being conducted, and the results, which were favorable to further study, were published in June by the National Park Service. I am proud to report that the survey was written in an exceedingly positive manner toward increased development of the canal.

A great deal of credit for the development of legislation to study the Illinois Trail is due to the excellent research, persistent efforts and hard work of many Illinoisans, including Leonard Lock, Dr. Robert Whalen, Roy Kurkowski, Henry Koenig, Rotary Club of La Salle, Illinois-Michigan Canal Foundation, La Salle County Historical Society, Grundy County Historical Society, Will County Historical Society, Al Banton of the Illinois Park Service, Mayor Al Gunia, Mayor Jack Foley, Dr. Clement Jasiek, Open Lands, Mark Holtz and Cub Scout Pack 33, Ottawa Jaycees, Tom Greenwood, Tom Dyke, and Jim Housey. I can assure you, Mr. Speaker, that there are many more than can be listed here today, all of whom were vital to the progress we have achieved thus far.

Again, I urge my colleagues to support this fine legislation which calls for studies for the Illinois Trail and many other scenic and historical trails nationwide.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. PHILLIP BURTON) that the House suspend the rules and pass the bill, H.R. 8087, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON THE DISTRICT OF COLUMBIA TO HAVE UNTIL MIDNIGHT TONIGHT TO FILE REPORT ON H.R. 7658

Mr. HARRIS. Mr. Speaker, I ask unanimous consent that the Committee on the District of Columbia may have until midnight tonight, Monday, September 22, 1980, to file a report on H.R. 7658.

The SPEAKER pro tempore (Mr. NATCHER). Is there objection to the request of the gentleman from Virginia?

There was no objection.

WILD AND SCENIC RIVERS ACT

Mr. PHILLIP BURTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8096) to amend the Wild and Scenic Rivers Act to provide for the study of certain river segments for potential inclusion in the National Wild and Scenic Rivers System and to designate certain river segments for inclusion in such system, and for other purposes, as amended.

The Clerk read as follows:

H.R. 8096

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 3(a)(21) of the Wild and Scenic Rivers Act (16 U.S.C. 1271–1287) is amended by striking out "agencies of the Departments of Interior and Agriculture as agreed upon by the Secretaries of such Departments or as directed by the President." and substituting "the Secretary of Agriculture. All Federal lands within the wild and scenic river corridor west of range 11 east shall hereafter be national forest lands to be administered by the Secretary of Agriculture as part of the Tahoe National Forest, the boundary of which is modified as generally depicted on a map entitled 'Tahoe National Forest inclusion of North Fork American Wild and Scenic River, September 1980'.".

SEC. 2. (a) Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271–1287) is amended by adding the following new paragraphs at the end thereof:

"(77) Myakka, Florida: The segment north of the southern boundary of the Myakka River State Park.

"(78) Saint Lucie, Florida: The South Fork.

"(79) Salmon, Connecticut: The entire main stem.

"(80) Farmington, Connecticut: The main stem and the west branch from the Charles A. Goodwin Dam downstream to its confluence with the Connecticut River.

"(81) Parker, Massachusetts: The main stem from Plum Island Sound to Interstate 95 including Plum Island River from Plum Island Sound to above Little Pine Creek.

"(82) Caney Fork, Tennessee: The main stem from Tennessee State Road 4251 to its headwaters.

"(83) Dan, North Carolina and Virginia: The segment from above the United States Highway Bridge 311 at river mile 130 to its headquarters.

"(84) Satilla River, Georgia: The main stem.

"(85) Cimarron, Kansas and Oklahoma: The main stem from the Colorado-Kansas State line in Comanche County, Kansas, including its tributaries Buff Creek and Crooked Creek.

"(86) Hoh, Washington: The segment between the boundary of the Olympic National Park, near the confluence of the Hoh River and the South Fork of the Hoh River, downstream to its confluence with the Pacific Ocean.

"(87) Dosewallips, Washington: The segment from the eastern boundary of the Olympic National Forest to the mouth.

"(88) Quillayute, Washington: The segment of the main stem and its Soleduck, Bogachiel, and Calawah tributaries outside the boundaries of the Olympic National Park, but including the segment within the Olympic National Park coastal unit.

"(89) Niobrara, Nebraska: The segment from Sparks Gaging Station to Antelope Creek.

"(90) Dismal, Nebraska: The main stem from the confluence of the North and South Forks to the confluence with the Middle Loup River.".

(b) Section 5(b)(3) of such Act is amended by adding the following at the end thereof: "The studies of the rivers named in paragraphs (77) through (84) and in paragraphs (89) and (90) of subsection (a) shall be completed not later than October 1, 1984. The studies of the rivers named in paragraphs (85) through (88) of subsection (a) shall be completed not later than October 1, 1983.".

(c) Section 5(b)(4) of such Act is amended by striking out "(76)" and substituting "(90)".

(d) The study of the river named in paragraph (80) of section 5(a) of the Wild and Scenic Rivers Act shall include an analysis of whether low-head hydroelectric generating facilities can be installed on such river at dams existing on the date of enactment of this subsection without having a direct and adverse effect upon the fish, wildlife, recreational, and esthetic values of the river. For purposes of such analysis, the Secretary of the Interior shall consult with the Secretary of Energy. Nothing in section 7, or in any other provision, of the Wild and Scenic Rivers Act shall preclude the development of any low-head hydroelectric facility at any such existing dam on such river during the study period or during the period for congressional consideration thereof referred to in section 7(b)(ii) of such Act.

(e) Section 5 of such Act is amended by adding the following new subsection at the end thereof:

"(e) The study of the rivers named in paragraphs (79), (80), and (86) through (88) of subsection (a) shall include an analysis of the various means which may be practicable and appropriate, consistent with other provisions of this Act, to maintain and enhance the fisheries resources of such rivers.".

SEC. 3. (a) Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271-1277) is amended by inserting the following new paragraphs at the end thereof:

"(24) NORTH UMPQUA, OREGON.—The segment from Soda Springs downstream approximately thirty-five miles to Rock Creek, and the segment of Steamboat Creek from Horseheaven Creek downstream approximately seventeen miles to its confluence with the North Umpqua River, as generally depicted on the map entitled 'Umpqua National Forest', published in 1970 by the United States Department of Agriculture. Such segments shall be administered by the Secretary of Agriculture. In carrying out subsection (b) of this section, the Secretary shall carefully consider management options which will maintain and enhance the river fisheries. For the purposes of the segments designated by this paragraph, there are authorized to be appropriated such sums as may be necessary for acquisition of interests in lands and such sums as may be necessary for development. Notwithstanding any other provision of this Act with respect to the acquisition of lands or interests in lands, in the case of the segments designated under this paragraph, the Secretary may acquire only easements.

"(25) ILLINOIS, OREGON.—The segment from the boundary of the Siskiyou National Forest downstream to its confluence with the Rogue River, as generally depicted on a map entitled 'Illinois River Study' and as described in a report entitled 'A Proposal: Illinois Wild and Scenic River'; to be administered by the Secretary of Agriculture. In carrying out subsection (b) of this section, the Secretary shall carefully consider management options which will maintain and enhance the river fisheries. For the purposes of the segment designated by this paragraph there are authorized to be appropriated not more than $2,100,000 for the acquisition of lands or interests in lands, and such sums as may be necessary for development.

"(26) DOSEWALLIPS, WASHINGTON.—The segment from the boundary of the Olympic National Park to the eastern boundary of the Olympic National Forest; to be administered by the Secretary of Agriculture. In carrying out subsection (b) of this section, the Secretary of Agriculture shall carefully consider management options which will maintain and enhance the river fisheries. For the purposes of the segment designated by this paragraph, there are authorized to be appropriated such sums as may be necessary for development.

"(27) AMERICAN, CALIFORNIA.—The segment from Nimbus Dam downstream to its confluence with the Sacramento River, as generally depicted on the map entitled 'American River Parkway Plan' and dated April 7, 1976; to be designated as a recreational river and administered by the State of California, the county of Sacramento, and the city of Sacramento, pursuant to an agreement approved by the Secretary of the Interior. Subsection (b) of this section shall not apply to the segment designated by this paragraph. The boundaries of the designated river area shall be as depicted on the map referred to in this paragraph. Nothing in this Act shall prevent, prohibit, or otherwise affect the operation and maintenance of existing flood control works, including levee and channel maintenance, associated with the segment designated by this paragraph. For purposes of the segment designated by this paragraph, there are authorized to be appropriated not more than $3,000,000 to be used for the acquisition of certain lands and interests in land which the Secretary of the Interior determines to be of critical importance to the protection and preservation of such segment. Funds appropriated pursuant to the authorization contained in the preceding sentence may be made available by the Secretary to the State, or to the city and county, for the acquisition of lands or interests in lands in any area within the river corridor designated by this paragraph only if the Secretary determines that State or local authorities, or both, have provided assurances satisfactory to the Secretary that other areas within the river corridor which are—

"(A) adjacent to, or associated with, the areas to be acquired through the use of such funds, and

"(B) necessary to the protection and preservation of the river corridor

will be adequately protected through other State and local action.".

(b) Section 3(b) of such Act is amended as follows:

(1) strike out "within one year from the date of this Act" and substitute "within one year from the date of designation of such component under subsection (a)";

(2) strike out "river); determine which" and substitute "river); and determine which";

(3) strike out "; and prepare a plan for necessary developments in connection with its administration in accordance with such classification" and substitute a period and "Within three complete fiscal years of the date of the enactment of this sentence in the case of the rivers numbered (1) through (23) in subsection (a), and within three complete fiscal years of the date of their designation in the case of the other rivers designated under subsection (a), the agency charged with the administration of each such component shall prepare a comprehensive protection and management plan to guide the agency's administration in accordance with the classification made under this subsection. Such plan shall include the identification of, and plans for implementation of, user carrying capacities for all types of public use activities within the boundaries of the river. Such plan shall be prepared after consultation with State and local governments and the interested public."; and

(4) strike out "and development plans" and substitute "and notice of completion of the plan described in this subsection".

(c) Subsection (a) of the first section of such Act is amended by inserting "National" before "Wild and Scenic".

SEC. 4. Authorization of money to be appropriated under this Act shall be effective on October 1, 1981. Notwithstanding any other provision of this Act, authority to enter into contractual agreements, and to make payments under this Act pursuant to such contractual agreements shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

The SPEAKER pro tempore. Is a second demanded?

Mr. SEBELIUS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. PHILLIP BURTON) will be recognized for 20 minutes, and the gentleman from Kansas (Mr. SEBELIUS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, once again I bring before the House legislation surrounding which there is no controversy, to the best of my knowledge. This matter was passed out of subcommittee and full subcommittee without dissent.

H.R. 8096 provides for 4 additions to the Wild and Scenic Rivers System and designates 14 specific rivers or segments of rivers for study as wild, scenic, or recreational. The passage of H.R. 8096 will bring the total number of river conditions to the Wild and Scenic Rivers System to 12 during the 95th and 96th Congresses and a total of 32 rivers or segments of rivers for study.

Mr. Speaker, H.R. 8096 provides for additions to the Wild and Scenic Rivers Act. The Wild and Scenic Rivers Act of 1968 provides general authority for congressional action to require study of and to designate specific rivers or segments of rivers as wild, scenic, or recreational. The rivers proposed herein include rivers for study or designation, deriving from bills introduced or requests to the committee by Members of Congress and from recommendations made by the administration.

Subsequent to hearings on these bills and recommendations before our subcommittee, I introduced H.R. 8096 as a consolidation measure to expedite consideration by our colleagues of a single bill rather than consideration of separate bills.

Mr. Speaker, the following is a brief explanation of H.R. 8096:

Section 1 amends section 3(a)(21) of the Wild and Scenic Rivers Act by placing the administration of the North Fork of the American River in California entirely within the jurisdiction of the Department of Agriculture, rather than under the joint management of the Departments of Agriculture and Interior.

Section 2(a) amends section 5(a) of the Wild and Scenic Rivers Act by adding, for purposes of study, 14 rivers or river segments in 11 States. Seven of these were contained in bills introduced by our colleagues and seven others, as recommended by the administration, were supported by the affected Members although no bills were introduced.

Section 2 (b) and (c) specifies the time periods for completion of the studies and provides funding authorization to complete the authorized studies. Section 2(d) provides that the study of the Farmington River in Connecticut shall include an analysis of whether the installation of low-head hydroelectric generating facilities at existing dams on the river would have a direct and adverse impact upon the fish, wildlife, recreational, and esthetic qualities of the river for wild and scenic river designation purposes. Section 2(e) provides that an analysis be conducted on five specific rivers, as part of the river study, as to various means of maintaining and enhancing the fisheries resources of these rivers.

The rivers entailed are the Salmon and the Farmington in Connecticut, and the Hoh, Dosewallips, the Quillayute in Washington. The protections provided for rivers designated under the Wild and Scenic Rivers Act have long been recognized as helpful and productive to river fisheries. However, even though section 1 of the act notes that outstanding fisheries values may be a reason for protection of rivers, the committee has not, until now, directed the administration to carry out studies to provide the Congress with sufficient information to act on this type of a resource problem.

Mr. Speaker, I wish to commend Mr. Howard Brown of the American Rivers Conservation Council and Ms. Eileen Barthelmy of the American League of Anglers for bringing this oversight to my attention.

Section 3(a) amends the Wild and Scenic Rivers Act to designate four river segments as new components of the wild and scenic rivers system. They are the North Umpqua and Illinois Rivers in Oregon, the Dosewallips River in Washington, and the American River in California. Section 3(b) makes a change in the Wild and Scenic Rivers Act to provide that the Secretary must consult with State and local governments and the interest public prior to his establishment of detailed boundaries for the river and his determination of the suitable classification for the river as wild, scenic and/or recreational. It also restates the time frame by which this must be accomplished. This subsection also amends section 3(b) of the Wild and Scenic Rivers Act to change "a plan for necessary developments" for the river, to "a comprehensive protection and management plan" for the river. Section 3(c) amends the title of the act by inserting the word "National", so as to now become titled the "National Wild and Scenic Rivers Act."

Section 4 contains standard language with regard to the authorization of funds for appropriation to implement the provisions of the act.

I also wish to commend the efforts of our colleagues and staffs for their help in working out the many problems that have made this bill possible. Our committee staff, Dale Crane, Judy Lemons, Clay Peters, and Chris Kennedy also are to be commended.

The Office of the Legislative Council, in particular Mr. Pope Barrow, deserves a special note of thanks from myself and our committee. Mr. Barrow's efforts on our behalf throughout this entire Congress have been outstanding.

Mr. Speaker, I note, with regret, that the Interior Committee failed to include designation of the Stanislaus River, Calif., as was proposed in H.R. 4223 by my dear friend and colleague, DON EDWARDS. Countless groups and individuals have worked for many years to achieve this goal and I wish to commend and thank them. I wish to note, in particular, Mr. Mark Dubois, Ms. Patricia Schieferly of the Friends of the River, and all of the dedicated people of the following organizations who supported this legislation:

GROUPS OF DISABLED PEOPLE

Association for Traumatic Retirees.

American Coalition for Citizens with Disability.

Berkeley Outreach Recreation Program.

California Association of the Physically Handicapped.

California Department of Rehabilitation, Director Edward Roberts, Deputy Director James Donald.

Center for Independent Living.

Community Association for Retarded, Inc.

Community Resource Independent.

Dayle McIntosh Center for the Disabled.

De Anza College, Physically Limited Program.

Disabled and Blind Action Committee.

Disabled Law Center.

Disabled Resources Center.

Disabled Law Resources Center.

Eastern Los Angeles Center for Developmentally Handicapped.

Enabling Services Office, Santa Rosa Junior College.

Environmental Travelling Companions.

Humboldt Access Project.

Marin County Schools, Visually Impaired Program.

Miramonte High School, Disabled Students Program.

National Federation of the Blind of California.

Nor Cal Center on Deafness.

Organization for the Rights of the Disabled.

Outreach Program, Catholic Charities.

St. Benedict Center Recreation Program.

United Cerebral Palsy Association.

Westside Community for Independent Living.

EMPLOYEE ORGANIZATIONS

American Guides Association.

American Speech-Language-Hearing Association.

Association of Environmental Professionals.

Jefferson Classroom Teachers Association.

National Association of Broadcast Employees, AFL-CIO, Local 532.

Oakland Teachers, AFT, AFL-CIO Local 771.

Sacramento Nurses Registry.

Emily Whittemore, President, American Federation of Government Employees, Local 1764, AFL-CIO.

COMMUNITY GROUPS

Californians for Humane Legislation.

Community Assistance to Muncipal Publicamps, Inc.

Community Network for Appropriate Technologies.

Cross Cultural Family Center, YMCA.

Davis Community Church.

Davis Student Farm (UC-Davis).

Greenfield Association.

HERITAGE—SF Foundation of Architectural Heritage.

Independent Living Resource Center.

Isla Vista Community Council.

League of Women Voters.

Medical Coalition for the Rights of Women Network (Santa Barbara).

Options for Women Over 40.

Organization for Citizen Action.

Petaluma People Services Center.

San Francisco Women's Center.

San Francisco Open Space & Park Renovation.

Santa Rosa Indian Center, Inc.

Social Advocates for Youth, Inc.

Sonoma County Camp Foundation.

Unitarian Fellowship of Sonoma County.

Wagon Wheel Newcomers Club of Goleta.

Women's Speakers Network.

Working Alliance to Equalize Rates.

YMCA (San Francisco).

EDUCATIONAL GROUPS

American River Touring Association.
American Youth Hostels.
Associated Students of UC–Santa Barbara.
Bay Area Turtle and Tortoise Society.
Cathedral High School (San Francisco)—300 students.
Community College Centers, 21 teachers.
Continuing Education in Nursing, Mississippi University of Women.
Foresta Institute.
Holistic Life University.
Humboldt Life University.
Humboldt County Trailsbound.
Humboldt State University, Dept. of Wildlife Management.
Los Altos High School, 30 teachers.
Pittsburgh School District, Environmental Learning Project.
Sacramento City College, 62 faculty and staff.
Sacramento County Day School, faculty and staff.
Sacred Heart High School (SF)—316 students.
San Leandro High School Camera Club.
San Leandro High School Science Department.
Santa Rosa Junior College (Adaptive Physical Education).
Simi Valley United School District—Dept. of Special Education.
Redwood High School, Larkspur—351 students.
Urban High School, San Francisco—120 students.
Urban High School, faculty and staff.
Western Foundation of Vertebrate Zoology.
Yuba College (letter from Director Hecomvich).

CONSERVATION AND SPORTING GROUPS

Audubon Society.
American Cetacean Society.
American Canoe Association.
American League of Anglers.
American Rivers Conservation Council.
Back Country International, Inc.
Boot and Blister Club.
Born Free, Elsa Wild Animal Appeal.
Brooklyn Friends of the Clearwater, Brooklyn Sloop Club.
California Native Plant Society.
California Trout.
Coalition for Water Project Review.
Coastal Alliance II.
Community Environmental Council of Santa Barbara.
Committee for the Preservation of the Tule Elk.
Conservation Council, Allan Hancock College.
Defenders of Wildlife.
Ecology Center of Southern California.
Environmental Clearinghouse.
Environmental Council (Santa Cruz).
Environmental Coalition of Orange County.
Environmental Coalition of Ventura.
Environmental Defense Fund.
Environmental Policy Center.
Federation of Fly Fishermen.
Friends of the Earth.
Friends of the River.
Friends of the Ventura River.
Friends of Wildlife.
Fund for Animals.
Human/Dolphin Foundation.
Marin Wildlife Center.
Marin Conservation League.
National Parks and Conservation Association.
Natural Resources Defense Fund.
Natural Resources Defense Council, Inc.
Nevada County Environmental Council.
New England Rivers Center.
Northcoast Flyfishers.
Northern California Council of Fly Fishing Clubs.
Northstate Wilderness Committee.
Outdoors Unlimited.
Planning and Conservation League.
Redwood Alliance.
Scenic Shoreline Preservation Conference.
Sierra Club.
Siskiyou Mountains Resources Council.
Smith River Alliance.
South Bay Ski Club.
Tennessee Citizens for Wilderness Planning.
University of Idaho Outdoors Program.
Valley Canoe Club.
Wilderness Society.
Wilderness World, Inc.
Xerces Society, Inc.

Mr. SEBELIUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill amends the existing Wild and Scenic Rivers Act by designating 4 new rivers to become part of the system, and by directing that 14 river segments in 11 different States be studied for their potential for later possible addition to the system.

There is no known controversy over the actions taken on any of these rivers.

The bill also makes a number of changes in procedure in the basic part of the existing law, all designed to make the act more workable and to enhance protection of the river resources.

Mr. Speaker, I call specific attention to section 3(b) of the bill which directs the respective Secretaries to broaden the scope of the management plans developed for each river. For those rivers already in the system, the intent is that their present "development plans," as they have been referred to heretofore, will be revised and broadened as necessary to represent complete and thorough "comprehensive protection and management plans." The new plans for these existing rivers, as well as for three of the four rivers added by this act—exclusive of the American—should be in final form not later than 3 complete fiscal years after the date of enactment of this act.

This bill also identifies a most important management feature which is henceforth to become a major component of every plan for every river, including the plans for existing designated rivers. Each plan must contain the identification of user carrying capacities for lands and activities within the river corridor, and must also identify plans for the adherence to that capacity. It is critically important that use capacities be promptly identified and adhered to so that the resources of the river and the user experiences associated with the river are managed at a level for resource basic nonimpairment and high visitor experience satisfaction.

The Forest Service, particularly, has developed some excellent expertise in this field through several decades of in-house research and field application on the subject of carrying capacity. They should be well able and suited to tackle this assignment expeditiously, without any great delays and reinventions of the wheel. It will be most important, of course, that this part of the plan, as well as all other parts, be developed with appropriate public input.

Mr. Speaker, I have no further comments to make on this bill at this time.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Speaker, I rise in support of the legislation, H.R. 8096, and I will associate myself with the remarks of the chairman as well as with the remarks of the distinguished ranking member, the gentleman from Kansas (Mr. SEBELIUS).

Mr. Speaker, each Member in whose district these rivers are located has been closely consulted and has, to my knowledge either introduced separate legislation or has endorsed the action proposed by this bill itself. In several instances special management language has been included to address a Member's particular concerns or the needs of the area.

For example, section 2(a) of the bill places the administration of the North Fork of the American River in California entirely within the jurisdiction of the Department of Agriculture rather than leaving it under joint management of the Departments of Agriculture and Interior. This change will avoid duplicative and conflictive management schemes.

Section 2(d) provides that the study of the Farmington River in Connecticut will include an analysis of whether the installation of low-head hydroelectric generating facilities at existing dams on the river would be compatible with the wild and scenic river resignation proposed. This special study provision is in recognition of the growing awareness in the Northeast of the need for developing alternative energy sources.

I urge my colleagues to support the legislation.

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Mr. SEBELIUS. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. SHUMWAY).

Mr. SHUMWAY. Mr. Speaker, as many of my colleagues know, I have worked closely with members of the Committee on Interior and Insular Affairs on H.R. 8096, the omnibus wild and scenic rivers bill. I want to extend my appreciation to the committee, and its staff, for their diligence and attention to my concerns in reporting this bill.

Although I have not yet seen the committee report to accompany H.R. 8096, I understand there is language in it which relates to the American River, Calif. Since a wild and scenic rivers designation is of interest to my district, I would like to ask the distinguished chairman of the National Parks Subcommittee what impact such a designation will have on the Auburn-Folsom South Unit of the Central Valley project—79 Stat. 615?

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. SHUMWAY. I will be happy to yield.

Mr. PHILLIP BURTON. As indicated beginning on page 6 of the report, the last paragraph, is as follows:

> The Committee, in designating that segment of the American River as a recreational river, was cognizant of a possible conflict with the eventual operation of the Auburn-

Folsom South Unite of the Central Valley Project. It is the intent of the Committee that the inclusion of this segment of the American River is not to prevent or affect the construction, operation, or maintenance of authorized water resource projects on the American River. The Committee is expressing no position with respect to authorized projects, and does not intend to either impair or affirm such authorizations nor agreements between the Secretary of the Interior and the State of California.

Mr. SHUMWAY. I appreciate the chairman's reply. I simply ask the question because, as of this morning, the committee print was not available to us, and I wanted to be sure that was the language.

Mr. PHILLIP BURTON. The gentleman's persistence in this respect has been recognized by the committee.

Mr. SHUMWAY. I thank the gentleman.

Mr. PHILLIP BURTON. Mr. Speaker, at this time I would like to yield 2 minutes to our distinguished colleague from California (Mr. Matsui) whose leadership in this effort has resulted in the inclusion of the American River in this legislation.

Mr. MATSUI. Mr. Speaker, first of all, I would like to commend the chairman of the subcommittee for his outstanding job in putting this bill together. I think it was a feat that we all must congratulate him for due to the lateness of the legislative season. Of course, I would also like to commend my colleague from California (Mr. Clausen) for his fine work in this effort.

I wish to express my support for H.R. 8096, a bill which would recognize and protect the Lower American River. It contains a provision that would designate a 23-mile stretch of the river from Nimbus Dam to its confluence with the Sacramento River as a recreational river in the Wild and Scenic Rivers System. The provision is similar to H.R. 7711, a bill which I introduced.

The Lower American River is one of the most beautiful and accessible rivers in the State of California. Its clear, clean waters flow from the western slopes of the Sierra Nevada and join with the Sacramento River in downtown Sacramento. It passes through Sacramento County and into the heart of the city.

Despite its close proximity to a major urban center, the American River Parkway bordering the river is largely unspoiled and undeveloped. The parkway consists of about 5,000 acres of diverse vegetation and wildlife, including gray fox, deer, raccoon, coyote, and bobcat.

The river and the parkway offer convenient access to the community for a wide range of outdoor activities, including boating, rafting, swimming, fishing, biking, horseback riding, picnicking, bicycling, camping, and nature study. It fulfills the recreational needs of millions of persons each year, not only from Sacramento but from throughout California and the Nation.

The parkway also contains numerous archeological sites from the Maidu Indians, dating from the middle horizon times.

The American River is the fifth most important salmon producing stream in California. Salmon production in the American River is responsible for about 10 percent of all ocean sport and commercially caught king salmon in California's coastal waters.

The parkway is currently managed by the county and city of Sacramento. H.R. 8096 would preserve local control of the river and its parkway by designating the county and the city, along with the State of California, as administrators of the river.

H.R. 8096 authorizes the Secretary of the Interior to make a grant for the acquisition of lands if the Secretary determines those lands are needed for the protection and preservation of the river corridor. These lands would consist mostly of the few, large parcels of undeveloped land within the flood plain. Purchases and maintenance of these lands would be in accordance with the American River Parkway Plan.

Also, H.R. 8096 contains a provision to permit the continued operation and maintenance of flood control works along the lower American River. Thus, none of the numerous maintenance activities of the levees, banks, channel or floodway will be affected by the designation.

As the lower American River runs through the heart of Sacramento, so it runs through the hearts of Sacramentans. We have long placed a great importance on the beauty, history, fish, and wildlife, and recreational values of the river. As early as 1915 civic leaders studied plans to incorporate the river into a regional park system. In the 1950's, Sacramento's mushrooming population threatened the undeveloped tracts along the river, and serious preservation efforts began. Also, during this decade flood control projects eliminated the fear of spring flooding. This added further to the threat of development in the flood plain.

The late 1950's and 1960's saw a widespread grassroots movement to protect the undeveloped areas of the parkway and preserve them in their unspoiled state. Spearheading the drive was the Save the American River Association, formed in 1961. Its purpose was to assist the county and city of Sacramento to protect the beauty and recreational qualities of the river. The association successfully rallied support among civic groups and service organizations which lead to the establishment of the parkway.

The next level of protection of the river was granted in 1972 when the California State legislature designated it in the State Wild and Scenic Rivers Act. Now, designation in the National Wild and Scenic Rivers System is the next legislative step in the protection of the river.

The Sacramento community views the Lower American River as a unique natural resource that must be preserved. The day I introduced H.R. 7711, the Sacramento City Council passed a resolution supporting the bill. Later that month, the Sacramento County Board of Supervisors passed a similar resolution. The bill is also strongly supported by the State of California.

Designation in the Wild and Scenic Rivers System is the highest recognition this Nation can bestow to recognize the importance of a free-flowing river. It is also the strongest protection that can be offered to insure that future generations can continue to enjoy the same qualities of the river we now enjoy. The Lower American River is worthy of this honor, and in need of this protection.

Mr. PHILLIP BURTON. Mr. Speaker, I have no further requests for time, and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. Phillip Burton) that the House suspend the rules and pass the bill, H.R. 8096, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

MAINE INDIANS SETTLEMENT BILL

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7919) to provide for the settlement of land claims of Indians, Indian nations and tribes and bands of Indians in the State of Maine, including the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, and for other purposes, as amended.

The Clerk read as follows:

H.R. 7919

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Maine Indian Claims Setlement Act of 1980".

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

Sec. 2. (a) Congress hereby finds and declares that:

(1) The Passamaquoddy Tribe, the Penobscot Nation, and the Maliseet Tribe are asserting claims for possession of lands within the State of Maine and for damages on the ground that the lands in question were originally transferred in violation of law, including, but without limitation, the Trade and Intercourse Act of 1790 (1 Stat. 137), or subsequent reenactments or versions thereof.

(2) The Indians, Indian nations, and tribes and bands of Indians, other than the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, that once may have held aboriginal title to lands within the State of Maine long ago abandoned their aboriginal holdings.

(3) The Penobscot Nation, as represented as of the time of passage of this Act by the

Penobscot Nation's Governor and Council, is the sole successor in interest to the aboriginal entity generally known as the Penobscot Nation which years ago claimed aboriginal title to certain lands in the State of Maine.

(4) The Pasamaquoddy Tribe, as represented as of the time of passage of this Act by the Joint Tribal Council of the Passamaquoddy Tribe, is the sole successor in interest to the aboriginal entity generally known as the Passamaquoddy Tribe which years ago claimed aboriginal title to certain lands in the State of Maine.

(5) The Houlton Band of Maliseet Indians, as represented as of the time of passage of this Act by the Houlton Band Council, is the sole successor in interest, as to lands within the United States, to the aboriginal entity generally known as the Maliseet Tribe which years ago claimed aboriginal title to certain lands in the State of Maine.

(6) Substantial economic and social hardship to a large number of landowners, citizens, and communities in the State of Maine and therefore to the economy of the State of Maine as a whole, will result if the aforementioned claims are not resolved promptly.

(7) This Act represents a good faith effort on the part of Congress to provide the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians with a fair and just settlement of their land claims. In the absence of congressional action these land claims would be pursued through the courts, a process which in all likelihood would consume many years and thereby promote hostility and uncertainty in the State of Maine to the ultimate detriment of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, their members, and all other citizens of the State of Maine.

(8) The State of Maine, with the agreement of the Passamaquoddy Tribe and the Penobscot Nation, has enacted legislation defining the relationship between the Passamaquoddy Tribe, the Penobscot Nation, and their members, and the State of Maine.

(9) Since 1820, the State of Maine has provided special services to the Indians residing within its borders, including the members of the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians. During this same period, the United States provided few special services to the respective tribe, nation, or band, and repeatedly denied that it had jurisdiction over or responsibility for the said tribe, nation, and band. In view of this provision of special services by the State of Maine, requiring substantial expenditures by the State of Maine and made by the State of Maine without being required to do so by Federal law, it is the intent of Congress that the State of Maine not be required further to contribute directly to this claims settlement.

(b) It is the purpose of this Act—

(1) to remove the cloud on the titles to land in the State of Maine resulting from Indian claims;

(2) to clarify the status of other land and natural resources in the State of Maine;

(3) to ratify the Maine Implementing Act, which defines the relationship between the State of Maine and the Passamaquoddy Tribe, and the Penobscot Nation, and

(4) to confirm that all other Indians, Indian nations and tribes and bands of Indians now or hereafter existing or recognized in the State of Maine are and shall be subject to all laws of the State of Maine, as provided herein.

DEFINITIONS

SEC. 3. For purposes of this Act, the term—

(a) "Houlton Band of Maliseet Indians" means the sole successor to the Maliseet Tribe of Indians as constituted in aboriginal times in what is now the State of Maine, and all its predecessors and successors in interest. The Houlton Band of Maliseet Indians is represented, as of the date of the enactment of this Act, as to lands within the United States, by the Houlton Band Council of the Houlton Band of Maliseet Indians;

(b) "land or natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resources, including but without limitation minerals and mineral rights, timber and timber rights, water and water rights, and hunting and fishing rights;

(c) "Land Acquisition Fund" means the Maine Indian Claims Land Acquisition Fund established under section 5(c) of this Act;

(d) "laws of the State" means the constitution, and all statutes, regulations, and common laws of the State of Maine and its political subdivisions and all subsequent amendments thereto or judicial interpretations thereof;

(e) "Maine Implementing Act" means section 1, section 30, and section 31, of the "Act to Implement the Maine Indian Claims Settlement" enacted by the State of Maine in chapter 732 of the public laws of 1979;

(f) "Passamaquoddy Indian Reservation" means those lands as defined in the Maine Implementing Act;

(g) "Passamaquoddy Indian Territory" means those lands as defined in the Maine Implementing Act;

(h) "Passamaquoddy Tribe" means the Passamaquoddy Indian Tribe, as constituted in aboriginal times and all its predecessors and successors in interest. The Passamaquoddy Tribe, is represented, as the date of the enactment of this Act, by the Joint Tribal Council of the Passamaquoddy Tribe, with separate councils at the Indian Township and Pleasant Point Reservations;

(i) "Penobscot Indian Reservation" means those lands as defined in the Maine Implementing Act;

(j) "Penobscot Indian Territory" means those lands as defined in the Maine Implementing Act;

(k) "Penobscot Nation" means the Penobscot Indian Nation as constituted in aboriginal times, and all its predecessors and successors in interest. The Penobscot Nation is represented, as of the date of enactment of this Act, by the Penobscot Nation Governor and Council;

(l) "Secretary" means the Secretary of the Interior;

(m) "Settlement Fund" means the Maine Indian Claims Settlement Fund established under section 5(a) of this Act; and

(n) "transfer" includes but is not limited to any voluntary or involuntary sale, grant, lease, allotment, partition, or other conveyance; any transaction the purpose of which was to effect a sale, grant, lease, allotment, partition, or conveyance; and any act, event, or circumstance that resulted in a change in title to, possession of, dominion over, or control of land or natural resources.

APPROVAL OF PRIOR TRANSFERS AND EXTINGUISHMENT OF INDIAN TITLE AND CLAIMS OF THE PASSAMAQUODDY TRIBE, THE PENOBSCOT NATION, THE HOULTON BAND OF MALISEET INDIANS, AND ANY OTHER INDIANS, INDIAN NATION, OR BAND OF INDIANS WITHIN THE STATE OF MAINE

SEC. 4.(a)(1) Any transfer of land or natural resources located anywhere within the United States from, by, or on behalf of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, or any of their members, and any transfer of land or natural resources located anywhere within the State of Maine, from, by, or on behalf of any Indian, Indian nation, or tribe or band of Indians, including but without limitation any transfer pursuant to any treaty, compact, or statute of any State, shall be deemed to have been made in accordance with the Constitution and all laws of the United States, including but without limitation the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, Sec. 4, 1 Stat. 137, 138), and all amendments thereto and all subsequent reenactments and versions thereof, and Congress hereby does approve and ratify any such transfer effective as of the date of said transfer: *Provided, however,* That nothing in this section shall be construed to affect or eliminate the personal claim of any individual Indian (except for any Federal common law fraud claim) which is pursued under any law of general applicability that protects non-Indians as well as Indians.

(2) The United States is barred from asserting on behalf of any Indian, Indian nation, or tribe or band of Indians any claim under the laws of the State of Maine arising before the date of this Act and arising from any transfer of land or natural resources by any Indian, Indian nation, or tribe or band of Indians, located anywhere within the State of Maine, including but without limitation any transfer pursuant to any treaty, compact, or statute of any State, on the grounds that such transfer was not made in accordance with the laws of the State of Maine.

(3) The United States is barred from asserting by or on behalf of any individual Indian any claim under the laws of the State of Maine arising from any transfer of land or natural resources located anywhere within the State of Maine from, by, or on behalf of any individual Indian, which occurred prior to December 1, 1873, including but without limitation any transfer pursuant to any treaty, compact, or statute of any State.

(b) To the extent that any transfer of land or natural resources described in subsection (a)(1) of this section may involve land or natural resources to which the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, or any of their members, or any other Indian, Indian nation, or tribe or band of Indians had aboriginal title, such subsection (a)(1) shall be regarded as an extinguishment of said aboriginal title as of the date of such transfer.

(c) By virtue of the approval and ratification of a transfer of land or natural resources effected by this section, or the extinguishment of aboriginal title effected thereby, all claims against the United States, any State or subdivision thereof, or any other person or entity, by the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians or any of their members or by any other Indian, Indian nation, tribe or band of Indians, or any predecessors or successors in interest thereof, arising at the time of or subsequent to the transfer and based on any interest in or right involving such land or natural resources, including but without limitation claims for trespass damages or claims for use and occupancy, shall be deemed extinguished as of the date of the transfer.

(d) The provisions of this section shall take effect immediately upon appropriation of the funds authorized to be appropriated to implement the provisions of section 5 of this Act. The Secretary shall publish notice of such appropriation in the Federal Register when such funds are appropriated.

ESTABLISHMENT OF FUNDS

SEC. 5. (a) There is hereby established in the United States Treasury a fund to be known as the Maine Indian Claims Settlement Fund in which $27,000,000 shall be deposited following the appropriation of sums authorized by section 14 of this Act.

(b)(1) One-half of the principal of the settlement fund shall be held in trust by the Secretary for the benefit of the Passamaquoddy Tribe, and the other half of the settlement fund shall be held in trust for the benefit of the Penobscot Nation. Each portion of the settlement fund shall be administered by the Secretary in accordance with reasonable terms established by the Passamaquoddy Tribe or the Penobscot Nation, respectively, and agreed to by the Secretary: *Provided*, That the Secretary may not agree to terms which provide for investment of the settlement fund in a manner not in accordance with section 1 of the Act of June 24, 1938 (52 Stat. 1037), unless the respective tribe or nation first submits a specific waiver of liability on the part of the United States for any loss which may result from such an investment: *Provided, further*, That until such terms have been agreed upon, the Secretary shall fix the terms for the administration of the portion of the settlement fund as to which there is no agreement.

(2) Under no circumstances shall any part of the principal of the settlement fund be distributed to either the Passamaquoddy Tribe or the Penobscot Nation, or to any member of either tribe or nation, Provided, however, That nothing herein shall prevent the Secretary from investing the principal of said funds in accordance with paragraph (1) of this subsection.

(3) The Secretary shall make available to the Passamaquoddy Tribe and the Penobscot Nation in quarterly payments, without any deductions except as expressly provided in subsection 6(d)(2) and without liability to or on the part of the United States, any income received from the investment of that portion of the settlement fund allocated to the respective tribe or nation, the use of which shall be free of regulation by the Secretary. The Passamaquoddy Tribe and the Penobscot Nation annually shall each expend the income from $1,000,000 of their portion of the settlement fund for the benefit of their respective members who are over the age of sixty. Once payments under this paragraph have been made to the tribe or nation, the United States shall have no further trust responsibility to the tribe or nation or their members with respect to the sums paid, any subsequent distribution of these sums, or any property or service purchased therewith.

(c) There is hereby established in the United States Treasury a fund to be known as the Maine Indian Claims Land Acquisition Fund in which $54,500,000 shall be deposited following the appropriation of sums authorized by section 14 of this Act.

(d) The principal of the land acquisition fund shall be apportioned as follows:

(1) $900,000 to be held in trust for the Houlton Band of Maliseet Indians;

(2) $26,800,000 to be held in trust for the Passamaquoddy Tribe; and

(3) $26,800,000 to be held in trust for the Penobscot Nation.

The Secretary is authorized and directed to expend, at the request of the affected tribe, nation or band, the principal and any income accruing to the respective portions of the land acquisition fund for the purpose of acquiring land or natural resources for the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians and for no other purpose. The first 150,000 acres of land or natural resources acquired for the Passamaquoddy Tribe and the first 150,000 acres acquired for the Penobscot Nation within the area described in the Maine Implementing Act as eligible to be included within the Passamaquoddy Indian Territory and the Penobscot Indian Territory shall be held in trust by the United States for the benefit of the respective tribe or nation. The Secretary is also authorized to take in trust for the Passamaquoddy Tribe or the Penobscot Nation any land or natural resources acquired within the aforesaid area by purchase, gift, or exchange by such tribe or nation. Land or natural resources acquired outside the boundaries of the aforesaid areas shall be held in fee by the respective tribe or nation, and the United States shall have no further trust responsibility with respect thereto. Land or natural resources acquired within the State of Maine for the Houlton Band of Maliseet Indians shall be held in trust by the United States for the benefit of the band: *Provided*, That no land of natural resources shall be so acquired for or on behalf of the Houlton Band of Maliseet Indians without the prior enactment of appropriate legislation by the State of Maine approving such acquisition: *Provided further*, That the Passamaquoddy Tribe and the Penobscot Nation shall each have a one-half undivided interest in the corpus of the trust, which shall consist of any such property or subsequently acquired exchange property, in the event the Houlton Band of Maliseet Indians should terminate its interest in the trust.

(4) The Secretary is authorized to, and at the request of either party shall, participate in negotiations between the State of Maine and the Houlton Band of Maliseet Indians for the purpose of assisting in securing agreement as to the land or natural resources to be acquired by the United States to be held in trust for the benefit of the Houlton Band. Such agreement shall be embodied in the legislation enacted by the State of Maine approving the acquisition of such lands as required by section 5(d)(3). The agreement and the legislation shall be limited to:

(A) provisions providing restrictions against alienation or taxation of land or natural resources held in trust for the Houlton Band no less restrictive than those provided by this Act and the Maine Implementing Act for land or natural resources to be held in trust for the Passamaquoddy Tribe or Penobscot Nation;

(B) provisions limiting the power of the State of Maine to condemn such lands that are no less restrictive than the provisions of this Act and the Maine Implementing Act that apply to the Passamaquoddy Indian Territory and the Penobscot Indian Territory but not within either the Passamaquoddy Indian Reservation or the Penobscot Indian Reservation;

(C) consistent with the trust and restricted character of the lands, provisions satisfactory to the State and the Houlton Band concerning:

(i) payments by the Houlton Band in lieu of payment of property taxes on land or natural resources held in trust for the band, except that the band shall not be deemed to own or use any property for governmental purposes under the Maine Implementing Act;

(ii) payments of other fees and taxes to the extent imposed on the Passamaquoddy Tribe and the Penobscot Nation under the Maine Implementing Act, except that the band shall not be deemed to be a governmental entity under the Maine Implementing Act or to have the powers of a municipality under the Maine Implementing Act;

(iii) securing performance of obligations of the Houlton Band arising after the effective date of agreement between the State and the band.

(D) provisions on the location of these lands.

Except as set forth in this subsection, such agreement shall not include any other provisions regarding the enforcement or application of the laws of the State of Maine. Within one year of the date of enactment of this Act, the Secretary is directed to submit to the appropriate committees of the House of Representatives and the Senate having jurisdiction over Indian affairs a report on the status of these negotiations.

(e) Notwithstanding the provisions of section 1 of the Act of August 1, 1888 (25 Stat. 357), as amended, and section 1 of the Act of February 26, 1931 (46 Stat. 1421), the Secretary may acquire land or natural resources under this section from the ostensible owner of the land or natural resources only if the Secretary and the ostensible owner of the land or natural resources have agreed upon the identity of the land or natural resources to be sold and upon the purchase price and other terms of sale. Subject to the agreement required by the preceding sentence, the Secretary may institute condemnation proceedings in order to perfect title, satisfactory to the Attorney General, in the United States and condemn interests adverse to the ostensible owner. Except for the provisions of this Act, the United States shall have no other authority to acquire lands or natural resources in trust for the benefit of Indians or Indian nations, or tribes, or bands of Indians in the State of Maine.

(f) The Secretary may not expend on behalf of the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet Indians any sums deposited in the funds established pursuant to the subsections (a) and (c) of this section unless and until he finds that authorized officials of the respective tribe, nation, or band have executed appropriate documents relinquishing all claims to the extent provided by sections 4, 11, and 12 of this Act and by section 6213 of the Maine Implementing Act, including stipulations to the final judicial dismissal with prejudice to their claims.

(g)(1) The provisions of section 2116 of the Revised Statutes shall not be applicable to (A) the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet Indians or any other Indian, Indian nation, or tribe or band of Indians in the State of Maine, or (B) any land or natural resources owned by or held in trust for the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet Indians or any other Indian, Indian nation or tribe or band of Indians in the State of Maine. Except as provided in subsections (d)(4) and (g)(2), such land or natural resources shall not otherwise be subject to any restraint on alienation by virtue of being held in trust by the United States or the Secretary.

(2) Except as provided in paragraph (3) of this subsection, any transfer of land or natural resources within Passamaquoddy Indian Territory or Penobscot Indian Territory, except (A) takings for public uses consistent with the Maine Implementing Act, (B) takings for public uses pursuant to the laws of the United States, or (C) transfers of individual Indian use assignments from one member of the Passamaquoddy Tribe or Penobscot Nation to another member of the same tribe or nation, shall be void ab initio and without any validity in law or equity.

(3) Land or natural resources within the Passamaquoddy Indian Territory or the Penobscot Indian Territory or held in trust for the benefit of the Houlton Band of Maliseet Indians may, at the request of the respective tribe, nation, or band, be—

(A) leased in accordance with the Act of August 9, 1955 (69 Stat. 539), as amended;

(B) leased in accordance with the Act of May 11, 1938 (52 Stat. 347), as amended;

(C) sold in accordance with section 7 of the Act of June 25, 1910 (36 Stat. 857), as amended;

(D) subjected to rights-of-way in accordance with the Act of February 5, 1948 (62 Stat. 17);

(E) exchanged for other land or natural resources of equal value, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary for deposit in the land acquisition fund for the benefit of the affected tribe, nation, or band, as the circumstances require, so long as payment does not exceed 25 per centum of the total value of the interests in land to be transferred by the tribe, nation, or band; and

(F) sold, only if at the time of sale the Secretary has entered into an option agreement or contract of sale to purchase other lands of approximate equal value.

(h) Land or natural resources acquired by the Secretary in trust for the Passamaquoddy Tribe and the Penobscot Nation shall be managed and administered in accordance with terms established by the respective tribe or nation and agreed to by the Secretary in accordance with section 102 of the Indian Self-Determination and Education Assistance Act (88 Stat. 2206), or other existing law.

(i) (1) Trust or restricted land or natural resources within the Passamaquoddy Reservation or the Penobscot Indian Reservation may be condemned for public purposes pursuant to the Maine Implementing Act. In the event that the compensation for the taking is in the form of substitute land to be added to the reservation, such land shall become a part of the reservation in accordance with the Maine Implementing Act and upon notification to the Secretary of the location and boundaries of the substitute land. Such substitute land shall have the same trust or restricted status as the land taken. To the extent that the compensation is in the form of monetary proceeds, it shall be deposited and reinvested as provided in paragraph (2) of this subsection.

(2) Trust land of the Passamaquoddy Tribe or the Penobscot Nation not within the Passamaquoddy Reservation or Penobscot Reservation may be condemned for public purposes pursuant to the Maine Implementing Act. The proceeds from any such condemnation shall be deposited in the land acquisition fund established by section 5(c) and shall be reinvested in acreage within unorganized or unincorporated areas of the State of Maine. When the proceeds are reinvested in land whose acreage does not exceed that of the land taken, all the land shall be acquired in trust. When the proceeds are invested in land whose acreage exceeds the acreage of the land taken, the respective tribe or nation shall designate, with the approval of the United States, and within thirty days of such reinvestment, that portion of the land acquired by the reinvestment, not to exceed the area taken, which shall be acquired in trust. The land not acquired in trust shall be held in fee by the respective tribe or nation. The Secretary shall certify, in writing, to the Secretary of State of the State of Maine the location, boundaries, and status of the land acquired.

(3) The State of Maine shall have initial jurisdiction over condemnation proceedings brought under this section. The United States shall be a necessary party to any such condemnation proceedings. After exhaustion of all State administrative remedies, the United States is authorized to seek judicial review of all relevant matters in the courts of the United States and shall have an absolute right of removal, at its discretion, over any action commenced in the courts of the State.

(j) When trust or restricted land or natural resources of the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet Indians are condemned pursuant to any law of the United States other than this Act, the proceeds paid in compensation for such condemnation shall be deposited and reinvested in accordance with subsection (i) (2) of this section.

APPLICATION OF STATE LAWS

SEC. 6. (a) Except as provided in section 8(e) and section 5(d) (4), all Indians, Indian nations, or tribes or bands of Indians in the State of Maine, other than the Passamaquoddy Tribe, the Penobscot Nation, and their members, and any lands or natural resources owned by any such Indian, Indian nation, tribe or band of Indians and any lands or natural resources held in trust by the United States, or by any other person or entity, for any such Indian, Indian nation, tribe, or band of Indians shall be subject to the civil and criminal jurisdiction of the State, the laws of the State, and the civil and criminal jurisdiction of the courts of the State, to the same extent as any other person or land therein.

(b) (1) The Passamaquoddy Tribe, the Penobscot Nation, and their members, and the land and natural resources owned by, or held in trust for the benefit of the tribe, nation, or their members, shall be subject to the jurisdiction of the State of Maine to the extent and in the manner provided in the Maine Implementing Act and that Act is hereby approved, ratified, and confirmed.

(2) Funds appropriated for the benefit of Indian people or for the administration of Indian affairs may be utilized, consistent with the purposes for which they are appropriated, by the Passamaquoddy Tribe and the Penobscot Nation to provide part or all of the local share as provided by the Maine Implementing Act.

(3) Nothing in this section shall be construed to supersede any Federal laws or regulations governing the provision or funding of services or benefits to any person or entity in the State of Maine unless expressly provided by this Act.

(4) Not later than October 30, 1982, the Secretary is directed to submit to the appropriate committees of the House of Representatives and the Senate having jurisdiction over Indian affairs a report on the Federal and State funding provided the Passamaquoddy Tribe and Penobscot Nation compared with the respective Federal and State funding in other States.

(c) The United States shall not have any criminal jurisdiction in the State of Maine under the provisions of sections 1152, 1153, 1154, 1155, 1156, 1160, 1161, and 1165 of title 18 of the United States Code. This provision shall not be effective until sixty days after the publication of notice in the Federal Register as required by subsection 4(d) of this Act.

(d) (1) The Passamaquoddy Tribe, The Penobscot Nation, and the Houlton Band of Maliseet Indians, and all members thereof, and all other Indians, Indian nations, or tribes or bands of Indians in the State of Maine may sue and be sued in the courts of the State of Maine and the United States to the same extent as any other entity or person residing in the State of Maine may sue and be sued in those courts; and section 1362 of title 28, United States Code, shall be applicable to civil actions brought by the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians: *Provided, however*, That the Passamaquoddy Tribe, the Penobscot Nation, and their officers and employees shall be immune from suit to the extent provided in the Maine Implementing Act.

(2) Notwithstanding the provisions of section 3477 of the Revised Statutes, as amended, the Secretary shall honor valid final orders of a Federal, State, or territorial court which enters money judgments for causes of action which arise after the date of the enactment of this Act against either the Passamaquoddy Tribe or the Penobscot Nation by making an assignment to the judgment creditor of the right to receive income out of the next quarterly payment from the settlement fund established pursuant to section 5(a) of this Act and out of such future quarterly payments as may be necessary until the judgment is satisfied.

(e) (1) The consent of the United States is hereby given to the State of Maine to amend the Maine Implementing Act with respect to either the Passamaquoddy Tribe or the Penobscot Nation: *Provided*, That such amendment is made with the agreement of the affected tribe or nation, and that such amendment relates to (A) the enforcement or application of civil, criminal, or regulatory laws of the Passamaquoddy Tribe, the Penobscot Nation, and the State within their respective jurisdictions; (B) the allocation or determination of governmental responsibility of the State and the tribe or nation over specified subject matters or specified geographical areas, or both, including provision for concurrent jurisdiction between the State and the tribe or nation; or (C) the allocation of jurisdiction between tribal courts and State courts.

(2) Notwithstanding the provisions of subsection (a) of this section, the State of Maine and the Houlton Band of Maliseet Indians are authorized to execute agreements regarding the jurisdiction of the State of Maine over lands owned by or held in trust for the benefit of the band or its members.

(f) The Passamaquoddy Tribe and the Penobscot Nation are hereby authorized to exercise jurisdiction, separate and distinct from the civil and criminal jurisdiction of the State of Maine, to the extent authorized by the Maine Implementing Act, and any subsequent amendments thereto.

(g) The Passamaquoddy Tribe, the Penobscot Nation, and the State of Maine shall give full faith and credit to the judicial proceedings of each other.

(h) Except as otherwise provided in this Act, the laws and regulations of the United States which are generally applicable to Indians, Indian nations, or tribes or bands of Indians or to lands owned by or held in trust for Indians, Indian nations, or tribes or bands of Indians shall be applicable in the State of Maine, except that no law or regulation of the United States (1) which accords or relates to a special status or right of or to any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians, and also (2) which affects or preempts the civil, criminal, or regulatory jurisdiction of the State of Maine, including, without limitation, laws of the State relating to land use or environmental matters, shall apply within the State.

(i) As federally recognized Indian tribes, the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall be eligible to receive all of the financial benefits which the United States provides to Indians, Indian nations, or tribes or bands of Indians to the same extent and subject to the same eligibility criteria generally applicable to other Indians, Indian nations or tribes or bands of Indians. The Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall be treated in the same manner as other federally recognized tribes for the purposes of Federal taxation and any lands which are held by the respective tribe, nation, or band subject to a restriction against alienation or which are held in trust for the benefit of the respective tribe, nation, or band shall be considered Federal Indian reservations for purposes of Federal taxation.

TRIBAL ORGANIZATION

SEC. 7. (a) The Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians may each organize for its common welfare and adopt an appropriate instrument in writing to govern the affairs of the tribe, nation, or band when each is acting in its governmental capacity. Such instrument and any amendments thereto must be consistent with the terms of this Act and the Maine Implementing Act. The Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall each file with the Secretary a copy of its organic governing document and any amendments thereto.

(b) For purposes of benefits under this Act and the recognition extended the Houlton Band of Maliseet Indians, no person who is not a citizen of the United States may be considered a member of the Houlton Band of Maliseets, except persons who, as of the date of this Act, are enrolled members on the band's existing membership roll, and direct lineal descendants of such members. Membership in the band shall be subject to such further qualifications as may be provided by the band in its organic governing document or amendments thereto subject to the approval of the Secretary.

IMPLEMENTATION OF THE INDIAN CHILD WELFARE ACT

SEC. 8. (a) The Passamaquoddy Tribe or the Penobscot Nation may assume exclusive jurisdiction over Indian child custody proceedings pursuant to the Indian Child Welfare Act of 1978 (92 Stat. 3069). Before the respective tribe or nation may assume such jurisdiction over Indian child custody proceedings, the respective tribe or nation shall present to the Secretary for approval a petition to assume such jurisdiction and the Secretary shall approve that petition in the manner prescribed by sections 108(a)–(c) of said Act.

(b) Any petition to assume jurisdiction over Indian child custody proceedings by the Passamaquoddy Tribe or the Penobscot Nation shall be considered and determined by the Secretary in accordance with sections 108(b) and (c) of the Act.

(c) Assumption of jurisdiction under this section shall not affect any action or proceeding over which a court has already assumed jurisdiction.

(d) For the purposes of this section, the Passamaquoddy Indian Reservation and the Penobscot Indian Reservation are "reservations" within section 4(10) of the Act.

(e) For the purposes of this section, the Houlton Band of Maliseet Indians is an "Indian tribe" within section 4(8) of the Act, provided, that nothing in this subsection shall alter or effect the jurisdiction of the State of Maine over child welfare matters as provided in subsection 6(e)(2) of this Act.

(f) Until the Passamaquoddy Tribe or Penobscot Nation has assumed exclusive jurisdiction over the Indian child custody proceedings pursuant to this section, the State of Maine shall have exclusive jurisdiction over Indian child custody proceedings of that tribe or nation.

EFFECT OF PAYMENTS TO PASSAMAQUODDY TRIBE, PENOBSCOT NATION, AND HOULTON BAND OF MALISEET INDIANS

SEC. 9. (a) No payments to be made for the benefit of the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet Indians pursuant to the terms of this Act shall be considered by any agency or department of the United States in determining or computing the eligibility of the State of Maine for participation in any financial aid program of the United States.

(b) The eligibility for or receipt of payments from the State of Maine by the Passamaquoddy Tribe and the Penobscot Nation or any of their members pursuant to the Maine Implementing Act shall not be considered by any department or agency of the United States in determining the eligibility of or computing payments to the Passamaquoddy Tribe or the Penobscot Nation or any of their members under any financial aid program of the United States: *Provided*, That to the extent that eligibility for the benefits of such a financial aid program is dependent upon a showing of need by the applicant, the administering agency shall not be barred by this subsection from considering the actual financial situation of the applicant.

(c) The availability of funds or distribution of funds pursuant to section 5 of this Act may not be considered as income or resources or otherwise utilized as the basis (1) for denying any Indian household or member thereof participation in any federally assisted housing program, (2) for denying or reducing the Federal financial assistance or other Federal benefits to which such household or member would otherwise be entitled, or (3) for denying or reducing the Federal financial assistance or other Federal benefits to which the Passamaquoddy Tribe or Penobscot Nation would otherwise be eligible or entitled.

DEFERRAL OF CAPITAL GAINS

SEC. 10. For the purpose of subtitle A of the Internal Revenue Code of 1954, any transfer by private owners of land purchased or otherwise acquired by the Secretary with moneys from the land acquisition fund whether in the name of the United States or of the respective tribe, nation or band shall be deemed to be an involuntary conversion within the meaning of section 1033 of the Internal Revenue Code of 1954, as amended.

TRANSFER OF TRIBAL TRUST FUNDS HELD BY THE STATE OF MAINE

SEC. 11. All funds of either the Passamaquoddy Tribe or the Penobscot Nation held in trust by the State of Maine as of the effective date of this Act shall be transferred to the Secretary to be held in trust for the respective tribe or nation and shall be added to the principal of the settlement fund allocated to that tribe or nation. The receipt of said State funds by the Secretary shall constitute a full discharge of any claim of the respective tribe or nation, its predecessors and successors in interest, and its members may have against the State of Maine, its officers, employees, agents, and representatives, arising from the administration or management of said State funds. Upon receipt of said State funds, the Secretary, on behalf of the respective tribe and nation, shall execute general releases of all claims against the State of Maine, its officers, employees, agents, and representatives, arising from the administration or management of said State funds.

OTHER CLAIMS DISCHARGED BY THIS ACT

SEC. 12. Except as expressly provided herein, this Act shall constitute a general discharge and release of all obligations of the State of Maine and all of its political subdivisions, agencies, departments, and all of the officers or employees thereof arising from any treaty or agreement with, or on behalf of any Indian nation, or tribe or band of Indians or the United States as trustee thereof, including those actions now pending in the United States District Court for the District of Maine captioned United States of America against State of Maine (Civil Action Nos. 1966–ND and 1969–ND).

LIMITATION OF ACTIONS

SEC. 13. Except as provided in this Act, no provision of this Act shall be construed to constitute a jurisdictional act, to confer jurisdiction to sue, or to grant implied consent to any Indian, Indian nation, or tribe or band of Indians to sue the United States or any of its officers with respect to the claims extinguished by the operation of this Act.

AUTHORIZATION

SEC. 14. There is hereby authorized to be appropriated $81,500,000 for the fiscal year beginning October 1, 1980 for transfer to the funds established by section 5 of this Act.

INSEPARABILITY

SEC. 15. In the event that any provision of section 4 of this Act is held invalid, it is the intent of Congress that the entire Act be invalidated. In the event that any other section or provision of this Act is held invalid, it is the intent of Congress that the remaining sections of this Act shall continue in full force and effect.

CONSTRUCTION

SEC. 16. (a) In the event a conflict of interpretation between the provisions of the Maine Implementing Act and this Act should emerge, the provisions of this Act shall govern.

(b) The provisions of any Federal law enacted after the date of enactment of this Act for the benefit of Indians, Indian nations, or tribes or bands of Indians, which would affect or preempt the application of the laws of the State of Maine, including application of the laws of the State to lands owned by or held in trust for Indians, or Indian nations, tribes, or bands of Indians, as provided in this Act and the Maine Implementing Act, shall not apply within the State of Maine, unless such provision of such subsequently enacted Federal law is specifically made applicable within the State of Maine.

The SPEAKER pro tempore. Is a second demanded?

Mr. MARRIOTT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona (Mr. UDALL) will be recognized for 20 minutes, and the gentleman from Utah (Mr. MARRIOTT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, H.R. 7919 is one of the most significant bills my committee has brought to the floor of this Congress.

It provides congressional ratification and implementation of a negotiated settlement of extensive land claims of three Indian tribes in the State of Maine.

The Passamaquoddy, Penobscot, and Maliseet Indians of Maine have laid claim of possession of over 12 million acres of land in the State of Maine. This is nearly two-thirds of the State and involves over 350,000 landowners. The Department of Justice and the Department of the Interior have determined that the Indians have a credible claim to nearly 5 million acres of the lands claimed.

These claims are based upon the alleged violation of the Indian Trade and Intercourse Act of 1790, as amended, by the State of Massachusetts and Maine in acquiring these lands from the Indians in the late 1700's and early 1800's. One section of that act, commonly known as the Nonintercourse Act and now codified as 25 U.S.C. 177, makes void any purchase of lands from Indian tribes without the consent of the United States.

The State guesses that they have a 60 percent chance of winning any litigation based upon these claims. The United States and the tribes, of course, feel they have the best chance. But, in human terms, it is irrelevant who might actually prevail in the courts. This litigation would take 5 to 10 years before a final judgment.

During that period of time, the State of Maine and its citizens, Indian and non-Indian, would be crushed by the economic and social chaos and disruption. The Justice Department has said that the Maine land claim case is "potentially the most complex litigation ever brought in the Federal courts with social cost and economic impacts without precedent and incredible litigation costs to all parties."

Mr. Speaker, it is clear that the United States has no legal obligation to the parties in this case except to insure, as trustee, that the interests of the Indian tribes are protected. We cannot break faith with the Indians by attempting to withdraw the protection afforded by the Federal law. But neither can we leave the innocent citizens of Maine to suffer from the impact of a long-forgotten Federal law into which the courts have breathed new life.

We have an obligation to resolve this controversy as best we can while protecting the interest of all the parties. It will not be inexpensive to do so. The cost of this bill is $81,500,000. But if this litigation proceeds and the Indian position begins to prevail, the cost of settlement will skyrocket. We must act now and I urge passage of this bill, as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. MARRIOTT. Mr. Speaker, I would yield 1 minute to the gentleman from New York (Mr. LEE).

Mr. LEE. Mr. Speaker, I thank the gentleman for yielding. I rise in opposition to H.R. 7919.

Mr. Speaker, I rise in opposition to the proposal now before us. As a matter of principle and precedent, I feel to adopt this measure would directly violate not only the spirit behind the rules of this House, but also establish yet another contradictory and inconsistent element in the long and sorry history of this country's policies toward its native Americans.

Before I address my specific objections to this proposed legislation I would like to briefly state my deep concerns with the irrational and piecemeal approach our Government has taken in addressing Indian land claims. The over 9,500 alleged violations of the Non-Intercourse Act that now sit like timebombs ticking away across our Nation serve as a multibillion-dollar plague on millions of Americans who pay taxes, own land, and engage in commerce. This plague is in large part caused by the failure of the Federal Government to face the reality that procedural legal loopholes are being exploited and causing tremendously unjust enrichment for a few, while creating hardship for many.

Before again being lured into the trap of voting for a multimillion-dollar settlement package I would like to ask the Members of this body to simply reflect on the following major points that address not only the aspects of this proposal, but also the serious and incredibly ever-expanding national problem of Indian land claims.

(1) RATIFICATION OF ANCIENT TREATIES

I must take this opportunity to again remind my colleagues that it is totally within the power of Congress to remedy tribal claims by the process of ratifying the ancient tribal agreements with the States. This very procedure has been endorsed by former Attorney General Griffin Bell. Such ratification could be accompanied by payments to the tribes in appropriate amounts. I would venture a prediction that should this question be put to our Nation's citizens they would wholeheartedly endorse ratification, as they have overwhelmingly in my district. As a national policy, I suggest the Congress ratify all pending claims based on alleged noncompliance with the Non-Intercourse Acts. I regret that Members of the Congress voting for this measure will manifest a policy that indicates our Government owes a greater obligation to the Indian tribes in Maine for a 200-year-old claim based on procedural loopholes than the obligation I feel is owed our taxpaying citizens.

(2) THE $81.5 MILLION SETTLEMENT

This policy now proposed also angers me, Mr. Speaker, because I see the hard-earned money of our Nation's taxpayers distributed to the Indians, in an effort to rid the United States of its "guilt complex" regarding its policies toward its native Americans. In these days of skyrocketing inflation we have had to bite the bullet and vote against additional spending programs. Within an environment of "austerity" it is extremely inconsistent if not downright absurd that we are called here today to approve a measure that implements an $81.5 million windfall to three Indian tribes.

(3) LITIGATION VERSUS SETTLEMENT

I am fully aware of the hardships lengthy litigation will impose on landowners in the claim areas. However, the serious question must be asked whether our national policies regarding Indian affairs should be developed in an atmosphere of "litigation blackmail," where the "threat of suit" becomes the prime motivation for settlement, and the Government's negotiators are confronted with astronomical nonnegotiable demands.

By endorsing the negotiated settlement route we reaffirm the inconsistent, piecemeal approach to solving Indian land claims. We must remember that we are here today discussing this issue because the Federal Government has from its beginnings failed to develop comprehensive policies in its conduct of Indian affairs. By perpetuating the piecemeal, we bequest these same problems to future generations of Americans to resolve, and unfortunately they will pay dearly because of our failures today.

It should also be noted, Mr. Speaker, that by failing to tackle the outstanding land claims in a comprehensive manner, we invite larger, more costly settlements—a factor well-recognized by the Indians, however unfortunately, heretofore unrecognized by the Congress.

(4) QUESTIONS REGARDING H.R. 7919

Mr. Speaker, I have a number of questions regarding the bill before us today that I would like to highlight for my colleagues:

First. Why has this multimillion-dollar proposal been brought up under Suspension of the Rules, without the appropriate waiver of the Budget Act?

I feel this measure is much too costly an expenditure to be rushed through without compliance with the Rules of the House of Representatives, nor the proper scrutiny of its Members.

Second. Through what formula was this enormous monetary settlement developed?

What specific elements determined this huge pricetag?

Third. Why is the Federal Treasury the sole contributor to the settlement package, and the State of Maine exempt?

I am aware that the State of Maine's prior contributions to its Indians were included as part of the final settlement package, and I am not advocating additional taxpayers' moneys be part of the settlement.

However, limitation of Maine's contribution to moneys already spent highlights a problem I have previously discussed.

By engaging in a case-by-case piecemeal approach to this problem Congress creates serious injustices to the parties involved. For instance, in both Rhode Island and the proposed New York settlements the respective States were required to contribute to the final settlement. Why should Maine be excluded, while New York and Rhode Island are forced to contribute? This lack of consistency highlights precisely the problems created by Congress' failure to develop a comprehensive, coherent policy permanently solving these land claims in a manner that is rational and just.

Again, to highlight inconsistencies in this process Mr. Speaker, I would like to note that some of the same elements undertaken in the development of the measure now before us were denied by the Department of the Interior and House Interior Committee chairman, MORRIS UDALL, to those trying to settle the Cayuga Indian claim in the congressional district I have the honor to serve in this body. Specifically, I tried on many occasions to require the involvement of both local and State governments in developing a proposed settlement. To my extreme disappointment my plea for inclusion of these governments was denied. To my astonishment this exclusion was not the case in the Maine settlement, although the Indian claim is allegedly based on the same body of law as that in New York.

I was also interested to see both the Department of Interior and Chairman UDALL agree to allowing payments to Maine in lieu of taxes, a measure I sought for those local governments impacted in my district by the Cayuga Indian claim, and a measure that was opposed in the Cayuga case by the very same parties who allowed them in the Maine case.

In summary, Mr. Speaker, I must again state my opposition to this measure is based on my firm belief that we will not put this very serious problem to an end until we recognize the need to develop a comprehensive, rational policy toward Indian treaties—treaties entered into over 185 years ago—treaties entered into in most cases in good faith by our State governments. This policy must be above all, Mr. Speaker, fair to our Nation's taxpayers—the citizens who now today bear the burdens of the inconsistent policies of the past.

Mr. MARRIOTT. Mr. Speaker, I yield whatever time I might consume to myself.

Mr. Speaker, this is a bill, I think, that is necessary. It would remove a cloud over the title to about 12.5 million acres of land. It would avert the need for years of costly litigation, the outcome questionable. It would spare the innocent citizens of Maine the inevitability of adverse economic and social impact. It would provide three impoverished Indian tribes with a land base. It would give credit to the State of Maine for having spent more than $20 million for the welfare of the Indians of the State over and above the moneys and programs the Indians were eligible for as citizens of the State.

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It would meet what is at least a very moral obligation on the part of the United States to bring about a settlement of this claim. Although the United States is not a defendant in the case, it was Congress that enacted the statutes barring the transfer of Indian lands except under Federal auspices, and neither Congress nor the Executive enforced the statutes with respect to Maine Indian land transfers.

This legislation is supported by the State of Maine, including the Governor, the attorney general, and the legislature. The entire Maine congressional delegation is in support of it, the three tribes support it, the landowners in the claim areas support it, the administration supports it, and the U.S. Senate is now considering passage of the bill. It is a product, Mr. Speaker, of 3½ years of negotiations by the parties, including the administration.

This is a bill that has had extensive hearings in both the House and the Senate, and everybody who is knowledgeable on this issue agrees that the bill should be passed. Its cost is $81 million, as the gentleman from Arizona (Mr. UDALL) has said. That is $2.64 per American to redeem George Washington's promises.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. Speaker, at this point I yield such time as she may consume to the gentlewoman from Maine (Mrs. SNOWE).

Mrs. SNOWE. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in order to voice strong support for H.R. 7919, the Maine Indian Claims Settlement Act of 1980. The purpose of this bill is to resolve a pending legal claim to approximately two-thirds of the State of Maine. Citing a violation of the Indian Trade and Intercourse Acts, the Penobscot, Passamaquoddy, and Maliseet Indians are seeking approximately 12.5 million acres of land in Maine as well as extensive damages.

To be more specific, the Maine Indians are claiming that this land was taken from them by the State of Massachusetts in a series of allegedly illegal agreements in 1794, 1796, and 1818. Their contention is that these transactions were invalid because they were made without the approval of Congress, a requirement of the previously mentioned Trade and Intercourse Act which was originally enacted in 1790.

The major element of the State's defense is that the Indian Trade and Intercourse Acts were never meant to apply to the eastern tribes such as the Penobscots and Passamaquoddies, but were rather to be the guiding principles of our Nation's policy towards the tribes of the Western United States.

While there are, of course, advocates for both of these legal positions, it is important to note that, regardless of the outcome of this suit, litigation of this case would undoubtedly take years. In fact, the Justice Department has characterized this suit as "potentially the most complex litigation ever brought in the Federal courts with social and economic impacts without precedent and incredible litigation costs to all parties."

It has been recognition of the disruption that this potential suit could cause that has prompted past efforts to reach a fair settlement.

Naturally, I am unable at this time to provide my colleagues with anything but a brief overview of the history of this case. As well, this is not the appropriate forum for a lengthy discussion of the legal theories involved in this case. Rather, my colleague from Maine (Mr. EMERY), and I are charged with the responsibility of informing you that we have presented this House with a bill that addresses a very real problem in the State of Maine, and that it addresses that problem in a most responsible manner.

In making our case for this legislation, it is important for you to be aware of the context in which this present settlement proposal must be placed.

The Maine land claims first arose in 1972. At that time the Passamaquoddies and Penobscots asked the Department of Interior to sue the State of Maine on behalf of the tribes. In a response that is important to this settlement proposal, the Interior Department cited the traditional lack of Federal recognition of the Penobscots and Passamaquoddies as "Tribes" and declined to file a suit.

In the key decision of Passamaquoddy against Morton, the Federal District Court for Maine decided that indeed the Federal Government had a trust responsibility to the Penobscot and Passamaquoddy Tribes. That decision was affirmed by the Circuit Court of Appeals in December 1975.

The Justice Department and the Department of the Interior then had an obligation as a result of the trust relationship defined by Passamaquoddy against Morton to evaluate the validity of the tribes' land claims. After doing so, the Department of the Interior announced in late 1976 its intention to pursue the lawsuit against Maine and against all persons occupying the land claimed by the Passamaquoddy and Penobscot Tribes. That announcement resulted in the first taste of the economic problems that could surface if this case is litigated. State and local bond issues were postponed, turmoil was created in the real estate and title bars, and as was stated so well by Attorney General Cohen in his testimony before the House Interior Committee, it was "one of the most serious legal, economic and social crises in the history of the State of Maine."

Both the Senate Select Committee on Indian Affairs and the House Interior Committee were provided with specific information about the costs that will be associated with the lengthy litigation.

The recognition of the seriousness of this issue caused the White House to initiate a series of efforts to frame an appropriate settlement of this suit. Three separate settlement proposals surfaced between the fall of 1977 and the fall of 1978. As a result of those proposed settlements the elements that are the cornerstone of the present settlement were identified. They are a trust fund of $27 million for the tribes, 300,0000 acres of land to be provided at fair market value by willing sellers, and total Federal assumption of the costs involved. The price tag of this settlement is approximately $81.5 million, which is similar to the amount that that White House work group identified in 1977 as necessary to settle this case.

It is important to note that the State will retain jurisdiction over the lands involved in this settlement. As well, my colleagues should be aware that recent court decisions favorable to the Indians on peripheral issues strengthened the tribes' bargaining position if not their legal arguments.

As the House considers the merits of this legislation we must bear in mind that cases such as the Maine land claims, the Narragansett case in Rhode Island and other cases involving east coast Indian tribes have occurred as a result of congressional policy decisions which have encouraged these suites. In fact, just this past spring Congress once again extended the statute of limitations for Indian claims such as these. I am not about to say that Congress has been wrong in stating that suits such as these should be identified and litigated, but I will say that Congress should be prepared to remedy problems that arise because of that policy. The potential economic chaos in Maine, with losses to be incurred by innocent citizens almost 200 years removed from any wrongdoing, is just such a problem. We must look to the Federal Government to follow through with its policy of fairness to our Indian citizens, but not at the expense of other innocent citizens.

The burden on the Federal Government to fund this settlement is also apparent from the history of its relationship with Maine tribes. For nearly 200 years the Federal Government has repeatedly taken the position that the Maine tribes were a State, not Federal responsibility. Despite numerous opportunities that can be documented, the U.S. Government failed to take any steps to enforce the nonintercourse provisions of the Indian Trade and Intercourse Acts. This inaction on the part of the Federal Government gave the citizens of Maine reasonable assurances that the land transactions which have marked daily life in Maine since the 1790's have been totally proper and that they have not violated the rights of the Indian tribes.

The stated Federal policy of no responsibility to the Maine Indians was also the basis for the State's provision of support to the tribes. During the time that the Federal Government was denying any responsibility to the Maine Indians, the State was stepping forward with funds to provide necessary assistance to the tribes. The attorney general of Maine informed the Interior Committee during its hearing on this bill that appropriations totaling nearly $20 million have been made since Maine became a State. At no time since the 1790's has the United States indicated that the behavior of Maine citizens, both in their support of their Indian neighbors or in their land transactions, has been inappropriate in any way.

The basic premise of this suit is that the Federal policy of protection of Indians that was enunciated during the early years of our National Government must be respected. The fact that the Federal Government failed to recognize any responsibility to the Maine Indians until forced to do so by a recent court decision, and the fact that Maine acted in good faith both in their land transactions and in their support of the tribes, makes it very clear that any costs associated with this suit must be borne by the Federal Government.

I have tried in my few minutes here to provide you with some background about this bill and to justify the basis for my belief that the resolution of this problem is a Federal responsibility. But, my most important function today is to assure you that this legislation is not a hastily drafted document produced only for the purpose of passing the buck to the Federal Government.

Rather, the proposed settlement embodied in this legislation is the result of many months of negotiations on the part of the State of Maine, the Indian tribes, and representatives of Maine's affected landowners. In addition, every detail of this legislation has been scrutinized and then endorsed by the Maine Legislature, the Department of Interior, the administration, the Senate Select Committee on Indian Affairs, and most recently the Senate itself. The review process by the Senate committee included intensive drafting sessions in which representatives of the Interior Department, the administration, the parties to the suit, and the Senate committee participated. Their finished product, passed by the Senate and now presented to you for your approval, is a carefully crafted bill.

As well, the Interior Committee's own hearing on this bill, in which Congressman EMERY and I were privileged to participate, showed that all elements of this bill including cost, jurisdictional aspects, and future relationships with the tribes can be justified by the architects of this settlement.

In closing, I must state that the problem we face is time. We may never have all the elements present that we have in this bill. The support of all the parties, involved in this case, coupled with the support of the administration, may not be duplicated if this legislation fails. The economic costs to the State of Maine could then be enormous.

The legislative process as we know it here in Congress is often criticized for its slowness. Yet we have seen time and again that we are able to move quickly on legislation when we have been able to achieve consensus on the resolution of important problems.

I believe that we have achieved the necessary consensus on this issue. The bipartisan leadership of Senators MITCHELL and COHEN in the Senate, coupled with the active support of the administration and Congressman UDALL for the bill sponsored by Mr. EMERY and myself, has shown that concern for the problems in the State of Maine crosses party lines. Even though this bill by necessity has surfaced late in our legislative session, I am proud to say that Congress has thus far been able to take all the necessary steps to assess and pass this legislation while maintaining the integrity of the legislative process.

The final point that must be mentioned is that this bill has not been finalized without considerable difficulty. The long process of negotiations and ratifications has definitely shown that this issue of Indian land claims in Maine is an emotional one, and that feelings about the merits, or lack thereof, of this case runs deep. As a person who was originally quite skeptical about the merits of this suit, I am in a position to say with certainty that the Maine congressional delegation is acting in the best interests of the State in seeking this settlement. We must realize that the economic chaos that could result from litigation, regardless of the outcome, and the potential for a legacy of bitterness between Maine's Indian and non-Indian citizens, dictate that the good faith that has marked our efforts to resolve this issue must be accepted.

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I would also like to thank the gentleman from Utah (Mr. MARRIOTT) and the gentleman from California (Mr. CLAUSEN) for their considerable and valuable efforts on behalf of the State of Maine and the people. As I say, I was a skeptic of this entire resolution, but I feel that there would be no winners at all if this case went to court. I thank all of the Members for participating, and I thank the chairman of the committee, the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Speaker, there are some Members of the House who will recall that it is my privilege and duty every 2 or 3 years to come down into the well and ask that the statute of limitations governing Indian claims be extended. The last such memorable occasion was on March 18, of this year, 1980. I made a commitment at that time to my colleagues, a commitment I had made in earlier years, that this was to be indeed the last such request for an extension of time and I would not be back again to do it.

I would like to bring my colleagues up to date.

That effort succeeded. We did get a bill passed. The statute of limitations, which is covered by section 2415, title 28, United States Code, did become law, and it is now lifted until December 31, 1982.

Following up on that, on April 7, 1980, I did write a letter to the Honorable Cecil D. Andrus, Secretary of the Department of the Interior, asking him the status of the Indian claims, asking him to report, et cetera, and my letter reads as follows:

APRIL 7, 1980.

Hon. CECIL D. ANDRUS,
Secretary, Department of the Interior, Washington, D.C.

DEAR MR. SECRETARY: As you know, on March 27, 1980, the President signed into law S. 2222 which extends the statute of limitations contained in section 2415 of title 28, United States Code, from April 1, 1980 to December 31, 1982.

Since this legislation falls within the jurisdiction of the Subcommittee on Administrative Law and Governmental Relations, which I chair, I will be interested in the progress that is made on the processing of those claims affected by this legislation. To monitor this progress, I plan to schedule periodic oversight hearings during the pendency of the extension period. Therefore, to prepare for these hearings, I would appreciate it if you would furnish me with the following information regarding these Indian claims affected by this legislation as soon as possible:

1. Describe the nature of all such claims presently identified by the Department of the Interior.

2. State the exact number of all such claims presently identified by the Department of the Interior.

3. Describe the nature of such claims that have been referred to the Department of Justice by the Department of the Interior.

4. State the exact number of these claims referred to the Department of Justice by the Department of the Interior for litigation.

a. To date how many of the claims have actually resulted in litigation?

b. To date how many of the claims have been rejected by the Department of Justice as insufficient for litigation?

5. To date, how many such claims have been settled by the Department of the Interior without a referral to the Department of Justice?

6. To date, how many of these claims have been rejected by the Department of the Interior without a referral to the Department of Justice?

7. At this time, how many such claims do you estimate remain unidentified?

I appreciate your cooperation in this matter.

Sincerely,

GEORGE E. DANIELSON,
Chairman, Subcommittee on Administrative Law and Governmental Relations.

Thereafter, I received a reply from Mr. Andrus, dated June 4, 1980, which reads as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., June 4, 1980.

Hon. GEORGE E. DANIELSON,
Chairman, Subcommittee on Administrative Law and Governmental Relations, House of Representatives, Washington, D.C.

DEAR MR. DANIELSON: Thank you for your April 7, 1980, request for information regarding Indian claims affected by S. 2222 which extends the Statute of Limitations contained in Section 2415 of Title 28, United States Code, from April 1, 1980, to December 31, 1982.

Please find below a listing which responds to your request for information regarding the nature of all claims presently identified by this Department and the exact number of such claims:

1. *Nature of claim*	2. *Number*
Old age benefits recovery	2,687
Rights of way	1,334
Title (with ancillary damage aspect)	1,298
Taxation	602
Contracts	439
Land trespass (title not in issue)	3,020
Water rights	61
Minerals	34
Hunting rights	2
Fishing rights	539
Total	10,016

3. The Department of the Interior has referred claims of the nature listed in item No. 1 to the Department of Justice.

4. The Department of the Interior has referred 4,013 claims covered by 554 litigation reports to the Department of Justice, 374 of these reports were referred to the Department in Washington, D.C., and 180 were referred to various U.S. Attorneys.

a. An estimated 50 to 100 claims have actually resulted in litigation.

b. An estimated 3,000 claims are being returned by the Department of Justice as inappropriate for litigation, or rejected for legal reasons.

5. An estimated 575 claims have been settled by the Department of Interior without referral to the Department of Justice.

6. The Department of the Interior has rejected 2,200 claims without referral to the Department of Justice.

7. An estimated 5,000 claims remain unidentified. I appreciate your concern in this matter.

Sincerely,

CECIL D. ANDRUS,
Secretary.

I want the Members to note that, in connection with that letter of June 4, 1980, he said that, as of that date, there were an estimated 5,000 claims remaining unidentified.

In the continuation of my effort to get some action on this subject, I again wrote to Secretary Andrus on September 18, 1980, and that letter reads as follows:

COMMITTEE ON THE JUDICIARY,
Washington, D.C. September 18, 1980.

Hon. CECIL D. ANDRUS,
Secretary, Department of the Interior, Washington, D.C.

DEAR MR. SECRETARY: Thank you for your letter of June 4, 1980 detailing the work your department has done in processing those Indian claims which are affected by the statute of limitations contained in section 2415 of title 28, United States Code.

I continue to be interested in the progress that has been made in processing these claims, and I plan to hold oversight hearings into this matter as soon as time permits. In this regard, I am requesting that you update the information provided in your previous letter. Therefore, I would appreciate it if you would supply the following information regarding these Indian claims as soon as possible:

1. Describe the nature of all such claims presently identified by the Department of the Interior.

2. State the exact number of all such claims presently identified by the Department of the Interior.

3. Describe the nature of such claims that have been referred to the Department of Justice by the Department of the Interior as of this time.

4. State the exact number of these claims referred to the Department of Justice by the Department of the Interior for litigation as of this time.

a. To date, how many of the claims have actually resulted in litigation?

b. To date how many of the claims have been rejected by the Department of Justice as insufficient for litigation?

5. To date, how many such claims have been settled by the Department of the Interior without a referral to the Department of Justice?

6. To date, how many of these claims have been rejected by the Department of the Interior without a referral to the Department of Justice?

7. At this time, how many such claims do you estimate remain unidentified?

I appreciate your cooperation in this matter.

Sincerely,

GEORGE E. DANIELSON,
Chairman, Subcommittee on Administrative Law and Governmental Relations.

For the information of my colleagues, and for the benefit of history, I would like to point out that the colloquy, the debate on this subject last spring, is reported in the CONGRESSIONAL RECORD of March 18, 1980, at pages 5742 through 5751 and debate on the conference report in the CONGRESSIONAL RECORD for March 24, 1980, pages 6219 through 6220.

The important thing that I am trying to establish here today is this: It was, indeed, important to extend that statute of limitations. We now have brought to a happy close the entire claim for the State of Maine. This is not just the main claim for Maine; it is the whole claim for Maine. We have one State disposed of, and we have only 49 States to go.

Therefore, I submit, Mr. Speaker, that it is wholesome to extend the statute of limitations in a wise manner from time to time so that we can dispose of these claims without unnecessary litigation and without further complicating the affairs of the American people.

Mr. UDALL. Mr. Speaker, I reserve the balance of my time.

Mr. MARRIOTT. Mr. Speaker, I yield 3½ minutes to the gentleman from Maine (Mr. EMERY).

Mr. EMERY. Mr. Speaker, this is an extremely important day for the State of Maine for, with passage of this legislation, we will have resolved one of the most difficult issues that Maine has faced in many years. As previous speakers, the gentleman from Arizona (Mr. UDALL), the gentleman from Utah (Mr. MARRIOTT), and my distinguished colleague from northern Maine (Mrs. SNOWE), have mentioned, we have resolved this issue through difficult negotiations, through compromise, through bringing together of parties who originally were very far apart in principle and in many other ways as well.

This has been an educational process for everyone. The State delegation, the Maine Legislature, the administration, and the various committees of the House and Senate have learned about the problem, not only as it affects Maine but as it affects Indian tribes in Maine. I think we are better off for having made that effort.

The important thing is that we have reached a satisfactory conclusion of an issue which promised to be one of the most difficult and acrimonious that the State has faced in many years. In so doing, we have won the support of the Office of Management and Budget, of the President of the United States, of the Interior Department. We have won the support of all four Maine congressional delegation Members, including myself, the gentlewoman from Maine (Mrs. SNOWE), and Senators COHEN and MITCHELL. We have the support of the Maine Legislature, which voted 2 to 1 in both houses in favor of the Maine portion of the implementing legislation. We have support and full cooperation of the State attorney general, the Governor's office, and many civic leaders throughout the State from many different walks of life.

In every sense, this is a true compromise. But it is not important because it solves our problem. On passage of this legislation, we will have established not only a model for resolving Indian claims but, more importantly, we will have answered all of the major problems that various parties at interest have raised in the State of Maine—successfully, amicably and completely.

The bill we have before us today, H.R. 7919, the Maine Indian Claims Settlement Act, reflects long hours of work on the part of State and Federal officials, attorneys for Maine's large landowners, and the Penobscot and Passamaquoddy Tribes, and members and staff of the House Interior Committee. Their commitment to obtaining a reasonable solution of this dispute reflects their belief that the provisions of the settlement reflected in this bill best represent the interests of Maine and its citizens, and the Federal Governmnt.

The purpose of H.R. 7919 is to provide a legislative settlement of the land claims of the Passamaquoddy, Penobscot, and Maliseet Indians of the State of Maine.

The Maine Penobscot and Passamaquoddy Indian Tribes have claimed that 12.5 million acres, roughly two-thirds of the State of Maine, were taken from them in violation of the Non-Intercourse Act of 1790. The Non-Intercourse Act stipulated that all transfers of land between Indians and State or non-Indians must be ratified by the U.S. Congress. Since land transactions between the Penobscot and Passamaquoddy Tribes and the State of Massachusetts, of which Maine was then a part, were not congressionally ratified, the tribes claim that land was taken from them illegally.

The State of Massachusetts entered into its land transaction agreement with the tribes under the assumption that the Non-Intercourse Act did not apply to east coast tribes within the boundaries of the original 13 States. Consequently, we have several instances on the east coast whereby transfers of Indian land were carried out without congressional ratification under the Non-Intercourse Act.

With respect to the State of Maine, however, questions have arisen, and now the State is faced with the prospects of protracted litigation should the tribes file suit.

In response to the threat of potential litigation, Maine's attorney general and an attorney for the State's largest landowners have negotiated a proposed settlement with the attorney for the tribes. The settlement is basically in three parts—one part which pertains to the implementation of laws that will be applicable to Indians and Indian land in Maine, the Maine Implementing Act; one part consisting of purchase options from certain landowners to the Maine tribes in which the landowners have agreed to sell at fair market value 300,000 acres of land to the tribes; and, finally, a bill, the Maine Indian Claims Settlement Act, to be enacted by Congress which would extinguish the land claims, compensate the Indians for their claim, and ratify the Maine Implementing Act.

The Maine State Legislature passed the Maine Implementing Act on April 3, 1980, 84 in favor and 47 against in the Maine House and 17 in favor and 10 against in the Maine Senate, thereby approving the various positions setting out future applicability of State and Indian laws over existing Indian land and any newly acquired land. It is now left to the Congress to consider the Maine Indian Claims Settlement Act.

The financial portion of this settlement amounts to $81.5 million to be authorized and appropriated by Congress. The historical circumstances in Maine where the State, up until 1976, assumed almost total financial responsibility for the welfare of the Maine Indians, provide the fundamental premise behind this bill that the cost of settlement is a national responsibility. Since Maine became a State, $20 million has been allocated, $15 millon of which came in the last 15 years. These figures support both the claim of necessary financial assistance and the principle expounded by this Congress that States should participate in the funding of such settlements.

This is not a bill designed to bail out the State of Maine and relieve it of its responsibilities. Even after this settlement is enacted, the State of Maine will continue to have some financial obligation to the tribes in the form of various benefits and subsidies that other citizens and municipalities receive. Therefore, this proposed settlement represents a carefully constructed balance of contributions and responsibilities as well as interests.

Hearings were held in the Senate on S. 2829, the Maine Indian Claims Settlement Act of 1980, on July 1 and 2, at which time many questions were raised regarding the application of State and Federal laws over Indian lands and the jurisdiction of the tribes over Indian lands. Land valuations were addressed with testimony received by both the Interior Department and private evaluators as to what constituted fair market value for average quality Maine timberland. The Interior Department responded to each of these issues and subsequently endorsed the concept of a negotiated settlement as well as the monetary amount suggested in the legislation. In turn, the House Interior and Insular Affairs Committee members and staff thoroughly reviewed the provisions of this bill reflecting the above issues, and following a hearing and long hours of discussion with all interested parties, the bill was favorably reported by the committee.

The settlement proposal is the result of long and often complicated negotiations among the parties involved. In this context, the proposal strikes a delicate balance of all interests concerned.

There is no question that should a lawsuit result, it has the potential to create severe economic disruption throughout the State. The most serious economic threat is to land transactions and State and municipal bond sales, both of which will be seriously disrupted, if not halted altogether, should titles to land be clouded. Given the expected time frame for litigation, estimated to be 6 to 10 years, the ramifications of a court proceeding are cause for serious concern.

Consequently, the legislation under consideration today offers Congress the opportunity to resolve our longstanding problem in Maine in a manner which is agreeable to all involved parties. I am sincerely hopeful that this body will approve this proposed settlement in a timely fashion, so that the Maine Indian land claim will be settled equitably and in the best interests for all concerned.

Time is of the essence in this matter in order to avoid a breakdown of the resolve the affected parties have shown in constructing a workable agreement. In addition, the options on the land to be transferred will run out in less than a year, in which case a second proposed settlement of this nature could cost the Government additional hundreds of thousands of dollars. Most of all, we need to enact this proposal to prevent the certain disruption protracted litigation would bring to Maine's citizens.

The Maine Indian land claims settlement is a well-founded idea whose time has come. The motivation and hard work which provide the foundation for this agreement and, indeed, make it eminently feasible need to be recognized, and I urge my colleagues to favorably act on this proposed legislation today.

I should also mention a necessary correction. The following sentence was inadvertently omitted from the committee report section-by-section analysis relating to subsection 6(d)(1) of H.R. 7919, and should be inserted at the end of the paragraph in the committee report which discusses that subsection:

> The waiver provided by this subsection relates only to causes of action which arise subsequent to enactment of this bill.

This sentence is consistent with the administration's understanding of subsection 6(d)(1) as reflected in testimony submitted to the Select Committee on Indian Affairs in hearings held on July 1, 1980. The sentence is also consistent with normal rules of statutory interpretation.

Another point that I would like to make is that the waiver of immunity provided by subsection 6(d)(1)is intended to relate only to causes of action which accrue subsequent to enactment of this bill.

Mr. MARRIOTT. Mr. Speaker, I yield 1 minute to the distinguished ranking minority leader of the committee, the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Speaker, I am pleased to rise in favor of H.R. 7919 and to urge its passage under suspension of the rules. I truly want to commend our distinguished chairman for his responsiveness and sensitivity to a very complex issue in scheduling the legislation but, more importantly, to extend my congratulations to the congressional delegation from Maine, Mrs. SNOWE and DAVE EMERY, for their very constructive work in bringing about what we think is a very fair and reasonable solution to an extraordinarily complex situation.

Mr. Speaker, the purpose of this bill is to provide for the final settlement of the largest, most complex, and perhaps most controversial of the so-called Eastern Indian land claims.

H.R. 7919 ratifies and implements a settlement of the claims of the Passamaquoddy, Penobscot, and Maliseet Indians of Maine. This settlement is the product of more than 3½ years of painstaking negotiations by the tribes, the State, and private landowners, with extensive participation by representatives of the Interior and Justice Departments and the White House.

The claims which H.R. 7919 would settle are for possession of as much as 12.5 million acres of land in Maine on which more than 350,000 people now reside. These claims allege that land transfers provided for in treaties between the tribes and the States of Massachusetts and Maine were in violation of the Federal Trade and Intercourse Act of 1790. That act bars the conveyance of Indian land unless it is made and executed under the authority of the United States.

As long as these claims are unresolved, a cloud will hang over the title to all of the lands within the claims area. There is no doubt that clouds over title to land can and do cause economic and social hardships to a great number of people and to the State as a whole. They impair the State's ability to raise taxes and guarantee municipal bonds. And they make it diffcult for individual citizens and businesses to buy and sell property or to finance development on any lands in the claims area.

H.R. 7919 would lift the clouds on title and preclude years of costly litigation.

While it is uncertain whether the tribes would prevail in the litigation, lawyers for the parties estimate the chances of success at between 40 and 60 percent. More importantly, they also estimate that the claims will take from 5 to 15 years to litigate to completion, including appeals. Given these prospects, all parties to the claim have come to the conclusion that a legislatively ratified, negotiated settlement is the quickest, fairest, and best alternative. H.R. 7919 is that alternative.

The bill accomplishes essentially three things:

First, it removes the cloud to title to land in the State of Maine by ratifying all previous Indian land transfers and extinguishing all Indian aboriginal claims in the State;

Second, it defines the respective relationships between and among the tribes, the State and the Federal Government. This it does in large part by incorporating the Main Implementing Act, an extensive statute passed by the Maine Legislature earlier this year.

Third, the bill authorizes the expenditure of $81.5 million for a trust fund for the tribes and for the acquisition of up to 300,000 acres of land. Appropriation of these funds and purchase of the land will give the three tribes an excellent opportunity to improve their economic and social conditions and to achieve meaningful self-determination.

I would like to stress the broad support that this bill enjoys. Interior Secretary Andrus, in stating the administration position on the settlement, called it "critical and one of the most important issues in Indian affairs facing Congress." Last week the administration demonstrated its commitment to enactment of this legislation by publicly supporting the inclusion by a Senate Appropriations Subcommittee of the full $81.5 million authorized to pay for the settlement in appropriations for fiscal year 1981.

The State Legislature of Maine has already enacted legislation to implement the settlement for its part. The Governor of the State and the entire Maine delegation stands in support of this settlement. I would like to commend in particular our colleagues from Maine, Mr. EMERY and Mrs. SNOWE, for their work with the Interior Committee members and staff to enable the House to consider this bill today. The caliber of their efforts, coupled with those of our former colleague now of the other body, Senator WILLIAM COHEN, attest to the fact that the people of Maine are truly well represented in the Congress.

I would also note that within the past few hours the Senate passed a bill virtually identical to H.R. 7919.

Mr. Speaker, I think it is quite clear that passage of this legislation is in the national interest. Only Congress has the power to settle these claims for once and for all, to remove the cloud on the title to the lands of thousands of innocent Maine citizens, and to spare them, the State, the United States, and the tribes the expense and uncertainty of years of litigation. All responsible parties who have studied this situation agree that a legislated settlement is the best solution.

I, therefore, urge the Members of the House to support this settlement by approving H.R. 7919.

☐ 1350

Mr. MARRIOTT. Mr. Speaker, again I want to thank the gentleman from Arizona (Mr. UDALL) for expediting this legislation and thank the gentlewoman from Maine (Mrs. SNOWE) and the gentleman from Maine (Mr. EMERY) for their good work.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL) that the House suspend the rules and pass the bill, H.R. 7919, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 7919, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

U.S. CAPITOL GROUNDS

Mr. LEVITAS. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 6331 to amend the act of July 31, 1946, as amended, relating to the U.S. Capitol Grounds, and for other purposes.

The Clerk read as follows:

H.R. 6331

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Act of July 31, 1946, as amended (40 U.S.C. 193a), is amended to include within the definition of the United States Capitol Grounds the following additional areas and portions of streets which are situated as follows:

(1) that portion of D Street Northeast from the east curb of Second Street Northeast to the east curb of First Street Northeast;

(2) that portion of Second Street Northeast and Southeast from the south curb of F Street Northeast to the south curb of C Street Southeast;

(3) that portion of Constitution Avenue Northeast from the east curb of Second Street Northeast to the east curb of First Street Northeast;

(4) that portion of Pennsylvania Avenue Northwest from the west curb of First Street Northwest to the east curb of Third Street Northwest;

(5) that portion of Maryland Avenue Southwest from the west curb of First Street Southwest to the east curb of Third Street Southwest;

(6) that portion of Constitution Avenue Northwest from the east curb of Second Street Northwest to the east curb of Third Street Northwest;

(7) that portion of Independence Avenue Southwest from the west curb of First Street Southwest to the east curb of Third Street Southwest;

(8) that portion of Maryland Avenue Northeast from the east curb of Second Street Northeast to the east curb of First Street Northeast;

(9) that portion of East Capitol Street from the east curb of Second Street Southeast to the east curb of First Street Southeast;

(10) that portion of Independence Avenue Street Southeast to the east curb of Second Street Southeast to the east curb of First Street Southeast;

(11) that portion of C Street Southeast from the east curb of Second Street Southeast to the east curb of First Street Southeast;

(12) that portion of North Capitol Street from the south curb of Massachusetts Avenue to the north curb of Louisiana Avenue;

(13) that portion of New Jersey Avenue Northwest from the north curb of D Street Northwest to the north curb of Louisiana Avenue;

(14) that portion of Second Street Southwest from the north curb of D Street to the south curb of Virginia Avenue Southwest;

(15) that portion of Virginia Avenue Southwest from the east curb of Second Street Southwest to the west curb of Third Street Southwest;

(16) that portion of Third Street Southwest from the south curb of Virginia Avenue Southwest to the north curb of D Street Southwest;

(17) that portion of D Street Southwest from the west curb of Third Street Southwest to the east curb of Second Street Southwest;

(18) that portion of Canal Street Southwest, including sidewalks and traffic islands, from the south curb of Independence Avenue Southwest to the west curb of South Capitol Street; and

(19) all that area contiguous to, and surrounding, square numbered 724 from the property line thereof to the contiguous curb;

(20) those areas contiguous to, and surrounding, the areas comprising the grounds of the United States Botanic Garden from the property line of such grounds to the contiguous curb;

(21) all that area contigous to, and surrounding, the structures comprising the United States Capitol Power Plant, from the building lines of such structures to the continguous curbs; and

(22) all that area contiguous to, and surrounding, square numbered 581 from the property line thereof to the contiguous curb.

SEC. 2. Section 1 of the Act of July 31, 1946, as amended (40 U.S.C. 193a), is amended (1) by deleting "First Street N.E. to Second Street N.W." and inserting in lieu thereof "Second Street Northeast to Third Street Northwest"; and (2) by inserting immediately before the colon preceding the proviso, a comma and the following: "Pennsylvania Avenue Northwest from First Street Northwest to Third Street Northwest, Maryland Avenue Southwest From first Street Southwest to Third Street Southwest, Second Street Northeast from F Street Northeast to C treet Southeast; C Street Southeast from Second Street Southeast to First Street Southeast; that portion of Maryland Avenue Northeast from Second Street Northeast to First Street Northeast; that portion of New Jersey Avenue Northwest from D Street Northwest to Louisiana Avenue; that portion of Second Street Southwest from the north curb of D Street to the south curb of Virginia Avenue Southwest; that portion of Virginia Avenue Southwest from the east curb of Second Street Southwest to the west curb of Third Street Southwest; that portion of Third Street Southwest from the south curb of Virginia Avenue Southwest to the north curb of D Street Southwest; that portion of D Street Southwest from the west curb of Third Street Southwest to the east curb of Second Street Southwest; that portion of Canal Street Southwest, including sidewalks and traffic islands, from the south curb of Independence Avenue Southwest to the west curb of South Capitol Street".

SEC. 3. On and after the effective date of this section, that portion of C Street Northeast from the west curb of Second Street Northeast to the east curb of First Street Northeast shall be under the exclusive jurisdiction and control of the Capitol Police Board and the Architect of the Capitol in the same manner and to the same extent as such Board or the Architect of the Capitol has over other streets comprising the United States Capitol Grounds, and the Architect of the Capitol shall be responsible for the maintenance and improvement thereof.

SEC. 4. The foregoing provisions of this Act shall take effect upon the expiration of the thirty-day period following the date of the enactment of this Act.

SEC. 5. The Capitol Police Board is authorized to detail police from the House Office, Senate Office, and Capitol Buildings for police duty on the Capitol Grounds and on the Library of Congress Grounds.

SEC. 6. (a) Notwithstanding any other provisions of this Act, with respect to those squares occupied by the United States Supreme Court and the Library of Congress, those streets or portions thereof referred to in the first section of this Act which surround such squares shall be considered a part of the Capitol Grounds only to the face of the curbs contiguous to such squares.

(b) Nothing in this Act shall be construed as repealing, or otherwise altering, modifying, affecting, or superseding those provisions of law in effect on the date immediately preceding the date of the enactment of this Act vesting authority in the United States Supreme Court Police and the Library of Congress Police to make arrests in adjacent streets.

(c) In order to provide a fair and reasonable transition period in which to permit the orderly relocation of those duly licensed vendors operating, as of the effective date hereof, on those portions of Pennsylvania Avenue Northwest, and Maryland Avenue Southwest, hereby included in the definition of United States Capitol Grounds pursuant to section 1 (4) and (5), so much of the prohibitions contained in section 4 of the law of July 31, 1946 (60 Stat. 718), as would prevent the use of those portions of Pennsylvania Avenue Northwest, and Maryland Avenue Southwest, for the offer and exposure of articles for sale, shall be suspended for a period not to exceed one year.

SEC. 7. (a) The Architect of the Capitol, under the direction of the House Office Building Commission, is hereby authorized to acquire, on behalf of the United States, by purchase, condemnation, transfer, or otherwise, for addition to the United States Capitol Grounds, all publicly or privately owned property contained in lots 1, 2, 67, 79, 80, 800, 801, 807, 814 through 822, and 834 in square 693 in the District of Columbia (including all alleys or parts of alleys and streets within the lotlines and curblines surrounding such real property): *Provided*, That upon the acquisition of any such real property by the Architect of the Capitol on behalf of the United States, such property shall be subject to the provisions of the Act of July 31, 1946 (60 Stat. 718), as amended in the same manner and to the same extent as all other areas comprising the United States Capitol Grounds.

(b) For the purposes of this section the properties authorized to be acquired hereunder, shall be deemed to extend to the outer face of the curbs of the squares in which they are located.

(c) There is hereby authorized to be appropriated to the Architect of the Capitol for the fiscal year ending September 30, 1981, the sum of $3,500,000 for the purpose of carrying out the provisions of this section, said appropriation to remain available until expended.

SEC. 8. The acquisition of real property under this Act shall be conducted in accordance with the Act entitled "Uniform Relocation Assistance and Land Acquisition Policies Act of 1970", Public Law 91-646, approved January 2, 1971, and any proceeding for condemnation brought in its course shall be conducted in accordance with the Act entitled "An Act to provide for the acquisition of land in the District of Columbia for the use of the United States", approved March 1, 1929 (16 D.C. Code, secs. 1351-1368).

SEC. 9. The Architect of the Capitol is authorized to enter into contracts and to make expenditures for grading and paving and such other expenditures, including expenditures for personal and other services, as may be necessary to carry out the purposes of section 7 of this Act.

SEC. 10. Any contract entered into pursuant to this Act or pursuant to any amendment made by this Act shall be effective only to such extent and in such amounts as may be provided in advance in an appropriation Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Georgia (Mr. LEVITAS) will be recognized for 20 minutes, and the gentleman from Pennsylvania (Mr. CLINGER) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6331 amends the act of July 31, 1946, as amended, relating to the U.S. Capitol Grounds, by authorizing within the definition of the U.S. Capitol Grounds additional streets, sidewalks, and other areas which are contiguous or in close proximity to the U.S. Capitol Grounds, thereby making the exterior boundaries of the Capitol Grounds more compact. At the present time, the Capitol Police are charged with the exclusive charge and control of the regulation and movement of all vehicular and other traffic, including the parking of vehicles within the U.S. Capitol Grounds; and due to the streets listed in this legislation being contiguous to the Capitol Grounds, the Capitol Police Board has been relying on the basis of case law authority to find the necessary authority to patrol such streets. Thus, this legislation will give a legislative sanction to actions now taken by the Capitol Police.

H.R. 6331 also assigns responsibility between the Architect of the Capitol and the District of Columbia for maintenance and repair of the streets to be added to the Capitol Grounds.

The legislation further authorizes the Capitol Police Board to detail police from the Capitol Building and House and Senate Office Buildings for duty on the Capitol Grounds and the Library of Congress grounds. This is merely a technical amendment to existing law.

Lastly, the bill as reported originally by the committee on April 24, 1980, authorized the Architect of the Capitol, under the direction of the House Office Building Commission, to acquire, for addition to the U.S. Capitol Grounds all property contained in lots 1, 2, 67, 79, 80, 800, 801, 807, 814 through 822, and 834 in square 693 in the District of Columbia at a cost of $3.5 million. This property is bounded by Ivy, Canal and E Streets, and New Jersey Avenue, Southeast, and totals approximately 62,544 square feet. The owners of the property are actively proceeding with preparations to build a four-story office building on the site. Therefore, on October 11, 1979, the House Office Building Commission recommended that action be taken by the Government to acquire this property in order to protect the Capitol Grounds from commercial encroachment. During the acquisition of such property, the Architect of the Capitol is authorized to enter into contracts and to make expenditures for grading and paving and such other expenditures as may be necessary to carry out this act.

The committee amendment at the desk, which was approved by the House Committee on Public Works and Transportation on September 16, 1980, authorizes the Architect of the Capitol to acquire lot 49 in square 582 and lot 70 in square 640 at a cost of $8 million, square 582, adjacent to House Office Building Annex No. 2, and square 640, roughly south of the Rayburn underground garages, are presently being leased and utilized for parking by the House of Representatives. The House Office Building Commission voted unanimously to have these latter two parcels acquired by the Government in order to protect the Capitol from commercial encroachment at such close proximity and to reserve the property for possible further development in accordance with the master plan for Capitol Hill. The House Committee on Administration has also contacted the committee urging the inclusion of these two parcels in this legislation. These parcels are currently owned by the District of Columbia Redevelopment Land Agency and they are eager to dispose of the properties.

Mr. Speaker, every other major capital in the world has seen fit to enhance and protect the surrounding areas of its major public buildings. The original plan devised for the development of the Nation's Capital by Pierre L'Enfant contemplated this same type of protection and planning for the major governmental buildings in the Washington area. This legislation is a further step in the overall effort to continue to provide proper development not only of the Capitol grounds of the United States of America but the adjoining major historical buildings such as our Supreme Court and the Library of Congress.

Mr. Speaker, I reserve the balance of my time.

Mr. CLINGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I concur in the comments made by the distinguished gentleman from Georgia (Mr. LEVITAS) and want to commend him for the fine work he has done in developing the legislation. Through his leadership, and with the bipartisan support of the committee members, we have reported a well balanced bill that meets the needs of all interested parties: the future space needs of the U.S. Congress—by authorizing the purchase of three squares of land adjacent to the capitol which may be necessary for future expansion: the Capitol Police—by redefining their jurisdictional responsibilities: The vendors—who operate on portions of Pennsylvania Avenue Northwest and Maryland Avenues Southwest, by allowing them to continue operations for up to 1 year after enactment of this bill.

Mr. Speaker, the costs involved in H.R. 6331 are minimal and we feel enactment of this legislation is timely. If we wait to purchase the property proposed, the public will have to pay considerably more. The owners of square 693 plan to build a four-story office building on that site. By waiting to purchase that land, costs will escalate significantly.

The Government now leases portions of squares 582 and 640. By purchasing this land now, we are not only preventing rising costs due to inflation, but also eliminating these annual lease payments and preserving undeveloped land for future potential use by the legislative branch.

Mr. Speaker, I ask the Members of this House to support passage of H.R. 6331.

Thank you.

● Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 6331, and would like to compliment the fine work performed by the chairman of the Subcommittee on Public Buildings and Grounds, the honorable Elliott H. Levitas, the ranking minority member of the subcommittee, the honorable James Abdnor, and the ranking minority member of the full committee, the honorable William Harsha, in bringing this legislation to the House floor today.

As the chairman of the subcommittee has noted, the legislation as originally reported by the committee provided only for the acquisition of square 693 at a cost of $3.5 million. However, as a result of a request from the House Office Building Commission and the Committee on House Administration, our committee approved an amendment which is before the House today providing for the acquisition of square 582 and square 640 at a cost of $8 million. These properties are in close proximity to the Capitol Grounds and currently leased by the Committee on House Administration from the District of Columbia Redevelopment Land Agency for parking. The Redevelopment Land Agency has advised the Congress that they are anxious to dispose of these properties. Thus, in order to protect the Capitol Grounds from commercial encroachment it is desirable to acquire such properties.

In addition, the legislation provides for the acquisition of additional sidewalks and other areas in order to square off the boundaries of the Capitol Grounds and seeks to clarify actions currently taken by the Capital Police Board regarding the enforcement of regulations for all vehicular and other traffic, including the parking of vehicles within the U.S. Capitol Grounds.

Mr. Speaker, I strongly urge enactment of H.R. 6331. This legislation provides for the preservation of the noble vistas of the Capital to be preserved and enjoyed by future generations.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. Levitas) that the House suspend the rules and pass the bill, H.R. 6331, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 6331, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

☐ 1400

TRANSFER OF CERTAIN NAVAL VESSELS

Mr. BENNETT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7878) to authorize the transfer of certain naval vessels, as amended.

The Clerk read as follows:

H.R. 7878

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the transfer of twenty-one vessels of the United States Navy is hereby authorized as follows:

(1) The sale of two dock landing ships of the Calbido class to the Government of Brazil.

(2) The lease of two patrol combatants of the Tacoma class to the Government of Colombia.

(3) The sale of one auxiliary repair drydock of the ARD–12 class to the Government of Ecuador.

(4) The sale of two tank landing ships of the Suffolk County class and four minesweeping launches to the Government of Greece.

(5) The sale of two tank landing ships of the Suffolk County Class to the Government of Italy.

(6) The sale of one patrol combatant of the Tacoma class to the Government of the Republic of Korea.

(7) The sale of one tank landing ship of the Suffolk County class and the lease of one oceanographic research ship of the Conrad class to the Government of Mexico.

(8) The sale of one surveying ship of the Sgt. George D. Keathley class, one auxiliary repair drydock of the ARD–12 class, one fleet oiler of the Mattaponi class, and two patrol combatants of the Asheville Class to the Coordination Council for North American Affairs (the Taiwan instrumentality referred to in section 10(a) of the Taiwan Relations Act (22 U.S.C. 3309)).

Sec. 2. (a) Any sale of a vessel authorized by the first section of this Act shall be subject to such terms and conditions as the President may require and shall be for a price not less than the value in United States dollars of the vessel involved.

(b) Any lease of a vessel authorized by the first section of this Act—

(1) shall be subject to such terms and conditions as the President may require; and

(2) notwithstanding section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), or any other provision of law, may, as part or all of the consideration of the lease, provide for the maintenance, protection, repair, or restoration of the vessel by the lessee.

(c) Any expense of the United States in connection with the transfer of a vessel authorized by the first section of this Act shall be charged to the government receiving such vessel.

Sec. 3. The authority to transfer vessels under the first section of this Act shall expire at the end of the two-year period beginning on the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida (Mr. Bennett) will be recognized for 20 minutes, and the gentleman from South Carolina (Mr. Spence) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. Bennett).

Mr. BENNETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Armed Services Committee passed unanimously the bill, H.R. 7878, which transfers certain naval vessels to friendly countries. There are 21 vessels for sale or lease included in this legislation. Legislation is required by law since these vessels are either under 20 years of age or over 3,000 tons in displacement.

Five of these vessels are to be sold to the Coordination Council for North American Affairs, the body that is currently representing Taiwan. Mexico will receive two of these vessels, two will go to Italy, two to Brazil, two to Columbia, six to Greece, one to Korea, and one to Ecuador. The details of these transactions are included in the committee's report.

Over the past few years, this ship transfer program has dramatically aided our allied navies. These ships are all excess to the U.S. Navy's requirements but are sorely needed by the recipient nations. The ships are sold or leased to these recipient nations based on their fair market value at the time of sale. I might add that the U.S. Navy does not look for buyers for these vessels but is responding to request from these foreign nations for security assistance in the form of ship sales.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. SPENCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, ship transfers have been an important part of our security assistance program for nearly 30 years.

It is important to understand that these ship transfers are in response to requests made by foreign governments. Of the ships being transferred, nine have been on lease to the governments involved, nine are new sales, and three are new leases. For various reasons, all of the ships are excess to U.S. Navy needs.

These sales take on a political importance far greater than the value of the ships. In most cases these ships become the most important vessels in small navies. They have a prestige value which is at least complementary to their military or training value. I think it is fair to conclude that these ship transfers are viewed by both parties as fulfilling both military and political objectives.

These transfers are made at no cost to the U.S. Government. The proposed transfers will be effected on an "as is" and "where is" basis. Receipts to the treasury are expected to be about $5.8 million. These ship transfers have been approved by both the Department of Defense and the Department of State.

Mr. Speaker, I urge my colleagues to support this bill as a measure of goodwill to our friends and allies.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. BENNETT) that the House suspend the rules and pass the bill, H.R. 7878, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

UNIFORMED SERVICES SURVIVOR BENEFITS AMENDMENTS OF 1980

Mr. BENNETT. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 91) to amend title 10, United States Code, to remove certain inequities in the Survivor Benefit Plan provided for under chapter 73 of such title, and for other purposes, as amended.

The Clerk read as follows:

S. 91

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Uniformed Services Survivor Benefits Amendments of 1980".

SEC. 2. Section 1447(2) of title 10, United States Code, relating to definitions, is amended—

(1) in subparagraph (C)—

(A) by inserting "but which is not less than $300" after "under the Plan"; and

(B) by striking out ", but not less than $300;" and inserting in lieu thereof a period; and

(2) by striking out "as increased from time to time under section 1401a of this title.".

SEC. 3. (a) Subsection (a) of section 1451 of title 10, United States Code, relating to the amount of annuities under the Survivor Benefit Plan, is amended to read as follows:

"(a)(1) The monthly annuity payable to a widow, widower, or dependent child who is entitled under section 1450(a) of this title to an annuity shall be—

"(A) 55 percent of the base amount, as adjusted from time to time under section 1401a of this title, if the annuity is provided by virtue of eligibility under section 1448(a)(1)(A) of this title; or

"(B) a lesser percentage (determined by the Secretary of Defense in accordance with subsection (d)) of the base amount, as adjusted from time to time under section 1401a of this title on or after the date the person becomes entitled to retired pay under chapter 67 of this title, if the annuity is provided by virtue of eligibility under section 1448(a)(1)(B) of this title.

"(2) In the case of a widow who has one dependent child, the monthly annuity shall be reduced by the lesser of (A) an amount equal to the amount of the mother's benefit, if any, to which the widow would be entitled under title II of the Social Security Act (42 U.S.C. 401 et seq.) based solely upon service by the person concerned as described in section 210 (l)(1) of such Act (42 U.S.C. 410(l)(1)) and calculated assuming that the person concerned lived to age 65, or (B) an amount equal to 40 percent of the amount of the monthly annuity as determined under paragraph (1).

"(3) When the widow or widower reaches age 62, or there is no longer a dependent child, whichever occurs later, the monthly annuity shall be reduced by the lesser of (A) an amount equal to the amount of the survivor benefit, if any, to which the widow or widower would be entitled under title II of the Social Security Act (42 U.S.C. 401 et seq.) based solely upon service by the person concerned as described in section 210(l)(1) of such Act (42 U.S.C. 410(l)(1)) and calculated assuming that the person concerned lives to age 65, or (B) an amount equal to 40 percent of the amount of the monthly annuity as determined under paragraph (1). For the purpose of the preceding sentence, a widow or widower shall not be considered as entitled to a benefit under title II of the Social Security Act (42 U.S.C. 401 et seq.) to the extent that such benefit has been offset by deductions under section 203 of such Act (42 U.S.C. 403) on account of work.

"(4) In the computation of any reduction made under paragraph (2) or (3), there shall be excluded any period of service described in section 210(l)(1) of the Social Security Act (42 U.S.C. 410(l)(1)) which was performed after the effective date of the Uniformed Services Survivor Benefits Amendments of 1980 and which involved periods of service of less than 30 continuous days for which the person concerned is entitled to receive a refund under section 6413(c) of the Internal Revenue Code of 1954 of the social security tax which he had paid.".

(b) Subsection (c) of such section is amended—

(1) by striking out "section, or section 1448(d) of this title, on the day before the effective day of that increase" in the first sentence and inserting in lieu thereof "section or under section 1448(d) of this title"; and

(2) by striking out "title, or" in the second sentence and inserting in lieu thereof "title or under".

(c) Subsection (d) of such section is amended by striking out "(a)(2)" and inserting in lieu thereof "(a)(1)(B)".

SEC. 4. Section 1452 of title 10, United States Code, relating to reductions in retired and retainer pay, is amended by adding at the end thereof the following new subsections:

"(g)(1) Notwithstanding any other provision of this subchapter but subject to paragraphs (2) and (3), any person who has elected to participate in the Plan and who is suffering from a service-connected disability rated by the Veterans' Administration as totally disabling and has suffered from such disability while so rated for a continuous period of 10 or more years (or, if so rated for a lesser period, has suffered from such disability while so rated for a continuous period of not less than 5 years from the date of such person's last discharge or release from active duty) may discontinue participation in the Plan by submitting to the Secretary concerned a request to discontinue participation in the Plan. Any such person's participation in the Plan shall be discontinued effective on the first day of the first month following the month in which a request under this paragraph is received by the Secretary concerned. Effective on such date, the Secretary concerned shall discontinue the reduction being made in such person's retired or retainer pay on account of participation in the Plan or, in the case of a person who has been required to make deposits in the Treasury on account of participation in the Plan, such person may discontinue making such deposits effective on such date. Any request under this paragraph to discontinue participation in the Plan shall be in such form and shall contain such information as the Secretary concerned may require by regulation.

"(2) A person described in paragraph (1) may not discontinue participation in the Plan under such paragraph without the written consent of the beneficiary or beneficiaries of such person under the Plan.

"(3) The Secretary concerned shall furnish promptly to each person who files a request under paragraph (1) to discontinue participation in the Plan a written statement of the advantages of participating in the Plan and the possible disadvantages of discontinuing participation. A person may withdraw a request made under paragraph (1) if it is withdrawn within 30 days after having been submitted to the Secretary concerned.

"(4) Upon the death of any person described in paragraph (1) who has discontinued participation in the Plan in accordance with this subsection, any amounts deducted from the retired or retainer pay of the deceased under section 1452 of this title shall be refunded to the widow or widower.

"(5) Any person described in paragraph (1) who has discontinued participation in the Plan may again elect to participate in the Plan if (A) at any time after having discontinued participation in the Plan the Veterans' Administration reduces such person's service-connected disability rating to less than total, and (B) such person applies to the Secretary concerned, within such period of time after the reduction in such person's service-connected disability rating has been made as the Secretary concerned may prescribe, to again participate in the Plan and includes in such application such information as the Secretary concerned may require. Such person's participation in the Plan under this paragraph is effective beginning on the first day of the month in which the Secretary concerned receives the application for resumption of participation in the Plan, and the Secretary concerned shall begin making reductions in such person's retired or retainer pay, or require such person to make deposits in the Treasury under subsection (d), as appropriate, effective on such day.

"(h) Whenever retired and retainer pay is increased under section 1401a of this title, the amount of the reduction to be made under subsection (a) or (b) in the retired or retainer pay of any person shall be increased at the same time and by the same percentage as such retired or retainer pay is increased under section 1401a of this title.".

SEC. 5. (a)(1) The Secretary concerned shall pay an annuity to any individual who is the surviving spouse of a member of the uniformed services who—

(A) died before September 21, 1972;

(B) was serving on active duty in the uniformed services at the time of his death and had served on active duty for a period of not less than 20 years; and

(C) was at the time of his death entitled to retired or retainer pay or would have been entitled to that pay except that he had not applied for or been granted that pay.

(2) An annuity under paragraph (1) shall be paid under the provisions of subchapter II of chapter 73 of title 10, United States Code, in the same manner as if such member had died on or after September 21, 1972.

(b)(1) The amount of retired or retainer pay to be used as the basis for the computation of an annuity under subsection (a) is the amount of the retired or retainer pay to which the member would have been entitled if the member had been entitled to that pay based upon his years of active service when he died, adjusted by the overall percentage increase in retired and retainer pay under section 1401a of title 10, United States Code (or any prior comparable provision of law), during the period beginning on the date of the member's death and ending on the day before the effective date of this section.

(2) In addition to any reduction required under the provisions of subchapter II of chapter 73 of title 10, United States Code, the annuity paid to any surviving spouse under this section shall be reduced by any amount such surviving spouse is entitled to receive as an annuity under subchapter I of such chapter.

(c) If an individual entitled to an annuity under this section is also entitled to an annuity under subchapter II of chapter 73 of title 10, United States Code, based upon a subsequent marriage, the individual may not receive both annuities but must elect which to receive.

(d) As used in this section:

(1) The term "uniformed services" means the Armed Forces and the commissioned corps of the Public Health Service and of the National Oceanic and Atmospheric Administration.

(2) The term "surviving spouse" has the meaning given the terms "widow" and "widower" in section 1447 of title 10, United States Code.

(3) The term "Secretary concerned" has the meaning given such term in section 101 (8) of title 10, United States Code, and includes the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration, and the Secretary of Health and Human Services, with respect to matters concerning the Public Health Service.

SEC. 6. Section 4 of the Act entitled "An Act to amend chapter 73 of title 10, United States Code to establish a Survivor Benefit Plan, and for other purposes", approved September 21, 1972 (10 U.S.C. 1448 note), is amended—

(1) by striking out "section 9(b) of the Veterans' Pension act of 1959 (73 Stat. 436)" in subsection (a)(2) and inserting in lieu thereof "section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978";

(2) by striking out "in the limitation on annual income for purposes of eligibility for benefits under section 541(b) of title 38, United States Code" in the first sentence of subsection (c) and inserting in lieu thereof "under section 3112 of title 38, United States Code, in the maximum annual rate of pension under section 541(b) of such title"; and

(3) by striking out "limitation on annual income" in the second sentence of subsection (c) and inserting in lieu thereof "the maximum annual rate of pension".

SEC. 7. The amendments made by sections 2, 3, and 4 of this Act and the provisions of section 5 of this Act shall be effective on the first day of the second calendar month following the month in which this Act is enacted and shall apply to annuities payable by virtue of such amendments and provisions for months beginning on or after such date. No benefits shall accrue to any person by virtue of the enactment of this Act for any period before the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida (Mr. BENNETT) will be recognized for 20 minutes, and the gentleman from New York (Mr. MITCHELL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring to the floor today the Senate bill, S. 91, providing for improvements in the survivor benefit plan for retired military personnel. The gentleman from Alabama (Mr. NICHOLS), the chairman of the Military Compensation Subcommittee, could not be here today and asked me to manage the bill for him.

The Members are aware that in recent years there has been some criticism of several features of the survivor benefit plan. Most complaints are directed at the social security offset and at the formula for computing the cost of participation in the plan.

During both the 94th and 95th Congresses, the House enacted bills that would have addressed those issues and, in addition, would have substantially revised and liberalized other features of the plan. These bills have been initiated primarily by our colleagues, the gentleman from New York (Mr. STRATTON) and the gentleman from California (Mr. BOB WILSON). Both have played a particularly important role in the design and improvement of this plan. Unfortunately, the Senate did not act on most of those proposed changes. With that history, the Committee on Armed Services did not, until now, attempt to push for corrective action in the House during this Congress. Now, for the first time the Senate has acted to address some of the major shortcomings in the plan by passing S. 91.

The committee, on August 26, 1980, favorably reported S. 91 with technical amendments.

S. 91 revises the formula for computing deductions from military retirees pay to conform with the civil service formula. This provision is one of the changes recommended previously by the House.

S. 91 also would limit the amount of the social security offset against the benefits payable to a spouse to 40 percent of the payment to the survivor under the plan.

In addition, S. 91 eliminates from the calculation of the social security offset against benefits under the plan, any active military service after the date of enactment of this bill that is for periods of less than 30 continuous days and for which the member receives a refund of social security taxes paid for such service.

Considering the history of our past efforts to improve and liberalize the survivor benefit plan and the lack of action by the Senate, our recommendation is to accept S. 91 as passed by the Senate. Admittedly, S. 91 is not as comprehensive as the bills previously passed by the House. However, S. 91 is a significant improvement over present law. All retirees will benefit from the change in the formula; and many survivors—particularly survivors of enlisted members—will benefit from the 40 percent limitation on the amount of the social security offset.

The survivor benefit plan for military retirees has grown out of kilter with its original intent. Although the plan is still a good deal for most service members who retired in the past, some service members retiring today can expect to contribute two to three times as much to the plan as their survivors can expect to receive in benefits from the plan. This was, obviously, never intended by the Congress; in fact, the original plan was designed to provide significant cost sharing by the Government, similar to the civil service survivor benefit plan. The changes proposed in S. 91 will simply return the plan to the status orginally envisioned by this body.

Mr. Speaker, I urge the Members to accept S. 91.

Mr. MITCHELL of New York. Mr. Speaker, I yield myself such time as I may consume.

I strongly support S. 91. I regret that the total package of changes the House passed in the 94th and 95th Congresses are not included in the Senate bill.

However, in view of the past Senate inaction on this matter—the obvious reluctance of that body to take any action on this matter—and the lateness of the session, I feel that if we want any improvement to the survivor benefit plan this session, we had better accept the Senate bill. It is the best we can do in the short time remaining.

Though we could wish for more, there are some very important improvements contained in that bill.

For example, the revision of the formula for computing the cost to the member participating in the plan is made consistent with the formula for civil service retirees. All retirees, past and future, will benefit from this change.

Second, the 40-percent ceiling on the reduction in the Department of Defense payment to the survivor will be a very significant benefit to many survivor beneficiaries, particularly the survivors of retired enlisted members, but also to survivors of many retired officers—especially in the future.

Another provision would enable a retiree to discontinue participation in the survivor benefit plan when he has been continuously rated totally disabled for 10 years or more, or has been so rated continuously for 5 years following his last release from military service.

A further provision would authorize payment of a survivor annuity to the widow of a retirement eligible member who died on active duty before September 21, 1972—the date of enactment of the survivor benefit plan. This equalizes the treatment of such widows with the treatment accorded widows of retirement eligible servicemen who died on or after that date.

The survivor benefit plant was originally referred to as the "widow's equity plan." When it was devised in the early 1970's, it lived up to its name; it was equitable. Because of liberalizing changes to the social security system and because of unforeseen inflation, the plan will be inequitable to members who retire in the future—particularly to enlisted members. The costs involved in this legislation—$36 million in fiscal year 1981—are over and above the costs under the current system. But they are not over and above the original intent. These costs represent the cost of returning the plan to an equitable status; not improving the benefit level beyond that originally envisioned.

In summary, the bill, though not as broad in scope as many of us might wish, is a significant improvement.

Finally, Mr. Speaker, I would like to make just one observation. I know that my friend and colleague Bob Wilson has worked long and hard in this general subject area. His insight, initiative and leadership in this area will be sorely missed. I know all my colleagues will agree that when Bob Wilson departs the Congress he will leave behind the survivor benefit plan for military retirees as one of many important monuments to his long and extraordinarily distinguished service to his district, to his Nation, and to its service members.

Mr. Speaker, I urge all Members to support S. 91.

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Mr. BENNETT. Mr. Speaker, on behalf of the whole Committee on Armed Services, we join in the fine words just said about our illustrious colleague from California (Mr. Wilson). Indeed, he has performed excellently in this U.S. Congress.

Mr. Speaker, I yield such time as she may desire to the gentlewoman from Maryland (Mrs. Byron).

Mrs. BYRON. Mr. Speaker, I rise in strong support of S. 91.

The legislation makes needed changes to the survivor benefit plan for military retirees. It reestablishes the status originally intended by the Congress. This intent included a significant amount of cost sharing by the Government. Today, some Members are contributing several times what the plan is worth. This was not the original intent.

I might point out that the House has passed similar legislation in the 94th and 95th Congresses. In fact, in the 95th Congress, the House passed H.R. 3702 by a vote of 391 to 0; although not identical to S. 91, the provisions of that bill would have enacted similar changes.

Mr. Speaker, I urge all Members to support this bill.

● Mr. HARRIS. Mr. Speaker, I rise in strong support of S. 91, the survivor benefit plan amendments.

While I am aware that this version of the bill does not accomplish all the goals set for reform of SBP, S. 91 represents significant progress toward more fully meeting the needs of our servicemen and women who choose SBP as a means of providing for their families.

And it represents a victory for the National Association of Uniformed Services and the Retired Officer's Association, whose consistent and effective advocacy on behalf of America's military personnel was instrumental in gaining this much needed reform.

The complete elimination of the social security offset remains a priority for future SBP reform legislation. But the provision of S. 91 limiting the offset to 40 percent of the survivor benefit annuity is a welcome improvement.

Other major provisions of S. 91:

Reduce the social security offset for a widow with one child to not more than 40 percent of the SBP annuity;

Provide eligibility for SBP annuities to the so-called forgotten widows whose husbands died on active duty prior to 1972 and were retirement eligible;

Eliminate the social security offset for reservists whose active service after 1956 was for periods of less than 30 days;

Allow a waiver of SBP payments for certain 100 percent service connected disabled retirees.

In two previous Congresses, I voted for more comprehensive SBP reform. Both times the House passed substantial improvements in the survivor benefit program, but both times the House-passed legislation died in the other body.

This year, survivor benefit amendments were dislodged from the other body and the House can act quick to institute these reforms.

Much remains to be done in this field and in other areas of interest to retired service personnel. Specifically, I am hopeful that similar progress can be achieved in eliminating the "Catch-62" provision of Federal law which results in the reduction of civil service retirement annuities at age 62 for individuals with active duty military service after 1956.

I am a cosponsor of H.R. 135 which would eliminate Catch-62, and I hope hearings on this important legislation can be scheduled for early next year.

I strongly support S. 91 as an important first step, and I look forward to the continued efforts of the National Association of Uniformed Services and the Retired Officers Association in bringing about elimination of Catch-62, and further improvements in the survivor benefit plan.●

Mr. MITCHELL of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BENNETT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. Bennett) that the House suspend the rules and pass the Senate bill, S. 91, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BENNETT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate bill just passed, as well as H.R. 7878.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

CORRECTING TECHNICAL ERRORS AND MAKING MINOR SUBSTANTIVE CHANGES TO PUBLIC LAW 95-598

Mr. EDWARDS of California. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 658), to correct technical errors, clarify and make minor substantive changes to Public Law 95-598, as amended.

The Clerk read as follows:

S. 658

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AMENDMENTS TO TITLE 11 OF THE UNITED STATES CODE

Section 1. (a) Section 101(2)(D) of title 11 of the United States Code is amended by striking out "or all" immediately after "business".

(b) Section 101(8)(B) of title 11 of the United States Code is amended by striking out the colon at the end thereof and inserting a semicolon in lieu thereof.

(c) Section 101(9)(B) of title 11 of the United States Code is amended by inserting "348(d), 502(e)(2)," immediately after "section".

(d) Section 101(14) of title 11 of the United States Code is amended by inserting "and" immediately after "trust,".

(e) Section 101(24) of title 11 of the United States Code is amended by striking out "stock broker" and inserting "stockbroker" in lieu thereof.

(f) Section 101(26)(B) of title 11 of the United States Code is amended—

(1) in clause (i), by striking out "the kind specified in subparagraph (A)(i) of this paragraph; and" and inserting "a kind specified in subparagraph (A)(i) of this paragraph; or" in lieu thereof; and

(2) in clause (ii) by striking out "separate" each place it appears and inserting "nonpartnership" in lieu thereof and by striking out "the kind specified in subparagraph (A)(ii)" and inserting "a kind specified in subparagraph (A)(i) or (A)(ii)" in lieu thereof.

(g) Section 101 of title 11 of the United States Code is amended—

(1) by redesignating paragraphs (35), (36), (37), (38), (39), and (40) as paragraphs (36), (37), (38), (40), (41), and (42) respectively; and

(2) by adding immediately after paragraph (34) the following new paragraph:

"(35) 'securities clearing agency' means person that is registered as a clearing agency under section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1), or whose business is confined to the performance of functions of a clearing agency with respect to 'exempted securities', as defined in section 3(12) of such Act (15 U.S.C. 78c(12)) for the purposes of such section 17A;".

(h) Section 101(36)(A)(xii) of title 11 of the United States Code, as so redesignated, is amended by striking out "is the subject of a registration statement" and inserting "is required to be the subject of a registration statement" in lieu thereof.

(i) Section 101(36)(B)(iii) of title 11 of the United States Code, as so redesignated, is amended by striking out "commodity" the second place it appears.

(j) Section 101(36)(B)(vi) of title 11 of the United States Code, as so redesignated, is amended—

(1) by striking out "certificate specified in clause (xii) of subparagraph (A)" and inserting "certificate of a kind specified in subparagraph (A)(xii)" in lieu thereof; and

(2) by striking out "the subject of such a registration statement" and inserting "re-

quired to be the subject of a registration statement" in lieu thereof.

(k) Section 101 of title 11 of the United States Code is amended by inserting immediately after paragraph (38), as so redesignated, the following new paragraph:

"(39) 'State' includes the District of Columbia and Puerto Rico, except for the purpose of who may be a debtor under chapter 9 of this title;".

(l) Section 101(41) of title 11 of the United States Code, as so redesignated, is amended to read as follows:

"(41) 'stockbroker' means person—

"(A) with respect to which there is a customer, as defined in section 741 of this title; and

"(B) that is engaged in the business of effecting transactions in securities—

"(i) for the account of others; or

"(ii) with members of the general public, from or for such person's own account;".

(m) Section 101(42) of title 11 of the United States Code, as so redesignated, is amended by striking out the period and inserting "; and" in lieu thereof.

(n) Section 101 of title 11 of the United States Code is amended by adding at the end thereof the following new paragraph;

"(43) 'United States', when used in a geographical sense, includes all locations where the judicial jurisdiction of the United States extends, including territories and possessions of the United States.".

SEC. 2. Section 102(8) of title 11 of the United States Code is amended by striking out "continued" and inserting "contained" in lieu thereof.

SEC. 3. (a) Section 103(c) of title 11 of the United States Code is amended by striking out "stockholder" and inserting "stockbroker" in lieu thereof.

(b) Section 103(d) of title 11 of the United States Code is amended by striking out "except with respect to section 746(c) which applies to margin payments made by any debtor to a commodity broker or forward contract merchant".

SEC. 4. (a) Subsections (a)(1), (b)(1), and (c)(1) of section 108 of title 11 of the United States Code are each amended by striking out "and" each place it appears and inserting "or" in lieu thereof.

(b) Subsections (a), (b), and (c) of section 108 of title 11 of the United States Code are each amended by inserting "nonbankruptcy' immediately after "applicable" and immediately after "entered in a".

(c) Section 108(a) of title 11 of the United States Code is amended by inserting ", or any person to whose rights the trustee succeeds," immediately after "debtor".

SEC. 5. (a) Section 109(a) of title 11 of the United States Code is amended by striking out "in the United States," the first place it appears.

(b) Section 100(c) (5) (D) of title 11 of the United States Code is amended by striking out "preference" and inserting "transfer that is avoidable under section 547 of this title" in lieu thereof.

(c) Section 109(d) of title 11 of the United States Code is amended by striking out "stockholder" and inserting "stockbroker" in lieu thereof.

SEC. 6. Section 303(b) of title 11 of the United States Code is amended by inserting "against a person" immediately after "case".

SEC. 7. Section 303(j)(2) of title 11 of the United States Code is amended by striking out "debtors" and inserting "debtor" in lieu thereof.

SEC. 8. Section 321(b) of title 11 of the United States Code is amended by striking out "a case" and inserting "the case" in lieu thereof.

SEC. 9. Section 322(b)(1) of title 11 of the United States Code is amended by inserting "required to be" immediately after "bond".

SEC. 10. (a) Section 326(a) of title 11 of the United States Code is amended by inserting "of this title" immediately after "7 or 11".

(b) Section 326(d) of title 11 of the United States Code is amended to read as follows:

"(d) The court may deny allowance of compensation for services or reimbursement of expenses of the trustee if the trustee failed to make diligent inquiry into facts that would permit denial of allowance under section 328(c) of this title or, with knowledge of such facts, employed a professional person under section 327 of this title.".

SEC. 11. Section 327(a) of title 11 of the United States Code is amended by inserting "or an examiner" immediately after "trustee" the first place it appears.

SEC. 12. Section 328(a) of title 11 of the United States Code is amended by striking out "unanticipatable" and inserting "not capable of being anticipated" in lieu thereof.

SEC. 13. (a) Section 320(a) of title 11 of the United States Code is amended by striking out "and" the first place it appears and inserting "or" in lieu thereof.

(b) Section 320(b)(1) of title 11 of the United States Code is amended by striking out "trustee" and inserting "estate" in lieu thereof.

SEC. 14. Section 330(a) of title 11 of the United States Code is amended—

(1) by striking out "to any parties in interest and to the United States trustee"; and

(2) in paragraph (1), by striking out "time, the nature, the extent, and the value of such services" and inserting "nature, the extent, the value of such services, the time spent on such services" in lieu thereof.

SEC. 15. Section 341 of title 11 of the United States Code is amended to read as follows:

"§ 341. Notice

"There shall be given such notice as is appropriate, including notice to any holder of a community claim, of an order for relief in a case under this title.".

SEC. 16. (a) Section 342 of title 11 of the United States Code is amended to read as follows:

"§ 342. Meetings of creditors and equity security holders

"(a) In a case under chapter 7 or 11 of this title, within a reasonable time after the order for relief in a case under this title, there shall be a meeting of creditors.

"(b) In a case under chapter 13 of this title, the court may order a meeting of creditors.

"(c) The court may order a meeting of any equity security holders.

"(d) The court may not preside at, and may not attend, any meeting under this section.".

(b) The table of sections for chapter 3 of title 11 of the United States Code is amended by striking out the items relating to sections 341 and 342 and inserting in lieu thereof the following:

"341. Notice.

"342. Meetings of creditors and equity security holders.".

SEC. 17. Section 343 of title 11 of the United States Code is amended—

(1) by striking out "341(a)" and inserting "342" in lieu thereof; and

(2) by striking out "examiner" the last place it appears and inserting "examine" in lieu thereof.

SEC. 18. Section 345 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(c) All entities with which such moneys are deposited or invested are authorized to deposit or invest such moneys as may be required under this section.".

SEC. 19 (a) Section 346(c)(2) of title 11 of the United States Code is amended by striking out "operation" and inserting "corporation" in lieu thereof:

(b) Section 346(g)(2) of title 11 of the United States Code is amended by striking out ", as adjusted under subsection (j)(5) of this section,".

(c) Section 346(j) of title 11 of the United States Code is amended by striking out paragraphs (3), (4), (5), (6), and (7).

SEC. 20. Section 347(a) of title 11 of the United States Code is amended by striking out "under chapter 129 of title 28" and inserting "under section 725 of title 31" in lieu thereof.

SEC. 21. Section 348(b) of title 11 of the United States Code is amended by striking out "means" and inserting "refers to" in lieu thereof.

SEC. 22. Section 349(b) of title 11 of the United States Code is amended—

(1) in paragraph (1)(B), by striking out "522(i)(2)" and inserting "522(h)(2)" in lieu thereof; and

(2) in paragraph (2), by striking out "522 (i)(1)" and inserting "522(h)(2)" in lieu thereof.

SEC. 23. Section 350(b) of title 11 of the United States Code is amended by striking out "a" and inserting "A" in lieu thereof.

SEC. 24. Section 361(1) of title 11 of the United States Code is amended by inserting "a cash payment or" immediately after "make".

SEC. 25. (a) Section 362(a) of title 11 of the United States Code is amended—

(1) by inserting "and section 365 of this title" immediately after "of this section";

(2) in paragraph (1), by inserting "action or" immediately after "other"; and

(3) in paragraph (3), by inserting "or to exercise control over property of the estate" immediately after "estate" the second place it appears.

(b) Section 362(b) of title 11 of the United States Code is amended—

(1) in paragraph (3), by inserting "or to the extent that such act is accomplished within the period provided under section 547(e)(2) of this title" immediately after "title";

(2) in paragraph (6), by striking out "that are" and inserting "regarding" in lieu thereof, by striking out "commodity" immediately before the semicolon the following: ", or, under subsection (a) of this section, of the setoff of any mutual debt and claim of a commodity broker, forward contract merchant, stockbroker, or securities clearing agency against the debtor for a margin payment, as defined in section 741 or section 761 of this title, or settlement payment arising out of a commodity contract, as defined in section 761 of this title, forward contract, or securities contract, as defined in section 741 of this title, against cash, a security, or other property held by such commodity broker, forward contract merchant, stockbroker, or securities clearing agency to margin, guarantee, or secure such commodity contract, forward contract, or securities contract";

(3) in paragraph (7), by striking out "said" and inserting "the" in lieu thereof and by striking out "or" the last place it appears;

(4) in paragraph (8), by striking out the period and inserting a semicolon in lieu thereof; and

(5) by adding at the end thereof the following new paragraphs:

"(9) under subsection (a) of this section, of the filing of any continuation statement or the refiling of any notice of a Federal tax lien required by nonbankruptcy law to maintain perfection of a security interest or the filing of such tax lien, properly filed under such law before the date of the filing of the petition; or

"(10) under subsection (a) of this section, of the presentment of a negotiable instrument and the giving of notice of and protesting dishonor of such an instrument.".

(c) Section 362(c)(2)(B) of title 11 of the United States Code is amended by striking out "and" and inserting "or" in lieu thereof.

(d) Section 362(d)(2) of title 11 of the United States Code is amended—

(1) by inserting "under subsection (a) of this section" immediately after "property" the first place it appears; and

(2) in subparagraph (B), by inserting "in a case under chapter 11 of this title or to an effective plan in a case under chapter 13 of this title, as the case may be" immediately after "reorganization.".

(e) Section 362(f) of title 11 of the United States Code is amended by striking out "The" and inserting "Upon request of a party in interest, the", and by inserting "with or" immediately after "court,".

Sec. 26. (a) Section 363(a) of title 11 of the United States Code is amended by inserting "whenever acquired" immediately after "equivalents" and by inserting "and includes the proceeds, products, offspring, rents, or profits of property subject to a security interest as provided in section 552(b) of this title whether existing before or after the commencement of a case under this title" immediately after "interest".

(b) Section 363(e) of title 11 of the United States Code is amended.

(1) by inserting ", with or without a hearing," immediately after "court"; and

(2) by striking out the last sentence.

(c) Section 363(f)(3) of title 11 of the United States Code is amended by striking out "such interest" the second place it appears and inserting "all liens on such property" in lieu thereof.

(d) Section 363(h) of title 11 of the United States Code is amended by striking out "immediately before" and inserting "at the time of" in lieu thereof.

(e) Section 363(j) of title 11 of the United States Code is amended by striking out compensation" and inserting compensation" in lieu thereof.

(f) Section 363(k) of title 11 of the United States Code is amended by striking out "if the holder" and inserting "the holder of such claim may bid at such sale, and, if such holder" in lieu thereof.

(g) Section 363(l) of title 11 of the United States Code is amended—

(1) by striking out "conditions" and inserting "condition" in lieu thereof;

(2) by striking out "a taking" and inserting "or the taking" in lieu thereof; and

(3) by striking out "interests" and inserting interest" in lieu thereof.

(h) Section 363(n) of title 11 of the United States Code is amended—

(1) by striking out "void" and inserting "avoid" in lieu thereof;

(2) by striking out "voiding" and inserting "avoiding" in lieu thereof; and

(3) by amending the last sentence to read as follows: "In addition to any recovery under the preceding sentence, the court may grant judgment for punitive damages in favor of the estate and against any such party that entered into such an agreement in willful disregard of this subsection.".

(i) Section 363 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(o) In any hearing under this section—

"(1) the trustee has the burden of proof on the issue of adequate protection; and

"(2) the entity asserting an interest in property has the burden of proof on the issue of the validity, priority, or extent of such interest.".

Sec. 27. (a) Section 365(b)(2)(A) of title 11 of the United States Code is amended by inserting "or an insider" immediately after "the debtor".

(b) Section 365(c)(1)(A) of title 11 of the United States Code is amended—

(1) by striking out "the trustee" and inserting "an entity other than the debtor or the debtor in possession" in lieu thereof; and

(2) by inserting "by virtue of the nature of such contract or lease" immediately before ", whether".

(c) Paragraphs (1) and (2) of section 365(d) of title 11 of the United States Code are each amended by striking out "In" and inserting "Notwithstanding section 108(b) of this title, in" in lieu thereof.

(d) Section 365(d)(2) of title 11 of the United States Code is amended by inserting ", subject to the court's approval," immediately after "trustee" the first place it appears.

(e) Section 365(e) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "or lease" each place it appears and inserting ", lease, or applicable law" in lieu thereof; and

(2) in paragraph (2), by striking out "the trustee" and inserting "an entity other than the debtor or the debtor in possession" in lieu thereof.

(f) Section 365(f)(3) of title 11 of the United States Code is amended by inserting a comma immediately after "applicable law".

(g) Section 365(h)(1) of title 11 of the United States Code is amended by striking out "treat the lease" and inserting "treat such lease" in lieu thereof.

(h) Section 365(h)(2) of title 11 of the United States Code is amended by inserting "under such lease" immediately after "debtor".

(i) Section 365(i)(2)(A) of title 11 of the United States Code is amended by striking out the comma after "may" and by insering "under such contract" immediately after "debtor".

(j) Section 365(j) of title 11 of the United States Code is amended by inserting "to or for the benefit of the debtor" immediately before the period at the end thereof.

Sec. 28. Section 366(a) of title 11 of the United States Code is amended by inserting "of the commencement of a case under this title or" immediately after "basis".

Sec. 29. Section 501(d) of title 11 of the United States Code is amended by inserting "502(e)(2)," immediately before "502(f)"

Sec. 30. (a) Section 502(a) of title 11 of the United States Code is amended by inserting "general" immediately before "partner".

(b) Section 502(b) of title 11 of the United States Code is amended—

(1) by inserting "(e)(2)," immediately after "subsections";

(2) by inserting "in lawful currency of the United States" immediately after "claim" the second place it appears;

(3) in paragraph (1), by striking out ", and unenforceable against" and inserting "and" in lieu thereof;

(4) in paragraph (2), by inserting "other than unmatured interest due to an original issue discount of less than one-half of 1 percent of the stated redemption price at maturity multiplied by the number of full years from the date of original issue to maturity" immediately after "interest";

(5) by striking out paragraph (3) and redesignating paragraphs (4), (5), (6), (7), (8), and (9) as paragraphs (3), (4), (5), (6), (7), and (8), respectively;

(6) in paragraph (3), as so redesignated, by inserting "the" immediately after "exceeds";

(7) in paragraph (5), as so redesignated, by striking out "the claim" and inserting "such claim" in lieu thereof, by striking out the comma after "petition", and by inserting "or 523(a)(6)" immediately after "523(a)(5)";

(8) by amending paragraph (6), as so redesignated, to read as follows:

"(6) if such claim is the claim of a lessor for damages resulting from the termination of a lease of real property, such claim exceeds—

"(A) without acceleration, the greater of—

"(i) the rent reserved for the rental year during which such termination occurs; or

"(ii) 15 percent of the rent reserved for the remaining term of such lease, not to exceed the rent reserved for the three years commencing with the rental year during which such termination occurs; plus

"(B) any unpaid rent due under such lease, without acceleration, on the earlier of—

"(i) the date of the filing of the petition; or

"(ii) the date on which such lessor repossessed, or the lessee surrendered, the leased property;"; and

(9) in paragraph (7), as so redesignated, by inserting "the claim of an employee" immediately before "for damages", by striking out "and" in subparagraph (A)(i) and inserting "or" in lieu thereof, by striking out "the" the first place it appears in subparagraph (B) and inserting "any" in lieu thereof, and by inserting a comma immediately after "such contract" in subparagraph (B).

(c) Section 502(c) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "the" before "fixing" and by striking out "closing" and inserting "administration" in lieu thereof; and

(2) in paragraph (2), by inserting "right to payment arising from a" immediately after "any" and by striking out "if such breach gives rise to a right to payment".

(d) Section 502(d) of title 11 of the United States Code is amended by striking out "section 542, 543, 550, or 553 of", by striking out "section 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of", and by striking out "section 522(i), 542, 543, 550, or 553 of".

(e) Section 502(e)(1) of title 11, United States Code, is amended—

(1) by striking out "and (b)" and inserting ", (b), and (c)" in lieu thereof and by striking out the commas immediately before and immediately after "or has secured";

(2) in subparagraph (B), by inserting "or disallowance" immediately after "allowance"; and

(3) in subparagraph (C), by striking out "requests subrogation" and inserting "asserts a right of subrogation to the rights of such creditor" in lieu thereof, and by striking out "to the rights of such creditor".

(f) Section 502(h) of title 11 of the United States Code is amended by striking out "522(i)" and inserting "522" in lieu thereof.

(g) Section 502(i) of title 11 of the United States Code is amended to read as follows:

"(i) There shall be allowed a claim for any tax liability arising from payment from the estate of a claim for wages, salaries, or commissions, including vacation, severance, or sick pay, whether or not a proof of such claim is filed.".

(h) Section 502(j) of title 11 of the United States Code is amended to read as follows:

"(j) A claim that has been allowed or disallowed may be reconsidered for cause. A reconsidered claim may be allowed or disallowed according to the equities of the case. Reconsideration of a claim under this subsection does not affect the validity of any payment or transfer from the estate made to a holder of an allowed claim on account of such allowed claim that is not reconsidered, but if a reconsidered claim is allowed and is of the same class as such holder's claim, such holder may not receive any additional payment or transfer from the estate on account of such holder's allowed claim until the holder of such reconsidered and allowed claim receives payment on account of such claim proportionate in value to that already received by such other holder. This subsection does not alter or modify the trustee's right to recover from a creditor any excess payment or transfer made to such creditor.".

Sec. 31. Section 503(b) of title 11 of the United States Code is amended—

(1) by striking out the comma immediately after "be allowed";

(2) in paragraph (1)(C), by striking out the comma immediately after "credit", and by inserting "incurred by the estate" immediately after "paragraph";

(3) in paragraph (2), by inserting "(a)" immediately after "330";

(4) in paragraph (3), by inserting a comma immediately after "paragraph (4) of this subsection";

(5) in paragraph (3)(C), by striking out the comma immediately after "case";

(6) in paragraph (5), by striking out "and" immediately after the semicolon;

(7) in paragraph (6), by striking out the period and inserting "; and" in lieu thereof; and

(8) by adding at the end thereof the following new paragraph:

"(7) the actual, necessary expenses, other than compensation and reimbursement specified in paragraph (2) of this subsection, incurred by a committee appointed under section 1102 of this title.".

SEC. 32. Section 505(a) to title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "or liability of an entity for" immediately after "or legality of" and by striking out ", whether or not paid, and whether or not contested before and adjudicated by a judicial or administrative tribunal of competent jurisdiction" and inserting "or paid" in lieu thereof;

(2) in paragraph (2)(A), by inserting "or liability of an entity for" immediately after "or legality of" and by striking out "or legality" and inserting ", legality, or liability" in lieu thereof; and

(3) in paragraph (2)(B)(i), by striking out "and" and inserting "or" in lieu thereof.

SEC. 33. (a) Section 506(a) of title 11 of the United States Code is amended to read as follows:

"(a) An allowed claim of a creditor either secured by a lien on property in which the estate has an interest or that is subject to setoff under section 553 of this title is a secured claim to the extent of the value of such lien or to the extent of the amount subject to setoff, as the case may be, and, except to the extent that such creditor does not have recourse under any agreement or applicable nonbankruptcy law against the debtor on account of such claim, is an unsecured claim to the extent that the value of such lien or the amount so subject to setoff is less than the amount of such allowed claim. For the purpose of this subsection, value shall be determined in light of the purpose of the valuation, and of any disposition proposed for such property and in conjunction with any hearing on disposition or use or on a plan affecting such creditor's interest.".

(b) Section 506(b) of title 11 of the United States Code is amended by inserting "for" immediately after "provided" and by inserting "to such extent such provision is enforceable under applicable nonbankruptcy law" immediately before the period at the end thereof.

(c) Paragraphs (1) and (2) of section 506(d) of title 11 of the United States Code are amended to read as follows:

"(1) such claim was disallowed only under section 502(b)(5) or 502(e) of this title; or

"(2) such claim is not an allowed secured claim due only to the failure of any entity to file a proof of such claim under section 501 of this title.".

SEC. 34. (a) Section 507(a) of title 11 of the United States Code is amended—

(1) in paragraph (3), by inserting a comma after "severance";

(2) in paragraph (4), by striking out "employee benefit plans" and inserting "an employee benefit plan" in lieu thereof;

(3) in paragraph (4)(B)(i), by inserting "each" immediately after "covered by";

(4) in paragraph (6), by inserting "only" immediately after "units,";

(5) in paragraph (6)(A), by amending clauses (ii) and (iii) to read as follows:

(ii) assessed within 240 days before the date of the filing of the petition; or

"(iii) not assessed before the commencement of the case but not prohibited, at the time of the commencement of the case, from being assessed under the applicable statute of limitations, other than a tax or customs duty of a kind excepted from discharge solely under section 523(a)(1)(B) or 523(a)(1)(C) of this title;"; and

(6) in paragraph (6)(D), by striking out "earned from the debtor" and inserting ", or paid" in lieu thereof and by striking out "whether or not actually paid before such date,".

(b) Section 507(b) of title 11 of the United States Code is amended to read as follows:

"(b) Notwithstanding section 726(b) of this title, if the trustee provides, under section 362, 363, or 364 of this title, adequate protection of the interest of an entity other than the estate that has an interest in property of the estate or if the court finds that there is adequate protection of such interest by a lien on such property and if, notwithstanding such protection, the holder of such interest has a claim allowable under section 503(b)(1) of this title arising from the stay of action against such property under section 362 of this title, from the use, sale, or lease of such property under section 363 of this title, or from the granting of a lien under section 364(d) of this title, then such holder's allowable claim shall have priority over every other claim of a kind specified in subsection (a)(1) of this section.".

(c) Section 507(c) of title 11 of the United States Code is amended by striking out "shall be treated the same" and inserting "has the same priority" in lieu thereof.

(d) Section 507(d) of title 11 of the United States Code is amended to read as follows:

"(d) If a claim of a kind specified in subsection (a)(3), (a)(4), (a)(5), or (a)(6) of this section is held by an entity other than the original holder of such claim, then such claim is entitled to priority under each such subsection, as the case may be, but only to the extent of the value actually transferred to or for the benefit of such original holder on account of the transfer of such claim by such original holder.".

SEC. 35. (a) Section 509(a) of title 11 of the United States Code is amended by striking out "subsections (b) and" and inserting "subsection (b) or" in lieu thereof, and by inserting "against the debtor" immediately after "a creditor".

(b) Section 509(b)(1) of title 11 of the United States Code is amended by striking out "of a" and inserting "of such" in lieu thereof.

(c) Section 509(c) of title 11 of the United States Code is amended by striking out "section 509 of this title" and inserting "this section" in lieu thereof.

SEC. 36. Section 510(b) of title 11 of the United States Code is amended to read as follows:

"(b) For the purpose of distribution under this title, a claim arising from rescission of a purchase or sale of a security of the debtor or of an affiliate of the debtor or for damages arising from the purchase or sale of such a security shall be subordinated to all claims or interests that are senior to the claim or interest represented by such security.".

SEC. 37. Section 521(1) of title 11 of the United States Code is amended to read as follows:

"(1) file a list of creditors and, unless the court orders otherwise, a schedule of assets, liabilities, and equity interests, and a statement of the debtor's financial affairs;".

SEC. 38. (a) Section 522(a)(2) of title 11 of the United States Code is amended by inserting ", or with respect to property that becomes property of the estate after such date, as of the date such property becomes property of the estate" immediately after "petition".

(b) Section 522(b) of title 11 of the United States Code is amended to read as follows:

"(b) Notwithstanding section 541 of this title, an individual debtor may exempt from property of the estate either—

"(1) property wherever located of a kind specified under subsection (d) of this section, unless the State law that is applicable to the debtor under paragraph (2) of this subsection specifically does not so authorize; or

"(2) any property or interest of the debtor in property, as of the date of the filing of the petition, to the extent that such property or interest is exempt or not subject to process or levy under Federal law, other than subsection (d) of this section, or is exempt or not subject to levy by a creditor, of only the debtor, on a simple contract whether or not such a creditor exists, under State or local law that is applicable on the date of the filing of the petition at the place in which the debtor's domicile has been located for the 180 days immediately preceding the date of the filing of the petition, or for a longer portion of such 180-day period than in any other place.".

(c) Section 522(c) of title 11 of the United States Code is amended to read as follows:

"(c) Unless the case is dismissed, property exempted under this section is not liable during or after the case for any debt of the debtor that arose, or that is determined under section 502 of this title as if such debt had arisen, before the commencement of the case, except—

"(1) a debt of a kind specified in section 523(a)(1), 523(a)(5), or 523(a)(6) of this title; or

"(2) a debt secured by a lien that is—

"(A)(i) not avoided under subsection (f) or (g) of this section or under section 544, 545, 547, 548, 549, or 724(a) of this title; and

"(ii) not void under section 506(d) of this title; or

"(B) a tax lien, notice of which is properly filed, whether or not such lien is avoided under section 545(2) of this title.".

(d) Section 522(d)(3) of title 11 of the United States Code is amended by striking out "that are".

(e) Section 522(e) of title 11 of the United States Code is amended—

(1) by striking out "exemptions" and inserting "an exemption" in lieu thereof;

(2) by striking out "with respect to such claim against property that" and inserting "to the extent of such claim with respect to property" in lieu thereof;

(3) by striking out "or (h) of this section to avoid a transfer, under subsection (g)" and by inserting ", (g), (h)," in lieu thereof; and

(4) by striking out "to exempt property, or under subsection (i) of this section to recover property or to preserve a transfer,".

(f) Section 522(f) of title 11 of the United States Code is amended—

(1) by striking out "exemptions" and inserting "an exemption" in lieu thereof; and

(2) in paragraph (2)(A), by inserting "jewelry, or" immediately after "crops,", and striking out ", or jewelry that are" after "musical instruments".

(g) Section 522(g) of title 11 of the United States Code is amended to read as follows:

"(g) Notwithstanding any waiver of an exemption, the debtor may avoid a transfer or recover a setoff of property of the debtor and exempt such property under subsection (i) of this section, whether or not the trustee attempts to recover such property or avoid such transfer, if—

"(1)(A) such transfer is avoidable by the trustee under section 544, 545, 547, 548, 549, or 724(a) of this title, or recoverable by the trustee under section 553 of this title;

"(B) such transfer was not a voluntary transfer of such property by the debtor; and

"(C) the debtor did not conceal such property; or

"(2) such transfer is in satisfaction of a lien of a kind specified in subsection (f)(2) of this section.".

(h) Section 522(h) of title 11 of the United States Code is amended to read as follows:

"(h)(1) The debtor's power to avoid a transfer or recover a setoff under subsection (f) or (g) of this section is subject to the limitations of section 550 of this title to which the trustee's power to avoid such a transfer or recover such a setoff under this title is subject.

"(2) Notwithstanding section 551 of this title, a transfer avoided or property recovered by the trustee or by the debtor may be preserved for the benefit of the debtor, if—

"(A)(i) such property otherwise would be exempt under subsection (i) of this section;

"(ii) such transfer was not a voluntary transfer of such property by the debtor; and

"(iii) the debtor did not conceal such property; or

"(B) such transfer is of a kind specified in subsection (f) of this section.".

(i) Section 522(i) of title 11 of the United States Code is amended to read as follows:

"(i) The debtor may exempt under subsection (h) of this section property disencumbered or recovered under subsection (f), (g), or (h) of this section to the extent the debtor could have exempted such property under subsection (b) of this section had such property not been encumbered, transferred, or set off.".

(j) Section 522(j) of title 11 of the United States Code is amended to read as follows:

"(j) The debtor may exempt a particular kind of property under subsection (i) of this section only to the extent that such exemption, plus the debtor's already claimed exemption of the same kind of property under subsection (b) of this section, does not exceed the limitation specified for such kind of property in subsection (b) of this section.".

(k) Section 522(k) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "(g)" and inserting "(i)" in lieu thereof; and

(2) in paragraph (2), by striking out "(h)" and inserting "(g)" in lieu thereof, and by striking out "or of recovery of property under subsection (i)(1) of this section,".

(l) Section 522(l) of title 11 of the United States Code is amended by striking out ", or may claim property as exempt from property of the estate" and by inserting after the second sentence thereof the following new sentence: "In the event of the debtor's death, a dependent of the debtor may claim property as exempt from property of the estate,".

SEC. 39. (a) Section 523(a) of title 11 of the United States Code is amended—

(1) in paragraph (2), by striking out "obtaining" each place it appears, and by striking out "refinance of credit," and inserting "refinancing of credit, to the extent obtained" in lieu thereof;

(2) in paragraph (3), by striking out "(6)" each place it appears and inserting "(7)" in lieu thereof;

(3) by amending paragraph (5) to read as follows:

"(5) to a spouse, former spouse, or child of the debtor, for support of such child, but not to the extent that such debt includes a liability designated as support unless such liability actually is in the nature of support;";

(4) by redesignating paragraphs (6), (7), (8), and (9) as paragraphs (7), (8), (9), and (10), respectively; and

(5) by inserting after paragraph (5) the following new paragraph:

"(6) to a spouse or former spouse of the debtor for alimony to, maintenance for, or support of such spouse, but not to the extent that such debt includes a liability designated as alimony, maintenance, or support, unless such liability actually is in the nature of alimony, maintenance, or support;".

(b) Section 523(b) of title 11 of the United States Code is amended by striking out "(8)" and inserting "(9)" in lieu thereof.

(c) Section 523(c) of title 11 of the United States Code is amended by inserting "of a kind" immediately after "debt" the first time it appears, and by striking out "(6)" each place it appears and inserting "(7)" in lieu thereof.

SEC. 40. (a) Section 524(a) of title 11 of the United States Code is amended—

(1) by striking out "any act" each place it appears and inserting "an act" in lieu thereof; and

(2) in paragraph (2), by inserting a comma immediately after "recover", by inserting "wherever located and by whomever held, whether directed toward the debtor or any other entity, and" immediately after "property of the debtor,", and by inserting ", except to the extent provided under section 522(c) of this title" immediately after "waived".

(b) Section 524(c)(4)(B)(ii) of title 11 of the United States Code is amended by striking out "redemption under section 722 of this title" and inserting "the terms and conditions of redemption by the debtor" in lieu thereof.

(c) Section 524(d) of title 11 of the United States Code is amended—

(1) in paragraph (1)(B)(ii), by inserting "and" immediately after the semicolon; and

(2) in paragraph (2), by striking out "subsection" the second time it appears and inserting "section" in lieu thereof.

SEC. 41. Section 525 of title 11 of the United States Code is amended by inserting "the" immediately before "Perishable".

SEC. 42. (a) Section 541(a) of title 11 of the United States Code is amended—

(1) by striking out "under" the second place it appears;

(2) by inserting "and by whomever held" immediately after "located";

(3) in paragraph (3), by inserting "329(b), 363(n)," immediately after "section";

(4) in paragraph (5), by striking out "An" and inserting "Any" in lieu thereof; and

(5) in paragraph (6), by striking out "and" and inserting "or" in lieu thereof.

(b) Section 541(c) of title 11 of the United States Code is amended—

(1) by inserting "in an agreement, transfer instrument, or applicable law" immediately after "provision"; and

(2) in paragraph (1)(B), by striking out "the taking" and inserting "taking" in lieu thereof, and by inserting "before such commencement" immediately after "custodian".

(c) Section 541(d) of title 11 of the United States Code is amended by inserting "(1)" immediately after "(a)".

(d) Section 541(e) of title 11 of the United States Code is repealed.

SEC. 43. Section 542(e) of title 11 of the United States Code is amended by inserting "to turn over or" immediately before "disclose".

SEC. 44. (a) Section 543(a) of title 11 of the United States Code is amended by inserting ", product, offspring, rents, or profits" immediately after "proceeds".

(b) Section 543(b) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "held by or" immediately after "debtor", and by inserting ", product, offspring, rents, or profits" immediately after "proceeds"; and

(2) in paragraph (2), by inserting ", product, offspring, rents, or profits" immediately after "proceeds".

(c) Section 543(c) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "or proceeds, product, offspring, rents, or profits of such property" immediately after "property"; and

(2) in paragraph (3), by inserting "that has been" immediately before "approved".

(d) Section 543 of title 11 of the United States Code is amended by adding at the end thereof the following new subsections:

"(e) For purposes of this section, custodian shall not include an assignee under a general assignment for the benefit of the debtor's creditors that was appointed or took possession more than 120 days before the date of the filing of the petition, but the trustee or the court may nevertheless, and at any time, require such an assignee to file an accounting as set forth in subsection (b)(2) of this section.

"(f) For purposes of subsection (e), the term 'general assignment for the benefit of the debtor's creditors' means an assignment which is for the benefit of all of the debtor's creditors.".

SEC. 45. (a) Section 544(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "such" immediately after "obtained";

(2) in paragraph (2), by striking out "; and" and inserting "; or" in lieu thereof; and

(3) in paragraph (3), by inserting ", other than fixtures," immediately after "property", and by inserting "and has perfected such transfer" immediately after "purchaser" the second place it appears.

SEC. 46. Section 545 of title 11 of the United States Code is amended—

(1) in paragraph (1)(A), by striking out "is" immediately after "debtor";

(2) in paragraph (1)(C), by striking out "apponted" and inserting "appointed or authorized to take" in lieu thereof; and

(3) in paragraph (2), by striking out "on the date of the filing of the petition" each place it appears and inserting "at the time of the commencement of the case" in lieu thereof.

SEC. 47. (a) Section 546(a) of title 11 of the United States Code is amended in paragraph (1) by striking out "and" and inserting "or" in lieu thereof

(b) Section 546(b) of title 11 of the United States Code is amended by striking out "the trustee under section 544, 545, or" and inserting "a trustee under sections 544, 545, and" in lieu thereof.

(c) Section 546(c) of title 11 of the United States Code is amended—

(1) by striking out "the trustee" and inserting "a trustee" in lieu thereof;

(2) by striking out "right" the first place it appears;

(3) by inserting "of goods" immediately after "seller" the first place it appears;

(4) by striking out "of goods" immediately after "business," and inserting "that has sold goods" in lieu thereof; and

(5) in paragraph (2), by inserting "the" immediately after "if", and by striking out "an administrative expense" and inserting "a claim of a kind specified in section 503(b) of this title" in lieu thereof.

(d) Section 546 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding sections 544, 545, 547, 548(a)(2), and 548(b) of this title, the trustee may not avoid a transfer that is a margin payment, as defined in section 741 or 761 of this title, deposit, or settlement payment, made by or to a commodity broker, forward contract merchant, stockbroker, or securities clearing agency, that is made before the commencement of the case, except under section 548(a)(1) of this title.".

SEC. 48. (a) Section 547(a) of title 11 of the United States Code is amended—

(1) in paragraph (2), by inserting "in-

cluding proceeds of such property," immediately after "law,"; and

(2) in paragraph (4), by striking out ", without penalty" and by inserting "without penalty" immediately after "payable".

(b) Section 547(b) of title 11 of the United States Code is amended by striking out "of property of the debtor" and inserting "of an interest of the debtor in property" in lieu thereof.

(c) Section 547(c) of title 11 of the United States Code is amended—

(1) in paragraph (2)(A), by inserting "by the debtor" immediately after "incurred";

(2) in paragraph (2)(C), by striking out "affairs of" and inserting "affairs between" in lieu thereof;

(3) in paragraph (3), by striking out "of" the first place it appears and inserting "that creates" in lieu thereof;

(4) in paragraph (3)(B), by inserting "on or" immediately after "perfected" and by striking out "such security interests attaches" and inserting "the debtor receives possession of such property" in lieu thereof; and

(5) in paragraph (5), by striking out "of" the first place it appears and inserting "that creates" in lieu thereof and by striking out "all security interests" and inserting "all such security interests" in lieu thereof.

(d) Section 547(d) of title 11 of the United States Code is amended—

(1) by striking out "A" and inserting "The" in lieu thereof;

(2) by inserting "an interest in" immediately after "transfer of";

(3) by inserting "to or for the benefit of a surety" immediately after "transferred"; and

(4) by inserting "such" immediately after "reimbursement of".

(e) Section 547(e) of title 11 of the United States Code is amended:

(1) by amending paragraph (1) to read as follows:

"(1) For the purpose of this section, a transfer of property is perfected when either a bona fide purchaser from the debtor of real property, other than fixtures, or a creditor on a single contract, against whom applicable law permits such transfer to be perfected, cannot acquire an interest in such real property or a judicial lien on personal property that is superior to the interest of the transferee."; and

(2) in paragraph (2)(C)(i), by striking out "and" and inserting "or" in lieu thereof.

(f) Section 547 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(g) For the purposes of this section, the trustee has the burden of proving the avoidability of a transfer under subsection (b) of this section, and the creditor or party in interest against whom recovery or avoidance is sought has the burden of proving the nonavoidability of a transfer under subsection (c) of this section.".

SEC. 49. (a) Section 548(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "occurred" and inserting "was made" in lieu thereof; and

(2) in paragraph (2)(B)(ii), by inserting "or a transaction" immediately after "engaged in business".

(b) Section 548(b) of title 11 of the United States Code is amended by striking out "the debtor" each place its appears and inserting "such debtor" in lieu thereof.

(c) Section 548(c) of title 11 of the United States Code is amended—

(1) by inserting "or may retain" immediately after "lien on"; and

(2) by striking out ", may retain any lien transferred,".

(d) Section 548(d)(1) of title 11 of the United States Code is amended by striking out "becomes so far" and inserting "is so" in lieu thereof, by striking out "such transfer could have been" and inserting "applicable law permits such transfer to be" in lieu thereof, and by striking out "occurs" and inserting "is made" in lieu thereof.

(e) Section 548(d)(2)(B) of title 11 of the United States Code is amended by striking out "or forward contract merchant" and inserting ", forward contract merchant stockbroker, or securities clearing agency" in lieu thereof and by striking out "761(15)" and inserting "741 or 761" in lieu thereof.

SEC. 50. (a) Section 549(a) of title 11 of the United States Code is amended—

(1) by striking out "(b) and (c)" and inserting "(b) or (c)" in lieu theerof; and

(2) in paragraph (2)(A), by inserting "only" immediately after "authorized".

(b) Section 549(b) of title 11 of the United States Code is amended—

(1) by inserting "the trustee may not avoid under subsection (a) of this section" immediately after "involuntary case,";

(2) by striking out "that occurs" and inserting "made" in lieu thereof;

(3) by striking out "is valid against the trustee to the extent of" and inserting "to the extent" in lieu thereof; and

(4) by inserting "is" immediately before "given".

(c) Section 549(c) of title 11 of the United States Code is amended to read as follows:

"(c) The trustee may not avoid under subsection (a) of this section a transfer of real property to a good faith purchaser without knowledge of the commencement of the case and for present fair equivalent value unless a copy or notice of the petition was filed, where a conveyance of such real property may be recorded to perfect such transfer, before such transfer is so perfected that a bona fide purchaser of such property, against whom applicable law permits such transfer to be perfected, could not acquire an interest that is superior to the interest of such good faith purchaser. A good faith purchaser without knowledge of the commencement of the case and for less than present fair equivalent value has a lien on the property transferred to the extent of any present value given, unless a copy or notice of the petition was so filed before such transfer was so perfected.".

(d) Section 549(d)(1) of title 11 of the United States Code is amended by striking out "and" and inserting "or" in lieu thereof.

SEC. 51. (a) Section 550(a) of title 11 of the United States Code is amended—

(1) by inserting "363(n)," immediately before "544";

(2) by inserting "553(b)" immediately after "549,"; and

(3) in paragraph (2), by striking out "immediate or mediate transferee of" and inserting "subsequent transferee of" in lieu thereof.

(b) Section 550(b)(2) of title 11 of the United States Code is amended by striking out "immediate or mediate" and inserting "subsequent" in lieu thereof.

(c) Section 550(d) of title 11 of the United States Code is amended—

(1) in paragraph (1)(A), by inserting "or accruing to" immediately after "by";

(2) in paragraph (1)(B), by striking out "value" and inserting "the value of such property" in lieu thereof;

(3) in paragraph (2), by striking out subparagraphs (D) and (E) and inserting in lieu thereof the following:

"(D) payment of any debt secured by a lien on such property that is superior or equal to the rights of the estate; and"; and

(4) in paragraph (2), by redesignating subparagraph (F) as subparagraph (E).

(d) Section 550(e)(1) of title 11 of the United States Code is amended by striking out "and" and inserting "or" in lieu thereof.

SEC. 52. Section 551 of title 11 of the United States Code is amended by striking out "but only with respect to property of the estate".

SEC. 53. Section 552(b) of title 11 of the United States Code is amended—

(1) by inserting "522," immediately after "506(c),";

(2) by striking out "a secured party enter" and inserting "an entity entered" in lieu thereof; and

(3) by striking out "except to the extent" and inserting "except to any extent" in lieu thereof.

SEC. 54. (a) Section 553(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "other than under section 502(b)(3) of this title";

(2) in paragraph (2), by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

"(B)(i) on or after 90 days before the date of the filing of the petition;

"(ii) while the debtor was insolvent; and

"(iii) for the purpose of obtaining a setoff against the debtor, other than in the ordinary course of business or financial affairs between the debtor and such creditor, or";

(3) in paragraph (3)(A) by inserting "on or" immediately before "after"; and

(4) in paragraph (3)(C), by inserting "other than in the ordinary course of business or financial affairs between the debtor and such creditor" immediately after "debtor".

(b) Section 553(b)(1) of title 11 of the United States Code is amended—

(1) by striking out "or 365(h)(1)" and inserting ", 365(h)(2), or 365(i)(2)" in lieu thereof;

(2) by inserting "or that occurs in the ordinary course of business or financial affairs between the creditor making such setoff and the debtor" immediately after "of this title"; and

(3) in subparagraph (A), by striking out "and" and inserting "or" in lieu thereof.

SEC. 55. (a) Subsections (a) and (b) of section 554 of title 11 of the United States Code are each amended by inserting "and benefit" immediately after "value".

(b) Section 554(c) of title 11 of the United States Code is amended to read as follows:

"(c) Unless the court orders otherwise, any property scheduled under section 521(1) of this title not otherwise administered at the time of the closing of a case is deemed abandoned to the debtor and deemed administered for purposes of section 350 of this title.".

(c) Section 554(d) of title 11 of the United States Code is amended by striking out "section (a) or (b) of".

SEC. 56. (a) Chapter 5 of title 11 of the United States Code is amended by adding at the end thereof the following new section:

"§ 555. Defenses of the estate

"The estate shall have the benefit of any defense available to the debtor as against any entity other than the estate, including statutes of limitation, statutes of frauds, usury, and other personal defenses. A waiver of any such defense by the debtor after the commencement of the case does not bind the estate.".

(b) The table of sections for chapter 5 of title 11 of the United States Code is amended by adding at the end thereof the following new item:

"555. Defenses of the estate.".

SEC. 57. The table of sections for chapter 7 of title 11 of the United States Code is amended by striking out "Successor" in the item relating to section 703 and inserting "successor" in lieu thereof.

SEC. 58. (a) Section 702(b) of title 11 of the United States Code is amended—

(1) by inserting "held" immediately after "meeting of creditors"; and

(2) by striking out "341" and inserting "342" in lieu thereof.

(b) Section 702(c) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "of a kind" immediately after "claims"; and

(2) in paragraph (2), by inserting "a" immediately after "for".

(c) Section 702(d) of title 11 of the United States Code is amended by striking out "subsection (c) of".

Sec. 59. Section 703(b) of title 11 of the United States Code is amended by striking out "specified in section 701(a) of this title. Sections 701(b) and 701(c) of this title apply to such interim trustee" and inserting "and subject to the provisions of section 701 of this title" in lieu thereof.

Sec. 60. Section 704 of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "up";

(2) in paragraph (7), by striking out "with the court and"; and

(3) by amending paragraph (8) to read as follows:

"(8) file interim reports of the condition of the estate and make and file a final report and account of the administration of the estate with the court.".

Sec. 61. Section 705(a) of title 11 of the United States Code is amended by striking out "under section 341(a)" and inserting "of creditors held under section 342" in lieu thereof.

Sec. 62. Paragraphs (1) and (2) of section 707 of title 11 of the United States Code are each amended by striking out "and" inserting "or" in lieu thereof.

Sec. 63. Section 722 of title 11 of the United States Code is amended to read as follows:

"§ 722. Redemption

"(a) The debtor may redeem property under the provisions of section 524(c) of this title or subsection (b) of this section.

"(b) An individual debtor may, whether or not such debtor has waived such right, redeem from the holder of a lien that secures a dischargeable consumer debt, tangible personal property intended primarily for personal, family, or household use, if such property is exempted under section 522 of this title or has been abandoned under section 554 of this title, by paying such holder at the time of redemption before the case is closed the amount of such holder's allowed secured claim.".

Sec. 64. (a) Section 723(a) of title 11 of the United States Code is amended by striking out "title" and inserting "chapter" in lieu thereof.

(b) Section 723(c) of title 11 of the United States Code is amended—

(1) by striikng out "such case" each place it appears and inserting "such partner's case" in lieu thereof;

(2) by striking out "be property" and inserting "by property" in lieu thereof;

(3) by striking out "726(a)" and inserting "726" in lieu thereof; and

(4) by striking out "the kind" and inserting "a kind" in lieu thereof.

Sec. 65. (a) Section 724(b) of title 11 of the United States Code is amended—

(1) by striking out "and" the first place it appears and by striking out "taxes" and inserting "a tax" in lieu thereof;

(2) in paragraph (1), by striking out "such tax lien" and inserting "the lien securing such tax claim" in lieu thereof;

(3) in paragraph (2), by striking out "claims" and inserting any holder of a claim of a kind" in lieu thereof;

(4) in paragraph (3), by inserting "tax" immediately after "allowed" and by striking out "that is";

(5) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting immediately after paragraph (4) the following new paragraph:

"(5) Fifth, to any holder of a claim of a kind specified in sections 507(a)(1), 507(a)(2), 507(a)(3), 507(a)(4), and 507(a)(5) of this title, to the extent that such claim is not paid under paragraph (2) of this subsection;";

(6) in paragraph (6), as so redesignated, by striking out "fifth" and inserting "sixth" in lieu thereof, by inserting "tax" after "allowed", and by striking out "tax" immediately after "such" the third place it appears; and

(7) in paragraph (7), as so redesignated, by striking out "sixth" and inserting "seventh" in lieu thereof.

(b) Section 724(c) of title 11 of the United States Code is amended by striking out "creditor" and inserting "holder of a claim" in lieu thereof and by striking out "creditors" each place it appears and inserting "holders" in lieu thereof.

(c) Section 724(d) of title 11 of the United States Code is amended by striking out "whose priority" and inserting "the priority of which" in lieu thereof and by inserting "if such lien were" immediately after "the same as".

Sec. 66. Section 725 of title 11 of the United States Code is amended by inserting "of property of the estate" immediately after "distribution".

Sec. 67. (a) Section 726(a) of title 11 of the United States Code is amended—

(1) in paragraph (2)(A), by inserting ", 501(b), or 501(c)" immediately after "501(a)", and by adding "or" immediately after this semicolon;

(2) by striking out paragraph (2)(B) and redesignating paragraph (2)(C) as paragraph (2)(B);

(3) in paragraph (2)(B), as so redesignated, by inserting ", 501(b), or 501(c)" immediately after "501(a)"; and

(4) in paragraph (3), by inserting ", 501(b), or 501(c)" immediately after "501(a)", and by striking out "(C)" and inserting "(B)" in lieu thereof.

(b) Section 726(b) of title 11 of the United States Code is amended—

(1) by striking out "a particular paragraph" and inserting "each such particular paragraph" in lieu thereof; and

(2) by striking out "administrative expenses" each place it appears and inserting "a claim allowed under section 503(b) of this title" in lieu thereof, and by striking out "have" and inserting "has" in lieu thereof.

(c) Section 726(c) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "Administrative expenses" and inserting "Claims allowed under section 503 of this title" in lieu thereof; and

(2) in paragraph (2), by striking out "Claims other than for administrative expenses" and inserting "Allowed claims, other than claims allowed under section 503 of this title," in lieu thereof.

Sec. 68. (a) Section 727(a) of title 11 of the United States Code is amended—

(1) in paragraph (6)(C), by striking out "property" and inserting "properly" in lieu thereof;

(2) in paragraph (7), by inserting ", under this title or under the Bankruptcy Act," immediately after "another case"; and

(3) in paragraph (8), by inserting a comma immediately after "371".

(b) Section 727(c)(1) of title 11 of the United States Code is amended by inserting "the granting of a" immediately after "to".

(c) Section 727(e)(2)(A) of title 11 of the United States Code is amended by striking out "and" and inserting "or" in lieu thereof.

Sec. 69. (a) Section 728(c) of title 11 of the United States Code is amended by striking out the comma immediately after "taxable income".

(b) Section 728(d)(2) of title 11 of the United States Code is amended by inserting "otherwise" immediately after "is", and by striking out "otherwise" immediately after "partner".

Sec. 70. Section 741 of title 11 of the United States Code is amended—

(1) in paragraph (2)(A), by striking out "holds" and inserting "has" in lieu thereof and by striking out "business as a stockbroker" and inserting "such debtor's business as a stockbroker," in lieu thereof;

(2) in paragraph (2)(B), by striking out "holds" and inserting "has" in lieu thereof;

(3) in paragraph (4), by striking out "at any time";

(4) in paragraph (4)(A)(i), by striking out "and that is" and inserting "from and that is the lawful" in lieu thereof;

(5) in paragraph (4)(A)(ii), by inserting "of a customer" immediately after "claim";

(6) by redesignating paragraphs (5) and (2) as paragraphs (6) and (8), respectively;

(7) by inserting immediately after paragraph (4) the following new paragraph:

"(5) 'margin payment' means payment or deposit of cash, a security, or other property, that is commonly known to the securities trade as original margin, initial margin, maintenance margin, or variation margin, or as a mark-to-market payment, or that secures an obligation of a participant in a securities clearing agency;";

(8) in paragraph (6), as so redesignated, by striking out "the aggregate of all of a customer's accounts that such customer holds" and inserting "all accounts of a customer that such customer has" in lieu thereof;

(9) in paragraph (6)(A)(i), as so redesignated, by inserting a comma immediately after "petition", and by inserting "any" immediately after "except";

(10) in paragraph (6)(A)(ii), as so redesignated, by inserting "in such capacity" immediately after "customer";

(11) in paragraph (6)(B), as so redesignated, by striking out "342" and inserting "341" in lieu thereof, and by inserting "in such capacity" immediately before the semicolon; and

(12) by inserting immediately after paragraph (6), as so redesignated, the following new paragraph:

"(7) 'securities contract' means contract for the purchase, sale, or loan of a security, including an option for the purchase or sale of a security, or the guarantee of any settlement of cash or securities by a securities clearing agency; and".

Sec. 71. Section 743 of title 11 of the United States Code is amended by striking out "342(a)" and inserting "341" in lieu thereof.

Sec. 72. Section 744 of title 11 of the United States Code is amended by inserting "but" immediately after "relief,".

Sec. 72. (a) Section 745(a) of title 11 of the United States Code is amended by inserting "the debtor for" immediately after "by".

(b) Section 745(c) of title 11 of the United States Code is amended by striking out "A" and inserting "Each" in lieu thereof.

Sec. 74. (a) Section 746(a) of title 11 of the United States Code is amended—

(1) by striking out "effects with respect to cash or a security," and inserting "enters into" in lieu thereof;

(2) by striking out "with respect to such cash or security";

(3) by striking out "such date" and inserting "the date of the filing of the petition" in lieu thereof; and

(4) by striking out "effected" and inserting "entered into" in lieu thereof.

(b) Section 746(b) title 11 of the United States Code is amended—

(1) by striking out "has a claim for" and inserting "transferred to the debtor" in lieu thereof; and

(2) in paragraph (2), by striking out "is".

(c) The section heading for section 746 of title 11 of the United States Code is amended to read as follows:

"§ 746. Extent of customer claims".

Sec. 75. Section 747 of title 11 of the United States Code is amended by striking out "such claim arose" and inserting "the transaction giving rise to such claim occurred" in lieu thereof.

Sec. 76. Section 749 of title 11 of the United States Code is amended—

(1) by striking out "Any" and inserting "(a) Except as otherwise provided in this section, any" in lieu thereof;

(2) by inserting "by the debtor" immediately before "of property";

(3) by striking out "except" and inserting "but" in lieu thereof;

(4) by inserting "such property" immediately after "trustee, and";

(5) by striking out "549, or 724(a)" and inserting "or 549" in lieu thereof; and

(6) by adding at the end thereof the following new subsection:

"(b) Notwithstanding sections 544, 545, 547, 548, and 549 of this title, the trustee may not avoid a transfer made before five days after the date of the filing of the petition if such transfer is approved by the Commission by rule or order, either before or after such transfer, and if such transfer is—

"(1) a transfer of a securities contract entered into or carried by or through the debtor on behalf of a customer, and of any cash, security, or other property margining or securing such securities contract; or

"(2) the liquidation of a securities contract entered into or carried by or through the debtor on behalf of a customer.".

Sec. 77. (a) Section 752(a) of title 11 of the United States Code is amended—

(1) by striking out "customers allowed" and inserting "customers' allowed";

(2) by inserting "of the kind" immediately after "except claims"; and

(3) by inserting "such" immediately before "customer property.".

(b) Section 752(b)(2) of title 11 of the United States Code is amended by striking out "726(a)" and inserting "726" in lieu thereof.

(c) Section 752(c) of title 11 of the United States Code is amended to read as follows:

"(c) Any cash or security remaining after the liquidation of a security interest created under a security agreement made by the debtor, excluding property excluded under section 741(4)(B) of this title, shall be apportioned between the general estate and customer property in the same proportion as the general estate of the debtor and customer property were subject to such security interest.".

Sec. 78. Section 761 of title 11 of the United States Code is amended—

(1) in paragraph (2), by inserting "made" immediately after "commodity contracts";

(2) in paragraph (4), by striking out "if the debtor is" each place it appears and inserting "with respect to" in lieu thereof.

(3) in paragraph (4)(D), by inserting ", or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by the debtor" immediately before the semicolon;

(4) in paragraph (9), by striking out "if the debtor is" each place it appears and inserting "with respect to" in lieu thereof;

(5) in paragraph (9)(A), by striking out "the debtor" each place it appears and inserting "such futures commission merchant" in lieu thereof and by striking out "the debtor's" and inserting "such futures commission merchant's" in lieu thereof;

(6) in paragraph (9)(B), by striking out "the debtor" each place it appears and inserting "such foreign futures commission merchant" in lieu thereof and by striking out "the debtor's" and inserting "such foreign futures commission merchant's" in lieu thereof;

(7) in paragraph (9)(C), by striking out "the debtor" each place it appears and inserting "such leverage transaction merchant" in lieu thereof, by striking out "the debtor's" and inserting "such leverage transaction merchant's" in lieu thereof, by inserting "or" immediately after the semicolon in clause (i), and by striking out "hold" in clause (ii) and inserting "holds" in lieu thereof;

(8) in paragraph (9)(D), by striking out "the debtor" each place it appears and inserting "such clearing organization" in lieu thereof,

(9) in paragraph (9)(E), by striking out "the debtor" each place it appears and inserting "such commodity options dealer" in lieu thereof and by striking out "the debtor's" and inserting "such commodity options dealer's" in lieu thereof;

(10) in paragraph (10), by striking out "at any time", by striking out "and that is" in subparagraph (A)(viii) and inserting "from and that is the lawful" in lieu thereof, and by striking out "based on such property" in subparagraph (B) and inserting "for which such property would be liable" in lieu thereof;

(11) in paragraph (12), by inserting a comma immediately after "property" and by striking out the comma after "credit";

(12) in paragraph (13), by striking out "217 of the Commodity Futures Trading Commission Act of 1974 (7 U.S.C. 15a)" and inserting "19 of the Commodity Exchange Act (7 U.S.C. 23)" in lieu thereof;

(13) in paragraph (14), by striking out "that is engaged";

(14) in paragraph (15), by striking out "or variation margin," and inserting "variation margin, or as a mark-to-market payment," immediately before "including";

(15) in paragraph (16), by striking out "at any time"; and

(16) in paragraph (17), by striking out "the aggregate of all of a customer's accounts" and inserting "all accounts of a customer" in lieu thereof, by striking out "holds" and inserting "has" in lieu thereof, by inserting "the" immediately after "(A)" in subparagraph (A), by inserting "in such capacity" immediately after "customer" in subparagraph (A)(ii), by striking out subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

Sec. 79. Section 762 of title 11 of the United States Code is amended by striking out "342" and inserting "341" in lieu thereof.

Sec. 80. Section 763(a) of title 11 of the United States Code is amended by inserting "the debtor for" immediately after "by" and by striking out "deemed to be" and inserting "treated as" in lieu thereof.

Sec. 81. (a) Section 764(a) of title 11 of the United States Code is amended—

(1) by inserting "by the debtor" immediately after "any transfer";

(2) by striking out "except" and inserting "but" in lieu thereof;

(3) by inserting "such property" immediately after "trustee, and"; and

(4) by striking out "is" each place it appears and inserting "shall be" in lieu thereof.

(b) Section 764(c) of title 11 of the United States Code is repealed.

Sec. 82. (a) Section 765(a) of title 11 of the United States Code is amended by striking out "notice under" and inserting "notice required by" in lieu thereof and by striking out "342" and inserting "351" in lieu thereof.

(b) Section 765(b) of title 11 of the United States Code is amended by striking out "commodity contract" in lieu thereof.

Sec. 83. (a) Section 766(a) of title 11 of the United States Code is amended—

(1) by striking out "of" the first place it appears and inserting "held by the debtor for" in lieu thereof; and

(2) by inserting "to such customer" immediately after "distribution".

(b) Section 766(b) of title 11 of the United States Code is amended—

(1) by amending the first sentence thereof to read as follows: "If an open commodity contract is being actively traded as of the date of the filing of the petition, the trustee shall, as required by sections 765 and 766(c) of this title, transfer such commodity contract, if feasible, or close out such commodity contract on or before the last day of trading in such contract or on the first day on which notice of intent to deliver on such commodity contract may be tendered, whichever first occurs."; and

(2) by inserting "the" immediately after "rules of".

(c) Section 766(d) of title 11 of the United States Code is amended by striking out "such amount, then the" and inserting "the amount to which the customer of the debtor is entitled under subsection (h) or (i) of this section, then such" in lieu thereof, and by inserting "then" immediately after "trustee" the second place it appears.

(d) Section 766(h) of title 11 of the United States Code is amended by inserting "and except that a customer net equity claim based on a proprietary account, as defined by Commission rule, regulation, or order, may not be paid either in whole or in part, directly or indirectly, out of customer property unless all other customer net equity claims have been paid in full" immediately after "this section".

(e) Section 766(j)(2) of title 11 of the United States Code is amended by striking out "726(a)" and inserting "726" in lieu thereof.

Sec. 84. Section 901(a) of title 11 of the United States Code is amended—

(1) by striking out "552,";

(2) by striking out "547" and inserting "547(a), 547(b), 547(c), 547(d), 547(e)(1), 547(e)(2), 547(f), 547(g)" in lieu thereof;

(3) by striking out "1109" and inserting "1109(b)" in lieu thereof; and

(4) by inserting a comma immediately after "1111(b)".

Sec. 85. Section 902(2) of title 11 of the United States Code is amended by striking out "title, legal or equitable, to real property against which has been levied a special assessment or special tax" and by inserting "legal or equitable title to real property against which a special assessment or special tax has been levied" in lieu thereof.

Sec. 86. Section 903(2) of title 11 of the United States Code is amended by striking out "to" the first place it appears.

Sec. 87. Chapter 9 of title 11 of the United States Code is amended by striking out "SUBCHAPER II" and inserting "SUBCHAPTER II" in lieu thereof.

Sec. 88. (a) Section 921(c) of title 11 of the United States Code, is amended by striking out "an" and inserting "any" in lieu thereof, and by striking out the comma after "petition" the second place it appears.

(b) Section 921 of title 11 of the United States Code is amended by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(c) Section 921(d) of title 11 of the United States Code, as so redesignated, is amended by striking out "subsection (d)" and inserting "subsection (c)" in lieu thereof.

Sec. 89. (a) Section 922(a)(1) of title 11 of the United States Code is amended by inserting "a" immediately before "judicial", and by inserting "action or" immediately before "proceeding".

(b) Section 922(b) of title 11 of the United States Code is amended by striking out "and (g)" and inserting "(g), and (h)" in lieu thereof.

Sec. 90. (a) Section 927(a)(4) of title 11 of the United States Code is amended by striking out "if" and inserting "failure of" in lieu thereof, and by striking out "is not" and inserting "to be" in lieu thereof.

(b) Section 927(b) of title 11 of the United States Code is amended by inserting "of a plan under this chapter" immediately after "confirmation".

Sec. 91. Section 943(b) of title 11 of the United States Code is amended—

(1) in paragraph (4), by striking out "to be taken"; and

(2) by amending paragraph (5) to read as follows:

"(5) except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the plan provides that on the effective date of the plan each holder of a claim of a kind specified in section 507(a)(1) of this title will receive on account of such claim cash equal to the allowed amount of such claim; and".

Sec. 92. Section 945(a) of title 11 of the United States Code is amended by striking out "execution" and inserting "implementation" in lieu thereof.

Sec. 93. Section 1102(b)(1) of title 11 of the United States Code is amended by striking out "order for relief" and inserting "commencement of the case" in lieu thereof.

Sec. 94. Section 1103(c) of title 11 of the United States Code is amended—

(1) in paragraph (3), by striking out "recommendations" and inserting "determinations" in lieu thereof, and by inserting "or rejections" immediately after "acceptances"; and

(2) in paragraph (4), by striking out ", if a trustee or examiner, as the case may be, has not previously been appointed under this chapter in the case".

Sec. 95. Section 1105 of title 11 of the United States Code is amended by striking out "estate, and" and inserting "estate and of the" in lieu thereof.

Sec. 96. Section 1106(b) of title 11 of the United States Code is amended by inserting ", except to the extent that the court orders otherwise," immediately before "any other".

Sec. 97. Section 1107(a) of title 11 of the United States Code is amended by inserting "serving in a case" immediately after "on a trustee".

Sec. 98. Section 1108 of title 11 of the United States Code is amended by inserting ", on request of a party in interest and after notice and a hearing," immediately after "court".

Sec. 99. Section 1111(b) of title 11 of the United States Code is amended to read as follows:

"(b)(1) Except where property of the estate that secures a claim is sold subject to section 363(k) of this title, abandoned under section 554 of this title, or surrendered to the holders of such claims, or is to be sold, abandoned, or surrendered under the plan—

"(A) a claim secured by such property shall be allowed or disallowed under section 502 of this title the same as if the holder of such claim had recourse against the debtor on account of such claim, whether or not such holder had such recourse, unless the class of which such claim is a part elects, by at least two-thirds in amount and more than one-half in number of allowed claims of such class, to be governed by subparagraph (B) of this paragraph; and

"(B) unless the aggregate value of the interests in such property of the holders of such claims is inconsequential, the class may elect, as provided under subparagraph (A) of this paragraph, that such claims of such class, whether or not the holders of such claims had recourse against the debtor and notwithstanding section 506(a) of this title, are secured claims to the full extent that such claims are allowed.

"(2) The provisions of paragraph (1)(A) of this subsection are limited to the purposes of this chapter and such paragraph does not in any other way alter, affect, or create any right or liability of any other entity.".

Sec. 100. (a) Section 1112(a) of title 11 of the United States Code is amended—

(1) in paragraph (2), by striking out "is an involuntary case originally commenced under this chapter" and inserting "originally was commenced as an involuntary case under this chapter" in lieu thereof; and

(2) in paragraph (3), by striking out "on other than" and inserting "other than on" in lieu thereof.

(b) Section 1112(b) of title 11 of the United States Code is amended—

(1) in paragraph (5), by inserting "a request made for" immediately before "additional"; and

(2) in paragraph (8), by striking out "and" inserting "or" in lieu thereof.

Sec. 101. (a) Section 1121(c)(3) of title 11 of the United States Code is amended by striking out "the claims or interests of which are" and inserting "of claims or interests that is" in lieu thereof.

(b) Section 1121(d) of title 11 of the United States Code is amended by inserting "made within the respective periods specified in subsection (c) of this section" immediately after "interest".

Sec. 102. (a) Section 1123(a) of title 11 of the United States Code is amended—

(1) by striking out "A" and inserting "Notwithstanding any otherwise applicable nonbankruptcy law, a" in lieu thereof;

(2) in paragraph (1), by inserting a comma immediately after "classes of claims" and immediately after "507(a)(6) of this title";

(3) in paragraph (3), by striking out "shall";

(4) in paragraph (5), by striking out "execution" and inserting "implementation" in lieu thereof;

(5) in paragraph (5)(G), by inserting "of" immediately after "waiving"; and

(6) in paragraph (6), by striking out "equity securities" the first place it appears and inserting "common stock" in lieu thereof.

(b) Section 1123(b)(2) of title 11 of the United States Code is amended by striking out "or rejection" and inserting ", rejection, or assignment" in lieu thereof and by striking out "under section 365 of this title" and inserting "under such section" in lieu thereof.

Sec. 103. Section 1124 of title 11 of the United States Code is amended—

(1) by amending paragraph (2)(A) to read as follows:

"(A) cures any such default that occurred before or after the commencement of the case under this title, other than a default of a kind specified in section 365(b)(2) of this title;"; and

(2) in paragraph (3)(B)(i), by striking out "and" and inserting "or" in lieu thereof.

Sec. 104. (a) Section 1125(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting ", but need not include such information about any other possible or proposed plan" immediately after "plan";

(2) in paragraph (2)(B), by inserting "the" immediately after "with"; and

(3) in paragraph (2)(C), by inserting "of" immediately after "holders".

(b) Section 1125(d) of title 11 of the United States Code is amended—

(1) by inserting "required under subsection (b) of this section" immediately after "statement" the first place it appears; and

(2) by inserting ", or otherwise seek review of," immediately after "appeal from".

(c) Section 1125(e) of title 11 of the United States Code is amended by inserting "acceptance or rejection of a plan" immediately after "solicits" and by inserting "solicitation of acceptance or rejection of a plan or" immediately after "governing".

Sec. 105. (a) Section 1126(b)(2) of title 11 of the United States Code is amended by striking out "1125(a)(1)" and inserting "1125(a)" in lieu thereof.

(b) Section 1126(d) of title 11 of the United States Code is amended by inserting a comma immediately after "such interests" the first place it appears.

(c) Section 1126(f) of title 11 of the United States Code is amended—

(1) by striking out "is deemed" and inserting in lieu thereof ", and each holder of a claim or interest of such class, are deemed";

(2) by striking out "solicititation" and inserting "solicitation" in lieu thereof; and

(3) by striking out "interest" and inserting "interests" in lieu thereof.

(d) Section 1126(g) of title 11 of the United States Code is amended by striking out "any payment or compensation" and inserting "receive or retain any property" in lieu thereof.

Sec. 106. (a) Section 1127(a) of title 11 of the United States Code is amended by inserting "of a plan" immediately after "After the proponent" and by inserting "of such plan" immediately after "modification".

(b) Section 1127(b) of title 11 of the United States Code is amended by striking out "the court, after notice and a hearing, confirms such plan, as modified, under section 1129 of this title, and circumstances warrant such modification" and inserting "circumstances warrant such modification and the court, after notice and a hearing, confirms such plan as modified, under section 1129 of this title" in lieu thereof.

Sec. 107. (a) Section 1129(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "chapter." and inserting "title." in lieu thereof;

(2) in paragraph (2), by striking out "chapter." and inserting "title." in lieu thereof;

(3) by amending paragraph (4) to read as follows:

"(4) Any payment made or to be made by the proponent, by the debtor, or by a person issuing securities or acquiring property under the plan, for services or for costs and expenses in or in connection with the case, or in connection with the plan and incident to the case, has been approved by, or is subject to the approval of, the court as reasonable;";

(4) in paragraph (5)(A)(ii), by striking out the period and inserting "; and" in lieu thereof;

(5) in paragraph (5)(B), by striking out "The" and inserting "the" in lieu thereof;

(6) in paragraph (6), by inserting "governmental" immediately after "Any";

(7) in paragraph (7), by inserting "of claims or interests" immediately after "each class", and by striking out "creditor's" in subparagraph (B) and inserting "holder's" in lieu thereof;

(8) in paragraph (8), by inserting "of claims or interests" immediately after "each class"; and

(9) by amending paragraph (10) to read as follows:

"(10) If a class of claims is impaired under the plan, at least one class of claims that is impaired under the plan has accepted the plan, determined without including any acceptance of the plan by any insider.".

(b) Section 1129(b) of title 11 of the United States Code is amended—

(1) by striking out "Notwithstanding section 510(a) of this title, if," and inserting "If" in lieu thereof;

(2) in paragraph (2)(A), by striking out

"lien" each place it appears and inserting "liens" in lieu thereof;

(3) in paragraph (2)(B)(ii), by inserting "under the plan" immediately after "retain"; and

(4) in paragraph (2)(C)(i), by striking out "claim" and inserting "interest" in lieu thereof and by striking out "and the value" and inserting "or the value" in lieu thereof.

(c) Section 1129(d) of title 11 of the United States Code is amended—

(1) by striking out "a party in interest that is";

(2) by inserting "the application of" immediately after "avoidance of" the second place it appears; and

(3) by adding at the end thereof the following new sentence: "In any hearing under this subsection, the goevrnmental unit has the burden of proof on the issue of avoidance.".

SEC. 108. (a) Section 1141(a) of title 11 of the United States Code is amended—

(1) by striking out "Except" and inserting "Notwithstanding section 510(a) of this title and except" in lieu thereof; and

(2) by striking out "any creditor or equity security holder of, or general partner in," and inserting "any creditor, equity security holder, or general partner in" in lieu thereof.

(b) Section 1141(c) of title 11 of the United States Code is amended to read as follows:

"(c) Except as provided in subsections (d)(2) and (d)(3) of this section and except as otherwise provided in the plan or in the order confirming the plan, after confirmation of a plan, the property dealt with by the plan is free and clear of all claims and interests of creditors, equity security holders, and of general partners in the debtor.".

SEC. 109. (a) The heading for section 1142 of title 11 of the United States Code is amended to read as follows:

"§ 1142. Implementation of plan".

(b) The item relating to section 1142 in the table of sections for chapter 11 of title 11 of the United States Code is amended by striking out "Execution" and inserting "Implementation" in lieu thereof.

(c) Section 1142(a) of title 11 of the United States Code is amended by striking out the comma after "plan" the second place it appears.

(d) Section 1142(b) of title 11 of the United States Code is amended by inserting "a" immediately after "by".

SEC. 110. Section 1144 of title 11 of the United States Code is amended by inserting "if and only" immediately after "revoke such order".

SEC. 111. (a) Section 1145(a) of title 11 of the United States Code is amended—

(1) by striking out "Except with respect to an entity that is an underwriter as defined in subsection (b) of this section, section" and inserting "Section" in lieu thereof;

(2) in paragraph (3), by striking out "or an affiliate";

(3) In paragraph (3)(B)(i), by inserting "or 15(d)" immediately after "13" and by inserting "or 78o(d)" immediately after "78m";

(4) by amending paragraph (3)(B)(ii) to read as follows:

"(ii) in compliance with the disclosure and reporting provision of such applicable section; and";

(5) in paragraph (3)(C), by striking out "two" each place it appears and inserting "one" in lieu thereof;

(6) in paragraph (3)(C)(ii), by striking out "180" each place it appears and inserting "90" in lieu thereof; and

(7) in paragraph (4), by striking out "stockholder" each place it appears and inserting "stockbroker" in lieu thereof.

(b) Section 1145(b) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "and except with respect to ordinary trading transactions of an entity that is not an issuer" immediately after "subsection";

(2) in paragraph (1)(C), by striking out "for" and inserting "from" in lieu thereof;

(3) in paragraph (2)(A)(i), by striking out "combination" and inserting "or combining" in lieu thereof; and

(4) in paragraph (2)(A)(ii), by striking out "among" and inserting "from or to" in lieu thereof.

SEC. 112. (a) Section 1146(c) of title 11 of the United States Code is amended by striking out "State or local".

(b) Section 1146(d)(1) of title 11 of the United States Code is amended by striking out "and" and inserting "or" in lieu thereof.

SEC. 113. Section 1161 of title 11 of the United States Code is amended by striking out "341" and inserting "342" in lieu thereof.

SEC. 114. Section 1163 of title 11 of the United States Code is amended by striking out "qualified" and inserting "eligible, qualified," in lieu thereof.

SEC. 115. Section 1166 of title 11 of the United States Code is amended by striking out "the Interstate Commerce Act (49 U.S.C. 1 et seq.)" and inserting "subtitle IV of title 49" in lieu thereof.

SEC. 116. Section 1168(b) of title 11 of the United States Code is amended by inserting a comma immediately after "approval".

SEC. 117. Section 1169(c) of title 11 of the United States Code is amended by striking out "the Interstate Commerce Act (49 U.S.C. et seq.)" and inserting "subtitle IV of title 49" in lieu thereof.

SEC. 118. (a) Section 1170(a) of title 11 of the United States Code is amended by inserting "of all or a portion" immediately after "the abandonment".

(b) Section 1170(c) of title 11 of the United States Code is amended by inserting a comma immediately after "abandonment".

(c) Section 1170(d)(2) of title 11 of the United States Code is amended—

(1) by striking out "the abandonment of a railroad line" and inserting "such abandonment" in lieu thereof; and

(2) by striking out "termination" each place it appears and inserting "suspension" in lieu thereof.

SEC. 119. Section 1171(b) of title 11 of the United States Code is amended by striking out "such" and inserting "the same" in lieu thereof.

SEC. 120. Section 1173(a)(4) of title 11 of the United States Code is amended by striking out "compatible" and inserting "consistent" in lieu thereof.

SEC. 121. (a) Section 1301(b) of title 11 of the United States Code is amended by inserting "and may protest" immediately after "of" the first place it appears.

(b) Section 1301(c)(3) of title 11 of the United States Code is amended by inserting "continuation of" immediately after "by".

SEC. 122. (a) Section 1302(b) of title 11 of the United States Code is amended—

(1) in paragraph (2)(C), by striking out "and";

(2) by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) dispose of, under regulations issued by the Director of the Administrative Office of the United States Courts, monies received or to be received in a case under chapter XIII of the Bankruptcy Act; and".

(b) Section 1302(e) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "fix" and inserting "set for such individual" in lieu thereof;

(2) in paragraph (1)(A), by striking out "for such individual";

(3) in paragraph (2), by inserting "made to entities entitled" immediately after "payments"; and

(4) in paragraph (2)(A), by striking out "of" and inserting "received by" in lieu thereof and by striking out "upon all payments" and inserting "of all such payments made" in lieu thereof.

SEC. 123. Section 1304(b) of title 11 of the United States Code is amended by striking out the comma immediately after "of the debtor".

SEC. 124. (a) Section 1307(b) of title 11 of the United States Code is amended by inserting a comma immediately after "time".

(b) Section 1307(c) of title 11 of the United States Code is amended—

(1) in paragraph (4), by inserting "a request made for" immediately before "additional";

(2) in paragraph (6), by striking out "and" immediately after the semicolon and inserting "or" in lieu thereof; and

(3) in paragraph (7), by inserting "other than completion of payments under the plan" immediately after "in the plan".

SEC. 125. (a) Section 1322(a)(2) of title 11 of the United States Code is amended by inserting a comma immediately after "payments".

(b) Section 1322(b) of title 11 of the United States Code is amended—

(1) in paragraph (2), by inserting ", or leave uneffected the rights of holders of any class of claims" immediately before the semicolon;

(2) in paragraph (4), by inserting "other" immediately after "claim or any";

(3) in paragraph (5), by striking out "maintenance of payments" and by striking out "on any unsecured claim or secured claim" and inserting "maintain payments on any claim" in lieu thereof;

(4) in paragraph (7), by inserting "subject to section 365 of this title," immediately before "provide", by striking out "or rejection" and inserting ", rejection, or assignment" in lieu thereof, and by striking out "under section 365 of this title" and inserting "under such section" in lieu thereof; and

(5) in paragraph (8), by striking out "any".

SEC. 126. Section 1323(c) of title 11 of the United States Code is amended by striking out "the plan as modified, unless the modification provides for a change in the rights of such holder from what such rights were under the plan before modification, and" and inserting "such plan as modified, unless" in lieu thereof.

SEC. 127. Section 1324 of title 11 of the United States Code is amended by striking out "the" the second place it appears.

SEC. 128. (a) Section 1325(a)(1) of title 11 of the United States Code is amended by inserting "the" immediately before "other".

(b) Section 1325(a)(3) of title 11 of the United States Code is amended by inserting ", and represents the debtor's good faith effort" before the semicolon.

(c) Section 1325(b) of title 11 of the United States Code is amended by striking out "any" the second place it appears.

SEC. 129. Section 1326(a)(2) of title 11 of the United States Code is amended by inserting "of this title" immediately after "1302 (d)".

SEC. 130. Section 1328(a)(2) of title 11 of the United States Code is amended by inserting ", 523(a)(6), and 523(a)(9)" immediately after "section 523(a)(5)".

SEC. 131. Section 1328(e) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "by the debtor" immediately after "obtained"; and

(2) in paragraph (2), by striking out "knowledge of such fraud came to the requesting party" and inserting "the requesting party did not know of such fraud until" in lieu thereof.

SEC. 132. Section 1329(a) of title 11 of the United States Code is amended—

(1) by inserting "of the plan" immediately after "confirmation" and by striking out "a plan" and inserting "such plan" in lieu thereof; and

(2) in paragraph (3), by striking out the comma.

SEC. 133. Section 15102 of title 11 of the United States Code is amended by striking out "chapter" the first place it appears and inserting "title" in lieu thereof.

SEC. 134. Section 15103(f) of title 11 of the United States Code is amended—

(1) by inserting "342(b)," immediately after "326(b),";

(2) by inserting "1106(a)(1), 1108," immediately after "1105"; and

(3) by inserting "1302(b)(1), 1302(b)(3)," immediately after "1302(a),".

SEC. 135. Section 15322(b)(1) of title 11 of the United States Code is amended by inserting "required to be" immediately after "bond", by striking out "(2)", and by inserting "of this title" before the semicolon.

SEC. 136. Section 15324 of title 11 of the United States Code is amended by inserting a comma immediately after "a trustee".

SEC. 137. Section 15330 of title 11 of the United States Code is amended by adding at the end thereof the following: "The notice required under section 330 of this title shall be given to the United States trustee.".

SEC. 138. (a) Chapter 15 of title 11 of the United States Code is amended by inserting after section 15330 the following new section:

"§ 15342. Meetings of creditors

"In a case under chapter 13 of this title, the United States trustee may call a meeting of creditors. The court may not preside at, and may not attend, any meeting under this section.".

(b) The table of sections for chapter 15 of title 11 is amended by inserting immediately below the item relating to section 15330 the following new item:

"15342. Meetings of creditors.".

SEC. 139. Section 15343 of title 11 of the United States Code is amended by striking out "section 341(a)" and inserting "section 342 or 15342" in lieu thereof.

SEC. 140. (a) Section 15701(a) of title 11 of the United States Code is amended by striking out "trustee established" and inserting "trustees established" in lieu thereof.

(b) Section 15701(b) of title 11 of the United States Code is amended by striking out "such persons" and inserting "the members of such panel" in lieu thereof.

SEC. 141. (a) Section 15703(a) of title 11 of the United States Code is amended by striking out "specified in section 15701(a) of this title. Sections 701(b) and 701(c) of this title apply to such interim trustee." and by inserting "and subject to the provisions of sections 701 and 15701 of this title." in lieu thereof.

(b) Section 15703(b) of title 11 of the United States Code is amended by striking out "truste" and inserting "trustee" in lieu thereof.

SEC. 142. Section 15704 of title 11 of the United States Code is amended to read as follows:

"§ 15704. Duties of trustee

"The trustee shall—

"(1) if the business of the debtor is authorized to be operated, file with the United States trustee periodic reports and summaries of the operation of such business, including a statement of receipts and disbursements; and

"(2) make and file interim reports on the condition of the estate with the United States trustee and make and file a final report and account of the administration of the estate with the United States trustee and the court.".

SEC. 143. Section 151102(b) of title 11 of the United States Code is amended by striking out "interest of" and inserting "interest," in lieu thereof.

SEC. 144. (a) Chapter 15 of title 11 of the United States Code is amended by inserting after section 151105 the following new sections:

"§ 151106. Duties of trustee and examiner

"A trustee shall perform the duties specified in sections 704(2), 704(4), 704(6), and 15704 of this title.

"(b) A trustee shall transmit a copy or a summary of any statement filed under section 1106(a)(4)(A) of this title to any creditors' committee, to any indenture trustee, to the United States trustee, and to any other entity as the court designates.

"§ 151108. Authorization to operate business

"Unless the court, upon the request of a party in interest or the United States trustee and after notice and a hearing, orders otherwise, the trustee may operate the debtor's business.".

(b) The table of sections for chapter 15 of title 11 of the United States Code is amended by inserting after the item relating to section 151105 the following new items:

"151106. Duties of trustee and examiner.
"151108. Authorization to operate business.".

SEC. 145. (a) Section 151302(a) of title 11 of the United States Code is amended by inserting ", or shall appoint a distinterested person to serve," immediately after "The United States trustee shall serve".

(b) Section 151302(h) of title 11 of the United States Code is amended to read as follows:

"(b) The trustee shall—

"(1) perform the duties specified in sections 704(2), 704(4), 704(6), and 15704 of this title; and

"(2) dispose of, pursuant to regulations issued by the Attorney General, moneys received or to be received in a case under chapter XIII of the Bankruptcy Act.".

TITLE II—AMENDMENTS TO TITLE 28 OF THE UNITED STATES CODE

SEC. 201. Section 151(c) of title 28 of the United States Code is amended by inserting a comma immediately after "suit".

SEC. 202. (a) Section 152 of title 28 of the United States Code is amended by adding at the end thereof the following:

"In recommending individuals to the President for appointment as bankruptcy judges. the Judicial Council of each circuit shall follow standards and procedures promulgated by the Judicial Conference of the United States. Such standards and procedures shall contain provision for public notice of all vacancies of bankruptcy judgeships. Further, such standards and procedures shall ensure that the Judicial Council gives due consideration to all qualified individuals, especially such groups as women, blacks, Hispanics, and other minorities."

(b) The Congress—

(1) takes notice of the fact that less than 2 per centum of bankruptcy judges are women, less than 3 per centum of bankruptcy judges are blacks, and only one bankruptcy judge is of Hispanic origin; and

(2) suggests that the President, in selecting individuals for nomination to bankruptcy judgeships created by this Act, give due consideration to qualified individuals without regard to race, color, sex, religion, or national origin.

SEC. 203. Section 153(b) of title 28 of the United States Code is amended by striking out "or circuits" each place it appears and by striking out "or councils" each place it appears.

SEC. 204. Section 158 of title 28 of the United States Code is amended by striking out "Court" and inserting "Bankruptcy court" in lieu thereof.

SEC. 205. (a) Section 160(a) of title 28 of the United States Code is amended by striking out "each circuit" and inserting "such circuit" in lieu thereof.

(b) Section 160 of title 28 of the United States Code is amended by adding at the end thereof the following new subsections:

"(d) A panel may exercise the powers of a bankruptcy court.

"(e) A single judge of a panel may enter an order if irreparable damage will result if such order is not entered. Such order shall remain in force only until the hearing and determination by the panel of three judges.".

SEC. 206 (a) Section 294(c) of title 28 of the United States Code is amended by striking out "district or bankruptcy judge" and inserting ", district, or bankruptcy" in lieu thereof.

(b) Section 294(d) of title 28 of the United States Code is amended by striking out "district judge or bankruptcy judge" and inserting "district, or bankruptcy judge" in lieu thereof.

SEC. 207. Section 295 of title 28 of the United States Code is amended by inserting a comma immediately before "district, or".

SEC. 208. Section 376(a)(2)(A) of title 28 of the United States Code is amended by striking out section "section 337" and inserting "section 377" in lieu thereof.

SEC. 209. (a) Chapter 17 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 377. Bankruptcy judges

"(a)(1) Any bankruptcy judge who has attained the age of seventy years may retire after serving as a bankruptcy judge for at least ten years.

"(2) Any bankruptcy judge who has attained the age of sixty-five years may retire after serving as a bankruptcy judge for at least fifteen years.

"(3) Any bankruptcy judge who is not reappointed following the expiration of the term of office of such judge may retire upon completion of such term, if—

"(A) such judge has served as a bankruptcy judge for at least fourteen years, and

"(B) not earlier than nine months preceding the date of the expiration of the term of office of such judge and not later than six months preceding such date, such judge advised the President in writing that such judge was willing to accept reappointment to the bankruptcy court.

"(4) Any bankruptcy judge who becomes permanently disabled from performing the duties of the office shall retire.

"(b) Notwithstanding subsection (a)(3)(A) of this section, a bankruptcy judge continued in office by section 404(b) of the Bankruptcy Reform Act of 1979 who is not reappointed after March 31, 1984, shall be eligible to retire under subsection (a)(3) of this setcion and to receive retirement pay under subsection (c) of this section if such judge—

"(1) has continued in service until March 31, 1984, or after such date and until such judge's successor takes office,

"(2) has complied with the requirements of subsection (a)(3) of this section other than subparagraph (A), and

"(3)(A) has attained the age of sixty years,

"(B) has attained the age of fifty-five years and has served at least ten years in the aggregate as a referee in bankruptcy and a bankruptcy judge, or

"(C) has attained the age of fifty years and has served at least fourteen years in the aggregate as a referee in bankruptcy and a bankruptcy judge.

"(c)(1) A bankruptcy judge who has elected under subsection (e) of this section to receive retirement pay under this subsection and who retires under paragraph (1), (2), or (3) of subsection (a) of this section shall receive retirement pay during any period at a rate which bears the same ratio to the salary payable to a bankruptcy judge during such period as the number of years the bankruptcy judge who so elected has served as a bankruptcy judge after March 31, 1981, bears to 10, except that the rate of such retirement pay shall not exceed the rate of such salary for such period.

"(2) A bankruptcy judge who has elected under subsection (e) of this section to receive retirement pay under this subsection and who retires under subsection (a)(4) of this section shall receive retirement pay during any period at a rate—

"(A) equal to the rate of the salary payable to a bankruptcy judge during such period if before such retirement the bankruptcy judge who so elected has served as a bankruptcy judge not less than ten years beginning after March 31, 1981,

"(B) equal to 80 percent of the rate of the salary payable to a bankruptcy judge during such period if before such retirement the bankruptcy judge who so elected has served as a bankruptcy judge not less than ten years or

"(C) equal to 50 percent of the rate of the salary payable to a bankruptcy judge during such period if before such retirement the bankruptcy judge who so elected has served as a bankruptcy judge less than ten years.

Such retirement pay shall begin to accrue on the day following the day on which such judge's salary as a bankruptcy judge ceases to accrue, and shall continue to accrue during the remainder of the life of such judge. Retirement pay under this section shall be paid in the same manner as the salary of a bankruptcy judge.

"(3) In computing the rate of retirement pay under this subsection, that portion of the aggregate number of years of service which is a fractional part of 1 year shall be eliminated if it is less than 6 months, or shall be counted as a full year if such part equals or exceeds 6 months.

"(d)(1) A bankruptcy judge continued in office by section 404(b) of the Bankruptcy Reform Act of 1978 who has elected under subsection (e) of this section to receive retirement pay under subsection (c) of this section may also elect—

"(A) for purposes of subsection (c) of this section, to treat services as a referee in bankruptcy or a United States bankruptcy judge as service as a United States bankruptcy judge, except that a year of service as a referee in bankruptcy or a bankruptcy judge occurring before April 1, 1981, shall be treated as one-fourth of a year of service occurring after March 31, 1981, or

"(B) to receive the lump sum credit computed under section 8331(8) of title 5, United States Code.

"(2) In the case of any bankruptcy judge continued in office by section 404(b) of the Bankruptcy Reform Act of 1978 who makes the election described in paragraph (1)(A) of this subsection to treat service as a referee in bankruptcy as service as a bankruptcy judge—

"(A) the retirement pay of such judge for any period shall not exceed 80 percent of the rate of the salary payable to a bankruptcy judge under subsection (c)(1) of this section for such period, and

"(B) there shall be transferred from the Civil Service Retirement and Disability Fund to the Judicial Survivors' Annuities Fund an amount which bears the same ratio to the lump sum credit computed with respect to such judge under section 8331(8) of title 5, United States Code, as nine bears to fourteen.

"(e)(1)(A) A bankruptcy judge may elect to receive retirement pay under subsection (c) of this section by filing notice thereof in writing with the Director of the Administrative office of the United States Courts. The Director shall transmit to the Office of Personnel Management a copy of each notice filed under this subparagraph.

"(B) Any bankruptcy judge continued in office by section 404(b) of the Bankruptcy Reform Act of 1978 who desires to make the election described in subsection (d)(1) of this section shall make such election as part of the election made by such judge under subparagraph (A) of this paragraph.

"(2) The election described in paragraph (1)(A) of this subsection may be made by a bankruptcy judge only during such judge's term of office or on the day on which such judge's successor takes office.

"(f)(1) A bankruptcy judge who has elected under subsection (e) of this section to receive retirement pay under subsection (c) of this section, with respect to whom such election is in effect, and who after such election—

"(A) accepts civil office or employment by the Government of the United States, other than the performance of judcial duties pursuant to section 294 of this title. or

"(B) performs, supervises or directs the performance of, legal or other professional services in connection with a case under title 11, United States Code,

shall forfeit all rights to retirement pay under this section for all periods beginning on or after the first day on which such judge accepts such office or unemployment, or engages in any activity described in subparagraph (B).

"(2) Paragraph (1) of this subsection shall not apply to a bankruptcy judge continued in office by section 404(b) of the Bankruptcy Reform Act of 1978 who is not reappointed upon the expiration of such judge's term of office on March 31, 1984, or before the appointment of such judge's successor.

"(g)(1) Except as otherwise provided in this subsection, the provisions of the civil service retirement laws, including the provisions relating to the deduction and withholding of amounts from basic pay, salary, and compensation, shall apply with respect to service as a bankruptcy judge, together with other service as an officer or employee to whom such civil service retirement laws apply, as if this section had not been enacted.

"(2) In the case of any bankruptcy judge who has filed an election pursuant to subsection (e) of this section to receive retirement pay under subsection (c) of this section—

"(A) no annuity or other payment, except as provided in subsection (d)(1) of this section, shall be payable to such judge under the civil service retirement laws with respect to any service performed by such judge (whether performed before or after such election is filed and whether performed as a bankruptcy judge or otherwise), and

"(B) no deduction for purposes of the Civil Service Retirement and Disability Fund shall be made from retirement pay payable to such judge under subsection (c) of this section or from any other salary, pay, or compensation payable to such judge, for any period during which such election is in effect.

"(h)(1) A bankruptcy judge who retires under subsection (a)(4) of this section before April 1, 1984, shall furnish to the Director of the Administrative Office of the United States Courts a certificate of disability signed by the chief judge of the circuit in which such bankruptcy judge is serving.

"(2) A bankruptcy judge who retires under subsection (a)(4) of this section after March 31, 1984, shall furnish to the President a certificate of disability signed by such chief judge.

"(i)(1) A bankruptcy judge who has filed an election under subsection (e) of this section to receive retired pay under subsection (c) of this section may revoke such election at any time before the first day on which retirement pay would begin to accrue with respect to such judge but for such revocation.

"(2) Any revocation under this subsection of an election shall be made by filing notice thereof with the Office of Personnel Management. The Office of Personnel Management shall transmit to the Director of the Administrative Office of the United States Courts a copy of each notice filed under this paragraph.

"(3) In the case of any revocation under this subsection of an election made under subsection (e) of this section—

"(A) for purposes of this section, a bankruptcy judge shall be treated as not having filed such election, and

"(B) for purposes of section 376 of this title—

"(i) such judge shall be treated as not having filed an election under subsection (e) of such section,

"(ii) subsection (g) of such section shall not apply with respect to such judge, and the amount credited to such judge's account, together with interest at 4 percent per annum to December 31, 1947, and 3 percent per annum thereafter, compounded on December 31, of each year to the date on which the revocation is filed, shall be returned to such judge,

"(C) no credit shall be allowed for service as a bankruptcy judge unless with respect to such service there has been deducted and withheld the amount required by the civil service retirement laws or there has been deposited in the Civil Service Retirement and Disability Fund an amount equal to the amount so required, with interest, and

"(D) the Administrative Office of the United States Courts shall deposit in the Civil Service Retirement and Disability Fund an amount equal to the additional amount it would have contributed to such Fund but for the effectiveness of the election made under subsection (e) of this section to receive retirement pay under subsection (c) of this section. If such deposit is made, service as a bankruptcy judge shall be treated as service with resepct to which deductions and contributions had been made during the period of service.

"(j) Paragraphs (i) and (ii) of section 8331(1) of title 5, United States Code, shall not apply with respect to a bankruptcy judge continued in office by section 404(b) of the Bankruptcy Reform Act of 1978 for any period during which there is in effect an election made by such judge under subsection (e) of this section to receive retirement pay under subsection (c) of this section.

"(k) For purposes of this section the term 'bankruptcy judge' means, unless specified otherwise, a referee in bankruptcy continued in office by section 404(b) of the Bankruptcy Reform Act of 1978 or a United States bankruptcy judge.".

(b) The table of sections for chapter 1 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"377. Bankruptcy judges.".

SEC. 210. Section 451 of title 28 of the United States Code is amended—

(1) in the first undesignated paragraph by inserting "and appellate panels created under section 160 of this title" before the period;

(2) in the first and third undesignated paragraphs by striking out "and" the second place it appears in each such paragraph and inserting a comma in lieu thereof and by striking out ", the judges of which are entitled to hold office for a term of 14 years"; and

(3) in the third undesignated paragraph by striking out "Congress," and inserting "Congress" in lieu thereof and by striking out "and judge" and inserting "and judges" in lieu thereof.

SEC. 211. Section 456 of title 28 of the United States Code is amended—

(1) in the fourth undesignated paragraph. by inserting a comma immediately after "district"; and

(2) in the fifth undesignated paragraph, by striking out the semicolon immediately after "each district judge" and inserting a comma in lieu thereof.

SEC. 212. Section 569(a) of title 28 of the United States Code is amended by inserting "court" immediately after "of the bankruptcy".

SEC. 213. Section 571(b) of title 28 of the United States Code is amended by striking out "United States marshals, under regulations prescribed by the" and by striking out the comma immediately after "Courts".

SEC. 214. Sections 581(a) and 582(a) of title 28 of the United States Code are each amended by inserting ", without regard to the provisions of title 5 governing appointment in the competitive civil service," after "appoint".

SEC. 215. (a) Section 586(a) of title 28 of the United States Code is amended—

(1) in paragraph (3), by inserting ", remove for cause such trustees in cases under chapter 7 or 11 of such title" immediately after "title 11";

(2) in paragraph (5), by striking out "and" immediately after the semicolon;

(3) in paragraph (6), by striking out the period and inserting "; and" in lieu thereof; and

(4) by adding at the end thereof the following new paragraph:

"(7) administer oaths to and take the testimony of witnesses called to testify at meetings under title 11 or appoint a designee to so act.".

(b) Section 586(b) of title 28 of the United States Code is amended by striking out "trustee" the third place it appears and inserting "trustees to serve as standing trustee" in lieu thereof.

(c) Section 586(e)(2) is amended—

(1) by inserting "made to entities entitled" immediately after "payments" the first place it appears;

(2) in subparagraph (A), by striking out "of" and inserting "received by" in lieu thereof and by striking out "upon all payments" and inserting "of all such payments made" in lieu thereof;

(3) in subparagraph (B), by inserting "fee fixed under paragraph (1)(B) of this subsection" immediately after "the percentage"; and

(4) in subparagraph (B)(i), by striking out "individual" and inserting "individuals" in lieu thereof.

SEC. 216. Section 587 of title 28 of the United States Code is amended by adding at the end thereof the following: "The positions of such trustees shall not be in the Senior Executive Service.".

SEC. 217. (a) Section 604(a) of title 28 of the United States Code is amended—

(1) in paragraph (10), by striking out "(17)" each place it appears and inserting "(18)" in lieu thereof;

(2) by redesignating paragraph (17) as paragraph (18);

(3) by redesignating paragraph (13), as added by section 225(a)(2) of the Act of November 6, 1978 (92 Stat. 2549), as paragraph (17);

(4) by redesignating paragraph (14), as redesignated by section 225(a)(1) of the Act of November 6, 1978 (92 Stat. 2549), as paragraph (13); and

(5) by inserting immediately after paragraph (13) the following new paragraph:

"(14) Pursuant to section 1828 of this title, establish a program for the provision of special interpretation services in courts of the United States;".

(b) Subsection (f) of section 604 of title 28 of the United States Code, as added by section 225(b) of the Act of November 6, 1978 (92 Stat. 2549) is redesignated as subsection (h) and is amended by striking out "number and".

SEC. 218. Section 634(a) of title 28 of the United States Code is amended by inserting a comma after "salaries" the first place it appears and by striking out "rates for" and all that follows through "as amended" and inserting "an amount fixed in accordance with section 225 of the Federal Salary Act of 1967, subject to adjustment in accordance with such Act and section 461 of this title" in lieu thereof.

SEC. 219. (a) Section 773(c) of title 28 of the United States Code is amended by striking out "a circuit" and inserting "an appellate" in lieu thereof, and by striking out the parentheses around "but presents a substantial question".

(b) Section 773 of title 28 of the United States Code is amended by adding at the end thereof the following new subsection:

"(d) Court reporters appointed or employed under this section shall be appointed or employed in accordance with all of the standards and procedures applicable to appointments or employment under section 753 of this title and shall be governed by the rules and regulations applicable to court reporters appointed or employed under section 753 of this title.".

SEC. 220. (a) Section 1293(a) of title 28 of the United States Code is amended by striking out "decisions" and inserting "judgments, orders, and decrees" in lieu thereof.

(b) Section 1293(b) of title 28 of the United States Code is amended—

(1) by striking out "an appellate panel created under section 160 or";

(2) by striking out "District court of the United States" and inserting "district court of the United States," in lieu thereof; and

(3) by inserting ", and of appeals from interlocutory orders and decrees of an appellate panel created under section 160 of this title, a district court, and a bankruptcy court, but only by leave of the court of appeals to which the appeal is taken" immediately before the period.

SEC. 221. Section 1334(c) of title 28 of the United States Code is amended by striking out "that section" and inserting "this section" in lieu thereof.

SEC. 222. (a) Section 1471(a) of title 28 of the United States Code is amended by striking out "subsection" and inserting "subsection" in lieu thereof.

(b) Subsection (c) and (e) of section 1471 of title 28 of the United States Code are each amended by striking out "commenced" and inserting "pending" in lieu thereof.

(c) Section 1471(c) of title 28 of the United States Code is amended by inserting "or a proceeding arising under title 11 or arising in or related to a case under title 11" immediately after "title 11".

(d) Section 1471(e) of title 28 of the United States Code is amended by inserting ", and of all property, wherever located, of the estate in such case" immediately before the period at the end thereof.

SEC. 223. Section 1472(1) of title 28 of the United States Code is amended by striking out "principle" and inserting "principal" in lieu thereof.

SEC. 224. (a) Section 1473(a) of title 28 of the United States Code is amended by striking out "Except" and inserting "Notwithstanding any Act of Congress that confers venue in a specific district and except" in lieu thereof.

(b) Section 1473(c) of title 28 of the United States Code is amended by striking out "section" the first place it appears and inserting "subsection" in lieu thereof.

SEC. 225. Section 1481 of title 28 of the United States Code is amended by inserting "(a)" before "A" and by adding at the end thereof the following new subsection:

"(b) A contempt punishable by a bankruptcy court includes any act that is in violation of a stay under title 11.".

SEC. 226. Section 1482(b) of title 28 of the United States Code is amended by striking out "judgments, orders," and inserting "orders" in lieu thereof.

SEC. 227. Section 1827(i) of title 28 of the United States Code is amended by striking out "referee in bankruptcy" and inserting "bankruptcy judge" in lieu thereof.

SEC. 228. Section 1871(a) of title 28 of the United States Code is amended to read as follows:

"(a) Grand jurors in district courts and petit jurors in district courts and bankruptcy courts appearing pursuant to this chapter shall be paid the fees and allowances provided by this section. The requisite fees and allowances shall be disbursed, on the certificate of the clerk of the district court or of the clerk of the bankruptcy court, by the clerk of the district court in accordance with the procedure established by the Director of the Administrative Office of the United States Courts. Attendance fees for extended service under subsection (b) of this section shall be certified by the clerk of the district court only upon the order of a district judge or by the clerk of the bankruptcy court only upon the order of a bankruptcy judge.".

SEC. 229. Section 1914(a) of title 28 of the United States Code is amended by striking out "$60" and inserting "$30" in lieu thereof.

SEC. 230. Section 1923(b) of title 28 of the United States Code is amended to read as follows:

"(b) The docket fees of United States attorneys shall be paid to the clerk of the district court, the docket fees of United States trustees shall be paid to the clerk of the bankruptcy court, and all such fees shall then be paid by the clerks into the Treasury.".

SEC. 231. Section 1930(a)(1) of title 28 of the United States Code is amended by striking out "$60" and inserting "$30" in lieu thereof.

SEC. 232. Section 1962 of title 28 of the United States Code is amended by inserting "or bankruptcy court" immediately after "district court".

SEC. 233. Section 1963 of title 28 of the United States Code is amended—

(1) in each paragraph, by inserting "or bankruptcy court" immediately after "district court" the first place it appears;

(2) in the first sentence of the first undesignated paragraph, by inserting "with the clerk of the district court or the bankruptcy court, whichever is appropriate" before the period at the end thereof;

(3) by striking out "where registered" and inserting in lieu thereof "where entered".

(4) by adding at the end thereof the following new undesignated paragraph:

"An order of discharge or an order of confirmation in a case under title 11 which has become final may be registered in any other district by filing in the office of the clerk of the bankruptcy court of that district a certified copy of the order and when so registered shall have the same effect as an order of the bankruptcy court of the district where so registered and may be enforced in like manner.".

SEC. 234. Section 1964 of title 28 of the United States Code is amended by inserting "or bankruptcy court" immediately after "district court" each place it appears.

SEC. 235. Section 2075 of title 28 of the United States Code is amended by striking out "in cases under title 11" and inserting "in cases under title 11 and in proceedings arising under title 11 or arising in or related to cases under title 11" in lieu thereof.

SEC. 236. Section 2256(1)(C) of title 28 of the United States Code is amended by inserting "or under title 11" immediately after "title".

SEC. 237. (a) Section 1914 of title 28 of striking out subsection (d).

(b) The District of Columbia Code is amended—

(1) in section 15-701(a), by striking out "clerk of the United States District Court for the District of Columbia,";

(2) in section 15-703—

(A) by striking out "(b)" and subsection (a); and

(B) in the catchline of such section by striking out "Deposit for costs; security" and inserting in lieu thereof "Security";

(3) in section 15-704—

(A) in subsection (a) by striking out "(a)" and by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "the Superior Court of the District of Columbia"; and

(B) by striking out subsection (b);

(4) by striking out section 15-706;

(5) in section 15-712 by striking out "Any District of Columbia Court" and inserting in lieu thereof "The Superior Court of the District of Columbia and the District of Columbia Court of Appeals"; and

(6) in the analysis of sections for chapter 7 of title 15, by striking out the item relating to section 15-706.

TITLE III—AMENDMENTS TO THE ACT OF NOVEMBER 6, 1978

SEC. 301. The title of the Act entitled "An Act to establish a uniform Law on the Subject of Bankruptcies", approved November 6, 1978 (Public Law 95-598; 92 Stat. 2549) (hereinafter in this title referred to as the "Act") is amended to read as follows: "An Act to establish a uniform law on the subject of bankruptcies".

SEC. 302. The Act is amended by inserting after the enacting clause the following: "That this Act may be cited as the "Bankruptcy Reform Act of 1978'."

SEC. 303. Section 216 of the Act is amended by striking out "record" and inserting "records" in lieu thereof.

SEC 304. Section 222 of the Act is amended by striking out "assistance" and inserting "assistants" in lieu thereof.

SEC. 305. Section 232 of the Act is repealed.

SEC. 306. Section 308(f)(3) of the Act is amended by striking out "C" and inserting "'(C)'" in lieu thereof.

SEC. 307. Section 402(c) of the Act is amended—

(1) by striking out "210," and inserting "205, 206, 207, 211, 213," in lieu thereof;

(2) by inserting "226," immediately after "225,"; and

(3) by inserting "248" immediately after "246,".

SEC. 308. (a) Section 403(a) of the Act is amended by striking out "this Act" and inserting "the provisions of this Act other than this subsection and subsections (b) and (d) of this section" and by striking out "the Act" and inserting "such provisions".

(b) Section 403(b) of the Act is amended by inserting "or after" immediately after "on".

(c) Section 403(e) of the Act is amended to read as follows:

"(e) Notwithstanding subsection (a) of this section—

"(1) the amount by which a fee exceeds $100,000 may not be charged under section 40c(2)(a) of the Bankruptcy Act in a case pending under such Act after September 30, 1979, or under section 40c(2)(b) of the Bankruptcy Act in a case in which the plan is confirmed after September 30, 1979;

"(2) after September 30, 1979, all moneys collected for payment into the referees salary and expense fund in cases filed under the Bankruptcy Act shall be collected and paid into the general fund of the Treasury; and

"(3) any balance in the referees' salary and expense fund in the Treasury on October 1, 1979, shall be transferred to the general fund of the Treasury and the referees' salary and expense fund account shall be closed.".

SEC. 309. (a) Section 404(b) of the Act is amended to read as follows:

"(b) The term of a referee in bankruptcy who is serving on the date of enactment of this Act is extended to and expires on March 31, 1984, or when his successor takes office, and such person shall have the title United States bankruptcy judge. During the period commencing on October 1, 1979, and ending on March 31, 1984 (hereinafter in this title referred to as 'the transition period'), unless a bankruptcy judge is certified to be not qualified by the Chief Judge of the Circuit Court after a finding that such judge is not qualified is made by a merit screening committee established under subsection (c) of this section, such judge shall serve in the court of bankruptcy continued under subsection (a) of this section to which such United States bankruptcy judge was appointed, in the manner prescribed by this title. Section 8335(a) of title 5 of the United States Code shall not apply to United States bankruptcy judges during the transition period. During the transition period, United States bankruptcy judges shall be exempt from annual and sick leave laws and regulations.".

(b) Section 404(c) of the Act is amended by striking out the first sentence and inserting in lieu thereof the following new sentence: "There shall be established for each judicial district a merit screening committee composed of the president or the designee of the president of the State bar association, the president or designee of the president of a local bar association for the area within the judicial district wherein a referee in bankruptcy maintains his official headquarters and the dean, or designee of the dean, of an accredited law school, if any, located within the judicial district or State, and if no such law school exists, then a lay member selected by the chief judge of the United States district court for the judicial district wherein the referee in bankruptcy maintains his official headquarters.".

(c) Section 404(d) of the Act is amended by striking out "41,".

(d) Section 404(e) of the Act is amended by inserting immediately after the first sentence the following new sentence: "Bankruptcy judges for the district shall decide where the headquarters office of the clerk of the bankruptcy court shall be located.".

(e) Section 404 of the Act is amended by adding at the end thereof the following new subsections:

"(h) During the transition period, the powers granted under section 2071 of title 28 of the United States Code shall be exercised by the United States bankruptcy court of a district, exclusive of the district court of such district, for the purpose of promulgating local rules of procedure to be applicable in cases and proceedings before a United States bankruptcy judge of such court, and such powers shall be exercised for such purpose by the appellate panels created under section 160 of title 28 of the United States Code to be applicable in appeals before such an appellate panel.

"(1) During the transition period, sections 155, 156, 157, 158, and 159 of title 28 of the United States Code, contained in section 201 of this Act, and the amendment contained in section 210 of this Act, shall apply to the courts of bankruptcy continued under section 404(a) of this Act the same as such amendments apply to the United States bankruptcy courts established under section 201 of this Act.".

SEC. 310. (a) Section 405(a) of the Act is amended—

(1) by striking out "such cases" the first place it appears and inserting "in all cases under title 11 or arising in or related to a case under title 11 pending during the transition period" in lieu thereof; and

(2) in paragraph (1)(C), by inserting ", except as provided in subsection (c) of this section" immediately before the period at the end thereof.

(b) Section 405(c)(2) of the Act is amended by inserting "240," immediately after "238,".

(c) Section 405(d) of the Act is amended by striking out "248" and inserting "247" in lieu thereof.

SEC. 311. Section 407(c) of the Act is amended by striking out "332" and inserting "333" in lieu thereof.

SEC. 312. Section 408 of the Act is amended by adding at the end thereof the following new subsection:

"(d) During the transition period, section 604(h) of title 28 of the United States Code does not apply to bankruptcy courts for districts listed in section 581(a) of such title.".

SEC. 313. Section 409(a)(1) of the Act is amended by striking out "September 30, 1983" and inserting "March 31, 1984" in lieu thereof.

TITLE IV—AMENDMENTS TO OTHER ACTS

SEC. 401. Section 19 of the Commodity Exchange Act (7 U.S.C. 24) is redesignated as section 20 of such Act.

SEC. 402. Section 4(e) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499d(e)) is amended—

(1) by inserting "under the Bankruptcy Act or been a debtor in a case filed under title 11 of the United States Code or received a discharge in such case" immediately after "bankrupt" the first place it appears; and

(2) by inserting "under the Bankruptcy Act or which has been a debtor in a case filed under title 11 of the United States Code" immediately after 'bankrupt" the second place it appears.

SEC. 403. Section 7A(c) of the Clayton Act (15 U.S.C. 18a(c)) is amended—

(1) by striking out "and" at the end of paragraph (11);

(2) by striking out the period at the end of paragraph (12) and inserting "; and" in lieu thereof; and

(3) by adding at the end thereof the following new paragraph;

"(13) transactions arising under title 11 of the United States Code or arising in or relating to cases under such title.".

SEC. 404. (a) Section 6(d) of the Securities Investor Protection Act (15 U.S.C. 78fff(d)) is amended by striking out "section 16(5)(A)" and inserting "section 16(4)(A)" in lieu thereof.

(b) Section 8(e)(4)(C) of such Act (15 U.S.C. 78fff(e)(a)(4)(C) is amended by striking out "section 9(a)(5)" and inserting "section 9(a)(4)" in lieu thereof.

SEC. 405. Section 605(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)(1)) is amended by inserting "(except cases under chapter 13 of title 11)" immediately after "Code", and by inserting "(except cases under chapter XIII)" immediately after "Act".

SEC. 406. Section 151 of title 18 of the United States Code is amended by striking out "mean" and inserting "means" in lieu thereof.

SEC. 407. Section 424(b)(3)(B) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 934(b)(3)(B)) is amended by striking out "the Bankruptcy Act" and inserting "title 11 of the United States Code" in lieu thereof.

SEC. 408. Section 3468 of the Revised Statutes of the United States (31 U.S.C. 193) is amended by adding at the end thereof the following new sentence: "This section does not apply, however, in a case under title 11 of the United States Code or in a case arising in or relating to a case under such title.".

TITLE V—RELATED PROVISIONS OF LAW

SEC. 501. Nothing in any provision of Federal or State law shall operate to prevent, stay, or otherwise prohibit a stockbroker or securities clearing agency from exercising a contractual right to liquidate a securities contract or to cause the liquidation of a securities contract, nor shall any court issue any order preventing, staying, or otherwise prohibiting the exercise of such contractual right, unless such order is authorized under the provisions of the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.) or is required because of a threat to the national security. As used in this section, the term—

(1) "contractual right" includes, but is not limited to, a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency; and

(2) "securities contract" means a securities contract as defined in section 741 of title 11 of the United States Code.

SEC. 502. No provision of Federal or State law shall operate to prevent, stay, or otherwise prohibit a commodity broker or forward contract merchant from exercising a contractual right to liquidate a commodity contract or forward contract, or to cause the liquidation of a commodity contract or forward contract, and no court may issue any order preventing, staying, or otherwise prohibiting the exercise of such contractual right unless such order is required because of a threat to the national security. As used in this section, the term—

(1) "contractual right" includes, but is not limited to, a right set forth in a rule or bylaw of a clearing organization or a contract market or in a resolution of the governing board thereof; and

(2) "commodity contract" means a commodity contract as defined in section 761 of title 11 of the United States Code.

SEC. 503. During the period beginning on the date of the enactment of this Act and ending on April 1, 1984, the amendments contained in sections 222, 223, 224, 225, 226, and 236 shall apply to courts of bankruptcy continued by section 404(a) of the Act of November 6, 1978 (Public Law 95–589; 92 Stat. 2549).

SEC. 504. This Act may be cited as the "Bankruptcy Technical Amendments Act of 1980".

TITLE VI—EFFECTIVE DATES

SEC. 601. (a) Except as provided in subsection (b) of this section, this Act and the amendments made by this Act shall take effect on the later of October 1, 1980, or the date of enactment of this Act and shall apply only to cases filed under title 11 of the United States Code after such date.

(b) The amendments made by sections 201, 202, 203, 204, 205, 210(1), 211, 212, 219, 220, 221, 222, 223, 224, 225, 226, and 236 of this Act shall take effect on April 1, 1984.

The SPEAKER pro tempore. Is a second demanded?

Mr. SENSENBRENNER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. EDWARDS) will be recognized for 20 minutes, and the gentleman from Wisconsin (Mr. SENSENBRENNER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, 2 years ago, the 95th Congress passed the Bankruptcy Reform Act, a most important piece of legislation. Until then, the bankruptcy laws of the United States had not been completely reviewed since their enactment in 1898, even though major changes were made in 1938. Since those times, the economic character of this country changed but the basic laws dealing with financial distress had not.

The Bankruptcy Reform Act of 1978 went through extensive revision during the final days of the 95th Congress. These last-minute revisions left the final version of the bill in need of perfection, and that is what S. 658 attempts.

More than 90 percent of this bill, as long as it is, contains technical and stylistic modifications. This was the reason for bringing the bill to the floor 7 weeks ago also under suspension. However, because of opposition to one provision the required two-thirds vote could not be achieved.

Mr. Speaker, that one provision dealt with retirement for bankruptcy judges. Today, I am pleased to say that we have drastically revised this provision with the participation and agreement of those most concerned. I will speak to this in a moment; first, however, let me identify the most important of the substantive provisions.

A key provision of this bill has to do with our country's financial markets. The Bankruptcy Reform Act contains special provisions to deal with liquidations of securities and commodities brokers. These provisions, however, are incomplete. They must be corrected. If they are not corrected—as we have done so in this bill—the bankruptcy of an important brokerage firm could seriously disrupt the financial market.

Generally, what is involved is the continuous-net-settlement process—that method by which market transactions are concluded. Securities and commodities transactions must be settled. If they are not, clearing organizations or the exchanges themselves must guarantee them. If a bankruptcy of a broker occurs, many transactions might be unsettled at the time the petition in bankruptcy is filed. Under the law today, there is no provision allowing these transactions to be settled; in fact, such settlement would be prohibited. Therefore, the expectations of the markets and all who rely upon the integrity of that market process would be made insecure. It is obvious that this important correction must be made.

Another example of a problem in the financial market that we have identified since the enactment of the Bankruptcy Reform Act deals with municipal bonds. Today, the law now would cut off the rights of a municipal revenue bondholder immediately upon the filing of the petition under title 11. If this is not changed, municipalities will find it difficult to enter the bond market because potential purchasers of such securities will be reluctant to buy them. This is also corrected in S. 658.

Mr. Speaker, today bankruptcy judges are the only judges of U.S. courts who are not participants in the judicial retirement system; they derive retirement benefits through the Civil Service Retirement System. This the committee feels is inequitable. Further, without an equitable and adequate retirement system, the committee believes that many of the most qualified judges now sitting will soon leave the bench and it will be difficult to attract the most qualified persons in the future.

Contributing to this is the change in the way the bankruptcy judge is appointed. Now and in the past they have been appointed by the judges of the district court; beginning in 1984 they will be nominated by the President. The committee believes that participation in the judicial retirement system will be effective to encourage them to remain on the bench and to seek appointment in 1984.

Generally, there has never been opposition to bankruptcy judges' participation in the judicial retirement system beginning in 1984—as a matter of equity with other judges. Where the difference of opinion has existed and which crystallized in the opposition to this bill 7 weeks ago, is the extent to which bankruptcy judges would be given credit for service on the bench prior to 1984 and in the providing of judicial retirement benefits to those judges now sitting who are not reappointed in 1984. Mr. Speaker, it is with reference to these last matters that we have reached agreement.

Retirement for bankruptcy judges is proposed in S. 658 to be basically the same as that provided for the judges of the new claims court which was contained in H.R. 3806 passed by this body 1 week ago. In turn that retirement provision was modeled after the retirement benefits available to the judges of the U.S. Tax Court.

Mr. Speaker, what we have then is a system of retirement benefits for the judges of most article I courts which is virtually uniform.

Mr. Speaker, S. 658 contains many needed and important corrections and clarifications of the Bankruptcy Reform Act. With economic conditions today what they are and the possibility that bankruptcies will occur more often than they have in the past, many problems in interpretation, application, and administration of the law will be eliminated with the enactment of S. 658.

I strongly urge the adoption of this bill.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Vermont (Mr. JEFFORDS).

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Mr. JEFFORDS. Mr. Speaker, I rise in support of S. 658, the Bankruptcy Act. This is a very complicated and technical bill, but its merits stand up under close examination.

When we considered the Bankruptcy Reform Act 2 years ago, the provisions relating to bankruptcy judge retirement were dropped because this body and the other body differed substantially on the issue, and we felt that in order to insure timely action on the bill we would have to postpone revisions in the controversial bankruptcy judge retirement area. At that time, however, the managers of the measure pledged themselves to tackling retirement pay in the near future, and the bill before us today fulfills that promise.

S. 658 represents a balanced, equitable approach to the retirement pay issue, and moves us in the direction we must move if we want to keep our experienced and seasoned bankruptcy judges on the benches. This legislation does not provide these judges with preferential treatment, but simply brings their handling up to par with that for our other judges. In fact, this bill adopts the retirement model very similar to the one we gave our approval to last week for claims court judges. Under current law, bankruptcy judges are not participants in the judicial retirement system, and to my mind there is no justification for this.

It is certainly true that bankruptcy judges began as administrative employees of the courts, but over the years, they have been called upon to assume a steadily expanding judicial role. In the 1960's, for all intents and purposes they became judges, although they retained the title of referee. Then, eventually and appropriately, the title was changed in keeping with the change effected in the bankruptcy judges' duties. Under the current code enacted in 1979, the administrative functions of the judges have been eliminated, and they are full-blown judges. It is time that, in terms of their retirement pay, they were treated as such.

It is also important to note that we have altered the fashion in which our bankruptcy judges are selected. Formerly, they were appointed by the district courts. Now they are named by the President. Since we have, in effect, required that our experienced judges change horses in midstream and modified their reasonable expectations, it only makes sense to provide them with the incentive to go on, in the form of improved retirement pay.

In closing, I believe this legislation has been revised since we last deliberated on it in ways which should make it acceptable to the vast majority of the Members of this House. It was endorsed by the Judicial Conference this spring, and has the support of our bankruptcy judges. I think it is high time we updated the retirement provisions for these judges in order to make them commensurate with the greater mantel of responsibility we have asked them to bear. I enthusiastically urge my colleagues to give their strong backing to this bill. Thank you, Mr. Speaker.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from California (Mr. EDWARDS) has done a thorough and a comprehensive review of Senate bill 658 which makes technical changes to the Bankruptcy Code.

Seven weeks ago I led the opposition to a similar motion to suspend the rules on this legislation because of my opposition to not only a pay raise for bankruptcy judges but also due to the fact that the bill under suspension of the rules at that time contained what I thought was an unconscionably large increase in pensions, not only for the judges who would be reappointed by the President in 1984 but also those judges who would not be reappointed by the President at that time.

Since then, the pension provisions have been worked out so that my objections have been met and I am pleased to support the motion to suspend the rules that have been given to the House today by the gentleman from California (Mr. EDWARDS).

I believe that the changes that have been made in the last 7 weeks go a long way to establishing a uniform pension system for article I judges so that judges of the bankruptcy court would not be under one pension system, judges of the Tax Court under a different pension system, and judges of the Court of Claims and other article I courts under a third pension system. Consequently, my objections to this motion have been met. I am pleased to support the motion of the gentleman from California (Mr. EDWARDS) and I would like to commend that gentleman for his efforts in working out these difficulties with the bill.

At this time I yield 2 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, I am pleased to note that the problem which caused this bill to be defeated on suspension once before has been rectified, and that we will have the opportunity today to bring this legislation one step closer to enactment.

I support S. 658 because I believe it makes positive improvements to the Bankruptcy Reform Act passed in 1978. As some of you know, the Reform Act created two principal methods of personal bankruptcy. First, it modernized the traditional straight bankruptcy under chapter 7. That is the mechanism most of us are familiar with: Add up your assets, subtract your liabilities and your exemptions, and distribute what is left, secured creditors first.

It also created an important repayment plan under chapter 13. In the long run, it is this chapter which, I believe, will prove to be a major boon to creditors. It is designed to permit a moderately salaried debtor, with few tangible assets other than his home or car, to pay back his creditors under a plan approved and supervised by the bankruptcy court.

Some of you, though, may be aware of problems which have developed with regard to the court's interpretation of the debtor's "good faith" in proposing his repayment plan. Since the act became effective a year ago, there have been several instances in which bankruptcy judges have given their approval to plans which offered the bare minimum to creditors—that is, an amount equal to what they would have received under straight bankruptcy in chapter 7. That was clearly not our intent when we considered the Bankruptcy Reform Act of 1978.

An amendment I offered in subcommittee is designed to encourage judges to look past the paper on which the plan is written in order to determine what constitutes "good faith." We clearly intend that all factors relating to the debtor's ability to pay—his salary level, the nature of his debts—will be considered before the repayment plan is approved.

Also, you should know that under chapter 13 as set forth in the 1978 act, debts involving students loans are dischargeable. This is not the case under chapter 7. This oversight has been rectified in S. 658 and student loans are no longer dischargeable under any provision of the bill.

If we fail to pass this legislation today, and are unable to bring it before the floor under a rule in this Congress, we will be forced to begin the process anew in the next Congress. In the meantime, token repayment plans, for example, as well as student loans, will continue to be handled in a manner inconsistent with the intent of Congress.

I urge you to support this bill—your constituencies will benefit far more from its prompt passage than from its defeat.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. MCCLORY).

Mr. McCLORY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I was a member of the subcommittee which drafted the Bankruptcy Reform Act which guided its way to enactment in the last Congress. It was a huge piece of legislation—139 pages in length to be exact—and there have been many problems, despite the years of care in drafting and creating it. This technical amendments bill seeks to remedy many of the oversights and gaps which have become apparent since last October.

The Senate passed S. 658 a year ago, and the Judiciary Committee of the House has been sculpting its version ever since. An immense amount of time and thought has been invested in the creation of this bill; it has almost universal support among those who are impacted by it. Even those are dissatisfied with portions of it, or who did not have their particular concerns addressed, have indicated to me and to other members of the subcommittee that they would not like to see its movement held up.

The only problem which caused some concern involved the retirement system which this bill provides for bankruptcy judges. The concerns of my colleague from Wisconsin (Mr. SENSENBRENNER) have been met in this regard, and, though a rule has been obtained, I can see no reason why this legislation should be delayed any longer. I urge its favorable consideration.

Mr. EDWARDS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Speaker, I would like to ask a question of the gentleman from California (Mr. EDWARDS), the manager of the bill, if the gentleman would be so kind as to respond.

Mr. Speaker, I have had communication over the past weekend from court reporters of the Bankruptcy Court in the Los Angeles area who have expressed concern that they may have been, or may now be, omitted from coverage for retirement purposes under this bill. Some of them have been working for 25 or 30 years, I understand that the span is from 8 years to 40 years, in the Bankruptcy Courts and with the reorganization of the courts and the changes in the law they are quite anxious that their rights, if any, to retirement benefits and their jobs will be protected and that they will not be left out.

Would the gentleman explain whether or not the bill covers that situation?

Mr. EDWARDS of California. Mr. Speaker, will the gentleman from California yield?

Mr. DANIELSON. I am pleased to yield.

Mr. EDWARDS of California. This bill on page 103 in section 219 which actually begins on page 102 does deal with court reporters and it deals with them in an equitable way. It provides court reporters appointed or employed under this section shall be appointed or employed in accordance with all the standards and procedures applicable to appointments or employment under section 753 of this title. Here is the key phrase: "shall be governed by the rules and regulations applicable to court reporters appointed or employed under section 753 of this title."

What this means is that the reporters who are employed and those who will be employed in the future will be employed in the same way and be governed by the same rules and regulations applicable to court reporters in Federal district courts and other Federal courts. They are provided appropriate protection.

Mr. DANIELSON. Mr. Speaker, I thank the gentleman for that comment.

Is the gentleman able to say whether that means a reporter who is employed and has been for a period of time would not automatically be terminated and have to be rehired under some new rules?

Mr. EDWARDS of California. There is never a guarantee of that. However, what we did write into the bill was that these reporters who are already working for the bankruptcy judges, their employment will be subject to the applicable rules and regulations that the Federal district courts in general must comply with. That is a lot of protection but that is as far as we were able to go.

Mr. DANIELSON. Would I be safe in understanding that a reporter who has been employed for a period of years—I mean by that a tried, tested, and proven reporter who does a good job—can have a reasonable expectation of continuing his employment until his ordinary retirement years may come about?

Mr. EDWARDS of California. The gentleman from California is correct. There is nothing in the bill that would put such a court reporter in any kind of peril as long as he or she is doing a good job.

Mr. DANIELSON. The rule of reasonableness would apply then, would that be the idea?

Mr. EDWARDS of California. As usual, the gentleman is correct.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. EDWARDS) that the House suspend the rules and pass the Senate bill, S. 658, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid upon the table.

House Resolution 779 was laid on the table.

CLASSIFIED INFORMATION CRIMINAL TRIAL PROCEDURES ACT

Mr. MAZZOLI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4736) to establish certain pretrial and trial procedures for the use of classified information in connection with Federal criminal cases, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4736

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Classified Information Criminal Trial Procedures Act."

TITLE I—PROCEDURES FOR DISCLOSURE OF CLASSIFIED INFORMATION IN CRIMINAL CASES

PRETRIAL CONFERENCES

SEC. 101. At any time after the filing by the United States of an indictment or information in a United States district court, any party to the case may request a pretrial conference to consider matters relating to classified information that may arise in connection with the prosecution. Upon such a request, the court shall promptly hold a pretrial conference to establish a schedule for any request for discovery of classified information and for the implementation of the procedures established by this title. In addition, at such a pretrial conference the court may consider any other matter which may promote a fair and expeditious trial. No admission made by the defendant or by any attorney for the defendant at such a conference may be used against the defendant unless the admission is in writing and is signed by the defendant and by the attorney for the defendant.

PROCEDURES FOR DISCLOSURE OF CLASSIFIED INFORMATION

SEC. 102. (a) (1) Whenever a defendant in any Federal prosecution intends to take any action to disclose or cause the disclosure of classified information in any manner in connection with such prosecution, the defendant shall, before such disclosure and before the trial or any pretrial hearing, notify the court and the attorney for the United States of such intention and shall not disclose or cause the disclosure of such information unless authorized to do so by the court in accordance with this title. Such notice shall include a brief description of the classified information that is the subject of such notice.

(2) (A) Within ten days of receiving a notification under paragraph (1), the United States, by written petition of the Attorney General, may request the court to conduct a proceeding to make all determinations concerning the use, relevance, or admissibility of the classified information at issue that would otherwise be made during the trial or a pretrial hearing. Upon such a request, the court shall conduct such a proceeding.

(B) Any proceeding held pursuant to a request under subparagraph (A) (or any portion of such proceeding specified in the request of the Attorney General) shall be held in camera if the Attorney General certifies to the court in such petition that a public proceeding may result in the disclosure of classified information.

(C) If a request for a proceeding under this subsection is not made within ten days or if, at the close of such a proceeding, the determination of the court regarding the use, relevance, or admissibility of the classified information at issue is favorable to the defendant, the court shall authorize the defendant to disclose or cause the disclosure of the classified information at the trial or at any pretrial hearing, but such disclosure may not be made before the time for the United States to appeal such determination under section 108 has expired. If the United States takes such an appeal, such disclosure may not be made until such appeal is decided.

(b) (1) Whenever a defendant in a Federal prosecution intends to take any action to disclose or cause the disclosure, during the trial or any pretrial hearing, of any classified information and the defendant has not given notice under subsection (a) (1) with respect to such disclosure because the interest of the defendant in such disclosure reasonably could not have been anticipated before the expiration of the time for giving such notice, the defendant shall, before taking such action, notify the court and the attorney for the United States of such intention and shall not disclose or cause the disclosure of such information unless authorized by the court to do so in accordance with this title. Such notice shall include a brief description of the classified information that is the subject of such notice.

(2) (A) Within forty-eight hours of the receipt of a notification under paragraph (1), the United States, by written petition of the Attorney General, may request the court to conduct a proceeding to make all determinations concerning the use, relevance, or admissibility of the classified information at issue. Upon such a request, the court shall conduct such a proceeding.

(B) Any proceeding held pursuant to a request under subparagraph (A) (or any portion of such proceeding specified in the request of the Attorney General) shall be held in camera if the Attorney General certifies to the court in such petition that a public proceeding may result in the disclosure of classified information.

(C) If a request for a proceeding under this subsection is not made within forty-eight hours or if, at the close of such a proceeding, the determination of the court regarding the use, relevance, or admissibility of the classified information at issue is favorable to the defendant, the court, subject to the provisions of section 106, shall authorize the defendant to disclose or cause the disclosure of the classified information at the trial or any pretrial hearing, but such disclosure may not be made before the time for the United States to appeal such determination under section 108 has expired. If the United States takes such an appeal, such disclosure may not be made until such appeal is decided. In any order of the court under this subsection that is favorable to the defendant, the court shall specify the time to be allowed the United States to appeal such order under section 108.

(c) (1) At any time before or during trial the United States, by written petition of the Attorney General, may request the court to conduct a proceeding to make all determinations concerning the use, relevance, or admissibility of classified information which has not been the subject of notice under subsection (a)(1) or (b)(1). Upon such a request, the court shall conduct such a proceeding.

(2) Any proceeding held pursuant to a request under paragraph (1) (or any portion of such proceeding specified in the request of the Attorney General) shall be held in camera if the Attorney General certifies to the court in such petition that a public proceeding may result in the disclosure of classified information.

(3) If, at the close of a proceeding held pursuant to this subsection, the determination of the court regarding the use, relevance, or admissibility of the classified information at issue is favorable to the defendant, the court, subject to the provisions of section 106, shall authorize the defendant to disclose or cause the disclosure of the classified information at the trial or at any pretrial hearing, but such disclosure may not be made before the time for the United States to appeal such determination under section 108 has expired. If the United States takes such an appeal, such disclosure may not be made until such appeal is decided. In any order of the court under this subsection that is favorable to the defendant, the court shall specify the time to be allowed the United States to appeal such order under section 108.

(d) Upon receiving a request from the United States for a proceeding under subsection (a)(2), (b)(2), or (c)(1), the court shall issue an order prohibiting the defendant from disclosing or causing the disclosure of the classified information at issue pending conclusion of the proceeding.

(e) Before any proceeding is conducted pursuant to a request by the United States under subsection (a)(2), (b)(2), or (c)(1), the United States shall provide the defendant with notice of the classified information that is at issue. Such notice shall identify the specific classified information at issue whenever that information previously has been made available to the defendant by the United States. When the United States has not previously made the information available to the defendant, the information may be described by generic category, in such form as the court may approve, rather than by identification of the specific information of concern to the United States.

(f) During the examination of a witness by a defendant in any criminal proceeding, the United States may object to any question or line of inquiry that may require the witness to disclose classified information not previously found to be admissible in accordance with the procedures established by this title. Upon such an objection, the court shall take such action to determine whether the response is admissible as will safeguard against the disclosure of any classified information. Such action may include requiring the United States to provide the court with a proffer of the response of the witness to the question or line of inquiry anticipated by the United States and requiring the defendant to provide the court with a proffer of the nature of the information sought to be elicited.

ALTERNATIVE PROCEDURE FOR DISCLOSURE OF CLASSIFIED INFORMATION

SEC. 103. (a) Upon any determination by the court authorizing the disclosure of specific classified information under the procedures established by section 102, the United States may move that, in lieu of the disclosure of such specific classified information, the court order—

(1) the substitution for such classified information of a statement admitting relevant facts that the specific classified information would tend to prove; or

(2) the substitution for such classified information of a summary of the specific classified information.

The court shall grant such a motion of the United States if it finds that the statement or summary will provide the defendant with substantially the same ability to make his defense as would disclosure of the specific classified information. The court shall hold a hearing on any motion under this section. Any such hearing shall be held in camera at the request of the Attorney General.

(b) The United States may, in connection with a motion under subsection (a), submit to the court an affidavit of the Attorney General certifying that disclosure of the classified information would cause identifiable damage to the national security of the United States and explaining the basis for the classification of such information. If so requested by the United States, the court shall examine such affidavit in camera and ex parte.

SEALING OF RECORDS OF IN CAMERA PROCEEDINGS

SEC. 104. If at the close of an in camera proceeding under this title (or any portion of a proceeding under this title that is held in camera) the court determines that the classified information at issue may not be disclosed or elicited at the trial or any pretrial hearing, the record of such in camera proceeding shall be sealed and preserved by the court for use in the event of an appeal.

PROHIBITION ON DISCLOSURE OF CLASSIFIED INFORMATION BY DEFENDANT, RELIEF FOR DEFENDANT WHEN UNITED STATES OPPOSES DISCLOSURE

SEC. 105. (a) Whenever the court denies a motion by the United States that it issue an order under section 103(a) and the United States files with the court an affidavit of the Attorney General objecting to disclosure of the classified information at issue, the court shall order that the defendant not disclose or cause the disclosure of such information.

(b) Whenever a defendant is prevented by an order under subsection (a) from disclosing or causing the disclosure of classified information, the court shall dismiss the indictment or information; except that, when the court determines that the interests of justice would not be served by dismissal of the indictment or information, the court shall order such other action, in lieu of dismissing the indictment or information, as the court determines is appropriate. Such action may include—

(1) dismissing specified counts of the indictment or information;

(2) finding against the United States on any issue as to which the excluded classified information relates; or

(3) striking or precluding all or part of the testimony of a witness.

FAILURE OF DEFENDANT TO PROVIDE PRETRIAL NOTICE

SEC. 106. If a defendant fails to comply with the notice requirements of subsection (a) or (b) of section 102 and the court finds that the defendant's need to disclose or cause the disclosure of the classified information at issue reasonably could have been anticipated before the expiration of the time for giving such notice under such subsection, the court may prohibit the defendant from disclosing or causing the disclosure of such classified information during trial and may prohibit the examination by the defendant of any witness with respect to any such information.

RECIPROCITY; DISCLOSURE BY THE UNITED STATES OF REBUTTAL EVIDENCE

SEC. 107. (a) Whenever the court determines, in accordance with the procedures prescribed in section 102, that classified information may be disclosed in connection with a criminal trial or pretrial hearing or issues an order pursuant to section 103(a), the court shall—

(1) order the United States to provide the defendant with the information it expects to use to rebut the particular classified information at issue; and

(2) order the United States to provide the defendant with the name and address of any witness it expects to use to rebut the particular classified information at issue if, taking into account the nature and extent of the defendant's disclosures, the probability of harm to or intimidation or bribery of a witness, and the probability of identifiable harm to the national security, the court determines that such order is appropriate.

(b) If the United States fails to comply with an order under subsection (a), the court, unless it finds that the use at trial of information or a witness reasonably could not have been anticipated, may exclude any evidence not made the subject of a required disclosure and may prohibit the examination by the United States of any witness with respect to such information.

(c) Whenever the United States requests a pretrial proceeding under section 102, the United States, upon request of the defendant, shall provide the defendant with a bill of particulars as to the portions of the indictment or information which the defendant identifies as related to the classified information at issue in the pretrial proceeding. The bill of particulars shall be provided before such proceeding.

(d) The provisions of this section shall not apply to classified information provided by the United States to the defendant pursuant to a discovery request, unless the court determines that the interests of fairness so require.

APPEALS BY THE UNITED STATES

SEC. 108 (a) The United States may appeal to a court of appeals before or during trial from any decision or order of a district court in a criminal case requiring or authorizing the production, disclosure, or use of classified information, imposing sanctions for nondisclosure of classified information, or denying the issuance of a protective order sought by the United States to prevent the disclosure of classified information, if the Attorney General certifies to the district court that the appeal is not taken for purpose of delay.

(b)(1) If an appeal under this section is taken before the trial has begun, the appeal shall be taken within ten days after the date of the decision or order appealed from, and the trial shall not commence until the appeal is decided.

(2) If an appeal under this section is taken during the trial, the trial court shall adjourn the trial until the appeal is resolved, and the court of appeals (A) shall hear argument on such appeal within four days of the adjournment of the trial, (B) may dispense with written briefs other than the supporting materials previously submitted to the trial court, (C) shall render its decision within four days of argument on appeal, and (D) may dispense with the issuance of a written opinion in rendering its decision.

(c) Any appeal and decision under this section shall not affect the right of the defendant, in a subsequent appeal from a judgment of conviction, to claim as error reversal by the trial court on remand of a ruling appealed from during trial.

PROTECTIVE ORDERS; DISCOVERY; INTRODUCTION OF EVIDENCE

SEC. 109. (a) Upon motion of the United States, the court shall issue an order to protect against the disclosure of any classified information disclosed by the United States to any defendant in any criminal case in a district court of the United States.

(b) Whenever the court determines pursuant to rule 16 of the Federal Rules of Criminal Procedure that the defendant is entitled to discover or inspect documents or materials containing classified information, the court shall authorize the United States to delete classified information from the documents or materials to be made available to the defendant, to substitute a summary of the classified information, or to substitute a statement admitting relevant facts that the classified information would tend to prove, if the court finds that such action will provide the defendant with substantially the same ability to prepare for trial or make his defense as would disclosure of the specific classified information. The court may permit the United States to make a request for such authorization in the form of a written statement to be inspected by the court alone. If the court enters an order granting relief following such an ex parte showing, the entire text of the statement of the United States shall be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal.

(c) Writings, recordings, and photographs containing classified information may be admitted into evidence without change in their classification status.

(d) When a writing or recorded statement (or a part thereof) is introduced into evidence by the United States, the court, upon motion of the defendant, may require the United States at that time to introduce any other writing or recorded statement (or any other part of the statement introduced) which ought in fairness to be considered contemporaneously with the statement introduced and which is relevant to the defendant's case. If such other writing or recorded statement, or such other part, contains classified information, the court, at the request of the United States, shall conduct the hearing on the defendant's motion in camera. If, at the conclusion of such hearing, the court requires the United States to introduce classified information, the procedures of section 103 shall apply.

(e) The United States may notify the court and the defendant before trial if it intends to introduce during the trial only a part of a writing or recorded statement containing classified information. Upon such notification, the court shall conduct, before the trial, an in camera proceeding to make the determinations required by section 109 (d).

SECURITY PROCEDURES

SEC. 110. (a) Within one hundred and twenty days of the date of the enactment of this Act, the Chief Justice of the United States, in consultation with the Attorney General and the Director of Central Intelligence, shall prescribe rules establishing procedures for the protection against unauthorized disclosure of any classified information in the custody of the United States district courts, courts of appeals, or Supreme Court. Such rules, and any changes in such rules, shall be submitted to the appropriate committees of Congress and shall become effective forty-five days after such submission.

(b) Until such time as rules under subsection (a) first become effective, the Federal courts shall in each case involving classified information adopt procedures to protect against the unauthorized disclosure of such information.

IDENTIFICATION OF INFORMATION RELATED TO THE NATIONAL DEFENSE

SEC. 111. In any prosecution in which the United States must establish as an element of the offense that material relates to the national defense or constitutes classified information, the United States shall notify the defendant, at the time of the pretrial conference or, if no such conference is held, at a time before trial specified by the court, of the portions of the material that it reasonably expects to rely upon to establish such element of the offense.

FUNCTIONS OF ATTORNEY GENERAL MAY BE EXERCISED BY DEPUTY ATTORNEY GENERAL AND A DESIGNATED ASSISTANT ATTORNEY GENERAL

SEC. 112. The functions and duties of the Attorney General under this title may be exercised by the Deputy Attorney General and by an Assistant Attorney General designated by the Attorney General for such purpose and may not be delegated to any other official.

DEFINITION

SEC. 113. As used in this title, the term "classified information" means information or material that is designated and clearly marked or clearly represented, pursuant to the provisions of a statute or Executive order (or a regulation or order issued pursuant to a statute or Executive order), as information requiring a specific degree of protection against unauthorized disclosure for reasons of national security or any Restricted Data, as defined in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

TITLE II—GUIDELINES AND REPORTS

GUIDELINES PRESCRIBED BY THE ATTORNEY GENERAL

SEC. 201. Within ninety days of the date of the enactment of this Act, the Attorney General shall issue guidelines specifying the factors to be used by the Department of Justice in deceding whether to prosecute a violation of Federal law in which there is a possibility that classified information will be disclosed. Such guidelines shall be promptly transmitted to the appropriate committees of the Congress.

ANNUAL REPORT TO CONGRESS BY THE ATTORNEY GENERAL

SEC. 202. The Attorney General shall report to the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, and the chairmen and ranking minority members of the Committees on the Judiciary of the Senate and the House of Representatives once each year concerning the operation and effectiveness of this Act. Such report shall include summaries of those cases in which a decision not to prosecute or not to continue a prosecution was made because of the possibility that classified information would be disclosed.

TITLE III—EFFECTIVE DATE

SEC. 301. The provisions of this Act shall become effective upon the date of the enactment of this Act, but shall not apply to any prosecution in which an indictment or information was filed before such date.

The SPEAKER pro tempore. Is a second demanded?

Mr. McCLORY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

□ 1430

The SPEAKER pro tempore. The gentleman from Kentucky (Mr. MAZZOLI) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. McCLORY) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from the Commonwealth of Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I move to suspend the rules and consider the bill (H.R. 4736) which responds to a phenomenon currently threatening both the fair administration of justice and the effective operation of our intelligence services.

The phenomenon has come to be called "graymail." Graymail occurs when the Government is prevented from initiating a prosecution or is forced to dismiss a pending prosecution because of its fear that the defendant will disclose or cause the disclosure of classified information during trial.

This phenomenon is not limited to espionage prosecutions. Graymail can also occur—indeed, it has occurred—in narcotics and murder trials, as well as in cases involving the prosecution of Government officials and businessmen.

In its worst extent graymail appears when a defendant threatens to disclose any and all classified information in his possession, whether or not it is related to the issues of the case. Graymail may also mean nothing more than that a defendant is exercising his legitimate rights to defend himself through the use of relevant and admissible classified information.

In either instance, however, the result may be the same: A criminal case is terminated prematurely, justice is not done, and public confidence in our prosecutional authorities is lessened.

H.R. 4736 is intended to insure that classified information which bears no possible relationship to the issues in a criminal trial is not disclosed. It is also intended to insure that classified information that is relevant to the defendant's case will be identified prior to trial, before it is publicly revealed, so that the Government can make an informed decision in determining whether or not the benefits of prosecution will outweigh the harm stemming from public disclosure of such information.

The heart of the bill is its requirement that a criminal defendant notify the court and the Government before trial of any intention to disclose or cause the disclosure of classified information during trial. The Government may then obtain, prior to trial and in camera a ruling on the relevance or admissibility of the information and may take an interlocutory appeal from an adverse decision. It is to be emphasized that the bill does not alter the existing standards for determining relevance or admissibility.

In some instances, if the court makes the specific determination that to do so would provide the defendant with substantially the same ability to make his defense, the court may order that a specific item of classified information be replaced by a summary thereof or a stipulation to the facts such information tends to prove. The bill also requires the Government to provide the defendant with pretrial notice of the evidence it intends to use to rebut the information furnished in advance by the defendant.

Title II of the bill is directed at the preindictment stage of the criminal process. It is intended to insure that the executive branch has its own house in order and that the initial decisions on whether to seek an indictment in a case where classified information is likely to arise is made pursuant to established criteria and after all the consequences of a decision have been carefully considered. Thus title II directs the Attorney General to promulgate guidelines to be used by the Department of Justice in deciding whether or not to prosecute a case in which there is a possibility that classified information will be disclosed. In addition, the Department of Justice must report annually to the Intelligence Committees on the operation of the act. The report must include summaries of those cases which were not pursued because of the possibility that classified information would be disclosed. The Judiciary Committee amendment, on which there is agreement, would extend this reporting to the chairmen and ranking minority members of the Judiciary Committees of both Houses.

Title III of the bill provides that the bill will become effective upon enactment, except that the new procedures shall not apply to any prosecution formally begun before the date of enactment.

Mr. Speaker, this bill was reported unanimously by both the Intelligence Committee and the Judiciary Committee. A similar bill was also reported unanimously by the Senate Judiciary Committee and passed the Senate without any opposing votes. The members and staff of these committees have spent many hours attempting to carefully craft this legislation so that, without impinging on the rights of criminal defendants, it will enable the Government to more effectively prove cases involving classified information. We have worked very closely with Senator BIDEN, Senator KENNEDY, and Assistant Attorney General Heymann and their able staffs, as well as with interested members of the Defense Bar and groups such as the ACLU and the American Bar Association.

I am proud to say that all these interested parties support the legislation, and I urge its adoption.

Mr. McCLORY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4736, the Classified Information Criminal Trial Procedures Act. This legislation would provide a definitive structure to what is currently a chaotic and hazy situation when classified information becomes a matter of importance in a criminal prosecution.

Mr. Speaker, the problem of graymail is presented when the Government must choose between dismissing a criminal prosecution or facing the possible court ordered disclosure at trial of sensitive, classified national security information. The major impediment to solving this problem is lack of clarity as to the legal relevance in a criminal trial of an individual piece of classified information. Sometimes a defendant will attempt to blackmail the Government into dismissing a case by threatening to disclose certain classified matters at trial. At other times, classified information is, indeed, relevant to a legitimate defense to a criminal charge, but the Government has no recourse to a legislative mechanism for ameliorating the Government's difficulty.

H.R. 4736 provides a well reasoned, delicately balanced solution to this extremely complex problem.

H.R. 4736 would establish a mechanism whereby legal issues in a criminal prosecution relating to classified information would for the most part be resolved prior to trial. Closed, in camera hearings would be held by the court, so that only those bits of evidence which the judge rules, in advance, to be relevant to the defense would be admissible. However, in order to provide reasonable flexibility for the defendant classified issues which he could not have anticipated prior to trial can be likewise dealt with on an in camera basis during the trial itself.

The net result of these procedures is to allow the Government certainty as to what classified information will have to be released at trial and thereby permit the Government to aggressively prosecute violations of the Federal criminal laws without having to endanger our national security.

Mr. Speaker, I urge the House to pass H.R. 4736.

Mr. Speaker, I am happy to yield such time as he may consume to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, I thank my friend, the gentleman from Illinois, for yielding.

Mr. Speaker, just last week criminal trials began here in Washington for two high Government officials involved several years ago in Watergate: W. Mark Felt and Edward F. Miller Their superior, former FBI Director L. Patrick Grey, has yet to come to trial. The reason these trials have taken so long to commence is due in part to the continuing controversy over graymail.

Very simply, graymail has come to represent an attempt by a criminal defendant to delay prosecution or have charges against him dropped altogether as a result of his claim that he will seek disclosure of classified materials as part of the defense. Legislation designed to streamline this process has been bouncing around Congress for a number of years and a two-thirds vote today would go a long way to achieving enactment before the Congress closes its doors for this year.

The bill requires that a criminal defendant give notice of his intention to use classified material in his defense at trial. Having done this, the Government would be entitled to a private, in camera adversary proceeding before a Federal judge. Once this hearing has been concluded, the judge would then be empowered to either bar disclosure of the material or permit disclosure of some or all of it. If the Government is dissatisfied with the judge's decision, it may immediately take an interlocutory appeal to the appropriate appellate court.

This is a bill which has the support of both the Department of Justice, the FBI, and the ACLU. It is a bill which I have supported continuously since its introduction and which deserves passage.

During committee consideration, I joined my colleague from Virginia (Mr. BUTLER) in expressing my concern that certain provisions of the bill seemed to require that the Department of Justice file an annual report on its progress to both the Intelligence and the Judiciary Committees of the House and Senate. It was my feeling then, and I am pleased to say that the committee report now clarifies my concerns, that any reporting obligation should be limited to a statistical report on the progress of the bill and should address intself to no classified materials. It is my understanding that the chairman of the subcommittee, Mr. EDWARDS, agrees with this interpretation.

Mr. BUTLER is satisfied, as am I, and I therefore endorse this legislation and urge my colleagues to do likewise.

Mr. MAZZOLI. Mr. Speaker, I yield such time as he would desire to the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Speaker, I thank the gentleman from Kentucky for yielding.

First of all, I would like to complement the floor manager of this bill, the gentleman from Kentucky, and the other members of the House Permanent Select Committee on Intelligence on the excellent job they did in drafting this legislation. The Intelligence Committee spent months working closely with the Justice Department, the intelligence community, the defense bar, and other interested groups to develop legislation in this area.

In its own consideration of the legislation, it became immediately apparent to the Judiciary Committee that there was a remarkably broad range of support for the bill. That range of support I think indicates how well the Intelligence Committee balanced all of the competing interests at stake in this bill.

I do not always see eye to eye with my colleagues on the House Intelligence Committee, particularly in areas where fundamental constitutional rights could be affected. In this case, important sixth amendment rights of confrontation and compulsory process were closely entwined with virtually every aspect of this bill.

But the proper balance between the needs of national security and constitutional guarantees was struck by the Intelligence Committee. The unanimous vote in the Judiciary Committee is a further indication that this bill deserves the support of this body.

The bill is a lawyer-like response to a series of delicate legal problems. It is primarily a procedural bill. It does not attempt to alter substantive rights or to change the rules of evidence or criminal procedure. It is a workable solution to the graymail dilemma and as such I think deserves the support of the House.

● Mr. BOLAND. Mr. Speaker, I rise in strong support of H.R. 4736, the Classified Information Criminal Trial Procedures Act. It is a carefully crafted effective solution to the graymail problem which has burdened our criminal justice system for several years.

The gist of the problem is that there now exists no uniform procedural mechanism enabling the Government to determine, pretrial, what classified information will be disclosed during trial. Without such knowledge, a decision on whether to prosecute a case involving classified information is at best a guessing game and a decision not to prosecute—based on fear of the unknown—is the likely result.

H.R. 4736 will enable the Government to make an informed decision in such cases and result in both the better administration of justice and fewer unnecessary disclosures of classified information. These results will be achieved without impinging on the rights of criminal defendants.

The wide-ranging bipartisan support which H.R. 4736 commands is perhaps the best evidence that the problems it addresses are real and immediate and that the manner in which it addresses them is correct. The bill is supported by the CIA and the ACLU, by the Justice Department and the Center for National Security Studies. It has been endorsed by the American Bar Association. It was reported without a dissenting vote by both the Judiciary Committee and the Intelligence Committee.

Such a coalescence of support also attests to the skill and dedication brought to this endeavor by the members and staff of the Intelligence and Judiciary Committees, and those with whom they worked closely in the Senate and Department of Justice.

The gentleman from Kentucky (Mr. MAZZOLI) has worked particularly long and hard on this measure, as have the gentlemen from Illinois (Mr. MURPHY, Mr. MCCLORY, and Mr. HYDE), and the gentleman from California (Mr. EDWARDS). I commend them for their efforts and urge your support for this important legislation which is the product of their labors.●

□ 1440

Mr. MAZZOLI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky (Mr. MAZZOLI) that the House suspend the rules and pass the bill, H.R. 4736, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the Permanent Select Committee on Intelligence, be discharged from further consideration of the Senate bill (S. 1482) to provide certain pretrial, trial, and appellate procedures for criminal cases involving classified information, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1482

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Classified Information Procedures Act".

DEFINITIONS

SEC. 1. (a) "Classified information", as used in this Act, means any information or material that has been determined by the United States Government pursuant to an Executive order, statute, or regulation, to require protection against unauthorized disclosure for reasons of national security and any restricted data, as defined in section 2014(y) of title 42, United States Code.

(b) "National security", as used in this Act, means the national defense and foreign relations of the United States.

PRETRIAL CONFERENCE

SEC. 2. At any time after the filing of the indictment or information, any party may move for a pretrial conference to consider matters relating to classified information that may arise in connection with the prosecution. Following such motion, or on its own motion, the court shall promptly hold a pretrial conference to establish the timing of requests for discovery, the provision of notice required by section 5 of this Act, and the initiation of the procedure established by section 6 of this Act. In addition, at the pretrial conference the court may consider any other matters which relate to classified information or which may promote a fair and expeditious trial.

PROTECTIVE ORDERS

SEC. 3. Upon request of the Government, the court shall issue a protective order to guard against the compromise in connection with a prosecution by the United States of any classified material.

DISCLOSURE OF CLASSIFIED INFORMATION TO DEFENDANTS

SEC. 4. The court may authorize the Government to delete specified items of classified information from documents to be made available to the defendant, to substitute a summary of the information for such classified documents, or to substitute a statement admitting relevant facts that the classified information would tend to prove. The Government's motion requesting such authorization and materials submitted in support thereof shall, upon request of the Government, be considered by the court in camera and not disclosed to the defendant.

NOTICE OF DEFENDANT'S INTENTION TO DISCLOSE CLASSIFIED INFORMATION

SEC. 5. (a) Notice by Defendant.—If a defendant reasonably expects to disclose or to cause the disclosure of classified information in any manner in connection with any trial or pretrial proceeding involving the criminal prosecution of such defendant, the defendant shall, within the time specified by the court or where no time is specified within thirty days prior to trial, notify the attorney for the Government and the court in writing. Whenever a defendant learns of additional classified information he reasonably expects to disclose at any such proceeding, he shall notify the attorney for the Government and the court in writing as soon as possible thereafter. Such notice shall include a brief description of the classified information. No defendant shall disclose any information known or believed to be classified in connection with a trial or pretrial proceeding until notice has been given under this subsection, until the Government has been afforded a reasonable opportunity to seek a determination pursuant to the procedure set forth in section 6 of this Act, and until the time for the Government to appeal such determination under section 7 has expired or any appeal under section 7 by the Government is decided.

(b) FAILURE TO COMPLY.—If the defendant fails to comply with the requirements of subsection (a) the court may preclude disclosure of any classified information not made the subject of notification and may prohibit the examination by the defendant of any witness with respect to any such information.

PROCEDURE FOR CASES INVOLVING CLASSIFIED INFORMATION

SEC. 6. (a) MOTION FOR HEARING.—After the United States receives notification pursuant to section 5 or otherwise learns of any classified information that the defendant may disclose or cause to be disclosed at a trial or pretrial proceeding, the Government may, within the time specified by the court, move for a hearing concerning any such information. In connection with its motion, the Government may submit the classified information along with an explanation of the basis for the classification to the court for its examination in camera and shall provide the court with an affidavit of the Attorney General, the Deputy Attorney General, or a designated Assistant Attorney General certifying that the information is classified. The hearing, or specified portion thereof, shall be held in camera whenever the Government certifies that a public proceeding may result in the compromise of classified information.

(b) HEARING.—(1) Prior to the hearing, the Government shall provide the defendant with notice of the information that will be at issue. This notice shall identify the specific classified information that will be at issue whenever that information has previously been made available to the defendant in connection with the pretrial proceedings. The Government may describe the information by generic category approved by the Court rather than identifying the specific information of concern to the Government when the Government has not previously made the information available to the defendant in connection with the pretrial proceedings.

(2) Following a hearing, the court shall determine whether and the manner in which the information at issue may be used in a trial or pretrial proceeding. As to each item of classified information, the court shall set forth in writing the basis for its determination. Where the Government's motion under subsection (a) is filed prior to the trial or pretrial proceeding, the court shall rule prior to the commencement of the relevant proceeding.

(4)(A) If the court determines that the information may not be disclosed or elicited at a pretrial or trial proceeding the record of the hearing shall be sealed and preserved by the Government in the event of an appeal. The defendant may seek reconsideration of the court's determination prior to or during trial.

(B) In lieu of authorizing disclosure of the specific classified information, the court shall, if it finds that the defendant's right to a fair trial will not be prejudiced, order—

(i) substitution of a statement admitting relevant facts that the specific classified information would tend to prove, or

(ii) substitution of a summary or portion of a specific classified information.

(C) If the court determines that these alternatives to full disclosure may not be used and the Government provides the court with an affidavit of the Attorney General, Deputy Attorney General, or designated Assistant Attorney General objecting to disclosure of the information, the court shall issue any order which is required in the interest of justice. Such an order may include, but need not be limited to an order—

(i) striking or precluding all or part of the testimony of a witness; or

(ii) declaring a mistrial; or

(iii) finding against the Government on any issue as to which the evidence relates; or

(iv) dismissing the action, with or without prejudice; or

(v) dismissing specified counts of the indictment against the defendant.

Any such order shall permit the Government to avoid the sanction for nondisclosure by agreeing to permit the defendant to disclose the information at the pertinent trial or pretrial proceeding. The Government may exercise its right to take an interlocutory appeal prior to determining whether to permit disclosure of any classified information.

(c) RECIPROCITY.—Whenever the court determines pursuant to subsection (b) that classified information may be disclosed in connection with a trial or pretrial proceeding, the court shall, unless the interest of fairness does not so require, order the Government to provide the defendant with the information it expects to use to rebut the classified information. The court may place the Government under a continuing duty to disclose such rebuttal information. If the Government fails to comply with its obligation under this subsection, the court may exclude any evidence not made the subject of a required disclosure and may prohibit the examination by the Government of any witnes with respect to such information.

INTERLOCUTORY APPEAL

SEC. 7. (a) An interlocutory appeal by the United States taken before or after the defendant has been placed in jeopardy shall lie to a court of appeals from a decision or order of a district court in a criminal case requiring the disclosure of classified information, imposing sanctions for nondisclosure of classified information, or refusing a protective order sought by the United States to prevent the disclosure of classified information.

(b) An appeal taken pursuant to this section either before or during trial shall be expedited by the court of appeals. Prior to trial, an appeal shall be taken within ten days after the decision or order appealed from and the trial shall not commence until the appeal is resolved. If an appeal is taken during trial, the trial court shall adjourn the trial until the appeal is resolved and the court of appeals (i) shall hear argument on such appeal within four days of the adjournment of the trial, (ii) may dispense with written briefs other than the supporting materials previously submitted to the trial court, (ii) shall render its decision within four days of argument on appeal, and (iv) may dispense with the issuance of a written opinion in rendering its decision. Such appeal and decision shall not affect the right of the defendant, in a subsequent appeal from a judgment of conviction, to claim as error reversal by the trial court on remand of a ruling appealed from during trial.

INTRODUCTION OF CLASSIFIED INFORMATION

SEC. 8. (a) CLASSIFICATION STATUS.—Writings, recordings, and photographs containing classified information may be admitted into evidence without change in their classification status.

(b) PRECAUTIONS BY COURT.—The court, in order to prevent unnecessary disclosure of classified information involved in any criminal proceeding, may order admission into evidence of only part of a writing, recording, or photograph, or may order admission into evidence of the whole writing, recording, or photograph with excision of some or all of the classified information contained therein.

(c) TAKING OF TESTIMONY.—During the examination of a witness in any criminal proceeding, the Government may object to any question or line of inquiry that may require the witness to disclose classified information not previously found to be admissible. Following such an objection, the court shall take such suitable action to determine whether the response is admissible as will safeguard against the compromise of any classified information. Such action may include requiring the Government to provide the court with a proffer of the witness' response to the question or line of inquiry and requiring the defendant to provide the court with a proffer of the nature of the information he seeks to elicit.

SECURITY PROCEDURES TO SAFEGUARD AGAINST COMPROMISE OF CLASSIFIED INFORMATION DISCLOSED TO THE COURT

SEC. 9. (a) Within one hundred and twenty days following the date of enactment of this Act, the Chief Justice of the United States, in consultation with the Attorney General, the Director of Central Intelligence, and the Secretary of Defense, shall prescribe security procedures for protection against the compromise of classified information submitted to the Federal district courts, the courts of appeals, and the Supreme Court.

(b) Until such time as procedures are promulgated pursuant to subsection (a), the Federal courts shall in each case involving classified information adopt procedures to protect against the compromise of such information.

IDENTIFICATION OF INFORMATION RELATED TO THE NATIONAL DEFENSE

SEC. 10. In any prosecution in which the Government must establish that material relates to the national defense or constitutes classified information, the Government shall notify the defendant, within the time specified by the court, of the portions of the material that it reasonably expects to rely upon to establish the national defense or classified information element of the offense.

SEC. 11. Section 1 through 10 of this Act may be amended as provided in section 2076, title 28, United States Code.

ATTORNEY GENERAL GUIDELINES

SEC. 12. (a) Within one hundred and eighty days of enactment of this law, the Attorney General shall issue guidelines specifying the factors to be used by the Department of Justice in rendering a decision whether to prosecute a violation of Federal law in which, in the judgment of the Attorney General, there is a possibility that classified information will be revealed. Such guidelines shall be transmitted to the appropriate committees of Congress.

(b) When the Department of Justice decides not to prosecute a violation of Federal law pursuant to subsection (a), an appropriate official of the Department of Justice shall prepare written findings detailing the reasons for the decision not to prosecute. The findings shall include—

(1) the intelligence information which the Department of Justice officials believe might be disclosed,

(2) the purpose for which the information might be disclosed,

(3) the probability that the information would be disclosed, and

(4) the possible consequences such disclosure would have on the national security.

(c) Consistent with applicable authorities and duties, including those conferred by the Constitution upon the executive and legislative branches, the Attorney General or his designee shall report orally or in writing semiannually to the Permanent Select Committee on Intelligence of the United States House of Representatives and the Select Committee on Intelligence of the United States Senate on all cases where a decision not to prosecute a violation of Federal law pursuant to subsection (a) has been made.

REPORTS TO CONGRESS

SEC. 13. The Attorney General shall deliver to appropriate committees of Congress a report concerning the operation and effectiveness of this Act and including suggested amendments to this Act. For the first three years this Act is in effect, there shall be a report each year. After three years, such reports shall be delivered as necessary.

MOTION OFFERED BY MR. MAZZOLI

Mr. MAZZOLI. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAZZOLI moves to strike out all after the enacting clause of the Senate bill, S. 1482, and to insert in in lieu thereof the provisions of H.R. 4736, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "An act to establish certain pretrial and trial procedures for the use of classified information in connection with Federal criminal cases, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 4736) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 1482

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill, S. 1482, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky? The Chair hears none, and without objection, appoints the following conferees: Messrs. BOLAND, MAZZOLI, EDWARDS of California, DRINAN, MCCLORY, and HYDE.

There was no objection.

GENERAL LEAVE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

SAFE DRINKING WATER ACT AMENDMENTS

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8117) to amend the Safe Drinking Water Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 8117

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 1416(b)(2) of the Public Health Service Act is amended by striking out "1981" in subparagraph (A)(i) thereof and substituting "1984" and by striking out "1983" in subparagraph (B)(i) thereof and substituting "1986".

SEC. 2. (a) Part C of title XIV of the Public Health Service Act is amended by adding the following at the end thereof:

"OPTIONAL DEMONSTRATION BY STATES RELATING TO OIL OR NATURAL GAS

"SEC. 1425. (a) For purposes of the Administrator's approval or disapproval under section 1422 of that portion of any State underground injection control program which relates to—

"(1) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

"(2) any underground injection for the secondary or tertiary recovery of oil or natural gas,

in lieu of the showing required under subparagraph (A) of section 1422(b)(1) the State may demonstrate that such portion of the State program meets the requirements of subparagraphs (A) through (D) of section 1421(b)(1) and represents an effective program (including adequate recordkeeping and reporting) to prevent underground injection which endangers drinking water sources.

"(b) If the Administrator revises or amends any requirement of a regulation under section 1421 relating to any aspect of the underground injection referred to in subsection (a), in the case of that portion of a State underground injection control program for which the demonstration referred to in subsection (a) has been made, in lieu of the showing required under section 1422(b)(1)(B) the State may demonstrate that, with respect to that aspect of such underground injection, the State program meets the requirements of subparagraph (A) through (D) of section 1421(b)(1) and represents an effective program (including adequate recordkeeping and reporting) to prevent underground injection which endangers drinking water sources.

"(c)(1) Section 1422(b)(3) shall not apply to that portion of any State underground injection control program approved by the Administrator pursuant to a demonstration under subsection (a) of this section (and under subsection (b) of this section where applicable).

"(2) If pursuant to such a demonstration, the Administrator approves such portion of the State program, the State shall have primary enforcement responsibility with respect to that portion until such time as the Administrator determines, by rule, that such demonstration is no longer valid. Following such a determination, the Administrator may exercise the authority of subsection (c) of section 1422 in the same manner as provided in such subsection with respect to a determination described in such subsection.

"(3) Before promulgating any rule under paragraph (2), the Administrator shall provide opportunity for public hearing respecting such rule.".

(b) Section 1423(a)(1) of such Act is amended by inserting after "(within the meaning of section 1422(b)(3)" the following: "or section 1425(c)".

(c) Section 1433(c)(2) of title XIV of the Public Health Service Act is amended by inserting the following at the end thereof: "Such term includes, where applicable, a program which meets the requirement of section 1425.".

SEC. 3. Section 1421(d)(1) of the Public Health Service Act is amended by adding the following at the end thereof: "Such term does not include the underground injection of natural gas for purposes of storage.".

SEC. 4. (a) Section 1415 of the Public Health Service Act is amended by inserting the following section heading at the beginning of such section: "Variances".

(b) Section 1416(a)(2) of the Public Health Service Act is amended by inserting immediately after "requirement," the following: "or, for a system that was not in operation by that date, only if no reasonable alternative source of drinking water is available to such new system,".

(c) Section 1421(b)(1)(A) of the Public Health Service Act is amended by striking out "effective three years after the date of the enactment of this title," and inserting in lieu thereof the following: "effective on the date on which the applicable underground injection control program takes effect,".

(d) Section 1443(b)(2) of the Public Health Service Act is amended by striking out the second and third sentences therein and inserting in lieu thereof the following: "No grant may be made to any State under paragraph (1) unless the State has assumed primary enforcement responsibility within two years after the date the Administrator promulgates regulations for State underground injection control programs under section 1421.".

SEC. 5. Section 1442 of title XIV of the Public Health Service Act is amended by inserting the following new subsection after subsection (d) and by redesignating subsection (e) as (f):

"(e) The Administrator is authorized to make grants to a public water system which is required, under State or local law, to meet standards relating to drinking water turbidity which are more stringent than the standards in effect pursuant to this title. Such grants shall be used by the public water system for the development and demonstration (including construction and installation) of any water filtration system which will demonstrate a new or improved method of meeting such more stringent standards.".

The SPEAKER pro tempore. Is a second demanded?

Mr. BROYHILL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. WAXMAN) will be recognized for 20 minutes, and the gentleman from North Carolina (Mr. BROYHILL) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when the Safe Drinking Water Act was reauthorized last year, I pledged that the Subcommittee on Health and the Environment would conduct vigorous oversight over the act and recommended needed amendments. Since then, the subcommittee has held 5 days of oversight hearings, including field hearings in Chicago and Pittsburgh. The bill which comes before you today is the product of that oversight.

During our hearings, many difficult and important issues were raised. We do not purport to have thoroughly dealt with all those issues in the reported bill. Rather, we have confined ourselves to proposing amendments to the Safe Drinking Water Act that are needed right away to adjust deadlines, or to improve Federal-State coordination, or to modify program coverage. We intend to undertake further oversight over the act in the next Congress and study possible additional changes to the act.

Section 1 of the bill extends for 3 additional years the power of the States to grant temporary case-by-case exemptions from the interim primary drinking water regulations. Thirteen thousand six hundred systems—most of them serving fewer than 2,500 people—are estimated by the Environmental Protection Agency to be unable to comply with the interim standards by the current January 1, 1981, statutory deadline. In the great majority of cases, noncompliance has been caused by lack of adequate leadtime or financial resources to make needed improvements. The additional exemption period permitted by this bill will allow orderly planning of needed improvements and will permit exploration of all available funding sources, such as through the Small Business Administration and the Farmers Home Administration.

Under the bill, the States would set compliance deadlines for systems on an individual basis. We expect that these compliance dates will be set on the basis of appropriate engineering studies to determine the alternatives available to the particular system. We expect also that systems will be brought into compliance as soon as possible, as is required by the act. In granting exemptions and setting compliance dates, no distinction is intended to be made between privately— and publicly—owned systems.

Section 2 provides States with an alternative means for States to acquire primary enforcement responsibility for the control of underground injection related to the recovery and production of oil and natural gas.

At present, a State may obtain primary enforcement responsibility for controlling underground injection only by showing that its underground injection control program meets the requirements of EPA regulations. Representatives of States that regulate underground injection related to the recovery or production of oil or natural gas testified in oversight hearings that they already have programs that meet the requirements of the Safe Drinking Water Act and prevent the underground injection which endangers drinking water sources. The bill would allow those States to continue their programs, unencumbered by additional Federal requirements, if they can demonstrate that their programs meet the requirements of the act. A State that can make this demonstration would be considered to have primary enforcement responsibility the same as a State that has met EPA's regulations.

Section 3 deletes the underground storage of natural gas from the statutory definition of underground injection. Natural gas storage operators testified in oversight hearings that the mere possibility of Federal regulation would discourage needed expansion of gas storage facilities. Since there currently is no evidence that gas storage poses a risk to drinking water quality, we chose to delete gas storage from the underground injection control program.

Section 4 makes various needed technical amendments. Section 5 allows grants to be made to a public water system for the purpose of developing a water filtration system which will demonstrate a new or improved method of meeting State turbidity standards that are stricter than Federal standards. A technical change has been made in this section to reflect the committee's intent that these grants be discretionary.

Mr. Speaker, the changes proposed in H.R. 8117 are necessary to a workable program of improving drinking water quality across the Nation. I commend all of those who have worked to bring forth this bill. I respectfully urge my colleagues to support H.R. 8117.

Mr. BROYHILL. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I would like to thank Mr. WAXMAN, chairman of the Subcommittee on Health and the Environment, for his efforts on behalf of H.R. 8117. This legislation makes necessary midcourse corrections in the administration of the Safe Drinking Water Act. Of course, the act will be scrutinized during the 1982 reauthorization process with an eye on more extensive changes to the extent they are necessary.

I would be remiss if I did not thank my colleague from Texas (Mr. GRAMM) and emphasize my support for his tireless efforts with respect to even more comprehensive adjustments in the existing statute.

Section 1 of H.R. 8117 extends for 3 years the power of the States to grant exemptions from the national interim primary drinking water regulations. Under the Safe Drinking Water Act, exemptions are the main source of local relief from the deadlines of the regulations. Because as of this date all EPA drinking water regulations are interim regulations, the exemption provision for such regulations would have been a dead letter without this legislation.

Of course, one of the reasons for this state of affairs is the fact that the Administrator of EPA has not issued revised national drinking water regulations. However, this reluctance to do so is understandable in light of substantial doubt concerning an adequate basis for such an action in view of the fact that the report on the study conducted by the National Academy of Sciences did not contain prerequisite proposals for recommended maximum contaminant levels.

To compensate for the expected demise of the exemption program for interim regulations, EPA had proposed a strategy of enforcement priority for small systems.

The extending of exemption deadlines has several advantages over the small systems strategy. First, thousands of systems which would be in violation of law would not be carrying the stigma and anxiety of such violations if they obtained an exemption. Second, an exemption shields the systems from citizen suits to require compliance with Federal standards under section 1449 of the act. Third, a utility that obtains an exemption is not subject to an EPA enforcement action under section 1414 of the act. Fourth, civil proceedings for violating Federal standards under section 1414 may not be maintained against a system that has been granted an exemption except where the system fails to comply with its compliance schedule. Fifth, EPA has only restricted authority to police State exemption practices under section 1416. Sixth, a decision on the State granting of exemptions is subject to judicial review under section 1448.

I have been somewhat concerned that the guidelines for determinations of economic factors for granting exemptions as presented in EPA's "Guidance for the Issuance of Variances and Exemptions" have been unduly restrictive. However, EPA was wise enough in its preface in that document to indicate that it will comprehensively review State-issued exemptions at best every 3 years. State regulators are best positioned to judge whether there are compelling factors affecting a local system's ability to comply with the unique circumstances presented by each case. The Committee on Interstate and Foreign Commerce made it clear in its report accompanying this bill that EPA should not exercise its limited authority to revoke exemptions if the States are making good faith efforts at implementation of the law.

The committee made clear its intentions that private and public water suppliers be treated alike because the customer economic impact will be the same. Any language in the guidance documents indicating a bias toward financial constraints peculiar to public systems is, therefore, too restrictive. In any event, States have broad authority to issue exemptions under certain statutory requirements without reference to any set formula. I might mention in passing that in a portion of the committee report dealing with exemptions, due to a clerical error, the last phrase of a sentence which should have read "the committee does not believe that whether a system is privately or publicly owned is relevant in determining this date or whether an exemption is granted" was inadvertently placed in the last sentence of that paragraph.

Section 2 of the bill should free the producing States which have been doing a good job of regulating underground injection relating to oil and natural gas from the requirements of EPA regulations and allow them to continue their current programs. This would result in substantial saving to consumers and relieve a matter which would otherwise exacerbate Federal-State relations. States have demonstrated substantial expertise and effectiveness in protecting underground sources of drinking water in oil and gas operations. I might say that I thought that Federal regulations in this area of underground injection were unnecessary and disruptive in the first instance and interfered and impeded oil and gas operations.

Section 3 of the bill was necessary to prevent EPA from discouraging expansion of natural gas storage facilities. Gas storage facilities have not proved a threat to drinking water quality.

I urge my colleagues to support the bill.

☐ 1450

Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. MCCLORY), who has also been quite interested in this bill. Although he is not a member of the committee, he has been very helpful in helping us to formulate this bill and bringing it to the floor today.

Mr. McCLORY. I thank my colleague, the gentleman from North Carolina, for yielding.

Mr. Speaker, I want to commend my colleague from California, Mr. HENRY WAXMAN, my colleague from North Carolina, Mr. JIM BROYHILL, and my colleague from Kentucky, Dr. TIM LEE CARTER, for continuing to hear and try to understand the problems of my constituents in Illinois related to the presence of barium found naturally in their community water supplies.

The problem regarding the validity of the barium standard was brought to me by officials of small communities in my congressional district who would find installation of a treatment plant financially burdensome and especially so if they felt it might not be necessary in order to protect their health.

I felt compelled to continue to pursue the subject and Mr. WAXMAN was kind enough to hold a committee field hearing in Chicago in order to hear from local officials, scientists, the Illinois EPA, and the U.S. EPA.

At this hearing, varying opinions were expressed, but all agreed that additional studies regarding the effect of barium on human health would be beneficial. I feel it is imperative that additional studies be conducted if EPA is to impose environmental requirements on the communities.

Mr. Speaker, the community officials in my congressional district want these studies. They have always made it clear to me that if they felt the barium standard were correct and barium actually posed a danger to health, they would be the first to seek appropriate treatment facilities, since they live in these areas and drink the water.

The State officials charged with enforcement of Federal EPA standards throughout the Nation feel an urgent need for legislation such as that contained in this amendment to the Safe Drinking Water Act to allow them to continue to grant exemptions where authorized by the act. This amendment will provide such relief for an additional 3 years. It is my understanding that during this 3-year period it is expected that the Federal EPA will conduct or authorize studies so that revised standards will be based on more adequate scientific data. Mr. WAXMAN, am I correct in this assumption?

Mr. WAXMAN. If the gentleman will yield, yes, the committee in its report has mentioned a desire and expectation that additional studies be conducted in order to provide a more adequate scientific basis for standards which are being reviewed, as well as to develop standards for presently unregulated contaminants.

Mr. McCLORY. Mr. WAXMAN, I hope that it is also the desire of your subcommittee and committee that no action will be taken to prevent the extension of water service for residential, commercial, or industrial use in those communities where the State EPA's see fit to grant exemptions in accord with the act.

Mr. WAXMAN. Yes, in general it is the desire of the subcommittee and the committee that communities that receive exemptions in accord with the act be allowed to grow and develop without hindrance in order to provide a better financial base for compliance with revised standards.

Mr. McCLORY. Again, I thank my colleague from California, Mr. Henry Waxman, my colleague from North Carolina (Mr. Broyhill), and the gentleman from Kentucky (Dr. Carter) for their cooperation and authorship of this amendment before us, H.R. 8117, which I have been happy to cosponsor.

Mr. Speaker, I urge my colleagues to vote for passage of this amendment at this time in order to provide urgently needed legislative relief to my constituents—and I am sure to many of your constituents as well.

Mr. Speaker, I am particularly pleased to have action by the House on this measure because of the hardship which has been experienced by a number of communities in my congressional district. As I have indicated before on the floor of the House, barium in combination with other elements, as well as radium in combination with other elements, are and have been found naturally in the water supplies in a number of communities in my congressional district. The presence of barium, and to a lesser extent radium, in such water supplies has existed since time immemorial without any apparent adverse effect on the health of the citizens who have been consuming water from these community water supplies. The level of barium in the water varies from 2 or 3 parts per million to as much as 10 parts per million. However, the interim standard for barium in water has been established by the Federal EPA at one part per million—a standard which responsible scientists, including those from the Argonne National Laboratory, as well as the State EPA director of the division of public water supplies contend is unwarranted on the basis of existing scientific and epidemiological data.

Mr. Speaker, the amendments which are contained in this legislation (H.R. 8117) should provide the necessary time within which further scientific and epidemiological studies may be completed to the end that a standard or standards may be established which have the authenticity to receive the support of the scientific community and which likewise would have the backing of the State EPA directors and public officials in the areas where such community water systems are found.

Mr. Speaker, the legislation which we are acting upon today should provide the necessary time within which a more reliable barium standard may be established.

Mr. Speaker, I appreciate the action taken by the subcommittee and the full committee. This evidence of cooperation between the Congress and the local communities and local officials who are involved as well as between the Congress and the State EPA directors seems to me entirely consistent with the intent of the Congress in the enactment of the Safe Drinking Water Act.

Mr. Speaker, it is also significant that this legislation has the strong support of Gov. James Thompson of Illinois, who, as representative of all of the communities in our State, feels strongly that this measure is needed in order to protect the communities directly involved and to permit uninterrupted economic development in our State.

Mr. Speaker, I want also to add that this legislation has the unanimous backing of State EPA directors represented by the State Conference of Sanitary Engineers, as evidenced by the testimony of Ira Markwood who is chairman of their water supply committee. Accordingly, this measure has national significance and broad national support.

With this in mind, I again urge my colleagues to vote in favor of H.R. 8117 today.

Mr. BROYHILL. Mr. Speaker, I yield myself 1 minute.

I do want to commend my colleague, the gentleman from Illinois (Mr. McClory), for his diligence in this matter. I do agree with the gentleman with respect to the issues that he has raised here; and, of course, the gentleman has well represented his constituents with respect to this matter because he was rather persistent in their behalf and he did, at the same time, work with the subcommittee and the members in an attempt to work our satisfactorily legislative language in order to help the various communities with the problem that the gentleman has mentioned today.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, again I want to thank the gentleman for his cooperation. I might say that my colleague from the adjoining district, the gentleman from Illinois (Mr. Philip M. Crane), is also concerned about this subject.

Mr. WAXMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. Gramm), who I earlier mentioned played such an important role in the development of this legislation.

Mr. GRAMM. Mr. Speaker, I would like to thank the gentleman from California, the distinguished chairman of this subcommittee.

I think that this bill represents an important first step in bringing rationality into the whole environmental debate. We have done no damage to environmental protection here. But we have found those areas, such as underground storage of natural gas, and injection of brine to produce oil and gas, where there were real problems, where there were real questions concerning what benefits were to be gained by new regulations, new paper work, filling out new forms, and what was to be lost in terms of energy production and the sale of energy to the American consumer.

We have taken the case where deadlines for the meeting of requirements imposed by EPA could not be met, where the standards themselves could not be defined in time for these deadlines to be binding, and we have set out, I think, a realistic time schedule.

I would just like to say that I appreciate the help of our distinguished chairman, the ranking minority member of this committee, and I think we have taken a step in the right direction. I am hoping that in 1982, when we rewrite the Safe Drinking Water Act, we will have an opportunity to focus in on the basic issues themselves, on the issue of who the burden of proof should rest upon when we impose binding constraints on the local government and on local waterworks.

I hope that we can debate the full range of issues, but I think this bill gives us breathing room. This bill addresses in a very realistic manner the most binding constraints that we face.

Mr. GONZALEZ. Mr. Speaker, will my distinguished colleague, the gentleman from Texas, yield for the purpose of a question?

Mr. GRAMM. I will be very happy to yield to my colleague from Texas.

Mr. GONZALEZ. I rise only because I have not had a chance to examine to see if there is any—chances are there is not—reference to what concerns us most in my district. Five years ago I had the great satisfaction of having an amendment that affected really a very unique situation, probably not only in this country but in the world, where a city is dependent for its sole source of drinking water on an aquifer, and the amendment was adopted. It provides for certain criteria in the cases of grants and, I imagine, the followup EPA rules.

Does the gentleman have any knowledge as to whether anything contained in this amendment today has any reference to the single-source aquifer situation provided for and now contained in the law?

Mr. GRAMM. The answer to that question is no, it in no way changes that aspect of the law which was written by the distinguished gentleman from Texas and in no way lessens those protections and the recognition of that unique problem.

Mr. GONZALEZ. I thank the distinguished gentleman.

● Mr. CORCORAN. Mr. Speaker, I wish to express my support for H.R. 8117, which will permit States to grant exemptions to water systems on a case-by-case basis from the U.S. Environmental Protection Agency's (EPA) interim primary drinking water regulations for 3 to 5 years.

The State of Illinois has lately encountered problems with the maximum contaminant levels for barium, fluoride and radioactivity as set by the EPA. Barium, fluoride and radioactivity occur naturally in many water supplies in Illinois, including 20 communities in the 15th District, which I represent.

While it seems possible that the EPA regulations relative to both barium and radioactivity are needed and are important because at some level both of these substances pose a public health problem, there is significant controversy involved in this matter. The basis for the regulations, as they are currently set, have repeatedly been disputed by experts in the field. In light of the significant amount of controversy as to the "safe" levels of these substances in drinking water, and the apparent lack of any distinguishable effects resulting from the people of Illinois drinking the water having levels of excess of either or both of these substances, I am convinced that the EPA regulations are excessive.

The cost of compliance for the small water systems which are in violation of these standards is prohibitive. Illinois State law prevents any additional extensions of water supplies which are not in compliance. Rather than force these noncomplying systems to install equipment of unknown benefit, additional time, as granted by this legislation, is needed for research to establish proper maximum contaminant levels.

I have been contacted by the Governor of Illinois and local officials and residents of the areas which are affected by these regulations. In pursuing this problem, I have repeatedly contacted the EPA Administrator, Douglas M. Costle, in hopes that the EPA would reevaluate these regulations and offer reasonable methods for treatment to these communities. However, it quickly became apparent that only legislative action would grant the necessary relief. I commend Congressman ROBERT MCCLORY for his hard work in bringing this matter to the attention of my colleagues.

This extension will allow time for studies on these Federal standards so that EPA can develop the proper documentation for a new set of standards on these substances.●

● Mr. CARNEY. Mr. Speaker, today we are considering amendments to the Safe Drinking Water Act of 1974. That legislation contains provisions to protect groundwater management. I am aware that this bill has been carefully constructed to meet the needs of certain sections of the country and the concerns of environmental interests. I am also aware that these amendments are brought up on the suspension calendar, just as the extension of the Safe Drinking Water Act was last year at this time. In my opinion, the act is incomplete. We need legislative authority for a comprehensive program for groundwater protection.

Half of the United States depends on groundwater for its drinking water. Nevertheless, groundwaters across the United States have become increasingly polluted, thus endangering the one substance without which none of us can survive. The pollution we must be concerned about includes discharges from septic tanks and cesspools, as well as from leachate from land disposal sites, which injects chemical and industrial wastes into our water supply. Oil and gas exploration has caused groundwater pollution in some parts of the country. Finally, chemicals applied directly to the ground by man—such as pesticides and highway deicing salts, have also resulted in an increase in groundwater pollution.

It is interesting that this safe drinking water legislation is sandwiched between two other more extensive bills that will improve water quality and the safety of Americans. Last week the House approved the Oil Pollution Liability and Compensation Act, to provide means of cleaning up coastal waters that have been hit by oilspills. Later this week, we will consider the Hazardous Waste Containment Act. That bill will establish a program with teeth to protect the public from dangers posed by hazardous waste sites. This so-called superfund legislation will help to provide the financial assistance necessary to clean up hazardous waste sites.

However, as vital as these latter two bills are, it is necessary that we come to grips with the need for Federal authority to identify groundwater quality standards, and, above all, to develop technology to assure that polluted groundwater can be made potable.

It is my expectation that the groundwater problem will receive much closer attention during the 97th Congress. When that legislation comes to the floor, I sincerely hope that it will not be on the suspension calendar as it has been for the past 2 years. Legislation as important and expensive as the Safe Drinking Water Act deserves close attention by all Members.●

● Mr. PHILIP M. CRANE. Mr. Speaker, barium, a silver-white metallic element, appears naturally in community drinking water in many Illinois communities. For as long as residents of northern Illinois have been drinking ground water, they have undoubtedy been imbibing barium as well. No one seemed to notice until 1974. The Safe Drinking Water Act of 1974 empowered the Environmental Protection Agency to set standards for drinking water. By January 1, 1981, drinking water was to be in compliance with EPA's standards. This 7-year delay was thought to be more than adequate to allow communities to install filters or whatever technology was necessary to comply with EPA's edicts.

In setting that 7-year deadline, Congress overlooked a detail—the EPA does not move with the efficiency of a free market business. Four years later, EPA was just getting around to issuing its standards for drinking water. This left just 3 years to comply with the standards.

Even more distressing than the abbreviated time for compliance after EPA announced its regulations, however, is the basis for these requirements. Although EPA cited the customary laundry list of studies documenting the dangers of this trace metal in drinking water, only one of those studies, according to an EPA source, was a study actually done on people drinking water in a community. The rest of the studies were of the "rat drinking 700 bottles of soda and dying of cancer an instant before drowning" variety. The single epidemiological study (study on homo sapiens in his natural habitat) was even considered unsatisfactory by EPA. Evidently the study did not account for individuals who had installed their own private water softening devices.

Notwithstanding the reduced time for compliance and the questionable scientific support for the dangers of barium, any communuity without a device to remove the dangerous natural element from drinking water on January 1, 1980, will be subject to fines of not more than $5,000 every day they fail to comply. EPA will teach us not to drink our water, if they have to fine us down to our last dollar.

This is an example the Federal Government's protective zeal carried to excess. Surely no one would suggest that communities in Illinois or anywhere else would continue to distribute water that would threaten community health. The local officials, who must drink the water themselves, would be the first to install appropriate treatment facilities and warn all residents of the danger in the interim. Perhaps EPA should be reminded that self-preservation is more motivating than any fine. If the danger of barium is established, fines will not be necessary; the initial warning will elicit immediate precautions.

H.R. 8117, the bill before the House today, will grant Illinois communities and the rest of the Nation another 3 years to comply with EPA drinking water requirements. In the interim, EPA will conduct more studies in search of the conclusive evidence that barium is dangerous. EPA supports this delay.

Indeed EPA is wise in supporting this delay. EPA's own publication, "National Interim Primary Drinking Water Regulations," states that "no study appears to have been made of the amounts of barium that may be tolerated in drinking water of effects from prolonged feeding of barium salts from which an acceptable water guideline may be set." While the barium standard is not the only requirement delayed by this bill, any standard based on such flimsy evidence should not be enforced against communities who would need no compulsion to protect themselves if the danger were substantiated.

As you may detect, I would prefer to reconsider this barium standard in its entirety. But, we can at least delay its effective date. I have sponsored H.R. 5675 and H.R. 7189 to effect this delay. Maybe we can reconsider this environmental policy another day. Meantime, I urge the passage of H.R. 8117's provisions to delay the safe drinking water requirements.●

● Mr. BOLAND. Mr. Speaker, the Committee on Interstate and Foreign Commerce reported H.R. 8117 on Friday, September 19, 1980. During committee action, an amendment was agreed to that required the EPA Administrator to make grants to a public water system to meet standards relating to drinking water turbidity more stringent than those in effect under the Public Health Service Act. The original committee amendment did not authorize appropriations for this purpose. It would have required the reallocation of the existing authorization. The original amendment could have required the reallocation of funds appropriated for fiscal year 1980 in Public Law 96-103. As such, it constituted an appropriation in a legislative bill and was in violation of clause 5, rule XXI.

Mr. Speaker, I am pleased that when this issue was brought to the attention of the Commerce Committee, the response was quick and satisfactory. The committee amendment has been technically adjusted and it now authorizes, rather than requires, the EPA Administrator to make grants to a public water system. Thus the amendment does not violate House rules and the prerogatives of the Committee on Appropriations are preserved. I commend the gentleman from California (Mr. WAXMAN) for his understanding in resolving this matter.●

● Mr. LEE. Mr. Speaker, the bill before us is a meritorious and reasonable one, representing a compromise between theory and reality. I want to commend my good friend and colleague, the gentleman from North Carolina, Mr. BROYHILL; the chairman of the subcommittee, Mr. WAXMAN; my colleague, the gentleman from Texas, Mr. GRAMM; and the other members of the Subcommittee on Health and the Environment for the many hours of hard work they have put into this legislation. I think it truly represents an attempt to respond to and accommodate the needs of those parties that will be affected by the law, while continuing to strive for improved drinking water systems across the country.

I am especially pleased with that provision of the bill which authorizes the Administrator of the Environmental Protection Agency to make money available to a public water system for the development and demonstration of a water filtration system that will show a new or improved method of meeting standards required under State or local law as they relate to turbidity, which are more stringent than those mandated by the Federal Government.

Discussion during consideration of H.R. 8117 by the full Commerce Committee made it clear that the committee intends that this demonstration grant be awarded to the village of Cayuga, N.Y. The village is experiencing difficulty in meeting Federal and State drinking water standards due to turbidity or muddiness of the water supply. The raw water supply for this community of less than 700 people is drawn from Cayuga Lake where the inlet at the village end of the lake is sometimes in as little as 4 feet of water. When the wind blows from the south or the southwest, severe turbidity occurs as the result of wave action along the lake's east shore. Turbidity also occurs in the spring when the ice on the lake breaks and the barge canal is refilled to a navigation level.

Village fathers have investigated a number of alternatives to meet Federal and State safe drinking water requirements; however, with a tax base made up of fewer than 700 citizens—and 25 percent of that tax base is due to the town's only industry—it is impossible for the community to afford a conventional water treatment plant that would cost in excess of $1 million.

Village officials have become aware of a new technology that could resolve their problem for as little as $250,000. The community has utilized all the money they had to try this new filtration method, and the system was able to meet the Federal standard; however, the higher State standard could be met only 10 months out of the year. The technology has now been modified even further, and it is thought the system will be able to meet the State standard all 12 months of the year. This demonstration grant will allow this small, rural community to try a new and cost-effective filtration technology under very difficult conditions.

We think the demonstration of the success of this new, and now improved innovative water filtration technology in the village of Cayuga, N.Y., will prove to be a real boon for other jurisdictions around the country which may in the future experience similar financial difficulties in meeting strict water purity standards. It will also further the purposes of the act in providing a more cost-efficient means to clean up the Nation's drinking water supplies.

I join my colleagues on the committee in urging the speedy passage of this legislation.●

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 8117, under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

The was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. WAXMAN) that the House suspend the rules and pass the bill, H.R. 8117, as amended.

The question was taken.

Mr. WEAVER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b), rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

☐ 1500

PERMISSION TO FILE CONFERENCE REPORT ON S. 1177, MENTAL HEALTH SYSTEMS ACT

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (S. 1177) to improve the provision of mental health services and otherwise promote mental health throughout the United States, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. STAGGERS submitted the following conference report and statement on the bill (S. 1177) to improve the provision of mental health services and otherwise promote mental health throughout the United States, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 96-1367)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1177) to improve the provision of mental health services and otherwise promote mental health throughout the United States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Mental Health Systems Act".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Findings.

TITLE I—GENERAL PROVISIONS

PART A—DEFINITIONS

Sec. 101. Definition of community mental health center.
Sec. 102. Other definitions.

PART B—STATE ADMINISTRATIVE RESPONSIBILITIES

Sec. 105. State mental health authority.
Sec. 106. Mental health service areas.
Sec. 107. Allotments to States to improve the administration of State mental health programs.

TITLE II—GRANT PROGRAMS

Sec. 201. Grants for community mental health centers.
Sec. 202. Grants for services for chronically mentally ill individuals.
Sec. 203. Grants for services for severely mentally disturbed children and adolescents.
Sec. 204. Grants for mental health services for elderly individuals and other priority populations.
Sec. 205. Grants for non-revenue-producing services.
Sec. 206. Grants for mental health services in health care centers.
Sec. 207. Grants and contracts for innovative projects.
Sec. 208. Grants for the prevention of mental illness and the promotion of mental health.

TITLE III—GENERAL PROVISIONS RESPECTING GRANT PROGRAMS

PART A—STATE MENTAL HEALTH SERVICE PROGRAMS

Sec. 301. State mental health services programs.
Sec. 302. Contents of programs.
Sec. 303. Mental health provisions of State health plans.

PART B—APPLICATIONS AND RELATED PROVISIONS

Sec. 305. State administration.
Sec. 306. Processing of applications by State mental health authorities.
Sec. 307. Applications.
Sec. 308. Indian tribes and organizations.
Sec. 309. Procedures.

PART C—PERFORMANCE

Sec. 315. Performance contracts.
Sec. 316. Performance standards.
Sec. 317. Evaluation and monitoring.

PART D—ENFORCEMENT
Sec. 321. Enforcement.
PART E—MISCELLANEOUS
Sec. 325. National Institute of Mental Health Prevention Unit.
Sec. 326. Technical assistance.
Sec. 327. Indirect provision of services.
Sec. 328. Cooperative agreements.
TITLE IV—ASSOCIATE DIRECTOR FOR MINORITY CONCERNS
Sec. 401. Associate Director for Minority Concerns.
TITLE V—MENTAL HEALTH RIGHTS AND ADVOCACY
Sec. 501. Bill of rights.
Sec. 502. Grants for protection and advocacy programs.
TITLE VI—RAPE PREVENTION AND CONTROL
Sec. 601. Rape prevention and control.
Sec. 602. Grants for services for rape victims.
TITLE VII—EXTENSION OF COMMUNITY MENTAL HEALTH CENTERS ACT
Sec. 701. One-year extension of Community Mental Health Centers Act.
TITLE VIII—MISCELLANEOUS
Sec. 801. Employee protection.
Sec. 802. Report on shelter and basic living needs of chronically mentally ill individuals.
Sec. 803. Obligated service for mental health traineeships.
Sec. 804. Conforming amendments.
Sec. 805. Special pay for Public Health Service physicians and dentists.
Sec. 806. Contract authority.
TITLE IX—MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS
Sec. 901. Mechanized claims processing and information retrieval systems.

FINDINGS

SEC. 2. The Congress finds—

(1) despite the significant progress that has been made in making community mental health services available and in improving residential mental health facilities since the original community mental health centers legislation was enacted in 1963, unserved and underserved populations remain and there are certain groups in the population, such as chronically mentally ill individuals, children and youth, elderly individuals, racial and ethnic minorities, women, poor persons, and persons in rural areas, which often lack access to adequate private and public mental health services and support services;

(2) the process of transferring or diverting chronically mentally ill individuals from unwarranted or inappropriate institutionalized settings to their home communities has frequently not been accompanied by a process of providing those individuals with the mental health and support services they need in community-based settings;

(3) the shift in emphasis from institutional care to community-based care has not always been accompanied by a process of affording training, retraining, and job placement for employees affected by institutional closure and conversion;

(4) the delivery of mental health and support services is typically uncoordinated within and among local, State, and Federal entities;

(5) mentally ill persons are often inadequately served by (A) programs of the Department of Health and Human Services such as medicare, medicaid, supplemental security income, and social services, and (B) programs of the Department of Housing and Urban Development, the Department of Labor, and other Federal agencies;

(6) health care systems often lack general health care personnel with adequate mental health care training and often lack mental health care personnel and consequently many individuals with some level of mental disorder do not receive appropriate mental health care;

(7) present knowledge of methods to prevent mental illness through discovery and elimination of its causes and through early detection and treatment is too limited;

(8) a comprehensive and coordinated array of appropriate private and public mental health and support services for all people in need within specific geographic areas, based upon a cooperative local-State-Federal partnership, remains the most effective and humane way to provide a majority of mentally ill individuals with mental health care and needed support; and

(9) because of the rising demand for mental health services and the wide disparity in the distribution of psychiatrists, clinical psychologists, social workers, and psychiatric nurses, there is a shortage in the medical specialty of psychiatry and there are also shortages among the other health personnel who provide mental health services.

TITLE I—GENERAL PROVISIONS

PART A—DEFINITIONS

DEFINITION OF COMMUNITY MENTAL HEALTH CENTER

SEC. 101. (a) For purposes of this Act, the term "community mental health center" means a legal entity (1) through which comprehensive mental health services are provided—

(A) principally to individuals residing in a mental health service area, with special attention to those who are chronically mentally ill,

(B) within the limits of its capacity, to any individual residing or employed in such area regardless of ability to pay for such services, current or past health condition, or any other factor, and

(C) in the manner prescribed by subsection (b), and (2) which is organized in the manner prescribed by subsections (c) and (d).

(b)(1) The comprehensive mental health services which shall be provided through a community mental health center are as follows:

(A) Beginning on the date the community mental health center is established for purposes of section 201, the services provided through the center shall include—

(i) inpatient services, emergency services, and outpatient services;

(ii) assistance to courts and other public agencies in screening residents of the center's mental health service area who are being considered for referral to a State mental health facility for inpatient treatment to determine if they should be so referred and provision, where appropriate, of treatment for such persons through the center as an alternative to inpatient treatment at such a facility;

(iii) provision of followup care for residents of its mental health service area who have been discharged from inpatient treatment at a mental health facility;

(iv) consultation and education services which—

(I) are for a wide range of individuals and entities involved with mental health services, including health professionals, schools, courts, State and local law enforcement and correctional agencies, members of the clergy, public welfare agencies, health services delivery agencies, and other appropriate entities; and

(II) include a wide range of activities (other than the provision of direct clinical services) designed to develop effective mental health programs in the center's mental health service area, promote the coordination of the provision of mental health services among various entities serving the center's mental health service area, increase the awareness of the residents of the center's mental health service area of the nature of mental health problems and the types of mental health services available, and promote the prevention and control of rape and the proper treatment of the victims of rape; and

(v) the services described in subparagraph (B) or, in lieu of such services, the center shall have a plan approved by the Secretary under which the center will, during the three-year period beginning on such establishment date, assume in increments the provision of the services described in subparagraph (B) and will upon the expiration of such three-year period provide all the services described in subparagraph (B).

(B) After the expiration of such three-year period, a community mental health center shall provide, in addition to the services required by subparagraph (A), services which include—

(i) day care and other partial hospitalization services;

(ii) a program of specialized services for the mental health of children, including a full range of diagnostic, treatment, liaison, and followup services (as prescribed by the Secretary);

(iii) a program of specialized services for the mental health of the elderly, including a full range of diagnostic, treatment, liaison, and followup services (as prescribed by the Secretary);

(iv) a program of transitional half-way house services for mentally ill individuals who are residents of its mental health service area and who have been discharged from inpatient treatment in a mental health facility or would without such services require inpatient treatment in such a facility; and

(v) provision of each of the following service programs (other than a service program for which there is not sufficient need (as determined by the Secretary) in the center's mental health service area, or the need for which in the center's mental health service area the Secretary determines is currently being met):

(I) A program for the prevention and treatment of alcoholism and alcohol abuse and for the rehabilitation of alcohol abusers and alcoholics.

(II) A program for the prevention and treatment of drug addiction and abuse and for the rehabilitation of drug addicts, drug abusers, and other persons with drug dependency problems.

(2) The provision of comprehensive mental health services through a center shall be coordinated with the provision of services by other health and social service agencies (including public mental health facilities) in or serving residents of the center's mental health service area to ensure that persons receiving services through the center have access to all such health and social services as they may require. The center's services (A) may be provided at the center or satellite centers through the staff of the center or through appropriate arrangements with health professionals and others in the center's mental health service area, or, with the approval of the Secretary, in the case of inpatient services, emergency services, partial hospitalization, transitional half-way house services, and certain specialized services, through appropriate arrangements with health professionals and others serving the residents of the mental health service area, (B) shall be available and accessible to the residents of the area promptly, as appropriate, and in a manner which preserves human dignity and assures continuity and high quality care and which overcomes geographic, cultural, linguistic, and economic barriers to the receipt of services, and (C) when medically necessary, shall be available and accessible twenty-four hours a day and seven days a week.

(3)(A) The mental health care of every patient of a center shall be under the supervision of a member of the professional staff of the center. The center shall provide for having a member of its professional staff available to furnish necessary mental health care in case of an emergency.

(B) Any medical services provided by a center shall be under the supervision of a physician unless otherwise permitted by State law. Whenever possible, the supervising physician shall be a psychiatrist.

(c)(1) Except as provided in paragraph (2) or (3), a community mental health center shall have a governing body which (A) is composed of individuals who reside in the center's mental health service area and who, as a group, represent the residents of that area taking into consideration their employment, age, sex, and place of residence, and other demographic characteristics of the area, and (B) is required to meet at least once a month, to establish general policies for the center (including a schedule of hours during which services will be provided), to approve the center's annual budget, and to approve the selection of a director for the center. At least one-half of the members of such body shall be individuals who are not providers of health care.

(2)(A) Except as provided in subparagraph (B), in the case of a community mental health center which is operated by a governmental agency or a hospital, such center may, in lieu of meeting the requirements of paragraph (1), appoint a committee which advises it with respect to the operations of the center and which is composed of individuals who reside in the center's mental health service area, who are representative of the residents of the area as to employment, age, sex, place of residence, and other demographic characteristics, and at least one-half of whom are not providers of health care. A center to which this subparagraph applies shall submit to such a committee for its review any application for a grant under section 201.

(B) Subparagraph (A) does not apply with respect to a community mental health center which on the date of the enactment of this Act had a governing body which met the requirements of paragraph (1).

(3) Paragraph (1) does not apply to a community mental health center which is operated by a primary care center, community health center, or migrant center which meets the applicable requirements of part D of title III of the Public Health Service Act.

(4) For purposes of paragraphs (1) and (2), the term "provider of health care" has the same meaning as is prescribed for that term by section 1531(3) of the Public Health Service Act.

(d) A center shall, in accordance with regulations prescribed by the Secretary, have (1) an ongoing quality assurance program (including multidisciplinary utilization and peer review systems) respecting the center's services, (2) an integrated medical records system (including a drug use profile) which, in accordance with applicable Federal and State laws respecting confidentiality, is designed to provide access to all past and current information regarding the health status of each patient and to maintain safeguards to preserve confidentiality and to protect the rights of the patient, (3) a multidisciplinary professional advisory board, which is composed of members of the center's professional staff, to advise the governing board or the advisory committee in establishing policies governing medical and other services provided by such staff on behalf of the center, and (4) an identifiable administrative unit which shall be responsible for providing the consultation and education services described in subsection (b)(1)(A)(iv). The Secretary may waive the requirements of clause (4) with respect to any center if he determines that because of the size of such center or because of other relevant factors the establishment of the administrative unit described in such clause is not warranted.

OTHER DEFINITIONS

SEC. 102. For purposes of this Act:

(1) The term "Secretary" means the Secretary of Health and Human Services.

(2) The term "State" includes (in addition to the fifty States) the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(3) The term "State mental health authority" means the agency of a State designated under section 105 to be responsible for the mental health programs of the State.

(4) The term "mental health service area" means an area established under section 106.

(5) The term "nonprofit", as applied to any entity, means an entity which is owned and operated by one or more corporations or associations no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or person.

(6) The term "priority population group" means an identifiable population group in a mental health service area which is unserved or underserved by mental health programs in such area as determined under a health systems plan or a State health plan in effect under section 1513 or 1524 of the Public Health Service Act.

(7) The term "Governor" means the chief executive officer of a State.

PART B—STATE ADMINISTRATIVE RESPONSIBILITIES

STATE MENTAL HEALTH AUTHORITY

SEC. 105. Each State shall designate an agency of the State to be responsible for the mental health programs of the State.

MENTAL HEALTH SERVICE AREAS

SEC. 106. (a) Each catchment area of a community mental health center designated under the Community Mental Health Centers Act is redesignated as a mental health service area.

(b) A mental health service area in a State shall, except to the extent permitted under regulations of the Secretary, have boundaries which conform to or are within the boundaries of a health service area established under title XV of the Public Health Service Act and, to the extent practicable, conform to boundaries of one or more school districts or political or other subdivisions in the State.

(c)(1) The State mental health authority of a State shall review the boundaries of any mental health service area in the State which does not meet the requirements of subsection (b) and shall make such revisions in the boundaries of the area as may be necessary to meet such requirements.

(2) The State mental health authority of a State may review the boundaries of any mental health service area in the State and may revise the boundary of any such area to—

(A) ensure that the size of such area is such that the services to be provided in the area are available and accessible to the residents of the area promptly, as appropriate, and

(B) ensure that the boundary of such area eliminates, to the extent possible, barriers to access to the services provided in the area, including barriers resulting from an area's physical characteristics, its residential patterns, its economic and social groupings, and its available transportation

(3) In conducting a review of a boundary under paragraph (1) or (2) a State mental health authority shall provide notice of its review and shall provide a reasonable opportunity for a hearing on its review and any proposed boundary revision.

ALLOTMENTS TO STATES TO IMPROVE THE ADMINISTRATION OF STATE MENTAL HEALTH PROGRAMS

SEC. 107. (a) For the purpose of assisting State mental health authorities to improve the administration of State mental health programs and to carry out their activities under this Act relating to—

(1) planning and program design,

(2) data collection,

(3) data analysis,

(4) research,

(5) evaluation,

(6) setting and enforcing regulatory and other standards,

(7) reporting to the Secretary, and

(8) establishing, expanding, or operating mental health patients rights protection programs,

the Secretary shall, for each fiscal year and in accordance with regulations, allot to the States the sums appropriated for such year under subsection (c) on the basis of the population and the financial need of the respective States. The populations of the States shall be determined on the basis of the latest figures for the populations of the States available from the Department of Commerce.

(b) No allotment may be made to a State under subsection (a) unless the State has submitted to the Secretary an application for the allotment containing such information as the Secretary may require.

(c) There are authorized to be appropriated for allotments under subsection (a), $15,000,000 for the fiscal year ending September 30, 1982, $15,000,000 for the fiscal year ending September 30, 1983, and $15,000,000 for the fiscal year ending September 30, 1984.

(d) Effective September 30, 1981, section 314(g) of the Public Health Service Act is repealed.

TITLE II—GRANT PROGRAMS

GRANTS FOR COMMUNITY MENTAL HEALTH CENTERS

SEC. 201. (a)(1) The Secretary may make grants to any public or nonprofit private community mental health center to assist it in meeting its costs of operation (other than costs related to construction).

(2) No application for a grant under paragraph (1) for a community mental health center which has not received a grant for its operation under the Community Mental Health Centers Act may be approved unless the application is accompanied by assurances, satisfactory to the Secretary, that the grant applied for and the State, local, and other funds and the fees, premiums, and third-party reimbursements which the applicant may reasonably be expected to collect in the year for which the grant would be made are sufficient to meet the projected costs of operation for that year.

(3) Grants under paragraph (1) may only be made for a grantee's costs of operation during the first eight years after its establishment. In the case of a community mental health center which received a grant under section 220 of the Community Mental Health Centers Act (as in effect before the date of enactment of the Community Mental Health Centers Amendments of 1975) or section 203(a) of such Act (as in effect after such date), such center shall, for purposes of grants under paragraph (1), be considered as having been in operation since its establishment for a number of years equal to the sum of the number of grants it received under such sections and the number of grants it has received under paragraph (1).

(b) Each grant under subsection (a) to a community mental health center shall be made for the costs of its operation for the one-year period beginning on the first day of the month in which such grant is made.

(c)(1) The amount of a grant for any year made under subsection (a) shall be the lesser of the amounts computed under subparagraph (A) or (B) as follows:

(A) An amount equal to the amount by which the grantee's projected costs of operation for that year exceed the total of State, local, and other funds and of the fees, premiums, and third-party reimbursements which the grantee may reasonably be expected to collect in that year.

(B)(i) Except as provided in clause (ii), an amount equal to the following percentages of the grantee's projected costs of operation: 80 percent of such costs for the first year of its operation, 65 percent of such costs for the second year of its operation, 50 percent of such costs for the third year of its operation, 35 percent of such costs for the fourth year of its operation, 30 percent of such costs for the fifth and sixth years of its operation, and 25 percent of such costs for the seventh and eighth years of its operation.

(ii) In the case of a grantee providing services for persons in an area designated by the Secretary as an urban or rural poverty area, an amount equal to the following percentages of the grantee's projected costs of operation: 90 percent of such costs for the first two years of its operation, 80 percent of such costs for the third year of its operation, 70 percent of such costs for the fourth year of its operation, 60 percent of such costs for the fifth year of its operation, 50 percent of such costs for the sixth year of its operation, 40 percent of such costs for the seventh year of its operation, and 30 percent of such costs for the eighth year of its operation.

(2) If in a fiscal year the sum of—

(A) the total of State, local, and other funds, and of the fees, premiums, and third-party reimbursements collected in that year, and

(B) the amount of the grant received under subsection (a) by a center or entity, exceeds its actual costs of operation for that year, and if the center is eligible to receive a grant under subsection (a) in the succeeding year, an adjustment in the amount of that grant shall be made in such a manner that the center may retain such an amount (not to exceed 50 per centum of the amount by which such sum exceeded such costs) as the center can demonstrate to the satisfaction of the Secretary will be used to enable the center (i) to expand and improve its services, (ii) to increase the number of persons eligible to receive services from such a center which it is able to serve, (iii) to modernize its facilities, (iv) to improve the administration of its service programs, and (v) to establish a financial reserve for the purpose of offsetting the decrease in the percentage of Federal participation in program operations in future years.

(d)(1) For initial grants under subsection (a) there are authorized to be appropriated $30,000,000 for the fiscal year ending September 30, 1982, $35,000,000 for the fiscal year ending September 30, 1983, and $40,000,000 for the fiscal year ending September 30, 1984.

(2) There are authorized to be appropriated for the fiscal year ending September 30, 1982, and for each of the next nine fiscal years such sums as may be necessary to make grants, for the number of years prescribed by subsection (a)(3), to community mental health centers which received an initial grant for operations under the Community Mental Health Centers Act or this Act for a fiscal year beginning before October 1, 1984.

(3) Of the total amount appropriated under paragraphs (1) and (2) for any fiscal year, the Secretary may obligate not more than 5 percent for grants under subsection (a) to a community mental health center which is operated by a hospital and which has an advisory committee as prescribed by section 101(c)(2).

GRANTS FOR SERVICES FOR CHRONICALLY MENTALLY ILL INDIVIDUALS

SEC. 202. (a)(1) The Secretary may make grants to any State mental health authority, community mental health center, or other public or nonprofit private entity for projects for the provision of mental health and related support services for chronically mentally ill individuals. No grant may be made under this subsection for a project unless the project provides for at least the following:

(A) The identification of the chronically mentally ill individuals residing in the area to be served by the project.

(B) Assistance to such individuals in gaining access to essential mental health services, medical and dental care and rehabilitation services, and employment, housing, and other support services designed to enable chronically mentally ill individuals to function outside of inpatient institutions to the maximum extent of their capabilities.

(C) Assuring the availability, for each such chronically mentally ill individual who needs both mental health and related support services, of an individual to assume responsibility for seeing to it that the individual receives any such service that the individual needs.

(D) Coordinating the provision of mental health and related support services to such individuals with the provision of other services to them.

(2) A grant under this subsection for a project in a mental health service area served by a community mental health center may be made only to the community mental health center or to the State mental health authority of the State in which the area is located, except that, if the Secretary finds that because of exceptional circumstances in the mental health service area the chronically mentally ill individuals in the area would be otherwise underserved, a grant may be made to any other public or private nonprofit entity.

(3) In considering applications for grants under this subsection, the Secretary shall give special consideration to applications for projects designed to supplement and strengthen existing community support services.

(b) The Secretary may make grants to any State mental health authority to—

(1) improve the skills of personnel providing services to chronically mentally ill individuals by providing or arranging for the provision of inservice training, other training, or retraining for such personnel; or

(2) coordinate the operations of State agencies or intrastate regional agencies responsible for mental health and related support services for chronically mentally ill individuals, and coordinate the provision of mental health and support services for chronically mentally ill individuals with the provision of services to such individuals under titles IV, V, XVI, XVIII, XIX, and XX of the Social Security Act, the Rehabilitation Act of 1973, the United States Housing Act, the Comprehensive Employment and Training Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Older Americans Act, and other Federal and State statutes.

(c)(1) No entity may receive more than eight grants under this section.

(2) The amount of any grant under subsection (a) or (b) shall be determined by the Secretary, except that the amount of—

(A) the first and second grant may not exceed 90 percent of the costs (as determined by the Secretary) of the project for which the grant is made;

(B) the third grant may not exceed 80 percent of such costs;

(C) the fourth grant may not exceed 70 percent of such costs;

(D) the fifth grant may not exceed 60 percent of such costs;

(E) the sixth grant may not exceed 50 percent of such costs;

(F) the seventh grant may not exceed 40 percent of such costs; and

(G) the eighth grant may not exceed 30 percent of such costs.

(3) If in a fiscal year the sum of—

(A) the total of State, local, and other funds, and of the fees, premiums, and third-party-reimbursements collected in that year, and

(B) the amount of the grant received under subsection (a) by an entity,

exceeds its actual costs of operation for that year and if the entity is eligible to receive a grant under subsection (a) in the succeeding year, an adjustment in the amount of that grant shall be made in such a manner that the entity may retain such an amount (not to exceed 50 per centum of the amount by which such sum exceeded such costs) as the entity can demonstrate to the satisfaction of the Secretary will be used to enable the entity (i) to expand and improve its services, (ii) to increase the number of persons eligible to receive services from such an entity which it is able to serve, (iii) to modernize its facilities, (iv) to improve the administration of its service programs, and (v) to establish a financial reserve for the purpose of offsetting the decrease in the percentage of Federal participation in program operations in future years.

(d)(1) Except as provided in paragraph (3) no grant may be made to an entity under subsection (a) or (b) unless the entity meets the requirements of paragraph (2).

(2)(A) Except as provided in subparagraph (B), an applicant for a grant under subsection (a) to provide the services described in that subsection shall have a governing body which (i) is composed of individuals who reside in the entity's mental health service area and who, as a group, represent the residents of that area taking into consideration their employment, age, sex, and place of residence, and other demographic characteristics of the area, and (ii) is required to meet at least once a month, to establish general policies for the entity (including a schedule of hours during which services will be provided), to approve the entity's annual budget, and to approve the selection of a director for the entity. At least one-half of the members of such body shall be individuals who are not providers of health care.

(B) An applicant which is a hospital, a State agency, or other public or nonprofit private entity which does not have as its primary purpose the provision of mental health services under grants under subsection (a) may appoint a committee which advises it with respect to the operations of the entity which are funded with a grant under subsection (a) or (b) and which is composed of individuals who reside in the entity's mental health service area, who are representative of the residents of the area as to employment, age, sex, place of residence, and other demographic characteristics, and at least one-half of whom are not providers of health care.

(3) Paragraph (1) does not apply with respect to an entity which is a primary care center, community health center, or migrant health center and which meets the applicable requirements of part D of title III of the Public Health Service Act.

(4) For purposes of paragraph (2), the term "provider of health care" has the same meaning as is prescribed for that term by section 1531(3) of the Public Health Service Act.

(e) For grants under subsections (a) and (b) there are authorized to be appropriated $45,000,000 for the fiscal year ending September 30, 1982, $50,000,000 for the fiscal year ending September 30, 1983, and $60,000,000 for the fiscal year ending September 30, 1984.

GRANTS FOR SERVICES FOR SEVERELY MENTALLY DISTURBED CHILDREN AND ADOLESCENTS

SEC. 203. (a) The Secretary may make grants to any State mental health authority, community mental health center, or other public or nonprofit private entity for the provision of mental health and related support services for severely mentally disturbed children and adolescents and for members of their families. The services which may be provided under a grant under this subsection shall include at least one of the following:

(1) The identification and assessment of the needs of severely mentally disturbed children and adolescents and the provision of needed mental health and related support services which are not provided by existing programs.

(2) Assuring the availability of appropriate personnel to be responsible for providing, or arranging for the provision of, the needed mental health and related support services for such children and adolescents.

(3) The provision of auxiliary mental health services under the Education for All Handicapped Children Act of 1975 to such children and adolescents who are handicapped.

(4) The establishment of cooperative arrangements with juvenile justice authorities, educational authorities, and other authorities and agencies that come in contact with such children and adolescents to ensure referral of such children and adolescents for appropriate mental health and related support services.

A grant made under this subsection for a project in a mental health service area served by a community mental health center may be made only to the community mental health center or to the State mental health authority of the State in which the area is located, except that, if the Secretary finds that because of exceptional circumstances in the mental health service area the severely mentally disturbed children and adolescents in the area would otherwise be underserved, a grant may be made to any other public or private nonprofit entity.

(b) The Secretary may make grants to any public entity for projects to coordinate the provision of mental health and related support services to severely mentally disturbed children and adolescents with the activities of community agencies and State agencies and with the provision of services available to such children and adolescents under titles IV, V, XVI, XIX, and XX of the Social Security Act, the Education for All Handicapped Children Act of 1975, the Developmental Disabilities Assistance and Bill of Rights Act, the Rehabilitation Act of 1973, and other Federal and State statutes.

(c)(1) No entity may receive more than eight grants under this section.

(2) The amount of any grant under subsection (a) or (b) shall be determined by the Secretary, except that the amount of—

(A) the first and second grant may not exceed 90 percent of the costs (as determined by the Secretary) of the project for which the grant is made;

(B) the third grant may not exceed 80 percent of such costs;

(C) the fourth grant may not exceed 70 percent of such costs;

(D) the fifth grant may not exceed 60 percent of such costs;

(E) the sixth grant may not exceed 50 percent of such costs;

(F) the seventh grant may not exceed 40 percent of such costs; and

(G) the eighth grant may not exceed 30 percent of such costs.

(3) If in a fiscal year the sum of—

(A) the total of State, local, and other funds, and of the fees, premiums, and third-party reimbursements collected in that year, and

(B) the amount of the grant received under subsection (a) by an entity,

exceeds its actual costs of operation for that year and if the entity is eligible to receive a grant under subsection (a) in the succeeding year, an adjustment in the amount of that grant shall be made in such a manner that the entity may retain such an amount (not to exceed 50 per centum of the amount by which such sum exceeded such costs) as the entity can demonstrate to the satisfaction of the Secretary will be used to enable the entity (i) to expand and improve its services, (ii) to increase the number of persons eligible to receive services from such an entity which it is able to serve, (iii) to modernize its facilities, (iv) to improve the administration of its service programs, and (v) to establish a financial reserve for the purpose of offsetting the decrease in the percentage of Federal participation in program operations in future years.

(d)(1) Except as provided in paragraph (3), no grant may be made to an entity under subsection (a) or (b) unless the entity meets the requirements of paragraph (2).

(2)(A) Except as provided in subparagraph (B), an applicant for a grant under subsection (a) to provide the services described in that subsection shall have a governing body which (i) is composed of individuals who reside in the entity's mental health service area and who, as a group, represent the residents of that area taking into consideration their employment, age, sex, and place of residence, and other demographic characteristics of the area, and (ii) is required to meet at least once a month, to establish general policies for the entity (including a schedule of hours during which services will be provided), to approve the entity's annual budget, and to approve the selection of a director for the entity. At least one-half of the members of such body shall be individuals who are not providers of health care.

(B) An applicant which is a hospital, a State agency, or other public or nonprofit private entity which does not have as its primary purpose the provision of mental health services under grants under subsection (a) may appoint a committee which advises it with respect to the operations of the entity which are funded with a grant under subsection (a) or (b) and which is composed of individuals who reside in the entity's mental health service area, who are representative of the residents of the area as to employment, age, sex, place of residence, and other demographic characteristics, and at least one-half of whom are not providers of health care.

(3) Paragraph (1) does not apply with respect to an entity which is a primary care center, community health center, or migrant health center and which meets the applicable requirements of part D of title III of the Public Health Service Act.

(4) For purposes of paragraph (2), the term "provider of health care" has the same meaning as is prescribed for that term by section 1531(3) of the Public Health Service Act.

(e) For grants under subsections (a) and (b) there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1982; $12,000,000 for the fiscal year ending September 30, 1983, and $15,000,000 for the fiscal year ending September 30, 1984.

GRANTS FOR MENTAL HEALTH SERVICES FOR ELDERLY INDIVIDUALS AND OTHER PRIORITY POPULATIONS

SEC. 204. (a)(1) The Secretary may make grants to any public or nonprofit private entity for projects for services for elderly individuals. Each such project shall include at least the following:

(A) The location of elderly individuals in the mental health service area or areas served by the entity who are in need of mental health services.

(B) The provision or arrangement for the provision of medical differential diagnoses of elderly individuals in such area or areas to distinguish between their need for mental health services and other medical care.

(C) The specification of the mental health needs of elderly individuals in such area or areas and the mental health and support services required to meet such needs.

(D) The provision of—

(i) the mental health and support services specified under subparagraph (C) in the communities in such area or areas, or

(ii) such services for elderly individuals in nursing homes and intermediate care facilities in such area or areas and training of the employees of such homes and facilities in the provision of such services.

(2) The Secretary may make grants to any public or nonprofit private entity in a mental health service area in which, as determined by the Secretary, the services described in paragraph (1) are being provided to enable the entity to—

(A) assure the availability of appropriate personnel to be responsible for the provision of or for arranging for the provision of, such services to elderly individuals; or

(B) coordinate the provision of such services to elderly individuals; or

(B) coordinate the provision of such services to elderly individuals with (i) the area agency on aging (as defined in the Older Americans Act) and other community agencies providing mental health and related support services for elderly individuals, and (ii) with the provision of services available to elderly individuals under titles XVI, XVIII, XIX, and XX of the Social Security Act, the Older Americans Act, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, the Drug Abuse Prevention, Treatment, and Rehabilitation Act, the United States Housing Act, the Domestic Volunteer Service Act of 1973, and other Federal and State statutes.

(3)(A) No entity may receive more than eight grants under paragraph (1) or (2).

(B) The amount of any grant under paragraph (1) or (2) shall be determined by the Secretary, except that the amount of—

(i) the first and second grant may not exceed 90 percent of the costs (as determined by the Secretary) of the project for which the grant is made;

(ii) the third grant may not exceed 80 percent of such costs;

(iii) the fourth grant may not exceed 70 percent of such costs;

(iv) the fifth grant may not exceed 60 percent of such costs;

(v) the sixth grant may not exceed 50 percent of such costs;

(vi) the seventh grant may not exceed 40 percent of such costs; and

(vii) the eighth grant may not exceed 30 percent of such costs.

(C) If in a fiscal year the sum of—

(i) the total of State, local, and other funds, and of the fees, premiums, and third-party reimbursements collected in that year, and

(ii) the amount of the grant received under paragraph (1) by an entity,

exceeds its actual costs of operation for that year and if the entity is eligible to receive a grant under paragraph (1) in the succeeding year, an adjustment in the amount of that grant shall be made in such a manner that the entity may retain such an amount (not to exceed 50 per centum of the amount by which such sum exceeded such costs) as the entity can demonstrate to the satisfaction of the Secretary will be used to enable the entity (I) to expand and improve its services, (II) to increase the number of persons eligible to receive services from such an entity which it is able to serve, (III) to modernize its facilities, (IV) to improve the administration of its service programs, and (V) to establish a financial reserve for the purpose of offsetting the decrease in the percentage of Federal participation in program operations in future years.

(D) A grant made under paragraph (1) for a project in a mental health service area served by a community mental health center may be made only to the community mental health center or to the State mental health authority of the State in which the area is located, except that, if the Secretary finds that because of exceptional circumstances in the mental health service area the elderly individuals in the area would otherwise be underserved, a grant may be made to any other public or private nonprofit entity.

(E) (i) Except as provided in clause (iii), no grant may be made to an entity under paragraph (1) or (2) unless the entity meets the requirements of clause (ii).

(ii) (I) Except as provided in subclause (I), an applicant for a grant under paragraph (1) to provide the services described in that paragraph shall have a governing body which is composed of individuals who reside in the entity's mental health service area and who, as a group, represent the residents of that area taking into consideration their employment, age, sex, and place of residence, and other demographic characteristics of the area, and which is required to meet at least once a month, to establish general policies for the entity (including a schedule of hours during which services will be provided), to approve the entity's annual budget, and to approve the selection of a director for the entity. At least one-half of the members of such body shall be individuals who are not providers of health care.

(II) An applicant which is a hospital, a State agency, or other public or nonprofit private entity which does not have as its primary purpose the provision of mental health services under grants under paragraph (1) may appoint a committee which advises it with respect to the operations of the entity which are funded with a grant under paragraph (1) or (2) and which is composed of individuals who reside in the entity's mental health service area, who are representative of the residents of the area as to employment, age, sex, place of residence, and other demographic characteristics, and at least one-half of whom are not providers of health care.

(iii) Clause (i) does not apply with respect to an entity which is a primary care center, community health center, or migrant health center and which meets the applicable requirements of part D of title III of the Public Health Service Act.

(iv) For purposes of clause (ii), the term "provider of health care" has the same meaning as is prescribed for that term by section 1531(3) of the Public Health Service Act.

(b) (1) The Secretary may make grants to any public or nonprofit private entity for any project for mental health services which—

(A) is designed to serve principally one or more priority population groups in a mental health service area, and

(B) is available to all residents of the area.

(2) A grant made under paragraph (1) for a project in a mental health service area served by a community mental health center may be made only to the community mental health center or to the State mental health authority of the State in which the area is located and only if the Secretary finds that because of exceptional circumstances in the mental health service area priority populations in the area would be otherwise underserved.

(3) (A) Not more than four grants may be made under paragraph (1) to the same entity for mental health services for the same priority population group or groups, except that, if the entity is a community mental health center or other entity in a mental health service area served by a community mental health center, the number of grants which it may receive for the same population group or groups may not exceed two.

(B) In any fiscal year not more than two grants may be made under paragraph (1) for projects in one mental health service area and the total number of grants that may be made for projects in such an area under paragraph (1) may not exceed eight.

(C) The amount of any grant under paragraph (1) shall be determined by the Secretary, except that the amount of—

(i) the first such grant may not exceed 90 percent of the costs of the project (as determined by the Secretary) for which the grant is made,

(ii) the second such grant may not exceed 80 percent of such costs

(iii) the third such grant may not exceed 70 percent of such costs, and

(iv) the fourth such grant may not exceed 60 percent of such costs.

(D) If in a fiscal year the sum of—

(i) the total of State, local, and other funds, and of the fees, premiums, and third-party reimbursements collected in that year, and

(ii) the amount of the grant received under paragraph (1) by an entity,

exceeds its actual costs of operation for that year and if the entity is eligible to receive a grant under paragraph (1) in the succeeding year, an adjustment in the amount of that grant shall be made in such a manner that the entity may retain such an amount (not to exceed 50 per centum of the amount by which such sum exceeded such costs) as the entity can demonstrate to the satisfaction of the Secretary will be used to enable the entity (I) to expand and improve its services, (II) to increase the number of persons eligible to receive services from such an entity which it is able to serve, (III) to modernize its facilities, (IV) to improve the administration of its service programs, and (V) to establish a financial reserve for the purpose of offsetting the decrease in the percentage of Federal participation in program operations in future years.

(4) For purposes of this subsection, if a grant could be made under subsection (a) or section 202 or 203 for a project designed primarily to serve a particular population group, such population group shall not be included in the priority population groups for which grants are authorized under this subsection.

(c) An application for a grant under subsection (b) may be approved only if—

(1) the application contains satisfactory assurances that the project for which the application is made will lead to increased or more appropriate mental health services for a priority population group or to the development of mental health services for such a group;

(2) the application contains satisfactory assurances that members of the priority population group or groups to be served by the project will be afforded reasonable opportunity to comment on performance under the project; and

(3) the applicant (A) will during the first three years that it receives a grant under subsection (b) provide outpatient mental health services and any two of the following mental health services determined to be of the greatest need for the priority population to be served by the applicant: inpatient, screening, followup, consultation and education, and emergency services, and (B) unless the applicant is a community mental health center or a State mental health authority receiving a grant under subsection (b) as authorized by paragraph (2) of that subsection, has a plan satisfactory to the Secretary for the provision of all the mental health services described in clause (A) upon the expiration of the first three years that it receives a grant under subsection (b).

The Secretary may not approve an application of an entity which has received a grant for three years under subsection (b) unless the applicant is providing all the mental health services described in paragraph (3) (A).

(d) (1) Except as provided in paragraph (3), no grant may be made to an entity under subsection (b) unless the entity meets the requirements of paragraph (2).

(2) (A) Except as provided in subparagraph (B), an applicant for a grant under subsection (b) to provide the services described in that subsection shall have a governing body which (i) is composed of individuals who reside in the entity's mental health service area and who, as a group, represent the residents of that area taking into consideration their employment, age, sex, and place of residence, and other demographic characteristics of the area, and (ii) is required to meet at least once a month, to establish general policies for the entity (including a schedule of hours during which services will be provided), to approve the entity's annual budget, and to approve the selection of a director for the entity. At least one-half of the members of such body shall be individuals who are not providers of health care.

(B) An applicant which is a hospital, a State agency, or other public or nonprofit private entity which does not have as its primary purpose the provision of mental health services under grants under subsection (b) may appoint a committee which advises it with respect to the operations of the entity which are funded with a grant under subsection (b) and which is composed of individuals who reside in the entity's mental health service area, who are representative of the residents of the area as to employment, age, sex, place of residence, and other demographic characteristics, and at least one-half of whom are not providers of health care.

(3) Paragraph (1) does not apply with respect to an entity which is a primary care center, community health center, or migrant health center and which meets the applicable requirements of part D of title III of the Public Health Service Act.

(4) For purposes of paragraph (2), the term "provider of health care" has the same meaning as is prescribed for that term by section 1531(3) of the Public Health Service Act.

(e) For grants under this section there are authorized to be appropriated $30,000,000 for the fiscal year ending September 30, 1982, $35,000,000 for the fiscal year ending September 30, 1983, and $40,000,000 for the fiscal year ending September 30, 1984. Not less than 40 percent of the amount appropriated under this subsection for any fiscal year shall be obligated by the Secretary for grants under subsection (a).

GRANTS FOR NON-REVENUE-PRODUCING SERVICES

SEC. 205. (a) (1) The Secretary may make grants to any public or nonprofit private community mental health center to assist in meeting the costs (as determined by the Secretary by regulation) of—

(A) providing the consultation and education services described in clause (iv) of section 101(b) (1) (A),

(B) providing the followup services described in clause (iii) of such section,

(C) administering the mental health service programs of the center,

(D) providing individuals who will be responsible for assuring that individuals in need of both mental health services and support services receive each of the services that they need, and

(E) any other non-revenue-producing service which the Secretary determines is appropriate for a community mental health center to provide.

(2) To be eligible for a grant under paragraph (1) a community mental health center must—

(A) have received a grant under section 203(a) of the Community Mental Health Centers Act, under section 220 of such Act as in effect before July 29, 1975, or under section 201 of this Act; and

(B) because of the limitations on the period for which a center may receive such a grant or on the number of such grants the center may receive, be no longer eligible to receive such a grant.

(b) An application for a grant under subsection (a) shall contain assurances satisfactory to the Secretary that the applicant will, during the period which it receives a grant under subsection (a), provide, at a minimum—

(1) the comprehensive mental health services described in clauses (i) through (iv) of section 101(b)(1)(A), and

(2) any service described in section 101 (b)(1)(B) which the center was providing in the last year it received a grant under the Community Mental Health Centers Act or this Act for its operations.

Such an application shall also include information regarding the extent to which and manner in which the applicant has served chronically mentally ill individuals in prior years (if such service has been provided) and proposes to serve chronically mentally ill individuals during the fiscal year for which the grant is sought.

(c)(1) No community mental health center may receive more than five grants under subsection (a).

(2) The amount of a grant under subsection (a) shall be determined by the Secretary, except that no grant may exceed the product of $1.25 and the population of the mental health service area of the community mental health center receiving the grant. The population of a mental health service area shall be determined on the basis of the latest figures for the populations of the States available from the Department of Commerce.

(d) For grants under subsection (a) there are authorized to be appropriated $30,000,000 for the fiscal year ending September 30, 1982, $35,000,000 for the fiscal year ending September 30, 1983, and $40,000,000 for the fiscal year ending September 30, 1984.

GRANTS FOR MENTAL HEALTH SERVICES IN HEALTH CARE CENTERS

SEC. 206. (a)(1) For the purpose of assisting health care centers to participate appropriately in the provision of mental health services to their patients, the Secretary may make grants to—

(A) any public or nonprofit private entity which provides mental health services that include at least twenty-four-hour emergency services, outpatient services, and consultation and education services (as described in section 101(b)(1)(A)(iv)) and has in effect an agreement of affiliation, described in paragraph (2), with an entity which is a health care center; or

(B) any public or nonprofit private health care center which has in effect an agreement of affiliation, described in paragraph (2), with an entity described in subparagraph (A).

(2) An agreement of affiliation referred to in paragraph (1) is an agreement between a mental health services entity described in paragraph (1)(A) and a health care center which agreement—

(A) describes the geographical area the residents of which will be served by the mental health services to be provided under the agreement;

(B) provides for the employment of at least one mental health professional to serve as a liaison between the parties to the agreement and include a description of the qualifications to be required of that person and of any other professional mental health personnel to be employed under the agreement;

(C) provides satisfactory assurances that the mental health services entity will make mental health services available to patients of the center referred to it by the liaison or other mental health professionals; and

(D) includes transportation arrangements and other arrangements for effecting referral from the center to the mental health services entity of patients needing the services of such entity.

(b) Any grant under subsection (a) may be made for a project for any one or more of the following:

(1) The costs of the liaison or other mental health professionals providing services in the health care center in accordance with an agreement of affiliation.

(2) Mental health services provided by other personnel of the center which the mental health services entity determines can be appropriately provided by such personnel.

(3) Consultation and inservice training on mental health provided to personnel of the health care center by the mental health services entity.

(4) Establishing liaison between the center and other providers of mental health services or support services.

(c)(1) No entity may receive more than eight grants under subsection (a).

(2) The amount of any grant under subsection (a) shall be determined by the Secretary, except that the amount of—

(A) the first and second grant may not exceed 90 percent of the costs (as determined by the Secretary) of the project for which the grant is made;

(B) the third grant may not exceed 80 percent of such costs;

(C) the fourth grant may not exceed 70 percent of such costs;

(D) the fifth grant may not exceed 60 percent of such costs;

(E) the sixth grant may not exceed 50 percent of such costs;

(F) the seventh grant may not exceed 40 percent of such costs; and

(G) the eighth grant may not exceed 30 percent of such costs.

(3) If in a fiscal year the sum of—

(A) the total of State, local, and other funds, and of the fees, premiums, and third-party reimbursements collected in that year, and

(B) the amount of the grant received under subsection (a) by a center or entity, exceeds its actual costs of operation for that year and if the center or entity is eligible to receive a grant under subsection (a) in the succeeding year, an adjustment in the amount of that grant shall be made in such a manner that the center or entity may retain such an amount (not to exceed 50 per centum of the amount by which such sum exceeded such costs) as the center or entity can demonstrate to the satisfaction of the Secretary will be used to enable the center or entity (i) to expand and improve its services, (ii) to increase the number of persons eligible to receive services from such a center or entity which it is able to serve, (iii) to modernize its facilities, (iv) to improve the administration of its service programs, and (v) to establish a financial reserve for the purpose of offsetting the decrease in the percentage of Federal participation in program operations in future years.

(d) For grants under subsection (a) there are authorized to be appropriated $15,000,000 for the fiscal year ending September 30, 1982, $17,500,000 for the fiscal year ending September 30, 1983, and $20,000,000 for the fiscal year ending September 30, 1984.

(e) For purposes of this section, the term "health care center" includes an outpatient facility operated in connection with a hospital, a primary care center, a community health center, a migrant health center, a clinic of the Indian Health Service a skilled nursing home, an intermediate care facility, and an outpatient health care facility, of a medical group practice, a public health department, or a health maintenance organization.

GRANTS AND CONTRACTS FOR INNOVATIVE PROJECTS

SEC. 207. (a) The Secretary may make grants to any public or nonprofit private entity for—

(1) projects for the training and retraining of employees adversely affected by changes in the delivery of mental health services and for providing such employees assistance in securing employment;

(2) projects for the innovative use of personnel in the management and delivery of mental health services; and

(3) any other innovative project of national significance respecting mental health services and mental health services personnel.

The Secretary may enter into contracts for the projects described in this subsection with any private entity which is engaged solely in the provision of mental health services.

(b)(1) The total number of grants and contracts which an entity may receive under subsection (a) may not exceed five.

(2) The amount of any grant under subsection (a) shall be determined by the Secretary.

(c) No contract may be entered into under subsection (a) unless an application therefor has been submitted to and approved by the Secretary. The application shall be submitted in such form and manner and shall contain such information as the Secretary may prescribe.

(d) Of the total amount appropriated for any fiscal year under sections 201 through 206, five percent is available to the Secretary in such fiscal year for grants and contracts under subsection (a). Of the funds obligated in any fiscal year by the Secretary for such grants and contracts, not less than 50 percent shall be obligated for approvable projects described in subsection (a)(1).

GRANTS FOR THE PREVENTION OF MENTAL ILLNESS AND THE PROMOTION OF MENTAL HEALTH

SEC. 208. (a) The Secretary may make grants to any public or nonprofit private entity for projects for the prevention of mental illness and the promotion of mental health or to demonstrate the effectiveness of intervention techniques and mental health promotion activities in the—

(1) maintenance and improvement of the mental health of individuals and groups of individuals particularly susceptible to mental illness,

(2) prevention of the onset of mental illness in such individuals, and groups,

(3) prevention of the deterioration of the mental health of such individuals and groups,

(4) education of the general public regarding mental health problems and mental illness, the prevention of mental health problems and mental illness, and the promotion of mental health, and

(5) provision of screening, consultation, referral, and education in public school systems and in places of employment to detect and prevent early mental health problems and to promote mental health.

(b) Projects supported by grants under subsection (a) shall be consistent with national goals and priorities regarding the prevention of mental illness and promotion of mental health determined by the Director of the National Institute of Mental Health under section 455(d)(1) of the Public Health Service Act.

(c) An application for a grant under subsection (a) shall—

(1) define the techniques and mental health promotion activities to be funded by the grant;

(2) define the individuals or groups of individuals to be served by such techniques and activities; and

(3) provide for the evaluation of the effectiveness of such techniques and activities and describe the methodology to be used in making such evaluation.

(d) No entity may receive more than eight grants under subsection (a). The amount of a grant under subsection (a) shall be determined by the Secretary.

(e) For the purpose of grants under subsection (a) there are authorized to be appropriated $6,000,000 for the fiscal year ending September 30, 1982, $7,000,000 for the fiscal year ending September 30, 1983, and $8,000,000 for the fiscal year ending September 30, 1984.

PART A—STATE MENTAL HEALTH SERVICES PROGRAMS

STATE MENTAL HEALTH SERVICES PROGRAMS

SEC. 301. The State mental health authority of and any entity in a State is not eligible to receive a grant under title II or this title for any fiscal year unless such State has in effect a State mental health services program which—

(1) has been prepared by the State mental health authority in consultation with the Statewide Health Coordinating Council of the State, and

(2) is consistent with the provisions relating to mental health services of the State health plan prepared in accordance with section 1524(c)(2) of the Public Health Service Act.

CONTENTS OF PROGRAMS

SEC. 302. A State mental health services program shall be submitted in such form and manner as the Secretary prescribes. The program shall consist of an administrative part and a services part as follows:

(1) The administrative part shall—

(A) provide that the State mental health authority will assume responsibility for administration of the program;

(B) provide for the designation of a State advisory council to consult with the State mental health authority in administering the program, which council shall include—

(i) representatives of nongovernmental organizations or groups, and of State agencies, concerned with the planning, operation, or use of facilities for the provision of mental health services, and

(ii) representatives of consumers and providers of such services who are familiar with the need for such services,

and the non-provider members of which shall constitute at least one-half of the membership of the council;

(C) provide that the State mental health authority will make such reports in such form and containing such information as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(D) provide that any statistics or other data included in the program or on which the program is based will conform to such criteria, standards, and other requirements relating to their form, method of collection, content, or other aspects as the Secretary may prescribe;

(E) provide that the State mental health authority will from time to time, but not less often than annually, review the program and submit to the Secretary appropriate modifications thereof which it considers necessary;

(F) include provisions, meeting such requirements as the Office of Personnel Management may prescribe, relating to the establishment and maintenance of personnel standards on a merit basis; and

(G) include a statement of the arrangements made pursuant to section 801.

(2) The services part shall—

(A) identify the mental health service areas within the State;

(B) identify the need in each mental health service area of the State for mental health and related support services after consideration of—

(i) the demographic, economic, cultural, and social characteristics of the population of the area, and

(ii) the special mental health services needs in the area of chronically mentally ill individuals, emotionally disturbed children and adolescents, elderly individuals, and other priority population groups;

(C) identify and evaluate the public and private mental health facilities, the mental health personnel, and the mental health services available in each mental health service area, and determine the additional facilities, personnel, and services necessary to meet the mental health needs of each area;

(D) identify the methods used (i) to determine the mental health needs of each mental health service area, and (ii) to evaluate the facilities, personnel, and services of each mental health service area;

(E) provide the information described in subparagraphs (B) through (D) for mental health services and related support service needs which relate to more than one mental health service area;

(F) list the mental health service needs of each mental health service area in the order of priority that such needs should be addressed through the use of existing Federal, State, and local resources;

(G) identify measures which need to be taken to alleviate geographic, cultural, linguistic, and economic barriers with respect to the delivery of mental health services in the mental health service areas;

(H) identify the legal rights of persons in the State who are mentally ill or otherwise mentally handicapped and describe any measure which needs to be taken to protect such rights;

(I) describe the actions which need to be taken by the State and entities in communities of the State to coordinate the provision of mental health and related support services in the State;

(J) describe, in specific terms, the actions the State mental health authority will take—

(i) to continue the provision of appropriate services which have been provided by local entities in the State with financial assistance under the Community Mental Health Centers Act and this Act and for which Federal financial assistance is no longer available;

(ii) to promote the development of comprehensive mental health services in each mental health service area where such services are currently unavailable;

(iii) to ensure substantially that, within a five-year period after the program is in effect in the State (or within such longer period as the Secretary, upon request of the State mental health authority, permits)—

(I) residents of public inpatient mental health facilities who have been inappropriately placed in such facilities are discharged, and, to the extent appropriate, are placed in the least-restrictive settings and provided mental health and related support services appropriate to such persons' level of functioning;

(II) persons who need to be placed in inpatient mental health facilities are placed in the least-restrictive settings and provided mental health and related support services appropriate to such persons' level of functioning; and

(III) persons who are discharged from, or are in need of placement in, inpatient mental health facilities are informed of available community-based facilities and programs providing mental health and related support services, and provided access to a sufficient number of adequately staffed and adequately funded community-based facilities and programs providing mental health and related support services; and

(iv) to assist the courts and other public agencies, and appropriate private agencies, in screening persons being considered for inpatient care in mental health facilities in the State in order to determine if such care is medically or psychologically indicated;

(K) include a description of the services made available for mentally ill individuals in the State under titles IV, V, XVI, XVIII, XIX, and XX of the Social Security Act, the Education for All Handicapped Children Act of 1975, the Older Americans Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, the Drug Abuse Prevention, Treatment, and Rehabilitation Act, and other relevant Federal statutes;

(L) describe the steps being taken in the State to coordinate the provision of services under this Act with the provision of services under the Acts referred to in subparagraph (K); and

(M) contain or be accompanied by such additional information or assurances and meet such other requirements as the Secretary prescribes in order to achieve the purposes of this Act.

MENTAL HEALTH PROVISIONS OF STATE HEALTH PLANS

SEC. 303. Section 1523(a)(1)(B) of the Public Health Service Act is amended by inserting after "the statewide health needs of the State" the following: ", including the need for mental health services in the State,".

PART B—APPLICATIONS AND RELATED PROVISIONS

STATE ADMINISTRATION

SEC. 305. (a) The Secretary may enter into an agreement with any qualified State mental health authority of a State under which the authority will be the exclusive agent for the State and entities within the State for purposes of the financial assistance programs authorized by title II (other than the programs authorized by sections 207 and 208).

(b) For purposes of subsection (a), a qualified State mental health authority is an authority which meets the following requirements:

(1) A State mental health authority shall demonstrate to the satisfaction of the Secretary (A) that it is effectively implementing its State mental health services program prepared pursuant to section 301, and (B) that it, or another agency of the State, is making a good faith effort to establish and implement procedures for carrying out the requirements of paragraph (2).

(2)(A) For the purpose of eliminating the overconcentration of chronically mentally ill individuals in any community or group of communities in a State, the State mental health authority of the State shall monitor the discharge and diversion of such individuals into communities by inpatient mental health facilities.

(B) A State mental health authority shall administer a program of services for chronically mentally ill individuals in the State who have been discharged or diverted from inpatient mental health facilities. Such program shall include at least the following:

(i) The timely notification by the inpatient mental health facilities in the State to the appropriate community mental health centers or other entities of the discharge of and the location of the residence of each chronically mentally ill individual who has given an informed consent to such notification.

(ii) Before a chronically mentally ill individual is discharged from an inpatient mental health facility into a community, a prerelease consultation between the facility and the appropriate community mental health center or other entity respecting the individual if the individual has given an informed consent to such consultation. Such consultation shall take place without delaying the discharge of such individual from the mental health facility. Such consultation shall include a preliminary evaluation of the physical, mental, social, and monetary needs of the individual to be discharged, and an identification of the services and programs for which such individual is eligible.

(iii) Development by each inpatient mental health facility of a written treatment and services plan for each chronically mentally ill individual who is to be discharged or who is diverted by the facility and who has given an informed consent to the development of such plan. The plan shall be developed in consultation with a case manager in the community mental health center or other appropriate entity in the mental health service area in which such individual will or does reside. Such plan shall—

(I) to the maximum extent feasible, be developed with the participation of the individual discharged or diverted and the family of such individual;

(II) include appropriate living arrangements suited to the needs of the individual, and, if the individual resides or is to reside in a residence in which there are at least three other chronically mentally ill individuals with whom the individual is not related by blood or marriage and which charges the individual for residing in the residence, assure that the residence meets the requirements prescribed under subparagraph (C) or meets the comparable requirements established under section 1616(e) of the Social Security Act;

(III) describe appropriate mental health services and other needed services, such as medical and dental services, rehabilitation services, vocational training and placement, social services, and living skills training; and

(IV) identify specific programs and services for which the individual is eligible, including income support.

There shall be a periodic reevaluation of the plan at least every one hundred and twenty days.

(iv) In the case of a chronically mentally ill individual for whom a plan has been developed under clause (iii), designation of a case manager to be responsible for the implementation of the plan and the coordination of services under the plan.

(v) The establishment and enforcement of minimum standards for the provision of followup care for the chronically mentally ill by community mental health centers and other appropriate entities.

Compliance with the informed consent requirements of the program shall be determined in accordance with the law of the State in which the program is in effect.

(C) A State mental health authority shall develop a program for regulating, in accordance with guidelines established by the Secretary, residences in which there are at least four chronically mentally ill individuals who are not related by blood or marriage, which charge such individuals for residing in the residence, and which do not meet the comparable requirements established under section 1616(e) of the Social Security Act. Such program shall include the following:

(i) Minimum standards for aproval of a residence, including a standard which requires a mechanism to be available to the residents who are chronically mentally ill to provide referral to and assistance in reaching appropriate medical, dental, mental health, and other services not available at a residence, compliance with appropriate life safety, fire, and sanitation codes, and access for visitation during reasonable hours without prior notice by appropriate mental health and social service staff.

(ii) Procedures for the evaluation, inspection, and monitoring of the compliance of the residence with the requirements of the program.

(iii) Remedies for noncompliance with such requirements.

(D) A State mental health authority shall provide educational or informational services to educate the population of the State regarding the problems of chronically mentally ill individuals, the need for community involvement in programs designed to resolve the problems of chronically mentally ill individuals outside institutional settings, and the resources available or needed to help such programs succeed.

(E) A State mental health authority shall improve the skills of personnel involved in providing services for chronically mentally ill individuals through inservice training, retraining, or other training of such personnel.

(F) A State mental health authority shall provide satisfactory assurances to the Secretary that it will submit a biennial report to the Secretary regarding its efforts and progress under this paragraph, including the manner in which the needs of chronically mentally ill individuals in each mental health service area in the State are being met within the community and the State's progress in implementing mechanisms to ensure that, as chronically mentally ill individuals are discharged from mental health facilities, increased State mental health funds are available for community-based care.

(c) No agreement may be entered into under subsection (a) with a State mental health authority unless the authority has submitted an application to the Secretary in such form and manner as the Secretary shall prescribe. The Secretary shall publish a notice in the Federal Register identifying the States which have made an application for an agreement under subsection (a) and, in considering an application, the Secretary shall provide a reasonable opportunity for submission of comments on the application.

(d) The Secretary may make grants to States which have entered into agreements under subsection (a) for purposes of assisting the States in meeting the costs of carrying out the agreements. For grants authorized by this subsection there are authorized to be appropriated $3,000,000 for the fiscal year ending September 30, 1982, $4,000,000 for the fiscal year ending September 30, 1983, and $5,000,000 for the fiscal year ending September 30, 1984.

PROCESSING OF APPLICATIONS BY STATE MENTAL HEALTH AUTHORITIES

SEC. 306. (a) Each applicant for a grant under title II (other than an applicant for a grant under section 207 or 208) shall submit its application to the State mental health authority for its State in accordance with such requirements as the authority may prescribe.

(b)(1) If a State mental health authority has entered into an agreement under section 305, the authority shall carry out the following:

(A) The authority shall consider the applications submitted to it in accordance with subsection (a), and, in the course of such consideration, shall provide the applicants and other interested persons with a reasonable opportunity for a hearing before the authority on the applications. The authority shall also provide a reasonable opportunity for a hearing on applications the authority proposes to submit for itself to the Secretary.

(B) The authority may modify any application submitted to it and may return an application to an applicant.

(C) The authority shall (i) rank all the applications which the authority proposes to transmit to the Secretary in the order in which the authority determines the applications should be funded when approved by the Secretary, and (ii) in accordance with the agreement entered into under section 305, transmit such applications to the Secretary.

If the State mental health authority modifies or returns an application, the State mental health authority shall provide the applicant involved with a statement of the reasons for the modification or return.

(2) If a State mental health authority has not entered into an agreement under section 305, the authority shall carry out the following:

(A) The authority shall consider the applications submitted to it in accordance with subsection (a), and, in the course of such consideration, shall provide the applicants and other interested persons with a reasonable opportunity for a hearing before the authority on the applications. The authority shall also provide a reasonable opportunity for a hearing on applications the authority proposes to submit for itself to the Secretary.

(B) For each category of grants under title II for which an application was submitted to or proposed by the authority, the authority shall (i) rank all the applications for such category of grants in the order in which the authority determines the applications should be funded when approved by the Secretary, and (ii) in accordance with regulations issued by the Secretary, transmit such applications to the Secretary.

(c)(1) An applicant may appeal to the Secretary a decision of a State mental health authority under subsection (b)(1) to return to the applicant its application or to modify its application. In reviewing the decision of the authority, the Secretary shall provide the authority and the applicant involved a reasonable opportunity for a hearing on the appeal of the decision of the authority. If the Secretary finds that the decision of the authority was arbitrary or capricious, the Secretary—

(A) shall, if the decision of the authority was to return the application, return the application to the authority for ranking, and

(B) shall, if the decision of the authority was to modify the application, provide the authority an opportunity to change its rank of the application, and the Secretary may consider the application without regard to the modifications.

(2) An applicant may appeal to the Secretary a decision of a State mental health authority under subsection (b)(2) ranking the application. In reviewing the decision of the authority, the Secretary shall provide the authority and the applicant involved a reasonable opportunity for a hearing on the appeal of the decision of the authority. If the Secretary finds that, on the basis of the record established in the hearing provided under the preceding sentence, there is substantial evidence that the activity proposed in the application involved would better carry out the purposes of the section under which it would be funded than other applications under that section given a higher rank, the Secretary may consider the application without regard to the rank given the application by the State mental health authority.

(3) A decision of the Secretary under paragraph (1) or (2) is not subject to judicial review.

(d) If a State mental health authority fails to carry out, in accordance with an agreement entered into under section 305 or with regulations issued by the Secretary, its responsibilities under subsection (b) with respect to applications submitted to it, the applicants under such applications shall be provided an opportunity to submit their applications directly to the Secretary.

APPLICATIONS

SEC. 307. (a) No grant may be made under this title or title II unless an application therefor is submitted to and approved by the Secretary. The application shall be in such form, submitted in such manner, and contain such information, as the Secretary may require.

(b) An application for a grant under section 201, 202, 203, or 204 must, in addition to the application requirements prescribed in the section under which the grant is to be made, contain or be accompanied by—

(1) a financial plan and budget covering the year for which the grant is sought (and such additional period as the Secretary may require) showing the sources of funding for the project and allocating the funds available for the project among the various types of services to be provided or assisted or the various types of activities to be conducted or assisted and among the various population groups to which the project is directed;

(2) a statement of the objectives of the project;

(3) with respect to health services which are to be provided, assurances satisfactory to the Secretary that—

(A) the applicant (i) has prepared a schedule of fees or payments for the provision of its services designed to cover its reasonable costs of operation and a corresponding schedule of discounts to be applied to the payment of such fees or payments which discounts are adjusted on the basis of the patient's ability to pay; (ii) has made and will continue to make every reasonable effort (I) to secure from patients payment for services in accordance with such approved schedules, and (II) to collect reimbursement for health services to persons described in subparagraph (B) on the basis of the full amount of fees and payments for such services without application of any discount, and (iii) has submitted to the Secretary such reports as the Secretary may require to determine compliance with this subparagraph; and

(B) the applicant has made or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing services to persons who are entitled to insurance benefits under title XVIII of the Social Security Act, to medical assistance under a State plan approved under title XIX of such Act, or to assistance for medical expenses under any other public assistance program or private health insurance program; and

(C) the applicant will adopt and enforce a policy (i) under which fees for the provision of mental health services through the applicant will be paid to the applicant, and (ii) which prohibits health professionals who provide such services to patients through the applicant from providing such services to such patients except through the applicant.

(4) in the case of a project which will serve a population which includes a substantial proportion of individuals of limited English-speaking ability, assurances satisfactory to the Secretary that the applicant has (A) developed a plan and made arrangements responsive to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals, and (B) identified an individual on its staff who is fluent in both that language and English and whose responsibilities shall include providing guidance to such individuals and to appropriate staff members with respect to cultural sensitivity and bridging linguistic and cultural differences;

(5) assurances that the applicant has in effect a system, satisfactory to the Secretary, to assure that an employee of the applicant who reports to any officer or employee of the Department of Health and Human Services or appropriate State authority any failure on the part of the applicant to comply with an applicable requirement of this Act or regulation of the Secretary or requirement of State law will not on account of such report be discharged or discriminated against with respect to the employee's compensation or the terms, conditions, or privileges of the employee's employment;

(6) satisfactory assurances that each facility to be used in the provision of mental health or support services to be supported by the grant applied for meets the requirements of applicable fire and safety codes imposed by State law;

(7) information on the organization and operation of the applicant;

(8) satisfactory assurances that the applicant will submit such reports, at such times and containing such information, as the Secretary may request and maintain such records as the Secretary may find necessary for purposes of this Act, and afford the Secretary and the Comptroller General of the United States such access to such records and other documents as may be necessary for an effective audit of the project;

(9) satisfactory assurances that funds made available under this Act will be used to supplement and, to the extent practical, increase the level of non-Federal funds that would, in the absence of those Federal funds, be made available for the purpose for which the funds under this Act are made available, and will in no event supplant such non-Federal funds;

(10) satisfactory assurances that measures have been taken by the applicant to consult with members of the group or groups to be served, members of the public, and affected organizations and agencies during the development of the application, and to give reasonable opportunities to members of such groups, members of the public, and interested organizations and agencies to comment on the application;

(11) assurances that the applicant has made satisfactory efforts to coordinate the services to be provided with other mental health and support services in the same area;

(12) in the case of a grant under section 201 or 202, information regarding the extent to which and manner in which the applicant has served chronically mentally ill individuals in prior years (if such service has been provided) and proposes to serve chronically mentally ill individuals during the fiscal year for which the grant is sought;

(13) statistics and other information requested by the Secretary necessary to evaluate the compliance of the application with the requirements of this section;

(14) satisfactory assurance that the project is consistent with the State mental health services program; and

(15) such other information and material and such other assurances as the Secretary may prescribe.

(c) If an entity has received a grant under section 201, 202, 203, 204, or 206, the entity is not eligible to apply for a grant under another of such sections unless it continues to provide the service it provided under the grant it received or the Secretary determines that the service is not needed.

(d) If a grant is made for any fiscal year under section 202, 203, or 204(a) for a project in a mental health service area, no more than one grant may be made for such fiscal year for a project in such mental health service area under any one of the other such sections.

INDIAN TRIBES AND ORGANIZATIONS

SEC. 308. (a) Except as provided in this section, the requirements of this title and title II shall apply with respect to any application of an Indian tribe, intertribal organization, or urban Indian organization made for a grant under title II.

(b)(1) Any Indian tribe or intertribal organization may apply directly to the Secretary for a grant under title II for the provision of mental health services if such services will be available within or will specifically serve—

(A) a federally recognized Indian reservation,

(B) any land area in Oklahoma that is held in trust by the United States for Indians or that is a restricted Indian-owned land area,

(C) a native village in Alaska (as defined in section 3(c) of the Alaska Native Claims Settlement Act), or

(D) an Indian community the members of which are recognized as eligible for services under the Indian Health Care Improvement Act.

(2) An application of an Indian tribe or intertribal organization authorized by paragraph (1)—

(A) shall also be submitted by the applicant to the Indian Health Service and may not be approved by the Secretary unless the Indian Health Service certifies that the application is consistent with the Tribal Specific Health Plan of the tribe or tribes to be served by the grant,

(B) shall not be subject to consideration by a State mental health authority,

(C) may be made without regard to the State mental health services program in effect in the State in which the tribe or organization is located, and

(D) may be considered, approved, and funded by the Secretary without regard to the mental health service area or areas in which the services under the grant will be provided.

(c) If the application of any Indian tribe, intertribal organization, or urban Indian organization for a grant under title II requests that the Indian Health Service or any entity of the Service provide the mental health services under the grant to members of such tribe or organization—

(1) the application shall not be subject to consideration by a State mental health authority, and

(2) if the application is approved, payments under the grant shall be made to the Indian Health Service or entity of the Service as requested in the application.

(d) For purposes of this section—

(1) the term "Indian tribe" has the same meaning as is given that term by the Indian Self-Determination Act, and

(2) the term "urban Indian organization" has the same meaning as is given that term by the Indian Health Care Improvement Act.

PROCEDURES

SEC. 309. In considering any application for a grant or contract under this title or title II, the Secretary shall provide a reasonable opportunity for the submission of comments on the application. If the Secretary does not approve an application, the Secretary shall provide the applicant and the State mental health authority of the State in which the applicant is located to the Secretary with a statement of the reasons of the Secretary for not approving the application.

PART C—PERFORMANCE

PERFORMANCE CONTRACTS

SEC. 315. No payment may be made under any grant or contract made or entered into under title II or this title unless the Secretary has entered into a contract with the entity to which the grant has been made or with which the contract has been entered into specifying the following with respect to the performance of the activities for which the grant or contract was made or entered into:

(1) A schedule for the performance of such activities.

(2) The standards by which the performance of such activities by the entity will be monitored and evaluated, the incentives which will be provided the entity to meet such standards, and the role of the Secretary and of consumers and representatives of communities affected by such activities in such monitoring and evaluation.

(3) The methods and format which will be used in collecting and transmitting data to the Secretary respecting the performance of such activities.

(4) An expeditious and impartial method for the resolution of disputes between the entity and the Secretary respecting the performance of such activities.

(5) Such other matters which the Secretary includes in the contract to carry out the purposes of the section under which the grant or contract was made or entered into.

PERFORMANCE STANDARDS

SEC. 316. (a) The Secretary shall prescribe standard measures of performance designed to test the quality and extent of performance by the recipients of grants and contracts under title II or this title, the Secretary to which such performance has helped to achieve the national or other objectives for which the grants or contracts were made or entered into.

(b) In determining whether or not to approve an application for a grant or contract under title II or this title, the Secretary shall consider the performance by the applicant under any prior grant or contract under title II or this title as measured under subsection (a).

EVALUATION AND MONITORING

SEC. 317. (a) With the approval of the Secretary, any recipient of a grant or contract under title II or this title may use a portion of that grant or contract for evaluation of the project or activity involved.

(b) Not more than 1 per centum of the total amount appropriated under title II and this title for any fiscal year shall be used by the Secretary, or through contracts with State mental health authorities or other entities, to monitor activities of the recipients of grants and contracts under title II or this title to determine if the requirements of this Act applicable to the receipt of such grants or contracts are being met.

PART D—ENFORCEMENT

ENFORCEMENT

SEC. 321. (a) If the Secretary determines that there has been a substantial and persistent failure—

(1) by a State mental health authority to implement its State mental health services program in accordance with the requirements of part A of this title, the Secretary may issue a proposed order to stop payments under title II and this title to any entity in the State, including the State mental health authority, until the Secretary is satisfied that such failure has been or will be corrected, or

(2) by any entity in a State which is receiving funds under a grant or contract under title II or this title to comply with the requirements of this title (other than the requirements of part A), the Secretary may issue a proposed order to stop payments under such grant or contract until the Secretary is satisfied that such failure has been or will be corrected.

The Secretary shall notify each entity affected by an order issued under this subsection of the effect of the order.

(b) If the Secretary issues an order under subsection (a), the Secretary shall provide a reasonable opportunity for an informal hearing for the entities affected by the order. Such a hearing shall be held in the State in which such entities are located. If after such a hearing the Secretary reaffirms the determination on which the order was based, the Secretary may discontinue payments as specified in the proposed order or as revised by the Secretary after the hearing.

PART E—MISCELLANEOUS

NATIONAL INSTITUTE OF MENTAL HEALTH PREVENTION UNIT

SEC. 325. Section 455 of the Public Health Service Act is amended by adding at the end thereof the following new subsection:

"(d) The Director shall designate an administrative unit in the Institute to—

"(1) design national goals and establish national priorities for—

"(A) the prevention of mental illness, and

"(B) the promotion of mental health,

"(2) encourage and assist local entities and State agencies to achieve the goals and priorities described in paragraph (1), and

"(3) develop and coordinate Federal prevention policies and programs and to assure increased focus on the prevention of mental illness and the promotion of mental health."

TECHNICAL ASSISTANCE

SEC. 326. Such portion as the Secretary may determine, but not more than 2 percent, of the total amount appropriated under title II for any fiscal year is available to the Secretary to provide technical assistance, including short-term training to any State mental health authority or other entity which is or has been a recipient of a grant under title II or this title to assist it in developing, or in better administering, the mental health services program or programs for which it is responsible.

INDIRECT PROVISION OF SERVICES

SEC. 327. Except as provided in section 101(b)(2), any mental health service which an entity is responsible for providing in a mental health service area under a grant or contract under title II may be provided by it directly at its primary or satellite facilities or through arrangements with other entities or health professionals and others in, or serving residents of, the same mental health service area.

COOPERATIVE AGREEMENTS

SEC. 328. In lieu of providing funds under a grant under title II or this title, the Secretary may provide such funds under a cooperative agreement, and all requirements which would apply with respect to such a grant shall apply to the cooperative agreement.

CONTRACT AUTHORITY

SEC. 329. The authority of the Secretary to enter into contracts under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

TITLE IV—ASSOCIATE DIRECTOR FOR MINORITY CONCERNS

ASSOCIATE DIRECTOR FOR MINORITY CONCERNS

SEC. 401. (a) Section 455 of the Public Health Service Act (as amended by section 325 of this Act) is amended by adding at the end thereof the following new subsection:

"(e)(1) The Director of the National Institute of Mental Health shall designate an Associate Director for Minority Concerns.

"(2) The Secretary, acting through the Associate Director for Minority Concerns, shall—

"(A) develop and coordinate prevention, treatment, research, and administrative policies and programs to assure increased emphasis on the mental health needs of minority populations.

"(B) support programs and projects relating to the delivery of mental health services to minority populations, including demonstration programs and projects;

"(C) develop a plan to increase the representation of minority populations in mental health service delivery and manpower programs;

"(D) support programs of basic and applied social and behavioral research on the mental health problems of minority populations;

"(E) study the effects of discrimination on institutions and individuals, including majority institutions and individuals;

"(F) develop systems to assist minority populations in adapting to, and coping with, the effects of discrimination;

"(G) support and develop research, demonstration, and training programs designed to eliminate institutional discrimination; and

"(H) provide increased emphasis on the concerns of minority populations in training programs, service delivery programs, and research endeavors of the Institute.".

(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act or October 1, 1981, whichever occurs later.

TITLE V—MENTAL HEALTH RIGHTS AND ADVOCACY

BILL OF RIGHTS

SEC. 501. It is the sense of the Congress that each State should review and revise, if necessary, its laws to ensure that mental health patients receive the protection and services they require; and in making such review and revision should take into account the recommendations of the President's Commission on Mental Health and the following:

(1) A person admitted to a program or facility for the purpose of receiving mental health services should be accorded the following:

(A) The right to appropriate treatment and related services in a setting and under conditions that—

(i) are the most supportive of such person's personal liberty; and

(ii) restrict such liberty only to the extent necessary consistent with such person's treatment needs, applicable requirements of law, and applicable judicial orders.

(B) The right to an individualized, written, treatment or service plan (such plan to be developed promptly after admission of such person), the right to treatment based on such plan, the right to periodic review and reassessment of treatment and related service needs, and the right to appropriate revision of such plan, including any revision necessary to provide a description of mental health services that may be needed after such person is discharged from such program or facility.

(C) The right to ongoing participation, in a manner appropriate to such person's capabilities, in the planning of mental health services to be provided such person (including the right to participate in the development and periodic revision of the plan described in subparagraph (B)), and, in connection with such participation, the right to be provided with a reasonable explanation, in terms and language appropriate to such person's condition and ability to understand, of—

(i) such person's general mental condition and, if such program or facility has provided a physical examination, such person's general physical condition;

(ii) the objectives of treatment;

(iii) the nature and significant possible adverse effects of recommended treatments;

(iv) the reasons why a particular treatment is considered appropriate;

(v) the reasons why access to certain visitors may not be appropriate; and

(vi) any appropriate and available alternative treatments, services, and types of providers of mental health services.

(D) The right not to receive a mode or course of treatment, established pursuant to the treatment plan, in the absence of such person's informed, voluntary, written consent to such mode or course of treatment, except treatment—

(i) during an emergency situation if such treatment is pursuant to or documented contemporaneously by the written order of a responsible mental health professional; or

(ii) as permitted under applicable law in the case of a person committed by a court to a treatment program or facility.

(E) The right not to participate in experimentation in the absence of such person's informed, voluntary, written consent, the right to appropriate protections in connection with such participation, including the right to a reasonable explanation of the procedure to be followed, the benefits to be expected, the relative advantages of alternative treatments, and the potential discomforts and risks, and the right and opportunity to revoke such consent.

(F) The right to freedom from restraint or seclusion, other than as a mode or course of treatment or restraint or seclusion during an emergency situation if such restraint or seclusion is pursuant to or documented contemporaneously by the written order of a responsible mental health professional.

(G) The right to a humane treatment environment that affords reasonable protection from harm and appropriate privacy to such person with regard to personal needs.

(H) The right to confidentiality of such person's records.

(I) The right to access, upon request, to such person's mental health care records, except such person may be refused access to—

(i) information in such records provided by a third party under assurance that such information shall remain confidential; and

(ii) specific material in such records if the health professional responsible for the mental health services concerned has made a determination in writing that such access would be detrimental to such person's health, except that such material may be made available to a similarly licensed health professional selected by such person and such health professional may, in the exercise of professional judgment, provide such person with access to any or all parts of such material or otherwise disclose the information contained in such material to such person.

(J) The right, in the case of a person admitted on a residential or inpatient care basis, to converse with others privately, to have convenient and reasonable access to the telephone and mails, and to see visitors during regularly scheduled hours, except that, if a mental health professional treating such person determines that denial of access to a particular visitor is necessary for treatment purposes, such mental health professional may, for a specific, limited, and reasonable period of time, deny such access if such mental health professional has ordered such denial in writing and such order has been incorporated in the treatment plan for such person. An order denying such access should include the reasons for such denial.

(K) The right to be informed promptly at the time of admission and periodically thereafter, in language and terms appropriate to such person's condition and ability to understand, of the rights described in this section.

(L) The right to assert grievances with respect to infringement of the rights described in this section, including the right to have such grievances considered in a fair, timely, and impartial grievance procedure provided for or by the program or facility.

(M) Notwithstanding subparagraph (J), the right of access to (including the opportunities and facilities for private communication with) any available—

(i) rights protection service within the program or facility;

(ii) rights protection service within the State mental health system designed to be available to such person; and

(iii) qualified advocate;

for the purpose of receiving assistance to understand, exercise, and protect the rights described in this section and in other provisions of law.

(N) The right to exercise the rights described in this section without reprisal, including reprisal in the form of denial of any appropriate, available treatment.

(O) The right to referral as appropriate to other providers of mental health services upon discharge.

(2)(A) The rights described in this section should be in addition to and not in derogation of any other statutory or constitutional rights.

(B) The rights to confidentiality of and access to records as provided in subparagraphs (H) and (I) of paragraph (1) should remain applicable to records pertaining to a person after such person's discharge from a program or facility.

(3)(A) No otherwise eligible person should be denied admission to a program or facility for mental health services as a reprisal for the exercise of the rights described in this section.

(B) Nothing in this section should—

(i) obligate an individual mental health or health professional to administer treatment contrary to such professional's clinical judgment;

(ii) prevent any program or facility from discharging any person for whom the provision of appropriate treatment, consistent with the clinical judgment of the mental health professional primarily responsible for such person's treatment, is or has become impossible as a result of such person's refusal to consent to such treatment;

(iii) require a program or facility to admit any person who, while admitted on prior occasions to such program or facility, has repeatedly frustrated the purposes of such admissions by witholding consent to proposed treatment; or

(iv) obligate a program or facility to provide treatment services to any person who is admitted to such program or facility solely for diagnostic or evaluative purposes.

(C) In order to assist a person admitted to a program or facility in the exercise or protection of such person's rights, such person's attorney or legal representatives should have reasonable access to—

(i) such person;

(ii) the areas of the program or facility where such person has received treatment, resided, or had access; and

(iii) pursuant to the written authorization of such person, the records and information pertaining to such person's diagnosis, treatment, and related services described in paragraph (1)(I).

(D) Each program and facility should post a notice listing and describing, in language and terms appropriate to the ability of the persons to whom such notice is addressed to understand, the rights described in this section of all persons admitted to such program or facility. Each such notice should conform to the format and content for such notices, and should be posted in all appropriate locations.

(4)(A) In the case of a person adjudicated by a court of competent jurisdiction as being incompetent to exercise the right to consent to treatment or experimentation described in subparagraph (D) or (E) of paragraph (1), or the right to confidentiality of or access to records described in subparagraph (H) or (I) of such paragraph, or to provide authorization as described in paragraph (3)(C)(iii), such right may be exercised or such authorization may be provided by the individual appointed by such court as such person's guardian or representative for the purpose of exercising such right or such authorization.

(B) In the case of a person who lacks capacity to exercise the right to consent to treatment or experimentation under subparagraph (D) or (E) of paragraph (1), or the right to confidentiality of or access to records described in subparagraph (H) or (I) of such paragraph, or to provide authorization as described in paragraph (3)(C)(iii), because such person has not attained an age considered sufficiently advanced under State law to permit the exercise of such right or such authorization to be legally binding, such right may be exercised or such authorization may be provided on behalf of such person by a parent or legal guardian of such person.

(C) Notwithstanding subparagraphs (A) and (B), in the case of a person admitted to a program or facility for the purpose of receiving mental health services, no individual employed by or receiving any remuneration from such program or facility should act as such person's guardian or representative.

GRANTS FOR PROTECTION AND ADVOCACY PROGRAMS

SEC. 502. (a)(1) The Secretary may make grants to any public or nonprofit private entity for projects to protect and advocate the rights of mentally ill individuals if the entity—

(A) has the authority and ability to pursue legal, administrative, and other appropriate remedies to ensure the protection of the rights of mentally ill individuals, and

(B) is independent of any entity which provides treatment or services to mentally ill individuals.

(2) A grant under paragraph (1) for the first fiscal year for which funds are appropriated under subsection (d) may be made only to an entity of the government of a State designated by the Governor of the State or a public or nonprofit private entity in a State recommended by the Governor of the State. A grant under paragraph (1) for a succeeding fiscal year may be made to any public or nonprofit private entity, except that in considering an application of an entity which is not an entity of State government designated by the Governor or which has not been recommended by the Governor of a State, the Secretary shall notify the Governor of the State in which such entity is located of the application and shall provide the Governor and other interested persons a reasonable opportunity for a hearing on the application.

(b) The Secretary may make grants to any public or nonprofit private entity for the provision of training and technical assistance for entities carrying out projects to protect and advocate the rights of mentally ill individuals.

(c) No grant may be made under subsection (a) or (b) unless an application therefor is submitted to and approved by the Secretary. The application shall be submitted in such form and manner, and shall contain such information, as the Secretary may prescribe.

(d) For grants under subsections (a) and (b), there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1982, $12,500,000 for the fiscal year ending September 30, 1983, and $15,000,000 for the fiscal year ending September 30, 1984. Not more than 10 percent and not less than 5 percent of the amount appropriated under this subsection for any fiscal year shall be obligated for grants under subsection (b).

TITLE VI—RAPE PREVENTION AND CONTROL

RAPE PREVENTION AND CONTROL

SEC. 601. (a) The Secretary, acting through the National Center for the Prevention and Control of Rape (hereafter in this section referred to as the "Center"), may, directly or by grant, carry out the following:

(1) A continuing study of rape, including a study and investigation of—

(A) the effectiveness of existing Federal, State, and local laws dealing with rape;

(B) the relationship, if any, between traditional legal and social attitudes toward sexual roles, the act of rape, and the formulation of laws dealing with rape;

(C) the treatment of the victims of rape by law enforcement agencies, hospitals or other medical institutions, prosecutors, and the courts;

(D) the causes of rape, identifying to the degree possible—

(i) social conditions which encourage sexual attacks, and

(ii) the motives of offenders, and

(E) the impact of rape on the victim and family of the victim;

(F) sexual assaults in correctional institutions;

(G) the estimated actual incidence of forcible rape as compared to the reported incidence of forcible rape and the reasons for any difference between the two; and

(H) the effectiveness of existing private and local and State government educational, counseling, and other programs designed to prevent and control rape.

(2) The compilation, analysis, and publication of summaries of the continuing study conducted under paragraph (1) and the research and demonstration projects conducted under paragraph (5). The Secretary shall submit not later than March 30, 1983, to the Congress a summary of such study and projects together with a review of their effectiveness and recommendations where appropriate.

(3) The development and maintenance of an information clearinghouse with regard to—

(A) the prevention and control of rape;

(B) the treatment and counseling of the victims of rape and their families; and

(C) the rehabilitation of offenders.

(4) The compilation and publication of training materials for personnel who are engaged or intend to engage in programs designed to prevent and control rape.

(5) Assistance to community mental health centers and other qualified public and nonprofit private entities in conducting research and demonstration projects concerning the prevention and control of rape, including projects (A) for the planning, development, implementation, and evaluation of alternative methods used in the prevention and control of rape, the treatment and counseling of the victims of rape and their families, and the rehabilitation of offenders; (B) for the application of such alternative methods; and (C) for the promotion of community awareness of the specific locations in which, and the specific social and other conditions under which sexual attacks are most likely to occur.

(6) Assistance to community mental health centers in meeting the costs of providing consultation and education services respecting rape.

(b) The Secretary shall appoint an advisory committee to advise, consult with, and make recommendations to the Secretary on the implementation of subsection (a). The recommendations of the committee shall be submitted directly to the Secretary without review or revision by any person without the consent of the committee. The Secretary shall appoint to such committee persons who are particularly qualified to assist in carrying out of the functions of the committee. A majority of the members of the committee shall be women. Members of the advisory committee shall receive compensation at rates, not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, for each day (including traveltime) they are engaged in the performance of their duties as members of the advisory committee and, while so serving away from their homes or regular places of business, each member shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(c) No grant may be made under subsection (a) unless an application therefor is submitted to and approved by the Secretary. The application shall be submitted in such form and manner and contain such information as the Secretary may prescribe.

(d) For the purpose of carrying out subsection (a), there are authorized to be appropriated $6,000,000 for the fiscal year ending September 30, 1981, $1,500,000 for the fiscal year ending September 30, 1982, $1,500,000 for the fiscal year ending September 30, 1983.

(e) For purposes of subsection (a), the term "rape" includes statutory and attempted rape and any other criminal sexual assault (whether homosexual or heterosexual) which involves force or the threat of force.

(f) Part D of the Community Mental Health Centers Act is repealed.

GRANTS FOR SERVICES FOR RAPE VICTIMS

SEC. 602. (a) The Secretary may make grants to any public or nonprofit private entity to assist in meeting the cost of—

(1) providing counseling and followup counseling for rape victims and the immediate family of rape victims;

(2) providing assistance in securing mental health, social, medical, and legal services for rape victims;

(3) demonstration projects to develop and implement methods of preventing rape and assisting rape victims.

(b)(1) No grant may be made under subsection (a) unless an application therefor is submitted to and approved by the Secretary. The application shall be submitted in such form and manner and contain such assurances as the Secretary may require that the applicant will comply with the requirements of subsection (e) and such other information as the Secretary may prescribe.

(2) The amount of any grant under this section shall be determined by the Secretary, except that the amount may not exceed 90 per centum of the cost of the project (as determined by the Secretary) with respect to which the grant is made.

(c)(1) In carrying out this section, the Secretary shall coordinate with other activities related to rape carried out by the Secretary and the heads of other Federal departments and agencies.

(2) The Secretary shall establish a grant review panel to make recommendations to the Secretary with respect to the approval of applications for grants under subsection (a). The Secretary shall appoint individuals to the panel who are or have been engaged in the provision of services to rape victims.

(d)(1) There are authorized to be appropriated for grants under subsection (a) $6,000,000 for the fiscal year ending September 30, 1981, $9,000,000 for the fiscal year ending September 30, 1982, $12,000,000 for the fiscal year ending September 30, 1983, and $12,000,000 for the fiscal year ending September 30, 1984.

(2) The Secretary may in a fiscal year obligate not more than 7.5 percent of the funds appropriated for that fiscal year under paragraph (1) to provide, upon request, technical assistance in the development and submission of applications for a grant under subsection (a). Such assistance shall be provided only to those entities which the Secretary determines do not possess the resources or expertise necessary to develop and submit such an application.

(e) No officer or employee of the Federal Government or of any recipient of a grant under subsection (a) may use or disclose any personally identifiable information obtained, in carrying out an activity assisted by such grant, by the recipient (or an officer or employee of the recipient) from a rape victim or a rape victim's immediate family unless such use or disclosure is necessary to carry out the activity or is made with the consent of the person who supplied the information. Such information shall be immune from legal process and may not, without the consent of the person furnishing the information, be admitted as evidence or otherwise used in any civil or criminal action or other judicial or administrative proceeding.

TITLE VII—EXTENSION OF COMMUNITY MENTAL HEALTH CENTERS ACT

ONE-YEAR EXTENSION OF COMMUNITY MENTAL HEALTH CENTERS ACT

SEC. 701. (a) Subsection (d) of section 202 of the Community Mental Health Centers Act (42 U.S.C. 2689a(d)) (relating to grants for planning) is amended by striking out "for the fiscal year ending September 30, 1980" and inserting in lieu thereof "each for the fiscal year ending September 30, 1980, and the next fiscal year".

(b) Subsection (d) of section 203 of such Act (relating to grants for initial operation) is amended—

(1) in paragraph (1), by (A) striking out "and" after "1979,", and (B) inserting before the period a comma and the following: "and $37,000,000 for the fiscal year ending September 30, 1981"; and

(2) effective October 1, 1981, by striking out "(1)" and paragraph (2).

(c) Subsection (c) of section 204 of such Act (42 U.S.C. 2689c(c) (relating to grants for consultation and education services) is amended (1) by striking out "and" after "1979,", and (2) by inserting before the period a comma and the following: "and $15,000,000 for the fiscal year ending September 30, 1981".

(d)(1) Section 213 of such Act (42 U.S.C. 2689h) (relating to financial distress grants) is amended (1) by striking out "and" after "1978,", and (B) by inserting after "1979," the following: "and $20,000,000 for the fiscal year ending September 30, 1981,".

(2) Section 212(c) of such Act (42 U.S.C. 2689g(c)) of such Act is amended by striking out "five" and inserting in lieu thereof "six".

(e) Section 206(e)(2)(B) of such Act (42 U.S.C. 2689e(e)(2)(B)) is amended by striking out "the fiscal year ending September 30, 1979, and during the fiscal year ending September 30, 1980" and inserting in lieu thereof "the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981".

TITLE VIII—MISCELLANEOUS

EMPLOYEE PROTECTION

SEC. 801. (a)(1) Each State mental health authority shall have in effect equitable arrangements to protect the interests of employees affected adversely by actions taken by the State mental health authority to emphasize outpatient mental health services. Such arrangements shall include arrangements designed to preserve employee rights and benefits and to provide training and retraining of employees, where necessary, for work in mental health or other fields and arrangements under which maximum effort will be made to place employees in employment. The arrangements required by this paragraph shall be established by a State mental health authority in accordance with regulations issued by the Secretary with the concurrence of the Secretary of Labor.

(2) The Secretary shall issue the regulations referred to in paragraph (1) not later than six months after the date of the enactment of this Act.

(b) Whenever the Secretary, after reasonable notice and opportunity for a hearing to the State mental health authority involved, finds (after consultation with the Secretary of Labor) that there is a failure to comply substantially with the requirements of subsection (a), the Secretary may, until the Secretary is satisfied that there will no longer be any such failure, discontinue payments to the State mental health authority under sections 107 and 305.

(c) Not later than March 1, 1983, and March 1, 1984, the Secretary of Health and Human Services shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives a report on actions taken under subsection (a). The report shall include the comments of the Secretary of Labor on such actions and shall include—

(1) a statement of the number, by State, of public inpatient mental health facilities which have been closed or partially closed since the date of the enactment of this Act,

(2) a statement of the number, by State, of public employees who were adversely affected by such closings,

(3) a summary, by State, of the arrangements made under subsection (a) for such employees and the cost of carrying out such arrangements,

(4) a description of agency procedures, resources, and personnel used to implement subsections (a) and (b), and

(5) a description of the training and retraining projects funded under section 207.

REPORT ON SHELTER AND BASIC LIVING NEEDS OF CHRONICALLY MENTALLY ILL INDIVIDUALS

SEC. 802. (a) The Secretary of Health and Human Services and the Secretary of Housing and Urban Development shall jointly submit a report to the Committees on Labor and Human Resources and Banking, Housing, and Urban Affairs of the Senate, and the Committees on Interstate and Foreign Commerce and Banking, Finance and Urban Affairs of the House of Representatives, relating to Federal efforts to respond to the shelter and basic living needs of chronically mentally ill individuals.

(b) The report required by subsection (a) shall include—

(1) an analysis of the extent to which chronically mentally ill individuals remain inappropriately housed in institutional facilities or have otherwise inadequate or inappropriate housing arrangements;

(2) an analysis of available permanent noninstitutional housing arrangements for the chronically mentally ill;

(3) an evaluation of ongoing permanent and demonstration programs, funded in whole or in part by Federal funds, which are designed to provide noninstitutional shelter and basic living services for the chronically mentally ill, including—

(A) a description of each program;

(B) the total number of individuals estimated to be eligible to participate in each program, the number of individuals served by each program, and an estimate of the total population each program expects to serve; and

(C) an assessment of the effectiveness of each program in the provision of shelter and basic living services;

(4) recommendations of measures to encourage States to coordinate and link the provisions in State health plans which relate to mental health and, in particular, the shelter and basic living needs of chronically mentally ill individuals, with local and State housing plans;

(5) recommendations for Federal legislation relating to the provision of permanent residential noninstitutional housing arrangements and basic living services for chronically mentally ill individuals, including an estimate of the cost of such recommendations; and

(6) any other recommendations for Federal initiatives which, in the judgment of the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, will lead to improved shelter and basic living services for chronically mentally ill individuals.

(c) The report required by subsection (a) shall be submitted to the committees referred to in subsection (a) no later than January 1, 1981.

OBLIGATED SERVICE FOR MENTAL HEALTH TRAINEESHIPS

SEC. 803. (a) Section 303 of the Public Health Service Act is amended by adding at the end thereof the following new subsection:

"(d)(1) Any individual who has received a clinical traineeship, in psychology, psychiatry, nursing, or social work, under subsection (a)(1) that was not of a limited duration or experimental nature (as determined by the Secretary) is obligated to serve, in service determined by the Secretary to be appropriate in the light of the individual's training and experience, at the rate of one year for each year (or academic year, whichever the Secretary determines to be appropriate) of the traineeship.

"(2) The service required under paragraph (1) shall be performed—

"(A) for a public inpatient mental institution providing inpatient care or any entity receiving a grant under the Mental Health Systems Act,

"(B) in a health manpower shortage area (as determined under subpart II of part D of this title), or

"(C) in any other area or for any other entity designated by the Secretary,

and shall begin within such period after the termination of the traineeship as the Secretary may determine. In developing criteria for determining for which institutions or entities or in which areas, referred to in the preceding sentence, individuals must perform service under paragraph (1), the Secretary shall give preference to institutions, entities, or areas which in his judgment have the greatest need for personnel to perform that service. The Secretary may permit service for or in other institutions, entities, or areas if the Secretary determines that the request for such service is supported by good cause.

"(3) Any individual who fails to perform the service required under this subsection within the period prescribed by the Secretary is obligated to repay to the United States an amount equal to three times the cost of the traineeship (including stipends, and allowances) plus interest at the maximum legal rate at the time of payment of the traineeship, multiplied, in any case in which the service so required has been performed in part, by the percentage which the length of the service not so performed is of the length of the service so required to be performed.

"(4)(A) In the case of any individual any part of whose obligation to perform service under this subsection exists at the same time as any part of the individual's obligation to perform service under section 752 or 753 (because of receipt of a scholarship under subpart IV of part C of title VII) or the individual's obligation to perform service under section 472 (because of receipt of a National Research Service Award), or both, the same service may not be used to any extent to meet more than one of those obligations.

"(B) In any case to which subparagraph (A) is applicable and in which one of the obligations is to perform service under section 752 or 753, the obligation to perform service under that section must be met (by performance of the required service or payment of damages) before the obligation to perform service under this subsection or under section 472.

"(C) In any case to which subparagraph (A) is applicable, if any part of the obligation to perform service under section 472 exists at the same time as any part of the obligation to perform service under this subsection, the manner and time of meeting each obligation shall be prescribed by the Secretary.".

"(5) In disseminating application forms to individuals desiring traineeships, the Secretary shall include with such forms a fair summary of the liabilities under this subsection of an individual who receives a traineeship.

(b) The amendment made by subsection (a) applies in the case of any academic year (of any traineeship awarded under section 303(a)(1) of the Public Health Service Act) beginning after the date of the enactment of this Act if the award for such academic year is made after such date.

CONFORMING AMENDMENTS

SEC. 804. (a) The second sentence of section 455(a) of the Public Health Service Act (42 U.S.C. 289k–1(a)) (relating to the National Institute of Mental Health) is amended—

(1) by striking out "and" after "sections 301 and 303 of this Act" and inserting in lieu thereof a comma; and

(2) by inserting ", and the Mental Health Systems Act" after "Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (other than part C of title II)".

(b) Section 507 of the Public Health Service Act (42 U.S.C. 225a) (relating to grants to Federal institutions) is amended—

(1) by striking out "and" after "drug dependence,"; and

(2) by inserting ", and appropriations under title VI of the Mental Health Systems Act" before "shall also be available".

(c) Section 513 of the Public Health Service Act (42 U.S.C. 229b) (relating to evaluation of programs) is amended by inserting "the Mental Health Systems Act," after "Community Mental Health Centers Act,".

(d) Section 1513(e)(1)(A)(i) of the Public Health Service Act (42 U.S.C. 3001–2(e)(1)(A)) (relating to functions of health systems agencies) is amended by inserting "the Mental Health Systems Act," after "Community Mental Health Centers Act,".

SPECIAL PAY FOR PUBLIC HEALTH SERVICE PHYSICIANS AND DENTISTS

SEC. 805. Section 208(a) of the Public Health Service Act (42 U.S.C. 210(a)) is amended (1) by inserting "(1)" after "(a)", and (2) by adding at the end the following:

"(2) Commissioned medical and dental officers in the Regular and Reserve Corps shall while on active duty be paid special pay in the same amounts as, and under the same terms and conditions which apply to, the special pay now or hereafter paid to commissioned medical and dental officers of the Armed Forces under chapter 5 of title 37, United States Code.".

CONTRACT AUTHORITY

SEC. 806. The authority of the Secretary to enter into contracts under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

TITLE IX—MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS

MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS

SEC. 901. Section 1903 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(r)(1)(A) In order to receive payments under paragraphs (2) and (7) of subsection (a) without being subject to per centum reductions set forth in subparagraph (C) of this paragraph, a State must provide that mechanized claims processing and information retrieval systems of the type described in subsection (a)(3)(B) and detailed in an advance planning document approved by the Secretary are operational on or before the deadline established under subparagraph (B).

"(B) The deadline for operation of such systems for a State is the earlier of (i) September 30, 1982, or (ii) the last day of the sixth month following the date specified for operation of such systems in the State's most recently approved advance planning document submitted before the date of the enactment of this subsection.

"(C) If a State fails to meet the deadline established under subparagraph (B), the per centums specified in paragraphs (2) and (7) of subsection (a) with respect to that State shall each be reduced by 5 percentage points for the first two quarters beginning on or after such deadline, and shall be further reduced by an additional 5 percentage points after each period consisting of two quarters during which the Secretary determines the State fails to meet the requirements of subparagraph (A); except that—

"(i) neither such per centum may be reduced by more than 25 percentage points by reason of this paragraph; and

"(ii) no reduction shall be made under this paragraph for any quarter following the quarter during which such State meets the requirements of subparagraph (A).

"(2)(A) In order to receive payments under paragraphs (2) and (7) of subsection (a) without being subject to the per centum reductions set forth in subparagraph (C) of this paragraph, a State must have its mechanized claims processing and information retrieval systems, of the type required to be operational under paragraph (1), initially approved by the Secretary in accordance with paragraph (5)(A) on or before the deadline established under subparagraph (B).

"(B) The deadline for approval of such systems for a State is the last day of the fourth quarter that begins after the date on which the Secretary determines that such systems became operational as required under paragraph (1).

"(C) If a State fails to meet the deadline established under subparagraph (B), the per centums specified in paragraphs (2) and (7) of subsection (a) with respect to that State shall each be reduced by 5 percentage points for the first two quarters beginning after such deadline, and shall be further reduced by an additional 5 percentage points at the end of each period consisting of two quarters during which the State fails to meet the requirements of subparagraph (A); except that—

"(i) neither such per centum may be reduced by more than 25 percentage points by reason of this paragraph, and

"(ii) no reduction shall be made under this paragraph for any quarter following the quarter during which such State's systems are approved by the Secretary as provided in subparagraph (A).

"(D) Any State's systems which are approved by the Secretary for purposes of subsection (a)(3)(B) on or before the date of the enactment of this subsection shall be deemed to be initially approved for purposes of this subsection.

"(3)(A) When a State's systems are initially approved, the 75 per centum Federal matching provided in subsection (a)(3)(B) shall become effective with respect to such systems, retroactive to the first quarter beginning after the date on which such systems became operational as required under paragraph (1), except as provided in subparagraph (B).

"(B) In the case of any State which was subject to a per centum reduction under paragraph (2), the per centum specified in subsection (a)(3)(B) shall be reduced by 5 percentage points for the first two quarters beginning after the deadline established under paragraph (2)(B), and shall be further reduced by an additional 5 percentage points at the end of each period consisting of two quarters beginning after such deadline and before the date on which such systems are initially approved, except that no reduction shall be made under this paragraph for any quarter following the quarter during which the State's systems are initially approved by the Secretary.

"(4)(A) The Secretary shall review all approved systems not less often than once each fiscal year, and shall reapprove or disapprove any such systems. Systems which fail to meet the current performance standards, system requirements, and any other conditions for approval developed by the Secretary under paragraph (6) shall be disapproved. Any State having systems which are so disapproved shall be subject to a per centum reduction under subparagraph (B). The Secretary shall make the determination of reapproval or disapproval and so notify the States not later than the end of the first quarter following the review period.

"(B) If the Secretary disapproves a State's systems under subparagraph (A), the Secretary shall, with respect to such State for quarters beginning after the determination of disapproval and before the first quarter beginning after such systems are reapproved, reduce the per centum specified in subsection (a)(3)(B) to a per centum of not less than 50 per centum and not more than 70 per centum as the Secretary determines to be appropriate and commensurate with the nature of noncompliance by such State; except that such per centum may not be reduced by more than 10 percentage points in any 4-quarter period by reason of this subparagraph. No State shall be subject to a per centum reduction under this paragraph (i) before the fifth quarter beginning after such State's systems were initially approved, or (ii) on the basis of a review conducted before October 1, 1981.

"(C) The Secretary may retroactively waive a per centum reduction imposed under subparagraph (B), if the Secretary determines that the State's systems meet all current performance standards and other requirements for reapproval and that such action would improve the administration of the State's plan under this title, except that no such waiver may extend beyond the four quarters immediately prior to the quarter in which the State's systems are reapproved.

"(5)(A) In order to be initially approved by the Secretary, mechanized claims processing and information retrieval systems must be of the type described in subsection (a)(3)(B) and must meet the following requirements:

"(i) The systems must be capable of developing provider, physician, and patient profiles which are sufficient to provide specific information as to the use of covered types of services and items, including prescribed drugs.

"(ii) The State must provide that information on probable fraud or abuse which is obtained from, or developed by, the systems, is made available to the State's medicaid fraud control unit (if any) certified under subsection (q) of this section.

"(iii) The systems must meet all performance standards and other requirements for initial approval developed by the Secretary under paragraph (6).

"(B) In order to be reapproved by the Secretary, mechanized claims processing and information retrieval systems must meet the requirements of subparagraphs (A)(i) and (A)(ii) and performance standards and other requirements for reapproval developed by the Secretary under paragraph (6).

"(6) The Secretary, with respect to State systems, shall—

"(A) develop performance standards, system requirements, and other conditions for approval for use in initially approving such State systems, and shall further develop written approval procedures for conducting reviews for initial approval, including specific criteria for assessing systems in operation to insure that all such performance standards and other requirements are met;

"(B) by not later than October 1, 1980, develop an initial set of performance standards, system requirements, and other conditions for reapproval for use in reapproving or disapproving State systems, and shall further develop written reapproval procedures for conducting reviews for reapproval, including specific criteria for reassessing systems operations over a period of at least six months during each fiscal year to insure that all such performance standards and other requirements are met on a continuous basis;

"(C) provide that reviews for reapproval, conducted before October 1, 1981, shall be for the purpose of developing a systems performance data base and assisting States to improve their systems, and that no per centum reduction shall be made under paragraph (4) on the basis of such a review;

"(D) insure that review procedures, performance standards, and other requirements developed under subparagraph (B) are sufficiently flexible to allow for differing administrative needs among the States, and that such procedures, standards, and requirements are of a nature which will permit their use by the States for self-evaluation;

"(E) notify all States of proposed procedures, standards, and other requirements at least one quarter prior to the fiscal year in which such procedures, standards, and other requirements will be used for conducting reviews for reapproval;

"(F) periodically update the systems performance standards, system requirements, review criteria, objectives, regulations, and guides as the Secretary shall from time to time deem appropriate;

"(G) provide technical assistance to States in the development and improvement of the systems so as to continually improve the capacity of such systems to effectively detect cases of fraud or abuse;

"(H) for the purpose of insuring compatibility between the State systems and the systems utilized in the administration of title XVIII—

"(i) develop a uniform identification coding system (to the extent feasible) for providers, other persons receiving payments under the State plans (approved under this title) or under title XVIII, and beneficiaries of medical services under such plans or title;

"(ii) provide liaison between States and carriers and intermediaries having agreements under title XVIII to facilitate timely exchange of appropriate data; and

"(iii) improve the exchange of data between the States and the Secretary with respect to providers and other persons who have been terminated, suspended, or otherwise sanctioned under a State plan (approved under this title) or under title XVIII;

"(I) develop and disseminate clear definitions of those types of reasonable costs relating to State systems which are reimbursable under the provisions of subsection (a)(3) of this section; and

"(J) report on or before October 1, 1981, to the Congress on the extent to which States have developed and operated effective mechanized claims processing and information retrieval systems.

"(7)(A) The Secretary shall waive the provisions of this subsection with respect to initial operation and approval of mechanized claims processing and information retrieval systems with respect to any State which—

"(i) had a 1976 population (as reported by the Bureau of the Census) of less than 1,000,000 and which made total expenditures (including Federal reimbursement) for which Federal financial participation is authorized under this title of less than $100,000,000 in fiscal year 1976 (as reported by such State for such year), or

"(ii) is a Commonwealth, or territory or possession, of the United States,

if such State reasonably demonstrates, and the Secretary does not formally disagree, that the application of such provisions would not significantly improve the efficiency of the administration of such State's plan under this title.

"(B) If the Secretary determines that the application of the provisions described in subparagraph (A) to a State would significantly improve the efficiency of the administration of the State's plan under this title, the Secretary may withdraw the State's waiver under subparagraph (A) and, in such case, the Secretary shall impose a timetable for such State with respect to compliance with the provisions of this subsection and the imposition of per centum reductions. Such timetable shall be comparable to the timetable established under this subsection as to the amount of time allowed such State to comply and the timing of per centum reductions.

"(8)(A) The per centum reductions provided for under this subsection shall not apply to a State for any quarter with respect to which the Secretary determines that such State is unable to comply with the relevant requirements of this subsection—

"(i) for good cause (but such a waiver may not be for a period in excess of 2 quarters), or

"(ii) due to circumstances beyond the control of such State.

"(B) If the Secretary determines under subparagraph (A) that such a reduction will not apply to a State, the Secretary shall report to the Congress on the basis for each such determination and on the modification of all time limitations and deadlines as described in subparagraph (C).

"(C) For purposes of determining all time limitations and deadlines imposed under this subsection, any time period during which a State was found under subparagraph (A)(ii) to be unable to comply with requirements of this subsection due to circumstances beyond its control shall not be taken into account, and the Secretary shall modify all such time limitations and deadlines with respect to such State accordingly.".

And the Senate agree to the same.

That the House recedes from its amendment to the title of the bill.

Harley O. Staggers,
Henry A. Waxman,
Richardson Preyer,
Andy Maguire,
Tom Luken,
Doug Walgren,
Barbara A. Mikulski,
James T. Broyhill,
Tim Lee Carter,
Sam Devine,
Dave Stockman,
Managers on the Part of the House.

Edward Kennedy,
Harrison A. Williams, Jr.,
Claiborne Pell,
Gaylord Nelson,
Alan Cranston,
Howard M. Metzenbaum,
Dick Schweiker,
J. K. Javits,
Orrin Hatch,
Robert T. Stafford,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1177), an act to improve the provision of mental health services and otherwise promote mental health throughout the United States, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

FINDINGS AND PURPOSE

The Senate bill included findings and purposes.

The House amendment did not include findings or purposes.

The Conference substitute conforms generally to the findings of the Senate bill.

DEFINITIONS

The Senate bill contained definitions.

The House amendment contained some definitions not in the Senate bill.

The Conference substitute includes most definitions from the Senate bill and the House amendment, with some modifications.

STATE MENTAL HEALTH SYSTEMS

The Senate bill required as a condition of funding under the Act that each State meet several requirements regarding its mental health system, including the designation of State mental health authorities and mental health service areas, the inclusion in State health plans of mental health provisions, and the preparation of mental health operations programs; an enforcement provision was also included.

The House amendment contained similar provisions except that no additions were made to the State health plan.

The Conference substitute conforms generally to the Senate bill.

COMMUNITY MENTAL HEALTH CENTERS

The Senate bill authorized the Secretary to fund comprehensive community mental health centers.

The House amendment contained a similar provision.

The Conference substitute conforms generally to the House amendment.

SERVICES FOR CHRONICALLY MENTALLY ILL INDIVIDUALS

The Senate bill authorized the Secretary to fund programs which provide mental health services and support services to the chronically mentally ill.

The House amendment contained a similar provision but limited eligibility for such grants in areas with community mental health centers to the centers and to State mental health authorities.

The Conference substitute conforms generally to the Senate bill, but contains the House limitation in a modified form.

SERVICES FOR SEVERELY DISTURBED CHILDREN AND ADOLESCENTS

The Senate bill authorized the Secretary to fund programs which serve severely disturbed children and adolescents.

The House amendment contained a similar provision but limited eligibility for such grants in areas with community mental health centers to the centers and to State mental health authorities.

The conference substitute conforms generally to the Senate bill but contains the House limitation in a modified form.

SERVICES FOR ELDERLY INDIVIDUALS AND OTHER PRIORITY POPULATIONS

The Senate bill authorized the Secretary to fund programs which serve elderly individuals and programs which serve priority populations.

The House amendment provided a single authority to support programs to serve such priority populations as the elderly, children, and minorities and specified that such grants might be made only in areas without community mental health centers. The amendment further limited the number of grantees per service area and the number of grants per grantee. The amendment also required that a grantee provide at least three mental health services in its first year of funding and at least six in its fourth year.

The Conference substitute regarding the elderly conforms generally to the Senate bill. With respect to the required medical differential diagnosis, the Conferees expect that it shall consist of a physical examination, including a neurological evaluation, in order to distinguish and treat organic brain syndromes. Funding for services to the elderly is to constitute no less than 40 percent of funds obligated under this section.

The Conference substitute regarding priority populations conforms generally to the House amendments.

NON-REVENUE-PRODUCING ACTIVITIES

The Senate bill authorized the Secretary to assist community mental health centers and, in areas without community mental health centers, other entities, to provide specified non-revenue-producing services.

The House amendment contained a similar provision but limited eligibility to community mental health centers.

The Conference substitute conforms generally to the House amendment.

MENTAL HEALTH SERVICES IN HEALTH CARE CENTERS

The Senate bill authorized the Secretary to provide funds to establish linkages between (1) mental health facilities and programs, and (2) health facilities and programs, nursing homes, and intermediate care facilities.

The House amendment authorized the Secretary to provide funds to mental health services providers or to ambulatory health care centers (including nursing homes) to provide mental health services to such centers' patients.

The Conference substitute conforms generally to the House amendment.

INNOVATIVE PROJECTS

The Senate bill provided that the Secretary could set aside as much as 5 percent of mental health funds for grants for innovative projects.

The House amendment contained a similar provision but required that no less than 50 percent of funds obligated under this section be used for projects involving training.

The Conference substitute combines provisions of both bills.

PREVENTION PROGRAMS

The Senate bill authorized the Secretary to fund projects designed to prevent mental illness and promote mental health.

The House amendment authorized projects to demonstrate methods of preventing mental illness and promoting mental health

The Conference substitute combines provisions of both bills.

PREPARATION GRANTS

The House amendment contained a provision not included in the Senate bill which authorized the Secretary to make preparation grants to entities to assist in planning mental health service programs.

The Conference substitute does not contain a similar provision.

STATE MENTAL HEALTH FORMULA GRANTS

The Senate bill repealed the provisions of current law which authorize the making of formula grants to the States (Section 314(g) of the Public Health Service Act) but established in the Systems Act a comparable formula grant authority which provided for the Secretary to assist States in carrying out their administrative responsibilities.

The House amendment contained no comparable formula grant authority. The House amendment did, however, establish a grant program through which the Secretary was to assist State mental health authorities to improve their administrative capacities.

The Conference substitute conforms generally to the Senate bill.

IMPROVEMENT OF STATE ADMINISTRATION

The House amendment contained a provision not included on the Senate bill which authorized grants to improve the administration of State mental health programs.

The Conference substitute contains no similar provision.

ELIGIBILITY

The Senate bill required all applicants for funds to have either a governing board or—in the case of a hospital, public entity, or entity whose primary purpose is not the provision of services under the Act—an advisory board.

The House amendment required community mental health center applicants to have either a governing board, or in the case of a hospital or governmental agency, an advisory board.

The Conference substitute conforms generally to the Senate bill.

APPLICATION PROCESS

The Senate bill established a two-tier application process. Applications were either to be (1) submitted to the State mental health authority for review and, after a public hearing be transmitted to the Secretary for approval and funding, or (2) to be integrated by a qualifying State mental health authority into a single application and—after a public hearing—be transmitted to the Secretary who was to handle any appeals, and approve and fund the application.

The House amendment did not specify an application process, but required that applications for CMHC's, priority population, and non-revenue-producing grants be approved by the State mental health authority in order to be funded. In addition, the House amendment required that applications to establish CMHC's or applications to serve chronically mentally ill individuals or severely disturbed children and adolescents be funded in the following order: State-run programs, CMHC-run programs, and other programs.

The Conference substitute combines both Senate and House provisions and specifies that a two-tier application process is to be used.

In the first tier, applications for funding are to be submitted to the State mental health authority. Concurrently, the State mental health authority may also prepare applications of its own. After notice to the applicants and hearings at which other interested parties may also submit comments, the State authority may make recommendations and is to rank in priority order (and by specific grant category) the applications of local entities. The Secretary may fund applications only in the order ranked by the State authority. An applicant dissatisfied with its rank may appeal to the Secretary. In reviewing an appealed ranking, the Secretary is to provide the authority and the applicant involved a reasonable opportunity for a hearing. If the Secretary then finds on the basis of the hearing record that there is substantial evidence that the activity proposed in the application would better carry out the purposes of the section under which it would be funded than would other applications under that section given a higher rank, the Secretary may consider the application without regard to the rank given the application by the State mental health authority. The decision of the Secretary is not to be subject to judicial review. The Conferees intend that in conducting this review and appeal the Secretary shall carefully consider the purposes of this Act with regard to increasing mental health services to those priority populations that have not received needed mental health services. The conferees further expect that the Secretary will give consideration to creative and innovative ways to deliver mental health services.

In the second tier, the State mental health authority may, under specified circumstances, become the exclusive agent within the State for mental health services funded under this Act. In order to become an exclusive agent, the State must demonstrate that it is effectively implementing its mental health services program, as well as making a good faith effort to meet certain requirements related to services to the chronically mentally ill. Once designated as such an agent, the State authority is to review local entities' applications for funding and may modify an application or exclude an application from consideration by the Secretary. Concurrently, the State authority may add applications of its own. All applications not excluded from consideration are then to be ranked by the State authority and transmitted to the Secretary. Local entities whose applications were excluded or modified by the State authority may then appeal to the Secretary and, if after notice and hearing, the Secretary finds the State authority's decision to be arbitrary or capricious, the appealed application is to be ranked by the State mental health authority and is to be transmitted to the Secretary. The Secretary may fund applications only in the order ranked by the State authority. Authorizations of grants to aid States in carrying out their responsibilities under this section are $3 million in FY 1982, $4 million in FY 1983, and $5 million in FY 1984.

INDIANS

The Senate bill provided that Indian tribes or intertribal organizations could apply for grants for mental health services directly to the Secretary or could receive such services through the Indian Health Service.

The House amendment provided that the Indian Health Service could apply for such grants.

The Conference substitute conforms generally to the Senate bill but requires that the Indian Health Service certify that applications are consistent with the appropriate tribal specific health plan.

LIMITS ON FUNDING

The Senate bill provided that no entity could receive funding for the same services for more than eight years and specified declining funding over that period.

The House amendment contained a similar provision with respect to community mental health centers but limited the number of years in which an entity could receive grants for non-revenue-producing activities or to serve priority populations. The House amendment contained no provision for limits on other grants.

The Conference substitute conforms generally to the Senate bill but limits priority population grants to four years and specifies a different percentage of federal support for community mental health centers in non-poverty areas and for grants to serve priority populations.

The Senate bill also provided that grants for non-revenue-producing activities could not exceed $1.50 per capita of the population of the affected area.

The House amendment contained a similar provision but limited the amount to $1.00 per capita.

The Conference substitute conforms to the House amendment except that the amount is limited to $1.25 per capita.

The Senate bill also contained current law provisions limiting entities with advisory boards (hospitals and government-operated community mental health centers) to 5 percent of the appropriation for community mental health centers.

The House amendment set no such limit.

The Conference substitute conforms to the Senate bill, except the limit of 5 percent does not apply to public entities with advisory boards.

CARRY-OVER OF FUNDS

The Senate bill provided that if a community mental health center's or other entity's revenues (including federal grants) exceeded its total costs, the Center or entity could retain as much as 5 percent of the cost of its program in a reserve fund for use in the following year.

The House amendment contained a similar provision but limited the amount to 5 percent of the excess of revenues over costs.

The Conference substitute conforms generally to the House amendment but provides that the amount that may be carried over is to be limited to 50 percent of the excess of revenues over costs.

PERFORMANCE CONTRACT

The Senate bill provided that after an application was chosen for funding, the applicant and the Secretary were, as a condition of funding, to enter into a "performance contract" which specified the responsibilities of both the applicant and the Secretary.

The House amendment contained no similar provision.

The Conference substitute conforms to the Senate bill with modifications. While the Conferees anticipate that the specification of standards and schedules will aid monitoring and evaluation efforts, the Conferees do not intend this section to create a second application process and it is, therefore, expected that the procedure and additional documentation required by this section will be limited for both the Secretary and the grantee.

REPORT ON THE CHRONICALLY MENTALLY ILL

The Senate bill provided for the submission of a report to Congress on the treatment and care of the chronically mentally ill.

The House amendment contained no similar provision.

The Conference substitute conforms generally to the Senate bill.

PREVENTION UNIT

The Senate bill provided for a Prevention unit within the National Institute of Mental Health.

The House amendment had no similar provision.

The Conference substitute generally conforms to the Senate provision.

ASSOCIATE DIRECTOR FOR MINORITIES

The Senate bill provided for the designation of an Associate Director of the National Institute of Mental Health for Minority Concerns to assist the Director.

The House amendment contained a similar provision but specified that the Secretary was to act through the Associate Director in carrying out the purposes of the section.

The Conference substitute conforms generally to the House amendment.

The Conferees anticipate that the Associate Director will be provided sufficient staff and financial support, including the staff and funding of the Center for Minority Group Mental Health Programs, to ensure effective implementation of this Title.

THE SENSE OF CONGRESS REGARDING PATIENT'S RIGHTS

The Senate bill provided for a recommended bill of rights.

The House Amendment had no similar provision.

The Conference substitute conforms generally to the Senate bill.

ADVOCACY

The Senate bill contained a provision requiring that each State have in effect a system to protect and advocate the rights of mentally ill individuals. States without such a system were to be ineligible to receive funds for community mental health services.

The House amendment had no similar provision.

The Conference substitute generally conforms to the Senate provision. The Conference substitute, however, does not require that each State establish such a system but rather that the program be voluntary within States and that there be no penalties attached for failure to establish such a program. The Conference substitute further provides that grants for an advocacy program shall, for the first fiscal year for which funds are appropriated under this section, only be made to an entity of the government of a State designated by the Governor of the State or a public or nonprofit private entity in a State recommended by the Governor of the State. In succeeding years, grants may be made to any public or nonprofit private entity after consultation with the Governor of a State. Authorizations for grants under this section are $10 million in FY 82, $12.5 million in FY 83, and $15 million in FY 84.

RAPE RESEARCH AND SERVICES TO RAPE VICTIMS

The Senate bill provided for the reauthorization of the existing rape research program with authorizations of $6 million for FY 1981, $9 million for FY 1982, and $12 million for FY 1983.

The House amendment authorized the rape research program only for FY 1981.

The Conference substitute continues the research program for three years with funding levels of $6 million in FY 1981, $1.5 million in FY 1982, and $1.5 million in FY 1983.

The Conferees anticipate that this will be the final authorization of the rape research program and that the Secretary will use any funds made available under this section to complete any outstanding projects or to fulfill any outstanding commitments. The Conferees further intend that the new program to provide services to rape victims will be provided sufficient staff and financial support to ensure effective implementation.

CONFIDENTIALITY OF MENTAL HEALTH RECORDS

The Senate bill included a provision regarding the confidentiality of mental health records.

The House amendment contained no similar provision.

The Conference substitute contains no similar provision. Although the Conferees agree on the importance of assuring confidentiality of mental health records and protecting the privileged communications between patients and mental health professionals, they were not able to reach an agreement on the best approach for achieving these objectives.

EMPLOYEE PROTECTIONS

The Senate bill provided that the Secretary of Labor was to promulgate regulations to protect the interests of employees adversely affected by actions to emphasize outpatient treatment and that the Secretary of Labor was to certify that states were in compliance with these regulations. The interests to be protected included collective bargaining agreements, collective bargaining rights, job reassignment, retraining, pension benefits, health benefits, other fringe benefits, and severance pay. The Senate bill also allowed grants for services to chronically mentally ill individuals to be used for job placement, training, and retraining for employees of inpatient facilities.

The House amendment provided that the State mental health services plan was to include fair and equitable arrangements (as determined by the Secretary of Health and Human Services after consultation with the Secretary of Labor) to protect the interests of employees adversely affected by actions to emphasize outpatient treatment. If the Secretary found, after notice and hearing that the State's plan or its administration of the plan failed to comply with the requirements of this or other planning provisions then the Secretary was authorized to discontinue payments. The House bill also allowed grants for innovative projects to be used for training, retraining and placement of adversely affected employees.

The Conference substitute provides that the Secretary of Health and Human Services is to issue, within six months of the date of enactment, regulations describing the arrangements each State mental health authority must have in effect to protect the interests of adversely affected employees. These regulations are not to become effective until the Secretary of Labor concurs. Arrangements described by these regulations are to include employees' rights and benefits, such as those described in Section 1642(c)(1) of the Public Health Service Act. The Conference substitute goes on to provide that if, after reasonable notice and opportunity for a hearing, the Secretary finds that a State mental health authority has failed to comply with this section, the Secretary may discontinue payments to the State under Sections 107 and 305. In applying the provisions of this section, the Conferees intend that the Secretary of Health and Human Services may, to the extent feasible, consistent with the objective of protecting against a worsening of the positions of affected employees, take into account the State's financial circumstances and legal requirements. Not later than March 1, 1983 and March 1, 1984 the Secretary of Health and Human Services shall report on the implementation of these provisions.

REPORT ON SHELTER AND BASIC LIVING NEEDS OF CHRONICALLY MENTALLY ILL INDIVIDUALS

The Senate bill required the Secretary of the Department of Health and Human Services and the Secretary of Department of Housing and Urban Development to submit jointly a report on Federal efforts to respond to the shelter and basic living needs of the chronically mentally ill.

The House amendment had no similar provision.

The Conference substitute conforms to the Senate bill.

REPORT ON THE IMPLEMENTATION OF THE MENTAL HEALTH SYSTEMS ACT

The Senate bill required the Secretary of the Department of Health and Human Services to submit a report on the implementation of the Mental Health Systems Act.

The House amendment had no similar provision.

The Conference substitute contains no similar provision.

SPECIAL PAY FOR THE PUBLIC HEALTH SERVICE PHYSICIANS AND DENTISTS

The House amendment contained a provision not included in the Senate bill which provided that commissioned medical and dental officers were to be paid at rates equal to the special pay paid to commissioned medical and dental officers of the Armed Forces.

The Conference substitute conforms to the House amendment. It is the intent of the Conferees to ensure a strong corps of commissioned Public Health Service physicians and dentists by continuing the tradition of comparable pay with the Armed Services.

MEDICAID MANAGEMENT INFORMATION SYSTEM

The Senate bill required States to establish a mechanized claims processing and information retrieval system.

The House amendment contained no similar provision.

The Conference substitute conforms to the Senate bill.

TITLE

The House recedes from its amendment to the title of the bill.

Harley O. Staggers,
Henry A. Waxman,
Richardson Preyer,
Andy Maguire,
Tom Luken,
Doug Walgren,
Barbara A. Mikulski,
James T. Broyhill,
Tim Lee Carter,
Sam Devine,
Dave Stockman,
Managers on the Part of the House.

Edward Kennedy,
Harrison A. Williams, Jr.,
Claiborne Pell,
Gaylord Nelson,
Alan Cranston,
Howard M. Metzenbaum,
Dick Schweiker,
J. K. Javits,
Orrin Hatch,
Robert T. Stafford,
Managers on the Part of the Senate.

FEDERAL RAILROAD SAFETY AUTHORIZATION ACT OF 1980

Mr. FLORIO. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 7104, to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes, as amended.

The Clerk read as follows:

H.R. 7104

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Railroad Safety Authorization Act of 1980".

AUTHORIZATION FOR APPROPRIATIONS

Sec. 2. The Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.) is amended by striking out section 212 and by adding at the end thereof the following new section:

"Sec. 214. Authorization for Appropriations.

"(a) There are authorized to be appropriated to carry out the provisions of this Act not to exceed $38,000,000 for the fiscal year ending September 30, 1981, and not to exceed $40,000,000 for the fiscal year ending September 30, 1982.

"(b) The amounts appropriated under subsection (a) of this section for a fiscal year shall be available for expenditure in such fiscal year as follows:

"(1) For the Office of Safety, including salaries and expenses for not more than (A) six hundred safety inspectors, (B) forty-five signal and train control inspectors, and (C) one hundred and twenty-five clerical personnel, not to exceed $22,500,000 for the fiscal year ending September 30, 1981, and not to exceed $24,000,000 for the fiscal year ending September 30, 1982. Such funds shall be available for travel expenses of safety inspectors for not less than twenty days per month.

"(2) To carry out the provisions of section 206(d) of this Act, relating to State safety programs, not to exceed $2,000,000 for the fiscal year ending September 30, 1981, and not to exceed $2,500,000 for the fiscal year ending September 30, 1982.

"(3) For the Federal Railroad Administration, for salaries and expenses not otherwise provided for, not to exceed $3,500,000.

(4) For conducting safety research and development activities under this Act, not to exceed $10,000,000, of which not less than $500,000 shall be available for assisting in the treatment of alcohol and drug abuse problems of railroad employees.

"(c) Sums appropriated under this section for research and development, automated track inspection, and the State safety grant program are authorized to remain available until expended.".

EMERGENCY SAFETY ORDERS

Sec. 3. Section 203 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 432) is amended to read as follows:

"Sec. 203. Emergency Powers.

"(a) If the Secretary determines, on the basis of testing, inspection, investigation, or research carried out pursuant to this title, that an unsafe condition or practice, or a combination of unsafe conditions or practices, or both, create an emergency situation involving a hazard of death or injury to persons, the Secretary may immediately issue an order, without regard to the provisions of section 202(b) of this title, imposing such restrictions or prohibitions as may be necessary to bring about the abatement of such emergency situation.

"(b) After the issuance of an order under this section, opportunity for review of such order shall be provided in accordance with section 554 of title 5, United States Code.

"(c) If a petition for review of an order has been filed under subsection (b) of this section but administrative review of such order has not been completed by the end of the thirty-day period beginning on the date such order was issued, such order shall cease to be effective at the end of such period unless the Secretary determines in writing that the emergency situation remains in existence.

"(d) In issuing any order under this section, the Secretary shall describe the conditions or practices which create an emergency situation (as determined by the Secretary), and shall establish standards and procedures under which relief from such order may be obtained. Nothing in this subsection shall be construed to affect the discretion of the Secretary under this section to maintain an order in effect until the emergency situation has been abated.

"(e) Any employee of a common carrier by railroad engaged in interstate or foreign commerce who may be exposed to imminent physical injury in the course of his employment because of the Secretary's failure, without any reasonable basis, to seek relief under subsection (a) of this section, or the authorized representative of such an employee, shall have the right to bring an action against the Secretary in the United States district court for the judicial district in which the emergency situation is alleged to exist or in which the employer has its principal executive office, or for the District of Columbia, to compel the Secretary to issue an order under this section. The failure of the Secretary to seek relief under subsection (a) of this section shall be reviewed solely under the standards of section 706 of title 5, United States Code.".

SCOPE OF STATE PARTICIPATION

SEC. 4. (a) Section 206 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435) is amended by adding at the end thereof the following new subsection:

"(g) In addition to the provisions for State participation set forth in subsections (a) and (c) of this section, the Secretary may enter into agreements with any State to provide investigative and surveillance activities with respect to those functions transferred to the Secretary by section 6(e)(1), (e)(2), and (e)(6)(A) of the Department of Transportation Act (49 U.S.C. 1655(e)(1), (e)(2), and (e)(6(A))."

(b) Section 206(d) of the Federal Railroad Safety Act of 1970 (435 U.S.C. 435(d)) is amended by inserting "or (g)" immediately after "subsection (c)".

STATE ENFORCEMENT POWER

SEC. 5. Section 207 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 436) is amended to read as follows:

"SEC. 207. ENFORCING COMPLIANCE WITH FEDERAL RAILROAD SAFETY RULES, REGULATIONS, ORDERS, AND STANDARDS

"(a)(1) In any case in which the Secretary has failed to assess the civil penalty applicable under section 209 of this title with respect to a violation of any railroad safety rule, regulation, order, or standard issued under this title or under any law transferred by section 6(e)(1), (e)(2), or (e)(6)(A) of the Department of Transportation Act, within sixty days after the date on which notification was received by the Secretary from a State agency participating in investigative and surveillance activities under the provisions of section 206 of this title, that State agency may apply to the United States district court for the judicial district in which the violation occurred or in which the defendant has its principal executive office for the assessment and collection of the civil penalty included in or made applicable to such rule, regulation, order, or standard.

"(2) The provisions of this subsection shall not apply in any case in which the Secretary has affirmatively determined in writing that no violation has occurred.

"(b)(1) In any case in which the Secretary has not commenced an action for injunctive relief under section 210 of this title with respect to a violation of any railroad safety rule, regulation, order, or standard issued under this title or under any law transferred by section (e)(1), (e)(2), or (e)(6)(A) of the Department of Transportation Act, within 15 days after the date on which the Secretary received notification of the violation, together with a request that an injunctive action be instituted, from a State agency participating in investigative and surveillance activities under the provisions of section 206 of this title, that State agency may apply to to the United States district court for the judicial district in which the violation occurred or in which the defendant has its principal executive office for injunctive relief to restrain further violation of such rule, regulation, order, or standard.

"(2) The provisions of this subsection shall not apply in any case in which the Secretary has affirmatively determined in writing that (A) no violation has occurred, or (B) an action for injunctive relief is not necessary because of other enforcement action undertaken by the Secretary with respect to the subject violation.

"(c) A State agency may not bring an action under this section in any United States district court located outside the boundaries of the State.".

CONSOLIDATION OF ADMINISTRATIVE POWERS

SEC. 6. (a) Section 208(b) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 437(b)) is amended by inserting "and under the functions transferred by section 6(e)(1), (e)(2), and (e)(6)(A) of the Department of Transportation Act (49 U.S.C. 1655 (e)(1), (e)(2), and (e)(6)(A))" immediately after "this title".

(b) Section 208 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 437) is amended by adding at the end thereof the following new subsection:

"(d)(1) In carrying out the functions formerly vested in the Interstate Commerce Commission and transferred to the Secretary by section 6 (e)(1), (e)(2), and (e)(6)(A) of the Department of Transportation Act (49 U.S.C. 1655 (e)(1), (e)(2), and (e)(6)(A)), the Secretary is authorized to perform any act authorized in subsection (a) of this section that he considers necessary to carry out such transferred functions, including, but not limited to, conducting investigations, making reports, issuing subpenas, requiring production of documents, taking depositions, and prescribing recordkeeping and reporting requirements. The Secretary is further authorized to issue orders directing compliance with the laws transferred by section 6 (e)(1), (e)(2), and (e)(6)(A)) of the Department of Transportation Act or with any regulation or order issued thereunder.

"(2) The district courts of the United States shall have jurisdiction, upon petition by the Attorney General, to enforce by appropriate means any order issued by the Secretary under paragraph (1) of this subsection.".

CRIMINAL PENALTY FOR FALSE REPORTING

SEC. 7. Section 209 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438) is amended by adding at the end thereof the following new subsection:

"(e) Any person who knowingly and willfully—

"(1) makes a false entry in any record or report required under this title to be made, prepared, or preserved;

"(2) destroys, mutilates, changes, or by another means falsifies any such record or report.

"(3) does not enter required specified facts and transactions in any such record or report;

"(4) makes, prepares, or preserves any such record or report in violation of a regulation or order issued under this title; or

"(5) files a false record or report with the Secretary,

shall be fined not more than $5,000, or imprisoned for not more than two years, or both.".

VENUE

SEC. 8. (a) Section 209(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(c)) is amended by striking out "having jurisdiction in the locality where such violation occurred" and inserting in lieu thereof "for the judicial district in which such violation occurred or in which the defendant has its principal executive office".

(b) Section 6 of the Act of March 2, 1893 (45 U.S.C. 6), is amended by striking out "having jurisdiction in the locality where such violation shall have been committed" and inserting in lieu thereof "for the judicial district in which such violation occurred or in which the defendant has its principal executive office".

(c) Section 9 of the act of February 17, 1911 (45 U.S.C. 34), is amended by striking out "having jurisdiction in the locality where such violation shall have been committed" and inserting in lieu thereof "for the judicial district in which such violation occurred or in which the defendant has its principal executive office".

(d) Section 25(h) of the Act of February 4, 1887 (49 U.S.C. 26(h)), is amended by striking out "having jurisdiction in the locality where such violation shall have been committed" and inserting in lieu thereof "for the judicial district in which such violation occurred or in which the defendant has its principal executive office".

INJUNCTIVE RELIEF

SEC. 9. (a) Section 210(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 439(a)) is amended by inserting "and to restrain violations of or to enforce rules, regulations, orders, or standards established under any statute transferred to the Secretary under section 6 (e)(1), (e)(2), and (e)(6)(A) of the Department of Transportation Act (49 U.S.C. 1655 (e)(1), (e)(2), and (e)(6)(A))" immediately before the period at the end thereof.

(b) Section 210 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 439) is amended by adding at the and thereof the following new subsection:

"(c) Subject to section 207(d) of this title, any action under subsection (a) of this section may be brought in the United States district court for the judicial district in which the violation occurred or in which the defendant has its principal executive office.".

PROTECTION AND RIGHTS OF EMPLOYEES

SEC. 10. The Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.) is amended by inserting after section 211 the following new section:

"SEC. 212. PROTECTION AND RIGHTS OF EMPLOYEES.

"(a) A common carrier by railroad engaged in interstate or foreign commerce may not discharge or in any manner discriminate against any employee because such employee, whether acting in his own behalf or in a representative capacity, has—

"(1) filed any complaint or instituted or caused to be instituted any proceeding under or related to the enforcement of the Federal railroad safety laws; or

"(2) testified or is about to testify in any such proceeding.

"(b(1) A common carrier by railroad engaged in interstate or foreign commerce may not discharge or in any manner discriminate against any employee for refusing to work when confronted by a hazardous condition related to the performance of the employee's duties, if—

"(A) the refusal is made in good faith and no reasonable alternative to such refusal is available to the employee;

"(B) the hazardous condition is of such a nature that a reasonable person, under the circumstances then confronting the employee, would conclude that—

"(i) the condition presents an imminent danger of death or serious injury; and

"(ii) there is insufficient time, due to the urgency of the situation, to eliminate the danger through resort to regular statutory channels; and

"(C) the employee, where possble, has notified his employer of his apprehension of such hazardous condition and of his intention not to perform further work unless such condition is corrected immediately.

"(2) The provisions of this subsection shall not apply to security personnel employed by a railroad to protect persons and property transported by such railroad.

"(c)(1) Any dispute, grievance, or claim arising under this section shall be subject to resolution in accordance with the procedures set forth in section 3 of the Railway Labor Act (45 U.S.C. 153).

"(2) In the case of any violation of subsection (a) or (b) of this section, the Adjustment Board (or any division or delegate thereof) or any other board of adjustment created under section 3 of the Railway Labor Act shall, where appropriate, award backpay to the aggrieved employee and order such employee reinstated to his position.

"(d) Whenever an employee of a railroad is afforded protection under this section and under any other provision of law in connection with the same allegedly unlawful act of an employer, if such employee seeks protection he must elect either to seek relief pursuant to this section or pursuant to such other provision of law.

"(e) As used in this section, the term 'Federal railroad safety laws' means this Act, the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.), and those laws transferred to the jurisdiction of the Secretary of Transportation by subsection (e) (1), (2) and (6)(A) of section 6 of the Department of Transportation Act (49 U.S.C. 1655(e)(1), (2), and (6)(A)).".

PAY CLASSIFICATIONS

SEC. 11. The Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.) is amended by inserting after section 212, as added by section 10 of this Act, the following new section:

"SEC. 213. PAY CLASSIFICATIONS.

"Notwithstanding any other provision of law—

"(1) the position held by a fully experienced and qualified railroad safety inspector employed by the Department of Transportation shall be classified in accordance with chapter 51 of title 5, United States Code, but not lower than Grade GS-12 of the General Schedule; and

"(2) the position held by a railroad safety specialist employed by the Department of Transportation shall be classified in accordance with chapter 51 of title 5, United States Code, but not lower than Grade GS-13 of the General Schedule.".

HOURS OF SERVICE ACT AMENDMENT

SEC. 12. Section 5(a) of the Act of March 4, 1907 (45 U.S.C. 64a(a)), commonly known as the Hours of Service Act, is amended to read as follows:

"SEC. 5. (a)(1) Any common carrier subject to this Act, or any officer or agent thereof, that requires or permits any employee to go, be, or remain on duty in violation of section 2, section 3, or section 3A of this Act, or that violates any other provision of this Act, shall be liable for a penalty of $500 for each violation, to be recovered in an action to be brought by the United States attorney in the district court of the United States for the judicial district in which such violation occurred or in which the defendant has its principal executive office. It shall be the duty of the United States attorney to bring such an action upon satisfactory information being lodged with him. In the case of a violation of section 2 (a)(3) or (a)(4) of this Act, each day a facility is in noncompliance shall constitute a separate offense.

"(2) No action may be brought under this section after the expiration of the two-year period beginning on the date the violation occurred unless administrative notification pursuant to the Federal Claims Collection Act (31 U.S.C. 951-953) has been provided to the common carrier within such two-year period, but in no event may any such action be brought after the expiration of the period specified in section 2462 of title 28, United States Code.".

LOCOMOTIVE INSPECTION ACT AMENDMENT

SEC. 13. Section 6 of the Act of February 17, 1911 (45 U.S.C. 29), is amended by striking out the fourth and fifth sentences and inserting in lieu thereof the following: "Each carrier subject to such sections shall keep on file the report of each inspection required by such rules and regulations and the report showing the repair of the defects disclosed by the inspection. The rules and regulations referred to in this section shall prescribe the manner in which such reports shall be kept.".

SAFETY OF RAILROAD PASSENGER EQUIPMENT

SEC. 14. Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end thereof the following new subsection:

"(h)(1) The Secretary shall, within two years after the date of enactment of this subsection, issue such initial rules, regulations, orders, and standards as may be necessary to insure the safe construction, maintenance, and operation of railroad passenger equipment. The Secretary shall periodically review such rules, regulations, orders, and standards and shall, after a hearing in accordance with subsection (b) of this section, make such revisions in such rules, regulations, orders, and standards as may be necessary.

"(2) In issuing initial rules, regulations, orders, and standards under this subsection, and in making any subsequent revisions thereto, the Secretary shall—

"(A) concentrate on those areas which, in the judgment of the Secretary, present the greatest opportunity for enhancing the safety of railroad passenger equipment; and

"(B) give significant weight to the expenditures that would be necessary to retrofit existing equipment and to alter specifications for equipment on order;

"(3) In issuing initial rules, regulations, orders, and standards under this subsection, and in making any subsequent revisions thereto, the Secretary may consult with the National Railroad Passenger Corporation, public authorities that operate passenger service, other rail carriers that transport passengers, organizations of passengers, and organizations of employees. Such consultations shall not be subject to the Federal Advisory Committee Act, but minutes of such consultations shall be placed in the public docket of the rulemaking proceeding.

"(4) As used in this subsection, the term 'railroad passenger equipment' means all railroad equipment used for the transportation of passengers, whether in commuter or intercity service.".

ALASKA RAILROAD ACT AMENDMENT

SEC. 15. The first section of the Act of March 12, 1914 (43 U.S.C. 975), is amended by inserting immediately after the first undesignated paragraph the following new paragraph:

"Any security officer employed to protect life and property on the railroad is authorized to maintain law and order, to carry firearms, and to make arrests on railroad property with a warrant for any offense committed against the laws of the United States, and to make arrests without a warrant for any offense committed upon property of the railroad if there is reasonable ground to believe that the offense constitutes a felony under the laws of the United States and the person to be arrested has committed or is committing the felony.".

STUDIES AND REPORTS

SEC. 16. (a) The Secretary of Transportation shall conduct a study regarding employee training in the railroad industry as it affects railroad safety. Among other factors, such study shall consider the appropriate Federal role, if any, in such training, and the adequacy of such training. The results of such study, together with recommendations for any necessary legislation, shall be submitted to the Congress by December 31, 1980.

(b)(1) The Secretary of Transportation shall make every possible effort to expedite promulgation of a final rule regarding the retrofitting of Department of Transportation specification 105 tank cars with shelf couplers. In the event that such rule is not promulgated prior to December 31, 1980, the Secretary of Transportation shall submit to the Congress a status report with respect to such rule, indicating the Federal Railroad Administration's activities to such date, the current status of such rule, and an estimate as to when a final rule will be promulgated.

(2) Whenever the Secretary of Transportation submits a status report pursuant to the provisions of paragraph (1) of this subsection, or when the Federal Railroad Administration promulgates a final rule with respect to the retrofitting of Department of Transportation specification 105 tank cars with shelf couplers, the Secretary shall transmit to the Congress any other recommendations and anticipated action by the Department of Transportation with respect to the retrofitting of such tank cars.

(c)(1) The Secretary of Transportation shall submit to the Congress a systems safety plan relating to the activities of the Department of Transportation in carrying out rail safety laws. The Secretary shall complete such plan at the earliest possible date, but in no event shall the study be submitted later than January 31, 1981.

(2) As part of the plan submitted to the Congress under paragraph (1) of this subsection, the Secretary of Transportation shall develop a methodology to determine frequency and schedules of safety inspections, giving appropriate priority to track and equipment involved with passenger trains and hazardous cargos. Such methodology shall further take into consideration safety records of the rail carriers, location of track and equipment in population centers, volume of usage of track and equipment, and any other factors that the Secretary considers relevant to railroad safety.

EFFECTIVE DATE

SEC. 17. (a) Except as provided in subsection (b) of this section, the provisions of this Act shall take effect on the date of enactment of this Act.

(b) Section 11 of this Act shall take effect on October 1, 1980, or on the date of enactment of this Act, whichever is later.

The SPEAKER pro tempore. Is a second demanded?

Mr. MADIGAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. FLORIO) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. MADIGAN) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this important piece of legislation that is vital to the safety of our rail system and our railroad employees. H.R. 7104, the Federal Railroad Safety Authorization Act of 1980, has a number of provisions that will help insure safe railroads and provide needed protection for the safety of our railroad employees.

The bill that is before us today differs in a few minor respects from the bill as reported from the House Commerce Committee. This is because my staff has worked with the staff of the Senate Commerce Committee to develop a bill that would be acceptable to the Senate. This bill should be acceptable to the other body, which has already passed its own bill, and its passage will avoid the need for a conference.

This bill reauthorizes the Federal Railroad Administration's rail safety program for 2 years. It provides $38 million for fiscal 1981 and $40 million for fiscal 1982. The committee bill had provided $38 million for each year. The Department of Transportation felt that amount would be insufficient to carry out its crucial safety functions in fiscal 1982. Because of the importance of railroad safety, I agree to propose a small increase in the authorization for the second year. This will insure that the FRA can continue its crucial safety function.

For safety research and development, $10,000,000 is authorized, of which at least $500,000, shall be available for assisting in the treatment of alcohol and drug abuse problems of rail employees. I am aware that DOT fiscal year 1980 appropriations include $28,245,000 for R. & D. for "track, equipment, and personal safety," and that the principal thrust of programs falling under that description is the improvement of safety. At the same time, a number of those programs have dual purposes related to safety and improved reliability or efficiency and should continue to be funded under the Department of Transportation Act. The intent in providing a specific authorization for safety R. & D. is not to reduce funding levels for this purpose but to emphasize our view that a substantial R. & D. effort in direct support of the railroad safety regulations programs should be continued.

Similarly, the bill does not intend to limit spending for alcohol and drug abuse treatment assistance to $500,000. Rather, we expect FRA to use the $500,000 to supplement any existing money used assisting in the treatment of these problems. Particularly, we are aware of a number of railway employees assistance programs (REAP's) operated on the property of individual carriers. A recent study done for the FRA has revealed that different programs have varying levels of effectiveness. We contemplate that this new funding could be used to conduct a demonstration program to test the effectiveness of particular strategies, particularly with carriers with existing programs that lack effectiveness.

We are also aware of the possibility that FRA will not feasibly be able to use all the authorized amount of $500,000 for this purpose. We would expect any unexpended portion of this $500,000 to be carried forward for the same purpose in future fiscal years.

I must also note that the Senate bill had contained only a 1-year authorization. The Senate was concerned that the results of the system safety plan under development by the FRA might require changes in the safety program for fiscal year 1982. The other body preferred to evaluate the results of this study before authorizing the rail safety program for fiscal 1982. They have now agreed to accept our 2-year authorization. We share their concern, however, about the possible impacts of the results of the system safety plan on the future of the rail safety program and intend to hold oversight hearings after its expected release early next year.

The bill strengthens the FRA's inspection and enforcement program in several respects. It requires the FRA to develop a systems safety plan which includes a methodology for safety inspections to insure inspections of track and equipment where they are most needed.

It clarifies the scope of FRA's emergency power to insure that FRA is not limited to dealing with just isolated, individual safety problems, as one recent court case has suggested. This legislation makes clear that FRA also has the authority to deal with the more serious safety emergencies involving widespread unsafe conditions or practices.

We have agreed to adopt language in this section that required the FRA to describe the conditions which create the emergency and standards and procedures for seeking relief from an emergency order. But I want to make it clear to reviewing courts our intent in accepting this language. Obviously, FRA must provide notice to the affected railroad of the nature of the emergency and general standards for remedying the problems that have caused the emergency. Surely, the due process clause requires this. But because of the exigencies of any emergency situation, the Secretary should not and cannot be held to an immediate detailed accounting of every specific problem. Similarly, the railroad must ultimately be responsible for remedying the conditions responsible for the emergency situation. The Secretary should not be put in a position of detailing to the railroad exactly how it should run its property.

Similarly, there may be circumstances where an order must be of indefinite duration, such as emergency order No. 5, relating to the free switching of certain tank cars without head shields. In all events, the rail carrier is protected by the opportunity for administrative review and the automatic expiration of the order within 30 days, unless uncontested or extended in writing by the Secretary.

The bill also addresses a problem that has made it difficult for FRA to attract qualified safety inspectors. The Office of Personnel Management has downgraded FRA's safety inspectors one grade far below comparable industry salaries. This has hurt morale and prevented FRA from hiring needed new inspectors. The bill would merely maintain the traditional GS-12 classification—which itself is even below usual industry pay scales. While the Senate did not deal with this issue in its bill, it has accepted our provision.

FRA has been justly criticized in the past for not moving aggressively enough to insure rail safety. These provisions will help give it the tools it needs.

The bill also provides important protections for the safety of railroad employees. Employees would be protected from discrimination or firing for reporting safety violations. Unfortunately, I am aware of a recent case of a railroad employee who was fired for doing just that. This bill would clearly prevent that.

Railroad employees would also be protected from discrimination if they refused to work in situations involving an imminent danger of death or serious injury. Employees in other industries already receive similar protection from an OSHA regulation, which was recently upheld by the Supreme Court. Railroad employees work in a hazardous industry and they need and deserve this protection.

Under this provision, refusal to work must be in good faith. Obviously, many jobs in the industry involve inherently hazardous activities. Rail workers are often called upon to work in inclement weather. They must often deal with hazardous chemicals. Obviously, the employer has the responsibility to provide appropriate protection. But, assuming appropriate protection is provided, this remedy should not be available merely because of the inherent hazardous nature of the job.

Under this provision, an employee who was fired or felt he was discriminated against could file a grievance through the existing Railway Labor Act grievance machinery. The grievance board could order the employee reinstated, and under already existing practice, award back pay.

The Senate bill has no protections for employees. They accepted our entire provision, with only one real change. The committee bill had allowed the grievance boards to award exemplary damages to employees, in addition to back pay, where justified. This was a controversial proposal, and was dropped as part of our compromise with the Senate.

We also agreed to two perfecting amendments. We have adopted a provision exempting security personnel whose job it is to protect life and property from the provision allowing employees to refuse to work when confronted with a hazardous situation presenting a danger of death or serious injury. By the nature of their jobs, these personnel, such as Amtrak police, must expose themselves to dangerous situations.

We also agreed to a provision clarifying the relationship between the remedy provided here and a possible separate remedy under OSHA. Certain railroad employees, such as employees working in shops, could qualify for both the new remedy provided in this legislation, or an existing remedy under OSHA. It is our intention that pursuit of one remedy should bar the other, so as to avoid resort to two separate remedies, which would only result in unneeded litigation and inconsistent results.

This bill also expands the role of the States in the safety program. States can currently participate in safety investigation and enforcement, but in very limited areas. The bill allows them to participate in all areas of railroad safety. Since State participation is funded with 50 percent State dollars, this will result in more effective use of limited Federal dollars.

While both bills had similar provisions, we accepted the Senate language in this regard, which gives the FRA a little more discretion in how and when to get the States involved in these other areas. But it is our definite intent that FRA should move forward in this area.

Similarly, the bill expands the ability of the States to take enforcement action. Currently, participating States must wait 90 days before they can go to court. This legislation would allow States to go to court after 15 days for injunctive relief and after 60 days for civil penalties. The committee bill would have allowed States to go to court immediately for injunctive relief. However, the Senate would not have accepted this provision. In the interest of insuring a bill this session, I agreed to accept the Senate waiting period of 15 days.

The bill before us today also contains a provision requiring the Department of Transportation to issue regulations as needed to insure safe intercity and commuter passenger equipment and operations. The National Transportation Safety Board, concerned about passenger train accidents, has urged the Department and its Federal Railroad Administration to address this important area. While there are currently safety regulations covering freight cars, there are none for passenger cars. While this provision does not add to FRA's existing regulatory authority, it would insure passenger safety is fully addressed.

This provision requires the Secretary to concentrate on those areas which, in the Secretary's judgment, present the greatest opportunity for enhancing the safety of railroad passenger equipment and operations. This will insure that resources are spent where they can produce the greatest return in terms of safety.

The Secretary must also give significant weight to expenditures that would be necessary to retrofit existing equipment and alter the specifications for equipment on order. It is our intent that equipment standards developed under this subsection be generally prospective in nature. At the same time, however, there may be serious safety problems that must be addressed by retrofitting of existing equipment. With proper justification, the Secretary could proceed in this manner.

The authority given the Secretary under this subsection applies to commuter and intercity passenger operations, but not mass transit operations.

This provision was not in the committee bill, but I had intended to offer it as a separate amendment. Since the Senate has accepted it, it is included in the bill before us today.

The bill also contains another provision not in the committee bill, which I added at the request of the administration. It would simply allow Alaska railroad police to carry firearms and make arrests. This has also been accepted by the Senate.

There are other provisions, mostly of a technical nature, which should improve the FRA's ability to run a good safety program.

A safe railroad system is important to our States and communities, our railroad passengers, our railroad employees, and our Nation. I urge your support of this important bill.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend the gentleman from New Jersey for his expeditious handling of the Federal Railroad Safety Authorization Act of 1980. While this bill is very important, it is relatively noncontroversial. Therefore, we are conserving precious time by handling this bill on the Suspension Calendar. I would like to further commend the gentleman from New Jersey for initiating negotiations with the Senate. An acceptable agreement has been reached with the Senate and this will preclude the need for a conference. Our subcommittee is in the final legislative stages of passing railroad deregulation, superfund, and RCRA. By considering the rail safety bill on suspension and precluding the need for a conference, we will be able to focus our time and energy on those issues which need to be resolved.

The gentleman from New Jersey has already itemized the major provisions of the rail safety authorization bill and submitted a more detailed statement for the record to provide legislative history. Therefore, I would like to elaborate on some provisions which are of particular interest to me and to the minority and to further clarify the changes which have been adopted as a result of our negotiations with the Senate.

The rail safety authorization which was passed by the Senate contained a 1-year authorization at a level of $28 million. The Senate has agreed to adopt the House version which contains a 2-year authorization. The House authorization is $10 million higher in fiscal year 1981 because the authorization contains $10 million for railroad safety research and development. The Senate Commerce Committee chose to let the Senate Appropriations Committee fund railroad safety research and development through the Office of the Secretary using a standing authorization.

The House bill mandates that not less than $500,000 of the R. & D. money be spent assisting railroad employees in the treatment of alcohol and drug abuse problems. Between 1977 and 1979, the University Research Corp. studied the drinking practices of workers on seven railroads employing 234,000 workers. Of those employees studied, 47,000 were managers and others not working under union contract, 115,000 were nonoperating personnel, and 72,000 were operating personnel. This study points out that 19 percent of all railroad employees are problem drinkers. This percentage is even higher for operating employees. On one railroad, 34 percent of the operating personnel are problem drinkers. These statistics are frightening as one envisions the calamaties which are inevitable if these problems are not cured.

Railroad labor organizations have been in the forefront of workng with management to establish alcoholic rehabilitation programs throughout the industry. Today, most railroads have a program of some kind. The purpose of the money in this bill which is earmarked for alcoholic rehabilitation should be used to establsh a demonstration program which can pull together the best features of all available programs. Prevention, identification, and rehabilitation of problems caused by drugs or alcohol should be the goal of every employer. Railroads can and should set an example for every industry because of the close interrelationship between drug or alcohol abuse and safety.

I would like to express my strong support for the various provisions in this bill which expand employee protection rights. Under this bill, an employee who may be exposed to imminent harm will be able to bring an action to compel the Secretary to issue an order to abate such an emergency situation.

Second, this bill prohibits a railroad employee from being discharged on the basis that such employee either filed a complaint or testified in a proceeding related to the enforcement of Federal railroad safety laws. If an employee is discharged because of his involvement in such a proceeding, an adjustment board is required to provide the employee with back pay along with reinstating such employee.

Third, another provision in the bill insures that safety inspectors and safety specialists will be employed at the GS-12 and the GSC-13 levels respectively rather than being downgraded. These provisions along with others in the bill will improve the quality of the railroad inspectors, and the safety conditions within the industry, and the moral within the railroad industry.

The House amendment adopts two provisions which the Senate included in their railroad safety authorization. The first requires the Secretary of Transportation to conduct a study of the effectiveness of employee training within the railroad industry. The second provision requires the Secretary of Transportation to make every possible effort to expedite the promulgation of a final rule regarding the retrofitting of 105 tank cars with shelf couplers according to Department of Transportation specification.

Mr. Speaker, this legislation is essential to the efficient functioning of a safe railroad network and I urge its adoption.

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Mr. FLORIO. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Speaker, I thank the distinguished subcommittee chairman for yielding this time.

I rise in order to express my support for this very important legislation and to thank the subcommittee chairman and his colleagues on the subcommittee for preparing this legislation and presenting it to the House. It is very much needed.

A few years ago I was speaking out on the question of transportation safety and I realized that the deficiencies that I think the gentleman specifically addresses himself to in this legislation, such as the inspectors and the like.

There was just one question that I wanted to ask and that is if there is any specific addressing in this legislation to the question of the transportation of hazardous material, which I think is a continuing problem.

Mr. FLORIO. Yes. I would say in response to the gentleman's question, that subject is dealt with more in the hazardous materials transportation authorization, which has been reported from the Interstate and Foreign Commerce Committee and which is now in the process of proceeding through the legislative process; so yes, we do deal with important issues such as emergency response capability and all the other items that the gentleman is very conversant with.

Mr. GONZALEZ. And hopefully also in the provision for research and development area, I would hope there would be some coordination with this other hazardous materials transportation board.

Mr. FLORIO. Yes. The gentleman is correct. There is a coordination.

Mr. GONZALEZ. Mr. Speaker, I thank the gentleman.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. FLORIO) that the House suspend the rules and pass the bill, H.R. 7104, as amended.

The question was taken.

Mr. WEAVER. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is withdrawn.

Mr. FLORIO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2730) to amend the Federal Railroad Safety Act of 1970 and other rail safety acts to extend authorization for appropriations, and for other purposes, and ask for its immediate consideration.

The SPEAKER pro tempore. The Chair will advise the gentleman that since the House bill has not passed, that will not be in order at this time.

Mr. WEAVER. Mr. Speaker, since there has been no intervening business, may I withdraw my point of order?

The SPEAKER pro tempore. The point of order is withdrawn under the rule.

Does the gentleman from Oregon desire that the Chair put the question on this particular bill that is now before the House?

Mr. WEAVER. No, Mr. Speaker.

The SPEAKER pro tempore. Does the gentleman desire to have this vote deferred until tomorrow?

Mr. WEAVER. No, I do not.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. FLORIO) that the House suspend the rules and pass the bill, H.R. 7104, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. FLORIO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2730) to amend the Federal Railroad Safety Act of 1970 and other rail safety acts to extend authorization for appropriations, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey (Mr. FLORIO)?

Mr. WEAVER. Mr. Speaker, I reserve the right to object to ask the manager of the bill a question.

Does the manager of the bill expect to bring the railroad retirement bill from his subcommittee this week?

Mr. FLORIO. Mr. Speaker, will the gentleman yield?

Mr. WEAVER. I will yield to the gentleman from New Jersey.

Mr. FLORIO. As the gentleman knows, there is railroad retirement legislation that has been introduced—a bill that is an interim piece of legislation. We are looking forward to a major modification of the railroad retirement system to deal with the funding problems that that system has.

We are under the impression that management and labor are negotiating a proposal that will be submitted to this House. It is our understanding, as a matter of fact, I would go so far as to say there is a commitment, that by the end of this year there will be a proposal to be submitted to the House. It is the intention of the House, as I see it, to enact legislation that will correct the deficiencies in the fund, based in large measure upon the recommendations that will be coming from rail labor and rail management.

Mr. WEAVER. Mr. Speaker, I thank the gentleman from New Jersey.

I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey (Mr. FLORIO)?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2730

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Railroad Safety Authorization Act of 1980".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 2. Section 212 of the Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 441), is amended to read as follows:

"SEC. 212. AUTHORIZATION FOR APPROPRIATIONS.

"There are authorized to be appropriated to carry out the provisions of this Act not to exceed $28,000,000 for the fiscal year ending September 30, 1981, and such sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law. Sums appropriated for automated track inspection and the State safety grant program are authorized to remain available until expended.".

INJUNCTIVE RELIEF

SEC. 3. (a) Section 210(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 439 (a)), is amended by inserting the following immediately before the period at the end thereof: ", and to restrain violations or to enforce rules, regulations, orders, or standards established under any statute transferred to the Secretary under subsections (e) (1), (e)(2), and (e)(6)(A) of section 6 of the Department of Transportation Act, as amended (49 U.S.C. 1655(e) (1), (2), and (6)(A))".

(b) Section 210 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 439) is further amended by adding at the end thereof the following:

"(c) Actions under subsection (a) of this section may be brought in the United States district court where any action or transaction constituting the violation occurred or where the defendant has its principal executive office. Nothing in this section shall authorize any State agency participating in investigative and surveillance activities under the provisions of section 206 of this title to bring a cause of action under this section in any United States district court located outside of the boundaries of the State.".

VENUE

SEC. 4. (a) Section 6 of the Act of March 2, 1893, as amended (45 U.S.C. 6) is amended—

(1) by striking "having jurisdiction" immediately following the words "United States" the second time they appear; and

(2) by inserting "or where the defendant has its principal executive office" immediately following the word "committed".

(b) Section 9 of the Act of February 17, 1911, as amended (45 U.S.C. 34), is amended

(1) by striking "having jurisdiction" immediately following the words "United States" the second time they appear; and

(2) by inserting "or where the defendant has its principal executive office" immediately following the word "committed".

(c) Section 25(h) of part I of the Interstate Commerce Act, as amended (49 U.S.C. 26(h)) is amended—

(1) by striking "having jurisdiction" immediately following the words "United States" the second time they appear; and

(2) by inserting "or where the defendant has its principal executive office" immediately following the word "committed".

(d) Section 209(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(c)) is amended—

(1) by striking "having jurisdiction" immediately following the words "United States" the second time they appear; and

(2) by inserting "or where the defendant has its principal executive office" immediately following the word "occurred".

HOURS OF SERVICE AMENDMENTS

SEC. 5. Subsection (a) of section 5 of the Hours of Service Act, as amended (45 U.S.C. 64a(a)), is amended to read as follows:

"(a) Any such common carrier, or any officer or agent thereof, requiring or permitting any employee to go, be, or remain on duty in violation of section 2, section 3, or section 3A, or violating any other provision of this Act shall be liable to a penalty of $500 for each and every violation, to be received in a suit or suits to be brought by the United States attorney in the district court of the United States in the locality where such violations shall have been committed or where the defendant has its principal executive office. In the case of paragraphs (3) and (4) of subsection 2(a) of this Act, each day a facility is in noncompliance shall constitute a separate offense. It shall be the duty of such United States attorney to bring such suit upon satisfactory information being lodged with such attorney; but no such suit shall be brought after the expiration of 2 years from the date of such violation except when administrative notification pursuant to the Federal Claims Collection Act of 1966 (31 U.S.C. 951–953) has been provided to the common carrier within 2 years from the date of the violation, and in no event shall suit be brought after the expiration of the period specified in section 2462 of title 28, United States Code.".

CONSOLIDATION OF ADMINISTRATIVE POWERS; CRIMINAL PENALTY FOR FALSE REPORTING

SEC. 6. (a) Section 208(b) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 437 (b)) is amended by inserting "and under the functions transferred by subsections (e) (1), (e) (2), and (e) (6) (A) of section 6 of the Department of Transportation Act, as amended (49 U.S.C. 1655(e) (1), (2), and (6) (A))" immediately following the word "title" the first time it appears therein.

(b) Section 208 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 437) is further amended by adding at the end thereof the following:

"(d) In carrying out the function formerly vested in the Interstate Commerce Commission and transferred to the Secretary by subsections (e) (1), (e) (2), and (e) (6) (A) of section 6 of the Department of Transportation Act (49 U.S.C. 1655(a) (1), (2), and (6) (A)), the Secreary is authorized to perform such acts as are authorized in subsection (a) of this section including, but not limited to, conducting investigations, making reports, issuing subpenas, requiring production of documents, taking depositions, and prescribing recordkeeping and reporting requirements as he deems necessary to carry out the transferred functions. The Secretary is further authorized to issue orders directing compliance with the statutes transferred by subsections (e) (1), (e) (2), and (e) (6) (A) of section 6 of the Department of Transportation Act or with any regulation or order issued thereunder. The district courts of the United States shall have jurisdiction, upon petition by the Attorney General, to enforce such orders by appropriate means.".

(c) Section 209 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438) is further amended by adding at the end thereof the following:

"(e) With respect to any record or report required under this title to be made, prepared, or preserved, any person who knowingly and willfully (1) makes a false entry in the record or report; (2) destroys, mutilates, changes, or by another means falsifies the record; (2) does not enter required specified facts and transactions in the record; (4) makes, prepares, or preserves the record in violation of a regulation or order issued under this title; or (5) files a false report or record with the Secretary, shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.".

EMERGENCY SAFETY ORDERS

SEC. 7. Section 203 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 432) is amended to read as follows:

"SEC. 203. EMERGENCY POWERS

"(a) If through testing, inspection, investigation, or research carried out pursuant to this title, the Secretary determines that an unsafe condition or practice, or a combination of conditions or practices, or both, creates an emergency situation involving a hazard of death or injury to persons, the Secretary may immediately issue an order, without regard to the provisions of section 202(b) of this title, imposing such restrictions or prohibitions as may be necessary to bring about the abatement of the emergency situation.

"(b) Subsequent to the issuance of an order under this section, opportunity for review shall be provided in accordance with section 554 of title 5 of the United States Code.

"(c) If administrative review of an order pursuant to subsection (b) of this section has not been completed within a period of 30 days after the date of issuance of the order, such order shall cease to be effective at the end of such period, unless the Secretary determines in writing that the emergency situation remains in existence.

"(d) Any order issued under this section shall identify the conditions or practices which create an emergency situation (as determined by the Secretary), and shall set forth standards under which relief from such order might be obtained. Nothing in this subsection shall be construed to affect any discretion of the Secretary to issue orders responsive to emerging safety problems.".

ELIMINATION OF REPORTING REQUIREMENTS UNDER LOCOMOTIVE INSPECTION ACT

SEC. 8. Section 6 of the Act of February 17, 1911 (45 U.S.C. 29), is amended by striking the fourth and fifth sentences thereof.

STUDIES AND REPORTS

SEC. 9. (a) The Secretary of Transportation shall conduct a comprehensive study regarding State participation in railroad safety programs as provided in section 206 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435). Such study shall specifically—

(1) assess the success of each program in a participating State;

(2) identify the specific reasons for such success, or lack thereof;

(3) project the effect that increased State authority in the area of railroad safety inspection and enforcement would have on the success of the State programs;

(4) estimate the funding requirements which would be associated with increased State authority in the area of railroad safety inspection and enforcement; and

(5) provide such other information as the Secretary deems necessary.

The Secretary shall transmit to the Congress the conclusions of such study, together with recommendations with respect to any additional legislation which the Secretary determines necessary, not later than December 31, 1980.

(b) The Secretary of Transportation shall conduct a study regarding employee training in the railroad industry as it affects railroad safety. Among other factors, such study shall consider the appropriate Federal role, if any, in such training, and the adequacy of such training. The results of such study, together with recommendations for any necessary legislation, shall be submitted to the Congress by December 31, 1980.

(c) (1) The Secretary of Transportation shall make every possible effort to expedite promulgation of a final rule regarding the retrofitting of Department of Transportation specification 105 tank cars with shelf couplers. In the event that such rule is not promulgated prior to December 31, 1980, the Secretary of Transportation shall submit to the Congress a status report with respect to such rule, indicating the Federal Railroad Administration's activities to such date, the current status of such rule, and an estimate as to when a final rule will be promulgated.

(2) Whenever the Secretary of Transportation submits a status report pursuant to the provisions of paragraph (1) of this subsection, or when the Federal Railroad Administration promulgates a final rule with respect to the retrofitting of Department of Transportation specification 105 tank cars with shelf couplers, the Secretary shall transmit to the Congress any other recommendations and anticipated action by the Department of Transportation with respect to the retrofitting of such tank cars.

(d) The Secretary of Transportation shall submit to the Congress a systems safety plan relating to the activities of the Department of Transportation in carrying out rail safety laws. The Secretary shall complete such plan at the earliest possible date, but in no event shall the study be submitted later than January 31, 1981.

STATE SAFETY POWERS

SEC. 10. (a) Section 207 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 436) is amended to read as follows:

"SEC. 207. ENFORCING COMPLIANCE WITH FEDERAL RAILROAD SAFETY RULES, REGULATIONS, ORDERS AND STANDARDS.

"(a) In any case in which the Secretary has failed to assess the civil penalty applicable under section 209 of this title with respect to a violation of any railroad safety rule, regulation, order or standard issued under this title within 90 days after the date on which notification was received by the Secretary from a State agency participating in investigative and surveillance activities under the provisions of section 206 of this title, that State agency may apply to the district court for the judicial district in which the violation occurred or in which the defendant has its principal executive office for the assessment and collection of the civil penalty. This subsection shall not apply in any case in which the Secretary has affirmatively determined in writing that no violation has occurred.

"(b) In any case in which the Secretary has not commenced an action for injunctive relief under section 210 of this title with respect to a violation of any railroad safety rule, regulation, order or standard issued under this title within 15 days after the date on which the Secretary received notification of the violation, together with a request that an injunctive action be instituted, from a State agency participating in investigative and surveillance activities under the provisions of section 206 of this title, that State agency may apply to the United States district court for the judicial district in which the violation occurred or in which the defendant has its principal executive office for injunctive relief to restrain further violation of such rule, regulation, order or standard. This subsection shall not apply in any case in which the Secretary has affirmatively determined in writing that (1) no violation has occurred; or (2) an action for injunctive relief is not necessary because of other enforcement action undertaken by the Secretary with respect to the subject violation.

"(c) A State agency may not bring an action under this section in any United States district court located outside the boundaries of the States.".

(b) (1) Section 206 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435) is amended by adding the following new subsection:

"(g) In addition to the provisions for State participation set forth in subsections (a) and (c) of this section, the Secretary may enter into agreements with any State to provide investigative and surveillance activities with respect to those functions transferred to the Secretary by subsection (e) (1), (e) (2), and (e) (6) (A) of section 6 of the Department of Transportation Act (49 U.S.C. 1655(e) (1), (2), (6) (A)).".

(2) Subsection 203(d) of said Act is amended by adding "or (g)" immediately following the words "subsection (c)".

MOTION OFFERED BY MR. FLORIO

Mr. FLORIO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLORIO moves to strike out all after the enacting clause of the Senate bill, S. 2730, and to insert in lieu thereof the provisions of H.R. 7104, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 7104, was laid on the table.

House Resolution 762 was laid on the table.

GENERAL LEAVE

Mr. FLORIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

SECURITIES INVESTOR PROTECTION ACT AMENDMENTS

Mr. SCHEUER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7939) to amend the Securities Investor Protection Act to increase the amount of protection available under such act to customers of brokers and dealers, and to provide for the applicability of the Right to Financial Privacy Act of 1978 to the Securities and Exchange Commission.

The Clerk read as follows:

H.R. 7939

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

AMENDMENTS TO THE SECURITIES INVESTOR PROTECTION ACT

SECTION 1. Section 9(a) of the Securities Investor Protection Act (15 U.S.C. 78fff-3(a)) is amended—

(1) by striking out "$100,000" and inserting in lieu thereof "$500,000"; and

(2) in paragraph (1), by striking out "$40,000" and inserting in lieu thereof "$100,000".

AMENDMENT TO THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978

SEC 2. Section 1122 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3422) is amended to read as follows:

"SECURITIES AND EXCHANGE COMMISSION

"SEC. 1122. Except as provided in the Securities Exchange Act of 1934, this Act shall apply with respect to the Securities and Exchange Commission.".

AMENDMENT TO THE SECURITIES EXCHANGE ACT OF 1934

SEC. 3. Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by adding at the end thereof the following:

"(h)(1) The Right to Financial Privacy Act of 1978 shall apply with respect to the Commission, except as otherwise provided in this subsection.

"(2) Notwithstanding section 1105 or 1107 of the Right to Financial Privacy Act of 1978, the Commission may have access to and obtain copies of, or the information contained in financial records of a customer from a financial institution without prior notice to the customer upon an ex parte showing to an appropriate United States district court that the Commission seeks such financial records pursuant to a subpena issued in conformity with the requirements of section 19(b) of the Securities Act of 1933, section 21(b) of the Securities Exchange Act of 1934, section 18(c) of the Public Utility Holding Company Act of 1935, section 42(b) of the Investment Company Act of 1940, or section 209(b) of the Investment Advisers Act of 1940, and that the Commission has reason to believe that—

"(A) delay in obtaining access to such financial records, or the required notice, will result in—

"(i) flight from prosecution;

"(ii) destruction of or tampering with evidence;

"(iii) transfer of assets or records outside the territorial limits of the United States;

"(iv) improper conversion of investor assets; or

"(v) impeding the ability of the Commission to identify or trace the source or disposition of funds involved in any securities transaction;

"(B) such financial records are necessary to identify or trace the record or beneficial ownership interest in any security;

"(C) the acts, practices or course of conduct under investigation involve—

"(i) the dissemination of materially false or misleading information concerning any security, issuer, or market, or the failure to make disclosures required under the securities laws, which remain uncorrected; or

"(ii) a financial loss to investors or other persons protected under the securities laws which remains substantially uncompensated; or

"(D) the acts, practices or course of conduct under investigation—

"(i) involve significant financial speculation in securities; or

"(ii) endanger the stability of any financial or investment intermediary.

"(3) Any application under paragraph (2) for a delay in notice shall be made with reasonable specificity.

"(4)(A) Upon a showing described in paragraph (2), the presiding judge or magistrate shall enter an ex parte order granting the requested delay for a period not to exceed ninety days and an order prohibiting the financial institution involved from disclosing that records have been obtained or that a request for records has been made.

"(B) Extensions of the period of delay of notice provided in subparagraph (A) of up to ninety days each may be granted by the court upon application, but only in accordance with this subsection or section 1109(a), (b)(1), or (b)(2) of the Right to Financial Privacy Act of 1978.

"(C) Upon expiration of the period of delay of notification ordered under subparagraph (A) or (B), the customer shall be served with or mailed a copy of the subpena insofar as it applies to the customer together with the following notice which shall describe with reasonable specificity the nature of the investigation for which the Commission sought the financial records:

"'Records or information concerning your transactions which are held by the financial institution named in the attached subpena were supplied to the Securities and Exchange Commission on (date). Notification was withheld pursuant to a determination by the (title of court so ordering) under section 21(b) of the Securities Exchange Act of 1934 that (state reason). The purpose of the investigation or official proceeding was (state purpose.'.

"(5) Upon application by the Commission, all proceedings pursuant to paragraphs (2) and (4) shall be held in camera and the records thereof sealed until expiration of the period of delay or such other date as the presiding judge or magistrate may permit.

"(6) The Commission shall compile an annual tabulation of the occasions on which the Commission used each separate subparagraph or clause of paragraph (2) of this subsection or the provisions of the Right to Financial Privacy Act of 1978 to obtain access to financial records of a customer and include it in its annual report to the Congress. Section 1121(b) of the Right to Financial Privacy Act of 1978 shall not apply with respect to the Commission.

"(7)(A) Following the expiration of the period of delay of notification ordered by the court pursuant to paragraph (4) of this subsection, the customer may, upon motion, reopen the proceeding in the district court which issued the order. If the presiding judge or magistrate finds that the movant is the customer to whom the records obtained by the Commission pertain, and that the Commission has obtained financial records or information contained therein in violation of this subsection, other than paragraph (1), it may order that the customer be granted civil penalties against the Commission in an amount equal to the sum of—

"(i) $100 without regard to the volume of records involved;

"(ii) any out-of-pocket damages sustained by the customer as a direct result of the disclosure; and

"(iii) if the violation is found to have been willful, intentional, and without good faith, such punitive damages as the court may allow, together with the costs of the action and reasonable attorneys fees as determined by the court.

"(B) Upon a finding that the Commission has obtained financial records or information contained therein in violation of this subsection, other than paragraph (1), the court, in its discretion, may also or in the alternative issue injunctive relief to require the Commission to comply with this subsection with respect to any subpena which the Commission issues in the future for financial records of such customer for purposes of the same investigation.

"(C) Whenever the court determines that the Commission has failed to comply with this subsection, other than paragraph (1), and the court finds that the circumstances raise questions of whether an officer or employee of the Commission acted in a willful and intentional manner and without good faith with respect to the violation, the Office of Personnel Management shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the agent or employee who was primarily responsible for the violation. After investigating and considering the evidence submitted, the Office of Personnel Management shall submit its findings and recommendations to the Commission and shall send copies of the findings and recommendations to the officer or employee or his representative. The Commission shall take the corrective action that the Office of Personnel Management recommends.

"(8) The relief described in pargraphs (7) and (10) shall be only remedies or sanctions available to a customer for a violation of this subsection, other than paragraph (1), and nothing herein or in the Right to Financial Privacy Act of 1978 shall be deemed to prohibit the use in any investigation or proceeding of financial records, or the information contained therein, obtained by a subpena issued by the Commission. In the case of an unsuccessful action under paragraph (7), the court shall award the costs of the action and attorney's fees to the Commission if the presiding judge or magistrate finds that the customer's claims were made in bad faith.

"(9) (A) The Commission may transfer financial records or the information contained therein to any government authority if the Commission proceeds as a transferring agency in accordance with section 1112 of the Right to Financial Privacy Act of 1978, except that the customer notice required under section 1112 (b) or (c) of such Act may be delayed upon a showing by the Commission, in accordance with the procedure set forth in paragraphs (4) and (5), that one or more of subparagraphs (A) through (D) of paragraph (2) apply.

"(B) The Commission may, without notice to the customer pursuant to section 1112 of the Right to Financial Privacy Act of 1978, transfer financial records or the information contained therein to a State securities agency or to the Department of Justice. Financial records or information transferred by the Commission to the Department of Justice or to a State securities agency pursuant to the provisions of this subparagraph may be disclosed or used only in an administrative, civil, or criminal action or investigation by the Department of Justice or the State securities agency which arises out of or relates to the acts, practices, or courses of conduct investigated by the Commission, except that if the Department of Justice or the State securities agency determines that the information should be disclosed or used for any other purpose, it may do so if it notifies the customer, except as otherwise provided in the Right to Financial Privacy Act of 1978, within 30 days of its determination, or complies with the requirements of section 1109 of such Act regarding delay of notice.

"(10) Any government authority violating paragraph (9) shall be subject to the procedures and penalties applicable to the Commission under paragraph (7) (A) with respect to a violation by the Commission in obtaining financial records.

"(11) Notwithstanding the provisions of this subsection, the Commission may obtain financial records from a financial institution or transfer such records in accordance with provisions of the Right to Financial Privacy Act of 1978.

"(12) Nothing in this subsection shall enlarge or restrict any rights of a financial institution to challenge requests for records made by the Commission under existing law. Nothing in this subsection shall entitle a customer to assert any rights of a financial institution.

"(13) Unless the context otherwise requires, all terms defined in the Right to Financial Privacy Act of 1978 which are common to this subsection shall have the same meaning as in such Act.".

CONFORMING AMENDMENT

SEC. 4. The second sentence of section 21 (g) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(g)) is amended by inserting "and in subsection (h)" after "as used herein".

EFFECTIVE DATES

SEC. 5. (a) The amendments made by section 1 of this Act shall take effect on the date of enactment of this Act.

(b) The amendments made by sections 2, 3, and 4 of this Act shall take effect on November 10, 1980. Nothing in this Act or in the Right to Financial Privacy Act of 1978 shall apply to any Securities and Exchange Commission subpena issued prior to such date.

The SPEAKER pro tempore. Is a second demanded?

Mr. BROYHILL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. SCHEUER) will be recognized for 20 minutes, and the gentleman from North Carolina (Mr. BROYHILL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. SCHEUER).

Mr. SCHEUER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 7939 addresses two important securities issues.

The first concerns amendments to the Securities Investor Protection Act of 1970 which will increase the insurance coverage for investors who maintain cash and securities with broker-dealers.

These accounts are insured by the Securities Investor Protection Corporation presently in the amounts of $40,000 for cash and $100,000 for securities.

Because of inflation, because of the recent increases in insurance coverage for deposits in banks, and because of the continuing need to assure investor confidence in our securities marketplace, the provisions of H.R. 7939 would increase the present coverage to $100,000 for cash and a maximum of $500,000 for securities and cash for each investor.

I would add that since the Securities Investor Protection Corporation maintains its own insurance fund, that the increased coverage will not cost the public a single penny.

This provision has the enthusiastic endorsement of the industry, the Securities Investor Protection Corporation, and the Securities and Exchange Commission.

The other subject incorporated in H.R. 7939 amends the Right to Financial Privacy Act of 1978.

That act, which will not take effect with respect to the Securities and Exchange Commission until November 10 of this year, inadvertently imposes unnecessary burdens on the ability of the Commission to subpena financial records maintained with banks.

Without the provisions contained in H.R. 7939, the Right to Financial Privacy Act would require that in virtually all cases where the SEC seeks the records of an individual in the custody of a bank, that the Agency give the individual 14 days notice prior to the production of such records.

Moreover, it would require that the SEC supply the individual with forms to facilitate his contesting such production in the Federal district court.

Obviously, in certain cases prior notice provisions would induce the destruction of records or the transfer of records and assets outside of the country, and impede the ability of the Commission to identify or trace the source or distribution of funds in securities transactions.

In addition, they might also so delay the bringing of many cases by the SEC as to jeopardize the ability of the defrauded investor to recover his losses before the running of the statute of limitations.

Finally, and I cannot overemphasize this particular facet, the provisions would encourage persons who wish to mask their securities transactions—for whatever reason—to utilize the services of banks rather than broker-dealers.

Therefore, the provisions of H.R. 7939 seek to alleviate these adverse effects while maintaining, to a reasonable extent, the confidentiality of customer records maintained with banks.

It would require that if the SEC wished to subpena records of individuals maintained with banks and if the Agency felt there was a likelihood that prior notice of issuance of the subpena would result in the kinds of abuses I discussed, or further violations of the securities laws, then that Agency, on an ex parte basis, could go before a Federal district judge.

Upon a proper showing by the Commission the judge may authorize the issuance of the subpena without prior notice.

Moreover, the bill would restrict the transfer of such subpenaed records by the SEC to agencies other than the Justice Department and State securities agencies without complying to the prior notice provisions.

However, even Justice and the State securities agencies may not use such information in connection with any proceeding not arising out of the original commission investigation, without providing prior notice.

These amendments to the Right to Financial Privacy Act are necessary to assure that the SEC's important role in combating white-collar crime is not unnecessarily impeded.

These provisions will also insure a magnitude of customer confidentiality that has not previously existed.

Finally, these provisions will narrow, if not eliminate, the competitive imbalance that the Right to Financial Privacy Act would create between banks and broker-dealers.

I urge that my colleagues support the provisions of H.R. 7939.

□ 1520

Mr. CAVANAUGH. Mr. Speaker, will the gentleman yield?

Mr. SCHEUER. I am happy to yield to the gentleman.

Mr. CAVANAUGH. I thank the chairman for yielding.

First of all I would like to commend the chairman for bringing this legislation to the floor. My primary interest in the legislation, as the gentleman knows, is with the portion of the legislation dealing with the extension of the Right to Financial Privacy Act of 1978 to the Securities and Exchange Commission.

At the time of the passage of the Right to Financial Privacy Act of 1978 I was a member of the Committee on Banking, Finance and Urban Affairs, and together with other interested members of that committee, primarily the gentleman from California (Mr. ROUSSELOT), the gentleman from Connecticut (Mr. MCKINNEY), and the gentleman from New York (Mr. LAFALCE) sought to promote and implement and eventually successfully enact the Right to Financial Privacy Act, whose origin went back to an earlier proposal by the gentleman from California (Mr. GOLDWATER) in conjunction with a former Member of the House from New York, Mr. Koch, who had originated the comprehensive privacy legislation from which all of this legislation has finally evolved.

But at the time of the enactment of that legislation it was understood and appreciated by the Committee on Banking, Finance and Urban Affairs that appropriate consideration had not been given to the special circumstances that surrounded the investigatory and regulatory requirements of the Securities and Exchange Commission.

In light of that it was decided to provide an exemption for the Securities and Exchange Commission and that exemption, which was provided in the Right to Financial Privacy Act of 1978, expires, as the Chairman has noted, in November of this year, therefore, necessitating this legislation if we were to accomplish the goals of requiring the same kinds of protection which the Right to Financial Privacy Act extended to customers of banks from unreasonable and unwarranted intrusions into their bank records by all agencies of government, if we were to extend those protections to protect depositors from unwarranted and unrestricted intrusion by the Securities and Exchange Commission. That is the context in which this legislation comes to the floor.

Throughout the course of the past year I have been involved with the gentleman's committee in this legislation, as have other members of the Committee on Banking, Finance and Urban Affairs concerned with this issue. As the chairman well knows, we went through protracted discussions with the Securities and Exchange Commission whose initial goal was to seek a total exemption and who eventually acquiesced in coming under the basic principles of the Right to Financial Privacy Act of 1978, which was a major change of philosophy on their part, and a significant one, in which we now have established a coherent system of privacy protections that apply to all agencies of government, but one which also, as this legislation does, takes appropriate recognition of the differing missions, goals, and responsibilities of the Securities and Exchange Commission.

I want to simply say to the chairman that I think his committee has done an outstanding job in accommodating the sensibilities of many of us who have had a history of involvement in this legislation and also accommodating the jurisdictional and protecting the jurisdictional interests of the Committee on Banking, Finance and Urban Affairs. That committee will have continuing jurisdictional and oversight capability in supervising the implementation of the provisions of H.R. 7939 as they apply to the Securities and Exchange Commission.

I just wanted to make one final comment with regard to the concerns of some Members and particularly a Member who is not here today, the gentleman from California (Mr. ROUSSELOT) who, throughout the year, has been of great assistance in providing criticisms and inputs into this legislation. The results of those inputs are interwoven throughout the final product by tightening down the exemptions that are afforded to the Securities and Exchange Commission and enhancing the protection which bank depositors will enjoy. I think the gentleman from California (Mr. ROUSSELOT) is primarily responsible for the narrow scope of this legislation.

That is not to say that at the end, as in any legislative process, there are not continuing concerns. But it is my understanding that this legislation enjoys the support of the Securities and Exchange Commission as well as the Securities Industry Association. I have received a letter addressed to the gentleman from California (Mr. ROUSSELOT), expressing their support for the legislation dated today, a letter from Mr. O'Brien of the Securities Industry Association.

Nonetheless, there are remaining issues that it is my understanding the chairman has promised will be addressed in the next session of Congress and that he is committed to holding early and comprehensive hearings on the matter of competitive equity, which does greatly concern the Securities Industry Association and others. On those issues, other issues which may be of concern to the gentleman from California (Mr. ROUSSELOT): Is it the chairman's intention to hold early and comprehensive hearings on the implementation of this legislation?

Mr. SCHEUER. Indeed it is, and we would hope to hold those hearings, if it is possible and convenient, jointly with the members of the Committee on Banking, Finance and Urban Affairs who are so interested.

I want to say at this point in the RECORD how much I admire the work of my colleague from Nebraska (Mr. CAVANAUGH) who has played an extraordinarily statesmanlike role in working with the members of the Interstate and Foreign Commerce Committee and other members of the Committee on Banking, Finance and Urban Affairs, working with SIPC, with the SEC, with the Securities Industry Association in bringing about a really total consensus on this matter. He has played a highly effective role, and he has great credibility in this area. I want to congratulate him for his really splendid work over a long period of time.

Mr. CAVANAUGH. I thank the gentleman.

Mr. SCHEUER. Let me point out how broad the support is for this consensus which the gentleman from Nebraska (Mr. CAVANAUGH) has wrought. The sponsors of this legislation include the chairman of the full Interstate and Foreign Commerce Committee, the gentleman from West Virginia (Mr. STAGGERS), the gentleman from North Carolina (Mr. PREYER), the gentleman from California (Mr. GOLDWATER), the gentleman from New York (Mr. OTTINGER), the gentleman from Texas (Mr. ECKHARDT), the gentleman from New Jersey (Mr. RINALDO). On the Committee on Interstate and Foreign Commerce, the chairman, the gentleman from Wisconsin (Mr. REUSS), the gentleman from California (Mr. STARK), the gentleman from Connecticut (Mr. MCKINNEY), the gentleman from New York (Mr. LAFALCE), and, of course, the gentleman from Nebraska (Mr. CAVANAUGH). So the gentleman really has achieved a remarkable consensus from those two committees and I congratulate him for it. I will tell him that we are all in his debt.

Mr. Speaker, I have no further requests for time on this side.

Mr. BROYHILL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this bill.

The first part of H.R. 7939 amends the Securities Investor Protection Act to raise the protective limits of the act to more realistic levels. The equity account limit will be raised to $500,000 while the cash account limit will be inreased to $100,000. I hasten to add that this will not cost the American taxpayer a single dime. All of the Security Investor Protection Corporation costs are met through its fund and through membership fees.

Strong support for this portion of the bill has been urged by the broker-dealer community and the exchanges because it promotes confidence in the securities markets. The bill does not insure against personal losses in the stock market, but rather insures against the insolvency of the broker-dealer that an investor uses to trade. In the same way that the Federal Deposit Insurance Corporation insures savers against the insolvency of banks, the Securities Investor Protection Corporation insures investors against the insolvency of broker-dealers. I support this amendment as sensible legislation.

I also wish to express support for the amendments in sections 2 and 3 of this bill providing a limited exemption to the Financial Privacy Act for the SEC.

In view of the SEC's law enforcement and investor protection role, the current provisions of the Financial Privacy Act are not quite suited to the SEC. They will do more harm than good.

Compromise legislation has been worked out that is still in keeping with the spirit of the Financial Privacy Act, yet goes a long way toward investor protection. All of the provisions of the Financial Privacy Act would apply to the SEC except for two sections. The first difference deals with an expanded delay of notice provisions. The SEC feels that it needs this added criteria to protect investors and to promote stable markets. The next partial exemption relates to referral of cases to the Department of Justice for criminal prosecution. In this instance, the Department of Justice will notify the individual involved instead of the SEC.

From the standpoint of personal experience, my committee has direct jurisdiction over the SEC. We authorize every program. I can assure my colleagues that we do not give the SEC enough resource in terms of funds or personnel to issue unnecessary subpenas. As a matter of fact, the SEC must overlook minor infractions because it has only enough to pursue major violations that pose a threat to many investors.

To conclude, I believe that this is fair legislation and should be adopted.

● Mr. WYLIE. Mr. Speaker, it seems to me that the Banking Committee should hold hearings on the Right to Financial Privacy Act provisions of H.R. 7939. I therefore believe that the House should not pass this bill under the suspension procedure.

I hasten to note that I do not oppose the Right to Financial Privacy Act or its application to the Securities and Exchange Commission. If this bill does not pass and we do not enact similar legislation, the Right to Financial Privacy Act will apply in full to the SEC after November 10, 1980. By rejecting this bill we may actually assure bank customers greater privacy than they would enjoy under H.R. 7939.

I must comment on two other matters concerning this bill. First, I note that the primary justification for the legislation is the administrative convenience of the SEC. We should not be primarily concerned with any agency's administrative convenience in passing the Right to Financial Privacy Act and I have doubts that the SEC has pleaded a persuasive case in offering its administrative convenience as a reason for looser adherence to the rules of financial privacy.

A further matter is the fact that the bill does not address the privacy of an individual's securities accounts records. With the blurring of distinctions between the banking and securities industries, perhaps we should consider applying the Right to Financial Privacy Act to securities accounts. This question could be addressed in hearings.

We should act only after a careful review of these and other related questions. It seems that the bill as it stands has not been adequately reviewed and, therefore, I urge a no vote on the bill as a Suspension Calendar measure.●

● **Mr. STANTON.** Mr. Speaker, after my review of this legislation I have determined that enough questions remain unanswered about its provisions affecting the Right to Financial Privacy Act that I must oppose it in its present form. I support the principal purposes of the bill, for I believe that the insurance limits for securities investors should keep pace with increases in deposit insurance. Similarly, I believe that the Right to Financial Privacy Act should apply to the Securities and Exchange Commission.

The bill before us, H.R. 7939, may not adequately accomplish that latter end.

Section 1122 of the Right to Financial Privacy Act exempted the SEC from the act's provisions for a 2-year period in order to permit a review of the act and its effect on the SEC. H.R. 7939 resulted from discussions between the SEC and Members and staff of the House. It was not the product of hearings. It is intended to reconcile the privacy interests of bank customers with the SEC's interest in access to records in aid of its law enforcement efforts, according to the report accompanying the bill.

I am not certain that we have enough information in this matter to allow us to proceed. As I read the bill, it provides the SEC a far greater latitude under the Right to Financial Privacy Act than any of the other agencies subject to its provisions currently enjoys. To be assured that the SEC has fully justified its privileged status we should review its assertions in a hearing. Many questions about this bill are unanswerd in the report and I would expect these questions to be reviewed in that hearing.

The principal question is, of course, why the SEC cannot operate under the terms of the Right to Financial Privacy Act. I note that the other agencies subject to that act, some with concurrent Securities Act's jurisdiction, have not asserted that they are unable to work within the bounds of the Right to Financial Privacy Act.

A corollary question in this regard is whether the SEC may abuse its privileged status under H.R. 7939. I note, for instance, that the SEC does not have to prove a legitimate law enforcement interest in order to employ the relaxed procedures available under H.R. 7939. The existing act makes similar procedures available to a bank supervisory agency only upon a showing of a legitimate law enforcement inquiry within the jurisdiction of the agency.

I have no doubt that securities law violations are serious matters. But I wonder whether they are more important or more volatile than other legitimate law enforcement actions in which bank records may be necessary or useful as evidence. A hearing would show whether bank records should be more available to the SEC for its enforcement activities than to other Federal law enforcement agencies in pursuit of their functions.

I am pleased that proponents of H.R. 7939 have expressed a willingness to hold hearings early in the 97th Congress on the issues which I have discussed. However, I had hoped that the bill would be considered with a committee amendment to delay the effective date of the bill or to provide for an early expiration date, to insure that early action would be taken should the hearings reveal that the legislation needs to be amended.

Under the circumstances, I must urge my colleagues to vote against suspending the rules to pass H.R. 7939, and that the bill be brought up instead under an open rule.●

● **Mr. ROUSSELOT.** Mr. Speaker, it is with considerable reluctance that I must oppose this legislation. I have no quarrel with the provisions which would increase insurance under the SIPC program for securities investors. This action is a logical counterpart to the action taken earlier this year under Public Law 96–221 to increase insurance at depository institutions—commercial banks, savings and loans, mutual savings banks, and credit unions—from $40,000 to $100,000.

The reasons why I must oppose this bill have to do with the amendments to the Right to Financial Privacy Act of 1978 which are contained in this bill. In this case the precedent set in the banking legislation has not been followed. This would not in itself be a reason to oppose the bill, but no hearings have been held by either the Committee on Interstate and Foreign Commerce or the Committee on Banking, Finance and Urban Affairs to justify the departures from the precedent established in the original Right to Financial Privacy Act.

Members will recall that the purpose of the Right to Finance Privacy Act was to establish that customers of depository institutions have a legitimate expectation of privacy in their financial records and to require that agencies seeking to obtain customer records must, wherever practicable, show probable cause and provide notice to the customer. The Right to Financial Privacy Act represents an effort to strike a reasonable balance between the right and expectation of privacy on the part of the customer and the legitimate needs of law enforcement authorities.

At the time the Right to Financial Privacy Act was before the Banking Committee, one agency, the Securities and Exchange Commission claimed that it could not live with the bill, and I believe it is fair to say that the SEC threatened to kill the bill if it were not granted an exemption. Although I have never been convinced that the SEC cannot function under the same provisions which apply to the Justice Department and to all other law enforcement agencies, in order to defuse the SEC's objections to the bill, it was agreed that the SEC would enjoy a 2-year exemption from the act, during which time efforts would be made to develop procedures which could satisfy the needs of customers of depository institutions and the "unique" needs of the SEC.

The bill which you have before you is supposed to represent a balanced answer to the dilemma posed by the SEC exemption. Unfortunately, in the absence of hearings, we have no way of knowing. What we do know is that there are two major issues affecting the rights of customers of financial institutions which have not been resolved during the 2 years in which the SEC has enjoyed an exemption from the Right to Financial Privacy Act:

1. POSSIBLE ABUSE OF SPECIAL SEC PROVISIONS

The basic scheme of the privacy provisions of H.R. 7939 is that wherever practicable, the SEC will follow the procedures set forth in the Right to Financial Privacy Act, but that under emergency circumstances, such as cases in which there is a danger that the subject might alter bank records or leave the country, the SEC would be able to use special subpena procedures and would be permitted to notify the customer after the fact. In the absence of hearings, there has not been an adequate showing as to why the SEC cannot abide by the provisions of the Right to Financial Privacy Act, nor have customers of financial institutions and others affected by the legislation been given an opportunity to present their views. It has been alleged that the SEC might try to use the "emergency" procedures as the "standard operating procedure" of the agency, if this bill becomes law. In the absence of hearings, we have no way of knowing whether or not the SEC would truly confine its use of the emergency provisions to "appropriate" cases.

2. PROTECTION OF SECURITIES CUSTOMERS

The bill before you today has another glaring shortcoming. It applies only to efforts by the SEC to obtain the records of banking customers, while no protection whatever is afforded to customers of brokerage firms whose records are subject to unlimited access by the SEC without notice. With the advent of money market mutual funds at brokerage firms, these firms are being used by many customers of other financial institutions who invest a portion of their cash in money funds and other securities. These customers, I would argue are entitled to the same expectation of privacy in their securities records which Congress has recognized they properly have in their bank records, but this bill does nothing to recognize this expectation, and no hearings have been held on the issue of providing adequate protection of the privacy of customers of securities firms.

The solution to the problems which I have raised is to insure that, if this House decides that it must enact this legislation without the benefit of hearings, assurance would be provided that hearings will be held on the two issues which I have raised and that there will be a timely opportunity to correct whatever deficiencies in the bill are disclosed by the hearings.

One formula by which this could be achieved, although by no means the only formula, would be to provide for a 6-month sunset of the privacy provisions of H.R. 7939, so that hearings could be held and corrective action taken before the exceptional procedures established for the SEC under this bill have an opportunity to become entrenched.

I appreciate the assurances which have been provided that hearings on the issues I have raised will be held early in the next Congress. My concerns are that, as matters now stand, these hearings would be held after the bill will have taken effect, and that there is no provision for either a sunset or a delayed effective date to accommodate the results of the hearings. I express these concerns not on behalf of any industry association but on behalf of those parties, both securities firms and securities customers, who are affected by this bill but who will not have an opportunity to be heard until after it has been enacted.

For all of the reasons stated above, I urge my colleagues to vote against suspending the rules to pass this bill, so that it can be considered under a rule permitting amendments to be offered.●

● **Mr. STAGGERS.** Mr. Speaker, I believe this legislation deserves the support of each and every Member of the House who is concerned about investor protection and the right to financial privacy.

H.R. 7939 addresses two areas: First, section 1 of the bill would increase insurance coverage for cash and securities maintained with securities dealers by customers from $40,000 and $100,000 to $100,000 and $500,000, respectively. This insurance is provided by the Securities Investor Protection Corporation, a private, nonprofit organization. This provision would have no cost impact on the Federal budget and would go far toward bolstering customer confidence and meeting inflation.

The rest of the bill would amend the Securities Exchange Act of 1934, incorporating several provisions of the Right to Financial Privacy Act.

When the right to Financial Privacy Act was passed in 1978, it was not clearly recognized that: First, the bill virtually applied only to the SEC because Justice Department subpenas were excluded and the IRS is subject to a separate statute; and second, the provisions of the statute requiring prior notification of the issuance of a subpena would have a devastating impact on the important law enforcement function of the SEC where market manipulation or other financial fraud is involved. Accordingly, the Banking Committee temporarily exempted the SEC from the act. That exemtpion expires on November 10, 1980, so timely passage of this legislation is crucial. We must act to insure that the transition to coverage of the SEC by the law is smooth and disrupts the vital activities of the SEC as little as possible, while assuring adequate protection to individuals.

The Banking Committee has declined to have a hearing on this matter and waived jurisdiction. Nonetheless, the Banking Committee played a key role in drafting H.R. 7939. Mr. CAVANAUGH particularly should be commended for his close scrutiny of all facets of this legislation. Mr. REUSS, chairman of that committee, Mr. MCKINNEY and Mr. LAFALCE are supporters of the bill, along with house privacy advocates Mr. GOLDWATER, Mr. PREYER, Mr. ST GERMAIN, Mr. STARK who played major roles in the passage of the Financial Privacy Act. The legislation was drafted in consultation with these members, the SEC and other interested parties. I believe that this legislation provides citizens with protections against potential misuse of SEC subpena authority comparable to the protections they now enjoy regarding other Government requests for bank records.

H.R. 7939 provides substantial privacy protections to bank customers by requiring that they be notified following SEC access to their financial records and giving them a right to obtain relief in court for any improper access. That is, the SEC, pursuant to a valid investigation, may subpena records from a bank and delay notice to the customer for a period of 90 days upon an exparte showing to a Federal district court judge or magistrate that such prior notice, among their things, might result in flight from prosecution, destruction of or tampering with evidence, transfer of assets and records outside the territorial limits of the United States, improper conversion of investor assets, or impeding the ability of the SEC to identify or trace the source or disposition of funds involved in securities frauds.

The bill would also preclude the SEC, without providing prior notice, from transferring such financial records to any agency except the Justice Department or a State securities agency for prosecution arising out of the conduct investigated. Citizens are provided remedies and sanctions for violations and abuses by the SEC. These include punitive damages, costs of the action and attorneys' fees as well as disciplinary action against SEC employees.

I think this is a fair solution and I urge the Members of the House to support H.R. 7939 without further amendment as it represents a truly balanced bill.●

Mr. BROYHILL. Mr. Speaker, I have no other requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. SCHEUER) that the House suspend the rules and pass the bill, H.R. 7939.

The question was taken.

Mr. LUNGREN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

☐ 1530

GENERAL LEAVE

Mr. SCHEUER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend the remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

SMALL BUSINESS INVESTMENT INCENTIVE ACT OF 1980

Mr. SCHEUER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7554) to amend the Securities Act of 1933 and the Investment Company Act of 1940 to provide incentives for small business investment, and for other purposes, as amended.

The Clerk read as follows:

H.R. 7554

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Business Investment Incentive Act of 1980".

TITLE I—AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940

DEFINITIONS

SEC. 101. Section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)) is amended by adding at the end thereof the following new paragraphs:

"(46) 'Eligible portfolio company' means any issuer which—

"(A) is organized under the laws of, and has its principal place of business in, any State or States;

"(B) is neither an investment company as defined in section 3 (other than a small business investment company which is licensed by the Small Business Administration to operate under the Small Business Investment Act of 1958 and which is a wholly-owned subsidiary of the business development company) nor a company which would be an investment company except for the exclusion from the definition of investment company in section 3(c); and

"(C) satisfies one of the following:

"(i) it does not have any class of securities with respect to which a member of a national securities exchange, broker, or dealer may extend or maintain credit to or for a customer pursuant to rules or regulations adopted by the Board of Governors of the Federal Reserve System under section 7 of the Securities Exchange Act of 1934;

"(ii) it is controlled by a business development company, either alone or as part of a group acting together, and such business development company in fact exercises a controlling influence over the management or policies of such eligible portfolio company and, as a result of such control, has an affiliated person who is a director of such eligible portfolio company; or

"(iii) it meets such other criteria as the Commission may, by rule, establish as consistent with the public interest, the protection of investors, and the purposes fairly intended by the policy and provisions of this title.

"(47) 'Making available significant managerial assistance' by a business development company means—

"(A) any arrangement whereby a business development company, through its directors, officers, employees, or general partners, offers to provide, and, if accepted, does so provide, significant guidance and counsel concerning the management, operations, or business objectives and policies of a portfolio company;

"(B) the exercise by a business development company of a controlling influence over the management or policies of a portfolio company by the business development company acting individually or as part of a group acting together which controls such portfolio company; or

"(C) with respect to a small business investment company licensed by the Small Business Administration to operate under the Small Business Investment Act of 1958, the making of loans to a portfolio company.

For purposes of subparagraph (A), the requirement that a business development company make available significant managerial assistance shall be deemed to be satisfied with respect to any particular portfolio company where the business development company purchases securities of such portfolio company in conjunction with one or more other persons acting together, and at least one of the persons in the group makes available significant managerial assistance to such portfolio company, except that such requirement will not be deemed to be satisfied if the business development company, in all cases, makes available significant managerial assistance solely in the manner described in this sentence.

"48 'Business development company' means any closed-end company which—

"(A) is organized under the laws of, and has its principal place of business in, any State or States;

"(B) is operated for the purpose of making investments in securities described in sections 55(a) (1) through (3), and makes available significant managerial assistance with respect to the issuers of such securities, provided that a business development company must make available significant managerial assistance only with respect to the companies which are treated by such business development "company" as satisfying the 70 per centum of the value of its total assets condition of section 55; and

"(C) has elected pursuant to section 54(a) to be subject to the provisions of sections 55 through 65.".

ATTRIBUTION OF BENEFICIAL OWNERSHIP

SEC. 102. Section 3(c)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(1)) is amended to read as follows:

"(1) Any issuer whose outstanding securities (other than short-term paper) are beneficially owned by not more than one hundred persons and which is not making and does not presently propose to make a public offering of its securities. For purposes of this paragraph:

"(A) Beneficial ownership by a company shall be deemed to be beneficial ownership by one person, except that, if the company owns 10 per centum or more of the outstanding voting securities of the issuer, the beneficial ownership shall be deemed to be that of the holders of such company's outstanding securities (other than short-term paper) unless, as of the date of the most recent acquisition by such company of securities of that issuer, the value of all securities owned by such company of all issuers which are or would, but for the exception set forth in this subparagraph, be excluded from the definition of investment company solely by this paragraph, does not exceed 10 per centum of the value of the company's total assets. Such issuer nonetheless is deemed to be an investment company for purposes of section 12(d)(1).

"(B) Beneficial ownership by any person who acquires securities or interests in securities of an issuer described in the first sentence of this paragraph shall be deemed to be beneficial ownership by the person from whom such transfer was made, pursuant to such rules and regulations as the Commission shall prescribe as necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of this title, where the transfer was caused by legal separation, divorce, death, or other involuntary event.".

EXEMPTION FROM INVESTMENT COMPANY ACT OF 1940

SEC. 103. Section 6 of the Investment Company Act of 1940 (15 U.S.C. 80a-6) is amended by adding at the end thereof the following new subsection:

"(f) Any closed-end company which—

"(1) elects to be treated as a business development company pursuant to section 54; or

"(2) would be excluded from the definition of an investment company by section 3(c) (1), except that it presently proposes to make a public offering of its securities as a business development company, and has notified the Commission, in a form and manner which the Commission may by rule, prescribe, that it intends in good faith to file, within 90 days, a notification of election to become subject to the provisions of sections 55 through 65,

shall be exempt from sections 1 through 53, except to the extent provided in sections 59 through 65.".

VALIDITY OF CONTRACTS

SEC. 104. Section 47(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-46(b)) is amended to read as follows:

"(b)(1) A contract that is made, or whose performance involves, a violation of this title, or of any rule, regulation, or order thereunder, is unenforceable by either party (or by a nonparty to the contract who acquired a right under the contract with knowledge of the facts by reason of which the making or performance violated or would violate any provision of this title or of any rule, regulation, or order thereunder) unless a court finds that under the circumstances enforcement would produce a more equitable result than nonenforcement and would not be inconsistent with the purposes of this title.

"(2) To the extent that a contract described in paragraph (1) has been performed, a court may not deny rescission at the instance of any party unless such court finds that under the circumstances the denial of rescission would produce a more equitable result than its grant and would not be inconsistent with the purposes of this title.

"(3) This subsection shall not apply (A) to the lawful portion of a contract to the extent that it may be severed from the unlawful portion of the contract, or (B) to preclude recovery against any person for unjust enrichment.".

REGULATION OF BUSINESS DEVELOPMENT COMPANIES

SEC. 105. The Investment Company Act of 1940 is amended by adding at the end thereof the following new sections:

"ELECTION TO BE REGULATED AS A BUSINESS DEVELOPMENT COMPANY

"SEC. 54. (a) Any company defined in sections 2(a)(48) (A) and (B) may elect to be subject to the provisions of sections 55 through 65 by filing with the Commission a notification of election, if such company—

"(1) has a class of its equity securities registered under section 12 of the Securities Exchange Act of 1934; or

"(2) has filed a registration statement pursuant to section 12 of the Securities Exchange Act of 1934 for a class of its equity securities.

"(b) The Commission may, by rule, prescribe the form and manner in which notification of election under this section shall be given. A business development company shall be deemed to be subject to sections 55 through 65 upon receipt by the Commission of such notification of election.

"(c) Whenever the Commission finds, on its own motion or upon application, that a business development company which has filed a notification of election pursuant to subsection (a) of this section has ceased to engage in business, the Commission shall so declare by order revoking such company's election. Any business development company may voluntarily withdraw its election under subsection (a) by filing a notice of withdrawal of election with the Commission, in a form and manner which the Commission may, by rule, prescribe. Such withdrawal shall be effective immediately upon receipt by the Commission.

"FUNCTIONS AND ACTIVITIES OF BUSINESS DEVELOPMENT COMPANIES

"SEC. 55. (a) It shall be unlawful for a business development company to acquire any assets (other than those described in paragraphs (1) through (7) of this subsection) unless, at the time the acquisition is made, assets described in paragraphs (1) through (6) below represent at least 70 per centum of the value of its total assets (other than assets described in paragraph (7) below):

"(1) securities purchased, in transactions not involving any public offering or in such other transactions as the Commission may, by rule, prescribe if it finds that enforcement of this title and of the Securities Act of 1933 with respect to such transactions is not necessary in the public interest or for the protection of investors by reason of the small amount, or the limited nature of the public offering, invloved in such transactions—

"(A) from the issuer of such securities, which issuer is an eligible portfolio company, or from any person who is, or who within the preceding thirteen months has been, an affiliated person of such eligible portfolio company; or

"(B) from the issuer of such securities, which issuer is described in sections 2(a)(46) (A) and (B) but is not an eligible portfolio company because it has issued a class of securities with respect to which a member of a national securities exchange, broker, or dealer may extend or maintain credit to or for a customer pursuant to rules or regulations adopted by the Board of Governors of the Federal Reserve System under section 7 of the Securities Exchange Act of 1934, or from any person who is an officer or employee of such issuer, if—

"(i) at the time of the purchase, the business development company owns at least 50 per centum of—

"(I) the greatest number of equity securities of such issuer and securities convertible into or exchangeable for such securities; and

"(II) the greatest amount of debt securities of such issuer,

held by such business development company at any point in time during the period when such issuer was an eligible portfolio company, except that options, warrants, and similar securities which have by their terms expired and debt securities which have been converted, or repaid or prepaid in the ordinary course of business or incident to a public offering of securities of such issuer, shall not be considered to have been held by such business development company for purposes of this requirement; and

"(ii) the business development company is one of the 20 largest holders of record of such issuer's outstanding voting securities;

"(2) securities of any eligible portfolio company with respect to which the business development company satisfies the requirements of section 2(a) (46) (C) (ii);

"(3) securities purchased in transactions not involving any public offering from an issuer described in sections 2(a) (46) (A) and (B) or from a person who is, or who within the preceding thirteen months has been, an affiliated person of such issuer, or from any person in transactions incident thereto, if such securities were—

"(A) issued by an issuer that is, or was immediately prior to the purchase of its securities by the business development company, in bankruptcy proceedings, subject to reorganization under the supervision of a court of competent jurisdiction, or subject to a plan or arrangement resulting from such bankruptcy proceedings or reorganization;

"(B) issued by an issuer pursuant to or in consummation of such a plan or arrangement; or

"(C) issued by an issuer that, immediately prior to the purchase of such issuer's securities by the business development company, was not in bankruptcy proceedings but was unable to meet its obligations as they came due without material assistance other than conventional lending or financing arrangements;

"(4) securities of eligible portfolio companies purchased from any person in transactions not involving any public offering, if there is no ready market for such securities and if immediately prior to such purchase the business development company owns at least 60 per centum of the outstanding equity securities of such issuer (giving effect to all securities presently convertible into or exchangeable for equity securities of such issuer as if such securities were so converted or exchanged);

"(5) securities received in exchange for or distributed on or with respect to securities described in paragraphs (1) through (4) of this subsection, or pursuant to the exercise of options, warrants, or rights relating to securities described in such paragraphs;

"(6) cash, cash items, Government securities, or high quality debt securities maturing in one year or less from the time of investment in such high quality debt securities; and

"(7) office furniture and equipment, interests in real estate and leasehold improvements and facilities maintained to conduct the business operations of the business development company, deferred organization and operating expenses, and other noninvestment assets necessary and appropriate to its operations as a business development company, including notes of indebtedness of directors, officers, employees, and general partners held by a business development company as payment for securities of such company issued in connection with an executive compensation plan described in section 57 (j).

"(b) For purposes of this section, the value of a business development company's assets shall be determined as of the date of the most recent financial statements filed by such company with the Commission pursuant to section 13 of the Securities Exchange Act of 1934, and shall be determined no less frequently than annually.

"QUALIFICATIONS OF DIRECTORS

"SEC. 56. (a) A majority of a business development company's directors or general partners shall be persons who are not interested persons of such company.

"(b) If, by reason of the death, disqualification, or bona fide resignation of any director or general partner, a business development company does not meet the requirements of subsection (a) of this section, or the requirements of section 15(f) (1) of this title with respect to directors, the operation of such provisions shall be suspended for a period of 90 days or for such longer period as the Commission may prescribe, upon its own motion or by order upon application, as not inconsistent with the protection of investors.

"TRANSACTIONS WITH CERTAIN AFFILIATES

"SEC. 57. (a) It shall be unlawful for any person who is related to a business development company in a manner described in subsection (b) of this section, acting as principal—

"(1) knowingly to sell any security or other property to such business development company or to any company controlled by such business development company, unless such sale involves solely (A) securities of which the buyer is the issuer, or (B) securities of which the seller is the issuer and which are part of a general offering to the holders of a class of its securities;

"(2) knowingly to purchase from such business development company or from any company controlled by such business development company, any security or other property (except securities of which the seller is the issuer);

"(3) knowingly to borrow money or other property from such business development company or from any company controlled by such business development company (unless the borrower is controlled by the lender), except as permitted in section 21(b) or section 62; or

"(4) knowingly to effect any transaction in which such business development company or a company controlled by such business development company is a joint or a joint and several participant with such person in contravention of such rules and regulations as the Commission may prescribe for the purpose of limiting or preventing participation by such business development company or controlled company on a basis less advantageous than that of such person, except that nothing contained in this paragraph shall be deemed to preclude any person from acting as manager of any underwriting syndicate or other group in which such business development company or controlled company is a participant and receiving compensation therefor.

"(b) The provisions of subsection (a) of this section shall apply to the following persons:

"(1) Any director, officer, employee, or member of any advisory board of a business development company or any person (other than the business development company itself) who is, within the meaning of section 2(a) (3) (C) of this title, an affiliated person of any such person specified in this paragraph.

"(2) Any investment adviser or promoter of, general partner in, principal underwriter for, or person directly or indirectly either controlling, controlled by, or under common control with, a business development company (except the business development company itself and any person who, if it were not directly or indirectly controlled by the business development company, would not be directly or indirectly under the control of a person who controls the business development company), or any person who is, within the meaning of section 2(a) (3) (C) or (D), an affiliated person of any such person specified in this paragraph.

(c) Notwithstanding paragraphs (1), (2), and (3) of subsection (a), any person may file with the Commission an application for an order exempting a proposed transaction of the applicant from one or more provisions of such paragraphs. The Commission shall grant such application and issue such order of exemption if evidence establishes that—

"(1) the terms of the proposed transaction including the consideration to be paid or received, are reasonable and fair and do not involve overreaching of the business development company or its shareholders or partners on the part of any person concerned;

"(2) the proposed transaction is consistent with the policy of the business development company as recited in the filings made by such company with the Commission under the Securities Act of 1933, its registration statement and reports filed under the Securities Exchange Act of 1934, and its reports to shareholders or partners; and

"(3) the proposed transaction is consistent with the general purposes of this title.

"(d) It shall be unlawful for any person who is related to a business development company in the manner described in subsection (e) of this section and who is not subject to the prohibitions of subsection (a) of this section, acting as principal—

"(1) knowingly to sell any security or other property to such business development company or to any company controlled by such business development company, unless such sale involves solely (A) securities of which the buyer is the issuer, or (B) securities of which the seller is the issuer and which are part of a general offering to the holders of a class of its securities;

"(2) knowingly to purchase from such business development company or from any company controlled by such business development company, any security or other property (except securities of which the seller is the issuer);

"(3) knowingly to borrow money or other property from such business development company or from any company controlled by such business development company (unless the borrower is controlled by the lender), except as permitted in section 21(b); or

"(4) knowingly to effect any transaction in which such business development company or a company controlled by such business development company is a joint or a joint and several participant with such affiliated person in contravention of such rules and regulations as the Commission may prescribe for the purpose of limiting or preventing participation by such business development company or controlled company on a basis less advantageous than that of such affiliated person, except that nothing contained in this paragraph shall be deemed to preclude any person from acting as manager of any underwriting syndicate or other group in which such business development company or controlled company is a participant and receiving compensation therefor.

"(e) The provisions of subsection (d) of this section shall apply to the following persons:

"(1) Any person (A) who is, within the meaning of section 2(a) (3) (A), an affiliated person of a business development company, (B) who is an executive officer or a director of, or general partner in, any such affiliated person, or (C) who directly or indirectly either controls, is controlled by, or is under common control with, such affiliated person.

"(2) Any person who is an affiliated person of a director, officer, employee, investment adviser, member of an advisory board or promoter of, principal underwriter for, general partner in, or an affiliated person of any person directly or indirectly either controlling or under common control with a business development company (except the business development company itself and any person who, if it were not directly or indirectly controlled by the business development company, would not be directly or indirectly under the control of a person who controls the business development company).

For purposes of this subsection, the term 'executive officer' means the president, secretary, treasurer, any vice president in charge of a principal business function, and any other person who performs similar policymaking functions.

"(f) Notwithstanding subsection (d) of this section, a person described in subsection (e) may engage in a proposed transaction described in subsection (d) if such proposed transaction is approved by the required majority (as defined in subsection (o)) of the directors of or general partners in the business development company on the basis that—

"(1) the terms thereof, including the consideration to be paid or received, are reasonable and fair to the shareholders or partners of the business development company and do not involve overreaching of such company or its shareholders or partners on the part of any person concerned;

"(2) the proposed transaction is consistent with the interests of the shareholders or partners of the business development company and is consistent with the policy of such company as recited in filings made by such company with the Commission under the Securities Act of 1933, its registration statement and reports filed under the Securities Exchange Act of 1934, and its reports to shareholders or partners; and

"(3) the directors or general partners record in their minutes and preserve in their records, for such periods as if such records were required to be maintained pursuant to section 31(a), a description of such transaction, their findings, the information or materials upon which their findings were based, and the basis therefor.

"(g) Notwithstanding subsection (a) or (d), a person may, in the ordinary course of business, sell to or purchase from any company merchandise or may enter into a lessor-lessee relationship with any person and furnish the services incident thereto.

"(h) The directors of or general partners in any business development company shall adopt, and periodically review and update as appropriate, procedures reasonably designed to ensure that reasonable inquiry is made, prior to the consummation of any transaction in which such business development company or a company controlled by such business development company proposes to participate, with respect to the possible involvement in the transaction of persons described in subsections (b) and (e) of this section.

"(i) Until the adoption by the Commission of rules or regulations under subsections (a) and (d) of this section, the rules and regulations of the Commission under section 17(a) and (d) applicable to registered closed-end investment companies shall be deemed to apply to transactions subject to subsections (a) and (d) of this section. Any rules or regulations adopted by the Commission to implement this section shall be no more restrictive than the rules or regulations adopted by the Commission under sections 17(a) and (d) that are applicable to all registered closed-end investment companies.

"(j) Notwithstanding subsections (a) and (d) of this section, any director, officer, or employee of, or general partner in, a business development company may—

"(1) acquire warrants, options, and rights to purchase voting securities of such business development company, and securities issued upon the exercise or conversion thereof, pursuant to an executive compensation plan offered by such company which meets the requirements of section 61(a)(3)(B); and

"(2) borrow money from such business development company for the purpose of purchasing securities issued by such company pursuant to an executive compensation plan, if each such loan—

"(A) has a term of not more than ten years;

"(B) becomes due within a reasonable time, not to exceed sixty days, after the termination of such person's employment or service;

"(C) bears interest at no less than the prevailing rate applicable to 90-day United States Treasury bills at the time the loan is made;

"(D) at all times is fully collateralized (such collateral may include any securities issued by such business development company); and

"(E)(i) in the case of a loan to any officer or employee of such business development company (including any officer or employee who is also a director of such company), is approved by the required majority (as defined in subsection (o)) of the directors of or general partners in such company on the basis that the loan is in the best interests of such company and its shareholders or partners; or

"(ii) in the case of a loan to any director of such business development company who is not also an officer or employee of such company, or to any general partner in such company, is approved by order of the Commission, upon application, on the basis that the terms of the loan are fair and reasonable and do not involve overreaching of such company or its shareholders or partners.

"(k) It shall be unlawful for any person described in subsection (l)—

"(1) acting as agent, to accept from any source any compensation (other than a regular salary or wages from the business development company) for the purchase or sale of any property to or for such business development company or any controlled company thereof, except in the course of such person's business as an underwriter or broker; or

"(2) acting as broker, in connection with the sale of securities to or by the business development company or any controlled company thereof, to receive from any source a commission, fee, or other remuneration for effecting such transaction which exceeds—

"(A) the usual and customary broker's commission if the sale is effected on a securities exchange;

"(B) 2 per centum of the sales price if the sale is effected in connection with a secondary distribution of such securities; or

"(C) 1 per centum of the purchase or sale price of such securities if the sale is otherwise effected,

unless the Commission, by rules and regulations or order in the public interest and consistent with the protection of investors, permits a larger commission.

"(l) The provisions of subsection (k) of this section shall apply to the following persons:

"(1) Any affiliated person of a business development company.

"(2)(A) Any person who is, within the meaning of section 2(a)(3) (B), (C), or (D), an affilicated person of any director, officer, employee, or member of an advisory board of the business development company.

"(B) Any person who is, within the meaning of section 2(a)(3) (A), (B), (C), or (D), an affiliated person of any investment adviser of, general partner in, or person directly or indirectly either controlling, controlled by, or under common control with, the business development company.

"(C) Any person who is, within the meaning of section 2(a)(3)(C), an affiliated person of any person who is an affiliated person of the business development company within the meaning of section 2(a)(3)(A).

"(m) For purposes of subsections (a) and (d), a person who is a director, officer, or employee of a party to a transaction and who receives his usual and ordinary fee or salary for usual and customary services as a director, officer, or employee from such party shall not be deemed to have a financial interest or to participate in the transaction solely by reason of his receipt of such fee or salary.

"(n)(1) Notwithstanding subsection (a)(4) of this section, a business development company may establish and maintain a profit-sharing plan for its directors, officers, employees, and general partners and such directors, officers, employees, and general partners may participate in such profit-sharing plan, if—

"(A)(i) in the case of a profit-sharing plan for officers and employees of the business development company (including any officer or employee who is also a director of such company), such profit-sharing plan is approved by the required majority (as defined in subsection (o)) of the directors of or general partners in such company on the basis that such plan is reasonable and fair to the shareholders or partners of such company, does not involve overreaching of such company or its shareholders or partners on the part of any person concerned, and is consistent with the interests of the shareholders or partners of such company; or

"(ii) in the case of a profit-sharing plan which includes one or more directors of the business development company who are not also officers or employees of such company, or one or more general partners in such company, such profit-sharing plan is approved by order of the Commission, upon application, on the basis that such plan is reasonable and fair to the shareholders or partners of such company, does not involve overreaching of such company or its shareholders or partners on the part of any person concerned, and is consistent with the interests of the shareholders or partners of such company; and

"(B) the aggregate amount of benefits which would be paid or accrued under such plan shall not exceed 20 per centum of the business development company's net income after taxes in any fiscal year.

"(2) This subsection may not be used where the business development company has outstanding any stock option, warrant, or right issued as part of an executive compensation plan, including a plan pursuant to section 61(a)(3)(B), or has an investment adviser registered or required to be registered under title II of this Act.

"(o) The term 'required majority', when used with respect to the approval of a proposed transaction, plan, or arrangement, means both a majority of a business development company's directors or general partners who have no financial interest in such transaction, plan, or arrangement and a majority of such directors or general partners who are not interested persons of such company.

"CHANGES IN INVESTMENT POLICY

"SEC. 58. No business development company shall, unless authorized by the vote of a majority of its outstanding voting securities or partnership interests, change the nature of its business so as to cease to be, or to withdraw its election as, a business development company.

"INCORPORATION OF PROVISIONS

"SEC. 59. Notwithstanding the exemption set forth in section 6(f), sections 1, 2, 3, 4, 5, 6, 9, 10(f), 15(a), (c), and (f), 16(b), 17 (f) through (j), 19(a), 20(b), 32(a) and (c), 33 through 47, and 49 through 53 of this title shall apply to a business development company to the same extent as if it were a registered closed-end investment company.

"FUNCTIONS AND ACTIVITIES OF BUSINESS DEVELOPMENT COMPANIES

"SEC. 60. Notwithstanding the exemption set forth in section 6(f) section 12 shall apply to a business development company to the same extent as if it were a registered closed-end investment company, except that the Commission shall not prescribe any rule, regulation, or order pursuant to section 12(a)(1) governing the circumstances in which a business development company may borrow from a bank in order to purchase any security.

"CAPITAL STRUCTURE

"SEC. 61. (a) Notwithstanding the exemption set forth in section 6(f), section 18 shall apply to a business development company to the same extent as if it were a registered closed-end investment company, except as follows:

"(1) The asset coverage requirements of section 18(a)(1) (A) and (B) applicable to business development companies shall be 200 per centum.

"(2) Notwithstanding section 18(c), a business development company may issue more than one class of senior security representing indebtedness if such business development company does not have outstanding any publicly held indebtedness, and all such securities of each class are—

"(A) privately held or guaranteed by the Small Business Administration, or banks, insurance companies, or other institutional investors; and

"(B) not intended to be publicly distributed.

"(3) Notwithstanding section 18(d)—

"(A) a business development company may issue senior securities representing indebtedness accompanied by warrants, options, or rights to subscribe or convert to voting securities of such company, if—

"(i) such warrants, options, or rights expire by their terms within ten years;

"(ii) such warrants, options, or rights are not separately transferable unless no class of such warrants, options, or rights and the senior securities accompanying them has been publicly distributed;

"(iii) the exercise or conversion price is not less than the current market value at the date of issuance, or if no such market value exists, the current net asset value of such voting securities; and

"(iv) the proposal to issue such securities is authorized by the shareholders or partners of such business development company, and such issuance is approved by the required majority (as defined in section 57(o)) of the directors of or general partners in such company on the basis that such issuance is in the best interests of such company and its shareholders or partners; and

"(B) a business development company may issue, to its directors, officers, employees, and general partners, warrants, options, and rights to purchase voting securities of such company pursuant to an executive compensation plan, if—

"(i) (I) in the case of warrants, options, or rights issued to any officer or employee of such business development company (including any officer or employee who is also a director of such company), such securities satisfy the conditions in clauses (i), (iii), and (iv) of subparagraph (A); or (II) in the case of warrants, options, or rights issued to any director of such business development company who is not also an officer or employee of such company, or to any general partner in such company, the proposal to issue such securities satisfies the conditions in clauses (i) and (iii) of subparagraph (A), is authorized by the shareholders or partners of such company, and is approved by order of the Commission, upon application, on the basis that the terms of the proposal are fair and reasonable and do not involve overreaching of such company or its shareholders or partners;

"(ii) such securities are not transferable except for disposition by gift, will, or intestacy;

"(iii) no investment adviser of such business development company receives any compensation described in paragraph (1) of section 205 of title II of this Act, except to the extent permitted by clause (A) or (B) of that section; and

"(iv) such business development company does not have a profit-sharing plan described in section 57(n).

Notwithstanding this paragraph, the amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights at the time of issuance shall not exceed 25 per centum of the outstanding voting securities of the business development company, except that if the amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights issued to such company's directors, officers, employees, and general partners pursuant to any executive compensation plan meeting the requirements of subparagraph (B) of this paragraph would exceed 15 per centum of the outstanding voting securities of such company, then the total amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights at the time of issuance shall not exceed 20 per centum of the outstanding voting securities of such company.

"(4) For purposes of measuring the asset coverage requirements of section 18(a), a senior security created by the guarantee by a business development company of indebtedness issued by another company shall be the amount of the maximum potential, liability less the fair market value of the net unencumbered assets (plus the indebtedness which has been guaranteed) available in the borrowing company whose debts have been guaranteed, except that a guarantee issued by a business development company of indebtedness issued by a company which is a wholly-owned subsidiary of the business development company and is licensed as a small business investment company under the Small Business Investment Act of 1958 shall not be deemed to be a senior security of such business development company for purposes of section 18(a) if the amount of the indebtedness at the time of its issuance by the borrowing company is itself taken fully into account as a liability by such business development company, as if it were issued by such business development company, in determining whether such business development company, at that time, satisfies the asset coverage requirements of section 18(a).

"(b) A business development company shall comply with the provisions of this section at the time it becomes subject to sections 55 through 65, as if it were issuing a security of each class which it has outstanding at such time.

"LOANS

"SEC. 62. Notwithstanding the exemption set forth in section 6(f), section 21 shall apply to a business development company to the same extent as if it were a registered closed-end investment company, except that nothing in that section shall be deemed to prohibit—

"(1) any loan to a director, officer, or employee of, or general partner in, a business development company for the purpose of purchasing securities of such company as part of an executive compensation plan, if such loan meets the requirements of section 57(j); or

"(2) any loan to a company controlled by a business development company, which companies could be deemed to be under common control solely because a third person controls such business development company.

"DISTRIBUTION AND REPURCHASE OF SECURITIES

"SEC. 63. Notwithstanding the exemption set forth in section 6(f), section 23 shall apply to a business development company to the same extent as if it were a registered closed-end investment company, except as follows:

"(1) The prohibitions of section 23(a)(2) shall not apply to any company which (A) is a wholly-owned subsidiary of, or directly or indirectly controlled by, a business development company, and (B) immediately after the issuance of any of its securities for property other than cash or securities, will not be an investment company within the meaning of section 3(a).

"(2) Notwithstanding the provisions of section 23(b), a business development company may sell any common stock of which it is the issuer at a price below the current net asset value of such stock, and may sell warrants, options, or rights to acquire any such common stock at a price below the current net asset value of such stock, if—

"(A) the holders of a majority of such business development company's outstanding voting securities, and the holders of a majority of such company's outstanding voting securities that are not affiliated persons of such company, approved such company's policy and practice of making such sales of securities at the last annual meeting of shareholders or partners within one year immediately prior to any such sale, except that the shareholder approval requirements of this subparagraph shall not apply to the initial public offering by a business development company of its securities.

"(B) a required majority (as defined in section 57(o)) of the directors of or general partners in such business development company have determined that any such sale would be in the best interests of such company and its shareholders or partners; and

"(C) a required majority (as defined in section 57(o)) of the directors of or general partners in such business development company, in consultation with the underwriter or underwriters of the offering if it is to be underwritten, have determined in good faith, and as of a time immediately prior to the first solicitation by or on behalf of such company of firm commitments to purchase such securities or immediately prior to the issuance of such securities, that the price at which such securities are to be sold is not less than a price which closely approximates the market value of those securities, less any distributing commission or discount.

"(3) A business development company may sell any common stock of which it is the issuer at a price below the current net asset value of such stock upon the exercise of any warrant, option, or right issued in accordance with section 61(a)(3).

"ACCOUNTS AND RECORDS

"SEC. 64. (a) Notwithstanding the exemption set forth in section 6(f), section 31 shall apply to a business development company to the same extent as if it were a registered closed-end investment company, except that the reference to the financial statements required to be filed pursuant to section 30 shall be construed to refer to the financial statements required to be filed by such business development company pursuant to section 13 of the Securities Exchange Act of 1934.

"(b)(1) In addition to the requirements of subsection (a), a business development company shall file with the Commission and supply annually to its shareholders a written statement, in such form and manner as the Commission may, by rule, prescribe, describing the risk factors involved in an investment in the securities of a business development company due to the nature of such company's investment portfolio, and shall supply copies of such statement to any registered broker or dealer upon request.

"(2) If the Commission finds it is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of this title, the Commission may also require, by rule, any person who, acting as principal or agent, sells a security of a business development company to inform the purchaser of such securities, at or before the time of sale, of the existence of the risk statement prepared by such business development company pursuant to this subsection, and make such risk statement available on request. The Commission, in making such rules and regulations, shall consider, among other matters, whether any such rule or regulation would impose any unreasonable burdens on such brokers or dealers or unreasonably impair the maintenance of fair and orderly markets.

"LIABILITY OF CONTROLLING PERSONS; PREVENTING COMPLIANCE WITH TITLE

"SEC. 65. Notwithstanding the exemption set forth in section 6(f), section 48 shall apply to a business development company to the same extent as if it were a registered closed-end investment company, except that the provisions of section 48(a) shall not be construed to require any company which is not an investment company within the meaning of section 3(a) to comply with the provisions of this title which are applicable to a business development company solely because such company is a wholly-owned subsidiary of, or directly or indirectly controlled by, a business development company.".

TITLE II—AMENDMENTS TO THE INVESTMENT ADVISERS ACT OF 1940

DEFINITION OF BUSINESS DEVELOPMENT COMPANY

Sec. 201. Section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)) is amended by adding at the end thereof the following new paragraph:

"(22) 'Business development company' means any company which is a business development company as defined in section 2(a)(48) of title I of this Act and which complies with section 55 of title I of this Act, except that—

"(A) the 70 per centum of the value of the total assets condition referred to in sections 2(a)(48) and 55 of title I of this Act shall be 60 per centum for purposes of determining compliance therewith;

"(B) such company need not be a closed-end company and need not elect to be subject to the provisions of sections 55 through 65 of title I of this Act; and

"(C) the securities which may be purchased pursuant to section 55(a) of title I of this Act may be purchased from any person.

For purposes of this paragraph, all terms in sections 2(a)(48) and 55 of title I of this Act shall have the same meaning set forth in such title as if such company were a registered closed-end investment company, except that the value of the assets of a business development company which is not subject to the provisions of sections 55 through 65 of title I of this Act shall be determined as of the date of the most recent financial statements which it furnished to all holders of its securities, and shall be determined no less frequently than annually.".

REGISTRATION REQUIREMENTS

Sec. 202. Section 203(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(b)) is amended by striking out the period at the end of the paragraph (3) and inserting in lieu thereof the following: ", or a company which has elected to be a business development company pursuant to section 54 of title I of this Act and has not withdrawn its election. For purposes of determining the number of clients of an investment adviser under this paragraph, no shareholder, partner, or beneficial owner of a business development company, as defined in this title, shall be deemed to be a client of such investment adviser unless such person is a client of such investment adviser separate and apart from his status as a shareholder, partner, or beneficial owner.".

INVESTMENT ADVISORY CONTRACTS

Sec. 203. Section 205 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–5) is amended—

(1) by striking out "or" immediately before "(B)" in the sentence following paragraph (3) thereof; and

(2) by striking out the period at the end of such sentence and inserting in lieu thereof the following: ", or (C) apply with respect to any investment advisory contract between an investment adviser and a business development company, as defined in this title, if (i) the compensation provided for in such contract does not exceed 20 per centum of the realized capital gains upon the funds of the business development company over a specified period or as of definite dates, computed net of all realized capital losses and unrealized capital depreciation, and the condition of section 61(a)(3)(B)(iii) of title I of this Act is satisfied, and (ii) the business development company does not have outstanding any option, warrant, or right issued pursuant to section 61(a)(3)(B) of title I of this Act and does not have a profit-sharing plan described in section 57(n) of title I of this Act.".

TITLE III—AMENDMENTS TO OTHER FEDERAL SECURITIES LAWS

SMALL OFFERING INCREASE

Sec. 301. Section 3(b) of the Securities Act of 1933 (15 U.S.C. 77c(b)) is amended by striking out "$2,000,000" and inserting in lieu thereof "$5,000,000".

AMENDMENTS TO THE TRUST INDENTURE ACT OF 1939

Sec. 302. (a) Section 304(a)(8) of the Trust Indenture Act of 1939 (15 U.S.C. 77ddd(a)(88)) is amended by striking out "more than $250,000 aggregate principal amount of any securities of the same issuer" and inserting in lieu thereof the following: "an aggregate principal amount of securities of the same issuer greater than the figure stated in section 3(b) of the Securities Act of 1933 limiting exemptions thereunder, or such lesser amount as the Commission may establish by its rules and regulations".

(b) Section 304(a)(9) of the Trust Indenture Act of 1939 (15 U.S.C. 77ddd(a)(9)) is amended—

(1) by striking out "$1,000,000 or less" and inserting in lieu thereof "$10,000,000, or such lesser amount as the Commission may establish by its rules and regulations";

(2) by striking out "more than $1,000,000" and inserting in lieu thereof "more than $10,000,000"; and

(3) by inserting immediately before the semicolon at the end thereof the following: ", or such lesser amount as the Commission may establish by its rules and regulations".

The SPEAKER pro tempore. Is a second demanded?

Mr. BROYHILL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. Scheuer) will be recognized for 20 minutes and the gentleman from North Carolina (Mr. Broyhill) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. Scheuer).

Mr. SCHEUER. I yield myself such time as I may consume.

Mr. Speaker, Congress has been concerned with the lack of access to the capital markets by small and developing companies, which many people feel are the backbone of this country's economy. The reasons for this problem are widespread and complex. Perhaps the principal causes lay with the general economy and our tax structure.

Nevertheless, I firmly believe that H.R. 7554, even though confined to the securities laws, will prove an invaluable source of venture capital. Venture capital in this country is provided through either private venture capital companies with a limited number of affluent investors or by small business companies under the aegis of the Small Business Administration. Both of these kinds of companies have a problem.

If they grow too large in terms of investors, they fall under the provisions of the Investment Company Act of 1940. Although this act works very effectively for the garden variety investment companies including mutual funds, its restrictions on venture capitalists are too severe to permit them to operate under its provisions.

H.R. 7554 would provide for the creation of a new venture capital entity called a business development company which would be relieved of compliance with the more onerous and unnecessary provisions of the Investment Company Act and which would allow public investor participation with appropriate safeguards against abuses.

A business development company essentially must be at least 70 percent invested in the securities of small, thinly traded companies, to which the business development company must make available significant managerial assistance.

Among the burdens that would normally be imposed by the Investment Company Act of 1940 which would be alleviated by this bill, is the time-consuming requirement that all transactions with company affiliates be approved by the Securities and Exchange Commission. Except in a limited number of cases, this legislation would permit such transactions if approved by a majority of the board of directors with no interest in the transaction.

The bill also permits more liberal leveraging of the company's assets and the issuance of multiple classes of debt securities, which may also be accompanied by warrants options or conversion rights.

Nevertheless, the bill contains significant conflict of interest prohibitions and antifraud and breach of fiduciary duty provisions.

In addition, in furtherance of investor interests, the board of a business development company must have a majority of disinterested directors. Finally, and it is difficult for me to overemphasize the importance of this particular matter, it is intended that a private right of action be implied with respect to the provisions of this bill. Such private right of action is necessary to adequately protect the interests of the public investor. In its absence an intolerable burden would be placed upon the Commission's limited resources to insure adequate investor protection.

Other provisions of the bill amend the Investment Advisers Act of 1940 to make clear that managers or advisers to private business development companies will not fall under the provisions of the Investment Advisers Act if the number of investors in such companies exceed 14. In addition, section 3(b) of the Securities Act of 1933 is amended to increase from $2 million to $5 million the amount of securities which the Commission may authorize be issued without complying with the full registration provisions of the Securities Act.

The bill would similarly amend the Trust Indenture Act of 1939 to increase the total amount of debt securities the Commission may authorize to be issued with partial or total exemptions from that act. This legislation is enthusiastically endorsed by the venture capital industry, the small business investment company industry, and the Securities and Exchange Commission.

I urge the support of my colleagues.

Mr. Speaker, I wish to offer a particular commendation to the SEC, Commissioner Stephen Friedman, the dedicated staff members of that Commission, and my distinguished colleague, the gentleman from North Carolina (Mr. BROYHILL) who has been sponsoring this legislation for many, many years. This is a personal victory for him of no mean consequence.

I wish to commend Commissioner Friedman, his marvelously competent staff, the gentleman from North Carolina (Mr. BROYHILL) and his staff and the members of the securities industry who worked so long and so hard to achieve a consensus on what is a major change in the philosophy of the SEC on the need for a good deal of regulation, much of it perceived to be overregulation that has accrued over the period since the installation of the Securities Act in 1940. Many of these unnecessary layers of regulation were removed in 1970 but over the past decade it has become clear that much of the existing regulatory burden was unnecessary and the gentleman from North Carolina (Mr. BROYHILL), in providing the leadership for this comprehensive rethinking of the limitations and the administrative burden that was placed on small investors by the 1940 act and the cooperation that he received from the SEC, has produced a quantum jump forward, in enabling small business to reach into the capital market in an inexpensive timely cost-effective way and Congressman BROYHILL and Commissioner Stephen Friedman together are due an enormous amount of credit.

Mr. Speaker, I do not have any further requests for time on this side and I yield back the balance of my time.

Mr. BROYHILL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we do have an opportunity today in passing this bill to do more than just talk about helping small business because what this bill does to modernize the securities law with respect to the business development companies.

The gentleman from New York (Mr. SCHEUER) has already explained this bill. It does amend the securities law to provide that a business development company under certain circumstances can get exemption from the 1940 Investment Act and, of course, be subject to a separate regulatory scheme that is geared toward making more capital available to the small business development companies.

This is a bill that has been worked out on a bipartisan basis. As the gentleman from New York has pointed out, I have introduced this bill in several Congresses and I do want to thank the gentleman publicly for the cooperation and the help that the gentleman has given in bringing this bill to the floor today. It has taken a lot of negotiation on both sides in order to get this bill worked out so it is acceptable to all concerned.

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I do want to join in in thanking the Securities and Exchange Commission, and especially Commissioner Friedman, for their assistance in helping work out the details, the legislative language which is in the amended part of H.R. 7554.

Mr. BROYHILL. Mr. Speaker, we have an opportunity today to translate the rhetoric about helping small business into something more tangible. The Small Business Investment Incentive Act modernizes the Investment Company Act of 1940. It knocks down artificial barriers to capital formation that have been hurting small business for years. Within the context of the existing laws, a new framework has been established, making equity capital more available to new enterprise.

In the past 10 years small developing companies have been the primary supplier of new jobs. Most of our new technology is also the product of small business efforts. And experience has shown that smaller businesses become the spark to further community development. Briefly, I would like to point out some of the highlights of my bill.

TITLE I AMENDS INVESTMENT COMPANY ACT OF 1940

This legislation would exempt certain venture capital and small business investment companies from the Investment Company Act of 1940, provided they invest at least 70 percent of their assets in small, developing concerns. No constraints are placed on the remaining 30 percent.

Once an SBIC or venture capital company is elected to become a "business development company" it would be subject to a separate regulatory scheme that is geared toward making more capital available to small business.

A business development company will have greater flexibility in operations and financial structure because under this legislation business decisions are now made by the directors of the company or the stockholders. Under the 1940 act these decisions required the prior approval of the SEC.

To attract talented persons business development companies will be permitted to offer attractive executive compensation plans hinged to the growth of the company.

Finally, certain provisions of the 1940 act are incorporated to protect shareholders against questionable practices by officers or directors of the business development company.

TITLE II AMENDS THE INVESTMENT ADVISORS ACT OF 1940

Title II defines business development company so that persons that are potentially regulated under the Advisors Act can also take advantage of the savings and flexibility provided by title I. In addition more capital will be made available to small business because of changes under the so-called "attribution rule." And through performance-based compensation plans, talented persons will be attracted to advise business development companies.

TITLE III AMENDS OTHER SECURITIES LAWS

The Small Offering Exemption will be raised from $2 to $5 million. The Trust Indenture Act of 1939 will also be amended to raise the debt offering exemption to $10 million.

A nearly identical bill was passed unanimously by the Senate Banking Committee several weeks ago. I strongly urge my colleagues to vote for this small business bill.

● Mr. STAGGERS. Mr. Speaker, this legislation addresses a genuine economic crisis unfolding around our Nation today—the slowing of the flow of capital to American enterprise, particularly to smaller, growing, and innovative businesses. The importance of these businesses to the American economic system in terms of productivity, increased competition (here and abroad) and the jobs they create is, of course, known by us all. The need to reverse this downward trend is of compelling public concern. This bill attacks one of the causes of this slowdown and seeks specifically to reduce some of the costs of Government regulation imposed on the capital-raising process, without sacrificing necessary investor protection.

The exceptional efforts of Mr. SCHEUER and Mr. BROYHILL and all the members of the Consumer Protection and Finance Subcommittee have brought a well-balanced legislative package to the House floor. Anyone, who picks up a newspaper today and reads the financial section or listens to the owners of small businesses in his district, should be as convinced as I am of the need for legislation that will permit small businesses to have greater flexibility to insure their ability to raise the capital necessary for investment in plant and equipment and the industrial and commercial growth of this country.

This bill also deals with so-called venture capital activity. Plainly, these companies serve a valuable function by investing in, and providing managerial assistance to, small, growing or financially troubled businesses. H.R. 7554 seeks to remove SEC regulatory burdens on venture capital activities that might create unnecessary disincentives to the legitimate provision of capital to small and developing business, such as those newly formed to carry out our Nation's commitment to synthetic fuel development, biogenetics and other vital developing enterprises. At the same time, the legislation provides continued investor protection where necessary to maintain investor confidence in the integrity of the marketplace in offerings by small untested and high-risk businesses.

H.R. 7554 is the product of several years of extensive hearings and input from interested parties. It has been carefully crafted and deserves the support of the Members.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. SCHEUER) that the House suspend the rules and pass the bill, H.R. 7554, as amended.

The question was taken.

Mr. SCHEUER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT ON TUESDAY, WEDNESDAY, AND THURSDAY, SEPTEMBER 23, 24, AND 25, 1980, DURING 5-MINUTE RULE

Mr. VOLKMER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit while the House is reading for amendment under the 5-minute rule on Tuesday, September 23; Wednesday, September 24; Thursday, September 25, 1980.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. McCLORY. Mr. Speaker, reserving the right to object, there is a bill on the schedule called the gasohol bill. The gentleman is not including that?

Mr. VOLKMER. If the gentleman will yield, H.R. 7873, the Gasohol Competition Act, will not be included in the request.

Mr. McCLORY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

CUSTOMS COURTS ACT OF 1980

Mr. VOLKMER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7540) to improve the Federal judicial machinery by clarifying and revising certain provisions of title 28, United States Code, relating to the judiciary and judicial review of international trade matters, and for other purposes, as amended.

The Clerk read as follows:

H.R. 7540

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Customs Courts Act of 1980".

TITLE I—COMPOSITION OF THE COURT OF INTERNATIONAL TRADE AND ASSIGNMENT OF JUDGES TO OTHER COURTS

COMPOSITION OF COURT

SEC. 101. Section 251 of title 28, United States Code, is amended to read as follows:

"§ 251. APPOINTMENT AND NUMBER OF JUDGES; OFFICES

"(a) The President shall appoint, by and with the advice and consent of the Senate, nine judges who shall constitute a court of record to be known as the United States Court of International Trade. Not more than five of such judges shall be from the same political party. The court is a court established under article III of the Constitution of the United States.

"(b) The President shall designate one of the judges of the Court of International Trade who is less than seventy years of age to serve as chief judge. The chief judge shall continue to serve as chief judge until he reaches the age of seventy years and another judge is designated as chief judge by the President. After the designation of another judge to serve as chief judge, the former chief judge may continue to serve as a judge of the court.

"(c) The offices of the Court of International Trade shall be located in New York, New York.".

ASSIGNMENT OF JUDGES

SEC. 102. (a) Section 293(b) of title 28, United States Code, is amended by striking out "Customs Court" and all that follows through "need arises" and inserting in lieu thereof "Court of International Trade to perform judicial duties in any circuit, either in a court of appeals or district court, upon presentation of a certificate in which the need arises".

(b) Section 293(d) of title 28, United States Code, is amended to read as follows:

"(d) The chief judge of the Court of International Trade may, upon presentation to him of a certificate of necessity by the chief judge of the Court of Customs and Patent Appeals or the chief judge of the Court of Claims, designate and assign temporarily any judge of the Court of International Trade to serve as a judge of the Court of Customs and Patent Appeals or the Court of Claims.".

TITLE II—JURISDICTION OF THE COURT OF INTERNATIONAL TRADE

JURISDICTION OF THE COURT

SEC. 201. Chapter 95 of title 28, United States Code, is amended to read as follows:

"CHAPTER 95—COURT OF INTERNATIONAL TRADE

"Sec.
"1581. Civil actions against the United States and agencies and officers thereof.
"1582. Civil actions commenced by the United States.
"1583. Counterclaims, cross-claims, and third-party actions.
"1584. Cure of defects.
"1585. Powers in law and equity.

"§ 1581. Civil actions against the United States and agencies and officers thereof

"(a) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced to contest the denial of a protest in whole or in part, under section 515 of the Tariff Act of 1930.

"(b) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced under section 516 of the Tariff Act of 1930.

"(c) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced under section 516A of the Tariff Act of 1930.

"(d) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced to review—

"(1) any final determination of the Secretary of Labor under section 223 of the Trade Act of 1974 with respect to the eligibility of workers for adjustment assistance under such Act;

"(2) any final determination of the Secretary of Commerce under section 251 of the Trade Act of 1974 with respect to the eligibility of a firm for adjustment assistance under such Act; and

"(3) any fiscal determination of the Secretary of Commerce under section 271 of the Trade Act of 1974 with respect to the eligibility of a firm for adjustment assistance under such Act; and

"(3) any final determination of the Secretary of Commerce under section 271 of the Trade Act of 1974 with respect to the eligibility of a community for adjustment assistance under such Act.

"(e) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced to review any final determination of the Secretary of the Treasury under section 305(b)(1) of the Trade Agreements Act of 1979.

"(f) The Court of International Trade shall have exclusive jurisdiction of any civil action involving an application for an order directing the administering authority or the International Trade Commission to make confidential information available under section 777(c)(2) of the Tariff Act of 1930.

"(g) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced to review—

"(1) any decision of the Secretary of the Treasury to deny or revoke a customhouse broker's license under section 641(a) of the Tariff Act of 1930; and

"(2) any order of the Secretary of the Treasury to revoke or suspend a customhouse broker's license under section 641(b) of the Tariff Act of 1930.

"(h) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced to review, prior to the importation of the goods involved, a ruling issued by the Secretary of the Treasury, or a refusal to issue or change such a ruling, relating to classification, valuation, rate of duty, marking, restricted merchandise, entry requirements, drawbacks, vessel repairs, or similar matters, but only if the party commencing the civil action demonstrates to the court that he would be irreparably harmed unless given an opportunity to obtain judicial review prior to such importation.

"(i) In addition to the jurisdiction conferred upon the Court of International Trade by subsections (a)–(h) of this section and subject to the exception set forth in subsection (j) of this section, the Court of International Trade shall have exclusive jurisdiction of any civil action commenced against the United States, its agencies, or its officers, that arises out of any law of the United States providing for—

"(1) revenue from imports on tonnage;

"(2) tariffs, duties, fees, or other taxes on the importation of merchandise for reasons other than the raising of revenue;

"(3) embargoes or other quantitative restrictions on the importation of merchandise for reasons other than the protection of the public health or safety; or

"(4) administration and enforcement with respect to the matters referred to in paragraphs (1)–(3) of this subsection and subsections (a)–(h) of this section.

"(j) The Court of International Trade shall not have jurisdiction of any civil action arising under section 305 of the Tariff Act of 1930.

"§ 1582. Civil actions commenced by the United States

"The Court of International Trade shall have exclusive jurisdiction of any civil action which arises out of an import transaction and which is commenced by the United States—

"(1) to recover a civil penalty under section 592, 704(i)(2), or 734(i)(2) of the Tariff Act of 1930;

"(2) to recover upon a bond relating to the importation of merchandise required by the laws of the United States or by the Secretary of the Treasury; or

"(3) to recover customs duties.

"§ 1583. Counterclaims, cross-claims, and third-party actions

"In any civil action in the Court of International Trade, the court shall have exclusive jurisdiction to render judgment upon any counterclaim, cross-claim, or third-party action of any party, if (1) such claim or action involves the imported merchandise that is the subject matter of such civil action, or (2) such claim or action is to recover upon a bond or customs duties relating to such merchandise.

"§ 1584. Cure of defects

"(a) If a civil action within the exclusive jurisdiction of the Court of International Trade is commenced in a district court of the United States, the district court shall, in the interest of justice, transfer such civil action to the Court of International Trade, where such action shall proceed as if it had been commenced in the Court of International Trade in the first instance.

"(b) If a civil action within the exclusive jurisdiction of a district court, a court of appeals, or the Court of Customs and Patent Appeals is commenced in the Court of International Trade, the Court of International Trade shall, in the interest of justice, transfer such civil action to the appropriate district court or court of appeals or to the Court of Customs and Patent Appeals where such action shall proceed as if it had been commenced in such court in the first instance.

"§ 1585. Powers in law and equity

"The Court of International Trade shall possess all the powers in law and equity of, or as conferred by statute upon, a district court of the United States.".

TITLE III—COURT OF INTERNATIONAL TRADE PROCEDURE

COURT PROCEDURE

SEC. 301. Chapter 169 of title 28, United States Code, is amended to read as follows:

"CHAPTER 169—COURT OF INTERNATIONAL TRADE PROCEDURE

"Sec.
"2631. Persons entitled to commence a civil action.
"2632. Commencement of a civil action.
"2633. Procedure and fees.
"2634. Notice.
"2635. Filing of official documents.
"2636. Time for commencement of action.
"2637. Exhaustion of administrative remedies.
"2638. New grounds in support of a civil action.
"2639. Burden of proof; evidence of value.
"2640. Scope and standard of review.
"2641. Witnesses; inspection of documents.
"2642. Analysis of imported merchandise.
"2643. Relief.
"2644. Interest.
"2645. Decisions.
"2646. Retrial or rehearing.
"2647. Precedence of cases.

"§ 2631. Persons entitled to commence a civil action

"(a) A civil action contesting the denial of a protest, in whole or in part, under section 515 of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person who filed the protest pursuant to section 514 of such Act, or by a surety on the transaction which is the subject of the protest.

"(b) A civil action contesting the denial of a petition under section 516 of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person who filed such petition.

"(c) A civil action contesting a determination listed in section 516A of the Tariff Act of 1930 may be commenced in the Court of International Trade by any interested party who was a party to the proceeding in connection with which the matter arose.

"(d) (1) A civil action to review any final determination of the Secretary of Labor under section 223 of the Trade Act of 1974 with respect to the eligibility of workers for adjustment assistance under such Act may be commenced in the Court of International Trade by a worker, group of workers, certified or recognized union, or authorized representative of such worker or group that applies for assistance under such Act and is aggrieved by such final determination.

"(2) A civil action to review any final determination of the Secretary of Commerce under section 251 of the Trade Act of 1974 with respect to the eligibility of a firm for adjustment assistance under such Act may be commenced in the Court of International Trade by a firm or its representative that applies for assistance under such Act is aggrieved by such final determination, or by any other interested domestic party that is aggrieved by such final determination.

"(3) A civil action to review any final determination of the Secretary of Commerce under section 271 of the Trade Act of 1974 with respect to the eligibility of a community for adjustment assistance under such Act may be commenced in the Court of International Trade by a community that applies for assistance under such Act and is aggrieved by such final determination, or by any other interested domestic party that is aggrieved by such final determination.

"(e) A civil action to review a final determination made under section 305(b) (1) of the Trade Agreements Act of 1979 may be commenced in the Court of International Trade by any person who was a party-at-interest with respect to such determination.

"(f) A civil action involving an application for the issuance of an order directing the administering authority or the International Trade Commission to make confidential information available under section 777(c) (2) of the Tariff Act of 1930 may be commenced in the Court of International Trade by any interested party whose application for disclosure of such confidential information was denied under section 777(c) (1) of such Act.

"(g) (1) A civil action to review any decision of the Secretary of the Treasury to deny or revoke a customhouse broker's license under section 641(a) of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person whose license was denied or revoked.

"(2) A civil action to review any order of the Secretary of the Treasury to revoke or suspend a customhouse broker's license under section 641(b) of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person whose license was revoked or suspended.

"(h) A civil action described in section 1581(h) of this title may be commenced in the Court of International Trade by the person who would have standing to bring a civil action under section 1581(a) of this title if he imported the goods involved and filed a protest which was denied, in whole or in part, under section 515 of the Tariff Act of 1930.

"(i) Any civil action of which the Court of International Trade has jurisdiction, other than an action specified in subsections (a)-(h) of this section, may be commenced in the court by any person adversely affected or aggrieved by agency action within the meaning of section 702 of title 5.

"(j) (1) Any person who would be adversely affected or aggrieved by a decision in a civil action pending in the Court of International Trade may, by leave of court, intervene in such action, except that—

"(A) no person may intervene in a civil action under section 515 or 516 of the Tariff Act of 1930;

"(B) in a civil action under section 516A of the Tariff Act of 1930, only an interested party who was a party to the proceeding in connection with which the matter arose may intervene, and such person may intervene as a matter of right; and

"(C) in a civil action under section 777(c) (2) of the Tariff Act of 1930, only a person who was a party to the investigation may intervene, and such person may intervene as a matter of right.

"(2) In those civil actions in which intervention is by leave of court, the Court of International Trade shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

"(k) In this section—

"(1) 'interested party' has the meaning given such term in section 771(9) of the Tariff Act of 1930; and

"(2) 'party-at-interest' means—

"(A) a foreign manufacturer, producer, or exporter, or a United States importer, of merchandise which is the subject of a final determination under section 305(b) (1) of the Trade Agreements Act of 1979;

"(B) a manufacturer, producer, or wholesaler in the United States of a like product;

"(C) United States members of a labor organization or other association of workers whose members are employed in the manufacture, production, or wholesale in the United States of a like product; and

"(D) a trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the United States.

"§ 2632. Commencement of a civil action

"(a) Except for civil actions specified in subsections (b) and (c) of this section, a civil action in the Court of International Trade shall be commenced by filing concurrently with the clerk of the court a summons and complaint, with the content and in the form, manner, and style prescribed by the rules of the court.

"(b) A civil action in the Court of International Trade under section 515 or section 516 of the Tariff Act of 1930 shall be commenced by filing with the clerk of the court a summons, with the content and in the form, manner, and style prescribed by the rules of the court.

"(c) A civil action in the Court of International Trade under section 516A of the Tariff Act of 1930 shall be commenced by filing with the clerk of the court a summons or a summons and a complaint, as prescribed in such section, with the content and in the form, manner, and style prescribed by the rules of the court.

"(d) The Court of International Trade may prescribe by rule that any summons, pleading, or other paper mailed by registered or certified mail properly addressed to the clerk of the court with the proper postage affixed and return receipt requested shall be deemed filed as of the date of mailing.

"§ 2633. Procedure and fees

"(a) A filing fee shall be payable to the clerk of the Court of International Trade upon the commencement of a civil action in such court. The amount of the fee shall be prescribed by the rules of the court, but shall be not less than $5 nor more than the filing fee for commencing a civil action in a district court of the United States. The court may fix all other fees to be charged by the clerk of the court.

"(b) The Court of International Trade shall prescribe rules governing the summons, pleading, and other papers, for their amendment, service, and filing, for consolidations, severances, suspensions of cases, and for other procedural matters.

"(c) All summons, pleadings, and other papers filed in the Court of International Trade shall be served on all parties in accordance with rules prescribed by the court. When the United States, its agencies, or its officers are adverse parties, service of the summons shall be made upon the Attorney General and the head of the Government agency whose action is being contested. When injunctive relief is sought, the summons, pleadings, and other papers shall also be served upon the named officials sought to be enjoined.

"§ 2634. Notice

"Reasonable notice of the time and place of trial or hearing before the Court of International Trade shall be given to all parties to any civil action, as prescribed by the rules of the court.

"§ 2635. Filing of official documents

"(a) (1) Upon service of the summons on the Secretary of the Treasury in any civil action contesting the denial of a protest under section 515 of the Tariff Act of 1930 or the denial of a petition under section 516 of such Act, the appropriate customs officer shall forthwith transmit to the clerk of the Court of International Trade, as prescribed by its rules and as a part of the official record—

"(A) the consumption or other entry and the entry summary;

"(B) the commerical invoice;

"(C) the special customs invoice;

"(D) a copy of the protest or petition;

"(E) a copy of the denial, in whole or in part, of the protest or petition;

"(F) the importer's exhibits;

"(G) the official and other representative samples;

"(H) any official laboratory reports; and

"(I) a copy of any bond relating to the entry.

"(2) If any of the items listed in paragraph (1) of this subsection do not exist in a particular civil action, an affirmative statement to that effect shall be transmitted to the clerk of the court.

"(b)(1) In any civil action commenced in the Court of International Trade under section 516A of the Tariff Act of 1930, within forty days or within such other period of time as the court may specify, after the date of service of a complaint on the administering authority established to administer title VII of the Tariff Act of 1930 or the United States International Trade Commission, the administering authority or the Commission shall transmit to the clerk of the court the record of such action, as prescribed by the rules of the court. The record shall, unless otherwise stipulated by the parties, consist of—

"(A) a copy of all information presented to or obtained by the administering authority or the Commission during the course of the administrative proceedings, including all governmental memoranda pertaining to the case and the record of ex parte meetings required to be maintained by section 777(a)(3) of the Tariff Act of 1930; and

"(B)(i) a copy of the determination and the facts and conclusions of law upon which such determination was based, (ii) all transcripts or records of conferences or hearings, and (iii) all notices published in the Federal Register.

"(2) The administering authority or the Commission shall identify and transmit under seal to the clerk of the court any document, or information that is accorded confidential or privileged status by the Government agency whose action is being contested and that is required to be transmitted to the clerk under paragraph (1) of this subsection. Any such document, comment, or information shall be accompanied by a nonconfidential description of the nature of the material being transmitted. The confidential or privileged status of such material shall be preserved in the civil action, but the court may examine the confidential or privileged material in camera and may make such material available under such terms and conditions, as the court may order.

"(c) Within fifteen days, or within such other period of time as the Court of International Trade may specify, after service of a summons and complaint in a civil action involving an application for an order directing the administering authority or the International Trade Commission to make confidential information available under section 777(c)(2) of the Tariff Act of 1930, the administering authority or the Commission shall transmit under seal to the clerk of the Court of International Trade, as prescribed by its rules, the confidential information involved, together with pertinent parts of the record. Such information shall be accompanied by a nonconfidential description of the nature of the information being transmitted. The confidential status of such information shall be preserved in the civil action, but the court may examine the confidential information in camera and may make such information available under a protective order consistent with section 777(c)(2) of the Tariff Act of 1930.

"(d)(1) In any other civil action in the Court of International Trade in which judicial review is to proceed upon the basis of the record made before an agency, the agency shall, within forty days or within such other period of time as the court may specify, after the date of service of the summons and complaint upon the agency, transmit to the clerk of the court, as prescribed by its rules—

"(A) a copy of the contested determination and the findings or report upon which such determination was based;

"(B) a copy of any reported hearings or conferences conducted by the agency; and

"(C) any documents, comments, or other papers filed by the public, interested parties, or governments with respect to the agency's action.

"(2) The agency shall identify and transmit under seal to the clerk of the court any document, comment, or other information that was obtained on a confidential basis and that is required to be transmitted to the clerk under paragraph (1) of this subsection. Any such document, comment, or information shall include a nonconfidential description of the nature of the material being transmitted. The confidential or privileged status of such material shall be preserved in the civil action, but the court may examine such material in camera and may make such material available under such terms and conditions as the court may order.

"(3) The parties may stipulate that fewer documents, comments, or other information than those specified in paragraph (1) of this subsection shall be transmitted to the clerk of the court.

"§ 2636. Time for commencement of action

"(a) A civil action contesting the denial, in whole or in part, of a protest under section 515 of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade—

"(1) within one hundred and eighty days after the date of mailing of notice of denial of a protest under section 515(a) of such Act; or

"(2) within one hundred and eighty days after the date of denial of a protest by operation of law under the provisions of section 515(b) of such Act.

"(b) A civil action contesting the denial of a petition under section 516 of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade within thirty days after the date of mailing of a notice pursuant to section 516(c) of such Act.

"(c) A civil action contesting a reviewable determination listed in section 516A of the Tariff Act of 1930, other than a determination under section 703(b), 703(c), 733(b), or 733(c) of such Act, is barred unless commenced in accordance with the rules of the Court of International Trade within thirty days after the date of the publication of such determination in the Federal Register.

"(d)(1) A civil action contesting a determination by the administering authority under section 703(c) or 733(c) of the Tariff Act of 1930 that a case is extraordinarily complicated is barred unless commenced in accordance with the rules of the Court of International Trade within ten days after the date of the publication of such determination in the Federal Register.

"(2) A civil action contesting a negative determination by the administering authority under section 703(b) or 733(b) of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade within ten days after the date of the publication of such determination in the Federal Register.

"(e) A civil action contesting a final determination of the Secretary of Labor under section 223 of the Trade Act of 1974 or a final determination of the Secretary of Commerce under section 251 or section 271 of such Act is barred unless commenced in accordance with the rules of the Court of International Trade within sixty days after the date of notice of such determination.

"(f) A civil action contesting of final determination made under section 305(b)(1) of the Trade Agreements Act of 1979 is barred unless commenced in accordance with the rules of the Court of International Trade within thirty days after the date of the publication of such determination in the Federal Register.

"(g) A civil action involving an application for the issuance of an order making confidential information available under section 777(c)(2) of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade within ten days after the date of the denial of the request for such confidential information.

"(h) A civil action contesting the denial or revocation by the Secretary of the Treasury of a customhouse broker's license under section 641(a) of the Tariff Act of 1930 or the revocation or suspension by such Secretary of a customhouse broker's license under section 641(b) of such Act is barred unless commenced in accordance with the rules of the Court of International Trade within sixty days after the date of the entry of the decision or order of such Secretary.

"(i) A civil action of which the Court of International Trade has jurisdiction under section 1581 of this title, other than an action specified in subsections (a)–(h) of this section, is barred unless commenced in accordance with the rules of the court within two years after the cause of action first accrues.

"§ 2637. Exhaustion of administrative remedies

"(a) A civil action contesting the denial of a protest under section 515 of the Tariff Act of 1930 may be commenced in the Court of International Trade only if all liquidated duties, charges, or exactions have been paid at the time the action is commenced, except that a surety's obligation to pay such liquidated duties, charges, or exactions is limited to the sum of any bond related to each entry included in the denied protest.

"(b) A civil action contesting the denial of a petition under section 516 of the Tariff Act of 1930 may be commenced in the Court of International Trade only by a person who has first exhausted the procedures set forth in such section.

"(c) A civil action described in section 1581(h) of this title may be commenced in the Court of International Trade prior to the exhaustion of administrative remedies if the person commencing the action makes the demonstration required by such section.

"(d) In any civil action not specified in this section, the Court of International Trade shall, where appropriate, require the exhaustion of administrative remedies.

"§ 2638. New grounds in support of a civil action

"In any civil action under section 515 of the Tariff Act of 1930 in which the denial, in whole or in part, of a protest is a precondition to the commencement of a civil action in the Court of International Trade, the court, by rule, may consider any new ground in support of the civil action if such new ground—

"(1) applies to the same merchandise that was the subject of the protest; and

"(2) is related to the same administrative decision listed in section 514 of the Tariff Act of 1930 that was contested in the protest.

"§ 2639. Burden of proof; evidence of value

"(a)(1) Except as provided in paragraph (2) of this subsection, in any civil action commenced in the Court of International Trade under section 515, 516, or 516A of the Tariff Act of 1930, the decision of the Secretary of the Treasury, the administering authority, or the International Trade Commission is presumed to be correct. The burden of proving otherwise shall rest upon the party challenging such decision.

"(2) The provisions of paragraph (1) of this subsection shall not apply to any civil action commenced in the Court of International Trade under section 1582 of this title.

"(b) In any civil action described in section 1581(h) of this title, the person commencing the action shall have the burden of making the demonstration required by such section by clear and convincing evidence.

"(c) Where the value of merchandise or any of its components is in issue in any civil action in the Court of International Trade—

"(1) reports or depositions of consuls, customs officers, and other officers of the United States, and depositions and affidavits of other persons whose attendance cannot reasonably be had, may be admitted into evidence when served upon the opposing party as prescribed by the rules of the court; and

"(2) price lists and catalogs may be admitted in evidence when duly authenticated, relevant, and material.

"§ 2640. Scope and standard of review

"(a) The Court of International Trade shall make its determinations upon the basis of the record made before the court in the following categories of civil actions:

"(1) Civil actions contesting the denial of a protest under section 515 of the Tariff Act of 1930.

"(2) Civil actions commenced under section 516 of the Tariff Act of 1930.

"(3) Civil actions commenced to review a final determination made under section 305 (b)(1) of the Trade Agreements Act of 1979.

"(4) Civil actions commenced under section 777(c)(2) of the Tariff Act of 1930.

"(5) Civil actions commenced to review any decision of the Secretary of the Treasury to deny or revoke a customhouse broker's license under section 641(a) of the Tariff Act of 1930.

"(6) Civil actions commenced under section 1582 of this title.

"(b) In any civil action commenced in the Court of International Trade under section 516A of the Tariff Act of 1930, the court shall review the matter as specified in subsection (b) of such section.

"(c) In any civil action commenced in the Court of International Trade to review any final determination of the Secretary of Labor under section 223 of the Trade Act of 1974 or any final determination of the Secretary of Commerce under section 251 or section 271 of such Act, the court shall review the matter as specified in section 284 of such Act.

"(d) In any civil action not specified in this section, the Court of International Trade shall review the matter as provided in section 706 of title 5.

"§ 2641. Witnesses; inspection of documents

"(a) Except as otherwise provided by law, in any civil action in the Court of International Trade, each party and its counsel shall have an opportunity to introduce evidence, to hear and cross-examine the witnesses of the other party, and to inspect all samples and papers admitted or offered as evidence, as prescribed by the rules of the court. Except as provided in section 2639 of this title, subsection (b) of this section, or the rules of the court, the Federal Rules of Evidence shall apply to all civil actions in the Court of International Trade.

"(b) The Court of International Trade may order that trade secrets and commercial or financial information which is privileged and confidential, or any information provided to the United States by any foreign government or foreign person, may be disclosed to a party, its counsel, or any other person under such terms and conditions as the court may order.

"§ 2642. Analysis of imported merchandise

"The Court of International Trade may order an analysis of imported merchandise and reports thereon by laboratories or agencies of the United States.

"§ 2643. Relief

"(a) The Court of International Trade may enter a money judgment —

"(1) for or against the United States in any civil action commenced under section 1581 or 1582 of this title; and

"(2) for or against the United States or any other party in any counterclaim, cross-claim, or third-party action under section 1583 of this title.

"(b) If the Court of International Trade is unable to determine the correct decision on the basis of the evidence presented in any civil action, the court may order a retrial or rehearing for all purposes, or may order such further administrative or adjudicative procedures as the court considers necessary to enable it to reach the correct decision

"(c)(1) Except as provided in paragraphs (2), (3), and (4) of this subsection, the Court of International Trade may, in addition to the orders specified in subsections (a) and (b) of this section, order any other form of relief that is appropriate in a civil action, including, but not limited to, declaratory judgments, orders of remand, injunctions, and writs of mandamus and prohibition.

"(2) The Court of International Trade may not grant an injunction or issue a writ of mandamus in any civil action commenced to review any final determination of the Secretary of Labor under section 223 of the Trade Act of 1974 or any final determination of the Secretary of Commerce under section 251 or section 271 of such Act.

"(3) In any civil action involving an application for the issuance of an order directing the administering authority or the International Trade Commission to make confidential information available under section 777 (c)(2) of the Tariff Act of 1930, the Court of International Trade may issue an order of disclosure only with respect to the information specified in such section.

"(4) In any civil action described in section 1581(h) of this title, the Court of International Trade may only order the appropriate declaratory relief.

"(d) If a surety commences a civil action in the Court of International Trade, such surety shall recover only the amount of the liquidated duties, charges or exactions paid on the entries included in such action. The excess amount of any recovery shall be paid to the importer of record.

"§ 2644. Interest

"If in a civil action in the Court of International Trade under section 515 of the Tariff Act of 1930 the plaintiff obtains monetary relief by a judgment or under a stipulation agreement, interest shall be allowed at an annual rate established under section 6621 of the Internal Revenue Code of 1954. Such interest shall be calculated from the date of the filing of the summons in such action to the date of the refund.

"§ 2645. Decisions

"(a) A final decision of the Court of International Trade in a contested civil action or a decision granting or refusing a preliminary injunction shall be supported by—

"(1) a statement of findings of fact and conclusions of law; or

"(2) an opinion stating the reasons and facts upon which the decision is based.

"(b) After the Court of International Trade has rendered a judgment the court may, upon the motion of a party or upon its own motion, amend its findings or make additional findings and may amend the decision and judgment accordingly. A motion of a party or the court shall be made not later than thirty days after the date of entry of the judgment.

"(c) A decision of the Court of International Trade is final and conclusive, unless a retrial or rehearing is granted pursuant to section 2646 of this title or an appeal is taken to the Court of Customs and Patent Appeals within the time and in the manner provided in section 2601 of this title.

"§ 2646. Retrial or rehearing

"After the Court of International Trade has rendered a judgment or order, the court may, upon the motion of a party or upon its own motion, grant a retrial or rehearing, as the case may be. A motion of a party or the court shall be made not later than thirty days after the date of entry of the judgment or order.

"§ 2647. Precedence of cases

"The following civil actions in the Court of International Trade shall be given precedence, in the following order, over other civil actions pending before the court, and shall be assigned for hearing at the earliest practicable date and expedited in every way:

"(1) First, a civil action involving the exclusion of perishable merchandise or the redelivery of such merchandise.

"(2) Second, a civil action for the review of a determination under section 516A(a)(1) (B) (i) or (ii) of the Tariff Act of 1930.

"(3) Third, a civil action commenced under section 515 of the Tariff Act of 1930 involving the exclusion or redelivery of merchandise.

"(4) Fourth, a civil action commenced under section 516 or 516A of the Tariff Act of 1930, other than a civil action described in paragraph (2) of this section.".

JURY TRIALS

SEC. 302. (a) Chapter 121 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1876. Trial by jury in the Court of International Trade

"(a) In any civil action in the Court of International Trade which is to be tried before a jury, the jury shall be selected in accordance with the provisions of this chapter and under the procedures set forth in the jury selection plan of the district court for the judicial district in which the case is to be tried.

"(b) Whenever the Court of International Trade conducts a jury trial—

"(1) the clerk of the district court for the judicial district in which the Court of International Trade is sitting, or an authorized deputy clerk, shall act as clerk of the Court of International Trade for the purposes of selecting and summoning the jury;

"(2) the qualifications for jurors shall be the same as those established by section 1865(b) of this title for jurors in the district courts of the United States;

"(3) each party shall be entitled to challenge jurors in accordance with section 1870 of this title; and

"(4) jurors shall be compensated in accordance with section 1871 of this title.".

(b) The section analysis for chapter 121 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1876. Trial by jury in the Court of International Trade.".

(c) Section 1862 of title 28, United States Code, is amended by inserting "or in the Court of International Trade" immediately after "United States".

TITLE IV—COURT OF CUSTOMS AND PATENT APPEALS

JURISDICTION OF THE COURT

SEC. 401. (a)(1) Section 1541(a) of title 28, United States Code, is amended to read as follows:

"(a) The Court of Customs and Patent Appeals shall have exclusive jurisdiction of appeals from all final decisions of the Court of International Trade.".

(2) Section 1541 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) The Court of Customs and Patent Appeals shall have exclusive jurisdiction of appeals from interlocutory orders of the Court of International Trade granting, continuing, modifying, refusing, or dissolving injunctions, or refusing to dissolve or modify injunctions.".

(b)(1) Section 1543 of title 28, United States Code, is amended to read as follows:

"§ 1543. International Trade Commission determinations

"The Court of Customs and Patent Appeals shall have jurisdiction to review the final determinations of the United States

International Trade Commission made under section 337 of the Tariff Act of 1930 relating to unfair trade practices in import trade.".

(2) The item relating to section 1543 in the section analysis of chapter 93 of title 28, United States Code, is amended to read as follows:

"1543. International Trade Commission determinations.".

POWERS OF THE COURT

SEC. 402. (a) Chapter 93 of title 28, United States Code, as amended by section 401 of this Act, is further amended by adding at the end thereof the following new section:

"§ 1546. Powers in law and equity

"The Court of Customs and Patent Appeals shall have all the powers in law and equity of, or as conferred by statute upon, a court of appeals of the United States.".

(b) The section analysis of chapter 93 of title 28, United States Code, as amended by section 401 of this Act, is further amended by adding at the end thereof the following new item:

"1546. Powers in law and equity.".

COURT OF CUSTOMS AND PATENT APPEALS

SEC. 403. (a) Section 2601(a) of title 28, United States Code, is amended by adding at the end thereof the following new sentence: "If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within fourteen days after the date on which the first notice of appeal was filed.".

(b) The first sentence of section 2601(b) of title 28, United States Code, is amended—

(1) by inserting "or cross appeal" immediately after "appeal" each place it appears; and

(2) by striking out "which shall include a concise statement of the errors complained of".

(c) The third sentence of section 2601(b) of title 28, United States Code, is amended by striking out "and the Secretary of the Treasury or their designees" and inserting in lieu thereof "and any named official".

(d) Section 2601(c) of title 28, United States Code, is amended by inserting immediately after the first sentence the following new sentences: "Findings of fact shall not be set aside unless clearly erroneous and due regard shall be given to the opportunity of the Court of International Trade to judge the credibility of the witnesses. A party may raise on appeal the question of whether the findings of fact are clearly erroneous, whether or not the party raising such question made an objection to such findings in the Court of International Trade or made a motion to amend such findings.".

(e)(1) Section 2602 of title 28, United States Code, is amended to read as follows:

"§ 2602. Precedence of cases

"The following civil actions in the Court of Customs and Patent Appeals shall be given precedence, in the following order, over other civil actions pending before the court, and shall be assigned for hearing at the earliest practicable date and expedited in every way:

"(1) First, a civil action involving the exclusion of perishable merchandise or the redelivery of such merchandise.

"(2) Second, a civil action for the review of a determination under section 516A(a)(1)(B)(i) or (ii) of the Tariff Act of 1930.

"(3) Third, a civil action commenced under section 515 of the Tariff Act of 1930 involving the exclusion or redelivery of merchandise.

"(4) Fourth, a civil action commenced under section 516 or 516A of the Tariff Act of 1930, other than a civil action described in paragraph (2) of this section.

"(5) Fifth, an appeal from findings of the Secretary of Commerce provided for in headnote 6 to schedule 8, part 4, of the Tariff Schedules of the United States (19 U.S.C. 1202).".

(2) The item relating to section 2602 in the section analysis of chapter 167 of title 28, United States Code, is amended to read as follows:

"2602. Precedence of cases.".

RULES OF EVIDENCE

SEC. 404. (a) Chapter 167 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 2603. Rules of evidence

"Except as provided in section 2639 or 2641(b) of this title or in the rules prescribed by the court, the Federal Rules of Evidence shall apply in the Court of Customs and Patent Appeals in any appeal from the Court of International Trade.".

(b) The section analysis of chapter 167 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"2603. Rules of evidence.".

JUDICIAL CONFERENCE

SEC. 405. (a) Chapter 167 of title 28, United States Code, as amended by section 404 of this Act, is further amended by adding at the end thereof the following new section:

"§ 2604. Judicial conference

"The chief judge of the Court of Customs and Patent Appeals is authorized to summon annually the judges of such court to a judicial conference, at a time and place that such chief judge designates, for the purpose of considering the business of such court and improvements in the administration of justice in such court.".

(b) The section analysis of chapter 167 of title 28, United States Code, as amended by section 404 of this Act, is further amended by adding at the end thereof the following new item:

"2604. Judicial conference.".

TITLE V—TECHNICAL AND CONFORMING AMENDMENTS TO TITLE 28

SEC. 501. The following provisions, of title 28, United States Code, are amended by striking out "Customs Court" and inserting in lieu thereof "Court of International Trade":

(1) The item relating to chapter 11 in the chapter analysis of part I.

(2) The chapter heading of chapter 11.

(3) Section 253(a).

(4) Section 254.

(5) Section 255(a).

(6) Section 257.

(7) Section 292(e).

(8) Section 293(c).

(9) Section 372 (a) and (b).

(10) Section 451 (including that section as it will become effective on April 1, 1984).

(11) Section 456.

(12) Section 569(a) (including that section as it will become effective on April 1, 1984).

(13) The item relating to chapter 55 in the chapter analysis of part III.

(14) Section 605.

(15) Section 610.

(16) The chapter heading of chapter 55.

(17) Section 871.

(18) Section 872.

(19) Section 873.

(20) The item relating to chapter 95 in the chapter analysis of part IV.

(21) Section 1340.

(22) The item relating to section 1541 in the section analysis of chapter 93.

(23) The section heading for section 1541.

(24) Section 1541(b).

(25) The item relating to chapter 169 in the chapter analysis of part VI.

(26) The item relating to section 2601 in the section analysis of chapter 167.

(27) The section heading for section 2601.

(28) Section 2601 (a), (b), and (c).

SEC. 502. Section 252 of title 28, United States Code, is amended by striking out "Judge of the Customs Court" and inserting in lieu thereof "Judges of the Court of International Trade".

SEC. 503. Section 518(a) of title 28, United States Code, is amended by inserting "and in the Court of International Trade" immediately after "Claims".

SEC. 504. Section 751 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) When the Court of International Trade is sitting in a judicial district, other than the Southern District or Eastern District of New York, the clerk of the district court of such judicial district or an authorized deputy clerk, upon the request of the chief judge of the Court of International Trade and with the approval of such district court, shall act in the district as clerk of the Court of International Trade, as prescribed by the rules and orders of the Court of International Trade for all purposes relating to the civil action then pending before such court.".

SEC. 505. Section 1337 of title 28, United States Code is amended by adding at the end thereof the following new subsection:

"(c) The district courts shall not have jurisdiction under this section of any matter within the exclusive jurisdiction of the Court of International Trade under chapter 95 of this title.".

SEC. 506. Section 1352 of title 28, United States Code, is amended by inserting immediately before the period at the end thereof the following: ", except matters within the jurisdiction of the Court of International Trade under section 1582 of this title".

SEC. 507. Section 1355 of title 28, United States Code, is amended by inserting immediately before the period at the end thereof the following: ", except matters within the jurisdiction of the Court of International Trade under section 1582 of this title".

SEC. 508. Section 1356 of title 28, United States Code, is amended by inserting immediately before the period at the end thereof the following: ", except matters within the jurisdiction of the Court of International Trade under section 1582 of this title".

SEC. 509. The second paragraph of section 1491 of title 28, United States Code, is amended by striking out "in suits" and inserting in lieu thereof "of any civil action within the exclusive jurisdiction of the Court of International Trade, or of any action".

SEC. 510. Section 1919 of title 28, United States Code, is amended by inserting "or the Court of International Trade" immediately after "court" the first place it appears.

SEC. 511. (a) Chapter 125 of title 28, United States Code, is amended by inserting immediately after section 1963 the following new section:

"§ 1963A. Registration of judgments of the Court of International Trade

"(a) A judgment in any civil action for the recovery of money or property entered by the Court of International Trade which has become final by appeal or expiration of time for appeal may be registered in any judicial district by filing a certified copy of such judgment. A judgment so registered shall have the same effect as a judgment of the district court of the district where registered and may be enforced in like manner.

"(b) A certified copy of the satisfaction of any judgment in whole or in part may be registered in like manner in any district in which the judgment is a lien.".

(b) The section analysis of chapter 125 of title 28, United States Code, is amended by inserting immediately after the item relating to section 1963 the following new item:

"1963A. Registration of judgments of the Court of International Trade.".

SEC. 512. The first paragraph of section 2414 of title 28, United States Code, is amended by inserting "or the Court of International Trade" immediately after "court" in the first sentence.

TITLE VI—TECHNICAL AND CONFORMING AMENDMENTS TO OTHER ACTS

Sec. 601. The following provisions of law are amended by striking out "Customs Court" and inserting in lieu thereof "Court of International Trade":

(1) Section 6001 of title 18, United States Code.

(2) Section 305 of the Tariff Act of 1930 (19 U.S.C. 1305).

(3) Section 502(b) of the Tariff Act of 1930 (19 U.S.C. 1502(b)).

(4) Section 503 of the Tariff Act of 1930 (19 U.S.C. 1503).

(5) Section 514 (a) and (b) of the Tariff Act of 1930 (19 U.S.C. 1514 (a) and (b)).

(6) Section 516 (d), (e), and (f) of the Tariff Act of 1930 (19 U.S.C. 1516 (d), (e), and (f)).

(7) Section 516A (a) (2), (c), (d), and (e) of the Tariff Act of 1930 (19 U.S.C. 1516a (a) (2), (c), (d), and (e)).

(8) Section 528 of the Tariff Act of 1930 (19 U.S.C. 1528).

(9) Section 308(9) of the Ethics in Government Act (28 U.S.C. app.).

(10) Section 7443(d) of the Internal Revenue Code of 1954.

(11) Section 906 of title 44, United States Code.

Sec. 602. Section 103(h) of the Act of March 27, 1978 (92 Stat. 170; 16 U.S.C. 791 (h)) is amended by striking out "section 250 of the Trade Act of 1974 (88 Stat. 2029)" and inserting in lieu thereof "section 284 of the Trade Act of 1974, except that such review shall be in the appropriate court of appeals of the United States, and the judgment of such court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.".

Sec. 603. The first section of the Act entitled "An Act to provide the name by which the Board of General Appraisers and members thereof shall be known" approved May 28, 1926 (19 U.S.C. 405a), is repealed.

Sec. 604. Section 337(c) of the Tariff Act of 1930 (19 U.S.C. 1337(c)) is amended—

(1) by inserting "for review in accordance with chapter 7 of title 5, United States Code" immediately before the period at the end of the fourth sentence; and

(2) by striking out the last sentence and inserting in lieu thereof the following new sentence: "Notwithstanding the foregoing provisions of this subsection, Commission determinations under subsections (d), (e), and (f) with respect to its findings on the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, the amount and nature of bond, or the appropriate remedy shall be reviewable in accordance with section 706 of title 5, United States Code.".

Sec. 605. (a) Section 514(a) (4) of the Tariff Act of 1930 (19 U.S.C. 1514(a) (4)) is amended to read as follows:

"(4) the exclusion of merchandise from entry or delivery or a demand for redelivery to customs custody under any provision of the customs laws, except a determination appealable under section 337 of this Act;".

(b) Section 514(a) of the Tariff Act of 1930 (19 U.S.C. 1514(a)) is further amended by striking out "section 2632 of title 28 of the United States Code within the time prescribed by section 2631" and inserting in lieu thereof "chapter 169 of title 28 of the United States Code within the time prescribed by section 2636".

Sec. 606. Section 515(b) of the Tariff Act of 1930 (19 U.S.C. 1515(b)) is amended by striking out "section 1582" and inserting in lieu thereof "section 1581".

Sec. 607. (a) Section 516(a) of the Tariff Act of 1930 is amended—

(1) by inserting "(1)" immediately before "The Secretary";

(2) by striking out "(as defined in section 771(9) (C), (D), and (E) of this Act)";

(3) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(4) by inserting at the end thereof the following new paragraph:

"(2) As used in this section, the term "interested party' means a person who is—

"(A) a manufacturer, producer, or wholesaler in the United States;

"(B) a certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production, or wholesale in the United States; or

"(C) a trade or business association a majority of whose members are manufacturers, producers, or wholesalers in the United States,

of goods of the same class or kind as the designated imported merchandise.".

(b) Section 516(d) of the Tariff Act of 1930 (19 U.S.C. 1516(d)) is amended by striking out "section 2632" and inserting in lieu thereof "chapter 169".

Sec. 608. (a) Section 516A(a) (1) of the Tariff Act of 1930 (19 U.S.C. 1516a(a) (1)) is amended to read as follows:

"(1) Review of certain determinations.—

"(A) Thirty-day review.—Within 30 days after the date of publication in the Federal Register of notice of—

"(i) a determination by the Secretary or the administering authority, under section 303(a) (3), 702(c), or 732(c) of this Act, not to initiate an investigation,

"(ii) a determination by the administering authority or the Commission, under section 751(b) of this Act, not to review an agreement or a determination based upon changed circumstances, or

"(iii) a negative determination by the Commission, under section 703(a) or 733 (a) of this Act, as to whether there is reasonable indication of material injury, threat of material injury, or material retardation, an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Court of International Trade by filing concurrently a summons and complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.

"(B) Ten-day review.—Within 10 days after the date of publication in the Federal Register of notice of—

"(i) a determination by the administering authority, under section 703(c) or 733 (c) of this Act, that a case is extraordinarily complicated, or

"(ii) a negative determination by the administering authority under section 703(b) or 733(b) of this Act,

an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Court of International Trade by filing concurrently a summons and complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.".

(b) Section 516A(a) (3) of the Tariff Act of 1930 (19 U.S.C. 1516a(a) (3)) is amended by striking out "section 2632" and inserting in lieu thereof "chapter 169".

(c) Section 516A(c) (2) of the Tariff Act of 1930 (19 U.S.C. 1516a(c) (2)) is amended by striking out the second sentence.

(d) The second sentence of section 516A(d) of the Tariff Act of 1930 (19 U.S.C. 1516a(d)) is amended to read as follows: "The party filing the action shall notify all such interested parties of the filing of an action under this section, in the form, manner, style, and within the time prescribed by rules of the court.".

Sec. 609. Section 592(e) of the Tariff Act of 1930 (19 U.S.C. 1592(e)) is amended by striking out "(e) District Court Proceedings.—" and all that follows through "under this section—" and inserting in lieu thereof the following:

"(e) Court of International Trade Proceedings.—Notwithstanding any other provision of law, in any proceeding commenced by the United States in the Court of International Trade for the recovery of any monetary penalty claimed under this section—".

Sec. 610. Section 604 of the Tariff Act of 1930 (19 U.S.C. 1604) is amended—

(1) by striking out "every United States district attorney" and inserting in lieu thereof "the Attorney General of the United States";

(2) by inserting "or the Court of International Trade" immediately after "district court"; and

(3) by striking out "such district attorney" and inserting in lieu thereof "the Attorney General".

Sec. 611. (a) The second sentence of the second paragraph of section 641(b) of the Tariff Act of 1930 (19 U.S.C. 1641(b)) is amended by striking out "in the circuit court" and all that follows through "District of Columbia" and inserting in lieu thereof "in the Court of International Trade".

(b) Section 641(b) of the Tariff Act of 1930 (19 U.S.C. 1641(b)) is amended by striking out the next to last sentence of the second paragraph.

Sec. 612. Section 250 of the Trade Act of 1974 (19 U.S.C. 2322), and the item relating to such section in the table of contents of such Act, are repealed.

Sec. 613. (a) Title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.) is amended by redesignating section 284 as section 285 and by inserting immediately after section 283 the following new section:

"Sec. 284. Judicial Review.

"(a) A worker, group of workers, certified or recognized union, or authorized representative of such worker or group aggrieved by a final determination of the Secretary of Labor under section 223 of this title, a firm or its representative or any other interested domestic party aggrieved by a final determination of the Secretary of Commerce under section 251 of this title, or a community or any other interested domestic party aggrieved by a final determination of the Secretary of Commerce under section 271 of this title may, within sixty days after notice of such determination, commence a civil action in the United States Court of International Trade for review of such determination. The clerk of such court shall send a copy of the summons and the complaint in such action to the Secretary of Labor or the Secretary of Commerce, as the case may be. Upon receiving a copy of such summons and complaint, such Secretary shall promptly certify and file in such court the record on which he based such determination.

"(b) The findings of fact by the Secretary of Labor or the Secretary of Commerce, as the case may be, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to such Secretary to take further evidence, and such Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(c) The Court of International Trade shall have jurisdiction to affirm the action of the Secretary of Labor or the Secretary of Commerce, as the case may be, or to set such action aside, in whole or in part. The judgment of the Court of International Trade shall be subject to review by the United States Court of Customs and Patent Appeals, as prescribed by the rules of such court. The judgment of the Court of Customs and Patent Appeals shall be subject to review by the Supreme Court of the United States upon certiorari as provided in section 1256 of title 28.".

(B) The table of contents of the Trade Act of 1974 (19 U.S.C. 2101 et seq.) is amended by striking out the item relating to section 284 and inserting in lieu thereof the following new items:

"Sec. 284. Judicial review.
"Sec. 285. Effective date.".

TITLE VII—EFFECTIVE DATES AND MISCELLANEOUS PROVISIONS

EFFECTIVE DATES

SEC. 701. (a) Except as provided in subsection (b) of this section, the provisions of any amendments made by this Act shall take effect on November 1, 1980.

(b)(1) The following sections of title 28, United States Code, shall apply with respect to civil actions commenced on or after the 90th day after the effective date of this Act:

(A) Sections 1582, 2639(a)(2), and 2640(a)(6) as amended by sections 201 and 301 of this Act.

(B) Sections 1352, 1355, and 1356, as amended by section 506, 507, and 508 of this Act.

(2) Section 592(e) of the Tariff Act of 1930, as amended by section 609 of this Act, shall apply with respect to civil actions commenced on or after 90th day after the effective date of this Act.

TREATMENT OF REFERENCES

SEC. 702. Any reference in any statute or regulation of the United States to the United States Customs Court, the U.S. Customs Court, or the Customs Court shall be deemed to be a reference to the United States Court of International Trade.

EFFECT ON CUSTOMS COURT JUDGES

SEC. 703. (a) Except as provided in subsection (b) of this section, the amendments made by title I of this Act shall not affect the status of any individual serving as judge or chief judge of the Customs Court on the date of enactment of this Act.

(b) The requirement that a person may not continue to serve as chief judge of the Court of International Trade after having reached the age of seventy years, as set forth in the amendment made by section 101 of this Act, shall apply to any individual serving as a chief judge on or after the date of enactment of this Act.

EFFECT ON PENDING CASES

SEC. 704. Nothing in this Act shall cause the dismissal of any action commenced prior to the date of enactment of this Act under jurisdictional statutes relating to the Customs Court or the Court of Customs and Patent Appeals as in effect immediately prior to such date of enactment.

TVA LEGAL REPRESENTATION

SEC. 705. Nothing in this Act affects the authority of the Tennessee Valley Authority under the Tennessee Valley Authority Act of 1933 to represent itself by attorneys of its choosing.

The SPEAKER pro tempore. Is a second demanded?

Mr. McCLORY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. VOLKMER) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. McCLORY) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 7540 completes a task which was begun over 10 years ago when Congress modernized the procedures of the U.S. Customs Court by means of the Customs Courts Act of 1970. At that time, it was decided to address the issues of the court's status, jurisdiction, and powers in subsequent legislation.

H.R. 7540 is that subsequent legislation. The bill creates a comprehensive system of judicial review of civil actions arising out of import transactions and the Federal statutes affecting international trade.

Existing laws pertaining to the jurisdiction of the Customs Court specifically limit the subject matter jurisdiction of the court, the class of persons with standing to institute actions, and the forms of remedies available before the court. As a consequence of these limitations, aggrieved persons have tried, with increasing frequency, to challenge administrative actions involving importations in the Federal district courts. Such actions are filed when the subject matter is not clearly assigned by law to the Customs Court; or, when the aggrieved person has no standing in the Customs Court; or, when the remedy sought is not available in the Customs Court.

When a plaintiff alleges that he has no effective access to, or cannot obtain an adequate remedy from the Customs Court, the district courts are asked, usually unsuccessfully, to take jurisdiction over the dispute under one of their general or specific jurisdictional statutes. These cases and the resulting court decisions have created much confusion for potential litigants and the courts. Thus, the uniformity required by the Constitution is provided for only in those relatively few administrative actions which are within the Customs Court's presently limited jurisdiction.

The Customs Courts Act of 1980 resolves these problems by clarifying and revising the statutes governing the Customs Court's status, jurisdiction, and powers. This bill explicitly grants all judicial powers in law and equity to the Court of International Trade, as the Customs Court is redesignated, thereby completing its full transformation to article III status. Second, H.R. 7540 reemphasizes and clarifies Congress intent that the expertise and national jurisdiction of the Court of International Trade be utilized exclusively in the resolution of disputes arising out of import transactions. In so doing, the bill eliminates the confusion caused by the presently ill-defined division of jurisdiction between the Customs Court and the Federal district courts.

Over the years, the Federal district courts have become overworked, thus leading to significant delays in the resolution of cases. The recent increase in international trade litigation has contributed to this problem. Moreover, with the passage of the Trade Agreements Act of 1979 and the Customs Procedural Reform and Simplification Act of 1978, there has occurred an expansion of the right of judicial review for parties adversely affected by an administrative decision relating to an import transaction. Enactment of the Customs Courts Act of 1980 will relieve the district courts of some of their overcrowded dockets by providing that the underutilized U.S. Customs Court have exclusive jurisdiction over civil actions involving import transactions.

H.R. 7540, the Customs Courts Act of 1980, has the strong endorsement of the administration, the judiciary, the American Bar Association, the private bar, and the business community.

Mr. McCLORY. Would the gentleman from Missouri yield?

Mr. VOLKMER. I would be happy to yield to the gentleman from Illinois.

Mr. McCLORY. It is my understanding that there are several changes in H.R. 7540, as it was reported by the full Judiciary Committee. Would the gentleman be kind enough to comment on those changes?

Mr. VOLKMER. The gentleman from Illinois is correct in his understanding, and I shall be happy to comment on such changes.

These changes were accomplished through the cooperation and with the aid of the gentleman from Illinois (Mr. McCLORY) and the minority staff of the House Judiciary Committee. I am equally grateful for the guidance of the Subcommittee on Trade of the House Ways and Means Committee as to the change in the jurisdictional and standing provisions for civil actions reviewing a final administrative determination with respect to eligibility for adjustment assistance under the Trade Act of 1974.

At this time, I shall briefly discuss those amendments. The first amendment pertains to section 101 of the bill and retains the existing requirement respecting the political affiliation of the judges of the court.

The second amendment clarifies the court's jurisdiction under proposed section 1581(d) over a final determination by the Secretary of Labor regarding the eligibility of workers for adjustment assistance under the Trade Act of 1974 or by the Secretary of Commerce respecting the eligibility of firms or communities for such assistance under that act. In light of this amendment, conforming changes are made in several other sections of the bill. One change is made to proposed section 2631(d) in order to conform the standing requirement for judicial review of such determination to that permitted in the administrative review process.

The remaining four amendments are technical in nature. The initial one clarifies the authority of the court to grant monetary relief for or against private parties and the United States. The second technical amendment provides a date certain, November 1, 1980, for the effective date of this legislation.

The third technical amendment clarifies the effect of H.R. 7540 upon the right of the Tennessee Valley Authority to represent itself in the Court of International Trade.

The final amendment changes the name of the Court of Appeals for International Trade, Patents, and Trademarks back to the Court of Customs and Patent Appeals. The amendment is necessary because of the House's passage of H.R. 3806 on September 15, 1980.

Similar legislation already has been considered by the Senate and was passed by unanimous consent on December 18, 1979.

Mr. Speaker, H.R. 7540 is necessary remedial legislation. In many respects the Customs Courts Act of 1980 continues the reforms that were initiated with the Trade Agreements Act of 1979. In so doing, this legislation clearly defines the jurisdiction and powers of the U.S. Court of International Trade so to allow it to make full use of its expertise and resources in addressing international trade litigation. With the passage of H.R. 7540 the jigsaw puzzle of statutes that govern the court's status, jurisdiction, powers, and procedures will be complete.

Accordingly, I urge the adoption of H.R. 7540, the Customs Courts Act of 1980.

□ 1550

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Speaker, I rise in support of H.R. 7540, the Customs Court Act of 1980. The bill represents, in many respects, the completion of reforms which were initiated with the Trade Agreements Act of 1979. The Ways and Means Trade Subcommittee, which I chair, has maintained great interest in this legislation, since it involves the major U.S. international trade statutes which come within our jurisdiction—the Trade Agreements Act of 1979, the Trade Act of 1974, and the Tariff Act of 1930.

The Customs Court Act of 1980 will equip our judicial system with the tools necessary to effectively interpret our Nation's complex laws dealing with international trade. It clarifies important jurisdictional issues, and assures meaningful access to judicial review of civil actions arising out of our import transactions.

I am grateful to the Judiciary Committee for their spirit of cooperation in considering the views of the Trade Subcommittee on H.R. 7540. Throughout the entire process of committee hearings and markups, we have worked closely on many substantive issues. For the most part, our recommendations have been followed, and our concerns have been alleviated. The Trade Subcommittee expressed particular concern with clarifying the residual jurisdiction of the new Court of International Trade, and I am happy to say that our suggestions on this matter were fully adopted. Many other provisions in this bill have been modified in a manner which accommodates the Trade Subcommittee's views, and we are grateful for these actions by the Judiciary Committee.

I would like to clarify one substantive issue in the bill, which involves proposed section 2631(d) of title 28 of the United States Code. This is a standing provision, specifying who may bring a civil action to review a final determination of either the Secretary of Labor or Secretary of Commerce with respect to eligibility for trade adjustment assistance. While the subsection governing workers' adjustment assistance limits standing to those parties that actually applied for adjustment assistance and were aggrieved by a final determination of the Secretary of Labor, the subsections governing adjustment assistance for firms and communities expands the standing eligibility to any other interested domestic party that is aggrieved by a final determination of the Secretary of Commerce.

My understanding is that these standing provisions maintain present administrative practice, and do not alter existing procedures in any respect. I understand further that the Departments of Labor and Commerce have no objection to these provisions.

I would like to ask the gentleman from Missouri if these understandings are correct.

Mr. VOLKMER. Mr. Speaker, I would like to reply to the gentleman from Ohio (Mr. VANIK) by saying that his understandings are correct. The answer is, yes, and I wish again to commend the gentleman from Ohio for his input in this legislation and his assistance to the Committee on the Judiciary in its consideration of this legislation.

Mr. VANIK. Mr. Speaker, I thank the gentleman from Missouri for clarifying this matter, and I urge passage of the bill.

Mr. VOLKMER. Mr. Speaker, I have no further requests for time.

Mr. McCLORY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the enactment of H.R. 7540, the Customs Court Act of 1980, as a necessary reform of the law concerning the jurisdiction and powers of the Customs Court. It is to be hoped that this legislation will so clarify the law regarding judicial review of civil actions arising out of import transactions that we will for the first time in recent years achieve uniformity of decisionmaking manifestly required in this area by the public interest.

I particularly commend the decision to continue the political diversity requirement for membership on the Customs Court, a requirement which the court has had throughout its entire history. In my view, there are compelling equitable and practical reasons why we should continue to provide that no more than five of the nine judges on the court can be members of the same political party.

The diversity requirement essentially seeks to balance the process of selecting judges for the Customs Court. As we know, political considerations have always played a significant role in the selection of judicial nominees—and will, undoubtedly, play a part in the President's selection of the chief judge of the Customs Court, as he is authorized to do by this legislation. And we all know that it is customary for Presidents to look to their own political party for judicial nominees. What a diversity requirement does, however, is to ameliorate partisan considerations by requiring a President on occasion to seek a qualified candidate from outside of his own party. As a consequence, over a period of time a far larger and more diverse pool of talent would be drawn upon in making nominations. In a real sense, a diversity requirement helps depoliticize the selection process, and this has always heretofore been a commendable aspect of Customs Court judicial nominations.

Retention of the political diversity requirement is also sound policy when we consider the fact that the Customs Court inevitably makes international economic policy, particularly in its judicial review of agency determinations relating to antidumping and countervailing duty cases. Every one of our citizens may be affected by such actions. Taken in this context, politically balanced membership will be not only more appropriate but also healthier for the American body politic.

In sum, both fairness and practicality warrant our perpetuating in this legislation a requirement which in the past has increased the breadth and improved the caliber of the Customs Court bench, thereby benefiting both the parties appearing before it and the public as a whole. And in time to come we may expect these manifold advantages will continue.

Mr. Speaker, I urge enactment of the Customs Court Act of 1980. May I add, Mr. Speaker, that if this measure should end up in a House-Senate conference, I shall count upon our House conferees to work diligently to maintain the position of the House without qualification.

● Mr. RODINO. Mr. Speaker, H.R. 7540, the Customs Courts Act of 1980, provides for significant and much needed reform of the laws governing the U.S. Customs Court.

Many complex questions have been raised over the years concerning the jurisdiction of the Customs Court, its scope of review and the type of relief the court may award. Periodically, the Congress has examined these issues and has altered the court's status, jurisdiction and powers in a manner intended to solve a specific problem or to meet a specific need at a particular time.

Since 1890, the U.S. Customs Court has been in constant evolution. In 1890, the court was an administrative unit within the Department of the Treasury, known as the Board of General Appraisers, with the responsibility of reviewing decisions by Customs officials on the classification and valuation of imported merchandise. Because customs duties were the principal source of revenue for the Government, the tariff statutes and the corresponding administrative procedures were designed to maximize the Government's ability to collect such duties with a minimal emphasis on judicial review.

In 1926, as the types of decisions relating to imports expanded, Congress replaced the outmoded Board with an article I court, the U.S. Customs Court. The 1926 legislation made no essential changes in the powers, procedures, and duties of the reconstituted Board. In fact, the court continued to function in most matters as would have its predecessor in reviewing the actions of the Bureau of Customs. This pattern continued for some 44 years, despite the fact that in 1956 Congress declared the court "to be a court established under article III of the Constitution of the United States."

In 1970, Congress recognized that the statutes governing the Custom Court's jurisdiction and procedures were outdated. Congress also noted that the administrative and judicial processes were unresponsive to the increased tendency of American importers and domestic manufacturers to challenge Customs decisions. The Customs Court Act of 1970 made significant procedural reforms in the workings of the Bureau of Customs and the Customs Court, but it left unresolved the substantive issues of the court's jurisdiction and powers.

With the completion of the multilateral trade negotiations in Tokyo, Congress enacted the Trade Agreements Act of 1979. That act provided for major revisions in the overall statutory structure for administrative and judicial review of decisions pertaining to imported merchandise and import transactions. Title X of the act provided for expanded responsibilities for the Customs Court by creating new causes of action that could be asserted in the court. The act further expanded the traditional notions of standing to permit parties other than importers, wholesalers, and domestic manufacturers to seek judicial review of any Government action or inaction pertaining to import transactions.

In particular, significant changes were made in the area of judicial challenges to antidumping and countervailing duty determinations. The Trade Agreements Act also authorized the court, for the first time, to issue preliminary or permanent injunctive relief in limited circumstances.

This patchwork quilt approach has made the statutes governing the court's jurisdiction and remedial powers awkward and uncoordinated. The result is a series of laws that do not always serve the public interest.

As international trade has grown in its impact on the American economy, a corresponding increase has occurred in civil litigation involving import transactions. However, despite the fact that modern day international trade litigation has become increasingly complicated, the primary statutes governing the U.S. Customs Court have not kept pace with the problems posed by such litigation. Traditionally, the majority of cases before the Customs Court pertain to classification and valuation issues, with the remainder involving challenges to antidumping and countervailing duty determinations. In almost all of the cases, the court could only agree or disagree with the decision of the administrative agency. The court could not issue money judgments or provide equitable relief. As previously stated, the Trade Agreements Act of 1979 gave the Customs Court new and increased responsibilities in the field of international trade litigation, particularly with antidumping and countervailing duty cases, but the 1979 act failed to authorize an explicit grant of all powers in law and equity. Thus, the law remains unclear on the authority of the Customs Court, a duly constituted article III court, to grant the remedy demanded by the case before it, such as mandamus or injunctive relief.

Furthermore, under current law, the jurisdiction of the Federal district courts is defined to encompass cases which may be within the jurisdiction of the U.S. Customs Court. Since the statutes defining the jurisdiction of the Customs Court are so intricate and because international trade matters are more complex, it has become more difficult to determine, in advance, whether or not a particular case falls within the jurisdiction of the Customs Court or the district courts.

The result is inconsistency of judicial decisions. In some instances the Federal district courts have asserted jurisdiction over international trade cases, while declining to do so in other cases. Litigants proceed with some degree of uncertainty when choosing a forum for judicial relief. If an improper forum is chosen, the result may be a holding that the plaintiff is before the wrong court. A dismissal for want of jurisdiction can effectively preclude a judicial determination of the case on its merits.

Furthermore, the type of relief available depends greatly on a plaintiff's ability to persuade a court that it possesses jurisdiction over a particular case. Thus, some individuals will obtain relief which is denied others, who, by chance, select an improper forum to institute suit.

H.R. 7540 is designed to eliminate many of the problems faced by litigants in international trade cases before the Federal courts. The Customs Courts Act of 1980 creates a comprehensive system of judicial review of civil actions arising from import transactions, utilizing the specialized expertise of the U.S. Customs Court and the Court of Customs and Patent Appeals to insure a national uniformity in the judicial decisionmaking process. H.R. 7540 assures better access to the courts for such civil actions by more clearly defining the division of jurisdiction between the district courts and the Customs Court.

In addition, the Customs Courts Act of 1980 provides the Customs Court with all the necessary remedial powers in law and equity possessed by other courts established under article III of the Constitution, so that it may fashion an appropriate remedy for each and every case.

In order to reflect the expanded jurisdiction of the court, this legislation changes the name of the U.S. Customs Court to the U.S. Court of International Trade. This designation is more descriptive of the court's clarified and expanded jurisdiction and its new judicial functions and purposes relating to international trade.

The essential purpose of this legislation is best summarized by the following quote from the committee report:

> (P)ersons adversely affected or aggrieved by agency actions arising out of import transactions are entitled to the same access to judicial review and judicial remedies as Congress has made available for persons aggrieved by actions of other agencies.

H.R. 7540, the Customs Courts Act of 1980, has the endorsement of:

First. The administration (the Departments of Justice, Treasury, Labor, and Commerce);

Second. The International Trade Commission;

Third. The Administrative Conference of the United States;

Fourth. The U.S. Customs Court;

Fifth. The U.S. Court of Customs and Patent Appeals;

Sixth. The ABA's Standing Committee on Customs Law;

Seventh. The Association of the Customs Bar;

Eighth. Representatives of the importers community;

Ninth. Representatives of the customhouse brokers community; and

Tenth. Private customs law practitioners.

H.R. 7540 incorporates many of the recommendations of the witnesses who appeared before the Judiciary Committee's Subcommittee on Monopolies and Commercial Law. Furthermore, the Judiciary Committee has engaged in a continuing dialog with the Ways and Means Committee's Subcommittee on Trade to assure that H.R. 7540 is consistent with their work in American foreign trade policy, particularly in the area of imports. As a result, H.R. 7540 is noncontroversial legislation that is satisfactory to all parties, the administration, the courts, business, labor, and the private bar.

At this time, I will highlight some of the major provisions of the legislation. Proposed section 1581 sets forth the major grants of subject matter jurisdiction to the Court of International Trade. This section makes it clear that the court has exclusive jurisdiction over any civil action against the United States, its agencies, or officers arising out of the Federal statutes governing import transactions.

Subsection (i) or proposed section 1581 plays a major role in the revised and clarified structure of the exclusive jurisdiction of the Court of International Trade. Quoting from the House report:

> The Committee has included this provision in the legislation to eliminate much of the difficulty experienced by international trade litigants who in the past commenced suits in the district courts only to have those suits dismissed for want of subject matter jurisdiction. The grant of jurisdiction in subsection (i) will ensure that these suits will be heard on their merits.

Simply put, subsection (i) is the embodiment of the principle that if a cause of action involving an import transaction exists, other than as provided for in subsections (a)-(h) of proposed section 1581, then that cause of action should be instituted in the U.S. Court of International Trade rather than the Federal district courts or courts of appeals.

It should be noted that subsection (i) is not intended to permit the circumvention of the provisions of section 516A of the Tariff Act of 1930. The word "determination" in the fourth full paragraph on page 48 of the House report is intended to be construed in harmony with the preceding paragraph on that page. Therefore, the word "determination," as utilized in the fourth full paragraph, incorporates the same "preliminary administrative action(s)" referred to in the preceding paragraph.

Another essential provision in this legislation is proposed section 1585. This section removes any doubt that the Court of International Trade has authority to award the relief necessary to remedy an alleged injury in a civil action before the court. The committee intends to make it clear that the court possesses all plenary powers in law and equity, thereby completing the full transformation of the court to article III status.

Closely related to section 1585 is proposed section 2643, which sets forth the types of relief that may be ordered by the Court of International Trade. Proposed section 2643 restates the general principle that the court may order any form of relief that it deems appropriate. However, the section also contains certain exceptions to that rule.

Subsection (c)(4) of the proposed section 2643 provides that the Court of International Trade may only grant declaratory relief in a civil action commenced pursuant to proposed section 1581(h), regarding judicial review of a ruling by the Secretary of the Treasury. On page 61 of the report, the committee stated that declaratory relief is appropriate for this type of action and to permit otherwise would "encourage persons to bring suit under proposed section 1581(h) rather than pursuing traditional methods of challenging the Secretary's ruling or a lack thereof."

The last sentence of the paragraph explaining subsection (c)(4) is partially incorrect in that it indicates that the committee "did intend to create such a major shift in trade policy." Such is not the case. The committee chose to authorize only declaratory relief in civil actions under proposed section 1581(h) because it did not desire to make such civil actions the rule rather than the exception and because it did not intend to create such a major shift in trade policy.

There is also need to clarify a possible ambiguity in the report's language on the interest provision, proposed section 2644. The report states that an order for reliquidation in accordance with the decision of the court "shall be deemed within the definition of the phrase 'money judgment' as used in this section." Rather than the phrase "money judgment," the report should have read "monetary relief as used in this section." There is no intent to change the meaning of the report but only to reflect accurately the language of the proposed section.

I wish now to comment on several of the amendments to H.R. 7540.

The first amendment pertains to section 101 of the bill and retains the political affiliation requirement of the judges of the court, as now contained in existing law, 28 U.S.C. 251(a).

The second amendment pertains to proposed section 1581(d) and the court's jurisdiction over civil actions commenced to review eligibility determinations by the Secretary of Labor and the Secretary of Commerce for adjustment assistance. The amendment conforms H.R. 7540 with the Trade Act of 1974. In so doing, the Customs Courts Act of 1980 reemphasizes the intent of the Trade Act when it provided for judicial review of a final determination of the Secretary with respect to eligibility for adjustment assistance.

Conforming amendments are also made to proposed section 2631(d), 2636(e), 2640(c), and 2643(c)(2), as contained in section 301 of the bill and to proposed section 284 of the Trade Act of 1974, as contained in section 613 of the bill. A final conforming amendment is made to section 103(h) of the Redwood National Park Act, to avoid disturbing the intent of that act.

With respect to the amendment to proposed section 2631(d), I offer an additional clarification. Since the filing of the report, there has been some concern over the potential ambiguity regarding those parties who have standing to seek judicial review of a final determination by the Secretary of Labor regarding eligibility of workers for adjustment assistance or the Secretary of Commerce concerning the eligibility of firms or communities for such assistance.

Standing for review of a final determination by the Secretary of Labor under section 223 of the Trade Act of 1974 will extend to "a worker, group of workers, certified or recognized union, or authorized representative of such worker or group aggrieved by a final determination." Under this language it is possible for a firm to seek judicial review of such determination as long as the firm is an "authorized representative of such worker or group."

Standing for review of a final determination by the Secretary of Commerce under section 251 of the Trade Act of 1974 will extend only to "a firm or its representative that applies for assistance under such act and is aggrieved by such final determination, or by any other interested domestic party that is aggrieved by such final determination."

Standing for review of a final determination by the Secretary of Commerce under section 271 of the Trade Act of 1974 will extend only to "a community that applies for assistance under such act and is aggrieved by such final determination, or by any other interested domestic party that is aggrieved by such final determination."

In all three instances standing for judicial review will follow that for administrative review by the particular agency in question. Furthermore, in both provisions pertaining to review of a final determination by the Secretary of Commerce, the phrase "interested domestic party" is to have the same meaning as provided for in proposed section 2631(d) in the committee report.

The next amendment clarifies the authority of the Court of International Trade to issue money judgments pursuant to proposed section 2643(a). As drafted, that section only authorizes money judgments "for or against the United States." However, by virtue of the court's jurisdiction under proposed section 1583 it is possible for one private party to seek monetary relief from another private party. Thus, there is a need to remove any doubt about the court's authority to grant such monetary relief.

The next amendment pertains to section 701, the effective date provision. The amendment strikes the current language, which provides that the legislation is effective on the date of enactment and inserts in its place a specific date, November 1, 1980. In this way all interested parties, potential litigants, the Government and the court will be certain of the effective date of the Customs Courts Act of 1980, thereby removing any possible hardship that could be occasioned by the vagueness of the present language.

Another amendment provides a clarification of the effect of this legislation on the ability of the Tennessee Valley Authority (TVA) to represent itself by attorneys of its choosing. This maintains the state of the law relating to the TVA as established under the TVA Act of 1933.

The final amendment is a technical one striking the change in name of the Court of Customs and Patent Appeals to the Court of Appeals for International Trade, Patents and Trademarks. The retention of the original name is necessitated by the recent passage of H.R. 3806, which combines the Court of Customs and Patent Appeals and the Court of Claims into the Court of Appeals for the Federal Circuit that legislation is to become effective October 1, 1981.

In light of the real possibility of the enactment of both bills, it is unnecessary to change the name of the Court of Customs and Patent Appeals twice within a 1-year period.

In summary, H.R. 7540 offers the international trade community, as well as domestic manufacturers, consumer groups, labor unions, and other concerned citizens, a vastly improved forum for judicial review of administrative actions of the U.S. Customs Service and other Government agencies dealing with imported merchandise. The provisions of the Customs Courts Act, when coupled with the Trade Agreements Act of 1979, make it clear to those who suffer injury that they may seek redress in a court with confidence that their case will be heard on the merits and not decided upon jurisdictional grounds. Furthermore, if they are successful, they can feel confident that the Court of International Trade will be able to afford them the relief that is appropriate and necessary to make them whole.

Enactment of this legislation is a significant step in affording international trade litigants the assurance that they are before the proper forum and can obtain the necessary relief. H.R. 7540 will provide uniformity in the judicial decisionmaking process for import transactions as required under article I, section 8 of the Constitution. Most importantly, H.R. 7540 removes much, if not all, of the uncertainty surrounding the status of the U.S. Customs Court and the statutes governing its jurisdiction and remedial powers. Accordingly, I urge my colleagues to support the Customs Courts Act of 1980.●

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. VOLKMER) that the House suspend the rules and pass the bill, H.R. 7540, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. **VOLKMER**. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 1654) to improve the Federal judicial machinery by clarifying and revising certain provisions of title 28, United States Code, relating to the judiciary and judicial review of international trade matters, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1654

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Customs Courts Act of 1979".

TITLE I—PURPOSES

SEC. 101. The Congress declares that the purposes of this Act are—

(a) to provide for a comprehensive system of judicial review of civil actions arising from import transactions, utilizing, whenever possible, the specialized expertise of the United States Customs Court and Court of Customs and Patent Appeals and insuring uniformity afforded by the national jurisdiction of these courts;

(b) to assure access to judicial review of civil actions arising from import transactions, which access is not presently assured due to jurisdictional conflicts arising from the presently ill-defined division of jurisdiction between the district courts and the customs courts;

(c) to provide expanded opportunities for judicial review of civil actions arising from import transactions;

(d) to grant to the customs courts the plenary powers possessed by other courts established under Article III of the Constitution of the United States; and

(e) to change the name of the United States Customs Court to the United States Court of International Trade to be more descriptive of its expanded jurisdiction and its new judicial functions and purposes relating to international trade in the United States.

TITLE II—COMPOSITION OF THE COURT OF INTERNATIONAL TRADE AND ASSIGNMENT OF JUDGES TO OTHER COURTS

SEC. 201. The United States Customs Court shall continue as constituted on the day before the date of enactment of this Act, and shall, after the date of enactment of this Act, be known as the United States Court of International Trade.

SEC. 202. (a) Section 251 of title 28, United States Code, is amended by striking out the first and second paragraphs of such section and inserting in lieu thereof the following:

"(a) The President shall appoint, by and with the advice and consent of the Senate, nine judges who shall constitute a court of record to be known as the United States Court of International Trade. The court is a court established under Article III of the Constitution of the United States.

"(b)(1) The chief judge shall be the judge in regular active service who is senior in commission of those judges who—

"(A) are sixty-four years of age or under;

"(B) have served for at least one year as judge of the court; and

"(C) have not served previously as chief judge.

"(2)(A) In any case in which no judge meets the qualifications under paragraph (1), the youngest judge in regular active service who is sixty-five years of age or over and who has served as a judge of the court for at least one year shall act as the chief judge.

"(B) In any case under subparagraph (A) in which there is no judge in regular active service who has served as a judge for more than one year, the judge in regular active service who is senior in commission and who has not served previously as chief judge shall act as the chief judge.

"(3)(A) Except as provided in subparagraph (C), a chief judge shall serve for a term of seven years, and may continue to serve after the expiration of such term until another judge is eligible to serve as chief judge under paragraph (1).

"(B) Except as provided in subparagraph (C)), a judge acting as chief judge under subparagraph (A) or (B) of paragraph (2) shall serve until another judge is eligible to serve as chief judge under paragraph (1).

"(C) A judge may not serve or act as chief judge after attaining the age of seventy years unless no other judge is eligible to serve as chief judge under paragraph (1) or is eligible to act as chief judge under paragraph (2).

"(c) If the chief judge desires to be relieved of his duties as chief judge while retaining his active status as a judge, he may so certify to the Chief Justice of the United States, and thereafter, the chief judge of the court shall be such other judge who is qualified to serve or act as the chief judge under subsection (b).".

(b) The third paragraph of section 251 of title 28, United States Code, is amended by inserting "(d)" immediately before "The offices".

(c) The amendments made by this section to section 251 of title 28, United States Code, shall take effect on the date of enactment of this Act, except that those judges serving on the United States Customs Court on the day before the date of enactment of this Act shall continue to serve as judges of the Court of International Trade, and the chief judge of the Customs Court serving on the day before the date of enactment of this Act shall continue to serve as chief judge of the Court of International Trade until he attains the age of seventy years.

SEC. 203. (a) Section 293(b) of title 28, United States Code, is amended by striking out all that appears after "duties" and inserting in lieu thereof the following: "in any circuit, either in a court of appeals or district court, upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit in which the need arises.".

(b) Section 293(d) of title 28, United States Code, is amended to read as follows:

"(d) The chief judge of the Court of International Trade may, upon presentation to him of a certificate of necessity by the chief judge of the Court of Customs and Patent Appeals or the chief judge of the Court of Claims, designate and assign temporarily any judge of the Court of International Trade to serve as a judge of the Court of Customs and Patent Appeals or the Court of Claims.".

TITLE III—JURISDICTION OF THE COURT OF INTERNATIONAL TRADE

SEC. 301. (a) Chapter 95 of title 28, United States Code, is amended to read as follows:

"CHAPTER 95—COURT OF INTERNATIONAL TRADE

"Sec.
"1581. Civil actions against the United States.
"1582. Civil actions commenced by the United States.
"1583. Counterclaims.
"1584. Cure of defects.
"1585. Powers generally.

"§ 1581. Civil actions against the United States

"(a)(1) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced by any person whose protest under the Tariff Act of 1930 has been denied, in whole or in part, by the appropriate customs officer, if the administrative decision, including the legality of all orders and findings entering into the protest, involves—

"(A) the appraised value of merchandise;

"(B) the classification, rate, and amount of duties chargeable;

"(C) all charges or exactions of whatever character within the jurisdiction of the Secretary of the Treasury;

"(D) the exclusion of merchandise from entry or delivery or a demand for redelivery to customs custody (including a notice of constructive seizure) under any provisions of the customs laws, except a determination appealable under section 337 of the Tariff Act of 1930;

"(E) the liquidation or reliquidation of an entry, or a modification thereof;

"(F) the refusal to pay a claim for drawback; or

"(G) the refusal to reliquidate an entry under section 520(c) of the Tariff Act of 1930.

"(2) Section 516A of the Tariff Act of 1930 provides the exclusive remedy for any determination subject to judicial review under such section, and such a determination is not otherwise reviewable under this subsection or any other provision of law.

"(b) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced under section 516 or 516A of the Tariff Act of 1930.

"(c)(1) After the decision of the President has been published in the Federal Register, the Court of International Trade shall have exclusive jurisdiction to review advice, findings, recommendations, and determinations of the International Trade Commission under sections 131, 201, 202, 203, 304, 406, and 503 of the Trade Act of 1974, sections 336 and 338 of the Tariff Act of 1930, and section 22 of the Agricultural Adjustment Act, solely for the purposes of determining the procedural regularity of those actions.

"(2) If no advice, findings, recommendations, or determinations have been provided to the President by the International Trade Commission, the Court of International Trade shall have exclusive jurisdiction to review any action of the commission under the sections specified in paragraph (1) of this subsection, solely for the purposes of determining the procedural regularity of those actions.

"(d) After the decision of the President has been published in the Federal Register, the Court of International Trade shall have exclusive jurisdiction to review any action of the Office of the Special Trade Representative under section 302(b)(1) or 304 of the Trade Act of 1974, solely for the purposes of determining the procedural regularity of those actions.

"(e) The Court of International Trade shall have exclusive jurisdiction of any civil action to review any determination of the Secretary of Labor or the Secretary of Commerce certifying or refusing to certify workers, communities, or businesses as eligible for adjustment assistance under the Trade Act of 1974. No injunction or writ of mandamus shall be issued in any civil action arising under this subsection.

"(f) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced by a party-at-interest to review a final determination made under section 305(b)(1) of the Trade Agreements Act of 1979.

"(g) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced under section 777(c)(2) of the Tariff Act of 1930.

"(h)(1) In addition to the jurisdiction conferred upon the Court of International

Trade by subsections (a) through (g) of this section and subject to the exceptions provided in subsection (i), the Court of International Trade shall have exclusive jurisdiction over any civil action against the United States, its agencies or its officers, which—

"(A) arises directly from import transactions; and

"(B)(i) involves the Tariff Act of 1930, the Trade Expansion Act of 1962, the Trade Act of 1974, or the Trade Agreements Act of 1979; or

"(ii) a provision of—

"(I) the Constitution of the United States,

"(II) a treaty of the United States,

"(III) an executive agreement executed by the President, or

"(IV) an Executive order of the President, which directly and substantially involves international trade.

"(2) Section 516A of the Tariff Act of 1930 provides the exclusive remedy for any determination subject to judicial review under such section, and such a determination is not otherwise reviewable under this subsection or any other provision of law.

"(i)(1) The Court of International Trade shall not have jurisdiction—

"(A) of any civil action arising under section 305 of the Tariff Act of 1930;

"(B) subject to the provisions of paragraph (2), to review any ruling or refusal to issue or to change a ruling relating to classification, valuation, rate of duty, marking, restricted merchandise, entry requirements, drawbacks, vessel repairs, and similar matters issued by the Secretary of the Treasury under applicable regulations other than in connection with a civil action commenced under subsection (a) of this section; or

"(C) of any civil action with respect to any effort by the United States to recover a civil fine or penalty or to enforce a forfeiture, to recover upon a bond, or to recover customs duties, other than as specified in section 1582 of this title.

"(2) Paragraph (1)(B) shall not apply if a plaintiff demonstrates that, without a substantial doubt, (A) it would be commercially impractical to obtain judicial review under subsection (a) of this section; and (B) the plaintiff would otherwise suffer irreparable injury. If the plaintiff fulfills the conditions set forth in the preceding sentence and demonstrates that the Secretary's ruling or refusal to issue or to change a ruling is arbitrary or capricious or otherwise contrary to law, the court shall award appropriate declaratory relief.

"§ 1582. Civil actions commenced by the United States

"(a) Subject to the provisions of subsections (b) and (c) of this section, the Court of International Trade shall have exclusive jurisdiction of any civil action commenced by the United States under section 592, 704(i)(2), or 734(i)(2) of the Tariff Act of 1930.

"(b)(1) Any party to a civil action described in subsection (a) who desires to have the action tried before a jury may, within 30 days after the action is commenced in the Court of International Trade, file a motion with the clerk of the court requesting a transfer of the action to an appropriate district court.

"(2) The Court of International Trade shall promptly order the action transferred to the appropriate district court if the court determines that the moving party is entitled to a trial by jury in such action.

"(c) Within 10 days after the issuance of an order of transfer under subsection (b)(2), the clerk of the Court of International Trade shall transmit all pleadings and documents to the clerk of the appropriate district court. The action shall proceed as if it had been commenced in the district court in the first instance, and the court shall determine the matter de novo.

"(d) The relevant provisions of sections 2641 through 2465 of this title, section 592(e) of the Tariff Act of 1930, and the Federal Rules of Evidence shall apply in any action commenced in the Court of International Trade or transferred to a district court under this section.

"§ 1583. Counterclaims

"The Court of International Trade shall have jurisdiction to render judgment upon any counterclaim asserted by the United States—

"(1) which arises out of an import transaction pending before the court;

"(2) to recover upon a bond relating to an import transaction pending before the court; or

"(3) to recover customs duties relating to an import transaction pending before the court.

"§ 1584. Cure of defects

"(a) If a civil action within the exclusive jurisdiction of the Court of International Trade is commenced in a district court, the district court shall, in the interest of justice, transfer such civil action to the Court of International Trade, where the action shall proceed as if it had been commenced in the Court of International Trade in the first instance.

"(b) If a civil action within the exclusive jurisdiction of a district court or a court of appeals is commenced in the Court of International Trade, the Court of International Trade shall, in the interest of justice, transfer such civil action to the appropriate district court or court of appeals, where the civil action shall proceed as if it had been commenced in the district court or court of appeals in the first instance.

"§ 1585. Powers generally.

"The Court of International Trade shall possess all the powers in law and equity of, or as conferred by statute upon, a district court of the United States.".

(b) The table of chapters for part IV of title 28, United States Code, is amended in the item relating to chapter 95 by striking out "Customs Court" and inserting in lieu thereof "Court of International Trade".

TITLE IV—COURT OF INTERNATIONAL TRADE PROCEDURE

SEC 401. (a) Chapter 169 of title 28, United States Code, is amended to read as follows:

"CHAPTER 169—COURT OF INTERNATIONAL TRADE PROCEDURE

"Sec.
"2631. Persons entitled to commence a civil action.
"2632. Commencement of a civil action.
"2633. Procedure and fees.
"2634. Notice.
"2635. Filing of official documents.
"2636. Time for commencement of action.
"2637. Exhaustion of administrative remedies.
"2638. New grounds in support of a civil action.
"2639. Burden of proof; evidence of value.
"2640. Scope and standard of review.
"2641. Witnesses; inspection of documents.
"2642. Analysis of imported merchandise.
"2643. Relief.
"2644. Decisions; findings of fact and conclusions of law; effect of decisions.
"2645. Retrial or rehearing.
"2646. Precedence of cases.

"§ 2631. Persons entitled to commence a civil action

"(a) A civil action contesting the denial, in whole or in part, of a protest under section 515 of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person who filed the protest under section 514 of the Tariff Act of 1930, or by his estate, heirs, or successors or by a surety of such person in the transaction which is the subject of the protest.

"(b) A civil action contesting the denial in whole or in part, of a petition under section 516 of the Tariff Act of 1930 may be commenced in the Court of International Trade by the domestic interested party who filed the petition or his estate, heirs, or successors.

"(c) A civil action contesting a determination listed in section 516A of the Tariff Act of 1930 may be commenced in the Court of International Trade by any interested party who is a party to the administrative proceeding or his estate, heirs, or successors.

"(d) A civil action to a review a final determination made under section 305(b)(1) of the Trade Agreements Act of 1979 may be commenced in the Court of International Trade by any party-at-interest.

"(e) A civil action involving an application for an order to make confidential information available under section 777(c)(2) of the Tariff Act of 1930 may be commenced in the Court of International Trade by any interested party who is a party to the investigation.

"(f) A civil action, other than a civil action specified in subsections (a) through (e) of this section, may be commenced in the Court of International Trade by any person adversely affected or aggrieved by an agency action within the meaning of section 702 of title 5, United States Code.

"(g) Except in civil actions commenced under section 1581(a) of this title or section 516 of the Tariff Act of 1930, any person who would be adversely affected or aggrieved by a decision in a civil action pending in the Court of International Trade may, by leave of court, intervene in that civil action. In exercising its discretion, the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

"(h) Any person who is a party to the investigation and would be adversely affected or aggrieved by a decision in a civil action involving an order to make confidential information available under section 777(c)(2) of the Tariff Act of 1930 may, by leave of court, intervene in that civil action.

"(i) For the purposes of this section, the term—

"(1) 'interested party' means—

"(A) a foreign manufacturer, producer, or exporter, or the United States importer, of merchandise which is the subject of an investigation under title VII of the Tariff Act of 1930, or a trade or business association the majority of the members of which are importers of such merchandise;

"(B) the government of a country in which such merchandise is produced or manufactured;

"(C) a manufacturer, producer, or wholesaler in the United States of a like product;

"(D) a certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production, or wholesale in the United States of a like product; and

"(E) a trade or business association the majority of whose members manufacture, produce, or wholesale a like product in the United States;

"(2) 'domestic interested party' means a party as defined in subparagraphs (C), (D), and (E) of paragraph (1);

"(3) 'party-at-interest' means—

"(A) a foreign manufacturer, producer, or exporter, or a United States importer, of merchandise which is the subject of a final determination;

"(B) a manufacturer, producer, or wholesaler in the United States of a like product;

"(C) United States members of a labor organization or other association of workers whose members are employed in the manufacture, production, or wholesale in the United States of a like product; and

"(D) a trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the United States; and

"(4) 'like product' means a product which is like, or in the absence of like, most similar in characteristics and uses with the article subject to an investigation under title VII of the Tariff Act of 1930 or a final determination under section 305(b)(1) of the Trade Agreements Act of 1979.

"§ 2632. Commencement of a civil action

"(a) Each civil action under section 516 of the Tariff Act of 1930 or section 1581(a) of this title shall be commenced by filing with the clerk of the Court of International Trade a summons, with the content and in the form, manner, and style prescribed by the rules of the court.

"(b) Each civil action under section 516A of the Tariff Act of 1930 shall be commenced by filing with the clerk of the court a summons or a summons and a complaint, as prescribed in that section, with the content and in the form, manner, and style prescribed by the rules of the court.

"(c) Except for those civil actions specified in subsections (a) and (b) of this section, all civil actions shall be commenced by filing with the clerk of the court a summons and complaint, with the content and in the form, manner, and style prescribed by the rules of the court.

"(d) The Court of International Trade may prescribe by rule that any pleading or other paper mailed by registered or certified mail properly addressed to the clerk of the court with the proper postage affixed and return receipt requested shall be deemed filed as of the date of mailing.

"§ 2633. Procedure and fees

"(a) A filing fee shall be payable upon the commencement of an action. The amount of the fee shall be fixed by the Court of International Trade, but shall be not less than $5 nor more than the filing fee for commencing a civil action in a United States district court. The Court of International Trade may fix all other fees to be charged by the clerk of the court.

"(b) The Court of International Trade shall prescribe rules governing pleadings and other papers, including their amendment, service, and filing, and for consolidations, severances, suspension of cases, and other procedural matters.

"(c) All pleadings and other papers filed in the Court of International Trade shall be served on all parties in accordance with the rules prescribed by the court. When the United States, it agencies, or its officers are adverse parties, service of the summons shall be made upon the Attorney General and the head of the agencies whose actions are complained of, and when injunctive relief is sought, upon the named officials sought to be enjoined.

"§ 2634. Notice

"Reasonable notice of the time and place of trial or hearing before the Court of International Trade shall be given to all parties to any civil action in accordance with the rules prescribed by the court.

"§ 2635. Filing of official documents

"(a)(1) Upon service of the summons on the Secretary of the Treasury in any civil action contesting the denial of a protest under section 515 of the Tariff Act of 1930, or the denial of a petition under section 516 of that Act, the appropriate customs officer shall forthwith transmit to the clerk of the Court of International Trade, as prescribed by its rules, and as part of the official record—

"(A) the consumption or other entry and the entry summary;

"(B) the commercial invoice;

"(C) the special customs invoice;

"(D) a copy of protest or petition;

"(E) a copy of the denial of a protest or petition in whole or in part;

"(F) any importer's exhibits;

"(G) the official and other representative samples;

"(H) any official laboratory reports; and

"(I) a copy of any bond relating to the entry.

"(2) If any of the items listed in paragraph (1) do not exist in a particular civil action, an affirmative statement to that effect shall be transmitted to the clerk of the court.

"(b)(1) In any action commenced under section 516A of the Tariff Act of 1930, within forty days or within such period of time as the Court of International Trade may specify, after service of the complaint upon the administering authority established to administer title VII of the Tariff Act of 1930 or the United States International Trade Commission, the administering authority or the commission shall transmit to the clerk of the court, as prescribed by its rules, the record which, unless otherwise stipulated by the parties, shall consist of—

"(A) a copy of all information presented to or obtained by the administering authority or the commission during the course of the administrative proceedings, including all governmental memorandums pertaining to the case and the record of ex parte meetings required to be maintained by section 777(a)(3) of the Tariff Act of 1930; and

"(B) a copy of the determination with a statement of reasons, if any, all transcripts or records of conferences or hearings, and all notices published in the Federal Register.

"(2) Any documents, comments, or information accorded confidential or privileged status and required to be transmitted to the clerk of the Court of International Trade under paragraph (1) shall be transmitted as prescribed by its rules to the clerk of the court under seal, and its confidential or privileged status shall be preserved in the litigation. Any such documents, comments, or information shall be accompanied by a nonconfidential description of the nature of such confidential documents, comments, or information. The court may examine, in camera, the confidential or privileged material and may make such material available under such terms and conditions as the court may order.

"(c) Within fifteen days or within such period of time as the Court of International Trade may specify, after service of the complaint upon the administering authority or the commission in a civil action involving an application for an order to make confidential information available under section 777(c)(2) of the Tariff Act of 1930, the administering authority or the commission shall transmit, as prescribed by its rules, to the clerk of the court under seal, the confidential information involved together with the pertinent parts of the record.

"(d)(1) In any other civil action in which judicial review is based upon the record made before the agency, the agency shall, within forty days or within such time as the Court of International Trade may specify after service of the complaint upon the agency, transmit to the clerk of the court, as prescribed by its rules—

"(A) a copy of the contested determination and the findings or report upon which it is based;

"(B) a copy of any reported hearings or conferences conducted by the agency; and

"(C) any documents, comments, or other papers filed by the public, interested parties, or governments with regard to the agency's action, identifying and transmitting, under seal, any documents, comments, or other information obtained on a confidential basis, including a nonconfidential description of the nature of such confidential documents, comments, or information.

"(2) The parties may stipulate that fewer documents, comments, or other information than that specified in paragraph (1) shall be transmitted to the court.

"(3) The confidentiality accorded such documents, comments, and information shall be preserved in the litigation, but the court may examine in camera such documents, comments, and information and may order the disclosure of such documents, comments, or information under such terms and conditions as the court deems appropriate.

"§ 2636. Time for commencement of action

"(a) A civil action contesting the denial of a protest under section 515 of the Tariff Act of 1930, is barred unless commenced in accordance with the rules of the Court of International Trade—

"(1) within one hundred and eighty days after the date of mailing of notice of denial, in whole or in part, of a protest by the Customs Service;

"(2) if no notice is mailed within the two-year period specified in section 515(a) of the Tariff Act of 1930, within one hundred and eighty days after the date of the expiration of the two-year period specified in such section; or

"(3) within one hundred and eighty days after the date of a protest by operation of law under the provisions of section 515(b) of the Tariff Act of 1930.

"(b) A civil action contesting the denial of a petition under section 516 of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade within thirty days after the date of mailing of a notice transmitted under section 516(c) of the Tariff Act of 1930.

"(c) A civil action contesting a determination by the administering authority, under section 703(c) or 733(c) of the Tariff Act of 1930, that a case is extraordinarily complicated is barred unless commenced in accordance with the rules of the Court of International Trade within ten days after the date of the publication of the determination in the Federal Register.

"(d) A civil action contesting a reviewable determination listed in section 516A of the Tariff Act of 1930, other than a determination under section 703(c) or 733(c) of that Act, is barred unless commenced in accordance with the rules of the Court of International Trade within thirty days after the date of publication of the determination in the Federal Register.

"(e) A civil action involving an application for an order to make confidential information available under section 777(c)(2) of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade within ten days after the date of the denial of a request for confidential information.

"(f) A civil action contesting a final determination made under section 305(b)(1) of the Trade Agreements Act of 1979 is barred unless commenced in accordance with the rules of the Court of International Trade within thirty days after the date of publication of the determination in the Federal Register.

"(g) A civil action, other than an action specified in subsections (a) through (f) of this section, of which the court has jurisdiction under section 1581 of this title is barred unless commenced in accordance with the rules of the Court of International Trade within two years after the cause of action first accrues.

"§ 2637. Exhaustion of administrative remedies

"(a) A civil action contesting the denial of a protest under section 515 of the Tariff Act of 1930 may be commenced only if all liquidated duties, charges, and exactions have been paid at the time the action is commenced, except that a surety's obligation to pay such liquidated duties, charges, and exactions is limited to the sum of any bond relating to each entry included in a denied protest. If a surety commences a civil action in the Court of International Trade, the surety shall recover only the amount of the liquidated duties, charges, and exactions paid on the entries included in the action. The excess amount of any recovery shall be paid to the importer of record, or its estate, heirs, successors, or assigns.

"(b) A civil action contesting the denial of a petition under section 516 of the Tariff Act of 1930 may be commenced only by a person who has first exhausted the procedures specified in that section.

"(c) In any civil action not specified in this section, the Court of International Trade shall require the exhaustion of appropriate administrative remedies.

"§ 2638. New grounds in support of a civil action

"In any case in which the denial, in whole or in part, of a protest is a precondition to the institution of a civil action in the Court of International Trade, the court, by rule, may consider any new ground in support of the civil action if the new ground—

"(1) applies to the same merchandise that was the subject of the protest; and

"(2) is related to the same administrative determinations listed in section 514 of the Tariff Act of 1930 that were contested in the protest.

"§ 2639. Burden of proof; evidence of value

"(a) In any civil action over which the Court of International Trade has jurisdiction under subsection (a) or (b) of section 1581, the determination of the Secretary of the Treasury, the administering authority, or the International Trade Commission, or their delegates, is presumed to be correct. The burden to prove otherwise shall rest upon the party challenging the determination.

"(b) Where the value of merchandise or any of its components is in issue—

"(1) reports or depositions of consuls, customs officers, and other officers of the United States, and depositions and affidavits of other persons whose attendance cannot reasonably be had may be admitted into evidence when served upon the opposing party in accordance with the rules of the Court of International Trade;

"(2) price lists and catalogs may be admitted in evidence when duly authenticated, relevant, and material; and

"(3) the value of merchandise shall be determined from the evidence in the record and that adduced at the trial, whether or not the merchandise or sample thereof is available for examination.

"(c) The provisions of subsection (a) shall not apply to any action commenced in the Court of International Trade under section 1582 of this title, unless permitted by the Federal Rules of Evidence.

"§ 2640. Scope and standard of review

"(a) The Court of International Trade shall determine the matter de novo upon the basis of the record made before the court in the following categories of civil actions:

"(1) Civil actions contesting the denial of a protest under section 515 of the Tariff Act of 1930 involving—

"(A) except to the extent judicial review is available under subsection (b) of this section in the case of a determination made reviewable under section 516A of the Tariff Act of 1930—

"(i) the appraised value of merchandise;

"(ii) the classification, rate, and amount of duties or fees chargeable;

"(iii) all charges or exactions of whatever character within the jurisdiction of the Secretary of the Treasury; and

"(iv) the required redelivery of imports under the terms of an entry bond or the exclusion of merchandise from entry or delivery under the customs laws or under an action of the Customs Service;

"(B) the refusal to pay a claim for a drawback; and

"(C) the refusal to reliquidate an entry under section 520(c) of the Tariff Act of 1930.

"(2) Civil actions commenced under section 516(c) of the Tariff Act of 1930.

"(3) Civil actions commenced under section 1581(f) of this title.

"(4) Civil actions commenced under section 1581(g) of this title.

"(5) Civil actions commenced in the Court of International Trade under section 1582 of this title.

"(b) In any civil action commenced under section 516A of the Tariff Act of 1930, the court shall review the matter as specified in subsection (b) of that section.

"(c) In any civil action commenced under subsection (c) or (d) of section 1581 of this title, the court shall review the matter as specified in those subsections.

"(d) In any civil action commenced under section 1581(e) of this title, the court shall review the matter as specified in section 250 of the Trade Act of 1974. The determination of the Secretary of Commerce under sections 251 and 271 of the Trade Act of 1974 shall be subject to judicial review in the same manner and to the same extent as provided in section 250 of the Trade Act of 1974.

"(e) In any civil action not specified in this section, the court shall review the matter as provided in section 706 of title 5, United States Code.

"§ 2641. Witnesses; inspection of documents

"(a) Except as otherwise provided by law, in any civil action in the Court of International Trade, the parties and their attorneys shall have an opportunity to introduce evidence, to hear and cross-examine the witnesses of the other party, and to inspect all samples and all papers admitted or offered as evidence under rules prescribed by the court. Except as provided in section 2639 of this title, subsection (b) of this section, or any rule prescribed by the court, the Federal Rules of Evidence shall apply to all civil actions in the Court of International Trade.

"(b) The Court of International Trade may order that in any civil action trade secrets and commercial or financial information which is privileged and confidential, or any information provided to the United States by foreign governments or foreign persons, shall not be disclosed or shall be disclosed to a party, its counsel, or any other person, only under such terms and conditions as the court may order.

"§ 2642. Analysis of imported merchandise

"The Court of International Trade may order an analysis of imported merchandise and reports thereon by laboratories or agencies of the United States.

"§ 2643. Relief

"(a) In any civil action commenced under section 1581 or 1582 of this title or in any counterclaim asserted under section 1583 of this title, the Court of International Trade may, if appropriate, enter a judgment for money for or against the United States.

"(b) In any civil action commenced under section 1581(a) of this title or section 516 of the Tariff Act of 1930, if the Court of International Trade is unable to arrive at the correct determination on the basis of the evidence presented, the court may order such further administrative or adjudicative procedures that the court deems necessary.

"(c) In any civil action involving an application for an order requiring the administering authority or to the International Trade Commission to make confidential information available under section 777(c)(2) of the Tariff Act of 1930, the court may issue an order of disclosure only with respect to the information specified in that section.

"(d) In addition to the orders specified in subsections (a), (b), and (c) of this section, the Court of International Trade may order any form of relief which is appropriate, including, but not limited to, declaratory judgments, orders of remand, writs of mandamus, and prohibition and injunction.

"(e) The Court of International Trade may, in extraordinary circumstances, grant appropriate preliminary or permanent injunctive relief upon the request of a person who, after exhausting all appropriate administrative remedies, would have the right to commence a civil action in the Court of International Trade. In ruling upon such a request, the court shall consider, among other matters, whether the person making the request will be irreparably injured if the relief is not granted, and if so, whether the irreparable injury outweighs the effect that the issuance of the requested injunction would have upon the public interest.

"§ 2644. Decisions; findings of fact and conclusions of law; effect of decisions

"(a) A final decision of the Court of International Trade in a contested civil action or a decision granting or refusing an injunction shall be supported by—

"(1) a statement of findings of fact and conclusions of law, or

"(2) an opinion stating the reasons and facts upon which the decision is based.

"(b) Upon motion of a party, or upon its own motion, made not later than thirty days after entry of judgment, the court may amend its findings or make additional findings and may amend the decision and judgment accordingly.

"(c) A decision of the Court of International Trade is final and conclusive, unless a retrial or rehearing is granted under section 2645 of this title or an appeal is taken to the Court of Customs and Patent Appeals within the time and the manner provided in section 2601 of this title.

"§ 2645. Retrial or rehearing

"After the Court of International Trade has rendered a judgment or order the court may, upon motion of a party or upon its own motion, grant a retrial or rehearing, as the case may be. A party's motion shall be made or the court's action on its own motion shall be taken, not later than thirty days after entry of the judgment or order.

"§ 2646. Precedence of cases

"(a) A civil action involving the exclusion of perishable merchandise shall be given precedence over other civil actions pending before the Court of International Trade, and shall be assigned for hearing or trial at the earliest practicable date and expedited in every way.

"(b) Except those civil actions given precedence under subsection (a), a civil action for the review of a determination under section 516A(a)(1)(B) or under section 516A(a)(1)(E) of the Tariff Act of 1930 shall be given precedence over other civil actions pending before the court, and shall be assigned for hearing or trial at the earliest practicable date and expedited in every way.

"(c) Except those civil actions given precedence under subsection (a) or (b), a civil action involving the exclusion or redelivery or merchandise arising under section 1581 of this title or under 516 or 516A of the Tariff Act of 1930, shall be given precedence over other civil actions pending before the court, and shall be assigned for hearing or trial at the earliest practicable date and expedited in every way.".

(b) The table of chapters for part VI of title 28, United States Code, is amended in the item relating to chapter 169 by striking out "Customs Court" and inserting in lieu thereof "Court of International Trade".

TITLE V—COURT OF CUSTOMS AND PATENT APPEALS

SEC. 501. (a) Section 1541(a) of title 28, United States Code, is amended by striking out: "and from any interlocutory order granting, continuing, modifying, refusing, or dissolving an injunction, or refusing to dissolve or modify an injunction, under section 516A (c)(2) of the Tariff Act of 1930:".

(b) Section 1541 is amended by adding at the end thereof the following:

"(c) The Court of Customs and Patent Appeals has exclusive jurisdiction of any appeal from an interlocutory order of the Court of International Trade granting, continuing, modifying, refusing, or dissolving injunctions, or refusing to dissolve or modify injunctions.".

SEC. 502. (a) Section 1543 of title 28, United States Code, is amended to read as follows:

"§ 1543. International Trade Commission determinations

"The Court of Customs and Patent Appeals shall have jurisdiction to review the determinations of the United States International Trade Commission made under section 337 of the Tariff Act of 1930 relating to unfair trade practices in import trade.".

(b) The table of sections for chapter 93 of title 28, United States Code, is amended by amending the item relating to section 1543 to read as follows:

"1543. International Trade Commission determinations.".

SEC. 503. (a) Chapter 93 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1546. Rules of evidence; powers in law and equity; exclusive jurisdiction

"(a) Except as provided in secton 2639 of this title, subsection (b) of section 2641 of this title, or any rules prescribed by the Court of Customs and Patent Appeals, the Federal Rules of Evidence shall apply in the Court in any appeal from the Court of International Trade.

"(b) The Court of Customs and Patent Appeals shall have all the powers in law and equity of, or as conferred by statute upon, the courts of appeals of the United States.

"(c) The Court of Customs and Patent Appeals has exclusive jurisdiction to review—

"(1) any decision of the Secretary of the Treasury to deny or revoke a customs brokers' license under section 641(a) of the Tariff Act of 1930; and

"(2) any action challenging an order to revoke or suspend a license under section 641 (b) of the Tariff Act of 1930.".

(b) The table of sections for chapter 93 of that title is amended by adding at the end thereof the following:

"1546. Rules of evidence; powers in law and equity; exclusive jurisdiction.".

SEC. 504. (a) Section 2601(a) of title 28, United States Code, is amended by adding the following at the end thereof: "If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within fourteen days after the date on which the first notice of appeal was filed.".

(b) The first sentence of section 2601(b) of title 28, United States Code, is amended—

(1) by inserting "or cross appeal" after "appeal" each time it appears; and

(2) by striking out "which shall include a concise statement of the errors complained of".

(c) The third sentence of section 2601(b) of title 28, United States Code, is amended by striking out "and the Secretary of the Treasury or their designees" and inserting in lieu thereof "and any named official".

(d) Section 2601(c) of title 28, United States Code is amended by inserting the following after the first sentence: "Findings of fact shall not be set aside unless clearly erroneous and due regard shall be given to the opportunity of the Court of International Trade to judge the credibility of the witnesses. A party may raise on appeal the question of whether findings of fact are clearly erroneous, whether or not the party raising the questions made an objection to such findings in the Court of International Trade or made a motion to amend such findings.".

SEC. 505. (a) Section 2602 of title 28, United States Code, is amended to read as follows:

"§ 2602. Precedence of cases

"(a) A civil action involving the exclusion of perishable merchandise shall be given precedence over other civil actions pending before the Court of Customs and Patent Appeals, and shall be assigned for hearing at the earliest practicable date and expedited in every way.

"(b) Except those civil actions given precedence under subsection (a), a civil action for the review of a determination under section 516A(a)(1)(B) or under section 516A (a)(1)(E) of the Tariff Act of 1930 shall be given precedence over other civil actions pending before the court, and shall be assigned for hearing at the earliest practicable date and expedited in every way.

"(c) Except those civil actions given precedence under subsection (a) or (b), a civil action involving the exclusion or redelivery of merchandise arising under section 1581 of this title or under 516 or 516A of the Tariff Act of 1930, shall be given precedence over other civil actions pending before the court, and shall be assigned for hearing at the earliest practical date and expedited in every way.

"(d) Except those civil actions given precedence under subsection (a), (b), or (c), an appeal from findings of the Secretary of Commerce provided for in headnote 6 to schedule 8, part 4, of the Tariff Schedules of the United States (19 U.S.C. 1202) shall be given precedence over other civil actions pending before the court, and shall be assigned for hearing at the earliest practicable date and expedited in every way.".

(b) The item relating to section 2602 in the table of sections for chapter 167 of title 28, United States Code, is amended to read as follows:

"2602. Precedence of cases.".

SEC. 506. (a) Chapter 167 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 2603. Judicial Conference

"The Court of Customs and Patent Appeals is authorized to conduct an annual judicial conference for the purposes of considering the business of the court and improvements in the administration of justice in the court.".

(b) The table of contents for chapter 167 of such title is amended by adding at the end thereof the following new item:

"§ 2603. Judicial conference.".

TITLE VI—CONFORMING AMENDMENTS RELATING TO THE NAME OF THE COURT

SEC. 601. Section 1 of the Act entitled "An Act to provide the name by which the Board of General Appraisers and members thereof shall hereby after be known", approved May 28, 1926 (19 U.S.C. 405(a)), is amended by striking out "Customs Court" and inserting "Court of International Trade" each time it appears.

SEC. 602. Section 305 of the Tariff Act of 1930 (19 U.S.C. 1305) is amended by striking out "Customs Court" and inserting "Court of International Trade".

SEC. 603. Section 502(b) of the Tariff Act of 1930 (19 U.S.C. 1502(b)) is amended by striking out "Customs Court" and inserting "Court of International Trade".

SEC. 604. Section 503 of the Tariff Act of 1930 (19 U.S.C. 1503) is amended by striking out "Customs Court" and inserting "Court of International Trade".

SEC. 605. Section 514(a) of the Tariff Act of 1930 (19 U.S.C. 1514(a)) is amended by striking out "Customs Court" and inserting "Court of International Trade" each time it appears.

SEC. 606. Section 516(d) of the Tariff Act of 1930 (19 U.S.C. 1516(d)) is amended by striking out "Customs Court" and inserting "Court of International Trade".

SEC. 607. Section 516(e) of the Tariff Act of 1930 (19 U.S.C. 1516(e)) is amended by striking out "Customs Court" and inserting "Court of International Trade".

SEC. 608. Section 516(f) of the Tariff Act of 1930 (19 U.S.C. 1516(f) is amended by striking out "Customs Court" and inserting "Court of International Trade".

SEC. 609. Section 516A of the Tariff Act of 1930 is amended by striking out "Customs Court" and inserting "Court of International Trade" each time it appears.

SEC. 610. Section 528 of the Tariff Act of 1930 (19 U.S.C. 1528) is amended by striking out "Customs Court" and inserting "Court of International Trade".

SEC. 611. Section 563(a) of the Tariff Act of 1930 (19 U.S.C. 1563) is amended by striking out "Customs Court" and inserting "Court of International Trade".

SEC. 612. Section 7443(d) of the Internal Revenue Code of 1954 (26 U.S.C. 7443(d)) is amended by striking out "Customs Court" and inserting "Court of International Trade".

SEC. 613. Section 252 of title 28, United States Code, is amended by striking out "Customs Court" and inserting "Court of International Trade".

SEC. 614. Section 253(a) of title 28, United States Code, is amended by striking out "Customs Court" and inserting "Court of International Trade".

SEC. 615. Section 254 of title 28, United States Code, is amended by striking out "Customs Court" and inserting "United States Court of International Trade".

SEC. 616. Section 255(a) of title 28, United States Code, is amended by striking out "Customs Court" and inserting "United States Court of International Trade".

SEC. 617. (a) Section 293(b) of title 28, United States Code, is amended by striking out "Customs Court" and inserting "United States Court of International Trade".

(b) Section 293(c) of title 28, United States Code, is amended by striking out "Customs Court" and inserting "United States Court of International Trade" each time it appears.

SEC. 618. Section 569(a) of title 28, United States Code, is amended by striking out "Customs Court" and inserting "United States Court of International Trade".

SEC. 619. Section 605 of title 28, United States Code, is amended by striking out "Customs Court" and inserting "United States Court of International Trade" each time it appears.

SEC. 620. Section 871 of title 28, United States Code, is amended by striking out "Customs Court" and inserting "United States Court of International Trade".

SEC. 621. Section 873 of title 28, United States Code is amended by striking out "Customs Court" and inserting "United States Court of International Trade".

SEC. 622. Section 1340 of title 28, United States Code, is amended by striking out "Customs Court" and inserting "United States Court of International Trade."

SEC. 623. (a) Section 1541(a) of title 28, United States Code, is amended by striking out "Customs Court" and inserting "Court of International Trade".

(b) Section 1541(b) of title 28, United States Code, is amended by striking out "Customs Court" and inserting "United States Court of International Trade" each time it appears.

SEC. 624. Section 2601 of title 28, United States Code, is amended by striking out "Customs Court" and inserting "United States Court of International Trade" each time it appears.

SEC. 625. The table of chapters for part I of title 28, United States Code, is amended in the item relating to chapter 11 by striking out "Customs Court" and inserting "United States Court of International Trade".

SEC. 626. The table of chapters for part III of title 28, United States Code, is amended in the item relating to chapter 55 by striking out "Customs Court" and inserting "United States Court of International Trade".

SEC. 627. (a) The section heading for section 1541 of title 28, United States Code, is amended by striking out "Customs Court" and inserting "Court of International Trade".

(b) The table of sections for chapter 93, title 28, United States Code, is amended in the item relating to section 1541 by striking out "Customs Court" and inserting "Court of International Trade".

SEC. 628. (a) The section heading for section 2601 of title 28, United States Code, is amended by striking out "Customs Court" and inserting "Court of International Trade".

(b) The table of sections for chapter 167, title 28, United States Code, is amended in the item relating to section 2601 by striking out "Customs Court" and inserting "Court of International Trade".

TITLE VII—TECHNICAL AND CONFORMING AMENDMENTS

SEC. 701. Section 337(c) of the Tariff Act of 1930 is amended—

(1) by inserting immediately after "Appeals" the following: ", subject to chapter 7 of title 5, United States Code,"; and

(2) by striking out the last sentence and inserting in lieu thereof the following: "Notwithstanding the foregoing, review of commission determinations under subsection (d), (e), and (f) as to it findings on the amount and nature of bond, the appropriate remedy, or the effect of such order on the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and the United States consumers, shall be reviewable only for abuse of administrative discretion.".

SEC. 702. Section 516A(a)(1) of the Tariff Act of 1930 is amended by inserting "or such other time as provided by statute" immediately after "30 days".

SEC. 703. The second sentence of section 516A(c)(2) of the Tariff Act of 1930 is amended to read as follows: "In ruling upon a request for such injunctive relief, the court shall consider the factors set forth in section 2643(e) of title 28, United States Code.".

SEC. 704. The second sentence of section 516A(d) of the Tariff Act of 1930 is amended to read as follows: "The party filing the action shall notify all such interested parties of the filing of an action under this section in the form, manner, style and within the time prescribed by the rules of that court.".

SEC. 705. Section 592(e) of the Tariff Act of 1930 is amended in the introductory paragraph to read as follows:

"(e) COURT OF INTERNATIONAL TRADE AND DISTRICT COURT PROCEEDINGS.—Notwithstanding any other provision of law, in any proceeding commenced by the United States in the Court of International Trade or in a United States district court, under section 604 of this Act for the recovery of any monetary penalty claimed under this section, or transferred from the Court of International Trade to a district court under section 1581 of title 28, United States Code—".

SEC. 706. (a) The second sentence of the second paragraph of paragraph (b) of section 641 of the Tariff Act of 1930 is amended by striking out all that appears after "filing," and before "sixty," and inserting in lieu thereof "in the Court of Customs and Patent Appeals, within".

(b) The second paragraph of section 641(b) of the Tariff Act of 1930 is amended by inserting the following immediately after the third sentence: "For purposes of this paragraph, all relevant rules prescribed in accordance with sections 2072 and 2112 of title 28, United States Code, apply to the Court of Customs and Patent Appeals.".

SEC. 707. (a) Section 250(a) of the Trade Act of 1974 is amended by striking out "court of appeals for the circuit in which such worker or group is located or in the United States Court of Appeals for the District of Columbia Circuit" and inserting in lieu thereof "Court of International Trade".

(b)(1) Section 250(c) of the Trade Act of 1974 is amended by inserting the following immediately after the first sentence: "The judgment of the Court of International Trade shall be subject to review by the United States Court of Customs and Patent Appeals as prescribed by the rules of the Court of Customs and Patent Appeals.".

(2) Section 250(c) of the Trade Act of 1974 is further amended by striking out "court" the second time it appears and inserting in lieu thereof "Court of Customs and Patent Appeals".

SEC. 708. Section 518(a) of title 28, United States Code, is amended by inserting "and in the Court of International Trade" immediately after "Claims".

SEC. 709. Section 751 of title 28, United States Code, is amended by adding at the end thereof the following:

"(f) When the Court of International Trade is sitting in a judicial district other than the Southern and Eastern Districts of New York, the clerk of that district court or an authorized deputy clerk, upon the request of the chief judge of the Court of International Trade and with the approval of that district court, shall act in the district as clerk of the Court of International Trade in accordance with the rules and orders of the Court of International Trade for all purposes relating to any case pending before the court.".

SEC. 710. Section 1331(a) of title 28, United States Code, is amended by adding at the end thereof the following: "The district courts shall not possess jurisdiction under this section over any matter within the exclusive jurisdiction of the Court of International Trade.".

SEC. 711. Section 1337 of title 28, United States Code, is amended by adding at the end thereof the following:

"(c) The district courts shall not possess jurisdiction under this section over any matter within the exclusive jurisdiction of the Court of International Trade.".

SEC. 712. Section 1355 of title 28, United States Code, is amended by adding at the end thereof the following: "The Court of International Trade shall have jurisdiction of any such action or proceeding commenced in such court under section 1582 of this title.".

SEC. 713. Section 1356 of title 28, United States Code, is amended by adding at the end thereof the following: "The Court of International Trade shall have jurisdiction of any such action or proceeding commenced in such court under section 1582 of this title.".

SEC. 714. The second paragraph of section 1491 of title 28, United States Code, is amended by inserting "within the exclusive jurisdiction of the Court of International Trade, or" after "suits" the first time its appears in the first sentence.

SEC. 715. Section 1919 of title 28, United States Code, is amended by inserting "or the Court of International Trade" after "court" the first time it appears.

SEC. 716. Section 1963 of title 28, United States Code, is amended by inserting the following immediately after "district court" the first time it appears: "or in the Court of International Trade".

SEC. 717. The first paragraph of section 2414 of title 28, United States Code, is amended by inserting "or Court of International Trade" after "court" in the first sentence.

SEC. 718. (a)(1) Except as provided in paragraph (2), this Act, and the amendments made by this Act, shall become effective on the date on which title VII of the Tariff Act of 1930, as added by title I of the Trade Agreements Act of 1979, takes effect.

(2) The amendments made by section 506 of this Act shall become effective on October 1, 1980.

(b) Nothing in this Act shall cause the dismissal of any action commenced prior to the date of enactment under jurisdictional statutes relating to the United States Customs Court or the United States Court of Customs and Patent Appeals in effect before the date of enactment of this Act.

(c)(1) Except as provided in paragraph (2), in reviewing any determination made before January 1, 1980, under section 303 of the Tariff Act of 1930 or the Antidumping Act, 1921, the Court of International Trade and the Court of Customs and Patent Appeals shall base its review on the law as it existed on the date of such determination.

(2) The scope of review and procedures for such review shall be governed by the provisions of, and the amendments made by, this Act.

MOTION OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. VOLKMER moves to strike out all after the enacting clause of the Senate bill, S. 1654, and to insert in lieu thereof the provisions of H.R. 7540, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VOLKMER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 7540, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DOCUMENTARY MATERIALS PRIVACY PROTECTION ACT OF 1980

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3486) to limit governmental search and seizure of materials possessed by persons involved in first amendment activities, to provide a remedy for persons aggrieved by violations of the provisions of this act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3486

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Documentary Materials Privacy Protection Act of 1980".

UNLAWFUL ACTS

SEC. 2. (a) Notwithstanding any other law, it shall be unlawful for a government officer or employee, in connection with the investigation or prosecution of a criminal offense, to search for or seize any work product materials possessed by a person in connection with a purpose to disseminate to the public a newspaper, book, broadcast, or other similar form of public communication, in or affecting interstate or foreign commerce; but this provision shall not impair or affect the ability of any government officer or employee, pursuant to otherwise applicable law, to search for or seize such materials, if—

(1) there is probable cause to believe that the person possessing the materials has committed or is committing the criminal offense to which the materials relate: *Provided, however,* That a government officer or employee may not search for or seize materials described in subsection 2(a) under the provisions of this paragraph if the offense to which the materials relate consists of the receipt, possession, communication, or withholding of such materials or the information contained therein (but such a search or seizure may be conducted under the provisions of this paragraph if the offense consists of the receipt, possession, or communication of information relating to the national defense, classified information, or restricted data under 18 U.S.C. 793, 18 U.S.C. 794, 18 U.S.C. 797, 18 U.S.C. 798, 42 U.S.C. 2274, 42 U.S.C. 2275, 42 U.S.C 2277, or 50 U.S.C. 783); or

(2) there is reason to believe that the immediate seizure of the materials is necessary to prevent the death of or serious bodily injury to a human being.

(b) Notwithstanding any other law, it shall be unlawful for a government officer or employee, in connection with the investigation or prosecution of a criminal offense, to search for or seize documentary materials, other than work product, possessed by a person in connection with a purpose to disseminate to the public a newspaper, book, broadcast, or other similar form of public communication, in or affecting interstate or foreign commerce; but this provision shall not impair or affect the ability of any government officer or employee, pursuant to otherwise applicable law, to search for or seize such materials, if—

(1) there is probable cause to believe that the person possessing the materials has committed or is committing the criminal offense to which the materials relate: *Provided, however,* That a government officer or employee may not search for or seize materials described in subsection 2(b) under the provisions of this paragraph if the offense to which the materials relate consists of the receipt, possession, communication, or withholding of such materials or the information contained therein (but such a search or seizure may be conducted under the provisions of this paragraph if the offense consists of the receipt, possession, or communication of information relating to the national defense, classified information, or restricted data under 18 U.S.C. 793, 18 U.S.C. 794, 18 U.S.C. 797, 18 U.S.C. 798, 42 U.S.C. 2274, 42 U.S.C. 2275, 42 U.S.C 2277, or 50 U.S.C. 783); or

(2) there is reason to believe that the immediate seizure of the materials is necessary to prevent the death of or serious bodily injury to a human being; or

(3) there is reason to believe that the giving of notice pursuant to a subpena duces tecum would result in the destruction, alteration, or concealment of the materials; or

(4) the materials have not been produced in response to a court order directing compliance with a subpena duces tecum, and

(A) all appellate remedies have been exhausted; or

(B) there is reason to believe that the delay in an investigation or trial occasioned by further proceedings relating to the subpena would threaten the interests of justice.

In the event a search warrant is sought pursuant to this subparagraph, the person possessing the materials shall be afforded adequate opportunity to submit an affidavit setting forth the basis for any contention that the materials sought are not subject to seizure.

INAPPLICABILITY OF THIS ACT TO SEARCHES AND SEIZURES CONDUCTED TO ENFORCE THE CUSTOMS LAWS OF THE UNITED STATES

Sec. 3. This Act shall not impair or affect the ability of a government officer or employee, pursuant to otherwise applicable law, to conduct searches and seizures at the borders of or at international points of entry into the United States in order to enforce the customs laws of the United States.

REMEDIES

Sec. 4. For violations of this Act by an officer or employee of the United States, there shall be a cause of action against the United States as provided by section 1346(b) and chapter 171 of title 28, United States Code. Remedies against the United States provided by this section shall be the exclusive remedy or sanction, including the Exclusionary Rule.

DEFINITIONS

Sec. 5. (a) "Documentary materials", as used in this Act, means materials upon which information is recorded, and includes, but is not limited to, written or printed materials, photographs, motion picture films, negatives, video tapes, audio tapes, and other mechanically, magnetically or electronically recorded cards, tapes, or discs, but does not mean contraband, the fruits of a crime, or things otherwise criminally possessed, or property designed or intended for use or which is or has been used as the means of committing a criminal offense.

(b) "Work product", as used in this Act, means any documentary materials created by or for a person in connection with his plans, or the plans of the person creating such materials, to communicate to the public, except such work product as constitutes contraband or the fruits or things otherwise criminally possessed, or property designed or intended for use or which is or has been used as the means of committing a criminal offense.

(c) "Any other governmental unit," as used in this Act, includes the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any local government, unit of local government, or any unit of State government.

TITLE II. ATTORNEY GENERAL GUIDELINES

Sec. 201. (a) The Attorney General shall, within six months of date of enactment of this Act, issue guidelines for the procedures to be employed by any Federal officer or employee, in connection with the investigation or prosecution of an offense, to obtain documentary materials in the private possession of a person when the person is not reasonably believed to be a suspect in such offense or related by blood or marriage to such a suspect, and when the materials sought are not contraband or the fruits or instrumentalities of an offense. The Attorney General shall incorporate in such guidelines—

(1) a recognition of the personal privacy interests of the person in possession of such documentary materials;

(2) a requirement that the least intrusive method or means of obtaining such materials be used which do not substantially jeopardize the availability or usefulness of the materials sought to be obtained.

(3) a recognition of special concern for privacy interests in cases in which a search or seizure for such documents would intrude upon a known confidential relationship such as that which may exist between clergyman and parishioner; lawyer and client; or doctor and patient; and

(4) a requirement that an application for a warrant to conduct a search governed by this Title be approved by an attorney for the government, except that in an emergency situation the application may be approved by another appropriate supervisory official if within 24 hours of such emergency the appropriate United States Attorney is notified.

(b) The Attorney General shall collect and compile information on, and report annually to the Committees on the Judiciary of the Senate and the House of Representatives on the use of search warrants by Federal officers and employees for documentary materials described in subsection (a)(3).

Sec. 202. Guidelines issued by the Attorney General under this Title shall have the full force and effect of Department of Justice regulations and any violation of these guidelines shall make the employee or officer involved subject to appropriate administrative disciplinary action. However, an issue relating to the compliance, or the failure to comply, with guidelines issued pursuant to this Title may not be litigated, and a court may not entertain such an issue as the basis for the suppression or exclusion of evidence.

The SPEAKER pro tempore. Is a second demanded?

Mr. McCLORY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. Kastenmeier) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. McClory) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Wisconsin (Mr. Kastenmeier).

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, sometimes a longstanding principle of constitutional jurisprudence is thrown into doubt by a decision of the Supreme Court which—while it may answer a narrow question based on specific facts—leaves Government officials and members of the public in doubt as to how to interpret the law. When this occurs it is often best for Congress to step in to fill the void, rather than to await the results of many years of potential litigation which will again redefine the principle. This is the case with respect to the matter before us today—legislation to redefine a portion of the law of search and seizure in response to the Supreme Court's decision in Zurcher against Stanford Daily in 1978.

Prior to Stanford Daily, the long established interpretation of the fourth amendment had held that a search warrant was considered to meet the constitutional ban on general searches only if the evidence sought constituted contraband, or fruits or instrumentalities of a crime. This rule was modified in 1967 in Warden against Hayden to permit searches for mere evidence, but the facts of that case involved evidence obtained incidental to an arrest.

In the Stanford Daily case the Supreme Court swept away 200 years of jurisprudence greatly limiting searches directed against innocent third parties. The opinion of the Court, delivered by

Mr. Justice White, set forth a new theory governing third party searches—identifying the standard to be applied in issuing such warrants as one of "reasonableness." Further, while recognizing that any reasonableness requirement must be established with "scrupulous exactitude," where a newspaper was involved, the Court's opinion did not conclude that the first amendment placed any additional restraints on such searches.

The public and congressional response to the Supreme Court's decision was immediate. Newspaper editorials appeared all over the country condemning the Court's decision. And in Congress numerous members, of every ideological and political stripe, introduced remedial legislation. Meanwhile, the President ordered the Attorney General to study the issue and make a legislative recommendation to him. After consultation with constitutional scholars, civil libertarians, law enforcement authorities, and Cabinet officers, the President recommended H.R. 3486, the bill before us today.

As introduced the bill before you protected third parties from arbitrary searches only where first amendment interests were involved. However, with the exception of the Department of Justice, not a single witness in favor of the legislation testified that the protections of the bill should be limited to the press alone. In fact, the representatives of media organizations were among the strongest proponents of expanding the legislation to protect all innocent third parties from arbitrary search and seizure. A great deal of apprehension was expressed about singling out the press for special treatment.

As a result, when the committee met for markup it was agreed that the legislation should be extended to provide guidance to Federal law enforcement officials as to the circumstances under which search warrants should be used to obtain information from innocent third parties other than those engaged in first amendment activities. However, because of the constitutional and policy implications of regulating the police powers of State and local authorities, the committee decided to limit the applicability of any broader third party provisions of the bill to searches by Federal officials only. Of course, we would hope that State legislatures would follow suit, and indeed eight States have already enacted similar legislation. With respect to searches directed against persons preparing materials for broadcast or publication, we retained the features of the original bill—which apply to State and local as well as Federal officials. The justification involved is the historic obligation of the Federal Government to protect the free speech values of the first amendment.

At this point I should note for Members that the Department of Justice and several of our colleagues opposed the amendment adopted by the committee which appears in its report filed on May 30. While the Attorney General strongly urged us to fill the legal void created by the Stanford Daily case in the first amendment area, he desired more flexibility in developing procedures for searches of other third parties.

However, subsequent to the filing of the committee report we have consulted with representatives of the Department of Justice and worked out an alternative which meets with the full approval of the Attorney General and the Department. That alternative is reflected in the committee amendment which I am offering with the bill today. The essential difference between it and the original reported version is that it makes the decision to apply for a warrant for a third party search an administrative matter to be handled solely within the Department of Justice, acting pursuant to statutory guidelines, rather than a judicial matter, requiring the supervision of the judge issuing the warrant. This is basically the procedure which was approved earlier by the Senate when it passed S. 1790, the counterpart to H.R. 3486. Indeed Mr. Speaker, I hope that with the passage of this committee amendment the Senate may accept the House bill without the necessity of a conference.

In addition to providing for administrative guidelines rather than judicial permission for seeking a third party search warrant, the committee amendment contains several other minor changes in the reported bill.

Finally, we have incorporated the suggestions of the gentleman from Ohio (Mr. KINDNESS) for certain technical and clarifying changes.

Mr. Speaker, this is a reasonable bill. It consists entirely of language drafted or approved by law enforcement officials themselves. It enjoys the support of members of all political persuasions. It is endorsed by groups such as the American Society of Newspaper Editors, the Radio Television News Directors Association, the American Newspaper Publishers Association, the American Medical Association, and American Psychiatric Association as well as the ACLU and others. With the committee amendment being offered in conjunction with the bill, I believe it is a noncontroversial bill.

□ 1600

Mr. McCLORY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the gentleman from Wisconsin (Mr. KASTENMEIER), the subcommittee and the full committee for having produced this very important piece of legislation and also to state that the gentleman from Wisconsin has fairly and accurately and fully explained this legislation.

Mr. Speaker, I rise in support of H.R. 3486, the Documentary Materials Protection Privacy Act. When this bill was reported by the full Judiciary Committee, I strongly opposed it on the basis of section 3 of the bill. Section 3 of the bill would have extended the restrictions on third party searches beyond the area in which first amendment interests are implicated.

Among the primary reasons for opposition to section 3 of the bill by the Justice Department and the law enforcement community were: The difficulty of ascertaining at the early stages of an investigation the identity of all participants in a crime, the probability of destruction or alteration of evidence sought by subpena, the limited availability of subpenas as investigative tools, and the absence of evidence of abuse of existing third party search powers by Federal law enforcement. At the time the Judiciary Committee considered H.R. 3486, I found these to be valid concerns, indeed.

Recently, however, a compromise that is acceptable to the Department of Justice, proponents of section 3, and myself, was reached. Under the compromise, which is embodied in a committee amendment, section 3 would be deleted from the bill and the Attorney General would be mandated to promulgate guidelines to govern searches in the third party area.

H.R. 3486, with section 3 deleted, and a guideline approach adopted in lieu thereof, represents a bill which will provide adequate protection for important privacy rights, while insuring legitimate law enforcement needs. I urge my colleagues to support the passage of H.R. 3486.

Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from California (Mr. McCLOSKEY).

□ 1610

Mr. McCLOSKEY. Mr. Speaker, I would like to commend the chairman and members of the Committee on the Judiciary for bringing this bill to the floor in this form. I think it would have been tragic if we had allowed this session of Congress to elapse without resolving the problem that Mr. Justice Stevens referred to in his opinion in the case of the Stanford Daily against Chief Zurcher of Palo Alto.

It is my privilege to represent both the city of Palo Alto and Stanford University. It was significant that in this raid by the Palo Alto Police Department on the editorial offices of the Stanford Daily that the city council of the city of Palo Alto, after winning their case in court, took the position that Congress should amend the law as it is doing in this fashion.

I am sure there are a number of us who would like to extend the protections for the press that are contained in this bill to innocent third parties and perhaps priests and lawyers and doctors who have generally had the privilege against search and seizure of this kind; but in view of the need to have some legislation enacted to protect the press and in view of the other provisions that have been enacted as part of the compromise on the bill, it seems to me that all of us should support the passage of the bill in this form.

Mr. McCLORY. May I say to the gentleman from California that it is contemplated that the guidelines which are mandated by the new section 3 of this legislation, which have been worked out with the Department of Justice, that protection will be provided for the privacy which exists between attorney and client, between patient and doctor, and other rights of privacy which we do want protected. In other words, this is not merely a bill which is directed to the journalists, although we want to protect their interests as well, but we, at the same time, want to be sure that there are no unlawful, unconstitutional searches and seizures, and we expect that the guidelines will protect these constitutional rights of all American citizens.

Mr. McCLOSKEY. I thank the gentleman. I look forward to the formulation of those guidelines by the Attorney General. I hope he will carry on that high tradition which has only recently been established at the Department of Justice.

The SPEAKER pro tempore. Will the gentleman from Wisconsin (Mr. KASTENMEIER) yield to the gentleman from Oregon (Mr. AuCOIN) at this point?

Mr. KASTENMEIER. I yield to the gentleman from Oregon.

REQUEST TO CONSIDER SENATE AMENDMENTS TO HOUSE AMENDMENTS TO S. 1442, AUTHORIZING DOCUMENTATION OF VESSEL "SARA" AS VESSEL OF THE UNITED STATES WITH COASTWISE PRIVILEGES

Mr. AuCOIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 1442) to authorize the documentation of the vessel, *Sara*, as a vessel of the United States with coastwise privileges, with Senate amendments to the House amendments thereto, and agree to the Senate amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendments to the House amendments, as follows:

Page 3, line 23, of the House engrossed amendment, strike out "berth" and insert "load".

Page 4, line 2, of the House engrossed amendment, strike out "berthing" and insert "loading".

Page 4, after line 4, of the House engrossed amendment, insert:

SEC. 6. Notwithstanding section 27 of the Merchant Marine Act, 1920, as amended (46 U.S.C. 883), or any other provision of law to the contrary, the vessel known as the Scuba King, official numbered 532376, owned by Bernard Despins, shall be entitled to be documented to engage in the fisheries and the coastwise trade upon compliance with the usual requirements, so long as such vessel is, from the date of enactment of this section, continuously owned by a citizen of the United States. For the purposes of this section, the term "citizen of the United States" includes corporations, partnership, and associations, but only those which are citizens of the United States within the meaning of section 2 of the Shipping Act, 1916 (46 U.S.C. 802).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon (Mr. AuCOIN)?

Mr. McCLOSKEY. Mr. Speaker, reserving the right to object, I wonder if I could ask the gentleman from Oregon to explain what, if any, changes are in the bill from that that passed the House on suspension last August 26?

Mr. AuCOIN. Mr. Speaker, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Oregon.

Mr. AuCOIN. Yes; I would be pleased to respond to my friend from California. The other body on September 19, 1980, passed S. 1442 with two changes. The Senate added another vessel to the six named in the bill, the *Scuba King*, which has the same characteristics as the other six vessels that the House included in its legislation.

In addition to that, the Senate changed the priority berthing to priority loading, a change which all agree is necessary so that vessels which have berthing priority will not tie up and occupy scarce dock space before the hold which it has contracted to carry is available for loading. Those are the only changes.

The SPEAKER pro tempore. The Chair would like to advise the gentleman from Oregon (Mr. AuCOIN) that the time now being consumed comes from the time of the gentleman from Wisconsin (Mr. KASTENMEIER).

Is there objection to the request of the gentleman from Oregon (Mr. AuCOIN)?

Mr. DANIELSON. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The Chair now recognizes the gentleman from Wisconsin (Mr. KASTENMEIER).

DOCUMENTARY MATERIALS PRIVACY PROTECTION ACT

Mr. KASTENMEIER. Mr. Speaker, I yield myself 1 minute to express my thanks to the members of the committee who worked on this bill. I refer to some of the amendments which were in fact offered by various members of the full committee and the subcommittee of the Committee on the Judiciary and to indicate as a result of the colloquy between the gentleman from Illinois (Mr. McCLORY) and the gentleman from California (Mr. McCLOSKEY), who was an early proponent of legislation, that indeed section 3 is replaced by title II, Attorney General guidelines. It is quite explicit in terms of what it requires in terms of the development of guidelines. It calls for those guidelines to have the full force and effect of the Department of Justice regulations, and it also calls upon the Attorney General to report annually to the committees of the Congress in terms of this matter so that we will be able to monitor on a year-to-year basis the issuance of such warrants, and whether the procedures are as contemplated.

The SPEAKER pro tempore. The time of the gentleman from Wisconsin (Mr. KASTENMEIER) has expired.

Mr. KASTENMEIER. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Speaker, I have come to the well reluctantly but necessarily because I oppose this bill. I think it is a bad bill, and I hope that tomorrow when the time comes to vote, it will be defeated.

I have not seen the amendment which the gentleman from Wisconsin refers to. Apparently it is not in print. I did inquire for it earlier this afternoon. So I do not know for sure what it contains.

However, I must therefore address mysel fto the bill as it is in print.

In the first place, I respectfuly submit that we are not here dealing with a question of constitutionality. The Supreme Court of the United States in the case of *Zurcher* v. *Stanford Daily*, 1978, reported at 436 U.S. at 547, found that this search, that this issuance of a warrant, was constitutional. We are not confronted with the issue of constitutionality.

I respectfully submit that if these activities are not unconstitutional, we are here, by this law, diminishing the availability of the search warrant to be used in connection with the enforcement of our criminal laws.

If these activities were unconstitutional, this bill would not be necessary because we can neither add to, nor subtract from, the Constitution by legislation.

I oppose the purposes of this bill, H.R. 3486, in their entirety. I believe that there should be no special exceptions from the coverage of the fourth amendment for those persons known as the press, nor for anyone else.

The bill would exempt from the reach of search warrants materials in the possession of persons who intend to disseminate the material to the public in some form of public communication, whatever that may be. There are certain limited exceptions.

In my opinion the Congress would be making a gross and unacceptable error if it were to create an elite class of persons, be they press or anyone else, who would enjoy a privileged status under our laws and the Constitution. It is fundamental in our system of justice that no one should be above the law and the Constitution. The Judiciary Committee itself made that point eminently clear when it voted articles of impeachment against former President Nixon. And the Supreme Court of the United States clearly did the same in its decision in the *United States* v. *Nixon*, 418 U.S. 683 (1974).

Those who fear that law enforcement has the right, under present law, to conduct unreasonable and unwarranted excursions into the private papers of the people could well read again the clear and exacting standards for searches which are set forth in the fourth amendment to the Constitution, which provides:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.
>
> And no warrants shall issue, but upon probable cause, supported by oath or affirmation,
>
> And particularly describing the place to be searched, and the persons or things to be seized.

Those standards are high. They insure that the security of the people in their fundamental area of privacy shall not be violated, and that no search warrant can issue unless:

First. The proposed search is reasonable;

Second. There is probable cause;

Third. Supported by oath or affirmation;

Fourth. Describing with particularity;

Fifth. The place to be searched; and

Sixth. The persons or things to be seized.

These are very high standards. They have stood the test of time and trial since 1791; they have been briefed, argued, debated, and refined in numerous decisions of our courts; and they have provided the American people with a degree of security in their persons, homes, papers and effects that has never been equaled in any society.

Further, there are other safeguards which prevent the indiscriminate issuance of search warrants. For instance, we must remember that search warrants are not issued by the law enforcement authorities themselves. Those officers must go to court or a magistrate and apply for the issuance of the warrant. That application must reflect the probable cause and other particulars set forth in the fourth amendment, and it must be supported by oath or affirmation before the court will issue the warrant.

The special elite corps which the bill would protect in its section 2 is indefinable. I submit that very nearly anyone or everyone can reasonably contend that he plans to disseminate the documentary material in his possession to the public in some form of public communication; either now or later. This would certainly apply to anyone who has the intent of ever distributing to the public a newsletter, a mimeographed flyer, some gossip on a radio talk show, or a handbill, as well as to a traditional newspaper.

I respectfully submit that this is bad legislation, and it should be soundly defeated. Its great evils are that it creates an elite corps of persons who would be above the law—a classification to which a responsible and professional newsman should not subscribe; it creates sanctuaries for the concealment of evidence of crime; and it would impose severe and added burdens on law enforcement at a time when the public is crying out for more and more effective enforcement of our laws.

Here are some more of my objections: Who is covered by this bill? I do not know. I have studied it. In section 2(a) it says that—

> It shall be unlawful for a government officer or employee, in connection with the investigation or prosecution of a criminal offense, to search for or to seize any work product materials possessed by a person.

□ 1620

Possessed by a person—what person? Any person. There is no limitation whatsoever so long as the possession is with a purpose to disseminate to the public a newspaper, book, broadcast, or similar form of public communication.

Well, I respectfully submit, Mr. Speaker, some day I intend to publish my memoirs a fortiori, everything in my files I do intend some day possibly to disseminate to the public in the form of a book, newspaper, broadcast, or other similar form of public communication.

I respectfully submit that that open door is available to anyone who might wish to use it.

Under subsection (b) under section 2, we go beyond "work product" to any documentary material; in fact, specifically "documentary materials, other than work product."

We now open the door completely and bring in everything that is documentary. That is defined later on in the bill to be almost every conceivable sort of thing, whether it be in print, tape, videotape, negative, film, out-take, or interview file; just about anything that is tangible. It is very broad, Mr. Speaker.

I also respectfully point out that this bill has been presented to the House in a somewhat unfortunate manner. The Whip Advisory refers to this as protecting "institutional press." There is nothing in the bill referring to institutional press. But if there were, I do not know how we would define it.

How about poor Tom Paine of our Revolution, who put out a flier once in a while to stir the spirit of freedom in our patriots? Would he qualify as institutional press? I doubt it. I think you and I, Mr. Speaker, and everyone else in this House has put out more press releases than Tom Paine generated in his entire life. Therefore, are we the press? Perhaps we are. If so, if this bill is enacted we cannot be searched, gentlemen.

And this bill, Mr. Speaker, not only prevents seizure, it prevents search. No person can search. He cannot search in a public parking lot. He cannot search anywhere. He simply cannot search. If what he is going after is work product or documentary material, no more search. That is the end of it.

The title of the bill speaks of "first amendment activities," yet the bill seems to be restricted to activities which relate to what is commonly called "the press." The first amendment provides that the Congress shall make no law—

Respecting an establishment of religion;

Or prohibiting the free exercise thereof;

Or abridging the freedom of speech;

Or of the press;

Or the right of the people peaceably to assemble; and

To petition the Government for a redress of grievances.

None of these basic rights is affected by this bill except, inferentially, freedom of the press. After indirectly touching that freedom the bill soars off into the unknown and prohibits all Government officials, Federal State, county, and local, from: First, searching for (no matter where); and second, from seizing, (no matter what the circumstances), documentary material.

I submit that is outrageous that all law enforcement officers are flatly prohibited from searching for documentary materials which are evidence of criminal activity solely because the possessor of them can represent that he has a purpose to disseminate the materials to the public in a "newspaper, book, broadcast, or other similar form of public communication," and then to define "documentary materials" in the broadest possible terms.

I seriously question that the Congress has the naked right to bar the search and seizure activities of non-Federal law enforcement officers in matters that do not violate the Constitution, and clearly the Supreme Court held in Zurcher against Stanford Daily that the events described therein were not unconstitutional. Yet this bill does precisely that, it bars State and local law enforcement officers from conducting searches for seizures of documentary evidence.

It has also been argued that the Supreme Court decision in Zurcher sets up a "new standard, of reasonableness." I submit, Mr. Speaker, that there is nothing new about that standard, it is as old as the fourth amendment itself. That amendment requires, we will remember, that—

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.

Stating that the standard is "reasonable" is only the affirmative form of stating that the searches shall not be "unreasonable." Lastly, this bill is preferential in nature in that it favors unreasonably one class of persons over many others who are similarly situated. It is 180 degrees the opposite of "equality before the law."

I urge the defeat of this bill.

Mr. McCLORY. Mr. Speaker, I yield myself such time as I may consume.

It is true that the bill comes to the floor in a slightly different form than it emerged from the Committee on the Judiciary as a result of this amendment; but the result of the amendment, it seems to me, is to assure that the law enforcement agencies will continue to have the kind of authority which they require in connection with searches and seizures, which are in pursuance of enforcement of suspected criminal activity.

As a substitute for the elimination of the paragraph which would have limited the law enforcement authority in this area, there is a new section being added which specifies that the Attorney General shall within 6 months of the date of enactment of the act provide guidelines which would be a directory of Federal officers who feel that documentary materials which are in private possession are essential and are important to have in connection with the criminal prosecution.

It seems to me that those of us who objected to the provisions which would have limited law enforcement agencies are satisfied that this provision authorizing the establishment of guidelines is an adequate answer and will protect the law enforcement community. At least, that is my feeling and that is my expectation.

I do not want to do anything to limit or restrict full and fair law enforcement. I think that this legislation would not do that.

At the same time, it does seem that there was a public concern as a result of the search carried out in connection with the Stanford Daily situation. This would provide for the issuance of subpenas and not search warrants in connection with that kind of an investigation, that kind of a requirement or desire for documentary evidence.

So I have the feeling that the legislation is in good shape now and does respond to the needs of the law enforcement community, at the same time protecting the constitutional interests of the private citizen. I believe that the measure should be overwhelmingly passed.

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. DANIELSON. Mr. Speaker, would the gentleman yield for a question?

Mr. KASTENMEIER. I yield for a question.

Mr. DANIELSON. What is the nature of the amendment which apparently accompanies the bill; would the gentleman state, so that the record will reflect it?

Mr. KASTENMEIER. The amendment consists of striking section 3 which was objected to, as pointed out by the gentleman from Illinois (Mr. McClory) by some Members, which was a requirement that the Federal Government in all cases of innocent third party searches go through the same procedures more or less as in section 2, and in lieu thereof placing Attorney General guidelines which are a slight variation of those enacted by the Senate in lieu of a statutory requirement that these warrants be obtained only in a particular way.

Mr. DANIELSON. In other words, section 3 as it appears in the printed bill has been stricken in its entirety and a different section, including the guidelines to which the gentleman refers, has been substituted in its place?

Mr. KASTENMEIER. Yes, and the guidelines consist of a single page that I thought was available to the gentleman. I am sorry it was not earlier so that the gentleman could have had a chance to examine it more closely.

Mr. DANIELSON. Section 4 remains as it was, I gather.

Mr. KASTENMEIER. Yes, the remedy section, indeed, as offered by the gentleman from Illinois (Mr. Hyde) and supported by the gentleman from California remains intact.

Mr. DANIELSON. That would be both section 4 and section 5 relative to the Tort Claims Act.

Mr. KASTENMEIER. Yes, exactly.

Mr. DANIELSON. There is a definition in the bill, subsection (c) on page 10, line 4.

Mr. KASTENMEIER. In terms of the definition, page 2 of the committee amendment, consisting really of technical amendments offered by the gentleman from Ohio (Mr. Kindness) were accepted and modified very slightly the definition section. This is reflected on page 2.

Mr. DANIELSON. On page 10, there is a definition of "any other governmental unit", to which I refer.

Mr. KASTENMEIER. That remains unchanged.

Mr. DANIELSON. There is no language within the bill that I am aware of that refers to any other governmental unit, so I am bringing that to the attention of the gentleman. I think it may be only a technical error, but I do not find any other use of that phrase within the bill.

Mr. KASTENMEIER. My memory is not precise on that point. I do not recall how the term is used.

Mr. DANIELSON. One other thing. This does restrict the right of not only Federal law enforcement officials, but it inhibits the right of State officials, county, municipal, or any others, as well, to use search warrants for evidentiary documentary material.

Mr. KASTENMEIER. Yes, as far as section 2 is concerned in terms of the first amendment, it always has been both a State and Federal bill.

Mr. DANIELSON. I thank the gentleman.

● Mr. QUAYLE. Mr. Speaker, I commend the House Judiciary Committee and my colleagues for completing action on H.R. 3486 the Documentary Materials Privacy Protection Act, a bill to remedy the Supreme Court's Zurcher against Stanford Daily decision, and bringing it to the floor.

I have worked to achieve just such a remedy since the Court ruled on this case on May 31, 1978. In this decision, the Court ruled that it is lawful to conduct surprise searches against a news organization, business, or private home even if the employees or occupants were innocent of wrongdoing.

This decision weakened the first and fourth amendments and intruded into the privacy not only of the media, but of all citizens.

On June 7, 1978, I introduced the Citizen Protection Act to mandate any law official use a subpena to gather information from a person who has "a reasonable expectation of privacy."

In making the decision, the Court specifically called for "congressional action to establish a nonconstitutional protection against possible abuses of the search warrant procedure."

Although the Zurcher case concerned a newspaper, the effect of the decision was much broader. In effect, every business, home, or office could be subject to a forcible entry and search even though none of the persons employed or residing there were suspected of a crime.

I do not argue that prosecutors and law enforcement officers should have the authority to gather evidence. My legislation, which is similar to that considered by the House, stated specifically that if a person is considered to be involved in a crime or if there is reasonable evidence that the material sought could be destroyed while the subpena is being sought, then other methods may be used.

However, I commend my colleagues for their steadfast support of freedom from unreasonable search and seizure. This freedom traces back to the colonial period when Samuel Adams drafted the "Rights of Colonists and the List of Infringements and Violations of Rights in 1772." By passing this bill we are in keeping with the great expectations of our forefathers.

It is the role of Congress to insure that the rights of all Americans are protected in 1980 as the framers of the Constitution intended in 1776. In passing this legislation we have carried out our duty to respond to the Court's challenge by mandating the use of the subpena rather than forced unannounced searches to innocent third parties.●

● Mr. KINDNESS. Mr. Speaker, I rise to contribute to the legislative history of H.R. 3486 which was considered earlier today.

During full committee markup, I raised several questions about certain words and phrases which were used in the bill because I felt that they lacked precision and thus could lead to confusion as to exactly what this bill protected and how law enforcement authorities were to comply with its provisions.

My first concern was the definition of "documentary materials." As stated in the bill, it seemed to be an attempt to give examples that related to the newsroom; yet, it failed to recognize the increasingly sophisticated means of recording information. The committee amendment includes a new definition which I believe more adequately reflects the modern-day meaning of "documents upon which information is recorded."

The second area of concern had to do with the phrase "the criminal offense for which the materials are sought." My question was "Sought for what?" I raised this and the previous question in a letter to Philip Heymann, Chief of the Criminal Division of the Department of Justice. I believe that my letter and his response, which are here submitted for the record, more fully explain my concern over this phraseology and the substitution, in the committee amendment, of the phrase "the criminal offense to which the materials relate."

House of Representatives,
Washington, D.C., April 18, 1980.

Mr. Philip Heymann,
Assistant Attorney General, U.S. Department of Justice, Criminal Division, Washington, D.C.

Dear Phil: As you know, the House Judiciary Committee yesterday reported a bill intended to provide protection to newspersons and "innocent third parties" from searches such as that which prompted the Zurcher v. Stanford Daily case.

I am told that your division had quite a bit to do with the drafting of this legislation, and since the Committee was unable to answer my questions, I would like to pose them to you.

1. In the definition section, it is not at all clear to me what is meant by "tapes", "outtakes", and "interview files". Since video tapes are specifically mentioned, does "tapes" refer to just audio tapes? How about computer tapes? Isn't an "outtake" film on videotape? Is "interview file" a widely-accepted term of art in the news business and understood by law enforcement personnel so as to be a meaningful term to use? Isn't an "interview file" composed of written or printed material, audiotapes, photographs, etc. (which are otherwise listed). Just what does this term mean?

2. In four instances in the bill, the following language appears: ". . . the offense for which the materials are sought . . .". Are the materials sought for the investigation of the criminal offense? the prosecution of that offense? The language of the bill implies that the materials would be sought for the commission of the crime—an obviously unintended grammatical error. Should steps be taken to negate inferences that the materials sought be relevant to the prosecution of the offense or must be admissible evidence?

I have some difficulties with this legislation in other respects; but if the bill passes into law in this form. I don't want to share the embarrassment of having done nothing to at least clear up the areas discussed in this letter. I would appreciate your support in formulating amendment language to be offered when the bill is considered by the House of Representatives. Your early attention to these questions would be most helpful and I hope to hear from you before the full House of Representatives takes up this bill.

Sincerely yours,
THOMAS N. KINDNESS,
Member of Congress.

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., June 9, 1980.

Hon. THOMAS N. KINDNESS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN KINDNESS: This is in response to the questions you raised concerning the language of certain provisions of H.R. 3486.

First, you are correct in noting that there is some overlap in the terms which are incorporated in the bill's definition of "documentary materials." It was intended that these terms serve as illustrations of the types of documentary materials which might be sought in a search coming within the scope of the bill as drafted by the Department of Justice for the Administration. They were not intended to be either all inclusive or mutually exclusive.

In light of the actions of the Committee in approving an expansion of the scope of the bill far beyond the area of First Amendment activities to which the bill was originally limited, the retention of these terms as illustrations of "documentary materials" may be out of place since they were examples of documentary materials likely to be held by those involved in First Amendment activities.

Your second question concerned the language "the offense for which the materials are sought." Perhaps this phrase could be clarified if it were amended to read "the offense to which the materials sought relate." Rule 41(b) of the Federal Rules of Criminal Procedure presently requires that materials sought by search bear a relationship to a particular criminal offense. Rule 41(b) provides:

"(b) Property Which May be Seized with a Warrant. A warrant may be issued under this rule to search for and seize any (1) property that constitutes evidence of the commission of a criminal offense; or (2) contraband, the fruits of crime, or things otherwise criminally possessed; or (3) property designed or intended for use or which is or has been used as a means of committing a criminal offense."

However, you are correct in suggesting that there should be no inference that the materials sought be admissible as evidence. Determinations of admissibility occur at suppression hearings and at trial. The question of the admissibility of the items to be seized as evidence at trial is not at issue at a warrant proceeding.

Since you expressed an interest in this legislation generally, I am enclosing a copy of the Attorney General's recent letter to the Chairman and members of the Senate Judiciary Committee concerning S. 1790, the Senate *Stanford Daily* bill.

Sincerely,
PHILIP B. HEYMANN,
Assistant Attorney General,
Criminal Division.●

● Mr. HYDE. Mr. Speaker, I rise in reluctant support of this legislation. Since the moment it emerged from the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, I opposed a provision then contained in section 3 of the bill and which was designed to extend the "subpena-first" rule to "all innocent third parties." At that time, I offered an amendment to strike that section and fully intended to join with my colleague from the other side, Mr. DANIELSON from California, in offering an amendment on the floor to remove that portion of the bill. The Justice Department has since withdrawn its support for this amendment and so I will not offer it.

As has been stated, this legislation is principally designed to protect the public's right to know. It is not designed to make a sweeping change in constitutional law regarding the probable cause standard contained in the fourth amendment. In Zurcher against Stanford Daily, 436 U.S. 597 (1978), the Court held that the fourth amendment's minimal requirement for the issuance of a search warrant is probable cause to believe the evidence exists where you wish to search. Congress, of course, has the power to broaden and build upon that standard. This is what we have done with the creation of the "subpena first" rule now contained in the bill. By this procedure, law enforcement authorities must seek a subpena first before resorting to the issuance of a search warrant. Unfortunately, the sponsors of this legislation are not content to make changes which protect confidential informants from discovery pursuant to unannounced searches. They seek to extend this rule to "all third parties," including employees and relatives of criminals.

On March 31, 1980, Attorney General Benjamin Civiletti denounced the passage of H.R. 3486 with section 3 as a part thereof. Similarly, the other body was unable to pass its version of the bill with section 3 as a part thereof. Instead, guidelines have evolved and the Department of Justice has indicated a willingness to accept them. Apparently a compromise has been reached, the wisdom of which I am not yet convinced.

In my judgment there is no logical distinction between guidelines and the provisions of section 3. This bill is designed to protect the public's right to know, and in doing so to protect confidential sources whose identities may inadvertently be discovered during an unannounced search pursuant to a warrant. It is not designed to protect employees of organized crime and family members who may frequently serve as statutorily created sanctuaries in which previously accessible evidence can be stored indefinitely.

It is because I sincerely support the public's right to know and the protections provided in this bill to insure that right that I will support this bill. I hope the guidelines the Department issues will not hinder the performance of its law enforcement responsibilities.●

● Mr. RAILSBACK. Mr. Speaker, I would like to commend the chairman and members of the subcommittee for their efforts on H.R. 3486, which I believe represents a reasonable approach to the sensitive issues posed by the Supreme Court's decision in Zurcher against Stanford Daily. I would also like to commend my good friend and colleague from Indiana (DAN QUAYLE) as well as my good friend and colleague, PETE MCCLOSKEY, who have been instrumental in the consideration and shaping of this legislation.

In Zurcher, the Court held that neither the fourth amendment's prohibition of unreasonable searches and seizures, nor the first amendment's protection of freedom of the press, prohibited the police, pursuant to a warrant from searching the office of a newspaper, although no member of the newspaper's staff was suspected of criminal activity. However, as the Court acknowledged in its opinion, the Congress and State legislatures are not precluded from passing legislation to provide the safeguards that the Court ruled were not compelled by the Constitution.

I think, to fully appreciate the implications of the Zurcher decision, it is imperative to view it in conjunction with the Supreme Court's 1967 decision in Warden against Hayden. Pre-Hayden, warrants were used to search for contraband, fruits, and instrumentalities of a crime, but mere evidence such as documents, had never been considered a lawful object of a search. In Warden against Hayden, the Court overruled the "mere evidence" rule and as a result, any material that is considered relevant to a criminal investigation is subject to search and seizure. But the subject of the search in Warden was a criminal suspect. Not until Zurcher were nonsuspects made subject to broad searches.

As Justice Stevens noted in his dissent in Zurcher.

> Countless law-abiding citizens—doctors, lawyers, merchants, customers, bystanders—may have documents in their possession that relate to an ongoing criminal investigation. The consequences of subjecting this large category of persons to unannounced police searches are extremely serious. The ex parte warrant procedure enables the prosecutor to obtain access to privileged documents that could not be examined if advance notice gave the custodian an opportunity to object. The search for the documents described in a warrant may involve the inspection of files containing other private matter.

H.R. 3486 is based on the principle that the Government should not make unnecessary or unreasonable intrusions into an innocent party's affairs. In this regard, H.R. 3486 would provide statutory protection for press searches conducted by State, local, and Federal law enforcement officials. There will be a committee compromise amendment covering nonsuspects not engaged in first amendment activities. The amendment mandates that the U.S. Department of Justice create guidelines for Federal searches seeking documentary materials and brings H.R. 3486 into general conformity with the Senate bill. The value of the guidelines is that they will serve as an example for the State and local communities where all of the abuses have, to date, occurred.

I believe H.R. 3486 represents a careful balancing of the interest of law enforcement on the one hand, and the privacy rights of individuals on the other. I urge my colleagues to support the adoption of H.R. 3486.●

● Mr. SAWYER. Mr. Speaker, I rise in support of H.R. 3486, an important bill that would modify the Supreme Court's decision in Zurcher against Stanford

Daily. During the 5 days of hearings held by the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, it was the consensus of the witnesses that Zurcher posed a serious threat to the constitutionally guaranteed rights of individual privacy and freedom of the press.

H.R. 3486 creates a statutory protection for press searches of State, local, and Federal law enforcement officials. For other nonsuspects not engaged in first amendment activities, H.R. 3486 mandates that the Justice Department create guidelines for searches seeking documentary materials. Originally, I had introduced my own bill, H.R. 1305, that would protect all innocent third parties from police searches except under certain conditions. This approach was the recommendation of a Republican task force on privacy which I chaired during the 95th Congress. However, I recognize that the guideline approach is an improvement over current law and can provide significant protection for individual privacy rights.

It is my hope, and the committee's intention, that State legislatures will look toward H.R. 3486 as a model and draft their own responses to Zurcher against Stanford Daily. I urge an "aye" vote on H.R. 3486.●

● Mr. KOSTMAYER. Mr. Speaker, today I join the gentleman from North Carolina (Mr. PREYER), the distinguished chairman of the Subcommittee on Government Information and Individual Rights, in introducing legislation to amend the Privacy Act of 1974 and the Communications Act of 1934 to provide for the protection of telephone records.

The need for legislation such as that introduced today by the gentleman from North Carolina and myself has been apparent since the U.S. Supreme Court's decision in 1979 in the case of Smith against Maryland. The Court held then that the installation of a pen register, a device to record the telephone numbers dialed, at the request of the police is not a search within the meaning of the fourth amendment and does not require a warrant. The Court reasoned that a private citizen's use of a telephone carries an assumed risk that the telephone company will reveal information about dialed numbers to the police, in other words that there is no expectation of privacy on the part of the citizen.

Mr. Speaker, I believe the Smith against Maryland decision is contrary to the public interest and contrary to recent congressional intent to tighten—not weaken—fourth amendment privacy safeguards. For example, in title III of the Omnibus Crime and Safe Streets Act of 1968 Congress forbade the use of electronic surveillance except when judiciary authorized upon application by law enforcement authorities in limited circumstances. Congress determined that a wire tap is a particularly intrusive investigatory device which demands considerable safeguards against abuse. Title III was enacted to give the police a means to use wire taps and other forms of electronic surveillance necessary to combat sophisticated forms of crime, and to permit such use only consistent with the rights of individuals and consistent with constitutional interpretations of the right of privacy.

The Supreme Court's approval of the installation of pen registers last year without a court order or warrant, is in sharp contrast to the policy laid down by Congress in the 1968 act.

Furthermore, in the Foreign Intelligence Surveillance Act of 1978, Congress required judicial authorization not only for electronic wiretaps but also for pen register installation in connection with foreign intelligence surveillance activities. If Congress has deemed it necessary for judicial approval for pen register surveillance of foreign agents, certainly U.S. citizens deserve no less protection under our laws.

In 1977, Mr. Speaker, the Privacy Protection Study Commission, recommended to Congress in its report that access to telephone records by Government agents be permitted only through the use of a subpena. The Privacy Protection Study Commission (PPSC) reviewed the recordkeeping practices of the telephone companies and also the nature of the information needed by the telephone company to accurately bill its customers. Such records normally include such information as the date, time, and duration of each call as well as the numbers—even local numbers—dialed from a subscriber's phone. It is therefore quite simple upon examination of such a record to draw a fairly complete and I think intrusive profile of the telephone subscriber's social, business, and political contacts.

The record is the property of the telephone company, and normally is used solely for billing purposes. But contrary to the reasoning of the Supreme Court, should not the subscriber have some proprietary interest in the information contained in the record if it is used for any other purpose besides billing?

The PPSC reviewed the practices of the American Telephone & Telegraph Co. and its subsidiaries and learned that it has been their policy to provide customer records to Government agencies upon the presentation of administrative subpena or summons, with notice to the customer. However, a Government agency need only certify to the telephone company that contemporaneous notice to the customer would impede or obstruct an official investigation, and there will be no notice for a period of 90 days. The telephone company told the PPSC that 80 to 85 percent of agency requests for records contain such a nondisclosure directive.

A.T. & T. told the Privacy Commission that it would not alter its policy to require a court order rather than administrative summons or letter of demand from the investigating agency, unless Congress enacted such a requirement into law. For that reason, the PPSC concluded that access to telephone records by Government agents should be permitted only through the use of a subpena with notice to the customer and with the right for the customer to challenge the Government's actions, and so recommended.

The legislation I have introduced today adopts this recommendation, but provides that if an investigation would be compromised by a contemporaneous disclosure, the Government can secure such records through a warrant certified by a judge showing probable cause to believe that criminal activity is involved and that the information sought is relevant to the investigation and could not reasonably be obtained elsewhere. The legislation therefore fully protects legitimate inquiries on the part of the Government which would be compromised by disclosure.

Mr. Speaker, Justice Felix Frankfurter once wrote, the history of liberty has largely been the history of procedural safeguards.

Congress over the last decade has been responsive to the need for such safeguards through the enactment of legislation such as the Privacy Act, 1974, the Family Education Rights and Privacy Act, 1974, and the Right to Financial Privacy Act, 1978, incorporated as title XI of the Financial Institutions Control Act.

The need for procedural safeguards in the area of telephone records has been sharpened in recent days by the disclosure that the Department of Justice within the last year has subpenaed telephone records of the New York Times and one of its reporters contrary to the Department's own guidelines articulated in the wake of the Supreme Court decision in Zurcher against Stanford Daily (1978). This incident has been discussed in the press, on the editorial pages of the Nation's newspapers and was raised by the gentleman from North Carolina on the floor of the House on September 10, 1980. The actions of the Department of Justice in procuring telephone records of reporters—reporters not suspected of any crime nor the targets of any investigations—is troubling to me and is further reason why I believe legislation is needed.

Finally, Mr. Speaker, I might point out the legislation that I am introducing is identical to that bill introduced today by the chairman of the subcommittee, the gentleman from North Carolina (Mr. PREYER), in all but two respects. Section IV(c)(2) of my bill mandates that under ordinary circumstances telephone records held by the phone company be destroyed within 180 days. This provision corresponds to existing telephone company policies. Also, the standard established by my legislation for issuance of a warrant without notification to the subscriber is that of probable cause, not the standard of reasonable cause used in the legislation of the gentleman of North Carolina. Probable cause is the standard required under the fourth amendment for a search warrant.

Mr. Speaker, I urge my colleagues to join with the gentleman from North Carolina and myself in supporting legislation to extend privacy protections to telephone records of the citizens of this country.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER) that the House suspend the rules and pass the bill, H.R. 3486, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to limit governmental search and seizure of documentary materials possessed by persons, to provide a remedy for persons aggrieved by violations of the provisions of this act, and for other purposes."

A motion to reconsider was laid on the table.

House Resolution 749 was laid on the table.

☐ 1630

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 1790), entitled the "Privacy Protection Act of 1980."

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1790

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Privacy Protection Act of 1980".

TITLE I—FIRST AMENDMENT PRIVACY PROTECTION

PART A—UNLAWFUL ACTS

SEC. 101. (a) Notwithstanding any other law, it shall be unlawful for a government officer or employee, in connection with the investigation or prosecution of a criminal offense, to search for or seize any work product materials possessed by a person reasonably believed to have a purpose to disseminate to the public a newspaper, book, broadcast, or other similar form of public communication, in or affecting interstate or foreign commerce; but this provision shall not impair or affect the ability of any government officer or employee, pursuant to otherwise applicable law, to search for or seize such materials, if—

(1) there is probable cause to believe that the person possessing such materials has committed or is committing the criminal offense for which such materials are sought: *Provided, however,* That a government officer or employee may not search for or seize such materials under the provisions of this paragraph if the offense for which such materials are sought consists of the receipt, possession, communication, or withholding of such materials or the information contained therein (but such a search or seizure may be conducted under the provisions of this paragraph if the offense consists of the receipt, possession, or communication of information relating to the national defense, classified information, or restricted data under the provisions of section 793, 794, 797, of 798 of title 18, United States Code, or section 224, 225, or 227 of the Atomic Energy Act of 1954 (42 U.S.C. 2274, 2275, 2277), or section 4 of the Subversive Activities Control Act of 1950 (50 U.S.C. 783)); or

(2) there is reason to believe that the immediate seizure of such materials is necessary to prevent the death of, or serious bodily injury to, a human being.

(b) Notwithstanding any other law, it shall be unlawful for a government officer or employee, in connection with the investigation or prosecution of a criminal offense, to search for or seize documentary materials, other than work product materials, possessed by a person in connection with a purpose to disseminate to the public a newspaper, book, broadcast, or other similar form of public communication, in or affecting interstate or foreign commerce; but this provision shall not impair or affect the ability of any government officer or employee, pursuant to otherwise applicable law, to search for or seize such materials, if—

(1) there is probable cause to believe that the person possessing such materials has committed or is committing the criminal offense for which such materials are sought: *Provided, however,* That a government officer or employee may not search for or seize such materials under the provisions of this paragraph if the offense for which such materials are sought consists of the receipt, possession, communication, or withholding of such materials or the information contained therein (but such a search or seizure may be conducted under the provisions of this paragraph if the offense consists of the receipt, possession, or communication of information relating to the national defense, classified information, or restricted data under the provisions of section 793, 794, 797, or 798 of title 18, United States Code, or section 224, 225, or 227 of the Atomic Energy Act of 1954 (42 U.S.C. 2274, 2275, 2277), or section 4 of the Subversive Activities Control Act of 1950 (50 U.S.C. 783));

(2) there is reason to believe that the immediate seizure of such materials is necessary to prevent the death of, or serious bodily injury to, a human being.

(3) there is reason to believe that the giving of notice pursuant to a subpena duces tecum would result in the destruction, alteration, or concealment of such materials; or

(4) such materials have not been produced in response to a court order directing compliance with a subpena duces tecum, and—

(A) all appellate remedies have been exhausted; or

(B) there is reason to believe that the delay in an investigation or trial occasioned by further proceedings relating to the subpena would threaten the interests of justice.

(c) In the event a search warrant is sought pursuant to paragraph (4)(B) of subsection (b), the person possessing the materials shall be afforded adequate opportunity to submit an affidavit setting forth the basis for any contention that the materials sought are not subject to seizure.

PART B—REMEDIES, EXCEPTIONS, AND DEFINITIONS

SEC. 105. This Act shall not impair or affect the ability of a government officer or employee, pursuant to otherwise applicable law, to conduct searches and seizures at the borders of, or at international points of, entry into the United States in order to enforce the customs laws of the United States.

SEC. 106. (a) A person aggrieved by a search for or seizure of materials in violation of this Act shall have a civil cause of action for damages for such search or seizure—

(1) against the United States, against a State which has waived its sovereign immunity under the Constitution to a claim for damages resulting from a violation of this Act, or against any other governmental unit, all of which shall be liable for violations of this Act by their officers or employees while acting within the scope or under color of their office or employment; and

(2) against an officer or employee of a State who has violated this Act while acting within the scope or under color of his office or employment, if such State has not waived its sovereign immunity as provided in paragraph (1).

(b) It shall be a complete defense to a civil action brought under paragraph (2) of subsection (a) that the officer or employee had a reasonable good faith belief in the lawfulness of his conduct.

(c) The United States, a State, or any other governmental unit liable for violations of this Act under subsection (a)(1), may not assert as a defense to a claim arising under this Act the immunity of the officer or employee whose violation is complained of or his reasonable good faith belief in the lawfulness of his conduct, except that such a defense may be asserted if the violation complained of is that of a judicial officer.

(d) The remedy provided by subsection (a)(1) against the United States, a State, or any other governmental unit is exclusive of any other civil action or proceeding for conduct constituting a violation of this Act, against the officer or employee whose violation gave rise to the claim, or against the estate of such officer or employee.

(e) Evidence otherwise admissible in a proceeding shall not be excluded on the basis of a violation of this Act.

(f) A person having a cause of action under this section shall be entitled to recover actual damages but not less than liquidated damages of $1,000, such punitive damages as may be warranted, and such reasonable attorneys' fees and other litigation costs reasonably incurred as the court, in its discretion, may award: *Provided, however,* That the United States, a State, or any other governmental unit shall not be liable for interest prior to judgment.

(g) The Attorney General may settle a claim for damages brought against the United States under this section, and shall promulgate regulations to provide for the commencement of an administrative inquiry following a determination of a violation of this Act by an officer or employee of the United States and for the imposition of administrative sanctions against such officer or employee, if warranted.

(h) The district courts shall have original jurisdiction of all civil actions arising under this section.

SEC. 107. (a) "Documentary materials", as used in this Act, means materials upon which information is recorded, and includes, but is not limited to, written or printed materials, photographs, tapes, videotapes, negatives, films, out-takes, and interview files, but does not include contraband or the fruits of a crime or things otherwise criminally possessed, or property designed or intended for use, or which is or has been used as, the means of committing a criminal offense.

(b) "Work product materials", as used in this Act, means materials, other than contraband or the fruits of a crime or things otherwise criminally possessed, or property designed or intended for use, or which is or has been used, as the means of committing a criminal offense, and—

(1) in anticipation of communicating such materials to the public, are prepared, produced, authored, or created, whether by the person in possession of the materials or by a person other than the person in possession of the materials;

(2) are possessed for the purposes of communicating such materials to the public; and

(3) include mental impressions, conclusions, opinions, or theories of the person who prepared, produced, authorized, or created such material.

(c) "Any other governmental unit", as used in this Act, includes the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any local government, unit of local government, or any unit of State government.

SEC. 108. The provisions of this title shall become effective on October 1, 1980, except that insofar as such provisions are applicable to a State or any governmental unit other than the United States, the provisions of this title shall become effective one year from the date of enactment of this Act.

TITLE II—ATTORNEY GENERAL GUIDELINES

SEC. 201. (a) The Attorney General shall, within six months of the date of enactment of this Act, issue guidelines for the procedures to be employed by any Federal officer or employee, in connection with the investigation or prosecution of a criminal offense, to obtain documentary materials in the private possession of a person when the person is not reasonably believed to be a suspect in such offense or related by blood or marriage to such a suspect, and when the materials are sought are not contraband or the fruits or instrumentalities of an offense. The Attorney General shall incorporate in such guidelines—

(1) a recognition of the personal privacy interests of the person in possession of such documentary materials;

(2) a requirement that the least intrusive method or means of obtaining such materials be used which do not substantially jeopardize the availability or usefulness of the materials sought to be obtained; and

(3) a recognition of special concern for privacy interests in cases in which a search or seizure for such documents would intrude upon a known confidential relationship.

(b) The Attorney General shall collect and compile information on, and report annually to the Committees on the Judiciary of the Senate and the House of Representatives on, the use of search warrants by Federal officers or employees for documentary materials described in subsection (a)(3).

(c) An issue relating to the compliance, or to the failure to comply, with guidelines issued pursuant to this section may not be litigated, and a court may not entertain such an issue as a basis for the suppression or exclusion of evidence.

MOTION OFFERED BY MR. KASTENMEIER

Mr. KASTENMEIER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. KASTENMEIER moves to strike out all after the enacting clause of the Senate bill, S. 1790, and to insert in lieu thereof the provisions of H.R. 3486, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to limit governmental search and seizure of documentary materials possessed by persons, to provide a remedy for persons aggrieved by violations of the provisions of this act, and for other purposes.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3486) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 1790

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin? The Chair hears none and, without objection, appoints the following conferees: Messrs. KASTENMEIER, DANIELSON, MAZZOLI, HARRIS, GUDGER, CARR, RAILSBACK, SAWYER, and MOORHEAD of California.

There was no objection.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 3486, just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

HOSTAGE RELIEF ACT OF 1980

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7085), to provide certain benefits to individuals held hostage in Iran and to similarly situated individuals, and for other purposes as amended.

The Clerk read as follows:

H.R. 7085

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Hostage Relief Act of 1980".

TITLE I—SPECIAL PERSONNEL BENEFITS

DEFINITIONS

SEC. 101. For the purposes of this title—

(1) The term "American hostage" means any individual who, while—

(A) in the civil service or the uniformed services of the United States, or

(B) a citizen or resident alien of the United States rendering personal service to the United States abroad similar to the service of a civil officer or employee of the United States (as determined by the Secretary of State),

is placed in a captive status during the hostage period.

(2) The term "hostage period" means the period beginning on November 4, 1979, and ending on the later of—

(A) the date the President specifies, by Executive order, as the date on which all citizens and resident aliens of the United States who were placed in a captive status due to the seizure of the United States Embassy in Iran have been returned to the United States or otherwise accounted for, or

(B) January 1, 1983.

(3) The term "family member", when used with respect to any American hostage, means—

(A) any dependent (as defined in section 5561 of title 5, United States Code) of such hostage; and

(B) any member of the hostage's family or household (as determined under regulations which the Secretary of State shall prescribe).

(4) The term "captive status" means a missing status arising because of a hostile action abroad—

(A) which is directed against the United States during the hostage period; and

(B) which is identified by the Secretary of State in the Federal Register.

(5) The term "missing status"—

(A) in the case of employees, has the meaning given it in section 5561(5) of title 5, United States Code;

(B) in the case of members of the uniformed services, has the meaning given it in section 551(2) of title 37, United States Code; and

(C) in the case of other individuals, has a similar meaning as that provided under such sections, as determined by the Secretary of State.

(6) The terms "pay and allowances", "employee", and "agency" have the meanings given to such terms in section 5561 of title 5, United States Code, and the terms "civil service", "uniformed services", and "armed forces" have the meanings given to such terms in section 2101 of such title 5.

PAY AND ALLOWANCES MAY BE ALLOTTED TO SPECIAL SAVINGS FUND

SEC. 102. (a) The Secretary of the Treasury shall establish a savings fund to which the head of an agency may allot all or any portion of the pay and allowances of any American hostage which are for pay periods during which the American hostage is in a captive status and which are not subject to an allotment under section 5563 of title 5, United States Code, under section 553 of title 37, United States Code, or under any other provision of law.

(b) Amounts so allotted to the savings fund shall bear interest at a rate which, for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with three-month maturities issued during the preceding calendar quarter. Such interest shall be compounded quarterly.

(c) Amounts may be allotted to the savings fund from pay and allowances for any pay period ending after November 4, 1979, and before the establishment of the savings fund. Interest on amounts allotted from the pay and allowances for any such pay period shall be calculated as if the allotment had occurred at the end of the pay period.

(d) Amounts in the savings fund credited to any American hostage shall be considered as pay and allowances for purposes of section 5563 of title 5, United States Code, (or in the case of a member of the uniformed services, for purposes of section 553 of title 37, United States Code) and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

MEDICAL AND HEALTH CARE AND RELATED EXPENSES

SEC. 103. Under regulations prescribed by the President, the head of an agency may pay (by advancement or reimbursement) any individual who is an American hostage, or any family member of such an individual, for medical and health care, and other expenses related to such care, to the extent such care—

(1) is incident to that individual being an American hostage; and

(2) is not covered by insurance.

EDUCATION AND TRAINING

SEC. 104. (a)(1) Under regulations prescribed by the President, the head of an agency shall pay (by advancement or reimbursement) a spouse or child of an American hostage for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

(2) Except as provided in paragraph (3), payments shall be available under this subsection for a spouse or child of an individual who is an American hostage for education or training which occurs—

(A) after the ninetieth day after the date the individual is placed in a captive status, and

(B) on or before—

(i) the end of any semester or quarter (as appropriate) which begins before the date on which the hostage ceases to be in a captive status, or

(ii) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the 12-week period following that date.

In order to respond to special circumstances, the President may specify a date for purposes of cessation of assistance under subparagraph (B) which is later than the date which would otherwise apply under subparagraph (B).

(3) In the event an American hostage dies and the death is incident to that individual being an American hostage, payments shall be available under this subsection for a spouse or child of an individual who is an American hostage for education or training which occurs after the date of death.

(4) The preceding provisions of this subsection shall not apply with respect to any

spouse or child who is eligible for assistance under chapter 35 of title 38, United States Code.

(b)(1) In order to respond to special circumstances, the head of an agency may, under regulations prescribed by the President, pay (by advancement or reimbursement) an American hostage for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

(2) Payments shall be available under this subsection for an American hostage for education or training which occurs—

(A) after the termination of such hostage's captive status, and

(B) on or before—

(i) the end of any semester or quarter (as appropriate) which begins before the date which is 10 years after the day on which the hostage ceases to be in a captive status, or

(ii) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the 12-week period following that date.

(c) Assistance under this section shall be discontinued for any individual whose conduct or progress is unsatisfactory under standards consistent with those established pursuant to section 1724 of title 38, United States Code.

(d) In no event may assistance be provided under this section for any individual for a period in excess of 45 months (or the equivalent thereof in part-time education or training).

(e) Regulations prescribed by the President under this section shall provide that the program under this section be consistent with the assistance program under chapters 35 and 36 of title 38, United States Code.

EXTENSION OF APPLICABILITY OF CERTAIN BENEFITS OF THE SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940

SEC. 105. (a) Under regulations prescribed by the President, an American hostage is entitled to the benefits provided by the Soldiers' and Sailors' Civil Relief Act of 1940 (40 U.S.C. App. 501 et seq.), including the benefits provided by section 701 (50 U.S.C. App. 591) but excluding the benefits provided by sections 104, 105, 106, 400 through 408, 501 through 512, and 514 (50 U.S.C. App. 514, 515, 516, 540 through 548, 561 through 572, and 574).

(b) In applying such Act for purposes of this section—

(1) the term "person in the military service" is deemed to include any such American hostage;

(2) the term "period of military service" is deemed to include the period during which such American hostage is in a captive status; and

(3) references to the Secretary of the Army, the Secretary of the Navy, the Adjutant General of the Army, the Chief of Naval Personnel, and the Commandant, United States Marine Corps, are deemed to be references to the Secretary of State.

(c) The preceding provisions of this section shall not apply with respect to any American hostage covered by such provisions of the Soldiers' and Sailors' Civil Relief Act of 1940 by reason of being in the armed forces.

APPLICABLITY TO COLOMBIAN HOSTAGE

SEC. 106. Notwithstanding the requirements of section 101(1), for purposes of this title, Richard Starr of Edmonds, Washington, who, as a Peace Corps volunteer, was held captive in Colombia and released on or about February 10, 1980, shall be held and considered to be an American hostage placed in a captive status on November 4, 1979.

EFFECTIVE DATE

SEC. 107. The preceding provisions of this title shall take effect as of November 4, 1979.

TITLE II—TAX PROVISIONS

SEC. 201. COMPENSATION EXCLUDED FROM GROSS INCOME.

For purposes of the Internal Revenue Code of 1954, the gross income of an individual who was at any time an American hostage does not include compensation from the United States received for any month during any part of which such individual was—

(1) in captive status, or

(2) hospitalized as a result of such individual's captive status.

SEC. 202. INCOME TAXES OF HOSTAGES WHERE DEATH RESULTS FROM CAPTIVE STATUS.

(a) GENERAL RULE.—In the case of an individual who was at any time an American hostage and who dies as a result of injury or disease or physical or mental disability incurred or aggravated while such individual was in captive status—

(1) any tax imposed by subtitle A of the Internal Revenue Code of 1954 shall not apply with respect to—

(A) the taxable year in which falls the date of such individual's death, or

(B) any prior taxable year ending on or after the first day such individual was in captive status, and

(2) any tax imposed under such subtitle A for taxable years preceding those specified in paragraph (1) which is unpaid at the date of such individual's death (including interest, additions to the tax, and additional amounts)—

(A) shall not be assessed,

(B) if assessed, the assessment shall be abated, and

(C) if collected, shall be credited or refunded as an overpayment.

(b) DEATH MUST OCCUR WITHIN 2 YEARS OF CESSATION OF CAPTIVE STATUS.—This section shall not apply unless the death of the individual occurs within 2 years after such individual ceases to be in captive status.

SEC. 203. SPOUSE MAY FILE JOINT RETURN.

(a) GENERAL RULE.—If an individual is an American hostage who is in captive status, such individual's spouse may elect to file a joint return under section 6013(a) of the Internal Revenue Code of 1954 for any taxable year—

(1) which begins on or before the day which is 2 years after the date on which the hostage period ends, and

(2) for which such spouse is otherwise entitled to file such a joint return.

(b) CERTAIN RULES MADE APPLICABLE.—For purposes of subsection (a), paragraphs (2) and (4) of section 6013(f) of such Code (relating to joint return where individual is in missing status) shall apply as if the election described in subsection (a) of this section were an election described in paragraph (1) of such section 6013(f).

SEC. 204. TIME FOR PERFORMING CERTAIN ACTS POSTPONED BY REASON OF CAPTIVE STATUS.

(a) GENERAL RULE.—In the case of any individual who was at any time an American hostage, any period during which he was in captive status (and any period during which he was outside the United States and hospitalized as a result of captive status), and the next 180 days thereafter, shall be disregarded in determining, under the internal revenue laws, in respect of any tax liability (including any interest, penalty, additional amount, or addition to the tax) of such individual—

(1) whether any of the acts specified in paragraph (1) of section 7508(a) of the Internal Revenue Code of 1954 was performed within the time prescribed therefor, and

(2) the amount of any credit or refund (including interest).

(b) APPLICATION TO SPOUSE.—The provisions of this section shall apply to the spouse of any individual entitled to the benefits of subsection (a). The preceding sentence shall not cause this section to apply to any spouse for any taxable year beginning more than 2 years after the date on which the hostage period ends.

(c) SECTION 7508(d) MADE APPLICABLE.—Subsection (d) of section 7508 of the Internal Revenue Code of 1954 shall apply to subsection (a) in the same manner as if the benefits of subsection (a) were provided by subsection (a) of such section 7508.

SEC. 205. DEFINITIONS AND SPECIAL RULES.

(a) AMERICAN HOSTAGE.—For purposes of this title, the term "American hostage" means any individual who, while—

(1) in the civil service or the uniformed services of the United States, or

(2) a citizen or resident alien of the United States rendering personal service to the United States abroad similar to the service of a civil officer or employee of the United States (as determined by the Secretary of State),

is placed in a captive status during the hostage period.

(b) HOSTAGE PERIOD.—For purposes of this title, the term "hostage period" means the period beginning on November 4, 1979, and ending on whichever of the following dates is the earlier:

(1) the date the President specifies, by Executive order, as the date on which all citizens and resident aliens of the United States who were placed in a captive status due to the seizure of the United States Embassy in Iran have been returned to the United States or otherwise accounted for, or

(2) December 31, 1981.

(c) CAPTIVE STATUS.—For purposes of this title—

(1) IN GENERAL.—The term "captive status" means a missing status arising because of a hostile action abroad—

(A) which is directed against the United States during the hostage period, and

(B) which is identified by the Secretary of State in the Federal Register.

(2) MISSING STATUS DEFINED.—The term "missing status"—

(A) in the case of employees, has the meaning given it in section 5561(5) of title 5, United States Code,

(B) in the case of members of the uniformed services, has the meaning given it in section 551(2) of title 37, United States Code, and

(C) in the case of other individuals, has a similar meaning as that provided under such sections, as determined by the Secretary of State.

For purposes of the preceding sentence, the term "employee" has the meaning given to such term by section 5561(2) of title 5, United States Code.

(d) HOSPITALIZED AS A RESULT OF CAPTIVE STATUS.—

(1) IN GENERAL.—For purposes of this title, an individual shall be treated as hospitalized as a result of captive status if such individual is hospitalized as a result of injury or disease or physical or mental disability incurred or aggravated while such individual was in captive status.

(2) 2-YEAR LIMIT.—Hospitalization shall be taken into account for purposes of paragraph (1) only if it is hospitalization—

(A) occurring on or before the day which is 2 years after the date on which the individual's captive status ends (or, if earlier, the date on which the hostage period ends), or

(B) which is part of a continuous period of hospitalization which began on or before the day determined under subparagraph (A).

(e) CIVIL SERVICE; UNIFORMED SERVICES.—For purposes of this section, the terms "civil service" and "uniformed services" have the meanings given to such terms by section 2101 of title 5, United States Code.

(f) APPLICATION OF TITLE TO ALL TEHRAN HOSTAGES.—In the case of any citizen or resident alien of the United States who is determined by the Secretary of State to have been held hostage in Tehran at any time during November 1979, for purposes of this title—

(1) such individual shall be treated as an American hostage whether or not such individual meets the requirements of paragraph (1) or (2) of subsection (a), and

(2) if such individual was not in the civil service or the uniformed services of the United States—

(A) section 201 shall be applied by substituting "earned income (as defined in section 911(b) of the Internal Revenue Code of 1954) attributable to" for "compensation from the United States received for", and

(B) the amount excluded from gross income under section 201 for any month shall not exceed the monthly equivalent of the annual rate of basic pay payable for level V of the Executive Schedule.

(g) APPLICATION OF TITLE TO INDIVIDUAL HELD CAPTIVE IN COLOMBIA.—For purposes of this title, Richard Starr of Edmonds, Washington, who, as a Peace Corps volunteer, was held captive in Colombia, shall be treated as an American hostage who was in captive status beginning on November 4, 1979, and ending on February 10, 1980.

(h) SPECIAL RULES.—

(1) COMPENSATION.—For purposes of this title, the term "compensation" shall not include any amount received as an annuity or as retirement pay.

(2) WAGE WITHHOLDING.—Any amount excluded from gross income under section 201 shall not be treated as wages for purposes of chapter 24 of the Internal Revenue Code of 1954.

SEC. 206. STUDY OF TAX TREATMENT OF HOSTAGES.

(a) STUDY.—The Chief of Staff of the Joint Committee on Taxation shall study all aspects of the tax treatment of citizens and resident aliens of the United States who are taken hostage or are otherwise placed in a missing status.

(b) REPORT.—The Chief of Staff of the Joint Committee on Taxation shall, before July 1, 1981, report the results of the study made pursuant to subsection (a) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

TITLE III—TREATMENT OF THE HOSTAGES IN IRAN

VISITS BY THE INTERNATIONAL RED CROSS

SEC. 301. (a) The Congress finds that—

(1) the continued illegal and unjustified detention of the American hostages by the Government of Iran has resulted in the deterioration of relations between the United States and Iran; and

(2) the protracted length and the conditions of their confinement have reportedly endangered the physical and mental well-being of the hostages. (b) Therefore, it is the sense of the Congress that the President should make a formal request of the International Committee of the Red Cross to—

(1) make regular and periodic visits to the American hostages being held in Iran for the purpose of determining whether the hostages are being treated in a humane and decent manner and whether they are receiving proper medical attention;

(2) urge other countries to solicit the cooperation of the Government of Iran in the visits to the hostages by the International Committee of the Red Cross; and

(3) report to the United States its findings after each such visit.

The SPEAKER pro tempore. Is a second demanded?

Mr. BUCHANAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. FASCELL) will be recognized for 20 minutes, and the gentleman from Alabama (Mr. BUCHANAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Speaker, I yield to the distinguished chairman of the full committee, the gentleman from Wisconsin (Mr. ZABLOCKI).

APPOINTMENT OF CONFEREES ON H.R. 6790, FOREIGN SERVICE ACT OF 1980

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6790) to promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin? The Chair hears none and, without objection, appoints the following conferees: From the Committee on Foreign Affairs, Messrs. FASCELL, ZABLOCKI, MICA, GRAY, BUCHANAN, and PRITCHARD; from the Committee on Post Office and Civil Service, Messrs. HANLEY, FORD of Michigan, Mrs. SCHROEDER, Messrs. CLAY, TAYLOR, and LEACH of Iowa.

There was no objection.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have before us today H.R. 7085, the Hostage Relief Act of 1980, which has been considered by three committees of the House: The Committee on Foreign Affairs, Post Office and Civil Service, and Ways and Means. What we are considering is a compromise substitute for this legislation.

H.R. 7085, as amended, would provide certain relief benefits to our hostages in Iran and to their families. I will discuss the provisions contained in title I of the bill relating to special personnel benefits, and title III of the bill regarding the treatment of the hostages in Iran. I will then yield to the chairman of the Ways and Means Committee for the purpose of discussing the tax benefits contained in title II.

Section 101 of the bill contains definitions, an effective date of November 4, 1979, and a sunset provision which is the later of the date on which the President determines that all Government employees and resident aliens who were held hostage in Iran have been returned or accounted for, or January 1, 1983.

Section 102 sets up a special interest-bearing savings fund into which the unallotted portion of a hostage's pay could be deposited. This fund would earn interest at a rate which is equal to the average rate paid on U.S. Treasury bills with 3-month maturities issued during the preceding calendar quarter. The interest would be compounded quarterly.

Section 103 provides for the payment of medical and health care expenses—by advancement or reimbursement—and related expenses of the hostages and their families, to the extent that they are not covered by medical insurance and that such treatment is related to an individual being an American hostage.

Section 104 provides educational and training benefits for the spouse or child of a hostage. The benefits would start after the 90th day an individual is placed in a captive status and would stop at the end of any semester or quarter which began before the date on which the hostage ceased to be in a captive status. However, the President may, under special circumstances, extend the benefits for a longer period of time.

Section 104 also contains a provision that in the event an American hostage should die and the death is related to that individual being a hostage, payments will be made for the spouse or child for education or training after the date of death.

Another benefit in this section would provide education or training to a former hostage, under special circumstances. Such a benefit would be available under regulations prescribed by the President. They would not begin until after the end of the hostage's captive status and would be in effect for 10 years after that date, but the benefits themselves would not be in excess of 45 months or the part-time equivalent thereof.

Section 105 gives the hostages relief from any civil actions which may be taken against them during their captivity. It brings into effect certain provisions of the Soldiers' and Sailors' Civil Relief Act of 1940. The benefits provided by that act would prevent a hostage from being sued in a civil court until that individual is in a position to respond to the action.

Section 106 gives the benefits contained in H.R. 7085, as amended, to Richard Starr, who, as a Peace Corps volunteer, was held captive in Colombia and was released in February 1980. The benefits would begin as if he were in a captive status on November 4, 1979.

Section 107 provides an effective date of November 4, 1979 to title I of the legislation.

Title III of H.R. 7085, as amended, calls for the President to make a formal request of the International Red Cross to make regular and periodic visits to the hostages to determine whether they are being treated in a humane and decent manner and are receiving proper medical attention. It also states that the International Red Cross should urge other countries to ask for the cooperation of the Government of Iran to allow such visits and that the International Red Cross should report to the United States its findings after each such visit.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I rise in support of H.R. 7085, as amended by the compromise substitute at the desk.

This legislation is intended as an expression of the Nation's recognition of the difficulties faced by those held hostage as a result of their Government service. While similar legislation has beeen enacted in the past for those in the military service, the Congress has not expanded such protection to civilians in Government service. The benefits contained in H.R. 7085, as amended, are based on those which were given to POW's as a result of the Vietnam war. Some of those benefits are still in effect and thus give the military personnel who are being held hostage some relief, but the civilian Government employees still have no such relief for themselves or their families.

The Congress must act now to alleviate, to the extent possible, the burdens of the hostages and their families and to make certain that all necessary assistance is provided upon their return home. It must assure that any assistance these families require is readily available. H.R. 7085, as amended, does just that, as the distinguished gentleman from Florida has fully explained.

I would like to take this opportunity to thank the members of the various committees involved in the consideration of this legislation for their cooperation in bringing to the floor a compromise substitute which retains the intent of the original legislation, which I cosponsored. The Committees on Foreign Affairs, Ways and Means, and Post Office and Civil Service have worked together in a timely fashion so that this legislation can be acted on before the Congress adjourns. I also understand that the Armed Services Committee supports the compromise substitute which includes certain additional benefits for military personnel held hostage.

I would also like to thank the Budget Committee for its cooperation in agreeing to the consideration of this bill under suspension of the rules.

Mr. Speaker, I urge the adoption of H.R. 7085, as amended.

□ 1640

Mr. FASCELL. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, although the safe return of the Americans held hostage in Iran since November 4, 1979, remains uppermost in the minds of their families and the rest of the Nation, the Committees on Post Office and Civil Service, Foreign Affairs, and Ways and Means have turned their attention to some of the practical consequences of the hostages' absence.

As a result, the committees reported slightly differing versions of legislation to provide a special interest-bearing salary savings fund, medical and health benefits, tax relief, education and training benefits, and stays of civil actions affecting the hostages' property rights. I believe that the compromise substitute offered today represents an excellent synthesis of the interest each of the committees has in the welfare of the hostages.

At the outset, I would like to note that these special personnel benefits are not intended as part of the Foreign Service Act, but are contained in a separate piece of legislation designed as a temporary measure addressing the most immediate needs of the hostages and their families. The committee adopts this approach because it agrees with the administration that permanent legislation should await a thorough and independent study of the practical problems that arise in a hostage situation.

I would like to clarify the differences between the compromise substitute and the bill as reported by the Committee on Post Office and Civil Service. One change relates to the definition of "the hostage period." In the bill as reported by the committee, the hostage period began on November 4, 1979—the date of the takeover of the U.S. Embassy in Iran—and ended upon the return of the hostages or on the date the President specifies the hostages are otherwise accounted for. The compromise also sets November 4, 1979, as the beginning of the hostage period, but states that the hostage period runs until the date the President specifies that the hostages have been returned to the United States, or otherwise accounted for, or on January 1, 1983, whichever is later.

The Committee on Post Office and Civil Service agrees to this change with the understanding that the administration will study and report to the committees early enough to permit enactment of permanent legislation by January 1, 1983.

Another change relates to education and training benefits. The bill reported by the Committee on Post Office and Civil Service provided reimbursement for education and training expenses incurred by spouses and children. However, it did not provide education benefits for the hostages themselves.

The committee is pleased to agree to the inclusion of education and training benefits for the hostages in the compromise substitute. The committee believes this provision wisely anticipates the possibility that some of the hostages might want additional education or training upon their return. If so, the committee believes that a hostage's expenses related to this education and training should be reimbursed. The committee also supports inclusion of title III, which relates to visits by the International Red Cross.

The rest of the provisions of the compromise substitute are virtually identical to the core of the bill reported by the Committee on Post Office and Civil Service. These provisions reflect the general intent of the bill as originally introduced by Mr. FASCELL, but enlarge its scope in line with the recommendations by the administration. Specifically, they:

Eliminate the $25,000 limit on reimbursement for medical expenses;

Authorize medical expense reimbursements for "family members" as well as dependents;

Extend education reimbursement benefits to children as well as to spouses;

Include military personnel in provisions relating to the savings program and medical reimbursements; and

Limits application of the bill's provisions to the current hostage situation.

In addition to the administration's recommendations, other changes made by the committee that are also part of the compromise substitute:

First. Permit funds to be withdrawn from the savings fund to meet unexpected needs of the hostages or the families;

Second. Provide that interest be paid retroactively on the salaries held in personnel offices prior to the establishment of the savings fund;

Third. Permit extensions of eligibility for educational and training benefits under special circumstances; and

Fourth. Permit payment of allowable expenses by either advancement or reimbursement.

Consequently, the reported bill alters the scope and coverage of the introduced bill in three significant ways. As mentioned, it is a temporary measure, not permanent legislation, and expires at the end of the defined Iranian hostage situation. Second, it covers the military as well as the civilian hostages. Third, it extends certain benefits not only to the hostages' spouses and children, but also to other family or household members.

For the most part, these changes are reflected in the reported bill's controlling definitions and eligibility for the intended benefits of the reported bill hinges on the definitions of "American hostage" and "family member." These terms replace and expand upon the introduced bill's reference to employees, spouses, and dependents.

As defined in the reported bill, the terms "American hostage" and "captive status" do two things: One, they expressly include the military personnel who are among the Americans held hostage in Iran; and two, they limit the legislation's application to the current Iranian situation.

By reference to an existing definition of "dependent," the reported bill includes wives, unmarried children under 21—including step-children or adopted children—dependent parents, and other qualifying individuals under the definition of "family member." Subject to regulations to be prescribed by the Secretary of State, it also includes members of the hostages' families or households who are not technically "dependent."

The committee's use of the term "family member" is a deliberate expansion of the coverage of the introduced bill, which was limited to spouses and dependents. It reflects an administration suggestion that certain benefits should be available to individuals who might not be dependent on a hostage for financial support, but who have nevertheless suffered physical, mental, or emotional distress because of their close relationship to the hostage. The committee agrees with the administration and believes that the term "family members" allows the greatest flexibility in identifying those individuals entitled to the legislation's intended benefits.

The reported bill also provides that for purposes of this legislation, Richard Starr of Edmonds, Wash., is deemed an American hostage who entered into a captive status on or after November 4, 1979. Starr was kidnapped by Communist guerrillas on February 14, 1977, while serving as a Peace Corps volunteer in Colombia. He was released on or about February 10, 1980. Without this provision, the fact that Starr's initial capture predates November 4, 1979—the day the bill identifies as the beginning of the hostage period—would preclude his eligibility for the special personnel benefits.

I believe that the compromise substitute before you today will alleviate—to the extent possible—some of the financial burdens on the hostages and their families. I urge your support of this measure.

Mr. FASCELL. Mr. Speaker, I reserve the balance of my time.

Mr. BUCHANAN. Mr. Speaker, I yield such time as he may consume to the ranking minority member of the Committee on Ways and Means, the gentleman from New York (Mr. Conable).

Mr. CONABLE. Mr. Speaker, I support the suspension of rules and immediate passage of H.R. 7085, the Hostage Relief Act of 1980.

Title II, the Ways and Means Committee amendment to H.R. 7085 would exempt from Federal income tax the salaries of the American hostages in Iran.

The tax law currently contains provisions giving special tax treatment to military personnel serving in combat zones. H.R. 7085 extends similar treatment to the American hostages in Iran. Legislation is needed to accomplish this result because the hostages generally are U.S. Government employees but they are not military personnel.

First, H.R. 7085 exempts from income tax the salaries of the hostages beginning November 4, 1979, and extending through the period of their confinement. The committee realized that a more long-range approach is desirable, but decided to limit the current bill to the Iranian situation by putting an expiration date of December 31, 1981, on the bill's special tax treatment. The fixed expiration date was selected because it will allow the committee to study the general policy which should apply to detained Americans and develop a permanent tax provision.

Second, in the event of a hostage's death, all of his income tax liability will be waived. Third, the bill allows the spouses of hostages to file joint tax returns even though the spouse is unable to sign the return. Finally, the bill extends the many deadlines in the tax law—such as filing returns—by the period of captivity plus 180 days.

H.R. 7085 concludes by directing the Joint Committee on Taxation to study the tax treatment of American citizens taken hostage or otherwise missing. The report will be submitted by July 1, 1981, so that the Congress will be able to develop permanent statutory provisions before the December 31, 1981, expiration date in H.R. 7085 occurs.

Mr. Speaker, we owe the courageous American diplomats in Iran every consideration. H.R. 7085 will provide a small token of relief to the hostages and their families.

Mr. BUCHANAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. Leach).

Mr. LEACH of Iowa. Mr. Speaker, this is a very modest but very symbolic bill. It is designed to reward several of our citizens who have been deprived of their freedom by a foreign government and forsaken of their rights by our own.

Two hundred years ago our forefathers staked their lives on the principle that taxation without representation is tyranny. Today our hostages have no representation. They should not be taxed.

One cannot put a price tag on freedom but if our hands are tied abroad they are not at home. This legislation is one measure of support for hostages. It is the least we can do for them.

Mr. Speaker, I strongly support the principle of early and unanimous passage.

Mr. BUCHANAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 7085 and to associate myself with the remarks of the gentleman from Florida (Mr. Fascell).

For 324 days Americans have been hold captive in Iran, separated from their families and denied even the rights guaranteed prisoners of war. Fifty-one of those still being held hostage were sent to Iran by their Government to represent our country. They are being held in violation of numerous international laws and treaties.

Other hostages have been released or escaped. Their trauma was the same although their time of captivity was less.

All of these men and women have been subjected to unknown hardships and deprivation. Their lives will be unalterably changed. We pray that there will be no permanent or long lasting physical or emotional damage.

The legislation before us today is the least we can do for these Americans who have lost nearly a year of their lives.

It is supported by the administration and by the hostage families.

Two weeks ago when we passed the Foreign Service Act of 1980, we recognized the increased hardships and demands placed upon Foreign Service officers—hardships akin to those faced by the military in combat zones.

By this legislation, we extend to American civilians and their families benefits similar to those provided to our POW's in Vietnam.

With H.R. 7085, we are saying to our hostages, "we appreciate your service to our country and we will not forget this service even after you return."

I strongly urged its adoption.

Mr. FASCELL. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Ways and Means Committee, the gentleman from Oregon (Mr. Ullman).

Mr. ULLMAN. Mr. Speaker, I would like to first commend the distinguished gentleman from Florida (Mr. Fascell) for having brought this legislation to the floor. The Committee on Ways and Means has been extremely proud to participate in the consideration of this bill, in providing the tax measures which are an important component of the package.

Mr. Speaker, the Ways and Means Committee considered title II of H.R. 7085, the Hostage Relief Act of 1980. These tax provisions of the bill provide tax relief to the American hostages in Iran, other American hostages, and their families. Under the bill, Federal employees held hostage could exclude from income their Federal compensation. If death results to a U.S. citizen or resident alien from captivity, all income tax liability of that individual from the initial year of captivity to the year of death would be forgiven. The spouse of a hostage would be permitted to file a joint return. Various deadlines under the tax laws would be postponed during the period of captivity and for 180 days thereafter. Finally, the staff of the Joint Committee on Taxation is directed to make a study of this area.

Mr. Speaker, I strongly urge the adoption of H.R. 7085, which would provide much-needed relief to the American hostages and their families.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I will be happy to yield to my friend from Florida.

Mr. FASCELL. Mr. Speaker, I want to thank the distinguished chairman of the Committee on Ways and Means for the prompt, careful and generous consideration given by him and the members of his committee in a very thoroughly bipartisan manner, and for making it possible to bring this legislation to the floor today.

While I have the opportunity to thank everyone for this truly bipartisan effort, let me say that since this idea was conceived in the Subcommittee on International Operations of the Committee on Foreign Affairs, we have had nothing but the finest cooperation from the ranking minority member, the distinguished gentleman from Alabama (Mr. Buchanan). We have had that same cooperation from the chairman of the Committee on Post Office and Civil Service (Mr. Hanley), members of that committee on both sides of the aisle, and its subcommittees.

Mr. Speaker, none of this would have been possible without the untiring interest and support of the Family Liaison Action Group; particularly Katherine Keough and Louisa Kennedy. For them and their families we are happy to speed this bill on its way. I thank the distinguished chairman.

● Mr. DERWINSKI. Mr. Speaker, the Hostage Relief Act is a good bill reflecting the combined effort of three House committees: the Foreign Affairs Committee, the Ways and Means Committee, and the Post Office and Civil Service Committee. The substitute text which emerged from these committees is fair and decent and is the least we can do for those Americans being held hostage and their families.

Although the bill pertains to special benefits afforded these Americans, it is more to secure indemnity for the hostages whose fate is still in the clutches of an uncompromising and detestable government. The lives of these innocent Americans have been traumatically interrupted not only by imprisonment but also at home, where the families of these Americans must live each day hour by hour awaiting the latest news which might once again happily unite them.

Of course, it is impossible to predict the outcome of this affair; the damages done here will never be fully realized until it has ended once and for all. But what we can do right now is to prepare for the day these Americans are brought home, prepare for the day when they are reunited with their families so they may resume a normal and happy lifestyle with as little hardship and as much ease as possible.

The provisions of the bill have been carefully examined by my colleagues and provide for a special salary savings fund, a continuation of educational benefits and opportunities, a deferment of tax liabilities, and several other provisions.

The major provision of the bill is the postponement of civil action regarding the property rights of the hostages. Iranian assets here are currently frozen while American property in Iran has been confiscated. The tangled webs which will emerge after the Iranian hostage crisis has ended will take years to unwind. The sooner we prepare for that day the more readily will we be able to deal with these problems when they arrive.

I strongly support this legislation and urge its immediate enactment.●

● Mr. BROOMFIELD. Mr. Speaker, on Monday, September 22, our hostages in Iran will enter their 324th day of captivity. Three hundred and twenty-four days apart from their families and loved ones, 324 days away from the warmth of their homes, 324 days in a country beset by internal upheaval, parliamentary politics, and now at war with one of its neighbors, our hostages remain the victims of a grim and contemptible charade set in motion by the Government of Iran in open and continued defiance of international law.

In the past year our hostages have been incarcerated cruelly and unjustly, be they in Iran or Bolivia. In particular, our hostages in Tehran have endured a great deal, frustrated by a U.S. rescue mission which not only failed in its purpose, but also left eight Americans dead on a remote salt plateau. Moreover, the families of our hostages have also undergone severe mental, emotional, and physical strain, and in some instances, economic hardpship due to these contemptuously forced separations.

It is for these reasons, Mr. Speaker, that we should favorably consider the legislation we have before us today. The Hostage Relief Act of 1980 is intended as an expression of our Nation's recognition of the many difficulties faced by those held hostages as a result of Government service. While such legislation has been enacted in the past for those in military service, such as the POW's as a result of the Vietnam war, this marks the first time that the Congress has expanded such protection and benefits as medical reimbursement and preferential tax treatments to those in civilian Government service and their families. This should be done now in order that, to the extent possible, many burdens of the hostage situation can be alleviated.

The provocative attack upon our Embassy in Tehran and more recently, the attacks upon our Ambassador to Lebanon and the U.S. Embassy in El Salvador, underscore the danger of American Government service in a world increasingly bent upon terrorism and hostage mentalities. In order to better express America's united support for our hostages and their families and to insure that some medical and economic protection is in place for American Government personnel held hostage—in present and in future situations—I urge my colleagues to favorably consider the legislation before us today.●

Mr. FASCELL. Mr. Speaker, I have no further requests for time and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FASCELL) that the House suspend the rules and pass the bill, H.R. 7085, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to provide certain benefits to individuals held hostage in Iran and to similarly situated individuals.".

A motion to reconsider was laid on the table.

□ 1650

AUTHORIZING DOCUMENTATION OF VESSEL, "SARA," AS VESSEL OF UNITED STATES WITH COASTWISE PRIVILEGES

Mr. AuCOIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 1442) an act to authorize the documentation of the vessel, *Sara*, as a vessel of the United States with coastwise privileges, with Senate amendments to House amendments thereto, and agree to the Senate amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendments to the House amendments, as follows:

Page 3, line 23, of the House engrossed amendment, strike out "berth" and insert "load".

Page 4, line 2, of the House engrossed amendment, strike out "berthing" and insert "loading".

Page 4, after line 4, of the House engrossed amendment, insert:

SEC. 6. Notwithstanding section 27 of the Merchant Marine Act, 1920, as amended (46 U.S.C. 883), or any other provision of law to the contrary, the vessel known as the *Scuba King*, official number 532376, owned by Bernard Despins, shall be entitled to be documented to engage in the fisheries and the coastwise trade upon compliance with the usual requirements, so long as such vessel is, from the date of enactment of this section, continuously owned by a citizen of the United States. For the purposes of this section, the term "citizen of the United States" includes corporations, partnerships, and associations, but only those which are citizens of the United States within the meaning of section 2 of the Shipping Act, 1916 (46 U.S.C. 802).

Mr. AuCOIN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Oregon?

Mr. McCLOSKEY. Mr. Speaker, reserving the right to object, I address this question to the gentleman from Oregon: Is this the matter we discussed a few minutes ago?

Mr. AuCOIN. Will the gentleman yield?

Mr. McCLOSKEY. I will be glad to yield.

Mr. AuCOIN. I appreciate the gentleman yielding to me. It is exactly the subject we discussed a moment ago.

Mr. McCLOSKEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. COURTER. Mr. Speaker, due to an illness in my immediate family, I was unable to be present during the vote on final passage of H.R. 85, the Comprehensive Oil Pollution Liability and Compensation Act, rollcall No. 571, on September 19, 1980.

Had I been present I would have voted "yea."

Mr. Speaker, I ask unanimous consent that the RECORD so reflect.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

SUPPORT FOR ECONOMIC DEVELOPMENT ADMINISTRATION

(Mr. PERKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PERKINS. Mr. Speaker, I take to the floor to express my deep regret that conferees on S. 2719, authorizing the Housing and Community Development Act of 1980, have failed to reach agreement on a final version of the bill.

I hope that our colleagues will make another effort to get together and bring back a conference report for early passage by the House.

My remarks here today deal particularly with the impact of this situation on the Economic Development Administration, one of the most effective agencies in the Federal Government for fighting unemployment and inflation.

In my district, as in many other underdeveloped and distressed areas across the country, we depend upon EDA to help us build an environment for jobs and industry.

EDA has done a tremendous job in carrying out that mission, by building the infracture of progress in the form of water lines, community facilities and the like—all of those things which make economic development and growth possible.

For the past year, EDA has been operating on a continuing resolution. This has meant that residents of distressed areas such as Hazard, Ky., lost millions of dollars of economic development assistance that would have been available to them under President Carter's EDA proposals.

In public works grants alone, we lost $265 million that had been proposed for the fiscal year ending this month.

For the coming fiscal year, the loss of the expanded EDA legislation will mean an even greater loss in public works moneys, as well as economic adjustment funds so critical to the redevelopment efforts of communities badly hurt by the loss of jobs in the automobile and steel industries.

Only $315 million will be available for these public works and adjustment programs, which is $340 million less than would have been available under the expanded program.

But this does not tell the whole story. EDA already has a backlog of $300 million in public works applications which it had hoped to be able to fund with the expanded public works appropriation proposed but never enacted because of the deadlock over the authorizing legislation.

If the impasse continues, it is no secret that EDA is out of the public works business for the coming fiscal year—even before it starts. The new industrial park or the rehabilitated commercial structure a distressed community may need to retain or attract new firms, will not be possible until more than a year from now. So more jobs are going to disappear from areas that cannot afford to lose even one job.

In closing, I would point out that we have also lost more than $2 billion in loans, guarantees, and interest subsidies in private sector investment and millions of jobs for residents of distressed areas.

The day the conferees break up in deadlock is a black letter day for my district, and a sad one for the Nation. We need an expanded EDA program, not a constricted one.

I just hope the conference committee of the House and Senate will go back to the table and settle this matter quickly in the national interest.

A TIME FOR MORAL JUSTICE

The SPEAKER pro tempore. Under a previous order of the House the gentlewoman from Massachusetts (Mrs. Heckler) is recognized for 10 minutes.

● Mrs. HECKLER. Mr. Speaker, holidays are times of happiness and commitment to faith, family, and traditional moral values. Our Jewish friends have just celebrated the High Holy days which mark the 5741st year of the Jewish calendar.

I wish to share with my colleagues an editorial from the Jewish Times which calls for a regeneration of moral standards and justice and reaffirms Israel's longstanding desire for a peaceful relationship with its Middle East neighbors.

The writer also discusses the decline in Soviet Jewish emigration—a disturbing decline that I and many of my colleagues in Congress recently addressed in letters to Leonid Brezhnev and the chairmen of the U.S. delegation to the Madrid Conference of the Commission on Security and Cooperation in Europe.

These letters seek relief for the many Soviet Jews not permitted to leave the Soviet Union because of the unjust enforcement of first-degree kinship regulations in the Soviet Union. Such regulations contravene the Helsinki Final Act and account for the fact that Soviet Jewish emigration this year has declined by almost 40 percent since last year.

A desire for world peace and a respect for political integrity are traditional values that America shares with Israel. Now is an appropriate time to recommit ourselves to people who share these values. Now is an appropriate time, as well, to recommit ourselves and our efforts to those who seek and are denied justice.

Mr. Speaker, I insert the column, "5741—Time for Moral Justice" be inserted into the Record:

5741—Time for Moral Justice

Rosh Hashanah is a time to pause to examine the direction of our lives and the value of our deeds and to weigh promises kept and unfulfilled. It is a time to reflect on our responsibilities to one another, and to the heritage of hope and faith that unites us.

As we gather to worship during the High Holy Days marking this new year, 5741, we join throughout the world to pray for a regeneration of moral standards and justice. We must counter the growing forces of evils being unleashed in the political world today by holding firm to the High Holy Day ideals of peace and Brotherhood among man.

During the past year Israel remained strong. The Jewish people continued to be vigilant in the face of physical threats to survival. Although peace is still not a permanent reality in the Middle East, Israel's largest neighbor, Egypt, is talking accommodation, not war.

We must dedicate ourselves to continue to meet the challenge of anti-Semitism wherever it may be found. Today it is more and more pointed at Israel. In the face of manipulated U.N. majorities for the Palestinian Liberation Organization, of intensified Arab pressures on Jersualem, and of West Europe's wavering in the face of Soviet and Arab threats in the Middle East, the Camp David accords will be the surest way to peace for Israel and its Arab neighbors.

During the past year principles of personal and international behavior were discarded in favor of instant gratification or convenience.

There have been dire forebodings of a decline in Soviet immigration, and an increase in Soviet anti-Semitism in the media, employment, schools, and professions.

We are sensitive to the vulnerable Jewish community in Iran, where executions of individual Jews have developed into a sinister pattern. The Syrian Jewish community has faced a continued plight in which 5,000 hostages are prevented from leaving and are subject to loss of freedom.

One of the difficult questions now being debated at the United Nations and elsewhere is the position Jerusalem should play in the structure of the State of Israel. During the coming year Jews worldwide must redouble their efforts in appeals to the world to maintain an undivided Jerusalem as the capital of both Israel and the Jewish people.

American Jewry has recently seen its high hopes for pro-Israel actions by the U.S. administration fall. In this dire time of Israel and world Jewry beseiged by Arab hostility and so-called allies whose allegiance is so readily for sale, what does the coming year portend?

At this hour, as in days gone by, Jewish survival is dependent on Jewish revival. With an inner strength and purpose, we can withstand the intense battles that face us on every front during 5741.●

LEAGUE OF WOMEN VOTERS DEBATE: REAGAN OFFERS HOPE; ANDERSON-CARTER MESSAGE IS THAT "AUSTERITY IS JUST AROUND THE CORNER"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Kemp) is recognized for 30 minutes.

● Mr. KEMP. Mr. Speaker, the alternatives offered to the American people by Ronald Reagan and President Carter were clearly presented at last night's League of Women Voters debate in Baltimore, even though Mr. Carter did not deign to show up. John Anderson established himself as a surrogate for President Carter on most questions of Federal policy. Mr. Anderson was an effective spokesman for the rather pessimistic view of the future that he shares with President Carter. Given such a clear presentation of the choices, I believe that a majority of the viewers of the debate surely sided with Governor Reagan. At the same time, I believe, Mr. Anderson improved his standing among many of those potential supporters of Mr. Carter who formerly favored Senator Kennedy.

Last night, in effect, Governor Reagan debated a President Carter—one who was, perhaps uncharacteristically, willing to be clear about his policies, and, also uncharacteristically, a President Carter who refrained from baseless ad hominem attacks.

Mr. Anderson, in last night's debate, established that he is in substantive, if not stylistic, agreement with Mr. Carter—on blaming inflation and energy scarcity on the American people, on the desire to change Americans rather than Government policies—for example, the call for creating a "new conservation ethic" of changed lifestyles—on favoring automatic tax rate increases caused by inflation, and on extending Federal authority into the personal lives of all Americans and their families.

The debate was one of the best pieces of evidence that, of the Presidential candidates, Governor Reagan's world view is the most coherent and at the same time the most optimistic about producing our way out of these problems.

On the question of inflation, Governor Reagan set himself apart from both President Carter and Congressman Anderson's view that inflation is caused by the desire of Americans for a better life. He rejected their common agreement on Federal policies which continue to raise tax rates and unemployment, and on a proposal for imposing tax penalties on wages which keep up with inflation. Instead, Governor Reagan stood alone in arguing that inflation is nothing but the decline in the value of the money produced by Government—a monetary problem. He offers monetary restraint to fight inflation, and a removal of tax and regulatory disincentives to encourage economic growth and full employment. With such a plan, Governor Reagan said he believed that the 7.5-percent average annual inflation forecast by the Senate Budget Committee over the next 5 years could be rapidly eliminated. In saying so, Governor Reagan has made himself the first Presidential candidate in decades to pledge a return to honest money, instead of merely slowing down the rate at which the Federal Government debases its currency.

When the debate turned to special problems like urban decline and the energy problem, it was Governor Reagan, not Mr. ANDERSON or Mr. Carter, who was logical and consistent.

On the subject of reviving our cities, for example, Mr. ANDERSON abandoned the fiscal restraint for which he is asking voters to choose him; he proposed two $4 billion new, Federal trust funds and several billion dollars of additional spending, all in the same class with President Carter's neglected promise to rebuild the South Bronx with an urban Marshall plan.

In fact, Mr. ANDERSON said he would fund these projects to aid our already overtaxed inner cities by further raising excise taxes.

Governor Reagan, on the other hand, made three sensible and incentive-oriented proposals. First, to remove entangling strings from Federal grants to cities. Second, to establish jobs and enterprise zones in our inner cities to offer tax incentives to both businesses and workers. And third, to enact a program to allow urban homesteading of now abandoned and federally owned buildings.

On energy, Governor Reagan demonstrated that he is the only one of the three Presidential candidates who understands how the price mechanism works. In opposing a new tax on gasoline—Mr. ANDERSON's 50-cent-a-gallon tax, and Mr. Carter's 10-cent-a-gallon tax—Governor Reagan pointed out that such policies prevent a balanced approach of encouraging both prudent conservation and increased production. A gasoline tax, by increasing the cost to consumers, forces conservation; but it does not provide consumers with any additional supplies, because it does not increase the incentive for producers. Removing Federal price controls on energy, on the other hand, would both encourage consumers to conserve energy in paying the true cost of producing energy; and increase the production of our abundant energy supplies—especially the known secondary and tertiary reserves which we know are in the ground, but which cannot be produced if the aftertax return on investment is below the market price.

Mr. Carter and Mr. ANDERSON, on the other hand, are offering an opposite prescription—the closing of vast areas of potentially energy-rich land. Mr. ANDERSON, like Mr. Carter, favors the closing of 200,000 square miles of land in Alaska to exploration—an area equal in size to the 11 States north and east of Ohio: Maine, New Hampshire, Vermont, Connecticut, Rhode Island, New Jersey, Massachusetts, Delaware, Maryland, New York, and Pennsylvania.

In short, both Mr. ANDERSON, who was present at last night's debate in person, and Mr. Carter, who was present in spirit, are telling the American people that if either of them is elected, austerity is just around the corner.

Governor Reagan contrasted this dismal view of the future with his own optimism in his summary remarks:

> For 200 years, we've lived in the future, believing that tomorrow would be better than today and today would be better than yesterday. I still believe that. I'm not running for President because I believe that I can solve the problems we've discussed tonight. I believe the people of this country can. And together we can begin the world over again.

Mr. Speaker, with the combination of policies Governor Reagan is recommending—monetary policy to fight inflation, and a comprehensive program of tax rate reduction, budgetary and regulatory reform to fight stagnation—we can get this country moving again, back toward full employment without inflation.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. CAVANAUGH) is recognized for 5 minutes.

● Mr. CAVANAUGH. Mr. Speaker, on Thursday, September 18, and Friday, September 19, meetings with local officials in my district necessitated my absence from the House. Had I been here, I would have cast the following votes:

THURSDAY, SEPTEMBER 18, 1980

Rollcall No. 560, House Concurrent Resolution 367, disapproving the proposed export of nuclear fuel to India pursuant to export license application ESNM-1569. "Yea."

Rollcall No. 561, House Resolution 789, rule to allow consideration of continuing appropriations for 1981 (H.J. Res. 610). "Yea."

Rollcall No. 562, notice to recommit, House Joint Resolution 610. "Nay."

Rollcall No. 563, passage of House Joint Resolution 610. "Yea."

Rollcall No. 564, Long of Maryland amendments to International Monetary Fund quota increase, H.R. 7244. "Yea."

Rollcall No. 565, Neal motion to H.R. 7244 in the nature of a substitute. "Yea."

FRIDAY, SEPTEMBER 19, 1980

Rollcall No. 566, motion to resolve into the Committee of the Whole House to consider H.R. 7020, amendments to the Solid Waste Disposal Act. "Yea."

Rollcall No. 567, conference report on H.R. 3904, Multiemployer Pension Plan Amendments of 1979. "Yea."

Rollcall No. 568, resolve into the Committee of the Whole House for the consideration of Comprehensive Oil Pollution Liability and Compensation Act (H.R. 85). "Yea."

Rollcall No. 569, quorum call.

Rollcall No. 570, Wyatt amendment to H.R. 85. "Nay."

Rollcall No. 571, final passage of H.R. 85. "Yea." ●

EXTENSION OF RAPID RAIL TRANSIT TO DULLES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. McKINNEY) is recognized for 5 minutes.

● Mr. McKINNEY. Mr. Speaker, last week, I introduced a bill to amend the National Capital Transportation Act of 1969 to authorize additional Federal contributions for the designing, construction, and equipping of a rapid rail transit line to the Dulles International Airport which sits on the fringe of the Washington metropolitan area.

Proposals for a rail extension to Dulles have been around ever since the airport, as well as the Washington Metro system, was originally conceived. What I am simply doing at this time is resurrecting an old concept which I consider very necessary.

Dulles International Airport was built in the mid-fifties/early sixties to serve the Washington metropolitan area. The airport's proponents envisioned that by the year, 1990 or 2000, Dulles would become the major airport of the Nation's Capital. Today, 20 years after its dedication, Dulles International Airport languishes in a sea of uncertainty and is constantly plagued by problems. Paramount among these problems has been its lack of growth. Considering the fact that close-in National Airport has been able to compete with Dulles, it is not very difficult for any of us to comprehend Dulles' plight.

In October of 1972, former Virginia Senator William B. Spong, took to the floor of the Senate in support of legislation aimed at accomplishing exactly what I propose today. At that time, he noted that it was mandatory for the Senate to pass his legislation "if we are to redress the imbalance which now exists in usage of the Washington area airports." In fact, Senator Spong's assertion 8 years ago that "air traffic at National continues to grow fostered by Federal policies, while the minimal attention is given to Dulles" is as pertinent today as it was then. Unfortunately, while the Senate passed the Spong proposal, the House failed to enact that legislation because of time constraints.

My bill, H.R. 8163 contains provisions which provide for two additional Metro statons to be built along the Dulles extension. Thus, in approving this legislation we will not only be bringing Metro to the airport, but also providing mass transportation to one of the fastest growing section of the suburban Washington area.

Mr. Speaker, in recent months, we in Congress seem to have gotten embroiled in the controversy surrounding the continued growth of National Airport. Suffice it for me to repeat here on this floor what I and others have said so often in the past, "National Airport is a disaster waiting to happen." National

Airport has grown as much as possible within the confines of a populated area and now even the Federal Aviation Administration acknowledges that in coming years Dulles and Baltimore/Washington International are going to have to absorb the traffic that National can no longer handle.

Twenty years ago the planners were citing Dulles to be the major airport in the year 2000. That date is not very far off. Personally, I do not think that we should wait until 1985 or 1990 to awaken to the realization that we failed to provide mass transit access to what will eventually become the national capital's major air link with the Nation and the world.

I know full well that there are those in this Congress who will agree with me on this proposal and say "OK, let's go ahead." Others will say "Well, it sounds logical but let's study it." To those who advocate further study, I must ask "Can we afford it." Already, since 1972, the costs of this extension have increased fivefold. We are probably all in agreement that someday, perhaps not today, Metro will be extended to Dulles. Why do not we face up to the inevitable and authorize these funds so that the planning, design, and construction can move forward today.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Nelson (at the request of Mr. Wright), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Leach of Iowa) to revise and extend their remarks and include extraneous material:)

Mrs. Heckler, for 10 minutes, today.

Mr. Kemp, for 30 minutes, today.

(The following Members (at the request of Mr. AuCoin) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 15 minutes, today.

Mr. Cavanaugh, for 5 minutes, today.

Mr. Breaux, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Boland, to revise and extend during consideration of H.R. 8117 and to revise and extend during consideration of H.R. 4736.

(The following Members (at the request of Mr. Leach of Iowa) and to include extraneous matter:)

Mr. McKinney.

Mr. Williams of Ohio.

Mr. Derwinski in two instances.

Mr. Fish.

Mrs. Snowe in two instances.

Mr. Frenzel in five instances.

Mr. Hollenbeck.

Mr. Quayle.

Mr. Courter.

Mr. McCloskey.

(The following Members (at the request of Mr. AuCoin) and to include extraneous matter:)

Mr. Jacobs.

Mr. Anderson of California in 10 instances.

Mr. Gonzalez in five instances.

Mr. Brown of California in 10 instances.

Mr. Annunzio in six instances.

Ms. Holtzman in 10 instances.

Mr. Jones of Tennessee in 10 instances.

Mrs. Spellman.

Mr. Boner of Tennessee in five instances.

Mr. Santini.

Mr. Coelho.

Mr. Fazio.

Mr. Weiss.

Mr. Chappell.

Mr. Edwards of California.

Mr. Wyatt.

Mr. Moffett in three instances.

Mr. Hubbard.

Mr. Mazzoli.

Mr. Dingell.

BILL PRESENTED TO THE PRESIDENT

Mr. NEDZI, from the Committee on House Administration, reported that that committee did on September 19, 1980, present to the President, for his approval, a bill of the House of the following title:

H.R. 3292. An act to assist the States in developing fish and wildlife conservation plans and actions, and for other purposes.

ADJOURNMENT

Mr. AuCOIN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 55 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, September 23, 1980, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5351. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Harry E. T. Thayer, Ambassador-designate to Singapore, and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

5352. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

5353. A letter from the Chairman, U.S. Advisory Commission on Public Diplomacy, transmitting the Commission's first report on the International Communication Agency, pursuant to section 8 of Reorganization Plan No. 2 of 1977; to the Committee on Foreign Affairs.

5354. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of July 1980, pursuant to section 808(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

5355. A letter from the Secretary of Health and Human Services, transmitting notice of a delay until September 30, 1981, on the report on the study of the desirability of mandatory age retirement for certain pilots, required to be submitted by December 29, 1980, by Public Law 96-171; to the Committee on Public Works and Transportation.

5356. A letter from the Administrator of General Services, transmitting a prospectus proposing the acquisition of space by lease in Washington, D.C., for the Federal Labor Relations Authority; to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. H.R. 7709. A bill to amend the Tariff Schedules of the United States to increase the quantity of cigarettes that may be accorded duty-free treatment if acquired in the insular possessions and entered by returning U.S. residents; with amendments (Rept. No. 96-1360). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 6750. A bill entitled "The Hovercraft Skirt Tariff Act"; with amendments (Rept. No. 96-1361). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 7660. A bill to extend duty-free treatment to certain freight containers; with amendment (Rept. No. 96-1362). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 7802. A bill to amend the Tariff Schedules of the United States with respect to the rates of duty on ephedrine, racephedrine, and their salts; with amendments (Rept. No. 96-1363). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report pursuant to section 302(b) of the Congressional Budget Act of 1974. (Rept. No. 96-1364). Referred to the Committee of the Whole House on the State of the Union.

Mr. DELLUMS: Committee on the District of Columbia. H.R. 7658. A bill to amend the National Capital Transportation Act of 1969 to require the Secretary of Transportation to contract with the Washington Metropolitan Area Transit Authority for a comprehensive study of extending the rail rapid transit line specified in the adopted regional system; with amendment (Rept. No. 96-1365). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEVILL: Committee of Conference. Conference report on H.R. 7590. (Rept. No. 96-1366). Ordered to be printed.

Mr. STAGGERS: Committee of Conference. Conference report on S. 1177. (Rept. No. 96-1367). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BENNETT (for himself, Mr. Spence, Mr. Hamilton, Mr. Hollenbeck, Mr. Preyer, Mr. Livingston, Mr. Fowler, Mr. Thomas, Mr. Stokes, Mr. Sensenbrenner, Mr. Rahall, and Mr. Cheney):

H.R. 8176. A bill to amend the Federal Rules of Criminal Procedure with respect to the disclosure of matters occurring before a grand jury; to the Committee on the Judiciary.

By Mr. HEFTEL (for himself, Mr. Ottinger, Mr. Fish, Mr. Rousselot, Mr. Downey, Mr. Whitehurst, Mr. Porter, Mr. Studds, Mr. Edgar, Mr. Neal, Mr. Evans of Georgia, Mr. Hughes, Mr. McDade, Mr. Wolpe, Mr. Murphy of Pennsylvania, Mr. Jeffords, Mr. Fazio, Mr. Yatron, Mr. Lederer, Mr. Scheuer, Mr. Seiberling, Mr. Luken, Mr. Dixon, Mr. Mavroules, Mr. Sawyer, and Mr. Shumway):

H.R. 8177. A bill to amend the Internal Revenue Code of 1954 to provide that the energy percentage of the investment tax credit shall be 20 percent for specially defined energy property, certain alternative energy property, recycling equipment, and qualified conservation property, and to allow refunds of the investment tax credit to the extent attributable to such 20-percent energy credit; to the Committee on Ways and Means.

By Mr. KASTENMEIER (for himself, Mr. Danielson, Mr. Mazzoli, Mr. Gudger, Mr. Harris, Mr. Railsback, Mr. Moorhead of California, and Mr. Sawyer):

H.R. 8178. A bill to amend title 28 to make certain changes in judicial districts and in divisions within judicial districts, and other purposes; to the Committee on the Judiciary.

By Mr. UDALL (for himself and Mr. Bingham):

H.R. 8179. A bill to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 relating to liability for accidents at nuclear facilities, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ROTH:

H. Con. Res. 436. Concurrent resolution accepting the gift of a red oak tree as a symbol of the hopes of the American people for the immediate release of the hostages in Iran and dedicating the tree to the principles of individual freedom and world peace; to the Committee on Public Works and Transportation.

MEMORIALS

Under clause 4 rule XXII, memorials were presented and referred as follows:

532. By the SPEAKER: Memorial of the Legislature of the State of California, relative to the fuel allocation program; to the Committee on Interstate and Foreign Commerce.

533. Also, memorial of the Legislature of the State of Louisiana, relative to drought relief for farmers; jointly, to the Committees on Agriculture and Small Business.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. COELHO:

H.R. 8180. A bill for the relief of Irene Elizabeth Evans; to the Committee on the Judiciary.

By Mr. DANIELSON:

H.R. 8181. A bill for the relief of the Brooklyn Times; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 652: Mr. Hubbard.

H.R. 7189: Mr. Madigan.

H.R. 7773: Mr. Pepper and Mr. Johnson of California.

H.R. 7781: Mr. Oberstar.

H.R. 8163: Mrs. Spellman and Mr. Barnes.

H.R. 8169: Mr. Porter, Mr. Stockman, Mr. Hansen, Mr. Forysthe, and Mr. Drinan.

AMENDMENTS

Under cause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6979

By Mr. WYATT:

—Page 16, lines 13 and 14, strike out "AND THE COASTAL ZONE MANAGEMENT ADVISORY COMMITTEE".

Page 16, strike out lines 15 and 16 and insert in lieu thereof the following:

Section 310 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456c) is repealed.

Page 3, line 13, insert "(including the maintenance of channels and the construction and maintenance of berths)" immediately after "transportation".

Page 3, line 15, insert "or adjacent to" immediately after "in".

Page 9, line 22, insert "public safety or" immediately after "for the purpose of".

Page 10, line 1, insert "or replacement" immediately after "removal".

Page 18, line 24, strike out "and".

Page 19, line 2, strike out the period and insert in lieu thereof "; and".

Page 19, between lines 2 and 3 insert the following:

(3) by adding the following new sentence at the end of the section:

"No grant for acquisition of land may be made under this section without the approval by resolution of the government of the political subdivision of the state in which is located the land proposed to be acquired.".

—Page 18, line 24, strike out "and".

Page 19, line 2, strike out the period and insert in lieu thereof "; and".

Page 19, between lines 2 and 3 insert the following:

(3) by adding the following new sentence at the end of the section:

"No grant for acquisition of land may be made under this section without the approval of the governor of the state in which is located the land proposed to be acquired."

—Page 16, between lines 16 and 17 insert the following:

Sec. 10. Annual Payments in Compensation for Loss of Property Tax Revenues.

The Coastal Zone Management Act of 1972 is further amended by adding immediately after section 309 the following new section:

"COMPENSATION FOR LOSS OF CERTAIN PROPERTY TAX REVENUES

"Sec. 309A. If any land or interest therein is acquired in part with a grant made available under section 306A or 315, the Secretary shall pay annually to the coastal state or unit of general purpose local government (as defined in section 308(1)(3)) concerned an amount equal to the annual property tax revenues that would have been collected with respect to such land by such State or unit but for such acquisition. In computing the payments required to be made by this section, the Secretary shall take into account any change in property tax assessments or rates that would, but for such acquisition, have affected the amount of the tax revenues collected by such State or unit."

Redesignate the succeeding sections of the bill accordingly.

—Page 19, insert the following new section 12 after line 2 and renumber the remaining sections:

Sec. 12. Rules and Regulations.

Section 317 of the Coastal Zone Management Act of 1972 (16 U.S.C 1461) is amended by adding a sentence at the end of the section to read as follows:

"However, there shall be no presumption that any rule or regulation of the Secretary is valid, and whenever the validity of any such rule or regulation is drawn in question in any court of the United States or of any State, the court shall not uphold the validity of such challenged rule or regulation unless such validity is clearly and convincingly shown; *Provided, however*, That if any rule or regulation is set up as a defense to any criminal prosecution or action for civil penalty, such rule or regulation shall be presumed valid until the party initiating the criminal prosecution or action for civil penalty shall have sustained the burden of proof normally applicable in such actions.".

H.R. 7020

By Mr. GORE:

—Page 47, line 17 after "party" insert: "other than (i) an employee or agent of the defendant, or (ii) a person whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly, with the defendant,".

Page 48, line 3, strike out "(2)" and substitute "(3)".

Page 48, after line 4 insert the following new paragraph:

"(2) For purposes of paragraph (1)(C) a defendant (including any person involved in the generation, transportation, treatment, storage, or disposal of hazardous waste) must demonstrate that he exercised due care with respect to all foreseeable acts or omissions of the third party and that he exercised due care in light of all relevant facts and circumstances.

Page 48, line 5, strike out "(2)" and substitute "(3)".

—Page 48, line 6, after "establishes" insert "by a preponderance of the evidence".

Page 48, line 11, after "establishes" insert "by a preponderance of the evidence".

Page 48, strike out lines 16 through 20 and insert in lieu thereof:

"(B) To the extent apportionment is not established under subparagraph (A), the court may apportion the liability among the parties where deemed appropriate based upon evidence presented by the parties as to their contribution. In apportioning liability under this subparagraph, the court may consider among other factors, the following:

"(i) the ability of the parties to demonstrate that their contribution to a discharge, release, or disposal of a hazardous waste can be distinguished;

"(ii) the amount of hazardous waste involved;

"(iii) the degree of toxicity of the hazardous waste involved;

"(iv) the degree of involvement by the parties in the generation, transportation, treatment, storage, or disposal of the hazardous waste;

"(v) the degree of care exercised by the parties with respect to the hazardous waste concerned, taking into account the characteristics of such hazardous waste; and

"(vi) the degree of cooperation by the parties with Federal, State, or local officials to prevent any harm to the public health or the environment."

Page 48, line 21, strike "this paragraph" and insert "subparagraph (A)".

H.R. 7112

By Mr. MAGUIRE:

—Page 16, immediately before line 1 insert the following new section (and redesignate the succeeding sections accordingly):

SEC. 104. EXCLUSION OF CERTAIN TAXES FROM TAX EFFORT COMPUTATIONS.

(a) AMENDMENT.—Section 109(c)(2)(A) of the State and Local Fiscal Assistance Act of 1972 is amended to read as follows:

"(A) TAXES TAKEN INTO ACCOUNT.—The State and local taxes taken into account under paragraph (1) are—

"(i) the compulsory contributions exacted by the State (or by any unit of local government or other political subdivision of the State) for public purposes (other than employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay), as such contributions are determined by the Bureau of the Census for general statistical purposes,

"(ii) adjusted, to the extent practicable (under regulations prescribed by the Secretary), by excluding an amount equal to that portion of such compulsory contributions which is properly allocable to the fraction of any severance, production, or sales taxes, imposed by the State or by any unit of local government or other political subdivision of the State on the extraction or sale of mineral resources, the burden of which is not borne by the residents of such State.".

(b) CONFORMING AMENDMENT.—Section 109(c)(2) is further amended by adding at the end thereof the following new subparagraph:

"(C) MINERAL RESOURCES.—For purposes of subparagraph (A)(ii), the term 'mineral resources' means petroleum, natural gas, or coal.".

By Mr. WALKER:

—Page 2, strike out lines 3 through 5; on line 6, redesignate section 101 as section 2; on page 8, line 13, redesignate section 102 as section 3; on page 12, line 23, redesignate section 103 as section 4; on page 16, line 1, redesignate section 104 as section 5; on page 16, line 9, redesignate section 105 as section 6; and on page 16, beginning on line 13, strike out all of title II of the bill through line 19 on page 38.

—Page 16, beginning on line 13, strike out all of title II of the bill through line 19 on page 38.

S. 885

By Mr. WEAVER:

(Amendment to the amendment in the nature of a substitute (text of H.R. 8157).)

—Page 6, line 13, strike ", including" and insert "based on".

—Page 10, lines 15–21, strike "(A) electric power," and all that follows down through page 10, line 21 and insert in lieu thereof: "electric power, electric power output of generating facilities, programs and measures to conserve electric power, renewable energy technologies, and programs and measure to utilize renewable technologies.".

—Page 11, line 24, strike "two persons from each State" and insert "four persons from Washington, three persons from Oregon, and two persons each from Idaho and Montana".

—Page 41, line 12, strike "and to each requesting investor-owned utility";

Page 41, line 13, strike the comma and insert in lieu thereof "or";

Page 41, line 14, strike "or investor-owned utility";

Page 42, line 5, strike "(2) Contracts" and all that follows down through page 42, line 8, renumbering accordingly;

Page 42, line 13, after "cooperative" strike the comma and insert in lieu thereof "or";

Page 42, lines 13–14, strike "or investor-owned utility".

—Page 48, line 23, after "customer" insert "and, notwithstanding any provision of section 7, such electric power shall be sold at a price that reflects the full cost of acquiring such power plus the appropriate administrative costs of the Administrator".

—Page 53, line 3, strike "(7) The" and all that follows down through page 53, line 5.

—Page 54, line 20, after "Act." insert a new subsection, renumbering accordingly:

"(b) In making any payment to a utility for the acquisition of a resource under section 6(a)(2) or for the exchange of power under section 5(C), the Administrator shall exclude the costs of construction work in progress."

—Page 58, line 19, after "Congress" insert "pursuant to bills reported from the Committees of Congress having jurisdiction, under the applicable rules of the respective Houses of Congress, over substantive amendments to the Bonneville Project Act and the Federal Columbia River Transmission System Act,".

—Page 59, line 18, after "Council.", insert:

"(d) Prior to the acquisition of a specific major resource, any utility may notify the Administrator of its determination not to participate in such resource if such utility has determined by a referendum or a vote by its governing body not to participate in such resource.

"In the event of such notification, the Administrator shall not include costs from such resource in the rates charged such utility, and the Administrator, in allocating power among the utilities, shall not allocate to nonparticipating utilities any power from such resource. Such allocation shall be adjusted from time to time to take into account the historical operating experience of the resource."

—Page 60, line 20, strike "(f)(1) For" and all that follows down through page 62, line 18;

Page 55, line 22, strike "(f),"

Page 55, line 25, strike "to" and all that follows down through "resource," on page 56, line 2:

Page 52, line 2, strike "(f),";

Page 57, line 15, strike "In the case" and all that follows down through page 57, line 22;

Page 60, line 11, strike "(including" and all that follows down through page 60, line 14, and insert in lieu thereof a period;

Page 91, line 7, strike "(E)" and all that follows down through page 91, line 8, and renumber accordingly.

—Page 71, line 1, after "(1)" insert "(A)";

Page 71, line 1, strike out "a rate or";

Page 71, line 5, strike out "Such rate or rates shall" and all that follows down through page 71, line 12 and substitute:

"(B) The rates of general application established under this paragraph for electric power sold to meet such general requirements and loads under section 5(c) shall consist of the following separate rates—

(i) A rate which shall recover both (I) the costs of that portion of the Federal base system resources needed to serve such general requirements and loads and (II) the costs of the electric power acquired by the Administrator under section 5(c) to serve such general requirements and loads.

(ii) Separate rates which shall recover the costs of any additional electric power acquired by the Administrator from sources other than the sources referred to in clause (i) in order to serve such general requirements and loads under section 5(c).

(C) The rates under clause (ii) of paragraph (B) shall consist of the following separate rates—

(i) A rate for that amount of additional electric power referred to in clause (ii) of subparagraph (B) which is initially purchased by the Administrator in the first ten year period during which any such additional electric power is purchased by the Administrator for purposes of sales referred to in such clause (ii).

(ii) Separate rates for that amount of additional electric power referred to in clause (ii) of subparagraph (B) which is initially purchased in each succeeding ten year period during which any such additional electric power is purchased by the Administrator for purposes of sales referred to in such clause (ii).

(D) The rates established pursuant to subparagraph (B)(ii) for any electric power acquired by the Administrator from a new resource shall recover the full costs of such new resource over its useful life.

(E)(i) The Administrator shall annually allocate the electric power sold at the rate established under clause (i) of subparagraph (B) to the customers referred to in subparagraph (A), including public bodies and cooperatives formed after the date of the enactment of this Act which initially become customers of the Administrator after such date.

(ii) In the case of the public body, cooperative, and Federal agency customers, such allocation shall be in proportion to general requirements of each such customer, except that the allocation shall be adjusted to give equitable consideration to differing rates of population growth, employment, and irrigated acreage.

(iii) In the case of the customers acquiring electric power pursuant to section 5(c), such allocation shall be adjusted on the basis of population growth and irrigated acreage.

(F) Each separate rate required pursuant to this subparagraph shall be separately stated on a billing provided to the customer for purposes of periodically notifying the customer of the charges for electric power purchased subject to each such rate.

(G) Whenever the rates charged to public body, cooperative, and Federal agency customers are modified by reason of the limitation contained in paragraph (2), such modified rates shall be established, where practicable, as separate rates charged according to the rate structure described in subparagraphs (B) and (C), and where not practicable, according to a rate structure which the Administrator determines will maintain the effects of such separate rates and will carry out the purposes of subparagraphs (B) and (C).".

Page 80, strike "(j) All" and all that follows down through line 4 on page 81.

—Page 95, line 4, strike "(h)(1) No" and all that follows down through page 97, line 9.

SENATE—*Monday, September 22, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. Max Baucus, a Senator from the State of Montana.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Almighty God, Ruler of men and nations, may Thy spirit descend upon and pulsate through the hearts and minds and wills of all who serve in this Government. Grant to each person the wisdom and grace to fulfill his role in the spirit of a servant. Banish all unworthy impulses. Consecrate all personal ambition. Control all selfish drives. Overrule all mistakes. Confirm what is right. Give us sanctified wisdom and strength for the future. In the freedom of the Republic Thou has blessed from generation to generation, give us now that higher guidance which leads us to know and to do Thy will.

We pray in His name who showed us the way of Thy kingdom. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Magnuson).

The legislative clerk read the following letter.

U.S. Senate,
President pro tempore,
Washington, D.C., September 22, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Max Baucus, a Senator from the State of Montana, to perform the duties of the Chair.

Warren G. Magnuson,
President pro tempore.

Mr. BAUCUS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

ORDER FOR RECESS UPON COMPLETION OF BUSINESS ON FRIDAY, SEPTEMBER 26, 1980, UNTIL MONDAY, SEPTEMBER 29, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Friday it stand in recess until the hour of 12 o'clock noon on Monday, September 29, 1980.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I am ready to yield back my time.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting minority leader is recognized.

Mr. STEVENS. Mr. President, I yield back our time.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT-INDEPENDENT AGENCIES APPROPRIATIONS, 1981

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 7631 which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 7631) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1981, and for other purposes.

The Senate resumed consideration of the bill.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business not to extend beyond 15 minutes and that Senators may speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

RECESS UNTIL 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 11 a.m. today.

There being no objection, the Senate, at 10:03 a.m., recessed until 11 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Levin).

RECESS UNTIL 11:31 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 11:01 a.m., recessed until 11:31 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Levin).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT-INDEPENDENT AGENCIES APPROPRIATIONS, 1981

The Senate continued with the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is H.R. 7631.

Mr. ROBERT C. BYRD. I thank the Chair.

The PRESIDING OFFICER. The pending question is the amendment of the Senator from Massachusetts.

Mr. PROXMIRE. Mr. President, I understand that the Senator from Massachusetts feels very strongly about his amendment. I hope he will come and present his amendment positively so we can debate it and discuss it. We have a great deal to do here. There is very little time left before the Senate will recess for the election. I hope that we can move as expeditiously as possible and there will not be any further delay.

Unfortunately, this morning the leader called us in at 10 o'clock with the understanding that we could proceed with this bill and finish it today. We have already had an hour and a half of delay. I earnestly hope there will be no further delay and we can deal with the amendments expeditiously.

Mr. ROBERT C. BYRD. Mr. President, the delay resulted from my desires to protect the managers of the bill. I simply wanted to make that explanation for the record.

Mr. PROXMIRE. Mr. President, I appreciate that. Speaking for the majority, I was here, ready and willing to spring into action at 10 o'clock.

Mr. President, I see that the Senator from Massachusetts is in the Chamber.

Mr. TSONGAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Does the Senator from Maryland seek recognition?

Mr. MATHIAS. No; we are awaiting the words of wisdom from the Senator from Massachusetts.

AMENDMENT NO. 2335

Mr. TSONGAS. Mr. President, let me say first of all that I am delighted to finally get to this amendment. We tried to raise it on Friday. I thought we had achieved an accommodation, but that apparently has fallen through. So we will play out the scenario to whatever end this morning.

Mr. President, I am proposing an amendment to restore $200 million to the

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

community development block grant program.

I am proposing this amendment with Senators WILLIAMS, CRANSTON, JAVITS, REIGLE, SARBANES, SASSER, STEWART, MOYNIHAN, DURENBERGER, and LEVIN. As you can see, it is a coalition that spans both political parties and, indeed, various geographies.

This amendment would provide for a fiscal year 1981 appropriation of $3.95 billion, which is identical to the Senate Banking Committee's authorization level, and to the administration's budget request.

Let me briefly highlight the compelling case for maintaining our full commitment to this important program:

First. Our amendment would provide only a modest increase of 4 percent over last year's CDBG funding level. This program has throughout its history only received modest increases. In an inflationary economy, this in effect has resulted in a loss of real spending power over the years. Our 4-percent increase will only partially offset the inflationary pressures on this program in fiscal year 1981. Assuming an annul inflation rate of 13 percent, the amendment in fact represents a 9-percent reduction in real spending power for community and economic development programs for distressed areas and for low- and moderate-income persons.

So what we are seeking here is not some unwarranted increase in funding, but, rather, to bring it to a level which represents a 9-percent reduction in real dollars over last year. Is that to be considered unreasonable?

Second. I would strongly maintain that efforts to reduce budget expenditures cannot be directed at community and economic development programs which are in fact part of our overall economic policy. The specific national objectives of the CDBG program include: the alleviation of physical and economic distress, the stimulation of private investment and community revitalization, the provision of economic opportunities for low- and moderate-income persons.

Our current national economic woes are particularly evident in our cities, and the burdens of our economic troubles fall heavily on the low- and moderate-income persons in those cities.

Indeed, there was an article that appeared over the weekend about the plight of our cities and about some of the very unhappy forecasts given our current economic situation.

The CDBG program helps put communites, and businesses and workers back on a strong footing. This is not the time to retreat from our support for those efforts.

Third. We should be clear that the impact of a $200 million cut in funds for this program will be widespread, and in many areas those cuts will be severe.

CDBG funds are widely dispersed to our Nation's cities, counties, towns and townships. In fiscal year 1979, 3,305 CDBG grants were approved, including 1,290 grants to large cities averaging $2.1 million, and an additional 1,809 grants to small cities averaging $438,000.

This is not a program of limited impact or particiption, and any cuts in program operations will be felt and shared by all those involved.

Even if funding remains constant—and we are not even arguing for that; we accept the 9-percent reduction in real dollars—a number of new large cities and counties will become qualified for CDBG funds in fiscal year 1981. Those cities and counties will be funded at the expense of existing program participants. If the Senate Appropriations Committee cut is sustained by the full Senate, many of the largest and most distressed cities will suffer substantial program decreases in addition to the reductions caused by increased numbers of participants.

It just makes sense, Mr. President. The more people you have in the program, the less money you have to give out, the less will be the participation of any one community.

Reductions in CDBG funds of the order suggested by the Senate Appropriations Committee will also have a severe impact on smaller communities. Multiyear grant commitments to small cities will require $500 million in fiscal year 1981 to support ongoing small cities programs. In addition, current demand for for small cities funds exceeds available funds by 3 to 1. Any major funding reductions will further delay or prevent expended participation by smaller distressed communities.

My personal experience with the smaller communities of Massachusetts leads me to believe that this would be particularly problematic for our older urban areas under 50,000 in population, which are suffering industrial dislocation and severe fiscal distress.

Fourth, let me comment on an issue that will be raised in rebuttal. That is the issue of the so-called drawdown. The drawdown issue has been given as the major reason for cutting the $200 million from the CDBG appropriation, and much has been made of a GAO study which indicated that, as of the end of April 1980, $3.4 billion in CDBG funds had not yet been drawn down by local government participants. This kind of figure, I admit, has good shock value, but it seems to me that there is some obligation to examine it in its proper context.

Over 70 percent—70 percent—of the $3.4 billion in unused funds had been obligated at the end of fiscal year 1979 and had been available for 6 months or less. Many physical development activities require commitments of funds prior to drawdown. Anyone who has worked in a city knows that. For example, a city may commit $2 million for a water system repair contract and pay the contract on a monthly basis. The construction contract requires that the funds be committed in advance, but payments are made as work proceeds.

Now, is that lack of drawdown somehow inappropriate? Of course not. In the early years of the program, cities were developing comprehensive strategies for community development. That was the whole purpose of the program, rather than the shotgun approach, in which communities were forced, in order to have these moneys, to develop a comprehensive strategy.

Accumulations of funds did occur during that time. The drawdown ratio has improved dramatically, from 51 percent in 1976 to 104 percent in 1979–80.

In other words, the amount of money committed under the community development program was greater than the moneys that were put into it. So when we talk about drawdown, what we are talking about, in essence, is the legacy of the earlier years, when communities were trying to get their acts together, not the current situation. Early accumulations are being eliminated, and there is greater departmental emphasis on improving the rate at which entitlement communities implement their CDBG programs.

I share my colleague's concern that HUD closely monitor both the quality and the timeliness of CDBG fund utilization. However, I do not share the approach that the committee has taken. We have a GAO study, and drawdown problems, so, we should rush in here with a major cut in funding as a solution to the quality and the timing of fund use. It seems to me obvious that you do not solve this sort of problem by providing less money, but through performance criteria and monitoring.

To put it another way, to the extent a community is trying to achieve a comprehensive development plan, and we, in essence, say to this community, you either draw down your funds now or you are going to lose it, we then provide all the incentive possible for a haphazard, slipshod development program. This is not a theoretical concern. Every Senator has in his State communities that have seen this kind of rather unfortunate pressure being applied and therefore a rush to adjust it.

Finally, Mr. President, let me point out to my colleagues that what we have here is a highly successful program, with tremendous, visible, outstanding results. If Senators question my word, they can call their mayors. The CDBG program has truly become the backbone of our efforts to revitalize our cities and towns. It is entering its 7th year of operation with the overwhelming support of a broad-based coalition of local government groups. The reauthorization legislation passed both the House and Senate this summer by a wide margin.

In addition to the public improvements and social services which this program supports, CDBG has become an increasingly critical component of housing and economic development projects involving other public funds and private resources. A survey of the first 5 years of the CDBG program in large cities reveals the solid record of accomplishments.

During that period, CDBG funds supported an estimated 290,000 units of rehabilitated housing. And in communities which had programs to leverage private funding for housing rehabilitation, every dollar of CDBG funds leveraged an additional $1.50 in private funds.

CDBG funds also supported efforts to rebuild and replace our urban infrastructure, with an estimated 7,700 miles of improved streets, 4,500 miles of water and sewer systems and elimination of 100,000 unsafe units from our housing stock.

Mr. President, this is not a program of unknown or limited impact. It has proven its worth as a valuable component of our national economic objectives. I would suggest that Senators who are serious about the long term success of those objectives, which cannot be separated from our Nation's communities and the businesses and the people in those communities, should support full funding for the CDBG program.

Mr. President, let me say that I have spent a great deal of my time, in the 11 years I have been in politics, on the issue of trying to bring cities back. I probably spend more of my own personal time on this issue than any other Member of the Senate. I have seen how a community succeeds and I have, unfortunately, seen how they fail. In my opinion, there are two worthwhile programs that, over the long term, offer the cities one real opportunity to come back. They are this program and the UDAG program. If those two programs are not given some kind of priority and at least brought into some kind of level of funding and not drastically cut, what mechanism does the city have? The property tax? Senators should talk to their mayors about that.

Every single improvement taking place in many of the cities in this country in terms of capital reinvestment, in terms of infrastructure renewal, comes out of those two programs. If this program is allowed to wither, as the committee would suggest, by having this $200 million cut, how can we look, over the long term, to any kind of revitalization of these cities?

The quality of life in this country to most Americans happens to be a function of the cities they live in; and the CDBG program and the UDAC program in my mind, are the two programs coming out of Washington that offer realistic opportunity not only for renewal in the classical sense but also the capacity to leverage in private funds so that these communities become not wards of the State but have some self-sustaining capability. These cities have to be made livable, and this program is an important component of that effort.

I will read the organizations that are endorsing the amendment:

American Baptist Churches, U.S.A., Office of Governmental Relations.
AFL-CIO.
American Friends Service Committee.
Americans for Democratic Action.
Children's Foundation.
Consumer Federation of America.
Council of State Community Affairs Agencies.
Council of State Housing Agencies.
Friends Committee on National Legislation.
Housing Assistance Council.
Human Environment Center.
International Union, UAW.
League of Women Voters of the U.S.
National Association for the Advancement of Colored People.
National Association of Counties.
National Association of Housing and Redevelopment Officials (NAHRO).
National Association of Housing Cooperatives.
National Association of Social Workers.
National Conference of Catholic Charities.
National Consumer Law Center.
National Hispanic Housing Coalition.
National Housing Conference.
National Housing Law Project.
National Leased Housing Association.
National League of Cities.
National Low Income Housing Coalition.
National Neighbors.
National Retired Teachers Association/American Association of Retired Persons.
National Rural Housing Coalition.
National Urban Coalition.
National Urban League.
Rural America.
Rural Coalition.
United Church of Christ, Office of Church and Society.
United Food and Commercial Workers, International Union.
United Presbyterian Church, Washington Office.
U.S. Catholic Conference.
U.S. Conference of Mayors.

How can anyone possibly oppose such a noteworthy coalition?

Mr. PROXMIRE. Mr. President, I must say that the Senator from Massachusetts has read a most compelling and impressive list of supporters of his amendment, and I congratulate him on having such broad and impressive support. These are fine organizations staffed by very fine people. However, we all know that we do not vote in this body on the basis of organizational support—at least, not exclusively on that basis. We look at the merits of the proposal; and I believe the case against the pending amendment is very powerful.

Mr. President, there are three compelling reasons for opposing the Tsongas amendment to restore $200 million the Appropriations Committee cut from the administration's community development block grant request.

First, the Congress committed itself to such a cut in passing the first concurrent budget resolution. To repudiate that commitment today would send a signal to the American public that we were not really serious about trying to hold down the Federal deficit. It would be a repudiation of our budget resolution vote.

Second, a General Accounting Office report makes it clear beyond the shadow of a doubt that the block grant program is awash in a sea of unused dollars and that a modest 5-percent cut in the program, as proposed by the Appropriations Committee, will not have an adverse effect on the program. Here is what the August 20 GAO report found:

First. There was a current backlog of about $3.4 billion in unspent block grant funds as of April 30, 1980. This backlog was increased by some $2.7 billion with the addition of new funds in early summer of this year. At current or anticipated spending rates, Appropriations Committee staff have calculated that it could take up to 10 years to spend the $3.4 billion backlog alone, assuming new appropriations are granted each year. It could take 10 years to spend that amount.

Second. HUD is setting standards to force communities to push out these unspent dollars at a faster rate. The Senator from Massachusetts made the argument that spending under this block grant program is going on at an accelerating rate, and it certainly is, because communities are under pressure from HUD to spend money faster than they have in the past.

In fact, internal HUD personnel evaluations have been based in part on how fast Federal employees can get communities to spend.

Third. This pressure to spend creates the potential for inefficient expenditures. In an internal HUD document discussing a city which was cited for low expenditure rates, the following statement was made:

> The use of CDBG funds to finance the purchase and rehabilitation of houses is becoming the dominant feature of the rehabilitation assistance program. This results in greater "drawdowns" for the same amount of rehabilitation work accomplished.

In addition, some city officials told GAO that emphasis on faster spending could cause communities to spend funds on projects they are used to doing and have done in the past rather than on projects they need the most.

Fourth. HUD's Inspector General has found that some grantees are drawing down the funds faster than they need them and are investing these Federal funds instead of making timely disbursements to finance block grant activities. For example, an Inspector General report of July 22, 1980, disclosed that a grantee earned interest of $86,735 on excessive drawdowns of $1,766,124.

In other words, grantees are drawing down Federal funds and investing them in Treasury bills, or other securities, and getting interest on those investments. Certainly, we did not design this program as a means of enabling communities to earn interest on unused Federal dollars.

Fifth. HUD's Inspector General in his reports to Congress has stated that HUD has not adequately monitored block grant program participants. In addition, the Inspector General has found that grantees are not properly monitoring and evaluating their projects. This lack of monitoring raises questions about whether block grant funds have been spent in an economical, efficient, and effective manner.

Finally, HUD's Inspector General has just provided the committee with a summary of a special operational survey report that has been submitted in draft form to HUD's Assistant Secretary for Community Development regarding community development block grant rehabilitation activities. The summary raises some very disturbing questions about the way in which block grant funds are being spent. Let me quote briefly from the summary;

> The operational survey produced examples of a variety of deficiencies in the administration of the program, including contractor billing for work not done, grantee certifying work completed when it was not, initial inspections either not performed or not documented, cost estimates and work write-ups vague or not prepared at all. The above types of deficiencies can result in ex-

cessive repair costs and payment for work not actually done or done poorly.

Mr. President, this is precisely what happens when money is spent too fast and when it is pushed out by an agency. If we provide the full $3.95 billion requested by the administration, we can be sure that that kind of unfortunately sloppy expenditure is going to take place.

The summary goes on to say, and again I quote:

> The (block grant) regulations do not now provide specific administrative procedures which grantees must follow in administering (block grant) rehabilitation programs. Corrective actions are needed to assure that (block grant) funds are used efficiently, effectively and economically, and will not adversely affect the flexibility needed.

What this summary tells me, and I hope tells my Senate colleagues, is that the 30 percent or so of the block grant funding that goes into rehabilitation work is not being adequately monitored and much of it may be wasted. Under these circumstances a 5-percent cut seems entirely reasonable.

To sum up my remarks a $200 million reduction in the block grant program as proposed by the Appropriations Committee will have a number of desirable consequences. First, it will give communities a reason for monitoring more closely the use to which block grant funds are put. Second, it will relieve the pressure on HUD to force communities to spend at a faster rate. And, third, it will meet the goals Congress set for itself in the first budget resolution.

Mr. President, the distinguished Senator from South Carolina, the chairman of the Budget Committee, Senator HOLLINGS, has told me he is very much opposed to the Tsongas amendment. I hope he can come to the Chamber to make a statement. He has a statement prepared, I understand, in opposition to the amendment.

The distinguished ranking minority member of the Budget Committee, Senator BELLMON, spoke very forcefully on this issue on Thursday.

I point out, also, that we cut the funds the amendment attempts to restore in subcommittee. There was no effort in the full Appropriations Committee to restore the funds. Apparently no member of the full Appropriations Committee felt either that the committee would accept it or that the effort to restore the funds was merited on the basis of the facts.

Mr. President, I yield the floor.

Mr. WILLIAMS. Mr. President, I rise to support strongly the amendment offered by the distinguished Senator from Massachusetts (Mr. TSONGAS). I am pleased to be a cosponsor of this effort to restore full funding to the community development block grant program, which the full Senate authorized in June.

The ability of our communities, both urban and rural, to offer their citizens personal safety, family stability, decent shelter, and employment opportunities constitutes one of the most vital determinants of the health and security of our Nation. The community development block grant program is a recognition on our part of the diversity of America's communities. The local creativity and ingenuity which this diversity spawns is a source of national strength; it is a source which we cannot afford to diminish.

The evolution of this block grant program resulted from our experiences with attempts to prescribe a uniform Federal response to the distress of communities and neighborhoods throughout America. In 1974, Congress enacted the community development block grant program upon the understanding that each neighborhood and each community is distinct. Each is rich in its own abilities and resources; yet all too many are inadequately equipped to respond to the many problems which confront them. Thus, we have many rural communities which still lack sanitary facilities, in which housing is totally inadequate.

In cities, too, the problems are enormous. Boston loses half its fresh water daily through leaking pipes. Detroit has an unemployment level over 16 percent; McAllen, Tex. 9.9 percent. That which will work in Boston, will not work in Seattle. That which will help to alleviate the distress in Atlanta, will not be the best approach in Gary, Ind.

The adoption of the community development block grant program was based upon our experience that distressed communities will not recover by themselves. Rather, they depend upon the cooperative efforts of government—Federal, State, and local. Our experience showed that the elected officials of communities were best able to perceive the most effective means to improve their communities and to alleviate the more cruel affliction affecting especially the poor, the elderly, and the handicapped.

In a very real sense, we said we would provide assistance based upon need in a manner supportive of local experience, capability, and creativity. Cutting Federal assistance does not make the problems go away. It means that mayors and local leaders are forced to defer dealing with them. They are forced to let them fester—knowing only too well that with each day they are ignored, they grow more serious and more expensive in both human and fiscal terms to remedy at some point in the future.

The reduction in CD funds, however, would appear to represent a finding by this Congress that the need for housing rehabilitation, infrastructure improvements, and greater employment has dissipated.

In fact, improvements have been made. Yet, today, spiraling energy costs have severely exacerbated housing and transportation costs in our cities. They have led to the abandonment of inner city housing and industry and have threatened to cripple the mobility of urban residents. Added energy costs, inflation, and increased unemployment have detracted from communities' ability to deal with crime, education, housing, and public services.

America, as the historian Daniel Boorstin, noted, was envisioned as a "city on the hill". Our Nation held forth a flame to all other nations of the world that our cities were a home of promise and freedom.

Indeed, we have been a beacon. Even in the last few weeks, we have seen nations behind the Iron Curtain divert their resources to community needs. These governments have recognized that their nations can be no stronger than the communities upon which they are built.

Mr. President, I think we should examine what $200 million in CDBG funds means—what will be the result of the committee bill. For example, adoption of this amendment could provide more than 28,000 loans and grants for single-family home rehabilitation, loans and grants which are increasingly being used for energy conservation. The funding would be adequate for the construction of 200 senior citizen centers.

It would be enough to provide countless training and employment opportunities for citizens. It would mean that many of the hundreds of small, nonmetropolitian communities who have never applied before for CD funding would actually have a realistic hope.

It should be recognized that even with full funding, the community development program would have less in real dollars for our communities than in fiscal year 1980. The administration's request only represented a 4-percent increase, which, when compared to the cost of living, results in a 9-prcent decrease in actual funding. Such a level would require urban and rural communities to tighten their belts, but would not threaten essential services. By contrast, the level requested by the committee would represent nearly a 15-percent reduction in the program. It is difficult to imagine any community which could forgo 15 percent without giving up essential programs, or without deferring critical maintenance programs. If we are concerned that our cities be healthy, then we must carefully consider just how much the committee bill would force them to give up.

Let us not shortchange our communities. If we can demonstrate that their needs are in some sense met, or that their Federal block grant funds are generally being abused, then we would have reason indeed to temper this program. Yet, by every yardstick, distress is still prevalent. And by every measure, communities have been uniquely resourceful in using community development block grant funds to address their most pressing needs.

I did not hear all of the statement of the most distinguished able chairman of our committee, whom we respect and admire so much, but I did hear him lament that so much of the CDBG money had not been drawn down, had not been spent, but at the same time that communities are not spending it fast enough.

It came as a shock to come through the door and to hear from our chairman a regret that there was not a speedup in funding to get under certain time deadlines.

The commitments are made. The contracts are out there. When they are building a new sewer line or water line, they better not speed it up beyond the capacity and capability of the community to accept that money and put it into use.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. PROXMIRE. The Senator completely misunderstood what I said, and I do not blame him. He did come in after I had started my statement.

The point this Senator made was that community development block grant funds are being spent too fast. HUD is pushing the communities to spend the money. We have documentation of that. The GAO report documents it. There is no question that the money is being spent too fast and being spent foolishly and wastefully as a result. The GAO report has a great deal to say about that.

That is why we want to slow the block grant program down slightly, but not very much. The committee has recommended a slowdown of 5 percent in a $3.95 billion program, almost a $4 billion program. A cut of $200 million is relatively modest and that would prevent the rapid spending which both the Senator from New Jersey and the Senator from Wisconsin deplore. The cut would require HUD and local communities to operate more efficiently and more carefully.

I am glad the Senator from New Jersey supports my position that communities should not spend block grant money as rapidly as they are now.

We only disagree on how to prevent that rapid waste of money. I would do it by holding down the money available to the program, and apparently the Senator from New Jersey feels communities will not spend money as rapidly if they have more money to spend. I cannot follow that line of reasoning.

Mr. WILLIAMS. Mr. President, will the Senator agree that some of the needed community development programs perhaps cover more than a year in actual construction? It would seem to me that a city which is losing half of its water supply with leaking pipes and wants to improve its infrastructure for the delivery of water would want to encourage contracts. Although such a city would not be spending the money for up to 2 or 3 years, to get in that contract now would give it a contract price at today's rates, rather than at inflated rates later.

Mr. PROXMIRE. That may be absolutely correct, and that is precisely why I think we should not appropriate the money—we are appropriating the money in this bill, not authorizing it—until the money is needed.

The record indicates they do not need as much money as they have because they have not been able to spend it, in spite of all the pressure they are receiving from HUD.

Mr. WILLIAMS. I am certain the Senator said at some point that appropriated moneys had not been obligated—there is a backlog in spending, and that is what shocked me—because the money is there. If it is banked and ready to draw down in an orderly way, it would seem to make a lot more sense to encourage careful spending than to force people to use it, spend it.

Mr. PROXMIRE. We are not forcing communities to spend. We are making $3.75 billion available beginning October 1 and ending next September 30. If they are going to proceed in an orderly and efficient way, they do not need the $3.95 billion requested in the President's budget.

Mr. WILLIAMS. I would hope the Senator from Massachusetts, who has been part of this debate all through this morning, might come in at this point because, as I stated, I did not hear the Senator from Wisconsin's full statement in this regard. But I believe the record is now unclear as to just how we should approach this business of appropriated funds and when they have been spent—when in an orderly way they should be spent, and I think there is more to be said on this.

I will say that another surprise I had was Friday when we were in here. When I left to go to the housing conference, I thought we had solved this whole community development block grant amendment question with a compromise in the amount of money. Evidently it has not been. I thought the chairman had indicated there would be a compromise.

Mr. PROXMIRE. I honestly think the cut of $200 million recommended by the Appropriations Committee is a compromise. The committee felt it was providing an adequate amount. As I say, there was no attempt to restore the funds in full committee. I think that is a modest cut and can be viewed as a compromise. But to my mind there is no compromise between the $3.95 billion proposed by the Tsongas amendment and $200 million less.

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. WILLIAMS. I would be happy to yield.

Mr. TSONGAS. On the issue of drawdown if you are a mayor or you are an official at HUD, and the concern is the drawdown in terms of the efficiency of the spending, and if you are now told, "Look, if you do not spend that money we are going to cut your appropriations," is not the normal reaction to spend it faster? So, in fact, by cutting the $200 million out we insure that the normal, orderly process of community development planning and spending is now going to be accelerated, because if they do not accelerate it there is going to be more money taken out next year and the year after that?

(Mr. BOREN assumed the chair.)

Mr. PROXMIRE. The Senator from Massachusetts is putting the Senator from Wisconsin into a Catch-22 position.

Mr. TSONGAS. If I may say so, the Senator put himself in that position.

Mr. PROXMIRE. After all, if communities have more money than they can effectively spend then we are following a commonsense approach if we cut it. I cannot see why that puts communities in a particularly vulnerable position. Maybe the more logical argument is that we have not cut the program deeply enough and we ought to cut it more.

Mr. TSONGAS. If the Senator will yield, Mr. President, it seems to me that in 1974, which was the year that the CDBG program was passed, if I remember correctly what happened was that communities were given money on an entitlement basis but had to come up with strategies, and by definition this was the first time many of these communities had to even think about this notion, so by definition beginning in the early years you had entitlements for which the programs had not been articulated.

Over time, and last year, you had a 104-percent drawdown. Programs catch up with the appropriations.

To the extent that you now cut it you are saying, for example, to a community that has spent its money wisely, there is no drawdown, "We are going to cut our funds." Why? Because somehow there is a pot out there.

Mr. PROXMIRE. Mr. President, will the Senator yield? This is precisely what HUD is doing already. They are doing it now. Let me read from the GAO report, which quotes some HUD directives:

> The Department has identified Camden City as an entitlement community that has an inadequate drawdown rate.

In other words, Camden is not drawing down their funds quickly enough, not spending the money fast enough.

> We are therefore requesting that you submit quarterly reports indicating how you intend to drawdown an amount at least equal to your 1980 entitlement during the current fiscal year.
>
> Because the City's [Moss Point, Miss.] 64 percent drawdown average is 11 percentage points below the State average of 75 percent for entitlements, we request that you continue to submit the monthly reports required by grant condition number 2.

The HUD directives go on to say:

> As of December 4, 1979, the City [Durham] has utilized only $6,674,000 or 54 percent of the available $12,420,000 in Block Grant funds. This expenditure rate is the lowest of any formula city in North Carolina and has resulted in Durham being designated by the Department as the only entitlement poor performer in North Carolina.

In other words, HUD is saying the communities are not spending their money fast enough now. Under the circumstances I do not see how we can come to any conclusion except that these communities have more money than they can currently use.

Mr. TSONGAS. If I may read from a letter sent to the chairman dated August 20, 1980, by the Comptroller General of the United States, the second page, B199908:

> He (i.e., the Inspector General) has not, however, established that the emphasis on drawdown has caused inefficient spending.

The Senator has the same report that I do.

What the Senator is doing is not what my amendment would do, which is to simply put the program back into the stated 9-percent real cut; and to cut it another $200 million, as the committee has done, is to insure a panic in the administration and in the cities to spend this money as quickly as possible. Rather than curing the disease, the treatment suggested by the committee is simply going to make it all the more fatal.

Mr. PROXMIRE. The same GAO report the Senator quoted from pointed out that because of a short timeframe, the GAO has not been able to analyze this issue completely. However the GAO concludes on page 16 of their report as follows:

> We believe that the emphasis HUD is putting on spending block grant funds in directives and guidance to its administrators and to entitlement communities creates the potential for ineffective and inappropriate use of such funds. This emphasis seems particularly questionable in light of the HUD Inspector General's past findings on the lack of adequate monitoring by HUD of the uses of block grant funds by grantees as well as inadequate grantee monitoring.

In other words, the report's final conclusion is that under the present circumstances, with the amount of money that the Congress is currently providing to the Department, HUD is pressuring communities to spend faster. For that reason it seems to me we have every reason to pare the program slightly. All we are talking about is a 5-percent cut in the funds available.

Mr. TSONGAS. The Senator's cut in committee is to exacerbate that situation.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I rise in strong support of the amendment that is being offered today by the Senator from Massachusetts. I do not think there is anybody in the Senate who would disagree with the requirement that we hold down Federal spending. We are doing that in a number of areas. I serve on the Budget Committee and we have cuts virtually across the board. Not as much as I would like to see in some areas, more in other areas, but clearly we are in a time period when everybody wants to try to hold down Federal spending as much as possible.

But this program has already borne, I think, its full and fair share of fiscal stringency without having to take the additional cut that has been proposed.

The amount that was requested by the administration already represents an effective cut of 9 percent from the 1980 current level of service, and that assumes an annual inflation rate of about what we have experienced over the last year, about 13 percent. At the same time, additional local governments will be added to the program in 1981, which further reduces the amount that is available to each community. So we are talking about those two levels of reduction for openers, without any thought of further cuts.

I do not think that the community development block grant program is the right program to single out for special additional cuts. We all know that local governments are hard pressed by both inflation and unemployment, and this particular program is badly needed to prevent current economic difficulties from turning into permanent blight in more and more of our communities across the country.

Two hundred million dollars is a small amount in terms of the overall scope of the Federal budget, but in this instance I think it provides the margin that is needed by communities to preserve the momentum they have been establishing in trying to restore and preserve neighborhoods.

We talk a lot around here about a Federal-local partnership, and I happen to believe strongly in that. This is one area where we have such a partnership working and where we have managed to maintain a very substantial amount of local initiative, discretion, and fine-tuning in developing specific goals and addressing them community by community.

I do not want to see us back away from that partnership, as we could do if we singled this area out for additional cuts.

The community development block grant program is highly targeted on housing rehabilitation. Housing funds are now shrinking. Inflation and high interest rates are making it more and more difficult to build new housing units. We cannot afford to cut support for programs that prevent housing units from being lost from our existing stock.

Furthermore, the community development block grant program is targeted on activities which benefit low and moderate income households. As we know, these are the people who are most vulnerable and are always the hardest hit by a recession. And, of course, we are in one now.

I might say that the block grant program is especially vital to smaller cities—and I certainly have a number of them in my State of Michigan, as we all do wherever we come from. In fact, this program is usually the only source of Federal funds for community development in these cities. A $200 million cut will deny fiscal year 1981 funding to many of these smaller communities which have been funded in the past. That means they will not be able to continue programs which are already underway. And it means that they will lose the professional talent that they have been able to attract needed to run programs for development and redevelopment in the future. The demand for small cities grants already exceeds the amount available by a factor of 3 to 1. I know from talking to local officials and community leaders how important these grants are to smaller communities in my State and I know it is just as true in other States.

Mr. President, the Senate Appropriations Committee has tried to justify this special cut on the basis of a report solicited from GAO. The report shows that as of April 30, 1980, $3.4 billion in community development block grant funds had been obligated but not actually spent. This is a false and misleading issue. These are not funds available for new activities. They appear as not spent as a result of the way the books are kept.

A substantial overhang of funds will appear at the end of any accounting period because community development activities require extensive planning and long lead times. The program emphasizes sizes physical development. It is directed at the comprehensive revitalization of neighborhoods, which requires careful coordination of a wide range of programs and services. By statute we have required extensive citizen participation in planning for the use of these funds. For all these reasons local action under their community development programs is not immediately recorded as a Federal outlay on the books of the Treasury. Furthermore, drawdown rates, as they are called, have steadily increased from year to year. This has occurred as communities have moved out of the planning and early implementation stages and now have many community development activities which continue from year to year. But many other activties will continue to require planning and coordination and unspent balances will continue to appear.

The committee in effect recognizes these facts about the nature of spending patterns under this program, because it also chastizes HUD for urging communities to spend money faster. It is asserted that such pressure creates the possibility for inefficient use of funds. The GAO report on which the committee is relying does cites examples of HUD pressures to increase drawdown rates. I have looked at these examples carefully and all they tell me is that HUD has been using unusually low drawdown rates as an indication that a local government may be having trouble administering the program. Such communities may need closer monitoring and, perhaps, some technical assistance. But only 32 of 629 entitlement communities have been the subject of this kind of concern, according to the GAO report.

The case is not as of this point, that HUD is bringing undue pressures for faster spending. However, if we want to create pressures for spending money too fast in this program, then this kind of punitive cut based on a quite normal overhang of funds is precisely the way to achieve that result. This is what troubles me the most about this cut. It sends the wrong signals and creates the wrong incentives for program administrators.

Finally, my colleague and my friend from Wisconsin and my chairman on the Banking Committee has argued that restoring this $200 million would be a "partial repudiation of the first budget resolution." Well, I want to respond to that as a member of the Budget Committee. I would like to challenge that assertion, because $200 million was not cut from this program by the Budget Committee, which does not make line item decisions on programs, as we know. Rather, the Budget Committee based its assumption for the final 1980 level in this budget category on the assumption that the President was planning to ask for a modest recession in 1980 funding for community development. The relationship between this cut, which did not come out of the basic community development block grant program, and our assumptions for 1981 was not entirely clear. But I did not believe at that time, and I do not believe now, that we intended to cut the community development block grant program below the authorized level in 1981.

So I strongly support—I see my friend from Florida (Mr. CHILES) is raising his eyebrow here and I am sure he will want to give his own interpretation of what we did in the first budget resolution. But I feel very strongly that what we have here is an effort to make a false economy. We are talking about a situation trying to stabilize and strengthen and build our communities across the United States. Many of them are in trouble, as we know, because of the recession. I think to make additional cuts in this program at this time makes no sense.

I urge my colleagues to join in supporting the Senator from Massachusetts on this issue.

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, I think the Tsongas amendment to add $200 million to the HUD appropriation bill for community development block grants is a well-intentioned amendment. It would add funds to a program which has done many valuable things in Florida as well as the rest of the country.

It is consistent with many amendments I see come up, though, to appropriation bills that are good amendments. In fact, I served 12 years in the State legislature, and I have been here 10 years, and I do not believe that I have ever voted for a bad amendment to an appropriations bill. They all were going to do some good and they all were going to help somebody, or there was a group that they were going to help.

The problem in the Federal Government, though, is a little different than the State government. Before we could go home from the Florida Legislature where we had put on those well-intentioned amendments, we had to raise taxes before we could go home, if our well-intentioned amendments cost more money than we were going to take in.

We have had a different situation in the Federal Government. We could make those well-intentioned amendments—and we did so in this body and the House did so, on their side—and at the end, when we added it up and we had spent more than we had taken in, we simply would run the printing press. We would sell some Government bonds and debentures; we would raise the debt ceiling. That is what we have been doing year after year and that is why we have had budgets that were out of balance year after year. That is why we are reaping a harvest of high inflation largely caused by Federal deficits. That is why we came along with the Budget Act and we said that we are going to do something to limit spending and not just add things on because they sound good, without asking whether we can afford them.

We have these well-intentioned amendments, but somebody has to say, "Wait a minute, there are only so many dollars in the store. We only can purchase certain well-intentioned things, so we have to set some priorities. We have to determine what is it that we are going to spend our money for."

That is the process that we have been going through under the new Budget Act. That is the process that we went through in this budget function and with this appropriation bill.

Now, the Senator from Wisconsin comes to the floor—in fact, when he was in the committee, he had a subcommittee allocation given from the budget resolution of how much money he could spend. He has a lot of good things in there that we are for. He has UDAG; we are certainly for that. It is certainly a good program. He has section 8 housing. He has section 202 housing for the elderly. He has the NASA budget. He has EPA water and sewer grants.

He has all these things in his appropriations bill. And because so many of these well-intentioned things require increased funds, he came to the committee and found out his well-intentioned things cost $900 million more than was available in the ceiling. So we had to make an across-the-board cut of all those good programs by 2 percent to try to get back in line.

Now we have another well-intentioned amendment for $200 million. The budget ceiling is all used up right now, without any more room. If we do this, do we go back and cut elderly housing a percentage? Do we cut UDAG or water and sewer some more? Is that what we are going to do?

I listened to my distinguished friend from Michigan (Mr. RIEGLE). I love his work on the floor and especially his use of language when he read that language out of the Budget Committee report that said that we expect the President to hold this program at the 1980 level. Certainly, we did not intend to make any cut. To hold it at the 1980 level is to hold it at the figure that we now have in this bill and it is not a cut.

People keep saying we cut this program $200 million. We are not cutting the program. We are simply saying we are not going to allow it to grow this year. We are going to allow it to stay at the 1980 level for this year. Suddenly that gets translated as being a cut.

Well, I guess it is easy to translate that, because the program has been growing at a rate of 15 percent a year over the last 5 years that the program has been going. But the Budget Committee and the Congress had to make some decisions. We did make a decision concerning an area where there is considerable money, $7 billion, I think, that is unspent that has been appropriated, ready for spending but has not been spent. We said, "Here is an area that can allow them to catch up to that $7 billion that is there. And we are talking about $200 million out of all of this program. Here is an area that we can try to hold down to see if we can take care of all of these other well intentioned programs that we have to spend money for and still see if we can bring the budget into balance."

I know the Senator from Florida voted for the budget resolution. As I recall, I think the Senator from Wisconsin (Mr. PROXMIRE) did. I believe the Senator from Michigan (Mr. RIEGLE) did and the Senator from Massachusetts (Mr. TSONGAS) did. I believe the Senator from New Jersey (Mr. WILLIAMS) voted for the budget resolution. At that time, we were talking about a number that required such restraint.

Now, at some stage, we have to decide that we cannot have it both ways. We cannot be for a budget resolution and say we are going to hold to a certain level of funding and then come out on the floor and say, "But I want to put in this addition and I want to put in that addition."

I know the position the Senator from Wisconsin is in. Where does he make up this $200 million now? What one of these good intentioned programs does he seek to cut, or where else can we cut, if we added this $200 million?

We are already cutting this bill right now across the board 2 percent because it was out of balance, and yet now some Members are trying to add more and more programs to it.

I think at some stage we need to debate this when we are debating the budget resolution. If we are saying there is not enough room in the resolution for all the programs, then we can make a cut somewhere and put more money in. Or the Members can say they want a bigger deficit. Those amendments have come up on the floor before. We have had those amendments and some pass. As we try to come out to fit this appropriation within what the levels are, I do not see how we would have room.

Mr. President, I feel that rather than cut elderly housing, rather than cut UDAG, rather than cut some of these other areas, we should allow this program to use that $7 billion that is sitting there, which is backed up, which is not used, and to be able to resist adding new money—I stress that we are not making a cut. We should just not add $200 million additional growth in this program when we have been adding at the rate of 15 percent a year. That is what we were trying to do in the Budget Committee and it simply makes sense. It is not an easy choice when you look at any of these areas, but if we had allowed every program to continue at its current rate of growth—and there is a constituency for every one of those programs and they are all good and all well intentioned—if we allowed every one to continue its current rate of growth, we would have had a budget that was $40 billion greater in deficit than the budget we have before us today.

If, on the other hand, we turn around, after we have restrained some of those programs and say, "Wait a minute. That is not fair. This one should be growing at the same rate that it was growing at before," so we call that a cut and we add on, we will be right back where we were before the Budget Act started.

Mr. President, I want to support the Senator from Wisconsin. I think he has made an exceptional effort to work with his budget, to try to hold it within the levels that were mandated by the Senate and by the Congress in the budget resolution. I applaud him for that. The fact that he had to make an across-the-board cut, which certainly none of us like to make, is understandable to me because where do you turn to cut $900 million? Now you are talking about adding another $200 million, and that means that some of these other programs are going to be shortchanged if you have to do that.

I therefore, urge my colleague to support the Senator from Wisconsin and reject the Tsongas amendment.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the following members of the Senate Commerce Committee staff be granted the privileges of the floor during the consideration of this bill, H.R. 7631: Craig Voorhees, Jim Gehrig, and Ron Konkol.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I wonder if the Senator from Wisconsin would help me out with a couple of questions I have. First of all, I wonder if he knows what percentage of the $3.4 billion consists of unobligated funds.

Mr. PROXMIRE. I guess the Senator is referring to the $3.4 billion that has not been spent.

Mr. LEVIN. As I understand it the Senator said there was $3.4 billion of unspent money.

Mr. PROXMIRE. I did say that. That figure is right. It is my understanding that virtually all of the $3.4 billion has been obligated by the Department.

Mr. LEVIN. Is obligated?

Mr. PROXMIRE. That is correct. The funds have been allocated to communities but they obviously are having difficulty spending the money. To spend all of these funds, according to one estimate, would require 10 years.

Mr. LEVIN. Based on the Senator's information, what percentage of the money which has been allocated to the communities, which I presume is approximately the $3.4 billion they have not spent, has been obligated by the communities on projects? That has to be the critical question. These communities enter into contracts, long-range construction contracts.

Mr. PROXMIRE. If the Senator will refer to page 3 of the Comptroller General's report, he will find that communities have drawn down 72 percent as of April 30, 1980. That is the most recent date for which we have figures.

Mr. LEVIN. That was 72 percent of $3.4 billion?

Mr. PROXMIRE. That is the cumulative rate, of April 30, 1980, for the previous 4 years.

Mr. LEVIN. I wonder if the information is available to answer the question I asked about the $3.4 billion which has been allocated to communities but unspent by them, according to the Senator. Does the Senator have information available to him as to what percentage of that figure used by the Senator has not been obligated by the communities?

Mr. PROXMIRE. We do not know, but my presumption would be, since they have not drawn it down, that they probably have not obligated most of the $3.4 billion.

Mr. LEVIN. As I understand the regulations, there is a requirement that the grant recipients draw down only as much money as they can spend in 3 days. My understanding that the money drawn down by local communities can only be for funds it is immediately obligated to pay. If it has a long-term construction project, where it has to pay out money over a period of a year or 2, it cannot draw down money that it does not yet owe under that contract though it is obligated to make those payments as the construction is done. That is why the question is so critical.

In the armed services budget we have hundreds of millions of dollars that have not been spent. It probably is more than that. I do not know the exact figure. We have hundreds of millions of unspent balances in the armed services budget but most if not all of that money is obligated. Now, they come along and say because we are building a warship that takes 10 years to build, we should not appropriate money for the next one.

Mr. ROBERT C. BYRD. Mr. President, could we have order in the Chamber?

The PRESIDING OFFICER. The Senate will be in order.

Mr. LEVIN. That is why I could not believe that that question becomes a critical question as to what percentage is not obligated.

I worked in the city for 8 years before coming to the Senate, as my friend from Wisconsin knows. I know how complicated it is to get these construction projects going, how long it takes to get them completed, and when there is rehabilitation work on houses how long it takes for that process to work. It is my understanding, and the Senator can correct me if I am wrong, that a substantial portion of that $3.4 billion, the so-called unspent block grant funds, which the Senator says this program is awash in, is money which has been obligated by the States. They cannot draw it down any faster because the money is not yet owed by them. On the other hand, they have to have that money where it is safely appropriated ready for them to draw down when they themselves are obligated under contracts to make their payments.

Second, Mr. President, I react the following way to what the Senator said about pressure for hurry-up spending. The Senator from Wisconsin has indicated that we have to take some of the pressure off this hurry-up spending and the way to take the pressure off is to cut this by an additional $200 million, so then they will not have so much money they are going to want to spend Both sides, in a sense, are in a "Catch-22" situation in this argument, except it was the Senator from Wisconsin who led off his debate by saying that there are $3.4 billion in block grant funds that has just been sitting around, that the program is awash in a sea of unused dollars; therefore, we ought to cut the program. If that does not provide a pressure on this program to spend money because they are going to be penalized by the Senate if the money is not spent, even though it may be obligated, I do not know what does.

If you want to take the pressure to spend off—and I think that means pressure to waste—you cannot punish people for not spending money fast enough—again particularly if a portion of that money has been obligated, and I believe a substantial portion of that money has been obligated. Mr. President, I agree with the Senator from Massachusetts that when you punish people and deduct money from their program because they have $3.4 billion in money that has not been spent, you are, in effect, punishing them for not spending money fast enough. They are going to proceed next year to spend money even faster so the Senate will not come along and do to them next year what we are proposing to do this year. That is going to provide additional pressure for the hurry-up spending that I think the Senator from Wisconsin and every Senator in this body should be seeking to avoid.

Mr. PROXMIRE. Will the Senator yield?

Mr. LEVIN. I am happy to yield.

Mr. PROXMIRE. I want to read a little further from the GAO report, because it spells out what we are trying to get at. Page 4 of the report says:

> HUD officials told us on August 18, 1980, that the current rate of spending for block grant recipients is about 105 percent of their average monthly entitlement. HUD's fiscal year 1981 operating plan calls for grantees to draw down at a rate of 110 percent of the amount drawn down in 1980. Even if this goal is achieved, however, it could take a number of years for grantees to draw down the $3.4 billion backlog.

It will take years for communities to draw down the funds currently available, not just 12 months. In view of the fact that we are appropriating money, not just authorizing it, for the fiscal year beginning October 1 of this year and ending September 30 of next year, it seems to me that to pare the total requested by 5 percent, to reduce the total amount from $3.95 to $3.75 billion, should not in any way inhibit either HUD or the communities from meeting their contractual obligations.

Mr. LEVIN. With one exception, that that money has been obligated by the communities. I repeat to my friend from Wisconsin that I believe a substantial portion of this money is obligated. The reason it is obligated by the communities is that they have long-term construction contracts.

Mr. PROXMIRE. Mr. President, we are not taking any of that money away. We are just making a moderate reduction in appropriations for the coming fiscal year.

Mr. LEVIN. I understand, but the Senator from Wisconsin is pointing to that, saying this program is awash in a sea of unused dollars. Mr. President, these are obligated dollars, not unused. They have to be in the bank, committed, appropriated before a local government can obligate the money under a long-term construction contract. I happen to agree with the last sentence, that it will take years for grantees to draw down on the $3.4 billion. That is because at least a portion of that money is tied up, I believe, and I am not certain, but based on my experience in local government, I believe a substantial portion of that reflects obligations that local governments have entered into.

Mr. PROXMIRE. Some of the money is sitting in banks and drawing interest that is accruing to the advantage of local communities.

Mr. LEVIN. That is why I asked my

friend from Wisconsin whether or not that report he quoted or from any other information he might have available to him, can he tell us what portion of the $3.4 billion is money which has been obligated by the local government?

Mr. PROXMIRE. GAO has not made that inventory, Mr. President. Neither HUD nor GAO have complete figures on obligations by communities. They did give us specific examples. Indications are that a substantial amount is unobligated. I have not heard a word yet said by the distinguished Senator from Michigan or other advocates of the Tsongas amendment indicating that if we cut this $200 million, any community would be unable to honor its commitments.

Mr. SARBANES. Will the Senator yield?

Mr. LEVIN. Yes, I yield.

Mr. SARBANES. Mr. President, I am glad the Senator from Wisconsin just raised that particular point, because I think one of the great weaknesses in the argument he is making is apparently the assumption that all grantees are in the same equivalent position.

Mr. PROXMIRE. We do not make that assumption at all.

Mr. SARBANES. I am glad to hear that, because there is absolutely no warrant for making that assumption.

We have first the point that the Senator from Michigan has just been raising, which I think is an excellent point, that this report which the chairman got from the GAO does not, as I read it, go into the question of making the distinction between spending and obligation. The first point I want to make is that the community development block grant program is a formula program. The Congress put together a number of programs with a formula of entitlement so that communities could have this money and develop their own plans in terms of its expenditure. Funds come to them automatically under a formula with a well-developed scheme for local participation in developing how they are going to use this money. I agree with the Senator from Massachusetts in what he said earlier, that some of the most imaginative, innovative, and creative programs that have been developed at the local level have been as a consequence of this program. The formula gives them an entitlement which they know they will have and they are able, therefore, to go ahead and make use of them.

The Senator from Michigan has made a very important point; that is, that the community receives an entitlement. How fast it draws down on it depends on how quickly the program can move. They may either be doing the wrong thing by drawing down too quickly or they may be doing the wrong thing by not drawing down quickly enough. There is no simplistic answer to that question. You have to look at the entitlement, look at the program, look at how they are proceeding, and look at how skillfully they are making use of the money.

The second point is that I do not understand, if the Senator from Wisconsin grants that there is no assumption of an equivalent situation in every community, how he can then deny that for those communities which have their community development block grant program geared up and are really making very effective use of this money that this cut will not harm their programs. An overall cut made with no distinction amongst communities as to how they are using the money, will certainly affect all their entitlements and result in a cut to the entitlement of those communities that have a fully developed local plan with all the local participation involved and are using the CDBG program in a very effective way. It seems to me, aside from the merits—which I think are dubious—of the argument being made by the Senator from Wisconsin on the basis of this GAO report, it is very clear that a number of communities are going to be unfairly penalized because they have a very effective program going and this cut is obviously going to impact upon them.

Mr. RIEGLE. Will the Senator yield at that point?

Mr. SARBANES. Mr. President, do I have the floor?

The PRESIDING OFFICER. The Senator from Maryland has the floor.

Mr. SARBANES. I yield to the distinguished Senator from Michigan.

Mr. RIEGLE. I thank the Senator for yielding, because he makes a critical point here. As a matter of fact, if we take the main piece of evidence being offered by the Senator from Wisconsin, the GAO audit, we had 629 entitlement communities in the period of the audit and the GAO audit itself only points to 32 of those that have real problems with drawdown rates. So, because there are 32 communities HUD has had to urge to improve their administration of this program, the other roughly 600 entitlement communities plus over 2,000 other communities which receive discretionary funding are being asked to pay a price. That is the suggestion here. It is really outrageous.

Mr. SARBANES. That is right. Mr. President, it is a classic example of coming in with a remedy to a situation, and we are not even sure the situation itself exists, as the junior Senator from Michigan has pointed out by his very effective questioning regarding the distinction between obligation and spending. We are not even sure that the basic situation exists, but even if it does, it is a classic example of a remedy that penalizes a host of communities who have done a very effective job with this program.

Mr. TSONGAS. Will the Senator yield?

Mr. SARBANES. I yield to the Senator.

Mr. TSONGAS. I also point out that in the 6 years since this program has been authorized that there has been a total of $19.3 billion appropriated.

Even if we take the Senator's figures, part of that has not only been obligated, but spent. If my mathematics are anywhere near correct, 83 percent of the money has already been both obligated and spent.

I also point out that 2.4 of the 3.4 referred to in the report was only made available 6 months prior to the report.

So what is left has only been available for disbursements for 6 months prior to that report.

Mr. President, we have the CDBG program, it deals with long-term economic development, as, indeed, in the military, as pointed out by the Senator from Massachusetts. If we have a CDBG with 100-percent drawdown, then it is not doing its job.

Mr. SARBANES. That is right. The only way we would have that is if we proceed on the assumption that the CDBG program should be funded and spent in the annual 12-month period.

The community development block grant program, which represents a consolidation of 10 categorical urban development programs, was designed to provide this money as an entitlement and allow the community to plan around it, project out programs, some of which would be done in a shore time span, some longer.

What is the most efficient and effective way to carry forward the program relates to the substance of the program.

But the assumption was also made that on the next funding cycle there would be an entitlement with which the community could plan its next round of programs under the block grant program.

I think much of the focus here has gone astray from the essential strength of this program and what it represents and the way this program evolved into a very effective partnership between the Federal and local governments—one of the best,

To come in with this overall cut and make none of these distinctions, to use the drawdown argument when it is subject to the questioning the junior Senator from Michigan has made with respect to the distinction between spending and obligation, and to ignore the argument the senior Senator from Michigan has made about the unfairness to those communities that have carried forward an effective program, is simply to penalize those who have been able to do the best job.

That is not an effective way to encourage efficiency, or develop confidence in Government, or to make good policy.

Mr. RIEGLE. Will the Senator yield on that point?

Mr. SARBANES. I yield.

Mr. RIEGLE. It almost sounds as if the opponents would feel better if the Federal Government would turn all this money over to the local unit of Government at the time the entitlement is made.

Mr. SARBANES. Will the Senator yield?

Mr. RIEGLE. Surely.

Mr. SARBANES. I think one criticism the Senator from Wisconsin made, if they draw it down and are holding it, and drawing interest on it, then I think they are overreaching with respect to the program. If changes were designed to deal with that particular problem, I would have a lot of sympathy with that.

But the Senator says that one of the reasons we probably have this draw down problem is that the Federal Government has instituted requirements to prevent that from happening.

Mr. RIEGLE. Exactly, and it is much better to leave that money until needed sitting in the Federal Treasury. It just makes more sense to leave it there.

So the opponents are really on a wild goose chase, but they are hurting over 2,600 communities, unless we can keep this program whole.

Mr. WILLIAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. Mr. President, first, I think we are fortunate the junior Senator from Michigan comes from a background of working within a major city, Detroit, and can tell us the practical aspects of contracts, commitments, and orderly delivery under a longer term program than 1 year.

Mr. President, I have a letter addressed to the chairman of the Appropriations Committee (Mr. Magnuson) from the mayor of the city of Atlantic City, N.J. I will read two paragraphs:

> May I also suggest that while funds may not be spent immediately they very often are encumbered for specific projects which may be delayed for various problems which may crop up such as land acquisition, construction or the like. I am sure you will agree that it is far more important that monies be expended wisely and well rather than merely rapidly.
>
> In short, because funds are not spent immediately does not mean that these funds are not desperately needed to buttress long-range planning and development. Rebuilding worn-out metropolitan areas is not a speedy nor a short-term project.

Mr. President, I ask unanimous consent to have the letter printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

> City of Atlantic City, N.J.,
> Executive Department,
> *September 3, 1980.*
>
> Hon. Warren G. Magnuson,
> *Chairman, Senate Appropriations Committee on HUD-Independent Agencies, Senate Office Building, Washington, D.C.*
>
> Dear Senator: It was with deep concern that I learned of the Senate Appropriations Subcommittee's recommendations to cut the 1981 budget for the Community Development Block Grant (CDBG) by $200 million.
>
> As Mayor of a city presently undergoing traumatic redevelopment in order to overcome years of extensive economic decline, permit me to express as forcefully as I can how vital CDBG funds are in all phases of communal life among moderate income and poor families, as well as senior citizens, in housing, social services, relocation, the rehabilitation of homes, demolition, land acquisition and capital improvements.
>
> May I also suggest that while funds may not be spent immediately they very often are encumbered for specific projects which may be delayed for various problems which may crop up such as land acquisition, construction or the like. I am sure you will agree that it is far more important that monies be expended wisely and well rather than merely rapidly.
>
> In short, because funds are not spent immediately does not mean that these funds are not desperately needed to buttress long-range planning and development. Rebuilding worn-out metropolitan areas is not a speedy nor a short-term project.
>
> At a time when the overall economy of the nation is depressed and the housing industry is facing critical problems, CDBG is often the one, bright, hopeful resource struggling municipalities and deserving citizens can look to for desperately needed aid.
>
> Thank you for your thoughtful concern and kind attention in this matter.
>
> With all best wishes and admiration, I am,
> Very truly yours,
> Joseph Lazarow, *Mayor.*

Mr. WILLIAMS. Mr. President, right now, the drawdown is at a rate of 110 percent, which indicates that careful development is now occurring and the expenditures are being made. The chairman of the subcommittee, the distinguished chairman of the Banking Committee, should be very happy that now the orderly processes are resulting in orderly expenditures, and at a rate more than the appropriations level figure.

● Mr. HOLLINGS. Mr. President, I must oppose the Tsongas amendment, because it would add $200 million in new budget authority to the cost of the HUD-independent agencies appropriation bill, and add to the Federal deficit in fiscal year 1981.

This budget authority was not included in the first budget resolution adopted by the Congress in June. Nor was it included in the second budget resolution reported by the Senate Budget Committee just last month.

To hold the line on unnecessary spending, the budget resolutions assumed fiscal year 1981 funding for the community development block grant program at a level of $3.75 billion in budget authority—$200 million below the President's request.

This was not a draconian cut. The CDBG program has grown at a tremendous clip since 1976, from $1.8 billion to $3.75 billion. That is a growth rate of 15 percent per year. Even discounting for inflation, the program has grown at an annual rate of 6.5 percent.

Moreover, much of the money that has been appropriated over these past few years has not been spent. Currently, about $7.0 billion has been appropriated and obligated to States, but not yet drawn down by them.

Where is the compelling argument to add $200 million to these huge unexpended balances?

I do not see it, Mr. President, especially when it means busting the budget by another $200 million.

I am not against community development programs. In fact, I am for them. The community development block grant program has been a vehicle for many communities in South Carolina to make the necessary improvements to promote economic development. The economic growth in Greenville, Columbia, and my own Charleston could not have taken place as rapidly without community development funds.

When I was in need of funds to provide a water system for an extremely poor area in my State, I found the only source of grant funds available was the community development block grant program, and that community competed successfuly for those funds. My record in the Appropriations Committee will substantiate my consistent support in this area.

But a vote against this amendment is not a vote against community development. It is simply a vote against adding additional funds which cannot be spent. And it is a vote against unbudgeted spending.●

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts. The yeas and nays have been ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Massachusetts. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Arkansas (Mr. Bumpers), the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from California (Mr. Cranston), the Senator from Iowa (Mr. Culver), the Senator from Arizona (Mr. DeConcini), the Senator from New Hampshire (Mr. Durkin), the Senator from Missouri (Mr. Eagleton), the Senator from Kentucky (Mr. Huddleston), the Senator from Hawaii (Mr. Inouye), the Senator from Massachusetts (Mr. Kennedy), the Senator from Vermont (Mr. Leahy), the Senator from Louisiana (Mr. Long), the Senator from Washington (Mr. Magnuson), the Senator from South Dakota (Mr. McGovern), the Senator from New York (Mr. Moynihan), the Senator from Georgia (Mr. Nunn), the Senator from Alabama (Mr. Stewart), and the Senator from Florida (Mr. Stone) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. Moynihan) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from Minnesota (Mr. Durenberger), the Senator from Arizona (Mr. Goldwater), the Senator from New York (Mr. Javits), the Senator from Idaho (Mr. McClure), and the Senator from New Mexico (Mr. Schmitt) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas **13**, nays 59, as follows:

[Rollcall Vote No. 429 Leg.]

YEAS—13

Bradley
Burdick
Jackson
Levin
Mathias
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Tsongas
Weicker
Williams

NAYS—59

Armstrong
Baucus
Biden
Boren
Boschwitz
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Cochran
Cohen
Danforth
Dole
Domenici
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Lugar
Matsunaga
Melcher
Metzenbaum
Mitchell
Morgan
Nelson
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Roth
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Talmadge
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NOT VOTING—28

Baker
Bayh
Bellmon
Bentsen
Bumpers
Cannon
Church
Cranston
Culver
DeConcini
Durenberger
Durkin
Eagleton
Goldwater
Huddleston
Inouye
Javits
Kennedy
Leahy
Long
Magnuson
McClure
McGovern
Moynihan
Nunn
Schmitt
Stewart
Stone

So Mr. TSONGAS' amendment (No. 2335) was rejected.

UP AMENDMENT NO. 1632

Mr. RIBICOFF. Mr. President, I send an unprinted amendment to the desk, which is cosponsored by Senators TSONGAS, BRADLEY, JAVITS, MOYNIHAN, DURENBERGER, and LEVIN, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. RIBICOFF) for himself and others proposes an unprinted amendment numbered 1632:

On page 19, line 20, after the figure "$2,712,000.", add the following new clause: "provided, at least $250,000 shall be available for the Carbon Dioxide Study authorized in Public Law 96-294."

Mr. RIBICOFF. Mr. President, this amendment would direct that of the funds presently appropriated in this bill for the White House Office of Science and Technology Policy, at least $250,000 be earmarked for an assessment of the long-term effects of carbon dioxide accumulation in the atmosphere, the so-called "greenhouse effect." This program was authorized in the Energy Security Act, signed into law in July 1980 by the President.

This Congress has been committed for more than a year to this long-term assessment. The CO_2 problem has been thoroughly documented by both the Government Affairs Committee in a symposium of scientists and Senators in July 1979, and in hearings conducted by Senator TSONGAS in the Energy Committee last April.

CO_2 accumulations in our atmosphere present the United States and the world with a serious dilemma. The problem posed by these accumulations, which is caused by man's increased combustion of fossil-based fuels, was drawn to my attention by a number of prominent scientists in the summer of 1979 and by Chancellor Helmut Schmidt of West Germany. It is being addressed on a limited basis within the U.S. Government by an interagency task force led by the Department of Energy. Groups within the National Academy of Sciences have also recently done some preliminary assessments.

The symposium which I convened a year ago reached conclusions repeated later in a special study by the Academy's Climate Research Board. My symposium found that—

> The possible long-term impacts of CO_2 accumulations in the atmosphere are important enough to require continuous high-level attention of scientists and energy policymakers both in the United States and abroad . . . Questions still exist on many aspects of the CO_2 problem . . . While these uncertainties remain we cannot predict the precise consequences of uncontrolled fossil fuel use.

Specifically, the findings were that:

First. Increasing concentrations of CO_2 into the atmosphere have been at a rate faster than can be absorbed by the oceans and land biological sinks.

Second. A doubling of the present concentration would probably occur within 50 years and cause a major heating of the earth—averaging around 2 to 3 degrees Centigrade.

Third. This heating may well cause severe climate changes varying greatly from region to region and have severe impacts on some societies.

Fourth. There are still major uncertainties in the pace and impact of the warming, and how the effects will occur. We have not even begun to address the question of reducing the severity of some of the possible effects.

Fifth. Thus we need to deepen our understanding of this phenomenon as quickly as possible. We need to know more about the carbon cycle, future fossil fuel use and fossil-based synthetic fuel use, climate changes which are likely to occur at different CO_2 levels.

Sixth. The CO_2 problem is a global one which needs global solutions. There is some effort, but inadequate and uncoordinated to get at this problem in the international community.

It is important that we marshal the resources to focus on all aspects of this problem as soon as possible. If it becomes necessary to make decisions on our fuel mix in order to reduce the dangers that may arise from CO_2 concentrations, we will need 10 to 20 years to do it. Other nations will also need accurate information on the potential danger to shift their fuel mixes if necessary and to reduce whatever effects climate change may bring.

I believe the separate invstigation conducted by Senator TSONGAS reached similar conclusions.

Mr. President, in light of these findings, I proposed an amendment to S. 932, the Energy Security Corporation bill, cosponsored by 9 other Senators, which directed the White House Science Office to enter into an agreement with the National Academy of Sciences to develop a worldwide assessment of the impact of fossil fuel combusion. The Academy was encouraged to work in conjunction with other nongovernmental bodies (like the International Council of Scientific Unions) and intergovernmental bodies (such as the World Meteorological Organization) in this effort.

The amendment, which was substantially adopted by the conferees on that bill, directed the Academy report to the Congress on three things:

First, how a long-term program of domestic and international research, monitoring, modeling and assessment of the causes and effects of atmospheric CO_2 accumulations should be structured.

Second, how the United States can best lead this effort.

Third, how the ongoing U.S. Government assessment program can be strengthened to provide information and recommendations of the highest possible value to policymakers.

I was very pleased that the Conferees adopted my amendments and specifically that the authors of the National Climate Act in the House of Representatives wrote the conference urging their colleagues not only to accept, but strengthen the proposed program. The conference adopted their suggestion that the program be expanded from a 2-year $2 million study, to a 3-year $3 million study. They argued the amendment would stimulate a fresh and thorough international assessment of the problem and a fuller American program than is currently underway.

I have worked closely throughout this process with the President of the National Academy of Sciences, Dr. Philip Handler. He has reported to me that the scientific community is very excited over the prospects of this program. He wrote on September 18 of this year that the Academy has begun an "organizing effort to carry out such a study in the Academy. Our Climate Research Board is, even now, preparing a program plan that would, in my view, assure the Congress of the appropriateness and quality of current national and international initiatives and also would identify research opportunities that are not being adequately pursued."

Mr. President, I ask unanimous consent that the letter from Dr. Philip Handler be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL ACADEMY OF SCIENCES,
September 18, 1980.

Hon. ABRAHAM RIBICOFF,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RIBICOFF: In the summer of 1979 we discussed the possible effects on climate of an increase of carbon dioxide in the atmosphere resulting from growing dependence on and use of fossil fuels. Largely as a result of the efforts that you initiated at that time, the Energy Security Act (P.L. 96–294, Title VII, Subtitle B) incorporates a provision that authorizes a comprehensive study by the National Academy of Sciences of the problems potentially associated with the accumulation of carbon dioxide in the atmosphere.

As a preliminary response to this Congressional initiative, we have been organizing an effort to carry out such a study in the Academy. Our Climate Research Board is, even now, preparing a program plan that would, in my view, assure the Congress of the appropriateness and quality of current national and international initiatives and also would

> identify research opportunities and strategies that are not being adequately pursued.
>
> Under the Act, responsibility for funding the study lies with the Office of Science and Technology Policy. While I am sure that concerned Federal officials are fully committed to the assessment and investigation of the impact of fossil fuel combustion on the accumulation of carbon dioxide in the atmosphere, and its sequelae, time constraints and other priorities may unfortunately delay the timely submission of the requisite appropriation request.
>
> As you indicated, when introducing the authorizing legislation for the study, it is important that we marshal the resources needed to focus on all aspects of this problem as soon as possible. In my view, the availability of $250,000 for fiscal year 1981 would permit us to move ahead with this assessment in a manner consistent with your intent.
>
> It would be most unfortunate if this useful undertaking were allowed to fall by the wayside for lack of funds.
>
> Sincerely yours,
>
> PHILIP HANDLER,
> *President.*

Mr. RIBICOFF. Mr. President, I am disappointed by indications that, despite this persuasive record and clear direction by the Congress, the White House Science Adviser may not undertake the authorized program. It is disquieting to note the report of the Appropriations Committees that the Adviser's testimony on his programs was so vague and unspecific that he has provided the Congress with virtually no guidance on his intentions for fiscal year 1981. Indeed, Dr. Handler has become so concerned with the attitude of the Science Adviser that he indicates to me his concern that the program is in jeopardy. He states his belief that the Science Office does not intend to follow our direction in this matter. I have sought a clarification of the Adviser's programing and not been satisfied.

Therefore my cosponsors and I believe that we should insure there will be adequate funding of the CO_2 study in fiscal year 1981. The National Academy has said that for an adequate beginning to be made, $250,000 would be needed in fiscal year 1981. This amendment provides that such an amount be earmarked within the Adviser's budget for this purpose. It does not appropriate any new money in this legislation but insures that congressional intent be carried out within the program funded through this bill.

I ask for my colleagues' support of my amendment and hope that it will be adopted.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. RIBICOFF. Mr. President, I am pleased to yield to the distinguished chairman of the committee.

Mr. PROXMIRE. Mr. President, some time ago the distinguished Senator from Connecticut pointed out the terribly threatening effect this carbon dioxide "greenhouse" problem represents to our very existence and because of the enormous increase in the development of various substitutes for oil, particularly coal, this could be a most tragic problem not only for this country but for everybody in the world.

Mr. RIBICOFF. The Senator is absolutely right. The matter was first brought to my attention by Chancellor Helmut Schmidt of West Germany, who pointed out that the global consequences were horrendous and that it is one of the most difficult problems facing the entire world.

We had a symposium in the Governmental Affairs Committee in which scientists documented the tragic possibilities; the melting of the Antarctic ice cap, the flooding of continents, and the dramatic changes in agricultural zones across the world. As a consequence, the Congress passed and the President signed, as part of the Energy Security Act, that we examine the long-term consequences of CO_2 accumulations, monitor them, and suggest some solution.

Now we are initiating an $88 billion synthetic fuels corporation. We ought to know where we are going and the National Academy of Sciences have geared up to start making this study.

I do not think we can afford to delay it. It is not going to take much money, $250,000 in fiscal year 1981.

Mr. PROXMIRE. As I understand it, the Senator from Connecticut has shown that a number of outstanding scientists, responsible, thoughtful, conservative, careful scientists say that this could represent the kind of terrible threat to mankind's existence the Senator is talking about.

Mr. RIBICOFF. That is right.

Mr. PROXMIRE. We are not just citing some spooky article that appeared in some far-out publication. These are the outstanding scientists in the community; these are the true experts.

Mr. RIBICOFF. When we had the symposium, I had a telephone call from Woods Hole, where the leading scientists in this field happened to be meeting at that time. They told me they all agree with my proposal.

Mr. PROXMIRE. As I understand it, what the Senator is proposing is not that we add money, but that we simply earmark $250,000 of the money already recommended by the Appropriations Committee for the purpose of making this study.

Mr. RIBICOFF. That is right. The chairman is absolutely correct. We are not asking for an additional dime by the earmarking of $250,000 from the sums already in this bill.

Mr. PROXMIRE. Mr. President, I am happy to support the amendment.

Mr. MATHIAS. Mr. President, will the Senator yield?

Mr. RIBICOFF. I am pleased to yield.

Mr. MATHIAS. Mr. President, I am certainly sympathetic with the purpose of this amendment.

I wonder if the Senator from Connecticut could tell us if it is his intention that this study be a global study? It is the whole atmosphere surrounding the planet Earth, is that not right?

Mr. RIBICOFF. I would say the start has to be made in the United States by the National Academy of Sciences. But I do believe that scientists all over the world have to take a part in this, because there is no way that you can study the atmosphere and confine it just to the United States. The program calls for the Academy to take a leadership role now in the international community on this matter.

Mr. MATHIAS. And this is such a concerning problem, because the distinguished Senator from West Virginia (Mr. RANDOLPH) knows that we have developed in this country a very high technology for burning coal with a minimum adverse effect on the environment. But there are other parts of the world that may not be employing the same high level of technology protective of our environment and the people of the United States would suffer the adverse effects of that environmental damage which may be inflicted in the People's Republic of China or somewhere in Africa or somewhere in Eurasia.

Mr. RIBICOFF. The Soviet Union, West Germany, Poland—it can happen anywhere.

Mr. MATHIAS. But all the human race would suffer.

Mr. RIBICOFF. The whole human race would suffer.

Mr. MATHIAS. It is another instance of how the world is more interdependent than ever before.

Mr. RIBICOFF. The Senator is correct.

Mr. MATHIAS. For that reason, I think the amendment of the Senator from Connecticut is an excellent one and I am happy to support it

Mr. RIBICOFF. Mr. President, I am pleased to yield to the distinguished Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I appreciate the Senator from Connecticut yielding to me. He is knowledgeable in this area. He is one of many that support the work upon the environmental subject matter within our Committee on Environment and Public Works.

I have had the opportunity to study this proposal. I feel that it is necessary and timely. I feel very strongly that the Senate has a responsibility to act in a matter of this kind that goes beyond any one fuel or potential alternatives to that fuel. The problem of possible carbon dioxide buildup from fossil fuel burning is a matter that concerns the environment, the quality of life throughout the constantly shrinking world—a world in which we are brought closer and closer together by means not so much of destruction, but of mobility. This is a matter which our committee has also recently addressed, in a request to the Office of Technology Assessment to undertake an analysis of the impact of several large-scale activities such as increased fuel burning on the atmosphere.

If agreeable with the able Senator from Connecticut (Mr. RIBICOFF), I would like to be added as a cosponsor.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the distinguished Senator from West Virginia, Senator RANDOLPH, be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Connecticut (Mr. RIBICOFF).

The amendment (UP No. 1632) was agreed to.

Mr. PROXMIRE. Mr. President, I

move to reconsider the vote by which the amendment was agreed to.

Mr. RIBICOFF. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

AMENDMENT NO. 2367

(Purpose: To provide for two hundred forty thousand three hundred and ninety-two units of additional assisted housing for 1981, rather than two hundred eighty thousand and eighteen)

Mr. EXON. Mr. President, I call up my amendment that I offered on Friday regarding section 8 housing and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nebraska (Mr. EXON) proposes an amendment numbered 2367:

On page 2, line 13, strike "$1,417,400,000" and insert in lieu thereof "$1.284.963,355".

One page 2, line 18, strike "$30,877,500,000" and insert in lieu thereof "$27,476,552,375".

Mr. EXON. Mr. President, once again I take the floor to discuss the matter of appropriations for section 8 housing programs. On Friday last, I spoke about many of the current problems which plague section 8 programs, and cited, for the RECORD, the critical report of the General Accounting Office dated June 6, 1980.

Mr. President, I will not repeat the arguments I made last week on this issue. Those comments can be found in the CONGRESSIONAL RECORD of Friday, September 19, on page S12943. However, please allow me to summarize the substance of my amendment. The amendment I am offering does not cut section 8 housing. It allows for the addition of approximately 240,000 assisted housing units for 1981, the same number as are being added for the current year. Acceptance of my amendment will disapprove the Appropriations Committee's recommendation of approximately 16-percent increase in additional units. In view of the GAO report and need for fiscal discipline, I believe it is entirely inappropriate to allow a 16-percent increase in assisted housing for 1981.

Approval of my amendment would reduce 1981 budget authority by $3.4 billion. It would have little or no effect on budget outlays for 1981, but the amendment would progressively reduce outlays for section 8 housing in succeeding years, eventually to total $3.4 billion, as compared to the provisions currently in the Appropriations Committee's recommendations.

Although the control of outlays is highly important, because outlays determine the amount of any Federal budget deficit or surplus, it is just as important to reduce budget authority if we are ever going to get a handle on Federal spending. As we all know, one of the problems of balancing the Federal budget in any particular year is that a relatively small percentage of the budget is subject to immediate control of outlays. Most budget outlays are actually controlled by entitlements and budget authority which has been granted in previous years. Reducing budget authority for section 8 programs now, while it will not affect section 8 outlays in 1981, will certainly help Congress control spending in the future.

Apparently this fact of budgeting is not appreciated by the Department of Housing and Urban Development. In a document recently prepared by that department it was argued that:

> A cut in the level of long-term commitments will have . . . little impact on the federal budget because of the long-term nature of the commitment. . . . With the expected mix of new and existing units, a cut of billion[s] in budget authority in 1981 will have virtually no impact in 1981 outlays. . . .

Mr. President, it is exactly this kind of thinking which has gotten our country into its current fiscal difficulties. Simply because an amendment has no immediate outlay impact is a very weak argument against it. By authorizing excessive budget authority to the section 8 program, a program which is receiving more and more criticism with each passing year, we are not only asking for trouble in a housing program, we are inviting fiscal calamity for the entire Federal budget. The Federal liability currently existing for section 8 programs is already in the hundreds of billions of dollars, and, depending upon economic conditions which would see rents rising faster than incomes, could cause our Government a fiscal crisis against which our past year's difficulties would surely pale.

Again, let me state that this amendment is not one I offered earlier in the Senate Budget Committee. That amendment would have reduced section 8 housing programs further and would have required certain programmatic changes. The amendment I am now offering merely proposes to hold expansion of section 8 at the same level as we settled upon for the current fiscal year.

In closing, Mr. President, it must be stated again that our No. 1 long-term domestic problem is inflation—not recession. A favorable vote on this amendment will show that the Senate recognizes that fact and is prepared to do something about it.

Mr. PROXMIRE. Mr. President, I am in a difficult position on this amendment because I am, of course, managing the bill as chairman of the HUD—Independent Agencies Subcommittee of the Appropriations Committee. Therefore, I am under some obligation to represent the position taken by the committee. But I must say that this is a most important amendment. I rise in support of the amendment, recognizing that other members of the committee may, of course, disagree and argue against the Exon amendment.

I think if there is any issue which concerns the American people more than any other, it is inflation. We know that inflation was a little worse a few months ago than it is now. At the same time, Mr. President, if we pay any attention to the statistics that we have before us, we know that inflation is likely to get a great deal worse in the coming months and in the coming years.

The most recent Wholesale Price Index has made it clear that wholesale prices rose very sharply last month, particularly at the intermediate food level. As a matter of fact, food prices rose for the 2 months of July and August at the unprecedented rate of 9 percent each month. That is an 18-percent increase in food prices in 2 short months. It works out to an increase of more than 100 percent in 1 year.

Of course, all of this will not be reflected fully in consumer price increases, but it is going to be reflected at least in part. More Americans are familiar with what food costs in the grocery store than with the Consumer Price Index, so I think if we feel we are under pressure now to hold down spending because of inflation, we should recognize that we are going to be under a great deal more pressure in coming weeks, months, and years. I think we all know that the one certain action that we can take to combat inflation with the support of the overwhelming majority of the American people, although there are other things we can do, is to hold down Federal spending.

This is precisely what the Senator from Nebraska is doing with his amendment. The amendment cuts funds provided in the bill for additional subsidized housing units. It does not reduce the Government's current assisted housing program. Far from it. Even if the amendment is adopted, the Government will be able to subsidize an additional 240,000 units in 1981. So even with the Exon amendment, there will be moderate growth in the assisted housing program.

Mr. President, as the Senator from Nebraska has pointed out, the costs of this housing program are immense, and they go on for years and years and years, literally for generations.

The yearly costs of our current subsidized housing commitments are growing by leaps and bounds. Budget outlays attributable to payments required by subsidized housing contracts were $3.56 billion in 1979, are expected to be $4.37 billion in 1980, and are projected to be $5.48 billion in 1981. This represents a growth of 54 percent in just 2 years. I will repeat that. This program has grown at a rate of more than 50 percent in 2 years.

Furthermore, these are long-term commitments which we must honor for periods of up to 40 years. When I say "more than a generation," I am not just kidding. The period of commitment is 40 years. This is an uncontrollable portion of the budget. We should be extremely cautious about adding to these commitments by giving the Department of Housing and Urban Development authority to enter into new contracts.

The Exon amendment, by holding new commitments to last year's level, takes that cautious approach, a cautious and moderate approach which I think we should support.

A recent GAO report which was critical of the assisted housing program pointed out that in 1979 $400 to $600 monthly rental levels for various sizes and types of newly constructed and rehabilitated units in many locations were commonplace. In New York City and San Francisco, levels for some three- and four-bedroom units were set at $900 to almost $1,100 per month.

Those were assisted units. Clearly, those fair market rents have increased since 1979. We should be cautious about adding additional units to a program that is so costly that in some cases subsidized rents are much higher than those paid by the average American—rents higher than the taxpayer who pays for the subsidy pays for unsubsidized private rental property or pays each month for the home he is trying to buy.

Mr. President, our long-term assisted housing commitments are presently estimated to be $128 billion. We must honor those commitments. We should also be extremely cautious in adding to them, especially since the Congressional Budget Office has indicated—get this figure because it is one that really staggered me—that one housing unit for one assited family could cost the Government as much as $710,000, three-quarters of a million dollars, over the life of a 40-year contract. That is the cost of one housing unit.

Mr. President, we should be aware of that.

Of course, that takes into consideration the realistic fact that we are likely to have inflation for many years to come and that utility costs and housing costs are going up. The Federal Government, once we get into these housing programs, provides for the difference between 25 percent of the income of the tenant and the fair housing cost. But the projection, and it is a realistic, honest projection, is that this can cost us as much as three-quarters of a million dollars for a single housing unit.

So I think what the Senator from Nebraska is doing is moderate, is sensible, is cautious, and is responsible. I hope the Senate will support this amendment.

Mr. EXON. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. Mr. President, I regret very much that this amendment has been offered. As much as I respect the distinguished Senator's concern about the need to control the cost of Government—I certainly share that view and I know how seriously he is taking his responsibilities as a member of the Budget Committee. I know it is a thankless responsibility. He has served there with distinction and has been very active in that committee's deliberations. However, I must oppose this amendment because of the harm I believe it would do.

Mr. President, it would slash housing assistance in the face of a deepening rental housing shortage. It would unnecessarily and unfairly punish the poor, whose opportunity for finding decent affordable housing is slim without the aid of the Federal Government. It would ultimately cause far more costs for our taxpayers than it would save. I am particularly concerned that the amendment appears to be driven by recent attacks on the program, appearing in a GAO report, the Reader's Digest, and several newspaper articles, which attempt to dress up what impresses me as half truth, inaccuracy, misstatement, and innuendo as fact, and which cannot go unchallenged.

By all available evidence, the Nation is gripped by a crisis in multifamily housing production. According to information prepared by the Department of Housing and Urban Development, the shortfall in multifamily housing will range from 170,000 to 300,000 units per year through the 1980's if present trends hold. In other words, the loss of units to the stock, combined with a surge in family formation, is overwhelming our production.

With housing construction in a depression, millions of young families who are finding themselves priced out of the homeownership market, are competing with lower income citizens for a dwindling number of rental units. Vacancies in many areas are almost nonexistent. The national rental vacancy rate is hovering at an all-time low. This condition naturally places great pressure on the cost of housing, as Assistant Secretary for Housing Larry Simons testified during hearings before the Housing Subcommittee last Spring. Now, along comes this amendment to cut back housing production still further, one of the most inflationary actions that could be proposed.

If housing shortages create hardship for the general population, then for low-income persons, particularly poor families, the situation is often desperate. They stand little chance of success in competing for available units. A Library of Congress report issued last year estiated that the Nation must produce 600,000 single and multifamily units a year for the next 10 years just to keep pace with the needs of low- and moderate-income people. We are not producing anywhere near that amount. A November 1979, GAO report stated that the rental housing shortage was so acute that Congress should take immediate action to relieve it.

Mr. President, I commend the Senator from Wisconsin, chairman of the Subcommittee on Housing, for his actions as he led our committee through the development of a program that would be reflective of this situation. He had more vision, more wisdom, than I. I rather opposed his approaches, as they were in development. But the longer I looked at the proposal of the Senator from Wisconsin, the more I knew that, for many reasons, it made a great deal of sense, faced with this critical housing production situation as we are. Unfortunately, that program was not accepted.

Mr. PROXMIRE. That is right, Mr. President, it was not accepted. The Senator from New Jersey and the Senator from Wisconsin did our best to get it accepted. What appealed to me so much about that program, Mr. President, is that it would not have cost any more—in fact may have cost less—than the administration's program and provided far more housing.

Now we are faced with a very different situation, as the Senator recognizes. The Senator from Nebraska is simply offering a straight, clear-cut reduction in the increase in housing. The amendment by the Senator from Nebraska would still provide for an additional 240,000 housing units in 1981. I realize that we would like to have more if we could, but it is simply a matter of being in a position where we have to make a very painful choice. It would be fine to have additional housing production, but to provide that the Federal Government has to provide it and not the private sector seems to this Senator to be the issue. That is true particularly in view of the terrific problem we have in trying to balance the budget.

It is no accident that the Senator from Nebraska is a member of the Budget Committee. The Budget Committee is confronted with a terrible dilemma now of facing probably a $20 billion or $30 billion deficit in 1981, a year when we are trying so hard to achieve a balanced budget.

Mr. President, if we are going to have a balanced budget somewhere in the future—1981, 1982, 1983, or 1984—this is exactly the kind of program we are going to have to have, the sort of moderate approach in the amendment of the Senator from Nebraska.

Mr. WILLIAMS. Mr. President, the budget situation has eclipsed our whole view of our housing needs. The amendment that is offered by the distinguished Senator from Nebraska deals with what is in the appropriations bill in terms of the number of units that will be supported by the appropriation. The bill, as I understand it, is at 280,018 units—am I right on that? The bill that comes to us from Appropriations would support 280,081 units. The amendment would reduce that to 240,000.

Mr. President, it takes a period of a year to get the commitments out and I am advised that, given the inflationary facts of life, the 280,000 appropriated will, in fact, buy, at the end of term, a reduced number, down to 240,000. If it is true, that inflationary factors, will reduce it through this amendment to 240,000, then, at the end of term, because of inflation, that number will come down to 202,000. So the figures are not hard and fast at the number of units that the Senator from Nebraska proposes.

If that is true, let us look at the situation of what we need in rental housing construction. Of course, that is exactly what the Senator from Wisconsin knows even better than I, because that is what he addressed himself to in his proposal which was in our housing bill that recently came here to the Senate; but which was rejected.

Mr. PROXMIRE. If the Senator will yield on that point, the difficulty is that it is very, very hard to know what the inflation rate is likely to be. One of the elements that promotes inflation, of course, is a Government housing program that crowds the private sector by using the same materials, manpower, and so forth. One of the effects of the Exon amendment would be to ease the inflationary pressures somewhat in the construction area. We do not have a situation where we know inflation is going to be 10 percent, 12 percent or 14 percent. The level of inflation will depend, to no inconsiderable extent, on the amount of publicly assisted housing, which always tends to drive prices up, for many reasons which the Senator from Wisconsin, the Senator from Nebraska, and the Senator from New Jersey all agree on, I am sure. One is that the Federal Government as a buyer of housing is far less careful, pays the top dollar for wages, moves into markets and bids up prices and has done so consistently. For that reason, I think certainly, if we do not accept the Exon amendment, if we deny the Exon amendment, we are going to have more inflation than is acceptable.

Mr. WILLIAMS. Mr. President, for those not with assisted housing and of low income, they are the ones who are going to feel increasingly the harsh effects of inflation, because if we do not have increase construction in rental housing, there will be more competition for the units that are there and, with that, competition—and I might add everybody is not rent controlled. I think there is reason to believe that rent controls are a disincentive to construction, but most areas are not rent controlled. Without production coming on, we have more pressure by more people for existing units. That is where inflation is going to be, for those tenants of lower income, whose only base is in rental housing. They are the ones who are going to feel not only today's inflation, but, in rental housing, even a more gross and grotesque rate of inflation.

Mr. PROXMIRE. If the Senator will yield for 1 minute, and I apologize for interrupting, the Senator from Nebraska appropriately pointed out, very ably, last Friday, that only one low-, moderate-income person out of every 13 eligible actually gets assistance. The overwhelming majority will not be helped by this program.

Mr. WILLIAMS. But those will be hurt if we do not get some more units on line.

Mr. PROXMIRE. Most low-income families will be hurt, anyway, and hurt because the program will tend to drive up the price of construction and thus drive up rental costs.

Mr. WILLIAMS. I ask the Senator from Wisconsin to yield. At 2 o'clock there is a housing conference, with the housing group from the House of Representatives. Shall I go over to that conference and accept the Senator from Wisconsin's intermediate, middle-income program which the House retained in a pilot way to see whether we can get this started, to see if it will work?

Mr. PROXMIRE. We will miss the Senator very much on the floor, but I hope the Senator goes to the conference because it is very important. I must say, having been defeated, as we were on the floor of the Senate, that we have to maintain the Senate position. Frankly, looking at it as objectively as I can, I do not see how we can accept another new housing program.

I think, as the New York Times said, we need that like a hole in the head.

We cannot justify any Government program that provides housing for people with incomes of over $40,000 a year, when we are not doing it for those with incomes under $5,000 a year.

So I will have to take the position the Senate took by majority vote. I think the Senate was probably right and that we will have to oppose the new program.

Mr. WILLIAMS. As I understand it, the House did not go all the way with the Senator from Wisconsin's program, but they did put a modest beginning in the nature of a pilot. To see if it works.

Mr. PROXMIRE. I am against that.

Mr. WILLIAMS. Does the Senator not want to see if his idea will work?

Mr. PROXMIRE. I am afraid not, some oppose it, and——

Mr. WILLIAMS. I will say, when we vote in the conference I might vote with the position No. 1 of the Senator from Wisconsin and at least give it a try on a pilot basis.

Mr. President, the Congress has pursued such a restrictive budget course, that any attempts to respond to the GAO's warning about the rental housing crisis have been choked off. For fiscal year 1981, the first concurrent budget resolution allowed $30.9 million in budget authority for assisted housing, $2.3 billion below the President's budget request. The HUD Appropriations Subcommittee reduced the budget resolution figure by $272 million and then the full Appropriations Committee cut out another 2 percent.

The Senator's amendment would cut $3.4 billion in budget authority from a budget recommendation that has already been sliced three different ways. It is my understanding that the Senator claims his amendment would provide about 240,000 units of section 8 and public housing. Let us take a close look at the figures, because in fact the amendment will produce far less. The fiscal year 1980 appropriation was for $27.3 billion in budget authority. According to HUD, this amount will permit 202,000 reservations by October 1, 1980. The amendment would provide only slightly more funds, $27.4 million in budget authority. It seems to me that the rate of inflation between fiscal year 1980 and fiscal year 1981 will severely erode the number of units that can be assisted to the point that they drop below 200,000. By comparison, the number of reservations achieved in fiscal year 1977 was 388,000, while in fiscal year 1978 it was 326,000. The trend that this amendment would continue sets us on a course for higher housing prices, greater overcrowding, declining housing quality, and retarded progress in strengthening the social and economic foundations of our urban neighborhoods.

This leads us to question what practical purpose the Senator hopes to achieve by offering this amendment. Will it reduce inflation? I would be happy to hear the Senator state how many points this amendment will knock off the inflation rate. Of course, he cannot. In fact, as I have pointed out, the loss of production caused by this amendment will actually help fuel inflation by contributing to further shortage.

Perhaps this amendment is designed to serve as a symbol of congressional budget restraint. I am sure that in the Senate's rush to bust the budget with a $39 billion tax bill, and with a boost in defense expenditures by $26.8 billion over fiscal year 1980, the symbolism to be found in this amendment will be lost in the dust. For fiscal year 1981, the actual outlays saved by this amendment will total zero.

Maybe this amendment will reduce costs to the Government. Wrong again. As a result of this amendment, as many as 40,000 jobs would be lost, along with more than $340 million in construction workers' wages and millions in tax revenues for Federal, State, and local governments. Of course, there are some costs that cannot be calculated, such as the millions of dollars in private investment frightened away from neighborhoods that must remain blighted because this amendment has denied them new housing that could help rejuvenate them—or the money that must go to fight crime in abandoned, deteriorated housing projects that could have been rehabilitated with the funds withheld from them by this amendment. And then there are the human costs for those who are told they must remain in unsafe, unsanitary housing, or in housing they cannot afford, because there just are not enough section 8 units to go around. The program is already so small compared to the need. Must we slam the door in still more faces?

The Senator bases his amendment in part on the criticism leveled against the program in recent months. As chairman of the Senate Housing Subcommittee, I am aware of these charges, and of the great harm that they do to public confidence in the program. I am also aware they are for the most part unfair and misleading attacks on a program that is in truth doing its job. I welcome this opportunity to set the record straight about the section 8 program. Let us look at a few examples of the misrepresentation and inaccuracy.

The GAO report claimed that section 8 fair market rents have grown too quickly and too high. However, GAO based its conclusions not on comparisons with early section 8 rents, but on rents under the old section 23 program. Oddly enough, several years ago, GAO was complaining that HUD set its section 8 rents too low.

GAO also asserted that section 8 projects are excessively costly, using as examples certain section 8 assisted projects in New York City. Actually, these projects were built under another program, found themselves in financial trouble, and only received section 8 assistance to preserve the housing, and to prevent huge insurance losses for the Federal Government.

The Reader's Digest article on section 3 is rife with misstatement. It confuses fair market rents with contract rents, overstates budget authority totals, wrongly states that HUD guarantees developers a 10-percent profit, mixes up annual payments to liquidate contracts with long-term budget authority in attempting to show the growth of the program, implies incorrectly that the program was hastily considered at the time of its original enactment, wrongly states that developers are encouraged to build luxury buildings, when the law and regulations specifically prohibit it, and incorrectly asserts that a noncontroversial provision in last year's housing bill to improve verification of tenant incomes was vigorously opposed by industry interests. Mr. President, I ask unanimous consent that a response to the Reader's Digest article, prepared by Mr. Charles Edson, be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE REAL SECTION 8—A READER'S DIGEST REBUTTAL

(By Charles L. Edson) *

The June 1980 Reader's Digest article by Donald Robinson on the Section 8 program has the provocative title "Billion Dollar Nightmare at HUD". The article is no less so, indicating that Section 8 was adopted as a Congressional afterthought and is now the haven of "rip-off artist" developers who obtain Section 8 projects through political favoritism, if not corruption, and in any event give less than value received.

Careful examination shows that the article departs significantly from reality, thereby maligning a program that will soon be providing decent housing for over 1.6 million lower-income American families. Let's look at the record.

A WELL CONSIDERED PROGRAM

We are first told that Section 8 was a "generally ignored" and "obscure" program when enacted in the Housing and Community Development Act of 1974, receiving a miniscule "appropriation" of $42 million (at p. 129). Nothing could be further from the truth.

The genesis of Section 8 was a six-month Nixon administration study in 1973 on restructuring the nation's subsidizing housing programs in light of the moratorium on the existing programs proclaimed that January. In September 1973, President Nixon introduced the Section 8 concept of providing housing assistance payments to owners equal to the difference between market rent for the unit and what the tenant could pay based on family income. Unlike the fixed subsidy mechanism of prior programs, the housing assistance payments would be adjusted for inflation to insure project solvency. Although Section 8 was not then on the books, the President stated that by revising an existing program—Section 23 Leased Housing—the housing assistance payment concept could be implemented immediately.

In the fall of 1973 the administration introduced legislation (H.R. 10688, 93rd Congress) to put Section 8 into statutory form. The House Committee on Banking and Currency held hearings over a three-week period on the new housing and community development programs. The Senate Banking and Currency Committee on October 2, 3 and 4, 1973 held comprehensive hearings specifically directed to the administration's housing proposals.

Next, the Housing Subcommittee of the House Banking and Currency Committee considered the bill from February 5 to April 30, 1974 followed by three weeks of full commitee deliberation. The Senate Banking and Currency Committee spent an unprecedented twenty-six days "marking up" the 1974 legislation. As Senator William Proxmire summed up the process, "This was a bill which required many months of hearings, and the longest markup session I have ever seen." [1]

The careful programmatic examination given by both Committees can be seen from the attention directed to Section 8 in the Committee Reports.[2] There was also extensive floor debate on the new housing program before Senate passage by a 76–11 vote on March 11 and House passage by a 351–25 vote on June 20.

Significantly, Congress in the 1974 Act authorized nearly $900 million in contract authority for the new program. In current dollars this exceeds the $1.25 billion of contract authority (not $3 billion as incorrectly stated in the article) which President Carter requested for FY 1981. In evaluating the Government's commitment to a housing subsidy program, the relevant figure is contract authority—not appropriations; once a housing assistance payment contract is signed, the Government has a full-faith commitment to make the subsidy payments for the contract term. Thus, the $42 million 1974 appropriation merely indicates that in the initial program year very few housing projects would be in operation to receive the subsidy.

In contrast to the author's presenting an erroneously low figure for the initial obligations under the program, he presents a deceptively high figure in setting the program's long-term cost. HUD's obligation to pay the $130 billion in subsidies is not an immediate one, but extends over 40 years. Under budgetary concepts virtually unique for the housing assistance programs, the total cost over the 20 to 40-year contract period must be charged as budget authority in the year obligated. This is analogous to charging the long-run operating cost of an aircraft carrier, as well as its initial cost, to the first year's budget. If all government programs were given the Section 8 accounting treatment, then astronomically high figures would be produced.

We can perhaps criticize Congress for the misleading way that it accounts for Section 8. However, we cannot fault our lawmakers for giving "little thought" to or "generally ignoring" the program, as charged by the author and Senator Armstrong.

COST AND PROFITS

Next the author indicates that the program is a bonanza for developers who reap huge profits at the expense of the poor. As an example the author asserts that a developer submits his application to HUD who then determines a "fair market rent" that the developer can charge for each apartment. In addition we are told that the developer is encouraged to submit applications for luxurious apartments and thus get higher rents (at p. 130).

In the first place, the developer does not negotiate the Fair Market Rent for the project. On the contrary, HUD publishes Fair Market Rents for every area in the country on an annual basis. Further, the developer does not receive the published Fair Market Rent; instead, he gets a "contract rent" which must meet a "rent reasonable test" as required by the Regulations (24 C.F.R. 880.204(b)(2)). In general, this means that the rents must be comparable to "unassisted units of similar age, design and location which provide comparable amenities and services." This test often results in actual contract rents below the published Fair Market Rents; in any event published rents can only be exceeded by 20 percent and then only on appeal to HUD's area or central office. As a result, recent high interest rates have made many Section 8 projects infeasible under the HUD approved contract rents.

As to luxury apartments, the Regulations specifically provide (24 C.F.R. 880.204(e)) that amenities in Section 8 projects are "limited to those amenities which are provided in unassisted housing of modest design in the market area. . . ."

We are then told that any developer who gets Section 8 funds can "quickly" get a 90 percent mortgage from a bank. Fast profit indeed! Obtaining a bank mortgage loan is a time consuming and frustrating process; such conventional loans have been rare indeed. Even if a project is HUD–FHA insured, there are many cases where the developer cannot receive the 90 percent mortgage because the HUD-approved rents are so low that there is just not enough cash flow to support a mortgage at the 90 percent level. Finally, with FHA financing, forget about a fast anything; FHA processes on a geological time schedule.

The author also states that HUD "guarantees" the developer a profit of 10 percent. Not true! We believe that the author is referring to the fact that in an FHA insured mortgage, there is a builder's and sponsor's risk allowance (BSPRA) of 10 percent of all costs except land costs, or about 8½–9 percent of the total project costs. This is actually a non-cash allowance which the developer can credit against his required equity contribution. Out of this percentage, the developer must pay the contractor's fees, the cost of providing bonds or letters of credit, professional fees not included in the mortgage, and other so-called "over and above costs" that are not covered by the mortgage. Indeed these payments could be more than the BSPRA.

In the Spring of 1980 the Surveys and Investigations Staff of the House Appropriations Committee made a comprehensive study of developer profits under the Section 8 program. As a guardian of the federal purse, the House Appropriations Committee has traditionally given the Section 8 program careful scrutiny. Their report was thorough and objective and here's what it has to say on developer's profits:

"The fact that project costs are high with large amounts of private investment capital and tax shelter benefits derived does not necessarily mean that the services of developers are not being provided at a reasonable cost." (A Report to the Committee on Appropriations, U.S. House of Representatives, on the HUD Section 8 Program, April 1980, at p. 37).

The report continues:

"The amount of work done by developers for the production of Section 8 housing is large. It calls for a high degree of individual competence. There are many obstacles and risks—some administrative, some technical, and some financial. The work involves a closely related series of interdependent and high priced services that must be brought together by the developer and be processed against and through the housing production system." (at p. 38).

Section 8 developers must deal with a myriad of federal, state and local officials and the laws and regulations that they enforce. Other obstacles include vigorous neighborhood opponents in many cases and spiraling materials and labor costs in every case. For every one of their successes generally several projects have fallen through with significant out-of-pocket expenses. As the report indicates, developers work hard for every penny they get.

As the author correctly points out (at p. 130), ownership in the project is often sold,

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* Lane and Edson, P.C., Washington, D.C.; Council, National Leased Housing Association for whom this rebuttal was prepared.

[1] CONGRESSIONAL RECORD of August 13, 1974 at S14881.

[2] House and Senate Reports at pp. 368–375 and pp. 611–615 respectively of the Compilation of the Housing and Community Development Act of 1974 prepared by Subcommittee on Housing of the Committee on Banking and Currency, House of Representatives (1974).

or syndicated by the developer to investors who receive the benefit of the tax losses generated by the project. Syndication does not result from any loophole. Congress specifically tailored the Tax Reform Act of 1969 and the Tax Reform Act of 1976 to encourage investment in low and moderate income housing by providing certain tax benefits to such housing (See e.g. Section 189 and Section 1250 of the Internal Revenue Code). As stated in the House Appropriations Committee report:

"Without syndication there would be far fewer housing projects, since most developers are not financially able to provide the necessary capital it takes to build and maintain projects for a period of years." (at p. 43.)

THE FAVORITISM ISSUE

Program corruption and mal-administration are the next charges. The author indicates that all a developer has to do is submit construction plans to HUD and the application is then processed and presumably approved. Actually, in allocating program funds through a HUD area office, HUD publishes a Notice of Fund Availability (24 C.F.R. 880.304) announcing a competition for the funds. Often twenty to thirty developers compete on a given project and HUD chooses the application on a strict ranking system (24 C.F.R. 880. 306–307). In the alternative HUD allocates funds to state housing finance agencies who in turn choose the developer. To encourage procedures consistent with state needs when a housing finance agency is involved, HUD does not set forth the same rigid ranking procedures. However, virtually all state agencies have adopted competitive procedures similar to HUD for choosing developers.

The corruption charge includes an allegation of favoritism in one state agency which has been denied. No criminal charges have been brought. The "string of convictions and federal-state indictments in New Jersey" (at p. 132) is quite an overstatement. In fact no state or federal housing official has been indicted; the three indictments and one conviction involved private parties participating in the program. These are the only suggestions of corruption in a program where thousands of projects totalling over 700,000 units have been awarded under the new construction or substantial rehabilitation phases of the program, a truly remarkable record.

The author cites as his "classic example" of lax administration the Taino Towers Project located in East Harlem New York (at p. 131). What he does not say is that this project was funded under the 236 Program, the now discarded subsidy program that Section 8 was designed to replace. Granted, HUD has now allocated funds under the Section 8 existing program to the project to make it feasible so that the development funds expended under Section 236 will not be wasted. That Section 8 is being used to save a failed development is hardly an indictment of Section 8.

We agree that HUD's program administration could be improved and it should keep better statistical track of program numbers. If this is the worst that can be said about a department administering a subsidy program now funded to provide decent housing for nearly four million Americans, then the program seems very sound indeed.

THE SUCCESS OF SECTION 8

We have talked of the success of Section 8 in terms of quantity—the millions of people housed. But Section 8 is more than a quantity program—it is quality as well. It was the intent of the program sponsors to provide for housing that would readily blend into a community and would not be branded as "public housing"; as a result, there are hundreds of attractive Section 8 projects located throughout the country that few know are government subsidized. Accordingly, there is far more acceptance of Section 8 in suburban communities than there is of public housing; much needed economic integration is the result. On the other hand, the Section 8 substantial rehabilitation program is contributing significantly to the revitalization of our inner-city areas.

That Congress established 80 percent of median income as the Section 8 limit for a "lower income" family (not "poor" as the article erroneously states at p. 130) is very salutary. First, it assures some degree of economic integration within a project so that housing projects do not become ghettoes for the very low income. Second, it does provide housing opportunities for the forgotten Americans of moderate income who are desperately in need of assistance.

Finally, Section 8 has produced millions of man-years of needed constructon jobs; real emphasis is placed on minority employment.

THE IRONIC CONCLUSION

In fairness, the author does a real service in pinpointing the need to build low income rental housing and rightly identifies the impediment to such production as rent controls and declining private industry participation in conventional housing (see p. 131). Indeed, after all the scathing and inaccurate indictments, the author concludes quite properly that Section 8 should not be abolished; instead, he presents seven suggestions for "drastic reform."

Ironically, the program's staunchest advocates have long favored six of the "reforms"—competition for project selection, elimination of red tape, preservation of existing housing (40 percent of Section 8 units are funded under the flourishing existing housing program), "moderate rentals", effective verification of tenant income, and the rooting out of any corruption. The only unsound suggestion is lowering the eligible income level to 50 percent of median as this frustrates the goal of economic integration and aiding lower middle class families as discussed above. In addition, more subsidy would be required.

Although the author obviously believes in the continuance of Section 8, his unfounded charges undermine the public support vital to achieve that end. We must set the record straight.

Mr. WILLIAMS. Mr. President, the section 8 program is complex, largely because it is an attempt to meet the varied needs of localities. It is bound to come in for its share of criticism because of its complexities and because of the large budget obligations it entails. Some criticism is justified and the Department as well as the Congress should continuously strive to see that it operates in the most efficient manner possible. But the kind of amendment offered by the distinguished Senator from Nebraska does nothing to improve the program. It is purely punitive in nature. In fact, the only complaint about the program to which the amendment responds directly to is one of inequity, that the program serves too few. Its response is to cut 100,000 or more people out of the program.

Mr. President, this amendment should be defeated. Its cost is simply too great—for our low-income citizens who look to the Federal Government for basic, decent housing, for communities seeking to provide their residents with better neighborhoods to live and work in, and for our taxpayers who must ultimately foot the bill when the Federal Government retreats from its responsibilities to address real human need.

Mr. President, I ask unanimous consent that at this time a list of 35 separate organizations which oppose this amendment be printed in the Record.

There being no objection, the list was ordered to be printed in the Record, as follows:

Organization Signing Memorandum to U.S. Senate on HUD Appropriations, September 12, 1980

American Baptist Churches, U.S.A., Office of Governmental Relations.
American Friends Service Committee.
Americans for Democratic Action.
Children's Foundation.
Consumer Federation of America.
Council of State Community Affairs Agencies.
Council of State Housing Agencies.
Friends Committee on National Legislation.
Housing Assistance Council.
Human Environment Center.
International Union, UAW.
League of Women Voters of the U.S.
National Association for Advancement of Colored People.
National Association of Housing and Redevelopment Official (NAHRO).
National Association of Housing Cooperatives.
National Association of Social Workers.
National Conference of Catholic Charities.
National Consumer Law Center.
National Hispanic Housing Coalition.
National Housing Conference.
National Housing Law Project.
National Leased Housing Association.
National Low Income Housing Coalition.
National Neighbors.
National Retired Teachers Association/American Association of Retired Persons.
National Rural Housing Coalition.
National Urban Coalition.
National Urban League.
Rural America.
Rural Coalition.
United Church of Christ, Office of Church and Society.
United Food and Commercial Workers, International Union.
United Presbyterian Church, Washington Office.
U.S. Catholic Conference.

Mr. EXON. Mr. President, I ask unanimous consent that the Senator from North Carolina (Mr. Helms) be added as a cosponsor to the amendment.

The PRESIDING OFFICER (Mr. Riegle). Without objection, it is so ordered.

Mr. EXON. Mr. President, I would like to reply to some of the statements made by my friend from New Jersey with regard to the amendment before us.

The basic thrust of the argument advanced by the Senator from New Jersey, which is the line being followed by HUD, is that we must continue this program and that if the Exon amendment becomes law we are not going to keep up with the inflationary rate with regard to section 8, this highly subsidized Federal program.

Mr. President, as we wrestle to try and bring the Federal budget under control, I hear time and time again the argument that I have heard on the floor of the Senate this afternoon against my amended. That is, simply, that with the inflation soaring through the economy today, we have to raise everything accordingly or we are going to penalize someone.

It comes back to the question, Mr.

President, which comes first, the chicken or the egg?

There can be no question, Mr. President, that the poor and the underprivileged and the senior citizens living on fixed income are the ones that are hurt most by the inflationary spiral that we are continuing to experience.

Nevertheless, if we are going to try to help those people, then it seems to me that those of us in the Congress of the United States must at least begin to take some preliminary, tiny, first steps to bring Government spending under control, because if we accept the argument that we must pass each type of legislation, on all the Federal programs, just to keep up with the inflationary spiral, we find ourselves locked once again into that whirlwind, that cyclone, the theory of, let us all keep chasing the dog's tail because we have no place else to go.

Mr. President, I think it has long since passed the time that we in the Congress, that have the responsibility for setting the Federal budget, recognize that if we accept that philosophy that we should keep insulating everyone up and down the economic scale from inflation, that by so doing we eliminate more and more the pressures from the public at large to really do something about inflation.

Therefore, I cannot accept the argument that we should accept the 16-percent increase authorized by the Appropriations Committee for the section 8 housing program because, I emphasize once again, that mine is only a modest reduction, not affecting the outlays in 1981, but, in the end, it will save about $3.4 billion in the outyears.

Now, to the program itself, the Senator from Wisconsin has ably said once again why he is supporting the Exon amendment.

Mr. MATHIAS. Will the Senator yield?

Mr. EXON. I am happy to yield to the Senator from Maryland.

Mr. MATHIAS. The Senator makes an interesting point here, that he cannot accept the 16-percent increase in section 8 appropriations. It just seems to me that we ought to keep in mind that in this bill we are not only dealing with the section 8 appropriations, we are dealing with a HUD package that involves, in fact, 21 agencies, and this bill, at the most, is $4,189,000,737 under—under—the budget.

Now, the Senator is properly concerned about the level of expenditures, and I am concerned about the level of expenditures. But I think it has to be recognized that we are more than $4 billion under the budget.

If the Senator will yield further, I do not want to trespass on his time, but it is so exactly on point that I think it is, perhaps, the proper place to comment as to just where some of these budget reductions have been made by the committee, cuts that have been made in the budget that have not been restored.

Just for example, local government transition assistance, $500 million—one-half a billion dollars—cut.

Assisted housing, $2.3 billion—not million dollars, but billion dollars—cut.

Community development block grants, $200 million, cut.

EPA waste water construction grants, $300 million, cut.

Veterans readjustment benefits, $179 million, cut.

Veterans Administration major construction, $112 million, cut.

There is an across-the-board cut of 2 percent, which amounts to $992 million.

When the Senator talks about grappling with Government expenditures, I submit to the Senator that this committee is grappling, and we have cut and we have cut to the point that it hurts.

So that when we oppose a further cut, we are opposing it out of real prudence and concern for the welfare of the people of this country and for the welfare of the great cities of this country which are dependent upon this appropriations bill.

Mr. EXON. Mr. President, I am not privy to all the facts and figures that have just been presented by the distinguished Senator from Maryland. However, I suspect that the cuts he has emphasized time and time again are likely not cuts in the program from the total authorization but probably are cuts that have been envisioned as a result of the inflation pressures.

I am not privy, either, to the cuts that have been made by the committee. But if there is a program that does need some cutting, it is the section 8 program. Therefore, if the committee has recommended a 16-percent increase in the section 8 program, as they have, then perhaps as to some of the programs that have been suggested by the Senator from Maryland, if they did receive cuts, whether they were actual cuts or not, the committee made some errors in that particular area.

Mr. MATHIAS. Well, that is——

Mr. EXON. Mr. President, I think I still have the floor.

The PRESIDING OFFICER. The Senator from Nebraska has the floor.

Mr. EXON. Mr. President, since we are talking about this section 8 program and the 16-percent increase as authorized by the committee, let me review just how bad I believe this program is and how far out of hand the program must be by any rational consideration.

There has been some talk about what this is going to do to the underprivileged families. The Senator from Wisconsin has indicated that I pointed out the other day that many of our so-called and legitimate underprivileged families are not receiving the benefits that some would imagine they have under the section 8 program.

This program is not well targeted, in my opinion. Families with incomes of more than $20,000 per year are eligible for section 8 assistance, while only one out of every 13 households with incomes below $6,000 per year are currently receiving benefits under the housing subsidy program. Families are able to receive subsidies of more than $6,000 per year, which is much more than is provided typically by other income security programs.

Furthermore, many of the welfare programs are designed to assist temporarily those who find themselves in need of some type of support. This is not so with the section 8 subsidies.

Mr. President, most of our country's other large income security programs, such as food stamps, aid to families with dependent children, and other costly programs, are based on the premise that some people need a helping hand from time to time. That is not so with the section 8 program, for we are creating a permanent dependency with this program as it now operates.

As the Senator from Wisconsin pointed out a few moments ago, this is one of our most expensive programs—in fact, up to $700,000 per unit, in cost to the taxpayers of the United States, over a 40-year period. I am surprised that there are those on the floor of the U.S. Senate who would oppose the amendment I have offered, because I believe it is a step, if only a tiny step, in the right direction.

Mr. MATHIAS. Mr. President, I assure my good friend the Senator from Nebraska that these cuts to which I have referred are not imaginary. They are very real, as the Nation will discover when it attempts to utilize the diminished programs to which they relate.

However, I am concerned about the basis upon which this amendment has been formulated, because I believe that the Senator's concern stems, in a very large measure, from the projections of the section 8 program.

Am I right about that?

Mr. EXON. Certainly, the projection of cost in the outyears is a major concern of mine. It is estimated, conservatively, that at this time if we were not to build one more section 8 housing unit, which we are not going to do—I emphasize once again that the amendment I have offered still would allow a 240,000-unit increase—but even if we would not build one more section 8 housing program, in the outyears this is going to cost the taxpayers of this country about $150 billion, at a minimum.

Mr. MATHIAS. That is exactly the point I wanted to make. I am sure that one can sit down with a slide rule and come up with a figure of that kind. But these projections do not always pan out the way the slide rule indicates. Human factors are involved.

I agree with the Senator that you should take the longest look you can, that you should try to look over the horizon and see what the future holds.

I believe the Senator knows, probably better than anyone else in this Chamber, that making such long-range estimates can be a very tricky business, a very uncertain proposition. A very small change in the assumption on inflation can make a huge difference in the final outcome.

I recall an experience from my Navy days. If you might be only 1 degree off your set course and if you made that course correction and got back on course within a minute or two, not very much damage had been done.

But if you allowed that 1 degree in

course error to persist over an amount of hours then you would be a long way from the spot that you were supposed to reach after that amount of steaming. That is exactly the kind of problem we have here.

For instance, if we were to assume an annual inflation rate of 10 percent on the average price house in the Washington metropolitan area, and unhappily for the people in the Washington metropolitan area that average price is about $100,000—it, however, comes out to be a convenient figure to use for figuring a statistic—if you assume an average price of $100,000 and an annual inflation rate of 10 percent over the next 40 years that means—and incidentally 40 years is the time frame in which we are looking at the section 8 projections—that the average price house in the Washington metropolitan area in 40 years' time will cost $4,526,000.

I just cannot accept that. I just do not think that is going to happen. God forbid that it should happen.

But if you carry out these projections, without allowing for the kind of human factors that are ultimately going to play a part, that is what would happen. Or suppose you say well that 10 percent was 2½ points off what it really was, so let us assume an inflation rate of 7½ percent over a 40-year period. Then that would mean the average price house in the Washington metropolitan area in 40 years' time would cost $1,804,000.

I do not believe it. It could happen. But it just shows us that relying on these projections over too long a range does give us the same problem that the officer of the deck on a man-of-war of the U.S. Navy has. If he sets that course and does not make course adjustments as he goes along every few minutes, if he does not see that he is right on that course and he allows a little bit of assumed error to deflect him by the end of a long cruise he will be way, way off the point on the charts that he had hoped to reach.

Mr. President, I think we should look at the substance of this amendment and of the program that it would affect.

The original administration request for $33.2 billion in budget authority was to fund an estimated 300,000 units of section 8 and public housing during fiscal year 1981. Because of budget constraints, the proposed level was well below the generally recognized level of need because if there is one shortage in this country that most people recognize it is a shortage in housing, and this request has already reflected an actual decline in the level of Federal housing assistance caused by inflation in the cost of construction of houses.

The Senate on top of that has already cut the proposed level by $2.3 billion, a cut, if we accept the budget cost and mix assumptions, that would reduce the level of housing subsidies to approximately 279,918 units, or a little more than 20,000 units below the budget request.

So here we are with housing in short supply in the country and as a result of the Senate's action already taken we have cut out 20,082 units.

The proposed reduction of an additional $3.4 billion would mean a further reduction to 240,777 units—or a further cut of almost 39,141 units for a total reduction of 59,223 units, for a total reduction of almost 60,000 units, almost one-fifth of what we had hoped to construct, again based on the original budget assumptions.

Of course, depending on what happens to inflation during the remainder of 1980 and during 1981, the actual level of units assisted in 1981 could drop even lower; that would be to less than 22,000 units if the proposed reduction in budget authority that is contemplated by this amendment were to be enacted.

These reductions come at a time when the vacancy rate on rental housing nationwide is at the lowest level ever recorded—and at the same time when the construction of unsubsidized, non-luxury rental housing has virtually halted, has just stopped.

The major factors that have influenced the cost of subsidized housing in recent years are the same that affect all housing: the cost of land, financing and operating costs—particularly utilities. And we dealt with that question in relation to public housing earlier in the debate on this appropriation.

Housing has been the victim of inflation, not the cause of it. It has been one of the principal victims of inflattion. Each of the factors affecting housing costs are really related to forces that are beyond the control of the average builder, beyond the control of local government, as the distinguished Senator knows from his long experience in the executive branch of State government, and even forces that are beyond the control of the Department of HUD. Unless a steady supply of new rental housing is assured, the gaps between demand and supply will worsen and the rents will continue to go up. They will constitute a larger and larger percentage of the family income of the tenants and they will constitute in themselves an inflationary factor in the national scene.

Just last Monday, a week ago today, the Washington Post ran a story entitled "Area Income Housing Bite Passes The Traditional 25 Percent."

In that article the Post reporter, Patricia Camp, made the following points that there are an estimated 110,000 families of the Washington metropolitan area who pay more than 35 percent, more than a third of their annual income for housing which is, of course, a very big increase from the traditional pattern in which housing costs normally consumed a quarter of the household income.

She further pointed out that the growing ranks of the people whose housing costs them more than a quarter of their income make up more than one out of every five tenant households and some of these people—and I know this is a matter of concern to the Senator from Nebraska—are poor and they are paying disproportionate amounts of their income for housing simply because they do not have any other choice. Where else are they going to go? There is not any alternative for them and Government subsidized housing which could lower their housing costs is very limited.

Last year more than half, to be exactly precise about 51.2 percent of the area's home buyers who bought their homes from savings and loan associations, paid more than a quarter of their household income for housing, and that contrasts very sharply with the situation 2 years earlier in 1977 when only about 36 percent had done so.

So I just cite those figures to show the kind of situation that we are heading into here that will get worse if the Senate adopts this amendment.

The reason I say it will get worse is that because a cut in the level of long-term commitments will have a drastic effect on the overall level of rental housing production all over the country.

But it will have very little impact on the Federal budget because of the long-term nature of this commitment. In other words, you will get a very sharp reduction in terms of housing supply. You will get a nearly negligible reaction in terms of Federal outlays and in the immediate effect on inflation.

So I am afraid this amendment comes very close to being a classic illustration of a remedy that is worse than the disease it is designed to cure.

The bulk of units are newly constructed or substantially rehabilitated, and the Federal subsidy payments do not start until after the unit is completed or rehabilitated, and eligible tenants actually move in, become occupants.

Thus, for the projects that are approved in 1981, whch would contemplate a construction start in 1982, subsidy outlays really would not normally occur until about 1984. There is about a 2- to 3-year time lag.

Even for subsidies to existing units which, of course, would be anticipated to have faster outlays, the full impact of the reduction would really be very minimal in the coming year.

With the expected mix of new and existing units, the cut in budget authority for 1981 would really have virtually no impact at all on 1981 outlays, and it would reduce the outlays in 1982 by, perhaps, $10 million. But at the same time it would deny to 39,141 American families who are looking for a place to live the kind of housing we would otherwise be able to help them to occupy.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I will only take 2 or 3 minutes. We will have to vote and I am prepared to vote. The yeas and nays have been ordered.

The PRESIDING OFFICER. Might the Chair inquire of the Senator from Nebraska, the Senator in the chair at some point would like to speak to the amendment in opposition.

Mr. EXON. This Senator will be happy to accord the favor to his friend from Michigan. I will assume the chair in a few moments and allow him to speak against the amendment, which is above and beyond the usual call of duty.

The PRESIDING OFFICER. I thank the Senator. I see the Senator from Oklahoma approaching, but I assumed my good friend would have accorded me that opportunity, so I will shortly join him on the floor.

The PRESIDING OFFICER (Mr. BOREN). The Senator from Nebraska.

Mr. EXON. Mr. President, I would like to straighten out and remove a cloud, I think, that may have been placed in some Senators' minds by the vivid description of millions and billions of dollars, and the people who are literally going to be thrown out on the street if the Exon amendment is passed, as ably stated by the Senator from Maryland.

Mr. President, in the first place, the $150 billion that I cited earlier in debate that the section 8 housing program is costing the taxpayers of the United States in the outyears of up to 40 years is a conservative estimate. It is based on a theory of a 6- to 7-percent inflationary rate during that period.

As a member of the Budget Committee we have heard economists from all walks of life, in fact all of the economists who testified before the Budget Committee in the last month, have said that we were going to see in the next 3 years a minimum inflationary rate of 8 percent per annum per year. I hope they are not correct but I suspect they are.

If the inflationary pressures we have experienced in the recent past are any semblance of what we might see in the future, then I would say that the $150 billion estimate that I made was a conservative one.

I think it is not fair to indicate that if you are off one degree when you start out on a course you can project that out to almost unbelievable figures to the extent that a home in Washington, these days, would be worth $4 million 40 years from now. If that comes to pass, because of the experience of this Senator from Nebraska, who came here less than 2 years ago and paid three times more for a home in Washington, D.C. than I would have had to pay to buy the same home in Nebraska, where we enjoyed a good life, I think I know better than anyone else the inflationary pressures that are here present in Washington, D.C., and a substantial amount of that is the fact that Washington, D.C. lives and breathes and exists on Federal expenditures.

I suspect if my home is worth $4 million 40 years from now, then while it has not been a burning ambition of mine, I will become a millionaire for the first time. But then a millionaire will not amount to much then because you will have to be a billionaire to be in the upper structure of income as far as these United States are concerned.

If that is true 40 years from now, to put this in perspective, then I would say that the Senator from Nebraska's estimates of $150 billion in the next 40 years for the cost of the section 8 housing program would indeed pale by comparison, because it would be in the trillions of dollars if we are going to use those kinds of comparative facts, which I think we should not.

Therefore, some of the arguments that have been offered by my friend from Maryland with regard to statistics and inflation are somewhat like the boy who was herding the sheep crying "Wolf. Wolf. Wolf." Then when the wolf did show up no one would believe him.

The fact of the matter is that the section 8 housing program is one of the most costly and, I think, inefficient programs we have going now.

I am somewhat amazed, Mr. President, at the Senator from Maryland lacing the amendment which has been offered by the Senator from Nebraska to the point where you would think that people were literally going to be thrown out on the streets if this amendment passes, and the homebuilding industry would literally be closed down.

This is hardly factual, Mr. President, when you compare the fact that the Senator from Nebraska's amendment before this body allows a 240,000-unit increase in section 8 housing as compared to the 280,000 units that have been offered by the Appropriations Committee.

So to put this in perspective, Mr. President, the Senator from Nebraska's amendment, if accepted, would result in our building 240,000 instead of 280,000, a reduction of only 40,00 units.

Therefore, the conservative approach by the Senator from Nebraska, a modest decrease, if you will, in comparison to what is anticipated by HUD, and they certainly are not known for their conservatism in this area, to take the figures of HUD, I think, would be another step at fiscal irresponsibility, and in this area I think the leaders of this Nation do not score too well over the past several years.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. RIEGLE. Mr. President, let me say at the outset that my good friend from Nebraska was very kind to offer to take the chair so that I might come down and speak against his amendment. It is typical of the kind of graciousness and fairness that I have seen him exhibit at all times and, therefore, it is hard for me to take the floor in opposition to an amendment that he offers.

But in the same spirit of friendship and goodwill, I want to say directly that I think this is a bad amendment. My friend offered it in the Budget Committee and, as he knows, we voted it down there.

Mr. EXON. Will the Senator yield?

Mr. RIEGLE. Yes, of course.

Mr. EXON. The Senator must not have been listening to the debate, because I advised my friend from Michigan and that this is not the amendment that I offered in the Budget Committee that failed on an 8 to 7 vote. I was on the floor Friday and if the Senator from Michigan would simply look in the RECORD, he has been ill-advised and misinformed if he said that the amendment that I am offering here was the same one that was voted down by a vote of 8 to 7, if I remember correctly, in the Budget Committee. This is a watered-down version.

I thank the Senator for yielding. I thought I ought to correct that. That is not the fact.

Mr. RIEGLE. The Senator is right. And I should not have used the word "same." I should have used the word "similar." I would use the word "similar" and correct my statement to that extent: That this is not exactly the same amendment, but it is similar and it has the same intent, that is, to make a substantial cut in this program.

The Senator has no disagreement with the fact that he offered an amendment to make a cut in the Budget Committee and, as he just noted, the Budget Committee, in its wisdom, voted to the contrary and it turned down his amendment. It did so for good reasons, and I would like to repeat some of those reasons here now.

This cut would come at a time when the housing industry remains in serious difficulty, the victim of inflation and high interest rates. Production of unsubsidized multifamily rental housing has virtually come to a standstill. In 1979—even before this year's housing depression—over half of multifamily rental construction starts were HUD subsidized. So a cut of 40,000 units, half of which would be new units, would represent the loss of a major portion of all the new multifamily rental housing this country would otherwise build.

It is not just the housing industry that needs help, although, clearly it does. It is people who need housing assistance. Almost 6 million American households still live in physically inadequate housing units. Two million of these households are elderly. Most are poor people who cannot afford better housing on their own. The ability of poor people to pay for adequate housing is actually getting worse. Over 7 million low-income households paid more than half their income for shelter in 1977, which is the most recent year for which we have data, but it is clear from everything we can see that that number would be higher today.

My friend from Nebraska would have us believe that the section 8 program is not targeted to these needy households. In fact, the average income of section 8 families is around $4,500 per year and over three quarters of assisted households have incomes below 50 percent of median. We keep the formal income limits of our housing programs high enough to include some moderate income families so that we can avoid the mistake sometimes made in the past of filling whole buildings with the very poor. We include some moderate income families so that when our cities build section 8 housing as part of their neighborhood revitalization efforts it can be stabilizing, mixed-income housing. We also keep the income limits relatively high so that as people start to improve their circumstances they do not immediately lose the right to live in assisted housing. But the section 8 program mainly serves the very poor, and that is as it should be.

We should also remember that the higher the income of a section 8 household, the more rent that household pays. This fact seems to get lost when figures are cited which appear to combine the highest allowable incomes with the highest possible subsidy levels. So the way we have structured this program is fair to people at different income levels.

Nor does housing assistance go to a lucky few. It has been asserted that only 1 in 13 households with incomes below

$6,000 per year can receive housing assistance.

This number—1 in 13—has been used since at least 1977 in debates. Like this, but it is a very misleading figure. It assumes that homeowners are eligible for section 8, which they are not. It also assumes that all income eligible families need assistance and are willing to do what is necessary to get it. In fact, a family which lives in adequate housing and does not pay more than a quarter of its income for shelter has no reason to apply for housing assistance. Fortunately, we have some poor families in this country who may need other types of help, but are not housing needy. In addition, many families which might benefit from assisted housing are not willing to join a housing program, for a variety of reasons. Some live in housing which does not qualify and are not willing to move. Others perceive that their incomes will soon increase and do not want to join a program on a very short term basis. We know from the evidence of an experimental housing program that less than 40 percent of renters in this income range will join a program similar to section 8.

So even in 1977 we were doing better than 1 in 13. And, while we have not provided adequate levels of funding for housing assistance since the midseventies, we have not stood still either. The funds we have appropriated through fiscal 1980 for section 8 and public housing are now sufficient to house over 3 million families.

And we might ask ourselves the question, Where would we be today if we had not taken those actions, and where would those 3 million families be?

When we add the older section 236 and rent supplement program units occupied by lower income families, the total is over 3½ million. This does not help the 6 million families who are still in substandard housing or the 7 million who pay over half their income for housing, but it does mean we have come a long way. We should be proud of this accomplishment and should continue to add meaningful numbers of assisted housing units each year. I think we ought not to listen to those who say we should give up the fight for decent housing for all of our citizens just because the fight is long and because it is hard.

I know there is a need to make economies in this budget and, as my friend from Nebraska knows, we have made enormous economies. We have cut all over the place. And when in the Budget Committee, which is not a committee overly sympathetic to activities of this kind, when we established this level, as we did after debate and votes in that committee, I think we picked a fair level. We picked a level that was in keeping with the rest of our national priorities and with the spending limits that we felt we had to impose this year.

So to come along at this point and make cuts, I think, is not sound and will not leave us with a set of balanced national priorities that go to our fundamental needs here in the United States.

It is not asking too much that people should want to be able to live in decent housing. We all know the difficulties people have to contend with in trying to hold families together and to cope with the stress of low income, with the high cost of food, and with bad schools and crime problems in many neighborhoods, especially in our major urban areas. If we also take a walk on the problem of seeing to it that there is decent housing for as many people as we can reach, then we are falling short of what we ought to be committed to in this country and what I think we should strive to achieve. That is why the Budget Committee, in its wisdom, voted down a similar amendment by the Senator from Nebraska, and I hope the Senate will support that action today.

Mr. MATHIAS. Mr. President, I do not want to prolong this debate, but I do think we need to take just about 1 minute in conclusion in assessing what this amendment will mean to families across this country, the men and women of America.

The General Accounting Office noted last November that rental housing has suffered a major decline. The outlines of the problem are these: Record-low nationwide rental vacancy rates with reasonably priced rental units simply nonexistent in many major cities all the way from New York to Los Angeles, from Miami to Seattle; a very low level of unsubsidized rental construction; a proliferation of rental control; growth of rent at rates that, in all fairness, may be too low to keep up with operating costs, but too high for tenants with low and moderate incomes, and an increasing pace of conversions to condominiums and cooperatives, which means that tenants who cannot raise the capital to buy the equity are out in the street.

In 1979 the industry produced nearly 430,000 units in multifamily structures. By multifamily units, I am talking about five or more. Of these, HUD now estimates that 100,000 were co-ops or condominiums, 175,000 were subsidized under the assisted housing programs, and another 25,000 received tandem or targeted tandem subsidies or FHA mortgage insurance.

This means that really less than 130,000 units, unsubsidized, uninsured, multifamily rental units, were started in 1979, less than 130,000. It is a pretty shocking figure measured against the demonstrated need in this country.

If you want to look at it in a slightly different way, we can see that HUD subsidy or mortgage insurance was responsible for 60 percent of 1979 multifamily rental starts.

Contemplate that fact while you contemplate the cut implicit in this amendmen. For 1980 we can expect even lower levels. We can expect from 275,000 to 325,000 multifamily starts with 50,000 to 75,000 of those being built for ownership. Out of the remaining 250,000 multifamily rental units—and that is an optimistic estimate—180,000 should be assisted units and another 20,000 should receive FHA mortgage insurance or other subsidy.

Thus, you can see that the unassisted, unsubsidized, uninsured starts will have dried up to fewer than 50,000. In making this estimate, I have not attempted to make a projection of what the impact of the current rates will be, but it certainly will not be a beneficial impact.

So as I see this picture, the development of unassisted, uninsured units is declining very, very rapidly, and this amendment will accelerate the decline in the assisted housing area. That can mean only tragedy for 40,000 American families who are looking for a better place to live. I hope the Senate will reject the amendment.

The PRESIDING OFFICER (Mr. RIEGLE). The question is on agreeing to the amendment. The yeas and nays have been ordered.

Mr. BELLMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BELLMON. Are we under a time limitation?

The PRESIDING OFFICER. No, we are not.

Mr. BELLMON. Mr. President, I am more or less persuaded by the statement my friend from Maryland has just made, that there is a need for a substantially increased amount of low- and middle-income housing in this country. I regret that I find myself on the opposite side in this matter for reasons that I will explain in just a moment.

I have come here to support the Exon amendment which reduces by $3.4 billion the budget authority available from the section 8 program.

The Exon amendment would reduce the $29.8 billion authority provided in the bill for subsidized housing in such a way that according to CBO estimates it would reduce subsidized starts from 269,000 units in fiscal year 1981 to 233,000 units. I submit, that is still a substantial number of units, enough to take care of the multifamily units that Senator MATHIAS was just discussing.

I might say, Mr. President, that in our Budget Committee markup, Senator EXON moved to strike the section 8 program. I did not support him, but I have supported his effort to trim the program back in an effort to improve it.

The section 8 program was implemented in 1974 replacing the old section 235, public housing and 221(d) 3 and (d) 4 programs. Under those programs, subsidized programs totaled 414,000 units in 1960, and 970,000 units by 1970—a 8.7 percent per year growth rate. But by 1980, total units under the new and old program totaled 3.2 million units—or, an average growth of 12.7 percent per year in the 1970 decade. That is a very significant amount of housing growth. Without any additional units this year the Federal Government is obligated to outlay $224 billion over the next 40 years—and considerably more if rents grow faster than tennant income, as they have over the last several years.

Yet, the program would be worthwhile if it were an effective program. Recent GAO and CBO studies indicate, however, that it is not an effective program in that it is not reaching the people Congress intended to reach.

For one thing, Mr. President, it is not targeted closely enough. Forty percent of the Nation's 60 million households would be eligible for some form of housing assistance. Of this number, 30 percent, or 18.3 million, are eligible for section 8 assistance. This makes section 8 subject to the exact same criticism that was directed to the programs it replaced: The problem is the choice as to who receives the subsidy is nearly random but benefits primarily the middle-income tenant.

GAO, in a recent report, indicated that they found instances controllable by HUD, where program rents and costs were far greater than conditions warranted. In San Francisco, rents had increased 121 percent between 1974 and 1978, 95 percent in Cincinnati, and 72 percent in Atlanta—averages of 53 percent in the 17 cities surveyed—at a time when the rent component of the CPI averaged only a 23-percent increase.

So in these section 8 housing units the rents were going up at multiples of the increase in the rent component of the CPI.

The problem here is that the managers of the program are letting the rent rise far faster than conditions warrant.

I am hopeful that abuses of "GNMA up-front financing" and windfall profiteering by project condominium conversion have been cured by recent legislation. But, I am alarmed over continued abuses and the seeming inability of HUD to adequately administer this admittedly complex program.

Mr. President, I support the amendment in the hope that it will cause a renewed look at alternatives to this costly and cumbersome Federal effort to help with our housing needs. There is no question that our country needs more low- and middle-income housing. There is serious question, however, whether the existing section 8 program as currently administered is reaching areas of greatest need. Section 8 needs to be more closely targeted so that it does help those that Congress intended to reach.

Mr. President, I believe that approval of the Exon amendment will help accomplish this objective.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MELCHER (after voting in the affirmative). Mr. President, on this vote, I have a live pair with the Senator from Alabama (Mr. STEWART). If he were present and voting, he would vote "nay" and I have voted "aye." Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Iowa (Mr. CULVER), the Senator from Arizona (Mr. DECONCINI), the Senator from Missouri (Mr. EAGLETON), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Georgia (Mr. NUNN), the Senator from Alabama (Mr. STEWART), and the Senator from Florida (Mr. STONE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), the Senator from New Mexico (Mr. SCHMITT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER (Mr. PRYOR). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 35, nays 40, as follows:

[Rollcall Vote No. 430 Leg.]

YEAS—35

Armstrong
Bellmon
Boren
Boschwitz
Byrd,
  Harry F., Jr.
Chiles
Domenici
Exon
Ford
Garn
Hart
Hatch
Hatfield
Hayakawa
Helms
Hollings
Humphrey
Jepsen
Johnston
Laxalt
Lugar
Morgan
Percy
Proxmire
Pryor
Roth
Sasser
Simpson
Stennis
Talmadge
Thurmond
Tower
Wallop
Warner
Zorinsky

NAYS—40

Baucus
Biden
Bradley
Burdick
Byrd, Robert C.
Chafee
Cochran
Cohen
Danforth
Dole
Durkin
Glenn
Gravel
Heflin
Heinz
Inouye
Jackson
Kassebaum
Leahy
Levin
Mathias
Matsunaga
Metzenbaum
Mitchell
Moynihan
Nelson
Packwood
Pell
Pressler
Randolph
Ribicoff
Riegle
Sarbanes
Schweiker
Stafford
Stevens
Stevenson
Tsongas
Weicker
Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Melcher, for.

NOT VOTING—24

Baker
Bayh
Bentsen
Bumpers
Cannon
Church
Cranston
Culver
DeConcini
Durenberger
Eagleton
Goldwater
Huddleston
Javits
Kennedy
Long
Magnuson
McClure
McGovern
Nunn
Schmitt
Stewart
Stone
Young

So the amendment of the Senator from Nebraska (No. 2367) was rejected.

Mr. MATHIAS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. Are there further amendments?

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1633

(Purpose: To prohibit the Office of Consumer Affairs from using appropriated funds to intervene in Federal agency adjudicatory or regulatory proceedings)

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from Missouri (Mr. DANFORTH) proposes an unprinted amendment numbered 1633:
>
> On page 22, line 17, before the period add the following: ", except that, none of such funds may be used by the Office to intervene in any Federal agency adjudicatory or regulatory proceedings".

Mr. DANFORTH. Mr. President, for a period of almost 20 years Congress considered the possibility of establishing a Consumer Protection Agency. The bill to create such an independent agency was first introduced by Senator Kefauver in the early 1960's, and during the 1960's and the 1970's the subject of the wisdom of a Consumer Protection Agency was before the Congress.

During two Congresses this subject was so heatedly debated that it involved the Senate in a filibuster.

In the 92d Congress and again in the 93d Congress the bills to create such an agency were blocked by filibuster. Then finally in 1978 the bill to create such an agency was defeated in the House by a vote of 227 to 189.

The next year, after the House decided that it was opposed to establishing an independent consumer protection agency, the Office of Consumer Affairs began intervening in agency, Office of Consumer Affairs began intervening in agency, regulatory agency, matters.

Mr. President, the purpose of the Consumer Protection Agency, which was so long before the Congress was, and I quote, "To represent and advocate the interests of consumers before Federal agencies." That was the stated purpose of the Consumer Protection Agency.

Therefore, when Congress failed to pass a bill to create an independent Consumer Protection Agency, it failed to pass a bill which would establish an agency to represent and advocate the interests of consumers before Federal agencies, and when the House of Representatives defeated such a bill in 1978, it defeated a bill to create an agency to represent and advocate the interests of consumers before Federal agencies.

One year later, in 1979, the Office of Consumer Affairs, an office which was created not by Congress but the President, began work in intervening before regulatory agencies.

The Director of the Office of Consumer Affairs testified before a House subcommittee as follows:

> Another area in which we plan to devote increased resources is in our intervention program. Last year, we reported to the subcommittee our involvement in a case before the Federal Energy Regulatory Commission in which a public utility was seeking to include the cost of construction work in progress in its rate business. While this may appear to be a technical point, the ramifications for consumers from such an adopted

> precedented change would be enormous. Accordingly, for the first time in history, U.S.O.C.A. asked the presiding officer if U.S.O.C.A. could be a full party to this proceeding. The presiding officer concurred.

Mr. President, the amendment that I have offered would prohibit the Consumer Protection Agency from spending any funds appropriated in this bill for the purpose of intervening in agency proceedings.

The issue that is before the Senate in this amendment is not the wisdom of creating a Consumer Protection Agency, nor is it the wisdom of one Federal agency being empowered to intervene in proceedings before other Federal agencies.

As a matter of fact, 2 years ago, I voted to report the bill to establish a consumer protection agency out of the Governmental Affairs Committee of the Senate. The question of the advisability of having a Consumer Protection Agency is one that is keenly debated. There are those—including the editorial page of the Washington Post—who state quite vigorously that we should not have such a Consumer Protection Agency. The Washington Post takes the view that it is not really possible for an agency of the Federal Government to accurately purport to represent the interests of consumers; that consumers represent the public at large and for an agency of the Government to state that it is the spokesman for consumers is a presumptuous matter that cannot be properly done.

But the issue that is presented by this amendment is not the wisdom or lack of wisdom of establishing the Consumer Protection Agency. The issue here is whether the President can create in effect a consumer protection agency when the Congress of the United States has expressly voted that we do not want one. When the Congress of the United States says that we do not want to have an agency which intervenes for other Federal agencies, is it then appropriate for the executive branch, on its own, through the Consumer Protection Protection Agency, which was never created by Congress in the first place, to create such a process of intervention? It is clear where we are heading if we do not in this appropriations bill limit the role of the Consumer Protection Agency and prevent it from intervening.

In its budget request, the U.S. Office of Consumer Affairs has asked for an increase next year from $62,749 in 1980 to $118,069 in 1981 for funding its intervention program.

Reading some excerpts from the budget document, which is entitled "United States Office of Consumer Affairs Estimate of Appropriations, Fiscal Year 1981," the excerpts states as follows:

> In fiscal year 1979, USOCA intervened as a full party in a Federal agency adjudicatory proceeding for the first time in its history. The particular case was before the Federal Energy Regulatory Commission.
>
> Since the USOCA involvement in the FERC case, the Office has intervened in two additional proceedings, both before the Federal Communications Commission.
>
> Participation as a full party in these proceedings is extremely expensive. As a result, there are many more cases in which USOCA could become involved, but has not due to limited resources and expertise. In fiscal year 1981, USOCA proposes to allocate more staff to its interventions program. With the $30,000 requested, small contracts would be let or experts would be hired on a daily basis to provide the specialized advice and technical information required for these cases. While our estimates cannot be precise, in general, it is believed the additional funds requested and the reallocation of staff would enable three to five interventions during fiscal year 1981.

Mr. President, in offering this amendment, my position is very simple. It is not that a Consumer Protection Agency is a good idea or a bad idea. I think that is a separate issue which is very debatable. The question is whether the Congress of the United States having said "No," the President is now in a position to say "Yes."

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I recognize that my good friend from Missouri has an amendment that has a great deal of support in this body. In fact I have discussed this with the Senator from Missouri and I expect that, in the event of a rollcall vote, he might very well prevail. For that reason I am not going to ask for a rollcall but I am going to state my reasons for opposing the amendment.

What this amendment would do, if passed in its present form, would be to erase one of the last remaining opportunities for the consumer to be represented by the Federal Government both in regulatory and adjudicatory proceedings.

Now the Senator from Missouri is exactly right. In 1978, the Congress unfortunately, did kill legislation that would have created an independent Federal agency for consumer advocacy.

I remember what a red-hot issue that was in the country, with Mr. Ralph Nader pushing it very hard and with the business community aroused to lobby against it, which they did very effectively.

I supported that legislation, as did my good friend from Missouri, I understand. However, in rejecting that new agency, it is my judgment that it was not the intent of Congress to eliminate the concept of Federal consumer representation. Rather, it was clearly understood that consumer representation would continue within the Federal Government through the activities of the U.S. Office of Consumer Affairs and those of other officially designated consumer affairs professionals in the various executive branch departments and agencies. Although Senator DANFORTH is correct that specific statutory authority authorizing OCA to participate in these proceedings is lacking, it would seem to me that the mandate of Executive Order 11583, OCA's enabling legislation, clearly directs the Office to represent the interests of consumers in appropriate proceedings in the formulation of policies that affect the consumer interests. The Office has participated in proceedings affecting the rates consumers pay for telephone service, energy and other utilities, and other important areas where the impact on consumers could be substantial.

Mr. President, the Senator from Missouri makes the fundamental point that we have acted on this principle and that, therefore, there should be no representation, as I understand his argument, no representation of the consumer by agencies that are financed by the Federal taxpayers.

Mr. President, we are not talking about some monolithic bureaucracy with hundreds of attorneys and bureaucrats packing the rulemaking hearings to represent the consumer's interest.

The Office of Consumer Affairs' participation in ratemaking proceedings has consisted usually of one attorney and a small amount of outside technical assistance.

We all know, if we have been around Washington at all, that almost all the representation comes from those who oppose Federal regulations, and it is a good thing that they are vigorous. They should be and they deserve to be. They are represented by the most competent, highly paid lawyers, and by experts in great numbers. I think it is in the interest not only of the consumer but the interest of everybody involved that this be as balanced as possible.

As the Senator from Missouri has pointed out, there is no question that the creation of a separate, large Federal agency to represent the consumer was defeated. Again, I would argue that that does not mean that under no circumstances can the consumer, with his great interest, not be represented. He should be represented at least to some limited extent.

It appears also that in undertaking its Federal ratemaking participation programs, the Office has exercised prudence and restraint before initiating action.

The Office assesses whether the decision of the regulatory agency will have a substantial impact on consumers; whether the decision will have significant precedential value for or against the consumers' interest; and whether the consumers' interests will otherwise be adequately represented in the proceedings, among other things, before it decides to participate. If they are, of course, then the Office would not take part.

Mr. President, I believe that OCA has served a useful purpose in representing the consumer in these proceedings. Esther Peterson has done a marvelous job in keeping Federal consumer representation issues alive in the aftermath of the defeat of the Agency for Consumer Advocacy. She has done it in a way that I think is sensible and in keeping with what the Senator from Missouri properly pointed out was the sense of the Congress. I feel it would be amiss to prevent this small Federal office from fulfilling its mandate to assure that agencies receive testimony under these limited circumstances in Federal policy regulatory proceedings from this modest representative of consumers.

As I say, we disagree on this amendment. As I have indicated, I think the Senator from Missouri may well have the votes. I recognize for that reason that it is probably necessary to save the time of the Senate to proceed with a voice vote.

I would like to read a statement on behalf of Senator CANNON.

Senator CANNON is chairman of the Committee on Commerce, Science, and Transportation. He is concerned about Senator DANFORTH's amendment, but Senator CANNON is not in town today. I would like to read this brief statement on his behalf. Senator CANNON would have me say this:

> Senator Danforth's amendment would prohibit the Office of Consumer Affairs from intervening in agency regulatory and adjudication proceedings. This office was created by Executive Order of the President. Under the Executive Order, 11583, the U.S. Office of Cousumer Affairs is directed to assure that the interests of consumers are presented and considered in a timely manner by the appropriate levels of the Federal Government in the formulation of policies and in the operation of programs that effect the consumer interest.
>
> The Consumer Subcommittee of the Commerce Committee is the oversight and authorizing Committee of the principal federal agencies with consumer protection activities. It would be appropriate for the Commerce Committee to address the concern raised by Senator Danforth and to make a recommendation to the Senate as to whether the Office of Consumer Affairs should be subjected to the same oversight scrutiny that Congress imposes on other agencies and as to whether this office needs statutory authorization to intervene in agency proceedings. In this regard, I wish to note that there is no line item authorization for intervention activities of the Office of Consumer Affairs and there is no authorization in statute for the Office of Consumer Affairs intervention activities. While I might well support an amendment after the Commerce Committee has an opportunity to make its findings and recommendations, action today would preclude careful consideration of the amendment's implications. I would urge that the amendment be defeated.

Mr. President, I think all of us recognize that the procedures are of vital importance, and procedures in this case which would override the interest of an authorizing committee, prevent them from having hearings on a matter of this significance, would be a mistake. That is the reason, as I understand, why Senator CANNON, who, unfortunately, could not be here, but who is chairman of the Commerce Committee, asked that his objection to the amendment be made clear to the Senate.

Mr. MATHIAS. Mr. President, I think I understand the purpose of this amendment. I sympathize with the purpose of the amendment if that purpose is to reduce a sense of harassment on the part of the business community. But I think we have to look at the other side of that coin, too, the situation in which the consumer feels helpless and in some cases hopeless in dealing with the large industries in which the individual seems to have so little impact.

It is for that reason that the concept of consumer advocacy became an important experiment in American society.

I would hope that we would not adopt this amendment, certainly not at this time, certainly not until we have had more experience with this interesting experiment, participatory government, allowing citizens to have a role in the process, bringing citizens more closely into the decisions that we make as a society.

For that reason, I would oppose the amendment and join with my colleague, the Senator from Wisconsin, in hoping that the Senate will defeat it.

Mr. PROXMIRE. Mr. President, I might just point out that at the time that the independent Federal Agency for Consumer Advocacy was defeated, there was a great deal of talk that it would be at least a $10 million agency, that it would be extremely active in its protestations of consumer interests, and thus be extremely unfair to business which might take a contrary view.

I might point out that the amount which will be spent in the coming year, as I understand it, by the agency headed by Esther Peterson, the Office of Consumer Affairs, would be less than $120,000. As a matter of fact, it is $118,000, to be precise. That $118,000 is less than 1/100th, less than 1 percent, of the amount that the independent Federal Agency for Consumer Advocacy would have had at its disposal, in all likelihood, and it might well have had more.

So we are talking about an extraordinarily limited rifleshot here where the agency can intervene, as I say, on rare occasions. Because it is so limited it obviously would intervene only when it had a distinct effect of establishing precedent. I would hope that under those circumstances it might be able to continue that very vital role for an extraordinarily modest investment on the part of the taxpayers.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, it seems that the Senate must go through a certain procedure about once every 3 weeks to convince the American people that the American consumer has very few friends in the Congress. However, I am pleased with the opposition to the amendment by the chairman of the committee, the distinguished Senator from Wisconsin, the opposition to it which has been expressed by the distinguished chairman of the Commerce Committee, Senator CANNON, and also, the opposition which has been expressed by the ranking minority member of the committee, Senator MATHIAS.

This body, I think, has yet to indicate on any single occasion of this session that it is concerned about consumers. We have issues that come before us routinely and, routinely, they get adopted and the consumer gets the short end of the stick.

I have just heard my good friend from Wisconsin state that he feels that the Senator from Missouri has the votes. I want to say that I am not certain that he has the votes. I am not prepared to concede that he has the votes. I am not prepared to admit that this body is that anticonsumer, in spite of the record which we have made on many earlier occasions.

Mr. President, I think that there can be no argument about it, this amendment, if accepted and made a final part of the legislation, would be a major setback for American consumerism and, even more than that, for openness in Government.

The distinguished Senator from Wisconsin has pointed out that, certainly, we are not talking about saving a lot of money. He pointed out that we are talking about a sum of about $118,000. We have billions of dollars available to us for any program that special interest groups are interested in, but when it comes to the Office of Consumer Affairs, a Government entity which among other things represents consumer interests in the Federal regulatory and rulemaking processes and procedures, then we have to cut back.

Mr. President, it is rather sad. It is sad that I find myself on this floor today opposing another anticonsumer amendment from my good friend from Missouri. I do not know why he does not like the consumers. They are really very nice people. They mean well. They try to feed their families, try to live in decent housing; they are humans. I know that that is not exactly an accepted fact, but these are people who do not have any spokesperson around here. They do not have any lobby. Regardless of what the issue is, those groups that have lobbies around Congress are the ones whose voices are heard. Those who do not, regardless of their numbers—such as the American consumer—are the ones who constantly get the short end of the stick.

Mr. President, slice it any way you want. Call it whatever you want. Say that it has to do with unauthorized activity. All of that comes out to a whole lot of nothing. What this really amounts to is yet another congressional assault on the consumers of this country. It is just one more in a long line of anticonsumer actions that Congress has been taking in recent years.

Three years ago, Mr. President, Congress attempted to create the Consumer Protection Agency. It was defeated in the House. It did not come to a vote in the Senate. I know that when some of us tried to bring it to a vote, we found that we could not because, unless we had enough votes to cut off debate and get a cloture motion through and voted upon affirmatively, we would not be able to prevail upon the leader to bring it to a vote.

And when the issues came to the floor of the Senate having to do with the oil companies, day in and day out, this Congress buckled to the pressure of the oil companies, going back to when we lifted controls from natural gas prices.

Mr. President, what is so horrible about the American consumer that, every month, we have to have another effort to deprive him or her of any say in his or her government? Why do we take actions which, in essence, give the oil companies a license to gouge the consumer?

It was not long ago that we battled on this floor about the Federal Trade Commission. Oh, the Federal Trade Commission was a terrible institution. It was doing violence to all the principles that the Senator from Missouri talks about. What were they doing? They were standing up for the American consumer, one of the only agencies in our Government that does stand up for the American consumer. So, when it had to do with the FTC and insurance companies—no, that is verboten. That will not fly. We are not going to permit the FTC to investigate insurance companies.

And when the FTC wanted to get into the whole question of advertising on children's television, Congress had to do a job on that, too. All because the lobbies were here and the consumers had no spokesperson.

Then the FTC was involved in trying to do something about those organizations that claim to provide standards and certification for products in the market place. Congress told the American people that, somehow, those agencies providing standards and certification are looking out for the consumers, for the people. Do not kid yourself. They are controlled and run by the industries that set them up. When the FTC tried to do something about that, again, the voices of anticonsumerism were to be heard on the Senate floor.

Mr. President, I object strongly to the amendment before us. We in Congress should not use the appropriation process to thwart Federal policies which encourage some spokesperson, somebody to be there at a hearing, participating in the Federal regulatory process on behalf of the American consumer.

My colleague from Missouri supported his amendment by arguing that the Office of Consumer Affairs does not have proper authority to intervene in regulatory or adjudicatory proceedings of Federal agencies. Moreover, the Senator has argued that the failure of Congress to create the Consumer Protection Agency 3 years ago is proof positive that Congress opposes having a Government office intervene in agencywide regulatory proceedings in behalf of American consumers.

I think that the Senator from Missouri misreads the action of the Congress. It is true that the House did not adopt legislation creating the Consumer Protection Agency. The Senate did not vote on it. But I must say that I am not at all persuaded by these facts. With the signing of Executive Order 11583, the Office of Consumer Affairs was, indeed, given authority to intervene on behalf of consumers in Federal regulatory processes. Furthermore, Congress legitimized this authority during the appropriation process last year. At that time, the OCA budget request made no secret of the fact that funds were to be used for this important program and they remained in the budget.

Mr. President, I do not oppose enacting authorizing legislation to support the activities of the Office of Consumer Affairs, and I salute the leadership of the distinguished Senator of the Committee on Commerce who indicated his opposition to the amendment and indicated a willingness to conduct hearings with respect to the subject.

But to attach this amendment to an appropriation bill is wrong and it can be justified only if we are determined there will be no spokesperson for the American consumer in any arm of the U.S. Government.

I believe there should be authorizing legislation for OCA's efforts. I look forward to such a bill. But I object strenuously to the attempt to destroy OCA's activities before Congress has had the opportunity to consider such legislation.

It would be irresponsible to deny consumers the representation that OCA has been affording them. Moreover, it would be irresponsible to terminate OCA's involvement in ongoing proceedings before the FCC and FERC.

Why would we possibly want to set them back? Why would we want to stop proceedings that are moving forward and the consumers' voices being heard?

We can say we did not authorize some bill 3 years ago but that proves little. That does not prove whether or not this Congress would pass it now. We are a continuing body, and the fact is that each 2 years a certain number of Members change.

Many of the cases presently pending are near completion. It simply does not make sense to undercut the role that OCA has played in these proceedings.

Opposition to the Consumer Protection Agency, a position with which I heartily disagreed, actually concerned a totally different set of circumstances and issues.

There Congress was voting against the creation of a new Federal agency that would have mandatory authority not just to intervene before a Federal agency but to participate as well in any judicial review of an agency's decision. The issue before us today is whether an existing executive office can intervene in a regulatory proceeding if—and it is a big if—the Federal agency involved gives that office permission to do so.

There cannot be much argument about the fact that consumers will benefit from the OCA's efforts. If the distinguished Senator from Missouri did not think consumers would benefit, I doubt very much the amendment would be offered.

Let me give some examples of what we are talking about, the kinds of cases OCA has so far intervened in with the permission of the FCC and the Federal Energy Regulatory Commission.

Before I refer to these specific matters, let me emphasize that I do not know the merits of the cases. I am not sure which side is right or wrong. But I do know the consumers of this country have a right to have their point of view spoken for and represented.

One case before the FCC, the American Telephone & Telegraph Co. case involving an overcharge, involved a matter in late 1979, following the receipt of information that A.T. & T. had exceeded its legally established rate of return on revenues for interstate and foreign telephone services, the FCC initiated a formal inquiry to determine the extent of the overage and appropriate remedial action. At stake was approximately $100 million.

No one can deny the fact that AT&T has all the legal resources that any company could possibly have at its beck and call.

The OCA sought to represent the interest of residential telephone subscribers and urged that the excess revenues be refunded to consumers. This was the first time in the history of FCC telephone regulation that the interest of residential telephone users was formally represented in a regulatory proceeding.

I would venture to say that in that case A.T. & T. did not have less than three to five lawyers sitting at the table, each one of whom was more than likely getting paid more than the total annual budget of the OCA.

I am not certain if this is the particular case the distinguished Senator from Wisconsin referred to in which there was only one representative from OCA, whether it was one or two; does the Senator from Wisconsin know?

(Mr. BOREN assumed the chair.)

Mr. PROXMIRE. The situation, as I understand it, is that there is usually only one attorney representing OCA. They might get technical advisers, but only one lawyer would represent the OCA. That is true.

Mr. METZENBAUM. I thank the Senator from Wisconsin.

In another case, at the FCC, involving A.T. & T., having to do with rate of return, A.T. & T. filed for an increase in its allowable rate of return exceeding its 1978 earnings. Acting as coordinator for a consortium of eight State-appointed consumer advocates, two State attorneys general, and eight State utility commissions, the OCA opposed the application. The impact on consumers from the outcome of this proceeding relates to the level of charges for long distance telephone service. This proceeding is particularly important for consumers because State utility regulators often look to the FCC for guidance on the appropriate rate of return for local telephone service rate structures.

We should not be here this afternoon debating the question of whether or not we ought to preclude the Office of Consumer Affairs from intervening. That should not be the issue on the floor.

What we ought to do is have one of those very laudatory resolutions we pass so often in this body indicating our appreciation that one Government office which spends less than $120,000 a year can be doing as much as it is doing.

It is almost incredible. Rarely can we get anything done for $118,000 in Government. But in this instance, the OCA is doing an effective, a sufficiently effective, job. Yet my good friend from Missouri is on the floor advocating that we put them out of business.

In another case, this one before the Federal Energy Regulatory Commission involves the Virginia Electric Power Co., and the question of the impact of management decisions on consumer costs.

The OCA has joined in a request to the Federal Energy Regulatory Commission to conduct an investigation into alleged mismanagement by the Virgnia Electric Power Co. The issues in the case bear on the responsibility of utility managers to pursue prudent load management and to adopt other available legal remedies before charging consumers for third party error which causes outages and increases costs.

If the Office of Consumer Affairs is not going to be heard in that kind of hearing, then I ask my friend from Missouri, who is going to be heard? Who is going to speak for the American consumer?

I do not think there is any answer because there will be no voice, no voice before FERC, no voice before FCC, no voice in other areas where the consumer is entitled to have some person speaking for him or her.

Mr. President, I cannot say to this body strongly enough that, foreclosing citizen access to the regulatory process is not a matter that should be dealt with lightly. It is not a matter we should be legislating through the back door of the appropriations process.

This amendment should be described and should have a title on it. It should be called another instance of anticonsumerism on the part of Congress. It should not be adopted; and if this Senator will have his way, it will not be adopted.

I have heard my friend from Wisconsin indicate that he did not feel that there should be a vote. There probably is no other Member of this body with whom I am in more total agreement, day in and day out, than with him, and certainly with respect to consumer protection issues. However, I believe he will respect my position if I say that at this point I wish to reserve judgment on that subject, until the debate continues.

Mr. DANFORTH. Mr. President, it is a little unusual for me to hear myself described as an anticonsumerist. I had the privilege of serving as the attorney general of the State of Missouri for 8 years. During that time, the predecessor of Mrs. Peterson, Virginia Knauer, described me as running the best consumer protection agency in any attorney general's office in the country. Our office not only enforced the consumer protection laws to the best of our ability but also drafted every piece of consumer protection legislation that was passed by the Missouri General Assembly during that 8-year period.

So I do not believe that the question of being for or against consumers is before us; nor is the wisdom of having a consumer protection agency.

I am sure that there are those who feel very strongly about it. Two years ago, I was one of those who voted in the Committee on Governmental Affairs to report a bill creating a Consumer Protection Agency. I am not sure I would do that again; but that was my position at the time, and I would have to review it again to determine whether I would. I do not know.

However, back in 1978, relating to the question of the advisability of a Consumer Protection Agency, the Washington Post said the following, in discussing the matter:

> That gets to the real problems with this bill. One is the assumption that consumers' interests are so clear, so consistent—and somehow so distinct from the general public interest. Consumer advocates argue, of course, that they do represent the general public. Yet the public interest, in the modern regulatory world, is usually more complex; it may involve balancing a given degree of safety against a certain increment of cost, or keeping down tomorrow's price increases without jeopardizing next year's supplies, or making a much more complicated type of accommodation among a hundred forces and factors bearing on the marketplace. Those who emphasize health or safety or retail cost should certainly be heard, along with those who have other priorities. But to enshrine any particular "consumer" viewpoint in a government advocacy office raises philosophical problems that trouble us.

Similarly, in 1977, Leon Jaworski wrote a letter to Jack Brooks, chairman of the Committee on Governmental Operations of the House of Representatives, taking the same position. He said, in part:

> Let us consider the implications of this authority. To do so, we must first inquire who are the new agency's constituents. They are called "consumers" as if there were a difference between a "consumer" and a "person." In fact, of course, there is none. The agency will ostensibly represent the interest of every man, woman and child in this nation.
>
> This conclusion leads to the question of how the interest of the people will be determined in any given matter. There are no criteria in the bill for defining that interest, nor could there be. Definition of the national interest is the most difficult and most fundamental objective of government; and ultimate responsibility for its accomplishment is placed by the Constitution upon the elected Members of Congress and the President. I have severe reservations about the delegation of so broad and basic a role to one unelected official.

As a matter of fact, in these various consumer proceedings, it is not the case that the consumer would go totally unrepresented if the Consumer Protection Agency did not appear as an intervenor. In one of the FCC rulemaking hearings, Docket 79-187, a variety of organizations appeared: The General Services Administration, the U.S. Independent Telephone Association, the National Citizens Committee for Broadcasting, the Consumer Federation of America, the Missouri Public Service Research Group, the California Department of Consumer Affairs, and so on.

Again, the question really is not whether or not a consumer protection agency is a good idea. The issue is, what is the role of Congress in determining the course that Government should follow? The constitutional role of the Congress of the United States is to establish public policy, to create agencies of Government, to authorize programs, to appropriate funds in accordance with those authorizations. That is the way the system is to work.

The fact is that, in this case, the Congress of the United States never has authorized the U.S. Office of Consumer Affairs—the Congress of the United States never has authorized this Consumer Affairs Office to intervene in any regulatory proceeding.

It is not as though Congress had remained silent. Congress did not remain silent. Congress considered the matter for approximately 18 years, and at the end of that time, in 1978, the House of Representatives voted; and by a substantial majority, the House of Representatives voted that it did not want to create an Agency of Consumer Protection to intervene in Federal regulatory agencies. That is the last word, the most recent word, from the Congress of the United States; and that most recent word, very simply, is the word "No."

Congress having said "No," the Office of Consumer Affairs says, "We don't believe Congress. We think that 'no' really means 'yes.' "

We are going to proceed to set up an intervention program even though Congress has expressly said it does not want one.

That really is the issue before us. Maybe we want such a program, but let us create it by an act of Congress and then appropriate funds. Talk about legislating on an appropriations bill. That is legislating on an appropriations bill to provide funds in an appropriations bill for conducting an activity which Congress previously has said cannot be conducted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri.

Mr. METZENBAUM. Mr. President, will the Senator from Missouri yield for a question?

Mr. DANFORTH. Mr. President, I have yielded the floor, but I would be happy to entertain a question.

Mr. METZENBAUM. Does the Senator from Missouri agree that the legislation creating the Consumer Protection Agency would have gone much further in giving the Agency not only authority to intervene but also to participate at the judicial level and really far greater authority across the board than the actions of the Office of Consumer Affairs, which does very little more than intervene in cases in order to present a point of view but has not participated in the litigation process?

Mr. DANFORTH. Mr. President, yes, I do agree with the Senator from Ohio that the purpose section of the committee report of the Governmental Affairs Committee states as follows:

> The purpose of this bill is to protect the interests of consumers and to promote consumer protection in the United States.
>
> To achieve this purpose, the bill creates an independent Agency for Consumer Advocacy (ACA) to represent and advocate the interests of consumers before other Federal agencies and Federal courts. The Agency for Consumer Advocacy will also receive and transmit complaints from consumers, and develop and disseminate information concerning interests of consumers.
>
> One of the most important reasons for the failure of Federal programs to provide full protection to consumers has been the absence of effective and vigorous representation of consumer interests before the agencies which conduct and plan programs affecting consumers. The ACA is designed to remedy this by providing such representation before Federal agencies and courts.
>
> The Agency for Consumer Advocacy will function as an advocate and spokesman for consumer interests. It will have no authority to directly regulate activities affecting the interests of consumers. Nor may it dictate in any way how other Federal agencies act on matters of interest of consumers.

So my answer to the Senator from Ohio is that they are not precisely the same in that the proposed Agency for Consumer Advocacy would have permitted not only advocacy of interest of consumers before Federal agencies but also before Federal courts; whereas, the program that has been undertaken by the Office of Consumer Affairs is, of course, limited to agencies and does not apply to courts.

However, let me add this, that in testifying before a House committee—if I could find it, Mr. President, and I think I can in just a minute—it is very clear that the effort of the Office of Consumer Affairs is to take as much of the duties that were to go to the independent consumer protection agency as possible.

Congressman BOLAND was engaged in questioning Mrs. Peterson, and I am quoting the transcript. Mr. BOLAND said:

> You say on your last page, "The consumer movement is not dead, but it is clear the consumers have suffered some setbacks in Congress."
>
> Mrs. PETERSON. Yes.
>
> Mr. BOLAND. You believe that they are only temporary and that you will find in the years to come that some of the actions that have been taken have been unwise. What were those actions?
>
> Mrs. PETERSON. The one with which I was very disappointed was losing the bill for an independent consumer agency. This would have been set up under Congressional authority, a staff that had the business of representing the consumer.
>
> Mr. BOLAND. You are making every effort to correct that through this Office, are you not?
>
> Mrs. PETERSON. We are working at it.

So, in answer to the Senator from Ohio, the Office of Consumer Affairs does not have the power to intervene in court, but it is attempting, according to the testimony of Mrs. Peterson, to intervene in regulatory proceedings, and that is precisely what the independent agency was supposed to do.

Mr. METZENBAUM. Mr. President, I am about to move to lay the amendment on the table, but if my friend from Missouri, the proponent of the amendment, wishes to be heard further or anyone else wishes to be heard, I will withhold that motion to that point.

I gather there are no others who wish to be heard.

Mr. President, I move to lay the amendment on the table, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Missouri (UP No. 1633). On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Iowa (Mr. CULVER), the Senator from Arizona (Mr. DECONCINI), the Senator from Missouri (Mr. EAGLETON), the Senator from Kentucky (Mr. FORD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Mississippi (Mr. STENNIS), the Senator from Alabama (Mr. STEWART), and the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

The PRESIDING OFFICER. Are there Senators in the Chamber wishing to vote?

The result was announced—yeas 37, nays 39, as follows:

[Rollcall Vote No. 431 Leg.]

YEAS—37

Baucus
Biden
Bradley
Burdick
Byrd, Robert C.
Dole
Durkin
Exon
Glenn
Gravel
Hart
Heinz
Hollings
Inouye
Jackson
Leahy
Levin
Mathias
Matsunaga
Melcher
Mitchell
Morgan
Moynihan
Nelson
Packwood
Pell
Proxmire
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Stafford
Stevenson
Tsongas
Weicker
Williams

NAYS—39

Armstrong
Bellmon
Boren
Boschwitz
Byrd, Harry F., Jr.
Chafee
Chiles
Cochran
Cohen
Danforth
Domenici
Garn
Hatch
Hatfield
Hayakawa
Heflin
Helms
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Lugar
Metzenbaum
Nunn
Percy
Pressler
Pryor
Sasser
Schmitt
Simpson
Stevens
Talmadge
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NOT VOTING—24

Baker
Bayh
Bentsen
Bumpers
Cannon
Church
Cranston
Culver
DeConcini
Durenberger
Eagleton
Ford
Goldwater
Huddleston
Javits
Kennedy
Long
Magnuson
McClure
McGovern
Schweiker
Stennis
Stewart
Stone

So the motion to lay on the table Mr. DANFORTH's amendment (UP No. 1633) was rejected.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the motion to lay on the table was rejected and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Arizona (Mr. DECONCINI), the Senator from Missouri (Mr. EAGLETON), the Senator from Kentucky (Mr. FORD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Alabama (Mr. STEWART), and the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Arizona (Mr. GOLDWATER), the Senator from New Hampshire (Mr. HUMPHREY), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 38, nays 39, as follows:

[Rollcall Vote No. 432 Leg.]

YEAS—38

Baucus
Biden
Bradley
Burdick
Byrd, Robert C.
Cranston
Dole
Durkin
Glenn
Gravel
Hart
Heinz
Hollings
Inouye
Jackson
Leahy
Levin
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Packwood
Pell
Proxmire
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stevenson
Tsongas
Weicker
Williams

NAYS—39

Armstrong
Bellmon
Boren
Boschwitz
Byrd, Harry F., Jr.
Chafee
Chiles
Cochran
Cohen
Danforth
Domenici
Exon
Garn
Hatch
Hatfield
Hayakawa
Heflin
Helms
Jepsen
Johnston
Kassebaum
Laxalt
Lugar
Nunn
Percy
Pressler
Pryor
Roth
Schmitt
Simpson
Stennis
Stevens
Talmadge
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NOT VOTING—23

Baker
Bayh
Bentsen
Bumpers
Cannon
Church
Culver
DeConcini
Durenberger
Eagleton
Ford
Goldwater
Huddleston
Humphrey
Javits
Kennedy
Long
Magnuson
McClure
McGovern
Schweiker
Stewart
Stone

So the motion to reconsider was rejected.

UP AMENDMENT NO. 1633

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Missouri.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Arizona (Mr. DECONCINI), the Senator from Missouri (Mr. EAGLETON), the Senator from Kentucky (Mr. FORD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Alabama (Mr. STEWART), the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Alabama (Mr. STEWART), and the Senator from Florida (Mr. STONE) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 42, nays 36, as follows:

[Rollcall Vote No. 433 Leg.]

YEAS—42

Armstrong
Bellmon
Boren
Boschwitz
Byrd, Harry F., Jr.
Chafee
Chiles
Cochran
Cohen
Danforth
Domenici
Exon
Garn
Hatch
Hatfield
Hayakawa
Heflin
Helms
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Lugar
Morgan
Nunn
Percy
Pressler
Pryor
Roth
Sasser
Schmitt
Simpson
Stennis
Stevens
Talmadge
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NAYS—36

Baucus
Biden
Bradley
Burdick
Byrd, Robert C.
Cranston
Dole
Durkin
Glenn
Gravel
Hart
Heinz
Hollings
Inouye
Jackson
Leahy
Levin
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Packwood
Pell
Proxmire
Randolph
Ribicoff
Riegle
Sarbanes
Stafford
Stevenson
Tsongas
Weicker
Williams

NOT VOTING—22

Baker
Bayh
Bentsen
Bumpers
Cannon
Church
Culver
DeConcini
Durenberger
Eagleton
Ford
Goldwater
Huddleston
Javits
Kennedy
Long
Magnuson
McClure
McGovern
Schweiker
Stewart
Stone

So the amendment of the Senator from Missouri (UP No. 1633) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1634

(Purpose: To prohibit the use of federal funds to pay the expenses of persons intervening in regulatory proceedings except for travel, per diem, and the costs of preparing material for the public record proceedings under the Toxic Substances Control Act)

Mr. DANFORTH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes an unprinted amendment numbered 1634.

Mr. DANFORTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 48, strike line 15 and 16 and insert in lieu thereof the following: "except for travel, per diem and the costs of preparing materials for the public record in proceedings under the Toxic Substances Control Act (15 U.S.C. 2605 (4) (A). Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to Section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.)"

Mr. DANFORTH. Mr. President, the purpose of this amendment is to prohibit the use of appropriated funds to pay the expenses of persons intervening in agency regulatory or adjudicatory proceedings except where expressly authorized by statute. Of the agencies covered by this bill, only one has express statutory authority to fund intervenors, and that is the Environmental Protection Agency. The amendment recognizes that authority but also would apply the constraints recommended by the Appropriations Committee. The purpose of the amendment is to make clear that no implied authority to create intervenor funding programs is recognized.

In addition, the amendment contains a "savings" provision to recognize a unique situation which exists at the Consumer Product Safety Commission.

The Consumer Product Safety Commission has separate authority under section 7 of the Consumer Product Safety Act to develop safety standards through what is commonly referred to as the "offeror process." This portion of the statute does not carry and has never carried with it express or implied authority for establishment of what are commonly referred to as "public participation" or "intervenor funding programs."

Mr. President, the question of so-called public participation has caused great controversy in Congress. There are some programs which have been authorized expressly by Congress, such as the FTC program for public participation, but that has been done with some care in the statute to provide parameters for public participation programs.

The point of this amendment is to make it clear that no funds under this bill will be available for use in public participation programs other than those programs expressly authorized by Congress, which, in the case of this bill, is the Toxic Substances Act program of the Environmental Protection Agency and the unique situation involving the Consumer Product Safety Commission.

Mr. THURMOND. Mr. President, I am strongly in support of the amendment offered by the distinguished Senator from Missouri modifying certain language on public participation funding which was added to H.R. 7631, the HUD appropriation bill, during subcommittee consideration of that bill. The House-passed bill contains an absolute prohibition on the use of funds appropriated by this legislation "to pay the expenses of, or otherwise compensate, non-federal parties intervening in regulatory or adjudicatory proceedings." This language would have the effect of terminating ongoing public participation funding programs at the Environmental Protection Agency, the Consumer Product Safety Commission, and the Office of Consumer Affairs.

The Senate Appropriations Subcommittee processing this bill added, however, a very significant exception to this prohibition—an exception which would allow funds to be paid out to various groups for travel, per diem and the costs of preparing materials for the public record. Mr. President, this is a very significant exception, one which if interpreted broadly by the three affected agencies, may end up being a very weak restraint on how EPA, CPSC, and OCA spend the funds available to them. The committee report contains some restrictions or guidelines on how these agencies should dole out their public participation funds.

I sincerely doubt, however, in light of the significant abuses which have been uncovered in various intervenor funding programs, that such report language would constitute a serious constraint on agency expenditures. If congressional guidelines in this area are to have any effect at all, they need to be placed in the statute itself, and not merely in the committee report. The House language flatly prohibiting the use of our tax dollars for such intervenor funding programs is, however, far superior to a carefully drafted and restrictive Senate provision. I strongly support the termination of all ongoing public participation funding programs and have vigorously opposed and will continue to oppose attempts to create new programs.

Mr. President, the minority members of the Judiciary Committee, with the exception of the Senator from Maryland, have been involved in an ongoing struggle over several years to prevent passage by the committee of intervenor funding legislation. We have so far been successful in those efforts. The regulatory reform bill reported earlier this year by the Judiciary Committee does not contain such a provision. The Governmental Affairs Committee bill on regulatory reform does, however, establish an intervenor funding program for agency proceedings on a Government-wide basis.

S. 262, as reported by Governmental Affairs, would authorize $10,000,000 for such a program for the fiscal year ending September 30, 1981, and $20,000,000 for each of the 3 succeeding fiscal years. As I am sure my colleagues are well aware, these two committees are currently attempting to work out a compromise regulatory reform bill, which might be brought to the Senate floor in the near future. I have made it absolutely clear during the negotiations that I would, under no circumstances, support a regulatory reform bill containing intervenor funding and would, instead, work actively to defeat any measure containing such an authorization.

Mr. President, the purported justification for intervenor funding programs is to provide interested members of the public who lack the financial resources an opportunity to participate in agency proceedings. I contend, first of all, that such programs are unnecessary to insure adequate representation of the public interest. That is precisely what agencies, such as the Environmental Protection Agency, were created to do.

Congress has specifically charged the EPA and its staff with the responsibility of protecting our environment and the public health. If agencies, such as EPA are not properly discharging these duties, Congress should investigate and take appropriate action, rather than use taxpayer dollars to pay outside groups to intervene in public regulatory proceedings.

Second, Mr. President, I am opposed to intervenor funding because these programs are obviously subject to a great deal of abuse. Past experience has shown that such abuses have indeed occurred. Some agencies have tended to dole out Federal funds primarily to public interest groups supporting the agency point of view. Rather than giving the money to interested, individual members of the public, agencies have typically awarded funds to established public interest groups, who may have close connections with particular agency officials. Obviously, this type of activity does nothing to insure balanced agency proceedings and to protect the public's best interest.

Examples of such abuse are not difficult to obtain, particularly regarding the Federal Trade Commission's program. The Wall Street Journal, for example, commented in an editorial earlier this year that:

> The most questionable aspect of the FTC's activities in recent years has been its habit of paying Washington lobbyists to stir up opportunities for FTC investigations and regulations. A spate of private bureaucracies like Americans for Democratic Action, the Sierra Club, and Ralph Nader's Center for Automobile Safety now earn a living by representing "the public interest" in FTC proceedings.

The close professional connections between present agency officials and those groups or organizations receiving public participation funding would be difficult, if not impossible, to miss. Michael Pertschuk, now Chairman of the FTC, was a former Nader associate and has already granted more than $150,000 to various Nader groups. A list of other recipients of FTC funding reads like a "Who's Who" of activist organizations—the Union of Concerned Scientists, Friends of the Earth, the Sierra Club, the Environmental Defense Fund, and the National Resources Defense Council. It is difficult to believe that continual funding of these same types of organizations results in a more balanced representation of the public interest.

Examples of close relations between agency officials and funding recipients may be found in other agencies as well. Assistant Secretary of Agriculture, Carol Tucker Foreman, granted $23,536 to the Consumer Federation of America to do a study shortly after coming to her new Government job—having just left her post as executive director of that same Consumer Federation of America. I might also add that this grant was more than twice as large as the maximum allowed under then current USDA guidelines and that CFA had already publicized what its study should conclude before receiving the grant to do the study.

I also find very disturbing the attitude with which heads of these so-called "public interest" groups accept our hard-earned tax dollars. For example, a Denver-based group called "Ecocycle" received $30,000 from the Environmental Protection Agency. Upon receiving this amount, one of the leaders of this organization commented that, "It was the easiest, simplest money we ever came across." This may be easy money to the leaders of "Ecocycle," but I sincerely doubt that American taxpayers, who work hard for the money they wind up paying to the Government, would share this opinion. Taxpayers are sick and tired of excessive, wasteful spending by the Federal Government; and intervenor funding programs are a prime example of wasteful allocation of our tax dollars.

Mr. President, I support the Danforth amendment which would have the effect of completely cutting off this "simple, easy money," except in proceedings under the Toxic Substances Control Act. I am opposed to any exception to the flat prohibition found in the House bill—especially one as broad as the Appropriations Committee has included in its bill. I strongly urge my distinguished colleagues to vote in favor of this amendment offered by the able Senator from Missouri.

● Mr. HAYAKAWA. Mr. President, I strongly support Senator DANFORTH's amendment because I agree that the use of public participation (intervenor) funding needs definite statutory guidance from Congress in order to be carried out effectively. It is a well-meaning program, but it has proven to be an easily abused program and a waste of the taxpayers' money.

The intervenor funding program was developed in order to allow for participation in the Federal regulatory process by those public goups which are unable to afford the cost of coming to Washington, appearing before the Federal agencies, and preparing the materials needed for such an appearance. The expenditure of these funds by the FTC serves as a demonstration as to why statutory guidance is needed for this program.

During fiscal year 1978–79, the Americans for Democratic Action received $172,126, the Center for Science in the Public Interest—$84,614, the Community Nutrition Institute—$40,666, the Council on Children, Media and Merchandising—$185.840, the Media Access Project—$36,813, the National Consumers League—$109,727, and the National Consumer Law Center received $137,823. All these groups currently have an office in Washington, therefore, travel costs must have been minimal, if there were any at all. Furthermore, I find it hard to believe that it cost the Center for Science in the Public Interest $84,614 to prepare materials for one proceeding and the Council on Children, Media and Merchandising $185,840 for four proceedings. The most inexpensive funding to a group, with an office in Washington, went to the Media Access Project, $36,813 for one proceeding.

This outpouring of taxpayers' money without guidelines or standards is totally unacceptable. I hope my colleagues will join with Senator DANFORTH to prohibit the use of public participation funding until Congress sets up the guidelines and standards needed to be sure this program is run correctly.●

Mr. PROXMIRE. Mr. President, I am unsympathetic to the arguments raised by the Senator from Missouri regarding the use of Federal funds to support public participation in regulatory or adjudicatory proceedings. This matter was discussed at some length during subcommittee markup and it was acknowledged that abuses had occurred in the past. However, the committee felt that provision should be made to allow for the payment of travel, per diem, and the preparation of materials for the public record for individual consumers and organizations who have a unique contribution to make and who otherwise could not afford to bring their experiences to the attention of the appropriate agencies in Washington or elsewhere.

The committee has specifically directed the affected agencies to carefully review their public participation program and implement the following guidelines:

First. Funding should only be made available where the individual or organization would not, because of the costs involved, participate and where such participation is needed for a complete public record.

Second. Federal funds should be limited on those activities that are directly related to the presentation of materials for the public record, excluding background material or special purpose materials to be used by the agency for ancillary purposes.

Third. The amount made available to any one individual or organization for any one proceeding shall not exceed, exclusive of travel and per diem $3,000 without prior notification to the Committee on Appropriations.

Fourth. The total annual amount made available to any one individual or organization shall not exceed the larger of 10 percent of all such funds available to the agency for this purpose or $5,000.

Fifth. An accounting of the use of all public participating funds shall be made on a semiannual basis to the Committees on Appropriations.

Sixth. Funds should not be used to purchase services that would normally be provided by regular employees, consultants, or contractors, or to fund views already represented and fully documented.

So the committee has not just given these agencies blanket approval of their public participation activities. We have been restrictive and we expect all agencies to comply with these directives to the letter.

As I understand it, the Senator's amendment would not negate the substance of the committee's report language which establishes specific goals and guidelines for the agencies affected by the public participation language in the bill. It would, as I understand it, strike our provision that allows funding for travel, per diem, and the preparation of materials and would insert language that would allow only those activities authorized under legislation for the Consumer Product Safety Commission and the toxic substances program at the Environmental Protection Agency. Those two agencies, of course, would bear the major brunt of an amendment prohibiting any public participation funding.

I understand that the Senator's office has discussed this amendment with the chairman of the Consumer Product Safety Commission, Susan King, and that she could live with this amendment. EPA has also told the subcommittee that it can live with this compromise language which protects the activities under the Toxic Substances Control Act.

Therefore, I have no problem with the amendment. Of course, this issue would ultimately have to be resolved in conference with the House, which has included a strict prohibition in their version of this appropriation bill.

If there are no objections from the Senator from Maryland, the ranking minority member of the subcommittee, I will accept this amendment.

Mr. MATHIAS. Mr. President, I believe that the Senator from Wisconsin, the manager of the bill, has stated the situation accurately—that we are faced with certain problems here that have to be confronted.

The House version entirely eliminates public participation; and, as the Senator from Wisconsin has pointed out, that is what will have to be confronted in the conference.

The Senate bill at least allows for travel per diem and expenses for preparation of materials for the public record.

I believe this is about as good as we can do under the circumstances, and I concur in the judgment made by the Senator from Wisconsin.

● Mr. DOLE. Mr. President, the Senator from Kansas is pleased to cosponsor the Senator from Missouri's (Mr. DANFORTH) amendment limiting the funding of private groups' participation in regulatory agency proceedings. Several agencies are now authorized by statute to subsidize public participation in their proceedings. Other agencies, in an exercise of what they consider to be their implied power, have set up such funding programs without specific congressional authorization. This amendment clearly prohibits the establishment of intervenor funding programs without such congressional authorization.

The Senator from Kansas believes that this prohibition is a wise step not only because he feels that regulatory agencies, which are creatures of the Congress, do not have the inherent power to set up such funding programs, but also because intervenor funding, even where authorized by statute, is flawed in concept and in practice. Intervenor funding, in spite of the well meaning arguments made for it, is fundamentally unfair. Through intervenor funding taxpayers' dollars are used to advocate views that all taxpayers do not necessarily share or consider to be in the public interest. Furthermore, in deciding who to fund, an intervenor funding program gives a Government official the final decision as to what interest group will contribute to an agency proceeding, essentially allowing that official to set the bounds of legitimate public debate. It is as outrageous as allowing Congress to pay lobbyists to lobby.

Even people in so-called "public interest" groups do not uniformly support intervenor funding. For example, John W. Gardner, the founder of "Common Cause," has warned that, "we could easily create a class of kept critics, and damage the future of an independent public interest movement."

Experience with the intervenor funding program at the Federal Trade Commission shows that such programs are subject to great abuse. The FTC program involved the funding primarily of groups in agreement with the agency, the funding of groups who did not need assistance, and the repeated funding of the same groups. In addition, we saw the participation of the FTC staff in proceedings before the agency and in the selection of groups to be funded.

Intervenor funding would increase public participation in agency rulemaking only if one considers that the professional "public interest" groups represent the public interest. Evidence indicates that such funding will often be used to subsidize views obviously at variance with public sentiment. For example, in the rulemaking involving children's advertising, the FTC budgeted $340,000 to proregulation groups, with only $849 for the opposition. Yet during the consideration of the FTC bill, it was this particular rulemaking that was so vigorously attacked in the Senate, and obviously more representative body than any agency.

In the opinion of this Senator, the "public interest" groups who have received, and will receive, these funds represent a distinct, and limited ideological position, not necessarily some genuine view of a significant segment of the public. If a group does not have a constituency willing to support it, how significant can the so-called public interest it represents be?

Consequently, though this Senator might support an even stronger measure, he feels that the Senator from Missouri's proposal is meritorious, deserves this Senator's cosponsorship, and merits the approval of all his colleagues in the Senate.●

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri.

The amendment (UP No. 1634) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1635

(Purpose: To eliminate the 2% across-the-board cut)

Mr. MATHIAS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes an unprinted amendment numbered 1635:

On page 48 beginning with line 24 strike out through line 6 on page 49.

Mr. MATHIAS. Mr. President, on page 48 of the bill, line 24, section 412 reads as follows:

SEC. 412. Of the total budget authority provided in this Act, for payments not required by law, 2 per centum shall be withheld from obligation and expenditure: *Provided*, That of the amount provided in this Act for each appropriation account, activity, and project, for payments not required by law, the amount withheld shall not exceed 5 per centum: *Provided further*, That this amendment shall not apply to funds provided in this Act for the Veterans' Administration.

This is the language which I have moved to strike, and the reason I have moved to strike it is because I think there is inherent in the language a problem, both a general problem and a specific problem.

First, from the general standpoint, I believe that any kind of an across-the-board reduction really negates the whole purpose of the appropriations process.

Why do we hold hearings? Certainly the Senator from Wisconsin is an outstanding example of the kind of careful scrutiny that we provide in the appropriations process. He sits for endless hours as the chairman of this subcommittee hearing witnesses, weighing the evidence, trying to determine what are priorities for expenditures of public funds, trying to determine what can be deferred to another year, and trying to determine what we can do without.

But what is the purpose of all that careful scrutiny if in the long run we are just going to say we will just take 2 percent off the top without regard to priorities, without regard to the timing of the expenditure, and without regard to what can be deferred and what is urgently necessary now?

If the budget savings are to be realized, then they should be done on the basis of a review of an individual program on a priority basis. Otherwise, all the programs get hurt regardless of how much merit they have and how urgent they are.

The specific wording of this amendment also creates problems. To begin with, the provision specifies that budget authority "shall be withheld from obligation and expenditure." As far as the Congressional Budget Office is concerned, this does not mean that we have made a cut in budget authority. The $1,020,000,000 assumed savings are, in fact, only being held in reserve, and all of this budget authority will at some time someday be still appropriated.

In addition, the provision gives to the Office of Management and Budget the authority to withhold from zero to 5 percent with an average of 2 percent. The leeway given to OMB violates the spirit of the 1974 Budget Act. With this provision, as now written, OMB can set its own priorities and can, in effect, impound up to 5 percent of an agency's funds regardless of what the Appropriations Committee may have determined after careful hearings and careful weighing of the evidence.

For example, OMB might take zero or $112 million, or it might take up to $279 million from the National Aeronautics and Space Administration, depending upon whether it was exercising its discretion to take zero or to take 2 percent or to take 5 percent.

That really is a rather alarming kind of precedent to set and a rather alarming discretion to give to OMB.

We say do not take anything at all, take more than a quarter of a billion dollars, take something in between. The criteria by which they would do this are entirely subjective in their own minds. It is just what they feel like at the moment, not what Congress is deciding the national priorities may be.

The uncertaintly of the size of the OMB cut creates management problems for every agency covered in this bill. How is any one of these agencies to know what their appropriation is going to be next year? There is no way, unless they can read the minds of the people in OMB who sit there contemplating what they will take from each agency when they decide to take something.

They really in the agencies covered by this bill cannot begin to plan their own programs and to administer the programs effectively and efficiently until they know what the bottom line is going to be.

Let me just very briefly direct the attention of our colleagues to another consequence of this across-the-board cut, and that is its impact on the Senate proposed amendment. The effect is to make these amendments meaningless, to wipe them out.

For example, Senator CHILES' amendment to increase housing for the handicapped and for the elderly. In real effect that just is wiped out. The Senator from Florida might just as well not have offered that amendment.

The Senator from Connecticut (Mr. WEICKER) offered an amendment to provide funds for congregate housing services. The effect of the 2-percent cut is simply to wipe that out. He might just as well not have offered it.

The Senator from New Mexico (Mr. SCHMITT) offered an amendment to fund various NASA research and development programs. The 2-percent cut just will wipe that out. Senator SCHMITT might as well not have offered that program.

The Senator from Washington, the chairman of the full committee, (Mr. MAGNUSON) offered an amendment to initiate a NASA research and development program on solar propulsion. This 2-percent cut will just wipe that out.

I myself have offered a modest amendment to fund the National Science Foundation's small business innovation and science education programs, and that will be wiped out, as would be the amendment of the Senator from Florida for the elderly and the handicapped.

So, if we want to save these useful amendments, we have to adopt the pending amendment.

It is not likely that any of the funds provided in these amendments will be available for their intended purposes. The first thing that OMB will undoubtedly do is to eliminate all of these congressional initiatives in order to reinstate the administration's priorities. What Congress thinks is important will be delivered bound and gagged to the tender mercies of OMB, which is charged by the President with the protection and promotion of the President's program, and if we do that we will deserve what we get which will not be much.

Then there are cuts that OMB will make in other parts of the bill and, as I pointed out, they can be from 0 to 5 percent. For example, these are some of the results that may occur.

Assisted housing can lose up to $992 million. Community development grants can lose up to $187 million. It can take the full 5 percent from that one source if it wants to do it and, of course, that loss of $187 million will be on top of the $200 million cut already made by the committee confirmed today by the Senate in the defeat of the Tsongas amendment.

EPA abatement, control and compliance can lose as much as $27 million.

The EPA construction grants can lose as much as $170 million on top of the cuts already made by the committee and amounting to $300 million.

The emergency civil defense program can lose up to $8 million. NASA research and development can lose $221 million after we deliberately added $65.5 million because we thought it was desperately needed. The National Science Foundation research and development could lose $50 million, or a cut that would bring research and development funding below the 1980 level adjusted for inflation. So at a time when we are all concerned about the forward motion of the United States in the field of research we would be falling backward.

Revenue sharing could lose as much as $228 million in local government funding.

Mr. President, carrying this across-the-board approach one step further we could really just simplify this entire appropriations process because we have reported a bill that contains a $4.3 billion cut in budget authority. That is about a 6-percent reduction under the President's request for the fiscal year. Perhaps we could just have taken the administration's request for every item covered in the bill, and I would remind you that that is about $73.5 billion, and simply have taken 6 percent out of each account. That would have been the simple way. It would have saved the Senator from Wisconsin many weary hours sitting in the committee listening to witnesses, studying the evidence, and we could have saved a lot of time and a lot of effort by that simple approach of slashing 6 percent off of everything.

Section 412 reflects that kind of approach. In my mind the inclusion of section 412 has moved the Congress in the direction of renouncing its responsibility for making budget decisions in favor of delegating those decisions to the Office of Management and Budget, and I cannot support that kind of policy.

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. MATHIAS. Certainly I yield.

Mr. WILLIAMS. Everything the Senator from Maryland has said certainly should alert the Members of this body that our work, so painstakingly done, can be undone by the OMB. I just wanted to ask the Senator from Maryland a question or two, if I could. We had a long debate, and then came to a record decision that assisted housing should not be reduced by the amount in the Exon amendment. This was full Senate action.

If this provision is included in the appropriations bill, the OMB and a little committee there or the Director of OMB, one individual, could nullify that specific action that was taken here on this bill today.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. WILLIAMS. Yes.

Mr. PROXMIRE. It is my understanding it is quite different because what the Exon amendment did was to reach out and affect a great deal of obligational authority over a period of 40 years. It did not affect outlays at all. Of course, what this amendment would do would be to cut outlays. It could cut outlays up to 5 percent.

Mr. WILLIAMS. Why does it say "budget authority provided in this act"? What is the difference in meaning there between——

Mr. PROXMIRE. Well, we have to look at budget authority as well as outlays here.

Mr. WILLIAMS. Well, section 412—I will read it:

> Of the total budget authority provided in this act for payments—

Mr. PROXMIRE. Will the Senator give me that citation again?

Mr. WILLIAMS. It is on page 48 of the bill, section 412. Those are the opening words of section 412, "withheld from obligation and expenditure."

Mr. PROXMIRE. The amendment that was offered today by the Senator from Nebraska on which we had a close vote in the Senate would have cut some $3.4 billion from budget authority.

Now, this would cut 2 percent, but it would be at the discretion of the Office of Management and Budget and they could cut none if they wished to do so or they could cut 5 percent.

Mr. WILLIAMS. Or they could go to 5 percent.

Mr. PROXMIRE. So to say it automatically nullifies the action we took on that amendment might or might not be true.

Mr. WILLIAMS. Not automatically. It would take one person to come to that decision, and I gather it is the Director of OMB.

Mr. MATHIAS. Certainly he would have the last word.

Mr. PROXMIRE. He would have a voice in that, there is no question about that. That is correct.

Mr. WILLIAMS. May I ask another question? It seems to me that all the appropriations process, all the work and thought and consideration that goes into that, should—I agree with the Senator from Maryland—not be undone with a snap of a finger.

Mr. PROXMIRE. May I say to my good friend if he had been with us in committee, he would have, I think, understood and sympathized with our terrific dilemma. The Senator from New Jersey and the Senator from Maryland are making a very good point. I agree wholeheartedly that these across-the-board cuts and giving discretion to OMB are not things I would like to do. But what else can we do?

The Senator from Wisconsin, in his recommendations to the subcommittee, recommended as strenuously as I know how, specific reductions that would have put us within the budget. I was overruled by the subcommittee. They decided they would go up in a number of areas, which I am going to specify in a minute. Under those circumstances, when Senator HOLLINGS and Senator BELLMON came to the committee meeting and said that we were in violation of the first budget resolution and in almost certain violation of the second budget resolution, and we have to take action, it was clear that there was no way we would go back and make the specific reductions I had recommended before.

The only way we could make these cuts was to recommend an across-the-board 2-percent reduction, which I did not like to do. The Senator from New Jersey or the Senator from Maryland, if they can suggest how we can cut $1.1 billion out of this bill—and that is what this amounts to, $1.1 billion—if they can show where they can make it, I would be delighted. I will support any cut they want to make here in any program they wish. But there is no way we can do that here. The only way we can cut spending is to have this kind of an across-the-board reduction.

Let me point out what the amendment of the Senator from Maryland does. It would add $1.1 billion to this bill. It pushes it in here. There is one exemption. We do exempt the Veterans' Administration. It is full of entitlement programs, and it is perfectly obvious that trying to cut the Veterans' Administration would not be effective.

We give discretion because I think it could be better than a blind, automatic cut of 2 percent, and discretion has to reside somewhere in order to make some kind of a judgment.

I wish the Congress, as I say, could go over this, go over each one of these areas, and make cuts. As chairman of the subcommittee I recommended that. But that recommendation was overruled by the subcommittee and then by the full committee. The full committee, not by a close vote but by a vote of 10 to 1, voted for the 2-percent reduction.

I offered it at the suggestion of Senator HOLLINGS supported by Senator BELLMON, and then the committee voted overwhelmingly in favor of it. I think Senator MATHIAS was the only Senator present in the Appropriations Committee who voted against it.

Mr. WILLIAMS. I am sure the Senator from Maryland will relate this to the appropriations pactice and the overlay of Budget Committee action on the appropriations process, but I would like to raise one further question now with the Senator from Wisconsin.

As I read it, it does not indicate when the cutting decisions are to be made. These appropriations are for fiscal 1981, is that right? At some point during that year these cuts must, under this provision, be made.

Mr. PROXMIRE. The Senator is correct.

Mr. WILLIAMS. I would think every department would have to start the year with the premise that they have 2 percent less than the appropriated amounts for their departments. Therefore, they would have to put 2 percent as a reserve, and just when in the year would that happen? It just seems to me this lends itself to one of the worst kinds of mismanagement I can imagine in Government, when you come toward the end of a year, and you have not obligated all of the money that you have authority to obligate, and you are coming up to that end-of-year deadline, that is when all that rush to obligate is made.

Mr. PROXMIRE. No, there is no way this will drag on to the end of the year. What we do here is give the Office of Management and Budget the authority to make these reductions, and with discretion to make the reductions where they have to make them.

Mr. WILLIAMS. When?

Mr. PROXMIRE. They can make them early in the year. Now obviously they would have a few days before the year begins. It begins October 1. That is less than it was 2 years ago. But before we act on this I presume it will probably be only a day or two before the beginning of the year. Then when the allocations are made the Office of Management and Budget can either reduce each budget by 2 percent or, as we indicate, by nothing, or 5 percent in others. But they have to make an aggregate cut of 2 percent.

There is no reason in the world why the Office of Management and Budget should take more than a few days to make those decisions.

Mr. WILLIAMS. I would like to hear from the Senator from Maryland on that, also.

I will make the observation that they have a full calendar of demands upon them now. Getting ready in the next budget to give thoughtful attention to intelligent cutting within the first few days almost tells us that it will not be intelligent cutting.

Mr. PROXMIRE. Mr. President, I ask the Senator, what would he do? What would he do if he were in the position of the Senator from Wisconsin? We have to comply with the budget resolution. We have no alternative. The budget resolution is meaningless, otherwise. We have the Appropriations——

Mr. WILLIAMS. Why do we have an Appropriations Committee?

Mr. PROXMIRE. Why do we have a Budget Committee?

Mr. WILLIAMS. Good question.

Mr. PROXMIRE. We have an Appropriations Committee so we can reconcile that. We tried to reconcile the recommendations of the Budget Committee and I felt we were coming fairly close to it. But I was overruled by the members of the subcommittee and the Appropriations Committee. They made a decision they have every right to make and we turned out to be over, substantially over. The only way we could reconcile this was by a reduction.

The Senator could move to recommit the bill. I would not object to that. I would vote for it, rather than having us go forward with a clear violation of what the Senate did when it accepted the budget resolution.

I think it is easy to attack that 2 percent cut. I agree that it is something that is not the best way to proceed by any means, but there is no alternative here, unless the Senator feels that we can be, and what I think is, irresponsible, and go ahead and appropriate more than the budget resolution permits.

We have a budget resolution. We have made a commitment. We have said we are going to come in within that limitation. Having done so, it seems to me we have to live up to it. It is painful, but we have to do it.

As I say, the Appropriations Committee had to vote on it and voted 10 to 1. It was not close.

Mr. MATHIAS. I think we ought to look at the figures; take a little advice from Will Rogers and look at the record.

What are the facts? What are the figures? What is the record?

As of this minute, in this bill, the budget authority is $1.8 billion under the resolution and in outlays it is $0.4 billion under. So we are within it.

Mr. PROXMIRE. Will the Senator yield on that?

Mr. MATHIAS. Where the dispute comes is where you go from here. But, strictly, speaking, we are within the resolution.

Mr. PROXMIRE. We got our figures from the Budget Committee. Of course, the Senator says "as of the moment."

Mr. MATHIAS. As of the moment.

Mr. PROXMIRE. But we know there is going to be $1.3 billion coming down the pike in fiscal 1981 for veterans' compensation, pensions, GI bill, and so forth. We know there is going to be $200 million which we will all recognize has to be taken. I talked to Senator HOLLINGS, the chairman of the Budget Committee today, and he said there is no question we have to appropriate that amount.

We know there is going to have to be

$100 million for Presidential R. & D. initiatives, research and development initiatives. We know that is coming down. We have to leave room for that.

Furthermore, the figures that we have from the Budget Committee would indicate that even with these cuts we are going to probably be somewhat over the amount allowed, or at least very close to it.

Mr. MATHIAS. But the distinguished Senator from Wisconsin, with his prescience and experience, pointed out in his opening statement that if the HUD-Independent Agencies Subcommittee does not receive an additional allocation under a second budget resolution, we are going to have problems in the future. Now, we all agree about that. We are going to have problems in the future.

But, as of tonight, as of the moment, under this budget resolution, we are within the limits.

Mr. PROXMIRE. The Budget Committee, which was ably represented by both the chairman and the ranking member, gave us the figures that the Budget Committee itself had arrived at. There was no question about those figures in the Appropriations Committee and the Senator from Maryland and all of us had an opportunity to challenge and question those figures. Those figures were accepted.

Our staff has very carefully and diligently explored those figures. The conclusion has been that it was necessary for us to have what we thought was about a $990 million reduction. Now we know it is $1.1 billion, because we added revenue sharing.

At any rate, we are not doing it because we like to do it. I do not like a 2-percent cut, either. I agree it is a poor alternative.

Mr. MATHIAS. Mr. President, the Senator knows, and I think the Budget Committee understands, that there are some items out there that are going to have to be taken care of—$100 million for HUD low-income housing projects, fuel adjustments for fiscal year 1980. That fiscal year is winding down and we pretty well know that is a commitment that is going to have to be taken care of. A $200 million for HUD low-income housing projects fuel adjustments for fiscal year 1981. That is a little more speculative, but you can pretty well figure on it. A $200 million for veterans' benefits, based on 14.3 percent versus an 11.8-percent increase. So you have almost 3 percent additional there that had not been anticipated. Then the President proposed some new R. & D. programs which may be very valuable to the country, but they are going to cost $100 million.

These things are well-known commitments coming down the pike, and they are being charged against this bill when everybody understands that they were not included in the first concurrent resolution. They are going to have to be taken care of in the next resolution and the Budget Committee anticipates that these are problems coming down the road that will have to be recognized in the next resolution.

I yield to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, I would like to propose a question to both the Senator from Maryland and the Senator from Wisconsin. It is my understanding that the Senator from Maryland is moving to strike section 412. Is that correct?

Mr. MATHIAS. That is correct.

Mr. BRADLEY. And section 412 requires a 2-percent across-the-board reduction. Is that correct?

Mr. MATHIAS. A 2-percent across-the-board reduction, but with the hooker that OMB can go up to 5 percent in some programs, but with an average of 2 percent.

Mr. BRADLEY. I wonder if the Senator from Maryland could clarify for the record his interpretation of section 412 as it pertains to general revenue sharing. Both House and Senate committees have reauthorized general revenue sharing payments to local governments as entitlements. Therefore, it seems the provision of section 412 of the appropriations bill, which gives OMB that authority to cut programs from 0 to 5 percent, does not apply to the funding of general revenue sharing, given its entitlement status, making it funds "required under the law." Is that correct?

Mr. MATHIAS. I wish I could answer the Senator from New Jersey that he was correct in the assumption, but I am afraid the facts are otherwise.

We have exempted the Veterans' Administration entitlement programs because they are entitlement programs. Section 412 does not exempt revenue sharing from these cuts. As a matter of fact, if OMB wanted to take everything that it could out of the hide of revenue sharing, it could take about $228 million from the local governments and the local communities of this country.

Mr. BRADLEY. As I understand——

Mr. PROXMIRE. If the Senator will yield, I believe I can help the Senator on this.

Mr. BRADLEY. Will the Senator let me respond? As I understand it, that would mean that revenue-sharing payments due to local governments across this country in January would, in fact, be cut. Is that correct?

Mr. PROXMIRE. May I answer the Senator on that? If I can answer the Senator, I call the Senator's attention to page 48, lines 24 and 25 of the bill, which says "of the total budget authority provided in this act for payments not required by law."

We do not yet have the authorization for revenue sharing. We do not know what it is going to be. But in the event the law requires that that payment be made, and in the event it is an entitlement program, then I presume that the interpretation of that by the Office of Management and Budget would be that revenue sharing could not, under those circumstances, be reduced. But nobody has seen that because they have not decided to authorize revenue sharing as yet. When it is authorized we can see it and we can answer the questions of the Senator from New Jersey.

My guess is that this will come under that provision for payments not required by law and the cut would not cover revenue sharing.

Mr. MATHIAS. But the Senator from Wisconsin would have to admit that this is exposing revenue sharing to a very great risk. It is putting it in jeopardy.

Mr. BRADLEY. If I may add in response, the Senator from Wisconsin on this very floor just a few days ago accepted the change in the appropriations bill which would add $4.6 billion for local revenue sharing, which the Senator had struck from the bill. I assured the Senator at that time that the Finance Committee had acted on revenue sharing and that it would be reported if not today then tomorrow, with the action having taken place last Thursday. Therefore, to argue that it will not be authorized I think is just really not correct.

Mr. PROXMIRE. This Senator never argued it would not be authorized. I simply said that we should wait until it is authorized so we could see exactly what the Senate did. As the Senator knows, what a committee recommends to the Senate is not necessarily what the Senate will adopt. We probably will not change that. We will probably pass revenue sharing as far as the entitlement nature of it is concerned, the requirement as to whether it will be paid or not, precisely the way the Finance Committee recommends it. We may not, however. I cannot tell the Senator definitely until we act on it.

Mr. BRADLEY. To be consistent with my position last week on the floor where a great number of the Senators agreed that we did want to preserve the local revenue sharing, I cannot support section 412 and would support the Mathias amendment. I think in some ways section 412 is an abdication of authority by the Appropriations Committee and the Senate. We have an authorization process, an appropriations process, and a budget process. I do not think we should turn over this responsibility to the OMB to make cuts where and when and in what programs they decide. I think, in fact, it could have devastating impacts on certain programs that have already been heavily cut by the Appropriations Committee. EPA, block grants, section 8, for example, would be crippled beyond description if the 5 percent discretionary cut took place in these areas.

I would hope that the Senate would have the sense to reconsider section 412 and support the Mathias amendment because the effect of section 412 could be, in fact, that all of the amendments the Senate has adopted to date on this bill to add appropriations could be scotched by giving that discretion to cut from zero to 5 percent to OMB.

So I rise to strongly support the amendment of the Senator from Maryland and hope that we all agree that general revenue sharing is an important concept to preserve, and the funding also which would be required to preserve that concept.

Mr. SCHMITT addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I wonder if the distinguished Senator from Wisconsin and the distinguished Senator from Maryland, with the assistance of the Senator from Oklahoma from the Budget Committee, could clarify some situations we are in by answering some questions.

The first question I would pose is the relation of the effect of the Mathias amendment on the allocation received by the subcommittee from the full Appropriations Committee based on the first concurrent resolution. Would the effect of the amendment put us over that allocation?

Mr. PROXMIRE. It is my understanding it would put us over in outlays.

Mr. SCHMITT. In outlays?

Mr. PROXMIRE. Yes.

Mr. SCHMITT. And that is based on what budgetary cost attributed to the amendment?

Mr. PROXMIRE. The amendment, as I understand it, would add $134 million in outlays.

Mr. BELLMON. And $992 million in budget authority.

Mr. PROXMIRE. There might be some change because of the fact that we added revenue sharing on the floor which, as we indicated in our exchange with the Senator from New Jersey, would also increase the total. But it would be in that general area.

Mr. SCHMITT. But it makes us close to the allocation if not over in outlays in the budget authority as well?

Mr. PROXMIRE. If we do not take into account any future requirements—

Mr. SCHMITT. I want to see if I can dissect the problem at little bit.

Mr. PROXMIRE. If there is no accounting for any future requirements, we might be all right.

Mr. SCHMITT. Given the first budget resolution and if allocated?

Mr. PROXMIRE. But it would be very unrealistic if not dishonest. I think it would be dishonest, really, for us to do that, because we know perfectly well we are going to have additional requirements for the fiscal year. There is no question about it.

Mr. MATHIAS. If the Senator from Wisconsin will yield, that is the reason we have a second concurrent resolution.

Mr. SCHMITT. That is the next question. The Senator anticipated my question. That is that the allocations we have been talking about are based on a first concurrent budget resolution which has been approved by the Congress. We are awaiting the second concurrent budget resolution. Therein lies the difficulty.

Mr. PROXMIRE. We are already over $134 million in outlays even without waiting for the second budget resolution.

Mr. SCHMITT. We are over with respect to the allocations that the Appropriations Committee gave the subcommittees. We are not over with respect to the total budget resolution as it relates to the Appropriations Committee. Am I correct?

Mr. PROXMIRE. Not yet. We have not passed the bills yet.

Mr. SCHMITT. It may cause problems for other subcommittees if we are over, but, nevertheless, as far as the actual mechanical allocation of the appropriations full committee allocations, we have not gone over.

(Mr. BAUCUS assumed the chair.)

Mr. PROXMIRE. It is my understanding that the bill cannot be enrolled in its present form if we pass the Mathias amendment.

Mr. SCHMITT. The subcommittee allocations being exceeded permits enrollment of the bill?

Mr. PROXMIRE. That is right. If we pass the second resolution which is more generous, it might have an effect on it.

Mr. MATHIAS. A beneficial effect.

Mr. PROXMIRE. Whether we do or not is an important issue. There is a strong and proper determination in the Congress to hold down these resolutions and not to go up constantly $1 billion more each time with each resolution.

Mr. SCHMITT. But on the question of supplementals, the additional costs which have been outlined before this committee, really must be addressed by the second concurrent resolution and not by the first resolution. Is that correct?

Mr. MATHIAS. Yes, the Senator is right. And these are costs that are recognized. They are not some sort of hidden costs. They are not something coming on us without notice. These are things that are coming down the pike that everybody has seen and which are loaded into the accounting against this bill, even though we know they are the kinds of things that need to be dealt with in the second concurrent resolution. I have outlined them specifically. They involve HUD low-income housing fuel adjustments. They involve veterans benefits. They provide the President's suggestions for new research and development. These are things that are known. But they are the kind of things which we would normally be contemplating by the second concurrent resolution.

Mr. SCHMITT. So the problem we have, the legislation problem, of dealing realistically with this bill or any appropriations bill is that there is no second concurrent budget resolution offering the guidance to us as we consider these measures.

Mr. BELLMON. If the Senator will yield, Mr. President, the normal procedure is to pass the first budget resolution, which sets targets, then pass the appropriation bills, hopefully at or below those targets. Then if, for some reason, the bills are above the targets, we do then pass the second budget resolution and it becomes binding. So if it turns out the bills are above the targets of the second resolution, then we have to go into reconciliation.

Mr. SCHMITT. The point this Senator is trying to make is that it seems that, to some degree, we are continually trying to put carts before horses. The Appropriations Committee keeps talking about the second concurrent budget resolution as if it is going to save the day. The Budget Committee keeps talking about the second concurrent budget resolution as if it is going to control the appropriations bills. We have goteten ourselves into a bind by not acting on any of these measures in an orderly process.

Mr. BELLMON. The Senator is correct.

Mr. SCHMITT. How we get out of that, I do not know. The Senator from Maryland is entirely to correct in that we know there are certain costs coming down the pike and that, without making fundamental law, we are going to have a very difficult time providing for them. I am not offering a solution. Like everybody else, I am simply outlining the problem.

Mr. PROXMIRE. If the Senator will yield, what we can do is quite simple. If we pass the Mathias amendment, we can recommit the bill and wait for the second budget resolution. That would be the honest, responsible way to do it. But of course, we would be delaying this bill further and if the second concurrent resolution is adopted by the Senate, not just recommended by the committee, and should be restricted in the conference or the Congress, then we would have no alternative but to make cuts, one way or the other.

Mr. SCHMITT. Mr. President, I yield the floor to the Senator from Oklahoma.

UP AMENDMENT NO. 1636

(Purpose: To reduce budget authority provided in this Act by 2 percent)

Mr. BELLMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant, legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 1636:

On page 48, beginning with line 24, strike out through line 6 on page 49 and insert the following:

SEC. 412. Notwithstanding any other provision of this Act, the total budget authority provided by this Act for each Department or independent agency for payments not required by law shall be reduced by 2 per centum: *Provided*, That this section shall not apply to budget authority provided by this Act for the Veterans' Administration.

Mr. BELLMON. Mr. President, this amendment has been read. It is totally self-explanatory. I should like to take just a moment to discuss it.

The Senator from Maryland is correct in noting that section 412 of the bill does not accomplish the purpose for which it was intended—to reduce budget authority $1 billion below the amount required by the reported appropriations bill. The Congressional Budget Office indicates that such language cannot be scored as a reduction in budget authority, even if such authority cannot be obligated in fiscal year 1981.

It is imperative that such a reduction be made, however, at least I feel that it is. The HUD appropriation bill, as amended, appropriates $74.9 billion of budget authority. Appropriation of another $1.7 billion is anticipated later in the fiscal year—primarily for cost-of-living increases in the veterans' compensation program. This would put the HUD Subcommittee about $900 million over its $75.6 billion allocation—the amount that the full Appropriations Committee anticipated would be required.

Mr. President, I wish to amend the Mathias amendment not only to eliminate the existing section 412 language but to substitute in its place language which would effect a 2 percent, across-the-board cut for each department or agency included in the HUD appropriations bill, with the exception of the Veterans' Administration. This is the intent and purpose of the amendment offered by myself and cosponsored by Senator Hollings and accepted by the full Appropriations Committee earlier this month.

This amendment does nothing more than accomplish the intent of that amendment.

I should note that, even with this amendment, the bill remains about $1.6 billion over the subcommittee's outlay allocation after taking account of possible later requirements. I regret that my amendment will not reduce this overage. However, holding the budget authority within the limits contemplated by the Appropriations Committee is a significant achievement.

I should also note that exempting research and development expenditures from the 2-percent cut would reduce the amount of the cut by $100 million in budget authority and would, thus, make the total bill that much over the Appropriations Subcommittee allocation. I recognize the desire of some of my colleagues to make this exemption. Nevertheless, even after the 2-percent cut, $6.4 billion of R. & D. funds exist for NASA, National Science Foundation, and other agency R. & D. expenditures—a substantial sum well above 1980 funding levels.

Mr. President, the entire Senate should understand the budget implications of what is happening in the appropriations process. If we do not hold all spending bills within Congress spending goals, we are seriously eroding the budget discipline to which the Senate committed itself last spring. If we continue on our present track, 1981 spending will be $20 to $30 billion higher than the $613 billion target we imposed on ourselves only last June.

Mr. President, that is basically the reason for my amendment. If we do not hold each bill down, the Senate is going to look at total 1981 spending that is $20 to $30 billion higher than we agreed to last June.

Adoption of this amendment, in my judgment, is imperative, because this is one of the important bills we shall be considering. If we do not start holding the line on this bill, I am not sure we shall hold it on bills that will come along later.

Mr. President, this amendment does nothing more than accomplish the objective we felt we were accomplishing when the bill was reported out of full Appropriations Committee. Mr. President, I strongly urge adoption of this amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, will the Senator yield for a clarifying question?

Mr. BELLMON. Yes, I yield.

Mr. PROXMIRE. As I understand it, this amendment meets the argument that we have simply handed over our discretion as a Congress, in the committee amendment, to the head of OMB. In other words, we said any cut between zero and 5 percent. Here the Senator from Oklahoma is saying that the cut shall be 2 percent; is that correct?

Mr. BELLMON. That is correct. It also exempts the Veterans' Administration.

Mr. PROXMIRE. It also says for payments not required by law. Would that mean if there is an entitlement program that requires a payment by law, there would be no cut in it?

Mr. BELLMON. That is the meaning of the amendment.

Mr. PROXMIRE. So in the event revenue sharing is an entitlement program, revenue sharing would not be reduced?

Mr. BELLMON. That is true.

Mr. PROXMIRE. I thank the Senator.

Mr. President, I support the amendment.

Mr. MATHIAS. Mr. President, let me utter just a word of caution about this amendment and a word of modest disagreement with the Senator from Wisconsin. This does not cure the problem of delegation to OMB of the discretion to make very large cuts in some programs and no cuts at all in other programs. It transfers that discretion from the Director of OMB to the Secretary of HUD.

Mr. BELLMON. Will the Senator yield?

Mr. MATHIAS. Certainly.

Mr. BELLMON. The amendment would require a 2-percent cut, agency by agency. Inside an agency, the cut could be more or less than 2 percent in the individual programs.

Mr. MATHIAS. That is precisely right. So that what will happen is that the same effect will probably take place, because the President will direct OMB to make recommendations within agencies. So the Director of OMB will then do indirectly what he would have done directly in the amendment in its primitive form.

Just as an example, these are the kinds of accounts within which these cuts can be made: annual contributions or section 202 programs for the elderly and the handicapped; congregate services; low-income housing; troubled projects; Federal Housing Administration; GNMA; solar energy and energy conservation; community development grants; UDAG grants; comprehensive planning; rehabilitation loan fund; housing counseling and assistance; neighborhood self-help; policy development research; fair housing assistance.

Each one of these is a separate account and there can be all kinds of shifting around within those programs. These are very large sums of money that we are dealing with here. What we are doing is delegating to the executive branch the work of the Appropriations Committee to determine the priorities.

● Mr. LEVIN. Mr. President, I oppose the amendment offered by the Senator from Oklahoma. This amendment, which reduces the total budget authority within the bill by agency, is an abrogation of congressional responsibility. While the amendment would not permit OMB to administer budget cuts, as the committee amendment would, it does permit agency heads and Administrators to determine budget cuts. It fails to allocate spending reductions after a careful analysis of specific programs and spending patterns by Senate and House committees. With this amendment, Congress effectively removes itself from the determination of these cuts.

When the Senate considered the McGovern "transfer" amendments involving the reduction of a fixed percentage of defense dollars. I opposed such broad brush budget actions for much the same reasons I now oppose the Bellmon amendment today. Congress must not delegate authority for program budget reductions to department heads. Congress should retain the responsibility for determining which specific programs or activities will be cut or which programs would be increased as a result of those reductions.●

Several Senators. Vote! Vote!

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. A rollcall vote is now in order since a Senator has responded already to the rollcall. The rollcall is in order.

Mr. STEVENSON. Mr. President, the Senator was seeking recognition before a Senator responded on the rollcall, I believe.

The PRESIDING OFFICER. In the opinion of the Chair, since the Senator from Montana responded to the rollcall before the Chair heard the Senator from Alabama seek recognition, it is the opinion of the Chair that the rollcall was in order.

The clerk will continue to call the roll.

The assistant legislative clerk resumed calling the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Arkansas (Mr. Bumpers), the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Culver), the Senator from Arizona (Mr. DeConcini), the Senator from Missouri (Mr. Eagleton), the Senator from Kentucky (Mr. Ford), the Senator from Kentucky (Mr. Huddleston), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Washington (Mr. Magnuson), the Senator from South Dakota (Mr. McGovern), the Senator from Mississippi (Mr. Stennis), the Senator from Alabama (Mr. Stewart), and the Senator from Florida (Mr. Stone) are necessarily absent.

I also announce that the Senator from Montana (Mr. Melcher) is absent because of illness.

Mr. STEVENS. I announce that the

Senator from Minnesota (Mr. DURENBERGER), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 56, nays 20, as follows:

[Rollcall Vote No. 434 Leg.]

YEAS—56

Armstrong
Baucus
Bellmon
Biden
Boren
Boschwitz
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Cochran
Cohen
Danforth
Dole
Domenici
Exon
Garn
Glenn
Hatch
Hatfield
Hayakawa
Heinz
Helms
Hollings
Humphrey
Inouye
Jackson
Jepsen
Kassebaum
Laxalt
Leahy
Lugar
Matsunaga
Mitchell
Morgan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Ribicoff
Roth
Sasser
Simpson
Stafford
Stevens
Talmadge
Thurmond
Tower
Wallop
Warner
Zorinsky

NAYS—20

Baker
Bradley
Cranston
Durkin
Gravel
Hart
Heflin
Levin
Mathias
Metzenbaum
Moynihan
Randolph
Riegle
Sarbanes
Schmitt
Stevenson
Tsongas
Weicker
Williams
Young

NOT VOTING—24

Bayh
Bentsen
Bumpers
Cannon
Church
Culver
DeConcini
Durenberger
Eagleton
Ford
Goldwater
Huddleston
Javits
Johnston
Kennedy
Long
Magnuson
McClure
McGovern
Melcher
Schweiker
Stennis
Stewart
Stone

So the amendment (UP No. 1636) was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the precedents of the Senate because the amendment offered by the Senator from Oklahoma (Mr. BELLMON) is an amendment in the nature of a substitute and covers the entire language of section 412, the section proposed to be stricken by the amendment offered by the Senator from Maryland (Mr. MATHIAS) and because the amendment offered by the Senator from Oklahoma prevailed, no action will be taken on the amendment offered by the Senator from Maryland.

ORDER FOR THE RECOGNITION OF SENATORS BIDEN AND DANFORTH TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees are recognized under the standing order, Messrs. BIDEN and DANFORTH be recognized each for not to exceed 15 minutes before the Senate proceeds to the consideration of the nuclear fuel sale resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1637

(Purpose: To exempt research and development from the provisions of Sec. 412)

Mr. HEFLIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. HEFLIN) proposes an unprinted amendment numbered 1637:

On page 52 after line 19 add:

"SEC. 418. Notwithstanding any other provision of this Act, the total budget authority for research and development provided in the Act shall be exempt from any or all reductions which may be levied on the overall Act."

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me

Mr. HEFLIN. I yield.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator.

Mr. President, may I ask Senators how many other amendments are expected to be called up? Mr. MATHIAS has an amendment.

Mr. HELMS. I have the same four I had Friday afternoon.

Mr. ROBERT C. BYRD. Mr. HELMS has four amendments.

Mr. HUMPHREY has one amendment.

Mr. BRADLEY has one amendment.

How many Members expect to ask for rollcall votes on their amendments?

Mr. ROBERT C. BYRD. Mr. MATHIAS does.

Mr. HELMS. Mr. President, if the majority leader will yield, I have no way of assessing that. Senator PROXMIRE and I have discussed two or three of them, and I think he may be willing to accept them, but I do not know.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished manager of the bill be able to comment?

Mr. PROXMIRE. Mr. President, unfortunately I cannot. While the Senator from Alabama is discussing his amendment perhaps I will have a chance to discuss this with the Senator from North Carolina so that I have an opportunity to assess the situation.

Mr. MATHIAS. The Senator from Alabama I think wants a rollcall vote on his amendment.

Mr. ROBERT C. BYRD. He wishes to have a rollcall vote.

Mr. HEFLIN. I do, unless the Senator from Wisconsin, the manager, will accept this amendment.

Mr. PROXMIRE. I am afraid not.

Mr. ROBERT C. BYRD. Mr. President, I am trying to ascertain whether or not we should proceed to try to finish the bill tonight.

The Senator from New Jersey wishes a rollcall vote on his amendment.

Mr. BRADLEY. That is correct.

Mr. ROBERT C. BYRD. So those are two rollcall votes. Mr. MATHIAS wishes a rollcall vote so that is three. And Mr. HELMS maybe.

So this would mean, if we did nothing but start calling the roll right now, it would be 8 p.m. on those rollcall votes, not counting any rollcall votes on the amendments of Mr. HELMS, and there may be rollcall votes on his, but that would allow for no debate at all. It would be at least at the earliest 8 p.m.

I wish to ask the managers of the bill how they feel. It looks to me as though if we finish the bill, it would be 10 p.m.

Mr. PROXMIRE. Mr. President, if the Senator will yield, I earnestly hope the Senate will try to finish this bill tonight, even if it takes until 10 or 11 p.m. I realize it is a serious imposition on Senators. But it is a bill that has been pending since last Monday. It is the kind of bill, frankly, that if we do not finish it tonight, we are going to be on it for whatever time we can devote to it. We have another matter up tomorrow and Wednesday as Senators know. I hope we can stick with this bill and finish it. I hope we attempt to do it.

The Senator from North Carolina is a very accommodating man. He does not take long on his amendments. I hope we can dispose of those amendments rather quickly. I hope under the circumstances we can finish with the bill by 10 p.m.

Mr. MATHIAS. Mr. President, I concur in the judgment of my friend from Wisconsin, but I think realistically the amendment that I am forced to offer is going to be a complex one. There is a lot of interest in it. There may be a lot of participation in it. I would not want to delude the Senate or the majority leader that it is going to be disposed of very quickly.

I see the Senator from Arkansas raising his eyebrows, licking his chops, and getting ready for the fray.

Mr. BIDEN. Mr. President, if there is a reasonable prospect of completing this bill tonight, I understand the leader's feelings, and I will not object, not that I could object any way, but I will make my objection known. I have a feeling we are into what often occurs here, understandably, and that is we will probably stay here until probably 10 p.m. tonight and still not finish the bill and be back on it tomorrow. In fact, we have time to do it all. I, for one, would hope we would act on maybe an amendment or so but not keep us here until 10, 11 or 12 o'clock, and let this thing drag.

Mr. PROXMIRE. Mr. President, I earnestly hope we do stay and finish the bill. It is painful and tough. If we do not, we are going to stretch this out for the next couple of days. I realize the majority leader is in a very difficult position. But I hope that he comes down on the side of severity.

Mr. ROBERT C. BYRD. I say the Senator has been very considerate of the Senate. He has been willing to have his bill pushed aside temporarily repeatedly, and I have a lot of empathy for his wanting to continue action on it.

Why do we not proceed to finish the amendment by Mr. HEFLIN and then take another look at the situation?

Mr. PROXMIRE. All right.

Mr. ROBERT C. BYRD. If we could

finish by 10 p.m., it would be fine. One thing we do not want to do is go beyond the point of no return thinking we are going to finish and then find that after we have spent the entire evening, being here until 10, 10:30 or 11 p.m., we are still not going to finish. That is the one thing I do not think we ever do, or it is very seldom.

If we will go ahead, we will make a decision around 7 or 7:30 p.m. that we are going to go to the end and we try to stick to it.

We do not want to go to 9:30 or 10 and then not finish. If we are not going to finish, we ought to go out after the Senate acts on this pending amendment. So let us assess the situation and see if we can resolve this matter at the time the Senate disposes of his amendment.

Mr. BRADLEY. Mr. President, will the Senator yield at that point?

Mr. ROBERT C. BYRD. Yes.

Mr. BRADLEY. My amendment is directly related to the amendment of the Senator from Alabama. Therefore, I think ours should be taken up together and it probably will not take much time.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. BRADLEY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Alabama has the floor.

Mr. HEFLIN. I yield to the Senator from New Jersey.

UP AMENDMENT NO. 1638

(Purpose: To reduce the appropriations for each department or independent agency by 2 per centum)

Mr. BRADLEY. Mr. President, I send an amendment to the desk in the nature of a substitute and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY) proposes an unprinted amendment numbered 1638 in the nature of a substitute to the Heflin amendment, unprinted numbered 1637.

Mr. BRADLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. PROXMIRE. I object. I want the amendment read.

The ACTING PRESIDENT pro tempore. Objection is heard.

The legislative clerk read as follows:

In lieu of the language proposed to be inserted insert the following:

"SEC. 418, notwithstanding any other provision of this Act, the total budget authority for research and development and general revenue sharing provided in the Act shall be exempt from any or all reductions which may be levied on the overall Act."

Mr. BRADLEY. Mr. President, this amendment—and I will be very brief—simply protects revenue sharing from this cut, from any reasonably possible attack. The previous amendment protected all entitlements programs, and it is conceivable, although unlikely, that in considering revenue sharing the local share might not make that an entitlement, so this simply locks up the revenue-sharing funds from the cut that is proposed by the amendment just adopted by the Senate.

Mr. PROXMIRE. Mr. President, why does not the Senator from Alabama simply modify his amendment to accept the Bradley amendment and then we can discuss them as a single package. Would that be all right? We do not have to take them up separately.

Mr. BRADLEY. It is a substitute so they are together.

Mr. HEFLIN. As long as they are not subject to any amendments.

Mr. BRADLEY. They are both on revenue sharing.

Mr. PROXMIRE. Mr. President, may I say then that I will object to the amendments together, but I think in order to save time we might by voice vote accept the substitute amendment and then have the opportunity to discuss the Senator from Alabama's amendment as amended. Does the Senator understand?

Mr. BRADLEY. If the Senator is prepared to accept the substitute, I would be delighted.

Mr. PROXMIRE. First, may I inquire from the Chair. May I ask, Mr. President, if the Bradley amendment is accepted as a substitute for the amendment of the Senator from Alabama, does that put the entire amendment in the bill or does it simply mean the amendment of the Senator from Alabama, as amended by the Senator from New Jersey, is then before the Senate?

The ACTING PRESIDENT pro tempore. If the amendment offered by the Senator from New Jersey is accepted, and if it is a substitute, then that language will be before the Senate and may not be amended.

Mr. PROXMIRE. Then it would be in the bill.

The ACTING PRESIDENT pro tempore. Would not be in the bill. The Senate would then have to vote on the amendment offered by the Senator from Alabama, as amended.

Mr. PROXMIRE. That was my understanding. So if we simply accept the Bradley amendment then we have the Heflin-Bradley amendment before us, and we have the opportunity to vote up or down on that amendment; is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. PROXMIRE. I have no objection to having the Senate act on the Bradley substitute. That would put the Heflin-Bradley amendment before us for consideration.

Mr. BRADLEY. Mr. President, I move its adoption.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from New Jersey.

Mr. BRADLEY's amendment (UP No. 1638) was agreed to.

The ACTING PRESIDENT pro tempore. The question now is on agreeing to the amendment of the Senator from Alabama, as amended.

Mr. HEFLIN. Mr. President, this amendment would protect research and development from the 2-percent cut. In the across-the-board cut you have here some independent agencies, such as the National Aeronautics and Space Administration, the National Science Foundation, which are carrying on research. In HUD there is considerable research being undertaken with respect to solar energy. These, in my judgment, are very important programs, and that research and development is very much needed. It is also needed because of the fact that, as we look across these agencies, it will increase our national productivity. To cut research and development from this bill, in my judgment, would be counterproductive.

The new budget authority for research and development for the various agencies and departments that is contained in this bill is extremely important.

The Joint Economic Committee recently recognized that the only way to absorb higher energy costs without higher inflation is to increase our national productivity. The wellsprings of this Nation's productivity and future economic growth are in higher technology products. High technology is a direct result of advanced research and development. The U.S. economic competitiveness can be maintained only if we continue to seize the technological initiative.

It has been widely recognized that high technology research and development results in significant social returns all out of all proportion to their cost.

My amendment would provide here that regardless of the across-the-board cuts in the bills, such as in section 412, that the budget authority for research and development would be exempt. I think it is an important issue and we should consider it carefully; this is going to be important in a lot of ways.

We have, for example, in NASA some very important developments that are taking place in research and development. One of these deals with the use of solar energy as a method of space propulsion. Today we have the conventional type of propulsion, which is chemical. But through research and development a new concept of propulsion using the Sun's energy is possible. This solar electric propulsion concept to propel into space our spacecraft, to be used particularly with the Shuttle, would be an important advancement.

I do not want to see OMB or some other body strike this from the program, as well as some of the other initiatives that should be started in NASA. I understand there are also some new developments in the National Science Foundation; there are developments that will be going into solar energy in housing that are very important.

The President has given us a goal by the year 2000 to have 20 percent of our energy needs provided by solar energy. I think it would be very, very disastrous to this country to start cutting on our research and development.

Therefore, I ask the Members of the Senate to adopt my amendment, which would protect research and development from these cuts.

Mr. PROXMIRE. Mr. President, will

the Senator yield for a question? Can he give us any idea how much money this would take? It would not add any money to the bill, as I understand it. It would not add any money to the bill because what it would do is allow us to spend less money for housing, and so forth, and environment, and some of the other purposes, and we would spend the full amount that was in the bill originally for R. & D.; is that correct?

Mr. HEFLIN. That is my understanding.

Mr. PROXMIRE. Well, as I calculate it, NASA is virtually entirely an R. & D. agency—not entirely, but very close to it. It is a more than a $5 billion agency. So I take it that this would mean that we would have to find a way to take $100 million more out of other programs. Is that right? Because we would exempt the $100 million otherwise that might come one way or another out of NASA.

Mr. HEFLIN. Only the 2-percent cut would not be applicable to research and development.

Mr. PROXMIRE. Well, if the Senator does it that way, then it would put money back into the bill. It would mean that there would be no cut in R. & D. for NASA, which is practically the whole NASA program. In other words, NASA would be exempt from the cut. The 2 percent, however, would be cut from the other programs. Then we would lose some $100 million more for NASA.

Mr. HEFLIN. Mr. President, I do not believe you would have the 2-percent cut across the board, as the committee has had it. It would say that for research and development, there would not be any cut in research and development.

Mr. PROXMIRE. Well, the Senator indicates that research and development shall be exempt from any or all reductions which may be levied on the overall act. Then the amendment would take the amount for research in the National Science Foundation and for NASA and for revenue sharing and set them aside and then we would cut 2 percent of what was remaining. Is that right?

Mr. HEFLIN. That is right.

Mr. PROXMIRE. Then that would mean that we would have a lesser cut and, therefore, there would be more money in the bill than if the Heflin-Bradley amendment had not been offered. In other words, we would still have, as I calculate it, more than $200 million added to the bill, in effect, by the Heflin-Bradley amendment.

Mr. HEFLIN. As I understand it, for R. & D. across the board, it amounts to about $140 million.

Mr. PROXMIRE. Well, then, we have revenue sharing, in addition to that.

Mr. MATHIAS. Will the Senator from Wisconsin yield?

Mr. PROXMIRE. Yes.

Mr. HEFLIN. That is a moot question.

Mr. PROXMIRE. I think it is a moot question. That is why I was very disappointed that the Senator from New Jersey offered his substitute. It is an attractive program that many Senators feel very strong about, but there is just no question in my mind that it will be deemed an entitlement program. It has been in the past. I think the Senate, if not the committee, would make that very clear.

Therefore, because it is a program that would provide money in accordance with the law, there would be no cut made.

Mr. MATHIAS. If the Senator from Wisconsin will yield, the way he has interpreted the Heflin amendment, I think, is an attractive way to interpret it; that the R. & D. money would be exempted, but that the other parts of the program would not suffer a commensurate increase in cut.

If that is the way we can leave this, I think this is a happier way to leave it than under the other interpretation, which would be that the R. & D. money was exempted. Then all of the cuts, all of the 2 percent has to come out of the operating budget.

Mr. PROXMIRE. It may be a happier way for the Senator from Maryland. It depends on your viewpoint. From the standpoint of the taxpayer, it is not a very happy way, because it means he has to spend $140 million more than he would otherwise have to spend. Once we start exempting, where do we stop? We have the environmental programs. We have community development programs. We have a lot of other very attractive programs. We have a lot of other very attractive programs that other Senators can get up and say, "I think we ought to exempt these programs."

So if you are going to begin to make exemptions of this kind, it seems to me it is unfair. A 2-percent cut really is not gutting any of these programs at all. They can live with a 2-percent reduction. But $140 million is a lot of money.

What the Senator is doing is he is adding $140 million to the bill above what the Appropriations Committee provided. Is that not right?

Mr. HEFLIN. What we are doing in this instance is protecting research and development. We feel that is something the committee should have done. Our effort here to protect that and to protect it in that manner.

It also protects it from the possibility of the 5 percent that could occur from OMB if the House language should prevail. That is the way it is written with the 2 and 5 percent. If 5 percent is taken out of NASA's research and development program, we would have no research and development.

Mr. PROXMIRE. Let me point out to my good friend from Alabama that if you take 2 percent, you have 98 percent remaining. No. 1. No. 2, the NASA budget, which is the principal agency that would be affected by the amendment of the Senator from Alabama, is $65 million over the budget now. So it is not an agency that has been starved by the committee. We put in more than the administration requested, $65 million more.

To now say that they will be exempt, even though they are over the budget, and that these other agencies that are, in many cases, under the budget shall be cut further seems to be inequitable. Add to this the further unfortunate fact that you are adding $140 million to the bill by your amendment.

Mr. SCHMITT. Will the Senator yield?

Mr. PROXMIRE. I am happy to yield to my friend from New Mexico.

Mr. SCHMITT. Just for clarification, I think it is well to point out that R. & D., significant research and development occurs in the Department of Housing and Urban Development, in the Environmental Protection Agency, in the National Science Foundation, as well as in NASA. And there may be one or two other areas where R. & D. would be protected under this particular amendment.

Mr. PROXMIRE. Will the Senator yield on that?

Mr. SCHMITT. I will just add one other thing. As the Senator from Wisconsin is well aware, we have a very unusual and I would say very uncomfortable situation in conference on this bill, because the House has put nothing in their bill for NASA. I do not think it is realistic to really look at the total NASA budget in terms of any particular other bill because of that situation with the House.

Mr. PROXMIRE. I think the Senator knows it was not because of any bias against NASA in the House. There is strong support there for NASA. The reason there was because it was not authorized. They will go with the full amount for NASA, in all likelihood. It is very unlikely they are going to use that position for a reduction in NASA.

But I point out to my friend that this does not just exempt NASA. It exempts a number of other agencies; HUD, for instance. And the Senator from New Mexico supported some of the reductions for HUD in R. & D. Many people support research and development. OK. It is great. Stand up and salute. But we know that some of these programs are good and some are not.

Mr. SCHMITT. If the Senator from Wisconsin will yield, he is absolutely correct. Some are good and some are not. In the process of the amendments it is sometimes difficult to draw a distinction. But I think it is important for us to recognize the deficiencies that are being created within our total research and development technology base in this country.

Although there might be a more elegant crafting of the amendment offered by the Senator from Alabama, as modified by the Senator from New Jersey, nevertheless, the intent, as I understand it, is to see that research and development does proceed in this very uncomfortable period for the United States, for we have fallen behind the rate of growth of our technology base in many areas and particularly those areas covered by the Senator's amendment, with the possible exception of some of the activities in HUD. The solar activities in HUD are certainly worth preserving. A great deal of that activity is done in cooperation with the Department of Energy and NASA and other agencies and I think can stand up fairly well to objective scrutiny.

There are other activities called research and development that the Senator well knows I question. Unfortunately, it is very difficult, it is almost impossible to get to those details on the floor as we could in the committee hearings and in the committee markup.

Mr. PROXMIRE. Mr. President, I just say that we leave 98 percent of the money that was provided for R. & D. for NASA and so forth. The option is whether or not the Senate wants to make it 100 percent and, at the same time, add another $140 million to the bill. That is the issue.

Have the yeas and nays been ordered?

Mr. SCHMITT. I do not think so as yet.

The ACTING PRESIDENT pro tempore. The yeas and nays have not been ordered.

Mr. PROXMIRE. Does the Senator request the yeas and nays?

Mr. HEFLIN. Yes.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCHMITT. Mr. President, I would make one final comment, and then, unless the Senator from Illinois seeks the floor, we can go ahead.

The Senator from Illinois and I were in a hearing the other day which was an oversight hearing on the Office of Science and Technology Policy. I will not speak for him, but I frankly was very disappointed in the administrations sanguine view of the state of research and development in our country.

To say the least, they put a very rosy picture on a situation in this country that this Senator and other Senators, I am sure, and others both inside and outside the Government, think is a poor definition. Basic research policy is simply not occurring in a great many areas where it should be occurring. A great deal of that is covered by this bill. I hope Senators as they cast their vote will recognize that there is a policy vacuum in this country and that policy vacuum is going to have to be filled by the Congress. The administration has not filled it and does not seem in many areas intent on filling it. This vote really is to put the Congress on record that research and development is going to proceed forward as it should in a country like the United States.

SEVERAL SENATORS. Vote! Vote!

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment, as modified, of the Senator from Alabama. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Arizona (Mr. DECONCINI), the Senator from Missouri (Mr. EAGLETON), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Mississippi (Mr. STENNIS), the Senator from Alabama (Mr. STEWART), and the Senator from Florida (Mr. STONE) are necessarily absent.

I also announce that the Senator from Montana (Mr. MELCHER) is absent because of illness.

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. DURENBERGER), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 35, nays 38, as follows:

[Rollcall Vote No. 435 Leg.]

YEAS—35

Baker
Boschwitz
Bradley
Cochran
Cranston
Danforth
Durkin
Glenn
Hatch
Hayakawa
Heflin
Heinz
Humphrey
Jepsen
Kassebaum
Laxalt
Leahy
Levin
Lugar
Matsunaga
Moynihan
Packwood
Pell
Randolph
Riegle
Roth
Sarbanes
Schmitt
Stafford
Stevens
Stevenson
Tower
Weicker
Williams
Young

NAYS—38

Armstrong
Baucus
Bellmon
Biden
Boren
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Cohen
Dole
Domenici
Exon
Garn
Hart
Hatfield
Helms
Hollings
Inouye
Jackson
Metzenbaum
Mitchell
Morgan
Nelson
Nunn
Percy
Proxmire
Pryor
Ribicoff
Sasser
Simpson
Talmadge
Thurmond
Tsongas
Wallop
Warner
Zorinsky

NOT VOTING—27

Bayh
Bentsen
Bumpers
Cannon
Church
Culver
DeConcini
Durenberger
Eagleton
Ford
Goldwater
Gravel
Huddleston
Javits
Johnston
Kennedy
Long
Magnuson
Mathias
McClure
McGovern
Melcher
Pressler
Schweiker
Stennis
Stewart
Stone

So Mr. HEFLIN'S amendment (UP No. 1637), as modified, was rejected.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE URBAN DEVELOPMENT ACTION GRANT PROGRAM—A SUCCESSFUL TOOL FOR URBAN REVITALIZATION

● Mr. MITCHELL. Mr. President, I rise today to say a few words in support of the urban development action grant (UDAG) program. The HUD appropriations bill currently pending contains $6.5 million for it, the same level as in the present fiscal year.

The urban development action grant program is, in my opinion, one of the more important and effective Federal programs that has been developed to date. Its aim is to revitalize distressed towns and cities throughout the country by means of economic development and reclamation of deteriorated neighborhoods.

The program has many attractive features that contribute to its success. First, it supports a wide variety of activities—from industrial to commercial to housing rehabilitation. In this manner, distressed communities have a substantial amount of flexibility in designing a revitalization program that is tailored to their needs and suited to remedy specific problems.

Second, the program requires private investment for specific projects before they can ever receive UDAG funds. This is significant because it insures that revitalization projects of various kinds are conceived and planned in conjunction with individuals of the private sector. It gives them a stake in the venture by letting them make some of the crucial decisions as to the extent of renovation or the extent of new business or industry to be generated. And it maintains their interest throughout the process because they have a direct financial investment in the activities.

The concept of a public-private partnership in helping to achieve the revitalization of our cities is sound. The proof of that statement lies in the successes achieved in UDAG communities throughout the country.

And those successes are reflected in the congressional support which has been shown thus far. During the first 2 years of the program's history, annual appropriations totaled $400 million. However, the program's popularity helped boost spending to $675 million during fiscal 1980 and both Houses of Congress are recommending a similar amount of funding for the coming year.

This, Mr. President, is significant. At a time when Congress is scrutininzing all programs, and cutting back on a number of them, the UDAG program is passing through the authorizing and appropriations committees with flying colors. The House and Senate passed housing authorization legislation earlier this year which authorizes the program at $675 million during each of the next 3 fiscal years. And both the House and Senate Apprpriations Committees are calling for $675 million in actual funding for fiscal year 1981.

In continuing the program at this level of funding, there is a realization on all sides that Congress is getting much more than $675 million worth of revitalization activities. We will see three or more times as many private dollars injected into those same activities. The total investment being made in the distressed communities of this country should therefore go a long way in reversing their decline and bringing to them new economic and financial health.

I am proud to say that the urban development action grant program has been not only popular but successful in my home State of Maine. A dozen communities, both large and small, are now participating in it. In the few months since I have been in the Senate, I have visited many of those same cities—cities such as Portland, Biddeford, Rockland and Pittsfield. I encountered a great deal of enthusiasm about the program and the benefits which will accrue.

Word of the UDAG program's success has spread throughout the State. I was recently advised that the city of Calais, in the easternmost part of Maine, has submitted a proposal for approval to the Department of Housing and Urban Development.

Mr. President, I applaud the individuals from the public and private sectors who have worked to bring new life to their communities. The urban development action grant program has proven to be a successful tool in the revitalization of distressed cities.

I hope to see more communities in Maine participate in it—and am pleased to see enthusiastic congressional support for its continuation at a full level of funding.

Mr. ROBERT C. BYRD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROBERT C. BYRD. May I have the attention of the Senate?

The ACTING PRESIDENT pro tempore. The Senate is not in order.

The Senator from West Virginia.

ORDER OF PROCEDURE ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, under the order entered some days ago, the Senate on tomorrow, after the recognition of the two leaders or their designees under the standing order, is to proceed to the consideration of Calendar Order No. 1028, Senate Concurrent Resolution 109, concurrent resolution disapproving the proposed export to India of low-enriched uranium for the Tarapur Atomic Power Station.

Mr. President, if the Senate is to stay in this evening until it completes action on the HUD appropriation bill, in all likelihood it will require another 3 or 4 hours.

Mr. President, I ask unanimous consent that the order be changed as follows: That immediately upon the completion of the orders for the recognition of the two leaders or their designees, and the orders for the recognition of other Senators which have been entered already, the Senate on tomorrow resume consideration of the HUD appropriation bill; and that upon the disposition of the HUD appropriation bill, the Senate then proceed to the consideration of Calendar Order No. 1028, the Tarapur resolution.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, the purpose of the reservation is to provide an opportunity to advise the majority leader that I have checked with the responsible members of the Foreign Relations Committee on this side, and with other interested Senators, and I find that the general view is that this is a more reasonable and logistical way to conduct the affairs of the Senate in respect to this appropriation bill and Tarapur.

Therefore, I wish to state to the majority leader that I do not object to his request, as stated.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

I want to make sure that prolonged action on the HUD appropriation bill does not get in the way of the disapproval of the resolution.

I, therefore, ask unanimous consent that if the Senate does not complete action on the HUD appropriation bill tomorrow, and I do not think there is any doubt but that the Senate will complete action on the HUD appropriation bill tomorrow, the Senate then, the following day, proceed to the consideration of Calendar Order No. 1028, after the leaders or their designees have been recognized under the standing order.

Mr. BAKER. Mr. President, once again, reserving the right to object, and I have no intention of objecting, I agree with the majority leader that that is a reasonable precaution to take.

I might say, however, I know of absolutely no inclination on this side to delay or slow down the consideration of the HUD appropriation bill or, certainly, no inclination or intention to try to postpone the vote on the resolution of disapproval.

I will vote against the resolution of disapproval. I know that there are other Members on this side who have a different and contrary view.

But I know of no movement to try to thwart the will of the Senate in that respect.

Mr. ROBERT C. BYRD. I thank the minority leader.

Mr. GLENN. Reserving the right to object, and I do not plan to object, that is the main concern I had, that we remember we have a time running on this particular resolution of disapproval that expires the 27th of September—I ask the Parliamentarian—which I believe is the 60-day limit, not too close to that time period.

I hope whenever we do bring Tarapur up that we have a full day to have some continuity and go right through.

I would be happy to agree now to put this off to be the order of business the day after tomorrow and take it up in the morning and go right through.

I do not know whether most Members realize, we have a 10-hour time limit that was written into that law, 5 hours equally divided. So we could have a 10-hour session on 1 day. That would be a good way to take care of it.

Mr. MOYNIHAN. Will the Senator yield?

Mr. GLENN. Yes.

Mr. MOYNIHAN. I endorse the proposal. It seems to me that the Tarapur decision is a major one and ought to be an occasion in which the Senate considers the matter from beginning to end in one session, when we are all present.

I think the Senator from Ohio made a very wise proposal. I would like to endorse it.

Mr. GLENN. I appreciate the remarks of the distinguished Senator from New York.

It is a very important matter. I will not give a speech on it this evening.

But I hope Members could all set aside time to participate in the debate. It can determine our nuclear policy for the foreseeable future. I think it is that important, and that something of this import deserves very close attention. I hope we can give it personal attention on the floor.

I would be happy if we had a full day and perhaps have as many Members as possible on the floor to go through the whole thing in 1 day.

Mr. SARBANES. Will the Senator yield?

Mr. GLENN. Certainly.

Mr. SARBANES. I agree, although we are on different sides of the issue. I think the important thing is that once we take it up we not interrupt it or set it aside to consider other measures. I think that is more important than whether we begin debate tomorrow afternoon and have part of the debate then and then go over to the next day in order to complete it.

In fact, I can see some advantages to the latter approach, to give Members an opportunity overnight to think through some of the opening arguments which will have been made.

But I do agree that once we go to it, we ought not then set it aside to take up some other measure.

But I think we could go to it and do a good part of the debate and, if time did not permit, resume it next day.

Mr. GLENN. Could the majority leader give us any estimate of what he thinks the time will be that will be left on the current bill?

Mr. ROBERT C. BYRD. I really cannot. As I indicated a moment ago, it probably would require another 3 to 4 hours to finish it tonight. What it will require on tomorrow, I do not know. It might be less; it might be a little more.

Mr. GLENN. I withdraw my objection.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, for the benefit of the knowledge of the Senate, there will be no more rollcall votes today.

I thank Mr. PROXMIRE for his cooperation and his consideration in being willing to proceed to resume consideration of the bill on tomorrow rather than to continue it today.

Both he and Mr. MATHIAS have seen the HUD appropriations bill moved aside temporarily a number of times, and they have been very cooperative and understanding in this regard, and I hesitate to make the request again tonight. I appreciate the cooperation, and I am sure the minority leader does, also. I hope it will not have to be done again.

VETERANS DISABILITY COMPENSATION AND HOUSING BENEFITS AMENDMENTS OF 1980

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Chair be permitted to lay before the Senate a message from the House of Representative on H.R. 7511.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CRANSTON. Mr. President, this is an effort to get before the Senate a message that must pass in order to take final action on a measure that has passed the Senate and passed the House. A compromise has been worked out with the House committee to provide for a very much-needed cost-of-living increase in the rates of compensation for 2.3 million service-connected disabled veterans and dependency and indemnity compensation for the survivors of veterans who have died from service-connected causes.

The bill also makes improvements in Veterans' Administration housing assistance programs.

This is an increase in allotments that is fair, that veterans and their dependents and survivors are entitled to receive on time, just as did social security and SSI beneficiaries, railroad retirees, and non-service-connected disabled pensioners.

If we do not act on this bill now or in the very immediate future, those checks will not go out on time. These veterans, their survivors, and their dependents will not get the catch-up they are entitled, which has occurred for social security beneficiaries, for SSI beneficiaries, for railroad retirees, and for non-service-connected disabled veteran pensioners.

It makes no sense at all to deny this to these veterans and their survivors and dependents.

Mr. President, I inquire from the distinguished minority leader why he felt it necessary to object.

Mr. BAKER. Mr. President, if the Senator will yield, there is nothing more fundamental in the Senate than that an objection by an individual Member stands on its own and requires no explanation.

The request by the distinguished assistant majority leader, I think, is a reasonable request under the circumstances, and I will honor his request to this extent: The objection was lodged by the Senator from Tennessee but on behalf of another Member on this side.

As I believe the Senator from California knows, throughout my tenure as leader, I have declined to identify those who request that I lodge objections on their behalf, and therefore I must respectfully do so at this time.

Mr. CRANSTON. I understand that.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. MITCHELL). What is the will of the Senate?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond 30 minutes, and that Senators may speak therein.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

THE TITAN II EXPLOSION

Mr. PRYOR. Mr. President, on Friday morning in Damascus, Ark., a Titan II missile exploded leaving 1 dead, 1 critically injured, and at least 20 others hurt.

It was not an easy 48-hour period for the residents of the surrounding area, for the military, or for any of us for that matter. The threat of toxic vapors escaping into the atmosphere together with the possible dangers of radiation leaks from a nuclear warhead that was thrown from the missile gave us good reason for concern.

However, it is not entirely about the accident at Damascus that I wish to speak today. There are still 53 other missiles in Arkansas, Kansas, and Arizona and it is our responsibility now to turn our attention to the remaining sites.

Last Tuesday, the Senate authorized the installation of a siren alarm system at each of the Titan II missile sites in populated areas. We must now do everything possible to insure that this amendment is included in the conference report on the military construction bill. This is the least we can do.

To a degree, we were fortunate in the case of the Damascus incident. Time was on our side. Most people were home from work and in front of their television sets or within earshot of their radios and telephones when the evacuation orders were given. In this case our present primitive, "Paul Revere" method of warning worked reasonably well. The sheriff and other designees were able to spread the word by telephone or going from door to door. Still there were those who live in the surrounding area who were not aware of the danger and did not leave their homes.

Next time, the timing might not be so good. Farmers might be in the fields working. Children might be out playing or in the school nearby. It might take hours to find them to tell them of the possible dangers of toxic vapors or falling debris.

As many of my colleagues will recall, I have been extremely concerned about the lack of an effective warning system almost since coming to the Senate.

Last year, the defense appropriations bill was amended on the floor to give the Air Force the authority to install such a system. But, obviously they did not feel compelled to act upon this recommendation.

Now, I think it is time not just to move ahead with the installation of warning devices, but to take a critical look at the safety of the entire Titan II system. It must be a much more critical look than was taken in the May 1980, Air Force study which called the physical condition of the Titan II weapon system "good and considered better now than when it was new."

This same study also said "maintenance procedures are adequate to safely and effectively maintain the system."

Last week's explosion together with the continued incidents of leakage over the past few years lead me to have serious doubts about this report.

This morning I met with the distinguished chairman of the Senate Armed Services Committee, Senator STENNIS, who indicated that the committee was undertaking an investigation of the entire Titan II weapon system.

I for one appreciate the immediate response of the Senator from Mississippi to this situation. One of his staff people was in Arkansas by Friday afternoon in order to be able to give the chairman and the committee a first hand report.

There are many questions we need answered. Are the missiles safe? Are they adequately maintained? Are they the most effective commitment of our defense dollars? How do they fit into our overall security plan?

Many of these same questions are raised in a recent set of articles by Washington Post writer Walter Pincus. I commend this series to the Senate and ask that they be reprinted in the RECORD at the conclusion of my remarks.

While reading these articles, it should be noted that they were written and scheduled to run even before the incident at Damascus.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 20, 1980]

AGING TITAN II WAS TIME BOMB READY TO GO OFF

(By Walter Pincus)

For several years, the 54 aging, giant Titan II missiles have been major accidents waiting to happen.

Before yesterday, two airmen had been killed and nearly 80 injured, some seriously, as the result of leaks in the missile's fuel and propulsion systems and other accidents.

In addition, there have been hundreds of small incidents in the last five years, most of them unreported to the public, and a number of close calls.

In August 1979, for example, a metal rod dropped on an electric circuit breaker in a Titan silo near Heber Springs, Ark., causing a fire. While the flames were being extinguished, the oxidizer and fuel in the missile heated up, creating great pressure.

According to a senior technician there, "Only great skill kept that missile from exploding." Unlike rural Damascus, site of yesterday's accident, Heber Springs is located in a populated area.

The Heber Springs incident and nine other leaks and accidents at Arkansas Titan sites since March 1979 became public only last month. They were contained in a list the Air Force turned over in response to requests from Sen. David Pryor (D-Ark.), The Washington Post and network news producer Robert Lissit.

Last January, responding to similar requests from Kansas congressmen, the Air Force disclosed there had been 125 incidents between 1975 and 1979 at Titan sites in Arkansas, Arizona and Kansas.

The Titan II was first tested in 1961 and by December 1963, the three Titan squadrons totaling 54 missiles were declared operational.

With a nine-megaton warhead—equivalent to nine million tons of TNT—it was more than 700 times more powerful than the Hiroshima bomb. The purpose of the Titan II warhead was to threaten enemy cities. Initially it was aimed, for the most part, at targets on Mainland China.

Originally designed for 10 years of service, the Titans were scheduled to be retired beginning in 1971. The Pentagon wanted to get away from their dangerous liquid propellants in favor of the safer solid-fueled Minuteman.

The Titans, however, have remained operational for more than 18 years, a bitter reminder of Henry Kissinger's unsuccessful attempt to trade them away during the 1972 SALT I negotiations.

Kissinger offered the Titans as a sacrifice to get the Soviets to reduce the number of their giant SS9 missiles. The deal failed, and the Titans have remained in America's arsenal since.

In recent years, however, the Air Force Strategic Air Command began to run out of parts for the complex missile system. And since the Johnson administration had planned to retire them, no additional missiles were bought, the normal backup missiles had been used up and reliability test firings had to be stopped.

During its normal lifetime, the missile occasionally began to leak the highly volatile liquid fuel and oxidizer that is used to ignite the fuel.

Beginning in 1978, however, as the aging fuel system seals began to corrode, the leaks became more serious.

That year there were two major leaks that became public. One was in Arkansas, at Damascus; the second near Rock, Kan., where two airmen lost their lives and 30 others were injured as a result of exposure to the deadly oxidizer gas.

Despite the fatalities, there was little general public concern over the Titan II.

SAC already had been forced to make major repairs in Titan operational systems. For example, the guidance mechanisms had begun to fail in the mid-1970s. A system was developed out of the Titan III space launcher and put in the Titan II.

The last firing of a Titan II missile took place in 1976 when the new guidance system was tested. It was declared a success and over the next three years, the new guidance mechanism was put into the remaining missiles.

No Titan IIs, however, have been flight tested since that date. In fact, since there are only two spare Titan II shells, the Air Force has yet to replace the Rock, Kan. missile that was destroyed by the major leak.

Since the 1978 leaks, SAC emphasis has been on developing better safety systems for handling the toxic fuel and oxidizer.

While this repair work has been going on, however, SAC has been fighting off all efforts in Congress to question the missile's safety or usefulness.

In 1979, Pryor tried to get funds for an alarm system at the missile sites to warn neighborhood civilians of a leak, SAC opposed it and the senator had to be satisfied with an Air Force study on the safety of the Titan.

Meanwhile, Pryor's aide in Arkansas, James L. Rutherford III, began private talks with officers and airmen on the Titan II repair and maintenance program.

He discovered, for example, that on the day Pryor was taken to look at one Titan site in 1979, the missile at another site was leaking.

He also was told that on that day, 13 of the 18 safety devices designed to record dangerout levels of oxidizer gas in silos at the Arkansas sites were not working.

Many of the airmen assigned to the missile sites said they were worried about the constant breakdowns inside the silos.

A top technician told Rutherford that he was having trouble keeping qualified engineers working on solving the new problems that were developing on the old missile. Engineers were needed he said, because there were no longer spare parts and repairs had to be improvised.

When the Air Force released its report on the Titan II this May, it declared the system safe for the foreseeable future and said it "would remain a highly reliable, accurate weapons system through the 1990s."

The report, however, pointed out that 19 Titan II missiles had needed one or more tank patches because of corrosion, an indication that the skin of the missile was weakening.

The only hint that perhaps something might be amiss with the weapon came in the Air Force recommendation that the refueling crews be given extra pay because of hazardous duty.

In an interview in May, Rutherford said he feared, "there is going to be a major disaster one day and innocent people are going to be hurt."

[From the Washington Post, Sept. 21, 1980]

PLOY SEEN BEHIND TITAN LONGEVITY

(By Walter Pincus)

The aged, accident-prone Titan II missiles are being kept in service, military and civilian technicians who work at the sites believe, because "they are the missiles the Soviets fear most."

But there is evidence the Titans are still around because in 1972 the Soviets feared them less than other types of missiles that might have replaced them.

Under the SALT I agreement published that year, the United States had the right to trade the 54 Titan IIs for three new missile-launching submarines. But before Soviet Premier Leonid Brezhnev signed that agreement, sources said, he wanted written assurances from President Richard M. Nixon that the United States would not exercise that option.

In a secret, written "assurance," sources involved in the negotiations said, Nixon told the Soviets he had "no intention" of replacing the Titan IIs with new submarine-launched missiles. In effect, Nixon froze the already 9-year-old missiles into permanent operational service.

"The Soviet concern was not with the Titans," a member of the U.S. negotiating team said recently, "but that we would get rid of them for [sub-launched missiles]."

William Hyland, who worked with Henry A. Kissinger in writing the final SALT language, at a Moscow summit in 1972, said yesterday that he recalled "we gave them something in writing" on the Titan, but he did not remember "if they asked or we volunteered it."

Hyland did recall Brezhnev was worried that the Trident submarine, which was then in early planning stages, would "flood the oceans with hundreds and hundreds of [multiwarhead] submarine missiles."

The original notion was to trade off the Titans for the biggest missiles in the Soviet arsenal, the SS9. Some of those giants carried a 25-megaton warhead.

But the Soviets would not buy any deal with their SS9s, so a new arrangement was devised.

The U.S. Titans and two early Soviet ICBMs, the SS7 and SS8, were termed older types." Agreement was reached that "older types" could not be replaced by modern land-based ICBMs. Each side could dismantle these "older types" and replace them with an equal number of new sub-launched missiles.

The Soviets ended up doing just that, since SALT I was signed, they have destroyed all 209 of their SS7s and SS8s and added an equal number of sub-launched missiles.

The 1972 agreement permitted the United States to have up to 44 strategic missile submarines—three more than the 41 Polaris and Poseidon subs then operational.

But the United States has never gone over 41. In fact there are plans now to dismantle two Polaris submarines so that the SALT I and SALT II limits are not breached when the first Trident sub becomes operational later this year.

Hyland yesterday said he believed the Nixon "assurance" that the Titans would not be replaced ran only for the five-year term of the 1972 protocol. He suggested it was possible under the SALT agreements to take down the Titans now and replace them by keeping in operation the two Polaris subs scheduled for deactivation.

Former Defense Secretary Melvin R. Laird said last week he "had heard" of the Nixon letter to Brezhnev about the Titan but had never seen it.

In Laird's words the Titan thereafter became "one of those systems that just stood around" without having a meaningful mission.

The SALT focus on overall power made it "politically foolish," according to Hyland, for anyone to suggest dismantling the Titans without getting some concession from the Soviets.

One reason for keeping the Titans, according to Hyland, was "so we could count something."

Their warheads, at nine megatons apiece, were far larger than those of the Minuteman II (one megaton) and meant that 54 Titans represented about one-third of the total explosive power of the U.S. landbased ICBMs.

In the years after the SALT I agreement and the Nixon "assurance," the Pentagon studied several ways to upgrade the Titans, since the 1972 SALT agreement with the Soviets barred the United States from replacing them with a more modern intercontinental ballistic missile.

One study, according to a former government official, was directed at providing the Titan with more than one bomb—making it a so-called MIRVed missile. "They decided it wouldn't pay to do that for only 54 missiles," the source said.

[From the Washington Post, Sept. 22, 1980]

BROWN TO REVIEW FINDINGS—TITAN SAFETY STUDY IS SET

(By Walter Pincus)

Defense Secretary Harold Brown has ordered the Air Force to reexamine the safety of the entire Titan II missile system, less than six months after a congressionally mandated study declared the missile safe.

The Air Force concluded in that study, released last May, that the system was better than when it was originally deployed 18 years ago.

Brown, who said he ordered the reexamination after talking with President Carter, said his office would review the Air Force findings this time.

Brown also announced yesterday that the Titans are scheduled to be replaced by the solid-fueled MX missile. The MX is not expected to start being deployed until 1986. At that point, the Titans, which originally were designed to last 10 years, will have been operational for 25 years.

Friday's accident at the Titan site near Damascus, Ark., presented a new problem for Air Force officers trying to keep the aging, liquid-fueled missile system operational.

According to sources familiar with the Titan, it was the first time there has been a major leak of its volatile fuel, Aerozine-50.

Two major Titan accidents in 1978—which caused the death of two airmen and injured more than 30 others—stemmed from leaks of nitrogen tetroxide, the oxidizer that is mixed with the fuel to provide the missile's propellant force.

Sources said yesterday that once the skin of the missile had been punctured by a dropped wrench socket late Thursday afternoon, no one could figure out how to stop the substantial Aerozine-50 leak.

Investigation of the leak also may raise anew the question of the adequacy of the safety equipment used by technicians called on during accidents such as Friday's, which killed one airman and injured 21 others. The dead airman, Sgt. David Livingston, died of pulmonary complications as a result of breathing toxic fumes, according to doctors who treated him.

One dotcor involved in treating Livingston and Sgt. Jeff Kennedy, who also was exposed to fuel and oxidizer vapors, said yesterday he believed the deadly gases passed right through their protective suits.

That possibility was partly confirmed by the vice commander of the Strategic Air Command, Lt. Gen. Lloyd R. Leavitt, Jr., at his news conference Saturday in Little Rock.

Leavitt said Livingston and Kennedy had been told to leave the silo when their vapor detectors showed a vapor level at the highest calibration. It "wasn't safe even in their suits," Leavitt told reporters.

According to an Air Force report delivered to members of Congress after the explosion Friday, technicians evacuated the silo after noticing "vapors rising from Level 7," the site of the puncture.

That first indication of the vapors was noted at 6:47 p.m.

Slightly more than one hour later, according to the Air Force report to Congress, the missile crew—located in an underground, concrete-protected control room off to the side of the silo—reported "hazard indicators" due to the fuel leak.

At that point, the missile was sprayed with water from tanks at the top of the silo. Two hours later, the leak had become worse and, according to the Air Force report to Congress, "it was decided to evacuate the control center" at the missile site.

At the same time, between 9:30 and 10 p.m., according to the report, local officials were told to evacuate the civilian population "within a two-mile area."

The Air Force people on the scene, one source said yesterday, "believed it was touch and go as to whether or when it would explode.

Around midnight, however, the Air Force decided to look inside the silo to see what was happening.

"We decided we needed to know more," was the way SAC Vice Commander Leavitt put it Saturday. "We decided to send a crew in," he said, recognizing it was "extremely risky."

Leavitt said the men sent down to the silo were told that if the readings on their vapor detectors rose to the highest point, they were to return immediately. The first group, according to Leavitt, had no high vapor reading but ran into difficulty opening the sealed doors between the control center and the silo. They returned to the surface when the oxygen in their safety suits ran out.

Livingston and Kennedy then went down. Their vapor detectors, however, went off scale at the first set of doors. They immediately returned to the surface and had just emerged when the fuel exploded.

Livingston survived an operation on his stomach for a wound caused by flying concrete, but two hours later, his lungs "became like a sieve" and in another two hours he died, sources said. Kennedy showed the same type of lung decline Friday evening, according to sources, but his condition, unlike Livingston's, did not get worse. He was in stable condition last night.

Sen. David Pryor (D-Ark.), who has pressed for immediate installation of a civilian warning system at all Titan sites as a result of the 1978 accidents, said yesterday that he was reviewing data on the Titan IIs before deciding his next step. Pryor's original proposal in 1979 for such a system was opposed by the Air Force as costly and unnecessary, and last May's safety report repeated that contention.

The Senate, however, passed Pryor's proposal last Tuesday as part of the fiscal 1981 defense construction authorization bill. To equip all 54 sites—18 each in Arkansas, Kansas and Arizona—wold cost about $540,000.

During an appearance on "Face the Nation" (CBS, WDVM), Brown refused to discuss the specifics of the missile's nuclear warhead. Nonetheless he made it clear that despite the violence of the propellant explosion, the warhead had remained intact.

News reports from the Arkansas site yesterday said heavy trucks and a crane had been moved onto the site.

On Saturday a government source said the war-head would be trucked to Little Rock Air Force Base.

Sam Tatom, Arkansas director of public safety, said yesterday he felt the 10-megaton warhead had been moved. "Unofficially, I don't think there's a warhead" in the silo area any longer, he said.

He based his conclusion on Air Force officials' attitudes toward security in the area and their agreement to allow him and Arkansas Gov. Bill Clinton to make a personal inspection of the grounds today.

Brown also told reporters that he does not know of the 1972 note then President Nixon gave Soviet Premier Leonid Brezhnev assuring the Soviets had no intention of taking down the Titan IIs and replacing them with submarine-launched missiles.

Participants in the 1972 Moscow summit, at which the exchange took place, said recently that the Soviets had demanded such an assurance because they were more afraid of any new U.S. sub-launched missiles than they were of the then nine-year-old Titans.

THE CURRENT PLIGHT OF THE FARMER

Mr. THURMOND. Mr. President, I rise today to express my deep concern over the current plight of the American farmer. These hard-working citizens. who face more hardships day in and day out than any other group, have suffered tremendously this year from circumstances totally beyond their control.

The farmers of our country have suffered severe economic hardships, this year as a result of a grain embargo, uncontrolled inflation, record high interest rates, and prolonged adverse weather conditions. Beset with such problems, it is no wonder that second quarter 1980 farm income figures are 40 percent lower than those of 1979.

Mr. President, many of the farmers in my State of South Carolina are on the brink of financial disaster. In addition to the problems common to all farmers, the farmers of South Carolina have been afflicted by one of the worst droughts in the State's history. Clemson University Extension officials estimate that South Carolina farmers will lose over $344 million this year as a result of drought. Further worsening the situation is an aflatoxin infestation of the State's corn crop.

Mr. President, this aflatoxin infestation poses a most severe problem for South Carolina corn producers. The Food and Drug Administration has established an aflatoxin level of 20 parts per billion (ppb) for corn entering interstate commerce. South Carolina has established a tolerance level of 100 ppb, a level considered to be safe for all mature, nonlactating animals. Yet because of the exceedingly strict FDA standards, South Carolina corn producers cannot market their crop outside of the State if it contains aflatoxin levels above 20 ppb. In addition, farmers cannot obtain Commodity Credit Corporation loans on corn containing aflatoxin above the 20 ppb level.

Despite requests by the Departments of Agriculture in South Carolina and other States, FDA has refused to establish a tolerance level above the current level for interstate shipment of corn infected with aflatoxin for feeding to nonlactating, mature livestock. This refusal could result in the destruction of approximately 9 million bushels of South Carolina corn—a blow that would be devastating to the State's corn producers.

Mr. President, we must make every effort to insure that farmers receive the assistance they so desperately need and deserve. In my opinion, there is no group which is more important to our country than the farmers who produce the food and fiber necessary to our survival. To allow our farmers to be forced out of business because of weather conditions or an insensitive government agency would indeed be an injustice.

Mr. President, I ask unanimous consent that a letter from the Honorable Bryan Patrick, South Carolina Commissioner of Agriculture, be included in the RECORD at the conclusion of my remarks along with letter I have written to Secretary of Agriculture Bergland, Senator HELMS, Senator TALMADGE, Commissioner Goyan of the Food and Drug Administration, and Administrator Fitzgerald of the Agricultural Stabilization and Conservation Service concerning the current problems confronting the agricultural sector.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SOUTH CAROLINA
DEPARTMENT OF AGRICULTURE,
August 18, 1980.

Hon. J STROM THURMOND,
Russell Senate Office Building,
Washington, D.C.

DEAR STROM: Farmers in South Carolina and many other states are facing financial disaster. In order to plant crops in 1980, they were forced to sell their 1979 production at depressed prices in early spring and at the same time finance this year's crops at unbelievably high interest rates. With production costs up almost 20 percent over 1979, even if farmers produced record yields in 1980, their economic survival would still be in jeopardy.

Inflationary costs of production, high interest rates and loss of established markets which caused depressed prices are the direct result of government decisions. Added to all of these adversities, South Carolina farmers and thousands in other states are faced with drought and record high temperatures over which no one has any control.

The result of extreme drought and prolonged 100 degree plus temperatures find South Carolina farmers faced with losses conservatively estimated now at over 200 million dollars. We could easily reach or surpass the 300 million dollar loss of 1977 if sufficient moisture and lower temperatures do not return and continue throughout the balance of our growing season.

Large cooperations and foreign interest are in the market for farmland in South Carolina and this nation. If we are to survive as a nation we must save the backbone of our country, the American family farmer from financial disaster over which he has no control.

On behalf of discouraged farmers everywhere, the agricultural leaders of South Carolina join me in urgently requesting your support for programs, not for farmer profit, but their survival. I know of no better investment that will pay bigger dividends to the American taxpayer.

Your help is needed now to:

1. Make all agricultural products eligible for disaster assistance in addition to grains, cotton and rice. This assistance only allows the farmer to recover a small portion of his production costs when natural disaster strikes.

2. Return this small assistance to 100 percent of yield history as was allowed during the 1977 disaster and not the 60 percent allowed today.

3. In addition to farmers that are eligible for low interest (5 percent), Farmers Home Administration loans allow other farmers the right to obtain loans from their regular financing sources at 5 percent interest with government making up the difference. These loans would be used to pay only production debts up to the amount of disaster losses.

I realize that the Federal Crop Insurance bill, when enacted, will give farmers some protection from uncontrollable natural disasters. However, unless our farmers are given help now, many will not be around to participate in this insurance program.

For the survival of America, the necessity of a sufficient supply of food and the hope of the dedicated American farmer, we ask your help now.

Very truly yours,

BRYAN PATRICK,
Commissioner of Agriculture.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., August 20, 1980.

Hon. BOB BERGLAND,
Secretary, Department of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: As you may know, many of South Carolina's farmers are facing severe financial difficulties due to prolonged adverse weather conditions. If these farmers are to survive economically, definite actions must be taken immediately to relieve their distress. I urge you to do everything within your power to expedite the process of declaring all affected areas within the State eligible for disaster relief. It is also of extreme importance that any claims for disaster relief be processed as quickly as possible.

I would also like to direct your attention to the attached letter I have just received from South Carolina's Commissioner of Agriculture, the Honorable Bryan Patrick. In order to avert substantial financial losses by the farming community of South Carolina, I urge you to take any administrative action necessary to address the concerns expressed in this correspondence. Should legislative action be required, I would hope that the Administration would promptly recommend to Congress appropriate changes in the law.

Thank you for your prompt attention to this most important matter.

With kindest regards and best wishes,

Sincerely,

STROM THURMOND.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., August 21, 1980.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR JESSE: As you know, the farmers of our States are facing severe financial difficulties due to prolonged adverse weather conditions. We cannot allow these farmers to suffer economic disaster for reasons completely beyond their control.

For your information, I have attached a copy of a letter I have just received from South Carolina's Commissioner of Agriculture, the Honorable Bryan Patrick. With the aforementioned facts in mind, I respectfully urge the Senate Agriculture Committee to give careful consideration to the recommendations contained in this correspondence.

I look forward to working with you to ensure that our Nation's beleaguered farmers receive the assistance they so desperately need and deserve.

With kindest regards and best wishes,

Sincerely,

STROM THURMOND.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., August 21, 1980.

Hon. HERMAN E. TALMADGE,
U.S. Senate,
Washington, D.C.

DEAR HERMAN: As you know, the farmers of our States are facing severe financial difficulties due to prolonged adverse weather conditions. We cannot allow these farmers to suffer economic disaster for reasons completely beyond their control.

For your information, I have attached a copy of a letter I have just received from South Carolina's Commissioner of Agriculture, the Honorable Bryan Patrick. With the aforementioned facts in mind, I respectfully urge the Senate Agriculture Committee to give careful consideration to the recommendations contained in this correspondence.

I look forward to working with you to ensure that our Nation's beleaguered farmers receive the assistance they so desperately need and deserve.

With kindest regards and best wishes,

Sincerely,

STROM THURMOND.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., September 18, 1980.

Mr. JERE E. GOYAN,
Commissioner, Food and Drug Administration, Rockville, Md.

DEAR COMMISSIONER GOYAN: Please find enclosed a copy of a letter I recently sent to Associate Commissioner Hile.

It has come to my attention that all requests for a temporary relaxation of the allowable amount of aflatoxin in corn for interstate commerce have been denied by the Food and Drug Administration. Although I am not an expert in this matter, I find it hard to believe that the FDA would refuse to show any flexibility in its regulations on aflatoxin.

It is my understanding that corn with levels of aflatoxin more than 20 parts per billion (ppb) and less than 100 ppb are safe for all mature species of poultry and animals, and that levels of up to 200 ppb are safe for non-pregnant dairy heifers over 6 months old, beef feeder calves, bulls, and non-lactating beef brood cows. In light of these facts, I do not understand why the FDA refuses to raise the allowable amount of aflatoxin in corn for interstate commerce above the 20 ppb level. It seems to me that a level of 50 ppb would provide adequate protection for the consumer, and at the same time, substantially reduce economic losses to the farmer.

I would appreciate you reconsidering your decision on this most serious matter, as a reasonable relaxation would do much to provide the farmers of South Carolina the assistance they so desperately need.

Thank you for your prompt consideration of my request.

With kindest regards and best wishes,

Sincerely,

STROM THURMOND.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., September 19, 1980.

Mr. RAY V. FITZGERALD,
Administrator, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C.

DEAR ADMINISTRATOR FITZGERALD: As you may know, the corn producers of South Carolina have already suffered tremendous losses due to drought. Their situation has now worsened as a result of aflatoxin infestation.

It is my understanding that the Commodity Credit Corporation will not make loans to farmers on any corn with aflatoxin levels greater than 20 parts per billion, the tolerance level established by the Food and Drug Administration for corn shipped in interstate commerce. This results in a tremendous hardship for many farmers who frequently obtain loans on their crop for operating capital or because of market conditions.

As South Carolina has established a tolerance level of 100 parts per billion for corn in intrastate shipment, any corn containing a level of aflatoxin below this level could be marketed in the State. In light of this fact, it would appear reasonable to make farmers CCC loans on corn with aflatoxin levels below 100 parts per billion. I would appreciate your looking into this most serious matter and giving every consideration to raising the tolerance level, insofar as loan eligibility is concerned, so that affected farmers will not be forced to suffer unduly.

Thank you for your prompt consideration of my request.

With kindest regards and best wishes,

Sincerely,

STROM THURMOND.

NATIONAL CYSTIC FIBROSIS WEEK

Mr. MATHIAS. Mr. President, this week, September 21–27, is National Cystic Fibrosis Week. I was pleased to introduce the Senate resolution that directed the President to set aside this week to call attention to this deadly disease, because I believe that increased public understanding of cystic fibrosis will contribute to efforts to find a cure or control for it.

Cystic fibrosis (CF) is the most common fatal genetic disease in America. Over 13,000 young people with CF, including about 200 in my own State of Maryland, are being seen in CF centers across the country. Each of them spends hours in therapy each day, merely to stay alive. Many of them face the prospect of weeks in the hospital every year. All of them know that there is no cure for CF.

Despite the bleak present, there is hope for the future for those with CF. I am fortunate to have in my State both the National Institutes of Health and the national headquarters of the Cystic Fibrosis Foundation. Between them, these organizations are supporting more than $13 million this year in research to increase our understanding of the disease.

Some of this research is directed toward the problem of lung infection. Children and adults with CF are confronted with frequent lung infections that resist treatment, brought about, scientists believe, through some defect in the body's immune system. Close examination of the unusual mucus produced by people with CF, studies of the immune system, development of new antibiotics and vaccines, and work on the bacteria themselves are all being pursued with the goal of providing a new way to deal with these infections. If that is achieved, one of the major problems in CF will be overcome.

Genetics is another focus of CF research. It has long been known that CF is a genetic disease, and that at least 10 million Americans are symptomless carriers of the CF gene. To date, however, scientists have not been able to develop a method of identifying carriers or of detecting CF before birth. In the last few years, a number of promising research leads have developed in this area, and there is substantial hope for a breakthrough here in the 1980's.

A third major area of research is related to these first two. Scientists do not understand the basic underlying defect in CF. They can describe the disease in terms of its symptoms—pancreatic insufficiency, respiratory problems, and the like—but they do not know why the body produces these symptoms. Considerable study of CF-affected cells is being conducted to pinpoint the mechanism that differentiates those cells from normal ones. If this line of research is successful, it may ultimately be possible to develop an effective long-term control for CF, and extend life expectancy by decades.

All this research is interrelated. The explanation of the basic defect may lead to an answer to the problem of lung infections, while a carrier test could provide the clue to the basic defect. Because CF is a uniquely human disease, much of the research must be done on human tissue samples, which makes the work very difficult.

The National Institutes of Health and the Cystic Fibrosis Foundation are working together in a research program that addresses these questions and more. I have been pleased to learn of the close cooperation between the two organizations, and hope that other voluntary health groups will follow suit. The CFF uses its contributors' funds to support research training, new investigator awards, and other programs for which Federal funds are limited, while NIH concentrates on the larger-scale research projects. In this way, both the taxpayers and the donors are assured of the best use of their money, and more importantly, that the answers to CF will be found more rapidly.

In recent years, I have supported increased funding for the National Institutes of Health for research in CF, and I will continue until the diagnosis of CF is no longer a death warrant for thousands of America's young people. As this statement shows, there is hope if we persevere. National Cystic Fibrosis Week is one way to keep that momentum growing.

I ask unanimous consent that President Carter's proclamation for National Cystic Fibrosis Week appear at this point in the RECORD.

There being no objection, the proclamation was ordered to be printed in the RECORD, as follows:

A PROCLAMATION

Cystic fibrosis is the most common fatal genetic disease afflicting American children today. An inherited disorder of unknown cause, cystic fibrosis affects approximately 20,000 to 30,000 infants, children, and young adults. While the cost of medical treatment reaches into the millions of dollars, the costs of cystic fibrosis in terms of human suffering are inestimable.

Through biomedical research, the outlook for cystic fibrosis patients has become brighter over the years. Long considered fatal in childhood, cystic fibrosis has begun to yield to the efforts of science. The life expectancy of cystic fibrosis victims has increased well into the teens, twenties and beyond. Moreover, improved methods of treatment have enhanced the quality of patients' lives. Despite this progress, however, the basic cause of cystic fibrosis, as well as its cure, continues to elude investigators.

The Department of Health and Human Services, in cooperation with private, voluntary agencies, is meeting the challenge of cystic fibrosis with an intensified research program. Through the National Institutes of Health, the Department's biomedical research arm, studies are now under way to identify the causes—and consequences—of the disease, and to develop improved methods of detection, treatment, and, eventually, prevention.

In recognition of the progress that has been made, and of the many research questions that still remain to be answered, the Congress has by House Joint Resolution 445 designated the week of September 21, 1980, "National Cystic Fibrosis Week", a time to highlight the hope for the future that this Nation shares with cystic fibrosis victims and their families.

Now, therefore, I, Jimmy Carter, President of the United States of America, do hereby proclaim the week beginning September 21, 1980, as "National Cystic Fibrosis Week."

In witness whereof, I have hereunto set my hand this twenty-second day of July, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fifth.

JIMMY CARTER.

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

Mr. MATHIAS. Mr. President, I recently received an important communication from Colonel Robert W. Landon, General Chairman of the International Association of Chiefs of Police Division of State and Provincial Police, and Chief of the Washington State Patrol. The message outlines that organization's support for funding to assure compliance with the 55-mile-per-hour speed limit. I ask unanimous consent that the text of that communication appear in the RECORD.

There being no objection, the communication was ordered to be printed in the RECORD, as follows:

GAITHERSBURG, MD.

On behalf of the division of state and provincial police of the International Association of Chiefs of Police, I request that the following statement be entered into the formal record of these proceedings:

"The division of state and provincial police of the International Association of Chiefs of Police is a membership organization comprised of state law enforcement agencies, currently conducting our annual business meeting in St. Louis, Missouri. An issue before our conference which is of great concern, is the Surface Transportation Act of 1980, H.R. 7831. Specifically, the appropriation of funding to the several states for 55 m.p.h. national maximum speed limit enforcement programs, on behalf of each state law enforcement administrator who is a member of the Division, I am pleased to notify you of our support for the 40 million dollar appropriation recommended by the Senate Committee on Appropriations, Subcommittte on Transportation. This funding will greatly assist the states in their continued efforts in meeting the compliance criteria for 55 m.p.h. speed limit enforcement, as prescribed by the U.S. Congress. It will also help the balance of payment by reducing our country's dependence on foreign oil. The I.A.C.P. Division of State and provincial police is pleased to support this legislation and urges the members of the Senate to pass this much needed legislation.

COLONEL ROBERT W. LANDON,
General Chirman, International Association of Chiefs of Police, Division of State and Provincial Police, and Chief, Washington State Patrol.

GENOCIDE: A BENEFICIAL MEASURE THAT WOULD NOT BURDEN THE ECONOMY

Mr. PROXMIRE. Mr. President, many of the measures coming before the Senate which seek to maintain or improve the living conditions in this country are necessarily costly. We are often faced with the prospect of burdening the economy when enacting such socially beneficial legislation. Stopping inflation, attaining a balanced budget, controlling Government spending and lowering taxes are factors which must be fully considered by anyone wishing to create or expand programs directed at satisfying the needs of the American people.

There is one measure, however, that the Senate can undertake which will serve the citizens of this land and not strain the economy. I refer to the Genocide Covention. Ratification of this international treaty would not require any financial outlay and would act to protect our constitutents from harassment and destruction.

The purpose of the treaty is to make genocide an international crime. Upon entering into the covenant, the signator agrees to attempt to prevent genocide by punishing anyone, be they public official or private citizens, who commits certain defined acts with the intention of destroying an entire racial, national or ethnic group. The acts constituting genocide include the killing of, the infliction of serious bodily harm to, and the permanent impairment of mental facilities of members of a homogenous group.

It is ironic that a measure not involving substantial economic costs and aimed at benefiting the public can be before the Senate for 31 years and not be given approval. We find it so difficult to meet the needs of our constituents because of the necessity to save tax dollars. Yet, we hesitate to pass this essentially costless treaty. Let us hesitate no longer.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE SUMMARY OF THE SECOND BIENNIAL REPORT ON NATIONAL URBAN POLICY—PM 243

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

I am pleased to issue the Executive Summary of the Second Biennial Report on National Urban Policy, as called for by Congress in the Housing and Urban Development Act of 1970, as amended in 1977.

In 1978, I committed my Administration to implementing in cooperation with the Congress the nation's first comprehensive urban policy. Our efforts have yielded important benefits to cities, urban counties and their residents. It is my hope that this Executive Summary, and the full Biennial Report on which it is based, will help us define this nation's urban policy agenda for the 1980s.

JIMMY CARTER.

THE WHITE HOUSE, *September 22, 1980.*

ANNUAL REPORT OF THE DRUG POLICY OFFICE OF THE DOMESTIC POLICY STAFF—PM 244

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

Pursuant to Sec. 4 of the Drug Abuse Prevention, Treatment, and Rehabilitation Amendments of 1979 (P.L. 96–181; 21 U.S.C. 1117), I transmit herewith the Annual Report of the Drug Policy Office of the Domestic Policy Staff.

This report reflects the nature and accomplishments of the drug abuse policy coordination function and highlights the major activities and accomplishments of the Administration in reducing the effects of drug abuse in the United States. As we move forward in the decade of the 1980s, I pledge my continued support to our fight against drug abuse.

JIMMY CARTER.

THE WHITE HOUSE, *September 22, 1980.*

PRESIDENTIAL APPROVAL

A message from the President of the United States reported that on September 19, 1980, he had approved and signed the following act:

S. 299. An act to amend title 5, United States Code, to improve Federal rulemaking by creating procedures to analyze the availability of more flexible regulatory approaches for small entities, and for other purposes.

MESSAGES FROM THE HOUSE

At 12:57 p.m. a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks announced that the House has passed the bill (S. 2711) to amend the Bretton Woods Agreements Act to authorize consent to an increase in the U.S. quota in the International Monetary Fund, with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 610. Joint resolution making continuing appropriations for the fiscal year 1981, and other purposes.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 367. Concurrent resolution disapproving the proposed export to India of low-enriched uranium for the Tarapur Atomic Power Station pursuant to export license application XSNM–1569;

H. Con. Res. 368. Concurrent resolution disapproving the proposed export to India of low-enriched uranium for the Tarapur Atomic Power Station pursuant to export license application XSNM–1379; and

H. Con. Res. 432. Concurrent resolution disapproving the proposed export to India of low-enriched uranium for the Tarapur Atomic Power Station pursuant to export license applications XSNM–1379 and XSNM–1569.

HOUSE MEASURE REFERRED

The following measure was read twice by its title and referred as indicated:

H.J. Res. 610. Joint resolution making continuing appropriations for the fiscal year 1981, and for other purposes; to the Committee on Appropriations.

HOUSE MEASURES PLACED ON CALENDAR

The following concurrent resolutions were read by their titles and placed on the calendar:

H. Con. Res. 367. Concurrent resolution disapproving the proposed export to India of low-enriched uranium for the Tarapur Atomic Power Station pursuant to export license application XSNM–1569;

H. Con. Res. 368. Concurrent resolution disapproving the proposed export to India of low-enriched uranium for the Tarapur Atomic Power Station pursuant to export license application XSNM–1379; and

H. Con. Res. 432. Concurrent resolution disapproving the proposed export to India of low-enriched uranium for the Tarapur Atomic Power Station pursuant to export license applications XSNM–1379 and XSNM–1569.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on the Budget, without amendment:

S. Res. 516. Resolution waiving section 402(a) of the Congressional Budget Act with respect to the consideration of S. 1411.

By Mr. RIBICOFF, from the Committee on Governmental Affairs, with an amendment (in the nature of a substitute):

S. 2267. A bill to amend the Civil Service Reform Act of 1978 (Rept. No. 96–976).

By Mr. HOLLINGS, from the Committee on the Budget, without amendment:

S. Res. 515. Resolution to waive section 402(a) of the Budget Act with respect to the consideration of H.R. 4084, authorizing funds for fiscal year 1981 for the Suisan Marsh, California; and

S. Res. 522. Resolution waiving section 402(a) of the Congressional Budget Act with respect to the consideration of S. 2829.

By Mr. JACKSON, from the Committee on Energy and Natural Resources, without amendment:

S. Res. 524. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2734. Referred to the Committee on the Budget.

By Mr. JACKSON, from the Committee on Energy and Natural Resources, with an amendment (in the nature of a substitute):

S. 2734. A bill to authorize the Secretary of the Interior to transfer certain land and facilities used by the Bureau of Mines, and for other purposes (Rept. No. 96–977).

By Mr. ROBERT C. BYRD (for Mr. CANNON), from the Committee on Commerce, Science, and Transportation, without amendment:

H.R. 1196. An act to revise and improve the laws relating to the documentation of vessels, and for other purposes.

By Mr. PERCY, from the Committee on Governmental Affairs, with amendments, and an amendment to the title:

S. 2958. A bill to ensure the development and implementation of policies and procedures to encourage the Veterans' Administration and the Department of Defense to cooperate in the efficient and effective use of Federal medical resources, and for other purposes (Rept. No. 96–978).

By Mr. ROBERT C. BYRD (for Mr. CANNON), from the Committee on Commerce, Science, and Transportation, without amendment:

H.R. 3748. An act to provide for a uniform national three-year statute of limitations in actions to recover damages for personal injury or death arising out of a maritime tort, and for other purposes.

By Mr. ROBERT C. BYRD (for Mr. CANNON), from the Committee on Commerce, Science, and Transportation, without amendment:

H.R. 5451. An act to amend the Merchant Marine Act, 1936, to revise and reenact the laws pertaining to United States Merchant Marine Academy and to State maritime academies and for other maritime education and training purposes.

By Mr. ROBERT C. BYRD (for Mr. CANNON), from the Committee on Commerce, Science, and Transportation, without amendment:

H.R. 6242. An act to establish a Towing Safety Advisory Committee in the Department of Transportation.

By Mr. ROBERT C. BYRD (for Mr. CANNON), from the Committee on Commerce, Science, and Transportation, with amendments:

H.R. 6665. An act to implement the Protocol of 1978 Relating to the International

Convention for the Prevention of Pollution from Ships, 1973, and for other purposes.

By Mr. ROBERT C. BYRD (for Mr. CANNON), from the Committee on Commerce, Science, and Transportation, with amendments:

H.R. 6671. An act to unify the rules for preventing collisions on the inland waters of the United States, and for other purposes (Rept. No. 96–979).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports were submitted:

By Mr. PELL (for Mr. CHURCH), from the Committee on Foreign Relations, without reservation:

Executive K, 96–2. Amendments to the Convention on Inter-Governmental Maritime Consultative Organization signed at Geneva, March 6, 1948 (the IMCO Assembly) (Executive Rept. 96–51).

By Mr. PELL, from the Committee on Foreign Relations:

Jack Robert Binns, of Washington, to be Ambassador Extraordinary and Plenipotentiary of the United States to Honduras.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Jack R. Binns.

Post: U.S. Ambassador to Honduras.

Contributions, amount, date, and donee:
(if none, write none)

Self: See attached sheet.
Spouse: None.
Children and Spouses Names: Katherine A., None, Margaret M., None.
Parents Names: Margaret M. Burrill, None.
Grandparents Names: deceased.
Brothers and Spouses Names: None.
Sisters and Spouses Names: None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of any pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

POLITICAL CONTRIBUTIONS

Date, recipient, and amount:

1976

February: Democratic Party of U.S., $30.00.
April: Democrats Abroad (United Kingdom), $190.00.[1]
October: Democrats Abroad (UK), $7.50.

1977

June: Democrats Abroad (UK), $50.00.[2]

1978

September: Committee to Re-Elect Tom Foley, $50.00.

1979

None.

1980

January: Democrats Abroad (Costa Rica), $12.00.[3]
February: Democrats Abroad (CR), $24.00.[4]
March: Democrats Abroad (CR), $12.00.[3]

By Mr. PELL, from the Committee on Foreign Relations:

William Bodde, Jr., of Maryland, to be Envoy Extraordinary and Plenipotentiary of the United States to the Republic of Kiribati.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted comittee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: William Bodde, Jr.

Post: Ambassador to Fiji, Tonga, Kiribati, Tuvalu.

Contributions, amount, date, and donee:
1. Self: None.
2. Spouse: $5.—Dollars for Democrats 1979. $25.—Democrats for Carter/Mondale abroad 1976.
3. Children and Spouses Names: Wife, Ingrid, step-daughter: Barbara, sons: Peter and Christopher.
4. Parents Names: William and Georgianna Bodde (maiden name Curry) (deceased).
5. Grandparents Names: Frederik Bodde and Lambertina van de Gumster (deceased); John Curry and Mary O'Connor.
6. Brothers and Spouses Names: None.
7. Sisters and Spouses Names: Anna M. Ryan and James Ryan, Dorothea Sain.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. PELL, from the Committee on Foreign Relations:

Charles F. Meissner, of Maryland, for the rank of Ambassador during his tenure of service as U.S. Special Negotiator for Economic Matters.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Charles F. Meissner.

Post: U.S. Special Negotiator for Economic Matters.

Contributions, amount, date, and donee:
1. Self: (See attached).
2. Spouse: (See attached).
3. Children and Spouses Names: Christine and Andrew Meissner, none.
4. Parents Names: Harriet E. Meissner, none.
5. Grandparents Names: None.
6. Brothers and Spouses Names: David G. and Judith Meissner, none.
7. Sisters and Spouses Names: None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

POLITICAL DONATIONS OF CHARLES F. AND DORIS M. MEISSNER

1976

Women's Lobby, $15.
Democratic National Committee, $15.
Mauer for Congress, $10.
National Women's Political Caucus, $15.
Bella Abzug, $25.
Democratic National Committee, $15.
ERA America, $15.
Women Campaign Fund, $15.
Gloria Schaeffer, $25.
ERA America, $50.

1977

National Organization for Women, $15.
National Women's Political Caucus, $100.
ERA America, $50.
National Women's Political Caucus, $75.
ERA America, $100.
Democratic National Committee, $15.
Democratic National Committee, $15.

1978

Women's Campaign Fund, $25.
Committee for Tim Worth, $25.
National Women's Educational Fund, $25.
Ravenal for Governor, $25.
Dick Clark for Senate, $100.
Zapata for Congress, $100.
National Women's Political Caucus, $25.
Women's Campaign Fund, $150.
Dick Clark for Senate, $100.

1979

National Women's Political Caucus, $200.
Women Campaign Fund, $25.
National Women's Political Caucus, $200.
Women Campaign Fund, $70.

1980

None to date—June 1, 1980.

By Mr. PELL, from the Committee on Foreign Relations:

Jerrold Martin North, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Djibouti.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: North, Jerrold Martin.
Post: Ambassador to Djibouti.
Contributions, amount, date, and donee:
1. Self: None.
2. Spouse: None.
3. Children: Names, Lore, Linden, Courtney, none.
4. Parents: Names, Esther, North, none.
5. Grandparents: N/A.
6. Brothers and spouses: N/A.
7. Sisters and spouses: Names, Arlene Levin, Sol Levin, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. PELL, from the Committee on Foreign Relations:

Fernando E. Rondon, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Democratic Republic of Madagascar.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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[1] Contribution in Pounds Sterling, £95.00.

[2] Contribution in Pounds Sterling, £25.00.

[3] Contribution in CR Colones, c100.00.

[4] Contribution in CR Colones, c200.00.

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Fernando E. Rondon.

Post: Ambassador to Madagascar.

Contributions, amount, date, and donee:

1. Self: None.
2. Spouse: None.
3. Children and spouses: Names, F. Mark (age 17), Lawrence (age 14), Susan (age 10), none.
4. Parents: Names, Mother, Martha Rondon, Father deceased, none.
5. Grandparents: Names, deceased.
6. Brothers and spouses: Names, Mr. and Mrs. Richard Rondon, none.
7. Sisters and spouses: Names, Mr. and Mrs. Jose Gonzalez, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. PELL, from the Committee on Foreign Relations:

John W. Shirley, of Illinois, for promotion to the Class of Career Minister for Information.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: John William Shirley.

Post: Career Minister.

Contributions, amount, date, and donee:

1. Self: John W. Shirley, none.
2. Spouse: Katherine H. Shirley, none.
3. Children and spouses: Names, Pamela Mary Sheppard (daughter), Alexandria Jean Shirley (daughter), none.
4. Parents: Names, William Shirley (father), Yvette Rosen (mother), none.
5. Grandparents: Not applicable.
6. Brothers and spouses: Not applicable.
7. Sisters and spouses: Not applicable.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. PELL, from the Committee on Foreign Relations:

Morton I. Abramowitz, of Massachusetts, for promotion to the class of Career Minister.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Morton Abramowitz.

Post: U.S. Ambassador—Bangkok, Career Minister in the foreign service.

Contributions, amount, date, and donee:

1. Self: $200, 1976, Sen. Muskie. $75, 1978, Harry Schunetz.
2. Spouse: $100, 1977–78, Michael Barros.
3. Children and spouses: Names, Michael, Rachel, none.
4. Parents: Names, Ida Glass, none.
5. Grandparents:
6. Brothers and spouses: Names, Mr. and Mrs. Irving Abramowitz, none.
7. Sisters and spouses: Names, Mr. and Mrs. W. Epstein, Molly Tatel, E. Sres, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. PELL, from the Committee on Foreign Relations:

Richard J. Bloomfield, of Connecticut, for promotion to the class of Career Minister.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Richard J. Bloomfield.

Post: Career Minister.

Contributions, amount, date, and donee:

1. Self: None.
2. Spouse: Patricia A. Bloomfield, none.
3. Children and spouses: Thomas (wife Mary), Ann, Richard, William: All none.
4. Parents: Deceased.
5. Grandparents: Deceased.
6. Brothers and spouses: None.
7. Sisters and spouses: None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. PELL, from the Committee on Foreign Relations:

Paul H. Boeker, of Ohio, for promotion to the class of Career Minister.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted commitee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Paul H. Boeker.

Post: Career Minister.

Contributions, amount, date, and donee:

1. Self: None.
2. Spouse: None.
3. Children and spouses: Names, Michelle, Kent, and Katherine Boeker, none.
4. Parents: Names, Victor and Esther Boeker, none.
5. Grandparents: deceased.
6. Brothers and spouses: Names, Ralph and Marilyn Boeker, Bruce and Barbara Boeker, none.
7. Sisters and spouses: None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. PELL, from the Committee on Foreign Relations:

Walter L. Cutler, of Virginia, for promotion to the class of Career Minister.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Cutler, Walter L.

Post: Career Minister.

Contributions, amount, date, and donee:

1. Self: none.
2. Spouse: Sarah B. Cutler, none.
3. Children and Spouses: Names, Allen B. Cutler, Thomas G. Cutler, none.
4. Parents: Names, Leon A. Bradley, Esther D. Bradley, none.
5. Grandparents: none.
6. Brothers and Spouses, none.
7. Sisters and Spouses, names, Sally D. Cutler, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. PELL, from the Committee on Foreign Relations:

William H. Gleysteen, Jr., of Pennsylvania, for promotion to the class of Career Minister.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: William H. Gleysteen, Jr.

Post: Career Minister (Ambassador to the Republic of Korea).

Contributions, amount, date and donee:

1. Self: none.
2. Spouse: none.
3. Children and Spouses; Thea, Guy, Michael, none.
4. Parents; deceased, none.
5. Grandparents: Deceased, none.
6. Parents-in-law O. Edmund Clubb & Marianne Clubb, $10, June 14, 1975, Democratic Party; $3, June 23, 1975, Catskill Democratic Club; $15, October 14, 1975, Shriver for President Committee; $25, December 10, 1975, Democratic DSG Campaign Fund; $10, February 3, 1976; Udall 1976 Committee; $10, April 16, 1976, Democratic Party; $10, May 18, 1976, Udall 1976 Committee; $10, June 8, 1976, Shriver for President Committee; $10, July 16, 1976, Ramsey Clark Senate 1976 Committee, $25, August 6, 1976, Democratic Party; $3, September 23, 1976, Catskill Democrat's Club, $20, October 24, 1976, Greene County Democratic Committee; $15, October 16, 1976, Democratic Committee; $10, November 28,

1976, Udall 1976 Committee; $12, October 23, 1977, Catskill Democratic Committee; $15, March 29, 1977, Democratic National Committee, $25, April 17, 1977, Fraser for Senate; $20, April 21, 1978, Pattison 1978 Campaign; $10, 1978, Drinan for Congress; $50, 1978, Democratic National Committee; $25, 1978, Committee to Elect Betty Hall; $25, 1978, DSG Campaign Fund; $50, 1980, Friends of Liz Holtzman; $25, 1980, Democratic Congressional Campaign Committee.

7. Brothers and Spouses: T. Carter Gleysteen, Mary H. Gleysteen(s) $25, January 1, 1980, George Bush.

Culver Gleysteen, $50, 1975, Democratic National Committee.

Elizabeth M. Gleysteen (s), $100, 1976, Democratic National Committee; $50, 1978, Marion Barry; $20, 1978, East Hampton Democratic Committee.

Dirk Gleysteen, Marguerite B. Gleysteen (s), none.

8. Sisters and spouses: Alice G. Morton, none.

Margaret G. Huie, $25, July 8, 1975, Republican National Finance Committee.

Byron S. Huie, Jr. (s), $25, July 7, 1976, Republican National Finance Committee; $50, October 18, 1976, John Grady Campaign Fund; $25, July 22, 1977, Republican National Finance Committee; $30, September 19, 1977, Republican National Finance Committee; $35, April 17, 1978, National Republican Senatorial Committee; $50, July 7, 1978, GOP Victory Fund; $40, April 27, 1978, Republican National Committee; $35, February 10, 1979, National Republican Senatorial Committee; $35, March 7, 1979, National Republican Senatorial Committee; $25, May 11, 1979, Legislative Campaign National Committee; $40, June 15, 1979, Republican National Committee; $50, October 26, 1979, National Republican Congressional Committee; $25, October 26, 1979, National Republican Senatorial Committee; $25, January 17, 1980, Republican National Committtee; $25, March 4, 1980, National Republican Senatorial Committee.

Anne G. Kramer, Elmer E. Kramer (s), none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information in this report is complete and accurate.

By Mr. PELL, from the Committee on Foreign Relations:

Roger Kirk, of the District of Columbia, for promotion to the class of Career Minister.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee—Roger Kirk.

Post—Career Minister.

Contributions, amount, date, and donee:

1. Self: None.

2. Spouse.

3. Children and Spouses Names: None.

4. Parents Names: Lydia Chapin Kirk, see attached.

5. Grandparents: Deceased.

6. Brothers and Spouses: None.

7. Sisters and spouses: See attached.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

ATTACHMENT

Contributions, amount, date, and donee: Mother, Mrs. Alan G. Kirk, $25, 1976, Carter Presidential campaign; $25, 1977, Democratic National Committee; $25, 1979, Carter/Mondale Presidential campaign.

Sisters and Spouses: Marian Kirk Appel, none.

John W. Appel, $35, 1976, Republican Party; $35, 1977, Republican Party; $35, 1978, Republican Party; $35, 1979, Republican Party; $35, 1980, Republican Party.

Deborah Kirk Solbert: $100, 1976, Udall.

Peter O. A. Solbert: $250, 1976, Udall (N.Y. '76 Committee); $10, 1976, Udall ('76 Committee); $200, 1976, Democratic National Committee; $25, 1979, Senator Javits; $250, 1980, Anderson for President Committee; $150, 1980, Carter/Mondale Presidential Committee; $25, 1980, Friends of Bill Moorehead Committee; $100, 1980, John Lindsay; $50, 1980, Democratic Committee.

By Mr. PELL, from the Committee on Foreign Relations:

Edward E. Masters, of Ohio, for promotion to the class of Career Minister.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Edward E. Masters.

Post: Career Minister.

Contributions, amount, date, and donee:

1. Self: None.

2. Spouse: None.

3. Children and Spouses; Names, Edward R., None; Julie A., none.

4. Parents: Names, Ethel V. Masters, none; father, deceased.

5. Grandparents: Names, deceased.

6. Brothers and Spouses: Names, none (no brothers).

7. Sisters and Spouses: Names, none (no sisters).

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. PELL, from the Committee on Foreign Relations:

Robert B. Oakley, of Louisiana, for promotion to the class of Career Minister.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Robert R. Oakley.

Post: Kinshasa, Zaire.

Contributions, amount, date, and donee:

1. Self: None.

2. Spouse: None.

3. Children and Spouses: Names: None.

4. Parents Names: Mrs. J. B. Oakley, Shreveport, La., $50, October 1978, Senator J. B. Johnston (Dem. Louisiana).

5. Brothers and Spouses, Names: Mr. and Mrs. Thomas Elliott, Ft. Wayne, Indiana, $50, April 1979, Winfield Moses, Dem. candidate for Mayor Ft. Wayne.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. PELL, from the Committee on Foreign Relations:

Robert M. Sayre, of Virginia, for promotion to the class of Career Minister.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Robert M. Sayre.

Post: Career Minister.

Contributions, amount, date, donee:

1. Self: None.

2. Spouse: None.

3. Children and Spouses Names: Marian, Robert Jr., Daniel, none.

4. Parents: Names, deceased.

5. Grandparents: Names, deceased.

6. Brothers and Spouses: Names, Arthur, William, Francis, Mark, Donald, and Richard, none.

7. Sisters and Spouses: Names, Edna, Dorothy, Emily, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. PELL, from the Committee on Foreign Relations:

Talcott W. Seelye, of Maryland, for promotion to the class of Career Minister.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Seelye, Talcott W.

Post: U.S. Embassy, Damascus, Syria.

Contributions, amount, date, and donee:

1. Self: None.

2. Spouse: None.

3. Children and Spouses Name, None.

4. Parents: Names, None.

5. Grandparents: Names, None.

6. Brothers and Spouses: Names, None.

7. Sisters and Spouses: Names, None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. PELL, from the Committee on Foreign Relations:

Nicholas A. Veliotes, of California, for promotion to the class of Career Minister.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Statement of Political Contributions

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Nicholas A. Veliotes.

Post: Career Minister.

Contributions, amount, date, and donee:

1. Self: $25, February, 1976, Citizens with Celeste; $25, March 1976, Jack Calkins, Cong. Committee; $25, February, 1977, Citizens with Celeste.
2. Spouse: $25, February, 1976, Citizens with Celeste; $25, March, 1976, Jack Calkins Cong. Committee.
3. Children and Spouses: Names, Christopher, Michael, none.
4. Parents: Names, Irene Zoobrick, Loucille Horrom, (mother-in-law, deceased), $5, summer of 1976, local Democratic campaign committee.
5. Brothers and Spouses: Names, John and Phyliss Otis, none.
6. Sisters and Spouses: Names, Dorothy and John Chessari, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. PELL, from the Committee on Foreign Relations:

Richard D. Vine, of California, for promotion to the class of Career Minister.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Statement of Political Contributions

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Richard Vine.

Post: Career Minister.

Contributions, amount, date, and donee:

1. Self: none.
2. Spouse: none.
3. Children and Spouses: Name, Gail Vine Mangold, Claude Mangold, none.
4. Parents: Names, deceased.
5. Grandparents: Names, deceased.
6. Brothers and Spouses: Names, George H. Vine, Jr., John Vine, none.
7. Sisters and Spouses: Names, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. PELL, from the Committee on Foreign Relations:

The following-named persons to be members of the Board of Directors of the Inter-American Foundation:

Guy Feliz Erb, of California;
Doris B. Holleb, of Illinois;
Paula Stern, of the District of Columbia; and
Luis Guerrero Nogales, of California.

(The above nominations from the Committee on Foreign Relations were reported with the recommendation that they be confirmed subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

The following-named persons to be the Representative and an Alternate Representative of the United States to the 24th Session of the General Conference of the International Atomic Energy Agency:

Representative: Gerard C. Smith, of the District of Columbia; and

Alternate Representative: Joseph Mallam Hendrie, of New York.

(The above nominations from the Committee on Foreign Relations were reported with the recommendation that they be confirmed subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

E. G. Koury, of Ohio, to be a member of the Board of Directors of the Overseas Private Investment Corporation.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

Leonard Silverstein, of Maryland, to be a member of the U.S. Advisory Commission on Public Diplomacy.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

Roger Kirk, of the District of Columbia, to be Alternate Representative of the United States to the 24th Session of the General Conference of the International Atomic Energy Agency.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

The following-named persons to be representatives of the United States to the 21st Session of the General Conference of the United Nations Educational, Scientific, and Cultural Organization:

Robin Duke, of New York;
Barbara W. Newell, of Massachusetts;
Elie Abel, of California;
John E. Fobes, of North Carolina; and
John Hope Franklin, of Illinois.

(The above nominations from the Committee on Foreign Relations were reported with the recommendation that they be confirmed subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

The following-named persons to be Representatives of the United States to the Thirty-fifth Session of the General Assembly of the United Nations:

Donald F. McHenry, of Illinois;
William J. vanden Heuvel, of New York;
Jacob K Javits, United States Senator from the State of New York;
Paul E. Tsongas, United States Senator from the State of Massachusetts; and
Hannah D. Adkins, of Oklahoma.

(The above nominations from the Committee on Foreign Relations were reported with the recommendations that they be confirmed subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate).

By Mr. PELL, from the Committee on Foreign Relations:

The following-named persons to be alternate representatives of the United States to the 21st Session of the General Conference of the United Nations Educational, Scientific, and Cultural Organization:

Sandra Lopez Bird, of New York;
Joseph D. Duffy, of the District of Columbia;
Kathleen Nolan, of California;
Beatrice Ranis, of California; and
Robert Revelle, of California.

(The above nominations from the Committee on Foreign Relations were reported with the recommendation that they be confirmed subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

Joan Edelman Spero, of New York, to be Alternate Representative of the United States to the Thirty-fifth Session of the General Assembly of the United Nations.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PELL. Mr. President I also report favorably sundry nomination lists in the Diplomatic and Foreign Service which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, ask that they be placed on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations so ordered to lie on the Secretary's desk appeared in the RECORD on July 2 and September 15, 1980.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. RIBICOFF (by request):

S. 3130. A bill for the relief of the Brooklyn Times; to the Committee on Governmental Affairs.

By Mr. RIBICOFF (by request):

S. 3131. A bill to amend the District of Columbia Self-Government and Government Reorganization Act to clarify the limitations on the legislative authority of the Council of the District of Columbia; to the Committee on Governmental Affairs.

By Mr. DOMENICI:

S. 3132. A bill to consolidate the intermingled public lands between Farmington and Gallup, New Mexico; to the Committee on Energy and Natural Resources.

By Mr. ARMSTRONG:

S. 3133. A bill to reinstate and validate certain United States oil and gas leases numbered C–9496, C–9711, C–11600, C–11621, C–11622, C–11630, C–11631, C–11597, C–11599, C–13774, C–14197, C–17049, C–18262, C–26048, C–13532, C–11581, C–11585, C–11590, C–11591, and C–11595; to the Committee on Energy and Natural Resources.

By Mr. BRADLEY:

S. 3134. A bill to provide an Electric Car Tax Credit; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 3135. A bill to provide for a temporary program of Federal supplemental unemployment compensation; to the Committee on Finance.

By Mr. ROTH:

S.J. Res. 204. Joint resolution requiring the President to call a Convocation on American Federalism; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RIBICOFF (by request):

S. 3130. A bill for the relief of the Brooklyn Times; to the Committee on Governmental Affairs.

THE BROOKLYN TIMES

● Mr. RIBICOFF. Mr. President, at the request of the Comptroller General of the United States, I am introducing legislation for the relief of the Brooklyn Times.

I ask unanimous consent that the text of the bill, and the accompanying report of the Comptroller General be printed in the Record.

There being no objection, the bill and the report were ordered to be printed in the Record, as follows:

S. 3130

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Comptroller General of the United States be, and he hereby is, authorized and directed to settle and adjust the claim of the Brooklyn Times, Brooklyn, New York, for an advertisement published on March 29, 1978, for the Department of the Army and to allow in full and final settlement of such claim the sum of $280. Such amount shall be payable from the applicable appropriation of the Department of the Army.

Comptroller General
of the United States,
Washington, D.C. September 4, 1980.
Hon. Walter F. Mondale,
President of the Senate.

Dear Mr. President: Pursuant to the Meritorious Claims Act of April 10, 1928, 45 Stat. 413, 31 U.S.C. § 236 (1976), we have the honor to transmit our report and recommendation to the Congress concerning the claim of The Brooklyn Times against the United States. We request that you please present the same to the United States Senate.

An identical report is being transmitted to the Speaker of the House of Representatives.

Sincerely yours,
Harry R. Van Cleve,
For the Comptroller General of the United States.

Comptroller General
of the United States,
Washington, D.C., September 4, 1980.
To the Congress of the United States:

In accordance with the Meritorious Claims Act of April 10, 1928, 31 U.S.C. § 236 (1976), we make the following report and recommendation on the claim of The Brooklyn Times, 108 West End Avenue, Box 723, Brooklyn, New York 11235, for $280. This claim originates as a result of a newspaper advertisement furnished by the named publisher for the Department of the Army in its March 29, 1978, issue. This claim cannot be settled by the General Accounting Office since the advertisement was placed without prior authorization in violation of 44 U.S.C. § 3702 (1976), which reads as follows:

"Advertisements, notices, or proposals for an executive department of the Government, or for a bureau or office connected with it, may not be published in a newspaper except under written authority from the head of the department; and a bill for advertising or publication may not be paid unless there is presented with the bill a copy of the written authority."

Ordinarily, we do not report to the Congress under the Meritorious Claims Act claims which cannot be paid by reason of a prohibitory statute. In the instant case, however, the provisions of 44 U.S.C. § 3702 do not prohibit advertising in newspapers but, instead, prohibit payment unless written authority for such advertising is issued in advance. In other words, the primary purpose of the statute appears to be to prescribe the contracting procedure to be followed before a contract for advertising may be awarded rather than to prohibit the making of such a contract.

Our office by letter dated November 25, 1974, B–181337, recommended to the Congress that 44 U.S.C. § 3702 be repealed. However, unless and until it is repealed the provisions thereof require the denial of any payment to a publisher who has furnished advertising to the Government where the Government agent, through error or oversight, has not complied with the statute in procuring the advertising. As a consequence, a publisher's only relief is pursuant to the Meritorious Claims Act or enactment of a private relief bill.

In view of the fact that the publisher acted in good faith in furnishing advertising which benefited the Government, we recommend that the claim be authorized for payment.

If the Congress agrees with our recommendation in this matter, it is suggested that enactment of a statute in substantially the following form will accomplish the desired purpose.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Comptroller General of the United States be, and he hereby is, authorized and directed to settle and adjust the claim of The Brooklyn Times, Brooklyn, New York, for an advertisement published on March 29, 1978, for the Department of the Army and to allow in full and final settlement of such claim the sum of $280. Such amount shall be payable from the applicable appropriation of the Department of the Army."

Harry R. Van Cleve,
For the Comptroller General of the United States.●

By Mr. RIBICOFF (by request):

S. 3131. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to clarify the limitations on the legislative authority of the Council of the District of Columbia; to the Committee on Governmental Affairs.

LEGISLATIVE AUTHORITY OF THE COUNCIL OF THE DISTRICT OF COLUMBIA

● Mr. RIBICOFF. Mr. President, at the request of the Mayor of the District of Columbia, I am introducing a bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to clarify the limitations on the legislative authority of the Council of the District of Columbia.

I ask unanimous consent that the text of the bill, and the accompanying letter explaining its purposes, be printed in the Record.

There being no objection, the bill and letter were ordered to be printed in the Record, as follows:

S. 3131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6021 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 1–147) is amended as follows:

(1) Subsection (a)(3) of such section is amended by striking the semicolon and inserting in lieu thereof: *Provided,* That within the meaning of this paragraph the terms 'functions of the United States' shall not include functions relating to the District which are performed by Federal officers or employees pursuant to an Act of Congress applicable exclusively to the District or pursuant to an agreement between the United States and the District under section 731 of this Act;".

(2) Subsection (a)(4) of such section is amended by striking the semicolon and inserting in lieu thereof "; *Provided,* that this paragraph shall not be construed as restricting the authority of the Council under section 431(a) of this Act to provide by law the extent of the jurisdiction of the District of Columbia Courts to review orders and decisions of the Mayor, the Council or any agency of the District;".

(3) Subsection (a)(3) of such section is amended by striking the semicolon and inserting in lieu thereof "; *Provided,* That this paragraph shall not be construed as prohibiting the Council from imposing a tax on incorporated or unincorporated businesses for the privilege of carrying on a trade or business in the District of Columbia;".

(4) Such section is amended by adding at the end of subsection (c) thereof the following new subsection:

"(d) The limitations on the legislative authority of the Council enumerated in subsection (a) of this section shall be strictly construed in a manner consistent with the Congressional purposes stated in section 102 (a) of this Act."

Sec. 2. The amendment made by paragraph (1) of section 1 of this Act shall apply to acts of the Council of the District of Columbia passed on or after April 22, 1980.

The District of Columbia,
Washington, D.C., August 15, 1980.
Hon. Walter F. Mondale,
President of the Senate,
Washington, D.C.

Dear Mr. President: The Government of the District of Columbia has the honor of submitting for the consideration of Congress a draft bill "To amend the District of Columbia Self-Government and Governmental Reorganization Act to clarify the limitations on the legislative authority of the Council of the District of Columbia."

The bill would clarify the language of certain enumerated limitations on the legislative power granted to the District contained in section 602(a) of the Self-Government Act. The primary purpose of the Self-Government Act, as stated in section 102 (a), was to "grant the inhabitants of the District powers of local self-government . . . and, to the greatest extent possible, consistent with the constitutional mandate, relieve Congress of the burden of legislating upon essentially local District matters." Thus, the Act broadly provides that the "legislative power of the District shall extend to all rightful subjects of legislation within the District" subject to constitutional restrictions and the limitations enumerated in title VI of the Act. However, certain of these limitations, in crucial areas, have been subject to conflicting interpretations by the courts and by Federal and District agencies, the result of which has been to bring into question certain facets of the legislative powers of the District under home rule. Unfortunately, the legislative history of the Self-Government Act has provided little guidance. Consequently, the scope of the limitations on the Council's authority, which may have been understood in the 93rd Congress, is often no longer clear. The bill would resolve these uncertainties in accordance with the stated purposes of the Self-Government Act.

I. FUNCTIONS OF THE UNITED STATES

Paragraph (1) of the bill would clarify section 602(a)(3) of the Act which prohibits the Council from enacting legislation "which concerns the functions or property of the United States . . . ". The Council's recent action to establish a local workers' compensation program and to end the District's participation in the more costly Federal Longshoremen's and Harbor Workers' Act was questioned by the Solicitor of Labor, who stated that the Council was without authority to enact such legislation on the theory that since Congress had transferred certain other functions of the Secretary of Labor under title II of the Self-Government Act, effective July 1, 1974, those functions not transferred could not be transferred by Act of Congress.

The Corporation Counsel, however, concluded that the failure of Congress to affirmatively transfer the workers' compensation function to the District did not necessarily preclude a later transfer by the Council under its delegated authority. She determined that the Council was given the power to amend Acts of Congress applicable exclusively to the District of Columbia under title IV of the Self-Government Act (which did not become effective until January 2, 1975) and that the Act of Congress including District workers under the Longshoremen's program was such a local act.

The Corporation Counsel advised, however, that since the question whether Congress has placed responsibility in a Federal official and the scope of section 602(a)(3) were not precise, it would be preferable to seek clear Congressional authorization for the Council to act in such situations. The proposed amendment to section 602(a)(d) would accomplish this.

The bill would add a proviso to section 602(a)(3) that would make it clear that the prohibition against acts concerning "functions . . . of the United States" would not preclude the District from assuming responsibility for purely local or statelike programs and functions, such as workers' compensation, simply because it would replace local activities that had been performed by Federal officers and employees, for convenience or governmental economy, pursuant to local congressional enactments or contractual agreements between the Federal and District Governments.

The amendment would not affect the limitation on the Council's authority with respect to Federal agencies, Federal representation, or Federal appointments. Section 2 of the bill would make this amendment applicable to acts of the Council passed on or after April 22, 1980, the date of the Council's passage on first reading of the District of Columbia Workers' Compensation Act, in order to preclude any challenges to this act based on the theory that it exceeded the Council's authority under section 602(a)(3).

II. ADMINISTRATIVE PROCEDURE ACT AMENDMENTS

Paragraph (2) of the bill would clarify section 602(a)(4) of the Self-Government Act, which prohibits the Council from enacting any act "with respect to any provision of title 11 of the District of Columbia Code (relating to the organization and jurisdiction of the District of Columbia courts)". Questions have arisen with respect to the scope of the Council's authority to amend the District of Columbia Administrative Procedure Act, D.C. Code. section 1–1501 *et seq.*, to determine appellate rights with respect to decisions and orders of local administrative agencies.

Section 431(a) of the Self-Government Act, the Charter provision which establishes the basic jurisdiction of the District of Columbia Courts, grants the courts unqualified jurisdiction over local criminal and civil cases, but expressly provides that the jurisdiction of the Courts to review orders and decisions of the Mayor, the Council, or any District agency shall be "to the extent provided by law". Thus, the Council has enacted legislation with respect to specific agencies that alters the scheme set forth in the Administrative Procedure Act, which provides for review of 'contested cases" in the Court of Appeals, leaving noncontested cases in the Superior Court.

However, the Council's enactment of such legislation has given rise to controversy. See *Capitol Hill Restoration Society* v. *Moore*, D.C. App., 410 A. 2d 184 (1979); *Columbia Realty Venture* v. *D.C. Housing Rent Commission*, D.C. App., 350 A. 2d 120, 124 (1975). In order to dispell future uncertainty, the bill would add a proviso to section 602(a)(4) that would make it clear that the prohibition against acts with respect to title 11 of the Code would not preclude the Council from amending the Administrative Procedure Act—which is contained in title 1 of the Code, not title 11—under authority provided in section 431(a) of the Self-Government Act.

Such amendment would, in our view, be consistent with the intent of the 93d Congress to withhold from the Council the power to reorganize the District of Columbia Courts in view of the fact that it had recently enacted the D.C. Court reorganization Act of 1970.

III. TAXING AUTHORITY

Paragraph (3) of the bill would clarify section 602(a)(5) of the Act, which prohibits the Council from imposing "any tax on the whole or any portion of the personal income, either directly or at the source thereof, of any individual not a resident of the District (the terms 'individual' and 'resident' to be understood for the purposes of this paragraph as they are defined in section 4 of the title I of the District of Columbia Income and Franchise Tax Act of 1947)."

It is necessary to clarify this provision in view of the recent decision of the District of Columbia Court of Appeals in *Bishop* v. *District of Columbia*, D.C. App., 410 A.2d 955 (1979), *reinstated and modified en banc*, 411 A.2d 997, *cert. denied*, 48 U.S.L.W., 3764 (1980). Without authority to tax business activities in the District of Columbia, the District Government will be severely restricted in its ability to generate sufficient revenue and will be faced with creating and perpetuating a grossly inequitable taxing scheme.

The clarification in the bill would rectify these problems without removing the restriction on the Council with respect to imposing an income tax on the wages and salaries of non-residents who work in the District of Columbia, as originally intended by Congress.

Over thirty years ago Congress enacted the District of Columbia Income and Franchise Tax Act of 1947, 61 Stat. 328, ch. 258, D.C. Code, section 47–1551 et seq., which imposed a tax on various unincorporated businesses for the privilege of engaging in a business in the District. See D.C. Code, section 47–1574b. Since its enactment, this tax has been applied to a variety of unincorporated businesses without regard to the residency of the owner of the business.

Exempted from the Act, however, were professionals who, by law, custom, or ethics, were not permitted to incorporate, and certain personal service businesses. Before 1979, the highest appellate court for the District of Columbia held this to be a franchise tax, not an income tax. *District of Columbia* v. *Pickford*, 86 U.S. App. D.C. 17, 179 F. 2d 271 (1979).

In 1971, Congress enacted the District of Columbia Professional Corporation Act, Pub. L. 92–180, 85 Stat. 576, D.C. Code, section 29–1101 et seq., which, for the first time, permitted these professional businesses to incorporate; however, it continued their exemption from the tax on unincorporated businesses. Id. section 21, D.C. Code, section 47–1574 (1973).

In 1975, the council enacted the District of Columbia Revenue Act of 1975, D.C. Law No. 1–30, which repealed the professional exemption from the unincorporated business tax. *Id.* section 605. The Act, however, permitted the owners of such professional businesses to subtract 70 percent of their gross receipts as a personal salary (personal income) deduction, as well as $2,500 exemption, prior to calculating the tax.

The Council read section 602(a)(5) of the Self-Government Act as a limitation on its power to impose a tax on the personal income of nonresident individuals, but not as precluding the extension of provisions of the District of Columbia Income and Franchise Tax Act of 1947 imposing a franchise tax on nonresident business entities to a group of professional and personal services businesses, which had been exempted from the tax solely as a matter of legislative grace. The Revenue Act of 1975 was transmited to Congress for review under section 602(c) of the Self-Government Act and, after hearings by committees in both Houses, was allowed to take effect.

The act was challenged in court by nonresident professionals. The trial court sustained the act as being within the Council's authority. However, the D.C. Court of Appeals reversed on the ground that the act violated section 602(a)(5) of the Self-Government Act. The decision of the Court of Appeals reinstated the tax exemption for professional businesses and will require the District to refund, with interest, those taxes collected under the Revenue Act of 1975 since its enactment five years ago.

It will cost the District approximately $41.4 million annually. Moreover, the decision creates an inequitable situation in the administration of the District's tax laws by exempting nonresident professional businesses from a tax that has been imposed on nonresident owners of other unincorporated businesses for over thirty years, despite the fact that these professional businesses are now permitted to incorporate.

In order to remedy this situation, the bill would add a proviso to section 602(a)(5) of the Self-Government Act that would make it clear that the prohibition against imposing a tax on the personal income of nonresident individuals would not preclude the District from extending the Congressionally enacted franchise tax to unincorporated business entities for the privilege of doing business in the District, from enacting a gross receipts tax on businesses operating in the District, or from imposing any other type of tax on business, as distinct from personal, income.

The legislative history should clarify further that section 602(a)(5) of the Act simply prohibits a tax on the personal salaries and wages of nonresidents, such as the thousands of nonresidents who work for the Federal Government and Congress but live outside the District. Such clarification would be consistent with congressional concerns in 1939, when the District of Columbia Income Tax law was enacted, and in 1973, when the Self-Government Act was enacted.

This clarification is important in order to eliminate as much doubt as possible concerning the legislative authority of the Council. As the Supreme Court pointed out in *District of Columbia* v. *John R. Thompson Co.*, 346 U.S. 100 (1953), the legislative power delegated the District by Congress should be deemed comparable to that of a state legislature. Any problems with regard to individual taxing measures can be adequately addressed by Congress either during the 30-day layover period, when Congress may disapprove a measure by concurrent resolution, or by Congressional legislation.

IV. HOME RULE PRINCIPLE

Paragraph (4) of the bill would add a new subsection to section 602 of the Self-Government Act providing that the limitations on the legislative powers of the Council enumerated in section 602(a) should be strictly construed in accordance with the basic purposes of the act stated in section 102(a).

This addition would be an important reaffirmation by Congress that it intended to relieve itself of local burdens and that, absent violation of a specific, narrowly-defined restriction, it is to be presumed that the Council acted within its authority. The Congressional Committees have acted in accordance with this view since enactment of the Self-Government Act.

Recent court decisions, however, have seriously blurred the broad delegation of legislative authority over all rightful subjects of legislation. Such clarification and reaffirmation should assist in resolving future questions relating to the Council's authority since paragraph (4) is intended to be read as favoring a finding that the Council has authority comparable to a state legislature (see *District of Columbia* v. *John R. Thompson Co.*, supra) except as specifically and precisely limited.

We, therefore, urge the prompt and favorable consideration by Congress of the draft bill.

Sincerely,

MARION S. BARRY, Jr.,
Mayor.●

By Mr. DOMENICI:

S. 3132. A bill to consolidate the intermingled public lands between Farmington and Gallup, N. Mex.; to the Committee on Energy and Natural Resources.

CONSOLIDATION OF CERTAIN FEDERAL LANDS

● Mr. DOMENICI. Mr. President, for several years, the Bureau of Land Management has been negotiating with the Navaho Nation to exchange public lands containing unauthorized Indian occupancies for certain Indian fee lands intermingled with public lands and having high resource values. The public lands occupied by the Indians are scattered between Farmington and Grants, N. Mex. The Indian fee lands are located in the Malpais south of Grants. Tentative negotiations have identified approximately 80,000 acres of Indian fee to be acquired from the Indians and 57,000 acres of public land to be disposed of to the Indians. The Navahos have taken the position that they will not exchange unless they can take the public land in trust status rather than in fee. BLM has filed application to withdraw the public lands to protect them from further conflicts during the process of completing the exchange.

Mr. President, this legislation would enable the proposed exchange to take place and will go a long way in reducing the checkerboard landownership in the Four Corners area of New Mexico.●

By Mr. ARMSTRONG:

S. 3133. A bill to reinstate and validate certain U.S. oil and gas leases numbered C–9496, C–9711, C–11600, C–11621, C–11622, C–11630, C–11631, C–11597, C–11599, C–13774, C–14197, C–17049, C–18262, C–26048, C–13532, C–11581, C–11585, C–11590, C–11591, and C–11595; to the Committee on Energy and Natural Resources.

REINSTATEMENT OF CERTAIN OIL AND GAS LEASES

● Mr. ARMSTRONG. Mr. President, I am today introducing a bill to reinstate 21 oil and gas leases issued to the Public Service Co. of Colorado but terminated by the Department of the Interior because the checks for payment of the annual lease rental were received several days late.

The law on this subject requires that the holder of a lease must exercise "reasonable diligence" in paying the annual rental in a timely manner, and makes it clear that the penalty for failure to submit the rental payment on time could be termination of the lease. Because the statutory and case law is quite explicit, I would not become involved in this case unless the circumstances were unusual and warranted special treatment. I believe the circumstances in this case meet this test.

The Public Service Co. (PSCo), through its subsidiary Fuel Resources Development Co. (Fuelco), followed its normal operating procedures in this case and prepared a check and cover letter on October 10, 1978, for a rental payment that was due on November 1. The check and letter were sent by certified mail.

When it became apparent that the check had not arrived, PSCo prepared a second check, which arrived at the BLM office on November 7, 1978. The Interior Department served a notice of termination shortly thereafter. The Public Service Co. appealed, first to the Department and then to the Interior Board of Land Appeals (IBLA).

On a 2-to-1 vote, the IBLA upheld the DOI decision, refusing to consider the company's argument that the check has been mailed on time but had apparently been lost in the company's internal mail system. The Board ruled that "mailing a rental payment after expiration of the lease anniversary date does not constitute reasonable diligence," regardless of any special circumstances which may be involved.

The dissenting judge cited an earlier case in which Congress had reinstated a Utah lease on the ground that the fact that a rental payment is not mailed until the due date does not necessarily mean an absence of reasonable diligence, particularly where the delay is completely inadvertent. The dissent argued that "the inadvertent loss of any advance rental payment should not—result in lease termination—simply because the loss occurred in a company mail system rather than the U.S. Post Office."

I agree with the dissent. The standard is one of reasonable diligence, not absolute perfection which permits no errors or accidents at any time. A company meets that standard if it sets up a payment system which can reasonably be expected to operate efficiently and which, in fact, has a proven track record of getting lease rental payments to the BLM office on time.

PSCo and Fuelco have met that standard, in my opinion. I do not believe they should be penalized because their system broke down and a check was lost once in many years of smooth operation.

It appears to me that the DOI/IBLA standard for "reasonable diligence" is arbitrary, unnecessarily strict, and not in accord with either Congress intent under the Mineral Leasing Act or the general case law on the subject of diligence. Since I believe that the companies were reasonably diligent and that Interior has interpreted and applied the statutory standard incorrectly, I urge reinstatement of these leases.

Reinstatement seems justified for additional reasons, as well. The Public Service Co. acquired these leases in 1973 and made the required rental payments on time each year, with the single exception of 1978, when payment was inadvertently made a few days late. Moreover, Public Service has already spent $12 million on these leases and intends to proceed with further exploration and hopefully go to production; in fact, it would like to drill two more holes yet this year, if the leases are reinstated in time.

Thus, failure to reinstate these leases would be most unfair to a company which has invested large sums of money in what is clearly a valuable leasehold. It would also be an unwarranted windfall to any lessee who should happen to acquire these valuable leases once they are again made available through the simultaneous drawing system.

There is also congressional precedent for my measure. In 1976, in the case I mentioned earlier, the 94th Congress reinstated a Utah oil and gas lease which had been terminated because the rental check was received late, due to the unexpected illness of the company's office clerk. The House report on H.R. 2782 noted that Congress intent under the Mineral Leasing Act was "to allow reinstatement of a lease in a case where late payment is due to inadvertence on the part of lessee" and the lessee "acted in good faith to meet the diligence requirements under the statute."

Finally, reinstatement would be in the public interest, since the public will clearly benefit if continued exploration results in a commercial discovery.

A companion measure to my bill (H.R. 6258) has already been passed by the House of Representatives, on a voice vote, and referred to the Senate. I urge the Senate to expedite passage of this small, but important, measure, so that the Public Service Co. of Colorado can get on with the vital business of reducing our dependence on foreign oil and providing a secure domestic supply of reasonably priced energy for Colorado's consumers.●

By Mr. BRADLEY:

S. 3134. A bill to provide an electric car tax credit; to the Committee on Finance.

ELECTRIC CAR TAX CREDIT

Mr. BRADLEY. Mr. President, I am today introducing legislation to promote the manufacture and sale of electric cars. The electric car holds exciting promise of providing urban Americans with affordable, clean and efficient transportation. Mass production of these cars would enable us to make real progress in reducing air pollution, cutting oil imports and creating new jobs for Americans.

By 1985, U.S. automobile manufacturers will have the technical capability to produce an electric car that can cruise along at 50 to 60 miles per hour for at least 150 miles. And the fuel for these cars will cost much less than the gasoline for today's standard combustion engine. Electric vehicles will also be cheaper and easier to maintain than conventional automobiles, Gasoline engines require constant tune-ups, antifreeze, mufflers and a host of other parts to operate smoothly. Servicing these parts is expensive. But an electric vehicle needs only an electric motor and a battery pack so there is virtually no maintenance.

Both the United States and the foreign automobile industries are starting to take the electric car's potential seriously. General Motors has announced a 1984 target date for producing its first generation electric car. Chrysler and General Electric have teamed up to produce an electric car that will get over 100 miles between charges. Volkswagen and Toyota are also testing several electric versions that could be on the market in a couple of years. Together, these firms have the mass marketing potential to deliver hundreds of thousands of electric vehicles to the motoring public within a few years. In the meantime, motorists will increasingly be able to do take advantage of "conversion cars"—gasoline vehicles converted to electrics. Although there are presently only a handful of companies converting combustion engines to electricity, the number is bound to grow.

A tax credit would promote these trends by stimulating consumer interest in the electric car and by making the cost of these vehicles more fully competitive with standard automobiles. I am proposing a bill that would provide a tax credit of 15 percent of the purchase price, or conversion cost—up to $1,500—of a car designed to carry at least four passengers, and 10 percent—up to $1,000—for a two-seater. The reason for the differential is to encourage manufacturers to build an acceptable electric alternative to the typical American family, gas-powered car—the four-passenger standard model. Detroit carmakers are gearing up to produce by 1984 only little two-seater commuter cars for city and local driving, which has limited appeal, based on car buying habits and trends. Only 2 percent of the motoring public buys two-seater vehicles, almost all of which are sport cars. Ninety-eight percent of the cars purchased in America are four-passenger models, and sedans and station wagons that can seat from six to nine persons. If the electric vehicle is to provide a serious alternative to standard combustion engines, it must meet the needs of the majority of American drivers.

By Mr. MOYNIHAN:

S. 3135. A bill to provide for a temporary program of Federal supplemental unemployment compensation; to the Committee on Finance.

FEDERAL SUPPLEMENTAL UNEMPLOYMENT COMPENSATION

● Mr. MOYNIHAN. Mr. President, I am introducing today a bill to provide a temporary program of Federal supplemental unemployment compensation.

On August 28, 1980 the President announced an "economic program for the eighties." It is a broad, multifaceted program for the economic revitalization of the country that recognizes our serious economic problems and proposes a variety of ways to create jobs.

The enactment of a supplemental unemployment compensation program is part of the President's program, but it is much more urgent than other provisions of the President's program. What I propose is not a new idea. The Congress has in the past authorized additional unemployment benefits during recessions. Legislation authorizing a third tier of benefits was enacted in the 1970's, at first providing an additional 13 weeks of benefits, and later 26 weeks, to workers who had exhausted both regular and extended benefits. Authorization for these extra benefits expired on January 31, 1978.

Although economists differ on the length and the depth of the current recession, there is no disagreement that it began in January and that unemployment rates at least as high as the current level will continue for several more months. There have been more than 8 million Americans unemployed since May. Two hundred and fifty eight thousand workers have exhausted their extended benefits for the latest 6-month period for which data is available. Until the economy shows significant improvement, jobs will remain scarce. Individuals and communities lack the resources to support the unemployed and their dependents.

This program is targeted to these people. The principal feature of this bill is the extension of unemployment compensation for up to an additional 13 weeks after a person's current benefits are exhausted. A National and State trigger system would activate the supplemental benefits program only during periods of high unemployment. Benefits from this program would be financed from general revenues. This is a temporary emergency program. It would be in effect only for 6 months, from October 1, 1980, to March 31, 1981.

Mr. President, I cannot overstate the importance and urgency of this proposed program. We are in one of the deepest recessions ever. Although recent indicators suggest some measure of recovery, our economic problems are complex and deep rooted; they will not be solved overnight. There are millions of working people who have lost their jobs during this recession. They are the victims of our troubled economy. Many of them have remained unemployed for long periods because there is a shortage of suitable jobs. This bill is a temporary measure to provide these workers with an additional measure of protection during periods of prolonged joblessness until economic conditions permit their reentry into the labor force. I hope the Senate will agree, and will enact this bill into law at the earliest possible time.●

By Mr. ROTH:

S.J. Res. 204. Joint resolution requiring the President to call a Convocation on American Federalism; to the Committee on Governmental Affairs.

CONFERENCE ON FEDERALISM

● Mr. ROTH. Mr. President, I am today introducing a joint resolution and submitting a concurrent resolution providing for and encouraging the creation of a National Conference on Federalism. I think we need a thorough reassessment of our federal system of government and before I explain my proposed measures, I would like to describe the reasons a conference on federalism is, in my opinion, necessary.

The story is told of a newly appointed Federal official who came to Washington full of enthusiasm and determination to make Government work and improve the effectiveness of his agency. After a few weeks on the job, a major problem surfaced in one of his agency's programs. Intent on quickly resolving the issue, the official asked his assistant to call into his office the person responsible for the program.

A few minutes later, the new chief was astounded to see 17 people troop into his office, and he asked his assistant who they all were.

"They," came the reply, "are the 'person' responsible for the program."

This story is symbolic of the condition of the modern American federal system. For, just as responsibility for this program was divided among numerous people, responsibility for governance is fragmented among the many governments in our system. Beneath the Federal Government, there are countless other governments including States, counties, cities, towns, townships, boroughs, special districts, COG's and others as well. In fact, there are some 80.000 governments of various types actively participating in the Federal "experiment" including 41,-

000 cities and counties, 1,600 school districts, 23,000 special districts, 50 States and 1,800 regional governments and organizations. At one time in our history, the roles and responsibilities of these governments were neatly defined but today we face a confusing overlap of governmental roles. This system is inefficient, unaccountable and a poor means of delivering public services.

As a result, like the new agency head, most Americans find modern federalism a confusing and impenetrable maze. The number of participants in the system is large, which creates part of the confusion, but, more importantly, no one is fully responsible for anything; and everyone is responsible for everything. None of the partners in the existing federal system is forced to take responsibility for the mistakes made in governing, for there is always someone right next door to whom the buck can be passed. And today endless buck passing is a continuous occurrence in our federal system.

Federalism was not supposed to work like this. For nearly 200 years, Americans have worked to reconcile the twin goals of variety—or diversity—and unity through a federal system of government. Its hallmark is, theoretically, a sharing of power among a national government, the States and local governments. The federal system of government, as it was originally envisioned, was intended to make Government more accountable to its citizens and less intrusive through an effective sharing of powers and functions among the levels of government.

This shared power or "federal" characteristic of our system has been discussed and examined since the founding of our Republic. The debate began with the Federalist Papers, the important book on American Government. Yet, today, as at no other time in our history, the question is raised, among elected officials, scholars, and many citizens, as to whether such a system of shared and divided powers is equal to the complex and critical domestic problems facing our Nation.

The modern federal system has remained a vague mystery to most Americans. Few Americans realize the effects such a unique system has on their lives, and textbook descriptions, even as late at the 1960's, no longer accurately portray American Government. While most Americans realize that government plays a role in their lives, few understand exactly how they can best participate in the confusing modern governmental structure, and confusion and perplexity have resulted in cynicism on the part of many citizens.

As an example of the way in which the modern federal form of government affects the lives of us all, take a relatively simple government activity like fire protection. Most Americans would assume that this is a strictly local function consisting of local fire companies, fire protection districts, and local volunteer firemen.

But they would be wrong. Every Federal executive department, except State and Defense, as well as at least 11 other Federal agencies, are involved in fire-related activities that affect us all. Moreover, in addition to general revenue sharing, sometimes used to support fire service delivery, 52 Federal grant-in-aid programs administered by 24 separate Federal agencies are distributed to States and localities in support of firefighting activities. Eight Federal agencies make loans of money or equipment that can be used to improve fire protection and five collect data related to fire incidence, injuries, and losses. In addition, most States operate various civil defense programs and maintain emergency response agencies which have a hand in firefighting programs. And that is just one small, relatively insignificant function of government.

Perhaps because of the relative obscurity and complexity of our federal system, few Americans realize that the system is in serious disarray. Intergovernmental relationships have lost their vitality and the system has become less and less able to adapt effectively to changing circumstances. In many respects, our federal system no longer works as it was intended.

The signs of this breakdown in the intergovernmental system are numerous if not always visible. They include the massive, unrestrained growth of government at all levels, the increased size, complexity, and confusion evident in the existing federal grants-in-aid system, the continuing expansion of the Federal Government's authority and influence over the other participants in the system and the increasing lack of accountability to the taxpayers evidenced by government at all levels.

As a longstanding member of the Advisory Commission in Intergovernmental Relations, an independent Federal agency assigned the task of continually studying our federal system, I have watched many of these trends develop over the years. The Commission, after months of careful work, is now in the process of releasing a major study which describes, in striking detail, the difficulties facing American federalism as the Nation enters the decade of the eighties. Its conclusions should give pause to all of us concerned about the vitality and health of our system of government in the future.

Growth in the size and influence of government, but especially the Federal Government, is one major symptom of a weakened federal system. The Founding Fathers intentionally created a government of dispersed powers to prevent the accumulation of overbearing power in any one organization. For this reason, the 10th amendment to the Constitution provides that "powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively * * *." Somewhat differing interpretations have been given to the "reserved powers" provision over the years, but it has, until recently, acted as an effective protection for the States and a block to the expansion of excessive Federal power.

It no longer offers such protection. Through the grant-in-aid device, mandates, and Federal preemption of State laws, the Federal Government has grown at an unbelievable rate. The projected $600 billion plus fiscal year 1981 Federal budget, the startling explosion of Federal agencies (between 1961 and 1973 141 new agencies were created), the creation of over 100 regulatory programs and activities and the tripling of of the average annual size of the Federal Register since the mid-sixties are evidence of this expansion.

Even more revealing is the continued dominance of the Federal Government in the collection of revenues. In 1979, for the first time in many years, local revenues fell as a percentage of gross national product. The localities collected revenues amounting to 3.6 percent of the gross national product, while States had receipts of approximately 5.6 percent.

By contrast, the Federal Government raised revenues totaling nearly 19 percent of the GNP in 1979. Social security taxes, a component of the total Federal revenue picture, grew so large (approximately $120 billion for fiscal year 1979) that it has become a four dimension in our intergovernmental tax structure. In fact, social security tax receipts exceeded those of all local governments by $40 billion in 1979, a startling figure. As one wit has noted dryly, "A taxpayer can be described as a Federal employee who doesn't have to take a civil service examination."

The influence of the Federal Government is often indirect, and evidence of the real dimensions of its growth often are hidden, because Federal bureaucrats seldom directly administer programs. Instead, they hand out money to the States, localities, and nonprofit groups who must take the responsibility for administering these programs and insuring that the benefits reach those who qualify. This aspect of federalism is a relatively recent phenomenon and has come about primarily through the rapid expansion of Federal grant-in-aid programs and mandates. Indeed, "hot potato" federalism, in which the Federal Government appears to confront every pressing problem while passing the buck down to States and localities through grants, is a primary reason for the inadequate and ineffective implementation of Government programs. It is also a primary cause, as the ACIR report so well documents, of the disarray and chaos currently evident in our Federal system.

The confusion in the Federal grant-in-aid system is clearly revealed by the ACIR study. Effective grant management is a serious problem and is a result, at least in part, of the complexity of the Federal assistance network. In 1960, for example, there were 132 assistance programs to States and localities and just over $7 billion was spent on those programs, representing less than 2 percent of the GNP. Today, close to 500 assistance programs exist accounting for $88 billion of the Federal budget and 3.4 percent of the GNP. In 1970, only two grant programs cost the taxpayers over $1 billion; today, there are 15.

Numbers alone do not reveal the complexity of the grants process. Ninety percent of the programs are authorized in the form of narrow, paperwork laden grants which severely restrict the ability of the States and localities to efficiently implement policies. The paperwork is nearly choking the system. For example, State applications and plans under the medicaid grant program include over 40 assurances and reports. One city official told my office that grant applications never leave his office unless they are more than 2 or 3 inches thick. Current grant law and regulation would fill, if compiled in a central place, over 800 law volumes, and, recent estimates indicate that the paperwork burden may approach 50 percent of some grant program funds.

To administer these Federal programs, States and localities have hired an army of new employees. While many may argue that Federal employment has grown only slightly over the year, the reality is that the Federal Government exports its problems and its chaos down to the States and localities. In my home State, in the city of Wilmington, 2,218 city employees were on the payroll in 1952 and the city had a population of just over 110,000 people. Although the population had dropped to 76,000 by 1975, city employment jumped to nearly 3,700. One reason was simply a demand for more city services. But, a second reason is the need to monitor and administer federally assisted programs.

All told, Federal employment has risen from 2.1 million in 1950 to 2.8 million in 1976 while State and local employment exploded during the same period from 4.3 million to 12 million. The vast increase in grant-in-aid programs, the explosion in grant conditions and rules—currently some 1,040 conditions are attached to Federal assistance programs—and the expanding Federal tendency to mandate, or directly order, State and local actions, are significant factors in stimulating public sector growth.

The Federal Government has also increased its functional role in our federal system at the expense of States and localities. The same Federal Government that once devoted almost all of its attention to providing national defense, running the post office, conducting foreign affairs, and raising taxes, now devotes over two-thirds of its revenues to financing shared functions in which other levels of government or individuals have roles as partners or beneficiaries. The Federal Government is so financially intertwined with States and localities and other entities that whatever it does affects the whole Nation. States and localities are becoming, in many cases, mere administrative arms of the Federal Government.

ACIR has found that the Federal Government's role in all major government functions has increased, at least since the beginning of the 1960's. Of 17 basic Government functions or areas ranging from health services to public safety, the Federal Government has a significant or majority role in all but 7. Even in areas like public safety—police protection—in which the States and localities were thought to be preeminent, the Federal Government has begun to take a significant role. ACIR found, using a carefully constructed measuring scheme designed to indicate the level of centralization in American Government on a scale from 5—least centralized—to 1—most centralized—that the average degree of centralization has moved toward the Federal Government, from a measure of 2.8 to 2.5 since 1964.

The influence, size, and authority of the Federal Government has mostly increased since the sixties and, as a result, functional roles of each of the levels of government are no longer clear.

In effect, the ACIR report describes a federal system which functions ineffectively and inefficiently at best. It is a system in need of repair. The traditional values inherent in a balanced federal system—maximum opportunity for citizen participation in government, promotion of political choice and cultural diversity, increased opportunities to experiment with new ideas and policies at the State and local level, enhanced individual liberties—are being eroded. The poor performance of government programs, due in large part to the chaotic condition of our federal system, produces cynicism on the part of citizens who expect the promises of government to be translated into performance. And, of course, the costs of government, exacerbated by the problems evident in American Federal Government, are phenomenal and affect taxes paid by citizens at all three levels of government.

How does the current confusion in the federal system really affect the average taxpayer? That question is perhaps one of the most important since it is the economic and fiscal effects of the intergovernmental process that most directly affect the everyday life of citizens.

There are no definitive answers to this question, but one recent study, conducted by the Urban Institute, reveals that modern federalism does exact a real price which is, at least in part, translated into higher taxes at all levels of government. After reviewing six Federal laws which must be implemented and enforced by local governments, the study revealed that the costs of these Federal programs to the seven jurisdictions sampled amounted to an average of $25 for every person living in those cities and counties. In other words, the federally mandated costs of compliance to the local governments might well force the taxpayers in these governments to pay $25 more in taxes than would be the case without these Federal requirements.

It should be pointed out that there are benefits to these programs, and States and localities do receive some money to offset Federal mandates. But, as the study makes clear, the $25 per capita figure reflects expenditures that the local governments might have made on their own but have not, in fact, wished to make. From the perspective of local elected officials, virtually all the costs associated with these programs exceeded the benefits—else the programs would have been undertaken without a mandate from Washington. What the study clearly reveals, in sum, is that the confusion in our federal system is costly to the local taxpayer. Unlike the costs of Federal regulation of the private sector, where consumers may avoid some of the costs of regulation by altering buying habits, there is no way to avoid increased taxes.

What can be done to stimulate a more balanced, effective federal system? Present circumstances, in my view suggest the need for a thorough reassessment of the status of American federalism. It seems unlikely that any of the intergovernmental shortcomings cited here will be resolved easily or through continued haphazard and incremental change. Such a reassessment, conducted in the form of a national conference on federalism composed of elected officials at all levels, would carefully reexamine the roles of Federal, State, and local governments. It would seriously look at ways to reassign responsibilities clearly and openly so that governments at all levels are, once again, made fully accountable to their citizens.

The joint and concurrent resolutions which I am introducing today encourage the formation of such a conference, or convocation, on federalism. I am offering two different legislative proposals because I feel it is important to put the Congress on the record as soon as possible on this matter. If hearings cannot be held this year on my joint resolution, I hope the Senate will approve the concurrent resolution which would express the Senate's support for the concept of a federalism conference without the force of law.

Mr. President, I previously introduced a bill with Senator Eagleton, to provide for the creation of a Citizen's Commission to study government at all levels. I do not believe my proposal for a conference on federalism would conflict with the Citizen's Commission. In fact, I believe that the federalism conference would improve the overall examination of government envisioned by the Eagleton-Roth bill. I expect, at any rate, that the issue of a conference on federalism can be examined in conjunction with the Eagleton-Roth proposal next year in the Govermental Affairs Committee. I hope my colleagues will give serious consideration to the idea of a conference on federalism as outlined in the two bills I offer today.

Mr. President, I ask unanimous consent that the text of the joint resolution and a description of the proposal be printed in the Record at this time.

There being no objection, the joint resolution and description were ordered to be printed in the Record as follows:

S.J. Res. 204

Whereas the American federal system of government has been, since its founding nearly two hundred years ago, a unique and adaptable governmental structure which has preserved and protected the individual freedoms of the American people;

Whereas the American federal system has pragmatically adapted to the changes the United States has experienced during its two centuries of existence;

Whereas the adaptability of the American federal system has been severely strained as the fiscal and political constraints and balances of the system have begun to erode;

Whereas the American federal system is presently dysfunctional in that the relationships between levels of government have increasingly become more pervasive, unmanageable, ineffective, costly, confusing, and unaccountable to the public;

Whereas clearly recognizable symptoms of dysfunction in the federal system are that (A) State and local government budgets have become more dependent on Federal grant funds, and (B) all levels of government have become more constrained and less able to act due to the maze of regulations, rules, and laws which govern the complex interactions of the various participants in the federal system; and

Whereas needless complexity, diffused accountability, a lack of clear direction, and fragmentation of responsibilities in the dysfunctional federal system necessitate the calling of a convocation of elected officials from all levels of government to discuss the condition of the federal system and to develop joint strategies to remedy the weaknesses which have developed in the system: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That this joint resolution may be cited as the "American Federalism Rejuvenation and Renaissance Resolution of 1980".

CONVOCATION OF AMERICAN FEDERALISM

SEC. 2. (a) By January 1, 1981, the President shall call a Convocation on American Federalism (hereinafter referred to as the "Convocation"). The Convocation shall bring together elected officials of the Federal Government and State and local governments in order to stimulate a national assessment of the federal system of government and develop recommendations concerning such system in accordance with section 3. The President shall consult fully with the Congress in convening such Convocation.

(b) The Convocation shall elect a Chairman from among the delegates to the Convocation.

(c) The Convocation shall meet at such times and in such places as the Convocation finds appropriate. The Convocation shall complete its deliberations and adjourn by January 1, 1982, and, by May 1, 1982, shall publish a final report and such interim reports as it finds appropriate.

(d) Delegates to the Convocation may arrange and conduct conferences and other activities at the regional and State levels and, in order to prepare for the Convocation, may direct such conferences and activities toward the consideration of the matters described in section 3.

DUTIES OF THE CONVOCATION

SEC. 3. The Convocation shall—

(1) examine the history and development of the American federal system and identify the present strengths and weaknesses of the system;

(2) debate and define which governmental functions are inherently national in nature and which governmental functions are inherently State or local in nature, and examine how such functions are currently allocated to various levels of government, including an analysis of such allocation in regulatory and program activities;

(3) identify and discuss the fiscal and functional roles of each level of government and any changes in current functional or programmatic roles which may be necessary and appropriate;

(4) debate and define the power of Congress to regulate interstate commerce and the use of such power to preempt State and local regulatory authority and to impose mandates on State and local governments;

(5) debate and define the limits and constraints on the power of the Congress to attach conditions to the distribution of Federal financial assistance, including the use of such power to regulate or mandate actions of State or local governments; and

(6) discuss and develop strategies to simplify the federal grant system and to ensure that the system is effective and is utilized only where appropriate and where direct provision of services by the Federal Government would not be effective.

PLANNING AND ADMINISTRATION OF THE CONVOCATION

SEC. 4. (a) From the date of enactment of this Act through the day on which the Chairman of the Convocation is elected under section 2 (b), the Convocation shall be planned and administered under the direction of the Chairman of the Advisory Commission on Intergovernmental Relations. In planning and administering the Convocation, the Chairman of the Advisory Commission is authorized to—

(1) request the cooperation of such Federal departments and agencies as may be appropriate;

(2) provide all reasonable assistance, including financial assistance, to State and local governments in enabling them to organize and conduct conferences on American federalism prior to the Convocation;

(3) prepare and make available necessary background materials for use of delegates to the Convocation; and

(4) engage such personnel as may be necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) On and after the day after the date on which the Chairman of the Convocation is elected, the Chairman of the Convocation shall be responsible for the planning and administration of the Convocation and shall have the powers described in clauses (1), (2), (3), and (4) of subsection (a). In planning and administering the Convocation the Chairman of the Convocation is authorized—

(1) to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code; and

(2) to enter into agreements with the Administrator of General Services for necessary financial, administrative, and other support services, for which payment shall be made by reimbursement from funds of the Convocation in such amounts as may be agreed upon by the Chairman of the Convocation and the Administrator of General Services.

AUTHORIZATION

SEC. 5. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this joint resolution.

DESCRIPTION OF "AMERICAN FEDERALISM REJUVENATION AND RENAISSANCE RESOLUTION OF 1980"

(By SENATOR WILLIAM V. ROTH, JR.)

The "American Federalism Rejuvenation and Renaissance Resolution of 1980" provides for the creation of a Convocation on Federalism which would provide a forum for the discussion of the serious difficulties facing our federal system of government.

The Convocation would, in essence, be a gathering of elected officials at all three levels of government to examine the current condition of federalism in America. It would be officially created by the President of the United States who would issue a proclamation stating the purposes of the Convocation and inviting elected officials at all levels of government to attend. The President would be required to consult fully with Congress before issuing the proclamation. The Convocation would be required to convene on or before January 1, 1981.

The Convocation is intended to be broad based and, for this reason, the Resolution contains no definitions which would limit the attendance of any elected official from any level of government. The key to a successful Convocation, which carefully and completely reviews the condition of federalism, is the active participation of as many elected officials in government as possible. The contributions of governments of all types and at all levels will be crucial to the success of the Convocation.

The delegates to the Convocation are directed, in the Resolution, to examine and debate several specific issues which exemplify the weaknesses apparent in government today. These include the fragmentation and confusion concerning the roles and responsibilities of governments at all levels, the ineffective and wasteful federal assistance network and the powers and authorities which should belong to each level of government in a balanced federal system. The delegates to the Convocation must issue a final report concerning their deliberations and findings by May 1, 1982.

In an effort to isolate the Convocation from unnecessary controversy or political interference, the initial planning and preparation will be the responsibility of the Advisory Commission on Intergovernmental Relations, a non-partisan, independent executive branch agency in the federal government. The ACIR is very familiar with the issues surrounding our federal system since one of its major responsibilities is to continually study the intergovernmental relationships of our government. The Commission would be responsible for planning the Convocation until it convened and would provide continuing assistance to the delegates at the Convocation once its chairman had been chosen.●

ADDITIONAL COSPONSORS

S. 2718

At the request of Mr. STEVENSON, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of S. 2718, an original bill to encourage exports by facilitating the formation and operation of export trading companies, export trade associations, and the expansion of export trade services generally.

S. 3006

At the request of Mr. WALLOP, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 3006, a bill to amend the Internal Revenue Code of 1954 to provide a nonrefundable tax credit for investment in qualified industrial energy efficiency and fuel conversion projects.

SENATE JOINT RESOLUTION 189

At the request of Mr. STEVENSON, the Senator from Maine (Mr. MITCHELL) was added as a cosponsor of Senate Joint Resolution 189, a joint resolution to establish a Commission on Presidential Nominations.

SENATE JOINT RESOLUTION 193

At the request of Mr. RIEGLE, the Senator from Alabama (Mr. HEFLIN) was added as a cosponsor of Senate Joint Resolution 193, a joint resolution authorizing the President to enter into negotiations with foreign governments to limit the importation of automobiles and trucks into the United States.

SENATE JOINT RESOLUTION 196

At the request of Mr. PROXMIRE, the Senator from Nevada (Mr. LAXALT), the Senator from Oregon (Mr. HATFIELD), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. RIEGLE), the Senator from Montana (Mr.

Melcher), the Senator from California (Mr. Cranston), the Senator from Hawaii (Mr. Inouye), the Senator from Kentucky (Mr. Ford), the Senator from Michigan (Mr. Levin), the Senator from North Dakota (Mr. Burdick), the Senator from Texas (Mr. Bentsen), the Senator from Pennsylvania (Mr. Schweiker), the Senator from Hawaii (Mr. Matsunaga), the Senator from Florida (Mr. Chiles), the Senator from New Mexico (Mr. Schmitt), the Senator from Alaska (Mr. Gravel), the Senator from Alabama (Mr. Heflin), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Arizona (Mr. DeConcini), the Senator from Tennessee (Mr. Sasser), the Senator from Nebraska (Mr. Exon), the Senator from New York (Mr. Moynihan), and the Senator from Maine (Mr. Mitchell), were added as cosponsors of Senate Joint Resolution 196, A joint resolution authorizing the President to proclaim March 16 of each year as "Freedom of Information Day".

SENATE JOINT RESOLUTION 201

At the request of Mr. Cranston, the Senator from Michigan (Mr. Riegle) was added as a cosponsor of Senate Joint Resolution 201, a joint resolution to provide for the designation of a week as "National Lupus Week."

SENATE JOINT RESOLUTION 202

At the request of Mr. Domenici, the Senator from California (Mr. Cranston) was added as a cosponsor of Senate Joint Resolution 202, a joint resolution to authorize and request the President to issue a proclamation designating October 12 through October 19, 1980, as "Italian-American Heritage Week."

SENATE CONCURRENT RESOLUTION 116

At the request of Mr. Thurmond, the Senator from Arizona (Mr. Goldwater) was added as a cosponsor of Senate Concurrent Resolution 116, a concurrent resolution expressing the sense of the Congress on the Baltic States question.

SENATE CONCURRENT RESOLUTION 117

At the request of Mr. Moynihan, the Senator from New Jersey (Mr. Bradley) was added as a cosponsor of Senate Concurrent Resolution 117, a concurrent resolution expressing the sense of the Congress that the President should convey to the Soviet Government the deep concern of the Congress and the American people for the fate of Raoul Wallenberg and that the U.S. delegation to the Madrid Conference on Security and Cooperation in Europe should urge consideration of the case of Raoul Wallenberg at that meeting by the signatories to the Helsinki Final Act.

SENATE CONCURRENT RESOLUTION 125—SUBMISSION OF A CONCURRENT RESOLUTION CALLING FOR A CONVENTION ON FEDERALISM

Mr. ROTH submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs:

S. Con. Res. 125

Whereas the American federal system of government has been, since its founding nearly two hundred years ago, a unique and adaptable governmental structure which has preserved and protected the individual freedoms of the American people;

Whereas the American federal system has pragmatically adapted to the changes the United States has experienced during its two centuries of existence;

Whereas the adaptability of the American federal system has been severely strained as the fiscal and political constraints and balances of the system have begun to erode;

Whereas the American federal system is presently dysfunctional in that the relationships between levels of government have increasingly become more pervasive, unmanageable, ineffective, costly, confusing, and unaccountable to the public;

Whereas clearly recognizable symptoms of dysfunction in the federal system are that (A) State and local government budgets have become more dependent on Federal grant funds, and (B) all levels of government have become more constrained and less able to act due to the maze of regulations, rules, and laws which govern the complex interactions of the various participants in the federal system; and

Whereas needless complexity, diffused accountability, a lack of clear direction, and fragmentation of responsibilities in the dysfunctional federal system necessitate the calling a convocation of elected offiicals from all levels of government to discuss the condition of the federal system and to develop joint strategies, to remedy the weaknesses which have developed in the system: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that by January 1, 1981, the President should call a Convencation on American Federalism (hereinafter referred to as the "Convocation") in accordance with the provisions of this concurrent resolution. The purpose of the Convocation is to bring together elected officials of the Federal Government and State and local governments in order to stimulate a national assessment of the federal system of government and develop recommendations concerning such system in accordance with section 2.

(b) The Convocation should establish procedures for—

(1) the election of a Chairman from among the delegates to the Convocation;

(2) the holding of meetings at such times (until January 1, 1982) and in such places as the Convocation finds appropriate; and

(3) for the publication of a final report by May 1, 1982 and such interim reports as the Convocation finds appropriate.

(c) Delegates to the Convocation and other interested individuals and organizations should be authorized to conduct conferences and other activities at the regional and State levels and, in order to prepare for the Convocation, to direct such conferences and activities toward the consideration of the matters described in section 2.

Sec. 2. The Convocation should—

(1) examine the history and development of the American federal system and identify the present strengths and weaknesses of the system;

(2) debate and define which governmental functions are inherently national in nature and which governmental functions are inherently State or local in nature, and examine how such functions are currently allocated to various levels of government, including an analysis of such allocation in regulatory and program activities;

(3) identify and discuss the fiscal and functional roles of each level of government and any changes in current functional or programmatic roles which may be necessary and appropriate;

(4) debate and define the power of Congress to regulate interstate commerce and the use of such power to preempt State and local regulatory authority and to impose mandates on State and local governments;

(5) debate and define the limits and constraints on the power of the Congress to attach conditions to the distribution of Federal financial assistance, including the use of such power to regulate or mandate actions of state or local governments; and

(6) discuss and develop strategies to simplify the federal grant system and to ensure that the system is effective and is utilized only where appropriate and where direct provision of services by the Federal Government would not be effective.

Sec. 3. (a) From the date of enactment of this Act through the day on which the Chairman of the Convocation is elected under section 1(b), the Convocation should be planned and administered under the direction of the Chairman of the Advisory Commission on Intergovernmental Relations. In planning and administering the Convocation, the Chairman of the Advisory Commission should—

(1) request the cooperation of such Federal departments and agencies as may be appropriate;

(2) provide all reasonable assistance, including financial assistance, to State and local governments in enabling them to organize and conduct conferences on American federalism prior to the Convocation; and

(3) prepare and make available necessary background materials for use of delegates to the Convocation.

(b) On and after the day after the date on which the Chairman of the Convocation is elected, the Chairman of the Convocation should be responsible for the planning and administration of the Convocation and should exercise the powers described in clauses (1), (2), and (3) of subsection (a).

(The remarks of Mr. Roth concerning this concurrent resolution appear with his remarks on Senate Joint Resolution 204 in today's Record.)

SENATE RESOLUTION 524—ORIGINAL RESOLUTION REPORTED TO WAIVE THE BUDGET ACT

Mr. JACKSON, from the Committee on Energy and Natural Resources, reported the following original resolution; which was referred to the Committee on the Budget:

S. Res. 524

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2734. Such waiver is necessary because S. 2734 authorizes appropriations for fiscal year 1980 of $5,400,000 which was not included in the committee's submission to the Budget Committee.

The amount authorized by S. 2734 is not significant enough to adversely affect the congressional budget.

SENATE RESOLUTION 525—SUBMISSION OF A RESOLUTION RELATING TO THE SEATING IN THE UNITED NATIONS OF A PERMANENT REPRESENTATIVE OF CAMBODIA

Mr. HOLLINGS submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 525

Whereas the Democratic Kampuchean government of Pol Pot in Cambodia was one of the most oppressive and murderous regimes in history, having been responsible, directly or indirectly, for the death of an estimated

1,200,000 to 1,800,000 Cambodians during a four-year period;

Whereas at present the Vietnamese-installed regime headed by Heng Samrin occupies much of Cambodia and is dependent for its continuing support on the Socialist Republic of Vietnam;

Whereas the United Nations General Assembly voted in 1979 to seat a representative of the Pol Pot government;

Whereas the regime headed by Heng Samrin is expected to request the seating of one of its representatives in the current session of the United Nations General Assembly; and

Whereas the United States Government disapproves of both the Cambodian faction headed by Pol Pot and the faction headed by Heng Samrin: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should direct the Permanent Representative of the United States to the United Nations to abstain in any vote with respect to the continued seating of a representative of the Cambodian faction headed by Pol Pot as permanent representative of Cambodia to the United Nations.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

● Mr. HOLLINGS. Mr. President. I submit today a resolution expressing the sense of the Senate that the United States should not cast a vote in favor of either the Pol Pot or the Heng Samrin cabals from Cambodia when the issue of seating a representative from one of them is again raised at the United Nations.

The "Democratic" Kampuchean government of Pol Pot was one of the most despicable regimes in all of history. having been responsible for the deaths of an estimated 1.2 to 1.8 million Cambodians.

The United States should not in any way express support for so vile a regime. I understand very well that "human rights" diplomacy can be carried to overly-zealous excess on occasion, and that a holier-than-thou attitude toward diplomacy often creates more problems, and encourages more evil, than it solves.

But I cannot understand how the United States could retain one iota of credibility for fundamental human rights if it again votes in favor of seating the representative of so barbaric a conspiracy.

Nor, of course, should we be supporting the Vietnamese-backed regime of Heng Samrin. This group presently occupies much of Kampuchea, but is dependent upon the Government of Vietnam for its existence and support. This cabal is no more worthy of our support than is the other.

There comes a time when the leader of the free world must take a stand in defense of the most elemental virtues of humanity and civilization. Here the choice seems clear. On the one hand, we can go with the genocide of Pol Pot or the blatant aggression of Heng Samrin. On the other, we can reaffirm those principles of civilization without which the whole world would be plunged into the abyss of darkness. Mr. President, with that kind of choice, there should be no problem deciding. We are confronted now with the necessity to express our disapproval of both these groups.

United Nations action on this question may come very soon—perhaps as early as this week. Therefore, we must register the will of the Senate with dispatch. My resolution expresses the sense of the Senate that the President should direct the Permanent Representative of the United States to the United Nations to abstain in any vote on the seating of a representative of the Cambodian faction of Pol Pot. And I ask for prompt Senate consideration of this measure.●

AMENDMENTS SUBMITTED FOR PRINTING

MODIFICATION OF FEE STRUCTURE UNDER FEDERAL SECURITIES LAWS—S. 2990

AMENDMENT NO. 2369

(Ordered to be printed and to lie on the table.)

Mr. **PROXMIRE** submitted an amendment intended to be proposed by him to the bill (S. 2990) to amend Federal securities laws to facilitate the mobilization of capital for new small- and medium-sized companies by encouraging venture capital activities and promoting public investment.

Mr. PROXMIRE. Mr. President, I am submitting an agreement to S. 2990, the Small Business Securities Acts Amendments of 1980. The contents of the amendment are identical to S. 3102 which I introduced on September 8, 1980, except that the effective date of the amendment would be delayed for 6 months to allow the SEC and the securities industry to plan for the orderly implementation of the requirements of the bill.

AMENDMENT OF IMMIGRATION AND NATIONALITY ACT—S. 1763

AMENDMENT NO. 2370

(Ordered to be printed and to lie on the table.)

Mr. **COCHRAN** proposed an amendment intended to be proposed by him to the bill (S. 1763) to amend the Immigration and Nationality Act to improve the efficiency of the Immigration and Naturalization Service, and to establish a different numerical limitation for immigrants born in foreign contiguous territories, and for other purposes.

Mr. COCHRAN. Mr. President, when the Immigration and Nationality Efficiency Act of 1980, S. 1763, is brought to the floor, a I plan to offer an amendment to delete section 5.

Section 5 would allow entry into the United States of approximately 60,000 additional immigrants. The immigrants comprise first, second preference applicants—spouses and minor children of legal resident aliens from Mexico, the Philippines, Hong Kong, and Belize—whose approved petitions to grant entry status were filed prior to October 8, 1979, and second. persons claiming to invest $40,000 in the United States who established entitlement to entry status prior to June 1, 1978.

The Select Commission on Immigration and Refugee Policy, established during the 95th Congress, has a mandate to study our present immigration laws and practices and to recommend a coherent, efficient and humane immigration policy. Today, our immigration policy is without direction. It is the purpose of the Select Commission to help us establish priorities—to decide whether our immigration laws should respond to our special relationships with other countries by way of granting them higher immigration allowances, or whether we should respond to the need to reunite families, or the needs of the economically and/or politically oppressed.

Next March the Select Commission will submit its recommendations to Congress. It is expected that a definition of policy on families of immigrants will be included in this report. My suggestion is that we wait for this recommendation before we make a policy change of this dimension.

In view of the unprecedented influx of refugees in the recent past, it would be unwise to compound our current immigration problems with some 60,000 additional immigrants. I hope my colleagues will join with me in my amendment to delete section 5 of this bill.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND SUNDRY INDEPENDENT AGENCIES APPROPRIATIONS, 1981—H.R. 7631

AMENDMENT NO. 2371

Mr. **MATHIAS** submitted an amendment intended to be proposed by him to the bill (H.R. 7631) after making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1981, and for other purposes.

AMENDMENT NO. 2372

Mr. **HELMS** submitted an amendment intended to be proposed by him to the bill H.R. 7631, supra.

NOTICE OF HEARINGS

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. WILLIAMS. Mr. President, I would like to announce that the Labor and Human Resources Committee, on home energy assistance, that was scheduled for September 24, in Washington, D.C., has been postponed. The committee will reschedule the hearing at a later date.

ADDITIONAL STATEMENTS

CHALLENGING ECONOMIC MYTHS

● Mr. HATCH. Mr. President, our economy is in a desperate situation. Inflation is eating up workers' and retirees' incomes, our unemployment figure grown every day, interest rates have soared and we are finding it more difficult to compete in foreign markets. Our standard of living has gone down at the same time our cost of living has gone up. It is no wonder Americans are fed up with Government.

I maintain, Mr. President, that we find

ourselves in this economic mess because policymakers still refuse to acknowledge that the economic prescription they have chosen for the Nation to follow is based on several economic myths. Our attempt at making these myths real has failed dismally as if we thought we really could receive a gold coin from the tooth fairy.

I heartily concur with the following article written by Dr. Joseph Peery for the Tracy-Collins Bank and Trust Co. in Salt Lake City. This article successfully explodes some of these popular, though unworkable, myths about economics and I urge my colleagues in the Senate to note it carefully. I ask that the article be printed in the RECORD.

The article follows:

MISLEADING ECONOMICS MYTHS

The purpose of this letter is to challenge some of the misleading and harmful economic myths that continue to circulate year after year and are generally uncritically accepted as valid by the news media, most of our politicians and by too many of our professional and business leaders.

These myths are dangerous because they have led to misguided legislation and harmful government tax spending and regulatory policy decisions.

THE "TAX CUT" MYTH

Your taxes are going up sharply. They are not going to be cut. The so-called tax cuts being sponsored by both Republicans and Democrats are merely partial relief from the huge tax increases already scheduled to go into effect next year.

Most of us know our "real" or inflation-corrected income is not going up, only our money income.

The federal income tax is "progressive." That means that as our inflated money income goes up the government keeps taking a larger and larger share of it. This inflation-caused creep into higher tax brackets alone will force us to pay an extra 18 to 20 million dollars in federal income taxes over the next twelve months.

Just to take us back to the tax levels of two years ago would require a federal income tax cut of at least 36 billion, and that's more than the maximum tax cut being discussed in Washington.

Other taxes will also take big jumps in 1981. The so-called windfall profits tax on oil companies is really more like a sales tax. As the price of domestically produced oil rises toward the world price, the government takes the lion's share of the increased revenues for itself. We consumers will pay this tax in the form of higher gasoline and other oil product prices.

This new oil tax should generate an extra 25 or 30 billion for the federal government by the end of next year.

Social Security taxes are now scheduled for a big increase next January. The percentage paid by workers and employees, and the maximum amount of the individual income taxed, are all scheduled for increases. Increased social security taxes next year will bring in another extra 15 billion to the federal government.

All in all, federal taxes are now scheduled to increase 60 to 70 billion in 1981. So any so-called tax cut will only be a partial offset to a huge tax increase. After the coming "tax cut," your federal taxes will still go up sharply. In fact, next year after the tax cut, the percentage of our total income taken in taxes will be the highest since World War II.

THE "CUT-GOVERNMENT SPENDING" MYTH

Last January the president presented to Congress an "austere" budget with suggested "cuts" in federal spending. Concerned about higher than expected inflation, the president sent a second budget message to Congress in March demanding an additional twenty billion dollar "cut" in federal spending for the fiscal year starting this October.

What has really happened? Instead of cutting federal spending, Congress has authorized increases in spending time after time. In fact, over the past twelve months, federal spending has increased at over a 16 percent annual rate. This should be compared to our inflated national income, which grew 8 percent. It's a bit shocking to discover that instead of cutting, government has increased its spending twice as fast as our national income has grown.

This will continue the coming fiscal year because slower economic growth reduces the expected tax take and increases welfare payments. In fact, Congress claims they can do nothing about this because seventy percent of the federal budget cannot be controlled.

THE "UNCONTROLLABLE SPENDING" MYTH

The Constitution obligates Congress to provide for "our common defense" and to pay interest on the federal debt, but little else. Defense and interest payments now account for one-third only of federal spending. The other two-thirds is spent on programs never contemplated by those who established our Constitution. It would be hard for them to comprehend that today's Congress would authorize 13 billion to run a department of energy; 20 billion for transportation; 9 billion for community development; 31 billion for health services; and 220 billion for "income security."

The framers of the Constitution would be shocked to discover that 21 million citizens would be perfectly willing to accept food stamps at a cost to the taxpayers of 9 billion, or that 30 percent of our entire population gets some income support from state, local and federal government.

That fact is that over the past 45 years, and particularly over the past 15, Congress has funded scores of spending programs backed by organized pressure groups. Most of these spending programs continually attract more people, and most are indexed to inflation so they automatically increase year after year. Such spending is now more than half the federal budget.

When Congress says that most federal spending is not subject to budget control they mean these programs that Congress itself enacted.

All of these programs are subject to congressional control. All of these programs can be changed, reduced or eliminated. All of these programs are tenaciously defended by large organized groups of recipient and a powerful entrenched bureaucracy.

When Congress says that this spending is not "controllable," what they really mean is that Congress is not willing to take the political risk entailed in bringing the growth of spending in these programs under control. Congress does not even appear willing to make such moderate reforms as tightening eligibility to enforce more effective auditing, to reduce waste and dishonesty or to modify or eliminate programs that have failed to meet desired objectives.

As the result, we continue to see explosive growth in spending on these programs that Congress itself created.

THE MYTH OF "ELIMINATING POVERTY"

The meaning of "poverty" has changed in our affluent society. To be poor once meant to have less than what one physically needs to survive.

Today poverty has come to mean inequality, not physical misery. The poor are poor because they have less than others. In America most of the poor have electricity, telephones, hot and cold drinkable water, inside plumbing and T.V. sets. American poor have a standard of living that would be judged to be unattainable luxury by half the people living on this planet.

This does not mean, however, that the poor in this country do not feel poor; they do, for they have incomes considerably below the average.

Once "being poor" becomes relative and not absolute, it is difficult to draw a line between poverty and reasonably adequate income. Recently some U.S. senators attacked the 10 cents a gallon gasoline price increase backed by the president as a "hardship on the poor." In some minds at least, you can drive a car and still be in poverty.

The only cure for relative poverty is equality of income. Equal pay for unequal performance, however, is viewed as unjust by most people, so our society faces an unanswerable dilemma.

In recent years we have tried to eliminate poverty by transferring income from the middle class to lower income people. Dozens of social programs have been implemented by Congress for this purpose. Such income transfers are both direct cash payments and indirect benefits such as subsidized housing, food stamps and medicaid. Income transfers to the poor are also untaxed by those who receive them.

As income transfers to the poor have increased, the economic sacrifice of being poor has diminished with the result that more people become unable or unwilling to seek or take employment at lower market rates. Employability is easily reduced, without fakery, by child bearing, sickness, selectivity with respect to jobs or a growing conviction that jobs are not available.

As transfer payments, or the "price" of being poor rises, the supply of poor people tends to increase. Generous welfare payments without a work requirement guarantee the continuation of official poverty. We now have less real poverty associated with increasing relief rolls.

THE "SOAK THE RICH" MYTH

A driving force behind the growth of government income transfer programs has been the widespread belief that somehow the rich got their wealth and high incomes by exploiting the poor. This belief is based on two misconceptions:

1. That the economic pie is fixed in size, so if some get more, others must get less.
2. That the combined income of the rich is so large that if part is taxed away and given to those with low income, poverty can be cured.

Both of these concepts are fallacious.

When this country was founded, real per capita personal income (income corrected for inflation) was one-twentieth of what it is today, and 95 percent of the population was poor in today's terms.

A hundred years later through self-reliance, creativity and hard work, combined with a minimum of government interference in the economic process, one-third of the American people had achieved incomes above the poverty level.

By 1925 productivity had increased sufficiently so that half of our population was no longer in poverty.

By 1960 three-quarters of all families had incomes above the official poverty level.

By 1973 this had risen to 89 percent, where it has remained for reasons discussed earlier.

During this long period of economic growth, some people became very rich. They also invested most of their income in advancing technology that made continued increases in the standard of living of the American people possible.

Today the share of the country's total income going to the rich is grossly exaggerated. Consider the following facts:

The share of total income going to those with incomes of $500,000 a year or more is just one-half of one percent. Hardly worth getting excited about. Half of this income is also taxed away.

The share of total income going to those who make $200,000 or more is just 1½ percent.

The share going to those who make $100,000 or more is 4 percent.

Those making between 60 and 100 thousand get 4 percent.

Now comes the important fact, 90 percent of all this nation's income goes to those making less than $60,000 a year.

The rich have not exploited the poor. During the long history of our economic development, the people as a whole have been the principle beneficiaries.

THE "RICH CAN PAY THE TAXES" MYTH

As was previously shown, 90 percent of our total national income goes to those households that make less than $60,000 a year. Total government spending now exceeds 40 percent of national income. It is therefore obvious that those making less than $60,000 must pay the bulk of all taxes.

The total income of everyone making more than $60,000 a year is only equal to 25 percent of all government spending.

The total income of all those over $100,000 is equal to only 10 percent of all government spending.

The following facts are worth remembering:

If $40,000 a year was the maximum income anyone could keep, and all family income above $40,000 was taxed away, all of that extra revenue would pay for only 14 percent of government spending.

This means only one thing: the middle class must and will pay almost all taxes. The total income of the rich is not large enough to make much difference.

This brings to mind another myth. Whenever any organized group feels abused, they demand financial help from the government, as though the government had unlimited resources. No one ever asks, "Where is the money coming from?" or "Who is going to pay?"

We can now see that the middle income taxpayers will pay. When government gives money to help lower income people with their utility bills, the middle class pays. When low income families get cheap rent in government subsidized housing, the middle class pays. When people spend food stamps, the middle class pays for them.

It would be refreshingly honest if every time a politician introduced a new spending bill, he would also say, "And of course we expect the middle class to pay for this."

It is important to remember that if your income is between 8,000 and 60,000 dollars a year, you are part of the group that pays the bulk of all taxes, and any increase in government spending will be paid for by you and others like you.

THE "LET'S TAX BUSINESS" MYTH

Frequently, when there is need for additional revenue, politicians will introduce bills to increase business taxes, as though by doing this consumers could avoid the tax. This is of course not true. Business does not pay taxes. Only people pay taxes. We are all consumers, so consumers pay all taxes.

It is also not true that taxes can be assessed so that owners of business can be forced to pay most taxes. Consider the following facts:

We have about three million family farms and another twelve million small businesses organized as proprietorships and partnerships. All of the income these businesses earn is counted as their personal income, not profit, and is taxed as such.

Last year, the total income of all these 15 million farms and proprietorships was 130 billion dollars, or an average of less than $9,000 a year each. Obviously, we can't shift much of the total tax burden to small business and family farms.

Corporations, however, are a different matter. We have more than a million corporations, and some are very large indeed.

This year, total economic corporate profit as reported in our national income accounts will be about 150 billion, and federal and state taxes will take about 90 billion of that. After paying taxes, corporations will have 60 billion left for stockholder dividends (which are again taxed up to 70 percent) and for growth.

Now for the clincher. This year state, local and federal government will spend about 850 billion dollars. After paying taxes, corporations will have 60 billion, so if all of their after-tax profit were taxed away, this extra 60 billion in taxes would pay for only 7 percent of government spending.

Of course, if corporate taxes were raised sixty billion, they would have to be passed on to consumers in the form of higher prices, or corporations would all go broke.

It is simply not possible to shift any meaningful part of our taxes from consumers to business.

ECONOMIC "MYTHS" SHOULD BE CHALLENGED

As long as politicians talk about tax cuts when they should talk about tax increases, or talk about cutting government spending when they know it is programmed to increase, or when they talk about eliminating poverty when they know it can't be done, or when they attempt to shift taxes to the rich or to business when they know that consumers pay all taxes and middle income families must and will pay most of them, these economic myths will remain part of our political life. You can expect government spending and taxes to continue to grow faster than your income.

It is important that all informed people challenge these myths whenever they can.●

SENIOR EXECUTIVE SERVICE DISTINGUISHED EXECUTIVE AWARDS

● Mr. RIBICOFF. Mr. President, nearly 2 years ago the Congress enacted the Civil Service Reform Act of 1978. That statute constituted the first substantive overhaul of our Federal employment system since the creation of the Civil Service Commission in 1883. Among the changes which have been implemented since the enactment of this important legislation is the Senior Executive Service.

The SES is the core of the executive branch. Its members are senior Government managers and executives—the majority of whom are career employees who have given long years of valuable service to the American public. To join the SES, the statute requires that these individuals relinquish their rights of tenure. Unlike the old system, rank must now be earned through individual accomplishment rather than acquired through position. Performance alone is the determinant of pay and other personnel actions. In judging performance, an individual is accountable for not only the programs within his responsibility, but also for the employees under his or her supervision.

These are important changes in Federal personnel management. However, there were other features of the SES brought into the Government which have been borrowed from the private sector. The Civil Service Reform Act permits agency heads to provide incentive bonuses to career members of the SES for their exceptional performance. These bonuses are limited in number, but provide an opportunity to recognize accomplishment and encourage sustained performance.

In addition to the bonuses, the President is authorized to grant ranks to members of the SES for their distinguished and meritorious service. These ranks carry awards of up to $20,000 to each senior executive recognized. Mr. President, it was the judgment of the Congress 2 years ago that this is a small price to pay for the continued service of individuals whose contributions far exceed the costs of these ranks.

On September 9, 1980, the first Presidential Distinguished Ranks were awarded and the Presidential Meritorious Ranks announced. Forty-nine members of the SES were awarded for their distinguished service to our country. The combined identifiable savings of these individuals was in excess of $130 million. Savings, however, is only one of many factors to be considered in determining what individuals are to be recognized for their sustained extraordinary accomplishment.

Mr. President, I ask that the remarks of President Carter and Director Campbell of the Office of Personnel Management at the Distinguished Executive Awards Ceremony be printed in the RECORD.

The remarks follow:

REMARKS BY ALAN K. CAMPBELL

Good Afternoon.

I am Alan Campbell, Director of the Office of Personnel Management, and on behalf of President Carter I welcome you to the White House. The President will be joining us shortly.

Two and one-half years ago, President Carter proposed the Civil Service Reform Act to bring the most comprehensive improvements to the Federal service in nearly a century. With this ceremony, I think all of us can truly say that civil service reform is a reality, and that the President's vision of a more efficient and effective Government is coming true—that his promise is being kept.

Being awarded today are the first Presidential Distinguished Ranks, and being announced are the Presidential Meritorious Ranks. Established by the Civil Service Reform Act these are the highest awards which may be earned by career civil servants.

The 49 recipients individually and collectively have expanded the frontiers of this country in research, management, economics, law, and human, intergovernmental, and international relations.

Also with us today are individuals from all sectors of society—Congressional leaders and professional, academic, civic, labor and business organization representatives—who, along with career civil servants, joined with President Carter to create the Civil Service Reform Act, and the Senior Executive Service which is the keystone of that legislation. To all of you, I again express the thanks of the Administration and Federal employees for your generous support and vote of confidence in Federal service.

And now, with the assistance of the Cabinet Secretaries and Agency Heads whose personal commitment to the Civil Service Reform Act has been so critical to the success of the legislation's implementation, I have the honor to present the 1980 Senior Executive Service Distinguished Presidential Rank Awards.

REMARKS OF THE PRESIDENT

The PRESIDENT: Thank you very much. Scotty Campbell and fellow government employees, it is a pleasure to be with you. Also I hope all of us have long years of service in the future.

I have just come back from a very fine visit to New Jersey to see a new steel plant that is exciting for an engineer and a President to observe. This is the most modern steel plant in the world. Each employee produces 1,340 tons of steel per year, including all executive management. This is the highest productivity per steel worker in the world. They use thirty percent as much energy as the former steel plants used. They make steel rod of the highest quality, and fifty percent of it, you might be interested in knowing, is sold at this time to the People's Republic of China, successfully competing in price half the world away with the Japanese steel plants that are much closer. The dynamism and competence of our own nation and its free enterprise system, in my judgment, is equaled by the dynamism and competence of the public servants like you, who represent the American people in our Federal Government.

I came to the presidency determined to make my own administration and the government in general more responsive to the American public and at the same time more efficient in the delivery of services to those who look to us for leadership and for service. Since taking office, I have seen repeatedly that the key to more effective government, which we all desire, has been our creation of a more productive, more dynamic, and more cost-conscious federal work force.

In 1978, with the help of many of you assembled here, I was able to sign into law a bill which completely overhauled the civil service system of the Federal Government for the first time in one hundred years. It was a landmark achievement. It was Scotty Campbell's concept, which the Congress courageously passed for my signature. It was one of the most significant achievements of my own administration.

The Civil Service Reform Act gives Federal managers, like many of you, some of the same management incentives that have proved so effectively to make our private economy and its free enterprise system competitive and the pride of the entire world. It emphasizes performance, not just longevity. It lets us select individual public servants and reward them, and thereby in a positive way encourage others to excel.

Today's ceremony is unprecedented, and it it also long overdue, in my judgment. Too often we single out Federal managers only when there has been a problem. We focus attention only on the shortcomings of the Federal bureaucracy and our public servants. This is no way to run a government, nor any enterprise.

Federal managers exert an enormous influence on us all. Your responsibilities are often staggering in their scope and complexity and difficulty. Some of you are the most important executives in America. Where we find excellence, we need to acknowledge and reward that excellence publicly.

I am pleased to be present today for this distinguished executive awards ceremony for the forty-nine men and women who have served our country so well. Let me say that your service to our country has been truly distinguished. You are the best of the government's senior executives; in my opinion the best of the best. I know that the awards have already been issued to you, but I would like to mention just a few who have come to my attention personally, and I think are representative of the entire group's achievements.

Harold Denton of the NRC has won wide praise for his performance following the Three Mile Island accident. I talked to Harold just a few hours after this accident occurred. When I went to the Three Mile Island plant the Sunday following the accident I went into the control room with Harold, and from then on I saw on television every night his calm, professional, reassuring voice letting the American people know that they need have no fear.

Chris Craft of NASA made space travel the safest transportation in the world. He has directed as you know and was principal organizer of the Mission Control Center in Houston of Mercury, Gemini and the Apollo space missions, one of the most notable technological achievements in history.

Claude Farina saved the United States Air Force 28 million dollars through better logistics management an achievement which would ordinarily not go recognized by the American people.

Charles Swinburn of the Department of Transportation saved taxpayers 100 million dollars by restructuring the Amtrak route system.

I could go on and on. I am sure that Scotty Campbell has already recognized individually what you all have accomplished. But on behalf of 240 million Americans I want to say from the bottom of my heart, as President, thank you for what you have meant to our country. These awards today are a solid investment for our country. The millions of dollars that you forty-nine people have saved the taxpayers could fund the senior executive bonuses for many decades in the future, even generations. In honoring you I hope to encourage others, all public servants, to higher levels of accomplishment. And I also want to make your excellence known to your employers, the people of America.

Thank you very much. God bless every one of you. ●

THE HEALTH MANPOWER REAUTHORIZATION ACT OF 1980 (S. 2375)

○ Mr. HATCH. Mr. President, the latest official census figures made publicly available as well as surveys taken by numerous private health planning organizations reveal a dramatic population shift in our country. As our national population has grown, States in the southern and western regions have outdistanced the rest of the Nation. These States need additional human services of different varieties, but most especiaally health manpower services because the prevailing geographic distribution of doctors, nurses, medical practitioners, and other health professionals has not kept pace with our new health manpower needs.

I recall the debate which ensued after Health Subcommittee hearings on this legislation last year. Several of my colleagues argued with the Carter administration's assertion that, according to the White House, there is no health manpower shortage in this country. This White House contention, though, was based entirely on national aggregate figures. It did not take into account what is in fact the fundamental cause of the current national health manpower shortage, the problem of maldistribution.

Maldistribution is public administration language for a critical and growing problem. For example, only 9 of the 29 counties in my State have enough physicians to meet the bare minimum, recommended ratio of 1 doctor to every 2,000 residents. Four counties in Utah, Rich, Daggett, Piute, and Wayne, have no doctors at all. Five counties have what is considered in HHS-Department parlance, a "critical" shortage with less than 1 physician for each 3,000 residents.

I talk about Utah because it is my own and obviously the State I know most about, but the problem I describe is endemic; national; and symptomatic of that which plagues more than a half of the States in our country. It is a problem created by the Federal Government, inadvertently and as usual for the purest of reasons. For slightly over a decade, the Federal Government has subsidized and in various other ways cajoled young people seeking medical careers into working in the larger, urban communities. This human windfall of medical talent and energy for cities like Boston, New York City, Chicago, and others has resulted in an oversupply of health personnel in some areas of the country, with too few men and women to fill the health related jobs needed to be filled elsewhere.

This is one of the major reasons why the legislation we are now prepared to consider, the Health Manpower Reauthorization Act of 1980, is so important. Federal health study loans and incentive grants would be more equitably distributed should this legislation be enacted than is the case under prevailing law.

I was pleased to take part in drafting additional changes to existing law which improve the administrative mechanism of Federal health manpower programs.

The first of these is intended to improve the operation of the service contingent loan program, my provision guaranteeing increased public disclosure before major policy changes are made. Henceforth, the Secretary of Health and Human Services would be required to perform a survey of health manpower needs based on the most recent data available and the Congress would be informed and time provided for comment before any action is taken.

There are also improvements in the grant procedures. Henceforth, "incentive grants" will actually be what their name implies, incentives to induce medical students to practice in underdeveloped, underserviced and rural areas of the country. The program has been set up without the previous and in my opinion fiscally reckess assumption that all schools will be expected to apply. They will no longer be "all or nothing" grants, but a program of partial health studies' grants which are more widely distributed among the Nation's medical, pharmacy, and nursing schools; and those of us who worked on this in the Health Subcommittee have every reason to believe that the revised formula will save us money after the program is in operation.

As one who has committed responsibilities and loyalty to the Budget Committee, along with Labor/Human Resources and my other legislative committee assignments, I am especially pleased with this aspect of our creation. With this bill, medical students will be able to borrow the money to go to school through a set of student assistance programs which emphasize loans to the many rather than simply grants to the select few.

Finally, the legislation assures needed institutional aid for colleges of pharmacy, veterinary medicine, and special schools of public health; institutional incentive grants which amount to $70 million in 1982; $77 million in 1983; and $84 million in 1984.

Over a period of years, the Federal Government through selective subsidization created the problem our Nation faces today. It is the problem of severe health manpower shortages which are particularly acute in the smaller and the border States. This legislation will go a good distance in righting these wrongs. I am proud to have worked on it; proud to be among my Health Subcommittee colleagues in reporting it; and proud to solicit my colleagues support for its approval and swift enactment.●

NATIONAL CYSTIC FIBROSIS WEEK

● Mr. MORGAN. Mr. President, this week, September 21–27, is National Cystic Fibrosis Week. The fight against cystic fibrosis has long been an interest of mine and my wife's. In fact, my wife, Katie, has served for many years as a national trustee of the Cystic Fibrosis Foundation, and we have watched that organization grow in both size and sophistication in supporting more research and better care for those born with cystic fibrosis.

Cystic fibrosis (CF) is a fatal genetic disease that strikes 1 in every 1,800 children born in America. There has been progress in treating CF, and half the children born today with the disease will live past their teenage years, in contrast to a life expectancy of only 6 months in the 1950's. But it still kills too many people at too young an age. I was pleased to see the Congress and the President act to declare National Cystic Fibrosis Week, so that more of our citizens will learn what needs to be done to conquer this disease.

People born with CF are not visibly handicapped, and many of us are not aware that anyone we know has the disease or has had a child with it. In a recent issue of Sports Illustrated, senior sportswriter Frank Deford (whose daughter died of CF earlier this year) wrote a moving story about Jimmy the Greek. I think that Jimmy the Greek's story is an important one to read, not because he is one of North Carolina's most televised citizens, but because it shows what CF can do to the life of any one of us. You see, Jimmy the Greek has had three children born with CF, and he has already suffered the pain of watching two of them die. It is for the thousands of families who face this burden—some famous, most not—that I believe we must continue our efforts to find the answer to cystic fibrosis.

I ask that part of Mr. Deford's article in Sports Illustrated be printed in the RECORD.

The article follows:

JIMMY THE GREEK

If The Greek is getting carried away by himself and all the attention he receives, at least he is brought back to an even keel at home. The Snyder household has always been Joan's place, but now that Jimmy's office is at home—his office is the closest telephone—it is Stephanie who has emerged as the majordomo. Although only 21, she is mature well beyond her age and plays a significant role in supervising the corporate and ceremonial Jimmy The Greek. Among other things, Stephanie has outstanding ears: she is so much in charge that she overhears telephone conversations in other rooms and will interrupt from afar, screaming out corrections: "No, no, Mother, the trapezius muscle." "No, Daddy, not Robert Redford. You're in the movie with Burt Reynolds."

But there is still some kid in Stephanie, and she and her sidekick, Anthony, 16 constantly tease Daddy, prick his balloon.

Joan drives the Caddy into the garage. There are large blowups there of major articles done on The Greek. "Stephie, when are we finally gonna get these articles framed?" he asks.

"Daddy, I just haven't had time."

The Greek starts, "You'd think—"

Stephanie interrupts, "I know. 'How many children have a father—' "

Anthony chimes in, and they finish in singsong unison, " '—who made the front page of The Wall Street Journal?' "

The Greek gets out of the car, glancing back at them helplessly with a Rodney Dangerfield aspect. He smiles. Whatever happens, they have everything.

They do. But Jamie, the oldest boy, 23, has cystic fibrosis; Florence, the oldest girl, is dead of it; and so is Tina, the baby. How many men bury their mother as a child, and their babies as a father? What are the odds on that?

"After Tina, I was mad at God for three years,' Jimmy says. Death has played with him; twice he canceled out on planes at the last minute, and then they crashed, all aboard killed. What are the odds on that?

The irony is that cystic fibrosis is a disease of simple, unyielding genetic numbers: one out of every 20 Caucasians carries the genes; when two carriers marry, there is then a 25 percent chance that a child of theirs will be born with the disease. Thus, one of every 1,600 white children born has cystic fibrosis. But the odds-maker didn't want to accept this. Frustrated, desolate at the deaths of two daughters, at the disease of his namesake, and all the attendant misery, The Greek would thrash about in despair, get mad at Joan and cry out about her "sick genes." It was a horror, the family man searching for a family.

Few diseases are more disruptive than cystic fibrosis. The patient requires constant attention, an hour or more a day of strenuous physical therapy. The children do not live; they are kept alive. The disease primarily attacks the respiratory system; also the digestive and, in males, the reproductive organs, all of life itself. Treatment can be incredibly expensive. Jamie's expenses for a year of treatment were $35,000, and his Catch-22 reward for making 23, covering the spread, was that he became uninsurable. So voracious and exhausting is the disease that it often destroys the families of patients. The incidences of divorce, desertion, wifebeating and alcoholism are all higher among cystic fibrosis families. The healthy children are torn with guilt that they escape the curse, and parents—like The Greek—become distraught that they "gave" the disease to their own children.

The '60s was when it all unraveled for the Snyder family. Florence was already dead. and Jamie had been diagnosed. Tina wasn't born yet. It was at this time that Bobby Kennedy the Attorney General, went after the syndicate, after Vegas. The Greek was a name, a symbol. The Greek was vulnerable, too. Pegging him was like catching a restaurant on one of 250 possible fire-department vioaltions. They indicted The Greek for passing casual betting information over the phone, interstate—essentially the same kind of information he dispenses every Sunday on TV. The affair destroyed him. He finally pleaded *nolo contendere*, taking probation and a fine. But he was broke, in debt, out of *money*, a felon, and any chance he had for a pardon required that he quit gambling.

Almost every nickel of what he could hustle went to pay for Jamie's medication. The Greek had to borrow money so that his family could eat. It was two years or more before anybody got new clothes. Stephanie remembers one time, an all-day outing, when she returned in the evening in the same dress. Another girl said, "Hey, you got the same dress on." She didn't tell her friend that it was the cnly dress she owned. This is why The Greek buys her a mink coat now, even if she doesn't want it.

But the Snyders survived. "I'd never been poor," Joan says, "but I was never really worried because I knew Jim could put his mind to it and find ways to make money, I knew, with Jim, I'd have money again. He's a fighter."

"I hustled, I played a little cards, I figured out the newspaper column," The Greek says. And that, as it turned out, was the key. He had never written before in his life, but he started turning out a column for the Las Vegas *Sun*. It paid next to nothing, but it began to establish him as a figure, the Mister Odds he has become. No longer was he a gambler, now he was a service.

But then, just as he began to crawl out of debt and from out of the glare of being a felon, little Tina was born. It was the day after Christmas 1965, and her tiny body was so ravaged by the disease that she had to spend seven hours of her first day of life being operated on. But she survived and came home to spend two and a half years in the shadow of death. Worse, in a way, she grew just well enough for them all to know how it might have been. Laughing, struggling, Tina would follow her older brother around—"Antsy," she called Anthony— dragging her doll after him. Stephanie still keeps that in her room.

But Tina's lungs were too scarred, and when, mercifully, she was finally taken from her pain, The Greek wrote his whole column in the Sun about her. He made her an All-American "in the game of fighting to live," and he carried that metaphor through, concluding, "Her mother rushed her to the hospital and called all her coaches. For nine days she battled . . . but the cystic condition was too much . . .

"Now the Commissioner from up above was watching and decided to draft this gallant little player. With the experience she had, He thought, she would make a great coach for his 'Little Angels.' The draft went through Saturday afternoon, and with the help of Father Baldus, she was sent on her journey up to the 'Little Angel League' Monday noon. The game was over—who was the winner?

"Only those who had the opportunity to watch this Little All-American perform. True, she had her bad days on the field, but the happiness and joys that she gave on her good days far overcame the bad ones. These, we, her rooting section, will never forget—and for these days that will never be forgotten, we are very thankful and grateful to the Commissioner above."

It has been 12 years now since Jimmy lost his second baby. "I still haven't gotten over it," The Greek says. "If only He could have taken me instead."

Stephanie was old enough to understand, and she had gone through some of the same agonies that her father did when he was growing up. Jamie, of course, has the disease: 1,600-to-1. He is quiet, like his mother, with his father's analytical mind: a chess player. mathematician, astronomer. He has gone back to Las Vegas. Finally, there is the son left at home, Anthony, and between him and The Greek there is a special tension. The boy is tall and strong and handsome, an athlete, looking very much like the father did when he was his age, the young gambler already.

One day, in a limousine, The Greek suddenly said, "I'm sorry, I love him, but I've never been that close to Jamie. Forgive me, I'll do anything for him, anything, but I never could. You know, Joan was always taking care of him. Maybe that's why, vicariously, I live so much in Anthony's shoes."

He stared out the tinted window. The Greek is safe now himself. In late 1974 he received a presidential pardon. Now he is a national TV star, national columnist, national celebrity. "Hey, it's The Greek!" "Hey Jimmy, who do you make—?" "Greek, who's the favorite in—?" Jimmy The Greek, the former Jim Snyder, late of Steubenville, Vegas' own.

Most people who identify themselves as family men hold a pat hand in that regard. They have 2.3 children, 1.0 of whom plays the violin, and a lovable dog, and they have a nine-to-five job with major medical and a parking place. It's odds-on to make it as a family man this way. Stephanie says her father still acts like a kid because he never had a childhood himself. Possibly, but more likely, it seems, he acts like a kid because, for one reason or another, his children never had real childhoods. If only you could capture childhood, put velvet behind it and a bright light on it.

Out of the house it is easy for The Greek. Out of the house, as Joan trusted, even in the worst of times The Greek would know how to find an edge. Long ago he had first left home, left the grocery, when his father wouldn't take his advice about how much meat to order. But soon thereafter, Jimmy's father needed one of those newfangled Birds-Eye freezers. The son came up with the cash for it. It was gambling money. There was a tear in the old man's eye as he took the bills. Jimmy has never forgotten that. Ever after, you can be sure, The Greek has only wanted to be a father, crying for happiness.●

THE 175TH ANNIVERSARY OF THE LEWIS AND CLARK EXPEDITION

● Mr. **HATFIELD**. Mr. President, 1980 is a very special year for all Americans. In this year, we celebrate the 175th anniversary of the Lewis and Clark Expedition; one of the most daring and profitable ventures the United States has ever undertaken. Meriwether Lewis and William Clark set out with a small band of men (and eventually one woman—an Indian, Sacajawea) to cross the uncharted and unknown to secure claim to a very important possession, Oregon. Their mission included determining the existence (or nonexistence) of the mythical "Northwest Passage" from the east to west coast, and to prepare the Indians for American sovereignty.

They approached their duties with energy and devotion, returning with a wealth of knowledge (much of it outside the scope of their original mission) for the development of the United States.

I salute the accomplishments of these brave and devoted men, and hope that the spirit of their efforts will serve as a model for this, and future generations of Americans.

I submit for the RECORD the following items:

A section from "The Old West: the Trailblazers," Time-Life Books;

A chapter from "The Pathfinders," by Gerald Rawling; and

An article from "We Proceeded On," the official publication of the Lewis and Clark Trail Heritage Foundation, Inc., regarding a recent commemoration of the expedition.

The material follows:

50-YEAR-OLD WASHINGTON-OREGON BRIDGE CHANGES NAME TO HONOR 175TH ANNIVERSARY OF LEWIS AND CLARK EXPEDITION

On July 6, 1980, the 50-year-old *Longview Columbia River Bridge* which spans the river joining Longview, Washington, with Rainier, Oregon, became the *Lewis and Clark Bridge* at a special ceremony celebrating the 50th Anniversary of the structure and the 175th Anniversary of the Lewis and Clark Expedition; 250 Lewis and Clark enthusiasts, and state and local dignitaries attended the event. The Honorable Victor Atiyeh, Governor of Oregon and former Washington State Congresswoman Julia Butler Hansen, representing Washington's Governor Dixy Lee Ray, were in attendance and spoke briefly. Mitchell Doumit, Chairman of the *Washington Lewis and Clark Trail Committee*, and past president of the national *Lewis and Clark Trail Heritage Foundation*, provided the background for this event in his remarks about the famous Expedition's passage through this region in November 1805 and March 1806.

John M. McClelland, Jr., Washington state newspaperman, and a former member of the Washington *Lewis and Clark Trail Committee*, related the history of the bridge's conception, financing and construction. The structure was built in about 30 months at a cost of $5.8 million, and was opened on March 29, 1930. The State of Washington became sole-owner of the bridge when it took title from the original financers in 1947. The bridge remained a toll bridge until 1965.

The impressive structure, including approaches, is 1.6 miles in length. The center cantilever span, one of the largest in the world, measures 1200 feet and rises 195 feet above the Columbia River channel. Chief designer for the structure was Joseph B. Strauss of Chicago, who later designed the Golden Gate (San Francisco, California) Bridge. During construction Longview's *The Daily News* faithfully recorded the daily details—13,000 tons of steel, 2 million rivets, and the interesting fact that a Robert E. Peary, Jr., son of the man who first reached the North Pole, was one of the project engineers.

Foundation Secretary Hazel Bain, Longview, who also serves as Secretary of the *Washington Lewis and Clark Trail Committee*, spear-headed the request to local legislators to introduce and sponsor the name change legislation. The legislative committee hearing passed the proposal 17–0, and the State Senate voted 47–0 to adopt the change, followed by unanimous approval by the State House of Representatives.

The bridge naming ceremony was well planned by Hazel with the help of the Longview Chamber of Commerce and the Port Longview Commission. Visitors to Longview were pleasantly surprised to note that the Traffic Operations Division of the Washington State Department of Transportation had in place a number of signs designating the bridge by its new name. Hazel Bain acted as Mistress of Ceremonies, and as the event came to an end, called on national Foundation Vice President, Irving Anderson, Portland, Oregon, who represented Foundation President Bob Saindon, Helena, Montana, and the national Foundation, to make the official proclamation bestowing the name of the Lewis and Clark Bridge on the impressive structure.

THE PATHFINDERS: THE HISTORY OF AMERICA'S FIRST WESTERNERS

(By Gerald Rawling)

CHAPTER 1: LEWIS AND CLARK: THE JUMP-OFF

In June 29, 1803, Thomas Jefferson, third President of the United States, wrote a directive to his personal secretary that set in motion forces destined to carry American sovereignty across the Mississippi clear to the Pacific Coast. The secretary was a twenty-nine-year-old Captain in the United States First Infantry, detached for special duties. His name was Meriwether Lewis, and the Presidential memorandum launched the Lewis and Clark expedition.

The voyage of Lewis and Clark was the basic art, the fundamental source, to which every step in the story of the American Far West can be related back. These two men and the thirty or so members of their party were pathfinders in the exact sense. They were prompted by no other motive than the discovery of a route to the Pacific by following the great watercourses of the continent.

"The object of your mission," Jefferson wrote, "is to explore the Missouri River, and such principal stream of it, as, by its course and communication with the waters of the Pacific Ocean, may offer the most direct and practicable water communication across this continent for the purposes of commerce."

Jefferson, his mind conditioned by the centuries-old misconceptions of the shape, size and topography of the American continent, was still looking for that most durable of geographical myths, the Northwest Passage. The theory was simple. The discovery of the mouth of the Columbia River by an American ship's captain, Robert Gray, in 1792 had at last produced the long-sought-after River of the West—and the tidy symmetry of hypothetical geography did the rest. If the Columbia or one of its tributaries could be made to head with the Missouri, a continuous transcontinental waterway would be established from the Pacific to the junction of the Missouri and the Mississippi and thence to the Atlantic seaboard by a choice of routes over existing channels.

There were a number of good reasons for wishing this state of affairs to be so, not least among which was the prospect of streamlining the prosperous Northwest trade in sea-otter skins by eliminating the costly and hazardous detour round Cape Horn. But the problem of increasing the Northwest trade profit potential, while important, could not be described as vital. By 1804 the Yankee traders had practically cornered the market, and were receiving all the benefits usually associated with a monopoly. However, things were very different in the fur trade—and by that term one must understand chiefly the commerce in beaver pelts—for here the Americans were at a considerable disadvantage. It was common knowledge in St. Louis, the emporium and frontier headquarters of the fur trade, that British representatives of the long-established and venturesome Hudson's Bay Company and the even more aggressive and far-ranging Northwest Company had penetrated deep into Upper Louisiana where, far removed from their bases on the Assiniboine and the Saskatchewan, they were trading with the tribes of the Upper Missouri and transporting the contraband furs across the border into Canada. The Spaniards had made some fitful efforts to control this systematic poaching but with no significant success. Now, with the conclusion of the Louisiana Purchase, the problem passed from the feeble grasp of Spain into the hands of a young republic with a President who took a forceful and active personal interest in the fur trade.

Jefferson acted at once. He saw a long way ahead and put his plan into operation without waiting for the slow march of events to catch up with his vision. In January, 1803, two months before the Louisiana negotiations were completed and five months before the news of the purchase reached Washington, the President asked Congress for an appropriation of $2,500 to equip the Lewis and Clark expedition. The purposes of the exploration, while doubtless adding greatly to the existing store of scientific and geographical knowledge, were to be primarily the furtherance of American interests in the fur trade. The Indians of the Upper Missouri, noted Jefferson, were known to "furnish great supplies of furs and peltry to the trade of another nation, carried on in a high latitude through an infinite number of portages and lakes shut up by ice through a long season." That is, the skins were going over the Canadian border and then by the long and tortuous canoe route to Montreal for shipment to the world markets. It followed that a river passage down the Missouri and thence to the Atlantic ports would be infinitely quicker and more economical than the Northwest Company's endless chain of lakes with its many portages and total closure during the winter freeze-over. A bold imagination was at work here.

Not only was Jefferson planning to push the British fur traders back over the Canadian border, but he was hoping to compete with them for a substantial share of their own trade in the rich beaver country of the Assiniboine, Saskatchewan and Athabaska rivers by providing a cheaper and more efficient carrying system for getting the furs to deep-water transport and thence to market.

If the commercial considerations behind the Lewis and Clark expedition were of grave concern to the United States, the political background was scarcely less so. There were, to begin with, an unguessable number of Indians in Louisiana who would have to be impressed with the fact that the Great White Father now lived in Washington and not in Paris or Madrid. Thus, Jefferson's instructions were explicit. The Indians of the Missouri drainage basin were to be prepared for American sovereignty and American trade, particularly the Teton Sioux, a powerful and aggressive nation, old allies of the British, who virtually dominated the river trade in their own territory. There was also an instruction to arrange permanent peace treaties between the different Plains tribes—a pious hope that shows how little the Americans yet understood the philosophy of their new subjects.

One final consideration: Oregon. Possession of the Columbia River, or at any rate a considerable part of it, was essential for the successful realization of the President's scheme. The known or traversed portion of the Columbia—that is, from the Cascade Mountains to the sea—lay wholly in the territory of Oregon; and American claims to that country rested solely on the discovery by Captain Gray which we have already mentioned. The claim was a good one but it was untested, and vigorously disputed by the British. A land crossing from the States would do much to bolster up American rights in the territory.

Against this background, then, the members of the Lewis and Clark party went into winter quarters near the mouth of the Missouri, and embarked on a tough course of training preparatory to the "jump-off" in the spring of 1804.

Meriwether Lewis was Jefferson's personal choice as commander of the expedition. He was a family friend as well as an official colleague, and the exploration of the interior West was a subject which had long been a "darling project" of his heart. Lewis himself chose William Clark as his cocommander and, with full Presidential backing, promised him a captaincy and joint powers of leadership; but red tape in the War Department was not so easily circumvented, and Clark was actually gazetted as a second lieutenant in the Corps of Artillerists. The official snub in no way bothered the resilient Clark. A militia captain who had seen considerable Indian fighting, he assumed his old title, was known to the members of the party as "Captain" Clark, and signed official orders with that rank. The promised equality of command was made effective, as will presently be observed.

Between them the leaders possessed all the special qualities necessary for the successful prosecution of the enterprise. Both were natural commanders; both were frontiersmen, woodsmen and rivermen with a wide experience of wilderness life; both had an altogether remarkable understanding of Indian psychology. Add to this a high intelligence quotient, an instinctive feeling for topographical analysis (which both men possessed to a marked degree) and a handful of more commonplace qualities—courage, stamina, patience, boldness, physical fitness, mental agility. It was the formula for successful wilderness travel, and we shall see it illustrated over and over again.

The remainder of the party, which was formed as a military unit, consisted of three sergeants and twenty-one enlisted men, all handpicked volunteers, many of them with valuable experience as frontiersmen. George Drewyer (or Drouillard) was hired as interpreter and hunter, and the numbers were completed with Clark's Negro servant, York. Additionally, a corporal and six privates and a boatload of St. Lewis rivermen were to accompany the expedition as far as the Mandan villages to assist in carrying the stores and to provide added strength while passing through the territory of the more hostile of the Missouri tribes.

On Monday, May 14, 1804, the members of the Lewis and Clark expedition embarked in a fifty-five-foot keelboat and, accompanied by the auxiliary soldiers and rivermen in two pirogues—large, open rowing boats—set out to discover the first transcontinental route to the Pacific between Canada and Mexico.

Slowly they learned the difficult technique of the river. The Missouri was never easy—although here in the lower reaches it was at its most docile. The current was powerful the depth adequate but variable with constant shoals and sandbars, particularly on the bends where continual washing away of the bank caused the channel to cross from one side of the river to the other.

As the spring days lengthened into full summer, the vagaries of the prairie weather added to the problems of navigation. Sudden, violent rainsqualls lashed the river surface into a frenzy of whitecaps; the boats became unmanageable under sail, driving into the bank or onto midstream islands or hard aground on sandbars. From all such predicaments they had to be extricated by manpower—the crews struggling and cursing, waist-deep in water or knee-deep in mud, heaving and straining, splashing and floundering, with the towline cutting into their hands and scoring their shoulders.

The journals of the expedition are full of such incidents. There is a typical entry written when they were only ten days out:

> passed a verry bad part of the River Called the Deavels race ground. . . . We attempted to pass up under the Lbd. Bank which was falling in so fast that the evident danger obliged us to cross between the Stdb. Side and a Sand bar in the middle of the river. We hove up near the head of the Sand bar, the Same moveing and backing caused us to run on the sand. The swiftness of the Current Wheeled the boat, Broke our Toe rope, and was nearly over Setting the boat, all hands jumped out on the upper Side and bore on that Side untill the Sand washed from under the boat and wheeled on the next bank. . . ." *

There follows more in a similar strain. (They had to swim ashore with a fresh towline, swing her off the sandbar with the help of the flow and then haul her up in the teeth of the current from a crumbling bank.) Clark was acknowledged the better riverman of the two and he normally acted as commodore of the little convoy while Lewis was ashore with Drewyer making topographical notes and keeping the entire party supplied with fresh meat.

Game was unbelievably plentiful, and a lavish steak diet helped to make life bearable. Despite some mild attacks of dysentery and an outbreak of boils and "tumers," the members of the party enjoyed excellent health. And the men were settling in to the discipline of the trail. In the first two months there were a number of infringements—leave-breaking, insubordination, drunkenness on duty, sleeping on guard and two desertions. The offenses were all dealt with promptly and firmly. Thereafter there were no disciplinary troubles of any kind.

But the Captains had other responsibilities besides those of platoon commanders. There were no trained scientists with the expedition, and the leaders had to fulfill the duties of cartographer, navigator, meteorologist, botanist and zoologist. More particularly they were the anthropologists and the ethnologists of the party, and by the end of July they were beginning to meet Indians.

They had reached the mouth of the Platte River, the half-way mark in empirical knowledge of the Missouri, without encountering any natives apart from a band of Kickapoo hunters (who were tamed reservation Indians). They missed the Kansa tribe, who had temporarily migrated westward for the summer hunt, and, more important, they failed to find the Pawnees for the same reason. But they sent out Drewyer and another experienced plainsman, Cruzatte, to round up such Indians as they could find and summon them to a council. A suitable site for the assembly was found about fifty miles upriver, and was christened Council Bluffs. (It was an apt choice—as a trading post it would remain important for many years in the fur trade.)

This was the sphere of influence of a closely related group of tribes belonging to the Siouan family—Otos, Omahas and Poncas. All of them practiced blackmail, intimidation and river piracy when the opportunity offered, but they were past their best: smallpox, whiskey from the white men and constant pressure from the more belligerent and better-armed Sioux had cowed them. The Omahas had had a brief hour of notoriety under their famous pirate-king of a chief, Blackbird, who terrorized the river traders and learned the use of arsenic to settle disputes within the tribe. But Blackbird was dead, carried off by the smallpox, and Clark notes that he visited the grave.

The council was disappointing but served well enough as a dress rehearsal for more important occasions to come. Drewyer and Cruzatte managed to bring in some Otos, including six minor chiefs and a number of representatives of the almost extinct Missouris. (The tribe had been practically annihilated by the Sauks and Foxes, and the remnants found sanctuary where they could. These few had joined the Otos.) The Captains paraded the entire ship's company, collected the Indians under an awning improvised out of the mainsail and delivered a long speech expressive of the expedition's purpose, the location of the new White Father and ending with "Some advice to them and Directions how they were to conduct themselves"—that is, they were to stop raiding other tribes and contribute to a general peace.

Any Indians—even Otos—were equal to this sort of occasion. With grave dignity and one eye on the presents which would surely be distributed soon, the chiefs gave solemn assurances of their good faith and of their love for the White Father—then dropped sly hints about the niggardly treatment they had received from the Spanish and the French. They received their reward: a few medals (of the second and third grades for Otos), a canister of powder, a bottle of whiskey and three imposing certificates designat-

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* From Clark's journal. His spelling was unconventional, even by the standards of his own time.

ing the holders official tribal chiefs in the records of the United States Government. One of the Otos, gambling for a bigger present, handed back his certificate with a saucy remark about the President's meanness—but the Captains were ready for something like this and were not going to be intimidated—or appeased (when asked to return the certificate they would not at first do so). They soundly scolded the Otos, and "rebuked them very roughly for having in object goods and not peace with their neighbours." After that, there was no more trouble.

A few days later the expedition suffered its first and only fatal casualty when Charles Floyd, one of the sergeants, was "taken very bad all at once with a Biliose Chorlick." The illness was acute, and he died within twenty-four hours. The symptoms suggest that he was suffering from peritonitis, which would almost certainly have proved fatal at that time even had qualified medical attention been available.

As the party worked its way northward, the river began to show its worst characteristics. From the beginning it had always been awkward, capricious and dangerous—snagged with unexpected obstacles in the most innocent-seeming places. Now, with an increasing number of bends, they were eternally running into rafts of matted driftwood, plowing into shoals and sandbars—now more frequent than ever—or trying to haul the boats up against the current while the bank crumbled into the water under the feet of the towing party. And the Missouri always had new tricks with which to plague them. They became familiar with the sawyers for which Mark Twain's Tom was named—floating logs charging down with the current that could rip open the hull of a keelboat—and the equally deadly planters—tree trunks embedded in the river bottom, forming invisible snares capable of capsizing or sinking anything smaller than a steamboat. But there were expert rivermen in charge, and the party kept moving. Turning west again, they began passing tributaries flowing in from the north—the Little Sioux, the Big Sioux, the Vermillion and the James. Then, on August 27th, they met their first Sioux.

They were Yanktons, currently the most amiable of the Plains Sioux, and if the Captains expected any difficulty in dealing with them, it did not materialize. They were, however, full-blooded Plains Indians, the first the Americans had seen, and the Captains spent two days making copious notes on dress, physique, weapons, artifacts and the hundred and one minutiae of Indian daily life. They even embarked on the composition of a vocabulary.

They could not afford to linger overlong with the Yanktons, and after the usual round of barbaric pleasantries the expedition pushed on, first west, then north again. They learned that the Teton Sioux were encamped on Bad River (which they would rename the Teton), and as the boats crawled past White River and round the Garantuan loop of the Grand Detour, the Captains had an opportunity to sum up their progress so far. They had reason to congratulate themselves. Something like eight hundred miles out from St. Louis, they were now as proficient at navigating the Missouri as they ever would be. Game was still plentiful, fuel and water abundant. The men were in good spirits and by now were settled down into a compact, efficient and, when necessary, aggressive unit.

Inspired leadership by the Captains and intelligent cooperation from Drewyer, Cruzatte and the others had brought them this far. Now they were about to meet the Teton Sioux, the toughest of the river tribes and the most rugged opposition they were likely to meet this side of the mountains. The Captains, fully aware of the reputation of this belligerent tribe, knew that they were approaching the first real crisis of the expedition. They made their plans accordingly.

CHAPTER 2: LEWIS AND CLARK: THE RIVER TRIBES

The Sioux were probably the most famous of the Plains Indians—perhaps of all Indians—and the Teton branch was certainly the most celebrated division of the tribe. The chain of circumstances destined to bring about this notoriety would not be forged for another sixty or seventy years when continual pressure from the white man's frontier finally forced them into full-scale war and provided a cause for a succession of great leaders—Red Cloud, Crazy Horse, Gall, Sitting Bull and the rest—who ensured for them a prominent place in the history of the American West. This should not lead anyone to suppose that in earlier times they could be dismissed as insignificant. Even in 1804 they were a people to be reckoned with, and no one, least of all Lewis and Clark, underestimated them.

The Sioux, as perhaps has already been made clear, were an aggressive tribe. But not the fiercest. The Blackfeet were far more deadly, and so were the Comanches. As a nation the Sioux were outclassed in many other ways. The Crows and Cheyennes were better specimens both mentally and physically, the Arapahos were more intelligent, The Nez Percés superior craftsmen and the Mandans more elaborate in their culture. That said, it must be added that the Sioux, numerically strong, warlike, swaggering and violently excitable, served well enough for a brand image of the Plains culture, and as such they may be considered worthy of closer attention than has been given to the other tribes we have so far encountered.

Originally forest dwellers from across the Canadian border, they were gradually pushed southward and westward by their ancient enemies, the Chippewas or Ojibways. The word Sioux itself comes from a French corruption of the Chippewa name for the tribe, "nadessioux," meaning "enemy," and the Chippewas had good reason to feel like this, since they had been at war with the tribe for two hundred years. The opponents were fairly evenly matched, but the white man's intervention upset the balance of power—not for the first or the last time—and when the Chippewas began getting guns from French traders the Sioux were left with no alternative but to give ground by falling back across the border into the United States. By 1750 the seven main divisions of the tribe had reached Minnesota, where four of them, corporately known as the Santee Sioux, settled in the area of the Minnesota River. The remaining three—the Yankton, Yanktonai and Teton branches—kept moving westward, reached the Missouri and adopted the culture of the Plains Indians.

Once they had obtained horses, the Teton Sioux quickly came to terms with their new environment. They became the terror of their weaker neighbors, and mercilessly raided the Omahas, the Arikaras, the Minnetarees and the Mandans, all of whom, apart from the Arikaras, were their own relatives. Farther afield they would fight anyone when the mood was on them, but, like all tribes, they had particular hates. They were immemorial enemies of the Pawnees, Snakes and Crows, and in 1795 they had had a titanic struggle with the Cheyennes, although they later worked out a semipeaceful coexistence with that tribe.

Altogether a good example of a typical Plains people. At the time of the expedition's arrival they had got the river trade neatly sewed up on their own terms. The few traders that they allowed to trickle through to the tribes farther upriver paid them a handsome gratuity for the privilege. The remainder were stopped and forced to sell their goods on the spot at rates fixed by the Sioux, which amounted to little better than robbery. In this fashion they acted as middlemen in the trade, and controlled the supply of goods to their enemies.

Off the mouth of Bad River, September 25, 1804. In an atmosphere of growing tension, the Captains took such routine precautions as they considered necessary—with the company poised at action stations and the keelboat anchored well away from the bank out in midstream. Ashore, a small and heavily armed working party labored over the erection of a flagstaff and "a orning" in preparation for the usual grand council, at the same time keeping a circumspect eye on the one hundred and forty Sioux lodges pitched in the vicinity. The Indian strength was growing hourly as more hunting parties came in from the hinterland, and by midday the Captains calculated they had a big-enough audience to make a start on the usual formalities. Both leaders went ashore and with great solemnity smoked the pipe and delivered the routine speech. The address was a somewhat abbreviated one, since nobody in the party spoke the Sioux tongue fluently (although the invaluable Drewyer helped out with sign language), and to make up for this deficiency. Lewis decided to invite some of the chiefs aboard the keelboat.

There were three chiefs—Black Buffalo, The Partisan and Buffalo Medicine—and two "considerable men" from their retinue. Clark passed round the whiskey bottle, but the party atmosphere was short-lived. They had a quarter of a glass each "which they appeared to be very fond of, sucked the bottle after it was out and soon began to be troublesome." The Partisan pretended to be drunk "as a Cloake for his rascally intentions," and before very long the Captains had had quite enough of their unruly guests.

With some difficulty, Clark got them ashore in one of the pirogues. As soon as they touched the bank, three young Sioux warriors seized the painter and held it fast while another brave hugged the mast. At once The Partisan dropped his drunkard's act and turned bully, manhandling Clark and telling him that the presents they had received were insufficient tribute to the great Sioux nation, that the party would not be allowed to go any farther upriver and that one of the pirogues with its cargo of trade goods would have to be left behind.

This was the bad moment the Americans had feared. It had been expected, and it had been catered for. Redheaded Captain Clark lost his temper with The Partisan—who was getting very personal "both in words and justures"—and drew his sword. Out in the keelboat, Lewis sounded action stations, and half a hundred Sioux warriors, who had strung their bows and drawn arrows from their quivers waiting for the white men to back down, found themselves staring into the rifle muzzles of thirty-odd well-armed and resolute men. "I felt My Self warm," Clark wrote later, "and Spoke in very positive terms." It was enough. For a long moment the two parties scowled at each other and the outcome wavered in the balance. But the Sioux bluff had been called and, in the event, they were the ones who backed down. Strong-arm methods now gave way to wheedling and begging. Unimpressed, the Americans took their boats a couple of miles upriver, and anchored off a small midstream island which they christened Bad Humoured Island, "as we were in a bad humer." Black Buffalo and Buffalo Medicine, thoroughly subdued, asked if they could come aboard again. The Captains consented, and the two chiefs slept the night in the cabin of the keelboat—although nobody else got much sleep, and reinforced guards patrolled the bank all through the dark hours.

For the next forty-eight hours the Americans remained tense and watchful, but there were no more "moments," and the Sioux seemed to have completely forgotten the dramatic episode of the first day—indeed, they proved themselves most genial hosts, organizing banquets and ceremonial dances, indulging in endless oratory and even laying on a dog feast—treatment normally accorded visiting royalty—while Black Buffalo made flattering remarks about the Great White Father and offered up a sacrifice in front of the American flag. Nobody was deceived by this abrupt change of tactics. The Sioux were fencing for an opening, looking for a propitious moment to catch the Americans off their guard. But the Captains had gauged the measure of their opponents to a millimeter, and the Tetons never got the opportunity they were hoping for. Presently the Americans were given proof of just how accurate their reading of the Indians' motives had been.

In the course of their discussions with the Tetons, it was disclosed that twenty-five Omaha prisoners were held in the village, survivors of a skirmish in which, so the Sioux claimed, seventy-five Omahas had been killed. The Americans could hardly let this pass unrebuked, and the Sioux were given the by now familiar lecture about the general Plains peace and told that they must return the prisoners to their own people. Meanwhile, the kind-hearted Clark sent Cruzatte, who could speak Omaha, to distribute a few small presents among the captives. This generosity brought its own reward when one of the Omahas told Cruzatte that the Sioux were planning to stop the expedition, murder the personnel and take for themselves the king's ransom in trade goods stored under the tarpaulins in the pirogues. The Sioux then, still had a lesson to learn.

That night the Indians nearly got their opening when one of the pirogues fouled the keelboat's anchor cable and cut the bigger craft adrift. As the keelboat began to drop downstream, there was a deal of shouting and confusion in the American camp, which the Tetons neatly used as an excuse for getting into battle dress on the pretext that they believed the village was being attacked by Omahas. For a full half hour two hundred heavily armed warriors pranced about on the bank, supposedly searching for the enemy, but in fact waiting for the single opportunity they needed to put the Americans down. They never got their chance, since the Captains quickly realized what was going on and held the party ready for action all night—but once again the members of the expedition had to manage without their sleep.

The affair reached its climax next day, the twenty-eighth. It was time to move on, and as soon as the Americans let it be known, the situation became critical again. The keelboat, now anchorless, was moored to the bank with the two pirogues lying outboard, and as the Americans prepared to leave, the entire Sioux fighting force turned out wearing their full war equipment.

Outthought, outbluffed and outmaneuvered, the Sioux could think of nothing better than a repetition of their first show of force. As Lewis gave the order to cast off, some of the young braves seized the mooring lines and held them fast while the familiar Sioux extortion game started. If the white men would part with some tobacco for the warriors, the boats would be allowed to leave. And so on. The Captains would see clearly enough where this was leading, and they flatly refused to hand out any more presents, "Stating proper reasons to them for it." It was a repetition of the earlier bluffing game, and the Captains were incomparably the better players. Clark, evidently feeling himself warm again, grabbed one of the swivel guns mounted on the cabin top and pointed it at the crowd with the portfire ready in his hand—then he spoke to Black Buffalo "so as to touch his pride."

Once more the no-nonsense policy paid its dividend. Faced with determination and resolution, the Sioux bluster collapsed. With petulant resignation the chiefs ordered the warps cast off and, helped by a convenient southeasterly breeze, the little flotilla pushed out on a broad reach heading north, away from the influence of the Teton Sioux.

In their first encounter with a really important Plains tribe the Captains had won a very considerable victory. The Sioux were the dominant tribe in this region, and news of their deflated spread quickly. The terrors of the Upper Missouri had been humbled. Their enemies rejoiced—and made a mental-note: you cannot fool or intimidate or blackmail these Americans. One of the principal objects of the expedition had been achieved. The Indians of the Upper Missouri basin had been inspired with a profound respect for American authority.

Some patterns of tribal psychology and behavior were emerging. According to the Indian conception of diplomacy, you got what you wanted by bluster and threats. When that failed, you resorted to flattery, appeasement and hard-luck stories. If that did not work, you dropped the subject and waited for more propitious circumstances. Above all, you did not attack a well-armed, vigilant and resourceful enemy, even though you knew that in the end you could defeat him. The price was too high.

"Sand bars are so numerous that it is impossible to describe them & think it unnecessary to mention them." Navigation, if that is the word for it, of the Upper Missouri was proving no easier in the higher reaches. Struggling on up the river with representatives of the mightly Teton Sioux begging tobacco or trying to recover face by shouting insults from the bank, the party rested their ruffled tempers, soothed their frayed nerves and tried to catch up on their sleep. For ten days they suffered only the routine physical discomforts of the river before reaching the site of their next problem in diplomatic relations—the mud villages of the Arikaras just above Grand River.

Unquestionably the party's reputation had traveled much faster than the expedition itself. The Arikaras knew all about the events at Teton River, and took the lesson to heart. By Plains standards they were a second-rate tribe, and by any standards could be counted unsavory, dirty, treacherous and cruel. Nevertheless they liked to make war when the odds were right and would cause plenty of trouble in their time. As actors, however, they could be rated fairly high. Their reputation for river piracy and general thuggery was second only to that of the Sioux, and yet they greeted the Captains with obsequious deference and displayed model behavior throughout the expedition's short visit.

The Arikaras, or the Rees, as the white traders usually called them, lived in permanent mud villages on the banks of the Missouri where they grew corn, but in all other respects they conformed to the general pattern of the Plains culture. They were of Caddoan stock, close relatives to the Pawnees, and at one time the two tribes had lived far to the south on Red River. In their northerly migration both tribes followed the Missouri, but the Arikaras ascended much higher than the Pawnees who settled the area between the Kansas and the Platte rivers. There will be another place to discuss the Pawnees, who must be assessed as a first-class Plains tribe and a major factor in the story of the West. The Rees were their poor relations. They were horse Indians and ranged fairly widely, trading with the Cheyennes, the Crows and even the more distant Kiowas. Like other Plains tribes they had their traditional enemies. But on the whole they were not distinguished warriors, even by Indian criteria, and at the time that Lewis and Clark met them they were regularly being trounced by the Sioux, the Mandans and the Minnetarees.

In the eyes of the Americans, however, the Rees had one good, solid virtue—their women were open-handed with their favors. This is not the place to discuss the sexual behavior of the Plains Indians—it will be sufficient to say that their customs were a great deal freer than the white man's and that those of the Arikaras were the most uninhibited of all. Additionally, the Ree girls were a lot better-looking by United States Army standards than any of the Indian women they had met so far.

All this did wonders for morale, and the soldiery took full advantage of the situation. It made up for the trying time they had had with the Sioux. "Their womin very fond of carressing our men etc.," noted Clark, and the Negro, York, was a sensation—nobody here had ever seen a black man before, and the Arikara girls queued up to make assignations with him. If the Captains themselves sought relief in the arms of the Ree women, neither of them put it on paper, although Clark does mention that each of them was presented with a "handsom young squar," an embarrassing gift which both declined despite the fact that the ladies "pursisted in their civilities."

In this atmosphere of entente cordiale, and through an orgy of pipe-smoking, feasting and oratory, the Arikaras glibly agreed to make peace with their enemies. They even requested permission to send a trucial envoy with the expedition as far as the Mandans to initiate peace talks with that tribe. The Captains swallowed this one. They did not yet realize that Indians in a cooperative mood would concoct any story that they thought might make welcome hearing to their guests. In any case, as it happened, it suited the Arikaras very well to have peace just now, and they hoped that Lewis and Clark could mediate for them.

Among the Rees they met some Cheyennes. The Captains' notebooks on the Plains Indians were filling up—customs' manners, alliances, intertribal relations. They began to learn about the vast and intricate intertribal trade that had taken horses and was now taking guns to the most distant people of the Plains. There were regular trading visits—the Cheyennes to the Arikaras, the Minnetarees to the Crows—and local white traders could tell the Americans of at least ten tribes reached by the Arikaras horse trade. A harvest of knowledge was being gathered in that would be the first step in conquering the Great American Desert.

It was mid-October when they took leave of the Rees with "great Cordiallity and serimony." A biting edge to the wind, sudden, short snowstorms and chilling rain told them that it was time to think about their winter quarters. The decision was an easy one. Only one hundred miles farther upstream were the Mandan villages, farthest point on the Missouri reached by white traders and ultimate frontier of American knowledge concerning the Far West.

They made it in a week. By October 29th they had chosen a site for their winter post and had started clearing the ground, felling the cottonwoods and cutting and shaping the logs in preparation for the building of their quarters. Fort Mandan they would call it, and it would be their home for five months.

CHAPTER 3: LEWIS AND CLARK: THE CONTINENTAL DIVIDE

They learned what it was to sit out the rigors of a northern winter. There was snow here—not much, but enough to restrict movement—a soft, clean blanket whispering out of the grayish yellow sky or shrieking down in near-horizontal fury on the razor-sharp edge of the Plains wind. Not for the first time Americans began to think of the

Great Plains as steppes. The cold was, indeed, of Siberian intensity, and on January 20, 1805, Clark could blow into his mittens and write, "Murckery this morning stood at 40 below 0." The severe weather brought its toll of minor troubles with the boats anchored fast in several feet of ice, and York, the popular ladies' man, was forced into temporary retirement with a frost-bitten penis. There were, however, more serious problems than York's loss of status among the Mandan women. Jefferson's waterway vision had suffered a major setback—the river was frozen over from November to March.

But their life, if strenuous and occasionally hard, was, in off-duty hours, comfortable and well fed. Game was plentiful here—the master frontiersmen, Lewis and Clark, had seen to that—and buffalo hump ribs hissed and crackled over the open fires every evening while Cruzatte, the expert plainsman, riverman and hunter, displayed further virtuosity on the fiddle to the delight of his companions and to the reverential awe of the Indians.

The Mandans were by a long way the most friendly natives they had met—they were one of the few tribes that genuinely liked the whites—and their women were amiable, handsome and, beyond doubt, willing. Like most of the river tribes, the Mandans compromised between the nomadic and the sedentary cultures, living in permanent villages near the river but penetrating deep into the Plains for hunting, trade or war. They were farmers of a sort, although the term sits strangely on any Plains tribe, and their harvest of corn, squash and pumpkins served rather as a trading surplus and a bolster for their economy during periodic migrations of the buffalo than as a staple diet. Perhaps their most untypical feature was an altogether remarkable predisposition toward peace with their neighbors.

The Mandans rarely if ever took the initiative in war, and confined most of their military activities to beating off the attacks of more aggressive tribes—principally the Sioux, of course, everybody's enemy in this region—but they were quite capable of holding their own when necessary and, if the odds dictated defensive tactics, their big earth lodges, half sunk in the ground and covered with a thick crust of sun-dried mud, could be turned into efficient little fortresses.

Not much farther upstream, near the mouth of Knife River, and living in very similar circumstances, were the close relatives and traditional allies of the Mandans, the Minnetarees. The Captains called them the Big Bellies, a translation from the French "Gros Ventres," and since it is important to distinguish these Gros Ventres from another tribe of the same name, we may deviate momentarily for a word of explanation. Minnetaree was a Siouan word used by the Mandans to designate the tribe, although modern ethnologists call them the Hidatsa, a term seldom found in contemporary records. "Gros Ventres" was a French interpretation of the gesture that indicated these people in the lingua franca of the Plains, the sign language, and the expression was commonly used by the traders of the day. Unfortunately for the student of Western history, the name Gros Ventre was also applied to an entirely different tribe of Algonquin stock living farther west just across the Canadian border. These latter Indians were close relatives of the Arapahos, although they had long since formed a splinter group and drifted northward, finally attaching themselves to the Blackfeet to whom they were also related. Ethnologists call them the Atsina, and some early writers referred to them as the Fall Indians (apparently because they lived near the Falls of the Saskatchewan), but the Blackfoot name for the tribe was translated as "gut people," and this in turn became rendered as Gros Ventres. The Fall Indians were one of the most ferocious of the Plains tribes, and they will be repeatedly appearing in full war paint during the progress of this narrative. After saying all this, it will be as well to avoid any confusion in the following pages, and the term Gros Ventre will always be used in reference to the Atsina and never to the Hidatsa, who will be described by their Siouan name, Minnetaree.

The tribal status of the Minnetarees in the Plains hierarchy lay somewhere between the peaceably disposed Mandans and the truculent Sioux. Chittenden,* who is usually accurate on the subject of Indians, seriously underrates them when he says that they were not a warlike people, although he does add that they were "liable to frequent misunderstandings with other tribes." Undeniably they managed to achieve peaceful coexistence with the Mandans, and there were close family ties with the Crows, to whose tribe, at one time, they had belonged. But "misunderstandings," however frequent, will hardly do to describe their continual war with the Sioux their regular forays against the Shoshones and their occasional horse-stealing and scalp-lifting expeditions deep into the country of the Blackfeet, the Assiniboins and the Crees.

All this, of course, from the standpoint of Lewis and Clark, was utterly reprehensible, and the Minnetarees would have to be given a stern lecture on the follies of intertribal war when a convenient opportunity arose. In the meantime their raiding habits could be turned to good account by giving the Americans some first-hand information about the upper reaches of the Missouri. By patient questioning through interpreters, by watching Minnetaree chiefs scratching with sharpened sticks on the mud floors of their huts, the Americans began to gather in precious information about the country farther west. They learned of the Great Falls and the Three Forks; they heard for the first time accurate information of the Yellowstone and its principal tributaries, the Powder, the Tongue and the Bighorn; they began to understand something, though by no means all, about the Rocky Mountains. It was becoming clear that the Rockies were a multiple system of ranges, and not a single chain as they originally were led to believe.

The fundamental problem of crossing the Divide had always been at the core of Lewis and Clark's thinking in relation to the expedition. Clearly some sort of land traverse—conceivably an easy portage, but quite possibly a lengthy and difficult march—would have to be faced when transferring the party from the Atlantic to the Pacific drainage. Further, a land march of any distance meant that they would have to have horses—with the weight of supplies and equipment they were at present carrying in the boats, travel on foot would be next to impossible. It was the Minnetarees who unwittingly supplied a possible solution. In the course of daily discussions with the Captains they made constant reference to their old enemies, the Shoshones or Snakes, an important transmontane tribe which made an annual migration onto the Plains in search of buffalo.

As the Americans learned more about the Shoshones and their place in the pattern of Plains society, it became clear that the tribe was going to be crucially important next summer when they might expect to have reached the foothills of the Rockies. Not only did the Shoshones have large horse herds, which meant that the Americans could buy animals for any necessary land march, but they were residents of the "other side," and their guides could be hired to lead the party through the mountains to Columbia waters.

The importance of this distant tribe focused sudden and unexpected attention on a recently recruited member of the expedition. In their dealings with the Indians, Lewis and Clark had made a practice of hiring local white traders as interpreters. At Fort Mandan they had acquired the services of René Jessaume, part-time agent of the British Northwest Company, as interpreter to the Mandans, and Toussaint Charbonneau, resident trader among the Minnetarees, for simliar offices with that tribe. Charbonneau, an experienced Indian trader and frontiersman, had further agreed to accompany the expedition to the Pacific. He was a useful addition to the party, but his most valuable contribution lay in the fact that one of his Indian wives was a Snake.

She was the girl, Sacajawea, captured by the Minnetarees on one of their periodic raids five years earlier, in the vicinity of the Three Forks of the Missouri. Her importance was dual: she spoke the Shoshone language and she knew where they could be found.

Rough-hewing a plan for the next season's travel was only one of the many problems that busied Lewis and Clark in this winter of 1804–1805. Local Indian affairs occupied a good deal of their time, and in their capacity of ambassadors from the Great White Father they arbitrated in peace talks between the Arikaras and the Mandan-Minnetaree combine. Then a big band of Assiniboins came in to trade for corn—dangerous, volatile Indians who aced the middleman's part in the British trade from across the border and were therefore interesting politically as well as ethnologically. Shortly afterward the Americans were privileged to inspect more tangible evidence of British fur interests. On arrival at the Minnetaree villages they had found a small Hudson's Bay Company brigade. Now a detachment from their great rivals, the Northwest Company, moved in to compete for the trade. What followed was typical of the fur trade anywhere—a brisk commercial war with each of the British parties resorting to every known kind of thimble-rigging to snatch the best furs on the market. Everybody, however, was very polite to the Americans (understandably so, since the British were trading in United States territory), at the same time doing their best to find out all they could about the expedition by pumping the Captains for information. They found out little that was of any use to them, and Laroque, the Northwest partisan,[1] evidently under orders from Montreal, actually went so far as to ask if he could join the expedition. He got a polite refusal.

The Teton Sioux, still trying to recover status, were rumbling threats of war all through the winter. It was mostly talk, but one or two Mandans and Minnetarees lost their scalps, and Clark slipped up badly when he sent out a very small party (Drewyer and three men) to bring in a cache of meat that he had concealed on a previous hunting expedition. Twenty-five miles below the fort, the Sioux at last got the drop on the Americans. In the face of more than a hundred Tetons, Drewyer wisely held his fire and stood by while the Sioux helped themselves to the meat, robbed two men of their knives, and snatched a brace of horses. Happily, the Sioux were commanded by a chief who was an old enough hand to know just how far he could go with impunity. He left the whites with their scalps intact, and disappeared. Pursuit was futile, but Lewis made the effort the next morning with twenty-four men, floundering through the snow and finding nothing but the burned-out ruins of the cache where Clark had concealed his meat. Measured in goods of intrinsic value, the loss was small, but in Plains terms the Sioux had scored heavily, and the Americans' reputation along the river suffered accordingly.

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* Hiram Chittenden: *History of the American Fur Trade in the Far West.* This eminent treatise is quoted so often that no further acknowledgments are considered necessary. But please see "Note on Bibliography."

[1] The leader of a company of fur traders in the field. His command, called a brigade, was usually a large one—anything from thirty to a hundred men.

Before the ice melted and the party could get under way again, there was one further event of importance. At five o'clock in the evening of February 11, 1805, Sacajawea added a further name to the roll call of the Lewis and Clark expedition by producing her firstborn, a son. The poor girl's labor was tedious and painful, and Lewis records that, on the advice of René Jessaume, he administered two crushed and diluted rings from the tail of a rattlesnake in accordance with the local custom for hastening childbirth. "Whether this medicine was truly the cause or not I shall not undertake to determine," he wrote later, "but I was informed that she had not taken it more than ten minutes before she brought forth."

April 7, 1805, saw the expedition ready to take the river again. The keelboat was returned downstream with the surplus men, government dispatches, private letters and nine cases of specimens for the President. The company, thirty-three of them now, including Drewyer, Charbonneau, York, Sacajawea and her infant son, was by this time a well-tried, hardened unit. "The party are in excellent health and sperits," wrote Lewis, "zealously attached to the enterprise, and anxious to proceed; not a whisper or murmur of discontent to be heard among them, but all act in unison with the most perfict harmony."

They still had the two pirogues, which became steadily more unwieldy as they ascended the river, and six homemade cottonwood dugouts now replaced the keelboat. The canoes were shallow-drafted, and therefore easier to handle in the ever more frequent shoal water, but narrow beam and lumpy lines made them sluggish on the helm, and all the craft made their best distance under tow.

Food continued to prove their simplest problem despite the size of the party. Buffalo, elk and bighorn were always profuse, and for a change of diet there were beaver, porcupine and numberless varieties of wildfowl. Charbonneau was the "wrighthand cook" of the party, and Lewis records in detail and with evident satisfaction the hunter's preparation of boudins, a kind of Plains haggis in which the large intestine of a buffalo is stuffed with fillet steak, liver, kidneys and other delicacies. Boiled in a kettle and lightly browned in a pan of bear's grease, it was universally popular with the party. (And it would retain its reputation in later years as a mountain gourmet's choice.) Then, on April 29th, they had their first encounter with a new species of game—the grizzly bear.

The grizzly, about which we must have something to say in a later chapter, was by a long way the most dangerous of the Plains fauna. Lewis was lucky enough to kill the first one fairly easily, and decided that they were '"by no means as dangerous as they have been represented," but subsequent encounters with "grisly" bears were not quite so straightforward. One animal, attacked by no less than six experienced hunters and shot clean through the body with eight rifle balls, was still sufficiently dangerous to chase two men in the Missouri and take a furious header after them. Later, Lewis himself, caught on his own with an unloaded rifle, was attacked by one of these monsters and driven chestdeep into the river where he turned at bay, prepared to defend himself with a short steel-shod pike. Happily—but for no apparent reason—the grizzly's attention was distracted, and the beast abruptly turned and shambled off, leaving the Captain to emerge shakily from the water and return to camp in a thoughtful mood after carefully reloading his gun. Later he wrote in his journal that "the curiousity of our party is pretty well satisfied with respect to this animal."

There were more serious problems than grizzlies. The expedition was heading due west for the mountains now, and on June 5th they received a stunning surprise—the river forked. Problem: which one was the Missouri? Information gathered from the Minnetarees, which had proved fairly reliable in assisting to identify the Yellowstone, the Milk and the Musselshell, had made no mention of this junction, and it is evident that Sacajawea was unable to help either.

It was a critical moment. With the traveling season already two months gone, with mountainous country ahead and a land traverse of unknown length, and with no sign yet of the Snakes and their vital horse herds, they could not afford to make mistakes. Anxiously, cautiously, with a clear understanding of what was at stake, the members of the party scanned the two rivers for some clue as to their identity.

After consideration, the rank and file with all the weighty opinion of the rivermen behind them, including the acknowledged expert, Cruzatte, plumped for the north fork with its narrower, deeper channel, its brown, muddy, turbulent waters and its close resemblance in every respect to the river they had come to know so well. The Captains were "not quite so precipitate." The southern stream was a complete contrast—clear, fast and unruffled with a bottom of smoothed stones—but, and this was important, it had more the appearance of a mountain stream, and mountains there must be before much longer if they were to reach the Pacific this year. After their "cogitating faculties" had been put to work, Lewis and Clark decided that they were in the minority and voted for the southern fork. But they had to be sure.

There was only one way of putting their theory to the test, and the party split up to explore both rivers for a short way, Clark taking the southern fork and Lewis the northern. Within two days Clark could state categorically that the south fork was the Missouri, and only twenty-four hours later Lewis had correctly identified the northern stream as a tributary of comparatively minor importance. It remained to reunite the parties and to christen the north fork Marias River in honor of Miss Maria Wood, one of Lewis's romantic interests, Lewis conscientiously adding that the muddy hue of its waters "but illy comport with the pure celestial virtues and amiable qualifications of that lovely fair one." Ten days later they reached another obstacle to Jefferson's water route—the Great Falls of the Missouri.

The adjective "great" was a little on the strong side—the Falls were only eighty feet high—but they were three hundred yards wide and impressively beautiful. An obstacle of this size obviously involved a difficult portage, a fact that carried a good deal more practical significance for the men who would have to make it than the grandeur of the scenery. By the time the Captains had done some reconnaissance, and found the river channel chopped up into rapids for a matter of ten miles, it became apparent that the detour was going to be lengthy as well.

In the end it worked out to seventeen miles. It took them a month, and proved the hardest work they had yet had to face. Clark was a tireless engineer and surveyor, prospecting the route, supervising the construction of crude cottonwood truck frames to transport the loaded canoes, organizing caches for nonessential equipment and directing the building of more canoes to replace the pirogues. (One of these had been concealed at the mouth of Marias River; the other was being buried here to simplify the portage.)

Everything seemed calculated to hinder them. The breathless, stunning heat was relieved only by sudden, vicious hailstorms and rainsqualls that flooded the portage trial and turned it into a quagmire. Splinter-sharp rocks, cactus and prickly pear tore their moccasins to shreds, and game was so abundant that it became a nuisance. Grizzlies, under the impression that their hunting grounds were being invaded, repeatedly charged them, and herds of buffalo jostling each other in a mad rush to the water's edge were nearly as dangerous. Overshadowing everything was the somber realization that they had been three months on the trail without reaching the Rocky Mountains—time was becoming precious.

No one was sorry to enter the water again on July 15th, although it was towing all the way now against a brawling mountain current, often with steep canyon walls narrowing the stream down to a millrace. Almost at once they were in the mountain country, skirting the Big Belts—the first range they had seen that properly forms part of the Rockies—and passing through a spectacular vertical gash in the rocks that Lewis named, appropriately enough, the Gate of the Rocky Mountains. Beyond the "gate" stretched a bleak plain, and at the farther end they came to another major landmark, the Three Forks.

Here they were in Shoshone country—at this time of year anyway—in fact, they had been looking for Shoshones ever since the Great Falls; and the continued absence of these Indians with their all-important horse herds provided a new source of worry. Since leaving Fort Mandan, indeed, they had seen no Indians at all, a remarkable occurrence which suggests that the expedition's reputation, running far ahead of it, had persuaded the Blackfeet, the Gros Ventres, the Assiniboins and the Crows to prosecute their summer hunt elsewhere. Tantalizingly, there was plenty of Indian sign about, with smoke signals always just a little way ahead, and it slowly began to dawn on the Captains that the Snakes were deliberately avoiding them.

The Three Forks, they decided, was the source of the Missouri. The northern fork, which, on the advice of the Minnetarees, they chose to ascend, they named the Jefferson, calling the others the Madison and the Gallatin after the Secretaries of State and the Treasury. Clark, normally acknowledged the better scout of the two leaders, was physically worn out after the tremendous anxieties and exertions of the stretch between the Great Falls and the Three Forks, and it thus fell to Lewis to range out ahead with Drewyer and two others in search of the Snakes while Clark superintended the laborious ascent of the Jefferson—which was proving more difficult than the Missouri had ever been.

Sacajawea now proved her worth as she began to recognize landmarks, and, following her suggestions, Lewis and his small advance party found the trail across the Beaverhead Range, cross the Continental Divide through Lemhi Pass and emerged onto the Columbia watershed. Next day, after a couple of false starts, Lewis and Drawyer skillfully contrived to lull the fears of the terror-stricken Shoshones (who imagined that the newcomers were marauding Blackfeet) and managed to make contact with a small band. The Indians, who had probably never seen white men, were almost paralyzed with fright, and only by appealing to their curiosity and greed was Lewis able to coax them along the back trail toward Clark and the main body. The Shoshones were still jumpy when the little party sighted Clark's canoes shuddering up the Jefferson under tow, and the atmosphere was charged with nervous tension as the two companies reunited. Immediately Lewis played his trump card—Sacajawea—to elicit a response exceeding his most extravagant hopes. By an extraordinary coincidence he had lighted on the very band from which she had been carried off five years earlier. And better yet—their chief was her brother.

The Captains relaxed. Now they could have their horses.

CHAPTER 4: LEWIS AND CLARK: THE PACIFIC

Once their initial fears were allayed, the Shoshones proved friendly and hospitable. They were a tough tribe, shrewd, industrious and warlike, with an economy balanced between the mountain salmon and the Plains buffalo. Physically slighter than the nations with a full Plains culture, they were the titular tribe of the Shoshonean family which included the Camanches, the Utes, the sedentary Hopis and other lesser known and widely scattered tribes, most of them inhabiting the country west of the Divide. They raided the Blackfeet, which meant they had plenty of nerve; they were inveterate enemies of the Crows and Utes; and in their longstanding war with the Sioux they more than held their own.

The barter for horses was successfully concluded. The white man's trade goods were a luxurious novelty to the Snakes. Among many bargains struck, Lewis records that he obtained three very good horses in exchange for a uniform coat, a pair of leggings, a few handkerchiefs and three knives—total value about twenty dollars. Once they were mounted, the Americans were impatient to be on the move again. But there were still formalities to be observed, and at the usual grand council the Captains promised these Indians to bring the American trade into their country, notwithstanding the fact that they lived beyond the borders of Louisiana in territory whose ownership was problematical. There followed a stern lecture on the follies of intertribal war, and, with a straight face, the Shoshones agreed to make peace with their enemies.

And then to the more immediate matters. Could the chiefs direct them to a river which flowed westward to "the great lake of water which was illy taisted, and where the white men lived"? The Snake chief—they rendered his name Cameahwait—became evasive. It was folly, he suggested, for the expedition to consider trying to reach the Pacific—the trail was difficult, the coastal tribes inhospitable. Much better to stay here with the friendly Snakes, and accompany them to the Three Forks for their big buffalo hunt. No great powers of perception were needed to work out the motives behind this speech. The Shoshones wanted to stay close to these valuable new friends whose superior armament could provide devastatingly efficient protection from Blackfeet and Minnetarees during the annual hunt. If possible, the white men must be prevented from infiltrating farther toward the coast—for the Snakes already saw themselves in the role of middlemen controlling the supply of American trade goods to the tribes farther west.

The Captains were not fobbed off as easily as this, and, with skillful insistence, Clark kept probing for information. He learned of the Salmon River which, the Indians told him, led to the sea. This seemed a promising route until an old Shoshone, who proved their most valuable informant, told them that the river was quite unnavigable and that it could not be followed on foot or on horseback. (Another blow to the Jefferson waterway scheme, and a deep disappointment to the Captains who had been relying on this river from information they had obtained at Fort Mandan last winter. Clark spent four days checking up, but the old man was right, and the Salmon River route was quite out of the question. No boats could survive in the swift fury of this mountain stream with its rock-strew bed and its many cataracts and waterfalls, and no horse could possibly travel along the sheer canyon walls through which it flowed.) Well, that meant they had to find another way. Once again it was Clark who wheedled the Snakes into providing it. After a series of patient cross-examinations, Cameahwait and the old man eventually admitted to the existence of a pass farther north. It was used, they said, by the Nez Percés in their journeys between the salmon country and the Great Plains. They added, truthfully, that it was a difficult trail and completely lacking in game.

That settled it. If the Neb Percés could make the journey, Lewis and Clark's soldiers could—and if starvation threatened, they could eat their horses. With the old man, whom they christened Toby, and one of his sons as guides, they parted company with the Snakes on August 30th, and struck out northward along the foot of the Bitterroot Range. They took with them the twenty-nine horses they had been able to buy from their late hosts—twenty-nine was not enough, but it was all the Shoshones could spare on the eve of the big hunt.

The high trail was broken, slippery and precipitous. Rain and sleet hammered at them continually, and the horses were always in trouble—stumbling, shying or sliding down scree slopes. Many of the animals were injured, and all progress was made "with the greatest difficulty risque etc." But the going gradually became easier as the trail improved and the men began to get used to handling packhorses. Soon they had a real stroke of luck when they met a band of Flatheads, friendly Indians with big horse herds and plenty to spare. The party stopped long enough to trade, and increased its own *caballada* to forty mounts.

Toby found the Neb Percé buffalo road for them. And as they climbed out of the Bitterroot Valley onto a ridge trail with an altitude of 7,500 feet, they realized that the worst of the journey was yet to come. From here on it was nerve-fraying, muscle-wrenching mountain travel for nine days. Numbed with cold and hunger, saturated with rain, sleet and snow, the party suffered hardships on a scale greater than anything they had encountered before—for the first and only time, morale began to waver.

Fortunately, such conditions could not last forever. They emerged onto a plateau of lower altitude with gentler surroundings, and then Clark, out ahead with six hunters looking for game, met his first Nez Percés. They were friendly. Better still, they had food—strange food, admittedly: dried salmon, dried berries and a kind of flour made from pounded camas root—but edible and therefore welcome. Clark started bulk-buying on the spot, sending a horseload of the stuff back to fill the gaunt bellies of the main party. Then he went into camp with these affable new Indians while he waited for Lewis and the others to catch up.

The Nez Percés were of the linguistic group known as the Shahaptian, their neighbors and friends, the Flatheads, belonging to the Salishan stock. The two tribes, although unrelated, had a great deal in common. Like the Shoshones, they were quasi-Plains Indians, venturing annually onto the Plains to stock up on buffalo meat for the winter. At other times their way of life revolved round the river and the salmon. They were less temperamental than the Shoshones, and consequently more reliable, but while both tribes were of a peaceable disposition, rarely taking the offensive even with their enemies, they could be as tough and resilient as any Plains tribe when circumstances forced them to be so. Their habitual enemies were the Blackfeet—the cocks o' the north, and as ferocious a tribe as could be met with on the plains. But the Flatheads and the Nez Percés were not intimidated by the fierce reputation of their neighbors—they had their own well-established warrior tradition, and were fully capable of standing up to Blackfoot aggression. Of the two tribes, the Nez Percés were somewhat advanced culturally, and they had a well-deserved Plains reputation as craftsmen. Among other things, they were one of the few tribes to practice selective horse breeding. And Nez Percé bows were a staple in the trade—short and double-curved, with a twanging resilience that made them the most powerful of all Plains weapsons.

With the Flatheads and the Nez Percés, Lewis and Clark sowed the seeds of enduring friendship and respect for the white people. Throughout the period which we treat here, and on to the 1870's their reliability and their loyalty to the Americans never wavered. The Flatheads, in fact, never came out against the whites at any time—not even when their country became valuable to Americans, and they suffered gross injustices at the hands of land-hungry settlers. The Nez Percés submitted to similar indignities for many years with well-bred contempt until at last one of their great leaders, Chief Joseph, turned against the whites in a hopeless, gallant fight for the rights of his people. The loyalty and friendship of these two tribes created a valuable oasis in the Great American Desert. For the next sixty years, all transmontane travelers in the Northwest would have much for which to thank the Captains.

They were finally on a navigable, westward-flowing river (it was the Clearwater). For the last time they built themselves canoes, and cached those supplies they did not need or had not room to carry. The horses would have to be abandoned here, and they branded the animals, leaving them to run with the Nez Percé herds—something they could never have done with the Snakes or the Minnetarees, and a remarkable illustration of the mutual trust which had already been created between these Indians and the white men.

Their departure was delayed temporarily while the members of the expedition recovered their health. The abrupt changeover from the all-meat diet of the Plains to the salmon-and-root staple of the far-western tribes had played havoc with their digestions, and most of the party was prostrate. Within a reasonable time they were fit to move again, and their systems eventually became conditioned to the new fare—although they quickly tired of it, and everybody longed for buffalo meat.

Two of their Nez Percé friends—Twisted Hair and Tetoharsky by name—had agreed to go along part of the way, acting as guides and interpreters, and with their help the expedition navigated the perilous course of the Clearwater.

On October 10th, after three days of spectacular and dangerous travel, they debouched into the Snake, the principal tributary of the Columbia. Clark immediately recognized it as part of the same system that had proved impassable at the Shoshone camp. (He was right. The Salmon River empties into the Snake some fifty miles above the mouth of the Clearwater.) The canyons here were on a more diminished scale than those that they had seen in the Bitterroots—but they were bad enough.

The constant problem now was rapids. And the time factor, as always. Clark noted that they should have made more portages than they did, but the inevitable delays involved in getting the boats in and out of the water often seemed to make it worthwhile running the risk of shooting the rapids. Fortunately, there was plenty of local expert advice on tap, and the party was daily attended by noisy, affable and everhelpful Flatheads and Nez Percés, who knew all the bad stretches of the river through their fishing activities. Finally the Captains worked out a routine for negotiating rapids, when it became clear that they were going to be a daily problem. The nonswimmers of the party trudged round the obstacles carrying the more important cargo, while the strong swimmers shot the rapids in the lightened canoes to save the time and trouble of portaging the unwieldly craft. It was a dangerous business, and there were several spills. No body was drowned, but there were some near misses. On one occasion, Drewyer's canoe capsized, resulting in the loss of some of the seriously depleted stock of trade goods—the only currency with which the Americans could pay for food, labor and information.

On October 16th, they reached the Columbia. If the party celebrated this long-awaited and momentous occasion, the journals make no reference to it. Clark merely notes in detail the negotiation of some more than usually difficult rapids, and goes on to say, "having taken Diner set out and proceeded on Seven miles to the junction of this river and the Columbia which joins from the NW." Far more importance was attached to the purchase that evening of seven dogs for the stew-pot—everyone was by now heartily sick of the salmon diet.

Entry into the bigger river brought no relief from rapids—indeed, the going was worse than ever. One boat was lost in the negotiation of Celilo Falls. Then Cruzatte and Drewyer had to advise the Captains on how to get through The Dalles. Here the Columbia narrowed to forty-five yards, and flung itself through a twelve-mile-long series of rapids. There was no question of portaging—the canyon walls were sheer. The only thing to do was to run the boats through. And somehow Cruzatte and Drewyer managed it, to the astonishment of the local natives who crowded the banks below in the hope of witnessing a spectacular disaster.

They encountered some Wallawallas on this stretch, the last Indians they met with any vestige of tribal pride or dignity. After the Wallawallas, it was the sly, thieving, degenerate coastal tribes who stole everything they could lay their hands on and would have massacred the entire party just for practice, had not the Captains adhered strictly to their routine security precautions.

There job well done, the Nez Percé guides, Twisted Hair and Tetoharsky, now turned for home. They could no longer help with the language, and the expedition required no further guidance to reach the sea. Already there was evidence of the Northwest trade—scarlet and blue blankets, a sailor's jacket, then muskets, swords, pistols, powder flasks, woolen clothing, kettles and the thousand-and-one trivia of the Indian trade.

At the beginning of November they reached the last serious obstacle—the Cascades. There were two falls, the Upper and the Lower Cascades, where the river cut its gorge through the Cascade Mountains. They had to portage them both, rolling the dugouts over the rocks on logs. Below the Cascades the Columbia was at last a navigable river by any standards. The water was deep, too salt to drink and there was a tide.

They were not too soon. It began to rain with the foggy soaking drizzle of the coastal winter, and blustering northwesterly winds whipped up the river surface into a choppy sea. The Columbia widened to several miles, and the party could add seasickness to the impressive list of the privations they had suffered.

At last, on November 7th, Clark wrote: "Great joy in camp, we are in view of the Ocian, this great Pacific Octean which we been so long anxious to See." He was wrong, deceived by the ever-widening Columbia and the breakers in the big estuary. But a week later they were truly at the mouth of the river. Unloading the cottonwood dugouts that had served them so well, the party named the spot Fort Clatsop for the local Indians, and started building the quarters that would house them through their second winter away from home.

Jefferson's schemes for a transcontinental commercial waterway were brought to nothing. And, perhaps more important, his hopes for competing with the British in the Canadian fur trade were clearly shown to be impracticable. But there were compensations. The American title to Oregon was buttressed in exactly the way that Jefferson had intended. It would take forty years to reach agreement with the British, but Gray's discovery of the Columbia backed by Lewis and Clark's land crossing would form the basis of the American claim through all the negotiations, and would eventually prove effective.

The Captains brought back encouraging news for the fur traders also. Drewyer, their expert trapper, had demonstrated that the Upper Missouri tributaries abounded in beaver and that the untapped sources beyond the Mandan villages contained a rich harvest of fur equal to anything the British could show in the valleys of the Assiniboine and the Saskatchewan. Just how the American traders reacted to this information forms the best part of the remainder of this book.

But the most important contribution made by Lewis and Clark to the history of the Far West was not political or commercial—it was not even, strictly speaking, geographical, although of course the expedition was spectacularly successful in all these ways. What makes Lewis and Clark stand head and shoulders above all American pathfinders is the fact that they sowed a seed in the minds of the American people. That seed would take forty years to reach maturity. When it finally came to flower, it would be called "Manifest Destiny," and a conviction would possess the minds of United States citizens that their country stretched from coast to coast all the way from Canada to Mexico.

But that is going ahead too fast. . . .

We may leave Lewis and Clark at Fort Clatsop, although their adventures were less than half over. The outward journey has been dealt with at some length because it was a brilliant demonstration—almost a textbook example—of the difficult art of wilderness travel, and because of its fundamental importance in the story of the American Far West. The return trip, after a winter on the Pacific Coast, was managed with equal courage, efficiency and intelligence, but covers much the same ground with some relatively minor variations where the Captains decided that certain rivers, valleys or mountain ranges required further exploration. They returned to St. Louis, where they received a heroes' welcome, on September 23, 1806.

William Clark settled in St. Louis, where he lived out a full and happy life as Superintendent of Indian Affairs and dozen of fur traders. If he was lionized by the whites—and his social standing reached a point where newcomers to the fur trade automatically paid him a courtesy call—then he was positively deified by the Plains Indians, for whom he was responsible. All through the remainder of his life, he was forever being asked to accompany government embassies to the tribes and to help in peace negotiations, boundary disputes and so on. He genuinely liked Indians, and probably did as much as anyone to try to break down the dense barriers of misunderstanding that plagued all relations between the red men and the white.

The fate of Meriwether Lewis was less happy. He was made Governor of Louisiana Territory in recognition of his services, but he died suddenly in mysterious circumstances only three years later while on his way from St. Louis to Washington. Lewis was the deeper thinker of the two—more introverted and more self-critical. Here is part of his diary entry for August 18, 1805, written while quartered with the Shoshones in the heart of the Rocky Mountains:

"This day I completed my thirty first year, and conceived that I had in all human probability now existed about half the period which I am to remain in this Sublunary world. I reflected that I had as yet done but little, very little, indeed, to further the hapiness of the human race or to advance the information of the succeeding generation. I viewed with regret the many hours I have spent in indolence, and now soarly feel the want of that information which those hours would have given me had they been judiciously expended, but since they are past and cannot be recalled, I dash from me the gloomy thought, and resolved in future, to redouble my exertions and at least indeavour to promote those two primary objects of human existence, by giving them the aid of that portion of talents which nature and fortune have bestoed on me; or in future, to live for *mankind*, as I have heretofore lived to *myself*."

Here is the rare gift of humility. Meriwether Lewis would be sincerely astonished to know that history remembers him as one of the two greatest pathfinders in the trans-Mississippi West.

THE TRAILBLAZERS

(By the Editor of Time-Life Books)

AN EPOCHAL THRUST TO THE PACIFIC

On January 18, 1803, President Thomas Jefferson sent a confidential message to Congress. "The river Missouri," it stated, "& the Indians inhabiting it, are not as well known as is rendered desirable by their connection with the Mississippi & consequently with us. . . . An intelligent officer with ten or twelve chosen men . . . might explore the whole line, even in the Western Ocean. . . ." This group, variously known as the Lewis and Clark expeditious or the Corps of Discovery, turned out to be the most carefully conceived, brillantly led, and probably the most profitable piece of trailblazing in history up to that time.

This first announcement of Jefferson's, only 1,300 words long, was deliberately sketchy about the nature of the mission—and understandably so. For in his artful fashion, Jefferson was asking Congress to authorize a military reconnaissance into vast and virtually unknown lands that were claimed by the two most powerful nations in the world, France and Britain, with a third Spain, clinging to a hold in the South and Far West. Jefferson knew the legislators were likely to boggle at such a chancy proposition: indeed, his political opposition in the Federalist Party would object to almost anything he proposed. He therefore chose language that was contrived both to minimize the risks and to render the halt irresistible. He avoided any use of the word "military," pointing out instead the opportunities for "extending the external commerce of the U.S." He spoke enticeingly of "great supplies of furs & peltry" to be obtained from the Indians, who up to that time had sold their furs solely to the British Hudson's Bay Company and the North West Company of Canada. As a clincher, he made the temptation cheap, asking only $2,500 to finance the project (though in the end the actual cost came to $38,722.25).

On February 28, 1803, Congress approved the venture, Jefferson was quietly jubilant. For upwards of two decades as a public servant he had been actively scheming at ways to find out what lay in the great void beyond the Mississippi, and to establish some sort of American presence there. In fact long before he became President, Jefferson, who was both a scientist and a brillant geopolitician, had made at least two abortive efforts to satisfy his own scholarly curiosity and at the same time to open the door at least a crack for U.S. expansion into the West.

While Minister to France in 1786, he came across an adventurer named John Ledyard. Ledyard struck him as "a man of genius, of some science, of fearless courage and enterprise . . . and of a roaming restless character." Jefferson urged him to approach the American West by an outlandish course: across Europe and Asia to eastern Siberia, thence over the Bering Sea to Vancouver Island, down the New World's coast and inland to the Missouri River. Ledyard eagerly undertook the challenge and managed to walk 3,000 miles into Siberia before Catherine the Great got wind of him and, suspecting that he was a spy, had him escorted back to Poland under armed guard.

At that point-Jefferson wrote off Ledyard, but not his own curiosity or aspirations. A few years later, by which time he was Secretary of State, he came up with another candidate to traverse the Far West. His new choice was André Michaux, a French émigré who had become a Carolina landowner and sometime botanist and explorer. He claimed that he could find a way across the continent via the Missouri. Encouraged by the man's scientific credentials, Jefferson commissioned him to make the trip. But Michaux, it turned out, was a spy—an agent provocateur in the service of the notorious, trouble making French Minister, Citizen Edmond Charles Genêt. Michaux had gotten only as far as Kentucky when he was called back and strongly advised to return to botany.

Jefferson carried his westering ambitions into the White House, and from this lofty vantage point he perceived even more acutely the necessity of establishing a trans-Mississippi foot hold for the United States. By that time the British had already accomplished a continental crossing: in 1793 a fur trader named Alexander Mackenzie had blazed a trail across northwestern Canada to the Pacific, and there was some concern that he might try again, this time perhaps along the Columbia River. To further complicate matters, war between France and Britain was imminent, and the President sensed that its destructive waves would probably spill over into North America.

In 1802 Napoleon assigned two powerful armies to service in the New World. The first headed for San Domingo to oust the Negro revolutionary Toussaint L'Ouverture and regain control of the Caribbean island. The second, secretly assembled, was intended to police Louisiana. But yellow fever and the guerrilla tactics of L'Ouverture destroyed the first army in San Domingo, and when it was all but wiped out Napoleon sent the second in relief. That, too, was quickly cut down and it never reached Louisiana.

Overextended and sorely in need of cash to finance his war machine Napoleon turned to negotiating with Jefferson's emissaries in Paris for the sale of the French possessions in America. In April 1803 the two parties agreed on the terms of the Louisiana Purchase (map, below), by which the United States eventually gained 800,000 square miles between the Mississippi and the Rocky Mountains. Now Jefferson no longer needed secrecy or guile to move westward. As President he had a legitimate duty to examine the new lands.

He was more than ready to do so. By the time the teritory was transferred to United States ownership, Jefferson's secretary, young Captain Merriwether Lewis, had assembled all of the equipment for the Corps of Discovery, and his co-commander, Second Lieutenant William Clark, was already at the mouth of the Missouri, drilling the men and selecting additional baggage for the great trip into the hinterland. On March 9, 1804, Captain Lewis, dressed up in the best of his uniform coats for what would be the last time in more than two years, appeared at the Government House in St. Louis. There, as a witness, he put his signature to the document completing the great land transaction—and removing the last formal barrier to the historic venture. Lewis and Clark and their men would be the first Americans to carve a track across the West all the way to the Pacific; they were the pathfinders for a nation. In their wake would follow the mountain men, prospectors, cattlemen, sodbusters, tracklayers and city builders—the successive generations of an empire.

When Jefferson noted in his message to Congress that the West was "not as well known as is . . . desireable" he was drastically understanding the case. In truth, most of the trans-Mississippi territory remained, as French traders called it, pays inconnu, unknown land. The best maps Jefferson could obtain for the Corp's guidance represented a mixed bag of geographical information collected here and there over 200 years, and offered little more than outlines and guesswork. The Missouri River had been charted only as far above St. Louis as the Mandan villages in the Dakota region. British, Russian and Spanish explorers had touched tentatively here and there along the Pacific Coast north of California, but no one had charted the Columbia River beyond its mouth. No whiteman knew the distance from the Dakota region to the Columbia, much less what lay in between.

Because of this vacuum of knowledge fantastic tales had arisen. Some were based on a modicum of fact, others were entirely imaginary. In either case, through repetition and the absence of disproof, they had come to bear the color of revealed truth. Strange and wondrous folk were said to dwell in the vastness. Among these were a tribe of man-hating, arrow-shoting Amazons, each of whom had her right breast removed because it got in the way of the bowstring; and a tribe of Welsh-speaking Indians descended from a Briton who had reached the Americas long before Columbus. One particularly bizarre story had it that in an eerie region called Les Côles Brûlées (the Burnt Cliffs) would be found a community of devils in human form standing only 18 inches high.

Jefferson had no way of knowing the accuracy of most of these reports; indeed, in adressing Congress he had mentioned rumored geographical marvels, including a mountain made entirely of salt. He was determined that the Corps of Discovery must learn what was really out there in the wilderness. And Meriwether Lewis, the man whom he selected to report on the facts, was no dreamer or schemer like Ledyard or Michaux. On the contrary, Lewis' mind was in perfect congruity with that of the President, and for good reason. Jefferson had been grooming him for years.

Meriwether Lewis' family had been neighbors of Jefferson's in Albemarle County, Virginia. After Lewis' father died, his mother remarried and the family moved to the frontier in Georgia. Lewis spent his boyhood on the very fringes of the American wilderness. By the time he returned to Virginia in his teens to manage his father's land, he had acquired an essential qualification of exploration—the ability to live in wild country. The statesman and the young man became fast friends; whenever Jefferson felt like talking, he would summon Lewis with a mirror blinking in the sun.

During these early conversations, Jefferson began to share his grand design with Lewis, and the young man responded eagerly, volunteering to go into the wilderness in 1792 when he was only 18 years old. Though Jefferson turned Lewis down at that time in favor of Michaux, nevertheless the President was impressed by his youthful neighbor's boldness; he later recalled that "I told him it was proposed that the person engaged should be attended by a single companion only, to avoid exciting alarm among the Indians. This did not deter him."

In 1794 when the Whiskey Rebellion erupted, Lewis volunteered for the Army. He had risen to captain by the time Jefferson became President in 1801. Upon taking office, Jefferson invited Lewis to be his private secretary, and late into the evenings the two friends developed their scheme for a probe to the Pacific, grounding the adventure in the kind of detailed planning that would become its hallmark.

Jefferson's first priority in setting up the Corps was to pick the right people. In Lewis he had a superb leader with strength of body, woods-wisdom, an inquiring turn of mind, determination and coolness under stress. So well qualified was Lewis that in the whole following century of Western trailblazing only one man came close to matching his abilities. That man was Joe Walker, one day to be king of the tough breed called the mountain men, but in 1802 still a small boy growing up on a farm carved out of the Tennessee woods.

But qualities of command were not enough. The ideal man for this journey, Jefferson felt, should possess a knowledge of "botany, natural history, mineralogy & astronomy." Accordingly, Jefferson dispatched Lewis to Philadelphia for instruction at the University of Pennsylvania and at the American Philosophical Society, then the nation's reigning scientific institution.

For a month and a half, beginning in mid-April 1803, Lewis submitted himself to concentrated tutoring. From the mathematician Robert Patterson he learned celestial navigation. Other renowned researchers, such as the naturalist Benjamin Smith Barton, anatomist Caspar Wistar and the physician Dr. Benjamin Rush, drilled him in their various specialties and interests. Dr. Ruth urged him to inquire among the Indians into such matters as suicide and murder, burial customs, diet, medicines, menstruation, breast feeding, bathing, fasting, longevity and religious practices. Lewis was asked particularly to determine, if possible, any affinities between Indian religions and Judaism—since it was believed by some people that American Indians might actually be the descendants of lost tribes of wandering Jews.

In addition to priming Lewis with questions about the medical practices of the tribes, Dr. Rush furnished Lewis with a rather impractical list of Rules of Health, advising, for example, against marching if the men felt "the least indisposition." He also gave Lewis a generous supply of "Doctor Rush's pills" for "costiveness," or constipation. Lewis and Clark, were to fall back on this remedy for almost any ailment—including diarrhea.

During his educational marathon, Lewis gave particular thought to the question of who would accompany him as adjutant. At length he chose a Kentucky frontiersman and old Army comrade, William Clark, younger brother of the famous frontier fighter of the Revolution, General George Rogers Clark. Clark accepted with delight—and with deplorable spelling: "I will chearfully join you," he wrote. "My friend I do assure you that no man lives whith whome I would perfur to undertake Such a Trip &c. as your self." In an exchange of compliments, Lewis declared that Clark's authority would be equal to his own. He promised his old friend a captaincy (and later became lastingly bitter at the War Department's refusal of that promotion).

Together, the two men went about the critical work of assembling their crew. When seeking volunteers for the mission, they carefully avoided "Gentlemens sons" who smelled adventure. Lewis declared: "We must set our faces aginst all such applications and get rid of them on the best terms we can. They will not answer our purposes." Instead the leaders agreed they wanted solid frontiersmen, stable of character, self-reliant but amenable to the harsh discipline that circumstances would impose even if the leaders did not. In addition the men should have a wide array of skills, for the Corps would need hunters to supply meat, boatmen wise in the ways of rivers, carpenters to build winter quarters and blacksmiths to repair equipment. In the end they assembled a party of 30, including 17 regular soldiers, 11 enlistees, a half-breed to serve as an interpreter, Clark's giant Negro servant York and Lewis' dauntless Newfoundland dog Scammon. They picked no drifters, drunks, neurotics or romantics. The proof of their judgment was that during their journey through 7,689 miles of dangerous wilderness only two of the men failed under stress.

Lewis had the job of selecting their gear. Early on, he made a trip to Harpers Ferry, West Virginia, where the arsenal had already received orders to supply his weapons. There, impressed by the accuracy of the Kentucky long rifle but concluding that it was too fragile, he redesigned the piece so effectively that Lewis' "Harpers Ferry Rifle" became the standard weapon and first mass-produced infantry arm for the United States Army. He ordered swivel cannons as heavy armament. And more or less on a whim he also decided to take along a newfangled semi-toy, an air rifle.

In Pittsburgh, Lewis commissioned the building of the Corps's principal transport—a 60-foot keelboat, or barge. Demanding and impatient when it came to seeing the needs of the Corps fulfilled, he was infuriated by the rumpot habits of the boat builder and wrote the President that he had been "most shamefully detained by . . . unpardonable negligence." Lewis straightened out this situation without Presidential help, but in all matters of preparation and equipment, Jefferson remained a close and fascinated consultant.

The President noted with approval the medicine chest and its contents, which included a supply of opium and laudanum. He concurred with the need for a "Cheap portable Microscope," hydrometers, an iron-framed collapsible canoe invented by Lewis, and a "portable soup" whose recipe was concocted by Lewis with the advice of a Philadelphia chef. (The men later learned to loathe the stuff.)

To help the Corps befriend the Western Indians—and perhaps smooth the way toward future trade—Lewis and Jefferson agreed upon a lavish stock of gifts. In fact the largest cost item on Lewis' supply inventory was $669.50 for presents. These included colored beads, calico shirts, handkerchiefs, mirrors, bells, needles, thimbles, ribbons, sheet metal, kettles and brass curtain rings to be worn on the fingers. Lewis also brought along dozens of peace medals, some of them bearing on one face a likeness of President Jefferson and on the obverse two hands clasped in friendship.

By the spring of 1804, after the official transfer of the Louisiana Territory to American ownership, the Corps of Discovery was ready to go. Now all the careful planning would be put to the test of the wilderness: Jefferson's decades of political maneuvering and diplomacy, his foresight and boldness and mastery of detail, his wisdom in choosing the man who would lead the mission and, most of all, his instinct about the West as the direction of American destiny. On May 14 the expedition started up the Missouri.

For the next 2 years 4 months and 10 days, the explorers were beyond all advice or support, having rowed, paddled, trudged and ridden horseback quite literally beyond the edge of the known world.

They had scarcely moved beyond the familiar stretches of the lower Missouri when the leaders found much to marvel at. "This senery already rich pleasing and beautiful was still farther hightened by immence herds of Buffaloe, deer Elk and Antelopes which we saw in every direction feeding on the hills and plains," wrote Lewis who, like Clark, tended to improvise spelling. "I do not think I exagerate when I estimate the number of Buffaloe which could be compre[hend]ed at one view to amount to 3,000." Farther on they would see herds of well over 10,000 buffalo, at times "attended by their shepperds the wolves" or feeding in company with other game "in one common and boundless pasture. . . . the buffaloe Elk and Antelope are so gentle that we pass near them while feeding, without appearing to excite any alarm among them; and when we attract their attention, they frequently approach us more nearly to discover what we are."

Lewis and Clark added faithfully to their notes throughout the trip, compiling enormously detailed and flavorful journals. Others of the party fell into a similar habit. Amid the scientific data and personal wonderment in these journals was a measure of straightforward complaining. The men soon learned to detest the serpentine Missouri, with its caved-in banks and treacherous sandbars. Even more annoying were the hordes of gnats that flew into the eyes, and the mosquitoes that sought every patch of open skin. Lewis noted that mosquitoes "continue to infest us in such a manner that we can scarcely exist; for my own part I am confined by them to my bier at least ¾th of my time. My dog even howls with the torture he experiences from them . . . they are so numerous that we frequently get them in our thrats as we breath."

Lewis found an additional early hazard in his own passionate curiosity. He tested mineral deposits by taste, trying suspected alum, cobalt and other ores with his tongue. As a result he fell painfully ill from arsenic or some other metallic poison. A purge with a "Dost of Salts" cured him.

Eleven weeks out the party encountered its first Indians, the Otos. After liberally distributing gifts and peace medals bearing Jefferson's likeness to this amiable tribe, Lewis addressed them in a speech that helped to set the pattern of official United States policy toward the Indians in the West:

"Children. The great chief of the Seventeen great nations of America, impelled by his parental regard for his newly adopted children on the troubled waters, has sent us out to clear the road . . . [He] has commanded us his war chiefs to undertake this long journey . . . You are to live in peace with all the white men, for they are his children; neither wage war against the red men, your neighbours, for they are equally his children and he is bound to protect them. Injure not the person of any traders who may come among you. . . . Do these things which your great father advises and be happy. Avoid the councils of bad birds; turn on your heel from them as you would from the precipice of an high rock . . . lest by one false step you should bring upon your nation the displeasure of your great father . . . who could consume you as the fire consumes the grass of the plains."

Though Lewis, by Jefferson's express order, was a good deal more diplomatic than many of those who followed him, nevertheless his basic stance toward the Indians was stern. Be conciliatory, he warned the Indians, or you will be sorry.

In this aggressive approach to diplomacy, Lewis found that his air rifle was an excellent asset. One of the party recorded the occasion. "Captain Lewis shot his air gun, told them that there was medician in hir, and that She would do great Execution. They were all amazed at the curiosity and as soon as he had shot a fiew times, they all ran hastily to see the Ball holes in the tree and they Shouted aloud at the Site of the execution she would do."

Seventy-five miles beyond the meeting place with the Otos, death struck the party for the first and only time. Many of the Corpsmen had begun suffering from boils and stomach disorders, which Lewis attributed to the Missouri's scummy water. The symptoms of Sergeant Charles Floyd seemed especially ominous. On August 19 when the party was camped near the site of the present-day Sioux City, Iowa. Floyd started vomiting and became violently diarrheal. The leaders were at a loss for a remedy. The next day, the ailing sergeant called Clark to him and said, "I am going away. I want you to write me a letter." Before Clark could lay hands on his writing materials, the sergeant was dead. The cause was recorded as the "Biliose Chorlick."

Even while Floyd lay on his deathbed, Lewis had to deal with the first and worst disciplinary crisis of the expedition. A few days earlier, Moses Reed, a volunteer, had asked for and received permission to backtrack to the party's last camp to search for a lost knife. When he did not return Lewis realized Reed might be deserting. Quickly, Lewis dispatched a group after Reed "with order if he did not give up Peaceibly to put him to Death." They found Reed back among the Otos. He tried to wheedle a guard into letting him flee but the Corpsman was adamant.

Upon being returned to the expedition's camp, Reed was punished for his attempted desertion in a manner that created a permanent impression on his fellow Corpsmen. Clark described the matter tersely: "[We] proceeded to the trial of Reed, he confessed that he 'Deserted & stold a public Rifle Shot-pouch Powder & Ball' and requested we would be as favourable with him as we Could consistantly with our Oathes—which we were and only Sentenced him to run the Gantlet four times through the Party & that each man with nine Switches Should punish him and for him not to be considered in future as one of the Party."

On only one other occasion, more than 400 miles farther up the Missouri, were the commanders put to the necessity of severely punishing a malingerer. The culprit this time was John Newman, an army private; he was sentenced to 75 lashes and discharge from the expedition (he was later sent back to St. Louis). The meting out of the lashes was witnessed by Indians. Clark recorded the reaction of the chief. "The punishment of this day allarmd, the Indian Chief verry much, he cried aloud (or effected to cry)." Clark explained to the chief the necessity of making an example and maintaining discipline; the Indian agreed that discipline was necessary but "his nation never whiped even their Children, from their burth." How then, Clark inquired, would the chief have made an example in a similar case? The chief's advice was simple: kill him.

Near the spot where this unhappy episode occurred, the Corps leaders' firmness was put to a different kind of test. All the way upriver, Lewis and Clark had anticipated with some apprehension a possible confrontation with the Teton Sioux, who dominated a long stretch of the upper Missouri and were reputed to be both warlike and arrogant. For years they had terrorized neighboring tribes and exacted tribute from any traders who came their way.

At the mouth of the Teton River in South Dakota, the Corps did indeed encounter a party of Teton Sioux. In an effort at frontier diplomacy Lewis and Clark invited the chiefs on board their keelboat. However, the Indians showed little inclination to be friendly, and at last Clark and a few of the men rowed them back to shore. At this point, one pugnacious young chief became deliberately provocative. As Clark's journal recounted the episode, the Indian "was very insolent both in words & justures (pretended Drunkenness & staggered up against me) declareing I should not go on, Stateing he had not receved presents sufficient from us, his justures were of Such a personal nature I felt My self Compeled to Draw my Sword (and Made a Signal to the boat to prepare for action)."

Seeing this dangerous turn of events from the keelboat, Captain Lewis ordered his men to arms. Some of the Sioux warriors, meanwhile, strung their bows and drew arrows. But before letting fly they hesitated, perhaps because the swivel cannons and all the rifles on the keelboat were aimed right at them. At that point Clark coolly dismissed his own men, ordering them to row back to the keelboat. He stood alone on the shore until Lewis sent reinforcements.

As soon as the additional men arrived, the Indians withdrew a short distance. Clark turned on his heel and walked straight toward the boat without a backward glance. Utterly outfaced, some of the Indians begged to be taken on board for a fresh start at negotiations. Clark granted their request, but he was still seething. "We proceeded on about 1 Mile & anchored out off a Willow Island placed a guard on Shore to protect the Cooks & a guard in the boat . . . I call this Island bad humered Island as we were in a bad humer."

Thereafter the Teton Sioux, though they remained basically hostile, never again mounted a serious threat to the Corps. Puzzled but clearly impressed by these firm-handed white men, the tribe took to begging and offering women for the explorer's beds. "A curious custom," wrote Clark, "is to give handsom squars to those whom they wish to Show some acknowledgements to." The offers were not always refused, either here or later. Among the Arikaras, Lewis observed that the women were "handsome and lively and disposed to be amorous." Clark confided to his diary that he had never seen more friendly and persistent "squars"; they were "verry found of caressing our men." On one occasion upriver, however, a warrior had second thoughts about the policy; after giving his wife to a Corpsman for one night, he became so enraged when she attempted to stay with the expedition that he threatened to kill her. The woman was promptly returned and her irate husband soothed with presents.

For most of the journey, Lewis felt that it was wisest to allow the men these diversions with Indian women. However, when the Corps reached the Pacific, where the Indians had already encountered other white adventurers and their diseases, Lewis warned against any contact. But several men were infected—one of them by a woman who bore upon an arm the tattooed brand of a former white admirer, "J. Bowman."

In the mid-autumn of 1804 the party reached the mouth of the Knife River in the future state of North Dakota. There they decided to make winter camp among the Mandan Indians. The men of the Corps set to work erecting a fort, a sturdy log structure sheltered from the wind both by woods and the rimrock along the river's edge. Again the emphasis on caution and thoroughness paid off, for the winter of 1804–1805 was a bitter one; Lewis recorded temperature down to 45° below and, on one really cold day, noted that some of the expedition's hard liquor that had been left outside froze solid in 15 minutes.

Nevertheless the resourceful commanders were able to put the long, enforced halt to good use. During the five months at Fort Mandan, as they called their quarters, Clark found a chief named Big White who claimed to know the terrain far ahead. Clark spent hours translating the chief's crude maps, drawn in the sand, into a chart of the upper Missouri and its tributaries. One piece of information from Big White and the other Mandans was particularly exciting. They "inform us, that the Missouri is navigable nearly to its source," wrote Lewis, "and that . . . at a distance not exceeding half a day march, there is a large river running from South to North . . . We believe this stream to be the principal Southfork of the Columbia river." That river, he knew, would lead to the Pacific Ocean.

While Clark occupied himself with geography, Lewis cultivated Indian friendship. Playing the role of diplomat and the first American landlord of this newest extension of United States territory, Lewis ordered the expedition's blacksmith to help mend the Indian hoes and battle-axes, and he donated fragments of a burned-out iron stove to make new tools and weapons. He gave away an iron gristmill, hoping to ease the women's work in grinding cornmeal. But the warriors had other ideas; they broke the machine into fragments and shaped the metal into arrowheads.

While wintering over with the Mandans, Lewis recruited two new crew members from a neighboring village of the Minnetaree tribe. One turned out to be a craven nuisance, the other a prize beyond any price. The nuisance was Toussaint Charbonneau, a French-Canadian whom Lewis hired to interpret; the prize was his wife Sacajawea —a name that later generations of schoolchildren came to know by heart as the beautiful and courageous Indian princess who helped to lead America westward.

Sacajawea (Lewis and Clark commonly wrote of her as "the Indian Woman" because they could not spell her name) was a Shoshoni. She had been captured by the Minnetarees when about 11 years old, and later sold to Charbonneau as a slave. Now, at 16, she was married to him and hugely pregnant. Perhaps hoping to see her own people once more, she seemed anxious to go upriver with the Corps. Lewis consented to take her along because he thought—with superb intuition as it turned out—that she might be useful if the expedition did indeed meet the Shoshonis to the west.

When her time came that February, she underwent a long and agonizing labor. Although Lewis, clinical skills were by now improving (he had successfully amputated frostbitten toes) he was out of his depth in obstetrics. Luckily a fur trader who was visiting the Mandans suggested a dosage of rattlesnake rattles as proper therapy. "Having the rattle of a snake by me I gave it to him and he administered two rings of it to the woman broken in small pieces," Lewis reported. "I was informed that she had not taken it more than ten minutes before she brought forth."

On April 7, 1805, the Corps of Discovery gathered its gear and again headed West. Lewis noted with astonishment that in this virgin land beavers swam fearlessly in their streams in broad daylight. One day a buffalo calf followed him about like a pet dog. On the riverbank, he saw for the first time huge pawprints of the "white bear"—the dreaded grizzly.

Out hunting a few weeks thereafter, Lewis shot a buffalo. He stood watching the animal die, not thinking to reload his gun, and a grizzly came within 20 steps before Lewis saw it. Later he recounted the next few terrifying moments: "It was an open level plain, not a bush within miles nor a tree within less than three hundred yards . . . the river bank was sloping . . . in short there was no place by means of which I could conceal myself from this monster . . . he pitched at me, open mouthed, and full speed, I ran about 80 yards and found he gained on me fast. I then run into the water the idea struk me to get into the water to such debth that I could stand and he would be obliged to swim, and that I could . . . defend myself with my espontoon [an old-fashioned, spear-pointed weapon that Lewis used to steady his rifle when shooting] . . . the moment I put myself in this attitude of defence, he sudonly wheeled about . . . declined to combat on such unequal grounds, and retreated with quite as great precipitation as he had just before pursued me."

On May 26 Lewis came within first sight of one of the greatest landmarks on the journey. He had climbed a hill near what is now Cow Creek in Montana when he saw, far off, a range of peaks. He later confided his feelings to his journal. "These points of the Rocky Mountains were covered with snow and the sun shone on it in such a manner as to give me the most plain and satisfactory view. While I viewed these mountains I felt a secret pleasure in finding myself so near the head of the heretofore conceived boundless Missouri; but when I reflected on the difficulties which this snowy barrier would most probably throw in my way to the Pacific, and the sufferings and hardships of myself and party in them, it in some measure counterbalanced the joy I had felt in the first moments in which I gazed on them. But as I have always held it a crime to anticipate evils I will believe it a good comfortable road until I am compelled to believe differently."

He was soon prompted to so believe. Proceeding up the Missouri, the party came to a fork that did not seem to fit with the map Clark had drawn with the Mandans. Here two streams of apparently equal volume joined. Which was the real Missouri? Most of the Corpsmen picked the northerly branch as the correct one, for a sound reason: that stream was a silt-laden and generally repulsive as the rest of the Missouri. The south branch ran clear.

But Lewis and Clark were not so sure, and now they displayed yet another dimension of their leadership qualities: a refusal to accept the obvious. They suspected that the clarity of the south fork indicated an origin in the high barren Rockies. To double-check, each man picked a branch to explore with a small party. Lewis took the muddy fork. Seeing that its course continued northward he concluded that he was not on the main stream, and that if the expedition took this fork it would soon be wandering futilely into the endless plains of Canada. On a quirkish impulse, he named the tributary Maria's River (later spelled Marias) for a girlfriend back home, although he felt obliged to remark that "the hue of the waters of this turbulent and troubled stream but illy comport with the pure celestial virtues and amiable qualifications of that lovely fair one."

Then he returned to camp, where he found that Clark had confirmed his own conclusions. They took the south fork and upon this carefully weighed decision turned the fate of the Corps of Discovery. A wrong choice, wrote Lewis, "would not only loose us the whole of this season but would probably so dishearten the party that it might defeat the expedition altogether." Lewis was particularly gratified that the men, despite their doubts about the south fork, were so willing to trust the judgment of the commanders.

The next hurdle. formidable indeed, confronted the Corps of Discovery in the form of the Great Falls of the Missouri. The sight of the roaring falls dumfounded Captain Lewis. Noting that the torrent was 300 yards wide and at least 80 feet high, he wrote, "The water after descending strikes against the abutment . . . on which I stand and seems to reverberate and being met by the more impetuous current they roll and swell into half formed billows of great height."

The portage around the falls covered more than 18 miles, over rough terrain grown with spiky cactus that tormented the men through their double-soled moccasins. To move the heavy equipment. Lewis set a crew to hewing primitive cart wheels from the 22-inch trunk of a cottonwood tree. These wheels, he noted in his journal, "with couplings, toungs-and bodies . . . might either be used without the bodies for transporting our canoes, or with them in transporting our baggage." They were used for both, although getting the entire load around the Great Falls took 24 days and left the Corps close to exhaustion.

But soon they were again "under way much to my joy," as Lewis wrote. And now they were in the high country where the Shoshone tribe lived—and where Sacajawea had spent the first 11 years of her life until the Minnetarees had captured her in a raid. The Indian woman had already demonstrated great courage and presence of mind when her husband, who could not swim and whom Lewis described as "perhaps the most timid waterman in the world," allowed one of the smaller boats to be nearly capsized in a squall, then froze at the tiller in a panic. With the boat "topsaturva," light objects among their gear spilled overboard. While Charbonneau was "crying to his god for mercy," Sacajawea alertly retrieved the equipment from the water. Lewis gratefully recorded her "fortitude and resolution."

As the party neared the source of the Missouri, Sacajawea proved her ultimate value. She recognized landmarks and helped to guide the Corps up into the mountains. Moving quickly, the Corps reached the roof pole of the continent of North America—the Continental Divide. Just short of it one member of the expedition, Hugh McNeal, ostentatiously spread his legs and straddled a stream that he took to be the headwaters of the river they had followed for 2,400 miles (the actual source lay up another stream). In his journal Lewis recorded how McNeal had effusively "thanked his god that he had lived to bestride the mighty & heretofore deemed endless Missouri."

From that point Lewis swiftly led his men two miles over a ridge and through the later-named Lemhi Pass. After descending a short way, he paused to slake his thirst at a sparkling rivulet. "Here," he wrote proudly, "I first tasted the water of the great Columbia river." The brook was not the true Columbia but it was indeed a tributary. At long and arduous last, the Corps was on the Pacific slope.

Lewis was particularly anxious to meet with Sacajawea's people. Having been forced to abandon the boats, the expedition needed horses to continue the journey; their only hope of getting them quickly was to make friends with Shoshones. But the tribe at first proved "affrighted" and evasive. When at last the Corps did make contact with them, the Indians remained uneasy and ready to vanish into the forest until, suddenly, a woman rushed to embrace Sacajawea. They had been girlhood friends. The Shoshones relaxed somewhat and a formal powwow began. Suddenly Sacajawea ran forward and threw her arms around the chief, Cameahwait: she had just recognized him as her brother. Beginning on this happy note, negotiations with the Indians proceeded smoothly, and the Shoshone chief eventually agreed to supply the white men with horses. In late August the Corps of Discovery set off again. Sacajawea chose to go with them. She, her husband and infant son would stay with the party until they once again returned to the Minnetaree village 13 months later.

Although the horses obtained from the Shoshones greatly eased the burden of baggage and the Corps was now headed downhill, the trek itself continued hard. The precipitous western face of the Rockies was cut by torrents, steep slopes and ribbed ledges that seemed all but impassable. Worse still, virtually all wild game seemed to have vanished. And though the Columbia, whose course they now followed, was full of salmon, the fish had already spawned. They were generally dead or dying and unfit for horse fodder. Even dogs, whose flesh Lewis had found more to his taste than most any other meat, were hard to find among the little-known Indians the party now came upon.

Despite the hardships of the way and their own personal discomfort, Lewis and Clark kept the men moving, and continued to record their impressions of each new tribe. Lewis openly admired the Nez Percés for their pride of bearing but even more for the splendid Appaloosa horses they pastured. The coast-dwelling Chinooks and Clatsops, on the other hand, he learned to regard with a sort of exasperation; he judged them to be shiftless beggars and thieves. In meeting Indians, Lewis—now thoroughly weatherworn and suntanned—had to roll up his buckskin sleeves to establish his identity as a white man.

Then, quite suddenly, on November 7, 1805, came the climactic moment for the Corps of Discovery. Far off the men heard for the first time the rumble of Pacific breakers. Clark wrote, "Great joy in camp we are in view of the Ocian, this great Pacific Octean which we been so long anxious to See. and the roreing or noise made by the waves brakeing on the rockey Shores (as I suppose) may be heard distictly."

By December 7, 1805, they had camped on the south bank of the Columbia near its mouth. From this spot, they could keep watch over the heaving Pacific and hail any ship that might come by. For it had occurred to President Jefferson, who seemed able to think of everything, that if the journey out proved very dangerous, the Corps might have to come home by ship, intercepting some trader's vessel on the West Coast. Accordingly he had furnished Lewis with a letter of credit authorizing him to draw upon United States envoys anywhere—including Java, the island of Mauritius and the Cape of Good Hope. This unrestricted line of credit from the nation's treasury was perhaps the ultimate expression of the President's confidence in the youthful leader of the expedition.

By January 1 the Corps had hewed a stockade and winter quarters which they named Fort Clatsop. Clark had already fallen out of love with the Pacific, whose noise he could not bear. "The sea," he wrote, "which is immediately in front roars like a repeeted rolling thunder and have rored in that way ever since our arrival in its borders which is now 24 days . . . I cant say Pasific as since I have seen it, it has been the reverse."

No ship hove over the horizon and, in any case, Lewis longed to conduct further investigations of the land on the way home. Impatient for spring, the men broke camp on March 23, 1806, and headed east.

In psychological terms, the six-month journey back was easier. This time the party knew the way and, more fundamentally, they knew there was a feasible route. But the trip itself included all the physical stress that had accompanied the Corp's westering. Moreover the homeward journey produced two incidents representing the only grievous violence of the entire expedition. Both involved Lewis, who, with six men, had separated from Clark in order to reconnoiter fresh country. Camped with some seemingly amicable Blackfeet, Lewis awoke at a cry of alarm to discover that the Indians were stealing rifles from the sleeping explorers. In the ensuing melee one Blackfoot was stabbed to death and another wounded by a shot. Though Lewis was in no logical sense to blame, any hope for peaceful relations with the Blackfeet was shattered. For decades afterward, the tribe made war upon the pioneers who came westward on the Lewis and Clark trail.

The other mischance was also a shooting—and Lewis himself was the victim. While hunting meat, a member of the party, who had only one eye, mistook Lewis for an elk or bear and shot him in the buttocks. For weeks Lewis was in considerable pain, and had to be carried in a litter.

Lewis was reunited with Clark near the mouth of the Yellowstone in mid-August, and he was still suffering from his wound when, on September 20, 1806, far downstream on the Missouri once more, the Corps passed a French settlers' village called La Charette—the first visible sign of white man's civilization they had seen in nearly two and a half years. Clark entered in his record, "we saw some cows on the bank which was a joyfull Sight to the party and caused a Shout to be raised for joy."

It was a shout of jubilation, of relief and of triumph. They were home from the wilderness. They were alive and safe. They had vindicated a President's faith and judgment. With strength, endurance, discipline and the exercise of uncommon common sense, they had opened the way to half a continent. Moreover, they had gone into the unknown and brought back knowledge and solidified the American title to lands that had doubled the size of the nation.

Word of their return spread rapidly (most people had given them up for lost) and newspapers across the land rushed into print with summaries of their achievement. The *Columbia Centinel* of Boston carried this capsule account: "A Letter from *St. Louis* (*Upper Louisiana*), dated Sept. 23, 1806, announces the arrival of Captains Lewis and Clark, from their expedition into the interior.—They went to the *Pacific Ocean;* have brought some the natives and curiosities of the countries through which they passed, and only lost one man. They left the *Pacific Ocean* 23rd March, 1806, where they arrived in November, 1805;—and where some American vessels had been just before.—They state the Indians to be as numerous on the *Columbia* river, which empties into the *Pacific,* as the whites in any part of the U.S. The winter was very mild on the *Pacific.*—They have kept an ample journal of their tour; which will be published, and must afford much intelligence." Much intelligence indeed.●

THE CHILDREN OF ISRAEL

Mr. STEVENSON. Mr. President, Vermont Royster has given us a sober view of the difficulties we and the countries of the Middle East face in struggling to bring an end to the Arab-Israeli conflict, which has troubled that region for more than 30 years. His column in the Wall Street Journal on September 17 underscores the policy dilemma facing Israel if peace is to be achieved. It deserves wide readership, and I submit it to be printed in the RECORD.

The column referred to is as follows:

THE CHILDREN OF ISRAEL

(By Vermont Royster)

In 1948 the land we know as Israel was born in pain and grief.

For the Jews it was an ancient homeland, refuge for the wandering tribes. It was also, though, an ancient homeland for the people of Palestine, kinsmen in race and religion to surrounding Arab and Moslem nations.

To the north lay Lebanon, to the northeast Syria, to the southeast Jordan, to the southwest Egypt. All were Israel's implacable enemies. Among more distant nations only this one proved truly a faithful friend. Others viewed Israel's birth with ranges of suspicion, disfavor, coolness or indifference.

The new nation survived by the valor of its arms. By the sweat of its labor it made the desert bloom as it had not since Biblical days. But neither its valor nor its labor would have been enough without the aid of its steadfast friend. And the ring of foes remained unbroken.

Then on its 30th birthday there came unexpectedly hope that Israel at last might find a way to live in peace. Hope came, ironically from the land of Pharoahs, from which millenia ago the children of Israel had fled. President Sadat electrified the world with his visit to Jerusalem, and this was followed in 1978 by Camp David, where the president of Egypt and the prime minister of Israel sat down together. This sowed further seeds of optimism.

At Camp David, so the world understood, the two men agreed on a framework for peace between their countries. Israel would return to Egypt the Sinai. Negotiations would be held over the West Bank of the Jordan, occupied by Israel since the 1967 war, and over the future of the Palestinians to whom the land of Israel was also home. While these negotiations pended, or so we all thought, there would be a five-year moratorium on any new Israeli settlements in the disputed West Bank area.

It didn't work out that way. The Sinai was returned but Israel continued to allow new settlements in much of the disputed area, seeming thereby to preempt much of what was to be negotiated. This threatened a breakdown of those negotiations, alienated Egypt further among its fellow Arabs and Moslems and brought criticism from many quarters. The optimism of Camp David gave way to discouragement.

The saddest part of this renewed discouragement is that it led many who had long supported the Israeli dream for peace and security to wonder about the Israeli government's devotion to the cause of peace it professes.

That criticism, except that from the Arab foes, was not an attack on Israeli's existence or on the Israeli people. It cannot be dismissed as anti-Semitism. It was criticism of a government's political policy, which is something entirely different.

Moreover, it was not heard only among those who may be hostile to Israel or indifferent to its future. It was heard even among the councils of the Israeli elders and among those, such as the Jews of America, whose hearts and minds are devoted to the future of the Jewish homeland.

As long as a year ago Moshe Dayan, who had been the Israeli battlefield commander in wars between 1956 and 1967 and who had afterwards served as minister of defense, resigned as the government's minister of foreign affairs in protest against the government's policy of seizing Arab lands and establishing new settlements. About the same time Israel's highest court ruled against the government on one such settlement and ordered its abandonment.

This year there has been more public and more widespread protest against the policy of the Begin government. The United Nation's Security Council voted to condemn the Begin government's intransigence; on that vote the United States, whether by accident or design, abstained; in any event it did not defend the Israeli government with a veto of the resolution.

More recently there has been a critical statement from many Jewish leaders both in Israel and in the United States protesting what was called the "extremism" of Prime Minister Begin. It was signed by 56 prominent American Jews and by some 250 Israelis, including five former generals.

Now, once more, it appears that the negotiating process can be resumed. At least President Sadat, despite all the hostility he's received from other Moslem nations, has reopened the door and Prime Minister Begin hasn't slammed it shut. There is even talk of another Sadat-Begin meeting with the President after the election.

So, once more, there is hope. But it is clear now that the issues to be resolved—the matter of Jordan's West Bank and the future of Palestinians in the area—remain if not intractable at least more difficult than they appeared in the euphoria after Camp David. It also seems clear to me, as it does to many Israelis themselves, that the difficulties will be compounded unless the Israeli government will forbear foreclosing much of what is to be negotiated before negotiations can even begin.

On certain matters, those which truly involve the military safety of the country, any Israeli government must stand firm. Others, such as the status of Jerusalem, admit of no easy resolution. But if the government uses the cloak of defense to cover intransigence on everything as even some of its own generals think has happened, there is small hope that the next negotiations will be any more successful than the past.

The stakes are high. Israel is a tiny country and, except for Egypt, is still surrounded by implacable foes. Its very existence remains precarious, depending not only upon the valor of its people but upon the good will of those who have sustained it through many troubles.

That means that much rests upon the wisdom of its elders. If they dig in, immovable, on every issue upon which peace depends, then for all that valor the children of Israel may weep again.

A CENTURY OF MIGRATION

• Mr. SCHMITT. Mr. President, as most Senators know, the Select Commission on Immigration and Refugee Policy will make its formal report on proposed changes in U.S. immigration policy in March of 1981. As you may know, I have had an interest in the problems of the undocumented migrant workers from Mexico, especially their entry into and absorption by the U.S. economy.

Recently Richard Louv wrote a series on this subject for the San Diego Union entitled "Southwind." His first article described "A Century of Migration" and points out that the U.S. Government, through conflicting policies and nonpolicies has encouraged past migrations. When such migration was prohibited, as at the present time, the Government has created that inhumane class of persons known as "coyotes" or smugglers of people.

I have introduced S. 1427—the United States-Mexico Good Neighbor Act—which would create a temporary migrant worker program, which when coupled with other proposals, will help solve this terrible problem. To solve the problems of the present, we must understand the past.

To help my colleagues in this task, I ask that the article I referred to be printed in the RECORD.

The article follows:

A CENTURY OF MIGRATION

The wind races through the canyons. Dusty trucks, loaded with furniture and children, rumble past cardboard shelters where Mixtec Indians crouch before small fires. On a radio somewhere, the Bee Gees are singing.

The pilgrims arrive by the hundreds each week from far-off places like Jalisco, Oaxaca and Michoacan. Some of them migrate once or twice a year, to slip across the border and increase their income 800 percent. Some of them never come back.

Tijuana's highest elevation is called Chapultepec, or "Grasshopper Hill." The migrants talk among themselves about the wealth on Chapultepec. Even legends could not compare with the reality. One of the homes, known as the "Versailles of Tijuana," has a roof of solid copper, an indoor movie theater and a private discotheque. Another palace contains a reproduction of a Baskin Robbins Ice Cream Parlor.

As for this wealth, the migrants shrug. They do not look to Chapultepec for relief from poverty. Like their parents and grandparents before them, they look toward the border, where the wind flattens the grass and sweeps northward . . .

It began in the 1880s, when the Southern Pacific and Santa Fe Railroads, hungry for cheap labor, imported trainloads of Mexican laborers. Almost ten percent of Mexico's total population came north, in this first wave, to build and maintain a modern transportation system along pathways first blazed by their Spanish and Mexican forefathers.

The early migrants spread throughout the West and as far east as Kansas City and Chicago. Many families spent their entire stay in the U.S. bouncing around the Southwest in empty boxcars. Along the isolated desert rail routes and big city switching yards, they settled in clusters of section-crew shacks which later would grow into major Mexican-American communities.

"The kinship and friendship networks established in those days have grown and strengthened," says Dr. Calvin Blair, a University of Texas authority on the migration. "This is a major reason why today's migrants can dissolve so easily into society."

After the railroads were completed in the early 1900s, the Southwest needed cheap labor to construct irrigation systems. Even as the U.S. began to close its doors to most foreign immigrants, pragmatists in the Western states convinced the federal government to allow massive numbers of Mexicans to work the fields.

Laws designed to regulate the early migration were vague, unenforced, and periodically suspended to accommodate U.S. labor needs. Until the 1920s, the border was basically "open," a stipulation of the treaty ending the Mexican-American War in 1848.

Valente Ramirez, born in Mexico in 1897 and now retired in Los Angeles, came north in the first wave.

"When I was seven, my father's friends brought him home in a stretcher. His back was broken. It took him a year to die, and on the day after the funeral I went to work in the same minute, picking up the small pieces of ore," he remembers.

At 13, Ramirez saw the Mexican revolutionaries of 1910 marching in the streets of his village. Impressed with the uniforms, he joined the army. "I wanted to fight against injustice, but my mother bribed me back out."

By 1914, Ramirez' younger sisters and brothers had died of small pox. "I watched their bodies almost decompose in front of me." Almost 70 years later Ramirez still weeps at the memory.

"My mother told my older sisters and me that it was time to go north. We contracted a mule team to take us 200 miles to El Paso. When we reached the Rio Grande, the river was too swollen to cross. We were very disappointed. Along the river, bodies were hanging in the trees—revolutionary bandits. We didn't know how to cross; we had to stay with the bodies. We decided to take the risk, and suddenly there appeared on the other bank tall men on giant horses. They were Texas Rangers patrolling the river. They warned us not to cross, that the river was too deep and high there. They said to us, 'Stay here, we will be back tomorrow.'

"The next day, the river was lower and the Rangers returned. They rode their horses to the middle of the river, meeting us halfway. They caught the reins of our mule team, and led us safely across. They took us to a town nearby, where we got work immediately—at 10 cents an hour in company chits."

Dr. Richardo Romo, a historian at the University of California, San Diego, (UCSD), recently tape-recorded Valente Ramirez' account. Romo points out, "though Valente still believes the Rangers did it for friendship, in those days even the Texas Rangers were probably working as labor recruiters."

The new arrivals were highly prized. Texas cotton growers and Colorado beet farmers fought—sometimes violently—over who would get the migrants.

"Man-snatchers" sold crews of workers to one employer, stole them back at night, and resold them to another grower in the morning.

"Crews of imported Mexicans were marched through the streets of San Antonio under armed guard in broad daylight," wrote Carey McWilliams in his definitive account, "North From Mexico" (1948). "Shipments of workers en route to employers were often kept locked up at night in barns, warehouses, and corrals, with armed guards to prevent their theft; in Gonzalez County, workers who attempted to breach their contracts were chained to posts and guarded by men with shotguns."

Although conditions in the U.S. under which they worked were brutal, the migrants were often escaping far worse fates. They fled starvation and the Mexican Civil War, which raged between 1910 and 1919. Many of them were landless peasants, uprooted and set adrift by continually turbulent Mexican politics. Then, as now, the gap between rich and poor seemed more breachable in the U.S. than in Mexico.

"For the first (and probably the last) time in American history, tens of thousands of Mexicans were readily admitted to the U.S. . . . as economic refugees," according to Dr. Wayne Cornelius, director of UCSD' Program in U.S.-Mexican Studies. The American hospitality coincided with World War I—and a shortage of young, male, American workers.

When Johnnie came marching home again, Mexican workers were herded up and sent back across the border, ostensibly as a solution to a post-war economic recession. Mexican migrants who crossed the border without inspection were now considered "illegal aliens."

As Cornelius tells it, "Urged on by labor leaders and politicians, mobs of native-born Americans in Texas, Oklahoma and other states launched attacks on Mexicans in their work places; vigilante groups terrorized them in their homes and destroyed their property."

Between 1920 and 1921, nearly 100,000 Mexicans left the U.S.

"Around 1920, I remember visiting Los Angeles," recalls retired ironworker Edward Contreras, who lives in San Diego. "I saw Mexicans being rounded up; the police were beating them. A banner was stretched across one major street that read 'Mexico Wants You'."

Contreras' mother and father had arrived in San Diego in 1900; his mother by sidewheeler steamer from La Paz, and his father by horseback from Ensenada.

"My father went to work as a laborer and served as excavation foreman on the construction of the U.S. Grant Hotel," says Contreras. "He supervised other migrants in the laying of a section of old Highway 101. Our family avoided the later hardships and recriminations because my father had become well established so early. But my father was very bitter about the treatment of Mexicans."

Even as the political climate was turning against Mexican workers. U.S. growers continued to recruit them. Manuel Terrazas, now retired in Los Angeles, came north from Chihuahua in 1922:

"In El Paso, the labor contractors put us in boxcars and tagged us like cattle. We were to be shipped to the San Joaquin Valley." Terrazas jumped off the train near Los Angeles, and found work with an oil company. Like many Mexican workers who feared deportation, Terrazas accepted unusual working conditions. Until after World War II, the oil company fired him on the 30th day of every month, rehired him on the first.

"As a consequence, Manuel never received normal company benefits," says UCSD's Ricardo Romos. "He got a 50-year pin when he retired, but not a 50-year pension."

The transition of the Mexican migration's status from sanctioned to illegal created an industry of coyotes (human smugglers) and enganchistas ("underground" labor contractors).

Huddled under tarpaulins, migrants were trucked by the thousands across state lines, over back roads at night. Exhausted, some workers would tie themselves to the truckbed stakes to keep from falling out. Mexican workers were recruited and sent by truck or train to Detroit, Pittsburgh, and even the Mississippi Delta.

"An entire trainload was at one time shipped from Texas to Seattle for employment in the Alaska canneries," wrote McWilliams. Said a California grower in 1927, "Mexicans scatter like clouds. They are all over America."

The U.S. profited greatly from their presence. Most historians believe the phenomenal growth of the Southwest could not have taken place without the migrants.

"The development of the Southwest occurred at a time when the living and working conditions of American workmen were undergoing rapid imrovement," wrote McWilliams. "It was not easy to find in these years a large supply of labor that would brave the desert heat and perform the monotonous stoop-labor, hand-labor tasks. . ."

Despite his contribution, the Mexican laborer was not rewarded. Between 1916 and the late 1940s, the migrants earned an average annual income of $500 or $600 per family.

As the Depression hit, "dust bowl" farmers from Texas and Oklahoma poured into California, providing a new source of cheap labor for agribusiness. Another, more massive, repatriation campaign was launched. More than 415,000 Mexicans were forcibly expelled from the U.S. between 1929 and 1935, and thousands more left voluntarily under pressure from local police who ran their own unofficial repatriation programs. The expulsions took place on the pretext that the Mexicans were in the U.S. without visas, even though that had not been illegal until 1929.

"The fact that many of these people had married American citizens or were eligible for citizenship but had not formally completed the immigration process was no barrier," writes University of Arizona historian Dr. Vernon M. Briggs, Jr.

Even many U.S.-born Mexican-Americans were pushed into Mexico.

"As a child of 10 or 11 I can remember the big cattle boats coming down from L.A., shipping Mexicans back to Mexico," recounts Herb Ibarra, now principal of San Diego High School. "It was a hungry time; my father was dead. My mother knew that a relative of ours was on one of the boats, so she took me with her to San Diego Harbor. I won't ever forget the boats, the humanity packed onto the decks under armed guard. We saw our relative on the boat and we waved, but the guards wouldn't let us talk, wouldn't let anybody off the boat. I saw all of this looking between the legs of adults."

Ibara's mother never expressed to her son how she felt about the repatriations. "You don't discuss these things with children," says Ibarra. "If the same thing happened today, I would not discuss it with my own children."

For Mexican Americans, the period was fearful, bitter, unmentionable. The repatriations were followed by further recriminations.

Young members of a Mexican-American gang in Los Angeles were falsely convicted of murdering a young Mexican-American, whose body had been found next to "Sleepy Lagoon," a reservoir frequented by the gang. In the swirl of controversy surrounding the case, the press and public hearings asserted that the Mexican-American community had been infiltrated by communists.

In nationally publicized testimony, a representative of the Los Angeles county sheriff's department, supported fully by the sheriff, claimed that Mexicans were biologically prone to crime since their Aztec ancestors had believed in human sacrifice.

Comparing Mexicans to "wildcats," Lt. Edward Duran Ayres contended "although a wildcat and a domestic cat are of the same family, they have certain characteristics so different that while one may be domesticated, the other must be caged to be kept in captivity." Mexicans, claimed Ayres, had migrated to the United States for an easier life.

Cary McWilliams, then a writer, lawyer and chief of California's division of immigration and housing, department of industrial relations, took up the cause of the imprisoned youths. The Sleepy Lagoon Defense Committee, headed by McWilliams, campaigned successfully for a new trial; the original decision was overturned and the boys were released. The case served as a focal point for racial friction which ultimately exploded with the so-called "zoot-suit riots" in 1943 between Mexican-American youths and U.S. marines and sailors.

In another ironic twist in the history of the Mexican migration, the U.S. again began actively recruiting Mexican workers in the early 1940s. World War II had created another manpower shortage—even Mexican aliens were being drafted into the U.S. armed services. So the call went out again.

This time, Mexican laborers came somewhat reluctantly, fearing the draft and another repatriation. The Mexican and U.S. governments, however, established a bi-partisan approach, popularly known as the bracero program, under which Mexico supplied the workers, and the U.S. government served as labor contractor for the growers.

The braceros were restricted to short-term agricultural work. They were afforded more humane treatment than the migrants who had come before them, but only slightly.

Demand for cheap labor was much greater than the 100,000 migrants a year the bracero program contracted; many Mexicans who could not get on the hiring lists crossed the border anyway, as illegals.

After the Korean War, rising unemployment again led to mass roundups and deportations. Known as "Operation Wetback," the campaign sent home more than a million Mexicans in 1954. The bracero program was continued into the early 1960s and then terminated, even as rural unemployment in Mexico was rising. Consequently, many of the migrants who had worked in the U.S. as braceros continued to do so, as illegal aliens.

"In a sense," says Cornelius, "the bracero program never really ended. It simply went underground."

Carey McWilliams says today: "The migration should not be considered an immigration problem, but a new kind of reality."

San Diego State economist Dr. Norris Clement describes the U.S. approach to Mexican labor during the last century as "now we need them, now we don't." The fluctuating policy, he contends, helped institutionalize the migration, creating a dependency not only in our economy, but also in Mexico's.

Indeed, Wayne Cornelius estimates that in many rural Mexican communities half of the working males have journeyed to the U.S. at least once. Fed by the northern promise, border cities such as Tijuana are among the fastest growing populations in the world.

What began as economic expediency has become something like the wind.●

ADDRESS BY SENATOR HUDDLESTON BEFORE THE KENTUCKY BANKERS ASSOCIATION

● Mr. HUDDLESTON. Mr. President, I recently gave a speech to the Kentucky Bankers Association on economic and national defense issues facing this country. I ask that excerpts from my speech be printed in the RECORD.

The material follows:

ADDRESS BY SENATOR HUDDLESTON

I have found since entering public life that most issues of real signifiance to local communities, states and the nation have their origin and their solution in our economy.

How we manage the economy, how we let it work for us, and how we distort or unnecessarily interfere with it, determines to a great extent the prosperity, health and well being of our beloved America.

Economics is not a science, and anyone—especially a banker who has lived through the last two decades—knows just how inexact a science it is.

But all economists are billed as experts.

Which reminds me of the definition of an expert—someone who knows more about less than anyone, and who can back it up with figures.

We have hundreds of expert economists in the government—and in private industry—and their record is not much better than mine at Churchill Downs.

But the fact that economics is an inexact science does not eliminate the necessity of trying to understand the economy, trying to manage it, and trying to make it work for the benefit of our fellow citizens.

We are in a somewhat crazy situation today where many of the tried and tested remedies of the past no longer work—the economy, in many respects, seems oblivious to our efforts to control or direct it.

The terrible record of forecasting the current recession—as to when it would hit, how long it would last, its severity and its impact on inflation and unemployment—is just the latest manifestation of the uncertainty that exists.

We could spend all day talking about how we got in the current mess but I'd rather spend my time today talking about how we get out of it.

Let me begin by acknowledging that my views are no more expert than anyone else—but they are my views—and I will try to lay them out as candidly as I can.

First, despite the unacceptably high rate of unemployment, and all of the heartache that entails for individuals, our most basic problem remains inflation.

If we do not deal with inflation, all of our other problems will merely get much worse and the ultimate cure will be much worse. More jobs and higher wages can easily be destroyed by runaway inflation.

For that reason, I am against enacting a tax cut this year.

Some kind of tax cut is feasible and probable during 1981, but it would be foolish to go ahead and enact it now in the heat of a political campaign, rather than waiting a few more months to assess the state of the economy, and to remove the legislation as much as possible from the highly-charged political context.

Enacting a tax cut now would be a signal to the financial markets of the world—and of Wall Street—that we have abandoned the effort to restrict federal spending and reduce excessive consumer demand—in effect, abandoning the fight against inflation. Let's keep a steady course for a few months.

For that same reason, I could not support a $12 billion public jobs program—as proposed in my own party's platform—because the benefits are dubious and the greater need is to exercise fiscal restraint and combat inflation.

We need more jobs, but we need them in the private sector, not on the federal payroll.

The answer to the recession should not be a flood of new government programs. Rather, we should exercise fiscal restraint, and having done so, sometime next year consider a moderate tax cut for individuals and businesses.

The kind of tax cut we enact is vital. We must provide some relief to individuals to offset the loss of purchasing power, higher Social Security taxes, and new taxes from "bracket creep."

However, a major portion of any tax cut should be directed toward industrial stimulus, enhanced productivity, and replacement of outmoded plants and equipment.

The need is not so much to stimulate consumer demand as it is to stimulate new and more efficient production that will create lasting jobs and enhance our competitive position in world markets.

We must have targeted, not across-the-board tax cuts if we are to address the problems of productivity and outmoded industrial capacity.

We must have tax laws that encourage savings and the growth of investment capital.

An across-the-board cut is nondiscriminatory, does not ensure the proper emphasis, and runs the risk of stimulating inflation without addressing the longterm problem.

Americans are accustomed to exaggerated rhetoric and rather simplistic schemes and notions during an election year—and this year is certainly no different—on either side.

And while I certainly make no apologies for the zig-zag economics of the current administration—I must say that when a candidate promises you a $30 billion tax cut, significantly higher defense spending, and a balanced budget—then you better hold on to your wallet.

Finally, let me state the obvious: the Fiscal Year 1981 budget will not be balanced, despite all of the rhetoric you have heard.

The reason is simple: although Congress has done a better job of cutting back and restraining spending than at any time in the last decade, you simply cannot balance the budget during a severe recession.

Increased outlays for unemployment benefits and the decreased tax revenues due to the economic slump have destroyed the hope of a balanced budget in 1981.

The time to balance the budget is when the economy is booming; not when it is in recession. We should have been working for the balanced budget over the past several years, rather than waiting until this year of recession.

Our current problems started back during the Vietnam War—when the economy was booming—and rather than tax ourselves to pay for the war, or cut back on other programs, we decided to have both guns and butter.

The result was big deficits, structural dislocations of the economy, and the beginning of an inflationary spiral and psychology that finally got out of hand earlier this year.

We tried to have our cake and eat it too—and we are now paying the price.

This, I think, is a good point at which to turn to the other principal problem occupying our country today—foreign and defense policy.

We all know that the days of colonialism and serving as the world's policeman are over, a relic that died with World War II and Vietnam.

We can no more police or dictate to the world than can the Russians, the Chinese, or anyone else.

We cannot defend every country, nor can we enforce our will on them—and neither can the Russians, as they are learning in Afghanistan and Poland.

But there is a legitimate and necessary role for American power—including military strength—in providing for stability in a rather fragile world of contentious nations and ideologies.

The United States and its Western allies have since the end of World War II provided the conventional and strategic defenses to counter and hold in check the often aggressive policies of the Soviet Union and its allies. This has been done at great cost of money, and at tremendous cost in human lives.

We have played this role because we had no other choice, and because no one else had the capability. The same holds true today. I am frequently visited by groups and individuals who oppose all military spending on grounds that we must stop producing weapons of death and destruction. Eliminating nuclear weapons and other armaments, they say, is the only way to peace.

These are well-meaning people, and I totally share their horror at the prospect of a nuclear war—or any war for that matter. I also share their desire for legitimate arms control and reduction.

But the truth is that until the Soviets are willing to restrain their aggressive activities, until they curb their own military buildup, and until balanced and verifiable arms control agreements can be reached, this country has no alternative but to improve our military strength.

DEFENSE INVOLVES MANY FACTORS

But while the Soviets suffer geographic and economic disadvantages, and must defend lengthy and sometimes hostile borders, the magnitude of Soviet defense spending in recent years poses a serious challenge to the Western world.

During the 1960s the United States devoted more resources to defense than the Soviet Union, but by 1972 Soviet spending surpassed U.S. spending.

The continuing real growth in Soviet defense spending throughout the rest of the 70s resulted in their defense spending exceeding that of the United States by 20–30 percent for the decade.

We reversed the downward trend in defense spending in Fiscal Year 1977, and the President's budget projections for Fiscal Years 1981 through 1985 will significantly narrow the disparity between U.S. and Soviet spending.

Even higher budget projections approved by the Congress during consideration of this year's budget resolution will, if carried through, narrow that gap much faster.

UNITED STATES IS NOT SECOND-RATE POWER

What does it all mean? It does not mean that the Soviets are now superior to the United States, either militarily or in any other way.

As a member of the Senate Intelligence Committee, the Defense Appropriations Subcommittee, and chairman of the Military Construction Appropriations Subcommittee, I am constantly briefed on the relative strengths of the two superpowers. There is no reason for the American people to fear that we have suddenly become a second-rate power.

But it does mean that unless we put our shoulder to the wheel, unless we make the sacrifice, and unless we as a nation have the will to match this Soviet buildup, we could find ourselves and our allies in a very vulnerable position.

STRENGTH TO COMBAT ADVENTURISM

If a disparity in relative military strength should develop, it will doubtless embolden the Soviet leaders to pursue a more adventurist policy—much like their invasion of Afghanistan. Unfortunately, appeals to logic and moderation and good will do not have much impact in the realpolitik world of today's Soviet leadership. They may not understand reason and good will, but they do understand power—and strength—and resolve.

I am not advocating a return to the cold war; it may be that detente—properly understood—is still possible. Certainly brinksmanship is not in order, and meaningful arms control continues to be desirable and feasible.

But history has shown that the Soviets will engage in such endeavors only when confronted with a strong, determined adversary that can match them strength for strength.

MILITARY STRENGTH IS COSTLY

The best position from which to negotiate is strength.

The best way to achieve arms control is through strength.

Indeed, the best way to maintain peace is through strength.

This will not come easily. Recent budget actions in the Senate have shown that in order to meet defense needs we will have to make sacrifices in domestic programs.

The domestic programs being cut are often good ones like child nutrition, education, economic development, water resources, and on down the line.

My judgment is that the American people have come to the realization—through events like Iran and Afghanistan—that such sacrifices are essential. They are essential not only to our own well being, but also to our allies in Western Europe, the independent states of the Middle East that control the world's oil supplies, the emerging nations of Africa and Asia, and even the freedom loving people of Soviet satellite states throughout Eastern Europe.

A SURE COURSE AND STEADY RESOLVE

Defense spending and capability are not the only requirements for maintaining a stable world. The nation's political leadership must pursue a steady course, one that demonstrates both a certainty of resolve and a willingness to reduce tensions based on mutual constraints. Uncertainty and weakness invite adventurism; resolve, strength and a steady hand promote restraint.

Let me conclude by saying that while we have serious economic and national defense problems—they are problems that can be managed by resolute and steady leadership.

They will not be solved by constant policy changes and flip-flops, nor will they be solved by alarmist and simplistic notions that make the heart beat faster but defy reality.

I truly believe this country will, as it always has, respond to the situation. I trust we have not lost confidence in ourselves, or in our ability to meet and resolve even the most difficult issues.

I certainly have not lost that confidence, and I trust you have not either.●

ALLIES REPLACE U.S. EXPORTS TO RUSSIA

● Mr. STEVENSON. Mr. President. I call to the attention of my colleagues an item which appeared in yesterday's New York Times. It is reported that the U.S. Government has protested to the French because a French company, Creusot Loire, has signed a $300 million contract to build a steel mill in Russia. The mill would have been built by an American firm, Armco, if it had not been for the export restrictions imposed by President Carter following the Russian invasion of Afghanistan.

The article also reports that a few weeks ago the U.S. Government protested to the German Government because a German firm, Klöckner Werke, will build a $311 million aluminum plant in Siberia which would have been built by Alcoa were it not for the administration's export restrictions. Neither the Germans nor the French have shown any willingness to follow the American example of export forbearance.

The administration's embargo is having the effect objective observers expected: it is shifting American exports and American jobs to our allies; it is depriving the Russians of nothing.

Mr. President, I ask the article from the New York Times be printed in the Record.

The article follows:

U.S. Said to Protest French-Soviet Trade

(By Paul Lewis)

Paris, September 17—The Carter Administration has protested privately to the French Government that a leading French steel company has breached Western sanctions imposed on the Soviet Union in retaliation for its military intervention in Afghanistan, according to diplomatic sources.

The Creusot Loire Group of France announced today that it had signed a $300 million contract to build a steel mill for cold-rolled products at Novolipetsk, about 150 miles south of Moscow, to produce about 480,000 tons of special steel plate a year using a Russian process.

Earlier this year, Armco, a leading American steelmaker, was forced to withdraw from a similar contract it had won with Nippon Steel of Japan against a rival bid by Creusot Loire, after President Carter embargoed all exports of American technology to the Soviet Union.

SAID TO BE SECOND COMPLAINT

This is the second time within a few weeks, the sources say, that the Carter Administration has complained that an allied government was violating the sanctions agreement by allowing its companies to accept Soviet business that American companies had turned down, despite promises by all leaders of the Western allies not to allow this.

Other Western nations were unwilling to imitate President Carter's outright embargo, but they promised that companies would not be allowed to undercut American concerns by filling canceled Russian contracts. They have also agreed for the moment on stricter enforcement of existing restrictions by the North Atlantic Treaty Organization on the sale of strategically valuable goods to Russia.

Creusot Loire executives denied today that they were undercutting Western sanctions, saying the Russian plant they are building was completely different from the canceled Armco project, because it is smaller, less sophisticated and does not involve any significant transfer of Western technology.

"Armco was going to use their own technology and guarantee the quality of the product; we're not doing that," said Bernard Sillan, who negotiated the Creusot Loire contract with Mettalurgimport, a Russian state import agency.

The Carter Administration is reported unimpressed by this argument, believing that the French company is effectively meeting a Russian need created by the United States embargo. A spokesman for Armco at its Ohio headquarters dismissed the French case today as "Gallic logic."

President Carter is reported to have raised the matter privately with President Valéry Giscard d'Estaing of France during the recent meeting of Western leaders in Venice. But he is said to have received assurances only that France would not export strategically valuable technology to the Soviet Union.

Only a few weeks ago, the Carter Administration protested privately to the West German Government, sources here say, over a similar case, in which Klöckner-Werke agreed to build a $311 million aluminum plant in Siberia, after the Aluminum Company of America had been forced to withdraw because of the United States embargo.●

FOR A BALANCED BUDGET

● Mr. HARRY F. BYRD, JR. Mr. President, on August 27 the Southeastern Lumber Manufacturers Association adopted a resolution calling upon the Congress to enact a balanced budget and limit Federal spending.

I commend this fine association for its interest in the effort to achieve fiscal responsibility.

The legislatures of 30 States have petitioned the Congress to call a Constitutional Convention to frame a balanced budget amendment. The State legislators understand that accumulated deficit spending by the Federal Government is the leading cause of double-digit inflation, which is eroding the value of the paycheck of every working man and woman.

I believe we must achieve a balanced budget. I do not fear the consequences of a Constitutional Convention, but my own preference is that Congress itself assume responsibility in this matter.

This means that the Congress should pass a balanced budget amendment and submit it to the States for ratification. I am a cosponsor of Senate Joint Resolution 126, which requires a balanced budget except when three-fifths of each House of Congress shall have voted to approve a 1-year deficit.

I ask that the resolution of the Southeastern Lumber Manufacturers Association be printed in the Record.

The resolution follows:

A Resolution

Whereas, the federal debt exceeds $800 billion and Congress will likely approve a 1981 budget with a deficit of $30 billion, or more;

Whereas, during this Administration, federal spending has increased 41 percent, taxes have increased 49 percent, inflation has increased from 5 percent to 18 percent and the average American family has suffered the sharpest decline in its purchasing power in the last 40 years;

Whereas, small business is vital to the American economy and it does not need further examination of its problems—it needs effective and responsible fiscal legislative action;

Whereas, Southeastern Lumber Manufacturers Association, comprised of 414 small business lumber manufacturers located in twelve states, recognizes and desires to emphasize the steps taken by Congress to slow down the growth of money and tighten controls on spending; now, therefore, be it

Resolved, That Congress immediately act to reduce the size of the federal government deficit by achieving a balanced budget and limit federal spending by passing H.R. 5371 to limit fiscal 1981 spending to 21 percent of the Gross National Product and limit spending in subsequent years to 20 percent of the Gross National Product;

Resolved, That Congress slow down the rapid growth in federal government spending and taxing to less than the growth in people's income; and

Resolved, That Congress slow the growth of the nation's money supply to match the growth in output.●

REMEMBER THE "LIBERTY"

● Mr. STEVENSON. Mr. President, James M. Ennes has written a book about the Israeli attack on the U.S.S. *Liberty* which is worthy of the Members' attention. That attack killed 34 American seamen, wounded others and nearly destroyed the American ship. This book gives convincing evidence that the attack was deliberate and that the facts, including the Navy's bungling before and during the attack, were covered up. I urge the Members to read this book and invite their attention to a review of it in the Washington Post. Mr. President, I ask that this review be printed in the RECORD.

The review follows:

REMEMBER THE "LIBERTY"

(By L. M. Bucher)

Tragedy, colossal communications blunders and a classic government cover-up abetted by the U.S. Navy, are the main ingredients of this excellent book by James M. Ennes Jr. A cryptographic specialist, Lieutenant Ennes was one of 287 men aboard the USS *Liberty* on June 8, 1967, when Israeli air and naval forces attacked and inflicted tremendous damage on the ship. Thirty-four Americans were killed; Ennes was one of the 171 others who were wounded.

Thank God the entire crew was not killed. Had they been, the *Liberty* incident might be forever forgotten, like the unarmed Navy surveillance aircraft shot down by North Korea in April 1969.

I believe that, if the lessons of the *Liberty* had been known to planners and commanders involved with the USS *Pueblo*, the sorry tragedy of that ship would never have happened as it did. The "Pueblo Incident," in which I was a principal player, bore many striking resemblances to the story of the *Liberty*. The two ships had almost identical electronic surveillance missions, although *Liberty's* displacement was more than 12 times that of *Pueblo* and she was crewed by more than three times the personnel. The similarities are a terrible confusion in command and control, a lack of response to desperate calls for assistance during attack and a cover-up for incompetency at the top. But *Liberty* was pounded many times more heavily than *Pueblo* was, with far more devastating results.

The *Liberty* tragedy began deep in the maze of the intelligence community in Washington when in 1967 Israeli-Egyptian relations began to deteriorate. Washington "experts," sensing an opportunity to reap huge amounts of electronic intelligence, ordered *Liberty* from more prosaic operations along the African continent to the waters contiguous to Israel and Egypt. The ship arrived just after hostilities erupted.

Liberty's captain, Commander William L. McGonagle, realized the great danger inherent in operating in a war zone and requested close support from the commander of the Sixth Fleet. As was later to be the case with *Pueblo*, close support was denied. McGonagle was promised, however, as I was on the *Pueblo* that help would be instantaneous in the event of trouble. Carrier air support was only 10 minutes away.

Later, seven minutes after the first devastating rocket attack from Israeli jets, *Liberty's* call for help was acknowledged by the carrier USS *Saratoga*. Incredibly, not one *Saratoga* aircraft ever arrived to help the stricken ship. Nor for that matter did any U.S. military assistance arrive during the hour and 20 minutes of continuous air and torpedo boat attacks.

This debacle is partially explained by the author. The Naval Court of Inquiry that looked into the affair abysmally failed to fix any blame for the terrible failure to aid compatriots undergoing foreign attack. Not only was blame not fixed, the facts were covered up.

How it is possible to maintain high morale in the Navy in the face of such inglorious performance by senior officers and government officials is beyond imagination. The *Liberty* incident clearly demonstrates once again that America's defense communication capabilities and performance are inept beyond the public's wildest dreams.

Ennes contends that the Israeli attack was deliberate, not an accident, as the Israeli government has said it was. He cites plausible and logical evidence. He recalls that Israeli aircraft made numerous low-level photographic and reconnaissance flights directly over *Liberty* in the eight hours immediately preceding the attack. He states unequivocally that *Liberty's* American flag was standing out in an eight-knot wind during that reconnaissance; this precludes any chance of misidentification. He contends that Israeli attackers used napalm against *Liberty* with devastating effect, and that Israeli motor torpedo boats repeatedly machine-gunned *Liberty* sailors fighting the napalm fires on deck and later strafed her life rafts in the water. Our government, including President Johnson, negligently and with thorough dishonesty, allowed these events to occur, and then covered them up in order not to embarrass an ally.

Why would an ally attack one of our ships? Ennes suggests a possible explanation. The week before the *Liberty* incident, President Johnson had warned the Israeli government that the United States would not support them in any action in which they were the aggressor. Israel contended that the actions it undertook in subsequent days against Egypt and Jordan were defensive. On the day of the attack on the *Liberty*, the Israelis had planned a strike into Syria. But, only hours before it was to begin, the *Liberty* moved into position to monitor and record it. Since Israel had no desire to appear to be the aggressor, Ennes suggests that Israel decided to put the *Liberty* out of action in order to conceal from the United States and the rest of the world its real intentions towards Syria. The fact that Israel did strike Syria the day after the *Liberty* incident gives credibility to Ennes' theory.

The book, which reads like a thriller, should be required for all government employes. The writing is first-class. The relationships and conflicts of important shipboard personalities add suspense and human drama to the story.

Those personalities include Commander McGonagle, a ramrod-straight courageous captain, affectionately called "Shep" or "Magoo" by his officers and men. McGonagle remained on the bridge, though seriously wounded and bleeding heavily throughout the Israeli attacks. His survival can only be called miraculous. His great courage and uncommon tenacity undoubtedly saved his life. He was ultimately awarded the Medal of Honor, but not at the White House as is normal. Our government did not wish to draw attention to the incident.

McGonagle was well served by an equally courageous executive officer, Lieutenant Commander Philip McC. Armstrong, a Naval Academy graduate who was killed in the attack. He ran the ship and was idolized by the crew. But Armstrong's personal conduct must have grated heavily upon the captain. He played fast and loose with regulations, often drinking heavily, even at sea, and the crew often followed his lead. In my 27½ years of service, enlisted and commissioned, I knew of only one officer who routinely drank aboard ship, and he was later courtmartialed. To have had the drinking that prevailed on the *Liberty* is incredible, although there is nothing to suggest that it played a role on the day of the attack. Even more incredible is McGonagle's claim that he was unaware of any of it.

Another fine characterization in the book is of Lieutenant George H. Golden, the ship's engineer, who was magnificently innovative and heroic throughout the attack. There were many other described in the book whose performance was of the highest order.

Americans can take great pride in the officers and men of the USS *Liberty*, but they should deplore the bumbling politicans, bureaucrats and military brass who failed those men and then covered up. The entire matter and the 34 dead Americans cry out for justice, regardless of who gets tarnished. But don't hold your breath.●

IRS EXAMINATION GUIDELINES FOR PRIVATE SCHOOLS

● Mr. HELMS. Mr. President, under present law the Internal Revenue Service may move to deny or withdraw the tax-exempt status of any school which fails to meet the standards of Revenue Procedure 75–50. Under Revenue Procedure 75–50, a racially nondiscriminatory policy must be stated by every private school in its governing instruments and governing body resolutions; this policy must be publicized to all segments of the general community served by the school, either by notice in a newspaper or by use of other media.

Mr. President, Revenue Procedure 75–50 states the information that every school filing an application for recognition of exempt status must provide. Also included are an assortment of recordkeeping requirements, mandating the retention for at least 3 years of records indicating the racial composition of the school's student body, faculty and administrative staff; records documenting the award of financial assistance, copies of all brochures, catalogs, and advertising dealing with student admissions, programs, and scholarships; and copies of all materials used by or on behalf of the school to solicit contributions. Failure to maintain or to produce the required reports and information creates a presumption that the school has failed to comply with the law and thus has a racially discriminatory policy as to students.

Under existing law, a private school must be able to affirmatively demonstrate, as in the case of an audit, that it has adopted a racially nondiscriminatory policy as to students and that this policy has been made known to the general public, and that since the adoption of that policy the school has operated in a good faith manner in accordance with it.

IRS agents seeking to determine whether a school has complied with the requirements of Revenue Procedure 75–50 may examine a wide range of policies, activities, and documents of the school. The Internal Revenue Service has published nine pages of detailed guidelines which its agents are presently using to enforce current law against the granting of a tax exemption to private schools which discriminate. These guidelines are in force today and are not disturbed or anyway limited by the action of the Congress in enacting the so-called Ashbrook-Helms amendment to the 1980 Treasury appropriations bill.

Mr. President, because so many of our colleagues are concerned that the Internal Revenue Service take appropriate action under the law, I ask that sections 341 and 7(10)72 of the IRS's Exempt Organizations Examination Guidelines Handbook be printed in the RECORD.

The material follows:

Exempt Organizations Examination Guidelines Handbook

340 (9–26–77).

Examination, Guidelines for Educational Organizations.

341 (9–26–77).

Private Schools.

341.1 (9–26–77).

Racially Nondiscriminatory Policy in Private Schools.

341.11 (9–26–77).

General Considerations.

(1) The examination techniques and guidelines contained in this text are for use as an aid in examining educational institutions to determine if they have adopted and are implementing a racially nondiscriminatory policy as to students as required for exemption in accordance with the provisions of Rev. Rul. 71–447, 1971–2 C.B. 230, and in the manner required by Rev. Proc. 75–50, 1975–2 C.B. 587.

(2) In examining educational institutions to determine whether they are in compliance with the requirements of Rev. Proc. 75–50, examiners are dealing with a difficult and sensitive tax law area. Accordingly, the examiner is to use professional judgment concerning the depth and scope of the examinations to ensure that sufficient facts are obtained to support the conclusions reached.

(3) Insofar as possible, the examining agent should make direct use of any relevant information regarding the racially discriminatory or nondiscriminatory nature of the educational institution under Service examination that may have been previously assembled and analyzed by other government agencies. An important independent goal in this regard is the complete elimination of all duplicative effort that is not absolutely essential to a proper fulfillment of the nondelegable statutory responsibilities of the Internal Revenue Service. All Service employees should accordingly be mindful that insofar as the factual findings of other governmental agencies have been used as a basis for either continuing or withholding consequential amounts of financial benefit by way of grant, loan or contract, any governmental action previously taken on the basis of such findings may properly be treated as an independently significant operative fact and this given real and substantial independent weight in determining whether or not the school is adequately meeting racially nondiscriminatory requirements of Rev. Rul. 71–447.

(4) The ultimate test of nondiscrimination for present purposes is equal availability to all racial and ethnic groups. The continuing absence of ethnic or racial minority students from any given school for an extended period after its formal adoption and public announcement of a racially nondiscriminatory policy of the character contemplated by Rev. Rul. 71–447 raises a question whether the school is adhering to such a policy in good faith. The continuing absence of such students may, however, be readily explainable in some instances on the basis of their general inability to afford the tuition charged by the school, their general satisfaction with the available public school programs and corresponding lack of interest in the private school, or even to a deliberate boycotting of the latter school by one or more minority groups.

(5) Any long-continued operation of a private school without minority students, nonetheless, requires that the Service make a special effort to develop all the facts and circumstances affecting the actual availability of the school on equal terms to all racial and ethnic groups. If the school first began operating and/or substantially enlarged its enrollment at the same time that nearby public school operations were initially required to take major steps toward effective desegregation, there will be even more reason for the Service to conduct a searching inquiry into all the circumstances surrounding the school's recruitment and admission policies, and the administration of its programs, including the hiring of faculty and administrative staff. The Service should not reaffirm the exempt status of any school that has no minority students and/or is in an area where the public schools have been required to desegregate without first obtaining reasonably adequate assurance that the manner in which the school has publicized its racially nondiscriminatory policy as to students was actually "intended and reasonably effective" to bring its policy to the attention of all potentially interested racial (and ethnic) groups. Further, exemption should not be reaffirmed where any action "qualifying or negating its published statements" has been taken by or on behalf of the school. Such obligations were specifically imposed on the Service with respect to all Mississippi schools by the injunction order issued in Green v. Connally, 330 F. Supp. 1150, (D.D.C. 1971) aff'd per curiam, sub nom. Coit v. Green, 404 U.S. 997 (1971) and were effectively made applicable to all schools in Rev. Proc. 75–50.

(6) Rev. Proc. 75–50 requires schools to retain certain potentially significant records and establishes detailed guidelines for use in determining whether the requirement of racial nondiscrimination announced in Rev. Rul. 71–447 and confirmed in Rev. Rul. 75–231, 1975–1 C.B. 158 has been met. The guidelines make it evident that the Service stands committed to making extensive use of thorough field audits to obtain more adequate assurance of genuine compliance with all aspects of the racially nondiscriminatory requirement in terms of both form and substance. EO specialists assigned to such cases should thus conduct appropriately wide-ranging inquiries that encompass the possible use or endorsement of any racially discriminatory practice with respect to students. The EO specialist is entitled to draw reasonable inferences in light of all attendant facts and circumstances with respect to the ultimate question of whether or not the school is in fact equally available to students from all segments of the community on a racially nondiscriminatory basis.

(7) Since these examination guidelines relate only to certain special requirements for schools, the EO specialist also should refer to Chapter 100 of this Handbook for general examination techniques applicable to all exempt organizations.

(8) Other reference materials of potentially special value in connection with a review of whether a school has a racially nondiscriminatory policy include the following:

(a) Compliance Report of Institutions of Higher Education. This report is required by the Office for Civil Rights from colleges and universities which receive, are applicants for, or expect to be applicants for Federal financial assistance. A copy of this report which contains racial and ethnic enrollment data, should be available at the college.

(b) List of Title VI Assurances Received, U.S. Department of Health, Education, and Welfare, Office for Civil Rights. This annual listing contains the names of medical institutions, health facilities, health and welfare agencies, colleges and universities, and other institutions and organizations which have submitted Assurances of Compliance with the non-discrimination provisions of Title VI of the Civil Rights Act of 1964. The Office for Civil Rights has been requested to mail this report directly to the key district offices.

(c) Racial and Ethnic Enrollment Data from Institutions of Higher Education, 1972, U.S. Department of Health, Education, and Welfare, Office for Civil Rights. This publication contains the most current racial and ethnic enrollment data that is readily available on any institution of higher learning receiving or expecting to receive some form of Federal financial aid or assistance.

(d) Status of Title VI Compliance Interagency Report, U.S. Department of Health, Education, and Welfare, Office for Civil Rights. This is a periodic report normally updated every week that shows the status of all current actions being taken by DHEW to achieve compliance with Title VI of the Civil Rights Act of 1964. The Office of Civil Rights has been requested to mail this report directly to the key district offices.

(e) Rev. Rul. 71–447, 1971–2 C.B. 230, holds that a private school that does not have a racially nondiscriminatory policy as to students does not qualify for exemption.

(f) Rev. Rul. 75–231, 1985–1 C.B. 158, holds that organizations, including churches, that conduct schools with a policy of refusing to accept children from certain racial and ethnic groups will not be recognized as tax-exempt charities under sections 170 and 501(c)(3) of the Code.

(g) Technical Information Release=1379, dated May 27, 1975, states that the Service will apply the de minimis rule in administering Rev. Rul. 75–231.

(h) Rev. Proc. 72–39, 1972—2 C.B. 818, restates the effect of including a given organization in Publication 78 (Cumulative List of Organizations Described in Section 170 of the Internal Revenue Code of 1954), and sets forth the conditions under which advance assurance of deductibility of contributions will be suspended.

(i) Rev. Proc. 75–50, 1975—2 C.B. 587, sets forth guidelines and recordkeeping requirements for determining whether private schools that are applying for recognition of exemption from Federal income tax under section 501(c)(3) of the Code, or are presently recognized as exempt from tax, have a racially nondiscriminatory policy as to students.

(j) Announcement 76–57, 76–16 I.R.B. 24, states, in part, that the initial annual certification of racial nondiscrimination that section 4.06 of Rev. Proc. 75–50 requires of each private school is to cover a period ending with the school's first calendar or fiscal year beginning after December 31, 1975.

(k) Manual Supplement 7(10)G–10 (Rev. 1), dated May 24, 1977—Private School Examinations. This Supplement provides the instructions and procedures for conducting private school examinations for both church-related and nonchurch-related private schools.

(l) *Norwood* v. *Harrison*, 382 F. Supp. 921 (N.D. Miss., July 12, 1974) (Keady J.). This case contains a discussion of various facts and circumstances that were deemed relevant to determining whether certain private schools in Mississippi were racially discriminatory for the purpose of being eligible to obtain state owned textbooks. The Service does not impose a presumption on any school, as the Court did in *Norwood*, requiring instead that all questions about adherence to the requisite kind of racially nondiscriminatory policy should be resolved independently.

(m) *Green* v. *Connaly*, 330 F. Supp. 1150 (D.D.C. 1971) aff'd per curiam, sub nom. *Coit* v. *Green*, 404 U.S. 997 (1971). To the extent that the *Green* court order imposes more rigorous requirements than Rev. Proc. 75–50, such order is controlling for all Mississippi schools.

(n) Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (1974). Generally speaking, the Family Educational Rights and Privacy Act of 1974 (which is referred to in section 7.02–2 of Rev. Proc. 75–50) outlaws all releases of personally identifiable information contained in educational records of any school to anyone other than the affected students or their parents, except under certain specified conditions. These conditions include procurement of advance written consent from parents. They further permit such releases to be made in compliance with a judicial order or pursuant to a lawfully issued subpoena, provided, however, that advance notice of each record release is first given to the affected students and their parents. Any public or private agency or institution that fails to observe these restrictions would thereby become ineligible to receive funds under any of the Federal Aid programs provided for in the General Education Provisions Act (20 U.S.C. §§ 1221 et seq.). The restrictions so provided for do not apply to so-called directory information of the various classes specified in 20 U.S.M. § 1232g(a)(5)(A) and are likewise inapplicable to any data that may be assembled on a group basis or otherwise limited to information that is not personally identifiable.

Thus, requests for statistical information not containing such personally identifiable data that a school can tabulate from individual records are not precluded by the Act. An examining agent may likewise properly request that a school supply him/her with copies of records otherwise coming within the ambit of this Act, subject to the prior deletion of names, social security numbers, and the like to the extent required to keep the remaining data from being personally identifiable information. Separate lists containing names, addresses, and similar "directory" information that schools have customarily made available to the general public are also excepted from the coverage of this Act. Further, the fact that the Act may bar or restrict a release to the Service of any individual applications for enrollment would not excuse the school from giving the examining agent a listing of the names and addresses of all unsuccessful applicants for admission nor prevent the Service from independently developing complete personally identifiable data about representative samples (or all) of such individuals.

341.12 (9–26–77).

Initial Contact Items.

(1) Include the following information and documents in the items to be sought in the initial contact:

(a) Current brochures, catalogues, and any other written advertisements dealing with student admissions, programs, and scholarships.

(b) Blank application forms used for employment, student admissions, scholarships, loans, or any other financial aid.

(c) Documentation as to how the racially nondiscriminatory policy has been publicized.

(d) Statistical data relating to the racial and ethnic composition of students and staff.

(e) Correspondence files relating to solicitation of funds, contributions received, acceptance and rejection of students, and denial or approval of scholarships, loans, or other student aid.

(f) Schedule for tuition and fees.

(g) If Federal funds are being received, obtain a copy of the Assurance of Compliance under Title VI (HEW Form 441) that is required by the Office for Civil Rights and any other applications or agreements relating to Federal aid from, through, or under the Veterans Administration, Department of Health, Education, and Welfare, National Defense Education Act, National Science Foundation, and/or the Department of Agriculture, Food and Nutrition Services (i.e. Department of Agriculture Form 67 relating to the national school lunch program).

(h) Copies of any Federal or state audit reports that relate to the financial operations of the school or to its status under any Federal, state or local law requiring any phase of its operations to be conducted on a racially nondiscriminatory basis. If the school has no copies of any such report but has reason to believe that its activities in this regard may have been subject of a reasonably current investigation by any other government agency, the agent should solicit its cooperation in helping him procure access to copies of any and all reports that may have been prepared in this connection as well as to the official records of any relevant administrative or judicial proceeding in which such an issue may have been raised.

341.13 (9–26–77)

The Examination.

(1) All pertinent items should be explored to the extent necessary to determine that the school is in fact available to students on a racially nondiscriminatory basis and that the school is otherwise qualified for tax-exempt status. The items below are examples of points that should be covered in an examination. The examiner should determine, based on the facts and circumstances of each case, any additional areas that should be covered. Supporting documentation should be requested.

(2) Review enabling documents and bylaws to determine if the school has adopted a racially nondiscriminatory policy as to students. Such action must be affirmatively shown by a statement in the school's charter, bylaws, or other governing instrument, or by a resolution of its governing body. (Rev. Proc. 75–50, section 4.01.)

(3) Review minutes of the Board of Directors and any committees thereof and note any items that indicate the organization's compliance or non-compliance with racially nondiscriminatory policies or activities.

(a) Record information relating to dates of school's formation and of all significant changes in the size and racial composition of the student body. These dates and the approximate dates the courts initiated local desegregation may, along with other relevant data, be an indication of racial discrimination as to students.

(b) Note whether any special steps have been taken to disseminate student application forms, brochures, or information about the school's scholarship programs or other programs, and its racially nondiscriminatory policy.

(c) Review the minutes of 2 or 3 prior years for a more complete understanding of the school's policies and programs.

(d) Determine what effect any changes in the enabling documents, bylaws, resolutions, admissions policy, tuition rate, recruitment practices, employment policies, property holdings and/or scholarship, loans or financial aid programs and standards could reasonably be expected to have had on the implementation of the school's nondiscriminatory policy.

(4) Review the school's correspondence files for the purpose of determining whether the school is or is not implementing a racially nondiscriminatory policy as to students. (See also (1)(g)14 concerning the Family Educational Rights and Privacy Act of 1974.)

(5) Determine whether the school has made its racially nondiscriminatory policy as to students known to all segments of the general community served by the school.

(a) If the school uses newspaper notices for this purpose, determine whether such notices have been published in a newspaper of general circulation that serves all racial segments of the community (see section 4.03 of Rev. Proc. 75–50), and determine whether:

1. The notice meets the size and type requirements,

2. The notice contains the approved statement contained in Rev. Proc. 75–50 or other acceptable statement, and

3. The publication was made annually during the registration period or student solicitation period.

(b) If publicizing of a racially nondiscriminatory policy as to students is by use of the broadcast media, review copies of tapes, transcripts, or records showing the number, duration, and time periods the policy statement was broadcast to determine if it was effectively communicated to all segments of the general community served by the school.

1. Determine whether the notice was broadcast during the school's registration period(s), or student solicitation period(s).

2. Determine whether the wording used in the broadcast announcement is a reasonable equivalent of the suggested newspaper statement set forth in section 4.03(a) of Rev. Proc. 75–50.

(c) If a school has failed to publish or broadcast its racially nondiscriminatory policy, determine if it meets the requirements of the exceptions specified in section 4.032 of Rev. Proc. 75–50.

(d) Ascertain whether the racially nondiscriminatory policy statement has been communicated directly to leaders of minority racial groups. Such action alone is not considered effective publicity. If, however, such a communication is carried out in addition to meeting the newspaper or broadcast publicity requirements of Rev. Proc. 75–50 such communication would tend to indicate good faith adherence to a nondiscriminatory policy as to students.

(e) Determine if the school has included the required statement of its racially nondiscriminatory policy as to students in all its brochures and catalogues dealing with student admissions, programs, and scholarships.

(f) Ascertain whether the school has made the mandatory reference to its racially nondiscriminatory policy in other written advertising that it uses as a means of informing prospective students of its programs. The following references will be acceptable: "The M school admits students of any race, color, and national or ethnic origin."

(g) Determine if the school has publicly disavowed or repudiated any statements purported to have been made on its behalf, after November 6, 1975, that are contrary to its publicity of a racially nondiscriminatory policy as to students, to the extent that the school or its principal officials were aware of such statements. (See section 4.03–2, Rev. Proc. 75–50.)

(h) Review any publicity scrapbooks for published news releases. Document any reference to the school's racially nondiscriminatory policy; also document any reference to athletic, or extra-curricular activities with other discriminatory or nondiscriminatory organizations. Note any reference to seminars or speeches by racial or ethnic leaders at the school as well as efforts by the school to promote its racially nondiscriminatory policy and to recruit students from racial and ethnic minority groups.

(6) Determine that all annual certifications required by section 4.06 of Rev. Proc. 75-05 have been duly executed as a part of any required Forms 990, or if the organization is not required to file Form 990, by Form 5578, Annual Certification of Racial Nondiscrimination for a Private School Exempt from Federal Income Tax.

(7) Ascertain whether the school has satisfied the recordkeeping requirements of Rev. Proc. 75-50.

(a) Determine that the school has maintained either independent records or reports filed in accordance with the requirements of an agency or agencies of the Federal, state, or local government that:

1. Indicate the racial composition of the student body, faculty, and administrative staff for each academic year. (The racial composition may be an estimate based on the best information available without requiring student applicants, students, faculty or administrative staff to submit information to the school that the school otherwise does not require.)

2. Document that scholarships and financial assistance are awarded on a racially nondiscriminatory basis.

(b) Agencies requiring the above racial composition information may be State Boards of Education, City or County School Districts, Equal Employment Opportunity Commission, Department of Labor Office of Federal Contract Compliance, HEW Office for Civil Rights and/or Office of Education, Federal or State Courts, Department of Veterans Affairs, or Food and Nutrition Service, Department of Agriculture.

(c) Ascertain that copies of all brochures catalogues and advertisements dealing with student admissions, programs and scholarships are retained in accordance with section 701 of Rev. Proc. 75-50.

(d) Ascertain that copies of all solicitations for funds have been retained as required by section 7.01 of Rev. Proc. 75-50.

(e) Limitations.

1. A school is not required to release personally identifiable records or personal information contained therein except in accordance with the "Family Education Rights and Privacy Act of 1974," 20 U.S.C. § 1232g.

2. A school is not required to keep records, the maintenance of which is prohibited under state or federal law.

(8) Review the school's racial nondiscriminatory policies and practices with respect to the recruitment and admission of students.

(a) Obtain the racial/ethnic composition of the student body. Review student yearbooks for evidence of racial and ethnic composition of students.

(b) Determine to what extent either the promotion or recruitment efforts for students have been confined to one or more specific racial and ethnic groups.

(c) Ascertain whether the school has a meaningful and continuous racial and ethnic recruitment program for students.

(d) Ascertain standards of admissions. (Schools that favor racial minority groups with respect to admissions, facilities and programs, or financial assistance are not considered to be discriminating on the basis of race if the purpose is to promote the establishment and maintenance of the school's racially nondiscriminatory policy as to students.)

(e) Determine what the school charges for tuition and whether such charge is beyond the practical reach of all or nearly all of the families in a particular racial or ethnic group.

(f) Determine whether the Board of Directors must pass on all applications for admission and whether parents must appear at the school or elsewhere at time of registration or to obtain registration applications.

(g) Ascertain what enrollment limits, if any, have been enforced and how such limits were established.

(h) Review the practices the school follows with regard to waiting lists. Determine whether there are any such lists at the present time, whether applicants are accepted as students out of sequence on list and, if so, why.

(i) Determine whether cash deposits are required at time of registration or application for registration, whether all applicants are required to pay the same amount and whether deposits are refundable.

(j) Follow up on any leads tending to show either presence or absence of discrimination as to students and document any information so obtained. This should include comparison of racial mix at the school with other private schools in the same general area and full development of apparent reasons for any notable disparities.

(k) If possible, review records pertaining to rejected and accepted applicants and determine the total number of rejected and accepted applicants by racial and ethnic categories. (However, see section (1)(g)(14) concerning the Family Educational Rights and Privacy Act of 1974.)

(l) Review the student application form for any evidence of a racially discriminatory admissions policy. Determine whether the application form calls for a picture or information as to race.

(m) Determine whether the registration period has been adequately publicized and whether advance registration time or other priority is given for this purpose to children of founders, contributors, or the like.

(n) Determine whether the school relies on religious tenets as a basis for refusing or restricting interstudent relationships, or accepting students from certain racial and ethnic groups.

(9) Determine whether any of the school's facilities or programs, such as cafeterias, athletic events, community events (i.e., parades and marching band demonstrations), adult evening classes, and any other extracurricular activities are operated in a racially discriminatory manner.

(a) Determine whether any racial and ethnic groups or leaders have been invited to attend or participate in any of the school's activities and, if not, the reasons.

(b) Determine whether the school participates in extracurricular activities, including athletics, only with public or private schools that have no students from racial or ethnic minority groups.

(10) Review the school's racial nondiscriminatory policies and practices with respect to the employment of faculty and staff.

(a) Determine the racial and ethnic composition of the faculty, staff, and administrators. Review student yearbooks for evidence of racial and ethnic composition of faculty, staff, and administrators.

(b) Review employment applications as well as related correspondence and determine if rejections are based on racial and ethnic reasons. Determine whether the application form calls for a picture or information as to race.

(c) Determine whether standards for employment are higher for minorities.

(d) Determine whether the school has an active recruitment program for faculty and staff. If so, determine whether such program has been confined to one or more specific racial or ethnic groups.

(e) Determine whether the school hires through private agencies and, if so, whether such agencies recruit on a racially nondiscriminatory basis.

(f) If the school has no minority employees, determine the reasons why.

(11) Determine whether all grants of financial aid generally are made on a nondiscriminatory basis, whether their availability on that basis is made known throughout the general community being served by the school, and whether any preferential aid given to the members of one or more racial groups is of such kind or amount that it does not significantly derogate from the school's maintenance of its racially nondiscriminatory policy as to students. (See section 4.05 of Rev. Proc. 75-50.)

(a) Review all applicable requirements for each form of financial aid available for use at the school and obtain sample application forms.

(b) Determine the aggregate number and the amount of all scholarships and loan funds awarded for the year(s) under examination by racial and ethnic categories in each case.

(c) Determine whether the availability of financial aid on a nondiscriminatory basis is referred to in catalogues brochures, published newspaper notices, broadcast media notices and/or other written advertisements. (Student aid in the form of free housing, books, or failure to enforce tuition debts is considered financial aid for the purpose of this determination.)

(12) One of the contentions of private schools is that they offer an alternative course of action to parents who see the public educational system as offering substandard education. Therefore, inquiries should be made into these areas:

(a) Whether the school is accredited and, if so, by what organization it is accredited.

(b) What organizations the school is a member of.

1. The stated purposes of these organizations.

2. Whether these organizations espouse a policy of racial segregation.

3. Whether these organizations consist of all or nearly all member schools who have a common feature of having no students from racial or ethnic minority groups.

4. Whether these organizations provide prospective employment lists or job referral services for their members, and whether the recruitment or referral system is racially nondiscriminatory.

5. Whether these organizations are associated with, or work with local or state governmental agencies.

(c) Whether State certification is required for State textbook assistance.

(d) If state or local governments rent or provide free textbooks, whether the school participates in the program. If not, why not and the extent to which textbooks in actual use by the school differ from those available through governmental sources. Also, determine whether the school participates in any other Federal, state or local government assistance program available to it and, if not, why not. Further, determine whether the school has applied for Federal, state or local government assistance which has been rejected, and the reasons for such rejection.

(13) Determine whether the school has any program of preparing present student body and staff for minorities in the future. Also determine whether the school has taken any special steps to avoid having minority children or their parents subjected to physical abuse, employment reprisal or the like if such students enroll, or attempt to enroll, in the school.

(14) Determine whether any donations (such as land, buildings or other property) were made to the school by individuals or organizations which have as their objective the maintenance of a segregated public or private school education.

(15) Inspect documentation relating to any receipt by gift or bargain purchase from any individual or organization of assets pre-

viously used for racially discriminatory purposes. Ascertain if the gift or bargain purchase was for the purpose of implementing a racially discriminatory policy as to students.

* * * * *

7(10)72 (6-26-80).

Private School Examinations.

7(10)72.1 (6-26-80).

Instructions and Procedures.

(1) The following procedures, except for the procedures on Advance Approval of Examinations apply to all private schools:

(a) Family Educational Rights and Privacy Act of 1974. Private schools will not be required to release personally identifiable records or personal information contained therein except in accordance with the requirements of the "Family Educational Rights and Privacy Act of 1974," 20 U.S.C. 1232g (1974). (See Section 7.02 of Rev. Proc. 75-50.)

(b) Private school checksheet. From 5788. (Private School Racial Nondiscrimination Checksheet) will be completed for each private school examination.

(c) Private School Examination Worksheet Form 5529. (Private School Examination Results) will be completed for each private school examination. See Chapter (10)00 of IRM 7530. EP/EO Reports Handbook.

(d) Advance Approval of Examinations—

1. If the church-related private school is a separate legal entity, the pre-examination procedures and the advance approval and notification procedures of IRM 7(10)71 will apply only if the school actually claims to be a church.

2. In accordance with the pre-examination procedures of IRM 7(10)71 the school will be sent a letter requesting, at a minimum, the specific information listed in d below. The letter should also make reference to the following—

a. Rev. Rul. 75-231, setting forth the Service's position that organizations, including churches, which operate schools must have a racially nondiscriminatory policy as to students to be recognized as exempt from Federal income tax.

b. Rev. Proc. 75-50, providing guidelines and recordkeeping requirements for determining whether private schools have racially nondiscriminatory policies as to students.

c. That the purpose of requesting the specified information is to ascertain whether an examination is necessary in order to determine compliance with Rev. Rul. 75-231 and Rev. Proc. 75-50.

d. That the information is being requested in accordance with the procedures specified in Income Tax Regulations 301.7605-1(c)(2). These procedures provide, in part, that before concluding an examination is necessary, the Service will attempt to obtain necessary information by written request to the organization.

3. At a minimum, the following specific information will be requested from the school—

a. Does the school have a racially and ethnically nondiscriminatory policy as to students by statement in its charter, bylaws, resolution of its governing body, or other governing instrument? If "Yes," in what document is the statement made and what is the specific language of the statement. If "No," explain.

b. Has the school publicized its racially and ethnically nondiscriminatory policy during the periods of solicitation for students or, in the absence of such a program, during registration periods in a manner that makes such policy known to all segments of the general community served by the school? If "Yes," describe. Also, if such policy has been publicized by one or more newspaper advertisements, furnish a copy of the most recent advertisement. If the school did not publicize its racially and ethnically nondiscriminatory policy, explain.

c. Does the school include a statement of its racially and ethnically nondiscriminatory policy in all brochures and catalogues dealing with student admissions, programs, and scholarships, and include a reference to this policy in other written advertisements used to inform prospective students of its program? If "Yes," submit all brochures, catalogues and other written advertisements used during the last academic year if the school is not currently in session, or for the present academic year if the school is currently in session. If "No," explain.

d. Is the school affiliated with, related to, or directly controlled or supervised by a church, or a convention or an association of churches? If "Yes," is the school separately incorporated?

e. Does the school discriminate in any way on the basis of race or ethnic origin with respect to students' rights or privileges, admissions policies, employment of faculty or administrative staff, scholarships or other financial assistance, educational policies, use of facilities, athletic programs, or other extra-curricular activities? If "Yes," to any of the foregoing, explain. If "No" to any of the foregoing, describe the action, if any, that supports such conclusion.

f. Does the school receive any financial aid or assistance from a governmental agency? Has the school's right to such aid ever been revoked or suspended? If "Yes" to either of the foregoing, explain.

g. Does the school maintain records indicating the racial/ethnic composition of its student body, faculty, and administrative staff; records sufficient to document that scholarship and other financial assistance is awarded on a racially and ethnically nondiscriminatory basis; copies of all catalogues, brochures, and advertising dealing with student admissions, programs, and scholarships; and copies of all materials used by or on behalf of the school to solicit contributions. If "No" to any of the foregoing, explain.

h. Submit representative copies of all materials used to solicit contributions during the last academic year if the school is not currently in session, or during the present academic year if the school is currently in session.

i. Have any statements been made after November 6, 1975, purporting to be on behalf of the school, that are contrary to the school's publicly of a racially and ethnically nondiscriminatory policy as to students? If "Yes," has the school publicly disavowed or repudiated such statements, to the extent that the school or its principal officials were aware of such statements? Explain.

j. Provide data showing the racial and ethnic composition of enrolled students, of faculty, and of administrative staff at the close of the last academic year, if the school is not currently in session, or for the start of the present academic year, if the school is currently in session. Also, provide data showing the racial and ethnic composition of enrolled students who have received scholarship and loan funds, and the amount of such scholarship and loan funds. (This data may be an estimate based on the best information readily available to the school, without requiring student applicants, students, faculty or administrative staff to submit information to the school that the school otherwise does not require. To the extent that any of these categories of information has been included in a report(s) filed with an agency or agencies of Federal, State or local Government, copies of such report(s) will be acceptable if current within one year.) Describe the method by which racial/ethnic composition is determined for the school records or Government report purposes.

4. Upon completion of the pre-examination procedures, the organization will be furnished an appropriate letter. If the organization has satisfactorily furnished the requested information and it is concluded that no examination is necessary, the organization will be furnished a letter report that the Service's inquiry has been concluded, that it appears the school has complied with Rev. Rul. 75-231 and Rev. Proc. 75-50 and, therefore, that no examination is necessary. If, however, it is concluded that an examination is necessray to determine compliance with Rev. Rul. 75-231 and Rev. Proc. 75-50, then the organization will be so advised, and the advance notification procedures of IRM 7(10)71 will be followed.

5. Reporting of Examination.

a. A report of examination described in IRM7(10)64 will be prepared for all non-church-related school examinations, and for all church-related school examinations conducted beyond the pre-examination procedures.

b. In the case of church-related schools that are not separate legal entities, the examination generally will be limited to determining whether the school's operations comply with the racially nondiscriminatory requirements. Therefore, the examination report should also be so limited. The report will be issued to the lowest church organizational unit which operates the school. If the examiner is unable to determine the lowest church organizational unit, or if other questions arise in connection with the issuance of the report, a memorandum should be prepared and sent to the National Office, Exempt Organizations Division (Attention: E:EO:O:R) summarizing the facts and circumstances involved and requesting classification as to who should receive the examination report.

7(10)72.2 (6-26-80).

Review of Private School Cases.

EP/EO Division will review all private school examinations including those cases in which information obtained under the pre-examination procedures in IRM 7(10)71 constitutes the sole basis for determining that the school appears to comply with Rev. Rul 75-231 and Rev. Proc. 75-50.

7(10)72.3 (6-26-80).

No Change—Corrective Action Cases.

(1) A school must comply with the requirements of Rev. Proc. 75-50 in order to demonstrate that it has a racially nondiscriminatory admissions policy. However, the Service's approach is, and has been, to avoid applying rules mechanically in an area that requires careful judgment of all facts and circumstances. Thus, where the history of a school and the surrounding facts and circumstances indicate that the school has a racially nondiscriminatory admissions policy, revocation of such school's exemption on the basis that a particular requirement of Rev. Proc. 75-50 has not been met may be inappropriate. Rather, the appropriate action may be to give the school an opportunity to take corrective action to conform to the particular requirement of Rev. Proc. 75-50. For example, if information obtained in a private school examination demonstrated that the school, by reason of its racial constituency or other facts, practices a racially nondiscriminatory admissions policy, and that the school has satisfied all the requirements of Rev. Proc. 75-50 except that its brochures do not contain a statement concerning its racially nondiscriminatory admission policy, the appropriate action would not be revocation, but rather to have the school revise the brochures to include the racially nondiscriminatory statement.

(2) EP/EO key districts will establish a file for ensuring control over timely follow-up on private school cases involving correc-

tive action. These follow-up procedures are also applicable to pre-examination cases described in 7(10)72.1:(1)(d)(3), where it is concluded that although no examination is required, certain corrective action is necessary.

(3) In all cases where a private school has agreed to take corrective action to conform to the private school compliance requirements of Rev. Proc. 75-50, the specialist will prepare a no-change letter which advises the organization of the nature of the corrective action that it has agreed to take. A copy of the no-change letter will be placed in the control file (referred to in (2) above) for follow-up action within the year following the year of the examination.

(4) Follow-up action is mandatory on all cases involving corrective action. The follow-up action may be an examination, if warranted, or it may simply involve contacting the private school and soliciting certain information. For example, if the corrective action is similar to that described in (1) above, where the private school has given assurances that future brochures will contain a statement concerning its racially nondiscriminatory admissions policy, contacting the private school and securing the brochures may be adequate.

(5) Time expended on follow-up activities not involving an examination will be charged to Activity Code 313100 (Classification). If the follow-up activity involves an examination, time expended should be charged to Activity Code 339100 (Private Schools).

(6) After the follow-up action has been completed, the specialist will make a note on the copy of the no-change letter indicating the nature of the follow-up action taken, the results of the follow-up action, and the date of the action was completed. The copy of the no-change letter will be maintained in the control file for three years after which it will be made a part of the administrative file.

(7) Follow-up action with respect to church-related schools will not constitute an examination for purposes of the church-related school examination program unless such follow-up action involves the scope of inquiry specified in 7(10)72.1:(1)(d)3.

(8) Follow-up action with respect to nonchurch schools will not constitute an examination for purposes of the nonchurch school examination program unless such follow-up action results in a full examination of the school's operations and activities.

(9) Section 4.08 of Rev. Proc. 75-50 provides that failure to comply with the guidelines will ordinarily result in proposed revocation of exemption. Therefore, where a school will not agree to take corrective action necessary to comply with the guidelines, proposed adverse action should be considered. However, where doubt exists as to what is the appropriate action, the specialist should request technical advice in accordance with the procedures described in Rev. Proc. 73-8, 1973-1 C.B. 754.

(10) The corrective action approach is not intended to be used where revocation action is appropriate. As indicated in (9) above, corrective action is applicable only where all the facts and circumstances indicate that the school practices a racially nondiscriminatory policy with respect to students, notwithstanding that a particular requirement of Rev. Proc. 75-50 may not have been met. However, where upon completion of the examination and all administrative appeal procedures, the facts and circumstances adequately show that a school has actually practiced racial discrimination, exemption should be revoked even though the school may agree to change its policy and practice in the future. For example, if it is found that a school has in fact rejected qualified applicants for admission solely on the basis of their racial or ethnic background, then exemption should be revoked for those years in which the violations occurred. This is true notwithstanding that the school agrees to take steps to change its racially discriminatory policy in the future. If the private school's exemption is revoked, it may of course reapply for recognition of exemption under the procedures outlined in Rev. Proc. 72-4, 1972-1 C.B. 706, after it has taken the necessary corrective action.

(11) The situation described in (10) above concerning rejection of applicants for racial or ethnic reasons would also appear to warrant initiating action to suspend advance assurance of deductibility of contributions in accordance with the procedures outlined in Revenue Procedure 72-39, 1972-2 C.B. 818. Such suspension action should be initiated as soon as the information is developed which raises serious doubt concerning the organization's continued qualification for exemption.

(12) The United States District Court for the District of Columbia has ordered specific guidelines and recordkeeping requirements for Mississippi private schools. Green v. Connally, 330 F. Supp. 1150, aff'd sub nom. Coit v. Green, 404 U.S. 997 (1971). The corrective action approach is not appropriate where a Mississippi private school is found not to meet the requirements of the Court's order. Where it is determined, after completion of the examination and all administrative appeal procedures, that the requirements of the Court's order have not been satisfied, the private school's exempt status should be revoked.●

PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the RECORD at this point the notification I have just received. A portion of the notification, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room S-116 in the Capitol.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 12, 1980.
Hon. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover Transmittal No. 80-105, concerning the Department of the Air Force's proposed Letter of Offer to a NATO country for defense articles and services estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 80-105]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i)(U) Prospective Purchaser: Netherlands.

(ii)(C) Total Estimated Value: (Deleted).

(iii)(C) Description of Articles or Services Offered: (Deleted).

(iv)(U) Military Department: Air Force (SVI).

(v)(U) Sales Commission, Fee, etc. Paid, offered or Agreed to be Paid: None.

(vi)(U) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex.

(vii)(U) Section 28 Report: Included in report for quarter ending June 30, 1980.

(viii)(U) Date Report Delivered to Congress: September 12, 1980.●

PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the notification which has been received. The classified annex referred to in the covering letter is available to Senators in the office of the Foreign Relations Committee, room S-116 in the Capitol.

The material follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 15, 1980.
Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-103 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Navy's proposed Letter of Offer to Italy for defense articles and services estimated to cost $149 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 80-103]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Italy.

(ii) Total Estimated Value:

[In millions]

Major Defense Equipment*	$140
Other	9
Total	149

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: Equipment and services for two new AUDACE class ships. This will involve the radar system, missile system, weapon direction system, and command and control equipment for the TARTAR missile.

(iv) Military Department: Navy (LDA).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See annex under separate cover.

(vii) Section 28 Report: Included in report for quarter ending 30 June 1980.

(viii) Date Report Delivered to Congress: September 15, 1980.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 18, 1980.
Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80–106, concerning the Department of the Air Force's proposed Letter of Offer to Germany for defense articles and services estimated to cost $31 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 80–106]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Germany.

(ii) Total Estimated Value:

[In millions]

Major defense equipment*	0
Other	$31
Total	31

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: Advanced F–4 aircraft flying training for 20 combat aircrews and air warfare instructor qualification for eight instructor aircrews under a dedicated German Air Force flying program at George AFB, California.

(iv) Military Department: Air Force (TMW).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii) Section 28 Report: Included in report for quarter ending 30 June 1980.

(viii) Date Report Delivered to Congress: September 18, 1980.

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., September 16, 1980.
Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80–108, concerning the Department of the Navy's proposed Letter of Offer to Canada for defense articles and services estimated to cost up to $250 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 80–108]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Canada.

(ii) Total Estimated Value:

[In millions]

Major Defense Equipment *	$0
Other, up to	250
Total, up to	250

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: In connection with Canada's direct commercial purchase of CF–18 aircraft, a Memorandum of Understanding (MOU) is being negotiated which will define the extent to which U.S. Government support can be made available to Canada under the FMS program. Potential cases include a cooperative logistics program, aircrew training, program management efforts, appraisal and fatigue study efforts, engineering change proposals, support equipment including U.S. government furnished equipment, and repair services.

(iv) Military Department: Navy (GNR).

(v) Sales Commission, Fee, etc. Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: September 16, 1980.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 16, 1980.
Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80–107, concerning the Department of the Air Force's proposed Letter of Offer to NATO for defense articles and services estimated to cost $153 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 80–107]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: NATO.

(ii) Total Estimated Value:

[In Millions]

Major Defense Equipment *	$143
Other	10
Total	153

* As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: One NATO IIID Communications Satelliate (SATCOM) and an option for a second SATCOM, each including launch vehicle, related services, and on-orbit test and evaluation.

(iv) Military Department: Air Force (YAN).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: September 16, 1980.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 15, 1980.
Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80–119, concerning the Department of the Army's proposed Letter of Offer to Greece for defense articles and serviecs estimated to cost $35 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

You will also find attached a certification as required by Section 620c(d) of the Foreign Assistance Act of 1961 that this action is consistent with Section 620c(b) of that statute.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 80–119]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Greece.

(ii) Total Estimated Value:

[In millions]

Major Defense Equipment*	$31
Other	4
Total	$35

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: Eight AH–1S helicopters.

(iv) Military Department: Army (WJB).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii) Section 28 Report: Included in report for quarter ending 30 June 1980.

(viii) Date Report Delivered to Congress: September 15 1980.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 15, 1980.
Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations,
United States Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80–98, concerning the Department of the Army's proposed Letter of Offer to the Netherlands for defense articles and services estimated to cost $73.6 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 80–98]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Netherlands.

(ii) Total Estimated Value:

[In millions]

Major Defense Equipment*	$64.0
Other	9.6
Total	$73.6

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: One hundred forty-four M198 towed howitzers with technical data package, support equipment, and concurrent spare parts.

(iv) Military Department: Army (VKK).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: September 15, 1980.

Defense Security Assistance Agency,
Washington, D.C., September 12, 1980.
Hon. Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-88, concerning the Department of the Army's proposed Letter of Offer to India for defense articles and services estimated to cost $78.7 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Ernest Graves,
Director.

[Transmittal No. 80-88]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: India.

(ii) Total Estimated Value:

[In millions]	
Major Defense Equipment*	$69.8
Other	8.9
Total	$78.7

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: Two hundred ninety-one thousand 155mm projectiles, and 302,400 component propellant charges with fuzes and primers.

(iv) Military Department: Army (UME).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii) Section 28 Report: Included in report for quarter ending 30 June 1980.

(viii) Date Report Delivered to Congress: September 12, 1980.

Defense Security
Assistance Agency,
Washington, D.C., September 12, 1980.
Hon. Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-90, concerning the Department of the Army's proposed Letter of Offer to India for defense articles and services estimated to cost $111.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Ernest Graves,
Director.

[Transmittal No. 80-94]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: India.

(ii) Total Estimated Value:

[In millions]	
Major Defense Equipment*	$106.0
Other	5.0
Total	$111.0

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: Two hundred thirty M198 155mm towed howitzers with spare parts, support equipment, and the services of a Quality Assurance Team and a Mobile Training Team.

(iv) Military Department: Army (UMC).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be sold: None.

(vii) Section 28 Report: Included in report for quarter ending 30 June 1980.

(viii) Date Report Delivered to Congress: September 12, 1980.●

ORDER FOR RECOGNITION OF SENATOR HATCH TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the name of Mr. Hatch be added to the names of Senators to be recognized tomorrow morning for not to exceed 15 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

COAST GUARD AUTHORIZATIONS, 1981–82

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Cannon, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2489.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2489) entitled "An Act to authorize appropriations for the Coast Guard for fiscal year 1981, to authorize supplemental appropriations for fiscal year 1980, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That funds are hereby authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1981, as follows:

(1) for the operation and maintenance of the Coast Guard, including expenses related to the Capehart housing debt reduction: $1,248,367,000;

(2) for the acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto: $469,320,000;

(3) for the alteration or removal of bridges over navigable waters of the United States, constituting obstructions to navigation: $16,200,000; and

(4) for research, development, test, and evaluation: $30,000,000.

Sec. 2. For fiscal year 1981, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,600: *Provided,* That the ceiling shall not include members of the Ready Reserve called to active duty under the authority of section 764 of title 14, United States Code.

Sec. 3. For fiscal year 1981, average military training student loads for the Coast Guard are authorized as follows:

(1) recruit and special training: 4,175 student-years;

(2) flight training: 117 student-years;

(3) professional training in military and civilian institutions: 595 student-years; and

(4) officer acquisition: 925 student-years.

Sec. 4. The second sentence of subsection 475(a) of title 14, United States Code, is amended to read as follows: "When any such lease involves housing facilities in a foreign country, the lease may be made on a multiyear basis for a period not to exceed five years, and, in accordance with local custom and practice, advance payment may be made for the lease.".

Sec. 5. The third sentence of subsection 650(a) of title 14, United States Code, is amended to read as follows: "In these regulations, whenever the fund is extended to include items not previously stocked, or spare parts obtained as part of a procurement under a different account of major items such as vessels or aircraft, whether or not such parts were previously stocked, the Secretary may authorize an increase in the existing capital of the fund by the value of such usable materials transferred thereto from Coast Guard inventories carried in other accounts.".

Sec. 6. The last sentence of subsection 214(d) of title 14, United States Code, is amended to read as follows: "A person who is appointed under this section may not suffer any reduction in the rate of pay and allowances to which he would have been entitled had he remained in his former grade and continued to receive the increases in pay and allowances authorized for that grade.".

Sec. 7. (a) Chapter 13 of title 14, United States Code, is amended by adding a new section 512 as follows:

"§ 512. Monetary allowance for transportation of household effects

"The transportation and reimbursement authorized by subsection (b) of section 406 of title 37, United States Code, shall be available hereafter to pay a monetary allowance in place of such transportation to a member who, under regulations prescribed by the Secretary, participates in a program designated by the Secretary in which his baggage and household effects are moved by a privately owned or rental vehicle. This allowance shall not be limited to reimbursement for actual expenses and may be paid in advance of the transportation of the baggage and household effects. The allowance shall, however, be in an amount that will result in savings to the Government when the total cost of the movement of baggage and household effects is compared with the cost that otherwise would have been incurred under subsection (b) of section 406 of title 37, United States Code.".

(b) The analysis of chapter 13 of title 14, United States Code, is amended by adding the following item at the end thereof.

"512. Monetary allowance for transportation of household effects.".

Sec. 8. When an inspection or examination of a vessel documented or to be documented as a vessel of the United States is conducted at a foreign port or place at the request of the owner or operator of the vessel, that owner or operator shall reimburse the Secretary of the department in which the Coast Guard is operating for the travel and subsistence expenses incurred by the personnel assigned to perform the inspection or examination. Amounts received as reimbursement for these expenses shall be credited to the appropriation for operating expenses of the Coast Guard.

Sec. 9. The joint resolution of June 4, 1958 (72 Stat. 179; 36 U.S.C. 161) is amended by striking the words "week which includes July 4" and inserting in lieu thereof the words "week commencing on the first Sunday in June".

Sec. 10. (a) Chapter 17 of title 14, United States Code, is amended by adding a new section 660 as follows:

"§ 660. Transportation to and from certain places of employment

"(a) Whenever the Secretary determines that it is necessary for the effective conduct of the affairs of the Coast Guard, he may, at reasonable rates of fare fixed under regulations to be prescribed by him, provide assured and adequate transportation by motor vehicle or water carrier to and from their places of employment for persons attached to, or employed by, the Coast Guard; and during a war or during a national emergency declared by Congress or the President, for persons attached to, or employed in, a private plant that is manufacturing material for the the Coast Guard.

"(b) Transportation may not be provided under subsection (a) unless the Secretary or an officer designated by the Secretary, determines that—

"(1) other transportation facilities are inadequate and cannot be made adequate;

"(2) a reasonable effort has been made to induce operators of private facilities to provide the necessary transportation; and

"(3) the service to be furnished will make proper use of transportation facilities and will supply the most efficient transportation to the persons concerned.

"(c) To provide transportation under subsection (a), the Secretary may—

"(1) buy, lease, or charter motor vehicles or water carriers having a seating capacity of 12 or more passengers;

"(2) maintain and operate that equipment by enlisted members or employees of the Coast Guard, or by private persons under contract; and

"(3) lease or charter the equipment to private or public carriers for operation under terms that are considered necessary by the Secretary or by an officer designated by the Secretary, and that may provide for the pooling of government-owned and privately owned equipment and facilities and for the reciprocal use of that equipment.

"(d) Fares received under subsection (a), and proceeds of the leasing or chartering of equipment under subsection (c)(3), shall be covered into the Treasury as miscellaneous receipts.".

(b) The analysis of chapter 17 of title 14, United States Code, is amended by adding the following item at the end thereof:

"660. Transportation to and from certain places of employment.".

Sec. 11. Paragraph (1) of the first section of Public Law 96–23 (93 Stat. 68) is amended by striking "$1,058,357,000;" and substituting "$1,091,357,000;".

Sec. 12. The President shall submit to the Congress, with the fiscal year 1982 budget request for the Coast Guard and each subsequent budget request, the current copy of the Coast Guard's Capital Investment Plan, Cutter Plan, Aviation Plan, and Shore Facilities Plan.

Sec. 13. Section 2(c) of Public Law 96–324 is amended by striking the words "the Canal Zone,".

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Cannon, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTOMOBILE FUEL EFFICIENCY ACT OF 1980

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Cannon, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2475.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2475) entitled "An Act to amend title V of the Motor Vehicle Information and Cost Savings Act, 'Improving Automotive Efficiency', to exempt very low volume automobile manufacturers from certain requirements of the Act, to encourage increase of the domestic value added content in labor and materials of foreign automobiles sold in the United States, to extend the time available to all manufacturers for carry forward or carry back of credits earned under the Act, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

Section 1. Short Title; Table of Contents.

(a) Short Title.—This Act may be cited as the "Automobile Fuel Efficiency Act of 1980".

(b) Table of Contents.—

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Fuel efficiency standards applicable to small manufacturers.
Sec. 4. Modification of local content requirements to encourage domestic production of fuel efficient automobiles.
Sec. 5. Adjustments regarding standards for light-duty trucks.
Sec. 6. Determinations of unlawful conduct; 3-year carryforward and carryback.
Sec. 7. Exemptions for emergency vehicles.
Sec. 8. Technical, clerical, and conforming amendments.
Sec. 9. Effective date.

Sec. 2. Findings and Purposes.

(a) Findings.—The Congress finds that—

(1) the United States is currently importing significant quantities of the petroleum used in the United States;

(2) automobile fuel usage accounts for a major portion of petroleum use within the United States; and

(3) the manufacture and use of more fuel efficient automobiles would reduce the dependence of the United States on imported petroleum.

(b) Purposes.—It is the purpose of this Act—

(1) to amend certain Federal automobile fuel economy requirements to improve fuel efficiency, and thereby facilitate conservation of petroleum and reduce petroleum imports, and

(2) to provide full employment in the domestic automobile manufacturing sector.

Sec. 3. Fuel Efficiency Standards Applicable To Small Manufacturers.

(a) Standards.—(1) Section 502(c) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(c)) is amended by inserting "(1)" after "(c)", and by adding at the end thereof the following new paragraph:

"(2) Any manufacturer may elect in any application submitted under paragraph (1) to consolidate the applications for, and administrative determinations regarding, exemptions and alternative average fuel economy standards for two or more of the model years after model year 1981 and before model year 1985.".

(2)(A) The Secretary of Transportation shall review the requirements and procedures established pursuant to section 502(c)(1) of such Act (as redesignated by this subsection) as soon as practicable after the date of the enactment of this Act and modify such requirements and procedure to the maximum extent practicable in order to further reduce administrative burdens on such applicants and the Secretary, and expedite determinations regarding such applications.

(B) The Secretary shall notify the Congress of the Review and actions taken or to be taken under this paragraph in the first annual report to the Congress which is made under section 512 of such Act after the completion of such review.

(b) Certain Reporting Requirements.—Section 505(a) of such Act (15 U.S.C. 2005(a)) is amended by inserting at the end thereof the following new paragraph:

"(4) The provisions of this subsection shall not apply to any manufacturer for any model year for which that manufacturer is subject to alternative average fuel economy standards under section 502(c).".

Sec. 4. Modification of Local Content Requirements To Encourage Domestic Production of Fuel Efficient Automobiles.

(a) Certain New Domestic Manufacturers.—(1) Section 503(b) of such Act (15 U.S.C. 2003(b)) is amended by adding at the end thereof the following new paragraph.

"(3)(A) After consideration of a petition (and comments thereon) for an exemption from the provisions of paragraph (1) filed by a new domestic manufacturer, the Secretary shall, by order, grant an exemption from such provisions for passenger automobiles manufactured by that manufacturer during the period provided for in such order, if the Secretary finds, after notice and reasonable opportunity for written or oral comment, that the manufacturer has demonstrated for such period that the proposed exemption—

"(i) would promote employment in the United States related to motor vehicle manufacturing, and

"(ii) would reduce the volume of parts and supplies imported into the United States and used in automobiles manufactured by that manufacturer.

"(B) In making any finding under subparagraph (A), the Secretary shall take into consideration any benefits available under the amendments made by the Automobile Fuel Efficiency Act of 1980.

"(C) For purposes of this paragraph, the term 'new domestic manufacturer' means—

"(i) any manufacturer which began automobile production or assembly in the United States after December 22, 1975, and before May 1, 1980; or

"(ii) any manufacturer which began automobile production or assembly in the United States on or after May 1, 1980, and has engaged in such production or assembly in the United States for at least one model year ending on or before December 31, 1985.

"(D) Any decision by the Secretary to grant or deny an exemption under subparagraph (A) shall be made, and notice thereof published in the Federal Register, not later than 120 days after the date of the petition for that exemption. The Secretary may extend such period to a specified date if the Secretary publishes notice thereof in the Federal Register, together with the reasons for such extension. Any decision by the Secretary on such exemption shall become final 30 days after the publication of such notice unless a petition for judicial review is filed under subparagraph (E).

"(E) Any person adversely affected by a decision on such an exemption may, not later than 30 days after publication of notice of such decision, file a petition for review of such decision with the United States Court of Appeals for the District of Columbia or for the circuit in which such person resides, or in which the principal place of business of such person is located. The United States court of appeals involved shall have jurisdiction to review such decision in accordance with section 706(2) (A) through (D) of title 5, United States Code, and to affirm, remand, or set aside the decision of the Secretary. Except as otherwise provided in this subparagraph, section 504 (c) and (d) shall apply to such review to the same extent and manner as it applies with respect to review of any rule prescribed under this section or section 501, 502, or 506.

"(F) Notwithstanding section 502(j), in the case of any model year for which an exemption has been granted to any new domestic manufacturer under this subsection—

"(i) no credit may be earned under section 502(j) (1) (B) by the manufacturer; and

"(ii) no credit may be made available under section 502(j) (1) (C) for the manufacturer.".

(2) Section 512 of such Act (15 U.S.C. 2012) is amended by adding at the end thereof the following new subsection:

"(c) (1) After an exemption has been granted under section 503(b) (3), the Secretary and the Secretary of Labor shall annually conduct a joint examination of the extent to which the amendment made to section 503(b) (3) by section 4(a) (1) of the Automobile Fuel Efficiency Act of 1980—

"(A) achieves the purposes of that Act and this part, including whether such amendment has promoted employment in the United States related to motor vehicle manufacturing,

"(B) has not caused undue harm to the motor vehicle manufacturing sector in the United States, and

"(C) has permitted any manufacturer that has assembled passenger automobiles which are considered domestically manufactured under section 503(b) (2) (E) to thereafter assemble in the United States passenger automobiles of the same model type which have less than 75 percent of their value added in the United States or Canada, together with the reasons for such action.

"(2) The Secretary shall include the results of such examination in each annual report that is made to the Congress under subsection (a) more than 180 days after an exemption has been granted under section 503(b) (3) of this subsection, or transmit the results of such examination directly to the Congress before such a report in any case in which circumstances so warrant.".

(b) Transition Provisions for Certain New Domestic Production.—Section 503(b) of such Act (15 U.S.C. 2003(b)) is amended by adding at the end thereof the following new paragraph:

"(4) (A) If a plan has been submitted by a manufacturer and approved by the Secretary under subparagraph (B), the EPA Administrator shall for each of the four model years covered by such plan include under paragraph (1) (A) (and exclude under paragraph (1) (B)) with respect to that manufacturer not more than 150,000 passenger automobiles which are manufactured by that manufacturer but which do not qualify as domestically manufactured if—

"(i) the model type or types involved have not previously been domestically manufactured;

"(ii) at least 50 percent of the cost to the manufacturer of each such automobile is attributable to value added in the United States or Canada;

"(iii) in the case of any such automobile the assembly of which is completed in Canada, that automobile is imported into the United States not later than 30 days following the end of the model year involved; and

"(iv) such automobile model type or types are domestically manufactured before the close of the fourth model year covered by such plan.

"(B) (i) A manufacturer may submit to the Secretary for approval a plan, including supporting material, which shall set forth the actions, and the dates by which such actions are to be taken, which will assure that the automobile model type or types referred to in subparagraph (A) will be domestically manufactured before the end of the fourth model year covered by such plan.

"(ii) The Secretary shall promptly consider and act upon any plan submitted under this subparagraph. The Secretary shall approve any such plan unless—

"(I) the Secretary finds that the plan is inadequate to meet the requirements of this paragraph, or

"(II) the manufacturer has previously submitted a plan which has been approved by the Secretary under this paragraph.

"(C) This subparagraph shall only apply with respect to model years beginning after model year 1980.".

(c) Conforming Amendments.—(1) Section 501(8) of such Act (15 U.S.C. 2001(8)) is amended by adding at the end thereof the following new sentence: "Such term also includes any predecessor or successor of such a manufacturer to the extent provided under rules which the Secretary shall prescribe.".

(2) Section 503(b) (1) of such Act (15 U.S.C. 2003(b) (1)) is amended—

(A) in subparagraph (A), by inserting "and passenger automobiles which are included within this category pursuant to paragraph (3)" after "manufactured by such manufacturer"; and

(B) in subparagraph (B), by inserting "and which are not included in the domestic category pursuant to paragraph (3)" after "manufactured by such manufacturer".

(3) Section 503(b) (2) (F) of such Act (15 U.S.C. 2003(b) (2)) is amended by striking out "or 1979," and inserting in lieu thereof "or any subsequent model year,".

Sec. 5. Adjustments Regarding Standards for Light-Duty Trucks.

Section 502 of such Act (15 U.S.C 2002), as amended, is further amended by adding at the end thereof the following new subsection:

"(k) (1) On the petition of any manufacturer for any model year beginning after model year 1981 and before model year 1986, the Secretary may conduct an examination of the impacts of any standard under subsection (b) on that manufacturer or a class of manufacturers. If after consideration of the results of that examination the Secretary finds in accordance with paragraph (2) that the manufacturer has demonstrated that such manufacturer or class of manufacturers would not otherwise be able to comply with such standard for that model year without causing severe economic impacts, such as plant closures or reduction in employment in the United States related to motor vehicle manufacturing, the Secretary shall, by order, make an adjustment or otherwise provided relief regarding—

"(A) the manner by which the average fuel economy of that manufacturer or class of manufacturers is calculated for purposes of that standard, or

"(B) other aspects regarding the applica- of that standard to the manufacturer or class of manufacturers to the extent consistent with the provisions of this title.

"(2) Any finding by the Secretary under paragraph (1) shall be made (A) after notice and a reasonable opportunity for written or oral comment, and (B) after consideration of the benefits available under the amendments made by the Automobile Fuel Efficiency Act of 1980.

"(3) The authority of the Secretary under this subsection to make any adjustment or provide other relief shall not be effective for any model year after model year 1985.

"(4) The Secretary shall notify the Congress of any adjustment or other relief provided under this section in the first annual report submitted to the Congress under section 512 after the order is issued providing for that adjustment or relief.

"(5) Any final decision of the Secretary under this subsection shall be made, take effect, and be subject to judicial review to the same extent and in the same manner as is provided for under section 503(k) in the case of new domestic manufacturers.

"(6) The availability of any adjustment or other relief under this subsection shall not be taken into account in prescribing standards under subsection (b).".

Sec. 6. Determinations of Unlawful Conduct; 3-Year Carryforward and Carryback.

(a) Unlawful Conduct.—Section 507 of such Act (15 U.S.C. 2007) is amended—

(1) by striking out "The" and inserting in lieu thereof "(a) Subject to subsection (b), the"; and

(2) by adding at the end thereof the following new subsection:

"(b) A manufacturer shall not be considered to have engaged in unlawful conduct, or to have failed to comply with any fuel economy standard applicable to such manufacturer under section 502, if the average fuel economy of such manufacturer, after taking into account the credits then available to the manufacturer under section 502(j), would result in the applicable standard being met or exceeded.".

(b) 3-Year Carryforward and Carryback of Credits.—Section 502 of such Act (15 U.S.C. 2002) is amended by adding at the end thereof the following new subsection:

"(j) (1) (A) For purposes of this part, credits under this subsection shall be considered to be available to any manufacturer upon the completion of the model year in which such credits are earned under subparagraph (B) unless under subparagraph (C) the credits are made available for use at a time prior to the model year in which earned.

"(B) Whenever the average fuel economy of the passenger automobiles manufactured by a manufacturer in a particular model year exceeds an applicable average fuel economy standard established under subsection (a) or (c) (determined by the Secretary without regard to any adjustment under subsection (d) or any credit under this subsection), such manufacturer shall be entitled to a credit, calculated under subparagraph (C), which—

"(i) shall be available to be taken into account with respect to the average fuel economy of that manufacturer for any of the three consecutive model years immediately prior to the model years in which such manufacturer exceeds such applicable average fuel economy standard, and

"(ii) to the extent that such credit is not so taken into account pursuant to clause (i), shall be available to be taken into account with respect to the average fuel economy of that manufacturer for any of the three consecutive model years immediately following the model year in which such manufacturer exceeds such applicable average fuel economy standard.

"(C) (i) At any time prior to the end of any model year, a manufacturer which has reason to believe that its average fuel economy for passenger automobiles will be below such applicable standard for that model year may submit a plan demonstrating that such manufacturer will earn sufficient credits under subparagraph (B) within the next 3 model years which when taken into account would allow the manufacturer to meet that standard for the model year involved.

"(ii) Such credits shall be available for the model year involved subject to—

"(I) the Secretary approving such plan; and

"(II) the manufacturer earning such credits in accordance with such plan.

"(iii) The Secretary shall provide notice to any manufacturer in any case in which the average fuel economy of that manufacturer is below the applicable standard under subsection (a) or (c), after taking into account credits available under subparagraph (B) (i), and afford the manufacturer a reasonable period (of not less than 60 days) in which to submit a plan under this subparagraph.

"(D) The amount of credit to which a manufacturer is entitled under this paragraph shall be equal to—

"(i) the number of tenths of a mile per gallon by which the average fuel economy of the passenger automobiles manufactured by such manufacturer in the model year in which the credit is earned pursuant to this paragraph exceeds the applicable average fuel economy standard established under subsection (a) or (c), multiplied by

"(ii) the total number of passenger automobiles manufactured by such manufacturer during such model year.

"(E) The Secretary shall take credits account for any model year on the basis of the number of tenths of a mile per gallon by which the manufacturer involved was below the applicable average fuel economy standard for that model year and the volume of passenger automobiles manufactured that model year by the manufacturer. Credits once taken into account for any model year shall not thereafter be available for any other model year. Prior to taking any credit into account, the Secretary shall provide the manufacturer involved with written notice and reasonable opportunity to comment thereon.

"(2) Credits for manufacturers of automobiles which are not passenger automobiles shall be earned and be available to be taken into account for model years in which the average fuel economy of such class of automobiles is below the applicable average fuel economy standard established under subsection (b) to the same extent and in the same manner as provided for under paragraph (1). Not later than 60 days after the date of the enactment of this subsection, the Secretary shall prescribe regulations to carry out the provisions of this paragraph.

"(3) Whenever a civil penalty has been assessed and collected under section 508 from a manufacturer who is entitled to a credit under this subsection, the Secretary of the Treasury shall refund to such manufacturer the amount of the civil penalty so collected to the extent that penalty is attributable to credits available under this subsection.

"(4) The Secretary may prescribe rules for purposes of carrying out the provisions of this subsection.".

(c) Conforming Amendments.—(1) Subsections (a) and (b) of section 508 of such Act (15 U.S.C. 2008) are each amended by striking out "507(1)", "507(2)", "507(3)", and "507(a) (1) or (2)", respectively.

(2) Section 508(a) of such Act (15 U.S.C. 2008(a)) is amended by striking out paragraph (3).

(3) Subparagraphs (A) and (B) of section 508(b)(1) of such Act (15 U.S.C. 2008) are each amended—

(A) by striking out "(i) $5 for each tenth" and inserting in lieu thereof "the amount obtained by multiplying $5 by (i) the number of tenths";

(B) by striking out "by (ii) the total" and inserting in lieu thereof "by the"; and

(C) by striking out the period at the end thereof and inserting in lieu thereof ", reduced by (ii) the credits then available under section 502(j) for such model year".

(4) Section 508(d) of such Act (15 U.S.C. 2008(d)) is amended by striking out paragraph (4).

(d) Effective Date.—Under such regulations as the Secretary of Transportation shall prescribe, the amendments made by this section shall apply to the 3 model years preceding the model year during which this Act is enacted.

Sec. 7. Exemption for Emergency Vehicles

Section 502 of such Act (15 U.S.C. 2002) is amended by redesignating subsection (g) and the following two subsections as subsections (h), (i), and (j), respectively, and by inserting after subsection (f) the following new subsection:

"(g)(1) At the election of any manufacturer, the fuel economy of any emergency vehicle shall not be taken into account in applying any fuel economy standard prescribed by or under subsection (a), (b), or (c). Any manufacturer electing to have the provisions of this subsection shall provide written notice of that election to the Secretary and to the Environmental Protection Agency Administrator.

"(2) For purposes of paragraph (1), the term 'emergency vehicle' means any automobile manufactured primarily for use—

"(A) as an ambulance or combination ambulance-hearse,

"(B) by the United States or by a State or local government for police or other law enforcement purposes, or

"(C) for other emergency uses prescribed by the Secretary of Transportation by regulation.".

Sec. 8. Technical, Clerical, and Conforming Amendments.

(a)(1) The table of contents for such Act is amended by striking out the item relating to part A.

(2) Section 2 of such Act (15 U.S.C. 1901) is amended by striking out "except part A of title V" and inserting in lieu thereof "except title V".

(3) Title V of such Act is amended by striking out the designation relating to part A.

(b) Section 501(9) of such Act (15 U.S.C. 2001(9)) is amended by striking out "manufacturer" and inserting in lieu thereof "manfacture".

(c) Section 502(b) of such Act (15 U.S.C. 2002(b)) is amended by striking out "and shall be" and inserting in lieu thereof "and such standards shall be".

(d) Section 502(d)(3)(E) of such Act (15 U.S.C. 2002(d)(3)(E)) is amended by striking out "subparagraph," and inserting in lieu thereof "subsection,".

(e) Section 503(b)(2)(A)(ii)(I) of such Act (15 U.S.C. 2003(b)(2)(A)(ii)(I)) is amended by striking out "base" the last place it appears.

(f) Section 508(b)(1)(A) of such Act (15 U.S.C. 2008(b)(1)(A)) is amended by inserting before ", shall be" the following "with respect to any model year".

Sec. 9. Effective Date.

Except as otherwise provided in this Act, the amendments made by this Act shall take effect on the date of the enactment of this Act.

Amend the title so as to read: "An Act to amend the Federal automobile fuel efficiency program established under title III of the Energy Policy and Conservation Act for the purpose of facilitating conservation of petroleum and reducing petroleum imports, and for other purposes.".

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Cannon, I move that the Senate disagree to the amendments of the House and request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. Cannon, Mr. Stevenson, Mr. Riegle, Mr. Schmitt, and Mrs. Kassebaum conferees on the part of the Senate.

COMMISSION ON CIVIL RIGHTS AUTHORIZATIONS, 1981

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Bayh, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2511.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2511) entitled "An Act to amend the Civil Rights Act of 1957 to authorize appropriations for the United States Commission on Civil Rights for fiscal year 1981", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Civil Rights Commission Authorization Act of 1980".

Sec. 2. Section 106 of the Civil Rights Act of 1957 (42 U.S.C. 1975e) is amended by striking out "1980" and inserting "1981" in lieu thereof.

Amend the title so as to read: "An Act to amend section 106 of the Civil Rights Act of 1957 to authorize appropriations for the Commission on Civil Rights for the fiscal year 1981.".

UP AMENDMENT NO. 1639

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Bayh I move that the Senate concur in the amendments of the House with a further amendment, which I send to the desk on behalf of Mr. Bayh.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd) on behalf of Mr. Bayh proposes an unprinted amendment numbered 1639:

Strike out all after the word "amended" in Section 2 and insert in lieu thereof the following:

"(1) by striking out '$14,000,000' and inserting in lieu thereof '$12,600,000'; and

"(2) by striking out '1980' and inserting in lieu thereof '1981'.".

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PUBLIC BUILDINGS ACT AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Randolph, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2080.

The PRESIDING OFFICER laid before the Senate the following message from the House of Represenatives:

Resolved, That the bill from the Senate (S. 2080) entitled "An Act to establish public buildings policies for the Federal Government, to establish the Public Buildings Service in the General Services Administration, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That section 7 of the Public Buildings Act of 1959, as amended, is further amended by adding at the end thereof the following:

"(e) Whenever the Administrator determines that the best interest of the United States will be served, the Administrator is authorized to issue obligations for purchase by the Secretary of the Treasury, to the extent authorized in annual appropriation Acts, in amounts necessary to finance the acquisition or construction of any public building. The obligations issued shall be upon such terms and conditions as may be prescribed by the Secretary of the Treasury, taking into account that repayments shall not begin until the building is ready for occupancy and shall not extend beyond the useful life of the building but in no case for more than thirty years from the date of the initial repayment. Such obligations shall bear interest at a rate determined by the Secretary taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturity. No funds for public building acquisition or construction authorized by this section may be appropriated if such construction or acquisition has not been approved by resolutions adopted by the Committees on Environment and Public Works of the Senate and Public Works and Transportation of the House of Representatives."

Sec. 2. The Public Buildings Act of 1959, as amended, is amended by striking out "Committee on Public Works of the Senate and House of Representatives" and "Committee on Public Works of the Senate or House of Representatives" wherever they appear and inserting in lieu thereof at each such place "Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives" and "Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives", respectively. Section 11(b) of such Act is further amended by striking out "Committee on Public Works of the Senate or the Committee on Public Works of the House of Representatives" and inserting in lieu thereof "Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives".

Sec. 3. The amendment made by the first section of this Act shall take effect October 1, 1980.

Amend the title so as to read: "An Act to amend the Public Buildings Act of 1959, to authorize the Administrator of General Services to issue obligations for the construction and acquisition of public buildings, and for other purposes.".

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Randolph, I move that the Senate disagree with the amendments of the House, request a conference with the House on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. Mitchell) appointed Mr. Randolph, Mr. Moynihan, Mr. Burdick, Mr. Mitchell, Mr. Stafford, Mr. Chafee, and Mr. Simpson conferees on the part of the Senate.

LAW ENFORCEMENT ASSISTANCE AT CORPS OF ENGINEERS PROJECTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 793.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, Calendar Order 793 has been cleared on our calendar. We have no objection to its consideration and passage.

I understand, as well, there is an amendment by the distinguished Senator from New York (Mr. Moynihan).

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2724) to extend authorizations for law enforcement assistance at Corps of Engineers projects.

The Senate proceeded to consider the bill.

◉ Mr. MOYNIHAN. Mr. President, on May 15, 1980, the Environment and Public Works Committee reported the bill, S. 2724, law enforcement assistance at Corps of Engineers projects. The purpose of the bill is to reauthorize for a 2-year period a program of contracting out law enforcement services at recreation areas located on Federal lands at corps water resources development projects. The program had been established originally as a 2-year experiment by Congress in section 120 of the Water Resources Development Act of 1976 (Public Law 94–587).

Nearly all of the divisions of the Corps of Engineers participated in the program. Each division reported that the contracts were very successful and each recommended the continuation of the program. Cooperation increased substantially between local law enforcement officials and corps project personnel. The presence of contract law enforcement officers was considered a tangible deterrent to crime and vandalism.

In 1978, the corps awarded 191 contracts totaling $2,166,525 and in 1979, 244 contracts totaling $3,120,900. Although not all of the $6 million authorized for the program for each fiscal year was, in fact, used, the corps believes that the full funding level will be needed in the coming years to meet increasing demand. Wide acceptance of this program has created a desire on the part of many other localities to participate. In addition to the 33 States now participating in the contract law enforcement program, several more States have recently acquired authority to participate.

The Corps of Engineers maintains its own staff of 920 rangers and managers. Their authority is limited to the issuance of citations for violations of the rules and regulations governing the public use of recreation areas at corps projects. As a result of the contract law enforcement program, rangers have been able to patrol areas which in the past may not have received adequate coverage.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record a statement by Mr. Culver.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement of Senator Culver

I am extremely pleased that S. 2724 includes a provision I introduced last year which authorizes the acquisition and enhancement of Nahant Marsh as part of any work by the U.S. Army Corps of Engineers of the proposed Davenport, Iowa, flood control project.

After a series of floods in the 1960's, Congress authorized a flood control plan for Davenport in 1970. After completion of the design studies, however, I became concerned that the proposed project would have an unintended detrimental impact on Nahant Marsh, one of the outstanding natural resources of the Quad Cities area. The marsh is a unique meadow wetland, developed over many decades, and it provides habitat for many varieties of wildlife and flora. It is one of the few remaining wildlife areas adjacent to the urbanized Quad Cities, and many school children, nature conservation groups, and individual citizens visit the marsh each year.

Nahant Marsh is a fragile ecosystem that must be protected. The Corps of Engineers has recommended that it be acquired and certain enhancement measures be taken to preserve it. These measures include controlling the water elevation of the wetland area during the dry season and the deposit of silt during runoff.

The proposal to protect Nahant Marsh constitutes a post-authorization change which must be approved by Congress. The Senate approved this measure in 1978, but the House failed to take final action before adjournment. Enactment of S. 2724 affords the opportunity for Congress to help protect this critically important environmental habitat. I urge my colleagues to approve this measure.

UP AMENDMENT NO. 1640

(Purpose: To authorize certain water resource activities in the waters of the United States)

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Moynihan, I send an amendment to the desk and ask that it be stated by the clerk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd) proposes an unprinted amendment numbered 1640.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 2, strike the following: "September 30, 1980".

On page 2, insert immediately after line 3:

"ERIE BASIN NON-NAVIGABILITY, NEW YORK

Sec. 2. That portion of Lake Erie known as the Erie Basin in the Buffalo Harbor lying within the area described in the Senate Environment and Public Works Committee Print 96–16 is hereby declared to be not a navigable water of the United States within the meaning of the Constitution and laws of the United States, and the consent of Congress is hereby given to the filling in of all or any part thereof or the erection of permanent structures thereon.

TRENT RIVER, NORTH CAROLINA

Sec. 3. Those portions of the Trent River in the city of New Bern, county of Craven, State of North Carolina, bounded and described in Committee Print Numbered 95–56 of the Committee on Public Works and Transportation of the House of Representatives are hereby declared to be non-navigable waters of the United States within the meaning of the laws of the United States.

CONCHAS LAKE, NEW MEXICO

Sec. 4(a). The Secretary of the Army, acting through the Chief of Engineers, is prohibited from determining the forty-five-acre cabin site in the south recreation area at Conchas Lake, New Mexico, to be in excess of project needs prior to 1996, unless such a determination is agreed to by the Governor of the State of New Mexico or his designee.

(b) The Secretary of the Army, acting through the Chief of Engineers, shall not require the removal or sale and purchase of existing cabins, cottages, or other privately owned improvements located on the site referred to in subsection (a) of this section prior to 1996, unless agreed to by the Governor of the State of New Mexico or his designee. Existing and prospective lease arrangements shall reflect the requirements of this section."

ALBUQUERQUE, NEW MEXICO

SEC. 5. Any Federal project submitted for authorization for construction of new levees or modification of existing levees for the control of floods within the Rio Grande from Bernalillo, New Mexico, to Belen, New Mexico, shall not require raising or modification of existing bridge structures within the project area to pass river flows in excess of that the bridges can now accommodate and estimated to be 42,000 cubic feet per second.

MOUNTRAIL COUNTY, NORTH DAKOTA

SEC. 6. Section 44(b) of the Water Resources Development Act of 1974 (Public Law 93-251; 88 Stat. 12) is amended by striking paragraph (2) and inserting in lieu thereof the following:

"(2) The lands conveyed pursuant to this section shall be used by the Mountrail County Park Commission, Mountrail, North Dakota, for Public park and recreation purposes; Provided, That the park commission may designate a portion of the lands conveyed for leasing of cabin sites. The Mountrail County Park Commission shall reimburse the Federal Government for lands so used at the fair market value for such property. If any lands used for public purposes are ever used for any other purpose, title thereto shall revert to, and become the property of, the United States which shall have the right of immediate entry thereof.".

● Mr. MOYNIHAN. Mr. President, the Buffalo Waterfront Village development represents a joint public and private sector effort to create nearly $100 million of new urban investment within an urban renewal area of the city's waterfront adjacent to Lake Erie and the Erie Basin Marina. The 66-acre Waterfront Village site is owned by the city of Buffalo Urban Renewal Agency, and subject to an urban renewal plan adopted October 22, 1963, which was subsequently amended to provide for the Waterfront Village development plan. The urban renewal plan and amendment have been approved by the Department of Housing and Urban Development, and the New York State Division of Housing and Community Renewal.

The public sector financial commitment to the Waterfront Village project amounts to nearly $10 million, funding for which is being provided on a proportionate basis through a Federal grants contract between the Department of Housing and Urban Development and the city of Buffalo Urban Renewal Agency. The public sector funding has been allocated for costs associated with preparing the site for private development including major utilities in the primary roadways.

To date, nearly $15 million of private development has commenced with an additional $5.7 million of public funds allocated for utility installation. Commitments have been received by the Urban Renewal Agency for an additional $52.7 million of private investment. In fact, development projections indicate that by June 1982, nearly $66 million of public and private investment will have occurred within the Waterfront Village redevelopment area.

The provision is necessary to allow this exciting and creative urban development project in the city of Buffalo to proceed immediately. It will remove the cloud of "navigational servitude" whereby the Federal Government can at any time reclaim land once considered to be navigable waters.●

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2724

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Water Resources Development Act of 1976 (Public Law 94-587) is amended as follows: Subsection (b) of section 120 is amended by striking out "and September 30, 1979" and inserting in lieu thereof "September 30, 1979, September 30, 1981, and September 30, 1982.".

ERIE BASIN NONNAVIGABILITY, NEW YORK

SEC. 2. That portion of Lake Erie known as the Erie Basin in the Buffalo Harbor lying within the area described in the Senate Environment and Public Works Committee Print 96-16 is hereby declared to be not a navigable water of the United States within the meaning of the Constitution and laws of the United States, and the consent of Congress is hereby given to the filling in of all or any part thereof or the erection of permanent structures thereon.

TRENT RIVER, NORTH CAROLINA

SEC. 3. Those portions of the Trent River in the city of New Bern, county of Craven, State of North Carolina, bounded and described in Committee Print Numbered 95-56 of the Committee on Public Works and Transportation of the House of Representatives are hereby declared to be nonnavigable waters of the United States within the meaning of the laws of the United States.

CONCHAS LAKE, NEW MEXICO

SEC. 4. (a) The Secretary of the Army, acting through the Chief of Engineers, is prohibited from determining the forty-five-acre cabin site in the south recreation area at Conchas Lake, New Mexico, to be in excess of project needs prior to 1996, unless such a determination is agreed to by the Governor of the State of New Mexico or his designee.

(b) The Secretary of the Army, acting through the Chief of Engineers, shall not require the removal or sale and purchase of existing cabins, cottages, or other privately owned improvements located on the site referred to in subsection (a) of this section prior to 1996, unless agreed to by the Governor of the State of New Mexico or his designee. Existing and prospective lease arrangements shall reflect the requirements of this section.

ALBUQUERQUE, NEW MEXICO

SEC. 5. Any Federal project submitted for authorization for construction of new levees or modification of existing levees for the control of floods within the Rio Grande from Bernalillo, New Mexico, to Belen, New Mexico, shall not require raising or modification of existing bridge structures within the project area to pass river flows in excess of that the bridges can now accommodate and estimated to be 42,000 cubic feet per second.

MOUNTRAIL COUNTY, NORTH DAKOTA

SEC. 6. Section 44(b) of the Water Resources Development Act of 1974 (Public Law 93-251; 88 Stat. 12) is amended by striking paragraph (2) and inserting in lieu thereof the following:

"(2) The lands conveyed pursuant to this section shall be used by the Mountrail County Park Commission, Mountrail, North Dakota, for public work and recreation purposes: *Provided*, That the park commission may designate a portion of the lands conveyed for leasing of cabin sites. The Mountrail County Park Commission shall reimburse the Federal Government for lands so used at the fair market value for such property. If any lands used for public purposes are ever used for any other purpose, title thereto shall revert to, and become the property of, the United States which shall have the right of immediate entry thereof.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for not to exceed 1 minute to consider the nominations on the Executive Calendar beginning with the U.S. Army on page 7, going through U.S. Army on page 8, and going through page 9, nominations placed on the Secretary's desk in the Air Force, Army, Navy, and Marine Corps.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, once again the purpose of the reservation is to provide an opportunity to advise the majority leader that all of the items identified by him just now on our Executive Calendar are cleared. We have no objection to their consideration and confirmation.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

The assistant legislative clerk proceeded to read nominations on the Executive Calendar.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader, and I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

U.S. ARMY

Maj. Gen. James Mason Thompson, to be lieutenant general.

Maj. Gen. William Joseph Hilsman, to be lieutenant general.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, NAVY AND MARINE CORPS

Air Force nominations beginning Lewis Aaronson, to be lieutenant colonel, and ending John H. Whiting, to be lieutenant colonel.

Air Force nominations beginning Daniel J. Abshire, to be captain, and ending Charles M. Wormington III, to be first lieutenant.

Air Force nominations beginning James H. Addy, to be lieutenant colonel, and ending Ronald C. Szarlan, to be lieutenant colonel.

Army nominations beginning Louis J. Zeleznikar, to be colonel, and ending Alexander H. Von Plinksy, to be second lieutenant.

Army nominations beginning James L. Abrahamson, to be colonel, and ending Maryrose F. Troniar, to be colonel.

Navy nominations beginning Dennis D. Guy, to be ensign, and ending Sarv M. Grover, to be commander.

Navy nominations beginning Jeffrey J. Ahern, to be lieutenant (j.g.), and ending Sharon R. Thomas, to be lieutenant (j.g.).

The nomination of Robert P. Doyle, U.S. Marine Corps, to be second lieutenant.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I move en bloc to reconsider the vote by which the nominees were confirmed en bloc.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order entered earlier, that the Senate stand in recess until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and at 8:15 p.m. the Senate recessed until Tuesday, September 23, 1980, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 22, 1980:

GENERAL ASSEMBLY OF THE UNITED NATIONS

The following-named persons to be Representatives of the United States of America to the 35th session of the General Assembly of the United Nations:

Donald F. McHenry, of Illinois.

William J. vanden Heuvel, of New York.

Jacob K. Javits, U.S. Senator from the State of New York.

Paul E. Tsongas, U.S. Senator from the State of Massachusetts.

Hannah D. Atkins, of Oklahoma.

The following-named persons to be Alternate Representatives of the United States of America to the 35th session of the General Assembly of the United Nations:

Nathan Landow, of Maryland.

Barbara Newsom, of California.

Richard W. Petree, of Virginia.

Joan Edelman Spero, of New York.

H. Carl McCall, of New York.

DEPARTMENT OF STATE

John A. Burroughs, Jr., of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Malawi.

Sally Angela Shelton, of Texas, now Envoy Extraordinary and Minister Plenipotentiary of the United States of America to Saint Lucia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Saint Lucia concurrently with her positions as Ambassador to Barbados, to Grenada and to the Commonwealth of Dominica.

Jack B. Kubisch, of North Carolina, a retired Foreign Service officer, for the rank of Ambassador while serving as U.S. Special Negotiator of a successor agreement or treaty to the current United States-Spanish Treaty of Friendship and Cooperation.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 22, 1980:

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. James Mason Thompson, [redacted], Army of the United States (brigadier general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of Section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. William Joseph Hilsman, [redacted], Army of the United States (brigadier general, U.S. Army).

IN THE AIR FORCE

Air Force nominations beginning Lewis Aaronson, to be lieutenant colonel, and ending John H. Whiting, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 4, 1980.

Air Force nominations beginning Daniel J. Abshire, to be captain, and ending Charles M. Wormington III, to be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 4, 1980.

Air Force nominations beginning James H. Addy, to be lieutenant colonel, and ending Ronald C. Szarlan, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 9, 1980.

IN THE ARMY

Army nominations beginning Louis J. Zeleznikar, to be colonel, and ending Alexander H. Von Plinsky, to be second lieutenant, which nominations were received by the Senate on August 29, 1980, and appeared in the CONGRESSIONAL RECORD of September 3, 1980.

Army nominations beginning James L. Abrahamson, to be colonel, and ending Maryrose F. Troniar, to be colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 4, 1980.

IN THE NAVY

Navy nominations beginning Dennis D. Guy, to be ensign, and ending Sarv M. Grover, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 4, 1980.

Navy nominations beginning Jeffrey J. Ahern, to be lieutenant (j.g.), and ending Sharon R. Thomas, to be lieutenant (j.g.), which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 4, 1980.

IN THE MARINE CORPS

The following-named Marine Corps enlisted commissioning education program graduate for permanent appointment to the grade of second lieutenant in the U.S. Marine Corps, pursuant to title 10, United States Code, section 5583, subject to the qualifications therefor as provided by law:

Doyle, Robert P.

EXTENSIONS OF REMARKS

INTELLIGENCE IDENTITIES BILL THREATENS THE FIRST AMENDMENT

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 22, 1980

● Mr. WEISS. Mr. Speaker, this week the House is scheduled to consider H.R. 5615, the Intelligence Identities Protection Act. This legislation would prohibit the disclosure of the identity of covert U.S. intelligence agents. Unfortunately, the bill has been so broadly drawn that it now poses grave risks to the first amendment rights of all citizens.

Law professors, civil liberties organizations, newspaper publishers and editorialists, and numerous other interested groups and individuals have expressed serious concern over the constitutionality and the potential abuses of this legislation. The American Civil Liberties Union has prepared an extensive memorandum discussing the constitutional problems with H.R. 5615. I share this document with my colleagues to contribute to an informed debate on this important issue. I am therefore inserting portions of the memorandum into the RECORD.

AMERICAN CIVIL LIBERTIES UNION MEMORANDUM

WASHINGTON OFFICE, *July 31, 1980.*

Re: Agent identities bill S. 2216 as reported by the Senate Intelligence Committee on July 29, 1980.

To: Interested parties.

From: Jerry J. Berman and Morton H. Halperin.

INTRODUCTION AND OVERVIEW

Congress is rushing to enact legislation to criminalize the activities of Philip Agee and the publishers of the Covert Action Information Bulletin who identify and expose CIA agents abroad. However, in their haste, Congress is ignoring or putting aside serious constitutional issues presented by the legislation. Until recently, both the House and Senate intelligence committees had deferred action on "agent identities bills" because of civil liberties objections to provisions of the bill that would criminalize the identification of CIA agents by any person, including the press, even from public sources and nonclassified information. Reports in early July that the home of an American was fired on after he was named as a CIA station chief in Jamaica by the CAIB reignited demands for an agent identity bill and caused many members of Congress to vote for the legislation despite their reservations about its constitutionality. Unless Congress is made aware of the serious "overbreadth" of the legislation, it is almost certain to pass in this Congress.

On July 29th, the Senate Intelligence Committee marked up and reported S. 2216, its version of an "agent identity bill." We use quotations here to point up the fact that the bill does far more than criminalize the exposure of CIA agents serving abroad in circumstances which place their lives in danger. That is the popular understanding of the measure and the reason for its sympathetic reception. However, it must be emphasized that S. 2216 would punish any person who exposed the identity of a CIA agent, CIA informant, or CIA source of operational assistance. Moreover, both the Senate and House bill have been amended to protect FBI agents, informants, and sources in counterintelligence and counterterrorism investigations and activities in the United States. In other words, the bill would not only punish a person who identifies the CIA station chief in Angola, but also punish one who identifies an FBI informant in the Communist Party, U.S.A., in New York or King Hussein of Jordan, a source of operational assistance to the CIA. Moreover, the legislation is not limited to circumstances in which CIA agents, or sources would reasonably be in danger. Using legitimate concern over the murder of Richard Welsh in Athens and the attack on the home of the American in Jamaica, the CIA is pressing a far broader "source protection bill" which may seriously inhibit public debate on intelligence issues.

Section 501 (a) and (b) of S. 2216 would make it a crime for a present or former government official who learned the identity of CIA or FBI agents or sources through access to classified information to knowingly reveal that identity to an unauthorized person. These sections, which have identical counterparts in the House version, H.R. 5615, raise no serious objections. The government has a right to protect classified information and to place special obligations on government officials entrusted with classified information.

The problem with S. 2216 is that section 501 (c) would punish any person who: In the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States, discloses any information that identifies an individual as a covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such individual and that the United States is taking affirmative measures to conceal such individual's classified intelligence relationship to the United States.

It is this section which raises serious civil liberties concerns. Clearly, the section would punish the press for publishing certain information which reveals the identity of CIA or FBI agents or informants. Because it would penalize any person, including the press, for publishing or revealing identities from "any" and not just "classified" information, the statute is subject to serious challenge as overbroad and unconstitutional. Finally, because the definition of "covert agent" is so broad, the statute will have a considerable adverse impact on public debate. For these reasons, spelled out more fully below, the ACLU, press witnesses such as Floyd Abrams and Ford Rowan, and the Justice Department have objected to various versions of the agents identity bill which attempt to reach the private sector.

A. Section 501(c) punishes publication by the press

The freedom of the press includes the right to gather and report the news even if the news is from classified sources. *New York Times Co.* v. *United States*, 403 U.S. 713 (1971). Section 501(c) would prohibit the press from publishing the identity of CIA and FBI agents or informants if it was "in the course of a pattern of activities intended to identify and expose covert agents" with "reason to believe" that "such activities would impair or impede the foreign intelligence activities of the United States. An investigative reporter might engage in exactly such a "pattern of activities" to report CIA involvement in a foreign country or to show FBI investigative abuses in its efforts to locate a group such as the Weather Underground (a counterintelligence, counterterrorism investigation). The very existence of this legislation and the statements of the Administration would lead a reasonable person to conclude that the revelation of identities would "impair or impede" the intelligence activities of the United States. The fact that the motive or intent of the reporter was to inform the public by exposing CIA involvements or FBI wrongdoing is irrelevant under section 501(c).

Only twice in our history has Congress legislated a prohibition on the right of the press to publish classified information: a narrow prohibition on publishing codes, 18 U.S.C. §798 and highly sensitive atomic energy information, 42 U.S.C. §2274. Both involve highly technical information which minimally restrict the flow of news. When broader categories of information have been involved, such as when congress considered and enacted the current espionage laws, the press and publication were excluded from the reach of the statutes. See Edgar and Schmidt, The Espionage Statutes and the Publication of Defense Information, 73 Col. L. Rev. 930-1087 (1973).

Clearly, names of agents are often crucial to the meaning of a news story. Consider the Washington Post story that the head of the government of Jordon was in the employ of the CIA, or consider an investigative reporter who seeks to determine if the Watergate burglars have CIA connections. He discovers that several of them do and that one is a CIA agent and his story includes their names. As Floyd Abrams pointed out in his testimony on the bill, the New York Times could have been prosecuted for publishing the fact that Francis Gary Powers was the pilot of the U-2 spy plane. All of these examples would run afoul of the statute. Even if the revelation was a single story, it is not clear that the act of investigating the story and preparing to publish it are insufficient to meet the government's concept of "pattern of activities." Repeatedly during markup it was made clear that pattern does not mean a pattern of disclosures but simply a pattern of acts with a purpose to disclose. The statute is not meant to give a person an opportunity to identify one agent without risk of prosecution unless he or she names others.

B. Section 501(c) is overbroad and unconstitutional because it would punish any person or the press for publishing the identity of an agent or source derived wholly from public, nonclassified sources

Aside from the policy questions involved in Congress punishing publication or communication of classified information which reveals the identity of an agent or intelligence source, section 501(c) goes further by prohibiting publication of an identity even if the person or reporter derived the identity or identities wholly from public sources. Designed to reach Louis Wolfe of the Covert Action Information Bulletin, who claims to gain all of his information about CIA agents from public, non-classified sources, the section is overbroad, and unconstitutional. For example, a scholar doing a study of American policy in Asian countries seeks to learn about the CIA's role there and for that purpose analyzes documents which reveal the identities of CIA agents. He writes an article or book in which he reveals the name of a foreigner who cooperated with the CIA. Both he and the publisher of his book could be indicted for revealing the identity.

In testimony before the House Intelligence Committee, Deputy Assistant Attorney General Robert L. Keuch, speaking for the Justice Department, accurately and succinctly summed up the decisions of the courts on this question. These decisions hold that no one can be convicted of espionage or of compromising information relating to the national defense: "if the information was made available to the public, or if the government did not attempt to restrict its dissemination or if the information was available to everyone from lawfully accessible sources." The case directly on point is the widely quoted opinion of Judge Learned Hand in *U.S.* v. *Heine,* 151 F. 2d 813 (1945). Heine engaged in an activity very similar to that which appears to have given rise to section 501(c) of S. 2216. In the words of Judge Hand: "The information which Heine collected was from various sources: ordinary magazines, books and newspapers; technical catalogues, handbooks and journals; . . . This material he condensed and arranged in his reports . . . All this information came from sources that were lawfully accessible to anyone who was willing to take the pains to find, sift, and collate it. Judge Hand went on to note that the Supreme Court had held in *U.S.* v. *Gorin,* 312 U.S. 19 at 28 (1941) that: it is obviously lawful to transmit any information . . . which the services had themselves made public." Judge Hand noted that there can be no possible basis for distinguishing information which has never been classified and hence it "certainly cannot be unlawful to spread such information within the United States." Id.

C. The definition of covert agent sweeps too broadly

Originally, the agent identity bill was intended to punish persons who identified CIA employees abroad in circumstances which put their lives in jeopardy. See, S. 2525, the "National Intelligence Reorganization and Reform Act of 1978", Feb. 9, 1978. Today's bill is a source protection bill for the CIA and, the FBI.

Section 506(4) defines a covert agent to mean "an officer or employee of an intelligence agency, or a member of the Armed Forces assigned to duty with an intelligence agency whose identity as such an officer employee or member is classified information and who is serving outside the United States or has within the last 5 years served outside the United States. . . ." The section also covers U.S. citizens who acted outside the United States as informants or sources of operational assistance to the CIA. This definition is responsive to the danger Congress set out to rectify.

However, section 506(4) goes much further: It includes any foreigner who resides either inside or outside the United States who is a "present or former agent of, or a present or former informant or source of operational assistance to an intelligence agency." Regardless of the merits of their need for protection, the breadth of the definition could inhibit serious discussion of any U.S. covert operation or clandestine activity in a foreign country. For example, John Stockwell could not have written "In Search of Enemies" about Angola even though it did not identify U.S. agents because it identified sources of operational assistance to the CIA in Angola.

Equally if not more troubling, the definition of covert agent now includes any person "who is at the time of the disclosure acting as an agent of, or informant to, the foreign counterintelligence or foreign counterterrorism components of the Federal Bureau of Investigation." While Director William Webster requested coverage for his agents, this recent amendment probably goes much further than his request. It not only covers FBI agents but it covers informants and sources as well. It not only covers FBI agents working abroad but also those working in the United States. Because of its breadth, reporters might run afoul of the statute for reporting on FBI investigations of citizens in the United States who may be targeted by the Bureau under its counterintelligence or counterterrorism authority. In the past, FBI counterintelligence investigations included the investigation of Martin Luther King, Jr., the Communist Party, USA, the Socialist Workers Party, the antiwar movement (to discover foreign connections), and a source of other investigations. Today counterintelligence and counterterrorism investigations are more closely focused on groups suspected of acting for or on behalf of a foreign power but current guidelines are subject to change with the stroke of a pen. In effect the statute could inhibit reporting as well as citizens' efforts to determine whether their own group is infiltrated by FBI agents or informants. (It should be noted that under current guidelines, infiltration and informant coverage is not limited to groups suspected of criminal activity and can include wholly lawful groups if necessary in the view of the FBI to monitor or uncover foreign dominated groups or persons.)

The rationale for this broad coverage under the agents protection bill has not been put forward by the Administration. There is no record of former agents naming FBI agents or a group exposing these agents and placing their lives in jeopardy either in the United States or abroad. Moreover, there is no showing that traditional law enforcement means are ineffective in providing protection for FBI agents and informants even if groups are dedicated to exposing them in the United States. Unlike CIA agents abroad, they are not serving in a hostile country beyond the control of our own law enforcement agencies to protect.

D. Conclusion

This memorandum was meant to highlight some of the central problems presented by the agents indentities bill as reported by the intelligence committees. We hope it has demonstrated that the bill requires further scrutiny and amendment by Congress.●

VOICE OF DEMOCRACY SCHOLARSHIP WINNER

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, September 22, 1980

● Mr. MOFFETT. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its ladies auxilary conduct a Voice of Democracy contest in which more than 250,000 high school students compete for national, State, and local scholarships totaling $575,000. This year's theme was "My Role in America's Future."

The Connecticut State winner this year was 17-year-old Elizabeth Sweeny of New Milford. I would like to share with my colleagues Liza's outstanding speech:

America is growing and so am I. America is learning and so am I. America is changing and so will I. I must do these things because my forefathers, the workers, the voters, and the soldiers gave this country its independence and greatness. My duty stems from these men. I must support my country to the best of my ability.

So I take my place as a learner. Because my country has a policy of freedom of thought and speech, I have endless opportunities to advance myself through education, books and varied cultures. This policy allows me to develop my own opinions and find out what is really going on in this world. In today's society this is important because every citizen has a role in the workings of this country. He or she must be able to make the correct decision before placing a hand on the voting machine. I must learn to be responsible for the views I support, the people who depend on me, and the decisions I make for my country.

It is my duty to my country and to myself to adopt a role in society which will make me as complete a person as possible. Included in the process of becoming a complete person, I must leave room to grow. America is constantly changing, progressing and embracing new ideas. I must grow in order to keep up with the changes we all make from day to day. The future of our world depends on growth and change, my part of this change and growth is very small, but united with my neighbors, family and country, I am an important part of this change and growth. It is my duty and my role to uphold this expansion and promote it every day in any way possible.

I can and will promote change and progress after I have learned about my country through service in my community and participation in society as an active supporter of the work ethic. America's greatness stems from every person in it, working, participating and helping makes me a person. Every person leaves a footprint in the sands of time, my footprint will be that of an ordinary person, who, like all people are made extraordinary by the experience of being an American. Here is my role; I will be an American. This is a privilege and carries with it certain responsibilities. These responsibilities include helping and understanding my neighbors and those I will encounter every day. These people will represent the whole world because America is the melting pot of nations. We embrace all peoples. In my dealings with people on a day to day basis, I must uphold the policies my country extends to their native countries, one of friendship and acceptance for what and who they are. It is not my role to change unless change is needed. It is my duty to understand and accept. It is my right to ask to be understood and accepted, because America means equality for all. My role in American society is to be an equal among equals. We have no kings. We have had great leaders to guide us to our position of racial and religious freedom, and of that as a world power. We will need great leaders in the future. We also need the great people behind them; the people who chose them, the backbone of this country, housewives, executives, people from all walks of life, from whom these great leaders draw strength and support. These are the people like myself who will never address thousands from a podium or bandwagon but whose voice counts. We all have a hand in the working of this country. It is not necessary to achieve wealth, power and fame, being an American, a citizen, a doer, brings as many rewards and fulfillments. Here is my role. I am an American.●

WELCOME TO JONATHAN FREDERICK BARBEE

HON. JOE WYATT, JR.

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 22, 1980

● Mr. WYATT. Mr. Speaker, I rise today on this most happy occasion to let you and my colleagues here in the House of Representatives know that we have a new citizen. Jonathan Frederick Barbee was born today in El Campo, Tex. Jonathan, the son of Chris and Carol Barbee, was born at 9 o'clock this Monday morning, September 22, 1980.

I want to welcome Jonathan to Texas, and on behalf of the rest of the Texas delegation and the entire Congress, express my sincerest congratulations to the parents; and to Jonathan express my sincerest best wishes on beginning a new adventure in one of the best spots in the whole world. It is not every child who has the good fortune to have parents such as yours, and to live in such a fine community as El Campo, Tex. With a beginning like that I know there will be great things to come from him.●

TRIBUTE TO GERTRUDE L. POE

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 22, 1980

● Mrs. SPELLMAN. Mr. Speaker, poet Ralph Waldo Emerson wrote that "an institution is the lengthened shadow of one man." Had he known Gertrude Poe he would have added the words "or one woman." For Miss Poe, although slight of build, has for more than four decades cast an imposing shadow over my own community of Laurel, Md., and one of its institutions.

The institution is our town newspaper, the Laurel News Leader. Throughout her 41-year association with the paper, Gertrude L. Poe was more than its editor and its publisher—she was its guiding force and spirit. And, as such, she had an unequaled and unique impact on both the newspaper and the community it serves.

A slim, trim, magnificently groomed, exquisitely dressed, useful woman, Gertrude belies the fact of a 41-year career. Her charm, her wit, and her ever-pleasant demeanor have earned her the love of countless friends while her competence in her profession is recognized by the entire community of the fourth estate.

Oddly, initially she had no desire to be a journalist. She took over as editor of what was then an 8-page tabloid in 1939, at the request of the paper's owner, G. Bowie McCeney. Fresh out of law school, she had hoped to join Mr. McCeney's law firm, not edit his newspaper.

But, fortunately for all of us, Miss Poe quickly found things she liked about journalism. In the end, she shepherded Mr. McCeney's newspaper through 2,132 weekly editions. And it flourished under her stewardship.

Originally called the Laurel Leader, the newspaper became the chief recorder of events in and around Laurel. It grew in size and, more importantly, in staff. Miss Poe no longer had to be editor, reporter, seller of ads, all wrapped up into one.

In 1946, the tabloid Leader became full size. It merged with the Bowie Register and College Park News to become the Laurel News Leader. And, somewhere along the way, it became financially sound. That development, together with Miss Poe's leadership, insured its survival to the present day.

Through it all, Gertrude Poe's steady hand at the helm guided its growth. Her standards were high; her integrity unquestioned. Through a period of vast changes in attitudes and lifestyles, hers was a thoughtful voice of reason and stability. Through years when the role of journalism itself underwent revolutionary changes, she never lost sight of her basic objective: to chronicle, as she put it, "Laurel's saga" over time.

I've heard it said that a newspaper is "the first rough draft of history." And that is exactly what the News Leader has been under Gertrude L. Poe, the first rough draft of Laurel's history for 41 years.

Of course, Miss Poe was not afraid to prod when she thought prodding was necessary. The city took her advice on more than one occasion and is better off today for having done so. She was a consummate journalist, tempered with concern and love for her neighbors.

Mr. Speaker, in June of this year, Gertrude Poe decided to step down as editor and publisher of the News Leader. She relinquished control to a team which, from all indications, will continue to provide a journalistic product in keeping with the standards she set for more than four decades. That she is missed—greatly—by the many readers of the News Leader and others in the community, goes without saying. Certainly, we are all pleased that she now has the chance to enjoy life at a quieter pace. And we know that new projects and new challenges will occupy her in retirement. But we cannot help a touch of sadness at the thought that the woman who has been called Maryland's first lady of journalism no longer edits what we think of as our newspaper.

In characteristic manner, Gertrude Poe, in a farewell column, credited others more than herself for the News Leader's success. She praised the paper's staff, its advertisers, its readers, and it supporters and thanked them all for helping her put the News Leader together each week for 41 years.

Tomorrow, Mr. Speaker, many of Gertrude Poe's friends and admirers will have the chance to return that praise when we gather in Baltimore to pay tribute to Miss Poe's own contribution and unmatched efforts over those same 41 years. I will be proud to be among those helping to chronicle the career of Laurel's own chronicler at that affair. And I will be most honored to be among those paying high tribute to one whose imprint on the community of Laurel has been so significant.

Mr. Speaker, I know my colleagues will want to join in acknowledging the many fine achievements of Gertrude L. Poe. I know, too, they will want to wish Miss Poe happiness and good health in all her future years. And most of all, Mr. Speaker, I know my colleagues will want to join in offering heartfelt thanks and sincere appreciation to Gertrude Poe for her years of dedication and commitment. The News Leader is truly an institution, and Gertrude L. Poe, its beloved editor and guiding spirit, will long cast a lengthened shadow.●

CONGRESSIONAL RURAL CAUCUS LAUDS RURAL DEVELOPMENT POLICY ACT OF 1980 EFFORTS BY SMALL CITIES, TOWNS, AND RURAL AREAS

HON. WES WATKINS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 22, 1980

● Mr. WATKINS. Mr. Speaker, on September 15 and 16, 1980, the House and Senate, respectively, passed H.R. 3580, the Rural Development Policy Act of 1980, which provides for the establishment and coordination of a comprehensive nationwide rural development policy, and the authorization of appropriations for title V of the Rural Development Act of 1972, and for other purposes.

This measure will be signed into law by President Carter in the near future and the President will address the importance of the act as a major step in implementation of the Carter administration small community and rural development policy statement of December 1979, the Rural Development Act of 1972, and the newly authorized Under Secretary of Agriculture for Small Community and Rural Development.

As chairman of the CRC and its advisory team, I reaffirm our continued cooperation with the President, executive branch, Congress, and the private and public sector to insure positive and effective implementation of these policies, programs, and strategies.

I commend the majority and minority congressional leadership for its bipartisan efforts which resulted in this legislation which has consensus among many Federal, State, and local small community, towns, and rural area advocates.

The CRC and CRCAT have encouraged rural development and small farm research and extension under the title V provisions. Concern has also been expressed to eliminate unnecessary reports and to avoid duplication of efforts and bureaucracy.

Additional authorization for rural development planning grants, use of the circuit rider program to help small communities, and the establishment of a system to provide information and technical assistance at the local level are an integral part of this effort.

Those of us who have labored diligently in this legislative effort know too well that support and coordination remain key factors in the realization of an effective national rural development policy and strategy which must be backed up by a realistic process and strategy.

Fairness and equity in the allocation and distribution of programs, services, and funds are essential to insure accessibility to and delivery of private and public financial resources and to maintain and create jobs in small cities, towns, and rural areas, both in the farm and nonfarm sectors.

Mr. Speaker, let me again assure you that the Congressional Rural Caucus and its advisory team will continue our joint efforts to improve the economic and social well-being of the residents of our small cities, towns, and rural areas.

Thank you.●

CONGRESSIONAL FLYING CLUB

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 22, 1980

● Mr. CLAUSEN. Mr. Speaker, tonight in room 121, Cannon House Office Building, the Congressional Flying Club is starting a 6-week ground school. The classes will be held each Tuesday and Thursday evening from 6 to 8:30. The Congressional Flying Club is pleased to advance the education of Members and staff in aviation matters.

Last year the ground school was a big success and we are looking forward to having many more aviation enthusiasts attend this year.

The distinguished Senator from Utah, Senator Jake Garn, is the vice president of the flying club and I have the pleasure of being president. We invite everyone interested in aviation, pilots and nonpilots alike, to attend the classes each Tuesday and Thursday evening.●

FACTS ABOUT PACIFIC NORTHWEST POWER BILL

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 22, 1980

● Mr. DINGELL. Mr. Speaker, last week Congressman Swift, on behalf of Chairmen Staggers, Udall, and myself and the following other cosponsors, introduced H.R. 8157: Mr. Brown of Ohio, Mr. Clausen, Mr. Kazen, Mr. Lujan, Mr. Sharp, Mr. Symms, Mr. Ullman, Mr. Foley, Mr. Pritchard, Mr. McCormack, Mr. Duncan of Oregon, Mr. Bonker, and Mr. Dicks.

H.R., 8157 is a compromise version of S. 885 as reported by the Commerce and Interior Committees.

To help my colleagues understand this important bill, the following is a summary of it:

Principal Facts about H.R. 8157—The Pacific Northwest Electric Power Planning and Conservation Act

I. PLANNING COUNCIL—SECTION 4(a)-(c)

1. State council

(a) Permanent 8 member State Council established pursuant to agreement between Idaho, Washington, Oregon, and Montana to which Congress consents. Agreement triggered by State appointment of 6 members to Council under State law.

(b) Each State has 2 members on Council.

(c) States have until June 30, 1981 to appoint at least 6 members, but by request of 2 Governors, this time will be extended an additional 6 months.

(d) Members appointed for 3 year terms, except initially one member from each State will have two year terms.

(e) Chairman selected by Council members from among themselves.

(f) Members and staff are not Federal employees.

(g) Certain Federal laws (in addition to H.R. 8157) that are applicable to Bonneville Power Administration (BPA) are intended to apply to Council. These relate to contracts, conflicts-of-interests, financial disclosure of members and staff, open meetings, advisory committees, disclosure of information (e.g., Federal Advisory Committee Act, Freedom of Information Act, Ethics in Government Act, Sunshine Act).

2. Backup Federal council

If State Council not formed within above time (June 30, 1981, plus 6 months), or if Council or any substantial function held unlawful by final Federal court determination, or if the conservation plan or fish and wildlife plan held ineffective by such court by reason of establishment of Council, Federal Council is established.

(a) 8 members appointed by Secretary of Energy (2 per State) from list provided by each Governor.

(b) Chairman selected by members. Members and staff are Federal employees.

(c) Council permanent, unless at any time one year after plan and program adopted finally at least three Governors jointly request termination. DOE Secretary will terminate 90 days after request.

(d) If Council terminated, fish and wildlife functions of Council continue to be carried out jointly by Secretary of Interior, BPA, and Administrator of National Marine Fisheries Service.

(e) Upon termination all other Council functions terminate, but BPA may not implement proposal to acquire major generating resource or grant billing credits for such resource until expenditure of funds is authorized by Congress. A major generating resource must have planned capability of over 50 average megawatts.

II. REGIONAL CONSERVATION AND ELECTRIC POWER PLAN—SECTION 4(d)-(g)

(a) Council has 2 years after establishment to prepare plan for region. The region is Oregon, Washington, Idaho, part of Montana, and those parts of Nevada, Utah, and Wyoming in the Columbia River drainage basin.

(b) Requires public hearings.

(c) Once plan adopted, all BPA actions must be consistent with plan, except as otherwise provided.

(d) Sets forth criteria for plan with priority to conservation and renewable resources, but other resources are not excluded.

(e) Must include demand forecast of at least 20 years and forecast of needed power resources, as well as model conservation standards.

(f) Council can recommend surcharge on BPA customers if customers fail to implement conservation measures that achieve energy savings comparable to those to be obtained under model standards.

III. FISH AND WILDLIFE PROGRAM—SECTION 4(h)

(a) Council must adopt program to protect, mitigate, and enhance fish and wildlife. Program becomes part of above plan.

(b) Applies solely to fish and wildlife on the Columbia River and its tributaries. Nothing shall alter, modify, or affect in any way the laws applicable to rivers or river systems, including electric power facilities related thereto, other than the Columbia River and its tributaries, or affect the rights and obligations of any agency, entity, or person under such laws.

(c) Council solicits recommendations from Federal, and the region's State, fish and wildlife agencies, Indian tribes, and others. They have 90 days to respond, but this time can be extended. Provision for public comment and hearings.

(d) Sets forth criteria and principles for program. Council determines if recommendations are consistent with purposes.

(e) Council to adopt program within 1 year after time established for receipt of recommendations.

(f) BPA to use its revolving fund and authorities to protect, mitigate, and enhance fish and wildlife affected by hydro projects of Columbia River and tributaries. Expenditures from fund made in accordance with requirements of Columbia River Transmission System Act under which the revolving fund was established.

IV. SALE OF POWER—SECTION 5

(a) All power sales, including exchange sales, are subject at all times to the preference provisions of the Bonneville Project Act. They retain and assure preference and priority in BPA power sales to public bodies and cooperatives.

(b) Requires BPA to offer to sell to each preference agency and to each investor-owned utility (IOU) the firm power it needs to meet its firm power load within the region to the extent that it cannot do so with its own resources.

(c) Reaffirms 5-year pullback provisions of Bonneville Project Act.

(d) Authorizes BPA to sell electric power to Federal agencies in region.

(e) BPA to include in contracts for the sale of power of utilities provisions permitting restriction of obligations to meet such customers' full requirements during any period of insufficiency. In the case of public bodies, cooperatives and Federal agencies, the contract must specify a reasonable period between the date the notice is issued and the date it is to take effect.

(f) Permits power exchange and power sales whereby rate relief will be provided residential customers of investor-owned utilities. Benefits of exchange must be passed directly through to residential customers.

(g) Authorizes BPA to sell power to existing direct service industrial (DSI) customers that have a BPA contract at the date this bill is enacted. Initial long-term 20-year contracts are to be offered by BPA to these customers. In return for these new contracts, the DSI's would have to agree to terminate their current contracts.

(h) Prohibits sale to new DSI's. Prohibits BPA from selling to existing DSI's amounts of power in addition to their entitlement except in accordance with strict procedures. These procedures require the BPA and Council to determine that such sales are consistent with the plan.

V. RESOURCE ACQUISITION—SECTION 6

(a) Requires BPA to acquire conservation, conservation measures and renewable resources installed by residential and small commercial consumers in meeting his obligations to satisfy the load of his customers. These measures and resources must be consistent with the priority tests of section 4(e)(1) and the considerations of section 4(e)(2). The Administrator need not await a plan to utilize this authority. He must, however, apply these section 4(e) provisions to the proposed acquisition.

(b) BPA must also acquire other resources consistent with the plan, except as otherwise permitted. These include major generating resources.

(c) BPA can acquire non-major resources that are inconsistent with plan, but consistent with section 4(e) (1) and (2).

(d) If no plan in effect, BPA may acquire resources consistent with section 4(e) (1) and (2).

(e) BPA not to reduce efforts to achieve conservation and acquire renewable resources.

(f) Establishes detailed procedures preliminary to any acquisition of major resources, including public hearings. For each such proposal the BPA must (A) publish notice, with copies to the Council and, as appropriate, the Governor of a State where a facility is to be constructed or a conservation measure implemented; (B) conduct public hearings; (C) develop an administrative record; and (D) prepare a written discussion, including a determination of whether the proposed acquisition is consistent with the plan, or notwithstanding its inconsistency with the plan, a finding that it is needed to meet the Administrator's obligation under this Act. If no plan is in effect, then the BPA must find that the proposal is either consistent or inconsistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2).

If either the BPA or the Council determines that the proposal is not consistent, the Administrator may not proceed until the expenditure of funds for the proposal has been specifically authorized by an Act of Congress. After that, he must wait 90 days. All acquisitions must comply with all applicable environmental laws, as well as other applicable laws.

(g) In acquiring a resource under this section, the BPA will not own or construct any generating resources. The BPA's acquisition will be by contract to pay for the capability or, in some cases, a specific amount of power from a utility's system or power associated with a generating resource or conservation resource or group of resources.

(h) Authorizes BPA to grant billing credits to customers and provide services if, by undertaking independent conservation or resource programs, they reduce the obligation to acquire resources.

(i) Requires BPA to include in BPA contracts enforceable terms and conditions which will allow it to exercise effective oversight for all resources it acquires, including conservation activities for which it provides billing credits.

(j) Makes it explicit that the Act does not authorize any form of "Federal guarantee" for bonds sold to finance resources acquired by BPA. All contractual and other obligations required of BPA under the Act are secured solely by Bonneville's revenues. The full force and credit of the United States is not pledged. In addition, all offerings and promotional material for resources acquired by BPA under this Act must specifically state that the obligations were not guaranteed by the Federal government.

(k) Requires that financial assistance, billing credits and other benefits be distributed equitably to each class of customer throughout the region.

VI. RATES—SECTION 7

(a) Requires BPA periodic review of rates to measure that BPA's total costs, are recovered including amortization of the Federal investment.

(b) Establishes the rates for power sold to meet the general requirements of public bodies, cooperatives, and Federal agency customers within the Pacific Northwest, and for sales under the 5(c) exchange. This rate will be BPA's lowest firm power rate. Section 7(b)(2) establishes a "rate ceiling" for preference customers that seeks to assure these customers that their rates will be no higher than they would have been had BPA not been required to participate in power sales or purchase transactions with nonpreference customers under this Act.

(c) Prescribes the rates applicable to DSI's.

(d) Establishes the rate or rates for sales to investor-owned utilities other than sales pursuant to the exchange, authority, preference customers for power needed to meet the requirements of new large single "loads" and all other miscellaneous sales.

(e) Establishes detailed procedures for ratemaking.

(f) Requires BPA to provide information in rate schedules and billings to its customers on the cost of different resource categories and new resources.

(g) Reaffirms that all rates or rate schedules proposed by the Administrator for the sale of non-firm energy outside of the region, but within the United States, shall become effective only after review by the Federal Energy Regulatory Commission for conformance with the requirements of existing law applicable to BPA sales: the Bonneville Project Act, the Flood Control Act of 1944 and the Federal Columbia River Transmission System Act. FERC's review will be based on the BPA record and on any subsequent FERC proceedings. In performing its review, the Commission shall afford any party to the BPA proceedings conducted under section 4(i) an opportunity for an additional hearing, to be conducted in accordance with procedures established by the Commission for ratemaking under the Federal Power Act.

(h) Provides for impact aid payments to local governments regarding BPA transmission facilities. Does not apply to Federal lands.

VII. AMENDMENTS TO EXISTING LAW AND ADMINISTRATIVE PROVISIONS—SECTIONS 8 AND 9

(a) Section 8 makes a number of amendments to the Federal Columbia River Transmission System Act aimed at carrying out other provisions of the bill. These largely relate to the funding and bonding authority of the Act.

(b) Section 8 includes a penalty provision where BPA fails to make timely payments to the Treasury to amortize the Federal investment.

(c) Effective after October 1, 1981, the present bond limitation in the Transmission Act is increased, subject to annual appropriations, by an additional sum of $1,250,000,000.

(d) Preserves, but does not extend the ability of publicly-owned utilities to finance power resources with governmental obligations, the income from which is exempt from Federal taxation as provided in section 103(a)(1) of the Internal Revenue Code.

(e) Provides a limited exemption for the Public Utility Holding Company Act of 1935 by exempting from the definition of "electric utility company" in that Act any company which owns or operates facilities for the generation of electricity generated by such company to be sold directly or indirectly to the Administrator. At least 90 percent of such generation must be sold directly or indirectly to BPA. The Securities and Exchange Commission, with the concurrence of the Administrator, must determine that the organization of such company is consistent with the policies of section 1 (b) and (c) of the Public Utility Holding Company Act of 1935. SEC must supervise provision.

VIII. WATER

It provides that nothing in this Act shall be construed as authorizing the appropriation of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual. Nor shall any provision of this Act or any plan or program adopted pursuant to the Act (1) affect the rights or jurisdictions of the United States, the States, Indian tribes, or other entities over waters of any river or stream or over any groundwater resource, (2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States, or (3) otherwise be construed to alter or establish the respective rights of States, the United States, Indian tribes, or any person with respect to any water or water-related right.●

H.R. 8096—WILD AND SCENIC RIVERS LEGISLATION

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, September 22, 1980

● Mr. MOFFETT. Mr. Speaker, I would like to state for the RECORD my support of H.R. 8096, the Wild and Scenic Rivers Act Amendments of 1980. Specifically, I would like to discuss my amendment which designates a segment of the Farmington River for study for possible inclusion in the National Wild and Scenic Rivers System.

The Farmington River is unique. Although it is located within easy access of the Greater Hartford urban area, it has maintained many of its natural qualities. The State department of environmental protection has designated its waters as class B. The river contributes substantially to the maintenance of a viable fishery through a most ambitious program, the restoration of Atlantic salmon after their absence for over 100 years. In addition, the river is a fishing splendor, with trout, shad, and other species. The healthy variety of fish contributes immeasurably to maintaining superior water quality, aquatic life, and the recreational value of the river.

A number of communities along the river have initiated their own river management plan. But what is still missing—what must be made an important part of the preservation effort—is an inventory of the river's natural resources and recommendations for an overall river management plan. It is only after such a study is completed, with the assistance of local citizens and town leaders, that the Farmington Valley communities can choose the most appropriate plan for the river's management.

There are other favorable benefits that would accrue from enactment of this legislation. First, the bill calls for an examination of the compatibility of low-head hydroelectric power on the Farmington River and the river's inclusion in the National Wild and Scenic Rivers System. I have requested that the compatibilty of the two be studied because the Farmington River has great potential as both a generator of low-head hydroelectric power and for inclusion in the National Rivers System.

There are four dams on the Farmington River, two of which are under serious consideration as sites for the restoration of low-head hydroelectric power by the Canton Conservation Commission. It is unclear at this time when and if hydroelectric generation will actually take place. Such projects always take time. But preserving the scenic beauty and the recreational value of the river need not be incompatible with the development of hydroelectric power. Only minor modifications will be made to existing dams. I have specifically requested that the study of the river take no more than 2 years so we can pinpoint, as soon as possible, those factors which determine the compatibility of the two. For example, what kind of fish ladders need to be used to insure that anadromous fish can travel safely upstream? What is the maximum height for splashboards so that the size of the dam or the flow patterns of the river are not significantly altered? Are there any other effects of low-head hydroelectric generation which might adversely affect the quality of the river?

The second significant clause in the bill states that the river study will not preclude the development of low-head hydroelectric power on the Farmington River at existing impoundments. Under the Rivers Act, the Farmington is protected from any federally licensed or funded program which would adversely affect the river—during the study period by the Department of the Interior and during the congressional study period thereafter. To generate power, the Canton Conservation Commission will need a license from the Federal Energy Regulatory Commission (FERC). But, the license might be delayed because of the river's study designation. I have, however, been in contact with the Park Service, the Canton Conservation Commission, the Farmington Valley Watershed Association, and others. All have indicated to me that the dam modifications should not significantly alter the river's natural resources.

There is another reason why I feel confident in permitting the development of low-head hydroelectric generation on the Farmington River even without the benefit of the river study. Because of the Atlantic salmon restoration program, the State department of environmental protection is closely monitoring the fish passageway plans of the Canton Conservation Commission. The Commission must present a satisfactory fishladder plan to the State before it will permit the Commission to institute hydroelectric generators.

I would like to emphasize the importance of low-head hydroelectric facilities to northwestern Connecticut. New England residents are paying among the highest prices in the Nation for energy. The installation of hydroelectric generators on the Farmington River would help alleviate this area's dependence on imported oil and imported oil prices.

I would like to state, for the record, the tremendous amount of support I have received from residents of Connecticut's Sixth District for a study of the Farmington River. At least seven local and state-wide conservation commissions, over seven planning and zoning commissions, the State council on environmental quality, and many citizens have all urged me to do all that I can to see that the Farmington River is authorized for study in the Wild and Scenic Rivers System and that such a study does not preclude development of low-head hydro on the Farmington River.

Because the residents of the Farmington Valley strongly support the addition of hydroelectric generation and the Canton dams, and because so much planning for it has already taken place, I feel it would be unduly harmful and unnecessary to halt the development of low-head hydro on the river at existing sites. Furthermore, there is ample evidence that the river's integrity would not be harmed.

There is no inherent conflict between river conservation and potential low-head hydroelectric generation. Here is an opportunity for the Congress to enact model legislation preserving the scenic, wild and recreational values of a river while also promoting the development of a clean, safe, renewable energy resource. I urge that the Congress support this legislation.●

UNSELFISH AMERICAN DONATES BLOOD

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 22, 1980

● Mr. CHAPPELL. Mr. Speaker, I would like to call the attention of my colleagues in the House to the efforts of a truly unselfish and very patriotic American—Mr. Eugene Hodges. Mr. Hodges, a member of the VFW Post 1590 and the Shriners, has over the past 21 years donated over 10½ gallons of blood to his fellow man.

For these efforts he has received recognition in the Bai Shrine Temple publication as well as receiving the Legion Citation of Appreciation. It is to such dedicated individuals as Eugene Hodges that many of our fellow citizens owe their lives. We are all dependent on donors when there is a special need or emergency. As you know no substitute for blood has ever been developed; the only source is still the human body. And that is why Mr. Hodges' contribution to mankind is particularly significant and deserves praise.

I am sure the people of my district in Florida take pride that one of our own has given of himself so unselfishly. In fact, his contribution reminds me of this proverb:

> Man is measured by his deeds. As he goes along life's way, it matters not whether he is famous or unknown, possessed of material goods or whether he walks in humble paths. Man's humanity and concern for his fellow man is what accounts for his greatness in the book of life.

Eugene Hodges embodies the true meaning of "giving of oneself to another."●

WORKERS WON SIGNIFICANT VICTORY, BUT "BOTTOM LINE" STILL REMAINS QUESTION MARK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 22, 1980

● Mr. DERWINSKI. Mr. Speaker, the Zgoda is the official publication of the Polish National Alliance of America (PNA), which, by the way, recently commemorated its 100th year of service to the Polish community. The PNA is the largest fraternal ethnic organization in the United States.

In the Zgoda's September 15 edition, the publication commented on the recent workers' strike in Poland in such a manner that most journalists could not express. I insert this commentary and a memorandum which was presented during a meeting between State Department officials and members of the PNA:

Workers Won Significant Victory, But "Bottom Line" Still Remains Question Mark

Gdansk.—The 18-day strike which began August 14 in the huge shipyards here and spread to Szczecin and as far south as the Slask (Silesia) coal mines, came to a peaceful end Saturday, August 30, when the powerful Politburo of the Communist Party ratified an agreement initiated by Vice Premier Mieczyslaw Jagielski and strikers' representative Leszek Walesa.

The Polish workers won something unheard of in the communist monolith of tyranny, namely the right to organize free trade unions and the recognition of their right to strike.

Another crucial demand won by the workers is "respect for freedom of speech, the press and publications", which in reality means wider access for the Catholic Church to the printed and electronic media.

In the United States, President of the United Auto Workers Douglas Frazer disclosed on a nation wide television program, that his and other unions helped the Polish strikers with cash contributions delivered through the International Federations of Metal Workers in Switzerland. The money was earmarked for "food and other assistance."

American Polonia through its Polish American Congress was deeply concerned with the struggle and initiated several moves under President Aloysius A. Mazewski to defuse the potentially dangerous situation and help the Polish nation to overcome its current economic difficulties.

The workers' struggle in Poland is not over. The implementation of all 21 points of agreement by the Communist Government will be the test case.

In American expression, "the bottom line" of the agreement still remains to be written.

According to the United Press International, the Polish Communist government agreed:

To workers' right to form "free, self-governing trade unions" as long as these do not act as political parties or contest the Communist Party's dominance.

To write into law the right to strike. The law also would determine conditions under which strikes are organized and the responsibility for infractions.

To respect freedom of speech, the press and publication.

To free political prisoners and reinstate expelled students to colleges, but it asked the strike committee for a list of names.

To make public complete information about Poland's social-economic situation and let all groups and social classes take part in discussions of the reform program.

To full pay for all workers during the time they were on strike.

To increase salaries up to 1,000 zlotys ($34) a month for all workers earning less than 3,500 zlotys ($116) and give a flat 500-zloty ($16.66) monthly increase to those earning more.

To see to it that Poland's marketplace be fully supplied with food products, only surpluses to be exported.

To stabilize prices, with one price for both state and commercial shops.

To make sure there are no special privileges for Communist Party members in selection of management personnel.

To study, with the new unions, the adequacy of pensions and consider reducing retirement age for physically strenuous professions.

To raise the number of kindergartens for children of working mothers.

To offer maternity leave on a three-year plan, 100 percent of the mother's salary for the first year, 50 percent of the mother's salary for the second year and the same amount with a 2,000-zloty limit for the third year.

Memorandum on Current Condition in Poland

President of the Polish American Congress, Mr. Aloysius A. Mazewski presented the following memorandum:

Developments in Poland—culminating in the current confrontation between the striking workers and the country's Communist dictatorship pose a challenge and a test of the consistency of the United States policy of support for human rights.

The Polish American community expresses its full support and solidarity for the efforts of the Polish workers and people as they seek a greater measure of human rights and freedoms.

The initial reaction of the Department of State in order to avoid or minimize the risk of Soviet intervention was to state that these developments are exclusively an internal matter of Poland. This was interpreted by the Mass Media and many others, especially Poles and Polish Americans, as a lack of understanding and concern, and an abandonment of the United States commitments under the Helsinki accords.

Soviet Union does not need a pretext to intervene militarily. It will—pretext or no pretext—if and when it concludes that the monopoly of Communist power and the cohesiveness of the Warsaw Pact block is being challenged. Polish strikers, as well as opposition groups in Poland, are fully aware of this reality.

Accordingly, no such direct challenge is contained in the demands advanced by striking workers, even though they include abolition of censorship, freedom of speech and establishment of free trade unions, which are all within the perimeters of the Helsinki Act, the International Covenant on Civil and Political Rights, and more so the Constitution of Poland.

Demands formulated by the strike committee are just. Resolution of the economic and political crisis which paralyses Poland requires establishment of conditions leading to full participation of its citizens, especially workers and farmers, in the vital decisions affecting their lives. Such participation and cooperation must be based on free representation and uninhibited debate of problems and their solutions.

We are cognizant of the fact, that the implementation of these just demands, can be achieved through an evolutionary process.

We believe that consistent with our professed policy of support for human rights, within the framework of the Helsinki Declaration, the United States government should urgently:

Express its moral support for the strikers demands for respect of their human rights and dignity;

Denounce possible recurrence of repression and intimidation;

Emphasize that in the interests of current and future international relations and cooperation, peace and stability, the conflict must be resolved by the Polish people and Polish authorities, without any outside physical interference;

Call upon both sides to act with a sense of realism and judicious restraint.

The underlying cause of strikes is the deepening economic crisis, brought about mainly by the inefficient, wasteful and corrupt Communist system of centralised planning and management of the country's economy. To help restore Poland's economic viability we recommend the United States government to offer Poland an extended program of economic assistance. It should be predicated on the Polish government's introduction of remedial, structural reforms, which are prerequisites to its future economic progress.

Accordingly we also urge the United States Government to immediately establish a strong economic assistance program to Poland which would focus upon:

1. The rescheduling of the repayment of Poland's foreign debt.
2. The extension of additional grain credits of at least 675 million dollars for 1980.
3. An emergency food program.
4. Double Poland's fishing quotas in Alaskan waters for 1980.

Such an economic, assistance program is simply a reflection of the moral commitment that is a necessary part of any effective human rights program.

Events in Poland demonstrate the crucial importance of the free flow of information provided by the Radio Free Europe/Radio Liberty and the Voice of America.

In summary, we are confident, that this two-pronged approach by the United States Government: efforts to promote negotiated settlement of Polish workers' demand, and a parallel offer to aid Poland to enable it to overcome the pervasive economic stagnation, will significantly strengthen Poland internally. We firmly believe that this would enhance United States national interests and security, since Poland, traditionally a friend and ally of western democracies, and of the United States particularly, will thus provide a strong element of European stability and peace.

The Polish American Community trusts that our requests will be urgently considered and that it will be informed and consulted concerning their implementation.●

TRIAL OF KIM DAE JUNG

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 22, 1980

● Mr. EDWARDS of California. Mr. Speaker, I want to take this opportunity to insert into the Record the statement by Amnesty International concerning the death sentence recently given Kim Dae Jung by the military court in South Korea.

I share the concern expressed in this news release. By all accounts the trial failed to meet any standards of justice. Even our State Department has referred to the charges against Kim Dae Jung as "farfetched."

The U.S. Government cannot sit aside and continue to conduct a business as usual policy. We cannot continue to blindly hold out security commitment sacred while witnessing the erosion of any progress toward a democratic system. There comes a point when we must carefully weigh our continued security commitment with our support for a government which refuses to recognize the civil and political rights of its citizens. The execution of Kim Dae Jung would certainly signal such a time.

The news release follows:

[Amnesty International News Release]

AMNESTY INTERNATIONAL SAYS TRIAL OF KIM DAE-JUNG AND 23 OTHERS FAILED TO MEET INTERNATIONAL STANDARDS OF FAIRNESS

Amnesty International said today (Wednesday, September 17, 1980) that it was appalled by the death sentence passed by a South Korean military court on opposition leader Kim Dae-Jung after a trial that failed to meet internationally recognized standards of fairness.

The international human rights organization said Kim and 23 co-defendants, who received prison sentences, were not permitted to present a proper defense and there was evidence that they were threatened and ill-treated during pre-trial detention.

Kim was held incommunicado for three months after his arrest on May 17. He later told the court that he had been questioned for up to 15 hours a day in an underground room during the first two months of his detention, sometimes stripped of his clothes. Another defendant, Dr. Lee Moon-Young, told the court he was severely beaten during interrogation.

A number of lawyers who had taken human rights cases in the past were taken into custody by the authorities during this time, and some were forced to promise to give up their practices, according to reports reaching Amnesty International. The result was that the families of Kim and other defendants were unable to retain a lawyer of their choice.

Kim met his government-appointed lawyers for the first time on August 13—the day before the trial began—the reports to Amnesty International said. He and the other defendants were not allowed to call defense witnesses.

Before the trial began, government-controlled news media publicized detailed accusations against the defendants of conspiracy and sedition, presenting as fact charges that had not been heard by any court at that time, and that have still not been heard by any court operating to the minimum requirements for fair trial, Amnesty International said.●

TRIBUTE TO CHINESE RAILROAD WORKERS

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 22, 1980

● Mr. COELHO. Mr. Speaker, upon the completion of the "impossible dream," the western anchor of the Transcontinental Railroad, on May 10, 1869, the Central Pacific Railroad realized that the San Joaquin Valley needed rapid transportation to get their farm crops to the open market. Consequently they decided to build a railway through the valley, from Lathrop south to Los Angeles, running through Fresno.

The Central Pacific brought the Chinese pioneer railroad workers, who had just completed the western leg of the Transcontinental, and who by this time were hailed as "the experts," to work on this project. There were 18 tunnels that had to be blasted through the Tehachapi Mountains; they had already completed 15 tunnels through the Sierra Nevadas for the Transcontinental link.

Leland Stanford, then Governor of the State of California, and a member of the Central Pacific's "Big Four" said:

> Without these loyal and hard working Chinese laborers, the Central Pacific would have never undertaken the job of constructing the western anchor of the Transcontinental Railroad.

On October 10, 1865, Stanford reported to President Andrew Johnson:

> As a class, the Chinese are quiet, peaceable, industrious, patient, and economical. Ready and apt to learn all the different kinds of work required in railroad building, they soon became as efficient as the white laborers.

Construction began on December 31, 1869, at Lathrop and by June of 1872 they had reached Borden Junction, Madera County, then known as Alabama Colony. It was at Borden where more than 2,500 Chinese were stationed. Because the burial of the deceased was of prime importance, the Chinese pioneers immediately acquired the northeast corner of avenue 12 and road 29½ in Madera County for their cemetery. At the request of the Chinese workers themselves, the remains of most of these people have been exhumed and returned to their individual villages for reburial.

Mr. Speaker, on Tuesday, October 14, I will have the privilege to be a guest at a dinner honoring the memory of these Chinese railroad workers. I commemorate these loyal, hard-working, and dedicated Chinese pioneers who did the impossible when they drilled the 15 tunnels through the Sierra Nevadas and the 18 tunnels through the Tehachapis. Not only the third and fourth generation descendants of these pioneers, but all of us should be proud of their accomplishments.●

NATIONAL CYSTIC FIBROSIS WEEK

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 22, 1980

● Mr. FRENZEL. Mr. Speaker, the Nation is observing this week, September 21-27, as National Cystic Fibrosis Week. Cystic fibrosis is an incurable, fatal, inherited disease that primarily attacks the lungs and digestive system. It is the No. 1 genetic killer of children and young people in the United States.

Despite the severity of the disease and its devastating consequences, however, public knowledge about CF remains distressingly low. The primary goal of CF Week, then, is to increase public education about this fatal disease—and, in turn, to increase public support for research, care, and education programs in cystic fibrosis.

So far, these programs have been strikingly successful. For example, 25 years ago few children with CF lived beyond 3 years of age. Today, half of those children born with CF can expect to live into their twenties. Much of the credit for this dramatically improved outlook must go to the Cystic Fibrosis Foundation, a leading voluntary health organization which directs U.S. efforts in cystic fibrosis, and which this year is celebrating its 25th anniversary. But I believe that unless our national research effort continues to grow with a partnership of voluntary organizations like the CF Foundation and Government support through the National Institutes of Health, we will not be able to continue to extend lives and improve health for people with cystic fibrosis or other serious diseases.

Mr. Speaker, this plea is expressed forcefully in the following message by Richard E. Vodra, director of public policy for the CF Foundation, which appeared in the foundation's newsletter Perspective. I urge my colleagues to continue their support of Federal health research.

The article follows:

CF RESEARCH: NOW IS NOT THE TIME TO SLOW DOWN

(By Richard E. Vodra)

Throughout its 25-year history, the Cystic Fibrosis Foundation has been engaged in a race against time, a contest that pits the effort to protect lives against the number one genetic killer of young people in America. It is not a race with a clear finish line. Every year we succeed when the life expectancy of people born with CF is extended. Every day we fail when additional children and young adults die from CF.

Today the Cystic Fibrosis Foundation is faced with new challenges. The economy is moving into a recession and family budgets are being stretched tight by inflation. Congress is trying to balance the Federal budget, cutting back wherever possible. Our job is to continue the momentum of CF research, even in the face of these discouraging developments.

The record of progress is promising.

Data from the new Patient Registry of CF Centers show that the life expectancy of people born today with CF is now 21 years, a figure important in both human and symbolic terms.

Major research efforts are under way to find a genetic marker for CF and to understand the basic genetic problem that causes the disease. Scientists in Europe and North America, many with CFF support, have reported positive findings from a number of different approaches. All of these findings are very preliminary, and the results need to be confirmed by other scientists and standardized before they could be put into use, but there is more cause for optimism than ever before.

Research into the process of secretion is developing new information about the mechanics of excess mucus production in CF. While this is still very basic research, it could lead to better means to control this important aspect of CF.

Immunology, the study of the body's defenses against infection, is a rapidly-growing area of CF research. Scientists are developing a better understanding of why *pseudomonas* infections are so common, and so hard to combat, in CF. This understanding could lead to new strategies to treat the infections that are the most serious of CF's effects on the body.

In terms of effort and support, the last few years have shown a great acceleration in CF research. In 1977, the Cystic Fibrosis Foundation was funding slightly more than $1 million in research, while the Federal government, through the National Institutes of Health, funded grants, contracts, and other research into CF totalling about $4.6 million.

These figures have grown significantly. The current research budget of the CFF has reached $2.5 million, and it now includes innovative programs to attract new investigators and to provide money for feasibility studies. At NIH, CF research now exceeds $11 million for the current fiscal year, according to data provided to the Congress, with important research in six different Institutes and divisions. More scientists are investigating more research leads than ever before.

These researchers need continued, and growing, support. We must continue to expand our Foundation's resources so that no worthwhile project is turned down for lack of funds. We must continue to urge Congress to consider health research a priority, even in a time of restraint, because people's lives are at stake.

The CF research team includes more than just the scientists. It includes Senators and [fund-raising] Chairmen, Representatives and Bowl-for-Breath coordinators—all of us. Only if everyone does more than their fair share will we have a chance of saving the lives of the thousands of young people with cystic fibrosis. Our response to the new challenges of the 80's will determine whether we are worthy of those we serve.●

TRIBUTE TO DAN THOMAS

HON. LYLE WILLIAMS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 22, 1980

● Mr. WILLIAMS of Ohio. Mr. Speaker, I rise today to pay tribute to one of the great labor leaders of the Mahoning Valley, Dan Thomas.

Dan was born on June 8, 1915, in Blue Island, Ill., but his family moved to Youngstown shortly thereafter.

His long association with the steel industry began in 1935 when Dan went to work for the Youngstown Sheet & Tube Co. In 1936, he was one of the original organizers of the Steelworkers Organizing Committee. Because of his activity on behalf of his fellow workers, Dan was fired from his job in 1937. It was not until 1940 that he was reinstated with back pay by the NLRB.

In 1942, Dan Thomas became a vice president and the first grievance committee chairman of USW Local 1462. From 1945 through 1960 his coworkers honored him with the presidency of that same local USW Local 1462.

In 1960, Dan Thomas joined the staff of the United Steelworkers District 26. For the past 10 years he has served as the subdistrict director in Warren, Ohio.

Dan has been married for 41 years to the former Bess Mays. He is the proud father of three—Danny Jr., Esther, and Rebecca—as well as being the grandfather of four.

As a proud man and great union leader, Dan Thomas fought to keep the Communists out of the trade union movement, fought for the civil rights of all people and organized the Youngstown-Warren area for the betterment of his fellow workers.

On this, the occasion of Dan's retirement, I would like to take this opportunity to pay tribute to Dan Thomas. His ceaseless efforts on behalf of steelmakers brought dignity and security to the working people of the Mahoning Valley. He is a great man to whom we all owe a debt and I just want to add thank you, Dan Thomas.●

THE INTELLIGENCE IDENTITIES PROTECTION ACT

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, September 22, 1980

● Mr. MOFFETT. Mr. Speaker, I would like to briefly discuss H.R. 5615, the so-called Intelligence Identities Protection Act, which the House will consider this week.

Although the title of the bill implies that it only seeks to protect the irresponsible disclosure of the identity of intelligence operatives, the bill unfortunately goes beyond this laudable goal. It makes the disclosure of any current or former intelligence official—who has served within the past 5 years—made with the intent to impair and impede the foreign intelligence of the United States a criminal offense. The disclosure of an intelligence operative would be a criminal offense even if based on public sources of information.

Criminalizing disclosure based on public information strikes at the heart of first amendment rights. Disclosure made with the "intent to impair and impede" the foreign intelligence activities of the United States is a subjective judgment, at best. I would therefore urge my colleagues to carefully consider the constitutional implications of this legislation, as outlined in the following article by John Shattuck, national legislative director of the American Civil Liberties Union.

TRYING TO SPOOK THE PRESS

It is February 1973. Reporters for the Washington Post covering the Watergate story are tracking down evidence that the burglars have CIA connections. The day before a front-page article is scheduled to appear identifying one of the burglars as a CIA agent, The Post's managing editor receives a call from the White House urging him to kill the story because it would impair "an intelligence source of operational assistance." The editor and the reporters consider the request, but decide that the information is too important to withhold. Two days after the story is published they are charged with violating a new law that makes it a crime to publish the identity of an intelligence source or agent, and they face the possibility of 10 years in prison and a $50,000 fine.

Farfetched? Not if you have read drafts of the intelligence Identities Protection Act of 1980. This bill flies in the face of the First Amendment, which broadly states that "Congress shall make no law . . . abridging freedom of speech or of the press." Today this prohibition is in danger of being disregarded by a Congress obsessed with national security secrecy. Six years after a president was forced to resign or face impeachment because of abuses of power under the cover of national security, and four years after a Senate select committee reached the "fundamental conclusion that intelligence activities have undermined the constitutional rights of citizens," Congress in the name of national security and intelligence protection is on the verge of enacting the most severe abridgment of freedom of the press since the Alien and Sedition Laws of the late 18th century.

The Intelligence Identities Protection Act would make it a crime to publish "any information that identifies an individual as a covert agent" of the CIA or the FBI. Part of the bill would prohibit CIA or FBI employees from disclosing classified information about secret agents, but another section sweeps far more broadly. In the candid words of Rep. Edward Boland (D-Mass.), chief sponsor of the bill in the House of Representatives, this provision "could subject a private citizen to criminal prosecution for disclosing unclassified information obtained from unclassified sources."

It is aimed at the editors of Covert Action Information Bulletin, a journal that opposes CIA clandestine interference in the affairs of other countries and that has been widely condemned for using public information to identify CIA agents. Another sponsor of the legislation has stated that he wants "to put away" the Bulletin editors. That would also mean putting away the New York Times reporter who writes a series of articles about CIA agents who secretly work to "destabilize" the democratically elected government of Chile, or any other journalist or editor who makes a difficult decision to publish lawfully obtained information about intelligence agencies.

Three of the four congressional committees that have approved the agent identities bill have failed to limit the scope of the new crime. The House version reported by the Judiciary and Intelligence committees requires an "intent to impair or impede the intelligence activities of the United States." This standard would authorize inquiries into the political purposes of CIA critics and would do little to protect those writing expresses sharp opposition to particular CIA activities. The House committee report blandly asserts that "critics of U.S. intelligence would stand beyond the reach of the law if they made their disclosures for purposes other than impairment of U.S. intelligence activities."

A bill approved by the Senate Intelligence Committee offers even less assurance to investigative reporters covering the CIA by providing that they need not "intend" to impair foreign intelligence activities, but only have "reason to believe" that a "pattern of activities intended to identify agents" will do so. A series of articles or a week of investigation would presumably be enough to establish a "pattern of activities." A pre-publication warning to a journalist by the CIA—or even general knowledge of the CIA's sensitivity about the subject of an article—would constitute "reason to believe." Only the Senate Judiciary Committee has attempted to narrow the scope of the proposed crime by adopting an amendment sponsored by Sen. Edward Kennedy, but strong efforts are expected to be made on the Senate floor to remove the Kennedy amendment and restore the original bill.

In the face of these sweeping provisions, it is not surprising that many First Amendment scholars have reached the conclusion that the Intelligence Identities Protection Act is unconstitutional. For the first time in our history it would penalize the publication of information that is already public and thus strike a blow at the heart of a free press.

More surprising is the fact that congressional authors of the broadest bill apparently do not disagree with this assessment but are determined to plow ahead because, according to Sen. Richard Lugar (R-Ind), "we are [not] going to be able to have both an ongoing intelligence capability and a totality of civil rights protection." Nearly two centuries ago, James Madison, one of the authors of the Bill of Rights, warned against this kind of assertion when he observed that "it is a universal truth that the loss of liberty at home is to be charged to provisions against danger, real or pretended, from abroad." It is not too late for Congress to heed Madison's warning. If it does not, the courts will have to do so.●

TVA STAFF AND BUDGET INCREASE

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 22, 1980

● Mr. HUBBARD. Mr. Speaker, I am heartened by what now appears to be a trend in the Congress to check the spread of Government bureaucracy. However, it seems we have omitted one Federal agency in our oversight of independent establishments and Government corporations, that being the Tennessee Valley Authority. As a Member of Congress whose constituency is affected by the actions of TVA, I am disturbed by the agency's rapid expansion of staff and increase in budget. I would like to share with my colleagues the concern of my constituents, Mr. and Mrs. H. J. Hornback of Murray, Ky., about this situation. I submit their correspondence to me:

DEAR SIR: Help! We have had enough. Please, let's do something to break up the present TVA organization. We retired in this area because of the attraction of west Kentucky, and Kentucky Lake, low taxes, and low power cost, we built our home according to suggested power conservation plans—full insulation, storm windows, exhaust fan, heat pump, etc. We now find our electric power will be double to that of when we built, and why?

When Kentucky Lake was impounded the people who had their land taken from them were told, "You won't have to milk old Betsy in the dark any more because we are going to let you have electric power at only one cent a K.W. At that time TVA's sole responsibility was flood control of the Tennessee River water shed, power, and recreation on their impoundments only. Now look at them—they are into everything from welfare to direct competition with the Department of Interior (L.B.L.). We are now told that our rates are going up so there will be plenty of power in the future—How about letting the future users pay for the future power? We are also told over and over that their rates are competitive with the other southern States—hell, why shouldn't they be? Are they not a non-profit organization supported not only by the rates we pay but also to some degree by our taxes?

I know of no one in this area that has anything good to say about the present TVA organization, so how about putting a feather in your hat by starting the ball rolling. You will find that we will be with you.

Yours turly,

Mr. and Mrs. H. J. HORNBACK.●

WHO OWNS THE AIRWAVES?

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 22, 1980

● Mr. JACOBS. Mr. Speaker, the following editorial from Electronic Design is, in my view, thought provoking:

WHO OWNS THE AIRWAVES?

Another right of the individual appears headed for a challenge if Congress approves Rep. Richardson Preyer's (D-NC) bill, H.R. 7747. That measure makes it unlawful and punishable by fine, to intercept subscription telecommunications; that is, any telecommunications intended for receipt by a person who has agreed to pay a fee or charge. More specifically, this includes cable television, multipoint distribution service (MDS), or satellite television. Fines can total up to $1,000. If the person receiving the transmissions profits by them, as by selling the right to view television shows, the penalties become stiff indeed, up to $250,000 in fines and up to 18 months in jail for the first offense.

The measure has cleared the House Communications subcommittee and now has the approval of the House's Commerce Committee. While hurdles remain, Congress seems receptive to the idea of an antipiracy law.

In recent years, the airwaves have been filled with entertainment intended for distribution to paying customers. Home Box Office and Showtime are two examples. The allure of free, first-class television entertainment is too much for the video addict; and many now pluck first-run movies from the air. Receiving systems for 2-GHz terrestrial-link video, complete with antenna, sell for as little as $300.

Even the higher microwave frequencies are being tapped daily by the more affluent viewer with two or three thousand dollars to spare. Receivers for direct reception of satellite transmissions and the know-how to set them up are readily available and widely promoted. One well-known American electronics firm is marketing a complete receiver for just $1,995—not a casual purchase but not outside the budget of a television diehard.

Preyer's measure would put a stop to all this—at least, that is the hope of the common-carrier industry, which is trying to protect its product.

At some point, proponents of the measure must face a very basic question, "Who owns the airwaves?" The answer, clearly, is: everyone. The ether, as it was once called, is appropriately considered a public resource, and those who use it are granted license to do so.

Preyer contends that "one of the primary objectives of the bill is to offer protections to a wide range of legitimate economic and property concerns. . . ." While it is true that a television program can have substantial economic value, is it necessary to abjure the individual's right to intercept radio transmissions, in any form, which cross his or her property? Should those who now comply with the law be made criminals by merely "intercepting" radio transmissions? Only if the economic harm falls on the majority and its burden is substantial could such actions be justified. That, however, is not the case at hand.

Existing technology can make data of any type secure against unauthorized use. Protection of information in transit, over the air or through wires, has long been the responsibility of those (whether in the military or industry) whose investment would be jeopardized.

Video scrambling is not a technically insurmountable feat. Pay-television stations are now using it to protect their broadcast products. Secure locks, after all, and not fear of the law, keep the brigands out.

In a society with so many unenforceable laws, yet one more seems ill-advised. True, substantive harm could result to video distributors if enough people set themselves up on 2 GHz or on the satellite bands. A greater harm, however, results from the encroachment on what appears to be a fundamental right—to see and listen to the airwaves, all of them, without restriction. Any law which circumscribes our ability to access the airwaves reminds us of the strictures of a totalitarian society intent on suppressing public knowledge. In the case at hand, the right, however ill-defined, to intercept radio signals traversing our property supersedes the protection of profits.●

TRIBUTE TO CHIEF OF POLICE ROBERT P. MAGNUSSEN

HON. JAMES A. COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 22, 1980

● Mr. COURTER. Mr. Speaker, I rise today to give special recognition to one of my constituents, Chief of Police Robert P. Magnussen, who has served the township of Mine Hill, N.J., for 20 years as a leader on the police force and by contributing his time to various community organizations.

Chief Magnussen's career began in 1960 when he was appointed a patrolman in Mine Hill Township. In 1963, he was promoted to sergeant and, 1 year later, honored with the rank of chief of police, a position he has held with distinction ever since. I might also add that Chief Magnussen was the youngest chief of police appointed in Morris County.

In addition to his outstanding record with the police force, Chief Magnussen is an active member of the Morris County Chiefs of Police Association, the New Jersey State Association of Chiefs of Police, and the International Association of Chiefs of Police. He also holds a silver life card in the New Jersey State Policemen's Benevolent Association.

On October 24, the Mine Hill Police Department and the township of Mine Hill will honor Chief Magnussen for his many years of dedicated service with a commemoration dinner.

On behalf of myself and my colleagues in the House of Representatives, I would like to thank Robert Magnussen most sincerely for a job well done in his unselfish efforts to insure that Mine Hill Township continues to be a safe and friendly place to live.●

AN ALTERNATIVE TO THE MX LAND-BASED SYSTEM

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 22, 1980

● Mr. SEIBERLING. Mr. Speaker, last week the House, mistakenly in my opinion, turned down the amendment offered by our colleague PAUL SIMON, which would have prohibited the expenditure of funds on the MX land-based system pending the completion of the environmental impact statement, the OTA study, and certain other studies that are presently in the works. This is unfortunate, not only because of the enormous cost of the land-based mode, as compared to the submarine basing mode, but the high probability that the land-based mode will be both more provocative and less secure than the submarine basing mode.

On Tuesday, September 16, the Washington Post carried an excellent article by Jeremy Stone, director of the Federation of American Scientists, on this very subject. Mr. Stone pointed out that a strategy which puts our MX missiles in the sea-based mode would leave only the Soviets with a vulnerable land-based force. Since our force would be invulnerable to a first strike, this would reduce the likelihood of either side having the incentive for launching a first strike. Mr. Stone also pointed out that no suitable forum really exists to decide issues of this magnitude. As he says:

> The situation cries out for a high-level commission, as proposed by Senator Kennedy (and endorsed by both hawks and doves), that would consider U.S. strategic posture in the next two decades in the light of Afghanistan and other recent developments. Now, while we are still at the fork in the road, would it not be wise to stop and think?

The full text of Mr. Stone's article follows:

TWO PATHS IN NUCLEAR STRATEGY

The United States and the Soviet Union continue to move steadily into strategic postures and toward the adoption of related doctrines that interact with each other in such a way as to encourage rapid escalation rather than deliberate response. Presidential Directive 59 appears to be more than just another milestone in this evolution, incorporating, among other things, an important, previously unannounced and highly inflammatory threat to attack the Soviet command and control. But the root issue lies deeper than PD59, in a fundamental choice for U.S. (and Soviet) strategic planning: whether to move forward or back in maintaining land-based missiles.

At bottom, there are two general paths open to the U.S. Defense Department in response to the growing vulnerability of our 1,000 land-based Minuteman missiles. In the first course, we would redouble our effort to resist technological trends, in a strategy worthy of King Canute, in order to match Soviet maintenance of land-based missiles and Soviet threats against our missiles. Here the vulnerabilities of our land-based force are resolved by purchasing a new (MX) land-based missile force, but one whose improved security rests unreliably on deception in a deployment shell game.

If the new land-based missile force were suddenly to be deemed, like the old, vulnerable to Soviet attack, more and more MX holes (and MX missiles) would be constructed—an expensive proposition in which good money is thrown after bad.

When and if this failed, an anti-ballistic missile system would be built to protect the MX missiles. (This would require amending the ABM treaty, thereby risking the destruction of an agreement that has saved both the United States and the Soviet Union untold tens of billions of dollars in useless expenditures.)

And if this ABM solution were to seem infeasible, the missiles would be prepared to "launch on warning" (i.e., to launch on the 20-minute warning of enemy attack); this is a cheap but absurdly dangerous fix, as recent computer failures have shown. (Nevertheless, it is already part of U.S. doctrine that we might fire on warning.)

There is another path that accepts the inevitability of land-based missile vulnerability but "finesses" the Soviet attack. This strategy would put less—rather than more—emphasis on land-based missiles. We could keep Minuteman missiles (which are only about 25 percent of our strategic force) as a waning asset, or phase them down. We would make whatever compensating adjustments might be desired in our bomber and sea-based forces. The finessing path tends to move a major part of America's deterrent, and hence America itself, out of the line of fire of limited war.

This choice between the two paths has important implications for firing doctrines and hence for the overall likelihood of war. If one side has vulnerable missile forces, it has a defensive motivation to fire them more quickly ("use them or lose them"). And to the extent that the other side possesses vulnerable land-based missiles, one has also an offensive motivation ("time-urgent targets"). Worst of all, if both sides find themselves with vulnerable missile forces, both would have both motivations, and a cycle of reciprocating expectations ("better first than second") would increase the likelihood of preemptive escalation. Some catalytic outbreak of violence in Europe or wherever might then bring down the roof.

The finessing path would leave the Soviet land-based missiles (which are 70 percent of their force) vulnerable, in time, to our sea-based force. But since the reverse would not be true, the corresponding cycle of expectations would not exist. Thus, in fact, the path of finessing the Soviet threat leaves the Soviets trumped. More important, it depresses the likelihood of wars nobody wants by diminishing first-strike incentives.

The Defense Department fears that the path of finessing, and outmoding, the Soviet missile threat—by removing U.S. land-based missile targets—would seem a kind of acquiescence in coercion, even if compensating steps were taken with our other strategic forces, such as new kinds of sea-based forces. It argues also that some as-yet-unforeseeable future vulnerability of our sea-based deterrent in the 1990s might be importantly backstopped by land-based forces. But land-based force vulnerabilities (including those of MX) are already all too foreseeable to make this very plausible. Really, the choice appears to be one between inertia and agility.

The issues obviously go deeper than space here permits; unfortunately, no suitable forum really exists to decide issues of this magnitude. The situation cries out for a high-level commission, as proposed by Sen. Kennedy (and endorsed by both hawks and doves), that would consider U.S. strategic posture in the next two decades in the light of Afghanistan, SALT II, PD59, the very possible congressional defeat of the MX basing scheme, the growth of Soviet forces and all the rest.

With weapon systems taking 10 years to build and designed to function for 20 years beyond that, America can no longer afford to examine its defense posture only in the annual snapshots of congressional review. Now, while we are still at the fork in the road, would it not be wise to stop and think?●

TRIBUTE TO THE ROEMER BOLLERMAN AMERICAN LEGION POST 221

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 22, 1980

● Mr. HOLLENBECK. Mr. Speaker, on September 27, the Roemer Bollerman American Legion Post No. 221 of Ridgefield, N.J., will start its new service year with the installation of its newly elected officers. I wish to take this appropriate opportunity to recognize the record of accomplishment of this group of war veterans who continue, in peacetime, to serve and honor and defend our system of government.

Since its founding in 1919, the Roemer Bollerman Post has maintained a proud tradition of community service. It annually sponsors youth programs that have afforded countless young citizens the chance to participate in oratorical and essay contests; to attend Boys and Girls State leadership training; and to attend college with the assistance of Legion scholarships. The post sponsors annual children's parties and sporting events during which residents share in the true community spirit of good fellowship. Annual Memorial Day and Fourth of July parades also bring area residents together to pause in reflection of the meaning of American citizenship and in celebration of the freedoms we enjoy.

The Roemer Bollerman Post founded and continues to assist the Ridgefield Ambulance Corps, and its membership takes the time to visit regularly with disabled war veterans confined to area veterans' hospitals.

At this critical crossroads in our history, the Nation needs, as never before, this type of vital interest and active participation of its citizens. It is our very best assurance that the precious trust we hold today will be passed, proudly, to future generations of young Americans.

I extend my appreciation to the more than 300 members of the Roemer Bollerman American Legion Post 221 for their dedication to the principles on which this Nation was founded and has flourished. And I extend my congratulations and best wishes for another highly successful year in community service to the post's newly elected leadership: Commander-elect Robert Jacoberger; Vice-Commanders-elect William Russell, Carl Paulson and Richard Cleri; and Auxiliary President-elect Mary Gibson.●

HOUSE CONCURRENT RESOLUTION 434

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, September 22, 1980

● Mr. DODD. Mr. Speaker, On September 22, Congressman WEISS and I reintroduced a concurrent resolution, House Concurrent Resolution 434, regarding the case of Swedish diplomat Raoul Wallenberg. Those of my colleagues joining Mr. WEISS and myself in cosponsoring this legislation are: Ms. HOLTZMAN, Mr. BONKER, Mr. DERWINSKI, Mr. BEDELL, Mr. BOWEN, Mr. FITHIAN, Mr. HALL of Ohio, Mr. BINGHAM, Mr. WOLFF, Mr. ROSENTHAL, Mr. PRITCHARD, Mr. GILMAN, Mr. BARNES, Mr. WOLPE, and Mr. GRAY.

The new resolution is a combination of the two bills that Mr. WEISS and I submitted earlier this year to honor Raoul Wallenberg for his role in saving the lives of 90,000 Budapest Jews during World War II and to request that his case be discussed during the proceedings of the Madrid Conference on Security and Cooperation in Europe.

House Concurrent Resolution 434 was reported out of the House Subcommittee on International Organizations on September 16, and will soon be considered by the Foreign Affairs Committee. At the time of the subcommittee hearing on the Wallenberg legislation, I submitted testimony which I would like to share with my colleagues.

The testimony follows:

TESTIMONY OF HON. CHRISTOPHER J. DODD

Mr. Chairman, Members of the Subcommittee on International Organizations, I want to thank you for this opportunity to testify on the Weiss/Dodd bill, H. Con. Res. 341, which I believe combines the best of our two bills regarding the case of Swedish Diplomat Raoul Wallenberg.

Thirty-six years ago, in 1944, a man walked along the edge of a crowded railroad platform in Budapest, Hungary. He did his work quickly and without ceremony, thrusting neutral Swedish passports into hundreds of outstretched hands. They were the hands of the doomed; men, women, and children destined for Auschwitz and Birkenau. He never knew the names of those he rescued, but they carried his name like a torch. Raoul Wallenberg became the angel of hope and mercy amidst the depravity of the Holocaust for thousands of Hungarian Jews.

Almost single-handedly, Wallenberg distributed Swedish passports to 20,000 of Budapest's Jews and protected 13,000 more in safe houses that he rented that flew the Swedish flag. He pulled people out of death marches to concentration camps, and those who remember say that his work with other representatives of neutral countries with embassies in Hungary saved the lives of an additional seventy thousand Hungarian Jewish citizens.

On July 9, 1944, Swedish Diplomat Raoul Wallenberg was sent to Hungary at the request of the American War Board and his own government with a mission of saving as many of Hungary's Jews as possible from Nazi gas chambers. Despite open harassment by the Nazis and threats to his life, Wallenberg worked relentlessly without thought to his own safety. At one point, Adolf Eichmann told Wallenberg, "Don't think you are immune just because you are a diplomat and a neutral."

But, as it turned out, it was not the Nazis that Raoul Wallenberg had to fear. On January 17, 1945, as the Russians moved into Hungary, Raoul Wallenberg was called to Soviet headquarters in Debrecen. He never returned and for thirty-five years his disappearance has been shrouded by a wall of silence by the Soviets.

It is unclear why there has been so much conflicting information from the Soviet Union about Raoul Wallenberg, or why the Soviets would have arrested him in the first place. In August of 1947, after many inquiries by the Swedish Government, the Soviet government stated that Wallenberg was "not known in the Soviet Union." But in 1957, Deputy Foreign Minister Andrei Gromyko said that records showed that a prisoner at Lubyanka prison named "Walenberg" died of a heart attack on July 17, 1947. Despite that report, former Russian prisoners including Aleksandr Solzhenitsyn and Jan Kaplan have said that they met a Swede fitting Wallenberg's description during their periods of imprisonment.

We should all remember the horrors perpetrated during the Holocaust, but it is even more important to remember the courageous and compassionate acts of people like Raoul Wallenberg who endure as examples of man's capacity for good. The resolution you are considering today House Concurrent Resolution 341, honors Raoul Wallenberg for his selfless and humane acts, but more importantly, the resolution directs the U.S. Delegation to the Madrid Conference on Security and Cooperation in Europe to request that the case of Raoul Wallenberg be raised during consideration of compliance with the Helsinki Final Act by signatory nations.

The internment of Wallenberg is in direct contravention of the Final Act, which states: "The participating states will respect human rights and fundmental freedoms . . . and fulfill in good faith their obligations under international law . . ." The abduction of Raoul Wallenberg by the Soviets was a violation of diplomatic immunity. As a signatory nation, the Soviet Union has an obligation to cooperate in an investigation into Wallenberg's whereabouts, an obligation that has yet to be fulfilled.

Elie Wiesel describes the face of the spectator as "reflecting no pity, no pleasure, no shock, not even anger or interest. Impassive, cold, impersonal. The face was indifferent to the spectacle. The face is neither Jewish nor anti-Jewish, a simple spectator, that's what it is." It is a face for which all of us have a predilection. But it is not the face of the man who stood on that train platform meting out those precious passports.

The face of Raoul Wallenberg is the face of a man who refused to be indifferent, complacent, or ignorant of the suffering of others. His is the face of a hero—a symbol of the best mankind has to offer. Raoul Wallenberg refused to ignore the plight of the Jews of Hungary. Let us today show that we will not be indifferent to the plight of Raoul Wallenberg.

The American War Board financed Wallenberg's mission, and the United States has a responsibility to determine what became of him. The world has a right to know the fate of this remarkable man. I would urge all of my colleagues to support House Concurrent Resolution 341 which honors Raoul Wallenberg and calls for raising of his case at the Madrid Conference to be held in November. It is the least we can do, and I pledge that it is only the beginning.●

THE STRANGE CASE OF H.R. 7039: THE AMERICAN FISHERIES PROMOTION ACT

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 22, 1980

● Mr. McCLOSKEY. Mr. Speaker, strange doings are afoot on H.R. 7039, the so-called American Fisheries Promotion Act.

The bill was reported by the House Merchant Marine and Fisheries Committee last June 26 over the vigorous opposition of the administration. Its primary proponent was the gentleman from Louisiana, JOHN BREAUX, chairman of the Fish and Wildlife Subcommittee.

H.R. 7039, as originally reported, was essentially a collection of goodies for the U.S. commercial fishing industry, artfully drafted to appeal to fishing interests in enough coastal States to assure endorsement by a committee composed primarily of representatives of those States.

In committee debate, members freely expressed and acquiesced in the philosophy that since farmers received substantial subsidies, why should not fishermen? That fisheries, unlike agricultural products, were a depletable resource, was a point which was ignored.

One benefit to the fishing industry, an extension of the so-called capital construction fund provision of the Internal Revenue Code to fish canneries, was expressly voted down by the committee.

Until last Friday, September 19, the administration strongly opposed the bill.

Suddenly, however, today's Washington Post announced that the administration had agreed to a wholly new bill, one which contained the capital construction fund provision and a number of other substantial changes from the bill the committee reported nearly 3 months ago.

The Post stated that the new bill was expected to pass on the Suspension Calendar this afternoon, in time for President Carter and Senator MAGNUSON to mention its passage in their campaign tour of the pivotal State of Washington tomorrow.

I hastened to my office this morning and asked my staff for a copy of the new bill.

Strangely, my minority staff could not get a copy. No one on the majority staff seemed to be able to find a copy, and until I called Chairman BREAUX at approximately 11 a.m., I was unable to get one. The new bill was scheduled as No. 19 on today's Suspension Calendar, and expected to be heard shortly after 4 p.m.

Upon review, the new H.R. 7039 appeared to contain 26 pages and at least 5 major changes in the bill reported by the committee last June:

First, the capital construction fund provision rejected by the committee had been reinserted in the bill.

Second, the phaseout of foreign fishing provisions had been materially altered.

Third, the 75-percent requirement for use of Saltonstall-Kennedy funds in private—rather than governmental—projects had been reduced to 50 percent.

Fourth, the computation of foreign fishing fees, and their automatic transfer to a fishing loan fund, were changed.

Fifth, the two-House veto was replaced by a simple requirement that the regulations by the Secretary of Commerce be transmitted to the Congress.

Sixth, the 100-percent observer coverage on foreign vessels was altered to permit waivers by the Secretary.

These changes are not only substantial, they are of crucial importance to both foreign policy and tax policy.

The capital construction fund's availability to fish packers, for example, will, for the first time breach the time-honored principle that maritime subsidies are justified solely on national security grounds—to maintain ships and a shipyard base for a strong U.S. merchant marine in the event of war.

The CCF works this way if H.R. 7039 is adopted: A fish packer such as Castle & Cooke or Ralston-Purina can remove $10 million in earnings from their taxable income merely by depositing it in a capital construction fund, announcing plans to use the funds some years hence for the construction of a new cannery.

When the cannery is built, the reserved funds will merely lower its tax base, for depreciation purposes.

Literally millions could be lost to the Treasury under this open ended tax benefit.

As these remarks are being prepared on the floor, 5 p.m. Monday, September 22. I have just been advised that Chairman BREAUX has pulled the bill off the floor this afternoon, but that it will be reoffered on the Suspension Calendar tomorrow in some new form, possibly with the CCF provisions removed.

This would be a small comfort, but for the fact that in the committee markup session last June 26, the CCF provisions were also removed under assurances that they could be readded in conference with the Senate.

For all of these reasons, it seems to me we should reject H.R. 7039 in whatever form it may be offered on suspension.

Under the circumstances it would seem appropriate to have at least 1 day of hearings on this substantially changed bill which none of us have had time to properly consider, and which represents such major changes in U.S. law and policy.

A copy of today's Washington Post article follows:

HOUSE TO VOTE TODAY ON BILL TO RESTRICT U.S. FISHING WATERS

(By Ward Sinclair)

In a turnaround certain to please coastal states, the Carter administration has agreed to a House bill aimed at gradually eliminating foreign fishermen from the U.S. 200-mile zone.

A compromise on the controversial fisheries promotion bill pushed by Rep. John B. Breaux (D-La.) is scheduled to be called to final House vote today.

Such action, with approval expected, would come on the eve of an important campaign visit by President Carter Tuesday to Washington, a state with major fishing interests who consider the bill vital.

"The fishing industry in the Pacific Northwest sees this bill as its equivalent of the Chrysler Corp. bailout," a Department of Commerce spokesman said. "They think this is their year."

The White House-Breaux compromise, achieved last week after long negotiations, also could give a boast to Sen. Warren G. Magnuson (D.-Wash.), who, like Carter, is facing a tough reelection battle.

Magnuson is the chief sponsor of a narrower Senate-passed bill whose fate is linked to the Breaux measure. Quick House-Senate agreement on the two bills is expected, assuring enactment this year.

Although the new Breaux version is not as sweeping as the bill that drew administration opposition, it still contains many of the provisions that led Rep. Paul N. McCloskey Jr. (R-Calif.) to call the measure a classic of special-interest messaging.

He termed it "a collection of goodies for the U.S. commercial fishery industry" and complained that it gave unneeded subsidies to fishermen and on-shore processing units of giant agribusiness firms, such as Del Monte, Ralston-Purina and Castle and Cooke.

An aide to Breaux on the House Merchant Marine and Fisheries Committee said weeks of negotiation brought agreement on new wording from the departments of State and Commerce as well as the White House.

He and some administration aides rejected the notion that the agreement had an election-campaign tinge. Others, however, took issue and predicted Carter will discuss the new fishing policy when he visits Tacoma, Wash.

A major change achieved through the negotiations involves a hotly debated reference to ban foreign fishermen from the 200-mile territorial zone declared by the United States in 1976. The Breaux bill, in a bow to the industry in his and other key fishing states, would have phased foreigners out of the zone by about 1990.

The State Department objected strongly to the forced phaseout. The National Oceanic and Atmospheric Administration under Commerce, opposed subsidy aspects of the Breaux bill.

The agreement reached last week still aims for a phaseout, but there is no deadline involved, and the phaseout would not be arbitrary. It would be keyed to foreigners' ability to harvest their allotments and to U.S. fishermen's ability to harvest theirs.

"This way, regional councils will play a key role in determining fishing levels and if the U.S. fishermen don't perform, there will be no fishing cutbacks for the foreigners" a Breaux aide said.

Although some view the effort to expel foreigners as a dangerous step that will provoke retaliation, administration officials insisted that a modified phaseout is consistent with declaration of the 200-mile zone.

"We have declared the 200-mile zone, and its purpose was to say this belonged to us. But without a system of allocations to promote U.S. fishing, there remains an inconsistency," a State Department officials said.

"The question has been whether you arbitrarily kick everyone out of that 200-mile zone."

Other compromises negotiated with Breaux include modified fee schedules for foreign fishermen's permits, so they are not priced out of the zone, and a less stringent and costly plan for putting U.S. enforcement monitors on foreign boats.

Although Breaux, an enemy of federal regulation, concedes his bill creates more regulation, he said through an aide last week that no new costs will fall on U.S. taxpayers. Permit fees will finance the program.●

INTELLIGENCE AGENTS PROTECTION BILL WOULD UNDERMINE FREE PRESS

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 22, 1980

● Mr. SEIBERLING. Mr. Speaker, the intelligence agents identities protection bill, H.R. 5615, which is listed for action later this week, contains necessary restrictions on disclosures by Government employees which would identify American intelligence agents and thus jeopardize their safety as well as the security of CIA and FBI intelligence gathering programs. Unfortunately, the bill, as reported by the Intelligence and Judiciary Committees, goes beyond that by proposing to make it a crime to disclose nonsecret information as to the identity of an intelligence agent.

Under the act, the New York Times, for example, might have been prosecuted for publishing the Pentagon Papers, and other newspapers might have been prosecuted for republishing what had already appeared in the New York Times. Obviously, a line has to be drawn somewhere, but the committees' bill goes much too far in infringing upon the freedoms guaranteed by the first amendment. Such freedoms themselves are at the core of the free society that the intelligence agencies are supposedly constituted to protect.

Editorials by several leading newspapers have already been printed in the RECORD pointing out the dangerous infringements on freedom of the press contained in the bill. To this list, I am offering for today's RECORD an editorial from the Akron Beacon Journal of Tuesday, September 9, immediately following these remarks:

AN UNWARRANTED CONTROL

The Congress seems to be ready to embrace the idea that it should be a crime to disclose information about the United States government that is not classified for security reasons.

The Congress is coming to that view in legislation it is now passing designed to protect agents of the CIA and informers for the FBI.

That apparent legislative decision, however, raises a number of problems, as Tom Wicker of the New York Times pointed out recently.

Once the government begins to control the flow of information in the country, the chances for growing and continued abuses of freedom are enlarged.

In this case, the Congress and the CIA have been trying to solve an extremely sensitive problem. For their own reasons, several small groups have made it their cause to expose and publish the names of CIA agents around the world. Using nonclassified government documents, they have had some success, although how much is unclear. And some of the people whose names they have disseminated have in turn become targets of violence in volatile areas of the world.

Obviously, the CIA needs agents and the FBI needs informers. The world is complex, the struggles in which the country finds itself abroad are often difficult, and the need for information gathered by agents, or, more accurately, spies, is great.

The government must do what it can to protect its agents. At the same time, however, the Congress should not take action that constitutes a blow against American freedoms.

That is what the current legislation would do, making it a crime to disclose non-secret information if the identity of a "covert agent" of the CIA or an informer of the FBI were made public.

There is room in the vague definitions so far established by committees of the Congress for a lot of mischief. Under the definitions, the New York Times, for example, might be declared to have committed a criminal act in its publishing of the Pentagon Papers. That decision by the Times was valuable for the country, and allowed Americans in hindsight to learn about government deception of the public in the conduct of the war in Vietnam.

The categories for criminal prosecution being established by the Congress are too broad, especially in the fact that they attach criminality to non-secret information.

It will be unfortunate for the country, and potentially dangerous, if in attempting to correct one problem, the Congress creates more problems. In this case, that is what is happening.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, September 23, 1980, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 24

8:30 a.m.

Energy and Natural Resources

To hold hearings on the nominations of John D. DeButts, of Virginia; Catherine B. Cleary, of Wisconsin; Frank Savage, of New York; Cecil D. Andrus, of Idaho; Joseph L. Kirkland, of the District of Columbia; and Frank T. Cary, of Connecticut; each to be a Member of the Board of Directors of the United States Synthetic Fuels Corporation.

1202 Dirksen Building

9:30 a.m.

Judiciary

Jurisprudence and Governmental Relations Subcommittee

To resume oversight hearings on judicial impact statements.

6226 Dirksen Building

*Labor and Human Resources

Health and Scientific Research Subcommittee

To hold oversight hearing on the implementation of the National Health Service Corps program of the Health Services Administration under the Department of Health and Human Services.

4232 Dirksen Building

10:00 a.m.

Finance

Business meeting, to consider miscellaneous tax measures.

2221 Dirksen Building

Foreign Relations

International Economic Policy Subcommittee

To hold hearings on U.S. policy with respect to economic relations between developing and industrialized countries.

4221 Dirksen Building

Governmental Affairs

To hold hearings on S. 2606, establishing an Office of Strategic Trade as an independent executive agency, focusing on current U.S. policies governing the export of strategic technology to Soviet bloc nations.

3302 Dirksen Building

Governmental Affairs

Energy, Nuclear Proliferation, and Federal Services Subcommittee

To hold hearings to review the accuracy of the 1980 census count.

1224 Dirksen Building

10:30 a.m.

Commerce, Science, and Transportation

To hold hearings on S. 3003, establishing a program within the Department of Commerce to promote U.S. service industries and their competitiveness.

235 Russell Building

1:00 p.m.

Conferees

On H.R. 7831, appropriating funds for fiscal year 1981 for the Department of Transportation.

S-128, Capitol

2:00 p.m.

Conferees

On H.R. 6942, authorizing funds for fiscal year 1981 for foreign development and international security assistance programs, and funds for fiscal year 1981 for the Peace Corps.

S-116, Capitol

Conferees

To resume on H.R. 2977, authorizing funds through fiscal year 1983, to establish a program to increase participation by States and local governments to prevent domestic violence, to provide assistance to victims of crime, and to establish Commissions on National Youth Service.

S-145, Capitol

SEPTEMBER 25

8:30 a.m.

Energy and Natural Resources

To continue hearings on the nominations of John D. Debutts, of Virginia; Catherine B. Leary, of Wisconsin; Frank Savage, of New York; Cecil D. Andrus, of Idaho; Joseph L. Kirkland, of the District of Columbia; and Frank T. Cary, of Connecticut; each to be a Member of the Board of Directors of the United States Synthetic Fuels Corporation.

Room to be announced.

9:30 a.m.

Judiciary

To hold hearings on the nomination of Walter M. Heen, to be U.S. District Judge for the District of Hawaii.

1318 Dirksen Building

Judiciary

Antitrust, Monopoly and Business Rights Subcommittee

To resume hearings on S. 2798, providing financial assistance for small business concerns for the acquisition of motor fuel service stations and to regulate motor fuel sales.

2228 Dirksen Building

Judiciary

Limitations of Contracted and Delegated Authority Subcommittee

To resume oversight hearings on the contracting-out procedures of consultants by the Federal Government.

5110 Dirksen Building

*Labor and Human Resources

To hold hearings on S. 2979, to maintain and extend to 1986 the cost-of-living increases for pre- and post-retirement for railroad employees, to increase the tax the employers are required to pay into the fund on behalf of active workers of the railroad industry.

4232 Dirksen Building

Select on Small Business
To resume oversight hearings on the Small Business Administration's surety bond guarantee program, focusing on alleged organized criminal involvement in the program.
424 Russell Building

10:00 a.m.
Commerce, Science, and Transportation
To continue hearings on S. 3003, establishing a program within the Department of Commerce to promote U.S. service industries and their competitiveness.
235 Russell Building

Governmental Affairs
To continue hearings on S. 2606, establishing an Office of Strategic Trade as an independent executive agency, focusing on current U.S. policies governing the export of strategic technology to Soviet bloc nations.
3302 Dirksen Building

2:00 p.m.
Finance
Health Subcommittee
To resume hearings on the FBI's current and prospective investigation into medicare and medicaid fraud and abuse.
2221 Dirksen Building

SEPTEMBER 26

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

SEPTEMBER 29

9:30 a.m.
Finance
Health Subcommittee
To hold hearings on S. 3029, to establish a National Professional Mental Health Services Commission.
2221 Dirksen Building

10:00 a.m.
Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on S. 3006, increasing the tax incentives for industrial energy conservation.
6226 Dirksen Building

SEPTEMBER 30

10:00 a.m.
Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To resume oversight hearings on the implementation of certain programs of the General Services Administration.
3302 Dirksen Building

Labor and Human Resources
Health and Scientific Research Subcommittee
To resume oversight hearings on the implementation of the National Health Service Corps program of the Health Services Administration under the Department of Health and Human Services.
4232 Dirksen Building

OCTOBER 1

10:00 a.m.
Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To continue oversight hearings on the implementation of certain programs of the General Services Administration.
3302 Dirksen Building

CANCELLATIONS

SEPTEMBER 24

10:00 a.m.
*Labor and Human Resources
To hold oversight hearings on the implementation of the home energy assistance program.
4232 Dirksen Building

HOUSE OF REPRESENTATIVES—*Tuesday, September 23, 1980*

The House met at 11 a.m.

The Reverend Monsignor John T. Doherty, St. John's Parish, Bronx, N.Y., offered the following prayer:

O God, our Father, once again we place ourselves in Your holy presence and under the power of Your word.

We acknowledge that You are truly the Lord of the universe and the ruler of all nations.

With grateful hearts we thank You for all the gifts that You have given to us.

With anxious hearts, we ask that all the great knowledge of Your universe that You have permitted us to share will be accompanied by the wisdom that comes from Your revealing word.

Joining our hearts with all who have gone before us in this great Nation, and with all the nations of the Earth, we know that Your word calls us to be people of justice and of peace.

In our deliberations this day we ask for this gift of wisdom, under the power of Your holy name.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last dav's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agree to the amendment of the House to a bill of the Senate of the following title:

S. 2489. An act to authorize appropriations for the Coast Guard for fiscal year 1981, to authorize supplemental appropriations for fiscal year 1980, and for other purposes.

The message also announced that the Senate agree to the amendments of the House with an amendment to a bill of the Senate of the following title:

S. 2511. An act to amend the Civil Rights Act of 1957 to authorize appropriations for the United States Commission on Civil Rights for fiscal year 1981.

The message also announced that the Senate agree to the amendment of the House with an amendment to a bill of the Senate of the following title:

S. 1946. An act to reform the economic regulation of railroads, and for other purposes.

The message also announced that the Senate insists on its amendment and request a conference with the House on the disagreeing votes of the two Houses thereon, and appoint Mr. CANNON, Mr. LONG, Mr. EXON, Mr. PACKWOOD, and Mrs. KASSEBAUM to be the conferees on the part of the Senate.

The message also announced that the Senate disagree to the amendments of the House to the bill (S. 2080) entitled "An act to establish public buildings policies for the Federal Government, to establish the Public Buildings Service in the General Services Administration, and for other purposes," request a conference with the House on the disagreeing votes of the two Houses thereon, and appoint Mr. RANDOLPH, Mr. MOYNIHAN, Mr. BURDICK, Mr. MITCHELL, Mr. STAFFORD, Mr. CHAFEE, and Mr. SIMPSON to be the conferees on the part of the Senate.

The message also announced that the Senate disagree to the amendments of the House to the bill (S. 2475) entitled "An act to amend title V of the Motor Vehicle Information and Cost Savings Act, 'Improving Automotive Efficiency', to exempt very low volume automobile manufacturers from certain requirements of the act, to encourage increase of the domestic value added content in labor and materials of foreign automobiles sold in the United States, to extend the time available to all manufacturers for carry forward or carry back of credits earned under the act, and for other purposes," request a conference with the House on the disagreeing votes of the two Houses thereon, and appoint Mr. CANNON, Mr. STEVENSON, Mr. RIEGLE, Mr. SCHMITT, and Mrs. KASSEBAUM to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2724. An act to extend authorizations for law enforcement assistance at Corps of Engineers projects.

REV. MSGR. JOHN T. DOHERTY

(Mr. BINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BINGHAM. Mr. Speaker, it is my pleasure and privilege to have sponsored today as our guest clergyman Msgr. John T. Doherty of my district.

Monsignor Doherty studied at Cathedral College, St. Joseph's Seminary, and Fordham University, receiving a masters degree in sociology at Fordham. He was ordained to the priesthood in 1945 and worked in secondary education until 1962 as a teacher and then department head at Cardinal Hayes High School. He was then assistant superintendent of Catholic Schools in the Archdiocese of New York from 1962 tc 1971.

Since 1971 he has been pastor of St. John's Church in Kingsbridge, the Bronx. He is very actively involved in work in the community, and particularly in neighborhood preservation activities which are so necessary in that area. He serves on the board of a remarkable organization with which I have worked in many mutual interests, the Northwest Bronx Community and Clergy Coalition. He is also a board member of the Marble Hill Neighborhood Improvement Corp.

Mr. Speaker, it is a delight to have Monsignor Doherty with us today and to have heard his beautiful prayer.

Mr. BIAGGI. Mr. Speaker, I join with my distinguished colleague from New York (Mr. BINGHAM) in welcoming to the House, Father John Doherty, pastor of St. John's Church in the Bronx.

Father Doherty has served with great distinction as pastor of St. John's since 1971. Prior to that he had an extremely beneficial tenure as assistant superintendent for the various schools operated by the Archdiocese of New York. The schools operated by the archdiocese are among the best in the Nation.

In addition to the many time consuming activities involved in Father Doherty's pastoral work, he is a very active member of the community where the church is located, the Northwest Bronx. Father Doherty serves as an active member of the Northwest Bronx Community and Clergy Coalition—one of the most unique and successful neighborhood organizations in the entire city of New York.

Today's priest must maintain a relevance to the people in his parish. Father Doherty is a man who has earned the respect and affection of his parishioners. It was a pleasure to have him give the opening prayer today and we wish him continued good health.

MAKING IN ORDER ON TOMORROW OR ANY DAY THEREAFTER CONSIDERATION OF CONFERENCE REPORT ON H.R. 7590, ENERGY AND WATER DEVELOPMENT APPROPRIATION ACT, 1981

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that it be in order on Wednesday, September 24, 1980, or any day thereafter, to consider in the House the conference report on the bill (H.R. 7590) making appropriations for energy and water development for the fiscal year ending September 30, 1981, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 7592, MILITARY CONSTRUCTION APPROPRIATION, 1981

Mr. McKAY. Mr. Speaker, I ask unanimous consent to take from the Speaker's

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

table the bill (H.R. 7592) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Utah? The Chair hears none, and appoints the following conferees: Messrs. MCKAY, GINN, STEED, ADDABBO, LONG of Maryland, WHITTEN, MCEWEN, REGULA, and CONTE.

APPOINTMENT OF CONFEREES ON S. 2475, AUTOMOBILE FUEL EFFICIENCY ACT OF 1980

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2475) to amend title V of the Motor Vehicle Information and Cost Savings Act, "Improving Automotive Efficiency," to exempt very low volume automobile manufacturers from certain requirements of the act, to encourage increase of the domestic value added content in labor and materials of foreign automobiles sold in the United States, to extend the time available to all manufacturers for carryforward or carryback of credits earned under the act, and for other purposes, with the House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hear none, and appoints the following conferees: Messrs. STAGGERS, DINGELL, OTTINGER, SHARP, MOFFETT, BROYHILL, BROWN of Ohio, and STOCKMAN.

☐ 1110

APPOINTMENT OF CONFEREES ON S. 1946, RAILROAD TRANSPORTATION POLICY ACT OF 1980

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1946) to reform the economic regulation of railroads, and for other purposes, with a Senate amendment to the House amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. STAGGERS, FLORIO, and SANTINI, Ms. MIKULSKI, Messrs. MURPHY of New York, MATSUI, ECKHARDT, BROYHILL, MADIGAN, LEE, and LOEFFLER.

As an additional conferee, Mr. LEVITAS, solely for consideration of section 707 of the House amendment and modifications committed to conference.

CONTINENTAL DOLLAR

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, do you remember the continental dollar?

When the Colonies first declared their Independence and established the Continental Congress, the Continental Congress spent money and took in tax revenue. In managing these United States, they spent more money than they were taking in, so they printed more continental dollars to pay the overdrafts. As they continued to print more continental dollars without revenue to offset them, the value of the dollar began dropping. In a 5-year period, back in 1780, the continental dollar dropped to where it was worth just 1 penny. The value was only 1 cent on the dollar.

With the money so worthless, they coined the slogan, "It isn't worth a continental dollar." Even today you still hear people say "It isn't worth a Continental."

This year Congress overspending will create 15 percent inflation which means the dollar drops 15 percent in value and prices rise in 15 percent inflation.

This year the average American will be getting more in what they call a cost-of-living increase. But the value of the money finds him actually with 5 percent less purchasing power than he had last year. Let me put it this way. A person who made $1,000 a month in 1979 may be getting $1,100 a month this year. But his actual purchasing power is only $950 compared to last year's money.

A constitutional amendment requiring a balanced budget from Congress each year is essential for America's future.

JOHN MARTIN RECEIVES McCORMACK AWARD

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, this morning, at 10 a.m., in the Rayburn Room, John Martin, the chief counsel of the Ways and Means Committee received the McCormack Award, the highest award that one of our employees can receive here for achievement in his work.

John Martin is a splendid example of the best that is in all of our staffs. His work that earned the receipt of the McCormack Award is symbolic of the great work that is done by lots of people like John around here.

We on the minority of the Ways and Means Committee are particularly proud of him. He has been consistently helpful to all members of the committee. There are days that we could wring his neck for the rulings that he suggests to the chairman that make our amendments out of order, but we love him. We are proud of his work. I congratulate John Martin on this recognition of his effective, dedicated work, and I hope that all of the employees of the House will share in John Martin's honor.

CONGRESSIONAL BASEBALL GAME

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, it has been said that even a blind hog stumbles upon an acorn every once in a while. That every dog has his day. That even the least among us can, for an instant, know greatness.

The proof of these old sayings was never so evident as it was on the night of July 26, 1979, when for the first time in what seems like an eon of frustration and disappointment, the Democrats stumbled around the base pads, put forth a very dogged effort, and found out that, even with the least of talent, they could for an instant enjoy a moment of greatness. Mr. Speaker, last year the Democrats finally won a congressional baseball game after 7 straight years of bitter defeat.

But, Mr. Speaker, this year there is a new ball game. Tomorrow night at Four-Mile Run Park in Alexandria at 8 p.m., once again the crack of the bats and the roar of the crowd will surely herald a great Republican victory. The taste of last year's victory will be only a fleeting sip for the Members from the other side of the aisle. Scores will be resettled and the battle joined to the donkey's dismal demise.

Even in the face of a difficult legislative schedule, the Congress had to persevere to have this game. We would never want it said that we followed the precedent of our President in this past Sunday night's debate and opt for the "empty chair" approach to this year's game. The fact is that the only empty space in this year's game will be on the base paths when the Democrats come to bat.

So, it is with a sense of great anticipation and certain victory that as general manager of the mighty elephants, I offer this year's challenge. My coach, Carl Pursell and his gang of 14 smell sweet victory in the autumn mist of Four-Mile Run in Alexandria at 8 tomorrow night.

TRIBUTE TO THE LATE HONORABLE THOMAS BACON FUGATE

(Mr. WAMPLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WAMPLER. Mr. Speaker, I rise to inform the House of the passing of Thomas Bacon Fugate, who served as a Member of this body in the 81st and 82d Congresses, 1949 to 1953, representing the Ninth Congressional District of Virginia.

Thomas Bacon Fugate was born in 1899, in Claiborne County, Tenn., but spent most of his life in southwestern Virginia where he was a banker, a farmer, a businessman, and an outstanding public servant.

He started his public career as a young man, having been elected to the Virginia House of Delegates in 1928. He served as a member of the Virginia Board of Public

Welfare for 10 years; was a delegate to the Democrat National Convention in 1944; and was a member of the Constitutional Convention of Virginia in 1945. In addition, he was a director of the Virginia-Tennessee Farm Bureau; vice president of the Grace Nettleton Home for Girls in Harrogate, Tenn.; a member of the board of trustees and vice president of Lincoln Memorial University; and a trustee of King College and Emory and Henry College.

During Congressman Fugate's tenure in the House of Representatives, he sponsored legislation to modernize the Panama Canal, a project in which he took great pride.

Mr. Fugate is survived by his wife, two sons and two daughters. He was member of Mount Carmel Presbyterian Church in Rose Hill, Va., where services will be held in his memory Wednesday, September 24, at 2 p.m.

Thomas Bacon Fugate lived a life of dedication and distinction, serving family, community, commonwealth, and country in an exemplary manner. I extend heartfelt sympathy to his family and friends.

GENERAL LEAVE

Mr. WAMPLER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the life, character and public service for the late Honorable Thomas Bacon Fugate.

The SPEAKER pro tempore (Mr. MINISH). Is there objection to the request of the gentleman from Virginia?

There was no objection.

CONGRATULATIONS TO JOHN MARTIN

(Mr. JONES of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES of Tennessee. Mr. Speaker, I rise today in recognition of a special award presented to Mr. John Marshall Martin, who is chief counsel and staff director of the House Committee on Ways and Means. Mr. Martin was presented the 10th annual John W. McCormack Award of Excellence in ceremonies this morning.

I rise today on this occasion because Mr. Martin hails from Martin, Tenn., which is located in my congressional district in Tennessee. He joined the professional staff of the Committee on Ways and Means while one of my predecessors, the late Honorable Jere Cooper, was serving as that committee's chairman.

Mr. Martin was elevated to his present position by our former colleague and friend, the Honorable Wilbur Mills, in 1968.

It is with great honor that I bring Mr. Martin's achievement to the attention of this body. He has done an outstanding job as the top staff person on the Ways and Means staff. He has demonstrated a remarkable ability to handle the complexities of important tax legislation so that even a country boy like myself can understand it. In addition, he has demonstrated a genuine affection for employees, concern for their welfare, devotion to this body, and consistent friendliness and kindness. I cannot think of a finer person worthy of receiving this award. I congratulate Mr. Martin for his achievement and I hope that other Members of this body will take the time to offer their congratulations as well. He is an employee of this House we can all be proud of.

ADMINISTRATION'S DISMAL RECORD ON ECONOMIC ISSUES

(Mr. KRAMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KRAMER. Mr. Speaker, It is time for Jimmy Carter to quit hiding in the Rose Garden. I, for one, would be interested in hearing him try to explain away his administration's dismal record on economic issues. For example, Mr. President, how, at a time when unemployment continues to plague our own auto industry, can you justify rolling out the red carpet for a company that wants to import Soviet-made cars into this country? How, Mr. President, can you justify to laid-off auto workers the fact that your administration has been helping the Satra Corp. with its plans to begin importing the Lada into this country within the next couple of years? How, Mr. President, can you justify to American farmers who were hurt by your grain embargo that it is all right to allow the Soviets to sell their products here? How, Mr. President, can you justify to American athletes who gave up going to the summer Olympics that it is OK for the EPA to work with Soviet technicians for the last 3 years in making sure that the Lada is fuel efficient and will meet our environmental guidelines? Mr. President, the voters deserve some answers.

□ 1120

UNITED STATES MAKING TRAGIC MISTAKE IN RECOGNIZING REGIME OF POL POT

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, it appears that the Carter administration is about to make a tragic mistake in voting once again in the United Nations, to recognize the murderous regime of Pol Pot as the legitimate Government of Cambodia.

It is my sincere opinion that such an action would not only constitute a legal fiction, in that the Khmer Rouge do not control the land mass of Cambodia, but it would also mean that the administration is once again selectively employing its highly touted "Human Rights" policy.

How can the administration protest the absence of democratic freedoms in the various juntas of Latin America, yet close its eyes to the atrocities of a regime which systematically murdered millions of its people?

Not since the extermination policies of the third reich has the world witnessed death in such massive doses as it has under the bloody regime of Pol Pot.

A recent report by the American Friends Service Committee indicated that in one camp alone, Pot and his minions tortured and murdered some 20,000 people, including 2,000 young children. Four Americans, two from my district, suffered such a fate.

And this is the regime that Jimmy Carter would recognize as the legitimate Government of Cambodia?

To be sure, the government which the Vietnamese imperialists have imposed on the people of Cambodia is no more legitimate. But the concerns of geopolitics should not force us to close our eyes to Pol Pot's atrocities.

Surely, it is in the best interests of the United States, and in the best peace loving traditions of the United States to recognize neither of these imposter governments and to wait until the Cambodia people have the opportunity to determine their own destiny, once again.

AMERICAN FISH PROMOTION ACT

(Mr. BREAUX asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BREAUX. Mr. Speaker, yesterday we were supposed to come under suspension on the bill, H.R. 7039. That bill is scheduled for suspension this morning. The reason it was pulled yesterday was because some of the sections, specifically the section dealing with amendments to the capital construction fund were a part of that bill.

Today the bill that will be presented under suspension does not have the section dealing with the capital construction fund. I thought it was an important part of the legislation, but understand quite well that if it had been included in the bill, that the bill would not have passed. I certainly yield to those members of the Committee on Ways and Means who expressed some concern about it being taken up in that manner.

The bill that we will be presenting to the floor today will not have that section.

The other provisions of the other bill provide a major development program for the American fishing industry and I would urge the Members to give it favorable consideration.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which further proceedings were postponed.

AUTHORIZING SECRETARY OF THE INTERIOR TO TRANSFER CERTAIN LAND AND FACILITIES USED BY BUREAU OF MINES

Mr. MURPHY of Pennsylvania. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 7385, to authorize the Secretary of the Interior to transfer certain land and facilities used by the Bureau of Mines, and for other purposes, as amended.

The Clerk read as follows:

H.R. 7385

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) (1) the Secretary of the Interior is authorized to enter into a contract with Carnegie-Mellon University, whereby the United States agrees to convey, and Carnegie-Mellon University agrees to accept, all right, title, and interest of the United States in and to the property described in subsection (b) hereof. The contract shall provide, inter alia, that Carnegie-Mellon University, at the time of the conveyance of title to said property, shall pay to the United States the amount which the Secretary of the Interior determines to be the fair market value of the property conveyed, or $5,400,000, whichever is greater. Should the cost of the engineering, design, and construction of the facility and related improvements authorized by section 2 of this Act and the fair market value each amount to less than $5,400,000, Carnegie-Mellon University shall pay the higher of two amounts. (2) The conveyance shall not be effective until (i) the facility authorized pursuant to section 2 of this Act is completed and ready for occupancy; and (ii) Carnegie-Mellon University enters into a long-term agreement with the Secretary of Labor on behalf of the Mine Safety and Health Administration to lease to the Mine Safety and Health Administration all of that portion of the property designated as Building A (Main Building) and Building B (Service Building) and adjacent parking areas until such time as the Secretary of Labor determines that the property is no longer needed for occupancy and use by the Mine Safety and Health Administration.

(b) The property referred to in subsection (a) includes land and improvements thereon owned by the United States and used for the Pittsburgh facility of the Bureau of Mines, such land being situated in the Oakland area of Pittsburgh, Pennsylvania, and known as 4800 Forbes Avenue.

(c) The Secretary of Labor, on behalf of the Mine Safety and Health Administration, is authorized to enter into a lease agreement with Carnegie-Mellon University and take such other actions as are necessary to occupy and use the space referred to in clause (ii) of subsection (a) (2) at a fair and reasonable price and under terms to be determined by the Secretary of Labor.

SEC. 2. (a) After a duly authorized representative of Carnegie-Mellon University has executed the contract referred to in paragraph (1) of subsection (a) of section 1 of this Act, the Secretary of the Interior may, with funds appropriated for such purposes, enlarge, equip, and improve the research facility of the Bureau of Mines near Bruceton, Pennsylvania, and may transfer such operations as he deems appropriate to such facility from the facility at Pittsburgh, Pennsylvania.

(b) In order to carry out this section, there is hereby authorized to be appropriated not more than $5,400,000 for the engineering, design, and construction of facilities and related improvements at the research facility of the Bureau of Mines near Bruceton, Pennsylvania.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. MURPHY) will be recognized for 20 minutes, and the gentleman from California (Mr. LAGOMARSINO) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. MURPHY).

Mr. MURPHY of Pennsylvania. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the provision of H.R. 7385 as now proposed to the House is the product of the joint efforts of my colleagues from Pennsylvania. Mr. MOORHEAD, Mr. GAYDOS and myself. We have worked with our counterparts on the Senate side, and with representatives of the administration and Carnegie-Mellon University in developing an agreement which we all support.

The purpose of H.R. 7385 is to provide for the conveyance of certain property used by the Bureau of Mines and other Federal agencies to the Carnegie-Mellon University at the fair market value price, but not less than $5.4 million. The parcel involved is adjacent to and in fact surrounded by the university campus and is considered to be the only property available to meet its need for expansion.

Many of the activities of the Bureau of Mines have already been relocated at its Bruceton, Pa., facilities. If H.R. 7385 is enacted, the remaining Bureau operations at the Pittsburgh site will be moved to a new facility to be constructed at Bruceton. The income from the sale of the Pittsburgh property to the university should be more than adequate to pay for the cost of constructing the new building.

Another important agency having operations at the Pittsburgh site is the Mine Safety and Health Administration. Under the terms of the language agreed upon, that agency will be assured continued occupancy of the space it needs under a long-term lease agreement.

I want to repeat that the language in the bill now before the House has been agreed to by all concerned. It is the language recommended by the administration. It protects the U.S. interest in receiving the full value of the property and, at the same time, helps Carnegie-Mellon University meet its critical need for more space for its research and educational programs.

I urge the adoption of the bill, as amended.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Pennsylvania (Mr. MURPHY) has explained the purpose and content of this bill very well. I agree with everything he says.

To my knowledge, there is no controversy about or opposition to this legislation. I urge its approval and yield back the balance of my time.

Mr. MURPHY of Pennsylvania. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. GAYDOS).

Mr. GAYDOS. I thank the gentleman for yielding.

Mr. Speaker, I was the framer of the amendment, the major amendment. It did put into place in this legislation certain safeguards, one of which I would like to emphasize for the record. Under this amendment and the legislation in general, the Secretary of Labor under the MSHA Act will have final disposition and discretion as to what action will be taken regarding occupancy. It further provides that the employees at the institution be housed in a new building at the Bureau of Mines in Bruceton, which is in my district. So that contingency has been provided for.

In conclusion, I would like to point out to my colleagues that fair market value of subject property is part of this legislation, and there will be no giveaway. The parties that analyzed the overall intent of this legislation, in light of the needs dictated by the situation are in full agreement. There will be no money lost under the circumstances to the Federal Government.

I want to thank my colleague for allowing me this opportunity to present these facts for the record.

Mr. MURPHY of Pennsylvania. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. MOORHEAD).

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I rise in support of this legislation, which is supported by all the Members of the House from western Pennsylvania and by both Pennsylvania Senators on a bipartisan basis.

I want to pay special tribute to my colleague from Pennsylvania (Mr. GAYDOS) who worked out the amendment that has satisfied all the parties concerned in this legislation. And I also want to thank my colleague (Mr. AUSTIN MURPHY), a member of the Interior Committee, who is handling the bill on the floor.

This is good legislation for the country, and the taxpayer is protected. It will not cost the Government a nickel since Carnegie Mellon University is prepared to pay the full fair market value of the property at the time of conveyance, which will be used to finance a new addition to the present Bureau of Mines facility at Bruceton, Pa., within the same metropolitan area.

Mr. Speaker, the history of this legislation goes back to 1957, when the idea was first discussed by Carnegie Institute of Technology, as it was then called, with the Bureau of Mines. The Bureau was interested in consolidating its operations at their Bruceton facility and initiated conversations with CIT to ascertain their interest in acquiring the property.

Bills have been introduced in Congress on at least three occasions since that time, and each time we have been unsuccessful in accomplishing it, either because of inaction, last minute appropriation cuts, or disagreements concerning the fair market value of the property. I am proud to have finally seen this piece of legislation pass the House of Representatives before I end my 22 years of service in Congress. It is something I have worked for since my first bill was introduced in 1967.

In order to understand how appropriate this transfer is, it is necessary to know the proximity of the building to the Carnegie Mellon University campus. The BOM facility was designed by the same architect who planned the CMU campus, and it is built in the same style. The design of the buildings blends right into the campus, and since it is immediately adjacent to the campus is a natural extension of it. The main building, known as building A, has recently been placed on the National Register of Historic Buildings, and like its counterparts on the CMU campus, was built for the kind of research and scientific studies that has made the Carnegie Mellon University famous throughout the world.

Carnegie Mellon is a major research center for science and technology. The growth in research, accompanied in the same period by a growth of about 20 percent in students, has created a severe shortage, and the university must acquire additional facilities if it is to continue to hold a leading role in science and technology research. Carnegie Mellon has started a new institute for research on robotics in the context of automation of manufacturing. In view of the declining work force in the 1980's and the pressing need to increase productivity, this research program is vital to the national interest. Carnegie Mellon is one of the few research universities in the United States with the background and resources to undertake a major robotics program.

The Bureau of Mines has long been interested in consolidating their facilities at their main location in Bruceton, Pa., located approximately 23 miles from the Forbes Avenue location, and within the same metropolitan area. At the moment, their operations are split between the two sites, with some employees at the Bruceton facility working in temporary quarters—trailers—until a permanent structure is available. There are approximately 104 employees of the Bureau of Mines at the Forbes Avenue facility, and another approximately 240 employees of the Mine Safety and Health Administration at the same location.

The Bureau of Mines employees will be transferred to Bruceton if they wish to continue to work for the Department of Interior. They will have the option of being hired by Carnegie Mellon University if they do not want to make the transfer. The employees of the MSHA under the Department of Labor—formerly the Mine Enforcement and Safety Administration, MESA, part of the Bureau of Mines—will be allowed to continue their operations at the Forbes Avenue location under a long-term lease agreement with the university, until such time as they determine they no longer need the space.

The language in the amendment, offered by Congressman GAYDOS, has been worked out jointly by the Department of Labor, the Department of Interior and the Office of Management and Budget and has the full support of the administration.

As recommended, H.R. 7385, as amended, authorizes the appropriation of $5.4 million for the construction of the Bureau of Mines replacement facility. This cost is to be fully reimbursed—up to $5.4 million—by Carnegie Mellon University at the time of conveyance of title to the Forbes Avenue property; however, if the fair market value of that property exceeds $5.4 million, then Carnegie Mellon will be required to pay the larger amount. Conveyance of title to the property will not be consummated until the new facility at Bruceton is completed and ready for occupancy so there should be no disruption of present operations.

Since the Government will be reimbursed for its construction costs, actual outlays should be minimal, and there is a possibility that the income from the sale of the Forbes Avenue site will exceed the cost of replacement. For this reason there should be no inflationary impact resulting from the bill.

Mr. Speaker, the same bill was introduced in the Senate by Senator Heinz—S. 2734—and was amended with the identical language as the House bill by the Senate Energy Committee. I anticipate no difficulty in having the Senate bill approved in the next day or so, and forwarded to the President for his signature.

Let me take this opportunity to thank the various members of the Pennsylvania congressional delegation who worked together to get this bill passed; the staffs of the House Interior Committee, and the Senate Energy Committee, who were so cooperative about seeing that all parties who had an interest in this legislation were heard, and considered in the drafting of the legislation, and the dedication and perseverance of the staffs of the Department of the Interior, the Department of Labor (MASH), and the congressional offices involved.

Mr. MURPHY of Pennsylvania. Mr. Speaker, I thank my colleagues from Pennsylvania and also my colleague from the State of California (Mr. LACOMARSINO), who has assisted us in the Committee on Interior and Insular Affairs on this bill.

I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. MURPHY) that the House suspend the rules and pass the bill, H.R. 7385, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MURPHY of Pennsylvania. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 7385, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

□ 1130

SALMON AND STEELHEAD MANAGEMENT AND ENHANCEMENT

Mr. BREAUX. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6959) to provide for the conservation and enhancement of the salmon and steelhead resources of Washington State, assistance to the treaty and nontreaty harvesters of those resources, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6959

Strike all after the enacting clause and insert, in lieu thereof, the following:

FINDINGS, PURPOSES, AND POLICY

SECTION 1. (a) FINDINGS.—The Congress finds and declares the following:

(1) The stocks of salmon and steelhead which originate in the rivers of the conservation areas constitute valuable and renewable natural resources. Many groups of commercial, recreational, and treaty fishermen have historically depended upon these stocks of fish for their livelihoods and avocations. These fishery resources contribute to the food supply and economic health of the Pacific Northwest and Nation as a whole, provide valuable recreational experiences for thousands of citizens from various parts of the United States, and represent a central element of the cultures and economies of Indian tribes and the citizens of the Pacific Northwest.

(2) Over a period of several decades, competing uses of salmon and steelhead habitat and historical problems relating to conservation measures, the regulation of harvest, habitat management, and enhancement have depressed several of these stocks of salmon and steelhead.

(3) Improved management and enhancement planning and coordination among salmon and steelhead managers will help prevent further decline of salmon and steelhead stocks and will assist in increasing the supply of these stocks.

(4) The fishing capacity of nontreaty fishermen in the conservation areas established by this Act exceeds that required to harvest the available salmon resources. This excess capacity causes severe economic problems for these fishermen.

(5) The ability of the Klamath River and Treaty Tribes to enhance the salmon and steelhead resources passing their usual and accustomed fishing grounds is hindered by the lack of sufficient financial resources.

(6) The supply of salmon and steelhead can be increased through carefully planned enhancement measures designed to improve the survival of stocks and augment the production of artificially propagated stocks. By careful choice of species, areas and stocking procedures, enhancement programs can be used to—

(A) restore stocks through remedial actions to compensate for declines in resource production resulting from overfishing and environmental degradation;

(B) improve the distribution of fish among different groups of fishermen; and

(C) add stability to the fishery by reducing variations in fish availability.

(7) The decisions in the cases of the United States v. Washington and Sohappy v. Smith have resulted in temporary economic dislocation in the salmon fishery.

(b) Purposes and Policy.—It is therefore declared to be the purposes and policy of the Congress in this Act that—

(1) the various salmon and steelhead managers should coordinate their activities to ensure the effective conservation of the salmon and steelhead in the conservation areas;

(2) it is in the national interest to increase the supply of, and provide for the long-term conservation and optimum production of, the salmon and steelhead resources of the conservation areas and to minimize significant adverse interaction between naturally spawning and artificially propagated stocks;

(3) Federal financial assistance should be provided for the enhancement of salmon and steelhead resources within the conservation areas;

(4) the economic well-being of treaty and nontreaty commercial fishermen be improved and the recreation fishing opportunity for salmon and steelhead be enhanced; and

(5) all commercial and recreation fishermen and the Klamath River and Treaty tribes within the conservation areas shall have a reasonable opportunity to participate in the benefits, considered as a whole, of the enhancement program, consistent with other applicable law.

Sec. 2. As used in this Act—

(1) The term "Columbia River Tribe" means any of the following:

(A) The Confederated Tribes and Bands of the Yakima Indian Nation of Washington.

(B) The Confederated Tribes of the Warm Springs Indian Reservation of Oregon.

(C) The Confederated Tribes of the Umatilla Indian Reservation of Oregon.

(D) The Nez Perce Tribe of Idaho.

(E) Any other Indian tribe whose fishing rights in the Columbia River drainage basin—

(i) derive from a treaty between it and the United States, and

(ii) have been recognized by a Federal Court.

(2) The term "Columbia River management party" refers to the following:

(A) The State of Washington.

(B) The State of Oregon.

(C) A coordinating body duly authorized by the Columbia River Tribes.

(D) The Pacific Fishery Management Council established under section 302 of the Fishery Conservation and Management Act of 1976.

(3) The term "Columbia River conservation area" means—

(A) all habitat within the Columbia River drainage basin, and

(B) those areas in—

(i) the fishery conservation zone over which the Pacific Fishery Management Council has jurisdiction, and

(ii) the territorial sea of Oregon or Washington,

in which one or more stocks that originate in the habitat described in subparagraph (A) migrate.

(4) The term "conservation and management" refers to all of the rules, regulations, conditions, methods, and other measures which are—

(A) required to rebuild, restore, or maintain, on which are useful in rebuilding, restoring, or maintaining, any fishery and the related habitat; and

(B) designed to assure that—

(i) a supply of food and other products may be taken and that recreational benefits may be obtained, on a continuing basis.

(ii) irreversible or long-term adverse effects on the fishery and the related habitat are avoided, and

(iii) there will be a multiplicity of options available with respect to future uses of the fishery and the related habitat.

(5) The term "enhancement project" means one or more specific activities undertaken to increase the survival or production of one or more stocks.

(6) The term "fishery" means one or more stocks which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics.

(7) The term "habitat" means those portions of land or waters, including the constituent elements thereof—

(A) which one or more stocks occupy at any time during their life cycle, or

(B) which affect one or more stocks.

(8) The term "Klamath River conservation area" means—

(A) all habitat within the Klamath River drainage basin, and

(B) those areas in—

(i) the fishery conservation zone over which the Pacific Fishery Management Council has jurisdiction, and

(ii) the territorial sea of California,

in which one or more stocks that originate in the habitat described in subparagraph (A) migrate.

(9) The term "Klamath River management party" refers to the following:

(A) The State of California.

(B) The counties of Del Norte, Humboldt, Trinity, and Siskiyou, California.

(C) The Klamath River Tribes.

(D) The Pacific Fishery Management Council.

(10) The term "Klamath River Tribes" means the Hoopa Valley Tribe of the Hoopa Valley Reservation; the Karok Tribe; and the Yurok Tribe of the Hoopa Valley Reservation, all in the State of California.

(11) The term "optimum", with respect to the yield from a fishery, means an amount of the salmon or steelhead therefrom which—

(A) is consistent with applicable law;

(B) will provide the greatest overall benefit to the Nation, with particular reference to food production and recreational opportunities; and

(C) is prescribed as such on the basis of the maximum sustainable yield from such fishery, and the escapement goals for the various stocks as modified by any relevant economic, social or ecological factors.

(12) The term "salmon" means any anadromous species of the family Salomidae and Genus Oncorhynchus, commonly known as Pacific salmon.

(13) The term "Secretary" means the Secretary of Commerce.

(14) The term "steelhead" means the anadromous rainbow trout species Salmo gairdneri, commonly known as steelhead.

(15) The term "stock" means any species, subspecies, race, geographical grouping, population, run, or other category of salmon or steelhead that is capable of being managed as a unit.

(16) The term "Treaty Tribe" means any Columbia River Tribe or Washington Tribe.

(17) The term "Washington conservation area" means—

(A) all habitat within the State of Washington other than the Columbia River drainage basin, and

(B) those areas in the fishery conservation zone referred to in paragraph (3)(B) over which the Pacific Fishery Management Council has jurisdiction and in which one or more stocks that originate in the habitat described in subparagraph (A) migrate.

(18) The term "Washington management party" refers to—

(A) The State of Washington.

(B) A coordinating body duly authorized by the Washington Tribes.

(C) The Pacific Fishery Management Council.

(19) The term "Washington Tribe" means any Indian tribe recognized by the United States Government, with usual and accustomed fishing grounds within the State of Washington (other than the Columbia River drainage basin), whose fishing rights therein derive from a treaty between it and the United States and have been recognized by a Federal court.

TITLE I—MANAGEMENT AND ENHANCEMENT OF SALMON AND STEELHEAD

CHAPTER 1—COMMITTEES AND PLANS

JOINT SALMON AND STEELHEAD MANAGEMENT COMMITTEES

Sec. 101. (a) Establishment.—If before the one-hundred and eightieth day after the date of enactment of this Act—

(1) each Columbia River management party notifies the Secretary in writing that it wishes to be a member of the Joint Columbia River Salmon and Steelhead Management Committee (hereinafter in this Act referred to as the "Columbia River Committee"), there is established, effective on and after the day on which the last of such notifications is received, such Committee;

(2) each Washington management party notifies the Secretary in writing that it wishes to be a member of the Joint Washington Salmon and Steelhead Management Committee (hereinafter in this Act referred to as the "Washington Committee"), there is established on and after the day on which the last of such notifications is received, such Committee; and

(3) each Klamath River management party notifies the Secretary in writing that it wishes to be a member of the Joint Klamath River Fisheries Conservation Committee (hereinafter referred to as the "Klamath River Committee"), there is established, effective on and after the day on which the last of such notifications is received, such Committee.

(b) Membership and Procedure.—(1) The Columbia River Committee shall consist of four members. The Washington Committee shall consist of three members. The Klamath River Committee shall consist of nine members. Each constituent management party of each such Committee shall be responsible for the selection and appointment of one member, and the appropriate officer of such party shall certify the appointment to the Secretary: *Provided,* That the Secretary of the Interior, after consultation with appropriate organizations and groups of Yurok Indians, shall appoint a member to the Klamath River Committee to represent the Yurok Tribe until such time as the Yurok Tribe organizes a tribal government and appoints its own member: *Provided further,* That the member appointed by the Secretary of the Interior to represent the Yurok Tribe shall have full authority to act for the Yurok Tribe as provided in this Act.

(2) Each such Committee shall have a Chairman, the term of office of which is one year. The members of each Committee shall fill the office of Chairman on a rotating basis. The sequence of rotation shall be determined by the Committee by lot.

(3) Each such Committee shall meet at the call of the Chairman or, in the case of the Columbia River Committee, upon demand of at least three voting members and, in the case of the Washington Committee, upon the demand of at least two voting members and, in the case of the Klamath

River Committee, upon the demand of five voting members.

(c) Functions.—The functions of the Columbia River, Klamath River, and Washington Committees are to prepare, review, and, if necessary amend, in accordance with section 102, a management plan, and an enhancement plan, for their respective conservation areas.

(d) Per Diem and Travel Allowances.—The members of each Committee (other than those who are full-time employees of the Federal or a State government), while away from their homes or regular places of business for purposes of carrying out their duties as members, shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons intermittently employed in Government service.

(e) Administrative Support.—The Secretary shall provide such clerical and technical support as may be necessary to enable each Committee to carry out its functions.

(f) Special Provisions.—Any Klamath River Tribe or Treaty Tribe electing to not be represented on its respective management committee shall not be bound by any management plan or enhancement plan developed by such committee and will not be eligible to receive enhancement assistance provided in this Act.

MANAGEMENT PLANS AND ENHANCEMENT PLANS

Sec. 102. (a) Management Plans Standards.—Each Committee referred to in section 101(a), in preparing a management plan, and amendments thereto, for its respective conservation area shall apply conservation and management measures that shall—

(1) prevent overfishing and provide for—

(A) optimum production, and

(B) on a continuing basis, an optimum yield from the fishery;

(2) be based upon the best scientific information available;

(3) to the extent practicable, provide for the management of each individual stock as a unit throughout its range, and interrelated stocks may be managed as a unit or in close coordination;

(4) not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be—

(A) fair and equitable to all such fishermen;

(B) reasonably calculated to promote conservation; and

(C) carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges;

(5) where practicable, promote efficiency in the utilization of the fishery and the related habitat, except that such measures may not have economic allocation as their sole purpose;

(6) take into account and allow for variations among, and contingencies in, fisheries and catches;

(7) where practicable, minimize costs and avoid unnecessary duplication; and

(8) notwithstanding any of the above measures, provide for the harvest of shares in accordance with treaty or other Federally-protected Indian rights unless agreed otherwise by all affected parties.

(b) Enhancement Plan Standards.—Each such Committee, in preparing an enhancement plan, and amendments thereto, for its respective conservation area, shall set forth enhancement projects that shall—

(1) assure that all commercial and recreational fishermen and the Klamath River Tribes and Treaty Tribes within the conservation area shall have a reasonable opportunity to participate in the benefits, considered as a whole, of such projects;

(2) provide for the long-term conservation and optimum production of the salmon and steelhead resources of the conservation area and minimize to the extent practicable significant adverse interaction between naturally spawning and artificially propagated stocks;

(3) be designed to complement the contribution of existing sound State, Federal, and tribal enhancement activities; and

(4) be economically and biologically sound, and supported by adequate scientific research, and achieve significant benefits relative to their overall cost.

(c) Plan Contents.—(1) Each management plan, with respect to a fishery, shall contain the conservation and management measures necessary or appropriate for the conservation and management of the fishery that are consistent with the standards set forth in subsection (a) and any other applicable law, including, but not limited to—

(A) a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the cost likely to be incurred in its management, any recreational interests in the fishery, and the nature and extent of foreign fishing and the fishing rights of the Klamath River Tribes and Treaty Tribes therein; and

(B) an assessment and specification of the present and probable future condition of, and the maximum sustainable yield, the optimum yield, and the optimum production from, the fishery, which specification shall include a summary of the information utilized in making it; and

(2) Each enhancement plan shall set forth such enhancement projects to be carried out within the conservation area as are necessary or appropriate.

(d) Discretionary Measures.—(1) The conservation and management measures included within a management plan for a fishery may include—

(A) the designation of zones where, and periods when, fishing in the fishery shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(B) the establishment of specified limitations on the catch of salmon or steelhead (based on area, species, size, number, weight, sex, incidental catch, total biomass, or other factor) which are necessary or appropriate for the conservation and management of the fishery; and

(C) Prohibitions, limitations, conditions, or requirements on the use of specified types and quantities of fishing gear, fishing vessels, including such devises which may be required to facilitate enforcement of the plan; and

(2) All such discretionary measures shall be consistent with legal requirements relating to the regulation of treaty or other federally protected Indian fisheries.

(e) Review and Amendment of Plan.—If a management plan or an enhancement plan enters into force and effect as provided for under section 103, the Columbia River, Klamath River, or Washington Committee, as the case may be, shall on a continuing basis review the sufficiency and effect of the plan in the light of actual implementation, enforcement, conservation and management and enhancement experience and determine if any amendment of the plan is necessary. Such Committee shall submit amendments deemed necessary by it to the Secretary for approval under section 104.

TAKING EFFECT OF PLANS

Sec. 103. (a) Enhancement Plans.—An enhancement plan provided for under section 102 shall enter into force and effect with respect to the respective management parties of the Committee concerned, and chapter 2 shall take effect for purposes of assisting in the implementation of such plan, only if—

(1) the enhancement plan is unanimously agreed to by the Committee; and

(2) such plan is approved pursuant to section 104.

(b) Management Plans.—A management plan provided for under section 102 shall enter into force and effect with respect to the respective management parties of the Committee concerned, and chapter 2 of this title shall take effect for purposes of assisting in the implementation of such plan, only if—

(1) the management plan is unanimously agreed to by the Committee;

(2) such plan is approved pursuant to section 104; and

(3) a formal agreement, to which each management party is signatory, is entered into under which each such party mutually obligates itself throughout the ten-year period beginning on the date of such approval—

(A) to implement and enforce the provisions of the plan and amendments thereto, through laws, regulations, ordinances or other appropriate means, within such geographical areas and with respect to such persons as may be subject to its jurisdiction and to the extent of its enforcement power,

(B) to engage in such coordination and consultation, through the Committee or otherwise, as may be necessary or appropriate to ensure, to the maximum extent practicable, that the plan is fully and efficiently implemented and to carry out the requirements relating to plan review and amendment set forth in section 102(e), and

(C) not to withdraw from participation in the plan unless all other management parties unanimously agree to so withdraw.

The formal agreement referred to in paragraph (3) may provide, and establish appropriate procedures, for the arbitration of disputes among the parties thereto relating to the carrying out of their obligations under the agreement.

(c) Amendments to Plan.—No amendment to the plan shall have force and effect unless the amendment—

(1) is unanimously agreed upon by the respective management parties; and

(2) is approved under section 104.

APPROVAL OF PLANS AND AMENDMENTS

Sec. 104. (a) In General.—Any management plan, enhancement plan, or amendments to either prepared by the Columbia River, Klamath River, or Washington Committee shall be treated as having been approved by the Secretary unless, within the one hundred and twenty day period after the day on which the plan or amendments are submitted to the Secretary by such Committee, the Secretary finds, and publishes notification in the Federal Register, before the close of such period that the plan or amendment is not consistent with the appropriate standards and requirements set forth in section 102. The Secretary shall include in such notification the reasons for such finding. If the Secretary considers that the plan or amendments are consistent with such standards and requirements, he may publish notification to that effect in the Federal Register.

(b) Committee Action Upon Disapproval.—If the Secretary disapproves the plan or amendments thereto, the Committee concerned may undertake either or both of the following actions:

(1) Prepare a plan or amendments after taking into account the reasons for disapproval.

(2) Seek appropriate judicial review of the Secretary's disapproval.

(c) Date of Approval.—For purposes of

this chapter, the date of approval of a management plan, enhancement plan, or amendments is, as the case may be—

(1) the expiration of the one hundred and twenty day period referred to in subsection (a); or

(2) the date on which notification of approval is published in the Federal Register.

EFFECT OF PLAN ON CERTAIN REQUIREMENTS UNDER THE FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

SEC. 105. Nothing in this Act shall be construed as affecting the provisions of title III of the Fishery Conservation and Management Act of 1976 as it applies with respect to fishery management plans and their application to any fishery; except that—

(1) the Pacific Fishery Management Council shall prepare such amendments to the fishery management plan as may be necessary or appropriate to make that plan consistent with any management plans and their application effect under this title;

(2) for purposes of such preparation, and Secretarial review pursuant to such title III, the management plan standards and requirements set forth in section 102 shall apply rather than those in such title;

(3) the Secretary may not partially disapprove any amendment prepared by the Council to carry out paragraph (1); and

(4) the Secretary may not prepare, under section 304(c) of such Act of 1976, any amendment required to made by the Council by paragraph (1).

CHAPTER 2—FINANCIAL ASSISTANCE FOR ENHANCEMENT

AUTHORITY TO MAKE GRANTS

SEC. 121. Upon approval of an enhancement plan of the Columbia River, Klamath River, or Washington Committee, the Secretary shall make grants to management parties and Klamath River Tribes and Treaty Tribes concerned to assist them to carry out, in whole or part, the enhancement projects specified in the plan. In deciding whether to make grants under this chapter, the Secretary shall take into consideration whether similar projects are being carried out under Federal, State, or private auspices.

TERMS AND CONDITIONS

SEC. 122. Each grant made under this chapter shall contain such terms and conditions as the Secretary shall by regulation prescribe as being necessary or appropriate to implement the limitations in section 123 and 124 and to otherwise protect the interests of the United States.

GRANT LIMITATIONS

SEC. 123. (a) IN GENERAL.—The amount of any grant made under this chapter may not exceed one-half of the estimated cost of the enhancement project for which it is made; except that—

(1) grants for up to 100 per centum of the cost of the projects may be made to Klamath River Tribes and Treaty Tribes; and

(2) the State of Washington shall be treated on the date this chapter enters into effect with respect to it as having expended $32,000,000 (reduced by the amount treated as expended by the State under section 207 of this Act) on enhancement projects set forth in the plan which are eligible for assistance under this chapter.

(b) SPECIAL PROVISIONS.—(1) No Klamath River Tribe or Treaty Tribe is eligible for assistance under this chapter after a management plan affecting such tribe is approved under section 104 unless it enters into a written commitment, satisfactory to the Secretary, to participate, in good faith, in the implementation and enforcement of the management plan to the extent of its ability and jurisdiction.

(2) No management party or Klamath River Tribe or Treaty Tribe is eligible for assistance under this chapter unless it agrees not to undertake any enhancement project not specified in the enhancement plan if that project is inconsistent with such plan or with the management plan, if any, applicable to it.

(c) IN-KIND CONTRIBUTIONS.—In computing the estimated cost of any enhancement project, the Secretary shall take into account, in addition to cash outlays to be made by the grant recipient, the value of such in-kind contribution (including, but not limited to, personal services) and real and personal property applied by the recipient in carrying out the project. The Secretary shall establish by regulation the standards under which the value of in-kind contributions and real and personal property will be determined for purposes of this subsection. Any valuation determination made by the Secretary for purposes of this subsection shall be conclusive.

TERMINATION OR SUSPENSION OF ASSISTANCE UNDER CHAPTER

SEC. 124. (a) TERMINATION FOR REASON OF WITHDRAWAL FROM AGREEMENT.—If—

(1) a management plan for the Columbia River, Klamath River, or Washington Committee is not approved under section 104 within eighteen months after the date on which an enhancement plan is approved under such section for that Committee;

(2) the Secretary finds that the management parties have unanimously agreed to withdraw from participation in the plan before the termination of the ten-year period referred to in section 103(b)(3); or

(3) the Secretary finds that one or more management parties have not carried out their obligations under the agreement referred to in section 103(b)(3), or that one or more Klamath River Tribes, or Treaty Tribes have not carried out their commitments referred to in section 123(b)(1) with the result that the management plan concerned can no longer be implemented appropriately;

then effective on and after that date of such notification, the Secretary may not—

(A) receive applications for grants under this chapter;

(B) further process applications received, but not finally acted on, before such date; or

(C) disburse any moneys under this chapter.

(b) OTHER TERMINATION AND SUSPENSION.—(1) If the Secretary finds that—

(A) any management party or Klamath River Tribe or Treaty Tribe has failed to, or is not satisfactorily carrying out, the terms or conditions of a grant made under this chapter;

(B) any Klamath River Tribe or Treaty Tribe is not fulfilling its commitment entered into under section 123(b)(1); or

(C) any management party or Klamath River Tribe or Treaty Tribe is not fulfilling its commitment entered into under section 123(b)(2); the Secretary may, as the circumstances require, refuse to award a grant or suspend or terminate the disbursement of moneys under the grant.

(2) No action may be taken by the Secretary under paragraph (1), or under subsection (a)(3), unless the Secretary gives the party or tribe concerned notice of the proposed action and the reasons therefor, and a reasonable opportunity to take corrective action.

AUDIT

SEC. 125. Each recipient of a grant under this chapter shall make available to the Secretary and to the Comptroller General of the United States for purposes of audit and examination, any book, document, paper, and record that is pertinent to the funds received under the grant.

AUTHORIZATION OF APPROPRIATIONS

SEC. 126. (a) For purposes of carrying out this chapter (including, but not limited to, the operation and maintenance of enhancement facilities) there are authorized to be appropriated not to exceed $45,000,000 for the ten-year period beginning on October 1, 1981, for the Washington conservation area; not to exceed $25,000,000 for the ten-year period beginning on such date for the Columbia River conservation area; and not to exceed $15,000,000 for the ten-year period beginning on such date for the Klamath River conservation area.

(b) In addition to the amounts authorized under subsection (a) there are authorized to be appropriated to carry out steelhead enhancement projects (including, but not limited to operation and maintenance of enhancement facilities) not to exceed $7,000,000 for the ten-year period beginning on October 1, 1981, for the Washington conservation area; and not to exceed $7,000,000 for the ten-year period beginning on such date for the Columbia River conservation area.

TITLE II—COMMERCIAL FISHING FLEET ADJUSTMENT

FLEET ADJUSTMENT PROGRAM

SEC. 201. (a) IN GENERAL.—The Secretary, upon approval of a program submitted pursuant to section 203 of this title, is authorized to distribute Federal funds to the State of Washington (hereinafter in this title referred to as the "State"), subject to the standards, conditions, and restrictions set forth in this title, for the purchase of commercial fishing and charter vessels (including the associated fishing gear) and licenses by the State in accordance with the provisions of this title. The Federal share payable under this title shall not exceed 75 per centum in any fiscal year of the total costs of the program in that fiscal year.

(b) LEGAL TITLE.—Title to any vessel or other personal property purchased under a State program approved by the Secretary in accordance with the provisions of this title shall vest upon purchase in the State. If the State sells such vessels or other property, title may pass in accordance with such sale.

STANDARDS

SEC. 202. The State shall submit to the Secretary a program within three months of the date of enactment of this Act designed to—

(1) provide incentives for early retirement of licenses, or early sale of vessels;

(2) set aside specific allocations of funds for each gear type to achieve the specific fleet reductions provided for in the program;

(3) obtain an effective and expeditious reduction in the overall fishing capacity of and the number of vessels and licenses in the non-Indian commercial and charter salmon fishing fleets in the Washington conservation area; and

(4) provide State funding for 25 per centum of the total cost of the program.

PROGRAM APPROVAL

SEC. 203. (a) SUBMISSION FOR APPROVAL.—The State shall submit its program and submit revisions, modifications, or amendments to the Secretary in accordance with standards established pursuant to section 202 and in such manner and form as the Secretary shall prescribe.

(b) REQUIREMENTS FOR APPROVAL.—Prior to approving such program or any revision, modification, or amendment, and authorizing Federal funds to be distributed in accordance with this title, the Secretary must find that—

(1) the State, acting through its chosen

agency or agencies, has authority to carry out a commercial and charter vessel fleet reduction program in accordance with the provisions of this title;

(2) the State program provides that a fishing or charter vessel may not be purchased by the State from other than the person who owned the vessel on the date of the enactment of this act;

(3) the State program prevents the expenditure of disproportionate amount of funds available for vessel acquisition on vessels owned by any one person;

(4) the State program prohibits the purchase of any fishing or charter vessel unless all State commercial and charter salmon fishing licenses attached to the vessel are also sold to the State;

(5) the State program provides that no person may purchase from the State any vessel which that person or a member of that person's immediate family had previously sold to the State;

(6) the State program provides that no person may purchase any vessel sold to the State pursuant to the program and use such vessel for commercial or charter salmon fishing in the Washington conservation area, unless State law provides that the use of such vessel could not result in any additional fishing effort in the non-Indian fishing fleet;

(7) the State program provides for purchase of vessels at their fair market value:

(8) the State program provides for the reduction of salmon fishing licenses, through purchase of such licenses at their fair market value, and the use of bonuses and schedule, to—

(A) secure an early retirement from the salmon fishery;

(B) recognize productiveness if the commercial harvesters using a gear type wish that gear type's specific allocation of funds to recognize productiveness; and

(C) recognize passenger-carrying capacity for charter fishing licenses;

(9) the State program provides, with respect to marginally productive commercial salmon fishermen, for the purchase of their salmon fishing licenses, but not their fishing vessels;

(10) the State will not, during the five-year period beginning on the date of enactment of this Act, issue any new commercial or charter salmon fishing license;

(11) the State has established a revolving fund for the operation of the fleet reduction program that includes an individual account for each category of fishing license (based on type of fishing gear used) and that any moneys received by the State or its agents from the resale of any fishing vessel or gear purchased under the program (A) shall be placed in such revolving fund, (B) shall, for at least three years from the date of the program's inception, be placed in the appropriate individual account, and (C) shall be used exclusively to purchase commercial fishing and charter vessels and licenses in accordance with the provisions of this title; and

(12) the State will notify the Secretary of the termination date of the State program and will pay to the United States Treasury an amount equal to 75 per centum of the balance, on such termination date, of the revolving fund referred to in paragraph (11).

(c) SECRETARIAL ACTION.—The Secretary shall approve such program within ninety days of the date of receipt of the program if found to be consistent with this Act and other applicable law. If the Secretary finds that such program is not in conformity with the provisions of this Act or other applicable law, he shall return such program to the State with recommendations. Any revision, modification, or amendment to the program shall be approved within thirty days of receipt unless found to be inconsistent with this Act or other applicable law.

REVIEW BY SECRETARY

SEC. 204. (a) IN GENERAL.—The Secretary shall conduct a continuing review of the State program to determine whether the program remains consistent with this Act or oher applicable law. Such review shall include a biennial audit of the records of the State program.

(b) ACTION UPON FINDING OF NONCOMPLIANCE.—If the Secretary finds that the program or the administration thereof is no longer in compliance with this title, he shall reduce or discontinue distribution of funds under this title, or take other appropriate action.

(c) DISPOSITION OF CERTAIN MONEY.—If the Secretary finds that any money provided to the State or obtained by the State from the resale of any fishing or charter vessel purchased under the program is not being used in accordance with the provisions of this title, the Secretary shall recover from the fund, and place in the United States Treasury, such moneys.

FLEET MOBILITY

SEC. 205. The Secretary in coordination with the Pacific Fishery Management Council in its salmon management plan shall ensure that the fishing effort reduction that results from the fleet adjustment program of this title and the license moratorium of the State is not replaced by new fishing effort from outside the State.

AUTHORIZATION OF APPROPRIATIONS

SEC. 206. There are authorized to be appropriated to the Secretary, for the purposes of carrying out the provisions of this title, $37,500,000 for the five-year period beginning October 1, 1981.

SPECIAL PROVISION

SEC. 207. On the date the Secretary approves the program under section 203, the State shall be treated as having expended such portion of $32,000,000 as the State deems appropriate for purposes of implementing the program.

TITLE III—MISCELLANEOUS

REGULATIONS

SEC. 301. The Secretary may promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to carry out this Act.

REPORTS

SEC. 302. The States of Washington, Oregon, and California and the tribal coordinating bodies referred to in section (2)(C) and (18)(B) shall submit to the Secretary an annual report on the status of the program authorized by this Act or any other relevant report requested by such Secretary.

RELATION TO OTHER LAWS

SEC. 303. Nothing in this Act shall be construed—

(1) to diminish Federal, State, or tribal jurisdiction, responsibility, or rights in the field of resource enhancement and management, or control of water resources, submerged lands, or navigable waters; nor to limit the authority of Congress to authorize and fund projects; or

(2) as superseding, modifying, or repealing any existing applicable law, except as provided for in section 105 of this Act.

Amend the title so as to read: "A bill to provide for the conservation and enhancement of the salmon and steelhead resources of the United States, assistance to treaty and nontreaty harvesters of those resources, and for other purposes.".

The SPEAKER pro tempore. Is a second demanded?

Mr. FORSYTHE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. BREAUX) will be recognized for 20 minutes, and the gentleman from New Jersey (Mr. FORSYTHE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, H.R. 6959 is legislation that was originally initiated by the administration in an effort to seek a resolution of the longstanding bitter controversy over the salmon and steelhead resources of the Pacific Northwest This legislation authorizes the development and implementation of salmon and steelhead management and enhancement plans, and provides for a program to reduce fishing pressure in the State of Washington. The legislation would authorize a total Federal expenditure of $136.5 million over a 10-year period to the States and Indian tribes for enhancement and the Washington State buy-back program. Funds provided to the eligible States would be on a 50-50 matching fund basis with the exception of the buy-back program which would permit 75-percent Federal funding.

The enhancement authorization breaks down as follows: $52 million is authorized for enhancement in the Washington conservation area; $32 million is authorized for enhancement in the Columbia River conservation area; $15 million is authorized for enhancement on the Klamath River in northern California.

The sources of the problems with the salmon and steelhead resource on the west coast are numerous; the resolution of those problems will be difficult and complex. Salmon and steelhead hatch in fresh water and migrate to the ocean where they reach mature size, eventually completing their life cycle by returning to the fresh water place of their origin to spawn. The anadromous fish of the Pacific coast include steelhead trout and five species of salmon. These salmon are harvested by a variety of groups using different types of fishing gear in international, Federal and State waters. As a common property resource, salmon and steelhead are subject to the same resource management problems that plague other common property fisheries.

The situation with anadromous fish, however, is even more acute in that unlike other fisheries, the salmon return predictably to their spawning streams. Fishing gear can be placed in such a way that it is possible to take very high percentages of any individual salmon run. In addition, because salmon are dependent on a fresh water habitat to reproduce, they are especially susceptible to environmental degradation. Over the last 100 years the salmon resource of the Pacific coast has been reduced extensively as a result of changes in its fresh water habitat, competing demands over the water resources of the West, overfishing, and uncoordinated management.

The construction of hydroelectric dams on the Columbia River has had a major impact on the salmon resource. Historically, the Columbia River and its tributaries were the greatest anadromous fish producer on the Pacific coast. A major commercial fishing industry developed along the Columbia River as early as the mid-19th century. Annual catches on the Columbia averaged 30 million pounds and peaked at more than 40 million pounds during the 75 years from 1866 to 1940. The status of the Columbia River as a major anadromous fish producer has been drastically changed as a result of competing demands on the water resources of the Columbia River basin. By the 1960's, the number of salmon and steelhead returning to the Columbia River system had been drastically reduced. The primary causes of this reduction are universally acknowledged to be the basin wide elimination and degradation of valuable salmon and steelhead habitat, fish-passage losses at the Columbia and Snake River Dams and rapidly growing ocean sport and commercial fisheries.

Since the 1960's, hundreds and millions of Federal, private, and State dollars for hatcheries, fish-passage facilities and other protection and enhancement programs have been spent and today it is estimated that artificial production accounts for over 50 percent of all fish returning to the Columbia River system.

Despite this tremendous investment, many of the salmon runs along the Columbia River have been reduced to critically low levels. Although the situation on the Columbia River is the most acute, other river systems in the Pacific Northwest and in California are also experiencing difficulties. The following are a few examples.

The Puget Sound chum harvest has been reduced dramatically from historic levels and has tended to fluctuate widely in recent years. Puget Sound pink salmon have also been reduced dramatically from historic levels and have been at relatively low levels for several years. The National Marine Fisheries Service has indicated that the wild stocks that originate in the coastal streams of Washington and Oregon are in a depressed state.

In California, the Klamath River system has been the subject of intense controversy over the last several years primarily resulting from the severe decline in the salmon resource in this system. Recently, the Pacific Fishery Management Council indicated that the Klamath system achieved an escapement of 38,000 king salmon in 1979 compared to an escapement goal of 115,000 fish.

The problems with the salmon resource of the Pacific coast have become even more acute as a result of the existence of special Indian fishing rights in several areas. These rights derive from treaties entered into between various Indian tribes and the U.S. Government at the time of the settlement of the Pacific Northwest.

During 1854 and 1855, the U.S. Government executed a number of treaties with the treaty tribes of the Pacific Northwest. Each treaty contained a provision guaranteeing off-reservation fishing rights to the tribes. This provision stated that "the right of taking fish, at all usual and accustomed grounds and stations, is further secured to said Indians in common with all citizens of the territory."

In 1974, a Federal district court in Washington State held that these treaties guaranteed to the Indian tribes the right to an opportunity to harvest 50 percent of the salmon and steelhead runs passing traditional fishing grounds. Between 1974 and 1979, numerous court decisions were rendered by Federal and State courts on this issue. Most of the legal questions were resolved by the U.S. Supreme Court last summer when it affirmed, in large part, the 1974 district court opinion.

Subsequent to the Supreme Court decision, the administration proposed legislation which sought to lessen the impact of the decision without altering any treaty Indian fishing rights. The administration proposed to provide $90 million of Federal funding to the State of Washington on a 50-50 matching basis. These funds would be used to enhance the resource and reduce the excess fishing capacity in the non-Indian fishing fleet.

The Subcommittee on Fisheries and Wildlife Conservation and the Environment held 2 days of hearings on the administration's proposal last fall and an additional hearing this past spring. The Senate passed their version of the legislation on May 5, 1980.

Neither the administration bill nor the Senate passed bill address what some of us believe to be a critical element of the salmon issue—the lack of any coordinated management of the resource. The existing management system does not insure that the enhancement funds will be well spent and will lead to the long-term conservation and restoration of the resource.

This issue was looked at in great depth by a Presidential task force that was created specifically to develop a settlement of the Washington State controversy. This task force advised us in very strong terms that further Government funding of enhancement is not urged unless the other resource management problems are addressed.

The Committee on Merchant Marine and Fisheries responded to the recommendation of the Presidential task force and similar recommendations of other knowledgeable resource managers, to address the need for improved management of the fishery. The bill reported by the Merchant Marine Committee established a mechanism to permit the various salmon management entities to agree on a management plan in order to continue receiving Federal enhancement assistance under the act. The provision adopted by the committee does not force any particular management arrangement on the various parties. Rather it allows the parties to voluntarily agree to a management plan. If they do not wish to agree to a management plan, they are not required to do so; but they would not be able to continue to receive enhancement funds under the bill unless they do agree to a management arrangement within 18 months of the approval of the enhancement plan.

The committee bill also included a series of amendments that were offered in full committee by the gentleman from California (Mr. McCLOSKEY) which attempted to address the Indian fishing rights issues that are occurring in other parts of the country. Although I did not oppose these amendments in full committee, on a further review of them, I determined that these amendments did considerable violence to other essential portions of the bill. More significantly, the amendments created the possibility that salmon and steelhead management on the west coast would become more disjoined than it is today. I was also concerned that the amendments constituted a major amendment to the Fishery Conservation and Management Act of 1976. A number of other members of the committee shared my concern about the effects of the McCloskey amendments. Seventeen members of the committee signed additional views opposing the McCloskey amendments.

The bill before us today deletes the portions of the Merchant Marine bill that were offered in full committee by the gentleman from California.

After the bill was reported by the Merchant Marine Committee, the Interior Committee received a sequential referral and further amended the legislation. The Interior Committee amendments deleted the amendments offered by the gentleman from California (Mr. McCLOSKEY) and inserted other provisions designed to address the salmon controversy that has developed on the Klamath River in northern California.

I have already noted that the status of the salmon resource on the Klamath River is not good. Last year the National Marine Fisheries Service estimated that the Klamath River achieved an escapement of 38,000 fish out of an enhanced escapement goal of 115,000. A significant controversy involving tribal claims to special fishing rights on the Klamath River system has developed in the last few years. The special rights in this case derive not from treaties, as is the case with Pacific Northwest, but pursuant to the establishment of an Indian reservation along the Klamath River. In 1975 a California court of appeals affirmed a lower court decision that the State of California could not regulate Indian fishing on the Klamath River Indian Reservation. This decision did not, however, resolve all remaining legal uncertainties. The State of California has argued that the court of appeals only held that the State could not regulate Indian fishing for "subsistence" absent a showing of a need for such regulation for conservation purposes. The State argues that the court did not define subsistence nor did it decide the question of the ability of Indians to fish for commercial purposes free of State regulation.

Since 1975, a commercial fishery has developed on the Klamath River. This fishing has resulted in dangerous and sometimes violent confrontations between Indians and non-Indians on the river.

The bill reported by the Interior Committee, and the bill before us today, addresses the Klamath River situation by establishing a nine-member committee to prepare an enhancement and management plan for the Klamath River area. The State of California, the relevant Indian tribes, the local counties and the Pacific Fishery Management Council are represented on this committee which is modeled after the provisions adopted for the Pacific Northwest in the Merchant Marine Committee. We believe that the addition of the Klamath River to his bill is consistent with its other provisions.

Enhancement and coordinated management are the first two major components of this legislation. The third major component is the commercial fishing fleet adjustment program. The Indian treaties are not solely responsible for the economic dislocations in the salmon fishery. As noted above, environmental degradation has contributed to the decline of the resource and the associated dislocation. The overcapacity of the various salmon fleets in the Pacific Northwest has also created serious problems. In simple terms, the problem is that there are too few fish and too many fishermen.

The Presidential task force found that in each commercial fishing fleet in Washington State a large portion of the licenses are issued to license holders whose boats account for a very small portion of each fleet's production. Although these license holders do not contribute significantly to fleet landings, they do represent a large potential for growth in each fleet's fishing effort, and in the aggregate they diminish the opportunity for professional fishermen to make a living. The delivery of benefits to more active fishermen, and the elimination of highly restrictive fishing seasons, will be difficult and perhaps not possible so long as the potential for increased fishing effort remains.

H.R. 6959 proposes a fleet adjustment program which would seek to reduce the existing number of commercial vessels and licenses. Federal funding would be provided to the State of Washington to purchase vessels, licenses, and gear and prohibit their reentry into the salmon fishery.

We are hopeful that the buy-back program will succeed in substantially eliminating the existing overcapacity in the fleet, balancing the Indian and non-Indian fishing effort in the Washington conservation area, and ultimately lead to the revitilization of this fishery.

Mr. FORSYTHE. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise in support of the bill.

Mr. Speaker, H.R. 6959 establishes a comprehensive enhancement and management program for salmon and steelhead resources in the Pacific Northwest. Rivers once teeming with salmon continue their timeless flow, but the salmon are no more. Environmental degradation and the loss of habitat because of dam construction have reduced the magnificent salmon runs to a mere shadow of their former selves.

Mr. Speaker, the chairman of the subcommittee, the gentleman from Louisiana (Mr. BREAUX) has very well outlined the provisions of this legislation and made the very important point that so far as the bill that was dealt with in the Subcommittee on Fisheries and Wildlife of the Committee on Merchant Marine and Fisheries, the bill now before us made the key decision that we would not fund enhancement or the buy-back program without having a management scheme as an integral part of this legislation. Unless we have some way of determining how the fish are going to be managed, it seems obvious that to pour more money into enhancement to create more fish will not solve the problems. We will still have all the conflicts that now exist between the various fishing interests in all three of the States that are involved in this legislation, Washington, Oregon, and California. Integrated management was a bottom floor.

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I am very happy that the management provision of this legislation are intact. To me this is the most important feature of the bill.

We know that there are difficult times ahead in terms of final implementation of the restoration of this fishery, but this is an important and significant step that hopefully will work to satisfy the needs of those various fishing interests involved, but also primarily to really bring this fishery back to the status that it was once in so that the resources available will be available to all who are interested in the salmon fishery, whether it be sportsmen, the Klamath River, whether it be Indians in any of the three States involved, whether it be offshore trawlers, all of these have very vital interests involved in this legislation.

I encourage the Members of the House to support this bill.

Mr. Speaker, I yield 6 minutes to the gentleman from California (Mr. MCCLOSKEY).

Mr. McCLOSKEY. Mr. Speaker, I have grave doubts about this bill because, in my judgment, we are not solving a problem which has arisen not just on the west coast in those States to which this bill is addressed but across this Nation, the question of treaty fishing rights, Indian rights on reservations, and States rights with respect to who governs anadromous fisheries from gravel to gravel as the States would like.

I appreciate the efforts, Mr. Speaker, of the chairman of the subcommittee, the gentleman from Louisiana (Mr. BREAUX) to resolve these issues. I think the best thing about the bill is that it creates the possibility at least that various Indian tribes and State governments, who have hitherto been unable to agree one with the other, may find at least a forum within which to seek agreement and to spend the sum of nearly $100 million, which we are offering over the next 10 years, to enhance fisheries if the various parties can agree.

But I would like to direct one question to the distinguished chairman, if I may, the gentleman from Louisiana (Mr. BREAUX). The question is this: If we enact this bill today, do we have a commitment from the Committee on Interior and Insular Affairs that next year they will hold joint committee hearings with the Fish and Wildlife Subcommittee to attempt to address nationally this question of fishing rights and Indians' rights versus States rights in anadromous fisheries?

Mr. BREAUX. Mr. Speaker, will the gentleman yield?

Mr. McCLOSKEY. I am glad to yield to the gentleman.

Mr. BREAUX. Obviously I cannot speak for the Committee on Interior and Insular Affairs. The gentleman well knows that this committee has shown our interests in trying to address the problem in proper perspective by attempting to have field hearings in northern California on the Klamath River. I think we have tried to exhibit a genuine interest and desire to help solve this very complicated national problem which has developed as a result of Indian fishing treaties the United States has entered into.

I would be more than happy to say that yes, we will again in the next Congress move toward looking into a way of trying to resolve this to everyone's satisfaction. I realy cannot speak for the Committee on Interior and Insular Affairs, but I would think they would certainly share that expression.

Mr. McCLOSKEY. I thank the gentleman. I want to commend him for holding the hearings that he has on this problem. But as we reach the end of this Congress we find that the Committee on Interior and Insular Affairs, with their jurisdiction over Indians, has come into the picture and in some respects this bill represents a compromise to get past the Committee on Interior and Insular Affairs.

I see the gentleman from California (Mr. CLAUSEN) is on the floor. I wonder if the gentleman might respond to this question about hearings next year jointly by the two committees to address directly the question of States rights and Indian rights, reservation rights with respect to fishing.

Mr. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Speaker, I thoroughly concur with the request of the gentleman. To the extent that I can influence that request and the direction the committee would take, I will certainly move in that direction.

Mr. McCLOSKEY. The gentleman has discussed this matter with the chairman of the Committee on Interior and Insular Affairs, the gentleman from Arizona (Mr. UDALL) and has the chairman agreed to proceeding next year?

Mr. CLAUSEN. The Committee on Interior and Insular Affairs, is now in the process of meeting. Therefore the gentleman from Arizona (Mr. UDALL) could not be on the floor of the House. But I am convinced that we can have that commitment from the chairman because this is one of the most important matters that will come before the committee this next year.

I commend the gentleman for bringing this up. We have to address this in a positive way and I will do everything I can to see that it is brought about.

Mr. McCLOSKEY. With that response, certainly much of my reservation is cured because the State of California has given its qualified approval to this bill. Their only reservation and the only concern of the State has been that by addressing the California problem this year we would never address it again in the near future. I know the gentleman from Louisiana (Mr. BREAUX) has tried to address it this year, but we have been frustrated by the inability of the two committees to get together.

That cures most of my reservation, though I might say, Mr. Speaker, that the idea of giving $37 million to Senator MAGNUSON's State at this time in history, with the President in Takoma today to announce this great gratuity from the Federal Government gives me some partisan concern as a Republican that we are acquiescing in a great benefit in the heat of an election campaign. But that is another matter.

Mr. BREAUX. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would say to the gentleman from California that as he well knows, at this stage of the legislative process, every bill represents a compromise on both sides, whether it is this bill or the next bill or the rest of the bills we will consider in the next 2 weeks.

But I also say that never have I seen in my relatively short time here a group such as the members of the Northwest delegation work together on trying to resolve the problems that this legislation tries to address. It is very rare when one can get so many Members from various congressional districts to try and approach a problem that is as complex as this with the unanimity and the desire to reach an accommodation that we have seen exhibited by the members of the Northwest congressional delegation, from both the State of Washington as well as the State of Oregon, whether they be Republican or Democrat, knowing this is a problem that very few people win friends with, but trying to resolve something in the spirit of compromise to achieve a proper solution.

Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. BONKER).

Mr. BONKER. Mr. Speaker, I would like to take this opportunity to commend the gentleman from Louisiana (Mr. BREAUX), chairman of the Subcommittee on Fish and Wildlife, for a truly commendable job on the whole area of fishery resources. He has become one of the most knowledgeable persons in the Congress on the subject and is backed with a skilled staff to deal with these issues. For the inordinate amount of time he has given to our particular problems in the Northwest, I think I can speak on behalf of the entire delegation of our sincere appreciation for his work, for his staff commitment to helping us resolve the many conflicts that exist with the fishery resources.

I would also like to commend the gentleman from California (Mr. McCLOSKEY) and the gentleman from Michigan (Mr. DINGELL), both of whom have problems relating to fishing rights and Indian treaties in their respective areas. At some point this House will have to come up with a comprehensive legislative remedy to deal with many of these outstanding problems, but for their interests and support of this legislation we are deeply grateful. We are mutually committed to helping with their unique problems in the future.

Mr. Speaker, the bill before us represents the culmination of 5 years of working with the various segments of the fishing industry, the State Department of Fisheries in both Oregon and Washington, and the Indian tribes to come together in what has become a very serious problem as it affects the salmon resource in the Northwest. Through the patience, hard work and commitment of many interests, we have finally come to the Congress, and through a series of hearings and markup sessions, we now have before us legislation that represents a true compromise and, hopefully, an acceptable solution to our fishery resource problem.

Basically the legislation, as it has already been outlined by the chairman of the committee and ranking member, the gentleman from New Jersey (Mr. FORSYTHE), is legislation which essentially will enhance that resource and recognize the true value of salmon, not only to the Northwest but as an important commodity nationwide.

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Hopefully, the amount that is allowed in this bill will match efforts that are being made at the State level. The bill also contains a $14 million investment in steelhead enhancement. We attempted on the committee to accept an amendment that was offered by myself and the gentleman from Oregon (Mr. AUCOIN), the gentleman from Washington (Mr. PRITCHARD), and others on the committee to provide for decommercialization of the steelhead resource, recognizing that it is a sports fishery.

But we failed in that effort, so we feel that the $14 million that is included in this bill will help preserve the steelhead resource as well.

Once again, I want to commend the chairman and the ranking minority member for their support in this legislation.

Mr. Speaker, the salmon and steelhead enhancement bill before us today, H.R. 6959, represents the culmination of years of effort to develop a legislative solution to problems experienced in Washington State since the Federal Government undertook to meet its treaty obligations to its Native Americans nearly 7 years ago.

In the intervening years the entire fishing industry, a major segment of the State's economy, and the salmon and steelhead resources have suffered severe dislocation. The existence of the people in the fishing community has been threatened in the process.

The bill is, admittedly, of regional scope. It addresses only those unique problems associated with the Pacific Northwest and its Indians. While several areas of the Nation have similar concerns, none is exactly parallel to those that we direct our attention to with this legislation. And certainly none has been developed over such a long period of time after such extensive examination.

H.R. 6959 is a modest proposal. The Presidential task force that investigated the situation expended nearly 2 years of effort and recommended $220 million be spent by the Federal Government in Washington State. This bill, by comparison, would authorize the expenditure of $130 million over a 10-year period in both Washington and Oregon.

A part of the reason for the difference in funding levels is the spending that the State has undertaken in the intervening years while the legislation was being developed. Because of that effort, some aspects of the recommended response are now unnecessary.

But the provisions that remain in the bill are those that are of absolute importance if the fishing industry is to continue to contribute to the strong economy of the region, if the magnificent runs of salmon and steelhead are to be rebuilt, and if the people involved in the fishing community are to survive.

It is perhaps difficult for those in this Chamber who do not come from the Pacific Northwest to understand the substantial impact that has been felt by the people in the region. While the need to establish increased numbers of fish to sustain existing runs has been partially addressed through new State funding and a shifting of priorities, the people have suffered the cumulative effects of a declining resource, a reallocation of the available fish, a crisis in confidence in the lending institutions, and a nagging doubt about whether any future existed for the fishing community.

This legislation hold promise of restoring their faith and the faith of the thousands of citizens in the region who are somehow involved with the fishing community. It assures that the Nation will continue to meet its treaty obligations to its Native Americans. And, it recognizes a national need for protecting and enhancing fish resources that, absent the Federal funding in this measure, could well be lost forever.

Mr. FORSYTHE. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Speaker, this controversy over salmon and the court decisions concerning the Indian and non-Indian fishing has had our State and the entire coast in a turmoil. This has been not only detrimental to the fishermen but it has been very detrimental to the salmon stock, we have an obligation to make sure that future generations will have this fish stock and the opportunity as either sportsmen or commercial fisheries. So I want to thank the chairman, the gentleman from Louisiana (Mr. BREAUX) and the ranking minority member from New Jersey (Mr. FORSYTHE). I want to thank the gentleman from California (Mr. MCCLOSKEY), for his cooperation. I want to thank the gentleman from California (Mr. CLAUSEN), who has a very difficult problem, and I want to pledge to him now that as members of the Northwest delegation we will be helpful and we will be supportive in his efforts to work out those difficulties that they have dealing with Indian fishing problems down in the Klamath River.

Mr. Speaker, I rise in support of H.R. 6959, the Salmon and Steelhead Resource Enhancement Act.

In 1974, a Federal district court judge, Judge George H. Boldt, ruled that several 1850's treaties with tribes in the Pacific Northwest gave the tribes the opportunity to harvest 50 percent of the harvestable salmon and steelhead resources in the case area. A similar decision in the Columbia River case area also quantified the extent of the fishing rights as 50 percent for the Columbia River tribes.

This was the first time in extensive Indian fishing rights litigation that a court decision precisely quantified the extent of the fishing rights. Subsequent to the Federal court decision in 1974, a similar case was denied certiorari before the U.S. Supreme Court in 1976. In 1978, a Presidential task force composed of the Secretaries of Commerce, Interior, and Justice issued its recommendation for a settlement plan which is quite similar to this legislation. In 1979, the U.S. Supreme Court finally heard a similar case arising from United States against Washington, and, in fact, affirmed the lower court's decision.

There has been a gradual progression toward reaching the kinds of compromises necessary to fashion the kind of legislation we have before us today. And, as many Members who have Indian fishing rights controversies in their areas know, these disputes are not easy to resolve, and, in fact, in the early stages, it is difficult to achieve any consensus at all. In the case of the Northwest, I feel that we have finally achieved sufficient consensus among all parties involved in order to move ahead with legislation at this time.

H.R. 6959 is based primarily on a two-pronged approach. First, it would establish an enhancement program involving the State of California, the Columbia River drainage basin, and the western Washington case area. The total enhancement program is authorized at a level of $99 million over a period of 10 years, and is required to be matched on a 50-50 basis by the States. Second, the legislation establishes a responsible buy-back program, which would aid in reducing the total potential fishing effort in the salmon fishery. Due to the basic problem of too many fishermen chasing too few fish, it is essential in order for the fishery to function on a sound biological and economic basis, to begin to reduce the total level of fishing effort in the salmon fishery. Many economists have supported this approach in the Pacific salmon fishery for some period of time and this legislation would begin to implement such a policy in a gradual and responsible manner.

Finally, the legislation establishes a framework within which all of the affected parties, including the State management agencies, the tribal fisheries commissions, and the Pacific Fishery Management Council, can get together to work out acceptable areawide enhancement and management plans. As a result of these plans, there will be insured predictability within the fishery, better enforcement and compliance with regulations will result, and the salmon and steelhead resource will be guaranteed a sufficient level of protection.

Mr. Speaker, this is important legislation not only to the Northwest, but to the Nation. We should be able to assure future generations that they will be able to experience the benefits of salmon and steelhead fisheries resources. We should be able to assure future generations that we acted responsibly now in order to protect this unique and historic fishery.

Mr. Speaker, this legislation would go a long way toward providing this critical protection. I strongly support the passage of this legislation.

Mr. BREAUX. I yield 2 minutes to the gentleman from Oregon (Mr. AUCOIN).

Mr. WEAVER. Mr. Speaker, will the gentleman yield?

Mr. BREAUX. I will be pleased to yield to the gentleman from Oregon.

Mr. WEAVER. I thank the gentleman for yielding. I want to commend and congratulate my colleague, the gentleman from Oregon, on his fine and hard work on this bill and associated myself with his efforts.

Mr. AuCOIN. I appreciate the gentleman's remarks.

I rise, Mr. Speaker, in strong support of the legislation before us. I want to join with my colleagues from the Northwest in complimenting the chairman of this subcommittee, the gentleman from Louisiana (Mr. BREAUX) and the ranking minority member, the gentleman from New Jersey (Mr. FORSYTHE) for their leadership and perseverance, not to mention the patience they have exhibited in working with the members of the Northwest delegation and interested parties from within the region in developing and perfecting this vital legislation.

The management of salmon and steelhead is the most serious fisheries problem in the Pacific Northwest today. I submit that it is probably the most serious fisheries management problem in the Nation. But it is not just a geographical problem, nor is it just an economic problem. It is a very deeply divisive social issue. The problem has been brought on by Federal treaties and Federal court decisions. Because of that it has become a national problem.

Salmon and steelhead fisheries are characterized in the Pacific Northwest by declining runs. In 1972 the upriver adult return of spring chinook salmon on the Columbia was 279,400; by 1979 it had plummeted to 51,400. In 1969 the summer chinook run was 120,000; in 1979, it was 34,200. These fisheries are also characterized by too many fishermen, by conflicts among different user groups, by destruction of fisheries habitat, by court rulings on Indian fishing rights, and by ever-increasing regulation.

A big part of the solution to all of these problems is the legislation pending before us. This bill is based on a very positive principle: That the way out of these dilemmas is to produce more fish for all user groups, to return our salmon and steelhead stocks to their historic levels, and to stop the war between the factions that is so deeply dividing our region.

The program this bill establishes is moderate in cost, authorizing the expenditure of $136.5 million in Federal funds over 10 years. The resultant effort will be a partnership among all parties, with costs shared between the Federal Government and the States.

Quite properly H.R. 6959 is primarily an enhancement bill, providing both for restoration of natural runs as well as for expanded hatchery operations. And the bill specifically addresses the steelhead situation by providing $14 million earmarked for steelhead enhancement.

I am particularly pleased that the bill's coverage was expanded at my urging to include the critical Columbia River drainage basin. The original bill as introduced last fall dealt only with Puget Sound and the Washington coast, that is, the region known as the Judge Boldt case area. From our first hearings I pointed out that the problems and challenges on the Columbia River are the same as those in Puget Sound, and that the essence of the court decisions and their impacts are the same. Judge Belloni's decision in Oregon merely affirms the application of Judge Boldt's decision to the Columbia River. To deny the Columbia those funds would have been to deny justice to Oregon, a State with problems just as acute as Washington's.

H.R. 6959 provides a Federal response to a Federal problem, establishing a responsible and effective program. It is a good and needed bill, one that will rebuild our precious salmon and steelhead stocks.

I wholeheartedly urge my colleagues' support of the measure.

Mr. FORSYTHE. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Speaker, I rise in support of H.R. 6959, as reported by the Interior and Insular Affairs Committee, and to associate myself with the remarks of the distinguished chairman and ranking member of the Subcommittee on Fisheries and Wildlife Conservation and the Environment (Mr. BREAUX and Mr. FORSYTHE).

We have, through intensive negotiations over the past weeks developed what we believe is a well-balanced, workable bill. As reported by the Interior Committee, the bill is substantially unchanged from the bill reported by the Subcommittee on Fisheries and Wildlife Conservation and the Environment with the addition of the Joint Klamath River Fisheries Conservation Committee.

The overall purpose of the bill is to provide for the conservation and enhancement of the salmon and steelhead resources of Washington State, the Columbia River in Oregon and the Klamath River basin in California, and to provide assistance in the form of grants to Indians and non-Indians in their joint efforts to help protect and restore the fishery resources of these particular areas.

The bill provides for the establishment of five-, three-, and nine-member committees in the three regions, respectively, which are to prepare management and enhancement plans. Once approved by all members of the committees, the enhancement plans are submitted to the Secretary of Commerce who is given 120 days to review the plan. If he has objections, his decision must be for very specific reasons as spelled out in Section 102 of the bill. If the Secretary does not act to disapprove the plan, it is deemed to be approved and the Secretary is then authorized to make enhancement funds available to the management parties.

As discussed in detail in the Merchant Marine Committee report, the anadromous fish runs of the Pacific Northwest and northern California are valuable, renewable resources. Commercial, recreational, and Indian and non-Indian fishermen rely upon this resource for their livelihoods.

The fishery resources have been reduced over the past century as a result of a number of factors. Improved management and enhancement planning and coordination among the different groups can help prevent further declines in salmon and steelhead and begin to increase their numbers. The bill before us provides the mechanism for accomplishing these goals.

Each area has had its own particular problems as well as legal history. The bill recognizes these differences by providing for separate committees in each area. The Klamath River has been the site of a lengthy controversy involving Indian fishing rights and commercial and sports fishing interests; and the scene of dangerous confrontations between Indians and non-Indians on the river.

The membership, function, purpose, and powers of the Klamath River Committee, as established in the Interior Committee substitute, have been carefully crafted in response to this situation.

The parties involved all recognize that it is in their interests to establish a conservation, management, enhancement, and enforcement plan that will maximize and sustain the fishery resource yield potential of the Klamath River. The establishment of the Klamath River Committee will afford an opportunity to accomplish this objective once an acceptable management plan is negotiated and agreed to by all the parties involved. They can then avail themselves of the fishery enhancement funds authorized in the bill.

The Klamath River fishery has been the subject of a lengthy field hearing held in Eureka, Calif., by the Merchant Marine Committee on May 26, 1979. At that hearing, chaired by the gentleman from Louisiana (Mr. BREAUX), we heard from several dozen witnesses and received written testimony from many others. This comprehensive record has been followed up by more than a year of continued research into the problems in the area as well as an additional oversight hearing on July 2, 1980 on the salmon plan of the Pacific Fishery Management Council during which the Klamath River fishery was further examined.

The manner in which the Klamath River Committee has been formulated and will operate will maximize local control while fully protecting the rights of the parties involved. To be more specific the amendment, which I offered in the Interior Committee will:

First. Establish a nine-member Klamath River Fishery Conservation Committee composed of representatives from each of the four counties affected: Humboldt, Siskiyou, Del Norte and Trinity—who will speak strongly for commercial and sports fishermen; representatives from each of the three Indian tribes along the Klamath: The Hoopas, Yuroks, and Karoks; a representative of the State of California, and a representative from the Pacific Fisheries Management Council.

Second. Empower this committee to develop a salmon and steelhead enhancement and management plan for the river.

Third. Provide that the plan must be approved unanimously by the committee, thus giving each committee member a veto on the plan.

Fourth. Provide for automatic approval of the plan unless disapproved by the Secretary of Commerce within 120 days.

Fifth. Require the Pacific Fisheries Management Council to amend its current salmon management plan to be consistent with the plan developed by the Klamath Committee, and

Sixth. Authorize $15 million in Federal funds to carry out the plan after it has been approved.

We have provided a mechanism which, once enacted, will encourage those whose interests are vitally affected to sit down together and work out a program that is acceptable to all and then have that program carried out.

The success of the program depends on the sincere desire of all concerned to work out an acceptable solution. It is going to take a lot of give and take by each group, but that is what is required to resolve an issue of this complexity.

Mr. Speaker, I would like to take the remainder of my time to solicit from the chairman and the ranking member, as well as the members from the State of Oregon and the State of Washington, a commitment on their part that they will work with us on the Committee on Interior and Insular Affairs as well as the Committee on Merchant Marine and Fisheries next year to address the concerns that have been expressed by the State of California and the Pacific Coast Federation of Fishermen's Associations. I have received several letters and telegrams from them asking that we express our willingness to look into and address the California situation again next year, if necessary.

It is essential that we go back to the State of California and our concerned fishermen's organizations with assurances that the Merchant Marine and Fisheries Committee and the Interior and Insular Affairs Committee will jointly address their concerns as they relate to the Klamath River provisions which we have incorporated in the bill. Can I have that assurance from the gentleman from Louisiana (Mr. BREAUX), and the gentleman from New Jersey (Mr. FORSYTHE), and a similar strong commitment from the Oregon-Washington delegation.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. FORSYTHE. I yield 1 additional minutes to the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. I yield to the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. I would only respond to the gentleman from California by giving him the strongest assurances that we can that this committee is very intent on doing everything we can to help solve the problem in California, particularly in the northern part of that State. Whether it requires additional committee hearings or whether it requires additional drafting sessions, the gentleman has our commitment that we will do everything we can to address that problem.

Mr. CLAUSEN. I yield to the gentleman from New Jersey (Mr. FORSYTHE).

Mr. FORSYTHE. I also fully support the statements made by the gentleman from Louisiana (Mr. BREAUX) that we will be more than anxious to try and cooperate not only to handle this problem but, as the gentleman knows, there are some other problems nationwide that I think the committee will have to get into.

Mr. CLAUSEN. I yield to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. I thank the gentleman for yielding. I will say to my good friend who has been so constructive in this particular effort, on behalf of myself and the Washington delegation, we will certinly do everything we can to cooperate with the gentleman's efforts next year.

Mr. CLAUSEN. I thank the gentleman and urge my colleagues to pass the bill, H.R. 6959, expeditiously so that we can begin to work with the other body in reconciling the differences between our respective bills and hopefully send a final version to the President for signature in the very near future.

I have received personal assurances from the leadership of our two committees that they will work in a cooperative fashion with the other body.

Our efforts will be directed at enacting legislation this year and will in no way jeopardize passage of the provisions affecting Oregon and Washington.

Mr. BREAUX. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. LOWRY).

Mr. LOWRY. Mr. Speaker, this legislation is vital to the rebuilding of our vital salmon and steelhead resources. I rise in strong support. I also rise to join the rest of the Members of the Northwest delegation in commending the subcommittee chairman, the gentleman from Louisiana (Mr. BREAUX), and the ranking minority member, the gentleman from New Jersey (Mr. FORSYTHE), for a truly outstanding job in bringing this bill to its present status. Both the majority and minority staff of the Fisheries Subcommittee performed yeomen service in the committees behalf. Also I want to thank the gentleman from California (Mr. CLAUSEN) for the work that was done in the Interior Committee. It was excellent, and it was a service to the gentleman's area as well as our area. I want to thank the gentleman from California (Mr. MCCLOSKEY) for his constructive position today. I look forward, as do the rest of the members of our delegation, to working on this problem in the State of California with the gentleman next year. I am sure we will be able to come up with some suitable answers.

It has been a great pleasure to work with the other members of the Washington, Oregon, and Alaskan delegation in behalf of this important legislation. I commend my colleagues on a job well done.

Congressman PRITCHARD and I share the honor of serving the King County area and Mr. PRITCHARD also serves as the ranking minority member of the Subcommittee on Oceanography. He and his strong staff support was of particular importance in shaping this act.

I consider the addition of the Columbia River System to the enhancement portion of this act to be very important to our entire west coast fishery. The gentleman from Oregon (Mr. AUCOIN) assumed the lead in committee for the authorization of $25 million for the Columbia River and I congratulate the gentleman on that leadership. Our colleague, Mr. BONKER's consistent work for enchancing and protecting our valued steelhead trout is primarily responsible for a $14 million authorization earmarked for steelhead. I commend him for his work for that authorization.

House passage today of H.R. 6959 will allow us to accomplish this year what so many have sought for so long. I urge immediate passage of this bill.

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Mr. BREAUX. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. SWIFT).

Mr. SWIFT. Mr. Speaker, today the House is considering legislation to deal with one of the most difficult problems facing my region.

In 1974, Federal Judge George Boldt ruled that American Indian tribes, who were signators to treaties signed in the last century, were entitled to the right to take 50 percent of the harvestable salmon and steelhead fish of the region. The treaties were made with the tribes by the U.S. Government. The suits were filed and plead on behalf of the tribes by the U.S. Government through the Interior and Justice Departments. And the U.S. Federal courts made the decision and sustained it on appeal all the way through the U.S. Supreme Court on two separate occasions.

My point is this: This is not a regional bill. It is a national bill made necessary by Federal treaty and subsequent actions of the Federal Government and Federal courts.

However, the great injustice that has been perpetrated here is that only a tiny segment of Americans have had to shoulder the total burden of this Federal action: The non-Indian (technically nontreaty) commercial fishermen of the Northwest. They are the ones who have suffered enormous economic deprivation because of the Boldt decision and subsequent Federal action.

Today, sadly, thousands of non-Indian commercial fishermen sit idlely on the docks of my district and the districts of many of my colleagues while Indian fishermen attempt to catch their half of the fish. Mind you—this means that about 10 percent of the commercial fishermen in the region are out to catch 50 percent of the fish. And while they work at that, the remaining 90 percent of the fishermen—the non-Indian fishermen—are prevented from fishing at all. They have been severely restricted as to the number of days a month they are legally permitted to fish—sometimes only 1 or 2 days a month.

Now, much has been made of the historical, cultural, and economic importance of this fishery to the native Americans of the Northwest. And it is clear the claims are true.

What is also true, but less recognized, is the similar relationship of most non-Indian commercial fishermen to this vocation. I have met many times with both groups. They are both proud, both tied to the fisheries resource by history and the bonds that are forged by long battles with the sea to make it give up some of its bounty.

The non-Indian fishermen may be the last of our Nation's pioneers—rugged individualists who brave the elements in pursuit of salmon. For most of them, too, fishing has been part of family tradition—a family vocation requiring skills that are passed on from generation to generation—often with boats and gear as well. These are the lone Americans who are asked to shoulder virtually the entire burden of enforcing these ancient treaties.

These treaties were negotiated on behalf of the entire Nation—on behalf of all Americans. If now we find living up to those treaties has a cost—all Americans should pay the cost, not pass it on carelessly to a small group that cannot sustain it.

This bill is not a perfect solution. One doubts such a thing exists after the convolutions of treaties, courts, and Federal policy are superimposed on the vagaries inherent in management of the resource. But it does seek to increase the total resource so the limited share for the non-Indian fishermen is greater in absolute numbers.

It will reduce the number of fishermen that are after the resource by opening a way out for those who wish to leave the vocation without being destroyed economically. And it will lead toward a management system that can improve the resource while hopefully eliminating some of the anomolies that now plague the industry.

A word should be inserted here about the steelhead problem. Long a sports fish that could not legally be harvested for commercial purposes, the Boldt decision made it a 50-50 commercial fish too. Most Indians, the sportsmen of the Northwest and the resource do not benefit from this arrangement and a better way must be found to deal with that problem too. I had hoped this bill would offer some help in this regard as well.

But the major point that must be made clear here today is that this bill is not a piece of special, regional legislation. It is a bill that helps address a great injustice created in the pursuit of a resolution to another injustice. The Federal Government and the courts have determined what the treaties mean. And there is a cost to implementing that judgment—a cost that ought be shared by all in whose name the treaties were signed. That means it is a national problem and this is a national bill to resolve it.

I urge my colleagues—who cannot possibly know the agony this situation has caused the Northwest and the fishermen who have worked our waters for generations—I urge my colleagues to support this bill.

Mr. BREAUX. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Speaker, today, I join with my colleagues from the Pacific Northwest to urge support for the single most important piece of salmon and steelhead legislation in decades, H.R. 6959.

This bill has been carefully crafted during this Congress, and after much study, it proposes an effective solution to the long-standing, bitter controversy over Pacific coast salmon and steelhead resources.

These problems stem from a series of Federal court decisions interpreting several treaties between Indian tribes and the U.S. Government, and competiton for a finite resource by treaty and nontreaty fishermen.

These decisions reserved to the treaty tribes the right to an opportunity to harvest 50 percent of the salmon and steelhead passing through traditional tribal fishing grounds.

The Belloni decision in 1969, the Boldt decision in 1974, and last year's Supreme Court decision to affirm these lower court treaty interpretations have resulted in a storm of controversy in the Pacific Northwest.

These decisions and a shortage of fish have had an extremely detrimental economic affect on nontreaty fishermen, and have spawned numerous violations of fishing laws. As a result, violence and enforcement problems have plagued the region. These problems threaten a very valuable national resource—our salmon and steelhead.

H.R. 6959 goes a long way toward solving these problems.

H.R. 6959 will coordinate salmon and steelhead management in Washington, Oregon, and California, and will provide Federal assistance to those States for needed salmon enhancement programs for 10 years.

This legislation also establishes salmon and steelhead management committees for the State of Washington, the Columbia River in the States of Washington and Oregon, and the Klamath River in California. These committees will include representatives from the State, Indian tribes and the Federal Pacific Fishery Management Council, and will prepare salmon management and enhancement plans for their respective areas. These plans must be approved by the Secretary of Commerce.

If the Secretary approves an enhancement plan for any area, the parties to the plan would be eligible to receive Federal Assistance for salmon and steelhead enhancement activities. However, continued assistance for the enhancement projects would be contingent on the parties preparing an approved salmon management plan for their respective area.

H.R. 6959 requires that any grants for enhancement projects be on a 50–50 matching basis, except for grants of 100 percent to Indian tribes. The State of Washington will be treated as having already expended $32 million on enhancement projects.

To encourage a reduction in fishing effort on this resource, the bill provides that Washington State could submit a commercial fishing vessel adjustment or "buy-back" program to the Secretary of Commerce for approval. If approved by the Secretary of Commerce, the State of Washington would be eligible to receive Federal matching assistance to fund the program.

Mr. Speaker, H.R. 6959 is a good bill based on numerous hearings, studies, and compromises by the members of the Washington, Oregon, and California delegations and two committees.

This bill is necessary and provides for fair, effective management and enhancement of the region's salmon and steelhead, while equitably reducing fishing effort on the resources.

Additionally, it also protects some of the last remaining natural runs of salmon in the world. Without the protections contained in this bill, these runs and many others will be lost forever.

We cannot allow this to happen or the opportunity to resolve this long-standing controversy to pass.

For these reasons, I urge my colleagues in this Chamber to support this bill.

Thank you.

Mr. BREAUX. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. ALBOSTA).

Mr. ALBOSTA. Mr. Speaker, today, the Congress is considering H.R. 6959, the Northwest Fisheries Enhancement Act.

On the one hand, I am glad to see the west coast making progress toward settling the fishing rights controversies in their part of the country. On the other hand, I am disappointed that the Merchant Marine Committee was not able to include some assistance for areas of the Great Lakes that have similar problems.

This summer, the Merchant Marine Committee was not able to include some assistance for areas of the Great Lakes that have similar problems.

This summer, the Merchant Marine Subcommittee on Fisheries, Wildlife Conservation, and the Environment, came to Traverse City, Mich., in my district. There they heard testimony on two bills introduced by Congressman DINGELL and myself. These bills, taken together, contain elements that could solve the problems that we have in the Great Lakes.

I had hoped that an amendment to H.R. 6959 could have been offered in committee to provide aid for the Great Lakes. That amendment would have taken key elements of our bills to provide an answer for the problem we face in Michigan. I do not know whether the Great Lake fisheries, particularly Lake Michigan, can stand another season of heavy fishing like they have had in the past 2 years. The Grand Traverse Bay in my district is already cleaned out of lake trout, now.

Recently, however, Members from the Northwest have assured my Michigan colleague, JOHN DINGELL, that they will work closely with him in the Merchant Marine Committee next year to provide a solution for the similar problems facing Michigan. I also understand the distinguished chairman of the subcommittee will be able to assist us in developing legislation to resolve the situation in the Great Lakes. Therefore, we should not deprive the west coast of the bill that they need; but I will call on the Members of Congress who have supported this bill to lend a hand to Michigan next year.

I believe we will have a bill that will have the support of a majority of those interested in the preservation of the Great Lakes fisheries. I look forward to working with these Members, and I know that with this commitment we can finally solve this problem. I am also sure that the gentleman from Arizona, the distinguished chairman of the Interior Committee, will also work with us to solve this problem and preserve the fishing resources for the benefit of everyone involved.

Mr. BREAUX. Will the gentleman yield?

Mr. ALBOSTA. I do yield to the gentleman from Louisiana.

Mr. BREAUX. The gentleman has that assurance from the chairman of the subcommittee.

Mr. FORSYTHE. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would like to close this debate with assurances to our colleague from Michigan, that as with the case of the people in the Northwest we are concerned with their problems the experience we gain with the legislation before us will enable us to move further.

Mr. Speaker, I have no further requests for time and yield back the balance of my time.

Mr. BREAUX. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would urge the Members to vote favorably on this legislation. It may not be everything everyone would ultimately desire. It is a step, however, in the right direction. I think it is one of which we can all be proud, at least of the work we have done up to this point, with a commitment to look very carefully at these problems of Indian fishing rights as well as the resource that is dwindling as a result of many of our previous decisions.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

• Mr. MURPHY of New York. Mr. Speaker, the purpose of H.R. 6959 is to provide for the enhancement and conservation of the salmon and steelhead resources of the Pacific Northwest.

The bill is in response to the consequences of a number of Federal court decisions interpreting treaties entered into in the 1850's between the United States and Indian tribes of the Washington territory. In 1974, Judge Boldt issued his famous decision interpreting the treaties as giving the Indian tribes of those areas a right to an opportunity to harvest 50 percent of the salmon and steelhead runs passing through their traditional fishing grounds.

These court decisions have resulted in considerable economic dislocations for non-Indian commercial and recreational fishermen, emotional resistance to the decisions' implementation, and difficulty in securing proper management of the salmon and steelhead resources.

With a view toward addressing the consequences of these decisions, in December 1979, the Administration sent to the Congress an executive communication which called for an expenditure of $90 million of Federal funds over the next 10-year period. Of this amount, $50 million would be used for salmon and steelhead enhancement in the State of Washington, $25 million for a buy-back program to reduce the size of the non-treaty fleet, and $15 million for loans to treaty tribes for upgrading their vessels and gear.

On August 21, 1980, the Committee on Merchant Marine and Fisheries reported H.R. 6959, which represents its response to the problems created by the court decisions. H.R. 6959, was sequentially referred to the Committee on Interior and Insular Affairs and that committee recently reported H.R. 6959, with amendments, reflecting its way of addressing these problems.

The Interior and Insular Affairs Committee version of the bill, which is before the House today in the nature of a substitute amendment, incorporates most of the bill as reported by the Committee on Merchant Marine and Fisheries.

The major provisions of H.R. 6959, as reported by the Interior and Insular Affairs Committee, are as follows:

First. Salmon and steelhead management committees would be authorized to be established for the State of Washington, the Columbia River in the State of Washington and Oregon, and the Klamath River in the State of California. The makeup of the committees would include representatives from the State, Indian tribes, and the Pacific Fishery Management Council. The committees would be authorized to prepare enhancement and management plans for their respective areas but such plans could not be implemented without the prior approval of the Secretary of Commerce.

Second. Parties to an approved enhancement plan would be entitled to receive Federal financial assistance on a 50–50 matching fund basis for salmon and steelhead activities except that financial assistance to Indian tribes could be up to 100 percent of the cost of carrying out any such activity.

Third. There would be authorized $99 million over a 10-year period for salmon and steelhead enhancement, of which $52 million would be available for the Washington conservation area, $32 million for the Columbia River area, and $15 million for the Klamath River area.

Fourth. The State of Washington would be authorized to submit a commercial fishing vessel buy-back program to the Secretary of Commerce for approval and, if approved, the State would be eligible to receive $37.5 million over a 5-year period to carry out the buy-back program on a 75-Federal, 25-State matching fund basis.

Mr. Speaker, I strongly support H.R. 6959, as amended by the Interior and Insular Affairs Committee, and urge its prompt passage.●

● Mr. ASHLEY. Mr. Speaker, H.R. 6959 is legislation that is designed to resolve the longstanding controversy over the salmon and steelhead resources of the Pacific Northwest.

Many of the problems associated with these resources are the direct result of two Federal court decisions interpreting several treaties between Indian tribes and the U.S. Government, the Belloni decision in 1969 and the Boldt decision in 1974. These decisions mandated that treaty tribes have the right to an opportunity to harvest 50 percent of the salmon and steelhead runs passing through their traditional tribal fishing grounds.

Subsequent to the 1979 Supreme Court decision affirming the lower court's 1974 decision, the administration proposed legislation which sought to lessen the impact of the decision without altering any treaty Indian fishing rights. This proposal called for $90 million of Federal funding to the State of Washington on a 50–50 matching fund basis. These funds would be used to enhance the salmon and steelhead resources and reduce the fishing capacity of the non-Indian fishing fleet. The Senate reported legislation, S. 2163, similar to the administration proposal but increased its funding level to $162 million and broadened the program to cover the State of Oregon.

At the committee hearings on the legislation, it was brought out that the administration proposal as well as the Senate-passed bill did not address a critical element of the salmon and steelhead issue—resource management. The proponents for resource management argued that the existing management system is deficient in that it would not insure that the enhancement funds would be well spent and lead to the long-term conservation and restoration of these resources.

In response to this concern, our Subcommittee on Fisheries and Wildlife Conservation and the Environment, ordered H.R. 6959 reported, with amendments, which included resource management in its coverage. In fact, the various salmon management entities would be required to agree on a management plan in order to continue receiving Federal enhancement assistance. If they did not agree on such a plan on a voluntary basis, after 18 months the enhancement funds would be terminated.

Briefly explained, the subcommittee-reported bill would authorize the establishment of salmon and steelhead management committees for the States of Washington and Oregon. These committees would include representatives from the State, Indian tribes, and the Pacific Fishery Management Council. These committees would be authorized to prepare salmon and steelhead enhancement and management plans for their respective areas but before being put into effect the plans would have to be unanimously agreed to by the appropriate committee and subsequently approved by the Secretary.

Federal financial assistance would be provided to implement an approved enhancement plan but continued funding for enhancement projects would be contingent upon an approved management plan by the Secretary. There would be authorized $84 million over a 10-year period for enhancement projects, of which $52 million would be earmarked for Washington and $32 million for Oregon. Grants would be on a 50–50 matching fund basis except grants for Indian tribes' projects could be up to 100 percent. There would be authorized $37.5 million over a 5-year period to carry out a vessel buy-back program in Washington on a 75-Federal, 25-State matching fund basis.

The full committee, in its consideration of the bill, adopted the subcommittee's version of the bill and a number of amendments offered by Mr. McCloskey, which expanded the coverage of the bill to include the State of California and any other State where Indians have recognized rights to the State's anadromous fish. However, enhancement and management plans for California and other States would need to receive only a majority vote of its committee before such plans could go into effect.

On August 21, 1980, H.R. 6959 was sequentially referred to the Interior and Insular Affairs Committee. That committee recently reported H.R. 6959, with amendments, which incorporates most of the bill reported by the Committee on Merchant Marine and Fisheries. In fact, it is in essence the subcommittee-reported version of the bill with a rewrite of the McCloskey amendments. As reported by the Interior and Insular Affairs Committee, only the States of Washington, Oregon, and California would be covered by the legislation and California's coverage would be limited to the Klamath River. There would be authorized $15 million to carry out the California program.

Mr. Speaker, the version of the bill before the House for consideration today is the version reported by the Interior and Insular Affairs Committee and I urge the adoption of H.R. 6959, as amended by that committee.●

● Mr. UDALL. Mr. Speaker, I rise in support of the bill H.R. 6959, as reported by the Committee on Interior and Insular Affairs.

Before commenting on the bill, I would like to thank the leadership of the Merchant Marine Committee for their understanding and cooperation on this legislation and to particularly commend Congressman Lowry for his assistance.

Mr. Speaker, my committee requested a sequential referral of this legislation solely because of its impact on Indian fishing rights as it was reported from the Merchant Marine Committee. The Interior Committee monitored the progress of the bill in the Merchant Marine Committee and we were well satisfied with the treatment of Indian fishing rights in the bill as amended by the Merchant Marine Subcommittee on Fisheries.

However, the further amendments adopted in the full Merchant Marine Committee greatly alarmed my committee. Those amendments would have abrogated or impaired valid Indian fishing rights and, perhaps, exposed the United States to a monetary liability.

Mr. Speaker, the Interior Committee bill is based upon the bill which came out of the Merchant Marine Subcommittee on Fisheries. We further modified that version of the bill to provide for a management and enhancement program for the Klamath River Basin in California. This fisheries system has many of the same pressures, including Indian fishing rights, as is present in the Washington and Oregon situations.

Mr. Speaker, I think it is obvious that the two committees are in accord on this legislation and that this bill has the general support of most of the concerned parties.

I urge approval of the bill.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. Breaux) that the House suspend the rules and pass the bill, H.R. 6959, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to provide for the conservation and enhancement of the salmon and steelhead resources of the United States, assistance to treaty and nontreaty harvesters of those resources, and for other purposes."

A motion to reconsider was laid on the table.

Mr. BREAUX. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries be discharged from the further consideration of the Senate bill (S. 2163) to provide for the conservation and enhancement of the salmon and steelhead resources of Washington State, assistance to the treaty and nontreaty harvesters of those resources, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2163

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PURPOSES

SECTION 1. (a) In order to assist commercial and recreational harvesters of the salmon and steelhead resources within the conservation area established by this Act in the State of Washington to overcome temporary economic dislocations arising from the decisions in the case of United States v. Washington, this Act authorizes the establishment of a cooperative program involving the United States, the State of Washington, the Treaty Tribes acting through the Northwest Indian Fisheries Commission, and other appropriate parties, to—

(1) encourage stability in and promote the economic well being of the commercial fishing and charter fishing industries and improve the distribution of fishing power between treaty and nontreaty fisheries through (A) the purchase of commercial and charter fishing vessels, gear and licenses; and (B) coordinated research, enforcement, enhancement and management of salmon and steelhead resources and habitat; and

(2) improve the quality of, and maintain the opportunities for, salmon and steelhead recreational fishing.

(b) The benefits of steelhead enhancement undertaken pursuant to this Act should accrue to the recreational fishery.

DEFINITIONS

SEC. 2. As used in this Act, unless the context otherwise requires:

(1) The term "charter vessels" means any vessels licensed by the State of Washington to carry passengers for hire for the purpose of recreational salmon fishing.

(2) The term "charter fishing" means fishing undertaken aboard charter vessels.

(3) The term "Columbia River Treaty Tribe" means the Confederated Tribes and Bands of the Yakima Indian Nation of Washington, the Confederated Tribes of the Warm Springs Indian Reservation of Oregon, the Confederated Tribes of the Umatilla Indian Reservation of Oregon, and the Nez Perce Tribe of Idaho, and any other treaty tribe whose fishing rights in the Columbia River drainage basin under a treaty have been recognized by a Federal Court.

(4) The term "Columbia River Inter-Tribal Fish Commission" means the organization established by the Columbia River Treaty Tribes to assist and coordinate tribal fisheries research, enhancement, and management within the Columbia River drainage basin.

(5) The term "commercial fishing" means fishing for the purpose of sale or barter.

(6) The term "commercial fishing vessel" or "fishing vessel" means any vessel, boat, ship, or other craft which is licensed for, and used for, equipped to be used for, or of a type which is normally used for, commercial salmon fishing.

(7) The term "conservation area" means all salmon and steelhead habitat within the State of Washington except for the Columbia River drainage basin and in the fishery conservation zone adjacent to the State which is subject to the jurisdiction of the United States.

(8) The term "enhancement" means projects undertaken to increase the production of naturally spawning or artificially propagated stocks of salmon or steelhead, or to protect, conserve, or improve the habitat of such stocks.

(9) The term "habitat" means those portions of the land or water, including the constituents elements thereof, (A) which salmon or steelhead occupy at any time during their life cycle, or (B) which affect the salmon or steelhead resources.

(10) The term "Northwest Indian Fisheries Commission" means the organization established by the Treaty Tribes to assist and coordinate tribal fisheries research, enhancement, and management within the conservation area.

(11) The term "recreational fishing" means fishing for personal use and enjoyment using conventional angling gear, and not for sale or barter.

(12) The term "salmon" means any anadromous species of the family Salmonidae and Genus Oncorhynchus, commonly known as Pacific salmon, including:

Chinook (king) salmon—Oncorhynchus tshawytscha;

Coho (silver) salmon—Oncorhynchus kisutch;

Pink (humpback) salmon—Oncorhynchus gorbuscha;

Chum (dog) salmon—Oncorhynchus keta; and

Sockeye (red) salmon—Oncorhynchus nerka.

(13) The term "salmon or steelhead resource" means any stock of salmon or steelhead.

(14) The term "Secretary" means the Secretary of Commerce.

(15) The term "State" means the State of Washington.

(16) The term "steelhead" means the anadromous rainbow trout species Salmo gairdneri, commonly known as steelhead.

(17) The term "stock" means a species, subspecies, race, geographical grouping, run, or other category of salmon or steelhead.

(18) The term "treaty" means any treaty between the United States and any Treaty Tribe or Columbia River Treaty Tribe that relates to the reserved right of such tribe to harvest salmon and steelhead within the conservation area or the Columbia River drainage basin.

(19) The term "Treaty Tribe" means any Indian tribe recognized by the United States Government, with usual and accustomed fishing grounds in the conservation area, whose fishing right under a treaty has been recognized by a Federal court.

TITLE I—COORDINATION

COORDINATION GRANTS

SEC. 101. (a) The Secretary, in cooperation with the Secretary of the Interior, is authorized to establish a program to provide grants to prepare plans for programs established in titles I, II, and III of this Act in order to promote coordinated research, enforcement, enhancement, and management of the salmon and steelhead resources within the conservation area and Columbia River drainage basin consistent with the purposes of this Act.

(b) Such grants shall be available for use by the State, the State of Oregon, the Northwest Indian Fisheries Commission, the Columbia River Inter-Tribal Fish Commission, or any joint governmental entity established for undertaking research, or providing advice on or mechanisms for coordinated management or enforcement, or preparing the plans and programs described in titles, I, II, and III of this Act.

MANAGEMENT COORDINATION

SEC. 102. The Secretary shall establish an advisory committee to develop effective procedures, mechanisms, or institutional arrangements to coordinate research, enhancement, management, and enforcement policies for Pacific Northwest salmon and steelhead, and to resolve disputes between management entities concerned with stocks of common interest. The committee shall include appropriate Federal, State, and tribal representatives and such other persons knowledgeable with regard to salmon resources of the area designated by the Secretary. Principal objectives of the coordinating mechanism shall include, but not be limited to—

(1) development of common principles to guide enhancement activities;

(2) promotion of harvest strategies and regulations which will encourage continued and increased investment by the salmon and steelhead producing jurisdictions;

(3) optimum use of resources and manpower for enforcement; and

(4) consideration of harvest and enhancement activities as they may relate to existing and future international commitments.

The conclusions of the advisory committee and the comments and recommendations of the Secretary shall be transmitted to Congress within one year of the date of enactment of this Act.

AUTHORIZATION OF APPROPRIATION

SEC. 103. There are authorized to be appropriated to the Secretary for the purposes of carrying out the provisions of this title in fiscal years commencing after September 31, 1980, an aggregate amount of $5,000,000. Funds appropriated pursuant to this section remain available to the Secretary until expended.

TITLE II—RESOURCE ENHANCEMENT AND HABITAT MAINTENANCE

SEC. 201. (a) AUTHORITY.—The Secretary and the Secretary of the Interior are authorized to establish a program to provide grants for projects for the enhancement of the salmon and steelhead resources of the conservation area.

(b) PLAN.—Any such project must be in accordance with a comprehensive enhancement plan developed and agreed to by the State and the Northwest Indian Fisheries Commission within 18 months after the date of enactment of this Act and approved by the Secretary and the Secretary of the Interior, as provided in this title. The State shall solicit and consider the comments and views of the Washington Salmon and Steelhead Research Council and interested commercial and recreational fishermen in developing the comprehensive enhancement plan.

(c) SCOPE.—The comprehensive enhancement plan, and any revisions, amendments, or modifications of such plan, shall describe all enhancement projects in the conservation area, and associated stocking policies (when relevant), including any related research necessary to such enhancement anticipated by the State and the Northwest Indian Fisheries Commission for a period of at least 5 years.

(d) STANDARDS.—The comprehensive enhancement plan shall include such standards, including restrictions or conditions as are necessary, to assure that any project included in the plan contributes toward the balanced and integrated development of the salmon and steelhead resources of the conservation area. Such standards shall include but not be limited to provisions designed to—

(1) assure that all commercial and recreational fishermen and the Treaty Tribes within the conservation area shall have an opportunity to participate in the benefits of the salmon resources development;

(2) minimize significant adverse interaction between naturally spawning and artificially propagated stocks;

(3) ensure that all projects included within the plan are designed to complement the contribution of sound State, Federal, and Tribal enhancement activities in the conservation area;

(4) ensure that all projects included within the plan are economically and biologically sound and supported by adequate scientific research; and

(5) assure that all projects included within the plan achieve significant benefits relative to the overall cost of each such project.

(e) APPROVAL.—(1) The Secretary and the

Secretary of the Interior, shall review the comprehensive enhancement plan and approve such plan within 120 days of the date of receipt of the plan, if found to be consistent with this Act and other applicable law. If the Secretary and the Secretary of the Interior find that such plan is not in conformity with the provisions of this Act or other applicable law, they shall return such plan to the State and the Northwest Indian Fisheries Commission with recommendations.

(2) Upon receiving the plan, the Secretary and the Secretary of the Interior shall—

(A) publish a notice in the Federal Register of the availability of the plan;

(B) provide a copy of the plan to the Attorney General, the Pacific Fishery Management Council and, upon request, to any other interested person or group, and solicit and consider the comments and views of such persons or entities with respect to the plan;

(C) undertake a biological and technical review of the plan, in consultation with the Washington Salmon and Steelhead Research Council, and other individuals knowledgeable with regard to the salmon and steelhead resources of the conservation area;

(D) provide a copy of the plan to and consult with the Secretary of State, with respect to the effect of such plan on any international fisheries; and

(E) determine whether the State and the Northwest Indian Fisheries Commission, acting through its chosen agency or agencies, have the authority to carry out the plan in accordance with this Act, and any standards included within the comprehensive enhancement plan.

(3) The Secretary and the Secretary of the Interior shall not approve a comprehensive enhancement plan submitted by the State and the Northwest Indian Fisheries Commission unless the State and Northwest Indian Fisheries Commission agree not to undertake any salmon or steelhead enhancement project, using funds provided pursuant to this title or otherwise, that would be inconsistent with the comprehensive enhancement plan.

(f) Steelhead.—The comprehensive enhancement plan as it relates to steelhead shall seek to minimize the harvest of steelhead by nonrecreational fishing and shall be designed to—

(1) ensure that salmon enhancement projects included in the plan do not have significant adverse impacts on important steelhead stocks;

(2) ensure that the benefits of steelhead enhancement projects included in the plan accrue solely to recreational fisheries; and

(3) encourage the Treaty Tribes to forego or limit their nonrecreational fishing for steelhead, either by enhancement, management, or selective harvest techniques, in return for the salmon enhancement projects embodied in the comprehensive enhancement plan that will replace any resultant tribal losses.

(g) Review, Modification, Amendments, or Revisions.—The comprehensive enhancement plan shall be reviewed periodically. The Secretary, the Secretary of the Interior, the State, or the Northwest Indian Fisheries Commission may request a review, modification, or revision of the plan at any time. Any revision or modification of the plan, developed and agreed to by the State and the Northwest Indian Fisheries Commission, shall be approved by the Secretary and the Secretary of the Interior, within 45 days of receipt of the proposed revision or modification, if such revision or modification is in conformity with this Act and other applicable law. The Secretary and the Secretary of the Interior may withdraw approval of the plan if they find that (1) the plan or its implementation is not consistent with the Act, and (2) no modification or revision has been agreed to by the State and the Northwest Indian Fisheries Commission to correct any such inconsistencies.

ENHANCEMENT PROJECTS

Sec. 202. After the approval of the comprehensive enhancement plan, the State or the Northwest Indian Fisheries Commission may submit project proposals to the Secretary and the Secretary of the Interior in such manner and form as the Secretary shall prescribe. Such application shall include at least—

(1) plans, specifications, and cost estimates of the proposed enhancement project, including estimates of both the capital construction costs of the project and the operation and maintenance costs after commencement of the project;

(2) the enhancement goals that are sought to be achieved by the proposed project, including, but not limited to—

(A) a description of the affected stocks;

(B) an analysis of the expected impacts on the salmon and steelhead resource; and

(C) a projection of the expected impacts on each type of commercial and recreational fishing;

(3) evidence that the State, the Northwest Indian Fisheries Commission, or Treaty Tribe, acting through its chosen agency or agencies, has obtained or is likely to obtain any necessary titles to, interests in, rights-of-way over, or licenses covering the use of the relevant land;

(4) an analysis of, and supporting data for, the economic and biological integrity and viability of the project; and

(5) such other information as the Secretary and the Secretary of the Interior determine is necessary to assure that the proposed project is consistent with the approved enhancement plan and the provisions of this Act.

APPROVAL AND FUNDING OF PROJECTS

Sec. 203. (a) The Secretary and the Secretary of the Interior may approve any project that is consistent with the approved enhancement plan and the provisions of this Act, and shall promptly notify the State, the Northwest Indian Fisheries Commission, and upon request any other interested party of the approval of a project and the amount of funding made available under this title for such project.

(b) The total Federal share of all enhancement projects funded annually by this section shall not exceed 50 percent of the total amount expended for such projects, except that this limitation shall not apply to projects proposed by the Northwest Indian Fisheries Commission. The State share may include both real and personal property and shall include such amounts spent by the State, after July 1, 1977, for enhancement projects consistent with this Act and the plan. Title to, or other interest in, such property shall remain within the State.

(c) The Federal share shall be paid in such amounts and at such times as the Secretary deems appropriate, consistent with this Act and the goals of the comprehensive plan.

REVIEW OF ENHANCEMENT PROJECTS

Sec. 204. The Secretary and the Secretary of the Interior shall establish, in consultation with the State and the Northwest Indian Fisheries Commission, a system to monitor and evaluate on a continuing basis all enhancement projects for which funds have been distributed under this title, and may discontinue or suspend distribution of all or part of the funds if any project is not being carried out in a manner consistent with the comprehensive enhancement plan and this Act.

AUTHORIZATION OF APPROPRIATIONS

Sec. 205. There are authorized to be appropriated to the Secretary, for the purposes of carrying out the provisions of this title, not to exceed the following sums:

(1) $42,000,000 for enhancement projects, to be available over a period of 8 years from October 1, 1981; and

(2) $30,500,000 for operation, maintenance and monitoring, where necessary, of enhancement projects authorized under this title, to be available over a period of 8 years following completion of each such project.

If the State and the Northwest Indian Fisheries Commission fail to submit a comprehensive enhancement plan as described in this title to the Secretary within 18 months after the date of enactment of this Act, the Secretary may revert all moneys appropriated pursuant to this section to the United States Treasury.

TITLE III—COLUMBIA RIVER RESOURCE ENHANCEMENT AND HABITAT MAINTENANCE

Sec. 301. (a) Authority.—The Secretary and the Secretary of the Interior are authorized to establish a program to provide grants for projects for the enhancement of the salmon and steelhead resources of the Columbia River drainage basin.

(b) Plan.—Any such project must be in accordance with a comprehensive plan that is developed and agreed to by the State, the State of Oregon, and the Columbia River Inter-Tribal Fish Commission within 18 months after the date of enactment of this Act and approved by the Secretary and the Secretary of the Interior, as provided in this title. The States shall solicit and consider the comments and views of interested commercial and recreational fishermen in developing the comprehensive enhancement plan.

(c) Scope.—The comprehensive enhancement plan, and any revisions, amendments, or modifications of such plan, shall describe all enhancement projects in the area, and associated stocking policies (when relevant), including any related research necessary to such enhancement, anticipated by the State, the State of Oregon, and the Columbia River for a period of at least 5 years.

(d) Standards.—The comprehensive enhancement plan shall include such standards, including restrictions or conditions as are necessary to assure that any project included in the plan contributes toward the balanced and integrated development of the salmon and steelhead resources of the Columbia River drainage basin. Such standards shall include but not be limited to provisions designed to—

(1) assure that all commercial and recreational fishermen and the Columbia River Treaty Tribes within the area encompassed by the comprehensive enhancement plan and the fishery conservation zone adjacent to the State and the State of Oregon shall have an opportunity to participate in the benefits of the salmon resources development;

(2) minimize significant adverse interaction between naturally spawning and artificially propagated stocks;

(3) ensure that all projects included within the plan are designed to complement the contribution of sound State, Federal, and tribal enhancement and mitigation activities;

(4) ensure that all projects included within the plan are economically and biologically sound and supported by adequate scientific research; and

(5) assure that all projects included within the plan achieve significant benefits relative to the overall cost of each such project.

(e) Approval.—(1) The Secretary and the Secretary of the Interior shall review the comprehensive plan and approve such plan within 120 days of the date of receipt of the plan if such plan is found to be consistent with this Act and other applicable law. If the Secretary and the Secretary of the Interior find that such plan is not in conformity with the provisions of this Act or other applicable law, he shall return such plan to the State, the State of Oregon, and the Columbia River Inter-Tribal Fish Commission.

(2) Upon receiving the plan, the Secretary and the Secretary of the Interior shall—

(A) publish a notice in the Federal Register of the availability of the plan;

(B) provide a copy of the plan to the Secretary of the Army, the Attorney General, the Pacific Fishery Management Council, the Administrator of the Bonneville Power Administration, and, upon request, to any other interested person or group, and solicit and consider the comments and views of such persons and entities, with respect to the plan.

(C) undertake a biological and technical review of the plan, in consultation with individuals knowledgeable with regard to the salmon and steelhead resources of the conservation area;

(D) provide a copy of the plan to and consult with the Secretary of State, with respect to the effect of such plan on any international fisheries; and

(E) determine whether the State, the State of Oregon, and the Columbia River Inter-Tribal Fish Commission, acting through its chosen agency or agencies, have the authority to carry out the plan in accordance with this Act, and any standards included within the comprehensive enhancement plan.

(3) The Secretary and the Secretary of the Interior shall not approve a comprehensive enhancement plan submitted by the State, the State of Oregon, and the Columbia River Inter-Tribal Fish Commission unless the State, the State of Oregon, and the Columbia River Inter-Tribal Fish Commission agree not to undertake any salmon or steelhead enhancement project, using funds provided pursuant to this title or otherwise, that would be inconsistent with the comprehensive enhancement plan.

(f) STEELHEAD.—The comprehensive enhancement plan as it relates to steelhead shall seek to minimize the harvest of steelhead by nonrecreational fishing and shall be designed to—

(1) ensure that salmon enhancement projects included in the plan do not have significant adverse impacts on important steelhead stocks;

(2) ensure that the benefits of steelhead enhancement projects included in the plan accrue solely to recreational fisheries; and

(3) encourage the Columbia River Treaty Tribes to forego or limit their nonrecreational fishing for steelhead, either by enhancement, management, or selective harvest techniques, in return for the salmon enhancement projects embodied in the comprehensive enhancement plan that will replace any resultant tribal losses.

(g) REVIEW, MODIFICATION, AMENDMENTS, OR REVISIONS.—The comprehensive plan shall be reviewed periodically. The Secretary, the Secretary of the Interior, the State, the State of Oregon, or the Columbia River Inter-Tribal Fish Commission may request a review, modification, or revision of the plan at any time. The Secretary and the Secretary of the Interior may withdraw approval of the plan if they find that (1) the plan or its implementation is not consistent with the Act, and (2) no modification or revision has been agreed to by the State and the Columbia River Inter-Tribal Fish Commission to correct any such inconsistencies. Any revision or modification of the plan, developed and agreed to by the State, the State of Oregon, and the Columbia River Inter-Tribal Fish Commission, shall be approved by the Secretary and the Secretary of the Interior, within 45 days of receipt of the proposed revision or modification, if such revision or modification is in conformity with this Act and other applicable law.

ENHANCEMENT PROJECTS

SEC. 302. After the approval of the comprehensive enhancement plan, the State, the State of Oregon, or the Columbia River Inter-Tribal Fish Commission may submit project proposals to the Secretary and the Secretary of the Interior in such manner and form as the Secretary shall prescribe. Such application shall include at least—

(1) plans, specifications, and cost estimates of the proposed enhancement project, including estimates of both the capital construction costs of the project and the operation and maintenance costs after commencement of the project;

(2) the enhancement goals that are sought to be achieved by the proposed project, including, but not limited to—

(A) a description of the affected stocks;

(B) an analysis of the expected impacts on the salmon and steelhead resource; and

(C) a projection of the expected impacts on each type of commercial and recreation fishing;

(3) evidence that the State, the State of Oregon, the Columbia River Inter-Tribal Fish Commission or Columbia River Treaty Tribe, acting through its chosen agency or agencies, has obtained or is likely to obtain any necessary titles to, interests in, rights-of-way over, or licenses covering the use of the relevant land;

(4) an analysis of, and supporting data for, the economic and biological integrity and viability of the project; and

(5) such other information as the Secretary and the Secretary of the Interior determine is necessary to assure that the proposed project is consistent with the approved enhancement plan and the provisions of this Act.

APPROVAL AND FUNDING OF PROJECTS

SEC. 303. (a) The Secretary and the Secretary of the Interior may approve any project that is consistent with the approved enhancement plan and the provisions of this Act, and shall promptly notify the State, the State of Oregon, the Columbia River Inter-Tribal Fish Commission, Tribal Fisheries Commission, and upon request any other interested party of the approval of a project and the amount of funding made available under this title for such project.

(b) The total Federal share of all enhancement projects funded annually by this section shall not exceed 75 percent of the total amount expended for such projects, except that this limitation shall not apply to projects proposed by the Columbia River Inter-Tribal Fish Commission. The State and the State of Oregon share may include both real and personal property and shall include such amounts spent by the State or the State of Oregon after July 1, 1977, for enhancement projects consistent with this Act and the plan. Title to, or other interest in, such property shall remain within the State.

(c) The Federal share shall be paid in such amounts and at such times as the Secretary deems appropriate, consistent with this Act and the goals of the comprehensive plan.

REVIEW OF ENHANCEMENT PROJECTS

SEC. 304. The Secretary and the Secretary of the Interior shall establish, in consultation with the State, the State of Oregon, and the Columbia River Inter-Tribal Fish Commission, a system to monitor and evaluate on a continuing basis all enhancement projects for which funds have been distributed under this title, and may discontinue or suspend distribution of all or part of the funds if any project is not being carried out in a manner consistent with the comprehensive enhancement plan and this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 305. There are authorized to be appropriated to the Secretary, for the purposes of carrying out the provisions of this title, not to exceed the following sums:

(1) $20,000,000 for enhancement projects, to be available over a period of 8 years from October 1, 1981; and

(2) $10,000,000 for operation, maintenance and monitoring, where necessary, of enhancement projects authorized under this title, to be available over a period of 8 years following completion of each such project.

If the State, the State of Oregon, and the Columbia River Inter-Tribal Fish Commission fail to submit a comprehensive enhancement plan as described in this title to the Secretary within 18 months after the date of enactment of this Act, the Secretary may revert all moneys appropriated pursuant to this section to the United States Treasury.

TITLE IV—COMMERCIAL FISHING FLEET ADJUSTMENT

FLEET ADJUSTMENT PROGRAM

SEC. 401. (a) The Secretary, upon approval of a program submitted pursuant to section 403 of this title, is authorized to distribute Federal funds to the State, subject to the standards, conditions, and restrictions set forth in this title, for the purchase of commercial fishing and charter vessels, gear, and licenses by the State in accordance with the provision of this title.

(b) Title to any vessel or other personal property purchased under a State program approved by the Secretary in accordance with the provisions of this title shall vest upon purchase in the State. If the State sells such vessels or other property, title may pass in accordance with such sale.

STANDARDS

SEC. 402. The State shall submit to the Secretary a program plan within 3 months of the date of enactment of this Act designed to—

(1) provide incentives for early retirement of licenses, or early sale of vessels and gear;

(2) set aside specific allocations of funds for each gear type to achieve the specific fleet reductions provided for in the program; and

(3) obtain an effective and expeditious reduction in the overall fishing capacity of and the number of vessels and licenses in the non-Indian commercial and charter salmon fishing fleets in the conservation area.

PROGRAM APPROVAL

SEC. 403. (a) The State shall submit its program and submit revisions, modifications, or amendments to the Secretary in accordance with standards established pursuant to section 402 and in such manner and form as the Secretary shall prescribe.

(b) Prior to approving such program or any revision, modification, or amendment, and authorizing Federal funds to be distributed in accordance with this title, the Secretary must find that—

(1) the State, acting through its chosen agency or agencies, has authority to carry out a commercial and charter vessel fleet reduction program in accordance with the provisions of this title;

(2) the State program prohibits the purchase of any fishing vessel unless all State commercial and charter salmon fishing licenses attached to the vessel are also sold to the State;

(3) the State program provides that no person may purchase from the State any vessel which that person or a member of that person's immediate family had previously sold to the State;

(4) the State program provides that no person may purchase any vessel sold to the State pursuant to the program and use such vessel for commercial or charter salmon fishing in the conservation area, unless State law provides that the use of such vessel could not result in any additional fishing effort in the non-Indian fishing fleet;

(5) the State program provides for purchase of vessels and gear at their fair market value;

(6) the State program provides for the reduction of salmon fishing licenses, through purchase of such licenses at their fair market value, and the use of bonuses and schedules, to—

(A) secure an early retirement from the salmon fishery;

(B) recognize productiveness if the commercial harvesters using a gear type wish that gear type's specific allocation of funds to recognize productiveness; and

(C) recognize passenger-carrying capacity for charter fishing licenses;

(7) the State program provides for the purchase of only salmon fishing licenses from outstanding marginally productive commercial salmon fishermen;

(8) the State maintains a moratorium, or similar program, to preclude the issuance of new commercial and charter salmon fishing licenses as of the effective date of this Act; and

(9) the State has established a revolving fund for the operation of the fleet reduction program that includes individual accounts for each gear type and that any moneys received by the State or its agents from the resale of any fishing vessel or gear purchased under the program (A) shall be placed in such revolving fund, (B) shall, for at least 3 years from the date of the program's inception be placed in the appropriate gear type account, and (C) shall be used exclusively to purchase commercial fishing and charter vessels, gear, and licenses in accordance with the provisions of this title.

(c) The Secretary shall approve such program within 90 days of the date of receipt of the program if found to be consistent with this Act and other applicable law. If the Secretary finds that such program is not in conformity with the provisions of this Act or other applicable law, he shall return such program to the State with recommendations. Any revision, modification, or amendment to the program shall be approved within 30 days of receipt unless found to be inconsistent with this Act or other applicable law.

REVIEW BY THE SECRETARY OF COMMERCE

SEC. 404. (a) The Secretary shall conduct a continuing review of the State program to determine whether the program remains consistent with the purposes of this Act and the provisions of this title. Such review shall include a biennial audit of the records of the State program.

(b) If the Secretary finds that the program or the administration thereof is no longer in compliance with this title, he shall reduce or discontinue distribution of funds under this title, or take other appropriate action.

(c) If the Secretary finds that any money provided to the State or obtained by the State from the resale of any fishing vessel or gear purchased under the program is not being used in accordance with the provisions of this title, the Secretary shall recover such moneys from the fund and place such moneys in the United States Treasury.

FLEET MOBILITY

SEC. 405. The Secretary in coordination with the Pacific Fishery Management Council in its salmon management plan shall ensure that the fishing effort reduction that results from the fleet adjustment program of this title and the license moratorium of the State of Washington is not replaced by new fishing effort from outside the State of Washington.

AUTHORIZATION OF APPROPRIATIONS

SEC. 406 There are authorized to be appropriated to the Secretary, for the purposes of carrying out the provisions of this title, $50,000,000 which shall be available over a period of 5 years from October 1, 1980: *Provided*, That no more than $25,000,000 is authorized to be appropriated in any one fiscal year.

TITLE V—MISCELLANEOUS

REGULATIONS

SEC. 501. The Secretary may promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to carry out this Act.

REPORTS

SEC. 502. The State, the Northwest Indian Fisheries Commission, the State of Oregon, and the Columbia River Inter-Tribal Fish Commission shall submit to the Secretary an annual report on the status of the programs authorized by this Act or any other relevant report requested by such Secretary.

RELATION TO OTHER LAWS

SEC. 503. Nothing to this Act shall be construed—

(1) to diminish either Federal, State, or tribal jurisdiction, responsibility, or rights in the field of resource enhancement and management, or control of water resources, submerged lands, or navigable waters; nor to limit the authority of Congress to authorize and fund projects; or

(2) as superseding, modifying, or repealing any existing applicable law.

AUTHORIZATION OF ADDITIONAL APPROPRIATION

SEC. 504. In addition to other authorizations of appropriations contained in this Act, there are authorized to be appropriated to the Secretary beginning October 1, 1930, an amount not to exceed $5,000,000 for the purpose of developing fisheries port facilities in the State of Oregon. Such facilities shall be primarily intended to accommodate fisheries other than salmon. The Secretary shall obligate such funds for projects proposed by units of State or local government, Indian tribes, or private nonprofit entities, and approved by the State of Oregon in consultation with the National Marine Fisheries Service and the Economic Development Administration. To the extent practicable, the Secretary shall assure that projects under this section are integrated with planning and assistance under the Public Works and Economic Development Act. Funds available under this section shall not be used for any navigational improvement or other modification of the navigable waters of the United States. Funds appropriated pursuant to this section shall remain available until expended.

MOTION OFFERED BY MR. BREAUX

Mr. BREAUX. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BREAUX moves to strike out all after the enacting clause of the Senate bill, S. 2163, and insert in lieu thereof the provisions of the bill, H.R. 6959, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to provide for the conservation and enhancement of the salmon and steelhead resources of the United States, assistance to treaty and nontreaty harvesters of those resources, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 6959) was laid on the table.

GENERAL LEAVE

Mr. FORSYTHE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

HON. ROBERT WINTHROP KEAN

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, I have asked permission to address the House to inform the House of the sad news of the death of a former Member of this body, Mr. Robert Winthrop Kean, who died yesterday in my district.

He served in this House, as many of us may remember, in nine succeeding Congresses from January 3, 1939, to January 3, 1959. He served on the Mexican front. He was decorated in the First World War with a Silver Star Medal and the Distinguished Service Cross. Much more than this he was respected and loved in every place where he served, at home, in his hometown and State, and here in Congress. He was a man of integrity and honor and those qualities marked his service. He came of a family which served in this House in the 19th century as well as in this century. His uncle served as Congressman and Senator. Theirs is one of the most distinguished families in New Jersey from the point of view of honorable public service. I thought his memory should be brought to the House this day, the day after the day he died.

GENERAL LEAVE

Mrs. FENWICK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the life, character, and public service of the late Hon. Robert Winthrop Kean.

The SPEAKER pro tempore. Is these objection to the request of the gentlewoman from New Jersey?

There was no objection.

AMERICAN FISHERIES PROMOTION ACT

Mr. BREAUX. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 7039, to provide for comprehensive research and development regarding U.S. fisheries, to expand the fishing fleet and fish processing capacity of the United States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 7039

Strike out all after the enacting clause and insert the following:

That this Act may be cited as the "American Fisheries Promotion Act".

TITLE I—RESEARCH AND DEVELOPMENT REGARDING THE UNITED STATES FISHERIES

SEC. 101. RESEARCH AND DEVELOPMENT PROJECTS AND PROGRAMS.

(a) AMENDMENTS TO SALTONSTALL-KENNEDY ACT.—Section 2 of the Act of

August 11, 1939 (commonly referred to as the Saltonstall-Kennedy Act, 15 U.S.C. 713c-3), is amended—

(1) by striking out subsections (b), (c), (d), and (e);

(2) by redesignating subsection (a) as subsection (b);

(3) by inserting immediately before subsection (b) (as so redesignated) the following new subsection:

"SEC. 2. (a) DEFINITIONS.—As used in this section—

"(1) The term 'person' means—

"(A) any individual who is a citizen or national of the United States or a citizen of the Northern Mariana Islands; and

"(B) any corporation, partnership, association, or other entity (including, but not limited to, any fishery development foundation), nonprofit or otherwise, if such entity is a citizen of the United States within the meaning of section 2 of the Shipping Act, 1916 (46 U.S.C. 802) and for purposes of applying such section 2 with respect to this section—

"(i) the term 'State' as used therein includes any State referred to in paragraph (3),

"(ii) citizens of the United States must own not less than 75 percent of the interest in the entity or, in the case of a nonprofit entity, exercise control in the entity that is determined by the Secretary to be the equivalent of such ownership, and

"(iii) nationals of the United States and citizens of the Northern Mariana Islands shall be treated as citizens of the United States in meeting the ownership and control requirements referred to in clause (ii).

"(2) The term 'Secretary' means the Secretary of Commerce.

"(3) The term 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands of the United States, Guam, the Northern Mariana Islands, and any other Commonwealth, territory, or possession of the United States.

"(4) The term 'United States fishery' means—

"(A) any fishery subject to the exclusive management authority of the United States under the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.);

"(B) any tuna fishery within the fishery conservation zone established by section 101 of such Act of 1976 (16 U.S.C. 1811); and

"(C) any fishery, other than one described in subparagraph (A) or (B), that is, or may be, engaged in by citizens or nationals of the United States or citizens of the Northern Mariana Islands.

"(5) The term 'citizen of the Northern Mariana Islands' means—

"(A) an individual who qualifies as such under section 8 of the Schedule on Transitional Matters attached to the Constitution of the Northern Mariana Islands; or

"(B) a corporation, partnership, association, or other entity organized or existing under the laws of the Northern Mariana Islands, not less than 75 percent of the interest in which is owned by individuals referred to in subparagraph (A) or citizens or nationals of the United States, in cases in which 'owned' is used in the same sense as in section 2 of the Shipping Act, 1916 (46 U.S.C. 802).";

(4) by amending subsection (b) (as so redesignated)—

(i) by inserting "FUND.—" immediately after "(b)" and before the first word of such subsection,

(ii) by striking out "Secretary of the Interior" the first place it appears therein and inserting in lieu thereof "Secretary",

(iii) by striking out "and used by the Secretary of the Interior" and inserting in lieu thereof "only for use by the Secretary", and

(iv) by striking out clauses (1), (2), and (3) and inserting in lieu thereof the following: "(1) to provide financial assistance for the purpose of carrying out fisheries research and development projects approved under subsection (c), and (2) to implement the national fisheries research and development program provided for under subsection (d)."; and

(5) by adding immediately after subsection (b) (as so redesignated) the following:

"(c) FISHERIES RESEARCH AND DEVELOPMENT PROJECT.—(1) The Secretary shall make grants from the fund established under subsection (b) to assist persons in carrying out research and development projects addressed to any aspect of United States fisheries, including, but not limited to, harvesting, processing, marketing, and associated infrastructures.

"(2) The Secretary shall—

"(A) at least once each fiscal year, receive, during a 60-day period specified by him, applications for grants under this subsection;

"(B) prescribe the form and manner in which applications for grants under this subsection must be made, including, but not limited to, the specification of the information which must accompany applications to ensure that the proposed projects comply with Federal law and can be evaluated in accordance with paragraph (3)(B); and

"(C) approve or disapprove each such application before the close of the 120th day after the last day of the 60-day period (specified under subparagraph (A)) in which the application was received.

"(3) No application for a grant under this subsection may be approved unless the Secretary—

"(A) is satisfied that the applicant has the requisite technical and financial capability to carry out the project; and

"(B) evaluates the proposed project as to—

"(i) soundness of design,

"(ii) the possibilities of securing productive results,

"(iii) minimization of duplication with other fisheries research and development projects,

"(iv) the organization and management of the project,

"(v) methods proposed for monitoring and evaluating the success or failure of the project, and

"(vi) such other criteria as the Secretary may require.

"(4) Each grant made under this subsection shall be subject to such terms and conditions as the Secretary may require to protect the interests of the United States, including, but not limited to, the following:

"(A) The recipient of the grant must keep such records as the Secretary shall require as being necessary or appropriate for disclosing the use made of grant funds and shall allow the Secretary and the Comptroller General of the United States, or any of their authorized representatives, access to such records for purposes of audit and examination.

"(B) The amount of a grant may not be less than 50 percent of the estimated cost of the project.

"(C) The recipient of the grant must submit to the Secretary periodic project status reports.

"(5)(A) If the cost of a project will be shared by the grant recipient, the Secretary shall accept, as a part or all of that share, the value of in kind contributions made by the recipient, or made available to, and applied by, the recipient, with respect to the project.

"(B) For purposes of subparagraph (A), in-kind contributions may be in the form of, but are not limited to, personal services rendered in carrying out functions related to, and permission to use real or personal property owned by others (for which consideration is not required) in carrying out, the project. The Secretary shall establish (i) the training, experience, and other qualifications which shall be required in order for services to be considered as in-kind contributions; and (ii) the standards under which the Secretary will determine the value of in-kind contributions for purposes of subparagraph (A).

"(C) Any valuation determination made by the Secretary for purposes of this paragraph shall be conclusive.

"(d) NATIONAL FISHERIES RESEARCH AND DEVELOPMENT PROGRAM.—(1) The Secretary shall carry out a national program of research and development addressed to such aspects of United States fisheries (including, but not limited to, harvesting, processing, marketing, and associated infrastructures), if not adequately covered by projects assisted under subsection (c), as the Secretary deems appropriate.

"(2) The Secretary shall, after consultation with appropriate representatives of the fishing industry, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives, an annual report, that must be submitted not later than 60 days before the close of each fiscal year, containing—

"(A) the fisheries development goals and funding priorities under paragraph (1) for the next fiscal year;

"(B) a description of all pending projects assisted under subsection (c) or carried out under paragraph (1), in addition to—

"(i) a list of those applications approved and those disapproved under subsection (c), and the total amount of grants made, for the current fiscal year, and

"(ii) a statement of the extent to which available funds were not obligated or expended by the Secretary for grants under subsection (c) during the current fiscal year; and

"(C) an assessment of each project assisted under subsection (c) or carried out under paragraph (1) that was completed in the preceding fiscal year regarding the extent to which (i) the objectives of the project were attained, and (ii) the project contributed to fishery development.

"(e) ALLOCATION OF FUND MONEYS.—(1) With respect to any fiscal year, not less than 50 percent of—

"(A) the moneys transferred to the fund under subsection (b) or any other provision of law with respect to that fiscal year; and

"(B) such existing fund moneys carried over into that fiscal year;

shall be used by the Secretary during that fiscal year to provide financial assistance for projects under subsection (c); and the remainder of such moneys in the fund shall be used to implement the national fisheries research and development program established under subsection (d) during that fiscal year.

"(2) Moneys accruing to the fund established under subsection (b) for any fiscal year and not expended with respect to that year shall remain available for expenditure under this section without fiscal year limitation.".

(b) NATIONAL PRIORITY PROJECTS.—(1) In the administration of section 2 of the Act of August 11, 1939 (as amended by subsection (a)), the Secretary of Commerce shall, if an application is received during fiscal year 1981 or 1982 for a grant under subsection (c) of such section 2 to carry out—

(A) a project to enhance the opportunities for the marketing of United States fish products, either domestically or abroad, or both;

(B) a project to establish and operate a system (in which participation must be voluntary) to grade the quality of fish landed at a United States port; or

(C) a project to improve fuel efficiency in carrying out fishing operations within one or more United States fisheries;

award the grant if the Secretary finds that the applicant and the proposed project meet the requirements in paragraph (3) of such subsection.

(2) If an application for a project described in paragraph (1) (A), (B), or (C) is not received during fiscal year 1981 or 1982 (or, if received, the applicant or the proposed project does not meet the requirements in subsection (c)(3) of such section 2, the Secretary of Commerce may carry out, pursuant to the national fisheries research and development program under subsection (d) of such section 2, such a project.

SEC. 102. UNITED STATES FISHERY TRADE OFFICERS.

(a) APPOINTMENT.—For purposes of carrying out export promotion and other fishery development responsibilities, the Secretary of Commerce (hereinafter in this section referred to as the "Secretary") shall appoint not fewer than six officers who shall serve abroad to promote United States fishing interests. These officers shall be knowledgeable about the United States fishing industry, preferably with experience derived from the harvesting, processing, or marketing sectors of the industry or from the administration of fisheries programs. Such officers, who shall be employees of the Department of Commerce, shall have the designation of fishery trade officers.

(b) ASSIGNMENT.—Upon the request of the Secretary, the Secretary of State shall officially assign fishery trade officers to such diplomatic missions of the United States as the Secretary designates (three of which shall be those in Brussels, Belgium; Rome, Italy; and Tokyo, Japan) and shall obtain for them diplomatic privileges and immunities equivalent to those enjoyed by foreign service personnel of comparable rank and salary.

(c) FUNCTIONS OF FISHERY TRADE OFFICERS.—The functions of fishery trade officers appointed under subsection (a) shall be—

(1) to increase the effectiveness of United States fishery export promotion efforts through such activities as the coordination of market development efforts and the provision of services and facilities for exporters of United States fishery products;

(2) to develop, maintain, and make available to interested persons listings of (A) trade, government, and other organizations that are concerned with, or have an interest in, international trade in United States fishery products, and (B) United States fishery products available for such trade;

(3) to prepare quarterly reports regarding (A) the supply, demand, and prices of each United States fishery product exported, or for which there may be export potential, to the foreign nation or area concerned, and (B) the trade barriers or incentives of such nation or area that affect imports of such products; and

(4) to carry out such other functions as the Secretary may require.

(d) ADMINISTRATION.—The Secretary of State and the Secretary shall enter into cooperative arrangements concerning the provision of office space, equipment, facilities, clerical services, and such other administrative support as may be required for fishery trade officers and their families.

TITLE II—FINANCIAL ASSISTANCE WITH RESPECT TO FISHING VESSELS

SEC. 201. GUARANTEE OF OBLIGATIONS FOR FISHING VESSELS.

Title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271–1280) is amended as follows:

(1) Section 1101 is amended by adding at the end thereof the following new subsections:

"(i) The term 'citizen of the Northern Mariana Islands' means—

"(1) an individual who qualifies as such under section 8 of the Schedule on Transitional Matters attached to the Constitution of Northern Mariana Islands; or

"(2) a corporation, partnership, association, or other entity formed under the laws of the Northern Mariana Islands, not less than 75 percent of the interest in which is owned by individuals referred to in paragraph (1) or citizens or nationals of the United States, in cases in which 'owned' is used in the same sense as in section 2 of the Shipping Act, 1916 (46 U.S.C. 802).

"(j) The term 'fishing vessel' has the meaning given such term by section 3(11) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1802(11)); and any reference in this title to a vessel designed principally for commercial use in the fishing trade or industry shall be treated as a reference to a fishing vessel.".

(2) Section 1103(f) is amended by inserting immediately before the period the following: "; except that—

"(1) not less than 3 percent, nor more than 7 percent, of such sum shall be reserved for the guarantee of obligations for fishing vessels that meet the economic soundness criteria set forth in section 1104(d)(1), and

"(2) not less than 3 percent, nor more than 7 percent, of such sum shall be reserved for the guarantee of obligations for fishing vessels that meet the economic soundness criteria set forth in section 1104(d)(2),

but the aggregate amount reserved for the purposes set forth in paragraphs (1) and (2) may not exceed 10 percent of such sum.".

(3) Section 1104 is amended—

(A) in subsection (a)—

(i) by striking out "(D) in the fishing trade or industry; or (E)" in paragraph (1) and inserting in lieu thereof "; or (D)";

(ii) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively, and by inserting immediately after paragraph (1) the following new paragraph:

"(2) financing, including reimbursement of an obligor for expenditures previously made for, construction, reconstruction, reconditioning, or purchase of a vessel or vessels owned by citizens or nationals of the United States or citizens of the Northern Mariana Islands which are designed principally for research, or for commercial use in the fishing trade or industry;";

(iii) by striking out "or" at the end of paragraph (4) (as redesignated by clause (ii));

(iv) by striking out "or (3)" in paragraph (5) (as so redesignated) and inserting in lieu thereof "(3), or (4)", and by striking out the period at the end thereof and inserting in lieu thereof "; or"; and

(v) by adding immediately after paragraph (5) the following:

"(6) financing the purchase of fishing vessels, the construction, reconstruction, reconditioning, or purchase of which was guaranteed under this title, that are sold at foreclosure, instituted by the Secretary, to third party purchasers, and the reconstruction or reconditioning thereof.";

(B) by adding at the end of subsection (b) the following:

"The Secretary may not establish, as a condition of eligibility for guarantee under this title, a minimum principal amount for any obligation covering the reconstruction or reconditioning of a fishing vessel. For purposes of this title, the reconstruction or reconditioning of a fishing vessel does not include the routine minor repair or maintenance of the vessel.";

(C) in subsection (d)—

(i) by striking out "No" and inserting in lieu thereof "(1) Except as provided in paragraph (2), no"; and

(ii) by adding at the end thereof the following:

"(2) In applying paragraph (1) with respect to commitments to guarantee, and the guarantee of, obligations for fishing vessels, the Secretary of Commerce may apply an economic soundness test that is less stringent than that which would apply but for this paragraph.

"(3) No commitment to guarantee, or guarantee, of an obligation may be made by the Secretary of Commerce under this title for the purchase of a used fishing vessel unless—

"(A) the vessel will be reconstructed or reconditioned and will contribute to the development of the United States fishing industry; or

"(B) the vessel will be used in the harvesting of fish from an underutilized fishery."; and

(D) in subsection (g)—

(i) by inserting "(1)" immediately after "(g)"; and

(ii) by adding at the end thereof the following new paragraph:

"(2) The Secretary of Commerce shall establish within the Fund the following subfunds:

"(A) The standard fishery subfund which shall contain all moneys received for, and incident to, the guarantee of obligations with respect to fishing vessels to which the economic soundness criteria set forth in section 1104(d)(1) apply.

"(B) The high-risk fishery subfund which shall contain all moneys received for, and incident to, the guarantee of obligations with respect to fishing vessels to which the economic soundness criteria set forth in section 1104(d)(2) apply.

"(C) The general subfund which shall contain all moneys received for, and incident to, the guarantee of obligations for vessels other than fishing vessels.".

(4) The first sentence of section 1105(d) is amended by inserting immediately before the period at the end thereof the following: ", and shall be paid from the appropriate subfund required to be established under section 1104(g)(2)".

SEC. 202. LOANS UNDER THE FISH AND WLDLIFE ACT OF 1956.

(a) LOAN AUTHORITY UNTIL OCTOBER 1, 1982—During the period beginning on the date of the enactment of this Act and ending at the close of September 30, 1982, the Secretary of Commerce (hereinafter in this section referred to as the "Secretary") may make loans from the fisheries loan fund established under subsection (c) of section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c) only for the purposes set forth in subsections (b) and (c) of this section. Except to the extent that they are inconsistent with, or contrary to, this section, the provisions of such section 4 shall apply with respect to loans made for such purposes.

(b) LOANS TO AVOID DEFAULT ON OBLIGATIONS COVERING FISHING VESSELS.—(1) The Secretary may make loans for the purpose of assisting obligors to avoid default on obligations that are issued with respect to the construction, reconstruction, reconditioning or purchase of fishing vessels and that—

(A) are guaranteed by the United States under title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271–1280, relating to Federal ship mortgage insurance); or

(B) are not guaranteed under such title XI, but the fishing vessels concerned meet the use and documentation requirements, and the obligors meet the citizenship requirements, that would apply if the obligations were guaranteed under that title.

(2) (A) Within the 90-day period beginning

on the date of the enactment of this Act in the case of fiscal year 1981, and before the beginning of fiscal year 1982, the Secretary shall estimate the number, and the aggregate amount, of loans described in paragraph (1) (A) for which application will likely be made during each of such fiscal years and shall reserve that amount in the fisheries loan fund for the purpose of making such loans during such year (or if such amount is larger than the fund balance, the Secretary shall reserve the whole fund for such purpose).

(B) If any moneys are available in the fisheries loan fund for each such fiscal year after subparagraph (A) is complied with for that year, the Secretary shall use such moneys for the purpose of making loans described in paragraph (1)(B) during that year.

(C) At an appropriate time during each of fiscal years 1981 and 1982, the Secretary shall compare the actual loan experience during that year with the estimate made for that year under subparagraph (A) and if the Secretary determines, on the basis of such comparison, that the demand for loans described in paragraph (1)(A) will be less than estimated, the Secretary shall, for the fiscal year concerned, apply moneys reserved for such loans for the purpose of making loans described in paragraph (1)(B) and, to the extent not utilized for loans described in paragraph (1)(B), for the purpose of making loans under subsection (c).

(3) The Secretary may make loans under this subsection only to owners or operators who, in the judgment of the Secretary, have substantial experience and proven ability in the management and financing of fishing operations, and only if (A) loans for the purpose described in paragraph (1) are not otherwise available at reasonable rates which permit continued operation, and (3) the loans are likely to result in the financial viability of the fishing operations of the owners or operators. Each such loan shall be subject to such terms and conditions as the Secretary deems necessary or appropriate to protect the interests of the United States and to carry out the purpose of this subsection. In establishing such terms and conditions, the Secretary shall take into account, among such other factors he deems pertinent, the extent to which the obligations concerned have been retired, and the overall financial condition of the obligors. The interest rate on loans made under the authority of this subsection shall not exceed that rate determined by the Secretary to be sufficient to cover the costs incurred in processing and servicing of such loans.

(c) Loans To Cover Operating Losses.—(1) If the Secretary determines that moneys will be available in such fisheries loan fund for fiscal year 1981 or 1982, or both, after loans under subsection (b) are provided for for that year, the Secretary may make loans for the purpose of assisting owners and operators of fishing vessels to cover vessel operating expenses in cases where an owner or operator incurs, or may incur, a net operating loss within such fiscal year.

(2) Each loan made by the Secretary under this subsection shall be subject to such terms and conditions as the Secretary deems necessary or appropriate to protect the interests of the United States and to carry out the purposes of this subsection. The Secretary may make loans under this subsection only to owners or operators who, in the judgment of the Secretary, have substantial experience and proven ability in the management and financing of fishing operations, and only if (A) loans for the purposes described in paragraph (1) are not otherwise available at reasonable rates which permit continued operation, and (B) the loans are likely to result in the financial viability of the fishing operations of the owners or operators. The interest rate on loans made under this subsection shall be the rate prevailing for loans made under the Emergency Agricultural Credit Act of 1978 (7 U.S.C. preceding 1961 note).

(d)(1) Subsection (c) of section 4 of such Act of 1956 (16 U.S.C. 742C(c)) is amended—

(A) by striking out "September 30, 1980," each place it appears therein and inserting in lieu thereof "September 30, 1982," and

(B) by striking out the third, fourth, and fifth sentences thereof.

(2) The amendments made by paragraph (1) shall take effect on September 1, 1980.

TITLE III—AMENDMENTS TO THE FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

CHAPTER 1—PHASE-OUT OF FOREIGN FISHING IN FISHERIES SUBJECT TO THE EXCLUSIVE FISHERY MANAGEMENT AUTHORITY OF THE UNITED STATES

Sec. 301. Phase-Out of Foreign Fishing.

Section 201(d) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1821(d)) is amended to read as follows:

"(d) Total Allowable Level of Foreign Fishing.—(1) As used in this subsection—

"(A) The term 'base harvest' means, with respect to any United States fishery, the total allowable level of foreign fishing during the 1979 harvesting season.

"(B) The term 'harvesting season' means the period established under this Act by the Secretary during which foreign fishing is permitted within a United States fishery. For purposes of this subsection, a harvesting season is designated by the calendar year in which the last day of the harvesting season occurs, regardless whether fishing is not permitted on that day due to emergency or other closure of the fishery.

"(C) The term 'phase-out calculation factor' means, with respect to each United States fishery, 15 percent of the base harvest.

"(D) The term 'phase-out reduction factor amount' means, with respect to each United States fishery, for any harvesting season after the 1980 harvesting season—

"(i) an amount equal to 15 percent of the base harvest for that fishery, if, in addition to the level of harvest by vessels of the United States in the designated preceding harvesting season for the fishery, such vessels harvest, in one or more harvesting seasons, not less than 75 percent of the phase-out calculation factor;

"(ii) an amount equal to 10 percent of the base harvest for the fishery, if, in addition to the level of harvest by vessels of the United States in the designated preceding harvesting season for the fishery, such vessels harvest, in one or more harvesting seasons, not less than 50 percent, but less than 75 percent, of the phase-out calculation factor; or

"(iii) an amount equal to 5 percent of the base harvest for the fishery, if, in addition to the level of harvest by vessels of the United States in the designated previous harvesting season for the fishery, such vessels harvest, in one or more harvesting seasons, not less than 25 percent, but less than 50 percent, of the phase-out calculation factor.

For purposes of this paragraph, the term 'designated preceding harvest season' means—

"(I) until a phase-out reduction factor amount is first achieved under this paragraph with respect to the fishery concerned, the 1979 harvesting season, and

"(II) after such amount is first achieved, the most recent harvesting season in which a phase-out reduction factor amount was achieved.

"(E) The term 'phase-out fishing level' for any United States fishery during any harvesting season after the 1980 harvesting season is the base harvest for the fishery reduced by—

"(i) an amount equal to the phase-out reduction factor amount for that harvesting season; and

"(ii) an amount equal to the increased level of harvest by vessels of the United States over the level achieved by such vessels in the 1979 harvesting season for the fishery.

"(F) The term 'United States fishery' means a fishery subject to the exclusive fishery management authority of the United States.

"(2) The total allowable level of foreign fishing, if any, with respect to any United States fishery for each harvesting season after the 1980 harvesting season shall be—

"(A) the level representing that portion of the optimum yield of such fishery that will not be harvested by vessels of the United States as determined in accordance with the provisions of this Act (other than those relating to the determination of phase-out fishing levels), or

"(B) the phase-out fishing level determined pursuant to paragraph (3) for the harvesting season.

"(3) For each United States fishery, the appropriate fishery management council, on a timely basis, may determine and certify to the Secretary of State and the Secretary the phase-out fishing level for that fishery for each harvesting season after the 1980 harvesting season.

"(4) If with respect to any harvesting season for any United States fishery for which the total allowable level of foreign fishing is determined under paragraph (2)(B), the Secretary, in consultation with the Secretary of State and taking into account any recommendation of any appropriate fishery management council, determines that any portion of the optimum yield for that harvesting season will not be harvested by vessels of the United States, the Secretary of State, in accordance with subsection (e), shall allocate such portion for use during that harvesting season by foreign fishing vessels; except that if—

"(A) the making available of such portion (or any part thereof) during that harvesting season is determined to be detrimental to the development of the United States fishing industry; and

"(B) such portion or part will be available for harvest in the immediately succeeding harvesting season, as determined on the basis of the best available scientific information;

then such portion or part shall be allocated for use by foreign fishing vessels in such succeeding harvesting season. The determinations required to be made under subparagraphs (A) and (B) of the preceding sentence shall be made by the Secretary in consultation with the Secretary of State and taking into account any recommendation of any appropriate fishery management council.".

Sec. 302. Allocation of Allowable Levels of Foreign Fishing.

(a) Amendments.—The last sentence of section 201(e)(1) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1821(e)(1)) is amended to read as follows: "All such determinations shall be made by the Secretary of State and the Secretary on the basis of—

"(A) whether, and to what extent, such nations impose tariff barriers or nontariff barriers on the importation, or otherwise restrict the market access, of United States fish products;

"(B) whether, and to what extent, such nations are cooperating with the United States in the advancement of existing and new opportunities for fisheries trade, particularly through the purchase of fish or fisheries products from United States processors or from United States fishermen;

"(C) whether, and to what extent, such nations and the fishing fleets of such nations have cooperated with the United States in the enforcement of United States fishing regulations;

"(D) whether, and to what extent, such nations require the fish harvested from the fishery conservation zone for their domestic consumption;

"(E) whether, and to what extent, such nations otherwise contribute to, or foster the growth of, a sound and economic United States fishing industry, including minimizing gear conflicts with fishing operations of United States fishermen, and providing harvesting or processing technology which will benefit the United States fishing industry;

"(F) whether, and to what extent, the fishing vessels of such nations have traditionally engaged in fishing in such fishery;

"(G) whether, and to what extent, such nations are cooperating with the United States in, and making substantial contributions, to fishery research and the identification of fishery resources; and

"(H) such other matters as the Secretary of State, in cooperation with the Secretary, deems appropriate.".

(b) Taking Effect of Amendments.—The amendments made by subsection (a) shall apply with respect to the 1981 harvesting season and harvesting seasons thereafter (as defined in section 201(d)(1) of the Fishery Conservation and Management Act of 1976, as amended by section 301).

Sec. 303. Permit Fees.

(a) Interim Fees.—(1) Effective with respect to permits issued under section 204(b) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1824(b)(10)) for 1981, paragraph (10) of such section is amended by striking out the last sentence thereof and inserting in lieu thereof the following: "Such fees shall be formulated so as to ensure that the total receipts resulting from the payment of the fees for permits issued for 1981 are not less than an amount equal to 7 percent of the ex vessel value of the total harvest by foreign fishing vessels in the fishery conservation zone during 1979; except that the fees imposed with respect to any fishery may not be set at a level that—

"(A) would render foreign fishing therein uneconomic; or

"(B) is lower than the level of fees imposed with respect to that fishery for 1979.

Whenever the exception in the preceding sentence is applied with respect to a fishery, the Secretary shall publish in the Federal Register a statement that sets forth the reasons therefor and identifies the supporting data. The fees collected by the Secretary under this paragraph for permits issued for 1981 shall be transferred to the fisheries loan fund established under section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c) and used for the purpose of making loans therefrom, but only to the extent and in amounts provided for in advance in appropriation Acts.".

(b) Permanent Fees.—Effective with respect to permits issued under section 204(b) of such Act of 1976 after 1981, paragraph (10) of such section is amended to read as follows—

"(10) Fees.—Fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit is issued pursuant to this subsection. The Secretary, in consultation with the Secretary of State, shall establish a schedule of such fees which shall apply nondiscriminatorily to each foreign nation. The fees imposed under this paragraph shall be at least in an amount sufficient to return to the United States an amount which bears to the total cost of carrying out the provisions of this Act (including, but not limited to, fishery conservation and management, fisheries research, administration, and enforcement) during each fiscal year the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the fishery conservation zone during the preceding year bears to the aggregate quantity of fish harvested by both foreign and domestic fishing vessels within such zone and the territorial waters of the United States during such preceding year; except that the fees imposed with respect to any fishery may not be set at a level that—

"(A) would render foreign fishing therein uneconomic; or

"(B) is lower than the level of fees imposed with respect to that fishery for 1979.

Whenever the exception in the preceding sentence is applied with respect to a fishery, the Secretary shall publish in the Federal Register a statement that sets forth the reasons therefor and identifies the supporting data. The amount collected by the Secretary under this paragraph shall be transferred to the fisheries loan fund established under section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c) for so long as such fund exists and used for the purpose of making loans therefrom, but only to the extent and in amounts provided for in advance in appropriation Acts.".

Sec. 304. Fishery Development Objectives.

Section 2(b)(6) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801(b)(6)) is amended by inserting immediately before the period at the end thereof the following: ", and to that end, to ensure that optimum yield determinations promote such development".

Sec. 305. Fishery Management Council Travel Funds.

The second sentence of section 302(d) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1852(d)) is amended by striking out "(c)(1)(C)," and inserting in lieu thereof ", (c)(1)(C) and (D),".

Sec. 306. Notice of Availability of Management Plans.

Section 305(a) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1855(a)) is amended by inserting "a notice of availability of" immediately after "Federal Register (A)".

CHAPTER 2—FULL OBSERVER COVERAGE PROGRAM UNTIL FOREIGN FISHING PHASE-OUT COMPLETED

Sec. 311. Establishment of Full Observer Coverage Program.

Section 201 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1821) is amended by adding at the end thereof the following new subsection:

"(i) Full Observer Coverage Program.—(1) Except as provided in paragraph (2), the Secretary shall establish a program under which a United States observer will be stationed aboard each foreign fishing vessel while that vessel is engaged in fishing within the fishery conservation zone.

"(2) The requirement in paragraph (1) that a United States observer be placed aboard each foreign fishing vessel may be waived by the Secretary if he finds that—

"(A) in a situation where a fleet of harvesting vessels transfers its catch taken within the fishery conservation zone to another vessel, aboard which is a United States observer, the stationing of United States observers on only a portion of the harvesting vessel fleet will provide a representative sampling of the by-catch of the fleet that is sufficient for purposes of determining whether the requirements of the applicable management plans for the by-catch species are being observed;

"(B) with respect to any foreign fishing vessel while it is engaged in fishing within the fishery conservation zone—

"(i) the time during which the vessel engages in such fishing will be of such short duration that the placing of a United States observer aboard the vessel would be impractical, or

"(ii) the facilities of the vessel for the quartering of a United States observer, or for the carrying out of observer functions, are so inadequate or unsafe that the health or safety of an observer would be jeopardized; or

"(C) for reasons beyond the control of the Secretary, an observer is not available.

"(3) United States observers, while aboard foreign fishing vessels, shall carry out such scientific and other functions as the Secretary deems necessary or appropriate to carry out the purposes of this Act.

"(4) In addition to any fee imposed under section 204(b)(10) of this Act and section 10(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1980(e)) with respect to foreign fishing for any year after 1980, the Secretary shall impose, with respect to each foreign fishing vessel for which a permit is issued under such section 204, a surcharge in an amount sufficient to cover all the costs of providing a United States observer aboard that vessel. The failure to pay any surcharge imposed under this paragraph shall be treated by the Secretary as a failure to pay the permit fee for such vessel under section 204(b)(10). All surcharges collected by the Secretary under this paragraph shall be deposited in the Foreign Fishing Observer Fund established by paragraph (5).

"(5) There is established in the Treasury of the United States the Foreign Fishing Observer Fund. The Fund shall be available to the Secretary as a revolving fund for the purpose of carrying out this subsection. The Fund shall consist of the surcharges deposited into it as required under paragraph (4). All payments made by the Secretary to carry out this subsection shall be paid from the Fund, only to the extent and in the amounts provided for in advance in appropriation Acts. Sums in the Fund which are not currently needed for the purposes of this subsection shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.".

Sec. 312. Effective Date.

The amendment made by section 311 shall take effect October 1, 1981, and shall apply with respect to permits issued under section 204 of the Fishery Conservation and Management Act of 1976 after December 31, 1981.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Congressional Review of Regulations.

(a) In General.—No regulation promulgated by the Secretary of Commerce to implement—

(1) section 2 of the Act of August 11, 1939 (commonly referred to as the Saltonstall-Kennedy Act, 15 U.S.C. 713c-3) as amended by section 101 of this Act;

(2) the amendments made by title II of this Act relating to the guarantee of obligations under title XI of the Merchant Marine Act, 1936 covering fishing vessels; or

(3) the amendments made by title III of this Act as they apply to the establishment of fees for foreign fishing permits issued after 1981, the establishment of a full observer coverage program, and the allocation of allowable levels of foreign fishing under the Fishery Conservation and Management Act of 1976;

shall have force and effect—

(A) unless a copy of the regulation is submitted to each House of Congress on the same day and while each House is in session; and

(B) before the close of the period of 60 days following the day on which the regulation is submitted to Congress in accordance with subparagraph (A).

(b) PROCEDURAL PROVISION.—In computing the 60-day period referred to in subsection (a)(B), any day on which either House of Congress is not in session because of an adjournment of more than 5 days to a day certain, or an adjournment of the Congress sine die, shall be excluded.

SEC. 402. APPLICATIONS AND FILINGS FOR COMPENSATION FOR CERTAIN FISHING VESSEL AND GEAR DAMAGE.

(a) IN GENERAL.—If—

(1) any owner or operator of a fishing vessel who suffered, after September 17, 1978, and before the date of the enactment of this Act, damage to, or loss or destruction of, such vessel or fishing gear used with such vessel, but did not apply for compensation therefor under section 10 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1980) within the 60-day period prescribed in subsection (c)(1) of such section; or

(2) any commercial fisherman who suffered, after September 17, 1978, and before the date of the enactment of this Act, damages compensable under title IV of the Outer Continental Shelf Lands Act of 1978 (43 U.S.C. 1841 et seq.), but who did not timely file a claim therefor within the 60-day period prescribed in section 405(a) of such Act;

such owner or operator may make application for compensation with respect to such damage, loss or destruction under such section 10, and such commercial fisherman may file a claim for, compensation for such damages under such title IV, to the Secretary of Commerce, within the 60-day period beginning on the date of the enactment of this Act.

(b) SPECIAL PROVISIONS.—(1) Notwithstanding any other provision of law—

(A) any application or filing timely made under subsection (a) shall be treated by the Secretary of Commerce as an application timely made under such section 10(c)(1), or as a filing timely made under such section 405(a), as the case may be, with respect to the damage, loss, or destruction claimed; and

(B) any claim for fishing gear loss that was pending on June 1, 1980, before the United States-Union of Soviet Socialist Republics Fisheries Claim Board or the American-Spanish Fisheries Board shall be treated by the Secretary of Commerce as a timely application made, on the date of the enactment of this Act, under such section 10(c)(1) for compensation for such loss.

(2) Section 403(c)(A) of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1843(c)(2)(A)) is amended by striking out the semicolon at the end thereof and inserting in lieu thereof "and the party admits responsibility;".

☐ 1210

The SPEAKER pro tempore. Is a second demanded?

Mr. McCLOSKEY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

Mr. FRENZEL. Mr. Speaker, I object. And on that I demand tellers.

Tellers were ordered, and the Speaker pro tempore appointed as tellers Mr. BREAUX and Mr. FRENZEL.

The House divided, and the tellers reported that there were—yeas 16, nays 9.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 283, nays 91, answered "present" 1, not voting 57, as follows:

[Roll No. 572]

YEAS—283

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beilenson
Benjamin
Bennett
Bethune
Bevill
Biaggi
Bingham
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Broyhill
Buchanan
Burlison
Burton, Phillip
Byron
Campbell
Carney
Carr
Chappell
Chisholm
Clausen
Clay
Cleveland
Coelho
Coleman
Collins, Ill.
Conte
Corman
Cotter
Courter
D'Amours
Daniel, R. W.
Danielson
de la Garza
Derrick
Dicks
Dingell
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Early
Edgar
Edwards, Ala.
English
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gramm
Gray
Green
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harsha
Hawkins
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Ireland
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lundine
McClory
McCormack
McDade
McHugh
McKay
McKinney
Maguire
Markey
Marriott
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Quayle
Rahall
Railsback
Rangel
Ratchford
Reuss
Rinaldo
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Russo
Sabo
Scheuer
Shannon
Sharp
Shelby
Skelton
Smith, Iowa
Snowe
Snyder
Spellman
St Germain
Stack
Staggers
Stangeland
Steed
Stenholm
Stewart
Studds
Stump
Swift
Synar
Tauzin
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whitten
Williams, Mont.
Wilson, Tex.
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—91

Abdnor
Andrews, N.Dak.
Archer
Badham
Beard, Tenn.
Bereuter
Broomfield
Burgener
Cheney
Clinger
Collins, Tex.
Conable
Corcoran
Coughlin
Crane, Philip
Dannemeyer
Deckard
Devine
Dickinson
Duncan, Tenn.
Edwards, Okla.
Erdahl
Erlenborn
Evans, Del.
Fenwick
Findley
Fish
Fisher
Frenzel
Giaimo
Gilman
Gradison
Grassley
Grisham
Hagedorn
Harris
Horton
Hyde
Jacobs
Jeffords
Jeffries
Johnson, Colo.
Kastenmeier
Kelly
Kemp
Kramer
Lagomarsino
Latta
Leach, Iowa
Lee
Lewis
Luken
Lungren
McCloskey
Madigan
Marlenee
Martin
Michel
Moorhead, Calif.
Pashayan
Porter
Pursell
Quillen
Regula
Rhodes
Ritter
Rousselot
Rudd
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shumway
Shuster
Simon
Smith, Nebr.
Solarz
Solomon
Spence
Stanton
Tauke
Thomas
Vanik
Whitehurst
Whittaker
Williams, Ohio
Winn
Wydler
Wylie

ANSWERED "PRESENT"—1

Bedell

NOT VOTING—57

Anderson, Ill.
Blanchard
Bowen
Brown, Ohio
Burton, John
Butler
Carter
Cavanaugh
Conyers
Crane, Daniel
Daniel, Dan
Daschle
Davis, Mich.
Davis, S.C.
Dellums
Derwinski
Dixon
Dodd
Dougherty
Eckhardt
Edwards, Calif.
Emery
Heftel
Holtzman
Ichord
Jenkins
Jenrette
Leach, La.
McDonald
McEwen
Marks
Mathis
Mineta
Mitchell, Md.
Moffett
Moore
Murphy, N.Y.
Musto
Myers, Pa.
Nedzi
Nichols
Nolan
O'Brien
Richmond
Santini
Satterfield
Stark
Stockman
Stokes
Stratton
Symms
Taylor
Vento
Wilson, Bob
Wilson, C. H.
Wirth
Young, Alaska

☐ 1220

Mr. KASTENMEIER changed his vote from "yea" to "nay."

Messrs. ROTH, WOLPE, and COTTER changed their votes from "nay" to "yea."

So a second was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. BREAUX) will be recognized for 20 minutes, and the gentleman from California (Mr. McCLOSKEY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. BREAUX).

☐ 1230

Mr. BREAUX. Mr. Speaker, I yield myself 7 minutes.

Mr. Speaker, H.R. 7039, the American Fisheries Promotion Act, is the most significant fisheries legislation in many years. The enactment of this measure will determine the course of fisheries development in the United States for decades to come. As the Congressional Budget Office has pointed out, the purposes of this legislation will be accomplished at no additional cost to the U.S. taxpayer.

This is a compromise measure. It represents the collective efforts of the Committee on Merchant Marine and Fisheries, the administration, and the American fishing industry. This bill, therefore, represents a real achievement, considering the diversity of positions which it has had to accommodate.

The enactment of the Fishery Conservation and Management Act of 1976 (FCMA) heralded a new era for American fisheries. The FCMA established exclusive fisheries management authority of the United States over all fish (except the highly migratory tuna) within a fishery conservation zone that extends from the seaward limits of our territorial waters to 200 miles from our coasts; over all U.S.-origin anadromous species throughout their range (except in the recognized zones of other nations); and over all fishery resources of the U.S. Continental Shelf beyond 200 miles. The United States assumed control of 20 percent of the world's living marine resources. By that action, we sought to provide for the effective conservation and management of vitally important fish stocks and to assure their development for the greatest overall benefit of the Nation. Coupled with Federal financial assistance and research and development programs, provision in the FCMA for preferential access by American fishermen to the harvest raised high hopes for rapid and full development of our industry.

The American Fisheries Promotion Act responds to the grim fact that our hopes for the U.S. fishing industry have not been realized. More than 3 years after the enactment of the FCMA, U.S. fishermen harvest only 33 percent, by volume, and 66 percent, by value, of the total catch in the FCZ. Taking into account the decreased total harvest since 1976, the U.S. displacement of foreign fishing in the FCZ has been only 1 percent per year, by volume, and less than 3 percent per year, by value. Foreign fishermen took from our zone, in 1979, fish valued at $470 million, actually $37 million more than the value of their catch in 1976.

U.S. imports of fisheries products have actually grown from $1.6 billion in 1976, to $3.8 billion in 1979. Last year our fisheries trade deficit was $2.7 billion, a $1 billion increase over the 1976 level. The imbalance of our fisheries trade represented 10 percent of the overall national balance of trade deficit. Twenty percent of the fish products that enter world trade from some 80 countries are destined for the United States. At the consumer level, of $12.6 billion spent in the United States for fish products in 1979, $6.3 billion, 50 percent of the total, was for imports.

Full development of our fishery resources by U.S. fishermen would transform this country into a net exporter of fish products, add $1 billion annually to the national economy and create 43,000 new jobs in the next decade for our people. To achieve these goals, to overcome the multiplicity of problems facing our industry, the enactment of the American Fisheries Promotion Act, a comprehensive development measure, is essential.

LOANS

Important sectors of the U.S. fishing industry are encountering unusually severe economic difficulties. These problems stem principally from increased operating costs—for fuel, in particular—soft markets, competition from subsidized foreign imports, and even adverse environmental conditions. Hardest hit is the gulf region, where hundreds of shrimp boats are reportedly tied to the dock.

The National Marine Fisheries Service (NMFS) estimates that up to $36 million in vessel loans guaranteed by the Federal Government could soon be in default. In addition, key Production Credit Associations (PCA's) in the Northwest fear substantial defaults, as large numbers of vessel owners are in arrears on their loan payments.

While the present situation is serious, it is likely to be short lived. What is needed is immediate assistance to avoid long-term impacts.

H.R. 7039 responds to these problems by revitalizing the fisheries loan fund, permitting emergency loans to be made until September 30, 1982. Because there is an important interest in avoiding U.S. taxpayer liability due to title XI defaults, the bill provides that the Secretary of Commerce would for each fiscal year estimate the amount of money needed to protect federally guaranteed loans and would reserve those funds for that purpose. Immediately thereafter, the Secretary could release moneys to assist other vessel owners in danger of default. What funds then remained could be used to assist historically successful fishermen who, due to circumstances beyond their control, were incurring or in danger of incurring net operating losses.

Interest rates on loans to avoid default would be set to cover administrative costs, only. The interest rate for loans to respond to net operating losses would be the same as for farmers under the Emergency Agricultural Credit Act of 1978; that is, the charge would be variable, depending on the cost of money to the Federal Government.

FISHERIES RESEARCH AND DEVELOPMENT

The Saltonstall-Kennedy Act was intended to assure that fisheries development would not want for adequate funding. Thirty percent of import duties on fish products were to be applied directly to R. & D. programs. Unfortunately, this has not happened. In 1979, only about one-half of the Saltonstall-Kennedy receipts of some $26 million was dedicated to fisheries development. H.R. 7039 would attempt to make certain that the original intent of Saltonstall-Kennedy was carried out. Moreover, the bill would place the emphasis of the Saltonstall-Kennedy program where it really belongs, on industry-initiated projects. The fishermen and fish processors know best what R. & D. work needs to be done.

Priority Saltonstall-Kennedy projects would deal with fuel efficiency, marketing and fish quality standards. H.R. 7039 recognizes that these are areas that deserve special emphasis.

LOAN GUARANTEES

The bill provides useful amendments to the vessel obligation guarantee program established under title XI of the Merchant Marine Act of 1936. Most importantly, 10 percent of the $10 billion available under the title XI program for all guarantees would be identified for fishing vessels. Eligibility would be limited to concerns that are 75 percent U.S. owned.

PHASE-OUT OF FOREIGN FISHING

As I have noted, foreign fishing in the U.S. fishery conservation zone has been reduced only marginally since the enactment of the FCMA. As the report of the Committee on Merchant Marine and Fisheries on H.R. 7039 recognizes, the fact is that, as long as foreign nations are permitted to continue a high level of fishing, much of it subsidized, in the U.S. zone, and at the same time to deny access by U.S. fish exports to important markets, the United States will be unable to achieve full development of its fishery resources.

The experience of the last several years has demonstrated that the device of optimum yield has not provided adequate recognition of the national interests of the United States in improved utilization of its fisheries by its own citizens. Biological factors have played too great a role, and economic interests have not been sufficiently taken into account. This approach has tended to ignore the plain language of the FCMA in section 3(18), which defines optimum yield to include economic and other domestic considerations and to serve the overall interests of the Nation.

Under the bill, each fishery management council would choose whether to continue with the previously established system or adopt a new formula which would provide for a phased reduction of foreign fishing on target species. For each season and for any fishery, the council could choose, in its discretion, the system it determined to be more advantageous.

The phaseout formula provides that, as U.S. fishing performance increases to specified levels in any fishery, the level of foreign fishing in that fishery will be reduced by a certain greater increment. The greater the U.S. performance, the greater the reduction of the level of foreign fishing. Thus, the system would provide a predictable reserved amount of fish which would be reasonable in relation to the demonstrated growth potential of U.S. fishermen in each fishery. Continued U.S. growth would bring further reserves. Some or all of what U.S. fishermen did not catch from the reserve amount could be held until the following year, if the fish would survive until then and if an earlier release would be deterimental to U.S. fishermen. This is consistent with the principle of optimum utilization. The role of the councils in determinations of whether and to what extent the surplus would be withheld or released in the phaseout formula would be precisely what it is under the currently prevailing system. The councils could also lower the optimum yield in appropriate circumstances, and this would result in a further reduction of foreign fishing, in view of the fact that U.S. fishermen always retain preferential access to the resource. Of course, in no year could there be a release to foreign fishermen of an amount of fish that, in combination with the U.S. preferential catch, would exceed the optimum yield for the fishery.

On the other hand, in the unlikely event the optimum yield rose above, or the domestic catch fell below, previous levels, that resulting surplus, too, could be released to foreign fishermen, but only on the basis I have outlined. In the final analysis, the key point is that the release of unused fish could be delayed a year to serve the economic interest of U.S. fishermen. That is a very major step forward in our law, so far as fisheries development is concerned.

It is worth reviewing the specific formula for the phaseout. The first phased reduction of foreign fishing in any fishery would occur when U.S. fishermen increased their catch in that fishery by a certain amount over their 1979 level of harvest. There would be three such thresholds and three corresponding levels of reduction of foreign fishing. If U.S. fisherman increased their harvest from 25 up to 50 percent, from 50 up to 75 percent, or from 75 percent or more of 15 percent of the 1979 total allowable level of foreign fishing (TALFF) in a fishery, the TALFF for the following year would be reduced by an amount equal to 5, 10, or 15 percent, respectively, of the 1979 TALFF for that fishery. In a large volume fishery, such as pollock, it might take U.S. fishermen several years to increase their catch enough to reach the lowest threshold.

However, in smaller fisheries, the highest threshold might be achieved in a single season. Each time a threshold was achieved, that level of U.S. harvest would be the base upon which an additional increase in U.S. fishing would have to be achieved to attain the threshold for a further percentage reduction of the TALFF.

Let me illustrate. Say, in 1979, the TALFF for a fishery was 10,000 metric tons and the U.S. catch was 1,000 tons. To get the first percentage cut out of TALFF in accordance with the phaseout, the U.S. catch would have to increase by 375 tons (75 percent of 15 percent of the 1979 TALFF) over its 1979 level, for a total U.S. catch of 1,375 tons. The reward for U.S. fishermen the next year would be a reduction of TALFF by 500 tons. That reduction would, of course, be in addition to the reduction equal to the increase in the U.S. catch, that is, TALFF would be 8,125 tons (10,000 tons, minus the sum of 1,375 tons which the United States actually harvested and the 500 tons reward). The United States could grow into what would be, in essence, a special 500 ton reserve. Further such reductions of TALFF would be triggered by additional U.S. catch increases meeting the 375-ton target level.

In accordance with the formula, additional, larger increases in the U.S. catch would result in additional, larger reductions of TALFF. That is, if U.S. fishermen increased their catch in the fishery by 750 tons (50 percent of 15 percent of 1979 TALFF) over their harvest level when they achieved the earlier threshold, they would receive the benefit of an additional 1,000-ton cut in TALFF, the following year (plus a further cut equal to their actual increase in performance, that is 750 tons). TALFF would then be lowered to 6,375 tons.

Thus, the system offers real advantages to U.S. fishermen. Predictability would be enhanced. Surpluses could be held over until succeeding harvesting seasons. The economic benefits would be considerable. This provision is consistent with the treaty under negotiation at the Third U.N. Law of the Sea Conference. Our chief negotiator, Ambassador Elliot Richardson, and the Department of State have approved the precise language set out in these provisions of the bill.

ALLOCATIONS OF SURPLUS FISH

Improved access for U.S. fish products to foreign markets is an essential condition to the rapid development of our fishing industry. Trade barriers maintained against our products by foreign countries are at unacceptable levels. Ironically, it is these very countries which also are provided lucrative opportunities to fish in our zone. Worst of all, many of the fish that are caught by foreign vessels in the FCZ return to the United States as imports and contribute to the substantial deficit of our balance of payments. Value is added primarily in foreign countries, not in the United States.

H.R. 7039 places strong emphasis on the linkage between allocations of our surplus fish and the willingness of foreign potential recipients to provide improved export opportunities for U.S. fish products, purchase more U.S. fish exports, and transfer technology to the U.S. industry. In particular, I expect that foreign nations wishing to fish in the U.S. zone will reduce tariff and nontariff barriers on fish will receive appropriate consideration in return on TALFF allocations.

However, cooperation of foreign nations in avoiding gear conflicts with U.S. fishermen and in assuring the effectiveness of our conservation, management and enforcement programs remains essential and international cooperation on research is still very important. These factors cannot be ignored in making future allocations.

The recognition by the bill of domestic consumption by foreign nations of fish harvested by their own vessels in the U.S. zone is intended to insure that basic nutritional requirements of those nations are considered in the award of allocations.

The bill is consistent with international practice and the positions of the United States at the third United Nations Conference on the Law of the Sea.

OBSERVER COVERAGE

A prerequisite to development of U.S. fisheries is effective conservation and management of the stocks. Unfortunately, enforcement has fallen far short of what is required. The resources of the Coast Guard and NMFS are very limited and there is a clear need to augment them with extensive observer coverage. Moreover, much of the expense incurred in Coast Guard and NMFS enforcement is borne by U.S. taxpayers. On the other hand, observers are paid for directly, and in advance, by foreign fishermen.

I am appalled that there were 382 violations of the FCMA in 1979 by foreign fishermen and that there were many cases of seriously underreported foreign catches. In recent days there have been additional, very serious violations. NMFS believes that:

> The most effective means available to us in our efforts to control this problem is the use of increased observer coverage on board foreign fishing vessels, coupled with continued use of permit sanctions and recommendations for high penalties.

Consequently, the bill mandates one hundred percent observer coverage, with exceptions limited to certain specified circumstances. Mothership fleets must have observers processing vessels and on so many of the harvesting vessels as needed to obtain a representative sample of the by-catch.

The bill also recognizes that certain vessels may be in the U.S. zone for too brief a period or be too small or otherwise unfit for observers to be placed aboard. Examples would be vessels operating in a future Canadian effort on albacore in the U.S. zone by bilateral agreement, and the Japanese tuna fishing vessels in the Western Pacific Council area.

INCREASED FEES ON FOREIGN FISHING

No country in the world charges foreign fishermen less than does the United States for the privilege of fishing within 200 miles. NMFS estimates that, in 1979, the cost of administering the FCMA was $160,588,000. Yet the fees that we collected, less refunds, amounted to $14.5 million. Foreign fishermen took from our zone $470 million worth of fish. But the U.S. taxpayer bore more than $140 million in the expenses of running the zone. Clearly, that is an unacceptable situation and amounts to a subsidy by U.S. citizens of foreign fishing operations.

Under H.R. 7039, foreign fishing fee receipts for foreign fishing in the U.S. FCZ for 1981 must be no less than 7 percent of the ex-vessel value of the foreign harvest in the U.S. FCZ in 1979, except that the fees with respect to any fishery may not be set at a level which would render foreign fishing therein uneconomic or be lower than the level of fees imposed with respect to that fishery in 1979.

In 1979, the United States imposed: First, poundage fees of 3.5 percent of the ex-vessel value of species harvested by foreigners in the U.S. FCZ; and, second, varying permit application fees based upon the function and gross registered tonnage of a vessel. Therefore, in 1981, foreign fishing fees imposed under section 204(b)(10) of the FCMA, as amended could not be lower for any single species than 3.5 percent of the ex-vessel value of the species.

Furthermore, total receipts from a fishery could not be less than the sum of: First, an amount equal to 3.5 percent of the ex-vessel value of the species in that fishery, where applicable, plus, second, an amount equivalent to the sum of the permit application fee receipts which would have been received from that 1981 fishery under the 1979 permit application fee schedule.

After 1981, foreign fishing fees imposed under section 204(b)(10) of the FCMA, as amended, shall be at least an amount sufficient to return to the United States an amount which bears to the total costs of carrying out the provisions of the FCMA—including, but not limited to, fishery conservation and management, fisheries research, administration and enforcement—during each fiscal year the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the fishery conservation zone during the preceding year bears to the aggregate quantity of fish harvested by both foreign and domestic fishing vessels within such zone and the territorial waters of the United States during such preceding year. The same exceptions with respect to the economics of foreign fishing and the minimum level of fees for 1981, apply in 1982 and subsequent years. Whenever one of the exceptions is applied, the Secretary will be required to publish in the Federal Register a statement setting forth the reasons therefor and a statement identifying what supporting data is available for public review.

How the United States decides to spend the money from fees on foreign fishermen is entirely a domestic affair. H.R. 7039 provides that fees on foreign fishermen will go first to the fisheries loan fund, to the extent needed, and then to the general fund of the Treasury.

FISHERY TRADE OFFICES

American businessmen find it difficult to market their products abroad, not only because of the barriers that are imposed by foreign governments, but also because the United States does not have adequate fisheries representation in foreign countries. There are only two U.S. fisheries attachés in the entire world. But there are many countries in which U.S. products might find substantial markets. Therefore, H.R. 7039 provides that there shall be at least six fishery trade officers in key foreign capitals. The duties of these officials will be to maintain an up-to-date assessment of market opportunities and barriers abroad and to provide marketing assistance to U.S. exporters. This is an important task and I expect that it will be pursued vigorously.

CONCLUSION

H.R. 7039 provides the kind of comprehensive response to fisheries development that is required for the solution of the multitude of problems facing the U.S. fishing industry. Each one of the components of the bill has been carefully thought out after months of consideration. Hearings on the subject have been extensive and there has been close cooperation between the Congress, the administration, and the industry in moving this legislative proposal. I look forward to the swift enactment of H.R. 7039. The support for the measure has been overwhelming, leaving no doubt as to where the national interest lies. The enactment of this bill will at last set fisheries development in the United States on the right course.

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I address the House at this point to ask for a no vote on this bill on suspension for several reasons, one of which is procedural. I think the distinguished chairman of the subcommittee, the gentleman from Louisiana (Mr. BREAUX), will agree with me that this bill has pursued a rather strange procedure in order to reach the Suspension Calendar at this moment. This bill was originally reported out at the full Merchant Marine and Fisheries Committee in June. It contained 10 major provisions, eight of which have been changed as of last Friday, and I, as the ranking minority member on this committee, was unable to get a copy of these substantive changes until yesterday morning at approximately 11:15. At that point, this bill was scheduled to be on the Suspension Calendar yesterday. One of the provisions that it then included, the so-called capital construction funds provision, had been expressly voted down by the Committee on Merchant Marine and Fisheries by a unanimous vote in June.

□ 1240

The capital construction fund, Mr. Speaker, is a major issue. The capital construction fund provides to the operators of shipping companies and shipyards the benefit of a tax deferral on certain revenues if they are invested in a fund for the purchase or construction of U.S. built ships. This could result in an estimated $90 million annual revenue loss to the Treasury if major fish packers such as Castle and Cooke and Ralston-Purina desire to take earnings from their operations and place them in a capital construction fund for the future construction of new canneries. It would also, for the first time, provide maritime tax benefits grounded in national security policy to the fish packing industry.

Mr. BREAUX. Mr. Speaker, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Louisiana.

Mr. BREAUX. The gentleman realizes the capital construction fund is not in the bill before the House.

Mr. McCLOSKEY. I do. I am addressing that point. I am going to ask the chairman about that point in a moment.

It was not in the bill when it was reported out of committee, but it was in the bill yesterday that the chairman was going to bring it to the floor, despite the fact that the committee had unanimously voted it down, was it not, Mr. Chairman? The answer to that is yes; is it not?

Mr. BREAUX. May I answer the gentleman's question?

Mr. McCLOSKEY. Yes.

Mr. BREAUX. The gentleman knows the Committee on Merchant Marine and Fisheries did not report the CCF provision in there in order to give the Committee on Ways and Means an opportunity to move, which they did not have the time to do.

Mr. McCLOSKEY. I understand that, but the answer to my question is, yes; when the committee reported out the bill in June it left out the capital construction fund provision for one reason. The committee majority and the chairman from Louisiana specifically said in the committee hearing that the capital construction fund was being left out in order to avoid the jurisdiction of the Committee on Ways and Means when it went to conference with the Senate. The Senate bill had the capital provision in it, and the House conferees intended that they would then cave in to the Senate.

I want to quote the chairman's words from the transcript of the June meeting of the Committee on Merchant Marine and Fisheries.

We had just voted down in the committee on June 12 my amendment to strike the capital construction fund. The gentleman from Louisiana (Mr. BREAUX) was then recognized for an amendment to reverse that vote and remove the capital construction funds provision on his own motion.

Let me quote from the transcript:

> The Chairman (Mr. MURPHY). The gentleman states the case correctly. The committee is in difficulty in Ways and Means right now with H.R. 85 as well as with the Omnibus Maritime Bill, and we are having great difficulty in the CCF provisions themselves as they refer to maritime let alone elements in this legislation.
>
> And I think the safest course would be to adopt his amendment at this point.

This is the amendment to delete the capital construction fund.

We go on:

> Mr. BREAUX. Mr. Chairman, I think in just a quick summary of the arguments, Ways and Means does have a claim on capital construction funds, and by taking this out of our bill, it will allow us to proceed in an orderly fashion to the floor without having a problem with another committee over their jurisdiction.
>
> I would also note that the concern of people who like the capital construction fund and what it would do, I strongly support it, absolutely committed to it being contained in a final package.

Those are the words of the chairman, the gentleman from Louisiana (Mr. BREAUX) in the committee, that we would take it out of the committee in order to get it removed from the jurisdiction of the Committee on Ways and Means, so that when we went to conference with the Senate, it could be put back in.

Let me quote further, because the gentleman from Louisiana (Mr. BREAUX) was not alone in this position.

> Mr. STUDDS. I want to support the gentleman's request.

This is to remove the capital construction fund.

> Mr. STUDDS (continuing). I think we were sort of in a flush of concentrating on the substance of the matter without thinking about the procedural situation when we adopted that amendment.

> I share the gentleman's hope that we will end up with a statute with this provision in it, but I think that the most likely way to accomplish that, at this point, would be not to risk encountering the further delays that would ensue from a sequential referral to Ways and Means.

I have no objection to that procedurally, but yesterday, when the bill was to come up on the Suspension Calendar, it included again this capital construction fund. When the gentleman from Louisiana and the supporters of this bill saw the members of the Committee on Ways and Means on the floor prepared to oppose it, they pulled the bill off the Suspension Calendar yesterday and have brought it up again today but with the capital construction fund omitted from the bill.

I want to ask the chairman, is it not the intent of the gentleman and the gentleman from Massachusetts (Mr. STUDDS), and the supporters of this bill, that if we enact it on suspension today, when the gentleman gets over to conference with the Senate, the gentleman will cave in to the Senate conferees and put the capital construction fund back in the bill? I would like to have the chairman's answer on that point.

Mr. BREAUX. If the gentleman will continue to yield, the gentleman is absolutely, unequivocably, positively incorrect. I will tell him way.

It would be my hope that this bill would go to the Senate, that they could adopt it as is, and that would be the end of the bill without CCF. It would be the hope of this gentleman to bring that matter to the attention of the Committee on Ways and Means at the very beginning of the next Congress.

Mr. McCLOSKEY. I understand that commitment. I respect the gentleman's integrity; my primary reasons for objecting to this bill are to try to prevent what the gentleman intended to do, and the gentleman from Massachusetts (Mr. STUDDS) wanted to do, back in the June hearing.

In spite of the constitutional provision that revenue measures must initiate in the other body, we would have been allowing the Senate to pass the capital construction fund, ignoring it here in the House and then accepting in conference that which we constitutionally are not permitted to do, to accept a revenue measure not initiated by the House.

Let me argue now on the remaining issues of this bill.

Eight of the ten provisions of this bill have been materially changed in the last 4 days. It was only Friday that the administration removed their objections to the bill. Why? Because today at 4 p.m., Pacific standard time, the President and Senator MAGNUSON will be in the State of Washington discussing the great contributions of the congressional delegation from the State of Washington to the fisheries of the northwest coast. There is no reason to take up a bill of this magnitude on this floor on a suspension at this hour for any other reason.

Let me say this. This bill makes a major change in U.S. policy. We have justified, the Committee on Merchant Marine and Fisheries on which I have been privileged to sit for 12 years, we have justified subsidies for U.S. shipping and U.S. shipyards because we wanted to maintain a strong merchant marine and a strong shipyard base in the event of war. The entire basis for maritime subsidies and maritime tax benefits is based on national security.

For the first time, this bill will extend the title XI loan guarantees, the 87½ percent Federal guarantee of financing, to dockside facilities. Who does this benefit? This does not benefit the mom-and-pop operation. It is Castle and Cooke and Ralston-Purina and other major fish factories, who, for the first time, will get the benefit of title XI guarantees.

Mr. BREAUX. If the gentleman will yield further, maybe because the gentleman had not read the bill, and I know his problems with having not read the bill, that is a problem I really have not participated in, title XI does not cover shoreside facilities.

Mr. McCLOSKEY. The gentleman has removed the title XI extension to dockside facilities from this provision in the bill?

Mr. BREAUX. The gentleman is correct.

Mr. McCLOSKEY. I am terribly grateful the gentleman has done that, because otherwise we would have a hard time asking for maritime subsidies for national security in the future.

This points up, however, the problem of addressing a major bill on suspension, with 8 of 10 provisions changed in a major way, and with the members of the committee not even seeing the final version until the very day it is scheduled on the suspension calendar.

Mr. GRADISON. Mr. Speaker, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Ohio.

Mr. GRADISON. I thank the gentleman for yielding.

I wish to express my concern about the possibility that the changes in the capital construction fund may ultimately find their way into law through a conference committee. I would point out that the Committee on Ways and Means, on which I serve, has not considered this matter, but did consider changes in the capital construction fund in connection with another bill, the Omnibus Maritime Act, which was referred to a few minutes ago.

Would the gentleman agree the safest course of action, if we want to make certain that no changes are made in the capital construction fund, would be to defeat this bill on suspension?

Mr. McCLOSKEY. I would have said that until I had the commitment from the gentleman from Louisiana that under no circumstances will we cave in to the Senate on that point. That is the assurance, is it not?

Mr. BREAUX. Mr. Speaker, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Louisiana.

Mr. BREAUX. As I repeated once before, the intent is not to even have a conference if we can pass the bill as it is today at no cost to the taxpayer. There will not be a need for a conference.

Mr. McCLOSKEY. In deference to that answer by the gentleman and knowing we are going to have to maintain our guard against the Senate's powers in these closing days, I think the question of the gentleman from Ohio is answered in the affirmative. I have absolute faith in the gentleman from Louisiana.

Mr. TRIBLE. Mr. Speaker, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Virginia.

Mr. TRIBLE. Mr. Speaker, I rise in support of H.R. 7039, the American Fisheries Promotion Act. This legislation comes at a critical period in the development of our Nation's fishing industry.

I believe it will bring a measure of relief to our hard-pressed fishermen and will permit us to more fully utilize America's great fisheries resources.

Independent vessel owners are suffering. To date, 44 vessel owners in the title XI loan guarantee program have already sought additional Federal financial assistance. The National Marine Fisheries Service estimates that defaults on title XI guarantee vessel loans could cost the U.S. taxpayer as much as $36 million.

This May, the New England Fish Co., one of the largest independent fishing companies in the United States, closed its doors and began the liquidation of assets to pay debts totaling more than $56 million.

At a time when our seafood industry is on the verge of bankruptcy, we allow foreign fishermen to harvest 67 percent of the fishery resources in our own 200-mile zone.

Indeed, with some 20 percent of the world's fishery resources located off our coasts, the United States remains a net importer of seafood—60 percent of the edible and industrial fish we use is supplied by foreign companies. This trend must not continue.

In 1979, our fisheries trade deficit amounted to $2.8 billion. This represents approximately 10 percent of the total U.S. balance-of-payments deficit.

The American Fisheries Promotion Act responds to our industry's crisis by recognizing three important facts: First, immediate financial assistance is desperately needed to sustain key segments of our fishing industry: second, new long-term programs are needed to stimulate domestic growth and improve our capacity to process the vast resources that lie off our coast; and third, these objectives must be reached without spending additional Federal tax dollars.

Not since the enactment of the Fisheries Conservation and Management Act of 1976 have we considered such a comprehensive piece of legislation that will protect the future of our industry at so small a cost. There are no authorizations for the expenditure of additional Federal tax dollars. Earlier established programs which are self-financing are restructured to be more responsive to prevailing conditions and are augmented with increased fees on foreign fishery operations in our 200-mile zone. Our current permit fees are the lowest in the world.

For 2 years funds will be used to supplement $6 million which have remained impounded since 1973 in the fisheries loan fund. Thereafter, they will be transferred to the general fund of the Treasury. The revitalization of the fisheries loan fund will provide immediate relief to those fishermen who have been most heavily impacted by current economic conditions and are near default on vessel mortgages.

The Fisheries Promotion Act also recognizes the need to guarantee that Saltonstall-Kennedy funds are used for fishery development projects and not to cover the National Marine Fisheries Service's administrative expenses. H.R. 7039 requires that at least 50 percent of the S-K funds be dedicated to industry-initiated research and development projects and the remaining funds used for projects undertaken by the Federal Government.

Unfortunately, the Fisheries Conservation and Management Act has not resulted in the exciting expansion of America's fishing industry anticipated at the time of its enactment in 1976. The administration has failed to use the tools provided by the FCMA to promote the growth of a healthy, well-balanced U.S. seafood industry. The authority to establish lower optimum yield levels in order to restrict foreign fishing has not been effectively used. Foreign nations still dominate in our fishery conservation zone.

We cannot continue to stand idle as our fishermen are excluded from foreign fishing grounds and still forced to compete with subsidized foreign vessels in our own waters. H.R. 7039 provides our industry with the opportunity it needs to fully utilize the vast resources within our fishery conservation zone by establishing a realistic and fair method for the gradual phase out of foreign fishing operations as our ability to harvest these resources grows.

It is equally crucial to the development of our fishing industry to gain improved access for American seafood products in foreign nations. While the United States encounters severe trade barriers abroad, foreign fishermen carry out their subsidized operations in our zone, take our fish home to their highly protective markets, process it and return it to the American producer at some of the highest prices paid for seafood throughout the world. It is amazing that these countries that maintain restrictive barriers on U.S. fish imports are permitted to continue their often massive harvesting of fish in our fishery conservation zone.

H.R. 7039 provides the assistance that the industry desperately needs, by insuring that fishery allocations to foreign nations are dependent on our access to foreign markets, and by sending fishery trade officers abroad to promote U.S. seafood products.

The multitude of problems confronting the U.S. fishing industry require that we act to protect the well-being of America's fishermen. I urge my colleagues to support this important legislation.

□ 1250

Mrs. SNOWE. Mr. Speaker, will the gentleman yield?

Mr. McCLOSKEY. I would be glad to yield to the gentlewoman from Maine.

Mrs. SNOWE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise today as a cosponsor and in support of H.R. 7039, the American Fisheries Promotion Act of 1980. This measure is designed to address the concerns of our domestic fishing interests, not only those fishermen I represent in the Second District of Maine, but all American fishermen. At no cost to the American taxpayer—that is right, at no cost to the American taxpayer—this proposal has the potential to add $1 billion directly to our economy and over 40,000 new jobs.

Key elements of this measure will do three things. First, by increasing the dedication of Saltonstall-Kennedy funds from 30 to 50 percent, a substantial increase in revenue will be available to fund industry proposed fisheries development projects. Second, by extending the Federal loan guarantee program to fish processing plants and by establishing a 2-year loan program to assist fishing vessel owners who are in danger of defaulting on their vessel mortgage, this measure allows domestic fishermen the opportunity to greatly expand their involvement in the industry. And third, by establishing a formula for phasing out foreign fishing within the U.S. Fishery Conservation Zone (FCZ) in accordance with Law of the Sea Treaty implications, H.R. 7039 will promote U.S. displacement of foreign fishing within the 200-mile limit. Combined, these objectives will encourage a healthy American fishing industry.

Why do we need this bill? We need this bill because in recent years growth of the U.S. fishing harvest has been minimal—even with passage of the Fishery Conservation and Management Act of 1976. Adjusted to take into account the decreased total catch since 1976, U.S. displacement of foreign fishing by volume of fish harvested in the FCZ has been only 1 percent per year. Although the growth of exports has been substantial, the increase in imports has been greater. The result has been an expanding fisheries trade deficit for the United States.

We must reverse this trend. H.R. 7039 will do just that. It is a comprehensive proposal designed to create a self-sufficient American fishing industry. Furthermore, as I mentioned earlier, at no cost to the American taxpayer, this proposal could add $1 billion directly to our economy and create 40,000 new jobs. I, therefore, urge my colleagues to support this important piece of legislation before us today.

Mr. CARNEY. Mr. Speaker, will the gentleman yield?

Mr. McCLOSKEY I yield to the gentleman from New York

Mr. CARNEY. Mr. Speaker, I, too, stand in support of the bill. I am cosponsor of the American Fisheries Promotion Act.

Mr. Speaker, in its September 22 edition, the Washington Post reported that the Carter administration has agreed to back the Fisheries Promotion Act for political reasons. The bill has been criticized as a handout for special interests, and some of the provisions of the legislation, as approved by the Merchant Marine and Fisheries Committee have been weakened so as to obtain ever wider support.

Let there be no doubt about this fact—it is in the national interest to develop our fishing industry.

Twenty percent of the world's available fishery resources are found within the U.S. Fishery Conservation Zone. The United States consumes 7.5 percent of the world's harvest, yet we take only 4 percent of the world's catch. The result is a staggering balance-of-payments deficit of $2.7 billion in the fisheries sector alone. The United States exported $1.1 billion in fisheries products. This fisheries trade deficit represents somewhat more than 10 percent of the total U.S. balance-of-payments deficit. The strain placed upon the U.S. dollar by this deficit adds to the rampaging inflation which is severely affecting Americans of all ages and economic strata.

A comprehensive fisheries development program could, within the next decade, create more than 40,000 jobs, add more than $1 billion per year to the U.S. economy, and reduce the U.S. trade deficit by $1.7 billion per year A comprehensive fisheries development program will convert the United States from a net importer to a net exporter of fisheries products.

Coastal communities like Suffolk County, N.Y. have seen their economy suffer from foreign exploitation of U.S. fisheries. This legislation will contribute to their swift revival.

The American Fisheries Promotion Act provides an effective means of realizing the full potential of the U.S. fishing industry at minimal cost to the taxpayer.

Key provisions of the bill include:

A plan by which American fishermen can increase the percentage of the total allocation of the catch available to them.

The immediate doubling of fees for fish harvested in U.S. waters by foreign fishermen. Within 2 years, foreign fishermen will pay the total cost of administering and enforcing Federal programs with which they must comply. The money will be used to establish a fisheries loan fund to provide low-interest loans to fishermen who have been heavily impacted by adverse economic conditions in the fishing industry.

Modification of the existing Saltonstall-Kennedy program which was ostensibly designed to promote fisheries reresearch and development, but now largely supports a Federal bureaucracy—to require that no less than 50 percent of the money in it be dedicated to industry-initiated projects.

Mr. Speaker, this legislation is long overdue, and I urge its passage.

Mr. McCLOSKEY. Mr. Speaker, I hope the House notes the privilege of being the ranking minority member on this committee.

Mr. LENT. Mr. Speaker, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from New York.

Mr. LENT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as a cosponsor of the American Fisheries Promotion Act (H.R. 7039), I rise in support of this much needed legislation designed to promote and develop the U.S. fishing industry.

Despite enactment of the Fishery Conservation and Management in 1976, we have yet to realize the maximum potential benefit to be derived from increased utilization of our own fishery resources. That legislation was designed to end foreign overfishing by establishing a 200-mile fishery conservation zone to enable our own fishing industry to better utilize our own fishery resources.

Twenty percent of the world's fisheries resources are within our 200-mile fishery conservation zone. Yet, since 1976, the United States has only been able to displace foreign fishing in our zone by 1 percent per year. Clearly, foreign fishing in our waters has not been significantly altered. What is also disturbing is that despite enactment of FCMA, our trade deficit in fisheries products increased to $2.7 billion last year—fully 10 percent of our Nation's total trade deficit.

Clearly the time has come for remedial legislation so the U.S. fishing industry can expand and better compete in the world marketplace. H.R. 7039 provides the wherewithal to achieve that goal. As reported by the Merchant Marine and Fisheries Committee on which I serve, the American Fisheries Promotion Act establishes incentive programs to promote and develop the U.S. fishing industry at no cost to the U.S. taxpayer, and the Congressional Budget Office concurs that this legislation will result in no new costs.

The bill amends FMCA to provide for a predictable, incremental phaseout of foreign fishing. Specified increases in fishing performance by U.S. fishermen would result in specified decreases in foreign fishing. As U.S. fishermen increase their harvest, reserves would be set aside for U.S. fishermen for the following year.

As well, H.R. 7039 assures that at least 50 percent of Saltonstall-Kennedy moneys are utilized for industry fisheries development projects.

By restructuring the 1956 fisheries loan fund, this bill also provides a needed cushion for vessel owners facing temporary operating losses due to market conditions and competition from heavily subsidized foreign fish imports. New fees on foreign fishing would provide funding for these short-term, low-interest emergency loans. This makes sense. U.S. fees on foreign fishing are lower than those imposed by any other nation in the world. By increasing those fees to a more reasonable level and establish a system to base them on foreign proportion of the total catch in the United States, we can provide for the financial demands on the fisheries loan fund.

The benefits to our economy which will result from enactment of the American Fisheries Promotion Act are many. By 1990, it is estimated that this legislation could generate 43,000 new jobs and add $1 billion to our gross national product. It is expected to increase fish product exports to $2.1 billion.

A revitalized and expanding fishing industry in our national interest. This legislation provides the wherewithal to accomplish that at no additional cost to the American taxpayer. I urge my colleagues to join in voting for H.R. 7039 to assure survival and promote expansion of America's fishing industry.

Mr. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. McCLOSKEY. I am glad to yield to the gentleman from California.

Mr. CLAUSEN. Mr. Speaker, I rise in support of the bill before us today, H.R. 7039, the American Fisheries Promotion Act. My congressional district has a coastline that spreads from just north of San Francisco to the Oregon border. The fishing industry is vital to the economy of the area and I commend the chairman and the members of the Merchant Marine and Fisheries Committee for bringing this important bill to the floor.

The purpose of this legislation is to promote the development of the fishing industry and the committee has done an excellent job in their efforts to see that all segments of the U.S. fishing industry would benefit from the legislation. Our domestic fishermen are frustrated and desperately in need of help and protection.

Two consistent problems reported by fishermen in my district are the siting of foreign vessels in restricted waters as well as the loss of gear as a result of these vessels running over fishing nets and buoys. This legislation addresses each of these problems by the establishment of 100 percent observer coverage on all foreign vessels within the U.S. fisheries zone and the establishment of a phase out mechanism for foreign vessels which starts with an automatic reduction of 15 percent in 1981 with further reductions of 10 or 15 percent in future years. Our objective is to phaseout the foreign fishermen in the fisheries management zone and to develop and enhance the fishery resource and markets for our domestic fishermen.

Other important provisions are the devitalization of the fisheries loan fund for a 2-year period to provide low interest loans to fishermen about to default on their fishing vessels; revitalization of the Saltonstall-Kennedy fisheries research and development program to assure industry participation in at least 75 percent of the Saltonstall-Kennedy funds; collection of increased fees on foreign fishing within the fishing conservation zone commensurate with the cost of enforcing and administering the Fishery Conservation and Management Act of 1976 as it relates to such foreign fishing; and the establishment of an express link between improved access to foreign markets and allocations of surplus fish to foreign nations.

At the present time two-thirds of the fish in the U.S. 200-mile fisheries zone are taken by foreign fishermen. The fishing industry's inadequate penetration of the domestic and foreign markets is a serious problem. While we export $1 billion in fishing products, we are currently importing $3 billion annually. This bill provides for special efforts to be made in research and development with particular emphasis on the marketing of fish products, fuel efficiency of fishing vessels, and the establishment of fish inspection quality standards.

This bill will provide a measure of stability and opportunity to our beleaguered fishermen. The Fishery Conservation and Management Act asserted the U.S. jurisdiction over all fish (except tuna) within the fishery conservation zone adjacent to the territorial sea and extending 200 miles from the U.S. coasts. The American Fisheries Promotion Act takes the next step in establishment of a modest long-term development program to enhance the opportunity for growth for our fishermen involved in this industry. I urge my colleagues to support this important legislation.

Mr. McCLOSKEY. Mr. Speaker, I yield 1 minute to the gentleman from Maine (Mr. EMERY).

Mr. EMERY. Mr. Speaker, I thank the gentleman very much for yielding.

I also rise in strong support of this legislation and commend the chairman of the subcommittee, the gentleman from Louisiana (Mr. BREAUX) and the other members of the committee for the work that they have done on this very important piece of legislation.

I would like to make one observation. The gentleman in the well (Mr. McCLOSKEY) referred to large firms engaged in fishing operations and indicated that this bill would not assist the small fishing operations as much as these larger ones.

I just want to tell the gentleman that one of the most difficult problems that we have had in Maine in recent years has been the fact that we have been in competition with the Canadian fishing industry, which is far better equipped to compete for resources common to both the United States and Canada. One of the things this bill will do is assist us very materially in promoting the development of our own resources. One of the provisions that I favor most strongly is the phaseout of foreign fishing that will occur as our domestic industry is able to take over a greater and greater portion of the fishing industry. We need this legislation desperately. I hope the House will vote favorably today.

Mr. BREAUX. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon, a cosponsor of the bill (Mr. AuCOIN).

Mr. AuCOIN. Mr. Speaker, I rise in strong support of the legislation before the House at this time, and I commend the distinguished gentleman from Louisiana (Mr. BREAUX) for his leadership in giving Congress an opportunity today to take a second major step in the development of our offshore fisheries resources: The Fishery Conservation and Management Act passed by Congress only 4 years ago was the first step. The American Fisheries Promotion Act is the second major step. This legislative body has a unique opportunity today to capture the abundant wealth of that resource and to make it work for the benefit of this country.

It is significant that the United States consumes 7 percent of today's world fish harvest yet catches only 4 percent of that harvest. That fact is especially astounding when one considers that 20 percent of the world's fish are found off the shores of the United States.

I have talked with many American fishermen, as have many Members of this body. Those American fishermen today are dispirited. They are disappointed. They feel betrayed by the false promises they have found in the 200-mile act. That is because that act is an unfulfilled dream due to notable problems that this bill before us corrects. Among the shortcomings that fishermen in my district point out to me are problems of foreign countries refusing to import our products. They talk about fish gear conflicts and they talk about the lack of transfer of foreign technology to U.S. fishermen and processor.

One of the most important actions this legislation takes that has not been emphasized yet today is that it ties the foreign harvest allocation to the following four conditions: Improved foreign trade opportunities for U.S. fish products in the country that applies to fish for the surplus stocks off our shores; increased foreign purchases of U.S. fish products; reduced fishing gear conflicts by the vessels of the foreign country seeking surplus fish off our shores; and increased transfer of foreign technology to U.S. fishermen and processors.

I would like to note on gear conflicts that last year, 33 Oregon black cod fishermen filed claims for loss of their pots and long lines due to foreign vessels' disregard for American fishing gear in our offshore fisheries zone. Some U.S. fishermen have reported as many as seven separate incidents in a single claim.

The second fundamental strength of this bill is its provision for an effective 100-percent observer program on foreign fishing vessels. Fishermen have emphasized to me countless times that it is essential to police the 200-mile zone more thoroughly. This bill gives us the means to do just that. This bill gives us an effective 100-percent American observer program for every foreign vessel off our shores. That observer program will be funded by the fishing fees paid by the foreign vessel, so the U.S. taxpayer will not pick up the tab. This observer program gives us the enforcement that our fishermen have been looking for and rightfully expected when the 200-mile bill was passed by this Congress in 1976.

What we have before us in H.R. 7039 is landmark legislation. It is legislation that warrants this body's full support, because it gives the American fishing industry what it wants: not a bailout, but a chance. I urge my colleagues' support of this bill.

Mr. McCLOSKEY. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. FORSYTHE).

Mr. FORSYTHE. Mr. Speaker, I thank the gentleman from California for yielding this time.

At the outset I would actually like to conduct a colloquy with my chairman, the gentleman from Louisiana (Mr. BREAUX) on a matter that is of concern to the gentleman from Alaska and to get some legislative history.

Mr. Speaker, section 301 of this bill sets up a new system for determining the total allowable level of foreign fishing. If the regional fisheries management councils use this system, then any release of excess fish for foreign fishing during a harvesting season will be decided by the Secretary of Commerce. Further, any decision to withhold that release to a subsequent year will also be made by the Secretary.

In the past, the regional councils have had a significant role in deciding these releases. It is my understanding that no action will be taken by the Secretary that will decrease this role. Further, if the councils advise the Secretary on releases, it is the committee's intent that the advice of the councils will be taken as long as they are supported by appropriate economic, social, and scientific data.

When deciding to withhold a release of fish until a subsequent harvesting season, the Secretary must determine whether the release would be detrimental to the U.S. fishing industry. It is my understanding that the Secretary will follow the advice of the councils and further that the finding of detriment would be based on economic and social data, including the effect of the release on the marketing of U.S. fish products.

I would ask the gentleman from Louisiana (Mr. BREAUX) does the gentleman agree with this?

Mr. BREAUX. Mr. Speaker, the gentleman has stated the correct intent and I think it is clear from the language of the bill in section 301, his statement as to the effect and intent of that section is, indeed, correct.

Mr. FORSYTHE. I thank the chairman.

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Mr. Speaker, when the first colonists came to America, they found a land rich in fish and wildlife resources. To survive in this new land, Americans turned to the sea for sustenance—and until the arrival of massive foreign fleets the sea yielded its wealth. However, the decade of the sixties brought unrestricted foreign fishing to the shores of the United States. Unrestricted fishing meant overfishing—and fish stocks plummeted. The decline of the U.S. fishery resource resulted in severe economic damage to many of our coastal communities which were dependent upon the commercial and recreational fishing industry as a major source of employment.

To protect our fisheries this Congress passed the Fishery Conservation and Management Act which marked the dawning of a new era in fisheries conservation. The success of the FCMA in controlling overfishing is reflected by the fact that the foreign catch within the U.S. Fishery Conservation Zone has been reduced from 2.7 million metric tons in 1976 to just over 1.6 million metric tons in 1979. In the same period, the number of foreign fishing vessels was reduced from 2,500 to approximately 700. More importantly, fishery management plans are now being developed for all these fisheries so that these fish stocks can be adequately conserved.

By giving U.S. fishermen first access to the fish found off the U.S. coasts, the FCMA laid an economic foundation upon which the fishing industry could rebuild. The act caused a renewed interest in fisheries development and there has been a substantial increase in the level of investment in the U.S. industry. Nevertheless, the fact remains that the volume of the U.S. harvest within the 200-mile zone has increased from only 23 percent in 1976 to 33 percent in 1979.

However, the total harvest taken off U.S. shores has been significantly reduced because of restrictions on foreign fishing. If the U.S. harvest is measured in real terms, that is when you consider the decline in the foreign catch, the annual growth has been on the order of 1 percent. Although the FCMA achieved its goal of fishery conservation, the priority access given to U.S. fishermen has not resulted in the economic benefits originally expected.

Mr. Speaker, let there be no doubt about the facts—it is in the national interest to develop our fishing industry because significant economic advantages will flow from the full utilization of U.S. fishery resources. While 20 percent of the world's available fishery resources are found within the U.S. Fishery Conservation Zone, and while the U.S. consumes 7.5 percent of the world's harvest, we take only 4 percent of the world's catch. The result is an unacceptable balance of payments deficit in the fisheries sector.

In 1978, the United States exported $1.1 billion in fisheries products. At the same time we imported $3.8 billion of fish, shellfish, and related products. This fisheries trade deficit of $2.7 million represents somewhat more than 10 percent of the total U.S. balance of payments deficit. The strain placed upon the U.S. dollar by this deficit adds to the rampaging inflation which is severely affecting Americans of all ages and economic strata.

A comprehensive fisheries development program could, within the next decade, create more than 40,000 jobs, add more than $1 billion per year to the U.S. economy, and reduce the U.S. trade deficit by $1.7 billion per year—and I submit this is just the beginning. A comprehensive fisheries development program will convert the United States from a net importer to a net exporter of fisheries products.

In addition, it is estimated that for every $1 million of fisheries landings, up to 113 jobs will be created. Coastal communities that have seen their economy suffer from foreign exploitation of U.S. fisheries will see a swift revival because of efforts made to develop the U.S. fishing industry.

The American Fisheries Promotion Act which we are considering today will, at no cost to the taxpayers except limited administrative expenses, provide an effective means of realizing the full potential of the U.S. fishing industry. At the outset, the bill recognizes that the only people who can truly develop the U.S. industry are the fishermen and the processors. Because of this fact, the bill amends the existing Saltonstall-Kennedy Act to specifically provide matching grants to the industry for the purpose of funding industry-initiated fisheries development projects. The bill requires that 50 percent of these moneys are funneled to the industry—those individuals who best know the development needs of the industry. H.R. 7039 also seeks to prevent the administration from ignoring the law and using Saltonstall-Kennedy Act funds for purposes totally unrelated to fisheries development. In my view, this diversion of Saltonstall-Kennedy Act funds is a clear violation of the law and is not to be tolerated any longer.

Although H.R. 7039 requires that 50 percent of the Saltonstall-Kennedy moneys are to be awarded for the implementation of industry-initiated projects, the legislation does not specify the process by which industry applications are to be reviewed and approved. It is the clear intent of this committee that, notwithstanding existing legal opinions to the contrary, the National Marine Fisheries Service should establish industry advisory panels to review and recommend which projects are most worthy of funding.

The bill also amends the fishing vessel loan guarantee program to authorize the use of the loan funds for the purchase of used fishing vessels if those vessels will be reconstructed for the further development of the fishing industry or will be used in an underutilized fishery. Current law authorized the use of the loan guarantee program for the reconstruction of fishing vessels.

However, the cost of acquiring a used vessel is not a permissible subject for a guarantee. Thus, fishermen can afford to reconstruct the vessel but cannot afford to purchase it. To remedy this problem, the amendment permits the use of CCF funds for the acquisition of used items. To avoid the problem of simply encouraging transfers of ownership without any further development of the fishing industry, the amendment prohibits the use of a loan guarantee in this manner unless there is a reconstruction involved or unless there is a clear benefit to the development of an underutilized fishery.

The amendment, however, does not specifically define what constitutes an "underutilized fishery." It is intended that the term "underutilized fishery" be considered in the context of the U.S. fishing industry alone. A fishery is harvester underutilized if U.S. fishermen are harvesting less than the optimum yield from the fishery.

In addition to the provisions I have already discussed, the American Fisheries Promotion Act attempts to improve the climate for U.S. fisheries development by insuring that U.S. fishermen have an assured access to fish which would otherwise be harvested by foreign fishermen. The legislation, however, retains the link between increased U.S. harvesting ability and a decreased foreign allocation. The bill increases the amount of fish reserved for U.S. fishermen—but if U.S. fishermen fail to harvest this extra fish within a specified time, the fish will be made available for foreign harvest.

Mr. Speaker, many foreign nations impose tariffs on imported fish which make U.S. products substantially less competitive. Generally, these tariffs exceed comparable U.S. tariffs. Further, some nations limit the amount of fish which may be imported into their country. The result is that U.S. access to foreign markets is restricted—and without this access the U.S. fishing industry cannot develop to its full potential. By restricting the amount of fish which foreign nations may harvest from our 200-mile zone by the assured access formula contained in H.R. 7039 these nations may be forced to reduce or eliminate their trade barriers.

The committee does not intend that the role of the regional fishery management councils established under the Fishery Conservation and Management Act be diminished by these amendments. The determination of the allowable level of foreign fishing will remain the prerogative of the regional councils. The councils will continue to determine the optimum yield of the fishery, the domestic allowable harvest, and the allowable level of foreign fishing.

With respect to any reallocation of a phaseout reduction factor amount, the Secretary of Commerce may only reallocate the fish if he finds that such an action would not be detrimental to the U.S. fishing industry. It is the committee's intent that such a finding could only be made if the United States was to secure a specific and a substantive concession from a foreign nation which would increase the harvesting and processing capacity of the U.S. fishing industry or would increase the market opportunities for U.S.-harvested or processed fish. A promise by a foreign nation to consider taking actions for the benefit of the U.S. industry is insufficient. Actions which do not result in tangible benefits to the U.S. industry are inadequate. Specific and concrete actions will be required before the Secretary can reallocate a phaseout reduction factor amount.

In addition to these amendments to the Fishery Conservation and Management Act, section 304 of H.R. 7039 amends the purposes of that act to insure that the determination of the optimum yield can be used for the development of the U.S. fishing industry. I wish to make it explicit that it is this committee's specific intent that in establishing the optimum yield for each fishery, a relevant economic factor which can be considered by each fishery management council is the need to enhance the market opportunities available to U.S.-harvested fish and to reduce the tariff and nontariff trade barriers to the exportation of such fish.

It is within the authority and the purpose of the councils to establish optimum yields which have the effect of restricting foreign fishing for the purpose of expanding the markets available to U.S. fishermen. If foreign nations can secure fish from their fishermen operating in the U.S. Fishery Conservation Zone, there may be no need or incentive to purchase U.S.-harvested fish. The amendment contained in section 304 is intended to insure that the determination of optimum yield can be, and is, used for the development of the U.S. fishing industry.

H.R. 7039 further amends the FCMA to require that the Secretary of Commerce, in allocating the allowable level of foreign fishing among applicant foreign nations, shall consider the extent to which these nations impose tariff and nontariff trade barriers that limit the access of U.S. fish products to foreign markets.

To further promote U.S. access to foreign fish markets, the legislation directs that at least six U.S. fisheries trade officers be assigned to U.S. diplomatic stations abroad. When our fisheries trade deficit constitutes approximately 10 percent of our total trade deficit, it behooves us to take every reasonable step to increase the market opportunities for our fish and fish products.

Thus far I have spoken exclusively to the issue of developing the U.S. industry. But it will do us no good to pass a development bill if the fish are all gone. The Fishery Conservation and Management Act was designed to solve this problem—and it would have if foreign overfishing had not continued. The current problem is that there is disturbing evidence that foreign fishing vessels are significantly underreporting the level of their catch. In fact, an internal National Marine Fisheries Service memo suggests that there exists a "formidable and possibly preplanned effort at noncompliance with (U.S. foreign fishing) regulations."

Reported violations depict underreporting of the foreign harvest ranging from 25 to 60 percent of the total catch onboard which the NMFS memo characterizes as "a serious and repetitive effort at noncompliance with the FCMA." This high level of underreporting constitutes a continuing threat because the optimum yield set for the fishery could easily be exceeded and the fishery will be overharvested. It is no longer realistic for us to expect voluntary compliance to work, given the evidence of foreign underreporting.

Therefore, it is essential that we significantly increase the current level of U.S. observer coverage and H.R. 7039 does so by requiring that we achieve 100-percent observer coverage aboard foreign fishing vessels except when foreign vessels cannot accommodate an observer and where the effect of 100-percent coverage can be achieved by placing observers on motherships which receive foreign-harvested fish. The expense of maintaining these observers is to be paid by foreign fishing vessels.

Finally, H.R. 7039 recognizes that the fees the United States charges foreign fishermen for the privilege of fishing in the U.S. zone are substantially less than those charged by other coastal nations. In fact, a recent study by the National Marine Fisheries Service indicates that no foreign nation charges fees lower than those charged by the United States. In light of this, the American Fisheries Promotion Act requires that the level of foreign fees be doubled immediately and then be adjusted upward so that U.S. fees are more consistent with the costs of having foreign fishermen fishing in the U.S. zone.

Mr. Speaker, the legislation pending before us contains no authorizations. What the bill does is provide new hope and new direction for the U.S. fishing industry. The legislation adjusts existing programs to reflect the current needs of the fishing industry and in doing so recognizes that the direction and the pace of the development of the fishing industry must be determined by the industry itself.

The legislation also recognizes that the full development of the U.S. industry requires access to foreign markets and provides the means to assure that access. The legislation will bring an end to U.S. taxpayers subsidizing foreign fishing and will stop foreign fleets from undermining the Fishery Conservation and Management Act. The legislation will bring new jobs to our coastal communities and, by decreasing U.S. dependence on foreign imports, will reduce our balance of payments deficit.

Mr. Speaker, it is for these reasons that I urge the passage of H.R. 7039, the American Fisheries Promotion Act.

Mr. BREAUX. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. BONKER).

Mr. BONKER. Mr. Speaker, in 1975 this body passed the Fishery Management and Conservation Act known as the 200-mile-zone bill. The purpose at that time was to extend our fishing jurisdiction so that we could make this vast new resource available to U.S. domestic fishermen. We also recognized the fact that this country was importing 60 percent of all of the fishery resources we were consuming and in order to gain the full economic value of that resource, passage of the legislation was necessary.

We find now that 4 years later we have not realized that full potential. The foreign fishing fleets are still active off our coasts and our own fishermen are frustrated and overregulated.

This bill before us, H.R. 7039, will give our domestic fishermen the full incentives they need to compete effectively for that resource. It makes absolutely no sense that we extend our fishing zone to protect our own resource only to issue permits to foreign fishermen to compete for our resource. If we are to make our own fishing industry competitive, we must provide the necessary incentives and the opportunity for them to compete for that resource.

In this bill we have provided for those incentives. If they are successful, we will see U.S. fishermen competing effectively for all of the bottom fish that exist within our own fishing zone, thereby realizing the full economic benefits that are available.

The American Fisheries Promotion Act, H.R. 7039, is an important step in the effort to develop and utilize the vast fisheries resource that this Nation has available to it.

When Congress enacted legislation extending the boundaries of America 200 miles out to sea it appropriated nearly one-fifth of the fish resources of the world for this Nation. Since 1976, however, America has been obligated consistently to permit extensive harvest by foreign fleets within the 200-mile zone because our fishing fleets were either unwilling or unable to harvest all the fish available to them.

The shift of our harvest fleets from fully utilized and overutilized species—in the Northwest mostly salmon—to the newly available underutilized species has been a slow, haphazard process because no organized, systematic program was in place to develop the fisheries. And capital acquisition was necessarily an undertaking of private entrepreneurs.

One of the major reasons for this was the uncertainty among lenders of the future of fisheries. Although the United States had acquired vast new fisheries potential, the resource was still held available for world needs. The fish were for American fishermen if they were used by them, but any perceived shortfall in efforts to fully utilize the fish by domestic fishermen required immediate allocation to foreign fishing fleets with a historically demonstrated need of the resource.

This measure, as originally drafted, provided for a full phaseout of all foreign fishing within 200 miles of our coastline within 5 years. Although the final version of the bill is somewhat different, the fishing communities feel confident that an eventual end to foreign fishing is within sight.

Other provisions of the legislation respond to other needs that must be met if the fishing fleets of this Nation are to become able to harvest and then market the full potential that exists. Each of the sections is responsive to the range of problems that stand in the way of development of the infrastructure necessary to take advantage of the magnificent opportunity that has been provided.

These provisions as outlined below will provide the incentive and the protection needed to assume the leadership role that can be ours. The importance of each of them cannot be overemphasized. An analysis of each readily confirms this.

The bill changes the Saltonstall-Kennedy program so that:

First. No less than 50 percent of Saltonstall-Kennedy moneys would be dedicated to industry fisheries development projects and the balance of the moneys would be used for projects undertaken by the Federal Government;

Second. Matching Federal funds would be fixed at no less than 50 percent of each project's cost;

Third. The use of S-K moneys for non-Federal projects would be restricted to enterprises which are at least 75 percent United States owned;

Fourth. In-kind industry contributions in Federal-private cost sharing projects would be permitted;

Fifth. Criteria and a timetable for consideration of project applications would be established;

Sixth. A detailed report to Congress on the use of S-K funds would be required; and

Seventh. At least one S-K project would deal with voluntary fish quality standards, one with fish marketing, and one with fuel efficiency. In the event that suitable proposals by industry were not made, the Commerce Department could carry out the projects.

A section would be added regarding fishery trade officers to direct the Secretary of Commerce to appoint six fishery trade officers to posts abroad. These officers would assist U.S. companies in developing foreign trade opportunities in fish products.

The loan guarantee program established under title XI of the Merchant Marine Act of 1936 would be amended to:

First. Extend the capital construction fund to shoreside processing facilities;

Second. Authorize the purchase of used fishing vessels and fishing facilities for reconstruction, reconditioning, or transfer to underutilized fisheries;

Third. Restrict the use of title XI loan guarantees for shoreside facilities and processing and used fishing vessels to vessels and facilities which are 75 percent United States owned; and

Fourth. Establish subfunds for vessels that meet the usual "economic soundness" criteria; and vessels that meet less stringent criteria, due to their use in underutilized fisheries.

Ten percent of the $10 billion available to the Maritime Administration for loan guarantees would be placed in the fisheries subfunds, with no less than 3 percent nor more than 7 percent in each subfund.

The fisheries loan fund established under the Fish and Wildlife Act of 1956 would be restructured to assist historically successful vessel owners in danger of defaulting on their mortgage payments or vessel owners or operators who are suffering temporary operating losses due to market conditions and competition from heavily subsidized foreign fish imports. Potential defaults on loans guaranteed under title XI of the Merchant Marine Act of 1936 would receive initial, not permanent, priority over other potential defaults and operating losses. No loans could be made after September 30, 1982. New fees on foreign fishing (see below) would provide the funding for this program.

A section would be added to amend the Fishery Conservation and Management Act of 1976 to provide for a predictable and incremental phaseout of foreign fishing. The achievement by U.S. fishermen of specified increases in fishing performance would result in specified decreases in foreign fishing. As U.S. fishermen increase their harvest, reserves would be set aside for U.S. fishermen for 1 year. After that year any unused U.S. reserve fish would be made available to foreign nations. This provision meets the concern of the State Department with respect to foreign policy and Law of the Sea Treaty implications.

A section would be added to increase fees on foreign fishing in the 200-mile fisheries zone for 1981 to a level twice that currently prevailing, but would be devised so as to avoid making any fishery uneconomic. After 1981, a permanent system of fees would be established based on the foreign proportion of the total catch in the U.S. zone. During the life of the amended fisheries loan fund (2 years), it would receive, to the extent needed, the proceeds from the new foreign fees. The balance would go to the general fund of the Treasury.

The section on allocations of surplus fish to foreign nations would mandate consideration of improved foreign trade opportunities for U.S. fish products, increased foreign sales of U.S. fish products, avoidance of gear conflicts by foreign vessels with U.S. fishing operations, and transfer of foreign technology to the U.S. fishermen and processors.

The section on the observer program would establish 100 percent U.S. observer coverage with respect to most foreign vessels operating in the U.S. zone. Certain specific waivers on coverage would be permitted to deal with special fishery circumstances, but effective coverage would still be 100 percent. All observer costs would be borne by foreign fishermen.

A section would be added to provide for a layover of 60 days for regulations promulgated pursuant to the act, except for those relating to the loan fund and the phaseout. This would permit adequate congressional review.

A section on filings for compensation for fishing vessel and gear damage would extend the filing periods for fishing vessel and gear damage claims under the Fishermen's Protective Act and title IV of the Outer Continental Shelf Lands Act of 1978 because the original time periods expired before implementing regulations were issued.

I urge your support of these crucial items.

Mr. McCLOSKEY. Mr. Speaker, I yield the balance of my time, 3 minutes, to the gentleman from Minnesota (Mr. FRENZEL).

Mr. PRITCHARD. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Washington.

Mr. PRITCHARD. Mr. Speaker, I rise in support of this measure.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman for yielding, and I rise in support of this measure.

Mr. Speaker, I am an original cosponsor of H.R. 7039. Its provisions directly address many of the fishing industry's problems, including seafood processing and marketing, foreign fishing within the U.S. 200-mile zone, fishing vessel loans, fisheries development, and fuel problems of the industry.

The fisheries loan fund will be restructured to assist vessel owners in danger of defaulting on their mortgage payments. New fees will be charged foreign fishermen who fish within our 200-mile zone, and the bill phases out foreign fishing within the zone under circumstances intended to reduce the effect of imports of such fish upon the American fishing industry.

I urge my colleagues to support this very worthwhile legislation.

Mr. LOTT. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Mississippi.

Mr. LOTT. Mr. Speaker, I would like to commend the Committee on Merchant Marine and Fisheries on the drafting of a comprehensive bill addressing some of the most serious problems of our American fishing industry.

The seafood industry has been and is one of our major industries in the Gulf of Mexico area for years, but is perhaps in the greatest danger it has ever been because of political and economic factors. The problems of the industry are being aggravated by the increased size of the fishing fleet and the presence of foreign vessels in our waters, as well as increased fuel, equipment, and supply costs. Furthermore, in the gulf we have had an inordinate problem with natural disasters, such as Hurricane Frederic and the uncontrolled introduction of fresh water into the gulf as a result of spring floods. The fishing industry is an important part of our economy, and we must see what we can do to assist it through these difficult times.

Along this line, I am particularly pleased to note the inclusion in this bill of a provision to restructure the existing loan program to assist successful boat owners who are in danger of defaulting on boat mortgages. This fisheries loan program is to last for only 2 years and is financed entirely from new fees on foreign fishing in U.S. waters. This type of help should give our gulf fishermen a chance to recover from the extreme difficulties they have labored under these last several years.

The United States has the potential to lead the world market in fishery production. Yet, foreign fishing concerns are landing two-thirds of all fish caught in U.S. coastal waters. To change this unfortunate situation, we must phase out foreign fishing on a sensible scale to protect our potential U.S. harvest, we must take the necessary steps to encourage foreign countries to grant us access to their markets, we must aid in the construction and refurbishing of processing plants for fish, we must "beef up" our enforcement manpower to assure foreign compliance with fishery conservation zone regulations, and we must enhance our research to further develop our fishing industry.

This legislation deals with all of these important challenges. I urge its passage.

Mr. FRENZEL. Mr. Speaker, I oppose H.R. 7039, the American Fisheries Promotion Act, as modified by the amendment offered by the gentleman from Louisiana (Mr. BREAUX). There are a number of things wrong with it.

The gentleman from Ohio (Mr. GRADISON) has pointed out that there is still a problem with the capital construction fund. Even if the House does send this bill to the other body we are in jeopardy of getting a conference report that might include that potential $90 million item which is not germane and invades another committee's jurisdiction. I hope that will not happen. Nevertheless, it looms as a potential difficulty.

Second, there are a number of things wrong with this bill. We call for some sort of an employee of the United States to be put into each foreign fishing vessel. I suspect that must be several hundred people. I am also told that several hundred people cannot be found for these jobs. If they were available, their hiring would certainly bump against the ceiling of the Leach amendment. I do not know where we are going to get them or how we are going to keep them out there. The fact is, we probably will not.

Another problem is the bill creates six fishery trade officers who are to be sent to the pleasure domes of the world; namely, Brussels, Tokyo, and Rome, who will not be accountable to the Embassy, not accountable to the trade officials within the Department of Commerce, but accountable to some unidentifiable fish czar.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I am happy to yield to the gentleman.

Mr. CONABLE. Mr. Speaker, I would like to associate myself with the gentleman's remarks and say that I oppose this measure also. I believe the gentleman is entirely on the right track with the things he is saying.

Mr. FRENZEL. I thank the gentleman for his contribution.

Creation of this additional new bureaucracy is, in my judgment, a dreadful mistake and will do nothing to promote American fishing.

In the first instance, title III of the proposed amendment established an elaborate scheme for phasing out all foreign fishing within the 200-mile resource management area that lies beyond U.S. territorial waters, broadens the criteria for determining allocation levels for foreign fishing in these waters, substantially increases the permit fees and other charges paid by foreign operators, and requires 100-percent observer coverage of all foreign fishing harvests. The effect of these changes would be to reduce substantially, and, eventually, to eliminate all foreign fishing in the management areas, and while awaiting the final phaseout, to establish a system of fees and charges so high as to make fishing in U.S. waters barely economical.

Such elaborate protectionist measures contradict other provisions of this bill which call for aggressive export promotion of U.S. fish products and which demand market access for those products from countries whose remaining days to fish off our shores are to be strictly numbered. We cannot have it both ways—we cannot be highly protectionist of our own industries and at the same time expect other nations to open their doors freely to our exports.

An excellent example is Japan. U.S. exports of fish products to Japan have increased from $56 million in 1974 to $568 million in 1979. On the other hand, Japan is the largest user of fishing rights within our 200-mile zone and in 1979 paid some $10 million for the right to fish in our waters. Also, on visits by Members of Congress to the State of Alaska, local businessmen and government officials expressed an active interest in encouraging Japanese investment in fishery facilities as a method of increasing employment and otherwise boosting the State's economy.

Of course, we still have problems with Japan that remain to be resolved in spite of the growth of U.S. exports, Japan still maintains comparatively high rates of duty and certain quota restrictions on imports of fish products. Difficulties also exist between the United States and Canada because the United States claims the right to fish for migratory species within Canada's 200-mile limit. This bill removes important leverage the United States has in seeking solutions to these bilateral trade problems for the benefit of all U.S. exports.

The fact is that U.S. fishing interests are carefully guarded under current law. As provided in the Fisheries Conservation and Management Act of 1976, allocations for foreign fishing are made based upon the difference in the estimated fish resources available and the expected domestic harvest for any one year. The remaining amounts allocated for foreign fishing can be used as an important trade tool where, in bilateral and multilateral negotiations, we can gain market access commitments and other reciprocal trade concessions important to U.S. exports.

Mr. Speaker, I urge my colleagues to vote down this bill. It imposes a complicated, rigid, and expensive scheme for the phaseout of foreign fishing off U.S. shores, even though current law adequately protects U.S. fishing interests and provides for the conservation of our fish resources. Many other domestic industries are seeking such a protected environment in which to do business, but it should be our goal to preserve competitive market factors in every possible instance. Again, I urge my colleagues to defeat the bill.

Mr. BREAUX. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Speaker, I rise in strong support of H.R. 7039, the American Fisheries Promotion Act. Let me first thank my friend and colleague, JOHN BREAUX, for the outstanding work he and the other members of the Merchant Marine and Fisheries Committee have done to bring this measure to the House floor. Mr. Speaker, I had the privilege to testify in support of this legislation in hearings held by the Subcommittee on Fisheries, Wildlife Conservation, and the Environment earlier this year and Mr. BREAUX and his colleagues have continuously pressed for enactment of this type of legislation.

Mr. Speaker, the American fishing industry is in trouble. Many of those troubles are caused by factors over which the fishermen have no control and I believe it is our duty to help save this essential element of our economy. In testimony before Mr. BREAUX's subcommittee, witnesses spoke of the unfair competition from Mexican vessels. Mexico apparently subsidizes the cost of diesel for their own fleet and there are numerous reports of American boats being unable to refuel at Mexican ports or, if permitted to refuel, being charged outrageous prices. American fishermen are not afraid of competition. What they do want, however, is fair and honest competition.

As in other industries, equipment is getting older and should be replaced by newer, more fuel-efficient machines. This applies to boats as well as equipment on the docks. The loan guarantees will certainly help in this effort.

As chairman of the Committee on Science and Technology, I have a deep interest in research programs in many fields. Clearly, to me, there is a great need to improve research and development in this industry. Techniques are antiquated and, in simple terms, the fishing industry has not kept up with the technological improvements going on all around it. The R. & D. programs are essential. They are the true heart of this legislation.

The quality grading of fish catches is important to the consumer. Presently, inferior products from overseas are sold alongside much higher quality fish. The consumer needs to know the difference before making his or her choice. American fishermen do not resist quality grading. They welcome it. They do not resist efforts by the Government. They want our assistance to help cope with industry-wide problems.

This bill does not go as far as I would like to see it go. As one who has long supported capital cost recovery legislation, I believe we should consider the fishing industry as a prime candidate for any pilot project to determine if faster writeoffs do, indeed, lead to greater industry expansion. I believe tax benefits can be very useful to preserving American industry. While this bill does not accomplish all that I would like, it does, indeed, mark a dramatic turnaround in U.S. Government policy. Heretofore, we have, if you will pardon the pun, permitted the American fishing industry to flounder. Now, at last, we recognize the importance of this segment of our economy and state that we will begin to work with labor and management in the industry in a mutual effort to insure the vitality of the American fishing fleet.

Mr. BREAUX. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Speaker, the fishermen on the hundreds of miles of Oregon coast I represent are in desperate straits as outlined so well by my colleague, the gentleman from Oregon (Mr. AUCOIN). I am proud that several of the key ideas behind this legislation originated among several fishermen in my district, Greg Chatman and Mimi Chapman, who took their American right to come back and petition the Congress and their Government and the culmination of their work is in this bill.

I want to commend the subcommittee chairman, the gentleman from Louisiana (Mr. BREAUX) and my colleague, the gentleman from Oregon (Mr. AUCOIN) and the other Members who have honed this legislation down, made it workable, and then made it, I am sure, effective to help U.S. fishermen in their time of need.

Mr. BREAUX. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. WYATT).

Mr. WYATT. Mr. Speaker, I rise in support of H.R. 7039. This legislation, while certainly no great panacea, should assist the economically depressed gulf shrimping industry in its struggle for survival over the long term. The serious problems this industry faces include the closing of fishing grounds, the rapid escalation in the costs of middle distillate, and growing competition for what resources do exist.

Ever since Mexico unceremoniously deprived our fishermen of a chance to harvest their surplus shrimp, gulf shrimpers have had to compete against a glut of foreign shrimp imports from Mexico's Government-subsidized fleet. These subsidies are in the form of cheap fuel and have threatened the very existence of the domestic shrimping industry.

While this bill offers little in the form of short-term solutions, it promises to provide assistance in developing new fisheries and markets for them.

This will all be for nothing, however, if the industry cannot survive over the next year. I now call upon the administration to take this one step further and assist us in solving the short-term problems that will enable the industry to use this legislation to expand, and, hopefully, prosper in the future.

Mr. BREAUX. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. HUGHES) one of the sponsors of this legislation.

Mr. HUGHES. Mr. Speaker, I rise in strong support of this bill. The legislation is designed to give short-term assistance to American fishermen and develop a long-term policy for reducing our fisheries trade deficit.

In the past several years, Congress has taken steps to insure that our domestic fishing industry is protected from the onslaughts of unfair foreign competition. We have done this in a sensible fashion without imposing tariffs or duties that could ultimately do more harm than good to our commercial fishing industry.

Rather, Congress has seen the wisdom of offering other kinds of protections and incentives to American commercial fishermen. We have extended our territorial waters to 200 miles. We have developed a plan to encourage the science of aquaculture by offering grants and research incentives to those interested in increasing the size and quality of certain kinds of fish. The bill before us today is another component of a comprehensive plan of encouraging and promoting the American commercial fishing industry.

Domestic fish consumption has grown dramatically in the last decade. In fact, American fishermen have not been able to keep up with the demand for fish and we import a considerable amount. Domestic production of fish can and will be increased to reverse this trend by the enactment of legislation such as the bill now under consideration.

Commercial fishermen in certain areas of the United States are crying out for short-term assistance. Recent natural and environmental disasters make this kind of help imperative. That is why the revitalization of the fisheries loan fund for a specified period of 2 years as described in the bill is so important. Commercial fishermen who find themselves on the brink of defaulting can make a go of their businesses if low-cost loans are available to keep and maintain their fishing vessels.

The bill also makes sure that the sometimes heavy hand of Government takes a back seat. Industry participation in the Saltonstall-Kennedy fund is required for the promotion of research and development of fish production and marketing. This last provision will now reduce and eventually eliminate the trade deficit in fish and fish products.

I commend the merits of this bill to my colleagues and urge them to support its adoption.

Mr. BREAUX. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. Studds), a sponsor of the legislation.

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Mr. STUDDS. Mr. Speaker, I rise in strong support of this bill which I consider critical. I would point out to Members that the only voices raised this afternoon in opposition to the bill have been those of the gentleman from California (Mr. McCloskey) and those of two members of the Committee on Ways and Means who argued strenuously against provisions which are not in the bill. I would say to the gentleman from California, dear friend though he is, that his vacation trips to my district are going to have to be incognito if he persists in acting in this fashion.

Members will recall that the gentleman led the fight on this floor 5 years ago against the 200-mile limit in the first place, without the enactment of which I would not have a fishing industry to defend at this time. The gentleman, the record should reflect, was the only dissenting voice in the entire Merchant Marine Committee on either side against this bill when it was reported.

Mr. Speaker, let me say that so much has been said about what this bill does not do that I think it behooves us at the end here to itemize very quickly what it does not do. I submit to you that the entire debate in opposition to this legislation has focused on provisions which are not in the bill. That is interesting, and that is irrelevant.

I have heard, for example, that the bill assesses consumers, somehow to the benefit of the industry. I have not heard this argued on the floor; I have heard it in private conversation amongst Members. That is not true.

We have heard that somehow there is new money in this bill, that there are somehow enormous new appropriations to be laid upon the American taxpayer. That is not true. There is no new money in this bill. This bill redirects existing authorizations and appropriations, and assesses higher fees on those foreign vessels fishing within the U.S. economic zone.

The gentleman from Minnesota wondered where we are going to get the money to pay the additional observers. That is the answer. That money is going to come from the increased fees on the foreign fishermen whose activities they have been observing.

We have heard it contended that all foreign fishermen will be excluded from our zone. That is not true. That was in an earlier version of the bill. This is an improved version which sets aside modest increments for U.S. fishermen in the hope that they will take advantage of them by expanding their activities, but if they do not, there will be no further set-aside.

We have heard it argued this measure is inconsistent with international law. Heaven help us all, even the Department of State now agrees with the bill as written. That must be reassuring to those Members who have been concerned about inconsistencies in international law. It is not even inconsistent with the current practices of other fishing nations. The increasing of the fees which we will assess on foreign vessels brings us roughly to where other nations around the world currently are in terms of levels of fees imposed on other nations' vessels.

There is no new tax treatment in this bill. All capital construction fund provisions have been deleted, and there is no provision for title XI, loan guarantee funds for shore-side processors, so that the concern of the gentleman from California that somehow great goodies will be given to Ralston-Purina and other biggies is moot.

Let me point out that one-tenth of this Nation's balance of trade deficit last year was in fish; $2.7 billion of our $27 billion deficit in trade was in imported fish. Two-thirds of the fish consumed by Americans is imported. This is not simply a question for those of us who represent regions of this Nation in which this industry is important; it is a question of the vital well-being of this Nation, and of the stability of the dollar. We all know what has happened to fuel prices. The same thing has happened to fishermen. We know what has happened to illegally subsidized fish imported into this country. We know that the Department of the Treasury has chosen not to impose countervailing duties, which they ought to do under the law.

I submit if this bill were brought to the floor by the Committee on Agriculture, they would hang their heads in shame because of the modesty of the bill. We have no price supports for our fishermen. We take for granted price supports for our farmers. I would remind the Members, Mr. Speaker, that fishermen are farmers. They are farmers of the sea. They are producers of food, and this bill represents the very least that this Congress can do by way of taking advantage of the 200-mile limit, which this Congress passed 4 years ago.

I urge the Members to pass this bill.

Mr. Speaker, I rise in support of H.R. 7039, the American Fisheries Promotion Act. Because New England has the longest and perhaps richest fishing tradition in our Nation, its people have always been acutely aware of the concerns and problems of this vital industry. Today's pressures of inflation, the tremendous increases in fuel prices, the influx of duty-free imported fish, and competition from heavily subsidized foreign fishing operations have placed our fishing industry in an intolerable position. The American Fisheries Promotion Act goes far in assisting our troubled industry without increasing the cost to our taxpayers.

I am particularly pleased that this bill incorporates many of the provisions of H.R. 5243, a bill which I introduced last September to pave the way for a coordinated approach to fisheries development. Specifically included in these provisions is the revitalization of the Saltonstall-Kennedy (S-K) funds, which traditionally has been the single most important source of funds for fisheries development programs. The amendments to the S-K fund assure the fishing industry that at least 75 percent of the available moneys will be dedicated to local industry projects. They also guarantee that the S-K funds will be obligated on a timely basis and provide for the needed congressional oversight to make certain that the program is operated according to congressional intent.

Mr. Speaker, the effectiveness of any fisheries development program depends upon strong industry support and a high level of local control. The nature of the industry is such that development programs will be primarily regional in scope, and innovative partnerships among the industry, State, and local governments, and the Federal Government will be necessary to move forward. Regional councils created under the Fisheries Conservation and Management Act should naturally be involved in fisheries development in order to express regional perspectives and priorities and to begin constructing the foundations on which to base wise congressional fisheries management programs. The amendments provided for in H.R. 7039 will, I believe, accomplish this.

Another important provision in the bill is the establishment of a program to place fisheries attaches in U.S. embassies in order to promote new foreign markets for American fish products. The recently concluded multilateral trade negotiations made substantial progress in reducing foreign trade barriers which impede U.S. exports of fish products. Combined with other provisions in the bill, this program will enable the United States to capitalize on new markets opening up abroad.

Finally, Mr. Speaker, I would like to focus on an amendment which I authored which would amend title IV of the Outer Continental Shelf Lands Act Amendments of 1978. This provision would amend title IV of the OCS Lands Act Amendments of 1978 to allow compensation from the fishermen's contingency fund even though damage incurred by fishermen is attributable to a financially responsible party. As you know, the fishermen's contingency fund under title IV compensates U.S. fishermen for damage resulting from Outer Continental Shelf energy activities. Compensation claims are presently ineligible if the damage is attributable to a financially responsible party. This situation could lead to difficulties where the oil company, or other responsible party, does not admit liability. It could cause delays in a payment of a claim to a fisherman and thus, delays in the ability of the fisherman to make a living. In addition, it would encourage denials of liability by an oil company, forcing expensive legal actions by a fisherman. My amendment would require compensation, even where the damage can be attributed to a financially responsible party, if that party will not admit responsibility for the damage. Under this amendment, the fund would pay the claim of the fisherman and then seek to collect the amount paid to the fisherman from the responsible party. Such action would often be a consolidated one involving the claims of various fishermen. There would therefore, still be an adjudication as to the liability of a particular oil company or other responsible party, but this would occur after the fisherman has received payment for his claim from the fund.

Mr. Speaker, the contingency fund as it is now constructed contains many innovative provisions. Compensating fishermen for the replacement costs minus salvage value of their gear and establishing a presumption of validity if certain conditions are met, are admirable aspects of the fund. However, the fund as it presently stands does not insure that a fisherman with a valid claim will be able to approach either a company admitting responsibility or the fund without the necessity of litigation.

The amendments made to the fund will, I believe, greatly enhance its effectiveness in terms of its day to day operations, efficiency of its administration and its utility to the fishing industry. As you are well aware, New England is blessed with Georges Bank, one of the richest fishing areas in the world. Continued pressures to explore for and develop new oil and gas reserves have and will continue to impact our fishing industry. In the frontier regions of the North Atlantic, it is critical that we have a useful and effective fisherman's contingency fund in order to minimize impacts on our fishing industry brought on by new oil and gas activities.

I urge my colleagues to support the passage of H.R. 7039.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Illinois.

Mr. FINDLEY. I thank the gentleman for yielding. I wonder if the gentleman could enlighten me on this question. Is there any provision in this bill which would pay fishermen not to fish?

Mr. STUDDS. No, there is no such provision. But I would suggest to the gentleman that if the Committee on Agriculture had jurisdiction, there probably would be.

I urge enactment of the bill.

Mr. BREAUX. Mr. Speaker, I would just say to the Members I think we have debated to a great extent the provisions, as the gentleman from Massachusetts has indicated, provisions that are not in the legislation. What we have remaining is a sound, solid program which we can be proud of which can help the American fishing industry for decades to come. One of the critical features is that this was accomplished without any authorization of the taxpayers' dollars. It was accomplished simply by a modest increase in the fees that foreign fishermen pay to take our fish out of our 200-mile zone. I think it is good legislation. I think it is legislation everyone can feel comfortable in supporting.

Mr. Speaker, I yield back the remainder of my time.

● Mr. MURPHY of New York. Mr. Speaker, the passage of the Fishery Conservation and Management Act of 1976—better known as the 200-Mile Act—marked the dawning of a new era in fisheries conservation. Not only did it create a priority access for U.S. fishermen to the fisheries resources within 200 miles of our shoes, but the act also established the economic foundation for the development of all segments of the U.S. fishing industry.

That U.S. fisheries resources are being conserved is reflected by the fact that the foreign catch within our 200-mile zone has been reduced from 2.3 million metric tons, excluding tuna, in 1976 to about 1.6 million metric tons in 1979. The number of foreign vessels operating in the 200-mile zone has also been reduced—from a high of about 2,500 in 1976 to a low of approximately 700 in 1979.

Unfortunately, during that 4-year period the U.S. share of the total commercial harvest within the zone has increased only slightly, from about 30 percent in 1976 to 33 percent in 1979. The processing of this harvest has also increased only slightly. There is much that needs to be done to increase the U.S. harvesting and processing capacity and H.R. 7039 will greatly assist in the development of these U.S. capabilities.

Briefly explained, H.R. 7039, which was unanimously reported by the Committee on Merchant Marine and Fisheries, would rewrite the Saltonstall-Kennedy (S-K) Act to require at least 75 percent of the S-K funds to be used to support fisheries development activities carried out in cooperation with the domestic fishing industry; extend the title XI obligation guarantee program to shoreside fisheries facilities; and increase foreign fishing license fees and earmark such fees for the S-K fund, except during fiscal years 1981 and 1982, and to the extent needed, such fees would be used to provide loans to fishermen. In addition, the legislation would provide for the assigning of at least six fishery trade officers abroad to promote U.S. fishing interests; require a 100-percent observer coverage on all foreign fishing vessels operating within the U.S. fishery conservation zone; and establish a mechanism for phasing-out foreign fishing in fisheries subject to the management authority of the United States.

Mr. Speaker, unfortunately, the administration does not support H.R. 7039 as reported by the committee. In order to avoid the possibility of a Presidential veto and to seek administration support of a bill that will still meet the needs of our fishing industry, the committee staff met with representatives of the Departments of State and Commerce during the past several weeks and they have hammered out a compromise version which both the committee and the administration can now support.

In general, the compromise version, which is before the House for consideration today, is substantially the same as H.R. 7039, as reported by the committee, except for the following changes.

First. Under the S-K program, that portion of the funds earmarked for industry fisheries development projects would be reduced from 75 percent to 50 percent and the Federal cost of jointly sponsored projects would be reduced from 75 percent to 50 percent.

Second. During 1981, foreign fishing fees would be increased to a level twice that of currently prevailing fees and in future years at a level based on the foreign proportion of the total catch in the U.S. fishery zone.

Third. Foreign fishing fees would be earmarked for the fisheries loan program, to the extent needed, for a period of 2 years with the balance of such unused fees and the fees for future years going into the general fund of the Treasury.

Fourth. The title XI obligation guarantee program would be amended so as to exclude its extension to shoreside fisheries facilities.

Fifth. The 100-percent observer coverage would be modified to accommodate special situations in the Western Pacific and those associated with mothership operations in other areas.

Sixth. The phase-out of foreign fishing would be modified to permit any unused reserve for U.S. fishermen to be made available to foreign fishermen.

Mr. Speaker, if U.S. fishery resources are fully developed by our citizens as expected by the passage of this legislation, it is estimated that more than 40,000 jobs will be created, more than $1 billion per year will be added to the U.S. economy and the U.S. trade deficit will be reduced by almost $2 billion per year—all in a single decade. Eventually, full utilization will convert the United States from a net importer to a net exporter of fisheries products.

Mr. Speaker, I strongly support H.R. 7039, as amended by the compromise version, and urge its prompt passage.●

● Mr. ASHLEY. Mr. Speaker, historically the United States was one of the world's major producers of fishery products. Before the Second World War and until 1959, the United States ranked second only to Japan in size of catch. By 1965 we had dropped to sixth place. In 1978, we regained fourth place and remain there today.

The major part of the increase in U.S. catch, which is only modest, is due to the passage of the Fishery Conservation and Management Act of 1976. However, this act—better known as the 200-Mile Act—cannot alone restore the American fishing industry to its former position of eminence as it is designed primarily to conserve and protect the fisheries resources within 200 miles of U.S. shores.

The inadequacy of the U.S. fishing industry to meet this challenge has an overall effect on the U.S. economy. Due to an imbalance in trade, the U.S. fisheries deficit in 1979 totaled approximately $2.7 billion, roughly 10 percent of the total U.S. trade deficit.

Recognizing this potential and the present imbalance in fisheries capability, the Committee on Merchant Marine and Fisheries has reported legislation, H.R. 7039, which hopefully will be of valuable assistance in meeting the challenge facing the U.S. fishing industry.

First I woud like to emphasize that H.R. 7039 was drafted in such a way that it would result in little cost, if any, to our taxpayers and any cost that may be incurred would be offset by the anticipated increase in foreign fishing fees.

H.R. 7039 as reported by the committee, would amend a number of existing laws to promote the development of the U.S. fishing industry. One of these laws is the 1939 Saltonstall-Kennedy Act—known as the S-K Act. Currently, the S-K Act mandates that the Secretary of Commerce recieve an amount equal to 30 percent of the gross receipts from custom duties on imported fishery products and use such funds to develop and increase markets for U.S. produced fishery products. H.R. 7039 would rewrite the S-K Act to include products which relate to any aspect of the fishing industry and to require that at least 75 percent of the S-K funds be used to support fisheries development activities carried out in cooperation with the domestic fishing industry.

To assist in promoting the sale of U.S.-produced fish in foreign markets, H.R. 7039 would require the Secretary of Commerce to appoint at least six fisheries trade officers to serve overseas.

To assist in expansion of our catching and processing capability, in particular into the underutilized fisheries, H R. 7039 would extend the existing title XI obligation guarantee program, which guarantees financing for construction and reconstruction of fishing vessels and merchant vessels, to shoreside fisheries facilities and to fishing vessels involved in high risk ventures.

Probably the most controversial section of the bill, and, as I see it the most crucial, is a provision designed to expedite the phaseout of foreign fishing in our 200-mile fisheries zone. The mechanism called for by the bill would provide for an automatic 15-percent reduction in the amount of fish that would have been allowed to be caught by foreign fishermen in 1981, except for this provision, with further reductions in increments of 10 or 15 percent in future years, depending on increased harvests by U.S. fishermen. In other words, except for the first 15-percent automatic reduction, there would be no further reductions in foreign allocations unless our fishing industry proportionately increases its harvesting capability.

Two other provisions of the bill interrelate with each other. One of these provisions would require the Secretary of Commerce to collect from foreign fishermen sufficient license fees to return to the United States an amount equal to the cost of administering and enforcing the provisions of the 200-Mile Act as such cost relates to foreign fishing versus domestic fishing. These fees, which ordinarily have been going into the general fund of the Treasury, would be earmarked for the S-K Act for fisheries promotion except during the next 2 years, such fees would be used for loans to U.S. fishermen. Priority would be given first to vessel owners who are about to default on mortgages on their vessels, and second to vessel owners who are seeking funds for operating expenses.

Mr. Speaker, although the bill was reported out of the committee unanimously, it was reported out over the objections of the administration. The Department of State expressed concern over the provisions calling for a phase-out of foreign fishing, the establishment of a 100-percent observer program, and the linking of foreign fishing allocations with removal of trade barriers to U.S. fisheries exports. The Department of Commerce expressed concern primarily over the extension of the title XI obligation guarantee program to high risk fishing vessel ventures and to shoreside fisheries facilities because of the effect such extension might have on the administration's desire to restrain Federal budget and credit risk growth.

With a view toward obtaining the support of the administration and avoiding the possibility of a Presidential veto, representatives of the Departments of State and Commerce and the committee worked hard during the past several weeks to shape a compromise version of the bill that will not only meet the concerns of the administration but at the same time meet the needs of the U.S. fishing industry.

A compromise version of the bill has been developed, which has the support of both the administration and the committee and which I also support.

The compromise version is essentially the same as H.R. 7039 except for the following changes: Only 50 percent of the S-K funds could be dedicated to fisheries development projects and any jointly carried out projects would be on a 50-50 matching fund basis; the title XI obligation guarantee program would not be extended to shoreside fisheries facilities, only to high risk venture fishing vessels; the phaseout of foreign fishing would be modified in such a way as to permit any reserve set aside for U.S. fishermen to be allocated to foreign fishermen whenever the Secretary of State determines such reserve will not be caught by U.S. fishermen; foreign fishing fees would be doubled for 1981 and in future years such fees would be based on the foreign versus domestic catch within the zone; and for a 2-year period such fees would be earmarked for fisheries loans to the extent needed, with fees for future years going into the general fund of the Treasury.

Mr. Speaker, I urge the adoption of H.R. 7039, as amended by the compromise version.●

● Mrs. BOGGS. Mr. Speaker, as a cosponsor of the American Fish Promotion Act and as a representative of one of this Nation's most active and important seafood producing areas, I urge passage of H.R. 7039.

The shrimp, crab, and oyster industries in Louisiana have historically been the State's most valuable commercial fishery. For example, since 1976 the dockside value of shrimp has exceeded $80 million. However, times are changing. A decline of 24 percent in Louisiana shrimp landings in 1979 from the previous 2-year average has prevented shrimpers from accruing an economic buffer against a disastrous year. The shortfall in revenue, when combined with the disastrous environmental conditions experienced in the spring of 1980 which reduced the usual spring shrimp harvest, resulted in a weakened profit position for shrimpers when compared to previous years. The gulf coast shrimp and fishing fleets were looking forward to 1980 as a year to service their debts and recapture some of the net income foregone due to the 1979 increases in fuel costs.

Fuel has been a real problem for our fleets in the past, but through the first 6 months of 1980 shrimpers have not experienced the skyrocketing fuel costs that burdened them in 1979. Consequently, production of shrimp was a key variable as 1980 began: A bumper crop was expected. However, in the spring of 1980, several environmental occurrences proved quite detrimental to the pending shrimp crop. At the start of the year, conditions for brown shrimp looked good. Unfortunately, an early spring cold snap moved through coastal Louisiana and the result was devastating for the new shrimp larvae. Heavy rains in March, April and May also lowered the salinity levels in the water. As reflected in the number of landings, the situation steadily declined from January through June. The result was a 51 percent lower shrimp yield for the first 6 months of 1980 as compared to the average for the previous 4 years.

This past summer I have heard from scores of individuals who are engaged in the traditional fishing and shrimping lifestyles of Louisiana: The same trades pursued by their parents and grandparents. They all tell me the same dire story. Their situation is steadily declining due to high fuel costs, higher interest rates, higher costs of ice due to increased fuel prices, and, compounding the problem, the radical increase in foreign competition in the seafood market as a result of cheap, frequently subsidized, foreign imports. Many fear they will lose their boats, on which they earn their livelihood, and go out of business.

Mr. Speaker, unless we act to pass this legislation, it is quite likely that this important industry will die or, at least, suffer permanent crippling. This legislation provides the tools necessary to assist our fishing industry in its efforts to achieve full use of our valuable fisheries resources.

I urge passage of this bill.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. BREAUX) that the House suspend the rules and pass the bill H.R. 7039, as amended.

The question was taken.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

COMMUNICATIONS CROSS-OWNERSHIP ACT OF 1980

Mr. VAN DEERLIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6228) to amend the Communications Act of 1934 to provide that the Federal Communications Commission, in considering applications for the renewal of broadcasting station licenses, shall not take into account any ownership interests of the applicant in other broadcasting stations or in other communications media, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6228

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Communications Cross-Ownership Act of 1980".

SEC. 2. Section 309(a) of the Communications Act of 1934 is amended by inserting "(1)" after "SEC. 309. (a)" and by adding at the end thereof the following new paragraphs:

"(2)(A) The Commission shall not grant any initial application for, or any initial acquisition of, a commercial broadcasting station license to any applicant if—

"(i) such applicant, at the time application is made to the Commission, owns, controls, or operates any daily newspaper; and

"(ii) the station signal of the commercial broadcasting station for which such license is sought will encompass the entire community in which such daily newspaper is published.

"(B)(i) If any person who owns, controls, or operates a commercial broadcasting station which is licensed by the Commission subsequently owns, controls, or operates a daily newspaper, and the station signal of such commercial broadcasting station encompasses the entire community in which such daily newspaper is published, then such person shall transfer, assign, or otherwise dispose of such license in accordance with section 310(d), or shall transfer, assign, or otherwise dispose of any interst in such daily newspaper, not later than—

"(I) the date on which such license is due to expire; or

"(II) the end of the 1-year period following the date such person purchases, or obtains any interest in, such daily newspaper, if the end of such 1-year period occurs after the date of the expiration of such license and if the Commission defers action on any renewal application for such license in accordance with clause (ii).

"(ii) If the end of such 1-year period occurs after the date of the expiration of such license, then the Commission may defer action on any renewal application with respect to such license until the end of such 1-year period, if the Commission considers such deferral to be necessary for purposes of permitting the person who owns, controls, or operates the commercial broadcasting station involved to carry out the transfer, assignment, or other disposal of such license, or of any interest in the daily newspaper involved, in accordance with this subparagraph.

"(C)(i) Except as provided in clause (ii), the Commission shall not renew any commercial broadcasting station license for a term which is due to end after June 1, 1980, if the licensee involved—

"(I) owns, controls, or operates the only commercial aural broadcasting station or stations which encompass the entire community required to be served under the license with a city-grade signal during daytime hours, or the only commercial television broadcasting station or stations which encompass the entire community required to be served under the license with a city-grade signal;

"(II) owns, controls, or operates the only daily newspaper which is published in such community; and

"(III) owned, controlled, or operated any such station and such newspaper as of January 1, 1975.

"(ii) The provisions of clause (i) shall not apply to a commercial aural broadcasting station licensee if—

"(I) a commercial television broadcasting station is licensed to serve the community which is served by the commercial aural broadcasting station involved; and

"(II) such commercial television broadcasting station is not owned, controlled, or operated by such commercial aural broadcasting station licensee.

"(D)(i) Any licensee (other than a person subject to subparagraph (C)(i)) who, on the effective date of this paragraph—

"(I) owns, controls, or operates a daily newspaper; and

"(II) is the licensee of a commercial broadcasting station which has a station signal which encompasses the entire community in which such newspaper is published;

shall be eligible to apply for renewal of such license and shall not be required to relinquish ownership or control of such broadcasting station or such newspaper.

"(ii) Except as provided in clause (iii), no licensee specified in clause (i) may transfer, assign, or otherwise dispose of—

"(I) the commercial broadcasting station license held by such licensee; and

"(II) ownership of, or any interest in, the daily newspaper specified in clause (i)(I);

to the same person.

"(iii) The requirements of clause (ii) shall not apply to any transfer, assignment, or disposal of a commercial broadcasting station license—

"(I) if such transfer, assignment, or disposal is made in connection with the disposition of the estate of any individual, and would not result in any new encompassment of communities prohibited in subparagraph (A) or subparagraph (B) as to commonly owned, operated, or controlled broadcasting stations and daily newspapers; or

"(II) if such transfer, assignment, or disposal constitutes a technical change in ownership or control resulting from any corporate reorganization affecting the licensee, the bankruptcy of the licensee, or any other transaction which does not affect significantly the ownership or control of such commercial broadcasting station.

"(E) The Commission shall have authority to waive (either temporarily or permanently) any requirement established in this paragraph if an applicant for a commercial broadcasting station license demonstrates to the Commission that such waiver is necessary to serve the public interest, convenience, or necessity.

"(3) In any case in which the Commission is considering an application for the renewal of a commercial broadcasting station license, the Commission shall not have any authority to consider or otherwise take into account—

"(A) any ownership interest which is held by the renewal applicant involved in any other broadcasting station or in any nonbroadcasting communications medium, except that the Commission may take into account any violation of this Act or any violation of any rule prescribed by the Commission under this Act; or

"(B) the extent to which any owner of the station involved participates in the day-to-day administration and operation of the commercial broadcasting station involved, except that the Commission may take into account any violation of this Act or of any rule of the Commission which occurs in connection with the administration or operation of such commercial broadcasting station.

"(4) The provisions of this subsection shall not be construed to affect in any manner the applicability or enforcement of the Federal antitrust laws.

"(5) For purposes of this subsection:

"(A) The term 'city-grade signal' means—

"(i) with respect to an amplitude modulation commercial broadcasting station, the 5 millivolt per meter contour, as specified in section 73.24(j) of title 47, Code of Federal Regulations (as in effect on the effective date of this paragraph);

"(ii) with respect to a frequency modulation commercial broadcasting station, the 3.16 millivolt per meter contour, as specified in section 73.315(a) of title 47, Code of Federal Regulations (as in effect on the effective date of this paragraph); and

"(iii) with respect to a commercial television broadcasting station, the minimum field intensity in decibels above 1 microvolt per meter which is required to be provded, over the entire principal community served, in accordance with section 73.685(a) of title 47, Code of Federal Regulations (as in effect on the effective date of this paragraph).

"(B) The term 'daily newspaper' means any newspaper which is published 4 or more days per week, which is published in the English language, and which is circulated generally in the community of publication. Such term shall not include any college newspaper.

"(C) The term 'Federal antitrust laws' means—

"(i) the Sherman Act (15 U.S.C. 1 et seq.), section 73 through section 77 of the Wilson Tariff Act (15 U.S.C. 8 et seq.), the Act entitled 'An Act to amend sections 73 and 76 of the Act of August 27, 1894, entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes" ', approved February 12, 1913, the Clayton Act (15 U.S.C. 12 et seq.), and section 5 of the Federal Trade Commission Act (15 U.S.C. 45); and

"(ii) any law enacted after the effective date of this paragraph by the Congress which prohibits, or makes available to the United States in any court of the United States any civil remedy with respect to, any restraint upon, or monopolization of, interstate or foreign trade or commerce.

"(D) The term 'Grade A contour' means the Grade A contour of a commercial television broadcasting station, as defined by the Commission in accordance with section 73.683 of title 47, Code of Federal Regulations (as in effect on the effective date of this paragraph). The location of each such Grade A contour shall be determined in accordance with procedures established in section 73.684 of title 47, Code of Federal Regulations (as in effect on the effective date of this paragraph).

"(E) The term 'station signal' means—

"(i) with respect to an amplitude modulation commercial broadcasting station, that signal which is computed by the Commission in accordance with section 73.35(a), and section 73.183 or section 73.186, of title 47, Code of Federal Regulations (as in effect on the effective date of this paragraph);

"(ii) with respect to a frequency modulation commercial broadcasting station, that signal which is computed by the Commission in accordance with section 73.240(a)(1) and section 73.313 of title 47, Code of Federal Regulations (as in effect on the effective date of this paragraph); and

"(iii) with respect to a commercial television broadcasting station, the Grade A contour of such station.".

SEC. 3. Section 307 of the Communications Act of 1934 (47 U.S.C. 307) is amended by adding at the end thereof the following new subsection:

"(f) To ensure the fair, efficient, and equitable distribution of high-power or full-power very high frequency television broadcasting stations to and among the several States and the District of Columbia, the Commission shall assign such stations (if such assignment is technically feasible) to any State or States which do not have at least one such station licensed as a commercial station at the time one or more stations become available as a result of any determination of the Commission to decline to renew a license for any such station, or to revoke any such license, except that (1) the requirements of this subsection shall apply to the assignment or reassignment of any such license only if such license has been denied renewal, or has been revoked, after January 1, 1980; (2) such assignment shall not be made until such determination is no longer subject to judicial review; and (3) the requirements of this subsection shall not be considered as a reason to deny or to revoke any license.".

SEC. 4. (a) Title V of the Communications Act of 1934 (47 U.S.C. 501 et seq.) is amended by striking out section 506, and by redesignating section 507 through section 509 as section 506 through section 508, respectively.

(b)(1) Section 317(b) of the Communications Act of 1934 (47 U.S.C. 317(b)) is amended by striking out "section 508" and inserting in lieu thereof "section 507".

(2) Section 503(b) of the Communications Act of 1934 (47 U.S.C. 503(b)) is amended—

(A) by striking out "509(a)" and inserting in lieu thereof "508(a)"; and

(B) by striking out "section 507" and inserting in lieu thereof "section 506".

(3) Section 504(b) of the Communications Act of 1934 (47 U.S.C. 504(b)) is amended by striking out "507" and inserting in lieu thereof "506".

SEC. 5. (a) The amendments made in section 2 of this Act shall not affect the resolution of—

(1) any issue involving integration of ownership in broadcasting station management; or

(2) any issue involving concentration of media ownerhip;

which is part of any proceeding pending before the Federal Communications Commission on September 9, 1980. Orders shall be issued in such proceeding and appeals shall be taken from such proceeding as if such amendments had not been enacted.

(b) The amendments made in section 2 of this Act shall not affect the resolution of—

(1) any issue involving integration of ownership in broadcasting station management; or

(2) any issue involving concentration of media ownership;

which is part of any suit commenced before September 9, 1980. In all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if such amendments had not been enacted.

Amend the title so as to read: "A bill to amend the Communications Act of 1934 to codify the rules of the Federal Communications Commission which prohibit the cross-ownership of broadcasting stations and newspapers, to provide that the Commission shall not take into account any ownership interests of broadcasting station license renewal applicants in other broadcasting stations or in other communications media, and for other purposes.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California (Mr. VAN DEERLIN) will be recognized for 20 minutes, and the gentleman from North Carolina (Mr. BROYHILL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. VAN DEERLIN).

Mr. VAN DEERLIN. Mr. Speaker, this bill came out of our subcommittee after hearings late last year. It passed in the subcommittee by unanimous voice vote, and in full committee 2 weeks ago on a vote of 17 to 4, with one abstaining.

The trend of ownership in broadcasting in the United States was, as many of us know, greatly influenced in the early years by a reluctance among many potential independent operators to apply for broadcast licenses—and this was especially true when television licenses became available in the late 1940's and early 1950's—because of the tremendous costs involved. In the face of these conditions, the Federal Communications Commission was itself involved in persuading a good many newspaper publishers in the land to acquire licenses, so as to get stations on the air—to begin the very costly operations which, in early days, were substantially supported out of newspaper profits.

In more recent times it became far likelier that a television station, out of its profits, is supporting the newspaper that was its progenitor. What our bill does is to codify rules already adopted by the FCC to prohibit both newspaper and broadcast properties from being owned by the same entity in a community, and to require, almost immediately, divestiture in a handful of small markets where one owner controls all newspaper and broadcast voices in the community.

We would "grandfather" other cross-ownerships, in situations where an entire community's information and editorial opinions are not vested in a single owner. In such situations, the present licensee would be permitted to keep both properties—but he would be barred from selling or otherwise transferring the combination of properties to a new single owner.

□ 1320

The Supreme Court has upheld all of these rules already enacted by the FCC. Our legislation would offer the stability of law.

In addition, there are two amendments to the basic legislation. One would repeal the Lee Act, enacted in 1945. That law, since superseded by Taft-Hartley, bars union musicians from picketing radio stations. And there is another amendment which would offer some hope in the future to two States which presently do not have high-powered VHF television licenses—the States of New Jersey and Delaware.

Our bill would say that to the extent possible, every State of the Union should have not less than one VHF license.

I now yield 4 minutes to the prime author of the legislation, the gentleman from Washington (Mr. SWIFT).

Mr. SWIFT. Mr. Speaker, I think it is time the Congress began to establish communication policy in the United States. If one takes a close look at how much congressional legislation there has been on communications legislation over the last 30 years you will find it is precious small. In fact what has happened is we have permitted a bureaucracy, the Federal Communications Commission, to make virtually all of the basic communications policy through its regulatory power.

This bill today is an attempt to make a first, small, very modest step toward establishing congressional policy in the broad and complex field of media concentration.

What it does, simply, is to say that from here on out, in no single market can a daily newspaper own a broadcast facility or a broadcast facility own a daily newspaper. It is a beginning at establishing congressional policy that says: From here on out you are not going to permit that kind of concentration within a given market.

Now, when we do that we raise a question: What does one do with all of those situations that currently exist? Well, you could bring a bill to the floor of this House which would say we will require all of them to divest.

Now, seriously, what chance would such legislation have in this House? Virtually none. If, in fact, we insist we must do that in order to get what is good about this bill, establishing congressional policy that henceforth we will not permit that kind of thing, what we do is prevent the House from acting at all.

It is really a question of whether the glass is half full or half empty. I see it as half full. We get something that establishes from here on into the future that is good public policy and for that we say that so long as the same people own the crossownership that exists, we are going to permit that to continue. When they sell they come under the new provisions.

This is not giving away so much when we consider that the FCC itself made a detailed study of these crossownerships and in instances where they found virtual monopoly in a market they did require divestiture, in some 11 cases, I believe. In other instances they examined very carefully and they found there was competition existing in those markets and found that it was in the public interest to let those crossownerships continue.

So, what the portion of the bill I originally introduced will do is to say, from here on out we are not going to be able to have those kinds of crossownerships anymore. Recognizing the political reality that we cannot force divestiture of the rest, we rely on a careful study of the FCC that says in those current markets there is ample reason to believe the public is being served even if those crossownerships are continued. This bill would so permit.

It is for that reason that I urge my colleagues to not fail this opportunity to assert for the first time in many years congressional policy in the area of communication and no longer leave that solely to unelected people at the FCC, however good may be their motives and not to nitpick this, yet another effort to assert congressional prerogative, to death.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. VAN DEERLIN. I will be happy to yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Speaker, my memory goes back to a circumstance here in Washington just a few years ago in which, I believe I am correct, the Washington Post was required to divest itself of a television station interest. Now, the market was competitive in that circumstance but nevertheless a transfer in ownership came about.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BROYHILL. Mr. Speaker, I yield the gentleman 2 minutes for the purpose of allowing the gentleman from Illinois to continue his colloquy.

Mr. FINDLEY. Mr. Speaker, I am concerned that this legislation might grandfather in—that is, lock in permanently—a common ownership of publishing and broadcast interests, even though later on the circumstances of the market might change to a less competitive situation.

Can the gentleman assure me that such would not be the case?

Mr. SWIFT. If the gentlemen will yield, what I would say to the gentleman is that the likelihood of the circumstances the gentleman suggests occurring in a society that is growing, not reducing, is highly unlikely. I cannot think of an instance in which the circumstances would reduce ownership or rather reduce the population and, therefore, have the competition fall away, which is the only way in which the kind of situation that the gentleman raises could possibly exist.

Mr. FINDLEY. Let us return to the Washington situation. Until recently and perhaps even today the Washington Star was on a rather rocky course. There is no real assurance that this will continue to be a two-newspaper town.

Mr. Speaker, would this legislation, nevertheless, in a circumstance like this, lock in the possibility of publishing and broadcast ownership, even though the market became less competitive in years to come?

Mr. SWIFT. Not in this market, because there is no crossownership in this market.

I would further point out if the gentleman will continue to yield, that the Washington Star also owned a Washington television station which did a great deal to subsidize the operation of the Washington Star and one could argue, I think quite effectively, that it was because they were required to divest that we are in a situation where this city could become a one ownership town and that is not the only community in the United States where that could happen. I could cite Cleveland, Ohio, as well.

Mr. FINDLEY. Let me restate the question: Would this legislation lock in the right to common publishing and broadcasting ownership in a market which in the future lost its competitive characteristic?

Mr. SWIFT. The legislation grandfathers existing cost ownership situations until such time as they are sold.

Mr. BROYHILL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, unfortunately, I must rise in opposition to H.R. 6228, the Communications Crossownership Act of 1980. As one of the initial cosponsors of the bill, I feel that the crossownership provisions have been carefully drafted to effectively address the present state of uncertainty facing newspaper-affiliated licensees at renewal time. I strongly believe that Congress needs to establish basic ground rules affecting these combinations.

The original text of H.R. 6228 deals specifically with the continued mixed signals that the courts and the FCC have been sending about how a broadcast licensee's ownership and management structure will affect its chances for renewal, especially in cases of common ownership of newspapers and broadcast stations.

While I endorse the crossownership provisions of H.R. 6228, I regrettably cannot support passage of the bill on the House floor today due to the numerous controversial amendments adopted by the Commerce Committee.

These amendments include the reassignment of very high frequency (VHF) commercial television stations, repeal of an antifeatherbedding law, and grandfathering of certain broadcast license renewal challenges commenced before September 9, 1980. These amendments were not subject to hearings by the Communications Subcommittee. Indeed, the bill was just reported out of committee last Tuesday, affording little opportunity for executive comments or any indepth analysis.

Of particular concern is the amendment requiring the Federal Communications Commission to reassign VHF television frequencies from States with existent frequencies to States without such frequencies. The intent of this language is to address a situation in the States of New Jersey and Delaware where there presently do not exist VHF assignments.

At the outset, I want to say that I recognize the concerns of the proponents of this legislation and their desire to have better television coverage of local issues and problems. My own congressional district does not have VHF television stations. And I must say that it would be convenient to have such facilities in my district for many of the same reasons my colleagues propose. If the people of my district as well as the citizens of New Jersey and Delaware were without any kind of television service, then I probably would be more sympathetic with their cause. However, that is not the situation. The citizens of New Jersey are presently receiving both UHF and VHF television service as well as cable service.

In addition, the Commission has initiated a number of proposed rulemakings designed to provide more service to New

Jersey. These proposals included the provision of six new UHF television stations for New Jersey, the provision of two low-powered VHF dropins, requiring network affiliation with the five existing UHF television stations, and requiring the New York and Philadelphia VHF stations to establish a physical presence—for example, studio facilities—in New Jersey. As to the latter, the Commission is requiring the New York and Philadelphia stations to establish offices in New Jersey.

Moreover, the amendment as presently drafted is subject to numerous and conflicting legal interpretations which have the potential to create chaos with the existing FCC comparative license renewal process as well as the provision of new television service.

For instance, the language provides that the Commission shall assign VHF stations to any State without such broadcasting station at a time when "one or more stations become available." If, for example, an assignment becomes available from New York and such assignment is allotted to New Jersey, have the provisions of this amendment been met? Once such an assignment has been made what will occur should future assignments become available? In view of a congressional mandate as embodied in the amendment, would the FCC be compelled to reassign any and all available frequencies from New York or Philadelphia to New Jersey? At what point would the Commission be satisfied with meeting the provisions of this amendment?

Due to the vagueness of the language, it can be argued that there is no point at which such mandate would be met. Further, should the Commission feel it has met the mandate, what is to prevent differing interpretations by future Commissions which may lead to new policies over television assignments?

The language as presently drafted also has the potential to circumvent the comparative license hearing process, which normally affords all interested applicants, regardless of geographic location, a fair and equitable opportunity to own a broadcast license. Under the comparative hearing process, applications from States without VHF assignments would clearly be given a preference by the Commission over applications from States with VHF assignments. The effect is to diminish the role of the comparative hearing process and allow for preferences based on one's geographic qualifications rather than on legal, technical, financial, character, or broadcasting qualifications.

Because of these and numerous other unanswered questions, I cannot support this legislation and urge its defeat.

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Mr. VAN DEERLIN. Mr. Speaker, I thought we might deal first with the part of the bill that requires the repeal of the Lea Act. The author of that amendment was the gentleman from Ohio (Mr. MOTTL) to whom I yield 3 minutes.

Mr. MOTTL. Mr. Speaker, I urge that the House suspend the rules and pass H.R. 6228, the Communications Cross-Ownership Act of 1980.

I would like to take a moment to comment on a section of this bill repealing section 506 of the Communications Act of 1934. Section 506 is commonly known as the Lea Act, and also as the anti-Petrillo Act.

The Lea Act, when enacted, basically stripped musicians of the right to bargain on employment matters with the broadcasting industry.

It made musicians the only labor group to face criminal sanctions for nonviolent picketing.

The Lea Act was passed at a time of exceptional tension between professional musicians and broadcasters, caused by the increased reliance of broadcasters on recorded music rather than studio musicians.

The real need for this legislation was doubtful in 1946, and is nonexistent today. The Taft-Hartley Act, which regulates labor-management relations generally, is quite adequate to cover broadcasting industry labor practices.

Repeal of the Lea Act would end the status of musicians as second-class workers with a criminal statute aimed specifically at them.

I would add that repeal of the Lea Act in no sense suggests that broadcasters must turn back the clock and hire studio bands. It would mean, however, that musicians could again raise employment issues with broadcasters for discussion, negotiation, and public expression without facing threats of Federal prosecution.

It was our good friend, the late John Slack of West Virginia, who introduced a Lea Act repeal bill in this Congress. As usual, John was on the side of justice and fair play.

The House today can offer a fitting tribute to John and HARLEY STAGGERS by passing his Lea Act repeal bill, embodied in H.R. 6228.

Mr. VAN DEERLIN. Mr. Speaker, for what could well be his swan song appearance on any legislation in this House, after 32 years of devoted efforts, I am pleased to yield such time as he may consume to the chairman of the full committee, the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Speaker, I thank the subcommittee chairman for yielding to me. I hope this is not going to be my swan song. I hope there will be other legislation that we will be talking on before the end of this session.

Mr. Speaker, this amendment would repeal the Lea Act which was adopted in 1946 and is found in section 506 of the Communications Act of 1934. The Lea Act was adopted to prohibit organized musicians of their rights to bargain on employment matters with the broadcasting licensees. The Lea Act creates criminal sanctions for nonviolent picketing; these sanctions apply to no other labor group other than musicians. The Lea Act was adopted in 1946 to counter the activities of a notorious president of the American Federation of Musicians. At the time there was a greater reliance on the part of broadcasters on studio musicians than exists today. As broadcasters increased their reliance on recorded music, turmoil began to develop. While there probably was little real need for the legislation in 1946, there is absolutely no reason for this legislative language today. Legislation adopted since the Lea Act declares it unlawful as an unfair labor practice for labor activities to create featherbedding. Taft-Hartley Act—section 158(B)(6)—and extortion is prohibited by the Hobbs Act and other antiracketeering statutes.

Recommend that the Lea Act be repealed so that we may give the same labor rights to musicians that exists for all other members of the American labor force.

I worked with the late Honorable John Slack on the repeal of the Lea Act and I would consider it a fitting tribute for this amendment to be unanimously passed by the full committee.

Mr. RAHALL. Mr. Speaker, I rise in support of H.R. 6228 and most strongly in support of provisions that repeal the "Lea Act." As an individual whose family has long been involved in the broadcasting industry, and as a broadcaster myself, I want to point out at this time, that my support of this measure is based on a much broader principal. That principal, is the right of musicians to exercise their rights as workers in negotiations with broadcast stations.

Our late colleague, John Slack, introduced H.R. 4892, to repeal section 506 of the Communications Act of 1934, better known as the Lea Act. The provisions of Mr. Slack's bill are contained in this measure, and it is in his spirit, based on his support of the workingman, that I urge the support of H.R. 6228, to repeal this unfair law that has been buried in our statutes for over 40 years.

I certainly understand the debate that has been going on with regard to the other provisions of this legislation, but Mr. Speaker, we can no longer allow the Lea Act to remain the law of the land on this particular subject. We can no longer allow musicians, as union members, as citizens, as individuals, and as Americans to be deprived their rights of job security, fair wages, and dignity.

I commend the work of the American Federation of Musicians for their constant attempts to see this measure come to the floor, and particularly like to thank my good friend, Ned Guthrie, president of the Charleston, W. Va., musicians union for his tireless efforts. Mr. Guthrie, his members and his fellow musicians have long suffered from this injustice, and it is time for us to rectify it. In the spirit of what is right and good, I urge passage of H.R. 6228.

Mr. BROYHILL. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. RINALDO), the ranking minority member of the Subcommittee on Consumer Protection and Finance.

Mr. RINALDO. Mr. Speaker, I rise in support of H.R. 6228, the Communications Cross-Ownership Act of 1980, which is before us today. I urge all

Members to vote to suspend the rules and pass this legislation.

The purposes and benefits of this legislation have been very well explained by my colleagues. Basically, the bill would codify present FCC rules governing cross-ownership of broadcast licenses and newspapers in the same communities. These rules have been upheld by the U.S. Supreme Court, and their codification would provide for greater stability of ownership of broadcast licenses. The bill would also prohibit consideration of certain factors in license renewal proceedings, so that renewal consideration would focus on the programs and performance of the licensee.

I would like to direct my remarks primarily at another provision of this bill which is of great importance to the State of New Jersey. Other Members of the New Jersey congressional delegation and I have been working for many years to achieve the purpose of this provision—to provide that each State, including our own, has at least one commercial VHF television station.

New Jersey is in the unique position of having a population of nearly 8 million people who are not served by one single commercial VHF television station within their own State. Delaware is the only other State which lacks a VHF television channel.

New York City, with approximately the same population as the State of New Jersey, has six commercial stations. Although these channels broadcast into New Jersey, and into my congressional district, their coverage focuses on the city in which they are located and licensed. Consequently, New Jersey residents are deprived of the local orientation which a commercial VHF channel in our own State would provide.

Television has become the most important mass medium in terms of the size of its audience and the impact on viewers. It can provide immediate coverage of news, timely discussion of current events, and in-depth presentation and analysis of public issues. One of the most important contributions of local programing is the coverage of local, regional, and statewide news and events. But because there is no VHF television station located in the State of New Jersey, our entire State is shortchanged and deprived of this important public function.

Instead, New Jersey residents in my congressional district receive more television coverage of events in New York City than of occurrences in their own State and community. As a result New Jersey residents are not as well informed as their New York neighbors about their government, political campaigns, and what is happening in their own communities. It takes something as compelling as the recent fire and explosion at the Chemical Control Corp. in Elizabeth before New Jersey events receive television news coverage.

For a number of years, we in New Jersey have sought relief from the Federal Communications Commission to remedy this inequitable situation. But the FCC has been unresponsive in providing New Jersey with VHF television channel allocations comparable to other States. Instead, they have directed stations in New York and Philadelphia to improve their coverage of New Jersey news and to increase their "physical presence" in New Jersey.

This policy, however, has been ineffective in improving the situation. New Jersey needs and deserves a VHF station located and licensed in our State in order to establish a legal obligation to cover State and local news and events. A New Jersey station would be required to take into account the needs and interests of local viewers, and New Jersey residents would be able to have a meaningful part in programing.

Just last week, the FCC proposed an increase in VHF television service which could provide VHF channels for New Jersey and Delaware, in addition to many other communities throughout the Nation. However, even if this proposal is finally adopted by the FCC, it is only the beginning of a very long process before such channels would actually be allotted, constructed, and could begin operation.

The provision in H.R. 6228 would have a far more immediate effect on the two States which do not presently have commercial VHF television stations. By providing for the assignment of an existing channel, if one should become available, rather than the possibility of a new channell which has not yet been allotted, this provision offers more immediate relief for the inequitable situation which exists. It would also provide a tangible expression of congressional intent that the policy of our Nation should include a commercial VHF television station for each State.

The FCC has so far failed to provide New Jersey with its own commercial VHF station. In the interests of fairness, and good broadcasting policy, it is now up to the Congress to take this action. I urge the adoption of this legislation.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. RINALDO. I yield to my colleague from New Jersey.

Mr. THOMPSON. Mr. Speaker, I am pleased to rise in support of the Communications Crossownership Act of 1980. This bill contains a provision which, with strict safeguards for the rights of broadcasters, provides a mechanism for New Jersey and Delaware to obtain VHF stations. My State of New Jersey, with 8 million citizens; with "big league" sports teams like the New Jersey Giants, the New Jersey Nets, and the New Jersey Cosmos; and, with a thriving cultural life from the Papermill Playhouse to the Garden State Arts Centre, deserves to have its own television station.

I understand that because of objections to this specific provision some Members are actually going to oppose the entire measure. This is highly ironic. The purpose of this legislation—minus the New Jersey and pro-labor provisions—is to codify existing regulations which the FCC has pertaining to crossownership of broadcast stations and newspapers. We are codifying existing regulations with this bill because the FCC might change its mind and attempt to break-up the existing instances of crossownership it had previously approved. Thus, to prevent the Commission from exercising its own judgment, this legislation was introduced.

The champions of this position are critical of the New Jersey amendment by saying that Congress is invading the Commission's turf by directing the FCC to move stations to New Jersey and Delaware in an orderly fashion. Now consistency may be the hob-goblin of small minds but I would contend that the New Jersey language is utterly consistent with the thrust of the legislation. As a matter of public policy, Congress should tell the Commission to see that each State has at least one VHF station. As a New Jersey Representative, I believe it is important and urgent for Congress to do so.

□ 1340

Mr. BROYHILL. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. SCHEUER).

Mr. SCHEUER. Mr. Speaker, I rise in opposition to H.R. 6228, the Communications Crossownership Act of 1980. In the Committee on Interstate and Foreign Commerce, of which I am a member, several amendments were offered to correct the flaws in this legislation. Many of these amendments were defeated only by small margins, while others passed by similarly close votes.

Among the amendments rejected, was one offered by me which would have had the effect of substantially modifying section 3 of the bill. That section, as many of my colleagues are aware, would directly involve the Congress in allocating broadcasting frequencies.

Specifically, it would have the effect of transferring a television station from the State of New York to the State of New Jersey. It would also require the transfer of a television station from either Pennsylvania or Maryland to the State of Delaware.

I shall shortly discuss the merits, or lack thereof, of this proposal, but first I think it important to protest the format under which we today consider this bill. Many Members of the House, both on and off the Commerce Committee, wished to offer major amendments to this controversial bill. Yet, under suspension of the rules we are not afforded that opportunity.

For this reason alone I urge my colleagues to deny suspension of the rules so that we may have a chance to consider this bill in regular order and let the full House weigh the merits of various amendments to H.R. 6228, which, in its current form, is opposed by public interest groups and the broadcasting industry alike. This bill represents an inappropriate intervention by Congress with the regulatory process—the kind of intervention I have many times stood on this floor to speak out against.

H.R. 6228 seeks to determine the outcome of a specific licensing proceeding before the FCC, and it seeks to do so without the expertise and without the technical data base required for such a task. The fact is that last week, the FCC, of its own initiative, took an action which paves the way for television service in the State of New Jersey. The commission proposed a rule which would permit new VHF service for many areas of the country by relaxing a distance restriction which for years stood in the way of new frequency allocations.

While I do not necessarily endorse the FCC action, it does demonstrate the adequacy of the regulatory process to deal with specific and controversial communications issues, like this one.

H.R. 6228, by requiring the use of VHF service for New Jersey and Delaware, undermines the congressional intent of the 1962 All Channels Receiver Act. That legislation represents the view of Congress that UHF and VHF frequencies should achieve comparability. The act, and rulemakings by the FCC pursuant to it, mandated that all television sets be equipped with both UHF and VHF dials.

Testimony to the success of the act is the fact that in several parts of this Nation UHF channels have achieved comparability, if not superiority, to their VHF competitor. It would be unwise and imprudent for us today to wipe out 18 years of work toward comparability by passing a bill which contains amendments not the subject of lengthy hearings as the 1962 act was, and not at all in the public interest as the 1962 act is.

Finally, I must confess to a parochial interest in the outcome of this legislation, for, as I have mentioned, its passage will have a substantial negative impact on my home State of New York. Specifically, it will mean the loss of at least 250 jobs and tens of thousands of dollars in general tax revenue. Both of these commodities, jobs and money, are desperately needed by New York City at this time of great financial crisis.

It is pennywise and pound foolish to vote millions of dollars in aid to New York, and, at the same time, pass legislation which would take away its very means for permanent recovery and stability. Let me say in conclusion that I have enormous personal respect for the author of section 3, our distinguished colleague from New Jersey, ANDY MAGUIRE. But in this instance, I disagree with my valued friend, and so for the many reasons I have stated, I urge rejection of H.R. 6228.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. SCHEUER. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Speaker, I rise to oppose the consideration of this legislation under suspension of the rules. The suspension procedure is supposed to be reserved for noncontroversial bills and for the most part, we succeed in adhering to this prerequisite. However, we are deviating in a dangerous fashion with this bill before us.

I do not stand here in opposition to the legislation per se. It has some important provisions. However there are amendments to the bill added during full committee consideration which merit additional discussion in the Committee of the Whole House.

Section 3 especially disturbs me. In essence, the section would force the transfer of WOR–TV currently operating in New York City to New Jersey because at the present time New Jersey does not have a very high frequency television station. This section sets a bad if not dangerous precedent of having the Congress for the very first time involving itself directly in the area of assigning or reassigning VHF television outlets.

Further section 3 would mean the loss of several hundred jobs and tax revenues for the city of New York which is fighting to keep its tax and employment base solid for future growth. As Mayor Ed Koch stated in the attached telegram—

> On Tuesday, September 22, the House is scheduled to consider, under suspension of the rules, H.R. 6228, the communications Cross Ownership Act of 1980. The city strongly opposes section 3 of this bill which would have the likely effect of requiring the Federal Communications Commission to move the license of WOR–TV from New York to New Jersey. WOR–TV employs approximately 300 people in the city.
>
> Section 3 was added to the bill by Rep. Maguire who argued that New Jersey news coverage suffered from the absence in that State of a commercial VHF television station. Whatever the merits of that claim, the FCC and not the Congress would be the appropriate forum in which to press it. Moreover, the entire issue may have been rendered moot by an FCC decision yesterday to propose the addition of as many as 139 new VHF stations around the Nation of which at least 2 would probably be assigned to New Jersey. Unfortunately, the phrasing of H.R. 6228 would still require the transfer of the WOR–TV license. Notwithstanding the ultimate assignment of these 2 new licenses.
>
> By considering the bill under suspension of the rules, the House is being denied an opportunity to vote separately on this important and controversial matter. An amendment to alter this section in committee, offered by Jim Scheuer, lost by only 2 votes, 19–21.
>
> I urge you to vote against H.R. 6228 and allow the FCC to make the determination in this matter.

Mr. VAN DEERLIN. Mr. Speaker, will the gentleman yield?

Mr. SCHEUER. I yield to the gentleman from California.

Mr. VAN DEERLIN. Mr. Speaker, I hope the gentleman from New York (Mr. SCHEUER) does not wish to create the illusion that this legislation reassigns any television channels anywhere in the United States.

Mr. SCHEUER. Mr. Speaker, it is my understanding that if the current proposal as it relates to television station WOR in New York City results in a loss of the license to that station, this legislation would require the transfer of that license to New Jersey.

The SPEAKER pro tempore. The time of the gentleman from New York (Mr. SCHEUER) has expired.

Mr. BROYHILL. Mr. Speaker, I yield 3 additional minutes to the gentleman from New York (Mr. SCHEUER).

Mr. Speaker, will the gentleman yield?

Mr. SCHEUER. I am happy to yield to my colleague, the gentleman from North Carolina.

Mr. BROYHILL. Mr. Speaker, the language provides that the Commission shall assign VHF stations to any State or States without any commercial broadcasting stations at a time when—and I quote: "one or more stations become available * * *"

So if the station becomes available and the FCC has already taken that action to revoke the license up there, then that license will go over to New Jersey. But the language is very conflicting, because it says, "one or more."

What happens after such a time, in other words, 5 years from now, at a relicensing time for some station in that general area? Is the FCC under mandate by the Congress to take a license from some other community and give it to New Jersey? I think that a reasonable person could read this into the language which is contained in this amendment.

Mr. VAN DEERLIN. Mr. Speaker, will the gentleman yield?

Mr. SCHEUER. I am happy to yield to the gentleman from California.

Mr. VAN DEERLIN. Mr. Speaker, should WOR's ownership have exhausted all its appeals in the courts and the matter be left to the FCC for a new assignment, then it would be in order for the Commission to assign the license to the State of New Jersey, after which assignment the State of New York would be down to 30 VHF licenses and the State of New Jersey would have one.

Mr. SCHEUER. Mr. Speaker, what I am saying is that it would not just be in order for the FCC to do it; the FCC would have to do it. This legislation would mandate the FCC to do that.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield once again?

Mr. SCHEUER. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Speaker, the point we are making here is that this bill has no place on the suspension calendar. It should be defeated and brought up under a rule.

Mr. SCHEUER. I totally agree with my colleague, Mr. Speaker.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. SCHEUER. I am happy to yield to the committee chairman.

Mr. STAGGERS. Mr. Speaker, I would like to read the law as it now appears. The law states that—

> The Commission shall make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same.

If I might just make this point, this law is supposed to be applied equally all across America.

Mr. SCHEUER. Mr. Speaker, I cannot yield further.

Mr. Speaker, I want to finish by saying that the procedure by which this legislation has come to the floor is entirely wrong. This is obviously a bill surrounded by and embedded in controversy. The Members of the House should be entitled to work their will on the floor of this House.

Secondly, the procedure by which we are mandating the FCC and intervening in the regulatory process by ordering the FCC to transfer a particular television station license from one State to another State is an egregious example, a horrifying example, of unwarranted congressional intervention in a perfectly proper regulatory process that is ongoing and that promises swift results.

Mr. BROYHILL. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. GREEN).

Mr. GREEN. Mr. Speaker, I would like to join the distinguished ranking minority member of the Committee on Interstate and Foreign Commerce in opposing this legislation.

I share the gentleman's concern that a highly controversial and precedent-setting amendment was added to this legislation in full committee. It is not uncontroversial, it is very controversial, and in my opinion it sets a very dangerous precedent, because essentially it says that we are going to start getting the location of TV stations involved in the congressional log-rolling process instead of leaving it to the quasi-judicial process in the Federal Communications Commission.

Mr. MAGUIRE. Mr. Speaker, will the gentleman yield?

Mr. GREEN. I will yield very briefly to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Speaker, the point is that the law already says that there must be equitable distribution among the States.

Mr. GREEN. Yes, Mr. Speaker, but if I may reclaim my time, that is a very different thing from saying by statute, "Let us now change the process so that a specific station that is involved in a renewal proceeding will be transferred if that proceeding comes out adversely to the licensee."

Mr. MAGUIRE. Mr. Speaker, will the gentleman yield?

Mr. GREEN. I do not yield, Mr. Speaker.

That is a very controversial situation, and I think it is a very dangerous approach to the way we assign TV licenses. It certainly does not belong in a bill that is on the suspension calendar.

So I urge all my colleagues here, before we go down this route on this bill, which has now become a "Christmas tree" for all sorts of pet projects in regard to the FCC, please, let us not do this on the suspension calendar, where we do not have a right to offer amendments and to hear the arguments on those points and to work our will on those points. We are setting a very, very dangerous precedent here. This bill does not belong on the Suspension Calendar.

Mr. Speaker, let us vote it down, let them get a rule, and then we can debate each of these controversial points on the floor the way we ought to be doing.

Mr. VAN DEERLIN. Mr. Speaker, I yield 2 minutes to the distinguished dean of the New Jersey delegation, the gentleman from New Jersey (Mr. RODINO).

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Mr. RODINO. Mr. Speaker, I support H.R. 6228 and I urge the House to pass this important measure. The Communications Cross-Ownership Act of 1980 will rectify a terribly unjust situation with respect to New Jersey and Delaware.

New Jersey and Delaware are the only two States in the Nation that do not have any VHF television stations. The bill we are considering today designates that: First, there shall be at least one commercial VHF station in each State; and second, that if the Federal Communications Commission revokes or fails to renew the license of a broadcast station, it should assign that frequency to a State without service where it is technically feasible to do so.

Mr. Speaker, it is a national disgrace that New Jersey, the Nation's ninth most populous State, remains without a VHF station of its own. For too long the citizens of New Jersey have been deprived of adequate television coverage of New Jersey affairs. New York television stations, on which northern New Jersey citizens have to rely for news, ignore New Jersey issues and public affairs while focusing primarily on New York. New Jersey has too much industry, art, and educational activity to be so ignored by the major medium of our society. In fact, we have 30 percent of the viewing population for the New York stations and only 1 to 3 percent of the coverage.

The Federal Communications Commission has repeatedly declined to provide for a commercial VHF station in New Jersey, even though the Communications Act requires equitable television news coverage on the public airwaves.

The only way it would be possible to provide our citizens with the coverage they deserve is to pass this legislation, thereby giving New Jersey the opportunity to be treated with equity and fairness and I urge my colleagues to support it.

Mr. COURTER. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from New Jersey.

Mr. COURTER. Mr. Speaker, New Jersey and Delaware are the only two States in the Union which do not enjoy locally based VHF TV service operating within their boundaries. The Maguire amendment, with several protections for broadcasters, provides a process for the FCC to follow in order to move a station from a State which has more than one VHF station to the two States which have none.

Under the amendment, nobody loses a license. If the Commission fails to renew or revokes a license, it shall, where technically feasible, move that license to a State without VHF service. The amendment prevents the Commission from using the absence of a TV station in the affected States as an excuse to revoke or to fail to renew a license. The right to judicial review is fully protected.

The amendment, however, does give New Jersey and Delaware a mechanism for finally obtaining VHF television stations, and as such it is extremely important for these States.

Mr. EVANS of Delaware. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. I thank the gentleman for yielding, and I rise in strong support of H.R. 6228, the Communications Cross-Ownership Act of 1980, and particularly support its provisions which seek to correct the present inequities facing Delaware and New Jersey.

It is ironic that Delaware, the first State to ratify the Constitution, is the last State to get a television station.

Delaware and New Jersey share the dubious distinction as the only two States in the country without any local commercial VHF television stations. Some have said that Delaware does not need a television station, that we are well-served by out-of-State stations in Pennsylvania and Maryland.

The fact of the matter is that those who say this obviously have not watched Philadelphia television from a Delaware perspective. Television stations in Pennsylvania simply do not meet the needs of our State. The overwhelming majority of the viewers are Pennsylvanians and so naturally the programing reflects this audience. It seems that Delawareians who get their news from television are more aware of what is happening in the city council in Philadelphia, than what goes on in their own State Capitol in Dover. In short, Delaware has been treated very shabbily by Philadelphia television and as a result has not benefitted from television news programs like other parts of the country.

This legislation simply seeks to correct this serious inequity. The bill before us today offers a reasonable and fair answer to the problem without creating any new television licenses, nor mandating the moving of any existing license. It simply states that if the FCC, for whatever reasons, fails to renew a station's license, that station's license will, where possible, be tranferred to a State without an existing commercial VHF station.

I emphasize to my colleagues that what we are talking about today is simple equity. Why should Delaware and New Jersey be denied television outlets? Why should Delawareans be forced to depend on the leftover scraps of air time thrown in their direction by the powerful broadcasters from Philadelphia, Baltimore, and Washington? Why should Delaware be treated as a second-class citizen in this Nation of equal States?

I urge my colleagues to end this glaring inequity and vote for this much-needed legislation.

Mr. RODINO. Mr. Speaker, I want to commend the distinguished chairman of the Interstate and Foreign Commerce Committee, the gentleman from West Virginia, together with the chairman of the subcommittee, the gentleman from

California (Mr. Van Deerlin) for bringing this legislation to the floor. We are in this legislation establishing a policy. It is true, we are suspending the rules in order to pass legislation which will create equitable treatment for all of the States in the Union.

All this bill does is to state that there shall be at least one commercial VHF station in each State. Under the bill when the Federal Communications Commission revokes or fails to renew the license of a broadcast station, it should assign that frequency to a State without VHF service. This is all that the bill does. I urge the membership of this House to pass this legislation.

Mr. VAN DEERLIN. Mr. Speaker, I yield such time as he may consume to the gentleman from Hawaii (Mr. Akaka).

Mr. AKAKA. Mr. Speaker, I rise in support of this bill. Most importantly, H.R. 6228 will repeal the Lea Act which prohibits musicians from peaceful picketing, or withholding services in order to obtain job security, fair wages, or union recognition.

As a musician, I understand full well the onerous aspect of this law. As well as placing prohibitions on musicians which members of other unions are free to enjoy, this bill sets criminal penalties for violation of its provisions. The Lea Act is discriminatory since it prohibits a class of workers in one industry from engaging in acts that are legal for workers in other industries. Thus, for the musicians trade, methods of securing the legitimate goals of any worker are illegal and subject to penalty.

My support for this legislation is not without certain reservations about other parts of the bill. I feel that the manner in which the section dealing with cross-ownership has been brought to the floor is improper for a bill of this nature. The action which it seeks to make is anything but technical and uncontroversial. Nonetheless, my longstanding support for the repeal of the Lea Act weighs very heavily in my decision today.

Mr. VAN DEERLIN. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. Simon).

Mr. SIMON. Mr. Speaker, some of the Members may remember that 4 years ago I served as chairman of a very unsuccessful effort to draft Hubert Humphrey for the Democratic nomination for President. I was asked by my friends in New Jersey to come up and aid the effort, and they said, "We ought to have a couple of press conferences." I was appalled to find out that, to reach the people of New Jersey, you had to go to New York City and Philadephia and then hope that the people in New Jersey might happen to catch one of those stations on the dial.

It just seems to me that it is fundamental in this country in this television age that the State of Delaware and the State of New Jersey ought to have the opportunity for their own television station.

So I rise in strong support of this legislation, Mr. Speaker.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Texas.

Mr. KAZEN. Why is it that FCC cannot decide this? Why do we in the Congress have to mandate these things?

Mr. SIMON. Up to this point, they have not done it and so since they have not acted, I favor our acting.

Mr. VAN DEERLIN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Louisiana (Mrs. Boggs).

Mrs. BOGGS. Mr. Speaker, the key reason for suspending the rules and passing H.R. 6228 is the issue of "regulatory discretion."

If there is one appropriate characterization for the 96th Congress, it is that we are exceedingly skeptical about giving the regulatory agencies a free hand to do as they please.

H.R. 6228 tells the FCC two things about the way the Commission should handle license renewals: First, the existing regulations which grandfather existing instances of broadcast cross-ownership are good and they should not be changed; second, the Commission should only use the quality of a broadcaster's performance and not the extent of his media holdings as a basis for determining whether or not his license should be renewed. Congress must bind the Commission to these two policies.

There is another message to the Commission regarding the New Jersey issue. As the gentleman from New Jersey has said for 20 years, the 8 million people of New Jersey have been trying to get a television station in their State. The Commission has steadfastly refused each request. The House Commerce Committee believes that as a matter of public policy all States should have at least one VHF station. H.R. 6228 contains a mechanism to assure enactment of this policy.

I urge the passage of H.R. 6228 to insure that these messages from Congress are heard distinctly by the members of the Commission.

Mr. VAN DEERLIN. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. Howard).

Mr. ROE. Mr. Speaker, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Speaker, I appreciate the gentleman's yielding, and I rise in strong support of this legislation. I think Congress act affirmatively. For too many years, I and my colleagues in the New Jersey congressional delegation have been fighting a long battle with the FCC to convince them of New Jersey's basic right to have its own VHF television station. The FCC, through a myriad of conflicting decisions has, in effect, told New Jersey that it would not be economically feasible to begin such an operation which is ridiculous.

Well, I say that economics is a fallacious issue. The major television stations in both New York City and Philadelphia have made it very clear, that it is their influence and power and not the voice of the people that controls FCC decisionmaking.

The time has come, and not a minute too soon, for the Congress to take a leading role in this issue. I am sure that my colleagues will see the deep injustice that New Jersey, with a population of more than 7 million people, does not have its own VHF station.

The people of my State are totally dependent on the whims of the major stations in both New York and Philadelphia to deliver programs and news broadcasts dealing with the issues that concern them. Studies taken by several groups have shown that coverage is minimal at best. Even the FCC agrees that New Jersey does not receive enough television coverage from the major networks, but they refuse to take any steps to correct the situation.

In 1957, the FCC had recognized New Jersey's general need for VHF television service and that the citizens of my State were "deprived of sufficient local views or public affairs programing."

But instead of assigning New Jersey a VHF channel, the FCC attempted to persuade New York and Philadelphia stations to increase their New Jersey programing, to establish a "physical presence" in the State, or to increase the number of small UHF stations. All these pallatives have been a dismal failure.

We must act now to correct the apparent refusal by the FCC to do what is right. H.R. 6228 is legislation that will, once and for all, put an end to New Jersey's treatment as a second-class citizen by the FCC.

It is truly an outrage that New Jersey and Delaware are the only States in the Nation without a VHF station.

Mr. HOWARD. Mr. Speaker, I would like to clarify what the Communications Cross-Ownership Act does and does not do to provide commercial VHF television stations for New Jersey and Delaware.

The amendment, which was accepted by the Interstate and Foreign Commerce Committee, will fully protect the rights of all broadcasters. If the FCC declines to renew, or revokes, a VHF TV license, it must move that station from a State which has more than one VHF station to a State which has none, if that is technically feasible. I would point out that H.R. 6228 gives broadcasters the right to appeal this decision. The FCC is enjoined from moving the station prior to the exhaustion of all appeals. Furthermore, the bill does not permit the Commission to use the absence of a TV station in the affected States as an excuse to deny renewal.

The bill simply provides New Jersey and Delaware a mechanism for ultimately obtaining a VHF station if and when the FCC does not renew, or revokes, another station and that station's appeals are denied.

The inequity of this situation must be remedied. States with small populations, such as Alaska and Nevada, have 10 and 8 VHF stations, respectively, while New Jersey, with 7,300,000 people, does not have a single station.

We have not been able to get the Federal Communications Commission to take action on this problem, so it is up to the Congress to provide a remedy. Over a period of years, the FCC has issued three report and orders on the New Jersey problem, and in all that time they did not deal with the issue to anyone's satisfaction.

We have turned to the Congress now to provide an equitable solution—a solution which protects the rights and interests of all States and broadcasters, a solution which is cautious in the best tradition of American judicial process. I urge my colleagues to support this provision of H.R. 6628.

Mr. BROYHILL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I want to say that all we are asking here is to have this bill brought up under regular procedure. The amendments that are presently included in this bill are subject to numerous and conflicting legal interpretations, and they are going to have a result in giving chaos, particularly to the existing comparative license renewal process.

For example, the language which is in the bill at the present time provides that the Commission shall assign a VHF station to any State that does not have such a broadcasting station at a time when one or more stations become available.

Now, if a license becomes available from, say, New York or Pennsylvania, then the FCC is under mandate to shift that license to another State.

Now, what if another license comes up at some future time? It would seem to me that the language would say that again the FCC is under mandate to shift those licenses over to this State. And if the FCC should not take that action, they may be under some problem with the States if they should enter suit with the courts.

In other words, we are going to have differing interpretations by future commissions, we are going to have different interpretations by the courts as to what this language means. And what this language does is to circumvent the comparative license hearing process. The license hearing process affords the opportunity for all interested applicants, regardless of where they are located. It gives them a fair and equitable opportunity to own a broadcast license.

Now, under this language, applications from States without VHF assignments would clearly be given a preference. In other words, the effect is to diminish the role of the comparative hearing process and permit the preferences to be based on geographic qualifications rather than on legal or technical or financial character of broadcast qualifications.

All I am asking is that this bill be defeated on suspension of the rules and brought up under the normal procedures, under a normal rule.

Mr. COURTER. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from New Jersey.

Mr. COURTER. Mr. Speaker, I would just like to emphasize to my colleagues that this bill in no way requires that anyone lose a license. It just establishes a procedure such that two States can get it through a proper procedure which does not waive judicial review and does not waive other types of safeguards. It does not create a loss to anybody.

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Mr. VAN DEERLIN. Mr. Speaker, I yield for a unanimous-consent request from the gentleman from Texas (Mr. BROOKS).

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO FILE REPORT

Mr. BROOKS. Mr. Speaker. I ask unanimous consent that the Committee on Government Operations may have until midnight tonight to file a report.

The SPEAKER pro tempore (Mr. GUDGER). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. VAN DEERLIN. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. Mr. Speaker, I rise in support of the bill.

Mr. Speaker, I rise in strong support of the Communications Cross-Ownership Act of 1980. This bill provides important stability to the broadcast license renewal process while maintaining broadcasters' public interest responsibilities.

H.R. 6228 concerns the Federal Communication Commission's regulation of instances where a broadcast station owns a newspaper, and it provides congressional approval of existing FCC rules on this controversial issue.

Much of the discussion this afternoon has centered on the implications of the amendment requiring the FCC to distribute at least one VHF television license to each State. I join with the members of the New Jersey delegation in strong support of this amendment. New Jersey citizens have for too long been deprived of locally based news and public affairs programing on VHF. Appeals to the FCC for consideration in this situation have still not yielded equitable service. By amending the Communications Act to clarify that each State should have at least one VHF station, Congress can provide an opportunity for VHF license through the regular FCC channels.

This amendment wisely specifies that this new policy concerns only those situations where a license becomes available after all opportunity for judicial review. Thus, any fears that New Jersey will obtain a station from another State improperly are unfounded.

As a member of the Commerce Committee, I strongly supported the inclusion of this language in H.R. 6228, and I urge all my colleagues to vote in favor of this bill. This will allow the opportunity for a permanent and proper solution to this problem that has existed for the people of the Nation's ninth most populous State.

Mr. VAN DEERLIN. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. GUARINI).

Mr. GUARINI. Mr. Speaker, I ask that the State of New Jersey, the third State to ratify the Constitution of the United States, not be forgotten and disenfranchised as Delaware was.

Mr. Speaker, H.R. 6228, the Communications Cross-Ownership Act, is an excellent piece of legislation that addresses itself to a situation that is unique to New Jersey and Delaware. These are the only two States in our Nation that are currently without a commercial VHF television station.

Residents of my State must currently rely on UHF stations, or on the commercial VHF stations in New York or Pennsylvania for their news and public affairs programing. This is an unconscionable situation for a major State, a State of 8 million people, the State that ranks 9th in both population and productivity.

This inequity denies our citizens access to television news geared to local reportage. It denies our business community a fair opportunity to advertise in the marketplace, and it inhibits the activities of our regional governing bodies, to the detriment of both challengers and incumbents alike. In a word, it deprives the citizens of New Jersey and Delaware of the social, political, and economic advantages that the rest of our Nation enjoy.

The Communications Cross-Ownership Act seeks to alleviate this unfair situation by assuring that at least one commercial VHF television station shall be assigned to each State, and by mandating as well, that in those cases involving license revocations, the FCC should assign the frequency in question to a State without any service—providing that it is technically feasible to accomplish.

The absence of a local television station can have a profound political and economic impact on a State and its citizens. In a nation where almost every State has many stations located in virtually every city or town of any size, all States are entitled to coverage from at least one television station located within its own borders. I cannot stress too strongly how deeply the residents of my State feel toward this situation, or allude to the beneficial impact that a positive response to this opportunity would engender.

The absence of a commercial television station in New Jersey has been an issue for decades. Our people know it, our State's image and economy has suffered because of it, and even the FCC has recognized it.

In 1976, the FCC publicly concluded that the State of New Jersey did not have adequate locally oriented television broadcast service. In fact, late last year, Commissioner Joseph Fogarty stated:

> We are still inclined to the same feeling. I fear that those observing the quest for the remedy may be getting the impression that they are witnessing a regulatory shell game.

Despite the FCC's efforts to increase the amount of New Jersey coverage by the New York City and Philadelphia commercial stations, the results have been less than satisfactory. It is equally evident than an increase in the UHF stations will not adequately meet the demand of the 8-million-strong viewing market in New Jersey. It is now clear that only a statewide commercial VHF television station is capable of serving its people in a credible, comprehensive, and complete manner.

New Jersey and Delaware have long been the forgotten States in an era when television has become our national, and most essential, media. Its residents have continually sought to receive equitable broadcast representation, and are keenly aware of the absence of fair and just coverage of their respective States.

In 1978, former FCC Commissioner Glen O. Robinson stated it is "up to Congress to provide a permanent solution to problems of service inadequacy in New Jersey."

Mr. Speaker, H.R. 6228, the Communications Cross-Ownership Act is that solution. It is equitable, it is fair, it is magnanimous. I urge my colleagues to vote favorably on this viable and necessary legislation so as to assure all of our citizens of equal access to the media outlets and communication channels of our society.

Mr. VAN DEERLIN. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey (Mrs. Fenwick).

Mrs. FENWICK. Mr. Speaker, I rise in strong support of this bill.

Mr. VAN DEERLIN. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. Collins).

Mr. COLLINS of Texas. Mr. Speaker, I think the cross-ownership provisions of this legislation are critically important to bring some sense of reason and stability to the existing license renewal process.

As a sponsor of this legislation, I strongly believe the bill addresses the intolerable state of uncertainty which exists regarding renewal of a broadcasting license if it involves a broadcaster who is also affiliated with a daily newspaper. As a result of various court decisions, broadcast licensees are threatened with denial of their license, not for having failed to meet their obligations to serve the public interest, but rather, simply because they happen to be affiliated with a newspaper. The cross-ownership provisions of H.R. 6228 help to insure that a licensee will be judged on his broadcast record as well as his compliance with FCC rules and policies, and not on whether he is affiliated with a newspaper.

I would also like to address one of the more controversial provisions of this legislation which deals with the provision of VHF television service for New Jersey and Delaware. I would like to address my concerns to the sponsor of the amendment, the gentleman from New Jersey (Mr. Maguire). Basically I have two concerns:

First, there has been considerable discussion over the amendment's implications for judicial review of any FCC determination to decline to renew or revoke. As the gentleman knows, section 702 of the Administrative Procedures Act permits a party subject to an order by a Federal agency to receive full and final judicial review of that finding. However, can the gentleman be more specific as to the bill and cite precisely how the existing language will not affect final judicial review of an FCC determination?

Second, I would like to know whether this amendment would indeed, set a precedent whereby the Congress would involve itself in the individual broadcast assignment decisions. Are we not, indeed, doing just that and by our actions establishing a record that may have a bearing on future FCC regulatory proceedings regarding frequency assignments?

Mr. VAN DEERLIN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. Ottinger).

Mr. OTTINGER. Mr. Speaker, I rise in support of this legislation.

I would like to point out to my friends in New York, as far as getting a station in New Jersey is concerned, we had 31 stations in New Jersey; none of those licenses is going to be revoked. As has been said here, all it does is give the opportunity, if a license is revoked, for New Jersey to get its first station.

It seems to me that New Jersey voted solidly, 100 percent for New York when we needed their help. We ought to help them. It is our interest to help them in this situation.

Mr. VAN DEERLIN. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. Maguire).

Mr. MAGUIRE. Mr. Speaker, 30 percent of the viewers of New York City's seven stations are New Jerseyans. We get about 1 or 2 percent of the news. Basic equity in the law requires fairness in distribution of the airwaves. We are saying that we want fairness.

Our proposal does not deprive anyone of a license, as several of the opponents in this debate have inaccurately said it would. Every existing license is protected unless and until a revocation occurs for other reasons and that revocation is upheld in the courts. Then and only then could a broadcast channel be reassigned—at which point any and all potential licensees could apply. The only thing that would need to change would be the obligation of the licensee to provide proper coverage to its assignment area, in which case New Jersey would finally have at least one of the seven metropolitan area stations obliged to cover New Jersey news and events. What could be more fair, more in line with existing law requiring equitable distribution of assignments among the States?

The Commerce Committee bill provides the first opportunities for the States of Delaware and New Jersey to obtain VHF commercial television stations. These two States are completely dependent upon external media markets in Philadelphia, Baltimore, and New York City, which devote inadequate coverage to the economic, social, political, and religious activities of their citizens. This provision, section 3 of the bill of which I am the author, will provide an orderly mechanism, while fully protecting broadcasters' rights, to transfer stations from States with more than one VHF station to the two which have none.

This struggle to resolve our chronic problem of inadequate service and television coverage has continued—in New Jersey's case—for nearly 20 years. I was gratified by the Commerce Committee's initial 25 to 17 vote of approval for my amendment; but somewhat mystified by the comments of its critics. They charge:

One: That this provision was never the subject of hearings. The fact is that hearings were held in 1976, 1978, and 1979, by the Subcommittee on Communications on nearly identical amendments.

Two: That this matter can be cured by technology. The FCC has admitted that low-powered V's, VHF drop-ins, and UHF stations will never supplant high-powered, big league VHF commercial stations. These alternatives are inadequate.

Three: That frequency allocation should be left to the FCC. The Commerce Committee voted, as a matter of public policy, to redress an obvious anamoly in the allocation of frequencies. New Jersey, the eighth most populous State has no TV stations. Towns in Montana, for example, with less than 12,000 in population, do. Clearly, after 20 years, action should be taken.

We are not a body that is reluctant to engage in regulatory fine-tuning when the system has obviously failed; indeed, we have an obligation to act when the intent of existing law is being frustrated, as in this case. The New Jersey situation is one crying out for congressional action.

This measure has genuine bipartisan support. Our colleagues Representative Matthew Rinaldo, Representative Sam Devine, Representative Norman Lent, Representative William Dannemeyer, all supported this measure before the Commerce Committee. I would urge all Members of the House to join us in supporting H.R. 6228, Al Swift's Communications Cross-Ownership Act of 1980.

● Mr. MATSUI. Mr. Speaker, I rise in support of H.R. 6228. H.R. 6228 deserves support for it provides for the repeal of an onerous labor law. H.R. 6228 repeals the Lea Act.

Section 506 of the Communications Act, or the Lea Act represents nothing more than an outdated aberration of Federal communication policy. It places unjust restrictions on the legitimate, and otherwise lawful, labor practices of this country's musicians and actors. It deserves to be repealed.

The Lea Act was originally passed in 1946 to protect broadcasters from coercive employment demands. The act provides that it is unlawful by the use of force, violence, intimidation, or duress, or by the use of other means to coerce, compel or constrain an FCC licensee: To employ or agree to employ any person in excess of the number of employees needed to perform actual services; to pay for preparing or using recordings in broadcasts, or to accede to any restriction in the use of recordings or programs in the production of broadcasts. I want to emphasize the ambiguity in the language "the use of any other means." For it is this overly broad and unclear standard which defines criminal conduct.

The Lea Act has been construed by the courts to make activity that is lawful under the Taft-Hartley Act, if the employer is not an FCC licensee, criminal if the employer is an FCC licensee. This discriminatory standard has impaired the right of musicians and actors to engage in labor negotiations to obtain the legal goals of job security, fair wages, and recognition. This cannot be tolerated in 1980. Moreover the statute has had a significant chilling effect on musicians' and actors' freedom of expression. The courts have held that the picketing of an FCC licensee's place of business by a musicians' union violates the Lea Act and is thereby illegal.

The LEA Act is unnecessary for the protection of broadcasters. Any labor activity seeking to create featherbedding is unlawful under the Taft-Hartley Act. Anti-racketeering statutes protect against coercion. In fact, since the passage of the Act the FCC has no record of action taken pursuant to the section. In the last 5 years, the Justice Department has conducted only four criminal investigations under the statute, with prosecution being denied in each instance.

The Iea Act is a labor law and a discriminatory labor law in that. It has no place in Federal communication legislation. Today we have the opportunity to strike this antiquated anomaly from the codes. Today we have the opportunity to restore to musicians and actors the right to be regulated, like all other laborers, by the Taft-Hartley Law. I ask for your support in this effort. I ask for your support of H.R. 6228.●

Mr. VAN DEERLIN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. VAN DEERLIN) that the House suspend the rules and pass the bill, H.R. 6228, as amended.

The question was taken.

Mr. BROYHILL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 7039 and H.R. 6228.

Mr. BREAUX. Mr. Speaker, I ask unanimous consent that a vote by the yeas and nays on the first motion to suspend the rules and pass the bill, H.R. 5340, postponed from yesterday, be reduced to a minimum of 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisana?

There was no objection.

AMERICAN FISHERIES PROMOTION ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 7039, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisana (Mr. BREAUX) that the House suspend the rules and pass the bill, H.R. 7039, as amended.

The question was taken.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 300, nays 97, answered "present" 1, not voting 34, as follows:

[Roll No. 573]

YEAS—300

Addabbo
Akaka
Albosta
Ambro
Andrews, N.C.
Annunzio
Anthony
Applegate
Archer
Ashley
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carney
Carr
Chappell
Chisholm
Clausen
Clay
Coelho
Coleman
Collins, Ill.
Conte
Conyers
Corman
Cotter
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Dickinson
Dicks
Dingell
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Emery
English
Ertel
Evans, Del.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Ginn
Goldwater
Gonzalez
Gore
Gramm
Gray
Green
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Kildee
Kindness
Kostmayer
LaFalce
Lagomarsino
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
McClory
McCormack
McDade
McHugh
McKay
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Railsback
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Russo
Sabo
Scheuer
Sensenbrenner
Shannon
Sharp
Shelby
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stark
Steed
Stenholm
Stewart
Stokes
Studds
Stump
Swift
Synar
Tauzin
Thompson
Traxler
Trible
Udall
Ullman
Vander Jagt
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wolff
Wolpe
Wright
Wyatt
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—97

Abdnor
Alexander
Anderson, Calif.
Andrews, N.Dak.
Ashbrook
Aspin
Badham
Bereuter
Bingham
Burgener
Cheney
Cleveland
Clinger
Collins, Tex.
Conable
Corcoran
Coughlin
Crane, Daniel
Crane, Philip
Dannemeyer
Devine
Dornan
Edgar
Edwards, Okla.
Erdahl
Erlenborn
Evans, Ind.
Fenwick
Findley
Fish
Frenzel
Giaimo
Gilman
Gingrich
Glickman
Goodling
Gradison
Grassley
Grisham
Hagedorn
Hamilton
Hansen
Jacobs
Jeffords
Jeffries
Johnson, Colo.
Jones, Okla.
Kastenmeier
Kemp
Kogovsek
Kramer
Latta
Leach, Iowa
Lee
Lundine
Lungren
McCloskey
McEwen
McKinney
Madigan
Mazzoli
Michel
Moorhead, Calif.
Patterson
Paul
Pease
Petri
Porter
Quillen
Regula
Rhodes
Ritter
Rosenthal
Rousselot
Roybal
Royer
Rudd
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Shumway
Shuster
Simon
Skelton
Stanton
Tauke
Thomas
Van Deerlin
Vanik
Whittaker
Wilson, Bob
Winn
Wydler
Wylie
Yates

ANSWERED "PRESENT"—1

Bedell

NOT VOTING—34

Anderson, Ill.
Bowen
Brown, Ohio
Butler
Carter
Cavanaugh
Davis, Mich.
Derwinski
Dixon
Edwards, Calif.
Evans, Ga.
Heftel
Holtzman
Ichord
Jenkins
Jenrette
Leach, La.
McDonald
Mineta
Moore
Murphy, N.Y.
Musto
Myers, Pa.
O'Brien
Santini
Satterfield
Stockman
Stratton
Symms
Taylor
Vento
Wilson, C. H.
Wirth
Young, Alaska

☐ 1420

The Clerk announced the following pairs:

On this vote:

Mr. Evans of Georgia and Mr. Musto for, with Mr. McDonald against.

Mr. Jenrette and Mr. Dixon for, with Mr. Derwinski against.

Mr. Moore and Mr. Taylor for, with Mr. Symms against.

Mr. Young of Alaska and Mr. Davis of Michigan for, with Mr. O'Brien against.

Until further notice:

Mr. Satterfield with Mr. Stockman.
Mr. Santini with Mr. Leach of Louisiana.
Mr. Wirth with Mr. Brown of Ohio.
Mr. Cavanaugh with Mr. Butler.
Mr. Edwards of California with Mr. Carter.
Mr. Charles H. Wilson of California with Mr. Jenkins.
Mr. Stratton with Ms. Holtzman.
Mr. Bowen with Mr. Anderson of Illinois.
Mr. Heftel with Mr. Ichord.
Mr. Mineta with Mr. Myers of Pennsylvania.

Messrs. CHENEY, GILMAN, DORNAN, and KEMP changed their votes from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. BREAUX. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries be discharged from the further consideration of a similar Senate bill (S. 1656) to provide for a national program of fisheries research and development, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1656

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Fishery Development Act".

Sec. 2. It is the intention of Congress in enacting this Act that the moneys provided hereunder shall be made available for the development of all fisheries of the United States, including coastal and distant water fisheries.

Sec. 3. Section 2 of the Act of August 11, 1939 is amended to read as follows:

"Sec. 2. (a) The Secretary of Agriculture shall transfer to the Secretary of Commerce each fiscal year, beginning with the fiscal year commencing October 1, 1979, from moneys made available to carry out the provisions of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), an amount equal to 30 percent of the gross receipts from duties collected under the customs laws on fishery products (including fish, shellfish, mollusks, crustacea, aquatic plants and animals, and any products thereof, including processed and manufactured products), which shall be maintained in a separate fund and used by the Secretary of Commerce for—

"(1) financial assistance for the purpose of carrying out fisheries development projects, including any biological, technological or other research pertaining to American fisheries, approved under subsection (c) of this section; and

"(2) implementation of the national fisheries research and development program approved under subsection (d) of this section.

"(b) Any person, public or private institution, fishery development foundation, or other organization may, for the purpose of planning or implementing a fishery development project or projects, make application for moneys made available under the provisions of subsection (a) of this section. For the purposes of this section, the term 'person' means any individual who is a citizen or national of the United States or any corporation, partnership or other association organized under the laws of any State of the United States, the District of Columbia, Puerto Rico, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, or any other Commonwealth territory or possession of the United States.

"(c)(1) The Secretary shall specify the information to be contained in any application for funds made available under the provisions of this section to ensure compliance with applicable Federal law and to provide for the full and proper evaluation of such applications. Prior to approval for funding, the Secretary shall evaluate each proposed project as to (A) soundness of design, (B) possibilities of securing productive results, (C) minimization of duplication among fishery development projects, (D) the organzation and management of the project, (E) methods proposed for monitoring and evaluating the success or failure of the project, and (F) such other criteria as the Secretary may require.

"(2) The Secretary shall obligate funds for applications submitted under the provisions of this section pursuant to regulations adopted hereunder. Applications shall be submitted to the Secretary at such times and manner as is set forth in such regulations: *Provided,* That in no event shall the dates for submission and approval of application be less often than every 6 months, and all applications must be approved or rejected within 6 months of the deadline established for their receipt by the Secretary.

"(3) The Secretary shall require the person or organization obtaining funds under the provisions of this Act to submit periodic project status reports.

"(4) The Secretary shall submit to Congress along with the annual report required by section 9(a) of the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742h(a)), a report containing an analysis and evaluation of all programs funded under this Act. Such report shall include, but not be limited to—

"(A) a list of those applications funded under this section, the amount of funding provided, and a list of those applications not approved for funding;

"(B) an assessment of the extent to which the objectives of the funded project have been obtained and the information obtained from the project;

"(C) the extent to which the funded projects have contributed to fishery development; and

"(D) the programs funded under subsection (d) of this section and the levels of such funding.

"(d)(1) The Secretary is hereby authorized to carry out a national program of fisheries research and development. The Secretary may use moneys made available under subsection (a) of this section to promote the free flow of domestically produced fishery products in domestic and international commerce by conducting fishery educational programs and fishery technological, biological, marketing, and related research programs.

"(2) The Secretary shall, 60 days in advance of the fiscal year in question, transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Merchant Marine and Fisheries a plan containing fisheries development goals and funding priorities for the approaching fiscal year. In addition, the Secretary shall submit to such committees interim status reports on each of the projects funded hereunder and an annual report on the status of each project funded hereunder, including the amount of money actually expended on each such project.

"(e)(1) Not less than 50 percent of the moneys made available under subsection (a) of this section shall annually be made available by the Secretary to fund projects or programs proposed under subsection (c) of this section.

"(2) The remainder of such moneys shall be available to implement the national fisheries research and development program established under subsection (d) of this section.

"(3) Moneys not obligated pursuant to paragraph (1) of this subsection shall remain in the fund without fiscal year limitation and shall be made available by the Secretary to fund projects or programs proposed under subsection (c) of this section. Moneys not obligated pursuant to paragraph (2) of this subsection shall remain in the fund without fiscal year limitation.".

Sec. 4. (a) To carry out export promotion and other fishery development responsibilities the Secretary shall appoint not fewer than six officers who shall, with the concurrence of the Secretary of State, serve abroad to promote United States fishing interests. Such officers shall have the designation of Regional Fisheries Attachés and shall be accorded the same status and privileges as those of other attachés in United States Embassies. Such attachés will be employees of the Department of Commerce.

(b) Upon the request of the Secretary the Secretary of State shall officially assign the officers to the diplomatic mission of the United States in the country in which such officers or employees are placed by the Secretary of Commerce, and shall obtain for them diplomatic privileges and immunities equivalent to those enjoyed by foreign service personnel of comparable rank and salary.

(c) The Secretary of State shall provide office space, equipment, facilities, clerical services, and such other administrative support as may be required for the officers and their families affected by this section.

(d) The Secretary may make such rules and regulations as may be necessary to carry out the purposes of this section.

Sec. 5. Any balance of funds remaining in, or other assets of, the fisheries loan created by section 4(c) of the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742c(c)), as of September 30, 1980, shall at the close of that date be transferred to the Federal Ship Financing Fund established under title XI of the Merchant Marine Act of 1936, as amended (46 U.S.C. 1271–1279b), to be used for the purposes hereafter set forth. In addition to continuing to provide the normal activities specified in such title for fishing vessels, the Secretary shall thereafter also provide for the guarantee of obligations relating to fishing vessels engaged in developing fisheries which might not otherwise meet the normal economic soundness criteria of that title. The Secretary shall amend the rules and regulations relating to the fishing vessel portion of title XI to specify the conditions under which fishing vessels engaged in developing fisheries will qualify for the guarantee of obligations.

Sec. 6. For the purposes of this Act, the term "Secretary" means the Secretary of Commerce.

Sec. 7. (a) Subsection (a) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177(a)), is amended to read as follows:

"(a) Agreement Rules.—Any citizen of the United States owning or leasing one or more eligible vessels (as defined in subsection (k)(1)), or one or more fisheries facilities (as defined in subsection (k)(9)), may enter into an agreement with the Secretary of Commerce under, and as provided in, this section to establish a capital construction fund (hereinafter in this section referred to as the 'fund') with respect to any or all of such vessels or fisheries facilities. Any agreement entered into under this section shall be for the purpose of providing—

"(1) replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States for operation in the United States, foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States; or

"(2) replacement, additional, or reconstructed fisheries facilities and shall provide for the deposit in the fund of the amounts agreed upon as necessary or appropriate to provide for qualified withdrawals under subsection (f). The deposits in the fund and all withdrawals from the fund whether qualified or nonqualified shall be subject to such conditions and requirements as the Secretary of Commerce may by regulations prescribe or are set forth in such agreement; except that the Secretary of Commerce may not require any person to deposit in the funds for any taxable year more than 50 percent of that portion of such person's taxable income for such year (computed in the manner provided in subsection (b)(1)(A)) which is attributable to the operation of the agreement vessels or fisheries facilities or from the sale or marketing of fish or fish products (as defined in paragraphs (11) and (12) of subsection (k)).".

(b) Subsection (b) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177 (b)) is amended—

(1) in subparagraph (A) of paragraph (1), by inserting "or which is attributable to the operation of the agreement fisheries facilities or from the sale or marketing of fish or fish products" before the comma at the end thereof;

(2) in subparagraph (B) of paragraph (1) by inserting "or fisheries facilities" after "vessels"; and

(3) in subparagraph (C) of paragraph (1) and in paragraph (2) by inserting "or fisheries facility" after "vessel" each place it appears.

(c) Subsection (f)(1) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177 (f)) is amended—

(1) in subparagraph (A) by inserting "or a fisheries facility" after "vessel"; and

(2) in subparagraph (C) by inserting ", a fisheries facility," after "reconstruction of a qualified vessel".

(d) Subsection (g) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177 (g)) is amended—

(1) in paragraphs (2) and (3) by inserting "fisheries facility," after "vessel," each place it appears; and

(2) in paragraph (4) by inserting "fisheries facilities," after "vessels,".

(e) Subsection (k) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177 (k)) is amended by adding at the end thereof the following new paragraphs:

"(9) The term 'fisheries facilities' means all or a portion of any new or used structure (or appurtenance thereto), located in the United States, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and any other Commonwealth, territory or possession of the United States, which is designed or used for the landing, receiving, processing or other treatment, distribution or storage of fish or fish products, and includes any associated land, equipment, or machinery.

"(10) The term 'agreement facility' means any fisheries facility which is subject to an agreement entered into under this section.

"(11) The term 'fish' means any species of living aquatic resources excluding aquatic mammals and birds.

"(12) The term 'fish products' means any product which is made wholly or in part from any fish or portion thereof, except products which contain fish only in small proportions and which are exempted from definition as a fishery product by the Secretary.".

SEC. 8. Section 1104(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(a)) is amended by—

(1) redesignating paragraph (4) as paragraph (5);

(2) striking "or" at the end of paragraph (3), and adding immediately after such paragraph the following new paragraph:

"(4) financing or refinancing fisheries facilities; or"; and

(3) inserting after paragraph (5) (as redesignated by this section) the following: "For the purpose of paragraph (4) of this subsection, the term 'fisheries facilities' means all or a portion of any new or used structure (or appurtenance thereto), located in the United States, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and any other Commonwealth, territory or possession of the United States, which is designed or used for the landing, receiving, processing or other treatment, distribution or storage of fish or fish products, and includes any associated land, equipment, or machinery.".

SEC. 9. Notwithstanding any other provisions of law, the Secretary of Commerce is authorized, within 3 years after the date of enactment of this Act, to sell, after due advertisement on a competitive-bidding basis subject to such conditions as he deems are appropriate in the national interest, the five obsolete vessels, Arcturus, Hyades, Pictor, Procyon, and Zelima, for the purpose of conversion and operation in the fisheries of the United States, and the two obsolete vessels, Private George Peters and Resolute, for the purpose of conversion and operation in the fisheries of the United States or in the domestic commerce of the United States, for not less than their scrap value in the domestic market as of the date of sale: *Provided*, That (1) any conversion work shall be performed in the United States; (2) the vessels shall be documented and operated under the laws of the United States; (3) the vessels shall be operated in conformity with all international fishery conventions to which the United States is a signatory; and (4) when the vessels are scrapped, they shall be scrapped in the domestic market.

SEC. 10. Section 10(c)(1) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1980 (c)(1)) is amended by inserting immediately before the semicolon at the end thereof the following: ": *Provided, however*, That no application shall be due under this provision prior to January 24, 1980".

MOTION OFFERED BY MR. BREAUX

Mr. BREAUX. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BREAUX moves to strike out all after the enacting clause of the Senate bill, S. 1656, and insert in lieu thereof the provisions of the bill, H.R. 7039, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to provide for comprehensive research and development regarding United States fisheries, to expand the fishing vessel and fish processing capacity of the United States, and for other purposes.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 7039) was laid on the table.

GENERAL LEAVE

Mr. BREAUX. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to today's unanimous consent order and the provisions of clause 3(b)(3) of rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all of the additional motions to suspend the rules on which the Chair has postponed further proceedings today and yesterday.

COMMUNICATIONS CROSS-OWNERSHIP ACT OF 1980

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 6228, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. VAN DEERLIN) that the House suspend the rules and pass the bill, H.R. 6228, as amended.

The question was taken.

RECORDED VOTE

Mr. BROYHILL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 215, noes 176, answered "present" 3, not voting 38, as follows:

[Roll No. 574]

AYES—215

Akaka
Albosta
Anderson, Calif.
Annunzio
Applegate
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Blanchard
Boggs
Boland
Bonior
Bonker
Bouquard
Brademas
Breaux
Brodhead
Brooks
Brown, Calif.
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Carney
Carr
Chappell
Clausen
Clay
Cleveland
Coelho
Collins, Ill.
Collins, Tex.
Conte
Conyers
Corman
Cotter
Courter
D'Amours
Danielson
Dannemeyer
Davis, S.C.
Deckard
Dellums
Derrick
Devine
Dicks
Dingell
Dodd
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
English
Evans, Del.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fisher
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Goldwater
Gore
Gramm
Grassley
Guarini
Hagedorn
Hall, Ohio
Hall, Tex.
Hance
Harkin
Harris
Harsha
Hawkins
Heckler
Hightower
Hillis
Hollenbeck
Holt
Howard
Huckaby
Hughes
Hutchinson
Hutto
Ireland
Jacobs
Jeffords
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kildee
Kostmayer
Lagomarsino
Leath, Tex.
Lehman
Leland
Lent
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lowry
Luken
McClory
McCloskey
McCormack
McKay
Maguire
Matsui
Mavroules
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Moakley

Moffett
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Nedzi
Nelson
Nolan
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pepper
Pickle
Porter
Price
Pritchard
Rahall
Ratchford
Reuss
Rinaldo
Roberts
Rodino
Roe
Rose
Rostenkowski
Roybal
Royer
Russo
Sabo
Schroeder
Shannon
Simon
Skelton
Smith, Iowa
Snowe
Spellman
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stokes
Studds
Swift
Tauzin
Thompson
Udall
Ullman
Van Deerlin
Vanik
Volkmer
Walgren
Watkins
Waxman
Weaver
White
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wright
Wyatt
Wydler
Wylie
Young, Mo.

NOES—176

Abdnor
Addabbo
Alexander
Andrews, N.C.
Andrews, N. Dak.
Anthony
Archer
Ashbrook
Ashley
Aspin
Atkinson
Badham
Beard, R.I.
Bereuter
Bethune
Bevill
Biaggi
Bingham
Bolling
Boner
Brinkley
Broomfield
Broyhill
Campbell
Cheney
Chisholm
Clinger
Coleman
Conable
Corcoran
Coughlin
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Daschle
de la Garza
Dickinson
Dougherty
Eckhardt
Edwards, Okla.
Emery
Erdahl
Erlenborn
Ertel
Evans, Ind.
Findley
Fish
Fithian
Flippo
Forsythe
Fountain
Frenzel
Frost
Fuqua
Garcia
Gilman
Gingrich
Glickman
Goodling
Gradison
Gray
Green
Grisham
Gudger
Guyer
Hamilton
Hammerschmidt
Hanley
Hansen
Hinson
Holland
Hopkins
Horton
Hubbard
Jeffries
Johnson, Colo.
Jones, Okla.
Kastenmeier
Kazen
Kelly
Kemp
Kindness
Kogovsek
Kramer
LaFalce
Latta
Lederer
Lee
Levitas
Lloyd
Lott
Lujan
Lungren
McDade
McDonald
McEwen
McHugh
McKinney
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Michel
Mitchell, N.Y.
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Myers, Ind.
Natcher
Neal
Nichols
Pashayan
Paul
Pease
Perkins
Petri
Peyser
Preyer
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Richmond
Ritter
Robinson
Rosenthal
Roth
Rousselot
Rudd
Sawyer
Scheuer
Schulze
Sebelius
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Smith, Nebr.
Snyder
Solarz
Solomon
Spence
Stockman
Stump
Synar
Tauke
Thomas
Traxler
Trible
Vander Jagt
Walker
Wampler
Weiss
Whitehurst
Whitley
Whittaker
Whitten
Winn
Wolff
Wolpe
Yates
Yatron
Young, Fla.
Zablocki
Zeferetti

ANSWERED "PRESENT"—3

Gonzalez
Hefner
Stark

NOT VOTING—38

Ambro
Anderson, Ill.
Bowen
Brown, Ohio
Butler
Carter
Cavanaugh
Davis, Mich.
Derwinski
Dixon
Edwards, Calif.
Evans, Ga.
Heftel
Holtzman
Hyde
Ichord
Jenkins
Jenrette
Leach, Iowa
Leach, La.
Lundine
Mineta
Moore
Murphy, N.Y.
Musto
Myers, Pa.
Nowak
O'Brien
Rangel
Santini
Satterfield
Stratton
Symms
Taylor
Vento
Wilson, C. H.
Wirth
Young, Alaska

☐ 1430

The Clerk announced the following pairs:

On this vote:

Mr. Mineta and Mr. Edwards of California for, with Mr. Rangel against.

Mr. Dixon and Mr. Moore for, with Mr. Stratton against.

Until further notice:

Mr. Ambro with Mr. Brown of Ohio.

Mr. Musto with Mr. Cavanaugh.

Mr. Nowak with Mr. Hyde.

Mr. Vento with Mr. Leach of Louisiana.

Mr. Wirth with Mr. Symms.

Mr. Evans of Georgia with Mr. Taylor.

Mr. Heftel with Mr. Butler.

Mr. Bowen with Mr. Carter.

Mr. Charles H. Wilson of California with Mr. Davis of Michigan.

Mr. Ichord with Mr. Jenkins.

Mr. Myers of Pennsylvania with Mr. Derwinski.

Mr. Satterfield with Mr. O'Brien.

Ms. Holtzman with Mr. Young of Alaska.

Mr. Leach of Louisiana with Mr. Anderson of Illinois.

Mr. Murphy of New York with Mr. Santini.

Messrs. NICHOLS, SHELBY, FLIPPO, and SEBELIUS changed their votes from "aye" to "no."

So (two-thirds not having voted in favor thereof), the motion was rejected.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. VAN DEERLIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered, H.R. 6228.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

Mr. LUNDINE. Mr. Speaker, today the House went on record as opposing H.R. 6228, the Communications Cross-Ownership Act of 1980 (rollcall vote 574). The voting occurred under the 5-minute rule and I inadvertently missed the opportunity to cast my vote by just a few moments. Since the rules of the House did not permit me to register my vote after the 5 minutes had expired, I would like to take the opportunity to put myself on record as opposing H.R. 6228. This bill contains certain provisions that have not been adequately studied and would, if enacted, constitute an inappropriate intervention by Congress into the regulatory process.

RECOMMITTAL OF H.R. 6228 TO COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Mr. VAN DEERLIN. Mr. Speaker, after consultation with the leadership on the Republican side of the Committee on Interstate and Foreign Commerce, I ask unanimous consent that the bill, H.R. 6228, be recommitted to that committee.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed on Monday, September 22, in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 5340, H.R. 5898, H.R. 8117, H.R. 7939, and H.R. 7554.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

EXTENDING AUTHORIZATIONS FOR WATER RESOURCES RESEARCH

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 5340, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. MILLER) that the House suspend the rules and pass the bill, H.R. 5340, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 383, nays 15, not voting 34, as follows:

[Roll No. 575]

YEAS—383

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carney
Carr
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Devine
Dickinson
Dicks
Dingell
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Hightower

Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jeffords
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli

Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Russo
Sabo
Sawyer
Scheuer
Schroeder

Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stokes
Studds
Swift
Synar
Tauke
Tauzin
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla
Young, Mo.
Zablocki
Zeferetti

NAYS—15

Bauman
Collins, Tex.
Crane, Daniel
Crane, Philip
Evans, Ind.

Hansen
Jacobs
Jeffries
Kelly
McDonald

Paul
Porter
Rudd
Stump
Wydler

NOT VOTING—34

Anderson, Ill.
Bowen
Brown, Ohio
Butler
Carter
Cavanaugh
Davis, Mich.
Derwinski
Dixon
Edwards, Calif.
Evans, Ga.
Heftel

Holtzman
Ichord
Jenkins
Jenrette
Leach, La.
Mineta
Moore
Murphy, N.Y.
Musto
Myers, Pa.
O'Brien
Roe

Santini
Satterfield
Stack
Stockman
Stratton
Symms
Taylor
Vento
Wilson, C. H.
Young, Alaska

☐ 1440

The Clerk announced the following pairs:

Mr. Musto with Mr. Brown of Ohio.

Mr. Santini with Mr. Moore.

Mr. Bowen with Mr. Symms.

Mr. Edwards of California with Mr. Taylor.

Mr. Evans of Georgia with Mr. Stockman.

Mr. Mineta with Mr. Butler.

Mr. Jenrette with Mr. Carter.

Mr. Myers of Pennsylvania with Mr. Derwinski.

Mr. Roe with Mr. Leach of Louisiana.

Mr. Stratton with Mr. Davis of Michigan.

Mr. Charles H. Wilson of California with Mr. Young of Alaska.

Mr. Cavanaugh with Mr. Dixon.

Mr. Heftel with Mr. Anderson of Illinois.

Ms. Holtzman with Mr. Ichord.

Mr. Murphy of New York with Mr. Jenkins.

Mr. Stack with Mr. Vento.

Mr. Satterfield with Mr. O'Brien.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. KAZEN. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 1640) to extend certain authorities of the Secretary of the Interior with respect to water resources research and development and saline water conversion research and development programs, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1640

Be it enacted by the Senate and House of Representatives of the United States of America in Congress asembled, That section 101(b)(5) of the Water Research and Development Act of 1978 (Public Law 95-467; 92 Stat. 1305), is amended to read as follows: "The Secretary is authorized to require State institutes to review grant and contract proposals originating within their respective States pursuant to any program under this Act, and such review shall be for the purpose of advising the Secretary of the relevance of such proposals to water resources research, development, and technology transfer needs and priorities within the originating State."

SEC. 2. Section 105(a) of the Water Research and Development Act of 1978 is amended by deleting all after "projects by two or more institutes" and inserting the following: "Any State or local government agency or academic institution is eligible to participate in the matching grant program activities of their State institute if in the opinion of the Secretary it has competence to participate in the program. Applications by such agencies or institutions shall be made through the State institute. Each application for a grant pursuant to this subsection shall, among other things, state the nature of the project to be undertaken, the period during which it will be pursued, the qualifications of the personnel who will direct and conduct it, state the importance of the project to the Nation, region, and State concerned, its relation to other known research projects theretofore pursued or currently being pursued, and the extent to which it will provide opportunity for training in water resources. No grant shall be made under this subsection except for a project approved by the Secretary, and all grants shall be made on the basis of the merit of the project, the need for the knowledge which it is expected to produce when completed and the opportunity it provides for training in water resources.".

SEC. 3. (a) Section 401 of the Water Research and Development Act of 1978 is amended as follows:

(1) In paragraph (a)(1) following "September 30, 1980", delete the period, insert a comma and add "an amount sufficient to provide $150,000 to each participating institute, on a cost-sharing basis, for the fiscal year ending September 30, 1981, and an amount sufficient to provide $175,000 to each participating institute, on a cost-sharing basis, for the fiscal year ending September 30, 1982,";

(2) In paragraph (a)(2) following "September 30, 1980," insert: "the sum of $1,500,000 for the fiscal year ending September 30, 1981, and the sum of $1,500,000 for the fiscal year ending September 30, 1982,";

(3) In paragraph (b) following "$8,500,000," "the sum of $8,000,000 for the fiscal year ending September 30, 1981, and the sum of $10,000,000 for the fiscal year ending September 30, 1982,";

(4) In paragraph (c) following "$8,000,000" insert a comma and add "the sum of $5,200,000 for the fiscal year ending September 30, 1981, and the sum of $8,000,000 for the fiscal year ending September 30, 1982,";

(5) In paragraph (d) following "$1,000,000" insert a comma and add "for the fiscal year ending September 30, 1981, and thereafter, the sum of $1,000,000,".

(b) In section 402 of the said Act, following "$14,000,000," insert "the sum of $14,400,000, for the fiscal year ending September 30, 1981, and the sum of $17,400,000 for the fiscal year ending September 30, 1982,".

(c) In section 403, following "September 30, 1980," insert "the sum of $6,500,000 for the fiscal year ending September 30, 1981, and the sum of $8,500,000 for the fiscal year ending September 30, 1982,".

(d) In section 411, following the word "rules" strike the words "regulations" through "prescribed" and substitute "and regulations promulgated".

SEC. 4. (a) Section 2(a) of the Act of August 2, 1977 (Public Law 95-84; 91 Stat. 400) as amended, is deleted and replaced with a new section 2(a) to read as follows:

"SEC. 2. (a) The Secretary of the Interior is authorized and directed to demonstrate the engineering and economic viability of membrane and phase-change desalting processes. Such demonstrations shall include the study, design, construction, operation, and maintenance of desalting plants at locations in the United States (which may include the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Virgin Islands, the Mariana Islands, and the Trust Territory of the Pacific Islands): *Provided,* That at least two such plants shall demonstrate desalting of brackish ground water: *And provided further,* That the plants constructed pursuant to this section shall be for the purpose of showing that the technology being demonstrated is ready for application; such plants shall be sufficient to demonstrate the specific application of the technology, and shall be significantly different in operation and process so as not to duplicate any other demonstration plant constructed pursuant to this section. The Secretary is futher authorized to conduct such demonstrations or any portion thereof by means of cooperative agreements (as defined and authorized by 41 U.S.C. 504, et seq., the Federal Grant and Cooperative Agreement Act of 1977; Public Law 95-224) with duly authorized non-Federal public entities. Title to demonstration facilities constructed by the non-Federal public entity under a cooperative agreement shall vest in the non-Federal public entity.".

(b) Section 2(b) of said Act is hereby amended by inserting after "but is not limited to," the phrase, "how the plant being proposed differs from others, if any, already constructed under this section," and further, by deleting all after "ancillary facilities" and inserting the following: "Such report shall be accompanied by a proposed contract (or cooperative agreement) between the Secretary and a duly authorized non-Federal entity, in which such entity shall agree to provide not less than 15 per centum and not more than 50 per centum of the total cost of the demonstration; such cost to include, without being limited to, necessary water rights, water supplies, rights-of-way, power source interconnections, brine disposal facilities, land, construction, ancillary facilities, and the operation and maintenance costs for a period of the plant from the plant contractor. The contributions of the non-Federal entity under such proposed contract may be in-kind. During the participation by the Secretary in the construction and the operation and maintenance of such demonstration, access to the demonstration and its operating data will not be denied to the Secretary or his representatives. The period of participation by the Secretary in the operation and maintenance of any such demonstration shall not exceed four years. The Secretary is authorized to include in the proposed contract a provision for conveying, as appropriate, and in such amounts as are appropriate, rights, title, and interest of the Federal Government in the demonstration project to the non-Federal public entity.".

(c) Section 2(c), as amended, of said Act, is revised to read as follows: "There is authorized to be appropriated, to remain available until expended, for the fiscal year ending September 30, 1978, and thereafter, the sum of $50,000,000 to finance the total Federal share of the cost of the demonstration plants authorized by this section; such cost to include without being limited to, necessary water rights, water supplies, rights-of-way, power source interconnections, brine disposal facilities, land, construction, ancillary facilities, and the operation and maintenance costs for the four-year period of Federal participation in such costs.".

SEC. 5. Section 205(c) of the Act of October 17, 1978 (Public Law 95–467) is hereby repealed.

MOTION OFFERED BY MR. KAZEN

Mr. KAZEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. KAZEN moves to strike out all after the enacting clause of the Senate bill, S. 1640, and insert in lieu thereof the provisions of the bill, H.R. 5340, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to extend certain authorities of the Secretary of the Interior with respect to water resources research and development and saline water conversion research and development programs, and for other purposes.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 5340) was laid on the table.

GENERAL LEAVE

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ESTABLISHING THE RATTLESNAKE NATIONAL EDUCATION AND RECREATION AREA AND WILDERNESS IN THE STATE OF MONTANA

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5898, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 5898, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1450

SAFE DRINKING WATER ACT AMENDMENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 8117, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. WAXMAN) that the House suspend the rules and pass the bill, H.R. 8117, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SECURITIES INVESTOR PROTECTION ACT AMENDMENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 7939.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. SCHEUER) that the House suspend the rules and pass the bill, H.R. 7939.

The question was taken.

RECORDED VOTE

Mr. ROUSSELOT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. The Chair will announce that this will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 315, noes 83, not voting 34, as follows:

[Roll No. 576]

AYES—315

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson,
  Calif.
Andrews, N.C.
Andrews,
  N.Dak.
Annunzio
Anthony
Applegate
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Carney
Carr
Cheney
Chisholm
Clausen
Clay
Cleveland
Coelho
Coleman
Collins, Ill.
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Danielson
Daschle
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Dicks
Dingell
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gray
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutchinson
Hutto
Hyde
Ireland
Jeffords
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Latta
Leach, Iowa
Lederer
Lehman
Leland
Lent
Levitas
Livingston
Lloyd
Long, La.
Long, Md.
Lott
Lowry
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McHugh
McKay
McKinney
Maguire
Markey
Marks
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead,
  Calif.
Moorhead, Pa.
Mottl
Murphy, Pa.
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pepper
Perkins
Peyser
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Railsback
Rangel
Ratchford
Reuss
Rinaldo
Ritter
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Russo
Sabo
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
St Germain
Stack
Staggers
Stangeland
Stark
Steed
Stewart
Stokes
Studds
Swift
Synar
Tauke
Tauzin
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Volkmer
Walgren
Wampler
Watkins
Waxman
Weiss
White
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NOES—83

Archer
Ashbrook
Ashley
Badham
Bennett
Bethune
Bouquard
Campbell
Chappell
Clinger
Collins, Tex.
Conable
Crane, Daniel
Crane, Philip
Daniel, Dan

Daniel, R. W.
Dannemeyer
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Okla.
Fenwick
Florio
Forsythe
Gilman
Gingrich
Gramm
Grisham
Hall, Tex.
Hammerschmidt
Hance
Hansen
Hightower
Holt
Hughes
Jacobs
Jeffries
Johnson, Colo.
Jones, Okla.
Kelly
Kemp
Kindness
Lagomarsino
Leath, Tex.
Lee
Lewis
Loeffler
Lujan
Lungren
McDonald
McEwen
Madigan
Marlenee
Miller, Ohio
Murtha
Paul
Pease
Petri
Pickle
Quillen
Regula
Rhodes
Roberts
Robinson
Rousselot
Rudd
Schulze
Sensenbrenner
Shumway
Shuster
Spence
Stanton
Stenholm
Stockman
Stump
Vanik
Walker
Weaver
Whitehurst
Wydler
Wylie
Young, Fla.

NOT VOTING—34

Anderson, Ill.
Bowen
Brown, Ohio
Butler
Carter
Cavanaugh
Davis, Mich.
Derwinski
Dixon
Edwards, Calif.
Evans, Ga.
Heftel
Holtzman
Ichord
Jenkins
Jenrette
Leach, La.
Mineta
Moore
Murphy, Ill.
Murphy, N.Y.
Musto
Myers, Pa.
Nedzi
O'Brien
Richmond
Santini
Satterfield
Stratton
Symms
Taylor
Vento
Wilson, C. H.
Young, Alaska

The Clerk announced the following pairs:

Mr. Richmond with Mr. Brown of Ohio.
Mr. Santini with Mr. Jenkins.
Mr. Musto with Mr. O'Brien.
Mr. Murphy of Illinois with Mr. Symms.
Mr. Mineta with Mr. Taylor.
Mr. Jenrette with Mr. Young of Alaska.
Mr. Bowen with Mr. Butler.
Mr. Edwards of California with Mr. Carter.
Mr. Evans of Georgia with Mr. Davis of Michigan.
Mr. Heftel with Mr. Derwinski.
Mr. Murphy of New York with Mr. Moore.
Mr. Nedzi with Mr. Charles H. Wilson of California.
Mr. Myers of Pennsylvania with Mr. Ichord.
Mr. Dixon with Mr. Anderson of Illinois.
Mr. Cavanaugh with Ms. Holtzman.
Mr. Vento with Mr. Satterfield.

Mrs. HOLT, Messrs. GILMAN, STOCKMAN, and LEE changed their votes from "aye" to "no."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SMALL BUSINESS INVESTMENT INCENTIVE ACT OF 1980

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 7554, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. SCHEUER) that the House suspend the rules and pass the bill, H.R. 7554, as amended.

The question was taken.

RECORDED VOTE

Mr. CHARLES WILSON of Texas. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. The Chair will caution the Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 395, noes 1, not voting 36, as follows:

[Roll No. 577]

AYES—395

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burton, John
Burton, Phillip
Byron
Campbell
Carney
Carr
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Devine
Dickinson
Dicks
Dingell
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Studds
Stump
Swift
Synar
Tauke
Tauzin
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—1

Kelly

NOT VOTING—36

Anderson, Ill.
Bowen
Breaux
Brown, Ohio
Burlison
Butler
Carter
Cavanaugh
Davis, Mich.
Derwinski
Dixon
Edwards, Calif.
Evans, Ga.
Heftel
Holtzman
Ichord
Jenkins
Jenrette
Kogovsek
Leach, La.
Mineta
Moore
Murphy, Ill.
Murphy, N.Y.
Musto
Myers, Pa.
O'Brien
Porter
Santini
Satterfield
Stratton
Symms
Taylor
Udall
Vento
Young, Alaska

□ 1500

The Clerk announced the following pairs:

Mr. Santini with Mr. Brown of Ohio.
Mr. Breaux with Mr. Leach of Louisiana.
Mr. Musto with Mr. Moore.
Mr. Vento with Mr. Symms.
Mr. Jenrette with Mr. Taylor.
Mr. Burlison with Mr. O'Brien.
Mr. Cavanaugh with Mr. Porter.
Mr. Evans of Georgia with Mr. Butler.
Mr. Ichord with Mr. Carter.
Mr. Mineta with Mr. Davis of Michigan.
Mr. Murphy of New York with Mr. Derwinski.
Mr. Satterfield with Ms. Holtzman.
Mr. Stratton with Mr. Udall.
Mr. Heftel with Mr. Young of Alaska.
Mr. Bowen with Mr. Myers of Pennsylvania.
Mr. Kogovsek with Mr. Edwards of California.
Mr. Dixon with Mr. Anderson of Illinois.
Mr. Jenkins with Mr. Murphy of Illinois.

Mr. GIAIMO changed his vote from "no" to "aye."

So (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to amend the Federal securities laws to provide incentives for small business investment, and for other purposes."

A motion to reconsider was laid on the table.

ESTABLISHING THE U.S. HOLOCAUST MEMORIAL COUNCIL

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 8081) to establish the U.S. Holocaust Memorial Council.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 8081

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established the United States Holocaust Memorial Council (hereinafter in this Act referred to as the "Council"). The Council shall—

(1) provide for appropriate ways for the Nation to commemorate the Days of Remembrance, as an annual, national, civic commemoration of the holocaust, and shall encourage and sponsor appropriate observances of such Days of Remembrance throughout the United States.

(2) plan, erect, and oversee the operation of a permanent living memorial museum to the victims of the holocaust, in cooperation with the Secretary of the Interior and other Federal agencies as provided in section 5.

(3) plan for carrying out the recommendations, not otherwise provided for in this Act, of the President's Commission on the Holocaust in its report to the President of September 27, 1979.

Sec. 2. (a) (1) The Council shall consist of the sixty members appointed by the President. One ex officio nonvoting member shall be appointed each by the Attorney General, the Secretary of State, and the Secretary of Education.

(2) Each person appointed to the Council shall have a demonstrated sensitivity to the holocaust and commitment to fulfilling the recommendations of the President's Commission on the Holocaust in its report to the President of September 27, 1979.

(b) (1) Except as provided in paragraph (2) with respect to Members of Congress, Council members shall serve five-year terms. Terms shall be staggered so that terms of ten members shall terminate each year. For such purposes, the terms of ten of the present members shall end on January 15, 1986, and ten on each subsequent January 15 through 1990. The year in which the terms of present members will end shall be determined as established in the Council's bylaws. Vacancies shall be filled, as they arise, by appointment by the President.

(2) The terms of the five members of the House of Representatives and the five members of the Senate on the Council shall be coterminous with each term of Congress. Vacancies in the congressional memberships shall be filled by appointment by the President upon the recommendation of the Speaker of the House of Representatives or the President pro tempore of the Senate, for the membership from their respective Houses.

(e) Beginning January 15, 1986, and each five years thereafter, the President shall designate the Council members who shall serve as Chairperson and Vice Chairperson. Vacancies in the offices of Chairperson and Vice Chairperson shall be filled, as they arise, by appointment by the President.

(d) Members whose terms expire may be reappointed, and the Chairperson and Vice Chairperson may be reappointed to those offices.

Sec. 3. (a) One-third of the members of the Council shall constitute a quorum, and any vacancy in the Council shall not affect its powers to function.

(b) The Council shall adopt bylaws to carry out its functions under this Act.

(c) Each member, not otherwise employed by the United States, may receive compensation not greater than the daily rate prescribed for grade 18 of the General Schedule in section 5332 of title 5, United States Code, for each day, including traveltime, he or she is engaged in actual performance of the duties of the Council. All members of the Council may be reimbursed for travel, subsistence, and other necessary expenses incurred by them in performance of their duties in accordance with section 5703 of title 5, United States Code, for each day, including traveltime, he or she is engaged in actual performance of the duties of the Council. All members of the Council may be reimbursed for travel, subsistence, and other necessary expenses incurred by them in performance of their duties in accordance with section 5703 of title 5, United States Code.

(d) The Council may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, at rates not to exceed the daily rate payable for grade GS–18 of the General Schedule under section 5332 of such title, for persons in Government service employed intermittently.

(e) The Council may enter into contracts and other arrangements with public agencies and with private organizations and persons and may make such payments as may be necessary to carry out its functions under this Act.

Sec. 4. (a) The Chairperson shall recommend to the President candidates to serve as Executive Director of the Council.

(b) The Executive Director may appoint and fix duties of such other officers and employees as may be necessary to carry out the functions under this Act.

Sec. 5. (a) The Council is authorized to receive, if determined by the Council to be practicable, with the approval of the Secretary of the Interior, the Commission of Fine Arts, and the National Capitol Planning Commission, a suitable site on public grounds of the United States in the District of Columbia, upon which may be erected the memorial authorized in the first section of this Act.

(b) The architectural design for such memorial shall be subject to the approval of the Secretary of the Interior, the Commission of Fine Arts, and the National Capitol Planning Commission.

(c) The authority conferred pursuant to this Act for the construction and operation of the memorial museum shall lapse unless (1) the erection or establishment of such memorial is commenced within five years from the date of enactment of this Act, and (2) prior to the commencement funds are certified available in an amount sufficient, in the judgment of the Secretary of the Interior, to ensure completion of the memorial museum.

(d) The Secretary of the Smithsonian Institution, the Library of Congress, and all executive branch departments, agencies, and establishments may assist the Council in the performance of its functions under this Act.

Sec. 6. The Secretary of the Interior may provide administrative services and support to the Council on a reimbursable basis.

Sec. 7. The Council may solicit, accept, hold, administer, and use gifts, bequests, and devises of property, both real and personal, to aid or facilitate the construction, maintenance, and operation of the memorial. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise donating such property. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

Sec. 8. There is authorized to be appropriated for fiscal year 1981 the sum of $722,000 and such amounts as may be necessary for the succeeding fiscal years, in order to carry out the provisions of this Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That there is hereby established the United States Holocaust Memorial Council (hereinafter in this Act referred to as the "Council"). The Council shall—

(1) provide for appropriate ways for the Nation to commemorate the Days of Remembrance, as an annual, national civic commemoration of the holocaust, and shall encourage and sponsor appropirate observances of such Days of Remembrance throughout the United States;

(2) plan, construct, and oversee the operation of, a permanent living memorial museum to the victims of the holocaust, in cooperation with the Secretary of the Interior and other Federal agencies as provided in section 5; and

(3) develop a plan for carrying out the recommendations of the President's Commission on the Holocaust in its report to the President of September 27, 1979, to the extent such recommendations are not otherwise provided for in this Act.

Sec. 2. (a) The Council shall consist of sixty voting members appointed by the President and the following ex officio nonvoting members:

(1) one appointed by the Secretary of the Interior;

(2) one appointed by the Secretary of State, and

(3) one appointed by the Secretary of Education.

Of the sixty voting members, five shall be appointed by the Speaker of the United States House of Representatives from among members of the United States House of Representatives and five shall be appointed by the President pro tempore of the United States Senate from among members of the United States Senate. Any vacancy in the Council shall be filled in the the same manner as the original appointment was made.

(b) The members of the United States Holocaust Memorial Council, as in effect immediately before the date of the enactment of this Act, are hereby designated as the initial members of the Council. Such initial members (other than the initial members appointed from the United States Senate or the United States House of Representatives) shall serve terms as follows:

(1) All initial members shall serve until January 15, 1986.

(2) On January 15, 1986, the terms of ten of such initial members, as designated in the bylaws of the Council, shall terminate.

(3) On January 15 of each year thereafter through 1990 the terms of ten other initial members, as designated in the bylaws by the Council, shall terminate.

The terms of the initial members appointed from the United States Senate or the United States House of Representatives shall expire upon the expiration of the term of Congress in session at the time of the enactment of this Act.

(c) (1) Except as provided in subsection (b) with respect to the initial members of the Council and except as otherwise provided in this subsection, Council members shall serve for five-year terms.

(2) The terms of the five members of the United States House of Representatives and the five members of the United States Senate appointed during any term of Congress shall each expire at the end of such term of Congress.

(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member, other than a Member of Congress appointed by the Speaker of the United States House of Representatives or the President pro tem of the United States Senate, may serve after the expiration of his term until his successor has taken office.

(d)(1) Except as provided in paragraph (2), the Chairperson and Vice Chairperson of the Council shall be appointed by the President from among the members of the Council and such Chairperson and Vice Chairperson shall each serve for terms of five years. Vacancies in the offices of Chairperson and Vice Chairperson shall be filled, as they arise, by appointment of the President.

(2) The Chairperson and Vice Chairperson of the United States Holocaust Memorial Council, as in effect immediately before the date of the enactment of this Act, are hereby designated respectively as the initial Chairperson and Vice Chairperson of the Council. Such initial Chairperson and Vice Chairperson shall serve until January 15, 1986.

(e) Members whose terms expire may be reappointed, and the Chairperson and Vice Chairperson may be reappointed to those offices.

SEC. 3. (a) Except as provided in subsection (b), members of the Council are each authorized to be paid the daily equivalent of the maximum annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties of the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(b) Members of the Council who are full-time officers or employees of the United States or Members of the Congress shall receive no additional pay by reason of their service on the Council.

SEC. 4. (a) The Council shall adopt bylaws to carry out its functions under this Act. One-third of the members of the Council shall constitute a quorum, and any vacancy in the Council shall not affect its powers to function.

(b) The Council may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, at rates not to exceed the daily equivalent of the maximum annual rate of basic pay in effect for grade GS–18 of the General Schedule.

(c) The Council may, in accordance with applicable law, enter into contracts and other arrangements with public agencies and with private organizations and persons and may make such payments as may be necessary to carry out its functions under this Act.

(d) The Secretary of the Smithsonian Institution, the Library of Congress, and all executive branch departments, agencies, and establishments of the United States may assist the Council in the performance of its functions under this Act.

(e) The Secretary of the Interior may provide administrative services and support to the Council on a reimbursable basis.

SEC. 5. (a) The Council shall, without regard to section 5311(b) of title 5, United States Code, have an Executive Director who shall be appointed by the President upon the recommendation of the Chairperson of the Council and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS–18 of the General Schedule.

(b) Without regard to section 5311(b) of title 5, United States Code, the Executive Director may appoint and fix the pay of such additional personnel as he considers appropriate. The Executive Director and staff of the Council shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

SEC. 6. (a) For purposes of establishing the memorial museum referred to in paragraph (2) of the first section of this Act, any department, agency, or instrumentality of the United States is authorized to transfer to the administrative jurisdiction of the Council, with the approval of the Secretary of the Interior in consultation with the Commission of Fine Arts and the National Capital Planning Commission, any real property in the District of Columbia which is under the administrative jurisdiction of such department, agency, or instrumentality and which is deemed suitable by the Council for such memorial. With the approval of the Secretary of the Interior, in consultation with the Commission of Fine Arts and the National Capital Planning Commission, the Council may purchase, with the consent of the owner thereof, any real property within the District of Columbia which it deems suitable for purposes of establishing such memorial museum.

(b) The architectural design for such memorial museum shall be subject to the approval of the Secretary of the Interior, in consultation with the Commission of Fine Arts and the National Capital Planning Commission.

(c) The authority conferred pursuant to this Act for the construction and operation of the memorial museum shall lapse on the date five years after the date of the enactment of this Act unless (1) the erection or establishment of such memorial is commenced within such five year period, and (2) prior to the commencement, the Secretary of the Interior certifies that funds are available in an amount sufficient, in the judgment of the Secretary, to ensure completion of the memorial museum.

SEC. 7. The Council may solicit, accept, hold, administer, and use gifts, bequests, and devises of property, both real and personal, to aid or facilitate the construction, maintenance, and operation of the memorial. Property may be accepted pursuant to this section, and the property and the proceeds thereof used as nearly as possible in accordance with the terms of the gift, bequest, or devise donating such property. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

SEC. 8. There is authorized to be appropriated to carry out the purposes of this Act $722,000 for the fiscal year 1981, $800,000 for the fiscal year 1982, and $850,000 for the fiscal year 1983: *Provided, however,* notwithstanding any other provision of this Act, none of the funds authorized herein may be available for construction. Authority to enter into contracts and to make payments under this Act, using funds authorized to be appropriated under this section, shall be effective only to the extent, and in such amounts, as provided in advance in appropriation Acts.

Mr. PHILLIP BURTON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the committee amendment be dispensed with, and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. PHILLIP BURTON) is recognized for 1 hour.

Mr. PHILLIP BURTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this matter was worked out on a bipartisan basis. The bill is coauthored by Members from every section of the country and of the entire range of philosophical points of view in the House.

This legislation has been cleared with the Committee on Post Office and Civil Service, specifically the subcommittee chair, the gentleman from New York (Mr. GARCIA) whose concern and commitment is to be applauded, and the chair of the full committee, the gentleman from New York (Mr. HANLEY). This bill, with amendment, has been cleared by the acting chairman of the Committee on House Administration, the gentleman from Michigan (Mr. NEDZI). It is further supported by the gentleman from Minnesota (Mr. FRENZEL), who is a coauthor of the bill.

Mr. Speaker, the amendment is intended to clarify the fact that there is no construction money contemplated in the authorization before the House.

Mr. Speaker, H.R. 8091 establishes the U.S. Holocaust Memorial Council. The holocaust has been recognized as the systematic act of extermination of nearly 6 million Jews in Europe before and during World War II. During this same period millions of other people suffered death and destruction at the hands of those who embraced the Nazi philosophy. The records of history fail to provide evidence of another act of genocide of this, or even approaching this magnitude.

The armies of the United States were the primary discoverers of the locations used for extermination, the records of the systematic genocide and the few survivors. Of those few survivors of the holocaust, many subsequently emigrated to the United States and they and their descendents now form an integral part of our society. The historic perspective of the Nation has been clearly affected by this event in such a way that historians generally recognize the holocaust as an occurrence of the history of the United States. The Council will provide for a focal point in the development of appropriate ways to research and display that history.

Mr. Speaker, I am most pleased to be able to bring this important and historic measure to the floor and wish to thank and commend Mr. YATES and the many colleagues who have joined me in cosponsoring the bill.

The following is a brief explanation of H.R. 8081:

Section 1 establishes the U.S. Holocaust Memorial Council and sets forth the functions and objectives of the Council.

Section 2 sets the number of voting and nonvoting members. The 60-member Council will include five members each from the U.S. House of Representatives and the U.S. Senate. The members and officers of the U.S. Holocaust Memorial Council as now established by the President and in effect at the time of enactment of the proposed legislation are designated as the members and officers of the Council. The President will fill any future vacancy by appointment except those from the U.S. House of Representatives and the U.S. Senate. The Members from the U.S. House of Representatives will be appointed by the Speaker of the House and the Members from the U.S. Senate will be appointed by the President pro tempore of the Senate. Initial terms of the members of the Council shall be staggered as set forth in the Council bylaws. Subsequent terms shall be for 5 years except those congressional Members which shall serve terms concurrent with each Congress.

Terms of the chairperson and vice chairperson shall be for 5 years and each shall be appointed by the President.

Section 3 sets forth reimbursement rates for members of the Council.

Section 4 requires the Council to adopt bylaws and establishes the rules of quorum. The Council is given authority to contract for services. Executive and legislative branch agencies are authorized to provide assistance to the Council and the Secretary of the Interior is specifically authorized to provide full administrative support to the Council on a reimbursable basis.

Section 5 establishes the position and pay level of an Executive Director, to be appointed by the President. The Executive Director is granted authority to hire staff and set salaries within the limits established by existing law.

Section 6 authorizes the Council to accept any federally owned real property within the District of Columbia which is suitable for a memorial museum. The Council is also authorized to purchase real property within the District of Columbia, for the same purpose, but only from a willing seller. The Secretary of the Interior is granted authority to approve, (in consultation with the Commission of Fine Arts and the National Capitol Planning Commission) the recommendations of the Council for the location and design of the memorial museum. A time limitation of 5 years is placed on the Council to commence the memorial museum.

Section 7 provides authority for the Council to accept and disburse gifts.

Section 8 authorized appropriations.

Mr. Speaker, I wish to thank Mr. Mark Talisman and Mr. Monroe Freedman for the help they provided to the committee in working out the details of this bill. I also wish to commend Donald Fisher of Mr. YATES' staff for his hard work and long hours, and Dale Crane and Gary Ellsworth of the committee staff. Finally, if I may be permitted to indulge in a personal observation—my beloved wife, Sala's family was decimated by the Nazi terrorists and it has been a special honor for me to play a small role in this long overdue tangible recognition of the horror that Hitler and his legions inflicted upon the Jewish people.

GENERAL LEAVE

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DANIELSON. Mr. Speaker, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Speaker, I rise in support of this bill, H.R. 8081, which will establish the U.S. Holocaust Memorial Council as a permanent organism of the U.S. Government.

It is not only fitting and proper, it is imperative, that we establish this Council. Genocide, holocaust, has too long been with us. The mad killings, the murders, of genocide have too long been a part of the history of the world. Perhaps, with this permanent Council and with the Days of Remembrance which it will commemorate, and cause to be observed, and with the museums which it will create and maintain, the people of the world will remember that genocide is the most odious and repulsive of all crimes against humanity and, hopefully, we will forever put it to rest, bring an end to genocide.

People forget. People most easily forget that which is most offensive to them. That is why the history of civilization has been blackened so often with genocide.

As we all know, the first genocide of the twentieth century, and the most horrendous genocide, the first and worst holocaust of all time until then, was the genocide, the planned massacre of the Armenian nation by the government of the Ottoman Turkish Empire which caused world revulsion and made the Middle East run red with the blood of the innocent Armenian martyrs from April 24, 1915, through the year 1919.

And speaking of "forgetting," we all know that that evil man, Adolf Hitler, just before his pogrom of the Jews in Germany, answered a protest by asking, "Who, today, remembers the Armenians?"

Well, Mr. Speaker, we now can proudly shout from the rooftops, "We remember. We Americans remember the Armenians. And we will never forget."

We can place in the annals of history for all time the answer to those Ottoman butchers, Talaat Pasha and Enver Pasha, who planned and carried out the massacre of 1,500,000 innocent Armenian men, women, and children in the horrible massacres of 1915–19. Can you imagine, Mr. Speaker, 1,500,000 innocent people. One-half of all the Armenians then living on the face of this Earth. Murdered! Massacred! In the first genocide, the first holocaust, of the 20th century.

And, Mr. Speaker, the date of April 24 is by strange coincidence the most correct date for those Days of Remembrance, for on April 24, 1915, the genocide of the Armenians began, and the same date is the anniversary commemorated in the remembrance of the Jewish holocaust which was perpetrated by Hitler.

And so, Mr. Speaker, I support this bill. The Holocaust Memorial Council which we here create and establish can and will commemorate, for all time, the horrible genocide and holocaust of the Armenian and Jewish peoples and through the Days of Remembrance all people will be reminded, for all time, to rid the Earth of the horrible practice of genocide.

● Mr. DERWINSKI. Mr. Speaker, I urge my colleagues to approve H.R. 8081, the Holocaust Memorial Act. This measure, establishing a U.S. Holocaust Memorial Council to sponsor and encourage commemoration of the holocaust, certainly deserves our support.

This Holocaust Memorial Council will plan, build and supervise the operation of a memorial museum to Holocaust victims and will promote the observance of the annual Days of Remembrance in commemoration of the holocaust.

Mr. Speaker, the Days of Remembrance and the memorial museum will make significant contributions to our efforts to commemorate the holocaust which is of universal importance.

Approval by Congress of this legislation to establish the Holocaust Memorial Council will enable this important work to get underway. I urge passage of H.R. 8081.●

● Mr. WOLFF. Mr. Speaker, I rise in support of H.R. 8081, which would establish a U.S. Memorial Holocaust Council.

In 1979, the President established a Holocaust Memorial Commission study and recommended action to commemorate the holocaust. In May, by Executive action, the President appointed a 60-member Council, headed by Eli Weisel, to finish the study and begin implementing the suggestions made. I was a strong supporter of these moves, and H.R. 8081 would serve to make this a permanent, established council under the Department of the Interior, and render it eligible for private funding, where the bulk of its financing will come from. The Council will have statutory authority to, among other things, provide for annual, national observance of the Days of Remembrance, and most importantly erect a museum to the 6 million Jews who died as well as the other victims of the Nazi brutality.

This bill comes at a propitious time for the Jewish people. We have just observed Yom Kippur, the most solemn of all Jewish holidays. It is a day of fasting to atone sins committed during the past year, and a time that we pray to be inscribed in the book of life for another year. Yet, this holiday takes on a poignancy as we remember the 6 million Jews who were massacred by Hitler and the Nazis. And we spend much of the day remembering these Jews, lighting candles for their peaceful slumber, reading poems written by those in exile, and vowing never to let another holocaust happen again.

I can think of no more important commemoration of the holocaust than the erection of a national museum. Last April, I was in Israel and toured Yad Vashem, the Holocaust Memorial in Jerusalem. It is a museum filled with the horror of the war—the barbed wires and concentration camps, the anorexic inmates and the shattered lives. It filled me with a sense of identity and solidarity with my people, and with a resolve to never let it happen again.

It is vitally important that we remember the holocaust. Washington is a crossroads for the country, and the erection of such a building here takes on a certain significance as people from all over visit the city.●

● Mr. CORMAN. Mr. Speaker, I rise in strong support of H.R. 8081, the legislation to establish the U.S. Memorial Council. I am proud to have cosponsored this legislation which will be a living memorial to the 6 million Jews who perished in the holocaust during World War II.

While the Council will plan and carry out the recommendations of the President's Commission on the Holocaust, including an observance of the Days of Remembrance as an annual commemoration, and oversee the operation of a memorial museum in the District of Colubia, it is also appropriate that the Council will be dedicated to seeking the prevention of genocide directed against other people of the world. I urge my colleagues to approve this measure as a statement that history will never again bear witness to such a period of darkness.●

● Mr. VANIK. Mr. Speaker, I support the Holocaust Memorial Council to develop an appropriate memorial to the victims of the holocaust before and during World War II. European nations have taken comparable steps. It is highly important for the American people to keep alert and aware of the ideology of cruelty which resulted in the systematic extermination of nearly 6 million Jewish people.

This assault on humanity must be remembered and studied. The world must prevent a repetition of the horrors of the holocaust. They must not be forgotten.●

● Mr. LEHMAN. Mr. Speaker, I would like to thank my good friend and colleague, Congressman PHIL BURTON, for his expert assistance and expeditious handling of this important piece of legislation.

H.R. 8081, which establishes the U.S. Holocaust Memorial Council as a permanent body, has 125 cosponsors. The Council will plan and implement the recommendations of the President's Commission on the Holocaust, which was established by Executive order on November 1, 1978, to recommend a fitting memorial to all those who perished in the Nazi holocaust. The Commission recommended to the President that a museum to the victims of the holocaust be established, that an educational foundation be established, and that a Committee on Conscience be created to help provide early warning threats of genocide against any people throughout the world.

In addition, 1 week each year shall be designated as "Days of Remembrance" to be marked by a national, civic commemoration, and appropriate private and public observances. Private contributions will provide most of the funding for these projects. For this purpose, the U.S. Holocaust Remembrance Foundation, Inc., has already been established.

The holocaust has great significance for Americans and for people everywhere. Americans liberated many of the camps and were the first witnesses of what the rest of the world, including the United States, had been unwilling to acknowledge. Many of the survivors of the holocaust immigrated to the United States and are an integral part of our society. The survivors themselves have stressed the importance of studying the lessons of the holocaust, to understand the unique and universal implications of annihilating 6 million Jews as a formal state policy to eliminate Jews as Jews, not as an accidental event but, rather, as a primary goal. To comprehend the holocaust and to apply that understanding to the present and future, and to seek to prevent genocide against any people is the mission of the Educational Foundation and the Committee on Conscience.

I take pride in being an original sponsor of this legislation and urge my colleagues to support its passage today.●

● Mr. WEISS. Mr. Speaker, I wholeheartedly support passage of the Holocaust Memorial Act, H.R. 8081. Under this bill, the Holocaust Memorial Council, established by Congress last year, will have statutory authority to implement the major recommendations of the President's Commission on the Holocaust. The Council will have authority to establish and erect a memorial museum (in Washington, D.C.,) to victims of the holocaust and provide for the national observance each year of "Days of Remembrance."

Remembering the slaughter of 6 million Jews during World War II, which has come to be known as the holocaust, serves two vital functions: we are reminded both of man's capacity for cruelty to other human beings, and of the vital importance of preserving and keeping ever strong our democratic values and system of government.

"To remember the holocaust is to sensitize ourselves to its critical political lessons," the President's Commission pointed out in its September 27, 1979, report:

> Naziism was facilitated by the breakdown of democracy . . ., the erosion of faith in the political leadership and in the ability of democratic governments to function.

We need only look to the most recent history to see that mass atrocities occur in areas where democratic values have been abandoned, submerged, or ignored. In Uganda, an estimated 300,000 individuals were murdered under the Fascist regime of Idi Amin. In Kampuchea (Cambodia), more than 2.5 million persons were killed by the repressive government of Pol Pot. This number represents more than a third of the country's entire population, a profoundly shocking testament to the potential for atrocity under tyrannical rulers and during the continuous upheaval of civil war.

In its report, the President's Commission paraphrased a comment by George Santayana: "Those who forget history are condemned to repeat it."

Never again must we allow Jews to be persecuted as they were during the holocaust. Never again must any group be subjected to such horror. To keep that commitment strong, we must keep the memory of the holocaust alive. In so doing, we can have greater hope that the children of today, their children, and the generations to follow will remember, and understand, that we must maintain democratic traditions and humane concern for all who inhabit the Earth.●

● Mr. YATES. Mr. Speaker, I am extremely pleased that the House is today considering H.R. 8081, to establish the U.S. Holocaust Memorial Council as a permanent body.

The principal functions of the Holocaust Memorial Council will be to plan and oversee the construction and operation of a permanent, living memorial/museum to the victims of the holocaust; to establish and administer an Educational Foundation; and to establish a Committee on Conscience to provide early warning of threats of genocide against any people throughout the world. In addition, the Council will designate 1 week in each year, to be known as "Days of Remembrance," as a national, civic commemoration of the holocaust, and it will encourage and sponsor appropriate observation of Days of Remembrance throughout the United States.

The funding for the memorial, Mr. Speaker, is to be through private contributions. I am pleased to be able to report that, toward that end, a private foundation, The U.S. Holocaust Remembrance Foundation, Inc., has already been established. The Remembrance Foundation will receive donations and contributions from private citizens and groups.

In establishing the Holocaust Memorial Council by Executive order as a temporary body, pending this legislation, President Carter noted the reasons that the holocaust is of fundamental significance to Americans, and explained why there should be an American commemoration of its victims. It was American troops who liberated many of the death camps and exposed the horrible truth of what had been done there. Also, the United States subsequently has become the homeland of many survivors and their families.

The President noted further that Americans must bear responsibility for not having been willing to acknowledge, 40 years ago, that the tragedy was occurring. Thus, thousands of refugees were turned away from our shores, and countless thousands of lives were lost that otherwise could have been saved. In studying the systematic destruction of the Jews by the Nazis, the President added, we can seek to learn how to prevent the recurrence of genocidal threats against any national or ethnic group.

As we know, Mr. Speaker, the holocaust was the annihilation of 6 million Jews as a formal, systematic act of state, pursuant to what the Nazis referred to as the final solution of the Jewish question. The event was all the more ghastly because it was committed by a modern European country with an extraordinary history of achievement in science, the arts, and philosophy. Indeed, those very achievements, which might have been expected to provide a civilizing bulwark against beastliness, were put to work to expedite the mass slaughters, to ease the consciences of the slaughterers, and even to attempt to rationalize and to justify the evil. And, through the years of anti-Semitic race laws, persecution, and extermination, the world acquiesced in its silence and inaction.

Inevitably, the horror spread, and other people, throughout the occupied countries of Europe, were subjected to Nazi atrocities. Those victims, too, will be remembered through the work of the Holocaust Memorial Council.

In addition to commemoration, the Council will be concerned with attempting to comprehend the holocaust, to draw lessons from that experience, and to seek to prevent genocide directed against any people, anywhere in the world. Those goals are to be achieved through the Educational Foundation and through the Committee on Conscience. Unhappily, the urgent need for such an effort has been made manifest by events since World War II, even into the present day.

For those reasons, Mr. Speaker, I take particular pride in this bill and I am pleased to join with 125 cosponsors in asking my colleagues to support the establishment of a permanent U.S. Holocaust Memorial Council.●

● Mr. CLAUSEN. Mr. Speaker, I rise in support of H.R. 8081, which establishes the U.S. Holocaust Memorial Council.

The purpose of this bill is to legislatively establish the existing President's Commission on the Holocaust (Executive Order No. 12093, November 1, 1978) as a Federal Council charged with the responsibility for constructing a permanent memorial museum commemorating the victims of the holocaust. The Council will also develop a plan for carrying out the other recommendations of the President's Commission as submitted in its final report dated September 27, 1979.

The Holocaust Memorial Museum contemplated by this bill will be built on an appropriate site within the District of Columbia with funds donated for that purpose. The location and design of the memorial are subject to the approval of the Secretary of the Interior in consultation with the Commission on Fine Arts and the National Capital Planning Commission. Private property may not be acquired under this legislation without the consent of the owner. No expenditures of Federal funds are expected beyond the moneys necessary for the administrative functions of the Council. The bill authorizes $722,000 in fiscal year 1981, $800,000 in fiscal year 1982, and $850,000 in fiscal year 1983 ($2,372,000 total) for these purposes.

Mr. Speaker, considering the significant effect on this Nation's history of the tragic acts of genocide during World War II, I believe the establishment of this Council and the Holocaust Memorial is entirely appropriate.

I urge my colleagues to join me in supporting this bill.

● Mr. GREEN. Mr. Speaker, I rise in strong support of H.R. 8081, the Holocaust Memorial Act, as one of the principal sponsors of this bill, which was introduced a few weeks ago with the support of almost one-fourth of this House.

On November 1, 1978, President Carter created the Commission on the Holocaust to make recommendations for an appropriate American Memorial "to those who perished in the holocaust." I was honored to be appointed to serve as a member of that Commission, and now serve on its successor body, the U.S. Holocaust Memorial Council. Thus, I have a special concern for the bill we are considering today.

This legislation would authorize the establishment of a permanent Holocaust Memorial Council, charged with implementing the recommendations of the Commission's September 1979 report. In fulfilling these responsibilities, the Council will make available to the people of the United States, and indeed the world, increased knowledge of the Holocaust and greater awareness of its far-reaching significance.

I am gratified that this bill is receiving swift and favorable consideration. The holocaust was a period of untold suffering and tragedy. We all have a responsibility to remember it so that we can dedicate our energies to preventing any other such atrocity. This is the importance of establishing an American memorial and through this Council we hopefully will achieve this end.●

● Mr. DODD. Mr. Speaker, today the House is considering H.R. 8081, the U.S. Holocaust Memorial Council authorization, and I would like to reiterate my support for this bill of which I am a cosponsor.

The Holocaust Memorial Council will be charged with planning the design and eventual construction of a permanent memorial to the victims of the holocaust. The memorial was originally recommended by the members of the President's Commission on the Holocaust which also requested that 1 week every year would be set aside as "Days of Remembrance" for those who died during the holocaust as well as those who were persecuted by the Nazis.

The work of the Memorial Council to establish this memorial in Washington, D.C., will provide a lasting testament to the evil of the Nazi final solution. Most importantly, the memorial will stand forever as a reminder that we must never allow ourselves to be complacent about violations of human rights or indifferent to the suffering of our fellow men and women.

I would urge my colleagues to give their support to this bill, to the work of the members of the Holocaust Memorial Council, and to the victims of unwarranted persecution: past, present, and future.●

● Mrs. HECKLER. Mr. Speaker, I would like to join in commending my distinguished colleague from Illinois on his legislative initiative.

Perhaps the most valuable lesson to be learned from the Nazi holocaust was that we must always beware of future atrocities. The death of the 6 million Jews and other innocent peoples massacred in Hitler's Europe will be less in vain if they serve to instruct us that we must always be on guard against tyrannical abuses of any portion of humankind.

The construction of a living memorial museum to the victims of the holocaust, the nationwide commemoration of the Days of Remembrance, will prod us to recall this sobering lesson well. Further, they will permanently impress on our national conscience, that persecution against any nation must necessarily constitute an offense against all nations, and so must be staunchly opposed by each and every one of them.

This memorial not only commemorates the death of the 6 million, but permanently honors the memory of their lives, in the fervent hope that this people's safety and security will forevermore be certain.●

● Mr. DELLUMS. Mr. Speaker, the systematic effort by the Nazi regime to exterminate every vestige of Jewish life and culture in the Western world is truly a landmark in the history of human depravity.

The holocaust of the Second World War compels commemoration in our historical memory, not only by those Jews who suffered and survived, but also as a commitment of conscience by all humankind that this must never be allowed to happen again—anywhere or to any segment of human society.

I strongly support the passage of H.R. 8081, the bill which would establish the U.S. Holocaust Memorial Council. It is important to all of us that this council, once created, plan, enact, and oversee the operation of a proper and fitting memorial museum to honor those dead who were so cruelly dishonored in life by a tyrannical and barbaric regime. This museum must serve as a historical reminder to us all that "Never Again * * *."●

● Mr. JOHN L. BURTON. Mr. Speaker, I strongly endorse the bill (H.R. 8081) introduced by Congressman PHILLIP BURTON to establish a U.S. Holocaust Memorial Council, which would commemorate the Days of Remembrance, erect a memorial museum, and seek the prevention of genocide. The holocaust is as much a part of our Nation, as are the Jewish survivors who sought refuge in America. The memory of 6 million Jews, who were brutally annihilated, must be kept alive. Only by recognizing the consequences of Hitler's attempt at genocide, can we prevent its repetition.

The holocaust represents a pathetic part of the history of our civilization. By allowing its memory to fade, we weaken America's foundation. If the democratic principles, upon which our Nation was founded, are to be preserved we must acknowledge the factors that contributed to the deterioration of the German democracy under Hitler's regime.

The establishment of a U.S. Holocaust Memorial Council would insure that the millions of Jews massacred during World War II did not die in vain. It will also serve as a constant reminder that the principles upon which this country is based must be upheld. The establishment of such a council and a memorial museum, would prevent us from becoming callous to the violations of human rights or indifference to the suffering of our fellow men and women. Therefore, I urge my colleagues to give their support to this bill.●

● Mr. KOSTMAYER. Mr. Speaker, I wish to reaffirm my strong support for H.R. 8081, legislation to establish the U.S. Memorial Holocaust Council.

This legislation establishes a 60-member U.S. Memorial Holocaust Council, including 5 members each from the House of Representatives and the Senate. The Council is to be appointed by the President to serve 5-year terms—except for Members of the House and Senate—and would have authority to accept and disburse gifts and donations to carry out the purpose of the act. The Council's prime objectives are the establishment of a national holocaust museum to victims of the holocaust, and to provide for the national observance each year of "Days of Remembrance."

We must insure that the memory of this tragedy never dies. As each new generation visits the memorial museum, as each "Day of Remembrance" is observed across the Nation, we take another step toward preventing its recurrence. Every visitor assumes new vigilance, every prayer becomes another voice of commitment: Never again.●

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1510

CONFERENCE REPORT ON H.R. 5164, SMALL VESSEL INSPECTION AND MANNING

Mr. BIAGGI. Mr. Speaker, I call up the conference report on the bill (H.R. 5164) to amend certain inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 17, 1980.)

The SPEAKER pro tempore. The gentleman from New York (Mr. BIAGGI) will be recognized for 30 minutes, and the gentleman from California (Mr. MCCLOSKEY) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. BIAGGI).

GENERAL LEAVE

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BIAGGI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring before the House the report of the committee of conference, resolving a difference between the two Houses on H.R. 5164, a bill to amend certain inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes.

The bill, as reported by the two Houses, addresses various acute problems of the small commercial vessel industry, particularly the party boat fishing industry and the offshore oil and mineral supply vessel industry—and should materially assist in keeping these industries safe and viable.

It makes important changes in the law governing able seamen for the entire maritime industry.

It clarifies the law on the inspection and manning of vessels under 100 gross tons and subjects all offshore supply boats—as defined in the bill—to Coast Guard safety inspection and manning requirements.

It also modifies the requirements for licensed engineers and deck officers on vessels of under 300 gross tons.

Before discussing the difference between the Houses, I want to state that we have been and continue to be gravely concerned over this important segment of our merchant marine. It is one of our most viable industries—and, with over 3,000 vessels, it represents a good share of U.S. tonnage. We have provided numerous opportunities during this and prior congresses to hear from many diverse interests who were concerned with regulatory requirements and procedures that were being imposed upon small commercial vessels.

We have heard from representatives of the administration: Maritime labor, party boat fishermen, inland passenger vessel operators, and the offshore mineral and oil support industry. We have considered massive amounts of materials and have had repeated consultations to facilitate developing a bill that we can all live with. I think that both sides of the Congress have developed such a bill.

The only difference between the Houses concerns a provision related to prerequisite experience for able seamen on specialized offshore supply vessels. I believe that H.R. 5164—as passed by the House—with respect to the able seaman problem is a great improvement over existing law with respect to able seaman requirements. It establishes a ladder of advancement by creating various types of able seamen, based on experience levels, and provides flexibility in able seaman manning requirements for large as well as small commercial vessels.

However, the committee of conference felt that, in addition to retaining the House requirements, it could—without a diminution in safety—permit 6 months' service on deck as prerequisite experience for able seamen employed on vessels of less than 500 gross tons engaged in support of exploration, exploitation, or production of offshore mineral or energy resources.

The committee of conference, therefore, agreed to the Senate amendment. I now urge adoption of the report of the committee of conference by my colleagues in the House.

● Mr. MURPHY of New York. Mr. Speaker, the issue settled in conference committee on H.R. 5164 can be stated in simple terms, but its ramifications are far-reaching. As passed by the House, the bill would have required 12 months service on deck as a prerequisite for qualification as "able seaman-special." The Senate added a provision that would reduce the deck service requirement to a 6-month qualification as "able seaman-special" for service on small vessels engaged in support of the offshore mineral and oil industry. This is not a negligible difference in seafarer qualifications nor is it a minor accommodation to a specialized industry. I regret that the House receded to the Senate position on this matter.

In recent years, the mushrooming growth of the offshore industry has bred practices in operation of offshore supply vessels that were not contemplated when existing law was enacted. For some time, through broad interpretation of existing law, the Coast Guard was able to accommodate these practices. The situation has now evolved to the point where remedial action is required, either by altering industry practices or by amending basic maritime statutes or by a combination of the two.

H.R. 5164, as passed by the House, would change existing law by amending the inspection and manning requirements to create in effect, a special exception for the mineral and oil industry. I have previously expressed concerns about these provisions, and reiterate those concerns now. H.R. 5164 was the subject of extensive hearings before the Subcommittee on Coast Guard and Navigation and numerous consultations with members of the offshore mineral and oil support industry and representatives of the maritime labor unions. A major effort was made to come to specific terms with these two groups and to provide a bill that addresses the problems of the interests involved and offers viable solutions without sacrificing maritime safety.

I originally suggested a temporary 1-year moratorium on enforcement of existing laws with respect to the mineral and oil support industry in order to resolve the conflict between the views of the industry and organized labor. It can be argued that the reason for the manpower shortages in the Gulf of Mexico portion of the industry is the reluctance of the industry in that region to raise the level of wages and working conditions. The industry in the Northeastern United States has no such difficulty because the wages and conditions are superior to those in the gulf. It appears that the problem is not an inherent shortage of labor because of high standards, but stems from conditions that are not on a level with the nonmaritime industries in the gulf coast area.

The insistence on a permanent exemption from these laws in the Gulf of Mexico mineral and oil support industry is a continuing cause of concern. This legislation is seen by some as authorizing offshore supply vessels to navigate coastal waters with fatigued, undertrained, underexperienced, poorly qualified personnel working for substandard wages under difficult conditions.

I would have preferred the 1-year moratorium on enforcement of existing laws to this bill as passed by the House. Nonetheless, the bill has now passed both Houses of Congress, has gone before a conference committee, and is now before us again as the conference report.

That brings me to the central point: H.R. 1564, as passed by the House, already accommodates the mineral and oil industry to an extraordinary degree. I do not believe that further accommodation is necessary or justified. Any further adjustment to prevailing conditions should be through altering industry practices. In truth, I believe that endorsement of the 6 month able seaman rating is dangerous, both as precedent and as a hazard to safe operations.

I therefore oppose the adoption of the conference report on H.R. 5164, now before us. ●

Mr. BIAGGI. I yield such time as he may consume to the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Speaker, I rise in support of the bill and also to take this opportunity to commend the chairman of the subcommittee, who has handled this legislation through the House.

While the gentleman differed in some respects on the bill, I think he was always guided by a real concern for the safety of American merchant marine seamen and the seamen who are working on these offshore vessels. That was always his first concern, and he tried to enunciate his position throughout the committee hearings and throughout the conference and held very firm throughout the consideration of this legislation. I think that the end product he has brought to the House floor, while everyone is not in total agreement, I think we can at least agree that it is a good product that will guarantee the continued safety of the American merchant marine.

Mr. BIAGGI. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Louisiana (Mrs. BOGGS).

Mrs. BOGGS. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Louisiana (Mr. BREAUX) and to add my own commendations to the chairman and the members of the committee for bringing forth this conference report.

Mr. Speaker, I urge support of the conference report and the passage of it.

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased that the conference report on H.R. 5164, the small vessel manning bill, accepted the key antifeatherbedding section originally voted out by the House Merchant Marine and Fisheries Committee.

The purpose of H.R. 5164 is to modify certain inspection and manning laws primarily applicable to small vessels carrying passengers or freight for hire, recognizing the current needs and practices of industry in maintaining maritime safety. Many of these laws date from the early era of steamships.

The Committee on Merchant Marine and Fisheries bill established a new position of "able seaman-special" which would allow seamen to qualify as able seamen on offshore marine service vessels after 6 months of service on deck. This provision was included to alleviate the manning shortages in the offshore energy industry. This provision regarding the 6-month "able seaman-special" was deleted when the bill was passed by the House under suspension of the rules. The Senate, however insisted on the 6-month "able seaman-special" provision because the service time requirements seem excessive for this industry.

The committees with jurisdiction in both the House and Senate had given careful consideration to any adverse safety implications which might result from a 6-month able seaman training requirement and concluded that there was no valid basis for a requirement in excess of 6 months. This provision was supported by the industry, the Coast Guard, and the National Transportation Safety Board. The Coast Guard's testimony was expicit: At page 208 of the hearing record (serial No. 96-24) the Coast Guard witness, Admiral Bell, testified the 6-month provision would "enhance the safety."

The term able seaman as used, in the traditional seagoing sense has little meaning in today's offshore industry. A seaman in the modern offshore industry essentially is a deckhand or a machinist and oiler performing basic maintenance tasks under strict supervision by a mate or master. In addition, this type of seaman must be trained in firefighting and lifesaving techniques.

In view of the available formal training by industry, labor and Government, the limited skills required of a seaman in the offshore industry, and the inordinately long-service requirements currently prevailing in the industry, the conference committee found that an able seaman training requirement in excess of 6 months was not warranted. The conference committee concluded, as did the House and Senate committees with jurisdiction, that 6 months is enough time for an "able seaman-special" to qualify for service in the offshore industry and maintain maritime safety.

Mr. Speaker, I urge adoption of the conference report on H.R. 5164.

Mr. BIAGGI. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. BONIOR), an important member of the committee.

Mr. BONIOR of Michigan. Mr. Speaker, I rise in opposition to that portion of the House-Senate conference report on H.R. 5164 which recommends that this Congress approve the establishment of an able-bodied seaman for the mineral and oil industry with only 6 months of sea service. It is my firm belief that this provision is clearly inconsistent with the fundamental goal of safety at sea and should not be sanctioned by this House.

Mr. Speaker, H.R. 5164 is legislation which has been before this body for over 1 year. In that time, much has been said about the need to revise antiquated maritime statutes consistent with the operational realities of newly emerging sectors of the U.S. merchant marine. No one denies this need; indeed, most of the provisions of H.R. 5164 are widely supported by all interested parties. Many who appeared before the Subcommittee on Coast Guard and Navigation of the Committee on Merchant Marine and Fisheries specifically commended the chairman, Mr. BIAGGI, for his ongoing efforts to modernize American maritime law. I join in their commendations.

However, although H.R. 5164 provides needed revisions to many areas of maritime law, it attempts to alleviate the manpower shortage experienced by the Gulf of Mexico mineral and oil industry through a reduction in the sea-service requirements of able-bodied seamen. I do not believe that this course is consistent with the clear intent of recent Congresses in enacting laws which seek to strengthen the protection against marine accidents and environmental pollution. The twofold indictment of the 6-month AB provision now included in H.R. 5164 is first, that it fails to deal with the Gulf M. & O. manpower shortage in a responsible manner; and second, that it does not have as its top priority the maintenance and enhancement of the safety of life at sea.

I ask my colleagues to seriously question the argument which contends that 6 months of seatime is adequate to produce an experienced and competent AB. Consider if you will that given the other provisions of this bill which allow education to substitute for a portion of the seatime required and allows the 12-hour workday to count as 1½ days of seaservice, H.R. 5164 will establish statutorily a 100-day AB. Does anyone truly believe that 100 days of seatime qualifies one to earn the rating of able-bodied seaman? I, for one, do not; and I believe that enactment of this ill-advised provision will be tantamount to the Congress turning its back on thousands of American seamen who depend on us to maintain the safety of their working environment.

Existing laws addressing safety at sea all recognize the importance of experienced and competent crews. H.R. 5164 ignores this longstanding precedent and seeks to decrease the safety of vessel operations in the mineral and oil industry. It will transform thousands of deckhands into able-bodied seamen not by their experience at sea but by legislative fiat. This is clearly an ill-advised approach and I urge this House to reject it.

Mr. LOWRY. Mr. Speaker, will the gentleman yield?

Mr. BONIOR of Michigan. I yield to the gentleman from Washington.

Mr. LOWRY. I appreciate the comments the gentleman made about the shortening of the time for the qualifications of an able-bodied seaman. It is my understanding, from information we are given, at the present it is a 12-month practice, and we are lowering that to 6 months. Is that the gentleman's understanding?

Mr. BONIOR of Michigan. That is correct, and I guess my only comment to that would be that 6 months is certainly not a long period of time to be reclassified as an AB seaman. And given the problem we have had, in terms of safety at sea, I think we ought to seriously look at what we are doing here today.

Mr. LOWRY. I thank the gentleman for yielding, and I will necessarily have to also oppose the conference report for that reason, reluctantly, realizing the excellent work that has been done in other elements of the report.

Mr. BONIOR of Michigan. Mr. Speaker, again I commend the chairman, the gentleman from New York (Mr. BIAGGI), for his work in trying to pull this very difficult situation together.

Mr. BIAGGI. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR).

☐ 1520

Mr. OBERSTAR. I thank the gentleman for yielding.

Mr. Speaker, I rise in opposition to the conference report on H.R. 5164, the small vessel inspection and manning bill.

The basic issue is safety: The time required for training and education for the rating of able-bodied seamen in the mineral and offshore oil industry.

My objection to the legislation is that it sets unwise and, in many respects, dangerous precedent for reductions in the education and training time.

I was a member on the conference committee. I could not sign the conference report. I respect the work that our chairman did. I thought he did a splendid job in the hearings in committee and on the floor when the bill passed the House originally, with the 1-year training requirement. We were rolled over, frankly, by the Senate in the conference report. The House bill provided for a year's training to qualify for an AB rating. In the conference committee, the

Senate insisted, in fact one Senator, insisted on the Senate provision reducing it to 6 months from the present 3 years.

If we must err, let us err on the side of safety. This bill does not do that. It does not protect seamen as adequately as I believe it should.

I cannot support something that will reduce safety for people who are engaged in one of the world's most dangerous trades.

All one has to do is read the story in this morning's Washington Post about safety in the air and about pilots who are required to work under the dangerous condition of inadequate rest.

This legislation will open the way for similar circumstances at sea and the resulting accidents.

Safe vessel operations require seamen with proper experience and training. For those who are unfamiliar with the maritime trades, I want to point out that 12-hour work days are common in this industry. The seaman receives 1½ days of sea time credit for each 12-hour work period. Coupling the 12-hour work day with the liberal education-in-lieu-of-service provisions of the bill results in a "100 day" AB rating. While the current 3-year requirement may be excessive, a 100-day AB is wholly inadequate.

Maritime labor has historically argued for increased training and education, qualification for crews aboard vessels operating in both international and domestic waters. They have worked to upgrade programs to provide for a high-quality craftsmanship among seamen.

Their concern for safety has resulted in improved operation of vessels including the big 390,000-ton deadweight mammoth vessels at sea, the tankers. The seamen are not opposing any improvements or progress in the area of safety or manning of vessels. They are concerned about the safety of the persons who risk their lives at sea. In this age of highly technological vessels where the crew size has been drastically reduced, and in many cases cut nearly in half, whether it is on the Great Lakes, or at sea in 300,000-ton vessels, the issue of safety is of paramount importance.

The time required for training seamen is an essential factor.

That Congress should reduce the time for training in the face of this practice of industry of reducing the number of persons operating those vessels is disturbing.

A 12-month minimum sea service requirement is supported by the Coast Guard's review of accidents in the offshore mineral and oil industry. A report prepared for the National Offshore Oil Industry Advisory Committee meeting in San Francisco on May 25–26, 1976, underscores the Coast Guard's concern about the high level of supply vessel losses. It points out that in the Eighth Coast Guard District alone, during 1974 and 1975, there were 197 "reportable marine casualties" involving M. & O. vessels. In light of these high accident statistics, from what amounts to only a sampling of the entire offshore oil exploration industry, I do not see how the House can accept the argument that AB sea service standards should be lowered to less than 12 months.

Further, in a Coast Guard sampling of 19 M. & O. vessel casualties, a close examination indicates that in 14 of the cases the probable contributory causes, as cited by the Coast Guard, were either failure to follow proper operating procedures, poor maintenance, questionable damage control and/or questionable seamanship.

Now, just 3 years after this report and without any signficant change in vessel operating conditions, we are being asked to accept unchallenged the claims that reduced seatime is a solution to the safety issue.

In view of the Industry Advisory Committee report and other statistics compiled by the Coast Guard on accidents in this industry, I cannot accept the argument that certification of an able seaman in 6 months is an enhancement of safety, and neither should you.

I urge the House to reject the conference report.

Mr. BIAGGI. Mr. Speaker, I think in response to the preceding speakers, it is incumbent upon me to put this body's collective mind to rest.

The question of safety has always been paramount in the committee's consideration of this legislation. The Coast Guard has stated that safety is not diminished by virtue of this legislation. The fact is the House passed a bill providing for 12-month, able seamen. I supported that.

When we went into conference, the Senate took an opposing view. For the sake of obtaining legislation that is so necessary to respond to the needs of ever-increasing offshore M. & O. vessels, we compromised. We compromised with 6 months. But we did not compromise until we were assured by the Coast Guard and the National Safety Board of Transportation that safety would not be diminished.

I would like to read from one of the union's papers:

> The U.S. House of Representatives recently passed a bill actively supported by the SIU which will provide for job responsibility for the blue-collar worker particularly the ABs, and would provide job opportunities.

That bill has a 12-month provision which I supported.

I just explained the reason why we have 6 months in the conference report. There was a question of getting legislation. It was a question of obtaining a compromise.

In a letter from the President of that international organization, to Congressman MURPHY, he stated on August 26, 1980, and I excerpt a paragraph:

> H.R. 5164 is legislation which takes several positive steps toward needed modification of the inspection and managed statutes of smaller commercial vessels, especially those in the offshore mineral and oil exploration support industry. The bill as passed by the House of Representatives is sound and reasoned legislation.

The only issue that comes up as a result of the conference is the question of time.

Under the law, you are required 36 months. As a matter of practice, it is 12 months for an ordinary seaman to qualify as an able-bodied seaman. That is what the original legislation that we passed in the House provided, but in the spirit of compromise, in order to get the legislation, we agreed to 6 months after a 5 to 4 vote.

Even though we opposed the 6-month provision in conference, we were outvoted; but this body can be assured by the Coast Guard's representation and by the National Safety Board of Transportation that safety has not been diminished.

Mr. McCLOSKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. LIVINGSTON).

Mr. LIVINGSTON. Mr. Speaker, I rise in support of this conference report.

□ 1530

Mr. Speaker, I would simply point out, as the gentleman from New York was just saying, that the conference met, convened, and decided that this total package was in the best interests of the maritime industry. I personally believe that to be true. In addition, it should be noted that the 6 months of training in this sector of the maritime industry is really equal to 12 months under ordinary circumstances.

Most individuals who work on small vessels, particularly in the oil patch. have to work 12 hours on and 12 hours off, or 7 days on and 7 days off, and, in effect, they take twice the time to get their maritime experience that the ordinary seaman might take, since the latter earns his certification in straight continuous periods of time. In essence, if it takes 12 months for the average seaman to get his certification, it takes 24 months for the small vessel seaman to get his certification under current law. This change simply equalizes the situation, so that a small vessel will become certified in the same length of time as the ordinary seaman.

I urge the adoption of this conference report.

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to speak in response to the points that were made by the gentlemen from Michigan, Minnesota, and Washington. In this piece of legislation, which is a very comprehensive piece of legislation, to try to upgrade safety requirements that were adopted over a century ago, when our committees heard testimony on this point of how much training was required for an able seaman, we were looking at a situation of laws that were adopted back in the early days of the steamboat when the individual who may have had to manage a steam boiler was dealing with a new technology, a technology which had resulted in several tragedies, particularly on the Mississippi River, where steamboats blew up. In the face of that kind of situation, the Congress enacted very rigorous laws for the training of able seamen; but today's able seamen, particularly on ships of under 500 gross tons that serve the oil rig platforms on which there is conceivably a manning shortage that was testified to before our committee, the job of the merchant seaman is a fairly simple one. He operates under the strict supervision of a mate or an officer. He is essentially a mechanic or an oiler.

I might say in my own experience I spent 19 months in the Navy trying to become a competent seaman. I can conceive of none of the jobs described in our testimony which would require more than 6 months to train to be competent. You must be competent in firefighting, machinery management, the tending of the machinery on these ships of less than 500 gross tons; but I would ask any Member who went through the Navy as an able seaman or a seaman first-class or a seaman second-class if he can conceive of requiring more than 6 months for training an able seaman for the most complicated of ships in our own Navy today. I think 6 months is adequate.

Let me quote from the testimony of Admiral Bell, which was the persuasive testimony to our committee. It appears at page 208 of the hearing record.

> Admiral BELL. I do not believe that adoption of this legislation will in any way lower this level of safety involved. In fact, as I think I explained before, I think it will allow to bring more vessels under certification, because it will solve a manning problem. I believe it will enhance the safety.

To those gentlemen from the Great Lakes he went on to say:

> It further allows us to address a licensing scheme that provides qualifications for the class of vessels we are talking about and not the ocean vessels and the Great Lakes vessels on the Mississippi.

It seems to me, Mr. Speaker, that this is a persuasive case to adopt this conference report.

The single point we agree on, 6 months rather than 12 months, the testimony in front of both committees of jurisdiction was persuasive, both the Senate and the House committee agreed on 6 months. I think we should agree to the conference report.

Mr. BIAGGI. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Speaker, I represent the Third Congressional District of the State of Louisiana, formerly represented by Congressman Dave Treen of Louisiana. The gentleman from Louisiana, Mr. Treen, my predecessor, was a cosponsor of this legislation. I am rising today to ask the House to adopt the conference committee report.

I would like to associate myself in that regard with the comments of the gentleman from Louisiana (Mr. LIVINGSTON), the gentleman from Louisiana (Mr. BREAUX), and the gentlewoman from Louisiana (Mrs. BOGGS).

This legislation is vital to the Third District. The district represents about 70 percent of the merchant marine industry in Louisiana. This legislation will bring into perspective, into modern perspective, some understandings of the Coast Guard in trying to adopt some very outmoded laws in the operation of the oil and gas offshore industry in Louisiana.

The gentleman from Louisiana (Mr. LIVINGSTON) is absolutely correct. By going to 6 months for able-bodied seamen sea time training, we are adopting in effect a 12-month practical application, because it takes 12 months under the 7-day on, 7-day off workday schedule of a seaman in Louisiana to have 6 months of sea time training. So this amendment adopted by the conference committee report, in effect, codifies what is the practice and the understanding of the Coast Guard at this time.

I am also impressed by the statement of the chairman that the Coast Guard has testified that safety will not be jeopardized by the requirement of this new provision.

I would like to compliment the chairman and all the Members who worked on this legislation.

Mr. BIAGGI. Mr. Speaker, I have no further requests for time. I yield back the balance of my time.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBERSTAR. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 279, nays 111, not voting 42, as follows:

[Roll No. 578]

YEAS—279

Abdnor
Ambro
Andrews, N.C.
Andrews, N.Dak.
Anthony
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Barnard
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bereuter
Biaggi
Bingham
Boggs
Boland
Boner
Brademas
Breaux
Brinkley
Brooks
Broomfield
Brown, Calif.
Broyhill
Burgener
Campbell
Carney
Carr
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, S.C.
de la Garza
Dellums
Derrick
Devine
Dickinson
Dingell
Dornan
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Del.
Fascell
Fenwick
Findley
Fish
Fisher
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Giaimo
Gibbons
Gingrich
Ginn
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harsha
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kogovsek
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lujan
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Marlenee
Marriott
Martin
Mattox
Mavroules
Mazzoli
Mica
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Pa.
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Ottinger
Panetta
Pashayan
Patten
Paul
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Quayle
Quillen
Railsback
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Roth
Rousselot
Royer
Rudd
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stanton
Steed
Stenholm
Stockman
Studds
Stump
Synar
Tauke
Tauzin
Thomas
Thompson
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Walgren
Walker
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Winn
Wirth
Wolff
Wright
Wyatt
Wydler
Yatron
Young, Fla.
Zablocki

NAYS—111

Addabbo
Akaka
Albosta
Anderson, Calif.
Annunzio
Applegate
Baldus
Barnes
Bauman
Beilenson
Benjamin
Bevill
Blanchard
Bonior
Bonker
Bouquard
Brodhead
Buchanan
Burlison
Burton, John
Burton, Phillip
Byron
Clay
Coelho
Conyers
Corman
D'Amours
Daschle
Dicks
Dixon
Dodd
Donnelly
Dougherty
Drinan
Eckhardt
Edgar
Erdahl
Evans, Ind.
Fary
Fazio
Ferraro
Fithian
Flippo
Florio
Frost
Garcia
Gaydos
Gephardt
Gilman
Gray
Hall, Ohio
Harris
Hawkins
Hollenbeck
Holt
Howard
Johnson, Calif.
Kastenmeier
Kemp
Kildee
Kindness
Kostmayer
Lederer
Leland
Lowry
Luken
Lundine
McHugh
Maguire
Markey
Marks
Matsui
Mikulski
Miller, Calif.
Mitchell, Md.
Mollohan
Murtha
Nedzi
Nolan
Oberstar
Obey
Patterson
Pease
Pursell
Rahall
Rangel
Richmond
Rodino
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Shannon
Solarz
Stangeland
Stark
Stewart
Stokes
Swift
Traxler
Volkmer
Waxman
Weaver
Weiss
Williams, Mont.
Wilson, Tex.
Wolpe
Yates
Young, Mo.
Zeferetti

NOT VOTING—42

Alexander
Anderson, Ill.
Bethune
Bolling
Bowen
Brown, Ohio
Butler
Carter
Cavanaugh
Chisholm
Davis, Mich.
Deckard
Derwinski
Edwards, Calif.
Evans, Ga.
Glickman
Grisham
Heftel
Holtzman
Ichord
Jenkins
Jenrette
Leach, La.
Mathis
Mineta
Moore
Murphy, Ill.
Murphy, N.Y.
Musto
Myers, Pa.
O'Brien
Santini
Satterfield
Simon
Stratton
Symms
Taylor
Vento
Wampler
Wilson, C. H.
Wylie
Young, Alaska

☐ 1550

The Clerk announced the following pairs:

On this vote:

Mr. Jenrette for, with Mr. Murphy of New York against.

Mr. Evans of Georgia for, with Mr. Murphy of Illinois against.

Until further notice:

Mr. Santini with Mr. Bethune.

Mr. Musto with Mr. Moore.

Mr. Edwards of California with Mr. Young of Alaska.

Mr. Mineta with Mr. Symms.

Mr. Vento with Mr. O'Brien.

Mr. Simon with Mr. Brown of Ohio.
Mr. Satterfield with Mr. Carter.
Mr. Jenkins with Mr. Wylie.
Mr. Bowen with Mr. Wampler.
Mrs. Chisholm with Mr. Taylor.
Mr. Mathis with Mr. Butler.
Mr. Myers of Pennsylvania with Mr. Davis of Michigan.
Mr. Charles H. Wilson of California with Mr. Derwinski.
Mr. Leach of Louisiana with Mr. Grisham.
Mr. Cavanaugh with Mr. Ichord.
Mr. Alexander with Ms. Holtzman.
Mr. Glickman with Mr. Deckard.
Mr. Heftel with Mr. Stratton.

Messrs. CLAY, HAWKINS, STOKES, DONNELLY, ROSTENKOWSKI, BEVILL, MARKS, and FLORIO, Mrs. BOUQUARD, Messrs. DIXON, MATSUI, EDGAR, BUCHANAN, AKAKA, WEAVER, BURLISON, SCHEUER, DICKS, GARCIA, MARKEY, FITHIAN, RODINO, and HARRIS changed their votes from "yea" to "nay."

Mr. KAZEN and Mr. McDONALD changed their votes from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO FILE REPORT ON S. 1798, HOUSEHOLD GOODS TRANSPORTATION ACT OF 1980

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation have until midnight tonight to file a report on the Senate bill, S. 1798, the Household Goods Transportation Act of 1980.

The SPEAKER pro tempore. Is there objection to the request of the gentleman fom California?

There was no objection.

ROBERT N. GIAIMO FEDERAL BUILDING

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 7544) to designate the U.S. Federal Building in New Haven, Conn., as the "Robert N. Giaimo Federal Building."

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

Mr. McKINNEY. Mr. Speaker, reserving the right to object, it is obvious that I will not object to this bill, but I could not let this come before this House without saying how just I think this is. The gentleman from Connecticut (Mr. GIAIMO) is a member of the opposite party, but he is also my neighboring Congressman and a good friend. Both of us have received repeatedly great complaints from both of our parties about our lauding each other for our performance. My being lauded by Mr. GIAIMO was not worthy; my telling everyone how great a Congressman he has been is.

Further reserving the right to object, Mr. Speaker, I would say that Mr. GIAIMO has taken now for 4 years one of the most unpopular, unattractive jobs in the Congress of the United States, a job where there are no friends, there are no points to be won, and where he has survived, stood firm, spoken up for what he believes in, and done a job that I am sure a lot of my colleagues who are known easily as the budget-cutters of the world would not want to do. He is to me the exemplification of a man who has risen to a challenge and answered that challenge.

Mr. Speaker, I withdraw my reservation of objection.

☐ 1600

Mr. BAUMAN. Mr. Speaker, reserving the right to object, would the gentleman from Georgia agree to an amendment that would add the second budget resolution to this bill, as amended?

Mr. LEVITAS. Knowing the activities of the other body, on such a harmless but important piece of legislation as this, it could be that the tax cut the gentleman has been looking for might come back when we see this bill again. I doubt that the budget bill will make it even though I would like to see it.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman.

I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the bill, as follows:

H.R. 7544

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 150 Court Street, New Haven, Connecticut (commonly known as the Federal Building), shall hereafter be known, called, and designated as the "Robert N. Giaimo Federal Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the Robert N. Giaimo Federal Building.

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEVITAS: At the end of the bill add the following new section:

SEC. 2. This Act shall take effect January 15, 1981.

Mr. LEVITAS. Mr. Speaker, I rise in support of H.R. 7544, a bill which recognizes the unparalleled service given by Congressman ROBERT N. GIAIMO to his State and country, and his undiminished vigor working in the people's behalf, by paying tribute to him by naming the Federal building located at 150 Court Street in New Haven, Conn., as the "Robert N. Giaimo Federal Building."

ROBERT N. GIAIMO, U.S. Representative from the 3rd District of Connecticut, is a Democrat from the town of North Haven. He was born in New Haven on October 15, 1919, the son of the late Rose and Rosario Giaimo, a founder and first president of the Community Bank and Trust Company of New Haven. Congressman GIAIMO attended North Haven public schools, Hillhouse High School in New Haven, Fordham College, and the University of Connecticut School of Law, from which he received his LLB in 1943. He was admitted to the Connecticut bar in 1947 and practiced in the New Haven area. During World War II, he served as a commissioned officer in the U.S. Army.

First elected to the 86th Congress in 1958, Congressman GIAIMO has been reelected to each succeeding Congress. He is chairman of the House Committee on the Budget. A ranking member of the House Committee on Appropriations, he serves on its Subcommittees on the Department of Defense, the Legislative Branch (Congress), and the Treasury, Postal Service and General Government.

Congressman GIAIMO has announced he plans to retire at the end of the 96th Congress. During his almost 22 years in the U.S. House of Representatives, he has served with integrity of purpose and deep devotion to the cause of improving the lives of all citizens of our Nation and our world. His abilities as a brilliant legislator have gained the recognition of all of his colleagues.

I am honored to have had the privilege of serving with him for 6 years and urge enactment of H.R. 7544.

Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 7544, a bill to designate the Federal building in New Haven, Conn., as the "Robert N. Giaimo Federal Building."

Congressman GIAIMO was first elected to the U.S. House of Representatives in 1958 and is now serving his 11th consecutive term. Members on both sides of the political aisle were saddened to learn that the chairman of the House Budget Committee and a ranking member of the House Committee on Appropriations plans to retire from Congress at the end of his present term.

BOB GIAIMO served in this body with integrity of purpose and deep devotion to the cause of improving the lives of his constituents and all citizens of our Nation and the world. His effectiveness in carrying out the heavy responsibilities of his job gained him the admiration of all of his colleagues.

I urge my colleagues to support this fitting recognition of a distinguished public servant, BOB GIAIMO. In the years which I had the privilege of serving with Congressman GIAIMO, he made no promises he could not keep. His many accomplishments during his years of service will live on. This legislation will provide a proper tribute to his distinguished service.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS).

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

ANDREW W. BREIDENBACH ENVIRONMENTAL RESEARCH CENTER

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 7770) to name the Environmental Research Center in Cincinnati, Ohio, the "Andrew W. Breidenbach Environmental Research Center."

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

Mr. GRADISON. Mr. Speaker, reserving the right to object, I am delighted to take this opportunity to express my enthusiastic support for H.R. 7770, which will designate the U.S. EPA research facility in Cincinnati, Ohio, as the "Andrew W. Breidenbach Environmental Research Center" in honor of the late Andy Breidenbach.

Andy Breidenbach was a highly respected and internationally recognized environmental scientist who devoted most of his career to public service. A University of Cincinnati alumnus and adjunct professor, Dr. Breidenbach held several positions, including head of the Robert A. Taft Sanitary Engineering Center in Cincinnati. He also worked with HEW's Public Health Service in the local Division of Water Supply and Pollution Control. When the Environmental Protection Agency was established in 1970, Dr. Breidenbach was appointed Director of the National Environmental Research Center in Cincinnati. He then served the EPA as the Assistant Administrator for Water and Hazardous Material and was a founder of the Linking Pins Committee, composed of UC and EPA scientists and administrators which was formed to promote University-EPA cooperation. In addition, Andy was a leading consultant to the World Health Organization.

The Environmental Research Center, Cincinnati—located at 26 West St. Clair Street—houses research laboratories, training facilities, and administrative offices of the U.S. Environmental Protection Agency. The 10-story structure, occupied by a work force of over 800 employees, was dedicated by President Ford in July of 1975. It is one of the two major research facilities under EPA's Office of Research and Development. The $28 million building is located on 22 acres of land, donated to the Federal Government by the city of Cincinnati, and is adjacent to the University of Cincinnati campus and the major hospital-medical complexes of the city.

Andy Breidenbach was a superior administrator, educator, and scientist. On July 21, shortly after Andy's untimely death, I introduced H.R. 7770, which would name the Cincinnati Center in his memory. I am happy to say that several of our colleagues from both sides of the aisle are cosponsors of this bill. I would also like to express my gratitude to Representatives LEVITAS and HARSHA for their support of H.R. 7770 in the Public Buildings and Grounds Subcommittee. Since Andy was instrumental in establishing the research center, it is only fitting that this facility be named as a tribute to him, and I urge that the House give favorable consideration to this proposal.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. GRADISON. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, I rise in support of H.R. 7770, a bill to designate that the Environmental Research Center in Cincinnati, Ohio, which house research laboratories, training facilities, and administrative offices of the U.S. Environmental Protection Agency, be designated as the "Andrew W. Breidenbach Environmental Research Center."

Andrew Breidenbach was a highly respected and internationally recognized environmental scientist who devoted most of his career to public service. He held several positions working in the environmental area, most notably, his appointment as Director of the National Environmental Research Center in Cincinnati in 1970.

I urge enactment of H.R. 7770.

Mr. JOHNSON of California. Mr. Speaker, will the gentleman yield?

Mr. GRADISON. I yield to the gentleman from California.

Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 7770, a bill to honor a distinguished environmental scientist, a pioneer in the field of environmental issues, Andrew W. Breidenbach, by naming the Environmental Research Center in Cincinnati, Ohio, the "Andrew W. Breidenbach Environmental Research Center."

● Mr. HARSHA. Mr. Speaker, I rise in support of H.R. 7770, a bill to name the Environmental Research Center in Cincinnati, Ohio, the "Andrew W. Breidenbach Environmental Research Center."

Andrew W. Breidenbach was one of the Nation's truly great environmental pioneers and scientists. He received numerous honors and awards. Among those was a full graduate fellowship for doctoral research at the University of Florida; certificate for superior service by the Health Education and Welfare Secretary; nominated by the President of the United States and confirmed by the U.S. Senate as Assistant Administrator for Water and Hazardous Materials, U.S. Environmental Protection Agency. He served as leading consultant to the World Health Organization, was nominated by the U.S. Environmental Protection Agency for the National Civil Service League Award, the Roger W. Jones Award for Executive Leadership, was a member of the editorial board of the International Journal of the Environment, and was awarded a Distinguished Service Medal by the U.S. Environmental Protection Agency.

Andy Breidenbach was a highly respected and internationally recognized environmental scientist who devoted most of his career to public service. He held several positions, including head of the Robert A. Taft Sanitary Engineering Center in Cincinnati. He worked with HEW's Public Health Service in the local Division of Water Supply and Pollution Control. When the Environmental Protection Agency was established in 1970, he was appointed Director of the National Environmental Research Center in Cincinnati. He served the EPA as the Assistant Administrator for Water Hazardous Material and was a founder of the Linking Pins Committee, composed of University of Cincinnati and EPA scientists and administrators, which was formed to promote university and EPA cooperation.

Dr. Breidenbach died on May 21, 1980, at his home in Bethesda, Md. His wife Jean and children Barbara, Charles, David, and Scott, as well as all those who knew him will remember that he was a superior administrator, educator, and scientist. It is truly fitting that the Environmental Research Center in Cincinnati which house research laboratories, training facilities, and administrative offices of the U.S. Environmental Protection Agency, be designated as the "Andrew W. Breidenbach Environmental Research Center" in memory of this outstanding citizen.●

Mr. GRADISON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the bill, as follows:

H.R. 7770

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Environmental Research Center, located at 26 West Saint Clair Street, Cincinnati, Ohio, shall hereafter be known and designated as the "Andrew W. Breidenbach Environmental Research Center". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the Andrew W. Breidenbach Environmental Research Center.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 2080, PUBLIC BUILDINGS ACT OF 1980

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2080) to establish public buildings policies for the Federal Government, to establish the Public Buildings Service in the General Services Administration, and for other purposes, with the House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California? The Chair hears none and, without objection, appoints the following conferees: Messrs. JOHNSON of California, LEVITAS, McCORMACK, FLIPPO, DONNELLY, HARSHA, and STANGELAND.

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 885, PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION ACT

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. 96–1368) on the resolution (H. Res. 791), providing for the consideration of S. 885 to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River power system to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes, which was referred to the House Calendar and ordered to be printed.

HAZARDOUS WASTE CONTAINMENT ACT OF 1980

Mr. FLORIO. Mr. Speaker, I move the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7020), to amend the Solid Waste Disposal Act to provide authorities to respond to releases of hazardous waste from inactive hazardous waste sites which endanger public health and the environment, to establish a hazardous waste response fund to be funded by a system of fees, to establish prohibitions and requirements concerning inactive hazardous waste sites, to provide for liability of persons responsible for releases of hazardous waste at such sites, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. Florio).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 7020, with Mr. Natcher in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole arose on Friday, September 19, 1980, all time for general debate had expired.

Pursuant to the rule, the substitute committee amendment recommended by the Committee on Interstate and Foreign Commerce now printed in the reported bill shall be considered as an original bill for the purpose of amendment and each section shall be considered as having been read. No amendments to the amendment recommended by the Committee on Ways and Means printed in the bill shall be in order except pro forma amendments for the purpose of debate and following amendments which shall not be amendable except by pro forma amendments: First, the amendments recommended by the Committee on Ways and Means; second, the amendment printed on page 23068 in the Congressional Record of August 25, 1980, by Representative Ullman of Oregon; and third, the amendment to be printed in the Congressional Record of September 5, 1980, by and if offered by, Representative Florio of New Jersey. Upon the adoption of the amendment recommended by the Committee on Ways and Means to the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce, and no further amendment to the bill shall be in order.

SUPERFUN GREAT DEBATE ON ALEXANDRIA FOUR MILE BASEBALL DIAMOND

(By unanimous consent, Mr. Pursell was allowed to proceed out of order.)

Mr. PURSELL. We would like to make brief remarks on behalf of the Republican and Democratic sides regarding the superfun annual congressional baseball teams who play tomorrow night at 8 o'clock in Alexandria.

Mr. Chairman, our great debates will be continued tomorrow night on the Alexandria Four Mile baseball diamond, the triple A team, the Republicans and Democrats will be playing tomorrow night under the lights at 8 o'clock. It is really shades of November 4 because we think we have a superfun ball club. We are going to clean up some toxic waste tomorrow night and maybe some mental errors on the part of the Democratic Party and those who want to get into the lineup on the Democratic side have to face wild Billy Cohen up in Maine and Ron Paul's big Texas bat. We have a freshman from Colgate, Gary Lee, who is Steinbrenner's Yankee new draft choice for the Yankees next year.

We have elevated Bill Frenzel and Bob Michel to coaching duties this year to make room for some younger attractive great ballplayers.

The message for early November 4 is that we are ready for the Democrats and your coach, Bill Chappell, tomorrow night at 8 o'clock.

May the best team win.

Mr. CHAPPELL. Will the gentleman yield?

Mr. PURSELL. I will be glad to yield.

Mr. CHAPPELL. Mr. Chairman, it is with a gerat deal of modesty that I rise to say just a few words about the rugged Democratic baseball team that is going to meet the mighty Republican tomorrow night out at Four Mile Run field. I just want them to know that they got a good licking coming up for them because we have such people on our roster—while we do not want to name any one outstanding as against another, we have such people as walloping Walter Fauntroy and magnificent Marty Sabo and soft hands Dave Bonior and troublesome Tom Downey and terrible Toby Moffett and hustling Earl Hutto and stomping Charlie Stenholm and romp and run Ron Riegle and mighty mantel Mike Synar, fearless Vic Fazio, bouncing Bob Duncan, and rowdy Ron Mottl, the pitcher and infielder and outfielder and bopping Bill, one of the aging catchers. And then we have a secret weapon for the folks tomorrow night. We have the following people as designated runners which ought to make it a little more interesting.

☐ 1610

They are designated because of their speed. So, we have jungle Jim Lloyd, speedman Mendel Davis, jumping Jim Wright, and marvelous Marty Russo, who will be designated runners.

We are going to show you a great ball game for a great purpose. The funds will go to Children's Hospital. We hope all of you will attend, together with your staffs. We are going to have a good time and a good ball game.

The CHAIRMAN. Are there any amendments to section 1?

PARLIAMENTARY INQUIRY

Mr. STOCKMAN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. STOCKMAN. Mr. Chairman, under the terms of the rule, would a substitute amendment to the entire bill, H.R. 7020, be in order only now, at this point for this bill?

The CHAIRMAN. The Chair would like to advise the gentleman that the gentleman's statement is correct, assuming adoption of the Ways and Means Committee amendment at the conclusion of the reading of the bill for amendment. Under the rule, no further amendments would then be in order.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STOCKMAN

Mr. STOCKMAN. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Stockman: Strike all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

Section 1. This Act may be cited as the "Hazardous Waste Containment Act of 1980."

INAPPLICABLE TO POLLUTION OF NAVIGABLE WATERS

Sec. 2. Nothing in this Act, or in any amendment made by this Act, shall apply to oil, or other, pollution of navigable waters.

FINDINGS

Sec. 3. The Congress hereby finds that—

(1) hazardous waste has been disposed of in a manner which may result in a significant danger to public health and safety;

(2) the exact location of many hazardous waste sites is unknown;

(3) cooperation by Federal, State, and local governments and private industry can assist in compiling an up-to-date inventory of the location, condition, and contents of existing hazardous waste sites;

(4) a systematic method of funding the cost-effective cleanup of dangerous hazardous waste sites is necessary to protect public health and safety.

AMENDMENTS TO SOLID WASTE DISPOSAL ACT

Sec. 4. (a) Subtitle C of the Solid Waste Disposal Act is amended by inserting

"PART 1—STANDARDS AND PERMITS FOR HAZARDOUS WASTE MANAGEMENT"

immediately after

"Subtitle C—Hazardous Waste Management"

and by adding the following new part at the end of such subtitle:

"PART 2—ASSISTANCE TO STATES FOR INACTIVE HAZARDOUS WASTE SITES

"COVERAGE OF PART

"Sec. 3021. The provisions of this part shall apply to inactive hazardous waste sites. Nothing in this part shall apply to oil, or other, pollution of navigable waters.

"PURPOSES

"Sec. 3022. (a) In General.—The purposes of this part are to provide, through the use of Federal financial and technical assistance, for the establishment and implementation of effective State programs to assure the cleanup and containment of inactive hazardous waste sites by—

"(1) carrying out investigation and evaluation of the inactive hazardous waste disposal sites in the State;

"(2) establishing cleanup priorities among the sites, based on the danger they present to public health and safety; and

"(3) undertaking, based upon such priorities, the necessary remedial action for the protection of public health and safety from the hazardous waste associated with such sites.

"(b) RECOVERY OF CLEANUP COSTS.—It is also a purpose of this part to assist the States in recovering, from persons liable under otherwise applicable law, the costs of State cleanup and containment activities with respect to inactive hazardous waste sites.

"DEFINITION

"SEC. 3023. For purposes of this part, the term 'inactive hazardous waste site' means a landfill, surface impoundment, storage facility, or any other site or facility of any kind—

"(1) at which hazardous waste is, or has been, present (including any site or facility where hazardous waste is, or has been, stored, treated, or disposed of, or which is, or has been, used in whole or in part for the retention, deposit, injection, placing, or dumping of hazardous waste), and

"(2) for which no permit under section 3005 has been issued or treated as issued under section 3005(e) and for which no permit under section 3005 (including subsection (e) thereof) is required.

"FORMULA GRANTS

"SEC. 3024. (a) STATE PLAN.—Each State may, not later than 180 days after the date of the enactment of the Hazardous Waste Containment Act of 1980, submit to the Administrator a plan—

"(1) providing for the discovery and investigation by the State of inactive hazardous waste sites;

"(2) providing for the evaluation by the State of the threat to public health and safety posed by such sites and establishing cleanup and containment priorities among those sites which present, or may present, a substantial threat to public health and safety;

"(3) containing proposed methods and criteria for determining the appropriate emergency response to, containment of, and other remedial measures to be carried out for, releases or threatened releases of hazardous waste from inactive hazardous waste sites where such releases or threatened releases pose a substantial danger to public health and safety;

"(4) setting forth appropriate roles and responsibilities for Federal, States, and local governments and for interstate and nongovernmental entities, in carrying out the plan; and

"(5) establishing an active and effective program for recovering, from persons liable under otherwise applicable law, the costs incurred by the State in the cleanup and containment of inactive hazardous waste sites.

The provisions included in the plan under paragraph (3) shall provide that the State shall have the primary responsibility for carrying out the plan. The provisions included in the plan under paragraph (5) shall insure that the State will have sufficient investigative powers, financial resources, and legal expertise to recover the maximum feasible amount of cleanup and containment expenses incurred by the State.

"(b) EPA APPROVAL.—The Administrator shall approve a State plan described in subsection (a) and submitted under this section unless he determines that the plan—

"(1) does not comply with the requirements of subsection (a) or is otherwise generally inconsistent with the purposes of this part; or

"(2) would not result in a cost-effective use of Federal funds to be made available to the State under this section.

Any State may submit to the Administrator a modification of any State plan described in subsection (a), and any such modification shall be approved by the Administrator unless he makes the determination referred to in paragraph (1) or (2) of this subsection. Each State having a plan approved under this section shall be eligible for grants under subsection (c) unless the Administrator suspends such eligibility on the basis of his determination that the State is not carrying out the plan in good faith or has not properly used prior grants under subsection (c).

"(c) GRANTS.—Upon the application of any eligible State (as determined under subsection (b)), the Administrator shall make grants to such State to assist the State in carrying out the State plan approved under this section. Such grants shall be made not more frequently than annually and shall be allocated among such States on the basis of a formula based upon population and industrial production. The Administrator shall, by rule, prescribe such formula not later than 60 days after the date of the enactment of the Hazardous Waste Containment Act of 1980. For any fiscal year after the first fiscal year in which a grant is made to a State under this section, grants shall be made by the Administrator to any State which applies for such a grant and certifies that the State plan approved under this section is being implemented.

"SUPPLEMENTARY GRANTS

"SEC. 3025. (a) GUIDELINES.—The Administrator shall promulgate guidelines for making supplemental grants to eligible States (as determined under section 3024) for purposes of assisting such States in undertaking remedial action with respect to inactive hazardous wastes sites. Such guidelines shall provide that the supplemental grants shall be made only for purposes of addressing emergency situations or for purposes of assisting States which have a disproportionate number of inactive hazardous waste sites which pose substantial threats to public health or safety. The guidelines shall provide for the allocation of supplemental grants under this section among the eligible States on the basis of the Administrator's determination as to the relative amounts required to be expended by the State for cleanup and containment of inactive hazardous waste sites, the significance of the threats to public health and safety posed by such sites, and the ability of the State to undertake remedial action without such supplemental Federal assistance.

"(b) GRANTS.—Upon the application of any eligible State (as determined under section 3024), the Administrator may make a grant to such State under this section in accordance with the guidelines prescribed under subsection (a). Any grant made to a State under this section in a fiscal year after the first fiscal year in which any grant was made to such State under this section or section 3024 shall be based upon such guidelines and on the Administrator's determination that the State has acted properly in its expenditure of funds made available to the State under this section and section 3024 in prior fiscal years.

"TECHNICAL ASSISTANCE

"SEC. 3026. The Administrator shall undertake a program of (1) research with respect to hazardous waste management and (2) providing training and technical assistance to State officers and employees engaged in hazardous waste management activities. Such program shall include research, training, and technical assistance with respect to—

"(A) the evaluation of hazardous waste associated with inactive hazardous waste sites; and

"(B) emergency response actions which may be taken with respect to releases or potential releases of hazardous waste.

For purposes of the program under this section, the Administrator shall develop equipment, manuals, and other materials which will have a wide application to State programs for cleanup and containment of inactive hazardous waste sites.

"ASSISTANCE TO STATES ATTORNEYS GENERAL

"SEC. 3027. The Administrator may make grants to State attorneys general for purposes of providing not more than 50 percent of the costs of training and technical assistance for State employees engaged in litigation and other efforts to recover the costs of remedial action undertaken by the State at inactive hazardous waste sites and for purposes of otherwise assisting the State attorneys general in recovering such costs. Such grants shall be made in such manner and pursuant to such applications as the Administrator shall by rule prescribe. For purposes of this subsection, the term 'State attorney general' means the principal law enforcement officer of the States.".

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 3028. (a) GRANTS.—There is authorized to be appropriated to the Administrator not more than the following amounts for purposes of making grants to the States under section 3024 and section 3025:

"(1) $75,000,000 for the fiscal year 1981;

"(2) $150,000,000 for the fiscal year 1982;

"(3) $150,000,000 for the fiscal year 1983;

"(4) $75,000,000 for the fiscal year 1984; and

"(5) $50,000,000 for the fiscal year 1985.

Not less than 80 percent of the amounts appropriated under this section for any fiscal year may be used only for grants under section 3024.

"(b) RESEARCH AND TECHNICAL ASSISTANCE.—There is authorized to be appropriated to the Administrator not more than the following amounts for purposes of research and technical assistance under section 3026:

"(1) $10,000,000 for the fiscal year 1981;

"(2) $15,000,000 for the fiscal year 1982;

"(3) $15,000,000 for the fiscal year 1983;

"(4) $5,000,000 for the fiscal year 1984; and

"(5) $5,000,000 for the fiscal year 1985.

"(c) ASSISTANCE TO STATE ATTORNEYS GENERAL.—There is authorized to be appropriated to the Administrator not more than the following amounts for purposes of recovery assistance under section 3027:

"(1) $10,000,000 for the fiscal year 1981;

"(2) $10,000,000 for the fiscal year 1982;

"(3) $10,000,000 for the fiscal year 1983;

"(4) $10,000,000 for the fiscal year 1984; and

"(5) $10,000,000 for the fiscal year 1985.".

(b) The table of contents for such subtitle C of the Solid Waste Disposal Act is amended by inserting.

"PART 1—STANDARDS AND PERMITS FOR HAZARDOUS WASTE MANAGEMENT"

immediately before the item relating to section 3001 and by adding the following at the end thereof:

"PART 2—ASSISTANCE TO STATES FOR INACTIVE HAZARDOUS WASTE SITES

"Sec. 3021. Coverage of part.
"Sec. 3022. Purposes.
"Sec. 3023. Definition.
"Sec. 3024. Formula grants.
"Sec. 3025. Supplemental grants.
"Sec. 3026. Technical assistance.
"Sec. 3027. Assistance to States attorneys general.
"Sec. 3028. Authorization of appropriations.".

Mr. STOCKMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. STOCKMAN. Mr. Chairman, I offer this comprehensive substitute to H.R. 7020, not because I am under any illusions that there is going to be a ground swell of support for this alternative in the House, but nevertheless I would act to impose on the time of the House just for a few minutes today to offer this substitute because I do not want to see this body stampeded into enactment of a major piece of regulatory legislation under some substantial illusions of its own. Now, as I have followed this debate, as I have read the dear colleagues, as I have watched the newspaper coverage, one would get the impression that we have before us a well-crafted bill that is targeted at and focused on a well-defined problem, and that it has been very carefully thought through and that we have a overwhelming consensus—and even industry—behind it; so why take time to debate? Why take time to examine what we are doing? Let us just move it through and enact it into law.

I would suggest to the House today that if any of my colleagues have that view of what we are doing in this major piece of legislation, I would respectfully submit that they are sadly mistaken, because we do not even have a solid policy-based statute before us at all with clear definitions as to what will be regulated; what the cost of the EPA activities will be; containing cost-benefit standards which will guide the Agency in the thousands of choices that it will have to make regarding sites that it orders to be inventoried; regarding sites it orders to be monitored; regarding sites it orders to be cleaned up at a cost of millions of dollars.

Nowhere in this bill of 74 pages will you find any specific criteria whatsoever to determine what are hazardous threats posed by inactive or abandoned sites, and what would be the defined and limited scope of EPA activities.

Instead of that, you have the same approach that we tried time and time again this past decade, which is to respond to a serious problem that has built up in the newspapers and with sensationalist publicity—not by enacting a carefully crafted statute, but by simply legislating an enabling act that delegates open-ended, unlimited, undefined powers to the administrative agency in the hopes that they can figure out the problem and that they will exercise their power prudently, given the other goals that we have as a society.

Well, I do not think that has been a very successful approach. We spent the first half of the 1970's passing these broad, sweeping enabling acts—the Clean Air Act, the Clean Water Act, the Toxic Substances Act, and so forth. Then, we spent the second half of the 1970's decrying and complaining about regulatory overkill and about the enormous power and lack of discrimination and the excess costs that were being imposed on the economy, and the lack of jobs, and the firms, and the ability of our economy to grow. But, I would suggest that the problem was not bureaucrats; the problem was not the EPA. The problem was right here in this House, because we were unwilling to write carefully crafted, carefully defined legislation in which we make the policy changes here rather than delegate them. That is what we have before us today, another trip down the same route.

We have an open-ended enabling statute that makes EPA the czar, and I say this without exaggeration, without hyperbole—makes EPA literally the czar over every hazardous waste site in the entire country, and that includes every landfill, every waste site, every junk yard, every leaching pit, every industrial lagoon on the back of an industrial property, every municipal dump, even every back yard rubbish pile that has been accumulated anywhere in the country. It empowers EPA, in the case of any of those instances that I have cited—and there are literally hundreds of thousands of sites that would qualify for one of those categories, to order the owner to undertake an inventory at a cost of $100,000 or more; in some cases, to order the owner to monitor the site periodically with very expensive procedures, hiring a contractor, and so forth, at the cost of many hundreds of thousands of dollars more; and to arbitrarily, without meeting any threshold of proof, any demonstration that hazards are present, to order the cleanup of any one of these hundreds of thousands of sites at a cost ranging anywhere from $10,000 to $10 million, depending on the nature of the site.

The point is, there are no standards at all, and the coverage, the scope of this bill, is plenary. It covers every waste site, every junk yard, every municipal dump in the country, including those on private property.

Now, why do I make that charge? The reason I make the charge is, if you read the bill and try to find out what is an inactive hazardous waste site, the whole scope, the whole focus of this bill, you will find it is defined: "An inactive hazardous waste site is a site that contains hazardous material."

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(By unanimous consent, Mr. STOCKMAN was allowed to proceed for 5 additional minutes.)

Mr. STOCKMAN. Mr. Chairman, if the powers and the scope of this bill were not so great, we might dismiss that as an act of drafting redundancy, but the point is that by defining the scope of the act in this bill in that way, what we do is incorporate the definition of hazardous material from the existing Resources Recovery and Conservation Act that defines these materials for the purpose of the current program to regulate currently generated hazardous wastes. Unfortunately, I do not believe that very many of my colleagues have looked at the list of 1,165 different materials, chemical compounds, and trade names, that are on the RCRA list, and therefore qualify as a hazardous substance, and therefore if found in any dump site in the country, bring it under the jurisdiction of the superfund and all the powers I have enumerated.

But, I would like to take a minute of the time of the House this afternoon just to read and put in the RECORD some of the materials that are considered hazardous under RCRA, and which are found in every waste site, every dump site, every municipal landfill, in the country.

First, let us start with some household names that are going to end up in any municipal landfill:

Mole Death; Mouse-Nots; Mouse-Bid; Mouse-Tox; Pied Piper Mouse Seed; Rat and Mice Bait; Rat-A-Way; Rat-B-Gon; Rat-O-Cide; Rat-Guard; Rat-Kill; Rat-Mix; and Rats-No-More.

The list goes on and on. This is household refuse, but under the definition of RCRA it is a hazardous material, and by incorporation into this act, if it is found in any site, then the superfund authorities take effect.

Let us look at some of the other hazardous materials on the RCRA list: creosote. Creosote is part of every railroad tie, every telephone pole in the country, and there are hundreds of thousands of them discarded every year. Most of them are thrown in rubbish piles and junkyards that, under the definition of this act, is hazardous material and it brings superfund into play.

□ 1620

But under the definition of this act it is a hazardous material and it brings the superfund into play.

Let us try another item on the RCRA list: Methanol. That has a chemical name, but it is rubbing alcohol. Every family uses it, and every family throws it away everyday, and, therefore, it is in every municipal dump in the country. That is another "hazardous material" that this superfund is going to take care of.

Then we have naphthalene. That is another chemical name, and what is that? It is mothballs. Every family throws that away everyday, and it is found in every municipal dump in the country.

The one that troubles me is formaldehyde. That is used in every laboratory in the country, and it is in every high school biology lab. It gets thrown away, and that brings another site under the scope of the bill before us.

The one that puzzles me the most is saccharin. That is on the list of hazardous materials under the Resource Conservation and Recovery Act. We eat it, we use it in our daily diet.

In addition to all this, everybody who throws away an empty bottle of Pepsi Cola or Diet Pepsi is contributing to the accumulation of hazardous waste in the local dump, and that creates the possibility for EPA to swing into action under the superfund. The reason I raise this point is that the scope of action is not defined. Everything is covered under this bill. The EPA has plenary power, and there is absolutely no guidance as to where all these costly activities to clean up hazardous waste will be triggered.

Another point I want to make today is that we have not defined the problem. We have heard all the wild statements and discussions, and there is a great numbers game going on as this escalates.

A while back EPA said there were 30,000 to 50,000 sites in the country that contained hazardous materials, that contained a threat to public health.

We checked on that, and it turned out that the report was made by a contractor who simply accumulated estimates from regional offices, so that estimate of 30,000 to 50,000 sites turned out to be of no value whatsoever, as the Eckhardt subcommittee indicated.

In recent days we have received a "Dear Colleague" from the gentleman from New Jersey (Mr. Florio) and the gentleman from Oregon (Mr. Ullman) which indicated that there are 7,000 sites EPA had identified on which we need to have this fund to take action.

How does a site get on that list of 7,000? Somebody picks up a phone out there and says, "I think there might be a chemical that we have nearby, and I think that somebody ought to look into it."

If we take a breakdown of those 7,000 on the list, we find out that 4,000 were not even considered worthy of investigation by EPA. That cuts this list down to about 3,000 right there. If we look at the 3,000 that were considered worthy of investigation, we find that they only did 1,500 on-site investigations because they were told that in the other cases there was no need to proceed.

In the 1,500 cases where they had done on-site investigations, they only found 397 that had hazardous materials in sufficient quantities that there might be a need for some kind of cleanup and remedial action.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. Stockman) had expired.

(By unanimous consent, Mr. Stockman was allowed to proceed for 1 additional minute.)

Mr. STOCKMAN. Mr. Chairman, if I may proceed, in those 357 cases, EPA has made a determination in only 65 cases that there was a need to proceed under the authorities it had or in conjunction with State law enforcement agencies.

I am not trying to minimize the problem. I am trying to put it in a proper perspective. I am trying to point out to the House that, with this substitute, State attorneys general and State EPA officers are fully capable of moving in cases where we have inactive or abandoned sites and in cases where we have landowners who are financially capable of undertaking the necessary clean-up action.

So my amendment simply creates State programs and gives them half a billion dollars in Federal money and technical assistance to allow the number of site problems that we have to be cleaned up in an effective way without creating a whole additional regulatory monster with unlimited powers to dig up every municipal dump in the country, because that is exactly what the bill does.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. Stockman) has again expired.

(On request of Mr. Rousselot, and by unanimous consent, Mr. Stockman was allowed to proceed for 3 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I am happy to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's yielding, and I appreciate his warning the House that this legislation appears to be another bureaucratic reach-out for authority, as he has suggested, in some cases unnecessarily.

Let me ask, where did this list come from? How many items are there, 1,100? Where did this list come from?

Mr. STOCKMAN. Mr. Chairman, the EPA keeps an inventory, I would say to the gentleman, of hazardous sites. There are 7,000 locations listed on that inventory.

Some Members of this body waved that list around to indicate that there is a considerable threat in every corner of the country facing us. The point is that well over 90 percent of those pose no threat whatever, after investigations have been carried out to find out the exact nature of the problem.

There are a few hundred sites that we need to address. I think the States can do that with the financial assistance that my amendment will provide.

Mr. ROUSSELOT. Mr. Chairman, let me ask, does the gentleman think that the Federal Government will do as well in this field as it has done with, say, Amtrak?

Mr. STOCKMAN. Well, that is an open question. But I would say to the gentleman that unlike the cases of air emissions, air pollution, and water pollution, where we have pollution crossing State lines and we need a Federal role so that we have equal standards in every State, here we are dealing with abandoned, inactive waste sites that were created because of improper disposal in the past. Those sites are not going to go away. They are not going to cross State lines. They are in some State's back yard or some municipality's back yard, and every State and every municipal area has ample power under the State law or the common law to move in those cases where public health is threatened.

We do not need to create a huge, additional new piece of legislation for investigations or cleanup under the operation of EPA. The authority is there, and this just gives them some help.

Mr. Chairman, let us give the States a little help, even though they do not need it, and encourage them to move a little faster.

Mr. ROUSSELOT. Mr. Chairman, the claim is often made that State governments do not act responsibly and carefully in these kinds of areas. In the case of disposal sites of this nature, do we have adequate State laws?

Mr. STOCKMAN. Mr. Chairman, I would say to the gentleman that in many cases we do. I would give a great example in my own State.

If we read the horror stories that are put out in order to drum up a case for this, they always mention Montague, Mich., and this Hooker Chemical site in which we had huge quantities of potential chemicals that were leaching down to the water supply and threatened the public health.

Two years ago the State of Michigan filed a suit in court. They sued and achieved a $15 million out-of-court consent decree for Hooker to move in and clean that up, using the most advanced measures available to insure that there would be no threat to nearby residents or to the environment. That was done without this superfund and without any Federal involvement.

The State Attorney General said that people were threatened and that we would move in. There was a financial settlement made, and it was taken care of. I would give that example to the gentleman as an example of a situation that was taken care of where horror stories were put out.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. Stockman) has again expired.

Mr. FLORIO. Mr. Chairman, I rise in opposition to the amendment in the nature of a substitute.

Mr. Chairman, let me just, before making my remarks in opposition to the amendment, point out that the gentleman from Michigan (Mr. Stockman) just gave a good example where a problem occurred in his State and it took 2 years for the appropriate local agency to respond. That is part of what this legislation is all about.

Make no mistake about it, this is the most important move we will have today, and it will determine whether we will have a piece of legislation to deal with the problem of abandoned, hazardous waste sites or whether we will not. This substitute is really a preservation of the status quo. It provides a little more money for the preservation of the status quo, and the status quo is totally inadequate. The authority does not exist on the part of anyone to deal with this problem.

We can go into details, and perhaps we will give examples of where we have instances of materials that were acknowledged to be toxic being emitted into underground water supplies, into drinking water supplies of a municipality and there was not anyone who could do anything without going to court and taking 2 years worth of litigation to accomplish anything.

In my own State, in Elizabeth, N.J., this type of litigation was finally determined, and there was an order given, but the person was not around any more and there was no money. We had a situation where we had a possible and potential catastrophe.

But the legislation we are talking about today is legislation which is designed for having authority in the fund. It does not create a new bureaucracy. As a matter of fact, it is calculatedly designed to minimize bureaucracy, providing the opportunity and the requirement for local response and State response and Federal moneys to go to the States in a way that the gentleman is talking about.

Let me not go into all the details in trying to respond point by point to all the points the gentleman made. Suffice it to say that his criticism of the definitions leaves something to be desired, because he then encompasses in his amendment the definitions we have in our bill. So he has not improved in the definitions. He has adopted them word for word, and I would suggest to him that he has done that because these are adequate definitions and because I know he would not be citing something that he thinks would be deficient.

Let me try to address briefly the problems associated with the gentleman's substitute. In essence, what he does is to establish a State assistance program for the cleanup of inactive sites. States would be required to develop inactive site response plans in their discretion, which means, of course, that they would have to start from scratch. They do not even have the ability right now in many States to do this, and in fact most States have not inventoried the inactive hazardous sites. We have that covered in this bill. But as of now, a State under this proposal would be required to go out and inventory and set up an agency for the formulation of the response plan, set up the plan, and then go forward hopefully with some money left over after they did all that to start to clean up some of these sites.

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EPA, under this proposal, would provide formula grants to States with approved plans, after we went through all of the time necessary to get those plans formed. The formula that is provided in the gentleman's proposal is based on population and industrial output, which automatically does not have a direct correlation between needs.

I can make reference to one particular site that I have been to in the State of Kentucky, or the Commonwealth of Kentucky, which is not a large State populationwise, which is not primarily an industrialized State, and yet if you have been to the Valley of the Drums, you know of the need for the money to clean up that particular site. And, therefore, that site might not very well have the moneys necessary under this particular type of a plan.

Over and above that, the moneys that would be authorized would require a 20-percent match from the States, and it has not actually been established that the States would have the money to qualify for the moneys to start to formulate these plans.

I think it is also important to note that there is no liability provision in this bill. That is to say that after the State is given this money, formulates its plans, goes out and identifies an area where there is a need for a clean-up, and assuming we found the person who is the wrongdoer, there is no ability to go after that wrongdoer to get back the money necessary to replenish the fund. Accordingly, when the fund is expended, there is no opportunity to go after someone who is even an admitted wrongdoer under this proposal.

The arguments against the substitute are fairly obvious: Time and delay. Time is of the essence in many of these instances. The need is right now. I can point to some 397 sites.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. FLORIO) has expired.

(By unanimous consent, Mr. FLORIO was allowed to proceed for 5 additional minutes.)

Mr. FLORIO. Mr. Chairman, EPA is already involved and has identified some 397 specific sites that they are at work on. So we do not have the time to develop these programs.

Many States, quite frankly, are not interested or are not capable of going forward. And they do not want to. They want to defer to the Federal Government.

Now, we have in the bill, as I said before, the requirement that if there is local response capability and desire, the Federal Government is required to provide for contracts and grants to those States that have got the interest.

Let me bring to conclusion my remarks on this proposal that has been offered by the gentleman from Michigan. The strong liability provisions that are in our bill that are not in his proposal I believe are very important, because we want to induce those who know where these sites are to remedy the sites themselves. If there is no liability provision, they will not have any incentive whatsoever to go forward on a voluntary basis and clean up those sites.

I would also like to just point out that I have a letter from the National Association of Attorneys General which makes all of the points that I have just made in supporting our approach. That letter is as follows:

National Association of
Attorneys General,
Washington, D.C., September 19, 1980.

MEMORANDUM

To: All Members of the 96th Congress.
Re: Superfund Legislation.

Enclosed please find the Final Report of the National Association of Attorneys General to the United States Congress on the Superfund legislation.

This Report is the result of substantial study by our Toxic Waste Committee and later by state Attorneys General representing diverse political, geographical, and ideological backgrounds. The analysis includes an examination of the major superfund proposals based upon state experience in the area.

Although the Association continues to be concerned primarily about issues affecting enforcement and liability, we address a number of other provisions in the Act that we believe will either have a direct effect on the way in which the states operate in this area or in which previous state experience may be valuable to the current Congressional consideration. We hope that you will give these views serious consideration prior to the final votes on S. 1480 and H.R. 7020.

Thank you for your time and attention.

Respectfully and sincerely,
C. Raymond Marvin.

Final Report of the National Association of Attorneys General to the United States Congress on the Superfund Legislation

I. INTRODUCTION

The problems of toxic waste disposal are exploding, in some cases literally, all around us. The U.S. Environmental Protection Agency estimates that only 10 percent of some 11 billion pounds of toxic waste generated yearly in this country is disposed of in an "environmentally sound manner." The statistics are sobering: a pound of poisonous waste generated every day for every person in the United States. Clean-up of abandoned toxic waste sites is expensive. For example, the Environmental Study Conference reports that New York State will be faced with a $23 million price tag for clean-up at Love Canal. In * * * that cleaning up abandoned hazardous waste sites and others operating under environmentally unsound conditions could cost as much as $44 billion. The impact on human health and safety and the damage inflicted on property and the environment is virtually incalculable.

Congress is now considering legislation that would establish a national superfund. Consistent with other federal environmental protection statutes, the superfund bills would place significant reliance upon the states to enforce environmental quality standards. In most states the Attorney General, as the chief legal officer, furnishes all legal services for the environmental enforcement agencies. Even where state agencies employ their own counsel, the Attorney General usually represents the agency in court and issues formal advisory opinions. In light of this unique role, the state Attorneys General have studied the superfund legislation over the past 13 months. While the views of individual Attorneys General on specific aspects of the legislation may vary, it is the consensus of the National Association of Attorneys General that the superfund legislation should be enacted in this session of Congress and should:

Provide direct funding to state Attorneys General for enforcement of toxic waste laws;

Confer specific authority to state Attorneys General to take remedial action when disposal sites pose an "imminent hazard" to public health or safety;

Establish liability for past and present owners as well as lessees for abandoned disposal sites;

Establish no statute of limitations for civil liability;

Provide a treble damage remedy for intentional violations;

Discourage use of tax dollars to finance the superfund;

Encourage establishment of regional waste disposal sites;

Require clean-up of sites before compensation is awarded for private property damage; and

Include coverage of oil spill clean-up.

An explanation of each of these points follows.

II. ENFORCEMENT

A. *Direct Funding for State Attorneys General.*—The mechanics of the superfund legislation will require litigation as a major facet of the overall program and direct involvement by state Attorneys General will significantly enhance effective enforcement. Absent direct funding, the states' ability to litigate will be severely hindered. Litigation support is expensive and state budgets are limited. These cases require well-trained lawyers, skilled investigators, and expert witnesses.

State legislatures cannot be counted upon to appropriate sufficient funds to meet these staggering costs nor can the scarce resources of the U.S. Department of Justice and the Environmental Protection Agency deal effectively with the magnitude of the problem. Thus, the Association urges the Congress to authorize EPA to disperse annually $25–$30 million to the state Attorneys General for enforcement purposes.

State Attorneys General would bring police powers, quick reaction time, and an understanding of local interests to this effort. Furthermore, the Association believes that has been true with federally sponsored programs in the medicaid fraud and antitrust areas, the amount of money recovered in damages will far exceed any federal appropriation.

B. *"Imminent Hazard" Authority.*—In 1976 in the Resource Conservation and Recovery Act (RCRA), the Congress authorized the federal government to take remedial action when a toxic waste disposal site posed an "imminent hazard" to public health or safety. We believe that this authority should also be specifically conferred to state Attorneys General who are the officials most closely involved with environmental litigation in their states and are best able to respond to such an immediate crisis.

For the most part, state Attorneys General have been overlooked as a valuable enforcement tool in the toxic waste area. This has been true both in terms of federal expenditures and federal authority. Since litigation continues to be the most valuable method of closing sites that pose an immediate danger to the public and of recovering damages from those who have harmed the environment, the addition of state Attorneys General to the enforcement effort would significantly augment the current capabilities of EPA in this area.

Some state Attorneys General have already taken significant enforcement actions. Suits filed in Michigan, Illinois, New York, New Jersey, and California are a tribute to the ingenious use of scare resources and, often, limited statutory authority. In some cases the office of the Attorney General has had little more to work with than common law public nuisance authority. The magnitude of the problems associated with toxic waste disposal requires federal statutory support.

III. LIABILITY

The Association believes that federal standards of liability are required, notwithstanding state tort law, in order to avoid legal entanglements arising from conflicting state laws. While some states have more sophisticated toxic waste statutes than others, none has all the tools necessary to ensure the proper protection of the public. In some states, strict liability is not applicable in toxic waste cases. In others, prior owners, lessees, generators, or transporters may not be liable for the injury they may have inflicted. Other problems impeding effective enforcement include proof requirements that limit the states' ability to impose liability and inadequate statutory authority in cases of emergency clean-up.

A. *Strict Liability.*—The Association believes that strict liability should apply to all provisions in the Act. This is not a new concept. Strict liability appears in other federal statutes. The handling of toxic substances is an inherently ultrahazardous activity that involves a risk of serious harm to the public that cannot be eliminated completely even through application of the most stringent precautions. Without the inclusion of broad-based liability, proof problems with regard to proportionate liability will inevitably occur and hamper effective enforcement. Furthermore, imposition of strict liability will have significant deterrent effects for those who generate toxic waste. The Association supports an exemption from strict liability only when the unlawful disposal was specifically directed by an authorized governmental authority or was a result of an act of God or act of war.

B. *Liability for Abandoned Sites.*—The Association believes that it is necesary to hold past and present owners as well as lessees liable for damage occurring at an abandoned chemical dump site. Seeking relief against the present identifiable owner (such as the home owners at Love Canal) is not always appropriate since the present owner may be completely unrelated to the prior dumping. The only way to ensure effective enforcement is to make all potentially responsible owners and lessees liable and to allow investigations to determine which owner or lessee is responsible.

C. *Statute of Limitations for Civil Liability.*—The Association opposes the inclusion of a statute of limitations for civil liability on the basis that it would impose serious inequities. If the statute is designed to run from the initial date of release or discharge, it will preclude numerous actions due to the long time period between the release of the waste and the full discovery of damages. It is impossible to establish a distinct time period in which one can identify all the problems that occurred or will occur from improper disposal.

The serious problems associated with dumps that are 10–20 years old are just now becoming evident. Since current law varies widely from state to state, it seems only fair, both to society and to those harmed, that a federal cause of action be established. If Congress believes a statute of limitations is necessary as well, we urge that it begin to run only upon passage of the Act or the discovery that a site poses a health hazard, whichever occurs later.

D. *Treble Damages.*—The Association believes that treble damages, analogous to those in the federal antitrust laws, should be a remedy in cases of intentional violations. Treble damages will provide an effective deterrent to improper disposal and will insure that those responsible for chemical spills will pay for clean-up of the site.

IV. SUBSTANTIVE ISSUES

A. *Use of Tax Dollars.*—The Association believes that tax dollars should not be used to finance the superfund. Rather, the chemical, petroleum, or other companies that are responsible for creating the problem in the first place should pay for clean-up. Taxpayer subsidies would unfairly force those most likely to suffer personal health and property damages to bear the additional cost of removal.

B. *Disposal Sites.*—This Association believes that it is appropriate for federal, state, and local officials to establish adequate regional waste disposal sites. This will minimize the dangers posed by the long-haul transportation of these materials. The Association believes that it is unsound public policy to transport thousands of gallons of extremely toxic material across the country, with all the risks that imposes, simply because no other waste disposal site is available. As it now stands, the sites designated for disposal are being filled quickly and in a few years will no longer have the capacity to handle the waste generated in this country. Further, wastes must be transported long distances in many cases, thus increasing the risk of accidents related to the transportation of toxic material.

C. *Compensation for Personal and Property Damage.*—The Association believes that compensation for people who suffer private property damage and could otherwise seek relief through civil litigation must be deferred until adequate funds exist for both clean-up and compensation.

D. *Coverage of Oil Spills.*—The Association believes that since the oil companies will contribute the bulk of the superfund monies and since oil spills do, in fact, cause environmental damage, oil spills should be included in a single comprehensive Act.

I have a specific letter from the National Conference of State Legislatures and the National Governors' Association, which states:

Since H.R. 7020 was reported by the House Rules Committee, several amendments and substitutes for the original bill have been introduced. Some purport to provide programs more responsive to state needs than the original bill. One in particular, Congressman David Stockman's substitute for H.R. 7020, is characterized as a vehicle to help states protect their own citizens and "water supplies" in a "simple and effective manner." Given our long involvement in promoting Superfund legislation beneficial to the states, we would like to take this opportunity to comment on the deficiencies in this alternative version of H.R. 7020.

And then there are five points, spread over two pages, which, in effect, just give back details that I have just provided. The general categories are:

"There are insufficient levels of funding."

"There is no required contribution from industry."

That is a point that I did not make. In fact, all of these moneys are coming out of the taxpayer's pocket, and that is the argument we had earlier on, that not even industry accepts the responsibility for coming forward with a portion of the moneys.

The third general point: "Appropriations alone do not guarantee availability of funds." That is to say that if there is no liability provision, you cannot get back from wrongdoers moneys to supplement the funds.

"There are no liability provisions." An amplification is provided for that.

And, last: "The formula proposed in the Stockman amendment will not allocate funds where the need exists."

The entire letter reads as follows:

NATIONAL CONFERENCE OF
STATE LEGISLATURES,
Washington, D.C., September 23, 1980.

HON. JAMES J. FLORIO,
Chairman, Subcommittee on Transportation and Commerce, House Interstate and Foreign Commerce Committee, Washington, D.C.

DEAR CONGRESSMAN FLORIO: After more than a year of hearings, markups and negotiations by three House Committees and the Rules Committee, H.R. 7020, the Hazardous Waste Containment Act of 1980, is scheduled for floor consideration by the full House of Representatives. This bill is the result of months of negotiations involving all interested patries. It represents a careful balancing of competing interests. The National Governors' Association and the National Conference of State Legislatures have long favored legislation to assist states in addressing the problem of hazardous substances. Current policy of both organizations supports the major provisions of H.R. 7020, including the requirement that industry contribute to the fund. NGA and NCSL also strongly endorse the Ways and Means Committee amendment.

The Governors' Association and the Conference of State Legislatures have worked closely with all the committees having jurisdiction over this bill. We have sought to fashion a bill that is at once responsive to state needs and fair to all parties. We have met with sympathy and cooperation on the part of all committee members and staff, especially from the staff and the chairman of the Subcommittee where this legislation originated. Most of our concerns have been addressed in the Commerce Committee bill and the Ways and Means amendment now before the House, and we wish to reiterate our support for rapid passage of the Hazardous Waste Containment Act.

Since H.R. 7020 was reported by the House Rules Committee, several amendments and substitutes for the original bill have been introduced. Some purport to provide programs more responsive to state needs than the original bill. One in particular, Congressman David Stockman's substitute for H.R. 7020, is characterized as a vehicle to "help states protect their own citizens and water supplies" in a "simple and effective manner." Given our long involvement in promoting Superfund legislation beneficial to the states, we would like to take this opportunity to comment on the deficiencies in this alternative version of H.R. 7020.

1. *There are insufficient levels of funding.* The Stockman substitute provides only $75 million for FY 1981. This is inadequate even to begin to address the problem. The Chemical Manufacturers Association estimates that an average of $1 million is required to clean up an abandoned dump site (other estimates

run several times higher). EPA currently lists 400 sites as requiring attention. Thus the Stockman amendment would, at best, provide a response to less than four percent of known problem sites its first year. Furthermore, the cumulative funding level of the Stockman Amendment is only $600 million—a figure we find sorely inadequate. With new dangerous sites being discovered weekly, NGA and NCSL support at a minimum the $1.2 billion total contained in the Ways and Means Committee amendment.

2. *There is no required contribution from industry.* All major House and Senate versions of Superfund legislation contain provisions for a substantial industry contribution to the Superfund. Congress has recognized that the chemical industry which has benefitted from the absence of adequate disposal standards in the past, bears some responsibility to assist in cleaning up old dump sites.

The Love Canal location has thus far required tens of millions of dollars of remedial action. The State of New York has spent over $40 million, the federal government $5–10 million, and Hooker Chemical less than $1 million. The public, through federal, state, and local taxes, cannot continue to incur the full cost of cleanup. Industry must contribute significantly to the response fund for hazardous waste.

3. *Appropriations alone do not guarantee availability of funds.* Reliance solely on federal appropriations to provide the funds needed to cleanup abandoned dump sites is problematical. Competition for scarce federal dollars is likely to become even more intense in the coming years. There is no assurance that the sums necessary will be made available. States need guaranteed continuity of full funding if they are to devise a program and hire the personnel necessary for remedial action at abandoned dump sites. Assured funding at the levels necessary can only be achieved through a combination of an industry-based tax and appropriations. The legitimacy of an industry fee was previously acknowledged by the House of Representatives in its version of HR 85 which passed 288–11.

4. *There are no liability provisions.* In order to allow recovery of Superfund expenditures and to provide an incentive for proper care to all parties connected with hazardous waste, all major Superfund bills contain rigorous liability provisions. NCSL and NGA support the applications of liability schemes to all parties, including states and localities when circumstances merit. No one disputes the principle that those who contribute to the problem should share in the cost of cleanup. Imposition of a comprehensive liability provision will assure that this principle is observed.

5. *The formula proposed in the Stockman Amendment will not allocate funds where the need exists.* A formula based on population and industrial production ignores such factors as, where toxic waste is actually located and the severity of individual cases. Representative Stockman's memo which accompanied the substitute for HR 7020 acknowledged that the formula was "not an exact proxy for the location of abandoned hazardous waste sites." Given the limited resources available to address a massive problem, priorities must be established and the most threatening sites corrected first. An inflexible formula for distributing response funds will further complicate an already difficult national problem.

The National Governors' Association and the National Conference of State Legislatures have established passage of a Superfund bill as a major environmental priority for this session. We have worked with Congress, Governors' offices, State Legislatures and Local Officials to formulate effective legislation to permit a rapid and comprehensive response to the problem of hazardous waste. The legislation reported by the Commerce Committee and the amendment offered by the Ways and Means Committee represent the fruition of our efforts.

Our organizations urge all members of the House of Representatives to support adoption of this essential legislation.

Sincerely,

BENJAMIN L. CARDIN,
Chairman, NCSL State-Federal Assembly; Speaker, Maryland House of Delegates.

STEPHEN B. FARBER,
Executive Director, National Governors' Association.

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Chairman, as a member of the full Commerce Committee, I want to applaud the work of the subcommittee chairman on this matter.

The gentleman from Michigan implied, I thought, that we had not done quite enough work on this issue. I cannot remember an issue where we have done more work. The gentleman has done the bulk of the work, he and his subcommittee; but Congressman ECKHARDT's Subcommittee on Oversight and Investigations and the subcommittee that I am privileged to chair on Government Operations, and a variety of others, have been looking into this.

As the gentleman from New Jersey indicates, we do not have a great deal of time. It is not as though we are just seeing small indications or scant evidence of this problem. My own subcommittee is about to release a report on drinking water contamination that relates directly to this, which finds that with regard to 26,000 industrial sites around the country, hazardous waste sites, 35 percent, or about 9,100 of the total impoundments are unlined, which potentially allows contaminants to infiltrate unimpeded into the subsurface; 7,800, or 30 percent, of those unlined impoundments are sitting directly on top of ground water sources with no barrier reported between the waste and the ground water, and 750 of those sites, or about 2,600, are unlined, sitting directly on top of ground water and within 1 mile of the drinking water supply well.

So it is time to move on this, and I think the gentleman is correct: This is the key vote.

I do not think there are more than 30 or 35 Members of this body, I would guess, who are planning on voting against the total measure here, and I want to say that if you are going to vote for the total measure, make sure to vote against the Stockman amendment.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mf. FLORIO. I yield to the gentleman from New York.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. FLORIO) has expired.

(On request of Mr. DOWNEY and by unanimous consent, Mr. FLORIO was allowed to proceed for 3 additional minutes.)

Mr. DOWNEY. Mr. Chairman, I think the gentleman has laid out very carefully that this is a national problem and, if anything, the studies that we have seen, at least in the Ways and Means Committee, indicate that the problem is probably larger not smaller, than the initial studies have pointed out; that, given the fact that this is a national problem, it is important to understand that the Federal Government can work. We can develop a body of expertise within the EPA to have a response team to do the sort of sophisticated testing that will not be done by the various State agencies.

It is important that we have one group of experts who can go out and keep an inventory across this country of the problems.

Also, some of these problems occur between State lines. How are we going to determine which State is responsible when the jurisdiction may be in doubt?

I would also like to ask the chairman of the subcommittee that if the House should vote for the Stockman amendment, is my understanding correct that this would remove the Ways and Means Committee amendment from consideration and preclude us from offering our amendment, which increases the size of the fund, which changes the share from 50–50 to 75–25?

Mr. FLORIO. That is my understanding; that if, in fact, the Stockman amendment would pass, it would preclude the offering of the Ways and Means Committee amendment.

Mr. DOWNEY. That is shocking. The thought that somehow we are only going to have $600 million to deal with that is grossly inadequate. I would hope that the membership would resoundingly reject the Stockman approach which denies the essential reality that this is a massive national problem that needs to be dealt with in a very large and expedited fashion.

Mr. LAFALCE. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from New York.

Mr. LAFALCE. Mr. Chairman, first I want to commend the gentleman from New Jersey for what I think has been a magnificent effort this past 2 years in trying to develop a superfund approach to deal with the problem of abandoned hazardous waste sites that would not only deal with the problem, but pass the Congress.

Insofar as adequate consideration of this measure is concerned, as the gentleman from Connecticut (Mr. MOFFETT) has said, I do not think any bill has ever received so much study. I think that I personally have testified at least before 12 different committees on this issue alone. This bill is probably the most important environmental bill of the past decade and probably the most important environmental bill of the next decade.

The Stockman amendment would simply gut it. It must be defeated.

Mr. FLORIO. I thank the gentleman for his remarks.

AMENDMENT OFFERED BY MR. DANNEMEYER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STOCKMAN

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Dannemeyer to the amendment in the nature of a substitute offered by Mr. Stockman: Page 5, after line 18, insert the following:

"(4) mandating solicitation and analysis of proposals for the construction and operation of hazardous waste management facilities by non-governmental entities, except that no proposal shall be analysed if it involves direct or indirect costs to the United States government or fails to comply with the requirements of subtitle C of the Solid Waste Disposal Act and other applicable provisions of law."

Page 5, strike line 19 and all that follows through line 22 and insert in lieu thereof the following:

"(5) requiring recommendations, based on the findings resulting from the application of subparagraph (4) of this subsection, as to the appropriate balance (including the respective levels of funding) between public and private sector involvement in the siting, design and operation of new hazardous waste management facilities.

Page 5, line 23, strike the numeral "5" and insert in lieu thereof "6".

Page 6, line 15, strike all that follows after the word "subsection" through line 16 and insert in lieu thereof a period.

Page 6, strike line 17 and all that follows through line 19 and insert in lieu thereof "(2) is otherwise generally inconsistent with the purposes of this part."

Mr. FLORIO (during the reading). Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from New Jersey (Mr. Florio) reserves a point of order.

The Clerk will continue reading the amendment.

The Clerk continued the reading of the amendment.

Mr. DANNEMEYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Does the gentleman from New Jersey (Mr. Florio) reserve a point of order?

Mr. FLORIO. Mr. Chairman, I withdraw my reservation of a point of order.

Mr. DANNEMEYER. Mr. Chairman, I shall be brief inasmuch as I have covered a good deal of the ground this amendment covers earlier today. Basically, the amendment does two things. First, it requires the States, in developing the plans they must submit to the EPA Administrator, to solicit and analyze proposals from private enterprise for the construction and operation of hazardous waste management facilities at no cost to the U.S. Government. And second, it closes what could be a major loophole that would otherwise permit the EPA Administrator to dictate to the State the exact nature of the cleanup plan the State is to develop.

With respect to requiring States to ascertain the extent to which private enterprise might go into the hazardous waste cleanup business on a profitmaking basis, a similar provision has been included in the Commerce Committee version of this bill. And with good reason. For if private enterprise is willing to do the job without taxpayer subsidy, as appears to be the case in Houston, Tex., then why should the Federal taxpayer be asked to foot the bill unless there is no other alternative? Furthermore, ascertaining the extent of private enterprise interest would not delay completion of the State plan in any way; 6 months is plenty of time for the State to solicit and analyze bids in construction and operation of hazardous waste facilities.

As for the aforementioned loophole, the difficulty lies in the definition of the term "cost-effective," or more precisely, the lack of definition. As long as the EPA Administrator interpreted the term judiciously, there would be no problem other than the amount of time it would take to make such a determination. But, if the EPA Administrator were to decide that any expenditure other than the one EPA liked best was nonreimbursable, the effect would be to give EPA the power to dictate the cleanup procedure down to the last detail. To avoid that possibility from occurring, my amendment eliminates a finding of cost-ineffectiveness as grounds for rejection of a State plan by the EPA Administrator.

Mr. Chairman, it is my feeling that both these changes are consistent with the thrust of the amendment offered by the distinguished gentleman from Michigan (Mr. Stockman) and I urge that they be adopted.

Mr. Chairman, I yield back the balance of my time.

Mr. FLORIO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment as I understand the amendment.

If the gentleman from California would yield for a question, is it my understanding that what the gentleman is proposing is that there be included in State plans that would be authorized under the proposal of the gentleman from Michigan (Mr. Stockman), a direction that there be private disposal facilities constructed?

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from California.

Mr. DANNEMEYER. No, not the direction that there be private disposal facilities constructed, but merely that an opinion be solicited as to whether or not private enterprise is interested in building disposal facilities in those States, that is all, just requiring them to inquire if there is an interest to build them.

Mr. FLORIO. If I may reclaim my time, I would rise in reluctant opposition to the gentleman's amendment primarily because it is an amendment to an amendment that I regard as not helpful. But the major thrust of the gentleman's concern is already included in our bill. We have proposals for research and development, and we have proposals for studying of sites for facilities and I can tell the gentleman—and it is on the record in our hearings—that I am totally committed to the idea that private enterprise should be the key on developing an appropriate disposal industry. There will be or may be other amendments this afternoon that do not agree with that thought. I hope the gentleman will help me to defeat those amendments and say we shall have a series of State-constructed facilities.

I agree with the gentleman's thrust that we should be looking to private enterprise to develop the industry of hazardous waste disposal, but I am just not sure his approach is one that is desirable at this point and certainly is not desirable as an amendment onto the Stockman amendment.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from California.

Mr. DANNEMEYER. It puzzles me a little, because the gentleman from New Jersey has correctly pointed out that the sense of the amendment to the Stockman amendment is in the basic bill pending before the committee, and it is my desire just to put this amendment offered by the gentleman from Michigan (Mr. Stockman) into the same posture on this point that the basic bill is. It would seem to this Member from California that that is not an unreasonable request.

Mr. GORE. Mr. Chairman, I rise in opposition to the substitute amendment.

I would just say in response to my colleague from California, that if the Stockman substitute is defeated then I would hope we would feel free to vote for the bill because the thrust of the gentleman's amendment is included in the bill as it is now drafted.

Now, let me just state at the outset, Mr. Chairman, that I have the utmost respect for my colleague from California and for the gentleman from Michigan. Having served for some time on the Commerce Committee with them, I can testify that their questions often prompt us to perfect legislation, and occasionally we even find ourselves in agreement.

On this occasion, however, the substitute offered by the gentleman from Michigan would really result in gutting this legislation entirely. It has no organized support from any of the groups or parties affected by this legislation. The industry does not support it. The State governments do not support it. The attorneys general do not support it. No one that I am aware of supports it other than the gentleman from Michigan. And I think that there are reasons for that. Let me state them:

The gentleman has said that we are seeing the House stampeded into a solution for this problem.

On the Subcommittee on Oversight and Investigations not only in this Congress, but in the last Congress, we have held 18 hearings, Mr. Chairman, on this problem. We have documented this proposal so thoroughly that the case for remedial action is beyond any reasonable dispute. Three years is a long time, Mr. Chairman, to document this problem. I would not characterize it as a stampede.

Second, my colleague implies that perhaps the size of the problem has been overstated. Again, I would disagree. I think, if anything, the size of the problem has been understated.

Above and beyond those points there are some serious deficiencies with the substitute itself.

No. 1, it does not ask for any contribution whatsoever from the industry which has primarily created this problem.

It simply asks the Federal Government to give more money to the States. Second, it does not have any liability standards.

Third, I think it is ironic that the gentleman places so much faith in State governments when he has so little confidence that the Federal Government can address the problem at all.

A number of States, among them Michigan, California, New York, Kentucky, and New Jersey, have repeatedly testified before the Congress concerning the severe limitations on the ability of the States to deal with hazardous waste sites and concerning the need as they see it, for Federal legislation.

Fourth, as my colleague from New York (Mr. Downey), who played such a leadership role in the Committee on Ways and Means, pointed out, many of these sites cross State lines. What would we do on such an occasion under the Stockman substitute?

I would urge my colleagues on this key and important vote to cast a resounding "no" against the substitute offered by my well-meaning colleague from Michigan. Also I would counsel a "no" vote on the amendment to the substitute offered by the gentleman from California.

The important and key vote is a "no" on the Stockman substitute

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to the gentleman from Michigan.

Mr. STOCKMAN. Let me say to the gentleman from Tennessee I do not discount for a minute the nature of the problem, the enormous amount of work that the gentleman himself has contributed to documenting it over the years, the fact that we have some firm idea that there are hundreds of sites and there might be additional ones beyond that.

I would submit to the gentleman and this House that there has not been any evidence offered that the State governments in most of the cases are not equipped to deal with the problems.

I read the committee report. They said, "Evidence of inadequate local and State response."

Well, what was listed in the committee report under that, I will ask the gentleman? There were three cases, one of which occurred 7 years ago; another of them which could not occur now under RCRA and the third one was Love Canal. That is the entire sum of the evidence that has been adduced that has been presented to show that under existing State law, under common law and under the fact that States have moved on this problem, the gentleman from New Jersey said the States are not ready, here is a listing compiled by the National Association of State Legislatures of every State in the Union that has a varying degree of legislative authority and funding available in this area.

□ 1650

What I am asking the gentleman is for some more specific indication as to why we must move this problem.

The CHAIRMAN. The time of the gentleman from Tennessee (Mr. Gore) has expired.

(At the request of Mr. Stockman, and by unanimous consent, Mr. Gore was allowed to proceed for 3 additional minutes.)

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield further?

Mr. GORE. I yield.

Mr. STOCKMAN. I would ask the gentleman for the more specific information which would indicate that this one problem, of all the problems we face in the country today, could not be handled by the States if we give them some encouragement. The gentleman will agree, we cannot do everything, referring to the Congress and the EPA.

Mr. GORE. Mr. Chairman, the gentleman himself cited the National Conference of State Legislatures, which has indicated that the States support the bill as it is written and specifically notes their opposition to the substitute of the gentleman from Michigan; but this is not the only occasion where State officials have said that. They have testified on a number of occasions before the Congress. For example, we had such testimony before the Oversight and Investigations Subcommittee.

The gentleman points out that the committee report accompanying this bill only cites a limited number of cases, but we have had 18 hearings in two Congresses before the Oversight Committee of the Commerce Committee. The evidence is overwhelming. We have had evidence taken from the State of Michigan. We have had officials from the State of Michigan talk about their inability to proceed under the current State law in a timely and adequate manner.

We have had testimony from California.

We have had testimony from Kentucky, from New Jersey State officials; from States throughout this country who have said over and over again that this is a Federal problem that must be addressed at the Federal level.

Mr. STOCKMAN. Mr. Chairman, would the gentleman yield one further time?

Mr. GORE. I would be glad to yield to the gentleman.

Mr. STOCKMAN. I understand what the gentleman is saying; but can the gentleman recall any problem in his entire service here where the State governments have not come in and said that they could use some Federal money to help them solve this problem?

Mr. GORE. I cannot remember in my service in this body a single other time when the States were presented with a choice between two bills, one of which addresses the problem at the Federal level and the second of which says the Federal Government will give money to the States and turn over the responsibility to them—like the gentleman's substitute—where the States have said, "We recognize the limitations that we have and we recognize this is such a severe problem and so national in scope that we prefer a Federal approach to this problem, even though the alternative would result in giving us money and turning over the responsibility for it."

No. I cannot recall another such occasion. There may be one, but not within my memory.

Mr. LAFALCE. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to my colleague, the gentleman from New York.

Mr. LAFALCE. I thank the gentleman for yielding.

I think another reason why this amendment must be defeated, another reason that the States cannot handle it, is that it is a problem that is nationwide in scope and is deserving of a comprehensive legal framework if it is to be attacked and met.

We cannot develop a comprehensive legal framework if we allow the States to approach it and work their own wills.

The CHAIRMAN. The time of the gentleman from Tennessee (Mr. Gore) has again expired.

(By unanimous consent, Mr. Gore was allowed to proceed for 1 additional minute.)

Mr. LAFALCE. Mr. Chairman, if the gentleman will yield further, we cannot have this comprehensive approach if we allow each State to work its own will and come up with some patchwork quilt across the entire United States of 50 differing laws, 50 differing laws dealing with the taxation of the oil and chemical companies, 50 differing sets of laws dealing with the disposal practices, 50 differing laws dealing with every single aspect of this problem.

We might as well forget about a comprehensive approach to solving it.

Mr. GORE. And again, no responsibility whatever assigned to the industry that has created the problem.

I ask for a "no" vote on the substitute amendment, Mr. Chairman.

Mr. MADIGAN. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the substitute and the amendment of the gentleman from California (Mr. Dannemeyer).

Mr. Chairman, at the outset, to address the question as to whether or not there is a problem, I would like to quote from the first paragraph of a letter written by the vice president of the U.S. Chamber of Commerce, which says:

> The business community is deeply concerned about problems resulting from certain inactive hazardous waste disposal sites. We believe that sites which present a hazard to human health or the environment should be contained or cleaned up quickly and effectively. We believe that H.R. 7020 as reported by the House Committee on Interstate and Foreign Commerce is a substantial improvement over prior legislative proposals and addresses the inactive hazardous waste sites problem and contains scope and liability provisions which would protect both public health and the environment.

If I may read the last part of that letter, it says:

> The undersigned organizations strongly urge you to support H.R. 7020.

It is signed by the American Mining Congress, the American Paper Institute, the American Textile Manufacturers Institute, the Chamber of Commerce of the United States, the Chemical Manufacturers Association, the Edison Electric Institute, the National Association of Manufacturers, the National Forest Products Association, the National Painting and Coating Association.

With regard to the question of whether or not the committee bill would impose upon American industry undue and unnecessary regulations, let me just observe that that is not a list of organizations known ordinarily to be advocates of Government regulation. It is in this instance a list of American business organizations that clearly recognize that there is a serious problem and that the Congress of the United States needs to respond to that problem.

The gentleman from Michigan has artfully articulated some of the shortcomings of any legislative proposal; however, I believe that his amendment would not be helpful to dealing with the problem of hazardous waste sites. Certainly the list of chemicals that the gentleman has read here today suggests that any legislative proposal could be held up to ridicule; but we are not talking here about a single bottle of rubbing alcohol or a small 2-ounce package of rat killer that somebody is going to put behind a refrigerator. We are talking about hundreds of 55-gallon drums of these chemicals that are leaking into the underground water supplies in the United States of America. Certainly people use those chemicals, but they do not mix them in large quantities in their drinking water.

I concur that the States must play a major role in this cleanup effort. I would point out that H.R. 7020 is structured to keep the Federal role to a minimum. The States are full partners in the committee bill. EPA can step in only if the responsible party cannot be found or cannot act and only if the State or local government does not respond.

I would like to point out that Robert A. Roland, president of the Chemical Manfuacturing Association, stated in a letter in this morning's Post, and I quote:

> We believe the Federal Government should have the means to act immediately to protect the public and the environment from the clear dangers these failing sites pose.

Mr. Roland concluded by stating:

> H.R. 7020—

The committee bill—

> comes closest to what is really needed to remedy the problems failing dumps impose.

The substitute of the gentleman from Michigan would let the irresponsible dumpers in this country off the hook completely. The issue here, the real difference between this substitute and the committee bill, is that the gentleman's substitute relieves the dumpers of any responsibility. It would become the responsibility of the taxpayers to clean up the mess of the dumpers. The result of agreeing to the substitute would be to put the House of Representatives in the position this evening of saying that they want to do less than the chemical manufacturers say is desirable, less than the chamber of commerce says is necessary and less than the National Association of Manufacturers say is both desirable and necessary. I do not want the House of Representatives to be put in that position this evening or any other time.

I would urge the defeat of the Stockman substitute and support for the committee bill.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(At the request of Mr. Moffett, and by unanimous consent, Mr. Madigan was allowed to proceed for 1 additional minute.)

Mr. MOFFETT. Mr. Chairman, would the gentleman yield?

Mr. MADIGAN. I would be happy to yield.

Mr. MOFFETT. Mr. Chairman, I simply want to congratulate the gentleman for his remarks; but I think more importantly his work on this legislation throughout.

Both of us know the gentleman from Michigan as a brilliant member of our committee. I do not use that word lightly or insincerely. Both of us know that there are times clearly when the burden of Federal intrusion and regulation is clearly so high that it outweighs any benefits that might be obtained from Federal intrusion.

The gentleman and I may disagree on when that point comes; but the fact is this is not one of those instances where the burden of federal involvement is going to be such as to outweigh the benefits. I think the gentleman knows that to adopt the substitute would be like saying that we have had a series of terrible tornadoes all over the country and we are going to let the states deal with them or have a year or two of study.

☐ 1700

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words and rise to speak against the substitute.

I first want to compliment the distinguished chairman of the subcommittee and the ranking minority member for presenting a bill that seems to have such wide support. I think it has that support because it deserves it.

There never was a matter that received more thorough examination in Congress than this matter has received. My subcommittee, of which the gentleman from Connecticut (Mr. Moffett) is a member, as is the gentleman from Tennessee (Mr. Gore), who has really been a pioneer in this subject even before I became concerned with it when he served on that subcommittee under my predecessor, Chairman John Moss, has given this subject matter 18 days of hearings for consideration. We identified two problems.

First, we must find out the magnitude of the problem, find out where these dangers exist. The gentleman from Michigan (Mr. Stockman) has very well pointed out that we have not yet determined the full magnitude of the problem. But I would suggest, contrary to his implications, that the problem is probably greater than it has been described.

For instance, when we examined where hazardous waste had been distributed by sending a questionnaire to 53 of the major chemical companies, we were only touching the tip of the iceberg. Actually, those companies were probably the most responsible disposers of hazardous waste in the country. Yet we received information that raises many serious questions.

The second thing that needs to be done is not merely to throw public funds into the cleanup of wastes distributed illegally or improperly by persons who have distributed them in the past and in the present. The second thing we must do is to create a disincentive to continue to distribute and dispose of hazardous wastes in an irresponsible way.

The gentleman from Michigan's amendment does not address this second question at all, except to admonish the Administrator to advise the attorneys general of the States as to how they might work out some kind of program to recoup some of the funds which they may have expended.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield on that point?

Mr. ECKHARDT. Surely. I am glad to yield to the gentleman from Michigan.

Mr. STOCKMAN. The point about the disincentive, that we need to put on a fee or some kind of retroactive liability is raised over and over again. But is it not true I would ask the gentleman, that every industrial generator of hazardous wastes today, or beginning in November, will be under the very tight regulations of RCRA regarding how they dispose of wastes, whether they sell it to transport, what type of facility that it can be put in, and that this is the most powerful incentive that one could possibly impose, and that we are no longer talking about a future problem, we are only talking about abandoned sites. Current and future incentives are not relative.

Mr. ECKHARDT. No. As a matter of fact, we are talking about both abandoned sites and sites with interim permits in the section that deals with liability for releases. That section reads: "Except for a release, or threatened release, of hazardous waste * * *" resulting from "an act of God," and certain other exceptions, "where any release, or threatened release, of hazardous waste into the environment from or at an inactive site causes any costs described in subsection (b), any person who caused or contributed to the release or threatened release shall be strictly liable for such costs. Except as provided in paragraph (2), such liability shall be joint and several with any other person who caused or contributed to such release."

Subsection (B) establishes the proportionate liability of those who caused the danger. We never addressed this question in such detail in Federal law. This is precisely what we ought to do.

The gentleman from Texas, who is speaking, would have gone much further than that. I would have provided, as I did in my original draft of a bill that was introduced, and about a third of it I think was then encompassed in this bill, I would have provided for perpetual liability on the creator of hazardous waste. This bill does not go quite so far, but it does provide for responsibility for anyone who contributes to the release, and it makes them strictly liable for the cost of cleanup.

If we follow the other approach, what we do is throw Federal money into the hands of the States.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. If we turn over funds to the States, what is the incentive of the States to recover such money if they are getting it from the Federal Government? The incentive is always to the Federal Government to keep the fund intact so that it may be available for this enormous problem of cleaning up wastes all over the Nation. If we give it to the States they may or they may not regain the funds by suing those who are really responsible.

Besides that, under the Stockman substitute, the basis of liability will be that which the State has imposed. It is not defined uniformly in State law. Yet the question we are addressing is a uniform Federal question.

In our hearings, for instance, we found about five States with reasonably good laws with respect to hazardous wastes. I think California was probably the best. I would say that Texas, because it has faced this problem for a long time, might well be second.

New Jersey also was at the top of the list of States. But even in my State of Texas we discovered that the law was not well enough drawn to trace certain extremely dangerous wastes, including cyanide, to roads where road oil contaminated with nitrobenzene and cyanide was put on the roads of an addition, and we could not find out how the provisions in the Texas law failed to trace these toxic materials through a very important and responsible waste disposal company, Browning Ferris. We could not find how that poison got to those roads. The State law was totally inadequate to solve the question.

In addition, for example, we found that where New Jersey has a strict law, it frequently results in the generators of hazardous waste dumping their waste in Pennsylvania. If there ever was a question which is national in scope and which called for a national solution, I believe this is the question.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(At the request of Mr. STOCKMAN and by unanimous consent, Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Michigan.

Mr. STOCKMAN. The gentleman makes a number of valid points that I would not argue with. But the gentleman is talking about current output of hazardous wastes. We are not addressing that here today and the gentleman knows that. The gentleman is talking about problems that will be dealt with in a very tough and effective way under RCRA.

I agree if New Jersey has a tough law for current generators of waste and Pennsylvania does not, the stuff is going to move at midnight to Pennsylvania. That is not the issue before the House. RCRA takes effect in November. It applies to every generator of industrial wastes in the country and every transporter and every receiver or disposer. The gentleman helped write that law.

Mr. ECKHARDT. Is the gentleman under the impression there is presently no Federal law with respect to the disposal of hazardous wastes?

Mr. STOCKMAN. No. That is not the point I am making.

Mr. ECKHARDT. It has been distributed illegally and we have to do something about cleaning it up and we have to do something about imposing the responsibility and the cost of cleaning up. We cannot impose those costs on the taxpayers through money generated at the Federal level and paid to the States without any requirements that the States recoup that money from those who caused the harm. That is what I am complaining about, about the gentleman's substitute, and that is what I applaud in the bill that we have before us.

Mr. LaFALCE. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I will yield to the gentleman from New York.

Mr. LaFALCE. I would like to add to the answer the gentleman gave to the gentleman from Michigan (Mr. STOCKMAN), we have had RCRA on the books from 1976, and right now they theoretically have been dealing since the promulgation of the regulations, in any event, with current disposal practices, and yet we can still find and count hundreds and thousands of instances when the law has been flagrantly violated.

That is going to create dangerous situations that we are going to have to deal with in the future.

☐ 1710

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. LaFALCE, and by unanimous consent, Mr. ECKHARDT was allowed to proceed for 1 additional minute.)

Mr. LaFALCE. If the gentleman will continue to yield, second, even when great good faith efforts are being made to comply with the law, at best it is uncertain just how safe those practices are.

Further, in the State of New York I can give personal witness to this: There are only two sites in the entire State of New York where you can presently dump hazardous wastes, sites both of which happen to be in one county in my congressional district. The people are justifiably up in arms over the relative safety conditions of those disposal practices.

Also we can say since those are the only two sites in New York State, there is a countless amount of illegal dumping taking place across New York State, and probably in every single State in the Nation, and it probably is going to continue in the future, regardless of legislation that exists and regardless of passage of the superfund. We are going to have to deal with that in the future, and this bill gives us the comprehensive framework to actually do that, to deal with it.

Mr. GRAMM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from Michigan and I fought this issue all through the full committee, and I think it is clear his substitute is not going to pass, but I think we owe him a debt of gratitude for bringing this substitute up because I think it demonstrates clearly that there are big deficiencies in this bill. What is at issue in this debate is not whether there is a problem. Everybody knows there is a problem. Nobody denies that. What is at issue is not whether we have had 18 hearings or not. That is a matter of public record. We have had a lot of hearings. A lot of people have given a lot of speeches and have gotten a lot of press, becoming heroes in their districts, showing concern for people. That is not the issue. The issue is have we come up with an effective and equitable instrument to deal with this problem? I think the answer is no.

The gentleman from Michigan has done a very good job in showing how we really have not defined the problem. We have not yet set out what it is going to cost. We have not looked at any costs and benefits. We have written a blank check.

There is another issue. That is how are we going to pay for this cleanup? We have not chosen a mechanism of paying which has been dictated by one central issue, and that is we want to find an easy way to get it paid for, so we are going to impose an industry fee which is geared toward current production. There is only one problem with that, and that is that no one anywhere during these 18 hearings has ever demonstrated any substantial correlation between past pollution which has occurred by industry and firms as related to current production as occurring by industries and firms.

I said in committee when we debated this issue that imposing a user fee based on current production to pay for past pollution without regard to who polluted was like going into a neighborhood where there had been a riot and somebody burned down the post office and imposing a fee on everybody who lived in the neighorhood to pay for rebuilding the post office. But that is not accurate. That does not really apply to what we are doing here. What we are doing here is we are coming in 20 years after the post office has burned down, and we are imposing a fee on the people who live in this neighborhood today, so not only are we clearly imposing a fee on people who are not guilty, we may well not be imposing a fee which really reaches the guilty party.

In all of the debate which has occurred here and which occurred in the committee, we continually have references made to making industry pay. Is anybody here so naive as to believe that an industry fee which is imposed across the board is not going to be passed 100 percent on to the American consumer? Let us not fool ourselves. This is a tax, not a fee, and the same person is going to pay this tax who pays every tax, and that person is the American consumer

There is a second issue, and that is that by making pollution no-fault, by making it an industrywide problem to the extent that that moves us away from our effort to seek out the guilty party, then we let the guilty party off the hook.

I believe we need an effective bill to trace the assets of those who have polluted and to trace those assets to the grave, if necessary, to recover the funds. We have had references made by those who support this bill, who basically say, well, the industry has polluted; the industry has benefited by past pollution. But I ask who benefited from Hooker Chemical's pollution? Did the industry benefit? No. Hooker Chemical benefited. In fact, to the extent that Hooker Chemical polluted and its competitors tried to be responsible, its competitors tried to be good citizens, they lost. They did not gain; they lost by losing a competitive edge.

So I think it is important that we try to move toward a vehicle which imposes a cost on those who pollute, which provides funds whereby the States can seek out the guilty parties and make them pay, because if Hooker Chemical pays and not the whole industry, then Hooker Chemical cannot pass the cost to the consumer where an industry fee will surely see that cost passed.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I yield to the gentleman from Michigan.

Mr. STOCKMAN. I thank the gentleman for yielding. Like I say, I appreciate the gentleman's comments. I think he has hit the nail right on the head. We are not arguing about the existence of the problem.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STOCKMAN. I ask unanimous consent that the gentleman may have 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. MADIGAN. Reserving the right to object, Mr. Chairman, under that reservation I would simply point out that we have spent almost an hour on this first amendment. I understand there are many amendments to be considered, and it is now a quarter after 5. Absent some understanding within the next few minutes about when this debate on this amendment is going to conclude, I would think that we would have to consider some sort of time limitation in the interest of the House's being able to move ahead and work its will. I will not object, but I would want to make that point.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. STOCKMAN. If the gentleman will continue to yield, Mr. Chairman, I was just suggesting the gentleman has hit the nail on the head. We have heard a number of statements this afternoon dictating you need a fee. You need some kind of club or sanction so that companies in the future will not continue to pollute or to dump waste in an improper manner.

That is not the issue here, because every one of those companies operating today is regulated by RCRA. The costs are being borne by those companies, and it is an irrelevant issue to raise. We are talking about the financial resources needed to take care of the problems in the past where some companies did a poor job or where local jurisdictions had weak laws.

To say that that burden—it is a burden—of spending money to protect the public health because we all made mistakes in the past ought to be imposed only on current generators of waste who might not even have been in business or existence at that time seems to me to be an arbitrary and total misuse of the user-fee concept that is applied here.

Mr. GRAMM. Mr. Chairman, reclaiming my time, and given the suggestion of an objection, after not having objected to numerous requests earlier, I would just like to say two things: One, we have heard references to the assertion that the gentleman's amendment guts the bill. I think it does not gut the bill. I think rather than taking out guts, it injects brains into the bill.

Second, it is important to note that with the new restrictions which are needed, and which I support, the consumer of petrol, chemicals, the consumer of mineral products, is going to pay a lot more money to meet the new standards. By imposing these fees, he is going to pay twice.

I think it is interesting when we talk about making the companies pay, do not let the company off the hook—and you can be good bait for that kind of rhetoric—I think it is important that we look back and see who is working in these industries who use the primary chemical products; who will lose the jobs as a result of this tax? Who is buying the output of these industries?

I assert if we look at who is paying and who will suffer the unemployment, we will find it is exactly the people we always hear spoken on behalf of here on the House floor—working Americans, poor people who are going to pay. Rather than dealing with this in an above-board straightforward but politically unpopular method, and that is by using general revenue funds to deal with the problem, rather than imposing a fee which in no way is related to who is guilty, I think that violates all our legal precepts, and it is an idea that I abhor.

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I yield to the gentleman from Tennessee.

Mr. GORE. I thank the gentleman for yielding. Let me just say briefly, of course, under this bill when you hold that party responsible, we hold that party responsible. We do not go and raid the fund anytime where you know the party who is responsible. So that is, I say with all due respect, a misconception about the scheme.

☐ 1720

Mr. MARTIN. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of H.R. 7020, the Hazardous Waste Containment Act of 1980, for reasons which I stated earlier in general debate. This bill, taken together with H.R. 85 enacted last Friday will enable the Government to respond to oil, hazardous substances, and hazardous wastes that are released into the environment. This Government response would occur only where the responsible parties cannot be identified, or cannot or will not take the appropriate cleanup action themselves. Both bills establish a system of taxes on industry which will assure an adequate and equitable "up-front" cleanup fund to enable these urgently needed actions to take place. The problems of environmental emergencies are pervasive. My own State and every Member's State has a potential for damages associated with the release of these pollutants. Clearly, action must be taken now.

I also oppose the substitute amendment of the gentleman for Michigan, although he has raised some questions that are troubling. But this is not an intrastate problem. Existing governmental authorities and funding are not adequate to deal with this problem. Nor are the States capable of dealing with what is clearly a problem of interstate magnitude. Let me address in particular the problems that H.R. 7020, the Hazardous Waste Containment Act of 1980, is to remedy. The magnitude of this problem is reflected in the fact that the Environmental Protection Agency has over 7,000 sites now under investigation across the Nation where hazardous waste sites have been identified and which may cause a significant environmental problem. The contamination from these sites clearly is an interstate problem. Numerous instances exist where two or more States have been affected by surface or ground water contamination and air pollution as a result of hazardous waste incidents. Since so many aquifers cross State lines, the likelihood of discovering more is fairly high. And there are other cases of interstate transportation of hazardous waste-causing problems.

Finally, absentee owners, who may have no reachable assets anymore exacerbate the problems of site cleanup. For example, 131,000 gallons of waste oil containing PCB's were illegally discharged along 210 miles of North Carolina roadside. It was later determined that the wastes originated at the Transformer Sales Co. in Allegheny, N.Y. It was apparently supposed to go to Pennsylvania to another site already in violation.

Another example of surface water contamination occurred in Saltville, Va. Disposal of industrial waste in the North Fork of the Holston River contaminated the river as well as the Cherokee Reservoir in Tennessee. The Tennessee Health

Department has banned fishing since 1970.

Over a year ago an oil slick was reported in the Susquehanna River outside Pittston, Pa. Subsequent examination discovered not only the presence of oil, but also other organic chemicals. The source was an abandoned mineshaft where hazardous wastes were being dumped into its ventilation pipes several miles away at a truckstop, ultimately making their way into the river. In mid-1979, 500 to 1,000 gallons per day of these substances poured out of the shaft and are, to this day, still continuing at a comparable or greater rate of flow; in addition, sodium cyanide dumped into the miles reacted with waste acids to form deadly hydrogen cyanide. The Susquehanna River is a major recreational resource and downstream drinking water supply.

As an example of absentee ownership of sites, three sites near Verona, Mo., have been identified as possibly containing dioxin wastes. The dioxin was produced between 1969 and 1972 by one company which had rental equipment and space from another business which is headquartered in Connecticut. Now that the Missouri manufacturer has declared bankruptcy, the State may not have anyone to hold liable. These are the kinds of examples of interstate pollution effects for which a responsible party cannot or will not take action. Only the Federal Government has the sufficient legal authority to deal with this. H.R. 7020 will accomplish that objective.

It must be noted that these examples cite practices which are already violations of existing laws. That does not, however, mean that any party can be held liable for cleaning up the potential hazard to innocent neighbors.

It has been suggested that this problem can be dealt with adequately by giving it to the States. Aside from the fact that the States themselves are supporting this urgently needed legislation because they recognize that they have neither the capacity nor the expertise to do it, there are several other reasons why the States cannot go it alone. I have already discussed the interstate nature of the problem. We do not have the luxury to try to establish 50 separate State hazardous waste programs, nor do we have the resources to try and make this into an entitlement program where each State is asking, "What's our share?"

Our objective is to deal on a prompt and effective basis with an environmental emergency. We want the funds to go where the technical problem exists, not where a political tradeoff formula dictates. Those scarce State resources of both money and manpower should be devoted to assuming the hazardous waste management program under the Resource Conservation and Recovery Act, which will insure that these hazardous waste disposal problems are not duplicated in the future.

Mr. Chairman, for these reasons and many others, I rise in strong support for H.R. 7020, the Hazardous Waste Containment Act of 1980, and oppose the Stockman substitute.

Mr. Chairman, I do want to raise some questions with the subcommittee chairman regarding regulatory uncertainty. There is some implication here in the debate that we are contemplating digging up some 7,000, 35,000 or 15,000 sites, depending on whose scare story you prefer, all across this country with no clear idea of what we are going to do with all of that stuff once we dig it up. There has been one suggestion that we particularly have to deal with those 35 percent or so of the sites that are not lined, and there is again the same question that we are going to dig up all of the unlined sites that can be found, amounting to some 2,500 or more dumpsites.

My question, Mr. Chairman, is what is the scope of this legislation? What characteristic does the committee have in mind or do the committee members have in mind that will determine which dumps are going to get dug up in order that we might develop some legislative history in this direction?

Mr. FLORIO. If the gentleman will yield, I will be happy to respond to the gentleman's question.

There is a two-tier response that has to be made. One of course is an emergency situation where the EPA will have the authority to go to the site and direct those at the site to make the appropriate modifications, enter into agreements with the States, and they are directed to do so in those situations where there is a life-threatening situation.

Incidentally, as a parenthetical comment, this whole standard was applied from the Clean Waters Act, section 311. The gentleman may be familiar with that. There has been no example. We specifically asked industry representatives if there had been any abuse of authority by EPA under that statute. We received direct response, no there had been no such abuse of authority.

The other area the gentleman addresses is that of remedial action. As the gentleman knows, in the bill there is an inventory system set on a State-by-State basis. After those inventory on a State-by-State basis are accumulated as to the abandoned hazardous waste site, the top 100 hazardous waste sites in the Nation are singled out and those are the sites that will be dealt with in terms of remedial action.

No, we are not turning EPA people loose to go dig up everything around the country. We are providing a structure whereby the 100 worst sites in the Nation will be dealt with in a remedial way.

Mr. MARTIN. Could I question the chairman further on that point? After we have cleaned up the 100 worst sites, has the committee examined the question of what we then do about the next 100 worst sites and the next 100 and the 100 after that? Do we leave then an irresistable temptation to have to proceed 100 at a time in pork barrel fashion until all 35,000 have been cleaned up? Did the committee look at some standards of what would pose an unacceptable risk, thereby justifying cleaning up these sites and not other sites?

Mr. FLORIO. If the gentleman will yield, the expectation is that we would proceed down the list of the priority items. This is a finite problem. We are not talking about prospective sites, we are talking about sites that are in existence now. Our bill is a 4-year bill with limited funds. We hope that at the end of this 4 years the moneys and the problem will be dissipated. That is there will be no more problems created, if the Research Conservation Recovery Act regulations go forward in the way we hope they will. There will be no new Love Canal. So that there is light at the end of the tunnel and what we are trying to do is deal with those problems that currently are imminent hazards to the people's safety and to the environment in the surrounding area.

Mr. MARTIN. Mr. Chairman, I thank the chairman for that explanation.

Really what worries me is sort of a terrifying scenario. Where will we be if, after cleaning up the 100 worst sites and perhaps the next 100 after that, we end up having scared hell out of the other 34,800 or 34,900 communities where, inevitably some detectable traces of undesirable chemicals will be found.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DANNEMEYER) to the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. STOCKMAN).

The amendment to the amendment in the nature of a substitute was rejected.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. STOCKMAN).

The amendment in the nature of a substitute was rejected.

PARLIAMENTARY INQUIRY

Mr. FLORIO. Mr. Chairman, might I inquire of the Chair what is our position with regard to the reading of the bill?

The CHAIRMAN. The Chair would advise the gentleman that we are still on section 1.

Are there further amendments to section 1.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER in the nature of a substitute: Strike out all after the enacting clause and substitute:

SHORT TITLE

SECTION 1. This Act may be cited as the "Hazardous Waste Act of 1980".

INAPPLICABLE TO POLLUTION OF NAVIGABLE WATERS

SEC. 2. Nothing in this Act, or in any amendment made by this Act, shall apply to oil, or other, pollution of navigable waters.

AMENDMENTS TO SOLID WASTE DISPOSAL ACT

SEC. 3. (a) Subtitle C of the Solid Waste Disposal Act is amended by inserting

"PART 1—STANDARDS AND PERMITS FOR HAZARDOUS WASTE MANAGEMENT"

immediately after

"Subtitle C—Hazardous Waste Management"

and by adding the following new part at the end of such subtitle:

"PART 2—INACTIVE HAZARDOUS WASTE SITES

"Subpart A—General provisions

"COVERAGE OF PART

"SEC. 3021. (a) COVERAGE.—The provisions of this part shall apply to inactive hazardous waste sites. Nothing in this part shall apply to oil, or other, pollution of navigable waters.

"DEFINITIONS

"SEC. 3022. For purposes of this part, the term—

"(1) 'Inactive hazardous waste site' means a landfill, surface impoundment, storage facility, or any other site or facility of any kind—

"(A) at which hazardous waste is, or has been, present (including any site or facility where hazardous waste is, or has been, stored, treated, or disposed of, or which is, or has been, used in whole or in part for the retention, deposit, injection, placing, or dumping of hazardous waste), and

"(B) for which no permit under section 3005 has been issued or treated as issued under section 3005(e) and for which no permit under 3005 (including subsection (e) thereof) is required.

"(2) 'Release into the environment' means, with respect to hazardous waste, the discharge, escape, injection, spilling, pouring, emitting, leaching, pumping or other transfer of hazardous waste to any land, air, or water, except that such term does not include any such activity—

"(A) which is subject to part 1 of this subtitle, or

"(B) which is carried out in compliance with the requirements of applicable law.

"Subpart B—Inventory, Priorities, and Monitoring

"HAZARDOUS WASTE SITE INVENTORY

"SEC. 3031. (a) NOTIFICATION REQUIREMENTS.—(1) Each person (including each State or local governmental department, agency, or instrumentality) who, on the date of the enactment of the Hazardous Waste Act of 1980, owns or operates any inactive hazardous waste site shall provide to the relevant State and local officials (or to the Administrator in the case of a program carried out under subsection (c)) the information referred to in paragraph (2), to the extent that such information is known to, or reasonably determinable by, such person. Such informaiton shall be provided within three months after the date of receipt from the Administrator of the forms required under this section.

"(2) The information required to be provided under this subsection is as follows:

"(A) a description of the location of the inactive hazardous waste site;

"(B) the name and address of, or corporate headquarters of, the owner of the site, determined as of the date of submission of the information;

"(C) the current status of the site, including (i) whether hazardous waste is being treated, stored, or disposed of at the site at the time the information is submitted (and, if not, the date on which such activity ceased), (ii) whether there have been any releases of hazardous waste from the site which have caused damage to public health or the environment, and (iii) the nature of any other activity being carried out at such site;

"(D) such information relating to the amount, nature, origin and characteristics of the hazardous waste at the site, and relating to the hydrogeological and geophysical properties of the site, as may be necessary to determine the extent of any environmental or health hazard which may be associated with such site; and

"(E) an identification of the types of techniques of waste treatment, storage, or disposal which have been used at such site. Information under this subsection shall be supplied on forms made available by the Administrator within a three-month period after the date of the enactment of the Hazardous Waste Containment Act of 1980. Such forms shall not require the submission of information which is impracticable, as determined by the Administrator.

"(3) Where any person fails to comply with the requirements of paragraph (2) with respect to any inactive hazardous waste site, or where information acquired from any person under paragraph (2) with respect to any such site is inadequate for any reason, the State in which the site is located, or the Administrator, may exercise the authority of section 3007 of the Solid Waste Disposal Act to secure any information described in paragraph (2) from any person referred to in paragraph (1) or from any former or subsequent owner or operator of the site or from any generator or transporter of hazardous waste which is at the site. The State or the Administrator may, by order, require any such person to submit information described in paragraph (1) or such information as may be necessary to compile the information described in paragraph (1). The provisions of section 3008 shall apply for purposes of enforcing such an order.

"(4) Upon the request of the Administrator, each Federal department, agency, or instrumentality—

"(A) which, on the date of the enactment of the Hazardous Waste Act of 1980, owns or operates any site at which hazardous waste has been treated, stored, or disposed of;

"(B) which owned or operated any such site on or before the date of the enactment of such Act; or

"(C) which has generated any hazardous waste before such date of enactment.

shall provide the information described in paragraph (2) to the Administrator to the extent such information is known to or reasonably determinable by such department, agency, or instrumentality. Such information shall be provided on the forms referred to in paragraph (1).

"(b) STATE INVENTORY PROGRAMS.—Each State shall, as expeditiously as practicable, undertake a continuing program to compile, publish, and submit to the Administrator an inventory containing the information described in subsection (a)(2) for each inactive hazardous waste site within the State. The inventory shall be based upon the information submitted to the State under subsection (a) and upon other information available to the State. For purposes of assisting the State in compiling information under this section, the Administrator shall make available to each State undertaking a program under this section such information as is available to him concerning the items specified in paragraph (2) of subsection (a) with respect to the sites within such State, including such information as the Administrator is able to obtain from other agencies or departments of the United States and from surveys and studies carried out by any committee or subcommittee of the Congress. Any State may exercise the authority of section 3007 for purposes of this section without regard to whether or not such State has an authorized hazardous waste program under part 1.

"(c) ENVIRONMENTAL PROTECTION AGENCY PROGRAM.—If the Administrator determines that any State program under subsection (b) is not adequately providing information respecting the sites in such State in compliance with subsection (b), the Administrator shall notify the State. If within ninety days following such notification, the State program has not been revised or amended in such manner as will adequately provide such information, the Administrator shall carry out the inventory program described in subsection (b) in such State. In any such case—

"(1) the Administrator shall have the authorities provided with respect to State programs under subsection (b);

"(2) the funds allocated under subsection (e) for grants to States under this section may be used by the Administrator for carrying out the program in such State; and

"(3) no further expenditure may be made for grants to such State under this section until such time as the Administrator determines that such State is carrying out, or will carry out, an inventory program which meets the requirements of this section.

"(d) REPORT TO CONGRESS.—Based upon the State inventories conducted by the States (or, if necessary, by the Administrator under subsection (c)), the Administrator shall compile a national inventory of all hazardous waste sites. The Administrator shall submit a report containing the national inventory, together with an analysis thereof, to the Committee on Environment and Public Works of the Senate and to the Committee on Interstate and Foreign Commerce of the Representatives within two years of the date of enactment of the Hazardous Waste Act of 1980. The Administrator shall update this inventory and submit a report containing the updated inventory, together with an analysis thereof, to the aforementioned committees annually after the first transmittal. The reports under this subsection shall include but not be limited to—

"(1) a listing by State of the numbers of active and inactive hazardous waste sites;

"(2) an analysis of the numbers of various types of sites and the numbers of sites and volumes of waste contained in them by industry category;

"(3) a list of the total number of inactive sites at which remedial actions are likely to be required under this part; and

"(4) a general description of the risk of harm to public health and the environment posed by each of the sites listed in paragraph (3).

"(e) GRANTS.—(1) Upon receipt of an application submitted by any State to carry out a program under this section, the Administrator shall make grants to the State for purposes of carrying out the program. Grants under this section shall be allocated among the several States by the Administrator based upon such regulations as he prescribes to carry out the purposes of this section. The Administrator shall make grants to any State which has conducted an inventory program which effectively carried out the purposes of this section before the date of the enactment of the Hazardous Waste Act of 1980 to reimburse the State for all, or any portion of, the costs incurred by the State in conducting such program.

"(2) There are authorized to be appropriated to carry out this section $35,000,000, to remain available until expended.

"ESTABLISHMENT OF PRIORITIES

"SEC. 3032. (a) STATE PRIORITIES.—Within fifteen months after the date of enactment of the Hazardous Waste Act of 1980, and annually thereafter, each State shall establish priorities among the inactive hazardous waste sites in that State which present, or may present, a substantial threat to public health or the environment. The priorities shall be—

"(1) established in accordance with guidelines of the Administrator establishing criteria which define the conditions that constitute such a threat, and

"(2) consistent with the National Hazardous Waste Response Plan.

"(b) NATIONAL PRIORITIES.—The Administrator shall establish and publish a list setting forth national priorities among the inactive hazardous waste sites throughout the United States which are releasing, or which present a substantial threat of releasing, hazardous waste. Such list shall be published by the Administrator not later than six months after the date of the enactment of this section and revised at least annually thereafter. The priorities shall be based upon the Administrator's determination of the relative danger to public health and the environment presented by such sites. The Administrator may utilize any priorities established by the States under subsection (a) for the purpose of establishing national priorities under this subsection. The one hundred inactive hazardous waste sites designated by the Administrator on the list of national priorities as having the greatest danger to public health and the environment shall be referred to in this part as the 'top priority sites'.

"MONITORING OF INACTIVE SITES

"SEC. 3033. Each person and each Federal department, agency, or instrumentality who owns any inactive hazardous waste site which poses a reasonable likelihood of harm to public health or the environment shall, in such manner and at such times as required under regulations promulgated by the Administrator—

"(1) monitor the extent to which hazardous waste associated with such site is released into the environment and periodically submit data resulting from such monitoring to the Administrator and to appropriate State and local authorities; and

"(2) immediately notify the Administrator and the appropriate State and local authorities when any hazardous waste associated with such site is released into the environment in a manner which presents or may present a substantial threat to public health or the environment.

Where the owner is not financially capable of carrying out the requirements of this subsection in a manner satisfactory to the Administrator, the Administrator may, by order, require any person who owned or operated the site at the time during which a substantial portion of the hazardous waste at such site was treated, stored, or disposed of at the site, to carry out such requirements.

"IMMUNITY

"SEC. 3034. No information received from any person pursuant to this subpart, and no information derived therefrom, may be used against such person in any criminal proceeding except a prosecution for prejury or for making a false statement or representation.

"DESTRUCTION OF RECORDS

"SEC. 3035. No person may knowingly destroy, mutilate, erase, falsify, dispose of, conceal, or otherwise render unavailable or unreadable any records reasonably necessary for compliance with the requirements of this part. Violations of this section shall be punishable as provided in section 3061(b).

"Subpart C—National Hazardous Waste Response Plan

"NATIONAL HAZARDOUS WASTE RESPONSE PLAN

"SEC. 3041. (a) PLAN.—The President, after consultation with the States, shall propose for public review and hold public hearings on a National Hazardous Waste Response Plan (hereinafter in this section referred to as the 'Plan'). Following such review and public hearings, but not later than eighteen months after the date of the enactment of the Hazardous Waste Act of 1980, the President shall publish the Plan. The Plan may, from time to time, be revised, amended, and modified after notice and public hearing. The Plan shall include, at a minimum—

"(1) methods for discovering and investigating hazardous waste sites and establishing their danger to public health and the environment;

"(2) methods for evaluating (including cost analyses) and containing any releases, or threats of releases, of hazardous wastes into the environment which pose substantial danger to the public health or to significant environmental resources;

"(3) methods and criteria for determining the appropriate extent of removal, emergency response, containment, and other measures to be carried out;

"(4) appropriate roles and responsibilities for the Federal, State, and local governments and for interstate and nongovernmental entities in effectuating the Plan;

"(5) provision for identification, procurement, maintenance, and storage of response equipment and supplies; and

"(6) a method for and assignment of responsibility for reporting the existence of hazardous waste disposal sites which may be located on federally owned or controlled properties and any releases of hazardous wastes from such sites.

Following publication of the revised National Hazardous Waste Response Plan, emergency assistance, the removal and containment of hazardous waste, and other actions shall, to the greatest extent possible, be in accordance with the provisions of the Plan.

"(b) METHODS, PROCEDURES, CRITERIA, AND EQUIPMENT.—The National Hazardous Waste Response Plan shall set forth recommended—

"(1) methods and procedures for the removal of released hazardous waste;

"(2) criteria for development of local and regional hazardous waste removal contingency plans; and

"(3) procedures, methods, and equipment and other requirements to prevent and contain releases of hazardous waste.

In developing recommendations under this subsection, the President shall consult with appropriate representatives of industries concerned.

"(c) PROTECTION OF EMPLOYEES.—The plan under this section shall include provisions for the establishment of a program for the protection of the health and safety of employees involved in remedial actions at hazardous waste sites. Such program shall be developed jointly by the Administrator, the Occupational Safety and Health Administration, and the National Institute for Occupational Safety and Health. The program shall include, but not be limited to, measures for identifying hazards to which persons engaged in such remedial actions may be exposed, methods to protect such employees from such hazards, and regulatory and enforcement measures necessary to assure employee protection in connection with such remedial action. Contracts entered into with the United States under any authority of law for purposes of such remedial action shall include provisions for the protection of employees consistent with the plan provisions adopted pursuant to this subsection and with other applicable law.

"AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated for preparation and publication of the plan under this section, not more than $3,000,000, to remain available until expended.

"Subpart D—Enforcement

"ENFORCEMENT

"SEC. 3051. (a) CIVIL PENALTIES.—(1) The Administrator may commence a civil action against any person to impose a civil penalty for violation of any order of the Administrator under this part.

"(2) The amount of penalty under this subsection shall be based on consideration of the size of the business of the owner, operator, or other person against whom the penalty is assessed, the gravity of the violation, and other appropriate factors.

"(3) Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to assess such penalty.

"(b) CRIMINAL PENALTY.—Any person who violates section 3035 (relating to destruction of records) shall, upon conviction, be fined not more than $20,000, or imprisoned for not more than one year, or both.".

(b) The following provisions of the Solid Waste Disposal Act are each amended by striking out "subtitle" in each place it appears and substituting "part": section 3001, 3002, 3003, 3004, 3005, 3006, 3009, and 3010.

(c) The table of contents for such subtitle C of the Solid Waste Disposal Act is amended by inserting

"PART 1—STANDARDS AND PERMITS FOR HAZARDOUS WASTE MANAGEMENT"

immediately before the item relating to section 3001 and by adding the following at the end thereof:

"PART 2—HAZARDOUS WASTE RESPONSE PROGRAM

"Subpart A—General Provisions

"Sec. 3021. Coverage of part.
"Sec. 3022. Definitions.

"Subpart B—Inventory, Priorities, and Monitoring

"Sec. 3031. Hazardous waste site inventory.
"Sec. 3032. Establishment of priorities.
"Sec. 3033. Monitoring of inactive sites.
"Sec. 3034. Immunity.
"Sec. 3035. Destruction of records.

"Subpart C—National Hazardous Waste Response Plan

"Sec. 3041. National Hazardous Waste Reponse Plan.

"Subpart D—Prohibitions and Enforcement

"Sec. 3051. Enforcement.".

STUDY OF HAZARDOUS WASTE SITING

SEC. 4. (a) The Administrator of the Environmental Protection Agency shall, in consultation with other Federal agencies, appropriate representatives from State and local governments, and representatives of nongovernmental entities, conduct a study of the issues, alternatives, and policy considerations involved in the selection of locations for hazardous waste treatment, storage, and disposal facilities. The study shall include:

(1) an assessment of the current and projected treatment storage and disposal capacity needs and shortfalls for hazardous waste by management category on a State-by-State basis;

(2) an evaluation of the appropriateness of a regional approach to siting and designing hazardous waste management facilities and the identification of hazardous waste management regions, interstate or intrastate or both, with similar hazardous waste management needs;

(3) solicitation and analysis of proposals for the construction and operation of hazardous waste management facilities by nongovernmental entities, except that no proposal solicited under terms of this subsection shall be analyzed if it involves cost to the United States Government or fails to comply with the requirements of subtitle C of the Solid Waste Disposal Act and other applicable provisions of law;

(4) recommendations on the appropriate balance between public and private sector involvement in the siting, design, and operation of new hazardous waste management facilities;

(5) documentation of the major reasons for public opposition to new hazardous waste management facilities; and

(6) an evaluation of the various options for overcoming obstacles to siting new facilities including needed legislation, for implementing the most suitable option or options.

The Administrator shall report the results of the study to the Committee on Interstate and Foreign Commerce of the United States

House of Representatives and to the Committee on Environment and Public Works of the United States Senate not later than eighteen months after the date of the enactment of this Act.

(b) There is authorized to be appropriated not more than $2,000,000 to carry out the study required under this section.

Mr. DANNEMEYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DANNEMEYER. Mr. Chairman, contrary to what some may believe, the purpose of this substitute is not to forestall the cleanup of abandoned hazardous waste sites. In fact, just the opposite is true. The purpose of this amendment is to permit the information necessary for the implementation of a responsible, cost-effective hazardous waste cleanup program to be gathered before, rather than after the fact, especially that information pertaining to the possibility of private enterprise undertaking the task at no cost to the Government.

Ever so briefly, Mr. Chairman, this substitute would provide for the completion of the four studies—the site inventory, the funding study, the siting study, and the national response plan—called for in the Commerce Committee version of H.R. 7020 within 18 months instead of 24. And it would authorize $40 million to complete the studies instead of the $600 million for the superfund itself. Once the studies were completed, then it would be up to the Congress to decide if EPA, private enterprise or the States should do the job, and how much should be spent on it.

In addition to not putting the cart before the horse, there are several compelling reasons why this approach makes more sense and is likely to produce both better and quicker results. The first is, we do not even know how many sites there are, much less how best to clean them up. The second flows from the first; we are just guessing—as the competing versions of this bill illustrate—on the amount of money that will be needed. And the third—which to my way of thinking is the most important—is we are by no means sure that EPA is the best Agency to play the lead role in hazardous waste cleanup. Not only does EPA's past record contradict the premise that it will be able to act swiftly, efficiently and in consonance with local interests, but, like most other Federal agencies, it seems to manage problems rather than eliminate them.

Beyond that, there is evidence, taken from testimony received by the House Commerce Committee's Oversight Subcommittee and from the recent experience of the folks down around Houston, Tex., to the effect that private enterprise is willing to undertake the task of building and operating hazardous waste facilities on a "no cost to the Government" basis. What makes this latter evidence particularly striking is that the Gulf Coast Authority (GCA), which is responsible for hazardous waste disposal in a three county area down there, contacted 28 firms around the world to see if they would be interested in bidding on a construction and operation of a comprehensive hazardous waste disposal facility including three high temperature incinerators and no less than 22 of the firms submitted bids. Eleven of these bids met all criteria, and eventually, two firms were selected to build the organic and inorganic waste disposal facilities. Under terms of the contract, these firms will finance the construction and operation of the facility and will pay the "percentage of revenue" fee to the GCA which, in turn, will make available the land. No taxpayer funds are involved so far.

Of course it is possible, in this instance, that tax moneys may have to be used to pay the cost of shipping abandoned waste to the facility but there is nothing to prevent other communities, who might choose to follow Houston's example, from requiring their successful bidder to ship those wastes as part of the contractual arrangement. And judging from the number of bidders in the Houston case there is every reason to believe that firms would be willing to do business on that basis.

As a footnote, I might also mention that the firm that will build the incinerators down around Houston is already building a similar facility which it will own outright, south of Baton Rouge, La. And it is considering a third facility in California, all of which suggests that Congress would be wise to determine how many other firms might be willing to dispose of both current and abandoned wastes on a profitmaking basis if given the opportunity. The savings, both in terms of the time and money, could be considerable.

Of course, there are those who will say this is all Pollyanna and, in the real world, what we need is not more studies but cleanup moneys now. I can understand, even sympathize with, those sentiments, but as mentioned earlier, giving EPA money and authority is not synonymous with getting quick results. Moreover, the agency tends to run rough-shod over State and local interests, as it is demonstrating in the auto emission inspection and maintenance controversy, and the last thing that we need with respect to hazardous waste cleanup is for that to happen.

Furthermore, I am reminded that EPA has been concerned about PCB's for years, yet it is two private firms that seem to have come up with a solution to that problem—converting them to common table salt. So, if it is action and ingenuity we are looking for, there are better places to look than EPA for it.

Mr. Chairman, in the hope that the Members of this body will look both ways before crossing the superfund track, I urge adoption of this substitute.

□ 1730

Mr. FLORIO. Mr. Chairman, I rise in opposition to the amendment. I think the points in opposition to the amendment can be made very succinctly.

There is nothing in this bill that utilizes public moneys for the establishment of a hazardous waste disposal industry, so the gentleman's apprehensions are really not founded on any kind of Federal funds or Federal basis. As a matter of fact, as I have indicated in prior statements, I am convinced that the private sector should and will develop this industry.

What the gentleman says about what he feels should be in the bill is in the bill; the inventory, the development of the plan; all of those things are in the bill. Unfortunately, the gentleman's substitute then goes on to cut out the heart of the bill, which is the emergency response authority which is needed. as well as the funding to contain and to clean up. So, I would have to strongly argue against the gentleman's amendment, although sympathetic to what I think is his main feeling, that the Federal Government should not get into the old business of developing an industry of hazardous waste disposal. I agree with that, but this substitute certainly is not responsive to that point.

I would ask for opposition to this proposal.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from California (Mr. DANNEMEYER).

The amendment in the nature of a substitute was rejected.

The CHAIRMAN. The Clerk will designate section 2.

Section 2 reads as follows:

INAPPLICABLE TO POLLUTION OF NAVIGABLE WATERS

SEC. 2. Nothing in this Act, or in any amendment made by this Act, shall apply to oil, or other, pollution of navigable waters.

The CHAIRMAN. Are there amendments to section 2?

If not, the Clerk will designate section 3.

Section 3 reads as follows:

FINDINGS

SEC. 3. The Congress hereby finds that—

(1) hazardous waste has been disposed of throughout the United States in a manner which has resulted in, and which may in the future result in, dangerous releases;

(2) the exact location of many such hazardous waste sites is unknown;

(3) cooperation by Federal, State, and local governments and private industry can assist in compiling an up-to-date inventory of the location, condition, and contents of existing hazardous waste sites;

(4) releases of hazardous waste can cause harm to public health and the environment;

(5) modern disposal practices using the existing state of the art of technology permit containment of dangerous releases from hazardous waste sites; and

(6) a systematic method of funding for purposes of identifying, containing, and taking other remedial actions with respect to inactive hazardous waste sites is necessary to protect public health and the environment in a cost effective manner.

AMENDMENTS OFFERED BY MR. FLORIO

Mr. FLORIO. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. FLORIO: Page 3, line 12, strike out "art of technology" and insert "art technology".

Page 4, line 24, strike out "(a) COVERAGE.—".

Page 4, line 25, strike out "shall apply to inactive hazardous waste sites." and insert "shall apply only to inactive hazardous waste sites, except as otherwise explicitly provided".

Page 5, strike out lines 8 and 9 and substitute "(A) where".

Page 7, beginning in line 3, strike out "inactive site" and insert in lieu thereof "inactive hazardous waste site".

Page 7, in line 17, after "(2)" and in line 23 after "subsection" insert "with respect to each such site".

Page 9, line 5, strike out "(2)" and substitute "(1) and (2)".

Page 9, line 10, strike out "of the Solid Waste Disposal Act".

Page 9, line 16, strike out "(1)" and insert in lieu thereof "(2)".

Page 9, line 18, strike out "(1)" and substitute "(2) to the extent that such information is known to or reasonably determinable by such person".

Page 17, line 3, strike out "the" and insert "a".

Page 18, line 18, strike out "the" and insert "a".

Page 19, line 13, after "may" insert ", notwithstanding section 3021,".

Page 2, strike out lines 6 through 9.

Page 22, line 24, after "risk" insert "of harm".

Page 23, line 4, after "action" insert ", or if the Administrator determines that such party will voluntarily take action,".

Page 24, beginning in line 14, strike out "pursuant to an interim permit under"; and insert in lieu thereof "under interim status pursuant to".

Page 24, line 18, after "may" insert ", notwithstanding section 3021,".

Page 24, line 24, strike out "the" and insert "a".

Page 25, beginning in line 3, strike out "pursuant to an interim permit under" and insert in lieu thereof "under interim status pursuant".

Page 25, beginning in line 11, strike out "pursuant to an interim permit under" and insert in lieu thereof "under interim status pursuant".

Page 26, beginning in line 21, strike out "pursuant to an interim permit under" and insert in lieu thereof "under interim status pursuant to".

Page 27, line 18, after "risk" insert "of an interim permit under" and insert in lieu thereof "under interim status pursuant to".

Page 27, line 22, strike out "pursuant to an interim permit under" and insert in lieu thereof "under interim status pursuant to".

Page 27, line 18, after "risk" insert "of harm".

Page 27, line 23, after "action" insert "or if the Administrator determines that such party will voluntarily take action".

Page 28, line 20, after "environment", strike the period, insert "; or", and add the following new subparagraph:

"(C) in case of an order issued to a responsible party, the technical and financial capabilities of such party to take any action under such order and the reasonableness of such order, taking into consideration the degree to which such party may have caused or contributed to any unreasonable risk."

Page 39, line 2, strike out "(3) (E)" and insert "(2) (E)".

Page 44, line 17, strike the period at the end of the sentence and add the following: ", and prior to October 1, 1984."

Page 44, line 21, strike the words "representative of affected industries," and insert in lieu thereof the following: "representatives of affected industries, and after providing adequate notice and opportunity for public comment,".

Page 46, beginning in line 6, strike out "such release" and insert "a release or threatened release".

Page 46, line 14, after "release" insert "or threatened release".

Page 47, line 3, strike the words "violates section 3035" and insert in lieu thereof the words "willfully violates section 3033".

Page 47, line 24, strike out "inactive site" and insert "inactive hazardous waste site".

Page 49, line 17, strike out "(1)".

Mr. FLORIO (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. FLORIO. Mr. Chairman, these amendments are exclusively technical amendments, making clerical changes and technical changes. I would ask for support for these amendments.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I will be happy to yield.

Mr. MADIGAN. Mr. Chairman, I want to thank the gentleman for yielding. We have had an opportunity to review the amendments of the gentleman from New Jersey on this side, and recognize that they are only technical, and do urge the committee to support the amendments.

Mr. FLORIO. I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New Jersey (Mr. FLORIO).

The amendments were agreed to.

The CHAIRMAN. Are there other amendments to section 3?

If not, the Clerk will designate section 4.

Section 4 reads as follows:

GOALS

SEC. 4. The goals of this legislation are to—

(1) provide for a State-by-State inventory of inactive hazardous waste disposal sites and the condition of such sites;

(2) evaluate such sites, and set priorities among the sites, based on the danger they present;

(3) establish a program to assure the containment of dangerous releases from inactive hazardous waste sites;

(4) accelerate the elimination of the presence of any unsafe hazardous waste disposal sites; and

(5) provide a systematic method of funding for the identification of inactive hazardous waste disposal sites, the evaluation of such sites, and for the containment and other remedial action with respect to such sites to assure protection of the public health and the environment in a cost effective manner.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the last word.

□ 1740

Mr. Chairman, I would like to join with many of my colleagues to express great appreciation to the subcommittee and the full Committee on Interstate and Foreign Commerce for all the time and effort they have put in on this incredible subject which is so important and so national in scope.

I have testified before the committee, and I know that many of the people have brought their problems to the committee on this very difficult issue. One of these things I want to thank the committee for is that it very carefully, in the report of the Committee on Interstate and Foreign Commerce, submitted some of our problems in Denver, Colo.

We have a problem where radium tailings were dumped, and we have talked about that today. We have a chemical dump problem, and we also have a radium tailings problem. We have found these radium tailings under pancake houses, in empty lots where children were playing, by factories, and in all sorts of areas. There are over 30-some areas that have these tailings, and they are very dangerous also because of the low level of radiation in that area where the chemical sites are located.

So I want to thank the gentleman for outlining all these matters in the committee report and for listening to many of us who have been there and then coming up with a solution. To put all of these things together is very hard, and sometimes we get to one step and then another but do not get it done all the way.

Mr. Chairman, I would like to engage the gentleman from New Jersey (Mr. FLORIO) in colloquy, because I want to make it clear in the legislative language that when we are talking in the bill about hazardous waste sites and the program for appropriate environmental response, we are also including such things as the radium tailing sites we have seen listed in the report.

Mr. FLORIO. Mr. Chairman, if the gentlewoman will yield, I will be happy to respond to her question. Of course, the answer is that if the materials the gentlewoman is concerned about, any one of the materials, are covered under the Resource Conservation and Recovery Act, they would, of course, be covered and eligible for funding.

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman for his response, because we wanted to make sure those were included. They are included in the report, and I wanted to make sure that is a comprehensive, broad definition rather than a narrow one.

Mrs. FENWICK. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I am delighted to yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank my colleague for yielding, because I, too, have a question.

In my district, the Federal Government in the past stored radioactive material that is now under the Catholic rectory nearby. Actually the rectory is practically on top of the site that used to be covered with this radioactive material, and it has a very high radioactive reading.

I would like to ask, will this be covered, too, in the bill?

Mr. FLORIO. Mr. Chairman, if the gentlewoman from Colorado will yield, I will respond in the same way that I responded to the gentlewoman from Colorado.

If in fact it is covered as a hazardous waste—and I suspect it is—under the Resource Conservation and Recovery Act, it would be eligible for funding for remedial action under this bill.

Mrs. FENWICK. Whether it is the Federal Government or private, it would be the same?

Mr. FLORIO. I am sorry, but I did not hear the gentlewoman.

Mrs. FENWICK. We are dealing with waste that was left by the Federal Government. That would still be covered?

Mr. FLORIO. Yes. Mr. Chairman, if the gentlewoman from Colorado will yield further, if in fact we are talking about the Federal Government's authority on Federal Government property, the appropriate agency is required to respond.

Mrs. FENWICK. Mr. Chairman, they apparently abandoned this site and turned the land over to the town, and the Catholic rectory and a playground were built over the site.

Mr. FLORIO. Then it would be covered under the act.

Mrs. FENWICK. Mr. Chairman, I thank the gentleman from New Jersey (Mr. FLORIO).

The CHAIRMAN. Are there further amendments? If not, the Clerk will designate the next section.

Section 5 reads as follows:

AMENDMENTS TO SOLID WASTE DISPOSAL ACT

SEC. 5. (a) Subtitle C of the Solid Waste Disposal Act is amended by inserting

"PART 1—STANDARDS AND PERMITS FOR HAZARDOUS WASTE MANAGEMENT"

immediately after

"Subtitle C—Hazardous Waste Management" and by adding the following new part at the end of such subtitle:

"PART 2—HAZARDOUS WASTE RESPONSE PROGRAM

"Subpart A—General Provisions

"COVERAGE OF PART

"SEC. 3021. (a) COVERAGE.—The provisions of this part shall apply to inactive hazardous waste sites. Nothing in this part shall apply to oil, or other, pollution of navigable waters.

"DEFINITIONS

"SEC. 3022. For purposes of this part, the term—

"(1) 'Inactive hazardous waste site' means a landfill, surface impoundment, storage facility, or any other site or facility of any kind—

"(A) at which hazardous waste is, or has been, present (including any site or facility where hazardous waste is, or has been, stored, treated, or disposed of, or which is, or has been, used in whole or in part for the retention, deposit, injection, placing, or dumping of hazardous waste), and

"(B) for which no permit under section 3005 has been issued or treated as issued under section 3005(e) and for which no permit under 3005 (including subsection (e) thereof) is required.

"(2) 'Petrochemical feedstock' means the following: liquid or gaseous hydrocarbons used primarily for the preparation of more complex chemicals: ethylene, propylene, butylenes, butadiene, butanes, benzene, toluene, xylenes, naphthalene, and methane other than that used to make ammonia.

"(3) 'Release into the environment' means, with respect to hazardous waste, the discharge, escape, injection, spilling, pouring, emitting, leaching, pumping or other transfer of hazardous waste to any land, air, or water, except that such term does not include any such activity—

"(A) which is subject to part 1 of this subtitle, or

"(B) which is carried out in compliance with the requirements of this part and other applicable law.

"(4)(A) 'Supply' means, with respect to petrochemical feedstocks or inorganic elements and compounds, the production, manufacture, or importation of such feedstocks or compounds.

"(B) 'Supplier', with respect to petrochemical feedstocks or inorganic elements and compounds, means any person who supplies such feedstocks or compounds and who either—

"(i) provides, through sale or any other means, the feedstocks or elements and compounds to other persons, or

"(ii) uses the feedstocks or elements and compounds himself.

"(5) 'Threatened release' means a condition or situation where there exists a substantial likelihood that a release into the environment from or at an inactive site is imminent.

For purposes of this part, the terms 'inorganic elements and compounds', 'crude oil', and 'refiner' shall have the meanings prescribed by the Administrator, by rule.

"Subpart B—Inventory, Priorities, and Monitoring

"HAZARDOUS WASTE SITE INVENTORY

"SEC. 3031. (a) NOTIFICATION REQUIREMENTS.—(1) Each person (including each State or local governmental department, agency, or instrumentality) who, on the date of the enactment of the Hazardous Waste Containment Act of 1980, owns or operates any inactive hazardous waste site shall provide to the relevant State and local officials (or to the Administrator in the case of a program carried out under subsection (c)) the information referred to in paragraph (2), to the extent that such information is known to, or reasonably determinable by, such person. Such information shall be provided within three months after the date of receipt from the Administrator of the forms required under this section.

"(2) The information required to be provided under this subsection is as follows:

"(A) a description of the location of the inactive hazardous waste site;

"(B) the name and address of, or corporate headquarters of, the owner of the site, determined as of the date of submission of the information;

"(C) the current status of the site, including (i) whether hazardous waste is being treated, stored, or disposed of at the site at the time the information is submitted (and, if not, the date on which such activity ceased), (ii) whether there have been any releases of hazardous waste from the site which have caused damage to public health or the environment, and (iii) the nature of any other activity being carried out at such site;

"(D) such information relating to the amount, nature, origin and characteristics of the hazardous waste at the site, and relating to the hydrogeological and geophysical properties of the site, as may be necessary to determine the extent of any environmental or health hazard which may be associated with such site; and

"(E) an identification of the types of techniques of waste treatment, storage, or disposal which have been used at such site.

Information under this subsection shall be supplied on forms made available by the Administrator within a three-month period after the date of the enactment of the Hazardous Waste Containment Act of 1980. Such forms shall not require the submission of information which is impracticable, as determined by the Administrator.

"(3) Where any person fails to comply with the requirements of paragraph (2) with respect to any inactive hazardous waste site, or where information acquired from any person under paragraph (2) with respect to any such site is inadequate for any reason, the State in which the site is located, or the Administrator, may exercise the authority of section 3007 of the Solid Waste Disposal Act to secure any information described in paragraph (2) from any person referred to in paragraph (1) or from any former or subsequent owner or operator of the site or from any generator or transporter of hazardous waste which is at the site. The State or the Administrator may, by order, require any such person to submit information described in paragraph (1) or such information as may be necessary to compile the information described in paragraph (1). The provisions of section 3008 shall apply for purposes of enforcing such an order.

"(4) Upon the request of the Administrator, each Federal department, agency, or instrumentality—

"(A) which, on the date of the enactment of the Hazardous Waste Containment Act of 1980, owns or operates any site at which hazardous waste has been treated, stored, or disposed of;

"(B) which owned or operated any such site on or before the date of the enactment of such Act; or

"(C) which has generated any hazardous waste before such date of enactment

shall provide the information described in paragraph (2) to the Administrator to the extent such information is known to or reasonably determinable by such department, agency, or instrumentality. Such information shall be provided on the forms referred to in paragraph (1).

"(b) STATE INVENTORY PROGRAMS.—Each State shall, as expeditiously as practicable, undertake a continuing program to compile, publish, and submit to the Administrator an inventory containing the information described in subsection (a)(2) for each inactive hazardous waste site within the State. The inventory shall be based upon the information submitted to the State under subsection (a) and upon other information available to the State. For purposes of assisting the States in compiling information under this section, the Administrator shall make available to each State undertaking a program under this section such information as is available to him concerning the items specified in paragraph (2) of subsection (a) with respect to the sites within such State, including such information as the Administrator is able to obtain from other agencies or departments of the United States and from surveys and studies carried out by any committee or subcommittee of the Congress. Any State may exercise the authority of section 3007 for purposes of this section without regard to whether or not such State has an authorized hazardous waste program under part 1.

"(c) ENVIRONMENTAL PROTECTION AGENCY PROGRAM.—If the Administrator determines that any State program under subsection (b) is not adequately providing information respecting the sites in such State in compliance with subsection (b), the Administrator shall notify the State. If within ninety days following such notification, the State program has not been revised or amended in such manner as will adequately provide such information, the Administrator shall carry out the inventory program described in subsection (b) in such State. In any such case—

"(1) the Administrator shall have the authorities provided with respect to State programs under subsection (b);

"(2) the funds allocated under subsection (e) for grants to States under this section may be used by the Administrator for carrying out the program in such State; and

"(3) no further expenditures may be made for grants to such State under this section until such time as the Administrator determines that such State is carrying out, or will carry out, an inventory program which meets the requirements of this section.

"(d) REPORT TO CONGRESS.—Based upon the State inventories conducted by the States (or, if necessary, by the Administrator under subsection (c)), the Administrator shall compile a national inventory of all hazardous waste sites. The Administrator shall submit a report containing the national inventory, together with an analysis thereof, to the Committee on Environment and Public Works of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives within two years of the date of enactment of the Hazardous Waste Containment Act of 1980. The Administrator shall update this inventory and submit a report containing the updated inventory, together with an analysis thereof, to the aforementioned committees annually after the first transmittal. The reports under this subsection shall include but not be limited to—

"(1) a listing by State of the numbers of active and inactive hazardous waste sites;

"(2) an analysis of the numbers of various types of sites and the numbers of sites and volumes of waste contained in them by industry category;

"(3) a list of the total number of inactive sites at which remedial actions are likely to be required under this part; and

"(4) a general description of the risk of harm to public health and the environment posed by each of the sites listed in paragraph (3).

"(e) GRANTS.—(1) Upon receipt of an application submitted by any State to carry out a program under this section, the Administrator shall make grants to the State for purposes of carrying out the program. Grants under this section shall be allocated among the several States by the Administrator based upon such regulations as he prescribes to carry out the purposes of this section. The Administrator shall make grants to any State which has conducted an inventory program which effectively carried out the purposes of this section before the date of the enactment of the Hazardous Waste Containment Act of 1980 to reimburse the State for all, or any portion of, the costs incurred by the State in conducting such program.

"(2) There are authorized to be appropriated to carry out this section $35,000,000, to remain available until expended.

"ESTABLISHMENT OF PRIORITIES

"SEC. 3032. (a) STATE PRIORITIES.—Within fifteen months after the date of enactment of the Hazardous Waste Containment Act of 1980, and annually thereafter, each State shall establish priorities among the inactive hazardous waste sites in that State which present, or may present, a substantial threat to public health or the environment. The priorities shall be—

"(1) established in accordance with guidelines of the Administrator establishing criteria which define the conditions that constitute such a threat, and

"(2) consistent with the National Hazardous Waste Response Plan.

"(b) NATIONAL PRIORITIES.—The Administrator shall establish and publish a list setting forth national priorities among the inactive hazardous waste sites throughout the United States which are releasing, or which present a substantial threat of releasing, hazardous waste. Such list shall be published by the Administrator not later than six months after the date of the enactment of this section and revised at least annually thereafter. The priorities shall be based upon the Administrator's determination of the relative danger to public health and the environment presented by such sites. The Administrator may utilize any priorities established by the States under subsection (a) for the purpose of establishing national priorities under this subsection. The one hundred inactive hazardous waste sites designated by the Administrator on the list of national priorities as having the greatest danger to public health and the environment shall be referred to in this part as the 'top priority sites'.

"MONITORING OF INACTIVE SITES

"SEC. 3033. Each person and each Federal department, agency, or instrumentality who owns any inactive hazardous waste site which poses a reasonable likelihood of harm to public health or the environment shall, in such manner and at such times as required under regulations promulgated by the Administrator—

"(1) monitor the extent to which hazardous waste associated with such site is released into the environment and periodically submit data resulting from such monitoring to the Administrator and to appropriate State and local authorities; and

"(2) immediately notify the Administrator and the appropriate State and local authorities when any hazardous waste associated with such site is released into the environment in a manner which presents or may present a substantial threat to public health or the environment.

Where the owner is not financially capable of carrying out the requirements of this subsection in a manner satisfactory to the Administrator, the Administrator may, by order, require any person who owned or operated the site at the time during which a substantial portion of the hazardous waste at such site was treated, stored, or disposed of at the site, to carry out such requirements.

"IMMUNITY

"SEC. 3034. No information received from any person pursuant to this subpart, and no information derived therefrom, may be used against such person in any criminal proceeding except a prosecution for perjury or for making a false statement or representation.

"DESTRUCTION OF RECORDS

"SEC. 3035. No person may knowingly destroy, mutilate, erase, falsify, dispose of, conceal, or otherwise render unavailable or unreadable any records reasonably necessary for compliance with the requirements of this part. Violations of this section shall be punishable as provided in section 3061(b).

"Subpart C—Hazardous Waste Response Authority

"EMERGENCY RESPONSE

"SEC. 3041. (a) EMERGENCY RESPONSE AUTHORITY OF ADMINISTRATOR.—(1)(A) Upon receipt of evidence that the release of any hazardous waste into the environment from or at an inactive hazardous waste site presents or may present an imminent and substantial endangerment to public health or the environment, or that there is a substantial threat of such a release, the Administrator may take such emergency response actions as he determines should be taken immediately to prevent, minimize, or mitigate any harm to public health or the environment which is associated with such release or threatened release. The Administrator shall not exercise the authority of this paragraph for undertaking any action where he determines that the responsible party, or the State or local government will take the proper action.

"(B) If the Governor of any State notifies the Administrator of any release of hazardous waste into the environment from or at any inactive hazardous waste site in the State which requires, in the Governor's determination, action under this paragraph, the Administrator shall, not later than thirty days after his receipt of such notice, inform the Governor of what action, if any, will be taken by the Administrator under this paragraph.

"(2) Whenever the Administrator determines that an inactive hazardous waste site presents or may present an unreasonable risk of harm to public health or the environment, he may, after notice and opportunity for written or oral public comment—

"(A) relocation, contain, and clean up the hazardous waste at, or associated with, such site, and take such other remedial action of any kind with respect to such waste, as he determines necessary; or

"(B) by order require any responsible party to take such action in whole or in part. Prior to issuance of such an order, the Administrator shall afford any such responsible party an opportunity to confer with the Administrator with respect to any action proposed to be included in such order and with respect to the technical and financial capability of such party to take any such action and the reasonableness of such order taking into consideration the degree to which such party may have caused or contributed to such unreasonable risk. Such remedial action may also include (i) assessment of the injury to natural resources of significant commercial, ecological, or recreational value resulting from the release or threatened release, (ii) restoration, replacement, or rehabilitation of any such natural resources injured or destroyed as a result of such a release, and (iii) assistance to any State program which the Administrator deems adequate to carry out such activities. Not more than 10 per centum of the amounts available for purposes of this section in any fiscal year may be used in such fiscal year to carry out the preceding sentence. The Administrator shall not exercise the authority of subparagraph (A) or (B) where he determines that the responsible party or the State or local government concerned will otherwise take the proper action. This paragraph shall apply only to those sites which have been listed by the Administrator under section 3032(b) as top priority sites.

"(3)(A) Upon receipt of evidence that there are conditions similar to, but not immediately identifiable as, a release of any hazardous waste into the environment from or at an inactive hazardous waste site which conditions present or may present an imminent and substantial endangerment to public health or the environment, and whenever the Administrator is unable to determine after an inspection of the conditions by his duly appointed representative—

"(i) whether or not such conditions are subject to any provision of Federal law other than this part, or

"(ii) whether or not the Administrator or any other department, agency, or instrumentality of the United States has authority under any other provision of law to take remedial action with respect to such conditions,

the Administrator may provide such assistance to State and local governments, and take such emergency response actions, as he determines should be taken immediately to prevent, minimize, or mitigate any harm to public health or the environment which is associated with such conditions.

"(B) The Administrator may exercise the authority of this paragraph for a period expiring on the earlier of—

"(i) three months from the date on which he initiates such action, or

"(ii) the date on which he determines that an appropriate remedial response is auauthorized to be taken under any authority of law other than this paragraph.

"(C) If following the expenditure of amounts under subparagraph (A) for any action or assistance, the Administrator determines that the action taken or assistance provided is authorized under any authority of the Administrator other than this part, the Administrator shall promptly reimburse the Fund established under subpart D for amounts expended under the authority of this paragraph prior to such determination.

"(4) The Administrator shall not exercise the authority of this subsection to engage in, or order, the transportation and offsite disposition of hazardous waste unless the Administrator determines that undertaking such offsite activity is—

"(A) less expensive than undertaking such activity onsite; or

"(B) essential to protect the public health or the environment due to the seriousness of the danger which may be created by the physical, chemical, or biological properties of the waste and the potential for human exposure, or the unavailability of onsite methods for preventing or minimizing the danger; or

"(C) carried out at a facility where substantial new capacity has been established at such levels as may be necessary to accommodate the hazardous waste transferred to that facility under paragraph (1) or (2) as well as hazardous waste to be treated, stored, or disposed of pursuant to a permit under section 3005.

"(5)(A) The Administrator is authorized to provide equipment and other items necessary to establish and maintain damage assessment capability and damage response capability of Federal, State, and local strike forces, or other emergency response teams, established in conformity with the National Hazardous Waste Response Plan.

"(B) Not more than $5,000,000 of the amounts available to the Administrator in any fiscal year for purposes of this subpart may be used for research and development to improve hazardous waste cleanup and containment technologies in order to ultimately reduce response and containment costs at inactive hazardous waste sites.

"(6) Where the Administrator makes any determination under paragraph (1) or (2) with respect to any site owned or operated by a Federal department, agency, or instrumentality, the department, agency, or instrumentality shall take the action referred to in such paragraph (1) or (2) in lieu of action by the Administrator under such paragraphs.

"(7) Where the Administrator determines that a State or local government has the capability to carry out any or all of the actions required to be carried out pursuant to a determination of the Administrator under paragraph (1) or (2), and where such State or local government agrees to carry out such actions, the Administrator shall enter into—

"(A) cooperative agreements involving the expenditure of appropriated funds, or

"(B) contracts

with such State or local government to take such action. Such agreements shall be subject to the cost sharing provisions of section 3043.

"(8) Anyone ordered or authorized by the Administrator to take any action under this part may, in carrying out such authority, exercise the entry, inspection, and other authorities contained in section 3007 in the same maner as provided for officers or employees of the Environmental Protection Agency under section 3007.

(b) RESPONSIBLE PARTY.—As used in this section, the term 'responsible party' means with respect to any inactive hazardous waste site, any person who—

"(1) owned or operated such site at the time during which it was utilized for the treatment, storage, or disposal of any hazardous waste, or

"(2) generated or disposed of, either at the site or elsewhere, a substantial portion of the hazardous waste treated, stored, or disposed of at such site which waste is posing an unreasonable risk to public health or the environment.

"(c) APPORTIONMENT OF COSTS AMONG RESPONSIBLE PARTIES.—Where there are two or more responsible parties with respect to any inactive hazardous waste site, if one of such responsible parties is ordered to take action under this section which results in the expenditure of amounts which he establishes to be in excess of his proportionate share of such costs, such party may recover such excess amount from the Fund established under subpart D. For purposes of this subsection, the proportionate share of such responsible party shall be determined by the Admintrator in accordance with the same principles as are applicable under section 3071 (a) for purposes of determining liability under that section in the case of a person causing or contributing to a release or threatened release of hazardous waste.

"(d) DETERMINATION OF APPROPRIATE RESPONSE.—The Administrator shall select appropriate actions determined to be necessary to carry out the provisions of this section. The appropriate actions shall be as nearly in accordance with the National Hazardous Waste Response Plan as possible and shall provide for that cost-effective response which provides a balance between—

"(1) the need for protection of public health and the environment at the site under consideration,

"(2) the availability of amounts from the fund established under subpart D to respond to other sites which present or may present a threat to public health or the environment; and

"(3) in case of an order issued to a responsible party, the technical and financial capabilities of such party to take any action under such order and the reasonableness of such order, taking into consideration the degree to which such party may have caused or contributed to any unreasonable risk.

With respect to actions under paragraphs (1) and (3) of subsection (a), the Administrator shall make such determination taking into consideration the need for immediate action.

"(e) INTERIM SITES.—(1)(A) Upon receipt of evidence that the release of any hazardous waste into the environment from or at a hazardous waste site which is operating pursuant to an interim permit under section 3005(e) presents or may present an imminent and substantial endangerment to public health or the environment, or that there is a substantial threat of such a release, the Administrator may take such emergency response actions as he determines should be taken immediately to prevent, minimize, or mitigate any harm to public health or the environment which is associated with such release or threatened release. The Administrator shall not exercise the authority of this paragraph for undertaking any action where he determines that the responsible party, or the State or local government will take the proper action.

"(B) If the Governor of any State notifies the Administrator of any release of hazardous waste into the environment from or at any hazardous waste site which is operating pursuant to an interim permit under section 3005(e) in the State which requires, in the Governor's determination, action under this paragraph, the Administrator shall, not later than thirty days after his receipt of such notice, inform the Governor of what action, if any, will be taken by the Administrator under this paragraph.

"(2) Whenever the Administrator determines that a hazardous waste site which is operating pursuant to an interim permit under section 3005(e) presents or may present an unreasonable risk of harm to public health or the environment, he may, after notice and opportunity for written or oral public comment—

"(A) relocate, contain and clean up the hazardous waste at, or associated with, such site, and take such other remedial action of any kind with respect to such waste, as he determines necessary; or

"(B) by order require any responsible party to take such action in whole or in part.

Prior to issuance of such an order, the Administrator shall afford any such responsible party an opportunity to confer with the Administrator with respect to any action proposed to be included in such order, including the technical and financial capability of such party to take any such action and the reasonableness of such order taking into consideration the degree to which such party may have caused or contributed to such unreasonable risk. Such remedial action may also include assessment of the injury to natural resources of significant commercial, ecological, or recreational value resulting from the release or threatened release, restoration, replacement, or rehabilitation of any such natural resources injured or destroyed as a result of such a release, and assistance to any State program which the Administrator deems adequate to carry out such activities. Not more than 10 per centum of the amounts available for purposes of this section in any fiscal year may be used in such fiscal year to carry out the preceding sentence with respect to the sites to which this subsection applies. The Administrator shall not exercise the authority of subparagraph (A) or (B) where he determines that the responsible party or the State or local government concerned will otherwise take the proper action.

"(3) When the Administrator or any State or local government has incurred costs pursuant to this subsection with respect to any hazardous waste site which is operating pursuant to an interim permit under section 3005(e), the provisions of section 3071 shall apply for purposes of recovering such costs in the same manner as such provisions apply in the case of inactive hazardous waste sites.

"(4) As used in this subsection, notwithstanding section 3022(3)(A), the term 'release into the environment' includes the discharge, escape, injection, spilling, pouring, emitting, leaching, pumping, or other transfer of hazardous waste to any land, air, or water at or from a hazardous waste site which is operating pursuant to a permit treated as having been issued under section 3005(e).

"(5) As used in this subsection, the term 'responsible party' means with respect to any hazardous waste site which is operating pursuant to an interim permit under section 3005(e), any person who—

"(A) owned or operated such site at the time during which it was utilized for the treatment, storage, or disposal of any unregulated hazardous waste, or

"(B) generated or disposed of, either at the site or elsewhere, a substantial portion of the hazardous waste treated, stored, or disposed of at such site which waste is posing an unreasonable risk to public health or the environment.

"(6) Where there are two or more responsible parties with respect to any hazardous waste site which is operating pursuant to an interim permit under section 3005(e), if one of such responsible parties is ordered to take action under this section which results in the expenditure of amounts which he establishes to be in excess of his proportionate share of such costs, such party may recover such excess amount from the Fund established under subpart D. For purposes of this subsection, the proportionate share of such responsible party shall be determined by the Administrator in accordance with the same principles as are applicable under section 3071(a) for purposes of determining liability under that section in the case of a person causing or contributing to a release or threatened release of hazardous waste.

"(7) The Administrator shall select appropriate actions determined to be necessary to carry out the provisions of this subsection. The appropriate actions shall be as nearly in accordance with the National Hazardous Waste Response Plan as possible and shall provide for that cost-effective response which provides a balance between—

"(A) the need for protection of public health and the environment at the site under consideration, and

"(B) the availability of amounts from the fund established under subpart D to respond to other sites which present or may present a threat to public health, safety, or the environment.

With respect to actions under paragraph (1), the Administrator shall make such determination taking into consideration the need for immediate action.

"(f) WAGES.—(1) All laborers and mechanics employed by contractors or subcontractors in the performance of construction, repair, or alteration work funded in whole or in part under this section shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The Administrator shall not approve any such funding without first obtaining adequate assurance that required labor standards will be maintained upon the construction work.

"(2) The Secretary of Labor shall have, with respect to the labor standards specified in paragraph (1), the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 276c of title 40 of the United States Code.

"NATIONAL HAZARDOUS WASTE RESPONSE PLAN

"SEC. 3042. (a) PLAN.—The President, after consultation with the States, shall propose for public review and hold public hearings on a National Hazardous Waste Response Plan (hereinafter in this section referred to as the 'Plan'). Following such review and public hearings, but not later than eighteen months after the date of the enactment of the Hazardous Waste Containment Act of 1980, the President shall publish the Plan. The Plan may, from time to time, be revised, amended, and modified after notice and public hearing. The Plan shall include, at a minimum—

"(1) methods for discovering and investigating hazardous waste sites and establishing their danger to public health and the environment;

"(2) methods for evaluating (including cost analyses) and containing any releases, or threats of releases, of hazardous wastes into the environment which pose substantial danger to the public health or to significant environmental resources;

"(3) methods and criteria for determining the appropriate extent of removal, emergency response, containment, and other measures to be carried out under this part;

"(4) appropriate roles and responsibilities for the Federal, State, and local governments and for interstate and nongovernmental entities in effecting the Plan;

"(5) provision for identification, procurement, maintenance, and storage of response equipment and supplies; and

"(6) a method for and assignment of responsibility for reporting the existence of hazardous waste disposal sites which may be located on federally owned or controlled properties and any releases of hazardous wastes from such sites.

Following publication of the revised National Hazardous Waste Response Plan, emergency assistance, the removal and containment of hazardous waste, and other actions pursuant to this part shall, to the greatest extent possible, be in accordance with the provisions of the Plan.

"(b) METHODS, PROCEDURES, CRITERIA, AND EQUIPMENT.—The National Hazardous Waste Response Plan shall set forth recommended—

"(1) methods and procedures for the removal of released hazardous waste;

"(2) criteria for development of local and regional hazardous waste removal contingency plans; and

"(3) procedures, methods, and equipment and other requirements to prevent and contain releases of hazardous waste.

In developing recommendations under this subsection, the President shall consult with appropriate representatives of industries concerned.

"(c) PROTECTION OF EMPLOYEES.—The plan under this section shall include provisions for the establishment of a program for the protection of the health and safety of employees involved in remedial actions at hazardous waste sites undertaken pursuant to section 3041. Such program shall be developed jointly by the Administrator, the Occupational Safety and Health Administration, and the National Institute for Occupational Safety and Health. The program shall include, but not be limited to, measures for identifying hazards to which persons engaged in such remedial actions may be exposed, methods to protect such employees from such hazards, and regulatory and enforcement measures necessary to assure employee protection in connection with such remedial action. Contracts entered into for purposes of remedial action under such section 3041 shall include provisions for the protection of employees consistent with the plan provisions adopted pursuant to this subsection and with other applicable law.

"STATE CONTRIBUTION

"SEC. 3043. (a) (1) Not more than 90 per centum of the total costs of actions taken by the Administrator with respect to any site under section 3041 may be paid by the United States. At least 10 per centum of such total costs shall be paid by the participating State in which the inactive hazardous waste site concerned is located. No amount may be expended by the Administrator for any such action unless the State in which such hazardous waste is located has established assurances satisfactory to the Administrator that—

"(A) the aggregate costs of long-term maintenance associated with the hazardous waste site concerned will be funded from non-Federal sources,

"(B) a hazardous waste disposal facility which meets the requirements of part 1 of this subsection will be available for any storage, destruction, treatment, or disposal of any such hazardous waste which the Administrator determines should be carried out at a location other than a site from which such hazardous waste was released,

"(C) the State share of the costs under section 3041 will be available; and

"(D) such State will provide adequate measures to protect the health and safety of employees engaged in removal, containment, and other remedial actions undertaken pursuant to section 3041.

"(2) No amount may be expended by the United States for the long-term maintenance of any hazardous waste with respect to which the Administrator has taken any action under paragraph (1) or (2) of section 3041(a).

"(3) For purposes of this subsection, the term 'long-term maintenance' shall have the meaning provided under regulations promulgated by the Administrator to carry out the purposes of this section.

"(4) In determining the portion of the costs referred to in this section which is required to be paid by a participating State, the Administrator shall grant the State a credit for amounts expended or obligated by such State after January 1, 1978, and before the date of the enactment of this Act, for purposes of remedial action taken by the State with respect to any release of hazardous waste in such State. Such credit shall reduce the amount which the State would otherwise be required to pay in connection with assistance provided under this section until such time as the aggregate amount of credit granted by the Administrator to such State equals the amount required to be paid by such State. No credit shall be granted under this paragraph for any amount expended or obligated by any State for the temporary or permanent relocation of any individuals residing in the vicinity of, or otherwise affected by, the release involved.

"(b)(1) Paragraphs (1) and (2) of subsection (a) shall not apply to any amount expended with respect to any hazardous waste site owned or operated by, or on behalf of, the United States. In the case of any such site, 100 per centum of the costs referred to in such paragraphs (1) and (2) shall be paid by the agency or instrumentality of the United States by which such site is owned or operated (or on behalf of which such site is operated).

"(2) Paragraph (1) of subsection (a) shall not apply to expenditures of the Administrator which are not in excess of $500,000 with respect to any hazardous waste site.

"(3) During the period ending eighteen months after the date of the enactment of the Hazardous Waste Containment Act of 1980, the Administrator is authorized to pay all, or any portion, of any State's 10 per centum share referred to in paragraph (1) of subsection (a) pursuant to an agreement between the Administrator and the State which provides that the State will reimburse the Administrator for such payments within a reasonable period of time following the expiration of such eighteen month period.

"Subpart D—Hazardous Waste Response Fund

"ESTABLISHMENT OF FUND

"SEC. 3051. (a) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a Hazardous Waste Response Fund (hereinafter in this Act referred to as the 'Fund' which shall be available as provided in appropriation Acts, only for the purposes specified in subsection (c).

"(b) AMOUNTS CREDITED TO FUND.—(1) The following amounts shall be credited to the Fund—

"(A) an amount equal to all amounts collected as fees under section 3052,

"(B) an amount equal to all amounts recovered by the United States under subpart F,

"(C) any amount reimbursed to the Fund as provided in subsection (a)(3) of section 3041,

"(D) any penalties assessed under this part, and

"(E) amounts authorized to be appropriated to fund under paragraph (3).

"(2) The total amount deposited in the Fund which is derived from the fees collected under section 3052 and from appropriations under paragraph (3) shall not exceed—

"(A) $100,000,000 for the fiscal year 1981,

"(B) $150,000,000 for the fiscal year 1982,

"(C) $150,000,000 for the fiscal year 1983, and

"(D) $200,000,000 for the fiscal year 1984.

"(3) There is authorized to be appropriated to the Fund for the fiscal year—

"(A) 1981, $50,000,000,

"(B) 1982, $75,000,000,

"(C) 1983, $75,000,000, and

"(D) 1984, $100,000,000.

"(c) EXPENDITURES FROM FUND.—Amounts to be credited to the Fund under subsection (b) in any fiscal year (as estimated by the Administrator and submitted to the Congress in the annual budget submittal of the Administrator) shall be available, to the extent provided in appropriation Acts, only for emergency response, removal, containment, cleanup, and other action carried out under subpart C, including reimbursement of excess costs pursuant to section 3041(c).

Any amounts credited to the Fund in any fiscal year and not appropriated as provided in this subsection for that fiscal year shall remain available for expenditure in subsequent fiscal years. No amount credited to the Fund may be used to pay any part of the costs referred to in this section which are incurred with respect to an inactive hazardous waste site which is owned or operated by any agency of the United States.

"FEES

"SEC. 3052. (a) IMPOSITION OF FEE.—Under regulations promulgated by the Administrator, there shall be imposed on—

"(A) each supplier of petrochemical feedstocks, a fee for each pound of petrochemical feedstocks supplied to any other perosn or used by such supplier,

"(B) each supplier of inorganic elements and compounds, a fee for each pound of inorganic elements or compounds supplied to any other person or used by such supplier, and

"(C) the receipt by any refiner of crude oil and the export by any person of crude oil, a fee per barrel of crude oil received or exported.

Such fees shall be imposed annually and on the basis of a schedule of rates established by the Administrator at such level as he annually estimates as necessary to recover the amounts specified in subsection (b). The schedule shall be modified annually by the Administrator in accordance with this section.

"(2) The inorganic elements and compounds subject to the fee imposed under this subsection are—

"(A) arsenic and the equivalent weight of arsenic in arsenic trioxide, cadmium, chromium and the equivalent weight of chromium in chromite, sodium dichromate, and potassium dichromate, lead and the equivalent weight of lead in lead oxide, mercury, the equivalent weight of barium in barium sulfide, antimony and the equivalent weight of antimony in antimony trioxide and antimony sulfide, cobalt, nickel, the equivalent weight of tin in stannic chloride and stannous chloride;

"(B) chlorine, the equivalent weight of fluorine in hydrofluoric acid and bromine;

"(C) the equivalent weight of hydrogen in phosphoric acid, sulfuric acid, hydrochloric acid, or nitric acid;

"(D) elemental phosphorus; and

"(E) such other inorganic elements and compounds as the Administrator may by rule provide, based upon information available to him as a result of listing or characterizing hazardous wastes or of implementing this Act.

"(3) Any determination by the Administrator under paragraph (3)(E) to subject any other inorganic element or compound to the fee imposed under this subsection shall be based upon three or more of the following—

"(A) A finding by the Administrator that the raw material from which such element or compound is derived, including intermediates and products of such raw material, is hazardous in more than one form.

"(B) A finding by the Administrator that the generation of the raw material, intermediates, or products from which such element or compound is derived results in hazardous waste.

"(C) A finding by the Administrator that the raw material from which the element or compound is derived is produced in large amounts.

"(D) A finding by the Administrator that the raw material from which the element or compound is derived is capable of increasing the hazard potential of other raw materials.

"(4) No fee shall be imposed under this subsection on any quantity of feedstock or element or compound with respect to which a fee has previously been imposed, as determined by the Administrator, under subparagraph (A) or (B) of paragraph (1). Except for a fee imposed under such subparagraph (A) on the sale or use of petrochemical feedstocks derived from any crude oil, no fee may be imposed under paragraph (1) on any crude oil with respect to which a fee has previously been imposed, as determined by the Administrator, under subparagraph (C) of such paragraph (1).

"(6) For a period of three years after the initial date on which fees are imposed under this section, no fee shall be imposed under this section with respect to any petrochemical feedstock or inorganic elements or compound which is used in the fertilizer production industry. If the Administrator determines that the use by such industry of any such feedstock, element, or compound has required expenditures for remedial action under this part, the Administrator may, after such three year period, impose a fee under this section with respect to such feedstocks, elements, or compounds used by such industry. The amount of such fee so imposed shall bear the same ratio to the total fees imposed under this section as the expenditures for remedial action under this part resulting from the use by the fertilizer industry of such feedstocks, elements, and compounds bears to the total expenditures for remedial action under this part.

"(b) AMOUNT OF FEE.—(1) The aggregate amount of the fees imposed under regulations under subsection (a) with respect to the supply or use of petrochemical feedstocks shall not exceed the lesser of—

"(A) 0.5 cent per pound of petrochemical feedstock supplied or used.

"(B) 2 per centum of the price in the case of petrochemical feedstock when sold at arms length by the supplier,

"(C) such amount as is necessary to produce revenues equal to, for the fiscal year—

"(i) 1981, $30,000,000,

"(ii) 1982, $45,000,000,

"(iii) 1983, $45,000,000, and

"(iv) 1984, $60,000,000, or

"(D) such amount as is necessary to produce revenues equal to 60 per centum of the amounts appropriated under section 3051 (b)(3) for the fiscal year concerned.

"(2) The aggregate amount of the fees imposed under regulations under subsection (a) with respect to the supply or use of inorganic elements or compounds shall not exceed the lesser of—

"(A) $5 per ton of inorganic elements or compounds supplied or used,

"(B) 2 per centum of the price in the case of inorganic elements or compounds when sold at arms length by the supplier,

"(C) such amount as is necessary to produce revenues equal to, for the fiscal year—

"(i) 1981, $10,000,000,

"(ii) 1982, $15,000,000,

"(iii) 1983, $15,000,000, and

"(iv) 1984, $20,000,000, or

"(D) such amount as is necessary to produce revenues equal to 20 per centum of the amounts appropriated under section 3051(b)(3) for the fiscal year concerned.

"(3) The aggregate amount of the fees imposed under regulations under subsection (a) with respect to the receipt of crude oil shall not exceed the lesser of—

"(A) 3 cents per barrel of crude oil received,

"(B) such amount as is necessary to produce revenues equal to, for the fiscal year—

"(i) 1981, $10,000,000,

"(ii) 1982, $15,000,000,

"(iii) 1983, $15,000,000, and

"(iv) 1984, $20,000,000, or

"(C) such amount as is necessary to produce revenues equal to 20 per centum of the amounts appropriated under section 3051 (b)(3) for the fiscal year concerned.

"(4) In order to provide an economic incentive for the recycling and reuse of any feedstock, element, or compound referred to in subsection (a)(1)(A) or (B), the Administrator may reduce the fee which would otherwise be imposed under this section on the sale or use of such feedstock, element, or compound in proportion to the extent that he determines any portion of that feedstock, element, or compound to be—

"(A) removed from the waste stream of a production process and recycled in such production process, reintroduced into products, or used as a source of energy, or

"(B) derived from recycled material.

No reduction under this paragraph with respect to any feedstock, element, or compound may exceed the amount of the fee which would otherwise be imposed under this section on the sale or use of such feedstock, element, or compound.

"(c) COLLECTION OF FEES.—(1) The time and manner of payment of the fee shall be specified, the reporting and submission of information necessary to collect the fee shall be required, and the collection of the fees shall be carried out, by such department or agency of the United States as the President shall designate in such manner as such department or agency shall, by rule, establish.

"(2) Any person required to pay any fee or comply with any other requirement imposed under regulations promulgated under subsection (a) who fails or refuses to pay such fee, together with interest thereon (at prevailing rates as determined by the Secretary of the Treasury) in accordance with regulations under this section shall, in addition to liability for any such fee, pay a civil penalty of $2,000 for each day during which such failure or refusal continues.

"(d) JUDICIAL REVIEW OF FEE REGULATIONS.—No regulation of the Administrator imposing any fee under this section, and no modification of any such regulation, may be stayed by any court pending completion of judicial proceedings for the review of such regulation or modification.

"(e) EFFECTIVE DATE.—The fees imposed under regulations pursuant to this section shall apply to—

"(1) petrochemical feedstocks and inorganic elements and compounds, supplied or used,

"(2) crude oil received

on or after October 1, 1980.

"(f) REPORT.—The Administrator, in consultation with the Secretary of the Treasury and other appropriate Federal departments, agencies, and instrumentalities, and with representative of affected industries, shall devise a fee schedule based upon the disposal or generation of hazardous waste. Such schedule shall, to the maximum extent practicable, be based upon—

"(1) the degree of hazard to public health and the environment posed by the various categories of hazardous wastes; and

"(2) the risk of harm to public health and the environment posed by such wastes so as to accurately and equitably reflect the costs of such risks in the production stream from which such waste is generated;

and shall minimize administrative, regulatory, and reporting burdens by relying on existing or readily obtainable information. Within one year from the date of the enactment of this subsection, the Administrator shall submit to the appropriate committees of Congress a preliminary report identifying the issues involved in carrying out this subsection. Within two years after such date of enactment, the Administrator shall submit to such committees a final report setting forth the fee schedule devised pursuant to this subsection. There is authorized to be appropriated to carry out this subsection not more than $2,000,000 to remain available until expended.

"Subpart E—Enforcement

"ENFORCEMENT

"Sec. 3061. (a) Civil Penalties.—(1) The Administrator may commence a civil action against any person to impose a civil penalty for violation of any order of the Administrator under this part.

"(2) (A) The amount of penalty under this subsection shall be based on consideration of the size of the business of the owner, operator, or other person against whom the penalty is assessed, the gravity of the violation, the standard of care manifested by such person, the nature and extent of any efforts made by him to minimize or mitigate the effects of such release, and other appropriate factors.

"(B) The amount of any penalty assessed under this subsection against any responsible party under section 3041 for failure to comply with any order under section 3041 shall not exceed two and one-half times the amount of the costs of actions taken by the Administrator or by a State or local government, or both, under section 3041 with respect to the release concerned. Any such penalty shall be in addition to any costs recovered from such person pursuant to section 3071.

"(3) Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to assess such penalty.

"(4) No civil penalty may be imposed under this section against any person for violation of an order under section 3041 unless such person is liable for costs under section 3071.

"(b) Criminal Penalty.—Any person who willfully fails to comply with the notification requirement of subsection (a) of section 3031 or who violates section 3035 shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both. Any person who violates section 3035 (relating to destruction of records) shall, upon conviction, be fined not more than $20,000, or imprisoned for not more than one year, or both.

"Subpart F—Liability For Hazardous Waste Release

"LIABILITIES FOR RELEASES

"Sec. 3071. (a) Liability.—(1) Except for a release, or threatened release, of hazardous waste which the defendant establishes to be caused solely by—

"(A) an act of God or an act of war,

"(B) negligence on the part of the Government of the United States,

(C) an act or omission of a third party if the defendant establishes that he exercised due care with respect to the hazardous waste concerned, taking into consideration the characteristics of such hazardous waste, or

"(D) any combination of the foregoing. where any release, or threatened release, of hazardous waste into the environment from or at an inactive site causes any costs described in subsection (b), any person who caused or contributed to the release or threatened release shall be stricktly liable for such costs. Except as provided in paragraph (2), such liability shall be joint and several with any other person who caused or contributed to such release.

"(2) (A) If a generator or transporter of hazardous waste establishes that only a portion of the total costs described in subsection (b) are attributable to hazardous waste generated or transported by him, such generator or transporter shall be liable under this subsection only for such portion. If the owner or operator of any inactive hazardous waste site establishes that only a portion of the total costs described in subsection (b) are attributable to hazardous waste which was treated, stored, or disposed of in a period during which he owned or operated the site, such owner or operator shall be liable under this section only for such portion.

"(B) To the extent apportionment is not established under subpargraph (A), the court shall apportion the liability, to the maximum extent practicable, among the parties based upon evidence presented by the parties as to their contributions.

"(C) Following any apportionment under this paragraph, no person shall be required to pay in excess of his apportioned share of the total costs described in subsection (b).

"(b) Costs.—The costs for which liability is imposed under subsection (a) with respect to a release, or threatened release of hazardous waste are the costs of any removal, containment, and emergency assistance or other action provided with respect to such release, or threatened release, under section 3041 (including costs incurred by any person ordered to carry out such action under section 3041 and recovered from the Fund under section 3041(c)) and any costs incurred by a State or local government with respect to such release.

"(c) To Whom Liable.—The liability for costs described in subsection (b) shall be to the governmental entity which incurred such costs. In the case of amounts which are paid from the Fund pursuant to section 3041(c) the liability shall be to the Administrator. The Administrator, or any other such governmental entity to which a person is liable under this section for the recovery of costs referred to in subsection (b)(1), shall bring an action under this section for the recovery of such costs against the person liable promptly following his determination of the amount of any such costs.

"(d) Liabillity Under Other Authority of Law.—Nothing in this section shall affect the liability of any person under any other authority of law for any release, or threatened release, of hazardous waste, except that the amount recovered by such person under any other authority of law for any costs to which this section applies shall reduce the amount which such person may recover under this section for such costs.

"(e) Liability of Other Persons.—Nothing in this section shall affect the liability of any other person, including a guarantor, by reason of subrogation, indemnification agreement or otherwise, to a person held liable under this section.".

(b) The following provisions of the Solid Waste Disposal Act are each amended by striking out "subtitle" in each place it appears and substituting "part": section 3001, 3002, 3003, 3004, 3005, 3006, 3009, and 3010.

(c) The table of contents for such subtitle C of the Solid Waste Disposal Act is amended by inserting

"Part 1—Standards and Permits for Hazardous Waste Management

immediately before the item relating to section 3001 and by adding the following at the end thereof:

Part 2—Hazardous Waste Response Program

"Subpart A—General Provisions

"Sec. 3021. Coverage of part.
"Sec. 3022. Definitions.

"Subpart B—Inventory, Priorities, and Monitoring

"Sec. 3031. Hazardous waste site inventory.
"Sec. 3032. Establishment of priorities.
"Sec. 3033. Monitoring of inactive sites
"Sec. 3034. Immunity.
"Sec. 3035. Destruction of records.

"Subpart C—Hazardous Waste Response Authority

"Sec. 3041. Emergency response.
"Sec. 3042. National Hazardous Waste Reponse Plan.
"Sec. 3043. State contribution.

"Subpart D—Hazardous Waste Response Fund

"Sec. 3051. Establishment of Fund.
"Sec. 3052. Fees.

"Subpart E—Prohibitions and Enforcement

"Sec. 3061. Enforcement.

"Subpart F—Liability for Hazardous Waste Release

"Sec. 3071. Liability for releases.".

AMENDMENT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer an amendment, and I ask unanimous consent that the reading of the amendment be dispensed with, and that it be printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The amendment reads as follows:

Amendment offered by Mr. Dingell: Page 5, after line 18, insert: "Where two or more noncontiguous areas meet the requirements of subparagraphs (A) and (B) and where they are reasonably related on the basis of geography or on the basis of the threat, or potential threat, to public health or the environment, the Administrator may treat such areas as a single inactive hazardous waste site for purposes of this Act.".

Mr. DINGELL. Mr. Chairman, I rise in support of the amendment. First, let me state that the amendment is very simple. All it does is permit a number of sites, in the discretion of the administrator, to be treated as a single one for the purpose of cleanup.

I want to make the comment that I believe this is desirable by reason of the fact that a large number of these sites have been set up by the same person or groups of persons in a similar area, and the cleanup of one will lead to benefit of the area in which the problem exists.

Mr. Chairman, I would like to pay tribute to the distinguished and able chairman of the subcommittee, the members of the subcommittee, and the distinguished and able senior minority member of the subcommittee for the outstanding way in which they have processed this legislation and for the remarkable lack of controversy which they have brought to the floor.

I might observe that not too long back, when I was on the other side of a piece of legislation from my good friends whom I have just mentioned, the gentleman from New Jersey (Mr. Florio) and the gentleman from Illinois (Mr. Madigan), along with my good friend, the gentleman from Texas, I took quite a drubbing at their hands. So I have observed their ability on two occasions, and I commend them not only for the remarkable way in which they have handled this matter but for the superb job they have done in crafting a very fine and technically well done piece of legislation, one which is very important insofar as the great concerns the Nation has in this matter relate to the legislation.

I rise to offer a perfecting amendment to the bill, a bill which in every other way represents a sound and exemplary work of environmental health legislation.

The amendment, which is of a technical nature, makes explicit the scope of the Administrator's discretion when designating sites pursuant to the site definition provisions of the act. My amendment is offered in recognition of the frequent lack of correlation between a given hazardous waste threat and a single hazardous waste site. This clarification is particularly important when viewed in light of the priority site provisions of the act. The amendment is consistent with and reinforces the intent of the act, which is to expeditiously abate this Nation's most serious hazardous waste problems, regardless of their exact relationship to the number of sites involved.

I also would like to take this opportunity to express to this body my full support for this essential legislation. We can afford to delay no longer the initiation of comprehensive and concerted action to abate and prevent human and environmental exposures to hazardous wastes from abandoned and inactive sites. I credit you, Mr. Chairman, and the distinguished ranking minority member of the Transportation and Commerce Subcommittee, Mr. Madigan, for your tenacity and patience, and for maintaining both substance and balance in this urgent and controversial measure.

Indeed, we are dealing with one of the most pressing public health threats of today and the coming decade. This Nation is only beginning to inherit the legacy of past inadequacies and indiscretions. While attention has focused on Love Canal, the Valley of the Drums and others, these are but the headliners in a cast of thousands.

The adverse health and environmental impacts associated with individual hazardous waste sites are reprehensible and must be redressed. But, perhaps the most pervasive and enduring threat posed by hazardous waste releases is witnessed in our groundwater, a precious nonrenewable resource. Fifty percent of the U.S. population relies on groundwater for its drinking water supply. Furthermore, one-fifth of the population relies on groundwater from individual wells without the benefit of treatment. Yet, in one of the only States to have thoroughly surveyed the problem of groundwater contaminated by inplace toxics, the State of Michigan has identified over 500 known and suspected sites. As other States follow suit, the scope of groundwater contamination will undoubtedly intensify.

The severity of the hazardous waste problem is magnified even further when one examines the inadequacy of existing authority to deal with the release of hazardous wastes from inactive and abandoned sites. Under present authority, before action can be taken to abate releases of hazardous wastes from such sites, a problem must already exist, a financially responsible owner must be identified, and abatement efforts can only begin after successful judicial action has occurred. Thus, the unfortunate victims of hazardous waste releases are further victimized by protracted litigation.

The bill before us remedies these weaknesses in existing law, by providing the authority, funding and incentives to initiate and maintain the cleanup of this Nation's hazardous waste morass. At this time, there is no more important or necessary step that can be taken to affirm our resolve to abate and prevent hazardous waste exposures.

Nonetheless, it would be foolhardy to maintain that all of our hazardous waste ills will be solved with this one piece of legislation given the scope of the problem facing the Nation. The magnitude of the problems of hazardous waste siting, groundwater contamination and postclosure liability will require the resources and resolve of generations to come.

The task is large and the stakes are high, and we must commence with this first and most important step. We have no more time to delay. I urge all of my colleagues to support the passage of this bill.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I thank the gentleman for yielding, and I will say that his proposal is very desirable.

Since he has brought this to our attention, we have found that there are other areas that we think will benefit from the proposal. It is discretionary, and accordingly I am prepared to accept the amendment.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I want to thank the gentleman for yielding, and I also thank him for his courtesy in providing the minority an opportunity to have an advanced look at the amendment. We have reviewed it and do intend to support it. We urge the Committee to do the same.

Mr. DOWNEY. Mr. Chairman, I rise in opposition to the amendment, but primarily I rise to address a question to the subcommittee chairman.

My understanding of the Dingell amendment is that it just provides for discretion?

Mr. FLORIO. Mr. Chairman, if the gentleman will yield, that is correct, on the part of the Administrator to treat two or more noncontiguous areas where they are reasonably related on the basis of a threat to the public health. That is what this is designed to cover.

If there are a number of individual sites in direct proximity—and they may even exist over State lines—then they could in the discretion of the Administrator be treated as a single source.

Mr. DOWNEY. Mr. Chairman, my question concerns Long Island, which has 2.8 million people who all occupy one aquifer, and I am concerned that the EPA Administrator not decide that he will designate all of Long Island as one dump site. This just allows him the discretion to determine. I never thought of Long Island as a "dump site," and I hope that EPA does not think of it as such.

Mr. Chairman, I am concerned that we not handle what I consider to be district problems in all of Long Island in the same way under this same umbrella.

Mr. FLORIO. Mr. Chairman, the gentleman is correct. This is simply discretionary.

Mr. DOWNEY. Then Mr. Chairman, I would not object or oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. Dingell).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CLEVELAND

Mr. CLEVELAND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Cleveland: Page 14 line 24 after the period, insert: "To the extent practicable, the Administrator shall include in such list of the 100 top priority sites at least one site in each State. The site so included shall be the inactive hazardous waste site designated by the State under subsection (a) as having the greatest danger to public health and the environment of all the sites in that State which are included in the inventory carried out under section 3031.".

Mr. CLEVELAND. Mr. Chairman, I would just like to say that this amendment springs from experiences in my Committee on Public Works and Transportation. When we have programs such as this, we always tried to have each State qualify for at least a part of the program.

It was called to my attention, however, by the distinguished gentleman from New Jersey (Mr. Florio) and my friend and colleague, the gentleman from Illinois (Mr. Madigan), that there might be some States that would not need help or benefit under the provisions of this act, so that is why we have added the language, "to the extent practicable."

I do know that in my own small State of New Hampshire we have specific problems, and they are not large enough or important enough perhaps to make that magic list. But I think we ought to have at least some of them taken care of. In that connection the amendment offered by the gentleman from Michigan (Mr. Dingell) is perhaps helpful to a State like New Hampshire, because it is becoming a dumping ground for some types of waste that we do not even produce. Rather it is because we are close enough to some of the places that do.

Mr. Chairman, section 3032 of H.R. 7020, the Hazardous Waste Containment Act, requires the States to conduct an inventory of inactive hazardous waste sites within 15 months of the date of enactment. These priority lists may then be used by the Administrator to compile the top priority sites for the Nation. The sum of $35 million is to be made available to the States to carry out this program. I would like to assume that the administration will use the State list developed under H.R. 7020's mandate.

There is no requirement, however, that he do so. This creates an opportunity for political mischief, by any administration, allowing them potentially to favor those States which have supported their program or which have supported the administration politically. I do not intend to address this problem today, however, but I think my colleagues should be on notice that this situation potentially exists with the language of H.R. 7020, as currently before the House, and I hope my colleagues will correct this problem in conference.

Now, Mr. Chairman, as we are all aware, any action by a State to list and categorize sites which may pose a threat to public health, safety and welfare is likely to raise some public concerns. Yet one of the deficiencies of H.R. 7020, in my opinion, is that it does not provide any assurance that a State will receive Federal assistance once this problem has been identified. On the one hand, we are telling people there is a problem and we are ranking that problem in terms of predetermined national criteria. Yet, on the other hand, we make no promise as to whether or not the problem will be addressed under H.R. 7020.

Additionally, Mr. Chairman, whenever a site might discharge a hazardous substance into the navigable waters, State response programs, financed by taxes or fees, would be preempted by H.R. 85, as passed by the House last Friday—if those efforts are to fund removal costs or compensation of certain economic damages. Therefore, Mr. Chairman, it is my opinion that we must provide a minimum level of assistance to the States to respond to those sites identified by a State as posing a threat to human health and welfare.

This is especially important to rural States which have become a dumping ground for the so-called midnight dumpers of hazardous substances. These States are unlikely to compete in a national program for assistance. This is because of the nature of clandestine dumping operations. A State like mine, which does not generate a large volume of toxic waste, has been victimized as a dumping ground for waste from other States. This means that we can receive a huge volume of waste which are dispersed widely in the unpopulated areas of the State but not in sufficient concentrations or volumes for any one site to qualify on anybody's national list of 100. Yet a severe problem exists.

Therefore, I am offering an amendment to require the Adiministrator of EPA to designate, at a minimum, one site per State for assistance under H.R. 7020. That site must be selected from the State priority list and must be designated by the State as the site they want to be assisted under the Federal program. Mr. Chairman, this approach is consistent with other legislative initiatives, specifically the Clean Water Act which strives to achieve some sort of equity in the disposition of Federal assistance to achieve clean water. This amendment will assure that we have a truly national program and that a minimum level of assistance is available to address the concerns of our citizens which will surely result from the identification of these sites in each State. I urge my colleagues to support this amendment.

Mr. Chairman, the distinguished managers of the bill have agreed to graciously accept this amendment with one change, which I have made to the original amendment I intended to offer. I added the phrase "to the extent practicable" at the beginning of the amendment. This was done because Mr. FLORIO indicated that he was concerned that some States have no sites needing Federal assistance and that my amendment would tie EPA's hands and unduly restrict the program. This is not my intent and therefore I accepted this improvement—with this understanding—when a State identifies a priority problem it will receive at least one designation on the national priority list.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I want to thank the gentleman for yielding and also for his coming to us in advance with this amendment.

As the gentleman from New Hampshire has mentioned, the gentleman from New Jersey (Mr. FLORIO) and I have had an opportunity to discuss the amendment with him, and we do intend to support it.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I would like to publicly express my appreciation to the gentleman from New Hampshire (Mr. CLEVELAND) for his willingness to discuss this problem and accept some suggestions, and on the basis of those discussions and our understanding, I am pleased to support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire (Mr. CLEVELAND).

The amendment was agreed to.

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AMENDMENTS OFFERED BY MR. GORE

Mr. GORE. Mr. Chairman, I offer two amendments, and I ask unanimous consent that they be considered as read, printed in the RECORD, and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The amendments are as follows:

Amendments offered by Mr. GORE: Page 47, line 17 after "party" insert: "other than (i) an employee or agent of the defendant, or (ii) a person whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly, with the defendant,".

Page 48, line 3, strike out "(2)" and substitute "(3)".

Page 48, after line 4 insert the following new paragraph:

"(2) For purposes of paragraph (1)(C) a defendant (including any person involved in the generation, transportation, treatment, storage, or disposal of hazardous waste) must demonstrate that he exercised due care with respect to all foreseeable acts or omissions of the third party and that he exercised due care in light of all relevant facts and circumstances."

Page 48, line 5, strike out "(2)" and substitute "(3)".

Page 48, line 6, after "establishes" insert "by a preponderance of the evidence".

Page 48, line 11, after "establishes" insert "by a preponderance of the evidence".

Page 48, strike out lines 16 through 20 and insert in lieu thereof:

"(B) To the extent apportionment is not established under subparagraph (A), the court may apportion the liability among the parties where deemed appropriate based upon evidence presented by the parties as to their contribution. In apportioning liability under this subparagraph, the court may consider among other factors, the following:

"(i) the ability of the parties to demonstrate that their contribution to a discharge, release, or disposal of a hazardous waste can be distinguished;

"(ii) the amount of hazardous waste involved;

"(iii) the degree of toxicity of the hazardous waste involved;

"(iv) the degree of involvement by the parties in the generation, transportation, treatment, storage, or disposal of the hazardous waste;

"(v) the degree of care exercised by the parties with respect to the hazardous waste concerned, taking into account the characteristics of such hazardous waste; and

"(vi) the degree of cooperation by the parties with Federal, State, or local officials to prevent any harm to the public health or the environment."

Page 48, line 21, strike "this paragraph" and insert "subparagraph (A)".

Mr. GORE. Mr. Chairman, these two amendments are to the liability section of the bill. They are supported by all of the parties who have looked at and are concerned with this legislation.

Mr. Chairman, today we are considering one of the most important pieces of legislation introduced in this Congress—H.R. 7020, the "superfund" bill to clean up abandoned and inactive hazardous waste sites. Over the last 3 years, I have participated in or chaired over 18 hearings on the enoromous problems associated with hazardous waste disposal, and I believe that this legislation is an effective and desirable response to those problems. It is well thought out and effectively targets the problems it is intended to address. It is a good bill and one that is sorely needed. I urge my colleagues to support it.

While I enthusiastically support this legislation, I do believe that it requires improvement. I believe the bill is particularly deficient with regard to its liability provisions. Consequently, I am today offering two amendments to H.R. 7020 that I believe will strengthen those provisions and insure that those companies and individuals who are responsible for our hazardous waste problems will bear their share of the clean-up cost burden.

The first amendment I offer is to the so-called third party defense created in section 3071(a)(1)(C) of H.R. 7020. The second amendment is to the joint and several liability provisions set forth in section 3071(a)(1). With your indulgence, Mr. Chairman, I would like to discuss my amendments. Although many of my comments have appeared previously in the RECORD, I believe that they are sufficiently important to warrant reemphasis here today. I hope my colleagues will agree with my position. I urge them all to support my amendments.

I will first discuss my amendment to the third party defense of H.R. 7020.

THIRD-PARTY DEFENSE UNDER H.R. 7020

As presently drafted, section 307(a)(1)(C) of H.R. 7020 provides that a defendant can escape liability for a release, or threatened release of hazardous waste if he/she can demonstrate that such was "caused solely by * * * an act or omission of a third party if the defendant establishes that he exercised due care with respect to the hazardous waste concerned, taking into consideration the characteristics of such hazardous waste." This language alters the existing common law rules of first, strict liability for abnormally dangerous/ultrahazardous activity and second and alternatively, liability for inherently dangerous activity that would otherwise be applicable to parties dealing with hazardous waste.

STRICT LIABILITY

A. HAZARDOUS WASTE DISPOSAL IS ABNORMALLY DANGEROUS/ULTRAHAZARDOUS ACTIVITY

There can be little doubt that actions involving hazardous waste would be considered by the courts as abnormally dangerous or ultrahazardous activity sufficient to subject a responsible party to strict liability. While there may at present be no decision in which an individual has been held strictly liable to damages resulting from a release of hazardous waste, this is due to the "newness" of waste problems rather than a reticence on the part of the judiciary. The common law proceeds on the basis of analogy and by extrapolation of existing doctrine to new fact situations. Absence of case law on the specific issue of strict liability for hazardous waste in no way invalidates the conclusion of the doctrine's applicability.

Strict liability for abnormally dangerous/ultrahazardous activity originated with the historic case of *Rylands* v. *Fletcher*, 159 Eng. Rep. 737 (1865), rev'd, L.R. 1 Ex. 265, aff'd, L.R. 3 H.L. 330 (1868). In the more than 100 years since Rylands the law of strict liability has progressed and expanded tremendously. Today numerous activities have been held to constitute abnormally dangerous/ultrahazardous activities for which strict liability will be imposed. Most of these are far less dangerous than the handling, generation, and disposal of hazardous waste. Such activities include the handling and shipping of explosives, blasting, quarrying, handling of nuclear materials, aerial spraying of pesticides, fumigation, sonic booms, handling oxygen, testing rocket fuels, storage of natural gas in populated areas, the operation of a gasoline station so as to affect families' wells, pile driving, and transportation of hazardous chemicals. Undoubtedly, as litigation involving hazardous waste develops, courts will add the generation and disposal of such wastes to the list of ultrahazardous activities.

Section 520 of the Restatement (Second) of Torts sets forth six factors to consider in the classification of an activity as abnormally dangerous (note: "Ultrahazardous" activity was the term used in the first Restatement; the phrase "abnormally dangerous" is used by the Restatement (Second)):

> (a) Existence of a high degree of risk of some harm to the person, land or chattels of others;
>
> (b) Likelihood that the harm that results from it will be great;
>
> (c) Inability to eliminate the risk by the exercise of reasonable care;
>
> (d) Extent to which the activity is not a matter of common usage;
>
> (e) Inappropriateness of the activity to the place where it is carried on; and
>
> (f) Extent to which its value to the community is outweighed by its dangerous attributes.

Not all these factors need be present before an activity can be said to be abnormally dangerous and strict liability imposed. Most, however, if not all of the factors are applicable to release of hazardous waste.

First, as has been demonstrated at Love Canal and elsewhere, release of hazardous waste obviously posed great harm and danger to a community. It does not matter that there may be only a slight possibility that a release might occur in a given area. As comment g to section 520 points out:

> If the potential harm is sufficiently great, . . . the likelihood that it will take place may be comparatively slight and yet the activity be regarded as abnormally dangerous.

Second, releases of waste can occur despite the exercise of reasonable care. Certainly, a great deal of risk can be eliminated by the exercise of due care; however, strict liability will still attach because of the inherent potential of hazardous waste to cause harm despite proper precautions. As comment h explains:

> There is probably no activity . . . from which all risks of harm could not be eliminated by the taking of all conceivable precautions, and the exercise of utmost care, particularly as to the place where it is carried on. . . . It is not necessary, for the factor stated in Clause (c) to apply, that the risk be one that no conceivable precautions or care could eliminate. What is referred to here is the unavoidable risk remaining in the activity, even though the actor has taken all reasonable precautions in advance and has exercised all reasonable care in his operation, so that he is not negligent.

Additionally, most activities that could result in a release of hazardous waste are not "customarily carried on by the great mass of mankind or by many people in the community" and so cannot be said to be a matter of common usage. Appropriateness of the activity to its surrounding and value to the community, moreover, will usually excuse only those activities that, while dangerous, can be carried on only in a particular area and/or support the economic well-being of a community to an extraordinary degree. Given the above, it is inconceivable that actions involving hazardous waste would not be considered abnormally dangerous. Strict liability would thus be imposed upon anyone responsible for a release of such waste.

B. THE IMPACT OF SECTION 307(a)(1)(C)

To understand the impact of the third-party defense provided by H.R. 7020, it is important to keep in mind the policy underlying the doctrine of strict liability. Certain activites carry with them the inherent possibility of harm to others and so, as outlined above, are deemed abnormally dangerous, or ultrahazardous, activities. Society makes a basic policy decision, however, that, despite the inherent danger, these activities are needed and so they are permitted to occur. Were it not for this value determination, the activities would be considered too dangerous to allow, and anyone engaged in any of the activities would be guilty of negligence. In other words, the activity is felt to be "of such utility that the risk which is involved in it cannot be regarded as so great or so unreasonable as to make it negligence merely to carry on the activity at all." Consequently, because of the social utility of their manufactured products, generators of hazardous wastes are not considered negligent simply because they are engaged in their business.

Having decided to permit the abnormally dangerous activity, however, society imposes certain obligations on those individuals engaged in such activities. Fundamentally, an abnormally dangerous activity must "pay for itself." The activity may be carried on, but if an innocent party is injured, he must be compensated regardless of whether the defendant was "at fault."

Thus, while the generation and disposal of hazardous waste are deemed a necessary evil in our society, "the unavoidable risk of harm that is inherent in (handling waste) requires that it be carried on at (the defendant's) peril, rather than at the expense of the innocent person who suffers harm as a result of it." The defendant, then, is basically an "insurer" against the consequences of his abnormally dangerous conduct. As Prosser stated:

> He is liable although he has taken every possible precaution to prevent the harm and is not at fault in any moral or social sense.

The effect of section 3071(a)(1)(C) is thus readily apparent. By enabling a defendant to escape liability by a showing of "due care," H.R. 7020 erects a negligence standard where one of strict liability would otherwise apply. As shown above, under the common law, negligence is irrelevant to a finding of liability for abnormally dangerous/ultrahazardous activity. H.R. 7020 changes this common law rule. Under section 3071(a)(a)(C), a defendant can avoid liability, despite being engaged in ultrahazardous activity, by contracting with a third party to dispose of the hazardous waste. As long as the defendant can sustain his/her burden of proof regarding the exercise of due care in selecting a transporter or disposer, the defendant cannot be held liable and no recovery can be had from him/her.

Although it couches its language in

terms of new duties imposed on a defendant, the Commerce Committee report accompanying H.R. 7020 is quite candid in demonstrating that it imposes only a requirement of due care on defendants. Even though a defendant must show that he took a number of precautions and acted with due care in order to escape liability, the basic problem still remains. Under the common law, the defendant could not escape liability even if he did take every precaution. H.R. 7020, then, effectively destroys a rule that has been in effect for over 100 years.

In addition to interposing the negligence barrier between the plaintiff and defendant, the defense provided in section 3071a(a)(1)(C) files in the face of section 522 of the Restatement (Second) of Torts. That section provides:

> One carrying on an abnormally dangerous activity is subject to strict liability for the resulting harm although it is caused by the unexpectable
>
> (a) act, negligent or reckless conduct of a third person. . . .

As the comment to section 522 explains, the abnormally dangerous nature of an activity is the basis for the defendant's liability when the activity results in damage or injury. Just the negligence of the defendant is irrelevant when the activity is considered abnormally dangerous, acts by a third party cannot affect liability under the common law. It is the activity itself, not an individual's conduct, that determines the liability.

INHERENTLY DANGEROUS ACTIVITY

Related to the doctrine of strict liability is the rule that holds a defendant liable for injuries resulting from inherently dangerous activity even though he/she contracted with a third party for the performance of that activity. This is basically a rule of vicarious liability, whereby the employer is held liable for the negligence of the independent contractor, regardless of whether the employer himself has been at fault. As with strict liability, policy reasons dictate that the employer not be permitted to shift responsibility to the contractor. The difference between the liability here and that for abnormally dangerous activity appears to be that the defendant here has himself actually been engaged in no activity; the contractor performs all the work. This rule seems more applicable to situations involving middlemen—if such are used—in hazardous waste disposal than to the generators of waste.

Under the rule here, it does not matter that the defendant exercised due care in his selection or instructions to the contractor. The inherently dangerous nature of the activity to be performed provides the grounds for liability. As section 416 of the Restatement (Second) of Torts provides:

> One who employs an independent contractor to do work which the employer should recognize as likely to create during its progress a peculiar risk of physical harm to others unless special precautions are taken, is subject to liability for physical harm caused to them by the failure of the contractor to exercise reasonable care to take such precautions even though the employer has provided for such precautions in the contract or otherwise.

Under section 416 the employer remains liable for injuries resulting from dangers that he should contemplate at the time that he enters into the contract; he cannot shift to the contractor the responsibility for such dangers or for taking precautions against them. The employer will remain liable even if the contract contains express stipulations for the taking of adequate precautions and even if the contractor agrees to assume all liability for harm caused by his failure to take such precautions.

Clearly, by enabling a defendant to exonerate himself by demonstrating due care, H.R. 7020 abrogates this common law rule as well. Section 3071(a)(1)(C) enables—indeed encourages—a defendant to contract out disposal of hazardous wastes and thereby contract away liability. Because of the inherently dangerous nature of the work performed, the negligence of the contracting party is irrelevant to liability under the common law. H.R. 7020, however, alters the rule to provide a defense where, for sound policy reasons, one heretofore has not existed.

The amendment I offer represents a compromise between my original position and the wishes of Chairman FLORIO. I believe that this compromise accomplishes the necessary changes to make the responsible parties accountable and accommodates the concerns of the bill's sponsors. Indeed, my amendment strikes a middle ground between the common law rule and the process presently envisioned under H.R. 7020. My amendment moves H.R. 7020 closer to the common law in several ways. First, the amendment removes the ability of and incentive for a defendant to contract away liability.

The amendment would insure that the common law rules of both strict and vicarious liability remain intact in cases in which a defendant seeks to shift the responsibility for costs resulting from his ultrahazardous activity to others with whom he is involved in a business relationship. My amendment would restrict the application of the third party defense to situations where the third party is not an employee or agent of the defendant, or where the third party's act or omission does not occur in connection with a contractual relationship.

Second, the amendment would permit a defendant to escape liability for damages caused by the act or omission of a third party who has no connection whatsoever with the defendant and which act or omission is unforeseeable. Although this is still counter to the common law, it has a basis in reason. Finally, with regard to foreseeable acts by third parties, the amendment requires that a defendant demonstrate that he acted with due care in order to escape liability. This insures that the defendant will not escape liability if he acted negligently, even if the damage caused is the result of an act of an unrelated third party.

Mr. Chairman, as I stated at the outset, my second amendment focuses on the alleged joint and several liability provisions of the "superfund" bill I would like now to discuss that amendment.

JOINT AND SEVERAL LIABILITY UNDER H.R. 7020

Although section 3071(a)(1) of H.R. 7020 proclaims that the liability of any party found to have caused or contributed to a release of hazardous waste shall be "joint and several" with any other such person, exceptions created by the bill effectively render that term meaningless here. Joint and several liability ordinarily would mean that whenever a single, indivisible harm is sustained as a result of independent, separate, but concurring tortious acts by two or more actors, each can be held liable for the entire amount of damages incurred. The defendants in such a case would be jointly liable in that collectively they would be responsible for any damage caused; they would also be severally liable in that each is individually liable for the full amount of damage. The plaintiff could collect the total sum of damages awarded from a single defendant and could avoid the agony of multiple suits against the defendants that would otherwise be necessary to achieve full compensation.

Under the theory of contribution, the defendant from whom the plaintiff receives payment may then collect from the other defendants for that part of the damages for which each is responsible. Under the theory of satisfaction, once the plaintiff receives from one or more defendants an amount equal to the judgment awarded, he cannot collect more than that sum.

JOINT AND SEVERAL LIABILITY GENERALLY

Originally, courts were reluctant to impose joint and several liability on defendants in cases wherein the injury suffered was considered "indivisible." Because contribution was not formerly allowed among defendants, courts were reluctant to place the full burden of liability on any one defendant. On the other hand, because the injury was indivisible, the plaintiff had difficulty establishing the respective responsibility of each defendant for portions of the harm. Consequently, courts often denied recovery.

Eventually, as States enacted statutes providing for contribution among defendants, courts became more accepting of joint and several liability and permitted plaintiffs to recover the full amount of damages from a single defendant. The courts concluded that because the defendants were the ones at fault, it would be unfair to place the burden of demonstrating the apportionability of the damage on the plaintiff. The burden was thus placed on the defendants to work out for themselves who was responsible for what part of the injury under the process of contribution. The plaintiff would be allowed to recover his judgment, and the paying defendant would now be reimbursed under one of the new statutes for that portion of the payment for which he was not responsible. Joint and several liability gained its greatest acceptance early in cases involving multiple simultaneous or successive automobile collisions when a single plaintiff was injured by the acts of several negligent drivers.

DIVISIBILITY OF HARM

As stated, the indivisibility of the harm suffered is the key to a ruling of joint and several liability. The harm must be of such a nature that it is not practicably apportionable, for where some reasonable means of apportioning the damages is evident, the courts will generally not hold the tortfeasors jointly and severally liable.

Basically, though, joint and several liability will attach whenever an injury is indivisible. The trick is to determine when an injury can in fact be considered indivisible and thereby permit employment of joint and several liability. This requisite indivisibility can be of two sorts. First, the injury can be the type that is not even theoretically divisible. Damages of this nature are such things as death or the total destruction of one's property or chattel. Most personal injury suits present damages like these. Alternatively, however, the harm can be such that, although theoretically divisible, it is indivisible in a practical sense insofar as the plaintiff's ability to apportion it among the wrongdoers is concerned. Pollution by multiple defendants would usually fall within this classification.

Courts uniformly will permit entire recovery from any or all defendants under the first type of indivisibility. There is conflict, however, regarding the second situation. As stated earlier, where there has been some rational basis for apportioning damages, courts in the past in pollution cases have denied joint and several liability. There is a growing body of case law, however, that holds that a plaintiff's right to recover for his harm should not depend on his ability to apportion the damage; instead, apportionment is seen as a problem properly left to the defendants themselves.

Along these lines, most pollution cases pose a special problem regarding the indivisible injury issue. Because the overall, and allegedly indivisible, harm is caused by a series of independent, concurrent tortfeasors, it is usually the case that some damage would have been done even had some of the defendants not contributed; the damage would not be as great, however, as that actually sustained. In other words, each polluter has contributed to produce some, but not all, of the harm. This is the sort of injury that most earlier cases held to be at least theoretically divisible and which therefore mandated apportionment of liability. For sound policy reasons, however, courts have begun to view pollution by multiple defendants as a form of indivisible harm by examining the problem from the plaintiff's perspective. Joint and several liability has thus been frequently imposed.

For example, in *Landers* v. *East Texas Salt Water Disposal Company*, 151 Tex. 251, 248 S.W.2d 731 (1952), the plaintiff sued a salt water disposal company and an oil company jointly and severally for damages caused when they independently dumped salt water in his lake. Assuming that neither defendant alone has caused the entire damages, the court nevertheless decreed that the defendants should be held jointly and severally liable.

As the court concluded:

> "Where the tortious acts of two or more wrongdoers join to produce an indivisible injury, that is, an injury which cannot be apportioned with reasonable certainty to the individual wrongdoers, all of the wrongdoers will be held jointly and severally liable for the entire damages and the injured party may proceed to judgment against any one separately or against all in one suit.

151 Tex. at 256, 248 S.W.2d at 734. Although the court also provided that a defendant could reduce his liability by demonstrating the amount of damage caused by his acts only, or that caused by other defendants, the effect of the decision was to require the defendants, rather than the plaintiff, to show that other tortfeasors contributed to the harm and in what quantities they so contributed. This incentive to locate all other responsible parties is one of the prime considerations underlying use of joint and several liability in pollution suits. In fact, in addition to shifting the burden of proving the cause of plaintiff's injury, the court placed on the sued defendants ultimate responsibility for bringing any other defendants into the suit as codefendants. Facing the prospect of either proving that other parties were also responsible for the injury or paying the full judgment themselves, defendants would henceforth have incentive to insure that no parties have been inadvertently omitted from the suit. As the court in Landers stated:

> If fewer than the whole number of wrongdoers are joined as defendants to plaintiff's suit, those joined may by proper cross action under the governing rules bring in those omitted.

Thus, any responsible parties not named as defendants initially by the plaintiff would be located by the named defendants and included by cross-claim.

The emerging rule of joint and several liability in pollution cases was also noted in *Phillips Petroleum Company* v. *Hardee*, 189 F. 2d 205 (5th Cir. 1951). In that case, a number of rice farmers sued several oil companies for damages to their crops caused by oil pollution of their irrigation water. As in Landers, each defendant's pollution alone was insufficient to cause the whole damage. Nevertheless, the court stated that:

> Where persons acting independently are guilty of negligence, and the results of their negligence combine to set up a chain of causation resulting in the complained of damage, these persons, though not acting in concert, are yet joint tortfeasors and as such, are liable for the damage caused by the conjunction of their separate negligence.

That the defendants bear the burden of proving the apportionability of harm in the new wave of pollution decisions was demonstrated well by the leading case of *Michie* v. *Great Lakes Steel Division*, 495 F. 2d 213 (6th Cir. 1974). In Michie, 37 residents of Ontario, Canada, brought suit against three Michigan corporations for damages caused by pollution emitted by the defendants into the ambient air. Rejecting the old Michigan rule denying joint and several liability in pollution cases, the sixth circuit reasoned that, in any claim for relief, there is a manifest unfairness in "putting on the injured party the impossible burden of proving the specific shares of harm done by each (defendant);" 495 F. 2d at 216. As a result, the court placed on the defendants the burden of proving "which one was responsible and to what degree" for the plaintiffs' injuries.

As one commentator has noted, after Michie a defendant cannot now escape liability merely by proving that other parties contributed to the injury in such a way as to make apportionment impracticable. See Comment, 1974 Utah L. Rev. 603, 607. The court essentially analyzed the issue as a contest between the rights of individuals and the rights and duties of industry. In the end, the court concluded that the rights of the injured party were superior.

The Michie case thus stands for the proposition that if a plaintiff in a pollution suit can show a causal connection between the defendants' acts and the plaintiff's injury, as well as the violation of some duty owed by the defendants to the plaintiff (whether under negligence or strict liability), the burden of proof will shift to the defendants to demonstrate which defendant is responsible for what portion of the injury. The rule espoused in Michie is similar to that presented in section 433B of the Restatement (Second) of Torts, which provides:

> (2) Where the tortious conduct of two or more actors has combined to bring about harm to the plaintiff, and one or more of the actors seeks to limit his liability on the ground that the harm is capable of apportionment among them, the burden of proof as to the apportionment is upon each such actor.

Basically, as both Prosser and the Michie court noted, if apportionability cannot be demonstrated, the acts of each defendant could then be considered a substantial factor in the plaintiff's injury, and each would be liable for the full amount of damages. Contribution among the defendants, however, would prevent one defendant from absorbing the entire loss.

THE IMPACT OF H.R. 7020

While the essence of joint and several liability is thus that multiple defendants are each liable for the full amount of damages unless the feasibility of apportionment can be demonstrated by the defendants, sections 3071(a)(2)(A), (B), and (C) effectively foreclose the possibility that any defendant will ever be held fully liable. Particularly, subsections 2(B) and (C) emasculate the effect of the indivisible injury rule by providing that a court shall apportion liability even when the defendants have not established that such is feasible or warranted.

Subsection (2)(A) appears to reflect the procedure utilized by most courts in approaching joint and several liability. That section sets up a process by which a defendant may demonstrate by a preponderance of the evidence that he is responsible for only a certain portion of the damage done. If the defendant is successful in proving the limited extent of his responsibility, the injury is considered apportionable to that extent and that particular defendant's liability is limited. The remaining amount of the damages would then be imposed on the remaining defendants.

Ordinarily, if the remaining defendants could not establish their respective liability for the damages left after the section (2)(A) apportionment is subtracted, each would be fully liable for the remaining damages. Subsection (2)(B) changes this rule, however. That section provides that even if the defendants do not establish the apportionability of the remaining damages, the court shall itself apportion the liability. Subsection (2)(S) goes on to provide that once this apportionment has been made by the court, no defendant shall be liable for more than his apportioned share. The effect is that no one defendant can ever be held responsible for the full amount of the damages. Thus, there actually is no joint and several liability in H.R. 7020.

One obvious problem with the apportionment system erected by H.R. 7020 is that a plaintiff—the Government under the present bill would be forced to seek payment from each of the defendants based on the amount designated by the court as that which he owes. Under a scheme of joint and several liability, where the defendants cannot themselves establish their respective liabilities, each is responsible for the full amount, and the plaintiff may collect that full sum from any one of them. The paying defendant would then have the right to go against the other "nonapportioned" defendants for contribution; the defendants would bear the burden of deciding who would pay how much to whom among them.

The theory behind enabling the plaintiff to collect fully from one defendant is essentially that as wrongdoers, the defendants each bear the burden of proving that he is not liable for the full extent of the damage caused. If the defendant cannot meet this burden and show that he is not fully responsible, then he is fully liable. H.R. 7020 clearly abrogates this theory.

Like my first amendment, this second amendment represents the product of sincere and responsible compromise. Although I believe that several more changes to section 3071(a)(1) are needed to make it reflect more accurately the prevailing common law doctrines, I offer my amendment in the spirit of compromise in order to help ease the negative impact of the present provisions.

As presently written, paragraph 2(B) of section 3071 establishes a perverse incentive system for those who have caused or contributed to hazardous waste incidents. It encourages all defendants, except those who are insignificant contributors, to ignore the burden of proof requirements of paragraph (A) and to cast their lot with any other defendants under the mandated apportionment formula of 2(B). Hence, a major contributor could seek to establish the culpability of other defendants—although he would not quantify the harm contributed by each—to enlarge the pool of liable parties and thereby reduce each defendant's cost obligation.

Conversely, the bill as presently written would also enable a defendant to disregard totally any effort to locate other defendants. The mandatory apportionment provision of paragraph 2(B), when coupled with the cap placed on individual liability by paragraph 2(C), would effectively limit a single defendant's liability even in face of skimpy proof.

My amendment would move H.R. 7020 closer to the common law by insuring that to achieve apportionment under section 2(A), a defendant must prove apportionability by a preponderance of the evidence. This is the common law standard, and it should be part of any legislation like this. My amendment would also make this bill more in tune with the common law by making the apportionment under section 2(B) discretionary on the part of the court. Instead of requiring apportionment in all cases, as the present legislation does, the amendment permits a court to apportion liability when equity requires it. This would enable a court to apportion liability when sufficient evidence allows it, but to deny apportionment when there is no real basis for it. The amendment assists the court in its task by providing a list of factors specifically geared to the problems inherent in hazardous waste generation and disposal.

Mr. Chairman, I believe the two amendments that I am offering here today are needed improvements to the liability provisions of H.R. 7020. They remove the various escape hatches in the present legislation that would enable the parties who are most responsible for our hazardous waste problem to avoid liability. My amendments are simple and straightforward, and they focus on the problems inherent in H.R. 7020 as presently drafted. I again urge my colleagues to support them.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, the committee has worked very closely with Mr. GORE on his amendments since he first printed them in the RECORD on September 4. He has agreed to important modifications in both amendments, and based on these changes, I now find them acceptable.

His first amendment originally contained a provision which would have required that the intervening act or omission of a third party also be "negligent." This would have added an unnecessary and overburdensome requirement on the defendant and Mr. GORE has agreed to delete it from his amendment, and I now find his amendment acceptable.

Mr. GORE has added an additional factor to his second amendment which relates to the discretionary authority of the court to make an apportionment. It allows the court to consider the degree of care exercised by the parties with respect to the hazardous waste concerned, taking into account the characteristics of the waste. I think this is a positive improvement and can accept the amendment.

Mr. GORE. I thank the gentleman.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, because we did dispense with the reading of the amendments, I do want to clarify that the amendments that are pending at the desk are the revised Gore amendments which reflect the work that has been done with the other members of the committee.

Mr. GORE That is correct.

Mr. MADIGAN. Mr. Chairman, I rise in support of the amendments offered by the gentleman from Tennessee, and want to take this opportunity to commend the gentleman for his positive contributions and his efforts to make this bill an effective response mechanism to the enormous problems associated with hazardous waste disposal.

Of particular concern to me and a number of my colleagues on the Commerce Committee during development of this legislation were the liability issues. Especially difficult were the ramifications of retroactive application of statutory liability provisions to past activities of potential defendants. The committee rejected any notion of absolute liability in this regard. While the bill does contain provisions holding defendants who caused or contributed to release resulting in incurrence of cleanup costs by the administrator strictly jointly, and severally liable for such costs, certain important defenses and safeguards were provided in the interest of due process, fundamental fairness, and avoidance of protracted litigation that would undermine the purposes of this legislation.

This hybrid liability provision was the end result of efforts to be fair and at the same time to make sure that a responsible party would pay for damages that resulted because of his actions or inaction.

I would like to reemphsize at this point, what is clearly and unambiguously set forth in the committee report, on page 33:

> The Committee intends that the usual common law principles of causation, including those of proximate causation, should govern the determination of whether a defendant "caused or contributed" to a release or threatened release. Whether a person caused or contributed to a release is a factual inquiry to be determined with reference to the particular circumstances of the case. Thus, for instance, the mere act of generation or transportation of hazardous waste, or the mere existence of a generator's or transporter's waste in a site with respect to which cleanup costs are incurred would not, in and of itself, result in liability under section 3071. The Committee intends that for liability to attach under this section, the plaintiff must demonstrate a causal or contributory nexus between the acts of the defendant and the conditions which necessitated response action under section 3041.

Of course, these same principles of proximate causation are equally applicable when a defendant, to successfully assert the third-party defense, must demonstrate that a third party caused a release. Thus, whenever factual questions of causation arise, the committee intends that the ultimate determination of causation be made by the trier of fact with references to any supervening cause of a release.

The amendments offered by the gentleman from Tennessee do not change the intent of what was developed by the Commerce Committee. The amendments clarify and improve the language and I urge the adoption of the amendments.

Mr. GORE. I thank the gentleman for his support.

Mr. MATSUI. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to the gentleman from California.

Mr. MATSUI. Mr. Chairman, I would like to commend the gentleman from Tennessee for the two amendments he has offered. It strengthens the bill and it makes the bill much more acceptable to me. I certainly hope that the Members will support it.

I would like to enter into a colloquy with the gentleman from Tennessee. This pertains to section 3071(2)(A).

Now, is it the committee's intent to insure that the Federal Government will be fully reimbursed for costs not apportioned under section 3071(2)(A) for providing the court with the necessary discretion to apportion the remaining liability of insolvent parties when the court believes that such apportionment is appropriate or by applying a rule of joint and several liability?

Mr. GORE. That is the intent of the amendment.

And, reclaiming my remaining time, Mr. Chairman, I would like to express my gratitude to the gentleman from New Jersey (Mr. Guarini) who, in the Ways and Means Committee, made many of the arguments that I made in the Commerce Committee on the original amendments that closely resemble these, and thank him for his support in this effort.

I would again like to express my thanks, of course, to the ranking minority member and the chairman of the subcommittee.

The CHAIRMAN. The time of the gentleman from Tennessee (Mr. Gore) has expired.

(On request of Mr. LaFalce and by unanimous consent, Mr. Gore was allowed to proceed for 1 additional minute.)

Mr. LaFALCE. If the gentleman will yield, I want to rise in support of the amendments offered by the gentleman from Tennessee (Mr. Gore). They are absolutely essential if we are to have meaningful liability provisions in superfunds.

I also want to point out that initially the gentleman from Tennessee was going to offer a third amendment, and because of the legislative realities of this body and the position taken by the administration, he has made the decision not to do so.

I want to underscore the fact, however, that at some point in the future, and perhaps very soon in the future, the Congress—and I hope the Senate when they are dealing with their superfund when they take action on it—will have to come to grips with the issue of a mechanism to give compensation to individuals who have been injured by exposure to toxic substances.

I have introduced legislation, the Federal Toxic Tort Act, which creates a Federal cause of action that is not incorporated in this superfund bill, it is not incorporated in the amendments of the gentleman from Tennessee (Mr. Gore) which, by and large, have been agreed to by all of those parties interested in this issue, but at some point in the future we must adopt a Federal Toxic Tort Act.

Mr. STOCKMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendments.

I will say to the Committee that we have had a very nice, technical and friendly discussion here, implying to someone who might be listening that these are relatively uncontroversial matters and that we simply can proceed without any further discussion.

But I would like to suggest to the Members of this House that some day down the road about a year from now they are going to receive a letter from a company in their district that has just received a $5 or $10 million liability suit from EPA that was triggered by nothing more than a decision of a GS-14 that some landfill, some disposal site somewhere, needed to be cleaned up and, as a result of an investigation that his office did, he found out that that company in your district contributed a few hundred pounds of waste to that site 30 years ago.

Now, that is what the liability section in this bill does. The liability that we are creating in H.R. 7020 has nothing to do with what some of the lawyers in this body would understand as the normal liability provisions under common law or under State law, because under that regime a plaintiff would have to go to court and a plaintiff has to demonstrate that damage has been done, a plaintiff has to demonstrate that the party accused caused that damage in a negligent way. And in the case of a very serious hazardous material, if the negligence defense is to be set aside, the plaintiff has to demonstrate to the court that the material involved is of such an ultrahazardous nature inherently that strict liability should apply.

But we do not have any of that in this bill. In this bill, strict liability occurs every time and immediately that EPA decides to clean up a site on the basis of absolutely no criteria because we did not put any in the bill.

In other parts of the bill, we give EPA plenary authority to clean up any waste site in the country, and that waste site is undefined. And once they make that decision on the basis of whatever criteria they establish, whatever kind of risk notions they may use, whatever kind of cost-benefit notions might appeal to the single-mission oriented people who may run this program in the Division of Hazardous Waste, once they move ahead and clean up, then their first action after that cleanup order or that cleanup financing if they do it directly or through the State government, will be to see if they can find some deep pocket somewhere in the vicinity who contributed, not that ran a disposal site, not that ran a transportation company, but just an industrial firm, a foundry, a plastics plant, anything that contributed waste any time in the foggy past that might be included in this list of 1,165 items that I have read.

And once they have found that deep pocket, they will immediately go to court and sue that deep pocket, and then all of the onus of the law, all of the burden will be on him to prove that he was not responsible for an outcome that occurred 30 years later as a result of this retroactive liability.

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I think that this whole liability provision, I will say to the House, is really a terrible distortion of any kind of notions of justice or equity and any kind of practical notion of how we ought to go about paying for those sites that need to be cleaned up.

Then let me say further to this House that when you get that letter from the XYZ firm, you will receive a letter 3 weeks later and you will find that EPA has decided to sue for civil penalties 2½ times the cleanup and that, instead of paying $5 million for the cleanup costs, your firm will be paying $12½ million for the civil penalty that was sought in court by EPA because they concluded this company had contributed 30 years ago and was not cooperative in their efforts to have this site cleaned up and therefore needed to be sued.

I do not know how much damage, I do not know how much harassment we want to do to the industrial economy in this country that is literally faltering today out from under our feet, that is in recession, that has 8 million people unemployed, that is losing its productivity growth, that cannot compete in the world market today. We discuss and deal with those problems and we are here unleashing an enormous club.

Mr. BAUMAN. Mr. Chairman, I move to strike the requisite number of words.

Let me ask this question.

The gentleman from North Carolina (Mr. Preyer) has sent a letter to all of us regarding the Gore amendments in which he opposes the gentleman's amendments. Perhaps they have been changed to meet his objections. I do not see him here, but he is a member of the gentleman's committee. He makes some rather persuasive arguments, at least to my Georgetown law-trained mind, that the bill's provisions, as they are already stringent enough, and perhaps the gentleman from Michigan or the gentleman from Tennessee or both, would like to comment.

I understand some changes have been made as they are now offered that perhaps meet his objections, but it gives me some pause if they have not been made.

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Tennessee.

Mr. GORE. I thank the gentleman for yielding.

I can state categorically that the gentleman from North Carolina supports both of the amendments that we have under discussion, and if I may indulge on the gentleman's time to respond to the comment earlier, of course, under strict liability, proof of causation would first have to occur. I think the gentleman, with all due respect, stated a theory of strict liability that really is at variance wth the common law.

Second, there is only unanimous consent that strict liability would apply for these ultrahazardous substances under the common law in any event.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Michigan.

Mr. STOCKMAN. I think the point the gentleman is trying to make and I wish the gentleman from Tennessee would respond, because he seems to be the primary advocate of these provisions, is that under the structure of this bill if EPA decides to clean up a site, that automatically creates liability for any operator of that site or any past generator who cannot come into court and demonstrate there was a third party at fault due to the negligence of that third party or an act of God caused the release or other hazards. Is that correct?

Mr. GORE. With the gentleman's indulgence, that is not the case. Proof of causation must occur. One must prove the damage was caused by the defendant. There is not an automatic trigger. But once the damage is proven to have been caused by the defendant, then a strict liability standard would apply.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from New Jersey.

Mr. FLORIO. The gentleman's point is really at two levels. One is he is talking about ability to sue for reimbursement of the funds, but he has also expressed apprehension EPA is going around to automatically start cleaning things up and suing someone. That situation is not going to occur because EPA is required not to act if the responsible party or parties will take appropriate action to clean up and contain these sites.

If, in fact, they do not do so, or do not care to do so or are not able to do so, then EPA is charged with the responsibility of going forward, and even before they go forward, they are required to make agreements with the State, if the State has the inclination to do so and the ability to do so.

So the gentleman's situation is just not realistic if he describes EPA as out cleaning things up randomly. That is not going to happen under this bill.

If I could make one other point with regard to the Gore amendment, I have a letter, and I would place it in the RECORD, from the Chemical Manufacturers Association which advocates support of this bill, H.R. 7020, and concludes moreover that they do not object to the compromise which we understand has been worked out on the Gore amendments.

The letter follows:

CHEMICAL MANUFACTURERS ASSOCIATION,
Washington, D.C. September 22, 1980.

Hon JAMES J. FLORIO,
House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR MR. FLORIO: The Chemical Manufacturers Association believes that the House should approve effective, properly focused legislation addressing problems associated with abandoned, failing hazardous waste sites.

The Commerce Committee version of H.R. 7020 is the product of a thoughtful bi-partisan compromise. It offers workable regulatory, legal, and funding resources to address abandoned waste sites. We support its enactment.

Moreover, we do not object to the compromise which we understand has been worked out on the Gore amendments.

Sincerely,

EDMUND B. FROST,
Vice President and General Counsel.

We are talking about two different types of Gore amendments, the ones introduced and the ones modified which now have widespread support.

Mr. GORE. If the gentleman will continue to yield, I think it is also fair to add to that colloquy that the fabric of the compromise is not limited solely to the textual changes in the two versions of the amendments.

Mr. STOCKMAN. If the gentleman will yield further, I would just say in response to the gentleman that I realize causation has to be shown, but in this context the only requirement to show causation is that somebody contributed to the site.

When you have a landfill that is 30 years old and oozing with muck, it is pretty impossible to determine what particular chemical released at what date and contributed in what quantity caused the release that may have threatened public health or caused the presence of materials that encouraged EPA to act. It is a very simple burden, and EPA will have no problem proving it.

Mr. GORE. If the gentleman will yield further, one must first prove causation. If one cannot prove the defendant caused the damage which led to the suit, then the strict liability standard is never triggered.

Let me also add that is not something new. Let me just read the gentleman a list of those activities that currently invoke the strict liability standards.

Strict liability for abnormally dangerous/ultrahazardous activity originated with the historic case of *Rylands* v. *Fletcher*, 159 Eng. Rep. 737 (1865), rev'd, L.R.1 Ex. 265, aff'd. L.R.3 H.L. 330 (1868). In Rylands, the defendant was held liable without fault when a reservoir built on his land broke through the ground, and flooded an abandoned coal mine shaft. The water flowed along connecting passages and eventually flooded and damaged the adjoining mine of the plaintiff. In holding the defendant strictly liable, Lord Cairns, speaking for the House of Lords, concluded:

(I)t seems but reasonable and just that the neighbour who has brought something on his property (which was not naturally these), harmless to others so long as it is confined to his own property, but which he knows will be mischevious if it gets on his neighbour's, should be obliged to make good the damage which ensues if he does not succeed in confining it to his own property. But for his act in bringing it there, no mischief could have accrued, and it seems but just that he should at his peril keep it there, so that no mischief may accrue, or answer for the natural and anticipated consequence. L.R. 3 H.L. 330 at 338.

In the more than 100 years since Rylands the law of strict liability has progressed and expanded tremendously. Today, numerous activities have been held to constitute abnormally dangerous-ultrahazardous activities for which strict liability will be imposed. Most of these are far less dangerous than the handling, generation, and disposal of hazardous waste. Such activities include the handling and shipping of explosives, blasting, quarrying, handling of nuclear materials, aerial spraying of pesticides, fumigation, sonic booms, handling oxygen, testing rocket fuels, storage of natural gas in populated areas, the operation of a gasoline station so as to affect families' wells, pile driving, and transportation of hazardous chemicals. See Prosser, Law of Torts 512–16 (1971). Undoubtedly, as litigation involving hazardous waste develops, court will add the generation and disposal of such wastes to the list of ultrahazardous activities. Indicative of this is the recent case of *New Jersey* v. *Ventron Corporation*, Nos. C–2996–75 and C–1110–78 (Superior Court of New Jersey, Chancery Division, Bergen County, Aug. 29, 1979), a case cited by the Justice Department in its correspondence and its testimony before the Committee on Ways and Means, in which a mercury processing operation was held strictly liable for damages caused by a release of mercury from its plant.

Mr. JEFFORDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as a cosponsor of the Hazardous Waste Containment Act I wish to commend the fine work of Mr. GORE, Mr. FLORIO, Mr. MADIGAN, and other Members involved in the formulation of a compromise solution to the liability questions in H.R. 7020. Their work is typical of the cooperative efforts of majority and minority Members who have contributed to this legislation which addresses one of our most pressing national issues.

As recent events have indicated, the problem of abandoned hazardous waste sites is serious and widespread across our Nation. A study done for the Environmental Protection Agency (EPA) by Fred C. Hart Associates estimates there are between 1,200 and 2,000 hazardous waste sites which could pose serious health risks and environmental damage. Even in my own State of Vermont, which has a fine record of environmental protection, there are potentially serious situations which may involve abandoned hazardous waste.

Tragic instances such as Love Canal and the Valley of the Drums which threaten our public health and the environment are all too familiar. By far the most common and potentially serious damage resulting from these sites is the contamination of ground water. In examining just 128 incidents, the Congressional Research Service found over 1,300 wells had been closed, affecting the water supplies of thousands of people. These situations have radically altered the long-held view that the earth could always be utilized as a natural filter for disposed wastes.

Few Members of this House would deny the desperate need for this and other legislation. H.R. 7020 fills a crucial gap in current law by providing the EPA with authority and resources to clean up hazardous waste sites. This legislation creates an emergency fund to locate, assess, and, where necessary, clean up abandoned hazardous waste dumpsites.

The bill would also establish liability rules for payment into the fund by those persons responsible for having improperly disposed of hazardous waste. These payments would reimburse the fund for cleanup and other costs. This legislation complements the current EPA authority under the Resource Conservation Recovery Act to control the disposal of hazardous wastes being produced, and the pending comprehensive spill cleanup authority contained in H.R. 85. Prompt action by this House and the Senate is essential if we are to adopt a responsible, comprehensive approach to this critical problem.

Although I support H.R. 7020, I believe it is imperative that the amendments being proposed by Mr. Gore to the liability provisions of this bill are necessary in order to conform the bill to prevailing State common law and the purposes of this act.

State common law generally holds that abnormally hazardous activity justifies the imposition of strict liability on the parties involved in the activity. Information supplied to my office by the Justice Department indicates that most recent court decisions have identified the disposal of hazardous waste as an abnormally dangerous activity and have imposed strict liability on the persons involved.

Under the prevailing common law, defendants could be relieved of strict liability if the release of hazardous waste results from an unforeseeable occurrence outside the control of the defendant. Some cases have held the defendant liable despite the intervening actions of a third party. Other cases have released the defendant from liability where the release of hazardous waste was due to the negligent actions of a third party who was not under contract or control of the defendant. The unamended version of H.R. 7020 would not follow either line of common law cases by allowing defendants to escape liability even if the release was foreseeable and within the possible control of the defendant. We must not allow a producer of hazardous materials to escape liability in instances where that producer released the waste without taking proper precautions to safeguard public health and the environment.

The amendment being offered by Congressman Gore limits the defense of intervening actions of a third party to instances where the defendant did not have a contractual relationship with the third party, and where the defendant can prove that the defendant exercised due care and that the release resulted from the negligence of a third party. This will help insure that a producer of hazardous waste is held responsible for releases of hazardous waste which that producer could have forseen and could have acted to prevent.

Although this first amendment offered by Congressman Gore does not eliminate the defense of third party intervention, it does make the liability provisions more consistent with common law. The Justice Department and the National Association of Attorneys General have both taken positions in favor of relieving liability because of acts of God, and not because of intervening actions of a third party. Fortunately, this bill does not limit the application of rules of common law which may impose strict liability regardless of the intervening actions of third parties. Thus, individuals or the affected governments may still recover costs and damages for releases of hazardous waste under the applicable State common law.

I also wish to record my support for the second amendment being offered by Congressman Gore which would affirm the discretion of courts to apportion liability among solvent parties who are held jointly and severally liable for a release of hazardous waste. While the intent of the unamended bill may have been in conformity with the prevailing common law, the language of H.R. 7020 is in need of revision.

The prevailing common law does not require courts to apportion liability among defendants who are held jointly and severally liable where the proportion of harm attributable to a particular defendant has not been established. The imposition of mandatory apportionment could result in attempts by the parties liable for a release of hazardous waste to allocate a large portion of the liability to insolvent defendants.

As the discussion on this floor will indicate, the total costs being recovered under this act are intended to be recovered from among the solvent liable parties. The adoption of the second amendment offered by Mr. Gore would eliminate mandatory apportionment of liability and clarify the intent of this House that any apportionment of liability is to be among solvent parties. The amendment would insure that those jointly and severally responsible for releases of hazardous waste are held fully liable for the full costs of the release.

These two amendments would protect the prevailing common law rules from federally established exceptions which could allow the evasion of liability by those producers and disposers responsible for releases of hazardous waste. These amendments are necessary for a cohesive and consistent treatment of this legislation and to insure that those who cause a waste problem will be required to pay for the remedy. We should not allow the responsible parties to evade the costs of cleanup at the expense of the taxpayers.

I urge the Members of this House to support the amendments being offered by Mr. Gore, and wish to thank the cosigners of my letter urging the adoption of this compromise position, Mr. Seiberling, Mr. Anderson, and Mr. George Brown for their assistance in this matter.

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Tennessee.

Mr. GORE. The law has evolved for quite some time on this point. This is not a radical change. This is very much in keeping with the tradition of the law.

Let me just express at this point my deep thanks to my colleague from Vermont who stood up at a key moment in the development in the evolution of this legislation and these amendments and sent around a "Dear Colleague" to every Member of this House saying, "Yes, I have examined the legal theories involved here. I have taken the time to read all of the analysis associated with these amendments, and I support them. I recognize what is being done here, and I ask Members on both sides of the aisle to support this amendment." It is an example of the bipartisan support which has led to the kind of bill we have before us and the kind of amendments that have generated the support which is evident for these amendments.

I thank my colleague, the gentleman from Vermont (Mr. Jeffords) very deeply. With those kind remarks I have nothing more to say.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Tennessee (Mr. Gore).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Eckhardt: Page 29, after line 13, insert:

"(g) Studies.—Of the amounts available for purposes of this subpart, not more than $10,000,000 per fiscal year, such sums to remain available until expended, may be used by the Secretary of Health and Human Services (acting through the Public Health Service) to conduct studies of the health effects resulting from releases associated with inactive hazardous waste sites and other hazardous waste sites which are not operating pursuant to a permit under section 3005(a). Such studies may be conducted at the request of the Administrator or at the initiative of the Secretary of Health and Human Services.

□ 1810

Mr. ECKHARDT. Mr. Chairman, this amendment is grounded on 18 days of hearings. We had looked into the question of the studies that were made with respect to the Love Canal area. We found in that case the Federal Government initiated a study to use in its litigation against the Hooker Chemical Co. There had been many other studies conducted by both the Federal Government and the State of New York and other persons, some of which disagreed with each other. They come from various sources. There was no responsibility of an agency of the Federal Government primarily dealing with the question of health which would have caused some credible examination to be made.

The result is that the studies resulted in too much delay in getting some persons out of that area where danger actually existed and perhaps to greater generation of a feeling of fear among those who were ultimately relocated.

It was during our May 22 hearing that the subcommittee carefully examined H.R. 7020 to determine if it contained adequate funds for health services. Much to our chagrin and surprise at that time, it did not so contain the provision. It was contained in an earlier Florio bill but was dropped in the draft before us.

Therefore, the gentleman from Tennessee (Mr. Gore) and myself felt that this was an extremely necessary amendment. I am offering it on behalf of myself and on behalf of the gentleman from Tennessee (Mr. Gore), as a means I think of affording a very necessary definition of responsibility.

I believe that the amendment is widely supported. I am pleased to say that our effort is being supported actively by the gentleman from New York (Mr. Lent) who is the ranking minority member on my subcommittee, and by the gentleman from Connecticut (Mr. Moffett), whose committee heard this matter with us. I also understand that his ranking minority member, the gentleman from California (Mr. McCloskey) favors this matter.

We have cleared this or discussed it with both the majority and the minority.

Mr. Chairman, I yield at this time to the gentleman from New Jersey (Mr. Florio).

Mr. FLORIO. Mr. Chairman, the gentleman is correct. We have reviewed his amendment and think it is valuable and we are prepared to accept it.

Mr. ECKHARDT. Mr. Chairman, I yield to the gentleman from Illinois (Mr. Madigan).

Mr. MADIGAN. Mr. Chairman, I want to thank the gentleman for yielding and tell him that the gentleman from New York (Mr. Lent) has been in contact with me and has urged me to support the amendment of the gentleman from Texas. We intend to do that and urge the committees to do likewise.

Mr. LaFALCE. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, this is an extremely important amendment. I remember when I first visited the Love Canal site in the summer of 1977. I went into the basement of the people who lived on either side of the site on 97th and 99th Streets. I knew from what I saw and I knew from what I smelled that we had a serious problem there that was probably affecting the health of the people living in the nearby area.

I immediately called in representatives from the Environmental Protection Agency, from the State Department of Environmental Conservation, and so forth; but it took almost 1 year, it took until August 1978 for the State health commissioner to determine that there was a serious hazard to human health. It then took him an additional 8 months or so until February 1979 to conclude that the dangers extended beyond what had become known as Rings 1 and 2 on 97th and 99th Streets to a much larger area. Then it was only in May 1980 that the Environmental Protection Agency concluded that because of recent studies they had done pursuant to investigations by the Justice Department in connection with a lawsuit brought against the Hooker Chemical Co., that perhaps the area should be expanded still further.

In all of these endeavors, the one thing that we do know for sure is that the state of man's knowledge about the effects of human exposure to toxic substances is very limited. We have had very little research on the State level, very little research in the private sector, very little research on the Federal level.

The state of knowledge that exists in the National Institute of Environmental Health studies, the state of knowledge that exists in the National Institute of Occupational Health and Safety, within the entire Department of Health and Human Services, within EPA, is very limited. A study of this nature and this scope is absolutely imperative. I really think that everyone, regardless of their position on superfund, should join in support of it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Eckhardt).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer an amendment, and I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The amendment is as follows:

Amendment offered by Mr. Solomon: Page 50, after line 11, insert the following:

(c) Subtitle C of the Solid Waste Disposal Act is amended by adding the following new section at the end thereof:

"ASSISTANCE FOR STATE OR REGIONAL FACILITIES

"Sec. 3012. (a) Grant Authority.—After September 30, 1981, the Administrator is authorized to make grants to any State or interstate agency for the construction of publicly owned or State permitted facilities for the neutralization, incineration, or recycling of hazardous waste. No amount of any such grant may be used for the construction of any secure landfill or other facility for the storage of hazardous waste for periods in excess of one year.

"(b) Federal Share.—The amount of any grant for any facility under this section shall not exceed 50 percent of the cost of such facility.

"(c) Limitations, Requirements, and Conditions.—(1) Each applicant for assistance under this section shall submit to the Administrator for his approval such plans, specification, and estimates for the proposed facility as the Administrator deems necessary.

"(2) Before making any grant under this section, the Administrator shall determine that—

"(A) the proposed facility will meet the requirements of this subtitle; and

"(B) the applicant for such grant has made provisions satisfactory to the Administrator for assuring payment of the non-Federal share of the costs of such facility and for assuring proper and efficient operation.

"(d) Allotment.—Grants under this section shall be allotted annually by the Administrator among the applicants in accordance with regulations promulgated by him. Such regulation shall provide for the annual allocation of grants among States and regions in proportion to the relative amounts of hazardous waste generated in each such State and region during an appropriate prior annual period.

"(e) Use of Fund.—Notwithstanding any other provision of law, not more than 25 percent of the amount credited to the Fund established by the Hazardous Waste Containment Act of 1980 may be used for providing assistance under this section.".

Page 50, after line 15, insert:

"Sec. 3012. Assistance for State or regional facilities.".

Mr. SOLOMON. Mr. Chairman, this amendment does nothing to change any provision of this legislation for the first 2 years of its effectiveness, however at the end of 2 years, the amendment implements a procedure whereby up to 25 percent of these funds could be used to make 50 percent matching grants to State agencies, interstate agencies, or State permitted facilities—which could be local governments or private sector business. For the purpose of building and constructing high technology facilities that would neutralize, incinerate, or recycle hazardous waste, these grants to be issued are based on the priority needs to be determined by the Environmental Protection Agency.

Mr. Chairman, I commend the committee and particularly the committee chairman and ranking minority member for their outstanding work on this very difficult subject. But I am deeply concerned about H.R. 7020 as it is currently drafted. From an environmental perspective, this legislation is indeed shortsighted. It encourages the proliferation of new landfills and the expansion of existing landfills rather than the development of high technology facilities which would destroy or neutralize toxic wastes.

My amendment would earmark a small percentage of the fund for matching grants to States which are willing to construct total systems high technology facilities for the environmentally sound disposal of toxic waste.

The construction of high technology facilities to reclaim, incinerate, or neutralize hazardous waste is the surest way, in fact, the only way, to assure an environment protected from the future potential—hazards of chemical waste.

By failing to address the very important and necessary method for future control of such waste, Congress implies that the best way to deal with hazardous waste is to bury it in the ground.

My amendment would allow the Government to encourage the development of facilities which can completely destroy or neutralize hazardous waste. At present the only method available to most generators of hazardous waste is landfills. What Congress is proposing by enacting the superfund will result in a proliferation of landfills.

I would also like to emphasize that my amendment would take effect 2 years from the date of enactment of the superfund. In this way the primary purpose of the legislation—to provide the authorities with a way to respond to release of hazardous waste from inactive hazardous waste sites which endanger public health and the environment—the primary purpose of the legislation would not be adversely affected by my amendment. In fact, the amendment will strengthen the bill.

I would like to comment briefly on the statement by the chairman of the New York State Senate Committee on hazardous waste. To quote the chairman:

> The Federal Government would be wiser if it took strong steps to encourage the States to immediately begin to look at the final answer to hazardous waste, and this means the destruction or neutralization, rather than the storage, of toxic and leachable chemical waste in landfills.

As I have already pointed out, this superfund legislation will actually increase the number of landfills across the country and will expand existing landfills that may already pose a threat to this Nation's drinking water. Over 50 percent of all Americans depend on ground water for their drinking water supply, and the creation of more landfills may jeopardize this vital water supply.

Evidence is growing that a possible correlation exists between the thousands of existing landfills and the health of our people. We can no longer afford the continued use of the archaic technology of landfilling to solve this serious environmental problem.

I would also like to point out that this amendment is very similar to an amendment I offered and the House unanimously accepted to H.R. 85 last week. That amendment directs the Environmental Protection Agency to insure the development and use of environmentally sound technologies to incinerate or chemically destroy dredged PCB's. I hope the House sees fit to take the same action on this amendment.

The American people can no longer afford the luxury of waiting for the proper environmental disposal of hazardous chemical waste. Acceptance of my amendment will give a positive demonstration to the people of this country that Congress is determined to solve the total problem of hazardous waste disposal, now. Thank you.

☐ 1820

The CHAIRMAN. The time of the gentleman from New York has expired.

(At the request of Mr. LaFalce and by unanimous consent, Mr. Solomon was allowed to proceed for 1 additional minute.)

Mr. LaFALCE. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I am happy to yield to the gentleman from New York.

Mr. LaFALCE. Mr. Chairman, I want to rise in support of the concept behind the amendment offered by the gentleman from New York (Mr. Solomon). I think he does point out a serious problem that must be approached.

I am not sure the amendment is the best way of approaching it. I think there are better ways. I am not sure that this bill is the appropriate bill to attach the amendment to, but because I do support the concept I am going to support the amendment.

Mr. SOLOMON. I thank the gentleman.

Mr. FLORIO. Mr. Chairman, I rise in opposition to the amendment.

I rise in reluctant opposition, I might add, because I know the gentleman is sincere in his concern as to how we are going to dispose of these wastes. Let me assure the gentleman that first of all there is no bias toward disposing of these materials in landfills but we are very sensitive to the need to develop the technology for more appropriate disposal. In fact, we have money for research and development in the bill designed to have the new technologies for cleanup and containment developed.

Furthermore, we do have a study in the bill for the development of procedures for siting.

I would just suggest the gentleman's approach is not perhaps fully appropriate because he is taking some 25 percent of the moneys that we need, and many of us feel they are inadequate, for cleanup and containment for emergency situations, and will allocate them away from emergency response and instead toward more desirable disposal technologies. I would just say that the gentleman from Illinois (Mr. Madigan), the gentleman from Texas (Mr. Eckhardt), myself, and a number of other Members have requested from the OTA, the Office of Technology Assessment, a full and comprehensive study with regard to these new types of technologies and how we in the Congress can, if in fact we should, play a role in facilitating and providing incentives to move in that direction.

I would reluctantly oppose the gentleman's amendment because I am not convinced this is the appropriate place to deal with that very important problem.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I am happy to yield.

Mr. SOLOMON. If the gentleman could give me some assurances, then I certainly take the gentleman's word for it, that his committee will continue to concentrate on this and move in that direction, then I would withdraw the amendment at this point.

Mr. FLORIO. Without any difficulties I will give the gentleman those assurances.

Mr. SOLOMON. Mr. Chairman, I ask unanimous consent that the amendment be withdrawn.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Eckhardt: Page 13, after line 19, insert:
>
> "(f) Interim Sites.—Not later than six months after forms are made available for the collection of information under this section from inactive hazardous waste sites, the Administrator shall require, pursuant to his authority under part 1 of this subtitle, to the extent he determines necessary, the submission of the information referred to in subsection (a)(2) (C) and (D) with respect to hazardous waste sites operating under interim status pursuant to section 3005(c).

Mr. ECKHARDT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ECKHARDT. Mr. Chairman, this is an amendment that meets the problem that I have run into in my area, but it is not limited to my area. It happens that a great amount of the chemical industry is located along the Houston Ship Canal. There is a landfill with the poetic name "The Whispering Pines Landfill." I think that probably illustrates something of the problem. That beautiful name indicates its proximity to a suburban addition. It is under an interim permit. There are all kinds of things put into that landfill that the residents close by do not know about.

Of course, this is a class A landfill and may receive any type of waste except radioactive waste.

In a situation like that, we feel that EPA, under its existing authority regulations, should apply a rule which requires information to be submitted, just as in the case of inactive landfills.

In the amendment we have delayed the time for such action for 6 months after the original information required of inactive sites and we have given EPA flexibility to require less information with respect to these sites as opposed to inactive sites.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from New Jersey.

Mr. FLORIO. I thank the gentleman for yielding and would state that this House has already gone on record in the RCRA amendments, which are presently in conference, supporting the position of the gentleman. Accordingly, I have no difficulty in supporting it now.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Illinois.

Mr. MADIGAN. I thank the gentleman for yielding. Earlier in the day the gentleman from Texas (Mr. Eckhardt), the gentleman from North Carolina (Mr. Broyhill), and myself had a conversation concerning a change in this amendment that would have inserted the discretionary authority for the Administrator of EPA, and I would ask the gentleman if that is the amendment we are now considering.

Mr. ECKHARDT. The gentleman is correct.

Mr. MADIGAN. I want to thank the gentleman for that information and say to the gentleman and to the House that the minority would be supporting this amendment.

The question is on the amendment offered by the gentleman from Texas (Mr. Eckhardt).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STOCKMAN

Mr. STOCKMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Stockman: Page 5, strike out lines 5 through 18 and insert in lieu thereof the following:

"(1) 'Inactive hazardous waste site' shall have the meaning prescribed by the Administrator in accordance with subparagraph (1) (A) of this section.

"(A) Not later than 120 days after the date of enactment of this Act, the Administrator shall promulgate a final rule establishing the definition of 'hazardous waste site' and submit such final rule to the Congress for review in accordance with subparagraph (1) (B) of this section. In developing such final rule, the Administrator shall consider—

"(i) the characteristics of the sites that would be encompassed in the proposed definition;

"(ii) the quantity and characteristics of the materials located at sites that would be encompassed in the proposed definition;

"(iii) the magnitude of the threat to public health and safety posed by the sites that would be encompassed in the proposed definition; and

"(iv) the costs and benefits to the nation as a whole of alternative definitions that encompass a larger or smaller number of sites than the proposed definition.

"(B) (i) Any final rule promulgated by the Administrator under this paragraph shall be delivered to each House of the Congress on the same date and to each House of the Congress while it is in session. Such final rule shall be referred to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce, respectively.

"(ii) Any such final rule shall become effective unless, before the end of 30 calendar days of continuous session after the date such rule is submitted to Congress, either House passes a resolution stating in substance that such House does not approve such final rule."

Mr. STOCKMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. STOCKMAN. Mr. Chairman, I offer this amendment in order to follow up on the point that I had been trying to make this afternoon. That is within the structure of this bill we practically make the EPA the czar over every inactive site and some active sites anywhere in the country where any material has ever been deposited. The reason I say that, of course, is the definition of hazardous site or hazardous material under the RCRA regulations is so encompassing that it is up to 1,165 items now and it will continue to grow.

I gave some indication of what some of those items were a while ago. Everything is covered, practically, and certainly I do not think it is the intention of this House or either any of the Members who are sensitive to the problem, the Love Canal type problem that we are addressing here today, it is not the intention of this House to have the EPA turned loose to begin to investigate, monitor, dig up and clean up every one of the thousands, tens of thousands and hundreds of thousands of sites that would fit the very loose and vague and elastic definitions of the basic matter that we are seeking to remedy and regulate in this bill.

It seems to me it would be very difficult for this House or the committee to write a regulation or to write statutory language as to what the hazardous sites are that we need to have a program focused upon. But we could do something that would be almost as good and that is to require EPA to write such regulations, such definitions to circumscribe the universe of those sites that we are going to go after and then send it back up to the Hill for us to approve.

□ 1830

In that way we can make a determination as to whether or not this new superfund program and the vast powers that it delegates to EPA will be focused on the Love Canals or other similar sites, the Valley of the Drums and many that have been named here this afternoon, or whether it is going to be directed indiscriminately at every municipal landfill, every rubbish pile that EPA can find around the country. My amendment is very simple. It is just a legislative veto, a legislative approval over the regulations that EPA would write defining the universe of covered sites that would then trigger all of the activities under this bill.

It seems to me that that is a prudent and careful approach that should have been included in the committee bill and that this House ought to consider today because I would remind this House that we are back again in that basic dilemma of having to make cost-benefit decisions, having to spend literally billions of dollars from our national economy that would otherwise be available for other of our needs, both public and private, that might be available otherwise for investment or for job creation, that—unless we carefully subscribe the scope of this bill and unless we limit the inventory and the clean-up activities to the truly hazardous, threatening site—will be used for marginal situations, marginal sites that we simply cannot afford today to clean up as a country.

So by offering this amendment I am providing a mechanism whereby this whole superfund apparatus and the powers that are delegated to EPA could be tightly and finally targeted on the real subject of attention that Members of this House are properly concerned about. I would urge that the committee chairman and the members of the committee who have been here today and have been attentive throughout this entire debate consider this amendment because it is not designed to gut the bill, to dilute it or weaken it as some have suggested regarding other initiatives a while back, but this is a constructive effort designed to insure that we do not unleash vast undefined powers to an agency, to incur costs, to impose burdens that our economy simply cannot afford at the present time.

I would be happy to yield to the gentleman from New Jersey (Mr. FLORIO) if he has a response to the amendment.

Mr. FLORIO. I think it would be appropriate perhaps to oppose the amendment on my time as opposed to taking the gentleman's time.

Mr. Chairman, I rise in opposition to the amendment. I really have a difficult time determining what the real purpose of the amendment is. Where there is an Administrative Procedures Act that provides for the implementation of regulations, the only foreseeable consequence of the enactment of this amendment, as I can see it, is just delay. We know that the problems are there now. The fact of the matter is that this whole bill has been based on a responsible approach. There is a precedent. There is a good body of knowledge in terms of definitions. The agency will be the same implementing this law, and I just see no purpose for this amendment. Accordingly, I would ask for opposition to it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. STOCKMAN).

The amendment was rejected.

The CHAIRMAN. Are there other amendments to section 5? If not, the Clerk will designate the next section.

Section 6 reads as follows:

STUDY OF HAZARDOUS WASTE SITING

SEC. 6. (a) The Administrator of the Environmental Protection Agency shall, in consultation with other Federal agencies, appropriate representatives from State and local governments, and representatives of nongovernmental entities, conduct a study of the issues, alternatives, and policy considerations involved in the selection of locations for hazardous waste treatment, storage, and disposal facilities. The study shall include:

(1) an assessment of the current and projected treatment storage and disposal capacity needs and shortfalls for hazardous waste by management category on a State-by-State basis;

(2) an evaluation of the appropriateness of a regional approach to siting and designing hazardous waste management facilities and the identification of hazardous waste management regions, interstate or intrastate or both, with similar hazardous waste management needs;

(3) solicitation and analysis of proposals for the construction and operation of hazardous waste management facilities by nongovernmental entities, except that no proposal solicited under terms of this subsection shall be analyzed if it involves cost to the United States Government or fails to comply with the requirements of subtitle C of the Solid Waste Disposal Act and other applicable provisions of law;

(4) recommendations on the appropriate balance between public and private sector involvement in the siting, design, and operation of new hazardous waste management facilities;

(5) documentation of the major reasons for public opposition to new hazardous waste management facilities; and

(6) an evaluation of the various options for overcoming obstacles to siting new facilities including needed legislation, for implementing the most suitable option or options.

The Administrator shall report the results of the study to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and to the Committee on Environment and Public Works of the United States Senate not later than one year after the date of the enactment of this Act.

(b) There is authorized to be appropriated not more than $1,000,000 to carry out the study required under this section.

The CHAIRMAN. Are there amendments to section 6? If not, the Clerk will designate the next section.

Section 7 reads as follows:

STUDY OF ADEQUACY OF FUNDING

SEC. 7. (a) The President shall submit to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and to the Committee on Environment and Public Works of the United States Senate within six months after the end of each fiscal year, beginning one year after the date of the enactment of this Act, a report summarizing the receipts and disbursements during that year from the fund established pursuant to this Act. The report shall also describe the administration and functioning of the fund during the period covered and present any recommendations the President may have for improvement.

(b) Before January 1, 1984, the Administrator shall conduct a study, and submit to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and to the Committee on Environment and Public Works of the United States Senate a comprehensive report on experience with the implementation of the amendments made by this Act, including, but not limited to an analysis of:

(1) whether the requirements set forth in the amendments are effective;

(2) the extent to which the fund established under the amendments is effective in enabling government to respond to and mitigate the effects of releases and threatened releases of hazardous waste;

(3) the cost of responding to, and the potential threat to public health or the environment, posed by, hazardous waste remaining after actions taken pursuant to the amendments made by this Act;

(4) whether the fees, appropriations, and penalties established under the amendments made by this Act are sufficient and equitable; and

(5) State participation in the system of response, liability, and compensation established by such amendments.

In preparing the report under this subsection, the Administrator shall consult with appropriate Federal, State, and local agencies, affected industries and other interested parties. Based upon the analyses and consultation required by this subsection, the Administrator shall also include in the report any recommendations for legislative changes he may deem necessary for the better effectuation of the purposes of the amendments made by this Act, including not not limited to recommendations concerning authorization levels, fees, State participation, liability and liability limits, and financial responsibility provisions.

The CHAIRMAN. Are there amendments to section 7? If not, the Clerk will designate the next section.

Section 8 reads as follows:

SUNSET PROVISIONS

SEC. 8. Unless reauthorized by Congress, the authority of the Administrator to assess and collect fees, to inventory and clean up or to order any action regarding an inactive hazardous waste disposal site, or to exercise any other authority conferred in this Act shall terminate five years after the date of enactment of this Act.

The CHAIRMAN. Are there amendments to section 8? If not, the Clerk will designate the next section.

Section 9 reads as follows:

LIMITATION ON AUTHORIZATIONS

SEC. 9. Authorizations of moneys to be appropriated under this Act shall be effective on October 1, 1980. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

The CHAIRMAN. Are there amendments to section 9?

• Mr. WOLFF. Mr. Chairman, I rise to express my support for the immediate passage of H.R. 7020, the Hazardous Waste Containment Act of 1980, of which I am a cosponsor.

There is no question that enactment of such a "superfund" is a beginning in addressing the most critical environmental problem plaguing the Nation—and indeed a problem that may have been with us longer than we ever anticipated. Its passage would mark a milestone for the 96th Congress.

I would like to lend my support for the Ways and Means version of the bill. This version more realistically approaches the problem by allotting a greater sum of money to the trust fund, and better apportions the division between industry and Government as to who should "pick up the tab." I believe that the industries responsible for creation of the problem should bear the major burden for its cleanup. Witness for example, the debacle at Love Canal, whose innocent victims now bear the brunt of relocating, and the psychological questions of the effects these chemicals have had on them.

For New York, this bill takes on added priority. New York simply does not have the resources to initiate its own systematic plan for identifying and cleanup its waste sites. Where possible, the State has attempted to force owners of sites, or the responsible parties to start cleanup on their own, however the difficulties encountered in enforcing this action, and the sheer enormity of the problem in the State, has demonstrated the need for national legislation.

For my district, the results of chemical dumping in the groundwaters of Long Island has been devastating. The groundwaters are the sole source of drinking water for over 3 million residents. As was previously reported by my colleague, Mr. AMBRO, the New York Public Interest Research Group released results of an in-depth study in July reported very disturbing news. NYPIRG stated that, "as pollution spreads deeper within the island's aquifers, without sophisticated treatment, the entire underground water reserve will eventually become contaminated and unfit as a source of public water supply." NYPIRG attributed Nassau County's high cancer rate, at least in part, to the drinking of polluted water. People in Suffolk and Nassau Counties as well as in parts of Jamaica, Queens, are dependent upon this water which has become "seriously contaminated with toxic organic chemicals * * * and consequently, millions of people consume toxic contaminants in their water on a daily basis."

At recent hearings held by the Subcommittee on National Parks and Insular Affairs in Long Island, I called for congressional oversight hearings to determine how effective antipollution legislation is being implemented nationally as well as locally. Today, I reiterate this point. As important as passage of 7020 is, it is still only a drop in a very dirty bucket in the massive problem of fighting pollution.•

• Ms. OAKAR. Mr. Chairman, I rise in support of H.R. 7020, the Hazardous Waste Containment Act. This kind of legislation is long overdue. Although we have been aware of the dangers to public health from leaking chemical dumps for years, it is only now that we are finally acting on legislation to clean up these dumps and to hold their owners strictly accountable under the law.

I am especially concerned about this problem because the Nuclear Regulatory Commission and the Environmental Protection Agency have investigated alleged leaking of uranium radiation from a chemical dump in my district. Concerned families who live near this dump in Newburgh Heights, Ohio, claim that toxic wastes stored in this dump may be responsible for an outbreak of skin rash that has occurred among many of their children.

These children have been examined by doctors who express grave concern over a possible connection between the rash and exposure to the radiation and wastes in the dump. At my urging, the EPA is looking into this situation to obtain the evidence necessary to take action against those parties responsible for the health and safety hazards posed by the dump site.

Of equal concern to me is the need to deal responsibly and effectively with the hazards involved in radioactive nuclear waste. We must develop a proven method for the safe and permanent disposal of the millions of gallons of hazardous waste produced by this country's nuclear powerplants. In spite of GAO studies that show the lack of a reliable technology for the safe and permanent containment of radioactive waste, the Department of Energy has refused to assure me and other Members of Congress that such waste will not be buried underneath one of the most heavily populated areas of the country.

I am referring specifically to areas of northern Ohio, much of Michigan, and parts of Pennsylvania, West Virginia, and New York State, where underground salt caverns are being studied by the Energy Department for possible burial of nuclear waste. To address this serious situation, I have introduced legislation that would both suspend the licensing of nuclear powerplants until an in-depth study has been done by the Office of Technology Assessment and would forbid the Energy Department from building a nuclear waste disposal site underneath, within, or near heavily populated areas.

To address this serious situation, I introduced in April 1979, a bill entitled the Nuclear Reactor Moratorium and Waste Disposal Prohibition Act, H.R. 3581. This legislation would suspend the licensing by the Nuclear Regulatory Commission of nuclear fission powerplants, until such time that the Office of Technology Assessment completes a comprehensive study on the operational safety of such plants.

Also, my bill would prohibit the Department of Energy from locating or building a nuclear waste disposal site underneath, within, or near any densely populated areas. Legislation such as mine would send a clear message to the Energy Department that the American people will not tolerate the burial of highly radioactive and potentially deadly nuclear garbage in caverns that lie underneath their homes and backyards.

We urgently need legislation to clean up active or inactive chemical waste dumps. We need as well legislation to prohibit the location of chemical dump or nuclear waste disposal sites anywhere near populated areas. It is time we have learned from the suffering of those families of the Love Canal community and other areas and enact strict laws to protect the American people against the clear and present danger of chemical and nuclear waste sites.●

● Mr. MARKEY. Mr. Chairman, I rise in strong support of the Ways and Means Committee substitute to increase the funding level of superfund to $1.2 billion.

In the Commerce Committee, I fought for doubling the $600 million figure. I also testified before the Ways and Means Committee in support of increased funding. I bring these strong feelings of support to the floor today.

Last Friday, we heard 2 hours of debate on Superfund. We heard a number of horror stories to back up the need for this legislation.

I told my colleagues of the devastating situation that my constituents in the city of Woburn, Mass. and the neighboring community of Reading are facing:

Twice the expected leukemia rate in an area populated by only 1,500 people;

Two wells needing to be closed as a result of contaminated drinking water;

A stench too powerful to be tolerated; and

A legacy of arsenic pits, chromium, and hills of rotting animal hides left from negligent chemical plants and tanneries.

The scenario that I gave was only one isolated situation. And we heard a number of others. We also heard over and over again the warning that we do not know how many undiscovered waste sites exist all across our land. We cannot take this lightly.

We seem to have arrived at the concensus that the hazardous ramifications due to irresponsible waste dumping is indeed the critical environmental issue of this decade.

But, Mr. Chairman, if this House does not agree to the Ways and Means substitute, then we will have failed to come to grips with the magnitude of this problem.

The $600 million figure in the Commerce version of superfund is barely enough to begin to address the hazardous waste sites that we already know exist—$600 million is not the original figure in the Commerce bill—that figure was $1.3 billion. As I told my colleagues on the Commerce Committee, lowering the funding level to $600 million was a political compromise which had insufficient data to support it. It was a political compromise to get the bill out of committee.

Last year, Fred C. Hart, Associates conducted a preliminary assessment of the costs of cleaning up toxic waste sites. That study estimated that the number of hazardous waste sites across the country is between 32,000 and 50,000. The study also estimated that the number of sites with significant environmental and health problems may range between 32,000 and 50,000.

More information from an EPA Task Force lends credence to the Hart projections. The task force has identified more than 4,700 sites over the past 8 months. It is adding approximately 200 sites per month to its list.

Mr. Chairman, using this information from a nonbiased source, the full scope of the problem begins to come into focus.

At my request, the EPA sent me a memorandum which states that the EPA could cleanup an additional 180 to 200 sites with additional funding, the memorandum states that the cost of remedial action will average around $3.5 million per site.

I urge my colleagues to take a good, hard look at these figures and ask yourselves if $600 million begins to come down to addressing the Woburns, the Love Canals, and the Valleys of the Drums that we know are devastating the environment and contaminating our groundwater, and also those toxic waste sites yet to be discovered.

I say that this funding is not adequate and the political compromise which was made to arrive at the $600 million figure is unacceptable. I refuse to allow the politics of expediency to weaken this bill.

My constituents in Woburn deserve better.●

● Mr. SANTINI. Mr. Chairman, I rise in support of the substitute offered by Mr. STOCKMAN. In my judgment, this amendment is a workable alternative that will deal effectively with the legitimate concerns of the public with respect to hazardous waste sites for which no responsible parties can be located.

I strongly oppose H.R. 7020 as reported from the Interstate and Foreign Commerce Committee. As we do all too often, Congress has identified a problem and then created a mechanism out of proportion to the problem we want to solve. There is no need to act so precipitously in creating another regulatory behemoth. The Stockman substitute offers a reasonable solution to resolve a specific problem. This alternative gives control of cleanup directly to the people who live in the affected States—not to a distant bureaucracy in Washington, D.C.

During this election year many of us will hear countless speeches about an overreaching Federal Government. Some of us will give such speeches. Yet with this legislation the House would be creating a new device which leaves tremendous discretion to the Administrator of EPA. Before we grant such authority I believe it is incumbent on the proponents of the legislation to assume the burden of proof to show not only that an environmental problem exists, but that H.R. 7020 is the best mechanism by which to solve it.

That burden of proof has not been met by the authors of the bill. H.R. 7020 suffers from serious infirmities which extend far beyond the question of environmental protection. At the top of the list is the precedent being set for placing "fees" on feedstocks which will go into a fund which may not be spent for cleanup of wastes caused by the person making the payment. It should be emphasized that this bill does not regulate the current disposal practices of waste generators. It is for the cleanup of problems resulting from past practices. Rather than going after the "midnight dumpers" who ought to be prosecuted, the proponents of the legislation would place a fee on companies now operating who may, in fact, have complied with all existing rules regarding waste disposal.

Are we next going to see a fee placed on current industries for the purpose of cleaning the waters which were polluted by others in the past? With a little time, I am sure some Members could come up with other solutions.

The use of fees is justified by the supporters of the bill on two grounds. First, it is alleged that the companies being assessed are probably responsible in some way for the problem because many have been in business for a long time. I do not find much credibility in that argument because little proof is offered to suggest that is, indeed, the case.

The argument loses much of its validity because of the method by which the assessment is made. Rather than place a fee on the facility generating the waste, the legislation places it on the feedstock. By doing so, the cost is being placed on inorganic elements which are not harmful in their natural state. As Mr. MOORE indicated during general debate, nickel is not regarded as particularly hazardous. Is it appropriate, then, to put the fee on a material we all carry in our pockets in our coins? Should this additional financial burden be placed on an industry which must compete with subsidized producers overseas? Our Nation is already dependent on imports for many of the most critically strategic minerals. Putting an additional fee on the elements will only exacerbate our mineral dependence on foreign nations.

The cost of this fee will be borne either by the companies involved or by the American consumer. Neither is in a position to absorb additional financial burdens.

The proponents of H.R. 7020 also argue that industry fees are necessary because of the difficulty of persuading appropriations committees to support large governmental expenditures. It seems to me that if the problem is as great as described there should be no difficulty in obtaining adequate Federal funding. Clearly, if this legislation is of such high priority the appropriations should be available. I am concerned that as fiscal constraints become tighter, superfund will serve as a precedent for funding new governmental programs out of the pockets of industry, and ultimately, the consumer. This provides an interesting method of balancing the Federal budget; lower Federal spending by placing the costs on the private sector. It will be all too easy to establish large new programs by passing the costs on to someone else. Then we can proudly point to our "balanced" budget. The taxpayer would not have the burdens but the consumer will.

That is certainly a prescription for inflation. With OMB out of the picture, Federal agencies need not feel constrained from using high-cost methods of reclaiming waste sites under this bill, or who knows what else under the future programs this legislation will spawn. The incentive to use the least cost alternatives will be gone if industry is to foot the bill rather than the Federal Government.

I intend to vote for the Stockman substitute which has none of the infirmities I have discussed.●

● Mr. MAGUIRE. Mr. Chairman, we in the Congress are painfully aware that the problems of toxic waste and chemical waste storage and disposal are the new environmental crises of the 1980's. I say painfully because we have all witnessed the heartbreak and pain suffered by the residents of Love Canal, N.Y.; we all breathed a sigh of relief when the explosions at the Chemical Control Co. of Elizabeth, N.J., and an industrial park in Perth Amboy, N.J., did not turn into the nightmares that we all fear; and we were all stunned by the aerial photographs revealing the careless disregard that became the Valley of the Drums.

As in the past when the Congress has been forced by external events to come to grips with serious environmental crises, we have enacted several pieces of legislation that will force us to think before we leap. As the catalog of chemicals produced in this country expands by 1,000 entrants each year, the regulatory requirements imposed by the Toxic Substances Control Act, and the Resource Conservation and Recovery Act will hopefully decrease the number of Love Canals and Elizabeth, N.J.s in the future. I say decrease and not eliminate because the report on Health Effects of Toxic Pollution issued by the Surgeon General's Office concludes that we shall continue to respond to a series of environmental emergencies in the 1980's. I believe that if we are to face those emergencies in an appropriate and timely manner, we must begin today by demonstrating our support for a hazardous waste cleanup fund that foreshadows our seriousness and resolve.

I urge my colleagues to support the Ways and Means Committee amendment to H.R. 7020, the Hazardous Waste Containment Act. I say this not because I believe that the amendment makes the bill a true superfund, but because I believe that the Ways and Means amendment addresses the enormous problem facing us in a more equitable and aggressive manner.

The Ways and Means amendment places the major burden of the fund not on the public treasury, but on the chemical companies who, knowingly or not, benefited from the unsound and careless disposal practices of the past. Indeed, it might be argued that the 25 percent public contribution called for by the Ways and Means amendment is too great a burden for the public to bear. It is, however, a burden that we must bear for our negligence and lack of foresight, and will serve as a constant reminder that if we miss the opportunity to do it right from the beginning, we must pay the excessive costs of cleaning up our mistake.

The Ways and Means amendment doubles the size of the fund from $600 million to $1.2 billion. Although the magnitude of the increase appears dramatic, we know as we debate this issue today that $1.2 billion will only make the first few dents in the cleanup task that lies before us. The legislation directs EPA to establish a list of 100 "top priority sites" from among the estimated 30,000 to 50,000 inactive dump sites, 2,000 of which present a serious threat to the public health. I feel true sympathy for the Assistant Administrator at EPA who will have to implement decisions on the top 100 sites as he is hounded by 435 Representatives and 100 Senators each with his or her own priority site. It is clear that 535 requests cannot be squeezed into 100 slots. I hope that 5 years from now we reauthorize the fund at a greater amount to clear up those sites that were left behind in the sweepstakes for top priority designation.

It is also my hope that the chemical industry will act independently to clean up its past mistakes. I am sure that many of my colleagues have noticed the advertisements, placed neatly in the op-ed sections of many major newspapers, informing the public of the sound job that the chemical industry was doing to insure that its wastes were disposed of in an environmentally sound manner. I would urge our friends in the industry to turn their creative talents witnessed by these ads to the problem of cleaning up those sites that were established without the dedication and public mindedness that we are asked to believe characterize today's efforts.

Mr. Chairman, a vote for the Ways and Means amendment represents a recognition not only of the dimension of the problem that faces us today, but also of the continued commitment that we must make to cleaning up all of the 30,000–50,000 inactive and uncontrolled hazardous waste sites that poison our Earth and our water supplies and pose the threat of disease and death to countless of our citizens now and for generations to come.

Thank you.●

● Mr. LUNDINE. Mr. Chairman, I rise in support of H.R. 7020, legislation to authorize establishment of a "superfund," jointly financed by the Federal Government and private industry, to address the serious and growing problem of the cleanup of inactive and abandoned hazardous waste sites around the country. In addition, I urge adoption of the Ways and Means Committee recommendation of $1.2 billion for the fund and the accompanying allocation of financial responsibilities among industry and Government.

The Environmental Protection Agency estimates that there may be up to 50,000 abandoned hazardous waste sites around the country that will require an average per site cleanup cost of about $3 million. One only has to examine the horrors of a Love Canal, as we have in New York State, to appreciate the scope and depth of our national problem.

At the same time, I am deeply concerned that this legislation is not permitted to go far enough to establish a comprehensive and future oriented national program. The Environmental Protection Agency will shortly finalize standards promulgated in accordance with provisions of the Resource Conservation and Recovery Act of 1976. In addition to our action here today, we have an obligation to take the necessary steps to insure the successful implementation of these standards. This may include provisions for technical and financial assistance to industries and local governments to develop alternate waste disposal sites and innovative handling technologies.

It has taken EPA nearly 4 years to promulgate regulations to implement improved safety standards for disposal of our hazardous wastes. The neglect that has plagued the hazardous waste disposal business over this century cannot be reversed overnight. Early indications are that implementation of these regulations may prove excessively costly and cumbersome to our industries and local governments. Rather than attempt to cope with increased costs and responsibilities of continuing to operate county landfills, many local governments will simply close their operations and many businesses find ways to dispose of these wastes illegally.

For example, in my congressional district, Chautauqua County, N.Y., has been providing environmentally acceptable hazardous waste disposal services to industries in the area for many years. After an initial examination of the proposed EPA regulations which will begin to take effect on November 19, the county has indicated they can no longer afford the liability connected to upgrading and maintaining hazardous waste disposal facilities.

As a result, Chautauqua County businesses in search of an alternate disposal capability will be forced to truck their wastes to an industrial waste processing facility two counties away at an estimated increase in costs of $70 per ton. And, this estimate does not include the cost of transporting these wastes for disposal. Needless to say, such an increased economic burden could endanger the survival of marginal industries.

It is absolutely essential that the Federal Government provide a workable plan not only for the inactive hazardous waste disposal sites, but that we also address the critical long-term problem of developing and siting a patchwork of strategically located, convenient, and environmentally acceptable disposal facilities for future use. If such an effort is not made, the result may be chaos at the local level as existing disposal sites are forced to close and businesses are strained for methods and capacity to dispose of their wastes.

I urge your support of H.R. 7020, but also urge your acknowledgment that additional steps are necessary to insure the transition to an acceptable long-term hazardous waste disposal system for this county. Congressional consideration of this matter cannot stop with enactment of this legislation, but must be given additional and continued analysis as the EPA moves to implement their proposed regulations.●

● Mr. GRASSLEY. Mr. Chairman, I want to thank you and all the members of the House committees involved in the legislation for your sustained effort in getting this measure to the floor of the House. With so many interests and issues to address, I think all of us owe the members of the committees a great debt in finding a middle ground.

My interest in this problem began with a problem which arose in my district many years ago. I have addressed the Members of this body on the need for this type of legislation in June of 1979. I have had the pleasure of testifying before Congressman FLORIO's subcommittee on my early efforts to solve this problem. Furthermore, I feel honored to have contributed something to the solution of this dangerous situation which will probably face most of us at some time in the near future.

With thousands of inactive hazardous waste dumpsites across the Nation, legislation is needed that provides an emergency response to this imminent danger. I fully support the House proposal and applaud the members of the committees for thoughtfully addressing these difficult issues. All the people of Third District of Iowa support your swift efforts on their behalf.●

● Mr. GOLDWATER. Mr. Chairman, I rise in support of H.R. 7020, the Hazardous Waste Containment Act of 1980. This bill would establish a sizable "superfund" which would pay for the cleanup costs of inactive or abandoned dumpsites which leak hazardous wastes and which would also pay for the cleanup costs of those future dumpsites that may pose a substantial danger to our Nation's environment and the public's health. Furthermore, H.R. 7020 authorizes $35 million for a State inventory of their inactive hazardous waste sites so that the Environmental Protection Agency will be able to assess which disposal sites require prioritized attention.

The problem of improperly stored hazardous wastes has been highly publicized. Our industrial society has long been producing significant amounts of hazardous wastes which are not always safely stored. Although Love Canal is the most publicized incident of hazardous waste storage practices gone haywire, it is certainly not the first. Questionable disposal procedures by careless transporters, inadequately prepared storage facilities, and a general lack of specific laws which pinpoint generators and transporter responsibility has left our society victimized by a quagmire of conflicting and confusing legal puzzles. H.R. 7020 is needed to assure the public that instead of more studies, we are willing to act quickly and decisively to heal this country's dumpsite sores and to respond to future hazardous emergencies. I do not mean to imply that our industry carelessly disregards safe storage procedures—that is simply not the case. The truth is that industry goes to great lengths to insure the safe transportation, disposal, and storage of hazardous wastes. New, improved procedures for the handling of chemicals and chemical wastes have been adopted by industry.

Mr. Chairman, although many of my colleagues may be just starting to familiarize themselves with the hazardous waste problem, I have long been concerned about this issue. As a matter of fact, I am sponsoring a measure which would provide for the safe and permanent disposal of nuclear wastes. Several years in its development, H.R. 7418 is coming to fruition. If we had had the foresight years ago to develop a similar disposal and storage plan for chemical wastes, we might not have had to debate this legislation today.

In my own congressional district, I have held extensive, well-publicized hearings on a hazardous waste landfill in Calabasas, Calif. The single most important lesson I learned from that hearing was the need on the part of Congress, industry, Government, and the public to immediately address the hazardous waste problem, and propose workable solutions. I believe H.R. 7020 offers just such a practicle answer.

The environmental protection agency estimates that there are hundreds of disposal sites which may pose health and environmental problems. Disconcertingly, that may just be the tip of the hazardous waste "iceberg." Like the "unsinkable" ship of over 70 years ago, our society may continue to believe in its own infallible ability until it is too late to prevent the disaster. I urge my colleagues to support H.R. 7020.●

● Mr. FISHER. Mr. Chairman, today the House completed action on two landmark proposals which create two "Superfunds": One fund to pay for the cleanup of oil and chemical spills in navigable waters; the other will cover the cleanup of abandoned hazardous waste sites.

The first bill, H.R. 85, is noteworthy particularly because it is entirely industry financed and provides funds for the Government to take action on future oil and chemical spills before they cause extensive destruction and public harm. Furthermore, the bill permits local governments, business entities, and private citizens to file claims against the fund for certain specified reasons. These include property damage, damage to natural resources, and loss of earnings due to the foregoing.

While H.R. 85 helps protect against future catastrophes, H.R. 7020 addresses problems caused by past mistakes which have left behind hazardous waste sites. The improperly disposed wastes are now seeping through the ground and are contaminating the land and water around them. According to the Environmental Protection Agency (EPA), there are over 1,000 abandoned sites across the country urgently in need of attention. The fund created by H.R. 7020 is now of sufficient size, after the House correctly approved an amendment to increase the fund, to pay for cleaning up the 250 sites characterized by the EPA as the most dangerous. Unlike its companion bill, both industry and Government would contribute to the fund in H.R. 7020. Industry contributes 75 percent with the remaining 25 percent coming from Government appropriations. Although some have argued that this 75 percent–25 percent split imposes an undue burden on industry, it is important to keep in mind that industry can take a business tax deduction for its contributions to the fund. Consequently, this contribution ratio actually results in industry bearing only 42 percent of the cost. Furthermore, the Government can try to recover its share of the costs from those identifiable parties responsible for the improper disposal.

Recent revelations about such tragedies as Love Canal in New York highlight the need for this legislation. At Love Canal, highly toxic wastes, buried in the 1950's, have now seeped through the ground into the basements of homes and businesses posing a real threat to the health of people living there. We simply cannot ignore the potential dangers from these abandoned sites. We must take steps now to make these areas of the country safe for the people who live and work there.

I have enthusiastically supported both bills and intend to urge my colleagues in the Senate to pass this clearly needed legislation before the 96th Congress adjourns.●

WAYS AND MEANS COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the Ways and Means Committee Amendment.

The Clerk read as follows:

Ways and Means Committee amendment:

TITLE II—HAZARDOUS WASTE REVENUE ACT OF 1980

SEC. 201. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE—This title may be cited as the "Hazardous Waste Revenue Act of 1980".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

Subtitle A—Imposition of Taxes

SEC. 211. IMPOSITION OF TAXES.

(a) GENERAL RULE.—Subtitle D (relating to miscellaneous excise taxes) is amended by inserting after chapter 37 the following new chapter:

"CHAPTER 38—ENVIRONMENTAL TAXES

"Subchapter A. Tax on petroleum.
"Subchapter B. Tax on certain chemicals.

"Subchapter A—Tax on Petroleum

"Sec. 4611. Imposition of tax.
"Sec. 4612. Definitions and special rules.

"SEC. 4611. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax of 0.6 cents a barrel on—

"(1) crude oil received at a United States refinery, and

"(2) petroleum products entered into the United States for consumption, use, or warehousing.

"(b) TAX ON CERTAIN USES AND EXPORTATION.—

"(1) IN GENERAL.—If—

"(A) any domestic crude oil is used in or exported from the United States, and

"(B) before such use or exportation, no tax was imposed on such crude oil under subsection (a),

then a tax of 0.6 cents a barrel is hereby imposed on such crude oil.

"(2) EXCEPTION FOR USE ON PREMISES WHERE PRODUCED.—Paragraph (1) shall not apply to any use of crude oil for extracting oil or natural gas on the premises where such crude oil was produced.

"(c) PERSONS LIABLE FOR TAX.—

"(1) CRUDE OIL RECEIVED AT REFINERY.—The tax imposed by subsection (a)(1) shall be paid by the operator of the United States refinery.

"(2) IMPORTED PETROLEUM PRODUCTS.—The

tax imposed by subsection (a)(2) shall be paid by the person entering the product for consumption, use, or warehousing.

"(3) TAX ON CERTAIN USES OR EXPORTS.—The tax imposed by subsection (b) shall be paid by the person using or exporting the crude oil, as the case may be.

"(d) TERMINATION.—The taxes imposed by this section shall not apply after September 30, 1985.

"SEC. 4612. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) CRUDE OIL.—The term 'crude oil' includes crude oil condensates and natural gasoline.

"(2) DOMESTIC CRUDE OIL.—The term 'domestic crude oil' means any crude oil produced from a well located in the United States.

"(3) PETROLEUM PRODUCT.—The term 'petroleum product' includes crude oil.

"(4) UNITED STATES.—

"(A) IN GENERAL.—The term 'United States' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(B) UNITED STATES INCLUDES COTINENTAL SHELF AREAS.—The principles of section 638 shall apply for purposes of the term 'United States'.

"(C) UNITED STATES INCLUDES FOREIGN TRADE ZONES.—The term 'United States' includes any foreign trade zone of the United States.

"(5) UNITED STATES REFINERY.—The term 'United States refinery' means any facility in the United States at which crude oil is refined.

"(6) REFINERIES WHICH PRODUCE NATURAL GASOLINE.—In the case of any United States refinery which produces natural gasoline from natural gas, the gasoline so produced shall be treated as received at such refinery at the time so produced.

"(7) PREMISES.—The term 'premises' has the same meaning as when used for purposes of determining gross income from the property under section 613.

"(8) BARREL.—The term 'barrel' means 42 United States gallons.

"(9) FRACTIONAL PART OF BARREL.—In the case of a fraction of a barrel, the tax imposed by section 4611 shall be the same fraction of the amount of such tax imposed on a whole barrel.

"(b) ONLY ONE TAX IMPOSED WITH RESPECT TO ANY PRODUCT.—No tax shall be imposed by section 4611 with respect to any petroleum product if the person who would be liable for such tax establishes that a prior tax imposed by such section has been imposed with respect to such product.

"Subchapter B—Tax on Certain Chemicals

"Sec. 4661. Imposition of tax.
"Sec. 4662. Definitions and special rules.

"SEC. 4661. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on any taxable chemical sold by the manufacturer, producer, or importer thereof.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) shall be—

"(1) $2.54 a ton in the case of specified petrochemical feedstocks, or

"(2) $2.33 a ton in the case of specified inorganic substances.

"(c) TERMINATION.—The taxes imposed by this section shall not apply after September 30, 1985.

"SEC. 4662. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) TAXABLE CHEMICAL.—Except as provided in subsection (b), the term 'taxable chemical' means any substance—

"(A) which is a specified petrochemical feedstock or a specified inorganic substance, and

"(B) which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing.

"(2) SPECIFIED PETROCHEMICAL FEEDSTOCK.—The term 'specified petrochemical feedstock' means any of the following substances from whatever source derived: Ethylene, propylene, butylene, butadiene, butane, benzene, toluene, xylene, napthalene, and methane.

"(3) SPECIFIED INORGANIC SUBSTANCE.—The term 'specified inorganic substance' means any of the following substances:

"(A) arsenic and the equivalent weight of arsenic trioxide;

"(B) cadmium;

"(C) chromium and the equivalent weight of chromium in chromite, sodium dichromate, and potassium dichromate;

"(D) lead and the equivalent weight of lead in lead oxide;

"(E) mercury;

"(F) the equivalent weight of barium in barium sulfide;

"(G) antimony and the equivalent weight of antimony in antimony trioxide and antimony sulfide;

"(H) cobalt;

"(I) nickel;

"(J) the equivalent weight of tin in stannic chloride and stannous chloride;

"(K) chlorine;

"(L) the equivalent weight of fluorine in hydrofluoric acid;

"(M) bromine;

"(N) the equivalent weight of hydrogen in phosphoric acid, sulfuric acid, hydrochloric acid, or nitric acid; and

"(O) elemental phosphorus.

"(4) UNITED STATES.—The term 'United States' has the meaning given such term by section 4612(a)(4).

"(5) IMPORTER.—The term 'importer' means the person entering the taxable chemical for consumption, use, or warehousing.

"(6) TON.—The term 'ton' means 2,000 pounds. In the case of any taxable chemical which is a gas, the term 'ton' means the amount of such gas in cubic feet which is the equivalent of 2,000 pounds on a molecular weight basis.

"(7) FRACTIONAL PART OF TON.—In the case of a fraction of a ton, the tax imposed by section 4661 shall be the same fraction of the amount of such tax imposed on a whole ton.

"(b) EXCEPTION FOR USE IN PRODUCTION OF FERTILIZER.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'taxable chemical' shall not include any substance—

"(A) used in a qualified use by the manufacturer, producer, or importer,

"(B) sold for use by the purchaser in a qualified use, or

"(C) sold for resale by the purchaser to a second purchaser for use by such second purchaser in a qualified use.

"(2) QUALIFIED USE.—For purposes of this subsection, the term 'qualified use' means any use in the manufacture or production of a fertilizer.

"(3) REGISTRATION.—The provisions of section 4222 (relating to registration) may be extended to, and made applicable with respect to, the exemption provided by paragraph (1) to the extent provided by regulations prescribed by the Secretary.

"(c) USE BY MANUFACTURER, ETC., CONSIDERED SALE.—If any person manufactures, produces, or imports a taxable chemical and uses such chemical, then he shall be liable for tax under section 4661 in the same manner as if such chemical were sold by him.

"(d) REFUND OR CREDIT FOR CERTAIN USES.—Under regulations prescribed by the Secretary, if—

"(1) a tax under section 4661 was paid with respect to any taxable chemical, and

"(2) such chemical was used by any person in the manufacture or production of—

"(A) any other substance the sale of which by such person would be taxable under such section, or

"(B) a fertilizer,

then an amount equal to the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by such section. In any case to which paragraph (2)(A) applies, the amount of any such credit or refund shall not exceed the amount of tax imposed by such section on the other substance so manufactured or produced."

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle D is amended by inserting after the item relating to chapter 37 the following new item:

"CHAPTER 38. ENVIRONMENT TAXES"

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1980.

Subtitle B—Establishment of Trust Fund

SEC. 221. ESTABLISHMENT OF HAZARDOUS WASTE RESPONSE TRUST FUND

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Hazardous Waste Response Trust Fund" (hereinafter in this subtitle referred to as the "Trust Fund"), consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section.

(b) TRANSFERS TO TRUST FUND.—

(1) AMOUNTS EQUIVALENT TO CERTAIN TAXES, PENALTIES, ETC.—There are hereby appropriated to the Trust Fund amounts determined by the Secretary of the Treasury (hereinafter in this subtitle referred to as the "Secretary") to be equivalent to—

(A) the amounts received in the Treasury under section 4611 or 4661 of the Internal Revenue Code of 1954,

(B) the amounts recovered by the United States under subpart F of part 2 of subtitle C of the Solid Waste Disposal Act,

(C) any amount reimbursed to the Trust Fund as provided in subsection (a)(3) of section 3041 of the Solid Waste Disposal Act, and

(D) any penalties assessed under part 2 of subtitle C of the Solid Waste Disposal Act.

(2) AUTHORIZATION FOR APPROPRIATIONS.—There is authorized to be appropriated to the Trust Fund for the fiscal year—

(A) 1981, $50,000,000.
(B) 1982, $75,000,000.
(C) 1983, $75,000,000.
(D) 1984, $100,000,000, and
(E) 1985, an amount equal to so much of the aggregate amount authorized to be appropriated under subparagraphs (A), (B), (C), and (D) as has not been appropriated before October 1, 1984.

(c) EXPENDITURES FROM TRUST FUND.—

(1) IN GENERAL.—Amounts in the Trust Fund shall be available, to the extent provided in appropriations Acts, only for purposes of making expenditures for emergency response, removal, containment, cleanup, and other action taken under subpart C of part 2 of subtitle C of the Solid Waste Disposal Act (including reimbursement of excess costs pursuant to section 3041(c) of such Act) as in effect on the date of the enactment of this Act. No amount in the Trust Fund may be used to pay any part of the costs referred to in the preceding sentence which are incurred with respect to an inactive hazardous waste site which is owned or operated by any agency of the United States.

(2) LIMITATION ON AMOUNT EXPENDED OUT OF TRUST FUND FOR ANY FISCAL YEAR.—The amount expended out of the Trust Fund for any fiscal year shall not exceed 10 times the

amount appropriated to the Trust Fund for such fiscal year under the authority contained in subsection (b)(2).

(d) Termination.—No amount may be paid out of the Trust Fund after September 30, 1985.

Sec. 222. Administrative Provisions.

(a) Method of Transfer.—The amounts appropriated by section 221(b)(1) shall be transferred at least monthly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the amounts referred to in such section. Proper adjustments shall be made in the amount subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(b) Management of Trust Fund.—

(1) Report.—The Secretary shall be the trustee of the Trust Fund, and shall report to the Congress for each fiscal year ending on or after September 30, 1981, on the financial condition and the results of the operations of the Trust Fund during such fiscal year and on its expected condition and operations during the next 5 fiscal years. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(2) Investment.—It shall be the duty of the Secretary to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable for the needs of the Trust Fund and bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities, adjusted to the nearest one-eighth of 1 percent. The income on such investments shall be credited to and form a part of the Trust Fund.

(c) No Authority To Borrow.—Nothing in any provision of law shall be construed to authorize the Trust Fund to borrow any money from the general fund of the Treasury or from any other fund established in the Treasury.

Subtitle C—Coordination With Other Provisions of This Act

Sec. 231. Coordination With Other Provisions of This Act.

(a) General Rule.—Nothing in this Act (or in any amendment made by this Act) other than this title shall authorize—

(1) the establishment of any fund,

(2) the payment out of the Trust Fund created by this title, or

(3) the levy or collection of any fee.

(b) Reference to Fund.—To the extent not inconsistent with this title, any reference to a fund in this Act (or in any amendment made by this Act) other than this title shall be deemed to be a reference to the Hazardous Waste Response Trust Fund established by this title.

Subtitle D—Study

Sec. 241. Study.

(a) General Rule.—The Secretary of the Treasury (in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Commerce, and the United States Trade Representative) shall conduct a study on—

(1) the feasibility and desirability of—

(A) a schedule of taxes—

(i) which is based on the disposal or generation of hazardous waste, and

(ii) which would reflect the degree of hazard and risk of harm to the public health and the environment posed by the various hazardous wastes,

(B) taxes imposed on substances not taxed by the amendments made by this title such as coal and biomass, and

(C) taxes which are designed to promote the recycling, incineration, and neutralization of hazardous waste,

(2) an exemption from the taxes imposed by section 4661 of the Internal Revenue Code of 1954 for feedstocks when used as a fuel, and

(3) the impact of the taxes imposed by sections 4611 and 4661 of the Internal Revenue Code of 1954 on the Nation's balance of trade with other countries.

(b) Report.—Not later than January 1, 1985, the Secretary of the Treasury shall submit to the Congress a report on the results of the study conducted under subsection (a), together with such recommendations as he deems feasible.

Mr. ULLMAN (during the reading). Mr. Chairman, I ask unanimous consent to dispense with further reading of the Ways and Means Committee amendment and that it be printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

AMENDMENT OFFERED BY MR. ULLMAN TO THE WAYS AND MEANS COMMITTEE AMENDMENT

Mr. ULLMAN. Mr. Chairman, I offer an amendment to the Ways and Means Committee amendment.

The Clerk read as follows:

Amendment offered by Mr. Ullman to the Ways and Means Committee amendment: Insert after section 4662(a)(2) of the Internal Revenue Code of 1954, as proposed by the Committee amendment, the following:

"(B) Special rule for certain substances.—Under regulations prescribed by the Secretary, any substance listed in subparagraph (A) for which a principal use is use as a fuel shall be treated as a specified petrochemical feedstock only if it is used otherwise than as a fuel (and, for purposes of section 4661(a), the person so using it shall be treated as the manufacturer thereof).

Mr. ULLMAN. Mr. Chairman, the committee amendment requires the Treasury Department to issue regulations under which any petrochemical feedstock, a principal use of which is use as a fuel, will be subject to the chemical tax only when it is used other than as a fuel. For example, the committee understands that more than four-fifths of all domestic consumption of methane is for fuel purposes. Therefore, this feedstock would be a taxable petrochemical feedstock only when used for nonfuel purposes.

I urge adoption of the committee amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. Ullman) to the Ways and Means Committee amendment.

The amendment to the Ways and Means Committee amendment was agreed to.

The CHAIRMAN. The question is on the Ways and Means Committee amendment, as amended.

The Ways and Means Committee amendment, as amended, was agreed to.

Mr. FLORIO. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the Chair recognizes the gentleman from New Jersey (Mr. Florio).

There was no objection.

Mr. FLORIO. Mr. Chairman, I have an inquiry of the Chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. Ullman). I would like to ask the gentleman a question concerning the Ways and Means Committee's actions on H.R. 7020, the Hazardous Waste Containment Act of 1980.

Mr. ULLMAN. Mr. Chairman, if the gentleman will yield, I will be happy to respond to any questions the distinguished gentleman from New Jersey might have. Let me first state, however, my earnest hope that he and I will be able to work together to move this very important piece of legislation—for which the gentleman from New Jersey deserves so much credit—through the Congress before adjournment.

Mr. FLORIO. I thank the gentleman for his support. Mr. Chairman, the Committee on Ways and Means would amend H.R. 7020 to impose specific excise taxes on various petrochemical feedstocks and inorganic substances in lieu of the fee system contained in the bill reported by the Committee on Interstate and Foreign Commerce. I have no objection to that portion of the amendment. However, the Ways and Means Committee also would place the revenue so raised in a "hazardous waste response trust fund." I am concerned with the scope of that provision in the amendment. Would the gentleman from Oregon explain why a trust fund is appropriate in a case such as this?

Mr. ULLMAN. It has been the custom of the Committee on Ways and Means, when we are asked to raise revenue from a narrow segment of the economy for specific purposes related to the activities of that segment of the economy, to put the revenues so raised into a trust fund. The purpose of these trust funds is to give some assurance to the particular industry that the monies taken from them will be used for the intended purposes. In the absence of a trust fund the revenues would go into the general fund and might never be spent for the purposes originally intended. In return for the guarantee offered by the trust fund mechanism, we have found industries are less opposed to the new taxes. If the purposes of a trust fund are too narrowly drawn, however, the authority of the committee having jurisdiction over the basic subject matter addressed by the trust fund is unnecessarily restricted.

On the other hand, if the purposes for which a trust fund may be used are too broadly defined, it is likely that demands upon the fund will exceed the moneys available in it. In this case the pressure upon the Ways and Means Committee and the Congress to increase taxes or invade general revenues would be very great. Thus, in creating trust funds, the Ways and Means Committee has worked very hard to strike a balance between three competing considerations.

First, the very real need to assure taxpayers that revenues collected from them will be used for the purposes intended by the Congress and that they will not receive a surprise tax increase in later years.

Second, the need to leave the maximum possible latitude and flexibility to our colleagues in the Congress who sit on committees of substantive jurisdiction and who, therefore, have the real expertise with respect to the details of the programs for which the trust funds are created.

And finally, the need to assure all our colleagues that when we promise to fund a program out of specific tax receipts, we will not be forced in later years to finance that program out of general fund revenues.

Mr. FLORIO. Would the gentleman further explain how the trust fund would function?

Mr. ULLMAN. The fund would be available for all the purposes set out in the bill reported by the Committee on Interstate and Foreign Commerce. The Ways and Means Committee has no difficulty with the purposes recommended by the Committee on Interstate and Foreign Commerce and has recommended a tax sufficient to fund those purposes.

Mr. FLORIO. The balance that has been struck appears reasonable to me. The jurisdiction of the Commerce Committee and Ways and Means Committee would be consonant with the jurisdiction that exists with respect to other trust funds. Does the distinguished gentleman from Oregon concur in my understanding?

Mr. ULLMAN. The gentleman is correct. I might also say to the gentleman that the arrangement proposed with regard to the hazardous waste response program is totally consistent with other trust fund arrangements which have worked smoothly over the years. Such funds include the airport and airway trust fund, the black lung disability trust fund, the Inland Waterways trust fund, and the highway trust fund. In the past, when the authorizing committees have sought to amend the programs supported by these trust funds, we have worked successfully with those committees. I am sure that the Ways and Means Committee and the Interstate and Foreign Commerce Committee will have no difficulty in working together to find a solution to the serious national problems posed by hazardous waste sites.

Mr. FLORIO. I thank the gentleman for his helpful explanations and am appreciative of his contributions to this legislation.

☐ 1840

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Texas is recognized for 5 minutes.

There was no objection.

Mr. ECKHARDT. Mr. Chairman, we have heard that the provisions of this bill may do severe economic damage to the competitive position of the American chemical industry. I believe that such statements do a great disservice to the industry. The chemical and allied products industry had shipments valued at $152 billion in 1979, making it the fourth largest U.S. manufacturing industry. It is exceeded only by the food processing, transportation equipment, and nonelectrical machinery industries.

Moreover, chemicals continue to be one of the few bright spots in our balance of trade. In 1979, chemical exports hit a record $17.3 billion, while imports were $7.5 billion, a trade surplus of $9.8 billion, another record for the industry. The chemical industry is sound and does not need to be subsidized. In sharp contrast to motor vehicle sales to the auto industry, where foreign passenger car sales total some 20 percent of all cars sold in the United States, in 1979 imported chemicals and allied products totaled less than 5 percent of the value of U.S. shipments. It is high time that we internalized all the costs of chemicals—both production and disposal—so that they can play their appropriate role in the American marketplace.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7020) to amend the Solid Waste Disposal Act to provide authorities to respond to releases of hazardous waste from inactive hazardous waste sites which endanger public health and the environment, to establish a hazardous waste response fund to be funded by a system of fees, to establish prohibitions and requirements concerning inactive hazardous waste sites, to provide for liability of persons responsible for releases of hazardous waste at such sites, and for other purposes, pursuant to House Resolution 773, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MARTIN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 351, nays 23, not voting 58, as follows:

[Roll No. 579]

YEAS—351

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carney
Carr
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
de la Garza
Deckard
Dellums
Derrick
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Harkin
Harris
Harsha
Heckler
Hightower
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jeffords
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McDade
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Minish
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nolan
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond

Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stewart
Stokes
Studds
Swift
Tauke
Tauzin
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—23

Archer
Ashbrook
Collins, Tex.
Crane, Daniel
Crane, Philip
Dannemeyer
Gramm
Hance
Hansen
Jacobs
Jeffries
Jones, Okla.
Kelly
Leath, Tex.
Loeffler
McDonald
Paul
Rousselot
Rudd
Stenholm
Stockman
Stump
Synar

NOT VOTING—58

Alexander
Anderson, Ill.
Andrews, N.C.
Ashley
Badham
Beard, Tenn.
Bethune
Bowen
Brown, Ohio
Butler
Carter
Cavanaugh
Davis, Mich.
Davis, S.C.
Derwinski
Dodd
Edwards, Calif.
Evans, Ga.
Evans, Ind.
Ford, Tenn.
Gingrich
Grassley
Hawkins
Hefner
Heftel
Hillis
Ichord
Jenkins
Jenrette
Leach, La.
McCormack
McEwen
McKay
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moore
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Musto
Myers, Pa.
Nedzi
Nowak
Pepper
Rhodes
Santini
Seiberling
Steed
Stratton
Symms
Taylor
Vento
Wilson, Bob
Wilson, C. H.
Wydler
Wylie
Young, Alaska

☐ 1850

The Clerk announced the following pairs:

Mr. Jenrette with Mr. Rhodes.

Mr. Santini with Mr. Carter.

Mr. Vento with Mr. Bob Wilson.

Mr. Evans of Georgia with Mr. Wylie.

Mr. Hawkins with Mr. McEwen.

Mr. Musto with Mr. Symms.

Mr. Murphy of New York with Mr. Beard of Tennessee.

Mr. Mitchell of Maryland with Mr. Brown of Ohio.

Mr. Mineta with Mr. Butler.

Mr. Alexander with Mr. Wydler.

Mr. Ashley with Mr. Derwinski.

Mr. Hefner with Mr. Badham.

Mr. Dodd with Mr. Taylor.

Mr. Davis of South Carolina with Mr. Bethune.

Mr. Bowen with Mr. Davis of Michigan.

Mr. McCormack with Mr. Gingrich.

Mr. Pepper with Mr. Young of Alaska.

Mr. Stratton with Mr. Grassley.

Mr. Moorhead of Pennsylvania with Mr. Mitchell of New York.

Mr. Murphy of Illinois with Mr. Hillis.

Mr. Nedzi with Mr. Moore.

Mr. Nowak with Mr. Ichord.

Mr. Steed with Mr. Charles H. Wilson of California.

Mr. Jenkins with Mr. Leach of Louisiana.

Mr. Edwards of California with Mr. Andrews of North Carolina.

Mr. Cavanaugh with Mr. Ford of Tennessee.

Mr. Evans of Indiana with Mr. Heftel.

Mr. McKay with Mr. Myers of Pennsylvania.

Mr. Seiberling with Mr. Anderson of Illinois.

Mr. LOEFFLER changed his vote from "yea" to "nay."

Mr. FLIPPO changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF ADDITIONAL CONFEREES ON S. 2080, PUBLIC BUILDINGS ACT OF 1980

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to appoint two additional conferees on the bill S. 2080, to establish public buildings policies for the Federal Government, to establish the Public Buildings Service in the General Services Administration, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California? The Chair hears none, and, without objection, appoints the following additional conferees: Mr. EDGAR and Mr. LIVINGSTON.

There was no objection.

AUTHORIZING CLERK TO MAKE TECHNICAL CORRECTIONS, IN ENGROSSMENT OF H.R. 7020, HAZARDOUS WASTE CONTAINMENT ACT OF 1980

Mr. FLORIO. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 7020, the Clerk be authorized to make necessary technical corrections, including section numbers, punctuation, and cross-references.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

☐ 1900

GENERAL LEAVE

Mr. FLORIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON S. 1159, MOTOR VEHICLE SAFETY AND COST SAVINGS AUTHORIZATION ACT OF 1980

Mr. RATCHFORD. Mr. Speaker, I ask unanimous consent that the managers may have until 9 p.m. tonight to file a conference report on the Senate bill (S. 1159) to authorize appropriations for the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

CONFERENCE REPORT (H. REPT. NO. 96-1371)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1159) to authorize appropriations for the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Motor Vehicle Safety and Cost Savings Authorization Act of 1980".

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 2. (a) Section 121 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1409) is amended (1) by striking out "and" after "1977,"; and (2) by inserting after "1978" the following: ", $48,500,000 for the fiscal year ending September 30, 1980, $53,350,000 for the fiscal year ending September 30, 1981, and $61,300,000 for the fiscal year ending September 30, 1982".

(b) Section 111 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1921) is amended (1) by striking out "and" after "1977;"; and (2) by inserting after "1978" the following: "; $400,000 for the fiscal year ending September 30, 1980; $425,000 for the fiscal year ending September 30, 1981; and $450,000 for the fiscal year ending September 30, 1982".

(c) Section 209 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1949) is amended (1) by striking out "and" after "1977;"; and (2) by inserting after "1978" the following: "; $2,400,000 for the fiscal year ending September 30, 1980; $1,500,000 for the fiscal year ending September 30, 1981; and $1,650,000 for the fiscal year ending September 30, 1982".

(d) The first sentence of section 321 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1964) is amended (1) by striking out "and" after "1977;"; and (2) by inserting after "1978" the following: "; $300,000 for the fiscal year ending September 30, 1980; and $300,000 for the fiscal year ending September 30, 1981".

(e) Section 417 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1990g) is amended (1) by striking out "and" after "1977;"; and (2) by inserting after "1978" the following: "; $300,000 for the fiscal year ending September 30, 1980; $300,000 for the fiscal year ending September 30, 1981; and $300,000 for the fiscal year ending September 30, 1982".

BUMPER STANDARDS

SEC. 3. Section 102 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1912) is amended by adding at the end thereof the following new subsection:

"(f)(1) Notwithstanding any other provision of this Act, and except as provided in paragraph (2) of this subsection, any impact test velocity specified in the bumper standard established in part 581 of title 49, Code of Federal Regulations, as in effect on the effective date of this subsection, shall be 2.5 miles per hour.

"(2) The Secretary shall not have any authority to establish any impact test velocity exceeding 2.5 miles per hour before September 1, 1982.

"(3) In order to provide consumers with the most cost-effective bumper system, the

Secretary shall, not later than 18 months after the close of model year 1982, promulgate a bumper standard in accordance with the requirements of subsection (b) (1). The provisions of subsection (d) shall be applicable to the promulgation of such standard.".

ANNUAL REPORT ON BUMPER STANDARDS

SEC. 4. (a) Section 112 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1922) is amended to read as follows:

"REPORTS

"SEC. 112. As a separate part of the comprehensive report submitted under section 120(a) of the National Traffic and Motor Vehicle Safety Act of 1966, the Secretary shall submit to the President for transmittal to the Congress an annual report regarding the progress made during the reporting period on carrying out the purposes of this title. Such report shall include a statement of the cost savings which have resulted from the administration of this title, and such recomendations for further legislative or other action as the Secretary considers to be appropriate.".

(b) Section 120(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1408(a)) is amended by adding at the end thereof the following new sentence: "In addition, such report shall include, as a separate part, the annual report required under section 112 of the Motor Vehicle Information and Cost Savings Act.".

ODOMETER EXEMPTIONS

SEC. 5. Section 408 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1988) is amended by adding at the end thereof the following new subsection:

"(d) In prescribing rules under this section, the Secretary may exempt those classes of motor vehicles for which the Secretary finds that odometer readings have no meaningful relation to value or performance. In making such an exemption, the Secretary shall publish, together with the rule containing the exemption, the findings of fact which support the exemption and a detailed analysis of the reasons for such exemption.".

PUBLIC NOTICE OF TIRE DEFECTS; TIRE REGISTRATION

SEC. 6. (a) Section 153(c) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1413(c)) is amended—

(1) in paragraph (2) thereof, by striking out "or tire,", and by striking out "or tire";

(2) by redesignating paragraph (4) and paragraph (5) thereof as paragraph (5) and paragraph (6), respectively, and by inserting after paragraph (3) thereof the following new paragraph:

"(4) in the case of a tire (A) by first class mail to the most recent purchaser known to the manufacturer; and (B) by public notice in such manner as the Secretary may order after consultation with the manufacturer, if the Secretary determines that such public notice is necessary in the interest of motor vehicle safety, after considering (i) the magnitude of the risk to motor vehicle safety caused by the defect or failure to comply; and (ii) the cost of such public notice as compared to the additional number of owners who could be notified as a result of such public notice;"; and

(3) in the last sentence thereof—

(A) by striking out "(or of a motor vehicle on which such tire was installed as original equipment)";

(B) by inserting "by first class mail" after "notification" the first place it appears therein; and

(C) by striking out "(1) or (2)" and inserting in lieu thereof "(4) (A)".

(b) Section 158(b) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1418(b)) is amended by inserting before the last sentence thereof the following new sentence: "The Secretary shall not establish any rule which requires a dealer or distributor to complete or compile such records or information, but the Secretary shall require any such dealer or distributor to furnish the first purchaser of a tire with a form (containing the tire identification number of such tire) which such purchaser may complete and return directly to the manufacturer of the tire which he has purchased.".

NATIONAL MAXIMUM SPEED LIMIT

SEC. 7. Section 154(e) of title 23, United States Code, is amended by striking out "all vehicles or".

OCCUPANT RESTRAINT SYSTEMS

SEC. 8. Part A of title I of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391 et seq.) is amended by adding at the end thereof the following new section:

"OCCUPANT RESTRAINT SYSTEMS

"SEC. 126. (a) (1) In order to provide consumers with a choice of occupant restraint systems, the Secretary, not later than 60 days after the effective date of this section, shall amend Standard 208 so as to bring such standard into conformity with the requirements of subsection (b). Such amendment shall take effect not later than 75 days after the effective date of this section.

"(2) The amendment to Standard 208 which is required in paragraph (1) shall not be subject to the provisions of section 9 of the Motor Vehicle Safety and Cost Savings Authorization Act of 1980.

"(b) The amendment to Standard 208 required in subsection (a) (1) shall provide that—

"(1) each manufacturer which manufactures a combined total of more than 1,600,000 passenger cars in the United States and in any foreign nation in the model year beginning September 1, 1978, and which sells a total of more than 200,000 passenger cars in the United States in such model year, shall—

"(A) (i) for the model year beginning September 1, 1982, install a passive occupant restraint system which complies with the requirements of Standard 208 in each passenger car which has a wheel base which does not exceed 100 inches; and

"(ii) for the model year beginning September 1, 1983, and for each model year thereafter, install a passive occupant restraint system which complies with the requirements of Standard 208 in each passenger car;

"(B) tool for the production of automatic safety airbags for not less than 1 of the car lines manufactured by such manufacturer for not less than 3 model years which occur between September 1, 1981, and August 31, 1985; and

"(C) offer for sale automatic safety airbags on not less than 1 car line produced by such manufacturer, for not less than 3 model years which occur between September 1, 1981, and August 31, 1985;

"(2) beginning with the model year beginning September 1, 1982, each passive seatbelt assembly installed in a passenger car shall be detachable by the user in a manner which does not impair the subsequent reattachment and performance of such assembly; and

"(3) each manufacturer (other than any manufacturer specified in paragraph (1)) shall be exempt from any provision in Standard 208 which requires the installation of any passive occupant restraint system in any passenger car model which has a wheel base exceeding 100 inches but not exceeding 114 inches, if such passenger car model will cease to be produced on or before December 31, 1982.

"(c) The schedule of compliance set forth in Standard 208 shall be amended by the Secretary to the extent necessary to conform with the schedule of compliance established in subsection (b) (1) (A).

"(d) (1) (A) Any manufacturer which violates the provisions of subsection (b) (1) (B) shall be subject to a civil penalty in an amount which does not exceed the maximum civil penalty which may be imposed under section 109(a) upon any person who has committed a series of related violations.

"(B) Any manufacturer which violates the provisions of subsection (b) (1) (C) shall be subject to a civil penalty of not to exceed $1,000 for each such violation. Any such violation shall constitute a separate violation with respect to each failure or refusal to comply with the provisions of subsection (b) (1) (C), except that the maximum civil penalty shall not exceed $800,000 for any related series of violations.

"(C) The provisions of section 109(b) shall apply in the case of any civil penalty which may be imposed under this paragraph.

"(2) In any case in which—

"(A) the maximum civil penalty is assessed against a manufacturer under paragraph (1) for a particular violation of the requirements specified in subsection (b) (1) (B); and

"(B) such manufacturer also violates the requirements specified in subsection (b) (1) (C);

such manufacturer shall not be subject to any penalty under paragraph (1) for violating such requirements specified in subsection (b) (1) (C), if such violation and the violation of the requirements specified in subsection (b) (1) (B) are related violations.

"(3) For purposes of section 109(a), section 111, and part B of this title, any violation of subsection (b) (1) (B) or subsection (b) (1) (C) shall not be considered to be a violation of section 108 or of any Federal motor vehicle safety standard.

"(e) The Secretary shall submit to the Congress, not later than July 1, 1981, a plan designed to carry out an evaluation of the effectiveness of the requirements established in this section. Not later than September 1, 1983, and annually thereafter, the Secretary shall submit (as part of the comprehensive report submitted by the Secretary under section 120(a)) an evaluation pursuant to such plan to the Congress.

"(f) The Secretary, in carrying out the responsibilities of the Secretary under section 201(c) of the Motor Vehicle Information and Cost Savings Act, shall develop and disseminate information to inform the public regarding the performance of automatic safety airbags and passive safety belts.

"(g) For purposes of this section:

"(1) The term 'car line' means any name which a manufacturer applies to a family of motor vehicles, within a make, which have a degree of commonality in construction, such as body, chassis, or cab type.

"(2) The term 'make' means any name which a manufacturer applies to a group of motor vehicles.

"(3) The term 'Standard 208' means Federal Motor Vehicle Safety Standard 208 (49 Code of Federal Regulations 571.208). Any reference to such standard in this section shall be construed to include any amendment to such standard which may be made by the Secretary after the effective date of this section.".

CONGRESSIONAL VETO OF RULES

SEC. 9. (a) (1) The Secretary of Transportation, after promulgating a rule with funds authorized to be appropriated under the amendments made by this Act, or relating to the use of funds appropriated under such amendments, shall submit such rule to the Congress for review in accordance with this section. Such rule shall be delivered to each House of the Congress on the same date and to each House of the Congress while it is in session. Such rule shall be referred to the Committee on Commerce, Science, and

Transportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House, respectively.

(2) Any such rule shall become effective in accordance with its terms unless, before the end of the period of 90 calendar days of continuous session after the date such rule is submitted to the Congress, both Houses of the Congress adopt a concurrent resolution disapproving such rule.

(b)(1) The provisions of this subsection are enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of concurrent resolutions which are subject to this section, and such provisions supersede other rules only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(2)(A) Any concurrent resolution disapproving a rule of the Secretary shall, upon introduction or receipt from the other House of the Congress, be referred immediately by the presiding officer of such House to the Committee on Commerce, Science, and Transportation of the Senate or to the Committee on Interstate and Foreign Commerce of the House, as the case may be.

(B) If a committee to which a concurrent resolution is referred does not report such concurrent resolution before the end of the period of 75 calendar days of continuous session of the Congress after the referral of such resolution to the Committee on Commerce, Science, and Transportation of the Senate or to the Committee on Interstate and Foreign Commerce of the House, as the case may be, under subsection (a)(1), it shall be in order to move to discharge any such committee from further consideration of such concurrent resolution.

(C)(i) A motion to discharge in the Senate may be made only by a Member favoring the concurrent resolution (except that it may not be made after the committee has reported a concurrent resolution with respect to the same rule of the Secretary), shall be privileged, and debate on such motion shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the motion. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other concurrent resolution with respect to the same rule of the Secretary.

(ii) A motion to discharge in the House may be made by presentation in writing to the Clerk (except that it may not be made after the committee has reported a concurrent resolution of disapproval with respect to the same rule). The motion may be called up only if the motion has been signed by one-fifth of the Members of the House. The motion is highly privileged, and debate on such motion shall be limited to not more than 1 hour, the time to be divided equally between those favoring and those opposing the motion. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(3)(A) When a committee has reported, or has been discharged from further consideration of, a concurrent resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion shall be privileged in the Senate and highly privileged in the House of Representatives, and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the concurrent resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such concurrent resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the concurrent resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such concurrent resolution was agreed to or disagreed to.

(4) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a concurrent resolution shall be decided without debate.

(5) Notwithstanding any other provision of this subsection, if a House has approved a concurrent resolution with respect to any rule of the Secretary, then it shall not be in order to consider in such House any other concurrent resolution with respect to the same rule.

(c) Congressional inaction on, or rejection of, a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the rule involved, and shall not be construed to create any presumption of validity with respect to such rule.

(d)(1) Any interested party may institute such actions in the appropriate district court of the United States, including actions for declaratory judgment, as may be appropriate to construe the constitutionality of any provision of this section. The district court immediately shall certify all questions of the constitutionality of this section to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

(2) Notwithstanding any other provision of law, any decision on a matter certified under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought not later than 20 days after the decision of the court of appeals.

(3) It shall be the duty of the court of appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under paragraph (1).

(e)(1) For purposes of this section—

(A) continuity of session is broken only by an adjournment sine die; and

(B) days on which either House is not in session because of an adjournment of more than 5 days to a day certain are excluded in the computation of the periods specified in subsection (a)(2) and subsection (b).

(2) If an adjournment sine die of the Congress occurs after the Secretary has submitted a rule under subsection (a)(1), but such adjournment occurs—

(A) before the end of the period specified in subsection (a)(2); and

(B) before any action necessary to disapprove the rule is completed under subsection (a)(2);

then the Secretary shall be required to resubmit the rule involved at the beginning of the next regular session of the Congress. The period specified in subsection (a)(2) shall begin on the date of such resubmission.

(f) For purposes of this section:

(1) The term "concurrent resolution" means a concurrent resolution the matter after the resolving clause of which is as follows: "That the Congress disapproves the rule promulgated by the Secretary of Transportation dealing with the matter of --------, which rule was submitted to the Congress on --------". (The blank spaces shall be filled appropriately.)

(2) The term "rule" means any final rule promulgated by the Secretary with funds authorized to be appropriated under the amendments made by this Act, or relating to the use of funds appropriated under such amendments. Such term does not include the amendment to Federal Motor Vehicle Standard 208 (49 Code of Federal Regulations 571.208) which is required in section 126(a)(1) of the National Traffic and Motor Vehicle Safety Act of 1966, as added by section 8.

(3) The term "Secretary" means the Secretary of Transportation.

(g) The provisions of this section shall take effect on the date of the enactment of this Act and shall cease to have any force or effect after September 30, 1982.

And the House agree to the same.

That the House recede from its amendment to the title of the bill.

HARLEY O. STAGGERS,
JAMES H. SCHEUER,
RICHARDSON PREYER,
RICHARD OTTINGER,
ELLIOTT H. LEVITAS
(solely for the consideration of title III of the House amendment),
MATTHEW J. RINALDO,
Managers on the Part of the House.

HOWARD W. CANNON,
WARREN G. MAGNUSON,
WENDELL H. FORD,
HARRISON H. SCHMITT,
J. WARNER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1159) to authorize appropriations for the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE

Senate bill.—The Senate bill contained no provision.

House amendment.—The House amendment provided that the bill may be cited as the "National Traffic and Motor Vehicle Information and Cost Savings Authorization Act".

Conference substitute.—The conference substitute provides that the bill may be cited as the "Motor Vehicle Safety and Cost Savings Authorization Act of 1980".

AUTHORIZATIONS OF APPRORIATIONS

1. Motor vehicle safety standards

Senate bill.—The Senate bill amended

section 121 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1409) to authorize the following appropriations for the purposes of carrying out the Act: $60,000,000 for fiscal year 1980, $70,000,000 for fiscal year 1981, and $70,000,000 for fiscal year 1982.

House amendment.—The House amendment authorized to be appropriated for the purposes of carrying out the National Traffic and Motor Vehicle Safety Act of 1966, $48,500,000 for fiscal year 1980.

Conference substitute.—The conference substitute authorizes to be appropriated for the purposes of carrying out the National Traffic and Motor Vehicle Safety Act of 1966, $48,500,000 for fiscal year 1980, $53,350,000 for fiscal year 1981, and $61,300,000 for fiscal year 1982.

2. Bumper Standards

Senate bill.—The Senate bill amended section 111 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1921) to authorize the following appropriations for the purposes of carrying out title I of the Act: $400,000 for fiscal year 1980, $450,000 for fiscal year 1981, and $450,000 for fiscal year 1982.

House amendment.—The House amendment authorized to be appropriated, for the purposes of carrying out title I, $400,000 for fiscal year 1980.

Conference substitute.—The conference substitute authorizes to be appropriated, for the purposes of carrying out title I, $400,000 for fiscal year 1980, $425,000 for fiscal year 1981, and $450,000 for fiscal year 1982.

3. Automobile consumer information study

Senate bill.—The Senate bill amended section 209 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1949) to authorize the following appropriations for the purposes of carrying out title II: $2,400,000 for fiscal year 1980, $3,000,000 for fiscal year 1981, and $3,000,000 for fiscal year 1982.

House amendment.—The House amendment authorized to be appropriated, for the purposes of carrying out title II, $2,400,000 for fiscal year 1980.

Conference substitute.—The conference substitute authorizes to be appropriated, for the purposes of carrying out title II, $2,400,000 for fiscal year 1980, $1,500,000 for fiscal year 1981, and $1,650,000 for fiscal year 1982. The reduction in authorization levels for fiscal years 1981 and 1982 is intended to narrow the gap between the authorization and appropriation levels. Although the reduction should not be interpreted as an expression of dissatisfaction with the purpose of title II, the conferees are dissatisfied with the agency's progress in implementing title II.

4. Diagnostic inspection demonstration projects

Senate bill.—The Senate bill contained no provision.

House amendment.—The House amendment amended section 321 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1964) to authorize appropriations of $1.4 million for fiscal year 1980 for the purposes of carrying out title III of the Act.

Conference substitute.—The conference substitute authorizes to be appropriated, for the purposes of carrying out title III, $300,000 for fiscal year 1980 and $300,000 for fiscal year 1981. The authorizations for fiscal years 1980 and 1981 are sufficient to permit NHTSA to complete several reports on the future course of the diagnostic inspection/maintenance program. The conferees do not believe that additional funds should be authorized for this program until the Congress has had the opportunity to review these awaited reports.

5. Odometer requirements

Senate bill.— The Senate bill amended section 417 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1990(g)) to authorize the following appropriations for the purposes of carrying out title IV: $500,000 for fiscal year 1980, $500,000 for fiscal year 1981, and $500,000 for fiscal year 1982.

House amendment.—The House amendment authorized to be appropriated, for the purposes of carrying out title IV, $300,000 for fiscal year 1980.

Conference substitute.—The conference substitute authorizes to be appropriated, for the purposes of carrying out title IV $300,000 for fiscal year 1980, $300,000 for fiscal year 1981, and $300,000 for fiscal year 1982.

BUMPERS

Senate bill.—The Senate bill reduced the current 5 mph impact test velocity specified in the Federal bumper standard (49 Code of Federal Regulations; part 581) to 2.5 mph. The Secretary of Transporation was not authorized to modify this test procedure until September 1, 1984.

House amendment.—The House amendment contained no provision.

Conference substitute.—The Conference substitute adopted the Senate provision lowering the bumper test velocity to 2.5 mph, but modifying the period of this limitation on the Secretary's authority to apply only for model years 1981 and 1982 (through September 1, 1982). The lower test velocity will allow for a two-year comparison of the 2.5 mph bumpers with 5 mph bumpers, on the basis of "real world" experience. The Secretary will then be in a position to promulgate a bumper standard within 18 months in accordance with the criteria of section 102(b) (1) of the Motor Vehicle Information and Cost Savings Act.

The conferees intend that, in applying the new 2.5 mph impact test velocity, the Secretary will utilize the proportional approach to corner testing in the manner used under the current bumper standard, i.e., 1.5 mph corner impacts for a 2.5 mph frontal impact.

ANNUAL REPORT ON BUMPER STANDARDS

Senate bill.— The Senate bill amended section 112 of the Motor Vehicle Information and Cost Savings Act. This amendment would transfer the annual report required under section 112 of the Act in regard to bumper standards to be made a part of the comprehensive report submitted under section 120(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1408 (a)).

House amendment.—The House amendment contained no provision.

Conference substitute.—The conference substitute adopts the Senate provision.

ODOMETER EXEMPTIONS

Senate bill.—The Senate bill amended section 408 of the Motor Vehicle Information and Cost Savings Act to authorize the Secretary of Transportation to exempt certain classes of motor vehicles from the odometer requirements. The Secretary, under this provision, will be authorized to exempt those classes of motor vehicles for which odometer readings have no meaningful relation to value or performance.

House amendment.—The House amendment contained no provision.

Conference substitute.—The conference substitute adopts the Senate provision.

TIRE REGISTRATION; PUBLIC NOTICE OF TIRE DEFECTS

Senate bill.—The Senate bill amended section 158(b) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1418 (b)) to exempt tire dealers and distributors from certain reporting requirements. Dealers and distributors would be required to furnish the first purchaser of a tire with a registration form including the tire identification number, which would be recorded by the dealer or distributor at the time of purchase and presented to the purchaser in a manner suitable for mailing and addressed to the tire manufacturer or his designee. The purchaser would then be encouraged to record his name and address on the form and mail it to the manufacturer or his designee.

House amendment.—The House amendment contained no provision.

Conference substitute.—The conference substitute adopts the Senate provision with an amendment which would amend section 153(c) of the National Traffic and Motor Vehicle Safety Act of 1966 dealing with the recall of defective tires. The conference substitute authorizes the Secretary of Transportation to require public notice of a recall in addition to the present authority for notice by mail. The Secretary may order public notice if such notice is determined to be in the interest of motor vehicle safety. Further, the Secretary may order public notice only after consultation with the manufacturer and after consideration of several factors. These criteria include the magnitude of the risk to motor vehicle safety caused by the defect or failure to comply as well as the cost of such public notice as compared to the additional number of owners who could be notified. The public notice provisions would apply to tires manufactured before the effective date but determined to be defective or noncomplying after the effective date of this Act. The conferees, in adopting this provision, intend that the Secretary will use care and restraint before mandating comprehensive advertising campaigns of questionable value or benefit where NHTSA announcements and news coverage have widely communicated a tire recall.

The public notice provisions described above are identical to those found in H.R. 3949, Ninety-sixth Congress, as passed the House.

NATIONAL MAXIMUM SPEED LIMIT

Senate bill.—The Senate bill amended section 154(e) of title 23, United States Code, to make it clear that in determining a State's compliance with the 55 mph speed limit, a sampling technique rather than monitoring all vehicles would meet the requirements of the law.

House amendment.—The House amendment contained no provision.

Conference substitute.—The conference substitute adopts the Senate provision.

OCCUPANT RESTRAINT SYSTEMS

Senate bill.—The Senate bill contained no provision.

House amendment.—The House amendment provided that none of the funds authorized to be appropriated under the bill may be used to enforce or otherwise administer the passive restraint standard unless such standard also permits the purchaser to select an active belt system. The House amendment defined "purchaser" to include a retail dealer purchasing new passenger cars for resale.

Conference substitute.—The conferees adopted a provision directing the Secretary to amend Standard 208 as it applies to automobile manufacturers which meet certain production and sales standards. The provision requires the Secretary to bring Standard 208 into conformity with the requirements of the conference substitute not later than 75 days after the effective date of the conference substitute. Further, it is the intent of the conferees that Standard 208 and any amendments thereto be consistent with the conference substitute.

Under the conference substitute the Secretary must amend the standard to require that affected automobile manufacturers install passive occupant restraints complying with Standard 208 in all passenger cars having wheel bases not greater than 100 inches in model year 1983 and in all passenger cars manufactured in model year 1984 and thereafter. Affected manufacturers are those that produced more than 1,600,000 passenger worldwide and sold more than 200,000 passenger cars in the United States in model year 1979. Specifically, these manufacturers are: General Motors, Ford Motor Company, Toyota Motor Company, Nissan Motors, and Volkswagen (including Volkswagen of America). The purpose of this provision of the conference substitute is to accelerate the date by which the passive occupant restraint provisions of Standard 208 apply to small cars.

The conferees do not intend that this provision of the conference substitute effect any changes in the performance requirements of Standard 208, except as provided for in subparagraph (B) and subparagraph (C) of section 126(b)(1) of the National Traffic and Motor Vehicle Safety Act of 1966. In crashes between small and large cars, eight people were killed in a small car for every one who died in a large car. With the anticipated increase in smaller, more fuel efficient cars on the Nation's highways, it is in the interest of public safety that passive occupant restraint protection should be required in these cars as soon as possible.

The legislative schedule set out in the conference substitute would not be applicable to certain import and domestic automobile manufacturers with low sales. These manufacturers would still be required to meet the timetable set out in the current Standard 208. The conference substitute, however, does exempt certain smaller manufacturers from having to install automatic occupant restraint systems in mid-sized passenger cars that will not be produced after December 31, 1982. Under the timetable set out in the current Standard 208, installation of these systems is required in all mid-sized passenger cars beginning September 1, 1982. This provision of the conference substitute was adopted in view of the phasing-out by some smaller manufacturers of certain mid-sized car models early in the 1983 model year. Those mid-sized cars would have to comply with the same requirements applicable to automobiles with wheel bases of 100 inches or less produced by that manufacturer in model year 1983.

The conference substitute also requires the Secretary to amend Standard 208 so that those larger volume domestic and foreign import automobile manufacturers must tool and offer for sale as an option, or, at the manufacturer's discretion, as standard equipment, automatic safety airbags on at least one car line in any three model years between September 1, 1981, and August 31, 1985. The objective of this provision is to make available to consumers a variety of passive occupant protection systems from a variety of manufacturers. The conferees intend that "tool for production" or "tooling up" means that a manufacturer must demonstrate that he has the capability for assembling cars with airbags on an assembly line in the customary fashion of the manufacturer. The conferees intend that the term "car line" shall mean a name which a manufacturer applies to a family of vehicles, within a make, which have a degree of commonality in construction, such as body, chassis, or cab type. Three examples which demonstrate what is meant by "car line" would be General Motors' Cadillac Sedan de Ville and Coupe de Ville, General Motors' Chevrolet Citation, and General Motors' Chevrolet Impala and Caprice.

The conferees do not intend that the manufacturer, when making the determination as to which car line will include automatic safety airbags, will unduly narrow the car line based solely on such features as level of decor, roof line, or the number of doors, seats, or windows, so as to defeat the policy objectives of the section. The conferees recognize that the number of seating positions available for front occupants may depend on the type of passive restraint system chosen by the purchaser. Further, it is the intent of the conferees that automatic safety airbags be made generally available and not limited to esoteric cars which are offered to a limited market for the purpose of frustrating the legislative intent. (The definition of "car line" contained in the conference substitute is substantially similar to the definition of "line" contained in section 571.115 of title 49, Code of Federal Regulations, as in effect on the effective date of this legislation, and is based upon present industry practice.)

The heart of the provision is the requirement that each affected manufacturer tool a car line for airbags and offer for sale vehicles in that car line. It is clearly the expectation of the conferees that consumers have a meaningful choice in the market between vehicles equipped with automatic safety belts and with airbags. It is the hope of the conferees that the public will be informed of such choices and that automatic safety belts and airbags be made available at reasonable cost. The conferees intend that the "offer for sale" requirement be a bona fide offer of airbag-equipped cars to the public. In order for an "offer for sale" to be a bona fide effort on the part of a manufacturer, its airbag-equipped cars must be reasonably available within the normal and customary time limit for delivery from such manufacturer of similar automobiles without airbag equipment. However, the conferees do not intend that the "offer for sale" requirement grant NHTSA any additional authority over the marketing or manufacturing practices of automobile manufacturers or dealers.

The conferees note that several automobile manufacturers have publicly assured the conferees of their intent to produce airbag automobiles.

The conferees do not intend adoption of this provision to indicate to the Department of Transportation or to the public a preference for automatic safety airbags over the automatic safety belt. Both systems provide the occupant of an automobile with a significant degree of protection. Therefore, the Department of Transportation shall not unduly favor one system of protection over another and, in fact, should inform the public of the performance of both systems.

The conference substitute also includes a requirement that, beginning with model year 1983, each seatbelt assembly installed in a passenger car must be detachable by the user in a manner which does not impair the subsequent reattachment and performance of the assembly. The conferees intend that the passive belt can be detached at any point, including one adjacent to the inboard anchor.

The conference substitute provides that the prohibitions contained in section 108 of tht National Traffic and Motor Vehicle Safety Act of 1966, and the penalties contained in section 109 of the Act, apply in the case of (1) a failure to comply with the new schedule for installing passive occupant restraints; and (2) a failure to comply with the detachable seatbelt assembly requirements.

The penalties provided in section 126(d) would apply in the case of a failure to offer automatic safety airbags for sale as required by the conference substitute.

The conference substitute establishes a new civil penalty of not more than $800,000 applicable to a violation of the "tool for production" requirement. If the maximum civil penalty of $800,000 is assessed against a manufacturer for such a violation, and the manufacturer also violates the requirement that automatic safety airbags be offered for sale, the conference substitute provides that the manufacturer will not be subject to any civil penalty in addition to the $800,000 fine if the two violations are related to each other.

The injunction provisions contained in section 110 of the Act, and all other provisions of the Act relating to motor vehicle safety standards, also would apply to the requirements added by the conference substitute, except that the provisions of section 111 (relating to certain repurchase and other requirements) and part B of title I (relating to discovery, notification, and remedy of motor vehicle defects) do not apply to "tool for production" and "offer for sale" violations. Any failure of a vehicle equipped with passive occupant restraint systems, whether automatic belts or automatic safety airbags, to meet the performance requirements of Standard 208 would constitute a violation of that standard that would be subject to all of the notification and remedy provisions of the Act.

CONGRESSIONAL VETO

Senate bill.—The Senate bill contained no provision.

House amendment.—The House provision provided that any rule promulgated by the Secretary of Transportation with or relating to the use of funds appropriated under this Act may not take effect if (1) both Houses adopt a concurrent resolution disapproving the rule within 90 days of continuous session after the date of the rule's promulgation; or (2) one House adopts such concurrent resolution within 60 days of continuous session after the date of the rule's promulgation and the other House does not disapprove it within 30 days of continuous session after the date on which it was transmitted to it. The rule may take effect at the end of 60 days of continuous session after its promulgation if no committee of either House has reported or been discharged from further consideration of a concurrent resolution disapproving the rule and neither House has adopted such a resolution. If a committee has reported or been discharged from further consideration of such resolution, or either House has adopted such resolution, then the rule may not take effect until the end of 90 days of continuous session after its promulgation if (unless it is disapproved as provided for above). The House provision provided for repeal of the congressional veto provision at the end of fiscal year 1980.

Conference substitute.—The conference substitute adopts the House provision with the following modifications:

1. a NHTSA rule could be overturned only by adoption within 90 days of a concurrent resolution disapproving the rule; and
2. expedited procedures, modeled after the procedures utilized under the Energy Policy Conservation Act of 1976 and the Federal Trade Commission Improvements Act of 1980, are included to assure a vote on the concurrent resolution in both Houses.

Under the substitute, a motion to discharge the relevant committees from further consideration of a disapproval resolution would be in order if the committees had not reported the resolution after 75 days. In the Senate, a motion to discharge could be made only by a Member favoring the resolution. In the House, a motion to discharge could be called up only if the motion had been signed by one-fifth of the Members. Thereafter, in both Houses, the motion to discharge would be privileged and debate on it would be limited to 1 hour, divided equally between proponents and opponents of the motion. An amendment to the motion would not be in order and it would not be in order to reconsider the vote on the motion.

When a committee has reported or been discharged of a concurrent resolution, it would be in order to move to proceed to the consideration of such resolution. The motion would be privileged in the Senate and highly privileged in the House and not debatable. Thereafter, debate on the concurrent resolution itself would be limited to 10 hours, divided equally between proponents and opponents of the resolution. An amendment to the resolution, or a motion to recommit it, would not be in order and it would not be in order to move to reconsider the vote by which the resolution was agreed to or disagreed to.

The conference substitute also provides for a mechanism for expedited judicial review of the constitutionality of the legislative veto provision.

Under this provision the authority of the Secretary of Transportation to promulgate rules with funds authorized to be appropriated under the Act is conditioned on those rules being submitted to the Congress for review and possible disapproval under the procedures set out above. If the Congress does not act, the rule submitted to the Congress becomes effective. If the Congress passes a concurrent resolution of disapproval, the rule would not go into effect. By requiring that the Secretary submit a rule to Congress for review and possible disapproval, the Congress, under this provision, hereby provides a mechanism to determine whether a rule submitted to it by the Secretary becomes effective.

The amendments made by this section of the conference substitute will expire at the end of the authorization period.

Harley O. Staggers,
James H. Scheuer,
Richardson Preyer,
Richard Ottinger,
Elliott H. Levitas
(solely for the consideration of title III of the House amendment),
Matthew J. Rinaldo,
Managers on the Part of the House.

Howard W. Cannon,
Warren G. Magnuson,
Wendell H. Ford,
Harrison H. Schmitt,
J. Warner,
Managers on the Part of the Senate.

COMMUNICATION FROM ADMINISTRATOR OF GENERAL SERVICES ADMINISTRATION

The SPEAKER pro tempore laid before the House the following communication from the Administrator of the General Services Administration:

General Services Administration,
Washington, D.C., September 23, 1980.
Hon. Thomas P. O'Neill, Jr.,
Speaker of the House of Representatives, Washington, D.C.

Dear Mr. Speaker: We have submitted to the House Committee on Public Works and Transportation for its consideration the enclosed prospectus which proposes the acquisition of leased space for the Environmental Protection Agency in Washington, D.C.

A copy of this prospectus was forwarded to the Senate Committee on Environment and Public Works for its information.

Sincerely,
R. G. Freeman III,
Administrator.

The SPEAKER pro tempore. Without objection, the communication is referred to the Committee on Appropriations.

There was no objection.

TREASONOUS ACTIONS

(Mr. YOUNG of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. YOUNG of Florida. Mr. Speaker, U.S. law considers the unauthorized release of secret defense information as treason. The Carter administration has knowingly jeopardized the security of the United States by revealing a highly classified military secret—the Stealth program.

An incumbent President is in a position to do many things to gain political favor, but he must not be permitted to threaten the security of our Nation by revealing important military secrets. Reelection politics must not be placed ahead of national security.

The administration said it released some plans of the Stealth program because information had leaked out. Administration spokesmen said reporters would be supplied with enough information to satisfy their curiosity about the program, but no details would be divulged. Instead of releasing information about the program, the administration should have seen to it that the secrecy of the program was protected and that the leaks were stopped.

In a telecast aired September 18, NBC News raised some serious questions about the Carter administration's role and motives in the release of information about the Stealth program. I am submitting the transcript of that broadcast for our colleagues to read:

NBC Nightly News, September 18, 1980,
John Dancy, Stealth

The Republican Convention and Ronald Reagan was putting heavy pressure on President Carter for his record on defense spending.

Reagan: "No American should vote until he or she has asked: 'is the United States stronger and more respected now than it was three and a half years ago?' "

But then, a curious series of leaks begins. August 14th. The Washington Post says President Carter has decided to build a new, super secret "Stealth" aircraft.

August 18th. Ben Schemmer, editor of The Armed Forces Journal is given a briefing on the new plane, which would be all but invisible to enemy radar.

His source, Pentagon Research Director William Perry. Perry knew Schemmer's article would appear August 21st. But the day before, August 20th, Perry asked for a meeting of leading Senators. Some of them would say later that they felt it was an attempt to manipulate them into supporting the Administration's disclosures on Stealth.

Senator John Stennis assembled between 20 and 25 key Senators here in a room at the Capitol. They were already in Executive session, discussing classified material, but Stennis took the additional step of swearing them to secrecy.

Perry briefed them on technical aspects of Stealth. What he did not tell the Senators was that he had already briefed Schemmer and his article would be appearing the next day. Instead he said he had heard there "might" be a leak in the story. He asked them to support an administration plan to create what he called a "firebreak" around the story by divulging just enough information to satisfy reporters' curiosity, but no details.

The Senators discussed the idea and rejected it. They said they didn't want the Pentagon to say anything about Stealth and they wouldn't either. Senator Jackson warned Perry that if he talked about details of Stealth he would be accused of politicizing a defense issue. But Jackson said the decision to talk about Stealth had already been made. It was already signed, sealed and ready for delivery at a news conference. He was referring to the news conference Defense Secretary Harold Brown held two days later, against the Senators' wishes.

Secretary Brown: "By making existing air defense systems essentially ineffective, this alters the military balance significantly."

The White House has denied any role in the leaks on Stealth, but not many people on Capitol Hill believe that. Congressman Sam Stratton, a New York Democrat, is head of the subcommittee investigating the leak.

Representative Stratton: "It would have been most unlikely for Secretary Brown and Secretary Perry to make the decision to go public with this material without some approval from the Commander in Chief."

Congress will recess in a little more than two weeks. Key congressmen believe it will be impossibe in that short time to find a smoking gun which would prove conclusively that the White House was behind the leak. But it hardly matters. Most congressmen already believe it anyway.

John Dancy, NBC News, Washington.●

BLATANT POLITICAL PRESSURE FROM A PRESIDENTIAL APPOINTEE

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, I am greatly concerned over the tactics employed by a Carter appointee in using his high office to solicit political contributions on behalf of the President. M. Larry Lawrence, a Carter appointee to a public interest directorship of the Federal Home Loan Bank of San Francisco, has used that position of trust to solicit political contributions on behalf of the President and Democratic National Party from the very individuals that are governed by the bank's board of up to $20,000. Frankly, I am shocked and appalled that a public interest director of the Federal Home Loan Bank would send such a blatant letter of political solicitation to the bank's membership. It seems totally inappropriate that directors of a regulatory agency would actively seek political contributions from those that they regulate.

As a director of one of the bank boards within the Federal Home Loan Bank System, Mr. Lawrence is in the unique position of serving on various committees of that board, and of influencing the decision of that board as it relates to the bank's membership. Under these circumstances, it is possible that an officer of any member association, or the PAC of any member association, could feel that its participation, or lack of it, in making a contribution solicited by Mr. Lawrence might conceivably affect the decisions made by Mr. Lawrence as a board member in relation to that association.

Mr. Lawrence's understandable allegiance to the President has clearly and unfortunately influenced his judgment a supposedly impartial public interest director on the Federal Home Loan Bank Board of San Francisco. His decision to send a political solicitation to members of the Federal Home Loan Bank System which he regulates is most questionable.

Mr. Speaker, at this point I would like to insert a copy of Mr. Lawrence's solicitation letter in the Record for the enlightenment of my colleagues. This letter was provided by a savings and loan banking facility officer recipient.

September 10, 1980.

Dear Friends and Associates of the Savings and Loan Industry: As a public director of the Federal Loan Bank Board of San Francisco, I have decided to accept the advice given in the U.S. League's "Director" (May 1980), attached herewith.

Public members appointed since 1976 and many banks officers are appointees of President Carter. We believe strongly in the President. We believe he is striving to resolve the inflationary crisis he did not create, which will help housing and the savings and loan industry. Most importantly, we believe he will be re-elected. Hopefully, you do too, and would be willing to indicate your support for the President's party by sending me a check.

You can donate up to $20,000 per person with a check to the Democratic National Committee. To the same source, a P.A.C. can give $15,000. Your P.A.C., corporation or partnership, can donate an unlimited amount to the California Democratic Party.

So please support the President's party as it will help him, and I am sure he will be most grateful. You would be surprised how many of my good Republican friends have recently decided to hedge their bets!

Please send your check to me at 1500 Orange Avenue, Coronado, California 92118.

Thanks in advance.

Cordially,

M. LARRY LAWRENCE.

CIVIL DEFENSE NOW AN IMPORTANT PART OF U.S. NATIONAL STRATEGIC DETERRENCE POLICY

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, today, the United States has a new nuclear policy of which few people are aware.

Recently, the President signed into law a little known policy which is highly significant to U.S. national security. September 8, 1980, he signed the 1981 defense authorization bill which contained a civil defense amendment that I initiated. Senator THOMAS EAGLETON offered a like one on the Senate side. The measure is significant because it makes civil defense part of our national strategic deterrence policy. By approving my amendment, Congress is also supporting Presidential directive 41 which said basically the same thing. This is a first in American history. So, today, both the White House and the Congress are supporting policies for an improved national civil defense.

By making civil defense part of our nuclear deterrence strategy, we have taken a first major step toward protecting ourselves from nuclear coercion; this coercion could come from smaller countries with nuclear weapons or from the Soviet Union. Either could threaten us with nuclear horrors if we refused to meet political demands or refused to capitulate. A viable civil defense program will make this scenario less likely. This new policy helps our nuclear balance with other nations, especially the Soviet Union, which spends $8 per person on civil defense while we spend 50 cents per person, per year.

My civil defense amendment also provides for peacetime disasters, as well as Three Mile Island type accidents. "FEMA" says it will be "moving with dispatch" to deploy an enhanced civil defense program as ordered by the U.S. Congress. Today, FEMA is optimistic that the implementation of my amendment will be easier because of the civil defense funding picture. This would be the first real increase in civil defense funding in over a decade.

I believe it is significant to note that the fiscal year 1981 civil defense program will be concentrated in the high risk or nuclear counterforce areas of the United States. These are areas considered potential prime targets because they contain things such as intercontinental ballistic missile fields, nuclear submarine bases, or strategic bomber bases. The area in Missouri that I represent has 150 ICBM's and is considered one of the potential prime target areas. Although the initial civil defense concentration will be in these parts of the Nation, a civil defense program for larger cities is being planned. Thus, the foundation is being laid for an expanded civil defense program in 1982 and beyond.

Civil defense is no longer a remnant of the 1950's. With the passage of this amendment, and with the White House agreeing that civil defense is important to our survival in this nuclear age, today, civil defense has a new role. Our new national policy now says it is part of our national military strategic balance. The challenge is making civil defense effective.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. NELSON) is recognized for 5 minutes.

● Mr. NELSON. Mr. Speaker, due to official business, I was not recorded on two procedural motions on July 1 of this year. If I had been present, I would have voted "yes" on rollcall No. 383, to approve the House Journal for Monday, June 30, and "yes" on rollcall No. 384, the motion to table the motion to instruct House conferees to disagree with the Senate amendment included in the conference agreement on H.R. 4473, the foreign aid appropriations bill.●

A BAD BILL: H.R. 5615, THE INTELLIGENCE IDENTITIES PROTECTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. STARK) is recognized for 10 minutes.

○ Mr. STARK. Mr. Speaker, six of our colleagues serving on the House Judiciary Committee—including the chairman—make clear in House Report 96-1219, part 2 why H.R. 5615 is a bad bill, a bad piece of legislation. I agree with them that—

> Officers, employees and sources that operate covertly on behalf of American foreign intelligence must be protected from harm and exposure.

But I also agree with their criticisms of H.R. 5615. I shall do whatever I can to help kill the bill.

H.R. 5615 is presently scheduled for consideration on Thursday, September 25. Should the bill reach the floor of the House anytime before the scheduled October 4 recess in its present form, I intend to introduce as an amendment in the nature of a substitute for H.R. 5615, H.R. 6588, the so-called Boland Federal Intelligence Agencies Control Act. I recognize that the Boland CIA charter bill itself is a flawed piece of legislation, but at least in respect to protection of identities it is superior to H.R. 5615.

Mr. Speaker, the issues of CIA oversight and a proposed CIA charter are reaching the floor in a confusing succession of dribs and drabs. Perhaps a careful reading of the Boland charter will be an educational experience for all of us and place what we propose to do concerning protection of identities into perspective.●

PRESS TREATMENT OF BOB GRIFFIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 10 minutes.

● Mr. MOAKLEY. Mr. Speaker, can anyone imagine the outcry from Congress and the media if, after a lifetime of public service within an agency, a man who had risen to the post of assistant administrator, was pushed out of the way in his bid for the top job by not one but a fast paced series of two political appointees with no experience in the agency?

Can anyone imagine how much stronger would be the public outrage if this career civil servant were thrown out of the agency by one of these political appointees?

The sad fact is that this did happen; there was no public outcry. Indeed the press chose to portray the victim as the culprit.

Bob Griffin was forced out of the General Services Administration at the height of the growing GSA scandals. The greatest indecency of his dismissal from GSA was the effort of then Administrator Jay Solomon to link Griffin's departure with a scandal in which he has never then or since been implicated simply to mask the craven politics involved in Solomon's effort to rid himself of Griffin.

The current issue of the Washington Monthly carries an outstanding article about Bob Griffin and the regrettable role the press played assisting Jay Solomon. Commenting on this article, the distinguished WMAL commentator, Joe McCaffrey, said in his September 8 broadcast:

> An interesting piece in the September issue of the Washington Monthly titled, "The Persecution & Assassination of Robert Grif-

fin As Performed by Members of the Washington Press Corps". . . . For years Mr. Griffin was one of the top men with the General Services Administration, and for a period of time from mid-1978 on, he was roughed up pretty badly by the news media. This article by Jeb Byrne shows how once something is started in the press, it can grow and swell like a tumor even though there is no justification for the original charges. It is something that all of us in the business should read, and it should be required reading in journalism schools.

Mr. Speaker, I agree with Mr. McCaffrey and would like to place Jeb Byrne's article in the RECORD:

THE PERSECUTION AND ASSASSINATION OF ROBERT GRIFFIN AS PERFORMED BY MEMBERS OF THE WASHINGTON PRESS CORPS

(By Jeb Byrne)

Early this year, Robert T Griffin retired from government service. The name probably sounds familiar to you. A couple of years ago, Griffin was abruptly sacked as deputy administrator of the General Services Adimnistration. That was in July 1978, at the height of the GSA corruption scandals. Jay Solomon, the man designated by Jimmy Carter to run GSA, decided he had to get rid of Griffin—a career GSA bureaucrat—because it seemed clear to Solomon that Griffin commanded the loyalties of too many people in the agency, and Solomon couldn't get control of GSA as long as Griffin was around.

That was just the beginning of a classic Washington flap, as you may recall. No sooner had Griffin hit the sidewalk than Tip O'Neill hit the ceiling. The way it was reported, Griffin and the Speaker of the House were old cronies, and O'Neill was outraged—reacting, as one reporter put it, "with the same protective tenderness that a grizzly bear might show a favorite cub." There were hasty consultations with the White House, and soon, at President Carter's personal direction, Robert Griffin was given a $50,000-a-year job as special assistant to Robert Strauss, then serving as Carter's special trade negotiator. When Strauss switched jobs, becoming Carter's special representative to the Middle East negotiations, Griffin went along. Then, when Strauss left that post to become chairman of Carter's reelection campaign, Griffin opted not to follow—choosing instead to leave government at the age of 63 for a high-paying job at Chrysler.

As reported, that's the sequence. And if you remember Robert Griffin's name now, it's because each of these developments triggered another round of news stories. Many of them, recapitulating the details of Griffin's departure from GSA, were replete with what Roger L'Estrange, a 17th-century licenser of the English press, once called "convenient Hints and Touches." The consistent impression which these stories sought to convey was clear enough: here is another chapter in the sorry tale of a political hack, probably venal, who blocked the efforts of a good guy trying to clean up corruption in the General Services Administration. It was pretty believable stuff—if you didn't know any better.

BEAT THE DOLDRUMS

I knew better, because I worked for Robert Griffin twice, first as his deputy from 1961 to 1968, when he was assistant administrator of GSA with responsibility for congressional relations, public information, and business services, and second as his executive assistant from 1977 to 1978, when he was GSA's acting administrator for a few months at the start of the Carter administration and then deputy administrator until his departure from the agency. Thus I make no claim to being a disinterested observer, but I do claim to know something about Robert Griffin. I knew him as a man of competence and integrity, and so I was startled—at first—by the image of him that began to be shaped by the news media in the aftermath of his dimissal.

My surprise began to fade when I realized that Griffin was being cast as the foil for Jay Solomon, who was remarkably accessible to certain reporters and seemed to have a knack for Hints and Touches. Griffin was at a disadvantage. In point of fact, he had launched an investigation of fraud at GSA before Solomon ever appeared on the scene. He wasn't disposed to talk to reporters about it—but even if he had been, he couldn't have done so without violating explicit requests by the Department of Justice and the FBI to keep the probe quiet while suspects were being identified and watched. Griffin honored the requests; after word of the investigation began to leak, it was Solomon who started talking about it. He talked not only of the corruption being unearthed at GSA, but also of the difficulties he said he was having with Griffin.

Griffin heard rumors that Solomon was unhappy with him, but he discounted them, because face-to-face Solomon was always pleasant enough. For his part, Griffin could be blunt and straightforward—he was never insubordinate, but he was never shy about expressing his views. If there was a real personality conflict between the two men, Griffin didn't make much of it: the firing caught him by surprise.

Given the timing, it wasn't difficult for reporters to link his departure to the emerging GSA scandal. The Bad Guy role so easily assigned to him didn't fit the man, but that seemed to be irrelevant to many of those who were pursuing—or anxious to comment upon—a story that helped relieve Washington's summer doldrums. He was, in short, a means to an end, a quick and easy way to define a story that was otherwise difficult and puzzling. Of such needs are news myths born.

The logical place to start looking for the origin of the myth is in the file of stories from The Washington Post. The Post carried the "insider" coverage that set the initial pace and tone for other media to improvise upon as best they could. This was principally through the efforts of Post reporter Ronald Kessler, who had made GSA his beat and was closer to events there than most other reporters. It's no secret that he was closer to Jay Solomon, too. They met frequently, sometimes for lunch, and it was Kessler who telephoned Griffin one afternoon with the news that Solomon was about to fire him.

In his stories, Kessler did mention that Griffin was known as "an effective and well-informed administrator," and that Griffin had alerted Solomon to the discovery of corruption in GSA. Technically, perhaps, this satisfied someone's criterion for balanced coverage—but the evenhanded words about Griffin seldom seemed to appear anywhere near the beginning of a story. They were more likely to be found somewhere back on page 14, deep in the carry-over copy where many readers never venture. In his accounts, moreover, Kessler never fully explained the role that Griffin played in starting and directing GSA's internal investigation—before it became a media extravaganza and the subject of congressional hearings, before Solomon became GSA administrator, and long before Kessler (whose first story on the GSA investigation appeared in the Post on March 3, 1978) had discovered that an investigation was in progress.

It was in late 1976 that Griffin, then a special assistant to the GSA administrator, received an internal memorandum alerting him to phony billings in the Chicago region. In that instance, as it turned out, a GSA employee had cooked up a scheme whereby he received payments made to a nonexistent building services company—he used a post office box as its address—for work never performed. Griffin launched an investigation into the possibility of similar fraud elsewhere, and followed up with special audits in all GSA regional offices.

GSA is a federal conglomerate; its procurement activities range from the purchase of paperclips and motor oil to the construction and leasing of skyscrapers. GSA houses much of the federal bureaucracy in 10,000 building locations, supplies its needs, disposes of its surplus property, paves its parking lots and fills its gas tanks. GSA's administration is as complicated as that of any *Fortune* "500" company, and that complexity offers practically endless opportunities for low-level fraud. The Chicago case was one example that came to light. There were others. Some building managers, who had authority to award contracts for routine repairs and improvements, were found to be on the take. Some managers of GSA-operated self-service stores—where other agencies came for their office supplies—were found to be in cahoots with suppliers.

Griffin knew that GSA, growing over the years along with the growth of the federal apparatus it serves, could stand much improvement in managerial controls. During the few months when he was actually in a position to do something about those controls, he peppered GSA offices with orders for special audits, reviews of disbursement records, improved procedures for monitoring purchasing, better systems of vendor identification, and coordination of procedures from region to region. He sent investigators and auditors burrowing into dark corners and personally went to the Office of Mangaement and Budget to argue—successfully—for more auditors. He shuffled officials around, sending them to areas outside their own to gather information about possible fraud, and this information was regularly passed on to the FBI, leading to the 79 indictments and cinvictions that have since resulted. He had as many as 150 people within the agency working on the investigation under his direction.

In hindsight, which is always the preferred perspective, it's possible to argue that Griffin might have been an even more aggressive administrative reformer. But the problem with that argument is that it gets all tangled up in comparative imagery. Although Jay Solomon had no prior experience in administering a large bureaucracy—he was a Chattanooga-based builder of shopping centers who was an early supporter of Jimmy Carter during the 1976 campaign—the press treated him as though he was the first person ever to walk through GSA's front door carrying a broom. The facts don't square with that.

When Solomon became administrator at the end of April 1977, Griffin told him about the malfeasance that had been discovered within the agency and explained what was being done to cope with it. Solomon, who was initially more interested in the agency's Art-in-Architecture program—which was to involve him in a heavy schedule of dedication ceremonies across the country—told Griffin to press ahead. As the summer of 1977 wore on, new revelations came to light, and Griffin kept Solomon posted on them.

It wasn't until the end of the year that Soloman began shifting his focus away from art and more in the direction of the investigations. Soon thereafter, he began telling Kessler what was happening and what he planned to do about it. Griffin, by that time, had spent more than a year thinking up and carrying out substantive changes. When you chop your way through the media imagery, you come to the stark fact that no one, to this day, has shown that Griffin did that job inadequately or unethically, and the Justice Department has long since concluded that he was not personally involved in any way in the corruption at GSA.

But in the excitement at the end of July 1978 over Solomon's firing of Griffin and its repercussions on the relationship between Speaker O'Neill and President Carter, Griffin's proper place in the investigation was overlooked, ignored, mentioned in passing, or turned upside down in the news media. In the *Post*, for instance, in addition to the series of pieces by Kessler on the Griffin firing, there was a noteworthy editorial cartoon by Herblock. This shows Griffin being booted out of GSA by a foot and leg labeled "cleanup"—an interpretation that even Solomon had not placed on the firing.

On the following day, July 31, the *Post* ran an editorial which asserted that Griffin "personified 'business as usual' at GSA," a characterization that entirely ignored his role in the investigation. On August 4, the *Post* ran a story on Griffin's new job with Robert Strauss. The headline emphasized that the new job entailed "$50,000 Yearly for O'Neill's Friend"—ignoring the fact that this was the same salary Griffin had been making at GSA. (*The Boston Herald-American* improved on the Post with its headline: "$50,000 Plum for O'Neill Pal.")

It does not seem unreasonable to conclude that the way in which the *Post* handled the Griffin story was reflected back in a group of letters-to-the-editor published on August 9. *Post* readers perceived Griffin as an incompetent hack whose sole claim to a responsible position in government was his friendship with a powerful politician.

The *Post* didn't go out of its way to correct that impression. During his televised press conference of August 17, 1978, President Carter remarked that he knew of nothing more distorted than the press coverage of the Griffin firing. "Griffin was not fired because he was incompetent," Carter said. "He was not fired because there was any allegation about his honesty and integrity. He was moved from the General Services Administration because he was incompatible with the director. . . . I have no apology to make for having put a good man with great integrity and great knowledge in a productive job."

I was curious to find no mention of these remarks in the Post the next day. I telephoned Post editor Richard Harwood, identified myself as Griffin's former aide, and asked about the omission. He said he would look into it. The next day—a Saturday—the Post carried a four-paragraph story under the headline "Carter Says Press Distorted Removal of GSA Aide Griffin."

Television's talent for simplification adapted itself easily to the Griffin story. An NBC news team visited Griffin at his suburban Washington home on the afternoon of August 4, 1978, and he talked at length, explaining his side of the story. Almost all of his words wound up on the cutting room floor, and on the news that night, David Brinkley summarized: "Powerful politicians in Washington expect their friends to be taken care of—and certainly not fired. So the President gave Griffin another job, newly created for him at $50,000 a year." Then NBC ran an interview with David Cohen, president of Common Cause, who said, "It looks like politics as usual, buckling under to political power, saying the person's incompetent to run one major agency and then placing him in a high White House position where he's not really subject to any kind of review by legislative bodies." The accuracy of David Cohen's statement wasn't subject to any kind of review either. Griffin's competence had not been questioned, but nobody at NBC brought this to Cohen's—or the viewing public's—attention. This was the first and last time that Griffin let a TV camera into his home.

OL' TIP AND OL' BOB

The words "crony" and "cronyism" keep occurring as you thumb through the newsclips and transcripts of the Griffin story. Here it helps to understand the way the rules apply to this kind of loaded shorthand. Politicians of the old school like Tip O'Neill have cronies. John Gardner and Theodore Hesburgh have colleagues and associates. It's a distinction that's important in Washington. And the label, once applied to Griffin, stuck like epoxy. Don Campbell of the Gannett News Service, for example, was early into this easy name-calling game. His story appearing in The Nashville Banner of July 31, 1978 is typical. There is a line which says simply that Robert Griffin is "a crony of House Speaker Thomas P. O'Neill. . . ." In this, and similar declarations, there is no hint that the two men might actually have had some mutual respect for each other as old veterans of the governmental wars. True enough, they had known each other since the days of their youth in Somerville, Massachusetts. Griffin has been close to politics for a long time—he worked in John F. Kennedy's first congressional election campaign back in 1946—and knows his way around, but once upon a time that fact would not have stigmatized him. In much of the reporting, there was no indication that Griffin had performed well in every post he had held (even Jay Solomon had rated him outstanding). Nope. Just a crony. Presumably you could find Bob and Tip sitting around the local Safeway in their wool shirts, spitting into the cracker barrel. Editorial writers, too, got into the epithet game. Two days after The New York Times printed a "Man in the News" item with a complimentary assessment of Robert Griffin's federal career, an August 6, 1978 Times editorial was complaining about "cronyism" in the Griffin affair.

In the capital, The Washington Star had been trying to play catch-up ball on the Griffin story, but the Jay Solomon-Ronald Kessler link was a problem. The Star's acerbic editorial cartoonist, Pat Oliphant, got into the action with a drawing of a pudgy bureaucrat dozing at his desk while his "in" basket swelled, musing about civil service reform and concluding that "I better buy Ol' Tip O'Neill a three-martini lunch." (If the drawing was supposed to represent Griffin, ol' Ollie was off the mark. Griffin is a lean 6'4'' and doesn't drink. He used to eat at his desk, but I never saw him sleeping there.)

Reporters Mary Ann Kuhn and Lyle Denniston at the Star began catching pop flies, spurned by Kessler, from a source or sources at GSA. One of the ensuing front-page stories by the Star duo had the intriguing headline: "Missing Files of Ousted GSA Official Turn Up." Beneath the head was a leaked story which was supposed to disclose that Griffin's files had been missing for seven weeks after he had left. This was an odd construction to place upon a sequence of events with which I was very familiar. Griffin had left the building without his personal papers. Members of his staff were ordered out of their offices the following week, with instructions to take all his and their records and belongings with them. A staff request that one small office be retained in which to store the records temporarily was rejected. These papers, however, were not extensive. It is standard practice that originating offices which forward correspondence and other documents to the front office keep the official files. When the Star story was published, the records were sitting in carboard boxes in the offices of former members of Griffin's staff, awaiting disposition. Missing? You could have tripped over them.

One of Solomon's aides was quoted in the Star as saying that Griffin's staff offices remained locked for two weeks, and when they were opened, "We found that his offices were just totally empty: no people, no paper, no files—zip." It's probably a good thing that no people were found in offices that allegedly had been locked for 14 days. The fact was, however, that Solomon's staff had keys to our offices; we had given them the keys.

ALTO SOLO

There was another flurry about records when Solomon decided that GSA should keep Griffin's appointment calendar and telephone logs. The agency's own lawyers and record-keepers had informed the administrator that these were considered private property by GSA. When Solomon proposed to confiscate them anyhow, Griffin threatened suit. All this was dutifully, and ominously, chronicled in the news media. Having been subjected to strange harassments by GSA since his departure, such as the contrived stories about the "missing" records, Griffin preferred to let the Department of Justice take any part of his records which it might want. A meeting was held and this was done, without difficulty.

A news coup of a sort was achieved when a memorandum written to Solomon by Vincent Alto, the short-term special counsel Solomon hired in May 1978 to take over supervision of the investigation, began circulating and quickly reached the press. Ostensibly this was a private document, but more copies were floating around than balloons at the circus. The memo dusted off an old allegation by a personnel officer who claimed he had been harassed out of the agency by Griffin (then in a staff position) when the personnel officer would not go along with the supposed downgrading of an investigator This was a charge which had been heard and rejected by a civil service administrative judge—but it made good copy Time ran a story about it, leaving the clear impression that the allegations were fact, and reinforcing that impression with a cartoon showing a man with a small net trying to catch a big fish. This treatment met what Peter Braestrup has described in his Big Story as the criteria for news magazine writing: ". . . to avoid ambiguities and complexities [and] to fashion a clear story with a beginning, middle, and snappy close." By the date of the Time story, The Washington Star had been purchased by Time, Inc. The Star picked up the Time story for its front page.

With such doings afoot, you could expect to hear from Jack Anderson. An Anderson column appeared on December 18, 1978, characterizing Griffin as having "such high connections that when he stubs his toe, Tip O'Neil howls and President Carter applies the bandage." Anderson went on to rehash several allegations about Griffin. One was the business about the personnel officer, which did not mention the rejection of the charge by the civil service judge. Another concerned Griffin's refusal to give Solomon carte blanche with his papers. The column did not mention that Griffin let the Department of Justice review the records and papers and take what it wanted. Still another Anderson allegation was: "Griffin has been on the GSA payroll since the agency was created in 1949. He has been responsible for property management since 1961. More than any other individual, he should have detected the long-festering corruption. The investigators want to know why he failed to take corrective action."

In fact, Griffin's one property mangement job in GSA occured in 1969–72, when he was in charge of the depots in which materials of the National Stockpile are stored. The only time he had substantive responsibility for GSA property management was when he became acting administrator and then deputy administrator in early 1977—the period during which he got the investigation rolling.

EXIT "GOOD GUY"

On January 21, 1979, there was a front-page story in the Post, written by Martin Schram, which said that the White House was seeking a replacement for Solomon. Dissatisfaction with the way Solomon was playing the media was cited, and Schram quoted one official complaining: "He wants credit for everything. And he equates spending time with him with combating corruption." Solomon was gone by the end of March.

There were two other stories in the press at about this time which did not fit the generally accepted mold, but which I have not seen referred to since. One, a March 30, 1979 story by James P. Herzog of Scripps-Howard, started out this way:

"Outgoing General Services Administrator Jay Solomon says 1,000 names have been turned over to the Justice Department for possible prosecution. But William S. Lynch, head of the Justice Department task force investigating the scandal-ridden GSA, calls the statement 'baloney . . . a figment of Mr Solomon's imagination. . . .'"

The second piece was in the April 1, 1979 "Outlook" section of the Sunday Washington Post. Written by Chuck Lewis of ABC, the report said, among other things, that "the constant hyping and ballyhooing of the Gigantic GSA Scandal makes one wonder where the real truth lies. . . .

"Despite the collective efforts of hundreds of officials, it was Solomon who received the lion's share of attention. The shrewd Chattanoogan carefully cultivated the media as no other GSA administrator—or few public officials, for that matter—ever has. . . .

"To many rank-and-file GSA employees, Solomon's headline-grabbing crusade against corruption, combined with his lack of attention to the large agency's daily management, was appalling. . . ."

Despite these reassessments of the Solomon-Griffin situation, Griffin kept on getting a bad press. In early 1979 a local Washington television reporter, Stan Bernard, was still floating dark innuendos. A Channel 4 (NBC) transcript for March 1, 1979 has Bernard ending his 6 p.m. stint with the words, "Jay Solomon is wondering who he made nervous when he fired Robert Griffin and started the investigation into the million- and billion-dollar deals that go through GSA."

The Griffin story faded during the summer of 1979. But a refurbished piece on the GSA investigation appeared in the September Reader's Digest, signed by Carl T. Rowan and David M. Mazie. "Spurred by revelations in the press, and by grand-jury investigations in Washington and Baltimore," it says, "Solomon launched an all-out inquiry." Robert Griffin is mentioned under the familiar rubric of "political cronyism."

By early 1980 the Washington dailies were no longer catching fungoes from the usual batters at GSA, but a pair of reporters from the wire services suddenly were out there shagging. In January, Bob Parry of Associated Press and Donald Lambro of United Press International had the good fortune to discover simultaneously that last fall, they said, a man who did business with GSA had alleged bribetaking by a GSA official who, as Lambro put it, was a "long-time associate" of Robert Griffin, and in Parry's various versions was "considered" at GSA to be a "close associate" and "a satellite" of Griffin. Griffin did know the man. That much was true. But the stories never explained who was doing the "considering" or how the "satellite" relationship was supposed to work between these "close associates." In due course, the stories stopped, but the connotations lingered on. I wonder how Joe McCarthy—not the old Yankees manager, but that other one—could have improved on this kind of coverage.

The next chapter in the chronicling of the life and times of Robert Griffin by the news media concerned his retirement from government. Parry and Lambro had him leaving "quietly." Parry used the occasion to recirculate the "satellite" innuendo offered by his ubiquitous but unidentified "GSA source."

In reporting that Griffin had gone to work for Chrysler, The Miami Herald referred to him as "the scandal-freighted former deputy chief of the General Services Administration." Jerry Knight, in The Washington Post's business section, wrote that Jay Solomon had claimed that Griffin "blocked investigations of corruption" at GSA. An unsigned story in The Detroit News said the same thing. I'm not aware of any statement by Solomon to that effect, although it would be hard to track down everything he ever said about the GSA investigation. Jack Anderson and The Washington Monthly didn't bother with attribution. Anderson told his Mutual Broadcasting System radio audience on March 12 that Griffin "was fired from [GSA] because he refused to cooperate with the probe into corrupt purchases by the agency." The Washington Monthly managed the neat trick of throwing Griffin a bouquet and a brickbat at the same time. In its April issue this magazine reported, correctly, that while working for Strauss, he had been "instrumental in selling the multilateral trade bill to Congress" but claimed he had done so by using "the same bureaucratic skills he had honed while covering up the GSA scandals."

Why didn't Griffin ever hold a press conference or take some other dramatic step to explain his side of the story? Well, in the early days Griffin did talk to some reporters who contacted him, including Kessler of the Post, with the results I have described. Kessler's stories, I think it is fair to say, were careful not to tie Griffin to any of the corruption at GSA. It was what he didn't write that hurt. But Griffin learned that the further reporters from other organizations were from the story, the more likely they were to accept, at face value, whatever misstatements and innuendos they heard from within GSA. Experience quickly demonstrated that responding to loaded inquiries made little sense. At first Griffin talked freely to reporters when they called him at home after his dismissal, but when he read their stories he concluded that he might as well have tried saying nice things about the Queen in an Irish bar. So he made himself unavailable to the news media. Some of us tried to speak out on his behalf, but it didn't work any better. I went to the Post and complained to Charles Seib, then the newspaper's ombudsman. We had a long talk, but nothing ever appeared in the paper about the issues I raised. And one afternoon I went with another of Griffin's aides to visit Jack Anderson's office when we learned about the impending December 1978 column. But when we got there, he told us the column was already on its way to his syndicate. We did learn that Clark Mollenhoff had been the staff reporter on the story. Recently I ran across a new book, a collection of Mollenhoff's stories. I found a section on GSA/Solomon/Griffin which is just as wrong-headed as when it was a newspaper column. But now it has cloth boards around it.

ROMANTIC FICTION

In the library the other day I ran across two old Washington hands who gave me sage advice about what to do with reports from the capital written by newsmen who are not above substituting fancy for fact to spruce up their products. Ignore such newsmongering, said Joseph Gales and William Seaton, "unless it be of too grave character to let it pass."

This counsel from co-editors Gales and Seaton appears in the April 7, 1849 edition of their *Daily National Intelligencer*, an influential Washington paper of the day. Unfortunately, the problem they addressed 131 years ago still troubles us. To me, the treatment of Robert Griffin is of very grave character. I think a congeries of news people, for reasons ranging from bad to worse, have inflicted casual mayhem on Robert Griffin's good name. It was easy, of course, to translate the complexities of maladministration at GSA into a Good Guy vs. Bad Guy story, but easiness isn't supposed to be the banner around which diligent reporters rally. There is, admittedly, nothing much more seductive than a good corruption story, but in the absence of professionalism, readers will get nothing more than—as Walter Lippmann once put it—"a species of romantic fiction which they can get much better out of the movies."

I don't claim that all is lost. Gales and Seaton of *The Daily National Intelligencer*, struggling with the same problem in 1849, managed to find a ray of hope only a few years later. In their edition of March 23, 1853 they observed:

"Washington correspondence, as a general thing, is falling into discredit, and very naturally so; but while many of the writers are too careless about accuracy, or content with mere gossip, others are better informed, or more scrupulous, and are therefore as reliable as restricted access to authentic sources of information enables them to be."

That kind of reporting is all we can hope for. On the Griffin story over the past two years, it would have sufficed.●

JOHN W. McCORMACK AWARD, SEPTEMBER 23, 1980, TO JOHN M. MARTIN, JR., WAYS AND MEANS COMMITTEE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 30 minutes.

● Mr. VANIK. Mr. Speaker, this morning in the Rayburn Room, the employees of the House of Representatives and affiliated offices presented the John W. McCormack Annual Award of Excellence for the year 1979 to John M. Martin, Jr., chief counsel and staff director of the Committee on Ways and Means.

The John W. McCormack Annual Award of Excellence Committee on August 18, 1980, adopted the following resolution:

Whereas, the employees of the House of Representatives and affiliated offices have expressed their desire to annually honor the distinguished and dedicated service of the beloved former Speaker of the House John W. McCormack, and

Whereas, this committee representing the employees received nominations for the Award of Excellence for 1979 and after considering the nominees for their outstanding achievements, do hereby

Resolve, that John M. Martin, Jr., U.S. House of Representatives, is the recipient of the John W. McCormack Annual Award of Excellence for the year 1979 and further, Resolve, that the Chairman arrange for appropriate presentation ceremonies.

GEORGE M. WHITE,
Chairman.
JAMES T. MOLLOY,
Secretary.

The following members of the staff of the House of Representatives served as members of the Committee of House Employees:

W. Raymond Colley, Deputy Clerk of the House.

James D. Ford, Chaplain of the House.

Benjamin J. Guthrie, House Sergeant at Arms.

Gary Hymel, administrative assistant to the Speaker.

Ronald W. Lasch, minority floor assistant.

James T. Molloy, Doorkeeper of the House.

Hyde Murray, counsel to the minority leader.

Robert Rota, Postmaster of the House.

Tommy L. Winebrenner, minority floor assistant.

John Martin joined the professional staff of Ways and Means in 1956 under the chairmanship of the late Honorable Jere Cooper, later was named assistant chief counsel, and has served in his present position since 1968, when he was named chief counsel and staff director under the chairmanship of the Honorable Wilbur D. Mills. He presently serves in that position under Chairman AL ULLMAN of Oregon.

Until 1975 he was the sole professional staff member of the Democratic Committee on Committees and handled staff work for Democratic Committee assignments, working closely with Democratic committee members and the leadership. He has directed Ways and Means staff operations over the recent years, including the establishment of six permanent subcommittees and subsequent staff expansion from approximately 30 to 100.

His professional services have been directed toward all the important legislation in the fields of taxes, social security, trade, and welfare for which the committee is responsible. The Committee on Ways and Means consists of 36 members and, historically, has consistently handled one of the heaviest and most important workloads of any committee of the House.

Mr. Martin and his wife, Dorothy, live in the Mount Vernon area of Virginia. They have two children, Marshall, 23, and Mary Luella, 21. Born and reared in Martin, Tenn., he is a graduate of both the Arts and Law Schools of the University of Tennessee, and the Johns Hopkins University Graduate School, from which he earned a master of arts degree in political science and constitutional law in 1950. Prior to his committee career, he engaged in the practice of law and taught college courses, and worked for several years in the Executive branch of the Federal Government.

During World War II, he served on active duty in the Naval Reserve for 4 years, including service in the Pacific Theatre at Saipan, Guam, Iwo Jima, and Leyte Gulf. Upon discharge in February, 1946, he was a lieutenant senior grade.

Immediately preceding the actual presentation of the award, the following comments were made by leaders of the House:

COMMENTS

George White, Chairman, Award Committee:

Good morning ladies and gentlemen. Welcome to the 10th Annual Ceremony for the award of the John W. McCormack Award of Excellence. We have, as you know, this ceremony each year to honor the 45th Speaker of the House. We have some past recipients here in the audience. We have Gil Udell, Tom Iorio, and Ernie Petinand here. Will you just stand up here for a minute. And this year as you know the award was given to John Martin. We did something a little different this year in the Committee than we have done previously and that is that we invited nominations from all of the Committees—for some reason this hasn't been done before except that it might have happened by chance. We think that it is a broader base from which choices can be made and I think the result of that has been the selection of John Martin. So without further adieu let me introduce the Speaker of the House of Representatives, Tip O'Neill.

Speaker O'Neill:

Thank you George, John Rhodes and Jim Wright and all of the distinguished Members that are here. It's indeed a pleasure and an honor and to particularly have the former Chairman of the Appropriations Committee, who I understand celebrated his 80th birthday yesterday George Mahon. And I understand there is present another of our old friends whom we all loved on the Hill, Wilbur Mills. Wilbur stand up. John McCormack indeed would be honored and proud to know that there is such a huge gathering here this morning. John this is the largest crowd I've ever seen. You either have a tremendous amount of friends or a tremendous amount of relatives. The family must be indeed pleased. I would hate to be picking up a luncheon check if you're having a lunch after this. Well, here we are at the John W. McCormack 1980 Award for Excellence. It goes as you know to John M. Martin, Jr., Chief Counsel and Staff Director of the House Committee on Ways and Means. John's been here for a long time—24 years. He has epitomized competence and professionalism in guiding and directing the members of the Ways and Means Committee through their deliberate and difficult deliberations.

No Committee in Congress has greater responsibility over the lives and well being of American citizens than the Ways and Means Committee. No Committee in the House has a heavier or more important workload. No other Staff Director or General Counsel to any Committee in the House or Senate requires more professionalism or greater expertise in the legislative issues that fall within the jurisdiction of the Committee on Ways and Means than fall under the jurisdiction of John Martin. He has to be knowledgeable about taxes, health, social security, trade and welfare. His position requires a mastery of the complex rules and procedures of our great Congress. John has manifested excellence, dependability and resourcefulness in the professional services he has provided three different Chairmen during his tenure of employment in this great House. His devotion to the House of Representatives is reflected in the outstanding and exemplary performance each succeeding task to which he has been assigned.

Hardworking and attentive to the important details, John Martin has cooperated fully with the Chairman of his Committee for whom he has served in the Democratic leadership for years. His genuine love for the House of Representatives helped him to contribute in the large measure to making this House the great institution this is and the Ways and Means Committee, the integral part of the House legislative machine. He makes it function more effectively and more efficiently. Twenty-four years of dedicated service—that's it for you John the gratitude, the appreciation the personal admiration of all of us who had the privilege to know you, to work closely with you. John, you brought honor and distinction to this House, to the Ways and Means Committee, yes, and to all of America. We're all proud of you. I know this is a joyful and triumphant moment for you. John, I'm happy to be here with the leadership of the House, your friends, who are many on the Hill, and particularly your family. We honor ourselves when we honor you. Congratulations to you, John.

Mr. White: Thank you Mr. Speaker. I neglected to mention Charlie Hackney as another one of the prior recipients who stood up with the other three. Next we have the Minority Leader, John Rhodes.

Minority Leader John Rhodes: Well, thank you Mr. White, Mr. Speaker, Mr. Majority Leader, my colleagues, ladies and gentlemen. This is indeed an honor and an extremely happy occasion for many reasons. One is to see my old boss George Mahon again and that gal who for so many years the first lady of the Appropriations Committee, Helel Mahon; and Wilbur Mills—it's like old home week. And John thank you for making it possible for all of us to be here to enjoy it. It's quite a historic event in the sense that this ceremony actually marks the first time the McCormack Award has gone to someone not directly employed by the House, but employed by one of the Committees. And I believe it's most fitting that you John are the first Committee counsel to receive this honor. Your professional performance for so many years has been a great credit to yourself and to the House of Representatives.

There are many people here in the House in the staff structure and direct employees of the House who have distinguished themselves through service to their country and to the Congress. A number were nominated along with you this year. Thus, your selection is especially significant. I believe you will find that those of us who work with you, both as Members and of staff have admired your dedication to duty during times of major stress and in significant change in the way the House carries on its functions. Through the years we all knew you to do your best, and your best is why this award is being made today. Thus, let the record show that today the Speaker and I are in full accord on one thing. That may cause the Speaker to wonder if he is right or not. But that one thing is that your lovely wife, Dorothy and your children can be rightfully proud of her husband and their Dad for having done a great job for the House of Representatives. Congratulations, John.

Mr. White:

Next, the Majority Leader Jim Wright.

Majority Leader Wright:

Well, John Martin for a quarter of a century you have been a part of this family which has found its home on the Hill. You've contributed well, you have exhibited the spirit of excellence that ought to characterize this the greatest government on earth. I think it appropriate and fitting for years to come that this award should be made in the name and in the honor of John W. McCormack, our former Speaker, a man who strongly epitimizes all that is good and decent and humane and kind in this government of ours. Some of you perhaps are aware that John McCormack is in the hospital and I know that your prayers join with mine for his well being.

John McCormack would be happy were he able to be here with us today and to see how this ceremony has grown. It was his idea to honor one of those who labored often in the dim dusk beyond the glitter and glamor of applause who do their work well in order that others may often get credit for it. In any well-ordered society there have to be people like that. People, if not necessarily with a passion for anonymity, people with a willingness to work and to do their best and to turn out a quality product time and again knowing that the public media will give somebody else the major credit for the good that was done. Throughout this Hill there are those who do that, and if there weren't, we couldn't survive as a nation.

You, John, have been selected and rightly so as one who stands out for the excellence of your work, the scholarship, and the attention that you have given to the extremely professional demands of your enormously important Committee. So it is with great pride and pleasure, that I join with these my colleagues and your fellow workers in expressing to you our hearty congratulations and sincere appreciation for the contributions that you have made to the ongoing of this greatest government on earth.

Mr. White:

Next, the Minority Whip Bob Michel.

Minority Whip Michel:

Mr. Speaker and my colleagues and ladies and gentlemen, I'm happy to participate in this proceeding here today John for a number of reasons. I think the fact that we're honoring professionalism in whatever role we play in this community, as I look at the former recipients here in the front row. And now as John Rhodes indicated for the first time to move over and recognizing one in our committee structure. As one who began his career here on the Hill as a former staff member going back to the days when you just began your career here on the Hill, John.

Maybe I would just say a word for those good staff people I see here in attendance, for they maybe do or don't need a spokesman. But I think the fact that we're honoring you as we do for your high degree of professionalism gives each and every one of them encouragement and inspiration to do just that much more. And I think I go back again to that reference of so many years ago when the community on the Hill wasn't as nearly as large as it is today, there was a little bit of higher degree of comradery because there weren't as many, but even though there are as many as there are today the fact that we would take time to single out one of our number to give this John McCormack Award today I think is a fine, fine thing for all the rest of the people who serve on the Hill. So I have to congratulate you John, Dorothy and the members of your family for the very deserving tribute we're giving to you today.

Mr. White:

Next the Chairman of the Ways and Means Committee, Al Ullman.

Chairman Ullman:

Thank you, Mr. White, Mr. Speaker, Mr. Majority Leader, Minority Leader and my colleagues and friends. I want to commend the Board for moving outside of the area of House employees and I'm particularly gratified that they came to our Committee on Ways and Means to select a man that I think has no peer in judgment and experience in the House and it's been a great personal privilege to work with him through the years John. You came to the House in 1956—that's the year I was elected to the House of Representatives. I think probably people will remember that year more because Mickey Mantle won the American crown, 52 homers, than because you or I came here, but I want to say you served under three Chairmen. Three Chairmen of the Ways and Means Committee. Jerry Cooper brought you here from his native state, your native state. You came with great credentials.

You then, when Wilbur Mills took over, continued your responsibility and it was under Wilbur Mills you were elevated to Chief Counsel. Wilbur, I know that if you were here you could very eloquently describe the great abilities of John Martin. You were my tutor also, and in a sense you were John Martin's tutor. We sing praises for the leadership that you gave us here in the House of Representatives. Let me tell you that when I became Chairman we had a tremendous challenge. It was a new Committee; they expanded it from 15 to 37. We set up Subcommittees. It was a tremendous challenge, and I want to say that we couldn't have met that challenge if I had not the leadership and capabilities of John Martin to put it together. Here is a man who has great expertise in the House of Representatives. A man who has a personal relationship not only with all of the staffs, various staffs of the House itself and the other Committees, but also with the Members of the House.

I'm extremely pleased to see an old friend, George Mahon here and he wouldn't be here if he didn't have a high regard for John Martin. And so let me say that I'm proud as Chairman of the Ways and Means Committee, and I think I speak for all of the Members of the Ways and Means Committee and for the staff, and I see the Joint Committee here, who work very carefully and closely with my Committee on Ways and Means and with John Martin. They are all here because we respect the recipient, we honor him because he so much deserves this award. My relationship with John and Dorothy has been a personal one. I cherish that relationship. John, Congratulations.

Mr. White:

And now we have the Ranking Minority Member of the Ways and Means Committee, Barber Conable.

Ranking Minority Member Conable:

Mr. Speaker, distinguished friends and colleagues. John it's kind of fun to bat cleanup here and to have had a chance to sit in this benine environment and to bask in a little reflected glory. You know on the Ways and Means Committee we're not use to so much adjulation. If you want to be a skunk at a garden party you want to work at the Ways and Means Committee. If you want to be a statesman and have everybody love you, you want to spend money like, like George Meahan did all these years. Not take it away from people. Of course, the one advantage of working for Ways and Means is that you don't have to get into politics. But if I were in politics I would want somebody like John Martin on my side, because he's knowledgeable, he's tremendously industrious, he's loyal and he's supportive of the institution we all believe in, and that's the reason he's getting this award today. We're proud of you John.

We all share as I say in the reflected glory of your work. I thank you for the help you've given me. And speaking for all the Members of the Committee, the Committee over a long period of time we're glad that you're getting some tangible recognition beyond these faint words of praise and gratitude in the John McCormack award. John McCormack meant a lot to us, he was one of those institutions in the House that everybody loved also. And so to get that reward, award must be a special meaning to you. Well, thank you, thank you for giving this happy moment also in a rather tumultous season. It's nice to be able to join hands with all my colleagues in gratitude to John Martin. Thanks.

Mr. White: And now Mr. Speaker and John if you'd come up we have this plaque to present to you.

Speaker O'Neill: John it is indeed my honor as Speaker of the House to make this presentation to you. The Committee, of course, looks over the names of many many employees, and whatever manner or method or means they use, they must arrive at the man whom they think is the greatest, because the John McCormack award is Award of Excellence. And the man who is considered by this Committee to be the outstanding, the best of all. To you, John, presented by the Congressional employees, John Marshall Martin, Jr., Chief Counsel, Ways and Means, the John W. McCormack Award of Excellence. Congratulations to you.

REMARKS BY MR. MARTIN

Mr. Speaker, Mr. Rhodes, Mr. Wright, Mr. Michel, Chairman Ullman, Mr. Conable, Distinguished Leaders, Committee Chairmen and Members of the House, Officers and Employees of the House, Committee Staff and Distinguished Guests.

I am deeply grateful for this award, and the gracious and generous remarks which have been made about me.

Mr. Speaker, our beloved former senior Member of the Committee on Ways and Means, your colleague from Boston, Mr. Jim Burke, used to have a favorite expression: Something either "didn't go far enough" or "went too far." I think you have gone too far in your compliments, but I sincerely appreciate what has been said, and the time you and all the others here have taken from your busy schedules to be present.

There are so many people I would like to thank, but time prevents me from naming them all individually. First, I do particularly want to express appreciation to the members of the Award Committee for selecting me. I still wonder how I came to be selected from all the highly able House personnel.

Second, I want to express my gratitude for the privilege of working for three outstanding Committee Chairmen—men of towering ability, vision and wisdom—Mr. Ullman, Mr. Mills and the late Mr. Cooper. I am greatly indebted to them for their confidence in me, their wise advice, counsel and support, and great patience.

I want to thank the Ranking Minority Member, Mr. Conable, and his predecessors, Mr. Schneebeli, Mr. Byrne and others, for their constant cooperation and support in moving the administrative and legislative business of the Committee forward.

I want to acknowledge the many kindnesses and helpfulness of the Leadership—Majority and Minority—and the Members of the House and of the Committee—those presently serving and those who formerly served. I am especially proud of having worked these many years for the Committee on which Speaker McCormack served before he was elected Majority Leader and then Speaker. He often went out of his way to inquire of me as to the well-being of the Committee staff.

Mr. Speaker, I regard this award not as a personal award but as a recognition of the loyal and highly efficient work of all the staffs of the Committee and its subcommittees. Without their continuous cooperation and dedicated support, I could have accomplished absolutely nothing. Also, Mr. Speaker, I extend my sincere thanks to the House officers and staff for their constantly helpful assistance.

Finally, Mr. Speaker, I want to say what a rare opportunity and privilege it has been for me to have served in a staff capacity the greatest legislative body in the world—the House of Representatives. Having the opportunity to participate in staff work on many historic and monumental legislative enactments affecting all the American people has been, and is, enormously rewarding. It is a privilege few people ever have the chance to experience.

I have always been intensely proud of working for the House of Representatives, which is truly the repository of the aspirations, ideals and, in fact, the freedoms of the American people.

Thank you.

Statement by Hon. Frank J. Guarini

Mr. Speaker, it is with great pleasure that I join my distinguished colleague, Charles Vanik, in acknowledging the achievements of one of the House's outstanding Committee counsel.

John Martin, chief counsel of the Ways & Means Committee, has served our committee with distinction for nearly 25 years. As chief counsel for the past 12 years, he, perhaps more than any other Committee counsel, has had a hand in shaping some of the most important legislation to come before the Congress.

Although I have been a member of the Committee for only two years, I have come to greatly respect the breadth of knowledge which John Martin has acquired over many years of dedicated work.

John has been of particular assistance to me, and to other new members of the Committee, who have sought him out for his advice on intricate bills, legislative strategy and committee rules.

Although often hard-pressed to meet the demands of so many Committee members, I have never known John Martin to miss a deadline or fail to keep a commitment. Somehow, he always finds time to patiently listen and counsel both members and staff.

Today, John Martin was presented the John McCormack award for excellence. For those of us who have had the privilege of working with him, we know that it is a well-deserved honor accorded a man whose performance over the years has been a benchmark of competence and professionalism against which others have measured their own performance.

For myself, and on behalf of my own legislative staff who have immensely enjoyed working with him, let me extend our sincere congratulations.

Thank you.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Kentucky (Mr. Mazzoli) is recognized for 5 minutes.

● Mr. MAZZOLI. Mr. Speaker, I was unavoidably absent on Friday, September 19, 1980. Had I been present, I would have voted:

"Aye" on rollcall No. 566, on agreeing to resolve into the Committee of the Whole House;

"Aye" on rollcall No. 567, the conference report on H.R. 3904, Multiemployer Pension Plan Act amendments;

"Aye" on rollcall No. 568, on agreeing to resolve into the Committee of the Whole House;

"Nay" on rollcall No. 570, an amendment to H.R. 85 which sought to make U.S. damages resulting from the Campeche Bay, Mexico, oil spill eligible for compensation by the oil spill trust fund; and

"Aye" on rollcall No. 571, final passage of H.R. 85, to provide a comprehensive system of liability and compensation for oilspill damage and removal costs.●

ARTHUR J. DECIO CALLS FOR "NEW PARTNERSHIP" TO REEVALUATE ROLE OF MOBILE/MANUFACTURED HOMES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. Brademas) is recognized for 5 minutes.

● Mr. BRADEMAS. Mr. Speaker, last week Arthur J. Decio, chairman of a manufactured housing forum in Washington sponsored by the Urban Land Institute, suggested a "new partnership" between the manufactured housing industry and Government to reevaluate the role that mobile/manufactured homes should play in meeting our growing housing needs.

Mr. Decio is the chairman and chief executive officer of the Skyline Corp., one of America's major manufacturers of mobile homes. The Skyline Corp. is located in Elkhart, Ind., which is part of the congressional district I have the honor to represent.

Mr. Speaker, there are few more distinguished and public-spirited residents of the Third District than Arthur Decio. I think my colleagues will agree that his comments are well worth our consideration.

The text of Mr. Decio's remarks follows:

Remarks by Arthur J. Decio

Activities at all levels of government and throughout our national markets indicate that we are moving into an exciting, new era in the history of the manufactured housing industry. Restrictive land use regulations are being liberalized. More favorable loan terms are being created. The public's understanding and acceptance of our product is steadily expanding. Congressional interest in manufactured housing as a national resource is rising.

These trends indicate that we are rapidly approaching that point in time when we will all think of the manufactured housing industry as a legitimate and coequal member of the total home-building community. The conventional homebuilder, the townhouse developer, the apartment builder, the large-scale developer and the manufactured housing producer are each responding to a different segment of the same overall housing market. In the final analysis, they are all doing just one thing—building homes for American families.

Senator Proxmire, speaking before an industry group a year and a half ago, looked into the future and made the following observation:

"Manufactured housing," he said, "is the area of most promise if we're going to really do something about reducing the cost of housing in this country . . . (it) is probably the best answer free enterprise can provide for the low and moderate income market."

Last October, the Manufactured Housing Institute put three homes on display right outside on the Congressional Mall. Sitting in one of those homes, and reflecting on the fact that manufactured housing regularly accounts for more than 25 percent of the total single-family housing market, Senator Lugar drew the following conclusion:

"(Manufactured) homes are the answer to the American dream of private ownership. For many Americans they are the best answer."

HUD has also been tracking developments in our industry. A little more than a year ago, in a news release announcing improvements in various federal loan programs, Assistant Secretary Simons was quoted as saying:

"We recognize that (manufactured) homes are now quality products, due to an evolution of improvements by industry and HUD-administered national production standards. We are positive that these dwellings can easily take their places alongside of conventional homes."

INNOVATIVE USES

So, parity is coming. It will culminate years of industry efforts to find more effective ways to tell our story and to serve our customers. It will open the door to new markets and innovative uses for our products. We are ready to meet these new challenges and to overcome any obstacles which interfere with the full development of this industry's capabilities.

But let me sound a note of warning: there are pitfalls which industry leaders, consumer representatives, and government policymakers must work together to avoid. It is imperative that we examine our assumptions carefully and establish our objectives wisely before we commit ourselves to new policies and new programs. We must not pursue objectives which might unwittingly undermine the very base from which we have been operating. Our goal is to expand into new markets without losing the ability to serve our traditional ones.

To that end, I would like to identify a series of policy issues. Each needs to be fully analyzed, if we are to chart an appropriate course for the future growth and development of this industry. For convenience, we can divide these issues into three sections, corresponding to the three types of consumers we will be serving during the coming years:

1. The traditional manufactured housing owner
2. The "converted" site-built homebuyer, and
3. The government-assisted housing consumer.

I will be posing several questions regarding each of these three groups. These questions must be answered if we are to construct an equitable and coordinated system of manufactured housing policy.

TRADITIONAL USES

Let's talk first about the manufactured housing industry's traditional consumer, the fellow who has been the backbone of this industry since its inception in the 1920s, and who will continue to be the mainstay of our business for years to come.

He is typically a hard-working guy who takes care of himself and his family. With a tendency to mind his own business, he is true to many of those things which are central to the character of our great country. He is self-reliant, even after retirement. If he had to move to find employment, he would do so. While he's never had much money, he has rarely been broke. He has never looked for or received any kind of long-term government assistance and I doubt seriously whether he ever will. Most of all, he's proud of who he is and what he's done.

These characteristics of our traditional consumer have emerged as the characteristics of our industry itself. We, too, are self-reliant and independent and are proud of who we are and what we've done.

The manufactured house of today is the mobile home of yesterday, and the house trailer of yesteryear. There is no one in our industry who is ashamed of that. Nor will any one who believes in the American free enterprise system be hesitant to discuss this industry's history in an open and honest way. Like every other industry in the American tradition, we started in someone's garage and worked our way up.

AVOID VALUE JUDGMENTS

All people need a place to live. Not all people want to live in the same place. The strength of the manufactured housing industry, like the American business community in general, is that it has always avoided making unnecessary and unwarranted value judgments about someone else's tastes or lifestyle. It is the buyer, not the producer and not the government, who should determine what the product will look like and be like.

There is diversity in the marketplace because the American people are themselves diverse. We must protect this fundamental right to be different against any who might wish to institutionalize their own preconceptions. Government standards and government regulations must not be used to impose unreasonable constraints on those being regulated.

Manufactured homes, and the residential structures which preceded them, have been successful only because there have been American citizens who have wanted to buy them. They are a form of housing freely chosen, not a form of housing somehow forced onto unwilling or reluctant purchasers. Millions of American families have found this form of housing to be a satisfactory way to meet their own housing needs, and to fulfill their dream for single-family home ownership.

POLICY QUESTIONS

This leads us to our first set of policy questions:

1. If our understanding of our consumers is correct, shouldn't the rest of America be willing to let manufactured housing consumers and manufactured housing developers have equal access to land and community facilities, provided only that they act as good neighbors and pay their fair share of community costs?

2. Shouldn't government policies and programs be developed, on an equal basis with programs designed to support other forms of housing, which would, under appropriate conditions of land use planning and zoning, expand the opportunities for Americans to live in manufactured housing in environments which are attractive and suitable for residential living?

3. Shouldn't a free and competitivie business environment be maintained, to the maximum degree possible, so that the successfully functioning market system which has evolved in the manufactured housing industry can continue to develop in an orderly and natural way?

ANOTHER GROUP

Let's now look at our second group of consumers, those whom I have referred to as "converted" site-built homebuyers.

As background, let me observe that the conventional homebuilding industry and the manufactured housing industry have followed patterns of growth and evolution which have been essentially independent of each other. In the late 1940s, various government programs were created to help consumers purchase single-family residences. Considering the relative development of the two industries at that time, it is not surprising that these early government programs and related local laws were designed primarily to support conventionally constructed dwellings. Interestingly enough, these early FHA and VA homes were generally small, simple in design, and relatively plain in appearance.

The overriding goal was to make ownership of safe, decent and affordable housing available to as many Americans as possible. Prosperity and more than four decades of extensive finance, insurance, and subsidy programs have made ownership of conventional-appearing houses a reality for millions of Americans who otherwise might never have achieved it.

Throughout this period both conventional and manufactured houses were getting steadily larger and more elaborate. Consumers regularly demanded more space and more amenities. The conventional homebuilding industry and the manufactured housing industry responded to the demands of their respective markets in exactly the same way: by delivering what the consumer wanted.

TRENDS CHANGED

Then conventional housing market trends began to change. Consumers began demanding more efficient, easier-to-maintain homes, in order to have more time for other activities. In response, the building community developed impressive new concepts in apartment living, condominiums, and planned unit developments. Housing units showed, for the first time in decades, signs of getting smaller.

More recently, and far more dramatically the energy crunch and inflation have made their appearance. Consumers have been rudely awakened and forced by external circumstances to rethink what they want and what they can afford. Efficiency and compactness have become watchwords of modern, large-scale developments. The marketplace is calling out for another round of innovative product development. What is needed is a small, attractive, lower-cost house, which will be compatible with the traditional styles of conventional dwellings.

As would be expected, these pressures in the conventional market have found their way into the public policy sector through a variety of channels. Most notably, for our purposes, are the very planning disciplines and physical development options which the Urban Land Institute has prepared for consideration by the Council on Development Choices for the 80s.

Another obvious expression of these market pressures is HUD's two-year old Task Force Report on Housing Costs, which called for a complete reassessment of government policies affecting housing costs and which included more than 80 recommendations for government action, including several related directly or indirectly to the manufactured housing industry.

NEW DEVELOPMENTS

Largely coincidental to the emergence of these new pressures in the conventional market, the manufactured housing industry was just reaching an important new stage in its own development. Second and third generation manufactured housing consumers were demanding, and getting, a larger, higher-priced conventional-appearing house.

It turns out that our larger, higher-priced house is very close to the smaller, lower-priced house so desperately being sought by the conventional homebuyer. In fact, it is just this emerging capability to produce a conventional-appearing house which is now, for the first time ever, attracting the serious attention of developers, planners and government leaders. As a result, we are beginning to win converts in increasingly large numbers. No where can this be better seen than in California, Oregon and Florida, the strongholds of our double and triple section market.

Without question, we wholeheartedly welcome this new interest in our products. It is coming just in time for the baby boom buyers and expanded retirement population of the 80s. We are delighted that our larger homes (the obvious successors to the FHA and VA homes of the 40s and 50s) appear to be useful and more acceptable to private developers, community leaders, and the public at large.

NEW OPPORTUNITIES

Opportunities now exist to form many new individual and institutional relationships. Our industry, through the Manufactured Housing Institute, has responded to these new possibilities by participating in the recent expositions and annual conventions of both the National League of Cities and the National Association of Counties. We look forward to becoming even more involved in the future.

However, we must not be too anxious to become completely "acceptable," if such acceptance means a one-sided change on the part of the manufactured housing industry and a failure on the part of the larger community and our governmental institutions to come to grips with the fundamental rights and needs of this industry's traditional consumers.

We must remain on our guard against those who might be willing to "make us over" in the image of the conventional dwelling, but who are not willing to objectively consider where our smallest and least-cost homes fit into overall national housing policy.

OTHER QUESTIONS

This suggests a second series of policy questions:

1. Does the larger manufactured house of today, built under a stringent federal code and shaped by forces operating freely in the marketplace, provide a viable complement to conventional housing?

2. If so, shouldn't government policies and programs be developed to expand the opportunities conventional consumers have to purchase these larger manufactured houses in settings which have traditionally been reserved for conventionally constructed dwellings?

3. Most importantly, shouldn't the government conduct a full and objective reassessment of national housing policy in light of the general attributes of all manufactured housing, with attention being divided equally between our smaller, least-cost products and our larger, high-cost products?

GOVERNMENT SUPPORT

There remains one last important area of policy which we want to consider: the area of government support for families who, by virtue of their circumstances, are deprived of a reasonable opportunity to obtain, through normal market operations, any form of safe, decent housing.

While we can not take the time today to examine in any detail the housing, economic and social needs of our lower income citizens, we can take a cursory look at where manufactured housing might be used in partial response to this complex social problem. At this point in the history of our industry and the history of our national housing programs, we see our current products as being available for use in programs which involve a number of different settings: new communities, urban infill, neighborhood preservation, public housing, subsidized homeownership, rural development, military and temporary housing and other governmental programs.

We are ready to seriously explore these new fields, as a partner with our Federal, state and local governments. We are ready to participate in an objective reevaluation of our country's low-income housing needs and our industry's ability to meet some of those needs.

We claim no special wisdom in this field. We do know that manufactured housing is not a panacea for solving all urban and rural housing problems. On the other hand, manufactured housing has been used for decades, without requiring any direct government involvement.

This means that there are probably lessons to be learned on both sides. The industry must be willing to explore new avenues and consider new settings for its products. The government, in its turn, must be willing to understand our industry as it currently is and to reassess its own-income housing policies in light of this industry's past history.

FINAL QUESTIONS

We can now present the last of our policy questions:

1. Given the success of manufactured housing in other settings, shouldn't carefully planned demonstration programs be initiated to determine the advantages and disadvantages of using manufactured housing more

extensively to meet non-market housing objectives?

2. If so, what criteria should be used to evaluate the adequacy of manufactured housing for these new purposes, so that the needs and concerns of traditional manufactured housing consumers are not discriminated against in the process?

In conclusion, let me repeat that the manufactured housing industry is enthusiastic about its future and anxious to do its share in meeting national development objectives. We want to service any consumer who is interested in owning a manufactured house. We see the 80's as a period of expanding markets and exciting new relationships.

At the same time, we must be extremely sensitive to the needs of our traditional consumer and be constantly ready to defend his right to purchase the type of housing he wants. He is not wrong because he is different. We are wrong, if we try to exclude him from our communities. His government should be his ally, not his antagonist.

If we plan carefully, and maintain our commitment to freedom of choice, then the future of the manufactured housing industry will indeed be a great one.●

WHITE HOUSE HONORS RECIPIENTS AT SENIOR EXECUTIVE SERVICE AWARDS CEREMONY

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. HANLEY. Mr. Speaker, I was honored to be in attendance at the White House on September 9, when 49 outstanding career civil servants were awarded the highest honors possible for them to earn in Government service. It was with a great deal of personal pride that I saw our many months of labor on civil service reform legislation come to fruition, as members of the Senior Executive Service were singled out for their excellence.

Because all of my colleagues could not be present for the award ceremony, I would like to share with them now the remarks made on that occasion by my dear friend, Office of Management Personnel Director Dr. Alan Campbell, and by President Jimmy Carter:

Remarks by Alan K. Campbell, White House SES Ceremony, September 9, 1980

Good Afternoon.

I am Alan Campbell, Director of the Office of Personnel Management, and on behalf of President Carter I welcome you to the White House. The President will be joining us shortly.

Two and one-half years ago, President Carter proposed the Civil Service Reform Act to bring the most comprehensive improvements to the Federal service in nearly a century. With this ceremony, I think all of us can truly say that civil service reform is a reality, and that the President's vision of a more efficient and effective Government is coming true—that his promise is being kept.

Being awarded today are the first Presidential Distinguished Ranks, and being announced are the Presidential Meritorious Ranks. Established by the Civil Service Reform Act these are the highest awards which may be earned by career civil servants.

The 49 recipients individually and collectively have expanded the frontiers of this country in research, management, economics, law, and human, intergovernmental, and international relations.

Also with us today are individuals from all sectors of society—Congressional leaders and professional, academic, civic, labor and business organization representatives—who, along with career civil servants, joined with President Carter to create the Civil Service Reform Act, and the Senior Executive Service which is the keystone of that legislation. To all of you, I again express the thanks of the Administration and Federal employees for your generous support and vote of confidence in Federal service.

And now, with the assistance of the Cabinet Secretaries and Agency Heads whose personal commitment to the Civil Service Reform Act has been so critical to the success of the legislation's implementation, I have the honor to present the 1980 Senior Executive Service Distinguished Presidential Rank Awards.

Remarks of the President at the Senior Executive Service Awards

The President: Thank you very much. Scotty Campbell and fellow government employees, it is a pleasure to be with you. Also I hope all of us have long years of service in the future.

I have just come back from a very fine visit to New Jersey to see a new steel plant that is exciting for an engineer and a president to observe. This is the most modern steel plant in the world. Each employee produces 1,340 tons of steel per year, including all executive management. This is the highest productivity per steel worker in the world. They use thirty percent as much energy as the former steel plants used. They make steel rod of the highest quality, and fifty percent of it, you might be interested in knowing, is sold at this time to the People's Republic of China, successfully competing in price half the world away with the Japanese steel plants that are much closer. The dynamism and competence of our own nation and its free enterprise system, in my judgment, is equaled by the dynamism and competence of the public servants like you, who represent the American people in our Federal Government.

I come to the presidency determined to make my own administration and the government in general more responsive to the American public and at the same time more efficient in the delivery of services to those who look to us for leadership and for service. Since taking office, I have seen repeatedly that the key to more effective government, which we all desire, has been our creation of a more productive, more dynamic, and more cost-conscious federal work force.

In 1978, with the help of many of you assembled here, I was able to sign into law a bill which completely overhauled the civil service system of the Federal Government for the first time in one hundred years. It was a landmark achievement. It was Scotty Campbell's concept, which the Congress courageously passed for my signature. It was one of the most significant achievements of my own administration.

The Civil Service Reform Act gives Federal managers, like many of you, some of the same management incentives that have proved so effectively to make our private economy and its free enterprise system competitive and the pride of the entire world. It emphasizes performance, not just longevity. It lets us select individual public servants and reward them, and thereby in a positive way encourage others to excel.

Today's ceremony is unprecedented, and it is also long overdue, in my judgment. Too often we single out Federal managers only when there has been a problem. We focus attention only on the shortcomings of the Federal bureaucracy and our public servants. This is no way to run a government, nor any enterprise. Federal managers exert an enormous influence on us all. Your responsibilities are often staggering in their scope and complexity and difficulty. Some of you are the most important executives in America. Where we find excellence, we need to acknowledge and reward that excellence publicly.

I am pleased to be present today for this distinguished executive awards ceremony for the forty-nine men and women who have served our country so well. Let me say that your service to our country has been truly distinguished. You are the best of the government's senior executives; in my opinion the best of the best. I know that the awards have already been issued to you, but I would like to mention just a few who have come to my attention personally, and I think are representative of the entire group's achievements.

Harold Denton of the NRC has won wide praise for his performance following the Three Mile Island accident. I talked to Harold just a few hours after this accident occurred. When I went to the Three Mile Island plant the Sunday following the accident I went into the control room with Harold, and from then on I saw on television every night his calm, professional, reassuring voice letting the American people know that they need have no fear.

Chris Craft of NASA made space travel the safest transportation in the world. He has directed, as you know, and was principle organizer of the Mission Control Center in Houston of Mercury, Gemini and the Apollo space missions, one of the most notable technological achievements in history.

Claude Farina saved the United States Air Force 23 million dollars through better logistics management, an achievement which would ordinarily not go recognized by the American people.

Charles Swinburn of the Department of Transportation saved taxpayers 100 million dollars by restructuring the Amtrak route system.

I could go on and on. I am sure that Scotty Campbell has already recognized individually what you all have accomplished. But on behalf of 240 million Americans I want to say from the bottom of my heart, as President, thank you for what you have meant to our country. These awards today are a solid investment for our country. The millions of dollars that you forty-nine people have saved the taxpayers could fund the senior executive bonuses for many decades in the future, even generations. In honoring you I hope to encourage others, all public servants, to higher levels of accomplishment. And I also want to make your excellence known to your employers, the people of America.

Thank you very much. God bless every one of you.●

SYRACUSE UNIVERSITY OPENS NEW CARRIER DOME

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. HANLEY. Mr. Speaker, September 20, 1980, is a day that will shine in the rich history of my home community of Syracuse, N.Y. For it was on this day that Syracuse University formally opened the doors to a structure that will change the face of sports in the northeastern United States for years to come * * * the brand new Carrier Dome.

The Carrier Dome is the finest collegiate facility in the United States. The

50,000-seat enclosed midcampus stadium, completed on schedule for the fixed price of $26.85 million, is a tribute to the university, the State of New York and the local community.

I would be remiss if I failed to point specifically to the contributions of three great men. Syracuse University Chancellor Melvin Eggers is a man of action and a man of vision. It was Mel Eggers determination that was the keystone of this great success. New York Governor Hugh Carey made the dream a reality by providing $15 million from the State coffers to give an economic boost to central New York. And Melvin C. Holm, chairman of the board of Carrier Corp., spearheaded participation by the private sector with a $2.75 million contribution.

I want to congratulate the Syracuse Orangemen for inaugurating their new facility with an impressive 36 to 24 football victory over Miami of Ohio, but I hasten to add that the Carrier Dome will have uses far beyond just football. The multipurpose stadium has an eight-lane track. For basketball, a large curtain will be pulled across half the stadium, and the court will go along the width of the field, with seating for 22,000-plus spectators. The Dome will be the home of the Empire State games, an Olympic-type competition that brings together more than 5,000 youths from across the State. Next summer, the Dome will house the National Sports Festival, and there will be concerts and shows and more.

For a more detailed account of how the Carrier Dome came into being, I offer an article which appeared in the September 7 edition of the Syracuse Herald American. Completion and inauguration of the Dome are a magnificent accomplishment and a tremendous source of pride for our community. I invite all of my colleagues to come to Syracuse and visit one of the finest facilities in the Nation.

CARRIER DOME: A STORY OF CHALLENGE AND TRIUMPH

(By Jeff Rea)

That exciting new face on the block, that marveously unique addition to the Syracuse University skyline, seems, in retrospect, to have risen like an inflatable phoenix from the ashes of ancient Archbold.

After all, Carrier Dome construction appears to have swept ahead with hardly a ripple from the time the first spade was turned, at halftime ceremonies of the last truly home game the SU football team played—the Navy game on Nov. 11, 1978.

But the apparent ease with which the cool concrete facade and sun-shimmering bubble-top went up belies the fact that a new stadium was decades in the dreaming, culminated by an intense three and a third years of study, debate, dealing and political blood-spilling.

MULTIPURPOSE PALACE

In all its air-supported glory, the multipurpose palace at the end of Irving Avenue looks as though it always belonged there; in fact, it already is a monument pointed to with civic pride.

But in the ebb and flow of plans for a new sports stadium, the idea of rebuilding on the site of 1907-vintage Archbold was shelved in the 1950s and, in the '70s, was rejected by two consecutive stadium commissions.

The development of a place, a means of funding and a design for the stadium reads like a case study of the American political system at work: More than 60 sites were proposed. The county's taxpayers very nearly were full partners in the venture. And, for a long time, it looked as though the stadium would be built without the cap that now makes is so distinctive.

AN OLD IDEA, REALLY

The improvement or replacement of the concrete Archbold bowl was a topic of discussion for almost half its life, according to news stories in The Herald-Journal's files.

In a 1976 interview, Noreda A. Rotunno, SU's landscape architect from 1942 to 1966, said drawings were made in the mid-1940s of proposals to put a new stadium near the present site of Manley Field House or on the south end of SU's Drumlins property.

"Mainly because of finances," he said, nothing came of these ideas.

GARAGE PROPOSAL

In the mid-'50s, according to Rotunno, the university considered turning Archbold into a three-level parking garage or lowering the field level of the 26,288-seat stadium to accommodate 20–25,000 more fans.

There was some talk in 1952 of putting a stadium on the west shore of Onondaga Lake, a plan which a Liverpool man resurrected during the heat of the stadium site debate in 1976.

News stories make mention of a 1968 scheme to build a 50,000-seat stadium at the State Fairgrounds. This idea, too, was reborn in the late '70s.

In 1973, two local lawmakers, Republican Common Councilor Thomas J. Cahill and Democratic County Legislator Edward R. Hutchinson, announced they would seek to form a joint city-county committee to study the sports stadium needs of the Syracuse metropolitan area.

But it was not until March 7, 1976, that the ball was to begin rolling that would lead, after years of unpredictable bounces, to the Carrier Dome's opening kickoff Saturday, Sept. 20.

On that day, John R. Searles Jr., then executive vice president of the Metropolitan Development Association, revealed that Atlanta and Los Angeles firms known as the Arena Group were beginning a preliminary investigation of "requirements for mass spectator events in the Syracuse and Onondaga County metropolitan area."

A Herald-Journal editorial, referring to SU football's 69-year home as "DOA—Decrepit Old Archbold," expressed confidence the study would show the need for a "multipurpose stadium facility."

That it did. Publicly released on May 5, 1976, the Arena Group's study said a 50,000-seat stadium could be built for $12.5–15 million.

The report went a step further and actually recommended a site for the edifice, a move which later was ripped as "the boner of the year."

When residents near the proposed site, a county-owned parcel on Hopkins Road across from General Electric in the town of Salina, heard of the recommendation, they came out with both barrels firing.

STADIUM "UNWELCOME"

The Salina Town Board took less than a week to decide the proposed stadium "would be unwelcome" to 1,000 nearby homeowners, and that there would be parking and drainage problems. Later the same month, the County Legislature's Ways and Means Committee slammed the door, voting 7 to 3 to block use of the Hopkins Road county land for a stadium.

The Arena Group report did give stadium proponents a starting point and did result in the appointment of a Municipal Stadium Commission to study alternative sites, funding possibilities and the uses to which a stadium might be put to generate revenue.

The 15-member commission met for the first time June 7, 1976. By then, other sites already had been proposed, including the State Fairgrounds and, also in the town of Geddes, the Allied Chemical wastebeds. Commission Chairman Carter B. Chase promised to consider all site proposals "with an open mind."

FRANTIC SEARCH

The fall of 1976 was a frantic one in the search for a stadium site. Searles had said he was optimistic the new federal Public Works Employment Act would provide up to $5 million for a stadium if application were made by Dec. 3.

The Municipal Stadium Commission considered 30 sites, reported six satisfactory, but revealed none. It hinted the frontrunner was a large tract along Rt. 48 in the northwest section of the county.

Meanwhile, a commission subcommittee estimated a stadium could produce $919,000 annually in gross revenues from a variety of events, including six SU football games. A stadium on a smaller scale than, but combining the best attributes of, Schaefer Stadium in Foxboro, Mass., and Rich Stadium near Buffalo, could be built with $5 million from the federal government, $7 million from a sale of bonds, $2 million from a community fund drive and $1 million from sale of the name of the stadium.

SITE OFFERED

In October, 1976, the commission revealed that Santaro-Taroson Inc. had offered to donate an 80-acre site in the town of Van Buren, near Baldwinsville. The contracting firm's only stipulation was that the stadium be named after the late Michael Santaro.

As the debate over a Van Buren site grew in intensity, other political forces were trying to draw the focus of stadium plans into the city. Mayor Lee Alexander proposed the former Sears property on South Salina Street; others pushed for a stadium at the site of the old Department of Public Works garage off Erie Boulevard East.

The Van Buren proposal died a slow, highly publicized death. First the Van Buren Town Board, then Van Buren voters in a special referendum, turned thumbs down to the plan. The Herald-Journal spoke editorially in favor of a downtown site.

DEADLINE PASSES

The apparent deadline for applying for the $5 million in federal aid came and went. A Herald-Journal story quoted federal officials as saying the deadline had merely been for the first computer run of applications. County Executive John H. Mulroy said that, in any case, he had been told the county's chances of getting the money that year were only about 2 percent.

On into early 1977, the site proposals poured in. The Stadium Commission reported rejecting more than 40, approving only five for in-depth review.

Among the rejectees were the Archbold Stadium site and the Skytop land near Drumlins—ironically, two of the sites that were to get the most attention the following year.

According to news stories, a domed stadium concept first was suggested in April 1977 in a presentation by two men responsible for building the Silverdome in Pontiac, Mich. Searles pronounced the idea a "good thing" but cautioned such a plan would add $10 million to the stadium's $15 million price tag.

CAREY HINTS AID

Another glimmer of things to come occurred the next month, when, at a luncheon to mark the opening of the Marriott Inn near Carrier Circle, Gov. Hugh Carey hinted state aid for a stadium might be forthcoming if voters that fall approved his $750 million economic development bond issue.

The County Legislature, in September.

1977, finally gave official sanction—and money—to the stadium idea. It approved the formation of the Onondaga County Stadium Commission, whose work was to be funded by $15,000 each from the county, SU and the Metropolitan Development Association.

The commission's job was to study the economic feasibility of various stadium ideas and sites. Architect David Chase was named chairman.

Shortly thereafter, the Frank Briscoe Construction Co., the firm that built the Meadowlands complex in New Jersey, made a stadium proposal that was to take a lead role in discussions for 10 months.

A NO-FRILLS PLAN

Briscoe offered to build a 50,000-seat, no-frills stadium at the Skytop site for $8.9–9.9 million. SU was to donate 120 acres it owned west and south of the Drumlins golf courses.

By January, 1978, the county Stadium Commission had reported narrowing its choices of Skytop, the town of Van Buren site and a site proposed by realtor James Kelly on Bridge Street in East Syracuse near Rt. 690.

The commission ruled out rebuilding at Archbold because of a lack of nearby parking.

The Syracuse University Board of Trustees approved a Skytop site and pledged $4.5 million in funding, an action Chase attacked as "premature."

Discussion was heated all spring as Kelly pushed for a domed, multi-purpose convention center at Bridge Street and the state put its oar in with a new proposal for a domed stadium and a garbage-burning steam plant at the State Fairgrounds.

FUNDING PROBLEM

The state would not, at first, commit any funding for the State Fair site. The word was that the state Urban Development Corporation couldn't fund the venture and the state Industrial Exhibits Authority couldn't bond for that much.

However, the idea of UDC funding the stadium slowly turned around, until it became the cornerstone of financial support for today's Carrier Dome.

In May 1978, then-County Legislature Chairman Michael J. Bragman said it all was "still in the talking stages," but there was a possibility of a gubernatorial election year trade-off—Central New York backing in the state Legislature for a UDC-funded, $257 million convention center for New York City, in exchange for $30 million worth of UDC support for a domed stadium.

Meanwhile, the fortunes of the proposal for an open stadium at Skytop were up and down. Studies showed road improvements to the tune of $3.9 million would be necessary to handle stadium traffic in the area (similar studies more than doubled that figure for Bridge Street, which effectively ended discussion of that site).

But Bragman and SU Chancellor Melvin Eggers met with the governor's special assistant and secured a promise of $3–5 million in state Department of Transportation aid for the Skytop improvements.

However, residents of areas that would be affected by stadium traffic weren't appeased. Neighborhood opposition carried with a hardening positions among some county legislators.

Finally, on July 14, 1978, Eggers proposed a $35 million complex on the site of old Archbold that would include a domed stadium, a student union and a continuing education center.

In later interviews, the chancellor said he came to realize the votes weren't there in the County Legislature for bonding the Skytop proposal, and he took another hard look at Archbold.

FORTUITOUS EVENTS

Dr. Joseph V. Julian, vice president, for public affairs at SU, recently told The Herald-Journal "a fortuitous set of circumstances came together" to prompt Eggers' proposal. Among them, he said, was that the governor, deeply involved with his "I Love New York" drive, was interested in an enclosed facility that could accommodate many more events than "the handful" that could be held at an open stadium.

To say nothing of the fact it was an election year. Political support for the idea began to fall in place with amazing rapidity. It culminated less than two weeks later with the announcement Carey and Eggers had reached agreement on the stadium. The news came the same day Carey opened his Syracuse campaign headquarters.

The governor said a bill to boost UDC borrowing capacity might be amended to include money for the dome. The UDC bill cleared the state Legislature Sept. 27, 1978, guaranteeing $15 million in financial support.

AND "THAT'S THAT"

In an editorial following passage of the measure, The Herald-Journal commented, "Well, that's that. After years of wrangling over site selection and financing, it all fell together so beautifully it seemed almost too simple."

Syracuse University became responsible for raising the other $11 million-plus the stadium would cost. Somewhere along the line, the idea of a student union and continuing education center as part of the complex was shelved.

The county, which had halted a $120,000 environmental impact study of the Skytop site soon after Eggers' dome proposal, wasn't committed financially at all for the new stadium.

Bragman recently was asked if he was disappointed the final plan did not include the county.

"To the contrary," he said. "I'm very proud of the role the County Legislature played and I played as chairman." Pointing to events that gave the idea of a stadium impetus, he said, "If we hadn't played such a positive role, bringing into focus the need for a stadium, I'm not sure this never would have happened."

Calling it "a great project," Bragman said, "I don't have any negative feelings. They're all positive."

As soon as the state Legislature and Carey made the dome a certainty, the university moved to make sure the facility would be ready for the 1980 football season.

It signed a construction manager who guaranteed the project would come in on time, at a fixed price of $26.85 million. Demolition of ancient Archbold, the university said, would begin as soon as possible after the last game of the 1978 football season, and the team would play its entire 1979 season on the road.

SU also unveiled plans to raise its share of the stadium cost: $1 million from the sale of private suites, $3 million from sale of the stadium name and the rest from a preferred-seating plan and alumni contributions.

On Feb. 15, 1979, SU announced Carrier Corp. had donated $2.75 million to what would be called the Carrier Dome.

In between the blockbuster announcements, though, all was not going as smoothly as the Teflon coating on the dome's future roof.

SOME OBSTACLES

The SU Student Association objected that the stadium wouldn't be known as the Ernie Davis Dome, after the late Heisman trophy-winning running back from Elmira. It since has been decided to dedicate a hall of fame inside the dome to Davis' memory.

The National Organization for Women's Syracuse chapter demanded equal locker room facilities for women and an all-out effort by SU to see that women's sports were encouraged in the new stadium.

And, finally, a lawsuit was started.

The suit, lodged by three university area homeowners' groups, contended UDC, the city Planning Commission and the county Planning Board had ramrodded the dome project ahead without adequate study of traffic, parking and other effects on the neighborhood during dome events.

COURT BATTLES

UDC had illegally waived preparation of an environmental impact statement, the groups said.

State Supreme Court Justice Edward F. McLaughlin, on March 27, 1979, dismissed the suit. He found, among other things, that UDC had a "rational basis" for determining an impact statement was not needed.

The neighborhood groups, led by attorney Richard Schechter, took an appeal to the state Supreme Court Appellate Division in Rochester.

In a scathing opinion July 13, 1979, the court reversed McLaughlin, saying the governmental agencies had "in an Alice-in-Wonderland manner separated and put aside the realities of the traffic and parking problems from the totality of this project."

The court added, "Like the proverbial ostrich (they) incredibly put out of sight and mind a clear environmental problem."

Fortunately for the university, the Appellate Division did not immediately enforce its order to halt construction. It granted a stay of four months for UDC to complete an impact statement and for the city and county planning agencies to prepare and hold public hearings on a traffic plan.

By November, a consulting firm had delivered a three-and-a-half-inch-thick impact statement to UDC headquarters in New York. And public hearings were held on a traffic plan that included new parking lots in the university area and a massive shuttle system from downtown lots.

The system will get its first test Saturday, Sept. 20. The dome, after a mild winter and nearly uneventful construction process, has arrived.

What will those who worked hard for its arrival be feeling that night? Jack McAuliffe, a former chairman of the original stadium commission, said, "This is the culmination of something that's been needed for so many years. It's going to be great for Syracuse."

Julian said, "That's going to have to be one of the most satisfying days that many of us have experienced." ●

HARRY GRAY OF UNITED TECHNOLOGY

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PRICE. Mr. Speaker, the September 22 Fortune magazine contains an interesting article on the management and plans of United Technologies Corp. The article features the direction United Technologies' chief executive, Harry Gray, has given to this major industrial organization which has and is contributing so much to both the security and general welfare of our Nation.

We are indeed fortunate to have such great leaders in the industrial and business fields of our Nation as Harry Gray. He appeared before the Armed Services Committee on September 18 to tell us of the problem this Nation faces on the availability of critical mineral resources. He pinpointed a number of minerals which are critical to our national security and which we must obtain from foreign sources. It is obvious from his testimony that we must do more to assure dependable supplies of these materials. His testimony which we expect to print soon should be studied by all with responsibilities in national security matters.

I am including the Fortune article at the close of my remarks since it provides an excellent picture of the outstanding accomplishments and qualities of Harry Gray upon whose leadership this Nation depends in so many areas.

WHAT HATH HARRY GRAY WROUGHT? UNITED TECHNOLOGIES' MASTER PLAN

(By A. F. Ehrbar)

On a sunny Thursday morning last September, L. J. Sevin, the chairman of a thriving Texas-based semiconductor company called Mostek, climbed into the cabin of a Sabreliner jet parked on the tarmac at an airport near Dallas. He was there for a clandestine meeting with a stranger named Peter Scott, an executive vice president of United Technologies. For the next hour, Scott described the wonderful things that would happen if United acquired Mostek. Sevin, who was trying to fend off a takeover bid by Gould Inc., listened attentively, but told Scott he wasn't ready to sell to anybody yet. With that, Sevin climbed out and Scott jetted 1,500 miles back to United's Hartford, Connecticut, headquarters.

Apart from the fact that Scott flew all the way to Texas, United's "we're here if you want help" offer seemed almost half-hearted. And the possible purchase of Mostek certainly looked like small change in the affairs of United; Mostek's 1979 sales of $200 million or so would add only 2 percent to United's $10.4 billion in revenues. But Scott's mission was extremely important to Harry Gray, United's notoriously acquisitive chief executive. In many ways Gray coveted Mostek more than the much larger acquisitions he had made in the eight-year process of reshaping United Aircraft, a stagnating $2-billion jet-engine company, into United Technologies, an aggressive, rapidly expanding conglomerate.

THE KNIGHT AND THE LINCHPIN

Gray had wanted a semiconductor company since he arrived at United in 1971. But success in semiconductors depends largely on the brilliance of the manager-scientists who run most of the companies, and a hostile acquirer risks driving them away. Gray refused to go after a semiconductor company unless he could do so in the role of white knight. Gould's takeover attempt gave Gray his opening. Three weeks later, after four more meetings between Scott and Sevin, Mostek was his.

Mostek is the linchpin in the strategy behind the seemingly unrelated takeovers that preceded it. Gray has repeatedly said that he isn't building a garden-variety conglomerate—that the companies he has bought have a common ability to benefit from the enormous amount of research United must perform for its aerospace business. But few outsiders saw the link between United Aircraft's jet engines and, say, Otis elevators.

With Mostek, it suddenly became clear that the disparate acquisitions did share an important common element. Gray acquired companies that all stand to profit from the state-of-the-art expertise in electronics and controls that United's Hamilton Standard division has developed in its aerospace control-systems business. In addition to Otis, Gray's acquisitions include Carrier (air conditioning), Essex International (wire and cable, controls and switches for cars and appliances), and Ambac Industries (diesel fuel injectors, small electric motors, and scientific and medical instruments).

With an almost evangelical fervor, Gray predicts that over the next decade microelectronics will transform all those products and everything else United makes. Mostek, or a company like it, was vital to Gray's plan to cash in on that coming transformation. He believes that a semiconductor company will give United's product designers a winning edge on the competition. "In the long run, every piece of equipment we manufacture is going to be controlled by microprocessors," says Gray. "The main reason we bought Mostek is to let the designers know what it's possible to do now and what it will be possible to do, at what cost, in the next three, five, or ten years."

A second reason for buying Mostek was its phenomenal growth prospects. The company—its name stands for metal oxide semiconductor technology—is the largest maker of 16,000-bit random-access memory chips. The chips are the basic element in advanced computer memories. Gray paid $385 million for Mostek, a high price for a company that earned only $15 million last year. But an internal projection that Mostek made before the acquisition showed profits rising to $30 million this year and $72 million in 1983. Sevin says the company will hit this year's target despite a softening in the semiconductor market.

Shortly after the Mostek acquisition Gray landed another long-sought quarry when Alexander Haig became president and chief operating officer of United. Gray had been courting Haig since the late Sixties, and offered him the No. 2 job upon his resignation as supreme commander of NATO in July of last year. Haig accepted in December after he abandoned his campaign for the White House.

Haig's indoctrination at United was unexpectedly interrupted last spring when he had to undergo triple-bypass heart surgery. He was back at work just six weeks after the operation. Gray says that Haig, 55, probably will succeed him as chief executive when Gray retires in 1985.

A GIANT IN R. AND D.

Gray has assembled a strong assortment of companies, but his strategy entails considerable risks. For one thing, the cash and preferred stock he paid out for the acquired companies have leveraged United's finances to a degree normally associated with electric utilities. On June 30, the company's debt equaled 62 percent of total assets. If preferred stock is included in debt, as it should be from the perspective of the owners of common stock, the debt amounted to 75 percent of assets.

The returns on research—the foundation of all Gray's plans—are inherently uncertain. United is investing $625 million this year on a mind-numbing array of research programs. Only five companies spend more on R. and D., and none of them spends as high a percentage of sales. Gray says he undertakes only projects with a prospective rate of return of 25 percent or more, but many are based on huge gambles whose payoffs, if they come, are a long way off.

Ambac, for example, makes diesel fuel injectors for large trucks and farm and construction vehicles, and it is working on a line of superefficient electronic injectors for diesels in cars and small trucks. Ambac may not come to market with the new products until the early Nineties. When it does, it will be going up against Bosch, which now makes the injectors used in most small diesels.

Gray has succeeded brilliantly thus far. United's revenues rose from $2 billion in 1972 to $9 billion last year ($10.6 billion if Carrier's and Mostek's results are included for the full year), and profits jumped from $50.6 million to $326 million. Fully diluted earnings per share, which assumes conversion of all the preferred stock, grew at a 15.4 percent rate, from $2.09 to $5.71. Per-share earnings this year will be about $6.30 on revenues of $12 billion. United ranked 26th on this year's Fortune 500, up from 56th on the 1973 list. Counting in Carrier and Mostek, United would have been 21st on the 500 and the tenth-largest non-oil company. From 1972 through 1979 United's shareholders reaped a total return (capital gains plus reinvested dividends) of 315 percent.

Few people dared to hope for that kind of performance out of United Aircraft when Gray assumed the presidency in September 1971. Both revenues and profits had fallen after 1968 as the military reduced its Vietnam procurements. By 1970 orders for commercial engines were plummeting as well. Pratt & Whitney, which then accounted for 75 percent of United's sales and an even greater share of profits, had lost the virtual monopoly it held during the Sixties on engines for commercial jetliners. GE had won the initial engine contract for McDonnell Douglas's new DC–10, and Rolls-Royce was supplying the power for Lockheed's L–1011 TriStar. Pratt & Whitney had the contract for the only four-engine wide-body, the Boeing 747, but that was sad consolation. The plane had turned out heavier than planned, and modifications to boost the engine's power were chewing up profits. Sikorsky, United's helicopter company, had won only one large military contract since the Korean war. Hamilton Standard's sales were limited to aerospace, and the Norden subsidiary (radar and navigation equipment) was, as Gray puts it, "on a going-out-of-business curve."

William J. Gwinn, the chairman of United, was convinced that the company had a prosperous future in jet engines. But he and Arthur Smith, the president, concluded that United had to diversify in order to underwrite engine research during lean periods in aerospace. They also decided that none of United's executives could manage the diversification. Says William I. Spencer, president of Citibank and a United director since 1970: "There was a lively awareness that the only thing United had done was buy Norden, and that wasn't the most riotously successful thing in the world."

A PAY CUT FROM NIXON

Gray, then the No. 3 man at Litton Industries under Tex Thornton and Roy Ash, was precisely the kind of manager Gwinn and Smith wanted. He had the experience of a dozen acquisitions behind him and an impressive record in both operating and staff jobs. Gray found United equally appealing. It presented a unique opportunity to practice what he calls "the management of technology," as well as the chance to run a company sooner than if he waited for Thornton and Ash to retire. Smith, who was only 60, agreed to become vice chairman so Gray could start out as president. Provided he passed muster, Gray would become chief executive when Gwinn retired in 1972 and chairman when Smith retired.

The one thing United didn't offer was more money. Gwinn had agreed to match Gray's $170,000 salary at Litton, but President Nixon froze wages before Gray reported for work. Gwinn decided that the spirit of the law required United to pay Gray no more than the $150,000 Smith had been making. "Some of my colleagues thought I had a huge hole in my head," says Gray. "I took a $20,000 cut with no incentive compensation. I had to sell my house at a loss and move from sunny southern California to the cold country. Boy, was I unpopular at home. But it worked out all right." It certainly did. Gray made $1 million last year.

In his nine years at United, Gray has won the admiration of most of the company's engineer-managers—no mean feat for the first outsider to hold a top job at an inbred company. Gray will always be the new boy on the block to many of them, but they are impressed by his command of the company's diverse and exceedingly complex projects—especially since Gray's formal training was in marketing, not engineering. Subordinates speak in awe of Gray's memory and of the way he involves himself in details of United's far-flung activities. They also are wowed by the hours he puts in. "Harry thinks a vacation is coming to work in a sports jacket," says a vice president.

Gray has a flair for attracting attention. He flies practically everywhere in a Sikorsky helicopter, to the point that choppers have become symbolic of Gray—just as Gray himself has become a symbol of the high-stakes takeover game. His angular features and mischievous grin fit the swashbuckling image. So, too, does his voice. Born in Georgia and raised in Chicago, he retains just enough of his boyhood drawl to put a round edge on his flat midwestern speech. His words come quick and easy, spicy with simile and disarmingly candid. But he rarely gives anything away unintentionally.

Gray spent most of his first year at United tending to problems at Pratt & Whitney. Just before Christmas in 1971 he discovered that United had to write off $137 million of warranty costs on the first version of the 747 engines, and he settled a $100-million dispute with Boeing over Pratt & Whitney's "underpowered" engine and Boeing's "overweight" plane.

CHANGE FOR THE DIRECTORS

With those matters behind him, Gray began searching for acquisition candidates. He had specific attributes in mind. The most important was the ability to benefit from United's research, which suggested companies that were investing too little in R. and D. themselves (Mostek is the sole exception to that rule). In addition, he wanted companies with large, preferably dominant, market shares so he could reap the greatest profits from product improvements. Another criterion was price. While Gray was earning his reputation as a voracious acquirer, he also became known around Wall Street as one of the more niggardly players in the takeover game. Gray paid hefty premiums for companies, but not as hefty as other players were offering. And he always paid less than he thought a target was worth. "Whatever the directors authorized, I always brought 'em change," he says.

The first acquisition came in November 1973, when Gray bought Essex for $320 million in preferred stock. In 1975 he concluded that the elevator business was ripe for a technology invasion and went after Otis. When Otis's managers spurned his advances, the time had come for Gray's first hostile takeover. (Gray maintains that he's never made a hostile offer, since he has always kept the target's chief executive.) He got 70 percent of the shares in a $276-million tender offer and issued preferred stock for the balance of Otis in 1976.

Two years later, in March 1978, Gray negotiated the friendly purchase of Ambac. He believes that the amount of electronic equipment in autos could rise from less than 5 percent of the average car's total value this year to as much as 20 percent by 1990; Ambac's injectors and small motors looked like a natural complement to Essex's automotive products. By last year United had built its U.S. auto-industry sales to $421 million.

The Ambac acquisition was barely completed when Gray set his sights on Carrier. That takeover developed into one of the most hotly contested ever, with the entire city of Syracuse, New York, fighting to keep its largest company independent. A cartoon in the Syracuse Herald-American depicted Gray as King Kong atop the Carrier building, "Help Carrier" banners festooned Salina Street, and the Chamber of Commerce cajoled the Small Business Administration into holding hearings on the takeover's effect on Carrier's suppliers. Gray ultimately won, but he has had to run Carrier as a separate, unsynergized entity pending the settlement of a Justice Department antitrust suit.

Carrier has seemed the most puzzling of Gray's acquisitions. While microelectronics will profoundly affect air conditioning design and efficiency, United stands to reap a large share of the profits from any innovations simply by selling motors and control systems to the industry. Gray wants to manufacture the entire product because he sees air conditioning—like automobile electronics—as one of the major growth industries over the next 20 years. With visions of refrigerating the Sunbelt dancing in his head, he predicts that virtually all factories eventually will be air conditioned. "If this country is to improve productivity," he says, "it is absolutely required that you go to computer-aided machines. And you just can't run those machines outside an air-conditioned environment."

Gray makes a persuasive case that United's know-how really has bolstered the acquired companies. Otis, for instance, last November began selling a fully electronic elevator control system that Hamilton Standard helped develop. The system—called Elevonic 101, a takeoff on Hamilton's avionic controls—can cut passenger waiting time by a third and elevator energy consumption by 40 percent. Otis had begun work on electronic controls at the time of the takeover, but it hadn't planned to have a system like Elevonic until 1985.

Bringing off all those acquisitions required the skills of a practiced boardroom politician as well as the talents of a take-over artist. Though Gray's rule is now absolute, he first had to prove himself to a contingent of staid, white-shoe Connecticut directors who dominated the board until the late Seventies. Most of the nutmeggers thought Gray's Littonesque management style was a mite impetuous and worried that he was moving too fast and too far afield.

Even so, Gray managed to persuade his gentlemanly board to commit a most ungentlemanly corporate act—the hostile takeover. Tender offers are a generally accepted practice nowadays, but they still had a bad smell about them in 1975, when Gray sought approval for the Otis take-over. The directors were reluctant—"We weren't that kind of company," says former president Arthur Smith—but Gray convinced them that the tender offer was in the shareholders' best interest. Gray says the board never rejected any of his recommendations and that he never heard a word of caution. However, others in the company say he would have moved even faster were it not for the timidity of some directors.

When he wasn't out buying companies, Gray found time to work major changes in some of United Aircraft's original operations. In addition to assisting the acquired companies, Hamilton Standard accomplished some impressive diversification of its own. It now makes systems that control energy consumption in factories, office buildings, and schools; the metering equipment that several states use to test auto emissions; and a diagnostic computer for auto-repair shops.

SCORING WITH HIGH SPIRITS

In 1975, Gray hired Peter Scott away from NCR and put him to work resuscitating Norden. Scott bought Dynell Electronics, a Long Island company that makes radar systems for the Navy, and negotiated a deal with Digital Equipment to develop military applications of its PDP-11 computers. In the last five years Norden has won contracts to develop new radar and navigation systems; before, most of its business was in making components for other companies' systems.

Sikorsky Aircraft, running in place back in 1971, covered the most distance of all. In 1976 it beat Boeing Vertol in a fly-off to win the Army's $2.5-billion contract for the "utility tactical transport aircraft system," the largest order in Sikorsky's history. Eventually the Army will buy 1,107 Sikorsky Blackhawks. In 1977 the Seahawk, a variation of the Blackhawk, beat a Boeing Vertol entry in the competition for the Navy's $750-million "light airborne multipurpose system."

Sikorsky has scored even bigger in the commercial market. Using technology from the Blackhawk, such as titanium rotor blades and Kevlar doors, it developed the Spirit, the first medium-size helicopter designed expressly for the civilian market. Sikorsky has orders for 388 Spirits, and expects to sell 1,600 in executive and 12-passenger versions.

The only major blemish on Gray's record has been Pratt & Whitney's inability to keep up with the competition from GE in the commercial market. GE has been so successful that it reclassified its commercial engines from a "venture" to a "core" business last year. In addition to making most of the engines for the DC-10, GE picked up nearly all the orders on the European Airbus A300. The sales gave it a third of the market for wide-body engines. That is a remarkable change from the Sixties, when Pratt & Whitney made the engines on just about every jetliner aloft. It still makes all the engines for Boeing's 727 and 737 and the DC-9, but it has only 50 percent or so of the wide-body market. Rolls-Royce has the rest. Once GE entered the market it was bound to make inroads, but no one, not even GE itself, expected it to do so well.

AN UNDEPENDABLE MARVEL

Pratt & Whitney also has had trouble with its largest customer, the Air Force. The company scored a major coup when its F100 engine was selected to power the F-15 and F-16 fighters. The two contracts will total about 430 engines this year at around $2.5 million a copy. The F100 proved to be a technological marvel when the first F-15s were delivered in 1974, but the engine also turned out to be somewhat undependable. (See "Pratt & Whitney's Problem Engine," Fortune, November 6, 1978.)

In Pratt & Whitney's view, the troubles with the F100 were normal growing pains for such a revolutionary engine. Though that may be true, the company had a marketing problem with the Air Force. Officers working with Pratt & Whitney engineers to solve the F100 problems bristled at what they considered brusque treatment and complained that the company wasn't finding fixes fast enough.

Gray tried to reverse the tide in Pratt & Whitney's fortunes in 1976 by splitting the enterprise into separate military and commercial divisions and stressing customer service. The changes didn't work. The Air Force continued to complain, and GE kept picking up market share. GE has captured more orders than Pratt & Whitney for engines on the new Boeing 767 wide-body and on the new Airbus A310.

Last year Gray replaced the president of Pratt & Whitney with Robert J. Carlson, a senior vice president of Deere & Co. who had run its domestic farm-equipment and consumer operations for nine years. The selection of someone who isn't an "engine man," as people in the jet business call themselves, let alone an outsider, shocked the employees at Pratt & Whitney. Gray's explanation for going outside is that Pratt & Whitney, faced with rising competition and a shrinking technological edge, needs the ministrations of a generalist. He says he failed to provide a generalist earlier because he had to "evolve" changes at Pratt & Whitney slowly. "It would have been a mistake to come in and hack it up," he says.

Soft-spoken and casually elegant, Carlson comes across as a sort of Jimmy Stewart gone corporate. But there's nothing soft or casual about the way he's run Pratt & Whitney. Carlson has already replaced the head of the government division, the Washington lobbyist, the vice president for parts support, and a handful of other senior officers. (All the replacements came from within United.) Carlson even put Pratt & Whitney's executives on a diet; he ordered the company's chef to reduce the portions served in the dining room and eliminate the chocolate cookies and black olives.

Carlson's first real test will be his handling of a new engine, the JT–10D, that Pratt & Whitney is developing for the Boeing 757. Pratt & Whitney has spent $300 million on the engine since 1973 and will have $1 billion invested by the time it is ready for delivery late in 1984. The JT–10D represents the company's best chance to send GE back to the minors.

The stakes in the engine business are enormous. The aircraft boom since 1977 has enabled Pratt & Whitney to contribute more than its share to United's recent profit growth despite its eroding competitive position. Its sales last year came to around $3.4 billion, more than half from commercial engines and spare parts. During the Eighties, Pratt & Whitney, GE, and Rolls will be battling for total commercial engine sales, including spare parts, of more than $50 billion.

IT WAS LIKE THE GODFATHER

Just two months after he installed Carlson at Pratt & Whitney, Harry Gray finally got his semiconductor company. The deal he fashioned to land Mostek demonstrated consummate skill at the takeover game—and a readiness to roll high. He had approached several semiconductor companies back in 1975, when the recession had them on the ropes, but politely walked away when they rejected his offers. Then he sat back and waited for someone to push an attractive target onto the auction block. Patience paid off when William T. Ylvisaker, Gould's chairman, went after Mostek.

Ylvisaker made an unrequited pass at Sevin and then arranged to buy 1.2 million shares of Mostek (21 percent of the company) from Sprague Electric. Several days after his first meeting with Scott, Sevin concluded that he'd have to sell to someone, and moved to New York to bargain. "It was like 'going to the mattresses' in *The Godfather,*" says Sevin, "only I was in a lawyer's office instead of a tenement."

Scott headed up the team across the table. Chief executives ordinarily handle such matters personally, but there were compelling reasons for delegating the negotiations to Scott. Like Sevin, Scott is an entrepreneur; he started two electronics companies, selling the first to Dresser Industries and the second to NCR. In addition, United was reorganizing Essex, Ambac, Hamilton Standard, and Norden into an electronics group headed by Scott. If United bought Mostek, Scott would be Sevin's immediate boss.

After a week of bargaining, Scott presented Sevin with an offer he couldn't refuse. Sevin would maintain Mostek as a wholly independent subsidiary and put up $200 million for expansion. United would honor all Mostek's outstanding stock options—even the ones that hadn't matured. Moreover, United would start a new option plan based on the performance of Mostek alone. Sevin's only quarrel was with the price. United's offer was $50 a share, $8 higher than Gould's, but Sevin wanted more. Two days later Gray raised the bid to $55. Gould then went to $61, Gray countered with $62, and Gould dropped out.

The 250 Mostek executives with options collected a total of $37 million. If Mostek's earnings keep pace with its projections, key employees will make another $34 million by 1983 on their new options from United. Says Wilfred Corrigan, the former head of Fairchild Camera who quit after Schlumberger acquired that semiconductor company: "When I read the offering statement, I was amazed that a document that creative could come out of a major corporation." To Corrigan, the new options indicate that United might be able to succeed in a business that has confounded other large companies.

GRAY IN PINK

Gray's acquisition of Mostek was worked so far, except that Sevin sees things the other way around. "We view the takeover as we took them over," says Sevin. "We acquired a brand-new tool, and that tool is capital, lots of it." Gray and the headquarters staff have left Mostek pretty much alone, though there was one incident when an outside consultant bullied Mostek's controller. Sevin complained to Gray during a meeting in Florida, and mentioned that the consultant had been wearing pink socks. Gray assured Sevin that it wouldn't happen again. That night Gray showed up at a cocktail party in pink socks.

By this summer, Gray had accomplished much of what he set out to do at United. The next step is a microelectronics research center that will be in full operation in January near a new Mostek facility in Colorado Springs. Run by Sevin, the center will design and produce custom circuits for United's other companies, and do research on computer-aided designing and manufacturing of microcircuits. Sevin hopes to have a system in a few years where a designer who isn't familiar with silicon technology can sit at a computer terminal and design circuits by punching in the features he wants.

Gray undoubtedly will add more acquisitions before he retires in 1985. He says he still wants to buy a telecommunications company and one in the energy business. For now, though, things may be quiet as United digests Carrier and Mostek and works off some of its debt. With the research center under way and Haig in place as chief operating officer, last month Gray felt justified in taking his first two-week vacation since joining United nine years ago. He sailed, golfed, and tended his tomatoes. And worked.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Rudd (at the request of Mr. Rhodes), for personal reasons to attend funeral.

Mr. Thompson, for September 24 and 25, on account of personal business.

Mr. Musto, for today, on account of official business.

Mr. Young of Alaska (at the request of Mr. Rhodes), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Petri) to revise and extend their remarks and include extraneous material:)

Mr. Kemp, for 5 minutes, today.

(The following Members (at the request of Mr. Ratchford) to revise and extend their remarks and include extraneous material:)

Mr. Nelson, for 5 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Gonzalez, for 15 minutes, today.
Mr. Stark, for 10 minutes, today.
Mr. Moakley, for 10 minutes, today.
Mr. Vanik, for 30 minutes, today.
Mr. Mazzoli, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Rahall, in support of H.R. 6228, immediately following the remarks of Mr. Staggers.

Mr. Clausen, to revise and extend his remarks immediately following the remarks of Mr. Phillip Burton, on H.R. 8081, Holocaust Memorial Act.

Mr. Biaggi, immediately following the 1-minute speech by Mr. Bingham in the House today.

Mr. Moakley, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,277.25.

(The following Members (at the request of Mr. Petri) and to include extraneous matter:)

Mr. Ritter.
Mr. Collins of Texas in three instances.
Mr. Bethune.
Mr. Martin in two instances.
Mr. Coughlin.
Mr. Wampler.
Mr. McKinney.
Mr. Kemp.
Mr. Rousselot in two instances.
Mr. Conte.
Mr. Winn.
Mr. Michel in two instances.

(The following Members (at the request of Mr. Ratchford), and to include extraneous matter:)

Mr. Dodd.
Mr. Stokes.
Mr. John L. Burton.
Mr. Bonker in two instances.
Mr. Murtha in two instances.
Mr. Dixon.
Mr. Mathis.
Ms. Mikulski.
Mr. Mazzoli.
Mr. Gephardt.
Mr. Young of Missouri.
Mr. Vanik.
Mr. Wolff in two instances.
Mr. Dingell in five instances.
Mr. Fisher.
Mr. Zablocki.
Mr. Gaydos.
Mr. Roe.
Mr. Vento.
Mr. Santini.
Mr. Johnson of California.
Mr. Weiss in two instances.
Mr. Maguire.
Mr. McDonald in two instances.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2489. An act to authorize appropriations for the Coast Guard for fiscal year 1981, to authorize supplemental appropriations for fiscal year 1980, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. NEDZI, from the Committee on House Administration, reported that

that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3904. An act to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployer plans, and for other purposes;

H.R. 7825. An act to establish the Ice Age National Scenic Trail, and for other purposes; and

H.J. Res. 551. Joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning October 5, 1980, as "National Port Week," and for other purposes.

ADJOURNMENT

Mr. RATCHFORD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 5 minutes p.m.), the House adjourned until tomorrow, Wednesday, September 24, 1980, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5357. A letter from the Acting Assistant Secretary of the Army (Installations, Logistics, and Financial Management), transmitting notice of the proposed conversion of the motor vehicle operation and maintenance function at Fitzsimons Army Medical Center, Colorado, to contractor performance, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

5358. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during August 1980, pursuant to section 234 of the Legislative Reorganization Act of 1970; to the Committee on Government Operations.

5359. A letter from the Comptroller General of the United States, transmitting a report on analytical framework for Federal policies and programs influencing capital formation in the United States (PAD–80–24, Sept. 23, 1980); to the Committee on Government Operations.

5360. A letter from the Secretary of Health and Human Services, transmitting a quarterly report on State compliance with medicaid utilization control requirements, pursuant to section 1903(g)(6) of the Social Security Act, as amended; to the Committee on Interstate and Foreign Commerce.

5361. A letter from the Acting Administrator, Energy Information Administration, transmitting reports covering the month of June 1980 on changes in market shares of refined petroleum products and of retail gasoline, pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973, to the Committee on Interstate and Foreign Commerce.

5362. A letter from the Comptroller General of the United States, transmitting a report on nuclear nonproliferation policies, and the impact of such regulations on the international competitiveness of the U.S. nuclear industry (ID–80–42, Sept. 23, 1980); jointly, to the Committees on Government Operations and Foreign Affairs.

5363. A letter from the Comptroller General of the United States, transmitting a report discussing the U.S. nuclear fast breeder reactor program and possible directions to proceed in the future (EMD–80–81, Sept. 22, 1980); jointly, to the Committees on Government Operations and Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. H.R. 6933. A bill entitled: "To amend the patent and trademark laws"; with amendments (Rept. No. 96–1307, pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLLING: Committee on Rules. House Resolution 791. Resolution providing for the consideration of S. 885. A bill to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River power system to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes (Rept. No. 96–1368). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 2801. A bill to designate the Indian Health Facility in Ada, Okla., the "Carl Albert Indian Health Facility" (Rept. No. 96–1369). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 2126. A bill relating to certain leases involving the Secretary of the Interior and the Northern Cheyenne Indian Reservation (Rept. No. 96–1370). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee of conference. Conference on report on S. 1159 (Rept. No. 93–1371). Ordered to be printed.

Mr. JOHNSON of California: Committee on Public Works and Transportation. S. 1798. An act to reduce regulation of and increase competition in the household goods moving industry, and for other purposes; with amendment (Rept. No. 96–1372). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GEPHARDT:

H.R. 8182. A bill to amend the Internal Revenue Code of 1954 to provide, with respect to certain trusts created before December 31, 1977, a deduction from the gross estate for a charitable remainder interest in such a trust if such remainder interest is transferred free of trust to charity; to the Committee on Ways and Means.

By Mr. ROUSSELOT:

H.R. 8183. A bill to amend the Internal Revenue Code of 1954 to provide for the annual imposition and payment of the gift tax; to the Committee on Ways and Means.

By Mr. SOLARZ:

H.R. 8184. A bill to authorize $200 million to carry out a multiyear economic support fund program for Zimbabwe; to the Committee on Foreign Affairs.

By Mr. STEED (for himself, Mr. Jones of Oklahoma, Mr. English, Mr. Watkins, Mr. Edwards of Oklahoma, and Mr. Synar):

H.R 8185. A bill to remove certain lands from the Wichita Mountains Wildlife Refuge, Okla.; to the Committee on Merchant Marine and Fisheries.

By Mr. WOLPE:

H.R. 8186. A bill to establish a Federal annuity program to compensate participants in private pension plans which terminated before July 1, 1974, for nonforfeitable pension benefits which were lost by reason of the terminations, and for other purposes; jointly, to the Committees on Education and Labor and Ways and Means.

By Mr. FROST:

H.J. Res. 614. Joint resolution to authorize and request the President to proclaim November 28, 1980 as "Salvation Army Day"; to the Committee on Post Office and Civil Service.

By Mr. BONKER (for himself and Mr. Phillip Burton):

H. Con. Res. 437. Concurrent resolution urging the Government of South Korea to fulfill its stated commitments to the democratization of South Korea and to commute the death sentence of Kimdae Jung; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

534. By the SPEAKER: Memorial of the Legislature of the State of California, relative to the San Diego Naval Regional Medical Center; to the Committee on Armed Forces.

535. Also, memorial of the Legislature of the State of California, relative to drug labeling; to the Committee on Interstate and Foreign Commerce.

536. Also, memorial of the Legislature of the State of Louisiana, relative to a constitutional amendment to provide for the popular election of Federal judges; to the Committee on the Judiciary.

537. Also, memorial of the Legislature of the State of California, relative to shipbuilding and shipyard facilities; jointly, to the Committees on Armed Services and Merchant Marine and Fisheries.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. HUBBARD introduced a bill (H.R. 8187) for the relief of Dr. Javad Najadfi Sani, his wife, Parvin Nahvi, and their children, Roya N. Sani and Farhad N. Sani, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 581: Mr. Murphy of New York.

H.R. 1918: Mr. Cavanaugh.

H.R. 2813: Mr. Atkinson.

H.R. 4646: Mr. Wright.

H.R. 5211: Mr. Guyer.

H.R. 6579: Mr. Kramer and Mr. Porter.

H.R. 6977: Mr. Lederer, Mr. Addabbo, Mr. Miller of California, Mr. Clay, Mr. AuCoin, Mrs. Chisholm, Mr. Ottinger, Mr. Moffett, Mr. Downey, and Mr. Murphy of Illinois.

H.R. 7170: Mr. Hinson.

H.R. 7313: Ms. Mikulski, Mr. Charles Wilson of Texas, Mr. Oberstar, and Mr. Gingrich.

H.R. 7436: Mr. Nelson.

H.R. 7688: Mr. McCloskey, Mr. Bowen, Mr. Sawyer, Mr. Ford of Tennessee, Mr. Conyers, Mr. Akaka, Mr. Addabbo, Mr. Rodino, Mr. Dicks, Mr. Ritter, Mr. Nelson, Mr. Marlenee, Mr. Gephardt, Mr. Charles Wilson of Texas, Mr. Evans of Georgia, Mr. Ireland, Ms. Mikulski, and Mr. Walgren.

H.R. 7773: Mr. Rousselot.

H.R. 7861: Mr. Forsythe, Mr. Fuqua, Mr. Brown of California, Mr. Bereuter, Mr. Whittaker, Mr. Lederer, Mr. Livingston, Mr. Lagomarsino, Mr. Whitehurst, Mr. McClory, Mr. Cavanaugh, Mr. Hughes, and Mrs. Smith of Nebraska.

H.R. 7885: Mr. Vento, Mr. Mitchell of New York, and Mr. Nelson.

H.R. 8027: Mr. Sensenbrenner.

H.J. Res. 139: Mr. Royer.

H.J. Res. 300: Mr. Traxler.

H.J. Res. 511: Mr. McCloskey, Mr. Solarz, Mr. Williams of Ohio, Mr. LaFalce, Mr. Annunzio, Mr. Holland, Mr. Perkins, Mr. Danielson, Mr. Kazen, Mr. Gingrich, Mr. Benjamin, Mr. Shumway, Mr. Fountain, Mr. Fascell, Mr. Gilman, Mr. Moffett, Mr. Barnes, Mr. Burgener, Mr. Panetta, Mr. Breaux, Mr. Price, Mr. Davis of South Carolina, Mr. Watkins, Mr. Rahall, and Mr. Hutchinson.

H. Con. Res. 134: Mr. Waxman, Mr. Moorhead of California, and Mr. Vander Jagt.

H. Con. Res. 422: Mr. Collins of Texas, Mr. Fazio, Mr. Stratton, Mr. Winn, and Mr. Andrews of North Carolina.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

434. By the SPEAKER: Petition of the Minister of Foreign Affairs, Provisional Military Government of Socialist Ethiopia, relative to the U.S. military bases agreement and Somalia; to the Committee on Foreign Affairs.

435. Also, petition of the State Planning Council on Radioactive Waste Management, Washington, D.C., relative to council resolutions making recommendations on the transportation, storage, and disposal of nuclear waste; jointly, to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4370

By Mr. CHENEY:

—Page 45, strike lines 17 through 25, inclusive.

By Mr. MARRIOTT:

—Page 45, strike lines 17 through 25, inclusive.

H.R. 6704

By Mr. ASHBROOK:

—Page 22, beginning on line 6, strike out "is amended" and all that follows through line 8, and insert in lieu thereof the following:

is amended—

(A) by inserting "or offenses which do not constitute violations of valid court orders" after "adult"; and

(B) by striking out "juvenile detention or correctional facilities" and inserting in lieu thereof "secure detention facilities or secure correctional facilities".

H.R. 6979

By Mr. DUNCAN of Oregon:

—Following section 13, add new section:

"Sec. 14. Amendment to the Marine Mammal Protection Act.

Sec. 5(b) of the Marine Mammal Protection Act of 1972 amended (33 U.S.C. § 476 (b)), is amended:

(1) by inserting the word 'such' after the words 'terminal, dock or other';

(2) by inserting 'except the Columbia River' after the words 'east of Port Angeles'; and

(3) By striking the period at the end thereof and inserting the words 'and Oregon'."

By Mr. LIVINGSTON:

—Strike lines 23–25 on page 17.

Strike lines 1–18 on page 18.

Substitute instead the following language.

"(c)(1) The Secretary shall conduct on an annual basis a systematic review of Federal programs, other than this title, that affect coastal resources for purposes of identifying problems of coordination among such programs including conflicts between (A) the objectives and administration of such programs and (B) the purposes and policies of this title.

"(2) The Secretary shall submit annually a report to the Congress setting forth the results of the review conducted pursuant to paragraph (1). Such report may also include such recommended legislative proposals as the Secretary deems appropriate to resolve existing conflicts among Federal laws that affect the uses of coastal resources.".

H.R. 7112

By Mr. CONABLE:

—At the end of the first title strike out the last word.

At the end of the first title strike out the next to the last word.

At the end of the first title strike out the penultimate word.

At the end of title II strike out the last word.

At the end of title II strike out the next to the last word.

At the end of title II strike out the penultimate word.

By Mr. ENGLISH:

—Page 17, line 16, strike out "years" and insert in lieu thereof "year" and strike out line 22 and everything that follows through line 6 on page 18 and insert in lieu thereof the following:

(2) Limitation on Total Amount.—The total amount which may be appropriated pursuant to this subsection for the fiscal year ending September 30, 1981, shall not exceed $1,000,000,000.

By Mr. GEPHARDT:

—Page 3, after line 21 insert the following new subsection (and redesignate the succeeding subsection accordingly):

"(c) Authorization of Appropriations for Additional Allocations to Local Governments.—

"(1) In general.—In the case of any entitlement period described in paragraph (2), there are authorized to be appropriated to the Trust Fund $460,000,000 to make additional allocations to local governments under section 107 for such entitlement period.

"(2) Entitlement periods.—The following entitlement periods are described in this paragraph:

"(A) The entitlement period beginning October 1, 1981, and ending September 30, 1982; and

"(B) The entitlement period beginning October 1, 1982, and ending September 30, 1983.

Page 6, line 3, strike out the close quotation marks and the following period and insert after such line the following:

"Sec. 107. Additional Allocations to Local Governments.

"From any amount appropriated pursuant to section 105(c)(1) for any entitlement period beginning on or after October 1, 1981, there shall be allocated to each unit of local government an amount which bears the same ratio to the amount so appropriated for that period as the entitlement of that unit under section 108 bears to the sum of the entitlements of all units of local government under such section.".

By Mr. LOTT:

—At the end of the first title strike out the last word.

At the end of the first title strike out the next to the last word.

At the end of the first title strike out the penultimate word.

At the end of title II strike out the last word.

At the end of title II strike out the next to the last word.

At the end of title II strike out the penultimate word.

By Mr. MICHEL:

—At the end of the first title strike out the last word.

At the end of the first title strike out the next to the last word.

At the end of the first title strike out the penultimate word.

At the end of title II strike out the last word.

At the end of title II strike out the next to the last word.

At the end of title II strike out the penultimate word.

By Mr. QUILLEN:

—Page 11, strike out line 15 and everything that follows through line 22 on page 12.

By Mr. RHODES:

—At the end of the first title strike out the last word.

At the end of the first title strike out the next to the last word.

At the end of the first title strike out the penultimate word.

At the end of title II strike out the last word.

At the end of title II strike out the next to the last word.

At the end of title II strike out the penultimate word.

By Mr. ROSENTHAL:

—Page 18, strike out line 10 and everything that follows through line 14 and insert in lieu thereof the following: "shall not exceed the product of the economic decline factor for such quarter multiplied by $10,000,000".

By Mr. STANGELAND:

—Page 8, beginning on line 15, strike out all of subsection (a) through line 4 on page 11 and insert in lieu thereof the following:

"(a) Study of Multiple Purpose Governmental Units.—The Secretary of the Treasury, in conjunction with appropriate representatives of general puropse units of government, shall conduct a study of the variety, number, and extent of services provided by local governments for their citizens and shall, not later than one year after the date of enactment of this Act, report to the President and the Congress on the results of this study.".

H.R. 7548

By Mr. GLICKMAN:

—1. Page 26, strike out line 16 and insert in lieu thereof the following: "amended by adding new sections 4.17, 4.18, 4.19, 4.20, and 4.21.".

2. Page 31, insert between lines 2 and 3 the following new section 4.21:

"Sec. 4.21. Termination of Provisions.—The provisions of (1) section 2.3 authorizing the Federal intermediate credit banks to lend to or discount paper for other financial institutions, and (2) section 3.7(b) authorizing the financing of certain domestic or foreign entities in connection with the import or export activities of cooperatives which are borrowers from the banks for cooperatives, shall expire on September 30, 1985, unless extended by Act of Congress prior to that date. Any contract or agreement entered into under the authority of either provision prior to its expiration shall remain in full force and effect notwithstanding such expiration.".

S. 885

By Mr. AuCOIN:

—On page 69, after line 17, insert:

"(n)(1) The Administrator may not acquire any resource derived from a new nuclear generating facility until such time as the Nuclear Regulatory Commission has licensed the operation of a permanent storage facility for high level nuclear waste and spent fuel from commercial nuclear generating facilities.

"(2) For purposes of this subsection, the term 'new nuclear generating facility' shall not include any nuclear generating facility for which a construction permit was issued by the Nuclear Regulatory Commission before the date of enactment of this Act.".

By Mr. CARR:

—Page 1, line 1, strike all after the enacting clause and insert in lieu thereof:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act, together with the following table of content, may be cited as the "Pacific Northwest Electric Power Planning and Conservation Act".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Purposes.
Sec. 3. Definitions.
Sec. 4. Regional planning and participation.
Sec. 5. Sale of power.
Sec. 6. Conservation and resource acquisition.
Sec. 7. Rates.
Sec. 8. Amendments to existing law.
Sec. 9. Administrative provisions.
Sec. 10. Savings provision.
Sec. 11. Effective Date.

PURPOSES

SEC. 2. The purposes of this Act, all of which are to be consistent with applicable provisions of environmental and other laws, are—

(1) to encourage, through the unique opportunity provided by the Federal Columbia River Power System, conservation and efficiency in the use of electric power and the development of renewable resources within the Pacific Northwest;

(2) to assure the Pacific Northwest an adequate, efficient, economical, and reliable power supply;

(3) to provide for the participation and consultation of the Pacific Northwest States, local governments, consumers, customers, users of the Columbia River System (including Federal and State fish and wildlife agencies and appropriate Indian tribes), and the public at large within the region in the development of regional plans and programs related to energy conservation, renewable resources, other resources, and in achieving the purposes of this Act to facilitate the orderly planning of the region's power system, to provide environmental quality, and to protect, mitigate, and enhance the fish and wildlife resources;

(4) to provide that the customers of the Bonneville Power Administration and their consumers continue to pay all costs necessary to produce, transmit, and conserve resources to meet the region's electric power requirements, including the amortization of the Federal investment in the Federal Columbia River Power System;

(5) to insure, subject to the provisions of this Act—

(A) that the authorities and responsibilities of State and local governments, electric utility systems, water management agencies, and other non-Federal entities for the regulation, planning, conservation, supply, distribution, and use of electric power shall be construed to be maintained, and

(B) that Congress intends that this Act not be construed to limit or restrict the ability of customers to take actions in accordance with other applicable provisions of Federal or State law, including, but not limited to, actions to plan, develop, and operate resources and to achieve conservation, without regard to this Act; and

(6) to protect, mitigate, and enhance the fish and wildlife, including related spawning grounds and habitat, of the Columbia River and its tributaries, particularly anadromous fish which are of significant importance to the social and economic well-being of the Pacific Northwest and the Nation and which are dependent on suitable environmental conditions substantially obtainable from the management and operation of the Federal Columbia River Power System and other facilities on the Columbia River and its tributaries.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "Acquire" and "acquisition" shall not be construed as authorizing the Administrator to construct, or have ownership of, under this Act or any other law, any electric generating facility.

(2) "Administrator" means the Administrator of the Bonneville Power Administration.

(3) "Conservation" means any reduction in electric power consumption as a result of increases in the efficiency of energy use, production, or distribution.

(4)(A) "Cost-effective", when applied to any measure or resource referred to in this Act, means that such measure or resource must be forecast—

(i) to be reliable and available within the time it is needed, and

(ii) to meet or reduce the electric power demand, as determined by the Council or the Administrator, as appropriate, of the consumers of the customers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative measure or resource, or any combination thereof.

(B) For purposes of this paragraph, the term "system cost" means an estimate of all direct costs of a measure or resource over its effective life, including, if applicable, the cost of distribution and transmission to the consumer and, among other factors, waste disposal costs, end-of-cycle costs, decommissioning costs, and fuel costs (including projected increases), and such quantifiable environmental costs and benefits as the Administration determines, on the basis of a methodology developed by the Council as part of the plan, or in the absence of the plan by the Administrator, are directly attributable to such measure or resource.

(C) In determining the amount of power that a conservation measure or other resource may be expected to save or to produce, the Council or the Administrator, as the case may be, shall take into account projected realization factors and plant factors, including appropriate historical experience with similar measures or resources.

(D) For purposes of this paragraph, the "estimated incremental system cost" of any conservation measure or resource shall not be treated as greater than that of any nonconservation measure or resource unless the incremental system cost of such conservation measure or resource is in excess of 110 per centum of the incremental system cost of the nonconservation measure or resource.

(5) "Consumer" means any end user of electric power.

(6) "Council" means, unless otherwise specifically provided, the members appointed to the Pacific Northwest Electric Power and Conservation Planning Council established by this Act.

(7) "Customer" means anyone who contracts for the purchase of power from the Administrator pursuant to this Act.

(8) "Direct service industrial customer" means an industrial customer that contracts for the purchase of power from the Administrator for direct consumption.

(9) "Electric power" means electric peaking capacity, or electric energy, or both.

(10) "Federal base system resources" means—

(A) the Federal Columbia River Power System hydroelectric projects;

(B) resources acquired by the Administrator under long-term contracts in force on the effective date of this Act; and

(C) resources acquired by the Administrator in an amount necessary to replace reductions in capability of the resources referred to in subparagraphs (A) and (B).

(11) "Indian tribe" means any Indian tribe or band with a governing body duly recognized by the Secretary of the Interior.

(12) "Major resource" means any resource that—

(A) has a planned capability greater than fifty average megawatts, and

(B) if acquired by the Administrator, is acquired for a period of more than five years but does not mean any resource acquired pursuant to section 11(b)(6) of the Federal Columbia River Transmission System Act.

(13) "New large single load" means any load associated with a new facility, an existing facility, or an expansion of an existing facility—

(A) which is not contracted for, or committed to, as determined by the Administrator, by a public body, cooperative, investor-owned utility, or Federal agency customer, as applicable prior to September 1, 1979, and

(B) which will result in an increase in power requirements of ten average megawatts or more in any consecutive twelve-month period.

(14) "Pacific Northwest", "region", or "regional" means—

(A) the area consisting of the State of Oregon, Washington, and Idaho, the portion of the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin; and

(B) any contiguous areas, not in excess of seventy-five air miles from the area referred to in subparagraph (A), which are a part of the service area of a rural electric cooperative customer served by the Administrator on the effective date of this Act which has a distribution system from which it serves both within and without such region.

(15) "Plan" means the Regional Electric Power and Conservation plan adopted pursuant to this Act and such plan shall apply to actions of the Administrator as specified in this Act.

(16) "Renewable resource" means a resource which utilizes solar, wind, hydro, geothermal, biomass, or similar sources of energy and which either is used for electric power generation or will reduce the electric power requirements of a consumer, including by direct application.

(17) "Reserves" means the electric power needed to avert particular planning or operating shortages for the benefit of firm power customers of the Administrator and available to the Administrator—

(A) from resources, or

(B) from rights to interrupt, curtail, or otherwise withdraw, as provided by specific contract provisions, portions of the electric power supplied to customers.

(18) "Residential use" or "residential load" means all usual residential, apartment, seasonal dwelling and farm electric loads or uses, but only the first four hundred horsepower during any monthly billing period of farm irrigation and pumping for any farm.

(19) "Resource" means—

(A) electric power, including the actual or planned electric power capability of generating facilities, or

(B) actual or planned load reduction resulting from direct application of a renewable energy resource by a consumer, or from a conservation measure.

(20) "Secretary" means the Secretary of Energy.

REGIONAL PLANNING AND PARTICIPATION

SEC. 4. (a)(1) To facilitate cooperation among the States of Idaho, Montana, Oregon, and Washington, and the United States pursuant to this Act, there is established the Pacific Northwest Electric Power and Conservation planning Council, which shall have its offices in the Pacific Northwest. The Council shall be composed of eight members, and shall be considered formed when at least six members have been appointed.

(2) The Governors of Idaho, Montana, Oregon, and Washington may appoint, subject to applicable State law, two members from their respective States to carry out the functions of Council members set forth in this Act. The applicable State authorities and appointing actions of the States shall constitute an agreement to the exercise by the Council of the functions set forth in this Act, to which the Congress hereby consents.

(3) Members of the Council appointed pursuant to section 4(a)(2) shall—

(A) serve until June 30 of the third twelve-month period following the date of their appointment, unless otherwise provided by State law;

(B) be subject to removal in accordance with the provisions of State law;

(C) be compensated according to such State law from funds available pursuant to paragraph (14); and

(D) be deemed to be officers or employees of their respective States, and not of the United States.

(4)(A) If the Governors have not appointed at least six Council members by April 30, 1981, or if, for any other reason the Council set forth in paragraph (2) is unable to be formed or is held by a United States court of appeals to be unable to perform substantially all of its functions, the Secretary shall temporarily appoint two members from each of the States of Washington, Oregon, Idaho, and Montana to serve on an interim basis until such time as Congress or the States act to cure any impediment to the appointment of Council members pursuant to paragraph (2). Any appointments by the Secretary under this paragraph shall be made in a manner designed to assure continuity of the Council's functions and to minimize any possible disruption of the Council's activities during such interim period. Unless extended by the Congress, the interim Council appointed pursuant to this paragraph shall terminate at the end of the second full Congress following the first temporary appointment.

(B) Within one year after making any such temporary appointment pursuant to this paragraph, the Secretary, in consultation with the Governors of the Pacific Northwest States, shall formally submit to the appropriate committees of Congress recommended legislation that will permit members to be appointed by the Governors in the manner set forth in paragraph (2). The Secretary shall make quarterly reports to the Governors on the progress of such legislation until its enactment and to Congress as to whether the interim Council should be extended or any other recommendations for legislation or other action which the Secretary recommends should be taken, following termination of the Council, to continue carrying out the purposes for which the Council was established.

(C) If members are appointed by the Secretary on an interim basis pursuant to this paragraph, they shall (i) receive compensation under the General Schedule at a rate equivalent to the salary of members appointed from the same State by the Governor pursuant to paragraph (2); (ii) be considered during their temporary appointments, officers or employees of the United States for purposes of title II of the Ethics in Government Act of 1978 (5 U.S.C. app.); and (iii) be allowed travel expenses, including per diem in lieu of subsistence expenses, in addition to the compensation provided in this paragraph.

(D) In the event the Congress fails to extend the interim Council or enact legislation to cure any impediment to the appointment of Council members pursuant to paragraph (2), the Administrator may not implement any proposal to acquire a major generating resource or to grant billing credits or services involving a major generating resource until the expenditure of funds for that purpose has been specifically approved by Act of Congress.

(5) A majority of the members of the Council shall constitute a quorum. Except as otherwise provided specifically in this Act, all actions and decisions of the Council shall be by majority vote of the voting members present and voting. The plan or any part thereof and any amendment thereto shall not be approved unless such plan or amendment receives the votes of (A) a majority of the members appointed to the Council, including the vote of at least one member from each State; or (B) at least six members of the Council.

(6) The members of the Council shall select from among themselves a Chairman for the Council. The Council shall meet at the call of the Chairman or upon the request of a majority of the members of the Council. If any member of the Council disagrees with respect to any matter transmitted to any Federal or State official or any other person or wishes to express additional views concerning such matter, such member may submit a statement to accompany such matter setting forth the reasons for such disagreement or views.

(7) The Council shall appoint, and may assign and delegate duties to such executive and administrative personnel as the Council deems necessary to fulfill its functions under this Act, taking into account such information and analyses as are, or are likely to be, available from other sources pursuant to provisions of this Act. No person appointed by the Council shall be deemed to be an employee of the United States.

(8) Upon request of the Council, the head of any Federal agency is authorized to detail to the Council, on a reimbursable basis, any of the personnel of such agency to assist the Council in the performance of its functions under this Act.

(9) To obtain such information and advice as the Council determines to be necessary or appropriate to carry out the purposes of this Act, the Council shall, to the greatest extent practicable, solicit engineering, economic, social, environmental, and other technical studies from customers of the Administrator and from other bodies or organizations in the region with particular expertise.

(10) The Council shall determine its organization and prescribe its practices and procedures for carrying out its functions under this Act. The Council shall make available to the public a statement of its organization, practices, and procedures, and make available to the public its annual work program budget at the time the President submits his annual budget to Congress.

(11) The Administrator and other Federal agencies, to the extent authorized by other provisions of law, shall furnish the Council all information requested by the Council as necessary for performance of its functions, subject to such requirements of law concerning trade secrets and proprietary data as may be applicable.

(12)(A) At the request of the Council, the Administrator shall pay from funds available to the Administrator the compensation and other expenses of the Council as are authorized by this Act and as the Council determines are necessary or appropriate for the performance of its functions including financial support to those States which have appointed members to the Council pursuant to section 4(a)(2) for their participation in the Council and activities of the State related thereto. Funds for such payments shall be included by the Administrator in his annual budgets submitted to Congress pursuant to the Federal Columbia River Transmission System Act and shall be subject to the requirements of that Act, including the audit requirements of section 11(d). Such funds shall not exceed annually an amount equal to 0.02 mill multiplied by the kilowatt hours sold by the Administrator during the preceding calendar year. In order to assist the Council's initial organization, the Administrator after the enactment of this Act shall promptly prepare and propose an amended annual budget to expedite payment for Council activities.

(B) Notwithstanding the limitation contained in the third sentence of subparagraph (A), upon an annual showing by the Council that such limitation will not permit the Council to carry out its functions under this Act, the Administrator may raise such limit up to any amount not in excess of 0.10 mill multiplied by the kilowatt hours sold by the Administrator during the preceding calendar year.

(b)(1) The Council shall, subject to applicable law, establish a voluntary scientific and statistical advisory committee to assist in the development, collection, and evaluation of such statistical, biological, economic, social, environmental, and other scientific information as is relevant to the Council's development and amendment of a regional conservation and electric power plan.

(2) The Council may, subject to applicable law, establish such other voluntary advisory committees as it determines are necessary or appropriate to assist it in carrying out its functions under this Act.

(c) The Council shall ensure that the membership of any advisory committee established or formed pursuant to subsection (b) of this section shall, to the greatest extent feasible, be composed of representatives of, and seek the advice of, the various Federal, State, and Indian Tribal Governments, consumer groups, and customers whose interests are or may be directly or indirectly substantially affected by the recommendations of such advisory committees.

(d) Within two years after the effective date of this Act, the Council shall prepare, adopt, and promptly transmit to the Administrator a regional conservation and electric power plan. The adopted plan, or any portion thereof, may be amended from time to time, and shall be reviewed by the Council not less frequently than once every five years. Prior to such adoption, public hearings shall be held in each Council member's State on the plan or substantial, nontechnical amendments to the plan proposed by the Council for adoption. A public hearing shall also be held in any other State of the region on the plan or amendments thereto, if the Council determines that the plan or amendments would likely have a substantial impact on that State in terms of major resources which may be developed in that State and which the Administrator may seek to acquire. Action of the Council under this subsection concerning such hearings shall be subject to section 553 of title 5, United States Code and such procedures as the Council shall adopt.

(e)(1) The plan shall, as provided in this paragraph, give priority to resources which the Council determines to be cost effective. Priority shall be given: first, to conservation; second, to renewable resources; third, to generating resources utilizing waste heat or generating resources of high fuel conversion efficiency; and fourth, to all other resources.

(2) The plan shall set forth a general scheme for implementing conservation measures and developing resources pursuant to section 6 of this Act to reduce or meet the Administrator's obligations with due consideration by the Council of (A) environmental quality, (B) compatibility with the existing regional power system, (C) protection, mitigation, and enhancement of fish and wildlife and related spawning grounds and habitat including sufficient quantities and qualities of flows for successful migration, survival, and propagation of anadromous fish, and (D) other criteria which may be set forth in the plan.

(3) To accomplish the priorities established by this subsection, the plan shall include the following elements which shall be set forth in such detail as the Council determines to be appropriate:

(A) an energy conservation program to be implemented under this Act including, but not limited to, model conservation standards;

(B) recommendations for research and development;

(C) a methodology for determining quantifiable environmental costs and benefits under section 3(4);

(D) a demand forecast of at least twenty years (developed in consultation with the Administrator, the customers, the States, including State agencies with ratemaking authority over electric utilities, and the public, in such manner as the Council deems appropriate) and a forecast of power resources estimated by the Council to be required to meet the Administrator's obligations and the portion of such obligations the Council determines can be met by resources in each of the priority categories referred to in paragraph (1) which forecast (i) shall include regional reliability and reserve requirements, (ii) shall take into account the effect of the requirements of subsection (h) on the availability of resources to the Administrator, and (iii) shall include the approximate amounts of power the Council recommends should be acquired by the Administrator on a long-term basis and the types of resources from which such power should be acquired;

(E) an analysis of reserve and reliability requirements and cost-effective methods of providing reserves designed to insure adequate electric power at the lowest probable cost;

(F) the program adopted pursuant to subsection (h); and

(G) if the Council recommends surcharges pursuant to subsection (f), a methodology for calculating such surcharges.

(4) The Council shall undertake studies of conservation measures reasonably available to direct service industrial customers and other major consumers of electric power within the region and make an analysis of the estimated reduction in energy use which would result from the implementation of such measures as rapidly as possible, consistent with sound business practices. The Council shall include in such study and analysis estimates of financial assistance to the extent such assistance might be necessary for particular conservation measures to be implemented.

(f)(1) Model conservation standards to be included in the plan shall include, but not be limited to, standards applicable to (A) new and existing structures, (B) utility, customer, and governmental conservation programs, and (C) other consumer actions for achieving conservation. Model conservation standards shall reflect geographic and climatic differences within the region and other appropriate considerations, and shall be designed to produce all power savings that are cost-effective for the region and economically feasible for consumers through financial assistance made available to consumers under section 6(a) of this Act. These model conservation standards shall be adopted by the Council and included in the plan after consultation, in such manner as the Council deems appropriate, with the Administrator, States, and political subdivisions, customers of the Administrator, and the public.

(2) The Council by a majority vote of the members of the Council is authorized to recommend to the Administrator a surcharge and the Administrator shall thereafter impose such a surcharge, in accordance with the methodology provided in the plan, on customers for those portions of their loads within the region that are within States or political subdivisions which have not, or on the Administrator's customers which have not, implemented conservation measures applicable to such customers that achieve energy savings which the Administrator determines are comparable to those which would be obtained under such standards. Such surcharges shall be established to recover such additional costs as the Administrator determines will be incurred because such projected energy savings attributable to such conservation measures have not been achieved, but in no case may such surcharges be less than 10 per centum or more than 50 per centum of the Administrator's applicable rates for such load or portion thereof.

(g) To insure widespread public involvement in the formulation of regional power policies, the Council and Administrator shall—

(1) take into account, and give due consideration to, the results of the voting in any election bearing on those policies held in those States, or subdivisions thereof, which comprise the region, as defined in section 3(14), and

(2) maintain comprehensive programs to—

(A) inform the Pacific Northwest public of major regional power issues,

(B) obtain public views concerning major regional power issues, and

(C) secure advice and consultation from the Administrator's customers and others.

(h)(1)(A) The Council shall develop and adopt, pursuant to this subsection, a program to protect, mitigate, and enhance fish and wildlife, including habitat, on the Columbia River and its tributaries. Because of the unique history, problems and opportunities presented by the development and operation of the hydroelectric facilities on the Columbia River and its tributaries, the program shall be designed to deal with that river and its tributaries as a system. As a result, this subsection shall be applicable solely to fish and wildlife, including habitat, located on the Columbia River and its tributaries. Nothing in this subsection shall alter, modify or affect in any way the laws applicable to other rivers, river systems, or electric power facilities, or affect the rights and obligations of any agency, entity, or person under such laws.

(B) The Council shall request in writing promptly after the effective date of this Act and prior to the development or review of the plan, or any major revision thereto, from the Federal and the region's State fish and wildlife agencies and the region's appropriate Indian tribes, recommendations for—

(i) measures which the Administrator, using authorities under this Act and other laws, and other Federal agencies can implement to protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by the development and operation of any hydroelectric project of the Columbia River and its tributaries;

(ii) objectives for the development and operation of projects of the Columbia River and its tributaries in a manner designed to protect, mitigate, and enhance fish and wildlife, and

(iii) fish and wildlife management coordination and research and development (including funding) which, among other things, will assist protection, mitigation and enhancement of anadromous fish at and between the region's hydroelectric dams.

(C)(i) Agencies and tribes shall have ninety days to respond to such request, unless the Council extends the time for making such recommendations. The Federal and the region's water management agencies, and the region's electric power producing agencies, customers, and public may submit recommendations of the type referred to in subparagraph (1)(B), and comments on the recommendations submitted by agencies and tribes, within such reasonable time as the Council shall provide. All recommendations shall be accompanied by detailed information and data in support of the recommendations.

(ii) The Council shall give notice of all recommendations and shall make recommendations and supporting documents available to the Administrator, to the Federal and the region's State fish and wildlife agencies, to the appropriate Indian tribes, to Federal agencies responsible for managing, operating or regulating hydroelectric facilities located on the Columbia River or its tributaries, and to any customer or other electric utility which owns or operates any such facility. Upon request, notice shall also be given to members of the public, and copies of recommendations and supporting documents shall be made available at reasonable cost. The Council shall provide opportunities for public participation and comment regarding the recommendations and supporting documents by conducting hearings or by other appropriate means.

(iii) Thereafter, the Council shall develop a program on the basis of recommendations, supporting documents, and relevant additional views and information. The program shall consist of measures to protect, mitigate and enhance fish and wildlife affected by the development or operation of such facilities while assuring the Pacific Northwest an adequate, efficient, economical, and reliable power supply. Enhancement measures shall be included in the program to the extent they satisfy the criteria of this subsection and are designed to achieve protection and mitigation.

(iv) Measures included in the program shall—

(1) complement the existing and future activities of the Federal and the region's State fish and wildlife agencies and appropriate Indian tribes;

(2) be based on and supported by the best available scientific knowledge;

(3) achieve sound biological objectives at minimum economic cost for each objective;

(4) be consistent with the legal rights of appropriate Indian tribes in the region;

and, in the case of anadromous fish;

(5) provide for improved survival of such fish at hydroelectric facilities located on the Columbia River system; and

(6) provide flows of sufficient quality and quantity between such facilities to improve production, migration and survival of such fish as necessary to meet sound biological objectives.

(v) The Council shall determine whether each recommendation received is consistent with the purposes of this Act. In the event such recommendations are inconsistent with each other, the Council, in consultation with appropriate entities, shall resolve such inconsistency in the program giving due weight to the recommendations, expertise, and legal rights and responsibilities of the Federal and the region's State fish and wildlife agencies and appropriate Indian tribes. If the Council does not adopt any recommendation as part of the program, it shall explain in writing, as part of the program, the basis for its finding that the adoption of such recommendation would be—

(1) inconsistent with the purposes of the Act;

(2) inconsistent with the standards for the program established in this paragraph; or

(3) less effective than the adopted recommendations for the protection, mitigation, and enhancement of fish and wildlife.

(vi) The Council shall recognize, in developing and adopting a program pursuant to this subsection, the following additional principles:

(1) enhancement measures may be used, in appropriate circumstances, as a means of achieving offsite protection and mitigation with respect to compensation for losses arising from the development and operation of the hydroelectric facilities of the Columbia River and its tributaries as a system,

(2) consumers of electric power shall bear the cost of measures designed to deal with adverse impacts caused by the development and operation of electric power facilities and programs only,

(3) monetary costs and electric power losses resulting from the implementation of the program shall be allocated by the Administrator consistent with individual project impacts and system-wide objectives pursuant to paragraph (2) of this subsection, and

(4) to the extent the program provides for coordination of its measures with additional measures (including additional enhancement measures and measures to deal with impacts caused by factors other than the development and operation of electric power facilities and programs), such additional measures are to be implemented in accordance with agreements among the appropriate parties providing for the administration and funding of such additional measures.

(vii) The Council shall adopt such program within one year of the time provided for receipt of the recommendations in section 4(h)(1)(B). Such program shall also be included in the plan adopted by the Council under subsection (d). The Council's actions pursuant to this paragraph shall be subject to judicial review under the provisions of section 9(e).

(2)(A) The Administrator shall use the Bonneville Power Administration fund and appropriations, if any, and the authorities available to the Administrator under this Act and other laws administered by the Administrator, to protect, mitigate, and enhance the fish and wildlife to the extent affected by the development and operation of any hydroelectric project of the Columbia River and its tributaries in a manner consistent with the plan, the program adopted by the Council under section 4(h)(1), the purposes of this Act, and the provisions of other laws. Expenditures of the Administrator pursuant to this paragraph shall be in addition to, not in lieu of, other expenditures authorized or required from other entities under other agreements or provisions of law.

(B) The Administrator may make expenditures from such fund for such purposes which shall have been included in the annual or supplementary budgets submitted to the Congress pursuant to the Federal Columbia River Transmission System Act. Any amounts included in such budget for the construction of capital facilities with an estimated life of greater than five years or an aggregate capital cost of over $1 million shall be funded as provided in the appropriation Acts from the proceeds of bonds issued by the Administrator pursuant to section 13 of the Federal Columbia River Transmission System Act or from appropriations, including appropriations to other Federal agencies for such purposes.

(C) The amounts expended by the Administrator for each activity pursuant to this subsection shall be allocated as appropriate by the Administrator, in consultation with the Corps of Engineers and the Water and Power Resources Service, among the various hydroelectric projects of the Federal Columbia River Power System. Amounts so allocated shall be further allocated to the various project purposes in accordance with existing accounting procedures for the Federal Columbia River Power System.

(3)(A) The Administrator and other Federal agencies responsible for managing, operating, or regulating Federal or non-Federal hydroelectric facilities located on the Columbia River or its tributaries shall—

(i) exercise such responsibilities in coordination with one another, consistent with the purposes of this Act and other applicable laws, to adequately protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by such projects or facilities in a manner that provides equitable treatment for such fish and wildlife with the other purposes for which such system and facilities are managed and operated under other provisions of law;

(ii) exercise such responsibilities, taking into account at each relevant stage of decisionmaking processes to the fullest extent practicable, the program adopted by the Council under paragraph (1).

If, and to the extent that, such other Federal agencies as a result of such consideration impose upon any non-Federal electric power project measures to protect, mitigate and enhance fish and wildlife which are not attributable to the development and operation of such project, then the resulting monetary costs and power losses (if any) shall be borne by the Administrator in accordance with paragraph (2) of this subsection.

(B) The Administrator and such Federal agencies shall consult with the Secretary of the Interior, the Assistant Administrator for the National Marine Fisheries Service, and the State fish and wildlife agencies of the region, appropriate Indian tribes and affected project operators in carrying out the provisions of this paragraph.

(4) Beginning on October 1 of the first fiscal year after all members to the Council are appointed initially, the Council shall submit annually a detailed report to the Committee on Energy and Natural Resources of the Senate and to the Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs of the House of Representatives. The report shall describe the actions taken and to be taken by the Council under this section including this subsection, the effectiveness of the fish and wildlife program, and potential revisions or modifications to the program to be included in the plan. At least ninety days prior to its submission of such report, the Council shall make available to such fish and wildlife agencies, and tribes, the Administrator and the customers a draft of such report. The Council shall establish procedures for timely comments thereon. The Council shall include as an appendix to such report such comments or a summary thereof. The Administrator shall keep such committees fully and currently informed of the actions taken and to be taken by the Administrator under this Act, including this subsection.

(5) If, after one year from the effective date of this Act, the Council is unable to be formed or to perform its functions under the provisions of this subsection, the Administrator shall, upon request of the region's State and Federal fish and wildlife agencies or appropriate Indian tribes, carry out the development of a program in accordance with the provisions of this subsection, until such time as the Council is formed or the Administrator determines it is able to perform its functions.

(i) In carrying out the provisions of this section, the Council and the Administrator shall—

(1) consult with the Administrator's customers;

(2) include the comments of such customers in the record of the Council's proceedings; and

(3) recognize and not abridge the authorities of State and local governments, electric utility systems, and other non-Federal entities responsible to the people of the Pacific Northwest for the planning, conservation, supply, distribution, and use of electric power and the operation of electric generating facilities.

(j) In the preparation, adoption, and implementation of the plan, the Council and the Administrator shall encourage the cooperation, participation, and assistance of appropriate Federal agencies, State entities, State political subdivisions, and Indian tribes. The Council and the Administrator are authorized to contract, in accordance with applicable law, with such agencies, entities, tribes, and subdivisions individually, in groups, or through associations thereof to (1) investigate possible measures to be included in the plan, (2) provide public involvement and information regarding a proposed plan or amendment thereto, and (3) provide services which will assist in the implementation of the plan. In order to assist in the implementation of the plan, particularly conservation, renewable resource, and fish and wildlife activities, the Administrator, when requested and subject to available funds, may provide technical assistance in establishing conservation, renewable resource, and fish and wildlife objectives by individual States or subdivisions thereof or Indian tribes. Such objectives, if adopted by a State or subdivision thereof or Indian tribes, may be submitted to the Council and the Administrator for review, and upon approval by the Council may be incorporated as part of the plan.

SALE OF POWER

SEC. 5. (a) All power sales under this Act shall be subject at all times to the preference and priority provisions of the Bonneville Project Act of 1937 (16 U.S.C.. 832 and following) and, in particular, sections 4 and 5 thereof. Such sales shall be at rates established pursuant to section 7.

(b)(1) Whenever requested, the Administrator shall offer to sell to each requesting public body and cooperative entitled to preference and priority under the Bonneville Project Act of 1937 and to each requesting investor-owned utility electric power to meet the firm power load of such public body, cooperative or investor-owned utility in the region to the extent that such firm power load exceeds—

(A) the capability of such entity's firm peaking and energy resources used in the year prior to the enactment of this Act to serve its firm load in the region, and

(B) such other resources as such entity determines, pursuant to contracts under this Act, will be used to serve its firm load in the region.

In determining the resources which are used to serve a firm load, for purposes of subparagraphs (A) and (B), any resources used to serve a firm load under such subparagraphs shall be treated as continuing to be so used, unless such use is discontinued with the consent of the Administrator, or unless such use is discontinued because of obsolescence, retirement, loss of resource, or loss of contract rights.

(2) Contracts with investor-owned utilities shall provide that the Administrator may reduce his obligations under such contracts in accordance with section 5(a) of the Bonneville Project Act of 1937.

(3) In addition to his authorities to sell electric power under paragraph (1), the Administrator is also authorized to sell electric power to Federal agencies in the region.

(4) Sales under this subsection shall be made only if the public body, cooperative, Federal agency or investor-owned utility complies with the Administrator's standards for service in effect on the effective date of this Act or as subsequently revised.

(5) The Administrator shall include in contracts executed in accordance with this subsection provisions that enable the Administrator to restrict his contractual obligations to meet the loads referred to in this subsection in the future if the Administrator determines, after a reasonable period of experience under this Act, that the Administrator cannot be assured on a planning basis of acquiring sufficient resources to meet such loads during a specified period of insufficiency. Any such contract with a public body, cooperative, or Federal agency shall specify a reasonable minimum period between a notice of restriction and the earliest date such restriction may be imposed.

(6) Contracts executed in accordance with this subsection with public body, cooperative, and Federal agency customers shall—

(A) provide that the restriction referred to in paragraph (5) shall not be applicable to any such customers until the operating year in which the total of such customers' firm loads to be served by the Administrator equals or exceeds the firm capability of the Federal base system resources;

(B) not permit restrictions which would reduce the total contractual entitlement of such customers to an amount less than the firm capability of the Federal base system resources; and

(C) contain a formula for determining annually, on a uniform basis, each such customer's contractual entitlement to firm power during such a period of restriction, which formula shall not consider customer resources other than those the customer has determined, as of the effective date of this Act, to be used to serve its own firm loads.

The formula referred to in subparagraph (C) shall obligate the Administrator to provide on an annual basis only firm power needed to serve the portion of such customer's firm load in excess of the capability of such customer's own firm resources determined by such customer under paragraph (1) to be used to serve its firm load.

(c)(1) Whenever a Pacific Northwest electric utility offers to sell electric power to the Administrator at the average system cost of that utility's resources in each year, the Administrator shall acquire by purchase such power and shall offer, in exchange, to sell an equivalent amount of electric power to such utility for resale to that utility's residential users within the region.

(2) The purchase and exchange sale referred to in paragraph (1) with any electric utility shall be limited to an amount not in excess of 50 per centum of such utility's regional residential load in the year beginning July 1, 1980, such 50 per centum limit increasing in equal annual increments to 100 per centum of such load in the year beginning July 1, 1985, and each year thereafter.

(3) The cost benefits, as specified in contracts with the Administrator, of any purchase and exchange sale referred to in paragraph (1) which are attributable to any electric utility's residential load within a State shall be passed through directly to such utility's residential loads within such State, except that a State which lies partially within and partially without the region may require that such cost benefits be distributed among all of the utility's residential loads in that State.

(4) An electric utility may terminate, upon reasonable terms and conditions agreed to by the Administrator and such utility prior to such termination, its purchase and sale under this subsection if the supplemental rate charge provided for in section 7(b)(3) is applied and the cost of electric power sold to such utility under this subsection exceeds, after application of such rate charge, the average system cost of power sold by such utility to the Administrator under this subsection.

(5) Subject to the provisions of sections 4 and 6, in lieu of purchasing any amount of electric power offered by a utility under paragraph (1), the Administrator may acquire an equivalent amount of electric power from other sources to replace power sold to such utility as part of an exchange sale if the cost of such acquisition is less than the cost of purchasing the electric power offered by such utility.

(6) Exchange sales to a utility pursuant to this subsection shall not be restricted below the amounts of electric power acquired by the Administrator from, or on behalf of, such utility pursuant to this subsection.

(7) The "average system cost" for electric power sold to the Administrator under this subsection shall be determined by the Administrator on the basis of a methodology developed for this purpose in consultation with the Council, the Administrator's customers, and appropriate State regulatory bodies in the region. Such methodology shall be subject to review and approval by the Federal Energy Regulatory Commission. Such average system cost shall not include—

(A) the cost of additional resources in an amount sufficient to serve any new large single load of the utility;

(B) the cost of additional resources in an amount sufficient to meet any additional load outside the region occurring after the effective date of this Act; and

(C) any costs of any generating facility which is terminated prior to initial commercial operation.

(d)(1)(A) The Administrator is authorized to sell in accordance with this subsection electric power to existing direct service industrial customers. Such sales shall provide a portion of the Administrator's reserves for firm power loads within the region.

(B) After the effective date of this Act, the Administrator shall offer in accordance with subsection (g) to each existing direct service industrial customer an initial long-term contract that provides such customer an amount of power equivalent to that to which such customer is entitled under its contract dated January or April 1975 providing for the sale of "industrial firm power".

(2) The Administrator shall not sell electric power, including reserves, directly to new direct service industrial customers.

(3) The Administrator shall not sell amounts of electric power, including reserves, to existing direct service industrial customers in excess of the amount permitted under paragraph (1) unless the Administrator determines that such proposed sale is consistent with the plan and that—

(A) additional power system reserves are required for the region's firm loads,

(B) the proposed sale would provide a cost-effective method of supplying such reserves,

(C) such loads or loads of similar character cannot provide equivalent operating or planning benefits to the region if served by an electric utility under contractual arrangements providing reserves, and

(D) the Administrator has or can acquire sufficient electric power to serve such loads, and

unless the Council has approved such sale by majority vote. After such determination and approval, the Administrator is authorized to offer to existing direct service industrial customers power in such amounts in excess of the amount permitted under paragraph (1) as the Administrator determines to be necessary to provide additional power system reserves to meet the region's firm loads.

(4)(A) As used in this section, the term "existing direct service industrial customer" means any direct service industrial customer of the Administrator which has a contract for the purchase of electric power from the Administrator on the effective date of this Act and which has before such effective date received electric power from the Administrator pursuant to such contract.

(B) The term "new direct service industrial customer" means any industrial entity other than an existing direct service industrial customer.

(e)(1) The contractual entitlement to firm power of any customer from whom, or on whose behalf, the Administrator has acquired electric power pursuant to section 6 may not be restricted below the amount of electric power so acquired from, or on behalf of, such customer. If in any year such customer's requirements are less than such entitlement, any excess of such entitlement shall be first made available to increase the entitlement of other customers of the same class before being available for the entitlement of other customers. For purposes of this paragraph, the following entities shall each constitute a class:

(A) public bodies and cooperatives;

(B) Federal agencies;

(C) direct service industrial; and

(D) investor-owned utilities.

(2) Any contractual entitlement to firm power which is based on electric power acquired from, or on behalf of, a customer pursuant to section 6 shall be in addition to any other contractual entitlement to firm power not subject to restriction that such customer may have under this section. For the purposes of this subsection, references to amounts of power acquired by the Administrator pursuant to section 6 shall be deemed to mean the amounts specified in the resource acquisition contracts exclusive of any amounts recognized in such contracts as replacement for Federal base system resources.

(3) The Administrator shall, consistent with the provisions of this Act, insure that any restrictions upon any particular customer class made pursuant to this subsection and subsection (b) are distributed equitably throughout the region.

(f) The Administrator is authorized to sell, or otherwise dispose of, electric power, including power acquired pursuant to this and other Acts, that is surplus to his obligations incurred pursuant to subsection (b), (c), and (d) of this section in accordance with this and other Acts applicable to the Administrator, including the Bonneville Project Act of 1937 (16 U.S.C. 832 and following), the Federal Columbia River Transmission System Act (16 U.S.C. 838 and following), and the Act of August 31, 1964 (16 U.S.C. 837–837h).

(g)(1) As soon as practicable within nine months after the effective date of this Act, the Administrator shall commence necessary negotiations for, and offer, initial long-term contracts (within the limitations of the third sentence of section 5(a) of the Bonneville Project Act) simultaneously to—

(A) existing public body and cooperative customers and investor-owned utility customers under subsection (b);

(B) Federal agency customers under subsection (b);

(C) electric utility customers under subsection (c); and

(D) direct service industrial customers under subsection (d)(1).

(2) Each customer offered a contract pursuant to this subsection shall have one year from the date of such offer to accept such contract. Such contract shall be effective as provided in this subsection.

(3) An initial contract with a public body, cooperative, or investor-owned electric utility customer or a Federal agency customer pursuant to subsection (b) shall be effective on the date executed by such customer, unless another effective date is otherwise agreed to by the Administrator and the customer.

(4) An initial contract with an electric utility customer pursuant to subsection (c) shall be effective on the date executed by such customer, but no earlier than the first day of the tenth month after the effective date of this Act.

(5) An initial contract with a direct service industrial customer pursuant to subsection (d)(1) shall be effective on the date agreed upon by the Administrator and such customer, but no later than the first day of the tenth month after the effective date of this Act. When such contract is executed, it may for rate purposes be given retroactive effect to such first day.

(6) Initial contracts offered public body, cooperative, and Federal agency customers in accordance with this subsection shall provide that during a period of insufficiency declared in accordance with subsection (b) each customer's contractual entitlement shall, to the extent of its requirements on the Administrator, be no less than the amount of firm power received from the Administrator in the year immediately preceding the period of insufficiency.

(7) The Administrator shall be deemed to have sufficient resources for the purpose of entering into the initial contracts specified in paragraph (1) (A) through (D).

CONSERVATION AND RESOURCE ACQUISITION

SEC. 6. (a) The Administrator shall acquire such resources, through conservation, implement all such conservation measures, and acquire such renewable resources which are installed by a residential or small commercial consumer to reduce load, as the Administrator determines are consistent with the plan or, if no plan is in effect, with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) and, in the case of major resources, in accordance with subsection (c). Such conservation measures and such resources may include, but are not limited to—

(1) loans and grants to consumers for insulation or weatherization, increased system efficiency, and waste energy recovery by direct application,

(2) technical and financial assistance to, and other cooperation with, the Administrator's customers and governmental authorities to encourage maximum cost-effective voluntary conservation and the attainment of any cost-effective conservation objectives adopted by individual States or subdivisions thereof.

(3) aiding the Administrator's customers and governmental authorities in implementing model conservation standards adopted pursuant to section 4(f), and

(4) conducting demonstration projects to determine the cost effectiveness of conservation measures and direct application of renewable energy resources.

(b)(1) In addition to electric power acquired under subsection 5(c) or on a short-term basis pursuant to section 11(b)(6)(i) of the Federal Columbia River Transmission System Act (16 U.S.C. 838 and following), the Administrator, without considering restrictions which may apply pursuant to subsection 5(b), shall meet his contractual obligations and his obligations to protect, mitigate and enhance fish and wildlife under section 4(h)(2) that remain after taking into account planned savings from measures provided for in subsection (a) by acquiring sufficient resources.

(2) Except as specifically provided in this section, acquisition of resources under this Act shall be consistent with the plan or, if no plan is in effect, consistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) both as determined by the Administrator, and, in the case of major resources, in accordance with subsection (c).

(3) The Administrator shall acquire any non-Federal resources to replace Federal base system resources only in accordance with the provisions of this section. The Administrator shall include in the contracts for the acquisition of any such non-Federal replacement resources provisions that will enable him to ensure that such non-Federal replacement resources are developed and operated in a manner consistent with the factors specified in section 4(e)(2) of this Act.

(4) Notwithstanding any acquisition of resources pursuant to this section, the Administrator shall not reduce his efforts to acquire and implement conservation and acquire renewable resources pursuant to subsection (a).

(5) In making any payment to an investor-owned utility for the acquisition under this subsection of any resource as defined by section 3(19)(A), or for the exchange of power under section 5(c), the Administrator shall exclude the costs of construction work in progress.

(c)(1) For each proposal under subsection (a), (b), (f), (h), or (l) to acquire a major resource, to implement a conservation measure which will conserve an amount of electric power equivalent to that of a major resource, to pay or reimburse investigation and preconstruction expenses of the sponsors of a major resource, or to grant billing credits or services involving a major resource, the Administrator shall—

(A) publish notice of the proposed action in the Federal Register and provide a copy of such notice to the Council, the Governor of each State in which facilities would be constructed or a conservation measure implemented, and the Administrator's customers;

(B) not less than sixty days following publication of such notice, conduct one or more public hearings, presided over by a hearing officer, at which testimony and evidence shall be received, with opportunity for such rebuttal and cross-examination as the hearing officer deems appropriate in the development of an adequate hearing record;

(C) develop a record to assist in evaluating the proposal which shall include the transcript of the public hearings, together with exhibits, and such other materials and information as may have been submitted to, or developed by, the Administrator; and

(D) following completion of such hearings, promptly provide to the Council and make public a written decision that includes, in addition to a determination respecting the requirements of subsection (a), (b), (f), (h), (l), or (m), as appropriate—

(i) if a plan is in effect, a finding that the proposal is either consistent or inconsistent with the plan or, notwithstanding its inconsistency with the plan, a finding that it is needed to meet the Administrator's obligations under this Act, or

(ii) if no plan is in effect, a finding that the proposal is either consistent or inconsistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) or, notwithstanding its inconsistency, a finding that it is needed to meet the Administrator's obligations under this Act.

In the case of subsection (f), such decision shall be treated as satisfying the requirements of this subsection, if it includes a finding of probable consistency, based upon the Administrator's evaluation of information available at the time of completion of the hearing under this paragraph. Such decision shall include the reasons for such finding.

(2) Within sixty days after receipt of the Administrator's decision pursuant to paragraph (1)(D), the Council may determine by a majority vote of all members of the Council, and notify the Administrator, that the proposal is either consistent or inconsistent with the plan, or, if no plan is in effect, that the proposal is either consistent or inconsistent with the criteria of section 4(e)(2): *Provided*, That the Council's authority to make consistency determinations if no plan is in effect shall cease upon the adoption of a plan or the expiration of two years from the effective date of this Act, whichever is earlier.

(3) The Administrator may not implement any proposal referred to in paragraph (1) that is determined by either the Administrator or the Council to be inconsistent with the plan or, if no plan is in effect, with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) unless (A) the Administrator determines that the resource is needed to meet the Administrator's contractual obligations under section 5 without considering restrictions which may apply pursuant to section 5(b), and (B) the expenditure of funds for that purpose has been specifically authorized by legislation enacted by the Congress pursuant to bills reported from the committees of Congress having jurisdiction, under the applicable rules of the respective Houses of Congress, over substantive amendments to the Federal Columbia River Transmission System Act and the Bonneville Project Act.

(4) Before the Administrator implements any proposal referred to in paragraph (1), the Administrator shall—

(A) submit to the appropriate committees of the Congress the administrative record of the decision (including any determination by the Council under paragraph (2)) and a statement of the procedures followed or to be followed for compliance with the National Environmental Policy Act of 1969.

(B) publish notice of the decision in the Federal Register, and

(C) note the proposal in the Administrator's annual or supplementary budget submittal made pursuant to the Federal Columbia River Transmission System Act (16 U.S.C. 838 and following).

The Administrator may not implement any such proposal until ninety days after the date of publication in the Federal Register.

(d) The Administrator is authorized to acquire a resource, other than a major resource, whether or not such resource meets the criteria of section 4(e)(1) and the considerations of section 4(e)(2) but which he determines is an experimental, developmental, demonstration, or pilot project of a type with a potential for providing cost-effective service to the region. The Administrator shall make no obligation for the acquisition of such resource until it is included in the annual budgets submitted to the Congress pursuant to the Federal Columbia River Transmission System Act.

(e)(1) In order to effectuate the priority given to conservation measures and renewable resources under this Act, the Administrator shall, to the maximum extent practicable, make use of his authorities under this Act to acquire conservation measures and renewable resources, to implement conservation measures, and to provide credits and technical and financial assistance for the development and implementation of such resources and measures (including the funding of, and the securing of debt for, expenses incurred during the investigation and preconstruction of resources, as authorized in subsection (f)).

(2) To the extent conservation measures or acquisition of resources require direct

arrangements with consumers, the Administrator shall make maximum practicable use of customers and local entities capable of administering and carying out such arrangements.

(f)(1) For resources which the Administrator determines may be eligible for acquisition under this section and satisfy the criteria of section 4(e)(1) and the considerations of section 4(e)(2) or, if a plan is in effect, to be consistent with the plan, the Administrator is authorized to enter into agreements with sponsors of—

(A) a renewable resource, other than a major resource, to fund or secure debt incurred in the investigation and initial development of such resource, or

(B) any other resource to provide for the reimbursement of the sponsor's investigation and preconstruction expenses concerning such resource (which expenses shall not include procurement of capital equipment or construction material for such resource).

In the case of any resource referred to in subparagraph (B), such reimbursement is authorized only if—

(i) such resource is subsequently denied State siting approval or other necessary Federal or State permits, or approvals,

(ii) such investigation subsequently demonstrates, as determined by the Administrator, that such resource does not meet the criteria of section 4(e)(1) and the considerations of section 4(e)(2) or is not acceptable because of environmental impacts, or

(iii) after such investigation the Administrator determines not to acquire the resource and the sponsor determines not to construct the resource.

(2) The Administrator may exercise the authority of this subsection only if he does not foresee termination of the resource. If the Administrator reasonably foresees that certain actions of the resource sponsors may lead to termination of the resource, he shall specify such actions with particularity in the agreement and shall exclude reimbursement if the resource sponsors take such actions. In no event shall the Administrator agree to reimburse expenses incurred prior to the effective date of this Act or of the agreement.

(3) Any agreement under paragraph (1) shall provide the Administrator an option to acquire any such resource, including a renewable resource, and shall include such other provisions, as the Administrator deems appropriate, for the Administrator's recovery from such sponsors or any assignee of the sponsors, if such sponsor or assignee continues development of the resource, of any advances made by the Administrator pursuant to such agreement.

(4) The Administrator shall not reimburse any expense incurred by the sponsors (except necessary expenses involved in the liquidation of the resource) after the date of a final denial of application for State siting approval or after the date the Administrator determines that the resource to be inconsistent with the plan or the criteria of section 4(e)(1) and the considerations of section 4(e)(2).

(g) At the request of the appropriate State, any environmental impact statement which may be required with respect to a resource, to the extent determined possible by the Administrator in accordance with applicable law and regulations, may be prepared jointly and in coordination with any required environmental impact statement of the State or any other statement which serves the purpose of an environmental impact statement which is required by State law.

(h)(1) If a customer so requests, the Administrator shall grant billing credits to such customer, and provide services to such customer at rates established for such services, for—

(A) conservation activities independently undertaken or continued after the effective date of this Act by such customer or political subdivision served by such customer which reduce the obligation of the Administrator that would otherwise have existed to acquire other resources under this Act, or

(B) resources constructed, completed, or acquired after the effective date of this Act by a customer, an entity acting on behalf of such customer, or political subdivision served by the customer which reduce the obligation of the Administrator to acquire resources under this Act. Such resources shall be renewable resources or multipurpose projects or other resources which are not inconsistent with the plan or, in the absence of a plan, not inconsistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2).

(2) The energy and capacity on which a credit under this subsection to a customer is based shall be the amount by which a conservation activity or resource actually changes the customer's net requirement for supply of electric power or reserves from the Administrator.

(3) The amount of credits for conservation under this subsection shall be set to credit the customer implementing or continuing the conservation activity for which the credit is granted for the savings resulting from such activity. The rate impact on the Administrator's other customers of granting the credit shall be equal to the rate impact such customers would have experienced had the Administrator been obligated to acquire resources in an amount equal to that actually saved by the activity for which the credit is granted.

(4) For resources other than conservation, the customer shall be credited for net costs actually incurred by such customer, an entity acting on behalf of such customer, or political subdivision served by such customer, in acquiring, constructing, or operating the resource for which the credit is granted. The rate impact to the Administrator's other customers of granting the credit shall be no greater than the rate impact such customers would have experienced had the Administrator been obligated to acquire resources in an amount equal to that actually produced by the resource for which the credit is granted.

(5) Retail rate structures which are voluntarily implemented by the Administrator's customers and which induce conservation or installation of consumer-owned renewable resources shall be considered, for purposes of this subsection, to be (A) conservation activities independently undertaken or carried on by such customers, or (B) customer-owned renewable resources, and shall qualify for billing credits upon the same showing as that required for other conservation or renewable resource activities.

(6) Prior to executing a contract for any billing credit or related services pursuant to this subsection, the Administrator shall—

(A) Comply with the notice and hearing provisions of subsection (c), and include in such notice the methodology the Administrator proposes to use in determining the amount of any such credit;

(B) Include the cost of such credit in the Administrator's annual or amended budget submittal to the Congress made pursuant to the Federal Columbia River Transmission System Act (16 U.S.C. 838(j));

(C) Include in such contract provisions to ensure that resources in excess of a customer's reasonable load growth shall have been offered to others for ownership, participation or other sponsorship pursuant to subsection (m), except in the case of conservation, multipurpose projects uniquely suitable for development by the customer, or renewable resources; and

(D) Include in such contract provisions to ensure that the operators of any generating resource for which a billing credit is to be granted agree to operate such resource in a manner compatible with the planning and operation of the region's power system.

(i) Contracts for the acquisition of resources

and for billing credits for major resources, including conservation activities, entered into pursuant to this section shall contain such terms and conditions, applicable after the contract is entered into, as will—

(1) insure timely construction, scheduling, completion, and operation of resources,

(2) insure that the costs of any acquisition are as low as reasonably possible, consistent (A) with sound engineering, operating, and safety practices and (B) the protection, mitigation, and enhancement of fish and wildlife, including related spawning grounds and habitat, affected by the development of such resources, and

(3) insure that the Administrator exercises effective oversight, inspection, audit, and review of all aspects of such construction and operation, including environmental protection.

Such contracts shall contain provisions assuring that the Administrator has the authority to approve all costs of and proposals for, major modifications in construction, scheduling, or operations and to assure that the Administrator is provided with such current information as he deems necessary to evaluate such construction and operation.

(j)(1) All contractual and other obligations required to be carried out by the Administrator pursuant to this Act shall be secured solely by the Administrator's revenues received from the sale of electric power and other services. Such obligations are not, nor shall they be construed to be, general obligations of the United States, nor are such obligations intended to be or are they secured by the full faith and credit of the United States.

(2) All contracts entered into by the Administrator for the acquisition of resources pursuant to this Act shall require that, in the sale of any obligations, all offerings and promotional material for the sale of such obligations shall include the language contained in the second sentence of paragraph (1). The Administrator shall monitor and enforce such requirement.

(k) In the exercise of his authorities pursuant to this section, the Administrator shall, consistent with the provisions of this Act and the Administrator's obligations to particular customer classes, insure that benefits under this section, including financial and technical assistance, conduct of conservation demonstrations, and experimental projects, services, and billing credits, are distributed equitably throughout the region.

(l)(1) The Administrator is authorized and directed to investigate opportunities for adding to the region's resources or reducing the region's power costs through the accelerated or cooperative development of resources located outside the States of Idaho, Montana, Oregon, and Washington if such resources are renewable resources, and are now or in the future planned or considered for eventual development by nonregional agencies or authorities that will or would own, sponsor, or otherwise develop them. The Administrator shall keep the Council fully and currently informed of such investigations, and seek the Council's advise as to the desirability of pursuing such investigations.

(2) The Administrator is authorized and directed to investigate periodically opportunities for mutually beneficial interregional exchanges of electric power that reduce the need for additional generation or generating capacity in the Pacific Northwest and the regions with which such exchanges may oc-

cur. The Council shall take into consideration in formulating a plan such investigations.

(3) After the Administrator submits a report to Congress pursuant to paragraph (5), the Administrator is authorized to acquire resources consistent with such investigations and consistent with the plan or, if no plan is in effect, with the priorities of section 4(e)(1) and the considerations of section 4(e)(2). Such acquisitions shall be in accordance with the provisions of this section.

(4) The Administrator shall conduct the investigations and the acquisitions, if any, authorized under this subsection with the assistance of other Federal agencies as may be appropriate.

(5) No later than July 1, 1981, the Administrator shall submit to the Congress a report of the result of the investigations undertaken pursuant to this subsection, together with the prospect for obtaining additional resources under the authority granted by this subsection and for reduction in generation or generating capacity through exchanges.

(m) Except as to resources under construction on the effective date of this Act, the Administrator shall determine in each case of a major resource acquisition that a reasonable share of the particular resource, or a reasonable equivalent, has been offered to each Pacific Northwest electric utility for ownership, participation, or other sponsorship, but not in excess of the amounts needed to meet such utility's regional load.

(n) The Council may authorize the Administrator to implement a proposal not subject to the provisions of section 6(c)(1) upon satisfaction of the requirements of section 6(c)(4) notwithstanding a finding by the Administrator that such proposal is inconsistent with the plan, or, if no plan is in effect, inconsistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2).

(o) The Council or any customer of the Administrator may request the Administrator to take action under section 6 to carry out his responsibilities under this section. Within 60 days of the receipt of such request, the Administrator shall respond in writing either that he will propose the action and will initiate the procedures of this section in order to review the action, or that he will not propose the action and the reasons why such action would not be timely or would not be consistent with the plan or with the Administrator's obligations under this Act or other provisions of law which the Administrator shall specifically identify.

RATES

SEC. 7. (a)(1) The Administrator shall establish, and periodically review and revise, rates for the sale and disposition of electric energy and capacity and for the transmission of non-Federal power. Such rates shall be established and, as appropriate, revised to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power, including the amortization of the Federal investment in the Federal Columbia River Power System (including irrigation costs required to be repaid out of power revenues) over a reasonable period of years and the other costs and expenses incurred by the Administrator pursuant to this Act and other provisions of law. Such rates shall be established in accordance with sections 9 and 10 of the Federal Columbia River Transmission System Act (16 U.S.C. 838), section 5 of the Flood Control Act of 1944, and the provisions of this Act.

(2) Rates established under this section shall become effective only upon confirmation and approval by the Federal Energy Regulatory Commission upon a finding by the Commission, that such rates—

(A) are sufficient to assure repayment of the Federal investment in the Federal Columbia River Power System over a reasonable number of years after first meeting the Administrator's other costs,

(B) are based upon the Administrator's total system costs, and

(C) insofar as transmission rates are concerned, equitably allocate the costs of the Federal transmission system between Federal and non-Federal customers utilizing such system.

(b)(1) The Administrator shall establish a rate or rates of general application for electric power sold to meet the general requirements of public body, cooperative, and Federal agency customers within the Pacific Northwest, and loads of electric utilities under section 5(c). Such rate or rates shall recover the costs of that portion of the Federal base system resources needed to supply such loads until such sales exceed the Federal base system resources. Thereafter, such rate or rates shall recover the cost of additional electric power as needed to supply such loads, first from the electric power acquired by the Administrator under section 5(c) and then from other resources.

(2) After July 1, 1985, the projected amounts to be charged for firm power for the combined general requirements of public body, cooperative, and Federal agency customers, exclusive of amounts charged such customers under subsection (g) for the costs of conservation, resource and conservation credits, experimental resources, and uncontrollable events, may not exceed in total, as determined by the Administrator, during any year after July 1, 1985, plus the ensuing four years, an amount equal to the power costs for general requirements of such customers, if the Administrator assumes that—

(A) the public body and cooperative customers' general requirements had included during such five-year period the direct service industrial customer loads which are—

(i) served by the Administrator, and

(ii) located within or adjacent to the geographic service boundaries of such public bodies and cooperatives;

(B) public body, cooperative, and Federal agency customers were served, during such five-year period, with Federal base system resources not obligated to other entities under contracts existing as of the effective date of this Act (during the remaining term of such contracts) excluding obligations to direct service industrial customer loads included in subparagraph (A);

(C) no purchases or sales by the Administrator as provided in section 5(c) were made during such five-year period;

(D) all resources that would have been required, during such five-year period, to meet remaining general requirements of the public body, cooperative and Federal agency customers (other than requirements met by the available Federal base system resources determined under subparagraph (B)) were—

(i) purchased from such customers by the Administrator pursuant to section 6, or

(ii) not committed to load pursuant to section 5(b),

and were the least expensive resources owned or purchased by public bodies or cooperatives; and any additional needed resources were obtained at the average cost of all other new resources acquired by the Administrator; and

(E) the quantifiable monetary savings, during such five-year period, to public body, cooperative, and Federal agency customers resulting from—

(i) reduced public body and cooperative financing costs as applied to the total amount of resources, other than Federal base system resources, identified under subparagraph (D), and

(ii) reserve benefits as a result of the Administrator's actions under this Act were not achieved.

(3) Any amounts not charged to public body, cooperative, and Federal agency customers by reason of paragraph (2) shall be recovered through supplemental rate charges for all other power sold by the Administrator to all customers. Rates charged public body, cooperative, or Federal agency customers pursuant to this subsection shall not include any costs or benefits of a net revenue surplus or deficiency occurring for the period ending June 30, 1985, to the extent such surplus or deficiency is caused by—

(A) a difference between actual power deliveries and power deliveries projected for the purpose of establishing rates to direct service industrial customers under subsection (c)(1), and

(B) an overrecovery or underrecovery of the net costs incurred by the Administrator under section 5(c) as a result of such difference.

Any such revenue surplus or deficiency incurred shall be recovered from, or repaid to, customers over a reasonable period of time after July 1, 1985, through a supplemental rate charge or credit applied proportionately for all other power sold by the Administrator at rates established under other subsections of this section prior to July 1, 1985.

(4) The term "general requirements" as used in this section means the public body, cooperative, or Federal agency customer's electric power purchased from the Administrator under section 5(b), exclusive of any new large single load.

(c)(1) The rate or rates applicable to direct service industrial customers shall be established—

(A) for the period prior to July 1, 1985, at a level which the Administrator estimates will be sufficient to recover the cost of resources the Administrator determines are required to serve such customers' load and the net costs incurred by the Administrator pursuant to section 5(c), based upon the Administrator's projected ability to make power available to such customers pursuant to their contracts, to the extent that such costs are not recovered through rates applicable to other customers; and

(B) for the period beginning July 1, 1985, at a level which the Administrator determines to be equitable in relation to the retail rates charged by the public body and cooperative customers to their industrial consumers in the region.

(2) The determination under paragraph (1)(B) shall be based upon the Administrator's applicable wholesale rates to such public body and cooperative customers and the typical margins included by such public body and cooperative customers in their retail industrial rates but shall take into account—

(A) the comparative size and character of the loads served,

(B) the relative costs of electric capacity, energy, transmission, and related delivery facilities provided and other service provisions, and

(C) direct and indirect overhead costs,

all as related to the delivery of power to industrial customers, except that the Administrator's rates during such period shall in no event be less than the rates in effect for the contract year ending on June 30, 1985.

(3) The Administrator shall adjust such rates to take into account the value of power system reserves made available to the Administrator through his rights to interrupt or curtail service to such direct service industrial customers.

(d)(1) In order to avoid adverse impacts on retail rates of the Administrator's customers with low-system densities, the Administrator shall, to the extent appropriate, apply discounts to the rate or rates for such customers.

(2) In order to avoid adverse impacts on direct service industrial customers using raw materials indigenous to the region as their primary resource, the Administrator is authorized to establish a special rate applicable to such customer if all power sold to such customer may be interrupted, curtailed, or withdrawn to meet firm loads in the region.

(e) Nothing in this Act prohibits the Administrator from establishing, in rate schedules of general application, a uniform rate or rates for sale of peaking capacity or from establishing time-of-day, seasonal rates, or other rate forms.

(f) Rates for all other firm power sold by the Administrator for use in the Pacific Northwest shall be based upon the cost of the portions of Federal base system resources, purchases of power under section 5(c), and additional resources which, in the determination of the Administrator, are applicable to such sales.

(g) Except to the extent that the allocation of costs and benefits is governed by provisions of law in effect on the effective date of this Act, or by other provisions of this section, the Administrator shall equitably allocate to power rates, in accordance with generally accepted ratemaking principles and the provisions of this Act, all costs and benefits not otherwise allocated under this section, including, but not limited to, conservation, fish and wildlife measures, uncontrollable events, reserves, the excess costs of experimental resources acquired under section 6, the cost of credits granted pursuant to section 6, operating services, and the sale of or inability to sell excess electric power.

(h) Notwithstanding any other provision of this section (except the provisions of subsection (a)), the Administrator shall adjust power rates to include any surcharges arising under section 4(f), and shall allocate any revenues from such charges in such manner as the Administrator determines will help achieve the purposes of section 4(f).

(i) In establishing rates under this section, the Administrator shall use the following procedures:

(1) Notice of the proposed rates shall be published in the Federal Register with a statement of the justification and reasons supporting such rates. Such notice shall include a date for a hearing in accordance with paragraph (2).

(2) One or more hearings shall be conducted as expeditiously as practicable by a hearing officer to develop a full and complete record and to receive public comment in the form of written or oral presentation of views, data, questions, and argument related to such proposed rates. In any such hearing—

(A) any person shall be provided an adequate opportunity by the hearing officer to offer refutation or rebuttal of any material submitted by any other person or the Administrator, and

(B) the hearing officer shall allow for cross-examination to develop information and material relevant to any such proposed rate.

(3) In addition to the opportunity to submit oral and written material at the hearings, any written views, data, questions, and arguments submitted by persons prior to, or before, the close of hearings shall be made a part of the administrative record.

(4) After such a hearing, the Administrator may propose revised rates, publish such proposed rates in the Federal Register, and conduct additional hearings in accordance with this subsection.

(5) The Administrator shall make a final decision establishing a rate or rates based on the record which shall include the hearing transcript, together with exhibits, and such other materials and information as may have ben submitted to, or developed by, the Administrator. The decision shall include a full and complete justification of the final rates pursuant to this section.

(6) The final decision of the Administrator shall become effective on confirmation and approval of such rates by the Federal Energy Regulatory Commission pursuant to subsection (a)(2). The Commission shall have the authority, in accordance with such procedures as the Commission may establish, to approve the final rate submitted by the Administrator on an interim basis, pending the Commission's final decision in accordance with such subsection: *Provided*, That, until the Commission has established appropriate procedures for interim approval, the Secretary shall have authority to approve on an interim basis final rates submitted by the Administrator.

(j) All rate schedules adopted, and all power billings rendered, by the Administrator pursuant to this section shall indicate—

(1) the approximate cost contribution of different resource categories to the Administrator's rates for the sale of energy and capacity, and

(2) the cost of resources acquired to meet load growth within the region and the relation of such cost to the average cost of resources available to the Administrator.

(k) Notwithstanding any other provision of this Act, all rates or rate schedules for the sale of nonfirm electric power within the United States, but outside the region, shall be established after the date of this Act by the Administrator in accordance with the procedures of subsection (i) of this section (other than the first sentence of paragraph (6) thereof) and in accordance with the Bonneville Project Act, the Flood Control Act of 1944, and the Federal Columbia River Transmission System Act. Notwithstanding section 201(f) of the Federal Power Act, such rates or rate schedules shall become effective after review by the Federal Energy Regulatory Commission for conformance with the requirements of such Acts and after approval thereof by the Commission. Such review shall be based on the record of proceedings established under subsection (i) and this subsection. The parties to such proceedings under subsection (i) shall be afforded an opportunity by the Commission for an additional hearing in accordance with the procedures established for ratemaking by the Commission pursuant to the Federal Power Act.

(l) In order to further the purposes of this Act and to protect the consumers of the region, the Administrator may negotiate, or establish, rates for electric power sold by the Administrator to any entity not located in the United States which shall be equitable in relation to rates for all electric power which is, or may be, purchased by the Administrator or the Administrator's customers from entities outside the United States. In establishing rates other than by negotiation, the provisions of subsection (i) shall apply. In the case of any negotiation with an entity not located in the United States, the Administrator shall provide public notice of any proposal to negotiate such rates. Such negotiated rates shall be not less than the rates established under this Act for nonfirm power sold within the United States but outside the region. The Administrator shall also afford notice of any rates negotiated pursuant to this subsection.

AMENDMENTS TO EXISTING LAW

SEC. 8. (a) Section 11(b) of the Federal Columbia River Transmission System Act (16 U.S.C. 837) is amended by striking out the semicolon at the end of paragraph (6) and inserting in lieu thereof ", or (iv) on a short term basis to meet the Administrator's obligations under section 4(h)(2) of the Pacific Northwest Electric Power Planning and Conservation Act;".

(b) Section 11(b) of the Federal Columbia River Transmission System Act (16 U.S.C. 838) is amended by striking out "and" at the end of paragraph (10), by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(12) making such payments, as shall be required to carry out the purposes and provisions of the Pacic Northwest Electric Power Planning and Conservation Act.".

(c) Subsection (b) of section 13 of such Act is amended by striking out "and 11(b)(11)" and inserting in lieu thereof ", 11(b)(11), and 11(b)(12)."

(d)(1) The first sentence of subsection (a) of section 13 of such Act is amended by inserting "(1) after "is authorized", by inserting after the word "system," the following: "and to implement the Administrator's authority pursuant to the Pacific Northwest Electric Power Planning and Conservation Act (including his authority to provide financial assistance for conservation measures, renewable resources, and fish and wildlife, but not including the authority to acquire under section 6 of that Act electric power from any generating facility not utilizing a renewable resource or from a generating facility utilizing a renewable resource and having a planned capability greater than fifty average megawatts).", and by inserting "(2)" before "to issue and sell bonds to refund such bonds".

(2) The fourth sentence of such subsection (a) is amended by striking out "similar bonds" and substituting "triple-A rated nongovernment utility bonds." Based on information provided by the Administrator to the Secretary of the Treasury, the interest rate determined pursuant to the immediately preceding sentence will be increased by 1 per centum thereof for each immediately preceding consecutive fiscal year, beginning with the fiscal year in which this Act becomes effective, that the applicable financial reports, including current repayment studies, of the Administrator show repayment criteria not being met".

(3) Such subsection (a) is further amended by inserting the following before the period at the end thereof: "prior to October 1, 1981. Such aggregate principal limitation shall be increased by an additional $1,250,000,000 after October 1, 1981, as provided in advance in annual appropriation Acts, and such increased amount shall be reserved for the purpose of providing funds for conservation and renewable resource loans and grants in a special revolving account created therefor in the Fund. The funds from such revolving account shall not be deemed State or local funds."

(e) Clause (2) of section 1(b) of the Act of August 31, 1964 (78 Stat. 756) is amended to read as follows: "(2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a rural electric cooperative served by the Administrator on the effective date of the Pacific Northwest Electric Power Planning and Conservation Act which has a distribution system from which it serves both within and without said region.".

(f) Section 7 of the Federal Columbia River Transmission System Act is amended by inserting "(a)" after "7" and by adding the following new subsection at the end thereof:

"(b)(1) From amounts available to the Administrator from the fund under section 11(b)(2), the Administrator shall make annual impact aid payments to State and local governments having within their jurisdiction the transmission facilities described in paragraph (2). The Administrator may also make impact aid payments to State and local governments with respect to transmission facilities of the Administrator other than those described in paragraph (2) where the construction of such facilities, or any substantial modification thereof, is completed after the date of enactment of the Pacific Northwest Electric Power Planning and Conservation Act and the Administrator determines that such facilities have a substantial impact on the State and local government concerned.

"(2) The transmission facilities for which payments shall be made under this subsection are any major transmission facilities—

"(A) which are owned by the Bonneville Power Administration;

"(B) which are exempt from State and local real property taxes; and

"(C) initial construction of which was completed after the date of the enactment of the Pacific Northwest Electric Power Planning and Conservation Act.

"(3)(A) The payments made under this subsection for any year shall be determined on the basis of a regionwide formula established by the Administrator by rule, after notice and opportunity for public hearing and after consultation with State and local governments in the region and the Administrator's customers in the region. Such formula shall provide for an annual payment based on (i) the amount of land and interests in land acquired by the Administrator for purposes of constructing the facility, and the value of the facilities constructed thereon, and (ii) the costs of all governmental services related to the facility and an appropriate share of the general government expenses which are ordinarily paid from State and local real property taxes. No annual payment to any such State or local government may exceed such amount as the Administrator determines would be paid to such government during that year if the transmission facilities were not exempt from State and local real property taxation.".

ADMINISTRATIVE PROVISIONS

SEC. 9. (a) Subject to the provisions of this Act and the Bonneville Project Act, the Administrator is authorized to contract in accordance with section 2(f) of the Bonneville Project Act of 1937 (16 U.S.C. 832a(f)).

(b) The Administrator shall discharge the executive and administrative functions of his office in accordance with the policy established by the Bonneville Project Act of 1937 (16 U.S.C. 832 and following), sections 302(a) (2) and (3) of the Department of Energy Organization Act, and this Act. The Secretary of Energy, the Council, and the Administrator shall take such steps as are necessary to assure the timely implementation of this Act in a sound and businesslike manner.

(c) Any contract of the Administrator for the sale or exchange of electric power for outside the Pacific Northwest shall be subject to limitations and conditions corresponding to those provided in sections 2 and 3 of the Act of August 31, 1964 (16 U.S.C. 837a and 837b) for any contract for the sale, delivery, or exchange of hydroelectric energy or peaking capacity generated within the Pacific Northwest for use outside the Pacific Northwest. In applying such sections for the purposes of this subsection, the term "surplus energy" shall mean electric energy for which there is no market in the Pacific Northwest at any rate established for the disposition of such energy, and the term "surplus peaking capacity" shall mean electric peaking capacity for which there is no demand in the Pacific Northwest at the rate established for the disposition of such capacity. The authority granted, and duties impose upon, the Secretary by sections 5 and 7 of such Act (16 U.S.C. 837e and 837f) shall also apply to the Administrator in connection with resources acquired by the Administrator pursuant to this Act. The Administrator shall, in making any determination, under any contract executed pursuant to section 5, of the electric power requirements of any Pacific Northwest customer, which is a non-Federal entity having its own generation, exclude, in addition to hydroelectric generated energy excluded from such requirements pursuant to section 3(d) of such Act (16 U.S.C. 837b(d)), any amount of energy included in the resources of such customer for service to firm loads in the region if (1) such amount was disposed of by such customer outside the region, and (2) as a result of such disposition, the firm energy requirements of such customer or other customers of the Administrator are increased. Such amount of energy shall not be excluded, if the Administrator determines that through reasonable measures such amount of energy could not be conserved or otherwise retained for service to regional loads. The Administrator may sell as replacement for any amount of energy so excluded only energy that would otherwise be surplus.

(d) No restrictions contained in subsection (c) shall limit or interfere with the sale, exchange, or other disposition of any power by any utility or group thereof from any existing or new non-Federal resource if such sale, exchange, or disposition does not increase the amount of firm power the Administrator would be obligated to provide to any customer. The Administrator, in addition to the directives contained in subsections (i) (1)(B) and (i)(3), and subject to any contractual obligations of the Administrator, or any other obligations under existing law, shall (1) provide transmission access, load factoring, storage and other services normally attendant thereto to such utilities and (2) shall not discriminate on the basis of independent development of resources against any utility or group thereof in providing such services.

(e)(1) For purposes of sections 701 through 706 of title 5, United States Code, the following actions shall be final actions subject to judicial review—

(A) adoption of the plan or amendments thereto by the Council under section 4, and adoption of the program by the Council under section 4(h);

(B) sales, exchanges, and purchases of electric power under section 5;

(C) the Administrator's acquisition of resources under section 6;

(D) implementation of conservation measures under section 6;

(E) execution of contracts for assistance to sponsors under section 6(f);

(F) granting of credits under section 6(h); and

(G) establishment of regionwide formula under section 7(b)(3) of the Federal Columbia River Transmission System Act.

(2) The record upon review of such final actions shall be limited to the administrative record compiled in accordance with this Act. The scope of review of such actions without a hearing or after a hearing shall be governed by section 706 of title 5, United States Code. The scope of review of an action under section 6(c) shall be governed by section 706 of title 5, United States Code. Nothing in this section shall be construed to require a hearing pursuant to section 554 or 557 of title 5 of the United States Code.

(3) Nothing in this section shall be construed to preclude judicial review of other final actions and decisions by the Council or Administrator.

(4) For purposes of this subsection—

(A) major resources shall be deemed to be acquired upon publication in the Federal Register pursuant to section 6(c)(4)(B);

(B) resources, other than major resources, shall be deemed to be acquired upon execution of the contract therefor;

(C) conservation measures shall be deemed to be implemented upon execution of the contract or grant therefor; and

(D) rate determinations pursuant to section 7 shall be deemed final upon confirmation and approval by the Federal Energy Regulatory Commission.

(5) Suits to challenge final actions and decisions taken pursuant to this Act, or the implementation of such final actions, whether brought pursuant to this Act, the Bonneville Project Act, the Act of August 31, 1964 (16 U.S.C. 837–837h), or the Federal Columbia River Transmission System Act (16 U.S.C. 838 and following), shall be filed in the appropriate Federal court in the case of rates under section 7 and in the United States court of appeals for the region in the case of other actions or decisions subject to the provisions of this subsection. Such suits shall be filed within ninety days of the time such action or decision is deemed final, or, if notice of the action is required by this Act to be published in the Federal Register, within ninety days from such notice, or be barred. In the case of a challenge of the plan or amendments thereto, such suit shall be filed within sixty days after publication of a notice of such final action in the Federal Register. Such courts shall have jurisdiction to hear and determine any suit brought as provided in this section. The plan, as finally adopted or portions thereof, or amendments thereto, shall not thereafter be reviewable as a part of any other action under this Act or any other law administered by the Administrator.

(f) For purposes of enabling the Administrator to acquire resources necessary to meet the firm load of public bodies, cooperatives, and Federal agencies from a governmental unit at a cost no greater than the cost which would be applicable in the absence of such acquisition, the exemption from gross income of interest on certain governmental obligations provide in section 103(a)(1) of the Internal Revenue Code of 1954 shall not be affected by the Administrator's acquisition of such resources if—

(1) the Administrator, prior to contracting for such acquisition, certifies to his reasonable belief, that the persons for whom the Administrator is acquiring such resources for sale pursuant to section 5 of this Act are public bodies, cooperatives, and Federal agencies, unless the Administrator also certifies that he is unable to acquire such resources without selling a portion thereof to persons who are not exempt persons (as defined in section 103(b) of such Code), and

(2) based upon such certification, the Secretary of the Treasury determines in accordance with applicable regulations that less than a major portion of the resource is to be furnished to persons who are not exempt persons (as defined in section 103(b) of such Code).

The certification under paragraph (1) shall be made in accordance with this subsection and a procedure and methodology approved by the Secretary of the Treasury. For purposes of this subsection, the term "major portion" shall have the meaning provided by regulations issued by the Secretary of the Treasury.

(g) When reviewing rates for the sale of power to the Administrator by an investor-owned utility customer under section 5(c) or 6, the Federal Energy Regulatory Commission shall, in accordance with section 209 of the Federal Power Act (16 U.S.C. 824h)—

(1) convene a joint State board, and

(2) invest such board with such duties

and authority as will assist the Commission in its review of such rates.

(h)(1) No "company' (as defined in section 2(a)(2) of the Public Utility Holding Company Act of 1935; 15 U.S.C. 79b(a)(2)), which owns or operates facilities for the generation of electricity (together with associated transmission and other facilities) primarily for sale to the Administrator under section 6 shall be deemed an "electric utility company" (as defined in section 2(a)(3) of the Public Utility Holding Company Act of 1935; 15 U.S.C. 79b(a)(3)), within the meaning of any provision or provisions of chapter 2C of title 15 of the United States Code, if at least 90 per centum of the electricity generated by such company is sold to the Administrator under section 6, and if—

(A) the organization of such company is consistent with the policies of the Public Utility Holding Company Act of 1935, as determined by the Securities and Exchange Commission, with the concurrence of the Administrator, at the time of such organization; and

(B) participation in any facilities of such "company" has been offered to public bodies and cooperatives in the region pursuant to section 6(m).

(2) The Administrator shall include in any contract for the acquisition of a major resource from such "company" provisions limiting the amount of equity investment, if any, in such "company" to that which the Administrator determines will be consistent with achieving the lowest attainable power costs attributable to such major resource.

(3) In the case of any "company" which meets the requirements of paragraph (1), the Administrator, with the concurrence of such Commission, shall approve all significant contracts entered into by, and between, such "company" and any sponsor company or any subsidiary of such sponsor company which are determined to be consistent with the policy of the Public Utility Holding Company Act of 1935 at the time such contracts are entered into. The Administrator and the Securities and Exchange Commission shall exercise such approval authority within sixty days after receipt of such contracts. Such contracts shall not be effective without such approval.

(4) Paragraph (1) of this subsection shall continue to apply to any such "company" unless the Administrator or the Securities and Exchange Commission, or both, through periodic review, (A) determine at any time that the "company" no longer operates in a manner consistent with the policy of the Public Utility Holding Company Act of 1935 and in accordance with this subsection, and (B) notify the "company" in writing of such preliminary determination. This subsection shall cease to apply to such "company" thirty days after receipt of notification of a final determination thereof. A final determination shall be made only after public notice of the preliminary determination and after a hearing completed not later than sixty days from the date of publication of such notice. Such final determination shall be made within thirty days after the date of completion of such hearing.

(i)(1) At the request and expense of any customer or group of customers of the Administrator within the Pacific Northwest, the Administrator shall, to the extent practicable—

(A) acquire any electric power required by (i) any customer or group of customers to enable them to replace resources determined to serve firm load under section 5(b), or (ii) direct service industrial customers to replace electric power that is or may be curtailed or interrupted by the Administrator (other than power the Administrator is obligated to replace), with the cost of such replacement power to be distributed among the direct service industrial customers requesting such power; and

(B) dispose of, or assist in the disposal of, any electric power that a customer or group of customers proposes to sell within or without the region at rates and upon terms specified by such customer or group of customers, if such disposition is not in conflict with the Administrator's other marketing obligations and the policies of this Act and other applicable laws.

(2) In implementing the provisions of subparagraphs (A) and (B) of paragraph (1), the Administrator may prescribe policies and conditions for the independent acquisition or disposition of electric power by any direct service industrial customer or group of such customers for the purpose of assuring each direct service industrial cutomer an opportunity to participate in such acquisition or disposition.

(3) The Administrator shall furnish services including transmission, storage, and load factoring unless he determines such services cannot be furnished without substantial interference with his power marketing program, applicable operating limitations, or existing contractual obligations. The Administrator shall, to the extent practicable, give priority in making such services available for the marketing, within and without the Pacific Northwest, of capability from projects under construction on the effective date of this Act, if such capability has been offered for sale at cost, including a reasonable rate of return, to the Administrator pursuant to this Act and such offer is not accepted within one year.

(j)(1) The Council, as soon as practicable after the enactment of this Act, shall prepare, in consultation with the Administrator, the customers, appropriate State regulatory bodies, and the public, a report and shall make recommendations with respect to the various retail rate designs which will encourage conservation and efficient use of electric energy and the installation of consumer-owned renewable resources on a cost-effective basis, as well as areas for research and development for possible application to retail utility rates within the region. Studies undertaken pursuant to this subsection shall not affect the responsibilities of any customer or the Administrator which may exist under the Public Utility Regulatory Policies Act of 1978.

(2) Upon request, and solely on behalf of customers so requesting, the Administrator is authorized to (A) provide assistance in analyzing and developing retail rate structures that will encourage cost-effective conservation and the installation of cost-effective consumer-owner renewable resources; (B) provide estimates of the probable power savings and the probable amount of billing credits under section 6(h) that might be realized by such customers as a result of adopting and implementing such retail rate structures; and (C) solicit addtiional information and analytical assistance from appropriate State regulatory bodies and the Administrator's other customers.

(k) There is hereby established within the administration an Assistant Administrator position for conservation and renewable resources. Such Assistant Administrator shall be appointed by the Administrator and shall be assigned responsibility for conservation and direct-application renewable resource programs (including the administration of financial assistance for such programs). Such position is hereby established in the senior executive service in addition to the number of such positions heretofore established in accordance with other provisions of law applicable to such positions.

SAVINGS PROVISIONS

SEC. 10. (a) Nothing in this Act shall be construed to affect or modify any right of any State or political subdivision thereof or electrical utility to—

(1) determine retail electric rates, except as provided by section 5(c)(3);

(2) develop and implement plans and programs for the conservation, development, and use of resources; or

(3) make energy facility siting decisions, including, but not limited to, determining the need for a particular facility, evaluating alternative sites, and considering alternative methods of meeting the determined need.

(b) Nothing in this Act, shall alter, diminish, or abridge the rights and obligations of the Administrator or any customer under any contract existing as of the effective date of this Act.

(c) Nothing in this Act shall alter, diminish, abridge, or otherwise affect the provisions of other Federal laws by which public bodies and cooperatives are entitled to preference and priority in the sale of federally generated electric power.

(d) If any provision of this Act is found to be unconstitutional, then any contract entered into by the Administrator, prior to such finding and in accordance with such provisions, to sell power, acquire or credit resources, or to reimburse investigation and preconstruction expenses pursuant to section 5, and section 6 (a), (b), (f), or (h) of this Act shall not be affected by such finding.

(e) Nothing in this Act shall be construed to affect or modify any treaty or other right of an Indian tribe.

(f)(1) Nothing in this Act shall be construed as authorizing the appropriation of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual.

(2) In the implementation of this Act, the United States, its agents, permittees, or licensees shall not appropriate, use, divert, dedicate, or claim water within any State unless such appropriation, use, diversion, dedication, or claim takes place pursuant to substantive and procedural provisions of State law, regulation, or rule of law, including the establishment, exercise or enforcement of terms or conditions, governing appropriation, use, diversion, or dedication of water.

(3) Nothing in this Act shall alter in any way any provision of State law, regulation, or rule of law or of any interstate compact governing the appropriation, use, diversion, dedication of, or claim to, water.

(4) Nothing in this Act shall be construed as altering or affecting the rights of any Indian tribe.

(g) Nothing in this Act shall obligate the Federal Government for the performance of any new contracts executed by the Administrator or Council directly or indirectly unless specifically authorized by Congress.

(h) The reservation under law of electric power for use in the State of Montana by reason of the construction of Hungry Horse and Libby Dams and Reservoirs within that State, plus 50 per centum of any electric power produced at Libby Reregulating Dam if built, is hereby affirmed. Electric power so reserved shall be sold at the rate or rates set pursuant to section 7.

EFFECTIVE DATE

SEC. 11. This Act shall be effective on the date of enactment, or October 1, 1980, whichever is later. The term "date of enactment of this Act" as used in this Act shall be either such date or October 1, 1980.

DOE STUDY OF OTHER REGIONS

SEC. 12. (a) The Secretary of Energy shall undertake a study of the means by which the benefits accruing to the Pacific Northwest pursuant to the provisions of this Act may be duplicated in other regions throughout the United States through the establishment of other Federal regional electric power planning and financing agencies having authority comparable to those granted to the Administrator under this Act. Such study shall include an examination of the means by which agencies may reduce the cost of electric power throughout the various regions of the United States by planning for electric power production and utilizing cost effective conservation measures on a regional basis and by reducing the cost of financing for new privately and publicly owned generation and transmission facilities.

(b) The Secretary of Energy shall submit a report to Congress not later than 6 months after the date of the enactment of this Act containing the results of the study carried out under this section.

—Page 85, strike lines 18 through 20 and renumber the subsections accordingly.

—Page 85, strike lines 19 and 20 and substitute: ed by striking out "similar bonds." and substituting "triple-A rated nongovernment utility bonds."

—Page 83, beginning in line 7, strike out "Beginning in" and all that follows down through "if" in line 8 and substitute "If".

Page 86, strike out line 12 and all that follows down through "the Secretary" in line 15 and substitute "Energy, the Secretary".

Page 86, line 20, strike out "1" and substitute "2 and ½".

Page 86, strike out line 25 and all that follows down through the period in line 5 and substitute: "The rates established by the Administrator as provided in section 7 of the Pacific Northwest Electric Power and Planning and Conservation Act shall include such automatic adjustment provisions (including fuel adjustment clauses and purchased power adjustment clauses) as may be necessary to insure that, to the maximum extent practicable, funds will be available to the Administrator to comply with the repayment criteria of the Secretary of Energy.".

—Page 87, after line 16, insert:

(f) Section 11 of the Federal Columbia River Transmission System Act is amended by inserting the following new subsection at the end thereof:

"(e) Nothing in this or any other Act (except subsection (b) (6) (i) and (iii)) shall be deemed to authorize or permit the Administrator to purchase electric power (or the entitlement of electric plant capability) unless such purchase is authorized by legislation enacted by the Congress pursuant to bills reported from the committees of Congress having jurisdiction, under the applicable rules of the respective Houses of Congress, over substantive amendments to the Federal Columbia River Transmission System Act and Bonneville Project Act.".

—Page 103, after line 5, insert:

DOE STUDY OF OTHER REGIONS

SEC. 13. (a) The Secretary of Energy shall undertake a study of the means by which the benefits accruing to the Pacific Northwest pursuant to the provisions of this Act may be duplicated in other regions throughout the United States through the establishment of other Federal regional electric power planning and financing agencies having authorities comparable to those granted to the Administrator under this Act. Such study shall include an examination of the means by which such agencies may reduce the cost of electric power throughout various regions of the United States by planning for electric power production and utilizing cost effective conservation measures on a regional basis and by reducing the cost of financing for new privately and publicly owned generation and transmission facilities.

(b) The Secretary of Energy shall submit a report to Congress not later than 6 months after the date of the enactment of this Act containing the results of the study carried out under this section.

Amend the table of contents on page 2 by adding the following new item at the end thereof:

"Sec. 13. DOE study of other regions.".

—Page 85, beginning in line 22, strike out "prior to" and all that follows down through line 5 of page 86 and substitute: ", as provided in annual appropriation Acts".

—Page 8, line 5, strike the word "fifty" and insert in lieu thereof the word "five".

Page 85, line 17, strike the number "50" and insert in lieu thereof the number "5".

—Page 8, line 5, strike the word "fifty" and insert in lieu thereof the word "fifteen".

Page 85, line 17, strike the number "50" and insert in lieu thereof the number "15".

—Page 8, line 5, strike the word "fifty" and insert in lieu thereof the word "twenty-five".

Page 85, line 17, strike the number "50" and insert in lieu thereof the number "25".

—Page 20, line 20, strike the comma and everything that follows and add a period after "functions".

Page 20, strike lines 21 and 22.

—Page 19, line 19, after the word "personnel" insert the following: ", not to exceed twenty individuals,".

—Page 13, line 23, strike section 4(b) (1).

Page 14, line 18, strike section 4(b) (2).

Page 15, line 18, strike section 4(b) (3).

Page 16, line 17, strike section 4(b) (4).

Page 17, line 4, strike section 4(b) (5) (A).

Page 17, line 15, strike section 4(b) (5) (B).

—Page 103, add the following section:

"At the end of each calendar year, beginning in 1981, the Bonneville Power Administration shall be treated for federal income taxation purposes in the same manner as any regulated private electric utility, and shall file all appropriate tax returns and make federal income tax payments based upon its entire system capital and operating costs and revenues."

—Page 52, line 18, strike the period and add the following: ": *Provided*, That no power may be delivered under any initial contract to any direct service industrial customer until such customer has been certified, after public hearings and a finding by the Council that it meets the best available energy conservation standards in each facility owned or operated by such customer.".

—Page 21, line 17, strike the figure "0.02" and insert in lieu thereof the figure "0.03".

By Mr. LOWRY:

(Amendment to the amendment offered in the nature of a substitute.)

—Page 10, lines 15–17, strike "(A) electric power," and all that follows and insert in lieu thereof: "electric power, electric power output of generating facilities, programs and measures to conserve electric power, renewable energy technologies, and programs and measures to utilize renewable technologies, or".

By Mr. MILLER of California.

(Amendments to the amendment in the nature of a substitute.)

—Page 58, line 19, strike from "Act" through line 18 and insert in lieu the following: "legislation reported from the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.".

Page 85, line 16, strike after "facility" and through line 7 and insert in lieu the following: "not utilizing renewable resources.".

By Mr. VENTO:

(Amendment to the amendment in nature of a substitute.)

—Page 55, section 6(b) (3), line 7, after "4 (e) (2) of this Act" and before the period insert the following: "except a major resource or new large single load unless authorized by Congress.".

—Page 102, section 10, after line 16, add a new subsection (I):

Nothing in this Act shall obligate the federal government for the performance of any new contracts executed by the Administrator or Council directly or indirectly unless specifically authorized by Congress.

By Mr. WEAVER:

(Amendment to the amendment in the nature of a substitute.)

—Page 6, line 3, after "quantifiable" insert "direct and indirect".

—Page 6, line 4, insert between "environmental" and "costs", "and social".

—Page 6, line 13, strike ", including" and insert "based on".

—Page 10, line 12, strike "four" and insert therefor "two".

—Page 10, lines 15–21, strike "(A) electric power", and all that follows down through page 10, line 21 and insert in lieu thereof: "electric power, electric power output of generating facilities, programs and measures to conserve electric power, renewable energy technologies, and programs and measure to utilize renewable technologies.".

—Page 11, line 24, strike "two persons from each State" and insert "four persons from Washington, three persons from Oregon, and two persons each from Idaho and Montana".

—Page 11, line 24, strike "two persons" and insert "one person".

—Page 11, lines 24–25, strike "appointed" and insert "elected".

Page 12, line 2, after "Council.", insert "All references in this Act to the appointment of the members of such Council shall be deemed to mean the election of the members of such Council under applicable state law.".

—Page 12, line 9, strike "two" and insert "three".

—Page 12, line 15, strike "three" and insert therefor "four"; and

Page 12, line 18, strike "three" and insert therefor "four".

—Page 12, line 19, after "chairman", insert "which shall rotate among the states' representatives on an annual basis".

—Page 13, line 5, strike "GS–18" and insert therefor "GS–17".

—Page 18, line 3, strike "whenever" and all that follows down through line 10 and insert therefor "all contracts executed by the Administrator pursuant to section 5 or section 6 of this Act shall be null and void".

—Page 18, line 15, strike "A majority" and insert therefor "Six".

—Page 18, line 22, strike "(A) a majority" and all that follows down through "(B)" on page 18 line 25.

—Page 18, line 22, strike "(A) a majority" and all that follows down through "Council" on page 18 line 25 and insert therefor "all members of the Council".

—Page 19, line 2, strike "three" and insert therefor "four".

—Page 21, line 17, strike "0.02" and insert therefor "0.019".

—Page 22, line 4, strike "0.10" and insert therefor "0.09".

—Page 23, line 5, strike "five" and insert therefor "four".

—Page 23, line 15, strike "section 553" and insert therefor "section 554".

—Page 25, line 17, strike "may" and insert "shall".

—Page 26, line 6, strike ", taking" and all that follows down through "section," on line 8.

—Page 27, line 10, strike "may" and insert therefor "shall".

—Page 29, line 10, strike the first comma and insert "and".

Page 29, line 10, strike ", fish and wildlife".

Page 29, line 13, strike the first comma and insert "and" and strike ", and fish and wildlife".

—Page 30, line 5, delete "tributaries." and insert "tributaries and on other rivers and their tributaries in the region. All references in this Act to the Columbia River and its tributaries shall be deemed to include other rivers and tributaries in the region.".

Page 4, line 16, after "tributaries" insert "and of other rivers and tributaries in the region".

—Page 32, line 3, strike "at reasonable cost".

—Page 32, line 16, strike "while" and all that follows down through "supply" on page 32, line 18.

—Page 33, line 6, strike "(C) utilize" and all that follows down through "cost;" on page 33, line 8, and renumber accordingly.

—Page 34, line 17, strike "may" and insert therefor "shall".

—Page 37, line 18, strike "to the fullest extent practicable".

—Page 38, line 14, strike "Committees on Interstate and Foreign Commerce and" and insert therefor "Committee".

—Page 39, line 14, strike "To the greatest extent practicable, within" and insert therefor "Within".

—Page 40, line 4, strike "(k) (1) Not" and all that follows down through page 41, line 2.

—Page 41, line 12, strike "and to each requesting investor-owned utility".

Page 41, line 13, strike the comma and insert in lieu thereof: "or".

Page 41, line 14, strike "or investor-owned utility".

Page 42, line 5, strike "(2) Contracts" and all that follows down through page 42, line 8, renumbering accordingly.

Page 42, line 13, after "cooperative" strike the comma and insert in lieu thereof "or".

Page 42, line 13–14, strike "or investor-owned utility".

—Page 43, line 3, after "imposed" insert ", but not less than five years".

—Page 44, line 12, strike "(2) The" and all that follows down through page 44, line 18.

—Page 45, line 11, after "subsection" insert ", so long as such termination results in a decrease in the rates charged pursuant to section 7(b) (1) in the amount necessary to prevent the exceeding of the limit established by section 7(b) (2)".

—Page 46, line 17, after "sales" insert ", in their entirety, notwithstanding the provisions of subparagraph (B) of this paragraph relating to the provisions of any contract dated January or April 1975,".

—Page 47, line 4, after "directly" insert "or indirectly".

—Page 48, line 23, after "customer" insert "and, notwithstanding any provision of section 7, such electric power shall be sold at a price that reflects the full cost of acquiring such power plus the appropriate administrative costs of the Administrator".

—Page 50, line 6, strike "(C) direct service industrial and renumber accordingly.

—Page 51, line 10, after "and" insert ", within twenty-four months,".

—Page 51, line 10, after "and" insert ", as soon as the Plan is adopted pursuant to section (4d),".

—Page 53, line 3, strike "(7) The" and all that follows down through page 53, line 5.

—Page 54, line 20, after "Act.", insert "(b) The Administrator shall require in utility customer contracts that those utilities shall purchase excess electricity at appropriate prices offered for sale by individuals owning and operating renewable energy equipment.", renumbering accordingly.

—Page 54, line 20, after "Act." insert a new subsection, renumbering accordingly "(b) In making any payment to a utility for the acquisition of a resource under section 6(a) (2) or for the exchange of power under section 5(C), the Administrator shall exclude the costs of construction work in progress."

—Page 58, line 9, after "(1)" insert "when no plan is in effect or" and on page 58, line 11, strike "or, if" and all that follows down through "section 4(e) (2)" on page 58, line 13.

—Page 58, line 19, after "Congress" insert "pursuant to bills reported from the Committees of Congress having jurisdiction, under the applicable rules of the respective Houses of Congress, over substantive amendments to the Bonneville Project Act and the Federal Columbia River Transmission System Act,".

—Page 59, line 19, after "Congress" insert

"(d) Prior to the acquisition of a specific major resource, any utility may notify the Administrator of its determination not to participate in such resource if such utility has determined by a referendum or a vote by its governing body not to participate in such resource.

In the event of such notification, the Administrator shall not include costs from such resource in the rates charged such utility, and the Administrator, in allocating power among the utilities, shall not allocate to nonparticipating utilities any power from such resource. Such allocation shall be adjusted from time to time to take into account the historical operating experience of the resource.".

—Page 60, line 20, strike "(f) (1) For" and all that follows down through page 62, line 18.

Page 55, line 22, strike "(f),".

Page 55, line 25, strike "to" and all that follows down through "resource," on page 56, line 2.

Page 52, line 2, strike "(f),".

Page 57, line 15, strike "In the case" and all that follows down through page 57, line 22.

Page 60, line 11, strike "(including" and all that follows down through page 60, line 14, and insert in lieu thereof a period.

Page 91, line 7, strike "(E)" and all that follows down through page 91, line 8, and renumber accordingly.

—Page 68, line 19, after "subsection" insert "and the Congress by concurrent resolution, approves such report".

—**Page 69, line 17, after "load.", insert new** subsections:

"(n) (1) In each case of major resource acquisition, the Administrator shall resource asquisition, the Administrator shall promptly transmit to the Attorney General a copy of any reource acquisition proposal provided for in subsections (a), (b), (f), (h) or (1); and the Attorney General shall, within a reasonable time, but in no event to exceed 180 days after receiving a copy of such proposal, render such advice to the Administrator as he determines to be appropriate in regard to the finding to be made by the Administrator pursuant to paragraph (3) of this subsection. Such advice shall include an explanatory statement as to the reasons or basis therefor.

"(2) Upon the request of the Attorney General, the Administrator shall furnish or cause to be furnished such information as the Attorney General determines to be appropriate for the advice called for in paragraph (1) of this subsection.

"(3) Promptly upon receipt of the Attorney General's advice, the Administrator shall publish the advice in the Federal Register. Where the Attorney General advises that there may be adverse antitrust aspects and recommends that there be a hearing, the Attorney General or his designee may participate as a party in the proceedings thereafter held by the Administrator in connection with the subject matter or his advice. The Administrator shall give due consideration to the advice received from the Attorney General and to such evidence as may be provided during the proceedings in connection with such subject matter, and shall make a finding as to whether the activities under the proposal would create or maintain a situation inconsistent with the antitrust laws as specified in subsection 105a of the Atomic Energy Act of 1954 (42 USC 2135).

"(4) In the event the Administrator's finding under paragraph (3) is in the affirmative, the Administrator shall terminate such proposal, notwithstanding other provisions of this Act.

—Page 71, line 1, after "(1)" insert "(A)";

—Page 71, line 1, strike out "a rate or";

—Page 71, line 5, strike out "Such rate or rates shall" and all that follows down through page 71, line 12 and substitute:

"(B) The rates of general application established under this paragraph for electric power sold to meet such general requirements and loads under section 5(c) shall consist of the following separate rates—

(i) A rate which shall recover both (I) the costs of that portion of the Federal base system resources needed to serve such general requirements and loads and (II) the costs of the electric power acquired by the Administrator under section 5(c) to serve such general requirements and loads.

(ii) Separate rates which shall recover the costs of any additional electric power acquired by the Administrator from sources other than the sources referred to in clause (i) in order to serve such general requirements and loads under section 5(c).

(C) The rates under clause (ii) of paragraph (B) shall consist of the following separate rates—

(i) A rate for that amount of additional electric power referred to in clause (ii) of subparagraph (B) which is initilly purchased by the Administrator in the first ten year period during which any such additional electric power is purchased by the Administrator for purposes of sales referred to in such clause (ii).

(ii) Separate rates for that amount of additional electric power referred to in clause (ii) of subparagraph (B) which is initially purchased in each succeeding ten year period during which any such additional electric power is purchased by the Administrator for purposes of sales referred to in such clause (ii).

(D) The rates established pursuant to subparagraph (B) (ii) for any electric power acquired by the Administrator from a new resource shall recover the full costs of such new resource over its useful life.

(E) (i) The Administrator shall annually allocate the electric power sold at the rate established under clause (i) of subparagraph (B) to the customers referred to in subparagraph (A), including public bodies and cooperatives formed after the date of the enactment of this Act which initially become customers of the Administrator after such date.

(ii) In the case of the public body, cooperative, and Federal agency customers, such allocation shall be in proportion to general requirements of each such customer, except that the allocation shall be adjusted to give equitable consideration to differing rates of population growth, employment, and irrigated acreage.

(iii) In the case of the customers acquiring electric power pursuant to section 5(c), such allocation shall be adjusted on the basis of population growth and irrigated acreage.

(F) Each separate rate required pursuant to this subpargraph shall be separately stated on a billing provided to the customer for purposes of periodically notifying the customer of the charges for electric power purchased subject to each such rate.

(G) Whenever the rates charged to public body, cooperative, and Federal agency customers are modified by reason of the limitation contained in paragraph (2), such modified rates shall be established, where practicable, as separate rates charged according to the rate structure described in subparagraphs (B) and (C), and where not practicable, according to a rate structure which the Administrator determines will maintain the effects of such separate rates and will carry out the purposes of subparagraphs (B) and (C).".

Page 80, strike "(1) All" and all that follows down through line 4 on page 81.

—Page 56, line 17, strike "to assist in evaluating the".

Page 56, line 18, strike "proposal".

Page 56, line 24, after "decision" insert "based on the record developed pursuant to subparagraph (c) of this paragraph".

Page 91, line 22, after "Code" insert including sections 706(2)(E) and 706(2)(F) thereof".

—Page 76, line 12, after "customers." insert "(4) Notwithstanding any other provision of this subsection, the rates established by this subsection for that portion of the direct service industrial load that is not subject to interruption by the Administrator for the purpose of providing reserves shall in no event be less than the average cost to the Administrator of acquiring new resources pursuant to section 6 in the year previous to the sale of power to any direct service industrial customer to which this subsection applies.".

—Page 77, line 8, after "time-of-day" insert "rates, conservation rates, inverted rates, multi-tier rates".

—Page 80, line 24, strike the second "and";

Page 81, line 4, strike the period; insert therefor ", and (3) a statement by the Administrator, rationalizing why the rates established pursuant to this section for resources required to meet load growth within the region are less than the actual costs of acquiring such resources."

—Page 91, line 22, strike "Nothing" and all that follows down through page 91, line 24.

—Page 92, line 25 and page 93, line 3, strike "ninety" and insert therefor "one hundred twenty".

—Page 93, line 5, strike "sixty" and insert therefor "ninety".

—Page 95, line 4, strike "(h)(1) No" and all that follows down through page 97, line 9.

—Page 98, line 17, strike "The" and all that follows down through page 98, line 24.

—Page 100, line 7, strike "Such" and all that follows down through page 100, line 10.

—Page 100, line 10, after "positions." insert:

"(1) The authorities granted and the programs established by this Act, insofar as they exceed those existing the day before the date of enactment of this Act, shall cease to be effective on the date five years after the date of enactment of this Act, unless the Congress by Joint Resolution reauthorizes such authorities and programs before such date."

—Page 100, line 10, after "positions." insert:

"(1) No rule and regulation promulgated by the Administrator or the Council pursuant to this Act shall become effective until the Congress, by concurrent resolution, has approved such rule and regulation: *Provided*, That, any such rule or regulation shall be considered approved by the Congress if no action has been taken by the Congress regarding such rule or regulation within 60 days after such rule or regulation has been promulgated. For the purpose of determining the 60 days referred to in the previous sentence, only days on which both Houses of Congress are in session shall be included."

—Page 101, line 8, strike "(d) If" and all that follows down through page 101, line 14.

—Page 101, line 24, after "Act" insert ", including section 10(a)(1),".

—Page 102, line 4, strike "(h)" and all that follows down through page 102, line 16.

—Page 102, line 24, strike "Sec. 12" and all that follows down through page 103, line 5.

—Page 46, line 20, strike "(B) After" and all that follows down through page 47, line 2 and insert therefor "(B) After the effective date of this Act, the Administrator shall auction to any and all direct service industrial customers the rights to electric power service pursuant to subparagraph (A) of this paragraph. Such auction sales shall be executed in increments of megawatt-hours and for periods of five years and shall be limited to such total amount of power as the Administrator can assure delivery. The Administrator shall not sell any power under this subsection except to the highest bidders in the auction held pursuant to this subparagraph.".

—Page 1, strike all after the enacting clause and insert therefor "That this Act may be cited as the "Northwest Renewable Resources, Conservation, and Energy Planning Act."

FINDINGS

Sec. 2. The Congress finds that—

(a) The Federal Columbia River power system offers a unique opportunity to encourage policies of conservation and efficiency in the use of electric power within the Pacific Northwest region and to demonstrate the effectiveness of such policies to the Nation at large.

(b) The participation and consultation of the States, local communities, ratepayers, fishery agencies, and the public at large are essential in development of regional plans and programs related to energy conservation, renewable resources, and other generating resources and orderly planning of the Federal Columbia River power system.

(c) The ratepayers of the Pacific Northwest should continue to pay all costs necessary to produce, transmit, and conserve electric power to meet the region's electric power requirements, including the amortization of the Federal investment in the Federal Columbia River power system.

DEFINITIONS

Sec. 3. As used in this Act—

(a) "Administrator" means Administrator, Bonneville Power Administration.

(b) "Conservation" means any improvement in the efficiency of energy production or use or any reduction in energy use.

(c) A conservation measure or program, a renewable resource application or program, or any other resource is "cost-effective" for purposes of this Act if it meets the end-use energy demand at a cost below the cost of generating and distributing electricity from the next least-cost alternative program or resource. For purposes of determining the cost of resources under this subsection, the term "cost" shall include, but not be limited to, the costs of the full fuel cycle, including prospective cost escalation, availability of fuel and plant decommissioning and waste disposal, the appropriate historical capacity and availability factors, the appropriate and actual financing costs, and the direct and indirect social and environmental costs (including the impact on the affected region's fisheries that acompanies the addition of new resources) to the extent such costs can be identified and quantified. Such costs shall be based on the full life-cycle of such resources.

(d) "Electric power" means electric peaking capacity or electric energy or both.

(e) "Federal base system resources" means the Federal Columbia River power system hydroelectric projects which on the effective date of this Act are in operation or are scheduled for operation on or before June 30, 1983, electric power resources acquired by the Administrator under long-term contracts which are in effect on the effective date of this Act and new resources acquired by the Administrator at the least possible cost to replace reductions in capability of the foregoing resources.

(f) "New resources" means all electric power resources acquired by the Administrator, except resources which are Federal base system resources or resources acquired at average cost from the investor-owned utilities pursuant to section 5(b)(2) of this Act.

(g) "Pacific Northwest, region, or regional" means—

(1) the region consisting of the States of Oregon, Washington, and Idaho, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin; and

(2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative served by the Administrator on the effective date of this Act which has a distribution system from which it serves both within and without said region.

(h) "Renewable resource" means a source of energy relying on a naturally replenishable fuel, including, but not limited to, solar, wind, hydro, geothermal, and biomass, which is used for electrical generation or which will reduce the electrical requirements of a consumer by direct application.

(i) "Residential use or load" means all usual residential, apartment, seasonal dwelling and farm building, electrical loads or uses, and not to exceed a total of one hundred horsepower of farm irrigation and pumping loads for any farm.

(j) "Resources" means electric power, electric power output of generating facilities, programs and measures to conserve electric power, renewable energy technologies, and programs and measures to utilize renewable technologies.

(k) "Plan" means the regional power planning and conservation plan required by section 4.

(l) "Commission" means the Pacific Northwest Electric Energy Planning Commission established under section 4.

(m) "Evidentiary hearing" means a proceeding conducted as provided in sections 554, 556, and 557 of title V of the United States Code.

(n) "Reserves" as used in connection with power sold to the direct-service industrial customers means the energy and/or capacity available to the Administrator through contract rights to interrupt, curtail, or otherwise withdraw, for the benefit of firm loads within the Pacific Northwest, any or all of the energy and/or capacity supplied such customers when needed to avert particular planning and/or operating contingencies specified in his contracts with such customers.

REGIONAL PARTICIPATION

Sec. 4. (a) In order to insure regional accountability for energy decisions, there is established a Pacific Northwest Electric Energy Planning Commission, composed one representative each from the States of Idaho and Montana, and two representatives each from the States of Oregon and Washington, elected under applicable laws of each State.

The Administrator shall include in his annual budgets submitted pursuant to Public Law 93-454 the amount requested by the Commission, but not to exceed an amount equal to 0.02 mills per kilowatt hour sold by the Administrator in the preceding calendar year, for equal distribution to the States of Idaho, Oregon, Montana, and Washington, in support of the States participation in the business of the council and related electrical energy planning activities.

The Commission shall select a chairman from among its State members. Five members of the Commission shall constitute a quorum for conducting business and decisions of the council shall be by majority vote: *Provided*, That the plan required by subsection (b) of this section, or any element thereof or revisions thereto must be approved by at least five members.

(b) Within two years of enactment of this Act, the Commission shall prepare and adopt as a rule a regional power planning and conservation plan ("the plan"). Such plan shall be revised by the Commission as it deems necessary, but not less frequently than every five years. Within one year of the effective date of this Act, and at least twelve months before adoption of any new plan, the Commission shall identify the elements of the plan. The Commission shall give notice and opportunity for public hearing and comment in each State, on—

(1) identification of the elements of the plan; and

(2) adoption of the plan.

The Commission shall take action under this subsection pursuant to section 553 of title 5, United States Code.

(c) The plan shall include—

(1) a twenty-year regional load and resource forecast for the Administrator, including an assessment of the impact of the conservation standards promulgated pursuant to section 7 and a description of the methodology used in the preparation of the forecast;

(2) conservation, waste-recovery, and renewable resource programs required by section 7;

(3) model conservation standards required by section 7;

(4) a research and development program;

(5) a program to carry out the fisheries conservation requirements of section 8;

(6) criteria and standards for resources acquisitions pursuant to section 6 of this Act;

(7) a mix of resource types and an analysis of potential resources to be acquired pursuant to section 6 of this Act, this cost, feasibility, and reliability;

(8) major transmission system additions; and

(9) such other programs as are appropriate.

Any proposed action under paragraphs (2) and (7) shall be cost-effective. Such plan shall set forth in detail the findings upon which such determination of cost-effectiveness is based.

(d) No action may be taken by the Administrator under section 6 or under any other provision of law to which the plan applies unless such action conforms to the plan adopted under this section, except as specifically provided for in section 6.

(e) In order to further insure widespread and representative public involvement in formulation of regional power programs and policies, the Administrator and the Commission shall establish and maintain comprehensive programs designed to inform the Pacific Northwest public of major regional electric power issues, to obtain public views and reactions concerning those issues, and to secure as he deems appropriate, advice and consultation from his customers and others, including groups organized for such purpose.

SALE OF POWER

SEC. 5. Subject at all times to the preference and priority accorded public bodies and cooperatives under the Bonneville Project Act of 1937, Public Law 75-329, and, in particular, sections 4 and 5 thereof:

(a) The Administrator shall offer to sell electric power to each Publicly-owned utility or cooperative in the Pacific Northwest, at rates established pursuant to section 9, to meet its firm power load in the region which is in excess of the capability of such utility's firm resources which the utility as of December 31, 1976, had determined or which the utility shall after the effective date of this Act, determine to use to serve its firm load, subject to the provisions of subsection (b)(2) of this section:

Provided, That (1) such resources used to serve firm loads shall, except with the consent of the Administrator, continue to be used to meet the utility's firm load except for obsolescence, retirement, or loss of resource or contract rights; (2) the Administrator shall include provisions in contracts executed in accordance with this section to enable him to restrict his obligations to meet such loads in the event he determines he cannot acquire sufficient resources pursuant to section 6 to meet such loads; but no such restrictions shall be imposed against the Administrator's public body, cooperative and Federal agency customers until the Federal base system resources are fully allocated to such customers; and (3) sales to a utility pursuant to this section 5(a) shall not be restricted below the amount of resources acquired by the Administrator from such utility pursuant to section 6. The Administrator shall not reduce or restrict his sales of power to any utility customer as a result of a reduction in such utility's load due to energy conservation savings or development of renewable or waste-recovery resources by the utility.

(b) Additionally, (1) the Administrator is authorized to sell electric power to Federal agencies located in the Pacific Northwest and (2) if the Administrator acquires electric power either from a Pacific Northwest utility at the average system cost of resources then available to that utility, or from other resources at a cost equal to or less than the average system cost of resources then available to that utility, then the Administrator shall offer to sell to such utility for resale to meet the load of its residential customers in the region an equivalent amount of electric power: *Provided*, That the Administrator shall insure, by contract or otherwise, that rates charged residential customers of utilities as a result of this subsection shall directly reflect the unmelded rate benefits provided to that utility by this subsection: *And provided further*, That the sales of power to utilities made pursuant to this subsection shall be subject to the separate, new-resource rate or rates required by section 9(b), when such separate rate or rates are established. Such electric power shall be sold at rates established pursuant to section 9. Average system cost of resources as used in this subsection shall not include: (1) the cost of resources acquired by a utility to meet any large new industrial load that was not contracted for or committed to by October 1, 1978; or (2) the cost of resources acquired to meet any firm power sales to ultimate consumers outside the region.

(c) Within one hundred and twenty days of the effective date of this Act, and as necessary thereafter, the Commission shall adopt by rule a methodology for determining average system cost of power to be obtained by the Administrator under section 5(b)(2) of this Act. In determining appropriate rates for sale of power to the Administrator under sections 5(b)(2) and 6(b) from an investor-owned utility, the Federal Energy Regulatory Commission ("FERC") shall convene a board, pursuant to section 209 of the Federal Power Act, section 824h of title 16, United States Code, with such power as the Federal Energy Regulatory Commission shall direct, to assist the Federal Energy Regulatory Commission in its consideration of the sale.

(d) The Administrator is authorized to sell to direct-service industrial customers receiving electric power from the Federal Columbia River power system as of the date of this Act electric power to meet their load requirements so long as such sales provide a portion of the planning and operating reserves for the Federal Columbia River power system. The Administrator shall offer to such customers new power sales contracts with terms of five years or less. Such offer shall expire one year from the date it is tendered by the Administrator. Such electric power shall be sold at rates established pursuant to section 9.

(e) The Administrator is further authorized to sell or otherwise dispose of electric power that is surplus to his obligations incurred pursuant to subsections (a), (b), and (c) of this section in accordance with other statutes related to disposition of power from the Federal Columbia River power system. Such electric power shall be sold at rates established pursuant to section 9.

RESOURCE ACQUISITION

SEC. 6. (a) The Administrator shall implement all cost-effective conservation and renewable resource programs in conformance with the plan and as provided for in section 7. The Administrator shall proceed with any and all specific cost-effective programs mandated by this subsection prior to adoption of the initial plan: *Provided*, That any such programs shall be reevaluated and modified to conform with the initial plan.

(b) If the plan determines that resources, in addition to conservation savings and renewable energy utilization implemented pursuant to section 6(a), will be necessary to enable him to meet obligations incurred under subsections (a), (b), and (d) of section 5, the Administrator shall acquire such additional resources without, however, reducing his efforts to achieve conservation savings and renewable energy utilization pursuant to subsection (a) of this section. Resources so acquired—

(1) shall be consistent with the plan adopted pursuant to section 4;

(2) shall be constructed and operated to provide efficient, economic, and reliable service;

(3) shall be obtained first from feasible and cost-effective sources relying on renewable fuels, waste heat or cogeneration and, then from other feasible and cost-effective sources, with priority given to resources of high fuel efficiency and high labor intensity; and

(4) may be obtained from Federal or non-Federal, utility or nonutility entities.

Contracts for acquisition of resources entered into pursuant to this subsection shall contain such terms and conditions as the Administrator finds necessary or proper to ensure timely construction, scheduling, and completion of new generating facilities to be constructed to supply such resources; to ensure that the costs of any acquisitions are as low as reasonably possible, consistent with sound business practices; to ensure that obligations incurred under such contracts for non-renewable resources shall not become obligations of the United States; and to provide the means for the Administrator to exercise effective oversight, audit and review of all aspects of such construction. Size and location of such resources shall not be considered as factors except as they relate to the relative cost per unit of energy produced.

(c) The Administrator shall require in utility customer contracts that those utilities shall purchase excess electricity at appropriate prices offered for sale by individuals owning and operating renewable energy equipment.

(d) The Administrator is authorized to construct and operate conservation and renewable resource demonstrations for the purpose of assessing cost and feasibility.

(e) The Administrator is authorized to pay for the investigation and preconstruction development of renewable resources that may potentially be offered to him for ultimate acquisition: *Provided*, That the Administrator shall take no such action without first providing opportunity for public review and comment as required by section 4: *Provided further*, That if he makes any payment under this subsection the Administrator shall obtain the option to acquire such resources.

(f) No contract for the acquisition of resources pursuant to subsection (b) of this section involving a single facility costing more than $100,000,000 may be entered into by the Administrator unless he determines after evidentiary hearing that the proposed resource acquisition is necessary and in conformance with the plan. No financial commitment shall be incurred under the authority of subsection (b) until it has been noted in the Administrator's budget submittal made pursuant to section 11 of Public Law 93–454. With written notice, any utility customer may inform the Administrator that it chooses not to participate in any resource covered by this subsection. Thereafter, such utility shall not receive power from such facility or be charged for power produced at such facility. The Administrator shall condition his financial commitment in any contract for acquisition of resources upon the receipt of all approvals and permits from the applicable State siting authorities.

(g) The Administrator, at the request and expense of a Pacific Northwest customer, shall acquire, to the extent practicable, any electric power which is required by such customer to replace electric power curtailed or interrupted by the Administrator: *Provided*, That such customer may elect to acquire independently replacement power under terms and conditions as prescribed by the Administrator.

CONSERVATION AND RENEWABLE RESOURCES

SEC. 7. (a) As required by section 6 and consistent with the plan, the Administrator shall establish a conservation and renewable resource loan and grant fund, the moneys of which shall be raised as needed and dispensed to and through the region's utilities. The fund shall be established at $1,250,000,000, and may be adjusted by the Commission as necessary according to the projected use of the fund, for the following purposes:

(1) investment by individual utilities in cost-effective conservation measures and programs and in small-scale renewable and waste-recovery resources;

(2) provision of loans and grants to customers of the region's utilities for investment in conservation, waste-recovery, and renewable energy measures;

(3) technical and other assistance to utilities to carry out the provisions of this section; and

(4) other appropriate programs.

(b) The Administrator shall require in contracts that his utility customers (1) provide detailed accurate information to their customers on the relative life-cycle costs of various resources, including, but not limited to, conservation measures, dispersed renewable energy applications, and conventional utility-provided electricity, and (2) make the maximum practicable effort to conserve energy and promote renewable energy use among their customers, as is cost-effective.

(c) The Administrator shall—

(1) establish, as required by section 4, model regional conservation standards for efficient use of power (hereinafter "model standards"). Model standards shall be periodically reviewed and amended as necessary and shall be set for new and existing residential, commercial, industrial, and agricultural structures; commercial, industrial, and agricultural processes; and utility and other customer programs for achieving conservation of energy and the utilization of renewable resources. The model standards shall include those appropriate for passive solar design. Model standards shall reflect climatic differences within the region, be designed to accomplish all reasonable and practical conservation and renewable resource use and be set at the cost-effective level;

(2) apply a 50 per centum surcharge to rates for power sales to those utilities or other customers in States which have not enacted or are not implementing within one year of adoption by the Administrator the model standards and revisions developed pursuant to this subsection: *Provided*, That the Administrator may grant exemptions from the surcharge to utilities in jurisdictions where equivalent standards have been developed and implemented locally; and

(3) if within three years of adoption of the model standards or revisions by the Administrator, a State or States have not implemented such standards or revisions, the Administrator, without regard to any other provision of this Act or other Act of law, shall preferentially allocate power to those customers located in States which have implemented such standards or revisions.

FISHERIES CONSERVATION

SEC. 8. (a) In addition to duties established by any other provision of law, the Administrator shall—

(1) implement such mitigation and enhancement measures as may be necessary to restore fisheries, to the maximum extent practicable, which have been damaged by the development and operation of the Federal Columbia River power system; and

(2) maintain the minimum instream flow in the Columbia River necessary to preserve the existing stocks of fish, and to preserve increased stocks of fish which result from mitigation and enchancement measures implemented pursuant to paragraph (1) or by any other agency, and structural modifications made pursuant to subsection (b).

(b) The Administrator shall effect, in coordination with the necessary agencies, (1) the modification of existing structures of the Federal Columbia River power system, to the extent practicable, (2) the construction of any structure of such system for which no contract has been made and no construction has begun on the date of the enactment of this Act, and (3) the construction or modification, to the extent practicable, of any structure of such system which has not been completed, but for which a contract has been made or construction has begun, on the date of the enactment of this Act, in a manner which will minimize damage to fisheries from the operation of such system.

(c) (1) In any case in which actions taken under subsection (a) or (b) cause a decrease in the production of electric power in the Federal Columbia River power system, the Administrator shall reduce the amount of power sold to customers outside the Pacific Northwest, on an equitable basis, by an amount equal to such decrease.

(2) If the amount of the decrease described in paragraph (1) is greater than the amount of electric power sold outside the Pacific Northwest, the Administrator shall reduce the amount of power sold to customers within the Pacific Northwest on an equitable basis. The Administrator shall provide compensation to each customer within the Pacific Northwest with which he has a long-term contract for the supply of electric power, which is subject to such a reduction. The amount of such compensation shall be equal to the customer's cost of replacing any electric power which the Administrator is obligated to supply under such contract, but which is not supplied because of such reduction.

(d) In any contract made after the date of the enactment of this Act to supply electric power to customers in the Pacific Northwest, the Administrator shall agree to supply electric power only to an extent consistent with maintaining the minimum instream flow required by subsection (a)(2).

(e) In any case in which an action of the Administrator may affect fisheries in the Columbia River system, the Administrator shall consult, and coordinate his actions, with the National Marine Fisheries Service and the appropriate State fish and game agencies in order to carry out his duties under this section.

(f) Any license which is issued or renewed under the Federal Power Act after the date of the enactment of this Act for the operation of a facility in the Federal Columbia River power system shall be issued or renewed on the condition that the licensee comply with the requirements of subsection (a) and on such other conditions as the Federal Energy Reguatory Commission may prescribe to achieve the purposes of this section.

RATE DIRECTIVES

SEC. 9. (a) The Administrator shall establish and periodically modify rates for the sale and disposition of electric power to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power and renewable resources including the amortization of the Federal investment in the Federal Columbia River power system over a reasonable period of years and other costs and expenses incurred by the Administrator pursuant to law. Such rates shall become effective upon confirmation and approval by the Federal Energy Regulatory Commission and shall be established in accordance with sections, 9 and 10 of Public Law 93–454 and the provisions of this Act on the finding that such rates (1) are sufficient to assure repayment of the Federal investment after first meeting the Administrator's other costs; (2) are based upon the Administrator's total costs of service, including contingencies; and (3) insofar as transmission rates are concerned, equitably allocate the costs of the Federal transmission system between Federal and non-Federal users.

(b) The Administrator shall establish a rate or rates applicable to the electric power sold for the general requirements of public body, cooperative and Federal customers, and to the electric power sold under section 5(b)(2) for the requirements of residential customers in the region. Such rate or rates shall recover the costs of that portion of the Federal base system resources needed until such requirements exceed the Federal base system resources. Thereafter, such rate or rates shall also recover the costs of additional electric power as purchased by the Administrator under section 5(b). In addition, the Administrator shall establish a separate schedule applicable to sales of the electric power he acquires from new resources in each successive ten year period following the passage of this Act. These separate rates will be set to recover the full life-cycle cost of the new resources.

The Administrator shall set rates and schedule charges for all utilities receiving power from the pool of Federal base system resources and power acquired pursuant to section 5(b), based on the following considerations:

(1) The estimated amounts charged for firm power under rates applicable to the general requirements of public bodies, cooperative, and Federal agency customers of the Administrator under this Act, including sales from new resources acquired by the Administrator, but excluding costs for conservation or uncontrollable events which have been included as part of such rates, in no event shall exceed in any five-year period beginning July 1, 1985 an amount equal to the estimated cost for such customers that would have obtained if: (A) the public body and cooperative customers' general requirements had included the direct service industrial customers' loads located within or adjacent to the geographic service boundaries of such public bodies and cooperatives during the applicable period: (B) public body, cooperative, and Federal agency customers had been served with Federal base system resources, less firm power contractual commitments as the date of this Act to direct service industrial customers not located within or adjacent to the service area of a public body or cooperative customer of the Administrator; (C) no purchase or sale as provided in section 5(b)(2) had been made; (D) all resources that would have been required to meet the general requirements of the public body, cooperative, and Federal agency customers in excess of Federal base system resources were from resources owned or purchased by public bodies and cooperatives after the effective date of this Act; and (E) the monetary savings to the public body,

cooperative and Federal agency customers that resulted from actions of the Administrator under section 6 were not achieved. Any amounts not charged to such public body, cooperative, and Federal agency customers pursuant to this section 9(b) shall be recovered from the rates applicable to all other power sold.

(2) Rates charged to individual utilities, pursuant to section 9(b)(1), to recover the cost of Federal base system resources and resources acquired pursuant to section 5(b)(2) shall be prescheduled. The prescheduled charges to individual utilities will be in proportion to their projected general requirements or to requirements for power pursuant to section 5(b)(2), as determined by the regional forecast developed pursuant to section 4.

(3) Projected charges to all individual utilities to recover costs of new resource pools will be scheduled in proportion to their projected net requirements from Bonneville Power Administration: *Provided*, That to the extent their actual requirements deviate from projected levels, their charges will be reduced or increased by the amount their load falls short of or exceeds projections, valued at the rate for power from the newest resource pool.

(4) The schedule of charges for the first five years of the Act will be set in conformance with the 1978 long-term forecasts of each utility and Federal agency customer of Bonneville Power Administration, with schedules for charges for each subsequent ten-year period determined from the uniformly applied regional forecast model developed pursuant to section 4 and announced two years before the schedules are to take effect. The Administrator may grant exceptions for the total rates charged to individual utilities with requirements of less than 25 megawatts, in the event of new single large loads which could not have reasonably been anticipated in the regional forecast.

General requirements as used in this section shall be that portion of a public body's, cooperative's or Federal agency's directly served electric powerload in excess of its own resources that are dedicated to meet such load and exclusive of any large new industrial load that was not contracted for or committed to by the public bodies or cooperatives by October 1, 1978.

(c) The Administrator shall require by contract or otherwise that the resale rates of his utility customers directly reflect the two unmelded rates established pursuant to subsection (b).

(d) The rate or rates applicable to direct-service industrial customers shall be established at a level which the Administrator determines is equitable in relation to the rates charged by the region's electric utilities to their major industrial customers, taking into account the value of power system reserves made available to the Administrator through his rights to curtail or interrupt service to such direct-service industrial customers; the comparative size and character of the loads served; the relative costs of electric capacity, energy, transmission, and related delivery facilities provided, and other service provisions, all as related to the delivery of power to such customers; *Provided*, That prior to July 1, 1985, the rate or rates applicable to direct-service industrial customers shall be established to recover the costs incurred by the Administrator pursuant to section 5(b)(2) and not recovered through rates applicable for other classes of power sold by the Administrator: *Provided further*, That for the period prior to July 1, 1981, such rate or rates may be in the form of a surcharge on rates then applicable to direct-service industrial customers: *Provided further*, That notwithstanding any other provision of this section, the rates established by this subsection for that portion of the direct service industrial load that is not subject to interruption by the Administrator for the purpose of providing reserves shall in no event be less than the average cost to the Administrator of acquiring new resources pursuant to section 6 in the year previous to the sale of power to any direct service industrial customer to which this subsection applies.

(e) In establishing rate schedules of general application, the Administrator may establish a uniform rate or rates for sale of capacity.

(f) Rates for all other firm power sold by the Administrator shall be based upon the cost of the portions of Federal base system resources and additional resources, including new resources, which the Administrator determines are required to support such sales.

(g) The Administrator shall allocate to power rates, as he may determine appropriate, all other costs and benefits including, but not limited to, conservation, uncontrollable events, reserves, operating services, and the sale of excess electric power.

ADMINISTRATIVE PROVISIONS

SEC. 10. (a) In carrying out the provisions of this Act, the Administrator is authorized to enter into such contracts, agreements, and arrangements, including the amendment, modification, adjustment, or cancellation thereof and the compromise or final settlement of any claim arising thereunder, and to make such expenditures, upon such terms and conditions and in such manner as he may deem necessary

(b) Except as specifically provided herein, the authority and duties of the Secretary of Energy and the Administrator shall not be affected by this Act.

(c) No later than ninety days after enactment of this Act, the Administrator shall offer to enter into power sales and purchase contracts to be effective ninety days thereafter with utilities pursuant to section 5 (b)(2).

(d) For the purpose of enabling the Administrator to acquire resources from State and local governmental units at a cost no greater than the cost which would be applicable in the absence of such acquisition, the debt obligations described in section 103 (a)(1) of title 26 of the United States Code shall not be affected by any contract or agreement regarding the Administrator's acquisition of resources constructed by a State or local governmental unit and for which the Secretary of the Treasury in consultation with the Administrator determines at the time the commitment for such acquisition is made will not be utilized over the life of the project in whole or in major part by a person who is not an exempt person, as defined in section 103(c)(3) of title 26 of the United States Code.

AMENDMENTS TO EXISTING LEGISLATION

SEC. 11. (a) Section 11(b) of Public Law 93-454 is amended by adding a new subparagraph (12) as follows:

"(12) making such payments as shall be required to carry out the purposes of the Northwest Conservation, Renewable Resource, and Energy Planning Act.".

(b) Public Law 93-454 is amended by striking subsections 13 (a) and (b) and substituting the following new subsections:

"SEC. 13. (a) The Administrator is authorized to issue and sell to the Secretary of the Treasury from time to time in the name of, and on behalf of the Bonneville Power Administration, bonds, notes, and other evidences of indebtedness (in this Act collectively referred to as 'bonds') to assist in financing the constructing, acquisition, and replacement of the transmission system, to implement the Administrator's authority pursuant to the Northwest Renewable Resource, Conservation and Energy Planning Act, and to issue and sell bonds to refund such bonds. Such bonds shall be in such forms and denominations, bear such maturities, and be subject to such terms and conditions as may be prescribed by the Secretary of the Treasury taking into account terms and conditions prevailing in the market for similar bonds, the useful life of the facilities for which the bonds are issued, and financing practices of the utility industry. Refunding provisions may be prescribed by the Administrator. Such bonds shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities, plus an amount in the judgment of the Secretary of the Treasury to provide for a rate comparable to the rates prevailing in the market for similar bonds issued by Government corporations. The aggregate principal amount of any such bonds outstanding at any one time shall not exceed $3,500,000,000.

"(b) The principal of, premiums, if any, and interest on such bonds shall be payable solely from the Administrator's net proceeds as hereinafter defined. 'Net proceeds' shall mean for the purposes of this section the remainder of the Administrator's gross receipts from all sources after first deducting trust funds and the costs listed in section 11(b)(2) through 11(b)(7), 11(b)(11) and 11(b)(12), and shall include reserve or other funds created from such receipts.".

(c) Public Law 88-552 is amended by striking subsection 1(b) and inserting a new subsection (b) as follows:

"(b) Pacific Northwest means (1) the region consisting of the States of Oregon, Washington, and Idaho, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin and (2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of distribution cooperative served by the Administrator on the effective date of this Act which has a distribution system from which it services both within and without said region.".

(d) Public Law 88-552 is amended by adding a new section 10 as follows:

"SEC. 10. All references in sections 1, 2, 3, 5, and 7 of this Act to 'plants,' 'energy,' 'peaking capacity,' and 'generating facilities' shall be applicable to all types of generation and not solely to hydroelectric generation.".

MISCELLANEOUS

SEC. 12. (a) Neither the provisions of this Act empowering the Administrator to market resources to entities other than public bodies and cooperatives nor the implementation of these provisions shall affect, alter or diminish the provisions of other Federal laws in which preferential entitlement to purchase Federally generated power and energy is accorded to public bodies and cooperatives.

(b) Nothing in this Act shall in any way diminish or abridge the right of any State to determine retail electric rates (except as provided in section 9(c)), to develop its own plans for conservation, development and use of electrical energy resources, or to make energy facility siting decisions including, but not limited to, determination of the need for a particular facility, evaluation of alternative sites, and consideration of alternative methods of meeting the determined need.

S. 1280

By Mr. WYDLER:

—Amend the table of contents to include the following new section:

SEC. 2. FINDINGS.

Renumber the following SEC. 2 as SEC. 3.

Immediately following section 1, add the following new section:

SEC. 2. FINDINGS.

Congress finds and declares that—

(a) the achievement of energy security for the United States is vital to the national economy, vital to the well-being of its citizens, and vital to the maintenance of national security;

(b) the most rapid and economical method for reducing domestic dependence on insecure supplies of high-cost foreign petroleum is to increase the efficiency with which energy is used and to increase the production and use of domestic energy resources;

(c) the Nation's States and units of local government have unique opportunities to achieve energy savings, to increase the percentage of energy supply derived from domestic energy sources, and to increase the use of renewable energy resources, because of their ability to make effective use of available human and economic resources, and their capacity to accommodate a high degree of direct citizen involvement in the planning, implementation, and demonstration of new energy programs; and

(d) such States and units of local government should be provided with financial resources and flexibility to develop their own program measures for energy conservation, domestic energy production and use, and promotion of renewable resources.

Renumber SEC. 2 as SEC. 3.

Amend the new section 3 by inserting the following new paragraph immediately following paragraph 2:

(3) the term "domestic energy" means energy from any source within the United States including fossil, geothermal, hydroelectric, nuclear fission, nuclear fusion, renewable resource, and urban waste sources.

Renumber paragraph 3 as paragraph 4 and insert immediately thereafter the following paragraph:

(5) the term "production" means all activities in the fuel cycle leading to the development of a specification fuel including mining, milling, drilling, processing, preparation, upgrading, refining, reprocessing, and enrichment

Renumber the following paragraphs.

Amend paragraph 301(b) (1) (B) by striking "renewable resource" and inserting in lieu thereof "domestic energy".

Amend paragraph 301(b) (1) (C) by striking "renewable resource" and inserting in lieu thereof "domestic energy".

Strike paragraph 301(b) (2) and insert in lieu thereof the following substitute:

(2) In developing a long-range energy plan, each State shall consider as appropriate—

(A) programs by natural gas utilities and by electric utilities regulated by the State to promote energy conservation and the use of domestic energy resources, including the efficient use of electricity through utilization of devices such as electric heat pumps;

(B) State tax measures or other financial incentives to encourage energy conservation and the production, transportation, and use of domestic energy resources;

(C) measures designed to conserve energy used for transportation;

(D) other programs to promote energy conservation and the use of domestic energy resources;

(E) measures to mitigate barriers to the transportation of domestic energy resources and fuels of domestic origin; and

(F) measures to mitigate barriers to siting, construction, operation, decontamination, decommissioning, or dismantling of facilities which will be or have been used to produce domestic energy;

and shall make recommendations for Federal legislative and administrative actions that would help States remove technical, economic, and institutional barriers to the increased use of domestic energy resources.

Amend paragraph 301(b) (3) by inserting after the word "use", ", production,".

Amend paragraph 301(1) (B) by striking "renewable resources through technologies which are commercially available" and inserting in lieu thereof "domestic energy resources".

Strike section 304(C).

SENATE—*Tuesday, September 23, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. DAVID L. BOREN, a Senator from the State of Oklahoma.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Eternal God, we thank Thee for the world within us, that deep unfathomed world of integrity, virtue, morality, character—the world of the spirit. We thank Thee for the world about us in which we live and move and have our being—the world of action. We thank Thee for the world above us, higher than we have yet attained, more perfect than anything on this Earth—the world of Thy kingdom. Give us grace and wisdom, we beseech Thee, to keep the world of the inner spirit in harmony with the world of Thy spirit, that we may hasten the coming of Thy higher kingdom on Earth. Help us then to work as though everything depended upon us and to trust as though everything depended upon Thee. Keep us and guide us in the service of this Nation and of Thy kingdom.

In the Redeemer's name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 23, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID L. BOREN, a Senator from the State of Oklahoma, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. BOREN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

SENATOR DANIEL K. INOUYE

Mr. ROBERT C. BYRD. Mr. President, when Hawaii was granted statehood in 1959, DANIEL KEN INOUYE became the first U.S. Representative from the 50th State and the first American of Japanese ancestry to serve in Congress. He has served the people of Hawaii here in the Senate since January 1963.

While growing up, this grandson of immigrants knew hardship and poverty. He also learned compassion.

Senator INOUYE had not always planned on a career in politics. As a student he intended to pursue a career as a surgeon and worked as a first aid volunteer.

At the beginning of World War II, Japanese Americans were prohibited from enlisting in or being drafted into the active military. Then in early 1943, a military unit composed exclusively of Japanese Americans was established, and DAN enlisted in this outstanding group, the 442d Infantry regimental combat team.

He served with the 442d in campaigns throughout France and Italy. In April 1945, while leading an attack of his platoon against several fortified positions on Mount Marchiaso in northern Italy, Lieutenant INOUYE was seriously wounded by a rifle grenade. He lost his right arm, and, with it, his hopes of becoming the best surgeon in Hawaii. While serving in the Army, he was awarded the Distinguished Service Cross, the Bronze Star, the Purple Heart with clusters, five Battle Stars, four Distinguished Unit Citations and other decorations. He brought great honor upon himself and the people of Hawaii.

After returning to civilian life, DAN INOUYE was graduated from the University of Hawaii in 1950, and 2 years later George Washington University conferred upon him a Juris Doctor degree.

In 1953 he was appointed an assistant public prosecutor for the city of Honolulu. Together with other local Democrats, he helped forge the famous "revolution of the ballot box" of 1954. That election saw the emergence of a new politics in Hawaii—progressive and multiracial.

DAN INOUYE served as majority leader in the Territorial House of Representatives until his election to the Territorial Senate in 1958. A year later, he was on his way to Congress.

Senator INOUYE's leadership qualities were formally acknowledged by his colleagues on this side of the aisle when he was elected secretary of the Democratic Conference, the third highest majority leadership position in the Senate. It is my honor to work closely with the senior Senator from Hawaii, and in working with him I have seen how ably he represents the people of Hawaii.

DANIEL INOUYE is a member of the Appropriations Committee and serves as chairman of its Subcommittee on Foreign Operations. In this position, he has the difficult and vital task of overseeing this Nation's economic and military aid programs abroad. He has demonstrated wisdom in balancing the Nation's international responsibilities with the need for fiscal prudence.

He also serves on the Commerce, Science, and Transportation Committee and is chairman of the Subcommittee on Merchant Marine and Tourism. Maritime affairs are of great concern to Hawaii, our only island State. But, in a larger sense, they are a serious concern for the United States. The U.S. merchant fleet now ranks 10th in the world, having dropped in three decades from 1st place. My friend from Hawaii has authored several major laws designed to improve the state of the American merchant fleet, which is so critical to Hawaii's and the Nation's security and economic vitality.

As the acknowledged Senate authority on tourism, Senator INOUYE and his subcommittee in 1978 completed an exhaustive 5-year study of the Nation's tourism industry. They found that Federal efforts to promote travel are diffused among 100 different programs, with no coordination. Senator INOUYE authored and guided through the Senate legislation to establish a single Federal planning agency for tourism. He has led the fight against attempts to eliminate U.S. Travel Service promotion offices abroad.

In 1976 and 1977 Senator INOUYE served as the first chairman of the Select Committee on Intelligence. During that time he began the work of defining the proper role of our intelligence agencies. He voluntarily stepped down as chairman of the full committee and is now chairman of its Budget Authorizations Subcommittee.

Senator INOUYE is also a member of the Senate Select Committee on Indian Affairs. Native Hawaiians, the most socially and economically troubled ethnic group in Hawaii, have received special Federal attention through Senator INOUYE's work. Like other native Americans, they are now eligible for job training, temporary federally subsidized jobs, and grants for small businesses.

In large measure because of Senator INOUYE's efforts, Hawaii is internationally recognized as a bridge to Asia—the site of the East-West Center, which trains future leaders of Asia, and the University of Hawaii, which exports modern tropical agricultural technology to South Asia and trains health professionals for the entire Pacific Basin.

The Hawaiian Islands are dependent on imported petroleum to meet present energy needs. But Senator INOUYE and the people of Hawaii, looking toward the

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

future, are seeking to develop alternative energy sources, particularly ocean thermal energy conversion (OTEC). An amendment sponsored by Senator INOUYE added $5 million for OTEC programs to the fiscal year 1980 appropriation, to bring total OTEC research and demonstration funds to $28.6 million. President Carter recently signed into law a measure by Senator INOUYE which provides Federal construction loans and regulation of OTEC plantships.

The senior Senator from Hawaii also has a special interest in health care and has sought to lower expenses by spearheading the increased use of health professionals—nurses, midwives, social workers, psychologists and optometrists—to make their services more widely available at reasonable costs.

Senator INOUYE is known as a leader in a wide range of areas of importance, both to his State and the Nation. I am proud to serve in the Senate with him.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the recognition of Mr. BIDEN first be reversed, without prejudice to him, and that Mr. HATCH and Mr. DANFORTH may proceed in whatever order they would like when the time for the special orders arrives.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, does the distinguished minority whip wish to have any of my time?

Mr. STEVENS. Mr. President, I might say to my good friend that it was my intention to yield our leadership time to Senator DANFORTH and Senator HATCH. I have no need for the time personally.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may reserve the remainder of my time and that I may yield it to any Senators who wish to have it during the special orders.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting minority leader, the Senator from Alaska (Mr. STEVENS), is recognized.

Mr. STEVENS. Mr. President, I yield one-half of the time allocated to our leadership to Senator DANFORTH and the other one-half to Senator HATCH.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR DANFORTH

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Missouri (Mr. DANFORTH) is recognized.

BILINGUAL EDUCATION

Mr. DANFORTH. Mr. President, last Thursday, President Carter addressed the third annual dinner of the Congressional Hispanic Caucus at the Washington Hilton Hotel. Speaking from a prepared text before 1,500 Hispanic Americans, President Carter stated that legislation to prevent the implementation of the Department of Education's proposed bilingual education regulations "is a disgraceful attempt to play politics with the civil rights of our children."

As one who opposes the implementation of the Department of Education's bilingual education regulations, I would like to set the record straight. I do not consider myself callous to "the civil rights of our children"; nor am I "playing politics."

I oppose the regulations because they violate section 103 of Public Law 96–88, the Department of Education Organization Act. That section, which I cosponsored with Senator ROTH, prohibits the Department of Education from controlling the curriculum of local schools.

In his address, the President also said that "the Supreme Court of the United States has ruled that children have a right" to education taught in both English and the primary language. That is not true. The Supreme Court in *Lau* v. *Nichols*, 414 U.S. 563 (1974), held that school boards must take affirmative steps to educate children who do not speak English, but the precise method was left to the local board of education.

I am not arguing—and I do not believe anyone is arguing—that any child should be denied access to full participation in our schools because of limited proficiency in English. That is not the issue.

The issue is whether basic educational policies concerning curriculum, class size, teacher qualifications, and textbooks should be controlled by Washington through the Department of Education or by each local school board. This same issue would have been raised had the Department of Education proposed regulations relating to the teaching of math or American history, rather than bilingual education.

Congress spoke very clearly and loudly in favor of local control of curriculum when the Department of Education was created. The proposed regulations fly in the face of the very clear congressional intent.

When I first considered whether to support or oppose the formation of a new Department of Education, I was concerned that a Department of Education had the potential of becoming a national school board, creating a national educational policy, and stifling diversity among our local schools.

When I became convinced that the intent behind the new Department not to take over local responsibility for education, but rather to streamline the bureaucracy—to institute, in effect, one-stop shopping for Federal programs—I joined as a cosponsor of the legislation creating the Department of Education.

To insure that the intent of Congress was made absolutely clear that the new Department was not to involve itself in areas of curriculum and other traditionally local concerns, Senator ROTH and I offered an amendment to the Department of Education legislation, which became section 103 of Public Law 96–88.

Section 103(b) provides:

> No provision of a program administered by the Secretary of Education or by any other officer of the Department of Education shall be construed to authorize the Secretary or any such officer to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school or school system . . . except to the extent authorized by law.

In an effort to clarify any ambiguity in the statutory language, the point about local control was emphasized in hearings, committee reports, and two colloquies on the floor.

On September 28, 1978, for example, Senators ROTH and RIBICOFF had the following exchange on the Senate floor:

> Mr. ROTH. And finally, in the establishment of a separate Cabinet-level Department of Education we are in no way suggesting, condoning, or implementing an entity to exercise Federal influence over the formulation of policies, choice of curricula, administration of programs, choice of education objectives and program content, or anything which could be construed as the establishment of a national educational policy.
>
> Mr. RIBICOFF. Yes, that is correct. I agree with the Senator that education is a state and local matter.

A very similar statement was included in a Senate floor colloquy on April 5, 1979.

(The complete colloquies appear at 32209 to 32211 of the CONGRESSIONAL RECORD for September 28, 1978, and 7562 to 7563 of the CONGRESSIONAL RECORD for April 5, 1979. For further background on this issue, I encourage anyone interested to check the committee reports and hearings with respect to S. 210 and its predecessor, S. 991.)

In direct contravention of section 103 of Public Law 96–88 and of the clear congressional intent, the Department of Education published proposed regulations on August 5, 1980, in the Federal Register with respect to students with limited proficiency in English.

The regulations are detailed and specific. The regulations and description appear in the August 5, 1980, Federal Register at 52052 and run for 23 pages to 52075. Notwithstanding section 103(b), the proposed regulations would give the Department control over curriculum, programs of instruction, personnel, and textbooks. For example, the regulations mandate that students with limited English must be taught required subjects in both English and their primary language. The instruction must be comparable in content, quality, objective, and instructional materials to courses taught only in English. The teacher must be a qualified, bilingual instructor and the pupil-teacher ratio must be comparable to the pupil-teacher ratios in courses taught only in English. The regulations specify under that circumstances schools may stop providing a particular student with bilingual instruction, when and how the language skills of students must be assessed, which students must receive intensive English instruction and for how long, and so on.

Mr. President, I have consistently opposed a legislative veto over regulations. It has struck me that if Congress were more careful in drafting statutes that were narrow in scope and clear, a legislative veto would be unnecessary.

I am not sure I can continue to believe and argue that careful drafting is the answer. I believe Congress spoke clearly when the Department of Education was established. Nevertheless, the proposed regulations provide Federal control over curriculum, notwithstanding the clear language and intent of section 103.

Mr. President, although President Carter accuses those who oppose the proposed regulations as "playing politics with the civil rights of our children," that is just not true. Many impartial observers have expressed concern about the wisdom of the regulations. Both the Washington Post and the Washington Star, among others, have carried editorials critical of the proposed regulations. I ask unanimous consent that the editorials be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 7, 1980]

THE FEDS AND BILINGUALISM

There is no doubt that there is a problem in some school districts in this country with the way children who do not speak English are helped (or not helped) to adjust to English-speaking schools. And there is no doubt that those problems multiply when some school officials take a callous attitude toward the problems of immigrant students who must fight to learn English while also fighting to learn alegbra from a teacher who speaks only English. But the solution to that problem must be a locally devised remedy, not a nationwide prescription from Washington.

By requiring that the schools teach basic courses in other languages, the Education Department discourages alternative solutions. For example, it may be that in the southwestern United States, the large regular flow of Spanish-speaking immigrants necessitates a school that teaches courses in both English and Spanish. But what of a Washington, D.C., school where it may be cheaper and more effective to offer students who speak only Spanish an intensive course in English and then to integrate them into regular school classes taught in English? Or what about special schools for students who don't speak English, schools where they can study in their native language as they undergo the transition from one language to another?

The point is that while the troubles of such students in American schools may represent a nationwide problem, the problem is one that varies widely in size and nature from one area of the country to another. There should not be any one compelled solution. Under the rule proposed by the Education Department, schools can get "waivers" exempting them from the federal requirement if they have some other method of helping students who do not speak English well enough to function in an English-speaking school. But the "waivers" system should not be for exceptions to the rule. It should be the rule.

The federal government has a role to play in the hot controversy over bilingual teaching. That role is to require that children who do not speak English not be ignored by insensitive local school officials and thus denied an education. But how the school district solves the problem should be the school district's business. The federal government does not and should not ever seek to require that schools throughout the nation teach reading and writing in one way, and it should not require that students who don't speak English be dealt with in any one way.

As the Supreme Court said in the 1974 case brought by Chinese-speaking students, who felt they were not being effectively helped to adjust to English-speaking schools, there is a national interest in ensuring that equal educational opportunities are provided to all children. But the court did not prescribe any one remedy for the problem. The Education Department should not try to do that now.

[From the Washington Star, Sept. 22, 1980]

THE FEDS' WAY—OR ELSE

Comments on the bilingual education regulations proposed by the newest federal mastodon, the Department of Education, must be submitted by October 6. The department should be deluged by opposition to its scheme. The proposal is so appalling—in depth, breadth and potential result—that opposition becomes a moral and intellectual obligation.

The department's regs, as we said when they were first proposed, are a blatant aggression against local control of local schools. They represent a bureaucratic repudiation of that historic principle, one we were assured and reassured the new federal agency would meticulously respect.

The regulations would impose a nightmare of reporting requirements, assessments and evaluations, with failure to keep step penalized by a cutoff of federal funds. The regulations presuppose a pool of teachers qualified in scores of foreign languages and sufficiently competent as well in academic subjects to be accredited by the states—which is a fantasy. Or, worse, students not competent in English being taught academic subjects in their primary languages by tutors and school aides, by parents and audio-visual gimmickry.

The regulations also could result, in fact if not entirely by intent, in de facto dual school systems, particularly in areas of high ethnic concentrations. This could easily produce high-school graduates little more competent in English than when they entered, having satisfied course requirements through instruction in native languages. Could someone tell us how that will qualify them to function in an English-speaking society?

Rep. William Whitehurst, R-Va., one of many public figures who so far has entered the lists against the regulations, fears that the proposal would promote a further "fragmenting" of a society that is increasingly Balkanized. Virginia Attorney General Marshall Coleman has said the state may go to court to try to block the bilingual proposals.

How in six short years have we gone from the Supreme Court's *Lau* vs. *Nichols* decision, which quite rightly held that school districts must provide special instruction in English for non-English-speaking students, to a rigid federal mandate prescribing a single method of acomplishing that laudable objective, to be used always and everywhere? That great leap is, purely and simply, an authoritarian exercise.

One might find some justification for so sweeping a federal edict had the court's decision been disregarded. The contrary has been the case. School districts, with those in the Washington area as a good example, have established successful language programs under the so-called Lau Remedies. Most of these efforts involve concentrated instruction in English to enable students as quickly as possible to participate in the opportunities of the system's full curriculum. Montgomery and Prince George's Counties in Maryland, Fairfax and Arlington in Virginia have done admirable jobs, adapting their programs to their special needs. In Prince George's, for example, 8,000 foreign-born students represent as many as 60 languages.

Mrs. Esther Eisenhower, director of Fairfax's English as a Second Language program, puts her finger on the essence, and arrogance, of the federal approach: "There isn't any research we know of that shows bilingualism works better than any other method. The federal government is mandating one method while the jury on it is still out. It is the height of absurdity—'my way or the highway.' "

Opponents are requesting that a full "regulatory analysis" be conducted, as President Carter pledged would be done on massive federal mandates. This case certainly requires one, involving as it does great political as well as pedagogical content. A thorough impact analysis would blow the bilingual scheme out of the water.

Mr. DANFORTH. Finally, Mr. President, the concern about the proposed regulations is bipartisan in nature. The bilingual education regulations were discussed at a Governmental Affairs executive session on September 10, 1980. At that meeting, several members expressed concern about the proposed regulations. I ask unanimous consent that the transcript of the September 10 meeting be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

EXCERPT FROM GOVERNMENTAL AFFAIRS EXECUTIVE SESSION

Chairman RIBICOFF. Senator Roth, you have a problem that you would like to present to the committee as a whole.

Senator ROTH. Thank you, Mr. Chairman. I think this is an extraordinarily important matter because it involves the oversight of this committee on legislation we earlier adopted.

As you recall, we less than a year ago created a Department of Education, with a clear understanding that in no way was this instrumentality to interfere with state and local control of schools.

Recently the Department issued for consideration some bilingual regulations which set forth in very great detail how the states and local schools would have to provide bilingual education.

Now I want to make very clear from the outset that I am in no way quarreling with the need or desire to make access to our schools available to all children, irrespective of language differences or background. That is not the issue.

The issue is that the Department, in direct violation I believe of our legislation, is becoming concerned or involved in local control of education. I would point out that a number of our educational groups have written the Secretary of Education in a letter dated July 24th raising their deep concern. This letter has been signed by Robert Goss, the Director of State-Federal Relations, the National Conference of State Legislators, the President, Ann Campbell, the Council of Chief State School Officers, the President, Mr. Griffith, the National Association of State Boards of Education, the Executive Director of the National Association of State Boards of Education, Albert Shenker, President of the American Federation of Teachers. I could add a number of others.

In their letter they point out, as I said earlier, that the issue at stake raise the most fundamental question about the federal role in our diverse education system: Does Washington seek to impose national requirements requiring how the schools shall teach.

In a long letter they ended up by saying, "Far more important are the critical legal and educational principles that are at stake; specifically, the possibility that the proposed LAU regulation might set a dangerous precedent that the federal officials might claim the power to regulate how and what schools teach."

I might point out also, Mr. Chairman, that grave concern has been expressed by much of our media. For example, on August 7th, the Washington Post has an editorial on this saying that, "The solution to bilingual education must be a locally devised remedy, not a nation-wide prescription from Washington." The same thing is spelled out in an editorial in my Wilmington papers, which basically supported the Department of Education when it was created. But as they point out, "It is this kind of action, the Secretary's attempt to give the Nation's public schools specific instructions on how to carry out bilingual programs, that has raised fear of central headquarters in Washington that would result in trying to standardize education in the United States."

Mr. Chairman, as you recall, you very graciously helped those of us who were concerned about this issue. We adopted a number of specific amendments. You and Jack Danforth and myself had a long colloquy on the Floor spelling out very clearly that it was intended that the Department of Education not intrude upon local control.

Yet here we are less than a year later when the Secretary has issued proposed regulations that will become, in my judgment, a very serious, significant issue.

I would suggest, Mr. Chairman, this matter is of such grave importance that our committee should call for hearings at which the Secretary of the Department, as well as others, have the opportunity to testify. I think if we permit this to go on unchallenged, then it shows the Executive Branch can totally ignore what we legislate here.

Chairman Ribicoff. Senator Danforth?

Senator Danforth. Mr. Chairman, for the purposes of discussion, I think that we should really ignore the question of whether or not bilingual education programs are a good idea or a bad idea. That really is not the point.

Assuming that they are a very good idea, just for the sake of discussion, the fact of the matter is that the Department of Education does not have authority to promulgate regulations relating to the school curriculum. It is a question of power and where the power resides in government.

During the very extended hearings over a period of a couple of years, and I think two different mark-ups, and we went to the Floor of the Senate twice on this question, the argument that was made for the Department of Education was that it was one-stop shopping, that it was an administrative convenience, that instead of having the educational enterprise of the Federal Government spread all over the place, we would try to consolidate federal activity in one department.

The problem that was raised by a number of people who had concerns about the Department of Education, myself included, the problem was well, will this get the Federal Government in the business of making decisions which heretofore have been made at the local level by local school boards or by state governments? And we were assured during the consideration of this bill that it would not get the Federal Government in the business of establishing a curriculum.

And on that basis many of us, including myself and Senator Roth, voted for the bill on that representation. As a matter of fact, we offered an amendment, and the amendment provides "No provision of a program administered by the Secretary or by any other officer of the Department"—and that is the Department of Education—"shall be construed to authorize the Secretary or any such officer to exercise any direction, supervision or control over the curriculum, program of instruction, administration, or personnel of any educational installation, school or school system except to the extent authorized by law."

Now we weren't content just to have this express provision in the law. We also went out of our way to engage in discussion to form legislative history, both in this committee and on the Floor of the Senate.

Now, Mr. Chairman, during consideration of the FTC authorization bill, I managed that bill for the minority on the Floor of the Senate, and I opposed the idea of legislative veto. One of my arguments for opposing the legislative veto is so that Congress should do a better job and a more precise job of drafting legislation in the first place, rather than to do a fuzzy job and then be consoled with the fact that we can get away with fuzzy legislation and come back after the fact and clean it up by legislative veto.

I wonder how I can continue making such an argument on the legislative veto question if when we are quite specific and when we do everything we can possibly say to the Department of Education, "You can't do it," when we tell them expressly, "You cannot get involved in the business of establishing a curriculum for local schools, no matter how wise you might think you are or no matter how good the particular idea is," and then the Department of Education goes right ahead and gets involved in questions of bilingual education, including requirements that all schools assess their students to determine each student's primary language, requiring that students whose stronger language is not English receive bilingual instruction, it requires subjects, requiring the classes must be similar in size content, quality, objectives and instructional materials to subjects taught exclusively in English, providing for intensive English classes taught for at least five years.

Mr. Chairman, that is a supervision or control over curriculum, over program of instruction, over administration, personnel, educational installations and so on. That is exactly what this is, whether it is a good idea or a bad idea. And when the Congress of the United States says to a Department, "You can't do it," then it seems to me that the Department simply can't do it.

Now I intend to do everything I can to ensure that an amendment to the appropriations bill that was included in the House, providing that no appropriation can be used for this purpose, is retained in the Senate. But beyond that, it seems to me that we had better get pretty quickly to the fundamental question of what the Department of Education is up to, and that the suggestion that Senator Roth has that at the very least we hold hearings into this question is one that makes very good sense.

Chairman Ribicoff. Senator Cohen and then Senator Nunn.

Senator Nunn. I just want to say briefly I agree with everything Senator Roth and Senator Danforth said. I remember when we set up the Department. I remember the hearings. I remember asking the questions. I remember the amendment that you put in and I co-sponsored. Jack had some amendments. We were very specific on this point.

I think you are absolutely right. I think from a bipartisan point of view the word should go out that we will not sit by and tolerate this.

I don't know if hearings are the strongest thing we can do in this respect, but whatever is the strongest, I intend to support it, and I intend to support the hearings.

Senator Cohen. Mr. Chairman, I can only recall, on the legislation creating the Department of Education, I felt in the words of Dr. Johnson on the remarriage of his daughter, it was the climate of hope over all past experience.

I felt there was a similar attitude here that was going to create a brand new Department and say they are not going to get into the business of regulations. That really was the climate of hope over all past experience.

I was also interested in hearing Senator Danforth was saying he might be less enthusiastic in defending opposition of the congressional veto. I would respectfully submit to my friend it probably won't make any difference whether you defend or oppose the congressional veto in this case because I would remind my colleagues that the Secretary of Education was the very first department head that I can recall who more or less thumbed his nose at the congressional veto carrying any weight.

That was a matter of some controversy last spring, as I recall, where he was instructed by the Justice Department to ignore any language so in effect Congress retained the right to veto regulations that they had promulgated.

So I think the Department of Education, in particular, starting from the very inception, has indicated its intent to do certain things with or without the consent of Congress, that it was told to ignore congressional sentiment on any particular issue as far as this regulation is concerned.

So I think the case can be made out that this is one agency or department that would bear very close scrutiny.

Senator Nunn. I don't think we ought to ignore the fact that before the Department of Education was created, there were other attempts by people in the great organization known as HEW who did similar things. This is not a new innovation that came about only with the creation of that department. I would suspect that the same people, if we had had the HEW as it originally was, would have probably done the same thing.

Senator Roth. It is my understanding on that point that much of these regulations were in the making even prior to the creation of a new department.

But as I say, Mr. Chairman, my concern is this: It is my understanding that the Senate will continue to be in session for another three or four weeks and then possibly come back after the election, although I guess that is not necessarily so. But I do not feel that we can permit this action to go unchallenged.

I agree with what the Senator from Missouri said, that hearings are the least we can do, but I think the purpose of those hearings would be an attempt to stop this action and, if necessary, to take appropriate action beyond that to prevent it, because there is no question in my mind if they get away with this, then they are going to continue to act accordingly. I think that would be most unfortunate, because I think that is going to give the opposition to the Department of Education—and there is much of that abroad—great force. If Congress does not have the power to set policy, it is a sad day indeed for this historic——

Chairman Ribicoff. The thought occurs to me, we do have limited time. The first I was aware of this problem was when Senator Roth called me this morning. There is no question, as I have listened to the presentation, that it was definitely the intention that the Department of Education would have no jurisdiction over curriculum.

I recall specifically the amendment sponsored by Senator Danforth and Senator Roth. And I believe we had very lengthy colloquy on the floor covering this exact point.

Now I am trying to figure out, Senator Nunn, Senator Danforth, Senator Cohen and Senator Roth, if a hearing was set down, would you attend, because I don't want to set a hearing these closing days and find that you are not there. Could you preside in case I can't be there? What have we got, about three weeks left?

We have some reconciliation problems involving this committee and the Budget Conference. Could you preside over these hearings?

Senator Nunn. I will do my best. It just depends on when they would be set. I have all sorts of matters in conference, so I can't guarantee it.

Chairman RIBICOFF. Intergovernmental Relations, Senator Sasser, could you participate? This would really be the Intergovernmental Relations Subcommittee. Could you preside over it?

Senator ROTH. May I just make one suggestion?

Senator SASSER. Mr. Chairman—if I can respond to the Chairman—I would try to help, yes. I don't know what my schedule is. I would help as much as I could.

Senator NUNN. Could we pass a resolution on this in the committee as a temporary measure, at least expressing grave concern, perhaps not coming to conclusions until we have had a hearing. We don't have a quorum right now.

Chairman RIBICOFF. The problem that we have here is some of us, including myself, haven't even looked at this problem. We don't have a quorum to pass a resolution. The concern is worthwhile and should be considered. I don't know what they are doing, but the complaints that have been made are justified if this is what they are up to.

I am not quarreling with you, Senator Roth, or Senator Danforth, or you, Senator Nunn. The staff tells me, which I was not aware of—well, let me read this memorandum. The staff had a meeting on this matter last week with the members of the National School Boards Association and the National Association of State Boards of Education. Senator Roth's staff member, Nancy Anderson, was present at this meeting. She subsequently contacted my staff after the meeting to say that it was agreeable to have the Congressional Research Service do a legal analysis to evaluate whether the proposed bilingual regulations go beyond the intent of Section 103 of the Department of Education law. The staff says CRS is doing this analysis. I am making no comment on it. I am reading this memorandum.

Senator ROTH. Mr. Chairman, that is correct. I think that would be helpful. My real concern is that these regulations are not issued while the Congress is either in recess or adjournment.

Let me raise this possibility, if the Chairman could do this: I wonder if it would be possible to get a meeting, an informal meeting, with the Secretary and at least get an understanding that these regulations would be delayed until, I would suggest, the new year, since there is so many imponderables about the remainder of the year, so Congress can work its will, whatever that may be, next year.

That would seem to me to reserve what they may think are their prerogatives and at the same time give the Congress a chance to act responsibly.

Chairman RIBICOFF. Senator Roth is interested, Senator Danforth, Senator Nunn and Senator Cohen. Are there any other Senators who are interested in this matter?

Senator SASSER. I am, Mr. Chairman.

Senator NUNN. I think Senator Chiles is.

Chairman RIBICOFF. Senator Pryor is. We have interest here. I will have the staff contact you gentlemen to see if we can find a time at which you would all be available to come to my own personal office and call the Secretary and we would have an informal conference on this matter.

I don't know my schedule. I don't know yours. But we will try to find a date that most of you will be available. We can meet like at 9:00 in the morning before the day begins.

Senator ROTH. I think that would be very helpful.

Chairman RIBICOFF. I do want to commend you, Senator Roth, for calling my attention and the committee's attention to this matter. There is no question, as you presented it, if this is the case, it does definitely violate the intention of this committee and I believe of the Senate in passing this legislation.

We will try to find a date and call the Senators and the Secretary.

Senator ROTH. I appreciate your interest, Mr. Chairman.

Mr. DANFORTH. Mr. President, what is at stake in this issue is not civil rights. No one is attempting to block the civil rights of students with limited English. Rather, what is at issue is power—whether local schools or the Federal Government are to establish educational policy, and whether, when Congress expresses its intent on an issue in clear statutory language, the administration is free to ignore the law.

RECOGNITION OF SENATOR HATCH

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Utah (Mr. HATCH) is recognized for not to exceed 15 minutes.

THE COST OF THE DEMOCRATIC PLATFORM

Mr. HATCH. Mr. President, we have much talk from the Democratic administration and others about the "cost" of the Republican tax reduction proposals. This "cost," however, pales in comparison to the cost of the Democratic platform, which President Carter supports. This platform, which by my count contains 70 separate items to expand or initiate spending, in fiscal year 1981 would commit us to $83 billion in spending and produce $37 billion in outlays. Over the next 5 years, the Democratic platform would commit us to $609 billion in spending and cost $431 billion in outlays. In comparison to the second budget resolution reported by the Senate Budget Committee for fiscal year 1981, the Democratic platform would add $30 billion in outlays in fiscal year 1981 and $389 billion over the fiscal year 1981 to 1985 period. Over the 5-year-year period, this level of spending and current law revenues adjusted for the President's tax cut would create a $261 billion deficit. It would raise outlays to 24.7 percent of GNP in fiscal year 1982, and would raise revenues to a new high of 23.5 percent of GNP in fiscal year 1985, the highest percentage of GNP in the history of our country.

It is hard for me to understand how proponents of the Democratic platform can call the Republican tax cuts too expensive. But one should bear in mind the major difference in the costs of the two platforms. The Democratic platform would cost the taxpayers $431 billion while the cost of the Republican tax cuts would be borne by the bloated Federal Government.

The Democratic platform contains 70 items which I have determined would create new spending. These items range from an expensive national health insurance plan that would cost, using the administration's own estimates, $102.6 billion over the next 5 years if begun in fiscal year 1982, to federally funded union halls for teachers. It would double the funding for public housing, committing us to an additional $170 billion in spending over the 5 years. It would enact a sham called "welfare reform," which would actually add millions of people to the welfare rolls, over and above those who are on those rolls today. It would allow people to keep assets such as a house and lot, regardless of value, a car whose market value does not exceed $4,500, and all personal effects, clothes, and household items, again no matter what the value, and still qualify for welfare handouts. The estimated cost of this program is $24.4 billion over the 5 years, although Chairman RUSSELL LONG of the Senate Finance Committee has said that the additional cost could exceed $60 billion per year.

I might add, parenthetically, that the estimates I used are very conservative estimates, and they presume in some cases only one-shot, 1-year programs, which we know tend to become lifetime programs at the expense of the taxpayers.

The Democratic platform also calls for the Federal Government to assume all local and most State welfare costs, at a cost to the Federal Government of $21 billion a year when fully implemented. It calls for expensive expansions of Federal education programs to the tune of $50 billion over the 5 years, and would enact an expensive new Federal jobs program on top of the almost $10 billion a year the Federal Government now spends on training and employment programs. In its quest to throw away taxpayer dollars, the Democratic platform has even turned to proposals, such as taxpayer financing of congressional campaigns, which have been repeatedly defeated by the Congress. In short, there is something for everyone in the Democratic platform, including a big bill for the American taxpayer.

Most of the cost estimates I have used in my analysis come from CBO or options presented before the Senate Budget Committee during its deliberations on recent budget resolutions. There are a few potentially expensive items for which I have been unable to obtain a cost estimate. These items include: Programs to retrain farmworkers displaced by mechanized farming; making medicare available to Americans living abroad who are eligible for social security; and funding for environmental agencies sufficient to carry out their mandates.

My estimates also include only the additional costs to society that would show up as Federal expenditures. They do not include the additional cost that would be borne by the economy through further Federal intervention in the economy, such as through legislation making it expensive for plants to relocate for which the Democratic platform calls. My estimates also do not take account of the inflationary impact of this much additional spending, which would in turn increase Federal spending even more. And these estimates take no account of the additional interest on the debt that the larger deficits resulting from this spending would necessitate.

Mr. President, our economy cannot withstand an additional $566 billion of spending over the next 5 years. Again, I hasten to say, that is a conservative estimate. That is $566 billion over and above the second proposed budget resolution.

President Carter has lost no time in following Governor Reagan's lead with tax cut initiatives, but he is still turning a blind eye to the importance of restraining Government spending. As Governor Reagan has pointed out, we need a balanced program of spending restraint, productivity-oriented tax cuts, a stable monetary policy, and elimination of burdensome Federal regulations to encourage economic growth and reduce inflation. We must restore incentives to invest, work, and produce in our private economy, and we cannot do that by allowing the Federal Government to take a larger and larger share of our production to pass out to special interest groups for political gains. If we are serious about restoring our country to its former economic strength, we must take a long-range and all-encompassing approach to solving our economic ills. The simplistic approach of spending our way out of runaway inflation, high unemployment, and declining productivity will not work. The Democratic platform is tangible proof of the big-spending "business as usual" approach of the Democratic administration and Congress.

Mr. President, I ask unanimous consent that the tables I have prepared showing the 70 spending items of the Democratic platform and how much they cost be printed in the RECORD at this point.

There are two tables. One is entitled "Impact of Democratic Platform and Carter Tax Cuts on Budget," which is basically a summary, and the other is a cost analysis of the Democratic platform from fiscal year 1981 through 1985.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

IMPACT OF DEMOCRATIC PLATFORM AND CARTER TAX CUTS ON BUDGET

	Fiscal year—				
	1981	1982	1983	1984	1985
Spending in Senate Second Budget Resolution	633	710	778	845	920
Additional spending in platform	30	70	79	96	114
Total spending level	663	780	857	941	1,034
Revenues in Senate Second Budget Resolution	610	712	828	951	1,102
Deficit/surplus (without tax cut)	−53	−68	−29	+10	+68
Carter tax cut	−7	−38	−41	−48	−55
Deficit/surplus (with tax cut)	−60	−106	−70	−38	+13
Total spending as percent of GNP	23.7	24.7	24.1	23.6	23.3
Revenues (with tax cut) as percent of GNP	21.6	21.4	22.1	22.7	23.5

COST ANALYSIS OF THE DEMOCRATIC PLATFORM

	Fiscal year 1981		Fiscal year 1982		Fiscal year 1983		Fiscal year 1984		Fiscal year 1985		Fiscal years 1981–85	
	Budget authority	Outlay	Budget authority	Outlay	Budget authority	Outlay	Budget authority	Outlay	Budget authority	Outlay	Budget authority	Outlay
Solving economic problems:												
1. Antirecession jobs program	11.0	6.75	0	4.15	0	0	0	0	0	0	10.9	10.9
2. Railroad renewal program	1.0	.5	0	.5	0	0	0	0	0	0	1.0	1.0
3. Implementation of Brooke-Cranston	4.9	.7	1.4	.4	0	−.3	0	.35	.1	.1	6.4	1.25
Worker protection:												
4. Continue to enforce Davis-Bacon	.7	.7	.77	.77	.84	.84	.91	.91	.98	.98	4.2	4.2
5. Improve and strengthen trade adjustment assistance programs	1.3	1.3	.5	.5	.3	.3	.3	.3	.3	.3	2.7	2.7
6. Expand unemployment benefits to all wage and salary workers		.3	---------	.3	---------	.3	---------	.3	---------	.3	---------	1.5
7. Extend unemployment benefits for long-term unemployed		1.3	---------	---------	---------	---------	---------	---------	---------	---------	---------	1.3
Women and the economy:												
8. Expand vocational programs for women	.02	.002	.02	.016	.02	.020	.02	.020	.02	.020	.1	.078
Consumer protection:												
9. Establish Consumer Protection Agency	.022	.022	.028	.028	.034	.034	.04	.04	.046	.046	.17	.17
10. Expand the WIC program	.2	.1	.3	.2	.2	.3	.4	.3	.5	.4	1.6	1.3
Antitrust enforcement:												
11. Financial support for antitrust enforcement activities of the States	.01	.01	.01	.01	.01	.01	.01	.01	.01	.01	.05	.05
Health:												
12. National health insurance program			21.0	21.0	24.1	24.1	27.1	27.1	30.4	30.4	102.6	102.6
13. Expand medicaid program to additional 5,000,000 low-income children and 200,000 low-income pregnant women (CHAP)	.5	.5	.9	.9	1.4	1.4	1.9	1.9	2.2	2.2	6.9	6.9
14. Increase funding for training mental health personnel and develop community based mental health services (S. 1177, Carter bill)	.1	.03	.5	.2	.6	.5	.5	.5	.6	.6	2.3	1.8
15. Expand home health care services	.1	.1	.1	.2	.1	.2	.1	.2	.2	.3	.6	1.0
16. Increase funding for training health professionals	.2	.1	.2	.2	.1	.1	.1	.1	.1	.1	.7	.6
17. Financial assistance to public service hospitals	.3	.3	.4	.4	.5	.5	.6	.6	.7	.7	2.5	2.5
Older Americans:												
18. Expand senior centers, nutrition services, home attendants, programs under ACTION, Administration on Aging, and Community Services Administration	.9	.9	.95	.95	1.0	1.0	1.1	1.1	1.2	1.2	5.15	5.15
19. Increase number of meals on wheels served to cover ¼ of all elderly at or near poverty level	4.6	4.6	6.5	6.5	7.2	7.2	8.9	8.9	9.8	9.8	37.0	37.0
20. Expand funding for sec. 202 housing for elderly	.3	.1	.3	.1	.3	.1	.4	.2	.4	.2	1.7	.7
Welfare reform:												
21. Expand social services to fill existing gaps	2.9	2.9	3.1	3.1	3.3	3.3	3.5	3.5	3.8	3.8	16.6	16.6
22. Full funding for food stamps	1.3	1.3	1.5	1.5	1.8	1.8	2.0	2.0	1.5	1.6	8.1	8.2
23. Carter welfare reform proposal (Work and Training Opportunities Act and the Social Welfare Reform Amendments Act)	1.5	1.5	5.5	5.5	5.7	5.7	5.7	5.7	6.0	6.0	24.4	24.4
24. Federal Government assume local governments' share of welfare costs and a greater percentage of State share			9.2	9.2	12.8	12.8	16.8	16.8	21.2	21.2	60.0	60.0
Low income energy assistance:												
25. Expand low income energy assistance	.8	.8	.8	.8	.8	.8	.8	.8	.8	.8	4.0	4.0
Education:												
26. Steady increase in Federal support for elementary and secondary with an emphasis on reducing inter- and intra-state disparities in ability to support quality education	.7	.1	1.3	.5	2.0	1.2	2.6	1.9	3.2	1.5	9.8	5.2
27. Full funding of concentration grants	3.13	.31	3.38	3.15	3.65	3.41	3.94	3.68	4.26	3.97	18.36	14.53

	Fiscal year 1981		Fiscal year 1982		Fiscal year 1983		Fiscal year 1984		Fiscal year 1985		Fiscal years 1981–85	
	Budget authority	Outlay	Budget authority	Outlay	Budget authority	Outlay	Budget authority	Outlay	Budget authority	Outlay	Budget authority	Outlay
28. Expand Headstart	.2	.2	.3	.2	.5	.14	.6	.5	.7	.6	2.3	1.9
29. Expand Follow Through	.02	.01	.02	.02	.03	.02	.03	.03	.04	.04	.14	.12
30. An effective bilingual program to reach all limited English-proficiency people who need assistance	1.0	.1	1.1	1.0	1.2	1.1	1.3	1.2	1.4	1.3	6.0	4.7
31. Increased Federal support for vocational and technical education teacher training and equipment and facilities	.2	.02	.214	.159	.227	.210	.245	.25	.262	.241	1.15	.855
32. Increase the Federal share of the costs of education for the handicapped	.2	.02	.3	.1	.4	.3	.5	.3	.6	.4	2.0	1.1
33. Fund BEOG's grants at full payment schedule	1.0	.1	1.4	1.04	1.7	1.43	2.2	1.75	2.7	2.25	9.0	6.57
34. Expand funding for black institutions	.07	.008	.08	.051	.09	.078	.10	.088	.11	.098	.45	.323
35. Strengthen graduate education	.006	.001	.007	.004	.008	.007	.009	.008	.010	.009	.040	.029
36. Strengthen support for libraries, teacher training, and R. & D.	.1	.01	.1	.06	.1	.08	.1	.1	.1	.1	.5	.35
37. Federally financed teacher centers in every State	.010	.010	.011	.011	.012	.012	.013	.013	.014	.014	.060	.060
38. Restore fair eligibility requirements for school nutrition programs with fair fees	.3	.3	.3	.3	.3	.3	.3	.3	.4	.4	1.6	1.6
Child care:												
39. Enact an adequately funded comprehensive quality child-care program	1.7	1.25	1.8	1.77	1.9	1.87	2.1	2.05	2.2	2.17	9.7	9.11
40. Revise child care tax credit to benefit low and moderate income families	.05	.05	.05	.05	.06	.06	.06	.06	.07	.07	.29	.29
Housing:												
41. A substantial increase for public housing and sec. 8 rental housing assistance	27.1	--------	35.1	.5	34.6	2.5	35.9	5.3	37.0	10.3	169.7	18.6
42. Expand urban homestead and rehab programs	.012	.012	.013	.013	.014	.014	.015	.015	.016	.016	.07	.07
43. Finance moderate income housing at below-market interest rates	2.4	--------	--------	--------	--------	.08	--------	.16	--------	.16	2.4	.40
Transportation:												
44. Increased Federal funds for mass transit operating and capital subsidies	1.4	.1	1.7	.1	2.2	.7	2.4	1.2	2.	1.9	10.3	4.0
Urban policy:												
45. Enactment of Carter administration proposal to expand the economic development initiative programs of the Department of Commerce	.5	.06	.7	.29	.8	.50	.8	.76	.8	.69	3.6	2.30
46. Transitional aid program to local governments	.5	.5	.5	.5	--------	--------	--------	--------	--------	--------	1.0	1.0
The arts and the humanities:												
47. Grants for the arts in low-income neighborhoods	.01	.01	.005	.005	.005	.005	.005	.005	.005	.005	.03	.03
Civil rights:												
48. Strengthen the Office of Civil Rights in the Department of Education and in the Department of Health and Human Services	.011	.013	.012	.014	.013	.015	.014	.016	.015	.017	.065	.075
ıvacy:												
49. Federal funding of abortions under medicaid	.09	.09	.10	.10	.11	.11	.12	.12	.13	.13	.55	.55
Handicapped:												
50. Make Federal facilities fully accessible to handicapped	.5	.5	.54	.54	.58	.58	.62	.62	.66	.66	2.9	2.9
51. Expand job opportunities and training for the handicapped												
Domestic violence:												
52. Support passage of H.R. 2977 to provide direct assistance to victims of domestic violence	.015	.005	.02	.02	.03	.03	--------	.01	--------	--------	.065	.055
American Indians:												
53. Redouble Federal government efforts to improve housing, health, education, and general welfare of Indians	.8	.7	.9	.8	.9	.8	1.0	.9	1.0	.9	4.6	4.1
Americans living abroad:												
54. Make medicare available to Americans living abroad who are eligible for social security												
Law enforcement:												
55. Enactment of the Criminal Code including Federal assistance to victims of crime	.016	.007	.017	.011	.017	.013	.019	.016	.019	.017	.09	.06
Election reform:												
56. Public financing of congressional campaigns	.1	.1	.2	.04	.1	.3	.6	.7	.6	.7	1.6	1.8
Energy:												
57. Major new efforts to develop synthetic and alternative renewable energy sources	.6	.4	.6	.6	.7	.7	1.3	1.0	1.6	1.3	4.8	4.0
58. Assist utilities in coal conversion	.3	.1	.9	.4	.6	.6	.2	.5	.2	.4	2.2	2.0
59. Establish a massive residential energy conservation grant program	.13	.03	1.1	.6	2.5	1.3	2.5	1.9	2.5	2.2	8.7	6.0
60. Substantial funding for construction of an engineering test facility for fusion technology	.44	.2	--------	.2	--------	.01	--------	--------	--------	--------	.5	.41
61. Intensify efforts to develop a nuclear waste disposal plan	.3	.01	--------	.2	--------	.1	.1	--------	.1	.1	.5	.41
Environment:												
62. Funds for EPA and environmental agencies sufficient to carry out their mandates												
63. Super-fund law	.3	.04	.4	.5	.5	.6	.5	.5	.5	.4	2.2	2.0
Agriculture:												
64. Increase the level of support for farm prices and income by increasing target prices to cover the cost of production		1.9	--------	2.2	1.9	2.5	2.2	2.8	2.5	3.3	6.6	12.7
65. Retraining programs for farmworkers displaced by mechanized farming												
Refugees and migration:												
66. Special assistance to State and local communities for Cuban and Haitian refugees	.2	.1	.2	.2	.2	.2	--------	.1	--------	--------	.6	.6
The Middle East:												
67. Assistance to Israel and Mideast neighbors engaged in the peace process for refugee resettlement, agricultural development, water development, health and medical facilities, and productivity and trade	3.8	3.6	4.0	3.9	4.3	4.1	4.3	4.1	4.3	4.1	20.7	19.8
68. Commitment to fill SPRO	2.3	.9	0.2	1.5	.1	1.4	.3	.6	.6	.3	3.5	4.7
The developing world:												
69. Increase U.S. and multilateral assistance to oil-importing nations for development of energy resources	.1	.05	.05	.05	.05	.05	.05	.05	.05	.05	.3	.25
Africa:												
70. Aid to Zimbabwe to help with reconstruction			.07	.035	--------	.035	--------	--------	--------	--------	.07	.07
Total	83.26	36.64	111.71	79.13	123.50	88.72	138.22	105.21	152.10	121.91	608.64	431.45

RECOGNITION OF SENATOR BIDEN

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Delaware (Mr. BIDEN) is recognized.

Mr. BIDEN. Mr. President, I ask unanimous consent that I may have the 8 minutes remaining on the majority leader's time for morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BIDEN. I thank the majority leader.

REPUBLICANS PROPOSE NO NEW IDEAS TO SOLVE URBAN ILLS

Mr. BIDEN. Mr. President, I noted with interest the responses of both Governor Reagan and Representative ANDERSON on how they would improve the plight of distressed urban areas in America as I listened to their debate on the League of Women Voters' forum on Sunday night. I have noted with some interest the comments this morning of my distinguished colleague from Utah outlining the pitfalls, as he sees them, of the Democratic platform. Mr. President, it seems to me that most of what I heard, whether it be on the Senate floor or in the campaign forum Sunday night, demonstrated either a willingness to disregard what has already been accomplished or a lack of knowledge about existing Federal programs designed to aid distressed urban areas.

For example, on Sunday night, I was particularly struck by the comment made by Governor Reagan as to what he was going to do to take care of the distressed urban areas of America if, in fact, he were elected President. He said that one of the cornerstones of his urban program would be a thing called urban homesteading. He said that homesteading would be one of the first things that he would do, and I sat there with a sense of awe as I watched Governor Reagan tell us about urban homesteading. And he said in that very, very persuasive manner of his, and I am paraphrasing now—"Why can't we turn America around?"—and reinitiate the spirit that founded America. Let Americans go in and, for $1, buy an old house that is presently abandoned—provided they agree to fix it up and live in it." I sat there, and my mother, Jean Finnegan Biden, said, "God bless him, Joe, he is a good man, isn't he?"

And she said, "But Joey, isn't that the thing you introduced 6 years ago in 1974, and is now the law?"

Someone should tell the Governor that, 6 years ago, this body came along and said, "We think it is a good idea that we revitalize the cities of America, and so we passed the urban homesteading program." That was in 1974, and now today Governor Reagan has found the answer to our urban ills; that is, the urban homesteading program.

I want to compliment him. I think it is a very good idea. I should note that, under the bill that was passed into law, and that law has been expanded and upgraded by the Carter administration, the Federal Government turns federally owned homes back to local governments at nominal cost. The individuals within those communities then go out and, for a token payment of $1, the home is theirs, provided that they agree to restore the property and live in that property.

That program was originated in the city of Wilmington, Del., by an innovative young Democratic mayor, Tom Maloney, in 1973. At his suggestion, I introduced a bill to create a national homesteading program. This bill passed Congress and became law of the land.

Perhaps more importantly, it is an extremely successful Federal program. In Delaware since 1973, 118 properties have been awarded; 29 have been occupied for more than 3 years and are paying property taxes to the city. Another 75 are currently occupied and well on their way to being returned to the tax rolls. Fourteen units are in the process of being rehabilitated. Only 10 of the homesteaders failed to meet the program's requirements and those properties have been recycled back into the program.

That is less than 10 percent failure rate in my city and nationally, since 1974, almost 5,500 federally owned homes have been turned back to local governments for eventual transfer to private individuals. The Carter administration has proposed turning back another 1,500 homes to communities for homesteading during the year 1981. And the number of cities now participating in this innovative program has increased from 20 in 1975 to 85 in 1981.

The expansion of this program is due in large measure to the commitment made by the Carter administration to the urban homesteading idea.

I do welcome Governor Reagan's interest in urban homesteading, but as a new idea, he is already 6 years too late.

Mr. Reagan also said Sunday night, "I think one of the problems today with the cities is Federal aid. The mayors that I have talked to in some of our leading cities tell me that the Federal grants that come for a specific cause or a specific objective come with such redtape, such priorities established by a bureaucracy in Washington, that the local government's hands are tied with regard to using that money as they feel it could best be used and for what they think might be their top priority."

Yesterday afternoon, right here on this floor, Mr. President, the U.S. Senate voted on whether or not to reduce the community development block grant program by $200 million a year below its authorization level.

Some people may read this RECORD and say, What do community development block grants have to do with what was just quoted about Governor Reagan?

There is a strange similarity.

What Governor Reagan has been asking for is embodied in the community development block grant program. It says that we are not going to have any strings attached. We are going to send that money to the cities because they know best what their needs are and we will let them use it that way.

I do not know what the mayors were telling Mr. Reagan about this program but I do know that they were lobbying very strongly against any cuts in the community development block grant program. The mayors are in favor of the program for a good reason. Local governments can spend block grant funds on many different activities including land acquisition, construction of public facilities, rehabilitation of public facilities, senior centers, recreation centers, parks, street lights, parking facilities, solid waste facilities, housing, fire protection, housing code enforcement, slum clearance, planning, and historic preservation.

In effect, mayors can spend this money on just about any public purpose they wish to fund.

The community development block grant program is funded at $3.75 billion each year. For many cities this means hundreds of thousands if not millions of dollars to make improvements in the physical plant of their municipality. But it is the local communities which decide where these funds are used.

Governor Reagan says what we ought to do is to create urban enterprise zones where industries will not be taxed if they relocate in such zones. What Governor Reagan fails to realize is that State and local governments have been attempting to stimulate economic development within their boundaries for many years now.

In my city of Wilmington, and in Philadelphia and almost every city in America, that has been useful. I commend him for recognizing its usefulness. That has been a means and a measure which cities have used to attract business back into their areas. It is an attempt to stimulate economic development.

According to Site Selection Handbook of 1977 published by Conway Publications, State and local governments have a great variety of financing tools available to them to encourage industrial development. These include industrial revenue bonds, tax exemptions and moratoria on increased property tax valuations.

At this point, I ask unanimous consent that these four tables from the Site Selection Handbook of 1977 showing the various State and local tax incentives for industrial expansion be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SPECIAL SERVICES FOR INDUSTRIAL DEVELOPMENT

	State financed speculative building	City and/or county financed speculative building	State provides free land for industry	Cities and/or counties provide free land for industry	State-owned industrial park sites	City and/or county-owned industrial park sites	State funds for city and/or county development-related public works projects	State funds for city and/or county master plans	State funds for city and/or county recreational projects	State funds for private recreational projects	State program to promote research and development	State program to increase export of products	University R. & D. facilities available to industry	State and/or universities conduct feasibility studies to attract or assist new industry	State recruiting, screening of industrial employees	State supported training of industrial employees	State re-training of industrial employees	State supported training of "hard-core" unemployed	State incentive to industry to train "hard-core" unemployed	State help in bidding on federal procurement contracts	State science and/or technology advisory council
Alabama		●		●65		●	●	●	●		●	●	●	●	●	●	●	●			●
Alaska						●	●		●	●	●	●	●	●	●	●	●	●	●		
Arizona						●	●	●	●		●	●	●	●	●	●	●	●			●
Arkansas				●65		●			●		●	●	●	●	●	●	●				●
California				●65		●	●		●				●		●	●	●	●			●
Colorado		●65		●65		●	●	●	●			●	●	●	●	●	●	●			
Connecticut						●	●	●		●	●	●	●	●	●	●	●			●	●
Delaware						●	●	●66	●		●		●	●	●	●	●	●	●	●	●
Florida						●					●	●	●67	●	●	●68	●68	●68	●68		●
Georgia		●				●	●	●	●		●	●	●	●	●	●	●	●			●
Hawaii					●			●	●	●	●	●	●	●	●	●	●	●	●	●	●
Idaho						●	●		●		●	●	●	●	●	●	●				●
Illinois						●	●	●	●		●	●	●	●	●	●	●			●	●
Indiana				●65		●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Iowa												●	●	●	●	●	●	●			●
Kansas		●69		●65		●						●	●70	●	●	●					
Kentucky						●	●	●	●		●	●	●	●	●	●	●	●		●	●
Louisiana				●		●			●		●	●	●67	●	●	●	●	●			●
Maine	●			●71		●				●72		●	●67	●	●	●	●	●		●	●
Maryland	●	●				●	●		●	73		●		●	●	●	●	●	●		●
Massachusetts		●				●	●	●			●	●	●	●	●	●	●	●	●	●	●
Michigan						●		●	●		●	●	●	●	●	●	●			●	●
Minnesota						●	●	●	●	●		●	●	●	●	●	●	●	●	●	●
Mississippi		●		●74	●	●					●	●	●	●	●	●	●	●	●	●	●
Missouri						●						●	●	●	●	●	●	●	●		●
Montana						●	●78	●78				●	●	●	●	●	●				●
Nebraska						●		●	●		●	●	●	●	●	●	●				●
Nevada						●						●	●	●	●				●		
New Hampshire	●				●	●	●	●	●	●	●	●	●	●	●	●	●			●	●
New Jersey	●				●	●	●	●	●		●	●	●	●	●	●	●	●	●	●	●
New Mexico		●				●					●	●	●	●	●	●	●			●	●
New York		●				●	●	●	●		●	●	●	●	●	●	●	●	●12	●	●
North Carolina						●	●	●	●		●	●	●	●	●	●	●	●	●	●	●
North Dakota		●		●		●			●		●	●	●	●	●	●	●	●	●	●	●
Ohio							●	●	●			●	●	●	●	●	●	●	●	●	
Oklahoma		●		●	●	●		●	●		●	●	●	●	●	●	●	●	●	●	●
Oregon						●	●	●	●		●	●	●	●	●	●	●	●	●	●	
Pennsylvania		●				●	●	●	●		●	●	●	●	●	●	●	●	●		●
Rhode Island					●	●		●	●	●	●	●	●	●	●	●	●			●	●
South Carolina				●65		●		●	●		●	●	●	●	●	●	●	●			●
South Dakota		●		●74		●	●	●	●			●	●	●	●	●	●	●		●	●
Tennessee		●			●	●	●80	●81	●		●	●	●	●	●	●	●	●	●	●	●
Texas						●	●	●	●			●	●	●	●	●	●	●		●	●
Utah						●					●	●	●	●	●	●	●		●	●	●
Vermont	●					●	●	●	●		●	●	●	●	●	●	●	●		●	●
Virginia		●69				●69	●	●	●			●	●	●	●	●	●				●
Washington						●79	●		●			●	●	●	●	●	●	●	●	●	●
West Virginia		●				●				●			●	●	●	●	●	●			
Wisconsin						●	●	●	●		●	●	●	●	●	●	●	●			●
Wyoming						●	●	●		●	●	●	●	●	●	●	●	●		●	●
State total	5	16	0	13	7	47	31	32	36	10	31	47	49	49	50	49	48	36	22	28	43
Puerto Rico	●				●		●	●	●	●	●	●	●	●	●	●	●	●	●	●	●

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TAX INCENTIVES FOR INDUSTRY—OTHER LAWS

	Corporate income tax exemption	Personal income tax exemption	Excise tax exemption	Tax exemption or moratorium on land, capital improvements	Tax exemption or moratorium on equipment, machinery	Inventory tax exemption on goods in transit (Freeport)	Tax exemption on manufacturers' inventories	Sales/use tax exemption on new equipment	Tax exemption on raw materials used in manufacturing	Tax credits for use of specified State products	Tax stabilization agreements for specified industries	Tax exemption to encourage research and development	Accelerated depreciation of industrial equipment	State right-to-work law	State minimum wage law	State fair employment practice code	Statewide uniform property tax evaluation law	Statewide air pollution control law	Statewide water pollution control	Statewide industrial noise abatement law
Alabama	●		●	●	●	●	●	●	●					●			●	●	●	
Alaska								●	●		●				●	●	●	●	●	
Arizona	●	●				●	●		●				●	●		●	●	●	●	
Arkansas						●	●20	●	●					●	●		●	●	●	
California							●18	●19	●18				●10		●	●	●	●	●	●
Colorado						●21	●21		●21						●	●	●	●	●	●
Connecticut	●	22			●23	●	●		●						●	●		●	●	●
Delaware			●24		●	●	●	●	●				●		●	●		●	●	
Florida	●	●25				●	●26		●26	●57				●			●	●	●	
Georgia						●	●	●	●				●59	●	●	●		●	●	
Hawaii		●	●		●	●	●	●					●		●	●	●	●	●	●

TAX INCENTIVES FOR INDUSTRY—OTHER LAWS—Continued

	Corporate income tax exemption	Personal income tax exemption	Excise tax exemption	Tax exemption or moratorium on land, capital improvements	Tax exemption or moratorium on equipment, machinery	Inventory tax exemption on goods in transit (Freeport)	Tax exemption on manufacturers' inventories	Sales/use tax exemption on new equipment	Tax exemption on raw materials used in manufacturing	Tax credits for use of specified State products	Tax stabilization agreements for specified industries	Tax exemption to encourage research and development	Accelerated depreciation of industrial equipment	State right-to-work law	State minimum wage law	State fair employment practice code	Statewide uniform property tax evaluation law	Statewide air pollution control law	Statewide water pollution control law	Statewide industrial noise abatement law
Idaho						●	●	●	●				●		●		●	●	●	
Illinois						●			●				●59		●	●	●	●	●	●
Indiana					●			●	●				●		●	●	●	●	●	
Iowa	● 27					●	●28		●29				●59	●		●	●	●	●	●
Kansas	● 75			●30	●30	●		●30	●				●59	●		●	●	●	●	
Kentucky				●31	●31		●	●	●31				●		●	●	●	●	●	
Louisiana	● 32			●33	●	●			●	●			●10	●				●	●	
Maine							●	●	●34			●	●59		●	●	●	●	●	●
Maryland				●31	●		●	●36	●			●37			●	●	●	●	●	●
Massachusetts	● 38	●	●		●		●								●	●	●	●	●	●
Michigan		●		●38	●			●							●	●	●	●	●	
Minnesota		●		●10	●	●	●	●40	●		●	●	●59		●	●	●	●	●	●
Mississippi		●		●	●	●	●	●	●				●59	●				●	●	
Missouri	●	●				●		●	●							●	●	●	●	
Montana	● 35			●	●	●	●39	●41							●	●	●	●	●	
Nebraska						●	●42		●42					●	●	●	●	●	●	
Nevada	● 25	●25				●	●							●	●	●	●	●	●	
New Hampshire		●25			●	●	●	●41	●						●	●	●	●	●	●
New Jersey				●	●44	●43	●		●				●44		●	●	●	●	●	●45
New Mexico						●	●		●				59		●	●	●	●	●	●
New York	●12, 46, 47	●47	●24	●12	●48	●48	●48	●	●48			●46			●	●	●	●	●	●
North Carolina						●43		●49	●50					●	●	●	●	●	●	
North Dakota	●		●	●51	●48	●48	●48		●			●		●	●	●	●	●	●	●
Ohio				●		●		●	●						●	●	●	●	●	
Oklahoma	●			●	●	●	●	●	●				●59		●	●	●	●	●	
Oregon		●	●52	●53		●	●	●	●						●	●	●	●	●	●
Pennsylvania					●54	●55	●55	●54	●54			●			●	●	●	●	●	
Rhode Island				●31	●31		●	●56	●		●	●			●	●		●	●	
South Carolina				●	●	●	●	●	●			●		●	●	●	●	●	●	
South Dakota	●	●	●	●	●	●	●		●					●	●	●	●	●	●	
Tennessee		●		●31	●31	●	●	●64	●76	●57			●	●			●	●	●	
Texas	● 25	●25		●58	●58	●			●					●	●			●	●	
Utah	77					●	●							●	●	●	●	●	●	
Vermont						●		●	●		●		●58		●	●	●	●	●	
Virginia				●31	●31			●	●60			61	●59	●	●			●	●	
Washington	● 25	●25		●	●	●	●		●						●	●	●	●	●	●
West Virginia	●		●					●	●						●	●	●	●	●	
Wisconsin	● 62				●	●	●63	●	●				●		●	●	●	●	●	
Wyoming	● 25	●25	●			●	●		●					●	●	●	●	●	●	●
State total	20	17	10	22	28	39	37	32	44	3	4	8	21	20	41	41	42	50	50	18
Puerto Rico	●	●	●	●	●	●	●	●	●			●	●	●	●	●	●	●	●	●

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FINANCIAL ASSISTANCE FOR INDUSTRY

	State sponsored industrial development authority	Privately sponsored development credit corporation	State authority or agency revenue bond financing	State authority or agency general obligation bond financing	City and/or county revenue bond financing	City and/or county general obligation bond financing	State loans for building construction	State loans for equipment, machinery	City and/or county loans for building construction	City and/or county loans for equipment, machinery	State loan guarantees for building construction	State loan guarantees for equipment, machinery	City and/or county loan guarantees for building construction	City and/or county loan guarantees for equipment, machinery	State financing aid for existing plant expansions	State matching funds for city and/or county industrial financing programs	State incentive for establishing industrial plants in areas of high unemployment	City and/or county incentive for establishing industrial plants in areas of high unemployment
Alabama	●	●			●	● 1									● 2			
Alaska	4	●	4	●	● 3	● 3	●	●							●			
Arizona		4			●													
Arkansas	●	●			●	●					●	●						
California		● 5															● 6	
Colorado		●			●													
Connecticut	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●		
Delaware	●		●	●			●	●			●	●			●			
Florida		●			●													
Georgia		●	● 3		●													
Hawaii	●		●		●	●	●	●							●	●	●	
Idaho		4																
Illinois	●	●	●		●		●	●							●			
Indiana	●		●		●	●					●	●			●	●		
Iowa		●			●													
Kansas		●			●	●												
Kentucky	●	●			●	●	●								●			
Louisiana	●	4			●	●												
Maine	●				●		●				●	●			●			
Maryland	●	●			●	●					●	●			●	● 7	●	

FINANCIAL ASSISTANCE FOR INDUSTRY—Continued

	State sponsored industrial development authority	Privately sponsored development credit corporation	State authority or agency revenue bond financing	State authority or agency general obligation bond financing	City and/or county revenue bond financing	City and/or county general obligation bond financing	State loans for building construction	State loans for equipment, machinery	City and/or county loans for building construction	City and/or county loans for equipment, machinery	State loan guarantees for building construction	State loan guarantees for equipment, machinery	City and/or county loan guarantees for building construction	City and/or county loan guarantees for equipment, machinery	State financing aid for existing plant expansions	State matching funds for city and/or county industrial financing programs	State incentive for establishing industrial plants in areas of high unemployment	City and/or county incentive for establishing industrial plants in areas of high unemployment
Massachusetts	●	●			●	●			●	●	●	●			●		●	●
Michigan	●	4	●		●		●				●				●	●	●	
Minnesota		●	●		●		●	●	●9	●9					●		●	
Mississippi	●	●			●	●									●2			●
Missouri		●			●	●		●8							●			
Montana		●			●				●17									
Nebraska		●			●										●2			
Nevada					●	●											●	●
New Hampshire	●	●	●				●				●	●			●			
New Jersey	●		●	●		●10					●	●			●	●	●	●
New Mexico	●	4			●	●												
New York	●	●	●	●	●		●	●11	●	●					●		●12	●12
North Carolina		●			●													
North Dakota	●	●	●	●	●	●	●	●			●				●		●	
Ohio	●	●	●		●						●	●			●		●	●
Oklahoma	●	●	●	●	●	●	●	●	●	●					●			
Oregon		●	●		●10													
Pennsylvania	●	●	●		●		●14		●14						●		●	●
Rhode Island	●	●	●		●						●	●			●			
South Carolina	●	●	●		●													
South Dakota					●													
Tennessee	●			●	●	●					●	●			●15			
Texas	●				●13		●	●							●			
Utah	●	●	●		●													
Vermont	●	●	●		●		●	●			●	●			●	●	●	●
Virginia	●	●			●													
Washington	●	●			●3	●3				●3							●	
West Virginia	●	●	●		●		●	●	●	●					●	●	●	●
Wisconsin					●	●16												
Wyoming		●			●													
State total	31	35	21	8	45	21	17	13	8	7	15	13	1	1	28	8	15	9
Puerto Rico	●	●	●	●	●	●	●	●			●	●			●	●	●	●

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INDUSTRIAL FINANCING FACTS—STATE AND POLITICAL SUBDIVISION FINANCING

[Dollar amounts in millions]

	Permitted?	By general obligation bonds?	By revenue bonds?	Bond financing to date	Financing agency?	Type***	Maximum amount of transaction	Maximum percent of project cost covered by transaction (percent)	Current rate of interest (percent)	Total number of transactions to date	Total amount of transactions to date	Aggregate of funds for financing	Total funds currently available for financing
Alabama	Yes	Yes [1]	Yes		No								
Alaska	Yes	No	Yes	$0.2	Yes	A,B	$0.75	90					
Arizona	Yes	No	Yes		Yes	A							
Arkansas	Yes	Yes	Yes	1,295.2	No		Open	100	Varies	441.0	$1,295.0		
California	No	No	No		No								
Colorado	Yes	No	Yes	170.0	No								
Connecticut	Yes	No	Yes	150.0	Yes	B,C,D	Varies	100	Varies	261.0	203	[2] $172	[3] $80.
Delaware	Yes	Yes	Yes	206.7	Yes	D	$5	100	Varies	87.0	206.7	[4] 50.5	[4] 18.
Florida	Yes	No	Yes		Yes	B [5]		100	Varies				
Georgia	Yes	No	Yes		No								
Hawaii	Yes	Yes	Yes		Yes	B	$0.05	10	5.5	24.6		6.9	0.3.
Idaho	No	No	No		No								
Illinois	Yes	No	Yes	372.0	Yes	B	No limit	100	Varies	79.0	372		
Indiana*	Yes	No	Yes	1,000.0	Yes	C,D	C:$1.0	C:100		C:25.0	C:3.5	C:2.0	C:12.
Iowa	Yes	No	Yes	357.8	No	A	$0.30	100	Varies	82.0	11.7	5.5	1.3.
Kansas	Yes	Yes	Yes	630.0	Yes	A	$0.25	100	Varies	496.0	66.1	39.0	12.0.
Kentucky	Yes	Yes	Yes	952.5	Yes	B		(6)	8	75.0	9.1	6.0	7.9.
Louisiana	Yes	Yes	Yes	1,200.0	No								
Maine	Yes	No	Yes	78.0	Yes	B,C	$2.5	Varies	Varies	113.0		57.0	
Maryland**	Yes	Yes [1]	Yes	365.0	Yes	A,C	A:$5 C:$5.	100	Varies	47.0	30.3	60.0	29.7.
Massachusetts	Yes	Yes	Yes	112.6	Yes	B	$5	100	Varies	52.0	112.6		
Michigan	Yes	No	Yes	746.1	Yes	B	No limit	90	Varies	7.0	7	200.0	200.0.
Minnesota	Yes	No	Yes	629.7	Yes	A	$5	100	Varies	225.0			
Mississippi	Yes	Yes	Yes	950.0	Yes	A				940.0			
Missouri	Yes	Yes	Yes	340.3	Yes	D [8]	No limit	50	Varies	7.0	1.3	15.0	15.0.
Montana	Yes	No	Yes	176.0	Yes	A			Varies				
Nebraska	Yes	No	Yes	223.7	Yes	A	$5	100	Varies	192.0	223.7		
Nevada	Yes	No	Yes						Varies	5.0			
New Hampshire**	Yes	No	Yes	51.5	Yes	A,B	$5	100		107.0	7.2	38	30.
New Jersey*	Yes	No	Yes		Yes	B	$5	100	5.5–9	19.0	16.4		
New Mexico**	Yes	No	Yes	39.0	Yes	A	Open	100	Varies	27.0			
New York	Yes	No	Yes	154.8	Yes	A,B,D [9]	A:$0.5 B:$1.0 D:No limit	A:No limit B:40 D:No limit	A:2.5 over prime B:7.0–7.75 D:Varies	A:524.0 B:756.0 D:129.0	A:926 B:100.8 D:305.8	A:25 B:150	A:14. B:90.
North Carolina**	Yes	No	Yes		No								
North Dakota	Yes	Yes	Yes	111.8	Yes	A,D [10]		A:100 D:Varies	D:Varies	A:24.0 D:49.0	A:2.6 D:108.4	A:2.0	A:.25.
Ohio	Yes	No	Yes	899.1	Yes	C	$5	90	Varies	40.0	27.5		
Oklahoma	Yes	Yes	Yes		Yes	B	No limit	100	Varies	158.0	21	20	2.0.
Oregon**	Yes	Yes	Yes		Yes	A,C		100		3.0			

Footnotes at end of table.

INDUSTRIAL FINANCING FACTS—STATE AND POLITICAL SUBDIVISION FINANCING—Continued

[Dollar amounts in millions]

	Permitted?	By general obligation bonds?	By revenue bonds?	Bond financing to date	Financing agency?	Type***	Maximum amount of transaction	Maximum percent of project cost covered by transaction (percent)	Current rate of interest (percent)	Total number of transactions to date	Total amount of transactions to date	Aggregate of funds for financing	Total funds currently available for financing
Pennsylvania**	Yes	No	Yes	$4,480.0	Yes	B,D [11]	Varies	100	Varies	[illegible]:[illegible],314.0 D:2,861.0	B$351 D:5,181		
Rhode Island	Yes	No	Yes	11.0	Yes	A,C	$5	80–100	Varies	119.0	50.7	$80	$37.
South Carolina	Yes	No	Yes	375.5	No								
South Dakota*	Yes	No	Yes	33.9	No								
Tennessee	Yes	Yes	Yes	667.0	Yes	B,C	$0.25	50	Varies	2.0	.14	3.3	3.1.
Texas**	Yes	No	No		Yes	([12])		40	5.5	5.0	.6	.6	0.
Utah	Yes	No	Yes		No								
Vermont	Yes	No	Yes	14.8	Yes	A,B,C,	C:5 [13]	C:80				C:35	
Virginia	Yes	No	Yes	602.0	Yes	A	$0.5	100	2+	73.0	16.8	9.3	5.
Washington	Yes [14]	Yes	Yes		No								
West Virginia	Yes	No	Yes	600.0	Yes	B	No limit	30	5.5	90.0			
Wisconsin	Yes	Yes	Yes	1,224.4	No								
Wyoming**	Yes	No	Yes	75.0	Yes	A	No limit	Varies	Varies				

*Data are for 1974.

**Data are for 1975.

***Type of financing organization—A: Development Credit Corp.; B: Development Authority; C: Mortgage Insurance Agency; D: Other.

[1] Permitted only in specified municipalities.

[2] Excludes self-sustaining program.

[3] For revenue bonds only. No limit under self-sustaining portion of financing program.

[4] No limit under self-sustaining portion of revenue bond program.

[5] At local government level.

[6] Transaction may cover 40 percent of buildings, 50 percent of industrial subdivisions.

[7] Michigan Job Development Authority to be operational in 1977.

[8] Industrial development time deposits.

[9] A: New York Business Development Corp.; B: New York Job Development Authority; D: Local industrial development agencies.

[10] Participation loans, Bank of North Dakota.

[11] Industrial revenue bonds and mortgages.

[12] Texas Rural Development Act.

[13] $3,000,000 secured by land and buildings; $2,000,000 secured by equipment and machinery.

[14] Authorized for public port authorities.

Source: Conway Publications survey of the State development agencies.

Mr. BIDEN. Mr. President, what Governor Reagan fails to recognize is that a firm's location or expansion decisions are often based on factors other than tax incentives. Firms need a ready line of credit, public services, accessible transportation, a ready outlet or demand for their goods and services. These factors cannot be addressed by simply lowering the property tax rate or offering advantageous depreciation formulas.

Furthermore, it would take an army of accountants to take advantage of all of the tax incentives, exemptions, and allowances provided for in the Urban Jobs and Enterprise Zone Act that Governor Reagan supports. As research by David Birch and others have shown, it is the small- and medium-sized firms which account for most of the new jobs created in our economy.

It seems to be the impression here that only large multinationals employ people. But most new jobs are created by these smaller and medium-sized firms. These firms cannot afford to waste scarce capital by hiring batteries of accountants and tax lawyers to take advantage of the loopholes provided under these well-meaning provisions of the Urban Jobs and Enterprise Zone Act of 1980, although some of these may be desirable.

If I was disappointed in Governor Reagan's proposed urban package, I was equally disappointed by Congressman ANDERSON's proposals. Perhaps the only novel thing about the Anderson urban package is using the Federal excise revenues from tobacco and alcohol sales to finance his proposal.

Mr. ANDERSON calls for a $4 billion urban reinvestment trust fund to rebuild the leaky water mains and crumbling streets of this country's cities. I am not sure whether this would replace or be in addition to the existing community development block grant program. But the details of the Anderson proposal suggest that the urban reinvestment trust fund is really the old community development block grant program in disguise. The Anderson allocation formula is the same allocation formula used in the existing community development grant program. The urban redevelopment trust funds may be used for the same purposes as the block grants.

Cities would be required to use funds in the most severely decayed neighborhoods; they would have to adequately consult neighborhood organizations and not supplant existing local contributions for capital replacement. These provisions exist under current law, so despite the fancy new name and new source of funding, the Urban Reinvestment Trust Fund seems to be a repackaging of an old product.

Congressman ANDERSON also calls for an expanded youth employment program at a time when Congress is completing action on the President's youth employment initiatives. So there is really nothing new in this proposal either.

When one considers the Carter record, it is a record filled with significant accomplishments. Since 1977, the following urban initiatives have been proposed by the Carter administration and passed by a Democratic Congress.

He created the urban development action grant program to encourage private investment and jobs in our Nation's major cities. This program has grown to $675 million a year and has already leveraged $7 billion of private investment and created more than 200,000 jobs. This is the very thing that Congressman ANDERSON and Governor Reagan say they are keenly concerned about doing, and I commend them for it.

Carter has targeted Federal Government procurement and facility location policies toward urban centers.

That simply means that when the Federal Government spends the money it has to spend, whether it is to refurbish an aircraft carrier, or to locate a warehouse where they store the supplies for the GSA, that we have a sensible policy about where we locate Federal facilities, and that the Federal Government spend its money where it does the most good.

The Carter administration created the private sectors initiatives program to encourage industry and business to become more involved in employing disadvantaged citizens in their communities.

It created the Office of Neighborhoods, voluntary associations and consumer protection within the Department of Housing and Urban Development to encourage neighborhood activities. Things that Mr. Reagan and Mr. ANDERSON have talked so much about.

Carter has continued efforts to eliminate redlining and other discriminatory financing practices which hurt many cities today.

Big banks do not want to lend the money in the areas most troubled by urban problems.

In addition to these policies and programs which have already been enacted, the Carter administration continues to work with Congress to enact an expanded program of economic development loans and guarantees for distressed areas. The House of Representatives has passed the Youth Act of 1980 and the Senate Labor and Human Resources Committee has begun action to report youth employment legislation in the Senate. When we talk about ways of restoring our urban areas to health, I think we must recognize that the process of revitalization and rejuvenation is an ongoing process.

Certainly our cities did not decay overnight. Rather, it took decades of decline for them to reach the point where they were during the 1960's. When viewed in this context, I think the Carter record is impressive. Again, I should like to take Wilmington as a case in point. In 1968, Wilmington was wracked by the same riots that ruined so many other American cities.

Retailers and industry left the city by the dozens. Much of Wilmington's housing was dilapidated and abandoned. But in Wilmington, as in many other cities, there were a few individuals who believed the city was a living thing. In 1973, the city began its urban homesteading program—a small but critically important first step. Then the infusion of community development block grant funds allowed the city to pump capital into neighborhoods which were declining but could be saved.

Plans were made for a new downtown mall. By 1976, Wilmington was making real progress in restoring its downtown area and revitalizing several neighborhoods. However, the real renaissance of Wilmington has occurred within the last 4 or 5 years. The city received an urban development action grant to build a new hotel/convention center downtown.

The Radisson Hotel has proved to be an immense success and has attracted considerable convention business—in an area that essentially was a wasteland before.

The Department of Housing and Urban Development has made commitments to substantially rehabilitate or build new housing in the riot-torn West Center city area of Wilmington. The restoration of the grand opera house has been completed with considerable Federal assistance. The city just recently received a substantial boost when the Department of Housing and Urban Development announced a second grant for the city in order to keep the Hercules Co. in Wilmington.

Several thousand jobs are staying in the city because of that program, a program initiated by the Carter administration.

Hercules, one of the largest employers in Wilmington, was going to move its headquarters out of the city and into the suburbs until this Federal grant came through. Now the company will remain in the city and will build a large new office complex at the north end of the central business district. Plans are also underway for a renovation of the old post office building in Rodney Square, where a new high-rise office tower will house a major bank. And the list of activities goes on.

I am proud of my city. Those who have been to my city know that it truly has been revitalized. People are staying downtown to have dinner after they finish work. People are going to the opera. People my age are moving into the city. Wilmington has a good attitude about itself, as hundreds of thousands of other people have about it and other cities around the Nation. As a Delawarean, I am proud of the people of my State who believed in the city and who have worked long and hard to see Wilmington reborn.

However, I am also a realist—many of these projects were built with Federal funds. They would have never been completed without Federal financial assistance. It is because of programs like the urban development action grant program—the section 8 assisted housing program and the urban homesteading program—that Wilmington has prospered.

These programs were either created or were significantly expanded by the Carter administration—because the Carter administration has been committed to seeing cities helped. That is why I find it hard to believe Governor Reagan and Congressman ANDERSON when they say that they have a better answer to the problems of the cities. No serious student of the problems of our cities will argue that we can turn our cities around in just a few years.

No one, including this administration, suggests that merely by throwing tens of millions of dollars or billions of dollars at cities, you will cure the deep, abiding problems that exist within the cities.

At best, ANDERSON's and Reagan's ideas are simply a rehash of existing programs. On the one hand, you have Governor Reagan calling for an urban homesteading act, a program which has been in existence for a long time and with growing success. On the other hand, ANDERSON is calling for an urban reinvestment trust fund which, for all practical purposes, duplicates the community development block grant program.

Mr. President, in the final analysis, we must recognize that to have viable urban centers we must have an effective urban policy. To have an effective urban policy, I believe that we must not be afraid to commit the resources to programs which will make a demonstrable difference in our cities. That is why I have great difficulty believing that any candidate can do more for our cities than the present administration.

Mr. President, I have been a little tough on Governor Reagan and a little tough on JOHN ANDERSON here this morning. I might not have been so tough had I not heard the characterization of the Democratic platform by my colleague from Utah just a few moments before.

I realize that it is hard to run for the Presidency of the United States. I believe that someone who is not an incumbent, whether he be a Democrat, a Republican, or an Independent, is at a disadvantage vis-a-vis and incumbent because that person has not worked with the programs and the issues for the past 4 years.

However, it should not go unstated that, at least in the area of the urban policy, neither of the other candidates have offered anything substantially new. Not only has nothing new been offered, but what has been offered by both candidates is substantially in place.

I can understand that they might not be aware of that. Governor Reagan is learning about everything from SS–18 missiles to urban homesteading, and there is a great deal in between. I am not sure that if I were running for President and an aide put something in front of me and said, "Talk about the urban homesteading plan," I would have any idea that the program already existed.

The point I wish to make is that because of the mood of the Nation, because of the difficult times, the Carter administration is not getting the credit it deserves.

I have been in the Senate 8 years, and this is the first time I have come to the floor to speak in a partisan way about an issue. It is the first time I have mentioned on this floor the name of any Presidential candiate and characterized his comments. However, I could not let go unstated what seems to be the impression that there is no program in place and that what has been offered is something new and innovative.

It has not gone unnoticed by me and others that my colleagues on the Republican side of the aisle have learned to use this forum very well in the morning, particularly when they discuss the platforms of the Democratic Party.

In the interest of fairness, if one takes away all the rhetoric and leaves just the facts, we have an urban policy. UDAG exists, urban homesteading exists, the private sector initiatives exist.

I hope if, in fact, either Governor Reagan or Mr. ANDERSON is elected President that he will continue to be as supportive of those programs and the cities in the same way that President Carter has been.

Mr. President, it has been pointed out to me by two distinguished Delawareans who work in the Senate that I omitted the names of two prominent persons when discussing the revitalization of the city of Wilmington. It is true the city of Wilmington began to be revitalized under a Republican mayor named Harry Haskell. The revitalization further progressed under a Democratic mayor named Thomas Maloney and is now in full flower under the present Democratic mayor, William McLaughlin.

I apologize to Mayor Haskell who has had a long and continuing commitment to the city of Wilmington for not including his name earlier in my remarks.

I thank my colleagues for their indulgence, and I yield the floor.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond 11:30 a.m. today and that Senators may speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HON. DAVID E. SATTERFIELD III

Mr. HARRY F. BYRD, JR. Mr. President, last week the Virginia congressional delegation entertained a dinner in honor of Congressman DAVID E. SATTERFIELD III, of the Third Congressional District.

Congressman SATTERFIELD some months ago announced his voluntary retirement from Congress.

DAVE SATTERFIELD came to the House of Representative in 1965. He was elected in 1964 and took office in 1965.

During the 16-year period Congressman SATTERFIELD, in my judgment has been one of the finest, one of the ablest, and one of the most courageous Members of Congress.

I am proud to have served with him in Congress. We have worked closely together on many issues. He represents and has consistently represented the thinking of the overwhelming majority of the people of the Third Congressional District. The Third Congressional District is the Richmond area, Richmond, Henrico, and Chesterfield Counties.

Dave Satterfield, from every indication could easily have been reelected to Congress. He chose, however, to retire at the end of this session.

Dave Satterfield was elected each of the eight times as a Democrat. Yet he consistently voted independent of party lines in assessing legislation before the House of Representatives.

Dave Satterfield will be greatly missed. His judgment and his courage will be missed by his Virginia colleagues. His judgment and his courage will be missed also, I feel, by the citizens of the Third Congressional District.

As Dave Satterfield prepares to leave the Halls of Congress, I am pleased today to stand in the Senate and salute a dear friend and an outstanding Member of Congress.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NUCLEAR POWER: ITS PROMISES—ITS PROBLEMS

Mr. PROXMIRE. Mr. President, Mr. Richard Potts, of Milwaukee, has sent me a copy of the excellent Presidents' Newsletter of the Milwaukee School of Engineering. Issue 138 contains an article by Prof. Pepe Rodriguez of the Department of Architectural and Building Construction Engineering Technology entitled "Nuclear Power; Its Promises—Its Problems," which I would like to share with my colleagues.

The Milwaukee School of Engineering is a private, independent school with over 2.500 students which was founded in 1903. It grants bachelor and associate degrees in a wide variety of scientific and technical disciplines, many of which are concerned with energy production and distribution. Therefore. it should come as no surprise that the school would devote an entire issue of its newsletter to nuclear power and its alternatives.

Professor Rodriguez carefully analyzes the various sources of energy available to Americans and compares them on the basis of cost and safety. She concludes that nuclear power has an important role to play in the future.

Mr. President. I ask unanimous consent that the newsletter be printed in its entirety in the Record.

There being no objection, the newsletter was ordered to be printed in the Record, as follows:

Nuclear Power: Its Promises—Its Problems

(By Pepe Rodriguez)

Nuclear power—its advocates claim nuclear power offers the world a virtually unlimited source of nonatmospheric polluting, economical source of energy. Its opponents claim nuclear power is unsafe environmentally dangerous, and a threat to world stability. Its advocates see it as essential in the next 25 years to make the transition from gas and oil to other alternatives. Its opponents contend that conservation, with development of solar energy and other types of energy, will get us through the next 25 years.

To be sure, nuclear power has had a stormy history. Conceived in secrecy, it has been controversial since the tragic Hiroshima in 1945. Many people react irrationally to the words "nuclear" and "radiation." Because radiation is invisible, intangible, tasteless, odorless, and silent, and because it is measured in unfamiliar units (rems) that are themselves not easy for the layman to understand, many people see it as mysterious and something to avoid at all costs.

But, as a matter of fact, radiation is not mysterious. We know a good deal more about it than, say, the carcinogens in coal smoke, because we have studied it longer and more intensively. And, we can measure it with great precision and extraordinary sensitivity. For example, we can detect radiodine in milk at concentrations of ten trillionths of a curie per litre which is 1/20th of the concentration the Food and Drug Administration treats as noteworthy for precautions.

Nuclear power has its place and definitely has potential as an energy supply if we intend not only to continue our present life style but technologically to improve it. Did you know that the United States makes up 6 percent of the world's population but uses 35 percent of the world's energy?

SOURCES OF ENERGY

Nuclear power is one—but only one—source of the electric energy people need for lighting, heating and cooling, and performing work that otherwise would require exhausting labor. Any form of energy can be converted into electricity. Some forms, however, are not used because the electricity they produce would be prohibitively expensive. Let's look at a few of them:

Solar energy is manifested in several forms other than direct radiation from the sun—wind, waves, biomass, ocean thermal gradients. All are technically possible but at tremendous cost.

Wind machines are being developed which would lead to limited energy contributions in regions where suitable wind conditions exist.

Ocean wave energy is in its infancy and is being studied by the United Kingdom but requires the users to have a large coastline-to-land ratio.

Biomass (fuel conversion from special "energy crops," forestry and agricultural wastes and urban refuse) is presently being studied. However, much land area is needed for the biomass crops, and estimates for the year 2000 indicate most reasonably productive land will be needed for food production.

Ocean thermal gradient systems utilize the small temperature difference existing between the sun-warmed ocean surface and lower, cooler levels. The contribution of such systems to United States energy needs seems extremely remote.

There is also geothermal energy which is the energy of the earth's core. In the U.S., promise exists primarily in the western and gulf coast states for geothermal energy as an energy supplement. On the negative side, substantially more cooling water is required per kilowatt hour than for nuclear plants and this could present an important obstacle in much of the southwest where water is already at a premium.

Note that all of the above alternative energy sources have geographic limitations and are not yet economically feasible. Some people talk about solar power as the ultimate energy solution to everything, but the sun's most significant contribution is to space heating and water heating.

Solar heating, while technically feasible, is neither economical nor viable in all parts of the country. Cloud cover must be considered, and an optimized system would probably meet no more than 50 percent of a home's heating requirements during a typical heating season. This necessitates a backup energy supply and equipment.

Even if the solar industry captured 100 percent of the new construction space heating after 1985, this would represent only about 6½ percent of the total primary energy requirement by the year 2000. Even an unbelievably successful solar program does not obviate the need to increase our utilization of coal and nuclear energy sources.

MAJOR FEASIBLE SOURCES

These two feasible major sources of energy must be developed to provide the vast quantities of electricity needed. There are problems and advantages to each. Coal is abundant but potentially polluting and emits radiation when burned. "The Uranium People," a book by Leona M. Libbey, states that more radioactivity has come out of the fossil-fueled plants than has been emitted from all the nuclear power plants in the world.

Nuclear technology is proven but has caused some concern among the public. The problems can be solved, in both cases. A balanced electric energy production system—relying mostly on nuclear power and coal—is necessary to meet the people's needs now, and for the foreseeable future.

Today's work force is about 85 million. By the year 2000, it will be 113 million. Think of the electricity that will be needed for the jobs, housing, material goods, and services these people will need. These are not mere forecasts. Most of these people have already been born. Nuclear power and coal can meet their energy needs until new technologies are developed.

COAL FOR TWO HUNDRED YEARS

All accept the fact that oil and gas are diminishing rapidly. Coal is our other most abundant fuel with identified reserves to meet our nation's needs for approximately 200 years. Note again, however, the time limit. The impact of coal mining and burning could have an undesirable effect on public health and the environment if not done properly. Mining techniques will be costly if the countryside and wildlife are to be protected. And, although coal produces electricity more economically than gas or oil, it is more costly than nuclear power. Yet it is one of the energy sources we must develop. (1979 Wisconsin Electric Power Company cost per kilowatt hour: oil—5.1 cents; coal—1.4 cents; and nuclear—0.5 cents).

Nuclear energy is our only other acceptable alternative, economically and environmentally. We know we can produce several thousand years of energy from known uranium reserves if the government would allow us to develop breeder reactors. (A breeder reactor is one that produces as much or more fuel than it uses.)

Presently, U.S. reactors are the converter type. In other words, a less efficient reactor and one that produces more radioactive waste. France, Britain, Japan and Russia are ahead of the U.S. in nuclear technology.

America—the world's technological leader—wouldn't it be ironic to end up importing first generation technology to develop breeder reactors? I believe that, instead of criticizing our present nuclear progam, let us develop a positive attitude—encourage breeder reactor development. This also would help reduce the waste problem which has been the Achilles heel of the nuclear program.

HOW A REACTOR WORKS

Before considering health problems and waste concerns, let's look at how a reactor works. Uranium does not burn like coal or oil. Heat is produced in the reactor by splitting uranium atoms, a process called fission. A tiny particle called a neutron strikes the center or nucleus of the uranium atom, splitting it into fragments and releasing heat and more neutrons. These free neutrons then collide with and split other uranium atoms, releasing more heat and neutrons, and so on. This is called a chain reaction. From this point on the process is much the same as in a conventional fossil fuel electric plant. The heat from fission turns water into steam, the steam spins the turbine generators, and electricity is produced.

There are four primary parts in a nuclear reactor:

1. A core which houses the nuclear fuel;
2. A control system which regulates the rate of fission;
3. A water cooling system which carries heat from the core;
4. Additional cooling systems and protection barriers.

It is interesting to note that in the hullabaloo over Three Mile Island, lost is the fact that the emergency core cooling system, even with evidence of human error, did what it was supposed to do—cool down the core and prevent any melt down.

In addition, the Nuclear Regulatory Commission has recommended improved emergency core cooling systems designs and the use of additional back-up cooling systems. A nuclear power plant has so many overlapping safety features that, if for some unknown reason, a disproportionate number would fail, there would still be sufficient additional barriers to provide safety. In addition to these barriers and devices, there are several systems built into a nuclear reactor power plant to trap any potentially harmful amounts of radioactive material and prevent them from being released to the outside environment.

INHERENTLY SAFE

A nuclear reactor is inherently safe with automatic safety devices ready to shut it down at the first sign of abnormal operation. A three-year, $4 million study released by the U.S. Nuclear Regulatory Commission concluded that:

"Nuclear power reactors are about 10,000 times less likely to produce fatal radiation-related accidents than non-nuclear activities. Non-nuclear accidents involving comparable large dollar-value damage are about 1,000 times more likely than nuclear power plant accidents."

The chance that a person living in the general vicinity of a nuclear power plant will be fatally injured in a reactor accident is one in five billion per year compared with one in 4,000 for car accidents, and one in 10,000 for a fall. No member of the public has ever been harmed by a commercial nuclear power plant in the 20 plus years they have been in operation in this country. No member of the public has been exposed to radiation in excess of internationally approved standards as a result of the operation of any U.S. commercial nuclear power plant, including support activities.

Admittedly, nuclear power plants are susceptible to accidents just as any other industrial facility, but few industrial plants have been designed with the sensitivity to safety that nuclear power plants have.

WHAT ABOUT RADIATION-INDUCED CANCER?

You may be asking yourself at this point: "What about radiation-induced cancer?

The average American annually absorbs about 150 to 200 millirems of radiation due to everyday activities. The normal risk for a normal individual for developing cancer due to smoking, ingesting nitrates in bacon, ingesting saccharin, inhaling asbestos, etc., is one in 500.

So, what is a safe dose of radiation? This depends on the dose amount and the time in which it is received. If we are asking what is absolutely safe, there is no answer, because what is absolutely safe about anything we do?

What is the absolutely safe distance to travel in an automobile, in an airplane, in a wheelbarrow? What is the absolutely safe amount of bacon to eat or aspirin to take or cigarettes to smoke? There are so many risks in life, but so many arguments about radiation are presented that I call it to your attention.

WHAT DOSE OF RADIATION IS REASONABLY SAFE?

However, we may ask the question: what dose of radiation is reasonably safe? Although the International Commission on Radiological Protection has established the maximum permissible radiation dose for the whole body exposure, annually, at 500 millirems, the limit of 175 millirems per year per person for members of the general public seems reasonably safe based on an average person's exposure to background and man-made radiation. Persons can decrease their radiation exposure in various ways, by refusing to accept repetitive X-rays, by living in a tent instead of a brick, stone, or concrete residence, by avoiding high altitude cities. All of these choices would cut annual radiation absorption more significantly than by refusing to live in the vicinity of a nuclear power plant.

THREE MILE ISLAND

The average dose to any individual of the two million population residing within 50 miles of the Three Mile Island nuclear station monitored from the accident of March 28, 1979 until April 7, 1979 was about 1½ millirem. There was one individual who was identified as being 1.1 miles from the plant during the period of highest exposure and he was determined to have registered a dose of 37 millirems. The Three Mile Island accident should give us serious pause but it should not paralyze us.

NUCLEAR WASTE

New nuclear fuel is not very radioactive. It's even safe to touch directly with gloves. Fuel that has been in the reactor for a while is highly radioactive. The fission of the nuclear fuel in the reactor leaves spent fuel with some wastes with high degrees of radioactivity.

These fission products remain locked inside fuel assemblies until they can be taken to a reprocessing plant and treated. Because no commercial reprocessing plant is in operation in this country at this time, spent fuel from nuclear power plants is stored temporarily in deep water pools at plant sites. The disposal of wastes by burying them in deep salt beds is the method recommended by the National Academy of Sciences because these salt formations have not been disrupted by earthquakes for millions of years and statistically will remain geologically undisturbed for the next million years. The salt formations are also free from circulating groundwater. The radioactive waste could continue to decay, undisturbed, until it became inert.

This country was the pioneer in nuclear power. Yet today because of excessive government regulation, it takes up to 14 years to build a nuclear power plant in the U.S. while it takes only 4½ years in Europe or Japan.

The necessity to "get moving" and allocate funds for further research in all areas of nuclear power can not be overstressed. We need breeder reactors, because they can produce 50 times more energy with one pound of uranium than can be produced in the current converter reactors. Every day of power reactor operation in a non-breeder economy loses forever the neutrons that could create a rare and valuable fuel.

GENOCIDE: THE DISGRACE OF DIVISION

Mr. PROXMIRE. Mr. President, the objective of the Nazis was to create firm local loyalty in each occupied territory. Only through the recruitment of local support could the ultimate conquest of Europe be achieved. Thus, many underground groups realized that division of their forces was a great danger to their cause. While the Nazis aimed to splinter and destroy underground movements, the leaders of these movements struggled to unify.

In 1940, the Nazis drove millions of Polish Jews into walled and guarded ghettos. Knowing their plan to exterminate the Jews depended on local acquiescence, the Nazis counted on little resistance from the Polish population. But their expectations were not completely fulfilled. The major groups in the Polish labor movement declared their common view that:

> There are no degrees in slavery and there are no better or worse categories of slaves. The Polish people . . . reject with contempt the Hitlerian notion that they become a superior type of slave due to the fact that they are not enclosed in a ghetto. In the face of the savagery unleashed by the invaders, the Polish people recognize only two categories: those who submit and compromise with the oppressors, and those who oppose them.

With these words, the groups hoped to consolidate their opposition to the Nazis.

Unfortunately, a year passed and these words were not accompanied by action. At a 1941 conference of the Polish Socialist Party, a majority refused to support any active opposition to the Nazis. Immediately, the two Jewish Socialist parties withdrew their representatives from the conference. Individuals and local organizations were left to aid on their own the Jews imprisoned in the ghettos.

Despite the minimal support available from the outside, the Jews in the Warsaw ghetto prepared for a final desperate uprising. Perishing in large numbers by the fifth day of their revolt, the Jews conveyed to the Poles beyond the ghetto wall a striking message:

> This is a fight for your freedom as well as ours, for your dignity and honor, as well as ours!

Mr. President, I call attention to the efforts made by Jews and non-Jews alike to unify in opposition to the Nazis. I call attention to the Nazis' persistent exploitation of any division in the resistance. Division is also the sad state of this body. Our division has prevented a strong denouncement of inhumane policies. I urge my colleagues to unify behind the worthy cause of the Genocide Convention.

KIM DAE JUNG AND THE FUTURE OF DEMOCRACY IN SOUTH KOREA

Mr. CRANSTON. Mr. President, last week, a South Korean military court, acting at the behest of the newly instated Chun regime, sentenced to death one of the principal champions of South Korean democracy, Kim Dae Jung. The trial of Kim, on what the U.S. State Department has termed "far-fetched" charges, was a mockery of South Korean justice, involving as it did forced confessions, lack of adequate legal assistance, and a truly absurd indictment.

I wish to add my voice to the international outcry against Kim's sentence raised by other Senators on both sides of the aisle, by Members of the House, by the executive branch and by a number of foreign governments. I call upon the South Korean authorities to reverse this sentence and to set Kim free.

The sentencing of Kim and 23 fellow opposition leaders is but another in a continuing series of abuses of democracy perpetrated by the new regime of Chun Doo Hawn. These include: The government-ordered firing of more than 400 journalists from Seoul-based newspapers and broadcasting stations, the indefinite postponement of free elections, the abandonment of efforts to achieve genuine constitutional reform, and the imposition of martial law last spring.

As a friend of South Korea and a supporter of our military presence in that crucial region of the globe, I am deeply concerned about the direction of recent events in South Korea. The United States is committed to the defense of the South Korean people and to their democratic development. But we are not committed to the support of a military dictatorship in that country.

The present ruler of South Korea has already violated agreements with the United States by using South Korean forces under U.N. command to aid in his seizure of power. I believe there is a danger that continued abuse of democratic principles by the Chun regime could add to present instability in South Korea and compromise U.S. national security interests. In the absence of political stability, South Korea can only weaken U.S. security interests in East Asia. And as we have learned so painfully in other areas of the globe, political stability cannot be achieved by U.S. support for military rulers who frustrate the will of their own people for democratic reforms. Support for democratic development abroad is not simply a U.S. human rights endeavor, but a national security goal as well.

There are finite limits as to how far the United States can and will go in protesting abuse of human rights in South Korea and in seeking the commutation of Kim's sentence. I do not believe we should cut off military aid because we need to keep South Korea militarily strong to deter possible aggression from the North and to protect the 39,000 American troops now stationed there.

But we should take a hard look at the U.S. policy of underwriting hundreds and millions of dollars in new concessionary loans to the South Korean Government. South Korea presently is the U.S. Export-Import Bank's biggest customer, already owing the Bank $3.3 billion. It may become necessary to halt all Bank lending to South Korea as this lever may represent the best means of registering our concern over the course of events in Seoul and their implications for regional security without endangering the security of that nation or the American troops stationed there.

Further, I think it is critical for the U.S. position on the abuses perpetrated against Kim and other South Koreans to be made clear to the South Korean people. One of the more treacherous moves by the Chun group has been to use its absolute control over the South Korean press to tell the South Korean people that the U.S. Government is in full accord with the moves taken by the new regime. I believe the United States should combat this falsehood, both in public diplomatic protests and through the use of Korean language broadcasts over the U.S. Armed Forces Network.

Mr. President, the trial of members of the loyal democratic opposition in South Korea and the sentencing to death of Kim Dae Jung are an affront to the dignity of the South Korean people. The bonds of friendship between the peoples of our two countries and the mutual security interests of our two nations compel concerned citizens to speak out against such abuses. I join other colleagues in this body in calling upon the South Korean authorities to release Kim Dae Jung and to steer a course toward the genuine democratic reforms for which the vast majority of South Koreans hunger.

RECESS UNTIL 11:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand recessed until 11:30 a.m. today.

There being no objection, the Senate, at 11:17 a.m., recessed until 11:30 a.m.; whereupon, the Senate reassembled when called to order by the Acting President pro tempore (Mr. BOREN).

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT-INDEPENDENT AGENCIES APPROPRIATION, 1981

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now resume consideration of the pending business, H.R. 7631, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 7631) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1981, and for other purposes.

The Senate continued with consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, yesterday, we had two votes that related to revenue sharing. One was the Bellmon amendment, which eliminated Veterans' Administration programs and all entitlement programs from the 2-percent cut. The second was a vote on an amendment to exempt from the 2-percent cut, specifically, research and development programs and general revenue sharing. The latter amendment did not prevail.

It is my understanding, Mr. President, that as a result of the Bellmon amendment, if revenue sharing is reauthorized by the Senate as an entitlement program, it is not subject to the 2-percent cut or the discretion of OMB to cut up to 5 percent. Is that correct?

Mr. PROXMIRE. Mr. President, let me say to my good friend from New Jersey that that is entirely within the discretion of the Finance Committee and ultimately of the Senate. I presume they would make revenue sharing an entitlement program. If they prescribe that the payments are obligated by law, which they have every right to do, and the Senate does that, the Congress does that, that is it, that is the ball game. There is no question about it.

There is no way that this Senator, of course, or anybody else, can predict that. I would assume that is it; it has been viewed as an entitlement program. Congress might very well do that this time. If they do, as I say, that is it. There is no question that it will be exempt.

Mr. BRADLEY. So that if it is reauthorized as an entitlement program, where the funds are assured by rule of law, it would be exempt from the 2-percent cut?

Mr. PROXMIRE. That is certainly my understanding, yes, Mr. President.

Mr. BRADLEY. I thank the Senator, very much.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SCHMITT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, on behalf of Senator MATHIAS, the ranking minority member on the HUD and Independent Agencies Subcommittee of the Appropriations Committee, I will first make a short statement on the 20-percent limitation contained on page 9, lines 2 through 8, of the bill as it relates to the activities of the Department of Housing and Urban Development.

It is our understanding that the Department is concerned with this 20-percent limitation on administration costs and that currently there are certain activities that are considered to be primarily administrative under the current HUD definition of "administrative."

These activities include housing counseling, technical assistance for planning and innovative programs, and information and outreach.

Evidently, the 20-percent administrative cost limitation which now exists presents problems to local communities which are undertaking these important activities. I would, therefore, urge the Department to formally request a legislative change to modify the provision. I certainly believe that the committee would act expeditiously on such a request, if it is received.

Senator MATHIAS and I urge them to make a request to that effect.

AMENDMENT NO. 2371

(Purpose: To require that 15 percent of the amounts available for the procurement of consultant services be withheld from obligation or expenditure)

Mr. SCHMITT. Mr. President, I call up an amendment on behalf of Senator MATHIAS and myself, amendment No. 2371.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The bill clerk read as follows:

The Senator from New Mexico (Mr. SCHMITT), for Mr. MATHIAS, proposes an amendment numbered 2371:

On page 51, beginning with "Notwithstanding" in line 20, strike out through the period in line 24 and insert the following: "Of the budget authority available under this Act for each appropriation account, activity, or project for the procurement of consultant services, as determined by the Director of the Office of Management and Budget, 15 percent shall be withheld from obligation or expenditure.".

Mr. SCHMITT. Mr. President, before discussing this amendment, I should like to take the opportunity to compliment our subcommittee and committee in their efforts, through the appropriations process, to control and reduce fraud, abuse, waste, and error within the Federal agencies that come under this bill and generally within the Federal agencies dealt with during the appropriations process.

The efforts of the committee have resulted in the inclusion in the bill and committee report language measures and instructions which tighten up the planning, contracting, and reporting requirements under which these agencies live. These changes, in particular, are incorporated in sections 414 through 417 of the bill before the Senate at this time. It is our belief that these changes generally should result in better management of our tax dollars.

Section 417 of the bill, on page 51, line 20, presently states—and this is the section to which the amendment is directed:

SEC. 417. (a) Notwithstanding any other provision of this Act, the amounts otherwise available to agencies under this Act for the procurement of consultant services shall be reduced by the following amounts: HUD, $2,387,000; EPA, $11,868,000; and NASA, $14,042,000.

Mr. President, there has been considerable controversy over the actual amount of consulting work being funded by each of the three agencies mentioned above. The agencies, the Office of Management and Budget, and the Appropriations Committee investigations staff have arrived at numbers that differ greatly from each other. The differences arise mainly because of the difficulty in defining the term "consultant."

I believe that we could best accomplish the objectives of the Appropriations Committees in the reduction of the abuse of consulting activities—that objective being to cut consultant appropriations by 15 percent—if we allowed the Office of Management and Budget to review carefully the spending of each agency and determine, as they already are doing on a contract-by-contract basis, the dollar amounts being spent on such consultant contracts.

The amendment, therefore, suggests that we redraft the existing provision to permit the OMB to identify our estimates and mandate them to make the 15-percent reduction in the actual consulting fees and not those that generally have been reported and used in the drafting of the language currently in the bill.

As I understand it, the figures commonly in the bill in section 417 are derived from Commerce Business Daily. Those figures do not jibe very closely at all with the actual figures that the OMB and the agencies believe they can document as being true consulting costs.

Mr. President, I ask unanimous consent to have printed in the RECORD letters from the National Aeronautics and Space Administration and the Environmental Protection Agency, which describe their internal accounting with respect to the definition of consultants and provide the Senate with a better understanding of just what a consultant is with respect to the activities of these two Agencies.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION,
Washington, D.C., September 11, 1980.

Hon. CHARLES McC. MATHIAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MATHIAS: I want to express my concern over the reduction of $14.042 million for NASA contracts for consulting services in Section 417 of H.R. 7631 as reported by the Senate Committee on Appropriations on September 4. Such a reduction, if carried out, would have a damaging effect upon our ability to manage the Nation's civilian space program.

The data collected by the Committee staff and used to determine the $14.042 million reduction, suggests that NASA during CY 1979 spent $93.6 million on contracts for consulting services. This is incorrect. During CY 1979 NASA spent only about $4.3 million in these types of contracts, not the $93.6 million cited. We conducted a detailed review of all contractual efforts to arrive at the $4.3 million, an amount we reported to the OMB. An outline of the steps used in this review is enclosed.

Moreover, we have continually controlled and carefully managed our use of consultant services, and we share the Committee's concern over excessive and improper use of such services. Our efforts to monitor the use of consulting services have been recognized by the Office of Federal Procurement Policy (OFPP) of the Office of Management and Budget (OMB) as an example of good management. These efforts began several years ago.

In 1978 a comprehensive analysis was conducted in accordance with the OMB Bulletin 78–11. As changes to that policy have evolved through Bulletin 80–9, Circular A–120 and Bulletin 80–13, we again examined our contractual efforts. Consultant services contract data recently submitted to the OMB and to the Staff Director of the House Subcommittee on Space Science and Applications were developed in a most careful manner to assure accuracy.

Here, briefly is a recap of the procedure followed, identifying the data bases used: We are required to submit data on our contracts to the OMB's Federal Procurement Data Center (FPDC) using the coding structure prescribed in the Federal Procurement Data System (FPDS). A listing of contracts reported to the FPDC as contracts for consulting services was extracted from the FPDC data bank. This listing was then verified against NASA's own internal files. Concurrently, our field centers were directed to review their contracts and verify that the data submitted to the FPDC were accurate and in accord with the OMB definition of consulting services. The centers then supplied their verified listings to my headquarters staff for a further check against the records in the agency files.

An additional check of contract descriptions was made to ascertain if any contract not reported as a consultant service, might possibly be interpreted as belonging in this category. For any contract so identified, a detailed check of the contract file was made to assure proper coding. The result of this careful review was the identification of approximately $4.3 million in contracts for consulting services. After the issuance of OMB Circular A–120 a further check was made and the only change to the previous data was to add $50 thousand for consultant services at the Jet Propulsion Laboratory. The net total of $4.3 million with a 15 percent reduction of $650 thousand was reported to and apparently agreed with by the OMB.

In my opinion, the use of data contained in the Commerce Business Daily (CBD) is not valid for ascertaining the amount of consultant services obtained by NASA. First, in our discussions with personnel at the CBD, we were informed that they feel that such use was not appropriate because the CBD is intended only to supply information to the public relative to pending opportunities to sell to the Government and to announce awards and contracts made. The CBD coding structure has been used for nearly 30 years and their customers are familiar with their application of codes.

Thus, the CBD staff changes codes submitted by an agency whenever, in their judgment, it is necessary to achieve clarify for their customers by maintaining consistency with past practices. Second, there are some areas of confusion relative to the coding structure. The codes prescribed by the CBD are not defined beyond the title. Explanations as to what is specifically meant by the codes do not exist. Additionally, the CBD codes are not compatible with the FPDS codes.

Third and most important, the CBD often publishes contract data with category codes different from those we submit. NASA has no control over this practice. For example we have reexamined all of NASA's contractual actions reported in the CBD in 1979 as Expert and Consultant Services. I am enclosing a list of twelve NASA contracts reported in the CBD during 1979 under their Section H entitled: "Expert and Consultant Services." These twelve contracts total $58.9 million or

63 percent of the $93.6 million identified in the committee's report. All of these contracts were submitted to the CBD in categories other than expert and consultant services. All were reclassified by the CBD staff. The files on each of these contracts have been re-reviewed and none are for consulting services.

I am deeply concerned over the reduction of funds in the bill as reported. I believe it is based on invalid data, and request that you exert whatever effort is necessary to correct this action. Since a reduction of 15 percent in funds for consulting services is already being imposed by the OMB, I do not believe that a further reduction is required. However, if in the judgment of the Congress, this reduction must be legislatively imposed, then it properly should be applied to those values contained in correct data, the data submitted to the OMB.

Very truly yours,

ROBERT A. FROSCH,
Administrator.

Steps Taken by NASA to Comply With OMB Bulletin 80-9: Reduction in the Use of Consulting Services, Dated April 14, 1980

Reviewed contracts listed as consultants services in OMB's Federal procurement Data Center (FPDC) data bank.

Centers directed to review their total contracts:

Verify accuracy of coding of data provided to FPDC.

Provide verified listing of consultant contracts to Headquarters.

Data from centers and from FPDC reviewed against NASA contract data bank.

Reviewed contract descriptions against OMB definitions.

For any contract for which description might be interpreted as consultant services—contract file was checked to assure correct coding.

This careful review resulted in identification of $4,283K (plus 600K for personnel appointments) for FY 1981.

After issuance of OMB Circular A-120, which added ". . . any contract task for consulting tasks given to a federally funded Research and Development Center." (JPL for NASA).

FY 1981 estimate revised to $4,333K (plus 600K for personnel appointments) reported to OMB on September 5, 1980.

OMB has had these data and apparently agrees with them.

All tasks in force on the JPL contract as of July 28, 1980 were reviewed.

Two of those from NASA (as opposed to those from other agencies) were for services (about $50K for FY 1980).

FY 1981 estimated to be the same.

Staff of House Subcommittee on Space Science and Applications (Darrell Branscome) apprised of the $4,283K FY 1981 estimate on July 21, 1980.

1979 CONTRACTS CLASSIFIED AS EXPERT AND CONSULTANT SERVICES (CODE II) IN COMMERCE BUSINESS DAILY

CBD date	Contract No.	Value (thousands)	Description	Coding submitted by procuring office [1]
June 14, 1979	NAS10-9130	$12,738	Communications and instrumentation	N
June 29, 1979	NAS10-8993	2,555	Component refurbishment and chemical analysis	X
June 4, 1979	NAS1-14824	2,494	National transonic facility fixed contraction test and model support services fixed-price supply contract.	Z/99
July 16, 1979	NAS5-25537:	2,005	Systems launch services	A
Sept. 21, 1979	NAS13-50	6,867	Technical support (NSTL)	S
Oct. 9, 1979	NAS8-32000	4,800	Checkout refurbishment for Shuttle operations flights	99
Oct. 19, 1979	NAS9-15955	1,300	Engineering support	R
Oct. 22, 1979	NAS2-9741	7,578	Scientific and technical support of simulation computer facilities	X
Jan. 16, 1979	NAS8-32000	3,600	Support of solid rocket booster assembly flight 7-27	99
Jan. 24, 1979	NAS9-14522	5,653	Safety and reliability and quality engineering support	X
May 9, 1979	NAS10-8965	1,401	Standards and calibration support	N
Oct. 24, 1979	NAS8-31640 [2]	7,942	Computational support	X
Total		58,933		

[1] Codes explained on next page. [2] Contract number not shown.

Explanation of Codes Used in Classifying Contract Awards in the Commerce Business Daily

Code and type of effort:

A—Experimental, Development Test & Research Work.

N—Installation of Equipment.

R—Architect and Engineer Service.

S—Housekeeping Services.

X—Miscellaneous.

Z—Maintenance and Repair of Real Property.

99—Miscellaneous Supply Equipment and Material.

U.S. ENVIRONMENTAL
PROTECTION AGENCY,
Washington, D.C., September 18, 1980.

Senator CHARLES MCC. MATHIAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MATHIAS: I wish to express my deep concern over the reduction to the Environmental Protection Agency's FY 1981 budget based on an erroneous assumption of the Agency's consulting services contract base.

My staff has reviewed the information used by the Senate Investigative Staff and feel it is critically deficient in two primary ways:

The information base—Section H of the Commerce Business Daily—includes a multitude of contracts which have nothing to do with any definition of consultant services. Listed in that section are contracts for technical analysis of effluent limitations specifically required by law as well as maintenance and operation of Automatic Data Processing systems for the Agency. Other contracts involve auditing of grants and contracts as well as enforcement compliance monitoring. Certainly these are not the type of contracts the Senate wants to eliminate.

Furthermore, we have provided to the Office of Management and Budget specific numbers for consultant services of $13M based on their guidance provided to all Agencies. That process was an iterative one in which OMB required us to treble our estimates by requiring us to use a much broader definition of consulting than we had originally used. They then scrutinized our estimates carefully. If a reduction in consultant services is made in FY 1981, the reduction should be made on the basis of analytical work more involved than adding up amounts in a publication which have very little relationship to consulting services.

I cannot emphasize enough the fact that a reduction of the magnitude envisioned based on these erroneous numbers extracted from the Commerce Business Daily will decrease our ability to implement our statutory responsibilities. Finally, I would like to give you some basic reasons why this Agency must continue to utilize contracts of all types to implement its statutory responsibilities.

We often find it difficult to hire people with some skills because government salary schedules are too low (e.g., certain science and engineering specialities);

Changing needs, particularly in EPA where the regulatory approaches mandated by the Congress change from year to year, require more flexibility (i.e., if EPA hires a foundry expert for regulation now, the expert many encumber a position needed for chemicals regulation in a few months);

The use of contractors provides access to highly specialized outstanding expertise for short periods of time. It would be impossible and uneconomical to maintain diverse and infrequently utilized special capabilities on the Federal payroll in order to carry out either statutory or organization and policy requirements.

We will continue to rely upon contractors as well as Federal personnel to ensure we have a balanced and flexible response capability. An example would be contracting for toxicologists or other scientific work at sites such as Love Canal where our need is for relatively short term expertise.

If reductions are made to our consulting base in addition to the $4.5M reduction to the Salaries and Expense Account, the Senate should use the OMB base of $13M.

Sincerely yours,

DOUGLAS M. COSTLE.

Mr. SCHMITT. Mr. President, we have no specfic information as yet from the Department of Housing and Urban Development. However, it is our understanding that they also have some difficulties with this figure, although not to the magnitude of these two R. & D. agencies.

There have been allegations of gross underreporting of consultants' costs by the various agencies, and I am sure that the other Members of this body would join me in directing the OMB to review its data in order to correct the situation before applying the 15-percent reduction.

It may very well be that the estimates of the agencies are flawed, although the discrepancy is so great and my own personal experience in the agencies is such that I cannot in any way see how the higher figures reported in Commerce Business Daily and used to draft the present section 417 of the bill can hold up under objective and close scrutiny.

Mr. President, Senator MATHIAS, I, and others obviously are concerned about this and are concerned about the effect that an excessive and ill-conceived cut in these kinds of funds could have on the ongoing and future programs of the agencies concerned with this amendment.

Mr. President, it is my understanding that other Senators wish to speak on this matter, and at this point I yield the floor.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. SCHMITT. I am happy to yield to the Senator.

Mr. PROXMIRE. Mr. President, I want to make sure that we understand what this amendment does, in the first place.

The bill contains a substantial reduction in consultant spending. That reduction totals about $28.3 million and amounts to about 15 percent of what the agencies, themselves, said they spent on consultants during 1979.

The amendment offered on behalf of the Senator from Maryland by the Senator from New Mexico says:

> Of the budget authority available under this act for each appropriation account, activity, or project for the procurement of consultant services, as determined by the Director of the Office of Management and Budget, 15 percent shall be withheld.

It is my understanding that the amendment the Senator from New Mexico is discussing would only reduce the consultants' fees by about $7 million or so, instead of the $28 million in the bill. Is that right?

Mr. SCHMITT. Obviously, we would not have referred this to the OMB if we knew the exact number. The problem has been, of course, controversy in the definition of what is a consultant and what is not.

The Senator, as I am aware, would much prefer to be precise in the law and have the Senate and Congress say exactly what they mean. But that is not apparently possible in the timeframe available to us. We do not know exactly what the reduction would be. However, it obviously would be less than that contained in the bill at the present time.

Mr. PROXMIRE. Would it be fair to make a statement that the reduction would be in the neighborhood of $7 million, the difference would be perhaps $20 million?

Mr. SCHMITT. I wish I could satisfy the Senator. The problem, of course, is that there is great disagreement in the definition of the term "consultant" and the amounts being expended. That is one reason why we have inserted into the RECORD the statements of NASA and EPA.

NASA, if the Senator will bear with me, believes that their expenditures for consulting types of contracts were only $4.3 million in calendar year 1979. That has been verified by OMB.

The committee's investigative staff suggested that NASA's expenditures for these kinds of contracts were $93.6 million and all I can do is say that is the level of disagreement, and I tend to think that the committee's investigative staff, I am sure with all good intentions, has gone way beyond the normal definition of a consultant in an R. & D. endeavor such as EPA or NASA.

Mr. PROXMIRE. The difficulty is that it is very hard for Senators to decide how to vote on an amendment when they do not know what the amendment is. They do not know whether the amount is $7 million that the Senator from Maryland would take out and, thus restore about $21 million to the bill, or whether it would be $15 million or whether it would be $20 million. I think that how Senators would vote might at least to some extent be dependent on what their estimate of the amount of money involved is.

This is an appropriation bill and unfortunately we have to make up our mind at least in part on the basis of the savings involved.

As I understand it, the Senator from New Mexico is saying that the difference really is because of the difference in definition between what the Office of Management and Budget determines and what the committee investigative staff found.

The committee investigative staff relied on what the agencies themselves had reported, based on the total amount of consultant spending as reported by each agency in Commerce Business Daily during calendar 1979. The agencies themselves reported the amount they spent on consultant contracts.

So it is not just an arbitrary figure that a staff man took out of the air because he did not like consultants. It is a figure that the agencies themselves reported when they told Commerce Business Daily what their consultant fees were.

Mr. SCHMITT. Mr. President, if the Senator will yield, that is not quite accurate. What the agencies gave to Commerce Business Daily, which the investigative staff for some reason based their conclusions on, were changed by Commerce Business Daily and were reclassified as consultants. For example, the types of activities NASA reported which were changed by Commerce Business Daily to consultants are experimental development testing and research work, installation of equipment, architects' and engineers' services, housekeeping services, a variety of miscellaneous categories such as maintenance and repair of real property, miscellaneous supplies, equipment, and material. NASA's definitions that were given to Commerce Business Daily were not defined as consultant and are not in fact consultant activities. It was Commerce Business Daily that redefined them and the investigative staff unfortunately took that redefinition uncritically.

I have had other run ins with the investigative staff of the Appropriations Committee, and I know that they are sincere and trying to do a job, but they have been uncritical about some of the things that they pulled out of the literature on this and other items. It certainly should not be the Appropriations Committee's place or the Senate's place to take an investigative staff's recommendations uncritically if they do have a record of changing the facts as they have been reported by the mission agencies.

Mr. PROXMIRE. May I respond that this is the amendment of the chairman of the committee, Chairman MAGNUSON. This is his amendment that is placed in the bill, and as the Senator knows, he is a very careful Senator and a very responsible Senator. He based this estimate not only on an investigation by his staff but also by an inquiry of the Department of Commerce.

I have a letter, dated September 18, to the chairman of the committee, signed by Mr. J. Raymond DePaulo, Deputy Assistant Secretary, U.S. Commercial Service, and I will read part of that:

> As stated in every issue of the CBD, the U.S. Department of Commerce is responsible for compilation and editing only. In regard to categorization, that is, properly identifying the goods or service to be acquired under any one of the 97 categories on which the CBD is based, the Federal Procurement Regulations for the civilian agencies, and the Defense Acquisitions Regulations for the Defense agencies, clearly lay that responsibility on the agencies concerned as an intrinsic part of the substantive content of the synopsis.

What they did is they secured the figures from the agencies that have the responsibility. They simply requested the agencies to give them the figures, and they reported those figures. The letter goes on to say:

> It is a fact that the Editorial Office of the CBD finds it necessary to change agency category designations due to obvious contradictions in the text or, in the case of omissions, to designate them, possibly 30–40 times per day out of about 1,000 submissions. We presently have no estimate of the number of necessary changes by agency or particular categories as "H". Expert and Consultant. Generally speaking we check with agencies when time permits. It is also true that our records reflect no history of agency complaints in this area.

In other words, they not only confirmed that the figures that they received were from the agencies, they confirmed the particular category. They say that they checked them several times a day. They stay on top of them as precisely as they can, and it would seem to me that, whereas the President's arm of the budget, the Office of Management and Budget, is a very fine agency, run by an outstanding man in Mr. McIntyre, there certainly is no reason why the Commerce Department should exaggerate or overstate the amount of money going for consultants. They would be the agency, it seems to me, that has the authority, the expertise, the responsibility and the competence to determine what these figures are, and this was their conclusion.

Mr. STEVENSON. Mr. President, will the Senator yield?

Mr. SCHMITT. Mr. President, if the Senator will yield for just a minute, I will then yield to the Senator from Illinois, but by their definition they could include bananas, and they come under consultants, to paraphrase our friend Alfred Kahn. Some of the bananas they have included in Commerce Business Daily, and apparently the Commerce Department has included under expert and consultant services a specific category labeled H, are computer output, microfilm, the keypunching, verifying cards. It is a hodgepodge, a bunch of bananas and apples and oranges, and what we have to get to and what the investigative staff did not get to is just what is consulting. What is actually happening within these agencies with respect to consulting? And let us cut 15 percent from that.

But if you start to put all of the various fruits under this, then we are going to have a major problem in these agencies in terms of carrying out their appropriate activities.

I yield now to the Senator from Illinois for his comment.

Mr. STEVENSON. Mr. President, I thank the Senator for yielding.

This is a question that might be better directed to the distinguished Senator from Wisconsin.

I think I heard him on several occasions refer to a committee staff investigation which resulted in the figures for consulting services. Was there such an investigation? If so, could we see it?

(Mr. EXON assumed the chair.)

Mr. PROXMIRE. Well, may I say to my good friend from Illinois there was an investigation conducted in behalf of the chairman of the committee, Senator MAGNUSON. It was his amendment. The investigation was based on the information they received from Commerce Business Daily, and I have cited the letter that confirmed their position.

Mr. STEVENSON. Well, that confirms my impression, which is that there was no investigation, there has been no analysis by the staff and, in fact, just a blind reliance by the staff on these Commerce Business Daily figures.

With respect to the Commerce Business Daily figures, it is my understanding that they shift and change almost daily. This is procedure which has been going on for years, and everybody has over the years realized that they include many nonconsulting services.

The reference to consulting services is to a word of art. It is not a descriptive phrase.

Mr. PROXMIRE. If I could say to my good friend from Illinois, my problem is, as I say, this was an amendment which my good friend and our good friend from Washington, the chairman of the Appropriations Committee, offered.

Our expert, in my judgment, in this area is the Senator from Arkansas (Mr. PRYOR), who has done a great deal of work on this, and I think he is in a far better position than I am to respond to the Senator from Illinois.

Mr. STEVENSON. I would be happy to get clarification from anyone. But first let me say that as a member of the authorizing committee for one of the agencies involved, there are others who have some familiarity with some of these figures, too, and in the case of NASA, they have been gone into in great depth during the authorization process and, more recently, since the Appropriations Committee took this action. I do not know to what extent the experience with NASA is typical of the experience of other agencies, but in this case we, in cooperation with NASA, did investigate. We do have an investigation, and that investigation has identified relative to the total of $93.6 million in contracts that were classified by the Commerce Business Daily as consultant services, a tabulation of 12 contracts comprising $59 million of the $93.6 million which can by no stretch of the imagination be called contracts for consultant services.

It is ironic to me that the Congress year after year, at least since the mid and early seventies, has insisted that more and more work be contracted out by agencies, and now that they are doing it we, in effect, are telling them they cannot do it.

There are included among the proscribed consultant services contracts a wide variety of services which, in the case of NASA, have nothing to do with consultants and everything to do with the support of the civil space program, including the development and production of the Space Shuttle.

The distinguished Senator from Wisconsin said we ought to know what we are doing. Well, I quite agree. One of the things that we are doing without knowing it is to dismantle the civil space program.

If that is what Congress wants to do, that is one thing. But that is not what it is intending to do in this case with an across-the-board 2-percent cut, and by voting against efforts to protect R. & D., and yet that is the unintended effect or certainly could be of these actions.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. STEVENSON. First, I ask unanimous consent that this tabulation of 12 contracts totaling almost $59 million of the $93.6 million in so-called contracts for consultant services for NASA be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

1979 CONTRACTS CLASSIFIED AS EXPERT AND CONSULTANT SERVICES (CODE H) IN COMMERCE BUSINESS DAILY

Contract No., description, and code designated by NASA:

NAS10-9130—Maintain and operate communications equipment and instrumentation for shuttle launch equipment and for other Kennedy Space Center equipment, N.

NAS10-8993—Clean, repair, and refurbish Shuttle launch components such as valves, X.

NAS1-14824—Fabrication of test model support section for use in the national transonic facility, Z/99.

NAS5-25537—Contract with Rockwell to support Rockwell built engine during test and prelaunch activities, A.

NAS13-50—Support services including instruction calibration, data management, systems engineering analysis in support of shuttle testing program and earth resources laboratory, S.

NAS8-32000—Space shuttle solid rocket booster assembly, checkout, refurbishment and launch operations, 99.

NAS9-15955—Facility engineering support, equipment design, and systems engineering at the Johnson Space Center, R.

NAS2-9741—Computer operations and software support for simulation computer facility used for aeronautical research, X.

NAS8-3200—Space Shuttle solid rocket booster assembly, checkout, refurbishment and launch operations, 99.

NAS9-14522—Safety, reliability and quality assurance analyses and data management for assessment of spacecraft flight readiness, X.

NAS10-8965—Calibrate test equipment and instrumentation for shuttle launch equipment, N.

NAS8-31640—Operation and maintenance of Huntsville computer complex, X.

Total dollar value of above—$58,933,000.

EXPLANATION OF CODES

Code and type of effort:

A—Experimental, Development Test & Research Work.

N—Installation of Equipment.

R—Architect & Engineer Service.

S—Housekeeping Services.

X—Miscellaneous.

Z—Maintenance and Repair of Real Property.

99—Miscellaneous Supply Equipment and Material.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. STEVENSON. Finally, let me just point out, as I already have by implication, that in this case at least it is possible to be very precise about the effect of this amendment. I think the unintended effect of the committee is to classify $93.6 million in consultant service contracts, of which very few, if any, have anything to do with consultant services, and that the effect of the amendment would be to restore all but about $645,000 worth of contracts for services that would otherwise be cut.

The total amount that would be cut in the NASA contracts for such services by the bill as it now stands is about $14 million, a little over $14 million, as I recall.

The effect of this amendment would be to restore all but $645,000 of those contracts.

The amendment would have the effect of doing what the committee intended to do, namely, hit the contracts for consultants.

Therefore, I hope the Senate approves the amendment, carries out the intent of the committee, and does not take any more liberties with a budget, the budget for NASA, which is the one with which I am most familiar, which has already been cut very severely, and with dangerous implications not only for the civil space program but for the defense and intelligence missions that must be conducted through the space program, including the Space Shuttle.

Mr. SCHMITT. Mr. President, will the Senator yield for a brief addition?

Mr. STEVENSON. Yes, of course.

Mr. SCHMITT. I think this would be the appropriate place to provide equivalent information from an investigation of the Environmental Protection Agency and their consulting services where they have been able to identify about $13 million worth of consulting activities as defined by categories determined by OMB and have been able to point out what appears to be $25 million to $30 million of activities that had been classified in Commerce Business Daily as consulting activities, which clearly are not.

I ask unanimous consent that the analysis provided to the Appropriations Subcommittee be printed in the RECORD in order to be consistent with the material that the Senator from Illinois has included relative to NASA. I ask unanimous consent that that be done.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Draft]

EPA CONSULTING SERVICES ANALYSIS

EPA's submission to OMB of projected FY 1981 consulting service requirements was derived by extracting contracts from categories determined by OMB:

Operations Research Services	$12,913
Program Evaluation Services	578,213
Program Management and Support Services	25,500
Cost Benefit Analysis	2,740,529
Economic Studies and Analysis	3,393,933
Other Management Services	1,476,105
Consultant Personnel Appointments	2,890,000
Total Consultant Services (with OMB reduction of 15 percent included)	11,117,193

Upon review of the contracts within these categories, EPA determined that only about $1,770,000 actually are consultant services (i.e., of a purely advisory nature). The OMB guidelines tend to include all economic and cost benefit analyses, even those related to development of regulatory standards. The Senate Subcommittee and Committee explicitly decided not to reduce economic, statistical, or energy contracts in the Program Evaluation area. EPA would not apply any reduction to these contracts under any definition.

However, if there is to be an across-the-board reduction, it should be determined from the OMB-based numbers ($11M) rather than the consulting services totals generated by using the Commerce Business Daily. The Daily's numbers are highly unreliable since the categorization is extremely subjective, includes some repetitive listings and includes EPA contracts that have nothing to do with anyone's definition of waste, fraud, or abuse in government contracting.

The attachment provides a significant sample of all EPA listings in the Daily from July 1, 1979 to June 30, 1980. It indicates the types of contracts improperly miscoded into the Commerce Business Daily's Category H—"Expert and Consultant Services".

It should also be noted that for EPA, the Senate Subcommittee already reduced the OMB-generated list by —$4.5M or 41 percent.

EXAMPLES OF EPA CONTRACTS WHICH COMMERCE BUSINESS DAILY LISTED AS EXPERT CONSULTANT SERVICES

ATTACHMENT 2

ADP services (i.e., Maintenance, operation, software development, etc.)	$2,584,420
Auditing services (i.e., Auditing of grants and contracts)	5,229,826
Enforcement proceedings and compliance monitoring	2,062,083
Technical Analysis of effluent limitations for specific industries	6,839,826
Scientific and technical efforts:	
Completion of EPA index to pesticides chemicals	3,309,163
Technical support for oil and hazardous material spill prevention and emergency response program	4,517,919
Technical analysis to determine the presence and effects of toxic pollutants in publicly owned treatment plants	1,437,077
Consolidation, review and assessment of scientific data in support of pesticide evaluations	5,816,493
Evaluation and review of environmental exposure data on pesticides and regulatory recommendations resulting therefrom	1,147,976
Review and evaluation of histopathological and toxicological results of testing	1,175,932
Selected annotated bibliography of chemical and chemical substances that have potential environmental and health hazards	365,887
Production, consumption and environmental distribution of selected toxic pollutants	557,498
Economic analysis of Toxic Substances Control Act regulations	357,670
Identify and compile a list of current commercial chemicals in U.S	609,857
Limnological studies of the nearshore zone of Lake Erie	455,488
Ohio River Basin study—quality assurance and technical support	438,998
Operating and design manuals for hazardous waste treatment and storage facilities	280,799
Economic analysis of Toxic Substances Control Act, section 6	303,639
Analysis to measure the volatile and semivolatile components from appendix A through GC/MS	834,539
Use analysis of pesticides as a component of benefit analysis in support of rebuttal presumptions against registration	1,100,038
Analysis to measure priority organic pollutants in industrial waste water samples	665,560
Assessment of publicly owned treatment works secondary treatment marine discharge	2,401,589

Mr. SCHMITT. This is, I would say, also not a complete list. It is a beginning of a list that covers about a third of the so-called consulting services that Commerce Business Daily reported, and was the basis of the so-called investigation by the committee staff.

Mr. STEVENSON. Mr. President, if the Senator will yeld further——

Mr. SCHMITT. I would be happy to yield.

Mr. STEVENSON (continuing). I now understand that the 12 contracts of NASA in the tabulation which I have just entered into the RECORD totaling a value of $59 million were reclassified as consultant services by the Commerce Business Daily. In other words, they are acknowledged not to be contracts for consultant services.

Mr. President, I ask unanimous consent that a statement by the chairman of the Commerce Committee, Senator CANNON, be printed in the RECORD at this point in support of this amendment as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. I thank the Senator for yielding.

● Mr. CANNON. Mr. President, I have read the committee's report and I have a letter discussing this matter from Dr. Frosch, the adminstrator of NASA. Dr. Frosch says that NASA spent $4.3 million in fiscal year 1979 for the procurement of consultant services. The committee's report says $93.6 million was spent—a very large discrepancy.

The committee believes the major reason for this vast discrepancy is the "narrowness of the definition of consulting services in OMB circular A–120," which, according to the committee's report, states that "consultant services are those services of a purely advisory nature relating to the governmental functions of agency administration and management and agency program management."

I see nothing wrong with that definition. To consult means to seek the advice of another, and a consultant is one who gives professional advice or services.

The committee's report offers no alternative definition of consulting services. It relies solely on the Commerce Business Daily listing under a category that even the Commerce Business Daily personnel say is not appropriate for ascertaining the amount of consultant services obtained by NASA.

NASA has conscientiously examined its procurement of consultant services. NASA has continually controlled and carefully managed its use of consultant services. Indeed NASA's efforts in this area have been recognized by the Office of Federal Procurement Policy as an example of good management.

Dr. Frosch in his letter states clearly that the reduction proposed by the committee would have a damaging effect on NASA's ability to manage the Nation's aeronautical and space program—a program vital to our national security and economic interests.

I hope that does not happen.

Mr. President, I applaud the distinguished Senator from Washington for his efforts to control and reduce waste in the departments and agencies of the Federal Government. But with respect to NASA's procurement of consultant services, there is a vast discrepancy in the numbers submitted by the Committee and those we have gotten from NASA. It seems clear that the discrepancy has arisen from a difference in defining the term "consultant." Therefore, I must support the suggestion of the Senator from Maryland that section 417 of the bill be redrafted to permit the Office of Management and Budget to refine the estimates on the procurement of consultant services and then mandate them to make a 15-percent reduction.

Mr. President, I ask that Dr. Frosch's letter to me on this matter be printed at this point in the RECORD.

The letter follows:

NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION,
Washington, D.C., September 16, 1980.

Hon. HOWARD W. CANNON,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I want to express my concern over the reduction of $14.042 million for NASA contracts for consulting services in Section 417 of H.R. 7631 as reported by the Senate Committee on Appropriations on September 4. Such a reduction, if carried out, would have a damaging effect upon our ability to manage the Nation's civilian space program.

The data collected by the Committee staff and used to determine the $14.042 million reduction, suggests that NASA during CY 1979 spent $93.6 million on contracts for consulting services. This is incorrect. During CY 1979 NASA spent only about $4.3 million in these types of contracts, not the $93.6 million cited. We conducted a detailed review of all contractual efforts to arrive at the $4.3 million, an amount we reported to the OMB.

Moreover, we have continually controlled and carefully managed our use of consultant services, and we share the Committee's concern over excessive and improper use of such services. Our efforts to monitor the use of consulting services have been recognized by the Office of Federal Procurement Policy (OFPP) of the Office of Management and Budget (OMB) as an example of good management. These efforts began several years ago.

In 1978 a comprehensive analysis was conducted in accordance with the OMB Bulletin 78–11. As changes to that policy have evolved through Bulletin 80–9, Circular A–120 and Bulletin 80–13, we again examined our contractual efforts. Consultant services contract data recently submitted to the OMB and to the Staff Director of the House Subcommittee on Space Science and Applications were developed in a most careful manner to assure accuracy.

Here, briefly is a recap of the procedure followed, identifying the data bases used: We are required to submit data on our contracts to the OMB's Federal Procurement Data Center (FPDC) using the coding structure prescribed in the Federal Procurement Data System (FPDS). A listing of contracts reported to the FPDC as contracts for consulting services was extracted from the FPDC data bank. This listing was then verified against NASA's own internal files. Concurrently, our field centers were directed to review their contracts and verify that the data submitted to the FPDC were accurate and in accord with the OMB definition of consulting services. The centers then supplied their verified listings to my headquarters staff for a further check against the records in the agency files. An additional check of contract descriptions was made to ascertain if any contract not reported as a consultant service, might possibly be interpreted as belonging in this category. For any contract so identified, a detailed check of the contract file was made to assure proper coding. The result of this careful review was the identification of approximately $4.3 million in contracts for consulting services. After the issuance of OMB Circular A–120 a further check was made and the only change to the previous data was to add $50 thousand for consultant services at the Jet Propulsion Laboratory. The net total of $4.3 million with a 15 percent reduction of $650 thousand was reported to and apparently agreed with by the OMB.

In my opinion, the use of data contained in the Commerce Business Daily (CBD) is not valid for ascertaining the amount of consultant services obtained by NASA. First, in our discussions with personnel at the CBD, we were informed that they feel that such use was not appropriate because the CBD is intended only to supply information to the public relative to pending opportunities to sell to the Government and to announce awards and contracts made. The CBD coding structure has been used for nearly 30 years and their customers are familiar with their application of codes. Thus, the CBD staff changes codes submitted by an agency whenever, in their judgment, it is necessary to achieve clarity for their customers by maintaining consistency with past practices. Second, there are some areas of confusion relative to the coding structure. The codes prescribed by the CBD are not defined beyond the title. Explanations as to what is specifically meant by the codes do not exist. Additionally, the CBD codes are not compatible with the FPDS codes. Third and most important, the CBD often publishes contract data with category codes different from those we submit. NASA has no control over this practice.

I am deeply concerned over the reduction of funds in the bill as reported. I believe it is based on invalid data, and request that you exert whatever effort is necessary to correct this action. Since a reduction of 15 percent in funds for consulting services is already being imposed by the OMB, I do not believe that a further reduction is required. However, if in the judgment of the Congress, this reduction must be legislatively imposed, then it properly should be applied to those values contained in correct data, the data submitted to the OMB.

Very truly yours,

ROBERT A. FROSCH,
Administrator.●

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I would like to respond just for a few moments to some of the statements made on the floor. I do this at the request of Senator MAGNUSON, the very distinguished chairman of the Appropriations Committee, who could not be in the Chamber at this time.

I do not have a detailed knowledge of what the Appropriations Committee has done as to the specific dollars-and-cents amendment that is before the Senate at this time, but I would like to make some general observations, if I might, as a result of some of the work that our subcommittee of the Governmental Affairs Committee has done in the past year with regard to contracting out of services that I have contended should be performed within the Federal Government and, more specifically, about some of the services that are performed by so-called consultants.

I would like to be the first to admit to my very good friends the Senator from New Mexico and the Senator from Illinois, that we do not have today what I consider to be a good definition of what a consultant is.

When I started out this series of hearings about a year ago in our subcommittee, I said then that this is going to be like nailing jello to the wall; this subject is going to be like fighting a bear with a switch, and made other comments to try to describe the complexity of this subject.

I do appreciate my friend from Wisconsin, Senator PROXMIRE, stating that I had some knowledge in this area. I really do not have much knowledge in this area. In fact, I do not think that anyone today in the Federal Government knows much about consultants and how consultant contracts are given out and exactly what they do.

In fact, the GAO stated several times that 37 percent of the consulting contract reports that are done are not even used.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. PRYOR. Mr. President, I am happy to yield.

Mr. PROXMIRE. Mr. President, I might say that in the land of the blind, the one-eyed man is king. The Senator from Arkansas has held these hearings. He sat patiently for a year and, undoubtedly, knows more about the consulting business than anybody in this Chamber right now or anybody in the Senate. The Senator is a man of intelligence, integrity, and honesty, and I think he can enlighten us.

Mr. PRYOR. Mr. President, I say to my friend, the Senator from Wisconsin, that he is very nice to say those things.

As the Senator was talking about eyesight, if I have learned anything about this issue—I might just say that down in our home State of Arkansas, we have a saying that even the blind hog picks up an acorn once in a while. Maybe if I have picked up an acorn on this issue, it has been by mistake.

Let us just look a moment and see what the General Accounting Office has stated about the Office of Management and Budget and how they have dealt with the issue of consultants.

This is the June 5, 1980 report. I would like to quote from this report, Mr. President.

> During the past 20 years, Federal agencies have failed to make satisfactory progress to improve their management of consulting services. During this period, GAO has issued over 30 audit reports identifying the need for practically every major Federal agency to better manage the services. Many of the same problems that existed as far back as 1961 still exist today.

Still quoting from the GAO report:

> Although executive branch agencies reported $278 million in consulting service contracts during fiscal year 1979, actual expenditures could approximate $2 billion.

In fact, Mr. President, the Washington Post did a series of articles a few months back. I thought it was an excellent series. They may have overstated the issue a little bit when they stated the Federal Government today was spending as much as $9 billion for consulting services.

I will just continue to read a subheading here on the GAO report basically indicting OMB and its efforts not only to define but also to manage consulting services.

It states:

> OMB's efforts to improve agency's management of consulting services have not been effective.

Then, Mr. President, we go over into another section of this GAO report. What is the definition by the Office of Management and Budget as of April 14, 1980, of a consultant or consulting services? Reading from page 63 of this report:

> As used for administrative direction in this circular, consulting services means those services of a purely advisory nature relating to the governmental functions of agency administration and management and agency program management.

Mr. President, that is a definition that leaves a hole so wide and so large that we could run a Mack truck through it or, coming from Arkansas, we could shoot a Titan missile through it, as that is certainly fresh on my mind.

But, seriously, Mr. President, this definition of a consultant allows agencies to literally get by with murder when it comes to reporting how many dollars they are spending each year for these particular services.

I yield to my friend from Wisconsin.

Mr. PROXMIRE. Mr. President, the Senator then is saying that the $412 million which OMB reports as consultant expenditures is based on a definition of consulting expenditures that uses the term "purely advisory in nature."

Mr. PRYOR. The Senator is correct.

Mr. PROXMIRE. And, therefore, it excludes many consulting expenditures which would not be purely advisory but might fall into another category, and that is about a half a billion dollars. As the Senator pointed out, as I understand it, the GAO says that it could be as high as $2.3 billion and at the beginning of their statement they say it is between $1 billion and $2 billion.

So no matter how we take it, it is clear that OMB's definition is far below what our premier investigating staff, the General Accounting Office, found. Is that not right?

Mr. PRYOR. The Senator is absolutely right.

Mr. SCHMITT. Will the Senator yield?

Mr. PRYOR. Mr. President, I am proud to yield to my friend from New Mexico.

Mr. SCHMITT. Mr. President, I think, again, there is no disagreement in the fact, one, that there has been abuse of various kinds of contracting services and including consulting even with the definition that OMB gave but, two, our problem is not with the type of consulting services that are advisory in nature, it is the problem with bananas; it is other things that are going on where the bananas are occurring that are not consulting. And the Commerce Business Daily definition includes all of those bananas, and with the actual consulting activity a very narrow part of the problem.

So what I think the Senator from Illinois and I are saying, and the Senator from Maryland, if he were here, would be saying, is that the investigative staff is on the right scent, but they have to get into the problem more deeply than just saying consulting services. Because an Agency like NASA and an Agency like EPA are generally using consulting services in the narrow definition of the OMB, which I think is correct. These other abuses generally do not appear to be there, based on our investigation in those agencies.

But it does not mean that there are not abuses somewhere and that we have to get to the bottom of it. But we do not have the information before the Senate now. The investigating staff does not have the information before them to make an intelligent decision.

Mr. PRYOR. If I may respond to my friend from New Mexico, I think that is exactly the point of what I would like to say here in this debate this afternoon, that we have made some progress in two areas. One in oversight, of looking at consultants, looking at the abuse that consultants are visiting upon the Federal Government, and looking at the lackadaisical attitude that the Federal agencies have about farming out major policy decisions that should be made in the Federal Government to what I call the shadow government. I have referred to them as the beltway bandits. I will not call them that today.

I say to my friend from New Mexico, in the area of congressional oversight we have made a tremendous step forward.

Second, we are trying to make another step forward which is going to be equally important. That is in the area of the power of the purse. We are never going to bring this abuse under control unless we exercise the power of the purse. That is where I think we have brought about this major problem, this abuse, by failing in oversight, failing to cut these funds off and cut them back, to force them to prioritize, and make them spend this money for what is truly important.

This cut is not going to hurt any of these agencies that the Appropriations Committee has cut back on. I think it is an abdication, I say to my friend from New Mexico, of congressional and legislative responsibility to say to OMB, "OK, we cannot make this decision in the Congress; we do not have that ability. Our staff people are not smart enough. We do not know enough about this issue. What we want you to do, Office of Management and Budget, is to do it. We do not want to take that heat."

Finally, we are saying to the OMB, "You go back and make these cuts," when OMB, with all due respect to them, has been discredited for 20 years through their inability to deal with this issue. I yield to my friend from Alabama.

Mr. HEFLIN. As my friend, the Senator from Arkansas knows, I am cosponsor with him on his legislation which would try to eliminate consultant abuses. I have listened to this debate and I see basically two differences. First there is a dollarmark amount; take NASA, section 417 says NASA shall reduce the procurement of consultant services by $14 million.

It says in regard to the Environmental Protection Agency a certain figure, and it says as to the other agency a certain figure.

I ask the Senator from Arkansas, is there any specific language dealing with the definition of "Consultant services" for NASA in our existing statutes which differs from the definition for the Environmental Protection Agency, which may differ from the National Science Foundation, or from HUD? Is there a a uniform definition of consultant? Are there in the statutes varying descriptions and varying definitions of consultant services? Does the Senator have the answer to that?

Basically, what I am saying is this: We are dealing with the definition of consultant services. Have we reviewed the statutes under NASA to see whether or not in the existing statutes consultant services are defined, or are there any indications which would connect it to something else which would define it? Is there a definition of consultant services for the Environmental Protection Agency? Is there a definition under existing law for HUD? Each agency under the authorizing statutes may have a difference in the definition under existing law as to what consultants are.

Mr. PRYOR. I think the distinguished Senator from Alabama has posed very good questions.

First, I would like to state that it is my opinion at this point, and I do not want to be too critical of all agencies, that the various agencies of the Federal Government make a day-by-day definition of what a consultant is in order to generally suit their purposes. In other words, they get by with as much as they can.

For example, as an analogy, if we adopt the definition of the Office of Management and Budget and give the mandate to Federal agencies to give us back 15 percent of what their consulting services are, that is like coming up to my friend from Alabama and saying, "Senator HEFLIN, you have a gun in your ribs and I want 15 percent of all the money you have in your pocket." The Senator would say, "Wait a minute, I do not have anything but a few pennies and dimes."

But when we look at the definition, not necessarily at NASA——

Mr. HEFLIN. My question is have we researched? Do we know whether or not there are varying definitions in existing law as to consulting services? If we do not know, are we just guessing? Is it a matter of regulation? Is it something we do or do not know?

Mr. PRYOR. It is a matter not necessarily of statute or regulation but it is a matter today of simple perceptions, the perceptions of those various agencies.

Mr. HEFLIN. Then we do not know whether there are statutes that define consultant service from one agency to another agency. We do not know whether there are regulations in which there are varying interpretations. Therefore, we are attempting to pick out of the air what we consider is a definition of consultant services and apply it across the board.

This may well have been what this publication—the Commerce Business Daily—did.

The point I am reaching is that we do not know. You cannot have varying interpretations of what consultant services are. Therefore, as I look at this, we have two distinct differences. Everybody is agreeing that consultant services and consultant services abuses ought to be reduced.

In approaching it, we are approaching it from a dollar mark basis. Suppose under existing law in NASA they have only $4 million that fall into the category of consultant services. You have selected to cut it $14 million. Really, if you do not know the definition, you may be involved in an act in futility. If there are no more than $4 million overall in consultants in NASA, as NASA has reported to the chairman of the subcommittee, then you are saying that we are cutting $10 million that they do not have, Mr. President.

Is this a responsible way to deal with this matter by the appropriations staff and by the Appropriations Committee?

It seems to me that if we are trying to cut abuses in consultant services under a situation where we do not know what the statute says, where we do not know what existing regulations say, we either have to approach it first by adopting a uniform definition that would be applicable to all of them, or, on the other hand, designate some agency that will look at the law, the statutes, and the regulations, and then have a percentage cut. Otherwise, we are grabbing in the air. We are not acting intelligently. We are not approaching it in a logical manner.

No one who is on the floor today wants to see a continuation of consultant services abuses. What is the mechanism that we try to follow to achieve the reduction of consultant services? What is the mechanism that we are going to follow in order to see that these abuses are cut?

If OMB is not the proper authority, is there another authority or some other person we can designate? As I see here, we do not know what the definitions are. If we are going to approach it in a logical manner, let us get some sort of mechanism that is logical and makes sense.

Then the way to do it, it seems to me, is to have a percentage reduction that is applicable and then designate some agency, whether it be OMB or some other agency, that will have the authority to go into this and apply the existing law.

Mr. PROXMIRE. Will the Senator yield?

Mr. HEFLIN. Yes.

Mr. PROXMIRE. The Senator, as the Senator from Arkansas said, does make a very, very good point. We do not have any reliable, precise definition here, but I think we have something that is the best we can possibly get under the circumstances. Let me read once again, and read very carefully, and I ask the Senator to listen to this, what the Commerce Business Daily does. This is a letter from the Deputy Assistant Secretary for United States Commercial Service to Senator MAGNUSON.

> The editorial office of the CBD finds it necessary to change agency category designation due to obvious contradictions in the text or, in the case of omissions, to designate them possibly 30 to 40 times per day out of about a thousand submissions. We presently have no estimates of the number of necessary changes by agency or particular categories such as H, expert and consultant. Generally speaking, we check with agencies when time permits. It is also true that our records reflect no history of agency complaints in this area.

In other words, they have been taking from the agency what the agency says are consultant expenditures and they have not been, they have no record of the agency complaining that what they provided in their record, what they reported as consultant services, were inaccurate. They did not get that from NASA, they did not get it from other agencies.

So, admitting that this is not the best information that, perhaps, we could conceive of, nevertheless, it is the best we can get.

Mr. SCHMITT. Will the Senator yield?

Mr. PROXMIRE. Yes.

Mr. SCHMITT. There is a very good explanation of why the agencies never complain. It is that those definitions, which have really just been lists and no definition at all, have never been used for any substantive purpose except for publication. The Commerce Business Daily codes, from discussions with the staff personnel of that publication, were developed over a coding structure, or the coding structure was developed over about 30 years. There really is no definition that they use.

They have changed the code submitted by the agencies in order to achieve clarity for their customers. They are not defined beyond the titles that are found in the Commerce Business Daily. The explanation as to what specifically is meant by the codes does not exist. And they are not compatible with any kind of Federal procurement policy that is in effect.

Again, I say the OMB has a definition of consultants. That is a definition of a certain type of consultant, the advisory. Then there are the bananas—what most of the Senators here are talking about and where most of the abuses are in contract services of various kinds. If we have a problem with contract services, let us say that, and let us go to work in cooperation with Senator PRYOR's committee and the Appropriations Subcommittee and get a definition of those contract services where the abuses occur and let us cut that. But let us not lump everything into one big basket and have a cut without any conception of what we are doing. That is the complaint that I think the Senators from Illinois and Alabama and I have, that there is really no definition.

Mr. PROXMIRE. Is the Senator saying that when the Commerce Business Daily solicits from the agency what their expert and consultant service costs, expenditures, are, the agency itself deliberately bloats it, they deliberately overstate it?

Mr. SCHMITT. That is not what they solicit. They were asked to give——

Mr. STEVENSON. Expert and consultant services.

Mr. PROXMIRE. That is right.

Mr. STEVENSON. Will the Senator yield?

Mr. SCHMITT. What I have said earlier, if the Senator will continue to yield, is that the Commerce Business Daily asks NASA, EPA, and all the agencies to provide the kinds of contracts that are classified as expert and consultant services as the Commerce Business Daily has previously been listing those. What has been offered and then changed to the category are a large number of activities I have already mentioned in this debate, which the agencies themselves would never have classified as consultant services.

That is the problem, that nobody ever thought Commerce Business Daily would be the basis of an "investigation" into——

Mr. PROXMIRE. So they gave them inaccurate information?

Mr. SCHMITT. No, they gave them the information that was generally acceptable over the last 30 years.

Mr. PROXMIRE. And published?

Mr. SCHMITT. And published it, yes. It has never been used as a basis for definition of services that are going to be cut by 15 percent.

Mr. PROXMIRE. If you ask an agency to provide you with expert and consultant services, it seems to me that you have every right to expect that they are accurate unless the agency then comes back and corrects it, modifies it. They did not do that.

Mr. STEVENSON. Will the Senator yield?

Mr. PROXMIRE. I am happy to yield.

Mr. STEVENSON. The basic question, first, before we act to eliminate these abuses, is, What are they? Does the Senator have any evidence or even a suspicion of any abuse with respect to any contract, including any contract for consultant services, of NASA, or does the Senator from Arkansas, before we strike $14 million?

Mr. SCHMITT. Let me see if I can clarify some previous remarks I have made.

Mr. STEVENSON. In a moment, Mr. President. I have a question pending that I would like to get an answer to.

I would feel derelict as an overseer of this agency if I had not already uncovered such abuses. I am not aware of any and it seems to me that, before we strike $14 million worth of abuses, we ought to be told what they are, what the evidence of such abuses is. I have not heard of any so far.

Mr. PRYOR. May I respond to that? I do not think we are here today to pick on NASA.

Mr. SCHMITT. Well, the Senators are doing it.

Mr. PRYOR. This is not an anti-NASA amendment, as I understand the Appropriations Committee. This amendment relates to the Department of Housing and Urban Development, EPA, NASA—and those are the only ones I have knowledge of at this time where the cuts will occur. I do not know of any necessarily found abuses in NASA contracting. I am sure we could research the record and probably, out of the billions of dollars they spend, find some abuses. What I am talking about is the principle.

Mr. PROXMIRE. Let me respond to the Senator from Illinois specifically.

On page 6 of the GAO report dated June 8, 1980, the following abuses are listed:

> The major issues identified in over 30 audit reports issued during the last 20 years include the:
>
> Failure to maintain adequate information on the number and cost of consulting services.

That seems to be something we have documented this morning. Nobody seems to know how much they are spending.

> Failure to obtain adequate competition in awarding procurement contracts for consulting services.
>
> Inconsistent, improper, or excessive rates of pay for consulting services.
>
> Use of consulting services to perform work that should be performed by regular Government employees.

That is something that the Senator from Arkansas, in his hearings, has documented.

> Possible duplication of consultant studies.
>
> Potential conflicts of interest between consultants' advice and their outside interests.
>
> Disproportionate number of contracts awarded at the end of the fiscal year.

Those are just some of the abuses. As I say, the GAO is an agency whose judgment, I have found, is pretty accurate.

Mr. STEVENSON. Mr. President, that

is not an answer to my question. I do not know much, certainly not much as an overseer, about the other agencies. My question was, before we cut $14 million worth of abuses in contracts for consulting services from NASA, whether there is any evidence of any abuses at all in any contracts of NASA for consultant services? I do not think there is. I have not heard of any.

Let me ask my good friend from Arkansas whether he would consider certain of these contracts for consultant services. These are the kinds of contracts that are included in this classification of "expert and consultant" services. They do call for the services of experts, which, I assume, is why they are included.

Is a contract to maintain and operate communications equipment and instrumentation for shuttle launch equipment and for other Kennedy Space Center equipment a contract for consultant services? That is a contract. We have detailed information about these contracts—classified for the installation of equipment. Is it a contract for consultants services? It is classified as such and will be subject to cuts of up to $14 million. Is that a contract for consultants services?

Mr. PRYOR. The Department of Commerce and I understand the Commerce Business Daily is an organ of the Department of Commerce, has defined the contract the Senator just read to the Members of the Senate as a consulting contract.

Mr. SCHMITT. Will the Senator yield?

Mr. STEVENSON. If the Senator will withhold for just one moment, my good friend, the distinguished Senator from Arkansas, who has done heroic work on this subject, which does cry out for reform, said we should exercise the power of the purse.

That is what the Congress did. It exercised the power of the purse. The power of the purse now includes the approval of personnel levels in agencies throughout Government. It is a power exercised in cooperation with OMB, and as part of the exercise of that power over the purse and a determination to keep personnel levels down in Government, we have forced agencies to do their work outside of Government.

That is an example of what happens. I do not know whether it is best to have it done outside or inside, but it is done outside as a result of the Congress.

Another example of consultant service with respect to NASA is a contract with Rockwell, to support Rockwell-built engines during test and prelaunch activities for the Space Shuttle.

Another is for Space Shuttle solid rocket booster assembly, refurbishment, and launch operations.

That is the way the Government operates. That is the way NASA operates. It does so, including its development and production of the Space Shuttle, out of house frequently because the Congress insists.

If we are to cut $14 million in consultant services, when in fact only $645,000 is for consultant services, the overall effect is going to be on the one hand, to prevent NASA from performing these services in-house and on the other, out of house.

To prevent it from contracting with Rockwell, or whoever it is, for the services necessary to maintain communications and instrumentation for Shuttle launches at the Kennedy Space Center, or how about this, safety, reliability, and quality assurance analyses and data for spacecraft flight readiness, is now what the committee intended to do, or what the Senate wants to do.

In this instance, at least, we have the information. We can classify these contracts. OMB can classify these contracts. It is just unfortunate that the Appropriations Committee did not do so before reporting this bill which, without this amendment, and if approved and following all the other cuts, will have some unintended and very adverse effects on the space program.

Mr. SCHMITT. Will the Senator yield?

Mr. STEVENSON. Of course.

Mr. SCHMITT. I concur completely, of course, with the Senator s remarks, having served with him in a very enjoyable way as the ranking minority member of the subcommittee that overseas the NASA budget.

I also do not know of any abuses in this area. We have extensive oversight hearings on an annual basis and additional hearings as required.

I think it is important that the Senate understand how the Commerce Business Daily operates in putting together these lists. They ask all agencies to submit their contracts that they have with individuals and businesses throughout the country. Also, they ask to submit their recommendation for the coding, that is, the classification, of the particular contract.

At a minimum, $58,933,000 worth of contracts that the Commerce Business Daily includes under code H, that is expert and consultant services, were recommended, and when one looks at the list, appropriately recommended by NASA, he is coming up with a different category.

It was the Daily that took these from different categories, such as those that specifically were mentioned by the Senator from Illinois and, for some unknown reason, called them consultant services.

It was not the Senate that did it, or an investigative committee of the Appropriations Committee that did it. It was OMB, or anybody, it was this bunch of people putting together the Commerce Business Daily for their own purposes. It had nothing to do with the purposes of this committee, the Appropriations Committee, or the Senate, in trying to get at the heart of the problem the Senator from Arkansas so carefully outlined and has done such great work in uncovering.

All we ask is that we exercise some commonsense, not go with the investigative staff of the Appropriations Committee, who just took blindly this information from the Commerce Business Daily under a particular classification that has no definition controlling it and saying, "Let us cut it."

Let us cut the bananas. It has nothing to do with consulting services or abuses. It just has to do with a cut, and let us admit it.

It has a little bit to do with the well identified abuses going on in Government contracting—abuses we are not aware have been looked into, not occurring, to my knowledge, in NASA, or extensively in EPA.

We are just trying to cut. I am all for that, but, for crying out loud, let us use some commonsense.

Mr. PRYOR. Will the Senator yield?

Mr. SCHMITT. Yes.

Mr. PRYOR. I know my friend from Alabama stated he wants to make a statement and ask a question. But I will respond to my friend from New Mexico, and I know the Senator from Maryland (Mr. MATHIAS) is a cosponsor of the Senator from New Mexico's amendment, but I am going to be against the Senator's amendment. I am going to vote against the amendment.

But I want to compliment the Senator for bringing this to the floor because of the opportunity to engage in a debate that, for too long, has been overdue and too long needed as we look at one of the major expenditures of the Federal Government and one of the major contradictions we are forced to face every day in running the Federal system.

For example, it is my opinion, I say to my friend from New Mexico, that the agencies today under the OMB definition are not telling OMB that they are using consultants.

The Senator from Illinois just described a couple of so-called consultant contracts which may be questionable.

Mr. SCHMITT. If the Senator will yield, those are consultant contracts defined by the Commerce Business Daily, not by NASA, OMB, or anything else.

Mr. PRYOR. But we know about the Commerce Business Daily definitions. In my opinion, it is the best of all definitions we have.

Mr. HEFLIN. Will the Senator yield?

Mr. PRYOR. In just a moment.

It is better than the OMB because what the OMB definition allows and even encourages the agencies of Government to do is to keep two sets of books. OMB is given one set of figures by the agencies but agencies keep another set of figures which more truly indicate what consulting services and for expert services outside the realm of Government.

I feel very strongly that even using a stricter definition, Commerce Business Daily still does not include millions and millions of dollars that we are expending on consulting contracts.

For example, the Department of Defense, by statute, is not even required to publish any contract under $100,000.

No agency of Government is required to publish any contract under $25,000. We are talking about millions and millions of dollars in consulting contracts that probably are given sole source, without any competition whatever, to consulting firms that are cozy with the Federal agencies and which are not even reported or covered under any definition.

Mr. SCHMITT. We are talking about three agencies.

Mr. PRYOR. I yield to the Senator from Alabama.

Mr. HEFLIN. Mr. President, I want to get our thinking down to what we are trying to do to get this matter in better perspective between the Schmitt amendment and what is attempted to be done by section 417 of this act.

We start with the premise that we want to cut consultant services by 15 percent. That is what is to be achieved.

So they looked to HUD and said, "Let's find out how much is in consultants' services." Rather than going to HUD or EPA or NASA—NASA is my major interest that I am dealing with here—they go out and find a publication that has its own definition and used the figures in that publication as a base to find out that NASA had some $93 million in what the publication said were expert and consultant contracts. So they used that as the basis for the 15-percent cut.

The Schmitt amendment does not accept the Commerce Business Daily as gospel—and I am sure that it is not cloaked with any gospel. To me, the meaning of the words "consultant services" has to come out of law.

Mr. SCHMITT. There is no definition.

Mr. HEFLIN. In the earliest political science course I recall, I learned that laws come basically from three sources: one, the Constitution; two, the statutes; three, the regulations. I should like someone to point out to me where in the Constitution, in the statutes, or in the regulations the Commerce Business Daily's definition lies.

If we are going to pluck out of the air somebody's definition, we can go to the Wall Street Journal, we can go to the publication of the "Voice of Morality," we can go to the publication of the "Committee for an Effective Congress," we can go anywhere we wish. However, we are a body that is making law. We have to make laws that stand up in the courts. Therefore, let us approach this 15-percent cut with a logical mechanism.

Let us say that all consultant services will be cut 15 percent if there are regulations defining consultant services. If there are statutes that define consultant services, they have to be followed. That is the basis of the law. If we want to change it, let us write in the law what we mean by "consultant services."

Are we going to follow the rule of law or the rule of the Commerce Business Daily Journal, or whatever its name is?

It seems to me that what we are trying to do is to cut consultants' services by 15 percent. Let us have a mechanism that says 15 percent. If we do not have the time and cannot understand what the various definitions are, we should delegate that to some agency to do so. If OMB is not a satisfactory agency, let us give it to GAO. We can give it to any agency, but give it to one that can do it.

The Schmitt amendment agrees that we want to cut consultant services by 15 percent. What we really are arguing about is what constitutes the amounts spent on consultant services. The only way one can figure out what constitutes those amounts 100 percent is to go to the regulations and the statutes and ascertain the definition of "consultant services." It seems to me that this is a complex matter of ascertaining the true figures. Let us do it in a logical, lawful, constitutional manner. I believe that by doing it in that manner, we will accomplish what we set out to do here, rather than just pick up a figure that appears in some publication.

Mr. SCHMITT. That is exactly the basis for my amendment, in that OMB has its regulations and the definition of what a consulting service is. It is narrow, and the problem is that the abuses that the Senator from Arkansas is concerned about and we all are concerned about are not occurring within that narrow definition. They are occurring outside of it, in the contract services and others. That is not what this amendment deals with, particularly as the Senator from Alabama says we do not know what the 100 percent is and we must define it. At least, we have a definition of consulting services.

Mr. STEVENSON. Mr. President, will the Senator yield for a question?

Mr. PRYOR. I yield.

Mr. STEVENSON. OMB does have a definition, as the Senator from New Mexico has mentioned. We also have been debating the definition of consultants' services of the Commerce Business Daily. The distinguished Senator from Arkansas applauded the definition of the Commerce Business Daily.

My question to the distinguished Senator, or perhaps the Senator from Arkansas, is this: What is the definition of "consultant services" of the Commerce Business Daily?

Mr. PRYOR. I respond to the distinguished Senator from Illinois by saying that, to the best of my knowledge, the Commerce Business Daily does not have a definition, per se, of "consultants' services" or what a consultant is or what a consultant is not. As I understand it, Commerce Business Daily puts things in categories. It requires the agencies to stipulate categories, to put each contract into a particular slot, and to make the agencies define, for procurement purposes, consultants' services and expert services outside the Government.

As an end result, we see the number of dollars being expended and reported in the Commerce Business Daily; and it is a definition, to an extent—not one written, but one in practice and one of custom.

Mr. STEVENSON. I thank the Senator.

That is the point. The Commerce Business Daily definition does not exist. Therefore, the agencies have no guidelines with which to comply. All they have is a category heading, and that category heading goes beyond consultants' services. It includes "experts".

Mr. SCHMITT. Mr. President, if the Senator will yield, as I said earlier, the Commerce Business Daily asked the agencies for their recommendations as to what category it should go in; and those recommendations are based on 30 years of historical use of the Commerce Business Daily.

There are no definitions. They just look at them and say, "Well, it sort of looks like it fits there." Then Commerce Business Daily comes in and changes the agency's recommendations.

That is what I inserted in the RECORD earlier for NASA, and we also have a recommendation for EPA, that there have been some arbitrary changes. The Senator is exactly right.

Mr. STEVENSON. The Senator's amendment would have the advantage for the first time of establishing in the law a definition. It would be a definition of OMB.

Mr. SCHMITT. It would be of OMB, and I should insert at this point, if the Senator will yield further, that is OMB circular A120 where that definition exists, and it is a legally constituted definition.

Mr. STEVENSON. I thank the Senator.

Mr. PRYOR. Mr. President, does the Senator from New Mexico have the floor?

Mr. SCHMITT. The Senator from New Mexico yields the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, we are engaged here in a most complex, complicated area, one that has long been over my head. It is one that I worked on for about a year trying to bring some of these matters to the attention of the Senate, and I am so proud that we are having a good discussion of this matter at this time.

I applaud what the Senator from Alabama has said, and I associate myself with his remarks about an attempt to bring this matter under control while at the same time attempting to legislate forthrightly, but also in keeping in mind that we are a government of laws and not of men and we should regulate under the statutes and keep in mind constitutional concepts. I applaud the Senator from Alabama for making that statement. I thank him for being one of the coauthors of my legislation which would be probably a rather major piece of legislation if ever passed by Congress. I do not think it will get through this year. It concerns consultants and the use of the consultants and we call it the consultants' sunshine bill. It would bring some sunshine into this area for the first time.

But this legislation, even if it passes, the next Congress or the Congress after that, is not going to solve all the problems unless we can come forward with an acceptable and a realistic definition of what a consultant is and how a consultant is actually defined.

As I have read to my colleagues, OMB does have a definition of consultants and, EPA, for example, which is going to be affected by this particular amendment, whether it passes or fails, is covered by the definition. However, according to the Comptroller General in an August 19, 1980, report, and I read from page 5 of this report:

> EPA procurement officials who monitor the classification of service contracts made by program officials told us—

That is the General Accounting Office——

> that they were aware that OMB's definition includes program analysis.

This is the key sentence, Mr. President.

> They explained that they prefer to define consulting services as providing advice only and that consulting services resulting in de-

liverable products such as reports are excluded from EPA's definition.

So truly we do have contradictions on the face of the present definition used by OMB. We have concerns and questions about the definition and the practices, I would say, of the Commerce Business Daily publication.

So we are, as the Senator from Alabama has so eloquently stated, acting and legislating, I think he said, legislating in a vacuum or maybe even legislating in the dark, but all I can say to the Senator from New Mexico is this, that I prefer to believe that the Senate and the Appropriations Committee staff have a responsibiilty in exercising power of the purse and certainly a responsibility in exercising oversight and certainly a responsibility not to abdicate this authority and this opportunity to the Office of Management and Budget for them to go out and continue multiplying the mistakes that they have made in the past in attempting to bring under control the abuse in consultants that all of us have agreed exists.

I think that the amendment offered by the Senator from New Mexico is once again going to put us right back where we were. It is going to make us demonstrate once again that we are not willing to take this issue by the horns and to legislate on it effectively in this Chamber and hopefully in the other body, and it is certainly an amendment, I think, that is going to take us a step backward as we attempt to bring this matter under control.

I pledge to the Senator that I will work with him and with his colleagues in attempting to better define "consultants," and bring this matter under control. But until that time, I say that we should defeat the amendment offered by the Senator from New Mexico and the Senator from Maryland and that we should say that we have the opportunity here to go forward by accepting what the Appropriations Committee has recommended.

Mr. SCHMITT and Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER (Mr. BURDICK). The Senator from New Mexico is recognized.

Mr. SCHMITT. Mr. President, the Senator from Arkansas knows that I am sympathetic with his desires. Unfortunately, I come from a previous profession and discipline that requires some commonsense. To put it another way, you should not go around killing the sire when the colt does something bad.

Unfortunately, in the absence of any understanding of whether, one, there is any abuse in these three agencies in this area or, two, just what we are talking about, we are going to just meat-ax 15 percent of the budget. I just cannot go along with that. I just think it is a wrong way to legislate. The Senator from Alabama appears to feel the same way. It is not good law. It is lousy law. That is what it is.

Let us face it. With all due respect, the investigative staff of the Commerce Committee is not the Appropriations Committee and it is not the Senate. They did not look into this in an investigative way. They took the Commerce Business Daily category H called "expert and consultant services." Section 417 addresses only consultant services. What are expert services? I do not know. There are all sorts of things that have been lumped under category H and in NASA and EPA and to some degree in HUD it means that some major beneficial important programs in which there have been no abuse are going to be damaged.

So let us take the narrow view, initially, which is take an existing legal definition of "consultants," and say "All of you can clean up your house. There is obviously some fat in there. Cut that 15 percent." Meanwhile, let us get our committees working together and come up with how we can get to the real problem which is somewhere out there in expert services and contracts and all sorts of other things that are going on where there clearly is the kind of abuse that the Senator from Arkansas has done so well to begin investigation of.

I certainly hope our colleagues will recognize that this is not a vote against cleaning up fraud and abuse, for crying out loud. It is a vote for commonsense and for doing what is legislatively possible to do and what is legislatively responsible to do.

Mr. HEFLIN. Mr. President, the distinguished Senator from New Mexico has raised a question of what is an expert, and it recalls to my mind a definition that I heard once of an expert, that he was a man that carried a briefcase, lived 50 miles from your hometown, and came to your hometown.

So I think there are all sorts of questions about definitions. I wish to look at this from a judicial viewpoint. Section 417 says, "For the procurement of consultant services." If a court were looking at this, the court would then look to the statutes. The court would look to the regulations, and they could vary. The consultant services law for HUD may be entirely different from the consultant services law for EPA and those may be entirely different from that of NASA.

You cannot look to the definition of the Commerce Business Daily. No court would recognize that in any regard. But here we have used that as the basis for trying to calculate the percentage cuts.

The amendment offered by the distinguished Senator from New Mexico, in my judgment, provides a much better mechanism for bringing about this 15-percent reduction in consultant services. But if it were to fail then I think it ought to be clear that the existing law, the existing definition, pertains to consultant services, and if OMB has a duly promulgated legal regulation, then OMB's definition is going to apply.

All that my distinguished friend from Arkansas and the distinguished Senator from Wisconsin may feel about and may not like about OMB's definition as it is written may be correct, but it will stand So I challenge you, if you do not like the definition of OMB or the definition that may exist in the statutes or may exist in the regulations, then you should rewrite it. Otherwise we are dealing with an act of futility.

The existing law and regulation defining consultant services are going to be applicable if they go to court or if someone is studying them. They are going to have to apply the existing regulation or law to it.

All right. When they get to NASA, it is $14 million plus. NASA's definition—and they have reported that they only spent something like $4.3 million on consultants last year—the mechanism you use here is a mechanism in which you are not achieving your 15-percent reduction. What you will achieve will be a reduction of $4.3 million instead of $14 million as you have it in the bill, but you will be achieving a 100-percent reduction in consultant services for NASA.

I do not know the details of the $4.3 million consulting work, but there may be a scientist whose name might be Rickover or whose name might be von Braun, who is dealing with a very sensitive matter pertaining to intelligence and pertaining to military applications of space. You are not, therefore, by using a dollar mark figure saying to NASA, "All right, you select some consultant." What you are saying is "You can have no consultant."

The smartest space scientist in the world by this act may be eliminated from doing his work. I think we ought to think a long time before we just have a meat-ax cut. A surgical knife with a proper mechanism of 15 percent can be effective. It can achieve the very laudable goal that the Senator from Arkansas wants to achieve. It can achieve the 15-percent cut in consultant services. I daresay that the Appropriations Committee did not evaluate each and every thing but they said, "Let us cut 15 percent," and they tried to have a mechanism. I think it is clear their mechanism is not the proper mechanism.

I do not want to see the U.S. Senate act hastily and unintelligently by canceling a consultant contract with one of the possible great minds of space, and thus put us into a situation where we may be another year behind in some important matter.

I have been vitally interested in lasers. To me the laser is the scientific frontier of the 1980's. Today there are scientists who say that if we use proper engineering standards and concepts and make the funds available to do it that we can bring about some high energy laser developments in something like 10 years.

Many people feel that Russia is already ahead of us in laser development. NASA has laser activities going on. I do not know whether or not a consultant is working on a very important aspect of laser development today. But I do not want the U.S. Senate to act in haste and in ignorance.

It seems to me that we are all trying to reach the same goal, a 15-percent reduction in consultant services. Let us use a mechanism to achieve that which follows logic, which follows the law and will not result in some disaster to this Nation.

I feel that we ought to follow the mechanism proposed by the Senator from New Mexico. You may not like OMB and, if so, come up with a substitute. If you do not come up with a substitute let us go along with that. That is a far better mechanism. It has within it the principle of a 15-percent reduction, and it has the principle of following the law.

Mr. SCHMITT. Mr. President, if there are no other Senators who wish to speak at this time on the issue, I intend to suggest the absence of a quorum so that we can move——

Mr. PRYOR. Mr. President, if the Senator will wait just one moment on that——

Mr. SCHMITT. I will withhold.

Mr. PRYOR. I would like to make one point in a very brief reply to my friend from Alabama.

What the Schmitt amendment is all about is not just about NASA. It is a much broader amendment. We are talking about HUD, we are talking about EPA, we are talking about NASA.

What the Schmitt amendment is really all about is saying that Congress is not going to exercise jurisdiction at this time on this matter but we want the Office of Management and Budget to do it. I do think this is an abdication.

Second, the Schmitt amendment would have the effect of restoring, I think from my calculations, some $27 million to $30 million in the appropriation bill that the Appropriations Committee took out. That is the second point I want to make.

Third, I sincerely say to my friend from New Mexico, who is a very, very distinguished Member of this body, and who came here as a distinguished astronaut, one who had been deeply involved in the space program, and one who had been committed to it, and one who still is, and you can see this by his words and actions today, and my friend from Alabama who has space installations in the great State of Alabama, I just applaud the feeling that both of my colleagues have. But I would like to just say, Mr. President, if we are talking about taking a little $14 million from the space program, a few million dollars from EPA, and a few from HUD, that this is minuscule as compared to the overall dollars that these various agencies expend for consultants and studies.

For example, $237 million last year, 1979, was spent on studies by NASA. So we are not talking about crippling any agency. We are talking simply about forcing agencies to better expend and to prioritize the dollars we do appropriate to them through our process.

Until the time when we can come up with a better system I think, Mr. President, with all due respect to my friend from New Mexico, that his amendment should be defeated, and I certainly hope my colleagues will go with the Appropriations Committee and support the committee at this time.

Mr. SCHMITT. Mr. President, if I thought that we knew what we were doing in the 15-percent cut as presently in the bill, then I would never have offered this amendment. This amendment is just to bring some sanity into this particular issue.

We are not ready to make the kind of cut in these three agencies that the Senator from Arkansas (Mr. Pryor) and the Senator from Washington (Mr. Magnuson) have proposed.

I would be happy to do it if I knew where we were cutting out fraud and abuse, but I do not know where we are cutting it in these agencies because nobody has provided that kind of information. We have not seen it in our committee.

I would say to my good friend from Arkansas that I have been fighting this amendment on every bill. I am not fighting it because of NASA, EPA, or HUD. I am fighting it because it does not make any sense.

I think we can work out amendments of this kind that make sense. But to take an arbitrary definition by a bunch of people, who have been nameless here today that run Commerce Daily, and say that is going to be the guidance the Congress uses in order to cut some funds from this budget is wrong. It is just irresponsible. That is what we are doing.

If we want to cut the budget, let us cut the budget. Let us have another amendment and cut another percentage out or something. We cut 2 percent out yesterday. But let us not be ridiculous about this business of trying to make law. This is not law. Unfortunately, it will be law by definition, but it certainly is not good law.

The amendment of the Senator from New Mexico, offered on behalf of the Senator from Maryland (Mr. Mathias) is merely to try to add some commonsense to this process. The debate has focused our attention on a problem and I think in the next Congress we can clearly do far better than we are doing today.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Bradley). Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the amendment of the Senator from Maryland (Mr. Mathias) submitted by the Senator from New Mexico (Mr. Schmitt) be laid aside for the purpose of bringing up other amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1641

(Purpose: To limit the obligation or expenditure of funds for contracts for consultant services)

(Purpose: To require the provision of information concerning the contractor who prepared a report and the contract under which the report was prepared)

Mr. PRYOR. Mr. President, I have two amendments. I send both amendments to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. Does the Senator ask unanimous consent that they be considered en bloc?

Mr. PRYOR. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Is there objection? Without objections, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. Pryor) proposes two unprinted amendments en bloc numbering 1641.

Mr. PRYOR. Mr. President, I ask unanimous consent that further reading of the amendment be disposed with.

Mr. PROXMIRE. Mr. President, we have to follow the procedure on this bill of having the amendments read, so I have to object.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

On page 48, strike out lines 17 through 23 and insert the following:

Sec. 411. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within 24 months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

On page 49, strike out lines 7 through 14 and insert the following:

Sec. 413. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared and (B) the contractor who prepared the report pursuant to such contract.

Mr. PRYOR. Mr. President, these two amendments that I am attempting to attach today to the legislation before the Senate are the identical amendments that I attached by unanimous consent last week to the Department of Transportation bill.

It is also my understanding that these amendments have been accepted by both of the individuals who are handling the bill at this time, that they have been accepted by the Members and also by the staff.

Basically what they do is they are assuring to the public that the public will know the contract information in such a manner that the public can determine where the money is being spent and for what purposes, as it relates to consulting contracts spent by the agencies covered under this bill.

Mr. President, my amendment is just a small step toward making the public aware of the pervasive use of consultants by not only these agencies but all Government agencies. This is the basis of the need for a contract list as I have proposed. Such a list should contain at a minimum the basic information concerning the contract, such as:

The contractor's name.

The contract identification number assigned by the agency;

The date of award and the estimated completion date;

The original and current amount of the contract award; and

Whether the award was competitively bid.

It is the basic, minimal information which is required if we are to bring any sunshine into this area. It is the minimum of information that can be provided if we are to allow the taxpayers to know where their hard-earned tax moneys are being spent.

Mr. President, the purpose of the second amendment that I am proposing is to require basic information on all reports prepared by contractors and on agency reports prepared substantially from these contractor-prepared reports.

This is in keeping, Mr. President, with our spirit and desire to have a greater degree of sunshine as to outside contracting and outside consulting work.

Also, Mr. President, I feel that this once again makes terribly good sense when it comes to full disclosure of what the contracts are attempting to do and what purpose they are attempting to serve for the Federal Government.

The need for this amendment was made crystal clear in a GAO report issued just last month. GAO's review of seven agencies found that consultants were used to meet over 40 percent of their congressionally mandated reporting requirements during fiscal years 1977–79. Consulting services accounted for almost two-thirds of the total costs thus incurred. Undoubtedly, the most disturbing finding in the GAO report was the fact that approximately 60 percent of the reports either did not disclose or inadequately disclosed consultants' involvement in their preparation.

Mr. President, each year the Congress received hundreds if not thousands of reports from agencies that were prepared entirely or substantially by contractors. As the GAO found, oftentimes we do not know who actually wrote the reports because the agencies simply do not disclose that information. This cannot be permitted to continue. The Congress needs to know who prepares the reports sent to us by the agencies. Three of the seven agencies included in the GAO report were HUD, NASA, and EPA. The basic attribution information called for in my amendment will provide the necessary information for Members of Congress to decide how much reliance to place on the conclusions and recommendations contained in these reports. Such information that would be required to be disclosed includes:

The name of the contractor who prepared or contributed to the report;

The total dollar value of the contract;

The contract identification number assigned by the agency;

Whether the contract was awarded competitively or noncompetitively; and

In any case in which a contractor used a subcontractor to prepare any portion of the report, the name of the subcontractor and the amount paid to the subcontractor.

Mr. President, I submit that the Government's policy and decisionmaking activities must be performed by accountable Federal employees. Although the amendment I offer today will not prevent contractors from doing this important work, it will at least provide a mechanism for disclosing when contractors are used by the agencies in preparing reports. I think this a very modest amendment and I urge my colleagues to support it.

Mr. PROXMIRE. Will the Senator yield?

Mr. PRYOR. I yield.

Mr. PROXMIRE. Mr. President, I congratulate the distinguished Senator from Arkansas on these amendments. I think they are excellent amendments, requiring exactly the kind of information the Senate does not have and apparently the administration does not have. At least, they have not been able to give us any of the information we have requested along this line. It would require, as I understand it, to make these a matter of public record available for inspection and included in a publicly available list of all contracts entered into within 24 months prior to the date on which the list is made available to the public relating to consultants and consulting services.

As I say, this is the kind of information which is essential if we are going to be able to fully understand this situation.

Also, the Senator would require:

> Any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared and (B) the contractor who prepared the report pursuant to such contract.

This is, as I say, essential if we are going to legislate intelligently with full information. I congratulate the Senator from Arkansas.

Mr. PRYOR. I appreciate the remarks of the Senator from Wisconsin and the help he has given me.

Mr. SCHMITT. Mr. President, I certainly concur with the intent of the amendments as explained by the Senator from Arkansas. I would ask him only if my understanding is correct, if I could have his attention, that the information required by these amendments is information that is available within the agency, that if they are following any kind of reasonable management scheme the lists and information exist within the agency and would normally be available to the Congress on request or available under the Freedom of Information Act procedures.

Mr. PRYOR. In answer to the Senator from New Mexico, I would answer by saying it is generally true that this is information that an agency might have, but I would say that these agencies have a tendency not to go out and aggressively obtain this information, these facts, and details from consultants unless it is mandated and unless we keep a very close oversight on the agencies.

Mr. SCHMITT. My experience is only with one of the agencies concerned. I would assure the Senate that unless things have changed in the last few years, procurement lists, lists of contractors, and the nature of the contracts do exist internally within NASA. I do not see these amendments creating, at least for that agency, and I suspect from my understanding of the EPA for that agency, any increase in paperwork other than potentially compiling them in another report format.

These agencies are aging very fast. They are getting hardening of the arteries just like businesses' in this country paperwork and other regulatory burdens, but in this case I would be willing to accept the amendments offered by the Senator from Arkansas.

It is my understanding that this represents no new information being gathered but merely a recasting of information which already exists under normal procurement practices which exists within one of the agencies, and I would hope within the others. If there is a benefit in the amendments, perhaps the greatest benefit is if those practices are not occurring as they should be, under law, as I believe then they should be prepared.

Mr. PRYOR. I appreciate the Senator's comments and his support.

Mr. PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment (UP No. 1641) was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SCHMITT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Maryland.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the amendment be laid aside temporarily while the Senator from North Carolina offers four amendments.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

UP AMENDMENT NO. 1642

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1642:
>
> At the bottom of page 13, add the following:
>
> None of the funds appropriated by this Act for annual contributions for assisted housing may be committed for any newly assisted section 8 project which has a projected gross rent in excess of published fair market rentals for the area in which the project is located, except as otherwise required by law.

Mr. HELMS. Mr. President, would the clerk read the last several words of the amendment?

The PRESIDING OFFICER. The clerk will read the last several words.

The legislative clerk read as follows:

In which the project is located except as otherwise required by law.

UP AMENDMENT NO. 1642, AS MODIFIED

Mr. HELMS. Mr. President, I would like to modify the amendment to change the word "require" to "provide."

The PRESIDING OFFICER. The Senator can modify the amendment. The amendment is so modified.

The amendment, as modified, is as follows:

At the bottom of page 13, add the following:

None of the funds appropriated by this Act for annual contributions for assisted housing may be committed for any newly assisted section 8 project which has a projected gross rent in excess of published fair market rentals for the area in which the project is located, except as otherwise provided by law.

Mr. HELMS. Mr. President, this amendment would require that the Secretary of Housing subsidize only those section 8 housing projects with prospective gross rents which do not exceed the area fair market rents. The manner in which this subsidy is now being applied is an outrageous rip-off of American taxpayers. We have all heard of the cost of housing under this program. In fact, the General Accounting Office has recently completed a study addressing this problem, a study in which the GAO reports that the section 8 housing program has become "a program which is costly and serves only a fraction of the households in need."

In addition, Mr. President, the GAO notes that Government-subsidized rents have "risen at rates and levels which could in the future provoke serious challenges to the very existence of the program."

Mr. President, this GAO report cites subsidized rent increases of 121 percent in San Francisco, 95 percent in Cincinnati, and 72 percent in Atlanta over the 4 years evaluated. Figures published in the Federal Register indicate rents authorized by HUD for a two-bedroom apartment in Los Angeles at $854 a month, in Washington at $600 a month, and in New York City at $1,022 a month.

These are subsidized rents which the working taxpayers of this country are required to furnish the money to subsidize.

While these figures concern me, it is the GAO discovery that—although HUD is authorized only to subsidize rents in housing units which have rents equal to or less than the "fair market rents" for the area, except in "special circumstances"—rents were found to be higher in 68 percent of the projects it examined. Certainly these "special circumstances" cannot be occurring 68 percent of the time. Now, it is important to note that these so-called fair market rents are more than fair. They are defined as "rents, including utilities, ranges, and refrigerators; and all maintenance, management, and other services which would be required to be paid to obtain—privately developed—housing of modest (nonluxury) nature." These proposed fair market rents are published in the Federal Register for public comment before they are final.

It seems to me that, with such a lenient mandate as that just described, HUD could stay within the limits they established. Yet, as I have said, they violated their own standards 68 percent of the time—sometimes by as much as 20 percent.

Mr. President, it is this discretionary power to abuse this program by authorizing subsidies in excess of the fair market rents which my amendment addresses. It would forbid HUD from agreeing to subsidize any rents in a project which has gross rents in excess of the established fair market rents. Such discretionary authority is unnecessary in light of the methods HUD uses to determine the standard in the first place.

Congress must get a handle on this program. My amendment would bring some reason to this fiscal madness. It would not put a cap on the rents—which may be a good idea—but would only eliminate HUD's discretion to violate its own standards.

Mr. PROXMIRE. Mr. President, I have had an opportunity to discuss this amendment with the Senator from North Carolina. This amendment would preserve the flexibility and discretion of the Secretary of HUD but it would, as the Senator from North Carolina has indicated, prevent exorbitant rents being charged far above the fair market value in any particular community. I think that is a good safeguard. It is based, as the Senator says, on the GAO report, which exposed a series of abuses in this respect. I am happy to support the amendment.

Mr. President, it is my understanding that the distinguished ranking minority member also approves the amendment of the Senator from North Carolina.

Mr. HELMS. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment as modified.

The amendment (UP No. 1642), as modified, was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1643

(Purpose: To restrict the growth of paperwork)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1643:

On page 52, line 20, add the following:

None of the funds in this Act shall be used to create paperwork flowing from profit or nonprofit businesses, private persons, or State or local governments, to any agency covered by this appropriation in fiscal year 1981, in excess of paperwork requirements for the previous fiscal year.

For the purposes of this provision "paperwork" means reports, applications, forms, or other written presentations that any agency "covered by this Act", under statutory authority requires to be submitted to the local, State, or Federal government.

Mr. HELMS. Mr. President, the Senate Governmental Affairs Committee recently issued a report on the costs of the paperwork required by the Federal Government. It is a rather appalling report, but it comes as no surprise to the small businessman. Indeed, the average American citizen would be crushed by the avalanche of paperwork required by the Federal bureaucracy, and condoned, it must be said, by the Congress of the United States. Let me read just a part of that report from the Senate Governmental Affairs Committee.

The Federal Paperwork Commission estimated 3 years ago that the cost of federal paperwork requirements amounted to $100 billion a year—some $500 for every man, woman, and child in this country.

Therefore, Mr. President, a family of four is taxed $2,000 just for redtape, Federal paperwork.

To return to the report from the Senate Governmental Affairs Committee:

Much of that cost does not show up as an expenditure in the federal budget. Instead, the public spends the time, money, and effort in "hidden taxes" at home, in their businesses, or by way of higher consumer prices.

The report continues:

Federal paperwork requirements, whether they are tax forms, medicare forms, financial loans, job applications, or compliance reports, are something each individual touches, feels, and works on. The cumulative impact is excessive. Too many paperwork requirements are unnecessary and wasteful. It is important to recognize that every one percent reduction achieved is a billion dollar effort saved.

Mr. President, those are not the words of the Senator from North Carolina; those are the words of the Senate Committee on Governmental Affairs. So, obviously, Mr. President, the need for Congress to address the problem of excessive Federal paperwork requirements has never been more acute than it is today. That is why I am offering an amendment that would direct each agency covered by this appropriations bill to hold its paperwork requirements at or below their fiscal year 1980 level.

This is a straightforward amendment. It does not require a reduction in paperwork. It simply says to stop adding to it.

Already, the Senate has passed an amendment to the fiscal year 1981 Department of Transportation appropriations bill that is identical to the one I am offering today. In addition, a similar measure prevailed in this body by an overwhelming 84 to 9 vote during consideration of the Urban Mass Transit Authority authorization.

Mr. President, I look forward to the Senate's vote on this amendment. This is an opportunity for Senators to record their opposition to excessive Government paperwork requirements.

To be perfectly candid about it, Mr. President, the Senator from North Carolina would like to go much further than this and cut the living daylights out of the waste that is involved in all of this paperwork. But, recognizing reality, I know we have to take it a step at a time; therefore, this amendment proposes only that the expenditures for this purpose be limited, for the coming fiscal year, to what it was for the immediate past fiscal year.

Mr. PROXMIRE. Will the Senator yield?

Mr. HELMS. I yield, Mr. President.

Mr. PROXMIRE. I think what the Senator from North Carolina is proposing is something that all Senators should heartily approve. I think all of us have talked to our constituents and found an overwhelming complaint about the amount of paperwork and the enormous cost imposed on the private sector—as the Senator rightly said, particularly on small business. Big business can take care of this. They can hire people, and, of course, they have tax advantages; they can write it off on their taxes and so forth. It is annoying to them, it is expensive, and it increases the cost of living; but for small business, it is just plain murder. They cannot hire the kind of people who are expert in the complicated paperwork in all areas that the Federal Government requires.

It is a good amendment but, as I say, there is a limited problem involved here with respect to two areas—one with respect to health and the other with respect to court orders. For that reason, I ask the distinguished Senator from North Carolina if he will accept an additional proviso to be added at the end of the amendment, which would specify as follows:

Provided, That nothing in this provision shall be construed as obstructing or impeding implementation of programs designed to protect the health of the American people from the dangers resulting from the possible exposure to toxic or hazardous pollutants or to comply with the terms of any court order or decision.

Obviously, we do not know what the technology is. Of course, it is changing all the time. We do get developments in chemistry and in all kinds of commercial technology that do increase pollution and it is necessary, for that reason, to require perhaps additional paperwork—unfortunately—to comply with it. We also never know when the courts may act, and that may also require paperwork. For that reason, I ask the Senator if he will take this limited modification as an addition to his amendment.

Mr. HELMS. Mr. President, I thank my friend from Wisconsin. I certainly will accept the modification, because it makes sense and it clarifies some points that need to be made clear. I send to the desk the modification.

The PRESIDING OFFICER. The clerk will state the modification.

Mr. HELMS. I ask unanimous consent that reading of the modification be dispensed with, Mr. President, inasmuch as it has been read by the Senator from Wisconsin.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair is unclear as to where the Senator wants the modification placed.

Mr. HELMS. It would go at the end, Mr. President.

The amendment was modified.

The amendment, as modified, is as follows:

On page 52, line 20, add the following:

None of the funds in this Act shall be used to create paperwork flowing from profit or nonprofit businesses, private persons, or State or local governments, to any agency covered by this appropriation in fiscal year 1981, in excess of paperwork requirements for the previous fiscal year.

For the purposes of this provision "paperwork" means reports, applications, forms, or other written presentations that any agency "covered by this Act", under statutory authority requires to be submitted to the local, State, or Federal government.

Provided, That nothing in this provision shall be construed as obstructing or impeding implementation of programs designed to protect the health of the American people from the dangers resulting from the possible exposure to toxic or hazardous pollutants or to comply with the terms of any court order or decision.

Mr. HELMS. Mr. President, I am ready for a vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment as modified.

The amendment (UP No. 1643), as modified, was agreed to.

Mr. PROXMIRE. I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1644

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1644.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. PROXMIRE. Mr. President, I object.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 16, line 15, strike out "$541,647,000" and insert in lieu thereof "$516,,119,000".

On page 16, line 22, strike out "$251,276,000" and insert in lieu thereof "$237,568,000".

On page 16, line 25, strike out "$543,338,000" and insert in lieu thereof "$512,892,000".

On page 17, line 14, strike out "$4,115.000" and insert in lieu thereof "$1,425,000".

On page 17, line 21, strike out "$1,700,000,000" and insert in lieu thereof "$1,500,000,000".

On page 18, line 11, strike out "$3,000,000" and insert in lieu thereof "$2,538,000".

Mr. HELMS. Mr. President, this amendment would keep the EPA budget at the 1980 appropriation level. It does not single out any particular program for a serious cut in funding, but merely keeps funds for salaries and expenses, research and development; abatement, control and compliance; buildings and facilities; construction grants; scientific activities overseas; and the U.S. Regulatory Council at their present levels of funding.

I dare say, Mr. President, if we would poll the American people on this amendment, it would be almost unanimous that they would find this is a fair proposition.

Obviously, everybody's mind is on the Nation's economic crisis, but the question is whether the will to do something about this crisis is in our hearts here in Congress. When I say "our hearts," I refer primarily to the distinguished Members of the U.S. Senate and to our counterparts in the House of Representatives. It boils down to this: It is up to us to recognize the part each of us plays in the inflation that is plaguing this Nation.

The plain, unvarnished fact is that inflation starts right here in Congress. Here is where the deficits have been approved year after year. Here is where the bloated, big spending bills are rushed through year after year.

I am reminded of an excellent book I read a few weeks ago, written by the distinguished Senator from Wisconsin (Mr. PROXMIRE). I thought so much of it that I bought several copies and sent them to my friends.

This is the point that BILL PROXMIRE made over and over and over again in his book. I commend Senator PROXMIRE's book to the consideration of not only Members of the Senate, but the American people, as well.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER (Mr. LEVIN). The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I am very grateful to my good friend from North Carolina for his statement, especially for the last part of it. I am in his debt. He has been so gracious about my book. He wrote me a very nice note about it. He has recommended it to a number of other people. I am referring to "The Fleecing Of America" which anyone can obtain from Hoten Miflin. It is a great buy.

Mr. SCHMITT. I think that is an abuse of power.

Mr. HELMS. An official book review.

Mr. PROXMIRE. An official book review. That is right. From an unbiased source.

Mr. SCHMITT. I hope nobody will insert it in the RECORD.

Mr. HELMS. Mr. President, every time Congress authorizes and appropriates extravagant amounts for Federal spending programs, inflation grows higher. When I say "extravagant," I mean any amount in excess of the money taken in by the Federal Government. Excessive Federal spending and excessive Federal borrowing have virtually destroyed the dollar and in the process have made credit in the private section unavailable.

That is why we have a Federal debt approaching $850 billion—almost a trillion.

Small wonder that the Nation's economy is on the brink of chaos. At the present time, the United States is devoting a larger share of the GNP to Government programs than at any period except at the height of World War II.

Despite the political rhetoric calling for a balanced budget next year, the fact is that the administration's proposals will actually increase spending. These proposals will actually raise taxes because of the growth in inflation in the past several weeks.

It gets around to this, Mr. President: What are we and Members of Congress going to do about this? We can talk, we can say, "We favor a balanced budget." I doubt that there is one Senator who has not been home in the last few weeks and held up his hands and said, "I favor a balanced budget," and the people believe him. But it is not what he says when he is home that counts. It is how he votes when he is here that counts.

So I think it is time for us to demonstrate that Members of Congress personally understand the hardships facing the American people. We must demonstrate that when we talk about making cuts in the Federal Government we are ready to demonstrate this.

Mr. President, we have got to be serious about our ever-expanding bureaucracy in light of our budget crisis. Enactment of my amendment to keep EPA's funding at the 1980 level will signal our determination to balance our budget by cutting Federal expenditures across the board.

Mr. PROXMIRE. Mr. President, in view of that fine statement by my good friend from North Carolina, I am very hesitant to oppose what Senator Helms has proposed. I am especially hesitant to oppose it because it would cut back the funds the Federal Government would spend.

Heaven knows that is what we should do. It should be one of our top priorities.

However, Mr. President, the Environmental Protection Agency is confronting a great number of serious and expanding problems. Two examples are hazardous waste dumps and toxic substances.

We know about what happened in New York at the Love Canal, and that these things develop in ways that are heartbreaking for the people involved. Even if they do not suffer from the terrible ravages of ill health, they have to give up their property, they have to move from the community they love, in which they grew up. It is something which all of us recognize. I think we should take every step we possibly can to prevent it.

In addition, like every other agency of the Federal Government EPA has to live with inflation.

This would hold the level of spending at the 1980 level. We all know we have an inflation rate now of around 12 percent or 13 percent. In real terms, it would cut the EPA by about 12 percent.

I think in view of the additional duties of that Agency, in view of the overwhelming importance to the American people of health, and protection against environmental pollution, in a technological and industrial society, it would be a mistake to make this cut.

I point out, it is not as if we came to the Senate with a bloated bill. We did not. It is very lean, particularly in this respect.

Despite these pressures, the committee has cut EPA's budget request by $340,941,000 and I must resist further cuts.

I think to make the additional cuts, which my good friend from North Carolina has recommended, would be going too far, would constitute a danger to health. I must, unfortunately, resist.

Mr. SCHMITT. Mr. President, I think the Senator from Wisconsin understates the work that was done in committee, some of which I even opposed, for reducing this budget.

We did reduce the Presidential request by the $340 million he mentioned. The increase of something, I believe, like $73 million over the 1980 budget is principally in salaries and expenses, and abatement control and compliance, and is principally, as I understand it, the increased work that has been demanded in the area of toxic substances waste by identification and control.

I think that is a modest increase considering the recent identification of the scope of the problem of abandoned waste dumps, toxic waste dumps, and other problems of this kind.

So, in view of the work of the subcommittee, which has been extensive, to reduce the expenditures of this agency, to provide some inflationary increase, and to continue the very necessary work of the control of toxic substances, I must regretfully oppose the amendment of the Senator from North Carolina.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, first, the distinguished Senator from New Jersey would like to speak on this matter. I understand he is getting his material for it.

But while we are waiting for that, I would like to ask the Senator about one part of his amendment.

On page 17, lines 16 through 21, under construction grants, the bill provides:

> For necessary expenses to carry out title II of the Federal Water Pollution Control Act, as amended, other than sections 206, 208, and 209, $3,400,000,000, to remain available until expended, and for liquidation of obligations incurred pursuant to authority contained in section 203, $1,700,000,000, to remain available until expended.

The Senator would, as I understand it, make a cut from $1.7 billion to $1.5 billion.

It is my understanding that this is entitlement money, that it is designed to pay contracts already agreed to, and that, therefore, to make this reduction would put the Federal Government in the position of failing to honor its obligation.

I am sure the Senator from North Carolina would not want to do that.

Mr. HELMS. Of course not. But the fact is that this is not money that will be expended in the next fiscal year beginning October 1. This is money that will be in the pipeline, and I do not believe it can be demonstrated that the Federal Government would have to renege on any contract as a result of my amendment.

Mr. PROXMIRE. I appreciate that. But I am advised by the staff—who may or may not be correct, but they usually are—that this would be liquidation of obligations pursuant to authority. So the contract already has been incurred. It is their judgment that this very well might put the Federal Government in a position in which it cannot pay the contract or pay it on time.

Mr. HELMS. I respectfully differ with the staff if they say that all this $1.7 billion will be paid out this year. I am sure they are sincere in what they are saying, but I believe them to be sincerely wrong.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, the amendments before the Senate are very serious. They would cut significant dollars from EPA precisely at a time when there are very real and present dangers across this country in toxic waste dumps and in spills.

I know that the amendment does not specifically state that the cuts will come out of funds that are used to clean up toxic wastes, but they could. I believe that this is too great a risk to bear at this time, when we have toxic waste dumps across this country.

In my State of New Jersey we had the example of a fire of 40,000 drums of unknown toxic substances. We have ground water that has been contaminated in New Jersey, and there are examples of this kind of pollution across this country.

There are 6,000 toxic waste dumps across this country. In the State of the Senator who proposes the amendment, the distinguished Senator from North Carolina, I will mention just two. In Mecklenburg County, N.C., 255-gallon drums of toxic wastes are leaking into a landfill. In New Hanover County, N.C., there is ground water contamination from the dumping of toxic industrial wastes, not dissimilar to my own case in New Jersey in Jackson Township, where the ground water has been polluted by the dumping of these toxic wastes.

So, Mr. President, I urge the Senate to reject this amendment. I hope that the Senator from North Carolina is aware that what we are talking about here is not simply administrative costs but something which could deal with issues of very real concern and represent a grave and present danger to constituents in both our States.

I support the chairman, and I hope that the Senate will reject the amendment of the Senator from North Carolina.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. STEWART), and the Senator from Florida (Mr. STONE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The result was announced—yeas 25, nays 66, as follows:

[Rollcall Vote No. 436 Leg.]

YEAS—25

Armstrong
Boren
Byrd,
  Harry F., Jr.
DeConcini
Dole
Exon
Garn
Hatch
Hayakawa
Heflin
Helms
Hollings
Humphrey
Jepsen
Laxalt
Long
Lugar
McClure
Simpson
Talmadge
Thurmond
Tower
Warner
Young
Zorinsky

NAYS—66

Baker
Baucus
Bellmon
Biden
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
Domenici
Durenberger
Durkin
Eagleton
Ford
Glenn
Gravel
Hart
Hatfield
Heinz
Huddleston
Inouye
Jackson
Javits
Johnston
Kassebaum
Leahy
Levin
Magnuson
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Stafford
Stennis
Stevens
Stevenson
Tsongas
Wallop
Weicker
Williams

NOT VOTING—9

Bayh
Bentsen
Goldwater
Kennedy
Mathias
McGovern
Morgan
Stewart
Stone

So Mr. HELMS' amendment (UP No. 1644) was rejected.

UP AMENDMENT NO. 1645

Mr. HELMS. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The Senate will be in order. Will the Senate be in order.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) for himself and Mr. DURENBERGER proposes an unprinted amendment numbered 1645:

At the bottom of page 13, add the following:

None of the funds or authority provided by this title shall be made available to any local public agency administrating housing and community development programs where such funds will be used to provide housing subsidies to any person who is not a United States citizen nor a lawful, permanent resident of the United States.

Mr. HELMS. Mr. President, I ask that the distinguished Senator from Minnesota (Mr. DURENBERGER) be listed as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, this amendment speaks for itself. It would require that federally subsidized and assisted housing be available only to persons who are either U.S. citizens or resident aliens. Demand for federally assisted housing has skyrocketed in recent years, partly because of our program expansions to help lower middle-income citizens. For example, to qualify for section 8 housing, a household's income can be up to 80 percent of the area median income. In fact, the GAO has estimated that approximately 40 percent of our population, or 30 million people, are eligible for assisted housing.

I do not know about others, Mr. President, but these are staggering figures to me. It is simply impossible to provide aid to such a large number of families. We cannot begin to afford the new housing units necessary to assist 40 percent of our population.

While our own demand escalates, HUD has failed to respond to a growing problem—that of illegal aliens and aliens here on temporary visas obtaining assisted housing, that is to say subsidized housing, while U.S. citizens and permanent U.S. residents wait in lines. HUD has stated that it has no authority to require proof of citizenship or permanent resident status. Some local housing authorities say they attempt to report illegal aliens to the Immigration and Naturalization Services, but have no firm policy in that regard. In fact, HUD regulations prohibit local residency requirements and discourage the application of any sort of residency preference. HUD merely considers the economic requirements for qualification for the various programs without consideration of any sort of legal residency status.

Mr. President, I am not unaware of the needs of persons from other countries, however, we have expanded our housing programs to the point that we simply cannot adequately provide for our own truly needy—citizens to whom we have a greater responsibility. I would have much less objection to giving assistance to the temporary class of aliens who are legally in our country if a surplus of housing or funds existed. We all know that is not the case. I do have strong objections to our subsidizing the existence of aliens who illegally enter our country. They take jobs away from our own citizens, and then, receive housing assistance to the detriment of those legally in the United States.

My amendment would limit public assistance to those who have complied with our immigration laws and have the intent to stay in this country, or, of course, who are citizens of the United States. We must take care of our own folks first.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. HELMS. Yes.

Mr. PROXMIRE. Mr. President, I am going to have to resist this amendment. I will explain why in a minute. But I think the Senator from North Carolina deserves credit for this amendment. Few people realize that the overwhelming majority of our poor people are eligible for public housing but do not receive any public housing benefits at all. None.

More than 90 percent of the people who are in the poverty category in this country, in terms of income, receive no housing assistance whatsoever. Theoretically, they are eligible, but their chances of getting it are zip.

Each year, we provide assistance for about 1 percent of the poverty stricken, so the chances are only 1 in a hundred each year that any poor person will qualify for admission to a public housing unit or any kind of public housing assistance.

What the Senator from North Carolina is offering is something that many of us would resist as a matter of conscience, because we certainly do not like to offend or hurt people who are good people, hard-working people, but who just happen not to be citizens. They may have applied for citizenship and maybe they will be citizens in a few years.

Mr. President, I have to resist this amendment, however, because it is clearly a matter for the authorizing committee. It is matter of policy. It is a matter that should be determined by the Banking, Housing, and Urban Affairs Committee in the House and in the Senate.

I have had an opportunity to discuss this with the Parliamentarian. I make the point of order, Mr. President, that this is legislation on an appropriations bill and, therefore, the amendment is not in order.

Mr. HELMS. Mr. President, will the Senator withhold his point of order just a moment?

Mr. PROXMIRE. Yes, I withhold it.

Mr. HELMS. I thank the Senator.

Mr. President, regardless of any mechanics of the Senate or any point of order that may or may not lie, the fact is that we have an absurd situation in this country.

A few weeks ago I was traveling and I stopped at the Minneapolis-St. Paul Airport. While I was waiting to change planes, I bought a copy of the July 12 issue of the Minneapolis Tribune.

Mr. President, I was shocked at a story that I read, which was headlined: "Should Foreign Students Get Housing Subsidies?"

The newspaper headlines told of the countless foreign students in that area alone who are receiving housing subsidies from the U.S. Government.

The newspaper had investigated the situation and discovered that the U.S. Government (the Department of Housing and Urban Development) did not have even the remotest idea about how much Federal money was being spent for housing subsidies for foreign students.

When I returned to Washington, I learned that HUD acknowledges that it is paying housing subsidies to Iranian students who have been protesting against the U.S. Government in the streets of our cities.

Mr. President, it is incredible that American taxpayers are subsidizing the living expenses of foreign students in this country who are protesting against the policies of our Government.

I do not want to be hard-hearted, but I think of the families in our own country who work like dogs to pay their taxes, and to send their own children to school, and then have to subsidize foreigners' educational expenses. In fact, I suspect that many American young people are denied enrollement in the college of their choice so that foreign students can be accepted.

Mr. President, each foreign student who receives nonimmigrant student status under 8 U.S.C. 1101 (a)(15)(F) is required as a condition of receiving that status to sign an affidavit certifying that he is financially able to support himself for his entire period of study. And yet an undetermined number of these students are receiving subsidies paid for by the American taxpayer.

The Immigration and Naturalization Service claims it cannot bring sanctions against these students because it is not illegal for them to request and receive this assistance. When the Minneapolis HUD area office tried to prohibit these handouts, they were told by HUD officials in Washington that there is no statutory basis for eliminating foreign students from housing subsidy programs.

Now I understand that when the House recently considered the HUD appropriations bill, they included in the bill, an amendment to prohibit the Department of Housing and Urban Development from giving housing subsidies to nonimmigrant student aliens. But the Senate Appropriations Committee decided to strike that amendment, citing as justification that "such a provision could require HUD to amend literally thousands of annual assistance contracts at great cost to the Department." Mr. President, I do not think this rationalization will bear scrutiny.

As I said, HUD officials acknowledge that they have no idea how much of the taxpayers' money is spent for housing subsidies for foreign students. I would be willing to bet that the money saved by cutting off these subsidies will more than offset the cost of amending the contracts. But we will never know unless Congress tells HUD to stop these payments.

Mr. President, I hear a lot of talk from Senators about cutting Government spending. But I am afraid that is all it is—just talk. Here we have a Government agency using American taxpayers' money in an improper fashion. This is exactly the type of spending Congress should eliminate.

I encourage the Senate conferees on the HUD appropriations bill to include in the final verson of this bill a provision prohibiting HUD from paying housing subsidies to nonimmigrant student aliens.

Mr. President, I ask unanimous consent that the article from the July 12, 1980, Minneapolis Tribune be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Should Foreign Students Get Housing Subsidies?

(By John Kostouros)

When Mark Stoffer and Reed Bible separately but coincidentally discovered that many—probably hundreds—of foreign students living in the Twin Cities are receiving federal rent subsidies that can amount to hundreds of dollars a month, they were shocked.

So, apparently, were officials of the Department of Housing and Urban Development (HUD), which administers the rent subsidy programs for low-income people. Foreign students must pledge that they can support themselves and that they will not become charges of the government in order to get permission to study in the United States.

Ever since, HUD has been scrambling—so far unsuccessfully—to find a way to stop the subsidy payments, according to department officials.

Even though officials from both agencies say the students should not be allowed to receive the subsidies, that payment of any public monies to foreign students violates the spirit if not the letter of the laws governing student visas, officials say current immigration and housing guidelines are unclear about how they can stop foreign students from receiving the subsidies.

"I think the students are really enjoying a loophole in our laws and regulations," said Gerald Coyle, director of the Twin Cities immigration office.

Stoffer, a criminal investigator for the immigration service, found out about the rent subsidies while he was investigating charges that a student and his wife were employed, a violation of their student status. His investigation convinced him that foreign students have been collecting housing subsidies for years and that the payments are widespread. Stoffer has been working with HUD to try to stop the payments.

Bible, the coordinator for assisted housing at the Cedar Square West apartments, discovered the same thing last year soon after he began working at the complex.

A list of tenants receiving subsidies at the complex shows that as many as 200 foreign students living there are receiving rent subsidies. Some are paying as little as $48 for apartments that normally rent for $280 to $400.

When Bible, a law student, complained to HUD about the situation, HUD officials first told him to stop putting foreign students on the subsidy program. But in mid-June, just six weeks later, HUD official Doug Strandness retracted the suggestion, telling Bible that HUD's central office had ruled that the subsidies could not be denied just because the applicants were not American citizens.

That ruling effectively tied Bible's hands. He was forced to resume placing foreign students in subsidized apartments. Meanwhile, the waiting list for the 600 subsidized apartments at the 1300-unit complex remains long, from five to eight months. The three subsidy programs being offered at Cedar Square West are supposed to aid low- and moderate-income families.

(Rent subsidies, which are parceled out to cities on the basis of need, have always been in short supply in the Twin Cities. Housing officials say that the demand for housing assistance now is very high because of a shortage of affordable rental housing and the impact of the recession on family earning power and unemployment.)

The subsidies, which vary according to the program and the applicant's family size and stated income, can be substantial. One Taiwanese student is paying $107 a month for a one-bedroom apartment that normally rents for more than twice that much.

An Iranian student with a wife and two children pays $46 a month for a two-bedroom apartment that normally rents for more than $300. Iranians make up the largest group of foreign students living at Cedar Square West, according to documentation provided by the management. Forty-one subsidized apartments are rented to Iranians. Korean students account for 36 units, more than twice as many as the third largest group.

Nobody disputes that many of the students need help, although everyone contacted had heard stories about foreign students living affluently while receiving the rent subsidies. And Bible has known of students who have put the names of other foreign students on the waiting lists for subsidies, even before the student has arrived in the United States.

"That way when the student arrives, he doesn't have to wait long to get an apartment," Bible said. Applicants can register by mail.

But the real issue, according to Bible and the government, is whether the government should be subsidizing the housing of foreign students when it cannot provide for the needs of American families.

HUD officials say no, but protest that federal law prevents them from withholding housing subsidies on the basis of citizenship. Congress must change the housing laws before the department can act, they say.

Immigration officials say no, but admit that they have yet to try to take action against a foreign student who has applied for and is receiving a rent subsidy.

"But we intend to," Coyle said. The only action the department can take against a student is deportation, he said, and that cannot be accomplished without taking the student before a special immigration judge.

And immigration officials say they are not even sure what will happen if they try to deport a student for getting subsidies. The laws that govern entry into the United States clearly state that a student must intend to support himself when he gets here, according to Coyle. But once the student has arrived, the laws governing deportation are less clear.

"If we can get them to publish federal regulations stating that it will be a violation of student status to accept subsidies, then we would have them on a violation of status," Coyle said. Not everyone agrees that the students should be prohibited from getting subsidies.

"During their stay in the United States a small number of students have something happen that prevents them from supporting themselves," said Wadad Alsuwayeh, president of the Minnesota International Students Association (MISA).

Students who come to the country fully intending to support themselves sometimes find themselves in a bind because of political changes back home, or changes in family situations that prevent family members from continuing to support the student, he said.

"I can't think of one example of a student who gets assistance who does not need it," Alsuwayeh said. "I don't see anything wrong with a student getting financial assistance if it is needed."

American students studying abroad often get help from the governments of their host country, Alsuwayeh said. "I think the same standards should apply here."

Mr. HELMS. Mr. President, the point is this, I say to my friend from Wisconsin—and I know he is just as appalled by this as I am—the newspaper reported and HUD confirmed that they know that many of these students come from wealthy families overseas and yet we have our citizens waiting in line, as the Senator himself has said.

Mr. PROXMIRE. The Senator is correct.

Mr. HELMS. I respect the orderly procedure of the Senate, but the Senator from North Carolina does not know how to tackle a problem except to tackle it.

Mr. PROXMIRE. Mr. President, let me suggest to the Senator that I am the chairman of the Banking, Housing, and Urban Affairs Committee and the Senator from New Mexico is a former member. I will be very happy to refer the legislation that the distinguished Senator wants to introduce and I promise him we will have very prompt hearings on it. I think he will get a great deal of support in the committee. I see no reason why a bill should not be sent to the floor to accomplish this.

Mr. HELMS. This year?

Mr. PROXMIRE. Not this year. There is no way we can do it this year.

Mr. HELMS. That is my point, I say to the Senator.

Mr. PROXMIRE. As the Senator knows, by the time we got it through the committee, had a markup, got it to the floor, over to the House, got the House to act, and it went to conference—there is no way.

Mr. HELMS. I understand.

Mr. PROXMIRE. Certainly we could do it early next year.

Mr. HELMS. Mr. President, I do not want to offend the Senator, but I think we ought to act now. We ought to speak now on this sort of thing one way or the other. If the amendment is voted down, fine. But I think the Senate ought to take a position on this and send a signal on it. If the Senator wants to kick it out in conference if, by any chance, it is approved, fine.

But I will take the Senator up on his proposition.

Mr. PROXMIRE. I say to my friend, as happens so often, the Senator from Wisconsin spoke in ignorance. I am told that this has already passed the Senate. It is in conference now. It is in our bill. The House conferees are going to take it.

For that reason, I think we can accomplish what the Senator from North Carolina is very ably suggesting here. So I suggest that the Senator permit us to make a point of order against his amendment and then, as the chairman of the conference—I am chairman of that conference—I will do all I can to see that we take it.

As a matter of fact, it passed the House. It is not in the Senate bill. It passed the House, and in conference, the conferees have accepted it.

Mr. HELMS. Mr. President, I thank the Senator. He knows of my admiration for him. I am not being critical of him in any sense, and he knows that, does he not?

Mr. PROXMIRE. Yes, indeed.

Mr. HELMS. But the fact is that the amendment that the Senator is talking about addresses itself only to students, foreign students. I ask the Senator to consult with his staff and see if that is not correct.

Mr. PROXMIRE. Mr. President, the Senator is right. But that is precisely the point the Senator from North Carolina brought up. In reading from the Minnesota paper, the Senator pointed out that foreign students are able to get housing and that is something that disturbed him, and rightly so, when the overwhelming majority of the poor Americans cannot get it.

What we are doing in conference is to correct that situation.

If the Senator wants to go further than that, and I understand he does, I will be very happy as chairman of the committee to schedule hearings and to lend my support to a measure which would not permit aliens to be eligible for housing when the overwhelming majority of American citizens do not have an opportunity to enjoy that privilege.

Mr. SCHMITT. Will the Senator yield?

Mr. HELMS. Certainly.

Mr. SCHMITT. As the Senator from North Carolina is aware, the whole issue of undocumented workers, illegal aliens, and immigration is a subject in which the Senator from New Mexico has been and is very actively involved. I sponsored and introduced with numerous colleagues S. 1427 which is an attempt to get to part of the basic problem, that is, the Mexican migrant worker who enters this country now illegally.

My concern is that the Senate has so far avoided coming to grips with this whole problem of the legal status of various individuals who are in our country, whether they are political refugees or economic refugees, and I think that is an important distinction to make, or whether in some cases they are students who are here either illegally or who have overstayed their assigned time.

My concern, and the reason that I think the suggestion of the Senator from Wisconsin is a good one, is that this amendment is very valuable because it helps to increase that pressure on this body to do something about this issue. We cannot get the Judiciary Committee to hold hearings on that particular bill or subject. Hopefully, that is going to change. But if we do not come to grips with it, we really do not know how to handle this particular problem.

The Senator mentioned the student issue, and that is part of it. But let me mention the Cubans who are here in some quasi-legal status, many of them in the most recent migration wave, and I do not know how they fit into it. There is the issue of the Mexican legal worker who is here filling jobs which, in most instances, U.S. workers are no longer willing to take. They are contributing a great deal to our society in their production and the taxes paid on that production.

Mr. PROXMIRE. And they would qualify under the amendment, I believe.

Mr. SCHMITT. They would qualify if they became legal residents or legal migrant workers in this country. They would become qualified.

Mr. PROXMIRE. That is correct.

Mr. SCHMITT. The only reason I take the floor at this point is to illustrate how broad an issue this is, and how important it is, I think, for the Banking Committee and the Judiciary Committee to deal with this, maybe through joint hearings. It is a very pervasive issue because of the different categories of legal and illegal migrants and immigrants who exist in this country.

I would hope that the Senator would take the assurances of the Senator from Wisconsin and whatever assurances I can back up that I would make, since I am trying to exert as much pressure as possible on the Senate to take these issues into account and get legislation, policy legislation that deals with the overall situation. The administration has been extremely reluctant to deal with this realistically. They have made proposals, but they are totally unrealistic proposals. The Congress is going to have to make policy guidance in this area. I hope the Senator will accept the assurances of the Senator from Wisconsin, the distinguished chairman of the Banking Committee, upon which I wish I still served. I am sorry I do not. I have been missing all the meetings because I do not serve on the committee, but at any rate I have been working closely on banking and housing problems.

Mr. PROXMIRE. The Senator from New Mexico is so active I thought he was still on the committee. He was a dominant member when he was on the committee.

Mr. SCHMITT. I appreciate the Senator's remarks. I think it is an important assurance that he has given.

Since I am a de facto member of the Banking Committee I will put all the pressure I can on the Senator from Wisconsin to live up to his promise. I hope the Senator will withdraw the amendment with these kinds of assurances.

Mr. HELMS. Mr. President, how could anyone resist such persuasiveness as this? The reaction, I must say, from the distinguished Senator from Wisconsin and the distinguished Senator from New Mexico is precisely what I hoped I would get. In fact, the distinguished Senator from New Mexico has made the very point that I was going to make: that it is time for this Senate to get off its hindside and do something about this issue. Too much time and too many millions of dollars have gone down the drain.

I thank both my friend Senator PROXMIRE and my friend Senator SCHMITT for being so clear in the understanding of what I was trying to accomplish. With that in mind, Mr. President, and with my gratitude to my two colleagues, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. SCHMITT. Mr. President, I congratulate the Senator from North Carolina on his action and I renew my commitment. It is unfortunate that there has been in the past so much misinformation on the issue he has raised and other related issues. Fortunately, at this time, the Select Commission on Immigration and Naturalization has conducted a nationwide set of very useful hearings, though I am not absolutely sure that the conclusion they are going to come to really reflects the facts in those hearings, if the newspaper accounts are accurate.

I also think it is important to note the increased interest just in the last year, maybe stimulated by the action of the Government but probably stimulated by the realization that our relationships particularly with Latin America, the source of so many of the illegal aliens who are in our country, are dependent on us coming up with a coherent policy.

There have been numerous fine research efforts by academic persons as well as by reporters of great common sense. I am at the present time introducing into the RECORD a series of articles that appeared in the San Diego Union about the broad problem of dealing with the Mexican migrant labor force. I commend those articles to my colleague, the Senator from North Carolina. He is obviously showing great leadership in this area and I will enjoy working with him further.

Mr. HELMS. I thank the Senator.

AMENDMENT NO. 2371

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from New Mexico.

Mr. SCHMITT. Mr. President, I request the yeas and nays on that amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

● Mr. MAGNUSON. Mr. President, this bill contains a substantial reduction in consultant spending, as most Members know. That reduction totals about $34 million and amounts to about 15 percent of what the agencies themselves said they spent on consultants during 1979.

Let me emphasize that these reductions are based on the total amount of consultant spending as reported by each agency in Commerce Business Daily during calendar 1979. This is where the agencies themselves reported the amount they spent on consultant contracts. So we just are not making these cuts arbitrarily. We are basing them on what the agencies themselves reported.

We chose those figures for one very simple reason. The figures for consultant spending that were submitted by the Office of Management and Budget were unrealistically low. OMB claims that only $414 million is spent on consultants throughout Government. That is hard to believe when we cut more than $150 million in two agencies alone last year. And the General Accounting Office estimates consultant costs at more than $2 billion. And the figures from Commerce Business Daily put the figures at almost $2.5 billion.

It appears that the bottom line of this controversy boils down to the narrow definition OMB uses for the term "consultant." We have been pushing OMB to come up with a better definition for months, but we have not had much success. So we have gone to one of the only other sources of information on consultant spending—Commerce Business Daily. Based upon those figures, we made about a 15-percent reduction.

We have a choice. Either we stand around here and argue about definitions forever and take no action to deal with this problem. Or we use the best figures we have—the figures the agencies themselves reported—and make a reduction in consultant spending based upon that.

Mr. President, every day we hear about the size of fraud and waste in the Federal Government. On the steps of the Capitol, some have claimed that there is something like $50 billion worth of waste and fraud in Government. And every politician in this country says we have got to stop these problems.

But when we try to cut spending in an area that is clearly plagued by excessive waste and abuse, we hear all of these cries about making cuts that are too big.

I would say to my colleagues that we cannot have it both ways.

We cannot stand on the steps of the Capitol and talk about cutting Government waste and then turn around, change our tune, and oppose cuts in waste because they look too big.

May I remind all of my colleagues that even after the cuts I am proposing in this bill, each of these agencies will still have billions—that is billions—not millions of dollars left. So I do not think these agencies are going to do any suffering from these cuts.

It seems to me that 20 years worth of GAO reports on consultant abuses should be enough to convince any Senator that cuts are needed and are needed now.

Let me conclude with a statement by Adm. Hyman Rickover, who is a leader in science and defense, from just 3 weeks ago. He said, in his opinion:

> Vast sums are being wasted through consulting contracts. Moreover, in terms of delay and inefficiency the true cost to the Government of useless studies and excessive use of consultants far exceeds the contract amounts. The use of consultants often impedes, rather than facilitates, action by government agencies.

I believe, Mr. President, that these reductions in consultant spending are necessary, warranted, and totally sound. It is time for Congress to send a clear message to agencies that we are tired of these abuses and waste in consultants and that we expect the agencies to do something about it.

I urge my colleagues to allow this reduction to remain in the bill—and reject increases for consultants.●

● Mr. SASSER. Mr. President, I support the reductions in consultant spending that are included in this bill and want to speak in opposition to efforts by some Members to add extra funds for consultants.

Senator MAGNUSON is to be commended for making these consultant spending cuts and for taking the lead in this area that has been plagued by excessive waste and misuse in the past.

The reductions in consultant spending in this bill are more than justified. Twenty years worth of reports by the General Accounting Office point to the need for agencies to put an end to the abuses in the use of consultants. Senator MAGNUSON is leading the way in cutting this waste by making spending reductions in this and other appropriations bills.

I would like to point out that these reductions certainly are not going to harm any program, Mr. President. There will be plenty of money left in each of these agencies—in fact, there will be billions of dollars available. These cuts in consultant spending are designed to get the agencies moving on cleaning up the waste and inefficiency that is taking place.

Some say that these reductions are too high. But I want to emphasize that they are based on figures reported to Commerce Business Daily by the agencies themselves. They were not gathered for the purpose of a spending cut as were those from OMB. These figures are sound and the reductions that are based upon them should remain in this bill.

Mr. President, I do not think there can be any question in any Senator's mind that we have seen many too many problems and abuses in consultant spending—duplication, waste, conflict of interest and more. If we are really serious about trying to cut waste from Government—which everyone on both sides of the aisle is talking about these days—then let us cut waste in the use of consultants.

In good conscience, I simply could not lambast Government programs for the fraud and waste that often exist within them and then turn around and cast a vote that would mean millions of dollars more for consultant spending in the Federal Government.

So I support Chairman MAGNUSON on this reduction and I urge my colleagues to do the same.●

Mr. SCHMITT. Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. STEWART), and the Senator from Florida (Mr. STONE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

The PRESIDING OFFICER (Mr. PRYOR). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 25, nays 67, as follows:

[Rollcall Vote No. 437 Leg.]

YEAS—25

Baker
Boren
Cannon
Cochran
Cranston
Glenn
Hatfield
Hayakawa
Heflin
Humphrey
Javits
Kassebaum
Laxalt
Long
Lugar
Packwood
Pressler
Sarbanes
Schmitt
Stafford
Stevens
Stevenson
Tower
Wallop
Warner

NAYS—67

Armstrong
Baucus
Bellmon
Bentsen
Biden
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C
Chafee
Chiles
Church
Cohen
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn

Gravel
Hart
Hatch
Heinz
Helms
Hollings
Huddleston
Inouye
Jackson
Jepsen
Johnston
Leahy
Levin
Magnuson
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sasser
Schweiker
Simpson
Stennis
Talmadge
Thurmond
Tsongas
Weicker
Williams
Young
Zorinsky

NOT VOTING—8

Bayh
Goldwater
Kennedy
Mathias
McGovern
Morgan
Stewart
Stone

So Mr. SCHMITT's amendment (No. 2371) was rejected.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1646

(Purpose: To exempt projects and programs that use solar energy from reductions in Act)

Mr. HEFLIN. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. HEFLIN) proposes an unprinted amendment numbered 1646:

On page 52 after line 19 add:

"SEC. 418. Notwithstanding any other provision of this Act, the total budget authority for any project or program that uses or will use solar energy as a source of energy shall be exempt from any or all reductions which may be levied by other sections of this Act or on the overall Act."

Mr. HEFLIN. Mr. President, this amendment is very simple. It involves very little money, approximately $8 million or $10 million and it deals with solar energy.

There are some efforts going on in NASA and in other agencies dealing with solar energy. One is the solar electrical propulsion system. This is a very important new development for space travel, but the spinoff of that development will be important to the use of solar energy in other applications.

It is my understanding that this has been discussed with the floor managers and there probably is no opposition to it.

Mr. PROXMIRE. I say to my good friend from Alabama that I have discussed this matter further with other members of the committee. I was inclined to consider taking this to conference. The difficulty, as I am sure the Senator appreciates, is that it is very, very hard to justify an exception.

Every item in this bill, it seems to me, can be justified, one way or the other. I do not believe there is an item here that most Senators would not support. That is why they are in the bill.

As I have said, we did cut this bill. We cut it further than anyone would have liked.

While I believe that solar energy, in the long run, is probably the most rewarding kind of technology we have for energy, it is inexhaustible and clean. I have consistently supported proposals to increase solar energy research. I believe that to make an exception and to say that only solar energy in this bill is going to be exempt from the cut makes it hard for Members to justify. Perhaps Members in some cases, in good faith, voted for no exceptions before; and to find now that the committee has accepted an amendment for solar energy, it seems to me, is very hard to justify.

Mr. HEFLIN. I appreciate the position of the Senator from Wisconsin, but here we are dealing with a great number of subjects. Energy happens to be one of the most important problems we have today. National security and energy particularly are important.

I know that the Senator has been very conscientious in his approach to these problems that we have.

Every general rule has exceptions. Whether this is an exception to the status quo of the bill, I believe it is an exception to which we should give some thought. Merely because it has not been thought of before does not mean that it should not be excepted. As we endeavor to deal with figures and with principles, things become complicated and we overlook things.

Any time you have an across-the-board reduction, which in this instance is 2 percent, it is like Ivory Soap—99 percent pure. It is a good approach, but there is that last element we should think about. I believe we should think about the advancements which are taking place in energy, the potential of solar energy, particularly in regard to its importance in space; the fact that we can develop a solar electric propulsion system.

Because so little is involved in this and because it can be absorbed easily, I pray that the Senator from Wisconsin will look at this matter carefully and will not say that just because there is a general rule, there should not be exceptions.

There are exceptions to everything, and we all know it. Things are not black and white; they are gray. In this instance, if the Senator will think about it carefully, this is something that, deep down in his conscience, he wants to support.

Mr. PROXMIRE. With respect to the Senator's proposition that every general rule has its exception, that is a general rule. What is the exception to the general rule that every general rule has its exception? The rule in which there is no exception, and that is what we are trying to do in this bill.

Mr. HEFLIN. The Senator already has excepted it in one instance here and supported it. That was with respect to the Veterans' Administration.

Mr. PROXMIRE. Not on the floor of the Senate.

Mr. HEFLIN. Senator BELLMON's amendment did that.

Mr. PROXMIRE. No, Senator BELLMON's amendment did not do that. We did that in committee. That was in the bill as it came to the floor.

The bill provides exceptions for the Veterans' Administration and for entitlement programs.

After all, we have refused to adopt amendments before the Senate for research and development being excepted. We knocked that out. We refused to adopt the amendment exempting revenue sharing from the cut.

In this bill, we have funds for hazardous waste, for housing, for basic research, for housing for the elderly, for the Space Shuttle—all of which would be cut 2 percent. We leave in 98 percent of those accounts. We have the same treatment for solar energy. We leave 98 percent for it.

Mr. HEFLIN. The Senator's position is, "This is good. It is an enlightened movement. It is a needed movement. But we did not think of it in committee; and because we did not think of it in committee, we ought not adopt it."

Mr. PROXMIRE. No. We thought of a number of possibilities in committee, obviously. What we did in committee was to take the House language. We took the House language. I should have gone back further. It was the House that made that decision.

Mr. HEFLIN. Then the logic is that because the House did not think of it, we should not adopt it.

Mr. PROXMIRE. No. We could have thought of all kinds of exceptions.

Mr. HEFLIN. What is the reason for it?

Mr. PROXMIRE. If the Senator from Alabama is successful in this, I can see Senators rising and saying that we should exempt housing for the elderly.

Mr. HEFLIN. I believe that at this late stage of the game, the Senator can except it; and by that logic, he will be doing the budget and appropriations committees a service; then we will go to final passage.

Mr. PROXMIRE. The Senator says that this is not much money, but it is $8 million to $10 million.

Mr. HEFLIN. Eight million dollars to ten million dollars puts us on a start toward a project that can mean great dividends to this country. The dividends can pay off thousands to one.

Mr. PROXMIRE. Eight million dollars to ten million dollars means that we still have in the bill $400 million to $500 million for solar research. So, really, we are cutting only a tiny fraction. If they cannot find, in that whole program of $400 to $500 million, $8 to $10 million of low priority items that they cannot postpone for a year or so, I will be surprised, and I believe the Senator from Alabama will be, too.

Mr. HEFLIN. I want to be sure that it starts. I believe we realize more than the agencies the importance of solar.

This is something about which the Senator from Wisconsin should think. At one time, I thought we had him convinced. Somebody has changed his mind.

Mr. PROXMIRE. The Senator almost did have me convinced, but I talked to other Senators; and upon sober reconsideration, I simply have to resist the protestations of my good friend.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I have had an opportunity to reread the amendment carefully and discuss this with the staff. My initial understanding of the amendment was wrong. I initially understood the amendment to provide, in effect, that there would be an additional $8 to $10 million added to the bill because we would not be reducing the solar energy account by 2 percent. That was wrong. It is my understanding that there would be nothing added to the bill, that there would be the same reduction in the bill as before, and that the $8 to $10 million would have to be taken out of some other part of the bill.

Mr. HEFLIN. That is right.

Mr. PROXMIRE. Is that the understanding of the author of the amendment?

Mr. HEFLIN. Yes, that is true because under section 412 we authorize a 2-percent cut but we authorize OMB to take as much as 5 percent.

Mr. PROXMIRE. We amended that with the Bellmon amendment which provided for a 2 percent across-the-board cut.

Mr. HEFLIN. What this would mean is it would be absorbed. It would not be additional money.

Mr. PROXMIRE. I think that is correct.

● Mr. MAGNUSON. Mr. President, the purpose of this amendment is to permit the solar energy projects and programs, both new and ongoing, funded by this act to proceed without interruption.

Solar energy is essentially an unlimited source of energy. It is a clean source, and not subject to interruption by foreign events. It is important that we continue to advance the technology for the use of solar energy. Projects funded in this bill, which are the subject of this amendment, will contribute to this advancement.

A very important project funded by the new budget authority in this bill is the initiation of the development of the solar electric propulsion system (SEPS). Not only will this new kind of propulsion system use solar energy, thereby advancing the technology for all applications, but it will also provide a unique capability for spacecraft propulsion. This project should move forward during fiscal year 1981 as authorized and supported by the Appropriations Committee.●

Mr. SCHMITT. Mr. President, if the Senator will yield, I think, though, it should be clear that based on the amendment to section 412 the cut would be absorbed by NASA, not by any other agency.

Mr. HEFLIN. That is right.

Mr. SCHMITT. That is unless there is some solar energy provision in other agencies that would fall under the amendment, and I doubt if there are. I think the HUD solar energy is a reimbursable program. EPA I do not believe has any solar energy R. & D. underway. NSF may have to absorb some cuts in other programs besides their solar programs, but I am not sure what they are doing in solar energy right now. So basically it sounds like a NASA cut of about $8 million.

Mr. PROXMIRE. With that understanding I am willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment (UP No. 1646) was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEFLIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. DOMENICI. Mr. President, I am in complete sympathy with the views expressed by my colleagues that low- and moderate-income subsidized housing is desperately needed by a large segment of this Nation's population—a segment which can no longer afford decent and livable housing. I am also convinced that the section 8 program is responsible for new construction of a great deal of the multifamily units undertaken in the last few years—construction that employs thousands of otherwise idle workers. It is imperative, therefore, that the subsidized housing program must be effective, targeted and efficient to adequately achieve this diversity of goals.

Nevertheless, Mr. President, I intend to vote for the Exon amendment, cutting $3.4 billion of budget authority from the $28.9 billion specified for assisted housing in the HUD bill, but keeping the number of assisted units at the 1980 level—240,000 units. Now is not the time for expansion. It is my belief that the existing program does not, in fact, accomplish the objectives it seeks to serve. Both the construction industry and those households so badly in need of subsidized housing can be better served by a HUD program which targets its aid more carefully and times its construction starts in a way to accomplish countercyclical objectives. Multifamily starts occur about 18 months after the budget authority commitment is made.

I am concerned that 70 percent of the subsidized housing commitments are made in the last month of the fiscal year. How selective can the process be when such a large number of decisions are made in a single month?

I am concerned that the General Accounting Office has found that public housing, various forms of pass-through securities and other housing programs are, dollar-for-dollar, more cost effective than the section 8 program.

I am concerned that the program is not targeted closely enough. Forty percent of the Nation's 60 million households are eligible for some form of housing assistance—and, 30 percent of these are eligible for section 8.

I am concerned that GAO has found evidence of excessive increases in fair market rents. In 17 cities surveyed the average HUD fair market rent increased 53 percent while the rent component of the CPI had increased 23 percent.

For all these reasons, Mr. President, I am concerned about the state of our subsidized housing program. It desperately needs strong oversight and redesign to help—not hurt—both low income renters and the construction industry. Therefore, Mr. President, I support the Exon amendment in the hope that it will trigger such a reexamination. It is long overdue.●

Mr. MOYNIHAN. Mr. President, I am voting for this appropriation because it contains funding for many programs that are important to the Nation and important to New York: general revenue sharing, community development block grants, various housing subsidies, and more.

I wish to note, however, that I strongly oppose the provision in this bill that limits New York City's access to the loan guarantees that have previously been authorized. I engaged in a lengthy discussion of this issue in the Senate on Tuesday, September 16—it appears on pages S12614 to S12617 of the RECORD—and indicated my strong hope and expectation that when the Senate goes to conference with the House on the differing versions of this legislation, the result will be a bill shorn of that particular restriction. That is my wish. It is President Carter's wish. It is Vice President MONDALE's wish. It is Secretary Miller's wish. Should that not be the outcome of conference, I would be unable to support the legislation and would expect to vote against it.

Mr. ROBERT C. BYRD. Mr. President, today the Senate completes its consideration of H.R. 7631, the Department of Housing and Urban Development-independent agencies appropriation bill for fiscal year 1981.

The members of the HUD-Independent Agencies Subcommittee and the full Appropriations Committee have labored long and hard to report a fiscally responsible bill to the Senate in a timely manner. The distinguished Senator from Wisconsin (Mr. PROXMIRE), chairman of the HUD-Independent Agencies Subcommittee of the Appropriations Committee, and its ranking minority member, Mr. MATHIAS, have provided exceptionally good leadership in guiding the legislation through 20 days of hearings, subcommittee markup, and full committee markup.

The appropriations bill before the Senate is a lean bill. Appropriations for many programs are reduced or held at current law levels. It is clear that some painful decisions have been made, on everyone's part, in an effort to hold the line on the budgets of the agencies and offices funded.

The bill provides adequate funding to maintain our commitment to improve rural and urban housing conditions, with particular attention paid to the economically disadvantaged, the elderly and the handicapped. In addition to housing and community development, this bill continues the effort to reverse or prevent air and water pollution. It provides funding for our veteran's programs, and the research operations of the National Science Foundation and the National Aeronautics and Space Administration.

The legislation includes four new provisions requiring agencies to take steps to curb fraud, abuse, and waste in their programs. These steps are: limits on the end of fiscal year spending, constraints on spending for outside consulting services, improved methods of debt collection, and the resolution of unresolved audits.

The recommendations of the HUD-Independent Agencies Subcommittee and the full Appropriations Committee make it very clear that more is not always best. The activities and needs of the agencies and offices funded in the bill and the constraints of the budget resolution have been carefully studied and weighed.

I believe that there has been a healthy process of give and take in determining specific budget cuts as well as selective increases in certain programs. We have seen part of that process in the last few days when Senators PROXMIRE and MATHIAS have found themselves, as they frequently did in committee, on opposing sides of important amendments. Both Senators have brought a great deal of concern and knowledge to the debate, and their discussions have served to inform the Senate.

We owe thanks to Senators PROXMIRE and MATHIAS, who have so ably presented their arguments, and to members of the HUD-Independent Agencies Subcommittee and of the full Appropriations Committee, for the time and effort they have devoted to this legislation.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. SCHMITT. Mr. President, the distinguished Senator from Wisconsin deserves the compliments of myself and I am sure Senator MATHIAS if he were here would also compliment him on his diligent stewardship of this bill in subcommittee and subsequently.

We have not always agreed on various provisions, but I think on balance the bill that has come out, except for a couple of provisions, is a good bill, and I think it is one that the Senate can take to conference with a great deal of confidence. I think we have to recognize, though, it will not be an easy conference. The House of Representatives has somewhat different ideas on a number of provisions than we have here, and it is important that the Senate conferees stick together as much as possible but also be as imaginative as possible in order to see that the conference is successfully carried out in the best interests of the country, not that the House of Representatives does not have those interests in mind, but sometimes there are differing opinions.

I remind the Senator from Wisconsin of the discussion that we had at the subcommittee markup, and I reemphasize this today with respect to the section 8 housing programs, the difficulties that we all see in those programs and the desire, as I recall, of both the Senator from Wisconsin and the Senator from New Mexico and many others in the subcommittee in the next few months of this Congress or the next Congress to really take an in depth review of the section 8 housing program to see where in the world we really have failed that program.

We are failing to meet the true needs of persons who require that type of assistance, and we are seeing a great deal of waste in the section 8 program.

The Senator from Wisconsin, I know, is extremely interested in this effort, and I am looking forward to working with him on it as I am sure Senator MATHIAS, Senator BELLMON, and others are also.

With that again, I compliment him on his stewardship of the bill and hope that the Senate will support it.

Mr. PROXMIRE. Mr. President, I thank my good friend from New Mexico. He was kind of drafted into action here. The distinguished Senator from Maryland, who always does a superb job on this bill, could not be here during much of the handling of the bill, and Senator SCHMITT, I think, did an outstanding job. He is extraordinarily intelligent and very cooperative. He is a real pleasure to work with, and he did a fine job on this as he does on all matters before the Senate.

Mr. President, I agree wholeheartedly, of course, with the Senator from New Mexico on section 8. It is, I think, a disaster. It is going to get worse as time goes on. There are literally hundreds and hundreds of billions of dollars involved in this program. They are building up every year. We are confronted with this, and on the Appropriations Committee most of it is uncontrollable spending. I think the Senator from New Mexico is right. We should have hearings to see what we can do at the appropriations level, and I think that the authorizing committee, the Banking Committee, should also get involved. I promise the Senator from New Mexico that we will do that also because this is something that is a fiscal time bomb waiting to blow up.

I also want to congratulate the distinguished Senator from Arkansas, the present occupant of the chair, for a really remarkable triumph. He has worked for a long, long time to explore the very puzzling and complicated issue of consultants.

I think what the Appropriations Committee has done today is largely because of his urging. He did that in his committee, and the Senator defended that position on the floor very ably. I think this action will serve the taxpayers extremely well as time goes on and save literally hundreds of millions of dollars as the years pass.

Mr. President, I might point out that the committee still faces very difficult budget resolution problems in conference. We will do our best to reconcile those problems, but it is going to be extremely hard for us to stay within the first budget resolution or the second budget resolution, as it is developing.

I might finally add I think the Senator from South Carolina and the Senator from Oklahoma, Senators HOLLINGS and BELLMON, really made a great difference on this bill. Without their assistance, without their work on the floor and off the floor, there is no way we would have been able to bring this bill in at the level we did, and I think undoubtedly they have saved the taxpayers hundreds of millions of dollars.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will now call the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. STEWART), and the Senator from Florida (Mr. STONE) are necessarily absent.

I also announce that the Senator from Montana (Mr. MELCHER) is absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) and the Senator from Montana (Mr. MELCHER) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 81, nays 10, as follows:

[Rollcall Vote No. 438 Leg.]

YEAS—81

Baker
Baucus
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Durenberger
Durkin
Eagleton
Ford
Glenn
Gravel
Hart
Hatfield
Hayakawa
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Leahy
Levin
Long
Lugar
Magnuson
Matsunaga
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—10

Armstrong
Byrd,
Harry F., Jr.
Domenici
Exon
Garn
Hatch
Helms
Humphrey
Laxalt
McClure

NOT VOTING—9

Bayh
Goldwater
Kennedy
Mathias
McGovern
Melcher
Morgan
Stewart
Stone

So the bill (H.R. 7631), as amended, was passed.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, I move that the Senate insist on its amendments, request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Chair appointed Mr. Proxmire, Mr. Stennis, Mr. Bayh, Mr. Huddleston, Mr. Leahy, Mr. Sasser, Mr. Durkin, Mr. Magnuson, Mr. Mathias, Mr. Bellmon, Mr. Weicker, Mr. Laxalt, Mr. Schmitt, and Mr. Young conferees on the part of the Senate.

DISAPPROVAL OF ENRICHED URANIUM TO INDIA

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of Senate Concurrent Resolution 109, which the clerk will state by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 109) disapproving the proposed export to India of low-enriched uranium for the Tarapur Atomic Power Station pursuant to export license applications XSNM-1379 and XSNM-1569.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. PROXMIRE. To be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I believe under the legislation that has been enacted, time for debate on the disapproval resolution will be equally divided between the opponents and the proponents.

Mr. President, I ask unanimous consent that the time be equally divided between the majority leader and the minority leader, and that they, in turn, allocate the time on their respective sides equally between the opponents and the proponents.

Mr. STEVENS. Mr. President, reserving the right to object, and I shall not object, will the majority consider making that the majority leader and minority leader or their designees?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I ask that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS OF THE SENATE UNTIL WEDNESDAY, NOVEMBER 12, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, notwithstanding the order of yesterday, I be permitted to call up the recess resolution and that no nongermane amendment be in order.

Mr. BAKER. Mr. President, there is no objection to that procedure on this side.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader. I send the resolution to the desk and ask that it be stated.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A Senate concurrent resolution (S. Con. Res. 126) providing for a recess of the Senate and an adjournment of the House of Representatives until Wednesday, November 12, 1980.

Mr. BAKER. Mr. President, I ask for the yeas and nays on the resolution.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Massachusetts (Mr. Kennedy), the Senator from Hawaii (Mr. Matsunaga), the Senator from South Dakota (Mr. McGovern), the Senator from North Carolina (Mr. Morgan), the Senator from Alabama (Mr. Stewart), and the Senator from Florida (Mr. Stone) are necessarily absent.

I also announce that the Senator from Montana (Mr. Melcher) is absent because of illness.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater) and the Senator from Maryland (Mr. Mathias) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. Goldwater) and the Senator from Maryland (Mr. Mathias) would each vote "nay."

The PRESIDING OFFICER (Mr. Mitchell). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 51, nays 39, as follows:

[Rollcall Vote No. 439 Leg.]

YEAS—51

Baucus
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cranston
Culver
DeConcini
Durkin
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Heflin
Hollings
Huddleston
Inouye
Jackson
Johnston
Leahy
Levin
Long
Magnuson
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Pell
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stennis
Stevenson
Talmadge
Tsongas
Williams
Zorinsky

NAYS—39

Armstrong
Baker
Bellmon
Boschwitz
Chafee
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Garn
Hatch
Hatfield
Hayakawa
Heinz
Helms
Humphrey
Javits
Jepsen
Kassebaum
Laxalt
Lugar
McClure
Packwood
Percy
Pressler
Roth
Schmitt
Schweiker
Simpson
Stafford
Stevens
Thurmond
Tower
Wallop
Warner
Weicker
Young

NOT VOTING—10

Bayh
Goldwater
Kennedy
Mathias
Matsunaga
McGovern
Melcher
Morgan
Stewart
Stone

So the concurrent resolution (S. Con. Res. 126) was agreed to, as follows:

S. Con. Res. 126

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses on any day beginning with Tuesday, September 30, 1980, but no later than Thursday, October 2, 1980, as determined by the Majority Leader, and consultation with the Minority Leader, and as so moved by the Majority Leader in accordance with this resolution, it stand in recess until 11:30 a.m. on Wednesday, November 12, 1980, and that when the House of Representatives adjourns on Thursday, October 2, 1980, it stand adjourned until 12:00 meridian on Wednesday, November 12, 1980.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DISAPPROVAL OF ENRICHED URANIUM TO INDIA

The Senate continued with the consideration of Senate Concurrent Resolution 109.

Mr. ROBERT C. BYRD. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending business is Senate Concurrent Resolution 109.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, under the order previously entered, I designate Mr. Glenn to handle half of the time allocated to this side of the aisle, as a proponent of the disapproval resolution, and Mr. Church to control the other half of the time on this side of the aisle, as an opponent of the disapproval resolution.

Mr. BAKER. Mr. President, it is my understanding that under the provisions of the unanimous-consent order previously entered, I now have an opportunity to designate those managers on this side of the aisle, for the resolution and against the resolution. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I designate the senior Senator from New York (Mr. JAVITS) for the opponents to the resolution, and I designate the Senator from North Carolina (Mr. HELMS) for the proponents of the resolution.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time not be charged against anybody.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time consumed in connection with the following morning business not be charged against either side on the pending measure.

The PRESIDING OFFICER (Mr. TSONGAS). Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 1031, 1034, 1035, 1044, 1084, 1086, and 1087.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and I will not, the reservation is for the purpose of advising the majority leader that all seven calendar items identified by him are cleared on our calendar and we have no objection to their consideration and passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

MAGNETIC FUSION ENERGY ENGINEERING ACT OF 1980

The Senate proceeded to consider the bill (S. 2926) to provide for an accelerated research, development, and demonstration program to achieve confirmation of the engineering feasibility of magnetic confinement fusion, and for other purposes, which had been reported from the Committee on Energy and Natural Resources with amendments as follows:

On page 3, line 15, strike "inflation", and insert in lieu thereof the following:

"inflation and a 25 per centum increase in funding each of fiscal years 1982 and 1983";

On page 4, line 12, strike "by the year 2005", and insert in lieu thereof the following:

"at the turn of the twenty-first century;";

On page 7, line 6, strike "by the year 2005", and insert in lieu thereof the following:

"at the turn of the twenty-first century";

On page 7, line 11, strike "of", and insert in lieu thereof "relative to other";

On page 7, line 14, strike "limitation", and insert in lieu thereof "limitations";

On page 7, line 17, strike "precious", and insert in lieu thereof "special";

On page 8, line 5, after "research", insert the following "and development";

On page 10, line 6, strike "advise the Secretary", and insert in lieu thereof "review";

On page 11, line 14, strike "an annual", and insert in lieu thereof "a triennial";

On page 11, strike line 22, through and including line 7 on page 13, and insert in lieu thereof the following:

SEC. 8. The Secretary may direct the director of each laboratory or installation at which a major magnetic fusion facility is operated for, or funded primarily by, the Federal Government to establish, for the sole purpose of providing advice to such a director, a program advisory committee composed of persons with expertise in magnetic fusion from such domestic industry, universities, government laboratories, and other scientific and technical organizations as such director deems appropriate.

On page 15, line 1, strike "two years", and insert in lieu thereof "one year";

On page 15, line 5, strike "the", and insert in lieu thereof "such";

On page 16, line 9, strike "state", and insert in lieu thereof "status";

On page 16, line 12, strike "annual", and insert in lieu thereof "any";

On page 16, after line 24, insert the following:

(b) In carrying out the provisions of this Act, the Secretary is authorized to enter into contracts only to such extent or in such amounts as may be provided in advance in appropriations Acts.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Magnetic Fusion Energy Engineering Act of 1980".

FINDINGS AND POLICY

SEC. 2. (a) The Congress hereby finds that—

(1) the United States must formulate an energy policy designed to meet an impending worldwide shortage of many exhaustible, conventional energy resources in the next few decades;

(2) the energy policy of the United States must be designed to insure that energy technologies using essentially inexhaustible resources are commercially available at a time prior to serious depletion of conventional resources;

(3) fusion energy is one of the few known energy sources which are essentially inexhaustible, and thus constitutes a long-term energy option;

(4) major progress in all aspects of magnetic fusion energy technology during the past decade instills confidence that power production from fusion energy systems is achievable;

(5) the United States must aggressively pursue research and development programs in magnetic fusion designed to foster advanced concepts and advanced technology and to develop efficient, reliable components and subsystems;

(6) to insure the timely commercialization of magnetic fusion energy systems, the United States must demonstrate at an early date the engineering feasibility of magnetic fusion energy systems;

(7) progress in magnetic fusion energy systems is currently limited by the funds made available rather than technical barriers;

(8) it is a proper role for the Federal Government to accelerate research, development, and demonstration programs in magnetic fusion energy technologies; and

(9) acceleration of the current magnetic fusion program will require a doubling within seven years of the present funding level without consideration of inflation and a 25 per centum increase in funding each of fiscal years 1982 and 1983.

(b) It is therefore declared to be the policy of the United States and the purpose of this Act to accelerate the national effort in research, development, and demonstration activities related to magnetic fusion energy systems. Further, it is declared to be the policy of the United States and the purpose of this Act that the objectives of such program shall be—

(1) to promote an orderly transition from the current research and development program through commercial development;

(2) to establish a national goal of demonstrating the engineering feasibility of magnetic fusion by the early 1990's;

(3) to achieve at the earliest practicable time, but not later than the year 1990, operation of a magnetic fusion engineering device based on the best available confinement concept;

(4) to establish as a national goal the operation of a magnetic fusion demonstration plant at the turn of the twenty-first century;

(5) to foster cooperation in magnetic fusion research and development among government, universities, industry, and national laboratories;

(6) to promote the broad participation of domestic industry in the national magnetic fusion program;

(7) to continue international cooperation in magnetic fusion research for the benefit of all nations;

(8) to promote greater public understanding of magnetic fusion; and

(9) to maintain the United States as the world leader in magnetic fusion.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) "fusion" means a process whereby two light nuclei, such as deuterium and tritium, collide at high velocity, forming a compound nucleus, which subsequently separates into constituents which are different from the original colliding nuclei, and which carry away the accompanying energy release;

(2) "magnetic fusion" means the use of magnetic fields to confine a very hot, fully ionized gas of light nuclei, so that the fusion process can occur;

(3) "energy system" means a facility designed to utilize energy released in the magnetic fusion process for the generation of electricity and the production of hydrogen or other fuels;

(4) "fusion engineering device" means a magnetic fusion facility which achieves at least a burning plasma and serves to test components for engineering purposes;

(5) "demonstration plant" means a prototype energy system which is of sufficient size to provide safety, environmental reliability, availability, and ready engineering extrapolation of all components to commercial size but which system need not be economically competitive with then alternative energy sources; and

(6) "Secretary" means Secretary of Energy.

PROGRAM ACTIVITIES

SEC. 4. (a) The Secretary shall initiate activities or accelerate existing activities in research areas in which the lack of knowledge limits magnetic fusion energy systems in order to ensure the achievement of the purposes of this Act.

(b)(1) The Secretary shall maintain an aggressive plasma confinement research program on the current lead concept to provide a full measure of support for the design, construction, and operation of the fusion engineering devices.

(2) The Secretary shall maintain a broadly based research program on alternate confinement concepts and on advanced fuels at a sufficient level of funding to achieve optimal design of each successive magnetic fusion facility using the then best available confinement and fuel concept.

(3) The Secretary shall ensure that research on properties of materials likely to be required for the construction of fusion engineering devices is adequate to provide timely information for the design of such devices.

(c)(1) The Secretary shall initiate design activities on a fusion engineering device using the best available confinement concept to ensure operation of such a device at the earliest practicable time, but not later than the year 1990.

(2) The Secretary shall develop and test the adequacy of the engineering design of components to be utilized in the fusion engineering device.

(d) The Secretary shall initiate at the earliest practical time each activity which he deems necessary to achieve the national goal for operation of a demonstration plant at the turn of the twenty-first century.

(e) The Secretary shall continue efforts to assess factors which will determine the commercial introduction of magnetic fusion energy systems including, but not limited to—

(1) projected costs relative to other alternative energy sources;

(2) projected growth rates in energy demand;

(3) safety-related design limitations;

(4) environmental impacts; and

(5) limitations on the availability of strategic elements, such as helium, lithium, and special metals.

COMPREHENSIVE PROGRAM MANAGEMENT PLAN

SEC. 5. (a) The Secretary shall prepare a comprehensive program management plan for the conduct of the research, development, and demonstration activities under this Act. Such plan shall include at a minimum—

(1) a presentation of the program strategy which will be used to achieve the purposes of this Act;

(2) a five-year program implementation schedule, including identification of detailed milestone goals, with associated budget and program resources requirements;

(3) risk assessments;

(4) supporting research and development needed to solve problems which may inhibit or limit development of magnetic fusion energy systems; and

(5) an analysis of institutional, environmental, and economic considerations which are limiting the national magnetic fusion program.

(b) The Secretary shall transmit the comprehensive program management plan to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than January 1, 1982.

MAGNETIC FUSION ENGINEERING CENTER

SEC. 6. (a) The Secretary shall develop a plan for the creation of a national magnetic fusion engineering center for the purpose of accelerating fusion technology development via the concentration and coordination of major magnetic fusion engineering devices and associated activities at such a national center.

(b) In developing the plan, the Secretary shall include relevant factors including, but not limited to—

(1) means of saving cost and time through the establishment of the national center relative to the cost and schedule currently projected for the program;

(2) means of providing common facilities to be shared by many magnetic fusion concepts;

(3) assessment of the environmental and safety-related aspects of the national center;

(4) provisions for international cooperation in magnetic fusion activities at the national center;

(5) provision of access to facilities for the broader technical involvement of domestic industry and universities in the magnetic fusion energy program;

(6) siting criteria for the national center including a list of potential sites;

(7) the advisability of establishing such a center considering all factors, including the alternative means and associated costs of pursuing such technology; and

(8) changes in the management structure of the magnetic fusion program to allow more effective direction of activities related to the national center.

(c) The Secretary shall submit not later than July 1, 1981, a report to the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources characterizing the plan and setting forth the steps necessary for implementation of the plan, including any steps already implemented.

TECHNICAL PANEL ON MAGNETIC FUSION

SEC. 7. (a) A technical panel on magnetic fusion of the Energy Research Advisory Board shall be established to review the conduct of the national magnetic fusion energy program.

(b)(1) The technical panel shall be comprised of such representatives from domestic industry, universities, government laboratories, and other scientific and technical organizations as the Chairman of the Energy Research Advisory Board deems appropriate based on his assessment of the technical qualifications of each such representative.

(2) Members of the technical panel need not be members of the Full Energy Research Advisory Board.

(c) The activities of the technical panel shall be in compliance with any laws and regulations guiding the activities of technical and fact-finding groups reporting to the Energy Research Advisory Board.

(d) The technical panel shall review and may make recommendations on the following items, among others:

(1) the preparation of the five-year program plan prepared pursuant to section 5;

(2) the type of future facilities needed to meet the goals of this Act along with their projected completion dates;

(3) the adequacy of participation by universities and industry in the program;

(4) the adequacy of international cooperation in magnetic fusion and any problems associated therewith; and

(5) institutional, environmental, and economic factors limiting, or prospectively limiting, efforts to achieve commercial application of magnetic fusion energy systems.

(e) The technical board shall submit to the Energy Research Advisory Board on at least a triennial basis a written report of its findings and recommendations with regard to the magnetic fusion program.

(f) After consideration of the technical panel report, the Energy Research Advisory Board shall submit such report, together with any comments such Board deems appropriate, to the Secretary.

PROGRAM ADVISORY COMMITTEES

SEC. 8. The Secretary may direct the director of each laboratory or installation at which a major magnetic fusion facility is operated for, or funded primarily by, the Federal Government to establish, for the sole purpose of providing advice to such director, a program advisory committee composed of persons with expertise in magnetic fusion from such domestic industry, universities, government laboratories, and other scientific and technical organizations as such director deems appropriate.

INTERNATIONAL COOPERATION

SEC. 9. (a)(1) The Secretary in consultation with the Secretary of State shall actively seek to enter into or to strengthen existing international cooperative agreements in magnetic fusion research and development activities of mutual benefit to all parties.

(2) The Secretary shall seek to achieve equitable exchange of information, data, scientific personnel, and other considerations in the conduct of cooperative efforts with technologically advanced nations.

(b)(1) The Secretary shall examine the potential impacts on the national magnetic fusion program of United States participation in an international effort to construct fusion engineering devices.

(2) The Secretary shall explore, to the extent feasible, the prospects for joint financial participation by other nations with the United States in the construction of a fusion engineering device.

(3) Within two years of the enactment of this Act the Secretary shall transmit to the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources the results of such examinations and explorations with his recommendations for construction of a national or international fusion engineering device: *Provided, however,* That such examinations and explorations shall not have the effect of delaying design activities related to a national fusion engineering device.

TECHNICAL MANPOWER REQUIREMENTS

SEC. 10. (a) The Secretary shall assess the adequacy of the projected United States supply of manpower in the engineering and scientific disciplines required to achieve the purposes of this Act taking cognizance of the other demands likely to be placed on such manpower supply.

(b) The Secretary shall within one year of the date of enactment of this Act submit a report to the President and to the Congress setting forth his assessment along with his recommendations regarding the need for increased support for education in such engineering and scientific disciplines.

INFORMATION DISSEMINATION

SEC. 11. (a) The Secretary shall take all necessary steps to assure that technical information relevant to the status and progress of the national magnetic fusion program is made readily available to interested persons in domestic industry and universities in the United States: *Provided, however,* That upon a showing to the Secretary by any person that any information or portion thereof provided to the Secretary directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Secretary shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code.

(b) The Secretary shall maintain an aggressive program in the United States for the provision of public information and educational materials to promote widespread knowledge of magnetic fusion among educational, community, business, environmental, labor, and governmental entities and the public at large.

REPORTS

SEC. 12. As a separate part of the annual report submitted pursuant to section 801 of the Department of Energy Organization Act

(Public Law 95-91), the Secretary shall submit to Congress an annual report of activities pursuant to this Act. Such report shall include—

(a) modifications to the comprehensive program management plan for implementing this Act;

(b) an evaluation of the status of national magnetic fusion energy program in the United States;

(c) a summary of the findings and recommendations of any report of the Energy Research Advisory Board on magnetic fusion;

(d) an analysis of the progress made in commercializing magnetic fusion technology; and

(e) suggestions for improvements in the national magnetic fusion program, including recommendations for legislation.

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. (a) There is hereby authorized to be appropriated to the Secretary, for the fiscal year ending September 30, 1981, such sums as are provided in the annual authorization Act pursuant to section 660 of Public Law 95-91.

(b) In carrying out the provisions of this Act, the Secretary is authorized to enter into contracts only to such extent or in such amounts as may be provided in advance in appropriations Acts.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

The amendments were agreed to en bloc.

Mr. TSONGAS. Mr. President, the Magnetic Fusion Engineering Act of 1980 has developed widespread, bipartisan support. Its passage by the Senate represents a consensus—that fusion energy is a significant component of our national energy program and one of our major efforts to insure our long-term energy security.

Fusion holds great promise as an inexhaustible resource and has the potential for achieving a high degree of safety with an acceptable level of social and environmental impact. Its fuel is low-cost and abundant. It does not have the accident potential nor the nuclear waste problem associated with nuclear fission. Major progress in all aspects of magnetic fusion technology during the past decade has instilled confidence that power production from fusion is achievable. It is a flexible energy source as well—capable of generating high temperature heat, electricity, hydrogen, and synthetic fuels. With advanced fusion fuels, electricity may be produced through direct conversion which is 70-percent efficient. While the ultimate economic size of fusion powerplants cannot be estimated with any certainty, fusion could complement decentralized renewable energy sources, providing centralized power where appropriate and substituting for coal and nuclear fission plants.

Fusion is the fundamental energy process that powers the sun. It involves combining isotopes of hydrogen, which can be extracted from water, to form helium. To make this energy releasing reaction occur, it is necessary to heat the hydrogen gas to hundreds of millions of degrees and confine it with a very strong magnetic field.

During the 1970's, American's magnetic fusion program resolved many of the questions about establishing these physical conditions needed to sustain the fusion process. The program has been well managed, the personnel are top-notch, and the results have been very impressive. We are now ready to shift the program from one focused on scientific feasibility to one focused on engineering feasibility. While continuing to maintain a broad basic R. & D. program, it is time to start resolving the engineering questions involved in an operating fusion reactor.

The bill does not suggest that fusion is the ultimate energy source. It will not be a cheap source of power. If we cannot solve the many engineering challenges that exist, fusion may never become an economic energy source. There will be some radioactive materials used in the fusion plant, and they must be handled carefully. Some parts of the fusion device may become radioactive and will have to be disposed of. All of these issues need to be resolved through an accelerated program of research, development and demonstration so that the commercial potential and the social and environmental issues can be assessed.

But thus far, compared to fission, fusion appears likely to result in less long-lived radioactive waste, much smaller accident potential, no risk of a meltdown and significantly reduced nuclear proliferation risk. Compared to coal, fusion produces no CO_2, SO_x, or NO_x. This does not mean that we can afford to devote less attention or fewer resources to near term energy options. Nor should we launch a crash program that ignores engineering reality and results in less than adequate attention to potential problems. The Magnetic Fusion Engineering Act establishes a program that may ultimately cost $20 billion but sets a realistic pace and is aimed at determing whether fusion is a viable option, whether it is competitive with alternative energy sources, and what role it will play in our energy mix.

This bill is principally a statement of national policy and program direction to provide for an accelerated research, development, and demonstration program to achieve confirmation of the engineering feasibility of magnet fusion and to move us closer to commercial development. It does not include new spending authority for fiscal year 1981, but it does call for a doubling of funding in real terms over the next 7 years and 25-percent increases in fiscal year 1982 and fiscal year 1983. It calls for the operation of a magnet fusion engineering device based on the best available confinement concept—not later than 1990. Operation of a commercial demonstration plant is sought by 2000. A comprehensive management plan for research, development, and demonstration will be devised. Participation by industry in the fusion program is promoted. The bill requires DOE to prepare a plan to develop a national magnetic fusion engineering center to consolidate and coordinate major magnetic fusion engineering devices and associated activities. International cooperative agreements will be strengthened. Technical manpower requirements will be assessed.

Mr. President, the list of cosponsors of this bill span the entire political spectrum. Its broad support is evidence that this issue is not polarized as in the case of nuclear fission. Even though a demonstration plant is 20 years away, this energy source is being taken seriously because we recognize the need to invest in our energy future today. The Magnetic Fusion Engineering Act of 1980 will help mobilize national resources to overcome the obstacles to fusion and to speed its commercial use. It is a direct step forward toward developing an energy policy that addresses our long-term energy future.

● Mr. CHURCH. Mr. President, I am pleased to be one of the original cosponsors of S. 2926. This legislation is intended to promote the engineering development phase of the magnetic fusion program. After 28 years of scientific research on the magnetic fusion concept, the successes in the program in the last few years have now rendered us into the position where the scientific feasibility of magnetic fusion is at hand. We must now try to prove that practical fusion energy devices can be developed using magnetic confinement approaches by attacking the engineering problems, which are large but not seemingly insurmountable.

One of the important features of this bill is section 6, which calls for a plan for creation of a national magnetic fusion engineering center. Last year in S. 688, the fiscal year 1980 DOE Authorization Act, I offered an amendment calling for a feasibility study for creating such a center. When it became apparent that bill might not become law, I sent a letter to the Department of Energy requesting that such a feasibility study be initiated in any case.

The technical panel on magnetic fusion, established as a working group of the Energy Research Advisory Board, evaluated the feasibility of such an engineering center and, in their draft report to the Energy Research Advisory Board, recommended the creation of such a center. I was pleased that my original suggestion bore fruit in formulating the future of the magnetic fusion program. Section 6 of S. 2926 will now move us forward toward a detailed plan for this important new national facility.

In my opinion, the engineering center for the magnetic fusion program is entirely analogous to the reactor testing center that we have had in Idaho for more than 30 years. The work of the professional team at the Idaho National Engineering Laboratory has been of exceptional value to the Nation. I want to go on record now as saying that INEL would be an excellent site for this magnetic fusion engineering center, and I intend to work in the next Congress to promote the selection of INEL as the site for this center. We have the blessings of exceptionally qualified technical people, sufficient space, and community support for such a national facility. Already INEL has been designated as the lead laboratory for fusion safety work.

Mr. President, I believe that S. 2926 is a bill that strikes a proper balance between promoting the magnetic fusion energy program and maintaining realism about how fast one can move technology from the laboratory into commercial reality. Even with continued success at each stage in the program, economic commercial power from magnetic fusion energy will not be possible until well into the 21st century. We must not disband our national efforts on nuclear fission options in the hope that magnetic fusion will supplant the need for them. In all likelihood, Mr. President, we will need both energy forms in the long run.●

FUSION: A PROMISING ENERGY SOURCE

● Mr. DOLE. Mr. President. The seriousness of this country's energy crisis makes it necessary to employ every opportunity for energy self-sufficiency. No single option is adequate in and of itself in bringing about energy independence and neither should any single option be discounted. The Magnetic Fusion Energy Engineering Act of 1980 presents our Nation an opportunity that must be utilized for its value as a tool for energy self-sufficiency.

Conservation efforts are a course which should be pursued with vigor, but conservation alone cannot assure adequate security. Expansion of our total complement of energy resources is an essential means to energy security. The Senate has spoken to the issue of alternative energy sources in the past and today we are once again presented with an option we must not let slip.

Mr. President. Today I am proud to state my strong support for a bill which I believe is in the best interests of the United States. This legislation provides legitimate recognition of the many successes incurred over recent years by the magnetic fusion program and provides additional funds to not only initiate the engineering phase of magnetic fusion but also funds for a well-deserved research and development program.

The strategic importance of fusion is that it is derived from a limitless and easily accessible energy source—water, and its importance as a fuel supply that has the potential for achieving a high degree of safety with an acceptable level of social and environmental impact. Of all the inexhaustible fuel supplies, fusion promises the greatest long-term contribution at the least overall environmental and social cost. I believe it imperative that the Congress move forward now to provide the needed funding for fiscal year 1981 to ensure that our Nation's overall energy policy, geared toward energy independence, has as one of its component parts this wholly worthwhile program. I strongly urge my colleagues to join with me in lending their full support for this promising energy initiative.●

Mr. BAKER. Mr. President, it gives me great pleasure to see the Senate act so expeditiously and with such unanimity on a measure that is a statement of confidence in American technology, and an affirmation of our belief that, despite our short-term energy problems, the future is bright with the promise of unlimited energy derived from abundant, inexpensive, readily available fuels. Fusion energy holds out that promise. And Mr. President, 15 years ago, I would have been among the first to admit that the road to harnessing the energy of the stars here on earth was strewn with obstacles, and might ultimately lead nowhere.

But the fusion energy research program has in recent years advanced through a series of successes that all but the most ardent enthusiasts would have considered unlikely. The results obtained at the several lead laboratories in the fusion research program have been most encouraging, and I am proud to note that the Oak Ridge National Laboratory in Tennessee has been in the vanguard of the advances in magnetic confinement fusion research, with an innovative device bearing the intriguing name "ELMO Bumby Torus."

Mr. President, the results of experiments at Oak Ridge, MIT, Princeton, Livermore's Tandem Mirror Experiment, and the Doublet III device at General Atomic support the conclusion that the time has come to move forward with an aggressive program designed to produce a demonstration fusion powerplant by the turn of the century. Simply put, that is the goal of this bill, and I was pleased to join with the distinguished junior Senator from the State of Massachusetts (Mr. TSONGAS) as one of the original cosponsors of S. 2926, the measure before us. I wish to commend the chairman of the Energy Committee (Mr. JACKSON) and the ranking Republican member of that committee (Mr. HATFIELD) for insuring that this statement of commitment to advanced energy technology could reach the floor of the Senate for action before the end of the 96th Congress. Our colleagues in the House of Representatives acted with near unanimity to pass their companion measure, so that with the action of the Senate today, the Congress has spoken decisively and with clarity in support of an accelerated research, development, and demonstration program to achieve confirmation of the engineering feasibility of a magnetic fusion reactor.

Mr. President, I want to make it clear that fusion energy will not contribute to the solution of our serious short-term energy supply problem. We cannot even be certain that this development program will culminate in a successful fusion energy power plant, or that fusion will be the energy source of the 21st century and beyond. But we must find out whether we shall have that new option before us as we enter the next century. And, Mr. President, we must investigate, we must explore, we must develop all possible energy options if we are to insure that our children will not live in a world of peril because energy is running out.

Mr. President, the country cannot afford to be timid and cautious in our quest for new energy sources. In a time when we are spending almost $100 billion a year for foreign oil, we must be willing to make the commitment and take the chances that are necessary if this Nation is ever again to achieve energy independence. I believe we will achieve that independence, and I am proud to cosponsor the Magnetic Fusion Energy Engineering Act as an important element in providing a secure energy future for America.

● Mr. HAYAKAWA. Mr. President, I am pleased to cosponsor and strongly support the passage of S. 2926, the Magnetic Fusion Energy Engineering Act of 1980. This legislation would provide for an accelerated program of research and development of fusion technology. It will seek to demonstrate the engineering feasibility of magnetic confinement fusion by at least 1990, and the operation of a magnetic fusion demonstration plant by the year 2005. The bill encourages full participation by industry in the fusion program, and reinforces international cooperation in fusion research.

Mr. President, fusion is a vital part of our overall energy supply picture. We must recognize this, and adopt a policy commensurate with fusion's potential as a major energy source. Fusion has the promise of being a relatively safe and environmentally sound option. In addition, the primary fuels used in the fusion reaction can be extracted from seawater, therefore making it a virtually inexhaustible energy source.

There have been highly successful achievements in the fusion field in the last several years. I am especially proud of the extensive fusion research efforts in California through the Lawrence Livermore Laboratory and General Atomics. This bill will formulate goals and establish a national commitment to support these exciting successes, and bring us closer to the ultimate goal of commercial development of fusion power.●

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate action taken with regard to Calendar Order No. 1031 (S. 2926) from third reading forward be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 2926 be taken to third reading, that the Committee on Energy and Natural Resources be discharged from further consideration of H.R. 6308, that the Senate proceed to its immediate consideration, that all after the enacting clause of H.R. 6308 be stricken, that the text of S. 2926, as advanced to third reading be inserted in lieu thereof, that the bill H.R. 6308 be passed, that a motion to reconsider be laid on the table, and that S. 2926 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, the requests are so ordered.

PRINTING OF "PROGRESS IN THE PREVENTION AND CONTROL OF AIR POLLUTION IN 1978 AND 1979"

The resolution (S. Res. 494) authorizing the printing of the report entitled "Progress in the Prevention and Control of Air Pollution in 1978 and 1979" as a Senate document, was considered and agreed to, as follows:

Resolved, That the annual report of the Administrator of the Environmental Protection Agency to the Congress of the United States in compliance with sections 127(d), 202, 306(e), and 313 of Public Law 91–604, the Clean Air Act, as amended, entitled, "Progress in the Prevention and Control of Air Pollution in 1978 and 1979" be printed as a Senate document.

SEC. 2. There shall be printed five hundred additional copies of such document for the use of the Committee on Environment and Public Works.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PURCHASE OF CALENDARS

The resolution (S. Res. 520) relating to the purchase of calendars, was considered and agreed to, as follows:

Resolved, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, upon vouchers approved by the chairman of that committee, not to exceed $55,120 for the purchase of one hundred and four thousand calendars. The calendars shall be distributed as prescribed by the committee.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MOAPA INDIAN RESERVATION LANDS

The Senate proceeded to consider the bill (S. 1135) to add certain lands to the Moapa Indian Reservation, and for other purposes, which had been reported from the Committee on Energy and Natural Resources with an amendment:

On page 7, strike line 16 through and including line 20 and insert the following:

SEC. 2. (a) Nothing in this Act shall—

(1) deprive any person of any valid existing right-of-way, mining claim, water right, or other interest which such person may have in any land described in the first section of this Act; or

(2) deprive any person of the rights provided under the Act entitled "An Act to provide for the sale of desert lands in certain States and Territories", approved March 3, 1877 (43 U.S.C. 321 et seq.), commonly referred to as the Desert Land Act, with respect to desert lands regarding which such person has filled a declaration, before the date of the enactment of this Act, under the first section of the Desert Land Act stating his intention to reclaim such lands.

(b) Lands transferred under the first section of this Act are hereby made subject to the reservation to the United States of a right-of-way, which shall extend one thousand five hundred feet easterly of the present right-of-way of the Navajo-McCullough transmission line and one thousand five hundred feet westerly beyond the limits of the present right-of-way of the Reid Gardner Pecos transmission lines, and also subject to the authority of the Secretary to grant rights-of-way as provided in this subsection. This reservation of a right-of-way also continues in the Secretary the right to grant rights-of-way over, upon, under or through this area for such transportation or other systems or facilities pursuant to any law relating to rights-of-way on the public land, including but not limited to: The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701, 1761) and section 28 of the Mineral Leasing Act, as amended (30 U.S.C. 185) and to enforce all or any terms and conditions of the right-of-way upon its termination and to set and collect all rental charges.

(c) Any payments for the use of the right-of-way in the corridor (as described in 2(b) of this Act) after the date of this Act shall be made to the Secretary of Interior for the benefit of the Moapa Band of Paiutes.

(d) Lands transferred under the first section of this Act shall be subject to a reservation to the United States of all minerals subject to the Mineral Leasing Act of 1920, as amended (41 Stat. 437; 30 U.S.C. 181) together with the right to enter upon the land and mine and remove such minerals. Any such reservation shall include the right to collect and deposit all fees, rentals, royalties, and other revenues in accordance with the Mineral Leasing Act.

SEC. 3. The second sentence of subsection (a) of the first section of the Act entitled "An Act to authorize the leasing of restricted Indian Lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases", approved August 9, 1955 (69 Stat. 539; 25 U.S.C. 415), as amended, is further amended by inserting "the Moapa Indian Reservation," after "the Dania Reservation,".

SEC. 4. The lands held in trust under section 1 of this Act shall not be considered "lands within the exterior boundaries of reservation" for the purposes of subsection (c) of section 164 of the Act of July 14, 1955 (69 Stat. 322), as amended (42 U.S.C. 7474), commonly referred to as the Clean Air Act.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subject to all valid existing rights of way, mining claims, grazing rights, and applications under the desert land entry laws of the United States, the following described lands shall, on and after the date of the enactment of this Act, be considered to be a part of the Moapa Indian Reservation, Moapa, Nevada, and shall be held in trust by the United States for the benefit and use of the Moapa Band of Paiutes:

Township 15 south, Range 65 east, Mount Diablo Meridian, Nevada

Section 1: Lot 1; south half northwest quarter, south half 439.89 acres.
Section 2: All 639.56 acres.
Section 3: All 639.28 acres.
Section 4: All 638.48 acres.
Section 5: All 638.44 acres.
Section 6: All 638.41 acres.
Section 7: All 640.16 acres.
Section 8: All 640.00 acres.
Section 9: All 640.00 acres.
Section 10: All 640.00 acres.
Section 11: All 640.00 acres.
Section 12: All 640.00 acres.
Section 13: All 640.00 acres.
Section 14: All 640.00 acres.
Section 15: All 640.00 acres.
Section 16: All 640.00 acres.
Section 17: All 640.00 acres.
Section 18: All 640.28 acres.
Section 19: All 640.24 acres.
Section 20: All 640.00 acres.
Section 21: All 640.00 acres.
Section 22: All 640.00 acres.
Section 23: All 640.00 acres.
Section 24: All 640.00 acres.
Section 25: All 640.00 acres.
Section 26: All 640.00 acres.
Section 27: All 640.00 acres.
Section 28: All 640.00 acres.
Section 29: All 640.00 acres.
Section 30: All 640.12 acres.
Section 31: All 640.80 acres.
Section 32: All 640.00 acres.
Section 33: All 640.00 acres.
Section 34: All 640.00 acres.
Section 35: All 640.00 acres.
Section 36: All 640.00 acres.
Total acreage 22,835.66.

Township 16 south, Range 65 east, Mount Diablo Meridian, Nevada

Section 1: All 640.36 acres.
Section 2: All 640.76 acres.
Section 3: All 640.86 acres.
Section 4: All 640.96 acres.
Section 5: All 641.02 acres.
Section 6: All 640.74 acres.
Section 7: All 639.24 acres.
Section 8: All 640.00 acres.
Section 9: All 640.00 acres.
Section 10: All 640.00 acres.
Section 11: All 640.00 acres.
Section 12: All 640.00 acres.
Section 13: All 640.00 acres.
Section 14: All 640.00 acres.
Section 15: All 640.00 acres.
Section 16: All 640.00 acres.
Section 17: All 640.00 acres.
Section 18: All 639.26 acres.
Section 19: All 639.20 acres.
Section 20: All 640.00 acres.
Section 21: All 640.00 acres.
Section 22: All 640.00 acres.
Section 23: All 640.00 acres.
Section 24: All 640.00 acres.
Section 25: All 640.00 acres.
Section 26: All 640.00 acres.
Section 27: All 640.00 acres.
Section 28: All 640.00 acres.
Section 29: All 640.00 acres.
Section 30: All 639.32 acres.
Section 31: Lots 3, 4; east half west half, east half 559.93 acres.
Section 32: All 640.00 acres.
Section 33: All 640.00 acres.
Section 34: All 640.00 acres.
Section 35: All 640.00 acres.
Section 36: All 640.00 acres.
Total acreage 22,961.65.

Township 16 south, Range 64 east, Mount Diablo Meridian, Nevada

Section 1: All 640.48 acres.
Section 2: All 641.00 acres.
Section 3: All 641.10 acres.
Section 4: All 641.26 acres.
Section 5: All 641.52 acres.
Section 6: All 642.52 acres.
Section 7: All 641.40 acres.
Section 8: All 640.00 acres.
Section 9: All 640.00 acres.
Section 10: All 640.00 acres.
Section 11: All 640.00 acres.
Section 12: All 640.00 acres.
Section 13: All 640.00 acres.
Section 14: All 640.00 acres.
Section 15: All 640.00 acres.
Section 16: All 640.00 acres.
Section 17: All 640.00 acres.
Section 18: Lots 1, 2, 3, 4; north half northeast quarter, northeast quarter southeast quarter northeast quarter, northwest

quarter southwest quarter northeast quarter, east half west half, southwest quarter northwest quarter southeast quarter, southwest quarter southeast quarter 471.16 acres.

Section 19: All 640.94 acres.
Section 20: All 640.00 acres.
Section 21: All 640.00 acres.
Section 22: All 640.00 acres.
Section 23: All 640.00 acres.
Section 24: All 640.00 acres.
Section 25: All 640.00 acres.
Section 26: All 640.00 acres.
Section 27: All 640.00 acres.
Section 28: All 640.00 acres.
Section 29: All 640.00 acres.
Section 30: All 640.78 acres.
Section 31: All 640.36 acres.
Section 32: All 640.00 acres.
Section 33: All 640.00 acres.
Section 35: All 640.00 acres.
Section 36: All 640.00 acres.
Total acreage 22,882.52.

Township 14 south, Range 66 east, Mount Diablo Meridian, Nevada

Section 29: West half 320.00 acres.
Section 30: All 630.38 acres.

Section 31: East half of Lot 1; east half, east half northwest quarter, southwest quarter northwest quarter, northeast quarter northeast quarter southwest quarter 499.99 acres.

Section 32: West half 320.00 acres.
Total acreage 1,769.87.

Township 17 south, Range 64 east, Mount Diablo Meridian, Nevada

Section 7: Lots 5 and 6; south half northeast quarter 115.76 acres.

SEC. 2. (a) Nothing in this Act shall—

(1) deprive any person of any valid existing right-of-way, mining claim, water right, or other interest which such person may have in any land described in the first section of this Act; or

(2) deprive any person of the rights provided under the Act entitled "An Act to provide for the sale of desert lands in certain States and Territories", approved March 3, 1877 (43 U.S.C. 321 et seq.), commonly referred to as the Desert Land Act, with respect to desert lands regarding which such person has filed a declaration, before the date of the enactment of this Act, under the first section of the Desert Land Act stating his intention to reclaim such lands.

(b) Lands transferred under the first section of this Act are hereby made subject to the reservation to the United States of a right-of-way, which shall extend one thousand five hundred feet easterly of the present right-of-way of the Navajo-McCullough transmission line and one thousand five hundred feet westerly beyond the limits of the present right-of-way of the Reid Gardner Pecos transmission lines, and also subject to the authority of the Secretary to grant rights-of-way as provided in this subsection. This reservation of a right-of-way also continues in the Secretary the right to grant rights-of-way over, upon, under or through this area for such transportation or other systems or facilities pursuant to any law relating to rights-of-way on the public land, including but not limited to: The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701, 1761) and section 28 of the Mineral Leasing Act, as amended (30 U.S.C. 185) and to enforce all or any terms and conditions of the right-of-way upon its termination and to set and collect all rental charges.

(c) Any payments for the use of the right-of-way in the corridor (as described in 2(b) of this Act) after the date of this Act shall be made to the Secretary of Interior for the benefit of the Moapa Bank of Paiutes.

(d) Lands transferred under the first section of this Act shall be subject to a reservation to the United States of all minerals subject to the Mineral Leasing Act of 1920, as amended (41 Stat. 437; 30 U.S.C. 181) together with the right to enter upon the land and mine and remove such minerals. Any such reservation shall include the right to collect and deposit all fees, rentals, royalties, and other revenues in accordance with the Mineral Leasing Act.

SEC. 3. The second sentence of subsection (a) of the first section of the Act entitled "An Act to authorize the leasing of restricted Indian Lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases", approved August 9, 1955 (69 Stat. 539; 25 U.S.C. 415), as amended, is further amended by inserting "the Moapa Indian Reservation," after "the Dania Reservation,".

SEC. 4. The lands held in trust under section 1 of this Act shall not be considered "lands within the exterior boundaries of reservations" for the purposes of subsection (c) of section 164 of the Act of July 14, 1955 (69 Stat. 322), as amended (42 U.S.C. 7474), commonly referred to as the Clean Air Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MARITIME TORT DAMAGE CLAIMS

The Senate proceeded to consider the bill (H.R. 3748) to provide for a uniform national 3-year statute of limitations in actions to recover damages for personal injury or death arising out of a maritime tort, and for other purposes.

● Mr. CANNON. H.R. 3748, which passed the House on the Suspension Calendar, has been reported by the Senate Committee on Commerce, Science, and Transportation. The legislation would establish a uniform 3-year statute of limitations for a suit for recovery of damages for personal injury or death arising out of a maritime tort.

Currently, the statute of limitations for a cause of action brought under the Death on the High Seas Act is 2 years and the statute of limitations for a cause of action brought under the Jones Act is 3 years. Causes of action brought under the general admiralty concept of "unseaworthiness" are not governed by any specific statute of limitations but instead are governed by the doctrine of laches which permits each court to determine for itself whether a particular suit has been filed timely.

As matters now stand, therefore, no one can offer a prediction as to the outcome of a "laches" dispute, and this unpredictability lends itself to the mischief of forum shopping.

The uncertainty arising out of this lack of consistency and uniformity regarding the laches issues is illustrated by the fact that during the period from 1940 to 1977, out of the personal injury and death cases reported in American maritime cases, some 35 cases were dismissed for laches where a suit was commenced within 3 years. At the same time, 41 cases commenced within 3 years were allowed to proceed and 48 cases were dismissed when commenced after 3 years.

By establishing a uniform 3-year statute of limitation for personal injury or death arising out of a maritime tort, H.R. 3748 would eliminate the "laches" issue, and therefore end existing confusion.

By public notice the Commerce Committee requested comments on H.R. 3748. With two exceptions, comments from the maritime industry favored enactment.

The committee recommends that the Senate pass H.R. 3748.●

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3748) was ordered to a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TOWING SAFETY ADVISORY COMMITTEE

The Senate proceeded to consider the bill (H.R. 6242) to establish a Towing Safety Advisory Committee in the Department of Transportation.

● Mr. CANNON. Mr. President, the purpose of H.R. 6242 is to establish a Towing Safety Advisory Committee in the Department of Transportation.

For a number of years prior to 1977 the Towing Industry Advisory Committee aided Coast Guard decisionmaking on navigation safety. But in 1977 the Department of Transportation terminated the TIAC as a result of its review of advisory committees. Since then, the Coast Guard has not had a formal system for regular consultation with mariners regarding significant regulatory and operational matters affecting the safety of shallow-draft navigation. In the meantime casualties on the inland and coastal waterways of the United States are occurring with greater frequency, and waterborne transportation of hazardous materials is on the increase.

H.R. 6242 would create a new advisory committee, the Towing Safety Advisory Committee, to consult with, advise, and make recommendations to the Secretary of Transportation on matters relating to shallow-draft inland and coastal waterway navigation and towing safety.

The advisory committee would consist of 16 members, balanced with representatives from the barge and towing industry; the offshore oil and mineral supply vessel industry; port districts, authorities or terminal operators; maritime labor; shippers; and the general public.

Consistent with the Federal Advisory

Committee Act, the bill provides that the advisory committee's proceedings shall be open to the public. The bill allows for no compensation, travel, or per diem to committee members, and authorizes Government funds only for necessary administrative services provided by the Coast Guard in support of the committee's business. H.R. 6242 also provides that the committee will terminate after 5 years unless statutorily extended.

Mr. President, I urge prompt passage of this legislation. I also ask that the text of the Congressional Budget Office's cost estimate of the bill be printed in the RECORD.

The letter follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 19, 1980.

Hon. HOWARD W. CANNON,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 6242, a bill to establish a Towing Safety Advisory Committee in the Department of Transportation, as ordered reported by the Senate Committee on Commerce, Science and Transportation, September 19, 1980.

The bill establishes a 16-member Towing Safety Advisory Committee to advise the Secretary of Transportation on matters relating to shallow-draft inland and coastal waterway navigation and towing safety. Expenses of this Committee are expected to total approximately $13,000 per year, but could be as high as $50,000 a year depending on where and how frequently the Advisory Committee meets.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.●

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 6242) was ordered to a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ACT TO PREVENT POLLUTION FROM SHIPS

The Senate proceeded to consider the bill (H.R. 6665) to implement the protocol of 1978 relating to the International Convention for the Prevention of Pollution From Ships, 1973, and for other purposes, which had been reported from the Committee on Commerce, Science, and Transportation with amendments, as follows:

On page 4, line 18, strike "subsection" through and including "(b)" on line 19, and insert in lieu thereof "subsection";

On page 5, line 1, strike "administering and enforcing" and insert in lieu thereof "the administration and enforcement of";

On page 6, line 17, strike "the condition of its equipment", and insert in lieu thereof "whose equipment's condition";

On page 10, line 14, strike "subpoenas", and insert in lieu thereof "subpenas";

On page 10, line 16, strike "subpoena", and insert in lieu thereof "subpena";

On page 12, line 8, strike "five", and insert in lieu thereof "5";

On page 12, line 15, strike "$10,000", and insert in lieu thereof "$25,000";

On page 12, line 21, strike "$1,000", and insert in lieu thereof "$5,000";

On page 15, line 9, strike "thirty", and insert in lieu thereof "30";

On page 16, line 8, strike "sixty", and insert in lieu thereof "60";

On page 18, line 15, strike "subsection", and insert in lieu thereof "section";

On page 18, line 16, strike "use", and insert in lieu thereof "case";

On page 19, line 5, strike "subsections", and insert in lieu thereof "sections";

On page 19, line 7, strike "subsections", and insert in lieu thereof "sections";

On page 19, after line 14, insert the following:

SEC. 15. Nothing in this Act shall be construed as limiting, diminishing, or otherwise restricting any of the authority of the Secretary under the Port and Tanker Safety Act of 1978 (Public Law 95–474).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments considered en bloc were agreed to.

● Mr. CANNON. Mr. President, the purpose of H.R. 6665 is to implement the 1978 protocol relating to the International Convention for the Prevention of Pollution from Ships, 1973.

The protocol, a treaty commonly known as the "Marpol Protocol," received the advice and consent of the Senate on July 2, 1980. It is the product of a 62-nation conference convened at the request of the United States following 16 tanker accidents in and around U.S. waters during the winter of 1976–77.

The "Marpol Protocol" prescribes design, construction, and equipment standards aimed at pollution prevention and spells out new procedures for vessel inspection and certification. The protocol's terms applicable to vessel construction and equipment have already been implemented by the Port and Tanker Safety Act of 1978 in particular that act's requirements that tankers over a certain size be equipped with segregated ballast tanks and crude oil washing systems. However, a number of other elements of the Marpol Protocol are still in need of implementation.

H.R. 6665 implements the portions of the "Marpol Protocol" applicable to vessel inspection and certification and to reception facilities for oil and chemical wastes. It applies to any vessel of U.S. registry or nationality, or operated under the authority of the United States, wherever located, including fixed or floating platforms. It also applies to foreign vessels while they are in the navigable waters of the United States.

H.R. 6665 provides for the Secretary of Transportation to issue "Marpol Protocol" certificates to vessels complying with pollution standards and authorizes the detention of vessels that have no "Marpol Protocol" certificate or that are not in compliance with their certificate. The bill requires the Secretary to issue regulations to ensure that the vessels of nations not party to the "Marpol Protocol" are treated no more favorably than those of parties.

The bill also requires the Secretary to issue regulations for determining the adequacy of waste reception facilities at a U.S. port or terminal. It calls for issuance of a certificate whenever a port's facilities are adequate under the "Marpol Protocol" for receiving waste liquids from seagoing vessels. With a few exceptions, the Secretary must bar entry to any U.S. port required under the "Marpol Protocol" to have adequate reception facilities, unless the port has been issued the necessary certificate.

Provision is made in the bill for criminal and civil penalties in the case of violations of the act, the protocol, or implementing regulations.

The version of the bill we consider today includes a few minor amendments, adopted by the Commerce Committee after close consultation with the House Merchant Marine Committee.

Mr. President, I urge the expeditious passage of H.R. 6665. This will complete the legislative framework for the implementation of the "Marpol Protocol" and will serve as a signal to the rest of the world that we are serious about putting the protocol's terms into effect as soon as possible. I also ask, Mr. President, that the text of the Congressional Budget Office's cost estimate of the bill be printed in the RECORD.

The letter follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 19, 1980.

Hon. HOWARD W. CANNON,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 6665, an Act to Prevent Pollution from Ships, as ordered reported by the Senate Committee on Commerce, Science and Transportation, September 19, 1980.

This bill would implement the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, concerning the final element of regulation, reception facilities. In order to implement this Protocol, the Coast Guard must survey existing terminals that handle hazardous substances. The Coast Guard in consultation with the Environmental Protection Agency would issue certification of compliance to terminals that meet the Protocol's requirements.

Based on information provided by the Coast Guard, it is estimated that approximately fourteen people would be required to carry out the necessary functions. Costs of these duties are estimated to be approximately $350,000 in fiscal year 1981, rising to approximately $499,000 in fiscal year 1985.

Sincerely,

ALICE M. RIVLIN,
Director.●

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there be no further amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 6665) was ordered to a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MAINE INDIAN LAND CLAIMS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 7919.

The Presiding Officer laid before the Senate H.R. 7919, an act to provide for the settlement of land claims of Indians, Indian nations and tribes and bands of Indians in the State of Maine, including the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask that the bill be considered as having been read for the first and second time and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill.

Mr. COHEN. Mr. President, I rise today to speak in support of S. 2829, the Maine Indian Claims Settlement Act. This legislation would resolve the claims raised by three Maine tribes the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, that lands over which they once exercised aboriginal rights of exclusive use and occupancy passed from their control without the approval of the Government of the United States as required by the nonintercourse statute of the Trade and Intercourse Act.

The settlement contained in this is a complex solution to an exceedingly difficult legal dispute. Before discussing the details of the bill, however, I would like to take a moment to describe the basis of these claims and the events which brought forth this proposed resolution.

The genesis of the problem is found in the years immediately following the Revolutionary War. With peace with Britain and independence a reality, the 13 Original States turned their attention to domestic issues of common concern. Chief among these was the formulation of a uniform policy toward American Indians and Indian lands.

Relations between the Indians and the new country were strained at that time by the unregulated entry of settlers onto Indian lands and the acquisition of those lands by unscrupulous land speculators. During that period, however, the States were held together only by the slender bonds of the Articles of Confederation and the authority over Indian affairs which the States had delegated to the Confederation Government in article IX proved insufficient to effectively deal with the problem. Accordingly when the Constitution of the United States was drafted it contained an unqualified grant of authority to Congress to "regulate Commerce * * * with the Indian Tribes."

By the time the Constitution had been approved, the problems posed by the haphazard appropriation and settlement of Indian lands had grown quite serious indeed. In July of 1789, Henry Knox, who was Secretary of War during the latter part of the Confederation period and in the first few years following the adoption of the Constitution wrote to President Washington that the United States must institute a comprehensive policy toward the acquisition and settlement of Indian lands under which the Indians would be treated fairly or risk the outbreak of a general war.

This Federal policy, Knox recommended, should be embodied in a "a declarative law" enacted by Congress providing that "the Indian tribes possess the right of the soil of all lands within their limits" and that those lands may be transferred only with the approval of the Federal Government.

The legislative solution which Knox recommended was enacted by Congress in its first session along with several other laws regulating a wide variety of activities between the Indians and the citizens of the new country. Together, these laws were known as the Trade and Intercourse Act. The Knox provision regulating land acquisition has come to be known as the nonintercourse statute.

In the years which immediately followed, the Trade and Intercourse Act received the continuing attention of Congress. Between 1790 and 1802, it was reenacted four times in varying forms. The nonintercourse statute, itself, was modified in 1793 to provide criminal sanctions for its violation of up to 1 year in prison and a fine of up to $1,000.

In 1834, the nonintercourse statute was enacted in its present form and it is currently codified at section 177 of title 25 of the United States Code. As the United States expanded westward, the nonintercourse statute assumed ever-increasing importance and was consistently applied in the acquisition of Indian lands. It occupies a crucial position in Federal Indian policy and is generally acknowledged to be the cornerstone of Federal Indian law.

After the enactment of the nonintercourse statute, the State of Massachusetts, of which Maine was then a district, entered into a series of agreements with the Penobscot and Passamaquoddy Tribes which did not receive the express approval of the Federal Government and which form the basis of the tribes' claims.

The first of these agreements was reached in 1794 with the Passamaquoddy Tribe. By it terms, the Passamaquoddy Tribe relinquished whatever claims it might have had to lands within the district of Maine and, in turn, was granted the secure possession of certain specified lands.

In 1796 and again in 1818, Massachusetts effected agreements with the Penobscot Tribe in which that tribe relinquished any claim it might have retained to lands within the district and received confirmation of its rights to certain lands in return. Finally, in 1833, the State of Maine purchased four townships from the Penobscot Tribe.

There is no evidence that the Houlton Band of Maliseet Indians ever entered into agreements with either the State of Massachusetts or the State of Maine. In this respect, its claim differs significantly from those raised by the other two tribes. The band contends simply that it held aboriginal title to certain lands and that those lands are now manifestly no longer in its control and that there is no indication that the Federal Government ever approved the transfer of those lands.

It bears emphasis that both the State of Massachusetts and its successor in interest, the State of Maine, entered into these agreements with the Indians in good faith and they have always been considered legally binding on all the parties to them. In fact, the validity of the agreements was not seriously questioned until, in 1972, the Passamaquoddy Tribe petitioned the Department of the Interior to bring suit against the State of Maine on the ground that the 1794 compact under which it had relinquished its lands was invalid because it had never been approved by the Federal Government.

When the Interior Department refused, the tribe brought suit against it contending that the nonintercourse statute applied to it and had always applied to it and that the statute created a trust relationship between the tribe and the Federal Government.

The tribe first sought an order from the U.S. District Court for the District of Maine compelling the Federal Government to file suit on its behalf. The court granted the request because the statute of limitations authorizing the United States to bring suit on behalf of Indian tribes for money damages was about to expire. The United States complied with the court order by filing "protective suits" for both the Passamaquoddy and Penobscot Tribes. These cases are still on the court's docket, although, to date, the State of Maine is the only named defendant.

Once the protective suits were filed, the Passamaquoddy Tribe pressed its case against the United States and, in January 1975, the court held in Joint Tribal Council of the Passamaquoddy Tribe against Morton that the nonintercourse statute did apply to the Passamaquoddy Tribe and that the statute created a trust relationship between the tribe and the Federal Government.

Later that year, the First Circuit Court of Appeals affirmed the district court's decision but expressly withheld determination of whether the nonintercourse statute applied to those land transactions contained in the compacts between the tribes and the States of Massachusetts and Maine. None of the parties petitioned the U.S. Supreme Court for certiorari and the court of appeals remains the highest court to rule on the question.

Several court decisions which followed the Passamaquoddy case have supported the tribes' position in various respects. Nevertheless, in the absence of a decision by the Supreme Court, the Maine case remains problematical. To begin with, as the district court noted in

Passamaquoddy, there is little legislative history on the nonintercourse statute to indicate the geographic area over which it was intended to apply or the nature of the Indian tribes it was intended to reach.

Although the meaning of the nonintercourse statute appears plain on its face, its jurisdictional history in the State of Maine would give it an entirely opposite meaning. Moreover, even though the Federal Government vigorously, though not always successfully, asserted that land transactions between Indian tribes and certain States on Western frontier of the country were subject to the nonintercourse statute, there is no indication that it ever attempted to apply the statue to the land transactions in Maine. On he contrary, it took the position that it did not apply to Maine .

Finally, the Maine case is made more perplexing still because Henry Knox, the acknowledged father of the nonintercourse statute, retired to Maine in 1794 and yet never protested these agreements which have now been called into question.

After the decision of the first circuit in Passamaquoddy became final, the Justice Department undertook an analysis of the merits of the case. Its conclusions were summarized in a memo written in 1979 which described the case as being "potentially the most complex litigation ever brought in the Federal courts with social costs and economic impacts without precedent and incredible litigation costs to all parties."

The complexity of the case was derived in part from the tribes' assertion that it still held aboriginal rights to up to 60 percent of the lands of the State of Maine on which more than 350,000 people now reside. The case was also certain to be difficult because it involved a field of Indian law in which little litigation had taken place.

Given the magnitude of the issue, all court rulings were certain to be appealed and estimates of the time it would take to bring such a case to its conclusion range from 5 to 15 years. In the meantime, title to the lands included in the suit would be clouded, land would become difficult—if not impossible—to transfer, and municipal and State bonds would not be welcome in the marketplace.

In recognition of this problem, President Carter personally chose retired Georgia Supreme Court Justice William Gunter to examine the case and to recommend a solution. Justice Gunter submitted his recommendation in July of 1977 and, although his solution was not accepted by all the parties, one important point was: that the case must be settled rather than litigated.

Since Justice Gunter completed his work, the parties to the case have worked long and hard to reach a solution. Several other settlements have been proposed but, until the present proposal was reached, none gained the acceptance of all the parties. The legislation before the Senate today is the product of those negotiations. It is a painstakingly constructed resolution born of practical compromises by all the parties to it.

In brief, the settlement consists of two pieces of legislation. The first, the Maine Implementing Act, was passed by the Maine State Legislature on April 2 of this year and signed into law by the Governor. It embodies the jurisdictional relationship which the Tribes and the State will assume if the settlement is made final.

By its terms, the State of Maine will exercise broad civil and criminal authority over the land to be acquired by the Indian tribes. The tribes will be considered "municipalities" under State law and will have the right to regulate hunting and fishing within the "Indian territory" described in the Maine act. Land acquired for the tribes which falls within Indian territory cannot be taken in satisfaction of court judgments or for failure to pay taxes, but the tribes will be obligated to make "payments in lieu of taxes" to the State for the value of the lands. The Secretary of the Interior is authorized to satisfy valid court judgments against either the Passamaquoddy or Penobscot Tribe, but only as to obligations incurred after the enactment of this act.

The Maine act is complemented by the provisions of this act. In short, S. 2829 extinguishes all claims the tribes might have based on aboriginal title and, in turn, establishes a trust fund of $27 million for the benefit of the Passamaquoddy and Penobscot Tribes. It also provides for a land acquisition fund of $54.5 million to purchase 300,000 acres of land for all three tribes.

Before closing, I would like to turn to one more point: The extent of Federal responsibility for creating this problem and for resolving it.

In his analysis of the Maine Indian claims case, Justice Gunter concluded that primary responsibility for the problem lay with the Federal Government. This conclusion has remained constant throughout the attempts to resolve the case.

In order to understand how deep and compelling Federal responsibility for this matter is, however, we must look to theory of the operation of the Nonintercourse Act. If the proposition that the Nonintercourse Act applies to the Maine Indian Tribes is accepted—and the Federal Government does accept it—then the Federal Government has and always has had a trust responsibility toward the Maine Tribes.

As trustee for the tribes, the United States owed them the highest order of duty. Yet, in Maine, the Federal Government not only failed to observe its fiduciary duties, it actively violated them in countless ways. The Federal Government itself, for example, entered onto lands allegedly subject to the possessory rights of its beneficiaries and materially altered those lands by building military installations, Post Offices, and other Federal buildings.

Furthermore, through Federal agencies and departments such as the Economic Development Administration, the Department of Transportation, the Farmers Home Administration, and so forth, the Federal Government actively encouraged and even supplied private citizens and the State with the means to develop the same lands it was now asserting belonged to the Indians all along.

Finally, it permitted the State of Maine to assume the trustee obligations which the Federal Government properly owed the tribes and to expend literally millions of dollars over the last 150 years for their benefit which, under its new view of the nonintercourse statute, Maine was never obligated to pay.

The distastefulness of permitting the Federal Government to sue innocent private parties and the State of Maine and other Eastern States for actions which occurred only because the Federal Government had failed to observe its trustee responsibilities troubled many, including former Attorney General Griffin Bell.

On June 30, 1978, Attorney General Bell addressed his concerns to Secretary of the Interior Andrus in a letter in which he explained his decision not to sue private landowners in several of the land claims suits. His decision, he said, was based on his conclusion that the private landowners were "completely innocent of wrongdoing."

In the same letter, he raised the possibility of resolving all the nonintercourse statute claims in comprehensive "omnibus" legislation. In its recent extension of the statute of limitations for suits brought by the United States on behalf of Indian tribes for actions sounding in tort or contract for money damages, the Congress provided that the Secretary of the Interior submit his recommendations for legislative solutions to Indian claims which are now arising on a wide variety of legal theories.

I raise these approaches to the problems posed by the Indian claims only by way of illustrating this point: That Congress has plenary power over this issue and only Congress can resolve it.

The parties to this claim, then, have come to the proper forum. They have arrived after participating in a negotiating process which was instituted and encouraged by the administration and the administration supports their proposed solution. It is the right and responsibility of Congress to act pursuant to its constitutional authority over Indian affairs to resolve this matter once and for all and to free the people and the State of Maine from the uncertainty under which they now live. I believe this legislation is in the best interests of people of the State of Maine and in the best interests of this country and I urge the Senate to pass it.

Mr. MITCHELL. Mr. President, I rise to join Senator COHEN in urging the Senate to act favorably on H.R. 7919, the Maine Indian Settlement Act of 1980, and to do so without amendment or delay.

The legislation before us is the product of an extensive review by officials at the Federal and State levels over several years, and more immediately, intensive negotiations between representatives of the Passamaquoddy and Penobscot Tribes, the Attorney General of Maine, and major landholders in Maine. The legislation is a companion measure with, and references extensively, legislation which was approved by the Maine Legislature and signed by our Governor earlier this year.

The legislation is a compromise, agreed to after careful consideration by the State, the landowners and the tribes. None of those parties obtained everything they sought, but all are convinced that it is a fair compromise and urge its enactment.

The land claims which this legislation will resolve are based on the Indian Nonintercourse Act in the first Congress and rewritten in subsequent Congresses. Court decisions in the last decade suggest for the first time that the Nonintercourse Act applies to early land transactions in Maine between Indian tribes and the State of Maine and the Commonwealth of Massachusetts, of which Maine was a part until 1820. Such an application of the Nonintercourse Act would invalidate land treaties and sales which took place early in the 19th century, and underline title to millions of acres of land in Maine.

Litigation relating to claims in Maine has not progressed beyond the early stages. But it is already clear that the issues involved will not be easily resolved in court, and there is substantial risk that title to those millions of acres in Maine will be clouded during a prolonged court battle, the outcome of which cannot be predicted with certainty by anyone.

It is clear to me from my experience with this issue as U.S. Attorney, and from the concerns expressed by State officials and individual citizens, that settlement of these claims is in the best interest of Maine and the country.

I was not involved in the development of the compromise embodied in the legislation before us. But I know that the State of Maine, the landowners in Maine and the Indian tribes were all represented ably and vigorously, and I am confident that the proposal before us represents their best and honest judgment regarding the resolution of this difficult matter.

The legislation extinguishes all claims to land in Maine based on aboriginal title and abolishes actions for damages related to those claims. In exchange, the legislation provides for two funds established by the Federal Government for the benefit of Maine Indians. The first fund, in the amount of $27 million, would provide annual benefits to the tribes and the second fund, in the amount of $54.5 million, would be available to purchase up to 300,000 acres of forest land for the tribes.

The legislation also ratifies a carefully developed and comprehensive structure for the sharing of criminal and civil jurisdiction between the State and the tribes, which will, in large measure, return to the State authority which has been successfully challenged in recent related litigation.

The legislation before us was reported from the Select Committee on Indian Affairs last week after 2 full days of formal hearings, followed by painstaking review and rewrites in committee working sessions throughout the summer months.

At the formal committee hearings in June, testimony was heard from State officials, including Governor Brennan and Attorney General Cohen and legislators; the attorney for the major landowners in the claims area; tribal leaders and their counsel; and Secretary Andrus, speaking for the administration. It was clear at those hearings that the legislation embodied a workable scheme for resolving the claims in Maine acceptable to all parties. It was also clear that this complex scheme required very careful consideration and some redrafting to assure a comfortable fit with ongoing Federal Indian programs and existing Federal laws in the many areas involved in the settlement scheme.

At the working sessions, which took place in July and August, involving committee staff, State and Federal officials and attorneys for the tribes and landowners, this legislation was very carefully reviewed and tailored to fit the concerns of Federal administrators and State officials. The final markup of the bill last week resolved the last outstanding issues and produced a bill I am confident to join in recommending to my colleagues.

Some may take issue with parts, or even all of, the settlement package embodied in the bill. Anyone who does has had full opportunity to raise questions and challenge any provision. No one can argue that all interests were not heard and considered, and no one has come forward with a practical alternative.

It is important that the Senate now act promptly on this authorizing legislation, and I commend the leadership for bringing it before the Senate today. This authorizing legislation is contingent upon appropriations of the sums required to create the income trust fund and the land acquisition trust fund. The Interior appropriations bill is, I believe, scheduled for full committee action tomorrow.

Time is critical, Mr. President, to assure the authorization is in place so that the implementation of the settlement can begin right away. Land to be conveyed under this settlement is committed under options for specific times which run out over the coming months. Delay could mean the loss of those options and the necessity to restructure the settlement to deal with a different body of land.

In a more general sense, timely action is necessary to restore certainty to those involved in this settlement or threatened by the pending claims. Personal and business decisions involving lands in the claim area have been saved for over 4 years. And businesses directly involved in the settlement have committed major resources to its resolution. Delay would frustrate their ability to plan and jeopardize their commitment to this settlement.

In short, we have nothing to gain and potentially much to lose from delay. I urge your prompt approval.

Mr. President, I have a letter from Secretary of the Interior Cecil Andrus in support of this legislation. I ask unanimous consent that his letter to me be made a part of the RECORD.

Secretary Andrus and other officials of the Carter administration have been extraordinarily responsive in the negotiations which produced this legislation. I am grateful for their help.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE INTERIOR,
Washington, D.C., September 22, 1980.
Hon. GEORGE J. MITCHELL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MITCHELL: When I became Secretary of the Interior in 1977, I was faced with a series of Indian land claims in the Eastern United States. These claims stemmed from alleged violations of the non-Intercourse Act of 1790 and they presented extremely complicated legal and policy issues to the Federal government. The largest and most complex of these claims is in the State of Maine. This Administration has pursued a policy of negotiated settlement of these claims.

As I indicated in my testimony to the Senate Committee on Indian Affairs in July, the settlement agreement worked out between the parties in Maine over the past few months is a fair and reasonable solution to this problem. Unlike previous settlement proposals, it enjoys the full support of all of the parties in Maine affected by the claim and is the product of hard bargaining and good faith negotiation. It is the only avenue of resolution to this problem without extensive and disruptive litigation.

I have enclosed copies of my comments to the House Interior Committee and the Senate Select Committee on the legislation as reported. I would like to reiterate for you that the Administration urges enactment of this legislation by this Congress.

Sincerely,

CECIL D. ANDRUS.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., September 22, 1980.
Hon. JOHN MELCHER,
Chairman, Select Committee on Indian Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is to provide you with our views on S. 2829 as reported by the Committee, a bill to settle Indian land claims in the State of Maine.

We urge enactment by this Congress of S. 2829 as reported, with the clarifying amendments which we discuss below. We believe the bill represents a reasonable and workable settlement of the Maine Indian land claims.

We believe that several provisions of the bill need minor clarifying amendments. Section 5(e) should be amended so as to read, in part, as follows: "in order to perfect title, satisfactory to the Attorney General, in the United States". In section 6(a), the words "section 5(d)(4) and" should be inserted immediately before "section 8, subsection (e)". In section 6(c), "1162, 1163," should be deleted. In section 12, the word "Indian" should be deleted the first place it appears in the section. We also have no objection to a proposed amendment to section 6(h) which would insert after "civil, criminal, or regulatory jurisdiction of the State of Maine," the following: "including, without limitation, laws of the State relating to land use or environmental matters,".

We note that the Committee's report, in its discussion of section 5 of the bill in the section entitled "Summary of Major Provisions", indicates that the provision of Federal services and benefits to the Passamaquoddy Tribe and Penobscot Nation was a result of a 1978 agreement. At that time, however, the tribes were already eligible for such services and benefits. Thus, these services and benefits are not an element of the Maine Indian land claims settlement itself.

Section 5(b)(3) provides for quarterly payments to the Passamaquoddy Tribe and the Penobscot Nation of "any income received from the investment of the Settlement Fund". The Committee's report states that—

The term "income" as used in Section 5 means the return in money or property derived from the use of the assets in the Settlement Fund, including net appreciation, both realized and unrealized.

We do not interpret the above report language as suggesting that the quarterly payments must include "unrealized" income.

We also note that section 5(i)(3) of the bill provides that the State of Maine shall have initial jurisdiction over condemnation proceedings. The United States is authorized to seek review in Federal courts and is given an absolute right of removal over any such action commenced in the courts of the State. We have agreed to this provision with the understanding that it contemplates that service of process on the United States in any such proceeding is to be pursuant to the Federal Rules of Civil Procedure.

The discussion in the Committee's report respecting the fifth issue in the section entitled "Special Issues" states that certain payments in lieu of taxes to be made by the tribes "will most likely be paid with funds to be provided to the tribes by the Federal Government." Although such payments may be possible as an incident of contracting or other assistance provided to the tribe by the Federal Government, we believe it is clear, as indicated in the Committee's further discussion of section 6(b)(1) in its report, that the United States has no obligation to make such payments, except as they are authorized by section 6(d)(2) of the bill to be paid out of the Settlement Fund income. The tribes could only use Federal funds for such payments when such use is consistent with the terms under which such funds are provided to the tribe by the Federal agency involved.

It is our understanding that it is not the intent of section 6(b)(1) to allow taxation, encumbrance, or alienation of lands held by the United States in trust. This interpretation is consistent with the language in the Committee's report that the application of Maine law cannot jeopardize or impair the clear title of the United States or obligate the United States, as titleholder, to pay taxes or fees. This subsection parallels existing Federal law in which jurisdiction is granted to States. This is also fully consistent with the tribes' agreement to make payments in lieu of real property taxes and their agreement to pay other taxes and fees as do other persons or entities in the State of Maine. The application of the laws of the State of Maine regulating land use and environmental matters, which the tribes agreed to allow to apply to themselves and which the bill ratifies, is consistent with existing law without obligating the United States or impairing title in the United States.

We also wish to reiterate our understanding of section 6(b)(2) of the bill, relating to the use of Federal funds "consistent with the purposes for which they are appropriated" and section 6211(1) of the Maine Implementing Act which provides that "[t]o the extent that any . . . program requires municipal financial participation as a condition of state funding, the share for either the Passamaquoddy Tride or the Penobscot Nation may be raised through *any source of revenue available*" (emphasis added). We believe it is clear from the language of the State Act itself that regardless of whether certain funding sources may be prohibited by Federal law or regulation from supplanting State funds under section 6211(2) or (4) of the Maine Implementing Act, such funds may be used to provide the local share for matching purposes when such use is consistent with the purposes for which such funds are appropriated.

Finally, we note a typographical error in the excerpt from Attorney General Richard Cohen's August 22, 1980 letter, printed at page 42 of the report. In the sentence beginning "It was understood", the words "Federal law" should read "Federal statutes or regulations", as shown in the complete text of the letter beginning on page 49 of the report.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

Cecil D. Andrus,
Secretary.

U.S. Department of the Interior,
Washington, D.C., September 22, 1980.
Hon. Morris K. Udall,
Chairman, Committee on Interior, and Insular Affairs, U.S. House of Representatives, Washington, D.C.

Dear Mr. Chairman: This is to provide you with our views on H.R. 7919 as reported by the Committee, a bill to settle Indian land claims in the State of Maine.

We urge enactment by this Congress of H.R. 7919 as reported. We believe the bill represents a reasonable and workable settlement of the Maine Indian land claims.

We note that the Committee's report, in its discussion of section 5 of the bill in the section entitled "Summary of Major Provisions", indicates that the provision of Federal services and benefits to the Passamaquoddy Tribe and Penobscot Nation was a result of a 1978 agreement. At that time, however, the tribes were already eligible for such services and benefits. Thus, these services and benefits are not an element of the Maine Indian land claims settlement itself.

Section 5(b)(3) provides for quarterly payments to the Passamaquoddy Tribe and the Penobscot Nation of "any income received from the investment of the Settlement Fund". The Committee's report states that—

The term "income" as used in Section 5 means the return in money or property derived from the use of the assets in the Settlement Fund, including net appreciation, both realized and unrealized.

We do not interpret the above report language as suggesting that the quarterly payments must include "unrealized" income.

We also note that section 5(i)(3) of the bill provides that the State of Maine shall have initial jurisdiction over condemnation proceedings. The United States is authorized to seek review in Federal courts and is given an absolute right of removal over any such action commenced in the courts of the State. We have agreed to this provision with the understanding that it contemplates that service of process on the United States in any such proceeding is to be pursuant to the Federal Rules of Civil Procedure.

The discussion in the Committee's report respecting the fifth issue in the section entitled "Special Issues" states that certain payments in lieu of taxes to be made by the tribes "will most likely be paid with funds to be provided to the tribes by the Federal Government. Although such payments may be possible as an incident of contracting or other assistance provided to the tribe by the Federal Government, we believe it is clear, as indicated in the Committee's further discussion of section 6(b)(1) in its report, that the United States has no obligation to make such payments, except as they are authorized by section 6(d)(2) of the bill to be paid out of the Settlement Fund income. The tribes could only use Federal funds for such payments when such use is consistent with the terms under which such funds are provided to the tribe by the Federal agency involved.

It is our understanding that it is not the intent of section 6(b)(1) to allow taxation, encumbrance, or alienation of lands held by the United States in trust. This interpretation is consistent with the language in the Committee's report that the application of Maine law cannot jeopardize or impair the clear title of the United States or obligate the United States, as titleholder, to pay taxes or fees. This subsection parallels existing Federal law in which jurisdiction is granted to States. This is also fully consistent with the tribes' agreement to make payments in lieu of real property taxes and their agreement to pay other taxes and fees as do other persons or entities in the State of Maine. The application of the laws of the State of Maine regulating land use and environmental matters, which the tribes agreed to allow to apply to themselves and which the bill ratifies, is consistent with existing law without obligating the United States or impairing title in the United States.

We also wish to reiterate our understanding of section 6(b)(2) of the bill, relating to the use of Federal funds "consistent with the purposes for which they are appropriated" and section 6211(1) of the Maine Implementing Act which provides that "[t]o the extent that any . . . program requires municipal financial participation as a condition of state funding, the share for either the Passamaquoddy Tribe or the Penobscot Nation may be raised through *any source of revenue available*" (emphasis added). We believe it is clear from the language of the State Act itself that regardless of whether certain funding sources may be prohibited by Federal law or regulation from supplanting State funds under section 6211(2) or (4) of the Maine Implementing Act, such funds may be used to provide the local share for matching purposes when such use is consistent with the purposes for which such funds are appropriated.

Finally, we note a typographical error in the excerpt from Attorney General Richard Cohen's August 22, 1980 letter, printed in the report. In the sentence beginning "It was understood", the words "Federal law" should read "Federal statutes or regulations", as shown in the complete text of the letter later in the report.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

Cecil D. Andrus,
Secretary.

Mr. MITCHELL. Mr. President, I ask also that a letter from James McIntyre, Director of the Office of Management and Budget, supporting this legislation and the appropriations funding it, be made a part of the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Office of Management and Budget,
Washington, D.C., September 23, 1980.
Hon. George Mitchell,
U.S. Senate,
Washington, D.C.

Dear Senator Mitchell: As you know, the Administration supports S. 2829, a bill to settle the land claims of Indian tribes in Maine. We have worked closely with your office and the relevant Congressional committees in the development of a fair, workable bill.

As you know, the House has passed this bill, and Senate action appears imminent. We are pleased that the Senate Appropriations Interior Subcommittee has recommended an appropriation of $81.5 million for the Eastern Land Claims Settlement Fund, administered under the Department of the Interior. I urge that this funding remain in the final version of the Department of the Interior and Related Agencies FY 1981 Appropriations bill.

Sincerely,

JAMES T. MCINTYRE, Jr.,
Director.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 7919) was ordered to a third reading, was read the third time, and passed.

Mr. COHEN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MITCHELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER THAT CALENDAR NOS. 1050, S. 2829, AND 1077, SENATE RESOLUTION 522 BE INDEFINITELY POSTPONED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Orders Nos. 1050 and 1077 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ABRAHAM A. RIBICOFF FEDERAL BUILDING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of S. 3044, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3044) to designate the United States Federal Building in Hartford, Connecticut, as the "Abraham A. Ribicoff Federal Building."

The Senate proceeded to consider the bill.

UP AMENDMENT NO. 1647

(Purpose: To provide an effective date for the authorization)

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. RANDOLPH, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), on behalf of Mr. RANDOLPH, proposes an unprinted amendment numbered 1647.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, after line 9, insert the following:

"SEC. 2. The authorization contained in section 1 of this Act shall become effective on January 15, 1981."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP. No. 1647) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 3044) was passed, as follows:

S. 3044

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 450 Main Street, Hartford, Connecticut (commonly known as the Federal Building), shall hereinafter be known, called, and designated as the "Abraham A. Ribicoff Federal Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the Abraham A. Ribicoff Federal Building.

SEC. 2. The authorization contained in section 1 of this Act shall become effective on January 15, 1981.

EDITH GREEN FEDERAL BUILDING

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. RANDOLPH, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 7039 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 7309) to designate the Federal building in Portland, Oregon, the "Edith Green Federal Building."

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

UP AMENDMENT NO. 1648

(Purpose: To honor Wendell Wyatt by authorizing the building to be named the Green-Wyatt Federal Building)

Mr. BAKER. Mr. President, on behalf of the Senator from Oregon, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), on behalf of Mr. HATFIELD, proposes an unprinted amendment numbered 1648:

On page 1, line 4, after "Green" add the folowing: Wendell Wyatt.

And on page 1, line 5, insert the following new sentence: "Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the Edith Green-Wendell Wyatt Federal Building."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1648) was agreed to.

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 7309) was passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, for once I get to turn the table on Mr. BAKER.

Mr. President, I move to lay that motion on the table.

Mr. BAKER. Mr. President, that leaves me 7,399 times when I have been in that position.

The motion to lay on the table was agreed to.

INCREASE IN U.S. QUOTA IN THE INTERNATIONAL MONETARY FUND

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CHURCH, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2271.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2271) entitled "An Act to amend the Bretton Woods Agreements Act to authorize consent to an increase in the United States quota in the International Monetary Fund" do pass with the following amendments:

Strike out all after the enacting clause, and insert:

INCREASE IN UNITED STATES QUOTA

SECTION 1. The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 32. The United States Governor of the Fund is authorized to consent to an increase in the quota of the United States in the Fund equivalent to 4,202.5 million Special Drawing Rights, to such extent or in such amounts as are provided in appropriation Acts.".

BASIC HUMAN NEEDS

SEC. 2. (a) The Bretton Woods Agreements Act is further amended by adding at the end thereof the following new section:

"SEC. 33. (a) The President shall instruct the Secretary of the Treasury, the Secretary of State, and other appropriate Federal officials to use all appropriate means to encourage countries, in formulating economic adjustment programs to deal with their balance of payments difficulties, to design those programs so as to safeguard, to the maximum feasible extent, jobs, investment, real per capita income, policies to reduce the gap in wealth between rich and poor, and social programs such as health, housing, and education.

"(b) To ensure the effectiveness of economic adjustment programs supported by Fund resources and the reinforcement of those programs by longer term efforts to promote sustained growth and improved living conditions—

"(1) United States representatives to the Fund shall recommend and shall work for changes in Fund guidelines, policies, and decisions that would—

"(A) permit standby arrangements to the extended beyond three years, as necessary to enable Fund members to implement their economic adjustment programs successfully;

"(B) provide that in approving any economic adjustment program the Fund shall take into account the effect such program will have on jobs, investment, real per capita income, the gap in wealth between the rich and poor, and social programs such as health, housing, and education, in order to seek to minimize the adverse impact of those adjustment programs on basic human needs; and

"(C) provide that letters of intent submitted to the Fund in support of an economic adjustment program reflect that the member country has taken into account the effect such program will have on the factors listed in subparagraph (B);

"(2) (A) before voting on the approval of any standby arrangement with respect to any economic adjustment program, the United States Executive Director shall review—

"(i) any analysis of factors prepared by the Fund or the member country in accordance with subparagraphs (B) and (C) of paragraph (1), or

"(ii) if no such analysis is prepared and available for such review, an analysis which shall be prepared by the United States Governor of the Fund which examines the effect of the program on the factors listed in subparagraph (B) of paragraph (1); and

"(B) the United States Executive Director of the Fund shall take into account the analysis reviewed pursuant to subparagraph (A) of this paragraph in voting on approval of that standby arrangement;

"(3) United States representatives to the Fund, to the Bank, and to other appropriate institutions shall work toward improving coordination among these institutions, and, in particular, shall work toward formulation of programs in association with economic adjustment programs supported by Fund resources which (A) will, among other things, promote employment, investment, real income per capita, improvements in income distribution, and the objectives of social programs such as health, housing, and education, and (B) will, to the maximum extent feasible and consistent with the borrowing country's need to improve its balance of payments position within a reasonable period, ameliorate any adverse effects of economic adjustment programs on the poor;

"(4) United States representatives to the Fund and the Bank shall seek amendments to decisions on policies on the use of Fund and Bank resources to provide that, where countries are seeking Extended Fund Facility or upper credit tranche drawings from the Fund and are eligible to receive financing from the Bank, the Fund and Bank will coordinate their financing activities in order—

"(A) to take into account the effects of economic adjustment programs on the areas listed in clause (A) of paragraph (3).

"(B) to provide, to the extent feasible, Bank project loans designed to safeguard and further basic human needs in countries adopting economic adjustment programs supported by Fund resources, and

"(C) to provide, as appropriate, Bank financing for programs of structural adjustment that will facilitate development of a productive economic base and greater attainment of basic human needs objectives over the longer term; and

"(5) United States representatives to the Fund and the Bank shall request the Fund and the Bank to provide periodic analyses of the effects of economic adjustment programs supported by Fund or Bank financing on jobs, investment, real income per capita, income distribution, and social programs such as health, housing, and education.

"(c) The National Advisory Council on International Monetary and Financial Policies shall include in each of its annual reports to the Congress a statement detailing the actions and progress made in carrying out the requirements of subsections (a) and (b) of this section.".

(b) Section 30 of the Bretton Woods Agreements Act (22 U.S.C. 286e-9) is amended—

(1) in subsection (a) by striking out "entered into pursuant to loans from the Supplementary Financing Facility";

(2) in the first sentence of subsection (b) by striking out "entered into pursuant to loans from the Supplementary Financing Facility"; and

(3) in the second sentence of subsection (b) by striking out "by the Supplementary Financing Facility".

Sec. 3. Strike section 7 of P.L. 95–435, the Bretton Woods Agreements Act Amendments of 1978, which reads: "Beginning with Fiscal Year 1981, the total budget outlays of the Federal Government shall not exceed its receipts.", and insert in lieu thereof: "The Congress reaffirms its commitment that beginning with Fiscal Year 1981, the total budget outlays of the Federal Government shall not exceed its receipts.".

RECYCLING BALANCE-OF-PAYMENTS SURPLUSES

Sec. 4. (a) It is the sense of the Congress that (1) the interests of the United States and those of other member countries require an effective International Monetary Fund equipped with resources adequate to facilitate orderly balance-of-payments adjustments; (2) persistent balance-of-payments surpluses in oil exporting countries have placed, and will continue to place, severe strains on the resources of oil importing countries and on the liquidity of the Fund; (3) these strains can only be relieved if the oil exporting countries assume a greater burden for financing balance-of-payments deficits through direct methods of recycling their surpluses and through proportionally greater contributions to the Fund and to the international lending institutions; and (4) the Fund must explore innovative proposals to encourage more direct recycling of oil surpluses and to increase its own liquidity.

(b) The Bretton Woods Agreements Act is further amended by adding at the end thereof the following new sections:

"Sec. 34. The Secretary of the Treasury, in consultation with the United States Executive Director of the Fund, shall study and, following consultations with member countries, shall report to the Congress prior to May 15, 1981, with respect to—

"(1) the current adequacy of Fund resources, together with projected needs of the Fund over the next five years;

"(2) the feasibility of increasing Fund liquidity by encouraging the Fund to borrow directly from the governments of oil exporting countries;

"(3) the feasibility of increasing Fund liquidity by encouraging the Fund to borrow in private capital markets through the issuance of securities backed by Fund resources;

"(4) the feasibility of an offer by the Fund of incentives to oil exporting countries, including financial guarantees by the Fund for government-to-government loans to countries with balance-of-payments deficits, in order to promote more direct recycling of oil surpluses; and

"(5) methods to enhance cooperation between commercial banks and the Fund to promote the availability of adequate resources for balance-of-payments financing.

"Sec. 35. It is the sense of the Congress that the Secretary of the Treasury and the United States Executive Director of the Fund shall encourage member countries of the Fund to negotiate a dollar-Special Drawing Rights substitution account in which equitable burden sharing would exist among participants in the account, and shall report to the Congress prior to May 15, 1981, with respect to progress toward achieving this goal.".

DEBT RESCHEDULING COMPARABILITY

Sec. 5. Section 29 of the Bretton Woods Agreements Act is amended by striking out "on the use of the facility".

TAIWAN

Sec. 6. The Bretton Woods Agreements Act is further amended by adding at the end thereof the following new section:

"Sec. 36. It is the sense of the Congress that it is the policy of the United States that Taiwan (before January 1, 1979, known as the Republic of China) shall be granted appropriate membership in the Fund and that the United States Executive Director of the Fund shall so notify the Fund.".

PALESTINE LIBERATION ORGANIZATION

Sec. 7. The Bretton Woods Agreements Act is further amended by adding at the end thereof the following new section:

"Sec. 37. It is the policy of the United States that the Palestine Liberation Organization should not be given membership in the Fund or be given observer status or any other official status at any meeting sponsored by or associated with the Fund. The United States Executive Director of the Fund shall promptly notify the Fund of such policy.

"In the event that the Fund provides either membership, observer status, or any other official status to the Palestine Liberation Organization, such action would result in a serious diminution of U.S. support. Upon review of such action, the President would be required to report his recommendations to the Congress with regard to any further U.S participation in the Fund.".

ASSISTANCE TO THE PRIVATE SECTOR OF EL SALVADOR AND OTHER NATIONS

Sec. 8. The Bretton Woods Agreements Act is further amended by adding at the end thereof the following new section:

"Sec. 38. It is the sense of the Congress that in providing assistance through loans or other means to any nation, in particular El Salvador and Nicaragua, the Fund and the Bank should encourage programs which assist the private sector to create an environment which will stabilize the economy of the nation; and that the United States representatives to the Fund and the Bank shall promote the use of assistance by the Fund and the Bank to encourage such programs.".

Sec. 9. The United States Executive Director to the Fund shall seek to insure (a) that Fund salaries do not exceed those levels endorsed by the Fund Bank Joint Committee on Staff Compensation Issues; and (b) that travel costs are minimized by limiting first class and supersonic travel to instances where no reasonable alternative exists.

ROLE OF GOLD IN INTERNATIONAL MONETARY SYSTEMS

Sec. 10. (a) The Secretary of the Treasury shall establish and chair a commission consisting of—

(1) three members of the Board of Governors of the Federal Reserve System and two members of the Council of Economic Advisers, all of whom shall be designated by the Secretary of the Treasury;

(2) one majority and one minority member each from (A) the Joint Economic Committee of the Congress, (B) the Committee on Banking, Housing, and Urban Affairs of the Senate, and (C) the Committee on

Banking, Finance and Urban Affairs of the House of Representatives, who shall be designated by the Speaker of the House of Representatives and the President of the Senate, respectively, upon the recommendations of the majority and minority leaders of the respective Houses; and

(3) four distinguished private citizens with business, finance, or academic backgrounds who shall be designated by the Secretary.

(b) The commission shall conduct a study to assess and make recommendations with regard to the policy of the United States Government concerning the role of gold in domestic and international monetary systems, and shall transmit to the Congress a report containing its findings and recommendations not later than one year after the date of enactment of this Act.

(c) Sums appropriated pursuant to section 5 of Public Law 95-612 shall be available to the commission to carry out its functions.

FULL APPROPRIATIONS REQUIRED

SEC. 11. Section 32 of the Bretton Woods Agreements Act, as added by section 1 of this Act, is amended by striking "to such extent or in such amounts as are provided in appropriations Acts" and inserting in lieu thereof "limited to such amounts as are appropriated in advance in appropriation Acts."

EFFECTIVE DATE

SEC. 12. This Act shall take effect on its date of enactment, except that funds may not be appropriated under any authorization contained in this Act for any period prior to October 1, 1980.

Amend the title so as to read: "An Act to amend the Bretton Woods Agreements Act to authorize consent to an increase in the United States quota in the International Monetary Fund, and for other purposes.".

Mr. **ROBERT C. BYRD.** Mr. President, I ask unanimous consent that a statement by Senator CHURCH be printed in the RECORD.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

STATEMENT OF SENATOR CHURCH

On Thursday, September 18, the House of Representatives completed action on Senate bill S. 2271—a bill the Senate has passed by a vote of 55-25 on June 21. S. 2271 would authorize the U.S. to participate in a $5.5 billion increase in our quota as part of an overall 50% increase in all members' quotas.

The House has added a number of amendments to the Senate bill. Let me describe them briefly:

The first amendment concerns PLO observer status at the upcoming IMF/IBRD annual meeting. This amendment states that the policy of the U.S. is to oppose the granting of any official status to the PLO. Further, should the PLO be given such status, the amendment would require the President to make a report with recommendations to Congress on what he intends to do.

A second amendment is a sense of the Congress amendment that the IMF and World Bank in making loans to El Salvador, Nicaragua, and the rest of the world should encourage those programs which assist the private sectors.

A third amendment instructs the U.S. Executive Director to monitor Fund staff salaries to ensure that they are in compliance with levels recommended by an internal Fund/Bank Committee Report on salaries which drew up specific guidelines to bring them more into line with other civil service salaries.

A fourth amendment is a sense of the Congress amendment with respect to Taiwan's relationship to the Fund. This amendment states that it is the policy of the U.S. that Taiwan be granted "appropriate membership" in the Fund.

A fifth amendment is a sense of the Congress amendment pointing out the problems for the world economy of the current petrodollar recycling requirements, and urging the Fund to actively encourage direct recycling by OPEC through new and innovative methods.

A sixth amendment instructs the Secretary of the Treasury to report to the Congress by May 15, 1981, on the adequacy of Fund resources, the feasibility of IMF direct borrowing and the possibility of the IMF playing a role in direct government-to-government lending for balance of payments purposes.

A seventh amendment is a sense of the Congress amendment that the U.S. and other IMF members should negotiate a so-called Substitution Account within the IMF to assist in the removal of unwanted dollars from the world financial system in an orderly way.

An eighth amendment encourages the IMF to be more sensitive to basic human needs when formulating its stabilization programs. This amendment also contains a number of recommendations as to how this might be accomplished and instructs the U.S. Executive Director to recommend and work for changes in Fund policy to this end.

The final two amendments are amendments which were already enacted into law as part of the 1978 IMF Witteveen Facility legislation. They were added to S. 2271 to make them applicable to the IMF in general. The first of these reaffirms the Congress' commitment to a balanced budget in 1981. The second simply extends the requirement from the so-called Witteveen Facility to the entire operation of the Fund that the U.S. Secretary of the Treasury seek to assure that IMF actions are consistent with current U.S. policy that public and private creditors are comparably treated in cases of debt rescheduling.

None of these amendments cause serious problems for continued U.S. participation in the Fund. For this reason, Mr. President, I recommend that the Senate concur in the House amendments.

Let me add one closing note. As my colleagues will, I am sure, recall while S. 2271 authorizes the appropriation of $5.5 billion, this contribution will in no way affect the U.S. federal deficit as the U.S. receives an offsetting receipt upon making its outlay to the Fund, and therefore no net outlays are involved.

● Mr. **STEVENSON.** Mr. President, S. 2271 authorizes a 50-percent increase in the U.S. quota in the International Monetary Fund. All members of the Fund are increasing their quotas proportionately.

Larger quotas will provide all members, including the United States, with additional monetary reserves which can be used to meet temporary payments imbalances. The Fund's resources constitute an important safety valve for the world economy. They enable countries to respond to economic shocks with deliberate adjustment policies rather than desperate measures of deflation and protectionism.

Another OPEC-induced recession threatens to undermine economies already strained by heavy international indebtedness. Adjustments, sometimes painful, will be required. The IMF can smooth the process by permitting members to draw from the Fund subject to the condition that members present and pursue an effective program of economic recovery.

The Fund's ability to play a major, constructive role in rectifying payments imbalances depends on the adequacy of Fund resources. The Fund has not grown apace with world trade nor with growth of other reserve assets. Fund quotas equalled 14 percent of total world imports in 1950; now they equal 3 percent of imports. The decline in quotas compared to other reserve assets, such as gold and foreign exchange holdings, has been similar.

The 50-percent quota increase will provide enough resources for the Fund to offer significant assistance to members with balance of payments problems. The quota increase will help to offset a decrease in total Fund resources as the temporary Witteveen Facility is terminated next year.

Fund programs have sometimes been criticized for imposing economic conditions on members which fall disproportionately on the poor. S. 2271 includes language which will encourage the Fund to give greater attention to the effects of its actions on the achievement of basic human needs. The provisions are consistent with actions the Fund has already begun to take.

Mr. President, I shall submit for the RECORD the Fund's guidelines on conditionality.

Mr. President, S. 2271 will benefit the United States and the world economy. The IMF alone cannot solve the petrodollar recycling problem, but it is an essential player in the process. The bill calls upon OPEC to take a larger share of the responsibility. This legislation can help set the stage.

The material follows:

GUIDELINES ON CONDITIONALITY[1]

The Executive Board agrees to the text of the guidelines on conditionality for the use of the Fund's resources and for stand-by arrangements as set forth [below].

DECISION NO. 6056-(79/38), MARCH 2, 1979

Use of fund's general resources and stand-by arrangements

1. Members should be encouraged to adopt corrective measures, which could be supported by use of the Fund's general resources in accordance with the Fund's policies, at an early stage of their balance of payments difficulties or as a precaution against the emergence of such difficulties. The Article IV consultations are among the occasions on which the Fund would be able to discuss with members adjustment programs, including corrective measures, that would enable the Fund to approve a stand-by arangement.

2. The normal period for a stand-by arrangement will be one year. If, however, a longer period is requested by a member and considered necessary by the Fund to enable the member to implement its adjustment program successfully, the stand-by arrangement may extend beyond the period of one year. This period in appropriate cases may extend up to but not beyond three years.

3. Stand-by arrangements are not international agreements and therefore language having a contractual connotation will be avoided in stand-by arrangements and letters of intent.

4. In helping members to devise adjustment programs, the Fund will pay due regard to the domestic social and political objectives, the economic priorities, and the circumstances of members, including the causes of their balance of payments problems.

5. Appropriate consultation clauses will be incorporated in all stand-by arrangements. Such clauses will include provision for con-

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[1] 1979 Annual Report of the International Monetary Fund, pp. 135-137.

sultation from time to time during the whole period in which the member has outstanding purchases in the upper credit tranches. This provision will apply whether the outstanding purchases were made under a stand-by arrangement or in other transactions in the upper credit tranches.

6. Phasing and performance clauses will be omitted in stand-by arrangements that do not go beyond the first credit tranche. They will be included in all other stand-by arrangements but these clauses will be applicable only to purchases beyond the first credit tranche.

7. The Managing Director will recommend that the Executive Board approve a member's request for the use of the Fund's general resources in the credit tranches when it is his judgment that the program is consistent with the Fund's provisions and policies and that it will be carried out. A member may be expected to adopt some corrective measures before a stand-by arrangement is approved by the Fund, but only if necessary to enable the member to adopt and carry out a program consistent with the Fund's provisions and policies. In these cases the Managing Director will keep Executive Directors informed in an appropriate manner of the progress of discussions with the member.

8. The Managing Director will ensure adequate coordination in the application of policies relating to the use of the Fund's general resources with a view to maintaining the nondiscriminatory treatment of members.

9. The number and content of performance criteria may vary because of the diversity of problems and institutional arrangements of members. Performance criteria will be limited to those that are necessary to evaluate implementation of the program with a view to ensuring the achievement of its objectives. Performance criteria will normally be confined to (i) macroeconomic variables, and (ii) those necessary to implement specific provisions of the Articles or policies adopted under them. Performance criteria may relate to other variables only in exceptional cases when they are essential for the effectiveness of the member's program because of their macroeconomic impact.

10. In programs extending beyond one year, or in circumstances where a member is unable to establish in advance one or more performance criteria for all or part of the program period, provision will be made for a review in order to reach the necessary understandings with the member for the remaining period. In addition, in those exceptional cases in which an essential feature of a program cannot be formulated as a performance criterion at the beginning of a program year because of substantial uncertainties concerning major economic trends, provision will be made for a review by the Fund to evaluate the current macroeconomic policies of the member, and to reach new understandings if necessary. In these exceptional cases the Managing Director will inform Executive Directors in an appropriate manner of the subject matter of a review.

11. The staff will prepare an analysis and assessment of the performance under programs supported by use of the Fund's general resources in the credit tranches in connection with Article IV consultations and as appropriate in connection with further requests for use of the Fund's resources.

12. The staff will from time to time prepare, for review by the Executive Board, studies of programs supported by stand-by arrangements in order to evaluate and compare the appropriateness of the programs, the effectiveness of the policy instruments, the observance of the programs, and the results achieved. Such reviews will enable the Executive Board to determine when it may be appropriate to have the next comprehensive review of conditionality.●

● Mr. JAVITS. Mr. President, I rise in support of S. 2271 as amended by the House and urge my colleagues to support passage of this bill with the House amendments.

As my colleagues may recall, the Senate passed S. 2271, which authorizes a 50-percent increase in the quota of the United States in the International Monetary Fund (IMF) of $4,202.5 million Special Drawing Rights (SDR's), or about $5.5 billion, on June 16. Only last week did the House pass the bill, and it is important that we conclude expeditiously congressional action on this bill without further delay.

Next week the IMF and the International Bank for Reconstruction and Development (IBRD) will be holding their annual meetings here in Washington, and the primary concern facing these international bankers, civil servants, and economists will be whether the international monetary and economic system will be able to cope successfully with the severe strains resulting from the oil price increases of the last 18 months and the slowing of the economies of the industrialized countries.

To help meet these strains, the IMF voted last year on a 50-percent increase in all members' quotas. The latest increase, the fifth in the 3-year history of the IMF, will expand the Fund's quota resources to approximately $76 billion, of which the new U.S. quota will be approximately $16.3 billion. The United States quota equals 21.5 percent of the total IMF subscription. The proposed 50 percent would leave the relative share of the United States unchanged. Almost 68 percent of all quotas are held by industrial countries, while OPEC members as a group hold 10 percent and the nonoil developing coluntries hold the remaining 22 percent.

Final congressional action on the U.S. quota increase before next week's meetings will provide a better climate for these meetings and will permit the international economic leaders to focus their energy and resources on the critical substantive issues facing the international economy. While the House-passed bill contains some amendments that, had we gone to conference I would have preferred to have seen dropped or modified, in general the House amendments are Constructive; none irreparably harms the institution; and, therefore, I believe that we can accept our bill as modified by the House amendments.

The House-passed bill contains the two Senate amendments; one proposed by Senator Helms would establish a commission, under the chairmanship of the Secretary of the Treasury, to conduct a study to assess the policy of the U.S. Government concerning the role of gold in domestic and international monetary systems. While I question very strongly whether gold can have or should have the role of being the basis for the international monetary system, I welcome the commission and look to its deliberations and findings to put to rest this debate.

In addition, the House bill contains an amendment proposed by the Senate Banking Committee which would require the appropriation of the full amount of the U.S. quota. I understand that the appropriations bill is scheduled for House floor consideration today, and I strongly urge my colleagues to consider expeditiously the bill when it comes to the floor later this week. Successful consideration of both the authorization and appropriations bills would be an especially strong signal to the IMF of our continued support of the institution and its role in the international monetary system.

I would like especially to express my support for the House amendment stating that it is U.S. policy that the Palestine Liberation Organization (PLO) should not be given observer status at Fund meetings and warning that, in the event that the fund would provide any official status to the PLO, "such action would result in a serious diminution of U.S. support." I approve of the administration's successful effort to block the granting to the PLO of observer status for this year's annual meetings and commend the administration for its tact in handling this issue. The administration has sought to avoid a confrontation with some of the OPEC surplus countries over the issue. The IMF and the World Bank have been technical institutions serving the best economic interests of the international community and have avoided the extensive politicization that has plagued the U.N. and its constituent organizations. The effectiveness of the IMF and the World Bank to have been in large part due to their apolitical approach to the issues. No loan or economic stabilization program has been affected by the Arab-Israeli, South African, or North-South issues.

As one of the earliest and staunchest supporters of the IMF and the World Bank in this body, I strongly urge the administration to insist that such clearly political issues, such as PLO participation, not infringe on the apolitical character of these institutions. Any inclusion of the PLO into these organizations should immediately lead to a serious review of our relationship with these organizations. This is the message contained in the House amendment, which I support.

Mr. President, for the above reasons, I urge my colleagues to pass S. 2271 with the House amendments.●

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Church, I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO HOLD H.R. 7554 AND H.R. 7939 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as H.R. 7554 and H.R. 7939 arrive in the Senate Chamber, that they be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank Mr. GLENN and the distinguished minority leader.

THE LOOMING RESOURCE CONFLICT

Mr. WARNER. Mr. President, the American people are constantly subjected to warnings, and I hesitate to bring to the attention of my colleagues a matter which contains foreboding truths—but truths that we can ignore only at our peril.

Mr. J. William Middendorf, a distinguished American and former Secretary of the Navy, recently presented a paper to the Leeds Castle Conference in Kent, England, which addressed the matter of the tremendous vulnerability of the United States and its Western allies to an interruption in the supply of vital natural resources.

Mr. Middendorf, in a cautious and thoughtful manner, points to the dangers inherent in such overdependence on foreign sources of raw materials and prescribes a natural resources strategy which would serve to minimize U.S. and allied dependence and thus enhance Western security.

For years, experts have pointed to the growing dependence of America on foreign supplies of natural resources. However, even the 1973 oil embargo with its widespread effects on our economy and on our lives has not led to an adequate realization of the problem of resource dependence. Prospective shortages of such obscure materials as cobalt and zinc are even less likely to bring about a strong reaction on the part of America.

But recognize these problems we must, if we as a nation are to avoid crippling hardships and perhaps even war in the not too distant future.

Mr. Middendorf and I served together in the Navy Secretariat, and his views reflect his extensive experience in matters relating to national security.

I ask unanimous consent that Mr. Middendorf's paper be printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

A STRATEGY FOR THE COMING RESOURCE WAR

(By J. William Middendorf)

Previous participants in this conference have addressed some of the military aspects of the problems we face in attempting to develop a grand strategy for global freedom. As the Secretary of the Navy in my country's defense establishment, I was intimately familiar with these elements, particularly with respect to the need to protect the sea lanes that are the world's principal channels of transport and commerce.

In my former capacity and today, I am convinced as you are that only a strong defense capability on the part of our countries will deter military adventures by those who would extend their hegemony over us and the third world.

However, I join your deliberations today as a banker. And in this capacity I would like to address myself to the threat which I see as fully as ominous as the military. I refer to the danger of our dependence for vital natural resources on areas of the world vulnerable to Communist or revolutionary subversion which could deny us access to the very resources on which we depend for our economic well-being and very survival.

Admiral Isaac Kidd, Jr., former Commander-in-Chief of the U.S. Atlantic Fleet, warned last year that "there is no nation in recorded history which has invested in sea power at the ongoing Soviet rate that has not used it as a national bludgeon to force a decision, often without the necessity of firing a shot."

My concern is that the Soviet and its followers are moving inexorably to position themselves to force that decision—to force it simply through the ability to deny the free world access to the vital natural resources in southern Africa and third world countries upon which we rely for most of our critical natural resources.

As Dr. Bill van Rensburg, Director of the Texas Mining and Mineral Resources Research Institute noted in a recent speech, developments in the world during the past five years reflect a realization by the Soviets that they are not yet in a position to force a direct confrontation with the West, either in the United States or Western Europe. Nor, I submit, do they want such a confrontation. Rather, they are following a policy of resource diplomacy or resource blackmail, which is aimed at denying the increasingly import-dependent West the resources it needs for survival—starting with oil and proceeding to other strategic raw materials.

My concern, then, is that the war for survival probably has started and could progress without big power military confrontation. And we cannot forget Dr. Henry Kissinger's reminder when he was Secretary of State that nations have gone to war in the past over access to raw materials.

As a banker, a former civilian military official and a former diplomat in Western Europe, I should not have been surprised—but I was—at the stark and blunt realism of an article which appeared almost two years ago in the staid and non-sensational Christian Science Monitor. It was written by Dr. Constantine Menges, an international relations and U.S. foreign policy analyst, who has been a university professor, a government official and a staff member of the highly respected Hudson Institute and Rand Corporation.

"The tide of history," he wrote, "is moving against the survival of the democratic nations. Few Americans seem aware that several converging trends will pose a serious threat to their freedoms in the early 1980's. Prudent action can still be taken."

He then cited growing Soviet military power, Soviet intimidation of democracies (the Afghanistan takeover hadn't happened yet) and Communist support of violent insurrections aimed at gaining control of the Near Eastern oil countries by the early 1980's.

Well, it is two years since he wrote that article. The 1980's are here. Violent insurrection has progressed as prophesied in the Middle East and Africa. And nothing has changed except for the worse.

For a century, the northern industrial nations of the free world have prospered by being converters of cheap, accessible raw materials and energy from other parts of the world, mostly the southern hemisphere. In the past decade all that has changed. The giant hinge of history has swung.

My country now depends on foreign sources for 22 of the 74 non-fuel raw materials essential to a modern industrial economy, and nine of the most critical materials are 90 percent or more dependent on foreign sources. Among these nine are those crucial to defense production. Cobalt, used for high-temperature applications in advanced jet engines, is almost entirely derived from Zaire and Zambia. Bauxite, used for virtually all modern aircraft, and essential minerals used in steel manufacture (manganese and chromium in particular) are almost completely absent in recoverable quantities in the United States. Our Department of Interior estimates that, by the mid-1980's, the U.S. will import half of its basic raw materials.

Iron ore, bauxite, zinc, copper and lead are five of the most important metals in world trade. They are among the ten most important metals that have major applications in the engineering industry. The 1977 ratios of net import to total supply of these metals indicate the status of self-sufficiency of the major Free World nations.

For West Germany, these ratios were: bauxite, 100 percent; mine copper, 100 percent; mine lead, 82 percent; mine zinc, 64 percent; iron ore, 93 percent.

For the United Kingdom, the corresponding ratios were: bauxite, 100 percent; copper (blister), 100 percent; lead, 94 percent; zinc, 100 percent; iron ore, 83 percent.

For France, the respective ratios of import dependence for these commodities in 1977 were 80 percent for copper, 75 percent for lead and 85 percent for zinc, with considerably less dependence on imports of bauxite and iron ore.

In the Far East, Japan's levels of dependence on imports were: bauxite, 100 percent; copper, 90 percent; lead, 71 percent; zinc, 65 percent; and iron ore, 96 percent.

In summary, all four of these major countries are highly dependent upon imports for their supply of these important metallic ores.

By way of contrast, the Soviet Union normally is selfsufficient in all but six major minerals—bauxite, barites, antimony, fluorspar, tin and tungsten. Even for these six, Russia is believed to produce at least half its internal requirements.

J. Allen Overton, Jr., president of the American Mining Congress, recently reminded that minerals have truly been called the bedrock of civilization and the stepping stones of destiny. "Ultimately," he said, "all jobs and functions of modern society can be traced in some way to a viable minerals base."

Interesting observations, considering that in five major minerals—chrome ore, platinum metals, manganese ore, asbestos and gold—Russia and southern Africa together account for most world production and trade. This helps to explain Russian and Cuban involvement in African affairs.

While I assert today that my country is vulnerable to resource blackmail, I daresay that the evidence is clear that most, if not all, of your countries are equally at risk.

The Soviet makes every effort to attain

self-sufficiency in mineral supply. Economic cost is only a secondary consideration in undertaking or expanding production. No areas within the Soviet Union are off-limits to mineral exploration.

A major Soviet objective in southern Africa is to obtain access to its enormous reserves of raw materials, or preferably control over these resources. While the USSR is well-endowed with most vital raw materials, it is increasingly attempting to conserve those resources and buy elsewhere to preserve its self-sufficiency in times of crisis.

Further, the Soviets have shown a far greater knowledge of raw material geography than we in the free world. We often prattle on about the evils of not 100 percent "pure democracies" in the undeveloped world, especially among those who wish to be our friends. Sometimes our policy has been that a dictator who is AGAINST us is somehow more moral than a dictator who is FOR us. It seems the Soviets have no such view of perfection. Instead, they delight in exploiting our differences with our friends, and actively work to subvert any leadership likely to be friendly to us, especially if they are a source of raw materials.

While political and military factors often are cited to account for Soviet and Cuban involvement in Africa, I submit that the Soviet Union has not lost sight of the strategic economic and industrial implications of its adventures. Civil disorder in South Africa and Rhodesia on a scale that would interfere with mineral production would enormously expand the value of Soviet exports and ultimately threaten free world supply. Left-wing governments in South Africa and Zimbabwe Rhodesia with leanings toward the Soviet Union could combine with the Soviet Union to create pricing situations in chrome ore, platinum metals and perhaps manganese fully as effectively as the OPEC cartel is in oil. Even more important, they could create the capability of embargo.

Meanwhile, despite Russia's professed interest in helping the developing nations, the USSR is unwilling to depend—as we do—on distant and possibly politically unstable sources for essential raw materials.

By accident of geography, the transit of much of the world's foreign energy and raw materials resources goes by sea adjacent to southern Africa. Petroleum is shipped from Persian Gulf ports through the Indian Ocean via a narrow sea lane off the southern tip of Africa. The limited U.S. naval deployment in the Indian Ocean is insufficient to prevent attacks on shipping in the region. The lack of basing rights in southern Africa (in contrast to the facilities available to the Soviets in Mozambique and Angola) makes it difficult to prevent the operation of hostile submarines in the area in the event of conflict.

The lack of sufficient Free World military resources either based in the region or deployable to the area is underscored when one reviews the scope of Soviet activity in the region. The Soviets now have the option to engage in a "resource war" in the area either through direct military action against shipping, an unlikely event at this time, or indirectly through the subversion of independent nations in Africa and the Middle East that would enable the Soviets to deny access to the energy and raw materials of the area.

The scope of Soviet activity, both directly through the intervention of their own support or combat forces (as in Ethiopia and Afghanistan) or indirectly through the use of proxy forces (mainly Cuban and East German troops) makes it clear that they have both the interest and the capability to influence events in Africa and the Middle East.

Meanwhile, continued internal instability in many of the countries of the region heightens the tensions. As the Washington Post reported just two days ago from Salisbury, the formation of a unified national Zimbabwe army from three separate and antagonistic forces is proving to be the most difficult and sensitive task of Prime Minister Mugabe's postwar reconstruction program.

The restlessness in Africa and the Middle East makes it imperative that the Free World countries sharpen their vigilance against activities triggered either by the Soviets or resulting from the instability of many of the nations of the region that could seriously damage Free World interests. To date, the Free World has not developed a credible response that would enable it to defend its interests in the region to assure unimpeded resource access.

Surely as we drastically need a coordinated defense and preparedness strategy, so we also require a natural resources strategy to assure that the Free World will never be brought to its knees because of the inaccessibility of minerals and metals needed for our economic survival and military preparedness. The West's oil supply itself is threatened by the increasing presence of Soviet proxies in the Horn of Africa, Yemen, and the proximity of the Soviets themselves in Afghanistan.

But unlike imported fossil-fuels, which in the long term can be replaced by substitutes or alternate domestic sources, many of the most vital minerals and metals have no substitutes—at least not within our present technological capabilities.

The irreplaceability of supply—or put another way, the criticality of access to vital minerals and metals—suggests some of the prime elements of a Free World natural resources strategy.

First and foremost, I suggest, is the need for enlightened interrelationships between the industrialized or consumer countries of the Free World and the supplier countries of the Third World. The object must be to prevent producing countries from becoming fertile ground for subversion, revolution or military takeover. We must do this not in the interest of their personal freedoms or human rights or the color of their skins—although, this, too, is important—but in our own vital self-interest.

Zaire is a case in point. It provides most of the Free World's supplies of cobalt, which, as I have previously noted, is crucial to the aerospace industry. Zaire's political structure and economy have been in a perilous state. It is clearly urgent that the industrialized nations of the Free World do all in their power to stabilize its economy. A partial effort in this regard is now being made through the International Monetary Fund.

Second, we must be alert to the development of a mineral and metals cartel fashioned after OPEC. Not that we can prevent it, but there is nothing we should do to expedite such an awesome development. If we can prevent it, at all costs we should.

Third, we must increase supplies through an array of strategies. We must develop access to the seabed resources in areas not vulnerable to enemy interdiction.

The Law of the Sea Conference so far has failed to produce an agreement adequate to our interests. Although it would be best to establish an internationally agreed upon set of guidelines for the exploitation of the seabed, we cannot allow ourselves to be denied access to the seabed by a coalition of nations that lack the technical expertise to exploit it. Failing to win an agreement acceptable to our interest, we should begin to exploit the seabed of the continental shelf where several forms of ocean mining appear to be economically feasible. It may be possible to develop a satisfactory international climate for full-scale exploitation in the future when significant seabed mining has been initiated.

As you know, the delay in working out agreement on a Law of the Sea treaty has been the North/South problem. To what extent the undeveloped and less developed countries have been influenced by other considerations must be left to conjecture.

My own country, meanwhile, has just written into law a Deep Sea Mining Bill which will permit U.S. exploration of the earth's seabeds under strict control provisions. This legislation had been pending for nine years. Under it, the United States will issue licenses to its nationals for exploration for manganese nodules. Commercial recovery cannot start before January 1, 1988. This, to me, seems to be an unconscionably long period from this date. The reason given was to provide time for the Law of the Sea treaty to be completed and ratified—and for the United States in the interim to enter into bilateral agreements with other countries, which, it seems to me, could be accomplished in a far shorter time. These agreements would establish reciprocal arrangements under which the signing countries would respect each other's permits and licenses for commercial recovery.

In view of the criticality of the non-fuel resource problem, these are very significant developments.

We must rapidly develop new technologies to seek substitutes, where possible, for politically vulnerable imports. We must develop technologies to eke out more from less. In my country, and in some of yours, we must reconsider policies closing vast Federal lands to exploration. Indeed, we must reassess policies which might provide vast wilderness areas in which our people could starve for lack of a viable national economy and minerals and metals policy. We must recycle wastes to recover vital resources which are just as valuable the second or third time around.

And finally, to increase available supplies, we must redouble our stockpiling efforts while being careful not to disrupt existing markets, thus driving up prices and unnecessarily aggravating hard currency outflow.

In the United States, strategic stockpiling has long been an important element of U.S. mineral policy. Our Strategic and Critical Materials Stockpiling Revision Act of 1979 reaffirmed the need for stockpiling, conservation and the development of domestic sources. It specifies that "the purpose of the stockpile is to serve the interest of national defense only and is not to be used for economic or budgetary purposes." It also requires that "the quantities of the materials stockpiled should be sufficient to sustain the United States for a period of not less than three years in the event of a national emergency." Our stockpiled materials are now valued at more than $12 billion, the greatest part attributable to metals and minerals. Some of the strictures in our law preventing greater flexibility in purchasing from Third World suppliers, particularly in response to their economic needs at particular times, probably could stand re-examination, as could our three-year national emergency.

In the United States and possibly in some of your countries, we should consider the possible use of low-grade, presently noncommercial, domestic mineral deposits. And to do this in the United States at least, tax and other incentives must be provided to make the effort commercially feasible.

I return now to the first element in my proposed Free World natural resources strategy—the need for enlightened Third World relationships and policies. Deep undercurrents related to color and religion cause ferment today in much of Africa and the Middle East. Equally ominous, however, is the unsettling effect of tremendous currency outflows from the poorer Third World nations to the OPEC countries.

Just as the U.S. and the West lost control of energy in the 1970's, so too is there now a real and present danger that the banking and financial systems of the Free World will not be able to cope with the world's flow of capital and wealth in the 1980's as the oil-consuming nations go deeper and deeper into debt, in the aftermath of OPEC's latest price hikes.

As the decade of the 1980's begins to unfold, the system of financial markets and the international banking system that underpins the market are literally trembling from multiple shocks inflicted as a consequence of the greatest transfer of wealth the world has ever seen.

I fear for its survival unless we collectively surrender the apathy that now afflicts us and move rapidly toward energy self-sufficiency and a more predictable petrodollar recycling process.

In 1980, OPEC's surplus of oil revenues may exceed $110 billion. This is a sum which is double the surplus in 1979 and nearly 20 times the 1978 figure. Unless those staggering sums can be recycled back to OPEC consumers—rich and poor alike—that cash can't be transformed into real economic activity and growth, so employment and living standards must perforce decline around the world. If the task of recycling isn't successful, the more immediate peril is that the U.S., the industrial world and the majority of developing countries must learn to live with chronic, global stagflation or worse. In the poorer nations of the third world, those that supply non-fuel resources or are strategically astride access routes, this could degenerate into conditions inviting revolution, subversion or military takeover. With these our vital mineral resource sources are thrown into jeopardy.

I proposed earlier this year, and do so again today, that the economic and banking leaders of all nations desiring to participate, including OPEC countries, convene at the earliest possible date to discuss the petrodollar recycling problem and appoint a commission to recommend solutions. The auspices under which such a conference is convened are not as critical as the timing. It should be done with minimum delay and I, for one, am convinced that major OPEC members will cooperate once equitable solutions are identified. But such cooperation will not be forthcoming unless all major participants, particularly the industrialized nations that are the major contributors to petrodollar surpluses, join in a common solution rather than act individually and separately.

How we address the strategy of the coming resource war will determine the whole course of Western civilization from here on out. If successful, the flickering flame of freedom will burn brighter. By maintaining our industrial and military might we may enjoy peace through strength. If unsuccessful, we will with certainty approach the Great Nightfall.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

DISAPPROVAL OF ENRICHED URANIUM TO INDIA

The PRESIDING OFFICER. The Senate will resume consideration of Senate Concurrent Resolution 109.

The Senate resumed the consideration of Senate Concurrent Resolution 109.

Mr. GLENN. Mr. President. I have a statement I would like to make, but the distinguished Senator from Virginia has been very helpful on this resolution, and he has a shorter statement. I yield such time to him as he needs to make his statement before I proceed.

Mr. HARRY F. BYRD, JR. I thank the distinguished Senator from Ohio. I am pleased indeed to join with Senator GLENN in supporting Senate Concurrent Resolution 109. I commend the able Senator from Ohio for his leadership in this matter and his successful effort in the Foreign Relations Committee to have this resolution of disapproval reported to the Senate. I was glad to cosponsor this resolution by Senator GLENN. I think it is an extremely important issue which is involved in the matter before the Senate today.

Senate Concurrent Resolution 109 disapproves President Carter's proposal to export enriched uranium to India.

As I see it, the Senate, in considering this matter, will make a critical decision of far-reaching consequence.

The Carter administration proposes to sell 38 tons of nuclear fuel to India, notwithstanding the contrary decision of the Nuclear Regulatory Commission based on the prohibitions of the Nuclear Nonproliferation Act of 1978.

On June 20, I introduced Senate Concurrent Resolution 103 to disapprove the President's proposal to ship enriched uranium to India. The Committee on Foreign Relations has favorably reported Senate Concurrent Resolution 109, which is in substance identical to the resolution I initially proposed.

The House of Representatives, by an overwhelming vote, has already approved similar legislation.

The vote was 298 to 98. That is nearly a 3-to-1 margin. The issue now rests squarely with the Senate.

The Senate decision will, in effect, determine whether the United States is serious in its intention to curtail the proliferation of nuclear materials or whether passage of the Nuclear Nonproliferation Act was, in reality, an empty gesture.

If an exception is made today for the shipment of 38 tons of enriched uranium to India, the world will see the nonproliferation policy of the United States as a hollow shell. This administration and administrations to come will be encouraged to disregard nonproliferation policy when it suits the perceived political conveniences of the moment.

The Carter administration has attempted to assert that the Nuclear Nonproliferation Act was not intended to block the proposed shipment to India. I find that assertion totally unjustified either in the terms of the statute or in its legislative history. I agree with the finding of the Nuclear Regulatory Commission that the statute was intended to come into full effect in connection with any nuclear fuel export occurring 2 years after the enactment of the law on March 10, 1978.

Moreover, I find exceptionally nonpersuasive the argument advanced by the Carter administration that India has consistently acted in good faith in connection with our prior agreements with India regarding nuclear materials.

It is an accepted fact that India exploded a nuclear device in 1974. It is also accepted that India used heavy water supplied by the United States under an agreement during the 1950's which specified that the materials provided would be used only for peaceful purposes.

To my astonishment, the Carter administration, in a point paper dated September 17, states that "it is legally ambiguous as to whether India broke its obligations" under the 1956 agreement to use materials only for peaceful purposes. If the administration accepts the assertion of India that the 1974 nuclear blast was a peaceful atom bomb, what is to prevent any nation in the future from carrying out a nuclear weapons buildup under a false cloak of peace?

The central point of the issue, as I see it, is this: In this highly dangerous nuclear age, we must do everything possible to prevent the spread of nuclear weaponry. The Carter proposal would put in jeopardy the containment of the spread of nuclear weapons. In 1974, India exploded a nuclear weapon in open defiance of an agreement with the United States. Since then, India has consistently refused to permit nuclear safeguards or international inspection.

The U.S. Nuclear Regulatory Commission determined that the proposed export of 38 tons of enriched uranium to India did not satisfy the requirements of the Nuclear Nonproliferation Act.

The President declined to abide by the Nuclear Regulatory Commission decision; therefore, Congress should act to block the sale. The House, as I mentioned earlier, already has done so by an overwhelming vote of 298 to 98.

The alleged justification for shipping nuclear material to India is to seek improved relations with that nation. But the United States has been seeking improved relations with India for decades and has nothing to show for its efforts but the expenditure of more than $10 billion in aid.

Again, I say, that President Carter's proposal would put in jeopardy the containment of the spread of nuclear weapons.

Again, I urge the Senate to disapprove the Carter administration's proposal to sell nuclear fuel to India.

Again, I thank my distinguished colleague and friend from Ohio for yielding to me at this point.

Mr. GLENN. Mr. President, I thank the distinguished Senator from Virginia for his excellent statement.

Mr. President, if anyone had told me 2 years ago that I would be standing here arguing against a position taken by the Carter administration on nuclear nonproliferation, I would have, indeed, found that hard to believe. I would have found it even harder to believe that the issue would concern an administration decision to continue sending nuclear fuel to India, the first country in the history of the nuclear age to divert nuclear materials from a civilian program for the purpose of conducting nuclear explosions.

Mr. President, I was with the President for the ceremony on March 10, 1978, when the Nuclear Nonproliferation Act, the NNPA, was signed into law. At the time, the President said:

> The Nuclear Nonproliferation Act sets the conditions and criteria which will govern U.S. cooperation with other nations in our efforts to develop the peaceful use of nuclear energy. The encouragement of universal ratification of the Nonproliferation Treaty, (the NPT) is central to the act, as is the establishment of a comprehensive set of controls, including the application of IAEA safeguards and provision of a stable framework for international nuclear cooperation and commerce.

The President has always been a strong advocate of the NPT, as I have been. When I introduced Senate Concurrent Resolution 109 on July 25, of this year, I quoted some statements from one of the President's speeches, when he was a candidate in 1976, concerning the NPT. In May of that same year, before a U.N. sponsored conference on Nuclear Energy and World Order, the President made an even more direct supportive statement concerning the NPT. He said at the time:

> There are still a dozen or more important countries with active nuclear power programs which have not joined the Treaty. Hopefully, some of these nations may decide to become members, but in the case of several of them, this is unlikely until the underlying tensions behind their decision to maintain a nuclear weapons option are resolved. . . . The advanced countries have not done nearly enough in providing (nuclear power benefits) to convince the member states that they are better off inside the Treaty than outside. In fact, recent commercial transactions by some of the supplier countries have conferred special benefits on non-Treaty members, thereby largely removing any incentive for such recipients to join the Treaty. They consider themselves better off outside. Furthermore, while individual facilities in these non-treaty countries may be subject to international safeguards, others may not be and India has demonstrated that such facilities may provide the capability to produce nuclear weapons.

Now, if I add to that the statement that the President made later in 1976, that the State Department had become India's "chief advocate and apologist," one can understand my surprise at standing here today and having to oppose a Presidential Executive order that overturned a unanimous NRC decision to the effect that India was not in compliance with a cornerstone provision of the Nuclear nonproliferation Act—an act that was passed with the wholehearted support of the President.

Let me say, I tried very hard to get the President not to send his Executive order up here, at least not now, not yet.

I sent a letter to Secretary Muskie, which I understand he did discuss personally with the President, setting out a number of reasons why it would have been better to have waited until next year and have reviewed the issue at that time.

The situation on the South Asian subcontinent would have been much more clear and we would have had the benefit of a 3-year review by the GAO of our entire nonproliferation policy and the working of the NNPA.

We wrote that into the individual bill, that at the end of the 2 years an examination of the effectiveness of that legislation would start and be presented at the end of the third year so we could see if any changes were necessary in the NNPA, so we could improve it, make it more effective.

That study will not be available until—it was deadlined for next March 15. But we could have had it around the first of the year, probably; we could have speeded it up some. But the President did not wait.

Now we must make our decision. Despite my efforts, the President made his. Now we must make ours. The issues involved in the Tarapur fuel export controversy fall naturally into three categories. They are issues involving nonproliferation, issues involving general foreign policy, and issues involving legal considerations. I would like to say a few words about each one of them.

NONPROLIFERATION ISSUES

It is very difficult Mr. President, to discuss the nonproliferation questions raised by the pending fuel shipments to India without getting into a little bit of history. India exploded a nuclear device in 1974 using U.S. heavy water in a Canadian reactor.

This was a violation of the sales agreement because our agreement said that everything that we sent to India under it would be used only for peaceful purposes.

In 1970, 4 years before that explosion, 4 years before that bomb was built, we had some indication that something was going on in India that we considered a misuse of the material we had sent. So we sent an aide memoire to the Indian Atomic Energy Commission in Bombay on November 16, 1970.

This was classified secret until last Friday when I asked it be declassified, which it was. It spells out in very certain terms what our view of our 1956 contract with Indian concerning the sale of heavy water was. It states as follows:

> The United States Government has noted various affirmations of Indian interest in developing the technology of peaceful nuclear explosions, as well as statements that the Government of India is not planning for a nuclear explosion.
>
> Occasionally, in the public debate on the nuclear issue, the question has been raised as to whether, under extant agreements, the Government of India could legitimately use foreign-supplied nuclear technology or materials to manufacture an explosive device to be used in detonating a peaceful nuclear explosion.
>
> We believe the Government of India is aware of the American interpretation of agreements under which the United States has assisted India's development in the field of atomic energy. However, we would like to reiterate the American view in the interest of clarity and to obviate any misunderstanding.
>
> The American position, reflected in the Non-Proliferation Treaty, is that the technology of nuclear explosives for peaceful uses is indistinguishable from that of nuclear weapons, and that any nuclear explosive device, though it be intended for benign economic purposes, could also be used for destructive purposes. The development of such explosives, therefore, is tantamount to the development of nuclear weapons. Any other position would be inconsistent with United States obligations under the Non-Proliferation Treaty and the United States Atomic Energy Act.
>
> Consequently, the United States would consider it incompatible with existing United States-Indian agreements for American nuclear assistance to be employed in the development of peaceful nuclear explosive devices. Specifically, for example, the use, for the development of peaceful nuclear explosive devices of plutonium produced therefrom, would be considered by the United States a contravention of the terms under which the American materials were made available.
>
> The United States interprets the safeguards and guarantees provisions of the Tarapur agreement as prohibiting the use of American materials and equipment, or materials produced from such materials and equipment, for research on or development of any nuclear explosive devices, regardless of stated applications.
>
> The contract of March 16, 1960, under which the United States sold heavy water to India for the CIRUS Reactor states: "The heavy water sold hereunder shall be for use only in India by the Government in connection with research into and the use of atomic energy for peaceful purposes. . . ." The United States would not consider the use of plutonium produced in CIRUS for peaceful nuclear explosives intended for any purpose to be "research into and use of atomic energy for peaceful purposes."

That was delivered to the Indian Atomic Energy Commission in 1970, 4 years before they went ahead and used our material to make the nuclear explosion.

Besides being a violation of the sales agreement with the United States under which the heavy water was supplied, the Indian explosion was a shock to the foundations of the entire international nonproliferation regime—a shock that is still causing reverberations today. The Canadians, much to their credit, tried further negotiations then terminated nuclear cooperation with India following the 1974 explosion—and I should add that the Canadians today and the Australians as well, will not engage in nuclear trade with any country that does not accept safeguards on all its nuclear facilities, so-called full-scope safeguards. In contrast, the United States continued nuclear trade with India, continuing negotiations but we did pass the NNPA 2 years ago which said that after March 10, 1980, no nuclear exports would go from the United States to any country that did not accept full-scope safeguards, which was passed largely because of the situation that had developed in India.

That provided a 2-year negotiating period from March 10, 1978 to March 10, 1980. In these 2 years, there has been not one whit of progress in the negotiations with India. She has adamantly refused to even entertain the notion of full-scope safeguards, and the unsafeguarded facilities that she is presently constructing will provide her with the capability of obtaining thousands of kilograms of plutonium by the end of this decade that can be translated into hundreds of nuclear warheads.

Mr. PERCY. Will the distinguished Senator yield for a unanimous-consent request?

Mr. GLENN. Yes.

Mr. PERCY. Mr. President, in the absence of Senator JAVITS, I ask unanimous consent that the distinguished Senator from Idaho (Mr. McClure) be yielded, at the conclusion of the Senator from Ohio's comments, 10 minutes, or such time as he may desire to speak in opposition to the resolution of disapproval.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, India of course, is not a member of the NPT, a treaty signed by 114 nations. All 111 nonweapons states in the NPT must accept full-scope safeguards and foreswear nuclear weapons if they want nuclear trade and assistance. I think we should ask ourselves why a nation would want to join or remain a member of the NPT, and make the political commitment to subject themselves to full-scope safeguards in return for nuclear assistance, when countries like India can obtain nuclear assistance without making a similar commitment. It is supposed to be U.S. policy to strengthen the NPT. Does the President's decision regarding the Tarapur export support U.S. policy? I do not believe so. I believe the decision undermines the NPT.

Another point to be made is that by continuing trade with India under these conditions, we are also undermining our own effort to try to get other nuclear supplier nations to accept full-scope safeguards as a requirement for their own nuclear trade. As I mentioned earlier, Australia and Canada already require full-scope safeguards as a condition for exports. If we are to get other suppliers such as France and West Germany to do the same, how can we take the position that in the case of the worlds first nuclear violator we will ignore our own advice?

Let us recall that we passed the NNPA only 2 short years ago by a vote of 88 to 3. The pending fuel exports to Tarapur constitute a first landmark test of whether the U.S. Senate was serious about enacting the full-scope safeguards requirement into law. If we back down at the first test, especially in the case of India, the country with the worst history of any of our trading partners, what does that do to the credibility of our nonproliferation policy? What, in particular, will that do to our present goal of curbing the spread of sensitive facilities capable of producing weapons—usable high-enriched uranium and plutonium? Why should our nuclear trading partners, many of whom have strong nonproliferation credentials, acquiesce in restrictions on their nuclear activities for the sake of nonproliferation when we are unwilling to enforce our most basic standards against India?

FOREIGN POLICY ISSUES

I am aware that nonproliferation is not the be-all and end-all of foreign policy. I am realistic enough to know that there may be times when it is necessary to take a step backward temporarily in our nonproliferation effort in order to advance a broader foreign policy objective. Like the President, I, too, would like India to be more sympathetic to our national security concerns stemming from events in that part of the world. But where is the evidence that nuclear trade has had or will have a positive impact on Indian foreign policy? What kind of foreign policy line did India take following the President's promise to Mrs. Gandhi to send the fuel? Was she sympathetic to our concerns in the last few months? Here is the record of Indian decisions after the President's promise to send the fuel. India concluded a $1.6 billion arms deal with the Soviet Union, a deal that had been, to be sure, in the mill for some time but which India then went ahead with, anyway.

India then became the only non-Communist country to recognize the pro-Soviet regime in Kampuchea, after we requested them not to do so.

India abstained from the U.N. resolution condemning the Soviet invasion of Afghanistan; and, finally, to add injury to insult, she negotiated a long-term trade agreement with Iran that undercuts our ability to apply pressure for the release of our hostages. The Iran agreement was announced on June 14, 1980, by the well-known New Delhi newspaper, The Statesman, with a headline, "India to Help Iran Beat U.S. Sanctions." (Copy at end of remarks). If that is not enough to make every American unhappy, I do not know what is: "India to Help Iran Beat U.S. Sanctions."

> From Our Special Representative
>
> New Delhi, Friday.—India is to send grain and a number of other industrial products believed to be worth several hundred million dollars to Iran to enable her to meet shortages arising out of the sanctions imposed by the USA and the EEC.

After a couple of other paragraphs, it says:

> What remains to be finalized is the financing of the deals since India wants assurances on payments. . . .
>
> In effect, the result of the talks is that India has agreed to help Iran to beat the U.S. and ECC sanctions imposed because of the hostages issue. Iran presented a long shopping lists to India of items that she needs urgently and much of her needs are to be met.

So much for the foreign policy implications of shipping nuclear fuel to India.

The State Department argument that sending nuclear fuel to India improves United States-Indian relations simply has no substance. That is not to say that there is nothing the United States can do to improve Indo-United States relations. We are presently engaged in $2 billion worth of trade with India. We are providing hundreds of millions of dollars in various forms of economic assistance and we recently completed arrangements for sending India 3,700 TOW antitank missiles. Our relations with India could be far more positively affected by changes in our policy on countervailing duties—affecting textile sales—than by the sale of nuclear fuel, but the administration is not proposing anything along that line, quite the contrary.

Much has been made about the fact that if we do not send fuel for Tarapur the Indians may turn to the French or the Soviets. The administration has provided no evidence that India's nonalined status or the orientation of her present foreign policy would be significantly altered by such a move. There is no reason to believe that India's drive toward nuclear independence will falter as a result of receiving Soviet fuel in addition to the Soviet heavy water she has imported in the past. From a nonproliferation point of view, even if the Soviets were to step in as an alternate fuel supplier the Soviets have invariably required strict safeguards and other nonproliferation controls on nuclear projects they have aided.

According to the respected trade journal, Nucleonics Week, there is debate going on in India about whether to place heavy water in one of the Indian reactors—with arguments being made by some Indian scientists urging that India hold off because, if the Russian heavy water is not used in the reactor, the reactor would not have to be safeguarded. In other words, they believe Soviet nuclear fuel restrictions are "tough." Should we, therefore, take a backward step in our nonproliferation policy in order to prevent the Indians from buying 38 tons of nuclear fuel from the Russians? I believe not.

There are other foreign policy issues involved here as well. The Washington Post ran two front-page stories, regarding Swiss nuclear aid to Pakistan that will enable the Pakistanis to obtain high-enriched uranium, a weapons-usable material. The Carter administration has been unsuccessful in trying to get the Swiss to turn off the spigot of supplies to Pakistan. We ourselves have cut off Pakistan from economic and military assistance as a result of Pakistan's efforts to obtain the facilities needed to make a nuclear weapon.

We have tried to get the Pakistanis to accept full-scope safeguards on all her nuclear facilities. How likely is it that we will succeed in our effort with the Pakistanis if we continue to send nuclear materials to India without the same requirement? How likely is it that we can convince the Swiss not to send nuclear materials to Pakistan if we do not set an example of not trading with countries that are deliberately keeping a nuclear weapons option open?

Mr. President, the administration has not made a convincing case that providing nuclear fuel to India is indispensable toward achieving our foreign policy objectives in South Asia. On the contrary, I am convinced that the achievement of our goals in that region and elsewhere will be enhanced by resoluteness on the part of the United States. Not changing direction again. Our action on this issue will be carefully noted in every capitol in the world, not just for what it says about our nonproliferation policy, but for what it says about the ability of the United States to prevent itself from being bullied by other nations. To send this fuel because of veiled Indian threats regarding what they might do with previous shipments makes a mockery of our position as a world power. Those who are concerned about the Indians buying nuclear fuel from the Soviets ought to worry about the signal being sent to the Soviets by a lack of American resolve to follow a justifiably tough policy on nonproliferation.

LEGAL ISSUES

Mr. President, I beileve the administration knows that it has no case in favor of these shipments on foreign policy grounds and it has no case in favor of these shipments on nonproliferation grounds, especially when one looks at the impact on countries outside of India. The administration has therefore chosen to make its case on the basis of a very weak legal argument that the United States might be in violation of the 1963 Agreement for Cooperation with India and the fuel contract written pursuant to it. The administration argues that if the Indians see the cutoff as a breach of the agreement they will feel free to disregard their obligations under the agreement which are to retain safeguards on the Tarapur reactor and the U.S.-origin spent fuel emanating from it.

First of all, the agreement says that the United States will supply uranium fuel "as needed" for Tarapur pursuant to the "terms, conditions, and delivery schedule set forth in a contract to be made between the parties." The contract, when it was signed in 1966, said that the United States will make this material available "subject to such conditions and licenses as the seller (the United States) may require." In 1971 this part of the contract was amended and amplified and India agreed to "procure all necessary licenses or permits and comply with all applicable laws, regulations, and ordinances of the United States and of any State, territory, or political subdivision" in conjunction with the export of nuclear fuel.

All these were commitments to abide by what were to be quite clearly future regulations that the U.S. Government would define.

The American Law Division of the Congressional Research Service was asked to analyze the agreement and the fuel contract and after a detailed analysis they wrote a report which contains the following conclusion:

> India's refusal to submit to the adoption of full-scope safeguards and inspections for all nuclear facilities is not in conformance with its 1971 undertaking to comply with all applicable U.S. laws. As a consequence, congressional rejection of the pending export may be regarded not as a violation of the agreement, but rather as an appropriate action proximately caused by India's refusal to live up to its undertaking to comply with applicable U.S. legal requirements. As such, India may be the party in actual or potential breach of the agreement and in ordinary circumstances cannot walk away from the bargain previously struck. Generally, the election to abandon a contractual obligation upon the occassion of material breach is available only to the injured party. There is no obligation on the injured party to make such an election and it may waive the breach and accept or insist on performance after such breach of the contract. The United States, accordingly, may continue to regard the existing agreement and contract as effective and seek to persuade India that it stands ready and willing to meet its obligation to supply India's fuel requirements when the latter indicates its willingness to stand by its contractual obligation to comply with U.S. legal requirements including the NNPA's provision for the adoption of full-scope safeguards and inspection of its nuclear facilities.

In other words, Mr. President, the United States will not be in violation of the agreement or the fuel contract by refusing the present shipments. Undaunted by this, the administration then argues as follows: Suppose the Indians go ahead and act as if we violated the agreement, seizing the spent fuel and reprocessing it without our permission. Is not that something we should be concerned about? The answer to that, of course, is yes—we should be concerned about it. But we need to look at the larger picture. The U.S. spent fuel at Tarapur is soon going to be a very small part of the materials that India will have available to her for the production of weapons.

By the end of this decade, according to a Congressional Research Service calculation, India's unsafeguarded facilities—these are facilities other than Tarapur (which is under safeguards)—will produce thousands of kilograms of plutonium that will make the amount of plutonium in the U.S.-origin spent fuel look small by comparison.

The administration is trying to convince us that keeping control of the U.S.-origin spent fuel is worth the demise of our nonproliferation policy around the globe. Does that sound like a reasonable tradeoff? It certainly does not to me.

Mr. President. the administration has not looked carefully at the implications of its own argument on this issue. They are saying, in effect, "keep sending the Indians nuclear fuel, because if you do not, you risk the possibility of their making weapons with the plutonium from past fuel shipments." The implication of this argument is that the State Department is as suspicious of the Indian nuclear program as I am. And well they should be, considering India's history in this area. The question is: If they are so suspicious of Indian intentions, why are they advocating continued shipments of nuclear fuel?

Mr. President, not only is the present State Department position on this issue illogical, it is not even consistent with their past stated policy on Tarapur. Two years ago, when the issue of the first Tarapur shipments following the passage of the NNPA came up, the State Department said that it was their intention to ship fuel up until the NNPA deadline unless there were "materially changed circumstances" in India. This was said during the Desai regime. Since then, India has had two governments, and is now headed by the same Mrs. Gandhi who produced the policy that led to the 1974 explosion, and who says that further explosions will be produced whenever India deems them in that country's national interest. That certainly sounds like "materially changed circumstances" to me. Even the Indians say that a change has occurred. Yet, the State Department, despite its own written policy, pretends that everything is the same as before, and we should send the fuel.

I will say only one more word about the logic of the administration's argument in this case. The administration claims that fullscope safeguards should not apply to these shipments, but they will be glad to apply it to future shipments. But their argument about the breach of contract also applies to future shipments. If the administration seeks to convince us that we should send the fuel in order to prevent the Indians from claiming a breach of contract they are in effect arguing that no matter when fullscope safeguards would apply, we should ignore the criterion and send the fuel because otherwise the Indians will do all those terrible things they have threatened. That is a policy of supply without end, a policy of appeasement, a policy of caving in to extortion. If we follow this policy, Mr. President, I submit that the United States will have take another giant step down the road of erosion of its power and influence around the world, a step with the gravest implications for our future national security.

Mr. President, not since the efforts with regard to SALT have we seen such a lobbying effort as the administration has mounted on undecided Senators in the last few days. I have talked to a number of Senators today who have talked about getting calls from *Air Force One* flying around the country, from ACDA, from the State Department, and from the Secretary of Defense.

And that is fair enough to lobby on this, although I must admit with the manpower I have out of my office and the committee we are somewhat outgunned in this area. It is very impressive to receive a call from *Air Force One* to be lobbied on this particular subject.

Mr. President, let me talk a moment about past intent, the past intent of those who have spoken on this subject, and I ask the question in advance, did they really mean what they said?

For example, 4 years ago the President said:

> We have done little to encourage the dozen or more non-NPT countries with active nuclear programs to join. In fact, we have given more assistance to those countries who have not signed the treaty than we have to those who have. For example, in recent hearings before the Nuclear Regulatory Commission on continuation of nuclear aid to India, the State Department has become that country's chief advocate and apologist, even though India, not an NPT party, used our past aid to explode a nuclear device—and even though there are no safeguards to prevent this from happening again.

Did the President mean what he said?

Did the State Department mean what it said 2 years ago when it indicated that it would reconsider support for continued supply for Tarapur if there were materially changed circumstances in India?

This was said during the regime of Prime Minister Desai, who stated there would be no explosion of any kind of whatever type as long as he was the Prime Minister. But since then Mrs. Ghandi has been reelected and has clearly stated if it is in India's interests, India will produce further nuclear explosions. That certainly seems like a change and even the Indians believe this and say a significant change has occurred. But the question is did the State Department mean what it said? Mr. President, did the Senate mean what it said 2 years ago at the time of the examination of the first Tarapur explosions following the passage of the Nuclear Nonproliferation Act? The vote on this particular resolution of disapproval that I propose to the Senate in the Senate Foreign Relations Committee, though, was 8 to 7.

So we did act in committee to support our previous view on this. At that time, after our expression of opinion had taken place, after we had voted for the Nuclear Nonproliferation Act, we felt concerned enough about what was going to happen that the committee asked our chairman at that time, Senator Sparkman, to send a letter to the President expressing our view of what should happen in the future, and I quote from that letter which Senator Sparkman signed and sent to the President:

> The committee requested that I write to you to communicate the following views of the committee:
>
> Substantial progress at an early date for placing all peaceful nuclear activities in India under international safeguards is of critical importance. The executive branch should make a vigorous effort to secure Indian agreement to full-scope safeguards within 18 months of the enactment of the Nuclear Nonproliferation Act of 1978.
>
> The executive branch and the Indian Government should base their discussions on the anticipation that if full-scope safeguards are not achieved, it is highly unlikely that a waiver allowing continued exports would be acceptable.

I think the members of the committee were correct in voicing that concern about whether we would allow exports to Tarapur after 2 years of fruitless negotiations, and that is our position today on it, that we still do not have one shred of indication of any progress toward the safeguards that we wrote about at that time.

Mr. President, it is important to understand what we are dealing with here. The State Department would have us believe we are dealing with a situation that is not precedent setting. By means of a narrowly drawn legalistic argument they seek to convince us that the full-scope safeguards criteria of the NNPA will be preserved somehow despite sending these shipments to India.

But their argument immediately runs up against two severe problems. The first is that we, they, and virtually every foreign government around the world did, in fact, view the 24-month hiatus from the date of enactment as leading to, in fact, a hard and fast cutoff point. There was a State Department cable sent out to all U.S. diplomatic posts just after the Nonproliferation Act was passed so that our embassy officials could explain the act to foreign governments, and it stated:

> IAEA safeguards on all peaceful activities in nonnuclear weapons states will be required, after 24 months following enactment, as a condition of continued U.S. exports.

So the State Department believed in what we had passed, believed what I believed in, what the committee believed in, what the Senate, everyone, believed in, including the President at that time. So if the first major problem is that people inside the Government who have read past State Department explanations of the NNPA are unconvinced of State's latest reinterpretation, the second major problem is that people outside the Government are also unconvinced.

Mr. President, comments from across the country would be of interest. We have identified 90 editorials that have appeared on the subject of Tarapur, all opposing the exports.

I asked the staff, after they came up with that, to go back and find somebody who was in, editorially commenting in, favor of the exports. They said they would try again. So they found four, I believe is the grand total, that had editorialized in favor of this shipment. But every major paper in the country in every major city, almost without exception, has editorialized against this shipment.

Mr. President, just a few days ago the New York Times, as one example, ran an editorial against the shipments which put the problem in a nutshell. The Times stated that Mr. Carter's dilemma was either alienating the Government of India or undermining his own policies against nuclear proliferation. The Times said that, "In June he chose the latter course."

Mr. President, I view this as a step backward in the pursuit of nonproliferation goals in order to achieve a broader foreign policy objective.

The State Department has made only assertions, without evidence, that providing the uranium for India will enhance the achievement of broad foreign policy objectives in that area of the world or elsewhere.

Let us examine the evidence. President Carter has told Mrs. Ghandi apparently last winter that he would send the fuel for Tarapur. Foreign policy decisions since then have been, Indian foreign policy decisions have been, recorded in the chronology which we have distributed on the floor here to all Senators. This shows that Mrs. Ghandi announced her government will not hesitate in carrying out nuclear explosions in the national interest.

As I said before, India, at the same time, has closed a $1.6 billion arms sale with the Soviet Union; is in the process of coming to a major trade agreement with Iran, undercutting our U.S. embargo on exports to Iran; recognized the pro-Soviet government in Kampuchea, and abstained in the U.N. condemnation vote.

In the end, Mr. President, we all know the issue before us is not just United States-India relations. These relations are going to evolve and either prosper or deteriorate because of factors which have little to do with the nuclear trade.

We have $2 billion in trade with India, we have several hundred million dollars in economic aid; we recently completed the deal sending them 3,700 antitank missiles. Surely these elements are much more important to the question of United States-Indian relations than the question of uranium for Tarapur.

But in the end the issue is what signal will the United States be sending to the rest of the world and, particularly, to potential proliferators elsewhere by taking this manifestly backward step in nonproliferation policy?

I believe the answer is self-evident. We will have undermined the policy. We will have removed the standard that we worked so hard to establish 2 years ago that made our policy a model for others to follow. I might add we worked very hard on that in tandem, Senator PERCY and myself, and we find ourselves on opposite ends of the log at this time, and I am sorry that this is the case. But we see this particular situation in a different light.

Mr. President, if we are to ship this fuel, then I would submit that we are in fact changing our nuclear policy.

To say that the NNPA, the Nuclear Nonproliferation Act, will go ahead as always in spite of this fuel shipment to India would be nothing but a charade, and I will not be party to that.

This will not leave us with a policy, if we make this shipment, that says unequivocally, "Here we stand," and for what we stand. As I see it, it will be but a chameleon policy changing color against every new background that happens to come along.

Mr. President, in my remarks here today I have dealt with foreign policy, I have dealt with contract questions, I have dealt with being a reliable supplier, and I would say my major bottom line concern, Mr. President, is this:

The most important reason for barring these exports is that a U.S. capitulation to India could eviscerate our nonproliferation efforts around the world. The 111 nations, nonnuclear weapons nations which have already signed the NPT, and agreed to full scope safeguards would very validly question the value of continued adherence if India receives nuclear assistance without a similar commitment.

Second, current negotiations with non-NPT countries on the full scope safeguards question would be undermined if we continue business as usual with the world's first nuclear violator.

Third, nuclear supplier nations, some of whom now require full scope safeguards as a precondition to sales, such as Australia and Canada and others who may be moving in that direction, perhaps, and West Germany and France, might reassess their conditions as they become convinced that the United States is reversing itself on this vital issue.

Finally, if America is to demonstrate its ability to conduct consistent foreign and national security policies, it is imperative that we shun even the appearance of appeasement. In his testimony, congressional testimony, 2 years ago, Joseph Nye, then a State Department official, stated that in the absence of progress in the full scope safeguard issue it was "highly unlikely" that the United States would supply India with nuclear materials after the NNPA deadline.

Mr. President, I want to see us retain leadership in trying to get the nations of the world to sign up under NPT. I think we meant what we said 2 years ago. I meant what I said, and I think at that time, at least, the President meant what he said. I know Senator PERCY meant what he said, the Senate Foreign Relations Committee meant what its vote said. In fact, that was our policy, and we thought that it was going to last. Now we find ourselves at this first test saying that the policy may not be valid.

I do not think it is time for us to lay down this policy. I think we must meet the policy's first test.

Mr. President, I ask unanimous consent that two letters in support of my position on this—one from the National Council of the Churches of Christ and one from Adrian S. Fisher of Georgetown University Law Center, who was one of those who negotiated the Nonproliferation Treaty who feels very strongly that we not send these shipments to India—be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

GEORGETOWN UNIVERSITY
LAW CENTER,
Washington, D.C., September 22, 1980.

Hon. JOHN H. GLENN,
204 Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR GLENN: This letter is for the purpose of expressing my personal strong support for S. Con. Res. 109 under which the Congress states that it does not favor the proposed export of low-enriched uranium to India pursuant to export license applications XSNM-1379 and 1569.

I was one of the principal negotiators of the Non-Proliferation Treaty and a strong supporter of the Non-Proliferation Act, which introduced the concept of fullscope safeguards as a requirement for U.S. exports to countries which, for a variety of reasons, have refused to become parties to the Non-Proliferation Treaty.

Action on these exports is the first test as to whether the United States meant what it said in the Treaty and in the Act. If we were to permit the exports in this first test, I have grave doubt whether our commitment to a non-proliferation regime would ever again be taken seriously.

Yours truly,

ADRIAN S. FISHER.

NATIONAL COUNCIL
OF THE CHURCHES OF CHRIST,
Washington, D.C. September 16, 1980.

DEAR SENATOR: In the near future the Senate will be considering Senate Concurrent Resolution 124 which will disapprove the sale of nuclear reactor fuel to India. We urge you to support this resolution. We do so because of our commitment to the present nuclear non-proliferation policy of the United States, and our fear that by allowing the sale to be completed, that policy including full scope safeguards will be gravely undermined.

India is not a signatory to the Nuclear Non-Proliferation Treaty, nor has she placed her nuclear facilities under full-scope safeguards. India illegally built and exploded a nuclear device using Canadian and U.S. supplied materials. India has not renounced the use of nuclear weapons. For the United States to sell presently unneeded nuclear fuel to India would make a mockery of the U.S. commitment to non-proliferation which dates back to the Eisenhower administration and is now embodied in U.S. law. Such a sale would be a signal to the rest of the world that the U.S. is not serious about nuclear nonproliferation.

We agree with the American Law Division of the Congressional Research Service and the Nuclear Regulatory Commission that the United States is not committed to the sale under our treaties with India. We further argue that under policy established in the Nuclear Non-Proliferation Act of 1978, the U.S. is mandated to refrain from selling reactor fuel to India, and other countries with similar policies.

The churches we represent have a long and respected tradition of service to the Third World and to India. That relationship is only part of the wide range of relationships between India and the U.S. It is because we are aware of the breadth of these relationships that we reject the Administration's arguments concerning the importance of this sale to the overall fabric of U.S.-Indian relations. Those relations are based on a broad front of mutual and common interests which our two countries share. Those interests are not solely dependent upon the sale of nuclear fuel, as both Indian and U.S. actions in recent months demonstrate.

It is for these reasons that we support the concurrent resolution, and urge you to disapprove the sale of uranium to India.

Respectfully yours,

Jane C. Leiper, Associate Director, Washington Office, National Council of Churches; Herman Will, Associate General Secretary, United Methodist Board of Christ and Society; Frances Neely, Legislative Secretary, Friends Committee on National Legislation; Merle Nolde, O.S.P., Mary O'Keefe, O.P., Co-Chairs, National Assembly, Women Religious; Bob Alpern, Unitarian Universalist Association, Washington Office; Mary Jane Patterson, Director, Washington Office, United Presbyterian Church, U.S.A.; Zelle Andrews, Director, Peace Advocacy Program, United Church of Christ, Office for Church and Society.

Mr. GLENN. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from the Washington Post, a statement I prepared entitled "No Fuel for Tarapur," a Tarapur summary sheet, a copy of the Statesman of Delhi, India, an excerpt from that paper, and also an aide memoire which was secret until last Friday and now has been declassified, presented to the Indian Atomic Energy Commission in Bombay, November 16, 1970.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 22, 1980]

CLEAR SIGNALS ON NUCLEAR FUEL

By a three-to-one margin, the House last week rejected the president's proposal that the United States send another shipment of nuclear fuel to India even though India has refused to accept international safeguards on its nuclear facilities or to renounce further nuclear weapons tests. The vote echoed the earlier judgment of both the House and Senate foreign relations committees and the unanimous decision of the usually divided Nuclear Regulatory Commission. The final fate of the fuel shipment now rests with the Senate, which must also reject the proposal in order to override the president's override of the NRC.

For more than two years, the United States has been trying to negotiate some kind of compromise safeguards agreement with India. It has met with no success and no indication of even the slighest interest on India's part. If anything, the Indian government has underscored the wide gap between the two countries by regularly reasserting its right to perform additional nuclear tests if it chooses.

The two-year grace period provided by the U.S. Nuclear Non-Proliferation Act, during which nuclear exports could continue to countries that had not accepted full international safeguards, expired last spring. The hard choice now is whether to stop the fuel shipments as the law requires or to set a precedent by waiving the law on the first test of its central provision, in the hope that the United States will thereby retain "leverage" over future Indian policy.

The vote therefore has a double-barreled significance. A decision to ship the fuel would signal that the United States didn't really mean what it said in the 1978 law and would make it much harder to reach acceptable agreements with the many other potential weapons builders around the world. Moreover, the waiver would be for India—the country whose 1974 nuclear test was largely responsible for U.S. non-proliferation policy in the first place. The message sent to other nations would be unmistakable: the United States is not only unlikely to react to countries that explode nuclear bombs, but may not even suspend its nuclear assistance.

The administration is pulling out all the stops in its efforts to convince undecided senators. It surprised nearly everyone by circulating a letter claiming that India didn't violate its agreement with the United States when it used materials supplied by this country to make the bomb exploded in 1974. In response, Sen. John Glenn (who writes about this question on the opposite page today) requested the immediate declassification of a secret aide memories sent by the U.S. government to India in 1970. The administration released the document, which had made it unmistakably plain to the government of India four years before the nuclear explosion that the United States considered what India was doing to be "tantamount to the development of nuclear weapons" and a "contravention of the terms under which the American [nuclear] materials were made available." So much for the leverage bought by continuing nuclear supply.

The administration is arguing that since India didn't accept the U.S. position stated in that document, it never violated an agreement. This is pure Alice in Wonderland: to defend its position now, the U.S. government accepts India's rejection of its earlier position. So much for consistency and firmness of purpose.

The decision to halt nuclear fuel shipments to India is unpleasant, but critical. Any other choice would make a mockery of a decade of efforts to halt the spread of nuclear weapons and to guarantee that peaceful-purpose nuclear projects can be assisted—without danger of the materials' being diverted to make bombs.

[From the Washington Post, Sept. 22, 1980]

NO FUEL FOR TARAPUR

(By JOHN H. GLENN, JR.)

Tomorrow, in a crucial action, the U.S. Senate will decide whether to override a presidential executive order and disapprove the sale to India of 38 tons of low-enriched uranium for use at the Tarapur Atomic Power Station. The essential issue is whether we are going to keep faith with the 111 signatories to the Non-Proliferation Treaty, who have promised not to develop nuclear weapons and have opened all their nucelar facilities to comprehensive international inspection (so-called "full-scope" safeguards). If we are to retain our leadership in this vital area, we dare not fail the first significant test of the Nuclear Non-Proliferation Act, passed just two years ago with the active support of the same administration that now seeks to gut its most critical provision. The NNPA prohibits U.S. shipments of nuclear materials, after March 10, 1980, to any non-weapons state refusing to accept full-scope safeguards. India has obstinately refused to accept these international controls and has expressly proclaimed its intention of conducting further nuclear explosions whenever it deems them to be in its national interest.

In 1974, using American-supplied heavy water and a Canadian reactor, India detonated an atomic explosion and thus became the first nation to divert civilan nuclear materials to potential weapons use. Though the State Department now claims the 1974 test violated no commitments, a diplomatic note, recently declassified at my request and delivered to India four years before the atomic test, unequivocally declares that the use of U.S. heavy water for nuclear explosions would be "a contravention of the terms under which the American materials were made available." Since the 1974 explosion, India has developed both an intermediate-range missile capability and an indigenous nuclear program that could soon enable it to produce and deliver large numbers of nuclear warheads.

In my view, permitting the uranium exports to go forward would deal a grievous blow to U.S. nonproliferation efforts around the world. First, the NPT nations that have agreed to full-scope safeguards might well question the value of their pledge if India receives nuclear assistance without a similar commitment. Second, current negotiations with non-NPT countries (Pakistan, Argentina, Brazil, Israel and South Africa) on the full-scope safeguards question would be undermined if we were to continue business-as-usual with the world's first nuclear violator. Third, nuclear-supplier nations that now require or are moving toward requiring full-scope safeguards as a condition for exports might reassess their positions if the United States reverses itself on this vital issue.

In a stunning display of self-deception, the administration refuses to acknowledge the adverse impact the uranium sale would have on our nonproliferation objectives. Instead, it chooses to focus on India's claim that halting the shipments would place the United States in breach of a 1963 agreement (and subsequent fuel contract) wherein we promised, under specified conditions, to supply fuel to the Tarapur reactors until 1993. Since India has warned that any interruption of fuel supplies would free her from other clauses of the contract—including those placing the Tarapur plant under safeguards and requiring U.S. approval before India can extract weapons-grade plutonium from the spent fuel now stored there—the administration argues that preserving these limited nonproliferation controls requires us to continue exporting fuel.

This argument, besides leading to a policy of supply without end, ignores the fact that the contract language requires India to "comply with all applicable laws, regulations and ordinances of the United States." Therefore, according to the American Law Division of the Congressional Research Service, the United States may legally refuse to send fuel so long as India fails to satisfy the provisions of the NNPA. In any event, it is hollow to try to convert India's threat into a nonproliferation argument. Acceding to extortion rarely buys protection—that is especially true in this case. Whether or not India retains safeguards over spent Tarapur fuel, it still will have access to thousands of kilograms of unsafeguarded plutonium (potentially representing hundreds of bombs) that will be produced at its other nuclear facilities in the next few years.

Thus, the real Indian threat is not the removal of safeguards from Tarapur; it is the lack of safeguards at its other facilities. Does it then make sense for the United States to continue nuclear trade with a country that is so blatantly keeping a weapons option open? I submit the answer is no.

The administration also has argued that the sale is important on foreign policy grounds, since we must not aggravate U.S.-India bilateral relations in the wake of the Soviet invasion of Afghanistan. But where is the evidence that nuclear trade has had or will have a positive impact on Indian foreign policy? Following the president's decision to send the fuel, India concluded a $1.6 billion arms deal with the Soviet Union, became the only noncommunist country to recognize the pro-Soviet regime in Kampuchea and signed a long-term trade agreement with Iran that undercuts our ability to apply pressure for the release of our hostages. Significantly, all these actions were taken after India received President Carter's assurance that he would support the pending fuel shipments. Clearly, where Indian foreign policy is concerned, Tarapur fuel is a bargaining chip of dubious value.

If we wish to improve India-U.S. bilateral relations, there are other levers available to us. We are currently engaged in $2 billion worth of trade with India, are providing hundreds of millions of dollars in various forms of economic assistance and recently completed arrangements for sending India 3,700 anti-tank missiles. Our relations with India could be far more positively affected by changes in our textile import laws than by the sale of nuclear fuel.

In sum, the case for sending uranium to India rests upon weak suppositions concerning the state of India-U.S. relations, a weak legal case concerning a past nuclear supply agreement and a weak-kneed fear of Indian threats to abroagate past contractual pledges. Obviously, whatever limited benefits might result from exporting 38 tons of fuel to India would be far outweighed by the damage such action would visit upon both America's non-proliferation goals and our perceived willingness to conduct consistent foreign and national security policies.

TARAPUR SUMMARY SHEET

Key Reasons for Approving S. Con. Res. 109 (to stop exports):

1. Prevents Weakening of N.P.T. 111 nations signed the Non-proliferation Treaty (N.P.T.) and subjected themselves to full-scope safeguards in order to receive nuclear assistance. A U.S. decision to send exports without requiring this commitment undermines the value of becoming or remaining a treaty member. President Carter took this point of view in two 1976 speeches, one of them before a U.N. body.

2. Upholds Commitment to Full-Scope Safeguards as Standard for Nuclear Trade. Disapproving the shipments provides Congressional reaffirmation of the cornerstone provision of the NNPA and removes any doubt regarding U.S. commitment.

3. Avoids Erosion of U.S. Leadership Caused by Failure to Enforce Safeguards Policy Against Worst Offender. India whose safeguards/nuclear explosives history is the worst of all our trading partners, is the only nation to have diverted civilian nuclear facilities to produce nuclear explosives (the 1974 test). Mrs. Gandhi has stated her intention to conduct further nuclear explosions whenever deemed in India's national interest. India's unsafeguarded indigenous facilities, over which the U.S. has no control whether we ship fuel to Tarapur or not, will produce thousands of kilograms of plutonium (potentially representing hundreds of bombs) by the end of this decade. Failure to enforce U.S. policy against India, the most egregious case, would seriously undermine U.S. negotiating position in other instances.

4. Does Not Violate U.S. Contractual Commitments. American Law Division of CRS states that, under the 1963 Nuclear Agreement with the U.S. and the subsequent fuel contract, India is required to "comply with all applicable laws, regulations and ordinances of the United States" including the NNPA. Subsequent legal research has produced further substantial evidence of the correctness of the conclusion.

Administration Arguments Favoring Exports:

1. "Approval of the Exports Will Favorably Impact India-U.S. Relations while Disapproval 'Would deal us out of the game' ". There is no evidence that our nuclear trade with India has had or will have any significant lasting impact on Indo-U.S. relations one way or the other. It should be remembered that after President Carter promised Mrs. Gandhi the fuel, the Indians:

Closed a $1.6 billion arms deals with the Soviets.

Became the only non-Communist nation to recognize the pro-Soviet government in Kampuchea.

Negotiated a major trade pact with Iran undercutting our ability to apply pressure for the release of our hostages. The Statesman of New Dehli announced the trade agreement with the headline: "India to Help Iran Beat U.S. Sanctions."

U.S. Indian relations are much more likely to be affected by such matters as the laws governing the $2 billion in annual trade between the two countries; the hundreds of millions of dollars in economic assistance provided annually by the United States; and security assistance arrangements such as the recent sale of 3700 anti-tank missiles.

2. "Shipping the Fuel is Consistent with U.S. Non-Proliferation Policy". It is not. The legislative history and State Department cables explaining the NNPA in 1978 testify that the law contemplated an absolute 24 month deadline for applying the full-scope safeguards standard. Allowing the exports amounts to a waiver of the standard and will be universally viewed in these terms.

3. "The Exports Should be Shipped to Avoid Losing Control of Past Shipments". This is an argument favoring supply without end, and a capitulation to Indian threats. It should be remembered that after Canada broke off nuclear trade with India in 1974, India retained safeguards on Canada's reactor because of her sensitivity to international criticism. But even in the worst event, the amount of plutonium available to India from Tarapur is dwarfed by the large amount of unsafeguarded plutonium India will have by the end of the decade through her indigenous facilities. The real proliferation threat is not past U.S. shipments, but India's unsafeguarded facilities.

4. "India Has Never Violated a Nuclear Agreement with the U.S." In a secret aide-memoire (recently declassified) sent by the U.S. to the Indians in 1970, four years before India's nuclear test, the United States unequivocally declared that the use of U.S. heavy water for nuclear explosions would be "a contravention of the terms under which the American materials were made available". India did, in fact, go on to use our heavy water for her 1974 explosion.

[From the Statesman (Delhi), June 14, 1980]

INDIA TO HELP IRAN BEAT U.S. SANCTIONS

NEW DELHI, Friday.—India is to send grain and a number of other industrial products believed to be worth several hundred million dollars to Iran to enable her to meet shortages arising out of the sanctions imposed by the USA and the EEC.

But a 17-member Iranian delegation led by Mr. Reza Sadr has been told that it would be difficult to supply cement, sugar and steel because of domestic shortages. It is possible, however, that these items will also become part of Indo-Iranian trade in future.

Prospects of substantially increased trade and economic contacts which will extend to management of plants in Iran, completion of contracts terminated by Western companies and establishment of new plants have emerged following the talks between the Iranian delegation and an Indian team led by Mr. Praneb Mukberjet, Minister of Commerce.

Further delegations are to be exchanged to study the possibilities opened up in the past few days and Indian business men are to be registered in Iran as both prime contractors and subcontractors. If all the deals discussed materialize, Iran will become a major trading partner of this country.

What remains to be finalized is the financing of the deals since India wants assurances on payments. This is presumably in the context of the default to the extent of nearly $400 million by Iran on the Kudremukh iron ore project which was also discussed in the current round. Mr. Sadr promised to convey India's position to his Government.

In effect, the result of the talks is that India has offered to help Iran to beat the U.S. and EEC sanctions imposed because of the hostages issue. Iran presented a long shopping list to India of items that she needs urgently and much of needs are to be met.

While he was here, Mr. Sadr promised that Iran would consider supplying India oil on a long-term, rather than annual, basis. This is an important outcome of the talks, as is the possibility of greatly increased exports to pay for the oil in the ministerial-level talks that ended today. India and Iran agreed that bilateral cooperation could be further expanded in the sectors of food and agriculture, drugs and pharmaceuticals, supply of engineering goods, provision of consultancy services and training of managerial personnel.

The Iranian side has expressed interest in purchasing from India items like iron and steel products including pipes, textiles, sugar, industrial raw materials, paper and agricultural products like wheat, barley, rice, maize, sugar and animal food.

The Indian side noted Iran's interests in these commodities, and provided immediate information in areas of surpluses. The Iranian delegation was assured that subject to its own domestic requirements India would make effort to meet the needs of Iran.

During the talks, both sides were on agreement on the desirability of strengthening bilateral commercial and economic links for their mutual benefit. It was decided in course of the discussions that a committee on trade, in terms of the Trade Agreement of 1974, would be constituted and it would meet at appropriate levels alternatively at Teheran and New Delhi.

It was also agreed to exchange delegations comprising various sectors of industry and commerce of the two countries for further discussions with their counterparts and identification of specific areas of cooperation and trade exchanges. There would also be close collaboration between industrial units and Export Promotion Councils in India and the Nationalized Industries Organization of Iran.

The Indian side referred to the experience acquired by India in the development and application of technology and application of technology and emphasized the scope for expanding cooperation between the two countries through transfer of appropriate technologies. It was pointed out that India could supply a wide range of engineering equipment and machinery for various industrial products ranging from the small-scale sector to the heavy capital goods sector.

The Indian side offered to transfer technology to Iran accompanied by comprehensive assistance that would include training of Iranian technical personnel in Iran as well as in India, and consultancy and management services. The Iranian side stated that technology was required not only for new projects but also for existing industrial plants in Iran.

Both sides identified several areas of industrial cooperation, such as the automotive and commercial vehicles industry, automotive ancillaries, tyres and tubes, refrigeration systems, oil refineries and petrochemicals, machine tools and electrical equipment, power plants the construction industry and establisment of industrial estates.

Cooperation was offered by India in the small-scale sector and for the establishment of industrial estates in Iran to cover a wide range of products. The Iranian side expressed great interest in collaborating with India in this field and stated that Iran attached priority to the setting up of industries in the small-scale sector.

The two sides identified broad areas for widening bilateral cooperation in the field of shipping. Iran sought Indian assistance in the manufacture and supply of a variety of dredgers, barges, launches and other port equipment, as well as spare parts for vessels of different makes, repair facilities, port development, training of port personnel and consultancy services. The Indian side agreed to extend necessary assistance, wherever possible.

Both sides agreed to strengthen the Iran-o-Hind Shipping Company. The Iranian side recommended that priority should be given by the company to transportation of cargoes between the two countries. It further stated that Iran-o-Hind were in need of suitable additional ships and suggested that India could assist by providing appropriate vessels on charter basis.

The Iranian side took note of the capability of the Indian Roads Construction Corporation and the Dredging Corporation of India to undertaken consultancy in specific fields.

In the railways sector, both sides agreed that cooperation would be developed between the two countries in supplies by India to Iran of railway equipment and spares, services and maintenance, and training of personnel. A specific list of requirements of the Iranian State Railways was made available to the Indian side, including rehabilitation of tracks, repair of damaged locomotives and supplies of locomotive parts. The Indian side assured immediate examination of these proposals.

The Iranian side expressed interest in cooperation with India in the fields of agricultural machinery, such as, power tillers, ploughs, threshers, combines and plant protection machinery, animal husbandry and cattle upgrading, veterinary health services, including measures adopted in India to control animal disease and sheep breeding. Iran also showed interest in cooperation in fisheries, including education and training of personnel, fish processing, fisheries survey and fisheries craft and gear.

Aide Memoire Presented to Indian Atomic Energy Commission in Bombay, November 16, 1970

The United States Government has noted various affirmations of Indian interest in developing the technology of peaceful nuclear explosions, as well as statements that the Government of India is not planning for a nuclear explosion.

Occasionally, in the public debate on the nuclear issue, the question has been raised as to whether, under extant agreements, the Government of India could legitimately use foreign-supplied nuclear technology or materials to manufacture an explosive device to be used in detonating a peaceful nuclear explosion.

We believe the Government of India is aware of the American interpretation of agreements under which the United States has assisted India's development in the field of atomic energy. However, we would like to reiterate the American view in the interest of clarity and to obviate any misunderstanding.

The American position, reflected in the Non-Proliferation Treaty, is that the technology of nuclear explosives for peaceful uses is indistinguishable from that of nuclear weapons, and that any nuclear explosive device, though it be intended for benign economic purposes, could also be used for destructive purposes. The development of such explosives, therefore, is tantamount to the development of nuclear weapons. Any other position would be inconsistent with United States obligations under the Non-Proliferation Treaty and the United States Atomic Energy Act.

Consequently, the United States would consider it incompatible with existing United States-Indian agreements for American nuclear assistance to be employed in the development of peaceful nuclear explosive devices. Specifically, for example, the use, for the development of peaceful nuclear explosive devices of plutonium produced therefrom, would be considered by the United States a contravention of the terms under which the American materials were made available.

The United States interprets the safeguards and guarantees provisions of the Tarapur agreement as prohibiting the use of American materials and equipment, or materials produced from such materials and equipment, for research on or development of any nuclear explosive devices, regardless of stated applications.

The contract of March 16, 1960, under which the United States sold heavy water to India for the CIRUS Reactor states: "The heavy water sold hereunder shall be for use only in India by the Government in connection with research into and the use of atomic energy for peaceful purposes . . ." The United States would not consider the use of plutonium produced in CIRUS for peaceful nuclear explosives intended for any purpose to be "research into and use of atomic energy for peaceful purposes."

Mr. GLENN. Mr. President, I reserve the remainder of my time.

Mr. PERCY. Mr. President, I ask unanimous consent that the previous unanimous consent that I received be modified so that I would be yielded such time as I need, estimated at approximately 10 minutes, to reply to my distinguished colleague from Ohio and that immediately following my comments the distinguished Senator from Idaho, Senator McClure, be yielded such time as he may need, estimated to be 10 minutes, to respond.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Will the Senator yield?

Mr. PERCY. Yes.

Mr. MOYNIHAN. Would it be possible to include me in this lineup, as it were?

Mr. PERCY. Yes, of course.

Mr. President, I ask unanimous consent—on what side is the Senator speaking?

Mr. MOYNIHAN. Mr. President, I believe that I am speaking on the Senator's side.

Mr. PERCY. Mr. President, I ask unanimous consent that immediately following the remarks of the distinguished Senator from Idaho, the distinguished Senator from New York be yielded such time as he requires. His comments will be absolutely pertinent because he has served as U.S. Ambassador to India.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, first, I would like to say to my dear friend—and certainly a friend that I have valued as a colleague as well for some years—that it is a remarkable institution when we can so strongly disagree on a subject of such crucial importance to the United States and still the Senator from Illinois retains the deep respect, affection, and friendship that he feels for his colleague from Ohio, Senator GLENN.

Mr. President, on April 15, 1975, the Senator from Illinois introduced a bill, the precursor of the Nuclear Nonproliferation Act, with the principal cosponsorship of the Senator from Ohio and joined by Senator RIBICOFF as the chairman of what was then called the Government Operations Committee. We have worked for well over 5 years on this issue.

I remember in the final days of the Ford administration almost reaching accord.

As a Republican, I was very disturbed that I could not deliver a satisfactory compromise from the State Department, which was under the authority and orders of a beloved friend, former colleague, and then President of the United States, President Ford.

But we went right back to work in 1977 with a new Congress and a new President and worked intimately with President Jimmy Carter and the State Department to finally reach an accord.

I would say we also worked intimately with the Senator from Idaho, sometimes to our almost utter exasperation, but always quelled, because we recognized that he is a true expert and knows a tremendous amount about the nuclear field. He proposed amendment after amendment after amendment. I think we accepted 40 amendments. In the end, really, his amendments strengthened this bill, even though at the time the managers of the bill were not too happy about accepting that proliferation of amendments. But, in the end, the procedure really worked.

This became a bill that we really believed in. The administration believed in it, the Senate of the United States believed in it, the House of Representatives believed in it. We launched on a program toward certain goals, none of which we now disagree with.

We are all in accord with the goals. We are all deeply concerned about what is happening in the world today, the chance that there could be some accident, the chance that terrorists could get their hands on plutonium and convert it to a bomb and hold hostage the city of New York or the city of Chicago. Even worse, that some nation, with some demented leader, could somehow get their hands on this material. This concerns the staff of the Senate, many of whom are on the floor tonight, who were deeply concerned, whose devotion to this cause made possible the work of a number of Senators. We are still deeply concerned, in fact, terrified at this awesome problem that the world faces.

And here we learn again, reaffirmed by stories blaring in the headlines today, that Pakistan may be heading down this nuclear course. We are hearing tonight interpretations and statements about the intentions of other countries.

I know that this is an emotional issue and we are all trying to reason it through. But I know the distinguished Senator from Ohio does get exercised, as he was a few moments ago, about the President of the United States calling Senators from Air Force One to urge that they support the shipment to India and about the Secretary of State, Ed Muskie, our former colleague, lobbying heavily.

Secretary Muskie is the only Democrat I know who has invaded the inner sanctum of the Republican Policy Committee and he urged this one issue. Ed Muskie is a respected colleague. No objection was raised by even those on Senator GLENN's side of this issue, because it is truly a bipartisan matter. His arguments were eloquent. But emotions are high and administration representatives feel deeply. They would not make those unusual moves unless they felt we were making a tragic foreign policy and nonproliferation mistake.

Senator GLENN and I do not disagree on goals. We disagree on how we can achieve those goals. Having together written this law, we now interpret the act in a different way; both of us from our own conscience that we have sought guidance from and from counsel that we have sought from many, many other areas.

I read Senator GLENN's article in yesterday's Washington Post. It was an eloquent article, beautifully written. I noted the timing of it. It was published the day before the expected vote. A vote was originally to have been taken today.

There also appeared yesterday as the leading editorial of the Washington Post an article on the same issue, on the same side as the distinguished Senator from Ohio, opposing the shipments. I thought: What perfect timing.

I had previously noticed an article or so in support of the shipments. But that was a while back—no one can remember when those appeared or even who wrote the articles. The timing was brilliant.

I contacted the Washington Post and offered my services to prepare an answer to Senator GLENN.

I was informed that no response would be published because the Washington Post had printed a number of articles in the past on this subject.

The Senator from Illinois has learned, having worked with past managements and editors of the Chicago Tribune early in my political career that only a politically endangered species would take on the leading newspaper in his State, one of the leading newspapers in his country. But I had disagreements with them for many, many years as a matter of conscience.

I have been reminded many times not to ever fight with a newspaper unless you intend to buy it. I do not intend to buy the Washington Post.

I have a lot of respected friends there, but I must take the floor of the Senate tonight to be certain that we get a little equal time, not on the editorial page but maybe in the news pages—the first page, the second page or the third page. We must get this story out.

It is not a usual thing that the Senator from Illinois would be defending the position of a Democratic President in possibly his final months in office and of a Secretary of State with whom I have sometimes disagreed. But I think their arguments are sound and their decision is in the best interest of the United States of America.

So it is little wonder that Air Force One telephones are buzzing and a little lobbying is being done. This is a crucial matter.

It may be one of the most important single decisions we have made on the floor of the Senate in many, many years.

The one thing that is fortunate about it is that we will have indications fairly soon, within a year or so, as to which side has been right because we will be able to see the progression of events that will follow.

I am really honored indeed to be joined by Senator MCCLURE on this. His contribution was so immense to this effort. We will be joined by Senator JAVITS in the morning who worked intimately on this particular measure and is the ranking member of the Foreign Relations Committee who, together with the chairman of the committee, Senator CHURCH, will argue against the resolution of disapproval; and also the minority leader of the Senate, Senator BAKER, who voted for the shipment in committee, and who I trust and hope will be speaking on this issue tomorrow.

We feel a tragic mistake could be made by the Senate which would be very much against the national interest of the United States of America and would frustrate our nonproliferation efforts.

I urge my colleagues to vote against this resolution and to allow these shipments to India to go forward. These shipments of fuel for the Tarapur reactor fulfill continuing obligations of the United States under an international agreement with India. They are consistent with the provisions of the Nuclear Nonproliferation Act of 1978 and with the overall goals of nonproliferation and they will continue a longstanding relationship with India on nuclear matters which, if we abruptly end it by denying these licenses, will only drive the Indians further away from the objectives we all seek.

I am going to leave to my distinguished colleague, Senator MOYNIHAN, a former distinguished Ambassador to India, to describe what he believes will be the reaction in India, both of the Government and the people.

My own experience in India has been fairly extensive, as my distinguished colleague knows. We have taken family vacations and holidays there for years, 25 years. We spent a holiday there last August and went into new, remote areas of India, to an island where most Indians have never gone—a penal colony. We have been to almost every area of that country.

I did take a few days from the holiday to discuss this issue with Indian officials. This was last August a year ago, not this August.

I sat and met for hours with my friend the chairman of the Indian Atomic Energy Commission. I think he is a great friend of the United States and I think he would really level with me as to what the reactions would be.

I understand that the Washington Post and 90 newspapers have editorialized against the shipment. I really do not know who the others are who have taken an opposite view, but I will give them a distinguished plaque for having reasoned through this matter and for not having done what was emotionally easy to do. It is always easy to whack at India, because as friends who speak frankly they do not hesitate one iota to tell us any time they feel we are wrong. They do so with spirit but always hoping in the end to continue to be friends. I appreciate their dignity and their self-respect, which I know Ambassador-Senator MOYNIHAN also appreciates. He has had his tussles with them as I have had with previous prime ministers, including Mrs. Gandhi. There have been sharp differences of opinion, sharp differences when they illegally held war prisoners, for example.

I pictured for Mrs. Gandhi the reaction I had in Pakistan when 400 prisoners of war were being held I believed illegally according to international law.

What I had to say about the detonation of a so-called peaceful nuclear explosion in India to Mrs. Gandhi shortly after it occurred I would not want to repeat here, because as friends we spoke very candidly.

I would like to briefly describe what I think will be the reaction in India as I saw it a year ago August in discussions with my friends there.

We should understand that when we say no on this fuel shipment, I do not know what the Russian word is for yes, though I do know nyet——

Mr. MOYNIHAN. Da.

Mr. PERCY. They will say it as they step into the breach. We will be in the position of having a nation of 640 million people know the Soviets said yes. That population is three times the size of the United States of America, it is 50 percent greater than the combined population of the Soviet Union and the United States. Those 640 million people will know that when the United States of America said no, the Soviet Union said yes.

What are we saying no to? By supplying this enriched uranium we are in no way helping India to make a nuclear bomb even if they wanted to and had a program to do so.

In fact, many believe they are not embarked on such a program at all, after having shown that they had the technology and know-how to detonate a so-called peaceful nuclear explosion, which I felt at the time was a mistake. There is no evidence to indicate they intend to do it a second time.

But what we will do if we disapprove these shipments is remove the safeguards from all the fuel we have over there. That, I think, would be a tragedy. It could relieve them from the legal obligation they have now to safeguard all of the fuel and all of the spent fuel that they have at Tarapur. They will have enough spent fuel to reprocess, and they are under agreement with us not to reprocess. Once we give them justification to argue that we have unilaterally breached our contract they will argue they are relieved of their responsibility. They can reprocess, and in desperation they might do it.

If they do reprocess, they will get some 1,000 kilograms of plutonium, which would be enough to make about 200 Hiroshima bombs if they wanted to make them.

I do not think they want to make them. I do not think they have a program to do so. But when we dim the lights in Bombay, when we test our will against their policy position, and when the Congress of the United States overrides its own President, then I think we are going to have some consequences to pay.

Mr. President, I just ask what it would be like if, in all of the United States of America east of the Mississippi River, all the lights dimmed. Or there was a brownout and we slowed down our plants and we closed down our industry operation and we could not operate our hospitals and our schools at full energy capacity. What would happen? That is exactly what is going to happen and will happen, if we do not make this shipment, in Bombay and in that region.

The Tarapur reactor supplies some 10 to 12 percent of the electricity needs for the Bombay region, an area inhabited by 91 million people. It consumes some 25 percent of the country's available electricity. They are now running at less than 70-percent efficiency, because of the delay in our shipments and the uncertainty we have caused. Industries have had to cut back work hours and, in some cases, entire shifts have had to be eliminated. Consumers have experienced 10-percent cuts in their electricity supply already.

Mr. President, if these fuel shipments are rejected tomorrow, India will undoubtedly stretch out its supply more thinly, and consumers and industry will feel an even greater pinch.

According to the best estimates that I can get, a quick supply of Soviet fuel to replace our denial could bring up the Tarapur facility to 100 percent in a little over a year.

Do we want to dim the lights of Bombay and let the Soviets turn them back on? What impact would this have on Indian public opinion and on United States-Indian relations? And what impact would it have on every nation of the world that is a customer of the United States of America? Would they look upon us as a reliable supplier if we were to commit harakiri in this fashion?

The Senator from Illinois strongly, and I guess emotionally, disagrees.

Mr. GLENN. Will the Senator yield for a question?

Mr. PERCY. I am happy to yield for a question.

Mr. GLENN. Mr. President, I submit that the comment regarding Pakistan, setting Pakistan on a nuclear course, was in the news today. Would the Senator not agree that that is because India initially exploded a bomb in 1974? And was it not because of India's action that Pakistan embarked on their nuclear course? That was the reason stated, at least, by Prime Minister Bhutto.

Mr. PERCY. The Senator from Illinois has no way of knowing that. All he knows is that in his judgment, at the time of the peaceful nuclear explosion, I sat down with the Foreign Minister of India and the Prime Minister of India, Mrs. Gandhi, and said that if I were in the Pakistani military I would go to the highest authority in Pakistan to get a go-ahead for our program. I can remember vividly saying that. India has a very, very sophisticated economy, brilliant people. It is the fourth largest and strongest economy, I think, in the world. Certainly, India could do it. They did not have to do it to prove it.

In the judgment of the Senator from Illinois, what India really did was undercut their own defense. I have traveled with their army, their navy, their air force, and their tank corps. I am a member of the Black Hat Brigade in India. I have traveled with them up in the Himalayas. They are tough, able soldiers. They have a mighty defense establishment. What they have done is take all the advantage they had and then put themselves on an equal basis with others, in a sense.

If there is a nuclear exchange, heaven forbid, a nuclear bomb is a nuclear bomb. It does not matter how small the country is that has it. For this reason, I agree with the Senator that this was brought about, possibly, and accelerated because of India's past action which I looked upon as a mistake. I made that very, very clear to the Indian Government.

Mr. GLENN. If the Senator will yield for a further question, if we got word within the hour that India had set off another nuclear explosion—and let us say this is an air explosion; it is going to drift around the world—would the Senator then vote to prevent this sale?

Mr. PERCY. What the Senator has been saying is that there is no relationship between this shipment and their ability to build a bomb. The ability to build a bomb might be accelerated by our nonshipment, because it would remove all of their spent fuel from safeguards. They would argue we have breached the agreement and, legally, they would no longer feel bound by it.

Mr. GLENN. The Senator did not answer my question. Would he vote for this shipment if we got word that India set off——

Mr. PERCY. No; an explosion would actually violate the act and there is no equivocation about that. There is a divided opinion as to whether or not these particular shipments would in any way come under the act.

The Senator from Ohio thinks it would. The Senator from Illinois, the President of the United States, the Secretary of State, the distinguished Senator from Idaho, and the distinguished Senator from New York feel that sending these shipments would not violate the act.

I want to yield 1 minute to the Senator from Idaho.

Mr. GLENN. Let me respond first.

Mr. PERCY. To respond to this question.

Mr. McCLURE. I wanted to respond to the Senator from Illinois exactly as he has responded to the Senator from Ohio: There is no discretion to be exercised under the Nuclear Nonproliferation Act. An explosion of any kind, under section 307, automatically terminates any further cooperation under the act.

Mr. GLENN. Then so much for the

argument that we are under a contractual arrangement, which the administration makes and the opponents of this resolution make. Because if the contractual arrangements are supposed to be valid up to this time and we would invalidate them by another explosion, so much for that argument.

Mr. McCLURE. The Senator from Ohio is confusing apples and oranges. He is talking about some events that have occurred in the past, contrasted to some events that may occur in the future. And they are clearly different events.

Mr. GLENN. No; I am talking about events in the future.

Mr. PERCY. Mr. President, out of consideration for my distinguished colleagues from Idaho and New York, the Senator from Illinois will complete his statement and I ask the indulgence of my colleagues. I wanted to interrupt several times during the Senator from Ohio's statement but I felt it best to get the statements on the record tonight. Then tomorrow, we can have debate.

Mr. GLENN. Let me apologize, Mr. President, because I thought the Senator had wound down and I rose to ask a question.

Mr. PERCY. Mr. President, I think it is quite apparent that Senator GLENN and I, all of us, are deeply concerned about the dangers posed by the proliferation of nuclear weapons in the world. As the Senator said, we coauthored the Nuclear Nonproliferation Act. I share with him the ultimate objective of assuring that international safeguards will apply to all nuclear facilities in the countries which purchase fuel from the United States. We must pursue this policy with steadiness and resolution, for we have an obligation to future generations to prevent a world in which nuclear arms become commonplace in the arsenals of nations. But we also must pursue it in a manner reasonably calculated to achieve the result. This is a debate about how that obligation can best be fulfilled.

As I have said, there is no disagreement about goals. We all share the same goal. It is how to achieve it that causes the difficulty. The 1963 U.S. Agreement for Cooperation with India on civil uses of atomic energy is an important element in the framework of existing international safeguards. In that agreement we insisted on and India accepted a system of inspections by the International Atomic Energy Agency on the Tarapur nuclear facilities.

International inspection of Tarapur was again required in a further agreement concluded in 1971. India has abided by both of those safeguards agreements and expects to continue to do so in the future. In 1974 we were able to convince India to agree to a further clarification that all fuel supplied for Tarapur, or used, or produced there, would be devoted exclusively to the needs of that facility. Without these safeguards, India would have free access to the plutonium from about 200 tons of spent fuel enough to build 200 Hiroshima-size bombs.

We in turn have an obligation under the 1963 agreement to supply the fuel needs of the Tarapur reactors. The license applications before us have been made in accordance with a reasonable schedule for such supplies. If we intend to change our obligations under this agreement, we must renegotiate this arrangement in a reasonable manner. Otherwise, India could consider the contract breached and there is no question that they would have a strong legal argument.

How can we then in any reasonable way rationalize or argue that their interpretation is wrong when our Government has said their argument is not insubstantial.

In addition, we will jeopardize the existing safeguards we do now have on Tarapur and call into question the reliability of our commitments as a whole.

Mr. President, I have personally discussed this issue with the representatives of a number of different countries, particularly during a visit this summer to the Geneva meeting of the UN Committee on Disarmament. In addition, the Foreign Relations Committee discussed with Secretary Muskie last week the views of our principal allies and other countries with a particular concern for nonproliferation. All of them agree with the President's decision to authorize these shipments in accordance with our supply agreement with India. Many of these countries support the goal of full-scope safeguards as a condition for future fuel supplies, just as we endorsed it in the Nuclear Nonproliferation Act. Indeed, the possibility of a declaration on this subject was discussed at the recent Geneva Review Conference of the Nonproliferation Treaty partners, although it never was formalized. However, the idea being discussed was to require such a condition in future supply agreements, not to insist upon it as an immediate amendment to all existing supply agreements. It is clear from our dealings with many countries on these questions that their willingness to accept safeguards and other conditions relating to nonproliferation is related directly to their perception of the United States as a reliable supplier prepared to live up to its side of a bargain.

This is where our distinguished colleague from Idaho contributed so immensely to the creation of this act and the background for it. It was his desire to see we maintained our program, we strengthened our nonproliferation posture in the world, but that we also, at the same time, became a realiable and stayed a reliable supplier.

That is what we would be destroying in this process of not making these particular shipments.

We may wish in the future to end our nuclear supply relationship with the Indian Government, according to the provisions of Nuclear Nonproliferation Act. But our continued credibility and effectiveness on these matters, as well as our continued ability to influence India's nuclear choices, depend upon our doing so in a reasonable and deliberate manner, not in the impassioned atmosphere which denial of these shipments will create. The Nuclear Nonproliferation Act anticipated the need for such an adjustment period. We must not now act as though it did not.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. PERCY. I am happy to yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I have cleared this request with the distinguished minority leader, with the distinguished Senator from Ohio (Mr. GLENN), and with other Senators on this side of the aisle.

I understand the distinguished minority leader has cleared this with the Senators on his side of the aisle, and he is here to speak for himself.

ORDER OF PROCEDURE TOMORROW

Mr. President, I ask unanimous consent that the Senate resume its consideration of this measure tomorrow morning at 10 a.m., with the Senate coming in at 9:45 a.m., and that the vote occur on the adoption of the resolution at 2:45 p.m. tomorrow, and with the time on tomorrow equally divided among the four principals as designated today.

Mr. BAKER. Mr. President, reserving the right to object, I thank the majority leader for adding the clarification on the allocation of time on tomorrow. That, of course, accords exactly with the proposition we placed before the interested Senators on this side.

I find it to be an eminently satisfactory arrangement. I express my appreciation to the majority leader for putting the request and, indeed, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Illinois for yielding.

Mr. PERCY. Mr. President, the Nuclear Nonproliferation Act prescribed a grace period in section 128 during which the supply relationship of the United States and India was to continue without the requirement of full-scope safeguards. The resulting confusion in interpreting section 128 results from the inclusion of two different dates in that section. The first is clear enough; there is an 18-month deadline for applications to be filed. If a country does not meet this deadline, its applications will not even be considered unless the full-scope safeguards requirement is met.

But I simply cannot agree with those who interpret the second date as an absolute cut-off, regardless of a country's compliance with the first deadline. Under this interpretation, the grace period of the act magically disappears. India complied with the only deadline over which it had any control, in accordance with a reasonable schedule of shipments to supply the needs of Tarapur. The first application in question was filed nearly a year in advance of the deadline. How can we reasonably interpret the law so that such an application does not fall well within the grace period we intended to create? Senator GLENN argues that the legislative history of the act supports his interpretation of an absolute, 2-year deadline—a guillotine-style cut-off. I have considered his arguments and the evidence he supplies, and I simply do not think he is correct, nor does the President of the United States, nor does the

Secretary of State, nor do their respective legal authorities and advisers, nor do many of my distinguished colleagues on the floor of the Senate, the distinguished minority leader, the distinguished junior Senator from New York and former Ambassador to India, and the Senator from Idaho who was so much a part of making this act into law.

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today.

Mr. PERCY. I thank the majority leader.

By Senator GLENN's interpretation there would be no justification for having the first application deadline at all.

If I had ever thought that would be the interpretation put in, I would have gone right back to my distinguished friend (Mr. GLENN) and reasoned with him as to why we put two dates in there if we really did not mean the first date.

It would serve no purpose if the 2-year cutoff date for all fuel shipments was to apply regardless of the time of application or the circumstances for shipping delay.

Instead, I think the purpose of the second date is clear from reading the best source of legislative history there is—the Senate committee report itself. Senator GLENN quotes the report to support his own interpretation, but in my judgment it actually supports the opposite conclusion.

I would like the attention for a moment of my distinguished colleague from Ohio (Mr. GLENN). I would like to read the section of the report which both of us approved and supported at the time, because this report became then an interpretation of the law. The report simply interprets the significance of the second date, which is crucial. I quote from the report:

> In defining what exports will be covered by the additional criterion, the bill refers to an application which was filed after 18 months from enactment, and to any application filed prior to that date for an export which would occur at least 24 months after enactment. The reason for this provision is to ensure that a large number of applications covering future exports will not be filed in the 18th month to avoid this requirement. However, the 6-month lagtime is allowed for licenses legitimately filed prior to the 19th month where the actual shipping process is a lengthy one. The NRC should also not permit any other highly unusual proposals which are intended to circumvent this statutory provision.

In short, Mr. President, the purpose of having a second date at all was to prevent unreasonable circumvention of the first deadline, not to render the first deadline itself totally meaningless, as we are trying to do by cutting off this shipment.

I do not believe that the Senator from Ohio's interpretation is fully consistent with the legislative history of the NNPA as it finally passed Congress.

I believe very strongly that we must test this act at some time in the future. We must prove that we have the will and the determination to put it into force. But I dislike and will fight any effort to wage our battleground where we have such a weak argument.

Why would we want to wage battle on such weak ground? This is no place to draw the line. We will not have sympathy from anyone, other than perhaps the Soviet Union, which might, at this particular time, like to step into the breach. If we say "No" to the Indian people and the Indian Government, the Soviets will say, "Yes," and they will move heaven and Earth to see that the electricity shortage and inconvenience that might result are eradicated as quickly as possible, even if it has to come out of the hides of their own energy program. Whatever they have to do, they will do, to prove that they are reliable when we are not.

That is the tragedy of it, and that is why the President of the United States is using the telephone on *Air Force One*, when he has other things on his mind. This bill and this debate are on his mind. He sees the power of the opposition he has against him in the editorial pages, and he wishes others would understand it as he feels he understands it and the State Department understands it. The Arms Control and Disarmament Agency is in strong disagreement with this resolution of disapproval that is before us and supports the shipment.

Mr. President, this issue of deadlines is not merely a contest of contending legalisms or an esoteric debate among lawyers. I am not a lawyer, nor is JOHN GLENN and no one is more impatient than I with legalistic arguments. This issue, however, goes to the credibility and consistency of our policy as a whole. Either we created a grace period which other countries can count on or we did not. Retroactive interpretations which revoke such a time period are simply not defendable—in law or in diplomacy or in commonsense.

Finally, Mr. President, I see no justification for denying these shipments on grounds of foreign policy. Much has been made of India's independent views and of actions taken in recent months with which we do not agree. I do not minimize the significance of such differences. But I cannot accept the conclusion that these differences justify us in writing off the Indians as beyond the pale, oblivious to our interests, or inaccessible to our influence. As the world's largest democracy and a major Asian power, India is a friend with whom we share many values and interests. It is also a complex and varied country where the balance of political power and public opinion is capable of large and fluid changes. Our actions may have much to do with India's own choices in the future.

It is in our best interests that India continue to be nonalined and independent.

The Soviet Union is trying by every means, including military force in Afghanistan, to increase its power over nations in that region. In this period following the invasion of Afghanistan, we cannot afford a major prolonged irritant in our relations with the largest and most powerful nation in South Asia, particularly if that can be avoided by the opportunity for more careful discussion.

I leave to the Senator from New York (Mr. MOYNIHAN), a former Ambassador to India, to interpret the feelings as he believes they would exist in India.

Even after a huge arms sale in concessional terms was made between the Soviet Union and India, India stood its ground and abhorred the action of the Soviet Union in Afghanistan.

What kind of test are we putting them to? What kind of position are we forcing them into, when they are on the same side of the Afghanistan issue as we are? They are acting in their own interest, because they do not want to see the Soviet Union intervene militarily in Afghanistan, any more than they wanted to see the People's Republic of China intervene as it did years ago in their own area.

So I believe that we are putting them in a terrible position, and needlessly so, because in the end it frustrates the safeguards we now have with our agreements with India; because it will make them null and void by our own unilateral action.

In pursuit of our nonproliferation goals, we must not be blind to the Indian view that India has fulfilled her side of the 1963 contract and has met the deadline for the grace period established in the Nuclear Nonproliferation Act.

We msut not be blind to the consequences of a denial of fuel shipments, which include possible Indian dependence on the Soviet Union for nuclear fuel as well as a serious rupture in the United States-Indian relations.

I urge my colleagues to vote against the resolution of disapproval, in our own national interest and in the interests of preserving and protecting the Nuclear Nonproliferation Act and everything we are doing to make that policy a sound policy as we move toward implementing its various provisions.

To fail to live up to our contract, to wage battle on this very weak ground, I believe would be a tragic mistake, the consequences of which we will be paying dearly time and time again. We may never erase what can happen, what might happen, in the judgment of those who know India best.

They are rightfully a proud people. Because they are sophisticated, they are the managers of the largest democracy on Earth. For us, at this particular stage, to have a Communist country step up and be the friend of India, when the greatest democracy on Earth, the most powerful democracy on Earth, turns its back on its friends in India, I believe the consequences would be tragic.

Mr. President, I am delighted at this time to have the floor taken, in his own right, by the distinguished Senator from Idaho (Mr. MCCLURE).

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. McCLURE. I thank the Senator from Illinois for yielding this time.

Mr. President, I intend to be relatively brief tonight, but I do want to make some comments for the record and to put in the RECORD some materials to supplement the remarks I am about to make.

Mr. President, I strongly oppose Senate Concurrent Resolution 109, which would disapprove the President's decision under the Nuclear Nonproliferation Act to export nuclear fuel to India. My strong opposition to the resolution is a result of my conclusion, after a good deal of review and analysis, that the administration has made the right decision pursuant to—and I emphasize "pursuant to"—the Nuclear Nonproliferation Act in approving the nuclear fuel exports to India.

I am convinced that any objective review and analysis of the decision by my Senate colleagues will lead to the same conclusion—we simply must proceed in the national interest of the United States to export this nuclear fuel to India.

Let me state categorically at the outset of this discussion that approval of these exports by the administration, and hopefully by the Senate, does not, I repeat does not, constitute a dismantling of the Nuclear Nonproliferation Act. It does not waive or override the Nuclear Nonproliferation Act. It does not override the Nuclear Regulatory Commission. It does not gut the Nuclear Nonproliferation Act. And, it does not reverse our past positions under the act with India or any other country. All of these assertions have been made or suggested by the Washington Post and other supporters of disapproval. And, all of these assertions are flat wrong. Approval of these exports is completely consistent with the letter and the spirit of the Nuclear Nonproliferation Act and we should approach this debate with that thought squarely in mind.

Let me amplify this point for a moment, before addressing the export decision directly. As many of my colleagues know, the Senate passed the nuclear nonproliferation bill in February 1978, and that bill was passed by the House without amendment several days later. The Senate-passed bill thus was enacted without change as the Nuclear Nonproliferation Act. In fashioning that final Senate bill, over 40 of my amendments were adopted on the floor. Senator JOHN GLENN, Senator CHARLES PERCY, and I spent many long hours and Senator PERCY has made reference to the number of hours that we spent in the amending process, but before that in the discussions concerning the act—in excess of a dozen hours—personally negotiating the final form of the bill prior to Senate passage. Consequently, I am completely comfortable in declaring that such assertions by the Post and other supporters of disapproval are flat wrong.

The Senate bill enacted into the NNPA clearly mandated a multistep process, whereby the executive branch considers an export and, if it approves, sends it to the NRC. The NRC then reviews the license against a set of specific statutory criteria. If all the criteria are satisfied, the NRC approves the license. If, however, the NRC is unable to determine that all the criteria are satisfied, the President makes the decision on the statutory basis of whether stopping the export "Would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security" of the United States. The President's decision to approve an export on that basis is subject to congressional veto by concurrent resolution. Beyond that, the NNPA even makes specific provision for subsequent periodic reviews (annually, or less often in some cases) of such Presidential approvals, when Congress does not disapprove.

All of us who were involved in the negotiations on the Senate bill anticipated that that specific process in the bill would be applied to negotiations with India over "full scope" safeguards, as well as to our European allies in Euratom, and other allies. In fact, the same process was triggered unnecessarily for an export to India in the summer of 1978 by an unfortunate 2 to 2 deadlock on the NRC over interpretation of the bill, right after passage. All of the Senators involved in the negotiations on the bill, including Senator GLENN, supported the President's approval of that export to India. It was quite clear to us, as well as to the administration negotiators on the bill, Ambassador Gerard Smith and then-Deputy Under Secretary of State Joseph Nye, that we would have to negotiate over the long term with India and other nations on the issue of full scope safeguards, and we provided the process for such negotiations.

We understood then quite well that the United States unilaterally was imposing by domestic law new requirements for exports under existing agreements for cooperation and contracts with other nations. The Presidential approval mechanism was and is the key to a continuing negotiation over time for the several criteria in the bill, including full scope safeguards. The President, consequently, has exercised his authority exactly as the law envisioned and the principal Senate negotiators fully anticipated. That is why I feel so strongly that assertions of waiving the act, or overriding the act of the NRC, or gutting the act, or reversing past policies are just flat wrong and every Senator should know that fact.

Let me now review briefly how the process I have described brought us to this debate today. The United States and India have been engaged in nuclear cooperation for several decades. One of the cornerstones of that cooperation is a 1963 agreement for cooperation and a 1966 contract whereby the United States agreed to supply fuel for the Indian nuclear power reactor located at Tarapur, which provides electricity for Bombay. Under the agreement and contract, the United States sells the fuel which is fabricated by the Indians into fuel rods for the reactor, and India applies international safeguards to the reactor and facilities involved in the fuel use.

Since the 1974 explosion of a so-called peaceful nuclear device by the Indians, the United States-Indian fuel supply relationship has been the subject of continuing administrative and legislative attention. To date, however, the United States has never denied a requested export of fuel destined for the Tarapur reactor under that agreement and that contract, although there have been some significant delays in actually scheduling certain specific exports.

The enactment of the Nuclear Nonproliferation Act in March 1978 rigidly codified a series of statutory export criteria and a procedure centered around independent regulatory review of those criteria by the Nuclear Regulatory Commission, as I discussed earlier. The 1978 act included an initial series of export criteria, which were effective upon enactment and which largely codified, or expanded somewhat, the administrative criteria then used by the executive branch and the NRC under a less legally formalized export procedure. The approval or disapproval procedure I discussed earlier applies to these export criteria in the NRC, the White House and the Congress. One of those export criteria requires assurances from the importing nation of the application of international safeguards to the imported fuel and in its use thereafter.

A serious and unfortunate misinterpretation of this requirement in the summer of 1978 by two NRC Commissioners led to a 2-to-2 tie on the NRC and the resulting need for the Presidential approval of the then pending export to India which I mentioned earlier. Both the House and Senate, the House by record vote, supported the President's decision to approve that export. That was a clear case where the NRC mistakenly did not determine the criteria as satisfied and the President pursuant to the law applied the statutory test to approve the exports. Last year, under the same criteria, but after strong congressional criticism in 1978, the NRC approved a subsequent fuel export to India.

Under the act, an additional export criterion, the "full scope" safeguards criterion, became effective for all applications filed 18 months after enactment. This criterion is applied procedurally exactly as the other, already effective criteria are applied. The executive branch presents its judgment on the criterion in supporting approval of an export. The NRC independently must review the criterion and, if it is met, approves the license. If the NRC determines it is not met, then the President reviews the export to determine if "failure to approve the export * * * would be seriously prejudicial to the achievement of U.S. nonproliferation objectives or otherwise jeopardize the common defense and security."

If the President determines that failure to approve the export would have that effect, he is authorized by the act to approve the export. It is important to note that this is the same test applied by the act for Presidential approvals of exports which the NRC does not approve because of the other criteria effective upon enactment.

The two pending licenses for India were timely filed under the act before the full-scope safeguards criterion was effective. The NRC in another curious legal interpretation of the act concluded that the full-scope safeguards criterion had to apply to the two exports, and since full-scope safeguards quite clearly are not now in place in India, determined that it could not approve the exports. The State Department argues persuasively that the NRC again was wrong in its interpretation of the act. I am persuaded that the State Department is correct, since the Congress—particularly the Senate—had agreed after a great deal of consideration and debate to provide a full, so-called grace period to all of the nations, including India, who did not then have full-scope safeguards.

We similarly provided a full grace period for our European allies in Euratom under the immediately effective export criteria. And, of course, as mentioned earlier, we all realized fully then that the application of full-scope safeguards would take serious and tough negotiations over an extended period of time. That is exactly why we did not want to trigger the full-scope safeguards criterion prematurely.

The President, based on the State Department legal opinion, decided that full-scope safeguards did not apply and proceeded to approve the export licenses on the basis that failure to do so would be seriously prejudicial to our nonproliferation objectives and would jeopardize the common defense and security. Supporters of the disapproval resolution assert that the full-scope safeguards do apply, and consequently that the President has made a serious error in approving the export in the absence of India's agreement to apply full-scope safeguards. They apparently argue that the Senate should disapprove the President's action primarily on that basis. I must disagree on both points.

The State Department legal opinion sets out the clear intent of the Senate and the Nuclear Nonproliferation Act, as I discussed earlier. The President's approval of the exports under the immediately effective export criteria, using the statutory test in the law, deserves the support of the Senate. It is consistent with the intent of this body in the act, and it is consistent with the 1978 Presidential approval and interestingly the NRC's approval of exports to India last year. In short, the NRC should not have bucked these exports to the President, but should have approved them as they did last year. These exports should not be triggering the full scope safeguards debate at this time and they should be approved.

The key decision of the Senate is and should be, as the law itself provides, whether stopping the export "would be seriously prejudicial to the achievement of U.S. nonproliferation objectives or otherwise jeopardize the common defense and security" of the United States.

I am convinced that the President has made the correct decision on that basis. Stopping the export will unilaterally breach our contract and our agreement for cooperation, raising again questions about our position as a reliable supplier. It will free India from continued application of international safeguards on U.S.-supplied fuel, undoubtedly leading to reprocessing of the weapons-grade plutonium in our spent fuel. It will end the dialog with India on any extension of safeguards to other facilities or other advances of nonproliferation policy. It will seriously alienate a major regional power on a most sensitive issue at a critical time for the region. It will probably end any hope of obtaining Pakistan's restraint in its advanced nuclear efforts in enrichment and reprocessing. And, in return, it will gain little for U.S. policies or positions with other nuclear suppliers or consuming nations.

Even if the full-scope safeguards criterion was triggered for these exports—which I am convinced it clearly is not—the President and the Senate would be faced with the same statutory test. We also would be faced with an almost identical record. And, speaking candidly, I am convinced that today we would be faced with an identical analysis in terms of the prejudice to the achievement of U.S. nonproliferation objectives and jeopardy to the common defense and security. That does not mean that we never will attempt to obtain full-scope safeguards from India under this act or under U.S. policy otherwise. But it does mean that at this point in the evolution of the Nuclear Nonproliferation Act—at this point in September 1980—the application of the full-scope safeguards criterion as a guillotine, cutting off nuclear cooperation with India, would categorically prejudice achievement of our nonproliferation objectives, and would seriously jeopardize the common defense and security of this Nation. We simply must continue the dialog with India in the context of continued cooperation for all the reasons stated earlier. We cannot and must not allow that guillotine to fall on cooperation with India, on the act itself and on the vital interests of the United States.

Mr. President, I urge the defeat of the resolution.

Mr. President, some reference was made earlier by the proponents of the resolution of disapproval concerning the widespread editorial support for the resolution of disapproval.

Mr. President, since the issue of so-called grassroots support for denying this export of nuclear fuel to India has been raised by supporters of the disapproval resolution, I think it is important to examine the nature of that grassroots support. I have had staff review the editorials that have occurred throughout the Nation, and we find some very interesting facts.

Without having been able to do a thorough examination of all the editorials, we have discovered that four separate editorials have appeared in two newspapers each in widely separated parts of the country, with no common ownership of the two newspapers printing a particular editorial. No credit was given by either paper to the other for having printed the editorial first. In fact, in some cases the editorial appeared in both newspapers on the same day.

Many other editorials have a common thread of organization and phraseology, even though they are not word-for-word repetitions of each other. All of this evidence points to the distinct prospect that a small cadre of individuals have worked very hard at developing suggested editorial pieces and at trying to secure their publication in the newspapers across the country.

This can hardly be characterized as a public outcry based on soul-searching by the editorial writers of America after having thoroughly reviewed the arguments on both sides of the issue. Rather, it takes on the appearance of a carefully orchestrated effort by one side of this debate to influence the political opinion of the Congress through hometown newspaper editorials.

Mr. GLENN. Mr. President, will the Senator yield?

Mr. McCLURE. I am happy to yield to my friend from Ohio.

Mr. GLENN. Is the Senator implying that was done by us? I had nothing to do with anything like that.

Mr. McCLURE. Mr. President, I do not make any implication. I do not know who did it. I know the Senator from Ohio does not fly *Air Force One* although he is capable of doing it. Nor does he make phone calls from *Air Force One*, at least not during this current flight of *Air Force One*.

So I do not know who did it, I say to my friend from Ohio.

Mr. GLENN. Mr. President, I think the implications of what the Senator has said would suggest there was some small group working around the Senate hearing or someplace that has been sending out identical editorials. I suggest that perhaps the second paper to publish was guilty of copyright infringement more than any organized effort.

This is the first I ever heard of anything like this in any shape or form whatsoever, and to my knowledge no one in any way involved with this has sent out any editorial comment except 2 op-ed pieces that I wrote myself, one in the Baltimore Sun a couple of weeks ago and one in the Washington Post yesterday.

Mr. McCLURE. I will accept the Senator's profession of innocence concerning complicity in any intent of telling the editorial writers of various newspapers to do what editorial writers of various newspapers did.

But for the Senator to suggest that maybe one of them repeated the editorial of another one flies in the face of possibility when they both appear on the same day. I think the Senator would stipulate to that.

Mr. GLENN. If the Senator will yield a moment, there once was a sign on top of someone's desk in an editorial office that I remember that said, "Literary genius is really selected plagerism at work." Perhaps that might be applicable in this instance.

Mr. McCLURE. I do not know whether it was plagiarized or not or how it got there. I am only pointing to the facts and I am pointing toward the possible conclusion that can be drawn from the facts.

The Senator from Ohio says he does not know of any organized activity. I suggest that he does not know of any organized activity. If he wants to plead innocent he can plead innocent. I make no accusations to the Senator from Ohio. It would be improper for me to do so. I would not do so personally. I certainly do not know who did it. I can only look at what was done and make certain inferences from it.

The Senator knows the old story. If it walks like a duck, swims like a duck, lays duck eggs and quacks like a duck, it may be a duck.

I just have to believe that there is more coincidence involved in the events to which I have referred.

These can hardly be characterized, however, as a public outcry based on soul searching of the editorial writers of America, after having thoroughly reviewed the arguments on both sides of the issue.

Mr. GLENN. Mr. President, will the Senator yield for another question?

Mr. McCLURE. I yield.

Mr. GLENN. Is the Senator inferring that the people who published the editorials did not believe what they were publishing, that they lied in their editorials?

Mr. McCLURE. The Senator from Ohio has used those terms. The Senator from Idaho did not.

Mr. GLENN. What is the point then? The point, I suppose, is there was some organized effort of which I know nothing, of course, to send this information around the countryside.

But I would not question the motivation of the people who published this in any event, wherever it came from. If they published it apparently they believed it, and they are entitled to.

Mr. McCLURE. The Senator can put whatever inference on the facts he may wish to put on it. As I tried to say before, I cannot interpret the events for the Senator from Ohio. If he professes ignorance, he is ignorant. I will not quarrel with him on that subject. I do not know what he knows or does not know how it happened.

All I am trying to say is if editorials appear on the same day in widely spread newspapers across the country and which use the same kind of phraseology and the same kind of arguments, there must have been some common thread that tied the two together, other than mere coincidence. That is all the Senator from Idaho has said, and that is all I intended to say, and I, as a matter of fact, do not know who it might have been who may have done that.

Mr. GLENN. Mr. President, will the Senator yield?

Mr. McCLURE. I would be happy to yield to my friend from Ohio.

Mr. GLENN. Tomorrow morning could I be provided with copies of examples where they appeared the same day in different places, because I would like to follow up?

Mr. McCLURE. The Senator has all the editorials. The Senator made the allegation. He had, what was it, 90 newspapers? I would suggest that the Senator look at his own files.

Mr. GLENN. We will have staff work on this.

Mr. McCLURE. The Senator does not mean to be uncooperative.

Mr. GLENN. I thought the Senator was making a point and I was only seeking his assistance to pursue his point because he thinks this is a big deal.

Mr. McCLURE. Let me say to my friend if he does not think it is a big deal, he certainly is saying a lot about it.

Mr. GLENN. The allegations implied by the Senator from Idaho are very serious, that we were involved in skulduggery that nobody knew about. It is preposterous. It is not true.

Mr. McCLURE. The Senator is too sensitive. I did not give the Senator that much credit.

Mr. GLENN. I am sensitive when the Senator implies that we had some motives we did not have.

Mr. McCLURE. I did not, the Senator from Ohio had done it. I did not. He jumped to that conclusion. If, as a matter of fact, he is as pure as the driven snow——

Mr. GLENN. As pure as the driven snow.

Mr. McCLURE. I am glad to accept his word. He professed ignorance of anything about it. I accept that he is ignorant of anything about it.

I would suggest if he wants to corroborate or dispute any of these things——

Mr. GLENN. We will check it ourselves.

Mr. McCLURE. That he look at his own files and determine whether or not what I have said is true or is not true. If, as a matter of fact, it is no big deal, I suggest that the Senator from Ohio leave it as no big deal.

If, as a matter of fact, the Senator from Ohio thinks it is a big deal, then we will make a big deal of it. But if, as a matter of fact, it is not, then I suspect it will be dropped at this point. If not, we will hear more about it tomorrow.

Mr. GLENN. I would not be surprised.

Mr. McCLURE. Mr. President, I do have to conclude, however, on the basis of the limited research we have been able to do, and I do not have any more staff to do that than does the Senator from Ohio, and he was earlier remarking about the inequality of firepower between *Air Force One* and the chair that he flies here in the Senate, but I do believe that any analysis of the evolution of editorial commentary suggests the appearance of a carefully orchestrated effort by one side of this debate to influence the political opinion of the Congress through hometown newspaper editorials.

Mr. President, I ask unanimous consent that a memorandum which I had prepared that analyzes some of the arguments of the Senator from Ohio in a factsheet prepared and distributed to Members of the Senate be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORANDUM

Mr. President, my colleagues have been recipients of a fact sheet prepared by Senator Glenn regarding the uranium shipments to India. While there are many facts in this document, I must point out to my colleagues that the facts are selective, that they are in some cases misleading, and that they by no means constitute a balanced set of facts that both sides in this debate could agree upon. Rather, my good friend, the Senator from Ohio, has tried to make a case, in the best tradition of the legal profession, to win independent of the merits of the arguments. I have prepared a rebutting comment which should be weighed in considering many of the arguments put forth by Senator Glenn in his fact sheet. They are detailed below:

"India used U.S. heavy water in manufacturing materials for her nuclear explosion in 1974, despite U.S. formal communication 4 years earlier, that such use would violate U.S. understanding of sales contract."

The Indian use of the U.S.-supplied heavy water has nothing to do with the Tarapur reactor, which is under international safeguards. The heavy water was purchased by India under a totally separate cooperative agreement and contract. The facility using the heavy water was supplied by Canada and was not under international inspection.

"India has refused, during two years of negotiations, to put her indigenous nuclear facilities under safeguards and still intends to pursue nuclear explosive development when in her 'national interest.'"

During much of the last two years there has been turmoil in the Indian government with Desai, an interim government, and now Mrs. Gandhi being successively in power. To cut off the fuel for the Tarapur reactor while there is still an opportunity to negotiate a full-scope safeguards amendment is shortsighted. The Indian government is not the only foreign government which has been reluctant to renegotiate cooperative agreements due to the unilateral requirements of the Nuclear Non-Proliferation Act (NNPA). The Congress was warned in enacting this law that it would meet with wide resistance due to its retroactive applications to existing agreements and contracts.

"India recently demonstrated the capability of developing an intermediate range ballistic missile. In a parliamentary debate on the Indian defense program, some members argued in favor of moving ahead to develop nuclear warheads."

The Indian efforts in launching satellites are civilian in nature with no military support or involvement. It is the opinion of experts that it would not be easy to convert the satellite-launching rocket into an intermediate range ballistic missile. The fact that some members of any parliamentary body advocate any bizarre action should not be construed as likely to be the prevailing mood of the body.

"NRC refused to approve fuel licenses by unanimous vote because U.S. law requires India to accept full-scope safeguards in absence of Presidential waiver or override."

The NNPA requirement for full-scope safeguards became applicable to these exports only because slow processing of the export licenses caused a new statutory criterion to become effective.

"India has stockpiled enough fuel to last her until at least February, 1982. The present shipments are not needed to fulfill U.S. obligation under Agreement for Cooperation to provide only enough fuel for the "efficient and continuous operation" of the reactors at Tarapur."

The 18 months remaining for fuel supply will be consumed if the current two-year period for processing of the export application filed in September, 1978, is indicative of our expedited procedures. The fuel fabrication facility in India is nearly out of fuel to manufacture, and the work force will have to be laid off. The agreement by Ambassador Saxby in 1976 established a schedule for shipment of fuel based on the needs of the Tarapur reactors.

"Fuel contract pursuant to Agreement provides for all exports to be subject to 'applicable laws, regulations, and ordinances of the United States.'"

The meaning of the contract language was the subject of an exchange of letters between the U.S. and India for clarification. It was not intended by our government to encompass a sweeping new law, like the NNPA.

"American Law Division of CRS agrees that U.S. would not be in breach of Agreement if these fuel shipments are withheld."

The CRS opinion was the work of only one lawyer and does not represent the collective thought of the American Law Division.

"India is attempting to force the U.S. into sending shipments by threatening to reprocess spent fuel from previous shipments to obtain weapons-usable material (plutonium) and possibly to abrogate safeguards on previous shipments. (Both acts would be violations under Agreement.)"

The Indian government would view a U.S. failure to approve the exports as a breach of the Agreement, and thus any subsequent actions by them to use the spent fuel could not be, in their view, a violation of a vitiated Agreement.

"India's foreign policy orientation will not be significantly altered by withholding shipments at this time. India has signed a $1.6 billion arms deal with the USSR; did not support the U.N. resolution on the Soviet invasion of Afghanistan; has signed a trade pact with Iran that helps render our boycott ineffective; has recognized the Soviet-backed regime in Kampuchea. (See attached article on India-Iran agreement from the Statesman (Delhi))."

These statements imply that the Indian Government is irretrievably aligned with the Soviet Union. However, the following point from the fact sheet shows the efforts of the Indian Government to maintain a balanced, nonaligned foreign policy as they have for many years.

"U.S. and Western European ties to India go far beyond nuclear trade. For example, the U.S. will send 3,720 TOW anti-tank missiles to India and is providing more than $130 million in economic aid."

"Sending fuel to India at this time will undermine the Nonproliferation Treaty (whose non-weapon state signatories receive nuclear assistance only under full-scope safeguards) and will further damage efforts to dissuade Pakistan from pursuing its own nuclear explosive program."

The Indian export issue was not a source of concern to nonweapon state signatories at the recent Nonproliferation Treaty meeting in Geneva. The U.S. has already severed all nuclear aid to Pakistan, which only uses the nuclear technology for research purposes. India uses the Tarapur reactors as a major source of electricity in the Bombay area.

"Public opinion in the U.S., including overwhelming editorial opinion, is strongly opposed to these shipments. (See attached editorials from New York Times, Washington Post, and Wall Street Journal)."

The extensive set of editorials provided to the Members shows some clear patterns indicating a substantial effort at initiating editorials was made by the opponents of the uranium shipments. The Washington Post refused to print a guest opinion or a letter-to-the-editor expressing the views of supporters of the export.

"Cut off shipments at this time will demonstrate U.S. seriousness concerning nonproliferation, and will show good faith with those other nations which have cooperated with our nonproliferation policy."

The U.S. has badly wounded its relationships with other countries due to its unilateral, retroactive nonproliferation policy. If we deny these exports, it will in all likelihood be highly counterproductive to our nonproliferation objectives in India and elsewhere.

"U.S. nonproliferation policy will be reviewed next year in a massive GAO report capping a 3-year study. The President and Congress can review the Indian situation again in that context, if Congress disapproves the present shipments."

The GAO study was commissioned by the NNPA and may not provide any great enlightenment on the impacts of the NNPA on foreign policy and proliferation.

The PRESIDING OFFICER. The Senator from New York.

Mr. McCLURE. I wonder if my friend from New York would yield for a moment. The Senator from Ohio has asked for some of the editorial comment as an example.

I have two editorials in my hand which I ask unanimous consent to be printed in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Pittsburgh Press, May 12, 1980]

Bombs for Indira

President Carter is terribly mistaken to send fresh shipments of enriched uranium to India despite Prime Minister Indira Ghandi's haughty refusal to pledge not to test more atomic bombs.

India diverted Canadian uranium and American heavy water into its first test of a nuclear device in 1974, which it lyingly described as a "peaceful nuclear explosion."

To its credit, Canada promptly stopped supplying India with uranium, a proper act that Washington lacked and still lacks the courage to take.

Carter has made nonproliferation of nuclear weapons a keystone of his foreign policy. He has negotiated for years with India, seeking international inspection of its reactors to guard against uranium being used for military purposes.

Recently Mrs. Ghandi declined to rule out further nuclear explosions, and Carter folded. Last week he decided to ship India 40 tons of reactor fuel which, if misused, could practice quite an atomic arsenal.

The administration says it acted to prevent a "political breakdown" with India in the wake of the Soviet invasion of Afghanistan. The argument is full of holes.

First, Mrs. Ghandi acted as an apologist for the invasion and isn't going to do anything against it. Second, Pakistan and China are the administration's hopes of stopping further Soviet expansion of Southwest Asia—and both are upset by India's growing nuclear potential.

Carter's mistake also will heighten the determination of Pakistan, India's traditional enemy, to proceed with its bomb building, something Washington has been trying to head off for years. Hello, nuclear proliferation.

In addition to fostering an atomic arms race on the subcontinent, Carter has shown the world an example of appeasement. Mrs. Ghandi looked him in the eye, uttered the diplomatic equivalent of "bug off" and got what she wanted.

Others will take note. This kind of foreign policy helps explain why American embassies are sacked, American diplomats are kidnapped and murdered and America is the laughing stock of foes and the despair of allies.

[From the Cincinnati Post and Times-Star, May 12, 1980]

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Others will take note. This kind of foreign policy helps explain why American embassies are sacked, American diplomats are kidnapped and murdered and America is the laughing stock of foes and the despair of allies.

Mr. McCLURE. Mr. President, I would just refer to two editorials, one appearing in the Pittsburgh Press on May 12 entitled "Bombs for Indira," starting out with the words "President Carter is terribly mistaken to send fresh shipments of enriched uranium to India," and so on. Also an editorial in the Cincinnati Post dated the same date entitled "Bombs for Indira," starting out with the words " President Carter is terribly mistaken to send fresh shipments of enriched uranium to India," and so on.

Mr. GLENN. Mr. President, will the Senator from New York yield briefly?

Mr. MOYNIHAN. I will yield briefly. I have been here for an hour and a half patiently waiting to talk about the issue.

Mr. GLENN. I will be very brief. I will check this between now and tomorrow morning, but I believe the Pittsburgh Press is a Scripps-Howard newspaper. I am not certain of that, but I will check it in the morning. I just came across this when I started to look at this. I think they are both in the same newspaper chain, but I will check it.

Mr. MOYNIHAN. Mr. President, the hour is late and the Chamber all but empty. I would like it recorded that this is not evidence of any lack of interest in our body on the issue before us but of the fact that a dear colleague who will soon be departing is being honored. Understandably that has drawn away some who might otherwise be here.

Whilst my friend, the distinguished Senator from Ohio, is here, let me take this opportunity that his unfailing courtesy and attentiveness always provide just to respond to the point he made toward the end of his marvelously comprehensive and persuasive opening statement.

The distinguished Senator from Ohio said that our decision on Senate Concurrent Resolution 109 would be a test of whether our nonproliferation policy is valid.

I would wish to offer him the thought that to my way of thinking—and it can only be that—the real question about our nonproliferation policy is whether it is possible. In particular, whether it is possible with respect to the Republic of India.

I am going to offer you the contention, which is not capable of proof but no more than a contention, that no, it is not. I will present the argument that this was just as clear when we adopted this legislation as it is today. It was clear on April 7, 1977, when the President spoke about the policy in his press conference. At that time it was the institutional duty of his advisers to tell him, "this will not work; in three and a half years you will be in Air Force One calling persons, asking them to vote in a way that clearly is not anticipated by those who will vote in favor of the legislation you are proposing. That difficulty will go on until the 1990s, unless there is a rupture with India on this matter. If that rupture is not desirable in the future, it is not desirable now. Therefore, you should not be advocating this policy."

The Senator suggested there were matters that the Indians would think more important than this. He mentioned trade, he mentioned some arms shipments, and on other occasions he has mentioned a trickle of aid.

I would have to say to him that this is in no sense what will appear to be at issue with the Government of India and the Indian people. In no sense will the issue of nuclear power appear to be what is at issue.

Instead it will appear to the Indians as a question of whether or not the Republic of India is sovereign; whether or not statutes enacted in Westminster still are to be enforced in the subcontinent of India, with this body as a successor legislature to that of Westminster.

The Senator from Idaho has put it very clearly that by adopting the Nonproliferation Act (and I quote him from memory, but I think sufficiently accurately) "the United States imposed unilaterally and by domestic law" new conditions on our understanding with India.

Now, for the Indians, in the aftermath of their experience, to accept the possibility that some other country could impose unilaterally and by domestic law conditions on their conduct is something they will not do. They will not do it.

By this statute, we impose upon our foreign policy a condition impossible to obtain. That is not the mark of mature statesmanship and the consequences will be with us a long time.

Unless I am mistaken, Mr. President—and it would hardly be the first time—the Nonproliferation Treaty represents the first conscious effort in the history of international law to impose a regime of inequality among nations in the world. It had been, by contrast, the first principle of international law as it emerged in the 17th century that nations are equal, equal in sovereignty and in rights at law.

We find this principle embodied today in the arrangements by which small island nations are admitted to the U.N. General Assembly as equals with the larger and more populous nations. Equality of nations is the first principle of international law. The idea of nonproliferation imposes an inequality. It says some may do and some may not do.

Now reality is such that we get this principle accepted with some nations. West Germany and Japan have, for example, accepted it. The largest and most important nations yet to have done it.

But it is not possible, in my judgment, that India will ever accept it. They will not.

All we do by this act is break our contract with them.

The United States and India in 1963 negotiated an agreement governing operation of the Tarapur reactors and in 1966 a contract governing the supply of fuel. Article XI of the 1966 contract stipulates that the United States and Indian Governments will consult to take account of changes in U.S. laws. Consult. It is that simple: Nations do not grant to others the right to unilaterally redefine the terms of international agreements. India did not agree to do so in 1963 or 1966, and that they agreed in 1971 to comply with relevant American laws on the handling of nuclear materials cannot change that fact. The United States is perfectly within its rights to pursue renegotation, and within its rights to be disagreeable if the Indians do not agree, but we may not claim that they have breached the 1963 agreement merely because in the interim we have passed new laws.

This will not work. In no way will it affect the future conduct of the Government of India at all, except on the margin. It will not make them more hostile to us, although they will be deeply offended by it. It will not make them less hostile to us. They simply will not do it.

In the process, we will have almost certainly impaired our capacity to negotiate as equals with them some regime of understanding as to how they, as a nuclear power, will conduct themselves with respect to nonnuclear power, just as we negotiate and legislate such behavior ourselves.

India is a nuclear power. On another occasion, I will be happy to discuss the unwisdom, as I thought it, of their having become such. As I was able to say to the Government of India at the time, they had ruined their position in South Asia. They were incomparably the preeminent power in South Asia so long as there were no nuclear weapons. Nuclear weapons, like gunpowder, are great equalizers.

In 1974, as Ambassador, I called on officials of the Government of India and I said: "Just wait 5 years in time. There may be a general in power in Islamabad and he will have four bombs. He will say, 'I want the Kashmir back tomorrow or I will drop them on Bombay and New Delhi and Calcutta and Madras the day after tomorrow. We can meet in heaven, if that is the case, on Friday.' What will you do? You let that happen and now you must live with it."

But it did happen. And any thought we have of getting the Indians to behave differently can only come about from negotiating with them as equals. A person who thinks otherwise is not suited for the work of nuclear diplomacy. The person who thinks otherwise has no experience of this part of the world and little understanding of statecraft. It is a commentary on us all, perhaps, that we have chosen to think otherwise. It is interesting that some of the most enthusiastic supporters of this particular program are exactly those people who have asserted that the United States has less power in the world than it ever had, that it should withdraw its commitments and contain its undertakings. Simultaneously they espouse a doctrine that requires power which no nation probably ever has had and certainly influence we do not now have.

Some of my colleagues will say to my recitation of these facts about India that they too have no expectation that India will ever yield. They too recognize the special circumstances that govern the Indian case. They are committed, however, to make a demonstration that all the same we will not cooperate; we will insist on our view and abrogate the Tarapur agreement so as to show that we mean business about nuclear nonproliferation.

However quixotic, the sponsors of this resolution would be more persuasive if at the very least the full-scope safeguards that they desire were a real solution to the Indian problem. But there is this extra absurdity to our dispute with India: the value of full-scope safeguards would in fact be slight. We are thus in the position of rupturing our ties with India in the name of what would be no solution at all.

Full-scope safeguards can in some cases be extremely valuable. Apart from the mere fact of accepting an international obligation, they can provide three separate benefits. First, they allow the international community to monitor the inventory of fissile materials in a country's possession. Second, they give an extra measure of warning time, between a government's decision to renounce safeguards and the completion of a weapon ready for use. The length of the warning time will vary: It depends on the time needed to reprocess spent fuel and extract the weapons-grade material, on the construction of a fabrication plant for the weapon, and so forth. But—and this is the third point—safeguards can reassure neighboring countries about a state's intentions.

These are real benefits but merely to describe them shows why they are less important in the case of India than in others. India has such a diverse nuclear program, several of whose facilities have been unsafeguarded over many years. It has indigenous uranium and thorium supplies. We would in these circumstances have much less confidence than would normally be the case that all materials were in fact under safeguards. One may say of course that we expect India to observe its obligations, but it would be irresponsible not to ask how easy it would be to circumvent the safeguards. Any honest member of our government or the International Atomic Energy Agency would tell you that they would have great difficulty saying whether India had fully complied. The IAEA has never before undertaken to impose safeguards on a system of previously unsafeguarded facilities, and the inventory problems of the Indian case would be enormous. This is an unavoidable fact of life. Yet we treat safeguards as though they were some key to international stability.

When a state does comply fully, the second benefit of safeguards is that they increase our warning time. Again, however, in the case of India they do not. Other countries might have to spend some time reprocessing their fuel; not India. India not only has a research reprocessing facility, but it is building a breeder reactor.

Under these circumstances, weapons-grade material itself might be under safeguards, but hardly any warning time at all would be left between removal of safeguards and fabrication of a weapon. As to the task of fabrication shall we say that this is not a large mystery for the Indians? In fact India might even be able to maintain a weapons fabrication plant in existence—unsafeguarded—while full-scope safeguards were applied to all peaceful facilities. For the International Atomic Energy Agency safeguards apply only to a civil nuclear power program.

Moreover, even if, as might very well be the case, we understood that the site at which the Indian bomb was built no longer existed, what confidence would we have that a new one had not been built? Little, I am afraid. And if a new one were built, our warning time would shrink still further. Some of my colleagues might hope that our intelligence would be able to discover it, but I ask them, whether we had discovered the one used in 1974 before the explosion. The answer is no.

In light of all this, the third benefit of safeguards—the stability they symbolize to neighbors—is also lost. For all these reasons, Pakistan is hardly likely to be wholly reassured by safeguards in India. This is understandable—we ourselves would not accept such assurances from a country that we regarded as an enemy. In fact, this is precisely why the Baruch Plan failed over three decades ago. And it is why Indian acceptance of full scope safeguards would not be the key to a stabilization on the subcontinent.

All the same, we find ourselves in this confrontation with India because we are told that full-scope safeguards are the key to nuclear nonproliferation.

If full-scope safeguards have marginal value in the Indian case, then what is it that the opponents of the fuel shipment want us to do? For the sake of standards that would only be of marginal value, they wish to abrogate a formal agreement undertaken by the United States, the first such abrogation in the history of our nuclear policy.

For the sake of standards that are of marginal value they wish to risk that, for the first time in history, international safeguards will be taken off a facility where they have been in place for years. For the sake of full-scope safeguards, they wish to make more likely an acceleration of Indian reprocessing, a step with very unfortunate symbolism in our non-proliferation efforts.

It seems to me that the sponsors of this resolution are obliged to show that what is to be gained from this demonstration of American unilateralism will be enough to balance these very real losses. Will other countries really be impressed by such dedication to symbolism? Will we signal that we have a serious understanding of the problems of other countries? Will we gain by pretending to ignore the differences among them? Will this seem like sound policy? Or fairness?

I hope that my colleagues will see that, despite its refusal of full-scope safeguards, we have a stake in continuing to negotiate with India. The ultimate prize—an effective reversal of its nuclear history—will always be out of reach but this does not make the other issues of our nuclear relationship trivial. We retain an interest in incremental extension of safeguards, we retain an interest in keeping U.S. materials from nonpeaceful purposes, we retain an interest in slowing the emergence of commercial reprocessing in the Third World, and we must do what we can—it will be little, I fear—to promote some stability among the states of the subcontinent.

In this effort, as in our nonproliferation policy as a whole, we need to proceed carefully. We should see that results will often be achieved only at excruciating length. For this, the deadlines of our legislation may prove a hindrance.

We need to be able to insulate our policy, as best we can, from changing diplomatic interests and objectives. For if other states come to regard nonproliferation policy as a stick with which to beat those who have angered us, the stability of expectations that must support a nonproliferation regime will be lost.

And finally, we should see that success will be measured by a different standard in different cases. For this the single standard of the Nuclear Non-Proliferation Act may blind us to other kinds of progress.

I ask my colleagues to remember how gloomy our predictions were in 1974 when India shocked us with her nuclear blast. Should we not be comforted by the thought that not one of them has come true? India has not conducted another test, though we all expected it. She has not built a nuclear arsenal, though we all feared it. She has not brandished her nuclear capability in dealing with other states, has not pursued an irresponsible export policy making it easier for other states to acquire nuclear weapons, and has not refused safeguards on new nuclear installations. If India can continue on this course, the United States can continue to do business with her. Our abrogation of the Tarapur agreement now would be out of proportion to any good it might achieve.

Tomorrow I will take the occasion to speak to the meaning to the United States of the democratic nature of the Indian regime. I think that to be something of the highest consequences. I think one of the greatest possible ironies of the Soviet invasion of Afghanistan is that it has drawn the United States into a near military alliance with the totalitarian power of China while in response, the democratic Republic of India has drawn yet closer to the totalitarian power of the Soviet Union.

But I do not want to complicate tonight's argument with ideological questions. The question I simply wish to draw attention to is: Have we the influence to change Indian behavior in this respect through legislation?

I say to the Senator from Ohio, we have not. And, as we have not, it seems to me folly to attempt to do so.

The President's position gives us as much as a 2-year interval, in which we can reconsider these relationships. I hope the Senate might do it, might provide the President with that possibility.

And I hope if it were provided, he would make use of it.

Mr. GLENN. Mr. President, I will not prolong this evening's session unduly, but I would like to reply for a moment to the distinguished Senator from New York because he did make a couple of very valid and very important points that I think we need to address.

He started off with questioning whether the policy is possible, and I think the jury is still out on that. I really do. I think that is a very good question to ask.

I would like for him to clarify, when he says the policy will not work, does he refer to the whole Nuclear Nonproliferation Act and the whole policy or just this particular issue?

Mr. MOYNIHAN. I say a policy which of necessity requires that some nations be more equal than others. It in fact imposes a range of inequality. It probably can work with nations which will recognize that condition. That is not the condition of India. They are not unequal in those terms. They will never submit to a regime of inequality. They will not.

Mr. GLENN. At the risk of stating something that the Senator from New York already recalls, he may recall that during our debate on the NNPA here on Senate floor, we talked about whether there would be better influence exerted around the world with regard to nuclear nonproliferation if we permitted American business to just go out and go to all these nations' sales, that we would have a better influence overall in the long term if we just tried to get involved in every place in the world where there was interest in nuclear energy; or whether a better method was to try to work out some channels of Government control to prevent the further spread of nuclear weaponry while the big powers, the superpowers, that already had mammoth arsenals of nuclear weaponry, tried to work out their own differences through SALT and other processes. And would the Chinese be willing to come into SALT at some point, if we get it worked out with the Russians?

I have done some things on that myself, even going beyond SALT, because I thought that is what we had to do in this country if we are ever to get control of superpowers and existing weapons states around the world and have any validity, as the Senator points out, in asking other nations to refrain from developing nuclear weapons.

That is the tack that this Senate, this Government, this administration, and everyone took, that we would go that second route, that we would try to work out government-to-government arrangements, recognizing it is unfair. Who am I, who is the Senator from New York, to ask any nation if they want a nuclear weapon? Do they have a right to develop that nuclear capability? I cannot say they cannot. Who am I to say what they can or cannot do?

What we asked for in the Nuclear Nonproliferation Act and its colleague, the Nonproliferation Treaty, was that nations accept equally with us a fear of what was going to happen if we just went on with the further and further spread of nuclear weaponry around the world until every nation had a bomb. I guess we would really have a mutual destructive capability. It would surely be a mad, mad world for mutual destruction for border disputes which perhaps would have gone on with much less weaponry. So while we are trying to somehow work out with our colleague superpowers some reduction of nuclear weaponry, the idea was that we would not see the spread to smaller and smaller nations. We asked that kind of understanding from these other nations, not necessarily smaller because India, as the Senator very correctly points out, is the world's largest and most populous democracy.

That is sort of the problem. It is very difficult.

We had lunch with Prime Minister Desai at that time in the Foreign Relations Committee room, and he expressed views almost identical to what the Senator expressed, that it was their right to do what they wanted to do. Why should we as big powers over here think that we had some right built into us to tell them what they should do? They were prepared to develop as they saw fit.

I told him at that time pretty much the same thing I am saying right here, that our hope was not to impose this as an inequality, as the Senator says—and he is right. We are not trying to impose this as an inequality, but we are trying to do it in a spirit of understanding, as I implored him to do, to take the lead in Third World nations, to try to prevent the spread. India could be our partner in preventing this spread. That is rather than insisting that they will develop as they see fit to develop.

If we follow down that track until smaller and smaller nations, far less populace than India, have the bomb, then it seems to me we just open this up for some small nuclear exchanges which will develop into big ones.

I think it is good to remember this perspective, that we considered this business versus Government. We opted as a Government, as a Senate, and I believe the Senator voted for the nonproliferation Treaty, so I guess he felt it was worthwhile even with the inequality expressed. The inequality is admittedly there. But what we said was we did not declare other nations unequal; we just said if we are to cooperate in the development of nuclear power, then it is up to us as a possessor of that technology to set the terms of that cooperation. That is, in effect, what we did.

I do not look at India as any unequal partner in this regard. I look at India as a sovereign nation capable of taking care of her own affairs.

I think we need to remember that we have had 111 other nations which have accepted this cooperative assistance with us in trying to prevent the spread of nuclear weapons to more and more nations, at the same time expressing their concern, as they do most vocally on many occasions, that the superpowers should be more forceful in getting control of these superpower weapons supplies—and I agree with that. That is sort of where we are right now.

So I do not see it as any unequal status that we consider India a subnormal nation. I certainly do not.

Mr. MOYNIHAN. Could I respond briefly? The Senator has been so generous and thoughtful in his response.

First, in talking about equality and inequality, I was referring to the regime in law established by the Nonproliferation Treaty itself. It says some nations may have this weapon—our most important weapons—and other nations may not. That is a regime of inequality. It is the first time in the history of mankind that anything of this kind has been attempted.

The point I would like to make to my friend is I am not pleading any virtue in the Indians. That they do very well by themselves. I am simply saying that the Senator referred to our colleague superpowers. I simply offer the experience of one Senator and the judgment of one that with respect to nuclear matters, India is a major power. It has exploded a weapon. As I said, at the time it was a peaceful nuclear explosion in the desert. In New Delhi at the time it was universely referred to as the bomb. It has happened. It is beyond recall. The Chinese are admitted to this superpower condition, and so are the British and French, tiny France, and India will insist. If we want our policy to work, we are going to have to deal with that reality.

The Senator did not achieve what he has done and what his colleagues did in space by ignoring reality. Neither, on the other hand, did the Senator achieve it by saying certain difficult things just cannot be done. So you have both possibilities to argue.

Last, if I may make a point about my voting for this, I did vote for it. At the time, I thought this meant that the administration had decided to have this rupture with India, with whatever other consequences it would bring about. I realize now that it had not made a decision. That is not really very good work on their part. If they had not made the decision to have the rupture, there should not have been the legislation that came about.

I have learned with some gratification that they are still trying to work something out. I would give them the 2 years. And I recognize it is a very close decision. I do not in the least—I find it altogether understandable that the Senator should disagree. I think our disagreement, if we have any at all, is to this other question of what is possible. I am prepared to let the President try once again, or let President Reagan or President Anderson.

Mr. GLENN. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. GLENN. I would say, as to what is possible, when we were going into this, we questioned whether there should not be an analysis, after it had been in for a period of time, to see what had been possible after the act, whether it should be changed, should we modify it, could it be made more effective, should we do away with it and go back to the business concept where we encourage American businessmen to give bargain rates and get business all over the world, should we throw this whole thing out?

In determining how effective it will be, we wrote into that a requirement for a GAO study, a very complete study—I do not know how many people they have involved with it now, but at one time, they had 20-some people involved looking into this: How effective the Nuclear Nonproliferation Act had been since it was put into effect; did it need to be changed; should we do away with it entirely? They are to assess the effectiveness of the whole thing and come back to us by next March 15.

India, on this fuel shipment now, does not need the fuel for 2 years. So I asked Secretary Muskie and the President by letter to put off this decision until we had the benefit of this study by GAO. I was not necessarily trying to get beyond the political season here, the Presidential election. But I think this transcends the political elections that we are undergoing right now.

What I wanted to do was, if we are to make a shipment that many of us view as being out of context with what we hoped would occur under NNPA, then if we are to make that change in NNPA, it should be made in the light of the best study we have available. I looked at the GAO study as being done with that kind of thoroughness.

Since India did not have to have the fuel for 2 years, the only reason to put forward for making the shipment now is that their own fuel fabrication plant that this would go into at Hyderabad would be left with nothing to run through it and they would have to shut down, at least temporarily, until this shipment is made.

I should add there that we had no contractual arrangement and no commitment to be responsible for keeping that particular facility open. Our requirement under the contract was to ship "as needed"; to keep Tarapur operating.

That shipment could be made as long as a year and a half or so from now, at least, and still fulfill that commitment. The President, the administration, chose to go ahead and send this up now, trying to cooperate with India in keeping their fuel fabricating plant open. But it put us in a very difficult spot here.

I regret that we do not have the benefit of the study, to come full circle to where this consideration started, so if we are to go this route, we can make any necessary changes in NNPA that might make the program work, which is what the comment of the distinguished Senator from New York was, starting out.

I want to make it work, Mr. President. If it is not working, I shall be the first to lead the charge to go to the other route and say NNPA has failed, it is unfair, it is not working, and we shall go the other business route. I think perhaps that is the direction we are headed in with this particular sale.

That is one reason I am so concerned about it and feel that it is critical if we are to maintain an NNPA and give this concept of government-to-government agreements a chance to work, give the NPT a chance to work for those 111 nations that have agreed with us to hold down their desires for nuclear weaponry while we try to get the big powers under control and scale down that route.

Mr. MOYNIHAN. Will the Senator agree that whatever is the outcome of this vote, that question does remain before us? I hope we do not so spend our energies on this one position that we act like the whole question has been resolved. It is very much ahead of us.

Mr. GLENN. I agree with the distinguished Senator that I still want to see the results of that study from GAO, which I think is very, very important. I do not think we should make major changes in the law until we have that opportunity. In the argument I made earlier, when I made my remarks, I believe before the distinguished Senator was on the floor, I did state that I felt if this were breached this time in as clear-cut a situation as I can see, I did not feel we could ever really refuse many other nations a similar shipment under similar reasons.

Mr. MOYNIHAN. I was not thinking to obtain an admission from the Senator which would circle around and undermine his argument. Not in the least.

Mr. President, I observe that the majority leader's keys are out. When the majority leader's keys are out, that is often the semisubtle suggestion that maybe the day's talk has about completed its probable potential.

Mr. GLENN. I would concur with that, strongly.

Mr. MOYNIHAN. With that, Mr. President, I yield the floor, and I thank the Chair.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Moynihan). Without objection, it is so ordered.

ORDER FOR VOTE AT 2:45 P.M. TOMORROW TO RUN UNTIL 4 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the rollcall vote on the disapproval resolution tomorrow, which is already set by order of the Senate to begin at 2:45 p.m., run until 4 p.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have been reluctant to set a vote that requires 1 hour and 15 minutes. I want to emphasize for the record that I hope Senators will not seize upon this as a precedent to be used again and again. I also must say that when the order for setting the vote at 2:45 was entered into, both Mr. Stevens and Mr. Huddleston were in the Committee on Appropriations, where they have been all day, working to report out the continuing resolution and, later, the Interior appropriation bill. They were discommoded by the order. Neither of them would have an opportunity to cast a vote on this disapproval resolution. Therefore, what I have said heretofore about my reluctance is not directed toward them. It simply was an inadvertence, a misunderstanding, and the order was gotten without clearing the voting time with them.

So I think that extending the order is something which they are entitled to. I think they deserve this consideration. I just think the joint leadership in the future needs to be a bit more careful in setting the time for a vote to be doubly sure that while the Senate will be accommodating some Senators, it will not be disappointing others.

Along that line, it is not possible, of course, to accommodate every Senator at all times. But in this instance, it was clearly an inadvertence on the part of some of us, and I think that the order that is now entered will rectify that inadvertence and will make it possible to accommodate those Senators who had to leave early and those who will be coming in at a later hour.

I am glad to change the order. I express appreciation to Mr. Glenn, to the minority leader, the minority whip, and will apologize to the minority whip.

Mr. GLENN. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. GLENN. I wish to apologize for, perhaps, contributing to some of that misunderstanding.

I had misread some of those in my conversation to the majority leader, and inadvertently misrepresented some of the people who would be here.

However, I offer my thanks to the majority leader for setting this time period for quite another reason that has not been brought up. That is, I think our vote tomorrow is a very important vote. I think it will perhaps set the precedent for what our nuclear export policy will be for many years hence. It may have a very different impact on our nonproliferation role in the world.

I think if there is one subject that merits getting every single Senator's vote we believe we can muster here tomorrow, I think it should be that, so that we express the will of the Senate will be as clear cut as possible.

I think that the time period that has been set forth here will permit people on both sides of the issue to have as many people here tomorrow as we possibly can have.

I think that is constructive because whatever we go forward with out of the Senate on this crucial vote, since the House already acted on it, it will have as great representation on both sides and will be as clear-cut as possible.

I commend the majority leader for his wisdom in establishing an hour and 15 minutes. I, for one, certainly never consider a precedent to be used in another case.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Ohio.

I fully agree with him as to the importance of the vote.

Mr. STEVENS. Mr. President, I am deeply grateful to the majority leader. The Senator from Kentucky and I were involved in reporting out a bill from the Appropriations Committee. Both of us had made plans on the impression we had that the vote would take place later. This will enable us to get back and vote. I am grateful. I understand it is not a precedent.

I have discussed it with the minority leader. He has indicated there is no objection to this long vote, under the circumstances.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Alaska.

MESSAGES FROM THE HOUSE

At 11:03 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks announced that the House has disagreed to the amendments of the Senate to the bill (H.R. 7831) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1981; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Duncan of Oregon, Mr. Benjamin, Mr. Lehman, Mr. Sabo, Mr. Stewart, Mr. Fazio, Mr. Yates, Mr. Whitten, Mr. Conte, Mr. Edwards of Alabama, Mr. Miller of Ohio, and Mr. Coughlin were appointed as managers of the conference on the part of the House.

The message also announced that the House has disagreed to the amendment of the Senate to the bill (H.R. 7301) to authorize certain construction at military installations for fiscal year 1981, and for other purposes; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Price, Mr. Nedzi, Mr. Charles H. Wilson of California, Mr. Brinkley, Mr. Davis, Mr. Won Pat, Mrs. Byron, Mr. Bob Wilson, Mr. Whitehurst, Mr. Beard of Tennessee, Mr. Mitchell of New York, and Mr. Dickinson were appointed as managers of the conference on the part of the House.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 7919. An act to provide for the settlement of land claims of Indians, Indian nations, and tribes and bands of Indians in the State of Maine, including the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, and for other purposes.

ENROLLED MEASURES SIGNED

At 1:31 p.m., a message from the House of Representatives delivered by. Mr. Berry announced that the Speaker has signed the following enrolled bill and joint resolution:

H.R. 7825. An act to establish the Ice Age Scenic Trail, and for other purposes; and

H.J. Res. 551. Joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning October 5, 1980, as "National Port Week", and for other purposes.

The enrolled bill and joint resolution were subsequently signed by the President pro tempore (Mr. MAGNUSON).

ENROLLED BILLS SIGNED

At 3:41 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the Speaker has signed the following enrolled bills:

S. 2489. An act to authorize appropriations for the Coast Guard for fiscal year 1981, to authorize supplemental appropriations for fiscal year 1980, and for other purposes; and

H.R. 3904. An act to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployer plans, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. MAGNUSON).

At 7:50 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has disagreed to the amendment of the Senate to the amendment of the House to the bill (S. 1946) to reform the economic regulation of railroads, and for other purposes; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. FLORIO, Mr. SANTINI, Ms. MIKULSKI, Mr. MURPHY of New York, Mr. MATSUI, Mr. ECKHARDT, Mr. BROYHILL, Mr. MADIGAN, Mr. LEE, and Mr. LOEFFLER were appointed managers of the conference on the part of the House; and Mr. LEVITAS, solely for the consideration of section 707 of the House amendment and modifications committed to conference.

The message also announced that the House insists upon its amendments to the bill (S. 2080) to establish public buildings policies for the Federal Government, to establish the Public Buildings Service in the General Services Administration, and for other purposes; disagreed to by the Senate; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. JOHNSON of California, Mr. LEVITAS, Mr. MCCORMACK, Mr. FLIPPO, Mr. DONNELLY, Mr. HARSHA, and Mr. STANGELAND were appointed as managers of the conference on the part of the House.

The message further announced that the House has disagreed to the amendments of the Senate to the bill (H.R. 7592) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1981; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. MCKAY, Mr. GINN, Mr. STEED, Mr. ADDABBO, Mr. LONG of Maryland, Mr. WHITTEN, Mr. MCEWEN, Mr. REGULA, and Mr. CONTE were appointed as managers of the conference on the part of the House.

The message also announced that the House insists upon its amendments to the bill (S. 2475) to amend title V of the Motor Vehicle Information and Cost Savings Act, "Improve Automobile Efficiency," to exempt very low volume automobile manufacturers from certain requirements of the act, to encourage increase of the domestic value added content in labor and materials of foreign automobiles sold in the United States, to extend the time available to all manufacturers to carry forward or carry back of credits earned under the act, and for other purposes, disagreed to by the Senate; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. DINGELL, Mr. OTTINGER, Mr. SHARP, Mr. MOFFETT, Mr. BROYHILL, Mr. BROWN of Ohio, and Mr. STOCKMAN as managers of the conference on the part of the House.

The message further announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5164) to amend certain inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 6790) to promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 7878. An act to authorize the transfer of certain naval vessels;

H.R. 8087. An act to amend the National Trails System Act by designating additional national scenic and historic trails, and for other purposes; and

H.R. 8096. An act to amend the Wild and Scenic Rivers Act to provide for the study of certain river segments for potential inclusion in the National Wild and Scenic Rivers System and to designate certain river segments for inclusion in such system, and for other purposes.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 7878. An act to authorize the transfer of certain naval vessels; to the Committee on Armed Services.

H.R. 8087. An act to amend the National Trails System Act by designating additional national scenic and historic trails, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 8096. An act to amend the Wild and Scenic Rivers Act to provide for the study of certain river segments for potential inclusion in the National Wild and Scenic Rivers System and to designate certain river segments for inclusion in such system, and for other purposes; to the Committee on Energy and Natural Resources.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, September 23, 1980, he had presented to the President of the United States the following enrolled bill:

S. 2489. An act to authorize appropriations for the Coast Guard for fiscal year 1981, to authorize supplemental appropriations for fiscal year 1980, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Labor and Human Resources, without amendment, and without recommendation:

H.R. 6711. An act to extend the authorization of youth training and employment programs and improve such programs, to authorize intensive and remedial education programs for youth, and for other purposes.

By Mr. WILLIAMS, from the Committee on Labor and Human Resources, without amendment:

S. Res. 526. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2385. Referred to the Committee on the Budget.

S. Res. 527. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 7859. Referred to the Committee on the Budget.

MENTAL HEALTH SYSTEMS ACT—CONFERENCE REPORT

Mr. ROBERT C. BYRD (for Mr. KENNEDY), from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1177) to improve the provision of mental health services and otherwise promote mental health throughout the United States, and for other purposes (Rept. No. 96–980).

By Mr. RIBICOFF, from the Committee on Governmental Affairs, with an amendment (in the nature of a substitute) and an amendment to the title:

S. 2327. A bill to provide that certain employees of the Drug Enforcement Administration be entitled to pay and benefits similar to pay and benefits granted to members of the Senior Executive Service under the Civil Service Reform Act of 1978 (Rept. No. 96–981).

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment (in the nature of a substitute):

S. 2705. A bill to amend chapter 207 of title 18, United States Code, relating to pretrial services (Rept. No. 96–982).

By Mr. PELL, from the Committee on Labor and Human Resources, with amendments:

H.R. 7859. An act to provide general assistance to local educational agencies for the education of Cuban and Haitian refugee children, and to provide special impact aid to such agencies for the education of Cuban and Haitian refugee children and Indochinese refugee children, and to provide assistance to State educational agencies for the education of Cuban and Haitian refugee adults.

By Mr. DOLE, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

H.R. 5546. An act to amend the U.S. Grain Standards Act to permit grain delivered to export elevators by any means of conveyance other than barge to be transferred into such export elevators without official weighing, and for other purposes (Rept. No. 96-983).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, with an amendment (in the nature of a substitute) and an amendment to the title:

H.R. 6152. An act to facilitate the ability of product sellers to establish product liability risk retention groups, to facilitate the ability of such sellers to purchase product liability insurance on a group basis, and for other purposes (Rept. No. 96-984).

By Mr. ROBERT C. BYRD, from the Committee on Appropriations, with amendments:

H.R. 7724. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 31, 1981, and for other purposes (Rept. No. 96-985).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of nominations were submitted:

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation:

The following-named persons to be members of the U.S. Metric Board:

Marcus B. Crotts, of North Carolina; and Alfredo A. Cantu, of Colorado.

Thomas R. Donahue, of the District of Columbia, to be a member of the Board of Directors of the Communications Satellite Corporation.

Rear Adm. Herbert R. Lippold, Jr. NOAA, to be Director of the National Ocean Survey, National Oceanic and Atmospheric Administration.

The following-named persons to be members of the Advisory Board of the Saint Lawrence Seaway Development Corporation:

Conrad M. Fredlin, of Minnesota; and

Francis Albert Kornegay, of Michigan.

(The above nominations from the Committee on Commerce, Science, and Transportation were reported with the recommendation that they be confirmed subject to the nominees' commitment to respond to requests to appear before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. RIEGLE:

S. 3136. A bill for the relief of William Vojislav Rankovic, Stanislava Rankovic, husband and wife; and William Rankovic, Jr. and Natalie Rankovic, their children; to the Committee on the Judiciary.

By Mr. MOYNIHAN:

S. 3137. A bill to assist State and local Transportation agencies; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BENTSEN:

S. 3138. A bill to prohibit the use of campaign contributions in the repayment of a loan made by a candidate to his campaign; to the Committee on Rules and Administration.

By Mr. TOWER:

S. 3139. A bill to amend the Longshoremen's and Harbor Workers' Compensation Act to provide that in the case of injuries to persons covered by such Act the liability of owners, operators, or charterers of vessels engaged in activities on the Outer Continental Shelf shall be limited to damages attributable to their negligence; to the committee on Labor and Human Resorces.

By Mr. BAUCUS:

S. 3140. A bill to amend title 28 of the United States Code with respect to the litigation authority of the Attorney General, to amend title 28 of the United States Code, to require the Attorney General to report on Federal case management, to require the Attorney General to provide status reports on certain cases referred to the Department of Justice, and for other purposes; to the Committee on the Judiciary.

S. 3141. A bill to reform certain practices relating to Government contracts; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MOYNIHAN:

S. 3137. A bill to assist State and local transportation agencies; to the Committee on Banking, Housing, and Urban Affairs.

MASS TRANSIT ACCESS AND ASSISTANCE ACT

● Mr. MOYNIHAN. Mr. President, I am today introducing the Mass Transit Access and Assistance Act of 1980.

With this measure, I am attempting to link two worthy Federal policy objectives that have often been perceived to be in conflict with one another. David Riesman has written:

> It is an all too American belief, that all reforms are compatible.

These two reforms are compatible, but only if we are prepared to pay the price. My bill makes clear that we are prepared.

It is an established policy of the Federal Government to expand and maintain mass transit. The reasons for this policy are too well known to bear repeating, other than to note that fundamental issues of energy conservation, environmental protection and the quality of urban life are inextricably associated with it.

It is also an established policy of the Federal Government to remove the barriers that otherwise impede the access of handicapped persons to full participation in every aspect of contemporary American life. This includes access to mass transportation facilities of every kind.

These two policies are compatible, but sizable dollar costs are associated with carrying them out. The Congressional Budget Office has estimated that the costs of compliance with the Department of Transportation's regulations implementing the mandate of section 504 of the Rehabilitation Act of 1973 with respect to mass transit would be approximately $7.1 billion. Very likely, the costs will be even larger.

The New York Metropolitan Transportation Authority, which operates the largest mass transit system in the Nation, with one-third the transit ridership in the United States, estimates that its initial cost of compliance with these regulations would be at least $1.5 billion.

This is, quite simply, a cost that New York cannot bear. It does not have the money. It has no means of obtaining the money.

Save from Washington. And that is the purpose of my bill which would require the Secretary of Transportation to reimburse State and local agencies for all costs associated with compliance with these regulations.

He is not now so required. To be sure, the Department of Transportation provides some operating assistance to mass transit agencies such as New York's MTA, and limited assistance with capital costs is available as well. But the time has come to face up to the inadequacy of current forms and levels of assistance, and to accept a simple but fundamental principle: When the Federal Government imposes mandates on State and local governments to act in certain ways that result in costs they would not otherwise incur, the Federal Government has an obligation to pay those costs.

It is well known that the costs of Federal legislation are often not visible until the regulations implementing the legislation are drafted. Certainly this has been the experience with section 504: A straightforward and, in my view, altogether desirable addition to the civil rights legislation of the Federal Government, but one that is so straightforward in conception, and so simply stated in statutory language, that the huge costs mandated by it were not adequately foreseen.

Now they are visible. The regulations are taking effect. The Metropolitan Transportation Authority, and transit agencies in other cities small and large, are realizing that they cannot meet those costs without additional Federal assistance.

I submit that such assistance must be provided if section 504 is not to turn into an empty promise to the millions of disabled and handicapped persons in the United States who today lack adequate access to appropriate transit facilities. This must not be allowed to happen. Handicapped citizens have the right to full access to mobility in the modern city. They have a right to work, to visit friends and family, and to move freely throughout the metropolis.

Yet our mass transit agencies also have a right: The right to be held harmless from costs that they cannot meet in the course of complying with Federal mandates. This is a fundamental principle of fiscal federalism, and a solemn responsibility that must be assumed by the National Government.

I would emphasize that it is the intent of my bill to create an entitlement to such assistance on the part of State and local transit agencies. This is not conventional authorization legislation, the fate of which is in practice determined through the appropriations process. My bill is meant to establish an entitlement to aid to transit agencies so that they can fully comply with a mandate that has been imposed upon them by the National Government. A mandate that I support. But a mandate that cannot in practice be honored unless the Federal Government now accepts the full consequences of the responsibility that it assumed in 1973.●

By Mr. TOWER:

S. 3139. A bill to amend the Longshoremen's and Harbor Workers' Compensation Act to provide that in the case of injuries to persons covered by such Act the liability of owners, operators, or charterers of vessels engaged in activities on the Outer Continental Shelf shall be limited to damages attributable to their negligence; to the Committee on Labor and Human Resources.

LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

● Mr. TOWER. Mr. President, I am introducing today a bill to amend the Longshoremen's and Harbor Workers' Compensation Act to provide that in the case of injuries to persons covered by such act the liability of owners, operators, or charterers shall be limited to damages attributable to their negligence.

This bill is required due to an unintended combination of circumstances. In 1972 extensive amendments to the act were passed which, among other things, first, limited the liability exposure of employers of longshoremen to benefits payable under the amendments, and second, abolished longshoremen claims against shipowners for "unseaworthiness"—a species of liability without fault—while establishing a negligence standard of fault as a predicate of shipowner liability. Unfortunately, court interpretations have indicated that the language of the 1972 amendments to the act permit shipowners to be exposed to 100 percent liability if there is any shipowner negligence, despite any contributory negligence on the part of the employers.

I believe that result is unfair and unintended. The courts have indicated that any relief from this inequity must come from Congress. This bill, the counterpart of which has been introduced in the House by Mr. IRELAND, will provide the necessary relief.●

By Mr. BAUCUS:

S. 3140. A bill to amend title 28 of the United States Code with respect to the litigation authority of the Attorney General, to amend title 18 of the United States Code, to require the Attorney General to report on Federal case management, to require the Attorney General to provide status reports on certain cases referred to the Department of Justice, and for other purposes; to the Committee on the Judiciary.

S. 3141. A bill to reform certain practices relating to Government contracts; to the Committee on Governmental Affairs.

DEPARTMENT OF JUSTICE LITIGATION IMPROVEMENT ACT AND PUBLIC CONTRACT ACCOUNTABILITY ACT

● Mr. BAUCUS. Mr. President, for the past several months, various oversight subcommittees of the House and Senate and the General Accounting Office have been looking into how Federal agencies use outside contractors and consultants. The general outline of this story is well known. Increasingly, Federal agencies have been going outside their operations to the private sector for a substantial part of their work product. Billions of dollars in public funds are spent annually by Federal agencies for these services.

This by itself is not wrong. Most contractors and consultants providing assistance to Federal agencies are legitimate firms seeking to make a fair profit by fulfilling specific Government needs that may not or cannot be fulfilled inhouse by Federal agencies. However, as has been amply shown in recent months, there is a small percentage of contractors who approach the possibility of Government contracting without good faith and without the ability to produce an acceptable work product; motivated solely by a desire to make as big and fast a dollar as possible while producing as little in return as possible.

A series of specific problems has been discovered by the Judiciary subcommittee I chair as well as by Senator PRYOR of Arkansas and his Governmental Affairs Subcommittee. What emerges is a picture of abuse that is Governmentwide, cumulative and out of control. In effect, certain contractors have become a de facto fourth level of Government. Some have been found making policy and supervising career Federal workers. Others have been found making substantial sums of money from contracts due to the lack of competitive bidding—even though competition is required by statute.

One of the most common afflictions involves the free passage of people from agencies to the private sector. Often a high-level Federal employee with power to enter into or approve contracts will leave the Federal service and reappear promptly in the employ of a private contractor performing work he had approved while a Federal employee. There are a number of variations on this theme, but that is the basic story of what is known as the revolving door. Current conflict of interest laws either allow for this revolving door to continue or simply are not enforced.

Some such abuses go beyond mere waste, inefficiency and the "buddy" system, entering into the realm of civil and criminal fraud. What is required is vigorous oversight by Congress, tough laws and regulations governing such misbehavior and a single standard of enforcement. While many existing laws address some of these problems additional legislation is essential. The pattern of abuse is extensive and no one knows what may be uncovered in the future.

To this end, I have drafted two pieces of legislation. The first is designed to insure that the Department of Justice is capable of monitoring and reporting back to Congress on the status of both criminal and civil fraud cases as well as all other cases referred to the Department by its client agencies. My past oversight activities in this area have convinced me it is essential that the Department of Justice closely monitor referrals from client agencies so the investigative ball is not dropped when passed on to Justice.

Such tracking capability is not only essential for Congress as it performs its oversight responsibility, but will be important to each agency so that if judicial action is not warranted, the case can be returned promptly to the agency for possible administrative action. All too often nothing is done with a case because too much time has lapsed between opening the investigation and final determination of action. My legislation would:

First. Assure that Congress is notified of all written agreements between Department of Justice and other agencies affecting litigation authority;

Second. Determine functional, informational, and data service requirements for Department of Justice, U.S. attorneys, and Federal agencies;

Third. Determine status of all criminal and civil fraud cases; and

Fourth. Allow for access to this information by Senate and House Judiciary Committees and Subcommittees.

Enactment of this measure will not mean any interference whatsoever in actual handling of cases. It will mean there will be a new capability on the part of appropriate committees of Congress and agencies to monitor enforcement of laws and regulations governing civil and criminal fraud, false claims against Government and other violations of agreements between the Federal Government and private contractors.

This bill also contains one additional critical reform. Presently, section 207 of title 18 of the United States Code prohibits a former Federal employee from acting as an agent or attorney for any other person besides the United States in connection with any proceeding, including contract matters before the United States, that he substantially participated in while a Federal employee.

My amendment would prohibit Federal employees from accepting outside employment for a period of 5 years that involves personal participation on a grant or contract with which the employee was substantially involved while a Federal officer. This amendment will help prevent the unscrupulous Government contract or project officer from giving a contract to a specific company in exchange for employment.

This first bill will enhance and make more efficient the role of the Department of Justice, while insuring that Congress will be able to perform more effective oversight of how abuses are being addressed.

My second bill will be referred to the Governmental Affairs Committee. It addresses a series of loopholes in the way Federal procurements are handled. These loopholes have allowed today's situation to come into being. Federal procurement is often sloppy and noncompetitive. Exceptions are often the order of the day when it comes to scrupulous adherence to bidding laws and regulations. By simply tightening up the way bids and procurements are handled, many evils can be curbed or substantially reduced.

One area of concern involves advertising for bids on Government contracts. Presently, there need be no public advertisement for bids if the contract is under $10,000; if work must be done in an emergency situation; when only one source of supply or service is available and when the services are to be performed by the contractor in person, and are either of technical nature or are under Government supervision and paid for on a time basis. The latter exemption would be eliminated under my bill.

Another area of concern deals with lack of competition in letting Federal contracts. Large numbers of Federal contracts are let noncompetitively on a sole-source basis; one of the worst abuses we have found. Some agencies let a majority of outside contracts on this basis. I propose in this second bill to eliminate the exception from competition for all personal or professional services, for services to be rendered by any educational institution, and for developmental or research work.

Substantial numbers of contracts involve advance payments or full payment before an acceptable work product is delivered and approved by the Federal agency. My bill provides for no payment on any Federal contract worth more than $100,000 that will amount to more than two-thirds of the total contract price, until the Federal Government has received an acceptable work product at an agreed-to price.

Many agencies contract out work they are able to perform in-house with career Federal workers. It is too easy to bypass a hiring freeze by contracting out work. My legislation would require all agencies to conduct a survey in-house to definitely determine that the task cannot be performed within the Federal organization.

Still another widespread abuse is the vague contract that does not adequately specify what goods and services are to be provided. The bill requires specificity in contract agreements.

Finally, there is the question of line items in agency budgets for outside contractors. Because there is no current requirement to delineate beforehand what an agency proposes to spend on outside contracting and consulting, many Federal organizations have been able to operate in such a manner as to compound abuses already described. This bill would make it mandatory for all agencies to devote a line item in budget submissions to proposed expenditures for outside work.

I do not believe in overutilizing the legislative process. These measures are the product of significant amounts of oversight and investigative work. Each specific reform outlined in these bills address well-documented abuses. Each would save the taxpayers substantial sums of money. No element in the contracting or consulting industry can or should quarrel with them. Competition would be enhanced, efficiency would be increased, oversight would protect the public interest and many abuses would almost certainly be reduced. These two bills are intended to complement the already well-advanced, excellent initiatives commenced by Senator PRYOR and Congressman HARRIS. Both are overdue for enactment. I offer them for my colleagues' consideration.

I do not expect this legislation to pass this Congress. I offer it for discussion purposes and to serve as a backdrop for contracting hearings I will chair this Thursday. Through these and subsequent hearings I expect to test the viability and utility of this legislative proposal. Hopefully, this legislation can be tested and improved and be ready for enactment by the 97th Congress.

Mr. President, I ask unanimous consent that both bills be printed in the RECORD at this point.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 3140

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Department of Justice Litigation Improvement Act".

LITIGATION AUTHORITY OF THE ATTORNEY GENERAL

SEC. 2. (a) Section 516 of title 28, United States Code, is amended by inserting "(a)" immediately before "Except as otherwise authorized".

(b) Section 516 of such title is amended by adding at the end thereof the following new subsections:

"(b) The Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a copy of each written agreement between the Department of Justice and another agency affecting the litigation authority of the Department for particular categories of cases. Each agreement shall be submitted no later than thirty days before the agreement is effective.

"(c) Unless specific statutory authority for litigation responsibility is otherwise provided, the Attorney General shall be the exclusive arbiter for the resolution of any legal dispute between two or more executive agencies or departments, including a dispute as to which agency or department shall litigate an action, administer a particular program, or regulate a particular activity.

"(d) The Attorney General shall report, at the beginning of each Congress, to the Committees on the Judiciary of the Senate and of the House of Representatives on—

"(1) bills or resolutions affecting the litigation authority of the Department of Justice, of which the Attorney General is aware, that were introduced in the previous Congress but were not enacted;

"(2) the status of litigation authority in the Federal Government, including the extent to which agencies other than the Department of Justice are authorized to litigate and whether such agencies are conducting litigation by formal or informal agreement with the Department of Justice;

"(3) the Attorney General's assessment of each agreement between the Department of Justice and another agency affecting the litigation authority of the Department for particular categories of cases, including—

"(A) a description of any problems relating to such agreement;

"(B) the steps the Attorney General intends to take to remedy those problems; and

"(C) any legislative recommendations the Department of Justice may have to improve the coordination of legal activities between the Department of Justice and its client agencies; and

"(4) the efforts the Attorney General has undertaken in the preceding two years and the efforts the Attorney General expects to undertake during the forthcoming years to coordinate activities and resolve conflicts between the Department of Justice and other Federal agencies, and to increase the efficient and effective operation of Federal litigation resources.".

AMENDMENT TO SECTION 207 OF TITLE 18 OF THE UNITED STATES CODE

SEC. 3. Section 207 of title 18, United States Code, is amended—

(1) by striking out the dash at the end of paragraph (3) of subsection (c) and inserting in lieu thereof a semicolon and "or";

(2) by inserting immediately after paragraph (3) of subsection (c) the following new subsection:

"(d) Whoever, having been an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, knowingly accepts employment with a business or firm that has a grant or contract in effect, or had a grant or contract in effect within the last five years, with which the officer or employee was involved in any manner, including involvement in the design, preparation, review, award, audit, or evaluation of such grant or contract, and such employment involves personal participation by such officer or employee with respect to such grant or contract during the five-year period immediately following termination of Government employment—";

(3) by redesignating subsections (d) through (j) as subsections (e) through (k), respectively;

(4) in subsections (b) and (c), by striking out "as specified in subsection (d) of this section" and inserting in lieu thereof "as specified in subsection (e) of this section"; and

(5) in subsection (j), by striking out "subsection (a), (b), or (c) of this section" and inserting in lieu thereof "subsection (a), (b), (c), or (d) of this section".

DEPARTMENT OF JUSTICE REPORT ON FEDERAL CASE MANAGEMENT

SEC. 4. (a) The Attorney General shall prepare and submit to the Committees on the Judiciary of the Senate and House of Representatives a systems development plan for the activation and coordination, within the Department of Justice, of compatible, comprehensive case management information and tracking systems for each of the judicial districts of the United States as described in chapter 5 of title 28 of the United States Code and for each of the divisions of the Department of Justice.

(b) The plan shall—

(1) determine the functional, informational, and data service requirements of each of the legal divisions of the Department, the United States Attorneys Offices, and a representative sampling of key client agencies;

(2) from the requirements determined under paragraph (1), identify data that should be uniformly collected for purposes of inclusion in the systems, how such data should be defined for purposes of inclusion in and access to the systems;

(3) evaluate existing case management information and tracking systems to determine the responsiveness of such systems to the requirements determined under paragraphs (1) and (2);

(4) assess what data are required to be collected to improve the effectiveness and responsiveness of the existing systems and develop the policies and procedures for the collection and generation of such data;

(5) have as its goal, maximum service and data quality, retrievability, and utility to the users; and

(6) include a timetable for the implementation of such plan, and an assessment of the costs for implementation of such plan.

(c) There are authorized to be appropriated for the fiscal year ending September 30, 1981, $300,000 for the purposes of development and implementation of a systems development plan as described in this section.

STATUS OF CASES REFERRED TO THE DEPARTMENT OF JUSTICE

SEC. 5. (a) Until completion of the planned systems under section 4, the Attorney General shall include in his authorization request to the Committees on the Judiciary of the Senate and the House of Representatives a report on the status of cases referred to the Department of Justice by any Inspector General of an agency.

(b) The report required under subsection (a) shall include—

(1) the name of the referring agency and the agency program involved;

(2) a brief description of the nature of the case, including a citation of the alleged violation;

(3) the name of the division within the Department of Justice or the United States Attorney responsible for the handling of the case;

(4) the current status of the case, including any action taken with respect to the prosecution of the case, and if no action has been taken, an explanation of why such case was not prosecuted and any administrative action recommended; and

(5) the result of any court action, if any, including any sentence of imprisonment or fine imposed as a result of such court action and the amount of any restitution awarded, if any, and the amount, if any, collected.

(c)(1) Except as provided in paragraph (2), the file of any case described in subsection (a), with respect to which further action by the Department of Justice is terminated, shall be available for review by Members of the Committees on the Judiciary of the Senate and the House of Representatives, and the staff of such committees, after removal from such files of the names and identifiers of any sources or informants, if any, and all grand jury material under an obligation of secrecy required by Rule 6 (e) of the Federal Rules of Criminal Procedure.

(2) The provisions of paragraph (1) shall not apply to any case relating to national security.

S. 3141

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Public Contract Accountability Act of 1980".

ADVERTISEMENTS FOR PROPOSALS FOR PURCHASES AND CONTRACTS

SEC. 2. (a) Section 3709 of the Revised Statutes (41 U.S.C. 5) is amended by striking out "so certified, or (4) when the services are required to be performed by the contractor in person and are (A) of a technical and professional nature or (B) under government supervision and paid for on a time basis" and insert in lieu thereof "so certify".

(b) Section 302(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252(a); 63 Stat. 393) is amended—

(1) by striking out paragraphs (4) and (5);

(2) by redesignating paragraphs (6) through (9) as paragraphs (4) through (7), respectively;

(3) by striking out paragraphs (10) and (11); and

(4) by redesignating paragraphs (12) through (15) as paragraphs (8) through (11), respectively.

(c) Section 2304(a) of title 10 of the United States Code is amended—

(1) by striking out paragraphs (4) and (5);

(2) by redesignating paragraphs (6) through (10) as paragraphs (4) through (8), respectively;

(3) by striking out paragraph (11);

(4) by redesignating paragraphs (12) and (13) as paragraphs (9) and (10) respectively;

(5) by striking out paragraph (14); and

(6) by redesignating paragraphs (15), (16) and (17) as paragraphs (11), (12) and (13), respectively.

RESTRICTIONS AND CONDITIONS WITH RESPECT TO ADVANCE PAYMENTS

SEC. 3. (a) Section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255; 63 Stat. 396) is amended—

(1) in subsection (b), by striking out "the unpaid contract price" and inserting in lieu thereof "the unpaid contract price or, for a contract in an amount in excess of $100,000, two-thirds of the total contract price";

(2) by adding at the end thereof the following new subsection:

"(d)(1) Prior to making any progress payments under a contract in an amount in excess of $100,000 which would cause the total amount of progress payments made under such contract to exceed 65 percent of the contract price, the agency which is a party to the contract shall conduct an audit of the funds expended and the work performed under the contract. The agency shall examine the expenditure of funds to determine if the amount of funds expended is reasonable in relation to the work performed, and shall examine the work performed under the contract to determine if such work meets the specifications included in the contract and is satisfactory to the agency.

"(2) In the case of an agency in which there is an Inspector General, the Inspector General shall perform the audit required by this section. In the case of an agency in which there is not an Inspector General, the agency shall employ an independent auditor to carry out the audit required by this section.

"(3) Notwithstanding any other provision of law, an agency may not make any progress payments under a contract subject to paragraph (1) which would cause the total amount of progress payments made under such contract to exceed 65 percent of the contract price if the agency determines, as a result of the audit conducted under paragraph (1), that—

"(A) the expenditure of funds under the contract is unreasonable in relation to the work performed;

"(B) the work performed pursuant to the contract does not meet the contract specifications; or

"(C) the work performed pursuant to the contract is not satisfactory to the agency.".

(b) Section 2307 of title 10 of the United States Code is amended—

(1) in subsection (b), by striking out "the unpaid contract price" and inserting in lieu thereof "the unpaid contract price or, for a contract in an amount in excess of $100,000, two-thirds of the total contract price";

(2) in subsection (d), by striking out "Payments" and inserting in lieu thereof "Subject to the limitations provided under subsection (b), payments";

(3) by adding at the end thereof the following new subsection:

"(e)(1) Prior to making any progress payments under a contract in an amount in excess of $100,000 which would cause the total amount of progress payments made under such contract to exceed 65 percent of the contract price, the agency which is a party to the contract shall conduct an audit of the funds expended and the work performed under the contract. The agency shall examine the expenditure of funds to determine if the amount of funds expended is reasonable in relation to the work performed, and shall examine the work performed under the contract to determine if such work meets the specifications included in the contract and is satisfactory to the agency.

"(2) In the case of an agency in which there is an Inspector General, the Inspector General shall perform the audit required by this section. In the case of any agency in which there is not an Inspector General, the agency shall employ an independent auditor to carry out the audit required by this section.

"(3) Notwithstanding any other provision of law, an agency may not make any progress payments under a contract subject to paragraph (1) which would cause the total amount of progress payments made under such contract to exceed 65 percent of the contract price if the agency determines, as a result of the audit conducted under paragraph (1), that—

"(A) the expenditure of funds under the contract is unreasonable in relation to the work performed;

"(B) the work performed pursuant to the contract does not meet the contract specifications; or

"(C) the work performed pursuant to the contract is not satisfactory to the agency.".

(c) Section 2355 of title 10 of the United States Code is amended by striking out "Notwithstanding any law" and inserting in lieu thereof "Subject to section 2307(b) of this title and notwithstanding any law".

GENERAL LIMITATION ON CONTRACTS FOR SERVICES WHICH ARE READILY AVAILABLE WITHIN THE AGENCY

SEC. 4. (a)(1) Chapter 137 of title 10 of the United States Code is amended by adding immediately after section 2314 the following new section:

"§ 2315. Contracts for services readily available

"Notwithstanding any other provision of law, an agency may not enter into any contract for services unless, during the 30-day period prior to the date on which the agency intends to enter into the contract, the agency has conducted a survey within the agency and has determined that such services are not readily available within the agency.".

(2) The table of sections for such chapter is amended by adding at the end thereof the following new item:

"2315. Contracts for services readily available.".

(b)(1) The Federal Property and Administrative Services Act of 1949 (41 U.S.C. 471 et seq.) is amended by adding at the end of title III the following new section:

"CONTRACTS FOR SERVICES READILY AVAILABLE

"SEC. 311. Notwithstanding any other provision of law, an agency may not enter into any contract for services unless, during the 30-day period prior to the date on which the agency intends to enter into the contract, the agency has conducted a survey within the agency and has determined that such services are not readily available within the agency.".

(2) The table of contents for title III of such Act is amended by adding at the end thereof the following new item: "Sec. 311. Contracts for services readily available".●

ADDITIONAL COSPONSORS

S. 1078

At the request of Mr. Javits, the Senator from Connecticut (Mr. Ribicoff) and the Senator from Ohio (Mr. Metzenbaum) were added as cosponsors of S. 1078, a bill to amend the Internal Revenue Code of 1954 to provide for the taxation of artists' income and estates.

S. 2926

At the request of Mr. Tsongas, the Senator from Missouri (Mr. Danforth), the Senator from New York (Mr. Javits), the Senator from Utah (Mr. Garn), the Senator from Idaho (Mr. McClure), the Senator from Wyoming (Mr. Simpson), the Senator from Rhode Island (Mr. Pell), and the Senator from South Carolina (Mr. Hollings) were added as cosponsors of S. 2926, a bill to provide for an accelerated research, development, and demonstration program to achieve confirmation of the engineering feasibility of magnetic confinement fusion, and for other purposes.

S. 3007

At the request of Mr. Hollings, the Senator from Colorado (Mr. Hart) was added as a cosponsor of S. 3007, a bill entitled the "Methane Transportation Research, Development, and Demonstration Act of 1980."

AMENEDMENT NO. 2368

At the request of Mr. Cranston, the Senator from Wisconsin (Mr. Proxmire) was added as a cosponsor of amendment No. 2368 proposed to H.R. 4155, a bill to amend the Internal Revenue Code of 1954 to allow the Internal Revenue Service to disclose the mailing addresses of individuals who have defaulted on student loans made under the Migration and Refugee Assistance Act of 1962.

SENATE RESOLUTION 526—ORIGINAL RESOLUTION REPORTED TO WAIVE THE BUDGET ACT

Mr. WILLIAMS, from the Committee on Labor and Human Resources, reported the following original resolution; which was referred to the Committee on the Budget:

S. Res. 526

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2385. Such waiver is necessary to authorize training, employment, basic skill and vocational educational programs for youth.

SENATE RESOLUTION 527—ORIGINAL RESOLUTION REPORTED TO WAIVE THE BUDGET ACT

Mr. WILLIAMS, from the Committee on Labor and Human Resources, reported the following original resolution; which was referred to the Committee on the Budget:

S. Res. 527

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 7859. Such waiver is necessary to permit emergency assistance to Cuban and Haitian refugee children.

AMENDMENTS SUBMITTED FOR PRINTING

CRIMINAL CODE REFORM ACT

AMENDMENT NO. 2327

Mr. ROBERT C. BYRD submitted an amendment intended to be proposed by Mr. Kennedy (for himself, Mr. Hatch, and Mr. Thurmond) to the bill (S. 1772) to codify, revise, and reform title 18 of the United States Code, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I submit an amendment for Mr. Kennedy (for himself and others) which he intends to propose to S. 1772, the Criminal Code Reform Act.

I ask unanimous consent that a statement and other materials be printed in the Record.

There being no objection, the statement and material were ordered to be printed in the Record, as follows:

Statement of Senator Edward M. Kennedy

I am submitting an amendment to subchapter B of Chapter 32 of S. 1722 (relating to international extradition) developed over the past year in close cooperation with the Department of Justice and Department of State. The bill as reported made numerous improvements in current extradition law. Further study by those departments of the government most affected resulted in identification of additional improvements now presented for consideration by the Senate in this amendment. To summarize some of the changes proposed, the amendment would:

Require the Attorney General to serve as complainant in extradition matters, thereby eliminating the possibility of a foreign government (or someone acting for a foreign government) instituting unjustified extradition proceedings.

Permit an arrest warrant to be issued when the location of the fugitive is not known, thereby facilitating law enforcement authorities' efforts in locating international fugitives (including territories, et seq.).

Permit extradition proceedings to be commenced by means of a summons rather than an arrest warrant where the fugitive's location is known and flight is unlikely.

Set standards and conditions for the release of the alleged fugitive in any stage of the proceeding (not just prior to the extradition hearing).

Place responsibility for deciding whether extradition is sought for a "political offense" in the hands of the Secretary of State, thereby permitting this determination to be made in the same manner as asylum applications.

Permit fugitives to be temporarily extradited to the United States for trial or sentencing.

Authorize the Attorney General to make all arrangements to take custody of fugitives found extraditable to the United States by foreign countries.

To further assist my colleagues in evaluating the merits of this amendment, I ask that letters from Attorney General Civiletti and Deputy Secretary of State Christopher, as well as an extensive explanation of the amendment in the format used in the Judiciary Committee report on the bill, be inserted in the Record, together with the amendment.

Amendment No. 2373

On page 10, strike out all between lines 1 and 2 and insert the following:

"Sec.
"3211. Extradition Authority in General.
"3212. Initial Procedure.
"3213. Waiver of Extradition Hearing and Consent to Removal.
"3214. Extradition Hearing.
"3215. Appeal.
"3216. Surrender of a Person to a Foreign State.
"3217. Receipt of a Person from a Foreign State.
"3218. General Provisions for Subchapter B."

On page 220, beginning with line 39, strike out all through line 39 on page 227 and insert in lieu thereof the following:

"Subchapter B.—Extradition

"Sec.
"3211. Extradition Authority in General.
"3212. Initial Procedure.
"3213. Waiver of Extradition Hearing and Consent to Removal.
"3214. Extradition Hearing.
"3215. Appeal.
"3216. Surrender of a Person to a Foreign State.
"3217. Receipt of a Person from a Foreign State.
"3218. General Provisions for Subchapter B.

"§ 3211. Extradition Authority in General.

"The United States may extradite a person to a foreign state pursuant to this subchapter only if—

"(a) there is a treaty concerning extradition between the United States and the foreign state; and

"(b) the foreign state requests extradition within the terms of the applicable treaty.

"§ 3212. Initial procedure.

"(a) In General.—The Attorney General may file a complaint charging that a person is extraditable. The Attorney General shall file the complaint in the United States district court—

"(1) for the district in which the person may be found; or

"(2) for the District of Columbia, if the Attorney General does not know where the person may be found.

"(b) Complaint.—The complaint shall be made under oath or affirmation, and shall specify the offense for which extradition is sought. The complaint—

"(1) shall be accompanied by a copy of the request for extradition and by the evidence and documents required by the applicable treaty; or

"(2) if not accompanied by the materials specified in paragraph (1)—

"(A) shall contain—

"(i) information sufficient to identify the person sought;

"(ii) a statement of the essential facts constituting the offense that the person is believed to have committed, or a statement that an arrest warrant for the person is outstanding in the foreign state; and

"(iii) a description of the circumstances that justify the person's arrest; or

"(B) shall contain such other information as is required by the applicable treaty;

and shall be supplemented before the extradition hearing by the materials specified in paragraph (1).

"(c) Arrest or Summons.—Upon receipt of a complaint, the court shall issue a warrant for the arrest of the person sought, or, if the Attorney General so requests, a summons to the person to appear at an extradition hearing. The warrant or summons shall be executed in the manner prescribed by Rule 4(d) of the Federal Rules of Criminal Procedure. A person arrested pursuant to this section shall be taken without unnecessary delay before the nearest available court for an extradition hearing.

(d) Detention or Release of Arrested Person.—

"(1) The court shall order that a person arrested under this section be held in official detention pending the extradition hearing unless the person establishes to the satisfaction of the court that special circumstances require his release.

"(2) Unless otherwise provided by the applicable treaty, if a person is detained pursuant to paragraph (1) in a proceeding in which the complaint is filed under subsection (b)(2), and if, within sixty days of the person's arrest, the court has not received—

(A) the evidence or documents required by the applicable treaty; or

(B) notice that the evidence or documents have been received by the Department of State and will promptly be transmitted to the court;

the court may order that the person be released from official detention pending the extradition hearing.

"(3) If the court orders the release of the person pending the extradition hearing, it shall impose conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community.

"§ 3213. Waiver of extradition hearing and consent to removal

"(a) INFORMING THE COURT OF WAIVER AND CONSENT.—A person against whom a complaint is filed may waive the requirements of formal extradition proceedings, including an order of surrender, by informing the court that he consents to removal to the foreign state.

"(b) INQUIRY BY THE COURT.—The court, upon being informed of the person's consent to removal, shall—

"(1) inform the person that he has a right to consult with counsel and that, if he is financially unable to obtain counsel, counsel may be appointed to represent him pursuant to section 3401; and

"(2) address the person to determine whether his consent is—

"(A) voluntary, and not the result of a threat or other improper inducement; and

"(B) given with full knowledge of its consequences, including the fact that it may not be revoked after the court has accepted it.

"(c) FINDING OF CONSENT AND ORDER OF REMOVAL.—If the court finds that the person's consent to removal is voluntary and given with full knowledge of its consequences, it shall, unless the Attorney General notifies the court that the foreign state or the United States objects to such removal, order the surrender of the person to the custody of a duly appointed agent of the foreign state requesting extradition. The court shall order that the person be held in official detention until surrendered.

"(d) LIMITATION ON DETENTION PENDING REMOVAL.—A person who the court orders surrendered pursuant to subsection (c) may, upon reasonable notice to the Secretary of State, petition the court for release from official detention if, excluding any time during which removal is delayed by judicial proceedings, the person is not removed from the United States within thirty days after the court ordered the person's surrender. The court may grant the petition unless the Secretary of State, through the Attorney General, shows good cause why the petition should not be granted.

"(a) IN GENERAL.—The court shall hold a hearing to determine whether the person against whom a complaint is filed is extraditable, unless the hearing is waived pursuant to section 3213. The purpose of the hearing is limited; the court does not have jurisdiction to determine the merits of the charge against the person by the foreign state, and does not have jurisdiction to determine whether the foreign state is seeking the extradition of the person for a political offense or an offense of a political character, or for the purpose of prosecuting or punishing the person for his political opinions. The hearing shall be held as soon as practicable after the arrest of the person or issuance of the summons.

"(b) RIGHTS OF THE PERSON SOUGHT.—The court shall inform the person of the limited purpose of the hearing, and shall inform him that—

"(1) he has the right to be represented by counsel and that, if he is financially unable to obtain counsel, counsel may be appointed to represent him pursuant to section 3401; and

"(2) he may cross-examine witnesses who appear against him and may introduce evidence in his own behalf with respect to the matters set forth in subsection (d).

"(c) EVIDENCE.—

"(1) A deposition, warrant, or other document, or a copy thereof, is admissible in evidence in the hearing if—

"(A) it is authenticated in accordance with the provisions of an applicable treaty or law of the United States;

"(B) it is authenticated in accordance with the applicable law of the foreign state, and such authentication may be established conclusively by a showing that—

"(i) a judge, magistrate, or other appropriate officer of the foreign state has signed a certification to that effect; and

"(ii) a diplomatic or consular officer of the United States who is assigned or accredited to the foreign state, or a diplomatic or consular officer of the foreign state who is assigned or accredited to the United States, has certified the signature and position of the judge, magistrate, or other officer, or

"(C) other evidence is sufficient to enable the court to conclude that the document is authentic.

"(2) A certificate or affidavit by an appropriate official of the Department of State is admissible as evidence of the existence of a treaty or its interpretation.

"(3) If the applicable treaty requires that such evidence be presented on behalf of the foreign state as would justify ordering a trial of the person if the offense had been committed in the United States, the requirement is satisfied if the evidence establishes probable cause to believe that an offense was committed and that the person sought committed it.

"(d) FINDINGS.—The court shall find that the person is extraditable if it finds that—

"(1) there is probable cause to believe that the person arrested or summoned to appear is the person sought in the foreign state;

"(2) the evidence presented is sufficient to support the complaint under the provisions of the applicable treaty;

"(3) no defense to extradition specified in the applicable treaty, and within the jurisdiction of the court, exists; and

"(4) the act upon which the request for extradition is based would constitute an offense punishable under the laws of:

"(A) the United States;

"(B) the State where the fugitive is found; or

"(C) a majority of the States.

The court may base a finding that a person is extraditable upon evidence consisting, in whole or in part, of hearsay or of properly certified documents.

"(e) CERTIFICATION OF FINDINGS TO THE SECRETARY OF STATE.—

"(1) If the court finds that the person is extraditable, it shall state the reasons for its findings as to each charge or conviction, and certify its findings, together with a transcript of the proceedings, to the Secretary of State. The court shall order that the person be held in official detention until surrendered to a duly appointed agent of the foreign state, or until the Secretary of State declines to order the person's surrender.

"(2) If the court finds that the person is not extraditable, it shall state the reasons for its findings as to each charge or conviction, and certify the findings, together with such report as the court considers appropriate, to the Secretary of State. The Attorney General may commence a new action for extradition of the person only with the agreement of the Secretary of State.

"§ 3215. Appeal.

"(a) IN GENERAL.—Either party may appeal, to the appropriate United States court of appeals, the finding by the district court on a complaint for extradition. The appeal shall be taken in the manner prescribed by Rules 3 and 4(b) of the Federal Rules of Appellate Procedure, and shall be heard as soon as practicable after the filing of the notice of appeal. Pending determination of the appeal, the district court shall stay the extradition of a person found extraditable.

"(b) DETENTION OR RELEASE PENDING APPEAL.—If the district court found that the person sought is—

"(1) extraditable, it shall order that the person be held in official detention pending determination of the appeal, or pending a finding by the court of appeals that the person has established that special circumstances require his release;

"(2) not extraditable, it may order that the person be released pending determination of an appeal unless the Attorney General establishes to its satisfaction that the person is likely to flee or to endanger the safety of any other person or the community.

If the court orders the release of a person pending determination of an appeal, it shall impose conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community.

"(c) SUBSEQUENT REVIEW.—No court has jurisdiction to review a finding that a person is extraditable unless the person has exhausted his remedies under subsection (a). If the person files a petition for habeas corpus or for other review, he shall specify whether the finding that he is extraditable has been upheld by a court, and, if so, shall specify the court, the date, and the nature of each such proceeding. A court does not have jurisdiction to entertain a person's petition for habeas corpus or for other review if his commitment has previously been upheld, unless the court finds that the grounds for the petition or appeal could not previously have been presented.

"§ 3216. Surrender of a person to a foreign state.

"(a) RESPONSIBILITY OF THE SECRETARY OF STATE.—If a person is found extraditable pursuant to section 3214, the Secretary of State, upon consideration of the provisions of the applicable treaty and this subchapter, may—

"(1) order the surrender of the person to the custody of a duly appointed agent of the foreign state requesting extradition;

"(2) order such surrender of the person contingent on the acceptance by the foreign state of such conditions as the Secretary considers necessary to effectuate the purposes of the treaty or the interest of justice; or

"(3) decline to order the surrender of the person if the Secretary is persuaded, by written evidence and argument submitted to him by the person sought, that the foreign state is seeking the person's extradition for a political offense or an offense of a political character, or for the purpose of prosecuting or punishing the person for his political opinions.

The Secretary may order the surrender of a person who is a national of the United States unless such surrender is expressly forbidden by the applicable treaty or by the laws of the United States.

"(b) NOTICE OF DECISION.—The Secretary of State, upon ordering a person's surrender or denying a request for extradition in whole or in part, shall notify the person sought, the diplomatic representative of the foreign state, the Attorney General, and the court that found the person extraditable. If the

Secretary orders the person's surrender, he also shall notify the diplomatic representative of the foreign state of the time limitation on the person's detention that is provided by subsection (c) (2).

"(c) Limitation on Detention Pending Decision or Removal.—A person who is found extraditable pursuant to section 3214 may, upon reasonable notice to the Secretary of State, petition the court for release from official detention if, excluding any time during which removal is delayed by judicial proceedings—

"(1) the Secretary does not order the person's surrender, or decline to order the person's surrender, within forty-five days after his receipt of the court's findings and the transcript of the proceedings; or

"(2) the person is not removed from the United States within thirty days after the Secretary ordered the person's surrender.

The court may grant the petition unless the Secretary of State, through the Attorney General, shows good cause why the petition should not be granted.

"§ 3217. Receipt of a person from a foreign State.

"(a) Appointment and Authority of Receiving Agent.—The Attorney General shall appoint an agent to receive, from a foreign state, custody of a person accused of a federal, State, or local offense. The agent shall have the authority of a United States Marshal. The agent shall convey the person directly to the federal or State jurisdiction that sought his return.

"(b) Temporary Extradition to the United States.—If a foreign state delivers custody of a person accused of a federal, State, or local offense to an agent of the United States on the condition that the person be returned to the foreign state at the conclusion of criminal proceedings in the United States, the Bureau of Prisons shall hold the person in custody pending the conclusion of the proceedings, and shall then surrender the person to a duly appointed agent of the foreign state. The return of the person to the foreign state is not subject to the requirements of this subchapter.

"§ 3218. General provisions for subchapter B.

"(a) Definitions.—As used in this subchapter—

"(1) 'warrant', as used with reference to a foreign state, means any judicial document authorizing the arrest or detention of a person accused or convicted of a crime;

"(2) 'court' means—

"(A) a United States district court established pursuant to 28 U.S.C. 132, the District Court of Guam, the District Court of the Virgin Islands, or the District Court for the Northern Mariana Islands; or

"(B) a United States magistrate authorized to conduct an extradition proceeding;

"(3) 'foreign state', when used in other than a geographic sense, means the government of a foreign state;

"(4) 'foreign state', when used in a geographic sense, includes all territory under the jurisdiction of a foreign state, including a colony, dependency, and constituent part of the state; its air space and territorial waters; and vessels or aircraft registered in the state;

"(5) 'treaty' includes a treaty, convention, or international agreement, bilateral or multilateral, that is in force after advice and consent by the Senate.

"(b) Payment of Fees and Costs.—Unless otherwise specified by treaty, all transportation costs, subsistence expenses, and translation costs incurred in connection with the extradition or return of a person at the request of—

"(1) a foreign state, shall be borne by the foreign state unless the Secretary of State directs otherwise;

"(2) a State, shall be borne by the State; and

"(3) the United States, shall be borne by the United States.".

Office of the Attorney General,
Washington, D.C., July 1, 1980.

Hon. Edward M. Kennedy,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

Dear Senator Kennedy: This letter is in response to your letter of June 4, 1980, requesting the views of the Department of Justice on the proposed amendment to S. 1722 designed to modernize and improve United States extradition laws. It is our understanding that this amendment, developed jointly by the staffs of the Committee, the Department of Justice and the Department of State, will be introduced during the floor consideration of S. 1722 in the near future. The Department of Justice strongly supports this amendment.

The present United States extradition statutes were enacted in the 1840's and 1880's. They have not been materially changed since their enactment. They were designed to cope with international extradition problems in the world of the horse and buggy and the steamship, not in the world of commercial jet air transportation and high-speed telecommunications.

The present extradition provisions in S. 1722, which were originally drafted more than five years ago, made significant strides toward tailoring United States extradition laws to today's world. These improvements in the present S. 1722 provisions, such as providing for direct appeal from findings for or against extraditability and an expedited procedure for the removal of fugitives wishing to waive formal extradition proceedings, have been carried forward into the proposed amendment to S. 1722.

In the past five years, however, there have been three major developments in the area of extradition which should be reflected in the extradition subchapter of the new Code. First, during that period, new extradition treaties with sixteen countries either have entered into force, have been negotiated, or are in the process of being negotiated. Some of the newer treaties contain provisions which require implementing legislation not contemplated when the present S. 1722 provisions were drafted.

Second, numerous court decisions materially affecting extradition and many of the provisions of the present S. 1722 have been handed down since 1975. The impact of these decisions has been taken into account in the proposed amendment.

Third, there has been a tremendous increase in the number of extradition requests by foreign countries and by the United States and the individual states over that period which has increased the importance of developing a streamlined system of laws and procedures to handle them. For example, in the late 1960's and early 1970's extradition requests were being received at the rate of approximately twenty per year. Today, they are being received at the rate of more than 250 per year and the number of fugitives whose extradition is being sought is running at the rate of more than 350 per year.

These developments required a complete reexamination of the present S. 1722 provisions by the staffs of your Committee, the Department of Justice and the Department of State. This reexamination, which only recently has been completed, resulted in the proposed amendment to the extradition provisions of S. 1722. We believe this amendment will complete the task of converting our present horse-and-buggy era extradition laws into ones capable of effectively dealing with international fugitives in today's world. For that reason, we believe it is important that it be adopted.

Yours truly,

Benjamin R. Civiletti,
Attorney General.

The Deputy Secretary of State,
Washington, D.C., July 2, 1980.

Hon. Edward M. Kennedy,
Chairman, Committee on the Judiciary,
U.S. Senate.

Dear Mr. Chairman: I have been asked by Secretary Muskie to convey, in response to your letter to him of June 4, the views of the Department of State on a proposed amendment to S. 1722 relating to international extradition. As Deputy Secretary, I have been delegated authority to act for the Secretary of State on matters involving extradition to and from the United States.

Your letter notes that the proposed amendment has been jointly worked out by the staffs of your Committee, the Department of Justice and the Department of State. I have been following these efforts to modernize and improve United States extradition law, and I approve of the results. Those efforts have drawn heavily on court decisions and recent treaty developments, as well as on practical experience with the ever-increasing number of extradition cases.

The Department of State is particularly pleased with the provisions of the bill which provide more effective federal control over filing of extradition requests in this country (section 3212); which, for the first time, permit appeal from a district court's decision on an extradition request (section 3215); and which place in the Secretary of State the determination whether extradition should be refused on political offense grounds (section 3216(a) (3)). Taken together, these provisions should reduce the risk of adverse foreign policy consequences which flow from extradition either improperly initiated or improperly refused. At the same time, every effort has been made to preserve the protection of individual rights.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely,

Warren Christopher.

Subchapter B—Extradition

(SECTIONS 3211–3218)

1. In General:

This subchapter deals with the subject of international extradition, which is the process by which a person located in one nation is arrested and turned over to another nation for trial or punishment. Sections 3211–3216 deal primarily with requests made to the United States by foreign governments, and set forth the procedure for determining whether a person located in this country should be delivered up to a foreign power. Section 3217 deals with the return of a fugitive extradited to the United States from a foreign nation. Section 3218 contains definitions and a provision on payment of the expenses incident to extradition. The proposed subchapter replaces 18 U.S.C. 3181 and 3184–3195.[1]

The provisions of the proposed subchapter substantially alter the present statutory law, and the provisions originally reported by the Committee, for several reasons.

First, many of the statutes on extradition have been in force without major alteration since 1882. Several have not been significantly changed since 1848. These antiquated provisions have proven increasingly inadequate in dealing with the modern problems in the international control of crime.

Second, there has been a marked increase in the number of extradition requests received and made by the United States in the four years since the drafting of the extradition subchapter reported by the Committee. Those requests have revealed problems in the extradition process which were not anticipated when the reported subchapter was drafted. Moreover, these requests have

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Footnotes at end of article.

generated a number of published court decisions on constitutional and legal issues involved in international extradition. The judicial interpretation of the law contained in these court decisions fills important gaps in the present statutory law, and should be reflected in any new extradition legislation.

Third, the United States has concluded new extradition treaties with many foreign countries in the past few years. The language of the present law, and of the reported subchapter on extradition, is not adequate to fully implement some of the provisions of the newer treaties, and therefore would impede fulfillment by the United States of its international obligations.

SECTION 3211: EXTRADITION AUTHORITY IN GENERAL

1. Present Federal law:

18 U.S.C. 3181 states that the present federal laws authorizing the extradition of persons from the United States shall continue in force only if there is a treaty in force with the foreign nation requesting extradition. 18 U.S.C. 3184 requires that an extradition treaty be in force before any court can conclude that a person may lawfully be extradited to the foreign country involved.[2] These provisions, read together, permit the United States to surrender a person to a foreign country only in accordance with an applicable treaty in force between the United States and the foreign country involved.[3] This principle has become a settled aspect of the United States practice in international extradition.

2. Provisions of the Proposed Subchapter:

Section 3211 of the proposed subchapter on extradition carries forward the basic principle of the present law. The provision specifies that the United States may extradite a person in this country pursuant to the subchapter only if there is a treaty concerning extradition in force with the country requesting extradition, and only if the request falls within the terms of that treaty. This section refers to a treaty "concerning extradition" rather than an "extradition treaty" because an obligation to extradite a particular class of offenders is sometimes included in international agreements other than extradition treaties.[4] However, the limitation established by this section applies only to the surrender of fugitives pursuant to the subchapter, and does not apply to any other legal process which may result in a person facing trial or punishment in another country. Thus, the surrender of a United States serviceman to foreign authorities for trial in accordance with the reciprocal criminal jurisdiction provisions of a Status of Forces Agreement,[5] or the deportation of an alien who happens to face criminal charges abroad,[6] remain governed by the treaty provisions and statutes relating to those processes, and not by this subchapter.

Section 3211 of the proposed subchapter is essentially identical to section 3211(a) in S. 1722, as reported. Section 3211(b) in S. 1722, as reported, which required that the legal provisions relating to the surrender of persons "shall continue in force only during the existence in force of a treaty [on extradition]", does not appear in the proposed subchapter because the concept is adequately covered by the language in proposed section 3211. The other portions of section 3211 in S. 1722 have been rewritten somewhat and moved to other locations in the proposed subchapter. Thus, the essence of section 3211 (c) in S. 1722 is located in section 3216(a) (2) of the proposed subchapter, and the essence of section 3211(d) in S. 1722 can be found in section 3216(a) of the proposed subchapter.

SECTION 3212: INITIAL PROCEDURE

This section sets forth the steps to be followed in instituting court proceedings necessary for extradition.

1. Present Federal Law:

Extradition proceedings under 18 U.S.C. 3184 commence when a complaint is filed, under oath, charging that a person has committed, within the jurisdiction of a foreign government, any of the crimes for which extradition is provided under the treaty on extradition in force between the United States and that foreign government. There is no requirement under present law that a formal diplomatic request for extradition be made before the complaint is filed.

18 U.S.C. 3184 permits any federal judge or justice, or duly authorized federal magistrate, or any judge of a state court of record of general jurisdiction to receive complaints and issue warrants of arrest in international extradition matters. In practice, however, such cases are almost invariably filed in the federal courts.

The present statutory scheme does not specify who may file complaints in extradition matters. The rule developed by the courts appears to be that any person acting under the authority of the demanding government may file a complaint for extradition.[7] Thus, international extradition cases have been instituted by foreign diplomatic or consular representatives,[8] foreign police officers,[9] and even private citizens who claim to be acting on behalf of a foreign government.[10] This situation has required the courts to determine, in each case, whether the person filing the complaint is "authorized" to act on behalf of the foreign government.[11] However, in recent years, the United States Department of Justice has become the complainant in the overwhelming majority of extradition cases. The Department of Justice takes this action either pursuant to provisions in the applicable extradition treaty requiring the government of the requested state to provide assistance to the government seeking extradition,[12] or pursuant to informal international agreement for reciprocal legal representation.

The complaint must be filed in a federal or state court in whose jurisdiction the fugitive may be found. Unfortunately, in many cases the international fugitive's location in the United States is unknown. Therefore, no complaint can be filed and no arrest warrant can be issued. The ability of United States law enforcement agencies to locate and apprehend international fugitives is greatly hampered by the lack of an outstanding arrest warrant or other judicial process in such cases.[13]

The present statutory scheme contains no provision for the release of an alleged fugitive on bail pending the extradition hearing.[14] However, the courts have claimed the inherent right to release an alleged fugitive on bail pending the extradition hearing in cases where "special circumstances" require such release.[15]

2. Provisions of the Proposed Subchapter:

Subsection (a) permits the Attorney General to file a complaint charging that a fugitive is extraditable in the United States District Court for the district in which the fugitive may be found. The subsection also permits a complaint to be filed in the United States District Court for the District of Columbia if the fugitive's location is not known. Under this provision, a complaint could be filed, and an arrest warrant issued, when the whereabouts of the fugitive in the United States are still being ascertained, or when it is believed that the fugitive has not yet entered the United States but may be about to do so. The word "found" is intended to have its usual, non-technical meaning, and permits extradition proceedings to be initiated in any district in which the fugitive can be physically apprehended, without regard to the manner in which the fugitive entered the district.[16]

Subsection (b) prescribes the contents of a complaint for extradition. Since all United States extradition treaties specify the documents and quantum of evidence necessary for surrender, subsection (b)(1) states that an extradition complaint is sufficient if it is accompanied by the evidence specified in the treaty and a copy of the formal request for extradition. Subsection (b)(2) deals with the documentation necessary to support a "provisional arrest," the process by which a fugitive from justice is arrested to prevent further flight while the foreign government seeking extradition assembles the necessary documents and evidence.[17] Subsection (b)(2) (A) provides that a complaint will support an arrest under subsection (c) if it contains information sufficient to identify the fugitive, explains the circumstances necessitating provisional arrest, and either indicates that a warrant for the fugitive's arrest is outstanding in the foreign state,[18] or outlines the essential facts indicating that an extraditable crime has been committed and that the fugitive committed it. Since many of the extradition treaties contain articles which expressly set out requirements for obtaining the arrest of fugitives, subsection (b) (2)(B) permits the complaint to be filed if it contains the information required by the provisions of the applicable treaty.

Subsection (c) obliges the court to issue a warrant for the arrest of the fugitive upon receipt of the complaint unless the Attorney General requests that a summons to appear at the extradition hearing be issued instead. The subsection requires that the warrant of arrest be executed in accordance with Rule 4(d) of the Federal Rules of Criminal Procedure. This means that the warrant may be executed anywhere in the United States in the same manner as an ordinary federal warrant of arrest.

The subsection also requires that the person arrested be taken without unnecessary delay before the nearest available federal court[19] for an extradition hearing. The language is similar to that of Rule 5 of the Federal Rules or Criminal Procedure, and is intended to insure that the person arrested under this section is speedily informed by a judicial officer of the reason for the arrest and of his rights to counsel, to cross-examine witnesses, and to introduce evidence on his behalf. It is not intended to require the dismissal of extradition proceedings solely on the ground that the fugitive arrested for extradition was taken without unnecessary delay before a judge or magistrate later determined not to be the "nearest" one. There is no requirement that the extradition hearing take place in the state in which the fugitive is found,[20] so long as there has been compliance with the provisions of this subchapter.

Subsection (d)(1) provides that a fugitive arrested for extradition may be released on bail pending the extradition hearing only if he can demonstrate that "special circumstances" warrant his release. The provision continues the approach which has been followed by United States courts[21] in setting the standards for release on bail pending an extradition hearing considerably higher than the standards for release on bail pending trial on federal charges in the United States. This approach is necessary to assure that the United States continues to carry out its treaty obligation to surrender extraditable fugitives. It is anticipated that the courts will find the "special circumstances" test satisfied "only in the most pressing circumstances and only when the requirements of justice are absolutely peremptory."[22] Such special circumstances might be found, for instance, where the incarceration of the fugitive would seriously damage his health,[23] or would endanger the welfare of a third party who is wholly dependent upon the fugitive for care.[24] It is anticipated that these circumstances would rarely be encountered.

Subsection (d)(3) provides that even if special circumstances are found, the release of the fugitive shall be permitted only upon

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Footnotes at end of article.

such conditions as will reasonably assure his appearance at future proceedings, and assure the safety of other persons and the community. Such conditions might include surrender by the fugitive of any passport or travel documents, posting of a substantial bond, and the requirement that the fugitive maintain contact with appropriate federal agencies, such as the United States Marshals Service.

Subsection (d) (2) gives the court the discretion to release the fugitive provisionally arrested pursuant to this section if the evidence or documents required by the applicable treaty are not received within sixty days of the arrest (unless a longer period of detention is specified in the applicable treaty). The subsection resolves an ambiguity perceived by the courts with respect to the commencement and conclusion of the time period for provisional arrest by providing that this period should be calculated from the date on which the fugitive is taken into custody for extradition [25] to the date on which the documents are received by either the court or the Department of State.[26] If the court is notified that the documents have been received by the Department of State by the expiration of the 60-day period, the court is directed to defer release of the fugitive for a reasonable time pending the prompt transmission of the documents to the court by the Department of State. If a court does release the fugitive from custody due to the nonreceipt of the documents within the applicable time period, subsection (d) (3) requires that the court frame conditions of release reasonably calculated to assure that person's appearance for future proceedings and the safety of other persons and the community. Release of the fugitive under subsection (d) does not terminate the proceedings, which can resume once appropriate documentation arrives.[27]

This section does not carry forward 18 U.S.C. 3184's little used authorization for extradition proceedings to be commenced before state judges. The section also specifies that extradition proceedings must be initiated by the Attorney General, rather than by a foreign government or one acting on behalf of a foreign government.[28] These changes reflect the fact that international extradition is strictly a function of the federal government [29] and determining when and how to perform that function is properly the business of federal officials and federal courts.

Section 3212 of the proposed subchapter contains many of the same concepts found in section 3212 (a) through (c) of S. 1722, as reported. However, the proposed subchapter differs from S. 1722, as reported, in the following respects:

(1) Section 3212 of S. 1722, as reported, permits the Department of Justice to initiate extradition proceedings only "pursuant to the provisions of an applicable treaty or other international agreement or at the request of the demanding government." The proposed subchapter expands the authority of the Department of Justice to all extradition proceedings in the United States. It is the view of the Department of Justice and the Department of State that the United States Government has a sufficient interest in the vigorous enforcement of the laws (including the extradition law and treaties) to justify the participation of its legal counsel, the Department of Justice, in all court proceedings aimed at determining whether extradition can take place. Indeed, this is the approach which has been adopted in most foreign countries, many of which do not permit the United States to argue in court during proceedings in connection with a United States extradition request.

(2) S. 1722, as reported, expressly permits a complaint for extradition to be filed by "persons authorized by an appropriate official of the demanding government to act on behalf of that government." This language does not appear in the proposed subchapter, which directs the Department of Justice to act as complainant in extradition matters. Thus, the proposed subchapter frees United States courts from any need to determine whether a private person is "authorized" by an "appropriate" foreign authority to initiate extradition proceedings. It should also significantly reduce the likelihood of extradition proceedings being used by private individuals as a tool for harassment, debt collection, or other improper purposes.

(3) Section 3212(a) in S. 1722, as reported, requires that the extradition complaint be accompanied by "an acknowledgement from the Department of State of the diplomatic note requesting extradition." This requirement has been omitted from the revised subchapter as unnecessary.[30] The same subchapter of S. 1722, as reported, requires that an extradition complaint be accompanied by a copy of the applicable treaty. This requirement has been deleted from the proposed subchapter because it is unnecessary, since the courts have adequate access through legal libraries to the extradition treaties in force.

(4) Section 3212(a) (3) in S. 1722, as reported, states that a fugitive arrested for extradition can be taken either to the court issuing the warrant or arrest or the nearest federal district court for the extradition hearing. The proposed subchapter requires that the hearing be held by the nearest available federal court, thereby eliminating a potential source of unfairness and delay.

(5) Section 3212(c) (2) in S. 1722, as reported, permits a person provisionally arrested for extradition to remain in custody awaiting presentation of the necessary documents "for the period, if any, specified in the applicable treaty or other international agreement, or for 90 days, whichever is less." The proposed subchapter reduces the maximum period of detention to 60 days "unless otherwise provided by the applicable treaty." The proposed subchapter's shorter period of time for detention after provisional arrest is more consistent with the actual language of the extradition treaties than the time period in S. 1722, as reported.

(6) Section 3212(c) (2) in S. 1722, as reported, provides that the fugitive who was provisionally arrested can be released on bail only if "unusual cause" is shown, and section 3212(c) (1) in the bill, as reported, requires that a fugitive who is not provisionally arrested show "good cause" before release on bail is permitted. The proposed subchapter follows present case law by using the "special circumstances" test as a guide for release regardless of whether provisional arrest was obtained.[31]

SECTION 3213: WAIVER OF EXTRADITION HEARING AND CONSENT TO REMOVAL

1. Present Federal Law:

Present Federal law provides no specific procedure by which a person arrested for extradition may waive the formalities and voluntarily return to the foreign country requesting surrender. This is especially unfortunate since a significant number of the fugitives arrested under 18 U.S.C. 3184 choose not to challenge the request for extradition and wish to expedite removal to the foreign country. Moreover, many of the newer extradition treaties to which the United States is a party contain provisions obligating the requested state to expedite the return of a fugitive who has waived a hearing or other procedures.[32]

2. Provisions of the Proposed Subchapter:

Section 3213 of the proposed extradition subchapter clarifies the method by which the fugitive who does not contest extradition can expedite his surrender. The provisions of this section are based on federal statutory provisions governing a closely analogous situation: the verification of a prisoner's voluntary consent to transfer to his country of nationality under treaties on the execution of penal sanction.[33] The subsection states that the court which would have handled the extradition proceedings shall verify that the fugitive's consent to be removed to a foreign country has been given voluntarily and with full knowledge of the consequences. It also provides that the fugitive shall be informed of his right to consult with counsel before making a decision in the matter.

Under some circumstances, the foreign government may not be willing to accept custody of a fugitive who has offered to waive extradition.[34] There also may be situations in which the United States Government would consider waiver inappropriate.[35] Therefore, the provision does not permit removal of the fugitive if the Attorney General notifies the court that the United States or the foreign state objects to the proposed waiver.

Section 3214 in S. 1722, as reported, also would amend present law by offering an opportunity for the person arrested for extradition to a foreign country to waive the requirements of formal extradition proceedings. However, section 3214 in S. 1722 differs from section 3213 of the proposed subchapter on extradition in several respects. For example, section 3214 of S. 1722 requires that the person arrested irrevocably waive "all rights guaranteed by the applicable treaty . . . and by this subchapter" in order to dispense with the requirements of an extradition hearing and the issuance of a warrant of surrender by the Secretary of State.[36] The revised extradition subchapter permits the person arrested to waive only the necessity for a hearing and order of surrender, leaving intact any other right available to him under the applicable treaty. Section 3214 in S. 1722 also requires that the foreign state involved take custody of the person within fifteen days of the waiver, and contains no provision for the foreign government involved to show any "good cause" it may have for being unable to remove the fugitive within this deadline, or that removal of a fugitive was frustrated by the fugitive's own actions. Under the revised subchapter, the person waiving extradition and the person ordered extradited by the Secretary of State are placed on the same footing.[37] The revised section also specifies, unlike current law or S. 1722, as reported, the right of the United States to refuse to consent to waiver by the fugitive,[38] and the right of the fugitive to consult counsel and to have counsel appointed for him if he is unable to afford counsel.

SECTION 3214: EXTRADITION HEARING

1. Present Federal Law:

Under 18 U.S.C. 3184, an alleged fugitive is entitled to a hearing at which a judicial officer determines whether extradition is lawful. 18 U.S.C. 3189 specifies that the hearing must be held "on land, publicly, and in a room or office easily accessible to the public."

At the extradition hearing, the judicial officer must determine whether the offense for which extradition is sought falls within the terms of the treaty. He must also determine whether the acts for which the fugitive is sought by the foreign country would constitute a crime had they been committed in this country. This rule, known as "dual criminality" or "double criminality," is generally considered a basic principle of international extradition law,[39] and is expressly required by many of the extradition treaties to which the United States is a party.[40] The courts have held that the double criminality requirement is satisfied whenever the acts which the fugitive is charged with having committed in the foreign country would be punishable under federal law, the law of the state where the fugitive is found, or the laws of a majority of the states, had those acts been committed in this country.[41]

A judicial officer must also determine whether there is sufficient proof that an extraditable offense in fact has been committed. Most of the treaties to which the United States is a party require that an extradition request be supported by "such evidence of criminality as, according to the laws of the place where the fugitive shall be found, would justify his commitment for trial had the crime or offense been there committed." Many years ago, the courts viewed the words "place where the fugitive shall be found" as requiring the federal court to determine if the foreign government's evidence is sufficient to justify a trial under the state laws of the state in which the fugitive is apprehended.[42]

This approach was a reasonable one eight decades ago, because at that time federal courts had no uniform rules of criminal procedure and routinely followed the procedural rules of the courts of the state in which they were located. However, the adoption of the Federal Rules of Criminal Procedure has made it generally unnecessary for federal courts to refer to state law in these matters.[43] Moreover, extradition is a national act,[44] and the quantum of evidence necessary for extradition is precisely the kind of issue which should be determined by uniform national law, rather than by various state laws. For these reasons, all of the more recent extradition treaties contain language essentially requiring that the federal law standard of commitment for trial—probable cause—be applied in weighing the sufficiency of the evidence for international extradition.[45]

The Federal Rules of Evidence do not apply in extradition proceedings,[46] where unique rules of wide latitude govern the reception of evidence on behalf of the foreign government.[47] It is settled law that hearsay is admissible, and the foreign government usually presents its case by submitting affidavits, depositions and other written statements in order to satisfy the requirements of the applicable treaty.[48]

Eighteen U.S.C. 3190 provides that originals or copies of depositions, warrants, or other papers are admissible in evidence at the extradition hearing if authenticated so as to be admissible for similar purposes according to the laws of the requesting country. The statute also provides that the certificate of the principle diplomatic or consular officer of the United States resident in the requesting country shall be proof that the documents are authenticated in the manner required. In essence, the documents need only be genuine and authentic—requirements that are deemed fulfilled once it is shown that under similar circumstances the requesting country's own courts would accept them as authentic.

The courts have held that extradition documents bearing a certificate which is couched in language of 18 U.S.C. 3190, and signed by one of the specified officials, are conclusively admissible.[49] As a result of these decisions, foreign governments routinely submit the documentation in support of extradition requests to the appropriate United States Embassy abroad for certification and transmission to the United States. This practice imposes undesirable burdens on the United States Foreign Service officers who must fill out the certification.[50]

The present statutory scheme offers little guidance with respect to the evidence which can be introduced on behalf of the alleged fugitive in an extradition hearing. Many cases emphasize that whether such evidence should be admitted is a decision for the court, in its discretion, to make.[51]

The alleged fugitive is ordinarily permitted to testify on his own behalf[52] or to have witnesses testify for him.[53] However, it is clear from the case law that the alleged fugitive may offer to explain ambiguities in the evidence submitted against him, but may not offer evidence which merely contradicts that submitted by the requesting country, or which poses a question of credibility, or which raises an affirmative defense to conviction on the charges, or which is incompetent by the terms of the extradition treaty under which surrender is sought.[54] This restrictive approach is appropriate because the issue before the court at an extradition hearing is probable cause, not the ultimate guilt or innocence of the accused.

Finally, the judicial officer must determine whether the treaty contains a defense to extradition which would preclude surrender in the case before him. Extradition treaties frequently bar surrender if a statute of limitations has foreclosed prosecution or punishment for the offense in question,[55] or if the fugitive has been tried or punished in the requested state for the same offense,[56] or if any of several other legal considerations are present.

Virtually every extradition treaty contains a provision barring extradition for a political offense, and many treaties also preclude extradition if the requesting country has political motives for seeking the return of the fugitive. Under the present case law, the courts decide whether the crime for which extradition has been requested is a political offense,[57] but traditionally have declined to consider whether the requesting country's motives in seeking extradition are political.[58] Since these issues are usually intertwined, the result under the current case law has been that the court decides the applicability of the "political offense" exception in some cases, and the executive branch decides the applicability in other cases. The possibility for inconsistent results is obvious.

If the judicial officer is persuaded that the crime charged falls within the treaty, that the acts involved would constitute an offense in this country, that the evidence submited is sufficient to sustain the charge under the treaty, and that no legal defense to extradition is applicable, it is his duty to certify these conclusions to the Secretary of State. The judicial officer also must send the Secretary of State a copy of all the oral testimony taken at the hearing. 18 U.S.C. 3184 obliges the judicial officer to order the commitment of the accused to jail pending surrender, and there is no provision for release on bail at this stage of the proceedings. If the judicial officer finds that the fugitive is not extraditable, the proceedings are terminated, and the fugitive is released from custody.

2. Provisions of the Proposed Subchapter:

Section 3214(a) requires that a judicial hearing be held to determine whether the person sought is extraditable (unless such a hearing has been waived under section 3213) and sets out the procedure for the hearing.

Section 3214(a) provides that the court does not have jurisdiction to determine whether extradition is sought for a political offense or because of the person's political beliefs, while section 3216(a)(3) specifies that the Secretary of State has the authority to decline to order surrender of a person if he is persuaded that his extradition is sought for one of these reasons. The provisions together effectively state that the Secretary of State alone shall have jurisdiction to decide the applicability of the "political offense" exception to extradition contained in most extradition treaties. This approach is a desirable one for several reasons.

First, the most modern United States extradition treaties specify that the executive branch of the requested country shall decide the applicability of the political offense exception.[59] Moreover, under present case law the courts generally shun deciding whether the foreign government's extradition request is politically motivated, preferring to leave that decision to the executive branch.[60] Thus, the approach adopted in the proposed subchapter is not a radical departure from present law. It should be noted that the political offense decisions are made exclusively by the executive branch of government in several foreign countries, including Canada and the Netherlands.

Second, the decision to shield a criminal from extradition on the ground that his offense was "political" is not the kind of issue which lends itself to resolution through the judicial process. There are few truly objective criteria by which a comprehensive definition of the term "political offense" can be based,[61] and a public court proceeding is not an appropriate or desirable forum for careful analysis of a friendly foreign state's intentions or political system. Rather, a decision on the "political offense" exception is (as the name suggests) inescapably political in nature, and inextricably intertwined with the conduct of foreign relations. It is an issue best left to the executive branch to decide, much as the decision to offer political asylum is an executive decision.

Third, a decision on the political offense exception can have a devastating impact on United States relations with the requesting country. The potentially crippling effect of such decisions on foreign affairs is particularly great where it could compromise United States efforts to combat international terrorism.[62] The present law exacerbates this situation, because frequently the United States government, through the Departments of State and Justice, must take a position on the applicability of the political offense exception while the case is before the court. Moreover, the government must take this position publicly, before all the evidence and arguments are in, and despite the fact that the court or the Secretary of State may subsequently decide against extradition on other grounds. By contrast, the approach taken by the proposed subchapter permits a more informed decision on extradition to be made in a manner less likely to be offensive to the friendly foreign government involved in the case.

Subsection (b) supplements present law by expressly providing that the fugitive be informed of his right to be represented by counsel at the extradition hearing. Indigent fugitives will be provided with counsel pursuant to the provisions of section 3401 relating to court-appoined counsel. The provision also requires that the fugitive be informed of his right to introduce evidence in his own behalf on matters within the jurisdiction of the court. The subsection thereby leaves intact the extensive case law on this point.[63]

Subsection (c) contains several provisions relating to admissibility and sufficiency of evidence.

Subsection (c)(1) is designed to clarify the circumstances under which documentary evidence will be admissible on behalf of either party in an extradition hearing.

Many treaties specifically set out the manner in which extradition documents must be authenticated,[64] and subsection (c)(1)(A) provides that documents so authenticated shall be admissible. It also provides that documents authenticated in accordance with the provisions of United States law shall be deemed appropriate. Thus, documents which comply with the requirements of Article IX of the Federal Rules of Evidence would be admissible in extradition proceedings. However, subsection (c)(1) does not require the exclusion from the hearing of evidence which fails to satisfy the Federal Rules of Evidence. Rather, the subsection merely underscores the common sense proposition that evidence which satisfies the high standards set out in the Rules, and which would be admissible in civil or criminal proceedings in this country should likewise be acceptable in extradition proceedings.

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Subsection (c)(1)(B) is based on 18 U.S.C. 3190, and provides that a document authenticated in accordance with the applicable laws of the foreign country requesting extradition shall be admissible if it is accompanied by an attestation to this effect from a judge, magistrate or other appropriate officer of the foreign state. The phrase "other appropriate officer" would include an official of the foreign State's equivalent of the Department of Justice, or any other government official likely to be familiar with legal matters in the foreign country. It further requires that the signature and position of the person so attesting be certified by a diplomatic or consular officer of the United States posted in the foreign country, or by a diplomatic or consular officer of the foreign state assigned to this country.[65] The provision thus brings the essential requirements of 18 U.S.C. 3190 more into line with Rule 902(3) of the Federal Rules of Evidence.

Subsection (c)(1)(C) permits the court handling an extradition matter to accept as evidence any documents which it is persuaded are in fact authentic, regardless of compliance with either of the previous two provisions. This rule is similar to Rule 901(a) of the Federal Rules of Evidence, and is in accord with established case law permitting the authenticity of documents presented in extradition proceedings to be established by the testimony from expert witnesses or by other evidence.[66]

Subsection (c)(2) provides that a certificate or affidavit by an appropriate State Department official as to the existence or interpretation of a treaty is admissible as evidence of that treaty or its interpretation.

The overwhelming majority of extradition treaties require that the requesting country present such evidence of criminality as would justify commitment for trial had the crime or offense been committed in the place where the fugitive has been found. Under subsection (c)(2) such a treaty provision may be satisfied by evidence establishing probable cause to believe that a crime was committed and that the person sought committed it. This is the usual standard for commitment for trial in federal criminal cases.[67] This approach permits the federal courts to apply the standard for commitment with which they are most familiar, and establishes a single, uniform standard by which the sufficiency of evidence in extradition proceedings may be measured. It is also consistent with the views expressed in several recent court decisions pointing out the advantages of dealing with the quantum of evidence for extradition in a manner consistent with federal law.[68]

Subsection (d) carries forward the requirements of 18 U.S.C. 3184 that instruct the court to find the fugitive extraditable if the evidence presented is sufficient to sustain the complaint under the provisions of the applicable treaty. The subsection also requires that the court find probable cause that the person before it is the person sought in the foreign state, and that none of the defenses to extradition which the court is empowered to consider are applicable. Subsection (d)(4) bars extradition unless the acts for which the fugitive's surrender is requested would constitute a crime punishable under state or federal law in the United States. Finally, the subsection states that the findings required for extradition may be established by hearsay evidence or certified documents alone. This rule is similar to Rule 5.1, of the Federal Rules of Criminal Procedure, which permits a finding of probable cause to commit for trial to be based on hearsay evidence. It is also in accord with several recent court decisions which point out that the kind of evidence necessary for extradition is an issue which should be determined by uniform national law.[69]

SECTION 3215: APPEAL

1. Present Federal Law:

Under present Federal law, there is no direct appeal from a judicial officer's finding in an extradition hearing.[72] A person found extraditable may only seek collateral review of the finding, usually through an application for a writ of habeas corpus.[73] The foreign government that is dissatisfied with the results of the hearing must institute a new request for extradition.[74] The lack of direct appeal in extradition matters adds undesirable delay, expense and complication to a process which should be simple and expeditious.

2. Provisions of the Proposed Subchapter:

Section 3215 of the proposed subchapter on extradition permits either party in an extradition case to appeal directly to the appropriate United States court of appeals from a judge or magistrate's decision. It is anticipated that review on appeal will be very narrow, and that any findings of fact by the lower court will be affirmed unless they are clearly erroneous.

Subsection (a) specifies that the appeal shall be filed within the time limits set out in Rules 3 and 4(b) of the Federal Rules of Appellate Procedure, i.e., 10 days for the person sought and 30 days for the government. These are the same deadlines for filing a notice of appeal in criminal cases, and while an extradition hearing is not a trial,[75] or even strictly a criminal proceeding,[76] these deadlines adequately balance the competing interests of fairness and expedition. It is anticipated that other aspects of the appeal process (such as the preparation and submission of the record, briefing, argument and decision) will be governed by the applicable provisions of the Federal Rules of Appellate Procedure.

If the fugitive has been found extraditable, subsection (a) requires that surrender to the foreign government be stayed pending determination of the appeal by the court of appeals.[77] This provisions prevents the government from mooting the appeal by spiriting the petitioner out of the country while the matter is *sub judice*. The provision is designed to maintain the *status quo* with repeal. It is anticipated that the district court will not ordinarily stay or delay any other element of the extradition process, such as the certification of its findings to the Secretary of State under section 3214(e).

Subsection (b) provides that a person found extraditable must remain in official detention pending the appeal unless the court of appeals finds that special circumstances require release. This is a slight amelioration of present law, which does not permit the release of a fugitive on bail after he has been found extraditable.[78] The change is desirable because the same kind of pressing, unusual situation which might require that the person sought be released from custody on bail pending the extradition hearing[79] could conceivably arise after the extradition hearing. However, it is anticipated that this authority to release a fugitive on bail will be utilized even more sparingly than the power to grant bail before the extradition hearing, and only after the most thorough and searching examination of the claimed need for release. It is expected that the courts of appeals will keep in mind that "no amount of money could answer the damage that would be sustained by the United States if [the fugitive] were to be released on bond, flee the jurisdiction, and be unavailable to surrender . . .". *Jimenez* v. *Aristequieta*, 314 F.2d 649 (5th Cir. 1963).

If the person was found not extraditable, subsection (b)(2) permits the district court to order that the person be released pending an appeal by the government. Release may not be ordered if the government satisfies the district court that the appellee is likely to flee before the appeal is decided, or endanger the safety of any other person or the community.

A major purpose of section 3215 is to simplify, and thereby expedite, the extradition process by providing for a direct appeal from a contested decision on extradition. The direct appeal provided by this section largely eliminates the present need for *habeas corpus* proceedings in order to obtain judicial review of the initial finding that a person is extraditable. This purpose would be frustrated if a fugitive bent on dilatory tactics were permitted to pursue an appeal under this section, petition for *certiorari* to the Supreme Court upon defeat in the court of appeals, and then begin one or more rounds of *habeas corpus* proceedings. Such a course of action would lengthen the extradition process rather than shorten it. Therefore, subsection (c) forbids any court from reviewing a finding that a fugitive is extraditable under this subchapter unless the fugitive has exhausted the appellate remedies available to him by right in this section. It also forecloses an appeal, petition for *habeas corpus*, or declaratory judgment action if the validity of the fugitive's commitment for extradition has been ruled upon in prior proceedings, unless grounds are offered which could not have been presented previously.

The resolution of challenges to judicial action in international extradition cases must be especially prompt for several reasons. Extradition cases are quasi-criminal in nature. Moreover, in such cases our government's timely and ungrudging execution of its solemn treaty obligations to a friendly nation is in question.[80] Therefore, this section requires that courts of appeals decide cases arising under this subchapter expeditiously.

Section 3215 in S. 1722, as reported, also provides for a direct appeal in extradition cases. However, section 3215 of the proposed subchapter and section 3215 in S. 1722 differ in several ways. First, S. 1722 requires that the notice of appeal be filed within seven days after the district court decision regarding extradition; the proposed subchapter prescribes the same time limits that apply in ordinary criminal cases. Second, section 3215 in S. 1722 requires that briefs for both parties be filed within 20 days, while the revised subchapter permits this matter to be covered by the usual requirements of the Federal Rules of Appellate Procedure. Third, section 3215 of the proposed subchapter provides for an automatic stay of extradition pending appeal, while section 3215 in S. 1722 forbids the appellate courts from staying the extradition of a fugitive pending appeal unless "good cause" is shown. Fourth, section 3215 in S. 1722 does not explain whether the alleged fugitive must remain incarcerated pending appeal, or set out under what circumstances he may be released, while section 3215(b) of the proposed subchapter thoroughly covers these matters. Fifth, section 3215 in S. 1722 permits only a court of appeals to stay a lower court's certification of its findings as to extradition to the Secretary of State, and forbids any court to stay the incarceration of the fugitive pending appeal. These requirements do not appear in the proposed subchapter.

SECTION 3216: SURRENDER OF A PERSON TO A FOREIGN STATE

1. Present Federal Law:

Under 18 U.S.C. 3186, the Secretary of State may order that any person found extraditable by a court under 18 U.S.C. 3184 be delivered to an authorized agent of the government seeking extradition. Although it is generally agreed that the Secretary's decision in this matter is discretionary,[81] present law provides no indication of the parameters of the Secretary's discretion.

18 U.S.C. 3188 states that if a fugitive found extraditable under 18 U.S.C. 3184 is

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not removed from the United States within "two calendar months" of the court's commitment order, he may be released from custody unless there is "sufficient cause" why release should not be ordered.[82] The courts have held that if the fugitive institutes litigation challenging his extradition, the two-month period commences when the claims are finally adjudicated rather than when the commitment order was issued.[83]

2. Provisions of the Proposed Subchapter:

Subsection (a) carries forward the essence of 18 U.S.C. 3186 by providng that the Secretary of State shall make the final decision as to extradition. The subsection requires that the Secretary's decision be made in accordance with the subchapter and the applicable treaty, and lists the actions that the Secretary may take.

Subsection (a)(1) simply permits the Secretary to order the surrender of a person the court has found to be extraditable to a duly appointed agent of the foreign state.

Subsection (a)(2) permits the Secretary to condition the surrender of a fugitive upon the acceptance by the foreign state of restrictions or conditions he considers necessary in the interest of justice or to effectuate the purposes of the treaty. This provision underscores the Department of State's authority to impose such restrictions where humanitarian concerns[84] or questions concerning trial procedures in the requesting state exist.[85] It would also perimt the imposition of restrictions expressly contemplated in the provisions of some newer treaties.[86]

As noted, most extradition treaties preclude extradition for an offense of a political character, and many treaties also bar extradition where the request is motivated by political considerations. Subsection (a)(3) specifies that the Secretary of State may deny extradition where he concludes that a treaty clause of this kind is applicable. The subsection is designed to give the Secretary of State the same broad discretion in addressing this issue which he possesses in determining whether to extend political asylum to refugees. The Secretary's decision in this matter, which frequently involves a question of foreign policy, is discretionary and will not be reviewable by the courts.

The subsection also provides that any evidence or arguments the fugitive wishes to present shall be in writing. The Secretary is not obliged to provide a formal hearing for a fugitive who claims the benefit of the "political offense" exception,[87] but it is expected that the Secretary will utilize the resources of the State Department for gathering evidence and dressing the fugitive's claim.

Subsection (a) expressly authorizes surrender of United States nationals unless surrender is expressly prohibited by the applicable treaty.[88] This subsection is necessary in light of *Valentine* v. *United States ex rel. Neidecker*, 299 U.S. 5 (1936), in which the Supreme Court held that language contained in many of the older extradition treaties to which the United States is a party does not permit the surrender of United States citizens absent explicit statutory authority for such surrender. The result of the *Neidecker* decision has been to effectively immunize United States citizens from extradition in many cases—a result never intended by the negotiators of the treaties involved. It is the policy of the United States to treat its citizens and aliens within its borders equally in extradition matters,[89] and this subsection permits that policy to operate effectively.

Subsection (b) requires that the Secretary of State notify all interested parties of his decision on extradition.

Subsection (c)(1) provides that the fugitive shall be released from custody if the Secretary of State does not order, or declines to order, the person's surrender within forty-five days after receiving the record of proceedings from the court. Of course, if the Secretary of State decides within forty-five days to refuse to order extradition, the authority for holding the person sought in custody under section 3214(e)(1) immediately expires, and the person should be released from detention at once.

Subsection (c)(2) is based on the provisions of 18 U.S.C. 3188, and provides that when the Secretary of State has ordered a person's extradition, the foreign country involved must take custody of the person and remove him from the United States within 30 days. This 30-day time period does not begin until all litigation challenging extradition has been completed. The subsection expressly excludes from consideration the time during which surrender has been stayed pending litigation.

Subsection (c) requires that the Secretary of State be given reasonable notice of the proposed release of the fugitive because of expiration of a time limitation set forth in subsection (c)(1) or (c)(2), and forbids release if good cause is shown for the delay in effecting surrender.

The revised subchapter on extradition contains many of the concepts suggested in section 3213 in S. 1722, but also contains elements drawn from other portions of S. 1722. For instance, section 3216(a)(3) is essentially a rewording of section 3211(d) in S. 1722, and section 3216(b) of the revised subchapter reflects the gist of 3211(c) in S. 1722. Section 3216(a)(3) is new, however, and reflects the view of the Departments of Justice and State that the decision to deny extradition because the offense is political or the request is politically motivated should be handled in much the same way as a decision to extend political asylum.

SECTION 3217: RECEIPT OF A PERSON FROM A FOREIGN STATE

1. Present Federal Law:

18 U.S.C. 3192 authorizes the President to "take all necessary measures for the transportation and safekeeping" of a person extradited to the United States from a foreign country. At one time the President relied upon this statute to issue a warrant designating an agent to receive custody of a fugitive from a foreign government. 18 U.S.C. 3193 authorizes such an agent to convey the fugitive directly to the place of trial, and grants to the agent "all the powers of a Marshal of the United States, in the several federal districts through which it may be necessary for him to pass with [the] prisoner . . ." The authority to issue warrants and appoint agents under these sections has now been delegated to the Secretary of State.[90] However, the Department of State wishes to transfer to the Department of Justice the authority to appoint agents and issue warrants in these matters.

2. Provisions of the Proposed Subchapter:

Section 3217 of the proposed subchapter carries forward the provisions of 18 U.S.C. 3192 and 3193, with minor modifications reflecting present United States practice.

Subsection (a) authorizes the Attorney General to designate an agent to receive custody of a fugitive surrendered by a foreign government, and permits the agent to convey the fugitive to the place of trial in the United States. The final sentence of the subsection permits the extradited fugitive to be taken directly to the federal district or state jurisdiction in which charges are outstanding, without removal proceedings under Rule 40 of the Federal Rules of Criminal Procedure or interstate rendition proceedings.

Section 3217(b) is new, and is designed to implement provisions found in some of the most recent United States extradition treaties. The laws in many foreign countries require that extradition be postponed until the person has satisfied any outstanding criminal charges in that country.[91] Frequently, a person sought by the United States has already been tried and convicted of other charges in the requested country and has a sentence to serve there. If the sentence abroad is a long one, the postponement of surrender could compromise the possibility of a speedy and fair trial in this country.[92] Some extradition treaties contain provisions which deal with this problem by permitting "temporary extradition". Under these treaty provisions, a fugitive convicted abroad would be surrendered to the United States solely for the purpose of trial and sentencing here, then returned to the foreign country involved to finish the sentence previously imposed there.[93] This process balances our government's interest in adjudicating the charges while the evidence is fresh with the foreign country's desire to fully enforce its laws. It also works to a fugitive's benefit by enabling him to answer the charges in this country while evidence for his defense is still available and by creating the possibility that the sentence imposed upon conviction in this country could run concurrently with that the fugitive must serve abroad.

Section 3217(b) provides implementing legislation for treaty provisions of this type. It provides that when a foreign state has delivered a person to the United States on the condition that the person be returned at the conclusion of the criminal trial or sentencing, the Bureau of Prisons shall keep the person in custody until the judicial proceedings are concluded, and thereafter surrender the person to a duly appointed agent of the foreign country. It also provides that the return to the foreign state of the person is not subject to the requirements of the subchapter, such as an extradition hearing or an order of surrender by the Secretary of State.

Section 3216 in S. 1722 essentially carries forward the present law by stating that when a person is extradited by a foreign nation "the President has the power to take all necessary measures for the transportation of safekeeping" of the person. Section 3216 in S. 1722 contains no counterpart to section 3217(b) of the proposed subchapter, since the treaty language that the latter is designed to implement was not developed until after S. 1722 was drafted.

SECTION 3218: GENERAL PROVISIONS FOR SUBCHAPTER B

1. In General:

This section contains the definitions and general provisions applicable to the extradition subchapter.

2. Present Federal Law:

18 U.S.C. 3195 requires that the foreign government which sought extradition pay all costs and fees resulting from the request. The costs resulting from extradition requests here frequently are so small that it is uneconomical—and diplomatically embarrassing—to attempt to enforce this statute. Moreover, many of the extradition treaties to which the United States is a party contain provisions which modify this statutory rule.[94] Also, the United States has entered into informal arrangements with some countries whereby each country bears most of the cost of the other's extradition request. In short, the present statute does not adequately reflect government policy in extradition matters.

Present statutory law offers no guidance as to who must pay the costs associated with United States requests to foreign countries for the extradition of fugitives. The Department of State requests extradition on behalf of either the state within the United States in which the fugitive is charged, or, if federal charges are involved, on behalf of the United States. Therefore, the long-standing policy of the Department of State has been that the state jurisdiction which sought the fugitive's return must pay any expenses incurred in

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Footnotes at end of article.

connection with the extradition request, and the Department of Justice must pay the expenses incurred in obtaining the extradition of a fugitive federal offender.

2. Provisions of the Proposed Subchapter:

Subsection (b)(1) of proposed section 3218 states that in general a foreign state which has requested the extradition of a fugitive located in the United States must bear all costs and expenses incurred in connection with the request. Since many of the extradition treaties contain provisions specifically dealing with costs in extradition matters, the subsection authorizes the Secretary of State to direct that this matter be handled in accordance with terms of the applicable treaty or agreement. Subsection (b) also requires that all costs and expenses incurred in connection with the execution of a request by a state of the United States for the return of a fugitive located in another country must be paid by that state. When the request for extradition is made to secure the return of a fugitive wanted for a federal offense, the expenses must be borne by the United States. It is anticipated that when the fugitive involved is sought for both federal and state offenses, the costs incurred abroad will be allocated accordingly.

Section 3217 in S. 1722, as reported, is also entitled "General Provisions for Subchapter B." However, that section does not contain definitions of the key terms used elsewhere in the subchapter. Subsection (a) of S. 1722's section 3217 deals with the transit through the United States of persons extradited from one foreign country to another. No provisions on this topic are contained in the proposed subchapter because the matter is adequately covered by provisions in the extradition treaties themselves. Subsection (b) of section 3217 in S. 1722 deals with the payment of costs and expenses in much the same manner as subsection (b) of section 3218 of the proposed subchapter. The only significant difference between the two provisions is that S. 1722's provisions oblige the United States, rather than the foreign state, to pay most of the costs of extradition proceedings "if the demanding government is represented by the Attorney General." This language has been deleted as unnecessary in the proposed subchapter, which permits the Secretary of State to prescribe how the costs shall be paid.[36]

FOOTNOTES

[1] The essence of the other federal statutes on extradition, which include 18 U.S.C. 751, 752 and 1502, are carried forward in sections 401, 1001, 1311 and 1313 of S. 1722, and are discussed in S. REP. No. 96-553, 96th Cong., 2d Sess. (1979).

[2] Moreover, 18 U.S.C. 3188 requires that a Court find that the person sought is extraditable before the Secretary of State may order surrender to the foreign state.

[3] *Valentine* v. *U.S. ex. rel. Neidecker*, 299 U.S. 5 (1936); *Argento* v. *Horn*, 241, F. 2d 258, 259 (6th Cir. 1957), *cert. denied* 355 U.S. 818 (1957); *Ivancevic* v. *Artukovic*, 211 F.2d 565, 566 (9th Cir. 1954), *cert. denied*, 348 U.S. 818 (1954); Evans, *Legal Basis for Extradition in the United States*, 16 New York Law Forum 525, 529–530 (1980); 6 Whiteman, Digest of International Law 727 (1968).

[4] See e.g., Art. 14, Amending Protocol to the 1961 Single Convention on Narcotic Drugs, done at Geneva, March 24, 1972, 26 U.S.T. 1439, T.I.A.S. 8118 (entered into force for the United States August 8, 1975); Art. 8, Convention on Suppression of Unlawful Seizures of Aircraft, done at the Hague, December 16, 1970, 22 U.S.T. 1641, T.I.A.S. 7192 (entered into force for the United States October 14, 1971); Art. 8, Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, done at New York, December 14, 1973, 28 U.S.T. 1975, T.I.A.S. 8532 (entered into force for the United States February 20, 1977).

[5] See, e.g., *Holmes* v. *Laird*, 459 F.2d 1211, 148 U.S. App. D.C. 187 (D.C. Cir. 1972), *cert. denied*, 409 U.S. 869 (1972); *Williams* v. *Rogers*, 449 F.2d 513 (8th Cir. 1971), *cert. denied*, 405 U.S. 926 (1972).

[6] See, e.g., *Kalatijis* v. *Rosenberg*, 305 F.2d 249 (9th Cir. 1962).

[7] 6 WHITEMAN, *supra* note 3, at 935.

[8] *United States ex rel Caputo* v. *Kelley*, 92 F.2d 03 (2nd Cir. 1937), *cert. denied*, 303 U.S. 635 (1938); *Ornelas* v. *Ruiz*, 161 U.S. 502 (1896); *Castro* v. *DeUrierte*, 12 Fed. 250 (S.D. N.Y. 1882). See, generally, 6 WHITEMAN, *supra* note 3, at 935; Note, *United States Extradition Proceedings*, 16 New York Law Forum 420, 432 (1980).

[9] 1 Moore, A treatise on Extradition and Interstate Rendition, 410–415, (1891).

[10] See, e.g., *Schoebrun* v. *Drieband*, 268 F. Supp. 332 (E.D. N.Y. 1937).

[11] See, e.g., *United States ex rel. Caputo* v. *Kelley, supra*, note 8.

[12] *In re David*, 395 F. Supp. 803, 807 (E.D. Ill. 1975); *United States ex rel. Petruschansky* v. *Marasco*, 215 F. Supp. 953, 957 (E.D. N.Y. 1963) *aff.* 325 F.2d 562 (2nd Cir. 1963), *cert. denied*, 376 U.S. 952 (1964).

[13] For example, many federal, state and local law enforcement agencies rely on the FBI's National Crime Information Center—"NCIC"—in determining whether an individual is wanted for arrest in another jurisdiction. Since no complaint for extradition can be filed against a fugitive whose location is unknown, there can be no federal arrest warrant issued, and no information on the person will appear in NCIC. Thus, law enforcement officers may have no way to learn that a particular person is an international fugitive sought for extradition.

[14] In *Wright* v. *Henkel*, 190 U.S. 40 (1903), the Supreme Court reviewed former section 596 of title 18 (now 18 U.S.C. 314) in conjunction with former section 591 (now 18 U.S.C. 3041), and concluded that there was no statute providing for admission to bail in cases of foreign extradition. The Bail Reform Act (which amended Sections 3041, 3141–3143, and 3568, and enacted 18 U.S.C. 3147–3152) did not alter this result. The Act liberalized access to bail in those cases to which the bail statutes apply, but did not broaden the availability of bail generally. Both the previous sections of the law and the provisions of the Bail Reform Act apply only to "person(s) charged with an offense," and the term "offense" is expressly defined in 18 U.S.C. 3156 as "any federal criminal offense which is in violation of any act of Congress and is triable by a court established by act of Congress . . .". Since fugitives facing extradition to a foreign country are not accused of any Federal criminal offense, and will not be tried in any federal court, the bail statute's provisions do not apply to them. *Cf. Kelley* v. *Springette*, 527 F.2d 1090, 1093 (9th Cir. 1975); *Beaulieu* v. *Comn'r of Massachusetts*, 382 F.2d 290 (1st Cir. 1967).

[15] *United States* v. *Williams*, 611 F.2d 914 (1st Cir. 1979); *Beaulieu* v. *Hertigan*, 584 F.2d 1 (1st Cir. 1977); *Wright* v. *Henkel*, 190 U.S. 40 (1903).

[16] See, *In re Chan Kam-Shu*, 477 F.2d 333 (5th Cir. 1973), *cert. denied*, 414 U.S. 847 (1973); *Vardy* v. *United States*, 529 F.2d 404 (5th Cir. 1976), *rehearing denied*, 533 F.2d 310 (5th Cir. 1976); *In re David*, 390 F. Supp. 521 and 395 F. Supp. 903 (E.D. Ill. 1975).

[17] Provisional arrest is a well-recognized aspect of international extradition procedure, and is specifically provided for in most of the extradition treaties to which the United States is a party. See, *e.g.* Art. 11, Extradition Treaty, United States-Canada, signed Dec. 31, 1971, 27 U.S.T. 983, T.I.A.S. 8237 (entered into force March 27, 1976). See generally, Reuschlein, *Provisional Arrest and Detention in International Extradition*, 23 Georgetown Law Journal 37 (1934); Note, 16 New York Law Forum 420, 429–430 (1970).

[18] See, 6 WHITEMAN, *supra* note 3, at 931; *Whitely* v. *Warden, Wyoming State Penitentiary*, 401 U.S. 560, 568 (1970); *United States* v. *McCray*, 468 F.2d 848 (5th Cir. 1967).

[19] "Court" is defined in section 3218(a)(2) to mean a United States district court established pursuant to 28 U.S.C. 132, or the District Court of Guam, the Virgin Islands, or the Northern Mariana Islands, or a United States magistrate authorized to conduct an extradition proceeding.

[20] Thus, the section eliminates the arbitrary rule created by the Supreme Court in *Pettit* v. *Walshe*, 194 U.S. 205 (1904). See note 42, *infra*, and accompanying text. This rule is unnecessary in light of section 3214 (c)(3) of the proposed subchapter.

[21] See note 15 above.

[22] *In re Mitchell*, 171 Fed. 289, 290 (S.D. N.Y. 1909).

[23] See, e.g., *In re Kaplan*, Civ. No. 79–2219 RF (C.D. Cal. July 29, 1979).

[24] See, e.g., *In re Itoka*, Misc. No. 79–1536–M (D. N.M. Dec. 17, 1979).

[25] See, *In re Chan Kam-Shu*, 477 F.2d 333, 339–340 (5th Cir. 1973), *cert. denied*, 414 U.S. 847 (1973).

[26] *United States* v. *Clarke*, 470 F. Supp. 976, 979 (D. Vermont 1979).

[27] E.g., Art. 13(2), Extradition Treaty, United States-Norway, signed June 9, 1977, — U.S.T. —, T.I.A.S. 9679 (entered into force March 6, 1900).

[28] It is anticipated that in most cases the Attorney General will act through the United States Attorney for the district in which the fugitive is located. If the foreign government involved feels the need to participate in the judicial proceedings, it can retain counsel and seek to enter the case as *amicus curie*.

[29] *Valentine* v. *United States ex rel. Neidecker*, 299 U.S. 5, 9 (1933); *United States* v. *Rauscher*, 119 U.S. 407, 414 (1886).

[30] During the nineteenth century some courts did require proof that the Department of State had received a formal request for extradition before an extradiction case could go forward. This proof was called a "preliminary mandate." See 1 MOORE, *supra* note 9, 360–394. In *Grin* v. *Shine*, 178 U.S. 181 (1902), the Supreme Court concluded that the "sounder view" was that a preliminary mandate is unnecessary in extradition matters. Since then, the practice of issuing such mandates has been largely discontinued. 6 WHITEMAN, *supra* note 3, 916–919.

[31] See *United States* v. *Williams, supra* note 15.

[32] See e.g., Art. 10, Extradition Treaty, United States-Japan, signed March 3, 1978, — U.S.T. —, T.I.A.S. 9625 (entered into force March 25, 1930); Art. 18, Extradition Treaty, United States-Mexico, signed May 4, 1978, — U.S.T. —, T.I.A.S. 9556 (entered into force January 24, 1980).

[33] See 18 U.S.C. 4107–4108.

[34] For example, a fugitive might wish to waive extradition on only one of many outstanding charges against him in the requesting state. Under these circumstances, that foreign state might conceivably prefer to have extraditability determined as to all of the charges.

[35] For example, many extradition treaties permit the requested state to postpone extradition until the person sought has been tried and punished for criminal charges outstanding in that state. A person facing criminal charges of imprisonment in this country might well attempt to expedite his extradition to a foreign country where less serious charges are pending, in order to avoid prosecution or punishment here. In such circumstances, it would not be appropriate for the United States to permit expedited surrender, at least not until the charges in this country have been resolved or the sentence served.

[36] However, the section also states that all rights available to a person extradited under the applicable treaty remain available to the person waiving extradition—even though that person must irrevocably waive those rights.

[37] See section 3216(c).

[38] See note 35, *supra*.

[39] Shearer, Extradition in International Law 137–141 (1971); 6 Whiteman, *supra* note 3, 773–779, *Freedman* v. *United States*, 437 F. Supp. 1252, 1263 (N.D. Ga. 1977).

[40] See, e.g., Art. 2(1), Extradition Treaty, United States-Japan, signed March 3, 1978, —— U.S.T. ——, T.I.A.S. 9525 (entered into force March 25, 1980).

[41] *Brauch* v. *Raiche*, —— F.2d ——, No. 79–1606 (1st Cir. March 5, 1980); *Freedman* v. *United States*, 437 F. Supp. 1252, 1263 (N.D. Ga. 1977).

[42] *Pettit* v. *Walshe*, 194 U.S. 205 (1904); see e.g., *U.S. ex rel. LoPizzo* v. *Mathews*, 36 F.2d 565 (3rd Cir. 1929); U.S. ex rel. *Rauch* v. *Stockinger*, 170 F. Supp. 506, 506 (E.D. N.Y. 1959), *aff'd*, 269 F.2d 681 (2nd Cir. 1959), *cert. denied*, 361 U.S. 913 (1959); *O'Brien* v. *Rozmann*, 554 F.2d 780 (6th Cir. 1977).

[43] *Greci* v. *Birkness*, 527 F.2d 956, 958 at note 3 (1st Cir. 1976); *Application of D'Amico*, 185 F. Supp. 925, 930 at note 6 (S.D. N.Y. 1960), *appeal dismissed* 283 F.2d 320 (2nd Cir. 1960), *cert. denied*, 366 U.S. 963 (1962).

[44] 6 Whiteman, *supra* note 3.

[45] *Greci* v. *Birkness*, 527 F.2d 956, 958 (1st Cir. 1976); *Sindona* v. *Grant*, 461 F. Supp. 199 (S.D. N.Y. 1978); *Brauch* v. *Raiche*, —— F.2d ——, No. 79–1606 (1st Cir. March 5, 1980).

[46] Rule 1101, Federal Rules of Evidence.

[47] *Sayne* v. *Shipley*, 418 F.2d 679, 685 (5th Cir. 1969), *cert. denied*, 390 U.S. 903 (1970).

[48] The Supreme Court has indicated that requiring the foreign state to produce live witnesses in extradition hearings would tend to "defeat the whole object of the treaty." *Bingham* v. *Bradley*, 241 U.S. 511, 517 (1916); see also, *Collins* v. *Loisel*, 259 U.S. 309, 317 (1922); *Sayne* v. *Shipley*, *supra* note 44; *In re David*, 395 F. Supp. 803, 806 (E.D. Ill. 1975); *O'Brien* v. *Rozmann*, 554 F. 2d 780 (6th Cir. 1977).

[49] *United States* v. *Galanis*, 429 F. 2d 1215, 1225–1229 (D. Conn. 1977), *rev'd on other grounds*, 568 F. 2d 234, 240 (2nd Cir. 1977); *Shapiro* v. *Ferrandina*, 478 F. 2d 894, 903 (2nd Cir. 1973); *In re Edmondson, et al.* 352 F. Supp. 22, 24 (D. Minn. 1972).

[50] Frequently, the consular and diplomatic officers who must sign the certificate are not lawyers, and it is difficult for them to know whether the documents presented to them are in fact acceptable "for similar purposes" in the courts of the requesting state.

[51] *Freedman* v. *United States*, 437 F. Supp. 1252, 1266–1267 (N.D. Ga. 1977); *U.S. ex rel. Petrushansky* v. *Marasco*, 215 F. Supp. 953, 954 (S.D. N.Y. 1963), *aff'd*, 325 F. 2d 562 (2nd Cir. 1963), *cert. denied*, 376 U.S. 952 (1964).

[52] Kopelman, *Extradition and Rendition: History-Law-Recommendations*, 14 Boston Law Review 591, 614 (1934).

[53] 18 U.S.C. 3191 provides for compulsory process to secure the attendance at extradition hearings of witnesses on behalf of indigent fugitives. However, the statute applies only to witnesses who are resident in the United States. *Merino* v. *United States Marshal*, 326 F. 2d 5, 11 (9th Cir. 1964), *cert. denied*, 377 U.S. 997 (1964).

[54] *Matter of Sindona*, 450 F. Supp. 672 (S.D. N.Y. 1978); *Shapiro* v. *Ferrandina*, 478 F.2d 894, 904–905 (2nd Cir. 1976); *Freedman* v. *United States*, 437 F. Supp. 1252, 1266–1267 (D. Ga. 1977); *Sayne* v. *Shipley*, 418 F.2d 219, 226 (2nd Cir. 1960); *Desmond* v. *Eggers*, 18 F.2d 503, 505–506 (9th Cir. 1927); *Collins* v. *Loisel*, 259 U.S. 309, 315–317 (1922); *Charlton* v. *Kelly*, 229 U.S. 447, 458 (1913).

[55] See, generally, 6 WHITEMAN, *supra* note 3, 859–865; Note, *Statute of Limitations in International Extradition*, 48 Yale Law Journal 701 (1939).

[56] See, e.g., *Galanis* v. *Pallanck*, 568 F.2d 234 (2nd Cir. 1978.)

[57] *In re Ezeta et al.*, 62 Fed. 972 (N.D. Cal. 1894). Basically, a political offense is one "committed in the course of or furthering civil war, insurrection or political commotion." Id.; *Karadzole* v. *Artukovic*, 242 F.2d 198 (9th Cir. 1957) *rev'd on other grounds* 344 U.S. 393 (1957); *United States ex rel Karadzole* v. *Artukovic*, 170 F. Supp. 383 (S.D. Cal. 1959); *Ramos* v. *Diaz*, 179 F. Supp. 459 (S.D. Fla. 1959).

[58] *In Re Lincoln*, 228 Fed. 70 (E.D. N.Y. 1915) *aff'd per curium*, 241 U.S. 651 (1916); *In Re Gonzalez*, 217 F.2d 717, 722 (S.D. N.Y. 1963); *Garcia-Guillerin* v. *United States*, 450 F.2d 1192 (5th Cir. 1971); *In re Locatelli*, 468 F. Supp. 558, 575 (S.D. N.Y. 1979); *Sindona* v. *Grant*, 461 F. Supp. 199, 207 (S.D. N.Y. 1978).

[59] See, e.g., Art. 5(1), Extradition Treaty, United States-Mexico, signed May 4, 1978, — U.S.T. —, T.I.A.S. 9656 (entered into force January 25, 1980).

[60] See note 58, *supra*.

[61] Levy, Contemporary International Law: A Concise Introduction, 190 (1979). The courts in various countries differ widely on what kinds of offenses are covered by the term, and legal scholars here and abroad have proposed a host of different—and frequently contradictory—proposals on the topic. See, generally, Carbonneau, *The Political Offense Exception to Extradition and Transnational Terrorists: Old Doctrine Reformulated and New Norms Created*, 1 ASILS International Law Journal 1 (1977).

[62] For instance, in *In re McMullen*, No. 3–78–1099MG (N.D. Cal. May 11, 1979), a federal magistrate in San Francisco barred the extradition to England of an admitted IRA bomber, holding that the fugitive's action (blowing up an army barracks in England) was an offense of a political character. This decision was a considerable setback for United States efforts to control international terrorism, and could make the United States a more attractive refuge for members of the IRA, the PLO, the Beider-Meinhoff gang, the Italian Red Brigade and other terrorists.

[63] See note 54, above, and accompanying text.

[64] See, e.g., Art. 10(6), Extradition Treaty, United States-Mexico, signed May 4, 1978, — U.S.T. —, T.I.A.S. 9656 (entered into force January 25, 1980). The United States will also be a party to the Convention Abolishing the Requirement of Legalization for Foreign Public Documents, done at the Hague, October 26, 1960, 527 U.N.T.S. 189 (ratified by the Senate Nov. 28, 1979). This Convention will eliminate a substantial portion of the authentication requirement with respect to extradition documents submitted by one signatory country to another.

[65] It is anticipated that in most cases the foreign state's diplomatic or consular personnel assigned to the United States will make the certification required by the section, thereby relieving U.S. diplomatic and consular officers abroad of this chore.

[66] See, generally, *United States* v. *Galanis*, *supra* at note 56.

[67] See Rule 5.1, Federal Rules Criminal Procedure.

[68] Greci v. Birkness, 527 F.2d 956, 958 (1st Cir. 1977); *Brauch* v. *Raiche*, — F. 2d —, No. 79–1606 (1st Cir. March 5, 1980).

[69] *U.S. ex rel. Sakaguchi* v. *Kaulukukui*, 520 F.2d 726, 728 (9th Cir. 1975); *Shaviro* v. *Ferrandina*, 478 F. 2d 894, 902 (2nd Cir. 1973)

[72] *Collins* v. *Loisel*, 262 U.S. 426 (1923).

[73] See, eg., *Sindona* v. *Grant*, 461 F. Supp. 199 (S.D. N.Y. 1978).

[74] *Hooker* v. *Klein*, 573 F.2d 1360 (9th Cir. 1978).

[75] *Glucksman* v. *Henkel*, 221 U.S. 508, 512 (1911).

[76] *United States ex rel Oppenheim* v. *Hecht*, 16 F2d 955, 956 (2nd Cir. 1927); *United States ex rel Klein* v. *Mulligan*, 1 F. Supp. 635, 636 (S.D. N.Y. 1922).

[77] The automatic stay of extradition expires when the court of appeals issues its mandate in the matter. Thus, the automatic stay would not ordinarily protect a fugitive seeking further, discretionary review, such as an applicant for a writ of certiorari from the Supreme Court. Of course, the fugitive whose case merits further review is free to request that either the court of appeals or the Supreme Court exercise its discretion by saying surrender while *certiorari* or other relief is considered.

[78] In fact, 18 U.S.C. 3184 specifically provides that a person found extraditable must be committed "to the proper jail, there to remain until . . . surrender shall be made."

[79] See notes 23 and 24, above, and accompanying text.

[80] *Magisano* v. *Locke*, 545 F.2d 1228, 1230 (9th Cir. 1976).

[81] See, generally, Note, *Executive Discretion in Extradition*, 62 Columbia Law Review 1313 (1962).

[82] *In re Factor's Extradition*, 75 F.2d 10 (7th Cir. 1934); *In re Normano*, 7 F. Supp. 329 (D. Mass. 1934); 6 WHITEMAN, *supra* note 3, 1061–1069.

[83] *Jimenez* v. *United States District Court for the Southern District of Florida*, 84 S. Ct. 14, 11 L. Ed. 2nd 30 (1963); *Barrett* v. *United States*, 590 F.2d 624 (6th Cir. 1978).

[84] See, e.g., *Peroff v. Hylton*, 542 F.2d 1247, 1249 (4th Cir. 1976), *cert.* denied, 429 U.S. 1062 (1977); *Sindona* v. *Grant*, 461 F. Supp. 199, 207 (S.D. N.Y. 1978); see Note, Columbia Law Review, *supra* note 81.

[85] For example, the Department of State has frequently conditioned surrender of a fugitive convicted in absentia upon a promise by the foreign country involved to permit a retrial. See, 6 WHITEMAN, *supra*, 1051, 1117–1122.

[86] For example, some treaties permit the requested state to condition extradition upon satisfactory assurances that the death penalty will not be imposed. See e.g., Art. 6, Extradition Treaty, Canada-United States, signed December 31, 1971, 27 U.S.T. 983, T.I.A.S. 8237 (entered into force March 27, 1976).

[87] *Peroff* v. *Hylton*, 563 F.2d 1099, 1102–1103 (4th Cir. 1977).

[88] At present, no extradition treaty with the United States is a party expressly prohibits surrender of citizens of the requested state.

[89] Many foreign countries do not extradite their citizens, because those countries have the ability to prosecute and punish their citizens for extraterritorial crimes. 6 WHITEMAN, *supra* note 3, 876–878. As a general rule, the United States has no such ability.

[90] Executive Order 11517, 35 Fed. Reg. 4937 (1970), *reprinted in* 1970 U.S. Code Cong. & Ad. News 6232.

[91] See, e.g., Extradition Act, R.S.C. 1952, c. 322 (Canada); s. 24, Ley de Extradition (Dec. 29, 1975), Art. 11 (Mexico).

[92] *United States* v. *Rowbotham*, 430 F. Supp. 1254 (D. Mass. 1977); *United States* v. *Dolack*, 484 F.2d 527 (7th Cir. 1973).

It is well to remember that both the prosecution and the defense suffer when a criminal trial is delayed too long. Indeed, as the Court of Appeals trenchantly remarked in *United States* v. *Judice*, 457 F.2d 418, 418 (5th Cir. 1972):

> ". . . all practiced trial lawyers are well aware that attrition from . . . delay is more damaging to the prosecutor's case than to that of the defense. This will be so as long as the prosecution has the burden of proof."

[93] Cf. 6 WHITEMAN, *supra* note 3, 1052–1053.

[94] For example, Art. 21, Extradition Treaty, United States-Mexico, signed May 4, 1978, —

U.S.T. —, T.I.A.S. 9656 (entered into force January 25, 1980) requires that the requested state bear all of the expenses of extradition execpt those incurred for the translation of the documents or the transportation of the fugitive.

Extradition treaties are considered self-executing, BASSIOUNI, International Extradition and World Public Order 30–31 (1976), and supercede the provisions of prior inconsistent federal legislation, RESTATEMENT (SECOND) OF FOREIGN RELATIONS LAW OF THE UNITED STATES, § 141, Comment (b) at 433 (1965). Therefore, whether 18 U.S.C. 3195 or a differing treaty provision is applicable in a particular extradition case depends on when the treaty entered into force.

[95] It is anticipated that the Secretary will key requests for reimbursement or payment to reciprocity by the foreign government, rather than to whether or not the Justice Department was involved in the case. Moreover, under the proposed subchapter, the Attorney General will be a party in all extradition cases.

NOTICE OF HEARINGS

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

Mr. SASSER. Mr. President, I would like to announce that the Subcommittee on Intergovernmental Relations will hold 2 days of hearings on the subject of volunteer organization participation in Federal programs.

The first day of hearings will be held on October 15, at the Holiday Inn downtown in Minneapolis, Minn., at 2:30 p.m. and the second day will be held in Washington on October 20 at 10 a.m. in 3302 Dirksen Senate Office Building. For furfurther information on the hearings please call Terry Jolly at 224–4718 or Susan Fritschler at 224–3244.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JACKSON. Mr. President, the Senate Committee on Energy and Natural Resources will hold a briefing on the current conflict between Iraq and Iran and the implications for U.S. energy policy on Tuesday, September 30, at 9 a.m. in room S–406 of the Capitol. The briefing will be part of the committee's continuing study of the Geopolitics of Oil. Witnesses at the briefing will include representatives from the Central Intelligence Agency, the State Department, and the Department of Energy. The briefing will be closed to the public.

For further information concerning the briefing please contact James Z. Pugash, staff counsel at (202) 224–0611.

ADDITIONAL STATEMENTS

ADMINISTRATION RESPONSE TO SENATE LETTER ON EMIGRATION OF SOVIET JEWS

• Mr. CRANSTON. Mr. President, earlier this month, I joined with 56 Senate colleagues to write President Carter to express our deep concern regarding the sharp drop in emigration of Soviet Jews. Today, I am submitting for my colleagues' attention a copy of the Carter administration's response to our letter.

I ask that the full text of these two letters be printed in the RECORD.

The letter follows:

U.S. SENATE,
Washington, D.C., September 4, 1980.
Hon. JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT, we are writing to express our deep concern over the fate of the many people seeking to leave the Soviet Union, especially Soviet Jews. Emigration of Soviet Jews, which reached a record high of more than 51.000 in 1979, has fallen drastically throughout the first seven months of this year and has slowed to a trickle this month. Where an average of more than 4,000 Jews were granted emigration rights each month last year, only 1.205 exited in July 1980 and projections for August based upon half-month figures suggest that less than 700 will leave this month. This would mark the lowest monthly total since the signing of the Helsinki accords in 1975. Harassment of emigration activists by Soviet authorities has also increased—as have officially sanctioned anti-Semitic campaigns within the U.S.S.R. And a number of would-be emigration applicants have been arrested and subject to criminal prosecution on trumped-up charges in recent months.

We, as citizens of a free and democratic society, view these current trends with deep concern and a sense of renewed commitment to the rights of Soviet Union Jews to emigrate freely. The leadership of the Soviet Union must know that the United States will not shrink from its commitment to the principles of the Helsinki accords.

In view of your immutable commitment to human rights, and in light of the upcoming meeting in Madrid to review implementation of the Helsinki Final Act, we urge you to condemn publicly Soviet violations of internationally agreed upon human rights protocols and that you instruct the United States delegation to the Madrid conference to press the emigration issue forcefully, both at the September preparatory session and in the November conference itself.

The United States made significant concessions to the Soviet Union in the Helsinki accords. In Basket I, our agreement to the principle of the inviolability of frontiers permitted the Soviets to represent that the post-World War II changes in Eastern European boundaries were legitimate. In Basket II, we agreed to increase trade with COMECON countries, greatly improving their access to modern Western technology. The human rights commitments made by the Soviet Union in Basket III were in exchange for these concessions. Thus, U.S. efforts to raise the emigration issue now do not constitute unwarranted interference in Soviet internal affairs. The Soviet government signed these international accords and made a commitment to implement the human rights provisions, thereby accepting international monitoring of the accords and registration of complaints regarding the failure of the Soviet Union to respect certain emigration and other rights.

We believe a White House statement would do much to focus world attention on the Soviets' flagrant abuse of international human rights charters. Additionally, such a statement would serve to renew the spirits of those at the forefront of the effort to protect the emigration rights of Soviet Jews in these days of darkness.

Sincerely,

Alan Cranston, Claiborne Pell, Daniel Patrick Moynihan, Harrison A. Williams, Jr., Rudy Boschwitz, Howell Heflin, John C. Danforth, Lloyd Bentsen, Richard S. Schweiker, Howard W. Cannon, Birch Bayh, David L. Boren, Max Baucus, Larry S. Pressler, Paul S. Sarbanes, Jacob K. Javits, Howard M. Metzenbaum, Lawton Chiles, Gaylord Nelson.

Ernest F. Hollings, Herman E. Talmadge, Malcolm Wallop, John Heinz, Edward Zorinsky, William S. Cohen, Donald W. Riegle, Jr., Bob Packwood, Charles McC. Mathias, Jr., J. James Exon, Dennis DeConcini, John A. Durkin, Gary Hart, John C. Culver, Thomas F. Eagleton, Paul E. Tsongas, Frank Church, Carl Levin, S. I. Hayakawa.

Robert Dole, Joseph R. Biden, Jr., Donald W. Stewart, Richard G. Lugar, Bill Bradley, David Durenburger, David Pryor, George J. Mitchell, Walter D. Huddleston, Abe Ribicoff, Alan K. Simpson, Jake Garn, Howard H. Baker, Jr., Charles H. Percy, Richard Stone, Lowell P. Weicker, Jr., Gordon J. Humphrey, Roger W. Jepsen, John Tower.

DEPARTMENT OF STATE,
Washington, D.C., September 19, 1980.
Hon. ALAN CRANSTON,
U.S. Senate.

DEAR SENATOR CRANSTON: I have been asked to respond to your letter of September 8 to President Carter, signed by fifty-six other members of the Senate in addition to yourself, concerning the flow of Jewish emigrants from the Soviet Union. The President and the Department of State are proud of the stance the United States has taken around the world in defense of human rights. The record-high number of Jewish emigrants from the Soviet Union in 1979 is a credit to our continued commitment to the principles of the Helsinki accords. We are deeply concerned, like you, at the drop-off in the number of Jews permitted to leave the Soviet Union in recent months and we have taken every opportunity to deplore Soviet violations of human rights protocols.

In his July 29 speech, President Carter characterized the Madrid CSCE Meeting as an "opportunity to look carefully backward and also to permit us to push forward vigorously." He stated that his and the United States' commitment to human rights remains immutable and that we will seek an explanation from the Soviet Union for the decline in Jewish emigration and a commitment from the Soviets to reverse that decline. He also described the hardships experienced by those in the Soviet Union working to promote implementation of the Helsinki principles inside the Soviet Union and stressed that their cause cannot be silenced. Finally, the President condemned the actions of the Soviet Government, stating "the behavior of the Soviet Union, in particular, has dishonored the principles of the Helsinki Accords, both inside and outside its own borders."

As these statements make clear, President Carter shares your concerns and intends that a full review of human rights issues take place at Madrid. Please be assured that the United States delegation to the Madrid Conference will take every appropriate action to implement the President's words. The emigration rights of Soviet Jews will receive particular attention in this effort. And please be assured that the President and the Department of State will continue to pursue our commitment to Human Rights at every available opportunity.

Thank you for sharing your views and thank you for spelling out your commitment to the cause of Human Rights.

Sincerely,

J. BRIAN ATWOOD,
Assistant Secretary for Congressional Relations.●

THE SALT TREATY

● Mr. HUMPHREY. Mr. President, there are recurrent rumors the administration might push for Senate ratification of the SALT treaty. I find this incredible, if true, since the Armed Services Committee has by formal report found the treaty to be against the interest of our Nation with respect to maintaining an adequate defense.

Equally disturbing are the repeated allegations of Soviet cheating on the various arms control treaties. An excellent article on this subject was published in Aviation Week recently, which I wish to share with my colleagues.

The article follows:

SOVIET SALT VIOLATIONS FEARED

(By Clarence A. Robinson, Jr.)

WASHINGTON.—U.S. intelligence officials are expressing deep concern over Soviet strategic nuclear weapons activities they believe overtly violate the Strategic Arms Limitation Treaty (SALT). Even beyond what appear to be clear-cut violations are other Russian activities that border on treaty violations, or take advantage of loopholes in the agreement.

The recent Soviet strategic nuclear weapons activities include:

Testing in the past few weeks of the SA–10 surface-to-air missile acquisition and tracking radars against Russian reentry vehicles in an antiballistic missile mode. The phased-array radar was used as a battle management system for low-altitude defense of ICBM silos. The Soviets have developed and tested a hypersonic interceptor missile known as the SH–8 to destroy U.S. reentry vehicles within the atmosphere. Testing of an air defense system in an antiballistic missile mode is a clear violation of the ABM treaty, according to U.S. officials.

Testing in a ballistic missile defense scenario against reentry vehicles of the SA–5 Gammon air defense radars on at least one occasion. SA–5s are operated from fixed, hardened sites in the USSR and use a target tracking radar known as the Square Pair, and the Back Net acquisition radar along with the Side Net height-finding radar. The SA–5 has a range of 100 naut. mi. and a maximum altitude of about 100,000 ft. The Soviets conducted earlier tests with the SA–5 in the ABM mode (AW&ST Oct. 21, 1974, p. 14), and the U.S. brought up the tests to the Standing Consultative Commission as a possible violation. Those tests were halted then and only recently resumed.

Tests during recent Soviet and Warsaw Pact war games of a reload capability for the SS–18 ICBM. During the tests in early September, the Soviets simulated firing SS–18s from their silos (launchers), removed the missiles and replaced them with other SS–18s, demonstrating a reload capability. It took the Russians 2–5 days to accomplish the reload procedure.

Tests of the new submarine-launched ballistic missile from Nenoksa on the White Sea with encrypted telemetry, preventing U.S. vertification of missile performance. The new missile is designed for use with the Typhoon-class submarine. At least 80 percent of the telemetry data was encrypted during the most recent test, according to U.S. intelligence officials.

Tests of a new Soviet air-launched cruise missile from the Tupolev Tu–26 Backfire bomber with a missile range greater than 600 km. (372 mi.). The successful testing of the Soviet version of the USAF/Boeing ALCM should require that the Backfire be counted under the heavy bomber category in the unratified SALT 2 agreement, according to U.S. arms control officials.

The demonstrated reload capability with the SS–18 is causing more concern among U.S. intelligence and arms control communities than any of the other Soviet strategic weapons activities, according to Carter Administration officials, "because it goes to the very heart of SALT; that launchers are counted and not missiles."

Information on Soviet nuclear weapons activities taking advantage of the U.S. in using the SALT agreement to screen testing, or of violations, is emerging just as the U.S. is preparing for meetings in early October by Secretary of State Edmund Muskie with Soviet Foreign Minister Andrei A. Gromyko on arms control agreements for theater nuclear forces in Europe.

The U.S. also is moving toward comprehensive nuclear test ban negotiations in Geneva in October despite what U.S. officials call the most flagrant Soviet violation of the existing threshold test ban treaty that limits both sides to underground nuclear testing at the 150-kiloton level.

The test being described by the arms control community as the "hardest violation yet of the threshold test ban" took place in recent weeks at Semipalatinsk. The U.S. received seismic data from 17 locations providing information that the yield of the nuclear device tested was as high as 640 kilotons, with the lowest possible yield 150 kilotons. U.S. officials said they are 95% certain that the yield of the device was between 300 and 400 kilotons, making it a clear violation of the existing test ban treaty.

"We've never had better data than this," one arms control expert said, "and there is no doubt the Russians have violated the treaty. They've gone over the 150-kiloton limit before but not like this with the evidence so clear. At the same time, the U.S. nuclear weapons laboratories are being hamstrung by having to test below a yield of 90 kilotons to make sure we honor the agreement."

Not only are violations alarming the U.S. one Administration official said, "but there is activity which falls outside the SALT agreement, and there appears no way to negotiate an agreement with the Soviet Union which can cover all eventualities. It all boils down to the fact that we got no limit off the Soviets from SALT, especially with this demonstrated SS–18 reload capability. Either this is a vindication of SALT critics or a violation of the agreement."

The Soviet Union, some U.S. intelligence officials believe, has been using spacecraft to survey U.S. ICBM silo locations. One official said there is evidence the USSR has used a beam splitter mirror on its spacecraft to photograph U.S. missile fields in laser light while it simultaneously photographs the satellite against the star background to pinpoint the location of the spacecraft in relation to each U.S. silo.

As the Soviet spacecraft passes over the USSR, it also photographs Soviet missile silos with the star background. This enables Soviet rocket force officers to "hook the arcs together for precision that could enable CEPs (circular error probable) of 50 to 100 ft."

The USSR already has deployed 248 SS–18s in four models. The ICBM has a hard target capability against Minuteman silos. One version has a yield of 24 megatons and a CEP of 0.23 naut. mi. Another version carries 8–10 reentry vehicles, each with a 0.55-megaton yield with the same CEP.

A third version has a CEP of 0.19 naut. mi. and carries a single 20-megaton warhead. The fourth version has 10 MIRVs, each with a 0.50-megaton yield and CEP of 0.14 naut. mi.

Recent U.S. intelligence analysis has determined that the SS–18 is clearly designed to carry 12–14 reentry vehicles in the post boost vehicle, not the 10 limited by SALT 2.

Soviet actions in recent weeks place the arms control community in a position of having to apologize for the Russians, one community member said. "It forces the community to rationalize the Soviet behavior as compatible with treaty language or of having to apologize for the treaty's sloppy language."

The arms control expert added that this defeats any argument against the point that SALT agreements are meaningless by seeking to limit launchers. "The Central Intelligence Agency is arguing that this SS–18 reload is no violation of the SALT agreement because from two to five days is not a rapid reload capability," he explained.

In the SALT 2 treaty signed by the U.S. and USSR but withdrawn from Senate ratification when the Soviets invaded Afghanistan, each party undertakes:

Not to supply ICBM launcher deployment areas with intercontinental ballistic missiles in excess of a number consistent with normal deployment, maintenance, training and replacement requirements.

Not to provide storage facilities for or to store ICBMs in excess of normal deployment requirements at launch sites of ICBM launchers.

Not to develop, test or deploy systems for rapid reload of ICBM launchers.

The treaty further specifies that the term normal "means the deployment of one missile at each ICBM launcher."

"It's not any one thing that leaps out at us from all this Soviet nuclear weapons effort," one strategic weapons expert said, "but rather a picture of a very dedicated kind of an effort in the USSR to achieve a clear superiority over the U.S. at the earliest possible date."

Another official explained that while the intelligence agencies argue over what constitutes a rapid reload capability, the SS–18 exercises contravene SALT. "The whole idea of the treaty is one missile per silo. The U.S., however, must take the rap for this because the Soviets have never said one missile, one silo, and they have never said how many ICBMs they have stockpiled for reloading silos"

"There is something much more important here than merely a Soviet SALT violation," one high-level U.S. official said. "The USSR is behaving in a way calculated to give it a clear advantage over the U.S., which is completely enmeshed in mental or legal constraints of its own making."

The Soviet Union is building a new phased-array ballistic missile defense radar 60 mi. north of Moscow. This is completely within the rules in the ABM treaty, according to U.S. arms control officials.

"But it lends great credibility to NIE [National Intelligence Estimate]-11-38, which states that the USSR is capable of deploying a high-quality thick bank of ballistic missile defense systems within one year from the time the U.S. could detect that the deployment was unmistakable," the official said.

The Soviets have designed the SH–4 interceptor missile much like the U.S. Spartan ABM missile designed by the U.S. Army for intercepts of reentry vehicles in the upper atmosphere. It would be used in an overlay mode by the Soviets as the first line of defense, with the SH-8 for terminal phase intercepts of reentry vehicles.

"With the deployment of the flat twin movable ABM radar system, the new missiles tested against RVs [reentry vehicles] and the battle management radar around Moscow, the Soviets are building toward a capability to break out of the ABM agreement with a clear-cut capability and leave the U.S. behind," one arms control expert said.

A high-level Administration official last week sought to play down the reload capability of the SS-18 ICBMs in response to Aviation Week & Space Technology. He said Soviet textbooks have for years openly discussed the possibility of reloading ICBM silos, and that the Carter Administration position has been that the reload possibility is well known; but that it was agreed not to store missiles in ICBM fields for this purpose, there is no indication this has been done, and it avoids a rapid reload capability.

"In strategic nuclear force balances by Defense Secretary Harold Brown, reloads have not been taken into account," according to the official. He added: "The U.S. already looks so bad in these calculations, why make it look worse? SALT negotiators better wake up. The USSR is obviously thinking in terms of a protracted nuclear war or they wouldn't be testing reloads of four or five days, and the balance is in their favor." ●

SOUTHWIND: THE PILGRIMS FROM SAN JERONIMO

● Mr. SCHMITT. Mr. President, the San Diego Union has printed a series entitled "Southwind" on the subject of Mexican migration. In the second article "The Pilgrims of San Jeronimo," Richard Louv has analyzed one small village which has contributed to the migratory flow of undocumented workers. The median age of the village, which is located in Oaxaca province, is 15. The land cannot sustain the people. Over the generations migration has been the only way to survive; sometimes to Mexico City, sometimes they go north.

The article demonstrates that the flow will stop only when satisfactory jobs exist in these migrant home areas. In the meantime, the United States must have a temporary worker program similar to that proposed in S. 1427—the United States-Mexico Good Neighbor Act. Both the United States and Mexico need such a program, as this article shows quite clearly, for stability while economic development in Mexico proceeds.

Mr. President, I ask that this article be printed in the Record.

The article follows:

The Pilgrims From San Jeronimo

From where he stands, Enrique Alvarado can see the entire squatter's canyon known as Colonia Obrera: the haphazard assemblage of tar paper and plywood shacks; the retaining walls made of discarded automobile tires; the steep foot-path winding from a washed-out road far below. He can hear chickens and children and a music box playing "Yankee Doodle."

A few feet away, Enrique's wife and sister are on their knees scrubbing clothes in a tub. They wear their hair in long braids to their waists. Their children poke at the cool embers of a cooking fire: three rocks assembled in a pre-Columbian pattern.

Enrique is talking quietly to Dr. Michael Kearney, an anthropologist from UC Riverside.

"It would be good to go home," Enrique says, looking away.

Enrique and his family are Mixtec Indians from the village of San Jeronimo in the state of Oaxaca. They are 2,000 miles from home.

On a high ridge in Tijuana they have established a satellite community, an island in the migrant stream. For years, the Mixtecs have used Colonia Obrera as a resting place on the way to work in the United States, and as a refuge on the way back.

There are several satellite communities in this canyon, each with its corresponding villago deep in Mexico.

"If we did not have each other," says Enrique, "we would be lost. I am lucky to speak Spanish. Those who speak only Mixtec go north with much suffering. Some don't even know how to ask for a drink of water."

Enrique came north to Tijuana 10 years ago. He returns to San Jeronimo now and then, but when the harvest there is used up, the overplanted plot of land starved, he takes a bus north again.

Most of his family is with him in Tijuana now, including his grandfather, who squats on a tiny bench nearby. His grandfather, who cannot read or write and speaks only Mixtec, was recruited to pick cucumbers in Michigan during the 1940s, the early days of the bracero program. He is too old to work now. He came north with his grandson because he did not want to be left alone.

Once or twice a year, Enrique crosses the border east of Tijuana; at Tecate—thus avoiding the border bandits and smuggler fees—and crosses the mountains on foot, sometimes in the snow. He walks from three to 10 days to the orange groves of Riverside, where he sleeps between the trees, under plastic sheets when it rains.

Enrique is tired of working in the United States, of the lonelines, of running from the *migra*—a non-derogatory term for the Border Patrol. All of this was an adventure when he was 20, but now he is 30 and he feels trapped in a kind of limbo.

"I would like to live in the U.S.," he says, "but there is too much suffering if you are illegal. Maybe someday, but . . ."

Most of all, Enrique is sick of Tijuana; it has a coin purse for a soul. He is homesick for his mountains, for the way the air smells and the gentleness of life.

When he goes on his trips into the United States, his wife and sister and children, in order to survive, climb down the path, catch a bus into downtown Tijuana and stand in the soot and fumes on street corners and sell packages of gum. The children have learned to chase after tourists and chirp:

"Mooney, mooney, mooney . . ."

The women make 50 cents a day hawking gum. Often they are harassed by the police, thrown into jail, and let back out onto the dark streets after the buses have quit running.

"I am saving my money, says Enrique. "I am going to take all of us home soon. We will buy some land. When I have saved enough money, then we will go home."

Enrique may not have a home to return to.

The migration is quickly remaking the face of San Jeronimo. Ten years ago, the village could not be reached by wheeled vehicles, now there are cars everywhere, many with Baja and U.S. license plates. Trucks, bought with migrant earnings, bring in all sorts of consumer goods.

Villagers who a few years ago were still wearing traditional Mixtec garb now wear Levi's jeans, Penney work shirts and high-top leather boots. Most of the families now buy their clothing in Tijuana or the United States.

Twenty years ago, the entire village was made of sticks. Now most of the houses are made of adobe or masonry.

Refined wheat flour has entered the diet. So have beer and soft drinks. While some of the dietary changes have caused health problems, others have been beneficial. Tropical fruits and vegetables brought in from outside the village have added important vitamins to the diet.

"All of these changes are paid for with earnings made outside San Jeronimo, by migratory workers," says anthropologist Kearney, who has been studying both San Jeronimo and its satellite community in Tijuana for several years.

Like many rural Mexicans in Oaxaca and the central highlands, the Mixtecs have little choice but to migrate for at least part of every year. Deforested, overplanted, overgrazed, the land is dying, weighted down with a population it can no longer support.

The median age of San Jeronimo's 1,450 people is 15. The birth rate is high, partly because the families count on their children to support them in their old age—by migrating.

"What productive land there is, is owned by a handful of people," says Kearney. "Even if this land were redistributed, it still could not support the population."

The Mixtecs do the best they can with their small plots of land, but half of the families run out of food six months after harvest. They can earn extra money through hat-weaving or collecting firewood, but the only real alternative to migration is starvation.

"The choice is not whether to go, but where to go," says Kearney.

A few of the families have moved permanently to the slums of Mexico City, soon to be the largest city in the world.

Especially for an Indian, work there is increasingly difficult to find. Most households send one or more members on the migrant circuit to cut cane in Veracruz or pick tomatoes in the Culiacan Valley of Sinaloa for $4.50 a day. Often entire families work the fields of Culiacan, living in swollen, disease-ridden labor camps.

A third alternative is to borrow money at 10 percent interest from a local lender, pack part or all of the family onto a bus and travel three or four days to Tijuana. There the women and the elders set up housekeeping while the men slip into California for work.

While the trip to the border is more dangerous, and more of a financial risk, the payoff can be considerable—four or five times what they can make in Veracruz or the Culiacan Valley.

Over several generations, migration has become a way of life. In San Jeronimo, Kearney found that more than 80 percent of the men—and over half the women—15 or over, have migrated at least once. Other studies have shown similar figures in many parts of rural Mexico.

Even priests migrate—making annual pilgrimages to the satellite communities in Tijuana. There they take up collections among the migrants for civic projects back home, such as refurbishing local plazas or reroofing the church.

About 40 percent of what the migrants earn in the United States is sent home, usually by mail order to family members.

This system has been called "the purest form of foreign aid" by former U.S. Immigration and Naturalization Service director Leonel Castillo. The money gets to the people who need it most, instead of being filtered through government agencies.

The trouble with this system, though, is that the money is usually spent immediately on consumer goods, instead of being invested in job-producing enterprises.

"There's virtually no land to buy," says Kearney. "Stores and trucks are monopolized by a few individuals. So the Mixtecs buy the food they need to stay alive, then spend the rest of their earnings fixing up their houses and buying things they probably don't need. Meanwhile, the cost of living in San Jeronimo continues to rise."

All of this could be turned around, insists Kearney.

"If the United States and Mexico were to set up some mechanism for rechanneling some of the migrant earnings into local industries, the people eventually wouldn't have as much need to migrate," he says. "They could stay home and work. Most of them I talk with would definitely prefer staying home."

Some villages have already moved in this direction on their own, according to Dr. Wayne Cornelius, a UCSD authority on the migration.

One community in the state of Jalisco, for example, decided to invest money earned in the United States in machinery for more than 200 small textile factories. A local economic boom resulted.

"Migration from Mexico seems concentrated in particular regions, counties and localities," Cornelius pointed out. These areas, he suggested, could be targeted for economic aid.

If such assistance came to San Jeronimo, Enrique Alvarado and his family might not have a recognizable Mixtec culture to return to, but at least he would have a job.

Homesickness tugs at the Mixtecs living in Tijuana's Colonia Obrera, but dreams pull them north.

Indeed, the most popular magazines in Mexico are Cosmopolitan and Good Housekeeping, and seven of the 10 biggest advertising agencies in Mexico City are subsidiaries of Madison Avenue firms. Pages of magazines decorate the plywood walls of the colonias: pictures of Maytag washing machines, Chevrolet Monte Carlos and Gucci fashions.

In Colonia Obera, there are more television sets than refrigerators.

While most anthropologists try not to introduce anything new and foreign into a culture, Micheal Kearney knows that such professional purity is impossible among the Mixtecs. Each time he drives down to Tijuana, he brings with him sacks of discarded clothing that he distributes.

After leaving Enrique's home, his next stop is a three-room shack on the other side of a ravine, where five or six people live. As Kearney approaches, 17-year-old Arturo Lopez turns the sound down on an old black-and-white television.

Kearney sits on a cot in the dark room with Arturo and puts a sack of clothing down on the dirt floor. They talk for a while about his trips north.

Kearney has brought a letter to Arturo from his father, working in the orange groves of Riverside County. Arturo reads it eagerly.

"What are your plans, Arturo?" asks Kearney.

"I don't have an opinion because I don't know what the possibilities are," Arturo says. "Maybe look for a job in the garment factories here—except they hire mainly women. Or in construction. Or go to the U.S. to stay."

One option is the Mexican army:

"I am just a backward Indian. In the army I can obtain important papers, I can better myself."

As he talks, his eyes keep flicking to the silent TV images: a 1948 Mexican-made movie in which everyone wears gowns and tuxedoes and glides across a ballroom floor. There are no hooked noses or dark-skinned people in the movie—certainly no Mixtec Indians.

"Right now I am finishing school," Arturo announces proudly. "I am in the ninth grade!"

He leads Kearney into the back room of the shack, where he has assembled an immaculate study: a card table with a tiny Royal typewriter sitting on it. His school papers are neatly stacked, pencils and papers in a jar. A single light bulb hanging from the ceiling is attached to an extension cord that snakes throughout the house. Showing off his study fills him with pride.

Kearney takes two more bags of clothing to a woman whose husband has been in the United States too long, whose children are sick. As he asks the woman to distribute the clothing to other families, an old man watches, leaning on a cane, visibly moved.

His face is the texture of the hill. He is wearing a straw cowboy hat stamped with the insignia of the San Diego Chargers. He touches Kearney's arm:

"Come to San Jeronimo," he says expansively, "I will show you what it is like there. We will take horses into the mountains."

"Do you work in the U.S.?" asks Kearney.

"No, no my grandson does. I have never been there. I am too afraid."

He touches his face.

"Black! I am pure Indian. We are afraid of white, blond people. If even a child jumps out, we are afraid of that child."

He is slightly drunk. He speaks feverishly of home and of the plot of land he has worked for 70 years. He lists the types of maize. He pumps his arms up and down, demonstrating how he uses the *tlacolole*, a primitive hoe.

He has been here three months. Like Enrique Alvarado, he yearns for his land, even though his land can no longer support him

"The thing that puzzles me the most," Kearney said later, caught in a traffic jam on the way back to Riverside, "is that not only do the rich blame the poor for being poor, but the poor blame the poor. When that old man was describing his skin, he really believed he was inferior.

"That's true for most of them—they think they deserve this lot in life. They have no idea that they're being pushed around by economic forces out of their control. They have no sense of—outrage."

Then again, there is a hardness in Enrique's eyes, and Arturo has his study and his TV. The migrants are absorbing from the United States more than the minimum wage.

They are bringing back intangible, almost terrifying powerful new values. Nothing at home or in their hearts will ever be the same again.●

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to go into executive session to consider the following nominations only: Reuben B. Robertson, under Administrative Conference of the United States, on page 2 of the calendar; the two nominations under Department of Justice on page 3; the one nomination under Commission on Civil Rights on page 3; the nominations under National Science Foundation on page 4; all nominations on page 5, which include the one nomination under National Science Foundation and the nominations under National Council on the Humanities; all nominations on page 6, which include National Council on the Arts, and National Commission on Library and Information Science; and all nominations on page 7, which include the National Consumer Cooperative Bank, National Council on the Humanities, and Uniformed Services University of the Health Sciences; and one nomination on page 8, that being under National Council on the Handicapped.

Mr. STEVENS. There is no objection to those items for confirmation, Mr. President.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominees be confirmed en bloc, that the motions to reconsider en bloc be laid on the table, that the President be immediately notified of the confirmation of the nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I concur in that position.

The nominations considered and confirmed en bloc are as follows:

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Reuben B. Robertson, of the District of Columbia, to be Chairman of the Administrative Conference of the United States.

DEPARTMENT OF JUSTICE

Brian P. Joffrion, of Louisiana, to be U.S. marshal for the western district of Louisiana.

Harry Alan Scarr, of Virginia, to be Director of the Bureau of Justice Statistics.

COMMISSION ON CIVIL RIGHTS

Blandina Cárdenas Ramirez, of Texas, to be a member of the Commission on Civil Rights.

NATIONAL SCIENCE FOUNDATION

Mary Jane Osborn, of Connecticut, to be a member of the National Science Board, National Science Foundation.

Peter T. Flawn, of Texas, to be a member of the National Science Board, National Science Foundation.

Peter David Lax, of New York, to be a member of the National Science Board, National Science Foundation.

Homer A. Neal, of Indiana, to be a member of the National Science Board, National Science Foundation.

Mary Lowe Good, of Louisiana, to be a member of the National Science Board, National Science Foundation.

Donald B. Rice, of California, to be a member of the National Science Board, National Science Foundation.

Stuart A. Rice, of Illinois, to be a member of the National Science Board, National Science Foundation.

John Brooks Slaughter, of Washington, to be Director of the National Science Foundation.

NATIONAL COUNCIL ON THE HUMANITIES

Marcus Cohn, of Maryland, to be a member of the National Council on the Humanities.

Samuel DuBois Cook, of Louisiana, to be a member of the National Council on the Humanities.

Roland Paul Dille, of Minnesota, to be a member of the National Council on the Humanities.

A. Bartlett Giamatti, of Connecticut, to be a member of the National Council on the Humanities.

George Alexander Kennedy, of North Carolina, to be a member of the National Council on the Humanities.

Louise Ano Nuevo Kerr, of Illinois, to be a member of the National Council on the Humanities.

Frances Dodson Rhome, of Indiana, to be a member of the National Council on the Humanities.

Philip Aaron Schaefer, of California, to be a member of the National Council on the Humanities.

Anita Silvers, of California, to be a member of the National Council on the Humanities.

NATIONAL COUNCIL ON THE ARTS

Kurt Herbert Adler, of California, to be a member of the National Council on the Arts.

Margo Albert, of California, to be a member of the National Council on the Arts.

Robert Joffrey, of New York, to be a member of the National Council on the Arts.

Toni Morrison, of New York, to be a member of the National Council on the Arts.

Ioeh Ming Pei, of New York, to be a member of the National Council on the Arts.

Lida Rogers, of Mississippi, to be a member of the National Council on the Arts.

Erich Leinsdorf, of Massachusetts, to be a member of the National Council on the Arts.

National Commission on Libraries and Information Science

Charles William Benton, of Illinois, to be a member of the National Commission on Libraries and Information Science.

Gordon M. Ambach, of New York, to be a member of the National Commission on Libraries and Information Science.

Paulettee H. Holahan, of Louisiana, to be a member of the National Commission on Libraries and Information Science.

Uniformed Services University of the Health Sciences

Robert Higgins Ebert, of New York, to be a member of the Board of Regents of the Uniformed Services University of the Health Sciences.

Eugene M. Farber, of California, to be a member of the Board of Regents of the Uniformed Services University of the Health Sciences.

Lauro F. Cavazos, of Texas, to be a member of the Uniformed Services University of the Health Sciences.

Caro Elise Luhrs, of the District of Columbia, to be a member of the Board of Regents of the Uniformed Services University of the Health Sciences.

William R. Roy, of Kansas, to be a member of the Board of Regents of the Uniformed Services University of the Health Sciences.

National Consumer Cooperative Bank

Wayman D. Palmer, of Ohio, to be Director of the Office of Self-Help Development and Technical Assistance, National Consumer Cooperative Bank.

National Council on the Humanities

Marian B. Javits, of New York, to be a member of the National Council on the Humanities.

National Council on the Handicapped

Odessa Komer, of Michigan, to be a member of the National Council on the Handicapped.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

FUTURE DEMOCRATIC GOALS

Mr. ROBERT C. BYRD. Mr. President, the distinguished national columnist, David Broder, has recently observed that this election year will mark the emergence of a new generation of national leaders. These men and women, who will assume the mantle of leadership by the end of this decade, were born in the post-Depression era and achieved adulthood during the 1960's—an era of incalculable social tumult and change. The ideas and actions of this new generation will shape the future of America as we move toward the 21st century and beyond.

The distinguished senior Senator from Colorado, Gary Hart, has already compiled a record of significant achievement. He has been an articulate advocate of the interests of the Nation and of the State of Colorado. He has tackled a broad range of national issues—including defense policy, Federal spending, energy development and environmental protection, offering a host of creative and constructive initiatives. He has sought a fresh approach to American politics, one that will provide answers to today's problems.

In today's Washington Post, Senator Hart offers his prescription for the Democratic Party of the future. He offers some constructive suggestions for ordering our national priorities which I commend to all my colleagues. With young leaders such as Gary Hart I am assured that the future of the Democratic Party and the Nation are in safe hands.

I ask unanimous consent that the article entitled "Democrats: A New Path to Old Goals" be inserted in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post,
Sept. 23, 1980]

Democrats: A New Path to Old Goals

(By Gary Hart)

In 1832, addressing the emerging factionalism in America, President Andrew Jackson said: "It is time to pause in our career to review our principles" and "revive that devoted patriotism and spirit of compromise" that distinguished the revolutionary founders.

The same imperative applies today.

The major political parties are dormant because they have so few new ideas and because changing conditions have made the historic quarrels between them largely irrelevant. The Democratic Party thus has an extraordinary opportunity to produce fresh ideas. But it must root new economic concepts—designed to fulfill a compassionate, unfinished social agenda—in the market rather than the bureaucracy. And it must reclaim responsibility for reform of our military leading to an innovative and more effective national defense.

Those of us who are Democrats believe our historic principles uniquely qualify our party to articulate the national agenda, propose creative and equitable solutions and rekindle the spirit of compromise and consensus around the common good.

Among the Democratic Party's historic principles: the Jeffersonian principle of a free, competitive private economy; the Jacksonian principle of the protection of the individual from the power of concentrated wealth; the Rooseveltian principle of economic stability wed to social conscience. Thus, from the early principles—economic opportunity; from the later principles—economic and social justice.

By reclaiming these principles, the Democratic Party can form a new consensus composed of middle-income people concerned about economic stability and national security, workers who hope for better opportunities for their children, the elderly, the unemployed, minorities and the young.

America's agenda for the 1980s and 1990s is long and varied. But it has a unifying link. Our nation's ability to provide stable prosperity and economic opportunity for its young people, to ensure the national security, to promote our interest and those of our allies abroad and to achieve social justice—all depend on the health of our economy. Clearly, the renewal of the Democratic Party must be structured on a new economic keel.

And that, in turn, results from a clear statement of the national economic agenda, an agenda based on the following concepts:

National and personal priorities must be shifted toward production and away from consumption.

Market forces, rather than government allocation formulas, should dictate personal economic choices.

Our definition of "standard of living" should reflect fundamental values such as shelter, nutrition, health, education and employment, not unnecessary luxuries.

The elderly and disadvantaged must be buffered against the shortfalls in a leaner society, not through government handouts but, for example, by non-bureaucratic instruments such as "lifeline" utility rates.

Our commitment to racial justice must be restored—specifically through employment—by creating incentives for minority job training in private industry and by making new energy projects and urban modernization high-priority minority employment sectors.

Urban rebuilding can be financed by a "21st Century Cities Bank" capitalized by state budget surpluses and public employee pension funds.

Increased domestic energy production must be balanced with health and safety protection through publicly financed pollution control equipment on coal-burning industrial facilities, increased safety measures on a nuclear plants and impact assistance to communities producing synthetic fuels.

Social goals, such as moderate wage and price increases and legitimate environmental standards, should be induced, where possible, through economic incentives rather than rigid, complex regulations.

Workers should be encouraged to share in the ownership of production facilities through employee stock ownership plans or similar proposals.

These illustrative ideas suggest a new consensus can be formed if we pursue historic Democratic goals—economic opportunities for the young and the unemployed, social justice for the disadvantaged, restoration of fundamental social goals and values, growth and equity—achieved not through programmatic solutions that Democrats reflexively propose, but through the natural mechanisms of the marketplace.

And consensus—Jackson's "spirit of compromise"—will be necessary, for difficult economic questions, testing the political implementation of these goals, are taking shape on the horizon:

Should U.S. industries be both subsidized and permitted to become more concentrated to encourage competition with foreign counterparts—when both trends frustrate a true domestic free market economy?

Given that the tools for capital formation are well known and relatively simple (e.g., tax incentives for investment, accelerated depreciation), how should we choose *which* industries to stimulate or "reindustrialize"?

How do we achieve regionally balanced growth, in a nation of a half-dozen or more disparate regional economies?

Can the tax system—the benchmark of a just society—itself be made simple, just and equitable, at a time when it represents the most effective alternative set of fiscal tools to the traditional bureaucratic-programmatic approach to achieving social and economic goals?

Can private industry be induced to undertake risk—as in the production of synthetic fuels and renewable energy—when public policy (and perhaps national security) requires it, but when profits are plentiful from conventional technologies?

Can outdated, burdensome economic regulations be reduced without sacrificing necessary regulatory protection for public health and safety?

Can massive capital be accumulated to rebuild older cities and restore our national infrastructure, particularly our transportation systems, and provide jobs for the structurally unemployed?

These complex questions must be addressed over the next two decades within the context of the national agenda suggested above. But aside from their basic economic character, these issues are noteworthy for their resistance to traditional ideological orthodoxy. The profound differences between Republican and Democratic philosophy and principles remain. And so they should. But the world and its problems change, and outmoded programs and dogmas must give way if answers are to be found.

The Democratic Party offers the best chance for consensus—through economic opportunity and social equity—and thus the best chance for resolution of the economic agenda. And that consensus can be extended to defense and foreign policy, as well as energy development and resource management.

Kant said: "A democracy . . . is the most complex of all the forms of state, for it has to begin by uniting the will of all so as to form a people; and then it has to appoint a sovereign over this common union, which sovereign is no other than the united will itself."

It is complex to unite the American will. But the Democrats of the future must do it and, once it is done, our national will is invincible.

FOREIGN SERVICE ACT OF 1980

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CHURCH, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 6790.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 6790) to promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. On behalf of Mr. CHURCH, I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

Mr. STEVENS. There is no objection.

The motion was agreed to; and the Presiding Officer appointed Mr. CHURCH, Mr. PELL, Mr. BIDEN, Mr. TSONGAS, Mr. JAVITS, Mr. PERCY, and Mr. HELMS conferees on the part of the Senate.

RECESS UNTIL 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in recess until 9:45 tomorrow morning.

The motion was agreed to; and at 7:59 p.m. the Senate recessed until tomorrow, Wednesday, September 24, 1980, at 9:45 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 23, 1980:

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Reuben B. Robertson, of the District of Columbia, to be Chairman of the Administrative Conference of the United States for a term of 5 years.

DEPARTMENT OF JUSTICE

Brian P. Joffrion, of Louisiana, to be U.S. marshal for the western district of Louisiana for the term of 4 years.

Harry Alan Scarr, of Virginia, to be Director of the Bureau of Justice Statistics.

COMMISSION ON CIVIL RIGHTS

Blandina Cárdenas Ramirez, of Texas, to be a Member of the Commission on Civil Rights.

NATIONAL SCIENCE FOUNDATION

The following-named persons to be Members of the National Science Board, National Science Foundation, for terms expiring May 10, 1986:

Mary Lowe Good, of Louisiana.
Peter T. Flawn, of Texas.
Peter David Lax, of New York.
Homer A. Neal, of Indiana.
Mary Jane Osborn, of Connecticut.
Donald B. Rice, of California.
Stuart A. Rice, of Illinois.

John Brooks Slaughter, of Washington, to be Director of the National Science Foundation for a term of 6 years.

NATIONAL COUNCIL ON THE HUMANITIES

The following-named persons to be Members of the National Council on the Humanities for terms expiring January 26, 1986:

Marcus Cohn, of Maryland.
Samuel DuBois Cook, of Louisiana.
Roland Paul Dille, of Minnesota.
A. Bartlett Giamatti, of Connecticut.
George Alexander Kennedy, of North Carolina.
Louise Ano Nuevo Kerr, of Illinois.
Frances Dodson Rhome, of Indiana.
Philip Aaron Schaefer, of California.
Anita Silvers, of California.

NATIONAL COUNCIL ON THE ARTS

The following-named persons to be Members of the National Council on the Arts for terms expiring September 3, 1986:

Kurt Herbert Adler, of California.
Margo Albert, of California.
Robert Joffrey, of New York.
Toni Morrison, of New York.
Ieoh Ming Pei, of New York.
Lida Rogers, of Mississippi.

Erich Leinsdorf, of Massachusetts, to be a Member of the National Council on the Arts for the term expiring September 3, 1986.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

The following-named persons to be Members of the National Commission on Libraries and Information Science for terms expiring July 19, 1985:

Charles William Benton, of Illinois.
Gordon M. Ambach, of New York.
Paulette H. Holahan, of Louisana.

NATIONAL CONSUMER COOPERATIVE BANK

Wayman D. Palmer, of Ohio, to be Director of the Office of Self-Help Development and Technical Assistance, National Consumer Cooperative Bank.

NATIONAL COUNCIL ON THE HUMANITIES

Marian B. Javits, of New York, to be a Member of the National Council on the Humanities for the remainder of the term expiring January 26, 1982.

NATIONAL COUNCIL ON THE HANDICAPPED

Odessa Komer, of Michigan, to be a Member of the National Council on the Handicapped for a term of 1 year.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

The following-named persons to be Members of the Board of Regents of the Uniformed Services University of the Health Sciences for the terms indicated:

For terms expiring June 20, 1983:
Robert Higgins Ebert, of New York.
Eugene M. Farber, of California.
For terms expiring June 20, 1985:
Lauro F. Cavazos, of Texas.
Caro Elise Luhrs, of the District of Columbia.
William R. Roy, of Kansas.

EXTENSIONS OF REMARKS

POLITICS AND RELIGION

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. BONKER. Mr. Speaker, among people who want to stay on good terms, the two topics to be avoided are politics and religion. When politics and religion are combined, the result is even more volatile. Religion is the realm of absolutes; politics the art of compromise. Thus, the Founding Fathers wisely put some constitutional distance between church and state, religion and politics.

But the two cannot—and should not—be separated completely. Religion shapes our view of the world and our notions of right and wrong. Politics is the process by which these values are translated into public policy. So it should not be surprising that we have seen a recent surge in political involvement by Christian groups seeking to reestablish moral values in government and society.

I commend fellow evangelicals who are attempting to bring biblical principles to political problems. But I have been troubled that some groups, claiming to speak for all evangelicals, have presented a political agenda that represents neither the majority of Christians, nor a balanced view of biblical truth.

Both liberal theologians and right wing fundamentalists declare they have the Christian mandate on a whole spectrum of specific issues, ranging from ERA to defense spending. While church liberals tend to emphasize corporate morality and social consciousness, conservatives focus narrowly on issues related to personal piety.

As noted by the editors of Christianity Today:

> Some evangelical lobbies on the political right, as well as lobbies on the left, want us to believe that theirs is the only truly Christian position on all the issues.

Both extremes conveniently ignore major biblical teachings. They also make judgmental proclamations that do not tolerate diversity—even on secondary issues or those to which the Bible does not speak clearly.

Jesus Christ had to deal with extremists in his day—the powerful Saducees and the nationalistic and pious Pharisees. Both groups were missing the mark, and Christ's life and teaching was intended to give us some direction on these matters. The Christianity Today editorial reminds us that what America needs is not shrill emotional cries, even from religious leaders of the right or the left, for this or that panacea or cure for our national and international problems. America needs thoughtful, prayerful Christian citizens who choose to vote responsibly for leaders of moral integrity and sheer honesty, leaders who love justice, have the courage to do the right even at the cost of popularity, understand complex domestic and foreign issues, and appreciate the significance of underlying moral and spiritual values.

The following editorial from the September 19, 1980, issue of Christianity Today is timely, relevant reading as we approach the upcoming elections:

GETTING GOD'S KINGDOM INTO POLITICS

CHRISTIANITY TODAY PRESENTS A REFERENDUM THAT SHOULD HELP CHRISTIANS CLARIFY THEIR STAND ON MANY ISSUES

Remember 1976, the "year of the evangelical"? That was the year evangelicals exulted in born-again Jimmy Carter's election to the presidency, the year they put up their feet and said, "Well, it's about time the world took notice of us." They basked in all the exposure they were getting.

Now it is 1980, another election year. All three presidential candidates claim some sort of born-again status. Evangelicals generally have higher visibility in the news media, though commentators still scratch their heads at their "fundamentalist" zeal, and some continue to stereotype the evangelical as one who is unconcerned about social and political issues.

Evangelicals certainly are not all cut from the same cookie cutter. They are committed to the final infallible authority of the Bible. They profess absolute allegiance to the lordship of Jesus Christ. They believe in righteousness and justice. Many of them believe that the U.S. has traveled far down the primrose path to moral and social decadence. They trumpet a clarion call to repentance and renewed dedication to the good. But they don't agree on what path will take us most readily there.

1980 could well be called the year of the right-wing religious lobby. Best known are Moral Majority, headed by Jerry Falwell, and Christian Voice, headed by Robert Grant, with their millions of followers. Their mission? To clean up America by getting moral values back into government, schools, and families—a lofty goal, one that evangelicals heartily espouse.

We support the vigorous stand these lobbies take for what is right and their deep commitment to social and political change. As Christians, they are involved; they refuse to opt out of the human race. They recognize that evangelicals, too, have an earthly citizenship with responsibilities to take social and political action for the welfare of their fellow citizens. They take seriously the causes of national righteousness and justice.

This flurry of evangelical political activity, particularly by these lobbies, has provoked us to ask a number of questions pertaining to Christian faith and politics. The Christianity Today editors put together a little referendum and we give readers our results. Compare them with yours.

Do Christians really care about the moral decline in our society—the breakdown of the family, the rise of secular humanism, dishonesty in government, the onslaught of pornography, homosexual practice, free and easy abortion, social injustice, the exploitation of minorities and the poor, televised sex and violence, increasing drug usage and addiction, and government intrusion into the affairs of private schools and churches? Yes.

Unanimity among Christians is hard to find, either in politics or theology. But we think all Christians can agree with this list of moral concerns and many more. We stand together, too, in solid support of Evangelicals for Social Action in their call for evangelicals to take a biblically informed approach to politics. The ESA statement published in this issue reminds us of certain Christian givens: The family is a divinely willed institution. Every human life is sacred. Religious and political freedom are God-given inalienable rights. God and his obedient people have a special concern for the poor. He requires just economic patterns in society. He requires Christians to be peacemakers. He requires stewardship of the earth's resources. Sin really is both personal and social. Personal integrity is vital.

Moral Majority and Christian Voice appear to emphasize the first three of these ESA principles more than the others. The Bible deals with all of them. In fact, probably more space in the Bible is devoted to calls for justice and the care for the poor than to the fact that human life is sacred, though none can deny that both are biblical mandates. The concerns of the religious lobbies will appeal to a broader range of Christians to the extent that they emphasize these other equally biblical principles of justice, peace, stewardship of our resources, and care for the poor, as well as profamily and prolife issues. It is a case of "these ye ought to do but not to leave the others undone." Too narrow a front in battling for a moral crusade, or for a truly biblical involvement in politics, could be disastrous. It could lead to the election of a moron who holds the right view on abortion.

Do evangelicals and religious lobbies have the right to organize? Yes.

Of course, they do. And it's about time evangelicals exercised that right. For too many years they have shied away from political activity, while National Council of Churches lobbyists and liberals in mainstream denominations pressed for their own humanistic platforms. No one should be surprised at or disturbed by the formation and increasing influence of conservative religious lobbies. It's not the ones who complain about moral decadence who have influence in Congress, it's the ones who do something about it. Politically active evangelicals are simply striving for the good of their fellow citizens.

Are all evangelicals necessarily politically conservative? No.

Ask Mark Hatfield that question. Or Jimmy Carter. Or John Anderson. Or anyone who reads Sojourners, The Other Side, the Wittenburg Door, the Church Herald, or the Christian Leader. "All evangelicals" agree on very few things, but at least they agree on the most important things: in one God who in Christ chose to invade our planet in order to redeem men from sin and its consequences; the substitutionary death of Jesus Christ on the cross as the means by which God himself completely settled the score of man's sin; his own sovereign role as the Supreme Judge of all the universe; the need for a personal relationship with God through faith in Christ; and

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

the call of every Christian to discipleship and a life of sacrificial love in service to God and our fellow men. Everything else is application and secondary—even politics. Differences among Christians over fine points of theology or politics should be welcomed as a sign of breadth and vitality, not of weakness.

But there are differences in viewpoints. We insist that it is possible for an evangelical who believes in the inerrant authority of Scripture to be a political moderate, or even a liberal.

Is there only one "Christian" position to take on each of today's complex issues?

We get the impression that some evangelical lobbies on the political right, as well as liberal lobbies on the left, want us to believe that theirs is the only truly Christian position on all issues. How can a policy board of evangelical Christians, without access to vast amounts of intricate political data, emerge from a meeting and announce that it has arrived at the Christian or moral position on lifting sanctions against Zimbabwe, for example? Or how can its opposite number, a body of liberal theologians, demand the reverse as the Christian position?

Surely it is possible for people to arrive at what they feel is a biblical position on Zimbabwe, or disarmament, or the Panama Canal. While the Bible was never intended to be an economics textbook or a foreign policy manual, it still gives clear principles that we can apply to the issues of the world around us. But even if we all see these principles with scintillating clarity and accuracy, they must be applied to the present world situations—the complex personal and institutional life as it is organized and lived on planet earth.

The Bible isn't always explicitly clear on how its principles are to be understood and applied to every specific issue. These applications are not always divinely given in the Word of God. Our best efforts to be biblical and moral on current political, social, and economic issues are still limited, very fallible human applications of the infallible Scripture. We must be prepared to recognize, therefore, that sincere and conscientious Christians may apply these principles in different and sometimes opposite ways. Recognizing the diversity in the body of Christ, Christians must allow for these differences in application of God's truth.

The political presence and influence of contemporary evangelicals is good and must be commented: first, because they are concerned about moral issues and national righteousness and justice; second, because they are concerned about social and political choices and recognize the responsibility of Christians to be informed, to hold opinions, and to express openly their viewpoint; and third, because they are doing something about their convictions so as to get action and work for man's good. All this is not only consistent with biblical and evangelical Christianity, it is demanded if we are to be guided by the clear instructions of Holy Scripture. As good disciples we must take seriously the lordship of Jesus Christ over every aspect of human thought and life, including man's political life, and we must function as Christian citizens of the state.

But we must also warn the new evangelical activities of serious dangers that beset their path as leaders of the people. It will not do, for example, to focus upon a single issue, or even two or three so-called moral issues. In today's world, not one issue, but many, are important to the welfare of our society. It is more important to secure responsible political leaders of intelligence, deep moral commitment, political wisdom, and administrative skills than those who simply vote "right" on one or two, or even fourteen favorite issues. For the good of our nation, we must exercise a broader vision.

Likewise, we must warn against what often appear as simple solutions to the problems of America. We live in a terribly complex society. Rarely are neat, pat answers the best solutions to the intricate social, political, and economic problems of the world. It is all too easy to shut our eyes to the complexities of a problem, opt for superficial slogans, and join a noisy but unthinking crowd following a popular religious crusade.

Thoughtful Christians will be wary of such Pied Pipers. Uncritical support is unworthy of the Christian citizen who seeks righteousness and justice, for it is destructive of the good of society. Something that appears to be an easy answer for a complex problem of society often brings untold harm.

America today does not need shrill emotional cries, even from religious leaders of the right or the left, for this or that panacea or cure for all our national and international problems. America needs thoughtful, prayerful Christian citizens who choose to vote responsibly for leaders of moral integrity and sheer honesty, leaders who love justice, have the courage to do the right even at the cost of popularity, understand complex domestic and foreign issues, and appreciate the significance of underlying moral and spiritual values. We must find such leaders, work to get them elected, and then trust them and pray for them. Remember the ancient wisdom; people generally get the government they demand and deserve.●

V.S.O.P.

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. GEPHARDT. Mr. Speaker, like good wine, legislative proposals should speak for themselves. But since President Carter included the social security payroll tax credit, H.R. 7046, in his economic renewal program, some experts on our economy and consumer affairs have had some interesting things to say about my idea:

Walter W. Heller, Department of Economics, University of Minnesota, August 29, 1980

I am pleased that the White House has adopted your approach to relieving both employers and employees of some of the burden of the payroll tax. While I would prefer to see this relief in the form of a direct reduction of the payroll tax rate itself, I am aware of the difficulties of doing that at the present time. Your bill is an excellent second best.

It is distinctly superior to an adjustment of tax rates as a rough-and-ready compensation for some of the payroll tax increase. Your approach makes it crystal clear to the employee that he is getting an increase in take-home pay without a wage increase and, even more important, to the employer that he is getting an effective reduction in the cost of his labor. That reduction should pass through to lower prices than one would have without your tax credit.

Otto Eckstein, President, Data Resources, Inc., August 1, 1980

A two-year, 10 percent tax credit against Social Security taxes would be a personal income tax cut with a good pattern of benefit distribution. The 10 percent credit against Social Security taxes, especially now that the base for Social Security is so dramatically enlarged, would be desirable. If it is politically impossible to produce a rate schedule which focuses the benefits in the brackets identified, then I would prefer the credit proposal to broad across-the-board rate reductions.

The Social Security tax credit could also be applied to corporate income taxation. As a temporary credit it also would be a convenient way of achieving a good split between corporate and personal cuts: most of the depreciation reform proposals cost very little in the first year but become very costly later on. If it is desired to provide 40-50 percent of the tax package to corporations, then some form of rate reduction or tax credit becomes necessary on a temporary basis until the depreciation reform becomes costly. While I would prefer a change in the rate schedules to an investment credit, if that possibility is ruled out I would give this credit second place.

Robert J. Samuelson, The National Journal, Reprinted in the Washington Post, September 2, 1980

Government isn't powerless. Aside from shunning favors for specific constituencies, it can fashion its tax cut with monetary policy in mind. Specifically, the next tax cut ought to be modest, ought to repeal the 1981 Social Security tax increase (which tends to get built into labor costs and passed along in prices) and ought to concentrate relief on business taxes (which would limit pressure to restore profit margins by raising prices).

This orientation would diminish upward pressures on interest rates, which is good for three reasons: (1) it would concentrate the recovery on the depressed housing and auto industries, which are dependent on credit and sensitive to rates; (2) it would tend to hold down inflation both because mortgage interest rates are built into the consumer price index and because shortages of housing and fuel-efficient cars (read: demand for foreign oil) exert independent inflationary pressure; and (3) it would tend to push money out of short-term investments into the stock market, and the economy needs more "risk" capital.

Tax Reform Research Group, People and Taxes, September 1980

If one were laying out the criteria for a "perfect" tax cut, the list would probably include the following:

It should be equitably distributed.

It should stimulate lagging demand to help us out of the recession and put people back to work, but should not add to the rate of inflation.

Insofar as it goes to business, it should be as economically neutral as possible and should not favor big companies over small ones.

It should be easy for taxpayers and the IRS to deal with, not adding any more complexity to the tax laws.

Although it seems almost too good to be true, there is one kind of tax cut which has all these advantages: a reduction in social security tax rates. Even more amazing, a proposal with most of these benefits is gaining popularity in Congress, and has a reasonable chance to be included in any tax legislation which is finally approved.

Representative Richard Gephardt (D-Mo) and Senator Bill Bradley (D-N.J.) are sponsoring a measure to give employers and employees a refundable 10 percent income tax credit for social security taxes paid. The key economic advantage of this approach over a straightforward cut in income tax rates is that employers are likely to perceive their share of the cut as a reduction in wage costs—and therefore cost pressures on prices are likely to be reduced.●

CONGRESSMAN MOFFETT SUPPORTS H.R. 7554, SMALL BUSINESS INVESTMENT INCENTIVE ACT

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. BROYHILL. Mr. Speaker, today we will be voting on a very important piece of legislation, the Small Business Investment Incentive Act, H.R. 7554. The goal of this legislation is simple: to update our securities laws to remove those barriers to capital formation which have restricted investment in small and developing companies.

This legislation represents a significant change in the law for a number of reasons. In the past decade, we have seen small, developing companies become the primary supplier of new jobs. We have seen them develop much of our new technology. And we have seen these smaller businesses become the spark to further community development. In short, small business has had an immeasurable impact on our country and its economy and it behooves the Congress to foster the development of smaller enterprises.

H.R. 7554 is the result of extensive hearings by the Consumer Protection and Finance Subcommittee. It was developed through consultation with a number of Members of Congress and affected industries.

After studying the hearing record on H.R. 7554 and its predecessor bill, H.R. 3991, my esteemed colleague from Connecticut, TOBY MOFFETT, contacted me to indicate his support for the goals embodied in the proposal and to indicate that he wished to cosponsor the bill. Unfortunately, H.R. 7554 was not reintroduced subsequent to Congressman MOFFETT's call to me.

Thus, I would like to take this opportunity to thank Congressman MOFFETT for his endorsement of this legislation and to alert my colleagues to his support for the bill. I appreciate his efforts in behalf of H.R. 7554 and sincerely regret that his name was not added to the bill prior to its passage.●

THE SPIRIT OF AMERICA

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. MURTHA. Mr. Speaker, I have often commented that we find the real spirit of our great country in the individual lives and examples of people across this great Nation.

A couple of weeks ago in Somerset, I had the opportunity to talk with one such person, Mrs. Julia Andrews. I would like to insert into the CONGRESSIONAL RECORD a newspaper article from the Somerset Daily American that shows the life of hard work and dedication that Mrs. Andrews has set as an example. I think her attitude is an important part of the spirit of American citizens that makes our Nation great.

The article follows:

JULIA ANDREWS HATES TO MISS WORK

(By Mary Ream)

Julia Andrews of Stoystown RD 2 rarely misses a day of work. And she doesn't believe in being late, either.

At 84, she still works fulltime as a seamstress for So-Neet Inc., on the Shanksville Road, where she's put in the past 13 years at her Singer machine. Her career in the garment industry spans 64 years.

"I won't miss work unless I really have to," she said. Mrs. Andrews says she is "never disgusted" in the mornings when she gets ready for work. She enjoys her work and brags shamelessly about how well she is treated by her employers, the Guy Sproerleins. "They don't breathe down my neck pushing production all the time like at other factories," she says.

Until a recent bout with the flu that knocked her literally off her feet and kept her out of work for two weeks, Mrs. Andrews hadn't even been to see a doctor for seven years and one day. It was so bad, she concedes, that she compared it to the deadly flu of 1918: "I thought I was a goner."

64-YEAR CAREER

Her 64-year career in the garment factories started when she quit school during her senior year and went to work as a weaver. Over the years, she's been employed at seven different factories, including ones in Hollsopple, Windber and Johnstown.

Besides keeping up with a fulltime job and taking care of her house, she also crochets and quilts, making her own designs, and creates gifts with foam craft.

She's first soprano in the choir at Holy Cross National Catholic Church in Johnstown, and drives the 46 miles round-trip every Sunday, picking up passengers enroute. She also trims the walls and tables in the church hall.

HAS A SLOGAN

Mrs. Andrews also regularly drives to visit her three sisters in Yonkers, N.Y., and three nieces in Toledo, Ohio. On the front plate of her car is a slogan: "It's exciting to be Polish."

Her daughter, Ruth Lavely, lives in Orlando, Fla., and her foster daughter, Stella Flak Lee, in Johnstown. Mrs. Andrews has three granddaughters, five foster grandsons, one great-granddaughter and five foster-great-grandsons. A widow, Mrs. Andrews' husband, John, died just 10 months before their 50th wedding anniversary.

"I never think I'm old," confides this octogenarian. A sign hanging on her sewing machine warns: "I may be old but I still get hot," and includes a drawing of a Model-T with its radiator boiling over.

Mrs. Andrews really boils over when she talks about welfare. "I can't stand freeloaders," she says. "We should make them work if they're healthy . . . they could work on our highways." She's glad that Gov. Thornburgh is taking action to get able-bodied people off the welfare rolls.

NEVER MISSES WORK

Julia never misses work unless she has to, and she usually goes over her production level, surpassing what is expected of her.

She sums up her philosophy on life this way: "If you live a clean and honest life and do the right things with people, they'll always return it to you the same way you give to them . . . If you really take time out and ask the One above to watch and guide you, He always does." She begins and ends each day with a short prayer.

As to why she still works, Mrs. Andrews says simply, "Who's going to keep me?" She says she plans to keep working until she's 90—at least.●

CONGRESSMAN LENT SUPPORTS H.R. 7554, SMALL BUSINESS INVESTMENT INCENTIVE ACT

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. BROYHILL. Mr. Speaker, as my colleagues are all aware, H.R. 7554 is a carefully crafted measure which was drafted after extensive hearings by the Consumer Protection and Finance Subcommittee. It was developed and refined through consultation with the Securities and Exchange Commission, business groups, and concerned Members of Congress.

What we are attempting to do with this legislation is to knock down the artificial barriers to capital formation which have been hurting small business for years. The Small Business Investment Incentive Act modernizes the Investment Company Act of 1940 to remove those barriers which restrict the investment of venture capital companies in small and developing enterprises.

Shortly after I introduced H.R. 7554, my distinguished colleague from New York (Mr. LENT), contacted me to urge his support for the measure and to indicate that he wished to cosponsor the bill. Congressman LENT, as with many in this body, expressed his concern over the need to foster the growth of small business in our country. It is important to note, in this regard, that he was a cosponsor of the forerunner of this legislation, H.R. 3991, which I believe indicates his support for this goal.

Unfortunately, H.R. 7554 was not reintroduced subsequent to its original introduction. I would like to take this opportunity to alert my colleagues to the fact that Congressman LENT has indicated his endorsement of H.R. 7554. I appreciate his assistance in furthering the development of small business in this Nation, and I sincerely regret that his name was not added to the bill prior to its passage.●

DEDICATION OF THE TEMPLE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. MAZZOLI. Mr. Speaker, on Sunday August 24, 1980, along with other dignitaries, I had the privilege to speak at the dedication of The Temple, a beautiful new structure built to serve the merged congregations of Adath Israel and Brith Sholom.

The spirit of unity which I experienced at this dedication, evidenced by the attendance of community and church leaders of all denominations, made all of us in Louisville aware that The Temple will make enormous contributions to the community in the future just as its predecessors made in the past.

I am thankful to the members of the congregation of The Temple for their hard work and dedication. And, I wish Rabbi Emeritus Herbert S. Waller and co-Rabbis Leonard H. Devine and Chester B. Diamond all health, happiness, and success in the years ahead.●

MSGR. ROBERT J. COLL EPITOMIZES THE SPIRIT OF RELIGION

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. RITTER. Mr. Speaker, Msgr. Robert J. Coll, pastor of St. Thomas More Catholic Church of Allentown, epitomizes the spirit of religion.

He will bid farewell to his parish and community next week to become assistance executive director of the Catholic Relief Service.

Monsignor Coll has touched thousands of lives in the Lehigh Valley and far beyond. He will continue to touch countless thousands of others as he serves God by ministering to the needs of the poor, the starving and the dying throughout the world.

His departure will leave a deep void. He will be missed by his parish, by his community and by his diocese of Allentown.

I feel honored to have worked closely with this humble and compassionate priest, whose greying hair betrays the many heavy burdens he carries quietly and bravely.

His record of service to God and man speaks for itself:

Here is a priest who lived and spread the message of ecumenism before people even knew how to pronounce it or what it meant.

Here is a priest who donned jeans and sweatshirt to work alongside fellow parishioners in 1972 as they helped flood victims devastated by Hurricane Agnes in Wilkes-Barre.

Here is a priest whose church was chosen in 1973 by Dr. Norman Vincent Peale's Guidepost magazine as the most outstanding church in America.

Here is a priest who helped found operation rice bowl in the Lehigh Valley with other religious leaders in 1974. That ecumenical lenten sacrificial program, since adopted by the Eucharistic Congress, has raised $15 million to help feed the starving in the Third World.

Here is a priest who moderates a TV series, "Church in Challenge," dealing with major social problems faced by man and church.

Here is a priest whose community involvement is too varied to detail.

Here is a priest who in 14 years has built a parish complex unparalleled in many dioceses.

Monsignor Coll has seen his parish grow from 500 families in 1966 to 1,200 families. He has never been too busy to minister to the needs of the young or old, the sick or dying, or to share in the joys of his parishioners. His sense of humility, his soothing, calm voice and ever-present smile nourished a pride of deep involvement by parishioners as he unfolded his visions for betterment of the church and its members.

Much more could be written about this man of God, but Monsignor Coll perhaps best summarizes himself in two simple quotes:

Last February, while touring the Howrah, one of Calcutta's worst slums, on a fact-finding mission in the Third World, he was approached by a mother who begged him to bless her dying daughter. Monsignor Coll recalls:

> My hand touched her burning face. I prayed over her, asking God to call her quickly. Our eyes met * * * a mother's simple faith was answered. A Catholic priest has visited her dying child and that might well be her only consolation in the empty years ahead. * * * I would never be the same person again * * * my prayers and efforts would always be with the poor.

When asked his thoughts on a model for the church in the 1980's, he quickly responded:

> The parish belongs to the people of God. It's not the instrument of the pastor.

Monsignor Coll has left his imprint on the Lehigh Valley. He will leave similar imprints wherever his service to God calls him.●

A TRIBUTE TO JIMMY BRYANT, FASTEST GUITAR IN THE COUNTRY

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. MATHIS. Mr. Speaker, the United States lost a part of her musical heritage with the death of Ivy J. "Jimmy" Bryant on Monday, September 22, 1980. Jimmy Bryant, well known nationwide as a country-western musician and songwriter, died after a battle with cancer. He was 55.

He made the Second District in Georgia his home.

Jimmy Bryant, a former member of the Sons of the Pioneers and a costar with western movie hero Roy Rogers, was a native of Norman Park, Ga.

He and his wife, the former Patricia Murphy of Mission Hills, Calif., had been residing in Colquitt County, Ga. since April.

As a songwriter, he was best known for his hit "Only Daddy That'll Walk The Line," recorded originally by Waylon Jennings and later by numerous stars including Willie Nelson.

As a musician, his abilities with the guitar and fiddle won him much acclaim in the studios of Hollywood and Nashville where he was a man behind the scenes.

He recorded some 65 instrumental singles and several albums. In the 1950's, Jimmy Bryant teamed his instrumental efforts with steel guitarist "Speedy" West.

Jimmy Bryant helped establish the Academy of Country Music in California and has won numerous awards for his expertise with the guitar. Among those honors were "Best Lead Guitarist" for 3 years by the Academy of Country Music. He also won a songwriter's award from Broadcast Music, Inc.

In his early career, Jimmy Bryant played in 12 movies with Roy Rogers.

And before they went on to become superstars, Jimmy played with Hank Williams and once hired Glen Campbell as one of his band members.

Jimmy Bryant's musical career started at an early age in Colquitt County where he played the fiddle on the courthouse square, at tobacco warehouses, and during community gatherings.

He was known as Junior Bryant—little fiddlin' boy at the age of 9.

In Nashville and Hollywood he was known for his little talkin' fiddle and acclaimed in those circles as the fastest guitar in the country.

He has appeared on the Grand Ole Opry in Nashville and was the fiddler for the theme music to the televison show, "The Beverly Hillbillies."

Country and western music lovers in southwest Georgia and all across America will sorely miss his immense talents.●

THE CHECKS AND BALANCE SYSTEM OF GOVERNMENT IS STILL WORKING

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. WAMPLER. Mr. Speaker, it is my belief that one of the best ways to preserve and enhance our American way of life and its institutions is to maintain the checks and balance system established by our forefathers to prevent excesses in the various branches of our Government.

A perfect example of this system in action has been taking place over the past several years. I refer in this instance to a battle, to explain the dispute in its most graphic sense, that has been waged between various Members of the Congress and several regulatory agencies of the executive branch over whether nitrites should be banned as a risk to health.

If our Constitution had not provided for such an adversarial arrangement the regulators of our executive branch would have been literally free to have taken action to phase out or ban nitrites from our food supply. If there had been no provision for contesting this action, there would have been no requirement to have first established creditable scientific evidence that the use of this substance in foods would in fact be harmful to humans.

The checks and balances system worked in this case. A proposal was instigated by the regulatory agencies to ban the substance, nitrite, and the proposal was contested by Members of another branch, the Congress.

An excellent discussion of this controversy and its current status appeared earlier this month in an article by Mr. R. Jeffrey Smith, a writer for the magazine Science, volume 209, September 5, 1980. I include his article following my remarks, for the benefit of my colleagues:

NITRITES: FDA BEATS A SURPRISING RETREAT

(By R. Jeffrey Smith)

(In 1978 the FDA said nitrites posed a risk to health; the basis for this major conclusion has now crumbled.)

Consumers may have been surprised last month when the Food and Drug Administration (FDA) abruptly told them to forget its warning of 2 years ago that nitrites, the widely used preservative in meats, posed a risk of cancer to humans. They would be even more surprised if they looked behind the scenes at the decision-making within the FDA on the nitrites issue.

Nitrites have long been a target of the consumer movement, which has argued that the preservative's role in preventing botulism is marginal and does not outweigh its possible risks. Nitrite is known to be mutagenic in test animals, for example.

Consumers' efforts to have nitrites removed from food have been unsuccessful because of opposition by the meat industry, and because the scientific case against it was not overwhelming.

All that seemed to change, however, when the FDA learned the results of a nitrite feeding study undertaken by Paul Newberne of the Massachusetts Institute of Technology. Newberne's results were apparently conclusive: nearly twice as many rats fed nitrite developed lymphomas as did the controls.

Armed with this evidence, the then-FDA Commissioner Donald Kennedy decided to move decisively against nitrites in August 1978. In a joint announcement with USDA Assistant Secretary Carol Foreman, he stated that nitrites had been found to pose a risk of human cancer, and that the agency would take steps to phase out their use.

Almost immediately after the initial announcement, doubts about the study surfaced among toxicologists. Half of the scientists to whom the FDA sent the report for comment declared that it lacked enough data to permit proper review; others said it had a number of flaws, including improper statistical calculations and a failure to check for exposure to nitrosamines, a known carcinogen that might have formed inside the rats by a combination of nitrites and amines in the diet. An FDA inspection of Newberne's laboratory while the experiment was in progress raised questions about his procedures for animal handling. And even before the 1978 announcement, pathologists at the National Cancer Institute and within FDA had raised questions about Newberne's diagnoses of rat lymphomas.

None of these doubts were revealed to the public when FDA and USDA released their proposal for a nitrite phaseout on 11 August 1978, even though an internal FDA group had been formed just 3 days earlier to look into them. The reason is that Commissioner Kennedy and a special task force of a dozen FDA lawyers and scientists were confident that Newberne's study would hold up under attack.

Kennedy voiced this confidence in a memo to then-Secretary of Health, Education, and Welfare Joseph Califano on 11 September 1978. "We know more than enough about the Newberne study to be convinced that it is well done and strongly supports the hypothesis that nitrites are carcinogenic per se."

Kennedy went on to discuss how the public might react to criticism of the Newberne study: "Even in the unlikely event of a successful challenge of the study, the outcome would not be clear: it would appear to the public as such things inevitably appear—as rather arcane, confusing debates among the cognoscenti. Thus the possibility for real embarrassment even given the worst possible outcome of our evaluation is very slight, simply because outcomes are never that clear in a matter so complex." He even put his job on the line. "You have a politically expendable regulator who is prepared to take the blame," Kennedy told Califano, "if the outcome proves more disastrous than this argument predicts."

It almost did prove more disastrous. Califano found Kennedy's argument resistible for a combination of political and legal reasons, and FDA was never given the go-ahead to officially propose a nitrite phaseout. Califano's reluctance to do so was a lasting source of friction between Kennedy and himself. That reluctance has been vindicated: the FDA's intensive review of Newberne's study has now shown that in fact the rats fed nitrite had the same incidence of lymphomas as those not fed nitrite. Newberne, in the reviewers' opinion, had misdiagnosed as lymphomas a rare cancer that cannot be related to nitrites. The reviewers also disagree with his diagnosis of certain lesions as precursors of cancer. The review was conducted by FDA's working group on nitrites, which included scientists from three other federal agencies and a committee of pathologists from a dozen members of Universities Associated for Research and Education in Pathology. In response to earlier criticism of his study Newberne has said that "I have no apologies and no doubt that the implications my diagnoses delineated are indeed correct." In a statement prepared last week Newberne describes the differences in diagnosis as subjective but says that "In principle, I agree that [the FDA working group] did an excellent job with a difficult task."

The effect of FDA's reversal is to vindicate the congressional and scientific critics of its phaseout proposal and to validate the argument of the meat and poultry industry, that no regulation of nitrite should proceed unless the results of an animal test have been duplicated. C. Manly Molpus, president of the American Meat Institute, says that "certainly the government's attempt . . . to halt the use of nitrite was ill-advised, and the need for peer review of studies of this type should be an essential element of the process."

Several FDA scientists claim that if Kennedy had followed ordinary procedures for the in-house review of a study such as Newberne's that the flaws would have been caught before the agency stuck its neck out. Albert Kolbye, associate director for toxicology in the Bureau of Foods, has complained to the General Accounting Office and the Congressional Research Service that he and other employees in the bureau were excluded from decision-making before the first public announcement.

Kennedy, now president of Stanford University, insists that "the procedure for review we followed was correct. In the first place, there is no ordinary procedure, and I was perfectly satisfied that the people on that task force were competent." Asked if it would have been better to withhold a regulatory proposal until after a more lengthy scientific review had been completed, Kennedy replied, "You can't simply analyze the results and then say no option suggests itself when in fact one does."

Top officials at FDA say they are inclined to act more deliberately and seek more review in light of the nitrite reversal. "You can't handle an issue like this privately," says one official, "even though you pay a price for handling it publicly."

Where does this leave the consumer of hams, hot dogs, and bacon? The FDA says it has asked the National Academy of Sciences to search the literature on nitrite and investigate alternative ways of preserving meats. Privately, FDA officials see the study as a device for getting both Congress and consumer activist groups off the backs of both FDA and USDA.

William Lijinsky, an expert in cancer-causing nitrosamines at the Frederick (Md.) Cancer Research Center, says that nitrites still pose a risk of cancer because they might combine with amines after consumption to form nitrosamines. "Even though we've been given the impression that nitrites are now safe, this risk remains." Jere Goyan, current FDA Commissioner, agrees that "nitrites are not home-free by any means. There are still questions, and I'm sure they will eventually be phased out of the food supply because of the nitrosamine problem."●

PERSONAL EXPLANATION

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. DIXON. Mr. Speaker, my vote on House Concurrent Resolution 367, the Bingham resolution disapproving the proposed sale of nuclear fuel to India, was erroneously recorded. As a cosponsor of House Concurrent Resolution 372, a similar resolution offered by Mr. MARKEY, I have previously placed myself on record as opposed to this sale, which I feel is inconsistent and incompatible with the Nation's goal of nuclear nonproliferation.

I appreciate the opportunity to clarify my position on this issue.●

RECOMMENDATIONS OF THE NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION: AN ANALYSIS

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. ROUSSELOT. Mr. Speaker, at the end of this month the National Commission on Unemployment Compensation will go out of business. The long-awaited report of the Commission has been issued and the recommendations deserve careful study.

Recently, the American Legislative Exchange Council issued a brief analysis of the Commission's recommendations. The American Legislative Exchange Council was founded in 1973 and serves as a forum for exchanging innovative, constructive ideas for reducing and controlling the bureaucracy, promoting fiscal responsibility, lowering the tax burden, and safeguarding individual liberties.

The ALEC is a nonprofit, nonpartisan organization made up of State legislators across the Nation. The primary purpose of ALEC is to help elected representatives share ideas and legislative proposals in all areas of public policy. The emphasis is on strengthening "grassroots" government as an alternative to the large, centralized Government in Washington.

Because the unemployment compensation system is a Federal-State partnership, the ALEC is vitally interested in the proposals of the national commission. Estimates have been made that if the Commission's recommendations are implemented, the cost of the program will increase dramatically. The ALEC analysis of the Commission's recommendations has been mailed to over 3,000 State legislators. It is brief, well documented, and informative.

I urge my colleagues to give this analysis and the recommended alternatives full attention. Many of these proposals are likely to appear before us in legislative form during the 97th Congress:

THE NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION: AN ANALYSIS OF THE RECOMMENDATIONS

BACKGROUND

On August 26 of this year, the National Commission on Unemployment Compensation proposed fundamental changes in the federal-state unemployment compensation (UC) laws. If passed by Congress, the Commission proposals would require changes in the purpose, scope, and cost of every state's UC program.

Currently, unemployment compensation is basically a state-run system, financed by payroll taxes levied on employers. The state has primary responsibility for setting tax rates, benefit levels, and eligibility standards for claimants. Ever since the system was created in 1935, the federal government has been restricted to two roles: (1) giving final approval to the UC budgets in the states, and (2) providing loans to states unable to fully pay for unemployment benefits. Since the enactment of the federal-state extended benefits (EB) program, the federal government has paid 50% of the EB cost.

IMPORTANCE TO STATES

The National Commission's proposals could affect state and local discretion regarding the coverage, duration, and eligibility for unemployment compensation. Nearly all states would be required by law to pay higher benefits to UC recipients, financed in turn by a higher taxable wage base imposed on businesses. By easing the burdens of unemployment, the Commission's recommendations may stimulate work disincentives in local economies, thereby causing a drain of revenues generated within states and localities.

The potential effect of a federal, standardized system was described by three members of the Commission in a Dissenting Report. The Commissioners stated: "(T)he report lacks balance. Many of the program 'reforms' contained in this report result in substantial cost increases. Few result in reducing costs . . . (T)he report contains no overall estimate of the balance or imbalance between additional costs and added revenues."

STATUS

The National Commission's study was a federally-funded project costing $8.4 million. The final version of the Commission's Report will not be released until September 28. The 13-member panel has already disbanded, although the Commission staff is still writing additional chapters—none of which will be seen or voted on by the Commission's panel.

Although the Report will not have the effect of law, what the Report contains may affect the voting decisions of Congress. Congress will adjourn on October 4 for the November elections, causing various election-year pressures and a deadline for congressional action. Moreover, Congress is now considering proposals that include elements of the Commission recommendations. These include a proposal by the Carter Administration that would force states to pay up to 52 weeks (instead of the current maximum of 39 weeks) of UC benefits.

The alternative to the Commission Report and Carter Administration proposal is a set of "Cost-Savers" devised by U.S. Senator David Boren (D-OK). As noted on page 4, the Boren proposals would reduce UC expenses by over one billion dollars.

DETAILS OF COMMISSION PROPOSALS

Upon first look, the recommendations of the National Commission present positive reforms that favor businesses, labor groups, and state treasuries. As Commission Chairman Wilbur Cohen stated in an August 26 press conference, the proposals seek to enhance "incentives, productivity, labor and capital mobility, and the alleviation of the hardships of jobless workers." Upon closer examination, however, the proposals may also be seen as an impetus for bigger, broader, and more expensive systems.

1. Federal standards for state programs

Although the particulars are technical and wordy, the Commission recommendations are united by the concept of binding national standards. They were written on the premise that state UC programs should be governed by arbitrary, mandatory controls devised at the federal level.

The most immediate control concerns the people who would be eligible to draw benefits. Today, the state legislatures are allowed to write UC eligibility guidelines. Under the Commission's plan, the states would have to allow payments to workers who had a job for only 14 to 39 weeks. Additionally, the following heretofore ineligible groups would be allowed to draw benefits: undocumented alien workers, professional athletes, certain agriculture workers, and household workers who were paid a minimum of $50 in a given quarter.

The Commission also recommended that the weekly benefit amount be not less than 50 percent of the individual's average weekly earnings. The Commission specifically "urge(d) that states proceed . . . to a weekly benefit amount of 60 percent below the state maximum." The payments would be exempt from state or federal income taxes. The Commission suggested that Congress repeal a federal law that allows states to reduce UC benefits by any pension payments received by claimants.

According to the U.S. Chamber of Commerce, the proposed increase in benefit payments "read like a throw-back to the free-spending ways of 1960s-style social legislation." The Chamber supports its contention with the following data:

PROPOSED INCREASE IN BENEFIT PAYMENTS

State	Current maximum	Proposed maximum	Percentage increase (in percent)
Alabama	$90	$140	56
Alaska	90	263	119
Arizona	90	146	62
Arkansas	124	125	1
California	120	165	38
Colorado	142	152	7
Connecticut	134	161	20
Delaware	150	167	11
District of Columbia	181	207	14
Florida	95	136	43
Georgia	90	139	55
Hawaii	144	149	4
Idaho	121	137	13
Illinois	133	176	32
Indiana	74	159	115
Iowa	131	141	8
Kansas	123	139	13
Kentucky	120	147	23
Louisiana	149	150	1
Maine	96	125	30
Maryland	106	155	46
Massachusetts	131	150	15
Michigan	97	187	93
Minnesota	150	151	1
Mississippi	90	123	37
Missouri	105	149	42
Montana	119	137	15
Nebraska	106	133	26
Nevada	115	155	35
New Hampshire	114	134	18
New Jersey	123	166	35
New Mexico	106	139	31
New York	125	172	38
North Carolina	130	130	0
North Dakota	131	132	1
Ohio	128	167	30
Oklahoma	132	144	9
Oregon	127	156	23
Pennsylvania	162	157	–
Rhode Island	120	135	13
South Carolina	111	129	16
South Dakota	109	120	10
Tennessee	100	137	37
Texas	105	153	46
Utah	137	144	5
Vermont	90	130	45
Virginia	122	144	18
Washington	115	169	47
West Virginia	166	156	–
Wisconsin	122	150	23
Wyoming	137	159	16

Beyond the controls on eligibility standards and payment levels, the Commission proposed a new program that could require states to pay UC benefits for 15 months. This proposal merely adds to a system that does respond to high levels of unemployment. Currently, states pay an additional 13 weeks of extended benefits whenever state unemployment passes a "trigger level" set by federal law. For those states where the unemployment trigger is not activated, an additional 13 weeks must be paid when the national unemployment rate for workers covered by jobless insurance exceeds 4.5 percent of the work force.

2. Increased business expenses

The Commission Report does not indicate the potential cost of the prospective UC program. Chairman Cohen told an August 26 press conference that the expenses could run as high as $35 billion—assuming that all its recommendations were adopted immediately. Currently, the estimated cost for the fiscal year 1981 UC program is only $22 billion.

Clearly, the principal source of funding for the new system would be employers. The taxable wage base (i.e., the salary level upon which state and federal payroll taxes are computed) is now $6,000. The Commission recommended that the wage base be increased to $7,800 in 1983. The Commission suggested that Congress adopt the following timetable for additional increases:

TIMETABLE FOR ADDITIONAL INCREASES

Year	Proposed tax rate (in percent)	Proposed wage base	Wage base paid claimant (in percent)	Taxes per employee
1983	0.6	$7,863	50	$47.18
1984	.6	8,571	50	51.43
1985	.6	10,277	55	61.66
1986	.6	11,202	55	67.21
1987	.6	13,320	60	79.92
1988	.6	14,519	60	87.11
1989	.6	17,144	65	102.86
1990	.6	18,687	65	112.12

Source: Data prepared by U.S. Chamber of Commerce. All figures assume annual inflation rate of 9 percent.

In addition to increased business expenses, the Commission suggested that states should study a new possibility—using Medicaid or Medicare to pay continued health insurance for workers who were covered before their lay-off. This proposal is not included in the Commission's Outline of Major Recommendations, however it is mentioned in two independent accounts of what the Final Report will contain.

Since the proposed increases represent a drain on business revenues, employers may finance the new expenses through higher prices of goods and services. More simply stated, the business community may compensate for increased payroll costs by raising prices, an obvious burden on state and local economies.

ALTERNATIVES

1. The Carter administration proposal

The most recent alternative to the Commission proposals is a plan put forward by the Carter Administration. The details of the plan are not available, since the Administration was not prepared for the September 10 hearings offered by the Public Assistance Subcommittee of the House Committee on Ways and Means. News stories in the Washington Post and Washington Star state that the Administration's plan will require "high unemployment states" to pay an additional 13 weeks of UC benefits (beyond the 26 "regular" and 13 "extended" weeks). This would bring the maximum EB duration to 52 weeks. The Administration will ask Congress to finance the extension with $744 million from general revenue funds in the FY 1981 budget.

It is worth noting that the Administration opposed a similar proposal last June. At that time, the Administration criticized as inflationary a bill to provide a maximum of up to 52 weeks of UC benefits.

2. The Boren amendments

A completely different option is provided by a series of "Cost-Savers," introduced by Senator David Boren (D-OK). The Cost-Savers are designed to save the states UC expenses by tightening eligibility requirements, eliminating the federal requirement that states pay extended benefits on certain occasions, and require a short "waiting period" before a claimant may draw UC benefits.

Collectively, the proposals would save state and federal treasuries an estimated billion and one-half dollars. They are modeled after reforms, authored by then-Governor Boren, that saved Oklahoma's Unemployment Trust Fund from projected $10 million deficit and potential bankruptcy.

The following are summaries of five of the major Boren Cost-Savers:

Eliminate the national "trigger" requiring states to pay extended benefits. Allow states to establish higher state trigger thresholds than currently provided by federal law. Projected savings: $1 billion in fiscal year 1981.

Prohibit the payment of extended benefits to individuals who worked less than 20 weeks. Projected savings: $120 million in fiscal year 1981.

Allow the federal government to withhold the first week of EB payments from those states that do not require individuals to wait one week. Projected savings: $25 million in fiscal year 1981.

Prohibit the payment of extended benefits to persons who refuse reasonable job offers. Projected savings: $94 million in fiscal year 1981.

Prohibit the payment of extended benefits to persons who leave jobs voluntarily or for misconduct. Projected savings: $32 million in fiscal year 1981.

It should be noted that the Boren Cost-Savers impact only upon the federal share (50 percent) of extended benefits. They do not impose additional restrictions on the states' spending. (In contrast, the Commission does propose changes in the way state UC programs are run.)

Boren's proposals passed the Senate (89 to 0) as amendments to the Senate's Budget Reconciliation Bill (S. 2885). The reforms will not be considered by the House unless they are approved by House-Senate Budget Conferees. It is unclear whether the House Conferees will consent to the Cost-Savers, since the House Committee on Ways and Means will mark-up the Administration's proposal on September 17.

SUMMARY

The goals of the National Commission on Unemployment Compensation are laudable. Compassion for the unemployed and solvency for state treasuries are matters that command respect from all segments of society. The Commission's specific proposals, however, may detract from incentives for work, fiscal restraint, and capital formation. They contravene the original purpose of unemployment compensation, as well as the public preference for less government spending.

The Boren Cost-Savers and the Carter Administration's proposal merit the serious attention of both Congress and the State Legislatures. The three plans provide lawmakers with a clear choice regarding the future of the nation's system of unemployment compensation.

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This information has been provided as background material. Nothing written here is to be construed as necessarily reflecting the views of the American Legislative Exchange Council or as an attempt to aid or hinder passage of any bill before Congress or the State Legislatures.●

JOHN MARTIN (NO RELATION)

HON. JAMES G. MARTIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. MARTIN. Mr. Speaker, it is a pleasure to join today in this tribute to John Martin, chief counsel to our Committee on Ways and Means, on the occasion of the presentation to him of the John W. McCormack Award of Excellence.

For a quarter century, John Martin has served and guided the committee. He has been there longer than any present member of the committee and longer than any but nine present Members of the House have been in Congress. In my own 6 years as a member of Ways and Means, during a period of dramatic change in that committee and a period of considerable partisanship that has seen a virtual revolution in tax philosophy, I have seen John Martin as a pillar of order and calm professionalism in a frequently choppy sea. We cannot charge John with blind nonpartisanship, but we of the current minority do not have anything but praise for his fairness, his cooperativeness, and his highly professional approach to his job as counsel and staff director.

An event like the presentation of the McCormack Award can easily have us sounding as if we are writing obituaries, or hail and farewell speeches. Let us recognize this is not the former and hope this does not appear to be the latter. Our committee has some tough work cut out for it for the rest of the year and in the future, and let us hope that John Martin remains with us for years to come.

Let us also admit to ourselves a tough fact of life about the competent and professional staff we all work with day in and day out. There should be a greater purpose to today's tributes than mere tributes to one individual. The fact of political life is that for political purposes we cannot and do not pay the men and women of the professional staff what their experience and outrageously long hours are worth to us and we certainly do not pay them what they could make out there in private practice. We know what the tabloids would say if we did. Neither can we provide the tax-free perks—club dues, company cars, and expense accounts—enjoyed by so many in the private sector. We do know how they would react if we did. So we reward how we can, and hope for all those honorable men and women so well represented by John Martin, citizens who will come here and stay here to serve the Congress and the people in conditions, under circumstances, and at levels of compensation that cannot match what they would get if they jumped ship. It takes a rare level of dedication and patriotism exemplified in our chief counsel, John Martin, and we thank him for it.●

FINANCIAL REPORT OF THE CONGRESSIONAL STEEL CAUCUS—QUARTERLY STATEMENT OF EXPENSES AND FUND BALANCE STATEMENT FOR THE PERIOD ENDING JUNE 30, 1980

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Ms. MIKULSKI. Mr. Speaker, in accordance with Executive Committee Order No. 1, I am respectfully submitting herewith the quarterly financial report of the Congressional Steel Caucus for insertion into the RECORD. The report is as follows:

CUMULATIVE STATEMENT OF EXPENSES

Item	Amount
Salaries	$17,215.24
Travel	0
Stationery	220.34
Postage	60.00
Telephone	281.00
Publications	98.80
Equipment	1,010.35
Printing	218.10
Miscellaneous	3,363.21
Total expenses as of June 30, 1980	22,467.04

FUND BALANCE STATEMENT

	Amount
Balance remaining (as of Mar. 31, 1980)	$9,029.54
Total revenues (clerk hire and membership dues)	9,499.94
Subtotal	18,529.48
Less expenses:	
April 1980	3,277.11
May 1980	3,530.15
June 1980	6,758.30
Subtotal	13,565.56
Remainder	4,963.92
Plus interest deposit	87.51
Total unexpended revenues (as of June 30, 1980)	5,051.43

CONGRESSIONAL STEEL CAUCUS DUES PAID AS OF JUNE 30, 1980

Bob Edgar, Allen Ertel, Robert Mollohan, E. Thomas Coleman, Robert Roe, Dan Quayle, Elwood Hillis, Melvin Price, Charles Wilson, Douglas Applegate, Ralph Regula, Clarence Miller, Henry Nowak, William Natcher, Austin Murphy, Louis Stokes, Richard White, Ray Kogovsek, William Moorhead, John Duncan, William Clinger, Joseph McDade, John Seiberling, George O'Brien, William Ford, James Santini, John Jenrette, James Oberstar, Paul Simon, Gene Taylor, Leo Zeferetti, Richard Shelby, Jim Lloyd, Christopher Dodd.

Robert Giaimo, Gary Lee, Ronald Mottl, Joseph Addabbo, Robert Walker, James Hanley, Robert Michel, George Brown, Clement Zablocki, Clarence Long, J. William Stanton, William Clay, George Miller, Donald Bailey, James Quillen, Mary Rose Oakar, Vic Fazio, Samuel Stratton, Eugene Atkinson, Marc Marks, Dan Marriott, Sam B. Hall, James Scheuer, E. G. Shuster, Martin Russo, Doug Walgren, Robert Duncan, Jerry Lewis, John Conyers, Stanley Lundine, Adam Benjamin, Jr., J. M. Murphy, William Brodhead, Lawrence Coughlin.

Robert Davis, Gunn McKay, Carl Pursell, Don Ritter, John Murtha, Thomas Kindness, Edward Patten, Tom Bevill, John Buchanan, Ray Lederer, Thomas Luken, David Evans, Morgan Murphy, Michael Myers, G. V. Montgomery, Thomas P. O'Neill, William Harsha, Barbara Mikulski, James Martin, Don Clausen, Benjamin Gilman, Bill Nichols, Richard Ichord, John Dingell, Gus Yatron, Peter Kostmayer, Bruce Vento, Lyle Williams, Robert McEwen, Donald Mitchell, Joseph Gaydos, Clarence J. Brown, Nick Joe Rahall.●

BUREAU OF MINES CITED FOR INNOVATIVE RESEARCH

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. MURTHA. Mr. Speaker, I want to insert into the CONGRESSIONAL RECORD a recent news release from the Department of the Interior, showing that the Bureau of Mines has been honored by the publishers of Industrial Research/Development magazine for four research projects developed by the agency.

This is the kind of creative work and positive developments that are essential to progress in the mining industry, and that shows the kind of skill and talent that can be found in much of the Federal bureaucracy.

The news release follows:

MINES BUREAU CITED FOR OUTSTANDING RESEARCH PRODUCTS

Four research developments by the Bureau of Mines are among this year's 100 "most significant" new technical products, the Interior Department said today.

The developments are:

A two-stage oxygen-supply system for miners to use in underground emergencies.

Individually worn air samplers that determine a worker's exposure to potentially harmful oxides of nitrogen.

A new mine roofbolt cement, and a new way to mix it.

A mining tool that is operated through a borehole from the surface to extract ore without placing men underground.

For the third year in a row, the Bureau of Mines has been among the recipients of the annual prizes awarded by the publishers of "Industrial Research/Development" magazine to the developers of the 100 most outstanding new technical products. this year's "I-R 100" prizes will be presented by the magazine publishers in Chicago, Ill., on September 18.

The bureau developed oxygen-supply system is a lifesaver for the trapped miner. The two-stage device includes a small unit, worn on the miner's belt, containing a ten minute supply of oxygen for protection in toxic and oxygen-deficient atmospheres. Ten minutes of oxygen enables the worker to reach an area where larger sixty-minute units are stored. The larger units interlock with the smaller ones to give trapped miners time to find their way to safety. With the two-unit system, the miner is assured a long lasting emergency supply of oxygen without having to carry a heavy or bulky safety device while on the job.

Inexpensive and again lightweight safety devices measure a worker's average exposure to the toxic nitrogen oxide and nitrogen dioxide gases created by diesel engines and certain explosives used in underground mines. The air sampling devices are acrylic tubes that measure about three inches in length and one-half inch in diameter. One end of the tube contains a series of stainless steel screens coated with a chemical "collector." The collector reacts with the toxic gases, creating a material that can be chemically removed from the screens and measured. The sampling tubes are clipped on the worker's clothes or equipment at the beginning of his shift. When he leaves the mine, the sampler can be sent to a laboratory or analyzed at the mine site with a portable analysis kit. The day's exposure is then compared to the level considered hazardous. The sampler is accurate, and can reveal exposures that would require corrective action to protect the worker from possible harm. One of the sampler's greatest virtues is its production cost—about a dollar.

The key to the inexpensive grouting method developed by the Bureau for anchoring underground mine roofbolts is a unique mixing system which prevents the grouting cement from hardening until the moment the roofbolt is put in place. Inorganic cement powder, which is considerably less expensive than the organic kind, is encased in tiny, wax-like bubbles and put, along with wax-encased water droplets, in a sausage-shaped bag. The bag is inserted in a hole drilled for the roofbolt in the mine roof. The bolt, a long, steel rod, is then pushed up into the bag and turned, crushing the waxy bubbles and allowing the dry cement to mix with the water. The mixture hardens in a few seconds, and reaches full strength in a matter of minutes. The secure bolts bind the mine's overhead strata together, preventing roof collapse.

A mining tool that recovers uranium ore from deposits too small to be mined conventionally works without sending men underground. The remote mining device is installed in a borehole drilled from the surface to an underground deposit of uranium-bearing sandstone. A water jet under 2,000 pounds of pressure is "fired" from the tube to erode the sandstone, and the resulting mixture of sand and water is drawn to the surface through another opening on the tool. After the uranium has been extracted, the remaining waste sand can be pumped back underground to help prevent subsidence over the surface of the mined-out voids. The method not only allows for safe disposal of radioactive waste, but also avoids the exposure of miners to radiation. The borehole miner currently is being tested on small phosphate rock deposits in Florida.

The Department noted that the Bureau received an I-R 100 award last year and one the year before, both for research developments in mine health and safety.●

JOHN L. BURTON PRAISES THE STUDY ON INFLATION AND THE ELDERLY

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. JOHN L. BURTON. Mr. Speaker, with our pressing national need for restraint in Government spending, balancing the Federal budget is one of our primary concerns. However, I am alarmed at a trend that I see forming which has been alleging that despite inflation, the elderly are making substantial gains in their economic status. There is the implication that the elderly can now afford to make sacrifices such as giving up some of the cost-of-living protection provided by the social security system.

Because this theme—the elderly are doing well in an inflationary environment—seems to distort what I am personally witnessing and what my elderly constituents are reporting to me, I am very pleased that the National Retired Teachers Association/American Association of Retired Persons (NRTA/AARP) commissioned a report, "Inflation and the Elderly," which has recently become available. Data Resources Inc., (DRI) has conducted a thorough study on how inflation has affected the elderly's income, wealth/assets, and expenditure patterns over the past decade. DRI also forecasts how the future economic environment will affect the status of the elderly.

Because the recently released results of the study are important to us as legislators, I am printing a summary of this report in the CONGRESSIONAL RECORD. I commend it to the attention of my colleagues.

SUMMARY OF THE DATA RESOURCES INC. STUDY ON INFLATION AND THE ELDERLY COMMISSIONED BY THE NATIONAL RETIRED TEACHERS ASSOCIATION/AMERICAN ASSOCIATION OF RETIRED PERSONS

INCOME: PAST DECADE

During the period 1967 through 1976, average elderly income managed to keep pace with and slightly exceed the inflation rate. Average elderly income rose at an annual rate greater than the Consumer Price Index (CPI), 7.7 percent versus 6.1 percent. This was in large part due to the significant growth and expansion of federal programs, especially social security, and the creation of new programs such as Medicare and the Supplemental Security Income (SSI) program. Much of the impetus for these positive changes came from the extremely adverse economic status which the elderly experienced in the mid 1960's when one-third of them were living below the poverty line.

Additionally, whereas in 1955, the average income of those over age 65 was about 55 percent of the average income of the non-elderly, this figure had dropped to 48 percent by 1965, largely because of the decline in elderly labor force participation. Generally, the increases made in the public income programs have helped to raise many elderly over the poverty threshold. In 1976, the percentage of elderly in poverty was about 14 percent and the average income of the elderly relative to the non-elderly was about 52 percent—about where it was in the mid 1950's.

INCOME: FUTURE DECADE

Although discernible gains in the incomes of the elderly have been made during the last decade, this trend is not likely to continue in the future because we are not likely to witness the dramatic growth in government programs benefiting the elderly nor the creation of new and costly programs. But inflation is expected to continue with its attendant erosive effects on the elderly's standard of living. It is projected that the real incomes of the elderly will grow, but at a much slower rate than previously and that the elderly will again lose ground relative to the non-elderly population.

ASSETS/WEALTH: PAST DECADE

For the 1967-76 period, the elderly fared very poorly when one considers the effect of inflation on their assets: savings stocks/bonds, private pensions, and home ownership. According to the DRI Study, inflation clearly eroded the assets of the elderly. Interest rates for small savers did not keep pace with inflation. Similarly, the rate of return on stock and bond investments often fell below the rate of inflation. Inflation has also wreaked havoc with private pensions because most plans do not provide automatic or full cost of living adjustments. The non-indexed pension of a 1970 retiree is now worth about one-half of what it was in 1970.

Finally with regard to assets, the one hedge against inflation for the elderly is commonly considered to be home ownership, an appreciating asset. In 1968, over 60 percent of persons aged 58-63 did own homes. But, although the value (equity) of a home increases during periods of inflation, the only way to realize this gain is to sell the home. Moreover, although equity is being accrued through ownership, the immediate costs of owning a home, particularly fuel and utility costs, property insurance and property taxes, continue to rise at a rate faster than that of the general CPI.

ASSETS/WEALTH: FUTURE DECADE

As long as high rates of inflation continue and the elderly continue to hold dollar denominated assets which are extremely vulnerable to inflation, the future looks bleak. As inflation confiscates the assets and wealth of the elderly, more and more persons will find themselves less able to depend on their own assets and savings for income and instead, will be increasingly dependent on public programs for income support.

EXPENDITURE PATTERNS: PAST DECADE

Since 1970, the cost of living for the elderly has risen faster than the cost of living for non-elderly consumers, increasing at an annual rate of 8.4 percent for the elderly compared to 7.2 percent for the non-elderly. Since the average income of an elderly person is only about one-half that of a non-elderly person, the elderly concentrate their expenditures on the core necessities such as fuel and utilities, medical care and food at home. Over the last decade, rises in prices of these commodities have exceeded the general CPI.

EXPENDITURE PATTERNS: FUTURE DECADE

Again, the future does not look bright for elderly consumers. It appears that rapid price increases in the core necessities will continue to make it difficult for the aged to make ends meet, particularly since energy and health care costs are expected to keep escalating.

POLICY IMPLICATIONS

With this concrete data in hand, we find that a number of policy implications become evident. First, in the current economic environment of high rates of inflation and low economic growth, we cannot expect that public programs will be expanded or new programs will be initiated as occurred in the 1960's and 1970's. The social security system, which is the cornerstone of the elderly's income, is already facing financial difficulties due to adverse economic conditions. In this atmosphere, then, it is essential that present programs at least be maintained at their current levels and protected from action which would result in cutbacks of benefits to the elderly. Any cutbacks, combined with the continuing erosive effect of inflation on the aged's income, would prompt a rapid deterioration in the elderly's standard of living as well as a resurgence of poverty. For this reason, our Associations would oppose any proposed cutbacks, especially federal taxation of social security benefits or tampering with the cost of living adjustment in social security benefits.

Second, because benefit increases are not likely and inflation threatens to continue to erode the elderly's assets and private savings, we believe that employment offers both the current and future elderly the best—and perhaps the only—means to provide an improvement or prevent a deterioration in their income status. Therefore, it is crucial that the trend of declining elderly labor force participation be reversed. Government must remove existing disincentives to elderly employment and replace them with rewards for continued work effort. To this end, we support the elimination of the social security earnings limitation and advocate the introduction of an actuarially computed increase in social security benefits for those elderly persons who elect to postpone their retirement until after age 65. We also advocate total elimination of mandatory retirement practices along with more vigorous enforcement of the Age Discrimination in Employment Act.

With respect to the assets and private savings of the elderly, we will seek to provide the elderly with a greater return on their savings and investments so that their real value may be preserved. The elimination of Regulation Q, the federal regulation which places a ceiling on the interest earned on passbook savings, has long been a goal of the Associations. Legislation was recently passed which will gradually phase out Regulation Q over a period of 6 years. We will be carefully monitoring the phase-out process and will continue to press for a rapid raising of the interest ceiling.

More attention must also be given to the major appreciating asset of the elderly, home ownership. The appreciating value of an elderly person's home must be realized without requiring the sale of that home. We believe that the reverse annuity mortgage (RAM) is one means for turning the appreciating value of one's home into current income. RAM's have been newly authorized at the federal level and they may well need authorizing legislation in many states.

With regard to the expenditure patterns of the elderly, a special Consumer Price Index (CPI) for the elderly ought to be developed and used to index the major income support programs which benefit older persons. The special CPI would be constructed to reflect the aged's specific expenditure patterns which are concentrated on core necessities—food, fuel and medical care. Also, as discussed earlier, medical care, with its escalating costs, is one of the areas in which elderly expenditures are concentrated. The costs of medical care must be contained. As you know, we strongly supported the administration's hospital cost containment legislation, and we are continuing to pursue legislative remedies in this regard. Additionally, changes in Medicare reimbursement practices are sorely needed in order to reduce the out-of-pocket expenditures of the elderly, and the long-term care needs of the elderly must be addressed by the Medicare program.

As has been shown, the elderly are not inflation-proof. If all of these policy changes are made, the elderly of this nation would be substantially aided. However, the mainly compensatory measures do not directly address the root of the problem—the high rate of inflation. In order to better guarantee a secure economic position for the elderly, the rate of inflation must be reduced and not merely by a point or two, but rather reduced substantially to a maximum rate of 3 percent and kept there. (The July 11, 1980 Legislative Alert which you recently received details the comprehensive strategy which needs to be followed in order to achieve this reduction in the inflation rate.)

If the high rate of inflation is not reduced, it will wipe away the gains made in the 1960's and 1970's and, at the same time, undermine funding for present government programs—partcularly threatening the financing of the social security program. In this atmosphere, moves to make cuts in government programs benefiting the elderly may well attract support in Congress. Such action will cause the elderly to become increasingly concentrated in the lower reaches of the income scale. We must continue to be involved in the legislative process at both the Federal and State levels to help ensure that inflation control remains the top priority on the policy agenda of legislators.●

DEFENSE READINESS

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. FISHER. Mr. Speaker, with the passage of H.R. 8105, the Defense appropriations bill for fiscal year 1981, which I voted for, Congress has made some good progress toward improving U.S. defense readiness. The reduction in the share of the Federal budget going to defense spending in the years since the Vietnam war has gone on long enough, and now needs to be reversed.

We have taken strong action this year on what I consider the first priority for increased defense spending—increased pay and benefits for military personnel. The defense authorization bill for fiscal year 1981 contains an 11.7-percent pay increase for active duty personnel, higher enlistment bonuses, greater per diem travel allowances, and new procedures for retired pay compensation and adjustments. The military personnel and compensation amendments increase both flight and sea pay rates, and provide for variable housing allowances to take into account high housing costs in certain areas of the country. Both bills contain other provisions, but these are the major improvements in pay and benefits. I believe these improvements are necessary to retain trained people already in the military and to attract qualified people in the future.

It is impossible to underestimate the importance that these personnel-related measures have for our national defense. Anyone who has seriously studied warfare knows that it is the military intangibles—leadership, experience, tactical ingenuity, morale, and skill of the troops—that can dominate in a wartime situation. No matter how sophisticated the weaponry, how innovative the technological gadgetry, nothing can substitute for these unmeasurable but vital human qualities. Unless we can attract, train, and keep top quality people at all levels of our Armed Forces, we will always be deficient in this aspect of our national defense. I believe that the benefit and pay measures in the defense appropriations bill are a good move in this direction, although much more needs to be done.

Congress has also taken strong action this year on the second priority for increased defense spending—better and more efficient hardware and weapons. We have increased our defense procurement and research and development authorization by more than 20 percent over last year. We have passed legislation authorizing the cruise missile, the strategic weapons launcher, and the MX missile. Recent disclosure of the Stealth bomber research shows that soon we may have a manned bomber capable of eluding the most sophisticated radar and detection equipment. The fascination with material devices is apparent all through our latest weapons authorizations bills. Yet, in the midst of all this, I want to raise a word of caution: Let us not be misled by this fascination with technology or induced by fear of our potential enemies into demanding huge and expensive new weapons systems which may make us feel more secure, but which do not strategically contribute to our security.

An example of where I think this caution should have been exercised is in the MX basing mode, which recently passed the House and which I voted to delay. There is no doubt but that we need a new, MIRV'able, cold-launch missile such as the MX. We have not designed a new missile system since the mid-1960's. Both our Titan and Minuteman missiles are becoming increasingly vulnerable.

But, while it seems clear that we need the MX missile, a real controversy still exists on the most effective and strategic means of deploying it.

There are many reasons to be cautious about the current cluster deployment concept: The huge area of land needed; the dangers involved in constant overland transportation of live nuclear missiles; the great amount of water needed to construct and maintain the 4,600 cluster deployment shelters in the already arid States where the missile would be based; the volume of fuel needed just to rotate the missiles and travel the miles of interlocking roadways. Other systems of deployment are possible—split basing, deployment at sea, and others—and studies are now underway which would shed more light on basing modes for the MX. Former Secretary of Defense, Melvin R. Laird, writing in the September 1980 Reader's Digest made the point effectively:

> One thing seems obvious: we ought to conduct a thorough-going examination of the possibility of alternatives before any more funds are spent on the hugely expensive deployment of the MX system planned for the Western United States.

In spite of this, the House voted to appropriate the money for construction of the cluster basing system, rejecting an amendment that would have delayed such funding until the studies I have mentioned, already nearing completion, were finished. This is what I mean by the necessity for wisdom and caution. The wise course would have been to wait until we had the results of the studies before making the commitment to fund the cluster system, which could run to $20 billion or more before it is finished.

The purchase of defense readiness is expensive and, in these times, inflationary. We need to be convinced we are getting our money's worth. So I applaud my colleagues at the same time that I caution them. I applaud them for their commitment to improving the compensation for military personnel. I caution them against thinking that the hasty purchase of whatever huge new weapons system is the sure way to achieve an invincible defense; that kind of thinking can lead to an illusionary national security. Precious defense effort, time, and dollars must be utilitzed with maximum effectiveness.●

INTELLIGENCE PROTECTION ACT

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. STOKES. Mr. Speaker, the House of Representatives will soon consider the Intelligence Protection Act, H.R. 5615, which would establish penalties for intentional disclosure to unauthorized persons of any information identifying a covert agent. In the opinion of many notable students of the Constitution, as well as six members of the Judiciary Subcommittee on Civil and Constitutional Rights, section 501(c) of this legislation is unconstitutional. The following letter, signed by 52 professors of law from this Nation's most distinguished and reputable universities, is an expression of this concern.

SEPTEMBER 10, 1980.

MEMBERS OF THE JUDICIARY COMMITTEE,
U.S. Senate,
Washington, D.C.

DEAR SENATORS KENNEDY, BAYH, BYRD, BIDEN, CULVER, METZENBAUM, DECONCINI, LEAHY, BAUCUS, HEFLIN, THURMOND, MATHIAS, LAXALT, HATCH, DOLE, COCHRAN, and SIMPSON: We believe that Section 501(c) of S. 2216 and H.R. 5615, which would punish disclosure of the identity of covert CIA and FBI agents derived solely from unclassified information, violates the First Amendment and urge that it be deleted as recommended by the House Judiciary Subcommittee on Civil and Constitutional Rights.

Chuck Abernathy, Georgetown University Law School; George Alexander, University of Santa Clara Law School; David Anderson, University of Texas Law School; Judith Areen, Georgetown University Law School; Charles E. Ares, University of Arizona, College of Law; Frank Askin, Rutgers University School of Law; Barbara Babcock, Stanford University School of Law; Elizabeth Bartholet, Harvard University Law School; Paul Bender, University of Pennsylvania Law School; Ralph S. Brown, Jr., Yale University Law School; Vern Countryman, Harvard University Law School; Alan Dershowitz, Harvard University Law School; Norman Dorsen, New York University School of Law; Steven Duke, Yale University Law School; Thomas I. Emerson, Yale University Law School; David B. Filvarff, University of Texas Law School; Jack Getman, Yale University Law School; Steve Gillers, New York University School of Law; Carole E. Goldberg-Ambrose, University of California at Los Angeles Law School; David Goldberger, Ohio State University College of Law; Lawrence Herman, Ohio State University College of Law; Morton J. Horwitz, Harvard University Law School; Louis A. Jacobs, Ohio State University College of Law; Arthur Kinoy, Rutgers University School of Law; John R. Kramer, Georgetown University Law School; Sanford Levinson, University of Texas Law School; Lance Liebman, Harvard University Law School; Jeffrey Meldman, Massachusetts Institute of Technology; Louis Menand, Massachusetts Institute of Technology; Frank Michelman, Harvard University Law School; Arvil Morris, University of Washington-Seattle Law School; Charles Nesson, Harvard University Law School; Richard Parker, Harvard University Law School; Daniel Partan, Boston University Law School; Willard H. Pedrick, Arizona; Leroy Pernell, Ohio State University College of Law; Michael Perry, Ohio State University College of Law; Daniel H. Pollitt, University of North Carolina Law School; Scot Powe, University of Texas Law School; John Quigley, Ohio State University College of Law; Douglas Rendleman, College of William and Mary, Marshall-Wythe School of Law; Rhonda R. Rivera, Ohio State University College of Law; Lawrence Sager, New York University School of Law; Louis Michael Seidman, Georgetown University Law School; Ed Sherman, University of Texas Law School; Ed Sparer, University of Pennsylvania Law School; Charles Thompson, Ohio State University College of Law; Lawrence Tribe, Harvard University Law School; Pete Wales, Georgetown University Law School; Burton D. Wechsler, American University Law School; Bernard Wolfman, Harvard University Law School.●

COLA: SYMPTOM OF INFLATION

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. McKINNEY. Mr. Speaker, in a recent vote, the House of Representatives adopted an amendment, offered by Representative ROBERT E. BAUMAN, Republican of Maryland, to retain a semiannual cost-of-living adjustment (COLA) for Federal retirees in 1981. Although the amendment passed by a substantial 309-72 margin, I voted against it. My vote was cast in keeping with the intent of the necessary budget reconciliation process which this Congress has chosen to pursue. However, I must voice my concern over our continuing efforts to temporarily mask the real impact of inflation—through modifications in COLA's and the use of the Consumer Price Index (CPI) or other indexing methods—without a comparable effort to attack the underlying causes of inflation. While we persist in adjusting and manipulating these indexes of inflation, the basic problem continues unabated.

When the House considered the first budget resolution, House Concurrent Resolution 307, June 12, I supported the unprecedented implementation of reconciliation as a necessary tool for the enforcement of limits on congressional spending. Now that the committees have reported their legislative savings pursuant to that process, I continue to support its implementation. Despite the administration's recent announcement that the balanced budget will not be a reality in 1981—rather, the recession and other factors will likely result in a $30 billion Federal deficit—Congress is not discharged from its responsibility to control Federal spending and make the budget process work. However, even the debate over COLA's is just one more example of Congress focusing on the effects of inflation rather than its causes. Let me explain.

COLA's mitigate the effects of inflationary price increases on the average consumer. In addition, they never truly keep pace with inflation. Because COLA's are based on the previous 6 months' rise in consumer prices—as measured by the Consumer Price Index, or CPI—there is an equivalent lag before retirement benefits are actually increased. As a result, COLA's never quite catch up to ever-worsening inflation. Furthermore, not all of a retired person's income may be in the form of Civil Service annuities. Private savings, returns on investments, and income from jobs held after retirement are examples of income which, unlike annuities, may not be indexed for inflation. Thus COLA's cannot hope to account for the effect of inflation on a person's overall purchasing power. In these cases, an overall loss may often be the result, regardless of COLA's. Because all types of income cannot realistically be adjusted for inflation, efforts must be redirected from compensating for inflation, to controlling it. COLA's create little incentive to fight inflation. They are a short-term remedy for a problem which demands intensive, long-term treatment. Personal wealth and the incomes of Federal retirees would be better protected in a stable economy with lowered inflation than they are during periods of rampant inflation and perpetual COLA's.

Further, indexation of wages or retirement benefits may itself be a flawed concept, which contributes to, rather than merely keeps pace with, inflation. In the working sector, as salaries rise through indexation to meet higher prices, firms in turn are forced to raise their prices to meet those higher wages. As a result, in addition to dulling the effect of inflation-fueled higher prices, indexation masks the fact that it, in itself, perpetuates the inflationary cycle. Furthermore, Federal retirees receive adjustments in their benefits based on the current cost of living, although the original goal in indexing benefits was to permit beneficiaries to enjoy the same standard of living that their salaries allowed at the time of retirement. A large number of Federal retirees now enjoy a standard of living that exceeds that of their working years. They may continue to purchase products which have risen dramatically in price, such as beef, while most other Americans witness a drastic reduction in their purchasing power. For example, a person retiring in 1971 at a salary of $36,000 now receives $46,032 in retirement pay, due to indexing. Although this situation is not pervasive, the causes for its occurrence indicate a need to reexamine the entire concept of indexation, and its effects on inflation.

A more interesting example is that of a person retiring in 1970, after 25 years of service, at a salary of $12,000. The original annuity paid to this Federal retiree would be $463 per month. After the most recent COLA—7.7 percent in September 1980—that person's retirement benefits would equal $1,130 monthly, or an amount greater than the worker's salary at the time of retirement.

The index most often used as a measure of the impact of inflation on consumers is the CPI. Many economists have expressed serious doubt about the reliability of the CPI as an indicator of the effects of inflation on a large portion of consumers, particularly retired citizens. For example, the monthly CPI includes the cost of purchasing a new home. As a result, it may overstate the increase in consumer prices for those retired persons who already own their own homes. In addition, housing costs and mortgage rates within the CPI reflect current high levels, while many owners may have bought their homes years ago at much lower prices, and are repaying mortgages at significantly lower interest rates. I believe that such an important facet of the economy must operate as fairly and efficiently as possible. The problems associated with the use of the CPI therefore prompted me to support a provision in the Food Stamp Act Amendments of 1980, requiring the Congressional Budget Office to study the accuracy of the CPI as the basis for indexation of food stamp benefits. It is my hope that the findings of this study will lead to a reexamination of the use of the CPI to index all types of benefits and wages.

However, even without the benefit of that study, most economists agree that an index other than the CPI could more reliably be used to calculate wages and benefits increases. Such an alternative might be the Gross National Product (GNP) deflator, a more broadly based index which measures overall price increases for the general economy, not just those for consumer products. Still, regardless of the index used, the underlying problem which remains to be solved is inflation. COLA's and indexing methods such as the CPI are merely symptoms of our inflationary disease, and until we take the necessary steps to combat the disease, the self-perpetuating cycle of inflation and indexation will remain.

There are several inflation-fighting initiatives that could be implemented now. One of the essential components in that fight would be a reduction in Federal spending through a balanced budget. At this point, Congress has achieved a balanced budget, but many difficult decisions lie ahead, lest that goal escape us by the predicted $30 billion. In addition, better congressional oversight of the monetary policies of the Federal Reserve Board becomes increasingly necessary in our fight. The practice of merely printing more dollars to cover the Federal Government's debt and loan obligations must stop. A swift, responsible overhaul of our Nation's business depreciation allowance schedules is necessary as well. I have long supported the Capital Cost Recovery Act—and have filed a discharge petition in the House in an attempt to force early consideration of this measure—which would allow a 10-year depreciation period for buildings and structures, a 5-year depreciation period for capital equipment, and a 3-year depreciation period for rolling stock. Clearly, however, the primary focus of our battle against inflation must be a halt to the hemorrhage of U.S. dollars to foreign nations in payment for petroleum. In 1980, the United States will spend $90 billion dollars for foreign oil. This drain is irrefutably the most enduring force in increasing inflation and reducing the purchasing power of the U.S. dollar. Consequently, our anti-inflation effort must include conservation and weatherization programs, as well as the rapid commercialization of every available alternative energy source in the country. Only with a concerted, aggressive attack on inflation in these areas will the issue of COLA's and the need for indexation be resolved. The financial security of our retired citizens depends on and demands that effort.●

AN END TO THE "SNOWBELT" MYTH

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. KEMP. Mr. Speaker, I believe that one of the great obstacles to opportunity and advancement that we face as a Nation today is static thinking: the idea that life is a zero-sum game. According to this view, there are only so many jobs to go around, only so much energy to go around, a fixed amount of prosperity, and a fixed amount of poverty. And so it is Government's job to divide up these fixed amounts until, say, the sum of prosperity—a plus—and poverty—a negative—come to zero.

Nowhere is this more apparent than in struggles among regions of this Nation. Bumper stickers in the Southwest say "Freeze a Yankee," while some Northeastern politicians kid themselves into thinking that the stagnation in their States is caused by too much economic growth and prosperity in the South and West.

As this morning's lead Wall Street Journal editorial points out, the experience of New England is flying in the face of "those who think in terms of Sunbelt versus Frostbelt." At a time of nationwide recession the State of Massachusetts is facing a labor shortage. Its unemployment rate is tied with Texas.

Why has the snowiest part of the Snowbelt begun to boom? According to the Journal, the leaders of Massachusetts new industrial boom credit tax policy with turning the State around. Reduced capital gains taxes, in particular, have increased the incentives for risk-taking in Massachusetts by restoring the rewards for success.

I commend this editorial to the attention of my colleagues, and urge them to join me in considering how we can restore incentives for employment, production, saving, investment, and individual initiative throughout the Nation, by reducing the tax wedge between individual effort and reward.

The editorial follows:

NEW ENGLAND REVIVAL

Surprising as it is to those who think in terms of Sunbelt versus Frostbelt, the economic success story of this recession is unfolding in New England. After decades of notoriety for stagnation and declining industry, the company towns of Massachusetts have discovered that their main problem in this slump is a labor shortage. The state's August unemployment rate is tied with Texas. (It's 5.5%, more than two percentage points under the national average.) In the first quarter, the six-state region had the highest personal income growth rate in the country.

The recession hasn't entirely passed over the region, of course. The second quarter will look much rougher when the figures are out. The six states vary sharply in the impact of the business cycle. (High-growth New Hampshire has built itself into the boom-bust cycle; it has moved from the middle ranks of previous decades to become the second most "cyclically sensitive" state in the nation.) Small business is being squeezed, and auto dealers are hurting as badly as in the rest of the country.

Yet the overall strcngth of this energy-poor "declining" region should make us sit bolt upright and ask why. One ready answer is that New England has completed its transition from dependence on the decaying textile and leather industries. High technology now dominates employment, particularly in Massachusetts, and it's riding the boom in microcomputers. The region has always excelled in research and invention. Some analysts detect a cycle in which innovative centers like Boston benefit from the R&D phase of a new technology, but the mass production moves elsewhere.

The high technology leaders themselves give a different story, however. The key, they say, is tax policy. They don't mean the increasingly discredited industrial inducement package that gives a specific write-down here and a specific abatement there. They mean general reductions in the personal tax burden.

New Hampshire started it back in the '50s when the state's political opinion solidified against imposing broad-based sales or income taxes. As the only Northeast state with neither, it was also the only New England state to grow significantly during the troubled '70s. Maine and Vermont caught on next, while Massachusetts struggled with an accumulated deficit and massive tax hikes. But in the last two years, the Bay State has learned the lesson well.

An incipient tax revolt brought in a governor committed to reducing property taxes, and if the promise wasn't fully kept, it was kept enough to make a difference. A bold and skillful high tech lobby persuaded the liberal, 80% Democratic legislature to slash the capital gains tax by 60%. In a ballyhooed "social contract" a year ago, the Massachusetts High Technology Council secured a pledge from Governor Edward J. King to lower the state tax burden to the average of 17 competing states by 1982.

The high-tech industry was serving its well defined self-interest. Its main asset is the highly skilled scientist and engineer, who are in a seller's market. To live in high-tax, high-cost Massachusetts, these people demand high salaries, so the personal tax burden quickly translates into a high business cost.

But the high-tech lobby has a broader vision. Supply-side economics has found champions in the Boston area who are probably pound for pound more articulate and effective than anywhere else in the country. The high-tech leaders were among the first to see the importance of studies linking the rate of change of a state's tax burden to the rate of its relative income growth. They know from their own constituency that tax cuts would allow them to expand within the state, and thus promise as their side of the "social contract" to create 60,000 new jobs by 1983. But they expect a general economic revival, as the tax burden recedes.

This vision still outruns public policy. After the first spate of tax cutting (done mainly by cities and towns under a state-imposed 4% spending cap), Governor King has been consolidating his finances, raising fees and the gasoline tax. (Both measures are under the national average, however, and Governor King can be excused for them if he continues to cut the broader taxes which run well above the national rate.) The entire Democratic political leadership has turned to high-handed means to contain the "Proposition 2½" movement, which in spite of all has managed to place a legislative property tax cut referendum on the November ballot.

But, as Governor King surveys his state's economic health and his higher-than-projected tax receipts, he is a long way from repudiating the "Laffer Curve." The Carter-Mondale ticket can denounce it as "make-believe," but the governor, an early Carter supporter, is unmoved. "Well, it's working for me," he says.●

TRIBUTE TO THERESA WILHELM

HON. ROBERT A. YOUNG

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. YOUNG of Missouri. Mr. Speaker, I wish to congratulate Theresa Wilhelm, a wonderful St. Louisan who will be honored on her 80th birthday on October 5 at the clubhouse of Mark Twain Village Apartments in St. Louis County, Mo.

In these days of honorary degrees and special awards, we seldom take the time to honor men and women who have succeeded in one of the most difficult tasks—being good parents and spouses. With her two children, Robert Wilhelm of Ellisville, Mo., and Dorothy Pohl of Florida, and three grandchildren, Barbara Irwin and Robert Wilhelm, Jr. of Ballwin, Mo., and Patti Fitzpatrick of California, and four great-grandchildren, Joseph Irwin, John Daniel Irwin, and Paul James Irwin of Ballwin, Mo., and Robert Ryan Fitzpatrick of California, Theresa Wilhelm has all of the qualifications for honors in parenthood. Theresa was an exemplary wife to her husband, Frank A. Wilhelm, who died on November 13, 1965, after 49 years of marriage. They were good citizens, and contributed greatly to the community.

Theresa was born in Stalberg, Germany, in 1900, and came to the United States at an early age with her parents. Her father was a glassblower and settled in Valley Park, near St. Louis, where he worked at his trade. She married and spent her life in St. Louis County, raising her children, and participating in church and other activities that served the community. I can attest to her accomplishments because Theresa has been a lifelong friend of mine and my family.

Congratulations to Theresa, and may she have many more happy birthdays.●

KEEPING THE PLO OUT OF THE IMF

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. WEISS. Mr. Speaker, I strongly support Mr. GILMAN's amendment to oppose the presence of the Palestine Liberation Organization as an observer, or in any other capacity, at any meeting of the International Monetary Fund.

Admission of the PLO to a Fund meeting would violate clear precedents that correctly restrict such status to financial organizations only. It would also give legitimacy to a terrorist group that deserves no official recognition of any sort.

We must insist on keeping financial institutions such as the IMF apart from the political controversies certain to accompany any group such as the PLO. The IMF was founded to help stabilize the world's monetary system and assist economically troubled nations to regain a healthy position. Its efforts can only be jeopardized by this attempt to include the PLO, which can neither qualify for an IMF loan nor claim interest as a financial organization. Let us remember: The PLO is not a nation, nor a group of nations. It is a terrorist movement, nothing more and nothing less.

The Third World nations who borrow funds under the IMF's auspices stand to lose the most from this controversy. Perhaps they will see that it is not in their interest to support the PLO as an instrument of politicization, especially in the financial sphere. The Arab threat to withhold funds from the IMF, therefore, imperils only the nonalined nations with whom the Arabs have in the past proclaimed a common front.

We must make clear our refusal to honor or recognize the heinous terrorism that the PLO represents, and resist the Arab threat even if we must propose withholding funds in return. The difference between financial organizations and self-styled "liberation" movements must be underlined.

I commend the gentleman from New York (Mr. GILMAN) for his amendment.●

JAPANESE PRIME MINISTER ZENKO SUZUKI'S STATEMENT ON KOREA

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. WOLFF. Mr. Speaker, today I present for the RECORD news accounts of the very strong, public statements on the situation in South Korea issued in recent days by the Government of Japan.

The Prime Minister of Japan, Hon. Zenko Suzuki, announced yesterday that his government would consider cutting economic aid to South Korea in the event that the death sentence is carried out against Kim Dae Jung.

From long contact with the Japanese people and Government, I can assure the House that the recent Japanese statements on Kim Dae Jung would only have been made after full consideration of the importance of the situation, and the pros and cons of making such statements.

As some of my colleagues know, I have of late been engaged in sensitive efforts with the Department of State regarding its handling of South Korean policy. I will report on these activities, and on my recommendations, at the appropriate time.

For the present, I present for the RECORD the story in today's Washington Post detailing the statements of the Government of Japan:

JAPAN MAY CUT AID IF SEOUL EXECUTES KIM

(By William Chapman)

TOKYO, Sept. 22—Japanese Prime Minister Zenko Suzuki warned today that economic aid to South Korea might be restricted if that country's main opposition leader, Kim Dae Jung, is executed.

He said there could be "serious restraints" on assistance programs sought by South Korea and emphasized that this message has been conveyed to the South Korean government.

It amounted to the Japanese government's most forceful representation on the case since Kim was sentenced to death last week by a military court for plotting a rebellion and forming an antistate organization in the early 1970s.

It also reflected the Suzuki government's concern over rising opposition within Japan to the trial and conviction of Kim, who was kidnaped from Tokyo in 1973 in a case that has never been settled to the liking of Japan's left-wing opposition.

Opposition critics contend that Kim did not receive a fair trial and was convicted partly on evidence that violates the spirit of a political settlement reached by the two countries after the kidnaping. They have insisted that Japan apply strong economic pressures and postpone an important ministerial-level meeting with South Korea in an effort to save Kim's life.

The Japanese government has expressed grave concern about Kim's fate and has suggested that relations between the two countries would suffer if the death sentence is carried out. Suzuki's comments today, however, were the first public warnings that the execution of Kim would provoke economic retaliation from Japan.

Government officials said later that no concrete plans had been made for cutting off aid and technical assistance. South Korea looks to Japan for significant amounts of technical assistance and government loans and is hoping for substantial help in pulling its economy out of a deep recession.

This year, the Japanese government has promised to extend yen credits of nearly $100 million to South Korea and has more than 20 experts in that country providing technical assistance on subjects ranging from industrial standards to high-technology products.

Kim was sentenced to death by a military tribunal that found him guilty of plotting insurrection last spring when the country was hit by massive student protests. A second charge accused him of having formed an antistate organization, called Hanmintong, while he was in exile in Japan in the early 1970's.

The political settlement reached after his kidnaping by South Korean agents is said to have stipulated that Kim would not be brought to trial for actions and speeches he made while in Japan. The military court's indictment of Kim appeared to most observers to violate that agreement because it listed several examples of Kim's involvement in Japan with persons active in Hanmintong.

However, the Japanese government apparently has accepted the South Korean contention that those charges are only presented in the indictment as background material, not as offenses bringing the death penalty.

Suzuki's comments today came in an interview with the Japan Broadcasting Co. in a special program nationally televised tonight.

He said that Japan, as a friendly neighbor, hoped for stability and economic progress in South Korea and pointedly referred to existing programs of economic and technical cooperation.

He said that if Kim's case develops in such a way as to cause more worry in Japan there would be "serious restraints" on those economic cooperation projects, even though Japan wishes to continue extending a helping hand to Seoul.

"I would like to clearly state that," the prime minister added.

In answer to another question, he emphasized that the government's position has been clearly explained to representatives of the South Korean government. He also said Japan is appealing to international public opinion in the Kim case.

In the past week South Korean officials have sternly objected to expressions of concern in Kim's case by foreign governments, calling them examples of outside interference in their internal affairs.

Kim's sentence has been confirmed, as expected, by the country's martial-law commander. It can be appealed to a higher military court and to the Supreme Court. if both of them uphold the conviction and death penalty his life could be spared only by intercession of the new president, Chun Doo Hwan.

The issue is likely to become more heated in Japan when the parliament convenes next Monday, with opposition parties expected to demand a revision of the political settlement reached in 1973.

However, Suzuki said today the government has no present plans for seeking a revision of that settlement.●

GOVERNMENT MUST GIVE SMALL TOWNS MORE FLEXIBILITY

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. FISHER. Mr. Speaker, last week I introduced a bill, which is the outgrowth of a problem that was originally presented to me by the mayor of Hillsboro, Va.

Hillsboro, a town located in my congressional district, has been battling with the State of Virginia over the notification requirements contained in the Safe Drinking Water Act. Apparently, Hillsboro was required by the State to take out and pay for advertisements in the county newspaper to announce the results of the State's water quality test of the town's water supply. However, Hillsboro has fewer than 130 people living there and, quite frankly, many of them might not even subscribe to the newspaper. Furthermore, an inordinate portion of Hillsboro's under-$10,000 annual budget would have to be spent on ads of this kind.

The mayor of Hillsboro, Byron Farwell, offered the State an alternative plan. He would post the results of the State's tests on the post office bulletin board. You see, virtually everyone in the town has a post office box and this seemed to be a more effective and far less costly way to accomplish the same goal. Unfortunately, the mayor was threatened with a substantial fine if he did not follow the letter of the law.

I suspect this is another case of laws and regulations that are designed for large cities without due regard for the special needs of small communities. The bill that I have introduced, H.R. 8160, will provide small towns, such as Hillsboro and Round Hill in my congressional district, with additional flexibility when faced with future notification requirements.

I recognize that there might not be sufficient time in which to act on this bill before the 96th Congress adjourns. If this is the case, I plan to reintroduce the bill in the next Congress and will do what I can to insure that this issue is taken up when the Safe Drinking Water Act is next reauthorized.

Text of the bill follows:

H.R. 8160

A bill to amend the Safe Drinking Water Act to permit small communities to comply with certain notice provisions by an appropriate means other than through publication in a newspaper of general circulation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1414 of title XIV of the Public Health Service Act is amended by inserting the following after the third sentence of subsection (c): "In the case of a public water system operated by a political subdivision having a population of less than 1,000 persons, as determined on the basis of the most recent census data available, the regulations of the Administrator under this subsection shall provide that in lieu of notice by publication in a newspaper of general circulation, such notice may be provided in another appropriate manner.".

Sec. 2. The amendment made by the first section of this Act shall take effect on the date of the enactment of this Act, and any regulations of the Administrator of the Environmental Protection Agency which are inconsistent with such amendment are hereby deemed amended accordingly.●

BUFFALO AMVETS PUSH FOR MIA PROBE

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. KEMP. Mr. Speaker, today, our hostages in Iran are a subject of international concern. But these are not the only American hostages thought to be captive in foreign lands. There are nearly 2,500 servicemen and civilians who disappeared in the war in Vietnam. The State Department believes that information is probably available on over half of these.

The Amvets of Western New York Post 45 are now spearheading a national drive to revive interest in these 2,500 American citizens still listed as "missing in action" from the conflict in Southeast Asia. The Buffalo Amvets are particularly concerned about three area servicemen from our area whose families believe they may still be alive—Staff Sgt. James M. Rozo of the town of Tonawanda; Lt. Col. Robert Dyczkowski, who grew up in Buffalo; and Lt. Col. Robert J. DiTommaso of Lackawanna. Buffalo Amvets leader Aloysius Bartel put it succinctly: "We feel a great injustice has been done to these 2,500 men who served their country with honor." I agree, Mr. Speaker, and salute those dedicated Americans who resolve not to forget our missing in action.

Mr. Speaker, I enter into the RECORD at this time an article from the Buffalo Courier Express by Richard Schroeder which details the efforts of the Buffalo Amvets post on behalf of our brave soldiers. I ask all my colleagues to help in this vital cause.

The article follows:

AMVETS POST PUSHES FOR MIA PROBE

An east side Amvets post this week is spearheading a national drive to revive interest in the 2,500 servicemen still listed as missing in Southeast Asia.

Three of those missing servicemen are from the Buffalo area. Their families believe they may still be alive and held prisoner in Southeast Asia.

Members of the Hank Nowak Post 45 of 1210 Broadway are at a national Amvets convention in Dallas to distribute information packets developed in Buffalo and designed to help public service organizations throughout the country begin a coordinated public relations campaign to revive interest in the missing servicemen.

The ultimate aim is to force the federal government to get an accounting of the missing men.

"We'd like to give this a multi-media campaign the likes of which has never been seen before because we feel a great injustice has been done to these 2,500 men who served their country with honor," said Aloysius Bartel, a local Amvets national service officer and a member of the Hank Nowak post.

Bartel said the slickly-designed packet will be distributed to the thousands of delegates at the convention and will be used in adopting a political platform that seeks to have the three major presidential candidates address the issue.

After the convention ends, Bartel will travel to Washington, D.C., to speak to area congressmen about the issue.

He said he hopes to speak to Rep. Jack F. Kemp, R-Hamburg, so that Kemp in turn can use his influence with Republican presidential candidate Ronald Reagan to have the issue brought up during the campaign.

Bartel said he will also try to make contact with Illinois Rep. John Anderson, who is waging an independent campaign for the presidency.

Bartel does not plan to attempt contacting President Jimmy Carter while in Washington.

He said many persons concerned about the fate of the missing servicemen have written Carter off as an ally, since they claim he has not carried through on a 1976 campaign promise he made in Buffalo to seek a full accounting of the missing.

The information packet on prisoners of war (POWs) and servicemen missing in action (MIAs) was developed in Buffalo over a six-month period at a cost of $2,000, which was paid by the Nowak Post and its auxiliary.

The packet contains sample letters to be sent to public officials and newspapers, television and radio public service announcements, proclamations for local government officials, cartoons, sample magazine articles, a prayer, information on how to influence politicians and plans for POW/MIA observances.

The packet has been approved by the National League of Families of Missing and Captured in Southeast Asia, a Washington, D.C., based organization that has lobbied for information on missing relatives.

As reported July 4 in the Courier Express, three local families that are members of the National League of Families believe their relatives may still be alive in Southeast Asian prison camps.

The missing include Staff Sgt. James M. Rozo of the Town of Tonawanda, Lt. Col. Robert Dyczkowski, who grew up in Buffalo, and Lt. Col. Robert J. DiTommaso of Lackawanna.

DiTommaso and Dyczkowski were shot down in separate actions while flying over battle zones, and Rozo was reported captured while riding in a jeep on a supply mission.

The men's fates have remained a mystery, since no evidence has ever been uncovered to indicate they were killed, and they did not return to the U.S. in 1973 when Vietnam released the last large group of prisoners.

But reports of sightings and bits and pieces of other tantalizing information from refugees and Vietnamese "boat people" have fueled hopes that some missing servicemen may still be alive.

Other information, some of it relayed by refugees to U.S. senators and representatives, indicates that the governments of Vietnam, Laos and Cambodia may be withholding information of the fates of missing servicemen, and may even be storing their bodies away as bargaining chips for foreign aid and as guarantees of non-interference in their affairs by the U.S.

Although the Pentagon maintains there is no credible evidence that missing servicemen, other than two possible deserters, are still alive in Southeast Asia, it does say there is information that many missing servicemen can still be accounted for by Southeast Asian governments through physical remains and eyewitness testimony.●

COMMERCE COMMITTEE'S DISCUSSION OF "DRY HOLE" ISSUE IN PACIFIC NORTHWEST BILL

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. DINGELL. Mr. Speaker, the following is an excerpt from the May 15, 1980, report of the Interstate and Foreign Commerce Committee on S. 885, the Pacific Northwest bill. It applies to the substitute, H.R. 8157. The report states:

CAPABILITY VERSUS OUTPUT—DRY HOLE

BPA has no authority to own or construct power resources and the proposed legislation does not grant that authority; it does, however, permit BPA to purchase the output or capacity of power resources that are owned or constructed by other entities. The priority for resources eligible for such purchase are specified in the legislation as, first, conservation, second, renewable resources and, finally (as the least-preferred alternative), conventional thermal resources.

Concern has been expressed that authorizing BPA to purchase capacity—as distinct from mere output—will be harmful to the region's ratepayers, and that it will lead to overbuilding of conventional power resources in the Pacific Northwest and unnecessary cost overruns.

An entity (such as BPA) purchasing power from the owner of a power resource (such as a utility) may do so in two basic ways. First, if the resource is already in existence and a certain amount of power appears to be surplus to the needs of the owner for some period of time, the purchasing entity may simply buy that amount of power from the resource on the utility system. This type of purchase is most common in cases of temporary surpluses and deficits among interconnected power suppliers, and generally involves only short-term purchases and sales.

A second type of purchase arrangement is generally used when the power resource in question is not yet constructed. The owner planning to build such a resource may offer to sell an ownership share in the project or, alternatively, a share of the resource's planned capability. In either event, the purchaser is obligated to pay its percentage share of the project's construction and operating costs and is allowed to exercise ownership operating rights for its share, just as if the purchaser were a part owner. This type of arrangement was extensively used in developing the non-Federal mid-Columbia hydro facilities and is now used generally throughout the United States. The legislation would permit BPA to enter into this type of arrangement.

Since the purchase of resource capability carries with it the risks of unexpected cost overruns and operating problems (including the risk of a so-called "dry hole"), it might appear that capability purchases are imprudent, even if traditional. The reasons that support creation of purchase agreements as follows:

(1) The risk of cost overruns and operating problems are inherent in constructing any power resource (including conservation investment programs such as regionwide home insulation). These risk are ordinarily borne by ratepayers that will obtain the benefits. An individual utility owner of a power resource will not agree to an arrangement that leaves all the risks on the shoulders of its own ratepayers yet shares the benefits (the power produced at cost) with the ratepayers of the purchasing entity.

(2) The long-term purchaser is really equivalent to a part owner of the resource, since the purchaser will receive the right to a certain percentage of the power for the life of the resource and will pay only the actual costs of the resource. It is fair that the purchaser assume its percentage share of the risks.

(3) In many cases, the resource is being built or undertaken by a group of utilities primarily to satisfy the regional power needs. If BPA did not agree to purchase capability as its share of the project, the project would simply be undertaken by a group of utilities on their own, with each utility meeting its own load growth requirements through its own projects and with no help to BPA. Such action would in turn decrease the integration and efficiency of the regional power system and would probably lead to overbuilding of power resources, with added costs to consumers. There would be no regional program under these circumstances.

(4) Purchase of capability reduces costs to consumers by reducing financing costs of the new resource, whether that bond-financed resource is conservation or a generating facility. Financing costs—a very substantial portion of total power costs—are reduced because bond buyers are willing to accept lower interest rates on lower-risk bonds, the wider the risks can be spread, the more secure the bonds. As discussed in (3) above, without purchase of capability the utilities must look to themselves to absorb the risk and would consequently lose access to over half the region's power supply over which they could otherwise spread the risk.

(5) Purchase of capability, by placing the purchaser in a quasi-ownership status, also permits the purchase to exercise effective oversight on resource management, construction and operation. A mere purchase of power would have no such opportunity. Yet the cost of power to the purchaser is based in both cases on the actual construction and operating costs of the power resource. The Committee amendment strengthens the BPA in this regard and requires BPA to oversee such construction and operation.

If the bill limited BPA purchase of resources to actual output only, BPA, in order to have available power to sell, would have to find utilities who would be willing to develop new resources at risk to their customers and, at the same time, also be willing to provide to BPA the benefits of an operating plant. The testimony shows that no utility would prudently agree to such an arrangement. One may contend that such testimony is self-serving and that if Congress authorized acquisition of actual output only, the utilities would, in fact, enter into such agreements because of the advantages of hooking up to the BPA system. The Committee recognizes this possibility, but believes it is too speculative and is inconsistent with longstanding utility practice. The General Accounting Office confirmed that this practice exists in a September 4, 1979 response to questions posed by Subcommittee Chairman Dingell. The GAO said:

"Our review indicated that it is common practice for electric utilities purchasing the output of major thermal plants to agree to repay construction bonds whether the plant operates or not. Generally, plant output is not guaranteed by any one entity because the risks of cost overruns and operating problems—particularly on nuclear power plants—are too great to be safely assumed by a single owner or builder. It is therefore natural for several utilities to share the risk of a "dry hole". By doing so they can limit their respective risks and collectively provide a large enough revenue base to withstand a major loss.

With respect to the reasonableness of BPA's purchasing the capability of WPPSS nuclear plants, two other questions emerge. The first question is whether BPA should limit its customers' exposure to financial risks by committing them to large thermal power plants more cautiously or with more diversity. BPA's present commitments include 100 percent of the output of two WPPSS plants, WNP-1, and WNP-2, and 70 percent of a third plant, WNP-3. The aggressiveness of BPA's commitment has its drawbacks. There is virtually no sharing of the considerable financial risks with other utilities—BPA has not taken on sufficient partners in construction. In this respect, we noted that the region's investor-owned utilities have never committed themselves to as much as 70 percent of a regional nuclear plant. Of the five nuclear plants constructed or planned for construction by investor-owned utilities, the average participation for each utility is about 30 percent of any one plant."

The Committee shares the GAO concern about the "aggressiveness of BPA's commitment". Sharing of financial risks among several entities is prudent and should certainly be given careful consideration by BPA and the council in administering this program. The Committee did not want to limit BPA's exposure because this might not have proved wise, particularly in light of concerns discussed later in this report about exempting utilities from the requirements of the Public Utility Holding Company Act. However, the Committee strongly believes that the BPA should act conservatively in entering into these commitments and expects that all such proposals will be fully justified and carefully scrutinized in the review process for acquiring resources set forth in the Committee amendment.●

THE ACHIEVEMENTS OF FRIEDA LEWIS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. WOLFF. Mr. Speaker, I wish to take this opportunity to commend a very close and dear friend of mine, Ms. Frieda Lewis of Great Neck, N.Y., upon her election to the prestigious post of president of National Hadassah.

Ms. Lewis has served Hadassah, her community, and her region with distinction for close to 30 years. In 1950, she assumed the post of vice president of the Ziona group of Great Neck. Her rise following that point was nothing short of spectacular; within 10 years, she had become president of the entire Nassau-Suffolk regional Hadassah, one of the largest in the country.

Frieda's drive and dedication did not permit her to stop there. Her great talents were recognized when she was called to serve on the national board of Hadassah in 1962. She proceeded to serve as a national vice president, as well as national treasurer.

During her years of active service, Frieda has compiled a list of enviable accomplishments. She has served as a member of the Conference of Presidents of Major Jewish Organizations, and has been summoned to the White House numerous times to lend her most thoughtful and cogent advice on a variety of national and international issues. She represents Hadassah in Israel, a task which leaves her responsible for the direction of one of the largest employers in Israel. Indeed, not many are more capable to fill the task than is Ms. Lewis.

It has been nothing less than a privilege to have known Frieda for all these years. I am sure that her superb skill and wisdom will continue to be an asset to us all.●

THE FITNESS OF OUR ARMY TO FIGHT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. McDONALD. Mr. Speaker, ever since the days of Secretary McNamara, the U.S. Army has been increasingly made a giant lab for sociologists. We spend our time teaching soldiers to read, to write, to have racial awareness, to learn how to vote, to learn about sex, and nearly everything except how to fight and win a war. On top of this, as military pay scales have fallen behind, and experienced men have left the service, we do not have the proper personnel with which to man today's Volunteer Army. To further compound the Army's problems, the Congress and executive branch have stretched out development and purchase of new weapons so that even if we had enough men, it would be difficult to win a war with our obsolete weapons. It will take gigantic steps to remedy these deficiencies. The results of these misguided policies recently came to the fore in articles which appeared in the Orlando Sentinel-Star on September 8, 1980, and the Washington Star for September 9, 1980, which are inserted into the RECORD at this point for the edification of my colleagues.

MILITARY BATTLES MANPOWER CRISIS

FORT HOOD, TEXAS.—Lt. Col Billy C. Brown, commander of a mechanized infantry battalion in the Army's 1st Cavalry Division, is supposed to have 877 soldiers in his outfit.

He has 650.

Brown says that the lack of manpower is made more worrisome and serious by the fact that he has a shortage of experienced non-commissioned officers, including staff sergeants and others who are the backbone of the Army.

Lt. Col. Richard Sones, who commands a 1st Cavalry tank battalion, has 505 of the 532 soldiers he is authorized to lead, making him relatively well off in numbers.

But Sones is able to operate only 31 of the 54 tanks he would lead into war; the others are on "standby" status. The reason is that Sones' soldiers don't have the training and experience to fill all the four-man crews he is supposed to oversee.

Brown's and Sones' battalions illustrate the greatest problem facing the U.S. armed forces: they are not getting or keeping the kinds of people they need.

And the military manpower crisis, in terms of quality of recruits and retention of skilled specialists and experienced leaders, is creating serious concern about this country's readiness to go to war.

Tanks stand idle, airplanes can't fly and ships get stuck in port because the Army, Air Force and Navy don't have the people to keep them in working order or the staff to man them when they do work.

"The American people today do not believe that the Army is able to defend this nation," Rep. Claude Leach, D-La., bluntly told Secretary of the Army Clifford Alexander and Gen. Edward C. Meyer, the chief of staff, at a recent House of Representatives committee hearing on manpower.

With a boost from the current economic recession, which is making civilian jobs harder to find, the military services are getting all or nearly all of the new recruits they need for the "all-volunteer force."

But they are losing their skilled and experienced people in a talent and leadership drain that is approaching flood level.

And the quality of the recruits they are getting—in terms of intelligence, education and general trainability—is raising serious questions about the ability of the Army and, to a lesser extent, the Navy, to do their jobs.

The Army has a shortage of about 45,000 non-commissioned officers. This includes about 10,000 of its authorized strength of 262,000 officers who hold the rank of sergeant or above as well as 35,000 of its authorized 202,000 corporals.

The shortages are in specialized skills, combat leadership and experience, and they cannot be solved simply by promoting more people in order to adjust the ratio of non-commissioned officers to privates.

Meyer acknowledges that the present 16-division Army is becoming a "hollow" force, with U.S.-based divisions such as the 1st Cavalry being cannibalized for manpower in order to keep front-line units in Europe up to wartime strength.

The reserves are in even more alarming shape. The Army's organized reserve force has a shortage of more than 60,000 people; the National Guard has a shortage of more than 70,000; and the Individual Ready Reserve lacks nearly 200,000 people.

The Navy has a shortage of 21,000 petty officers and more than 1,300 pilots.

The Air Force lacks more than 2,000 pilots and 1,200 engineers, and the experience level of maintenance crews who keep planes flying is slipping so low that officials are worried about losing more planes in crashes.

What most concerns the Pentagon's civilian officials and the top military leadership is the retention problem: soldiers, sailors and airmen are leaving the service in droves, even after eight and 12 years in uniform.

The Air Force says it needs to retain 59 of every 100 pilots after they have 12 years of service; it is managing to keep only 27. The Army figures it needs to retain 38 percent of its recruits for at least 10 years; it is keeping 30 percent. The Navy needs to keep 41.3 percent of its sailors for a second enlistment; it is keeping 37.5 percent.

But what members of Congress and many in the military outside the highest echelon find even more shocking and alarming is the quality of the men joining the services, especially the Army.

Under fierce pressure from the administration and Alexander to defend the all-volunteer concept and to avoid pushing for a new military draft, the top military leadership takes the public position that quality is not really a serious problem.

It plainly is, however.

Rep. Robin Beard, Jr., R-Tenn., for example, a strongly pro-defense member of the House Armed Services Committee, has dug up evidence that more than 90 percent of the soldiers in some combat jobs have failed the Army's Basic Skills Qualification Test.

The failure rate was 90 percent for nuclear weapons maintenance men, 98 percent for tank turret repairmen, 82 percent for Hawk missile crewmen, 86 percent for cannon fire direction men, 89 percent for tracked vehicle mechanics, 81 percent for ammunition specialists and 77 percent for computer programmers.

According to the results of an Army training study obtained by Beard, 28 percent of the tank gunners based in the United States and 21 percent of those with units in Europe did not even "know where to aim when using the (M-60 tank) battle sight."

That study found that tank crews averaged 40 percent to 50 percent below the skill level required for combat readiness. And, in one sample of 52 tanks tested, everyone failed the gunnery test.

More recently, Sen. Sam Nunn, D-Ga., one of the more respected defense experts on Capitol Hill, and four of his Armed Forces Committee colleagues bluntly accused the Army's civilian leadership of covering up Skills Qualification Test failure rates in order to salvage the all-volunteer force concept and make it appear to be working.

Nunn and his colleagues, all strong supporters of the military, said such tests administered by the Army last year showed a 91 percent failure rate in aviation maintenance, 83 percent in transportation, 74 percent in administration, 69 percent in communications, 51 percent in military intelligence, 49 percent in combat engineering, 43 percent in artillery and 39 percent in missile maintenance.

Civilian leaders, Nunn said in a blast aimed most obviously at Alexander, "appeared to want to keep the facts about the serious deterioration of quality cloaked from public scrutiny."

As many as 45 percent of all Army recruits now are termed Category IVs, the lowest acceptable scorers on the military's qualifications test, which has been used for 40 years and which generally has been considered a measure of intelligence. Alexander argued to the House Armed Services Committee recently that the qualifications test, which measures recruits on reading, mathematics and spatial perception, is not really an intelligence test and that it is "careless and improper" to classify the results into "mental categories."

Such categories, he said, are "fundamentally irrelevant and not a useful device" in determining whether a person is fit for the Army.

Alexander said the Army is trying to develop a better test.

He emphasized his view this month by ordering Army personnel officers to remove qualification test scores from the field records of all soldiers so the scores could not be used in judging a soldier's intelligence or competence.

The qualification test still is being administered and the scores still will be on file in the Pentagon. Commanders, however, no longer will know into which mental categories their soldiers have been placed.

To Alexander's considerable consternation, Gen. Bernard Rogers, former Army chief of staff and now NATO commander in Europe, told a Senate subcommittee that new soldiers now "take longer to train, and the forgetting curve is more precipitous than in the past."

As one officer put it, "You train them on Monday and then you have to train them all over again on Wednesday because they forget everything on Tuesday."

Reading levels in the Army have dropped so low that training manuals have been rewritten to a seventh-grade level. "They've turned them into comic books," an officer said. Even so, some soldiers can't read them.

Manpower is not the only problem facing the U.S. military.

Sen. Henry Jackson, D-Wash., one of the leading defense experts on Capitol Hill, described the situation graphically. He said, "The Soviets lead the United States in tanks by five to one; in armored personnel carriers by four to one; in artillery pieces by eight to one; in tactical aircraft by two to one; in submarines by more than three to one; in naval surface combatants by 1.5 to one. And the throw-weight of the Soviet intercontinental ballistic missile force now exceeds that of the United States by at least 300 percent."

In addition, the administration concedes that this country's Minuteman intercontinental ballistic missile force will become vulnerable to Soviet attack in the early 1980s.

Meantime, as the Senate withholds ratification of the SALT II treaty and as further efforts to curb the nuclear arms race are in doubt, the Soviets steadily are building tactical nuclear forces in Europe, adding one intermediate range SS-20 missile a week to their arsenal.

There also are crucial shortages of such basic items as ammunition. There are grievous maintenance and training deficiencies resulting from what the Pentagon calls "O and M" (operations and maintenance) funds. And there is confusion, delay and disarray on a wide variety of topics, including priorities, procurement and strategy.

These are some of the problems contributing to the deepening concern about U.S. readiness:

With his public commitment to defend the Persian Gulf region, President Carter has greatly increased the strategic demands on the U.S. Navy. But the size of the Navy has declined from about 900 ships 10 years ago to about 465 now

With the Navy's added responsibility in the Indian Ocean, Adm. Thomas Hayward, chief of naval operations, has noted that the Navy "is trying to meet a three-ocean requirement with a one-and-a-half ocean Navy."

Even with Carter's proposed defense budget increase, this year the Navy, for the seventh straight year, will be getting fewer new airplanes than it loses annually through crashes and obsolesence.

The shortage of ships kept the aircraft carrier USS Nimitz at sea for a peacetime record of 144 days this spring.

The Air Force holds an edge over the Soviet Union in numbers and technological quality of tactical fighter aircraft.

But due to a shortage of replacement jet engines and other spare parts and because they are losing many of their skilled mechanics, the Air Force and the Navy are having a hard time keeping planes flying.

Rep. Jack Edwards, R-Ala., found in a spot check of 60 F-15 Eagles, the Air Force's newest and best fighters based at Langley Air Force Base, Va., that only 20 were "mission capable."

Even "off-the-shelf" items, such as fuel and ammunition, are in short supply. The Army still has not replaced all the supplies diverted from Europe to Israel in the 1973 war.

An investigation by Rep. Samuel Stratton, D-N.Y., revealed that during most of last year the armed services were using war reserve stocks of oil to carry out normal peacetime training and that, at one point, the supply of jet aircraft fuel was more than 8 million barrels short.

Marine Lt. Gen. Paul X. Kelley has been appointed as commander of the Rapid Deployment Force, and a skeleton headquarters for it has been opened in Tampa, Fla. As many as 300,000 soldiers are supposed to be available to the deployment force in times of crisis.

But the Pentagon has no way to get any sizable number of soldiers delivered quickly to a combat zone. Carter's budget calls for building a new CX cargo plane to deliver the deployment force's men and materials. It also calls for the construction of 14 cargo ships that would be loaded with supplies, with the ships prepositioned in potential hot spots. But neither the plane nor the ships would be built before the mid-1980s.

ONLY ONE U.S. DIVISION FIT FOR COMBAT, REPORT SAYS

A confidential Army report shows that six of the Army's 10 combat divisions stationed in the continental United States were rated unfit to fight as of last December, and Pentagon officials said yesterday that the most recent ratings were about the same.

The report also shows that three divisions were rated combat ready but with major deficiencies. Another division, the elite 82nd Airborne, was rated as being ready for combat but with minor deficiencies.

None of the divisions, each of which comprises 16,500 to 18,000 soldiers, was rated fully ready for combat. Officials explained that divisions deployed in Europe and South Korea, plus the priority needs for recruiters, training cadre, and headquarters staff, had drained off manpower and resources from the divisions at home.

The report vividly underscored the "hollow army" description that the chief of staff, Gen. Edward C. Meyer, had provided in testimony before Congress, pointing to shortages in personnel, training, weapons and equipment and maintenance.

That "hollow army" at home was among the main reasons Meyer announced last week that he has ordered 6,000 sergeants in Europe and 900 in South Korea to be reassigned to units within the United States. Army officers called that sharing the shortages.

The low ratings in readiness applied to two of the three divisions that have been designated as potential components of the new Rapid Deployment Force, whose mission is to move swiftly and credibly to protect United States interests in remote regions, primarily the Middle East.

The 101st Airborne Division, whose speciality is air assault by helicopter, was rated unready for combat, as was the 24th Infantry Division (Mechanized), which is the armored end of the deployment force. Only the 82nd Airborne was rated as combat ready.

Other services have a similar lack of readiness, the Navy having postponed the sailing of a ship because it lacked enough skilled sailors to go safely to sea and the Air Force having flunked a tactical fighter squadron on a mobilization test.

A spokesman for the Army said he could not confirm or deny the figures in the report because they came from a confidential document. He also said he could not comment on the state of unit readiness today for the same reason.

Other officials, however, said that the figures reflected an accurate assessment of the various divisions' state of readiness. But they cautioned that the rating system only counted people and things and did not take into account materiel in storage or positioned overseas waiting for the unit, the quality of weaponry, and intangible elements such as leadership.

Pentagon officials also said that the downward trend of the Army, which started in the 1970s, had leveled off. But they said that a turnaround and real improvement would have to await decisions and votes on the 1982 military budget, which is being prepared now for submission to Congress in January.

Meyer and the secretary of the army, Clifford L. Alexander Jr., have already protested to Secretary of Defense Harold Brown over cuts in recruiting and training that Brown has said he intends to make in the Army's 1982 budget.●

BOY SCOUT TROOP 16 MARKS 55TH ANNIVERSARY

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. GAYDOS. Mr. Speaker, I recently had the privilege of attending a Court of Honor ceremony held by Boy Scout Troop 16 in the 20th Congressional District of Pennsylvania. What made the event unique was the fact troop 16 also was marking its 55th anniversary in Scouting, a distinction enjoyed by only a few troops throughout the Nation.

Troop 16 was organized in 1925 and since then it has provided nonstop Scouting activities for youths in the areas of the city of McKeesport and White Oak Borough.

I read with considerable interest a brief history of the troop which was compiled by a former Scout and leader of troop 16, Mr. Adolph Franc. Mr. Franc's work was not merely a chronological list of names, places and dates but a warm, frequently humorous, account of what Scouting was like in days gone by.

There were few, if any, of the well-equipped, well-organized Scout camps so common today. Instead, camping took place in remote wooded areas in the neighborhood. Troop meetings consisted mostly of cooking, first aid practice, signalling, pacing, map, and so forth. Troop inspections were based on the old Army traditions and outdoor cooking was done by wrapping food in wet newspapers and burying the bundle beneath hot coals.

Troop 16 practiced its signalling by flashing signs to the scoreboard at the local high school football game. The troop also was active in spreading the word about the 1936 flood in the McKeesport area. News reports were picked up by the Scouts on their crystal set radios and the messages relayed by runners throughout the area.

As far back as 1935, troop 16 formed a Sea Scout ship. Troop members built a 21-foot sailboat and named it the Monongahela. Later, the troop acquired a whaleboat from the U.S. Navy and christened it the Don Carlson in honor of the unit's first skipper. Years later the sailboat was stolen from its dock and never seen on the river again. The whaleboat also was given to another troop and later burned at a dock while being refueled.

Mr. Franc's journal traces the growth, decline and rebirth of interest in Scouting in the McKeesport area. He cites the various changes in meeting places for the troop and the difficulties it encountered. Despite setbacks, however, troop 16 survived and under the leadership of the various scoutmasters and assistants the troop produced its share of religious leaders, company executives, doctors, lawyers as well as civic and political officials.

Mr. Speaker, the history of troop 16, I believe, reflects the story of the Scouting movement. The stories of its past are humorous, serious and sometimes sad but as Mr. Franc emphasizes in his narrative that is what life and Scouting are all about.

On behalf of my colleagues in the Congress of the United States I would like to commend the members and leaders of troop 16, past and present, for their contribution to Scouting and with the troop the greatest of success in the future.●

RESOLUTION ON SOUTH KOREA

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. BONKER. Mr. Speaker, for myself and for my distinguished colleague, PHILLIP BURTON, I am introducing a sense of Congress resolution urging the Government of South Korea to fulfill its stated commitments to the democratization of South Korea and to commute the death sentence of Kim Dae Jung.

We would like General Chun to clearly understand that if the sentence of Kim Dae Jung and the sentence of other Government critics are not commuted and they are not released, the people of the United States will not allow their Government to have a business-as-usual attitude toward his military regime.

Surely, General Chun must know that brutal violations of human rights only weakens his government. In order to protect Korea's territorial integrity and economic progress there must be domestic tranquility and a government that enjoys broad popular support.

It is not too late to gain that support. All political prisoners should be released, the military should return to their barracks, and the people should be given free access to information and the right to freely choose their own government.

The resolution follows:

H. CON. RES. —

Concurrent resolution urging the Government of South Korea to fulfill its stated commitments to the democratization of South Korea and to commute the death sentence of Kim Dae Jung.

Whereas for 35 years the United States has supported South Korea, not only with our national treasure but with the lives of American soldiers, in order to establish and protect a nation in which democracy and freedom could flourish; and

Whereas today the United States contributes to the defense and social welfare of South Korea; and

Whereas the United States has allowed itself to become a great market for South Korean products, contributing to our balance of trade deficit; and

Whereas the present leaders of that country have shown a flagrant disregard for democratic processes and for the civil and political rights of their citizens; and

Whereas that disregard has most recently been expressed in the imposition of a death sentence on opposition leader Kim Dae Jung, whose views represent the aspiration of millions of Koreans for a real role in their country's political process, and the imposition of harsh prison sentences for 23 other intellectual, political, and religious leaders; and

Whereas Kim Dae Jung and the others have been tried on charges which the Department of State has termed "far-fetched" and in a trial which has been totally devoid of internationally recognized standards of fairness; and

Whereas the judicial review process to which they are now subject lacks most of the characteristics of an independent and impartial judiciary; and

Whereas, if the sentence of execution of Kim Dae Jung and harsh sentence of other critics is carried out, it will only help to facilitate the present Government's alienation from the Korean people, and will make it increasingly difficult to justify to the American people the continuation of our close relationship: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), that it is the sense of the Congress—

(1) to urge the Government of South Korea to fulfill its stated commitments to the democratization of the country's political life;

(2) to urge the Government of South Korea to reconsider the process pursuant to which Kim Dae Jung and other critics of the Government have been tried and convicted; and

(3) that, in the event these harsh sentences are carried out, the Congress will review the present terms of the relationship between the United States and South Korea.●

COMMERCE COMMITTEE'S DISCUSSION OF PROTECTION OF THE PREFERENCE CLAUSE IN PACIFIC NORTHWEST BILL

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. DINGELL. Mr. Speaker, the following is an excerpt from the May 15, 1980, report of the Interstate and Foreign Commerce Committee on S. 885, the Pacific Northwest bill. It applies to the substitute, H.R. 8157. The report states:

PROTECTION OF THE PREFERENCE CLAUSE

Preference means the statutory priority to purchase Federally-generated electricity which has, generally been provided to public bodies and rural electric cooperatives in over 32 Federal power marketing laws. These preference provisions date back to 1902 and were enacted to insure that Federal hydroelectric generating facilities would be operated for the benefit of the general public. As noted earlier in this report, the principal preference clause applicable to the Pacific Northwest is included in the Bonneville Project Act. Although similar to other statutes, this Act also contains additional language indicating that the "general public", especially domestic and rural customers, should benefit from the sale of Federal power.

Concerns have been expressed that S. 885 might be construed to change the meaning or application of preference in the Northwest, and by precedent, nationally. However, the intention of this Committee is clear.

The Committee does not want to undo nearly 80 years of history or establish any precedent. Specific provisions incorporated in the Committee amendment are designed to protect the entitlement of both existing and new preference customers to the full Federal base system. These provisions seek to protect preference as to both supply and price.

One of the basic provisions of the Committee amendment is section 5(a). It states:

> SEC. 5. (a) All power sales under this Act shall be subject at all times to the preference and priority provisions of the Bonneville Project Act of 1937 (16 U.S.C. 832 and following) and, in particular, sections 4 and 5 thereof. Such sales shall be at rates established pursuant to section 7.

The purpose of this provision is clear. The Committee wants to insure that all preference customer contract requirements will continue to have a priority over sale to other customers and other sales would be, in effect, subordinate to preference provisions of the Bonneville Project Act, including the five-year withdrawal features for contracts with nonpreference customers and the 20-year limitation on the terms of the contract.

Section 5(b)(6) also assures preference customers' right to purchase power from the equivalent Federal base system before BPA can restrict its obligation to deliver power to those customers.

In addition, section 7(b) reserves for preference customers the price benefits of Federal power that they would have enjoyed in the absence of this legislation. This is accomplished by a "rate ceiling" which governs preference customer general requirements rates. Under this provision, the Northwest preference customers could pay less—but not more—for power under the legislation than they would have in any 5-year period.

The "rate ceiling" is essentially that preference customers' cost of power from BPA will not exceed the costs they would have paid for power if:

(1) preference customers were served from available Federal base system resources and, after these were exhausted, from such customers' own new resources:

(2) preference customers served direct-service industrial customers located in or adjacent to their geographic service boundaries; and

(3) no IOU exchanges for residential customers were made.

Lastly, section 10(c) of the bill contains a disclaimer which flatly states that the bill does not "alter, diminish, abridge, or otherwise affect", either directly or indirectly, the preference provisions of other Federal laws. The Committee clearly intends no such construction of this Act by a court, Federal agency, or others that could affect in any way such provisions of law.

The Committee believes that these and other safeguards adequately protect the preference clause and the long-held rights of preference customers in the Pacific Northwest and elsewhere.●

MUSKIE REAFFIRMS U.S. MILITARY AND FOREIGN POLICY STRENGTHS

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. ZABLOCKI. Mr. Speaker, citing facts, not conjecture, Secretary Muskie eloquently responded last week to recent alarmists' charges that America is waning as a major world power.

Secretary Muskie emphatically stated: "I am here today to take sharp issue with the evangelists of American weakness—to affirm that America today is strong and growing stronger."

In substantiating our many foreign policy and military strengths, Secretary Muskie observed that: Our allies are stronger, our alliances sturdier than those of the Soviet Union; our alliances have the added dependability that is derived when values and purposes are truly shared unlike the Warsaw Pact; our security is also advanced by the concept of our foreign policy which is premised on the international principles of national independence and global human freedom; and our defense spending has increased by 10 percent after inflation over the past 4 years.

In addition to these strengths, Secretary Muskie also reflected on the many important contributions that arms control can make toward improving U.S. national security and defense interests. He noted that approval of SALT II would: Knock out about a fourth of all long-range Soviet missiles and bombers that we project for 1985; eliminate thousands of individual warheads and bombs that the Soviet arsenal could otherwise have aimed at our country; improve our surveillance capabilities over Soviet forces and programs; enable all our strategic nuclear programs to go ahead as planned; and save the American taxpayer billions of dollars in military expenditures.

In this respect, Mr. Speaker, the Subcommittee on International Security and Scientific Affairs, which I chair, will be holding hearings this Thursday on the foreign policy implications of the U.S. strategic doctrine. This hearing will hopefully help the Congress to objectively develop and pursue the best U.S. foreign policy and defense responses to the Soviet challenge. Continued declarations of unfounded weaknesses in our foreign policy and defense posture erode our very formidable strengths, invite adventurism by our adversaries, and unnecessarily raise doubts among our closest allies and friends. Such a development, Mr. Speaker, would be anathema to the very preservation of our country's international security interests now and in the future.

As we in Congress continue to consider and act upon these and other programs preserving and enhancing our national security interest, it is my sincere hope that my colleagues will carefully review and consider the cogent case that Secretary of State Muskie made last Thursday before the World Affairs Council of Pittsburgh.

The speech follows:

ADDRESS BY SECRETARY OF STATE EDMUND S. MUSKIE

During this season of charges and counter-charges, it's useful to recall a story Abraham Lincoln used to tell.

When discussions in his Oval Office began to boil over, he would interrupt to tell of the hunter who got lost in the forest when a fierce storm broke. The hard rain made it almost impossible for him to see where he was going. Night soon fell, and he had to fight the darkness as well as the rain to find his way. The thunder was deafening. Only occasional flashes of lightning showed him the trail.

Finally, wet and tired, he fell to his knees in prayer.

"If it's all the same to You Lord," he said, "I'd appreciate a little less noise and a lot more light.".

It's in that spirit that I address you today.

In recent months the atmosphere has been unusually thick with pronouncements about an American military decline.

We cannot let such funereal forecasts go unanswered. They are wrong on the facts. And they can be dangerous in their effect.

I am here today to take sharp issue with the evangelists of American weakness—to affirm that America today is strong and growing stronger.

If our nation truly were neglecting its defenses, it would be the duty of all informed people to sound the alarm. But false declarations of weakness only intensify the dangers we face. They can cause our friends to doubt us and our enemies to discount us. They can distract us from other work necessary to make our society stronger and our world more secure.

So let us evaluate the defense record, but let us evaluate it fairly. Let us weigh the East-West balance realistically. And let us give due regard to our own strength as well as that of our opposition.

Our allies are stronger, our alliances sturdier than those of the Soviet Union. In economic power, the United States and our NATO allies outstrip the Warsaw Pact more than two to one. Taken together, we devote more to defense than the Warsaw Pact, including the Soviet Union.

Our alliances have the added dependability that is derived when values and purposes are truly shared. Unlike the Warsaw Pact, NATO members and Japan are allies by choice. The purpose of our alliances is not to camouflage the ambitions of one member, but to defend the freedom of all.

At least one-fourth of the Soviet Union's ground combat forces are tied down on the long common border with China. The nations on our borders are friends.

Technology is another American advantage. "Faster," "more accurate," "more advanced,"—these generally are terms that apply to American weapons and American systems. Soviet technology has lagged behind.

And our security is also advanced by the content of our foreign policy—by the international principles we support.

On a global basis, we stand for essential precepts of national sovereignty and human rights. Certainly we live in a tumultuous world, characterized by the unremitting nationalism and surging human aspirations of more than 100 new nations. But if such an environment is unsettling to us, it will prove to be even more perilous for nations seeking to dominate others and dictate their systems. Such imperial concepts are the wave of the past. They collide head-on with the historic trends now underway virtually everywhere in the world—from the patriots in Afghanistan to the nationalists in every nation of the Third World, from the democratic forces in Zimbabwe to the gallant workers of Poland who have inspired us all.

In sum, our technology, our solid security partnerships, our identification with national independence and human freedom . . . all of these assets should strengthen our confidence as we assess the sufficiency of our defenses.

They do not, however, give us cause for complacency.

Our military posture continues to require our diligent attention.

In the Soviet Union, we face a rival that has engaged for more than a generation in a steady buildup of its military forces, both conventional and strategic.

In strategic nuclear forces the Soviets have attained a rough equivalence. In the conventional area they have increased the danger to our Asian and European allies. They have aimed for the status of global power—the capacity for direct involvement even in distant regions. And now in Afghanistan, they have shown no hesitancy in applying their power, in a brutal attempt to crush a sovereign neighbor.

The question facing Americans is not whether we should respond to these developments. All agree that we must.

The real question is whether we will continue with a well-conceived and measured response tailored to the actual threats we face—or whether we will run off wildly in all directions at once, spending vastly greater sums to little, if any, effect.

Let me briefly survey what the response thus far has been.

In overall terms our arms spending is no longer dropping. It is growing.

Our defense spending declined in seven of the eight years just before President Carter took office—a total drop of more than 37 percent.

Since President Carter's inauguration, however, defense spending has increased four years in a row—for overall growth of 10 percent, after inflation. And if the President's five year plan is carried out, the increase by 1985 will exceed 27 percent.

To make it absolutely clear that we are not proposing to squeeze our armed forces, let me just note here that this five year defense program calls for appropriations of over one trillion dollars between now and 1985.

Even so, there are those who pronounce that effort insufficient. They insist upon a still larger arms budget.

They will not tell us what it would contain. They leave those decisions for later. They simply want "more"—of whatever, as if shoveling out the taxpayer's money is a desirable end in itself.

That is a formula not for greater security, but for guaranteed waste—a failing to avoid in defense just as much as in any other part of the budget.

Instead we need a carefully structured defense program that responds effectively to specific dangers. And that is what we have.

In conventional forces, the Carter Administration began promptly in 1977 to address the military deficiencies of NATO—matters which previously had received abundant discussion . . . and precious little concrete attention.

Today the NATO Long Term Defense Program, an American initiative, is in its third year. Problems ranging from readiness and prompt reinforcement to integrating air defenses are no longer simply being studied; they are being solved.

These NATO improvements are underwritten by an Alliance agreement to increase defense spending by at least 3 percent each year—another initiative of the United States.

We are engaged in a broad modernization of the Army's weapons and equipment. We have begun the first full-scale modernization of tactical air forces since the Vietnam War. And our shipbuilding program will produce 97 new ships over the next five years, building toward a newer and more capable fleet of 550 ships, in contrast to 476 in 1977.

With these programs moving forward, we have also begun bolstering our ability to respond to emergencies outside the major alliance regions—including the vital Middle East-Persian Gulf area. Our naval presence there today is the strongest ever. We have negotiated new agreements for access to ports and airfields. We are prepositioning equipment and supplies in the Indian Ocean area. A new cargo aircraft is being developed. The elements of a Rapid Deployment Force have been designated and exercises are underway.

Our programs in the area of nuclear weapons reflect this same commitment to the deterrence of war through the assurance of strength.

Last year, NATO adopted our recommendations for modernizing theater nuclear forces in Europe.

On intercontinental or strategic nuclear forces, the hard decisions have been made. A sweeping modernization of all three parts of our nuclear triad—land, sea and air—is moving ahead.

—For the strategic bomber forces, President Carter took the soundest course, even though it meant also taking some political heat. Instead of sinking billions of dollars in a B-1 bomber with a doubtful future, he decided to equip our existing bombers with air launched cruise missiles. In place of an old concept highly vulnerable to Soviet countermoves, he selected an array of advanced technologies that can surmount foreseeable Soviet defenses.

—At sea, the Trident submarine program was put back on track. The first of those modern submarines will join the fleet next year. Portions of the existing fleet already have the Trident I missile, with major improvements in range and power.

—And on the land, the new MX missile, with mobile basing, will overcome the chief source of potential nuclear instability—the growing vulnerability of missiles fixed in silos. As with our bomber forces, President Carter rejected second best suggestions and made sure we had the best plan before construction began—so we would not have to waste time and money later fixing the mistakes.

Along with these programs—cruise missiles, Trident, the MX—there is a fourth program I want to mention . . . a "secret weapon", if you will. Let me list some of its capabilities.

By itself, this secret weapon would knock out about a fourth of all long range Soviet missiles and bombers that we project for 1985. It would do that without launching a nuclear war; indeed, without even firing a shot.

In the process, it would eliminate thousands of individual warheads and bombs that the Soviet arsenal could otherwise have aimed at our country.

The secret weapon has surveillance capabilities. With it, we will be able to keep better track of Soviet forces and programs.

For all of its military effectiveness, there is no incompatibility whatsoever between this secret weapon and our other strategic programs. M-X, Trident and air launched cruise missiles can all go ahead as planned.

Adding this weapon will not require massive new appropriations. In fact, in the long run, money will be saved.

Nor does it worry our allies. On the contrary, they know about it and they strongly support it. Their only concern is that we might not adopt it.

Of course the weapon I am referring to is not a weapon at all. It is an agreement—the SALT II Treaty.

But it nonetheless will make all the contributions to our security I have just described. There is nothing soft or innocent about it. It is an integral part of a hardheaded strategy of American defense. And it should be recognized as such.

Indeed, it may well be that some of those who oppose SALT II would support it—even insist on it—if it were a defense expenditure that could buy the same results.

The contribution of SALT to our defense underscores the second of two messages I want to leave here today.

The first, as I have suggested, is that our defenses—alone and in combination with our allies—are second to none. We are determined to see that they remain so. That determination is not just stated in words; it is backed up in the budget.

The second message is that simply spending more money and building more arms—even accumulating vast military power—will not be enough to assure our security in today's world.

Even our defense posture itself depends upon other international assets and skills. Recall NATO's Long Term Defense Program . . . its agreement on greater defense efforts . . . the decision on theater nuclear forces . . . our access to facilities in the Indian Ocean. Actions such as these cannot be manufactured out of either unilateral announcements or unspecified new spending. They are the products of careful negotiation and steady leadership—endeavors every bit as vital to our defense as arms.

And those endeavors have other applications indispensable to our security.

True security in a nuclear age demands steps that lessen the risk that war will happen. That is the mandate of arms control—in combination with a strong defense, to help achieve a stable balance, and to avoid miscalculation by either side. For we know that nuclear war would mean catastrophe for every side. In such times it would only jeopardize our security to reject arms control and embrace doctrines—including the chimera of nuclear superiority—that invite a nuclear arms race.

Our security is also advanced by a vigorous diplomacy—fashioning a mature, stable basis of cooperation even with countries, such as China, that have different systems from ours. We must not retreat from those efforts—confuse them—or be confused by them.

Our security has been enhanced by the success of peace-making in Zimbabwe. That effort deprived our adversaries of a conflict to exploit. Some Americans wanted to disrupt the peace process by prematurely ending our participation in international sanctions. We can all be grateful they did not prevail.

Our security is still more deeply involved in the Middle East, where the Camp David process has produced the first real peace agreement since Israel came into being. Only patient, persistent and imaginative diplomacy can reconcile the remaining issues—the same kind of diplomacy that hammered out the accords at Camp David. Bellicose pronouncements . . . or assaults on the negotiating process that offer no concrete alternatives . . . neither advance that enterprise nor serve the cause of peace.

And our security is affected by a broad range of economic issues that arms cannot touch. We could never have blasted a new trade agreement into being. We cannot threaten stagnating economies to make them prosper or intimidate hungry people into health.

Yet our fate ultimately turns on such questions, even as it rests on the balance of power. If we neglect such challenges, our fate may be to slide into oblivion, rather than being blown there. But we will get there all the same.

In short, our security in the future requires the same priorities that have marked our foreign policy in the recent past.

On defense, we must continue the steady, prudent improvement of our armed forces. We must specifically repudiate the false message that ours is a frail nation.

And our security requires something more. It requires a realistic understanding of the nature of the world we share . . . a commitment to peace as well as power . . . a capacity to work constructively with others to advance common purposes and meet the full range of challenges ahead.

I am convinced that the American people understand the need for such a balanced American approach to the world.

I believe they support a defense posture of strength and confidence—and a foreign policy of construction and hope.●

A FRESH LOOK AT REPUBLICANISM

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. MICHEL. Mr. Speaker, there is a new view of Republicanism emerging across the country. Republicans have a new image and Republican philosophy has a new design. Republican programs offer a new approach and Republican ideals offer a new hope for our Nation.

We were once thought of as a staid, traditional, and even old-fashioned political party. We are no longer.

I think what Republicans stand for in this election year is neither staid nor conservative nor old fashioned. I think what we stand for is more aptly described as rebellious and radical. Yes, we are rebellious, and we are radical in our approach to government. The state of our economy, the condition of our people and the manner in which we are perceived by the nations of the world all demand a peaceful rebellion in thought, purpose, and direction.

My good friend and colleague, JACK KEMP of New York, recently enunciated our beliefs and contrasted them with those of the other party very eloquently in an article published by the Washington Post today. I commend it to the Members of this House and all of those people across the country who have not yet taken a good, fresh look at the Republican Party:

[From the Washington Post, Sept. 23, 1980]

THE PARTY OF THE FUTURE

(By JACK KEMP)

The Democrats are staking their electoral fortunes on an effort to depict the Republican platform as "radical."

President Carter's strategists seem to have overlooked the possibility that Americans actually seek a "radical" vision of the future, in both precise meanings of the word. Radical means "departing from the usual or traditional." Departure from the usual and traditional makes sense when the usual and traditional policies result in double-digit inflation and chronic recession. Radical also means "relating to a root or origin." Most of us still believe in the principles of freedom and justice on which our country was founded. Older Americans remember when these principles were practiced with rather remarkable success. Younger Americans have witnessed what happens when we begin to neglect them.

In both of these senses, I believe, the Republican Partly is indeed offering the beginnings of a "radical" vision for the 1980s.

For years, Republicans and Democrats have squabbled over the size of government. Democrats argued for more spending and government, and Republicans argued for less spending and government. And no one, it seems, devoted much attention to economic growth. The two parties offered Americans a choice, in effect, between lower inflation with higher unemployment or higher inflation with lower unemployment. The inevitable outcome of this process has been reached under President Carter and the Democratic-controlled Congress: high inflation, high unemployment and chronic stagnation.

After a quarter-century as the minority party in Congress, Republicans have learned that it's not enough to be against bigger government and big spenders, even if most Americans agree. To compete effectively for national leadership, a party has to offer a new vision and spell out its consequences for Americans and their families.

Walter Lippmann wrote in 1913: "It is perfectly true that that government is best which governs least. It is equally true that that government is best which provides most. . . . Neither [truth] can be neglected in our attitude toward the state." Human freedom is not a state of nature. It must be hard won, and it can be maintained only by establishing enduring institutions.

The Founding Fathers did not believe that freedom and prosperity would automatically result from limiting the national government, or even that the behavior of free individuals would go unregulated. They believed that individuals would be guided by Judeo-Christian values, instilled by family and religion. They believed that state and local governments would enact laws to affect the consequences of certain individual behavior.

In economic matters, they believed the price mechanism, by accounting for everyone's tastes and means, would set costs and rewards to encourage people to act independently in ways that would maximize the general welfare. The Founding Fathers also believed in growth. Expanding opportunity would not only give people a chance to fulfill their individual potential; it would also give them a stake in the system, ties to the community and a respect for its laws.

The federal government had to provide the external and internal security without which there can be no freedom or prosperity. It would undertake additional duties approved by the people. But it had to finance its budget without obstructing the industry and thrift of the people with taxation, on the one hand, and without cheapening the nation's monetary standard and distorting the price system, on the other.

The Republican Party's "radical" idea is that this vision of society can still work, that it is as progressive and forward-looking at the beginning of the 1980s as at any time in our history.

The most striking feature of the Democratic Party's view of society, in contrast, is its insistence that nearly every aspect of American life be allocated, subsidized, taxed, regulated or adjudicated by the federal government. But the obvious failure of this vision is only half the story of the failure of Democratic Party leadership. Under the Democrats, the federal government has seriously neglected those duties it ought to perform.

Taxation so discourages initiative that the government chronically fails to raise enough revenue to balance its budget. To finance ambitious spending programs—many prompted by economic stagnation—the government prints and spends money it has neither taxed nor borrowed. While cheapening the dollar, our monetary standard, Democratic Party government imposes controls that subject the price mechanism to narrow private interests instead of the public good. And the government has failed to maintain an adequate defense.

The Republican Party is committed to full employment without inflation. It rejects unemployment as the answer to inflation and inflation as the answer to unemployment. It proposes across-the-board tax and regulatory reform to restore individual and business incentives for economic growth and opportunity. It proposes tax incentives and job training to revive the country's depressed areas. It proposes to pay for the government expenditures necessary to meet our foreign and domestic challenges through a long-term expansion of the tax base. In a climate of economic growth, we can spend less on programs to alleviate the symptoms of contraction. And the Republican Party proposes to stop cheapening the dollar, to finance the federal budget or for any other reason. We would restore a monetary policy whose sole aim is to maintain a dollar of constant purchasing power. Under such policies, our families, neighborhoods and cities can flourish.

In embracing these ideas, Republicans have changed their behavior as a political party. It's not enough, we decided, to have a strategy to win elections, which can be done by luring just enough voters to piece together a coalition of 50 percent plus one, while writing off the rest. A party that plans to be the governing party must have an agenda that addresses the needs of all Americans—even those who may not vote for your party.

Ronald Reagan expressed this attitude in his Detroit acceptance speech, when he said, "We must all move ahead, but we are not going to leave anyone behind." President Kennedy had the same idea: "A rising tide lifts all boats." Americans seem willing to accept either a "liberal" or a "conservative" president, as long as that president plans to be the president of all the people.

At the Democratic convention in New York, President Carter and his party has the opportunity to rethink the failure of the Democratic vision in practice and to devise new policies. Instead, they adopted the functional equivalent of The Emperor's New Clothes. The Democratic platform pledges to "continue to" reduce inflation and unemployment to "continue to" restrain federal spending, to "continue to" pursue a credible foreign policy. In short, as President Carter's official spokesman Jody Powell, as confessed, "Another term probably wouldn't be markedly different from the first."

At the same time, the administration's rhetoric has reached outlandish proportions. The Republican cut in personal income tax rates was first described as a $280 billion, then a $1 trillion, tax cut. President Carter is apparently unaware that even the lower of these figures implies that he would nearly quadruple income taxes during a second term in office. Sooner or later, the press and the public will be forced to discount the administration's inflated rhetoric in making political judgments, just as they must discount the administration's depreciated dollars in making economic judgments.

Without a positive vision, without a credible critique of the Republicans, where will President Carter and the Democratic Party be on Nov. 4? Taking refuge behind the ghost of Franklin Roosevelt, presumably. It will do them about as much good as Republican appeals in 1932 to the memory of Abraham Lincoln.

This November, I believe, millions of Americans are going to surprise themselves by voting Republican.●

WILD AND SCENIC RIVERS BILL

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. FAZIO. Mr. Speaker, I would like to congratulate my colleague from Sacramento, Representative Bob Matsui, and the chairman of the Interior Subcommittee on Parks and Territories, Representative Phillip Burton, for the fine job they have done on the wild and scenic rivers bill, H.R. 8096, and in particular for that provision in the bill which designates the Lower American River in Sacramento wild and scenic.

The Lower American River is a prime recreational resource for literally thousands of rafters and swimmers in the Greater Sacramento area. It is simultaneously a prime salmon spawning grounds, contributing an estimated 10 percent of the salmon population in California's Pacific Coast waters. The river has many other values, as well, not the least of which is the esthetic impact of its presence through the heart of the Sacramento urban area. The city and county of Sacramento have adopted comprehensive plans to preserve the values of the river for their jurisdictions. It is entirely appropriate and constructive for the Federal Government to participate in the effort.

The authors of the bill had to deal with several difficult issues in bringing it to the point of passage on the House floor. Most importantly, they had to provide flexibility for the American River Flood Control District to continue its important work. They also had to avoid a potential political conflict over the flows necessary in the river to maintain its recreational and fish values while not conflicting with the operation of the Auburn Dam, Folsom-South complex.

The Interior Committee has resolved those problems satisfactorily in my view. First, the flood control district is free to carry on its vital work basically without restrictions within the levees running parallel to both banks of the river. Second, the bill intends to stay clear of possible but at this point conjectural conflicts between the river's recreational values and the authorizations for the Auburn-Folsom-South projects. I would like to mention that by staying clear the committee's report language effectively certifies the existing agreement between the Department of the Interior and the California Water Resources Control Board that certain flows are to be maintained in the Lower American for fish and recreational purposes if the Auburn Dam is constructed. These flows are set forth in the CWRCB's decision 1400, which the board attached to its permit to the Department for the Auburn Dam's use of the water. The agreement between the board and the Department is expressed by that condition.

Further, I welcome this bill because its constitutes a strong congressional statement that there are other values for the water in the Lower American besides its agricultural uses. The flow reductions allowed by the Auburn authorization would in fact be unacceptably low. However, other steps can be taken to avoid such a drastic reduction in the Lower American without curtailing the irrigation yield of Auburn or Folsom-South. Those steps were not contemplated at the time of Auburn's original authorization. By saying that the Lower American has crucial recreational and fishery values in addition to irrigation values, I believe Congress is firmly directing the Department to implement the solution that will eliminate this conflict. I do not believe there is any disagreement among all the parties to this legislation that this message has been sent.

Thank you, Mr. Chairman, and my appreciation again to the head author and the subcommittee chairman for the work they have done and the opportunity they have afforded me personally to participate in it.●

COMMERCE COMMITTEE'S DISCUSSION OF BPA FINANCING AND FEDERAL GUARANTEES REGARDING THE PACIFIC NORTHWEST BILL

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. DINGELL. Mr. Speaker, the following is an excerpt from the May 15, 1980, report of the Interstate and Foreign Commerce Committee on S. 885, the Pacific Northwest bill. It applies to the substitute, H.R. 8157. The report states:

> BPA Financing and Federal Guarantees
>
> The Bonneville Power Administration is self-financed. Pursuant to the Federal Columbia River Transmission Act, BPA must meet all its costs, including the cost of the Federal investment in the Columbia River system, from the power sale revenues. General tax revenues are not used to support BPA programs. The Committee amendment continues this financial independence while maintaining the current practice of Congressional review of BPA activities as part of the normal budget review process.
>
> However, issues were raised concerning Federal backup or "guarantee" of the Administrator's acquisition of resources. Although section (6)(i) makes clear that Federal monies could not be used to support acquisitions or other activities, BPA would remain a Federal agency and it was argued by some that a Federal backup might be provided when the Administrator assumes an obligation to pay project expenses including debt obligations issued in connection with an acquired resource. The Department of Treasury was asked to address this concern and to make recommendations for necessary changes. Treasury defined as a possible guarantee the use of BPA bond authority in connection with many resource acquisition. Assistant Secretary of Treasury Roger Altman, in September 25, 1979 testimony before the House Committee on Interior and Insular Affairs, was principally concerned with what he says in S. 885, as it passed the Senate, as a "granting of tax-exempt interest coupled with the backup of a Federal agency's . . . credit".
>
> To meet this problem, Secretary Altman recommended that section 8 of S. 885 be amended to only "extend the borrowing authority for financing conservation programs and small, renewable resource projects".
>
> Section 8(c)(1) of the Committee amendment generally carries out the Secretary's recommendation in its amendment to section 13(a) of the Federal Columbia River Transmission System Act. The amendment permits use of BPA's authority to issue bonds to be extended to this legislation, but precludes such use in acquiring under section 6 of the Committee amendment "electric power from a generating facility having a planned capability greater than 50 average megawatts".
>
> Lastly, in order to make clear that all contracts and other obligations required of the Administrator will be secured solely by BPA revenues and not by the Federal government, the Committee included section 6(j)(2) which requires that, in the sale of any obligation, all offerings and promotional material shall contain language indicating that such obligations are "not intended to be, nor are they, secured by the full faith and credit of the United States".●

WHY YOU SHOULD VOTE DEMOCRATIC

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. BRADEMAS. Mr. Speaker, the distinguished majority leader, Hon. Jim Wright of Texas, is the author of an article in the September 1980 issue of Reader's Digest magazine on "Why You Should Vote Democratic." The article is a clear and perceptive exposition of the reasons why the Nation's well-being is better served by the Democratic Party.

Mr. Speaker, I ask that the text of Mr. Wright's article be printed so that all of my colleagues will have an opportunity to read it. The text of the article follows:

> Why You Should Vote Democratic
>
> (By Jim Wright)
>
> Some people will tell you we should elect a Republican Congress because the country has problems—inflation, unemployment, energy, international crises. But that is the very reason we need a Democratic Congress. For the past 50 years Americans have known instinctively that a Democratic Congress is their best hope in difficult times.
>
> Looking back, I think I must have become a Democrat when I was nine years old. The

year was 1932. Twelve million Americans were out of work. Nearly every day some young man would come to our back door and ask if there was any job he could perform. There hardly ever was, but my mother always offered these men something to eat.

It was in that year that my grandfather lost his job. Granddad was 63, a proud man. He had worked 23 years for a nationwide company. Two more years and he would have qualified for a retirement annuity. That year, the company arbitrarily fired every employee with as much as 20 years' seniority.

There was no Social Security in those days, no unemployment compensation. A worker had no vested interest in the company retirement plan. There was nothing—not even an FHA to insure home payments—to fall back on.

That is why I am a Democrat.

What a difference these five decades have made! In 1932, our country teetered on the brink of collapse. Today, the economic shock absorbers created by Democratic Congresses have insured against a return to those days of foreclosures, soup lines and bank failures. Things may get tough from time to time, but they'll never be that desperate—thanks to the fact that Democrats care about people and about people's problems.

What is the fundamental difference between the average Democrat and the average Republican? The Republican wants to keep what he's got. The Democrat wants to make things better for those who haven't got enough. I risk overstatement. But that is essentially it.

Republicans in general believe in a "trickle down" theory—that if you shower enough blessings on those at the top of the economic pyramid, some of the benefit is bound to trickle down to those at the bottom. Democrats, on the other hand, adhere to a "percolate up" theory. We believe the best way to strengthen our capitalistic society is by broadening the base—by making more people capitalists. Former Sen. Ralph Yarborough of Texas said it fairly well. He said we want to "put the jam on a lower shelf so the little guy can reach it."

That is our aspiration—whether we define "jam" as economic opportunity, the right to a first-class education, the availability of a job, a piece of real estate, a secure old age, or the right to participate along with everybody else in the political process. That is the central thread that runs through the tapestry of our party. From Thomas Jefferson to Jimmy Carter, we've been trying to give more people a piece of the action.

And, yes, sometimes we've made things so good that folks become Republicans. Well, that's all right. We need some Republicans around. But no one should ever forget that it was Democratic policies that fixed things so folks could afford to be Republicans.

People should also remember that the Republicans have a consistent record in the U.S. House of Representatives. It is a record of voting "no." At the critical turning points of our history—when Social Security was being created, when housing guarantees were inaugurated, when Congress launched Medicare, hospital programs, the Interstate Highway System, school construction, mass transit, flood insurance and economic-development programs—a majority of the House Republicans has consistently voted "no."

For years the Republicans have cried out for a "balanced budget." Recently they've been calling for more defense dollars. In June we presented the first balanced budget in 12 years, and included the biggest annual dollar increase for military readiness since World War II. How did the Republicans vote? They voted "no."

We also presented a plan to cut red tape on key energy projects. Despite having voted 107 to 43 for this bipartisan plan last year, the GOP House membership, in an election year, voted against it, 125 to 9, stopping a bill important to America's future.

Two years ago, House Republicans were peddling something called Kemp-Roth. The idea was to cut everybody's taxes radically and to tell ourselves that this wouldn't unbalance the budget. Most of the nation's economists were appalled at the self-deception. Democrats resisted it, superficially tempting though it was. And the public saw through it. The good common sense of the American people recognized that you can't reduce the government's income without first reducing outgo, unless you want a big deficit.

Maybe that is the most exalted mission for the Democratic Congress—not to tease the public with unrealistic expectations, but, as Adlai Stevenson said, to "talk sense to the American people."

America has problems. The most serious are the energy shortage and persistent inflation; they are, in fact, largely the same problem. The dollar drain for foreign oil has skyrocketed from $8 billion in 1973 to at least $85 billion this year. Our economy's dependence on this ever more costly foreign oil has nearly doubled our inflation. To reverse the inflation rate, we have to reduce substantially our dependence on imported oil. The problem has been decades in developing. It won't be cured overnight.

But Congress is moving in the right direction. During the past two years, we have approved (1) a dramatic synthetic-fuels initiative, (2) a comprehensive package of conservation incentives, (3) a solar-energy bank, (4) a gasohol program, (5) new stimuli for the exploration and recovery of more American oil and (6) an Energy Security Fund of some $227 billion, from excess-profits taxes, to help make America energy-independent by 1990.

Some criticism of this Democratic Congress no doubt is justified. We make no claim to perfection. We just hope, when the history of our times is written, that it can be said of us, in the words of Harry Truman's favorite epitaph:

"Here lies Jack Williams. He done his damnedest." ●

NICARAGUAN INVOLVEMENT IN ASSASSINATION OF SOMOZA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. McDONALD. Mr. Speaker, to date there has been a studied lack of suggestion that Nicaragua was involved in the assassination of President Somoza last week in Paraguay. However, the evidence is there. As the American Security Council pointed out in its Radio Free Americas broadcast/column for the week of September 17, 1980, two so-called Nicaraguan diplomats had been in Asuncion preparing the way for Somoza's demise. Incidentally, this column had been prepared on September 8, 1980, and mailed to the media on September 10, 1980. At any rate, further information discloses that the same group of Argentine leftwing terrorists may have been stopped trying to cross into Paraguay from Brazil in the first days in September. Evidently, they later crossed in via Argentina and succeeded in their grisly mission. The Radio Free Americas item, entitled "Reason Enough," follows:

REASON ENOUGH

Once Paraguay granted political asylum to the deposed Nicaraguan General Anastasio Somoza, Jr. while his country was in the hands of the communists it might be expected that the new Nicaraguan regime would cut off diplomatic relations with Paraguay.

Strange as it may seem, this was not the case. The Managua junta insisted on keeping the diplomatic relations between Paraguay and Nicaragua intact, although the diplomat who had represented the Somoza regime at Asuncion had been fired.

It was a surprise for the Paraguayans to learn that the leftist Junta de Gobierno in Managua had appointed Alberto Nunez-Rodriguez as "charge d'Affaires" in Asuncion. In fact, the novel diplomat was already in Asuncion, accompanied by a young lady named Nidia Escobar, the new "attache" of the Nicaraguan Embassy there. The embassy is but 200 miles from the ranch bought by Somoza, whose tenants spend some weekends in Asuncion.

It was not difficult for the Paraguayan government to learn of the antecedents of the two Nicaraguan "diplomats" sent to Asuncion. They have been well known among leftist Nicaraguans as trained guerrilla fighters, experts in political kidnappings for ransom, trained in the schools of Communist Cuba for several months.

It was quite evident that they had a mission to fulfill in Paraguay, where Somoza and his relatives had found political asylum. The Nicaraguan leftists knew very well that they would not be able to get Somoza's extradition from Paraguay, but they wanted to harm and punish him.

The two alleged Nicaraguan diplomats had to watch Somoza and report to their bosses in Managua everything the man did. But the training they received in Communist Cuba was not for gathering and supplying information; it was for terrorist activities. Somoza's life was in danger even if he was in a country far away from his own. The communists who killed Mella, Trotsky, and other enemies abroad were on the trail of revenge against Somoza in Paraguay.

It was reason enough for the two Nicaraguan terrorists disguised as diplomats to be expelled from Paraguay on August 25.●

CENTENNIAL OF THE KANSAS CITY STAR

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. WINN. Mr. Speaker, it is with a great deal of pride that I call my colleagues' attention to the celebration this week of the centennial of one of this Nation's truly great institutions of daily newspaper journalism—the Kansas City Star. Founded on September 18, 1880, by William Rockhill Nelson, the Star—as an active force for progress, economic growth, and incorruptible city government—has grown and prospered, its development linked inextricably with that of the city itself, both becoming over the years institutions of great national influence. Their parallel development was not, I think, accidental. This Nation has flourished in large part because of a vital, vigorous press—which we today acknowledge to be a crucial component of democracy.

From its beginnings, Nelson said the Star would "spare no labor or expense" to create a first-rate newspaper, and he succeeded, perhaps beyond his wildest imaginings. A civic-minded crusader, Nelson was the first in a long line of men of distinction who guided the newpaper's destiny and, by their influence, that of Kansas City itself. Roy Roberts, president and publisher from 1938 to 1956, carried on this tradition by his role in the Republican Presidential campaigns of Alf Landon and Dwight Eisenhower—influence that attests to the growing national stature of the Star. He fought valiantly against the Pendergast machine and is credited by many with ridding Kansas City of their corrupt influence.

To this day the Star continues to be as reputable an editorial voice as this Nation can claim. But it should not be assumed that it has been burdened with dull respectability. Quite the contrary is true. The Star's history has been colorful as well—high spirited and irrepressible in the best traditions of the first amendment. This is a newspaper after all that employed in the years before World War I a young reporter named Ernest Hemingway. William Allen White, later to become nationally known as the publisher of the Emporia Gazette, wrote editorials—acknowledging that while pay back then was low, "to work for the Star was such an honor that mercenary motives should not soil the relationship." Even Harry Truman worked there for a time, wrapping newspapers in the mailroom. It is a measure of its national influence that he fired off from the White House in 1950 a letter telling Roberts that he wanted "no mention from your lousy sheet," a communication cooler heads kept from reaching its intended victim.

I am proud to serve a congressional district that is served as well by the Kansas City Star—proud to be a reader of such a distinguished newspaper, and encouraged to know that our elected representatives and our Government generally is being watched over by such courageous and high-minded institutions of the press. We can rest assured, I think, that the democracy will not be allowed to go too far astray as long as the press remains as vigilant in its defense as the Kansas City Star has been. Indeed, we can all take seriously the warning sounded back when Mr. Nelson founded the paper, pledging to its readers that it would "wage warfare upon corrupt and extravagant tax eaters of all parties."

Thus warned, my colleagues are asked to join me today in extending congratulations to the men and women who have made the Kansas City Star what it is today, a newspaper that has never wavered in its 100-year history from upholding the highest duties of the press in America.●

INTELLIGENCE IDENTITIES BILL: CIVIL LIBERTIES THREAT

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. WEISS. Mr. Speaker, I would like to share with my colleagues another document concerning H.R. 5615, the Intelligence Identities Protection Act, that is scheduled to be considered by the full House this week.

Concern over the chilling effect of this legislation on crucial news coverage and other protected first amendment activities has greatly increased in the past several weeks, as more and more groups learn about H.R. 5615. This letter, from seven organizations representing journalists, newspaper publishers and editors, and broadcasters, is illustrative of the fear being generated by this bill, especially section 501(c). This section would penalize the disclosure of identities of covert CIA and FBI agents, as well as sources of assistance and informants, even when disclosure is based entirely on unclassified information and other information already in the public domain. Never in the history of this country has the Government enacted legislation to punish the republication of information and the publication of information derived completely from public sources, nor penalized disclosure of information where the intent of the disclosure is not to injure the United States or to give advantage to a foreign nation.

I believe this bill is unconstitutional and urge my colleagues to study H.R. 5615 closely before it comes to a vote. The following letter raises some of the constitutional problems with the legislation and I insert it into the RECORD in its entirety:

NATIONAL NEWSPAPER ASSOCIATION,
Washington, D.C., September 5, 1980.

Hon. THOMAS P. O'NEILL, JR.,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: The members of our respective organizations are fundamentally concerned with section 501(c) of H.R. 5615, the Intelligence Identities Protection Act, as reported out by the House Judiciary Committee on September 3. In our view, this provision raises serious constitutional questions, representing an unprecedentedly sharp limit upon First Amendment rights. We believe this provision calls for a great deal of additional careful deliberation by the House, and should be opposed as it stands.

Mr. Speaker, the members of the media neither support nor condone the practice of methodically exposing the names of American intelligence agents. But we believe that constitutional principles cannot be sacrificed along the way toward legislatively dealing with the situation. Americans believe in a higher standard, however much they may recoil at a seeming abuse of a right.

Our specific problem remains the one that has plagued this particular legislative effort since its outset: section 501(c)'s current wording does not solve First Amendment difficulties. Regardless of intent, this language could well reach distribution of news and other constitutionally protected forms of speech, including books. And, ominously, it does not distinguish between classified and unclassified information as a source for exposing identities. This would establish an extremely grave precedent by criminalizing the dissemination of information which is already in the public domain. In our view, the proper approach is to improve the security of information bearing on agents' identities from within the government, by better regulating classification and access.

We recognize that there has been a continuing effort by many Members and staff to safeguard American intelligence and intelligence agents while not intruding, in any way, upon First Amendment rights. While section 501(c) represents an improvement over earlier versions, it still appears to be fatally flawed from a First Amendment standpoint. Perhaps reconciling these two imperatives legislatively cannot be done, but certainly it is worthy of further consideration.

Therefore, we respectfully, but strongly, urge that there be no rush to judgment on this section of H.R. 5615. Preserving the First Amendment in the face of the need to protect our intelligence agents is a truly difficult task, but one which can only be done by trying further.

Sincerely,

William C. Rogers, Sr., President, National Newspaper Association; Richard P. Kleeman, Vice President—Washington, Association of American Publishers; Jerry W. Friedheim, Executive Vice President, American Newspaper Publishers Association; Charles W. Bailey, Chairman, Freedom of Information Committee, American Society of Newspaper Editors; Curtis J. Beckmann, President, Radio Television News Directors Association; Jack C. Landau, Director, The Reporters Committee for Freedom of the Press; Robert D. G. Lewis, Chairman, Freedom of Information Committee, Society of Professional Journalists.●

JAMES KENNEDY CARR

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. JOHNSON of California. Mr. Speaker, my colleagues in the House of Representatives know that it is not often that I rise for the purpose of paying tribute to an individual, as I am doing today. But my mission today is a special one, because I rise to pay tribute to an old and dear friend, to a great citizen of this Nation, of his native State of California, and of the areas around Redding, Sacramento, and Chico, Calif. I am referring to James Kennedy Carr, who passed away on September 4 after a lifetime of distinguished public service.

At the conclusion of my remarks I am going to share with my colleagues editorials from two fine newspapers located in the area of our Nation where Jim Carr and his many contributions and high standards were best known. These editorials about Jim Carr and his life of achievement communicate very well the magnitude of his service and the faithfulness to the people with which he rendered that service. These editorials spell out some of the details of his life and times.

Let me add, however, a few thoughts. I knew Jim Carr for 30 years. We worked very closely together at the local, State, and Federal levels in many capacities and situations. This involvement at all levels of government gave him a rare grasp and understanding of the workings of government. He knew how to get things done, and he used his knowledge and experience skillfully to influence events far beyond what one man can normally accomplish.

John D. Rockefeller once said, "I will pay more for the ability to deal with people than any other ability under the Sun." Had this criterion been used, James Carr would have been paid a fortune every day of his life, because he had a unique ability to deal with people effectively, honestly, and with kindness and understanding.

I never worked with a finer person, and it was a pleasure to be associated with Jim Carr over these many years. He was always working for the improvement of his Nation, his State, and his local area. All are better places because he lived and worked there.

I am deeply saddened by Jim's sudden death. He will be missed as an adviser and friend as I carry on without him, using his example as a beacon to light the way for greater accomplishments for the part of the country he knew and loved best, the upper Sacramento River Valley and the surrounding area.

The editorials follow:

[From the Redding (Calif.) Record Searchlight, Sept. 9, 1980]

(By Robert W. Edkin)

Jimmy Carr will long be remembered as a public servant in the very truest and very best sense of the word.

He was a friend of presidents and would-be presidents, he hobnobbed with people in the very highest councils of government, not only of this nation, but of many nations; he was a man who looked equally at home in an audience with a pontiff or walking the hills surrounding his hometown of Redding.

He enjoyed a career that presented a wide array of special challenges—and he invariably took up the challenge, sometimes at considerable career risk.

We can't think of too many men who would give up a perquisite-filled sub-Cabinet post in Washington to enter the sometimes byzantine political world of San Francisco to take the helm of a complex and troubled public utilities system.

Yet that is what Jimmy did in 1964 when he gave up his prestigious post as Under Secretary of the Department of Interior to serve as manager of municipal utilities in San Francisco in the administration of Mayor Jack Shelley.

The reasons for the move were simple and straightforward—Jimmy disliked the time away from his wife and family that his position demanded, and he wanted to return to Northern California, where his roots and his family were.

The "official" list of Jimmy's positions and accomplishments is long and impressive, ranging from survey crew chief and then project manager of the Shasta Dam project to his Washington post and a host of other major responsibilities in San Francisco and Sacramento.

But the official list only scratches the surface in detailing an even longer list of personal and professional accomplishments for which Jimmy Carr never sought acclaim, but in which he took great pride.

Residents of the Keswick area have Carr to thank for the pine and fir trees that grow today on hillsides once denuded by the fumes from copper smelters. Carr got more than 2 million of them planted in the late 40s when he was district manager for the Bureau of Reclamation. Later on, when he had moved on to Washington, he and Paul Stathem, then-supervisor of the Shasta-Trinity National Forest, engineered the planting of another million trees—some of them around Shasta Lake.

Nearly 20 years ago, the San Francisco Chronicle described Jimmy as "an engineer, but an engineer with a conscience for protecting values which are too often ignored."

It was that conscience, no doubt, that made that tree-planting project so important to Jimmy. It was the same conscience that prompted him to rescue San Francisco's cable cars from the ravages of bureaucratic neglect and to order the refurbishing and restoration of the car barns and cable wheelhouses to their original condition.

Devotion to family and community were other values that Jimmy prized and protected. No matter what his job, no matter where his home was for the moment, he maintained close relationships with his brothers and sisters—and with his home town of Redding.

Just about every local government leader has at least one example of a case in which Jimmy "went to bat" for Redding or Shasta County in their dealings with federal agencies.

That "going to bat" for his hometown continued when Jimmy retired from public employment and launched a consulting business of his own in Sacramento. Indeed, he played a major role in the bringing of a second major airline—Frontier—to Redding in 1978.

For Redding, Jimmy's death last week meant not only the passing of a famous son, but even more the loss of a good and loyal friend.

[From the Chico (Calif.) Enterprise-Record, Sept. 10, 1980]

JAMES K. CARR

Decades before he died at his home in Sacramento late last week, James K. Carr had ensured that his name would be long remembered in the fields of water development, natural resources conservation, politics and the preservation of historical landmarks.

A professional engineer whose superior talents and skills were recognized in Washington as well as in California, Carr's gentle, down-to-earth personality enabled him to get along well with people of all walks of life and made him an exceptionally effective public servant in realms of politics where harsh differences of opinion often created vicious rivalries and made productive compromises difficult to achieve.

Jim Carr had a host of friends and admirers in Chico and the Mid-Valley area dating back to the late 1940s and early 1950s when he served as district manager for the Federal Bureau of Reclamation.

During Carr's time in Chico, he and his wife and four daughters made lasting friendships here. A deeply religious man, Jim Carr attended mass at St. John the Baptist Catholic Church.

Those were the years after his performance as an engineer on the Shasta Dam project had started him upward in his chosen field. With the dam completed, Carr's district bureau office in Chico was the scene of planning future steps in area water development and conservation.

It was during those years that Carr worked closely with Butte-Glenn-Tehama leaders interested in the agricultural future of the region. These leaders included the late A. W. Bramwell and A. H. Weibel, then publisher and general manager, respectively, of the Enterprise-Record. They were among the founders of the Sacramento Valley Canals Project, the system which now delivers water to thirsty acres down the west side of our valley.

At that time, Carr was a valuable link with the late Clair Engle, then our congressman and later a U.S. Senator. Engle valued Carr's knowledge to such an extent that he later urged Carr to come to Washington and serve as top consultant with the House Interior Committee.

Engle once told the E-R that Carr was the Interior Committee's most important staffer. "Whenever my brash and muscular procedures can't win a political battle," said Engle, "I call on Jim Carr—with his tremendous know-how and great personality, he always gets the job done for me."

We found that to be a Carr trademark: Jim Carr was one politician who had no enemies. He was a lifelong Democrat, but Republicans respected him as a man they could trust and count on for an honest job for the people. He made the term "bureaucrat" respectable.

Jim Carr did so well in his Washington task that President Kennedy in 1961 named him to the post of Under Secretary of the Interior.

At the request of President Lyndon B. Johnson, Carr stayed on for a time in Washington following President Kennedy's assassination. But with Kennedy gone, Carr returned to his native California after helping the LBJ administration get underway. He took the post of general manager of public utilities and the airport in San Francisco.

During his time in San Francisco, Carr played a leadership role in restoration of the 19th century cable car barn. Subsequently, he put his Washington connections to good use when he led a successful campaign to have the entire cable car system declared a national monument. This endeavor earned him special awards from the Conference of California Historical Societies.

On all projects in which he played a leadership role, Jim Carr insisted upon careful attention to environmental protection factors. In this regard, he was honored by having a fish named after him when a new species was discovered in the Caribbean in 1967. Marine biologists who discovered the fish (in the shark family) named it "Neoharriotta carri," which they translated into "Carr's long-snouted ratfish." Jim Carr always chuckled over this environmental accolade.

A native of Redding, Carr was born into a pioneer Shasta County family. His grandfather had come from Ireland and had served as a school principal before starting a practice of law.

Jim Carr lived in many places during his career. And he cherished the political and engineering experiences of Washington, San Francisco and Sacramento. But he once told us that he would always have a soft spot in his heart for the Mid-Valley and Northern California.

Needless to say, that affection was reciprocated. Mid-Valley and Northern California hearts over the years have had the same sort of "soft spot" for Jim Carr.●

VIOLENCE IN OUR SCHOOLS IS STILL A REALITY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. BIAGGI. Mr. Speaker, I would like to bring to the attention of my colleagues an article which appeared in the Sunday edition of the New York Daily News on the continuing problem of violence in the hallways and classrooms of our Nation's schools. The unfortunate victims of this violence are not only students, but teachers as well, who are senselessly attacked in their classrooms while doing their job.

As New York's senior member of the House Education and Labor Committee, I was the author of the "special grants for safe schools" program in title IX of the Elementary and Secondary Education Act Amendments of 1978, Public Law 95-561. This program authorizes $15 million in grant aid to 15 local school districts chosen by the Secretary. Authorized activities with funds provided by this program include training and employment of staff skilled in crime control, minor alteration of school facilities with security equipment and development and dissemination of a safe school plan to parents and the community.

While this program has never been funded, the need for such a program is greater than ever. Just this past week, a young student from this area was shot by another student during school hours. Reports of vandalism and even arson are also not uncommon if you read the daily papers. Acts of violence committed against teachers are estimated at 5,000 per year in New York City alone and an astonishing 70,000 per year nationwide. This is specifically why I wrote into this program a provision which mandates that school administrators report all such crimes to local law enforcement authorities as a condition of eligibility for funds.

I urge my colleagues to read the aforementioned article which provides telling evidence that schools need our help to reduce crime now more than ever.

OVER 5,000 NEW YORK CITY TEACHERS ARE ATTACKED EVERY YEAR—THEIR ASSAILANTS ARE THEIR STUDENTS

(By Mark Liff)

The arm shot out, curling around Mary S.'s neck as she stretched agonizingly toward the safety of the brown, paint-peeled school doors. Quickly pulling her away, the arm drew her against the ominously warm and large body of the man who had followed her into the school entrance.

"I didn't realize it until he was maybe four feet from the main gate," Mary recalls. "I sensed somebody was behind me, but I didn't think anything of it. But I felt his presence the entire way up the steps. I crossed over toward the open door and he followed. By then I knew. I was just hoping to get into the building before he did."

She never got inside. "He pulled me out and the door slammed shut. I never saw his face." She only sensed the size of the man, heard his heavy breathing and the words, "Money . . . I want money."

Mary S. was a 35-year-old junior high school teacher at the time she was attacked last spring. Mary had dedicated 15 years to teaching ghetto kids to read in a special program at the aging junior high. She loved teaching, often spent her own money on books and treats for her students. Now she has 10 stitches on her face and will never return to the classroom.

Each year, more than 5,000 New York City teachers are beaten, robbed, raped or assaulted (70,000 nationwide, which is 4% of all U.S. teachers). They are attacked in their classrooms, in hallways, bathrooms. They lie awake at night, reliving their horrifying experience. Many are unable to cope with the reality that their private world has been violated. Many will not allow their names to be used. Fear of reprisal is constant.

Their stories are different, yet there is a chilling sameness about them—in the overreaction by the students to real or fancied slights, or, perhaps more frighteningly, in the total lack of motive. Among those attacked:

A 24-year-old teacher at a Bronx junior high school whose students doused her with lighter fluid, set her ablaze and giggled "hot pants" as the teacher frantically attempted to extinguish the flames with her hands.

A 32-year-old, 6-foot, 200-pound male gym teacher at a Brooklyn junior high school who was stabbed and punched by four youths for tossing one of them out of class after he repeatedly disrupted the session.

A 25-year-old teacher at a Brooklyn elementary school who suffered such a savage beating by two pipe-wielding youths that she needed white plaster patches to cover the gaping holes in her skull.

A Highlands, N.J. high school math teacher whose nose was broken by a 16-year-old who walked into the teachers' room and, when told to leave, floored the teacher with one punch, then kicked him in the face.

An assistant principal of a Bronx intermediate school who suffered a broken thumb and was kicked in the groin by an angry parent after the administrator interceded in a fight between two students.

Many teachers and administrators are unable to return to the classroom. Some cannot even walk in the street without recalling their ordeal. But even those who go back realize that nothing is the same.

The United Federation of Teachers compiles annual lists of "incidents." However, Edward Muir, chairman of the union's school safety committee—and himself the victim of six attacks—points out that the majority go unreported. The UFT distributes a safety handbook to its members. It warns them never to walk alone in the school and to leave the building immediately when school is over. It also notes:

"While serious sex crimes are rare, when they do happen they occur in classrooms, faculty rooms and workrooms when the teacher is alone.

Most common are assaults and robberies. There have been fires, bomb threats and burglaries in schools as well. But the crime against individuals—like the sudden attack on Mary S.—is the most frightening.

Mary had chosen what had been until that moment a glorious spring day to venture out of the school building to buy lunch. She took only a $10 bill, hidden in a pocket, walked confidently along crowded Brooklyn streets to the luncheonette, made her purchase, then returned with her brown paper bag.

The bag fell to the ground at the entrance as she was attacked. Frantically, she gasped for air. "But he choked me so hard that I couldn't scream. He kept waving a piece of rope. I thought he was going to strangle me with it. I thought he was going to rape me when he had me on the ground." Instead, he savagely punched Mary in the right eye and searched her for jewelry. Finding her few dollars, he scooped up the money and fled. Bloodied and hurt, Mary crawled to the school doors and began pounding to alert those inside.

Today, Mary is seeing a psychologist. "I have been sleeping and sleeping and sleeping," she says. "The psychologist tells me that sleeping is anxiety being repressed. We'll see. He said it was natural for me to have these fears. He says it will take time for me to pull myself together again."

But Mary is trapped; teaching is the only way she knows how to make a living. "I dread the thought of ever going back," she says. "It is just something that shattered me. It made me resentful and hurt. To me it is an absolute horror. I can just remember the whole incident as it happened. I can remember the punch; it felt like a brass knuckle—that's how hard it was."

But the physical pain has been dwarfed by the anguish. "I don't go out in the evenings and I won't even wait for a bus. It frightens me if anyone walks near me in the street."

Mary is most upset over what she perceives is the unsympathetic attitude of her peers and supervisors—not an uncommon reaction on the part of a victim. Psychiatrist Martin Symonds, a counsel to the Police Department's crime victim program, calls this the "I am stupid" phase, or the "second injury." This, he says, is more damaging than the original incident. "The second injury is longer-lasting," he notes. "Many times, a person is going back to work, but feels he's been treated shabbily."

The teacher needs to blame someone, and the supervisor often is the recipient of this anger. Mary S., for example, says that her principal "was absolutely indifferent." He asked her if she wanted to go to a hospital emergency room. "I said I did and then I wanted to go home. I am single and I didn't want to go home by myself. He said, 'But you live in Manhattan,' as if, 'Who will drive you home?' "

Statistics show that women are the most frequent targets, but even large male teachers are not immune. "I was fighting for my life, just swinging back and punching," recalls Fred, the 34-year-old gym teacher who was beaten last fall in his Brooklyn junior high school. "I was stabbed in the back, yeah, cut in the back. I never saw the knife, but I felt it. I only saw it after the fight was over. There were four of them, with garrison belts."

Like Mary, Fred had always wanted to teach. "And now I am leaving it," he says bitterly. "I knew that the money would never be great, but I wanted to teach. I liked working with children—and now I don't. Even with nice kids, I don't like it anymore. I'm just biding my time, waiting to go into my next profession, which has nothing to do with teaching or children."

Fred is 6-2 and 200 pounds and more than able to take care of himself. Until that fight, he never once wavered when he thought he had to intervene. "Now my whole profile in the school building is different. I don't stick out my neck anymore.

Maybe it is better sometimes to not do your job."

Fred had tossed a raucous student out of his gym class. Twenty minutes later, the student returned with his brother and two friends. "I didn't realize it when they came in that this was the kid," Fred says. "Finally he walked over to where I was sitting and he took a swing and hit me. So I got up and I punched him back. A brawl started. But there were four of them and one of me."

Other teachers ran to help. But by then, Fred was on the floor, beaten and bloody. He went to the hospital, telling his wife that he was accompanying a student who had been injured. "That was a horror show," he says. "Teachers were calling my house to find out how I was. My wife couldn't get in touch with me and became hysterical. This all put big changes in my family life. It took its toll."

Now, there is only a small scar on Fred's back from the knife wound. The real scar is psychological. "I never, never wanted to go back there," he says. He left all his personal belongings in the old school. "I couldn't care less about them. Some people were mad at me, but they didn't understand."

Finally, after three agonizing months, Ed Muir and the UFT were able to secure a transfer to another school. Fred says he couldn't sleep the night before he returned to the classroom. In his new school, Fred adds: "I just blended right in. I brought none of my teaching experiences."

But unlike many victims, Fred went to court. "That was the worst part—I had to relive the fight over and over again," he says angrily. "I made 22 different court appearances. One of them (his assailants) was tried in Family Court and one went to Criminal Court."

The youngest was removed from the school, an administrative game of musical chairs that seldom proves a solution. "I went to court from Nov. 20, 1978, through September of last year," Fred says. "It was almost a full year. I think that anyone who goes to court is a fool."

Following a series of reports in the Daily News a few years ago, Albert Shanker, president of the UFT, suggested the creation of special assistant district attorneys to prosecute assailants of teachers. It never happened.

And a much-celebrated move by the city's Law Department three years ago to begin prosecuting youths under 16 accused of attacking teachers has been a dismal failure. At the time, the UFT frowned on this experiment, noting: "It really doesn't make any difference in a case, since it's the judges who will make the decisions. The courts have to shape up." Shanker himself blasted "revolving-door justice" that enabled teacher-batterers to return to the streets.

One teacher is still afraid to return to the Brooklyn community where she was beaten senseless by a student. She never prosecuted those who attacked her. "They made the mistake of beating a nurse and an off-duty housing officer with knives and they were caught," she says. "The police told me that those cases were stronger and I shouldn't prosecute."

But she is still petrified that those who beat her might recognize her and attack again. "Or maybe they told their friends that I was an easy target," she says.

The definitive study on teacher stress was done by the Chicago Teachers Union in cooperation with the Roosevelt University College of Education. Chicago had more than 1,500 reported "incidents" last year. The survey drew more than 4,000 valid responses. "Approximately 50% of the respondents indicated that they had experienced physical illness as a result of their on-the-job life," the study reported. "Teachers reported experiences of physical assault, confrontations with colleagues and administrators, horrendous working conditions and various stress-related physical illness such as colitis, hypertension, sleeplessness and ulcers."

In New York State, 41% of the teachers answering a similar survey reported "symptoms ranging from headache, stomach problems, fatigue and high blood pressure to anxiety, tension, depression and insommia." These were attributed by the teachers to stress they felt in the classroom.

Teachers have different ways of dealing with their stress: the majority discuss their problems with friends and colleagues. Some say they "do the best" they can to cope. Others cry.

Barbara D. is an elementary teacher in Brooklyn's Brownsville section who was attacked last year when two youths wearing black berets darted from the bushes outside the school entrance. "One of them had a broken bottle and the other had a pipe," Barbara recalls. "I ran like hell, figuring that if I got to the sidewalk, I would be all right. But there were four more waiting outside."

Barbara's skull was cracked by the force of blows from the metal pipe. It was almost two months before she could return to work.

"I was nauseous for about two weeks afterward and I was vomiting," she says. "I had severe lacerations all over my head and a concussion from the pipe blows. But I would say that my greatest trauma was psychological. Up until that point, I felt I could go anywhere. I never had any fear at all."

The January beating changed all that, although Barbara still teaches. She laughs as she recounts: "I became very fleet of foot after that for awhile. And I looked at people suspiciously. But that, too, passes with time—as long as you are lucky and it doesn't happen again."

Sadly, there are many other "repeaters" like Barbara, who was first attacked five year ago when she broke up a fight between two boys. But she says she was lucky, although one of the youngsters bit her on the breast and forearm while the smaller boy pummelled her with a metal chair. She was out of school for only two days.

"It doesn't go away as fast the second time," she says. Five or six weeks after the latest attack, Barbara was anxious to get back to work. "I felt that the longer you stayed home and dwelt on it, the harder going back would be."

Barbara first spoke with Ed Muir in the UFT office at 260 Park Ave. South. Again, Muir worked his therapeutic magic: a transfer to Sheepshead Bay. "I knew that I wanted to teach children," she says. "But I wanted to get the hell out of there (her old school). I guess I felt that my number was up, you know? I also knew that I didn't want to travel in a wolfpack to protect me. It never occurred to me not to go back." Now she teaches kindergarten classes in a middle-class community for the first time, "and it is a real joy," she says.

After 14 years, Barbara still finds teaching fun, despite her ordeal. "Oh it isn't forgotten," she adds. "But I consider myself extremely lucky."

It is easiest for those victimized to blame their colleagues for not rescuing them. "Everyone who is injured, everyone—without exception—has a feeling that they are powerless, that they are helpless and in a rage," Symonds, the psychiatrist, says.

Even those who attempt to hide from the problem by sleeping—as does Mary—are not immune. "This does not prevent them from having nightmares, daydreams and other reactions," he points out. "When you keep it inside yourself, it is a poor sign. I want them to go out again."

The problem has reached such severe proportions that the National Institute for Mental Health is considering a proposal from New York's UFT to study the 100 most violent schools in the city. Compiling the list was easy. What will be difficult is the analysis of teacher stress caused by beatings, threats and attacks.

Recently, the National Institute of Education awarded a two-year, $150,000 grant to the 550,000-member American Federation of Teachers. Its two major locals—New York and Chicago—will each study three schools to determine teacher stress. "All evidence indicates that occupational stress among teachers is a serious and growing problem in rural and suburban as well as urban schools," Albert Shanker says. "We are concerned not only with the conditions that cause stress in the schools but with the effects these conditions are having on teachers' health and student learning."

Foremost, to the teacher, is the concern about one's health. "If I ever complained to my husband about the kids, he'd say, 'Look, you can go out and do anything,' " says Barbara, who returned after two separate attacks. "I'd tell him, 'This is what I enjoy doing—but they won't let me do it.' " ●

NATIONAL CYSTIC FIBROSIS WEEK

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. CONTE. Mr. Speaker, as the sponsor of House Joint Resolution 445, it gives me great pleasure to observe the week of September 21-27 as National Cystic Fibrosis Week. It was almost 1 year ago that I introduced the proposal to set aside this week as the public education focus of the Cystic Fibrosis Foundation's 25th anniversary year. I did this because I see cystic fibrosis as one of the most critical child health problems facing our country.

Cystic fibrosis kills more young people in this country than any other genetic disease. In many children's hospitals, more bed-days are allocated to children with cystic fibrosis than to children with any other illness. Young people with CF can require hours of chest therapy each day to allow them to breathe—time that weighs heavily on other activities a family might pursue. Cystic fibrosis costs this country over $100 million per year in direct medical costs, and many times that much in years of productive life lost from the deaths of children and young adults.

The bottom line in talking about CF always returns to people's lives. The Cystic Fibrosis Foundation's poster representative program started in 1960, and over the years I have met with many of these children—boys and girls in grade school or a little older. I have heard the comment made that these children are not effective as poster representatives because they do not look sick. They may not have looked sick when they were smiling with us, but the fact is that almost half of them are no longer alive.

I have invited my colleagues to see a film about cystic fibrosis, produced by the National Institutes of Health. In the course of the film, four young people with CF in their teens or twenties are featured. The filming was done only last December, but one of the four has already died, and another is very seriously ill.

These are the cruel facts about cystic fibrosis. A beautiful, smiling 8-year-old girl who was featured in the Cystic Fibrosis Foundation's public service announcements in 1979 died early this year. A young girl who had been selected to be a 1981 national poster representative died before she even had the opportunity to speak on behalf of the thousands of young people who share her disease. Every day, more names are added to the list.

I think the time has come to redouble our efforts to conquer cystic fibrosis. The tale of progress in the past quarter century is one of good news and bad news. The good news is that the median survival age of children born with CF has risen from less than 1 year in the 1950's to 21 years today, and a growing number of adults are living productive lives into their twenties and even early thirties. The bad news is that CF is still fatal; there is still no cure or long-term control, there is still only one ultimate outcome to CF—premature death of bright, courageous young people.

There can be hope for the future if we persevere. Researchers are hard at work trying to unravel the genetics of CF, trying to understand the basic defect that so disrupts the lungs and digestive system, trying to discover the key to the lung infections that are the most serious single manifestation of CF. The National Institutes of Health and the Cystic Fibrosis Foundation are working together to coordinate the attack on these and other scientific puzzles.

Until the answer is found, the Cystic Fibrosis Foundation will continue its support of 125 cystic fibrosis centers throughout the country to insure that all affected children and adults have access to quality care. The foundation will continue its public education efforts so that parents will have children tested for CF and the public will allow adults with CF to fully participate in society for as long as they are able. Programs to expand the availability of financial aid for families hit by CF will be supported; the problems of a chronic disease should not include financial catastrophe as well.

And until the answer is found, I hope that Congress will not forget these young people. We must continue to support health research and provide for other programs which will make their lives a little easier now while we build for tomorrow.

In 1955, a small group of parents formed the Cystic Fibrosis Foundation, united in the common fight against this disease that no one understood. They have come a long way in 25 years, but there is still a long way to go before the battle is won. I hope that National Fibrosis Week will serve as both a moment of recognition for this organization and a rallying point for our renewed efforts.

Mr. Speaker, I insert the Presidential proclamation of National Cystic Fibrosis Week at this point in the RECORD, followed by a fact sheet on cystic fibrosis prepared by the Cystic Fibrosis Foundation.

A PROCLAMATION BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

Cystic fibrosis is the most common fatal genetic disease afflicting American children today. An inherited disorder of unknown cause, cystic fibrosis affects approximately 20,000 to 30,000 infants, children, and young adults. While the cost of medical treatment reaches into the millions of dollars, the costs of cystic fibrosis in terms of human suffering are inestimable.

Through biomedical research, the outlook for cystic fibrosis patients has become brighter over the years. Long considered fatal in childhood, cystic fibrosis has begun to yield to the efforts of science. The life expectancy of cystic fibrosis victims has increased well into the teens, twenties and beyond. Moreover, improved methods of treatment have enhanced the quality of patients' lives. Despite this progress, however, the basic cause of cystic fibrosis, as well as its cure, continues to elude investigators.

The Department of Health and Human Services, in cooperation with private, voluntary agencies, is meeting the challenge of cystic fibrosis with an intensified research program. Through the National Institutes of Health, the Department's biomedical research arm, studies are now under way to identify the causes—and consequences—of the disease, and to develop improved methods of detection, treatment, and, eventually, prevention.

In recognition of the progress that has been made, and of the many research questions that still remain to be answered, the Congress has by House Joint Resolution 445 designated the week of September 21, 1980, "National Cystic Fibrosis Week", a time to highlight the hope for the future that this Nation shares with cystic fibrosis victims and their families.

Now, therefore, I, Jimmy Carter, President of the United States of America, do hereby proclaim the week beginning September 21, 1980, as "National Cystic Fibrosis Week."

In witness whereof, I have hereunto set my hand this twenty-second day of July, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fifth.

QUESTIONS AND FACTS ABOUT CYSTIC FIBROSIS

WHAT IS CYSTIC FIBROSIS?

Cystic fibrosis (CF) is an inherited disease of children, adolescents and young adults. In the United States, CF is the number one genetic killer of children and young adults. CF affects the exocrine, or externally secreting glands, of the body. These glands produce secretions which enter organs of the body such as the lungs, and intestines, and skin through special ducts. The majority of the exocrine glands are mucus-producing; others include the sweat and salivary glands. The exocrine glands and their secretions are important for maintaining normal functions of the body.

In CF, mucus-producing glands fail to produce normal, free-flowing fluid. Instead, they secrete thick sticky mucus which tends to block ducts and other passageways in the body. This abnormal mucus accumulates in various parts of the body, particularly in the lungs and intestines, and interferes with the vital body functions such as breathing and digestion. As a result of CF, the secretions of the sweat glands contain an excessive amount of salt, which can present problems such as dehydration during periods of increased sweating.

HOW DOES ONE GET CF?

Cystic fibrosis is not contagious. It is a genetic or inherited (hereditary) disease, beginning at the moment of conception and resulting from a defect or abnormality of a gene. Genes are the basic unit of heredity and determine physical and chemical characteristics such as eye color, stature, facial features, and many health conditions. Genes are carried on chromosomes, which are thread-like structures found in the nucleus of every cell in the body. Each chromosome carries thousands of different genes. The specific gene responsible for CF and the chromosome which carries this gene have not yet been identified.

Each parent of a child with CF is a "carrier" of a single CF gene. In the United States, an estimated one of every 20 persons (about 10 million people) carries a gene for CF. Inheriting a single gene for CF causes no special health problems, and a person's carrier status often isn't recognized until he or she becomes a parent of a child with CF.

An individual with CF has inherited a pair of chromosomes, each containing a CF gene. One chromosome of this pair came from the father and the other chromosome from the mother. However, when both parents are carriers of the CF gene, their children will not automatically have CF. Each time a woman carrier of the CF gene and a man who is also a carrier of the gene conceive a baby, there is a 25 percent chance that the child will inherit CF; a 75 percent chance that the child will not have CF; and a 50 percent chance that the infant also will be a carrier. These odds apply to each pregnancy. A pregnancy which resulted in a child with CF doesn't guarantee that the next pregnancies will escape CF.

CAN CF CARRIERS BE IDENTIFIED?

At present, there is no reliable method for identifying the symptom-free carriers of cystic fibrosis. Research is underway to develop safe and effective tests for detecting the CF gene. The development of such a test will be of great assistance in predicting the likelihood of CF for prospective parents.

HOW COMMON IS CF?

CF affects approximately one in every 1,800 newborns, making it the most common, fatal genetic disease in the United States.

WHAT ARE THE SYMPTOMS OF CF?

Generally, three major symptoms are associated with CF:

Respiratory Problems: At some time during their lives, most patients with CF develop lung disease. The thick mucus produced in CF obstructs the airways of the lungs and respiratory system. This interferes with the normal breathing process, and eventually leads to damage of the lung tissue. Respiratory complications cause over 90 percent of all deaths of patients with CF. CF patients are also very susceptible to certain types of lung infections, particularly those caused by *Staphylococcus aureus* and *Pseudomonas aeruginosa* bacteria. These lung infections are often difficult to treat with drugs that are currently available.

Digestive Problems: The pancreas and other organs of the digestive system secrete enzymes into the intestine where they help to break down food into the components which the body uses for energy, growth, and maintenance. In CF, thick, sticky mucus blocks the passageways that carry these enzymes to the intestine. This results in improper digestion so that much of the food consumed cannot be utilized by the body and is excreted. Because of the increased metabolic demands on the body by respiratory disease, coupled with malabsorption of food, the individual with CF often has a large appetite but still may appear malnourished.

Excessive Salt Loss: The effect of CF on the sweat glands results in a high concentration of salt in the perspiration of individuals with CF. In periods of increased sweating, such as during exercise, hot weather, or during febrile states (fever), this salt loss can place the patient at risk of heat exhaustion or dehydration. This potential exists in all CF patients. Excessive amounts of salt in the sweat can result in infants tasting salty when kissed—often one of the first indications that a child may have CF.

The symptoms and effects of CF vary from patient to patient, and are sometimes similar to symptoms of other childhood disorders. This often complicates quick and accurate diagnosis of the disease.

WHEN (AT WHAT AGE) DO THE SYMPTOMS OF CF APPEAR?

In approximately 10 to 15 percent of the cases, the earliest symptom of CF appears at birth, in the form of an intestinal blockage known as meconium ileus. Meconium is a mixture of intestinal secretions which is passed by an infant within a few hours after birth. In some infants with CF, however, the meconium is a thick, putty-like substance which blocks the intestines and may have to be removed surgically. In many individuals with CF, the symptoms of the disease appear within the first few months of life. In these cases, the thick mucus secretions hamper the infant's breathing and digestion, and the child fails to grow properly. Other patients with CF do not develop symptoms until later in childhood or adolescence.

HOW IS CF DETECTED?

Presently, the simplest and most reliable method for diagnosing CF is determination of abnormally high salt content in the sweat. The "sweat test" is a laboratory procedure based on the defect in the sweat glands, which occurs in CF. The sweat test includes specific technical procedures which must be done by recognized laboratories with experts trained in performing the procedure and interpreting the results. Other clues which provide a basis for diagnosing CF include: frequent respiratory infections; malnutrition or failure to grow; frequent, bulky bowel movements; rectal prolapse; and nasal polyps. Identification of any of these symptoms should be followed by a medical check-up and laboratory tests. Because of the genetic nature of CF, brothers/sisters and first cousins of a child with CF should also be screened for the disease, using the sweat test procedure.

HOW IS CF TREATED?

Patients with CF receive comprehensive treatment which is based on their condition. Treatment generally includes:

Bronchial Drainage (postural drainage)—a form of chest physical therapy which helps loosen mucus from the lungs and keep lung passages open;

Antibiotic Therapy—drugs which help fight respiratory infections;

Dietary Management—which include vitamins, enzyme replacements and nutritional supplements, in addition to a well-balanced diet with extra quantities of food.

Some CF patients take as many as 40 to 60 pills a day. The individual cost of CF treatment and care can range from $6,000 to $12,000 per year.

WHAT IS THE OUTLOOK FOR THE CF PATIENT?

Presently, there is no cure for CF. The basic cause of the disease is not known, and CF continues to be the number one genetic killer of children and young adults. However, the outlook for the CF patient has improved over the last two decades. Fifteen years ago, few children with CF lived beyond six years of age. Today, with improvements in diagnosis and medical treatment, half of the CF patients born today will live past 20 years of age. Improvement in the current outlook for CF patients has largely come from scientific/medical research. However, there remain many unanswered questions regarding the cause, cure, and prevention of CF. For answers to these questions, we must continue to look to biomedical research.

WHAT IS THE CYSTIC FIBROSIS FOUNDATION?

The Cystic Fibrosis Foundation (CFF), established in 1955, is a nonprofit, voluntary health organization, dedicated to improving the outlook for the CF patient and ultimately finding the answer to the cause of CF. The Foundation, through its National Headquarters and network of 84 local chapters across the United States, supports programs in:

Scientific/Medical Research—which may provide new clues to understanding the cause, treatment, and cure of CF;

CF Medical Centers—a network of treatment-centers nationwide which provide medical care for CF patients and services for CF families;

Public and Professional Education—which provides information and training to health professionals, as well as educational materials for patients, families, and the general public regarding CF.

The Foundation's programs are supported through contributions from the public.●

PERSONAL EXPLANATION

HON. ED BETHUNE

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. BETHUNE. Mr. Speaker, I truly regret that I am not able to take part in the vote today on H.R. 7020, as I feel very strongly about the need for this abandoned hazardous waste bill. As I indicated to you last Friday, I am keenly aware of the seriousness of the hazardous chemical problem. The community of Jacksonville in my district has had firsthand experience with dioxins—one of the deadliest chemical compounds known to man—from the Vertac Corp. plant, and I sincerely hope that this legislation will protect other towns from the health risks, anxiety, and costs caused by abandoned chemical waste.

Unfortunately, another pressing problem in my district requires my attention, and at the invitation of the Secretary of the Air Force, I was called to inspect the Titan II installation in Damascus, Ark., where a massive explosion occurred late last week.

Had I been in attendance for the vote on H.R. 7020, I would have voted "aye."●

COMMERCE COMMITTEE'S DISCUSSION OF PUBLIC UTILITY HOLDING COMPANY ACT CONCERNING PACIFIC NORTHWEST BILL

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. DINGELL. Mr. Speaker, the following is an excerpt from the May 15, 1980, report of the Interstate and Foreign Commerce Committee on S. 885, the Pacific Northwest bill. It applies to the substitute, H.R. 8157. The report states:

PUBLIC UTILITY HOLDING COMPANY ACT

One controversial provision concerning this legislation has been the proposal to exempt from the provisions of the Public Utility Holding Company Act of 1937 persons and companies in the Northwest that are organized for the primary purpose of financing, constructing, and managing electric generation facilities wherein 75 percent or more of the power is, or will be, sold to BPA. Mr. Robert Short, President of Portland General Electric Co., testified that the "reason for creating generating subsidiaries is to reduce the financing cost of building plants". He said:

"The purpose of section 9(b) is to allow the eight investor owned utilities in the Pacific Northwest to create jointly owned corporations to finance, construct, and operate plants to sell power to BPA under this bill. The reason for creating generating subsidiaries is to reduce the financing cost of plants.

"A generating subsidiary would not be subject to most utility indentures restrictions and could have a higher debt ratio. BPA's contract to purchase the output of the plant will strengthen the generating subsidiary's credit rating, thereby allowing a higher debt ratio; thus, lower interest rates.

"The Public Utility Holding Company Act exemption is needed because, as the SEC pointed out in its September 25, 1978, letter to Chairman Dingell, formation of a generating subsidiary would cause us to be deemed 'holding companies' under the Public Utility Holding Company Act. The Holding Company Act puts us to a choice—either accept holding company status or stay out of a generating subsidiary. Holding company status could require several of the Pacific Northwest utilities to divest themselves of nonelectric utilities and one of them to divest itself of the part of its electric system not in contiguous states, as well as raise questions about the status of nonutility properties. The cost of holding company status would be too high, so that the benefits of the generating subsidiaries would be foregone."

Exemption from the Public Utility Holding Company Act is not an escape from regulation. Every private utility is subject to complete regulation—either by States, the FERC, or in most cases, both. A generating subsidiary would be subject to the same system of regulation.

However, Mr. Alex Radin, Executive Director of the American Public Power Association, objected to a "blanket exemption" by legislation. He said:

"We have been informed by the SEC that no similar statutory exemption has even been granted, and we do not believe that such a legislative exemption is necessary or desirable in this instance. It should be noted that procedures are contained in the Public Utility Holding Company Act itself for exempting companies from the Act's requirements. It is therefore possible that exemptions, if necessary, could be secured through available administrative procedures. The administrative exemption route would permit the SEC to review the types of actions to be undertaken. This review would be preferable to the unreviewable exemption to be conferred by the legislation."

The Federal Trade Commission and many members of this Committee also doubted that a legislative exemption was necessary or desirable. Chairman Dingell and Congressman Gore particularly noted that the SEC has been somewhat lax in its enforcement of the Act, but doubted that was sufficient reason for eliminating SEC's role entirely. The FTC, in a July 26, 1979 letter to Congressman Weaver said:

"I disagree that a legislative exemption is more suitable than an administrative one. In section 3(d) Congress has conferred broad rulemaking authority upon the SEC, which has developed more than 40 years of expertise in administering the Act. More important, the SEC could revoke an administrative exemption if the conduct of the companies involved so warranted, where as a legislative exemption could not be altered except by further Congessional action. I believe that competition and consumer protection would be better served under an administrative exemption—and the SEC's continuous monitoring which such an exemption would entail—than by a legislative one."

However, the SEC, which administers the Act, disagreed and supported the legislative exemption act. Indeed, the SEC, in a January 14, 1980 letter to the Subcommittee, said:

"* * * it does not appear that there is any substantial need to subject the sponsoring parent companies of the proposed generating company to regulation under the Act. All of these companies, and the proposed generation company will qualify for exemption only as long as it serves the purposes of the bill. The impact of regulation under the Act would relate to matters having little to do with the purpose for which the generation company is to be organized."

The SEC also expressed reservations about certain proposed monitoring responsibilities delegated to the Commission.

The Committee was convinced that leaving the matter to a subsequent administrative determination under existing law, particularly if Congress rejected a statutory exemption, would not be sound. Similarly, the Committee did not believe it sound to establish a legislative exemption subject only to approval by the BPA, which has no expertise under the Act. Also, the Committee did not share the SEC's view that monitoring was unnecessary. Thus, the Committee amendment authorizes an exemption where both the BPA and the SEC concur that the organization of the new company is consistent with the policies of the 1937 Act. The exemption is not automatic.

The Committee also required that at least 90 percent of the electricity generated by such company be sold to the Administrator. Despite the SEC view that administrative difficulties exist with respect to a percentage limit, the Committee included this provision in order to narrow opportunities for abuse.

In addition, the company must show the BPA and the SEC that participation in the company's facilities must be offered to the region's public bodies and cooperatives. Also, BPA must include in contracts with such companies provisions limiting the equity investment in such company. BPA, with the SEC's concurrence, must approve certain contracts between the company and any sponsor company or subsidiary.

Most importantly, the Committee requires that the SEC and BPA monitor the exempted company. If either SEC or BPA determines that it is not operating in a manner consistent with the 1937 Act, a preliminary determination will be issued and made public. A hearing will then be held if the consistent conduct is not remedied and a final determination will be issued.

The Committee expects both agencies, particularly the SEC, to act prudently and with vigilance in administering this first exemption from the 1937 Act. This provision is not to be considered a precedent for future exemptions.●

THE HONORABLE. CLAUDE PEPPER

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 8, 1980

● Mr. BEVILL. Mr. Speaker, I am especially proud to extend my best wishes to my good friend and colleague, Claude Pepper, on the occasion of his 80th birthday. Claude Pepper is one of the most distinguished native Alabamians, and all of us in his home State take pride in his tremendous record of accomplishments and we are proud of his Alabama heritage.

In his youth, he labored long and hard with another great Alabamian, who also went on to serve his Nation in elective office, former Senator John Sparkman.

Both of these men worked together at the University of Alabama, in Tuscaloosa, where they attended school. They fired boilers for the university in the 1920's. Judging by their remarkable careers and their excellent health, I would say that the hard work which they did those many years ago in Alabama certainly must have been beneficial.

Claude Pepper is to be congratulated for the admirable work he has done for older Americans, making sure that they receive the proper medical care, comfortable housing, improved social security benefits, and most importantly, the dignity which they so richly deserve.

Through his Select Committee on Aging, Claude Pepper has done this Nation a great service. He has pointed out, so well, on the floor of the House, in his committee hearings, and across the country, that our older Americans are one of this Nation's richest assets. Our fellow citizens who have been fortunate enough to enjoy a long life have much to offer this Nation, and Claude Pepper is determined to see that they be allowed that chance.

I salute Claude Pepper for his skill and determination in seeing that this Nation recognizes the potential which exists in our older Americans, and that it provides viable methods of tapping the rich treasures of knowledge and abilities which they hold for improving our great land.●

COMMERCE COMMITTEE'S DISCUSSION OF BPA'S PURCHASE OF POWER UNDER PACIFIC NORTHWEST LEGISLATION

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 23, 1980

● Mr. DINGELL. Mr. Speaker, the following is an excerpt from the May 15, 1980, report of the Interstate and Foreign Commerce Committee on S. 885, the Pacific Northwest bill. It applies to the substitute, H.R. 8157. The report states:

Removal of BPA Restriction on Acquisition or Purchase of Power To Meet Needs

One of the most controversial issues surrounding this legislation has been the concern that the grant of authority of BPA to "purchase" power as a supplement to its hydro base was too broad. A number of witnesses at the Energy and Power Subcommittee hearings voiced their concern that this authority would be misused, would make the BPA Administrator a "Czar", that BPA would undertake an expansive and expensive construction program in competition with public and private utilities, and that BPA would become a nuclear power agency. The Committee amendment addresses all of these charges and concerns.

The BPA Administrator lacks adequate authority under existing law to purchase additional power on a long-term basis. The net billing scheme discussed earlier in this report represented an attempt to provide this additional authority, but it is no longer an adequate means for resource acquisition.

BPA and others believe new authority for resource acquisition is an essential piece of this legislative solution. Without such authority, BPA asserts that the amount of power available to BPA is fixed. BPA, in a May 20, 1979 document outlining issues relative to this legislation, said:

"Under the preference clause, this fixed quantity of BPA power must eventually be offered solely to the public bodies and cooperatives, since the projected needs of these preference customers will in future years exceed the total BPA supply. Given its limited power supply, BPA cannot execute new firm power sales contracts with nonpreference customers such as investor-owned utilities (IOU's) and direct service industries (DSI's) as proposed in the legislation. These facts have set the stage for an imminent and protracted legal battle within the Northwest over the meaning and application of the preference clause, the formation of new preference utilities or other entities claiming preference status, and the fate of the DSI's and the vital power reserves that

BPA's contracts with the DSI's provide for the region.

"This regional legal battle can be laid to rest if (1) the DSI's are able to trade in their existing low-cost power contracts for new contracts at higher rates; (2) the low-cost power released by the DSI's can be made available to residential and small farm customers of regional IOU's; and (3) the preference rights of publicly-owned and cooperative utility systems can be preserved. Such an allocation system is the heart of the proposed regional power legislation. It would permit the Northwest to put aside its battles over low-cost power and to work cooperatively again in planning to meet the region's future needs for conservation and renewable resources, as well as conventional resources, as part of an efficient, economical, and environmentally sound regional power system.

"The proposed allocation system can be carried out only through new contracts between BPA on the one hand and preference customers, IOU's and DSI's on the other. But under present law, BPA cannot execute such contracts. The fixed supply of BPA power is too small to meet even the full future requirements of preference customers in the future, and therefore contracts with the nonpreference IOU's and DSI's are legally precluded. This is true even though the total supply of Federal plus non-Federal power in the region is, and can remain, sufficient to meet the region's total loads. BPA simply cannot obtain the non-Federal power under present law."

The Committee amendment seeks to address the allocation issue by directing in section 5(g) that BPA commence, within nine months after enactment, negotiations and offer initial long-term, not to exceed 20 years, contracts to each of the following types of customers:

(A) existing public body and cooperative customers and investor-owned utility customers;

(B) Federal agency customers;

(C) electric utility customers; and

(D) direct service industrial customers.

Crucial to the legal authority to enter into these contracts is section 5(g)(7) which provides that BPA "shall be deemed to have sufficient resources" for the purposes of entering into such initial contracts. In order to fulfill its statutory commitments, the BPA must have adequate authority to acquire resources on a short-term and long-term basis.

As recognized in the Committee amendment, section 3(12) and section 6(a)(3), BPA now has authority in accordance with section 11(b)(6) of the Federal Columbia River Transmission System Act to use funds from the BPA fund to purchase electric power for periods of five years or less to meet its commitments. The Committee amendment does not alter that authority.

For the long term, section 6 authorizes the BPA to acquire "resources" to meet these contractual obligations. However, in providing this authority, the Committee was mindful of the concerns by some that this authority not provide a "blank check" to BPA to acquire whatever resources it deems appropriate. The Committee limited that authority and set priorities. For example, the Committee amendment defines the term "acquire" and "acquistion" in section 3(1) to make clear that BPA is not authorized to construct or "have ownership of" any "electric generating facility". Further, the Committee amendment provides that BPA must first "take into account planned savings from conservation and conservation measures". In addition, all acquisitions, except where specifically provided, must be consistent with the Regional Electric Power and Conservation Plan which the regional planning Council will adopt. If no plan is adopted, the criteria and considerations of section 4(e) will apply. As an added safeguard, the Council established by this bill is empowered to review many of the acquisitions. A demonstrated need for the resource will be required. In the case of "major resources" which have a planned capability of greater than 50 average megawatts, the BPA must go through a lengthy procedure, including hearings.

The Committee believes that this purchase authority is needed. However, the Committee also believes that the above provisions, as well as others, should meet the concerns expressed by the Committee and others. Most importantly, it is the Committee's intention to conduct periodic oversight over the BPA's use of this authority.●

SENATE—*Wednesday, September 24, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by Hon. Dennis DeConcini, a Senator from the State of Arizona.

PRAYER

The Reverend Laman H. Bruner, Jr., D.D., rector, St. Peter's Episcopal Church of Albany and chaplain of the New York State Assembly, Albany, N.Y., offered the following prayer:

Almighty and Everlasting God, we praise Thee for all that Thou has done for us as a nation. Deepen this root of our national life in Thy everlasting righteousness. Make us equal to our high trusts, reverent in the use of freedom, just in the exercise of power, and generous in the protection and care of weakness. Inspire the persons who direct our land that they may guide us wisely and well. Help us to be instruments of Thy will, thus enabling us to see Thy glory in happier personal lives. May our deepest faith ever be in Thee as we as a great people fulfill our rightful and lawful purpose as a force for justice and peace with honor among the nations of the world. In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Magnuson).

The bill clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., September 24, 1980.
To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Dennis DeConcini, a Senator from the State of Arizona, to perform the duties of the Chair.

Warren G. Magnuson,
President pro tempore.

Mr. DeCONCINI thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

THE JOURNAL

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I have no need for the time of the majority leader, and I reserve the time allotted to him.

RECOGNITION OF THE MINORITY LEADER

Mr. BAKER. Mr. President, I have no need for my time and no request for time, and I yield it back.

Mr. BAUCUS. Mr. President, since we will not proceed to the disapproval resolution until 10 o'clock, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DISAPPROVAL OF ENRICHED URANIUM TO INDIA

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 10 a.m. having arrived, the Senate will now resume consideration of Senate Concurrent Resolution 109, which the clerk will state by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 109) disapproving the proposed export to India of low-enriched uranium for the Tarapur Atomic Power Station pursuant to export license applications XSNM-1379 and XSNM-1569.

The Senate resumed consideration of the concurrent resolution.

Mr. GLENN. Mr. President, I suggest the absence of a quorum with the time equally divided among the four parties having time distribution under the previous order.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I speak in opposition to the resolution of disapproval.

Mr. President, I favor the requested shipment of nuclear fuel respecting Tarapur. Preventing these sales would, in my judgment, not only be seriously destructive of U.S. foreign policy and security interests but also self-defeating in terms of the very nonproliferation objectives which the opponents of the shipments intend to serve.

There are three basic aspects of this issue on which I am in fundamental disagreement with the proponents of this resolution:

First, their interpretation of the legal issues surrounding these shipments both with respect to U.S. obligations under the 1963 agreement with India and to the requirements of the Nuclear Nonproliferation Act.

Second, the assumption about the impact of these shipments upon the long-term objective of reducing the spread of nuclear weapons.

Finally, the views of the proponents concerning the effect on United States-Indian relations in enacting this resolution to disapprove further nuclear fuel shipments to India.

Mr. President, the principal legal issues are the nature of our obligations under the 1963 agreement with India—an international agreement—and the nature of the grace period under the Nuclear Nonproliferation Act—a U.S. statute. Overriding everything else, of course, is the word and the credibility of the United States as embodied in law. That is the foundation of our diplomacy and influence and, therefore, ultimately of our very security.

I think we could all agree that the word of the United States should not be given lightly or changed lightly if it is going to mean something in the world.

We concluded an international agreement with India 17 years ago which still has 13 years to run, and we agreed to supply fuel for the Tarapur reactors. They agreed to certain safeguards on the facilities and the fuel related to them.

Whatever else we may now wish we had said in that agreement, that is what we did say, and if we want to revise those obligations or forego the whole bargain, as we ultimately may decide to do, we should do so only recognizing that this is a serious course in diplomacy and one that could prove very costly. Because it is not just a matter of what we get out of the agreement itself, but also of how well we live up to what we agreed to, not only as far as the other party is concerned, in this case India, but also because of all the other partners-in-agreement we may have and those we may want to have in the future. We want them to feel that the word and the agreement of the United States can be surely relied upon.

This is not to say, Mr. President, that countries should never change the agreements they have or even end them completely if there are powerful reasons for doing so. Indeed, other countries will understand this necessity where these greater interests are clear, but they must indeed be important and they must indeed be overriding.

The same thing is true of the Nonproliferation Act.

At this point, I would like to pay my tribute to both of my good friends, Senator Glenn and Senator Percy, for the extraordinary work they did on that law, and for its historic nature as far as our country is concerned, and also to pay my

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

tribute to Senator GLENN, my colleague on the Foreign Relations Committee, for his unique expertise in respect, for example, of verification in the case of the SALT II treaty, and also for his keeping himself so thoroughly abreast of nuclear and other weapons matters, which gives us, I think, a very important historic opportunity, I might say to the Senator.

I believe very deeply in the control, civilian control, of the military. But flying blind can hardly help us to effectuate that purpose.

So with a guide and a pilot like Senator GLENN with us it becomes a very, very feasible task. I think that was shown, to me at least, when we considered the alternatives to the B-1 bomber. I think that was one of the most expert performances I have seen here on the floor by any Senator in the knowledge and the great specificity with which we evaluated the question where, I think, in giving us three options, we came to a very sensible conclusion so far as our country was concerned.

So I do not want anything I say—where we might differ in a diplomatic view or even a legal view on this particular matter—to derogate in the slightest way from the excellence of the service, the sincerity, and the great helpfulness which this particular Senator has brought to the Foreign Relations Committee and to the country.

Mr. President, the Nonproliferation Act was a major U.S. initiative in which a great many of us, including myself, have had a hand. We knew when we passed it that we were dealing in an area of critical importance and that what we were doing was taking a chance for peace where there were great risks.

We also knew that a number of countries with whom we had close cooperation on nuclear matters would be greatly affected by the legislation and not always in ways they would find congenial. So we took pains to accomplish what we intended.

One of those intentions was to write in a period of adjustment to the new law, a grace period, as it has come to be called, during which the tougher standards we set in the law on full-scope safeguards would not apply. This was a kind of assurance to our friends and our customers who buy the raw materials from us that we would have a chance to work things out for a time, and that our cooperation would not just come to an end immediately.

They took us at our word and relied on it. So it becomes very important that we live up to the full scope of that grace period, as we defined it in the act; that it not be made any shorter than we led other countries to believe it would be.

Otherwise, we would look again like someone who cannot be relied upon to do what we said we were going to do. And this is just as true as the conditions which we laid down in the Nuclear Nonproliferation Act, as it is with the obligations we undertook in the international agreement with India. If we want to change either one in midstream, we had better be sure that it is for right and sufficient reasons.

Now let me turn to the merits of the issues themselves. In the first place, it has been argued that the United States would not be violating its obligations under the international agreement with India if we denied these shipments because of our enactment of the Nuclear Nonproliferation Act. For this proposition, we are directed by the proponents of this resolution to an analysis prepared by the American Law Division of the Congressional Research Service.

The argument is based upon a construction of the international agreement and of the subsidiary contract of sale concluded several years later which, in my judgment, is simply not tenable. I will do my best to remain true to its logic, even if I have trouble conveying its sense.

The 1963 Agreement for Cooperation in article II, paragraph C, says that the nuclear fuel for Tarapur "will be made available in accordance with the terms, conditions, and delivery schedules set forth in a contract to be made between the parties."

The contract itself was concluded at the end of 1965 between the Government of India and our own Atomic Energy Commission, which then administered these arrangements for the United States. It set forth the terms and conditions relating to purchase and delivery contemplated in the agreement. It also restated in article II the basic obligations of the international agreement itself and also provided as a routine proviso in article XV that, and I quote:

> This contract shall be in all respects subject to and in accordance with all of the terms, conditions, and provisions of the Agreement for Cooperation and any amendments or revisions thereto.

In case there was any doubt on this score, article XV concluded with the phrase, and I am quoting, "In the event of incompatibility between this contract and the Agreement for Cooperation, the latter shall govern," to wit, the Agreement for Cooperation shall govern.

All of this seems plain enough. We had an international agreement that was implemented in part, but only in part, by a subsidiary contract of sale which is made explicitly subordinate to the agreement. But here the argument of the proponents gets a little trickier.

After the conclusion of the 1963 agreement, but before the execution of the contract of sale, we passed an act relating to the private ownership of nuclear materials act. That legislation provided for an end to the U.S. Government's monopoly of ownership over special nuclear material within the United States and an end to the leasing authority of the Atomic Energy Commission as of December 31, 1970.

Therefore, it gave rise to the prospect that, as of 1971, foreign governments would take title to the nuclear fuel purchased within the United States rather than at the port of export. As a result, it became necessary to assure that such governments would agree to abide by all the rules and regulations with respect to the handling of nuclear material which applied in this country.

Anticipating this change in the law, a contract of sale with India recognized in article XI that during the term of the contract there might be changes in the laws of the United States, and I quote, "With respect to ownership and supply of special nuclear material for use by the sellers"—to wit, the United States—"domestic distributees." In such event, read the contract, the parties "agree to consult with each other to determine the modifications, if any, required to this contract."

But those possible modifications were specifically described as "relating to ownership and responsibility for special nuclear material distributed by the seller domestically."

This is important to understand, in view of the tremendous significance attached to the plain meaning of this article of the contract by those who develop the arguments further. Most importantly, however, article XII goes on to stipulate that nothing in it "shall affect the obligation of the seller to sell * * * all of the purchaser's enriched uranium requirements for Tarapur Atomic Power Station as provided in article II."

In other words, Mr. President, even if this contract had the same legal status as an international agreement, which it does not, and even if it purported to amend that agreement, which it cannot, this article of the contract makes clear by its terms that it does not mean to affect the basic obligations of the United States under the agreement to supply the needs of Tarapur. It was meant to deal, as it says, with a specific set of problems relating to the prospective change in time that title to the fuel passed from the seller—the United States—to the purchaser—India.

Therefore, Mr. President, when this contract was amended in 1971 to adjust to that particular change in U.S. law, the preamble to the amendment referred again to the specific purpose of article XII of the basic contract as it related to, and again I quote, "ownership and supply of special nuclear material for use by the seller's domestic distributees."

Here, however, the arguments of the proponents of this resolution reaches the real breaking point. For in the amendment, article III paragraph IIID, it says that "The purchaser shall procure all necessary permits or licenses (including any special nuclear material license) and comply with all applicable laws, regulations and ordinances of the United States." and so forth. "in connection with the material delivered to the purchaser pursuant to article IIIA," and so forth.

By the way, that paragraph is found at page 67 of the committee report on this resolution.

Mr. President, this seems to be innocuous language, but it is nonetheless used by virtually all of those who sponsor the resolution of disapproval to find a commitment by India to abide in advance with all the provisions of the Nuclear Nonproliferation Act, full-scope safeguards and all.

This is an amendment to a contract which was subordinate to the international agreement. Nonetheless it is said that India agreed 3 years before its nuclear explosion and 7 years before the passage of the Nuclear Nonproliferation Act to abide by whatever conditions the United States might one day place upon its obligations in that agreement.

And in case anyone thinks I am exaggerating the argument, let me quote the Congressional Research Service analysis, which is cited with approval in the committee's majority views:

> India's refusal to submit to adopt full-scale safeguards and inspections for all nuclear facilities is not in conformance with its 1971 undertaking to comply with all applicable U.S. laws. As a consequence, congressional rejection of the pending export may be regarded not as a violation of the agreement, but rather as an appropriate action proximately caused by India's refusal to live up to its undertaking to comply with applicable U.S. legal requirements. As such, India may be the Party in actual or potential breach of the agreement and in ordinary circumstances cannot walk away from the bargain previously struck.

Such an interpretation is no less untenable when the committee majority argues that India should have been on notice of an Atomic Energy Commission regulation which forbids exports "inimical to the interests of the United States." Do we honestly want to argue that an all-inclusive standard like that somehow affects the validity of a specific international commitment?

Mr. President, we may well vote to disapprove this sale on other grounds, but let us not delude ourselves into thinking that an important international agreement can be fundamentally revised by the circular reconstruction of subsidiary documents. I am not conceding that our failure to approve these shipments would give India a right to consider the entire 30-year agreement null and void. It is a long way to arriving at that argument. But I do not think a great nation can afford to be so casual about its important commitments as to interpret them out of existence.

Mr. SARBANES. Will the Senator yield?

Mr. JAVITS. I yield.

Mr. SARBANES. I want to say that I agree fully with the Senator's legal analysis of this matter. It is an extraordinarily fine analysis.

I think it is very important that the Members of the Senate, in reaching a judgment on this issue, ought not to proceed on the assumption that the legal argument is such that, if they vote not to send the fuel, they can still assert that India is bound by the 1963 agreement. They must at least face the consequences that the Indians will be able to make a legal case, and a strong one, that they are free of the constraints of the 1963 agreement, with all the consequences that would follow from that position, including important consequences with regard to nonproliferation policy. I think the Senator from New York has made a very cogent legal analysis of the situation.

The argument being made here on the other side does not fully set forth the consequences that will occur. I think that argument is based on a faulty legal position; I think the analysis made by the Senator from New York is a much better analysis from a legal point of view.

Mr. JAVITS. I thank my colleague.

Mr. President I would like to conclude in just a moment. Mr. President, it is highly unlikely in any way that there will be a juridical decision on this matter.

We are dealing with the second largest country, population wise, in all of Asia, a country which is a democracy, albeit with faults, but, of course, there are faults with our own. It has, on occasion, had lapses, but nonetheless it is a functioning democracy, a parliamentary democracy, and there has been an orderly succession in terms of the legislature and the executive, of those who rule it, which, considering the diverse nature of the population, is very broad and free public participation, with courts and other safeguards for the individual.

A difference of interpretation respecting agreements made between the United States and India will only result in our insisting on our legal point of view and their insisting on their legal point of view, which, at the moment, is diametrically opposed if we adopt this resolution and make that point of view the point of view of the United States, notwithstanding the President's expression the other way.

But looking over the horizon, Mr. President, they are going to stick by what they say, and we will then have an official position requiring us to stick by what we say. Mr. President, I think that famous expression, never the twain shall meet, is a very valid one.

While I have explained a view on the law, because I think it is important that we make the right decision on the law, the fact is that the point I am making is that we cannot be all that richer and we cannot be all that sure. Unless we were very sure and felt that some great compromise was involved respecting this matter—and that is what the proponents argue—which will color everything we do down the road for decades, we certainly would have no right to go this route.

Mr. President, because of the issues which are at stake in terms of the peace of the Asian Continent, in terms of the relationship of United States-India relations, to United States-People's Republic of China relations, in terms of the overriding fears in India respecting Pakistan and its developing of a nuclear weapon, which are reciprocated by Pakistan, I thought it could prove to be a grave reverse and could lead to a major watershed change in the relationship between ourselves and India which could have a very profound effect, Mr. President, upon the future of peace between our nations.

In addition, as has been pointed out, of course, by continuing these shipments we cause the safeguards to apply to a vast store of material which, if the Indians simply use their interpretation, would otherwise become free.

So, Mr. President, coupling the legal argument with the policy argument, it seems to me that the weight of judgment on the part of our Senate, with the greatest respect, and I have already expressed that very genuinely, and I mean every word of it, comes down on the side of our disapproval of this resolution.

Mr. GLENN. Will the Senator yield for a question?

Mr. JAVITS. Yes.

Mr. GLENN. Mr. President, before asking my question, I would like to state that I do not know of anyone in this Senate who has given longer and better service on the Foreign Relations Committee and in all aspects of our foreign relations policy than the distinguished Senator from New York. He truly is one on the committee to whom we refer and ask for his expert guidance and leadership in these matters. I have availed myself of that expertise of the Senator from New York on many, many occasions. So it is with particular regret that I find ourselves at opposite ends on this particular log we are on.

Mr. JAVITS. I would say it is unusual, too.

Mr. GLENN. Yes, because we have agreed on so many things in the past. Nevertheless, here we are.

I shall reply later on today in more detail to the legal case after others have spoken on it. I know Senator SARBANES wishes to speak on that, also.

I ask one question at this point: If we have an ironclad duty to supply India as long as she complies with the agreement, as the Senator's interpretation seems to indicate, how, then, would we go about cutting off India if she detonated another nuclear test? What if we had word come into the Chamber right now that India had set off another bomb. Assuming that our material from Tarapur was not used, would not India be able to claim that a cutoff for this reason was a breach of the agreement?

The way I believe the opposition is expressing its view of our contractual arrangements, which I shall track through later today, this condition was not there in 1963. But it seems to me that their view puts us in an open-ended situation with India where, regardless of what she does, we would never fail to make our shipments. That would follow from the interpretation on this that the distinguished Senator from New York indicates.

Mr. JAVITS. As I understand it, in the event of a nuclear explosion, there is automaticity in termination. I think that the way in which that would work would be, undoubtedly, by a declaration of the executive. But I do not consider it a closed-end proposition. I never contemplated, in the things I said, that there are no circumstances in which we could end our supply of fuel. Of course we could.

Mr. GLENN. Would not the Senator agree that the President, in that situation, could also waive the requirements of the law, as he has done in this case?

Mr. JAVITS. And we could reverse it, as we propose to do here. After all, the President here is about to make the shipment and we stop it. We can do the same there. We always have the legislative power. We have done that many, many times.

Mr. GLENN. It would be difficult for me to see why he would want to enforce the law in that case any more than in this case, after all they have already used our material in one explosion, when we had told them, 4 years in advance, our view that this would not be a peaceful use of the material, that any explosion is an explosion. That is what is forbidden by the NPT and NNPA and it was clearly against our view of what we wanted them to do.

Mr. JAVITS. I think that the Senator picks up where I just spoke, because it is a fact, and we all know it is a fact, that between countries, the policy question is also important. I do not say that this is an unmixed issue. I have the greatest respect for his view, as I know the Senator would have for our view. But, given at least the cloudiness of the legal argument and, to my mind, the persuasiveness of the substantive argument, I think that it would be an unwise action on our part not to ship it.

Mr. GLENN. I am glad the Senator brought up the point of policy. That is a very important point here. What happens in the policy, quite apart from the legal argument, is that we are going to be living with it for a very long period of time. The policy matter is one I am concerned with. I am glad the Senator brought it up.

I think the legal arguments are admittedly, on both sdies, perhaps a gray area. I can track through the legalities where we always, in every step along the way, put some qualification in, that requires some future action to take place, some future negotiation, and which the Indians agreed to all the way through. I shall do that later today.

The interpretation put on by the Senator from New York, of course, also has its validity. So we are in a rather gray area in law here. With me, the important matter is coming back to the fact of whether we still retain our leadership with regard to NPT and the 111 other nations involved with us. That, I think, is the major consideration here.

Mr. JAVITS. It is a little bit analogous to the rigidity which has been so costly to us in respect of our human rights laws. We were so right; we are so right. In some cases, like the alienation of all the people of Brazil, a little too right. The fact is that a country can persist in its legal interpretation and we can persist in ours. And what this argument, which I summed up in "Never the twain shall meet," demonstrates, it seems to me, is that it is not worth being caught in that griddle, considering all of the circumstances and our relations with India.

I thank the Senator.

Mr. SARBANES. Will the Senator yield?

Mr. JAVITS. I am afraid I am using too much time.

Mr. SARBANES. I shall use my time.

Mr. JAVITS. If the Senator would, please, why does he not just get the floor?

Mr. President, I shall yield such time as he may require.

Mr. SARBANES. Mr. President, the Senator from Idaho asked me to manage the time on our side and I shall use that time. I think that would be fairer all around.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Mr. SARBANES. Mr. President, I should like to engage the Senator from Ohio in a colloquy on the basis of the questioning on the legal argument that he has just directed toward the Senator from New York.

The point I sought to make earlier, which I think is extremely important, is now the assertion being made by the supporters of this disapproval resolution that the agreement with India will still be binding upon India even if we do not proceed with this shipment is highly questionable. There is language in the Congressional Research Service legal opinion to that effect and I believe that analysis to be faulty.

I am very frank to say to the Senator that I think they are trying to have their cake and eat it, too. They may make the judgment not to send the shipment; but if they are going to make that judgment, it ought to be made with full recognition of all the consequences that would follow from it. It should not be made on the premise that we can refuse to make the shipment and still expect India to be bound by the 1963 agreement, whether that is argued on legal grounds or, if one wants to contend that a legal argument can be made either way, whether given the strength of the legal argument India will be able to make, that they will choose to be bound as a practical matter by the constraints in the 1963 agreement. Does the Senator differ with that?

Mr. GLENN. My view of it is that this was not directly covered by CRS argument; they didn't address India's likely actions. It was not a major issue for them, as I read it. As I see it, however that whole argument becomes a considerably academic exercise for this reason: The unsafeguarded facilities that India already has available to them, over which we have no control whatsoever, will produce so much spent fuel by 1987, that they would have available thousands of kilograms of plutonium for weapons manufacture.

Come back to Tarapur, where we have some control. At Tarapur, even if that comes out from under safeguards, that would add, maybe, the capability for the manufacture of somewhere around 70 to 80 bombs if they use all the spent fuel over which we have control. So what we are talking about is, even if India interpreted this to be a breach of contract and took control of all that fuel we have there now that is our spent fuel, (over which we now exercise control) it would add maybe 10 or 15 percent to their overall bomb-making capabilities. So I feel that whether or not that part of the contract would be interpreted by India as a breach would, as far as the spread of nuclear weaponry in India goes or the manufacture of nuclear weaponry in India, be somewhat academic. We would be adding a comparatively small amount to the overall Indian total.

Mr. SARBANES. I understand that, Mr. President, but with all due respect to the Senator from Ohio, he is sliding off the question I put to him.

In the majority report from the committee, the only language quoted out of the CRS report is the legal language on pages 19 and 20 of the committee report, which suggests that even if we did not send this shipment, India would still be bound by the agreement. All I want to clarify is whether the Senator at least concedes that, in making the judgment and evaluating the factors, we would have to recognize, contrary to the argument being asserted here, that we are not going to continue to have the benefits of the 1963 agreement with respect to the limitations and the restrictions it places upon India.

One can make the other argument; I recognize that as something we shall have to weigh, too, that they have these other facilities which are under no agreement at all and which they have not been prepared to place under a full-scope safeguard. But with respect to this facility and the limitations there, I should think the Senator, upon analysis, would have to concede that those limitations and restrictions upon the Indians will no longer be available to the United States if this disapproval resolution is approved by the Congress.

Mr. GLENN. No, I would not agree with the distinguished Senator from Maryland. I do agree with the CRS report, for this reason, if the Senator will follow: We signed an agreement for cooperation in 1963. The Senator from New York elaborated on exactly the provisions of that, which said that the terms and conditions and delivery schedules would be set forth in a later contract. That is in the future.

The words say the conditions "would be set forth" in a contract to be made between the parties.

So that agreement said that we were going to have some future agreement on how our fuel was to be exported.

Let us go to the contract in 1966, on page 53 of the committee report, under commitments to sell and to purchase.

It says:

> The Seller shall sell to the Purchaser and the Purchaser shall purchase from the Seller, as needed, all of the Purchaser's requirements of enriched uranium for use as fuel for the Tarapur Atomic Power Station up to

> a net amount of 14,500 kilograms of U-235 contained in the enriched uranium sold hereunder.

But the following page 54, down about nine lines, says:

> Subject to such conditions and licenses as the Seller may require.

Once again we put a qualification on this. That is in 1966, when the license was signed, when we came up with the contract.

Going to page 63, page 63, at bottom of the page:

> The sale which is the subject of this Contract shall be in all respects subject to and in accordance with all of the terms, conditions, and provisions of the Agreement for Cooperation and any amendments or revisions thereto.

It says that in the event of incompatibility, the agreement for cooperation shall govern.

But to go back to the agreement I started with, we find written into that language that it will be subject to future conditions to be set forth.

So all through this, we always were aware of a right to impose added conditions.

I can follow through on this——

Mr. SARBANES. Let me respond at point.

The Senator's argument is a very ingenious one. But the bottom line of the argument is, to say, in effect, that we can rewrite the agreement to say anything we want it to say.

The fact is that the supply contracts are subsidiary to the agreement.

The language referred to by the Senator with respect to prospective laws is in the supply contracts, and was meant at the time, as the Senator from New York has pointed out, to deal with the question of this transfer of title.

The rationale the Senator has just set out, in effect, makes this an utterly one-sided agreement that can be completely rewritten by one of the parties.

Mr. GLENN. If the Senator will yield, that is absolutely correct. I agree absolutely.

That was the interpretation the CRS put on through the American Law Division, that at each step through this in the agreement, the contract, and the amendment India had signed it leaving this open.

That was the basis for the conclusion that India would be in breach, not the United States, even if we refused this shipment, that we are completely in our rights to stop it, and that legally, from a strict legal interpretation of contract law, they would be in breach if they then took Tarapur spent fuel out from under the agreement they had with this country.

It is a narrow legal interpretation. I agree. But that is the basis for the interpretation we have put on.

If we want this whole thing to stand on legalisms, or not stand on legalisms, it seems to me that interpretation we follow through the contracts, each statement along the way, the conclusion has to be that India would be in breach.

I agree with the Service.

Mr. SARBANES. I think the Senator from New York was absolutely right in his analysis.

If we contend to the opposite party that the agreement they entered into could be completely written anyway we choose, at any time, then we really had no agreement.

So I think the better posture for the Senator to take, is at least to concede the consequences that will flow from the agreement coming to an end. India will be able to make a strong legal argument that it is no longer bound by the agreement and we will have to take the consequences of that.

The Senator may say, even accepting those consequences, that he still does not think the shipment should be made. In other words, bring the agreement to an end.

But I think it strains one's credulity to contend, as is being asserted by the supporters of the resolution of disapproval, that we can refuse to send the shipment and still continue to assert that India is bound by the limitations and restrictions in the agreement.

That does not make sense on its face. I think it is a faulty legal argument.

So, at a minimum, to help clarify the issues in this debate and the judgment we must make, the proponents of the resolution of disapproval ought at least to concede that, if we do not make this shipment, we will lose the benefit of whatever limitations or restrictions are contained in the agreement.

The Senator may say, even losing those limitations, that he does not want to make the shipment. All right. At least we have clarified something. But to make the contention we can withhold the shipment and still hold India to the limitations and restrictions written in the 1963 agreement, flies both in the face of legal analysis and, certainly, in the face of any sensible, practical analysis.

Mr. GLENN. If the Senator will yield, the language is there. I read it to him. The agreement is there, and that is what India signed.

If it was a faulty agreement from the Indian standpoint, I guess that is the fault of the Indian negotiators.

But we have available the agreement, signed by India. It is what our people negotiated. I agree it was a very feasible agreement all the way through.

But as I pointed out, at each step, from the first agreement of cooperation to the 1966 contract which was provided, to the 1971 amendment, at each step we kept options open. I say that India understood we were keeping options open, because we were switching over from a time period of strict government-to-government control to a time which allowed private ownership, but with strict licensing provisions where private ownership was involved. India, thereafter, had to get a license to ship it out of the country. This requirement to submit to licensing was part of the agreement.

There is some argument on the other side that nobody could ever have foreseen that leaving that loophole in there would have included such a thing as NNPA coming along. I cannot quarrel with that. I think it is probably right. I think in retrospect, in reading this, India probably agrees they wish they had not signed that. But they did.

That is the kind of legalistic argument the Senator from Maryland is making; if we want to track through the language from one document to another, as interpreted by the Congressional Research Service, the American Law Division, there is a legal argument I think is correct. I do not see any other interpretation can be put on it.

I will add one additional thing, that, once again, I think whether this argument, the legalistic argument, is true or not, whichever way we come down on that, on our opposing sides of this, the fact remains that we sent material to India. They misused it against our wishes, even after we told them this would violate our 1956 contract. It was sold for peaceful purposes. We sent them, 4 years before their explosion, a note which interpreted what we meant by peaceful purposes; that was the view that an explosion is an explosion is an explosion, and that it is warlike, not "peaceful," whether it is declared to be so or not by one party. They went ahead anyway, against our interpretation and used our material in a way we said would be a misuse of our fuel.

Now, we stand before 111 other Nonproliferation Treaty signers around the world that have agreed they will not build nuclear weapons, in return for our cooperation, and we stand now to give cooperation to the most flagrant violator in the history of atomic energy, in the history of our nuclear program—India. That is the way this will be interpreted around the world.

I know that some of the administration representatives have been coming over here and have been saying that other nations are not objecting to this shipment. That, I believe, is a misrepresentation of fact. Because no check of other government's official positions has been made. These governments will tell you that if you question them properly. I resent the fact that, in effect, the administration has been misrepresenting the facts in this case.

I have checked with five Embassies so far, and they have said that their governments are taking no action, taking no stand, on this particular issue. Those are the Governments of France, West Germany, the United Kingdom, Japan, and Canada. We have not yet heard back from Japan. Canada has indicated that they stand by their original commitment to cut off their supplies to India. West Germany, France, and the United Kingdom have said they have taken no position.

So I say to Senators and their staffs who are listening in their offices that when there is indication by administration representatives that there is agreement among NPT signers that this is a good sale, that is flat out not true. I do not believe that can be substantiated in fact by the official pronouncements of any government, because we have checked with those five Embassies.

Whether the legalistic argument the Senator makes or my interpretation is correct, the fact is that India misused the material we previously sent them. It was to be used only for peaceful purposes. We interpreted that to rule out nuclear explosives of any kind. They went ahead and used our material for a so-callel peaceful explosive. Now in considering these exports to such nation we have to stand before 100 NPT nations. How can we show them that we meant what we said when we signed this act in 1978, that we would not ship to countries not accepting full-scope safeguards like NPT signers, if we approve these exports.

Mr. SARBANES. Mr. President, how much time remains on our side?

The ACTING PRESIDENT pro tempore. The Senator from Idaho has 54 minutes remaining.

Mr. SARBANES. I will yield the floor soon. The Senator from Idaho is here, and I know that he is prepared to make his statement.

I am glad to see the Senator from Ohio moving, in the course of his argument, away from the point I sought to refine here.

In the Senate's consideration of this issue, it is very important that no Member of the Senate proceed to make a judgment, on the basis of the weak legal argument that the United States can stop sending these shipments and still expect India to be bound by the limitations and the restrictions of the 1963 agreement. One may recognize that they will not be, and nonetheless be prepared to accept those consequences and still argue for the position of the Senator from Ohio. But at least there should be no effort to bolster that argument by adding to it the notion that somehow the spent fuel there will still be governed by the limitations in the 1963 agreement and that the United States will continue to have the benefit of those limitations and restrictions with respect to nonproliferation.

First of all, as I have argued, I believe that the legal case for doing that is not valid. Second, even if one contends that there is some legal argument on both sides, clearly, with the strong legal argument they will be able to make, the Government of India is not going to remain bound by the restrictions and the limitations.

The Senator from Ohio can use his other arguments, but not that one, as it is being used in some of the arguments.

Mr. GLENN. If the Senator will yield, I agree that, in all practicality, that probably would be the action India would take. But the Senator started off with the legalistic argument of interpreting the law.

Mr. SARBANES. That is right.

I say to the Senator that if he went into a court of law and were to hand out two briefs—one brief arguing that India is free of the restrictions if the shipment is not made, and the other brief that if the shipment is not made, India will still have to continue to abide by the limitations and the restrictions of the 1963 agreement—and I were asked which brief would be more likely to prevail before the court, I would say the brief that argues that the other limitations and restrictions cease to apply under the agreement if the shipment is not sent.

To argue on the other side is to make a tenuous legal argument. That argument has been used. It has been argued here that we are going to continue to have the benefit of those limitations and restrictions, and we are not going to. Earlier, the Senator from New York analyzed this faulty proposition very carefully and very thoroughly, and I have great respect for his legal ability.

Mr. GLENN. Will the Senator tell me what India did after Canada cut her off in 1974, after the explosion?

Mr. SARBANES. With respect to the United States?

Mr. GLENN. No, with respect to the agreement with Canada—the safeguards and all the restrictions that were on India at that time, under the Canadian agreement.

Mr. SARBANES. I am not certain. Did they continue to adhere?

Mr. GLENN. They continued safeguards on the Canadian-built facilities.

Mr. SARBANES. And the Senator from Ohio expects them to continue them here?

Mr. GLENN. I do not know, but——

Mr. SARBANES. In making the judgment before us today, would the Senator argue that a prudent and reasonable Member of the U.S. Senate should proceed on the view that the safeguards of the 1963 agreement will be maintained by India, or on the view that there is a very high probability that they will not be maintained?

Mr. GLENN. I will be glad to respond to that. My view is that it is comparatively immaterial whether they do or do not. The Senator was the one who made the legal argument, and I responded to that by going through a step-by-step procedure of how the Congressional Research Service arrived at their conclusion, and I believe it holds together. It is good from a legalistic standpoint, whether or not the Senator agrees with it.

However, quite apart from the legal argument is the fact of whether we are going to continue to try to provide leadership with 100 NPT nations around the world on a legalistic argument.

Mr. SARBANES. That is the argument the Senator should be making.

Mr. GLENN. I am.

Mr. SARBANES. The only argument I do not want the Senator to make, because I believe it befuddles the issue, is the assertion made to Members that they can support the Senator's position and still expect to continue to have the benefit of the limitations and restrictions of the 1963 agreement on Indian action. The Senator is not going to have those, and he should concede it.

Mr. GLENN. I believe that we can expect that we will have the legal aspects on our side, as the Congressional Research Service has said.

However, from a practical standpoint, whether India does or does not go along with that is immaterial; because the bomb material they would have released to them from our safeguarded Tarapur facilities, compared to the overall unsafeguarded facilities that they have available for spent fuel between now and 1993, is so great that it makes our little ones on control look small by comparison. If India wants bombs, they are going to have bombs, whatever we do. There is no question about that, and they will have them from facilities over which we have no control, in this or any other agreement.

That was the point I was making earlier—that while the legalistic argument can be made, the practicality is that India is going to be able to have bombs. But, are we going to cooperate with them, after they have misused our material? That is the point to be made today.

Mr. SARBANES. With respect to the Senator's argument—which shifts constantly — from a legal perspective, I would prefer the brief that says, "You are free of the restrictions." I believe that legal argument is the far stronger argument.

Given the strength of that legal argument, India obviously has clear legal grounds on which not to be bound by the limitations and restrictions, quite aside from the practical arguments for not being bound.

So it is inaccurate to argue, as has been argued both in the course of writing about this question and in this debate, that somehow we can withhold the shipment and still continue to reap all the benefits of the limitations and the restrictions contained in the 1963 agreement with respect to the Tarapur facilities. We are not going to have the benefit of those limitations and restrictions.

Mr. President, I yield the floor.

Mr. CHURCH. Mr. President, will the Chair be kind enough to inform me how much time remains to me?

The ACTING PRESIDENT pro tempore. The Senator from Idaho has 46 minutes remaining.

Mr. CHURCH. I thank the Chair.

Mr. President, I support the export of this nuclear fuel to India and I oppose the resolution of disapproval which would overturn the President's Executive order. As the 8 to 7 committee vote in favor of disapproving the two fuel exports to India indicates, this is a close question.

The seven members of the Foreign Relations Committee who voted in the minority, believe that a final decision must reflect a careful balancing of the complex U.S. foreign policy, security, and nonproliferation interests which are involved in this question. Unlike opponents of this export, we do not believe that a decision as important as this one is for overall United States-Indian relations should hang on a single string, the alleged credibility of a stringent U.S. nonproliferation policy. That, in fact, is not the issue that is at stake here, and it is harmful to attempt to make this vote a referendum on the credibility of our nonproliferation policy.

I am convinced that permitting these exports to be approved is in U.S. interests both with respect to nonproliferation and foreign policy grounds. Let me enumerate why I believe this is so:

First, the central goal of full-scope safeguards and the viability of the Nuclear Nonproliferation Act will be preserved. In an exchange of letters between the Secretary of State and myself, the administration agrees that these exports will not set a precedent for treatment of future Indian applications. The administration agrees that the full scope safeguards provisions of the NNPA will apply to any future nuclear application. Further, the administration has committed itself not to ship the second export to India until late next year, and to consult with Congress well in advance on progress being made in discussions with India on our overall nonproliferation objectives.

I shall read the commitments given by Secretary Muskie in response to my letter:

I wish to assure the Congress that, while the first shipment of Tarapur fuel should leave the United States as promptly as possible after the Executive Order becomes effective, the Administration will not permit the second shipment to leave the United States until it is needed to assure continuity of operations at the Hyderabad fuel fabrication plant, which has consistently been considered by both India and the United States as necessary for the efficient and continuous operation of the Tarapur Atomic Power Station. We will consult with Congress well in advance of the date of the export of the second shipment on the progress that is being made in discussions with India on safeguards and other non-proliferation objectives.

I want to further assure the Congress that export of the second fuel shipment will not be permitted to occur at all if the President finds that India has exploded a nuclear device, is preparing to explode a nuclear device, or is engaging in other activities that would require termination of exports under Section 129 of the Atomic Energy Act. The President will not propose to Congress that these provisions be waived in order to permit the second fuel shipment.

I agree that approval of these exports will not constitute a precedent for the treatment of future export license applications. The fullscope safeguards export licensing criterion as set forth in Section 128a(1) of the Atomic Energy Act will apply to any future license applications for the export of nuclear fuel to Tarapur.

Now I move from the letter of the Secretary of State back again to the text of my own argument.

Mr. SARBANES. Mr. President, will the Senator yield for a question?

Mr. CHURCH. I am happy to yield to the able Senator from Maryland.

Mr. SARBANES. I think it is extremely important for Members of the Senate to review in the committee report the exchange of letters between the chairman of the Foreign Relations Committee and the Secretary of State on this issue because in the course of that exchange the chairman has, in effect, modified in a very important and constructive way, the perspective that people should bring to this question. The Members should recognize that the agreements on this issue which he has elicited from the administration in this correspondence constitute a basis for proceeding which I think preserves the objective the overwhelming majority of the Members of this body would wish to achieve.

Mr. CHURCH. I thank the Senator very much for this observation and pursuant to his suggestion, Mr. President, I ask unanimous consent to have printed in the RECORD the full text of my letter together with the full text of the Secretary's reply.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

Hon. EDMUND S. MUSKIE,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: The Foreign Relations Committee will consider on September 10 what recommendation it wishes to make to the Senate regarding Executive Order 12218 of June 19 authorizing nuclear exports to India. This is an extremely difficult issue that has caused me personal concern. I would like to support the President on this matter of national security significance. I recognize the nuclear non-proliferation and foreign policy benefits of the course of action taken by the President.

I am concerned, however, that a less than adequate case has been made by the Administration that both fuel shipments really are needed by India at this time. In this regard, as you know, during the past weeks our staffs have discussed in depth the non-proliferation and foreign policy issues related to the President's June 19 decision. In those discussions, several matters were identified on which I believe further Administration assurances would make it easier for the Committee and the Senate to support the President's decision.

First, I would like to request your assurance that the Administration will not permit the second fuel shipment to be exported before it is needed to ensure the efficient and continuous operation of the Tarapur Power Station. I understand the time period involved is about a year. This will provide additional time for the Administration to continue to seek to narrow U.S. non-proliferation differences with India.

Second, I would appreciate your commitment to consult with Congress well in advance of permitting the second shipment to be made. We would expect to review with you the progress that is being made in discussions with India on safeguards and other non-proliferation objectives at that time. This will help Congress to determine whether India is willing to strengthen its non-proliferation policies and commitments.

Third, I would like your assurance that the second fuel shipment will not be permitted to occur at all if the President finds India has exploded a nuclear device, is preparing to explode a nuclear device, or is engaging in other activities that would require termination of exports under section 129 of the Atomic Energy Act. In other words, I seek a commitment that, if these sanctions become applicable, the President will not propose to the Congress that these particular provisions be waived in order to permit the second fuel shipment.

I think both the Administration and the Congress must agree that approval of these exports will not constitute a precedent for treatment of future export license applications. Therefore, I request that you provide me your assurance that the Administration will regard the full-scope safeguards licensing criterion as set forth in section 128a(1) of the Atomic Energy Act as applicable to any future license applications for the export of fuel to Tarapur.

It is my belief that the Administration should provide the Committee these commitments in writing. This will demonstrate our seriousness of purpose in working together to find a solution to this difficult issue, a solution that will serve the national interest and be widely supported.

Sincerely,

FRANK CHURCH,
Chairman.

DEAR MR. CHAIRMAN: Thank you for your letter of September 9 concerning the Foreign Relations Committee's consideration of the President's Executive Order authorizing the export of two nuclear fuel shipments to India. I understand the concerns you raised in your letter and appreciate your desire to find a mutually acceptable solution. The course you propose is acceptable to the Administration.

During the past weeks we have discussed in depth with the members of Congress the non-proliferation and foreign policy benefits we see in proceeding with these exports. As you point out, questions have been raised as to whether the two fuel shipments are both needed in India at this time. In this regard, the Hyderabad fuel fabrication plant in India, which fabricates fuel for Tarapur, is currently out of fresh fuel and urgently needs the first shipment. Once the first export is received the fuel fabrication plant will be able to operate for approximately one year before it is ready to begin work on the second shipment. Since air transport of the fuel is much more expensive than the normal surface transportation, the second shipment should be released in sufficient time to allow India to arrange for surface shipment of the second export (although it will certainly need to air ship the first).

In this light, I wish to assure the Congress that, while the first shipment of Tarapur fuel should leave the United States as promptly as possible after Executive Order becomes effective, the Administration will not permit the second shipment to leave the United States until it is needed to assure continuity of operations at the Hyderabad fuel fabrication plant, which has consistently been considered by both India and the United States as necessary for the efficient and continuous operation of the Tarapur Atomic Power Station. We will consult with Congress well in advance of the date of the export of the second shipment on the progress that is being made in discussions with India on safeguards and other non-proliferation objectives.

I want to further assure the Congress that export of the second fuel shipment will not be permitted to occur at all if the President finds that India has exploded a nuclear device, is preparing to explode a nuclear device, or is engaging in other activities that would require termination of exports under Section 129 of the Atomic Energy Act. The President will not propose to Congress that these provisions be waived in order to permit the second fuel shipment.

I agree that approval of these exports will not constitute a precedent for the treatment of future export license applications. The full-scope safeguards export licensing criterion as set forth in Section 128a(1) of the Atomic Energy Act will apply to any future license applications for the export of nuclear fuel to Tarapur.

The foregoing conditions are intended to demonstrate the continued strong commitment of the United States to the policy of nuclear non-proliferation. I hope you will agree that these conditions will ensure that the exports here at issue will be carried out in a manner that is fully consistent with that commitment.

The proposed exports will assure the continuation in force of important safeguards applicable to Tarapur. We will use the time gained by these exports to seek to reduce our non-proliferation differences with India. I believe it is essential that the Congress not deprive the President of the opportunity to pursue constructive negotiations on this subject.

With best wishes, I am

Sincerely,

EDMUND S. MUSKIE.

Mr. GLENN. Mr. President, will the Senator yield for a question on that letter?

Mr. CHURCH. I yield.

Mr. GLENN. That letter says we are going to make the first shipment because the Hyderabad fuel fabrication plant needs it. This is a facility where we have no supply commitment. Leaving that aside, it seems to me that the latter part of the letter says that the only restrictions on that second shipment are: that it will not be sent until it is needed and that the President will consult with Congress well in advance of the date of the export of the second shipment on the progress that is being made in discussions with India on safeguards and other proliferation objectives. Then it goes ahead and says that the shipment will not be permitted to occur at all if the President finds India has exploded a nuclear device, is preparing to explode a nuclear device, or is engaging in other activities that will require termination of exports.

That is no restriction at all, as I see it, because we did not even know when India was going to make the first explosion. How are we going to know whether India is preparing to make a second one?

That would be the only basis for cutoff provided by this letter.

So I see that the letter does very, very little with regard to our nonproliferation objective.

It would say we would make that second shipment unless we knew they had exploded a device or were preparing to do one, something that in the past, we have been unable to determine in advance. So I do not see that that letter really amounts to anything at all.

Does the Senator care to comment on that?

Mr. CHURCH. No, I see no reason to do so. I have already heard the Senator's opinion of the two letters. But I disagree with his interpretation.

Mr. GLENN. My question, I guess, was to ask for a comment of those specific items.

Mr. CHURCH. In the first place we were certainly aware of the detonation of the Indian device when it occurred in 1974. The fact that we may not have known in advance that preparations were being made to explode such a device at that time does not necessarily mean the United States will not know if such an explosion were to be planned in the future. Having been forewarned, I think we are alerted to the possibility, and the likelihood of our discovering that the Indian Government has launched upon such a ventore is much improved.

So I do not dismiss this assurance as being meaningless at all. I think it is significant.

Furthermore, this exchange of letters and the assurances that have been given the Senate by the Secretary of State clearly put India on notice that these will be the last two shipments of enriched uranium for use at the Tarapur plant to which the full-scope safeguards provisions of the NNPA will not apply. The provisions of the Atomic Energy Act and the Nonproliferation Act will clearly apply to any future applications by India for enriched uranium.

If we were to put ourselves in the place of India, I think it would make a very great difference to us whether we were supplied in accordance with terms of an agreement entered into in 1963 with these two proposed shipments of fuel, and had received reasonable notice that all further shipments would be subject to the full-scope inspections provisions of U.S. law.

(Mr. ZORINSKY assumed the chair.)

Mr. CHURCH. The 2 years that are involved here constitute an opportunity for India to make one of two decisions: First, to accept full-scope inspection on all of their nuclear plants, which we would hope very much for and which we would pursue in our negotiations with India or, on the other hand, either to make arrangements with the Soviet Union or other countries for future shipments of enriched uranium, or to build the necesary facilities in India itself.

But the abrupt denial of these two quantities of enriched uranium, to be shipped pursuant to our solemn agreement to furnish the fuel, will be very disruptive to India and cannot help but have the most adverse consequences on Indian attitudes toward the United States.

Is it worth the price? I think it is not, and the reasons why I believe this are contained in the argument I now return to.

Approving the licenses will advance, not retard, U.S. nonproliferation interests, in my view, because it will preserve the existing controls at the Tarapur atomic power station, thereby preventing India from taking measures severely disadvantageous to the international nonproliferation regime, such as terminating the IAEA's safeguards for reprocessing the large quantities of spent fuel presently at Tarapur.

Third, the United States standing as a nuclear trading partner that sticks by its pledged word, that keeps its end of a bargain, will be improved.

As Senators know, the recently completed International Nuclear Fuel Cycle Evaluation Conference made clear the direct link between reliability of nuclear supply, on the one hand, and the willingness of States to accept strict international controls on their nuclear activities, on the other.

Unless nonnuclear-weapons states see that the nuclear-weapons states honor their side of the bargain to share the benefits of peaceful nuclear technology, they are going to resist further restrictions on their own nuclear activities in the name of nonproliferation.

Finally, the U.S. voice in New Delhi will not be drowned out by a strident anti-American outcry in India which could drive the Indian Government further away from U.S. policies.

There is every possibility that India would turn to the Soviet Union to replace us at the Tarapur; Soviet influence will thus grow as our own diminishes. At this time of Soviet challenge in Southwest Asia the United States needs to preserve such influence as it may have in New Delhi.

Mr. President, as I have tried to make clear, I believe that approving these exports will help advance U.S. interests in Southwest Asia, including our nonproliferation objectives.

But opponents of the exports argue that our nonproliferation policy would be undermined while U.S. ability to talk to India about foreign policy issues of mutual concern will be largely unaffected. In effect they argue that denying India the shipments will be largely cost-free. I would like to examine their arguments in further detail.

Opponents of the exports characterize this as a landmark test of U.S. nonproliferation policy. They say, in particular, that the U.S. Nuclear Nonproliferation Act, which requires the termination of U.S. exports to countries which have not accepted full-scope safeguards after the transition period, will be violated.

Opponents argue that the entire international nonproliferation regime, including the viability of the Nonproliferation Treaty, would be threatened if we approved the shipments.

These apocalyptic assertions are simply wrong. It is unfortunate, even tragic, that India refuses to follow a comprehensive nonproliferation policy. In the long run it is India which is going to suffer most by the harm it is doing to its own nonproliferation credentials and by the sense of insecurity it is stimulating in Pakistan. It may well be that in the end if India refuses to see reason on full-scope safeguards, the United States will have no choice but to negotiate an orderly termination of the 1963 agreement.

But we are not at that point yet, and I strongly believe that this is not a test of the NNPA, and I am convinced it is harmful to U.S. interests to insist that it is.

First, if the Senate made clear that it is permitting these licenses to be approved only by virtue of the fact that they fall within the intent of the grace period of the NNPA, and that the full-scope safeguards criterion will have to apply to all future licenses, there can be no question of the continued credibility of the act or of the full-scope safeguards requirement as it would apply to all future export applications.

The grace period of the act was clearly designed to avoid circumvention of the September 10, 1979 cutoff for filing of export applications, which would not have to be subject to the full-scope safeguard criterion, by preventing the mass filing of applications at the last moment. India filed these two applications, one in September 1978, and the second in August 1979, at times consistent with the normal schedule which had been worked out in 1976 with the help of U.S. fuel experts.

Therefore, it is clear that these applications are not subject to the section 128 full-scope safeguards requirement of the Atomic Energy Act as amended by the NNPA; that the President is not required to waive section 128; and that in approving these licenses we will be acting in conformity with the NNPA.

Mr. President, the United States has highly important controls at Tarapur by virtue of the 1963 cooperation agreement. India agreed to permit safeguards at Tarapur, to use only U.S. fuel at Tarapur, not to reprocess the spent fuel without U.S. consent, and not to use U.S.-supplied material for any purpose other than to fuel the electric power generators at Tarapur.

India has kept that agreement. Strangely, opponents of the exports give little attention to the devastating impact that the loss of these controls and safeguards at Tarapur could have for U.S. nonproliferation policy. They argue illogically that inasmuch as India is obtaining plutonium from other unsafeguarded indigenous sources, it does not make any real difference if India is released from the 1963 agreement, terminates safeguards that it contains, and then reprocesses the spent fuel at Tarapur for the plutonium content.

Now, this may not happen, but we have no reason to believe it will not if we breach the agreement with India.

Mr. President, how can U.S. nonproliferation objectives, particularly the effort to slow the spread of plutonium, be served by allowing India to remove the Tarapur spent fuel from safeguards, extract its plutonium by reprocessing, and add its unsafeguarded plutonium to its other sources? It is in our nonproliferation interests to deter India from commencing large-scale reprocessing until adequate international safeguards and controls can be developed.

The opponents of the exports, in what seems to me to be an overdrawn argument, paint a picture of an India subservient to Soviet interests and opposed to U.S. policies. They assert that the decision on these exports will have no impact on India's foreign policy orientation, or Indian attitudes toward the United States.

The truth of the matter is that India is the key power in Southwest Asia, it is concerned about the Soviet presence in Afghanistan and has said so, and its own aspirations to great power status and leadership of the Third World are well known. These concerns will cause India to continue to play the same role as in the past, in which it seeks to find a balance between the superpowers, tilting now one way, now another. India has taken many actions contrary to U.S. desires, and it has opposed numerous Soviet initiatives, as well. With its colonial legacy, India is hypersensitive to any perception that it is being pressured by a foreign power, or that it is the client of either of the superpowers.

But at the same time, India is open to U.S. influence: India has called for the withdrawal of Soviet troops from Afghanistan; India is seeking arms and support from the West as well as from the U.S.S.R.; India has moderated her antagonism toward Pakistan; India has publicly deplored the holding of the American hostages in Iran; India has exercised a moderating influence in the North-South dialog. Our voice is presently heard in New Delhi.

But what will happen if the United States refuses these exports in clear violation of our own agreement to supply the fuel as contained in the 1963 compact? Well, Mr. President, in my view, anti-American elements throughout the Indian political spectrum will rise up and add new pressure upon the Government. Those who say the United States cannot be depended on as a counterbalance to the Soviet Union will become stronger. The moderates, concerned about the Soviet presence in Afghanistan, who want to hold back the jingoists, the pro-Soviets, the hawks who want the bomb, will be weakened. None of these outcomes serves U.S. interests.

The situation in Southeast Asia is unstable. The United States has great political and security interests there. We want and we need to retain our position in India, to retain the opportunity to persuade India to play a stabilizing role and to serve as a barrier to further Soviet advances toward the Indian Ocean and the Persian Gulf. Approving these exports will retain that opportunity for us. Can anyone honestly contend that alienating India will make it easier to counter Soviet expansionism?

That is the basic question. And clearly it argues against the breach of this agreement and the peremptory refusal on our part, without reasonable notice to India, to send further fuel to the Tarapur plant.

Mr. President, others, including the able Senator from Maryland, Mr. SARBANES, and my Republican colleague on the committee, the ranking member, Senator JAVITS, have addressed themselves to the legal aspects of this question. And I see no reason to reiterate those arguments.

For myself, I think that, both from the standpoint of the overall interests of our nonproliferation objectives and from the standpoint of preserving such influence as we have in New Delhi, these exports should go forward and the President's decision should be upheld.

I hope very much that the Senate vote will support the President in this case. I am not unmindful that there are arguments on the other side of this question, nor do I scorn them. But everyone involved on one side or the other has said at one time or another that it is a very close question. Well, if that is so, then is not the President entitled to the benefit of the doubt?

There have been times when I have opposed the President of the United States, even Presidents of my own party, on matters as grave as a foreign war. And I am prepared to oppose the President whenever I believe that the decisions he makes in the field of foreign policy are contrary to the best interests of my country.

But here is such a close question that I see no reason for the Congress to rise up and veto the President's decision. It weakens his hand in dealing with the entire situation that confronts us in Southwest Asia. And for no convincing purpose.

This is the reason that it seems to me highly unwise for the Senate to refuse these exports. I cannot help but conclude that the reason that so many wish to do it—and here I exclude the distinguished Senator from Ohio (Mr. GLENN) because of his close connection with the passage of the NNPA and his interest in that legislation—is because of our underlying disapproval of India and its foreign policy. Here is a chance to get even.

Well, Mr. President, that is like cutting off our nose to spite our face. We will weaken our own influence, desert our own interests, and accomplish nothing of consequence in the doing.

I cannot for the life of me see the wisdom of pursuing such a course.

Mr. GLENN. Will the Senator yield?

Mr. CHURCH. Let me check the time.

Mr. GLENN. I will use my time.

Mr. CHURCH. May I just explain to the Senator that we have three more Senators who wish to speak and we are now limited to less than 30 minutes.

Mr. GLENN. I realize the time problem here. I yield myself such time as I might need.

The PRESIDING OFFICER (Mr. EXON). The Senator from Ohio.

Mr. GLENN. Mr. President, I will comment on the Senator's remarks. The Senator has taken a tremendous interest in this whole thing, as I know from working with him when we were considering the NNPA. I am sorry that we find ourselves, especially with my committee chairman, on opposite sides of this particular issue, but we have some disagreements in this area.

In the Senator's remarks, he commented forcefully about the importance of the exchange of letters with Senator MUSKIE. But I would say this: the letter from Senator Muskie proposes absolutely nothing new, because the President is already required by law to stop exports to nations developing nuclear weapons or testing the explosives. So there is absolutely nothing new that the Secretary of State has offered us in that exchange of letters that is not already in law.

That was a throwaway.

Mr. CHURCH. Mr. President, will the Senator yield on that point?

Mr. GLENN. Briefly, in the interests of time.

Mr. CHURCH. My remarks will be brief.

I disagree with the Senator's conclusion because there is a waiver in the law regarding section 129 of the Atomic Energy Act that is open for the President to use. He promises in this exchange of letters that he will not use it with respect to the second shipment, which is to be delayed until next year. So the Senate can be assured, if his hand is upheld in connection with these two shipments, that the waiver authority will not be used to permit the second shipment to occur if the President concludes that India is taking actions in violation to section 129.

Mr. GLENN. Let me move on to the second point. That was that there would not be an abrupt cutoff.

I would hardly consider it abrupt when we have had the NPT in existence since 1968. We have encouraged India to adhere since that time. That is over 12 years. We tried very forcefully, beginning in 1976, to convince India to accept full-scope safeguards. Since 1978 they have had full knowledge, since the passage of the NNPA, that there would be a cutoff of fuel if they did not come around in that period of time. I hardly think this is an abrupt cutoff.

As far as our nuclear trading partnerships being reliable, which was somehow being called into question here, we decided in the NNPA, and it was the thought of all of us here—in fact, this Senate voted 88 to 3—that our policy would be that we were through being soft on these issues, that we were going to cooperate with those who would cooperate with us in the nonproliferation area. This is at the heart of NNPA, that we will work with those who cooperate with us.

Another point was made concerning Indian foreign policy flowing in our direction.

But let me point out the headline from the Statesman in New Delhi, "India to help Iran beat U.S. Sanctions" in trade.

So this has not all been a favorable move toward our side so far as foreign policy.

For the last point, so far as getting even with India for her unwillingness to agree with us on other foreign policy issues, I would disagree most strongly with that. I think there is abhorrence of India, but the vote that I hope will occur today is an indication of our abhorrence at India's use of our material in their first bomb, material which was never intended by us to be used in this fashion; that material was sent for peaceful purposes only. There is no indication of getting even with India. I consider myself a friend of India. I am sure that those covering these debates for the Indian press will find that hard to believe today. I have been to India on several occasions. I want to cooperate in every way with India but not in this instance where they took advantage of us and where we have so much to lose in our leadership with other NPT nations, 111 of them which have signed this treaty and foresworn the development of nuclear weaponry.

Mr. President, I reserve the remainder of my time.

Mr. CHURCH. Mr. President, I yield 7 minutes to the Senator from Washington.

Mr. JACKSON. Mr. President, today the Senate is faced with a decision which may have profound implications for the foreign policy of the United States. My colleagues and I will be voting on whether to overturn a Presidential Executive order which approved exports of nuclear fuel for the Tarapur nuclear power station near Bombay, India. Some of my colleagues have, in my view, taken a rather one-dimensional look at this issue. I hope in my remarks today to broaden the perspective of this debate to insure that the full potential ramifications of our actions are exposed.

I would first like to try to clarify a muddled situation with regard to the Tarapur export and the concerns about Indian nuclear explosive activities. As part of a 1956 cooperative agreement, the U.S. agreed to supply heavy water to India for peaceful purposes. Using a Canadian-supplied CANDU reactor with some U.S.-supplied heavy water, the Indian Government succeeded in producing weapons-grade plutonium and detonated what they termed to be a peaceful nuclear explosive in 1974. In my view this was an extremely regrettable act on the part of the Indian Government and was the clear event which triggered a heightened concern about proliferation of nuclear explosives in the Third World nations. The Nuclear Nonproliferation Act of 1978 was enacted in no small measure because of the Indian Government's decision to construct and explode a nuclear explosive device.

However, I think it is important to separate in our minds the need for nuclear fuel for the Tarapur reactors from the current Indian reluctance to forsake any future development and testing of nuclear explosives. I do not believe that we can successfully use the pending export of Tarapur fuel as a hostage to achieve the Indian Government's agreement to apply full-scope safeguards to all of the other nuclear activities in that country. Instead we must continue negotiations in an attempt to convince the Indian Government to apply comprehensive international safeguards to all of their nuclear activities. The export of the Tarapur fuel keeps the door open for these continuing talks.

In 1963 the United States and India signed a cooperative agreement for civilian uses of atomic energy. The agreement provided for, as needed, U.S. supply of all of the enriched uranium to fuel two 210-megawatt nuclear reactors at the Tarapur Atomic Power Station during the expected lifetime of the reactors of 30 years. In return, India agreed that it would only purchase U.S.-supplied fuel for use at Tarapur, that safeguards would be maintained on the fuel, that it would not be reprocessed or retransferred without prior U.S. approval, and that the supplied material and equipment would only be used for peaceful purposes. To date India has observed all commitments under this 1963 agreement, including upgraded requirements in 1971 and 1974, with no abuse of Tarapur spent fuel for nuclear explosive purposes.

The Nuclear Nonproliferation Act of 1978 (NNPA) placed criteria on exports of nuclear fuel which must be met in order for the Nuclear Regulatory Commission to license an export, with all of the criteria having been encompassed in the 1963 agreement except for one key new criterion in the law. The NNPA required that applications for nuclear exports made after September 10, 1979, meet the additional requirement that all peaceful nuclear activities of a recipient country be subjected to full-scope safeguards through IAEA inspections in order for the export license to be approved. The Indian Government's applications for the two pending exports were made respectively in September 1978, and August 1979, clearly prior to the application deadline.

The NNPA also required that the export of the fuel be approved prior to March 10, 1980, in order to precede the applicability of the full-scope safeguard criterion to the export. A further requirement of the NNPA was that the Secretary of State establish orderly and expeditious procedures to insure that executive branch judgments—as to whether the export was or was not inimical to the common defense and security of the United States—would be completed within 60 days of receipt of an application. The executive branch analysis was sent to the Nuclear Regulatory Commission on March 28, 1980, 18 months after the first Indian Government application, rather than 6 months, and after the March 10 statutory date for applicability of the full-scope safeguard criterion by the Nuclear Regulatory Commission.

Thus, the Nuclear Regulatory Commission could not find that the full-scope safeguards criterion was not applicable to this export. Without completion of renegotiations of the 1963 agreement by the Indian Government to apply full-scope safeguards to all of its peaceful nulcear activities, the Commission could not legally approve the export license.

However, the NNPA permits, in spite of the actions of the Nuclear Regulatory Commission, the President to approve an export by an Executive order if he determines that withholding the proposed export would seriously prejudice the achievement of the U.S. nonproliferation objectives or would otherwise jeopardize the common defense and security. This Executive order must lie before the Congress for 60 days of continuous session and is approved unless both Houses of Congress adopt a resolution stating that they do not favor the proposed export. A congressional decision to permit the export constitutes a recognition that the Indian Government has, in good faith, met all the requirements of the 1963 agreement as amended and met all the requirements of the NNPA at the time of their applications for nuclear exports.

The fact that the Indian Government has not yet agreed in negotiations to revise the 1963 agreement to include full-scope safeguards as required by the unilateral and retroactive provisions of the NNPA should have no impact on these pending export licenses because the executive branch failed to meet the 6 months period for submitting its judgment on the exports. Any future Indian applications for exports would clearly fall under the additional criterion of full-scope safeguards, and thus these exports do not constitute a retreat by the Congress or the administration from the NNPA.

In the Indian view, failure by the United States to approve the exports when the Indian Government has lived up to the letter of the 1963 agreement would constitute a breach of contract and free the Indian Government from continuing to adhere to the existing safeguards of spent U.S.-supplied fuel at Tarapur. The Indian Government is very likely to be able to find a new supplier of the enriched uranium, probably the Soviet Union, should the United States fail to meet the need. The failure of the Indian Government to find a replacement supplier would have severe economic consequences to the Bombay metropolitan area, which receives a major portion of its electricity from the Tarapur reactors. If we breach the agreement signed in 1963, India may reprocess the U.S.-origin spent fuel in its possession and use it to fuel the Tarapur reactors, thereby undercutting a key U.S. nonproliferation goal.

The Indian Government has for many years been a leader among the nonalined nations of the world, and a U.S. failure to meet the conditions of the 1963 agreement would not only permit a Russian fuel supply initiative to create a greater dependence of India on the Soviet Union but also a further erosion of confidence by nonalined countries that the United States will act in a responsible manner.

I hope my colleagues will keep in mind the precarious nature of the Asian subcontinent in today's world. With the Soviet Union's adventurism and invasion into Afghanistan, the tattered political fabric of Iran with its many ethnic and nationalistic subgroups, the Iraqi/Iranian border war, and some instability in the Pakistani Government, we need to insure that the largest democracy in the world, India, is not alienated to such an extent that the Soviet Union can gain major new leverage in the course of Indian Government policies. While I have desired for many years that the Indian Government be more responsive to Western interests, their own perceptions have been that the best course for the Indian people would be a nonalined posture. I believe that the nuclear fuel export that we are considering today may very well be a bellweather in the future direction of United States-Indian relations.

One of my concerns regarding the NNPA when it was enacted by the Congress in 1978 was that there was too little carrot and too much stick in the rigid framework that the act established for reviewing nuclear exports. This act, in conjunction with the administration's nonproliferation policies, has shaken our relations with every country in the world with which we have engaged in nuclear commerce. The Euratom countries—Japan, Korea, India, and now Switzerland, to name just a few—have viewed the U.S. approach to be unilateral and without regard to their own national interest and, specifically, their energy needs as they perceive them. The most troubling aspects of the NNPA to our foreign nuclear trading partners is its retroactive applicability to contracts and cooperative agreements which were negotiated in a period of much greater appreciation of our common interests, as opposed to strictly U.S. interests.

I, too, am annoyed that the Indian Government has been reluctant to apply full-scope safeguards to all of its nuclear activities. I am very concerned about the prospects of a Pakistani effort to develop nuclear explosives. The allegations of clandestine efforts to develop nuclear explosives in other countries are equally of grave concern to all reasoning men.

However, the United States has no monopoly on nuclear technology in the world today. We cannot dictate on our own the nature of the domestic nuclear activities of other countries. A unilateral action on our part will only succeed in reducing our influence in limiting the nature of those domestic nuclear activities to truly peaceful purposes. If we are successfully to limit the spread of nuclear explosive technology, we must return to a posture of working closely with other industrialized nations which export nuclear technology to insure that, to the maximum extent possible, a commonality of approach is used for meeting legitimate nuclear energy requirements of Third World nations without permitting nuclear explosive programs. Unfortunately, our approach to date has led to mistrust of our intentions with regard to the domestic energy programs of countries which export nuclear technology. We must step back from the appearance of national self-righteousness if we are to succeed in meaningful attempts to limit the spread of nuclear explosives.

In summary, Mr. President, the opponents of this export are trying to punish India for not having agreed to full-scope safeguards on its other nuclear activities by denying fuel for the Tarapur reactors. The Indian Government met all of our legal requirements in its application for the exports. While denial of the exports may work some hardship on the Indian people, the Indian Government is not without recourse in obtaining fuel. Failure to export constitutes a breach of contract and of the agreement and frees the Indians from continued application of IAEA safeguards on the Tarapur reactors' spent fuel. I believe that it is in our national interest to permit the export of this fuel and to continue negotiations to achieve our nonproliferation objectives prior to the time that another application for fuel for the Tarapur reactor is submitted by the Indian Government. I hope reason will prevail in the vote of my colleagues on this pivotal issue in United States-Indian relations.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. Mr. President, I yield 15 minutes to the distinguished Senator from California (Mr. HAYAKAWA).

Mr. HAYAKAWA. I thank the distinguished Senator.

Mr. President, today, the Senate is called upon to make a decision which will have far-reaching consequences for America's image abroad. Today, we are to decide whether or not to sell uranium to India to be used for the nuclear reactors at the Tarapur powerplants.

Understandably, the press is also extensively focusing on the issue. From the speech of the distinguished Senator from Illinois (Mr. PERCY) I learned that over 90 editorials have appeared on the subject in American newspapers opposing the sale. I, myself, have read the editorials from the Washington Star, another one from the Los Angeles Times, a third one from the Washington Post, and another one from the Wall Street Journal. Therefore, I ask unanimous consent that these four editorials be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HAYAKAWA. Mr. President, the proponents of the sale assert that, by our refusal to provide the fuel, we are not living up to the terms of our original agreement with the Indian Government. This will further damage our relations with the "nonalined" Indians, pushing them—they say—into the Soviet camp. Also, our agreement calls for safeguards on the Tarapur facilities as well as on those facilities that use fuel purchased from other countries. Therefore, the administration argues that the objectives of the nonproliferation treaty are being served even though India has not yet signed the Nuclear Nonproliferation Treaty.

If they are so keen on nonproliferation, I still want to know why they have not signed it.

Mr. President, these arguments on the part of the administration are persuasive, but I believe they are mistaken. After careful consideration, I have decided to oppose the sale of uranium to India because I see this policy decision as another failure of the Carter administration in providing the leadership and the consistent diplomacy which is essential in forging effective international safeguards.

In the short term, it appears that our cooperation with the Indian Government might lead to positive results. But I must respectfully differ from my colleagues, who are my seniors in service here, including the distinguished Senator from Idaho, the chairman of the Committee on Foreign Relations, and the ranking minority member of the Committee on Foreign Relations (Mr. JAVITS).

Our unsuccessful efforts to secure an agreement for full-scope safeguards on all Indian nuclear facilities, combined with Indira Gandhi's statements about future nuclear material in the past and the misuse of U.S.-supplied nuclear material in the past, do not support the proposition that we can influence India's nuclear decisions.

Moreover, the supply of nuclear fuel to India by the United States will lead other countries to believe that we are not serious about our commitment for nuclear nonproliferation.

We have taken, Mr. President, world leadership in insisting upon nuclear nonproliferation. We have managed to persuade 111 nations, in addition to the nuclear powers, to sign that Nonproliferation Treaty. To sell nuclear materials to India, in direct violation—in direct ignoring—of what India has already done in exploding nuclear materials seems to me to make a mockery of our own position about nuclear nonproliferation, in which I am deeply interested. In my judgment, this is a credibility gap the United States can ill afford.

Mr. President, I am particularly concerned about India's current foreign policy which in many areas is distinct from, if not in opposition to, U.S. objectives. For example, India has entered into a major trade agreement with Iran characterized by a New Delhi headline, "India Helps Iran Beat U.S. Sanctions." India has also recognized the pro-Soviet regime—that incredibly cruel regime—in Kampuchea and, in the United Nations, India abstained on the resolution condemning the Soviet invasion of Afghanistan. In addition, the Indians have recently signed a $1.6 billion arms deal with the Soviet Government.

India does not need to be thrown into the arms of the Soviet Union by our decision not to sell nuclear fuel. India is already more than halfway there.

All of these highly visible events of considerable political importance to the region occurred after President Carter had promised Mrs. Gandhi to ship the Tarapur fuel. These are discouraging signs of what we might expect in our long-term relationship with that country.

How good are India's promises and assurances? Proliferation scholar Robert A. Wohlstetter reported how Canadian Prime Minister Trudeau insisted to Mrs. Ghandi that the Canadian-donated CIRUS reactor was not to be used for making bombs. This is a quotation from the Washington Star. Trudeau interpreted her silence as acceptance, and she was satisfied that she had not agreed. After the Indian nuclear explosion of 1974, Canada ceased its nuclear aid.

There is a moral dimension, also, Mr. President. Nonnuclear proliferation is called in the U.S. interest because the United States is its leader, but it is not merely the U.S. interest. If the bomb spreads, the consequences will likely fall, at first, on the peoples of the Third World. Those governments threaten each other rather than the United States. Their insensitivity to proliferation does not justify our "malign neglect."

Mr. President, I am fully aware of the central role played by India in insuring the stability of South Asia and I could support appropriate actions which would in fact demonstrate effective diplomacy.

But I believe that approving the pending export represents a grave risk to our global nonproliferation policy.

Do we mean nonproliferation, or do we not?

Moreover, it is unlikely to affect the course of India's actions. Conversely, disapproval of the export is unlikely to alter to any significant extent the balance in India's relations with the United States and the Soviet Union respectively.

In sum, Mr. President, the sale of nuclear fuel to India smacks of appeasement and once again reflects the erratic, inconsistent foreign policies of the United States.

I will add, finally, a short quote about the technology of nuclear explosives from an aide memoire recently released and presented in 1970 to the Indian Atomic Energy Commission:

> The technology of nuclear explosives for peaceful uses is indistinguishable from that of nuclear weapons, and that any nuclear explosive device, though it be intended for benign economic purposes, could also be used for destructive purposes. The development of such explosives, therefore, is tantamount to the development of nuclear weapons.
>
> Consequently, the United States would consider it incompatible with existing United States-Indian agreements for American nuclear assistance to be employed in the development of peaceful nuclear explosive devices.

As these documents make clear, India did violate its commitments to the United States when it exploded its 1974 device.

EXHIBIT 1

[From the Wall Street Journal, Sept. 24, 1980]

NUCLEAR HYPOCRISY

The Carter administration is pulling out all the stops in its bid to gain Senate acceptance of its decision to sell additional nuclear fuel to India despite that nation's refusal to permit international inspection of its nuclear facilities. Secretary of State Muskie has been rallying his ex-colleagues to support the President's decision. Ex-Senators and ex-ambassadors have been employed in the campaign. President Carter himself has been phoning Senators from his campaign plane to enlist support.

The pro-sale campaign has now reached the point of deceit. Ambassador at Large Gerald Smith sent a letter to the Senate last week in which he notes that it is claimed the Indian use of U.S. heavy water to produce India's 1974 explosion of a "peaceful nuclear device" was a violation of a commitment to the U.S. "There was no such commitment," Mr. Smith responds. "And the U.S. continued its Tarapur (reactor) supply for six years after the Indian explosion. It seems quite irrelevant, as well as incorrect, to cite this explosion to now support a decision to cut off India's energy supplies."

Aside from the fundamental fact that there is nothing peaceful about India's bomb, as far back as 1960 the U.S. made clear it was supplying heavy water and other nuclear materials for peaceful purposes, not including explosions. The Indians took the material and doublecrossed us on these provisions.

Moreover, an aide memoire presented to the Indian Atomic Energy Commission in Bombay, Nov. 16, 1970 (and declassified only last week), reiterated the U.S. position. It says that "the technology of nuclear explosives for peaceful uses is indistinguishable from that of nuclear weapons, and that any nuclear explosive device, though it be intended for benign economic purposes, could also be used for destructive purposes. The development of such explosives, therefore, is tantamount to the development of nuclear weapons. . . .

"Consequently, the United States would consider it incompatible with existing United States-Indian agreements for American nuclear assistance to be employed in the development of peaceful nuclear explosive devices."

As both documents make clear, India did violate its commitments to the U.S. when it exploded its 1974 device. Recognizing this, and in the absence of any subsequent safeguard agreement, the House last week overwhelmingly voted to veto the sale. In the Senate, where the administration has concentrated its lobbying efforts, the vote comes up today, two days after Indian Prime Minister Indira Ghandi again gave herself powers to lock up any Indian for a year without trial. The Senate outcome is expected to be close.

The facts here are clear: The U.S. supplied these materials saying they should not be used for nuclear explosives. They were used for nuclear explosives. We are now asked to decide whether to give more nuclear materials to the people who used the first ones in ways we prohibited. Any President or Senator who has the gall to approve this sale and still say he is opposed to nuclear proliferation should be called to account by the voters in the next election for recklessness, but even more for hypocrisy.

[From the Washington Star, Sept. 22, 1980]

NUCLEAR FUEL FOR INDIA?

(By Thomas Blau)

The administration wants Congress to override its committees and approve new shipments of nuclear fuel to India. The real decision for Congress is whether enforcing a strong nonproliferation policy is worth the diplomatic costs.

By a simple reading of U.S. policy and law, Congress should not approve shipment. The Nuclear Non-proliferation Act of March 10, 1978, requires that India accept international safeguards on all its nuclear facilities within two years of the act's passage.

India refuses. Even worse, Prime Minister Gandhi said last March 13, three days after the deadline, "We remain committed to the uses of atomic energy, whether for peaceful purposes . . . or explosions or implosions." That's within India's sovereign rights, but may not allow the U.S. to ship India uranium.

The State Department doesn't want the law applied. Assistant Secretary Pickering says that State's "lawyers are quite confident that the proposed exports fall within the grace period because they were planned for before March 10, 1980. Yet when the department wanted the law passed, a high official told Congress that March 10, 1980, was a "guillotine—in other words, if you haven't achieved agreement on safeguards by then, a uranium embargo would begin."

Without the NNPA "guillotine," potential proliferators will see U.S. policy diminished, despite U.S. legal arguments, because it suits their aims to do so. "If India does not need to satisfy the full-scope safeguards requirement," says Nuclear Regulatory Commissioner Victor Gilinsky, other countries will be quick to seek similar exemptions."

It's an old story. Proliferation scholar Robert A. Wohlstetter reported how Canadian Prime Minister Trudeau insisted to Mrs. Gandhi that the Canadian-donated CIRUS reactor was not to be used for making bombs. Trudeau interpreted her silence as acceptance, she was satisfied that she had not agreed. After the Indian nuclear explosion of 1974, Canada ceased its nuclear aid.

Yet since 1974 many policy and legal experts have defended the Indian explosion because India sees things differently and is a sovereign country. This "defense" sidesteps the issue. Instead, it serves up a red herring popular in international affairs—namely, that not to take foreign claims (e.g., this bomb is peaceful) at face value is to demean foreign sovereignty.

India, however, pursues and sometimes uses military power. She has long studied nuclear weapons and has large conventional forces. She feels a Chinese threat. Many members of the Indian elite would enjoy big-power status. Nuclear weapons are big-power status symbols.

What happens if Congress approves the shipment? First, U.S. nonproliferation policy loses credibility. In addition, the U.S. would lose influence again on not only the nuclear but the general foreign policies of states such as Pakistan.

Clearly, there are deeper problems here than just a reactor reload for Bombay. First, the strategic decline of the U.S., real or perceived, reduces the impact of U.S. support or U.S. alienation. U.S. wishes count less.

Second, at home, the U.S. hardly thinks about nonproliferation's place among other U.S. goals. We don't know what we think it's worth. Nonproliferation issues tend to be reviewed in narrow nuclear and legalistic terms. But if proliferation is so important we should be able to find a range of incentives to influence foreign choices, and to choose where nonproliferation fits in among our strategic needs.

Finally, choosing our needs can help U.S. policy makers to hold onto U.S. goals. While it is most unfortunate that the Indian government disagrees with the U.S., that doesn't mean that the U.S. must renounce its views. But without strategic coherence, the pressure to bend before each diplomatic furor is hard to resist.

We could rethink our open-ended encouragement of traditional national aspirations around the globe. These aspirations historically have included the "right" to glorious military power. Pretending that everyone is an equally great power may encourage many to try for that apotheosis. World peace may well be the cost of upward social mobility.

There is a moral dimension. Nonproliferation is called a U.S. interest because the U.S. is its leader. But if the bomb spreads, the consequences will likely fall (at first) on the peoples of the "Third World," whose governments threaten each other, rather than on the U.S. Their insensitivity to proliferation does not justify our malign neglect.

[From the Los Angeles Times, Sept. 12, 1980]

REWARDING INDIA FOR NONCOOPERATION

The Carter Administration, stunned by House and Senate committee decisions to block a proposed sale of nuclear fuel to India, is lobbying vigorously to have the committee actions reversed on the floor of one house or the other. This is a fight that we hope the Administration loses.

The White House proposes to ship 38 tons of enriched uranium fuel to India for use in the Tarapur atomic power station. The transaction was disapproved by the Nuclear Regulatory Commission for the very good reason that it would violate the clear intent of the Nuclear Nonproliferation Act of 1978.

That law prohibits the transfer of nuclear materials to nations that do not accept international inspection of all their atomic facilities to prevent a diversion into nuclear bomb-making.

India exploded a nuclear device in 1974, using American and Canadian materials in violation of the supply agreements with both nations. To this day, the government of Indira Gandhi refuses either to accept international inspection or to promise that more nuclear devices won't be exploded. India is also among the holdouts that have never signed the multinational Nonproliferation Treaty of 1970, aimed at preventing the spread of nuclear weapons.

President Carter used the authority provided by the 1978 antiproliferation law to override the regulatory commission's finding. But his decision in turn can be overridden by a vote of both houses. The deadline for such a congressional veto is Sept. 27.

The State Department argues that, especially in the wake of the Soviet invasion of Afghanistan, the United States shouldn't be in the business of irritating India and possibly nudging that country into an even chummier relationship with the Soviet Union.

This is an appealing argument as far as it goes. But it overlooks the fact that rewarding India for its flat refusal to accept international safeguards could have even worse consequences.

Such action might, to begin with, virtually eliminate any prospect of dissuading Pakistan from pursuing its own nuclear bomb-making program. Even more important, it would deal a heavy blow to the credibility of the Administration's entire antiproliferation effort.

If the United States is prepared to overlook India's calculated noncooperation with the nonproliferation effort, other countries are justified in assuming that they can get away with the same sort of behavior without suffering any serious consequences.

We urge the House and Senate to back their committees and pass resolutions disapproving of the nuclear fuel deliveries.

[From the Washington Post, Sept. 22, 1980]

CLEAR SIGNALS ON NUCLEAR FUEL

By a three-to-one margin, the House last week rejected the president's proposal that the United States send another shipment of nuclear fuel to India even though India has refused to accept international safeguards on its nuclear facilities or to renounce further weapons tests. The vote echoed the earlier judgment of both the House and Senate foreign relations committees and the unanimous decision of the usually divided Nuclear Regulatory Commission. The final fate of the fuel shipment now rests with the Senate, which must also reject the proposal in order to override the president's override of the NRC.

For more than two years, the United States has been trying to negotiate some kind of compromise safeguards agreement with India. It has met with no success and no indication of even the slightest interest on India's part. If anything, the Indian government has underscored the wide gap between the two countries by regularly reasserting its right to perform additional nuclear tests if it chooses.

The two-year grace period provided by the U.S. Nuclear Non-Proliferation Act, during which nuclear exports could continue to countries that had not accepted full international safeguards, expired last spring. The hard choice now is whether to stop the fuel shipments as the law requires or to set a precedent by waiving the law on the first test of its central provision, in the hope that the United States will thereby retain "leverage" over future Indian policy.

The vote therefore has a double-barreled significance. A decision to ship the fuel would signal that the United States didn't really mean what it said in the 1978 law and would make it much harder to reach acceptable agreements with the many other potential weapons builders around the world. Moreover, the waiver would be for India—the country whose 1974 nuclear test was largely responsible for U.S. non-proliferation policy in the first place. The message sent to other nations would be unmistakable: the United States is not only unlikely to react to countries that explode nuclear bombs, but may not even suspend its nuclear assistance.

The administration is pulling out all the stops in its efforts to convince undecided senators. It surprised nearly everyone by circulating a letter claiming that India didn't violate its agreement with the United States when it used materials supplied by this country to make the bomb exploded in 1974. In response, Sen. John Glenn (who writes about this question on the opposite page today) requested the immediate declassification of a secret *aide memoire* sent by the U.S. government to India in 1970. The administration released the document, which had made it unmistakably plain to the government of India *four years before the nuclear explosion* that the United States considered what India was doing to be "tantamount to the development of nuclear weapons" and a "contravention of the terms under which the American [nuclear] materials were made available." So much for the leverage bought by continuing nuclear supply.

The administration is arguing that since India didn't accept the U.S. position stated in that document, it never violated an agreement. This is pure Alice in Wonderland: to defend its position now, the U.S. government accepts India's rejection of its earlier position. So much for consistency and firmness of purpose.

The decision to halt nuclear fuel shipments to India is unpleasant, but critical. Any other choice would make a mockery of a decade of efforts to halt the spread of nuclear weapons and to guarantee that peaceful-purpose nuclear projects can be assisted—without danger of the materials' being diverted to make bombs.

Mr. HAYAKAWA. I thank the Chair. I yield to the distinguished Senator.

The PRESIDING OFFICER. Who yields time?

Mr. PERCY. Will the Senator yield for a question and a unanimous consent?

Mr. GLENN. On Senator PERCY's time.

Mr. PERCY. Yes.

The PRESIDING OFFICER. The Chair has to interrupt. The Senator from Illinois has no time.

Now, the Chair will be glad to recognize the Senator from Illinois when and if he is yielded time under the time agreement.

Who yields time?

Mr. PERCY. As I understand it, the Republicans——

Mr. GLENN addressed the Chair.

Mr. PERCY. Those in opposition have time.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PERCY. How much time does the Republican side, in opposition to the resolution of disagreement, have?

The PRESIDING OFFICER. Senator JAVITS has 40 minutes remaining.

Mr. PERCY. On behalf of Senator JAVITS, I ask time from his side.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, I ask unanimous consent that out of that time also the Senator from Mississippi (Mr. STENNIS) be given 5 minutes, at a time of his own choosing.

Mr. GLENN. Reserving the right to object, Mr. President, would the Senator repeat that?

Mr. PERCY. That Senator STENNIS asked for 5 minutes. As I understand it, there is very limited time on the Democratic side in opposition to the resolution of disapproval. Therefore, Senator JAVITS, in the time he controls, will yield 5 minutes to Senator STENNIS at his request.

The PRESIDING OFFICER. The Chair advises at this juncture the Senator from Illinois, who is controlling the time allotted to the Senator from New York——

Mr. PERCY. That is correct.

The PRESIDING OFFICER (continuing). May yield time if he sees fit.

Mr. PERCY. Then I make that unanimous-consent request for 5 minutes for Senator STENNIS.

The PRESIDING OFFICER. The Chair advises the Senator from Illinois that under unanimous consent he has the right to yield time as he so desires.

Mr. GLENN. I have no objection to any time controlled in any such way, but not necessarily at this moment. We have Senators here waiting in the Chamber.

Mr. PERCY. Mr. President, he is not prepared to come for at least 30 minutes. He will not speak for at least 30 minutes. So, anytime after 12:30.

Mr. GLENN. Mr. President, no unanimous consent is needed to yield time under a time agreement, as I understand it.

The PRESIDING OFFICER. The Senator is correct.

Mr. GLENN. As I understand it, the Senator is controlling Senator JAVIT's time. He is in the Chamber. When Senator STENNIS is on the floor, I suggest at that time, without any unanimous consent required, he yield the time.

Mr. PERCY. That is perfectly all right.

I would like to ask a question of Senator HAYAKAWA.

As I understand it, Senator HAYAKAWA has just said Iran and India have signed a trade agreement.

According to the Foreign Relations Committee staff, which discussed this matter with the State Department as recently as last Friday, contrary to earlier indications, India has not signed a new trade agreement with Iran which would help the latter circumvent U.S. sanctions. An Iranian trade delegation did visit India in June for talks on expanded trade possibilities, but no agreement was reached.

While India has been publicly critical of Iran for holding the hostages, it has not supported economic sanctions. Therefore, it may at some point agree to expanded trade relations with Iran, but has not yet done so.

I wanted to clarify the point made by my distinguished colleague from California.

Mr. HAYAKAWA. If I may reply, Mr. President——

Mr. PERCY. On the Senator's own time.

Mr. GLENN. I yield such time as the Senator from California may need to reply.

Mr. HAYAKAWA. I am quoting from the Statesman from Delhi that agreement has been met:

> What remains to be finalized is the financing of the deals since India wants assurances on payments.
>
> In effect, the result of the talks is that India has agreed to help Iran to beat the U.S. and EEC sanctions imposed because of the hostages issue. Iran presented a long shopping list to India of items that she needs urgently and much of her needs are to be met.

In fact, in other words, the deal has gone through except for financing.

Mr. GLENN. If the Senator will yield, and on my time, I concede the point in the fact sheet, is not quite accurate and I corrected that yesterday. We said India has signed the deal that it was fully consummated which is the report we had had.

But we learned later the financing was to be worked out.

The Senator is correct. The absolute signed operative deal is not there yet. India's foreign policy intent in negotiating this, and she is now only haggling over the price, is absolutely clear.

Mr. PERCY. I appreciate very much the Senator clarifying that.

We all agree there is no such agreement. The Senator from Illinois understands there are no negotiations now.

However, again, the action of the Senate in this case could push India, possibly, one way or another. There is no way of telling.

But, as of now, the indications would appear to the Senator from Illinois to be negative so far as their going ahead with a trade agreement.

Mr. GLENN. On my time, Mr. President, as I understand it, negotiations were underway. The only thing that fell apart was the financing. As I understand it, they are still working on that, but the intent of India was obvious in this regard.

Mr. President, I yield 8 minutes to the Senator.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I wish to speak in support of my colleague from Ohio.

This country has a policy of promoting nuclear nonproliferation. This policy is incorporated in our law in the form of the Nuclear Nonproliferation Act of 1978. Perhaps more significantly, it has been one of the prominent features of our foreign policy during this administration. At times we have placed great stress on our alliance system as when we have complained of transactions involving nuclear materials between, most recently Swiss, and also French and West German suppliers and Iraqi, Pakistani, Argentinian, and Brazilian recipients. We have committed ourselves so strongly and vocally on this matter that, for this and other reasons, Pakistan was sufficiently annoyed at us to reject a $400 million arms pact earlier this year. Thus, to turn around and violate our policy—and our law—in order to ship nuclear materials to Indira Gandhi's India undoubtedly will invoke cries by our European allies that we are at best inconsistent, and perhaps would drive the Pakistanis still further away from us.

India is not now led by Desai or Singh, but rather by Mrs. Gandhi. This is the woman who was responsible for the August 1971 Treaty of Peace, Friendship and Cooperation between the U.S.S.R. and India, and a period of very close cooperation with the U.S.S.R. did indeed ensue. In 1974, Mrs. Gandhi appears to have used American-supplied heavy water—despite American formal communications 4 years previously specifying that such use would constitute violation of the American understanding of our sales contract—in the manufacture of India's bomb, its so-called peaceful nuclear explosion. In 1977, she was deposed in reaction to her imposition on what had been the world's largest democracy, of the so-called emergency period, which witnessed the suspension of all democracy and political freedom in the country.

From reports in today's newspapers, it appears that, once again, Mrs. Ghandi is headed in that direction. It appears that she is reimposing those sanctions.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from today's New York Times on this subject.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NEW LAW GIVES GANDHI REGIME POWER TO IMPRISON WITHOUT TRIAL

NEW DELHI, September 23.—A new national security law went into effect today arming Prime Minister Indira Gandhi's Government with powers to jail anyone for a year without trial. The law has raised fears of a return to the wholesale detentions carried out during Mrs. Gandhi's 1975–77 emergency rule, but the Government insists it has provided safeguards against abuse.

The ordinance, proclaimed as an executive fiat late last night by President Sanjiva Reddy, was officially said to be needed to contain the spreading violence between Hindus and Moslems and to deal with persons "acting in any manner prejudicial to the defense of India or the security of India."

Opposition parties condemned the move as a revival of the Maintenance of Internal Security Act, which was widely used by Mrs. Gandhi's Government during her emergency rule preceding her election defeat in 1977. The law was revoked by the Janata Party Government that succeeded Mrs. Gandhi. She returned to power in January this year.

The Chief Minister of West Bengal, Jyoti Basu, a Communist, said he was strongly opposed to the new ordinance.

"We would not need it at all," he said when asked whether he would use it in his state. "Let those who have the need for the ordinance implement it."

Madhu Limaye, the leader of the largest opposition party, Lok Dal, said the new law would be used against the opposition as had been the case in the late 1970's when over 150,000 opposition leaders and political workers were imprisoned without recourse to the courts.

However, the ordinance stipulates that the state or federal authority ordering the detention should communicate to the detainee the reasons for his or her arrest within five days. The maximum term of imprisonment, according to the ordinance, will be 12 months, and a board of judges will review each case.

Officials said that various state governments had enacted laws for preventive detention to deal with specific situations and that the federal government "thought that it would be better to have a central legislation for the whole country."

They also pointed out that the opposition party governments of Morarji R. Desai and Charan Singh that ruled the country while Mrs. Gandhi was out of power also favored preventive detention measures but were unable to get one through Parliament. The ordinance will be formalized at the session of Parliament beginning in November, an official said.

"COMMUNAL DISHARMONY" NOTED

"The need for the ordinance has arisen," said an official statement, "looking to the prevailing situation of communal disharmony, caste conflicts, social tensions, extremist activities, atrocities on minorities and other weaker sections of society, and the increasing tendency of interested parties to engineer agitation of different issues."

"Secessionist activities and regional movements have reared their ugly head in some parts of the country," the statement added. "These are the elements who pose a grave challenge to the lawful authority and some times even hold the society to ransom.

"It is, therefore, felt necessary that the Government arms itself with sufficient preventive powers to deal effectively and sternly with these antinational and antisocial elements."

The opposition leaders were not impressed by the explanations. Subramania Swamy, a leader of the Janata Party, which successfully fought Mrs. Gandhi's emergency rule, said his party would agitate throughout the nation for the removal of the "obnoxious" ordinance. "Any Government which cannot rule with the existing laws does not deserve to exist," he declared.

Mr. BOSCHWITZ. Mr. President, Mrs. Gandhi's new law grants the regime the right to imprison people up to 12 months without trial. No one who treasures freedom and democracy can look favorably upon this new development, and the present administration has talked at great lengths about human rights with respect to its foreign policy.

Yes, Mrs. Gandhi is back now; and upon returning, she immediately reestablished intimate ties with the Soviet Union, and at this point she is reimposing what seems to be severe human rights violations. Among the first actions she took was to sign an enormous arms deal with the U.S.S.R. for some $1.6 billion. She refuses to preclude further "peaceful nuclear explosions" and has recently developed a rocket with at least intermediate range and possibly intercontinental range. Moreover, lest we question whether her arms link to the U.S.S.R. has greater implications, India has recognized the Soviet- and Vietnamese-backed Heng Samrin regime in Cambodia and cooperated in helping Iran circumvent our sanctions against that country, as the distinguished Senators from Ohio and California have just pointed out. If that treaty has not been signed, surely the intent of India has been made clear.

If Mrs. Gandhi were willing to sign the Nuclear Nonproliferation Treaty, or at least to accept full-scope safeguards and renounce further nuclear explosions, it might still be worth considering dispatch of further fissionable materials to India. However, she has taken none of these steps. While there are 114 signatories to the nuclear nonproliferation treaty, India is not among them. As the distinguished Senator from Ohio has pointed out, other countries—Australia and Canada—have decided not to deal with the Indians because of that and because India will not accept full-scope safeguards.

The Nuclear Regulatory Commission voted unanimously to suspend shipments to India. The House of Representatives voted by a margin of 298 to 98 to uphold that decision of the NRC and our own Foreign Relations Committee voted the same way, if by a narrower margin.

The nuclear card is not the only card in our hands with respect to India. In addition to $2 billion in Indo-American trade this year, the United States maintains a modest conventional arms relationship with India, having recently sold her $32 million worth of TOW antitank missiles while $281 million in economic assistance is requested by the administration this year. Certainly this constitutes significant leverage. However, there must be limits on the degree to which the United States will subsidize regimes which have not operated in our interest. Our generosity is legion. However, it is not in our interest to continue these shipments, thereby depriving India, and by example other potential nuclear powers, of any incentive to join in the nuclear nonproliferation process.

What we preach to our allies, we should practice ourselves.

In this context, I point out that there is no small degree of irony involved in our current, almost acrimonious, dispute with Switzerland over its nuclear relationship with Pakistan, occurring at the same time that the administration is battling the Nuclear Regulatory Commission, the House of Representatives and the Senate Foreign Relations Committee over our shipments of fissionable materials to India. Yet, simultaneously we dispute Switzerland over its nuclear relationship with Pakistan.

The PRESIDING OFFICER (Mr. HEFLIN). The Senator has used 8 minutes.

Mr. BOSCHWITZ. I ask unanimous consent for another half-minute.

Mr. GLENN. I yield 2 minutes to the Senator.

Mr. BOSCHWITZ. Mr. President, I find it totally inconsistent and contradictory when an administration dedicated not only to human rights but also to a nuclear nonproliferation treaty asks us, on the same day we are criticizing Switzerland, to vote to send enriched uranium to India.

I ask my colleagues to join me and the Senator from Ohio.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

Mr. CHURCH. Mr. President, I ask unanimous consent that the time for the quorum call not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, I yield 2 minutes to the able Senator from Michigan.

Mr. PERCY. I yield 3 minutes to the Senator.

Mr. CHURCH. That is a total of 5 minutes.

Mr. LEVIN. I thank my friends.

Mr. President, I very much oppose the proliferation of nuclear weapons. My service on the Armed Services Committee has driven home the horrors of these weapons and the peril in which they place the survival of life on Earth. But while I support efforts to reduce the proliferation of nuclear weapons I also oppose the proliferation of the dishonoring of commitments that have been freely made by one nation to another. We should take our commitments as seriously as we should want other nations to keep their commitments. Just as a community depends for its survival on its members keeping their obligations to each other, so does the community of nations depend on its members keeping commitments if we are to ever make this planet a saner and more rational place on which to live.

If there were a conflict between keeping a commitment to India to supply clear fuel for her Tarapur plant and endangering world peace and safety we would no doubt choose to violate our commitment and take the consequences.

But after studying all the materials in this matter, I am not convinced that the nonproliferation cause would be assisted by rejection of this sale, and thereby going back on our commitment. No one can tell with reasonable certainty whether there will be more or less nuclear arms in the world if we reject this shipment and thereby provide justification to India to walk away from her side of the bargain, which is to sell us the byproduct of the Tarapur reactor and not to sell it to other countries who could reprocess it into the plutonium necessary for nuclear bombs.

In summary, I don't think the rejection of this sale enhances nonproliferation more than would the approval of this sale.

But a basic question remains: Whether there was a commitment to sell fuel to India for the Tarapur reactor or was the commitment subsequently modified to make it conditional on whatever law Congress might later wish to adopt.

In 1963, we signed an agreement with India. It provided that the United States "will sell to the government of India and the government of India will purchase from the United States" enriched uranium for the Tarapur atomic power station as needed. The agreement also provided that the United States shall have the first option to purchase the spent fuel at Tarapur. In 1966, the supply contract was entered into. Article 15 of the contract said that, in the event of the incompatibility beween the contract and the 1963 agreement, the 1963 agreement would govern. The supply contract also provided that it was possible that applicable domestic laws of the United States with respect to ownership and supply of nuclear material might be changed and that, in such an event, the parties would agree to consult with each other to determine what modifications might be required, if any, to make actions to be performed under the supply agreement consistent with the implementation of the U.S. laws as modified but that "nothing in this Article XI shall affect the obligation of the seller (U.S.) to sell * * * and that of the purchaser (India) to purchase all of the purchaser's enriched uranium requirements for Tarapur as provided in Article II."

An amendment to the 1966 supply contract was needed because the Atomic Energy Commission had gone out of existence and private suppliers had to be authorized to take title to the fuel inside the United States and to arrange for the export of same.

Mr. President, the key to this debate is the 1971 amendment. No conditions were attached to the sale in 1966. The 1974 blast which has been referred to by the Senator from Ohio is not relevant to this debate, for two reasons. First, it has nothing to do with the contract between ourselves and India on Tarapur in 1963. The heavy water used in the explosion was not heavy water which was supplied under the contract at issue.

Second, there have been many sales of nuclear material since that blast.

My research indicates there have been at least four sales of nuclear material to India since that blast by India in 1974.

So the question comes down to the 1971 amendment. That amendment should be read in its entirety. It does not say that India is going to be bound by the applicable laws of the United States. It says that India will be bound by the applicable laws of the United States in connection with material delivered to India, and this is a critical distinction.

Senator Javits has covered the legal analysis of this matter. He has shown, extremely effectively, that the context of this amendment is clear, that it was boilerplate, that it resulted from a changed situation in the United States where instead of the U.S. Government being the shipper there was going to be a private shipper starting in 1971. That is the purpose of the 1971 amendment.

But even beyond that, by the terms of the 1971 amendment itself the so-called phase 2 full-scope safeguards of 1978 do not even apply. They do not apply because the amendment of 1971 says that the laws of the United States will only govern as to material delivered to India, and the phase 2 full-scope safeguards do not relate to material delivered to India under our supply contract but relate to other nuclear facilities of India.

The phase 1 requirements in the 1978 act have all been met. I do not understand the Senator from Ohio to indicate that they have not been met.

The No. 1 safeguard in phase 1 is that the International Atomic Agency safeguards must be applied to all materials exported by the United States. The second part of phase 1 is no exported materials may be used for any nuclear explosive device. No. 3, adequate physical security measures are to be maintained with regard to exported materials. No. 4, no exported materials may be reexported. And No. 5 also applies to exported materials.

All of that is part of phase 1 of our 1978 act. All of that has been met as far as I know, and I do not think there is any dispute as to that by the Senator from Ohio.

It is the phase 2 "full scope" safeguards which are at issue. They do not apply to delivered material. Again they only apply to all the other facilities of India which we do not supply.

Finally, Mr. President, at the very worst this language is ambiguous. The legal situation here is arguably ambiguous. If it is, you look at the surrounding circumstances to ascertain the intention of the parties. The intention of the parties from looking at the documents which surrounded this 1971 modification seems very clear.

Mr. President, I ask unanimous consent to have printed in the Record a letter from Mr. Dixon B. Hoyle, director of international nuclear energy affairs for Westinghouse Corp., dated May 15, 1980, and it is addressed to a member of the Nuclear Regulatory Commission.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Westinghouse Electric Corp.,
Washington, D.C., May 15, 1980.

Commissioner Victor Gilinsky,
Nuclear Regulatory Commission,
Washington, D.C.

Dear Victor: I have recently read with interest your speech of February 5, 1980, before the India Council of Washington, D.C. on U.S.-Indian Nuclear Relations. Although Westinghouse is in no way involved in this question, I have continued to follow the Tarapur situation closely, among other things, because of my long association with the fuel supply contract, which I helped to negotiate and subsequently administered in the AEC.

I was particularly interested, therefore, in the rationale which you make in the third paragraph of page 3 for the right of the U.S. to impose the full-scope safeguard condition on India. A key to this rationale is the provision of the fuel contract which requires that India procure all necessary permits or licenses and comply with all applicable laws, regulations and ordinances of the United States. I thought you might like to know how the amendment to the original contract—which did not contain this provision—came about.

My memory may fail me in small details and I no longer have access to the relevant files (if, indeed, they still exist), but the substance of the amendment was as follows. At the time the contract was signed, AEC could legally sell only enriched uranium (not enrichment services) and the sale (passage of title) was consummated at the port of export. At that time, as I recall, the export was still on a government-to-government basis and did not require an export license. When fuel was fabricated in the U.S., as GE was doing for Tarapur, the AEC-licensed fabricator leased the enriched uranium from the AEC; at the time the sale was made at the port the licensee's lease account was credited with the equivalent value of the enriched uranium sold.

With the advent of uranium enrichment in the United States in 1958, the AEC acted to terminate its domestic leasing arrangements in favor of private ownership. (India was offered an enrichment services contract for Tarapur as a replacement for the enriched uranium sale contract, but declined). This created a dilemma. The enriched uranium sale contract called for title to pass to India at the port of export and GE could no longer lease the material during the United States fabrication period. We went to the Indians and explained this, asking them to take title at the AEC enrichment plant, to which they ultimately but reluctantly agreed (among other things, it meant earlier payment to AEC). We then had to clarify in the sale contract which party was responsible for meeting domestic U.S. regulations, health and safety requirements, etc. since India would now "own" the material in the United States. The amendment was the result and represents "boiler-plate" contract language developed by AEC's lawyers to cover this issue for all foreign and domestic contracts. (Incidentally, it is one of the fuel supply contract provisions which historically has most often been contested by foreign customers).

My real point is that at no time during our negotiation of the amendment did either party have any intention or understanding that the provision could be used as a rationale for the United States to deny the export of low enriched uranium as a result of a law which the latter subsequently might pass was intended solely to clarify a relatively minor legal point and this is how it was "sold" to India, who was under no obligation to accept it. Although my long exposure to lawyers does not qualify me to make legal judgments, I have a strong suspicion that the negotiating history of a contract amendment of this nature would be very relevant if it were to become an issue in the courts. Of course, this is highly unlikely to occur, but I feel there is a certain injustice in rationalizing a U.S. position on such a questionable interpretation.

If you are interested in looking into this further, I would suggest that you ask the DOE (International Affairs) to search its Tarapur fuel supply contract files for the period 1969–70 to substantiate this background. You might also wish to consider making this background information available to the other Commissioners.

Sincerely,

Dixon B. Hoyle,
Director,
International Nuclear Energy Affairs.

Mr. LEVIN. Mr. President, it states—and this is from the gentleman who negotiated the 1971 amendment, and I ask my friend from Ohio if he might listen to this because I do not think this document had been made part of the Record before now. This is from Mr. Hoyle, our 1971 negotiator.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LEVIN. Mr. President, I wonder if I could get an additional 1 minute from the Senator controlling time on this side of the issue.

I ask unanimous consent that my opponent yield me time if he has any.

Mr. GLENN. I yield 1 minute of the other side on this, but I would not want to yield much more than that.

Mr. LEVIN. I thank my friend and shall take 1 minute.

Mr. GLENN. I yield 2 minutes.

Mr. LEVIN. I thank my friend.

Mr. Hoyle, who was the negotiator for the United States in the 1971 amendment, said the following in this letter dated May 15, 1980:

> My real point is that at no time during our negotiation of the amendment did either party have any intention or understanding that the provision could be used as a rationale for the United States to deny the export of low enriched uranium as a result of a law which the latter subsequently might pass. It was intended solely to clarify a relatively minor legal point and this is how it was "sold" to India, who was under no obligation to accept it. Although my long exposure to lawyers does not qualify me to make legal judgements, I have a strong suspicion that the negotiating history of a contract amendment of this nature would be very relevant if it were to become an issue in the courts. Of course, this is highly unlikely to occur, but I feel there is a certain injustice in rationalizing a U.S. position on such a questionable interpretation.

Mr. President, I particularly thank my friend from Ohio for yielding to me although I am in the opposition on this matter. I commend him on his sensitivity both to the time needs of his colleagues in the Senate as well as to the nuclear nonproliferation issues which he so eloquently debated.

Mr. GLENN. Mr. President, I thank the distinguished Senator from Michigan very much, and I wish to reply to his remarks.

I yield myself such time as I might need on this. I think Mr. Hoyle is telling only a part of the story and the part he leaves out is the legal part. He even says he is not a lawyer, as a disclaimer on this score. Yet he also points out the AEC's lawyers required this language in all our contracts of the period and that it was often contested, suggesting that it was not mere "boilerplate" but was viewed by a lot of our trading partners as having some significance. And what was the legal background?

As I pointed out in my opening remarks, the Atomic Energy Act at the time said that the AEC could not issue any export licenses if these would be "inimical to the common defense and security" and the AEC regulations were even broader: they said the AEC could not issue a license if this would be "inimical to the interests of the United States."

There is no question the AEC lawyers had to have this legal background in mind when they drafted the 1971 amendment to the 1966 contract stating that India had to procure all licenses—and this included export licenses as we made clear to the Indians in a cable replying to their inquiry on the subject—and comply with all applicable laws. In other words, the AEC lawyers put this language in to make sure that the AEC would have the authority to deny licenses on "inimicality" grounds—which basically was a discretionary standard. The Indians had legal notice of this standard. The standard we are imposing today fits within that standard, as the House report that I quoted from earlier states.

We do not have to argue that the Indians were agreeing to the NNPA as such; they were agreeing to a very broad, discretionary standard, which the AEC lawyers, at least, had in mind.

And let me ask you about the implications of your position; are you not really saying that we can never apply the full-scope safeguards standard in India's case? And are you not saying that we could never apply the cutoff provision of the NNPA if India detonated a weapon which did not involve the Tarapur fuel? That is why I think we are much better off with the more flexible interpretation I've been advocating.

But let me add one more point. It is that we are not in breach by not exporting today, by any view of the contract because India has enough fuel on hand that she does not need the first shipment until February 1982. The agreement forbids her from stockpiling fuel this way. And it is not a result of operating her powerplants at reduced output; the average annual output from these plants has been just about constant over the past decade. We can use this additional time for negotiations and I think we should; but I do not believe we need to give Mrs. Gandhi another 3-year stockpile just to keep negotiations going.

I hope that replies to Mr. Hoyle's comments.

Mr. LEVIN. Mr. President, will the Senator from Ohio yield for a question on that?

Mr. GLENN. I yield for a question.

Mr. LEVIN. Is it the Senator's argument that in the absence of the 1971 amendment the 1978 act would still apply to this sale?

Mr. GLENN. Yes, I believe that, and I think the 1966 contract covered that also.

The Senator from California is waiting. I might be able to reply later on that.

Mr. President, Senator HELMS indicated I could control his time on this. I yield such time as the Senator from California might need out of Senator HELMS' time.

Mr. CRANSTON. I thank my colleague, and I express my admiration for his effective, dedicated, and informed position on this vitally important issue that relates to not only security but to survival.

Mr. President, I urge my colleagues to support the pending resolution, disapproving the export of nuclear fuel to India. Adoption of this resolution by the Senate would be an important step forward in our vital effort to combat nuclear weapons proliferation.

I believe it is important for us not to lose sight of the fact that as we debate the legalisms surrounding amendments to fuel contracts and the propriety of testing "peaceful" nuclear devices what we are discussing here today is one of our most critical national security objectives—stopping the spread of nuclear bombs.

Some believe that the effort to slow the spread of nuclear weapons cannot succeed. And yet during this past decade, nuclear nonproliferation has achieved a number of significant accomplishments.

Ten years ago there were dire predictions that more than a dozen nations would have nuclear weapons before the decade of the 1970's was out. But thanks in large measure to the coordinated nonproliferation efforts of both nuclear supplier and consumer nations, thus far only one country—India—has diverted civil nuclear power technology and used this technology to test a nuclear bomb.

One hundred fourteen nations have, signed the Nuclear Nonproliferation Treaty, committing nonweapons-states to international inspection of all their nuclear facilities. Key uranium suppliers such as Canada and Australia have adopted full-scope safeguards as a condition of export. The spread of plutonium and uranium fuel plants capable of producing nuclear bombs has been slowed by the cancellation of sales to South Korea, Taiwan, and Pakistan. Nuclear supplier nations have agreed on important safeguards designed to reinforce bilateral antiproliferation guidelines. And the U.S. Government has adopted comprehensive legislation—approved by the Congress with but three dissenting votes and strongly supported by the Carter administration—which requires full scope safeguards as a condition of export and which assures access to U.S. nuclear energy production technology only to nations supporting global nonproliferation efforts.

Today in this body the cornerstone of the international nonproliferation regime is being put to the test. Inherent in the international Nonproliferation Treaty and the 1978 Nuclear Nonproliferation Act, is recognition of the basic fact that partial safeguards against diversion of the peaceful atom into bomb production are no good. For international safeguards to be effective, they must be comprehensive. The issue before the Senate today, in its simplest distillation, is thus: Will we defend the nonproliferation regime and uphold the central provision of the 1978 act which requires full scope safeguards as a condition for nuclear exports? I believe it is incumbent upon us to do so and therefore to block the pending sale to India.

Mr. President, it has been argued that the United States has a contractual obligation to fuel the Tarapur reactor and that we should continue shipping fuel to India indefinitely. This argument—which was addressed and dismissed during congressional consideration of the 1978 act—would completely vitiate the full scope safeguards requirements of the Nonproliferation Act and would commit the U.S. to fueling the Indians' nuclear program even if they exploded another nuclear bomb.

I would note the CRS analysis which concludes the United States can insist on Indian adherence to U.S. nuclear export law without violating our fuel supply contract. And I would suggest that the Indians' contravention of a previous nuclear supply agreement with their 1974 bomb test also gives us grounds for withholding supply to Tarapur.

Still more important, I believe, is the basic point that when we are talking about the spread of the greatest threat to human existence—nuclear weapons—we cannot simply adopt a busines-as-usual approach and blindly proceed to fulfill alleged contractual obligations. The United States has successfully pressured other nuclear suppliers to amend or cancel contracts—such as the proposed French sale of a reprocessing plant to Pakistan. We should be willing to show similar restraints ourselves given the critical importance of such controls to our national interests and international security.

I am reluctant to see this body take any action which might offend the sensibilities of the people of India, the world's most populous democracy and a key nonalined power. India is asserting its rights and principles in the current fuel supply dispute. But we in the United States, too, should not be reluctant to stand up for our rights and principles.

The time has come for us to exercise our sovereign rights under the fuel supply contract to require Indian compliance with the basic U.S. nuclear export law. And the time has come for us to defend the principle that we cannot in good conscience support the nuclear program of a country which has diverted—and will not rule out the possibility in the future of again diverting—peaceful nuclear materials into a nuclear bomb program.

I understand the concern some Senators have expressed regarding the potential effect of this sale on United States-Indian relations. But there is no evidence that approval of this export will gain greater Indian support for U.S. international objectives. In the wake of the Carter administration's offer to send India more nuclear fuel, the Gandhi government signed a new $1.6 billion arms deal with the Soviet Union, entered into negotiations for a far-reaching trade pact with Iran designed to circumvent the U.S. embargo and became the first nonalined government to recognize the puppet regime of Heng Samrin in Cambodia.

The administration's offer of nuclear fuel has not won any new Indian sensitivity to American interests. To the contrary, this offer has highlighted the danger and the futility of using nuclear exports to achieve other foreign policy objectives. Congress has found that one of the principal causes of proliferation is the fact that the United States and other governments have frequently given in to the temptation to use nuclear exports as carrots to improve specific bilateral relationships. It was to address this problem—and to insure that long-term U.S. national security concerns will take priority over transitory bilateral interests—that Congress enacted comprehensive legislation establishing clear standards and licensing procedures for nuclear exports in 1978. We should not reject this accumulated experience in our consideration of the pending Indian export application.

Mr. President, in 1974, after India used American and Canadian nuclear materials to fabricate a nuclear bomb—in defiance of a specific U.S. protest that such use would violate our 1956 nuclear supply agreement—the United States failed to join Canada in terminating nuclear exports to India and insisting on full scope safeguards. Again in 1978, the United States showed flexibility in our nuclear relationship with India, deferring for 2 years our insistence that India adopt full scope safeguards as a condition of continued U.S. supply.

Congress acquiesced in further nuclear sales to India during this 2-year grace period for three principal reasons. First, it was hoped that 2 years would provide time for meaningful negotiations with the Indians to gain their acceptance of full scope safeguards. Second, because the authoritarian, pro-Soviet regime of Mrs. Gandhi had been replaced by that of the more democratic Mr. Desai, the United States hoped for progress through negotiations. And third, Desai ruled out any additional nuclear bomb explosions by India.

Today, as we meet to consider the Indians' latest export application, none of these conditions obtain. There are no safeguards negotiations whatsoever underway with India. Gandhi is in power once again, tilting toward the Soviets and curbing democratic freedoms. And under her leadership the Indians now will not rule out further nuclear tests.

We are left with the choice of defending our policy or of capitulating to Indian pressure and consenting to supply the Indian nuclear program in perpetuity—even if India detonates more nuclear explosives or threatens to throw off the limited safeguards it now has on U.S.-supplied material once our uranium contract expires in 1993.

I believe the time has come for us to stand by our principles and assert our rights in furtherance of nonproliferation and national security goals. I urge a "yea" vote on the Glenn resolution.

Mr. GLENN. Mr. President, I yield such time as the distinguished Senator from Pennsylvania may need.

Mr. HEINZ. Mr. President, the issue before us is a difficult decision, I am sure, for all Senators, but one that is surrounded by complex legal and policy questions and one which will in all likelihood have serious implications for the success of our nonproliferation policy. After considerable study and discussion, with both opponents and proponents of this resolution, I have concluded that our law and our interests are best served by adopting the resolution and thereby blocking this sale of nuclear fuel to India.

It is ironic, in view of the administration's determined lobbying against the resolution, that the dilemma this decision poses was created by the President's own insistence 2 years ago on rigid and inflexible nonproliferation legislation—the Nuclear Nonproliferation Act of 1978. I had serious reservations about that legislation at the time, some of which were the subject of correspondence I had with administration officials, and it is the rigid deadline in the bill for other nations to accept full scope safeguards that has gotten us into the present situation.

I must say it is typical of this administration that, having put itself into a straitjacket, it now seeks to get out of it by changing its policy in midcourse and then reinterpreting the law to justify its about-face. This is reminiscent of last year's strong stand on Soviet troops in Cuba, followed by backing down and covering up when it became obvious the Soviets were not going to leave just because President Carter said they should. This administration has little credibility left in the rest of the world, and it is distressing to see it once again thrown away in a reversal of direction.

The administration has developed a complex legal argument to make the case that the fuel sales in question fall within the 2-year grace period provided in the NNPA, which expired in March 1980. Those who are familiar with the NNPA and the legislative history behind it reject these arguments and recognize them as those of convenience, designed to justify an administration decision made for other reasons. The Nuclear Regulatory Commission did not support this contention by the administration, and there is no reason for us to do so now.

Rather, we should turn our attention to the more important policy issues surrounding this decision. These issues are the impact the sales would have on the credibility of our nonproliferation policy and the impact they would have on the likelihood of actual proliferation of nuclear weapons.

With respect to our own nonproliferation policy, the issue seems clear. The Nuclear Nonproliferation Act of 1978 imposed on us a determined and rigorous commitment that our nuclear resources not be used to meet the needs of countries not accepting full-scope safeguards. Though India has accepted IAEA safeguards at Tarapur, it has regularly refused to accept them on its CIRUS research reactor—material from which was apparently used for India's nuclear explosion in 1974—or on its reactors that are presently under construction. Neither has India made any commitments to refrain from further nuclear tests. In short, India has clearly failed to comply with the terms of the NNPA. Therefore, not to act pursuant to the NNPA and restrict fuel deliveries would equally clearly undermine the credibility of our nuclear nonproliferation policy at the very time it is already under considerable stress. It seems to me to do so would send a message loud and clear to all nations, including those we do not supply with nuclear fuel, that this country is not serious about nonproliferation and safeguards, and that this country is not serious about the laws it passes.

There are, of course, questions on the other side of our status as a reliable supplier of fuel and of our having changed the rules of the game, so to speak, long after our 1963 agreement with India. The facts remain, however, that other nations we supply do not have India's attitude about safeguards, and that our 1963 agreement with its 1971 amendment make a compelling case that India is obligated to accept the terms of the NNPA.

Even if one accepts these arguments of opponents of the resolution, however, the question nonetheless remains whether it is better for us to be perceived a reliable supplier or perceived to mean what we say in laws and pol-ices we adopt. Even under those circumstances—which I do not believe are the case here—we should opt for the latter course and seek to preserve the credibility of our policy and the worldwide understanding and perception that the United States means what it says—a perception increasingly lacking over the past 3½ years as the Carter administration has flipped and flopped its way through one foreign policy crisis after another.

The second issue is how our decision on these applications will affect the nuclear policies of other nations, particularly India, Pakistan, and China.

In that regard, the most likely conclusion is simply that our action on this resolution will not affect the policies of those countries in any significant way, whether or not we pass the resolution. Pakistan is clearly determined to pursue the development of its own nuclear capability, despite our efforts to block them. News reports over the past week, for example, have contained reports that Switzerland has been helping Pakistan obtain needed equipment, and that construction on a small test facility near Rawalpindi, thought abandoned a few years ago, in fact resumed clandestinely and will probably give Pakistan the ability to explode its first bomb 2 years earlier than expected. Obviously our leverage here is minimal; our past efforts have been unsuccessful. If anything, a decision on our part to continue supplying India with nuclear fuel will only strengthen the Pakistani commitment to their own nuclear program.

In my judgment the situation in India is much the same. India exploded a nuclear device in 1974 and has refused to accept safeguards except where necessary to obtain fuel supplies. Few observers doubt that India's nuclear program is continuing at full speed, especially now that Indira Gandhi has returned to the office of Prime Minister, or that it is likely to change because of our action on this resolution. The argument that by continuing to sell the fuel we maintain some sort of policy control cannot be sustained by the facts and our experience. The Indians have been somewhat ambiguous about what they would do if this resolution is adopted. Beyond saying they would regard the 1963 agreement as broken, releasing them from their obligations, it is not clear what action they would, in fact, take, although there has been considerable discussion of what actions they could take. In fact, an examination of the possible consequences, notably the availability of substantial quantities of spent fuel released from safeguards and the possibility the Indians would begin reprocessing, suggests that they are not a great deal different than what will happen anyway.

With the further development of their indigenous facilities, the Indians will have ample quantities of unsafeguarded plutonium available, and they already have plans for a plutonium recycling facility. At worst, adopting this resolution could slightly speed up the inevitable.

The Chinese case, of course, has some similarities to that of Pakistan. Already a great power in every sense of the word, a U.S. decision to continue supplying nuclear fuel to India is likely only to encourage the Chinese to continue their own nuclear plans, given the growing threat they may perceive to the south.

In conclusion, Mr. President, it seems to me that our decision on these sales one way or the other is unlikely to have a significant impact on the nuclear plans of the states in the region, while it is likely to have a damaging effect on the overall credibility of our policy and its impact elsewhere. For those reasons, Mr. President, I intend to support this resolution and oppose the President's decision to approve these sales.

Mr. GLENN addressed the Chair.

Mr. PERCY. Mr. President, with the indulgence of my colleague, I yield 5 minutes to the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I rise to oppose Senate Concurrent Resolution 109 and I support the President's decision to export nuclear fuel to India for the Tarapur Atomic Power Station. That is a tough decision for me. I have taken this position because I believe that on balance, our overall nonproliferation objectives are better served by proceeding with these two export licenses than by blocking them. Specifically, I believe that proceeding with these exports will preserve important safeguards on the Tarapur reactors and the fuel the United States has provided for them—safeguards I feel that would otherwise very likely be lost. Export approval will prevent India from simply turning to other countries for sources of supply, countries that may not insist on the safeguards already applicable to the Tarapur reactors and fuel. Finally, I believe that approval will provide an opportunity either to build international support for our position on requiring "full-scope" safeguards sufficient to convince India and the few other nonweapons states that have not yet done so to accept full-scope safeguards, or in the alternative, to negotiate arrangements for the return or transfer of U.S.-supplied materials to assure that U.S. exported material is not used by India to make nuclear explosives.

Mr. President, I would like to start with a few general observations. First, I think there is probably a widespread agreement among the Members of this body on what our overall nonproliferation objectives should be. Those are to assure that U.S. exports of nuclear materials, equipment and technology are not used by nonweapons states to make nuclear explosives—bombs—and ultimately, to assure that all nonweapons states place all of their nuclear activities under full-scope international safeguards so as to prevent the use of these activities for nuclear explosive purposes. The question before us today is not whether to abandon these objectives. Rather, it is whether these objectives will be further advanced by allowing these two exports to proceed or by blocking them. This is particularly true for the objective of obtaining full-scope safeguards. I think we all might agree that the full-scope safeguards requirement—the commitment by a nonweapons state to make all of its nuclear activities subject to the international safeguards and inspection regime of the International Atomic Energy Agency—is the very key link in international efforts to prevent the further spread of nuclear explosives. Full-scope safeguards should always continue to be a central objective of U.S. nonproliferation policy, and a most critical factor in our decision today should be whether these exports will assist or detract from our efforts to convince India and the few other countries that have not yet done so, to accept IAEA safeguards on all of their nuclear activities.

Second, Mr. President, I believe it is important to hold in mind the role of the Nuclear Regulatory Commission and how that rule differs from the decision we must make today. That is being lost in the debate. Much has been made of the fact that the NRC unanimously rejected these export license applications, and some argue that a decision today to allow these exports would amount to a reversal of the Commission's judgment on nonproliferation issues. I do not believe that is the case. Under the Nuclear Nonproliferation Act of 1978, the Commission must determine, in the case of each proposed export, whether the statutory criteria are met. In the case of these two exports, the Commission determined that it could not find that the statutory criteria were met. In particular, the Commission determined that the full-scope safeguards criteria should apply to these exports and that these criteria were not satisfied by India.

Although the President's decision to proceed with the exports, which we must approve or disapprove today, questions the legal interpretation of one aspect of the statute by the Commission—the limits, and that is the issue, of the grace period for the full-scope safeguards criteria—it also raises the much broader issue of whether withholding these exports would be seriously prejudicial to the achievement of U.S. nonproliferation objectives and would otherwise jeopardize the common defense and security. On this issue, which I believe we must also decide, the Commission took no position. Thus, this debate is not simply a matter of deciding whether to uphold or reject the Commission's narrower determination in this matter. We must face the broader issue too.

Mr. President, with those general observations in mind, I turn to the reasons why I have decided to support the President's decision to proceed with these two export licenses. First, I believe that a decision not to proceed with these exports would very likely result in the loss of important safeguards that we now have over the Tarapur reactors and the fuel supplied by the United States for those reactors. Up to this time, India has fulfilled its obligations to accept safeguards and controls over the Tarapur reactors and spent fuel; agreed not to reprocess or retransfer the spent fuel at Tarapur without prior U.S. consent; and committed to use only U.S.-supplied fuel and equipment at Tarapur. Also, we have the opportunity to repurchase all spent fuel originally furnished. In addition, India has pledged that it will use nuclear materials supplied for Tarapur only for that facility, and not for any other purpose, including nuclear explosives. I feel that India will view a decision by the Congress to disapprove these exports as a breach of our agreement for cooperation, and that they will no longer feel bound by any of their obligations and commitments under that agreement. Such a result would seriously damage our nonproliferation interests in India and would create the very real possibility that India will use these U.S.-supplied materials and equipment for unsafeguarded activities. We have already shipped about 200 tons of nuclear fuel to India, and more than 100 tons of this material are now stored at Tarapur as spent fuel. Disapproval of these exports would almost certainly result in the loss of our right of approval to any reprocessing of this spent fuel and of any U.S. control over the plutonium that would be obtained if India decides to reprocess the fuel. This reprocessing would result in substantial quantities of unsafeguarded plutonium being produced, which then easily could be diverted to use in nuclear explosives. In addition, the Indians might well terminate international safeguards that now apply to the Tarapur reactors.

The reprocessing of Tarapur spent fuel, the potential diversion of unsafeguarded plutonium, and the potential loss of IAEA safeguards for the Tarapur facility would be very serious nonproliferation consequences, both from the standpoint of assuring that U.S. exports are not used for explosive purposes, and from the standpoint of deterring the expansion of unsafeguarded sensitive nuclear activities such as reprocessing by nonweapons states.

Mr. President, I recognize that India's past activities—including the use of the Canadian CIRUS reactor and the probable use of U.S.-supplied heavy water to make the bomb detonated in 1974—raise serious concerns about the present and future intentions of that nation with regard to the production and use of nuclear weapons. But I think it is also fair to say that with regard to the Tarapur reactors and the U.S.-supplied materials for it, India has always abided by its safeguards obligations and commitments. It is nothing more than reality to recognize that we can no longer expect that cooperation if we terminate the sole supply of fuel for these reactors under the existing agreement for cooperation.

Second, I believe that if the Congress decides not to proceed with these exports, India will be able to obtain readily available alternate sources of supply—with the most likely source being the Soviet Union. Although the Soviet Union might well require safeguards on the fuel it supplies and probably on the Tarapur reactors as well, it is doubtful that the Soviets would require either safeguards or other controls over the U.S.-supplied spent fuel at Tarapur or full-scope safeguards over all of India's nuclear activities as a condition of its supply commitments. Quite apart from the foreign policy consequences this new Soviet supply arrangement might have, it would surely end any influence we could expect to have over India in encouraging further commitments to international safeguards requirements for its nuclear activities.

Third, I believe that a decision by the Congress not to proceed with these exports would weaken important opportunities that would otherwise be available to build international support for our position on requiring full-scope safeguards sufficient to convince India and the few other nations that have not yet done so to accept these safeguards, in the alternative, to negotiate the return or transfer of U.S.-supplied materials.

As the distinguished Senator from Ohio has pointed out, an important consideration is how our decision will affect other nations, including the many nations that have already agreed to accept full-scope safeguards. I believe it is particularly important, for example, to gage the likely reaction of the 114 nations that have become parties to the Treaty on the Nonproliferation of Nuclear Weapons. These nations, together with France, which has made clear that it will act as if it were a party to the Treaty, constitute a powerful force for encouraging, or even demanding, that the few nonweapons states that have not yet done so accept full-scope safeguards. Together, these 115 nations represent 98 percent of the world's installed nuclear capacity; 95 percent of nuclear power capacity under construction; all of the world's exporters of nuclear power reactors and all major exporters of key components and materials for these reactors; all of the world's exporters of enriched uranium; and all of the world's exporters of heavy water. Those nations that have not yet agreed to accept full-scope safeguards must largely depend upon the assistance of nations within this group to develop a nuclear power program. If this group were agreed to join us in demanding that all nonweapons states accept full-scope safeguards, this would generate substantial pressure on India and the other recalcitrant states to comply.

Unfortunately, the recently completed Nonproliferation Treaty Review Conference indicates that strong support among these nations for the U.S. policy of requiring full-scope safeguards has not as yet been developed, with 38 of the 75 participants at the Conference vigorously opposed requiring a commitment to full-scope safeguards as a condition to nuclear exports. In addition, no other supplier nation at the conference supported the U.S. position that such commitments should be a condition of further nuclear exports under existing as well as new supply commitments. Two other supplier nations, Canada and Australia, do require full-scope safeguards commitments, but they impose this requirement only for new supply commitments as a matter of stated policy. Thus, they have not as yet endorsed the U.S. policy for existing commitments.

According to participants at the Conference, the principal reason for the lack of support for the U.S. position seems to be objections to the process adopted by the United States—that is, the unilateral imposition of the full-scope safeguards requirement as a condition to further nuclear exports from this country under both new and existing supply commitments. Apparently, these nations believe strongly that such a requirement should be the subject of negotiation among nuclear supplier and importing nations alike.

I would add that these nations, by ratifying the Nonproliferation Treaty, have accepted full-scope safeguards themselves and have demonstrated their commitment to the overall objective that all other nonweapons states should do so as well. Mr. President, I believe the recent news reports regarding the Swiss nuclear assistance to Pakistan graphically demonstrate the need to achieve the support of these other nuclear supplier and importing nations for the U.S. position on full-scope safeguards if we are to achieve our objective of making the nuclear activities of all nonweapons states subject to IAEA safeguards.

Mr. President, I believe there are as yet unexplored opportunities to build strong support within this group of nations for the U.S. full-scope safeguards position. These opportunities will exist, among other places, in the Committee on Assurance of Supply of the International Atomic Energy Agency, which will hold its first meeting later this month. Of course, there is no assurance that we can convince these nations to support our position on imposing the full-scope safeguards requirement as a condition of supply. But it is clear that at the present time, without some additional support among these nations, India will have little difficulty in obtaining alternate sources of supply. It is also clear that a strong consensus among these nations to require full-scope safeguards as a condition of further exports would leave nations such as India with the alternatives of either complying or suffering serious disruptions of their nuclear power programs.

Mr. President, I do not believe that the decision in favor of these two exports today foretells an open-ended commitment to send further fuel shipments to India—even without real progress on the full-scope safeguards question. In fact, I would argue that if the international initiatives I have mentioned are unsuccessful, we should immediately negotiate for the return or transfer of U.S.-supplied spent fuel at Tarapur to assure that at the time of future exports, we are not faced with the possibility that a cutoff of U.S. supply will result in the unsafeguarded use of U.S.-supplied materials. I believe that proceeding now with these exports would at least preserve the opportunity to arrange for the return or transfer of this material.

Mr. President, for the foregoing reasons, I believe that our overall nonproliferation objectives are best served by proceeding with these two exports at this time. I therefore oppose Senate Concurrent Resolution 109.

Mr. GLENN. Mr. President, I yield myself 2 minutes.

Mr. President, I will reply only very briefly to the distinguished Senator's remarks. I think the important thing to me is whether we do or do not have an effect on nuclear nonproliferation around the world with what we are doing here today.

The administration has argued on foreign policy grounds. I think we have discussed that thoroughly here on the floor this morning, as well as yesterday, in extended debate.

The second administration argument is the breach of agreement. I think we have taken care of the legal aspects of that today and have discussed those at considerable length.

Third, the matter that we will have our image tarnished as a reliable supplier. And that one we also have discussed.

But it boils down to this: What is going to happen to those 111 nonweapon states that have signed the NPT and we have worked with since back in 1968?

Are we to say now that we will continue trade with a country that has used our heavy water to make a bomb over our objections. We told them specifically in 1974 that we considered that peaceful purposes clause in the original agreement to mean no bomb, of any kind, this also ruled out what some call a PNE, peaceful nuclear explosion. It is a bomb. You can set it off so it does not kill anybody, but it is a bomb. We indicated that view 4 years before they used our material to set that weapon off.

That to me is the important thing: whether we are still going to keep the leadership of those 111 other nations, whether we can convince other non-NPT countries to sign up while the big powers try to negotiate weaponry limits, and whether we can keep the nuclear supplier nations continuing to export under safeguards and move towards requiring full-scope safeguards.

Mr. President, I yield such time as he may need to the distinguished Senator from Connecticut.

Before I do that, let me just add that I do not think there has been anyone in the Congress or the Senate who has taken a more personal interest in this, who has been more cooperative in our work on the committee, in the Governmental Affairs Committee. He could not have been more helpful in working out the problems that we had originally with the details of the Nuclear Nonproliferation Act. He has expressed on the floor of the Senate as well as personally to me and in committee over and over and over again his concerns in this regard. He has become a real student of this particular matter. I particularly welcome today the comments that Senator RIBICOFF will make on behalf of our position on this because I think he has become a real expert in this area. He has taken such a long interest in it and he is thoroughly familiar with it. We welcome his comments.

Mr. BOSCHWITZ. Will the Senator from Ohio yield for a question?

Mr. GLENN. I will yield.

Mr. BOSCHWITZ. I did not hear the beginning of the statement of the Senator from Wyoming, but I understood his position was that we would retain control over the spent fuel from the reactors. Would the Senator respond to that?

Mr. GLENN. I will be happy to respond to that briefly. I yield myself such time as I may need to do so.

The opponents of this resolution would have you believe that if we do not send this shipment, then India will take out from under safeguards and repossess a huge mass of material they would not otherwise have available to them. That is not the case. True, we control a considerable amount of spent fuel at Tarapur, but it is estimated, by the best estimates we have, that that material would be on the order of enough to make about 70 to 80 bombs. If India breached the treaty, which I think they legally would be doing even though we blocked the shipment, they would have 70 to 80 bombs' worth of plutonium they could extract from that material.

How does this compare with their overall capability? With their overall capability on other facilities in India over which we have no control and will not, whether we have this shipment or not—we have no control over all their other indigenous facilities—our experts estimate that there will be several thousand kilograms of plutonium available to India no matter what we do, and enough that they estimate we probably can have India making 700 to 800 bombs out of that other material over which we are not going to have any control one way or the other.

So what we would be adding to this overall proliferation picture is we would be adding maybe 10 percent or maybe 15 percent to the weapons-building capability that they have at the present time.

It is true, if they decided that they wanted to breach the agreement and they wanted to take that fuel, they could in fact build some bombs with that material. But it is only going to be about 10 or 15 percent of the total bomb building capability that they will have anyway. So it is a fairly small matter.

Mr. PERCY. Mr. President, Senator GLENN argues that the Indians will have access to literally thousands of kilograms of unsafeguarded plutonium from the operation of numerous nuclear facilities other than Tarapur. The spent fuel at Tarapur is small in comparison.

Our Government experts dispute these facts. India will not have thousands of kilograms of unsafeguarded plutonium in the near future. The only reactor currently operating, in Rajastan, is under safeguards because the Soviets are supplying it with heavy water and they require safeguards. The second Rajastan reactor which is scheduled to come on this year will also probably be using Soviet heavy water. The other indigenous facilities at Madras and Narora are way behind schedule and will not come on for 3 to 5 years. The exception is one facility at Madras which is scheduled to come on in 1981. Even if it does come on as scheduled, which our experts doubt, it will still be 1 or 2 years before it begins producing spent fuel from which significant amounts of plutonium could be derived. The upshot is that India will not have large amounts of unsafeguarded plutonium in the very near future, but may have in the next 3 to 6 years.

This makes our continued communication on nonproliferation even more important. Moreover, it does not lessen at all our own concern about the plutonium which could be derived from spent fuel from our own shipments.

Mr. GLENN. Mr. President, I yield such time to the Senator from Connecticut as he requires.

Mr. RIBICOFF. Mr. President, I want to thank my distinguished colleague for his gracious remarks.

Before making my statement on this most important issue, I point out that the interest of the Governmental Affairs Committee in nonproliferation arose out of the Energy Reorganization Act of 1974 establishing the NRC and ERDA. During the hearings, we found that there were inadequate international safeguards in the field of nuclear proliferation.

Out of that concern there developed the Nonproliferation Act.

I want to pay special tribute to the distinguished Senator from Ohio. It became apparent during those hearings, and the work that was being done in this most important field that by background and training there was no Member of the Senate more suitable to take the leadership role in this issue of life and death and whether this world would survive than the distinguished Senator from Ohio. Not only his deep concern as a humanitarian, but his training in the military and scientific fields gave him a perspective such as no other Member of this body could possibly have.

I want to pay special tribute to Senator GLENN. There is no one in this body or the executive branch, including the President of the United States, who knows more about this subject than the distinguished Senator from Ohio, Senator GLENN.

Mr. President, I rise in support of the resolution to disapprove the nuclear fuel shipments to India.

Mr. President, the decision on these exports constitutes a landmark test of the Nuclear Nonproliferation Act. The decision on this issue must take into account many factors: The likely reaction of other nations; the effect on the political situation on the South Asian subcontinent; the effect on our overall relationship with India and most importantly, the effect on world peace.

I do not believe, Mr. President, that the decision on how to vote on this issue is difficult. Looking at the issue from a historical or current perspective, I believe that other Senators must come to the same conclusion. To send this fuel to India would undermine United States and world nonproliferation efforts. By agreeing to send fuel we would potentially gain very little, and if past experience can teach us anything, we would gain nothing.

The cornerstone of U.S. nonproliferation policy, and effectively the world's nonproliferation standard is the U.S. Nuclear Nonproliferation Act. The act provides a firm cutoff of exports to countries not meeting certain criteria, including the application of full-scope safeguards. The act provides for a 24-month grace period, which has now expired. As a key cosponsor of that legislation and active participant in and drafter of the legislative history, I know, and I believe the rest of the Senate knows, that we intended a firm cutoff to countries not accepting the criteria at the end of that 24-month period. With due respect to the administration's legal opinions, the "guillotine" was to fall. The act gave 2 years for negotiations to be successful. In the case of India, they have not been. The Nuclear Regulatory Commission, in a rare unanimous decision, found that the issuance of such licenses was prohibited by the law, and I trust the opinion and the judgment of the Nuclear Regulatory Commission.

Mr. President, let us look at India's nuclear history and its nuclear relationship with us. India's past policies with respect to its nuclear activities have been contrary to United States and world nonproliferation efforts. Especially troublesome are: The 1974 explosion of a peaceful nuclear device; the refusal to accept and apply full-scope safeguards, and indeed, breaking off negotiations on the subject; lack of cooperation on safeguard inspections conducted under international auspices; lack of assurances for future use of U.S.-supplied heavy water.

Mrs. Ghandi has recently reasserted India's right to "have explosions or implosions, whatever is necessary, for our development and other peaceful purposes." In April 1976, the Committee on Governmental Affairs disclosed that U.S.-exported heavy water was used in India's 1974 nuclear explosion. This extraordinary breach of contract should put doubts in the minds of any Senators who are still undecided on the issue before us.

The United States has previously made two major concessions to the Indians as part of our effort to gain their compliance with basic international safeguard norms. We failed to actively protest their use of our heavy water in the 1974 explosion. We continued nuclear fuel shipments to encourage negotiations with Mr. Desai after passage of the Nonproliferation Act. Neither of these concessions resulted in any progress in discussions with the Indians. It is clear to date that there have been no meaningful negotiations between the United States and India on the basic questions of Indian acceptance of IAEA safeguards. It is clear that India has no intention of accepting full-scope safeguards in the foreseeable future. No additional U.S. concessions—short of unilateral disarmament—can change this fact.

The administration has charged that if we do not make these shipments the United States will be labeled an "unreliable supplier." Yet, history reflects that India is the unreliable partner in the relationship between the two countries. The very essence of the Nonproliferation Act is that nuclear cooperation is to be a two-way street. A careful examination of the record amply demonstrates which country in this partnership is "unreliable."

To be fair, we might look to see what else we might get from India if we make further concessions in the nuclear area. Let me suggest that the Senators still undecided on this issue look at India's recent record with respect to support of U.S. foreign policy. Since these fuel shipments have been pending, the Government of India has taken four separate steps which undercut U.S. foreign policy initiatives. India has signed a trade agreement with Iran, undercutting our boycott. India has recognized the Vietnamese-backed government in Cambodia. India has signed a $1.6 billion arms package with Moscow. India abstained on the U.N. resolution condemning the Soviet invasion of Afghanistan. Should we, for this kind of support, continue to ship to New Delhi the wherewithal to make more bombs?

The nonproliferation situation for the world today is bleak. The prospects of other nations obtaining and using nuclear weapons is very real. Other supplier nations continue selling equipment, material and technology to countries which have not renounced a nuclear explosives capability, which have refused to sign a nonproliferation pledge, and which have refused to accept full-scope safeguards on their nuclear facilities. We must consider the impact on other nations as they examine U.S. response to this first test of the Nuclear Nonproliferation Act. I ask any Senators who are undecided on this issue to answer this question: If this shipment is made to India, do not other nations have the right to ask for exemptions to our policy? Is not continuing fuel shipments to India opening the Pandora's box we thought we closed by passing the Nuclear Nonproliferation Act?

The United States has led the world in a strong nonproliferation policy. To issue the pending Indian licenses would undercut our own policy and demonstrate lack of commitment to it. Since the 1974 Indian explosion, U.S. efforts to gain worldwide adherence to full-scope safeguards and to avert the danger of a nuclear arms race in the Middle East and Southern Asia have proceeded, with India usually being the test case. U.S. failure to comply with its own basic law would critically weaken our carrot-and-stick approach to nonproliferation, abandoning the stick and demonstrating that the United States is unwilling to exercise its leverage. An about-face on something as fundamental as full-scope safeguards would call into question the credibility and tenacity of all American nonproliferation efforts.

Mr. President, I profoundly hope that the Senate supports the resolution of disapproval of the nuclear fuel shipments to India.

Mr. PERCY. Mr. President, I yield 7 minutes to my distinguished colleague from Mississippi (Mr. STENNIS).

Mr. STENNIS. I thank the Senator very much indeed.

Mr. President, I support the decision to export the two shipments of this nuclear fuel to India for use in the nuclear reactors at Tarapur. In evaluating this issue—and it is a grave and serious matter—the U.S. contract with India, signed in 1963, to provide all the enriched uranium needed to operate the Tarapur reactors is a most important consideration. If we now disapprove the two requested shipments, the United States will breach this valid contract.

India so far, lived up to its part of the 1963 bargain. They have agreed to full-scope safeguards for all nuclear fuels of U.S. origin, including onsite inspection.

Mr. President, that is so desirable, so much more than we have been able to obtain as a general proposition in other areas.

None of the nuclear materials provided by the United States under this contract were used in India's nuclear explosion in 1974. Breach of this contract will have a series of unfavorable results in India and will raise the question around the globe of the reliability of the United States as a contracting party.

While opponents of these shipments have argued otherwise, export of these nuclear materials is also consistent with U.S. nonproliferation policies. If the United States breaches its contract, spent nuclear fuel of U.S. origin in India—totaling 200 tons—will no longer be under bilateral and international safeguards. While India currently has enough unsafeguarded weapons grade nuclear materials to make several bombs, 300 bombs could be made from U.S. spent material. For this reason, continuing to safeguard nuclear materials of U.S. origin is most important and consistent with U.S. policies. Continued safeguarding of these materials is only possible if the United States lives up to the 1963 agreement and approves export of the two fuel shipments in question.

To simplify the argument as to whether these shipments are consistent or inconsistent with U.S. nonproliferation policy, one needs only to consider what it is that we hope to gain and what it is that we are placing at risk. The Nuclear Nonproliferation Act of 1978 requires that after the grace period countries to receive nuclear fuel from the United States must provide for international safeguard of all nuclear materials, whatever their origin. India has already rejected these new safeguards and has said they will reject the safeguards of the old contract if the United States does not ship this 30 tons of nuclear fuel.

Currently 60 percent of the nuclear fuels in India are of U.S. origin; the vast majority of the remainder provided by other countries is also under international safeguards. Less than 5 percent of potential weapons grade nuclear materials in India is unsafeguarded. Should U.S. spent fuels become unsafeguarded, there would be a 20-fold increase in nuclear materials that India could use to make weapons. Simply, by seeking to extend the new safeguards to the small amount of Indian nuclear fuel not covered, the United States is risking the loss of safeguards on 200 tons of nuclear material. Given the current situation, this risk is not worth taking.

There are other negative aspects to disapproving these fuel shipments. First of all, India is likely to turn to the Soviet Union as a supplier for nuclear material. This will increase Soviet influence in South Asia's largest and most powerful state. Second, India is likely to reprocess U.S. spent fuel in their possession and use the resulting plutonium as fuel for the Tarapur reactors. Preventing such reprocessing is a key goal of our nonproliferation policies.

Approval of these two shipments is also consistent with the grace period provided in the Nuclear Nonproliferation Act of 1978. Both of the license applications for these nuclear fuel shipments were received prior to the September 1979 expiration of the grace period for such applications. Failure to actually export these shipments by the March 1980 cutoff resulted primarily from the lengthy U.S. review process. Attempts to claim that these shipments are outside the grace period is inconsistent with the intent of the Nuclear Nonproliferation Act of 1978.

In sum, the United States should approve the two shipments of nuclear fuel to India. By doing so, we would uphold our valid contract with India and at the same time would enhance our nonproliferation goals. Moreover, such shipments fall within the grace period of the Nuclear Nonproliferation Act of 1978 and thus do not establish an unfavorable precedent on waiver of the provisions of that act.

I urge my Senate colleagues to support the President's decision and to vote against the resolution blocking shipments of nuclear fuel to India.

There is nothing happy about this entire situation.

I am impressed with the deep concern that is expressed by every Member. But by doing so we would uphold our valid contract with India and, at the same time, enhance our nonproliferation goals.

Moreover, such shipments fall within the grace period of the Nuclear Nonproliferation Act of 1978 and thus do not establish an unfavorable precedent or waiver of the provisions of that act or waiver.

Mr. President, that is a major point. For this reason, I urge my colleagues to support the sending of the material.

In summary, the basic fact, and this is controlling with me, is that we are under a solemn contract to supply this material. This puts our word at stake. We must live up to our agreement and thus keep our word. Further, if we decline, we release all material already sent from valuable and effective safeguards of the contract.

Mr. President, I yield back such time as I may have remaining.

Mr. GLENN. Mr. President, I yield such time as the Senator from Alabama may need.

The PRESIDING OFFICER (Mr. MITCHELL). The Senator from Alabama.

Mr. HEFLIN. Mr. President, I rise in support of Senate Concurrent Resolution 109, which disapproves the President's proposed shipment of 38 tons of enriched uranium to the Tarapur nuclear power facility near Bombay, India.

The argument has been made that if we fail to ship this enriched uranium to India, we will be violating a 1963 agreement with her. Under the terms of that agreement, we agreed to supply enriched uranium as needed to Tarapur for 30 years. India agreed to use only American uranium at Tarapur and to accept nonproliferation safeguards on that facility when it uses American fuel. India also promised to get our consent before reprocessing spent nuclear fuel from Tarapur.

Mr. President, it is undisputed that the 1974 India explosion of a nuclear device using plutonium was the primary reason that Congress passed the Nuclear Nonproliferation Act of 1978. That act requires any nation which receives U.S. nuclear fuel to accept full-scope International Atomic Energy Agency safeguards on all its nuclear facilities. The fundamental thrust of this law was the precondition of full safeguards for all future American exports without regard to previous treaties.

The question arises, which is legally controlling, the 1963 treaty or the act of 1978. I say that the act of 1978 repealed by repugnancy the 1963 treaty. Repealed by repugnancy is an accepted concept in statutory construction. It also applies to treaties.

Mr. President, article VI of the U.S. Constitution vests treaties and international agreements with the same domestic status as Federal statutes. Federal courts disregard treaty or international provisions if they are expressly repealed or insofar as they are inconsistent or repugnant to later acts of Congress. Thus, under article VI of the U.S. Constitution, Congress can, in effect, by a subsequent act, terminate a treaty or international agreement so far as its effect on our domestic law is concerned.

That is exactly what Congress did to our 1963 agreement with India when it passed the Nuclear Nonproliferation Act of 1978. It terminated the Tarapur safeguards and mandated India to accept comprehensive safeguards on all its nuclear facilities when it receives U.S. nuclear fuel. A later act of Congress repeals by repugnancy provisions of an earlier treaty without signatory approval from the foreign nation.

Moreover, Mr. President, Congress should support the unanimous ruling of the Nuclear Regulatory Commission that the shipment of any nuclear fuel to India after March 10, 1980, is subject to full-scope safeguards, as required by the Nuclear Nonproliferation Act of 1978. The Nuclear Regulatory Commission weighed and evaluated all the evidence and correctly interpreted the act.

Even the State Department testified in 1978 that it is the actual date of shipment—not the intended date—that governs the export of American nuclear fuel. The grace period that Congress allowed to permit exports to countries that did not meet the safeguard requirement expired on March 10, 1980. This was more than 3 months prior to the President's announcement to ship nuclear fuel to India.

Repeal by repugnancy and the expiration of the grace period now makes it illegal to ship the uranium to India.

Mr. GLENN. Mr. President, I suggest the absence of a quorum, with the time to be charged equally against all parties.

Mr. LEVIN. Mr. President, I object to that, because Senator CHURCH has only 5 minutes remaining. Will the Senator agree to having the time charged to his time?

Mr. GLENN. No, I would not want it charged against my time. I will not agree to that. I would agree not to charge it to anybody's time, but that will pose a difficulty when we start the vote at 2:45. However, perhaps it would be better to follow the Senator's suggestion.

Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged to no one.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I had planned to deliver this statement in response to some of the remarks made last night by Senator PERCY and Senator McCLURE. I had planned to do it a bit earlier, but I am afraid that if I delay any longer, we are liable to get into such a short time period that it will be impossible for me to make this statement, and I will deliver it now.

I am sorry that both my colleagues are not in the Chamber at this time. If they are listening in the cloakroom or anywhere else, I should like their presence, because I do not like to respond to their remarks of last night without their being here.

Mr. President, last night, during the debate, I listened very carefully to what my colleagues had to say about this proposed shipment of fuel to Tarapur. I have to confess that I have never heard so many contradictions being uttered in such a short period of time. I am afraid that that characterizes the essence of the arguments in favor of sending this fuel, they are full of contradictions. Let me be specific.

Both Senator PERCY and Senator McCLURE said last night that the United States has a binding legal commitment to send this fuel and that we must not do anything to violate our commitment, and that if we do not do so, our reputation as a reliable supplier will suffer. I then asked Senators PERCY and McCLURE what they would do if the Indians exploded another nuclear device from materials which were not obtained from Tarapur. I believe both answered that, of course, in that case we should cut off the shipment of fuel. There is nothing in the Agreement for Cooperation or the fuel contract for Tarapur which makes it illegal for the Indians to set off a nuclear explosion using materials from their indigenous facilities, over which we have no control.

If we take the interpretation of the agreement and contract that was given by Senators PERCY and McCLURE yesterday, a U.S. cutoff following such an Indian explosion would be a U.S. abrogation of the agreement. Would we not, under such an interpretation, also be considered an unreliable supplier for having unilaterally abrogated an agreement? Of course, one could say a nuclear explosion is a very serious event and abrogation of agreements is OK in that circumstance. That is simply another way of saying that the United States should only be a reliable supplier to nations that follow effective nonproliferation policies. In fact, that is precisely U.S. policy under the NNPA.

Where I differ from Senators PERCY and McCLURE is that I do not believe it is necessary to wait for a country to explode a nuclear device in order to conclude that they are not following an effective nonproliferation policy. In my view, if a country with the abominable nuclear history of India does not accept full-scope safeguards, that is sufficient reason for discontinuing nuclear trade. Happily, there is no need to consider the question of abrogation of agreements in this particular case, because the American Law Division of the Congressional Research Service has shown, very convincingly in my view, that it is perfectly legal as well as perfectly proper for the United States to discontinue nuclear trade with India as a result of her failure to satisfy the provisions of the NNPA, such as full-scope safeguards.

The administration has based most of their argument on the very legalism that I believe we effectively refuted here in some of the opening discussions on the floor this morning. I showed in the debate this morning that, at each step along the way, whether it was the agreement for cooperation, whether it was in the 1966 contract, or whether, later in 1971, it was in the amendment to the contract, the United States very properly—because it was a changing situation—kept qualifiers in the contract. India accepted these and as a result we kept the right to add these later provisions. This right to add conditions continues up to the present day.

Last night, Senator PERCY talked about the "lights going out in Bombay" if we do not send this fuel. That is very graphic. Everyone, in his mind's eye, can see the lights of Bombay going out and the lanterns going up and industry shutting down. It is a horrible spectacle. However, I suggest to Senator PERCY that he read the NRC analysis of the amount of Tarapur fuel that India has stockpiled, in contravention of the terms of the agreement for cooperation. That analysis shows that there is enough fuel on hand until sometime in 1982. That gives the Indians plenty of time to do whatever they are going to do, whether we make this shipment or not, because our shipment is not really needed until 1982. So the United States can continue its position on full-scope safeguards and the insistence that that be adhered to before we make this shipment.

Senator PERCY also made some reference to the fact that the reason why the Indians may have some fuel on hand is because they have cut back on the output of the reactors at Tarapur. I have tried very hard to examine the issue of output reduction for the Tarapur reactors. I asked the Congressional Research Service to obtain the best figures available for the annual capacity factors of the reactors at Tarapur from the year 1969, when they went into operation, until this year. I have those figures; they are figures which are publicly available, and they are very interesting—because they show no discernible pattern of reduction of output of those reactors over the last few years as claimed.

The capacity factors, which represent the ratio of the number of megawatts produced by the reactors divided by the number of megawatts available, vary up and down within a certain range. It is higher in some years and lower in others. It is affected by such considerations as whether the Indians want to slow down the production of spent fuel because of lack of storage space, or whether they are having some problems with the technical operation of the reactors.

In any case, it simply is not true, as the Senator from Illinois claimed last night, that if this fuel were sent the capacity factors of these reactors would suddenly go to 100 percent. It is not going to happen. It never has been 100 percent. It never has been even close to 100 percent in any year since the operation of those reactors began.

I wish to correct some other figures that were tossed around last night. It was said here in the Chamber that 2,000 kilograms of plutonium are in spent fuel at Tarapur. The Foreign Relations Committee report shows a figure of approximately 360 kilograms in the 100 tons of spent fuel presently stored at Tarapur.

I am not here today to stand on the floor and say that 360 kilograms of fuel is a trifling amount. It is not, because it takes somewhere around 5 to 8 or 9 kilograms of fuel of plutonium to make an atomic weapon, a nuclear bomb. So 360 kilograms is no trifling amount, but that comes out to some 70 or 80 bombs' worth of material, a significant amount; but it is certainly a good deal smaller than the figure of 2,000 kilograms that was tossed around here last evening.

It is important in one respect, because I asked the Congressional Research Service to go ahead and estimate the amount of plutonium that could be available to India through the year 1989 from her other unsafeguarded facilities, facilities over which the United States has no control, no safeguards. We have nothing to do with those other facilities. Yet what happens to the spent fuel from these other reactors?

That figure for the unsafeguarded facilities over which we have no control turns out to be approximately 2,900 kilograms of plutonium.

Mr. President, I welcome the Senator from Illinois back to Chamber here. I am sorry that I went ahead with this without him present. If I had known he would be back this soon I would not have gone ahead with this. I wished to make certain I have it in before the time ran out.

I was replying to the Senator's comments of last evening and those of Senator McCLURE.

That figure turns out to be approximately 2,900 kilograms of plutonium available to India from facilities over which we have no control whatsoever.

That is an amount greater by a factor of more than seven than the plutonium that would be available to India from the present stockpile of spent fuel at Tarapur.

That is, the real threat in terms of future proliferation is not the amount of plutonium in the spent fuel; it is the amount of plutonium that will be available to India from her other spent fuel in other nonsafeguarded, unsafeguarded facilities.

Last night my distinguished colleague from Illinois, Senator PERCY, talked about the fact that the possible cutoff of fuel for Tarapur has created an "impassioned atmosphere" in India, an atmosphere which presumably is not conducive to good United States-Indian bilateral relations.

I wish to point out that the same impassioned atmosphere, if that is in fact what it is, would occur no matter when the United States were to take this action, including 3 years down the road, if the Indians did not satisfy the Nonproliferation Act then. This impassioned atmosphere would also exist, I suspect, if the United States were to cut off the fuel for Tarapur as a result of another Indian nuclear explosion.

I have no doubt that the Indians will react with some strong statements to a cutoff of fuel for Tarapur, but let us examine just how impassioned the atmosphere is and what the impact would be on United States-Indian bilateral relations.

I have a recent editorial in the Statesman of Delhi dated September 12, 1980, just a few days ago. The editorial proceeds from the assumption that because the House Foreign Affairs Committee and the Senate Foreign Relations Committee had voted to block the fuel shipments that the House of Representatives and the Senate as a whole would follow suit. In discussing this the editorial says:

> The realities about Indo-U.S. nuclear cooperation will not change even in the event of a reversal to permit the two fuel shipments in question. The decision has clearly been influenced by political considerations as was the one on countervailing duties on certain Indian exports. This is deeply to be regretted, one must also hope for a better understanding on the political issues which may have specially figured in U.S. thinking on trade and nuclear ties. Resentment should not obscure from Indian view an identity of more important interests and values and hence the need for repairing to the extent possible the damage lately done. This, however, has nothing to do with American fuel for Tarapur or with Indo-U.S. nuclear cooperation. It should have been clear long ago that there would be no accord on nuclear policy and both countries should have accepted the consequences. By keeping the Tarapur issue alive they succeeded merely in exacerbating feelings. Tarapur has been allowed to sour Indo-U.S. relations to an extent quite out of proportion to its importance.

That is the end of the quote from the editorial.

Mr. President, I ask unanimous consent to have printed in the Record at the conclusion of my remarks the editorial to which I have made reference.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GLENN. The editorial points out quite correctly that Indo-U.S. relations are not dependent on the decision regarding Tarapur.

As I have tried to make clear in the debate, the nonproliferation aspects of this decision in terms of the impact outside India outweigh the concerns produced by possible Indian action stemming from their own abrogation of the agreements. There has been an impassioned atmosphere in India regarding the Tarapur issue from the moment that the United States began reconsidering its position with respect to nuclear supply under its nonproliferation policy. The editorial suggests, and I agree with it, that cutting off supplies to Tarapur will not cause a significant rupture of Indo-U.S. relations because of the many other ties that exist between the two countries. It is, in fact, conceivable that by removing this sore point between the two countries relations might very well improve.

Finally, our distinguished colleagues, Senator Percy and Senator McClure, said last night that shipping this fuel should be done in the name of protecting the NNPA, that the export is consistent with the letter and the spirit of the NNPA. Senator Percy said in addition that he "never thought there was a guillotine" in the act. I am sorry to disagree with both of them but I believe their interpretation of the act is wrong and that they are ignoring the legislative history of the act as well as the clearly expressed perceptions of the act in the minds of many of the people who were responsible not only for negotiating certain of its provisions but for implementing it as well.

I add that the State Department went out with cables around the world, which are part of the record we laid before the Senate, stating that in a 24-month time period from the date of signing there would be, in fact, no more export of materials. Certainly it was the State Department's understanding at that time, then, that there would, in fact, be a cutoff and that it would be a guillotine, and every recollection I have of those debates and of that time period is that there was in fact an intent that we set up the 18 months to give a time period, a deadline for the applications. We set up an actual 24-month time period. That was a guillotine beyond which there would be no shipment of materials if there had not been an agreement reached on safeguards in whatever country we were trying to deal with at that time.

Mr. President, I am glad to try and set straight some of the remarks made in the Chamber last night. I am happy to give my statement first to Senator Percy if he wishes to go through it so he can see the remarks I made earlier, if he would wish to go through it and make any refutation of those remarks. But I reserve the remainder of my time.

EXHIBIT 1

KNOWING WHERE WE STAND

Now that the Foreign Relations Committees of both the U.S. Senate and House of Representatives have voted to stop any further supply of U.S. fuel for the Tarapur nuclear power plant, an increasingly tiresome and distracting debate should come to an end. The decision will not be final until a vote in the two Houses of Congress, but the committee decision is unlikely to be reversed. (The realities about Indo-U.S. nuclear cooperation will not change even in the event of a reversal to permit the two fuel shipments in question.) The decision has clearly been influenced by political considerations, as was the one on countervailing duties on certain Indian exports. This is deeply to be regretted: one must also hope for a better understanding on the political issues which may have specially figured in U.S. thinking on trade and nuclear ties. Resentment should not obscure from Indian view an identity of more important interests and values and hence the need for repairing, to the extent possible, the damage lately done.

This, however, has nothing to do with American fuel for Tarapur, or with Indo-U.S. nuclear cooperation. It should have been clear long ago that there would be no accord on nuclear policy, and both countries should have accepted the consequences. By keeping the Tarapur issue alive, they succeeded merely in exacerbating feelings. Tarapur has been allowed to sour Indo-U.S. relations to an extent quite out of proportion to its importance. From the way Americans spoke about the fuel, and Indians reacted to U.S. failure to fulfill supply commitments, it might have appeared that India's atomic future depended on this single plant. Approval of a fuel shipment, even consideration of an application as prescribed by the relevant agreement, was advertised by the Americans almost as a favour—and regarded by many Indians as a special gesture. President Carter's recent approval of two pending applications received the same treatment. His aides suggested that by allowing the shipments the USA might persuade India "to act in ways consistent with our interests"—not only in the nuclear field but also in foreign policy. A compromise formula, requiring good probationary behaviour by India, was proposed even in the final stages.

Consideration in such humiliating terms was eagerly watched from India, with an interest that would be natural only to supplicants who cannot afford much self-esteem. It would have been far more honourable for India to say that it would rather do without American fuel than be treated in this manner, or to take whatever action was possible for breach of contract. A more mature course—for both India and the USA—would have been to recognize that attempts to find any common ground between their positions on acceptable nuclear aims and restraints were bound to fail and had better be discarded. The Americans would have avoided a series of angry Indian reactions. India would have avoided much suspense and final disappointment. However disagreeable the American decision, though on a matter whose importance has been blown out of all proportion, it is a relief that India has at last been made to realize where it stands. A distraction is gone, or should go soon; it is time more attention was paid to alternative methods of fueling Tarapur—and to other, more important, nuclear projects.

Mr. PERCY. Mr. President, I yield myself 5 minutes so that I might respond to my distinguished colleague.

First, a very quick item on the amount of plutonium: I originally did say that there is enough spent fuel to yield 2,000 kilograms of plutonium. This figure was obtained from Ambassador Gerard Smith. Subsequently, Ambassador Smith and other administration officials have revised that figure, but they stand by this figure of 1,000 kilograms; therefore, the 360 kilograms that we mentioned in our own report would be revised upward.

Needless to say it is enough to wreak havoc and create tremendous disruption, and we all certainly know that.

Second, Senator Glenn has said that I did talk about the lights going out in Bombay and referred to the NRC study of how much fuel India has stockpiled. He indicates that they have enough fuel until 1982.

I did talk about the lights in Bombay dimming. I did talk about the fact that there could be power shortages in that period of time that would cause unemployment.

We all know what happens in any area when there is a cutback in electrical power.

Senator Glenn has also indicated we do not have to supply the fuel now. The Hyderabad fuel fabrication facility is not part of the Tarapur facility and is not covered by the 1963 agreement. We have no obligation, therefore, with respect to Hyderabad, according to Senator Glenn.

The reply to that simply is that the Indians are already operating the Hyderabad fuel fabrication plant on scrap.

The reactors themselves are working at much less than capacity in order to conserve fuel. The Hyderabad facility is the only one in the world which can fabricate the fuel rods for the Tarapur reactor. Continued delay in providing fuel will inevitably in time lead to further reductions, if not actual shutdowns, in power output from Tarapur reactors to an already power-starved region.

So I think we would simply be able to look forward to the fact that we would have brought about a condition of considerable havoc, and done so under conditions where, in the judgment of many, we would be unilaterally breaching our agreement.

Senator Glenn has argued that the legislative history shows that Congress intended that the March 1980 deadline be a total cutoff. The 18-month deadline is less important, he maintains.

It is quite clear from some statements of Senator Glenn himself that he shared my judgment about the primacy of the 18-month deadline for the filing of applications.

To support his case the Senator from Ohio has cited the testimony of Joe Nye at the Foreign Relations Committee hearings on May 24, 1978, shortly after the Nuclear Nonproliferation Act came into force. But let me read the statement of Senator Glenn himself as the chairman of those hearings, and I quote:

> We carefully wrote in this Act an 18-month period in which to try to negotiate some of these things out. People on the international nuclear scene, I think, all understand this.

Indeed, Mr. President, I think people on the international scene did understand this 18-month deadline as the key provision in the bill.

A few sentences later in these hearings the Senator from Ohio again said:

> I think there is a general understanding that we put in this 18-month period to try to work out the problems that we did and not intend to disrupt the flow of nuclear materials going abroad in this interim period.

There is no question that India filed its applications within the grace period time, in fact, one of them a year ahead of that time. Therefore, that, in the interpretation of the Senator from Illinois, the President of the United States and the Secretary of State, is why this 18-month period was provided.

In fact, Mr. President, throughout these hearings 2 years ago, the Senator from Ohio repeatedly refers to an 18-month deadline as the key provision of the bill, and not to the 24-month deadline, which I would argue was only added as a qualification upon the first date. That 18-month deadline is clearly a deadline for applications and not for actual shipments, so long as those applications are not highly unusual efforts to get around the filing deadline.

No one of us at any time ever appreciated or took into account the fact that we might be faced with a situation where applications were filed within our deadline dates, well within those dates, and then we unilateraly would refuse to make that shipment. That was not contemplated at the time.

Mr. GLENN. Mr. President, will the Senator yield on my time?

Mr. PERCY. I would be happy to yield on his time.

Mr. GLENN. I agree with everything the Senator has said, strangely enough, at this point. He is talking about the 18-month period in which applications have to be submitted, and I agree with everything he said. I stand by the statement I made at the time.

But he has not addressed the 24-month period which was the guillotine, and that is the point beyond which, if the material had not been approved and was shipped, the guillotine went down if we had not been able to get safeguards from these countries, and that I will stand by, that was our position on the 24 months.

It was the position of the Senator from Illinois at that time, as I recall from discussions then. There never was any indication of going beyond that 24-month period.

The legislative history is replete with example after example where the guillotine went down at 24 months. The State Department went out with their statements that that was exactly the fact, and 24 months was to be a guillotine beyond which we did not ship.

I reserve the remainder of my time.

Mr. PERCY. Mr. President, one final comment on my time on the question of an explosion.

A second nuclear explosion by India would drastically change the situation, and we would be fully justified in holding up further shipments.

The point to be made is that sending the current shipments does not come under the NNPA cutoff provisions. A nuclear explosion would trigger an automatic cutoff, according to the act. I answer that, in that way, on behalf of both Senator McClure and myself because the question was directed to the two of us.

I am delighted to yield at this time 5 minutes to my distinguished colleague from Minnesota (Mr. Durenburger).

Mr. DURENBURGER. I thank the Senator from Illinois.

Mr. President, the background on the issue before us today is well known to everyone. In 1963 the United States and India signed an Agreement of Cooperation which requires us to supply nuclear fuel for a powerplant in Tarapur, India. The fuel is shipped in small quantities every 2 or 3 years to assure continuous operation of the reactor.

Since 1974, when India exploded a nuclear device, the periodic export of nuclear materials to India has caused the United States, committed as we are to nonproliferation, deep embarrassment. Today, the U.S. Senate takes under consideration the most recent export licenses for a 38-ton shipment to Tarapur. Although it appears that opposition may finally put an end to nuclear trade with India, I intend to vote for the sale this afternoon, and would like to take a few moments of my colleagues' time to outline my thoughts on this most difficult vote.

Mr. President, I will begin this talk by reviewing the history of U.S. nuclear nonproliferation policy. In 1963, when we signed the Tarapur agreement with India, U.S. policy was based on a virtual monopoly of nuclear power reactor technology. The light water reactor which requires slightly enriched uranium became the dominant technology in international nuclear trade. The U.S. Government, to support an aggressive export effort, promised a continuous supply of enriched uranium to those nations purchasing U.S. manufactured reactors.

At this stage in the history of our nonproliferation efforts, we took it upon ourselves to guarantee that the fuel supplied would not be diverted to nuclear weapons production. The Tarapur Agreement of Cooperation is a good example of that policy. The agreement gives the United States power to veto the transfer of the fuel to any third party, to veto reprocessing of the fuel by the Indians and to require that the spent fuel be returned to the United States.

International nuclear trade did not remain limited to U.S. manufactured power reactors, however. Several nations began exporting small reactors and other materials for research purposes. As international nuclear trade grew, the world community became seriously concerned with the possibility that nuclear materials supplied for power reactors or research purposes would be diverted to the production of nuclear weapons.

We made a great step forward in 1968 with the signing of the Nuclear Nonproliferation Treaty by most nations of the world. The treaty was based on a twofold classification of nations—those already possessing nuclear weapons and those without. Signatories to NPT who did not already have nuclear weapons agreed to international inspection and safeguards on all nuclear research and power facilities within their borders.

In practice, however, the NPT classification is threefold, for a group of nations without weapons technology have refused to sign the treaty. This group includes India and other developing nations who have agreements with the United States which, if honored, require us to supply nuclear materials for power and research purposes.

Although the legal and institutional instruments necessary to stop the spread of nuclear weapons are contained in the Nonproliferation Treaty, achieving this purpose has remained beyond our grasp. The value of inspection and safeguards depends not only on our diplomatic efforts to bring nonsigners into compliance, but also upon our commitment to the international agencies which must carry out the specifics of the agreement. Material safeguards is not solely a diplomatic problem. The technical difficulties in preventing or detecting diversion are also significant.

The ability of nations and nonnation groups to divert small quantities of nuclear material even where safeguards are present, to reprocess and fabricate those materials quickly, and to use the resulting weapons—however imperfect—for terrorism and blackmail has thus brought the world and the U.S. Government into a new phase of the proliferation problem.

This phase was begun by the Ford administration in October 1976, with a decision to slow the spread of reprocessing and enrichment technology. In April 1977, President Carter announced a complete termination of U.S. commercial reprocessing programs and began a search for fuels resistant to easy and quick diversion. The Nuclear Nonproliferation Act of 1978 was part of this new effort to once and for all stop the spread of nuclear weapons.

NNPA sought to revive the twofold distinction—those with weapons and those without—contemplated by the Nonproliferation Treaty by restricting U.S. exports to nations which accepted international safeguards. It was well known that some nations with whom we had supply agreements would not easily accept the conditions of NNPA. The Congress was apparently convinced that with 1 or 2 years of persistent diplomatic effort these nations could be persuaded. A grace period through March 1980 was therefore added to the law to give the State Department time to apply the necessary diplomatic leverage.

I do not know how I would have voted had I been in the Senate in 1978. But, in retrospect, I would argue that like any policy which seeks to be both comprehensive and inflexible, the language of this act has occasionally proved insufficient to its goals. Given the resistance of India and other nations to the terms of the Nonproliferation Treaty, it is hardly surprising that the NNPA would be resisted as another instance of the United States holding to a position based on "safeguards or else." Regrettable as this may be, it is nonetheless reality.

And since 1968 the fuel supply situation in the world has changed dramatically. To many nations nuclear power is a necessary replacement for ever more expensive imported oil. And as to nuclear fuel, it is no longer necessary to depend on enriched uranium from the U.S. Government. In the near future many nations will be in the business of enriching and selling light water fuel. India itself may soon have this capacity.

I am sure it was not the intent of Congress to summarily abolish our Agreements of Cooperation with nuclear trading partners, but rather to convince India and perhaps Brazil to accept inspection and safeguards. It is clear that India will not accept safeguards at all facilities and no one to my knowledge is arguing that by denying this sale we will convince India or any other nation to do so. Everyone recognizes that these nations will simply look for supplies elsewhere.

Perhaps we could not foresee this outcome in 1978 when the law was passed. Perhaps it was possible to believe that NNPA would be an effective instrument in persuading these nations to join others in the community under the Nonproliferation Treaty. But, today the implications of the law and our decisions under its authority should be quite apparent.

Therefore, we must ask whether a rigid adherence to the terms of the NNPA in this instance will advance or retard our nonproliferation goals. We must ask whether the aims of our policy are better served by holding to language which seeks to be comprehensive or by taking account of a unique context. At issue here are existing agreements with India which provide effective safeguards against the diversion of stockpiles of spent fuel now in existence.

If we disapprove this sale, we will retain unilateral control over 38 tons of fuel destined for India. We can thus insure ourselves of the ultimate safeguard by not selling these 38 tons at all. However, we will provide India with both the legal pretext and the political stimulus to do as she wishes with some 200 tons of spent fuel now on her territory. Moreover, we will not prevent India from obtaining 38 tons or more of new fuel from other sources.

As we are reminded by the old aphorism, "hard cases make bad law." This case clearly represents a difficult decision. On balance, however, I believe that we are better off, and that our arms control goals are better served, by noting the unique circumstances of this case, consenting to the sale, and retaining our control over the disposal of 200 tons of spent fuel. This, of course, is the point made by Ambassador Gerard Smith, a noted proponent of arms control and nonproliferation, in his letter to each of us in the Senate. I therefore ask unanimous consent that Ambassador Smith's letter be printed in the RECORD.

There being no objecion, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
AMBASSADOR AT LARGE,
Washington, D.C., September 17, 1980.
Hon. DAVID F. DURENBERGER,
U.S. Senate.

DEAR SENATOR DURENBERGER: My job is to try to contain the cancerous spread of nuclear weapons around the world. I have been trying to do this for the last 30 years.

If our country terminates its uranium supply to India under an agreement that the Congress reviewed 17 years ago, I think our non-proliferation program will receive a sharp setback.

In effect we risk losing our present control over large quantities of U.S. origin spent fuel now in India. Those favoring the termination of supply seem to believe that since we have failed to persuade India to accept international controls over all its nuclear activities it makes sense to accept an end to present controls over all of India's U.S. supplied nuclear material. Better, I think, to keep existing controls as long as possible. Better, I think, to put off as long as possible this proposed termination of supply under a solemn American commitment of 17 years' standing and try to find ways to narrow our non-proliferation differences.

It is claimed that Indian use of U.S. heavy water to produce its 1974 explosion was a violation of a commitment to the U.S. There was no such commitment. And the U.S. continued its Tarapur supply for 6 years after the Indian explosion. It seems quite irrelevant, as well as incorrect, to cite this explosion to now support a decision to cut off India's energy supplies.

My information is that all our major allies support the President's Tarapur decision. I think a failure to supply will not serve our non-proliferation interests—in India or globally—and will be taken abroad as yet another sign of U.S.-non-reliability as an energy supplier.

I trust the Senate will not repudiate America's word and thus open the way to decontrol of some 200 bombs' worth of plutonium.

Sincerely,

GERARD SMITH.

Mr. DURENBERGER. Of course, the Carter administration argues that the license is technically legal under the law. And they also hold out the promise that approving the sale will continue the dialog on safeguards. Neither of these arguments is persuasive.

The Nuclear Regulatory Commission as the agency responsible for nuclear exports found by unanimous vote that the export license violates sections 109, 127 and 128 of the act. They are correct in that view.

As to United States-India relations and the promise of future progress on the safeguards question, the time to hope that India will accept international inspection and safeguards on all nuclear facilities has long since expired.

Many of my colleagues, unpersuaded by the administration position, therefore fall back on the law. NNPA passed the Congress by a big margin. It must, therefore, be a reasonable policy. Opponents refer to it as the centerpiece of our nonproliferation efforts. The Nuclear Regulatory Commission by unanimous vote found the export in violation of the law. The easy conclusion is to vote for disapproval. Based on a count of newspaper editorials this is popular position, as well.

By upholding NNPA, what do we gain that is adequate compensation for the loss of the agreement which safeguards the fuel at Tarapur? Will denying this license stabilize the situation in South Asia and cool the arms race between India and Pakistan? I think not. India will acquire the fuel whether we supply it or not. To Pakistan the issue is not who supplied the fuel, but its presence in India. I would think that Pakistan would feel somewhat better if we continued supply knowing that the 200 tons already at the reactor are protected by our agreement.

Some would have us wait to study the issue further—to get the results of the nonproliferation review conference and the GAO research on the value of NNPA policy. They point to a legal analysis by the Library of Congress arguing that we will not violate the conditions of the agreement by refusing the sale now. That the fuel is not needed now. I would say that we have studied enough.

Waiting for GAO may be sufficient to guarantee a negative result for their study. It is not the view of India which counts in this instance. And they have made it clear that disapproval of this license will be interpreted as abrogation of the agreement.

The final benefit of disapproval claimed by those opposing the sale is higher esteem in world opinion. It is argued that by upholding NNPA, the world will be convinced that our commitment to nuclear nonproliferation is to be seriously regarded. And world opinion has reason to doubt the course, if not the commitment, of U.S. nuclear nonproliferation policy. Over the past decade our efforts to prevent the spread of nuclear weapons are most notable for false starts, failed attempts and forgotten promises.

We need to establish a sensible and consistent nonproliferation policy across the range of issues from nuclear exports to reprocessing to uranium enrichment capacity to return of spent fuel. But that is not to say that the Nuclear Nonproliferation Act of 1978 is a firm foundation for that policy.

Our 1963 decision to ship nuclear materials to India before we fully understood the proliferation implications of nuclear exports was a mistake. We will not make this error again. But we will not recover from past folly by blindly abandoning our agreement and allowing India to do as they choose with 200 tons of spent fuel. No less an authority than Ambassador Gerard Smith recognizes that this is the case.

How do we convince the world that our commitment to nonproliferation is to be seriously regarded while at the same time overturning the so-called centerpiece of current policy? The answer is to be found in the conditions of the agreement itself. We have the right to require that all fuel supplied to Tarapur under the agreement be returned to the United States after its capacity to produce electricity is spent. If we do not exercise that right by 1993, India will be able to dispose of—to reprocess, to sell, to divert—the fuel we have supplied in any way they desire.

It seems to me that we can only prove our commitment to nonproliferation by assuring that no fuel exported by the United States is ever available for diversion to weapons production. In the case of Tarapur that means returning the spent fuel to the United States. Under the conditions as they now exist, taking any other course can only mean failure to act on our commitment to nonproliferation. It will be an expensive proposition. Making the original agreement will prove an expensive mistake. But recovering our error by recovering our fuel will be the most convincing—is the only convincing demonstration that our commitment is tangible and can be relied upon by the world community.

I know that many oppose U.S. acquisition of foreign spent fuel. And it is not a policy that I would favor in general. But in this case we cannot uphold the nonproliferation commitment and avoid that responsibility. In this most difficult instance and for this small amount of fuel, requiring return is the only policy that positively demonstrates and tangibly implements our nonproliferation objective.

Mr. President, if I had my choice on these export licenses, I would vote to approve the first—fulfilling our obligation under the agreement—and disapprove the second with language that would make it clear that the Senate would approve no further exports until arrangements had been made to assure return of all material supplied before the agreement expires in 1993. But that is not the choice presented to the Senate, today.

So I will vote to export 38 tons of nuclear fuel to India to keep the agreement and preserve the safeguards it contains. But I want it to be clear that this is my last vote for exports until such time as we have a policy in place that guarantees return of all material supplied since 1963. I believe this to be the only reasonable course that upholds our commitment to nuclear nonproliferation.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, will the Senator from Ohio yield for a question at this time?

Mr. GLENN. Mr. President, I will yield a total of 3 minutes. I would not want to go beyond that. We have some people coming to speak. I yield 3 minutes on my time for a question.

Mr. SARBANES. Mr. President, I say to the Senator that I think the time in opposition to his resolution adding up on both sides is down to about 10 minutes or so. Therefore, most of the time remaining to be used up before the vote is in control of the supporters of the Senator's disapproval resolution.

Mr. LEVIN. Mr. President, I thank my colleague from Ohio.

A few minutes ago I asked the Senator whether or not, in the absence of the 1971 amendment, he would be arguing that the 1978 law applies. The Senator's answer was yes, as I remember, because of the 1966 language itself.

I wonder if the Senator could identify what language in the 1966 contract he is relying on.

Mr. GLENN. Yes. If the Senator would get a copy of the committee report, I could run through that and show the legal paper path we go through on this thing.

Mr. LEVIN. Mr. President, I wonder if the Senator could identify the language in the 1966 agreement, because I did follow all the rest of his argument.

Mr. GLENN. Yes. On page 53, under the 1966 contract, it states, as was stated earlier:

> The seller shall sell to the purchaser and the purchaser shall purchase from the seller, as needed, as of the purchaser's requirements of enriched uranium for use as fuel for the Tarapur Atomic Power Station up to a net amount of—

And the rest of that sentence right there.

But that is qualified over on the following page. If the Senator will go to page 54, down to line 9, where it says:

> Subject to such conditions and licenses as the seller may require.

So there was still to be a future requirement there to be put in.

It was further clarified then in 1971, which is covered over on the beginning of page 67. The amendment in 1971 covered that time period where we, in fact, were switching from government-to-government provision of sales to commercial sales. So we put in additional requirements at that time in 1971 which India accepted. At the bottom of the page, under D, it says:

> The purchaser shall procure all necessary permits or licenses (including any special nuclear material license) and comply with all applicable laws—

And so on.

So the paper trail through there of what was intended by our Government was very clear. India signed each one of these along the way and thereby agreed to them.

Now, what was the question?

Mr. LEVIN. I thought that was the representation that the Senator from Ohio made. I have read and reread the Congressional Research opinion. For the reasons that Senator Javits, Senator Sarbanes, and I gave, I do not think it is of any legal weight whatsoever. But I will not get into that now, because I am on the Senator's time.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. GLENN. Mr. President, this will be charged to my time and I will yield 2 more minutes to the Senator.

Mr. LEVIN. I thank my friend from Ohio.

Even the Congressional Research Service opinion, which I think pulls out all stops to reach the conclusion it did, did not cite that language that the Senator now cites in support of his conclusion, because it obviously refers to the words "or to a transporter engaged by the purchaser, subject to such conditions and licenses as the seller may require."

My question of the Senator from Ohio is this. Am I not accurate when I say that even the congressional research opinion that the Senator from Ohio relies on for his legal position here makes no reference to those words "subject to such conditions and licenses as the seller may require" in support of the conclusion that it reaches?

Mr. GLENN. I do not recall. I guess I should, but I do not recall whether they did or not. I will have to go back and reread the whole thing.

Mr. LEVIN. I thank the Senator.

Mr. GLENN. The 1971 amendment expanded those very words in the 1971 amendment that applied to earlier treaties.

Mr. LEVIN. My question is whether there was any reference whatsoever in the opinion about the phrase "subject to such conditions of licenses" in article III, section A of the 1966 agreement.

Mr. GLENN. I will have the staff look it up now. Perhaps we can cover it before the debate ends.

Mr. LEVIN. I thank the Senator from Ohio.

Mr. GLENN. Let me say that regardless of what the legality is, this is a gray area between the State Department and the Congressional Research Service, legal scholars on the staff here, and so on. I think we are right in going with the American Law Division of the Congressional Research Service and their interpretation, because the language does, from agreement to agreement and contract to contract, and so on, track perfectly with what was the intent of our Government, which was to keep future options open as to requirements we might put on.

But regardless of the legality question, it seems to me we come back to the fact that there are three major reasons why the administration has proposed this shipment. That is on the foreign policy grounds, which I think we have addressed. Second, the administration as far as the breach of agreement problem, which we have talked about, and we will still be talking about it, obviously, because it is an area of uncertainty; and the next area being the third administration argument, whether it will tarnish our image as a reliable supplier. I think it will enhance our image as a reliable supplier which has qualifications on what we want to see the agreements be.

Most significantly, there are 111 Nonproliferation Treaty signers around the world who signed full-scope safeguards, who foreswore the development of nuclear weapons, in return for the nuclear assistance that we could give.

Second, we have current negotiations with non-NPT countries on full scope safeguards which would be undermined if we continued business as usual with the world's first nuclear violator.

Third, the nuclear supplier nations, some of whom now require full scope safeguards as a condition for exports, Australia and Canada, and others that may be moving in that direction, France and West Germany, might reassess their positions if they became convinced the United States is reversing itself on this vital issue.

Finally, if America is to demonstrate its ability to conduct consistent foreign and national security policies it is apparent that we shun even the appearance of appeasement. Joe Nye, then a State Department official 2 years ago, stated in the absence of progress on the full scope safeguards issue it was "highly unlikely" that the United States would supply India with nuclear materials after the NNPA deadline.

I want to see us be consistent in our foreign policy, Mr. President. I think there is no other way to go but to approve this resolution.

Mr. President, I yield 1 minute to the distinguished Senator from North Carolina.

Mr. MORGAN. Mr. President, I intend to vote against the resolution of disapproval. I am doing so reluctantly because I am fully aware that the issue of exporting two additional shipments of low-enriched uranium fuel to India for use at its Tarapur Atomic Power Station is complex and can easily attract adherents on both sides of the decision.

The issue, Mr. President, is simply beset by many uncertainties and ambiguities. Are we contravening our own Nuclear Nonproliferation Act of 1978 or should India merely adhere to the restrictions contained in the original bilateral agreement of 1963? Is India's peaceful nuclear explosion of 1974 a breach of the 1963 agreement or just a legal ambiguity which needed further interpretation? Will our uranium exports to India encourage Pakistan in its own nuclear ambitions or are Pakistan's imports from Switzerland independent of anything being done at Tarapur? Are our relations with India best served by breaking the 1963 agreement or could our future dialog be conducted in a more favorable atmosphere if the shipment is completed?

I have carefully considered the implications of these questions, Mr. President, and have reached the conlusion that our Nation's security interests in South and Southwest Asia can best be served by supporting the Executive order which authorizes the shipment. I am glad to say that individuals intimately acquainted with nuclear controls and disarmament reached the same conclusion.

Secretary Muskie wrote to me that:

> It is impossible to predict whether we will be successful in convincing India to continue to forego nuclear explosive activity . . . I am sure . . . that our chances of achieving this objective is enhanced by going ahead with these two licenses . . . If we do not, we will have lost whatever leverage we now have over the situation.

In another letter, Ralph Earle II. Director of the U.S. Arms Control and Disarmament Agency tells me that:

> If the U.S.-India agreement . . . is breached in a material fashion . . . India is released from its obligations thereunder. The results would be serious and could lead to the reprocessing of U.S. fuel in India without U.S. consent . . . In addition, it could have the effect of ending the Indian safeguards agreement now in effect with the International Atomic Energy Agency.

Ambassador Gerard Smith, now overseeing our interests in nuclear control arrangement, writes that:

> If our country terminates its uranium supply to India . . . we risk losing our present control over large quantities of U.S. origin spent fuel now in India . . . All our major allies support the President's Tarapur decision. I think a failure to supply . . . will be taken abroad as yet another sign of U.S. non-reliability as an energy supplier.

Mr. President, it appears to me that the key elements in all three letters regarding the approval of the shipment are that we retain leverage to negotiate further, that we do not release India of its own obligations, and that we will retain our credibility as a treaty partner.

In the light of present world developments, and particularly the Iraqi-Iranian conflict, we cannot afford to antagonize a large country in the region without further damaging our bargaining position in the area. India may have differed with us in the past on some key issues and its present policies may not be entirely to our liking. Yet if we respect the fact that India is independent and sovereign, the largest popular democracy in the world and a major nonalined power, should we not also accept an occasional variance in the results of its decisionmaking processes?

Some other more technical arguments in this debate should be briefly reviewed. Under an agreement of cooperation with the Indian Government reached in 1963, the United States agreed to supply the necessary amount of low-enriched uranium needed to fuel the Tarapur reactors during their estimated 30-year lifetime. In return, India committed itself to terms conditioning the use, reprocessing, and safeguarding of the supplied fuel and not to use the supplied material for "atomic weapons or for any other military purpose."

It is the contention of the State Department that thus far India has met all of its reciprocal obligations under the 1963 agreement.

The Nuclear Nonproliferation Act of 1978 provides that after a specified grace period, a recipient of U.S. nuclear exports must have its nuclear facilities under international safeguards as a condition of continued export. With regard to Tarapur and other Indian facilities containing nuclear materials that have been supplied from outside of India, international safeguards have been accepted. It is in the case of other indigenously developed facilities that compliance with international safeguards is still lacking.

Upon review of the license applications covering the proposed exports to Tarapur, the Nuclear Regulatory Commission found that the applications did not meet full-scope international criteria. The Commission's decision to refer the applications to the President was grounded in large part on its interpretation of the grace period established in the Nuclear Nonproliferation Act.

The record will show that the license applications at issue today were filed before the filing deadline of September 10, 1979. The expiration date of the much debated grace period was March 10, 1980. The Commission judged that since the exports would not occur before March 10, 1980, the license applications were not exempt from the full-scope safeguard criteria. It is my belief that the Commission's interpretation is much too narrow in light of our existing relationship with India.

We are at a time when we need more than ever to maintain our nonproliferation dialog with India. If we vote today to deny to India these export applications, we vote to deny to the United States the opportunity to discuss its differences with India on nuclear issues in an atmosphere conducive to progress. It is imperative that we maintain a viable diplomatic relationship with India in order that the negotiating process we now have will be maintained. Only through this channel can we bring India into full-scope compliance with international safeguards.

The issue must ultimately be viewed in context with our nonproliferation objectives: Will nuclear restraint better be served by shipping the nuclear fuel or not? It is my contention that it will; and that if we fail to ship the fuel, our measure will serve only to strengthen the forces already working against nuclear restraint in this region of the world.

Although there is much to be desired in the achievement of our nonproliferation goals, a vote today by the Senate disapproving of the President's Order will weaken not only our basis for continued discussion and negotiation, but also any hope of achieving those goals. The Tarapur issue has become an indicator of our commitment to maintain good relations and stability in this troubled part of the world.

I ask my colleagues to join me in opposing this resolution of disapproval.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Since Senator CHURCH is not here, I will take the liberty of using 1 minute of his remaining time.

Commenting on Senator GLENN's last remarks relative to the 111 nations, not one of them has a supply contract with the United States similar to the one India has; second, everyone of those 111 nations can understand a commitment. We had a commitment, an unambiguous, unconditional commitment to India, and not one of the 111 nations had such a contract. They ought to understand our carrying out our own commitments.

Finally, relative to the claim of "appeasement," one of the worst things in terms of world order is for countries not to keep their commitments to each other. We have to keep commitments and not unilaterally change them substantively, unless our security needs clearly so require.

I yield the floor.

Mr. GLENN. Mr. President, I yield 5 minutes to the distinguished Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, there is no doubt that the approval of the nuclear fuel sale to India has become a highly controversial issue. It has become so because this sale deals with conflicting principles of foreign policy, nuclear nonproliferation, and commercial obligation. The controversy is not a partisan one however. Some of my distinguished colleagues from both sides of the aisle have come down on opposite sides of this question. To a certain extent we are dealing in speculation here, about consequences of our continued approval or disapproval of the nuclear shipments to India, and our perceptions of the effects on future United States-India relations and, most importantly, the spread of nuclear weapons capabilities.

The administration has made its decision in favor of the proposed sale. In doing so Mr. Carter overruled the unanimous decision of the Nuclear Regulatory Commission (NRC) that the shipment would violate U.S. interests by breaking the Nonproliferation Act. In doing so the administration has overruled the will of the people and the Congress who passed the 1978 Nuclear Nonproliferation Act. In doing so Mr. Carter has breached the enforcement of the Nonproliferation Act which the House of Representatives upheld Thursday in a nonpartisan, 3-to-1 vote of 298 to 98, which disapproved the President's decision to override the NRC. Today's vote in the Senate will be the final decision on this important issue. With our vote today, the fate of the Nuclear Nonproliferation Act and its goals will be decided, along with the destiny of that fuel for India.

DISAPPROVAL MORE PERSUASIVE

There is no doubt this is a complicated issue. There is a case that can be made that furthering our nonproliferation goals can be accomplished by either approving or disapproving the sale of the fuel. There is a legal case based on our prior contracts with India both for and against continuing the shipments. It has been argued that denying India the fuel will ultimately do more or less damage to our foreign policy interests. It is the belief of the Senator from Kansas and the other cosponsors of this resolution that the case against the sale to India is ultimately more persuasive, and of more importance to U.S. long-term security goals.

It seems clear to me that if the Senate approves the sale we will be undercutting the Nuclear nonproliferation Act of 1978, and will be placing the United States in contravention of our own laws. We will be aiding and abetting India's drive to acquire a nuclear military capability. We will be making a sham of our exhortations to other emerging nuclear powers to join the Nonproliferation Pact.

This is not to say that it is not necessary and important to continue our longstanding friendship with the people of India. We would like to develop closer relations of mutual benefit to the Government of India. India, one of the most populous countries in the world, has a tradition of democratic institutions which has recently been tested, and it has emerged still free. As a leader of the nonalined movement and the Third World, India is vital to our efforts to maintain good relations with that increasingly important bloc. Yet the administration's stand on the export of additional nuclear fuel to India is not in the American interest, nor ultimately in India's.

SELLING FUEL OR SELLING OUT?

What do we hope to gain by selling India this nuclear fuel? The administration argues for a lever over future Indian foreign policy. Yet there is nothing in the past record to indicate approving this sale would even earn us the thanks or appreciation of India, let alone its future cooperation. Should this sale occur, it would be in direct contradiction to the stated foreign policy objectives of the United States over the past three administrations; namely, worldwide nonproliferation.

The decision whether to export additional fuel for use in the operation of the Tarapur nuclear powerplant is a true first test of the 1978 Nuclear Nonproliferation Act. If it fails the test, we may find the act virtually vitiated as an instrument of foreign policy. As many of my colleagues who participated will recall, that act was passed by an overwhelming 88-to-3 vote. According to its provisions, all non-nuclear-weapons states requesting a supply of nuclear fuel must accept international safeguards on their nuclear programs. If we continue to export this fuel to India, which has constantly rejected the Nonproliferation Treaty and safeguards, our policy of nonproliferation will become discredited. It will become difficult, if not impossible, to prevent nuclear proliferation, with all the risks that entails of nuclear warfare, to such developing countries as Argentina, Brazil, South Africa, Indonesia, Pakistan and others.

With the invasion of Afghanistan, the administration has been lately forced into the realization that our relations with Pakistan must be strengthened, that its strategic position is even more important now than before. American opposition to Pakistan's nuclear-capable program has been a major thorn in our mutual relations. Our Nonproliferation Act codifies the principle and policy the United States has worked hard for other states like Pakistan to accept. It is one of the few means available to discourage the pursuit of nuclear capabilities by threshold nations.

INDIA'S LOYALTY: PRICE TOO DEAR

It is just not clear to the Senator from Kansas how the administration can accept a policy which, reduced to its essentials, is an attempt to buy the loyalty of India by caving in to its uncompromising stand. If it can be bought, India's price is too high. The principle of nonproliferation is too dear a price, and too essential to our long-term national security, to be the questionably effective quid pro quo for India's friendship.

Recently, India signed a $1.6 billion arms agreement with the Soviet Union, an impressive display of friendship and cooperation. If we allow the export of U.S. uranium, we cannot realistically expect that it will result in any significant change in India's foreign policy. It is clear that, after the Soviet invasion of Afghanistan, the Indians have greater reason to fear for their security and yet, of all the Third World, India protested the least. They have accepted the Vietnamese invasion of Cambodia and the puppet regime installed there. It is quite apparent that India will make its security decisions on the basis of much larger geopolitical concerns than our shipment of nuclear fuel.

The Senator from Kansas agrees that it is best to do what we can to improve relations with India. To enhance their security, for instance, the United States just recently indicated its willingness to sell 3,700 TOW antitank missiles to India. This is a more straightforward and a much less harmful method of continuing our good relations with the Indians. However, the United States cannot, in good faith, continue to supply the nuclear program of India when the Indian Government has violated its "peaceful use" assurances made to the United States under the agreement for nuclear cooperation made in 1963. India's use of U.S.-supplied heavy water during their so-called peaceful nuclear explosion in May of 1974 is a direct breach of our agreement.

How can the United States continue to export fuel to a nation which has not foreclosed future "peaceful explosions" and constantly threatens to breach again the 1963 agreement by extracting nuclear explosive material? Such use of U.S.-supplied fuel for the production of plutonium is a major threat to world stability. We cannot allow ourselves to be blackmailed on this issue, or the United States and the rest of the world will be subject to a far worse blackmail by nuclear terror in the future.

It is the administration's view that to avoid the "possible" harm to our nonproliferation efforts, a breach should not be made in our agreement to supply fuel to India. What kind of reasoning is this? If any breach has been made, it has not been by this country. In the sometimes complex and contradictory milieu of statecraft, where policies and motives are occasionally obscure and working at cross-purposes, the proper course is sometimes hard to see. I, too, continue to support strong and peaceful relations with India.

COMPROMISE POSSIBLE

The administration, however, has not exhausted all avenues of possible compromise that might lead to a diplomatic solution acceptable to both sides. Stanford Professor Henry Rowen, an expert in nonproliferation issues, has pointed out that despite the added costs, the United States could make the return of spent fuel a condition for the future shipment of uranium. This is the usual practice for the Soviet Union when it acts as a supplier to third countries. Evidently, India wants all or nothing and has indicated no interest in this effort to bridge the differences between our two countries.

The prospects for friendlier relations between India and the United States, never very certain, will no doubt be clouded for the short term by this issue. But, it is also certain that to cave in to a nation that has consistently opposed U.S. foreign policy goals without achieving a commitment on nonproliferation cannot be construed to be even remotely in the interests of the United States. The Congress must be concerned about long-term effects of foreign policy decisions. We have learned that decisions made today about our future national security will have ramifications far beyond the next election. The Carter administration has overruled the unanimous decision of the Nuclear Regulatory Commission that the shipment would violate the Nonproliferation Act. It is up to the Senate to veto the President's decision and uphold the law, and to further the cause of nonproliferation.

(Mr. BRADLEY assumed the chair.)

Mr. GLENN. Mr. President, I thank the distinguished Senator.

I yield myself 20 minutes.

Mr. President, we have made the best case I know in favor of this resolution to block the shipment of uranium. The case can be summed up: First, if we send the exports, we shall weaken the Nonproliferation Treaty. One hundred and eleven nations around this world have signed the NPT and subjected themselves to full-scope safeguards—meaning they have forsworn the development of nuclear weapons. For that agreement and to encourage them into the Nonnuclear Proliferation Treaty, they are to receive nuclear assistance.

And we have carried out the technological and material help in that regard to all these nations—or to many of them.

A U.S. decision to send the exports without requiring this commitment undermines the value of becoming or remaining a treaty member. Second, a vote to approve Senate Concurrent Resolution 109 to stop the exports upholds our commitment to full-scope safeguards as a standard for nuclear trade. Disapproving the shipments provides congressional affirmation of the cornerstone provision of the NNPA and removes any doubt regarding the U.S. commitment.

Third, passage of Senate Concurrent Resolution 109 would avoid the erosion of U. S. leadership caused by failure to enforce our safeguards policy against the worst nuclear offender. India is the only nation to have diverted civilian nuclear facilities to produce nuclear explosives—despite a letter sent by the Atomic Energy Commission to Bombay 4 years before the explosion warning India that the heavy water sent there was to be used only for peaceful purposes, and our definition of peaceful purposes meant no bomb, no explosion, whatever the title was that was given it that explosion.

Mrs. Gandhi has stated her intention to conduct further explosions whenever deemed in India's national interest. India's unsafeguarded indigenous facilities over which the United States has no control whatsoever—no control whether we ship fuel to Tarapur, no control of any kind by the United States. These other facilities over which we have no control are capable of producing thousands of kilograms of plutonium, potentially representing hundreds of bombs by the end of this decade. That is quite apart from any control we have over Tarapur or anything Tarapur does. Those thousands of kilograms of plutonium, if the fuel from Tarapur were used to add to that, would provide only some additional 360 kilograms—an important amount, but small compared to what India will be able to do whether or not we ship this fuel.

Failure to enforce U.S. policy against India would seriously undermine our negotiating position in other instances. And, finally, the passage of Senate Concurrent Resolution 109 would not violate U.S. contractual commitments. We shall go through that in greater detail later.

The Foreign Relations Committee, in its report on the resolution, agreed with the American Law Division of CRS that under the 1963 nuclear agreement and the subsequent fuel contract, India is required to "comply with all applicable laws, regulations, and ordinances of the United States" including the NNPA. Let me examine now the arguments on the other side.

The other side says that approval of the exports will favorably impact Indian-United States relations, while disapproval would deal us out of the game with India. I believe that the opposition has failed to make a case that nuclear trade with India has had or will have any significant lasting impact on Indian-United States relations one way or the other. It should be remembered that, after President Carter promised Mrs. Gandhi the fuel, the Indians closed a $1.6 billion arms deal with the Soviets—I repeat, after President Carter promised Mrs. Gandhi the fuel.

We could say that was under negotiation for a while and we could not have expected otherwise. I probably agree with that. But I can hardly agree when India became the only non-Communist nation to recognize the pro-Soviet government in Kampuchea, and abstained on the U.N. resolution condemning the Soviet invasion of Afghanistan at a time when we needed their vote.

The other side says, and rightly so, that they finally came around and said the Soviets had done wrong, and they did. But, at the first go-around in the United Nations, they went against us.

Also, once we set up an economic boycott of Iran as a result of the hostage situation, India went ahead and is now negotiating a major trade pact with Iran undercutting our ability to apply pressure for the release of our hostages. The Statesman of New Delhi announced the trade agreement with the headline: "India To Help Iran Beat U.S. Sanctions."

United States-Indian relations are much more likely to be affected by such matters as the laws governing the $2 billion in annual trade between the two countries, the hundreds of millions of dollars in economic assistance provided annually by the United States—economic assistance that I have supported in our Foreign Relations Committee and undoubtedly will continue to support, because I think it is very important that we give India aid in this area—as well as security assistance arrangements such as the recent sale of 3,700 TOW antitank missiles.

I add, Mr. President, that on the floor just this morning, I was given some figures on India's total arms purchases between 1960 and 1980. From non-Communist countries, it has been about $3.5 billion; from Communist countries, about $5 billion in that period. So it does not look like anything we do or do not do here is going to be a determining factor.

Also, we have notice of proposed issuance of Letter of Offer pursuant to the Arms Export Control Act, where we are in the process now—a report delivered to Congress shows we are in the process of a major defense equipment sale to India on the order of $111 million for 230 M-1, 98 155-millimeter towed howitzers with spare parts, support equipment, mobile training team, and so on.

We have another order in the mill which we have been notified on the 12th of September. Another major defense equipment buy totaling $28.7 million for 155-millimeter projectiles and component charges with primers.

We are dealing with India in many different respects and this nuclear fuel sale is but one of many connections we have with India.

A second argument of the opposition is that "shipping the fuel is consistent with U.S. nonproliferation policy." It is not. The legislative history and State Department cables explaining the NNPA in 1978 show that the law contemplated an absolute 24-month deadline for applying the full-scope safeguards standard.

Senator PERCY and I discussed that a few moments ago. I hope everyone was listening because he stressed the 18-month period in which applications had to occur, and I concur with everything he said in that regard. But he did not address the 24-month cutoff, which was a guillotine cutoff if agreement had not been reached.

We described it that way. The State Department, following enactment of that, interpreted it as a guillotine cutoff and sent cables to every diplomatic mission around this world.

To come back and say it was not intended as a guillotine cutoff is not right.

Allowing the exports amounts to a waiver of the standard and will be universally viewed in these terms.

The third argument of the opponents of the resolution is that "the exports should be shipped to avoid losing control of past shipments."

There would be a never-ending supply to India, no matter what request in the future or what happened if we agreed with that.

This is an argument favoring supply without end and a capitulation to Indian threats. It should be remembered that after Canada broke nuclear trade with India in 1974, India retained safeguards on Canada's reactor because of her sensitivity to international criticism. But even in the worst case, the amount of plutonium available to India from Tarapur is dwarfed by the large amount of unsafeguarded plutonium India will have by the end of the decade through her indigenous facilities, over which we, in this arrangement and contract with India, have absolutely no control.

The real proliferation threat is not past U.S. shipments, but India's unsafeguarded facilities.

Finally, the opposition says that "India has never violated a nuclear agreement with the United States." I have already discussed the aide memoire sent by the United States to the Indians in 1970, 4 years before India's nuclear test, stating unequivocally, that the use of U.S. heavy water for nuclear explosions would be a "contravention of the terms under which the American materials were made available."

That diplomatic message, that aide

memoire, was a secret document until last Friday. We asked it be declassified. I appreciate very much the cooperation of the administration in declassifying it promptly to become a part of this debate. I thought it was a very important part. It indicated well in advance of any explosion our intent with regard to how that material was to be used and our interpretation of whether the original cooperation for agreements language that said it was to be used for "peaceful purposes" was being carried out.

We told India in no uncertain terms that if there was an explosion of any kind, whatever they called it, that we would interpret that as being a contravention of the terms under which the materials were made available.

Mr. President, we have heard a great deal of discussion from a great many people yesterday and today on this issue. Senator PERCY has argued eloquently in favor of these shipments, claiming that the shipments are consistent with the letter and the spirit of the policy and the law that was adopted 2 years ago. I respect Senator PERCY as a colleague and as a friend.

We work together on the Foreign Relations Committee and usually vote together on most matters. I am sorry we find ourselves coming apart on this particular issue.

I hope if Senator PERCY is listening at a speaker somewhere that he would come to the floor because I want to quote some of his words back to him in a moment.

I do not want to do it behind his back, although we can hardly do that on this floor with everybody listening.

But Senator PERCY has talked eloquently in favor of the shipments, claiming they are consistent with the letter and spirit of policy and law adopted 2 years ago.

I respect him as a colleague and friend. There is no one in this body who has worked harder to shape U.S. nonproliferation policy than he has. It was an inspiration to work with him on the NNPA over a period of a number of years, and to work to get it into law. Because of this background I felt it instructive and important to go back into the record to see what Senator PERCY had said in connection with the development of our policy and of the NNPA. On February 7, 1978, in a debate regarding an amendment to the NNPA that had been proposed by Senator DOMENICI, Senator PERCY who opposed the amendment said the following:

> I merely feel that this amendment goes really a little farther than we are able to go because it now starts to invade our ability to keep the nonproliferators in charge rather than the nuclear salesmen.
>
> Look at the ludicrous position we would be in as a nation. Right in India today we are negotiating with India at the highest level—the President of the United States has just left India. We are all alarmed that we have a developing country that used technology and know-how from Canada and from the United States under the Atoms-for-Peace program to develop a nuclear bomb. This has destablized the whole condition in the subcontinent. Pakistan is now pressing France to fulfill its commitment to give them a full cycle which would give them by anyone's admission the capability of developing nuclear explosives. . . Under the amendment of the Senator . . . the NRC would be required to continue to supply enriched uranium to India. What we have and what we have admitted from the start is time. We are the principle suppliers, we have clout and [illegible] the world expects us to use that clout as a bargaining chip. We want to be able to keep it.
>
> Under this amendment exports would simply have to go out if there were no changed circumstances.
>
> We want changed circumstances in India. We want India to sign the Nonproliferation Treaty just as we want South Africa to sign the Nonproliferation Treaty. Virtually every nation on earth wants that and we want to bring about that change through the leverage and the persuasive powers of the United States of America. We do not want to undercut the President in his bargaining power.

I agreed with that statement of Senator PERCY at the time and I still agree with it. I am sorry he is on the other side of this particular argument. I believe it is pertinent to this particular case that we are discussing today and I believe it supports my position. That is not the only statement that Senator PERCY has made on nonproliferation that supports my position in the present case. On July 14, 1978, in connection with the first Tarapur fuel case following the passage of the NNPA, Senator PERCY insert a statement in the RECORD supporting sending the fuel at that time, and commenting on a relatively close House vote that failed to reject the Executive order at that time to send the fuel, his statement says that—

> The final vote of 181 to 227 is a graphic demonstration of the deep concern which many of us share about the inadequacy of nonproliferation controls in India. It is clear that if India has not accepted full-scope safeguards within the 18-month period provided under the Nuclear Nonproliferation Act of 1978, it is highly unlikely that a waiver allowing continued exports would be approved by the Congress.

I submit that this statement shows that Senator PERCY at that time felt that the Indians had a limited amount of time to accept full-scope safeguards before an absolute cutoff of exports to them would occur. That is precisely the position I have taken in connection with the present export. Mr. President, I see no reason to change my mind about the importance of giving our present policy a chance to work. The policy of unlimited nuclear trade without requiring [illegible] scope safeguards was a policy that we followed for years after atoms for peace. That was the policy that got us into our present nonproliferation problems. That was why we decided to change that policy when we passed the NNPA. The previous policy was in existence for 20 years, while the present policy has been in existence for 2 years.

There may well be some places where adjustment of this policy should occur, but I believe that the basic thrust of the policy points in the right direction, that we should give it a chance to work. I believe we will be taking that chance away if we do not approve the resolution on Tarapur.

I have discussed the substance of the case against the shipments. I should like to say a little about the lobbying efforts again in connection with this issue.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, I yield myself the remaining time, which I understand to be 4 minutes, to summarize the case for those of us who oppose this resolution of disapproval.

The thing to remember, whatever any Member of the Senate may feel about India, is that the Government of that country has not broken any agreement with us. India did not break an agreement with the United States when it detonated a nuclear device. The position of the State Department on that question is that there was no breach of the original agreement relating to the establishment of the experimental facility which was used in connection with the building of the bomb.

India has kept the agreement as it relates to our obligation to furnish fuel for the Tarapur plant. The adoption of this resolution will be a material breach of that agreement on the part of the United States. I believe that is wrong, because we should keep our word. A solemn pledge made should be kept.

We at least should extend to India the courtesy of putting her on notice that under the new law of the United States, all future applications for further enriched uranium for Tarapur after these two shipments are made will be subject to the full rigors of the 1978 Nuclear Nonproliferation Act, including the section 128 full-scope safeguards criterion. That will give India an opportunity to make any new arrangements she sees fit or decide to agree to a comprehensive nonproliferation policy that will subject all her nuclear plants to the full-scope safeguards.

To break this agreement peremptorily is going to have the most serious repercussions. It will gain us little or nothing in terms of advancing our nonproliferation objectives, but it will cost us dearly in influence that we need in New Delhi. It will cost us dearly in added Russian influence and growing Russian power in this troubled region of the world.

We cannot balance all the complex consequences of this act and reasonably conclude that the interests of the United States are advanced by breaking our agreement with India. Too much is at stake. It extends far beyond the question of nonproliferation alone. It is not the course of wisdom, and it is not the course of honor, in my judgment.

For this reason, I hope very much that the Senate will not approve the resolution of disapproval brought before it by a Foreign Relations Committee that was divided 8 to 7 on the question.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, may we know the condition of the time?

The PRESIDING OFFICER. The Senator from Idaho has no time remaining. The Senator from New York has 6 minutes. The Senator from Ohio has 6 minutes. The Senator from North Carolina has 5 minutes.

Mr. GLENN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I discussed the subject of the case against the shipments a little earlier, and now I should like to speak about some of the things that have been said.

Lobbying efforts have been very heavy on both sides. Secretary Muskie has played a leading role in the effort and has carried out his responsibility in this connection with honor and fairness. His letter on this issue and his statements indicate that he is somewhat troubled by some aspects. In a letter he sent to all Senators, he says, "It is admittedly a close call." I agree with that.

There are other aspects of the lobbying which have troubled me somewhat. For one thing, some of the administration officials who have been lobbying Senators on this issue are saying things with which I do not agree.

They are very misleading.

Let me give the Senate an example: Some of the people who have been lobbying the last few days have said that all our major allies support the President's Tarapur decision. I have heard that back from a number of Senators.

I am not certain as to exactly who they mean when they say this, and the only quote I have heard is, "There was no real big decision of this at the Geneva conference in August." But that does not mean approval by these different governments. I can guarantee Senators that. So we took it upon ourselves, with my staff, to make inquiries of the embassies here in Washington to find out whether there were official positions taken by these governments, which is what has been intimated by the Ambassador that has been around making those statements.

Word has come back unanimously that the governments of those countries have taken no position on this issue and are not likely to take a position on it. It did produce some interesting information besides that. The Canadian Embassy responded to the inquiry by saying that although they have no official position on the U.S. sale of fuel for Tarapur, they cut off the Indians in 1974 as a result of the Indian misuse of a Canadian reactor to produce the material for a nuclear explosion and that nothing has occurred in the Indian nuclear situation in the past 6 years to cause them to alter their policy.

The Australian Embassy answered that they have no official position, but that it should be noted that they require full-scope safeguards for nuclear trade.

I will mention some other statements which we obtained from some of the embassies of our major allies. One embassy official, while saying that his government had no official position one way or the other on the shipment of fuel to Tarapur and said that opinion among embassy officials was divided, but that everyone agreed that the decision to send or not send the fuel would determine the credibility of U.S. nonproliferation policy. At another embassy of one of our major allies, we were told again that that government had made no statement and taken no position on the shipment of fuel to Tarapur. This embassy official indicated, however, that the NPT was considered very important to his government and that it was the opinion of embassy officials that sending the fuel weakens the nonproliferation regime.

Mr. President, I reiterate that there is only one conclusion that can be made on the basis of these inquiries and on the basis of the statements that have been made by some high officials of our Government. It is just not true, it is just not the truth. They have been going around to Senators saying that "All our major allies support the President's Tarapur decision." It is a misrepresentation of the facts from the embassies that we have talked to and there is no one they have pointed to so far as far as I know; no one has been given any information about specifically what countries have indicated this great support that the administration claims. In fact, it is not there.

That is not the only instance where the Senate has not been told the truth about the Tarapur issue. Administration officials who have claimed that India did not violate its heavy water sales agreement with the United States when it exploded its nuclear device in 1974 are also, I think, very much mislead or deliberately misrepresenting the truth, because we did send India a diplomatic message, an aide-memoire in 1970, 4 years before the Indian explosion, concerning the heavy water sales agreement.

Let me quote from a little bit of this. I will not read the whole thing in the interest of keeping time short. I will allow myself 2 minutes.

The PRESIDING OFFICER. The Senator only has 1 more minute.

Mr. GLENN. I allot myself 2 additional minutes of Senator HELMS' time which I am controlling.

Mr. President, as part of this statement, the American position, we explained what our view was and then we said that: "The development of such explosives"—any kind of explosives is what it referred to earlier—"therefore, is tantamount to the development of nuclear weapons. Any other position would be inconsistent with U.S. obligations under the Nonproliferation Treaty and the U.S. Atomic Energy Act."

In another paragraph:

> Specifically, for example, the use, for the development of peaceful nuclear explosive devices, of plutonium produced therefrom would be considered by the United States a contravention of the terms under which the American materials were made available. . .

That cannot be much more specific, and we went ahead in another paragraph and said:

> The heavy water sold hereunder shall be for use only in India by the government in connection with research into and the use of atomic energy for peaceful purposes.
>
> The United States would not consider the use of plutonium in CIRUS for peaceful nuclear explosives intended for any purpose to be research into and use of atomic energy for peaceful purposes.

So India was on notice, Mr. President, about what we meant and to say now that they have violated nothing after all of that, even though it is true that that language was not part of the agreement for cooperation, to me just flies in the face of logic.

Mr. President, I reserve the remainder of my time.

Mr. NUNN. Mr. President, will the Senator yield for a question? I will try not to take too much time.

Mr. GLENN. Mr. President, how much time do I have remaining on my time and Senator HELMS' time?

The PRESIDING OFFICER. The Senator has a total of 4 minutes and 20 seconds remaining.

Mr. GLENN. Mr. President, can the Senator do it in a minute? Or I will yield him 2 minutes.

Mr. NUNN. Mr. President, one brief question. The question I have is whether India has broken the contract we had with India in terms of their use of American heavy water or other material, whether they have indeed broken that contract. or whether we are in a position now of breaking the contract with them. I get different answers depending on whom I talk to on that question. So my precise question is, Did they indeed use American plants or material to produce the explosive material that they later used?

Mr. GLENN. In the original sales contract India pledged that anything done pursuant to it would be for "peaceful purposes," only. Later on, then, when we heard India was probably involved in making a bomb or explosive device of some kind, we then sent them the aide memoire to explain what we meant with regard to peaceful purposes.

It is true that that was not part of that original agreement for cooperation.

Later on, then, we signed a separate agreement of cooperation with the Indian Government and later, pursuant to that first agreement for cooperation, a supply contract, in 1966 which spelled out the terms of the Tarapur deal. This was further revised in 1971. These also limited India to using our material for peaceful purposes and our interpretation of this term, indicated by the note to India, was that any nuclear explosion of any kind would not be a peaceful use. It would be a contravention of the agreement we entered into.

Mr. NUNN. Did India ever agree to our interpretation? Did they ever explicitly or implicitly agree?

Mr. GLENN. They came back and said they did not agree with our interpretation of that, since this language had not been included in the original language. It was up to them to make an interpretation of what "peaceful" was.

Mr. President, I reserve the remainder of my time.

Mr. JAVITS. Mr. President, I yield 2 minutes to the Senator from Illinois, Senator PERCY, 2 minutes to the Senator from Tennessee, the minority leader, and 2 minutes to myself.

Mr. PERCY. Mr. President, I address my comments to Senator GLENN because of the very thoughtful comments he made about me a few moments ago in the Chamber. I would just like to return the compliment. There is no one in this body who has worked harder to shape nonproliferation policy than he has. If anyone has worked hard, Senator GLENN has. We are in accord with the goals, and I admire him for what he has done.

He did quote what I said on February 7, 1978, and I stand behind what I said at that time.

I did want our ability to keep the nonproliferators in charge rather than the nuclear salesmen.

I did say we have clout and I think the world expects us to use that clout as a bargaining chip. We want to be able to keep it. And that is exactly what we want to do.

We want changed circumstances in India. We want India to sign the Nonproliferation Treaty just as we want South Africa to sign the Nonproliferation Treaty. Virtually every nation on Earth wants that, and we want to bring about that change through the leverage and then persuasive powers of the United States of America. We do not want to undercut the President in his bargaining power.

I repeat what I said then. We do not want to undercut the President in his bargaining power.

Mr. President, I cannot think of anything that would undercut the President of the United States more and the Secretary of State than for this resolution of disapproval to be agreed to by the Senate. We would lose all contact with India on nuclear matters.

If we make these two shipments, we will allow another year for the President to use the bargaining power that he has to bring us closer together, and we are coming closer together. India has laid down certain conditions. We have laid down certain conditions. We are in that process. The State Department wants to continue that dialog, not end it. The dialog would be over if we end our supplier relationship with India on this weak ground.

I thank my distinguished colleague.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I thank the Chair, and I thank the distinguished Senator from New York for agreeing to yield me this brief time to speak in opposition to the resolution of disapproval.

Mr. President, our consideration today of a resolution to disapprove the sale of nuclear fuel to India for the supply of India's Tarapur reactor raises a number of difficult questions. There are questions of law and fact about which reasonable men of good faith have honest differences; there are questions of differing interests of the United States that may or may not be competing. In my judgment, Mr. President, the questions of law have been resolved in favor of this sale; moreover, I believe that the various interests of the United States, far from being competing, are parallel and mutually support the Tarapur sale.

If the questions of law were clearly on one side or the other, Mr. President, this issue would not be nearly so troublesome. If it were clear, for instance, that the United States had the right to withhold these shipments of fuel without breaching the 1963 agreement for cooperation, our task would be easier. Or, if it were clear that the Nuclear Nonproliferation Act prohibited shipments of nuclear fuel after the March 10, 1980 cutoff to countries that have not accepted full-scope safeguards on all their nuclear activities, that might be dispository of the issue. At the very least we would be considering the question from an entirely different perspective.

In neither instance, Mr. President, does the law clearly argue against this sale. In fact, I am persuaded that the legal arguments favoring the sale far outweigh those opposing it. India filed the license applications for both shipments within the NNPA deadline of September 10, 1979. Moreover, both applications were for shipments of fuel well within the reasonable and rational contemplation of the supply arrangements concluded in the 1963 agreement for the Tarapur program. The Indian applications are thus in compliance with both the law and the agreement, and India would likely consider our refusal to make these shipments now an arbitrary and unjustified breach of the 1963 agreement.

From the standpoint of policy, the consistent and persistent pursuit of the interests of the United States, the arguments are even more persuasive. It has been argued that the interest of the United States in nonproliferation and the interest of the United States in expanding its influence in the region of Southwest Asia are competing. I am convinced, Mr. President, that these interests are not competing, but are in fact, mutually supportive of this sale.

I have long held the view that the proliferation of nuclear weapons is one of the great, indeed one of the paramount, concerns that should face great nations and small alike. I have said previously, and I believe, there is a moral imperative that should require the nations of the world to try to reduce the risk of nuclear war.

But I have also held the view that our attempt to prevent proliferation has been too narrowly focused on the potentials for proliferation through nuclear power programs, and we fail to deal with the threat of proliferation through new technologies, technologies that, in my judgment, are far more likely to be the source of the proliferation of nuclear weapons than nuclear powerplants might ever be.

In the process, we have severely diminished our credibility as a reliable supplier of fuel for peaceful nuclear power programs; to the benefit of our competitors, we have taken our own domestic nuclear industry out of the world market; we have alienated friends; and, we have diminished our ability to influence positively the peaceful development of nuclear power.

Mr. President, no matter how regretful we may be about it, we need to recognize the fact that the nuclear genie is out of the bottle—Pakistan proves that, and there are at least fifty private corporations that could have supplied Pakistan that technology; we need also to recognize that our only hope of controlling that genie is to seek to expand, not diminish, our influence in the nuclear power programs of other countries, and to control, wherever possible, the technologies capable of producing weapons materials independently of nuclear power programs; and if we are to avoid the risk of nuclear war, it cannot be by sharply circumscribing our only practical alternative, by maintaining some control over the supply of nuclear power, nuclear fuel for power reactors.

The refusal now to make this sale to India would represent the classic example of a shortsighted policy. If we refuse this sale, the Indians will turn to the Soviet Union as their next best source of supply. Moreover, India will likely consider our refusal to this sale a breach of the 1963 Agreement for Cooperation which would free them to terminate the safeguards on the Tarapur reactors and to reprocess the spent fuels already at Tarapur. Finally, with respect to Pakistan, I will concede that it would be a natural reaction for India to respond with similar intent and I would certainly concede that even if we make this sale, we may not be able to dissuade the Government of India from pursuing this course. I would remind my colleagues, however, that if we fail to make this sale we can be virtually certain that we will be unable to influence India's decision to respond in kind to the threat of nuclear weapons in Pakistan.

Mr. President, we have a deep and abiding interest in seeking to expand our influence in the subcontinent of Southwest Asia. Neither we nor India can at this point discern the final implications of the Soviet invasion of Afghanistan, but we would be most ill-advised to write off India as a "captured" client of the Soviets. Although it is true that the Soviets have gained a position of significant influence in India and the recently concluded $1.5 billion arms package is abundant evidence of that influence, we have virtually overlooked the fact that India has also recently entered into an agreement with the United Kingdom, totaling $1.2 billion, for the purchase of military aircraft. We should be willing to compete with the Soviets, not forfeit to them, particularly in Southwest Asia, and we should be most reluctant to abrogate any channels of communication and cooperation with the world's largest democracy.

Mr. President, I believe our interest in nonproliferation and our interest in expanding our influence in the region are not competing but mutually reinforcing. The sale of nuclear materials to India for use in her Tarapur reactor program will serve both interests, and I would ask my colleagues to consider carefully whether the long-term interests of the United States are well served by so narrow a focus on disputed legal interpretations. I think, on reflection, that a majority of my colleagues will agree with me that the balance of our interests are served by making this sale.

I thank the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, the plain issue in this debate upon which we on our side ask Members to vote "no" on this resolution is whether we wish to push India again, as we did in connection with the Pakistan-India war, into the arms of the Soviet Union.

India has not signed the Nonproliferation Treaty, and she will not sign it under these conditions, and the question which faces us, therefore, is that some of us interpret our agreement with India one way, and some of us interpret it another way arguing that 13 years after we made the agreement they think we have the right to impose certain conditions on India incorporated in a statute passed in 1978.

That is never going to come to trial, as such, but it is going to come to trial on the question of whether or not India will be with us or whether we are really going to alienate her for a long time.

Considering this war that is pending right in the Persian Gulf, it seems to me unbelievable that we would consider such a move now.

Last, Mr. President, it is no precedent because the grace period of the Nuclear Nonproliferation Act had not expired.

If we disapprove these shipments, however, the only precedent set is that we are so stiffnecked that we have alienated a critical power in the world struggle today just because we are trying and straining by unilateral U.S. law to make them liable under a contract we made 13 years before that law was passed. Mr. President, it makes no sense at all, and I hope the Senate votes on the side of "no."

Mr. GLENN. Mr. President, I yield myself such time as I may require until our vote begins in just a couple of minutes.

This boils down to, Mr. President, a foreign policy decision that the administration has brought up, number one. I think we have taken care of a lot of those arguments on other aspects of our relationship with India where we have far more leverage than we have in this.

India has used our materials in ways in which we figured were not proper. We warned them in advance of that. We passed, largely as a result of their action, a 1978 Nuclear Nonproliferation Act that very carefully spelled out our views on what we expected to be the norm in return for our, technical assistance, equipment, and material help around the world, and that was very carefully spelled out.

A second administration argument is if we halt these exports, we will be in breach of the 1963 agreement. I think we have talked the legalisms of that over and over here this morning. I disagree with that strongly. The American Law Division of the Congressional Research Service disagrees with that.

A third area of administration disagreement is that of being the reliable supplier. But we have agreed with anyone who cooperates with us in the nonproliferation area, with signing the NPT, in agreeing to safeguards, that we cooperate to the fullest.

Mr. President, it comes down to this: The most important reason for barring these exports is that a U.S. capitulation to India could eviscerate our nonproliferation efforts around the world: 111 nonweapons states have already signed the NPT, and agreed to full-scope safeguards, and they certainly would very validly question the value of continued adherence if India received nuclear assistance without a similar commitment.

Second, current negotiations with non-NPT countries on the full-scope safeguards question would be undermined if we continued business as usual with the world's first nuclear violator.

Third, nuclear supplier nations, some of which require full-scope safeguards as a condition for exports, Australia, Canada, and others that may be moving in that direction, such as France and West Germany, may reassess their position.

Mr. President, for all these reasons, and for the reason we voted to support this resolution in committee, I urge my colleagues to support this committee.

I yield the floor.

● Mr. KENNEDY. Mr. President, I want to add my support for Senate Concurrent Resolution 109, the resolution to disapprove the proposed export of low-enriched uranium to India. I recognize that serious arguments have been made on both sides of this issue. I have considered them carefully, and have concluded that the further shipment of nuclear fuel to India, in light of that country's refusal to accept international safeguards on all its nuclear facilities, would set back significantly U.S. nonproliferation and foreign policy interests.

Throughout my Senate career, I have supported efforts to curb the spread of nuclear weapons. I am proud to have cosponsored the 1978 Nuclear Nonproliferation Act, which for the first time set forth specific criteria to govern U.S. nuclear trade. Under the terms of this act, the United States is now required to deny shipments of nuclear fuel to India and other countries that refuse to adhere to full-scope safeguards.

The 1978 act provided a 2-year "grace period" during which India could bring its facilities under safeguards; in the interim it was hoped that negotiations with the Indians would yield positive results. The election of Prime Minister Desai, who had explicitly decided against any nuclear explosions, gave additional reason to hope that progress could be achieved.

But today that hopeful atmosphere is receding. Negotiations with India have unfortunately proven fruitless over the past 2 years. The current Indian government favors neither comprehensive safeguards over all its nuclear facilities nor even assurances against nuclear explosions. In fact, Prime Minister Gandhi told the Indian Parliament just this past spring that India intended to conduct further nuclear explosions if such tests were determined to be India's national interest. This position has been repeated by an official in the Indian External Affairs Ministry, who stated that while India has a "commitment to peaceful uses of nuclear energy," it will reserve the right to carry out test explosions, if necessary, for the development of its "peaceful" nuclear program.

The current situation becomes an important test case of our overall nonproliferation policy. The inadequate safeguards over India's nuclear facilities in the past—and India's detonation of a nuclear device in 1974—were major factors leading to the strong nonproliferation criteria embodied in the 1978 act. Other nations, including our other nuclear customers who have accepted every requirement of the act, are therefore likely to view the eventual export decision as a fundamental test of our consistency, fairness, and resolve.

Victor Gilinsky, a member of the Nuclear Regulatory Commission, warned that approval of the Tarapur shipments could gravely damage U.S. credibility: "If India does not need to satisfy the full-scope safeguards requirement, other countries will be quick to seek similar exemptions, with the inevitable erosion of the law's effectiveness." For example, in two countries where negotiations have been particularly troublesome. Pakistan and South Africa, there is already substantial resentment that the United States has been more lenient toward India than toward them.

I am concerned that congressional approval of the pending exports could eliminate our last chance to dissuade Pakistan from pursuing its own nuclear weapons program, and our last opportunity to avert a nuclear arms race in the region. We could thwart our efforts to improve relations with Pakistan, an important nation in the future of Southwest Asia.

The requirement of full-scope safeguards is the "cornerstone" of the 1978 act. To waive this provision with respect to India would greatly hinder our efforts to encourage other nations to accept the 1968 Nonproliferation Treaty and would raise doubts in the minds of those nations that have already signed that treaty. By contrast, a cut-off of the shipments to India will underscore the seriousness of the U S commitment to nonproliferation and provide greater incentive to nations that have been cooperating with our nonproliferation laws.

Together with Canada, Great Britain, the Soviet Union and other nuclear suppliers, we have pressed for the adoption of full-scope safeguards as a condition of future nuclear exports. If we abandon the full-scope safeguards criteria which we ourselves adopted only 2 years ago, we will set back the prospects for enhanced supplier cooperation on this vital issue.

Proponents of the sale to India argue that the Indians will perceive a fuel cutoff as a breach of the 1963 United States-Indian Agreement on Nuclear Cooperation, and may use this as a pretext to withdraw the Tarapur facility from its existing safeguards and to begin reprocessing the spent fuel at Tarapur without U.S. consent.

Although I recognize the seriousness of these concerns, a thorough legal analysis conducted by the American Law Division of the Congressional Research Service has reached the conclusion that the United States is presently under no legal obligation to supply the requested fuel to India and that withholding the fuel exports at this time would not constitute a breach of the 1963 agreement. Under the 1964 fuel supply contract, which implements the 1963 agreement, and a 1971 amendment to the agreement, India has assumed an explicit legal commitment to comply with U.S. licensing laws and regulations.

Although the Indian Government does not accept these legal arguments, I hope it will recognize the importance of maintaining existing safeguards and preventing additional proliferation. In any event, damage to our nonproliferation objectives would clearly outweigh the adverse consequences of a possible Indian withdrawal from the 1963 agreement. It would be extremely unwise for the United States to continue to acquiesce in the lack of safeguards in India's nuclear program at the expense of our broader nonproliferation concerns.

In addition, other major foreign policy concerns are involved in this issue. Those supporting the sale maintain that U.S. strategic interests in the Indian subcontinent will be undermined by a cutoff of the fuel exports. I recognize the strategic importance of India and strongly support improved United States-Indian relations, and I have done so throughout my service in the U.S. Senate. However, I do not agree that we should permit the decision on this sale to undermine essential ties with India.

First, I do not believe that our relationship with India depends critically on the Tarapur issue. A much broader framework of political, economic, and military ties binds our two countries. For example, this past June, the United States agreed to supply India with 3,720 TOW antitank missiles. In addition, we have maintained strong bilateral relations with India, and we currently provide India with more than $130 million in economic aid and $160 million in development loans and food for peace grants. All of these activities will continue, regardless of whether the pending exports are approved.

Second, withholding the shipments at this time will not significantly influence India's foreign policy orientation. India will continue to pursue a foreign policy that promotes its own national interests even when these interests run contrary to those of the United States. In recent months, India has recognized the Palestine Liberation Organization, signed a $1.6 billion arms deal with the Soviet Union, failed to support the U.N. resolution condemning the Soviet invasion of Afghanistan, concluded a trade agreement with Iran that effectively undercuts our boycott, and recognized the Vietnamese-imposed regime in Kampuchea. It is clear that the Tarapur issue is only one aspect of India's overall foreign policy.

Finally, some proponents of the sale assert that a cutoff of fuel shipments to India will reinforce perceptions of the United States as an "unreliable supplier." Under the 1978 act, the United States is required to provide steady supplies of fuel "to nations which adhere to effective nonproliferation policies." Few of us are prepared to agree that India's nuclear policies effectively contribute to nonproliferation. The vast majority of our export recipients, who adhere to full-scope safeguards as signatories of the Nonproliferation Treaty, are aware that India has refused to cooperate. Our actions with respect to India will in no way diminish our position as a reliable supplier to others. The key to their perceptions will be whether we continue to supply fuel on a regular basis to nations that accept the conditions in the 1978 act—not whether we permit India or other states to escape these conditions indefinitely.

Mr. President, there are legitimate arguments on both sides of this issue. I believe, however, that both nonproliferation and broader foreign policy considerations weigh heavily in favor of a fuel cutoff, and I urge my colleagues to support the resolution of disapproval.•

• Mr. LEAHY. Mr. President, I wish to outline the reasons for my opposition to the proposed export of nuclear fuel to India.

I am convinced that export of additional nuclear fuel to India would undermine both the nuclear nonproliferation and foreign policy goals of the United States. My conviction is based on India's failure to comply with international safeguards on nuclear programs and her pursuit of a nuclear weapons capability.

Would approval of this export discourage the Indians or the Pakistanis from their pursuit of a nuclear weapons capability? It would not. It would have precisely the opposite affect.

The Nucelar Nonproliferation Act, passed by the Senate by a vote of 88 to 3, requires all nonnuclear weapons states to accept international safeguards on their nuclear programs as a precondition of obtaining nuclear material from this country. If this country continues to export fuel to India while that country rejects such safeguards, our own commitment to nonproliferation must be questioned.

Our commitment should be questioned if we provide nuclear fuel to any country which has violated its assurances to us—and our own laws—by using materials we supplied in a nuclear weapons program.

The proposed sale before the Senate today is precisely what this country's nonproliferation policies are designed to prevent. Approval of this export will undoubtedly compromise U.S. nuclear proliferation policy. Countries unwilling to comply with international controls and inspections to insure that nuclear programs remain peaceful should be denied the shipment of nuclear fuel. India is such a country.

Mr. President, under the 1978 Nuclear Nonproliferation Act, the United States has grounds for terminating our supply of nuclear weapons to India. India used this material to build a nuclear device which was detonated in 1974. Some years earlier, the United States notified the Indian Government that a military use of the nuclear material we supplied would violate the assurances of India to us. In 1974, the United States sought Indian assurances that American-supplied material would not be used to construct nuclear weapons. This was rejected.

Mr. President, I will only take a few more moments of the Senate's time to say something I said in July 1978. The question was different—the Turkish arms embargo. The stakes here are far higher. However, the options remain the same. There are three: The United States must cease selling nuclear material altogether, sell it without restriction, or enforce the terms of our own laws and international agreements that seek to control nuclear weapons proliferation. This last course is the only satisfactory one open to us. That which holds true for conventional arms surely must hold true in the serious area of nuclear weapons.

I urge my colleagues in the Senate to prohibit additional nuclear exports to India until this country is confident that India will comply with accepted international safeguards and assurances for the peaceful use of any nuclear fuel supplied by the United States. If this can be done, we stand ready to continue exporting to India and to honor our nuclear export agreements with that country.•

• Mr. CHILES. Mr. President, the decision before the Senate to approve or disapprove the granting of two export licenses for the shipment of nuclear fuel to India has to be one of the most important votes we will cast this year. My decision to vote in opposition to the resolution of disapproval was made only after a careful weighing of all the legal, foreign policy and nonproliferation arguments which have been advanced on both sides. After a careful review of the issues involved, I believe that our nuclear nonproliferation interests would best be advanced by the granting of these particular licenses.

Under the 1963 United States-Indian Agreement for Cooperation, the United States agreed to supply all of the enriched uranium needed to fuel the reactors at the Tarapur Atomic Power Station, and, in return, the Indian Government agreed to use only U.S.-supplied nuclear fuel and equipment at Tarapur, to accept safeguards and controls over the Tarapur reactors and spent fuel, and not to reprocess or retransfer the spent fuel without prior U.S. consent.

These safeguards and controls are extremely important to our nonproliferation interests in India, and to date, both countries have kept their commitments under the agreement. Should the licenses under consideration not be granted, India would consider itself not bound by its obligations under the 1963 agreement and therefore would be free to terminate existing safeguards at Tarapur, to process the spent fuel, and to turn to the Soviet Union for its nuclear needs. So if we prohibit the fuel shipment, we may be causing existing nuclear safeguards to be removed.

I firmly believe that U.S. nonproliferation efforts would be better served by keeping the safeguards and controls over the Tarapur reactors in place while we continue our efforts to have India place all of its nuclear activities under international inspection. It seems to me that it is in our own best interest to continue negotiating with India, rather than removing ourselves completely from the picture.•

Mr. HATFIELD. Mr. President, I support the resolution of disapproval with regard to the sale of nuclear reactor fuel to India. A consideration which has been of paramount concern to me is the contractual relationship between the United States and India. However much I may wish to see this country stand firm on nuclear nonproliferation, I also understand the place in our society and in our world which agreements, whether it be the handshake or the contract, play in our ability to live peacefully with one another.

I have thus examined the contractual question carefully. I have concluded that if there is any debate, it must be over the "spirit" of our reliability as a supplier and not over our contractual obligation. Our 1963 fuel supply agreement with India obligates us to supply amounts of uranium sufficient for the "efficient and continuous operation of the Tarapur reactors until 1993" in accordance with the terms, conditions and delivery schedules set forth in a contract to be made between the parties.

That contract, written in 1966, states clearly that India must "comply with all applicable laws, regulations, and ordinances of the United States." According to a legal brief prepared by the Congressional Research Service, the "Nuclear Nonproliferation Act and its full-scope requirements," and that requirement, Mr. President, states that India must submit all of her nuclear facilities to international safeguards, "is such a law and by prior mutual consent of the parties becomes a material element of the contract between them."

The CRS legal brief further points out that:

> The parties of the 1966 contract made allowances for changed U.S. laws and policies in the matter of ownership and supply of enriched uranium.

The Congressional Research Service concludes that:

> As a consequence, Congressional rejection of the pending export may be regarded, not as a violation of the agreement, but rather as an appropriate action proximately caused by India's refusal to live up to its undertaking to comply with applicable U.S. legal requirements. As such, India may be the party in actual or potential breach of the agreement. . . .

Mr. President, the 1978 Nuclear Nonproliferation Act purposefully gave America's nuclear customers a 2-year grace period in order to find ways and means for them to comply with this law. Negotiations have failed to reach agreement with India and, indeed, their statements have demonstrated flagrant disregard for the principles of nonproliferation.

As for the question of "spirit of reliability," I would point out that the vast majority of recipients of American nuclear supplies are now in compliance with the Nuclear Nonproliferation Treaty. They understand that India is an exceptional case and that our behaviour with respect to the Indians does not reflect on our reliability as a supplier to them.

I would further submit, again in assessing the spirit of our nuclear relationship with India, she has clearly and unequivocally proven herself an unreliable customer and has shown no indication of changing her attitude in the future.

Mr. President, the CRS brief also points out that the United States "may continue to regard the existing agreement and contract as effective and seek to persuade India that it stands ready and willing to meet its obligations to supply India's fuel requirements when the latter indicates its willingness to stand by its contractual obligation to comply with U.S. legal requirements, including the NNPS provision for the adoption of full-scope safeguards and inspection of its nuclear facilities." Therefore, Mr. President, refusal of this Congress to ship uranium to India does not close the door on our ability to seek agreement with them in the future.

It is possible that the day when the spread of nuclear weapons could be controlled has passed. But if even the slimmest hope exists that we have not crossed the threshold of no return, it is a solemn responsibility of this Senate to avert its arrival. But in a spirit contrary to the implicit direction this goal suggests, the United States has been consistently undermining one of the central pillars of the nonproliferation effort.

It has flagrantly refused to begin meaningful reductions in its own nuclear arsenal even though its capabilities far exceed their utility as a deterrent to attack. By the end of this decade, 30 nonnuclear countries who today have no nuclear capability are expected to possess the necessary technology for developing nuclear weapons. It is illusory to expect that nonnuclear nations will forever continue to forego the nuclear option while the world's two most powerful nations continue to zealously accumulate more sophisticated and provocative nuclear weapons.

Experience, Mr. President, tells us that it will not be stable, secure and democratic societies which will choose to exercise the nuclear option. No, it will be the deranged—the Idi Amins of this world. It will be those who are looking for a quick fix—a means of elevating their otherwise desperate societies to positions of international clout. And in a series of regional action/reaction plays, as with the picture we now see emerging on the Indian subcontinent, the perceived need to possess nuclear weapons threatens to spread like cancer.

Nuclear weapons and peaceful nuclear technology follow the same fuel cycle. Today, over 500 nuclear power reactors are either operating or being constructed in 39 nations. Uranium mining, enrichment, fuel fabrication and spent fuel disposal or reprocessing are essential to both offensive and peaceful functions of nuclear technology. Both technologies are based on the fissioning of uranium. Reactors produce immense quantities of plutonium from which nuclear weapons can be produced. A nuclear power facility can produce 500 pounds of plutonium in a year. Yet a nuclear bomb requires only 20 pounds of this substance. In the countries that now possess the bomb and in the countries that will possess it in the future, the responsibility to determine if and when it will be unleashed lies in the hands of one, or a few, political leaders.

The prevailing mood with regard to the prospects for halting the proliferation of nuclear weapons is cynical. We have allowed this cynicism to undercut our grasp of the critical questions. There are those who argue that the best way to prohibit India from proliferating is to give them the means with which to proliferate. The arguments are many: We have a commitment; a uranium cut-off would violate the spirit of our nuclear relationship; and that shipment of the uranium poses the only prospect left to maintain communication with the Indians. It is my view that they can all be challenged on solid grounds.

But when you disperse the fog of technicalities and secondary considerations, Mr. President, it becomes clear that there are two central considerations: First, we risk creating a more intimate relationship between India and the Soviet Union if the nuclear tie is severed; and, second, if we do not sever the nuclear tie we are sending an unambivalant message to the rest of the world that when the chips are down, international agreements aimed at controlling the spread of nuclear weapons do not really mean very much to us.

We would be propagating an illusion, Mr. President, to suggest falsity in the assumption that we have very little influence over the decisions which other nations make with regard to nuclear weapons.

But, we must also acknowledge, if we were to accept the President's request, that we are content to relinquish the minimal influence we now have. We would also be turning our backs against the hope that a consensus may someday be forged in this Nation on the paramount urgency of halting the proliferation of nuclear weapons.

And I think it is clear, Mr. President, that while India has disregarded the voluntary restraint exercised by its peers in the international community, they are far more likely to yield to international political pressure than they are to pressure emanating from the United States. This is significant because the prospect of effective international political pressure will erode perhaps irreversibly, if we submit to the administration's request. This shifting of sands is not new to the Carter administration. We have seen it occur repeatedly in the areas of arms control and human rights—when the going gets tough this administration abandons policies and principles as though they had suddenly become diseased.

So the essence of the message the administration sends us today is that while nonproliferation is a noble goal, it should not be permitted to interfere with geopolitical reality. Geopolitical reality, as interpreted by the Carter administration, is that if we refuse to sell to India, we will drive them into the arms of the Soviet Union. But India is already reliant on the Soviet Union for weapons and a variety of other items.

There is irrefutable evidence which demonstrates that the uranium "carrot" is a useless lever as a means of inducing India to lean away from the Soviets. On May 8, President Carter announced his decision to send uranium to India. Twenty-one days later, the Indians closed a $1.6 billion arms deal with the Soviets. On June 19 the President overruled the unanimous NRC decision to disallow the shipment, on July 8 India recognized the pro-Soviet Heng Samrin government in Kampuchea. And the list goes on. Over and over again the Carter administration has attempted to dangle this carrot over India's head and it has failed.

Every student of the Indian political system knows that a nonalined status is fundamental to that nation's political goals. Its relations with the superpowers are likely to remain essentially balanced. I will be the first to state that this balance has been skewed in favor of the Soviets. And we must be prepared to accept the possibility that it will tilt further still toward the Soviet Union if we refuse to ship the Indians uranium. There are no easy answers. We are taking a risk either way. Neither a uranium cutoff nor going along with India poses a desirable state of affairs.

We should engage ourselves in two efforts simultaneously. First, we must seriously move to control ourselves and our nuclear adversary, the Soviet Union. This entails a deadly serious commitment to cease further testing and deployment of new types of nuclear weapons. Without a solid commitment to this goal, we will forever lack the influence necessary to provide leadership in the nonproliferation effort. But the objective is sabotaged in increments as we build weapons whose characteristics are provocative and conducive, not to deterrence, but to a first strike, and espouse directives which suggest that nuclear war is winnable.

Finally, Mr. President, we must move forthrightly to stem the ever-increasing cycle of nuclear fear which builds daily on the Indian subcontinent. A serious diplomatic initiative aimed at building the confidence of the present and potental nuclear actors in that area should begin immediately.

Perhaps this could be initiated through another "Camp David" type of regional negotiation in which the United States would play a subsidiary role. The Federation of American Scientists, a distinguished group of scientists dedicated to a rational and peaceful application of technology, has suggested that the United States ask the Indians and the Pakistanis what terms might allow them to forego nuclear weapons and then offer to help guarantee those terms.

Today's decision may well be the turning point for the future of nonproliferation. The only serious hope left for progress, or at least the avoidance of regression, lies with the Nuclear Nonproliferation Treaty to which 113 nations are signatories. This fragile arrangement is already seriously threatened by the resentment of less-developed nations over the continuing escalation of the arms race by nations already in possession of nuclear weapons. There is no doubt that the present signatories will question the logic of their membership when India receives nuclear trade and assistance without the restraints they have voluntarily imposed upon themselves.

Mr. President, the day when the spread of nuclear weapons might be controlled may have already passed. If it has, let us disengage from this hypocritical charade and acknowledge it. But if there is even the slimmest hope that it has not, we must not abandon the goal with short-sighted responses to temporary disruptions in the strategic balance.

Mr. THURMOND. Mr. President, I rise today to express my support of Senate Concurrent Resolution 109, of which I am pleased to be a cosponsor. This resolution wisely disapproves the proposed export of 38 tons of low-enriched uranium to India for use at the Tarapur Atomic Power Station pursuant to export license applications XSNM–1379 and XSNM–1569.

Mr. President, on June 19, despite the unanimous decision of the Nuclear Regulatory Commission to disapprove licensing of the sale, President Carter overruled the decision of the Commission and authorized the sale. I believe that the Commission was correct in its decision to disapprove licensing of this sale and that President Carter's decision to override the Commission exemplifies his poor judgment in foreign policy matters.

Mr. President, India is the only nation that has ever used civilian nuclear facilities for the production of nuclear weapons. In May 1974, using heavy water from the United States and plutonium from a Canadian-supplied research reactor, India exploded a nuclear device. Subsequently, Canada cut off its nuclear exports to India. Since that time, despite U.S. efforts to obtain assurances that India will conduct no further nuclear tests, Mrs. Gandhi has announced that her government will not hesitate to carry out future nuclear tests in the national interest.

The implications of this announcement are even more serious, now that India has orbited a satellite, utilizing a rocket whose guidance system can be adapted to an intermediate range ballistic missile or intercontinental ballistic missile. Furthermore, a number of members of the Indian Parliament have called for the development of nuclear warheads.

Mr. President, during the course of debate regarding this resolution, there is one very important fact that we must keep in mind, and that is the close ties that India has developed with the Soviet Union. India recently signed a $1.6 billion arms deal with the Soviet Union that contains terms extremely favorable to India. India abstained on the U.N. resolution condemning the Soviet invasion of Afghanistan and has recognized the pro-Soviet Heng Samrin regime in Kampuchea. In addition to the relationship that has developed between India and the Soviet Union, India recently signed a trade agreement with Iran, despite our call for an economic boycott.

Furthermore, under the provisions of Nuclear Nonproliferation Act of 1978, any exports occurring subsequent to March 10, 1980, may occur only if IAEA safeguards have already been accepted. Contrary to President Carter's argument that it is the intended date of shipment that governs, State Department testimony before Congress in 1978 stipulated that it is the actual date rather than the intended date of a shipment that governs. The fact that the material could have been exported prior to March 10, thus does not change the fact that the actual export would take place after the deadline.

Mr. President, to allow 38 tons of uranium to be exported to India would not be in the best interest of the United States nor conducive to the maintenance of world peace. I sincerely hope that my colleagues in the Senate will join me in condemning the recent anti-U.S. actions of the Indian Government and President Carter's weak foreign policy, by adopting this resolution.

Mr. MITCHELL. The danger facing the world today from the proliferation of nuclear weapons goes far beyond the arms race between the United States and the Soviet Union. It includes the need to restrain the development of nuclear weapons capability by states which are not part of the so-called nuclear club.

A direct result of both the nuclear proliferation problem and the American effort to curtail proliferation faces us in the conflict over the sale of low-enriched uranium to India today. The question is whether this sale is consistent with the responsibilites we assumed in our 1963 contract with India and the responsibilities we assumed as a leader of the nonproliferation movement with the passage of the 1977 Nuclear Nonproliferation Act.

In 1963, we signed a concessional agreement with India to build an electricty-generating nuclear facility at Tarapur, in India, and to supply the necessary fuel to operate that facility for 30 years. The terms of our agreement were specific and detailed: They bound India to use only American fuel in that facility; they bound India to obtain our consent before reprocessing spent fuel into weapons-grade material; they prohibited Indian transfer of the fuel to any other nation; and they required the acceptance by India of what are called full-scope safeguards on the Tarapur facility.

Full-scope safeguards commit a country to permitting the International Atomic Energy Agency to inspect its nuclear facilities to make certain no explosives are being manufactured.

Indian acceptance of full-scope safeguards on the American-supplied Tarapur reactor and the American fuel provided to operate it represent the only international inspection of any nuclear facility in India. Thus, they are an important first step in gaining Indian acceptance of the need for full-scope safeguards on all her facilities in the future.

In return, the United States committed itself to supply the fuel as needed, and so scheduled as to permit the continuous operation of the Tarapur facility throughout the life of the contract: until 1993.

In 1971, the supply contract was amended to require that India comply with all applicable American laws in obtaining licenses for the shipment of this fuel. This amendment imposed international full-scope safeguards on the Tarapur facility.

In 1974, India exploded a nuclear device. Although the use of American-supplied fuel was denied by India, it was subsequently established that heavy water provided by our country, separately from the fuel supply for Tarapur, was used in a Canadian research reactor. The Canadians promptly withdrew from their nuclear supply relationship with India and have remained adamant that until India accepts full-scope safeguards on all her nuclear facilities, no further Canadian assistance will be provided.

The Indian Government argued that the materials used had not been subject to the provisions of the 1963 India-United States agreement. The Indian Government further maintained that since the explosion had been developed for "peaceful" purposes, no objections to it were warranted. India has maintained that until and unless all the nuclear-weapons states—including our own—accept international inspection of all their nuclear facilities, she sees no reason to accept them for herself.

Following the worldwide shock that the Indian explosion caused, Congress enacted the 1977 Nuclear Nonproliferation Act, which requires that no American fuel or facilities may be provided to any nation unless it accepts full-scope safeguards on all its facilities. The law contained a grace period to permit pending and anticipated license requests under existing contracts to be filled. The grace period for export licenses expired in September 1979, and for shipments, March 1980.

India filed an export license application for a further shipment of fuel in September 1978, a year before the grace period expired, and a second application in mid-August 1979, almost a month before expiration. Delays by our Government—combined with the caretaker government in India, which could not respond to a number of questions until Mrs. Ghandi was reelected in January this year—delayed the Nuclear Regulatory Commission's action on the export license requests until March.

The Commission unanimously voted against permitting the exports, arguing principally that the grace period's expiration prevented legal approval of the licenses. The extremely serious situation that arose in the region following the Soviet invasion of Afghanistan emphasized the need to maintain our influence in this part of the world. The President assured Mrs. Ghandi that the American commitment to provide fuel for Tarapur would be kept. American offers of economic and military aid to Pakistan, India's enemy, had alarmed the Indian Government, and although those offers were ultimately rejected, the recent news of Pakistan's clandestine nuclear weapons development program with the aid of Swiss technology, gave grounds for Indian fears of her neighbor's intentions.

This situation requires Congress to act either to support the President's policy determination that the contract should be honored at this time, or to reaffirm the clearly expressed statement of congressional and administration intent contained in the Nuclear Nonproliferation Act to cease supply relationships with countries that do not adhere to international nuclear inspection requirements.

Neither course is without its hazards. Nor can we be certain that either decision will have favorable results, either for our interests in the South Asian region or for the international goal of nonproliferation.

However, it seems to me that certain aspects of the issue cannot be ignored.

The resolution to disapprove this shipment of fuel would retroactively eliminate the grace period specifically provided in the Nuclear Nonproliferation Act, during which India applied for nuclear fuel export licenses.

India submitted her license requests well within the 18-month grace period provided, in good faith. India's request called for the shipments to be made within the 24-month grace period. A delay caused in part by actions of our own Government should not be the basis for denying an application that was submitted in a timely fashion, in accordance with the terms of our agreement with India, and the language of the law itself.

Our nonproliferation goals are essential. They have the support of 111 nations who are signatories to the Nonproliferation Treaty. And they will continue to form the basis for the future exploitation of peaceful uses of nuclear power.

But our nonproliferation policy is not at stake today.

Paradoxically, our nonproliferation goals would be set back—not advanced—by rejecting this export request.

The Government of India has steadfastly refused to accept the imposition of full-scope safeguards on all Indian nuclear facilities until similar safeguards are accepted by all nations—including the nuclear weapons nations, such as ourselves. India has voluntarily renounced the option of developing nuclear armaments, a position emphasized as recently as 1979 by former Prime Minister Desai.

Whether we agree with this position or not, so long as the Government of India holds to it, the only safeguarded nuclear facilities in that country are the ones for which we supply the fuel, at Tarapur.

We should not underestimate the importance of retaining safeguards on these reactors. They constitute important controls which serve U.S. nonproliferation goals. India now accepts full International Atomic Energy Agency safeguards over all Tarapur fuel, including 200 tons of spent fuel stored there. This is 80 percent of India's spent fuel supply.

If we lose these international inspection controls on this facility—and India has made it clear that nonsupply at this time will free her from all obligations under the 1963 agreement—it will set a damaging precedent to international control of nuclear fuel and to the goal of nonproliferation. We can avoid that damage by adhering to the terms of our own Nonproliferation Act, which provides a grace period for existing supply contracts.

If India decided to remove the Tarapur facilities from international safeguards, this would be the first such withdrawal from safeguards in the world. It would seriously undermine the credibility of international controls and international nonproliferation efforts.

India would, in all probability, begin immediate reprocessing of the spent fuel at Tarapur without adequate safeguards. Preventing such reprocessing has been and remains a central U.S. nonproliferation policy goal.

There is no question that if the United States-Indian supply relationship is terminated, the Soviet Union will become the principal supplier of India. The Soviet Union would be unlikely to try to curtail Indian reprocessing of spent U.S. fuel. Nor are the Soviets likely to insist on full-scope safeguards as a condition of receiving Soviet fuel. Most importantly, the emergence of the Soviet Union as the principal nuclear supplier to India will further exacerbate tensions between India, Pakistan, and China in an extremely volatile part of the world.

Full-scope safeguards are an important goal of our nonproliferation policy. But they are not the only goal. The Nonproliferation Act contains other goals, such as guidelines for new U.S. nuclear agreements, and initiatives to strengthen the international nonproliferation regime.

To cite this single case as a gutting of the act, or a complete reversal of our nonproliferation policy, seriously distorts and overstates the case.

In fact, export of this fuel simply fulfills a contractual obligation with India. The export application was received within the grace period expressly permitted in the act. The decision to permit the export would be fully consistent with the intent of the act, which was to give notice of U.S. intention to require full-scope safeguards, not to impose immediate new requirements on trading partners.

Moreover, just as full-scope safeguards are only one goal of the nonproliferation policy, so nonproliferation is only one goal of our foreign policy. It is unwise to jettison so many other concerns on the basis of a single issue, albeit an important one.

Negotiations with India on safeguards have not been successful in the 2 years since the Nonproliferation Act was signed. But other components of our relationship with India have continued, including the recent sale of 3700 TOW missiles. Refusal to provide this fuel—refusal to honor a contract and a commitment made by our President—will almost certainly end the nonproliferation dialog with India immediately and completely. And it cannot help but adversely affect the other components of our relationship: Our extensive trade and our joint security concerns.

U.S. refusal to ship this fuel would undercut the moderate voices in India which have argued against the testing of nuclear explosives, and which have championed the American-Indian relationship. It will strengthen those elements in the country which insist that the Soviet Union is the only ally on which India can rely.

Apart from perceptions by India, our Nation's reliability as a supplier will be noted by other countries around the world.

The leader of the U.S. delegation to the Geneva Nonproliferation Conference in July, Director Ralph Earle of the Arms Control and Disarmament Agency, and observers like Senator PERCY, all report that the assembled nations at the conference viewed the issue of this fuel shipment, not as a test of our commitment to nonproliferation, but as a unilateral effort by a supplier nation to impose retroactive conditions on an existing agreement. The view of these nations—parties to the Nonproliferation Treaty—is that the goals of nonproliferation rest on progress in curbing nuclear arms buildups by the weapons-holding nations, not on the shipment of fuel for electric power generators.

The domestic fear that this shipment will undermine support for our nonproliferation goals is unsupported. In addition, it is largely unfounded.

Those countries which have accepted full-scope safeguards did so without consulting the United States-Indian relationship. Those countries now considering full-scope safeguards will make their judgments based on their own best interests, not on the very muddy and confused record that would be established by rejecting these exports. And the supplier nations have agreed that this case falls within the grace period allowed in U.S. law and does not affect the separate question of requiring full-scope safeguards on new agreements.

The administration has no intention of using this single instance as a precedent for ignoring the requirement for full-scope safeguards that will attend any future Indian request for fuel. Indeed, because the applications were filed in a timely fashion during the grace period, they set no precedent whatever for future adherence to the terms of the Nonproliferation Act.

The administration has also made it clear that it has no intention of providing an immediate full shipment of all the fuel requested at one time. The first shipment, urgently needed at the Hyderabad fuel fabrication facility, will be released immediately. But the second shipment will not be released until it is needed to provide continuity of operations at Hyderabad, next year. Furthermore, if the administration finds that India has taken any actions—exploding a device, preparing to do so, transferring materials, helping other nations reprocess fuel, receiving enrichment equipment—prohibited under section 129 of the Atomic Energy Act, the second shipment will not be made.

The administration has made a commitment that future Indian fuel requests will be subject to the full-scope safeguard requirements of the Nonproliferation Act.

Permitting this export of fuel sets no precedent for the enforcement of the act. It keeps faith with an important country in a turbulent region of the world. And it maintains the opportunity to continue a dialog with India toward the goal of nonproliferation.

Under these circumstances, I believe the export should be permitted to go through.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

HOUSE CONCURRENT RESOLUTION 432

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration, without debate, motion, amendment, or point of order, of House Concurrent Resolution 432, which is precisely in verbiage like the disapproval resolution before the Senate, and that the vote which was ordered on the adoption of Senate Concurrent Resolution 109 occur on House Concurrent Resolution 432, Calendar No. 1080.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object—and I will not—might I have just a minute?

Mr. JAVITS. I did not quite get the unanimous-consent request.

Mr. BAKER. Mr. President, if I might inquire of the Chair as to the practical effect of the unanimous-consent request just propounded by the majority leader, it was to change the issue from the Senate language to the language submitted to us by the House of Representatives?

Mr. ROBERT C. BYRD. Was the Senator asking the Chair?

Mr. BAKER. I might ask the majority leader.

Mr. ROBERT C. BYRD. The House language is precisely like the Senate disapproval resolution, so instead of voting on the Senate resolution, since the House has already acted on the disapproval resolution, I am simply suggesting that we bring up the House resolution and that the order that was entered to vote on the Senate resolution be transferred to the House resolution.

Mr. JAVITS. Will the vote then be if you wanted to vote "yea," you would then vote "yea" on the substitute?

Mr. ROBERT C. BYRD. Yes.

Mr. GLENN. The vote would be identical.

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. That is important.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the House concurrent resolution by title.

The legislative clerk read as follows:

House Concurrent Resolution 432 disapproving the proposed export to India of low-enriched uranium for the Tarapur Atomic Power Station pursuant to export license applications XSNM-1379 and XSNM-1569.

The Senate proceeded to consider the House concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

Mr. BAKER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. PELL. Mr. President, on this vote I have a pair with the distinguished Senator from North Carolina (Mr. MORGAN). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. TOWER. Mr. President, on this vote, I have a live pair with the Senator from Arizona (Mr. GOLDWATER). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN), and the Senator from Alabama (Mr. STEWART) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

The PRESIDING OFFICER (Mr. MOYNIHAN). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 46, nays 48, as follows:

[Rollcall Vote No. 440 Leg.]

YEAS—46

Armstrong
Bayh
Boschwitz
Bumpers
Burdick
Byrd, Harry F., Jr.
Cannon
Chafee
Cohen
Cranston
Culver
Danforth
Dole
Durkin
Ford
Glenn
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Humphrey
Jepsen
Kassebaum
Kennedy
Laxalt
Leahy
Lugar
Matsunaga
Metzenbaum
Nelson
Pressler
Proxmire
Pryor
Ribicoff
Riegle
Schmitt
Schweiker
Stone
Thurmond
Tsongas
Warner
Weicker
Williams

NAYS—48

Baker
Baucus
Bellmon
Bentsen
Biden
Boren
Bradley
Byrd, Robert C.
Chiles
Church
Cochran
DeConcini
Domenici
Durenberger
Eagleton
Exon
Garn
Gravel
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Levin
Long
Magnuson
Mathias
McClure
Melcher
Mitchell
Moynihan
Nunn
Packwood
Percy
Randolph
Roth
Sarbanes
Sasser
Simpson
Stafford
Stennis
Stevens
Stevenson
Talmadge
Wallop
Young
Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Mr. Pell, for.
Mr. Tower, against.

NOT VOTING—4

Goldwater
McGovern
Morgan
Stewart

So the resolution (H. Con. Res. 432) was not agreed to.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may proceed for not to exceed 5 minutes on a message from the House on H.R. 7511, with the understanding that Mr. DOLE be permitted, within that 5 minutes, to call up a bill in which he is interested; with the further understanding that no amendment be in order to the bill which he wishes to present and that no further motions be in order in relation to the bill, other than votes to reconsider the vote thereon.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, the proposal just put by the majority leader is satisfactory on this side. It was necessary for me to object to the consideration of the message from the House on H.R. 7511 on yesterday, but the arrangement suggested by the majority leader removes the necessity for that objection and we have no problem with that procedure. I do not object.

Mr. ROBERT C. BYRD. Mr. President, with the further proviso that the bill which Mr. DOLE will offer will be for the purpose of naming a hospital in Topeka, Kans.

The PRESIDING OFFICER. Without objection, it is so ordered.

VETERANS' DISABILITY COMPENSATION AND HOUSING BENEFITS AMENDMENTS OF 1980

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CRANSTON, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 7511.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the text of the bill (H.R. 7511) entitled "An Act to amend title 38, United States Code, to provide a cost-of-living increase in the rates of disability compensation for disabled veterans and in the rates of dependency and indemnity compensation for survivors of disabled veterans, and for other purposes", with the following amendments:

In lieu of the matter inserted by said amendment, insert: That (a) this Act may be cited as the "Veterans' Disability Compensation and Housing Benefits Amendments of 1980".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—VETERANS' DISABILITY COMPENSATION BENEFITS

RATES OF DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended—

(1) by striking out "$48" in subsection (a) and inserting in lieu thereof "$54";

(2) by striking out "$88" in subsection (b) and inserting in lieu thereof "$99";

(3) by striking out "$133" in subsection (c) and inserting in lieu thereof "$150";

(4) by striking out "$182" in subsection (d) and inserting in lieu thereof "$206";

(5) by striking out "$255" in subsection (e) and inserting in lieu thereof "$291";

(6) by striking out "$321" in subsection (f) and inserting in lieu thereof "$367";

(7) by striking out "$380" in subsection (g) inserting in lieu thereof "$434";

(8) by striking out "$440" in subsection (h) and inserting in lieu thereof "$503";

(9) by striking out "$495" in subsection (i) and inserting in lieu thereof "$566";

(10) by striking out "$889" in subsection (j) and inserting in lieu thereof "$1,016";

(11) by striking out "$1,104" and "$1,547" in subsection (k) and inserting in lieu thereof "$1,262" and "$1,768", respectively;

(12) by striking out "$1,104" in subsection (l) and inserting in lieu thereof "$1,262";

(13) by striking out "$1,217" in subsection (m) and inserting in lieu thereof "$1,391";

(14) by striking out "$1,383" in subsection (n) and inserting in lieu thereof "$1,581";

(15) by striking out "$1,547" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$1,768";

(16) by striking out "$664" and "$989" in subsection (r) and inserting in lieu thereof "$759" and "$1,130", respectively;

(17) by striking out "$995" in subsection (s) and inserting in lieu thereof "$1,137"; and

(18) by striking out "$192" in subsection (t) and inserting in lieu thereof "$219".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. Section 315(1) is amended—

(1) by striking out "$54" in clause (A) and inserting in lieu thereof "$62";

(2) by striking out "$91" in clause (B) and inserting in lieu thereof "$104";

(3) by striking out "$121" in clause (C) and inserting in lieu thereof "$138";

(4) by striking out "$151" and "$30" in clause (D) and inserting in lieu thereof "$173" and "$34", respectively;

(5) by striking out "$37" in clause (E) and inserting in lieu thereof "$42";

(6) by striking out "$67" in clause (F) and inserting in lieu thereof "$77";

(7) by striking out "$97" and "$30" in clause (G) and inserting in lieu therof "$111" and "$34", respectively;

(8) by striking out "$44" in clause (H) and inserting in lieu thereof "$50";

(9) by striking out "$98" in clause (H) and inserting in lieu thereof "$112"; and

(10 by striking out "$82" in clause (J) and inserting in lieu thereof "$94".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$240" and inserting in lieu thereof "$274".

TITLE II—SURVIVORS' DEPENDENCY AND INDEMNITY COMPENSATION BENEFITS

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 201. (a) Subsection (a) of section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	Monthly rate
E-1	$373
E-2	385
E-3	394
E-4	419
E-5	431
E-6	441
E-7	462
E-8	487
E-9	[1] 510
W-1	472
W-2	491
W-3	505
W-4	536
O-1	472
O-2	487
O-3	522
O-4	551
O-5	608
O-6	684
O-7	741
O-8	812
O-9	872
O-10	[2] 954

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $549.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,023.".

(b) Subsection (b) of such section is amended by striking out "$38" and inserting in lieu thereof "$43".

(c) Subsection (c) of such section is amended by striking out "$98" and inserting in lieu thereof "$112".

(d) Subsection (d) of such section is amended by striking out "$49" and inserting in lieu thereof "$56".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 202. Section 413 is amended—

(1) by striking out "$165" in clause (1) and inserting in lieu thereof "$189";

(2) by striking out "$237" in clause (2) and inserting in lieu thereof "$271";

(3) by striking out "$306" in clause (3) and inserting in lieu thereof "$350"; and

(4) by striking out "$306" and "$62" in clause (4) and inserting in lieu thereof "$350" and "$71", respectively.

RATES OF SUPPLEMENTAL DELINQUENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 203. Section 414 is amended—

(1) by striking out "$98" in subsection (a) and inserting in lieu thereof "$112";

(2) by striking out "$165" in subsection (b) and inserting in lieu thereof "189"; and

(3) by striking out "$84" in subsection (c) and inserting in lieu thereof "$96".

TITLE III—SPECIAL HOME ADAPTATION GRANTS FOR CERTAIN SEVERELY DISABLED VETERANS

EXTENSION OF SPECIALLY ADAPTED HOUSING GRANT PROGRAM

SEC. 301. (a) Section 801 is amended by inserting "(a)" before "The Administrator" and by adding at the end the following new subsection:

"(b)(1) Subject to paragraph (2) of this subsection, the Administrator, under regulations which the Administrator shall prescribe, shall assist any veteran (other than a veteran who is eligible for assistance under subsection (a) of this section) who is entitled to compensation under chapter 11 of this title for a permanent and total service-connected disability which—

"(A) is due to blindness in both eyes with 5/200 visual acuity or less; or

"(B) includes the anatomical loss or loss of use of both hands;

in acquiring such adaptations to such veteran's residence as are determined by the Administrator to be reasonably necessary because of such disability.

"(2) Assistance under paragraph (1) of this subsection may be provided only to a veteran who the Administrator determines is residing in and reasonably intends to continue residing in a residence owned by such veteran or by a member of such veteran's family or, if the veteran's residence is to be constructed or purchased, will be residing in and reasonably intends to continue residing in a residence owned by such veteran or by a member of such veteran's family.".

(b) Section 802 is amended—

(1) by inserting "(a)" before "The assistance";

(2) by striking out "section 801" and inserting in lieu thereof "section 801(a)"; and

(3) by adding at the end the following new subsection:

"(b) Except as provided in section 804(b)(2) of this title, the assistance authorized by section 801(b) of this title shall be limited to the lesser of—

"(1) the actual cost of the adaptations determined by the Administrator under such section 801(b) to be reasonably necessary, or

"(2) $5,000.".

(c) Section 804 is amended—

(1) by inserting "(a)" before "Any veteran";

(2) by striking out "the assistance authorized by this chapter" and inserting in lieu thereof "except as provided in subsection (b) of this section, the assistance authorized by section 801 of this title"; and

(3) by adding at the end the following new subsection:

"(b) A veteran eligible for assistance under section 801(b) of this title shall not by reason of such eligibility be denied benefits for which such veteran becomes eligible under section 801(a) of this title or benefits relating to home health services under section 612(a) of this title. However, no particular type of adaptation, improvement, or structural alteration provided to a veteran under section 612(a) of this title may be provided to such veteran under section 801(b) of this title.".

(d) Section 805 is amended by striking out "unit, or necessary land therefor," and inserting in lieu thereof "unit, or necessary land therefor, or adaptation".

TITLE IV—VETERANS' ADMINISTRATION HOME-LOAN PROGRAM AMENDMENTS

REFINANCING OF VETERANS' ADMINISTRATION HOME LOANS

SEC. 401. (a) Section 1810 is amended—

(1) by inserting after clause (7) of subsection (a) the following new clause:

"(8) To refinance in accordance with subsection (e) of this section an existing loan guaranteed, insured, or made under this chapter."; and

(2) by adding at the end the following new subsection:

"(e)(1) For a loan to be guaranteed for the purpose specified in subsection (a)(8) of this section—

"(A) the interest rate of the loan must be less than the interest rate of the loan being refinanced;

"(B) the loan must be secured by the same dwelling or farm residence as was the loan being refinanced and such dwelling or residence must be owned and occupied by the veteran as such veteran's home;

"(C) the amount of the loan may not exceed an amount equal to the sum of the balance of the loan being refinanced and such closing costs (including any discount permitted pursuant to section 1803(c)(3)(A) of this title) as may be authorized by the Administrator, under regulations which the Administrator shall prescribe, to be included in such loan:

"(D) the amount of the guaranty of the loan may not exceed the original guaranty amount of the loan being refinanced; and

"(E) the term of the loan may not exceed the original term of the loan being refinanced.

"(2) A loan to a veteran may be guaranteed by the Veterans' Administration under this chapter for the purpose specified in clause (8) of subsection (a) of this section without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such purpose. For purposes of section 1802(b) of this title, such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.

"(3) If a veteran is deceased and if such veteran's surviving spouse was a co-obligor under an existing loan guaranteed, insured, or made under this chapter, such surviving spouse shall, only for the purpose specified in subsection (a)(8) of this section, be deemed to be a veteran eligible for benefits under this chapter.".

(b) Section 1819(a) is amended—

(1) by adding at the end of paragraph (1) the following new clause:

"(F) To refinance in accordance with paragraph (4) of this subsection an existing loan guaranteed, insured, or made under this section."; and

(2) by adding at the end the following new paragraph:

"(4)(A) For a loan to be guaranteed for the purpose specified in clause (F) of paragraph (1) of this subsection—

"(i) the interest rate of the loan must be less than the interest rate of the loan being refinanced;

"(ii) the loan must be secured by the same mobile home or mobile-home lot, or mobile home and mobile-home lot, as was the loan being refinanced and such mobile home (or a mobile home on such lot) must be owned and occupied by the veteran as such veteran's home;

"(iii) the amount of the loan may not exceed an amount equal to the sum of the balance of the loan being refinanced and such closing costs (including any discount permitted pursuant to section 1803(c)(3)(A) of this title) as may be authorized by the Administrator, under regulations which the Administrator shall prescribe, to be included in such loan;

"(iv) the amount of the guaranty of the loan may not exceed the original guaranty amount of the loan being refinanced; and

"(v) the term of the loan may not exceed the original term of the loan being refinanced.

"(B) A loan to a veteran may be guaranteed by the Veterans' Administration under this chapter for the purpose specified in clause (F) of paragraph (1) of this subsection without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such purpose. For purposes of section 1802(b) of this title, such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.

"(C) If a veteran is deceased and if such veteran's surviving spouse was a co-obligor under an existing loan previously guaranteed, insured, or made under this section, such surviving spouse shall, only for the purpose specified in clause (F) of paragraph (1) of this subsection, be deemed to be a veteran eligible for benefits under this chapter.".

(c)(1) Section 1803(c)(3)(A) is amended by striking out "section 1810(a)(5)" and inserting in lieu thereof "clause (5) or (8) of section 1810(a) of this title or section 1819(a)(1)(F) of this title".

(2) The second sentence of section 1811(b) is amended by inserting "(other than the refinancing of a loan under section 1810(a)(8) or 1819(a)(1)(F))" after "section 1810(a) or 1819 of this title".

INCREASES IN MAXIMUM AMOUNTS OF VETERANS' HOME-LOAN GUARANTIES

SEC. 402. (a) Section 1810(c) is amended by striking out "$25,000" and inserting in lieu thereof "$27,500".

(b) Section 1811(d)(2) is amended—

(1) by striking out "$25,000" both places it appears in subparagraph (A) and inserting in lieu thereof "$27,500"; and

(2) by striking out "$17,500" both places it appears in subparagraph (B) and inserting in lieu thereof "$20,000".

(c) Section 1819(c) is amended by striking out "$17,500" each place it appears and inserting in lieu thereof "$20,000".

TITLE V—MISCELLANEOUS PROVISIONS

EXTENSION OF AUTHORITY FOR VETERANS' ADMINISTRATION OFFICE IN THE REPUBLIC OF THE PHILIPPINES

SEC. 501. Section 230(b) is amended by striking out "1981" and inserting in lieu thereof "1985".

HEADSTONES AND MARKERS IN CERTAIN CASES

SEC. 502. Section 906(a) is amended by adding at the end of such section the following new paragraph:

"(4) Any individual described in section 1002(5) of this title who is buried in a veterans' cemetery owned by a State.".

PAYMENT OF PENSION IN CERTAIN CASES

SEC. 503. (a) Section 3104(a) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end of such subsection the following new paragraph:

"(2) Notwithstanding the provisions of paragraph (1) of this subsection and of section 3105 of this title, pension under section 521 or 541 of this title may be paid to a person entitled to receive retired or retirement pay described in section 3105 of this title concurrently with such person's receipt of such retired or retirement pay if the annual amount of such retired or retirement pay is counted as annual income for the purposes of chapter 15 of this title.".

(b) Section 3203(a)(1)(C) is amended by striking out "of not less than two full calendar months" and inserting in lieu thereof "in connection with which pension was reduced pursuant to subparagraph (A) or (B) of this paragraph".

LIMITATION ON PAYMENT OF COMPENSATION FOR SERVICE-CONNECTED DISABILITIES OR DEATH AND OF DEPENDENCY AND INDEMNITY COMPENSATION FOR INCARCERATION FOR FELONY CONVICTION

SEC. 504. (a) Chapter 53 is amended by adding at the end the following new section:

"§ 3113. Limitation on payment of compensation and dependency and indemnity compensation to persons incarcerated for conviction of a felony

"(a)(1) To the extent provided in subsection (d) of this section, any person who is entitled to compensation or to dependency and indemnity compensation and who is incarcerated in a Federal, State, or local penal institution for a period in excess of sixty days for conviction of a felony shall not be paid such compensation or dependency and indemnity compensation, for the period beginning on the sixty-first day of such incarceration and ending on the day such incarceration ends, in an amount that exceeds—

"(A) in the case of a veteran with a service-connected disability rated at 20 percent or more, the rate of compensation payable under section 314(a) of this title; or

"(B) in the case of a veteran with a service-connected disability not rated at 20 percent or more or in the case of a surviving spouse, parent, or child, one-half of the rate of compensation payable under section 314(a) of this title.

"(2) The provisions of paragraph (1) of this section shall not apply with respect to any period during which a person is participating in a work-release program or is residing in a halfway house.

"(b)(1) All or any part of the compensation not paid to a veteran by reason of subsection (a) of this section may, as appropriate in an individual case, be apportioned under the same terms and conditions as are provided under section 3107 of this title.

"(2) All or any part of the dependency and indemnity compensation not paid to a surviving spouse or child by reason of subsection (a) of this section may, as appropriate in an individual case, be apportioned as follows:

"(A) In the case of dependency and indemnity compensation not paid to a surviving spouse, any apportionment shall be to the surviving child or children.

"(B) In the case of dependency and indemnity compensation not paid to a surviving child, any apportionment shall be to the surviving spouse or other surviving children, as applicable.

"(3) No apportionment may be made under this subsection to or on behalf of any person who is incarcerated in a Federal, State, or local penal institution for conviction of a felony.

"(c) The Administrator shall not assign to any veteran a rating of total disability based on the individual unemployability of the veteran resulting from a service-connected disability during any period during which the veteran is incarcerated in a Federal, State, or local penal institution for conviction of a felony.

"(d) The provisions of subsection (a) of this section shall apply (1) with respect to any period of incarceration of a person for conviction of a felony committed after the the date of the enactment of this section, and (2) with respect to any period of incarceration on or after October 1, 1980, for conviction of a felony of a person who on October 1, 1980, is incarcerated for conviction of such felony and with respect to whom the action granting an award of compensation or dependency and indemnity compensation is taken on or after such date.

"(e) For purposes of this section—

"(1) The term 'compensation' includes disability compensation payable under section 351 of this title.

"(2) The term 'dependency and indemnity compensation' means death compensation payable under section 321 or 341 of this title, death compensation and dependency and indemnity compensation payable under section 351 of this title, and any benefit payable under chapter 13 of this title.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3113. Limitation on payment of compensation and dependency and indemnity compensation to persons incarcerated for conviction of a felony.".

CONFIDENTIALITY OF MEDICAL QUALITY-ASSURANCE RECORDS

SEC. 505. (a) Subchapter I of chapter 57 is amended by adding at the end the following new section:

"§ 3305. Confidentiality of medical quality-assurance records

"(a) Records and documents created by the Veterans' Administration as part of a medical quality-assurance program are confidential and privileged and may not be disclosed to any person or entity except as provided in subsection (b) of this section.

"(b)(1) Subject to paragraph (2) of this subsection, a record or document described in subsection (a) of this section shall, upon request, be disclosed as follows:

"(A) To a Federal agency or private organization, if such record or document is needed by such agency or organization to perform licensing or accreditation functions related to Veterans' Administration health-care facilities or to perform monitoring; required by statute; of Veterans' Administration health-care facilities.

"(B) To a Federal executive agency or provider of health-care services, if such record or document is required by such agency or provider for participation by the Veterans' Administration in a health-care program with such agency or provider

"(C) To a criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of such agency or instrumentality makes a written request that such record or document be provided for a purpose authorized by law.

"(D) To health-care personnel, to the extent necessary to meet a medical emergency affecting the health or safety of any individual.

"(2) The name of and other identifying information regarding any individual Veterans' Administration patient or employee, or any other individual associated with the Veterans' Administration for purposes of a medical quality-assurance program, contained in a record or document described in subsection (a) of this section shall be deleted from any record or document before any disclosure made under this subsection if disclosure of such name and identifying information would constitute a clearly unwarranted invasion of personal privacy.

"(3) No person or entity to whom a record or document has been disclosed under this subsection shall make further disclosure of such record or document except for a purpose provided in this subsection.

"(4) Nothing in this section shall be construed as authority to withhold any record or document from a committee of either House of Congress or any joint committee of Congress, if such record or document pertains to any matter within the jurisdiction of such committee or joint committee.

"(5) Nothing in this section shall be construed as limiting the use of records and documents described in subsection (a) of this section within the Veterans' Administration (including contractors and consultants of the Veterans' Administration).

"(c) For the purpose of this section, the term 'medical quality-assurance program' means—

"(1) with respect to any activity carried out before the date of the enactment of this section, a Veterans' Administration systematic health-care review activity carried out by or for the Veterans' Administration for the purpose of improving the quality of medical care or improving the utilization of health-care resources in Veterans' Administration health-care facilities; and

"(2) with respect to any activity carried out on or after the date of the enactment of this section, a Veterans' Administration systematic health-care review activity designated by the Administrator to be carried out by or for the Veterans' Administration for either such purpose.

"(d)(1) Not later than 180 days after the date of the enactment of this section, the Administrator shall prescribe regulations to carry out this section. In prescribing such regulations, the Administrator shall specify those activities carried out before such enactment date which the Administrator determines meet the definition of medical quality-assurance program in subsection (c)(1) of this section and those activities which the Administrator has designated under subsection (c)(2) of this section. The Administrator shall, to the extent appropriate, incorporate into such regulations the provisions of the existing administrative guidelines and procedures governing such programs.

"(2) After the date on which such regulations are first prescribed, no activity shall be considered as having been designated as a medical quality-assurance program for the purposees of subsection (c)(2) of this section unless the designation has been specified in such regulations.

"(e) Any person who, knowing that a document or record is a document or record described in subsection (a) of this section, willfully discloses such record or document except as provided for in subsection (b) of this section shall be fined not more than $5,000 in the case of a first offense and not more than $20,000 in the case of a subsequent offense.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3304 the following new item:

"3305. Confidentiality of medical quality-assurance records.".

MINIMUM NUMBER OF EMPLOYEES OF AMERICAN BATTLE MONUMENTS COMMISSION

SEC. 506. The third paragraph of the first section of the Act entitled "An Act for the creation of an American Battle Monuments Commission to erect suitable memorials commemorating the services of the American soldier in Europe, and for other purposes", approved March 4, 1923 (36 U.S.C. 121), is amended by inserting after the second sentence thereof the following new sentence: "To ensure adequate care and maintenance of the cemeteries, monuments, and memorials under the jurisdiction of the Commission, the Commission, subject to the availability of appropriations, shall employ (1) not less than 50 personnel in the competitive service (as defined in section 2102 of title 5, United States Code), of whom not less than 43 shall be assigned to duty in foreign countries in which such cemeteries, monuments, and memorials are located, and (2) not less than 348 individuals who are citizens of the countries in which such cemeteries, monuments, and memorials are located, who shall be hired for local employment relating to the care and maintenance of such cemeteries, monuments, and memorials.".

LAND TRANSFER, CHEYENNE, WYOMING

SEC. 507. (a) Subject to subsection (b), the Administrator of Veterans' Affairs is authorized to execute such instruments as may be necessary to permit the city of Cheyenne, Wyoming, to use for public roadway purposes a tract of land consisting of four acres, more or less, which is a portion of a larger tract of land previously conveyed by the United States to such city under the authority of the Act entitled "An Act authorizing the Administrator of Veterans' Affairs to convey certain property to the city of Cheyenne, Wyoming", approved November 8, 1965 (Public Law 89-345; 79 Stat. 1304), for use by such city for park and recreational purposes only.

(b) Any instrument executed by the Administrator of Veterans' Affairs under this section shall—

(1) provide that the four-acre tract of land referred to in subsection (a) may be used only for park and recreational purposes or for public roadway purposes, or both, and only in a manner that will not, in the judgment of the Administrator of Veterans' Affairs interfere in any manner with the care and treatment of patients in the Veterans' Administration Center, Cheyenne, Wyoming;

(2) contain such additional terms, conditions, and restrictions as may be determined by the Administrator of Veterans' Affairs to be necessary to protect the interest of the United States; and

(3) provide that, if the Administrator of Veterans' Affairs determines that the city of Cheyenne has violated any provision of any such instrument, title to the tract of land conveyed under the authority of such Act shall revert to the United States as provided in the deed of conveyance executed pursuant to such Act.

(c) The legal description of the four-acre tract of land referred to in subsection (a) shall be determined by the Administrator of Veterans' Affairs. If a survey is required in order to make such determination, the city of Cheyenne shall bear the expenses of the survey.

TECHNICAL AMENDMENTS TO PUBLIC LAW 96-330

SEC. 508. (a) Section 4107(c)(3) is amended by striking out "section 4507" and inserting in lieu thereof "sections 4507 and 5384".

(b) Section 4109(b) is amended—

(1) by inserting "after August 25, 1980," after "any period of service"; and

(2) by inserting "after such date" after "such service".

TITLE VI—EFFECTIVE DATES

EFFECTIVE DATES

SEC. 601. (a) The amendments made by titles I and II shall apply only to payments for months beginning after September 30, 1980.

(b) The amendments made by title III and by sections 402, 501, 503, and 506 shall take effect on October 1, 1980.

(c) The amendments made by section 502 shall apply only with respect to individuals who die after September 30, 1980.

(d) The amendments made by sections 401, 504, 505, and 507 shall take effect on the date of the enactment of this Act.

(e) The amendments made by section 508 shall take effect as of August 26, 1980.

Resolved, That the House agree to the amendment of the Senate to the title of the bill with the following amendment:

In lieu of the matter inserted by the said amendment, insert: "An Act to amend title 38, United States Code, to provide cost-of-living increases in the rates of compensation for veterans with service-connected disabilities and in the rates of dependency and indemnity compensation for surviving spouses and children of veterans, to provide for limited grants for special home adaptations for certain severely disabled veterans, to provide for Veterans' Administration guaranties for loans to refinance certain existing veterans' home loans and to increase the maximum loan guaranties for home loans made to veterans, and to provide for the confidentiality of certain Veterans' Administration medical quality assurance records; and for other purposes.".

Mr. CRANSTON. Mr. President, this is the measure I sought on Friday and Monday to have taken up by unanimous consent—under the order governing H.R. 7631, the HUD Appropriations Act. It is before the Senate now as a privileged matter in lieu of the formal conference report.

SUMMARY

This measure embodies a compromise agreement between the Committees on Veterans' Affairs. It is, I believe, a fair and reasonable compromise that was worked out after extensive discussions and negotiations. It would provide for a much-needed cost-of-living increase in the rates of compensation for 2¼ million service-connected disabled veterans and dependency and indemnity compensation for 360,000 survivors of veterans who have died from service-connected causes. It would also make improvements in Veterans' Administration housing assistance programs.

Mr. President, as chairman of the Veterans' Affairs Committee, I urge concurrence in the House amendments to the Senate amendments to H.R. 7511, the proposed "Veterans' Disability Compensation and Housing Benefits Amendments of 1980," so that this important measure may be sent to the President.

Mr. President, the House amendments incorporate a compromise agreement achieved by the two Veterans' Affairs Committees after extensive discussions and negotiations. Our committee and the House Veterans' Affairs Committee worked very hard to reach agreement on the differences between H.R. 7511 as passed by the House on July 21, 1980, H.R. 7458 as passed by the House on July 28, and the Senate amendment to the provisions of H.R. 7511, passed by the Senate on August 6. The Senate amendment to H.R. 7511 contained the provisions of S. 2649 as reported by our committee on July 30, 1980, and included provisions comparable to those contained in H.R. 7458.

Although the major purposes of the House bills were similar to those of the Senate amendment, there were a number of substantive differences in the various provisions. I am very pleased that we have achieved a fair and reasonable resolution of the differences, and I would like to highlight the major provisions of the compromise agreement.

COST-OF-LIVING INCREASE IN COMPENSATION AND DIC RATES

Mr. President, the House bill provided for an increase of 13 percent, effective October 1, 1980, in the rates of compensation for our Nation's service-connected disabled veterans and dependency and indemnity compensation—DIC—for the survivors of those who died in the service of our country. The Senate amendment provided for a 14.3-percent increase in those rates; this reflected our committee's view that the increase for this most deserving group of individuals should not be less than the indexed increases, effective June 1, 1980, for social security and VA pension beneficiaries. The compromise agreement provides, effective October 1, 1980, for a 14.3-percent increase for veterans rated as 50 percent or more disabled and for surviving spouses and children receiving DIC and a 13-percent increase for veterans rated from 10- through 40-percent disabled.

The increases in the compromise agreement would have a fiscal year 1981 cost of $1,056.1 million in budget authority and $971.6 million in outlays—$28.9 million in outlays less than the Senate amendment and $70.1 million more than the House bill.

The rate increases provided for in the compromise agreement are designed to insure that, as a result of the costs of this bill and of a forthcoming compromise agreement on H.R. 7394 regarding a 10-percent increase in GI bill educational assistance allowances, the Veterans' Affairs Committees do not exceed their budget allocations under the first concurrent resolution on the budget for fiscal year 1981. With respect to the second budget resolution—Senate Concurrent Resolution 119—reported by the Budget Committee on August 27, I would like to note that the Budget Committee has indicated in its report—Senate Report No. 96-921, page 80—that it has assumed a compensation-DIC increase of 14.3 percent in the resolution it has recommended. I am very gratified by this action by the Budget Committee.

Mr. President, the Senate position on VA compensation rate increases is that those increases should not be less than the indexed increases—14.3 percent effective June 1, 1980—provided to social security and VA pension beneficiaries this year. Our committee contended very strongly for this position in negotiations with the House Committee. However, in light of the budgetary constraints under which both Veterans' Affairs Committees must operate under the allocations under the first budget resolution—which provided inadequate levels that I fought hard, but not successfully, to have increased—it was ultimately not possible to maintain our position in its entirety.

In this connection, I would note that our committee's effort to sustain the Senate position included a September 17 meeting attended by the distinguished Senator from South Carolina (Mr. THURMOND), myself, and the very able chairman (Mr. MONTGOMERY) and ranking minority member (Mr. WYLIE) of the House Veterans' Affairs Committee Subcommittee on Compensation, Pension, Insurance, and Memorial Affairs.

In that meeting, we presented our concerns for a 14.3-percent increase for all compensation and DIC recipients during fiscal year 1981. We also argued strongly against the House provisions in H.R. 7511 limiting the payments of disability compensation and DIC to veterans and survivors during their incarceration for criminal convictions. However, much to our regret, we were unable to convince our House colleagues to accept our position, but I do appreciate their thorough consideration of our arguments on this point. Although they would not yield entirely from the House position, they were willing to make substantial concessions on the provision itself.

Mr. President, we have been advised by the VA that our prompt action on this bill would mean that there would be sufficient time to adjust the amounts of the October compensation and DIC checks—mailed on November 1 to over 2.6 million beneficiaries—to include this increase.

SPECIAL HOME ADAPTATION GRANTS FOR CERTAIN SEVERELY DISABLED VETERANS

Mr. President, I am especially pleased that the compromise agreement contains provisions—derived from the Senate amendment—to establish a program of limited specially adapted housing grants, up to a maximum of $5,000, for veterans who, as a result of service-connected disability, are totally blind or have lost or lost the use of both hands. This new program would entail a fiscal year 1981 cost of $1 million in budget authority and outlays and would be effective on October 1, 1980.

REFINANCING OF VA-GUARANTEED LOANS

Mr. President, both H.R. 7458 as passed by the House and the Senate amendment to H.R. 7511 contained provisions to enable the VA to guarantee loans made to veterans for the purpose of refinancing, at lower interest rates, their VA home loans. As my colleagues are well aware, home-loan interest rates rose earlier this year to extremely high levels. However, under current law, those veterans who obtained VA-guaranteed home loans during that period of extremely high interest rates cannot refinance their loans with a VA guaranty at lower interest rates. Under the compromise agreement, these veterans would be able to reuse their VA loan-guaranty entitlement for a refinancing loan with a lower interest rate.

INCREASES IN LOAN-GUARANTY MAXIMUMS

Mr. President, the Senate amendment provided for increases in the maximum amounts of loan-guaranty entitlement provided to veterans—from $25,000 to $30,000 in the case of conventional homes, condominiums, and home improvements, and from $17,500 to $20,000 in the case of mobile homes and lots. The House bill did not contain comparable provisions. Under the compromise agreement, an increase of $2,500 would be provided for each loan-guaranty maximum.

PAYMENT OF PENSION TO MILITARY RETIREES

Mr. President, the House bill, but not the Senate amendment, would remove the prohibition on the concurrent receipt of military retired pay and VA need-based pension benefits in order to enable the VA to pay pensions to disabled and elderly military retirees whose incomes are below the applicable pension standard in the same way that pensions may be paid to persons who receive income from social security or any other source. The compromise agreement contains this very equitable provision.

LIMITATION OF COMPENSATION AND DIC FOR INCARCERATED PERSONS

Mr. President, the House bill, but not the Senate amendment, would have limited the amount of compensation and DIC benefits payable to persons who are incarcerated in penal institutions for felony or misdemeanor convictions. Under the House bill, compensation or DIC, after the first 60 days of incarceration, could not exceed $60 per month.

At the present time, compensation payable to a veteran rated as 10-percent disabled is less than $60 per month; thus, this provision as passed by the House would have applied at the present time only to veterans rated 20 percent or more disabled and those whose rating is zero percent but who receive the rate provided under section 314(k) of title 38. Under the House bill, a similar limitation would apply to incarcerated DIC recipients, and amounts not paid to the veteran or DIC recipient could be apportioned to the veterans' dependents and survivors.

The compromise agreement provides for a limitation that would apply only to those who are convicted of felonies and only in situations where the offense is committed after the date of the enactment of this section or, if before, to those who are incarcerated on October 1, 1980, and awarded compensation or DIC after that date while incarcerated. The limitation would not apply at all to a person while he or she is participating in a work-release program or residing in a halfway house.

With respect to veterans, the monthly amount of compensation payable to veterans rated 20 percent or more disabled would be limited to the 10-percent rate—$54 under the compromise agreement—and to veterans rated zero or 10-percent disabled, to half of the 10-percent rate—$27. The limitation would apply to all veterans rated as 10 percent or more disabled and to those whose rating is zero percent but who receive the rate provided under section 314(k) of title 38. With respect to DIC and death compensation recipients, the monthly amount payable would be limited to half of the 10-percent rate.

Most importantly, apportionments to dependents of incarcerated veterans would be paid under the same terms and conditions as are apportionments made pursuant to section 3107 of title 38, which governs apportionments in the cases of nonincarcerated compensation beneficiaries. Apportionments of DIC would be paid in a similar manner. However, no apportionment of the compensation or DIC of a person to whom the limitation applies could be made to a dependent who is incarcerated for conviction of a felony.

Finally, under these provisions, no adjudications of total disability based on individual unemployability would be permissible during the period of the veteran's incarceration.

Mr. President, in my view and in the view of other committee members, the House-passed provision not only raised questions of fundamental fairness but also threatened basic principles underlying the service-connected compensation programs. However, with the utmost reluctance and recognizing the depth of the feelings in the other body with regard to the issues involved—and, as I previously noted, Senator THURMOND and I personally met with Representatives MONTGOMERY and WYLIE—we have reached an accord on the provisions in the compromise agreement, provisions that I believe are consistent with notions of fundamental fairness.

I would like to emphasize that the limitation would apply only prospectively. It would apply generally only to those who commit felonies after the date of enactment, and no person who is currently serving a period of incarceration would, as a result thereof, lose any compensation benefits which he or she has been awarded prior to October 1.

Under the provisions regarding apportionments, there would be absolutely no discretion on the part of the Administrator to deny or reduce apportionment—because of the felony conviction—on any factors other than those applicable generally to compensation and DIC apportionments. We believe it is very important to provide for the legitimate needs of the family of an incarcerated compensation or DIC recipient.

I also stress both committees' intention that the VA notify any affected veteran or DIC recipient of the apportionment provisions and that the VA also notify each prospective apportionee. It is important to note the committees' intentions in this regard because a dependent or other prospective apportionee may request an apportionment.

In my view, the various modifications of the House provisions reflected in the compromise agreement go far to overcome many of our committee's objections to this part of the House bill, and I appreciate the cooperation of the House Members in working out these provisions with us.

MINIMUM NUMBER OF EMPLOYEES OF AMERICAN BATTLE MONUMENTS COMMISSION

Mr. President, the House bill, but not the Senate amendment, provided, subject to appropriations, for certain minimum numbers of American Battle Monuments Commission—ABMC—employees to assist the ABMC to carry out its mission of maintaining and preserving the overseas cemeteries in which so many of our Nation's honored dead lie buried and the monuments and memorials dedicated to them. The compromise agreement contains this provision.

CONFIDENTIALITY OF MEDICAL QUALITY-ASSURANCE DOCUMENTS

Mr. President, the Senate amendment, but not the House bill, provided for the establishment of a statutory scheme that would significantly limit the disclosure of VA medical quality-assurance documents—those documents generated by the VA through the agency's medical quality-assurance program—including disclosure pursuant to the Freedom of Information Act. The compromise agreement includes this provision with certain technical amendments.

Mr. President, at the time the Senate amendment was before the Senate, I included in the RECORD—daily edition, August 6, 1980, page 21436—a detailed discussion of the reasons for this change. Thus, I will not go into detail on this provision at this time.

However, I want to make two brief points with reference to the technical modifications we have made in this provision. First, most of the changes were made to insure that it is clear that Congress intends that the confidentiality protection be applied to all of the documents developed as part of the VA's medical quality-assurance program since that program began in 1974. I believe that it is important to provide confidentiality for all documents already developed, those under development, and those to be developed in the future under the VA's quality-assurance program, so as to insure that those health professionals participating in that program—which relies on peer review—are able to do so without hesitation and with the understanding that the comments, evaluations, and criticisms that they make in the review will generally not be available outside of the VA.

As indicated, these concerns are equally applicable to documents created under the quality-assurance program prior to the date of enactment of this provision. To allow such material to be made public would not only have a possible adverse effect on the reviewers' willingness to participate in the program in the future and thereby compromise the attempts to keep the quality-assurance program operating effectively, but would also constitute a serious breach of faith with those who have participated in the program up to now.

Mr. President, the second point on the technical amendments that I want to make concerns the modification to clarify that none of the prohibitions on disclosure is intended to limit the use of the medical quality-assurance documents within the VA itself. There was some concern that, without such a clarification, the provision could be construed as barring the use of such documents by VA employees with a need for them who did not participate in the particular review or evaluation involved.

In removing any such ambiguity on this score, VA use has been defined to include VA "contractors and consultants" in recognition of the fact that the VA employs many such individuals in its health-care system.

However, I want to note that this provision does not authorize the release of copies of the medical quality-assurance documents to such individuals but rather limits their access to one of "use." The access is limited in this manner so that a contractor or a consultant who needs to see such a document—and I note that I do not anticipate much demand of this sort—would not be able to acquire the documents in question through a disclosure but would be limited to using such documents in a VA facility, either in the VA's Central Office or a VA medical center, under VA control and direction. In this way, the material in question would remain within the control of the VA and there should be no opportunity for inadvertent disclosure beyond the agency.

Mr. President, I believe these provisions relating to medical quality-assurance documents are very important, and I am pleased that the House agreed to include them in the compromise agreement.

Mr. President, in order that all Senators and the public may have a full understanding of the provisions of the compromise agreement, I ask unanimous consent that there be printed in the RECORD at this point, in lieu of a joint explanatory statement accompanying a conference report, a document, also inserted during consideration in the other body on September 18, entitled "H.R. 7511, Veterans' Disability Compensation and Housing Benefits Amendments of 1980—Explanatory Statement of House Bill, Senate Amendment, and Compromise Agreement," followed by a brief discussion of provisions not contained in the compromise agreement; a table comparing the fiscal year 1981 costs of the House bill, Senate amendment, and compromise agreement; and the Congressional Budget Office estimate of the fiscal year 1981 costs of the provisions of the compromise agreement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 7511, "VETERANS' DISABILITY COMPENSATION AND HOUSING BENEFITS AMENDMENTS OF 1980"—EXPLANATORY STATEMENT OF HOUSE BILL, SENATE AMENDMENT, AND COMPROMISE AGREEMENT

TITLE I—VETERANS' DISABILITY COMPENSATION BENEFITS

RATE INCREASE

SECTIONS 101, 102, and 103. The House bill and the Senate amendment would amend chapter 11 of title 38, United States Code, effective October 1, 1980, to increase the basic rates of service-connected disability compensation for veterans, the rates payable for certain severe disabilities, the annual clothing allowance for certain severely disabled veterans, and the dependents' allowances payable to veterans rated 30-percent or more disabled. The House bill would increase those rates by 13 percent; the Senate amendment, by 14.3 percent.

The compromise agreement provides increases, effective October 1, 1980, of 14.3 percent in the rates for veterans rated 50-percent or more disabled and for veterans more severely disabled, the annual clothing allowance, and dependents' allowances and of 13 percent in the rates for veterans rated from 10- through 40-percent disabled.

TITLE II—SURVIVORS' DEPENDENCY AND INDEMNITY COMPENSATION BENEFITS

RATE INCREASES

SECS. 201, 202, and 203. The House bill and the Senate amendment would amend chapter 13 of title 38, United States Code, to provide, effective October 1, 1980, an increase of 13 percent and 14.3 percent, respectively, in the rates of dependency and indemnity compensation (DIC) payable to the surviving spouses and children of veterans whose deaths were service connected.

The compromise agreement provides a 14.3-percent increase in DIC rates effective October 1, 1980.

TITLE III—SPECIAL HOME ADAPTATION GRANTS FOR CERTAIN SEVERELY DISABLED VETERANS

SEC. 301. The Senate amendment would amend chapter 21 of title 38, United States Code, to provide, effective October 1, 1980, for limited specially adapted housing grants, up to a maximum of $5,000, to veterans who, as a result of service-connected disability, are totally blind or have lost or lost the use of both upper extremities to a specified extent. The House bill does not contain a comparable provision.

The House recedes with amendments clarifying that veterans who have lost or lost the use of both hands would be eligible and modifying a limitation provided for under the Senate amendment. This limitation would have precluded the VA from providing to any veteran who is eligible for home health services—which may include home improvements and structural alterations—under section 612 (a) of title 38, United States Code, and also eligible under the new limited specially adapted housing grant program, any particular type of adaptation, improvement, or structural alteration more than once. This limitation would be modified under the compromise agreement to clarify that the VA may not furnish to a veteran under the new program a particular type of adaptation, improvement, or structural alteration that has been provided to the veteran under section 612(a) and to avoid any implication that the limitation applies to assistance under section 612(a). The Committees note that veterans eligible for grants under the new program would be eligible—as are veterans now eligible for specially adapted housing grants under chapter 21—for mortgage protection life insurance under section 806 of title 38 and direct home loans under section 1811(i) of such title. As in the Senate amendment, this section would become effective October 1, 1980.

TITLE IV—VETERANS' ADMINISTRATION HOME-LOAN PROGRAM AMENDMENTS

REFINANCING LOANS

SEC. 401 (a), (b) (1), and (d) (1). The Senate amendment and H.R. 7458, passed by the House on July 28, 1980, would amend chapter 37 of title 38, United States Code, to authorize the VA to guarantee a refinancing loan made to a veteran who has previously used his or her loan-guaranty or direct-loan entitlement to purchase a conventional home or condominium. Under the Senate amendment, but not H.R. 7458 a refinancing loan guaranty could be provided only in the case of a refinancing loan with an interest rate that is lower than the interest rate on the previous loan; such a guaranty would be available for a loan to refinance a previous VA-guaranteed loan used to purchase a mobile home or mobile home lot, or both; and, in cases where the veteran is deceased and the veteran's surviving spouse was a coobligor under the loan to be refinanced, the surviving spouse would be able to obtain a VA loan guaranty for a refinancing loan with a lower interest rate. Under H.R. 7458, but not the Senate amendment, the amount of guaranty on the refinancing loan would be limited to the amount of guaranty on the loan to be refinanced; and the use of a direct loan for refinancing purposes would be permitted.

The House would recede with technical and clarifying amendments and an amendment that would limit the amount of guaranty of the refinancing loan to the amount of guaranty on the loan to be refinanced. As in H.R. 7458 and the Senate amendment to H.R. 7511, this provision would be effective upon the enactment of the compromise agreement.

INCREASES IN LOAN GUARANTY MAXIMUMS

SEC. 402. The Senate amendment would amend chapter 37 of title 38, United States Code, to increase, effective October 1, 1980, the maximum amounts of VA loan guaranty entitlement provided to veterans—from $25,000 to $30,000 for conventional homes, condominiums, and home improvements, and from $17,500 to $20,000, for mobile homes and lots. The House bill does not contain a comparable provision.

The House recedes with an amendment, effective October 1, 1980, providing a $2,500 increase in both maximum loan guaranty amounts.

TITLE V—MISCELLANEOUS PROVISIONS

EXTENSION OF AUTHORITY FOR VETERANS' ADMINISTRATION OFFICE IN THE REPUBLIC OF THE PHILIPPINES

SEC. 501. The House bill would amend section 230(b) of title 38, United States Code, to extend from September 30, 1981, to September 30, 1985, the VA's authority to maintain a regional office in the Republic of the Philippines. The Senate amendment does not contain a comparable provision.

The Senate recedes.

HEADSTONES AND MARKERS IN CERTAIN CASES

SEC. 502. The House bill would amend section 906(a) of title 38 to provide that an appropriate headstone or marker may be furnished, upon request, for the grave of a veteran's spouse, surviving spouse, minor child, or, in the Administrator's discretion, unmarried adult child, if such person is buried in a State veterans' cemetery and the veteran is or was eligible, under chapter 24 of title 38, for interment in a National Cemetery. The Senate amendment does not contain a comparable provision.

The Senate recedes with a technical amendment. As in the House bill, this section would become effective with respect to persons who die after September 30, 1980.

PAYMENT OF PENSION IN CERTAIN CASES

SEC. 503(a). The House bill would amend section 3104(a) of title 38 to remove, effective October 1, 1980, the prohibition on the concurrent receipt of military retired pay and VA need-based pension benefits under section 521 or 541 of title 38. This would enable the VA to pay pension to persons who receive military retired pay in the same way that pension may be paid to persons who receive income from the social security program or any other source. The Senate amendment does not contain a comparable provision.

The Senate recedes with a clarifying amendment. This subsection would become effective, as in the House bill, on October 1, 1980.

SEC. 503(b). The House bill would amend section 3203(a)(1)(C) of title 38 to provide, effective October 1, 1980, that the reduction of pension required when a veteran without dependents is readmitted for care in a VA domiciliary, hospital, or nursing home facility within 6 months of a previous period of care will not be made unless a reduction was made under section 3203(a)(1) (A) or (B) in connection with the previous period of care. The Senate amendment does not contain a comparable provision.

The Senate recedes with a clarifying amendment. This subsection would become effective, as in the House bill, on October 1, 1980.

LIMITATION OF COMPENSATION AND DIC FOR INCARCERATED PERSONS

SEC. 504. The House bill would amend chapter 55 of title 38, United States Code, to provide that, during a service-connected disabled veteran's confinement in a Federal, State, or local penal institution as the result of the veteran's conviction of a felony or misdemeanor, the veteran's compensation may not exceed $60 per month after the first 60 days. Under this provision, the reduction after 60 days of incarceration would apply only to veterans rated 20 percent or more disabled, as long as the 10-percent rate is less than $60 per month. Amounts not paid to the veteran could be apportioned to the veteran's dependents. A similar limitation would apply to incarcerated recipients of DIC and death compensation payments. This provision would be effective with regard to payments for months after September 30, 1980. The Senate amendment does not contain a comparable provision.

The compromise agreement provides for a limitation along the lines of the House bill with the following provisions:

(1) The limitation would apply only to persons incarcerated for a felony conviction.

(2) The limitation would apply only to those whose offense is committed after the date of the enactment of this section and to those who are incarcerated on October 1, 1980, and awarded compensation or DIC after that date.

(3) The limitation would not apply to a person while he or she is participating in a work-release program or residing in a halfway house.

(4) Apportionments to dependents of veterans would be provided for under the same terms and conditions as are apportionments made pursuant to section 3107 of title 38, which governs apportionments in the cases of non-incarcerated compensation beneficiaries. Apportionments of DIC would be provided for in a similar manner. However, no apportionment of the compensation, DIC, or death compensation of a person to whom the limitation applies could be made to a dependent who is incarcerated for conviction of a felony.

(5) With respect to veterans, the compromise agreement would limit the monthly amount of compensation payable to veterans rate 20 percent or more disabled to the 10-percent rate ($54 under the compromise agreement) and, to veterans rated zero or 10 percent disabled, to half of the 10-percent rate ($27). The limitation would thus apply to all veterans rated as 10 percent or more disabled and to those whose rating is zero percent but who receive the rate provided under section 314(k) of title 38. With respect to DIC and death compensation recipients, the monthly amount payable would be limited to half of the 10-percent rate.

(6) No adjudications of total disability based on individual unemployability would be permissible during the period of the veteran's incarceration.

Under the compromise agreement, this section would be effective on the date of enactment.

The Committees note that it is their intention that the limitations provided for under the compromise agreement apply to persons convicted of felonies and sentenced to imprisonment while they are institutionalized in a hospital facility on transfer from (but not on parole from) a penal institution. In cases of prison-to-hospital transfer, the Committees consider that the hospital is serving as an agent of the penal institution. As has been noted, the limitation would not apply during a period during which the individual is participating in a work-release program even though, under such program, he or she returns to confinement during evenings or weekends. Restoration to the full rate would occur upon the person's release from incarceration, including release on parole. At such times, of course, any amount apportioned to dependents would be appropriately adjusted.

The Committees intend that, at the time action is taken to reduce an incarcerated veteran's or survivor's benefits under this section, the VA provide such veteran or survivor and those to whom apportionments may be made with notice of these apportionment provisions.

CONFIDENTIALITY OF MEDICAL QUALITY-ASSURANCE DOCUMENTS

SEC. 505. The Senate amendment would amend chapter 57 of title 38, United States Code, to provide for the confidentiality of Veterans' Administration medical quality-assurance documents. The House bill does not contain a comparable provision.

The House recedes with technical amendments. The provision would be effective to protect the confidentiality of medical quality-assurance documents created before or after the date of enactment.

MINIMUM NUMBER OF EMPLOYEES OF AMERICAN BATTLE MONUMENTS COMMISSION

SEC. 506. The House bill would amend the Act creating the American Battle Monuments Commission (ABMC), which was approved March 4, 1923 (36 U.S.C. 121) to provide that, subject to the availability of appropriations, the ABMC shall employ at least (1) 50 Federal civil-service employees, of whom not fewer than 43 shall be assigned to duty in countries where cemeteries, monuments, and memorials under ABMC jurisdiction are located, and (2) 348 citizens of such countries to maintain and care for such cemeteries, monuments, and memorials. The Senate amendment does not contain a comparable provision.

The Senate recedes. As in the House bill, this provision would be effective October 1, 1980.

LAND TRANSFER

SEC. 507. The Senate amendment would amend Public Law 89-345 (79 Stat. 1304)—which authorized the conveyance, subject to certain restrictions, of a tract of land adjoining the VA Center located in Cheyenne, Wyoming, from the VA to the city of Cheyenne—in order to remove the restriction relating to park and recreational use with regard to a certain 4-acre tract of the land so conveyed in order to permit the city to use the 4-acre tract to expand and improve a certain roadway. The park-and-recreational-use restriction would be removed by a second deed that would be authorized by the Senate amendment and would be required to impose a new restriction limiting the use of the 4-acre tract to public roadway purposes. The House bill does not contain a comparable provision.

The House recedes with technical amendments authorizing the VA to execute appropriate instruments to permit the 4-acre tract to be used for public roadway purposes and requiring that any such instrument provide that the 4-acre tract may be used only for park and recreational purposes or for public roadway purposes or both.

As in the Senate amendment, this section would be effective on the date of enactment.

TECHNICAL AMENDMENTS

SEC. 508 (a) and (b). The compromise agreement contains two technical amendments relating to Public Law 96-330, enacted on September 4, 1980, that are not contained in either the House bill or the Senate amendment. The first provision, contained in section 612 of S. 1188, the proposed "Disabled Veterans' Rehabilitation Act of 1980", passed by the Senate on September 4, 1980, would amend paragraph (3) of section 4107(c) of title 38, as added by Public Law 96-330, which allows VA nonphysician hospital directors to be considered for bonuses as part of the Senior Executive Service (SES), in order to add a cross-reference, inadvertently not included in the text of Public Law 96-330, to a title 5 SES bonus provision (section 5384). Second, the compromise agreement would amend subsection (b) of section 4109, as added by Public Law 96-330, to correct a drafting error and thus clarify that that subsection, which changes the way in which retirement credit is awarded for the part-time service of certain VA health-care personnel, applies only to part-time-employment periods served after the enactment of that law.

Both provisions would take effect as of August 25, 1980, the date of the enactment of Public Law 96-330.

PROVISIONS NOT INCLUDED IN COMPROMISE AGREEMENT

HOUSE BILL PROVISIONS

The House bill contained three provisions not included in this compromise agreement, as follows:

CERTAIN RETROACTIVE DIC PAYMENTS.—The House bill would provide for a limitation on the amount of retroactive DIC benefits payable to a veteran's surviving child whose eligibility for DIC benefits becomes established at a time later than the eligibility of the veteran's other surviving child or children was established.

REDUCTION OF CERTAIN DIC BENEFITS.—The House bill would provide that, where a surviving spouse is a DIC recipient receiving a dependent's allowance for a child and the child becomes entitled to DIC when he or she has reached age 18 and is attending school, the DIC benefit payable to the surviving child for the month in which he or she reaches age 18 is to be reduced by the amount of the dependent's allowance.

LIMITATION DURING FISCAL YEAR 1981 OF CERTAIN BURIAL BENEFITS.—The House bill would eliminate the payment of burial benefits in cases in which the veteran's death occurs during fiscal year 1981 from nonservice-connected causes and the veteran's income, together with the veteran's spouse's income, exceeded $20,000 during the 12 months prior to the veteran's death.

SENATE BILL PROVISIONS

The Senate amendment contained various provisions not included in this compromise agreement, as follows:

SUPPLY FUND AUTHORITIES.—The Senate amendment would modify certain VA supply fund authorities. This provision was enacted as section 402 of Public Law 96-330.

LOAN GUARANTY DISCLOSURE AUTHORITY.—The Senate amendment would authorize the VA to make certain disclosures of veterans' names and addresses to facilitate the management of the VA loan-guaranty program. This provision was passed by the House as section 603(b) in H.R. 7394 on July 21, 1980, and is being considered in the context of a compromise agreement on that bill and certain other measures.

VEAP AND GI BILL AMENDMENTS.—The Senate amendment would make certain modifications in the Post Vietnam-Era Veterans Educational Assistance Program (VEAP) and the GI Bill program. These provisions were passed by the Senate as sections 213 and 214 in S. 1188 on September 4, 1980, and are being considered in the context of a compromise agreement on that bill and certain other measures.

EXPANSION OF CATEGORIES OF VA LIFE-INSURANCE ASSIGNEES.—The Senate amendment would expand the categories of persons to whom assignments of VA life insurance proceeds may be made.

COMPARISON OF FISCAL YEAR 1981 BUDGET AUTHORITY COSTS OF H.R. 7511 AS PASSED BY THE HOUSE AND SENATE AND COMPROMISE AGREEMENT

[In millions]

Provisions of compromise agreement	As passed by House	Senate amendment	Compromise agreement
Titles I and II	$979.8	$1,087.5	$1,056.1
Title III		1.0	1.0
Title IV:			
Sec. 401	(1)[2]	(1)	(1)
Sec. 402		(1)	(1)
Title V:			
Sec. 501	(1)		(1)
Sec. 502	(1)		(1)
Sec. 503	1.0		1.0
Sec. 504	−3.0		(1)
Sec. 505		(1)	(1)
Sec. 506	(1)		(1)
Sec. 507		(1)	(1)
Sec. 508			(1)
Total	[3]977.8	1,088.5	1,058.1

[1] Less than $500,000.

[2] H.R. 7458.

[3] Provisions in the House bill not included in the compromise agreement would reduce this amount to $894,300,000.

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 18, 1980.
Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 7511 the Veterans' Disability Compensation and Housing Benefits Amendments of 1980.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,
ROBERT D. REISCHAUER
(For Alice M. Rivlin, Director).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

September 18, 1980.

1. Bill number: H.R. 7511.

2. Bill title: Veterans' Disability Compensation and Housing Benefits Amendments of 1980.

3. Bill status: As passed by the House of Representatives on September 18, 1980.

4. Bill purpose: To amend title 38, U.S.C., to provide a cost-of-living increase in the rates of disability compensation and of dependency and indemnity compensation, and for other purposes.

5. Cost estimate:

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Title I:					
Required budget authority	858.8	870.5	880.0	889.4	898.8
Outlays	790.1	869.6	879.2	888.6	898.0
Title II:					
Required budget authority	197.3	199.7	201.4	203.1	204.3
Outlays	181.5	199.5	201.2	202.9	204.2
Title III:					
Required budget authority	1.0	.7	.5	(1)	(1)
Outlays	1.0	.7	.5	(1)	(1)
Title V:					
Sec. 501:					
Estimated authorization level	0	1.1	1.1	1.2	1.2
Outlays	0	1.1	1.1	1.2	1.2
Sec. 503(b):					
Required budget authority	1.0	1.0	1.0	1.0	1.0
Outlays	1.0	1.0	1.0	1.0	1.0
Sec. 504:					
Required budget authority	(1)	−1.5	−2.5	−3.0	−3.0
Outlays	(1)	−1.5	−2.5	−3.0	−3.0
Total:					
Estimated authorization level	0	1.1	1.1	1.2	1.2
Required budget authority	1,058.1	1,070.4	1,080.4	1,090.5	1,101.1
Outlays	973.6	1,080.4	1,080.5	1,090.7	1,101.0

[1] Less than $500,000.

6. Basis for estimate:

Title I: This title would increase by 13 percent monthly disability compensation benefits for veterans with disabilities rated at 40 percent or less. All other monthly benefit rates would be increased by 14.3 percent, with the exception of the rate paid under section 314(k) (title 38, U.S.C.) which would not be increased at all. These increases would be effective October 1, 1980.

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Required budget authority	858.8	870.5	880.0	889.4	898.8
Outlays	790.1	869.6	879.2	888.6	998.0

The cost of this title was estimated by multiplying the current rate for each schedular level of disability by the amount of the proposed increase. This increase in monthly payment rates was then multiplied by the number of veterans receiving compensation for that level of disability, as of December 1979. This produced the cost for the increase in schedular payment rates. The cost of the 14.3 percent increase in all non-schedular payment categories was estimated by calculating the cost of an across-the-board 14.3 percent rate increase, then subtracting out the portion applying to schedular rates. The two pieces were then combined to arrive at the total estimated increase in disability compensation costs.

Title II: This title would increase all monthly dependency and indemnity compensation (DIC) rates by 14.3 percent, effective October 1, 1980.

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Required budget authority	197.3	199.7	201.4	203.1	204.3
Outlays	181.5	199.5	201.2	202.9	204.2

Note: The cost of this title was estimated by multiplying the projected average cost in each year for all DIC cases by 14.3 percent, then multiplying the resulting average increase in cost by the estimated number of cases in each year.

Title III—This title would provide for a new program of grants for special housing adaptations for certain disabled veterans. Veterans with blindness in both eyes or with the loss or loss of use of both upper extremities at or above the wrist would be eligible for grants equal to the actual cost of such adaptations, but not to exceed $5,000. The provision would be effective October 1, 1980.

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Required budget authority	1	0.7	0.5	(1)	(1)
Outlays	1	.7	.5	(1)	(1)

[1] Less than $500,000.

According to the VA, there are currently 125 veterans receiving compensation for the anatomical loss of both upper extremities, 542 for the loss of use of both upper extremities, and 1,016 for total bilateral blindness. If all eligible veterans received the maximum grant available, the total cost of the new program would be $4.2 million. This estimate assumes that some eligible veterans have already made necessary adaptations with section 612(a) (title 38, U.S.C.) grants, that some otherwise eligible veterans would be ineligible because they do not own their homes, and that some veterans would find special adaptations undesirable.

Title IV:

Section 401: This section would permit veterans to refinance loans guaranteed under section 1810 or 1819 of title 38, U.S.C., in order to obtain a lower rate of interest, as long as the refinanced loan is secured by the same property as the originally guaranteed loan, the principal balance of the refinanced loan does not exceed the outstanding balance of the original loan plus closing costs, and the term of the refinanced loan does not exceed the term of the original loan. This provision is not expected to result in any significant cost to the federal government. The refinancing of loans at lower rates of interest would make it easier for veterans to make their monthly mortgage payments and, thereby, preclude some defaults. The administrative cost of processing the applications for refinancing would not be expected to be significant.

Section 402: This section would increase the maximum loan guaranty amount from $25,000 to $27,500 for houses and from $17,500 to $20,000 for mobile homes. Significant costs in the loan guaranty program are only incurred in the case of foreclosures. The VA's new program of financial counseling for veterans who are having difficulty making the payments on their guaranteed loans has been quite successful in substantially reducing the number of loans going into foreclosure.

The increased cost for those loans which would result in foreclosure should be offset by the proceeds from the sale of the property involved.

Title V:

Section 501: This section would extend the authority of the Administration of Veterans' Affairs to maintain a regional office in the Philippines through September 30, 1985. The current authority expires at the end of fiscal year 1981.

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Estimated authorization level	0	1.1	1.1	1.2	1.2
Estimated outlays	0	1.1	1.1	1.2	1.2

This estimate is based on information from VA on the projected cost of operating the Manila regional office.

Section 502: This section would extend eligibility for government headstones or grave markers to the spouses and certain children of veterans who are buried in state veterans' cemeteries. Since there are few state veterans' cemeteries, and since the average cost of a government headstone or marker is aproximately $50, the cost of this provision should not be significant.

Section 503(a): This section would provide that pension benefits may be paid concurrently with military retired pay. According to the VA and the House Committee on Veterans Affairs, there are only a handful of individuals whose military retired pay is low enough for them to qualify for pension. This section is, therefore, not expected to have a significant cost.

Section 503(b): This section eliminates a discrepancy in the provisions to reduce pension benefits during hospital stays. According to VA sources, the provision would result in benefit costs of approximately $1 million a year.

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Required budget authority	1	1	1	1	1
Outlays	1	1	1	1	1

Section 504: This section would limit the amount of disability compensation and DIC benefits that could be paid to individuals who are incarcerated for more than 60 days for commission of a felony. In the case of veterans with no dependents, the maximum allowable benefit would be limited to the 10 percent disabled rate ($54 after October 1, 1980) for those veterans with ratings of 20 percent or higher. Incarcerated veterans not rated 20 percent or more and DIC recipients would have their benefits reduced to one-half the 10 percent rate. Incarcerated veterans and DIC recipients with dependents may have the withheld portion of their benefits paid to their dependents. This provision would be effective only with regard to incarcerated individuals whose offense was committed after the date of enactment.

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Required budget authority	(1)	—1.5	—2.5	—3	—3
Outlays	(1)	—1.5	—2.5	—3	—3

[1] Less than $500,000.

There is no data available on the number of service-disabled veterans or DIC recipients in prison, nor on the level of compensation benefits such individuals receive. A study of inmates of Pennsylvania state prisons (Kehrer and Mittra, Characteristics and Needs of Veteran Inmates in Pennsylvania State Correctional Institutions, Office of Equal Opportunity, Pennsylvania Department of Education, in conjunction with the Bureau of Correction, Pennsylvania Department of Justice, May 1975) determined that 25 percent of the inmates of that prison system were veterans. According to the Bureau of the Census, on December 31, 1979 there were 314,083 inmates in federal and state prisons. If 25 percent of these inmates are veterans, there would be approximately 78,500 veterans. Of Vietnam era veterans, 5.4 percent are receiving disability compensation. One would expect that disabled veterans would be less likely to commit crimes than the rest of the veteran population since their compensation benefits would provide them with at least some guaranteed income. On this basis, it was assumed that 2,000 recipients of disability compensation and 200 recipients of DIC would ultimately have their benefits reduced as a result of this provision. Since the provision is only effective for individuals whose crime was committed after enactment, a three-year phase-in period is assumed before the bulk of incarcerated veterans would be affected. The estimate further assumes that such individuals currently receive one-half the average benefit level of all recipients of the respective program. Since there is little hard data to back-up these assumptions, this estimate should be viewed only as a rough approximation of the savings that would result from this provision.

Section 506: This section would establish a minimum number of employees for the American Battle Monuments Commission (ABMC). The Commission is directed to employ not less than 50 individuals in competitive service and not less than 348 individuals who are citizens of the countries in which ABMC cemeteries, monuments and memorials are located, subject to the availability of appropriations. According to the fiscal year 1981 budget, the ABMC currently employs 45 general schedule employees and 339 unscheduled employees. The cost of the additional personnel mandated by this section would be less than $500,000 a year.

7. Estimate comparison: None.

8. Previous CBO estimate:

On June 12, 1980 CBO transmitted an estimate of H.R. 7511, as originally ordered reported by the House Committee on Veterans' Affairs. That version of the bill contained a 13 percent compensation rate increase among other provisions and was estimated at a fiscal year 1981 required budget authority of $894.3 million and outlays of $816.2 million. These figures were later reestimated to $902.8 million and $823.9 million, respectively, for CBO July reestimates.

On July 30, 1980 CBO submitted a cost estimate of S. 2649, the Senate version of the Veterans' Disability Compensation and Survivors' Benefits Amendments of 1980. That bill contained a 14.3 percent compensation rate increase and other provisions. It was estimated to require fiscal year 1981 budget authority of $1,088.5 million and result in outlays of $1,000.4 million.

This current version of H.R. 7511 contains a 13 percent rate increase for veterans rated 40 percent disabled or less and a 14.3 percent increase in all other compensation and DIC rates. Of the other provisions, some were taken from the House bill and some from the Senate bill resulting in a total cost greater than that estimate for the House bill, but less than of S. 2649.

9. Estimate prepared by: K. W. Shepherd (225-7766).

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

CONCLUSION

Mr. CRANSTON. Mr. President, in closing, I want to express my deep appreciation to the chairman of the Subcommittee on Compensation, Pension, Insurance, and Memorial Affairs of the House Committee on Veterans' Affairs (Mr. MONTGOMERY) and the chairman of the full Committee (Mr. ROBERTS), as well as the ranking minority members of the Subcommittee on Compensation, Pension, Insurance, and Memorial Affairs (Mr. WYLIE) and of the full Committee (Mr. HAMMERSCHMIDT), for their cooperative spirit and open-mindedness in fashioning this compromise agreement dealing with several difficult and complex matters. I am also very grateful to my distinguished colleagues, the ranking minority member of the Senate Committee on Veterans' Affairs, the Senator from Wyoming (Mr. SIMPSON), and the Senator from Georgia (Mr. TALMADGE), for their work on this legislation.

In addition, I would like to congratulate several members of the House Committee staff whose expertise and diligence were invaluable in the development of this measure—Mack Fleming, Lou Townsend, Arnold Moon, and Chuck Wright—as well as the members of our committee staff who participated so importantly in this effort—Mary Sears, Ed Scott, Jon Steinberg, Bill Brew, Janice Orr, Julie Susman, and Harold Carter. We also are very much indebted to our legislative counsels, Hugh Evans of the Senate and Bob Cover of the House, and to the VA for technical assistance.

I believe that the reasons I have expressed in support of the compromise agreement make a strong case for this legislation, and I urge my colleagues to support it.

Mr. DOLE. Mr. President, I am pleased to support H.R. 7511, the Veterans' Disability Compensation and Housing Benefits Amendments of 1980.

Among other important provisions, this bill will authorize cost-of-living increases in the compensation for disabled veterans and survivors. This legislation represents a special and continuing obligation of the U.S. Government to provide for those who have become disabled in the service of our country.

I am happy to support this bill and urge my colleagues to give it their support.

Mr. THURMOND. Mr. President, I rise in support of H.R. 7511, the Veterans' Disability Compensation and Housing Benefits Amendments of 1980, as reported by the House.

Mr. President, this bill will provide a cost-of-living increase for those veterans in receipt of Veterans' Administration compensation which is due to disabling injuries received while in military service. The rate of this increase will result in veterans rated 10 to 40 percent disabled receiving a 13-percent increase, and those rated 50 percent or more disabled receiving a 14.3-percent increase in their monthly payments. Further, widows in receipt of dependency and indemnity compensation (DIC) on October 1 will receive a 14.3-percent increase. The differing rates are required to insure that the Veterans' Affairs Committees of the House and Senate do not exceed their budget allocations under the first concurrent budget resolution (H. Con. Res. 307).

Mr. President, H.R. 7511 contains several provisions that will assist certain severely disabled veterans in their efforts to obtain suitable housing. For instance, veterans who are totally blind or have lost the use of both upper extremities will become eligible for a $5,000 housing grant to install in their homes the necessary adaptive equipment to make their homes more livable. Also, this legislation will authorize the VA to guarantee a home loan that was refinanced with an interest rate that is lower than the interest rate acquired during the most recent period of high inflation. I believe this provision is very meritorious and it will assist veterans who, for reasons beyond their control, were subjected to high home interest rates and soaring inflation. In addition, the maximum amount of a VA home loan guaranty would also be increased by $2,500.

Mr. President, the original legislation by the House contained a provision that would deny compensation benefits to a veteran once that veteran became incarcerated, and upon release these benefits would be reinstated. The Senate bill did not address this issue. However, during consideration of this matter by the members of both Veterans' Committees, to reach a suitable resolution, the very theory and purpose of service-connected compensation was discussed. The compromise agreement, Mr. President, is not what I wanted nor was it the position of the Senate; yet, the House felt strongly on this matter and I believe this compromise is the best that could have been achieved under the circumstances.

Mr. President, VA compensation is paid to a veteran for his service-connected disability. The rate of payment reflects the average impairment of earning capacity as a result of this disability. It is my opinion that the economic or social status of the veteran should not determine his receipt of compensation. If a veteran's status in life was considered to be a factor in the receipt of compensation, then the argument could be made that a veteran who has a certain income level should have his compensation reduced. Thus, receipt of compensation would be need-based and not totally related to a disability incurred while in service.

Mr. President, attending to the needs of the service-connected disabled must always remain the first order of priority in the scheme of a veteran's benefits. Although H.R. 7511, as reported, contains several provisions that reflect the House position rather than the Senate, I believe it is a meritorious bill overall, and I urge my colleagues to support it.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CRANSTON, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the Senate concurred in the House amendment.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Kansas (Mr. DOLE) for the purpose stated.

COLMERY-O'NEIL VA HOSPITAL

Mr. DOLE. Mr. President, on behalf of myself and Mrs. KASSEBAUM, I send a bill to the desk and ask unanimous consent that it be considered as having been read twice and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill to rename the Veterans' Administration Medical Center in Topeka, Kans., as the "Colmery-O'Neil Veterans' Administration Medical Center."

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kansas?

There being no objection, the Senate proceeded to consider the bill (S. 3147), which was read the first time by title and the second time at length.

Mr. DOLE. Mr. President, the provision of this bill was agreed to by the Senate on August 26 as unprinted amendment No. 1540, to S. 1188, the Disabled Veteran Rehabilitation Act of 1980, and was included in S. 1188 as passed by the Senate on September 4, 1980.

During negotiations between House and Senate Committees on Veterans' Affairs to work out the differences between S. 1188 and the House version of H.R. 5288 and H.R. 7394. The House objected to the amendment on the grounds that it was not germane to any House-passed provisions in those measures.

Therefore, I am today, with the agreement of the chairman and ranking minority member of the Senate Veterans' Affairs Committee, Senators CRANSTON and SIMPSON, offering the text of that amendment as a separate bill.

Mr. President, I urge this measure be agreed to.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 3147) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3147

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Veterans' Administration Medical Center in Topeka, Kansas, on and after the date of enactment of this Act, shall be known and designated as the "Colmery-O'Neil Veterans' Administration Medical Center", in honor of the late Harry W. Colmery and Ralph T. O'Neil. Any reference to such center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed a reference to the Colmery-O'Neil Veterans' Administration Medical Center.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, what is the order previously entered?

The PRESIDING OFFICER. The order is to proceed to H.R. 7584, the appropriations for State, Justice, and Commerce.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1981

Mr. ROBERT C. BYRD. Mr. President, I ask that the Senate proceed under the order and then I would like to be recognized.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 7584) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with amendments.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be not to exceed 1 hour for the purpose only of allowing Senators to make statements in reference to the disapproval resolution which was acted upon earlier, or statements on any other matters, but with the understanding that no motions be in order and that any motion to proceed to the consideration of any other matter during this hour not be in order.

The PRESIDING OFFICER (Mr. HUDDLESTON). Is there objection? Without objection, it is so ordered.

NUCLEAR FUEL SHIPMENTS TO INDIA

Mr. ROBERT C. BYRD. Mr. President, the fuel export licenses for the reactors at Tarapur have presented the Senate with an arcane puzzle. I am convinced, nevertheless, that both sides are dedicated to the same goal: Keeping the brakes on the proliferation of nuclear weapons.

The poet Robert Browning wrote:

> White shall not neutralize black,
> nor good
> Compensate bad in man, absolve
> him so:
> Life's business being just
> the terrible choice.

What was at issue here was not good over bad, but the means to best achieve a desired, common goal. Senators on each side presented compelling arguments for their respective positions. And, now, the Senate has made its difficult choice.

It is, I think, the proper choice. It will give the administration time to negotiate with the Indians full-scope safeguards over all peaceful nuclear activities in India. Many of us in the Senate will watch the progress of those talks with great interest.

I wish to thank the very able floor managers, Messrs. CHURCH, GLENN, and JAVITS. I want to commend the other members of the Committee on Foreign Relations for the work done to clarify this issue. Finally, I would like to thank all of my colleagues in the Senate for grappling with this difficult issue in an appropriate and nonpartisan manner.

Mr. MOYNIHAN. Mr. President, I rise in the immediate aftermath of the decision the U.S. Senate has made to support the President and not to agree with the House of Representatives in the matter of providing fuel for the Tarapur reactor in Maharashtra, India.

Mr. President, this request involves the closest of decisions. It involved the most difficult assessment of the requirements of the statute that we imposed upon ourselves, and of a fundamental question for American foreign policy, that is to say, our relations with the Republic of India.

That these relations have not been good is clearly and painfully established by the debate that was held first in the House and which has now been held and concluded in the Senate. It is surely anomalous, and it will surely come to the attention of friends, of commentators, of men and women in public life in the subcontinent itself, that here in the legislature of the oldest constitutional democracy in the world, one which from the outset felt the closest kinship with the Indian democracy, there has been such an estrangement, such differences of understanding, different perspectives. We have spoken of a sister nation and, in all its essentials, a fellow democracy, in terms that 20 years ago would I think have astonished us and the citizens of India.

And yet we have judged. By the narrowest of margins we have judged that we did not want to disrupt a relationship that is sorely strained and clearly less than satisfactory to either of us. Our friends in the subcontinent will have noticed the overwhelming judgment of our press and public alike. To many, our relations with India appear so unsatisfactory, the bonds of trust so frayed, and the expectation of future relationships so minimal, that they were ready for such a disruption.

We were not, by a margin of 2 votes—no more.

And so we now have, with respect to the Government of India, a period of at most 2 years in which to reverse the trend of our relations of at least the past decade, that this experience may not be repeated. If it were to be repeated, clearly the President or his successor, should he take the same position, would not prevail. Two years, Mr. President, no more.

Mr. President, the argument offered against the concurrent resolution was based on the technical view presented by the administration, and now narrowly sustained by the Senate, that the two shipments of low-enriched uranium that we were considering came under a grace period provided by the Nuclear Nonproliferation Act. It was arguable that they did. Persons equally competent with respect to the legislation took different sides. In the end, by the narrowest of margins, the administration's view prevailed.

There can be no possibility of such an argument being made about the next shipments to Tarapur, and they will come along in the regular sequence that has been observed, with some delays, since the 1963 agreement.

Therefore, we have not resolved the question of our relationships with India in respect to nuclear matters; we have only put it off for 2 years. It is devoutly to be hoped that those 2 years will be used well, not only by our Government but by the Government of India as well, to recognize that this Congress will not approve future shipments if the conditions of our legislation are not met. These are conditions we imposed upon ourselves, not upon India, but which India can seek to modify or seek to comply with by negotiations with the United States.

Such negotiations as have taken place in the past 2 years did not succeed. India, no doubt, has been distracted, as have we. Both nations have more than enough concerns. But this matter, which goes to the center of our relationship, ought not to be put on the periphery of our Government's activities. It would be a great failing of statecraft, equivalent, if I may say so, to the failing of statecraft in 1971, when neither the Government of India nor the Government of the United States fully understood their purposes with respect to the issues of Bangladesh. At that time we made a military feint at the subcontinent in the Bay of Bengal. The Indian response was as arbitrary and as based upon a mistrust of the United States as was our conduct on mistrust of them. The result was a lost decade in our relations. Relationships were disrupted that had been exemplary and that were seen in the previous decade and the one before that as integral to the national interest of both republics.

There has been a lost decade. If we are to recover it, we have 2 years. I have learned today that the Government of India has, at last, appointed an Ambassador to succeed Mr. Palkhivala, a most distinguished and remarkable envoy, who served here in the early years of the present administration and has not been replaced until now. Surely, this break in representation was a signal that the Government of New Delhi ought not to continue to give. I welcome the news, if it is correct, that an emissary has now been designated.

Mr. President, I hope that our own Embassy in New Delhi will take heart from this event today, but will also impress upon the government there the closeness of this decision, the narrowly technical reasoning that seems to have persuaded most of those who voted to support the President, and the impossibility of any such technical argument being advanced successfully in the years to come.

Mr. President, one of the aspects of American foreign policy that I have viewed with a good deal of dismay in recent years has been the degree to which we have been willing to associate our purposes, in parallel actions, with the totalitarian Government of China. That has seemed to me, at times, to be an expression of our weakness vis-a-vis the Soviets. It is a weakness which may be manifest, but which ought never to lead to a willingness to let China set the conditions and terms of our relationship. This, in our dealings with a totalitarian power opposed to all that we stand for, is surely inappropriate. I have been equally dismayed by the widespread feeling that, however, the Indians might react, however the Government of India might judge our conduct in Peking, this was a matter of relatively little concern to us. At the least, it does not seem to be of sufficient concern as to dissuade us from our activities on mainland China. If this continues, it does not bode well for a minimal solidarity of democratic societies in our time.

Now I do not wish to stand here and present India as simply exemplary in its internal conduct. To the contrary, we have learned with great concern that preventive detention once more appears as an aspect of the civil regime in the subcontinent. The last time that happened, during the so-called emergency, a large number of democratic political figures found themselves imprisoned for no greater reason than their legitimate and lawful opposition to the party in power.

We are told that the present measures arise out of concern at the recent communal disturbances in India. Perhaps nothing more than that may be intended. Yet it is a sweeping action, and is opposed by men who have proven themselves in the struggle to sustain democracy in that country. I think particularly of Mr. Subramaniyan Swamy, one who was mentioned in our own press this morning, a man to whom the democratic world owes more than a little tribute for his conduct during the previous emergency.

It is in some measure unavoidable that we shall judge our relationship with the Indians in terms of how successfully they maintain the regime of freedom that they received in 1947–48, and have, in the main, remarkably sustained. It is an extraordinary performance. There is no equivalent in the developing world, save that of Sri Lanka, its neighbor to the south.

It is simply the fact, Mr. President, that throughout the former colonial world, nations which, when they came to independence, thought that a free society, a democratic society, was as integral an aspect of freedom, of independence, as the technical fact of independence itself, have abandoned those convictions. With but few exceptions, democratic societies—even liberal societies—have disappeared. They have not in India, which is in comparably the largest of these nations.

As we will judge our relationship with India by the democratic character of its regime, so do we hope that they would judge it in the same fashion. Yet instead we receive from India the impression that it sees its own interests as more closely attached to the nondemocratic societies of the world than to the democratic ones. I think those who have studied the subcontinent, know its history, its long history of domination by outsiders—a history which, for 1,000 years preceding the British, consisted of domination by a succession of Islamic invaders—understand their sensitivity to these matters. But, surely, history—the past—is one thing. The future is a more important thing. Surely, that future, from the point of view of India, ought to be seen as having its fundamental interest in an alliance of the world's democracies—not a military alliance or a political alliance, but an alliance of a shared understanding of what matters, a shared set of values, and a shared set of procedures, and a vast common interest.

I hope, Mr. President, that these facts, as I see them and have presented them in these brief remarks, will be heard in New Delhi and that we shall hear from them some early and positive response to the action which the Senate took with such great distress—affirmatively with respect to the President, but hesitantly withal. It is an action which we took fundamentally in the hope that we would not rupture this relationship. We also knew that, unless it improves dramatically in the years immediately ahead, the rupture will become inevitable, however much one would wish it should never come to pass.

We have acted today and New Delhi will respond, if not tomorrow, then in the very near future.

Mr. President, I thank the Chair and I thank the Senate for its patience and deference in allowing me to discourse in this manner at a time when other business urgently presses itself upon us.

I take it as a mark of the concern of the majority leader, the minority leader, our distinguished leadership, that they should interrupt the schedule of the Senate in these closing days of the Congress to provide time for these remarks.

I cannot in any way suggest they associate themselves with them, but they knew the purpose for which I would rise and they provided the occasion. I hope that this might not pass unnoticed in New Delhi. One may dare hope this same message will be heard in the executive branch, by the Secretary of State, whose personal intervention is responsible for the outcome today. Only he could have brought this about. I hope that he will take this as a mandate from his former colleagues to press in the diplomatic directions that I have suggested are now not only appropriate, but possible, and altogether necessary.

Mr. President, again I thank the Chair and I thank the Senate for providing this occasion.

I yield the floor.

SEVENTY JOBS IN BALTIMORE

Mr. METZENBAUM. Mr. President, I rise to address myself to a matter that has been of concern to me for some time and has to do with the claim and the concern that people in this Nation do not want to work, that people want to be on welfare, that people want to be on unemployment compensation.

I rise because, Mr. President, something happened last week in the city of Baltimore that should put to rest forever some of the vicious myths that have been repeated time and again about the causes of unemployment.

We are all familiar with these myths.

We have heard time and again that social programs are a cause of, rather than a response to, unemployment.

"Those people," we hear, "are living the good life on their unemployment benefits, welfare checks and food stamp allotments."

"They're lazy," we hear.

"They're loafers and bums and chiselers. And they won't take the jobs that are available."

All of this, and more, is said about the unemployed.

Last week in Baltimore, 26,000 of "those people" showed up to apply for 70 jobs with the Social Security Administration.

Those are not high level jobs. All of them are entry level, requiring few skills.

The openings were not widely publicized in the newspapers and television. They were posted in State unemployment offices—the news spread by word-of-mouth.

It spread like wildfire. There were some jobs available. Not great jobs, but an opportunity to earn a day's wages, an annual wage. It was not very great.

They are not well paid jobs—annual wage levels are between $7,210 and $11,555 in a city in which the Bureau of Labor Statistics estimates that a family of four needs an income of $12,772 a year to meet what BLS defines as a lower income family budget.

Those jobs do not carry with them the security of civil service employment. They were not advertised as permanent—in fact, they are designated as "worker trainee" positions—which indicates that the employee may be laid off at any time during the first 3 years of employment without cause or compensation.

Seventy applicants—not 700, 70 applicants—will get jobs with the Social Security Administration, the ones we call "those people" in so many of the hearings, in so many of the speeches.

And 26,000 of "those people" in Baltimore will still be unemployed after the 70 jobs are filled.

Twenty-six thousand people, Mr. President, in a city the size of Baltimore.

Twenty-six thousand men and women who are willing, who are eager, who are desperate for jobs.

We hear that "these people" are lazy. And we have even heard from one who aspires to this Nation's highest office that "unemployment insurance is a prepaid vacation plan for freeloaders."

Let him say that to the 26,000 who applied for the 70 jobs.

Mr. President, to anyone who believes these lies and slanders about our people, I say go to Baltimore and take another look.

I say to them visit Ohio and talk with the thousands upon thousands of people in cities like Cleveland and Youngstown and Dayton and Cincinnati and Columbus who seek work, but cannot find it. Ask the unemployed, and you will learn something of the bitterness, the frustration and the despair that have become a part of the day-to-day lives of millions of Americans who want nothing more than decent jobs.

I do not know what it is that causes so many of us to blame the poor for their poverty and the unemployed for their joblessness.

But whatever it is, I say that it is time to reject this meanness of spirit. And it is time that we as a nation turn our resources, our energies, to providing employment to all who want to work. When that happens, Mr. President, I believe that those who seek to cripple our humane social programs will be astonished at the tiny number of Americans who truly deserve the scurrilous labels that have been indiscriminately pinned upon so many of our people.

Mr. President, I ask unanimous consent that a Washington Post article by Dale Russakoff describing the first wave of Baltimore job applicants be printed in the Record.

This was published at a point when only 15,000 had applied for those 70 jobs. It later developed to the point of 26,000.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Sept. 16, 1980]

15,000 Apply for 70 Federal Jobs in Baltimore

(By Dale Russakoff)

Baltimore, September 16.—Beatrice West, a housewife, heard something in her Southwest Baltimore neighborhood that sounded too good to be true: the federal government had 70 job openings for unskilled workers. She rushed to tell her daughter, who told a friend, Wayne Fields.

Fields jumped in his car yesterday and headed downtown to apply. On the way, he saw his brother and a friend, both of them jobless, hanging out on a corner. He told them. They decided to come along.

About 15,000 people had the same idea. Almost all of them are black, most are unemployed, many are on welfare. All day yesterday and early today, they lined up for blocks and waited for hours to pick up applications for the 70 clerical and manual labor jobs coming open in January at the Social Security Administration here.

Local officials and welfare rights leaders called it an "astounding" and "unprecedented" demonstraiton of the severity of unemployment here, particularly at the lowest level of the economic ladder.

About 40,500 people in Baltimore are unemployed, according to the Department of Labor. That represents 9.9 percent of the work force, 2 percent above the national unemployment rate. The jobs being offered here are at the lowest level of the federal pay scale, paying from $7,210 ot $11,555 per year. They are classified as worker trainee jobs, meaning that those who are hired will not become permanent federal employes in less than three years.

Despite the low pay and the potential job security problem many Baltimoreans standing in the lines to apply for the jobs said they knew of no better opportunities.

Serena White, 45, an unemployed mother of two who is now on welfare, took a bus downtown and hobbled on a crutch for the two blocks between the bus stop and the Garmatz Federal Office Building, one of the job application sites.

She was injured in a bus accident, she explained, pointing to broken toes on both feet and her mouth, which was missing several teeth.

"Whatever job there would be I would take," she said. "They say there are jobs in this city. I've called all the want ads. I've visited all the offices. There aren't even jobs that I don't want, much less jobs that I want.

"I might as well become a criminal. They do more for convicts and ex-convicts than they do for the people who are trying to walk a halfway straight line."

Social Security officials said they intentionally avoided publicizing the openings except to notify the state unemployment office and the federal jobs information center. "We knew we'd get a lot more people than we had hoped to use. You always do with entry-level jobs," one official said.

The speed with which the information spread, mainly by word of mouth, shows the desperation of Baltimore's poor to enter the work force, said Robert Cheeks, executive director of the city's Welfare Rights Organization.

Ministers announced the openings in church services over the weekend, and current Social Security Administration employes told their neighbors and friends. Serena White said she read about the openings in a Democratic women's club flyer.

"Everyone seems to be trying to do something to help people get jobs, but what it does is heighten the frustration," Cheek said. "Every time one person hears about a job, 25 or 50 people hear about it."

Cheek said his own organization recently had 1,100 applicants for 400 jobs in a work incentive program, "and that was before we could even advertise."

Wayne Fields said he could have picked up "a busload" of jobless people to bring to the application site yesterday instead of bringing only his brother and a friend. They call their southwest Baltimore neighborhood "The Valley," because so many people are out of work. He and his brother, Marvin, 20, and their friend Wayne Webster, 21, said they were discouraged to find that so many others had applied for the jobs.

"It's just danged hard," Wayne Fields said. Marvin Fields and Webster chimed in in a sort of chorus: "This place is tight," Marvin added. "There's no opportunity," said Webster.

Social Security officials said it will take three months to process the applications. They said they expect to fill 68 to 75 jobs in the Baltimore Social Security offices, and place the names of all other eligible applicants on federal job registers.

The lines at the Garmatz building Monday were the longest that formed at any of the three application sites. An estimated 5,500 people picked up applications Monday at the federal building, which stands about a block from Baltimore's glistening new harbor front developments. Cheeks called the juxtaposition of the nationally renowned harbor and the job application lines ironic.

Marvin Fields put it this way: "They's putting up warehouses and buildings and all kinds of stuff, but there still ain't no work."

SPEECH BY VIRGINIA ATTORNEY GENERAL J. MARSHALL COLEMAN AT GEORGE MASON UNIVERSITY LAW SCHOOL DEDICATION

Mr. THURMOND. Mr. President, at the recent dedication of the George Mason University Law School, Virginia Attorney General J. Marshall Coleman delivered an outstanding address. In his speech, Attorney General Coleman discussed the importance of this fine, new school and the unique opportunities it offers its students.

Mr. President, in order to share this speech with my colleagues, I ask unanimous consent to have it printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS BY VIRGINIA ATTORNEY GENERAL J. MARSHALL COLEMAN

I am delighted to bring greetings on behalf of the legal community—a significant force in America, some 450,000 lawyers strong. Our ratio of lawyers to population is three times gerater than Great Britain's and 21 times greater than Japan's. Forty thousand lawyers work in Washington, D.C. across the river. Many of them live in Virginia. I know firsthand something about the numbers in this State. When I took office I inherited 91 lawyers on my staff, and 140 in the Virginia General Assembly—not all of whose membership is licensed but all of whom practice.

We seem to the world a nation of lawyers. Alain Clement writing in Le Monde recently sought to explain to France the preeminent role of lawyers in America. He concluded that the exceptional position of American lawyers derives from the power of judges. Their power springs in turn from their role in interpreting the Constitution. He observed what we all know to be true, that the American judiciary intervenes at all levels and at all times.

What has made America different from so many otherwise great nations has been its dedication to the rule and force of law; to the supremacy of the courts as the final arbiters of public policy. This dedication has provided the enduring and resilient strength of our political system. We are a country of laws, not men.

Our greatest lawyers have always combined idealism with the natural pragmatism inherent in the study and the practice of law—and America has been well served by them. Their names are legion and engraved in the hearts of their countrymen. From Jefferson and Madison to Lincoln, from Marshall to Holmes, their names read like an honor roll of American patriots. Take the great lawyers and their work out of American history and there isn't much left.

But our country changes and with it the law and the way we practice it changes. The lawyers who came to this country in it's infancy easily shed their powered wigs and flowing robes, the trappings of their power and prestige in a different world. They replaced them with a professional dignity that required few enhancements. And they enjoyed a natural position of stature in their communities. But the times are changing still.

We have contemporary needs not met.

In our other traditional Virginia law schools, we don't have the ability to establish the clinical programs you can: to help train the paralegals we need so much.

This school is uniquely situated to draw on the strengths of Northern Virginia, and the Nation's Capital, to mobilize its assets to help solve the problems we confront, problems which are as varied and fundamental as those facing the patriot George Mason two centuries ago.

George Mason Law School is in the midst of the most vibrant and exciting community in the world, with a unique blend of the urban and suburban.

Close by are all the great courts from traffic court to the United States Supreme Court.

And George Mason need not set out simply to imitiate our other law schools. Here we can focus on the future as well as the contemporary in special ways. One great challenge for the law of the future is to cope with urban planning and land use. Where better to do it than here. Every case on these subjects reaching our Virginia Supreme Court has come from Northern Virginia—and til hazel hasn't lost one of them yet.

Here is a school that can draw on the greatly talented local bar, that can serve as a laboratory of problem solving in the field of energy and mass transit and all the great problems that will characterize the last decades of this century. George Mason Law School can be a national leader in the development of innovative programs designed to solve the increasingly complex problems of urban America.

Who could construct a hypothetical legal problem more challenging than Metro financing, which involves every layer of Government from the White House to City Hall, from State constitutional restrictions to revenue sharing?

We are a litigious people and if legal problems are to be found they will indeed be found here. Clearly this is a "made for lawyers" community.

And this law school can draw on the community, just as the community can draw on the law school.

Two centuries ago George Mason was a pathfinder; I am certain today's George Mason will be remembered for special things as well.

George Mason was unique and controversial in his time. He wrote the Virginia constitution and his bill of rights—not Jefferson's—became a model for all the other States. He was an original. And it is fitting that this school should bear his name.

SENATOR GAYLORD NELSON

Mr. ROBERT C. BYRD. Mr. President, Senator GAYLORD NELSON came to the U.S. Senate in 1963 after compiling an outstanding record as Governor of Wisconsin for 4 years. In Madison, he headed an administration described in the Wisconsin Story as "the most impressive of any in roughly a half-century of the State's history."

Senator NELSON continued his efforts in the areas of conservation and the environment, tax reform, energy, and raw materials when he came to the Senate. Born and reared in Clear Lake, a small town in northern Wisconsin, he carried—first to Madison and then to Washington—a deep respect for the unspoiled beauties of nature, and a passionate commitment to preserving these beauties for future generations of Americans.

On the day he left the Governor's office, GAYLORD NELSON told the Christian Science Monitor that:

> The most important challenge facing America today—both at the State and Federal level—is the conservation of our precious natural resources.

Soon after he arrived in the Senate, he wrote to President Kennedy urging him to launch a national effort to preserve the wilderness and clean up the environment.

Over the years, GAYLORD became a leading environmentalist in the Senate. From his role as the founder of Earth Day and Earth Week in the early 1970's to his current efforts to monitor the impact of acid rain, he has devoted his efforts to the cause of saving our natural resources and protecting the environment.

Back in 1965, Senator NELSON delivered a prophetic speech on the floor of the Senate, a speech in which he said, in part:

> The great resources of America—the soil, the timber, the minerals, the wildlife—have sustained us for hundreds of years. But now we have to think about sustaining them. The frontier is gone. If we destroy these rivers and lakes, if we plunder these forests and rip up these mountainsides and foul this air and water, there will be no new green paradise awaiting us over the horizon. If we don't save the America we have today, I don't think we will have another chance.

The conservation effort spearheaded by GAYLORD NELSON flourished in the 1970's; today, conservation and environmental awareness are deeply ingrained in the minds of all Americans. Through his efforts, much of America's wild and scenic beauty has been set aside and preserved for future generations. Wisconsin, in particular, has benefited from his efforts.

For more than a half-century, the people of Wisconsin had been working to create a national park in the beautiful Apostle Islands off the Bayfield Peninsula in Lake Superior. Soon after he arrived in the Senate, GAYLORD NELSON began working to make this dream come true. His legislation to create an Apostle Islands National Lakeshore was enacted in 1970. Senator NELSON was also instrumental in winning Wild and Scenic River designation for the St. Croix River and in preserving thousands of acres of woodland in the Nicolet National Forest.

Closely related to his work in conservation and the environment have been GAYLORD NELSON's efforts to awaken America to the threat of raw materials shortages and an energy crisis. In a 1963 letter to President Kennedy, he warned that the continuing exploitation and overconsumption of our limited natural resources would lead us someday into a serious economic crisis. He warned that as a nation, America had become too accustomed to cheap and plentiful supplies of energy, and that someday soon the Nation would have to pay the price for its shortsightedness.

A decade later, of course, GAYLORD NELSON's prediction came true. Tragically, though, as a nation we had not heeded his warnings. Early in 1973, on the eve of the first Arab oil embargo, he gave another prophetic speech, this time to the people of Burlington, Wis.:

> The evidence overwhelmingly shows that we had better start coming to grips with the energy issue quickly, or else the situation is going to go from bad to worse. This country must immediately launch a crash effort to bring order and planning to the present chaos in our energy affairs; to develop massive new, clean supplies of energy and to conserve the tremendous amounts of energy we now waste.

Long before there was any public awareness of an energy crisis, GAYLORD NELSON worked to develop measures to conserve energy and to expand research and development of alternative energy sources such as gasohol and synthetic fuels, and wind, water, and solar power. He sponsored the legislation that required automakers, for the first time, to improve the fuel efficiency of their cars and trucks. He successfully fought for the establishment of a program to assist elderly and low-income Americans to weatherize their homes in order to cut energy costs. Senator NELSON has worked for the expansion of this country's strategic petroleum reserves. Today he is drawing up the plans for a natural resource information system to monitor the supply and demand of all our critical resources and raw materials in the years ahead.

GAYLORD NELSON has been a man ahead of his time. He was one of a few Senators who warned, as early as 1964 and 1965, that America was pursuing a dangerous and potentially disastrous course of action in Vietnam. In 1965, when the Senate debated the first supplemental appropriations bill containing the funds to step up the war, Senator NELSON spoke forcefully against it.

GAYLORD NELSON has left his mark on many areas of American life. For more than a decade, he conducted hearings into the manufacturing, marketing, prescribing and pricing practices of the drug industry. His efforts produced heightened public awareness of the need to provide safe, effective, low-cost drugs and other health and medical products and led to the marketing of generic drugs.

Since 1975, GAYLORD NELSON has been chairman of the Senate Small Business Committee and has led legislative efforts to reduce the burden of taxes and rules and regulations on this Nation's independent entrepreneurs. Four years ago, he proposed a White House Conference on Small Business. His proposal led to the conference held in Washington earlier this year, which attracted more than 1,500 delegates representing 14 million small businessmen and women. Early this year, Senator NELSON agreed to chair a special Senate Task Force on Small Business, responsible for insuring that the major recommendations of the White House Conference be addressed by the Congress.

As a member of the Senate Finance Committee, GAYLORD NELSON has been deeply involved in efforts to reduce the tax burdens on individuals and businesses and to make the entire tax system more equitable. He presently is playing an active and valuable role as a member of the Senate Democratic Task Force on the Economy, which is developing a new set of national policies to reduce inflation, boost employment, and spur economic activity.

As chairman of the Senate Subcommittee on Employment, Poverty and Migratory Labor, GAYLORD NELSON has authored much of the legislation designed to improve educational and economic opportunities for all Americans.

GAYLORD NELSON continues to play a key role in developing the legislation that will guide this Nation in the years ahead. He is one of the hardest-working, most respected, and most effective Members of this body. I consider it a privilege to have served with him during the past 18 years.

PROPOSED REGULATIONS OF THE U.S. DEPARTMENT OF EDUCATION ON BILINGUAL EDUCATION

Mr. THURMOND. Mr. President, the recently proposed regulations of the U.S. Department of Education to require a nationwide bilingual education program in our public schools amount to one of the gravest threats to the integrity and local control of these schools in recent years. They run counter to the law establishing the Department and to our understanding of the Department's role at the time this body voted to create it.

Those who supported the enactment of Public Law 96-88 certainly did not intend the Department of Education to involve itself in any way in the making of a national education policy, in the prescribing of programs, curricula or textbooks or in deciding any other matters that have been regarded traditionally as local in nature. I recall very well the assurances we were given that this was not the purpose of the bill in question. In fact, the Danforth-Roth amendment was very precise in wording and intent.

I concur with Senator DANFORTH, my distinguished colleague from Missouri, that the decision of the U.S. Supreme Court in Lau against Nichols is not nearly as broad as President Carter would have us believe. I do agree that local school boards must make every effort to insure that those children who do not possess an English proficiency are given additional instruction to shore up their deficiencies—but with the local school boards determining the most effective way of accomplishing this. These officials and our teachers are the most appropriate persons to make such decisions, not some distant Federal agency in Washington. They are closest to the problems in the classroom and are in a far better position to make these judgments. The record shows that they have been very effective in this regard in the past.

Mr. President, I find it hard to believe that, at a time when our local school systems already are overburdened by costs and underfunded in so many instances, the Federal Government would add still more requirements and even greater costs of the kind these regulations would entail. Beyond that, I am not convinced that officials in the Department of Education really understand how difficult it will be for the majority of our local school boards to find and recruit teachers qualified to offer courses in so many different languages while their students catch up in English.

Recently, Dr. S. John Davis, Superintendent of Public Education for the

State of Virginia, stated that meeting these requirements would cost that State as much as $10 million in additional State and local funds, and that may be only the beginning. How much will this program cost other States?

Mr. Carter's statement to the effect that opposition to this program amounts to violation of "the civil rights of our children" is completely irresponsible. His "politics of the moment" seem to have displaced commonsense and the rule of law in this matter.

Mr. President, those who voted to establish the Department of Education did so in the belief that the Department would facilitate learning and the improvement of public education, not impede it. If these regulations are put into effect, there will be drastic consequences for our schools. I therefore call upon my colleagues in this body to join me in resisting this action of the Department of Education. Should these regulations be allowed to take effect, then I shall call upon my colleagues to join me in offering legislation to invalidate the regulations in their entirety and thereby protect the authority that the people in our local communities have vested in their school boards for the management and control of their schools.

PUBLIC BENEFITS FROM AIRLINE DEREGULATION ACT

Mr. CANNON. Mr. President, I ask unanimous consent to have printed in the Record the attached editorial, which appeared in the Omaha World Herald on September 9, 1980. The Airline Deregulation Act of 1978 went far to eliminate the cumbersome regulatory obstacles that restricted the functioning of the airline marketplace. This editorial describes one example of the public benefits that have resulted.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Air Service Will Meet Demand

The abrupt decision by American Airlines to take leave of the Midlands came as a surprise.

In retrospect, it really shouldn't have. American had been sending up signals for some time.

It started off in Omaho and Des Moines 4½ years ago in a big way with flights to the West Coast as well as to Chicago and points east.

American, it seemed, was fully determined to compete vigorously with United Airlines, which had all but dominated Midlands air travel for half a century.

American found the going to be rough. It retreated. From a high of eight departing flights from Eppley Airfield each day, it had been operating just two this summer.

Along the way, American terminated its service from the Midlands to San Francisco and Los Angeles.

Those two remaining Chicago flights were ill-timed because they coincided with United flights to the same destination. And the United fare was lower.

American recognized the problem and, effective Sept. 3, it realigned its Omaha schedule to fill wide gaps in United's Omaha timetable. But then, on Sept. 4, American announced that it was pulling out. The new schedule wasn't given a chance to work.

Omaha spent nearly 10 years (and about $200,000) trying to get American, or another airline that would compete effectively with United.

The time and money expended for the Service to Omaha and Des Moines case certainly weren't wasted.

That Civil Aeronautics Board proceeding brought Eastern Airlines to Omaha, and Eastern has served the Midlands well. Its nonstop flights to Atlanta and the resumption of nonstop service to the Pacific Northwest, both planned for December, will be valuable additions to the Omaha air transportation pattern.

There is a natural tendency to blame deregulation for the loss of American. Under tight regulation, it took so long to win American. In the environment of little regulation, it requires little more than American's unilateral decision for it to pull out.

But deregulation has another side. It enabled Texas International and Trans World Airlines to enter the Omaha market at will.

The same absence of tight route regulation that makes it possible for American to depart quickly, can enable another airline to replace it in the busy Omaha-Chicago market without having to take the tortuous, 10-year path American had to follow.

The airport Authority has already begun shopping for a replacement carrier. Several lean, aggressive airlines indicate interest. Omaha-Chicago has a money-making potential.

American is leaving. We wish it well. And we look forward to greeting its successor.

ONLY 6 DAYS LEFT

Mr. CANNON. Mr. President, I am pleased to inform my distinguished colleagues that there are only 6 days left before air fares are reduced by 3 percent. For example, this means that Senator Magnuson can save up to $22 on his next trip to Seattle.

NOMINATION OF JOHN C. TRUESDALE FOR REAPPOINTMENT TO THE NATIONAL LABOR RELATIONS BOARD

Mr. PERCY. Mr. President, I would like to advise my colleagues that should the nomination of John C. Truesdale for reappointment to the NLRB come before the Senate for a vote, I will oppose him.

After reviewing the testimony presented at the committee hearing on his reappointment, I feel that a convincing case has been made against him on two points: His lack of experience in the private sector and the decline in the rate of Federal court affirmance of Board decisions since he was appointed and became the third member of the current voting majority.

Lack of experience in the private sector was a criticism raised against both William Lubers and, to a lesser extent, Don Zimmerman. While I supported both of these men because I felt other qualifying factors overrode that objection in their particular cases, I am deeply concerned that the President has again nominated someone for service on the NLRB who has had no significant private sector experience.

In my judgment, the credibility of the National Labor Relations Board, the protection of the American worker, and the promotion of peace in the workplace all depend on a healthy, diverse Board membership. Practical experience in day-to-day labor-management relations is as important as technical knowledge of the law. We need people on the Board with technical knowledge, practical experience, an impeccable sense of fairness, and an understanding and appreciation of the dynamics of our collective-bargaining system. If all, or most Board nominees and members are cut from the same cloth, our system is ill served.

Mr. President, I am even more troubled by the figures cited during the committee hearings concerning the affirmance rate of Board decisions by the Federal courts in the last few years. The full affirmance rate has declined from 74 percent in 1976 to 64.5 percent in 1979. A little more than one-third of all decisions rendered by the Board in one of the most important areas of law in this country, are found unacceptable when reviewed by the Federal courts. The implications of these figures raise serious questions about the current composition of the NLRB.

Continuing respect for the Board, and for our labor laws in general, require that both business and labor perceive that they can receive a fair deal when their cases are heard by the Board. The 1-out-of-3 chance for court reversal of a Board decision increases not only the workload for the courts and the Board itself, and the costs for both management and labor, but also calls into question the fundamental ability of the Board to make judgments that will stick and its interpretation of the law itself.

If and when this nomination reaches the floor, Mr. President, I intend to speak more about both of these points. I doubt however that it will be considered by this Congress, and Mr. Truesdale has not participated in Board cases since his term expired on August 27, 1980.

In the meantime, I wanted to give notice to the leadership and other interested persons of the conclusions I have drawn, based on my present assessment of Mr. Truesdale's nomination.

TRIBUTE TO JAMES H. WISHART

Mr. PERCY. Mr. President, James Wishart, the long-time research director of the Amalgamated Meat Cutters and Butcher Workmen died in the Evanston, Ill., hospital on July 25. Mr. Wishart devoted his life to helping workers and low income families. He was an unusually dedicated man.

On August 1, 1980, a memorial service was held in the Jeanne Vail Chapel of Northwestern University in Evanston, Ill., for Mr. Wishart. A moving and well-deserved tribute was published for that service. Mr. President, I ask unanimous consent that this tribute be printed in the Record.

There being no objection, the tribute was ordered to be printed in the Record, as follows:

In Memoriam: James H. Wishart, 1908–1980

James Hunt Wishart was born on March 19, 1908, in Pittsburgh, Pa., the first child of Charles and Josephine Long Wishart. Through his father, a Presbyterian minister, he belonged to a long line of Scots Presbyterians whose early motto was "Resistance to tyranny is service to God." Through his mother he belonged to a line which included immigrants on the Mayflower and pioneers who walked the Oregon Trail.

He spent his childhood in Chicago and Wooster, Oh., where in 1919 his father accepted the presidency of the College of Wooster. He attended the Wooster schools and the college, graduating in 1929. His love of a good fight led him in college to be a debater, a tackle on the football team (tough but not mean), and, with friends, the founder and editor of *The Unicorn*, a literary magazine which both intentionally and unintentionally shook the placid community. In 1933, armed with a growing knowledge of economic and political theory and with an M.A. in English literature from Princeton University, he moved out into the world of the Depression.

After a year's teaching assistantship at Western Reserve University, he went to teach at the University of North Carolina. In nearby Durham, the textile workers were on strike and in 1934 Jim shuttled between classroom and strike headquarters beginning what was to be a lifetime devoted to the union cause.

From North Carolina, he went to the University of Akron. There, until 1937, he continued to live in two worlds. He was from beginning to end a teacher, and in Akron he got as much of a kick out of teaching students as he did out of writing leaflets and pamphlets for the Goodyear strikers. In 1937 he debated all too effectively with a judge (who happened to be on the board of the University) on the Spanish Civil War; shortly thereafter he was urged to leave the University and complete his work for a Ph. D. "I won the debate but lost my job," he said.

Leaving the university then to become Education Director (later Director of Research) for the United Rubber Workers, he merged his two worlds. Gifted teacher, economist, writer, speaker, and fighter, for the rest of his life he used his talents in the service of the union movement.

In 1939 Jim went to Detroit to become Research Director of the United Auto Workers. In the Ford organizing drive of 1941 he helped establish the strategy which turned the initial sitdown into the first strike in the history of the Rouge plant, resulting in an NLRB victory and the first Ford contract. He provided the research materials for the 1940 pamphlet "50,000 Planes a Year" and for other documents arguing the convertibility of auto plants to all types of war production. He developed the key 1942 GM wage case and argued the major aircraft wage cases before wartime boards. His research department was a model for all others. His stewards' manual, "How to Win for the Union," was distributed to more than a half a million workers in his own and other labor organizations.

In 1947, 250 UAW staff members were dismissed by Walter Reuther, among them Jim and Patricia Crozier. Jim came to Chicago, first as Research Director for the Farm Equipment Workers, then in 1948 for the Illinois Progressive Party. He and Pat, equals in devotion to the union movement and in political and social awareness, were married in 1950. Their daughter, Anne Crozier Wishart, was born in 1958.

In 1949 Jim joined the Fur, Leather and Luggage Workers as Research Director and when that union merged with the Amalgamated Meatcutters in 1955 he headed the new organization's research activities until his retirement in January of 1980. He served on the Packinghouse Workers National Negotiating Committee, represented the Union on the Armour Automation Committee and worked in major strikes in Iowa and California.

His grasp of economics, his powers of analysis, and his mastery of research undergirded his union's activities for years and provided a model for other unions. He thought well and he talked well. A deadly negotiator, a charming speaker, and always the teacher, he participated in countless contract negotiations, arbitration proceedings, talk shows, Congressional hearings, and union workshops. Sometimes during his long life a rebel, he was most notably a man of conviction, purpose, and integrity. And from beginning to end a fighter. He told a recent interviewer, "It's dangerous to mess around with Wisharts."

He loved equally his job, football, Shakespeare, bridge, Milton, cats, people, family, Pat and Anne.

THE NATIONAL FEDERATION OF MUSIC CLUBS—S. 2111

Mr. DOLE. Mr. President, legislation has been introduced that would grant a charter for the National Federation of Music Clubs.

THE PROMOTION OF FINE ARTS

The National Federation of Music Clubs is an organization, with more than 500,000 members across the United States. The federation has made a significant contribution to the promotion of fine arts in the United States and the world. Last year alone, 56,198 children entered the junior festivals which the federation sponsors annually. This outstanding organization promotes music therapy with monetary awards. Additionally, the federation has 3,087 volunteers who work in hospitals which use their musical skills to benefit the patients.

MUSIC EDUCATION

The federation encourages activities between music organizations and individuals who are directly or indirectly associated with music for the purpose of developing and maintaining high musical standards. In this regard, the federation has been a primary catalyst in the advancement of music education. Thousands of dollars are given by the federation throughout the year to students in all fields of music. In April of 1981, $25,000 will be awarded to the five winners in the federation-sponsored young artist auditions.

PRESERVATION OF AMERICA'S MUSICAL HERITAGE

In every State across this land federation members are working to preserve our rich American musical heritage. In my own State of Kansas there are over 3,000 active members of the National Federation of Music Clubs. By promoting American music and American artists throughout our Nation and the world the federation performs an invaluable service. Through their tireless efforts this organization has involved people in hospitals, small towns, the military, and in countless other walks of life with music.

Mr. President, the Senator from Kansas applauds the tremendous contribution that the National Federation of Music Clubs has made to the cultural enrichment of our land. In light of this contribution, I have decided to cosponsor this bill. I urge my colleagues to support this worthy piece of legislation.

GREATER WILMINGTON CHAMBER OF COMMERCE SPEAKS OUT ON NATIONAL DEFENSE

Mr. HELMS. Mr. President, occasionally I find myself wondering if the American people are fully aware of the perils confronting our Nation. They are constantly deluged with contradictory statements, opinions and political declarations—such as, for example, when President Carter and Congress gave away the Panama Canal, cancelled the B–1 bomber; and when the President signed the dangerous SALT II treaty. At least, thus far, the Senate has refused to consider SALT II.

But, Mr. President, the American people are a great deal more perceptive than some politicians give them credit for being. For example, I would call the Senate's attention to a resolution adopted by the Greater Wilmington Chamber of Commerce on September 18.

During World War II the Navy stationed me for a while at Wilmington, which is a lovely city on the southeastern coast of North Carolina. No finer people can be found anywhere than in Wilmington.

I will not discuss the contents of the resolution to which I refer. It speaks eloquently and intelligently for itself. It is a forthright and enlightened assessment of what clearly is the No. 1 priority of America today.

I commend Bill Graves, president of the Greater Wilmington Chamber of Commerce; Joe Augustine, executive vice president of the chamber; and young Paul Laird who, I understand, did a great deal of work in drafting the resolution which I want now to share with my fellow Senators.

With that in mind, Mr. President, I ask unanimous consent that the text of the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION ON NATIONAL DEFENSE

Whereas, recent events in the Persian Gulf region have served to underscore the inadequacy of American forces to deal with crises in distant parts of the world, and

Whereas, vulnerability of America's forces of land-based Minuteman missiles to a Soviet first-strike attack by 1983 compounded by Russia's superiority in medium-range nuclear forces in Europe both signal a shift in nuclear superiority from the United States to the Soviet Union, and

Whereas, the all volunteer services are falling short in the quality and quantity of recruits and even more in the strength of the reserves and potentially more dangerous is the loss of thousands of experienced officers and non-commissioned officers and technicians due to dissatisfaction over compensation—housing and travel allowances and other fringe benefits, as well as salaries, and

Whereas, the Soviet Union has dramatically expanded its Navy while the U.S. Navy has retired more ships than added new ones to its fleet, now

Therefore, be it resolved, that the Greater Wilmington Chamber of Commerce supports whatever level of defense spending is clearly necessary and fiscally prudent to offset the continued threat of communist aggression to our national security, and further

Be it resolved that Congressional support for large-scale increases in defense outlays is encouraged to improve U.S. nuclear capabilities, weapons systems, manpower shortages and compensation, mobilization capabilities and expansion of our Navy to adequately provide enough ships for a three-ocean fleet, and further.

Be it resolved that the long range planning and programs designed to re-establish U.S. defense/military superiority be designated top national priority and paid for on a pay-as-we-go basis with no increase to the national debt when cuts in programs and agencies can be effected elsewhere.

TRIBUTE TO U.S. AIR FORCE TEAM AT TITAN II MISSILE SITE—SENATE RESOLUTION 529

Mr. BUMPERS. Mr. President, on behalf of myself, Mr. PRYOR, Mr. DOLE, Mr. THURMOND, Mr. LEVIN, Mrs. KASSEBAUM, Mr. MITCHELL, Mr. COHEN, Mr. HUDDLESTON, Mr. EXON, Mr. HELMS, Mr. STONE, and Mr. KENNEDY, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 529) to pay tribute to the U.S. Air Force team at the Titan II missile site near Damascus, Arkansas.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I shall not object, I ask unanimous consent that in connection with the request no motion or amendment be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BUMPERS. Mr. President, I am proud to introduce a resolution honoring the heroism of the U.S. Air Force missile hazard team members and security policemen who risked their lives during the Titan II ICBM accident near Damascus, Ark., last week.

I join and urge all Members of this body to join our Air Force officials who have been unanimous in praising the efforts of these brave servicemen. The commander of the 308th Strategic Missile Wing at Little Rock, Col. John Moser, recently stated:

> People just do not realize what those men went through. We had some real heroes out there and I'm proud to be associated with them.

So am I, Mr. President. I met a number of these courageous Air Force personnel last weekend, and determined that we ought to pay tribute to these servicemen who have brought honor to both the U.S. Air Force and this Nation.

Let me elaborate a bit on Colonel Moser's accurate statement that "people just do not realize what those men went through." In this regard, I contacted the Air Force in an effort to reconstruct the efforts of this team.

As we all know, the Titan II missile near Damascus had been undergoing maintenance when a heavy wrench socket fell about 70 feet and bounced into the side of the missile, puncturing the first stage fuel tank at approximately 6:30 p.m. central daylight time, Thursday, September 18, 1980.

The maintenance men working on the Titan II evacuated immediately to the launch control center where they and the four-man combat crew stayed for more than 2 hours monitoring instruments and keeping in touch with the missile wing command post. Then it became clear that the 100,000 gallons of water released automatically into the silo to dilute the fuel had not solved the problem. Instead, the vapor readings increased and they—the crew—were ordered to evacuate through the 80-foot high emergency escape hatch. Following the crew's evacuation and after a period of assessment, a plan of action was developed which called for action by the missile hazard team. This team readied itself to enter the silo to repair the damage.

Two propellant transfer specialists, Senior Airman John Devlin of Cincinnatti, Ohio and Senior Airman Rex Hukle of Mulvan, Kans., volunteered to enter the missile facility personnel access point to assess the damage and hopefully provide more information on how to control and alleviate the potentially disastrous situation. In protective suits, they carefully entered the stairwell taking readings on portable vapor detectors. Slowly advancing down four flights of steps, they found limited traces of fuel vapor.

Their oxygen supply nearing exhaustion, the two men returned to the control point to report what they found to a back-up crew.

After the first two propellant transfer specialists reported their findings, S. Sgt. David Livingston of Health, Ohio, and Sgt. Jeff Kennedy of Portland, Maine, volunteered to continue the investigation to retrace the men's steps, and proceed further.

As Livingston and Heath opened the second blast door in the entrance stairwell, some 40-feet below the surface, their fuel vapor detectors indicated a maximum reading with these high vapors, an explosion was a distinct possibility. They were ordered to retreat by the senior official on the scene. Just as they exited the access portal area leading to the surface, the explosion jarred the area tossing them some 40 feet into the air. Just a minute or two more and everyone would have been clear, according to Air Force officials.

T. Sgt. Donald Green, a Florida native, and T. Sgt. Jimmy Roberts of San Antonio, Tex., were part of the team of Air Force security police then engaged in evacuating civilians from a 2-mile radius of the site. Green described the explosion in this manner: "The explosion lit up the sky and our radio went dead. The silence was awesome. We thought we were the only two left alive." Roberts described the experience similarly: "I instinctively put on my gas mask, but I thought everyone around was dead."

They sped to the silo in their security police truck to see if anyone was alive.

Roberts said he thought there might be additional explosions but he "knew there was a man on the complex that needed us. We heard Kennedy cry for help on the radio. He was still alive and had managed to get to a truck and I was going after him. Nothing else was on my mind."

As Roberts and Green arrived on the missile complex, they rammed their truck into a fence to make a hole so they could search for survivors, using the lights of their vehicles. "The area looked like the surface of the Moon, the visibility was terrible," Green added. "We decided to split up to find the missing sergeant."

Roberts began a zigzag pattern across the complex and soon could not even see his partner. "I thought he had dropped into the hole. I was about out of breath, but I kept going. I just had to find him," explained Roberts. "I was looking for the truck to get Kennedy when I found Livingston. I told him I would carry him out. He was alive, conscious and hurt. I picked him up like I was cradling a baby but it was hard to breath with the gas mask. I carried him about 100 yards and nearly stumbled, I was exhausted. I put him in a fireman's carriage over my shoulder and finally made it to the edge of the complex where others helped me." According to Air Force officials, Roberts at this point in his report paused to regain his composure: "Telling this story is too hard to do," he said later.

When Roberts reached safety with Livingston, he learned that Kennedy had been rescued by others.

Mr. President, by adopting this resolution, this body can pay tribute to the heroism and patriotism of Sergeant Livingston, who died of the injuries sustained during the explosion, and the other servicemen involved in the tragic incident. The unselfish sacrifices of Air Force personnel like Livingston, Roberts, Devlin, Huckle, Kennedy, Green and the other members of the missile hazard team listed in the resolution constitute a team effort which should be a source of pride and comfort to us all.

Mr. President, 3 weeks ago I went home for the Labor Day weekend. I had been reading the book by Herman Wouk titled "War and Remembrance." It is a fascinating book which I recommend to everybody. Because I had forgotten to bring it back with me to Arkansas, and I wanted something to read, I went to the little library in my home town, which has 757 people, and I found a book there which was nothing more or less than just a compilation of all the front pages of the New York Times from 1914 to 1920.

So I spent the weekend looking at that compilation and studying the history of the beginning and the end of World War I. It was an interesting thing that back in 1914 to 1920 periodically on the front page of the Times there would be a front-page story by some politician or some military man saying that this country had lost its way, that patriotism was dead, that bravery was no longer a characteristic of this country.

It was not true then and is not true now. We have fought four wars since then, and we have seen millions, literally millions, of instances of unbelievable heroism and bravery.

When and if this country is ever called on again to fight, for whatever reason, there will be other thousands of instances just as there was this last Thursday night and Friday morning in Arkansas by these very fine men of the U.S. Air Force. We should take pride in that knowledge.

Mr. President, I offer this resolution on behalf of myself, my distinguished colleague from Arkansas (Mr. PRYOR), Mr. DOLE of Kansas, Mr. THURMOND of South Carolina, Mr. LEVIN of Michigan, Mrs. KASSEBAUM of Kansas, Mr. MITCHELL of Maine, Mr. COHEN of Maine, Mr. HUDDLESTON of Kentucky, Mr. EXON of Nebraska, Mr. HELMS of North Carolina, and Mr. STONE of Florida.

I ask unanimous consent that the RECORD be held open for the remainder of this day for any other Senators who wish to join as cosponsors.

The PRESIDING OFFICER (Mr. LEVIN). Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I would like to join my distinguished colleague, the senior Senator from Arkansas, in offering this resolution and in requesting our colleagues to memorialize these very brave and courageous men by adopting this resolution.

I think it is proper and timely for the U.S. Senate to show its appreciation, its recognition, and its sensitivity to the bravery and to the gallantry demonstrated in our State last Thursday evening and Friday morning.

Mr. President, extraordinarily courageous acts were performed by the Air Force servicemen and security policemen on duty near Damascus, Ark., and, I can say without reservation and with the support of many individuals in our State who have been closely associated with their tragic accident that some of the bravest and most unselfish acts in the service of our country were performed by these men.

We pay sincere tribute to Sgt. David Livingston who gave his life for his country that early morning. We also pay tribute to the Air Force missile hazard team and the security policemen on duty for the unselfish and courageous acts they performed in the name of this country. I am sure my colleagues join me in expressing the wish for the recovery of Sgt. Jeff Kennedy who accompanied Sergeant Livingston into the missile silo area and the others who were injured following the explosion.

Mr. President, I applaud the senior Senator for bringing this matter to the attention of the Senate, and I hope our colleagues will act upon this resolution favorably.

Mr. DOLE. Mr. President, I commend my distinguished colleagues, Senator BUMPERS and Senator PRYOR for their initiative in preparing the resolution and permitting those of us who have an interest to cosponsor the resolution.

I ask unanimous consent that my colleague, Senator KASSEBAUM, be made a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Let me just add that I have had an opportunity to talk with T. Sgt. Michael A. Hanson of Wichita, Kans., and with Airman Rex Hukle of Wichita, Kans., who was quite seriously injured last Thursday.

I certainly share the views expressed by both my colleagues, and I can report that both Airman Hukle and Sergeant Hanson are not only in good spirits but they have the feeling that someone must have been watching over them because apparently the enormity of the explosion has not yet really impacted on the general public, including the Senator from Kansas.

Mr. President, in recent years the Titan II has become a "problem" missile in our ICBM arsenal, and this tragic accident is just one in a series of mishaps which have recently befallen the Titan system. Because of the destructive power latent within each Titan, it is truly incredible that the Damascus explosion did not take a larger toll. For that we should be thankful.

I commend the bravery of these crewmen and Titan crews around the country who must work with a missile system that is outdated and hazardous. I am only sorry that it has taken another accident to focus the attention of the country on the very real need for reevaluation of this missile system.

Mr. President, Congress should make certain that adequate safety measures are built into each Titan silo to assure that crewmen are afforded maximum protection in maintenance procedures and other routine duties. Additionally, we must be sure that in case of an accident both the crew and citizens living in areas surrounding the silos receive ample time to clear the area.

But the broader question is whether the Titan II system is in 1980 an effective and safe strategic weapon. This is a matter which the Congress must undertake with diligence at once. We cannot afford more injuries like those which occurred at Damascus, nor can we afford to support an outdated missile. The Congress must determine the limits on this missile's effectiveness, and begin now to correct any defects or make plans for their replacement.

The men who were injured in this accident can testify to the serious nature of our task. I commend them for their service and give them my word that I will work to see that the Titan II system receives a vigorous and fair evaluation in Congress.

So I suggest that there have been some bad experiences with the Titan II, one in Rock, Kans., 2 years ago which claimed the lives of two airmen, and I believe this is a most appropriate resolution.

I would say finally, Mr. President, that I think in addition to the tribute, we should recognize our responsibility in the Congress of the United States, and I want to commend my colleague, Senator STENNIS, from Mississippi, who has promised as chairman of the Armed Services Committee to take a thorough look at the Titan II system to make certain and to reassure the people in the States of Arkansas, Kansas, and Arizona that the Titan II missile is not only effective but is safe and that it is not more of a threat to those people who reside in those three States than it might be to some foreign power.

I am pleased that we have had the reassurance from Senator STENNIS that there will be a thorough investigation—in fact, the Senate Armed Services Committee is now in the process of collecting information which may or may not lead to hearings.

At least we have been promised there will be a complete, thorough, and objective investigation so that the people in the States of Kansas, Arkansas, and Arizona, who may live in the proximity of the Titan II sites, will have the reassurance they deserve.

I thank my colleagues.

Mr. THURMOND. Mr. President, I was very pleased to join as a cosponsor on this amendment offered by the distinguished Senator from Arkansas (Mr. BUMPERS) and his colleague, Mr. PRYOR, and which was joined in by Senator DOLE from Kansas and myself.

Mr. President, I just want to associate myself with the remarks of the distinguished Senators from Arkansas and the distinguished Senator from Kansas.

This is a very unfortunate situation. But I want to say that the family of the injured airman certainly has my deepest sympathy, and I want to say further that he has served his country in such a fine manner, which is a very patriotic step, and he is to be highly commended, and I think the whole country feels a sense of sadness when an accident of this kind occurs.

I commend all those who served in that capacity and some others who were injured. I express the hope that they will soon recover from their injuries and let them know that this great Nation of ours deeply appreciates their service to their Nation.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Mr. President, I commend the Senator from Arkansas for calling to the attention of the Senate and the Nation the bravery of the young servicemen involved in this tragic situation.

I have a particular concern, because one of the young servicemen who was seriously injured and remains on the critical list is Air Force Sgt. Jeffrey Kennedy, who is a resident of my hometown of South Portland, Maine.

On behalf of myself and Senator COHEN, I ask unanimous consent that we be added as cosponsors to the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the senior Senator from Kentucky, Mr. HUDDLESTON, the distinguished Senator from Nebraska, Mr. EXON, the distinguished Senator from North Carolina, Mr. HELMS, and the distinguished Senator from Michigan, Mr. LEVIN, be added as cosponsors to the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the resolution offered by the Senator from Arkansas.

The resolution (S. Res. 529) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 529

Whereas, the Members of the United States Senate were deeply saddened by the death of the U.S. Air Force Sergeant David Livingston of Heath, Ohio, and of the serious injuries to USAF Sergeant Jeff Kennedy of Portland, Maine, USAF Senior Airman Rex W. Hukle of Wichita, Kansas, and USAF Senior Airman John G. Devlin of Cincinnati, Ohio, on September 19, 1980 while they were on an official but voluntary mission for the U.S. Air Force at a Titan II intercontinental ballistic missile site near Damascus, Arkansas; and

Whereas, USAF Technical Sergeant Jimmy Roberts of San Antonio, Texas, and USAF Technical Sergeant Donald Green of Old Town, Florida, promptly returned to the missile complex following the explosion of the Titan II missile at 3:02 a.m. on September 19, 1980 to locate and hopefully rescue Sergeants Livingston and Kennedy; and

Whereas, USAF Colonel James L. Morris of Marietta, Georgia, USAF Master Sergeant Ronald Christal of Birmingham, Alabama, USAF Staff Sergeant Archie G. James of Coward, South Carolina, Technical Sergeant Michael A. Hanson of Wichita, Kansas, Technical Sergeant Davis Rossborough of Groveland, New York, USAF Lt. Col. Jimmie D. Gray of Kokomo, Indiana, USAF Major Wayne L. Wallace of Wyandotte, Oklahoma, Captain George H. Short of Chattanooga, Tennessee, USAF Captain Michael T. Mazzaro, USAF Staff Sergeant Silas L. Spann, Jr., of Jackson, Mississippi, USAF Senior Airman James R. Sandaker of Evansville, Minnesota, USAF Sergeant Stephen L. Riva of East Alton, Illinois, USAF Airman First Class J. P. Tallman, Jr. of San Antonio, Texas, USAF Airman Patrick C. Roylan of Bridgefield, Connecticut, USAF Airman First Class Gene M. Schneider of Wilmington, Delaware, and civilian Richard L. English of Sartell, Minnesota were also bravely attempting to determine the status of the leaking and clearly dangerous Titan II missile at that site; and

Whereas the exemplary and brave actions of all members of this U.S. Air Force team brought honor to the United States Air Force and this Nation;

Now Be It Resolved that the Members of the U.S. Senate here assembled, by this Resolution, pay tribute and respect to the heroism of these courageous and patriotic men.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS, 1981

The PRESIDING OFFICER. The Senate will now resume consideration of H.R. 7584.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, 1981—CONFERENCE REPORT

Mr. JOHNSTON. Mr. President, I submit a report of the committee of conference on H.R. 7590 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7590) making appropriations for energy and water development for the fiscal year ending September 30, 1981, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 24, 1980.)

Mr. JOHNSTON. Mr. President, we are very pleased to present this conference report on the bill H.R. 7590 making appropriations for energy and water development for the fiscal year 1981. This is the first of the annual appropriation bills to be acted on and completed by the Congress, with the new fiscal year beginning just 1 week from today. The conferees resolved the differences between the House and Senate on this bill and filed this conference report on Monday, September 22. The conference report and statement of the managers has been printed as House Report 96-1366 and has been printed also in the CONGRESSIONAL RECORD. Therefore, I will not elaborate on all the items which were in disagreement.

Mr. President, this conference report was today approved in the House of Representatives by a vote of 273 to 117. We are very pleased and proud of this bill, Mr. President.

Mr. President, this is an excellent conference report. The conference agreement provides for a total of $12,080,831,663 in new budget obligational authority, including $41,982,000 in reappropriations. This total amount is $16.5 million over the level as approved by the Senate. So the agreement is almost the same, dollarwise, as the bill passed by the Senate. I want to emphasize that the conference agreement is under the amounts allocated for energy and water development appropriations by both House and Senate Appropriations Committees from the amounts allocated to the committees under the first budget resolution.

Considering the level by which the House exceeded our Senate-passed appropriation bill in many areas, this was a real victory for fiscal austerity.

Mr. President, the conference report and statement of the managers is self-explanatory and we know of no difficulties or problems requiring further explanation. I will summarize by title the appropriations for fiscal year 1981 as provided for in the conference agreement.

For the Department of Energy activities, title I of the bill, the total agreed to is $7,220,572,000. This is $36.8 million less than the Senate allowance and $276.8 million more than the House allowance. It is $83.4 million less than the budget request.

One item in this conference agreement under title I deserves special mention; that is the $10 million provided to initiate preliminary activities in connection with acquisition or construction of capacity for away-from-reactor storage of spent fuel from civilian nuclear powerplants. These funds and the bill language will enable the Department of Energy to take the necessary preliminary steps, including negotiations for acquisition, for AFR capacity which is urgently needed by 1983. This will get the Department started and avoid the delay of another year without anything being done.

These funds are to be used for the necessary preliminary steps; but no final contracts, arrangements, or agreements can be consummated without further expressed congressional approval. We hope and believe that the provision and funds will enable the Department to bring before the next Congress, hopefully by late spring, a proposal and plan for AFR capacity acquisition.

Appropriations for the U.S. Army Corps of Engineers' civil works program, which is title II of the bill total $2,984,134,000, an increase of $57.4 million over the Senate allowance and $124.5 million less than the House bill.

For the Department of the Interior, Water and Power Resources Service, title III, the agreement provides $771,461,000, $18.4 million less than the Senate allowance and $43.2 million less than the House bill. This is $35 million less than the budget request.

For independent agencies, title IV, the agreement provides appropriations of $1.1 billion, a decrease of $3 million from the Senate allowance. $339.3 million is for the Appalachian regional development programs; $447.5 million is for the Nuclear Regulatory Commission; and $287.5 million is for the Tennessee Valley Authority.

Mr. President, I want to say a word of thanks and appreciation for our distinguished colleagues in the House who served as conferees on this bill for their wonderful cooperation and for the spirit of harmony and bipartisanship displayed in resolving these differences. Special recognition, thanks and appreciation is due the gentleman from Alabama (Mr. BEVILL), who was chairman of the House conferees and chairman of the conference. He is tremendously knowledgeable in this area, very skilled, and succeeded with us in putting together this most excellent bill.

Also, I want to especially thank all the members of our fine Subcommittee on Energy and Water Development for their hard work and cooperation in preparing and taking this highly important appropriation bill through each step of the process beginning with the hearings and now through the conference stage. Of all the subcommittee meetings and all the subcommittee markups, I do not know of any other subcommittee that had attendance as consistently high as did this subcommittee in its markups and indeed in its days and days of consideration of this bill.

We had a full quorum of our committee. in fact, something like two-thirds of the total number of our committee, present during the entire markup. In fact, the number of those who participated from our subcommittee in the markup constituted a quorum of the full committee.

Mr. President, I especially want to commend the distinguished ranking minority member the Senator from Oregon (Mr. HATFIELD).

Mr. President, I know of no one in the Senate who is more capable than is Mr. HATFIELD. I might add a personal note, that I know of no one in the Senate with whom it is a greater pleasure to work. Without exception, Mr. President, Mr. HATFIELD is reasonable. He approaches every issue with the national interest in mind. I think the work product of our committee shows the cooperation we have had. I extend my personal thanks to him.

Finally, Mr. President. the staff. both the majority and minority staff, of this committee comes in for special commendation. Proctor Jones, our chief staff member, our assistant staff member, David Gwaltney, Gloria Butland, and on the minority side, of course, Keith Kennedy, worked day and night on this bill.

When I say day and night, Mr. President, I mean at least 2 nights back to back where they stayed all night, and a number of other nights where they stayed until something like 4 a.m. I do not know how they kept their wits about them through these long hours. The fact of the matter is, Mr. President, that the bill that is put out is, so far as I know, without a single flaw from the standpoint of mechanics. I think they are especially to be commended.

And we thank our leaders on the full Appropriations Committee. our chairman, the distinguished Senator from Washington (Mr. MAGNUSON) and the beloved Senator from North Dakota (Mr. YOUNG), who is the dean of the committee and the subcommittee.

So, Mr. President, I think this is an excellent conference report. I commend it to the Senate.

Mr. HATFIELD. Mr. President, as always, I want to congratulate and commend our chairman, Senator JOHNSTON, for shepherding this bill through the Senate and the conference with the House, and promptly bringing the conference report to the floor after House passage.

I might say that Senator JOHNSTON is an excellent shepherd and I am always happy to be in his flock.

I also want to thank the House managers of the bill, Representative TOM BEVILL and Representative JOHN MYERS, for their leadership in taking up the conference report in the House today and securing House approval.

As Senator JOHNSTON already indicated, we feel a deep gratitude toward our staff, both the majority and minority staff, for their outstanding performance in this particular bill.

This bill has not been an easy one, Mr. President. It has been a very difficult bill. I think the leadership demonstrated by the chairman is again evidence of his outstanding role in the Senate.

Mr. President, as the chairman said the other day in the Appropriations Committee, this bill meets all the rules. It meets the budget resolution requirements, it provides funds for urgently needed energy supply, research and development activities so important to our national security and the security of the world, and it continues the development of water resources, our most precious natural resource, for navigation, flood control, water supply, irrigation, and recreation. This bill is critically important to our Nation, Mr. President, and I urge its prompt and favorable consideration by the Senate.

If I could ask the chairman of the committee for just one moment further, I would like to reiterate for the record the understanding that the chairman and I, the Senate, and the conferees have on the away-from-reactor spent fuel storage facility.

I would like to read from the conference report just three or four lines which I think more or less summarizes our understanding. I would like to gain the assent and confirmation from the chairman that this is the understanding as he has it, too. I quote from page 23 of the conference report:

> The conferees direct that final contracts, transfer arrangements, or agreements in accordance with the provisions of S. 2189, or other legislation enacted by Congress, cannot be consummated without further, expressed congressional approval. The conferees have taken this action in compliance with the spirit and intent of recent action on DOE authorization measures.

Is this a correct statement of our intent?

Mr. JOHNSTON. The Senator is correct. I might further add that the amount of money involved here—$10 million—is really sufficient only to do those activities which I described—that is, the preliminary activities in connection with the acquisition or construction of this capacity. This further language in the report, which the Senator has just quoted, makes it more clear that Congress will have to come back and act further before this matter can be consummated—all as previously discussed, as set forth in the report, and as reflected in the history on the floor.

Mr. HATFIELD. I thank the Senator from Louisiana.

Mr. President, the Senator and I had a rather extensive legislative record on this subject and I wish to say again that it was very rewarding to find someone to work out the difficulty with, because we had a very thorny question here. After a number of votes on the floor of the Senate, it was through the accommodating spirit of the Senator from Louisiana and his grasp of the subject that we were able to work out and resolve this problem. I think this is befitting the tradition of the Senate and I take this opportunity to thank him for that consideration.

Mr. JOHNSTON. I thank the Senator from Oregon.

Mr. President, this AFR amendment was only one matter that we dealt with. Indeed, we had before the conference committee some 58 amendments and over 400 items in disagreement. All of those have been resolved and, as I say, approved by the House by a margin of 2 to 1.

So, Mr. President, if there are no further questions, I shall move the adoption.

Mr. HATFIELD. Mr. President, the Senator from New Mexico (Mr. DOMENICI) is making one brief inquiry about a matter he would like to nail down a little on this bill. I shall be happy to yield to the Senator from Mississippi in the meantime.

HEARTFELT THANKS FOR A GOOD JOB

Mr. STENNIS. Mr. President, it has given me the utmost satisfaction to hear the Senators relate what has been done in connection with this piece of legislation. Mr. President, it is a legislative masterpiece. The work that has gone into this bill by the staff members, the witnesses, the members of the subcommittee—led, of course, by the Senator from Louisiana and the Senator from Oregon. Virtually every member has contributed not just a half day but days of work to this project. It is amazing work that has been done on the bills, after they have been before the House and the Senate, by the staff members. They worked at night two nights, I understand, two other times until 4 o'clock in the morning.

I would not even bring this up except that people of America listen to the trash that comes over television and in these cheap books by somebody who has worked around here and made a fortune out of selling smut after he has left. Contrast the stories they tell with what actually goes on here, what people, these staff members to which we have been referring and the membership of this body, do. I am in a position to judge it because I have watched the thing happen. I am glad of the chance not only to thank these gentlemen, and the ladies, too—and I know every one of these staff members personally—but to say I am proud of what they mean to the Senate and to America. I am grateful all the way.

The Senator from Louisiana has made one remark about the Senator from Oregon. He said he just did not know of anyone among the membership here who was any better in working on a bill. I shall put it this way: There is not anyone around here who can beat him in working constantly, diligently, and effectively, day in and day out, with his fine judgment.

I say to the Senators, you are appreciated by a lot of people. America appreciates you, too, and the taxpayers.

Mr. JOHNSTON. Mr. President, I thank the Senator.

Mr. HATFIELD. I thank the Senator, Mr. President.

Mr. President, I think those of us who come here as freshmen obviously have to strike certain goals, and we look to certain models on which we would like to pattern ourselves.

I must say that whatever skills—and they are very limited—that I may have acquired in the legislative process have been because I have used as my model the Senator from Mississippi (Mr. STENNIS), who served as the very able predecessor to the present chairman of the subcommittee, the Senator from Louisiana (Mr. JOHNSTON).

As ranking member of that subcommittee under the tutelage and under the inspiration of the leadership of the Senator from Mississippi, I gained some of my deepest understanding and perception of the legislative process.

I am very grateful to be able to make these remarks, but I can only say they are remarks I make as a student of the master teacher.

Mr. JOHNSTON. Mr. President, I share the sentiment of the distinguished Senator from Oregon.

Senator STENNIS has served as a role-model for more than one Senator, and continues to do so, not only for the two of us here on the floor but, I know from expressed comments, for a large number of other Senators.

Mr. HELMS. Mr. President, will the distinguished managers of the bill answer two questions for me?

Mr. JOHNSTON. Yes, indeed.

Mr. HELMS. Is my understanding correct that this conference report involves the expenditure of $12,080,000,000?

Mr. JOHNSTON. The Senator is correct.

Mr. HELMS. And this is an increase of $16 million over what the Senate approved?

Mr. JOHNSTON. The Senator is correct.

Mr. HELMS. I thank the Senator.

Mr. DOMENICI. Mr. President, I wonder if I could engage in a brief discussion with the chairman and the ranking members regarding the uranium enrichment import limitation amendment that the Senate adopted, offered by the Senator from New Mexico, which is referred to on page 13 of the conference report as amendment No. 4 of the conference.

The conference deleted that amendment. First, I ask my good friend from Louisiana and my friend from Oregon, is the Senator from New Mexico correct in assuming that that amendment was dropped without prejudice, that the House had not had an opportunity to consider it? We brought it up very late and the Senate went along with the Senator from New Mexico in his concern, but am I correct that it was not prejudicially dropped in conference?

Mr. JOHNSTON. Mr. President, the Senator is correct. This is a most complicated matter, the question of importation of foreign feed material for nuclear fuel. Frankly, the House Members felt that, at the late hour of the conference, it was simply too late to consider it, so they did, indeed, ask that it be dropped without prejudice and, indeed, without forming an opinion other than by virtue of the lateness of the hour and the fact that they would have liked the advice of the authorizing committee.

Mr. HATFIELD. Mr. President, I should like to respond, too.

I say to the Senator from New Mexico that we did drop this after some discussion with the House conferees, certainly without prejudice. I assure the Senator from New Mexico that it would be my pleasure to join him and others to have this considered in an authorizing committee hearing or in some other committee action that would give more of a base, a foundation, either on the Senate or the House side, to go to conference next time. I should be very happy to join him in any effort he would like to make to secure that kind of consideration in the authorizing committee, upon which all three of us sit, or in the appropriations program next year.

Because the Senator has indicated that this was an amendment offered on the floor, we did not have an opportunity to view it with any great detail or understanding; therefore, we did drop it in the committee upon the House's insistence, but without prejudice.

Mr. DOMENICI. Mr. President, I might add one additional fact and ask my two distinguished colleagues for their help on the matter.

It is my understanding that, on tomorrow, the Senator from New Mexico will receive a letter from the Department of Energy, indicating that they are going to proceed to do an analysis of the status of the domestic uranium mining industry. That analysis is a forerunner to any decision to do additional rulemaking with reference to the fact that is in the law. That is that our importation program has to take into consideration the viability of the American domestic uranium mining industry. I merely ask my two friends, upon receipt of that letter, would the Senators assist me in vigorously pursuing the commitment of the Department of Energy so that they will do that quickly?

The industry, as the Senators know, based upon my discussions on the floor, is in very serious economic condition today. Many of us want the Department of Energy to proceed with vigor to do this analysis to see if rulemaking for allowables in the future would be in order.

Mr. JOHNSTON. Mr. President, I believe I have made that commitment to the Senator in the past. I reiterate it here. I think it is most important that the Department of Energy proceed with all due haste in this matter, because it is extremely important for the domestic nuclear industry.

Mr. DOMENICI. I thank my good friend from Louisiana.

Mr. HATFIELD. I also assure the Senator from New Mexico of the same commitment to pursue it vigorously once that is in the possession of the Senator and he transmits it to the other Members.

Mr. DOMENICI. I thank my two colleagues, not only for what we have just accomplished here together, but for their excellent work on this appropriation measure.

Mr. ROBERT C. BYRD. Mr. President, the adoption of this conference report has a special meaning to the people of the Tug Fork Valley of West Virginia.

In April 1977, heavy rains brought what the U.S. Corps of Engineers later described as a flood which would only strike this valley once in every 500 years.

However, the fact is that the Tug Fork Valley has been struck by heavy flooding 13 times in 66 years. Only 9 months after the so-called 500-year flood, the waters came again causing $9 million in damage.

I have tried, as has my colleague Senator RANDOLPH, to obtain a measure of flood protection for these people who live and work in this energy-rich valley.

Up until now, each effort has been sidetracked at various stages. Three times the legislation died in the House of Representatives.

So, one can see why my people, who have tried to sustain a quality of life deserved by us all, have been so frustrated over the years.

Their homes have been flooded, their businesses destroyed, and their livelihoods disrupted by natural disasters which a technologically advanced Nation has the means to prevent and overcome.

After the great flood of 1977, I made a pledge to the people of the Tug Fork Valley. I said I would do my best to see that the Nation realizes the problems they face.

I said I would do everything within my power to see to it that this valley was provided with protection from rising waters of the Tug Fork.

Every time a cloud darkens the sky over Washington, I have wondered if it were raining at Williamson and Matewan and other towns along the Tug Fork.

This is why the adoption of this conference report means so much to me.

Actually, the signing into law of this bill will mean a great deal to the Nation as a whole. It is estimated that 5 percent of this country's recoverable coal will come from the Tug Fork Valley area.

I consider the $284 million authorization, contained in this conference report for flood protection on the banks of the Tug Fork, an installment on an insurance policy for our energy future.

I commend Senator JOHNSTON and Senator HATFIELD and the Senate and House conferees for their action. They can be assured they have the gratitude of the people of the Tug Fork Valley, and they have the gratitude of mine.

● Mr. DOLE. Mr. President, I thank the water and energy conferees for their restoration of funds to the small community solar demonstration project.

The objective of this project is to build and operate an experimental modular solar thermal powerplant in a small community and local utility environment. This experiment is particularly important, as it will be the first opportunity to gain electrical generating experience with parabolic dish technology under actual operating conditions, and represents the focus of the current research and development program.

This project was initiated as a result of the fiscal year 1977 authorization for the Energy Research and Development Administration (ERDA), the predecessor of DOE, and the fiscal year 1977 ERDA appropriation provided for a "solar thermal demonstration plant for a small community, electric cooperative, or municipal ultility." In the past 2 years, the project has progressed to the point where six candidate sites were selected in June 1980, and design of the parabolic dish concentrator and engine has been completed. Detailed design is now underway and about to begin.

The six sites which are currently finalists in the small community solar energy site selection are Wickenburg, Ariz.; Molokai, Hawaii; Osage City, Kans.; Harbison, S.C.; Burke, S. Dak.; and Cheney, Wash. The modular nature and flexibility inherent in this technology are an excellent match for dispersed or remote markets such as islands, small towns, rural or military communities where energy prices are relatively high. The rising cost of fuel has, in many cases, forced these communities to abandon their own energy self-sufficiency and to purchase outside sources. Adopting this solar technology may offer them a more acceptable alternative. The enthusiasm for this alternative was demonstrated by the response to the site participation solicitation. Forty-four responses from twenty-four States were evaluated in selecting the six State sites.

Again, I wish to commend my colleagues on the Appropriations Committee who saw fit to insure that this important solar energy amendment be made part of the conference report.●

Mr. JOHNSTON. Mr. President, if there is nothing further, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I ask that the amendments in disagreement be laid before the Senate.

The PRESIDING OFFICER. The clerk will state the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 7 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

OFFICE OF THE SECRETARY

For salaries and expenses for the Office of the Secretary of Energy necessary for administering the Department in carrying out the purposes of the Department of Energy Organization Act (Public Law 95–91), and for official reception and representation expenses (not to exceed $35,000), $4,892,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 12 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: $373,287,000 and in addition, $10,000,000 for the construction or acquisition by the Secretary of Energy of capacity for the away from reactor storage of spent nuclear fuel from electric powerplants licensed under the Atomic Energy Act of 1954, all

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 22 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: *Provided,* That none of the funds made available in this paragraph shall be obligated or expended for the study of Diversion of Lake Michigan at Chicago, if such study would result in adverse diminution of generation at hydroelectric facilities on the Niagara or St. Lawrence Rivers

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 39 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$570,641,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 42 to the aforesaid bill, and concur therewith an amendment as follows:

In lieu of the matter proposed by said amendment, insert: *Provided further,* That of the amount herein appropriated not to exceed $10,000 shall be available to initiate a rehabilitation and betterment program with the Fremont-Madison Irrigation District to rehabilitate the facilities of the Marysville, Farmer's Own, Yellowstone, Squirrel Creek, and Silky Canal Companies under the act of October 7, 1949 (63 Stat. 724), as amended, to be repaid in full by the lands served and under conditions satisfactory to the Secretary of Interior

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 43 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$101,117,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 52 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

WATER RESOURCES COUNCIL

WATER RESOURCES PLANNING

For the Water Resources Council for expenses necessary in carrying out the provisions of the Water Resources Planning Act of 1965 (42 U.S.C. 1962–1962d–3), as amended, including services as authorized by 5 U.S.C. 3109 and 42 U.S.C. 1962a–4(5), and hire of passenger motor vehicles (42 U.S.C. 1962a–4(6)), $24,777,000 to remain available until expended, including $4,748,000 for expenses in administering the Act (42 U.S.C. 1962d(b)), $4,186,000 for preparation of assessments and plans (42 U.S.C. 1962d(c)), $3,443,000 for expenses of river basin commissions under title II of the Act (42 U.S.C. 1962d(a)), $10,000,000 for grants to States under title III of the Act (42 U.S.C. 1962c(a)), and $2,400,000 for Upper Mississippi Comprehensive Management Plan (42 U.S.C. 1962b–3).

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 53 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 504. There is appropriated, out of any money in the Treasury not otherwise appropriated, for payment to Dorothy Runnels, widow of Harold Runnels, late a Representative from the State of New Mexico, $60,663.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that it be in order to consider the amendments in disagreement en bloc, and that a motion to concur in the amendments of the House to the amendments of the Senate en bloc be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate numbered 7, 12, 22, 39, 42, 43, 52, and 53.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana.

The motion was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I wish to state that there will be no more votes today.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS, 1981

The Senate continued with the consideration of H.R. 7584.

Mr. ROBERT C. BYRD. Mr. President, I would like to get the opening statements completed on the State, Justice appropriation bill. Senator HOLLINGS is present, Senator WEICKER is present. So that with that understanding, I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I thank the distinguished majority leader for the accommodation in this regard.

Mr. WEICKER. Will the Senator yield?

Mr. HOLLINGS. Yes.

Mr. WEICKER. Mr. President, I ask unanimous consent that floor privileges be granted for the following members of my staff during the consideration of H.R. 7584:

Bob Santy, Steve Moore, Bob Wicklund, and Geof Baker.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, the committee recommends $9,053,168,000 in new budget authority for the Departments of State, Justice, and Commerce, the judiciary, and the 21 related agencies funded by this bill. It is estimated that the outlays in 1981 will be $9,893,000,000.

After reserving $442,000,000 for the October 1980 pay raise, and the disaster money included in the first concurrent budget resolution, we are $4,832,000 under our budget authority allocation of $9,500,000,000.

With few exceptions the committee reduced the budget requests so that we are $613,219,000 under the administration's estimates. We are $333,790,000 over the House bill because the committee believes that we should move forward with the Economic Development Administration and the Regional Planning Commissions appropriations that were deferred by the House.

The authorizing legislation for EDA and the regional commissions passed the Senate late August and has been in conference since December. We believe that it is time to get EDA off the continuing resolution and create the jobs the Nation needs. There was no movement on the authorizing legislation until we indicated that we were going to move forward with the appropriations and it now appears that we will have an adequate authorization bill before Congress adjourns.

In order to stay within the bill the committee took advantage of the windfall created by the new legislation that substantially reduces the interest SBA pays the Treasury on the outstanding business and disaster loans. In the business loan area the windfall amounts to $134,000,000, of which the committee has retained $34,500,000 to provide for unfunded and underfunded direct loans for energy, 502 local development companies, and the minority investment companies. In the disaster loan fund these savings amount to $266,000,000, so the whole $180,000,000 requested by the President was deleted.

However, the President has transmitted a budget amendment calling for $1,480,000,000 in borrowing authority due to the drought in 22 States, as well as the damage of Hurricane Allen in Texas. There was no way this amount could be accommodated within our present allocation under the first concurrent budget resolution.

Incidentally, it was not provided by the Budget Committee in the second concurrent resolution because it was not presented at that particular time, even though the record of consideration of the Budget Committee shows that it was imminent. The Budget Committee did not have any request from the administration before we reported the second concurrent resolution.

The Appropriations Committee voted to defer action on this matter until the bill was before the Senate. We had a hearing on this request last Thursday and SBA Administrator Weaver testified that the balance they will carry over into 1981, plus the principal and interest payments, will take them over until December—I would say around December 15.

Yesterday, the committee approved the appropriation in the continuing resolution (H.J. Res. 610) of the $174,000,000 we had in our budget allocation for disasters. That will provide a margin of safety over the next 90 days and allow the Senate to take the necessary action with regard to the budget allocation. As chairman of the Committee on the Budget, I am ready to move whatever is the necessary increase for disaster assistance in the second concurrent budget resolution when the resolution is considered by the Senate.

Our other principal recommendations are highlighted on a statement that I ask unanimous consent to have printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HOLLINGS. Mr. President, I want to acknowledge the valuable assistance of the ranking minority member, Senator WEICKER. In developing this bill. Senator WEICKER and I have tried to be sensitive to the many requests of the Members within the limited amount allocated to the subcommittee. We have tried to maintain the broad national interest in making a fair set of recommendations that adequately maintains the various departments and agencies and allows for program growth in a few critical areas.

I emphasize my gratitude to Senator WEICKER. It is always a privilege and a pleasure to work with him.

We probably have more individual agencies and departments under the State-Justice-Commerce-Judiciary and related agencies bill than any other, except perhaps the itemized defense appropriations bill.

Senator WEICKER has striven to help—perhaps rather than "help," I should emphasize that he has led the way toward fiscal responsibility in holding the line and yet providing for research and development in connection with the development of our oceans.

I yield to Senator WEICKER at this time, with my appreciation for his help on this measure.

EXHIBIT 1

HIGHLIGHTS OF COMMITTEE RECOMMENDATIONS

Full provision for our assessed contributions to the International Labor Organizations.

Continuation of the base level of The Asia Foundation.

$7,500,000 to maintain and expand the state and local drug intelligence organizations.

The full $629,720,000 budget for the FBI.

Necessary funds to maintain the 1980 congressionally approved level for the Border Patrol.

No new grant funds are provided the Office of Justice Assistance, Research and Statistics (formerly LEAA) as requested by the President. The amount for Research and Statistics is reduced to the $19,000,000 ceiling approved by the Senate in the authorization act.

The U.S. Travel Service is maintained for another year pending approval of legislation establishing a travel Corporation.

The funding of the National Oceanic and Atmospheric Administration has been increased by more than $18,000,000, chiefly by using $15,000,000 in surplus Saltonstall-Kennedy funds.

The public telecommunications facilities planning and construction grants have been increased by $6,000,000.

The recommendations for the Judiciary includes the $4,200,000 requested to continue the Pre-Trial Services Agencies;

We recommend $1,000,000 to establish the newly authorized Commission on Wartime Relocation and Interment of Civilians.

We have added $3,000,000 to the House allowance to the FCC to meet the workload of the recent Clear Channel decision.

Virtually the full budget of the International Communication Agency has been approved. The additional $2,100,000 approved by the House for expansion of Voice of America broadcasts to the Muslim parts of Russia is to be accomplished within the ICA budget.

The request of the Legal Services Corporation was reduced by $53,000,000, but the $300,000,000 recommended is the same as last year.

Virtually the full request for the Salaries and Expenses of the Small Business Administration is recommended. Within that amount $5,000,000 is provided to assist women business entrepreneurs. The budget proposed $13,600,000 for a separate Women's Business Enterprise program, but the Subcommittee believes that this assistance should be mainstreamed through SBA's regular programs of management and procurement assistance and the Small Business Development Centers.

Mr. WEICKER. I thank the distinguished chairman of the committee.

Mr. President, I am pleased to join with Senator HOLLINGS in presenting a bill which I believe responds remarkably well to the needs of the Departments of State, Justice, Commerce, the Judiciary, and 21 related agencies, and at the same time remains within our budget allocation. The $9,053,168,000 in budget authority in 1981 places the subcommittee's recommendation $613,219,000 below the administration's budget request.

Senator HOLLINGS has sketched out the significant items in this complex package. However, there are a few items which warrant further comment. As you well know, Mr. President, the National Oceanic and Atmospheric Administration is charged with the responsibility to study, protect, and develop the oceans and weather systems. I am pleased to report to the Senate that besides restoring funds for numerous programs cut by the House including the National Oceanic Satellite System, the Hydrolab undersea program, ship restoration funding, ocean pulse and marine sanctuary programs, the subcommittee has added funds for several important programs including anadromous fish studies, Campeche Bay oil spill studies, the construction of an undersea habitat, and various aquaculture studies.

Another item which I should like to highlight briefly is the Small Business Administration. The subcommittee in its recommendation for the Small Business Administration continued the previous practice of "line-item" appropriations for certain SBA loan and business development programs which have been priorities of the Congress.

The Business Loan and Investment Fund (BLIF) provides funding for all SBA's regular business loan programs. The administration's request would have combined separate statutorily created loan programs into a consolidated fund. The subcommittee rejected this proposal, as did the House, because the necessary authorizing legislation has not been approved.

As the chairman mentioned, the subcommittee was able to take advantage of a windfall in BLIF due to a change in SBA's accounting procedures. Additions above the administration's request were made to the local development company, handicapped assistance, energy and minority enterprise small business investment company programs. As ranking member of the Small Business Committee, I can assure you that these increases are necessary and justified.

In the salary and expense account, the committee recommendation is the same as the budget request and the amount allowed by the House. However, certain programs of particular interest to the Senate were increased, including small business development centers, management assistance, advocacy and economic research and minority small business. Commensurate decreases in other programs were required to stay within the President's request.

One last item, I would like to clarify a survey discussed under the Commission on Civil Rights. As the original sponsor of the effort, I am most familiar with it. The committee intended to direct the Commission on Civil Rights to develop a plan for a follow-up survey on extending equal opportunity laws to the legislative branch of Government rather than to conduct the survey itself. There has been $50,000 allocated to develop this plan.

Mr. President, I should like to pay tribute to the chairman of the subcommittee. I believe most of my colleagues know that there are times when I become exasperated with the inconsistency that has developed on this floor and in the various committees relative to the income and outgo of Government moneys. I can say this about the chairman: He is consistent. I might add that it is a consistency that sometimes draws us into disagreement.

There is no hypocrisy here at all. He has applied the same rules to himself and the subcommittee, when he speaks from the Budget Committee podium, as he applies to the rest of the U.S. Senate, and I admire that.

It is one thing to be in disagreement. That is what we are all here for, to some degree or other. But the fact is that on the broad principles on which we differ, there should be a consistency and something called true to form, and that Fritz Hollings is.

So I pay special tribute to him in his capacity as chairman of the subcommittee and say to him, as part of my praise of his efforts, that, agree or not, I admire intellectual integrity and consistency, and that he has.

Mr. HOLLINGS. I thank my distinguished colleague very much.

Mr. President, I have the usual unanimous-consent request. I do not believe it has been cleared with the distinguished minority leader on this bill.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be regarded for the purpose of amendment as original text, provided that no point of order shall be waived by reason of the agreement to this request.

The PRESIDING OFFICER. Is there objection?

Mr. WEICKER. Mr. President, reserving the right to object, I have just had placed in my hands exceptions to that request. I wonder whether I might make those exceptions or have them excluded at this time, in the hope that these matters can be worked out by the time we get together tomorrow.

Mr. HOLLINGS. Yes.

Mr. WEICKER. Mr. President, I agree to the unanimous-consent request, with the following exceptions:

Page 5, line 10, $16,973,000, increase for expenses of membership in international organizations.

Page 18, line 16, $1,500,000, increase in general administration of Department of Commerce.

Page 21, line 15, $20,300,000, increase in salaries and expenses for Small Business Administration.

Page 23, lines 10–20, $8,000,000, increase for U.S. Travel Service.

Page 24, line 5, $41,605,000, increase for National Oceanic and Atmospheric Administration.

Page 43, line 21, $300,000, increase for Marine Mammal Commission.

Page 43, lines 1–4, Legal Services Corporation.

Page 50, lines 8–14, busing.

Page 50, lines 15–19, legislative veto.

Page 50, lines 20–23, Refugee Act.

I will agree to the unanimous-consent request, with the exception of the aforementioned line items in the bill.

The PRESIDING OFFICER. Is there objection?

Mr. HOLLINGS. Very good. As I understand, Mr. President, the distinguished Senator from Connecticut has objected——

Mr. WEICKER. At the request of the minority.

Mr. HOLLINGS (continuing). To these particular items.

I ask unanimous consent that those items not objected to—that is, those committee amendments not objected to—be agreed to en bloc and that the bill as thus amended be regarded for the purpose of amendment as original text, provided that no point of order shall be waived by reason of the agreement to this request.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HOLLINGS. I thank my distinguished colleague. We will take those up at his discretion.

The amendments agreed to en bloc are as follows:

On page 3, strike line 22 through and including page 4, line 19;

On page 8, after line 7, insert the following:

THE ASIA FOUNDATION

For a grant to the Asia Foundation, $4,100,000, to remain available until expended.

On page 9, strike line 17 through and including line 20;

On page 10, line 5, strike "$30,333,000", and insert in lieu thereof "$38,833,000";

On page 10, line 6, strike "$1,700,000", and insert in lieu thereof "$1,400,000";

On page 10, line 19, strike "$113,250,000", and insert in lieu thereof "$114,043,000";

On page 11, line 24, strike "$45,662,000", and insert in lieu thereof "$44,862,000";

On page 12, line 4, after the semicolon, insert the following: "including acquisition, lease, maintenance, and operation of aircraft,";

On page 12, line 6, strike "$271,250,000", and insert in lieu thereof "$268,537,000";

On page 13, line 9, after "including", insert the following: "payment of allowances (at a rate not in excess of $4 per day) to aliens, while held in custody under the immigration laws, for work performed";

On page 13, line 16, after "exceed", insert the following: "five hundred ten of which";

On page 13, line 20, strike "$370,073,000", and insert in lieu thereof "$351,000,000";

On page 13, line 22, after "pended", insert the following: "*: Provided,* That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $20,000, except in such instances when the Commissioner makes a determination that this restriction is impossible to implement.".

On page 17, line 18, strike "$44,881,000", and inserting in lieu thereof "$19,000,000";

On page 18, line 23, strike "$54,600,000", and insert in lieu thereof "$55,600,000";

On page 19, line 25, after the colon, insert the following: "*Provided further,* That notwithstanding any other provision of law, when the President determines that a State, county, or local unit of general purpose government is significantly affected by a major population change due to a large number of legal immigrants within six months of a regular decennial census date, he may order a special census, pursuant to section 196 of title XIII of the U.S. Code, or other method of obtaining a revised estimate of the population, of such jurisdiction or subsections of that jurisdiction in which the immigrants are concentrated. Any such special census or revised estimate shall be conducted solely at Federal expense. Such special census or revised estimate shall be conducted no later than twelve months after the regular census date and shall be designated the official census statistics and may be used in the manner provided by applicable law.".

On page 20, line 19, strike "$24,600,000", and insert in lieu thereof "$24,970,000";

On page 20, after line 21, insert the following:

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For economic development and adjustment assistance as authorized by the Public Works and Economic Development Act of 1965, as amended, and title II of the Trade Act of 1974, $624,650,000: *Provided,* That during 1981 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $116,430,000: *Provided further,* That during 1981, total commitments to guarantee loans shall not exceed $425,000,000 of contingent liability for loan principal: *Provided further,* That such amounts as may be necessary, are appropriated for the repayment of principal, interest, and reasonable liquidation costs on loans guaranteed under title II of the Public Works and Economic Development Act and any subsequent amendments thereto.

On page 21, line 20, after "1976", insert the following: "and the Community Emergency Draught Relief Act of 1977";

On page 21, after line 21, insert the following:

Regional Development Program

REGIONAL DEVELOPMENT PROGRAMS

For necessary expenses to carry out the programs authorized by title V of the Public Works and Economic Development Act of 1965, as amended, $44,338,000, to remain available until expended.

On page 22, line 20, strike "$115,000,000", and insert in lieu thereof "$107,500,000".

On page 24, line 8, strike "$10,000,000", **and insert in lieu thereof "$15,000,000";**

On page 24, line 15, strike "$51,085,000", and insert in lieu thereof "$52,335,000";

On page 25, line 5, strike "$3,000,000", and insert in lieu thereof "$3,500,000";

On page 25, line 9, strike "$500,000", and insert in lieu thereof "$600,000";

On page 25, line 16, strike "$112,000,000", and insert in lieu thereof "$113,100,000";

On page 25, line 23, strike "$113,100,000", and insert in lieu thereof "$115,000,000";

On page 26, line 16, strike "$5,200,000", and insert in lieu thereof "$7,100,000";

On page 26, line 17, strike the following: "co-operative generic technology centers under"

On page 27, line 10, strike "$23,705,000", and insert in lieu thereof "27,705,000";

On page 28, line 13, strike "$66,400,000", and insert in lieu thereof "$64,726,000";

On page 32, line 20, after "officers,", insert the following: "pre-trial service officers";

On page 32, line 22, strike "$212,000,000", and insert in lieu thereof "$215,981,000";

On page 34, line 4, strike "$41,350,000", and insert in lieu thereof "$41,827,000";

On page 34 line 13, strike "$62,000,000", and insert in lieu thereof "$$64,410,000";

On page 34, line 24, strike "$120,000,000", and insert in lieu thereof $120,627,000";

On page 37, line 5, strike $11,988,000", and insert in lieu thereof "$11,719,000";

On page 37, after line 13, insert the following:

COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF CIVILIANS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Wartime Relocation and Internment of Civilians, as authorized by Public Law 96-317, $1,000,000.

On page 38, line 11, strike "$141,454,000", and insert in lieu thereof "$140,000,000";

On page 38, line 20, strike "$3,000", and insert in lieu thereof "$9,500";

On page 38, line 25, strike "$76,000,000", and insert in lieu thereof "$79,000,000";

On page 40, line 19, strike "$421,100,000", and insert in lieu thereof "$419,000,000";

On page 41, line 14, strike "$15,400,000", and insert in lieu thereof "$15,750,000";

On page 42, line 5, strike "$16,715,000", and insert in lieu thereof "$16,863,000";

On page 42, line 23, strike "$321,300,000", and insert in lieu thereof "$300,000,000";

On page 43, strike lines 5 through 16.

On page 44, line 7, strike "$9,100,000", and insert in lieu thereof "$9,170,000";

On page 44, line 14, after "3109,", insert the following: "the rental space in the District of Columbia and elsewhere";

On page 44, line 23, strike "$427,000 to remain available until expended", and insert in lieu thereof "$550,000";

On page 45, line 6, strike "$222,645,000", and insert in lieu thereof "$222,388,000";

On page 45, line 24, strike "$678,000,000", and insert in lieu thereof "$588,500,000";

On page 46, strike line 1 through and including line 18;

On page 47, line 10, strike "$2,800,000", and insert in lieu thereof "$2,616,000";

On page 48, line 13, strike "No" through and including the period on line 18, and insert in lieu thereof the following:

(a) No appropriations made available in this Act shall be obligated in a manner that would cause obligations from the total budget authority available to any department or establishment (as defined in section 2 of the Budget and Accounting Act, 1921) or any major administrative subdivision thereof during the fiscal year ending September 30, 1981, to exceed 30 percent for the last quarter of such fiscal year or 15 percent for any month in the last quarter of such fiscal year. The Director of the Office of Management and Budget may waive the requirements of the preceding sentence with respect to any program or activity if the Director determines in writing that the waiver is necessary to avoid a serious disruption in carrying out such program or activity.

(b) Not later than 45 days after the end of each quarter of the fiscal year, the head of each department and establishment shall submit a report to the Committees on Appropriations and to the Director of the Office of Management and Budget, specifying the amount of obligations incurred during the quarter and the percentage of total available budget authority for the fiscal year which the obligations constitute.

(c) The Director of the Office of Management and Budget shall keep the Committees on Appropriations fully informed of actions taken to carry out the requirements of this section, including any waivers granted, and shall promptly report in writing any situation in which the obligations of any department and establishment exceed such requirements other than pursuant to a waiver. Not later than December 31, 1981, the Director shall submit a report to the Committees on Appropriations on the results of the requirements of this section and actions taken under this section, including the effects upon procurement and apportionment processes, together with any recommendations the Director considers appropriate. Concurrent with the submittal of the report to the Committees on Appropriations under the preceding sentence, the Director shall submit a copy of such report to the Comptroller General, who shall promptly review that report and submit to the Committees on Appropriations an analysis of the report and any recommendations which the Comptroller General considers appropriate.

On page 50, insert the following:

SEC. 607. All unresolved audits currently pending within agencies and departments, for which appropriations are made under this Act, shall be resolved not later than September 30, 1981. Any new audits, involving questioned expenditures, arising after the enactment of this Act shall be resolved within six months of completing the initial audit report.

SEC. 608. Each department and agency for which appropriations are made under this Act shall take immediate action (1) to improve the collection of overdue debts owed to the United States within the jurisdiction of that department or agency; (2) to bill interest on delinquent debts as required by the Federal Claims Collection Standards; and (3) to reduce amounts of such debts written off as uncollectible.

SEC. 609. (a) Notwithstanding any other provision of this Act, the amounts otherwise available to agencies under this Act for the procurement of consultant services shall be reduced by the following amounts: Department of Commerce, $1,560,000; International Communications Agency, $68,000; Department of Justice, $1,880,000; Department of State, $284,000; and Small Business Administration, $1,043,000.

(b) For fiscal year 1982 and thereafter, a department or establishment—as defined in section 2 of the Budget and Accounting Act, 1921—shall submit annually to the House and Senate Appropriations Committees, as part of its budget justification, the estimated amount of funds requested for consulting services; the appropriation accounts in which such funds are located; and a brief description of the need for consulting services, including a list of major programs that require consulting services.

(c) For fiscal year 1982 and thereafter, the Inspector General of such department or establishment, or comparable official, or if there is no Inspector General or comparable official, the agency head or the agency head's designee, shall submit to the Congress along with the budget justification, an evaluation of the agency's progress to institute effective management controls and improve the accuracy and completeness of the data provided to the Federal Procurement Data System regarding consultant service contractual arrangements.

SEC. 610. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided*, That sums appropriated by this Act for the Department of Justice may be used for expenses for travel and transportation of persons, and for transportation of things, as may be necessary for the investigation and prosecution of cases, the apprehension and retention of prisoners, and deportation activities, without regard to any restriction or limitation on the availability of sums for such expenses, unless legislation containing such a restriction or limitation is enacted after the date of enactment of this Act which specifically refers to this section.

SEC. 611. None of the funds appropriated or made available by this Act may be used to enforce or give effect to the quantitative restrictions required to be imposed by subsection 7(i)(1) of the Export Administration Act of 1979 (Public Law 96-72) in any way which would make such restrictions applicable to the export of: (a) up to ninety million board feet (computed without regard to exports or export authorizations made prior to the effective date of this Act) of unprocessed western red cedar harvested from State or Federal lands pursuant to a harvesting contract entered into prior to October 1, 1979, or any extension thereof; or (b) lumber of American Lumber Standards Grades of Number 3 dimensions or better, of Pacific Lumber Inspection Bureau Export R-List Grades of Number 3 Common or better.

TITLE VII—SUPPLEMENTAL APPROPRIATIONS, 1980

For additional amounts and other purposes for the fiscal year 1980 to be immediately available, as follows:

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS AND MARSHALS

Not to exceed $2,600,000 of appropriations under this head for fiscal year 1980 made for the processing and detention of Cuban nationals entering the United States shall remain available for the same purpose until September 30, 1981.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

Funds earmarked for the investigation and prosecution of Nazi war criminals in the Department of Justice Appropriation Authorization Act, fiscal year 1979 that remains unobligated are restored for the purposes of liquidating obligations chargeable to 1979 and prior years.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

TRANSFER OF FUNDS

For an additional amount for "Fees of Jurors and Commissioners", $9,000,000, which shall remain available until expended, to be derived by transfer from "Salaries of Judges", $1,000,000, "Salaries of Supporting Personnel", $3,000,000, and "Space and Facilities", $5,000,000.

UP AMENDMENT NO. 1649

(Purpose: To provide funds for disaster assistance)

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will not be in order until the committee amendments have been agreed to.

Mr. BUMPERS. I ask unanimous consent that this amendment be ruled in order pending the adoption of the committee amendments.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, I do not know what it is. May we have a moment?

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I renew my unanimous-consent request that the amendment be ruled in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Arkansas (Mr. BUMPERS) proposes an unprinted amendment numbered 1649.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

> On page 46, insert the following between lines 18 and 19:
>
> DISASTER LOAN FUND
>
> For the purpose of making loans through the "Disaster Loan Fund," authorized by the Small Business Act, the Small Business Administration may borrow from the Secretary of the Treasury up to $1,480,000,000 as authorized by section 4(c)(5)(a) of the Small Business Act.

Mr. BUMPERS. Mr. President, many times in our Nation's history disasters have occurred which have devastated many parts of the country and caused extraordinary harm and suffering for many of our citizens. Recently, Mount St. Helens in the State of Washington erupted, virtually destroying hundreds of thousands of acres of timber and causing an enormous financial loss to those in the Northwestern United States. The eruption during May of this year was, although extremely dreadful, a very clear example of how devastating a natural disaster can be and the extraordinary demands which are placed on our Federal agencies. In other years, hurricanes, floods, and other disasters have hit many areas and each time Congress has provided Federal aid to assist those injured.

Today, Mr. President, another disaster has occurred which has devastated many parts of this country and, while not as spectacular as the eruption of Mount St. Helens, it is every bit as damaging and has virtually destroyed millions of acres of crops. The drought which most of the South and Midwest is currently experiencing is the worst agricultural disaster I can remember and if action is not taken to alleviate its harsh impact on many sections of the country, many of our farmers will go under. Twenty-three States are significantly affected and the losses will inevitably run into the billions of dollars. The strains on our existing disaster aid programs will be tremendous.

This summer's intense heat and lack of rainfall has caused the most severe drought in Arkansas in my lifetime. By August 26, 1980, 95% of the farms in my State were severely affected by the drought. From June 2 to July 20, Arkansas received only 0.7 inches of rain. To further complicate matters, between June 26, 1980 and August 26, 1980, Arkansas had 56 days on which temperatures exceeded 100 degrees. The New York Times edition of Friday September 12, 1980, stated "Crop weather specialists say Arkansas is now suffering the worst damage."

Mr. President, the figures from my State of Arkansas show how devastating this drought has been on many parts of this country. In Arkansas in 1979, approximately $3 billion in agricultural products were produced. One-third of this amount, about $1 billion, was soybeans. Another billion was poultry and the remainder was cotton, rice and other commodities. This summer's drought has virtually wiped out the soybean crop and, out of the roughly 4.8 million acres planted this year, at least 60 percent of the crop will be lost. The estimated loss will be close to $500 million on soybeans alone.

Cotton is also severely affected. This year, the farmers in my State planted some 472,000 acres of cotton, an increase of 142,000 acres from 1979. The USDA's Agriculture Stabilization and Conservation Service has estimated that Arkansas's cotton crop is a 40-percent loss or about $110 million. When all commodities produced by my State are added, Mr. President, the losses will exceed $850 million. The State of Missouri will lose in excess of $1 billion and other States in the South and Midwest will also lose many millions of dollars. Therefore, Mr. President, in light of these projected losses, the demand on our existing agricultural lending agencies will be tremendous.

For the last few years, Mr. President, the Small Business Administration has been involved in making agricultural disaster loans. Although many people will argue about the propriety and efficiency of SBA in making agricultural loans, this agency has helped our farmers, particularly after the 1977 drought. Under the law which was in effect prior to Public Law 96–302, a farmer could receive an FmHA disaster loan only if he could not obtain sufficient credit elsewhere. The disaster loan carried an interest rate of 5 percent. However, if the farmer could obtain credit elsewhere, he was ineligible for FmHA disaster assistance, but could go to the Small Business Administration and obtain a disaster loan with an 8¼-percent rate of interest. The same 5-percent interest rate also was available for noncredit worthy farmers at SBA.

However, changes were made in Public Law 96–302, the SBA authorization bill which I supported, which will greatly diminish SBA's activity in agricultural disaster lending. Under the changes, any farmer can obtain a disaster loan from FmHA. The only issue is the credit worthiness of the borrower and the interest rate on the disaster loan is either 5 percent or the cost of the money to the Federal Government. The same interest rates will apply at SBA under the disaster assistance program, but after Public Law 96–302, farmers are not eligible for disaster assistance, unless they have been refused, or would have been refused, a disaster loan from the FmHA at substantially similar rates of interest.

However, Mr. President, the important section in Public Law 96–302 is section 119(d) which provides:

> The amendments made by this section to Sections 7(c)(3)(C) and 18 of the Small Business Act shall not apply to any disaster which commenced on or before the effective date of this Act.

The effective date of Public Law 96–302 was July 2, 1980, but the drought in most States commenced prior to that date. Therefore, the changes made by Public Law 96–302 are inapplicable to this disaster situation and only those farmers who are not credit worthy will be seeking FmHA disaster loans. All of the other farmers must go to SBA or seek other financial sources for disaster money. If no money is put into the SBA disaster loan fund, these remaining farmers will be completely cut off from any governmental assistance.

Mr. President, I know the problems which many Members have in allowing SBA to make agricultural disaster loans. The law has been changed and, in the future, SBA will not be involved in agricultural lending. However, this drought began prior to these changes and it devastated my State and many others. A decision to not fund this program of the SBA will further complicate the problems of our Nation's farmers. Even with all of these programs in effect, it is likely that many farmers will not be in business next year.

An additional reason for the necessity of this amendment is that the sheer weight of the caseload that will occur this fall mandates that both the SBA and FmHA be totally involved in the expeditious handling of all applications. Otherwise, many farmers will go under simply because their applications were not acted upon.

Therefore, we are offering this amendment of $1.48 billion, the amount requested by the administration, to deal with the drought, Hurricane Allen, Mount St. Helens and other disasters which have occurred. I believe it is important to note that, although this money will be used primarily for agricultural disaster loans, it will also be used to provide disaster loans to businesses injured by Mount St. Helens, floods in Louisiana and Wisconsin, Hurricane Allen, and others.

Mr. President, the farmers of this country are encountering tremendous problems. Soaring increases in fuel, equipment and chemicals have caused the cost of production to increase very rapidly. Further, during the first part of this year when most farmers got their current operating loans, interest rates were at record highs. These factors, coupled with declining prices early in the year will cause net farm income to drop about 20–25 percent for the current year.

I know prices have been rising lately, Mr. President, but many farmers in my State have been plowing crops under and will have virtually nothing to sell this fall. This amendment is necessary to offset the extreme effects of the drought and I hope my colleagues will join us in this effort.

Mr. President, this amendment provides the administration's request for $1,484,000,000 to be appropriated to the Small Business Administration for disaster relief.

The Small Business Administration would use all of the funds for agricultural disasters, Mount St. Helens, for the little community in Wisconsin that was washed away last week, or for any other disasters that might have occurred or occur during the year 1980–81.

The Small Business Administration is very actively involved in the making of our agricultural loans, and considering the magnitude of the disaster this year I think that it is going to be very difficult for the Farmers Home Administration, without the active total involvement of the Small Business Administration, to get all these loans taken care of and, therefore, the reason for this amendment.

Mr. HOLLINGS. Mr. President, I thank my colleague, the senior Senator from Arkansas, Senator BUMPERS, for bringing this matter to the attention of the Senate. It is a very, very important issue, one that needs to be addressed in order to insure that the farmers receive the disaster loans that they need.

As I pointed out in the opening statement, the $174 million included in the Senate version of the continuing resolution, which I fully support and I will support in the conference with the House of Representatives, will be adequate to fund the program through December 15, the expiration date of the resolution.

I am fully committed to examining the balance of the budget estimate and any other factors that might bear on this and will personally support amendments to both the second budget resolution and appropriations bills during this session of Congress that provide whatever authority is needed for SBA disaster loans to farmers.

But I assure my colleagues from Arkansas and other States that I understand the need and I fully support maintaining the integrity of the fund. We just cannot accept the amendment at this point because of the budget allocations, under the budget resolution assumed no disaster of this nature would occur. I will support additional amounts in November and December of this year because they have occurred and that is when we get to the second budget resolution, and that is where obviously we are going to have to receive higher allocations.

I remind our colleagues that under the Budget Act we cannot adjourn sine die until we get a second budget resolution, so there is little chance of not completing action.

This is not a delay really but a deliberate withholding of judgment on the amendment of the Senator from Arkansas.

I support that amendment, and there is no doubt I am going to be voting for it. I think some $90 million in disaster loans will be allocated for my own State of South Carolina. But we are into this particular situation where the second resolution has not passed and until we do, we just do not feel like we can hold the line or really pass this bill in an orderly fashion by accepting this amendment. By not accepting it we are certainly not rejecting disaster loans for farmers. We are going to have to take care of that when we get back after the election.

Mr. PRYOR. Mr. President, it is now official. Meteorologists in Arkansas report that the summer just ended was the hottest, driest on record with just over one inch of rain falling the entire summer. Although it will be weeks before the total impact is determined, losses to Arkansas farmers already approach the billion dollar mark. This figure has multiplied into billions of dollars of lost production as the drought has swept through the farm belt.

Farmers already caught in a vicious cost/price squeeze now find their survival in question. This year's costs of production must be refinanced as farmers attempt to regroup and continue to supply this Nation with food and fiber. It is essential that the Federal Government lend every possible resource to aid drought-stricken farmers.

As farmers meet credit deadlines and attempt to obtain funds for continuing operations, the credit programs of the Federal Government must respond quickly to assure adequate supplies of credit are available for agriculture. We simply do not have the luxury of time as farmers must harvest crops and market livestock within very limited time frames.

In July the Small Business Administration responded quickly to our disaster in Arkansas by declaring the entire State a disaster area. Mr. President, the farmers of our State and many others are relying on this emergency credit resource to overcome this disaster. Now they find that this is an empty promise because there is no money currently in the committee bill for the SBA disaster loan program. This makes a mockery of our commitment to aid an ailing agriculture.

The survival of thousands of farmers and the assurance of an abundant food supply hinges upon the acceptance of this amendment. I urge the support of my colleagues for funding of this most urgent request on behalf of the SBA disaster loan program.

Mr. BUMPERS. Mr. President, I thank the distinguished Senator from South Carolina (Mr. HOLLINGS) for his remarks. I know he is just as concerned as I am about the plight of our farmers.

With his assurance concerning the second budget resolution and subequent appropriations, I feel certain that our farmers will receive the assistance they need and receive it promptly.

I also appreciate the actions of the full Appropriations Committee on yesterday including $174 million in the disaster loan fund in the continuing resolution for fiscal year 1981 to insure that the fund can operate at full administrative capacity until December 15, 1980.

Mr. President, in light of that I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. HOLLINGS. I thank my distinguished colleague from Arkansas.

I believe the Senator from Maine has an amendment.

UP AMENDMENT NO. 1650

(Purpose: To place limitations on year-end spending for contracts)

Mr. COHEN. Mr. President, I send an unprinted amendment to the desk and ask unanimous consent that it be considered this evening.

The PRESIDING OFFICER. The amendment will not be in order until we accept the committee amendments or the Senator receives unanimous consent that we set aside the committee amendments.

Mr. COHEN. Mr. President, I so make that unanimous-consent request to set aside the committee amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. COHEN) proposes an unprinted amendment numbered 1650.

Mr. COHEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 50, between lines 7 and 8, insert the following:

(d) No funds appropriated under this Act may be obligated or expended during the last two months of the fiscal year ending September 30, 1981, by a department or agency for the award of a contract, or for a modification of a contract increasing the obligations or expenditures under the contract in excess of 10 percent, unless the department or agency issues a solicitation for or notification of the proposed award or modification at least 60 days before the date on which the award or modification is made. The preceding sentence does not apply to any obligation or expenditure for an emergency affecting human safety, property, or national security, or to any obligation or expenditure if the head of the department or agency determines, on a case by case basis, that the obligation or expenditure is necessitated by another type of emergency and reports such determination to the Committees on Appropriations of the Senate and the House of Representatives.

Mr. COHEN. Mr. President, this is an amendment to H.R. 7584, the legislation appropriating funds for the Departments of State, Justice, and Commerce, and related agencies.

This amendment is identical to the one adopted by the Senate last week as an addition to the HUD appropriations bill.

This proposal, which Senator LEVIN, Senator HART, and I have coauthored, would strengthen the year-end spending provisions contained in H.R. 7584. It would impose strict new limits on contracts awarded in the final 2 months of the fiscal year to insure that agencies do not rush to deplete their appropriations, regardless of need or time contraints.

Our amendment would prohibit any department or agency from obligating contract funds in the final 2 months of the fiscal year unless the solicitation or notification for the contract is issued at least 60 days before its award. This provision would insure that agencies do not obligate funds simply to prevent them from lapsing and that adequate time for preparation and evaluation of the contract is available. To prevent agencies from avoiding the prohibition by simply enlarging existing contracts, the amendment would also apply to significant modifications of outstanding contracts.

Of course, there may be cases where contracts must be awarded more quickly for emergencies affecting human safety, property, or national security. Our amendment permits the executive department secretaries and agency heads to authorize exceptions to the 60-day rule on a case-by-case basis to cover such exigencies. These exceptions would have to be reported to the House and Senate Appropriations Committees.

Mr. President, two of the departments funded by this legislation, the Department of Commerce and the Justice Department, were among the 10 agencies examined by the Government Affairs Oversight Subcommittee during the course of its investigation into the causes and consequences of "hurry-up spending." I would like to share with my colleagues some of our findings about wasteful year-end spending in these departments.

According to testimony from Department of Commerce officials, that Department has had perennial problems in year-end procurement. For example, the Department incurred more than one-third of its annual procurement-related overtime costs in the last month of fiscal 1979. The number of contracts awarded in September 1979 was more than twice that awarded in any other month except October 1978, the first month of the fiscal year, during which contracts left over from the previous fiscal year had been awarded.

A Commerce Department official told the subcommittee that year-end spending in his department was characterized by hasty and poorly conceived project formulation, poor contracting practices, and decreased competition.

The Commerce Department has now taken steps to improve procurement planning in order to avoid the year-end rush. I believe that my amendment would strengthen and complement these efforts.

The subcommittee also investigated year-end spending by the Law Enforcement Assistance Administration within the Justice Department.

While other agencies' top management had at least recognized that year-end contracting was producing undesirable results, LEAA's senior financial and legal officers maintained that hurry-up spending was not a problem in their agency.

The subcommittee's investigation showed that quite the opposite was the case. In fiscal year 1979, LEAA incurred 59 percent of its contract obligations in the final quarter.

Joe Pate, who was the chief of the contracts branch at LEAA, testified that the lack of contract planning in LEAA resulted in the contract officer being in a position of awarding sole-source contracts, waiving audit reviews, and allowing a greater profit for the contractor than would occur if more time were available to handle the transactions—all practices that waste tax dollars.

At the end of my remarks I will insert in the RECORD a recent Newsweek article on year-end spending and on LEAA's treatment of Joe Pate subsequent to his testifying before the subcommittee.

Mr. President, the problem of rushed and unnecessary year-end spending is serious, widespread, and complex. It results from failures at every level of Government, from contracting officers to program people, from the Office of Management and Budget to the Congress.

It involves the failures of audit mechanisms and of procurement regulations that grant so much discretion that millions of dollars can be wasted in the final weeks of the fiscal year.

It is exacerbated by the late enactment of appropriations, the use of continuing resolutions, and the passage of huge supplementals.

It results from a system that rewards spending and discourages thrift because an agency that manages to save tax dollars is a likely candidate to have its budget cut in the following year.

Hundreds of thousands of contracts are awarded in the final weeks of the fiscal year simply to prevent the return of unused appropriations to the Treasury or to forestall future budget reductions by Congress.

Operating under the "use it or lose it" philosophy, some Federal agencies purchase unneeded goods or services in order to deplete their appropriations. For example, a Young Adult Conservation Corps camp bought 1,000 pairs of horseback riding chaps for fewer than 300 enrollees in response to a memorandum instructing that "all moneys be obligated at the end of fiscal year 1978."

The more significant and costly waste, however, results from the shortcuts taken in the procurement process at the end of the fiscal year. Time constraints encourage the awarding of contracts with limited or no competition, such as sole-source procurements. Noncompetitive practices increase costs because they decrease the probability that the Federal Government will obtain the lowest possible prices for its purchases.

Another common shortcut taken at the end of the fiscal year, in order to speed up the award of the contract, is to waive the pre-award audit. Accurate audit information on a firm bidding for a Government contracts permits the Government to dispute overly optimistic cost projections which can lead to cost overruns. The subcommittee found that agencies were much more likely to waive the audit requirement at the end of the year. With virtually every Federal agency awarding a disproportionate share of its contracts in September, the pressure to waive the audit increases.

Still another procurement problem caused by the year-end rush is the compression of bidder response time. Shortening the amount of time allowed for private firms to respond to Government bids is a classic technique for awarding contracts before the close of the year. Consequently, the proposals submitted tend to be of poorer quality.

Surges in procurement spending also cause unnecessary administrative expenses. In fiscal year 1979 alone, the Federal Government needlessly spent millions of dollars merely to keep procurement personnel working overtime to process the year-end flood of contract requests.

These year-end spending problems that I have discussed permitted HEW to award $135 million worth of contracts during the last 3 days of fiscal year 1979. And those days were a Friday, Saturday, and Sunday.

But HEW was by no means alone in its year-end spending abuses. In fact, none of the 10 Federal agencies and departments examined by the Oversight Subcommittee were found free of hurry-up spending problems.

The amendment that I have sponsored directly attacks the year-end spending spree. The requirement that a contract could not be awarded in August and September, unless the solicitation for it has been issued 60 days in advance, will make it much more difficult for agencies to spend wastefully.

The 60-day rule will insure that adequate time is allowed for obtaining competition for contracts, for performing important pre-award audits, and for allowing private companies enough time to prepare their bids.

It will insure that agencies plan their purchases. In those agencies where procurement planning already has been implemented, there has been a marked decline in year-end buying.

Mr. President, I urge adoption of this amendment.

The article follows:

AGAIN, A FEDERAL SPLURGE

If Ronald Reagan becomes President and wants to curtail waste in government spending, he would probably do well to dampen the Christmas spirit that seems to sweep the Federal bureaucracy each September—the last month of Uncle Sam's fiscal year. On Sept. 29, 1978, for example, the Pentagon spread $187,631 worth of holiday cheer when it contracted for construction work on a base that the Army had already decided to close. About the same time, civil servants at the Youth Conservation Corps were on a last-minute spending spree to obtain 1,000 pairs of riding chaps, 4,000 pairs of gloves and 181 chain saws for a YCC camp with only 300 enrollees. And one year later the Department of the Interior hired a consultant to discover why its officials seemed to be spending so much money at the end of each fiscal year.

Interior needn't have asked. Ever since the early 1920s, Federal budget directors have been complaining about the "use it or lose it" syndrome: a curious disease that causes government agencies—worried about the implications of a surplus at year-end—to go to enormous and creative lengths to make sure that every nickel of the taxpayers' money is spent. "If the agencies plan effectively, budget prudently, spend less and manage to return tax dollars to the Federal Treasury, they face the prospect of having their budgets slashed for the next year," says Republican Sen. William S. Cohen of Maine. "There is simply no incentive for prudent management, no regard for the saving of tax dollars."

In July a Senate subcommittee completed an eleven-month study of eleventh-hour spending and concluded that wasteful purchases total at least $2 billion a year. The panel found that the last-minute spending rush resulted in "the purchase of millions of dollars of goods and services for which there is not current need." Examples abound. On Sept. 11, 1978, for instance, officers at Fort Riley, Kans., ordered 80 television sets for $32,264—and nine months later 50 were still in their crates. In other cases, new furniture and Oriental rugs were ordered, even though the need for them was questionable. Even when the purchases are necessary, government procurement officers testified that in their haste to strike a deal before the fiscal year expired, they often pay contractors up to 20 per cent more than they would under calmer circumstances. Potential bidders frequently do not have enough time to come up with proposals, the subcommittee concluded, and contractors admit that when they do come up with bids, the proposals are often "inferior to those they had submitted at other times during the year."

MEMOS

Although Federal purchasing agents are well aware that haste makes waste, they often face intense pressure from their bosses to accelerate spending. Joseph Pate, a former procurement officer for the Law Enforcement Assistance Administration, says that his efforts to halt two especially wasteful year-end contracts were actively discouraged. "You can go in only so many times and get your hand slapped," he told Senate staffers. Following his testimony, Pate found his staff cut and his office moved three times. Eventually, says Senator Cohen, Pate felt obliged to accept an LEAA retirement offer, at age 44.

In the face of the pressure to spend, the White House has given little more than lip service to reducing year-end waste. Every year since 1965 the Office of Management and Budget has issued memos stressing that agencies must not "spend or obligate funds for the sole or even primary purpose of keeping them from lapsing." But Senate investigators found that agency reform efforts receive "virtually no management support, coordination, guidance or oversight" from OMB. In 1975 and 1976, for instance, the Environmental Protection Agency decreed that any procurement request that is not filed within the first seven months of a fiscal year will not be accepted at all, except in cases of real emergency. EPA officials estimate that the procedure, still in force, saves nearly $1 million in fourth-quarter overtime expenses. Yet despite the success of the EPA program, White House budget officials were unaware of its existence until earlier this year.

There are some moves afoot to attack the September spending splurge through formal legislation. Cohen, for one, is sponsoring a bill that would require all agencies to submit procurement schedules to OMB by Aug. 1 of the preceding fiscal year. And Washington Democrat Warren G. Magnuson, chairman of the Senate Appropriations Committee, has vowed to saddle every new appropriations bill with a provision that no agency can spend more than 20 per cent of its annual budget in the final two months of this year. But OMB director James T. McIntyre Jr. believes such measures would ultimately fail: the agencies would simply shift their procurement orders to June and July. The real problem, in fact, may be the sheer size of the Federal bureaucracy—and the vested interest the players have in nurturing it.

Mr. HOLLINGS. Mr. President, the committee will gladly accept this amendment. We have a human factor in the handling of Government financing. It is very understandable. Necessarily the Departments come and make demands and prove their case. Congress appropriates. Then they are getting down to the end of the fiscal year, and it is only human that they are trying to maintain the needs for the following year so that they do not vitiate their own cases. They prove that really they are not extravagant in a particular request made for that fiscal year. So human tendency is to just spend it. There are going to be needs and they cannot be cutting their own budget if they are going to run a bureaucracy.

Unfortunately this happens to all governmental budgets, and I think the amendment of the Senator from Maine is a wise one and it helps us not just in State, Justice, and Commerce, but in all the budgets of the Government.

So I have supported this particular initiative and I am confident the distinguished Senator from Connecticut will go along. Then the committee will gladly accept the amendment.

Mr. LEVIN. Mr. President, the amendment offered by my colleague from Maine (Mr. Cohen) is an important step in a series of needed incentives for reducing wasteful spending in the Federal bureaucracy. The amendment clearly states Congress intent to improve the Federal procurement system by concentrating on the nature of the illness rather than by attacking its most visible symptoms.

I am referring specifically to the need to reduce noncompetitive contract procedures that underlie the excessive increases in expenditures during the fourth quarter of the fiscal year in virtually every Federal agency.

The Governmental Affairs Subcommittee on Oversight of Government Management, which I chair, estimates that at least $2 billion are wasted by Federal agencies each year because of the rush to obligate funds during the fourth quarter. Much of the waste associated with such "hurry-up spending" is due to agency failure to insure adequate competition for contract awards during the final quarter.

Examples of rushed spending at the end of the fiscal year abound throughout the executive branch. These are just two of the many examples cited by the subcommittee's recently issued report entitled "Hurry-up Spending":

> In fiscal years 1969 and 1970, the Community Services Administration, and its predecessor, the Office of Economic Opportunity, awarded 45 and 56 percent of its contracts in the final month of the fiscal years.
>
> In fiscal year 1975, the Commerce Department's Maritime Administration, the Environmental Protection Agency, and selected agencies within the Department of Transportation spent 65 percent of their research and development contract funds in the last month of the fiscal year, implying "that funds are obligated to prevent the authority from lapsing or to avoid reductions in future appropriations."

The question is not whether hurry-up spending is wrong, it is; or whether it's costing a tremendous amount of tax dollars, it does. The question is how Congress should act to solve this complex problem. This amendment requires executive agencies and departments to issue bid solicitations, and public notice 60 days prior to the awarding of contracts that are to be let during the final 2 months of the fiscal year. The measure will assure sufficient time for solicitation and negotiation of bids to insure increased competition for fourth quarter contracts. Those actions are the keys to the solution to the problem of hurry-up spending.

This amendment avoids the artificial fourth quarter spending limitations on total agency contract authority, because they may well backfire.

As Senator Cohen has pointed out, statutory spending limitations on agency spending, such as that imposed on the Department of Defense, have failed to reduce rushed contracting or the acquisition of goods and services that are not needed. The Deputy Under Secretary for Defense, Dale W. Church, testified that the "limitation, by itself," does "not improve the quality or timeliness of purchases. Proper planning and management is the key."

The Office of Management and Budget recently informed the subcommittee that an arbitrary fourth quarter spending limitation will not solve the problem, and that:

> Because agencies would have to obligate annual funds on an arbitrary schedule that is even shorter than the current schedule, the limitation is more likely to contribute to the mentality of spending funds merely to prevent losing it.

In other words, Mr. President, in the absence of a carefully developed and carefully monitored agency spending plan, which will result from our amendment, the surge in spending could just be advanced to the third quarter.

OMB also noted that the limitation would impose arbitrary limits on some programs which have uncontrollable workloads, such as disaster relief and other emergencies, seasonal programs, and benefit payments—for example, for food stamps—required by other laws.

OMB cited programs in which activity peaks in August and September that would be adversely affected by a spending limitation:

> August and September are two months in which high fire severity occurs in portions of the western half of the U.S., where 85 percent of the forest fire protection budget is used;
>
> The main reason for high obligations for the fourth quarter in Agricultural Marketing Service activities is the seasonality of the cotton and tobacco grading programs;
>
> In food programs, such as the Elderly Feeding, Summer Feeding, and Food Donations programs, many commodity purchases are made when price and supply are most favor-

able. Because the harvest season occurs during the fourth quarter, sizeable obligation of funds usually occurs at this time.

The Environmental Protection Agency (EPA) informed the subcommittee that:

> The use of obligation limits will introduce unnecessary and undesirable additional constraints on the federal acquisition processes and create many new problems without positively impacting the present problem.

Also, the agency cited particular adverse effects of a spending limitation on the construction grants program because of the time needed to negotiate these large contracts with the States and contractors:

> The proposed limitation will apply to all types of procurement actions. We anticipate problems in applying the limit to our construction grants program. EPA wastewater treatment construction grants must be planned well in advance of award. Each state develops a priority list of projects to be funded from each fiscal year's appropriations. The grants themselves must be awarded within two years, or funds will be reallotted to another state. Each state, working with EPA, must plan and manage the progress of each project over the two-year period. One of the cumulative effects of this work is the award of a great number of these projects toward the end of each fiscal year. If the limit were imposed on the last quarter of the year, many large construction projects would have to be held up for several months, with a possibility of needed funds being lost altogether. In such a case, not only will the physical construction not take place, but two years of time and effort spent by state and local governments, and EPA staffs may have been wasted . . . The imposition of a limit on spending during the final quarter of the fiscal year would not help this program.

The purpose of this amendment, again, is to encourage increased competition for agency procurement actions during the fourth quarter of fiscal year 1981 by increasing the time for solicitation and negotiation prior to the award of fourth quarter contracts. Current procurement regulations offer guidelines as to what length of time constitutes a reasonable solicitation period in the awarding of contracts. However, no lower limit is set on the amount of time that agencies may permit contractors to formulate their proposals. My subcommittee found during its 11-month inquiry into fourth quarter spending abuses, that it was typical for agencies to compress the contractor response time, effectively reducing the desired level of competition for contracts. In addition, the subcommittee found that agencies rushed their contract negotiation procedures during the final quarter, an activity that results in a diminution of the agency's ability to evaluate proposals, engage in oral discussions to resolve disputed prices or estimates, and insure that basic contract questions not be left for later agreement.

The subcommittee found that the rush to obligate funds at year's end prompted agencies to waive preaward audits of cost projections in contract proposals, and to award a greater number of sole-source contracts in lieu of soliciting a wide array of proposals to insure an adequate level of competition for major contracts. All of these activities also tend to increase agency expenditures for overtime payments to personnel involved in the award of such contracts.

The pending amendment will address all of these fundamental weaknesses generated by inadequate procurement regulations by allowing sufficient time to each agency to solicit an adequate number of proposals, perform preaward contract audits, thoroughly negotiate all contract proposals, reduce the number of sole-source contracts offered, and reduce excessive overtime payments to procurement personnel.

The 60-day rule imposed by this amendment aims at the problem-avoidance of bad procurement practices in the rush to use appropriations or lose them. The measure does not impose an artificial limitation on total budget authority but seeks to improve agency procurement practices in the area where spending is highly discretionary—in the awarding of contracts. The amendment permits agencies to spend funds for legitimate purposes while imposing meaningful requirements against noncompetitive contracting procedures. OMB supports the finding of my subcommittee that a statutory arbitrary limitation on the timing of obligations will inhibit Congress efforts by shifting the spotlight away from the essential problem—that of inadequate budget planning and management and noncompetitive fourth quarter procurement practices.

In view of the importance of imposing meaningful contracting requirements on Federal agencies, I urge my colleagues to support this amendment and again I commend Senator COHEN for his leadership in this matter.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment (UP No. 1650) was agreed to.

Mr. COHEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, during subcommittee markup of the State, Justice, Commerce Appropriations bill, I offered an amendment to add $2 million for research under the Anadromous Fish Conservation Act, Public Law 89–304. I have in hand a copy of my letter containing that request, and a copy of the material which accompanied the request.

In the course of reducing my request to report language, there was a misunderstanding, and the money was entered into the wrong account. Neither my staff nor the committee caught the mistake, and indeed, the program names are very similar.

However, at this time, I would like to point out this error to the managers of the bill, and ask if they agree with me that the money allotted to "the National Marine Fisheries Service Northwest and Alaska Fisheries Center in addressing the Northwest's anadromous fish programs, "$2,000,000" should actually be allotted for "research under the Anadromous Fish Conservation Act of 1965; Public Law 89–304, as amended, $2,000,000."

Mr. HOLLINGS. That is understood on this side of the aisle, Mr. President. There was an inadvertent printing error so that a line is missing from the report indicating that both the Senator's request as well as the other item were approved.

Mr. WEICKER. I understand that this should be the correct language also, Mr. President.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to exceed 30 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT-INDEPENDENT AGENCIES APPROPRIATION, 1981

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Alabama (Mr. STEWART), in connection with the bill relating to appropriations for the Department of Housing and Urban Development, which was passed by the Senate yesterday.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR STEWART

> I rise to express my strong support for the measure which I have cosponsored with Senator Williams. This bill will allow HUD to use up to $125 million in recaptured funds for the Section 235 Homeownership Assistance Program during fiscal year 1981. All of the money involved has been previously authorized and can be made available without new budget authority. However, HUD cannot use the recaptured funds without first receiving legislative direction to do so.
>
> The recaptured monies are urgently needed because of the extremely rapid draw-down in the 235 program which has occurred during the past year. At the start of this fiscal year, there was approximately $195 million of contract authority in the program available, an amount which HUD estimated could fund a total of 50,000 units during fiscal 1980 and 1981. However, due to the harsh economic circumstances of the past year, almost 58,000 units have been reserved in this year alone—an amount more than four times the level of activity in fiscal 79. As a result, HUD now estimates that it has only $40 million left in the 235 budget.
>
> This extraordinary use of the 235 program has been a direct result of high interest rates—rates which reached a shocking 16 percent during the spring and have now creeped back up to 13½ percent in most areas of the nation. At these interest rates, only a tiny fraction of the American public can afford the monthly payments necessary to purchase a home. The 235 program has become so attractive because it represents the only opportunity for homeownership for thousands of lower income American families. And for many builders, the activity generated by the 235 program has provided them with their only source of income, enabling them to avert bankruptcy.
>
> The measure I have cosponsored will insure that the 235 program can continue operating beyond the middle of fiscal 1981, when its present funds are likely to run out. With the money available, HUD will be able to provide assistance to approximately 10,-

000 lower and middle income families, using the guidelines under which the program has been operating for the past four years.

Just as important, the measure will guarantee sufficient funding for the emergency 235 stimulus program. Approximately ¾ of the moneys in the 235 budget will be allocated for the stimulus program, a program which was overwhelmingly approved by the Senate this spring in response to the severe decline in housing production which occurred during the first months of 1980.

Unfortunately, Mr. President, the need for this stimulus program, almost five months later, remains substantial. While the housing industry has shown signs of modest recovery in recent months, it is still far from being healthy. Even with the growth in activity during the past three months, the number of yearly starts is predicted to only reach a level of 1.4 million units, far below last year's level of 2 million units. And I believe this estimate is overly optimistic. All indications are that the recent jump in mortgage rates is likely to put a major crimp in housing's recovery and that we will experience a downturn in production once again.

I think it is essential that we act now to provide some meaningful aid to the housing industry, and the measure we have introduced would stimulate the construction of an estimated 50,000 new units. Housing is simply too important a part of our economy to allow a sharp downturn in production to continue for an extended period. In 1979, new building constituted 8.5% of our overall GNP, added $200 billion to our economy, was responsible for 2.5 million jobs, and added $8 billion in federal, state and local tax revenues. On the reverse side, a crippled housing sector has enormous ripple effects that are felt throughout the economy, ultimately leading to an increase in unemployment related expenditures and a growth in the federal deficit—hardly a way to reduce inflationary pressures in the economy.

A decline in housing production contributes to inflation in another important way. All estimates are that the demand for housing in the 1980's, due to demographic factors and the strong preference of Americans for homeownership, will be at unprecendented levels. Conservative predictions are that 2 million units per year will have to be produced to keep pace with this demand. So long as this demand goes unmet—as it has during most of 1980—the pressure on housing prices becomes even greater, as thousands of families compete for the limited supply of units which are available.

And just as disturbing as these economic consequences is the fact that millions of Americans are being denied a basic part of the American dream—the opportunity to own their own home. Ten years ago, close to one-half of all families could afford to purchase their own home. For most of 1980, this figure has been in the range of 5 percent. We simply must do what we can to increase housing opportunities for millions of young and first-time buyers.

I think that the arguments for this measure are simple, but quite powerful, and I urge that the bill be swiftly approved by the full Senate.

SENATOR PATRICK LEAHY

Mr. ROBERT C. BYRD. Mr. President, Patrick Leahy was the first Democratic Senator ever elected from Vermont.

The Vermont Senator has been a hardworking, "do your homework" legislator who has fought vigorously for both the interests of his native State and the Nation.

Senator Leahy has served on the Agriculture Committee, the Armed Services Committee, the Appropriations Committee, the Judiciary Committee and the Select Committee on Intelligence. In addition, he has served on the President's Commission on World Hunger, the Helsinki Commission to review international human rights violations and the Canadian-United States Intra-Parliamentary Union. Throughout these assignments, he has shown himself to be one who studies the issues closely, listens to all sides with an open mind, and takes a stand no matter how controversial it might be.

When he first arrived in Washington, Senator Leahy was asked on which three committees he wished to serve. His answer helps to understand his legislative priorities. His selection—"the Agriculture Committee. The Agriculture Committee. The Agriculture Committee."

As a member of the full Senate Agriculture Committee and as chairman of the Subcommittee on Rural Development, Patrick Leahy has already left his mark. He sponsored legislation designed to insure a fair milk price support program for the dairy farmers in his State and throughout the country. He wrote the law which allowed many rural health clinics to receive medicare and medicaid payments for the first time.

Senator Leahy identified what he called an "urban bias" in many Federal programs developed in Washington. Whether through ignorance, neglect or indifference, many Federal programs were so tailored to meet the needs of our Nation's urban areas that when offered in rural areas, they failed to meet the needs or solve the problems of rural America.

Using his position both as chairman of the Rural Development Subcommittee and as the first Vermonter to serve on the Appropriations Committee in over half a century, Pat Leahy has an impressive record of reversing that urban bias.

He insured funding for rural transportation programs and led the effort to dramatically increase funding for rural buslines. But for his action, several buslines in his own State would have gone bankrupt.

Pat Leahy made sure that the housing needs of rural America were not ignored. He supported increased funding for programs specifically modified to meet rural housing needs.

Alarmed by the unannounced withdrawals of several major oil companies from rural markets, Patrick Leahy did something about it. Rather than allow the rural States to lose their petroleum supplies to more lucrative urban markets, he helped write the law which requires that companies give notice of their intention to abandon a market so that replacement supplies can be secured from another company.

Pat Leahy has also used his position on the powerful Senate Appropriations Committee to secure sufficient funding for fuel assistance and weatherization programs—programs which insure that our Nation's elderly and poor will be protected from the severity of the weather or potentially ruinous fuel bills.

As the seriousness of the national energy crisis grew during the seventies, Pat Leahy worked in the Senate to reduce this country's dependence on foreign oil, to tax the windfall profits of the oil companies and to expand Federal support for renewable energy sources and energy conservation incentives and programs.

As a former member of the Senate Armed Services Committee, and as a current member of the Department of Defense Appropriations Subcommittee, Patrick Leahy has studied this country's defense needs and foreign policy. He has consistently backed levels of defense spending to enhance our conventional military forces as well as the pay increases and other incentives so necessary to the successful operation of the All Volunteer Force. He has supported a modern and effective strategic force for the United States.

In 1978, Senator Leahy was asked to serve on the Senate Intelligence Committee. He is entrusted with this country's most classified information, and with oversight responsibility for the operation of the Central Intelligence Agency and the other members of the "intelligence community."

Also in 1978, Pat Leahy initiated the successful congressional effort to establish a Presidential Commission on World Hunger. This group spent more than a year analyzing the problem of malnutrition and sought to identify steps to alleviate world hunger.

During his first campaign, Pat Leahy promised the people of Vermont that he would bring some Vermont commonsense to the operation of the Federal Government. He has backed his campaign commitments with action.

He established a "Bureaucracy Task Force" as part of his Washington office and initiated investigations into parts of the bureaucracy. His report on the use and abuse of Federal advisory committees helped to eliminate hundreds of these committees at an annual savings to the American taxpayer of $50 million. This year Senator Leahy has been working with his investigators to study the Department of Energy's abuse of consultants and contractors. He is supporting legislation to eliminate loopholes which allow billions of dollars to be wasted each year.

Patrick Leahy has been making the Federal Government accessible to his constituents. He was the first Senator to install a toll-free "800" telephone line to allow all Vermonters to call him free of charge. He has spent an average of 2 days a week in Vermont while still maintaining a 93-percent voting record.

Small businesses and towns in Vermont have discovered they have a real friend in their junior Senator. Pat Leahy has sponsored several Main Street conferences in Vermont where Federal agencies and local businesses and interests study and resolve local economic problems. He has sponsored export legislation and conferences in an effort to open up international markets for Vermont products and services. He has committed himself to the revitalization of many of Vermont's towns and then backed that commitment by bringing Federal dollars and programs into his State.

In the Senate Pat Leahy has shown that although the Government has a responsibility to provide programs and services to the American people, it must be prudent with its expenditures. In Vermont he has been applauded for "a commonsense Vermont fiscal attitude in the big-spending capital of the world."

Senator Leahy has already left a very definite mark in the affairs of this Nation. I look forward to his continued service in the Senate which will, without doubt, be to the advantage of Vermont, the Nation, and the Congress.

A BANK IN WEST VIRGINIA REOPENS—SENATOR RANDOLPH RECALLS PASSAGE OF FEDERAL DEPOSIT INSURANCE ACT OF 1933

Mr. RANDOLPH. Mr. President, on Friday, September 12, the community of Huntington in my home State of West Virginia saw the failure of one of its banks. By the following Monday morning, the failed bank had been replaced by a healthy new bank at the same location, accepting deposits and loan payments, cashing checks and generally conducting business as usual.

The failed bank's 12,200 depositors automatically became depositors in the new bank and their accounts were fully assumed, providing protection even for those whose accounts exceeded the Federal insurance limit of $100,000.

This transfer of deposits from an insolvent to a sound institution with almost no interruption of service to the public was accomplished with little fanfare and amazing speed by a small but vital Government agency—the Federal Deposit Insurance Corporation (FDIC).

Many Americans still carry searing memories of what a bank failure meant in the pre-FDIC era. In 1933, the year that I first served in Congress, the Nation was struggling with the worst effects of the Great Depression. There was no more dramatic manifestation of the country's economic troubles than the suspension that year of more than 4,000 of the Nation's banks, including 49 in West Virginia.

In the first 4 years of that decade, 9,100 U.S. banks suspended operations—an average of 43 per week—and depositors lost $1.3 billion. The result was financial disaster for thousands of individuals and businesses and serious erosion of the Nation's money supply.

Congress established the FDIC in 1933 with the objective of stemming the tide of failures and thus protecting depositors' accounts and the money supply. This was to be accomplished by bringing stability to the banking system through complementary programs of deposit insurance and bank supervision.

Today, nearly a half-century later, it is clear that the FDIC has succeeded to an extent far beyond what we envisioned in those dark days. Since the FDIC opened for business on January 1, 1934, the failure rate of American banks has been sharply curtailed. Indeed, the failure of the bank in Huntington was West Virginia's first bank insolvency since 1939 and only its fourth since the establishment of the FDIC. In the last four decades, failures nationwide have averaged about six per year and insurance has protected all accounts up to the statutory limit.

In many cases full protection of all deposit accounts occurs because the FDIC is able to arrange for the deposit liabilities of the failed bank to be assumed by a new or existing healthy bank, as it did in Huntington.

The FDIC's record of accomplishment testifies to the foresight of those who sought its establishment; the Agency's achievements reflect Government at its best, ministering effectively and efficiently to a bona fide national need.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following Calendar Orders Nos. 1043, 1047, 1049, 1054, 1055, 1056, 1061, 1062, and 1066.

Mr. BAKER. Mr. President, reserving the right to object—and I will not—I will advise the majority leader that the nine calendar orders identified by him are cleared on our calendar and we have no objection to their consideration and passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHESAPEAKE BAY RESEARCH COORDINATION ACT OF 1980

The Senate proceeded to consider the bill (H.R. 4417) to provide for the coordination of federally supported and conducted research efforts regarding the Chesapeake Bay, and for other purposes, which had been reported from the Committee on Governmental Affairs with an amendment to strike out all after the enacting clause and insert in lieu thereof the following:

Section 1. Short Title.

This Act may be cited as the "Chesapeake Bay Research Coordination Act of 1980".

Sec. 2. Findings and Statement of Purpose.

(a) The Congress finds that—

(1) the Chesapeake Bay area is one of the greatest national resources in the United States of America, serving as an abundant source of seafood, recreation, beauty, and enjoyment, as well as providing habitat for a wide variety of fish, waterfowl, flora, and fauna;

(2) the Chesapeake Bay area serves as one of the world's major waterways, each year carrying millions of tons of waterborne shipping to and from all parts of the globe;

(3) the productivity and beauty of the Chesapeake Bay area in recent years has been diminished and threatened by water pollution, shoreline erosion, excessive sedimentation, and other injuries;

(4) numerous Federal agencies have initiated and supported research to study, manage, enhance, protect, preserve, or restore the resources of the Chesapeake Bay area; and

(5) the various research relating to the Chesapeake Bay area could be more effectively coordinated in order to obtain maximum benefits.

(b) The purposes of this Act are—

(1) to provide for the rational and effective coordination of federally conducted and supported research aimed at increasing fundamental knowledge in support of wise management of the Chesapeake Bay area;

(2) to identify key management information needs and specify a coherent program of research that will respond to those needs;

(3) to identify the needs and priorities for such additional research as are required for the improvement of fundamental knowledge about the Chesapeake Bay area;

(4) to assure a comprehensive and balanced approach to federally conducted and supported research on the Chesapeake Bay area;

(5) to encourage the utilization of the results and findings of research, and of other relevant information, in the management decisionmaking processes which have an impact on the Chesapeake Bay area; and

(6) to foster public understanding of the role of the Chesapeake Bay area as a unique national resource, the greatest natural ecological entity of its kind in the United States.

Sec. 3. Definitions.

For purposes of this Act—

(1) The term "Chesapeake Bay area" means the waters of the Chesapeake Bay (including the tributaries to the extent of Chesapeake Bay tidal action), the lands within and under such waters, and the wetlands adjacent to such waters.

(2) The term "research" means the endeavor to discover, develop, and verify knowledge and a careful and critical inquiry or examination in seeking facts or principles.

(3) The term "research project" means any research related to the Chesapeake Bay area for the purpose of promoting the understanding, the improved management, and the protection of the marine or coastal related resources (including those relating to water quality, coastal zone management, navigation, shoreline erosion, wetlands, fisheries, shellfish, and wildlife) which is funded in whole or in part by any department, agency, or independent establishment of the Federal Government.

(4) The term "research program" means any aggregate of related individual research projects.

(5) The term "Secretary" means the Secretary of Commerce.

Sec. 4. Office for Chesapeake Research Coordination.

(a) (1) The Secretary shall establish in the Department of Commerce a separate office known as the Office for Chesapeake Bay Research Coordination (hereafter referred to in this Act as the "Office"). The Office shall serve as the staff of the Chesapeake Bay Research Board established under section 5 of this Act.

(2) (A) The Office shall be headed by a Director who by reason of his knowledge and experience in research efforts on the Chesapeake Bay area, is qualified to serve as an adviser with respect to research, and who shall be appointed by the Secretary in consultation with the Administrator of the Environmental Protection Agency, the Secretary of the Army, the Secretary of the Interior, and the Secretary of the Smithsonian Institution.

(B) Before making any appointment under subparagraph (A), the Secretary shall seek the recommendations of the Governor of Maryland and the Governor of Virginia with respect to individuals who are qualified to serve as the Director.

(3) The Director may appoint such personnel for the Office as he deems desirable, and as is provided for under this Act.

(b) The Office, when directed to do so by the Chesapeake Bay Research Board, shall—

(1) identify Federal and State research programs reslating to the Chesapeake Bay area and annually update that inventory;

(2) establish a Chesapeake Bay Research Exchange for the purpose of facilitating the rapid identification, acquisition, retrieval, dissemination, and use of information concerning all research projects which are ongoing completed, or for which funds have been requested, and which are conducted in or affect the Chesapeake Bay area;

(3) make recommendations to the Chesapeake Bay Research Board on the relationship of Federal programs to the Chesapeake Bay Research Plan; and

(4) make recommendations to the Chesapeake Bay Research Board on possible revisions to such Research Plan.

(c) The Office shall work with the Chesapeake Bay Research Board to—

(1) identify the need for, and the priority of, research programs which could benefit the management of the resources of the Chesapeake Bay area;

(2) promote optimum utilization of available funds and resources to benefit the Chesapeake Bay area;

(3) remain cognizant of ongoing research programs and assist in the dissemination of the results and findings of research programs;

(4) conduct periodic meetings with representatives of the departments, agencies, and independent establishments of the Federal Government having responsibility for the administration of research programs in the Chesapeake Bay area, representatives of appropriate State, regional, and local agencies, and representatives of the scientific community, in order to obtain and exchange information relating to such programs;

(5) review proposed Federal legislation which may affect the Chesapeake Bay area and comment to the appropriate entities on the relation of the proposed legislation to the Chesapeake Bay Research Plan;

(6) determine existing Federal and State programs relating to the Chesapeake Bay area and annually update this inventory;

(7) plan and conduct a conference on Chesapeake Bay area affairs at least once every two years;

(8) prepare for the Board an annual report on research programs, current and planned, pertaining to the Chesapeake Bay area; and

(9) perform such other activities as are consistent with the purposes of this Act.

(d)(1) The Secretary shall make available to the Office such administrative services and temporary staff as may be reasonably required by the Office to enable it to carry out its functions under this Act.

(2) The Office may request from any department, agency, or independent establishment of the Federal Government (A) information concerning grants made by such department, agency, or establishment for research in the Chesapeake Bay area, and (B) other assistance or information which the Office deems necessary to enable it to carry out its functions under this Act. Each such department, agency, or independent establishment shall furnish, with or without reimbursement, to the Office such assistance or information so requested consistent with other Federal law.

SEC. 5. CHESAPEAKE BAY RESEARCH BOARD.

(a) There is established a Chesapeake Bay Research Board (hereafter referred to in this section as the "Board").

(b)(1) The Board shall consist of—

(A) four members selected by the Governor of Virginia;

(B) four members selected by the Governor of Maryland; and

(C) seven members selected by the Secretary, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of the Army, the Secretary of the Interior, and the Secretary of the Smithsonian Institution.

(2) The Secretary, the Governor of Maryland, and the Governor of Virginia shall ensure that the Board is comprised of individuals who are qualified to perform the functions of the Board and who represent the interests of Federal, State, and local government, industry, the public, and the scientific and environmental communities.

(c) The Chairman of the Board shall be elected annually by the membership of such Board.

(d) The Board shall—

(1) develop a Chesapeake Bay Research Plan consistent with the missions and interests of appropriate agencies and States, and update this plan biennially to reflect changing priorities in Federal and State management needs as well as the need for fundamental research;

(2) review and evaluate, on a periodic basis, Federal research programs pertaining to the Chesapeake Bay area, and ascertain the extent to which the research programs are consistent with the Chesapeake Bay Research Plan; and

(3) submit an annual report to the Congress and the Governors of Maryland and Virginia on research programs, current and planned, pertaining to the Chesapeake Bay area and their relationship to the Chesapeake Bay Research Plan, together with any recommendations for improving the coordination of such research.

(e) Members of the Board (other than those who are employees of the Federal or State governments) may, while engaged in business for the Board, receive compensation for travel expenses and per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703 of title 5, United States Code, for persons employed intermittently in Government service.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Office to carry out the purposes of this Act the sum of $500,000 for each of the three fiscal years ending on September 30, 1982, September 30, 1983, and September 30, 1984.

SEC. 7. RELATIONSHIP OF ACT TO EXISTING FEDERAL, STATE, AND LOCAL POWERS.

(a) Nothing contained in this Act shall be construed to affect the jurisdiction, powers, or prerogatives of any existing department, agency, or officer of the Federal Government or of any State or local government.

(b) For purposes of administering this Act (including the preparation of an annual report pursuant to section 4(c)(8)) the Board shall solicit from the appropriate Federal departments and agencies and the Governors, recommendations that may be appropriate with respect to any existing law which may affect or be involved in research programs.

SEC. 8. TERMINATION.

This Act and the authority conferred by this Act shall terminate on September 30, 1984. At such time the General Accounting Office shall submit to the Congress an evaluation of the effectiveness of the Board, Office, and of this Act. In the preparation of such report, comments shall be solicited from Federal agencies, the Governors of Maryland and Virginia, and the research institutions, industries, and environmental and citizen's groups concerned with the Chesapeake Bay area.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–950), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The purpose of H.R. 4417, as amended, is to protect and preserve Chesapeake Bay and its surrounding area by coordinating research conducted by a number of federal agencies.

The bill seeks to accomplish this objective by establishing a Chesapeake Bay Research Board composed of fifteen members: four appointed by the Governor of Maryland; four appointed by the Governor of Virginia; and seven members appointed by the Secretary of Commerce, in consultation with the EPA Administrator, the Secretary of the Army, the Secretary of the Interior, and the Secretary of the Smithsonian Institution.

The Board is charged with preparing a plan of research for Chesapeake Bay and reviewing, evaluating, and commenting upon to the appropriate federal agencies the consistency of those federal research programs with the research plan.

The Board is to be staffed by an office within the Department of Commerce and shall exist for a period of three years, at which time the GAO shall report to the Congress on the effectiveness of the Board and Office.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COCONIO NATIONAL FOREST LAND CONVEYANCE

The Senate proceeded to consider the bill (S. 1985) to authorize the Secretary of Agriculture to convey certain lands in the State of Arizona, and for other purposes, which had been reported from the Committee on Energy and Natural Resources with amendments as follows:

On page 3, line 18, strike "deposited", and insert in lieu thereof the following: "received shall be deposited into a special fund in the Treasury which when appropriated";

On page 4, line 4, strike "value" through and including "Arizona" on line 7, and insert in lieu thereof "value";

So as to make the bill read:

S. 1985

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") is authorized to convey by quitclaim deed, subject to the provisions of subsections (b) and (c) of this Act, all right, title, and interest of the United States in and to the following described tract of lands and improvements thereon:

GILA AND SALT RIVER MERIDIAN

(Coconino County, Arizona)

Township 21 North, Range 7 East

Section 15:

North half northeast quarter,

Northeast quarter northwest quarter,

Northeast quarter southeast quarter northwest quarter northwest quarter, North half southeast quarter southeast quarter northwest quarter northwest quarter.

Section 16:

South half northeast quarter northeast quarter northwest quarter,

Northwest quarter northeast quarter northwest quarter,

South half northeast quarter northwest quarter,

Northwest quarter northwest quarter,

North half northeast quarter southwest quarter northwest quarter,

Southeast quarter northeast quarter southwest quarter northwest quarter,

North half northwest quarter southwest quarter northwest quarter,

East half southeast quarter southwest quarter northwest quarter,

Southeast quarter northwest quarter.

The area described contains 256.25 acres more or less.

(b) (1) Any conveyances pursuant to subsection (a) of this Act shall be conditioned upon the Secretary entering into agreements or land exchanges, sufficient to assure the Secretary that any party with whom such agreements or land exchanges are to be made will construct on a site to be determined by the Secretary, administrative improvements equal in value to the lands and improvements authorized to be conveyed by subsection (a). The lands and improvements may be conveyed by a series of transactions or land exchanges.

(2) Each party to whom conveyances are to be made may, in the discretion of the Secretary, deposit cash in an amount not less than the fair market value, to be determined at the time of conveyance, of the lands and improvements conveyed. The cash so received shall be deposited into a special fund in the Treasury which when appropriated is authorized to remain available until expended by the Secretary for the purposes of constructing administrative improvements as described in this Act. If the value of any land and improvements thereon authorized to be conveyed by subsection (a) exceeds the value of administrative improvements determined to be necessary by the Secretary to be constructed with respect to such land under this Act, the party to whom such conveyance is to be made shall make a cash payment to the United States in an amount equal to such difference in value.

(c) (1) Of the tract of land described in subsection (a), the Secretary shall offer to sell at the fair market value, as determined on the date of enactment of this Act, to the Flagstaff Medical Regional Center, Flagstaff, Arizona, not to exceed 18.25 acres immediately adjacent to said Flagstaff Medical Regional Center and to the city of Flagstaff, Arizona, not to exceed 132.5 acres, under special use permit in effect on the date of enactment of this Act to the city of Flagstaff. Such offers to sell to the Flagstaff Medical Regional Center and to the city of Flagstaff shall remain in effect for periods of not to exceed 3 years and 10 years, respectively. Subject to the limitations contained in this paragraph, the city of Flagstaff and the Flagstaff Medical Regional Center may identify any specific tracts of land they want to purchase.

(2) Except for any land to be conveyed to the Flagstaff Medical Regional Center and the city of Flagstaff, the Secretary shall solicit public offers for the remaining lands and improvements authorized under subsection (a). All offers shall be publicly opened at the time and place stated in the solicitation in accordance with the administrative requirements of the Secretary. The Secretary shall consider price and land values before entering into agreements or land exchanges with any party whose offer conforming to the solicitation notice is determined by the Secretary to be most advantageous to the Government. Notwithstanding any other provision of this Act, the Secretary may reject any offer if the Secretary determines that such rejection is in the public interest.

The amendments were agreed to.

The bill was ordered to be engrossed and to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-954), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The first tract authorized to be conveyed by S. 1985 contains about 124 acres and is the Knob Hill Administrative Site of the Coconino National Forest. The Flagstaff Regional Medical Center, immediately adjacent to the tract, currently uses a portion of the site as a parking lot under a special use permit. The Medical Center needs to expand its facilities to meet long-term community needs. This need can be met by conveyance of about 18 acres of the Administrative Site, that contains the existing Forest Service facilities. The Medical Center would have three years in which to complete the purchase. The balance of the 124-acre site would no longer be appropriate for National Forest purposes and would be made available for sale or exchange to private parties on a competitive basis. The second tract contains about 132.5 acres and has been since 1917 under continuous special use permit to the city of Flagstaff for public park purposes. Under the provisions of S. 1985, the offer to sell this tract to the city government would remain open for 10 years.

The bill requires that the parties who receive the conveyed land shall construct administrative improvements equal in value to the lands and improvements sold. This could be accomplished, at the discretion of the Secretary, by a deposit of cash into a special fund which would be available upon appropriation for the construction of replacement facilities for the Knob Hill Administrative Site. A suitable site is available on National Forest land several miles east of the city. The purchaser would pay any difference between the cost of constructing the new administrative facilities and the amount of the lands and improvements sold into the General Treasury.

UNDERGROUND COAL GASIFICATION AND UNCONVENTIONAL GAS RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT

The Senate proceeded to consider the bill (S. 2774) to authorize an accelerated, research, development, and demonstration program to advance in situ technologies for energy production from underground coal deposits and unconventional gas resources, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Underground Coal Gasification and Unconventional Gas Research, Development, and Demonstration Act".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) the United States is faced with a finite and diminishing resource base of domestic petroleum and natural gas;

(2) the current imbalance between supply and demand for fuels and energy in the United States is likely to worsen over the next decade even with strong energy conservation efforts;

(3) the national security and economic well-being of the United States is endangered by its dependence on imported energy supplies which are subject to source limitations, artificial pricing mechanisms, and supply interruptions;

(4) the United States possesses abundant resources of coal and unconventional natural gas which can be utilized by underground coal gasification and unconventional natural gas recovery, respectively;

(5) underground coal gasification techniques and unconventional natural gas recovery techniques can produce clean fuels, including synthetic or natural gas, gasoline, and methanol, and generate electricity;

(6) the domestic resource base for underground coal gasification and unconventional gas resources equals more than one trillion tons of coal and one thousand trillion cubic feet of natural gas, which is equivalent to twice the world's supply of recoverable oil;

(7) the technical obstacles to widespread commercial production of gas from underground coal and unconventional natural gas resources can be defined and solved;

(8) projected product costs of gas from underground coal gasification and unconventional natural gas recovery are estimated to be competitive with expected world energy prices;

(9) environmental consequences of underground coal gasification and unconventional natural gas recovery could be significantly less than those of conventional or synthetic fuels coal utilization; and

(10) it is contemplated that the ten year program established by this Act may require the expenditure of $200,000,000 for underground coal gasification facilities and $400,000,000 for unconventional natural gas recovery projects.

(b) It is the purpose of this Act to—

(1) establish as a national goal the demonstration of a production capacity equivalent to at least fifteen million cubic feet per day of synthetic natural gas or energy product equivalent from underground coal gasification by 1987;

(2) establish as a national goal the construction and operation of at least one commercial underground coal gasification plant by 1992;

(3) establish as a national goal a production capacity equialent to two trillion cubic feet per year of natural gas from underground coal gasification by the year 2000; and

(4) establish as a national goal production of three trillion cubic feet of unconventional natural gas by 1990 and six trillion cubic feet by the year 2000.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "underground coal gasification" means a method whereby coal in place is partially oxidized with oxygen or air and steam producing a medium- or low-heating value gas;

(2) "unconventional natural gas" means natural gas produced from geopressured brines, occluded natural gas produced from coal seams, natural gas produced from Devonian shale, and natural gas produced from tight formations;

(3) "energy product equivalent" means the energy equivalent, in British thermal units of the stated amount of natural gas or other energy product. Such products may include, but need not be limited to synthetic natural gas, methanol, gasoline, electricity, or chemicals; and

(4) "Secretary" means the Secretary of Energy.

COMPREHENSIVE PROGRAM MANAGEMENT PLAN

Sec. 4. (a) The Secretary is authorized and directed to prepare a comprehensive program management plan for the conduct of the research, development, and demonstration activities under sections 4, 5, and 6 of this Act. Such plan shall include at a minimum—

(1) a detailed description of the functional organization for program management;

(2) a program strategy, including identification of milestones and critical paths, which will be used to achieve the purposes of this Act;

(3) a five-year and ten-year program implementation schedule with associated budget and program management resources requirements; and

(4) supporting research needed to solve problems which may inhibit or limit development of underground coal gasification and unconventional gas production.

(b) The Secretary shall transmit the comprehensive program management plan developed pursuant to subsection (a) to the Congress not later than January 30, 1981.

RESEARCH AND DEVELOPMENT

Sec. 5. (a) The Secretary is authorized and directed to establish research and development activities incorporating presently existing efforts in these areas, as may be necessary to meet the goals of this Act as set forth in section 2. Such activities shall include evaluations, field tests, supporting research, and collection of information, data, criteria, and specifications necessary to support the design efforts undertaken pursuant to section 6.

(b) The Secretary shall, for the purpose of performing his responsibilities pursuant to this Act, solicit proposals and evaluate any reasonable new or improved technology, submitted thereunder, a description of which is submitted to the Secretary in writing, which could lead or contribute to the development of underground coal gasification and unconventional natural gas recovery technology.

(c) The Secretary shall work closely with the appropriate research and technical organizations and industry representatives in order to assure the best possible use of available expertise in carrying out the provisions of this Act, consistent with existing law.

DEMONSTRATION

Sec. 6. (a) The Secretary is authorized and directed to solicit proposals for the design of underground coal gasification and enhanced gas recovery facilities of sufficient size to demonstrate the technical and economic feasibility of producing synthetic and unconventional natural gas.

(b) Subject to subsection (c) of this section, the Secretary is authorized to enter into agreements to construct the following facilities:

(1) a field demonstration facility with a production capacity equivalent to at least fifteen million standard cubic feet per day of synthetic natural gas by the year 1987 from underground coal gasification;

(2) a field demonstration facility with a significant gas production on a continuous basis for a sufficient period of time to collect and analyze system performance and reliability data to determine the commercial viability of the underground coal gasification technology utilized;

(3) no more than six field tests of increased gas production from unconventional gas formations through the use of advanced fracturing technology;

(4) no more than two field tests for the demonstration of unconventional natural gas production from geopressure reservoirs; and

(5) no more than three coordinated field demonstrations of the production of unconventional natural gas from coal seams.

(c) No funds appropriated pursuant to the authorization made in subsection (b) of this section may be expended until the Secretary submits the plans and justification for any underground coal gasification facility or unconventional natural gas recovery facility to be built pursuant to this section, to the appropriate committees of Congress, and waits thirty legislative days. The Secretary shall include the total cost of the facility, proposed participants in the project, and other relevant information.

COMMERCIALIZATION

Sec. 7. (a) The Secretary is authorized and directed to prepare a comprehensive commercialization plan that will permit realization of the national goals stated in section 2 for underground coal gasification and unconventional natural gas production. Such a plan will include—

(1) an analysis of the existing industrial infrastructure and identification of modifications in Government policy necessary to establish a sufficient industrial infrastructure to meet the national goals;

(2) the analysis of any legal and institutional barriers, specifically including—

(i) an analysis of the legal ownership of free methane in coal seams; and

(ii) an analysis of the effect of the inclusion of underground coal gasification in land use planning and coal activity planning; and

(3) an assessment of the necessary Government actions to assist in eliminating economic uncertainties through financial incentives, such as loan guarantees, price supports, pricing policy, or other inducements.

(b) As part of the initiatives for design of the underground coal gasification and unconventional natural gas demonstration projects authorized pursuant to section 6, each respondent shall include in its proposal (1) a plan leading to a full-scale, commercial facility based on the technology used in the proposed demonstration system; and (2) a commercialization strategy which includes the respondent's plans for future participation toward meeting the national goal.

(c) The Secretary shall transmit such comprehensive commercialization plan to the Congress within two years after the enactment of this Act.

REPORTS

Sec. 8. As a separate part of the annual report submitted pursuant to section 801 of the Department of Energy Organization Act (Public Law 95–91), the Secretary shall submit to Congress an annual report of activities pursuant to this Act. Such report shall include—

(1) modifications to the comprehensive plans and programs for implementing this Act;

(2) an evaluation of the state of underground coal gasification and unconventional natural gas recovery research and development in the United States;

(3) a description of the contracts and grants made under this Act;

(4) an analysis of the progress made in commercializing underground coal gasification and unconventional natural gas recovery technology; and

(5) suggestions for improvements in underground coal gasification and unconventional natural gas recovery research and development, including recommendations for legislation.

AUTHORIZATION OF APPROPRIATIONS

Sec. 9. (a) The Secretary may use during the fiscal year ending September 30, 1981, such sums as may be provided for such purposes in appropriation Acts pursuant to the authority in S. 2332 (a bill to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1981, and for other purposes and reported by the Senate Committee on Energy and Natural Resources on May 8, 1980).

(b) There is authorized to be appropriated, for the fiscal year ending September 30, 1982, $100,000,000, including not less than $25,000,000 for underground coal gasification activities, inclusive of any funds authorized by any other Act, to carry out the functions vested in the Secretary by this Act.

● Mr. PERCY. Mr. President, this 96th Congress has had the difficult task of making some of the hardest long-term decisions concerning the energy future of the United States that any Congress has ever faced. The windfall profit tax, the Energy Mobilization Board, the gasoline ration plan, the Energy Security Act, and others, all were issues surrounded by significant controversy throughout their consideration here on the floor. Our debates were important ones; they highlighted the very real and legitimate differences the Members of this body have had regarding development of an optimum path toward energy self-sufficiency.

How refreshing and encouraging it is, however, to see the Senate unite behind the in situ coal gasification bill we are considering today, S. 2774. The "Underground Coal Gasification and Unconventional Gas Research, Development and Demonstration Act" truly represents a decisive breakthrough in our exploration of new and promising methods to utilize our abundant domestic energy reserves. I have had the privilege of cosponsoring S. 2774 from the start; I urge the House of Representatives to follow the Senate's lead and pass this legislation as quickly as possible.

Mr. President, over 90 percent of our Nation's vast coal reserves are not technically or economically recoverable through conventional underground or surface mining. Similarly, great oil shale reserves in the eastern half of the United States—stretching from Michigan to Mississippi, from Illinois to Pennsylvania—are available for recovery. Because of a lower oil content than western shale, usually below 15 barrels per ton oil equivalent, these reserves may never be tapped. It has long been known that underground gasification of these minerals offered a viable, and an environmentally sound method for utilization. So far, however, private industry has not been able to make the necessary capital investment to begin this work.

S. 2774 represents a definitive statement by the Senate that in situ gasification can and must begin now. The bill authorizes an accelerated research, development, and demonstration program to advance in situ technologies for coal and for other unconventional gas resources.

Its goals are simple: By 1987, there would be a demonstration plant producing at least 15 million cubic feet daily of synthetic gas from underground gasification. By 1992, at least one commercial plant would be in operation. Within 10 years, the Nation would be receiving 3 trillion cubic feet of unconventional gas, 6 trillion feet would be available by 2000.

To be sure, we cannot rest lightly with the passage of S. 2774, Mr. President. We are hereby establishing a comprehensive management plan, to be completed by the Secretary of Energy next year. That plan will spell out the questions still to be raised, and a process for answering them, before this Nation embarks upon a massive in situ gasification program. The 1980 Department of Energy authorization bill approves a total of $88.4 million to begin the research and development for in situ work on coal and other nonconventional gas resources.

More money will be required in future years, however, to assure the development of this promising technology. We must be ready to provide it. In situ gasification can be cheaper than other fossil fuel gasification options, for its capital requirements are fewer. The process is as environmentally benign, if not more benign, than conventional conversion methods. Coupled with the obvious value of being able to utilize energy resources which might not be otherwise available to us, these attractions make the in situ process a worthwhile, and an essential one for our Nation.

I am proud to cosponsor this legislation, and I urge its quick passage into law.●

UP AMENDMENT NO. 1651

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. MATSUNAGA I send to the desk two technical amendments to the reported committee substitute amendment, and I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The Senator from West Virginia (Mr. ROBERT C. BYRD) on behalf of Mr. MATSUNAGA proposes an unprinted amendment numbered 1651.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the technical amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

On page 16, line 20, insert the following after "authorized to enter into agreements": ", as provided for in advance in appropriation Acts,".

On page 13, line 24, and line 25, after "cubic feet" insert the following in both places: "per year".

Mr. MATSUNAGA. Mr. President, I rise in strong support of the bill S. 2774, the Underground Coal Gasification and Unconventional Gas Research, Development and Demonstration Act, which I introduced on May 30 of this year with 27 cosponsors. This bill would establish an aggressive program to encourage the use of two vast domestic energy resources which have not been adequately considered by the Congress.

In July 1979, the President called for a national program which would significantly reduce our dependence on imported oil. One of the suggested ways was to encourage increased production of unconventional natural gas by providing various Government incentives. In order to encourage private industry to assume the great risks involved in applying new technologies to relatively unknown geological structures, the President had proposed that the Energy Security Corporation provide financial incentives for such projects. However, when the legislation establishing the Synthetic Fuels Corporation was passed, there was no mention of any assistance for the development of this vast potential resource.

Similarly, there was very little mention of help to those who wish to explore the technology for underground coal gasification. Most of the funding provided was for assisting the development of surface gasification and liquefaction, which are much more capital intensive, and potentially more damaging to the environment.

Both of the new energy resources which my bill seeks to develop could slip through the crack, and never fully realize their vast potential. During the hearings held on the bill witnesses expressed this fear and urged enactment of S. 2774.

The bill S. 2774 would authorize an accelerated research, development, and demonstration program to advance in situ technologies for energy production from underground coal deposits and unconventional gas resources. It would, for the first time, establish in this country an aggressive policy during the next decade to research, develop, and demonstrate these technologies and to assure significant production of synthetic natural gas and unconventional natural gas resources.

The goals established by this Act are significant. By 1987 there will be a demonstration plant producing, at least, 15 million cubic feet per day of synthetic natural gas from underground coal gasification leading to the construction and operation of at least one commercial underground coal gasification plant by 1992. In addition, by 1990, the Nation will be producing 3 trillion cubic feet of unconventional gas. Then, by the year 2000, we will be producing 2 trillion cubic feet of gas per year from underground coal gasification and 6 trillion cubic feet per year of gas from unconventional gas resources. By way of comparison we used 19.5 trillion cubic feet of natural gas in 1979 in this country.

The potential for underground coal gasification in the United States is tremendous. The Western Plain States have over 920 billion tons of coal which could be reached by this technology. Alaska alone has over 640 billion tons of coal which could be similarly reached. Nationwide we have over 1.8 trillion tons of coal available for underground coal gasification; this represents 28 percent of the entire coal resource.

Domestic production and reserves of natural gas—209 Tcf in 1978—dominated by conventional gas resources, have declined steadily over the past few years. In contrast, the potential for production from unconventional gas reserves is tremendous, with reserve estimates of 50 to 600 Tcf for Western tight sands, 75 to 700 Tcf for Eastern Devonian shales, 72 to 860 Tcf for methane from coal seams, and 3,100 to 50,000 Tcf from geopressured aquifers. The recently issued National Petroleum Council report on unconventional gas reserves estimates that up to 270 Tcf could be produced if favorable pricing and technology development occur, especially advanced hydraulic fracturing.

Mr. President, it is time that we recognize these resources and establish an aggressive new national policy that will fully utilize them. I urge the Senate to consider and pass the bill S. 2774, in order to accomplish this.

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP No. 1651).

The amendment was agreed to.

The committee amendment, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

M. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, the next three calendar numbers are without amendment. I ask unanimous consent that they, including the two on page 26, without amendment, Calendar Orders Nos. 1061 and 1062, be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

SANDRA REYES PELLECER

The bill (S. 2373) for the relief of Sandra Reyes Pellecer, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2373

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Sandra Reyes Pellecer shall be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed on her behalf by Mrs. Greta J. Pellecer, citizen of the United States, pursuant to section 204 of such Act. No natural parent, brother, or sister if any, of Sandra Reyes Pellecer shall, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–960), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The beneficiary, a native and citizen of Guatemala, was born on March 3, 1962, and resides in Battleground, Washington with her guardians, the George Pifer, Sr. family. She is a student at the Columbia Adventist Academy, and her tuition and support are provided by her adoptive parents, Mr. and Mrs. Samuel Pellecer.

MERCHANTS NATIONAL BANK OF MOBILE

The resolution (S. Res. 291) to refer the bill S. 2052 entitled "A bill for the relief of the Merchants National Bank of Mobile" to the Court of Claims was considered and agreed to as follows:

Resolved, That the bill (S. 2052 entitled "A bill for the relief of The Merchants National Bank of Mobile", now pending in the Senate, together with all the accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims, and the Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2508 of title 28, United States Code, notwithstanding the bar of any statute of limitation, laches, or bar of sovereign immunity, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusion thereon as shall be sufficient to inform the Congress of the nature and character of the demand of the claim, legal or equitable, against the United States, or a gratuity in the amount, if any, legally or equitably due from the United States to the claimant.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96-961), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

S. 2052 would authorize payment to The Merchants National Bank of Mobile (Bank) of up to $809,609 as compensation for losses because of Defense Logistics Agency (DLA) actions (and those of DLA's fiscal agent, the Federal Reserve Bank of Atlanta) in mistakenly issuing a V-Loan guarantee, subsequently cancelling that guarantee, and issuing a reduced replacement guarantee. S. Res. 291 would refer the matter to the Court of Claims.

CADDO LAKE COMPACT

The bill (S. 2228) to grant the consent of the United States to the Caddo Lake compact between the States of Louisiana and Texas, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2228

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. The consent of Congress is hereby given to the Caddo Lake Compact between the States of Louisiana and Texas, of January 26, 1979, as ratified by the States of Louisiana and Texas, as follows:

Caddo Lake Compact

Preamble

The States of Louisiana and Texas, by acts of their respective governors and based upon previous acts of their legislatures, have appointed representatives, including their respective Red River Compact Commissioners, to negotiate, in the interest of interstate comity and equitable apportionment and use of water, a Compact on Caddo Lake to augment and amplify the provisions of the Red River Compact dealing with Caddo Lake.

The Act of Congress, Public Law No. 346 (84th Congress, First Session), grants consent of federal government to the negotiation of this Compact; pursuant to that act, the President has designated the representative of the United States.

Because the water and water rights of the States of Oklahoma and Arkansas under the Red River Compact are completely unaffected by this compact, Oklahoma and Arkansas have no objection to this compact and did not participate in the negotiation of this compact.

In order to resolve current controversies regarding the use of Caddo Lake water, controversies not adequately dealt with in the Red River Compact, the States of Texas and Louisiana, acting through their authorized representatives, have agreed to an equitable apportionment and use of the water of Caddo Lake and do hereby submit this Compact to amplify the Red River Compact and recommend that it be adopted by their respective legislatures and approved by Congress as hereinafter set forth:

Section 1. Purposes

In addition to the purposes specified in the Red River Compact, this compact is intended to preserve and protect Caddo Lake as a valuable environmental, cultural, and natural resource and enhance water resource and recreational potentials, while allowing its utilization for water needs of adjacent portions of Louisiana and Texas. A primary means of accomplishing these purposes is to raise the spillway elevation of Caddo Lake to an elevation of 170.5 feet above mean sea level.

Nothing in this Compact shall be deemed to impair or affect the powers, rights, or obligations of the United States or those claiming under its authority in, over, and to water of Caddo Lake; nor shall this Compact be construed as interfering with the application of the National Environmental Policy Act of 1969.

Section 2. Relation to the Red River Compact

(a) This Compact augments and amplifies the Red River Compact. It shall be construed harmoniously with the Red River Compact; it is not intended to amend, replace, or supersede any provisions of the Red River Compact, nor are any of the provisions of the Red River Compact intended to prevent the effective implementation of this Compact.

(b) In the event the Red River Compact is not enacted by all concerned states and ratified by Congress, or in the event that such action occurs after the effective date of this Compact, this compact shall be fully effective pursuant to the provisions of Section 9.

Section 3. Dedication

The States of Louisiana and Texas hereby dedicate the water of Caddo Lake below 167.5 feet above mean sea level to serve as a recreation and navigation pool. Neither Louisiana nor Texas shall allow the diversion or consumptive use of the water of Caddo Lake below that level except as authorized in this Compact.

Section 4. Diversion of Dedicated Water

(a) In order to divert water when the level of Caddo Lake is below 167.5 feet above mean sea level, any water user diverting more than one thousand gallons per day from Caddo Lake must submit water plans to the Caddo Lake Commission providing for conservation and efficient use of water.

(b) The Caddo Lake Commission shall authorize users with approved water use plans to divert water from Caddo Lake when the level of water is below 167.5 feet above mean sea level, at times and under conditions authorized by the Caddo Lake Commission. The Caddo Lake Commission shall give priority to domestic users, municipalities, or municipal use by political subdivisions and industries, in that order.

(c) In the event any user of water from Caddo Lake shall purchase water which is delivered into Caddo Lake from another source, that user making the purchase shall have the use of such purchased water, minus transportation or storage losses, if any, as determined by the commission, free from the regulation of the Caddo Lake Commission.

Section 5. Operating Rules

As provided in Section 7, the Caddo Lake Commission shall have the power to establish criteria to govern the diversion and use of water from Caddo Lake. Unless modified, supplemented or changed by the Caddo Lake Commission, the following rules shall govern the diversion and use of water from Caddo Lake.

(a) The following operating rules shall be in effect until Caddo Lake is enlarged by raising the spillway level as provided in Section 8.

(1) Whenever water is spilling over the existing spillway at 168.5 feet above mean sea level, each state may withdraw or divert water from Caddo Lake without restriction.

(2) Whenever Caddo Lake is not spilling over the existing spillway at 168.5 feet above mean sea level the total consumptive use by each State shall not exceed 8,400 acre-feet during the drawdown period; provided that neither state shall divert more than 3,600 acre-feet during any one month or 4,800 acre-feet during any two consecutive months.

(3) In addition to the requirements of Section 5(a)(2), when the lake level of Caddo Lake is at or below 167.5 feet mean sea level,

(a) Any diversion by either state must be approved by the Caddo Lake Commission, as provided in Section 4; and,

(b) The total consumptive use by each state shall not exceed an average of 1,000 acre-feet per month, or more than 3,000 acre-feet during any two consecutive months; however,

(c) The limitations above shall not apply to a municipality or political subdivision during an emergency caused by the destruction or contamination of the municipality's or political subdivision's other water source.

(b) The following operating rules shall be in effect after Caddo Lake is enlarged by raising the spillway level as provided in Section 8.

(1) Whenever water is spilling over the raised spillway level, each state may withdraw or divert water from Caddo Lake without restriction.

(2) Whenever Caddo Lake is not spilling over the raised spillway, and the lake surface elevation is above 167.5 feet above mean sea level.

(a) If each state obtains fifty percent of the water above 168.5 feet above mean sea level as authorized in Section 8, each state shall be entitled to divert 16,800 acre-feet during the drawdown period.

(b) If each state does not obtain fifty percent of the water above 168.5 feet above mean sea level as authorized in Section 8, the total consumptive use by that state shall not be reduced below the amount of water to which it was entitled under Section 5(a).

(3) Whenever Caddo Lake is at or below 167.5 feet above mean sea level, no diversions from Caddo Lake may be made except in the case of a catastrophic event (such as destruction of a municipality or political subdivision's other water supply source or a drawdown which is more severe than the critical drawdown of record). Any emergency withdrawal or diversion must be specifically authorized by the Caddo Lake Commission, as provided in Section 4.

(c) The term "drawdown", as used herein, means that period commencing on the first day water ceases spilling over the existing spillway (or the raised spillway, if Caddo Lake is enlarged as authorized in Section 8) and continuing so long as the Caddo Lake surface elevation continues to fall, until the day when appreciable inflow reaches Caddo Lake, causing the Caddo Lake surface elevation to rise, leading to a spill from Caddo Lake.

Section 6. Administration

(a) There is hereby created an interstate administrative agency to be known as the "Caddo Lake Commission", hereinafter called the "Commission." It shall be composed of the commissioners of Louisiana and Texas who serve as Red River Compact Commissioners and an appointed commissioner of each state who resides within one of the parishes or counties in which Caddo Lake is located. The commissioners shall choose one member of the commission to serve as a voting chairman. In the event this compact becomes effective prior to, or without, the Red River Compact, the governors of Texas and Louisiana shall appoint three commissioners to serve as Caddo Lake Commissioners. These commissioners, or their successors, shall serve until the Red River Compact becomes effective and the offices of the non-local commissioners are assumed by the states' Red River Compact Commissioners.

(b) The Commission shall meet and organize within sixty days after the effective date of this compact. Thereafter, meetings shall be held at such time and places as the Commission shall decide.

(c) Each commissioner shall have one vote; however, if one or more commissioner(s) from a state is absent, the commissioner(s) in attendance from that state is authorized to vote on behalf of the absent commissioner from that state. Any action concerning the administration of this compact shall require four votes.

(d) The salaries and personal expenses of each state's commissioners shall be paid by that state.

(e) All expenses incurred by the Commission shall be borne equally by the states of Louisiana and Texas and shall be paid by the Commission out of the "Caddo Lake Commission Fund." Such fund shall be initiated and maintained by equal payments of each state into the fund. Disbursements shall be made from the fund in such a manner as may be authorized by the Commission. Such fund shall not be subject to audit and accounting procedures of either state; however, all receipts and disbursements of the fund by the Commission shall be audited by a qualified independent public accountant at regular intervals, and the report of such audits shall be included in and become part of the annual report of the Commission. Each state shall have the right to make its own audit of the accounts of the Commission at any reasonable time.

SECTION 7. DUTIES AND POWERS

(a) The Commission shall have the power to:

(1) Adopt rules and regulations governing its operation and enforcement of the terms of the compact;

(2) Establish and maintain an office for the conduct of its affairs and, if desirable, from time to change its location;

(3) Employ or contract with such engineering, legal, clerical and other personnel as it may determine necessary for the exercise of its functions under this compact without regard to the Civil Service Laws of Louisiana and Texas; provided that such employees shall be paid by and be responsible to the commission and shall not be considered employees of any state;

(4) Acquire, use, and dispose of such real and personal property as it may consider necessary;

(5) Enter into contracts with appropriate state or federal agencies for the collection, correlation and presentation of factual data, for the maintenance of records and for the preparation of reports;

(6) Secure from the head of any department or agency of the federal or state government such information as it may need or deem to be useful for carrying out its functions and as may be available to or procurable by the department or agency to which the request is addressed; provided such information is not privileged and the department or agency is not precluded by law from releasing same;

(7) Make findings, recommendations, or reports in, connection with carrying out the purposes of this compact, including, but not limited to, a finding that Louisiana or Texas is or is not in violation of any of the provisions of this compact. The Commission is authorized to make such investigations and studies and to hold such hearings as it may deem necessary for said purposes. It is authorized to make and file official certified copies of any of its findings, recommendations, or reports with such officers or agencies of Louisiana or Texas or the United States as may have any interest in or jurisdiction over the subject matter. The makings of findings, recommendations, or reports by the Commission shall not be a condition precedent to the instituting or maintaining of any action or proceeding of any kind by Louisiana or Texas, in any court or tribunal, or before any agency or officer, for the protection of any right under this Compact or for the enforcement of any of its provisions; and

(8) Print or otherwise reproduce and distribute its proceedings and reports.

(b) The commission shall:

(1) Cause to be established, maintained, and operated such stream, reservoir, and other gaging stations as are necessary for the proper administration of the compact;

(2) Cause to be collected, analyzed, and reported such information on stream flows, water quality, water storage and such other data as are necessary for the proper administration of the Compact;

(3) Adopt reasonable standards and criteria for the approval of water use plans required by Section 4, and procedures for the submission thereof;

(4) Establish operating criteria to govern the diversion and use of water from Caddo Lake;

(5) Perform all other functions required of it by the compact and do all things necessary, proper and convenient in the performance of its duties thereunder;

(6) Prepare and submit to the Governors of Louisiana and Texas a budget covering the anticipated expenses of the Commission for the following fiscal year or biennium;

(7) Prepare and submit an annual report to the Governors of Louisiana and Texas and to the President of the United States covering the activities of the Commission for the preceding fiscal year, together with an accounting of all funds received and expended by it in the conduct of its work;

(8) Make available to the governor or to any official agency of Louisiana or Texas or to any authorized representative of the United States, upon request, any information within its possession;

(9) Not incur any obligation in excess of the unencumbered balance of its funds, nor pledge the credit of Louisiana or Texas; and

(10) Make available to Louisiana or Texas or the United States in any action arising under this compact, without subpoena, the testimony of any officer or employee of the Commission having knowledge of any relevant facts.

SECTION 8. ENLARGEMENT OF CADDO LAKE

(a) It is the intention of Louisiana and Texas to enlarge Caddo Lake by raising the spillway level two feet. Each state has the guaranteed right to obtain fifty percent of the water above 168.5 feet above mean sea level made available from such an enlargement, subject to paying one-half of the total costs. Total costs of enlargement are equal to the sum of the cost of spillway construction, the cost of land and flowage easements in Texas, the current market value of land and flowage easements in Louisiana, as well as the administrative expenses incurred for each of the above listed items.

(b) Each state may obtain a proportionately larger share of the water resulting from the enlargement by paying the portion of the cost which would otherwise be paid by the other state under Section 8(a).

(c) Should Louisiana, or one of its political subdivisions, unilaterally raise the Caddo Lake spillway level without obtaining flowage easements in Texas, Louisiana would have the right to all water made available by the enlargement: *Provided, however*, this provision constitutes an express waiver of any sovereign immunity or Eleventh Amendment defenses which might otherwise be available to the State of Louisiana in an action for damages by a Caddo Lake property owner in Texas for damage resulting from such action.

(d) This Section does not prevent the enlargement of Caddo Lake by raising the spillway level some amount less than two feet, nor does it prevent a subsequent enlargement of Caddo Lake which might ultimately raise the level of Caddo Lake's spillway more than two feet.

SECTION 9. RATIFICATION AND EFFECTIVE DATE OF COMPACT

(a) Notice of ratification of this Compact by the Legislatures of Louisiana and Texas shall be given by the Governor thereof to the Governor of the other state and to the President of the United States. The President is hereby requested to give notice to the Governors of Texas and Louisiana of the consent to this Compact by the Congress of the United States.

(b) This compact shall become effective, binding, and obligatory when, and only when:

(1) It has been duly ratified by Louisiana and Texas;

(2) The Red River Compact has been duly ratified by the State of Texas; and

(3) It has been consented to by any Act of the Congress of the United States, which Act provides that:

Any other statute of the United States, to the contrary notwithstanding, in any case or controversy: Which involves the construction or application of this Compact; in which Louisiana or Texas is a plaintiff; and which is within the judicial power of the United States as set forth in the Constitution of the United States;

and without any requirement, limitation, or regard as to the sum or value of the matter in controversy, or of the place of residence or citizenship of, or of the nature, character, or legal status of any of the other proper parties plaintiff or defendant in such case or controversy:

The consent of Congress is given to name and join the United States as a party defendant or otherwise in any such case or controversy in the Supreme Court of the United States if the United States is an indispensable party thereof.

(c) The United States District Courts shall have original jurisdiction (concurrent with that of the Supreme Court of the United States, and concurrent with that of any other Federal or State court, in matters in which the Supreme Court or other court has original jurisdiction) of any case or controversy involving the application or construction of this Compact; that said jurisdiction shall include but not be limited to suits between Louisiana and Texas, and that the venue of such case or controversy may be brought in any judicial district in which the acts complained of, or any portion thereof, occur.

Signed and Approved This Twenty-sixth Day of January, 1979.

Fred Parkey, Wichita Falls, Texas.
Arthur Theis, Baton Rouge, Louisiana.
William M. Huffman, Marshall, Texas.
Senator Don Williamson, Shreveport, Louisiana.
Senator Ed Howard, Texarkana, Texas.
Calhoun Allen, Shreveport, Louisiana.

SEC. 2. In order to carry out the purposes of this Act, and the purposes of section 9 of this compact consented to by Congress by this Act, the congressional consent to this compact includes and expressly gives the consent of Congress to have the United States of America named and joined as a party defendant or otherwise in the United States Supreme Court or other court of concurrent juirsdiction in any case or controversy, and if such case or controversy involving the construction or application of this compact, in which one or more of the signatory States to this compact is a plaintiff, and which is within the judicial power of the United States as set forth in the Constitution of the United States, if the United States of America is an indispensable party; and without any requirement, limitation, or regard as to the sum or value of the matter in controversy, or of the place of residence or citizenship of, or of the nature, character, or legal status of, any of the other proper parties plaintiff or defendant in such case or controversy.

SEC. 3. The right to alter, amend, or repeal this Act is expressly reserved.

SEC. 4. The United States district courts shall have original jurisdiction (concurrent with that of the Supreme Court of the United States, and concurrent with that of any other Federal or State court, in matters in which the Supreme Court, or other court has original jurisdiction) of any case or controversy involving the application of construction of this compact; that said jurisdiction shall include, but not be limited to, suits between signatory States; and that the venue of such case or controversy may be in any judicial district in which the acts complained of, or any portion thereof, occur.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-962), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The purpose of this compact is to resolve controversies over the distribution and use of water from Caddo Lake. This compact augments and amplifies the provisions of the Red River Compact dealing with Caddo Lake. It will apportion water on an equal basis between the compacting states. It will promote interstate comity and allows utilization of Caddo Lake water for the needs of adjacent portions of Louisiana and Texas. The compact will also preserve and protect Caddo Lake as a valuable environmental, cultural, and natural resource and enhance recreational potentials.

RED RIVER COMPACT

The bill (S. 2227) to grant the consent of the United States to the Red River Compact among the States of Arkansas, Louisiana, Oklahoma, and Texas, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2227

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The consent of Congress is hereby given to the Red River Compact among the States of Arkansas, Louisiana, Oklahoma, and Texas, of May 12, 1978, as ratified by the States of Arkansas, Louisiana, Oklahoma, and Texas, as follows:

PREAMBLE

The States of Arkansas, Louisiana, Oklahoma, and Texas, pursuant to the acts of their respective Governors or legislatures, or both, being moved by considerations of interstate comity, have resolved to compact with respect to the water of the Red River and its tributaries. By Act of Congress, Public Law No. 346 (84th Congress, First Session), the consent of the United States has been granted for said States to negotiate and enter into a compact providing for an equitable apportionment of such water; and pursuant to that Act the President has designated the representative of the United States.

Further, the consent of Congress has been given for two or more States to negotiate and enter into agreements relating to water pollution control by the provisions of the Federal Water Pollution Control Act (Public Law 92-500, 33 U.S.C. 1251 et seq.).

The Signatory States acting through their duly authorized Compact Commissioners, after several years of negotiations, have agreed to an equitable apportionment of the water of the Red River and its tributaries and do hereby submit and recommend that this compact be adopted by the respective legislatures and approved by Congress as hereinafter set forth:

ARTICLE I

PURPOSES

SECTION 1.01. The principal purposes of this Compact are:

(a) To promote interstate comity and remove causes of controversy between each of the affected states by governing the use, control and distribution of the interstate water of the Red River and its tributaries;

(b) To provide an equitable apportionment among the Signatory States of the water of the Red River and its tributaries;

(c) To promote an active program for the control and alleviation of natural deterioration and pollution of the water of the Red River Basin and to provide for enforcement of the laws related thereto;

(d) To provide the means for an active program for the conservation of water, protection of lives and property from floods, improvement of water quality, development of navigation and regulation of flows in the Red River Basin; and

(e) To provide a basis for state or joint state planning and action by ascertaining and identifying each state's share in the interstate water of the Red River Basin and the apportionment thereof.

ARTICLE II

GENERAL PROVISIONS

SECTION 2.01. Each Signatory State may use the water allocated to it by this Compact in any manner deemed beneficial by that state. Each state may freely administer water rights and uses in accordance with the laws of that state, but such uses shall be subject to the availability of water in accordance with the apportionments made by this Compact.

SECTION 2.02. The use of water by the United States in connection with any individual Federal project shall be in accordance with the Act of Congress authorizing the project and the water shall be charged to the state or states receiving the benefit therefrom.

SECTION 2.03. Any Signatory State using the channel of Red River or its tributaries to convey stored water shall be subject to an appropriate reduction in the amount which may be withdrawn at the point of removal to account for transmission losses.

SECTION 2.04. The failure of any state to use any portion of the water allocated to it shall not constitute relinquishment or forfeiture of the right to such use.

SECTION 2.05. Each Signatory State shall have the right to:

(a) Construct conservation storage capacity for the impoundment of water allocated by this Compact;

(b) Replace within the same area any storage capacity recognized or authorized by this Compact made unusable by any cause, including losses due to sediment storage;

(c) Construct reservoir storage capacity for the purposes of flood and sediment control as well as storage of water which is either imported or is to be exported if such storage does not adversely affect the delivery of water apportioned to any other Signatory State; and

(d) Use the bed and banks of the Red River and its tributaries to convey stored water, imported or exported water, and water apportioned according to this Compact.

SECTION 2.06. Signatory States may cooperate to obtain construction of facilities of joint benefits to such states.

SECTION 2.07. Nothing in this Compact shall be deemed to impair or affect the powers, rights, or obligations of the United States, or those claiming under its authority, in, over and to water of the Red River Basin.

SECTION 2.08. Nothing in this Compact shall be construed to include within the water apportioned by this Compact any water consumed in each state by livestock or for domestic purposes; *Provided, however,* the storage of such water is in accordance with the laws of the respective states but any such impoundment shall not exceed 200 acre-feet, or such smaller quantity as may be provided for by the laws of each state.

SECTION 2.09. In the event any state shall import water into the Red River Basin from any other river basin, the Signatory State making the importation shall have the use of such imported water.

SECTION 2.10. Nothing in this Compact shall be deemed to:

(a) Interfere with or impair the right or power of any Signatory State to regulate within its boundaries the appropriation, use, and control of water, or quality of water, not inconsistent with its obligations under this Compact;

(b) Repeal or prevent the enactment of any legislation or the enforcement of any requirement by any Signatory State imposing any additional conditions or restrictions to further lessen or prevent the pollution or natural deterioration of water within its jurisdiction: provided nothing contained in this paragraph shall alter any provision of this Compact dealing with the apportionment of water or the rights thereto; or

(c) Waive any state's immunity under the Eleventh Amendment of the Constitution of the United States, or as constituting the consent of any state to be sued by its own citizens.

SECTION 2.11. Accounting for apportionment purposes on interstate streams shall not be mandatory under the terms of the Compact until one or more affected states deem the accounting necessary.

SECTION 2.12. For the purposes of apportionment of the water among the Signatory States, the Red River is hereby divided into the following major subdivision:

(a) Reach I—the Red River and tributaries from the New Mexico-Texas State boundary to Denison Dam;

(b) Reach II—the Red River from Denison Dam to the point where it crosses the Arkansas-Louisiana state boundary and all tributaries which contribute to the flow of the River within this reach;

(c) Reach III—the tributaries west of the Red River which cross the Texas-Louisiana state boundary, the Arkansas-Louisiana state boundary, and those which cross both the Texas-Arkansas state boundary and the Arkansas-Louisiana state boundary;

(d) Reach IV—the tributaries east of the Red River in Arkansas which cross the Arkansas-Louisiana state boundary; and

(e) Reach V—that portion of the Red River and tributaries in Louisiana not included in Reach III or in Reach IV.

SECTION 2.13. If any part or application of this Compact shall be declared invalid by a court of competent jurisdiction, all other severable provisions and applications of this Compact shall remain in full force and effect.

SECTION 2.14. Subject to the availability of water in accordance with this Compact, nothing in this Compact shall be held or construed to alter, impair, or increase, validate, or prejudice any existing water right or right of water use that is legally recognized on the effective date of this Compact by either statutes or courts of the Signatory State within which it is located.

ARTICLE III

DEFINITIONS

SECTION 3.01. In this Compact:

(a) The States of Arkansas, Louisiana, Oklahoma, and Texas are referred to as "Arkansas," "Louisiana," "Oklahoma," and "Texas," respectively, or individually as "State" or "Signatory State," or collectively as "States" or "Signatory States."

(b) The term "Red River" means the stream below the crossing of the Texas-Oklahoma state boundary at longitude 100 degrees west.

(c) The term "Red River Basin" means all of the natural drainage area of the Red River and its tributaries east of the New Mexico-Texas state boundary and above its junction with Atchafalaya and Old Rivers.

(d) The term "water of the Red River Basin" means the water originating in any part of the Red River Basin and flowing to or in the Red River or any of its tributaries.

(e) The term "tributary" means any stream which contributes to the flow of the Red River.

(f) The term "interstate tributary" means a tributary of the Red River, the drainage area of which includes portions of two or more Signatory States.

(g) The term "intrastate tributary" means a tributary of the Red River, the drainage area of which is entirely within a single Signatory State.

(h) The term "Commission" means the agency created by Article IX of this Compact for the administration thereof.

(i) The term "pollution" means the alteration of the physical, chemical or biological characteristics of water by the acts or instrumentalities of man which create or are likely to result in a material and adverse effect upon human beings, domestic or wild animals, fish and other aquatic life, or adversely affect any other lawful use of such water; provided, that for the purpose of this Compact, "pollution" shall not mean or include "natural deterioration."

(j) The term "natural deterioration" means the material reduction in the quality of water resulting from the leaching of solubles from the soils and rocks through or over which the water flows naturally.

(k) The term "designated water" means water released from storage, paid for by non-Federal interests, for delivery to a specific point of use or diversion.

(l) The term "undesignated water" means all water released from storage other than "designated water."

(m) The term "conservation storage capacity" means that portion of the active capacity of reservoirs available for the storage of water for subsequent beneficial use, and it excludes any portion of the capacity of reservoirs allocated solely to flood control and sediment control, or either of them.

(n) The term "runoff" means both the portion of precipitation which runs off the surface of a drainage area and that portion of the precipitation that enters the streams after passing through the portions of the earth.

ARTICLE IV

APPORTIONMENT OF WATER—REACH I

OKLAHOMA—TEXAS

Subdivision of Reach I and Apportionment of Water Therein

Reach I of the Red River is divided into topographical subbasins, with the water therein allocated as follows:

SECTION 4.01. Subbasin 1—Interstate streams—Texas.

(a) This includes the Texas portion of Buck Creek, Sand (lebos) Creek, Salt Fork Red River, Elm Creek, North Fork Red River, Sweetwater Creek, and Washita River, together with all their tributaries in Texas which lie west of the 100th Meridian.

(b) The annual flow within this subbasin is hereby apportioned sixty (60) percent to Texas and forty (40) percent to Oklahoma.

SECTION 4.02. Subbasin 2—Intrastate and Interstate streams—Oklahoma.

(a) This subbasin is composed of all tributaries of the Red River in Oklahoma and portions thereof upstream to the Texas-Oklahoma state boundary at longitude 100 degrees west, beginning from Denison Dam and upstream to and including Buck Creek.

(b) The State of Oklahoma shall have free and unrestricted use of the water of this subbasin.

SECTION 4.03. Subbasin—Intrastate streams—Texas.

(a) This includes the tributaries of the Red River in Texas, beginning from Denison Dam and upstream to and including Prairie Dog Town Fork, Red River.

(b) The State of Texas shall have free and unrestricted use of the water in this subbasin.

SECTION 4.04. Subbasin 4—Mainstem of the Red River and Lake Texoma.

(a) This subbasin includes all of Lake Texoma and the Red River beginning at Denison Dam and continuing up-stream to the Texas-Oklahoma state boundary at longitude 100 degrees west.

(b) The storage of Lake Texoma and flow from the mainstem of the Red River into Lake Texoma is apportioned as follows:

(1) Oklahoma 200,000 acre-feet and Texas 200,000 acre-feet, which quantities shall include existing allocations and uses; and

(2) Additional quantities in a ratio of fifty (50) percent to Oklahoma and fifty (50) percent to Texas.

SECTION 4.05. Special Provisions.

(a) Texas and Oklahoma may construct, jointly or in cooperation with the United States, storage or other facilities for the conservation and use of water; provided that any facilities constructed on the Red River boundary between the two states shall not be inconsistent with the Federal legislation authorizing Denison Dam and Reservoir project.

(b) Texas shall not accept for filing, or grant a permit for the construction of a dam to impound water solely for irrigation, flood control, soil conservation, mining and recovery of minerals, hydroelectric power, navigation, recreation and pleasure, or for any other purpose other than for domestic, municipal, and industrial water supply, on the mainstem of the North Fork Red River or any of its tributaries within Texas above Lugert-Altus Reservior until the date that imported water, sufficient to meet the municipal and irrigation needs of Western Oklahoma is provided, or until January 1, 2000, whichever occurs first.

ARTICLE V

APPORTIONMENT OF WATER—REACH II

ARKANSAS, OKLAHOMA, TEXAS, AND LOUISIANA

Subdivision of Reach II and Allocation of Water Therein Reach II of the Red River is divided into topographic subbasins, and the water therein is allocated as follows:

SECTION 5.01. Subbasin 1—Intrastate streams—Oklahoma.

(a) This subbasin includes those streams and their tributaries above existing, authorized or proposed last downstream major damsites, wholly in Oklahoma and flowing into Red River below Dension Dam and above the Oklahoma-Arkansas state boundary. These streams and their tributaries with existing, authorized or proposed last downstream major damsites are as follows:

Stream and site	Acre-feet	Location	
		Latitude	Longitude
Island-Bayou, Albany	85, 200	33°51.5′ N	96°11.4′ W.
Blue River, Durant	147, 000	33°55.5′ N	96°04.2′ W.
Boggy River, Boswell	1, 243, 800	34°01.6′ N	95°45.0′ W.
Kiamichi River, Hugo	240, 700	34°01.0′ N	95°22.6′ W.

(b) Oklahoma is apportioned the water of this subbasin and shall have unrestricted use thereof.

SECTION. 5.02. Subbasin 2—Intrastate streams—Texas.

(a) This subbasin includes those streams and their tributaries above existing authorized or proposed last downstream major damsites, wholly in Texas and flowing into Red River below Denison Dam and above the Texas-Arkansas state boundary. These streams and their tributaries with existing, authorized or proposed last downstream major damsites are as follows:

Stream and site	Acre-feet	Location	
		Latitude	Longitude
Shawnee Creek, Randall Lake.	5, 400	33°48.1′ N	96°34.8′ W.
Brushy Creek, Valley Lake.	15, 000	33°38.7′ N	96°21.5′ W.
Bois d'Arc Creek, New Bonham Reservoir.	130, 600	33°42.9′ N	95°58.2′ W.
Coffee Mill Creek, Coffee Mill Lake.	8, 000	33°44.1′ N	95°58.0′ W.
Sandy Creek, Lake Crockett.	3, 900	33°44.5′ N	95°55.5′ W.
Sanders Creek, Pat Mayse	124, 500	33°51.2′ N	95°32.9′ W.
Pine Creek, Lake Crook	11, 011	33°43.7′ N	95°34.0′ W.
Big Pine Creek, Big Pine Lake.	138, 600	33°52.0′ N	95°11.7′ W.
Pecan Bayou, Pecan Bayou.	625, 000	33°41.1′ N	94°58.7′ W.
Mud Creek, Liberty Hill	97, 700	33°33.0′ N	94°29.3′ W.
Mud Creek, VW Ranch Lakes (3).	3, 440	33°34.8′ N	94°27.3′ W.

(b) Texas is apportioned the water of this subbasin and shall have unrestricted use thereof.

SECTION 5.03. Subbasin 3—Interstate Streams—Oklahoma and Arkansas.

(a) This subbasin includes Little River and its tributaries above Millwood Dam.

(b) The States of Oklahoma and Arkansas shall have free and unrestricted use of the water of this subbasin within their respective states, subject, however, to the limitation, that Oklahoma shall allow a quantity of water equal to 40 percent of the total runoff originating below the following existing, authorized or proposed last downstream major damsites in Oklahoma to flow into Arkansas:

Stream and site	Acre-feet	Location	
		Latitude	Longitude
Little River, Pine Creek	70, 500	34°06.8′N	95°04.9′W.
Glover Creek, Lukfata	258, 600	34°08.5′N	94°55.4′W.
Mountain Fork River, Broken Bow	470, 100	34°08.9′N	94°41.2′W.

(c) Accounting will be on an annual basis unless otherwise deemed necessary by the States of Arkansas and Oklahoma.

SECTION 5.04 Subbasin 4—Interstate streams—Texas and Arkansas.

(a) This subbasin shall consist of those streams and their tributaries above existing, authorized or proposed last downstream major damsites, originating in Texas and crossing the Texas-Arkansas state boundary before flowing into the Red River in Arkansas. These streams and their tributaries with existing, authorized or proposed last downstream major damsites are as follows:

Stream and site	Acre-feet	Location	
		Latitude	Longitude
McKinney Bayou Trib, Bringle Lake	3,052	33°30.6′N	94°06.2′W.
Barkman Creek, Barkman Reservoir	15,900	33°29.7′N	94°10.3′W.
Sulphur River, Texarkana	386,900	33°18.3′N	94°09.6′W.

(b) The State of Texas shall have the free and unrestricted use of the water of this subbasin.

SECTION 5.05. Subbasin 5—Mainstem of the Red River and tributaries.

(a) This subbasin includes that portion of the Red River, together with its tributaries, from Denison Dam down to the Arkansas-Louisiana state boundary, excluding all tributaries included in the other four subbasins of Reach II.

(b) Water within this subbasin is allocated as follows:

(1) The Signatory States shall have equal rights to the use of runoff originating in subbasin 5 and undesignated water flowing into subbasin 5, so long as the flow of the Red River at the Arkansas-Louisiana state boundary is 3,000 cubic feet per second or more, provided no state is entitled to more than 25 percent of the water in excess of 3,000 cubic feet per second.

(2) Whenever the flow of the Red River at the Arkansas-Louisiana state boundary is less than 3,000 cubic feet per second, but more than 1,000 cubic feet per second, the States of Arkansas, Oklahoma, and Texas shall allow to flow into the Red River for delivery to the State of Louisiana a quantity of water equal to 40 percent of the total weekly runoff originating in subbasin 5 and 40 percent of undesignated water flowing into subbasin 5; provided, however, that this requirement shall not be interpreted to require any state to release stored water.

(3) Whenever the flow of the Red River at the Arkansas-Louisiana state boundary falls below 1,000 cubic feet per second, the States of Arkansas, Oklahoma, and Texas shall allow a quantity of water equal to all the weekly runoff originating in subbasin 5 and all undesignated water flowing into subbasin 5 within their respective states to flow into the Red River as required to maintain a 1,000 cubic foot per second flow at the Arkansas-Louisiana state boundary.

(c) Whenever the flow at Index, Arkansas, is less than 526 c.f.s., the states of Oklahoma and Texas shall each allow a quantity of water equal to 40 percent of the total weekly runoff originating in subbasin 5 within their respective states to flow into the Red River; provided, however, this provision shall be invoked only at the request of Arkansas, only after Arkansas has ceased all diversions from the Red River itself in Arkansas above Index, and only if the provisions of Subsections 5.05(b) (2) and (3) have not caused a limitation of diversions in subbasin 5.

(d) No state guarantees to maintain a minimum low flow to a downstream state.

SECTION 5.06. Special Provisions.

(a) Reservoirs within the limits of Reach II, subbasin 5, with a conservation storage capacity of 1,000 acre feet or less in existence or authorized on the date of the Compact pursuant to the rights and privileges granted by a Signatory State authorizing such reservoirs, shall be exempt from the provisions of Section 5.05; provided, if any right to store water in, or use water from, an existing exempt reservoir expires or is cancelled after the effective date of the Compact the exemption for such rights provided by this section shall be lost.

(b) A Signatory State may authorize a change in the purpose or place of use of water from a reservoir exempted by subparagraph (a) of this section without losing that exemption, if the quantity of authorized use and storage is not increased.

(c) Additionally, exemptions from the provisions of Section 5.05 shall not apply to direct diversions from Red River to off-channel reservoirs or lands.

ARTICLE VI

APPORTIONMENT OF WATER—REACH III

ARKANSAS, LOUISIANA, AND TEXAS

Subdivision of Reach III and Allocation of Water Therein Reach III of the Red River is divided into topographic subbasins, and the water therein allocated, as follows:

SECTION 6.01. Subbasin 1—Interstate streams—Arkansas and Texas.

(a) This subbasin includes the Texas portion of those streams crossing the Arkansas-Texas state boundary one or more times and flowing through Arkansas into Cypress Creek-Twelve Mile Bayou watershed in Louisiana.

(b) Texas is apportioned sixty (60) percent of the runoff of this subbasin and shall have unrestricted use thereof; Arkansas is entitled to forty (40) percent of the runoff of this subbasin.

SECTION 6.02. Subbasin 2—Interstate streams—Arkansas and Louisiana.

(a) This subbasin includes the Arkansas portion of those streams flowing from Subbasin 1 into Arkansas, as well as other streams in Arkansas which cross the Arkansas-Louisiana state boundary one or more times and flow into Cypress Creek-Twelve Mile Bayou watershed in Louisiana.

(b) Arkansas is apportioned sixty (60) percent of the runoff of this subbasin and shall have unrestricted use thereof; Louisiana is entitled to forty (40) percent of the runoff of this subbasin.

SECTION 6.03. Subbasin 3—Interstate streams—Texas and Louisiana.

(a) This subbasin includes the Texas portion of all tributaries crossing the Texas-Louisiana state boundary one or more times and flowing into Caddo Lake, Cypress Creek-Twelve Mile Bayou or Cross Lake, as well as the Louisiana portion of such tributaries.

(b) Texas and Louisiana within their respective boundaries shall each have the unrestricted use of the water of this subbasin subject to the following allocation:

(1) Texas shall have the unrestricted right to all water above Marshall, Lake O' the Pines, and Black Cypress damsites; however, Texas shall not cause runoff to be depleted to a quantity less than that which would have occurred with the full operation of Franklin County, Titus County, Ellison Creek, Johnson Creek, Lake O' the Pines, Marshall, and Black Cypress Reservoirs constructed, and those other impoundments and diversions existing on the effective date of this Compact. Any depletions of runoff in excess of the depletions described above shall be charged against Texas' apportionment of the water in Caddo Reservoir.

(2) Texas and Louisiana shall each have the unrestricted right to use fifty (50) percent of the conservation storage capacity in the present Caddo Lake for the impoundment of water for state use, subject to the provision that supplies for existing uses of water from Caddo Lake, on date of Compact, are not reduced.

(3) Texas and Louisiana shall each have the unrestricted right to fifty (50) percent of the conservation storage capacity of any future enlargement of Caddo Lake, provided, the two states may negotiate for the release of each state's share of the storage space on terms mutually agreed upon by the two states after the effective date of this Compact.

(4) Inflow to Caddo Lake from its drainage area downstream from Marshall, Lake O' the Pines, and Black Cypress damsites and downstream from other last downstream dams in existence on the date of the signing of the Compact document by the Compact Commissioners, will be allowed to continue flowing into Caddo Lake except that any man-made depletions to this inflow by Texas will be subtracted from the Texas share of the water in Caddo Lake.

(c) In regard to the water of interstate streams which do not contribute to the inflow to Cross Lake or Caddo Lake, Texas shall have the unrestricted right to divert and use this water on the basis of a division of runoff above the state boundary of sixty (60) percent to Texas and forty (40) percent to Louisiana.

(d) Texas and Louisiana will not construct improvements on the Cross Lake watershed in either state that will affect the yield of Cross Lake: *Provided, however*, This subsection shall be subject to the provisions of section 2.08.

SECTION 6.04. Subbasin 4—Intrastate streams—Louisiana.

(a) This subbasin includes that area of Louisiana in Reach III not included within any other subbasin.

(b) Louisiana shall have free and unrestricted use of the water of this subbasin.

ARTICLE VII

APPORTIONMENT OF WATER—REACH IV

ARKANSAS AND LOUISIANA

Subdivision of Reach IV and Allocation of Water Therein.

Reach IV of the Red River is divided into topographic subbasins, and the water therein allocated as follows:

SECTION 7.01. Subbasin 1—Intrastate streams—Arkansas.

(a) This subbasin includes those streams and their tributaries above last downstream major damsites originating in Arkansas and crossing the Arkansas-Louisiana state boundary before flowing into the Red River in Louisiana. Those major last downstream damsites are as follows:

Steam and site	Acre-feet	Location	
		Latitude	Longitude
Ouachita River Lake Catherine	19,000	34°26.6′N	93°01.6′W.
Caddo River, DeGray Lake	1,377,000	34°13.2′N	93°06.6′W.
Little Missouri River, Lake Greeson	600,000	34°08.9′N	93°43.9′W.
Alum Fork, Saline River, Lake Winona	63,264	32°47.8′N	92°51.0′W.

(b) Arkansas is apportioned the waters of this subbasin and shall have unrestricted use thereof.

SECTION 7.02. Subbasin 2—Interstate Streams—Arkansas and Louisiana.

(a) This subbasin shall consist of Reach IV less subbasin 1 as defined in Section 7.01 (a) above.

(b) The State of Arkansas shall have free and unrestricted use of the water of this reach subject to the limitations that Arkansas shall allow a quantity of water equal to forty (40) percent of the weekly runoff originating below or flowing from the last downstream major damsite to flow into Louisiana. Where there are no designated last downstream damsites, Arkansas shall allow a quantity of water equal to forty (40) percent of the total weekly runoff originating above the State boundary to flow into Louisiana. Use of water in this subbasin is subject to flow provisions of subparagraph 7.03(b).

SECTION 7.03. Special Provisions.

(a) Arkansas may use the beds and banks of segments of Reach IV for the purpose of conveying its share of water to designated downstream diversions.

(b) The State of Arkansas does not guarantee to maintain a minimum low flow for Louisiana in Reach IV. However, on the following streams when the use of water in Arkansas reduces the flow at the Arkansas-Louisiana State boundary to the following amounts:

(1) Ouachita—780 cfs.
(2) Bayou Bartholomew—80 cfs.
(3) Boeuf River—40 cfs.
(4) Bayou Macon—40 cfs.

the State of Arkansas pledges to take affirmative steps to regulate the diversions of runoff originating or flowing into Reach IV in such a manner as to permit an equitable apportionment of the runoff as set out herein to flow into the State of Louisiana. In its control and regulation of the water of Reach IV any adjudication or order rendered by the State of Arkansas or any of its instrumentalities or agencies affecting the terms of this Compact shall not be effective against the State of Louisiana nor any of its citizens or inhabitants until approved by the Commission.

ARTICLE VIII

APPORTIONMENT OF WATER—REACH V

SECTION 8.01. Reach V of the Red River consists of the mainstem Red River and all of its tributaries lying wholly within the State of Louisiana. The State of Louisiana shall have free and unrestricted use of the water of this subbasin.

ARTICLE IX

ADMINISTRATION OF THE COMPACT

SECTION 9.01. There is hereby created an interstate administrative agency to be known as the "Red River Compact Commission," hereinafter called the "Commission." The Commission shall be composed of two representatives from each Signatory State who shall be designated or appointed in accordance with the laws of each state, and one Commissioner representing the United States, who shall be appointed by the President. The Federal Commissioner shall be the Chairman of the Commission but shall not have the right to vote. The failure of the President to appoint a Federal Commissioner will not prevent the operation or effect of this Compact, and the eight representatives from the Signatory States will elect a Chairman for the Commission.

SECTION. 9.02. The Commission shall meet and organize within 60 days after the effective date of this Compact. Thereafter, meetings shall be held at such times and places as the Commission shall decide.

SECTION 9.03. Each of the two Commissioners from each state shall have one vote; provided, however, that if only one representative from a state attends he is authorized to vote on behalf of the absent Commissioner from that state. Representatives from three states shall constitute a quorum. Any action concerned with administration of this Compact or any action requiring compliance with specific terms of this Compact shall require six concurring votes. If a proposed action of the Commission affects existing water rights in a state, and that action is not expressly provided for in this Compact, eight concurring votes shall be required.

SECTION 9.04.

(a) The salaries and personal expenses of each state's representative shall be paid by the government that it represents, and the salaries and personal expenses of the Federal Commissioner will be paid for by the United States.

(b) The Commission's expenses for any additional stream flow gauging stations shall be equitably apportioned among the states involved in the reach in which the stream flow gaging stations are located.

(c) All other expenses incurred by the Commission shall be borne equally by the Signatory States and shall be paid by the Commission out of the "Red River Compact Commission Fund." Such Fund shall be initiated and maintained by equal payments of each state into fund. Disbursement shall be made from the fund in such manner as may be authorized by the Commission. Such fund shall not be subject to audit and accounting procedures of the State; however, all receipts and disbursements of the fund by the Commission shall be audited by a qualified independent public accountant at regular intervals, and the report of such audits shall be included in and become a part of the annual report of the Commission. Each State shall have the right to make its own audit of the accounts of the Commission at any reasonable time.

ARTICLE X

POWERS AND DUTIES OF THE COMMISSION

SECTION 10.01. The Commission shall have the power to:

(a) Adopt rules and regulations governing its operation and enforcement of the terms of the Compact;

(b) Establish and maintain an office for the conduct of its affairs and, if desirable, from time to time, change its location;

(c) Employ or contract with such engineering, legal, clerical and other personnel as it may determine necessary for the exercise of its functions under this Compact without regard to the Civil Service Laws of any Signatory State; provided that such employees shall be paid by and be responsible to the Commission and shall not be considered employees of any Signatory State;

(d) Acquire, use and dispose of such real and personal property as it may consider necessary;

(e) Enter into contracts with appropriate State or Federal agencies for the collection, correlation and presentation of factual data, for the maintenance of records and for the preparation of reports;

(f) Secure from the head of any department or agency of the Federal or State government such information as it may need or deem to be useful for carrying out its functions and as may be available to or procurable by the department or agency to which the request is addressed; provided such information is not privileged and the department or agency is not precluded by law from releasing same;

(g) Make findings, recommendations or reports in connection with carrying out the purposes of this compact, including, but not limited to, a finding that a Signatory State is or is not in violation of any of the provisions of this Compact. The Commission is authorized to make such investigations and studies, and to hold such hearings as it may deem necessary for said purposes. It is authorized to make and file official certified copies of any of its findings, recommendations or reports with such officers or agencies of any Signatory State, or the United States, as may have any interest in or jurisdiction over the subject matter. The making of finds, recommendations, or reports by the Commission shall not be a condition precedent to the instituting or maintaining of any action or proceeding of any kind by a Signatory State in any court or tribunal, or before any agency or officer, for the protection of any right under this Compact or for the enforcement of any of its provisions; and

(h) Print or otherwise reproduce and distribute its proceedings and reports.

SECTION 10.02. The Commission shall:

(a) Cause to be established, maintained, and operated such stream, reservoir and other gaging stations as are necessary for the proper administration of the Compact;

(b) Cause to be collected, analyzed and reported such information on stream flows, water quality, water storage and such other data as are necessary for the proper administration of the Compact;

(c) Perform all other functions required of it by the Compact and do all things necessary, proper and convenient in the performance of its duties thereunder;

(d) Prepare and submit to the governor of each of the Signatory States a budget covering the anticipated expenses of the Commission for the following fiscal biennium;

(e) Prepare and submit an annual report to the governor of each Signatory State and to the President of the United States covering the activities of the Commission for the preceding fiscal year, together with an accounting of all funds received and expended by it in the conduct of its work;

(f) Make available to the governor or to any official agency of the Signatory State or to any authorized representative of the United States, upon request, any information within its possession;

(g) Not incur any obligation in excess of the unencumbered balance of its funds, nor pledge the credit of any of the Signatory States; and

(h) Make available to a Signatory State or the United States in any action arising under this Compact; without subpoena, the testimony of any officer or employee of the Commission having knowledge of any relevant facts.

ARTICLE XI

POLLUTION

SECTION 11.01. The Signatory States recognize that the increase in population and the growth of industrial, agricultural, mining and other activities combined with natural pollution sources may lead to a diminution of the quality of water in the Red River Basin which may render the water harmful or injurious to the health and welfare of the people and impair the usefulness or public enjoyment of the water for beneficial purposes, thereby resulting in adverse social, economic, and environmental impacts.

SECTION 11.02. Although affirming the primary duty and responsibility of each Signatory State to take appropriate action under its own laws to prevent, diminish, and regulate all pollution sources within its boundaries which adversely affect the water of the Red River Basin, the states recognize that the control and abatement of the naturally-occurring salinity sources as well as, under certain circumstances, the maintenance and enhancement of the quality of water in the Red River Basin may require the cooperative action of all states.

SECTION 11.03. The Signatory States agree to cooperate with agencies of the United States to devise and effectuate means of alleviating the natural deterioration of the water of the Red River Basin.

SECTION 11.04. The Commission shall have the power to cooperate with the United States, the Signatory States and other entities in programs for abating and controlling pollution and natural deterioration of the water of the Red River Basin, and to recommend reasonable water quality objectives to the states.

SECTION 11.05. Each Signatory State agrees to maintain current records of waste discharges into the Red River Basin and the type and quality of such discharges, which records shall be furnished to the Commission upon request.

SECTION 11.06. Upon receipt of a complaint from the governor of a Signatory State that the interstate water of the Red River Basin in which it has an interest are being materially and adversely affected by pollution and that the state in which the pollution originates has failed after reasonable notice to take appropriate abatement measures, the Commission shall make such findings as are appropriate and thereafter provide such findings to the governor of the state in which such pollution originates and request appropriate corrective action. The Commission, however, shall not take any action with respect to pollution which adversely affects only the state in which such pollution originates.

SECTION 11.07. In addition to its other

powers set forth under this Article, the Commission shall have the authority, upon receipt of six concurring votes, to utilize applicable Federal statutes to institute legal action in its own name against the person or entity responsible for interstate pollution problems; provided, however, sixty (60) days before initiating legal action the Commission shall notify the Governor of the state in which the pollution source is located to allow that state an opportunity to initiate action in its own name.

SECTION 11.08. Without prejudice to any other remedy available to the Commission, or any Signatory State, any state which is materially and adversely affected by the pollution of the water of the Red River Basin by pollution originating in another Signatory State may institute a suit against any individual, corporation, partnership, or association, or against any Signatory State or political or governmental subdivision thereof, or against any officer, agency, department, bureau, district or instrumentality of or in any Signatory State contributing to such pollution in accordance with applicable Federal statutes. Nothing herein shall be construed as depriving any persons of any rights of action relating to pollution which such person would have if this Compact had not been made.

ARTICLE XII

TERMINATION AND AMENDMENT OF COMPACT

SECTION 12.01. This Compact may be terminated at any time by appropriate action of the legislatures of all of the four Signatory States. In the event of such termination, all rights established under it shall continue unimpaired.

SECTION 12.02. This Compact may be amended at any time by appropriate action of the legislatures of all Signatory States that are affected by such amendment. The consent of the United States Congress must be obtained before any such amendment is effective.

ARTICLE XIII

RATIFICATION AND EFFECTIVE DATE OF COMPACT

SECTION 13.01. Notice of ratification of this Compact by the legislature of each Signatory State shall be given by the governor thereof to the governors of each of the other Signatory States and to the President of the United States. The President is hereby requested to give notice to the governors of each of the Signatory States of the consent to this Compact by the Congress of the United States.

SECTION 13.02. This Compact shall become effective, binding and obligatory when, and only when:

(a) It has been duly ratified by each of the Signatory States; and

(b) It has been consented to by an Act of the Congress of the United States,

which Act provides that:

Any other statute of the United States to the contrary notwithstanding, in any case or controversy:

Which involves the construction or application of this Compact; in which one or more of the Signatory States to this Compact is a plaintiff or plaintiffs; and

Which is within the judicial power of the United States as set forth in the Constitution of the United States;

and without any requirement, limitation or regard as to the sum or value of the matter in controversy, or of the place of residence or citizenship of, or of the nature, character or legal status of, any of the other proper parties plaintiff or defendant in such case or controversy:

The consent of Congress is given to name and join the United States as a party defendant or otherwise in any such case or controversy in the Supreme Court of the United States if the United States is an indispensable party thereto.

SECTION. 13.03. The United States District Courts shall have original jurisdiction (concurrent with that of the Supreme Court of the United States, and concurrent with that of any other Federal or state court, in matters in which the Supreme Court, or other court has original jurisdiction) of any case or controversy involving the application or construction of this Compact; that said jurisdiction shall include, but not be limited to, suits between Signatory States; and that the venue of such case or controversy may be brought in any judicial district in which the acts complained of (or any portion thereof) occur.

Signed and approved on the 12th day of May, 1978 at Denison Dam.

For Arkansas: John P. Saxton, Commissioner.

For Oklahoma: Orville B. Saunders, Commissioner.

For Louisiana: Arthur R. Theis, Commissioner.

For Texas: Fred Parkey, Commissioner.

For United States of America: R. C. Marshall, Major General, Representative.

SECTION 2. In order to carry out the purposes of this Act, and the purposes of article XIII of this compact consented to by Congress by this Act, the congressional consent to this compact includes and expressly gives the consent of Congress to have the United States of America named and joined as a party defendant or otherwise in the United States Supreme Court or other court of concurrent jurisdiction, in any case or controversy involving the construction or application of this Compact in which one or more of the Signatory States to this Compact is a plaintiff, and which is within the judicial power of the United States as set forth in the Constitution of the United States, if the United States of America is an indispensable party and without any requirement, limitation or regard as to the sum or value of the matter in controversy, or of the place of residence or citizenship of, or of the nature, character or legal status of, any of the other proper parties plaintiff or defendant in such case or controversy.

SECTION 3. The right to alter, amend, or repeal this Act is expressly reserved.

SECTION 4. The United States District Courts shall have original jurisdiction (concurrent with that of the Supreme Court of the United States, and concurrent with that of any other Federal or state court, in matters in which the Supreme Court, or other court has original jurisdiction) of any case or controversy involving the application or construction of this Compact; that said jurisdiction shall include, but not be limited to, suits between Signatory States; and that the venue of such case or controversy may be in any judicial district in which the acts complained of (or any portion thereof) occur.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–964), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The principal purposes of the Red River Compact are to promote interstate comity and remove causes of controversy between each of the affected States by governing the use, control and distribution of the interstate water; provide an equitable apportionment among the signatory States; promote an active program for the control and alleviation of natural deterioration and pollution of the water of the Red River Basin and to provide for enforcement of the laws related thereto; provide the means for an active program for the conservation of water, protection of lives and property from floods, improvement of water quality, development of navigation and regulation of flows; and provide a basis for State or joint State planning and action by ascertaining and identifying each State's share in the interstate water and the apportionment thereof.

MODIFICATION OF CERTAIN POST EMPLOYMENT RESTRICTIONS CONCERNING EMPLOYEES OF CONSUMER PRODUCT SAFETY COMMISSION

The bill (H.R. 6395) to amend the Consumer Product Safety Act to modify certain post-employment restrictions applicable to officers and employees of the Consumer Product Safety Commission, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider en bloc the votes by which the bills were passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–965), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

H.R. 6395 is designed to eliminate certain unnecessary, ineffective and inequitable postemployment restrictions applicable to personnel of the Consumer Product Safety Commission (CPSC).

IRINA ASTAKHOVA McCLELLAN

The concurrent resolution (S. Con. Res. 62) urging the Soviet Union to allow Irina Astakhova McClellan to emigrate to the United States, and for other purposes.

The resolution (S. Con. Res. 62) was agreed to.

The preamble was agreed to.

The resolution, together with the preamble, is as follows:

S. CON. RES. 62

Whereas the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights guarantee to all people the right to emigrate; and

Whereas the Final Act of the Conference on Security and Cooperation in Europe commits signatory countries to "deal in a positive and humanitarian spirit" with the applications of persons wishing to emigrate to rejoin relatives; and

Whereas the Final Act of the Conference on Security and Cooperation in Europe commits signatory countries in the cases of marriage between citizens of different states to "apply the provisions accepted for family reunification,"; and

Whereas the Soviet Union signed the Final Act of the Conference on Security and Cooperation in Europe, is a party to the Universal Declaration of Human Rights, and has ratified the International Covenant on Civil and Political Rights; and

Whereas Irina Astakhova McClellan first applied to emigrate from the Soviet Union to the United States in 1974 to rejoin her husband, Woodford McClellan, a citizen of the United States; and

Whereas the marriage of Irina Astakhova

McClellan and Woodford McClellan was duly recognized by Soviet authorities; and

Whereas Irina Astakhova McClellan has repeatedly applied for permission to emigrate from the Soviet Union for the past six years; and

Whereas Irina Astakhova McClellan has been subjected to periodic harassment owing to her lawful efforts to emigrate to the United States; and

Whereas Irina Astakhova McClellan has experienced severe mental and physical strain during her efforts to secure permission to emigrate to the United States; and

Whereas several Members of the United States Senate and House of Representatives have individually and collectively expressed support for Irina Astakhova McClellan's efforts over the past several years; and

Whereas the continuing refusal of the Soviet authorities to grant Mrs. McClellan permission to emigrate is a source of great concern to the American people, United States Government and Congress; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that, in accordance with the Final Act of the Conference on Security and Cooperation in Europe, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights, the Union of Soviet Socialist Republics should permit Irina Astakhova McClellan to emigrate to the United States so that she can be reunited with her husband and favorably consider any request by members of her family to join her in the United States at a future date.

Sec. 2. The Congress urges the President, acting directly or through the Secretary of State or other appropriate executive branch officials—

(1) to continue to express at every suitable opportunity and in the strongest and most constructive terms, the support of the people of the United States on behalf of Irina Astakhova McClellan's efforts to rejoin her husband, and

(2) to inform the Soviet Union that the United States, in evaluating its relations with other countries, will take into account the extent to which those countries honor their commitments under international law, particularly with respect to the protection and promotion of human rights.

Sec. 3. The Secretary of the Senate shall transmit copies of this resolution to the Soviet Ambassador to the United States and to the Chairman of the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the votes by which the resolution and the preamble were agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO INDEFINITELY POSTPONE CALENDAR ORDERS NOS. 1027, 1028, 1078, AND 1079

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Orders Nos. 1027, 1028, 1078, and 1079 be indefinitely postponed.

Mr. BAKER. Mr. President, there is no objection on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

MILLE LACS BAND OF THE MINNESOTA CHIPPEWA INDIANS

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Melcher, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1464.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1464) entitled "An Act to direct the Secretary of the Interior to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That the Act of November 2, 1978 (92 Stat. 2452; Public Law 95–571) is amended to read as follows:

"That (a) the Secretary of the Interior is authorized and directed to enter into an agreement to acquire the interest of the fee title holders of the record in and to the following described land located in township 43 north, range 27 west, fourth principal meridian, Mille Lacs County, Minnesota—

(1) Government Lot 4, section 28;

(2) southwest quarter southwest quarter, section 29; and

(3) southeast quarter southeast quarter, section 29, containing 105.51 acres, more or less.

(b) Title to such land shall be held by the United States in trust for the Mille Lacs Band of Chippewa Indians as a part of their reservation, subject to any valid existing rights-of-way or other easements.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Melcher, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WATER RESOURCES RESEARCH AND DEVELOPMENT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Randolph, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1640.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1640) entitled "An Act to extend certain authorities of the Secretary of the Interior with respect to water resources research and development and saline water conversion research and development programs, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That (a) Section 401 of the Water Research and Development Act of 1978 (Public Law 95–467); 92 Stat. 1305), is amended as follows:

(1) In paragraph (a)(1), delete all after "institute, on a cost-sharing basis, for" and insert in lieu thereof "each of the fiscal years 1981 and 1982.".

(2) In paragraph (a)(2), delete all after "this Act" and insert in lieu thereof "the sum of $1,000,000 for each of the fiscal years 1981 and 1982, all to remain available until expended.".

(3) In paragraph (b), delete "for the fiscal year ending September 30, 1979, the sum of $6.000,000, and for the fiscal year ending September 30, 1980, the sum of $8.500,000," and insert in lieu thereof "the sum of $8,500.000 for each of the fiscal years 1981 and 1982,".

(4) In paragraph (c), delete "for the fiscal year ending September 30, 1979, the sum of $5,200,000, and for the fiscal year ending September 30, 1980, the sum of $8,000,000" and insert in lieu thereof "the sum of $8,000,000 for each of the fiscal years 1981 and 1982,".

(5) In paragraph (d), delete "for the fiscal year ending September 30, 1980," and insert in lieu thereof "fiscal years 1981 and 1982,".

(b) In section 402 of the Water Research and Development Act of 1978, delete "the fiscal year ending September 30, 1979, the sum of $12,000,000, and for the fiscal year ending September 30, 1980, the sum of $14,000,000," and insert in lieu thereof "each of the fiscal years 1981 and 1982, the sum of $14,000,000,".

(c) In section 403 of the Water Research and Development Act of 1978, delete "$4,464,000 for the fiscal year ending September 30, 1979, and the sum of $5,100,000 and for the fiscal year ending September 30, 1980," and insert in lieu thereof "$6,000,000 for each of the fiscal years 1981 and 1982,".

(d) In section 411 of the Water Research and Development Act of 1978, delete "rules, regulations, guidelines, interpretations, orders, or requirements of general applicability prescribed" and insert in lieu thereof "rules and regulations promulgated".

Sec. 2. (a) Section 2(a) of the Act of August 2, 1977 (Public Law 95–84; 91 Stat. 400) is deleted and replaced with a new section 2(a) to read as follows:

"Sec. 2. (a) The Secretary of the Interior is authorized and directed to demonstrate the engineering and economic viability of membrane and phase-change desalting processes. Such demonstrations shall include the study, design, construction, operation, and maintenance of desalting plants at locations in the United States (which may include the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Virgin Islands, the Mariana Islands, and the Trust Territory of the Pacific Islands): *Provided*, That at least two such plants shall demonstrate desalting of brackish ground water: *And provided further*, That the plants constructed pursuant to this section shall be for the purpose of showing that the technology being demonstrated is ready for application; such plants shall be no larger than necessary to demonstrate the specific application of the technology, and shall be significantly different in operation and process so as not to duplicate any other demonstration plant constructed pursuant to this section. The Secretary is further authorized to conduct such demonstrations or any portion thereof by means of cooperative agreements (as defined and authorized by 41 U.S.C. 504, et seq., the Federal Grant and Cooperative Agreement Act of 1977; Public Law 95-244) with duly authorized non-Federal public entities. Title to demonstration facilities constructed by the non-Federal public entity under a cooperative agreement shall vest in the non-Federal public entity.".

(b) Section 2(b) of said Act is hereby amended by inserting after "but is not limited to," the phrase, "how the plant being proposed differs from others already constructed under this section," and further, by deleting all after "ancillary facilities." and inserting the following: "Such report shall be accompanied by a proposed contract (or cooperative agreement) between the Secretary and a duly authorized non-Federal entity, in which such entity shall agree to provide not less than 15 per centum and not more than 35 per centum of the total cost of the demonstration; such cost to include, without being limited to necessary water rights, water supplies, rights-of-way, power source interconnections, brine disposal facilities, land, construction, ancillary facilities, and the operation and maintenance costs for a period of four years following final acceptance of the construction of the plant from the plant contractor. The contributions of the non-Federal entity under such proposed contract may be inkind. During the participation by the Secretary in the construction and the operation and maintenance of such demonstration, access to the demonstration and its operating data will not be denied to the Secretary or his representatives. The Secretary shall participate in the operation and maintenance of any such demonstration for a period of four years in accordance with the operation and maintenance cost sharing provisions of this section. The Secretary is authorized to include in the proposed contract a provision for conveying as appropriate, and in such amounts as are appropriate, rights, title, and interest of the Federal Government in the demonstration project to the non-Federal public entity.".

(c) Section 2(c) of said Act, is revised to read as follows: "There is authorized to be appropriated, to remain available until expended, for the fiscal year ending September 30, 1978, and thereafter, the sum of $50,000,000 to finance the total Federal share of the cost of the demonstration plants authorized by this section; such cost to include, without being limited to, necessary water rights, water supplies, rights-of-way, power source interconnections, brine disposal facilities, land, construction, ancillary facilities, and the operation and maintenance costs for the four-year period of Federal participation in such costs." Section 205(c) of the Act of October 17, 1978 (Public Law 95–467) is hereby repealed.

Sec. 3. Authority to enter into contracts or cooperative agreements under this Act shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

UP AMENDMENT NO. 1652

(Purpose: to fund the activities of the Office of Water Research and Technology)

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Randolph, I move that the Senate concur in the amendment of the House with an amendment on behalf of Mr. Randolph, which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd), on behalf of Mr. Randolph proposes an unprinted amendment numbered 1652.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That section 401(a) of the Water Research and Development Act of 1978 (Public Law 95–467; 92 Stat. 1305) is amended as follows:

"(a) In paragraph (1) following 'September 30, 1980', delete the period, insert a comma, and add 'an amount sufficient to provide $150,000 to each participating institute, on a cost-sharing basis, for the fiscal year ending September 30, 1981, and an amount sufficient to provide $160,000 to each participating institute, on a cost-sharing basis, for the fiscal year ending September 30, 1982.';

"(b) In paragraph (2) following 'September 30, 1980', insert 'the sum of $1,000,000 for the fiscal year ending September 30, 1981, and the sum of $1,000,000 for the fiscal year ending September 30, 1982.' ".

Sec. 2. (a) Section 401 of the Water Research and Development Act of 1978 (Public Law 95–467; 92 Stat. 1305) is further amended as follows:

"(1) In subsection (b) following '$8,500,000,' insert 'the sum $8,000,000 for the fiscal year ending September 30, 1981, and the sum of $9,000,000 for the fiscal year ending September 30, 1982,' and

"(2) In subsection (c) following '$8,000,000' insert a comma and add 'the sum of $5,200,000 for the fiscal year ending September 30, 1981, and the sum of $8,000,000 for the fiscal year ending

* * * * *

"(3) In subsection (d) following '$1,000,000' insert a comma and add 'for the fiscal year ending September 30, 1981, and thereafter, the sum of $1,000,000,'.

"(b) The Water Research and Development Act of 1978 (Public Law 95–467; 92 Stat. 1305) is further amended as follows:

"(1) In section 402, following '$14,000,000,' insert 'the sum of $14,000,000, for the fiscal year ending September 30, 1981, and the sum of $17,400,000 for the fiscal year ending September 30, 1982,';

"(2) In section 403, following 'September 30, 1980,' insert 'the sum of $6,500,000 for the fiscal year ending September 30, 1981, and the sum of $8,500,000 for the fiscal year ending September 30, 1982,'; and

"(3) In section 411, following the word 'rules' strike from the word 'regulations' through the word 'prescribed' and substitute 'and regulations promulgated.'.

Sec. 3. Subsection 2(a) of the Act of August 2, 1977 (Public Law 95–84; 91 Stat. 400), as amended, is amended to read as follows:

"(a) The Secretary of the Interior is authorized and directed to demonstrate the engineering and economic viability of membrane and phase-change desalting processes. Such demonstrations shall include the study, design, construction, operation, and maintenance of desalting plants at locations in the United States (which may include the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Virgin Islands, the Mariana Islands, and the Trust Territory of the Pacific Islands): *Provided*, That at least two such plants shall demonstrate desalting of brackish ground water: *And provided further*, That the plants constructed pursuant to this section shall be for the purpose of showing that the technology being demonstrated is ready for application; such plants shall be sufficient to demonstrate the specific application of the technology, and shall be significantly different in operation and process so as not to duplicate any other demonstration plant constructed pursuant to this section. The Secretary is further authorized to conduct such demonstrations or any portion thereof by means of cooperative agreements (as defined and authorized by 41 U.S.C. 504, et seq., (the Federal Grant and Cooperative Agreement Act of 1977; Public Law 95–224)) with duly authorized non-Federal public entities Title to demonstration facilities constructed by the non-Federal public entity under a cooperative agreement shall vest in the non-Federal public entity.".

"(b) Subsection 2(b) of the Act of August 2, 1977 (Public Law 95–84; 91 Stat. 400), as amended, is amended by inserting after 'but is not limited to,' the phrase, 'how the plant being proposed differs from others, if any, already constructed under this section,' and further, by deleting all after 'ancillary facilities' and inserting the following: 'Such report shall be accompanied by a proposed contract (or cooperative agreement) between the Secretary and a duly authorized non-Federal entity, in which such entity shall agree to provide not less than 15 per centum and not more than 35 per centum of the total cost of the demonstration; such cost to include, without being limited to, necessary water rights, water supplies, rights-of-way, power source interconnections, brine disposal facilities, land, construction, ancillary facilities, and the operation and maintenance costs for a period of four years following final acceptance of the construction of the plant from the plant contractor. The contributions of the non-Federal entity under such proposed contract may be inkind. During the participation by the Secretary in the construction and the operation and maintenance of such demonstration, access to the demonstration and its operating data will not be denied to the Secretary or his representatives. The period of participation by the Secretary in the operation and maintenance of any such demonstration shall be four years. The Secretary is authorized to include in the proposed contract a provision for conveying, as appropriate, and in such amounts as are appropriate, rights, title, and interest of the Federal Government in the demonstration project to the non-Federal public entity.'.

"(c) Subsection 2(c) of the Act of August 2, 1977 (Public Law 95–84, 91 Stat. 400), is amended to read as follows:

" '(c) There is authorized to be appropriated, to remain available until expended, for the fiscal year ending September 30, 1978, and thereafter, the sum of $50,000,000 to finance the total Federal share of the cost of the demonstration plants authorized by this section; such cost to include, without being limited to, necessary water rights, water supplies, rights-of-way, power source interconnections, brine disposal facilities, land, construction, ancillary facilities, and the operation and maintenance costs for the four-year period of Federal participation in such costs.'

"(d) At the end of section 2 of the Act of August 2, 1977 (Public Law 95–84, 91 Stat. 400), as amended, add the following new subsection:

" '(d) When appropriations have been made for the commencement or continuation of design, construction, or operation and maintenance of any demonstration plan authorized under this Act, the Secretary may, in connection with such design, construction, or operation and maintenance, enter into contracts and cooperative agreements for miscellaneous services, for materials and supplies, as well as for construction, which may cover such periods of time as the Secretary may consider necessary but in which the liability of the United States shall be contingent upon appropriations being made therefor.' "

Sec. 4. Section 205(c) of the Water Research and Development Act of 1978 (Public Law 95–467; 92 Stat. 1305) is hereby repealed.

● Mr. DOMENICI. Mr. President, I wish to state my strong support for this compromise amendment to S. 1640. The language of the amendment, I understand, should be acceptable to the House of Representatives and will save us the need to hold a conference on the bill.

The amendment essentially accepts most of the changes offered by the House of Representatives to S. 1640, except that the dollar figures are, in total, about halfway between the original Senate-passed bill, and the lower House figures.

In addition, this amendment provides a new subsection (d) that will be added to Public Law 95–84. That new subsection, suggested by the administration, is necessary to insure that funds appropriated toward the desalting demonstration program in one year can be expended toward construction of a project without the necessity of having the full project cost appropriated prior to construction.

S. 1640, as it was introduced and passed by the Senate, was an administration proposal. The administration urged passage of this bill to clarify the cost-sharing arrangements between the Department of Interior's Office of Water Research and Technology and the local governmental sponsor of any of the authorized desalting demonstration plants.

While I was satisfied with the original law, as it was enacted in 1977 and amended in 1978, I recognize that we had to win administration support for funding of the demonstration program, and that this support would only come if we adopted more precise language on cost-sharing. It was for that reason that I urged adoption of this bill. Enactment of this legislation means that the administration will fund construction of these desalting demonstration plants in the near future.

The OWRT has two desalting demonstration projects near the construction stage. One of them is at Virginia Beach, Va.; the other at Alamogordo, N. Mex. The strong local support in Alamogordo for this project was shown just last week when the citizens of that fine city voted, by nearly 3 to 1 in a referendum, to agree to finance their 15-percent share of the cost of the demonstration. I am very pleased that the citizens of Alamogordo see the great opportunity in developing our salt water resources, not only for the people of New Mexico but for the entire United States.

Vast underground reserves of brackish water exist in the West. The demonstration of new and improved desalting techniques—converting such water to fresh water for municipal and industrial and even agricultural purposes—should go far toward solving many of the water resources problems of this country.

The passage of this bill, and its enactment into law, thus represents a major step toward a strong water resources program for America. I applaud the fine work by the Committee on Environment and Public Works, and, in particular, that of our distinguished Chairman (Mr. Randolph), our subcommittee chairman (Mr. Moynihan), the committee's ranking minority member (Mr. Stafford), and the work of the Members of the House, in particular that of my colleague from New Mexico (Mr. Lujan). In addition, I want to thank those officials at the Department of Interior who have worked so hard and so effectively on this issue: the Director of the Office of Water Research and Technology, Gary Cobb, and his associate, Doris Ullman.

Mr. President, I urge the adoption of the amendment and passage of the bill.●

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia (Mr. Robert C. Byrd).

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL RAILROAD SAFETY AUTHORIZATION ACT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Cannon, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2730.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2730) entitled "An Act to amend the Federal Railroad Safety Act of 1970 and other rail safety Acts to extend authorization for appropriations, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Federal Railroad Safety Authorization Act of 1980".

AUTHORIZATION FOR APPROPRIATIONS

Sec. 2. The Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.) is amended by striking out section 212 and by adding at the end thereof the following new section:

"Sec. 214. Authorization for Appropriations.

"(a) There are authorized to be appropriated to carry out the provisions of this Act not to exceed $38,000,000 for the fiscal year ending September 30, 1981, and not to exceed $40,000,000 for the fiscal year ending September 30, 1982.

"(b) The amounts appropriated under subsection (a) of this section for a fiscal year shall be available for expenditure in such fiscal year as follows:

"(1) For the Office of Safety, including salaries and expenses for not more than (A) six hundred safety inspectors, (B) forty-five signal and train control inspectors, and (C) one hundred and twenty-five clerical personnel, not to exceed $22,500,000 for the fiscal year ending September 30, 1981, and not to exceed $24,000,000 for the fiscal year ending September 30, 1982. Such funds shall be available for travel expenses of safety inspectors for not less than twenty days per month.

"(2) To carry out the provisions of section 206(d) of this Act, relating to State safety programs, not to exceed $2,000,000 for the fiscal year ending September 30, 1981, and not to exceed $2,500,000 for the fiscal year ending September 30, 1982.

"(3) For the Federal Railroad Administration, for salaries and expenses not otherwise provided for, not to exceed $3,500,000.

"(4) For conducting safety research and development activities under this Act, not to exceed $10,000,000, of which not less than $500,000 shall be available for assisting in the treatment of alcohol and drug abuse problems of railroad employees.

"(c) Sums appropriated under this section for research and development, automated track inspection, and the State safety grant program are authorized to remain available until expended.".

EMERGENCY SAFETY ORDERS

Sec. 3. Section 203 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 432) is amended to read as follows:

"Sec. 203. Emergency Powers.

"(a) If the Secretary determines, on the basis of testing, inspection, investigation, or research carried out pursuant to this title, that an unsafe condition or practice, or a combination of unsafe conditions or practices, or both, create an emergency situation involving a hazard of death or injury to persons, the Secretary may immediately issue an order, without regard to the provisions of section 202(b) of this title, imposing such restrictions or prohibitions as may be necessary to bring about the abatement of such emergency situation.

"(b) After the issuance of an order under this section, opportunity for review of such order shall be provided in accordance with section 554 of title 5, United States Code.

"(c) If a petition for review of an order has been filed under subsection (b) of this section but administrative review of such order has not been completed by the end of the thirty-day period beginning on the date such order was issued, such order shall cease to be effective at the end of such period unless the Secretary determines in writing that the emergency situation remains in existence.

"(d) In issuing any order under this section, the Secretary shall describe the conditions or practices which create an emergency situation (as determined by the Secretary), and shall establish standards and procedures under which relief from such order may be obtained. Nothing in this subsection shall be construed to affect the discretion of the Secretary under this section to maintain an order in effect until the emergency situation has been abated.

"(e) Any employee of a common carrier by railroad engaged in interstate or foreign commerce who may be exposed to imminent physical injury in the course of his employment because of the Secretary's failure, without any reasonable basis, to seek relief under subsection (a) of this section, or the authorized representative of such an employee, shall have the right to bring an action against the Secretary in the United States district court for the judicial district in which the emergency situation is alleged to exist or in which the employer has its principal executive office, or for the District of Columbia, to compel the Secretary to issue an order under this section. The failure of the Secretary to seek relief under subsection (a) of this section shall be received solely under the standards of section 706 of title 5, United States Code.".

SCOPE OF STATE PARTICIPATION

Sec. 4. (a) Section 206 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435) is amended by adding at the end thereof the following new subsection:

"(g) In addition to the provisions for State participation set forth in subsections (a) and (c) of this section, the Secretary may enter into agreements with any State to provide investigative and surveillance activities with respect to those functions transferred to the Secretary by section 6 (e)(1), (e)(2), and (e)(6)(A) of the Department of Transportation Act (49 U.S.C. 1655 (e)(1), (e)(2), and (e)(6)(A)).".

(b) Section 206(d) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435(d)) is amended by inserting "or (g)" immediately after "subsection (c)".

STATE ENFORCEMENT POWER

Sec. 5. Section 207 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 436) is amended to read as follows:

"SEC. 207. ENFORCING COMPLIANCE WITH FEDERAL RAILROAD SAFETY RULES, REGULATIONS, ORDERS, AND STANDARDS.

"(a) (1) In any case in which the Secretary has failed to assess the civil penalty applicable under section 209 of this title with respect to a violation of any railroad safety rule, regulation, order, or standard issued under this title or under any law transferred by section 6 (e) (1), (e) (2), (e) (6) (A) of the Department of Transportation Act, within sixty days after the date on which notification was received by the Secretary from a State agency participating in investigative and surveillance activities under the provisions of section 206 of this title, that State agency may apply to the United States district court for the judicial district in which the violation occurred or in which the defendant has its principal executive office for the assessment and collection of the civil penalty included in or made applicable to such rule, regulation, order, or standard.

"(2) The provisions of this subsection shall not apply in any case in which the Secretary has affirmatively determined in writing that no violation has occurred.

"(b) (1) In any case in which the Secretary has not commenced an action for injunctive relief under section 210 of this title with respect to a violation of any railroad safety rule, regulation, order, or standard issued under this title or under any law transferred by section 6(e) (1), (e) (2), or (e) (6) (A) of the Department of Transportation Act, within 15 days after the date on which the Secretary received notification of the violation, together with a request that an injunctive action be instituted, from a State agency participating in investigative and surveillance activities under the provisions of section 206 of this title, that State agency may apply to the United States district court for the judicial district in which the violation occurred or in which the defendant has its principal executive office for injunctive relief to restrain further violation of such rule, regulation, order, or standard.

"(2) The provisions of this subsection shall not apply in any case in which the Secretary has affirmatively determined in writing that (A) no violation has occurred, or (B) an action for injunctive relief is not necessary because of other enforcement action undertaken by the Secretary with respect to the subject violation.

"(c) A State agency may not bring an action under this section in any United States district court located outside the boundaries of the State.".

CONSOLIDATION OF ADMINISTRATIVE POWERS

SEC. 6. (a) Section 208(b) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 437 (b)) is amended by inserting "and under the functions transferred by section 6(e) (1), (e) (2), and (e) (6) (A) of the Department of Transportation Act (49 U.S.C. 1655 (e) (1), (e) (2), and (e) (6) (A))" immediately after "this title".

(b) Section 208 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 437) is amended by adding at the end thereof the following new subsection:

"(d) (1) In carrying out the functions formerly vested in the Interstate Commerce Commission and transferred to the Secretary by section 6(e) (1), (e) (2), and (e) (6) (A) of the Department of Transportation Act (49 U.S.C. 1655(e) (1), (e) (2), and (e) (6) (A)), the Secretary is authorized to perform any act authorized in subsection (a) of this section that he considers necessary to carry out such transferred functions, including, but not limited to, conducting investigations, making reports, issuing subpenas, requiring production of documents, taking depositions, and prescribing recordkeeping and reporting requirements. The Secretary is further authorized to issue orders directing compliance with the laws transferred by section 6 (e) (1), (e) (2), and (e) (6) (A) of the Department of Transportation Act or with any regulation or order issued thereunder.

"(2) The district courts of the United States shall have jurisdiction, upon petition by the Attorney General, to enforce by appropriate means any order issued by the Secretary under paragraph (1) of this subsection.".

CRIMINAL PENALTY FOR FALSE REPORTING

SEC. 7. Section 209 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438) is amended by adding at the end thereof the following new subsection:

"(e) Any person who knowingly and willfully—

"(1) makes a false entry in any record or report required under this title to be made, prepared, or preserved;

"(2) destroys, mutilates, changes, or by another means falsifies any such record or report;

"(3) does not enter required specified facts and transactions in any such record or report;

"(4) makes, prepares, or preserves any such record or report in violation of a regulation or order issued under this title; or

"(5) files a false record or report with the Secretary,

shall be fined not more than $5,000, or imprisoned for not more than two years, or both.".

VENUE

SEC. 8. (a) Section 209(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438 (c)) is amended by striking out "having jurisdiction in the locality where such violation occurred" and inserting in lieu thereof "for the judicial district in which such violation occurred or in which the defendant has its principal executive office".

(b) Section 6 of the Act of March 2, 1893 (45 U.S.C. 6), is amended by striking out "having jurisdiction in the locality where such violation shall have been committed" and inserting in lieu thereof "for the judicial district in which such violation occurred or in which the defendant has its principal executive office".

(c) Section 9 of the Act of February 17, 1911 (45 U.S.C. 34), is amended by striking out "having jurisdiction in the locality where such violation shall have been committed" and inserting in lieu thereof "for the judicial district in which such violation occurred or in which the defendant has its principal executive office".

(d) Section 25(h) of the Act of February 4, 1887 (49 U.S.C. 26(h)), is amended by striking out "having jurisdiction in the locality where such violation shall have been committed" and inserting in lieu thereof "for the judicial district in which such violation occurred or in which the defendant has its principal executive office".

INJUNCTIVE RELIEF

SEC. 9. (a) Section 210(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 439 (a)) is amended by inserting "and to restrain violations of or to enforce rules, regulations, orders, or standards established under any statute transferred to the Secretary under section 6 (e) (1), (e) (2), and (e) (6) (A) of the Department of Transportation Act (49 U.S.C. 1655 (e) (1), (e) (2), and (e) (6) (A))" immediately before the period at the end thereof.

(b) Section 210 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 439) is amended by adding at the end thereof the following new subsection:

"(c) Subject to section 207(d) of this title, any action under subsection (a) of this section may be brought in the United States district court for the judicial district in which the violation occurred or in which the defendant has its principal executive office.

PROTECTION AND RIGHTS OF EMPLOYEES

SEC. 10. The Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.) is amended by inserting after section 211 the following new section:

"SEC. 212. PROTECTION AND RIGHTS OF EMPLOYEES.

"(a) A common carrier by railroad engaged in interstate or foreign commerce may not discharge or in any manner discriminate against any employee because such employee, whether acting in his own behalf or in a representative capacity, has—

"(1) filed any complaint or instituted or caused to be instituted any proceeding under or related to the enforcement of the Federal railroad safety laws; or

"(2) testified or is about to testify in any such proceeding.

"(b) (1) A common carrier by railroad engaged in interstate or foreign commerce may not discharge or in any manner discriminate against any employee for refusing to work when confronted by a hazardous condition related to the performance of the employee's duties, if—

"(A) the refusal is made in good faith and no reasonable alternative to such refusal is available to the employee;

"(B) the hazardous condition is of such a nature that a reasonable person, under the circumstances then confronting the employee, would conclude that—

"(i) the condition presents an imminent danger of death or serious injury; and

"(ii) there is insufficient time, due to the urgency of the situation, to eliminate the danger through resort to regular statutory channels; and

"(C) the employee, where possible, has notified his employer of his apprehension of such hazardous condition and of his intention not to perform further work unless such condition is corrected immediately.

"(2) The provisions of this subsection shall not apply to security personnel employed by a railroad to protect persons and property transported by such railroad.

"(c) (1) Any dispute, grievance, or claim arising under this section shall be subject to resolution in accordance with the procedures set forth in section 3 of the Railway Labor Act (45 U.S.C. 153).

"(2) In the case of any violation of subsection (a) and (b) of this section, the Adjustment Board (or any division or delegate thereof) or any other board of adjustment created under section 3 of the Railway Labor Act shall, where appropriate, award backpay to the aggrieved employee and order such employee reinstated to his position.

"(d) Whenever an employee of a railroad is afforded protection under this section and under any other provision of law in connection with the same allegedly unlawful act of an employer, if such employee seeks protection he must elect either to seek relief pursuant to this section or pursuant to such other provision of law.

"(e) As used in this section, the term 'Federal railroad safety laws' means this Act, the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.), and those laws transferred to the jurisdiction of the Secretary of Transportation by subsection (e) (1), (2), and (6) (A) of section 6 of the Department of Transportation Act (49 U.S.C. 1655(e) (1), (2), and (6) (A)).".

PAY CLASSIFICATIONS

SEC. 11. The Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.) is amended by inserting after section 212, as added by section 10 of this Act, the following new section:

"SEC. 213. PAY CLASSIFICATIONS.

"Notwithstanding any other provision of law—

"(1) the position held by a fully experienced and qualified railroad safety inspector employed by the Department of Transportation shall be classified in accordance with chapter 51 of title 5, United States Code, but not lower than Grade GS–12 of the General Schedule; and

"(2) the position held by a railroad safety specialist employed by the Department of Transportation shall be classified in accordance with chapter 51 of title 5, United States Code, but not lower than Grade GS–13 of the General Schedule.".

HOURS OF SERVICE ACT AMENDMENT

SEC. 12. Section 5(a) of the Act of March 4, 1907 (45 U.S.C. 64a(a)), commonly known as the Hours of Service Act, is amended to read as follows:

"SEC. 5. (a)(1) Any common carrier subject to this Act, or any officer or agent thereof, that requires or permits any employee to go, be, or remain on duty in violation of section 2, section 3, or section 3A of this Act, or that violates any other provision of this Act, shall be liable for a penalty of $500 for each violation, to be recovered in an action to be brought by the United States attorney in the district court of the United States for the judicial district in which such violation occurred or in which the defendant has its principal executive office. It shall be the duty of the United States attorney to bring such an action upon satisfactory information being lodged wih him. In the case of violation of section 2 (a)(3) or (a)(4) of this Act, each day a facility is in noncompliance shall constitute a separate offense.

"(2) No action may be brought under this section after the expiration of the two-year period beginning on the date the violation occurred unless adminitsrative notification pursuant to the Federal Claims Collection Act (31 U.S.C. 951–953) has been provided to the common carrier within such two-year period, but in no event may any such action be brought after the expiration of the period specified in section 2462 of title 28, United States Code.".

LOCOMOTIVE INSPECTION ACT AMENDMENT

SEC. 13. Section 6 of the Act of February 17, 1911 (45 U.S.C. 29), is amended by striking out the fourth and fifth sentences and inserting in lieu thereof the following: "Each carrier subject to such sections shall keep on file the report of each inspection required by such rules and regulations and the report showing the repair of the defects disclosed by the inspection. The rules and regulations referred to in this section shall prescribe the manner in which such reports shall be kept.".

SAFETY OF RAILROAD PASSENGER EQUIPMENT

SEC. 14. Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end thereof the following new subsection:

"(h)(1) The Secretary shall, within two years after the date of enactment of this subsection, issue such initial rules, regulations, orders, and standards as may be necessary to insure the safe construction, maintenance, and operation of railroad passenger equipment. The Secretary shall periodically review such rules, regulations, orders, and standards and shall, after a hearing in accordance with subsection (b) of this section, make such revisions in such rules, regulations, orders, and standards as may be necessary.

"(2) In issuing initial rules, regulations, orders, and standards under this subsection, and in making any subsequent revisions thereto, the Secretary shall—

"(A) concentrate on those areas which, in the judgment of the Secretary, present the greatest opportunity for enhancing the safety of railroad passenger equipment; and

"(B) give significant weight to the expenditures that would be necessary to retrofit existing equipment and to alter specifications for equipment on order;

"(3) In issuing initial rules, regulations, orders, and standards under this subsection, and in making any subsequent revisions thereto, the Secretary may consult with the National Railroad Passenger Corporation, public authorities tht operate passenger service, other rail carriers that transport passengers, organizations of passengers, and organizations of employees. Such consultations shall not be subject to the Federal Advisory Committee Act, but minutes of such consultations shall be placed in the public docket of the rulemaking proceeding.

"(4) As used in this subsection, the term 'railroad passenger equipment' means all railroad equipment used for the transportation of passengers, whether in commuter or intercity service.".

ALASKA RAILROAD ACT AMENDMENT

SEC. 15. The first section of the Act of March 12, 1914 (43 U.S.C. 975), is amended by inserting immediately after the first undesignated paragraph the following new paragraph:

"Any security officer employed to protect life and property on the railroad is authorized to maintain law and order, to carry firearms, and to make arrests on railroad property with a warrant for any offense committed against the laws of the United States, and to make arrests without a warrant for any offense committed upon property of the railroad if there is reasonable ground to believe that the offense constitutes a felony under the laws of the United States and the person to be arrested has committed or is committing the felony.".

STUDIES AND REPORTS

SEC. 16. (a) The Secretary of Transportation shall conduct a study regarding employee training in the railroad industry as it affects railroad safety. Among other factors, such study shall consider the appropriate Federal role, if any in such training, and the adequacy of such training. The results of such study, together with recommendations for any necessary legislation, shall be submitted to the Congress by December 31, 1980.

(b)(1) The Secretary of Transportation shall make every possible effort to expedite promulgation of a final rule regarding the retrofitting of Department of Transportation specification one hundred and five tank cars with shelf couplers. In the event that such rule is not promulgated prior to December 31, 1980 the Secretary of Transportation shall submit to the Congress a status report with respect to such rule, indicating the Federal Railroad Administration's activities to such date, the current status of such rule, and an estimate as to when a final rule will be promulgated.

(2) Whenever the Secretary of Transportation submits a status report pursuant to the provisions of paragraph (1) of this subsection, or when the Federal Railroad Administration promulgates a final rule with respect to the retrofitting of Department of Transportation specification one hundred and five tank cars with shelf couplers, the Secretary shall transmit to the Congress any other recommendations and anticipated action by the Department of Transportation with respect to the retrofitting of such tank cars.

(c)(1) The Secretary of Transportation shall submit to the Congress a systems safety plan relating to the activities of the Department of Transportation in carrying out rail safety laws. The Secretary shall complete such plan at the earliest possible date, but in no event shall the study be submitted later than January 31, 1981.

(2) As part of the plan submitted to the Congress under paragraph (1) of this subsection, the Secretary of Transportation shall develop a methodology to determine frequency and schedules of safety inspections, giving appropriate priority to track and equipment involved with passenger trains and hazardous cargos. Such methodology shall further take into consideration safety records of the rail carriers, location of track and equipment in population centers, volume of usage of track and equipment, and any other factors that the Secretary considers relevant to railroad safety.

EFFECTIVE DATE

SEC. 17. (a) Except as provided in subsection (b) of this section, the provisions of this Act shall take effect on the date of enactment of this Act.

(b) Section 11 of this Act shall take effect on October 1, 1980, or on the date of enactment of this Act, whichever is later.

Amend the title so as to read: "An Act to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes.".

• Mr. CANNON. Mr. President, the House has transmitted to the Senate for its consideration S. 2730, the Federal Railroad Safety Authorization Act of 1980, as amended by the House. This bill represents a compromise worked out between the Senate and the House Commerce Committees. While this bill contains certain provisions which were not included in the Senate bill as originally passed, I rise in support of this legislation.

The bill as passed by the House provides a 2-year authorization for the rail safety activities of the Federal Railroad Administration (FRA): A $38 million for fiscal year 1982 and $40 million for fiscal year 1981. In addition, it includes a provision which would expand the Secretary of Transportation's emergency order authority, with appropriate protection for the carriers. State participation in rail safety inspection programs would be broadened, and State enforcement authority would be expanded. In addition, there are provisions in the bill which relate to the protection of employees presented with hazardous working conditions involving imminent physical harm. Certain other provisions mandate important safety studies and regulations.

The Senate bill as originally passed provided for only a 1-year authorization in light of an ongoing review by FRA of its safety activities, the results of which are to be compiled into a systems safety plan. The Senate committee wanted to be in a position to review the results of this study as part of the committee's overall review of FRA's safety authorization for fiscal year 1982. While the Senate committee has agreed to a 2-year authorization, it is still committed to carefully examining this systems safety plan upon completion.

As part of the authorization levels compromised with the House committee, the Senate committee has agreed to a specific authorization of $10 million for safety research and development, of which $500,000 is to be used in alcohol and drug abuse treatment programs for rail employees. The Senate did not originally authorize any such specific amount because it was assured that all safety research would be adequately funded pursuant to the Department of Transportation's general research appropriations. The Senate committee is likewise concerned that safety research is adequately funded and supports this specific authorization as an earmarking of funds, which would have been otherwise appropriated, for rail safety research.

Both of the original House and Senate rail safety bills contained provisions which would provide the Secretary of Transportation with the authority to issue an order to abate an emergency situation created by an unsafe condition or practice, and would provide appropriate review of such order. Currently the Secretary has the authority to issue such an order only if an unsafe piece of equipment or facility is found to create the emergency. The bill as passed by the House would expand this authority to insure that the Secretary can respond to all safety emergencies.

However, the Senate bill as originally passed included a provision which would require that the emergency order identify the conditions or practices against which the order is directed and describe the standards under which relief from such order might be obtained. This provision was important to the Senate committee, and the House has accepted it in substantial part.

In supporting such specificity accompanying an emergency order, it is not intended that, given the emergency nature of the order, the Secretary must detail each and every condition with each and every corresponding remedy. Nevertheless, due process does require that the carriers have notice of the basis for the order and the corrective result which is being sought. The Senate committee believes that an order incorporating such notice will be more effective in abating the emergency.

The bill as passed by the House yesterday also includes a House committee provision which gives a rail employee the right to bring action to compel the Secretary of Transportation to issue an emergency order where the employee shows that the Secretary has failed, "without any reasonable basis," to issue such an order, the direct result of which is exposure of the employee to "imminent physical injury." The Senate bill as originally passed did not contain a similar provision. In accepting this provision, the Senate committee intends that this provision be applicable in those egregious cases in which the Secretary has completely ignored a hazardous situation.

Sections 4 and 5 of S. 2730, as amended by the House, relate to the expansion of State participation in the rail safety programs and of State enforcement authority. In this area, while the Senate committee is not completely opposed to State participation in the safety program or to an expansion thereof, it has expressed its concern about the potential for inconsistent enforcement of safety regulations where both the States and the Federal Government are bringing enforcement actions. In addition, the committee has stated its desire to insure that the State inspection programs have adequate resources to make a positive contribution to the rail safety program.

The Senate bill, as amended on the Senate floor, granted DOT the discretion, as appropriate, to enter into agreements with States for the purposes of establishing State inspection programs to enforce certain other rail safety laws beyond those pursuant to which they currently have track and freight car programs. Such discretion and oversight would insure that State programs are fully developed with sufficient funds and resources. This Senate provision was adopted by the House.

In addition, the Senate bill as amended on the Senate floor provided that the States could bring action to seek injunctive relief against a carrier for a safety violation within 15 days after receipt by DOT of notification from the State of such violation. However, to insure that State action would not duplicate or be inconsistent with DOT action, a State could not act if DOT determined in writing either that no violation has occurred or that DOT had taken other action in response to the violation. The 90-day waiting period prior to State action to assess a civil fine, which is in current law, remained unchanged. The House adopted the Senate provisions with one change: the 90-day waiting period prior to State action for civil penalties would be decreased to 60 days. It is intended that States will have such enforcement rights with regard to statutes pursuant to which they have inspection programs.

With regard to protection and rights of employees, the Senate committee agreed in substantial part to a House provision included in section 10 of S. 2730, as amended by the House. This provision would forbid a carrier from discharging or discriminating against an employee for filing a complaint, instituting a proceeding, or testifying in a proceeding relating to safety violations.

Subsection (b) of this section would prevent a carrier from discharging or discriminating against any employee for refusing to work under hazardous conditions presenting an imminent danger of death or serious injury to such employee. A refusal to work would be valid once three specific criteria are met: First, the refusal is made in good faith, and no reasonable alternative to such refusal is available; second, a reasonable person, under such circumstances, would conclude that there is a danger of death or serious injury and that there is insufficient time to eliminate the danger through regulatory channels; and third, the employee, where possible, has notified his employer of his fear and his intent to stop working. The applicable remedy for this section is back pay and/or reinstatement, where appropriate. A House provision allowing exemplary damages was opposed by the Senate committee and is not included in this bill.

Section 10(b) is based on a regulation promulgated under the Occupational Safety and Health Act (OSHA) and recently upheld by the Supreme Court in *Whirlpool Corp.* v. *Marshall*, ——— U.S. ———, 48 U.S.L.W. 4189 (1980). The Senate committee recognizes that under current law rail employees who are not covered by OSHA can seek similar protection through normal grievance procedures established under section 3 of the Railway Labor Act. This subsection is intended to codify the protection granted pursuant to these procedures by the law boards and panels. It is important to note in this regard that any grievance under this section is subject to the procedures set forth in section 3 of the Railway Labor Act.

It is not intended that such a provision would allow an employee simply to refuse to work without just cause. A refusal must be made "in good faith." For example, many jobs in the rail industry involve inherently hazardous activities. Assuming appropriate protection is provided to the employee by the employer for such activities, this provision is not to be available merely because of the inherent hazardous nature of a job.

Section 11 of S. 2730, as amended by the House, would provide that safety specialist inspectors employed by DOT would receive a GS-13 rating and regular safety inspectors a GS-12 rating. This provision is in reaction to a recent downgrading of such inspector positions to GS-12 and GS-11 ratings respectively. While this provision was not in the original Senate bill as passed, the Senate committee wants to insure that there is adequate incentive to obtain rail safety inspectors. It remains concerned about reports of recruiting and morale problems in the FRA inspection program and the effect that such problems can have on the strength of the rail safety program. However, this provision is not intended to set a precedent for repeated legislative action with regard to adjustment of pay classifications.

The Senate committee has agreed to a House provision which would mandate DOT to issue within 2 years regulations, as appropriate and necessary, to insure the safe construction, maintenance, and operation of passenger equipment. While this provision does not expand DOT's current safety authority, it appropriately mandates action in an important safety area.

The bill also includes several other provisions, identical in both the Senate and the House bills, which clarify and consolidate the administrative and enforcement powers of DOT. In addition, certain studies originally included in the Senate bill relating to employee training, DOT specification 105 tank cars, and DOT's systems safety plan are included in the bill as passed by the House.

Mr. President, I urge quick action on this legislation. It is my hope that this legislation will insure a strengthened rail safety program.●

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON, I move that the Senate concur in the amendments of the House.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CUSTOMS COURT ACT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. DECONCINI, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1654.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1654) entitled "An Act to improve the Federal judicial machinery by clarifying and revising certain provisions of title 28, United States Code, relating to the judiciary and judicial review of international trade matters, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Customs Courts Act of 1980".

TITLE I—COMPOSITION OF THE COURT OF INTERNATIONAL TRADE AND ASSIGNMENT OF JUDGES TO OTHER COURTS

COMPOSITION OF COURT

SEC. 101. Section 251 of title 28, United States Code, is amended to read as follows:

"§ 251. Appointment and number of judges; offices

"(a) The President shall appoint, by and with the advice and consent of the Senate, nine judges who shall constitute a court record to be known as the United States Court of International Trade. Not more than five of such judges shall be from the same political party. The court is a court established under article III of the Constitution of the United States.

"(b) The President shall designate one of the judges of the Court of International Trade who is less than seventy years of age to serve as chief judge. The chief judge will continue to serve as chief judge until he reaches the age of seventy years and another judge is designated as chief judge, by the President. After the designation of another judge to serve as chief judge, the former chief judge may continue to serve as a judge of the court.

"(c) The offices of the Court of International Trade shall be located in New York, New York.".

ASSIGNMENT OF JUDGES

SEC. 102. (a) Section 293(b) of title 28, United States Code, is amended by striking out "Customs Court" and all that follows through "need arises" and inserting in lieu thereof "Court of International Trade to perform judicial duties in any circuit, either in a court of appeals or district court, upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit in which the need arises".

(b) Section 293(d) of title 28, United States Code, is amended to read as follows:

"(d) The chief judge of the Court of International Trade may, upon presentation to him of a certificate of necessity by the chief judge of the Court of Customs and Patent Appeals or the chief judge of the Court of Claims, designate and assign temporarily any judge of the Court of International Trade to serve as a judge of the Court of Customs and Patent Appeals or the Court of Claims.".

TITLE II—JURISDICTION OF THE COURT OF INTERNATIONAL TRADE

JURISDICTION OF THE COURT

SEC. 201. Chapter 95 of title 28, United States Code, is amended to read as follows:

"CHAPTER 95—COURT OF INTERNATIONAL TRADE

"Sec.

"1581. Civil actions against the United States and agencies and officers thereof.
"1582. Civil actions commenced by the United States.
"1583. Counterclaims, cross-claims, and third-party actions.
"1584. Cure of defects.
"1585. Powers in law and equity.

"§ 1581. Civil actions against the United States and agencies and officers thereof

"(a) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced to contest the denial of a protest, in whole or in part, under section 515 of the Tariff Act of 1930.

"(b) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced under section 516 of the Tariff Act of 1930.

"(c) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced under section 516A of the Tariff Act of 1930.

"(d) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced to review—

"(1) any final determination of the Secretary of Labor under section 223 of the Trade Act of 1974 with respect to the eligibility of workers for adjustment assistance under such Act;

"(2) any final determination of the Secretary of Commerce under section 451 of the Trade Act of 1974 with respect to the eligibility of a firm for adjustment assistance under such Act; and

"(3) any final determination of the Secretary of Commerce under section 271 of the Trade Act of 1974 with respect to the eligibility of a community for adjustment assistance under such Act.

"(e) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced to review any final determination of the Secretary of the Treasury under section 305(b)(1) of the Trade Agreements Act of 1979.

"(f) The Court of International Trade shall have exclusive jurisdiction of any civil action involving an application for an order directing the administering authority or the International Trade Commission to make confidential information available under section 777(c)(2) of the Tariff Act of 1930.

"(g) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced to review—

"(1) any decision of the Secretary of the Treasury to deny or revoke a customhouse broker's license under section 641(a) of the Tariff Act of 1930; and

"(2) any order of the Secretary of the Treasury to revoke or suspend a customhouse broker's license under section 641(b) of the Tariff Act of 1930.

"(h) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced to review, prior to the importation of the goods involved, a ruling issued by the Secretary of the Treasury, or a refusal to issue or change such a ruling, relating to classification, valuation, rate of duty, marking, restricted merchandise, entry requirements, drawbacks, vessel repairs, or similar matters, but only if the party commencing the civil action demonstrates to the court that he would be irreparably harmed unless given an opportunity to obtain judicial review prior to such importation.

"(i) In addition to the jurisdiction conferred upon the Court of International Trade by subsections (a)–(h) of this section and subject to the exception set forth in subsection (j) of this section, the Court of International Trade shall have exclusive jurisdiction of any civil action commenced against the United States, its agencies, or its officers, that arises out of any law of the United States providing for—

"(1) revenue from imports or tonnage;

(2) tariffs, duties, fees, or other taxes on the importation of merchandise for reasons other than the raising of revenue;

"(3) embargoes or other quantitative restrictions on the importation of merchandise for reasons other than the protection of the public health or safety; or

"(4) administration and enforcement with respect to the matters referred to in paragraphs (1)–(3) of this subsection and subsections (a)–(h) of this section.

"(j) The Court of International Trade shall not have jurisdiction of any civil action arising under section 305 of the Tariff Act of 1930.

"§ 1582. Civil actions commenced by the United States

"The Court of International Trade shall have exclusive jurisdiction of any civil action which arises out of an import transaction and which is commenced by the United States—

"(1) to recover a civil penalty under section 592, 704(i)(2), or 734(i)(2) of the Tariff Act of 1930;

"(2) to recover upon a bond relating to the importation of merchandise required by the laws of the United States or by the Secretary of the Treasury; or

"(3) to recover customs duties.

"§ 1583. Counterclaims, cross-claims, and third-party actions

"In any civil action in the Court of International Trade, the court shall have exclusive jurisdiction to render judgment upon any counterclaim, cross-claim, or third-party action of any party, if (1) such claim or action involves the imported merchandise that is the subject matter of such civil action, or (2) such claim or action is to recover upon a bond or customs duties relating to such merchandise.

"§ 1584. Cure of defects

"(a) If a civil action within the exclusive jurisdiction of the Court of International Trade is commenced in a district court of the United States, the district court shall, in the interest of justice, transfer such civil action to the Court of International Trade, where such action shall proceed as if it had been commenced in the Court of International Trade in the first instance.

"(b) If a civil action within the exclusive jurisdiction of a district court, a court of appeals, or the Court of Customs and Patent Appeals is commenced in the Court of International Trade, the Court of International Trade shall, in the interest of justice, transfer such civil action to the appropriate district court or court of appeals or to the Court of Customs and Patent Appeals where such action shall proceed as if it had been commenced in such court in the first instance.

"§ 1585. Powers in law and equity

"The Court of International Trade shall possess all the powers in law and equity of, or as conferred by statute upon, a district court of the United States.".

TITLE III—COURT OF INTERNATIONAL TRADE PROCEDURE

COURT PROCEDURE

SEC. 301. Chapter 169 of title 28, United States Code, is amended to read as follows:

"CHAPTER 169—COURT OF INTERNATIONAL TRADE PROCEDURE

"Sec.

"2631. Persons entitled to commence a civil action.
"2632. Commencement of a civil action.
"2633. Procedure and fees.
"2634. Notice.
"2635. Filing of official documents.
"2636. Time for commencement of action.
"2637. Exhaustion of administrative remedies.
"2638. New grounds in support of a civil action.
"2639. Burden of proof; evidence of value.
"2640. Scope and standard of review.
"2641. Witnesses; inspection of documents.
"2642. Analysis of imported merchandise.
"2643. Relief.
"2644. Interest.
"2645. Decisions.
"2646. Retrial or rehearing.
"2647. Precedence of cases.

"§2631. Persons entitled to commence a civil action

"(a) A civil action contesting the denial of a protest, in whole or in part, under section 515 of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person who filed the protest pursuant to section 514 of such Act, or by a surety on the transaction which is the subject of the protest.

"(b) A civil action contesting the denial of a petition under section 516 of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person who filed such petition.

"(c) A civil action contesting a determination listed in section 516A of the Tariff Act of 1930 may be commenced in the Court of International Trade by any interested party who was a party to the proceeding in connection with which the matter arose.

(d) (1) A civil action to review any final determination of the Secretary of Labor under section 223 of the Trade Act of 1974 with respect to the eligibility of workers for adjustment assistance under such Act may be commenced in the Court of International Trade by a worker, group of workers, certified or recognized union, or authorized representative of such worker or group that applies for assistance under such Act and is aggrieved by such final determination.

"(2) A civil action to review any final determination of the Secretary of Commerce under section 251 of the Trade Act of 1974 with respect to the eligibility of a firm for adjustment assistance under such Act may be commenced in the Court of International Trade by a firm or its reprsentative that applies for assistance under such Act and is aggrieved by such final determination, or by any other interested domestic party that is aggrieved by such final determination.

"(3) A civil action to review any final determination of the Secretary of Commerce under section 271 of the Trade Act of 1974 with respect to the eligibility of a community for adjustment assistance under such Act may be commenced in the Court of International Trade by a community that applies for assistance under such Act and is aggrieved by such final determination, or by any other interested domestic party that is aggrieved by such final determination.

"(e) A civil action to review a final determination made under section 305(b)(1) of the Trade Agreements Act of 1979 may be commenced in the Court of International Trade by any person who was a party-at-interest with respect to such determination.

"(f) A civil action involving an application for the issuance of an order directing the administering authority or the International Trade Commission to make confidential information available under section 777(c)(2) of the Tariff Act of 1930 may be commenced in the Court of International Trade by any interested party whose application for disclosure of such confidential information was denied under section 777(c)(1) of such Act.

"(g)(1) A civil action to review any decision of the Secretary of the Treasury to deny or revoke a customhouse broker's license under section 641(a) of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person whose license was denied or revoked.

"(2) A civil action to review any order of the Secretary of the Treasury to revoke or suspend a customhouse broker's license under section 641(b) of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person whose license was revoked or suspended.

"(h) A civil action described in section 1581(h) of this title may be commenced in the Court of International Trade by the person who would have standing to bring a civil action under section 1581(a) of this title if he imported the goods involved and filed a protest which was denied, in whole or in part under section 515 of the Tariff Act of 1930.

"(i) Any civil action of which the Court of International Trade has jurisdiction, other than an action specified in subsections (a)–(h) of this section, may be commenced in the court by any person adversely affected or aggrieved by agency action within the meaning of section 702 of title 5.

"(j)(1) Any person who would be adversely affected or aggrieved by a decision in a civil action pending in the Court of International Trade may, by leave of court, intervene in such action, except that—

"(A) no person may intervene in a civil action under section 515 or 516 of the Tariff Act of 1930;

"(B) in a civil action under section 516A of the Tariff Act of 1930, only an interested party who was a party to the proceeding in connection with which the matter arose may intervene, and such person may intervene as a matter of right; and

"(C) in a civil action under section 777(c)(2) of the Tariff Act of 1930, only a person who was a party to the investigation may intervene, and such person may intervene as a matter of right.

"(2) In those civil actions in which intervention is by leave of court, the Court of International Trade shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

"(k) In this section—

"(1) 'interested party' has the meaning given such term in section 771(9) of the Tariff Act of 1930; and

"(2) 'party-at-interest' means—

"(A) a foreign manufacturer, producer, or exporter, or a United States importer, of merchandise which is the subject of a final determination under section 305(b)(1) of the Trade Agreements Act of 1979;

(B) a manufacturer, producer, or wholesaler in the United States of a like product;

"(C) United States members of a labor organization or other association of workers whose members are employed in the manufacture, production, or wholesale in the United States of a like product; and

"(D) a trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the United States.

"§ 2632. Commencement of a civil action

"(a) Except for civil actions specified in subsections (b) and (c) of this section, a civil action in the Court of International Trade shall be commenced by filing concurrently with the clerk of the court a summons and complaint, with the content and in the form, manner, and style prescribed by the rules of the court.

"(b) A civil action in the Court of International Trade under section 515 or section 516 of the Tariff Act of 1930 shall be commenced by filing with the clerk of the court a summons, with the content and in the form, manner, and style prescribed by the rules of the court.

"(c) A civil action in the Court of International Trade under section 516A of the Tariff Act of 1930 shall be commenced by filing with the clerk of the court a summons or a summons and a complaint, as prescribed in such section, with the content and in the form, manner, and style prescribed by the rules of the court.

"(d) The Court of International Trade may prescribe by rule that any summons, pleading, or other paper mailed by registered or certified mail properly addressed to the clerk of the court with the proper postage affixed and return receipt requested shall be deemed filed as of the date of mailing.

"§ 2633. Procedure and fees

"(a) A filing fee shall be payable to the clerk of the Court of International Trade upon the commencement of a civil action in such court. The amount of the fee shall be prescribed by the rules of the court, but shall be not less than $5 nor more than the filing fee for commencing a civil action in a district court of the United States. The court may fix all other fees to be charged by the clerk of the court.

"(b) The Court of International Trade shall prescribe rules governing the summons, pleadings, and other papers, for their amendment, service, and filing, for consolidations, severances, suspensions of cases, and for other procedural matters.

"(c) All summons, pleadings, and other papers filed in the Court of International Trade shall be served on all parties in accordance with rules prescribed by the court. When the United States, its agencies, or its officers are adverse parties, service of the summons shall be made upon the Attorney General and the head of the Government agency whose action is being contested. When injunctive relief is sought, the summons, pleadings, and other papers shall also be served upon the named officials sought to be enjoined.

"§ 2634. Notice

"Reasonable notice of the time and place of trial or hearing before the Court of International Trade shall be given to all parties to any civil action, as prescribed by the rules of the court.

"§ 2635. Filing of official documents

"(a)(1) Upon service of the summons on the Secretary of the Treasury in any civil action contesting the denial of a protest under section 515 of the Tariff Act of 1930 or the denial of a petition under section 516 of such Act, the appropriate customs officer shall forthwith transmit to the clerk of the Court of International Trade, as prescribed by its rules, and as a part of the official record—

"(A) the consumption or other entry and the entry summary;

"(B) the commercial invoice;

'(C) the special customs invoice;

"(D) a copy of the protest or petition;

"(E) a copy of the denial, in whole or in part, of the protest or petition;

"(F) the importer's exhibits;

"(G) the official and other representative samples;

"(H) any official laboratory reports; and

"(I) a copy of any bond relating to the entry.

"(2) If any of the items listed in paragraph (1) of this subsection do not exist in a particular civil action, an affirmative statement to that effect shall be transmitted to the clerk of the court.

"(b)(1) In any civil action commenced in the Court of International Trade under section 516A of the Tariff Act of 1930, within forty days or within such other period of time as the court may specify, after the date of service of a complaint on the administering authority established to administer title VII of the Tariff Act of 1930 or the United States International Trade Commission, the administering authority or the Commission shall transmit to the clerk of the court the record of such action, as prescribed by the rules of the court. The record shall, unless otherwise stipulated by the parties, consist of—

"(A) a copy of all information presented to or obtained by the administering authority or the Commission during the course of the administrative proceedings, including all governmental memoranda pertaining to the case and the record of ex parte meetings required to be maintained by section 777(a)(3) of the Tariff Act of 1930; and

"(B)(i) a copy of the determination and the facts and conclusions of law upon which such determination was based, (ii) all transcripts or records of conferences or hearings, and (iii) all notices published in the Federal Register.

"(2) The administering authority or the Commission shall identify and transmit under seal to the clerk of the court any document, comment, or information that is accorded confidential or privileged status by the Government agency whose action is being contested and that is required to be transmitted to the clerk under paragraph (1) of this subsection. Any such document, comment, or information shall be accompanied by a nonconfidential description of the nature of the material being transmitted. The confidential or privileged status of such material shall be preserved in the civil action, but the court may examine the confidential or privileged material in camera and may make such material available under such terms and conditions as the court may order.

"(c) Within fifteen days, or within such other period of time as the Court of International Trade may specify, after service of a summons and complaint in a civil action involving an application for an order directing the administering authority or the International Trade Commission to make confidential information available under section 777(c)(2) of the Tariff Act of 1930, the administering authority or the Commission shall transmit under seal to the clerk of the Court of International Trade, as prescribed by its rules, the confidential information involved, together with pertinent parts of the record. Such information shall be accompanied by a nonconfidential description of the nature of the information being transmitted. The confidential status of such information shall be preserved in the civil action, but the court may examine the confidential information in camera and may make such information available under a protective order consistent with section 777(c)(2) of the Tariff Act of 1930.

"(d)(1) In any other civil action in the Court of International Trade in which judicial review is to proceed upon the basis of the record made before an agency, the agency shall, within forty days or within such other period of time as the court may specify, after the date of service of the summons and complaint upon the agency, transmit to the clerk of the court, as prescribed by its rules—

"(A) a copy of the contested determination and the findings or report upon which such determination was based;

"(B) a copy of any reported hearings or conferences conducted by the agency; and

"(C) any documents, comments, or other papers filed by the public, interested parties, or governments with respect to the agency's action.

"(2) The agency shall identify and transmit under seal to the clerk of the court any document, comment, or other information that was obtained on a confidential basis and that is required to be transmitted to the clerk under paragraph (1) of this subsection. Any such document, comment, or information shall include a nonconfidential description of the nature of the material being transmitted. The confidential or privileged status of such material shall be preserved in the civil action, but the court may examine such material in camera and may make such material available under such terms and conditions as the court may order.

"(3) The parties may stipulate that fewer documents, comments, or other information than those specified in paragraph (1) of this subsection shall be transmitted to the clerk of the court.

"§ 2636. Time for commencement of action

"(a) A civil action contesting the denial, in whole or in part, of a protest under section 515 of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade—

"(1) within one hundred and eighty days after the date of mailing of notice of denial of a protest under section 515(a) of such Act; or

"(2) within one hundred and eighty days after the date of denial of a protest by operation of law under the provisions of section 515(b) of such Act.

"(b) A civil action contesting the denial of a petition under section 516 of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade within thirty days after the date of mailing of a notice pursuant to section 516(c) of such Act.

"(c) A civil action contesting a reviewable determination listed in section 516A of the Tariff Act of 1930, other than a determination under section 703(b), 703(c), 733(b), or 733(c) of such Act, is barred unless commenced in accordance with the rules of the Court of International Trade within thirty days after the date of the publication of such determination in the Federal Register.

"(d)(1) A civil action contesting a determination by the administering authority under section 703(c) or 733(c) of the Tariff Act of 1930 that a case is extraordinarily complicated is barred unless commenced in accordance with the rules of the Court of International Trade within ten days after the date of the publication of such determination in the Federal Register.

"(2) A civil action contesting a negative determination by the administering authority under section 703(b) or 733(b) of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade within ten days after the date of the publication of such determination in the Federal Register.

"(e) A civil action contesting a final determination of the Secretary of Labor under section 223 of the Trade Act of 1974 or a final determination of the Secretary of Commerce under section 251 or section 271 of such Act is barred unless commenced in accordance with the rules of the Court of International Trade within sixty days after the date of notice of such determination.

"(f) A civil action contesting a final determination made under section 305(b)(1) of the Trade Agreements Act of 1979 is barred unless commenced in accordance with the rules of the Court of International Trade within thirty days after the date of the publication of such determination in the Federal Register.

"(g) A civil action involving an application for the issuance of an order making confidential information available under section 777(c)(2) of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade within ten days after the date of the denial of the request for such confidential information.

"(h) A civil action contesting the denial or revocation by the Secretary of the Treasury of a customhouse broker's license under section 641(a) of the Tariff Act of 1930 or the revocation or suspension by such Secretary of a customhouse broker's license under section 641(b) of such Act is barred unless commenced in accordance with the rules of the Court of International Trade within sixty days after the date of the entry of the decision or order of such Secretary.

"(i) A civil action of which the Court of International Trade has jurisdiction under section 1581 of this title, other than an action specified in subsections (a)–(h) of this section, is barred unless commenced in accordance with the rules of the court within two years after the cause of action first accrues.

"§ 2637. Exhaustion of administrative remedies

(a) A civil action contesting the denial of a protest under section 515 of the Tariff Act of 1930 may be commenced in the Court of International Trade only if all liquidated duties, charges, or exactions have been paid at the time the action is commenced, except that a surety's obligation to pay such liquidated duties, charges, or exactions is limited to the sum of any bond related to each entry included in the denied protest.

"(b) A civil action contesting the denial of a petition under section 516 of the Tariff Act of 1930 may be commenced in the Court of International Trade only by a person who has first exhausted the procedures set forth in such section.

"(c) A civil action described in section 1581(h) of this title may be commenced in the Court of International Trade prior to the exhaustion of administrative remedies if the person commencing the action makes the demonstration required by such section.

"(d) In any civil action not specified in this section, the Court of International Trade shall, where appropriate, require the exhaustion of administrative remedies.

"§ 2638. New grounds in support of a civil action

"In any civil action under section 515 of the Tariff Act of 1930 in which the denial, in whole or in part, of a protest is a precondition to the commencement of a civil action in the Court of International Trade, the rule, may consider any new ground in support of the civil action if such new ground—

"(1) applies to the same merchandise that was the subject of the protest; and

"(2) is related to the same administrative decision listed in section 514 of the Tariff Act of 1930 that was contested in the protest.

"§ 2639. Burden of proof; evidence of value

"(a)(1) Except as provided in paragraph (2) of this subsection, in any civil action commenced in the Court of International Trade under section 515, 516, or 516A of the Tariff Act of 1930, the decision of the Secretary of the Treasury, the administering authority, or the International Trade Commission is presumed to be correct. The burden of proving otherwise shall rest upon the party challenging such decision.

"(2) The provisions of paragraph (1) of this subsection shall not apply to any civil action commenced in the Court of International Trade under section 1582 of this title.

"(b) In any civil action described in section 1581(h) of this title, the person commencing the action shall have the burden of making the demonstration required by such section by clear and convincing evidence.

"(c) Where the value of merchandise or any of its components is in issue in any civil action in the Court of International Trade—

"(1) reports or depositions of consuls, customs officers, and other officers of the United States, and depositions and affidavits of other persons whose attendance cannot reasonably be had, may be admitted into evidence when served upon the opposing party as prescribed by the rules of the court; and

"(2) price lists and catalogs may be admitted in evidence when duly authenticated, relevant, and material.

"§ 2640. Scope and standard of review

"(a) The Court of International Trade shall make its determinations upon the basis of the record made before the court in the following categories of civil actions:

"(1) Civil actions contesting the denial of a protest under section 515 of the Tariff Act of 1930.

"(2) Civil actions commenced under section 516 of the Tariff Act of 1930.

"(3) Civil actions commenced to review a final determination made under section 305(b)(1) of the Trade Agreements Act of 1979.

"(4) Civil actions commenced under section 777(c)(2) of the Tariff Act of 1930.

"(5) Civil actions commenced to review

any decision of the Secretary of the Treasury to deny or revoke a customhouse broker's license under section 641(a) of the Tariff Act of 1930.

"(6) Civil actions commenced under section 1582 of this title.

"(b) In any civil action commenced in the Court of International Trade under section 516A of the Tariff Act of 1930, the court shall review the matter as specified in subsection (b) of such section.

"(c) In any civil action commenced in the Court of International Trade to review any final determination of the Secretary of Labor under section 223 of the Trade Act of 1974 or any final determination of the Secretary of Commerce under section 251 or section 271 of such Act, the court shall review the matter as specified in section 284 of such Act.

"(d) In any civil action not specified in this section, the Court of International Trade shall review the matter as provided in section 706 of title 5.

"§ 2641. Witnesses; inspection of documents

"(a) Except as otherwise provided by law, in any civil action in the Court of International Trade, each party and its counsel shall have an opportunity to introduce evidence, to hear and cross-examine the witnesses of the other party, and to inspect all samples and papers admitted or offered as evidence, as prescribed by the rules of the court. Except as provided in section 2639 of this title, subsection (b) of this section, or the rules of the court, the Federal Rules of Evidence shall apply to all civil actions in the Court of International Trade.

"(b) The Court of International Trade may order that trade secrets and commercial or financial information which is privileged and confidential, or any information provided to the United States by any foreign government or foreign person, may be disclosed to a party, its counsel, or any other person under such terms and conditions as the court may order.

"§ 2642. Analysis of imported merchandise

"The Court of International Trade may order an analysis of imported merchandise and reports thereon by laboratories or agencies of the United States.

"§ 2643. Relief

"(a) The Court of International Trade may enter a money judgment—

"(1) for or against the United States in any civil action commenced under section 1581 or 1582 of this title; and

"(2) for or against the United States or any other party in any counterclaim, cross-claim, or third-party action under section 1583 of this title.

"(b) If the Court of International Trade is unable to determine the correct decision on the basis of the evidence presented in any civil action, the court may order a retrial or rehearing for all purposes, or may order such further administrative or adjudicative procedures as the court considers necessary to enable it to reach the correct decision.

"(c)(1) Except as provided in paragraph (2), (3), and (4) of this subsection, the Court of International Trade may, in addition to the orders specified in subsections (a) and (b) of this section, order any other form of relief that is appropriate in a civil action, including, but not limited to, declaratory judgments, orders of remand, injunctions, and writs of mandamus and prohibition.

"(2) The Court of International Trade may not grant an injuction or issue a writ of mandamus in any civil action commenced to review any final determination of the Secretary of Labor under section 223 of the Trade Act of 1974, or any final determination of the Secretary of Commerce under section 251 or section 271 of such Act.

"(3) In any civil action involving an application for the issuance of an order directing the administering authority or the International Trade Commission to make confidential information available under section 777(c)(2) of the Tariff Act of 1930, the Court of International Trade may issue an order of disclosure only with respect to the information specified in such section.

"(4) In any civil action described in section 1581(h) of this title, the Court of International Trade may only order the appropriate declaratory relief.

"(d) If a surety commences a civil action in the Court of International Trade, such surety shall recover only the amount of the liquidated duties, charges, or exactions paid on the entries included in such action. The excess amount of any recovery shall be paid to the importer of record.

"§ 2644. Interest

"If, in a civil action in the Court of International Trade under section 515 of the Tariff Act of 1930, the plaintiff obtains monetary relief by a judgment or under a stipulation agreement, interest shall be allowed at an annual rate established under section 6621 of the Internal Revenue Code of 1954. Such interest shall be calculated from the date of the filing of the summons in such action to the date of the refund.

"§ 2645. Decisions

"(a) A final decision of the Court of International Trade in a contested civil action or a decision granting or refusing a preliminary injunction shall be supported by—

"(1) a statement of findings of fact and conclusions of law; or

"(2) an opinion stating the reasons and facts upon which the decision is based.

"(b) After the Court of International Trade has rendered a judgment, the court may, upon the motion of a party or upon its own motion, amend its findings or make additional findings and may amend the decision and judgment accordingly. A motion of a party or the court shall be made not later than thirty days after the date of entry of the judgment.

"(c) A decision of the Court of International Trade is final and conclusive, unless a retrial or rehearing is granted pursuant to section 2646 of this title or an appeal is taken to the Court of Customs and Patent Appeals within the time and in the manner provided in section 2601 of this title.

"§ 2646. Retrial or rehearing

"After the Court of International Trade has rendered a judgment or order, the court may, upon the motion of a party or upon its own motion, grant a retrial or rehearing, as the case may be. A motion of a party or the court shall be made not later than thirty days after the date of entry of the judgment or order.

"§ 2647. Precedence of cases

"The following civil actions in the Court of International Trade shall be given precedence, in the following order, over other civil actions pending before the court, and shall be assigned for hearing at the earliest practicable date and expedited in every way:

"(1) First, a civil action involving the exclusion of perishable merchandise or the redelivery of such merchandise.

"(2) Second, a civil action for the review of a determination under section 516A(a)(1)(B)(i) or (ii) of the Tariff Act of 1930.

"(3) Third, a civil action commenced under section 515 of the Tariff Act of 1930 involving the exclusion or redelivery of merchandise.

"(4) Fourth, a civil action commenced under section 516 or 516A of the Tariff Act of 1930, other than a civil action described in paragraph (2) of this section.".

JURY TRIALS

SEC. 302. (a) Chapter 121 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1876. Trial by jury in the Court of International Trade

"(a) In any civil action in the Court of International Trade which is to be tried before a jury, the jury shall be selected in accordance with the provisions of this chapter and under the procedures set forth in the jury selection plan of the district court for the judicial district in which the case is to be tried.

"(b) Whenever the Court of International Trade conducts a jury trial—

"(1) the clerk of the district court for the judicial district in which the Court of International Trade is sitting, or an authorized deputy clerk, shall act as clerk of the Court of International Trade for the purposes of selecting and summoning the jury;

"(2) the qualifications for jurors shall be the same as those established by section 1865(b) of this title for jurors in the district courts of the United States;

"(3) each party shall be entitled to challenge jurors in accordance with section 1870 of this title; and

"(4) jurors shall be compensated in accordance with section 1871 of this title.".

(b) The section analysis for chapter 121 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1876. Trial by jury in the Court of International Trade.".

(c) Section 1862 of title 28, United States Code, is amended by inserting "or in the Court of International Trade" immediately after "United States".

TITLE IV—COURT OF CUSTOMS AND PATENT APPEALS

JURISDICTION OF THE COURT

SEC. 401. (a)(1) Section 1541(a) of title 28, United States Code, is amended to read as follows:

"(a) The Court of Customs and Patent Appeals shall have exclusive jurisdiction of appeals from all final decisions of the Court of International Trade.".

(2) Section 1541 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) The Court of Customs and Patent Appeals shall have exclusive jurisdiction of appeals from interlocutory orders of the Court of International Trade granting, continuing, modifying, refusing, or dissolving injunctions, or refusing to dissolve or modify injunctions.".

(b)(1) Section 1543 of title 28, United States Code, is amended to read as follows:

"§ 1543. International Trade Commission determinations

"The Court of Customs and Patent Appeals shall have jurisdiction to review the final determination of the United States International Trade Commission made under section 337 of the Tariff Act of 1930 relating to unfair trade practices in import trade.".

(2) The item relating to section 1543 in the section analysis of chapter 93 of title 28, United States Code, is amended to read as follows:

"1543. International Trade Commission determinations.".

POWERS OF THE COURT

SEC. 402. (a) Chapter 93 of title 28, United States Code, as amended by section 401 of this Act, is further amended by adding at the end thereof the following new section:

"§ 1546. Powers in law and equity

"The Court of Customs and Patent Appeals shall have all the powers in law and equity of, or as conferred by statute upon, a court of appeals of the United States.".

(b) The section analysis of chapter 93 of title 28, United States Code, as amended by section 401 of this Act, is further amended by adding at the end thereof the following new item:

"§ 1546. Powers in law and equity.".

COURT OF CUSTOMS AND PATENT APPEALS

SEC. 403. (a) Section 2601(a) of title 28, United States Code, is amended by adding at the end thereof the following new sentence: "If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within fourteen days after the date on which the first notice of appeal was filed.".

(b) The first sentence of section 2601(b) of title 28, United States Code, is amended—

(1) by inserting "or cross appeal" immediately after "appeal" each place it appears; and

(2) by striking out "which shall include a concise statement of the errors complained of".

(c) The third sentence of section 2601(b) of title 28, United States Code, is amended by striking out "and the Secretary of the Treasury or their designees" and inserting in lieu thereof "and any named official".

(d) Section 2601(c) of title 28, United States Code, is amended by inserting immediately after the first sentence the following new sentences: "Findings of fact shall not be set aside unless clearly erroneous and due regard shall be given to the opportunity of the Court of International Trade to judge the credibility of the witnesses. A party may raise on appeal the question of whether the findings of fact are clearly erroneous, whether or not the party raising such question made an objection to such findings in the Court of International Trade or made a motion to amend such findings.".

(e)(1) Section 2602 of title 28, United States Code, is amended to read as follows:

"§ 2602. Precedence of cases

"The following civil action in the Court of Customs and Patent Appeals shall be given precedence, in the following order, over other civil actions pending before the court, and shall be assigned for hearing at the earliest practicable date and expedited in every way:

"(1) First, a civil action involving the exclusion of perishable merchandise or the redelivery of such merchandise.

"(2) Second, a civil action for the review of a determination under section 516A(a)(1)(B)(i) or (ii) of the Tariff Act of 1930.

"(3) Third, a civil action commenced under section 515 of the Tariff Act of 1930 involving the exclusion or redelivery of merchandise.

"(4) Fourth, a civil action commenced under section 516 or 516A of the Tariff Act of 1930, other than a civil action described in paragraph (2) of this section.

"(5) Fifth, an appeal from findings of the Secretary of Commerce provided for in headnote 6 to schedule 8, part 4, of the Tariff Schedules of the United States (19 U.S.C. 1202).".

(2) The item relating to section 2602 in the section analysis of chapter 167 of title 28, United States Code, is amended to read as follows:

"2602. Precedence of cases.".

RULES OF EVIDENCE

SEC. 404. (a) Chapter 167 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 2603. Rules of evidence

"Except as provided in section 2639 or 2641(b) of this title or in the rules prescribed by the court, the Federal Rules of Evidence shall apply in the Court of Customs and Patent Appeals in any appeal from the Court of International Trade.".

(b) The section analysis of chapter 167 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"2603. Rules of evidence.".

JUDICIAL CONFERENCE

SEC. 405. (a) Chapter 167 of title 28, United States Code, as amended by section 404 of this Act, is further amended by adding at the end thereof the following new section:

"§ 2604. Judicial conference

"The chief judge of the Court of Customs and Patent Appeals is authorized to summon annually the judges of such court to a judicial conference, at a time and place that such chief judge designates, for the purpose of considering the business of such court and improvements in the administration of justice in such court.".

(b) The section analysis of chapter 167 of title 28, United States Code, as amended by section 404 of this Act, is further amended by adding at the end thereof the following new item:

"2604. Judicial conference.".

TITLE V—TECHNICAL AND CONFORMING AMENDMENTS TO TITLE 28

SEC. 501. The following provisions of title 28, United States Code, are amended by striking out "Customs Court" and inserting in lieu thereof "Court of International Trade":

(1) The item relating to chapter 11 in the chapter analysis of part I.

(2) The chapter heading of chapter 11.

(3) Section 253(a).

(4) Section 254.

(5) Section 255(a).

(6) Section 257.

(7) Section 292(e).

(8) Section 293(c).

(9) Section 372 (a) and (b).

(10) Section 451 (including that section as it will become effective on April 1, 1984).

(11) Section 456.

(12) Section 569(a) (including that section as it will become effective on April 1, 1984).

(13) The item relating to chapter 55 in the chapter analysis of part III.

(14) Section 605.

(15) Section 610.

(16) The chapter heading of chapter 55.

(17) Section 871.

(18) Section 872.

(19) Section 873.

(20) The item relating to chapter 95 in the chapter analysis of part IV.

(21) Section 1340.

(22) The item relating to section 1541 in the section analysis of chapter 93.

(23) The section heading for section 1541.

(24) Section 1541(b).

(25) The item relating to chapter 169 in the chapter analysis of part VI.

(26) The item relating to section 2601 in the section analysis of chapter 167.

(27) The section heading for section 2601.

(28) Section 2601 (a), (b), and (c).

SEC. 502. Section 252 of title 28, United States Code, is amended by striking out "Judge of the Customs Court" and inserting in lieu thereof "Judges of the Court of International Trade".

SEC. 503. Section 518(a) of title 28, United States Code, is amended by inserting "and in the Court of International Trade" immediately after "Claims".

SEC. 504. Section 751 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) When the Court of International Trade is sitting in a judicial district, other than the Southern District or Eastern District of New York, the clerk of the district court of such judicial district or an authorized deputy clerk, upon the request of the chief judge of the Court of International Trade and with the approval of such district court, shall act in the district as clerk of the Court of International Trade, as prescribed by the rules and orders of the Court of International Trade for all purposes relating to the civil action then pending before such court.".

SEC. 505. Section 1337 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) The district courts shall not have jurisdiction under this section of any matter within the exclusive jurisdiction of the Court of International Trade under chapter 95 of this title.".

SEC. 506. Section 1352 of title 28, United States Code, is amended by inserting immediately before the period at the end thereof the following: ", except matters within the jurisdiction of the Court of International Trade under section 1582 of this title".

SEC. 507. Section 1355 of title 28, United States Code, is amended by inserting immediately before the period at the end thereof the following: ", except matters within the jurisdiction of the Court of International Trade under section 1582 of this title".

SEC. 508. Section 1356 of title 28, United States Code, is amended by inserting immediately before the period at the end thereof the following: ", except matters within the jurisdiction of the Court of International Trade under section 1582 of this title".

SEC. 509. The second paragraph of section 1491 of title 28, United States Code, is amended by striking out "in suits" and inserting in lieu thereof "of any civil action within the exclusive jurisdiction of the Court of International Trade, or of any action".

SEC. 510. Section 1919 of title 28, United States Code, is amended by inserting "or the Court of International Trade" immediately after "court" the first place it appears.

SEC. 511. (a) Chapter 125 of title 28, United States Code, is amended by inserting immediately after section 1963 the following new section:

"§ 1963A. Registration of judgments of the Court of International Trade

"(a) A judgment in any civil action for the recovery of money or property entered by the Court of International Trade which has become final by appeal or expiration of time for appeal may be registered in any judicial district by filing a certified copy of such judgment. A judgment so registered shall have the same effect as a judgment of the district court of the district where registered and may be enforced in like manner.

"(b) A certified copy of the satisfaction of any judgment in whole or in part may be registered in like manner in any district in which the judgment is a lien.".

(b) The section analysis of chapter 125 of title 28, United States Code, is amended by inserting immediately after the item relating to section 1963 the following new item:

"1963A. Registration of judgments of the Court of International Trade.".

SEC. 512. The first paragraph of section 2414 of title 28, United States Code, is amended by inserting "or the Court of International Trade" immediately after "court" in the first sentence.

TITLE VI—TECHNICAL AND CONFORMING AMENDMENTS TO OTHER ACTS

SEC. 601. The following provisions of law are amended by striking out "Customs Court" and inserting in lieu thereof "Court of International Trade":

(1) Section 6001 of title 18, United States Code.

(2) Section 305 of the Tariff Act of 1930 (19 U.S.C. 1305).

(3) Section 502(b) of the Tariff Act of 1930 (19 U.S.C. 1502(b)).

(4) Section 503 of the Tariff Act of 1930 (19 U.S.C. 1503).

(5) Section 514 (a) and (b) of the Tariff Act of 1930 (19 U.S.C. 1514 (a) and (b)).

(6) Section 516 (d), (e), and (f) of the Tariff Act of 1930 (19 U.S.C. 1516 (d), (e), and (f)).

(7) Section 516A (a)(2), (c), (d), and (e) of the Tariff Act of 1930 (19 U.S.C. 1516a (a)(2), (c), (d), and (e)).

(8) Section 528 of the Tariff Act of 1930 (19 U.S.C. 1528).

(9) Section 308(9) of the Ethics in Government Act (28 U.S.C. app.).

(10) Section 7443(d) of the Internal Revenue Code of 1954.

(11) Section 906 of title 44, United States Code.

Sec. 602. Section 103(h) of the Act of March 27, 1978 (92 Stat. 170; 16 U.S.C. 791 (h)) is amended by striking out "section 250 of the Trade Act of 1974 (88 Stat. 2029)" and inserting in lieu thereof "section 284 of the Trade Act of 1974, except that such review shall be in the appropriate court of appeals of the United States, and the judgment of such court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.".

Sec. 603. The first section of the Act entitled "An Act to provide the name by which the Board of General Appraisers and members thereof shall be known" approved May 28, 1926 (19 U.S.C. 405a), is repealed.

Sec. 604. Section 337(c) of the Tariff Act of 1930 (19 U.S.C. 1337(c)) is amended—

(1) by inserting "for review in accordance with chapter 7 of title 5, United States Code" immediately before the period at the end of the fourth sentence; and

(2) by striking out the last sentence and inserting in lieu thereof the following new sentence: "Notwithstanding the foregoing provisions of this subsection, Commission determinations under subsections (d), (e), and (f) with respect to its findings on the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, the amount and nature of bond, or the appropriate remedy shall be reviewable in accordance with section 706 to title 5, United States Code.".

Sec. 605. (a) Section 514(a)(4) of the Tariff Act of 1930 (19 U.S.C. 1514(a)(4)) is amended to read as follows:

"(4) the exclusion of merchandise from entry or delivery or a demand for redelivery to customs custody under any provision of the customs laws, except a determination appealable under section 337 of this Act;".

(b) Section 514(a) of the Tariff Act of 1930 (19 U.S.C. 1514(a)) is further amended by striking out "section 2632 of title 28 of the United States Code within the time prescribed by section 2631" and inserting in lieu thereof "chapter 169 of title 28 of the United States Code within the time prescribed by section 2636".

Sec. 606. Section 515(b) of the Tariff Act of 1930 (19 U.S.C. 1515(b)) is amended by striking out "section 1582" and inserting in lieu thereof "section 1581".

Sec. 607. (a) Section 516(a) of the Tariff Act of 1930 is amended—

(1) by inserting "(1)" immediately before "The Secretary";

(2) by striking out "(as defined in section 771(9) (C), (D), and (E) of this Act)";

(3) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(4) by inserting at the end thereof the following new paragraph:

"(2) As used in this section, the term 'interested party' means a person who is—

"(A) a manufacturer, producer, or wholesaler in the United States;

"(B) a certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production, or wholesale in the United States; or

"(C) a trade or business association a majority of whose members are manufacturers, producers, or wholesalers in the United States, of goods of the same class or kind as the designated imported merchandise.".

(b) Section 516(d) of the Tariff Act of 1930 (19 U.S.C. 1516(d)) is amended by striking out "section 2632" and inserting in lieu thereof "chapter 169".

Sec. 608. (a) Section 516A(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1516a(a)(1)) is amended to read as follows:

"(1) REVIEW OF CERTAIN DETERMINATIONS.—

"(A) THIRTY-DAY REVIEW.—Within 30 days after the date of publication in the Federal Register of notice of—

"(i) a determination by the Secretary or the administering authority, under section 303(a)(3), 702(c), or 732(c) of this Act, not to initiate an investigation,

"(ii) a determination by the administering authority or the Commission, under section 751(b) of this Act, not to review an agreement or a determination based upon changed circumstances, or

"(iii) a negative determination by the Commission, under section 703(a) or 733(a) of this Act, as to whether there is reasonable indication of material injury, threat of material injury, or material retardation,

an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Court of International Trade by filing concurrently a summons and complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.

"(B) TEN-DAY REVIEW.—Within 10 days after the date of publication in the Federal Register of notice of—

"(i) a determination by the administering authority, under section 703(c) or 733(c) of this Act, that a case is extraordinarily complicated, or

"(ii) a negative determination by the administering authority under section 703(b) or 733(b) of this Act,

an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Court of International Trade by filing concurrently a summons and complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.".

(b) Section 516A(a)(3) of the Tariff Act of 1930 (19 U.S.C. 1516a(a)(3)) is amended by striking out "section 2632" and inserting in lieu thereof "chapter 169".

(c) Section 516A(c)(2) of the Tariff Act of 1930 (19 U.S.C. 1516a(c)(2)) is amended by striking out the second sentence.

(d) The second sentence of section 516A (d) of the Tariff Act of 1930 (19 U.S.C. 1516a (d)) is amended to read as follows: "The party filing the action shall notify all such interested parties of the filing of an action under this section, in the form, manner, style, and within the time prescribed by rules of the court.".

Sec. 609. Section 592(e) of the Tariff Act of 1930 (19 U.S.C. 1592(e)) is amended by striking out "(e) DISTRICT COURT PROCEEDINGS.—" and all that follows through "under this section—" and inserting in lieu thereof the following:

"(e) COURT OF INTERNATIONAL TRADE PROCEEDINGS.—Notwithstanding any other provision of law, in any proceeding commenced by the United States in the Court of International Trade for the recovery of any monetary penalty claimed under this section—".

Sec. 610. Section 604 of the Tariff Act of 1930 (19 U.S.C. 1604) is amended—

(1) by striking out "every United States district attorney" and inserting in lieu thereof "the Attorney General of the United States";

(2) by inserting "or the Court of International Trade" immediately after "district court"; and

(3) by striking out "such district attorney" and in inserting in lieu thereof "the Attorney General".

Sec. 611. (a) The second sentence of the the second paragraph of section 641(b) of the Tariff Act of 1930 (19 U.S.C. 1641(b)) is amended by striking out "in the circuit court" and all that follows through "District of Columbia" and inserting in lieu thereof "in the Court of International Trade".

(b) Section 641(b) of the Tariff Act of 1930 (19 U.S.C. 1641(b)) is amended by striking out the next to last sentence of the second paragraph.

Sec. 612. Section 250 of the Trade Act of 1974 (19 U.S.C. 2322), and the item relating to such section in the table of contents of such Act, are repealed.

Sec. 613. (a) Title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.) is amended by redesignating section 284 as section 285 and by inserting immediately after section 283 the following new section:

"Sec. 284. JUDICIAL REVIEW.

"(a) A worker, group of workers, certified or recognized union, or authorized representative of such worker or group aggrieved by a final determination of the Secretary of Labor under section 223 of this title, a firm or its representative or any other interested domestic party aggrieved by a final determination of the Secretary of Commerce under section 251 of this title, or a community or any other interested domestic party aggrieved by a final determination of the Secretary of Commerce under section 271 of this title may, within sixty days after notice of such determination, commence a civil action in the United States Court of International Trade for review of such determination. The clerk of such court shall send a copy of the summons and the complaint in such action to the Secretary of Labor or the Secretary of Commerce, as the case may be. Upon receiving a copy of such summons and complaint, such Secretary shall promptly certify and file in such court the record on which he based such determination.

"(b) The findings of fact by the Secretary of Labor or the Secretary of Commerce, as the case may be, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to such Secretary to take further evidence, and such Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(c) The Court of International Trade shall have jurisdiction to affirm the action of the Secretary of Labor or the Secretary of Commerce, as the case may be, or to set such action aside, in whole or in part. The judgment of the Court of International Trade shall be subject to review by the United States Court of Customs and Patent Appeals as prescribed by the rules of such court. The judgment of the Court of Customs and Patent Appeals shall be subject to review by the Supreme Court of the United States upon certiorari as provided in section 1256 of title 28.".

(b) The table of contents of the Trade Act of 1974 (19 U.S.C. 2101 et seq.) is amended by striking out the item relating to section 284 and inserting in lieu thereof the following new items:

"Sec. 284. Judicial review.
"Sec. 285. Effective date.".

TITLE VII—EFFECTIVE DATES AND MISCELLANEOUS PROVISIONS

EFFECTIVE DATES

Sec. 701. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on November 1, 1980.

(b)(1) The following sections of title 28, United States Code, shall apply with respect to civil actions commenced on or after the

90th day after the effective date of this Act:

(A) Sections 1582, 2639(a)(2), and 2640 (a)(6), as amended by sections 201 and 301 of this Act.

(B) Sections 1352, 1355, and 1356, as amended by sections 506, 507, and 508 of this Act.

(2) Section 592(e) of the Tariff Act of 1930, as amended by section 609 of this Act, shall apply with respect to civil actions commenced on or after 90th day after the effective date of this Act.

TREATMENT OF REFERENCES

SEC. 702. Any reference in any statute or regulation of the United States to the United States Customs Court, the U.S. Customs Court, or the Customs Court shall be deemed to be a reference to the United States Court of International Trade.

EFFECT ON CUSTOMS COURT JUDGES

SEC. 703. (a) Except as provided in subsection (b) of this section, the amendments made by title I of this Act shall not affect the status of any individual serving as judge or chief judge of the Customs Court on the date of enactment of this Act.

(b) The requirement that a person may not continue to serve as chief judge of the Court of International Trade after having reached the age of seventy years, as set forth in the amendment made by section 101 of this Act, shall apply to any individual serving as chief judge on or after the date of enactment of this Act.

EFFECT ON PENDING CASES

SEC. 704. Nothing in this Act shall cause the dismissal of any action commenced prior to the date of enactment of this Act under jurisdictional statutes relating to the Customs Court or the Court of Customs and Patent Appeals as in effect immediately prior to such date of enactment.

TVA LEGAL REPRESENTATION

SEC. 705. Nothing in this Act affects the authority of the Tennessee Valley Authority under the Tennessee Valley Authority Act of 1933 to represent itself by attorneys of its choosing.

● Mr. DECONCINI. Mr. President, I am pleased to initiate discussion of S. 1654, the Customs Courts Act of 1980, a bill to improve the laws governing the jurisdiction, powers and procedures of the U.S. Customs Court. S. 1654 unanimously passed the U.S. Senate on December 18, 1979. H.R. 7540, a similar bill, recently unanimously passed the House of Representatives on Monday, September 22, 1980. Subsequently, the House of Representatives called up S. 1654 and inserted the provisions of H.R. 7540. It is this language to S. 1654 which we will consider today.

Enactment of the proposed Customs Courts Act will bring necessary clarification and improvement to the laws governing the jurisdiction, powers and procedures of the U.S. Customs Court. As a result of modification to the Customs Court, certain adjustments to the appellate court, the Court of Customs and Patent Appeals were also necessary.

Over the years, complex questions have arisen concerning the jurisdiction of the Customs Court, its scope of review, and the type of relief the court may award. Periodically, Congress has addressed these issues and has altered the court's status, jurisdiction and powers to solve a specific problem or to meet a specific need at a particular time. The result is a patchwork of laws that does not always serve the public interest.

The Customs Court had its genesis in 1890 as the board of general appraisers, an administrative unit within the Department of the Treasury, which was responsible for the review of decisions by Customs officials as to the rate and amount of duty imposed on imported merchandise, as well as the value of such merchandise. In 1926, legislation sought to provide greater judicial review and uniformity in the decisionmaking process, but it did not make any essential changes in the functions, duties or jurisdiction of the newly created court. In the following 30-year period the court gradually became an integral part of the Federal judicial system. In 1956, Congress declared the Customs Court to be a court "established under article III of the Constitution of the United States" (28 U.S.C. § 251).

In 1970 Congress recognized that the court's procedures and jurisdiction were in need of significant revision. At the time, Congress focused its legislative efforts on the Customs Courts Act of 1970, which made sweeping procedural reforms in the workings of the Customs Court. The 1970 legislation, however, still left the substantive issues regarding the jurisdiction and powers of the court unresolved.

Recently, with the completion of the Tokyo round of the multilateral trade negotiations and the President's signing of the Trade Agreements Act of 1979, the committee realized more than ever the need for additional legislation regarding the Customs Court. The Trade Agreements Act substantially expanded the opportunity for judicial review of antidumping and countervailing duty determinations. The act also, for the first time, authorized the Customs Court to grant injunctive relief in limited circumstances.

The primary statutes governing the U.S. Customs Court have not kept pace with the increasing complexities of modern day international trade litigation. The majority of cases before the Customs Court traditionally involved classification and valuation issues. In almost all of these cases, the court could only agree or disagree with the decision of the administrative agency. The court could not issue money judgments, nor, until 1980, could it provide equitable relief. The process which began in 1890 has resulted in "a jigsaw puzzle with enough missing pieces to make it difficult for any but the closest observer to discover what the completed puzzle was intended to depict."

The jurisdictional statutes of the Customs Court were drafted at a time when tariff rates were an essential factor in international trade. Congress was most sensitive to this and thus was primarily concerned with establishing methods for the judicial review of administrative determinations pertaining to the classification and valuation of imported merchandise. While these statutes did not always recognize the principle of having a decisive impact on the rate of duty ultimately assessed, the overall statutory scheme was constructed to facilitate challenges to classification and valuation determinations.

Multilateral negotiations have led to a significant decrease in tariff duties and consequently a diminishing importance in classification and valuation cases in the overall spectrum of international trade litigation. In their place other measures, such as antidumping and countervailing duty statutes, have assumed a greater importance. The net result has been a significant increase in the number of suits challenging governmental determinations in these areas.

Many suits involving international trade issues are and have been instituted in the Federal district courts rather than the U.S. Customs Court. One reason is that often it is difficult to determine in advance whether or not a particular case falls within the jurisdictional scheme of the Customs Court. In addition, because of the limited powers of Customs Court, litigants often choose another forum, for example, the Federal district courts, where they can gain the appropriate relief for their alleged injuries. Many district courts have refused to entertain such suits, citing the constitutional mandate requiring uniformity in decisions relating to imports. (See U.S. Const. art. I, § 8.) In so doing, the district courts sought to preserve the congressional grant of exclusive jurisdiction to the U.S. Customs Court for judicial review of all matters relating to imports.

The result has been inconsistent judicial decisions with litigants proceeding cautiously when choosing a forum for judicial review. If an improper forum is chosen, that may well result in a holding that the plaintiff is before the wrong court. A dismissal for want of jurisdiction can effectively preclude a judicial determination of the case on its merits. Furthermore, the type of relief available depends greatly upon a plaintiff's ability to persuade a court that it possesses jurisdiction over a particular case. Thus, some individuals will obtain relief which is denied others, who by chance select an improper forum to institute suit.

It is our view that clarification of jurisdiction possesses substantial advantages in terms of our ability to conduct our trade policy. This would enable us to maintain judicial review, while simultaneously increasing its availability, and assuring our trading partners that administrative determinations in this area will be subject to judicial review only by a limited number of courts which are in a position to render expeditious decisions. The clarification and expansion of the customs courts jurisdiction is warranted not only because it will eliminate the considerable jurisdictional confusion which now exists, but because of two other important considerations: Considerations of judicial economy, and the need to increase the availability of judicial review in the field of international trade in a manner which results in uniformity without sacrificing the expeditious resolution of import-related disputes.

It has become commonplace to refer to our district courts and courts of appeals as overburdened and overworked. The enormous increase in litigation instituted in the Federal courts has led to considerable delays in the resolution of these disputes due to calendar congestion. The comparatively recent increase in litigation involving the field of international trade has only compounded this problem by adding a new category of cases to those which are already instituted in the district courts.

Under these circumstances, it makes good sense in terms of the availability of judicial resources to transfer some of the cases now instituted in the crowded district courts to the underutilized customs courts.

Another existing defect is that the court is hamstrung in exercising its responsibilities because, as a matter of settled law, it lacks critical equitable powers; it may only entertain cases and controversies which have often reached a degree of ripeness that could make equitable relief too late to be useful, and it cannot fashion equitable remedies when appropriate. The proposed Customs Courts Act of 1980 resolves this long-standing problem by granting the court full equitable powers. This provision will provide a forum for litigants seeking immediate relief in matters arising from import transactions. At present, litigants can only hope the district court will find subject matter jurisdiction and grant an equitable remedy.

In conclusion, S. 1654 would make it clear that the Customs Court—renamed the U.S. Court of International Trade—possesses broad jurisdiction to entertain certain civil actions arising out of import transactions. In addition, the Customs Courts Act of 1980 would make it clear that, in those civil actions within its jurisdiction, the court possesses the authority to grant the appropriate relief when required to remedy an injury. These provisions, when coupled with those contained in the Trade Agreements Act of 1979, make it clear to those who suffer an alleged injury in this area, that they may seek redress in a court with confidence that their case will be heard on the merits—not decided upon jurisdictional grounds and that, if they are successful, the Court of International Trade will be able to afford them the relief which is appropriate and necessary to make them whole.

This legislation will offer the international trade community, as well as domestic interests, consumer groups, labor unions and other concerned citizens, a vastly improved forum for judicial review of administrative actions of the U.S. Customs Service and other Government agencies dealing with imported merchandise.

The language under consideration at this time is largley an improvement over the original provisions of S. 1654. However, the one glaring exception is the political affiliation requirement. This provision, which is also current law, states that no more than five of the nine members of the court may be from the same political party. I am strongly opposed to this measure, but I am willing to accept passage of the bill with it intact, in light of the imminent end of the session.

I view this legislation as too important to risk a time-consuming conference over the single provision provoking disagreement between the House and Senate. As you may be aware, the Customs Court Act of 1980 complements the Trade Agreements Act of 1979, which took effect January 1, 1980, so its expedited passage is of great importance. If however, this bill is passed without deletion of the political affiliation requirement, I will seriously consider sponsoring legislation next session to correct what I consider to be an inappropriate requirement on a court established under article III.

It is inappropriate to have a political affiliation requirment for Customs Court's judges for several reasons. First of all, the Customs Court is and would continue to be unique among article III courts in being subject to such a requirement. The requirement is a vestige of a provision originally applied to the board of general appraisers—the precursor for the Customs Court—established in 1890 as a quasi-administrative, quasi-judicial body to review classification and evaluation of imports.

A political affiliation balancing requirement may make sense in the context of appointees to regulatory boards and commissions, since such officials have relatively short terms, and are charged with making policy decisions often heavily tinged with political considerations. But article III judges appointed for life, who make decisions on the basis of assessment of facts and interpretation of law, should be appointed on the basis of merit alone, and without regard to any political considerations.

I believe that the retention of the political affiliation requirement will only tend to politicize the court—a result at odds with the bill's laudable goals of enhancing the importance and effectiveness of the court.

In addition, I would like the record to clearly indicate that the elimination of this requirement is supported by the Administrative Conference of the United States, the American Bar Association, the Association of the Customs Bar, the Committee on Customs Laws of the New York County Lawyers' Association , and the U.S. Customs Court.

At the request of the Senate Finance Committee, I would like to add one point of clarification regarding section 604 of the act. That section is not intended to imply that the so-called substantial evidence test applies to public interest determinations of the U.S. International Trade Commission in section 337 cases.

I would now like to take this opportunity to pay special tribute to those individuals who, through their untiring efforts, have helped make this bill a reality so it could come to the floor today.

Michael Altier, counsel of the subcommittee which I chair, deserves a great deal of the credit for the immense amount of work he put in. Also, Romano Romani, my staff director, deserves credit for his work on this proposal. In addition, I would like to thank Ann Woodley for all of her recent technical contributions to the legislation.

Before closing, I would also like to formally thank David Cohen, director of the commercial litigation branch of the Department of Justice. Mr. Cohen has been instrumental in assisting us in the development of this legislation.

This legislation is supported by the administration, specifically the Justice Department and the Commerce Department, the American Bar Association, the Association of the Customs Bar, the Administrative Conference of the United States, the American Importers' Association, the New York County Lawyers' Association, the U.S. Customs Court and the U.S. Court of Customs and Patent Appeals. In addition we have received helpful suggestions from the U.S. International Trade Commission.

In conclusion, I would like to urge my colleagues to support S. 1654, the Customs Courts Act of 1980. It is a long overdue and very necessary piece of legislation.●

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. DeConcini, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DOCUMENTARY MATERIALS PRIVACY PROTECTION ACT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Kennedy, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1790.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1790) entitled "An Act entitled the 'Privacy Protection Act of 1980' ", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Documentary Materials Privacy Protection Act of 1980".

UNLAWFUL ACTS

Sec. 2. (a) Notwithstanding any other law, it shall be unlawful for a government officer or employee, in connection with the investigation or prosecution of a criminal offense, to search for or seize any work product materials possessed by a person in connection with a purpose to disseminate to the public a newspaper, book, broadcast, or other similar form of public communication, in or affecting interstate or foreign commerce; but this provision shall not impair or affect the ability of any government officer or employee, pursuant to otherwise applicable law, to search for or seize such materials, if—

(1) there is probable cause to believe that the person possessing the materials has committed or is committing the criminal offense to which the materials relate: *Provided, however,* That a government officer or employee may not search for or seize materials described in subsection 2(a) under the provisions of this aragraph if the offense to which the materials relate consists of the receipt, possession, communication, or withholding of such materials or the information contained therein (but such a search or seizure may be conducted under the provisions of this paragraph if the offense consists of the receipt, possession, or communication of information relating to the national defense, classified information, or restricted data under 18 U.S.C. 793, 18 U.S.C. 794, 18 U.S.C. 797, 18 U.S.C. 798, 42 U.S.C. 2274, 42 U.S.C. 2275, 42 U.S.C. 2277, or 50 U.S.C. 783); or

(2) there is reason to believe that the immediate seizure of the materials is necessary to prevent the death of or serious bodily injury to a human being.

(b) Notwithstanding any other law, it shall be unlawful for a government officer or employee, in connection with the investigation or prosecution of a criminal offense, to search for or seize documentary materials, other than work product, possessed by a person in connection with a purpose to disseminate to the public a newspaper, book, broadcast, or other similar form of public communication, in or affecting interstate or foreign commerce; but this provision shall not impair or affect the ability of any government officer or employee, pursuant to otherwise applicable law, to search for or seize such materials, if—

(1) there is probable cause to believe that the person possessing the materials has committed or is committing the criminal offense to which the materials relate: *Provided, however*, That a government officer or employee may not search for or seize materials described in subsection 2(b) under the provisions of this paragraph if the offense to which the materials relate consist of the receipt, possession, communication, or withholding of such materials or the information contained therein (but such a search or seizure may be conducted under the provisions of this paragraph if the offense consists of the receipt, possession, or communication of information relating to the national defense, classified information, or restricted data under 18 U.S.C. 793, 18 U.S.C. 794, 18 U.S.C. 797, 18 U.S.C. 798, 42 U.S.C. 2274, 42 U.S.C. 2275, 42 U.S.C. 2277, or 50 U.S.C. 783); or

(2) there is reason to believe that the immediate seizure of the materials is necessary to prevent the death of or serious bodily injury to a human being; or

(3) there is reason to believe that the giving of notice pursuant to a subpena duces tecum would result in the destruction, alteration, or concealment of the materials; or

(4) the materials have not been produced in response to a court order directing compliance with a subpena duces tecum, and

(A) all appellate remedies have been exhausted; or

(B) there is reason to believe that the delay in an investigation or trial occasioned by further proceedings relating to the subpena would threaten the interests of justice.

In the event a search warrant is sought pursuant to this subparagraph, the person possessing the materials shall be afforded adequate opportunity to submit an affidavit setting forth the basis for any contention that the materials sought are not subject to seizure.

INAPPLICABILITY OF THIS ACT TO SEARCHES AND SEIZURES CONDUCTED TO ENFORCE THE CUSTOMS LAWS OF THE UNITED STATES

SEC. 3. This Act shall not impair or affect the ability of a government officer or employee, pursuant to otherwise applicable law, to conduct searches and seizures at the borders of or at international points of entry into the United States in order to enforce the customs laws of the United States.

REMEDIES

SEC. 4. For violations of this Act by an officer or employee of the United States, there shall be a cause of action against the United States as provided by section 1346(b) and chapter 171 of title 28, United States Code. Remedies against the United States provided by this section shall be the exclusive remedy or sanction, including the Exclusionary Rule.

DEFINITIONS

SEC. 5. (a) "Documentary materials", as used in this Act, means materials upon which information is recorded, and includes, but is not limited to, written or printed materials, photographs, motion picture films, negatives, video tapes, audio tapes, and other mechanically, magnetically, or electronically recorded cards, tapes, or discs, but does not mean contraband, the fruits of a crime, or things otherwise criminally possessed, or property designed or intended for use or which is or has been used as the means of committing a criminal offense.

(b) "Work product", as used in this Act, means any documentary materials created by or for a person in connection with his plans, or the plans of the person creating such materials, to communicate to the public, except such work product as constitutes contraband or the fruits or things otherwise criminally possessed, or property designed or intended for use or which is or has been used as the means of committing a criminal offense.

(c) "Any other governmental unit", as used in this Act, includes the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any local government, unit of local government, or any unit of State government.

TITLE II—ATTORNEY GENERAL GUIDELINES

SEC. 201. (a) The Attorney General shall, within six months of date of enactment of this Act, issue guidelines for the procedures to be employed by any Federal officer or employee, in connection with the investigation or prosecution of an offense, to obtain documentary materials in the private possession of a person when the person is not reasonably believed to be a suspect in such offense or related by blood or marriage to such a suspect, and when the materials sought are not contraband or the fruits or instrumentalities of an offense. The Attorney General shall incorporate in such guidelines—

(1) a recognition of the personal privacy interests of the person in possession of such documentary materials;

(2) a requirement that the least intrusive method or means of obtaining such materials be used which do not substantially jeopardize the availability or usefulness of the materials sought to be obtained;

(3) a recognition of special concern for privacy interests in cases in which a search or seizure for such documents would intrude upon a known confidential relationship such as that which may exist between clergyman and parishioner; lawyer and client; or doctor and patient; and

(4) a requirement that an application for a warrant to conduct a search governed by this title be approved by an attorney for the Government, except that in an emergency situation the application may be approved by another appropriate supervisory official if within twenty-four hours of such emergency the appropriate United States attorney is notified.

(b) The Attorney General shall collect and compile information on, and report annually to the Committees on the Judiciary of the Senate and the House of Representatives on the use of search warrants by Federal officers and employees for documentary materials described in subsection (a)(3).

SEC. 202. Guidelines issued by the Attorney General under this title shall have the full force and effect of Department of Justice regulations and any violation of these guidelines shall make the employee or officer involved subject to appropriate administrative disciplinary action. However, an issue relating to the compliance, or the failure to comply, with guidelines issued pursuant to this title may not be litigated, and a court may not entertain such a issue as the basis for the suppression or exclusion of evidence.

Amend the title so as to read: "An Act to limit governmental search and seizure of documentary materials possessed by persons, to provide a remedy for persons aggrieved by violations of the provisions of this Act, and for other purposes.".

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. KENNEDY, I move that the Senate insist on its amendments and agree to the conference requested by the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. LEVIN) appointed Mr. KENNEDY, Mr. BAYH, Mr. DECONCINI, Mr. HEFLIN, Mr. METZENBAUM, Mr. THURMOND, Mr. HATCH, Mr. SIMPSON, and Mr. MATHIAS conferees on the part of the Senate.

CLASSIFIED INFORMATION CRIMINAL TRIAL PROCEDURES ACT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. KENNEDY, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1482.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1482) entitled "An Act to provide certain pretrial, trial, and appellate procedures for criminal cases involving classified information", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Classified Information Criminal Trial Procedures Act".

TITLE I—PROCEDURES FOR DISCLOSURE OF CLASSIFIED INFORMATION IN CRIMINAL CASES

PRETRIAL CONFERENCES

SEC. 101. At any time after the filing by the United States or an indictment or information in a United States district court, any party to the case may request a pretrial conference to consider matters relating to classified information that may arise in connection with the prosecution. Upon such a request, the court shall promptly hold a pretrial conference to establish a schedule for any request for discovery of classified information and for the implementation of the procedures established by this title. In addition, at such a pretrial conference the court may consider any other matter which may promote a fair and expeditious trial. No admission made by the defendant or by any attorney for the defendant at such a conference may be used against the defendant unless the admission is in writing and is signed by the defendant and by the attorney for the defendant.

PROCEDURES FOR DISCLOSURE OF CLASSIFIED INFORMATION

SEC. 102. (a)(1) Whenever a defendant in any Federal prosecution intends to take any action to disclose or cause the disclosure of classified information in any manner in connection with such prosecution, the defendant shall, before such disclosure and before the trial or any pretrial hearing, notify the court and the attorney for the United States of such intention and shall not disclose or cause the disclosure of such information unless authorized to do so by the court in accordance with this title. Such notice shall include a brief description of the classified information that is the subject of such notice.

(2)(A) Within ten days of receiving a notification under paragraph (1), the United States, by written petition of the Attorney General, may request the court to conduct a proceeding to make all determinations concerning the use, relevance, or admissibility of the classified information at issue that would otherwise be made during the trial or a pretrial hearing. Upon such a request, the court shall conduct such a proceeding.

(B) Any proceeding held pursuant to a request under subparagraph (A) (or any portion of such proceeding specified in the request of the Attorney General) shall be held in camera if the Attorney General certifies to the court in such petition that a public proceeding may result in the disclosure of classified information.

(C) If a request for a proceeding under this subsection is not made within ten days or if, at the close of such a proceeding, the determination of the court regarding the use, relevance, or admissibility of the classified information at issue is favorable to the defendant, the court shall authorize the defendant to disclose or cause the disclosure of the classified information at the trial or at any pretrial hearing, but such disclosure may not be made before the time for the United States to appeal such determination under section 108 has expired. If the United States takes such an appeal, such disclosure may not be made until such appeal is decided.

(b)(1) Whenever a defendant in a Federal prosecution intends to take any action to disclose or cause the disclosure, during the trial or any pretrial hearing, of any classified information and the defendant has not given notice under subsection (a)(1) with respect to such disclosure because the interest of the defendant in such disclosure reasonably could not have been anticipated before the expiration of the time for giving such notice, the defendant shall, before taking such action, notify the court and the attorney for the United States of such intention and shall not disclose or cause the disclosure of such information unless authorized by the court to do so in accordance with this title. Such notice shall include a brief description of the classified information that is the subject of such notice.

(2)(A) Within forty-eight hours of the receipt of a notification under paragraph (1), the United States, by written petition of the Attorney General, may request the court to conduct a proceeding to make all determinations concerning the use, relevance, or admissibility of the classified information at issue. Upon such a request, the court shall conduct such a proceeding.

(B) Any proceeding held pursuant to a request under subparagraph (A) (or any portion of such proceeding specified in the request of the Attorney General) shall be held in camera if the Attorney General certifies to the court in such petition that a public proceeding may result in the disclosure of classified information.

(C) If a request for a proceeding under this subsection is not made within forty-eight hours or if, at the close of such a proceeding, the determination of the court regarding the use, relevance, or admissibility of the classified information at issue is favorable to the defendant, the court, subject to the provisions of section 106, shall authorize the defendant to disclose or cause the disclosure of the classified information at the trial or any pretrial hearing, but such disclosure may not be made before the time for the United States to appeal such determination under section 108 has expired. If the United States takes such an appeal, such disclosure may not be made until such appeal is decided. In any order of the court under this subsection that is favorable to the defendant, the court shall specify the time to be allowed the United States to appeal such order under section 108.

(c)(1) At any time before or during trial the United States, by written petition of the Attorney General, may request the court to conduct a proceeding to make all determinations concerning the use, relevance, or admissibility of classified information which has not been the subject of notice under subsection (a)(1) or (b)(1). Upon such a request, the court shall conduct such a proceeding.

(2) Any proceeding held pursuant to a request under paragraph (1) (or any portion of such proceeding specified in the request of the Attorney General) shall be held in camera if the Attorney General certifies to the court in such petition that a public proceeding may result in the disclosure of classified information.

(3) If, at the close of a proceeding held pursuant to this subsection, the determination of the court regarding the use, relevance, or admissibility of the classified information at issue is favorable to the defendant, the court, subject to the provisions of section 106, shall authorize the defendant to disclose or cause the disclosure of the classified information at the trial or at any pretrial hearing, but such disclosure may not be made before the time for the United States to appeal such determination under section 108 has expired. If the United States takes such an appeal, such disclosure may not be made until such appeal is decided. In any order of the court under this subsection that is favorable to the defendant, the court shall specify the time to be allowed the United States to appeal such order under section 108.

(d) Upon receiving a request from the United States for a proceeding under subsection (a)(2), (b)(2), or (c)(1) the court shall issue an order prohibiting the defendant from disclosing or causing the disclosure of the classified information at issue pending conclusion of the proceeding.

(e) Before any proceeding is conducted pursuant to a request by the United States under subsection (a)(2), (b)(2), or (c)(1), the United States shall provide the defendant with notice of the classified information that is at issue. Such notice shall identify the specific classified information at issue whenever that information previously has been made available to the defendant by the United States. When the United States has not previously made the information available to the defendant, the information may be described by generic category, in such form as the court may approve, rather than by identification of the specific information of concern to the United States.

(f) During the examination of a witness by a defendant in any criminal proceeding, the United States may object to any question or line of inquiry that may require the witness to disclose classified information not previously found to be admissible in accordance with the procedures established by this title. Upon such an objection, the court shall take such action to determine whether the response is admissible as will safeguard against the disclosure of any classified information. Such action may include requiring the United States to provide the court with a proffer of the response of the witness to the question or line of inquiry anticipated by the United States and requiring the defendant to provide the court with a proffer of the nature of the information sought to be elicited.

ALTERNATIVE PROCEDURE FOR DISCLOSURE OF CLASSIFIED INFORMATION

SEC. 103. (a) Upon any determination by the court authorizing the disclosure of specific classified information under the procedures established by section 102, the United States may move that, in lieu of the disclosure of such specific classified information, the court order—

(1) the substitution for such classified information of a statement admitting relevant facts that the specific classified information would tend to prove; or

(2) the substitution for such classified information of a summary of the specific classified information.

The court shall grant such a motion of the United States if it finds that the statement or summary will provide the defendant with substantially the same ability to make his defense as would disclosure of the specific classified information. The court shall hold a hearing on any motion under this section. Any such hearing shall be held in camera at the request of the Attorney General.

(b) The United States may, in connection with a motion under subsection (a), submit to the court an affidavit of the Attorney General certifying that disclosure of the classified information would cause identifiable damage to the national security of the United States and explaining the basis for the classification of such information. If so requested by the United States, the court shall examine such affidavit in camera and ex parte.

SEALING OF RECORDS OF IN CAMERA PROCEEDINGS

SEC. 104. If at the close of an in camera proceeding under this title (or any portion of a proceeding under this title that is held in camera) the court determines that the classified information at issue may not be disclosed or elicited at the trial or any pretrial hearing, the record of such in camera proceeding shall be sealed and preserved by the court for use in the event of an appeal.

PROHIBITION ON DISCLOSURE OF CLASSIFIED INFORMATION BY DEFENDANT, RELIEF FOR DEFENDANT WHEN UNITED STATES OPPOSES DISCLOSURE

SEC. 105. (a) Whenever the court denies a motion by the United States that it issue an order under section 103(a) and the United States files with the court an affidavit of the Attorney General objecting to disclosure of the classified information at issue, the court shall order that the defendant not disclose or cause the disclosure of such information.

(b) Whenever a defendant is prevented by an order under subsection (a) from disclosing or causing the disclosure of classified information, the court shall dismiss the indictment or information; except that, when the court determines that the interests of justice would not be served by dismissal of the indictment or information, the court shall order such other action, in lieu of dismissing the indictment or information, as the court determines is appropriate. Such action may include—

(1) dismissing specified counts of the indictment or information;

(2) finding against the United States on any issue as to which the excluded classified information relates; or

(3) striking or precluding all or part of the testimony of a witness.

FAILURE OF DEFENDANT TO PROVIDE PRETRIAL NOTICE

SEC. 106. If a defendant fails to comply with the notice requirements of subsection (a) or (b) of section 102 and the court finds that the defendant's need to disclose or cause the disclosure of the classified information at issue reasonably could have been anticipated before the expiration of the time for giving such notice under such subsection, the court may prohibit the defendant from disclosing or causing the disclosure of such classified information during trial and may prohibit the examination by the defendant of any witness with respect to any such information.

RECIPROCITY; DISCLOSURE BY THE UNITED STATES OF REBUTTAL EVIDENCE

SEC. 107. (a) Whenever the court determines, in accordance with the procedures prescribed in section 102, that classified information may be disclosed in connection with a criminal trial or pretrial hearing or issues an order pursuant to section 103(a), the court shall—

(1) order the United States to provide the defendant with the information it expects to use to rebut the particular classified information at issue; and

(2) order the United States to provide the defendant with the name and address of any witness it expects to use to rebut the particular classified information at issue if, taking into account the nature and extent of the defendant's disclosures, the probability of harm to or intimidation or bribery of a witness, and the probability of identifiable harm to the national security, the court determines that such order is appropriate.

(b) If the United States fails to comply with an order under subsection (a), the court, unless it finds that the use at trial of information or a witness reasonably could not have been anticipated, may exclude any evidence not made the subject of a required disclosure and may prohibit the examination by the United States of any witness with respect to such information.

(c) Whenever the United States requests a pretrial proceeding under section 102, the United States, upon request of the defendant, shall provide the defendant with a bill of particulars as to the portions of the indictment or information which the defendant identifies as related to the classified information at issue in the pretrial proceeding. The bill of particulars shall be provided before such proceeding.

(d) The provisions of this section shall not apply to classified information provided by the United States to the defendant pursuant to a discovery request, unless the court determines that the interests of fairness so require.

APPEALS BY THE UNITED STATES

SEC. 108 (a) The United States may appeal to a court of appeals before or during trial from any decision or order of a district court in a criminal case requiring or authorizing the production, disclosure, or use of classified information, imposing sanctions for nondisclosure of classified information, or denying the issuance of a protective order sought by the United States to prevent the disclosure of classified information, if the Attorney General certifies to the district court that the appeal is not taken for purpose of delay.

(b) (1) If an appeal under this section is taken before the trial has begun, the appeal shall be taken within ten days after the date of the decision or order appealed from, and the trial shall not commence until the appeal is decided.

(2) If an appeal under this section is taken during the trial, the trial court shall adjourn the trial until the appeal is resolved, and the court of appeals (A) shall hear argument on such appeal within four days of the adjournment of the trial, (B) may dispense with written briefs other than the supporting materials previously submitted to the trial court, (C) shall render its decision within four days of argument on appeal, and (D) may dispense with the issuance of a written opinion in rendering its decision.

(c) Any appeal and decision under this section shall not affect the right of the defendant, in a subsequent appeal from a judgment of conviction, to claim as error reversal by the trial court on remand of a ruling appealed from during trial.

PROTECTIVE ORDERS; DISCOVERY; INTRODUCTION OF EVIDENCE

SEC. 109. (a) Upon motion of the United States, the court shall issue an order to protect against the disclosure of any classified information disclosed by the United States to any defendant in any criminal case in a district court of the United States.

(b) Whenever the court determines pursuant to rule 16 of the Federal Rules of Criminal Procedure that the defendant is entitled to discover or inspect documents or materials containing classified information, the court shall authorize the United States to delete classified information from the documents or materials to be made available to the defendant, to substitute a summary of the classified information, or to substitute a statement admitting relevant facts that the classified information would tend to prove, if the court finds that such action will provide the defendant with substantially the same ability to prepare for trial or make his defense as would disclosure of the specific classified information. The court may permit the United States to make a request for such authorization in the form of a written statement to be inspected by the court alone. If the court enters an order granting relief following such an ex parte showing, the entire text of the statement of the United States shall be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal.

(c) Writings, recordings, and photographs containing classified information may be admitted into evidence without change in their classification status.

(d) When a writing or recorded statement (or a part thereof) is introduced into evidence by the United States, the court, upon motion of the defendant, may require the United States at that time to introduce any other writing or recorded statement (or any other part of the statement introduced) which ought in fairness to be considered contemporaneously with the statement introduced and which is relevant to the defendant's case. If such other writing or recorded statement, or such other part, contains classified information, the court, at the request of the United States, shall conduct the hearing on the defendant's motion in camera. If, at the conclusion of such hearing, the court requires the United States to introduce classified information, the procedures of section 103 shall apply.

(e) The United States may notify the court and the defendant before trial if it intends to introduce during the trial only a part of a writing or recorded statement containing classified information. Upon such notification, the court shall conduct, before the trial, an in camera proceeding to make the determinations required by section 109(d).

SECURITY PROCEDURES

SEC. 110. (a) Within one hundred and twenty days of the date of the enactment of this Act, the Chief Justice of the United States, in consultation with the Attorney General and the Director of Central Intelligence, shall prescribe rules establishing procedures for the protection against unauthorized disclosure of any classified information in the custody of the United States district courts, courts of appeals, or Supreme Court. Such rules, and any changes in such rules, shall be submitted to the appropriate committees of Congress and shall become effective forty-five days after such submission.

(b) Until such time as rules under subsection (a) first become effective, the Federal courts shall in each case involving classified information adopt procedures to protect against the unauthorized disclosure of such information.

IDENTIFICATION OF INFORMATION RELATED TO THE NATIONAL DEFENSE

SEC. 111. In any prosecution in which the United States must establish as an element of the offense that material relates to the national defense or constitutes classified information, the United States shall notify the defendant, at the time of the pretrial conference or, if no such conference is held, at a time before trial specified by the court, of the portions of the material that it reasonably expects to rely upon to establish such element of the offense.

FUNCTIONS OF ATTORNEY GENERAL MAY BE EXERCISED BY DEPUTY ATTORNEY GENERAL AND A DESIGNATED ASSISTANT ATTORNEY GENERAL

SEC. 112. The functions and duties of the Attorney General under this title may be exercised by the Deputy Attorney General and by an Assistant Attorney General designated by the Attorney General for such purpose and may not be delegated to any other official.

DEFINITION

SEC. 113. As used in this title, the term "classified information" means information or material that is designated and clearly marked or clearly represented, pursuant to the provisions of a statute or Executive order (or a regulation or order issued pursuant to a statute or Executive order), as information requiring a specific degree of protection against unauthorized disclosure for reasons of national security or any Restricted Data, as defined in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

TITLE II—GUIDELINES AND REPORTS

GUIDELINES PRESCRIBED BY THE ATTORNEY GENERAL

SEC. 201. Within ninety days of the date of the enactment of this Act, the Attorney General shall issue guidelines specifying the factors to be used by the Department of Justice in deciding whether to prosecute a violation of Federal law in which there is a possibility that classified information will be disclosed. Such guidelines shall be promptly transmitted to the appropriate committees of the Congress.

ANNUAL REPORT TO CONGRESS BY THE ATTORNEY GENERAL

SEC. 202. The Attorney General shall report to the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, and the chairmen and ranking minority members of the Committees on the Judiciary of the Senate and the House of Representatives once each year concerning the operation and effectiveness of this Act. Such report shall include summaries of those cases in which a decision not to prosecute or not to continue a prosecution was made because of the possibility that classified information would be disclosed.

TITLE III—EFFECTIVE DATE

SEC. 301. The provisions of this Act shall become effective upon the date of the enactment of this Act, but shall not apply to any prosecution in which an indictment or information was filed before such date.

Amend the title so as to read: "An Act to establish certain pretrial and trial procedures for the use of classified information in connection with Federal criminal cases, and for other purposes.".

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. KENNEDY, I move that the Senate insist on its amendments and agree to the conference requested by the House on the disagreeing votes of the two Houses and the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. LEVIN) appointed Mr. KENNEDY, Mr. BAYH, Mr. BIDEN, Mr. LEAHY, Mr. THURMOND, Mr. DOLE, and Mr. COCHRAN conferees on the part of the Senate.

UNITED STATES CAPITOL GROUNDS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 6331.

The PRESIDING OFFICER laid before the Senate H.R. 6331, an act to amend the act of July 31, 1946, as amended, relating to the United States Capitol grounds, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second time, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 6331) was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

IMPROVEMENT OF MENTAL HEALTH SERVICES—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. KENNEDY, I submit a report of the committee of conference on S. 1177 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1177) to improve the provision of mental health services and otherwise promote mental health throughout the United States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings in the RECORD.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTIONS IN THE ENROLLMENT OF S. 1177

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. KENNEDY, I send to the desk a concurrent resolution and ask for its immediate consideration, the purpose being to make technical and grammatical corrections in the conference report.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 128) directing the Secretary of the Senate to make corrections in the enrollment of the bill S. 1177.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. 128) was agreed to, as follows:

S. CON. RES. 128

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (S. 1177) to improve the provision of mental health services and otherwise promote mental health throughout the United States, and for other purposes, the Secretary of the Senate shall make the following corrections:

(1) In section 101(c)(3) of the bill (A) strike out "Paragraph (1) does" and insert in lieu thereof "Paragraphs (1) and (2) do", and (B) strike out "migrant center which" and insert in lieu thereof "migrant center and which".

(2) In section 107(a)(8) of the bill strike out "patients rights" and insert in lieu thereof "patients' rights".

(3) Strike out the period at the end of section 201(b) of the bill and insert in lieu thereof a comma and the following: "except that if at the end of such period a center has not obligated all the funds received by it under a grant, the center may use the unobligated funds under the grant in the succeeding year for the same purposes for which such grant was made but only if the center is eligible to receive a grant under subsection (a) for such succeeding year."

(4) In section 201(c)(2)(B) of the bill strike out "or entity".

(5) In section 201(c)(2)(ii) of the bill strike out "eligible to receive services from such a center".

(6) In section 201(c) of the bill, redesignate paragraph (2) as paragraph (3) and insert after paragraph (1) the following new paragraph:

"(2) The amount of a grant prescribed by paragraph (1) for a community mental health center for any year shall be reduced by the amount of unobligated funds from the preceding year which the center is authorized, under subsection (b)(1), to use in the year for which the grant is to be made."

(7) Amend paragraph (3) of section 201 (d) of the bill to read as follows:

"(3) Of the total amount appropriated under paragraphs (1) and (2) for any fiscal year, the Secretary may not obligate more than 5 percent for grants under subsection (a) to community mental health centers which are operated by hospitals and which have advisory committees as prescribed by section 101(c)(2).".

(8) In section 202(b)(2) of the bill strike out "Social Security Act," and insert in lieu thereof "Social Security Act and under".

(9) In section 202(c)(2)(ii) of the bill strike out "eligible to receive services from such a entity".

(10) In section 203(b) of the bill strike out "Social Security Act," and insert in lieu thereof "Social Security Act and under".

(11) In section 203(c)(3)(ii) of the bill strike out "eligible to receive services from such a entity".

(12) In section 204(a)(2) of the bill (A) strike out the comma after "provision of" in subparagraph (A), and (B) strike out "Social Security Act," in subparagraph (B) and insert in lieu thereof "Social Security Act and under".

(13) In section 204(a)(3)(C)(II) of the bill strike out "eligible to receive services from such a entity".

(14) In section 204(b)(3)(D)(II) of the bill strike out "eligible to receive services from such a entity".

(15) In section 206(c)(3)(B) of the bill strike out "or entity" and insert in lieu thereof "or other entity".

(16) In section 206(c)(3)(ii) of the bill strike out "eligible to receive services from such a center or entity".

(17) In section 207(b)(2) of the bill strike out "any grant" and insert in lieu thereof "any grant or contract".

(18) Insert after section 208 of the bill the following:

"TITLE III—GENERAL PROVISIONS RESPECTING GRANT PROGRAMS"

(19) In section 301 of the bill strike out "receive a grant" and insert in lieu thereof "receive a grant or contract".

(20) In section 302(2)(K) of the bill strike out "Social Security Act," and insert in lieu thereof "Social Security Act and under".

(21) In section 326 of the bill insert a comma after "short-term training".

(22) Strike out section 329 of the bill.

(23) In section 401(b) of the bill, strike out "1981" and insert in lieu thereof "1980".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF AUTHORIZATION FOR PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT AND APPALACHIAN REGIONAL DEVELOPMENT ACT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. RANDOLPH, I submit legislation to authorize an extension of the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965 for fiscal years 1980 and 1981. This extension is necessary since S. 914, a bill reauthorizing both of these acts, has not cleared conference after nearly 10 months.

Mr. President, I ask unanimous consent that the bill, as introduced, be considered as having been read twice and ask that it be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE HELD AT DESK—H.R. 7544

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 7544 be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

ESTABLISHMENT OF THE U.S. HOLOCAUST MEMORIAL COUNCIL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House on H.R. 8081.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 8081) to establish the United States Holocaust Memorial Council.

UP AMENDMENT NO. 1653

(Purpose: Relating to appointment of Council members by the President pro tempore of the Senate)

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. BAKER and myself, I send an amendment to the desk and ask that it be stated by the clerk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for himself and Mr. BAKER, proposes an unprinted amendment numbered 1653.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 14, insert "(except as otherwise provided in this section)" immediately after "appointed".

On page 2, line 23, insert "upon the recommendation of the Majority and Minority Leaders".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

● Mr. DANFORTH. Mr. President, I am pleased that H.R. 8081, a bill to establish the U.S. Holocaust Memorial Council, has been passed by the Senate. The Council now has statutory authority to perform two important functions: Plan, construct, and oversee the operation of a museum to the victims of the holocaust, and encourage and sponsor annual observances of Days of Remembrances to victims of the holocaust.

As the sponsor of the first congressional joint resolution establishing the Days of Remembrance observation 2 years ago, I am pleased that the Days of Remembrance will continue as a time of national reflection and prayer. I believe all Americans should set aside these few days each year to confront the memory of the holocaust and to search our individual consciences for any weaknesses that may encourage or permit hatred or apathy in the face of evil.

In the last 2 years, the Days of Remembrance occurred over a Saturday and Sunday, and the President's Commission on the Holocaust specifies that the Days of Remembrance continue to include a weekend. I believe inclusion of a weekend is crucial so that those who are members of churches, synagogues, or other places of worship may observe the Days of Remembrance on their sabbath. Both last year and the year before, many churches, synagogues, and other places of worship recognized the Days of Remembrance and planned special services. I hope, under the leadership of the Council, this practice continues.

I ask that the portion of the Report of the President's Commission on the Holocaust discussing the "Days of Remembrance" be printed in the RECORD.

The report follows:

EXCERPT FROM THE REPORT TO THE PRESIDENT OF THE PRESIDENT'S COMMISSION ON THE HOLOCAUST, SEPTEMBER 27, 1979

4. DAYS OF REMEMBRANCE

The Commission recommends that the Days of Remembrance of Victims of the Holocaust be proclaimed in perpetuity to be held annually, commencing on the Sunday of (or preceding) the internationally recognized Holocaust Commemoration Day.

The Commission further recommends that the Holocaust Memorial be charged in its charter with the continuing responsibility to develop means of commemorating the Days of Remembrance. This mandate is integral to the work of the proposed Holocaust Memorial.

The President charged the Commission to implement the Congressional resolution calling for the observance of April 28 and 29, 1979, as "Days of Remembrance." The authors wanted the observance "to occur on days when Americans worship in the churches and synagogues of the nation, to coincide with the internationally recognized Holocaust Commemoration Day, and to mark the anniversary of a significant American involvement in the Holocaust, namely, the liberation of Dachau by American troops." Mindful of the legislative intent and the task of commemorating events so shattering as to defy description, the Commission extended the commemoration to a week-long period so as to include the internationally recognized Holocaust Commemoration Day.

The programs initiated by the Commission were built on the foundation of two decades of commemoration activities, intensified this year by governmental involvement. Given the limited resources of the Commission, the number of activities were restricted to those capable of providing models for future years. Working on its own and in cooperation with several states, communities, and national organizations, the Commission organized the following activities:

1. National Civic Holocaust Commemoration Service in the Capitol Rotunda. President Carter led the leaders of the nation and invited guests in a memorial service that included music from the Holocaust sung by the Atlanta Boy Choir, a Presidential address, remarks by the Vice President, an address by the Chairman of the Commission, a candle-lighting ceremony, and appropriate prayers.

2. In the State of Minnesota, a model for state observances, with the help of the local community and the state leaders, programs included:

a. An exhibit of Holocaust art in the Interchurch Center of Minnesota.

b. A conference and teacher workshop, featuring Professor Raul Hilberg as the keynote speaker and scholar in residence, on "The Implications of the Holocaust for Western Society."

c. A state civic ceremony similar to the national ceremony, held in the state capitol with an address by the Governor and a Commissioner.

d. An ecumenical Christian service of commemoration with the participation of all major Christian churches.

e. A Jewish service of commemoration with the participation of all the local synagogues of Minneapolis-St. Paul.

f. A series of documentaries and Holocaust films shown statewide on public and network television.

3. Other Activities: Similar statewide activities were held in Connecticut and New Jersey with a member of the Commission or its Advisory Board participating in the services at the state capitols.

The Commission also participated in the largest Holocaust commemoration service in North America held annually in New York City, organized by the Warsaw Ghetto Resistance Organization and sponsored by other survivors' organizations. Over 25,000 people attended.

The Commission also joined in a Holocaust commemoration service at the National Cathedral in Washington, D.C., at which Senator John Danforth, an ordained Episcopal minister, was the guest preacher. A special liturgy and litany were composed for the occasion which was shared with all Episcopal ministers throughout the United States.

As a model for future observances, the Commission has worked with the City of Sommerville, Massachusetts, on a series of commemorative and educational assemblies in its high schools, featuring films and talks by survivors. The Commission also assisted the National Educational Television network with the selection of appropriate documentary films related to the Holocaust for broadcast throughout the commemorative week.

The Commission's views regarding the Days of Remembrance directly reflect this year's experience. Foremost among its proposals is that these days become a part of the national calendar. The international Holocaust commemoration day falls on the 27th of Nisan by the lunar calendar, a date that never conflicts with either Easter or Passover; the week of Remembrance should begin on the preceding Sabbath.●

ADDITION OF GRANDFATHER CLAUSE TO HAWAII PREPAID HEALTH CARE ACT

Mr. MATSUNAGA. Mr. President, I am today introducing a legislative proposal, S. 3151, which is familiar to all Members. This bill adds a grandfather clause to the Employee Retirement Income Security Act (ERISA) for the Hawaii Prepaid Health Care Act. The Senate has twice before approved this grandfather provision—on July 29 and August 26, 1980—as part of the Multiemployer Pension Plan Amendments Act of 1980, H.R. 3904.

As I have stated before on this floor, the Hawaii State Legislature began consideration of the Prepaid Health Care Act legislation in 1971, about the time Congress began its review of private pension programs. The Hawaii State Legislature passed the Prepaid Health Care Act in April 1974, prior to the passage of ERISA by the Congress.

The Hawaii law requires employers in my State to provide their workers with medical insurance coverage; the coverage is similar to the medical insurance program the Federal Government provides for civil service employees. Since the Hawaii Prepaid Health Care Act concerned only basic comprehensive health insurance protection for employees, and since the Federal Government had not yet taken any formal action on national health insurance legislation, the Hawaii State Legislature did not envision a conflict with any existing or immediately anticipated Federal laws when it passed the Prepaid Health Care Act legislation in April 1974. Indeed, the State legislature rightfully felt that it was pioneering a uniquely innovative area of State law when it passed the legislation.

In November 1977, a Federal district court in San Francisco ruled that ERISA preempted the Hawaii health care statute. The court found no indication whatever from the legislative history that Congress intended ERISA to preempt State health insurance laws. But following traditional statutory construction, the court noted specific congressional exemptions for State unemployment compensation, worker's compensation, and disability insurance laws; since ERISA did not similarly exempt the Hawaii Health Insurance Act, the court concluded with considerable trepidation that ERISA's general preemption language invalidated the Hawaii law. The statutory ambiguity was created by the Congress; and correction of that ambiguity, the court stated rests with Congress.

The court's decision was rendered in a suit filed by Standard Oil Co. of California. This is the only formal complaint ever received by the State from any employer doing business in Hawaii over the health insurance requirements of the act. But the effect of this decision is to invalidate the entire statute and to deny workers the health insurance protection which State law had previously mandated.

During the 95th Congress, with the cosponsorship of Senator INOUYE, I introduced legislation which would clarify this intent of Congress with respect to the preemption of the Hawaii Prepaid Health Care Act. Over the past 3 years, the hearing records of both the Committee on Labor and Human Resources and the Committee on Finance have explicitly and conclusively indicated that the preemption of the Hawaii health insurance law was never envisioned or intended by Congress. In fact, both committees have acknowledged the need to correct this serious ambiguity in ERISA preemption authority through the approval of the Matsunaga amendment to S. 1076, the Senate companion bill to H.R. 3904.

As a result of the passage of the Prepaid Health Care Act, Hawaii has the most comprehensive basic health insurance protection for its residents in the entire country. The Hawaii Act is based on a community standard of outpatient and prevention-oriented health insurance protection which was established by the private sector over a period of 40 years; the mandated health insurance coverage thus does not include any inefficient, inappropriate, or uneconomical benefits.

Over the past 4 years, several nationally recognized health economists have made a close and analytical study of Hawaii's health care delivery system and have all concluded that the system is a model of free market competition, in which the consumer is the greatest beneficiary, and that it is a very practical, economical approach to the provision of basic comprehensive health insurance protection for the State's residents.

The passage of this narrow waiver of ERISA preemption for the Hawaii Prepaid Health Care Act would permit the continuation of this exemplary health care delivery system for all of Hawaii's residents and this waiver is therefore vitally important to the State of Hawaii. It is strongly supported by the U.S. Department of Labor, the State of Hawaii, the Hawaii State Federation of Labor AFL–CIO, and the International Longshoremen's and Warehousemen's Union.

In light of the Hawaii Legislature's passage of the Prepaid Health Care Act prior to ERISA and in view of the absence of congressional intention to invalidate this law, both the Senate Labor Committee and the Senate Finance Committee as well as the Senate itself, supported my proposal. However, to secure passage of the Multiemployer Pension Plan Amendments Act of 1980, I agreed to the deletion of my amendment in the House-Senate conference on the bill.

The distinguished chairman of the House Task Force on Welfare and Pension Plans, acting for the House Labor Committee chairman, said that he had no problems with the substance of my amendment, but opposed it as a rider on the multiemployer bill, H.R. 3904, because it threatened to split the business-labor coalition which had been formed in support of that bill. The acting chairman of the House Subcommittee of Jurisdiction assured me of early consideration of my amendment if it were passed by the Senate as part of another appropriate bill or as a separate bill.

To reach that objective, I am today introducing my proposal as a clean bill. Inasmuch as the provisions of the bill have already been approved by both the Committee on Finance and the Committee on Labor and Human Resources, the chairman of the latter committee has agreed to waive the latter committee's jurisdiction over the newly introduced bill, with the understanding that such waiver is strictly limited to S. 3151 and is in no way to set a precedent.

Mr. President, I am grateful for the assistance and cooperation which have been accorded me by the distinguished chairmen and members of both parties of the two committees of jurisdiction, and look forward to an early passage of S. 3157.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LEVIN). Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

A message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7590) making appropriations for energy and water development for the fiscal year ending September 30, 1981, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 3, 15, 27, 28, 31, 33, 34, 35, 36, 40, 41, and 49, and concurs therein; and it recedes from its disagreement to the amendments of the Senate numbered 7, 12, 22, 39, 42, 43, 52, and 53, and concurs therein, each with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (S. 1482) to provide certain pretrial, trial, and appelate procedures for criminal cases involving classified information; insists upon its amendments to the bill; asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. BOLAND, Mr. MAZZOLI, Mr. EDWARDS of California, Mr. DRINAN, Mr. MCCLORY, and Mr. HYDE be managers of the conference on the part of the House.

The message further announced that the House has passed the bill (S. 1790) entitled the "Privacy Protection Act of 1980," with amendments; it insists upon its amendments to the bill; asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. KASTENMEIER, Mr. DANIELSON, Mr. MAZZOLI, Mr. HARRIS, Mr. GUDGER, Mr. CARR, Mr. RAILSBACK, Mr. SAWYER, and Mr. MOORHEAD of California be the managers of the conference on the part of the House.

The message also announced that the House has passed the following bills, each with an amendment, in which it requests the concurrence of the Senate:

S. 91. An act to amend title 10, United States Code, to remove certain inequities in the survivor benefit plan provided for under chapter 73 of such title, and for other purposes.

S. 658. An act to correct certain technical errors, clarify and make minor substantive changes to Public Law 95–598

S. 1464. An act to direct the Secretary of the Interior to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians;

S. 1640. An act to extend certain authorities of the Secretary of the Interior with respect to water resources research and development programs, and for other purposes; and

S. 1654. An act to improve the Federal judicial machinery by clarifying and revising certain provisions of title 28, United States Code, relating to the judiciary and judicial review of international trade matters, and for other purposes.

The message further announced that the House has passed the bill (S. 2370) to amend the Federal Railroad Safety Act of 1970 and other rail safety acts to extend authorization for appropriations, and for other purposes, with amendments, in which it requests the concurrence of the Senate.

The message further announced that the House has agreed to the amendments of the Senate to the bill (H.R.

5278) to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resources developments, and for other purposes.

The message also announced that the Speaker has appointed Mr. EDGAR and Mr. LIVINGSTON as additional managers in the conference on the part of the House on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2080) to establish public buildings policies for the Federal Government, to establish the Public Buildings Service in the General Services Administration, and for other purposes.

The message further announced that the House has agreed to the amendment of the Senate to the bill (S. 1123) to amend section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations for title II of such act for fiscal year 1980.

The message also announced that the House has agreed to the amendments of the Senate to the amendments of the House to the bill (S. 1442) to authorize the documentation of the vessel *Sara*, as a vessel of the United States with coastwise privileges.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 6331. An act to amend the act of July 31, 1946, as amended, relating to the U.S. Capitol Grounds, and for other purposes;

H.R. 7544. An act to designate the U.S. Federal Building in New Haven, Conn., as the "Robert N. Giaimo Federal Building";

H.R. 7770. An act to name the Environmental Research Center in Cincinnati, Ohio, the "Andrew W. Breidenbach Environmental Research Center";

H.R. 7939. An act to amend the Securities Investor Protection Act to increase the amount of protection available under such act to customers of brokers and dealers, and to provide for the applicability of the Right to Financial Privacy Act of 1978 to the Securities and Exchange Commission;

H.R. 8081. An act to establish the U.S. Holocaust Memorial Council; and

H.R. 8117. An act to amend the Safe Drinking Water Act, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 5164. An act to amend certain inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. DECONCINI).

ENROLLED BILLS SIGNED

At 5:18 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 3748. An act to provide for a uniform national 3-year statute of limitations in actions to recover damages for personal injury or death arising out of a maritime tort, and for other purposes; and

H.R. 6242. An act to establish a Towing Safety Commission Advisory Committee in the Department of Transportation.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. DECONCINI).

HOUSE BILLS REFERRED

The following bills were read twice by their title and referred as indicated:

H.R. 7770. An act to name the Environmental Research Center in Cincinnati, Ohio, the "Andrew W. Breidenbach Environmental Research Center"; to the Committee on Environment and Public Works.

H.R. 8117. An act to amend the Safe Drinking Water Act, and for other purposes; to the Committee on Environment and Public Works.

HOUSE BILLS HELD AT THE DESK

The following bills were ordered held at the desk by unanimous consent:

H.R. 7544. An act to designate the U.S. Federal Building in New Haven, Connecticut, as the "Robert N. Giaimo Federal Building."

H.R. 7939. An act to amend the Securities Investor Protection Act to increase the amount of protection available under such act to customers of brokers and dealers, and to provide for the applicability of the Right to Financial Privacy Act of 1978 to the Securities and Exchange Commission.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4648. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Flexible Management: A Must For Effective Armed Services Recruiting"; to the Committee on Armed Services.

EC-4649. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on loan, guarantee, and insurance transactions supported by Eximbank during July 1980 to Communist countries; to the Committee on Banking, Housing, and Urban Affairs.

EC-4650. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report of the Department of Commerce for fiscal year 1979; to the Committee on Commerce, Science, and Transportation.

EC-4651. A communication from the Secretary of Health and Human Services, transmitting a request for an extension of time to file a report required by the "Act to require a Study of the Desirability of Mandatory Age Retirement for Certain Pilots, and for other purposes" from December 29, 1980 to September 31, 1981; to the Committee on Commerce, Science, and Transportation.

EC-4652. A communication from the Acting Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report on sales of refined petroleum products and sales of retail gasoline for June 1980; to the Committee on Energy and Natural Resources.

EC-4653. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a proposed prospectus for a lease consolidation for the Federal Labor Relations Authority in Washington, D.C.; to the Committee on Environment and Public Works.

EC-4654. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of the reports of the General Accounting Office for the month of August 1980; to the Committee on Governmental Affairs.

EC-4655. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Electronic Fund Transfer—Its Potential For Improving Cash Management In Government"; to the Committee on Governmental Affairs.

EC-4656. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty days prior to September 18, 1980; to the Committee on Foreign Relations.

EC-4657. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled Rising Hospital Costs Can Be Restrained By Regulating Payments and Improving Management"; to the Committee on Labor and Human Resources.

EC-4658. A communication from the Chairman, National Advisory Council on International Monetary and Financial Policies, transmitting, pursuant to law, the Councils special report on United States membership in the African Development Bank (AFDC); to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LONG, from the Committee on Finance:

Special Report entitled "Budget Allocations of the Committee on Finance" (Rept. No. 96-986).

By Mr. LONG, from the Committee on Finance, with an amendment (in the nature of a substitute) and an amendment to the title:

H.R. 5295. An act to amend title II of the Social Security Act to make the monthly earnings test available in limited circumstances in the case of certain beneficiaries, to amend the technical requirements for entitlement to medicare, and to provide that income attributable to services performed before an individual first becomes entitled to old-age insurance benefits shall not be taken into account (after 1977) in determining his or her gross income for purposes of the earnings test (Rept. No. 96-987).

By Mr. LONG, from the Committee on Finance, without amendment:

S. Con. Res. 127. An original concurrent resolution expressing the sense of the Congress with respect to consideration of the Tax Reduction Act of 1980.

By Mr. LONG, from the Committee on Finance, without amendment:

S. Res. 528. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2574. Referred to the Committee on the Budget.

By Mr. CHURCH, from the Committee on Foreign Relations, without amendment:

H.R. 3956. An Act granting the consent of the Congress to Hewson A. Ryan to accept the office and title of Honorary Consul of Honduras (Rept. No. 96-988).

By Mr. CHURCH, from the Committee on Foreign Relations, without amendment:

S. Con. Res. 73. A concurrent resolution expressing the sense of the Congress with respect to implementing the objectives of the International Year of Disabled Persons (1981).

By Mr. CHURCH, from the Committee on Foreign Relations, with amendments, and amendments to the preamble:

S. Con. Res. 60. Concurrent resolution expressing the sense of the Congress with respect to the treatment of Christians by the Union of Soviet Socialist Republics, and for other purposes.

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment (in the nature of a substitute), an amendment to the preamble (in the nature of a substitute), and an amendment to the title:

S. Res. 460. Resolution to express the sense of the Senate that the Secretary of Energy should take all necessary actions to promote energy efficient cooling (Rept. No. 96-989).

By Mr. MAGNUSON, from the Committee on Appropriations, with amendments:

H.J. Res. 610. Joint resolution making continuing appropriations for the fiscal year 1981, and for other purposes.

By Mr. KENNEDY, from the Committee on the Judiciary, with amendments:

S. 2216. A bill to improve the intelligence system of the United States, and for other purposes (Rept. No. 96-990).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports were submitted:

TREATY

By Mr. CHURCH, from the Committee on Foreign Relations, without reservation:

Executive M, 95-1. Revise Customs Convention on the International Transport of Goods Under Cover of Transport International Routier Carnets (TIR Convention), done at Geneva on November 14, 1975 (Executive Rept. 96-52).

By Mr. KENNEDY, from the Committee on the Judiciary:

Mack A. Backhaus, of Nebraska, to be a U.S. marshall for the district of Nebraska.

(The above nomination reported from the Committee on the Judiciary was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate).

By Mr. HEFLIN, from the Committee on the Judiciary:

Myron H. Thompson, of Alabama, to be U.S. district judge for the middle district of Alabama.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. RIBICOFF:

S. 3142. A bill for the relief of the estate of Dorothy Meserve Kunhardt; to the Committee on Finance.

By Mr. CHURCH:

S. 3143. A bill to provide for the conveyance of certain federal lands adjacent to Lake Shore Drive, Lake Lowell, Boise Project, Idaho; to the Committee on Energy and Natural Resources.

By Mr. LEVIN:

S. 3144. A bill to amend title IV of the Social Security Act to require States to make AFDC shelter payments in the form of vendor payments where an AFDC recipient has failed to make two consecutive rent payments, and for other purposes; to the Committee on Finance.

By Mr. WILLIAMS (for himself, Mr. Cranston, Mr. Stone, and Mr. Stewart):

S. 3145. A bill to provide Homeownership Assistance; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BAUCUS:

S. 3146. A bill to allow an income tax deduction for certain motor carrier operating authorities to offset the impact of the Motor Carrier Reform Act of 1980; to the Committee on Finance.

By Mr. DOLE (for himself and Mrs. Kassebaum):

S. 3147. A bill to rename the Veterans' Administration Medical Center in Topeka, Kansas, as the Colmery-O'Neil Veterans' Administration Medical Center; considered and passed.

S. 3148. A bill to name the Federal building located at 444 Southeast Quincy, Topeka, Kansas, the "Frank Carlson Federal Building"; to the Committee on Environment and Public Works.

By Mr. CHURCH:

S. 3149. A bill to provide for the resolution of land title questions and assure protection of significant historic properties within Silver City, Idaho; to the Committee on Energy and Natural Resources.

By Mr. TALMADGE:

S. 3150. A bill to amend title IV of the Social Security Act to provide for the establishment of a quality control system for programs of aid to families with dependent children; to the Committee on Finance.

By Mr. MATSUNAGA:

S. 3151. A bill to amend the Employee Retirement Income Security Act of 1974, for the purpose of waiving preemption in the case of the Hawaii Prepaid Health Care Act; to the Committee on Finance.

By Mr. RANDOLPH (for himself, Mr. Burdick, Mr. Chafee, Mr. Domenici, Mr. Gravel, Mr. Moynihan, and Mr. Stafford):

S. 3152. A bill to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965 to extend the authorization for such acts for 2 additional years; placed on the calendar.

By Mr. MAGNUSON (for himself and Mr. Jackson):

S. 3153. A bill to provide for the removal of Jones Island in the State of Washington from the National Wildlife Refuge System; to the Committee on Energy and Natural Resouces.

By Mr. TALMADGE:

S. 3154. A bill to make technical corrections in certain provisions of Public Law 96-249 and Public Law 96-265 which relate to information by the Commissioner of Social Security; to the Committee on Finance.

S. 3155. A bill to amend the Adoption Assistance and Child Welfare Act of 1980 to extend the postponement of certain penalties relating to child support requirements; to the Committee on Finance.

By Mr. TALMADGE (for himself, Mr. Helms, Mr. Pryor, Mr. Stewart, Mr. Huddleston, Mr. Melcher, Mr. Nunn, Mr. Dole, Mr. Morgan, Mr. Sasser, Mr. McGovern, Mr. Hollings, Mr. Zorinsky, Mr. Heflin, Mr. Thurmond, Mr. Stone, Mr. Boren, Mr. Young, Mr. Lugar, Mr. Cochran, Mr. Boschwitz, Mr. Jepsen, Mr. Garn, Mr. Harry F. Byrd, Jr., Mr. Warner, Mr. Goldwater, Mr. Hayakawa, and Mr. Armstrong):

S.J. Res. 205. Joint resolution to proclaim March 19, 1981, as "National Agriculture Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHURCH:

S. 3143. A bill to provide for the conveyance of certain Federal lands adjacent to Lake Shore Drive, Lake Lowell, Boise project, Idaho; to the Committee on Energy and Natural Resources.

LAKE LOWELL LAND CONVEYANCES

● Mr. CHURCH. Mr. President, I am today introducing legislation to authorize the Secretary of the Interior to sell to adjacent landowners, at a fair market value, certain surplus public lands along Lake Lowell in southwestern Idaho.

At the turn of this century, the Federal Reclamation Service acquired private lands south of Nampa, Idaho, for the construction of a water storage reservoir on a canal fed by the Boise River. The Lake Lowell dam was constructed in 1909, and the reservoir subsequently filled to its 170,000 acre-feet capacity. In 1937, President Franklin Roosevelt by Executive order created the Deer Flat National Wildlife Refuge on the lands surrounding Lake Lowell.

When Lake Shore Drive was subsequently constructed around the south side of the lake, it did not follow the precise boundary of the property which had been acquired by the Government for the reservoir. Consequently, some 29 small parcels of land, ranging in size from a fraction of an acre to 12 acres, lying south of Lake Shore Drive were isolated from the Deer Flat Wildlife Refuge. Over the years, these parcels were largely incorporated into the adjoining farm operations. Occupancy of these lands—because of the small acreages involved and their rural character—was not contested by the Government over the years, although the question of the precise location of boundary lines did surface on several occasions.

In the early 1970's when a construction loan application on one of the parcels was being reviewed by a title insurance company, legal questions arose as to who actually owned the land immediately adjacent to Lake Shore Drive. Consequently, the Boise Office of the Bureau of Reclamation commenced a retracement boundary survey in 1975. The 29 isolated strips of public land were formally removed from the National Wildlife Refuge, and the Boise office is now in the process of preparing the individual plats and legal descriptions necessary to dispose of the tracts of land.

The project superintendent of the Central Snake Projects Office said in recent letters to the landowners that, "the lands are narrow tracts lying between private ownership and the county road. It has been determined that these tracts of land are not needed for project purposes and therefore should be sold."

The problem which my bill seeks to address is that under current Federal regulations, property of an assessed value in excess of $1,000 must be sold by the General Services Administration on a sealed bid basis, to the highest bidder. This process will not assure that the local landowners—the people who have cared for, cultivated, built upon, and paid taxes for the small strips of land—will have the first right of refusal to buy the lands when they are put up for sale by the Government.

Mr. President, all my bill does is allow the Secretary of the Interior to sell the lands to adjacent landowners at the fair market value of the lands less any improvements the landowners may have made. The Water and Power Resources Service—the old Bureau of Reclamation—is in support of this measure, as is the Department of the Interior. It is only right that the landowners have the first crack at purchasing these tracts. After all, the Government has acted as if they were in private lands for 70 years.

Mr. President, I ask unanimous consent that a letter to me from Mr. Gary Catron, Assistant to the Secretary of the Interior and Director of Congressional and Legislative Affairs for the Department of the Interior, dated September 16, 1980, and the text of the bill, be printed in the RECORD.

There being no objection, the bill and the letter were ordered to be printed in the RECORD, as follows:

S. 3143

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That—

SEC. (1) The Secretary of the Interior (hereinafter referred to as "the Secretary") is hereby authorized to convey all right, title, and interest, except as reserved herein, to certain small tracts of federal lands located adjacent to Lake Shore Drive, Lake Lowell, Boise Project, Idaho, to the adjacent landowners.

SEC. (2) Such conveyances shall be made by the Secretary only to the adjacent landowners, and shall be made within one year from the date of his receipt of a proper application from said landowners. Applicants for such conveyances must pay the fair market value of the lands as of the date of the conveyance, including administrative costs, but excluding the costs to the government of conducting the necessary land surveys and preparing the legal descriptions of the lands to be conveyed. In determining the fair market value of the lands, the Secretary shall not include the value of any improvements made to the lands by the adjacent landowners or their predecessors.

SEC. (3) All conveyances made pursuant to this Act shall reserve to the United States all mineral deposits in the lands and shall assure that the right to mine and remove such minerals is subservient to the surface rights granted in the conveyances.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., Sept. 16, 1980.

Hon. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: Thank you for your letter of July 28, 1980, on behalf of property owners south of Lake Lowell (Deer Flat Reservoir) along Lake Shore Drive, Idaho.

The Department agrees with the contention that the narrow strip of land south of the reservoir along Lake Shore Drive should be sold to the adjacent private landowners; however, the Water and Power Resources Service (Water and Power) does not have the authority to sell this property to the adjacent landowners. The currently authorized method of disposing of this unneeded property is by reporting it to the General Services Administration (GSA) for disposal under the Federal Property Act of 1949. Sale to the adjacent owners could not be assured under that Act.

Please do not hesitate to contact me if I can be of any further assistance to you.

Sincerely,

GARY R. CATRON,
Assistant to the Secretary and Director of Congressional and Legislative Affairs.●

By Mr. WILLIAMS (for himself, Mr. CRANSTON, Mr. STONE, and Mr. STEWART):

S. 3145. A bill to provide homeownership assistance; to the Committee on Banking, Housing, and Urban Affairs.

HOMEOWNERSHIP ASSISTANCE

● Mr. WILLIAMS. Mr. President, I am introducing legislation designed to assure that a badly needed stimulus program for the depressed housing industry which each House of Congress has approved will in fact be effective. The legislation would free for use $125 million for mortgage subsidies from funds previously approved in appropriations acts for the section 235 homeownership assistance program. This contract authority was recaptured when contracts under the program were canceled for those whose rising incomes made them ineligible for the program.

This contract authority is now blocked by a provision in the 1974 Housing Act preventing the Secretary from entering into contracts under the program after August 22, 1975, using contract authority approved before July 1, 1974. It is my intention to offer this legislation as an amendment to an appropriate authorization bill before the session ends.

Mr. President, I want to emphasize that this contract authority needs only to be freed up for use—it does not require any new appropriation; and I strongly believe that there is no need to score any new budget authority for the money released.

These funds are essential to assure that the housing stimulus program based on the current section 235 program, and approved by the Senate last April is effective, and to cushion the industry from another sharp dip in housing starts likely to occur as interest rates climb again. I am delighted to be joined in this measure by my distinguished colleagues on the Senate Banking Committee, the Senators from California and Alabama (Messrs. CRANSTON and STEWART, respectively), and my distinguished colleague from Florida (Mr. STONE).

Last April, the Senate moved rapidly to respond to a deepening crisis in the housing industry, approving a stimulus program modeled on the existing section 235 homeownership assistance program. Under the existing program, home buyers earning no more than 95 percent of their median area income pay at least 3 percent down, and then pay at least 20 percent of their income toward their mortgage. The Federal Government subsidizes the mortgage down to 4-percent interest.

Under the Senate-passed stimulus program, home buyers in the moderate- to middle-income range would also make a downpayment, and pay at least 20 percent of their income toward their mortgage. The Federal Government, however, would subsidize the mortgage down to 11 percent and would provide that in most circumstances the subsidy would be recaptured upon sale of the house. The funds for this effort, up to $135 million, were to come from $165 million on previously appropriated, uncommitted funds already available for the existing program because of a court decree which ordered the money spent following an attempted impoundment by the Nixon administration. Because the existing program was using these funds at a very slow pace, it was felt that we could telescope $135 million into a housing stimulus program without diminishing the capacity of the existing program to accomplish what was expected of it through fiscal year 1981. It was anticipated that up to 100,000 mortgages, insured as well as conventional, could be subsidized under the stimulus program. It was also anticipated that the program would come on line during the summer and would actually begin making payments during October 1980.

Unfortunately, the House failed to pass our measure, and decided instead to add their own version of the program to the slower moving S. 2719, the 1980 housing authorization bill. The Senate had no choice but to do the same, in order to assure maximum flexibility in conference. It is virtually certain that some form of section 235 stimulus program will emerge from the conference, most likely with a deeper interest subsidy, and larger home buyer contributions toward their monthly mortgages.

In the meantime, however, the existing program has begun to draw down funds at a much more rapid rate than expected. Now, instead of there being $135 million available for the stimulus program, there is only about $40 million, which is sufficient to support only about 18,000 units, if all the money were used for the stimulus program. Ordinarily, the rapid draw-down of funds by the existing section 235 program would be welcome news. But because of the program's very low mortgage limits, it is not being used in many areas of the country, particularly those with high costs. Thus, the existing program is doing nothing to speed a recovery of the ailing industry in many hard-hit communities. The use of existing program funds in a few places in the country cannot be considered a substitute for action on a broad basis against a crisis that is national in scope and consequence.

And let no one mistake that this crisis is over, or that recovery for the housing industry lies just around the corner. The housing industry continues to suffer from its worst depression in more than a generation. Housing starts for August, 1980, stood at 1.4 million, a decline of 21.8 percent from August, 1979. For all of 1980, it is estimated that only 1.3 million or less housing starts will occur, fully 700,000 units below the 2 million starts a year that housing economists generally agree is a minimum to handle growing family formation and to replace losses to the stock. This shortfall in production takes a heavy economic toll. It means a loss of 1.4 million jobs in construction and related industries, and the loss of literally billions of dollars in Federal, State, and local tax revenues. It also means deep financial trouble, even bankruptcy, for thousands of homebuilders, the overwhelming number of whom operate small businesses.

Since May of this year, the trend of housing starts has been up, reflecting dropping interest rates that occurred in the late spring and early summer. But with interest rates once again on the rise, the outlook for real and sustained recovery is bleak. The National Association of Homebuilders recently completed a survey of the 83 largest housing markets to determine the level of starts we can expect in these places during 1980. The survey projects that by the end of this year, housing starts will have declined by 33 percent in these communities. Mr. President, I ask unanimous consent that at this point in the Record there be printed a table showing the projected number of housing starts for 1980 in the top 20 housing markets, along with an article on the housing recession written by Michael Sumichrast, chief economist of the National Association of Homebuilders.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

There being no objection, the table and the article were ordered to be printed in the Record, as follows:

HOUSING STARTS—HOW THE TOP 20 WILL FARE

City	Starts 1979	Starts 1980	Percent decline
1. Houston	47,940	36,730	23.4
2. Dallas-Fort Worth	47,779	32,900	28.1
3. Los Angeles-Long Beach	36,082	27,500	23.8
4. West Palm Beach-Boca Raton	32,846	31,480	34.6
5. Phoenix	34,665	20,500	40.8
6. Riverside-San Bernardino	27,805	17,100	38.5
7. Miami	21,402	15,880	26.8
8. Fort Lauderdale-Hollywood	23,022	15,375	33.2
9. Atlanta	21,295	15,200	28.6
10. Tampa-St. Petersburg	19,665	14,885	25.3
11. Washington, D.C	20,257	14,150	30.1
12. Detroit	19,900	13,500	32.2
13. Seattle-Everett	24,300	12,540	48.4
14. Chicago	31,556	12,500	60.4
15. Portland	16,132	12,400	23.1
16. Minneapolis-St. Paul	16,500	12,000	27.3
17. Denver-Boulder	20,910	11,390	45.5
18. San Francisco-Oakland	17,700	10,900	38.4
19. Anaheim-Santa Ana-Garden Grove	17,558	10,500	40.2
20. New York City	13,550	10,500	22.5

Source: NAHB Metropolitan Forecasting Program.

No Top Housing Area Is Escaping Recession

(By Michael Sumichrast)

Housing starts will be off 33.5 percent this year in the 83 largest housing markets, with not one of them escaping unscathed from the recession that has gripped housing since the latter part of 1979.

Based on a quarterly forecast by the National Association of Home Builders, housing starts are expected to total only 564,828 this year in the 83 cities. Last year, 848,863 houses were started in the same markets.

(On a national basis, the NAHB projects housing starts to slump 32 percent to 1.175 million this year from 1.742 million in 1979.)

CHICAGO HARDEST HIT

The market hit hardest by the recession is Chicago, which traditionally is among the top five or six cities in housing production. This year, however, the forecast puts the Windy City in 14th position, with starts plummeting 60.4 percent from 31,556 starts last year to just 12,500.

No other city in the top 20 will see their starts cut in half, but Seattle and Denver will come close. No. 13 Seattle will get 12,540 starts this year, down 48.4 percent from the 24,300 units started in 1979. And starts will decline 45.5 percent in No. 17 Denver from 20,910 in 1979 to 11,390 this year.

Two other markets—No. 5 Phoenix and No. 19 Anaheim-Santa Ana-Garden Grove—will experience declines of 40 percent or more. Starts will drop 40.9 percent in Phoenix from 34,665 to 20,500 and 40.2 percent in Anaheim from 17,558 to 10,500.

The top three spots this year will again be manned by Houston, No. 1; Dallas-Fort Worth, No. 2, and Los Angeles-Long Beach, No. 3. But that doesn't mean these markets aren't suffering right along with everyone else.

Starts will be off 23.4 percent in Houston from 47,940 to 36,730; 28.1 percent in Dallas-Fort Worth, 47,779 to 32,900, and 23.8 percent in Los Angeles, 36,082 to 27,500.

The West Palm Beach-Boca Raton market, meanwhile, will slip ahead of Phoenix into the No. 4 position with 21,480 starts. But even moving up, production will be off 34.6 percent in West Palm Beach from the 32,846 units started last year.

The rest of the top 10 are expected to run like this:

Riverside-San Bernardino, sixth with 17,100 starts, declining 38.5 percent; Miami, seventh with 15,660, down 26.8 percent; Fort Lauderdale-Hollywood, eighth with 15,375 starts, with a 33.2 percent decline; Atlanta, ninth with 15,200, a 28.6 percent decline, and Tampa-St. Petersburg, 10th with 14,685 starts, down 25.3 percent.

Of the top 10 markets, seven are in the south, and four of those are in Florida. The Washington area, the eighth southern city in the top 20, will rank 11th with 14,150 starts, a decline of 32.2 percent from the 19,900 units started in 1979.

Only one of the top 20—New York at No. 20—is in the Northeast, and just three are in the North Central region. These are Detroit, No. 12; Chicago, No. 14, and Minneapolis-St. Paul, No. 16.

The other eight all are in the Western region, which is projected for a 40 percent decline in overall starts this year.

Nationally, the single-family sector is taking the brunt of the downturn in the 83 cities studied. Single-family starts will be off 35.2 percent this year, the NAHB predicts, while multi-family starts will slide 31 percent.

The sharpest decline—45.2 percent—in single-family starts will be in the Western region. That's mainly because they'll be off 64.6 percent in Seattle, 61.3 percent in San Diego, 56.7 percent in Sacramento and 53.4 percent in Phoenix.

But the hardest hit of all will still be Chicago, where single-family starts will dip 68.5 percent from 14,368 last year to 4,532 this year. Just two years ago, nearly six times as many single units—27,043—were started in Chicago.

Mr. **WILLIAMS**. Mr. President, failure to relieve the hardships of the housing industry will worsen an already severe housing shortage, placing inflationary pressures on housing prices, and denying millions of Americans their opportunity for an affordable home.

The legislation I am offering would accomplish the following: It would release $125 million in contract authority for use with both the revised and the existing section 235 programs. The authorization bill, now in conference, would make up to three-quarters of the current funds available for use with the new stimulus program, the balance going for the existing section 235 program. The funds released by my bill would also be divided in that manner.

The net result is that the existing program could continue to be used in the areas where it is now working, while these areas and the rest of the country would be able to benefit from the assistance provided under the stimulus program. Assuming that the money provided by my bill, combined with the remaining uncommitted section 235 program funds, were divided so that 75 percent of the money went for the new stimulus program, approximately 42,000 mortgages could be assisted under that program, if the interest subsidy were no more than 3½ percent, while approximately 8,000 would be aided by the existing program. Combined with the $40 million currently uncommitted, my legislation would allow for a stimulus effort totaling about 70,000 units.

The money provided by my bill would create approximately 70,000 jobs, and would generate about $3.5 billion in tax revenues for Federal, State, and local governments, assuming 50 percent of the funds would go for new construction.

Because the new stimulus program, as well as the existing program, features a provision requiring the recapture of the entire subsidy, or 50 percent of the net appreciation of the house, whichever is less upon sale, the net cost of this legislation is comparatively small. A prior Congressional Budget Office estimate of a similar program indicated that as much as 75 percent of the Federal subsidy would be recaptured.

Mr. President, this measure is meant to help stimulate a sector of our economy reeling from depression. While economists and newspaper articles may claim that the Nation is emerging from this year's recession, housing faces continued trouble in the months ahead. The promise of aid that we made in April remains unfulfilled, and both the industry and those denied access to homeownership have suffered as a result and they have suffered unnecessarily. The additional funding released by my proposal is a reasonable, fiscally prudent means of providing essential relief to an industry that offers so much to our economy and so much to our way of life.

Mr. President, I ask unanimous consent that the text of my bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3145

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, of the authority to enter into contracts under section 235 of the National Housing Act which was previously approved in appropriations Acts, $125,000,000 shall be available for contracts to make periodic assistance payments entered into on or after October 1, 1980.●

By Mr. DOLE (for himself and Mrs. Kassebaum):

S. 3148. A bill to name the Federal building located at 444 Southeast Quincy, Topeka, Kans., the "Frank Carlson Federal Building;" to the Committee on Environment and Public Works.

FRANK CARLSON FEDERAL BUILDING

Mr. DOLE. Mr. President, the Senator from Kansas is pleased that the Senate Committee on Environment and Public Works has agreed to give immediate consideration to my bill. This bill will designate the Federal building located at 444 Southeast Quincy, in Topeka, Kans., as the Frank Carlson Federal Building.

I originally introduced this as an amendment to S. 2080. It is now in bill form because of the likelihood that S. 2080 will not be considered before the end of this session of Congress, and the importance of acting on this issue immediately.

SENATOR FRANK CARLSON

Once again, Mr. President, I would like to share with you the accomplishments of Senator Frank Carlson, and why he should be honored by having the Federal building in Topeka named after him.

Senator Frank Carlson was born on a Concordia, Kans., farm on January 23, 1893. He attended the public schools, Concordia Normal and Business College and Kansas State College at Manhattan, Kans.

Senator Carlson's life and political career has been a long, unique and distinguished one. After serving in the Army during the First World War, Frank Carlson was elected to the Kansas House of Representatives in 1929. From 1932 to 1934 he was State chairman of the Republican Party, and in 1935 he was elected to the U.S. Congress. Carlson served 5 successive terms in Washington as Representative from Kansas, but in 1946 he was not a candidate for reelection. Instead he was elected Governor of Kansas in that year.

Frank Carlson served as Governor of the State of Kansas until his election to the U.S. Senate in 1950 to fill the unexpired term of Senator Clyde M. Reed.

Carlson was then elected to the U.S. Senate for a full term in 1951 and continued to be reelected until his decision not to be a candidate in 1968.

DISTINGUISHED CAREER

Mr. President, there are many in this body who will agree with me that there have been few Members of the Congress who have exceeded my friend and colleague's dedication in serving the people of this Nation.

Senator Frank Carlson has a solid record of accomplishment and achievement. Patiently, quietly, but sure of step and sure of himself, Frank Carlson has both represented the interests of Kansas and the Nation and established a definite place for himself among American statesmen.

Frank Carlson's career of service additionally extended beyond elected office. He served as Chairman of both the Interstate Oil Compact Commission and Vice Chairman of the President's National Safety Conference. He also found time to become a leader and active participant in the Senate prayer breakfast meetings.

Mr. President, whether an issue concerned the farmer, the businessman, the blue-collar worker, or the consumer, Frank Carlson was there to provide his service as well as friendship. An individual highly concerned with people from all walks of life, he was always willing to devote his time on any level to anyone.

Mr. President, Frank Carlson, whose record of dedicated public service has been at almost every level of Government spanning over four decades, has resulted in high respect and praise from every circle.

FITTING TRIBUTE

Mr. President, in view of Frank Carlson's dedicated career of service to the people of his community, the State of Kansas and the Nation, it is only appropriate that this body name the Federal building in Topeka, Kans. in honor of Frank Carlson, a truly great American from the State of Kansas.

By Mr. TALMADGE:

S. 3150. A bill to amend title IV of the Social Security Act to provide for the establishment of a quality control system for programs of aid to families with dependent children; to the Committee on Finance.

QUALITY CONTROL SYSTEM FOR PROGRAMS OF AID TO FAMILIES WITH DEPENDENT CHILDREN

● Mr. TALMADGE. Mr. President, in recent years quality control has become an integral aspect of our major welfare programs. There is general agreement that quality control efforts by both the States and the Federal Government have contributed in a major way to lower error rates in the program of aid to families with dependent children.

There is also considerable agreement, however, that the AFDC quality control program should be further strengthened and improved. Testimony to support this has been heard in hearings in both the House and the Senate. In addition, on July 18 of this year the General Accounting Office issued a report recommending a number of improvements in the quality control system to make it a more effective instrument for reducing errors.

An amendment to improve the AFDC quality control program was approved by the Finance Committee in the 95th Congress as part of H.R. 7200. Unfortunately, because of scheduling problems, that bill never got to the Senate floor, and the provision died as a result. I have used that previous amendment as the basis for my new bill, but I have also taken into account information and insights which we have acquired more recently. I believe enactment of this bill will result in more uniform measurement of errors by the States, and will also result in more vigorous efforts by the States and the Federal Government to develop appropriate corrective actions. I also intend that there will be more timely reporting by the States of their error rate findings, as well as reporting of national findings by the Federal Government.

For example, on September 18, the Department of Health and Human Services issued a press release on national quality control error rates for the period April–September 1979. This means that almost a year after the end of a quality control measurement period, we still do not have State information as to case and payment error rates.

Briefly, my bill would establish a modified version of the current AFDC quality control program as a requirement of law to determine the level of case and dollar error rates with respect to eligibility, overpayment, and underpayment of aid paid under the approved State plan and case error rate with respect to incorrect denials and terminations of aid.

Findings of the quality control program would have to be reported by the States on a timely basis to the Secretary with a copy to the Inspector General of HHS. Federal reviewers would review a subsample of the State sample. They would also examine cases in the State's review of the previous 6-month period to determine whether appropriate corrective action was taken. All analyses and reports of case error rates would have to include negative case actions and cases involving underpayments as well as overpayments and payments to ineligibles.

Under the bill the Secretary would be required to provide technical assistance to State administering units to assist them in planning and operating their quality control programs, and in taking followup corrective actions as necessary. The Inspector General would closely monitor the operation and findings made under the quality control program, the incidence and extent of fraud and abuse in the State AFDC programs, and as appropriate, recommend improvements in—or alternatives to—the methods used. The medicaid quality control program would also be monitored by the Inspector General.

At least twice a year, to coincide with the 6-month quality control review periods, the Secretary would be required to submit a report to the Congress which would include a detailed analysis of the quality control samples, errors, corrective actions taken, and a description of kinds and classes of errors from any prior period which have not been corrected.

Mr. President, I ask unanimous consent to insert in the RECORD at this point a detailed analysis of the bill, of the background of the quality control program, and a copy of the bill.

There being no objection, the bill and the analysis were ordered to be printed in the RECORD, as follows:

S. 3150

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

ESTABLISHMENT OF QUALITY CONTROL SYSTEM FOR AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAMS

SECTION 1. (a) Section 402(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (29),

(2) by striking out the period at the end of paragraph (30) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(31) provide that, not later than September 30, 1981, the State shall establish and put in operation a quality control system which is approved by the Secretary as a plan which meets the standards and conditions prescribed under section 414 and which conforms to any regulations of the Secretary prescribed thereunder.". (b) Section 403 of such Act is amended by adding after subsection (j) the following new subsection:

"(k) Notwithstanding any other provision of this Act, the amount otherwise payable for any quarter (as determined without regard to the provisions of section 414) shall be reduced in accordance with the provisions of such section.".

(c) Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"QUALITY CONTROL SYSTEM

"CONDITIONS OF APPROVAL

"SEC. 414. (a) (1) The Secretary shall, subject to paragraph (2), approve the quality control system of a State, to be utilized in connection with the administration of the State's plan approved under this part, if he finds that such system will effectively promote the efficient and proper operation of such plan by assuring that aid and services under the plan are not provided to individuals who are ineligible therefor, that such aid and services will not be denied to applicants who are eligible and make proper application therefor, and that aid in the form of money payments furnished to any individual or family under such plan will not be greater or less than the amount correctly determined under such plan to be payable to such individual or family.

"(2) The Secretary shall not approve the quality control system, referred to in paragraph (1), of any State unless he is satisfied that, under the plans for and in the operation of, such system—

"(A) during each six-month period which begins on October 1 or April 1 (commencing with the six-month period which begins October 1, 1981) there will be conducted by the State, in order to obtain data with respect to the functioning of the State's plan approved under this part, such sampling of the caseload under such plan as the Secretary shall by regulations prescribe, which sampling shall involve a sufficient number of cases and be of acceptable statistical reliability clearly to indicate the incidence, kind, and class of errors occurring within the State (and in order to assure the accuracy and effectiveness of such sampling the Secretary shall under regulations: require the States to establish and administer a special performance evaluation and corrective action system that shall, using data already available from prior quality control reviews, identify operating units, as defined by regulations prescribed by the Secretary, within the State with excessive payment error rates in comparison with the statewide payment error rate; require the States to make analyses to indicate the incidence, kind, and class of errors within each such operating unit and to prescribe corrective action affecting those operating units; and require that such analyses be made in every six-month period until error rates are substantially reduced), and which sampling shall (i) provide sufficient coding identification to identify each individual case and the line of responsibility for that case from the case worker who made the last determination or redetermination of eligibility, the current case worker, if different, up through the supervisor, local and higher level offices, the State quality control reviewer and supervisor as well as the date of last approval, the date on which each redetermination was due to be made, and the date on which each redetermination was made since the date of such last approval or, if later, within the preceding twenty-four-month period, (ii) employ such methods, schedules, and instructions, and be designed to elicit such data, as shall be prescribed by the Secretary, (iii) be designed to disclose (as of the time any case was selected to be included in the sample) error rates with respect to (I) eligibility for aid under such approved State plan (after application of all requirements imposed by or pursuant to Federal law with respect to the approval of State plans under this part), (II) overpayment and underpayment of aid under such approved State plan (with error rates with respect to ineligibles, overpayments, and underpayments being stated both on the basis of case error rates and on the basis of payment error rates), and (III) incorrect denials and terminations of aid on the basis of case error only, and (iv) be designed to disclose (as of the time any case was selected to be included in the sample) case and dollar amounts due to management disregards or techniques variances.

"(B) in connection with the conduct of such sampling with respect to any such six-month period, there will be conducted a field investigation (including personal interviews) of all cases (other than those involving incorrect denials or terminations of aid) included in the samples taken under the State's quality control during such period independently to establish and verify each element of eligibility and payment as of the review date, except that the requirements of this subparagraph shall be phased in in accordance with the provisions of the second sentence of subsection (c)(1),

"(C) there are review procedures employed under which, in determining whether payment errors or management disregards or techniques variances have been made in any case—

"(i) the reviewer is required to check the case record data against the State Aid to Families with Dependent Children computerized data file and computerized payment file and record any errors found under whichever of the following categories is appropriate: case record errors or computerized data file or computerized payment file errors;

"(ii) the reviewer will, if the case involves the alleged absence of a parent from the home, make a visit to the home and will make inquiries as to such parent's whereabouts from appropriate sources such as the State division of motor vehicles, the telephone company, telephone directories, employment offices, and the appropriate agency conducting the State's parent locator services under part D;

"(iii) the reviewer may make unannounced home visits to the recipient's home at any time between the hours of 8:00 a.m. and 6:00 p.m. (and, the general recipient authorization statement which is a part of an applicant's original application for aid to families with dependent children shall be deemed to confer authority on the reviewer to make such visits);

"(iv) claims by a recipient that he has no funds deposited in financial institutions will be subjected to verification by the making of inquiries to appropriate sources such as credit bureaus or a similar type agency, and large centralized banks;

"(v) the amount (if any) of a recipient's (or other appropriate person's) earned income will be subjected to verification by the making of inquiries with respect to employment and other benefit information to appropriate sources such as agencies concerned with unemployment insurance, employment security, and taxation (including Federal, State, and local agencies involved with income, unemployment, or Social Security taxes);

"(vi) a recipient of aid who is visited at his home by a reviewer will (if there is not on file in the State agency, the Social Security Account number or numbers of such recipient or any other family member for whom such recipient or any other family member for whom such recipient is receiving aid) furnish to the reviewer physical evidence of his, and all other such family members' Social Security Account number (or numbers), or if he or any other such family member does not have such a number (or numbers), physical evidence that he and all other such family members have filed application for such a number (or numbers);

"(vii) involving a recipient of aid who cannot be located, the reviewer will make inquiry as to the recipient's whereabouts from appropriate sources such as the post office, schools attended by dependent children in the recipient's family, the recipient's landlord, his neighbors, and known friends and relatives;

"(viii) amounts of money, which are earned or otherwise received by a recipient of aid and the aggregate of which exceeds the benefit payment level but does not exceed the standard of need limits, will be reported as a management disregards or techniques variance;

"(ix) all cases and amounts which are (or are required to be) classified as management disregards and techniques variances will be so reported as such, separately from case and payment errors;

"(x) the cause of any amount to be considered a management disregards or techniques variance must be reported as such; and if there is more than one cause for such consideration it must be reported;

"(xi) the cause of any payment error must be reported, and if there is more than one cause for a payment error, each such cause must be reported;

"(xii) when a case has amounts which are classified as management disregards or techniques variances and other amounts which are classified as case or payment errors, each such amount shall be reported separately in its respective classification; and

"(xiii) all case and payment errors shall be classified into one of the two following categories: (I) approved State plan, and (II) case record error or computerized data file or computerized payment file error,

"(D) not later than 90 days following each month of any such six-month period, there will be submitted to the Secretary (in such form and manner, and containing such information as the Secretary may require; except that the Secretary may not require that identifying information on State and local employees be submitted to or maintained by the Secretary or any other officer or employee of the Department of Health and Human Services) the data obtained from or in connection with each sample taken in such month, together with the individual findings with respect to each case included in any such sample (and a copy of the material so submitted shall promptly be furnished to the Inspector General).

"(E) not later than one hundred and twenty days following any such six-month period, there will be submitted to the Secretary a corrective action plan (a copy of which shall promptly be furnished to the Inspector General) which (i) is based on analyses of the information disclosed by the combined findings of the State reviews and the Federal reviews conducted (as required pursuant to this paragraph) during such period as to the nature and cause of payment errors, and (ii) meets such specifications as the Secretary deems necessary to assure the effectiveness of the State's quality control system,

"(F) there will be provided to the Secretary, the Inspector General, Department of Health and Human Services, quality control personnel, and State and local quality control personnel involved with the State's plan approved under this part, access to State and local records with respect to the State plan approved under this part, with respect to applicants and recipients of aid or services under such plan, and with respect to individuals receiving payments of or from such aid in behalf of an aid recipient, and with respect to third parties,

"(G) the public will be notified (through news releases and otherwise) (i) of error rate and management disregards and techniques variances findings (I) with respect to errors described in subparagraph (A) (iii) (I) and (II) (as disclosed by the combined findings of the State reviews and the Federal reviews conducted during each six-month period referred to in subparagraph (A)), (II) with respect to errors described in subparagraph (A) (iii) (III) as disclosed by the combined findings of the State and Federal reviews of the sample conducted during each such six-month period, (III) with respect to errors described in subsection (c) as disclosed by the Federal review of cases previously found in error in the preceding six-month period, and (VI) with respect to case and dollar amounts due to management disregards and techniques variances describe in subparagraph (A) (iv), (ii) of corrective action measures taken or to be taken, and (iii) of measures taken or to be taken with respect to discontinued aid and services to individuals ineligible therefor (including corrective action plans submitted to the Secretary pursuant to subparagraph (E)), and

"(H) there will be submitted to the Secretary a report, copies of which will be made available to the public, by the State agency in connection with each six-month period referred to in subparagraph (A) describing any changes in the State plan which affect the payment error rate of aid thereunder.

"MONITORING BY INSPECTOR GENERAL

"(b) (1) The Secretary shall utilize the services of the Inspector General to monitor closely, through such procedures as may be necessary, the operation of, and State and Federal findings made under, the quality control systems established pursuant to this section, to monitor the incidence and extent of fraud and abuse in the State programs with respect to which such systems are established, and to make recommendations for improvements in or alternatives to such systems or portions thereof, The Secretary shall also utilize the services of the Inspector General to monitor closely the quality control systems established for the State programs approved under title XIX of this Act, and the Inspector General shall have the same duties, authority, and responsibilities with respect to the monitoring of the quality control systems of such title as he does in the case of the monitoring of the quality control provisions established with respect to this part.

"(2) The Inspector General shall use appropriate resources including specialists in computer systems analysis and welfare administration and management to develop, through the use of Federal and State quality control findings, recommendations for improvements in, or alternatives to, methods for determining fraud and abuse, for determining cases with large dollar errors, for ascertaining the localities and local offices with the greatest number of such errors, and for reducing high erroneous expenditures.

"FEDERAL REVIEW OF STATE SAMPLES

"(c) (1) The Secretary shall conduct a full field review (including personal interviews) of all cases (other than those involving incorrect denials or terminations of aid) (A) of a representative subsample of each State's sample, and (B) of all cases in each State's sample which were found to be dropped (except that only verification is necessary when the recipient died or moved out of State) or erroneously excluded from the State's investigation required by subparagraph (a) (2) (C), after examining all such cases excluded (except that the Secretary may specify by regulation categories of cases which will not require full field investigation), submitted to him with respect to each six-month period, as provided in conformity with the requirements imposed by subsection (a). Notwithstanding the requirements of the preceding sentence, the number of cases to be reviewed prior to fiscal year 1983 need not be increased to a higher number than the number reviewed in fiscal year 1979, and thereafter the number of cases to be reviewed may be phased in over a four-year period. Such review of a subsample of a State's sample, submitted with respect to any month of the six-month period (and of cases not investigated by the State) shall be conducted with a view further to assuring the validity of the data and information resulting from the sample from which the subsample is taken and shall be completed and a copy of the data obtained from and in connection with each sample taken in such month together with the individual findings with respect to each case included in the subsample shall be submitted to the Inspector General not later than 120 days after such period. In checking and verifying each element of eligibility persons conducting reviews of any region must follow the same uniform and consistent procedures (including those respecting the making of home visits and necessary collateral checks) applicable in the case of all regions.

"(2) The Secretary shall also conduct a case record review of cases (including computerized data files and computerized payment files) previously found to be in error in the preceding six-month period to ascertain whether corrective action has been taken in such cases which review shall be completed and a copy of the data obtained from and in connection with each case on which no action was taken to correct the payment error or the action taken to terminate or adjust the payment error was erroneous together with the individual findings with respect to each case shall be submitted to the Inspector General not later than 120 days after such preceding six-month period.

"(3) The findings of each case reviewed pursuant to this subsection shall include coding identification to identify the Federal quality control reviewer who made the review and his or her supervisor.

"(4) Any State which disagrees with any findings made on the basis of the Federal review authorized under this subsection shall be entitled to a hearing by the Secretary with respect to such findings, and the Secretary, if such a hearing is held, shall, on the basis of evidence adduced at such hearing, affirm, modify, or reverse such findings. A final decision of the Secretary under this subsection shall not be subject to judicial review.

"TECHNICAL ASSISTANCE

"(d) The Secretary shall provide such expert technical assistance, directly or by contract, to States and local administrative units utilized in the administration of any State's plan approved under this part as he determines necessary to assist States to plan, design, develop, and operate a quality control system meeting the conditions for approval, by the Secretary, set forth or referred to in subsection (a). The Secretary shall utilize appropriate technical and management specialists to provide expert technical assistance in developing the method or methods best suited to the needs of particular States, and local administrative units within States, designed quickly and effectively to reduce high error rates and erroneous expenditures.

"PENALTY FOR FAILURE OF STATE TO FURNISH SAMPLES

"(e) If any State fails, with respect to any six-month period referred to in subsection (a), to take in the manner required by such subsection or regulations promulgated pursuant thereto the samples referred to therein and timely to submit (subject to the discretion of the Secretary) to the Secretary all information required pursuant to such subsection, then the Secretary shall conduct such sample and to do all things with respect thereto that the State is, pursuant to subsection (a), required to do, but has either failed to do or unreasonably delayed doing, except that in lieu of developing a corrective action plan, the findings will be reported to the Governor and the legislature of the State. The amount which would be payable to any such State with respect to administrative expenditures made during such six-month period in carrying out its State plan (approved under this part), as determined by all provisions of law other than this subsection, shall be reduced by an amount equal to twice the cost incurred by the Federal Government in conducting such sample and in doing such things with respect thereto.

"DEFINITIONS AND PROCEDURES

"(f) (1) The dollar error rate of excess payments of aid shall be determined, for any six-month period, on the basis of the State quality control data and Federal quality control subsample data taken pursuant to the preceding provisions of this section with respect to such period.

"(2) In determining the dollar error rate of excess payments, there shall be included all payments of aid under the State plan which are (A) made to individuals or families who are ineligible therefor, or (B) made to individuals or families who are eligible therefor, but in an amount in excess of the correct and proper amount of aid which should have been furnished to such individuals under the State plan.

"(3) In computing ineligibility and overpayment case and dollar error rates for purposes of this section, the Secretary shall use the point estimate at the 95 percent confidence level of a statistical regression formula applied to case and dollar error rates obtained from both the State and Federal data. For purposes of computing case and dollar error rates, the Secretary shall utilize the figures derived from the State's full sample, adjusted by the regression formula for differences found in the Federal subsample. The regression formula methodology to be applied shall be described in detail by the Secretary and the description thereof shall be made available to all States eligible to establish State plans approvable under this part.

"(4) (A) Subject to subparagraph (B), the term 'case error' means a payment of aid to an ineligible person, an overpayment or underpayment of such aid, or an incorrect denial or termination of such aid, to an individual or family who is eligible for aid under the State plan approved under this part, and which plan is administered and operated in accordance with the provisions of such plan, and the requirements imposed with respect to such plan and its operation by or pursuant to this part or regulations of the Secretary promulgated hereunder. In a negative case action (as defined in paragraph (11)) there shall be counted as error only those cases where the reason asserted by the State agency for such action was incorrect. An error shall be considered to exist in any case in which a change in circumstances which affects eligibility for or amount of aid payable under such State plan is not correctly reflected in a terminated or adjusted payment by the second month following the month in which the change occurred.

"(B) (i) An overpayment, underpayment, or payment to ineligibles that is related to a change in circumstances shall not be counted as a case or dollar error if:

"(I) the payment continues unadjusted because a hearing was requested, or

"(II) the change occurred in the review month.

"(ii) For purposes of this subparagraph—

"(I) a hearing decision is considered to be a change in circumstances, and

"(II) the fact that the State agency has complied with the requirements for redetermination of eligibility has no bearing.

"(C) An overpayment, underpayment, or

payment to ineligibles that is related to a change in circumstances shall be counted as a management disregards or techniques variance.

"(D) When the overpayment, underpayment, or payment to ineligibles is the result of several changes in circumstances, each change shall be evaluated as to its impact on the final determination of case or dollar error.

"(5) The term 'assistance unit' means all individuals whose needs, income, and resources are considered in determining eligibility for, and the amount of, an aid payment for which Federal financial participation is claimed under this part.

"(6) The term 'payment to ineligibles' means a financial assistance payment received by or for an assistance unit, for the review month, for which that unit was totally ineligible under the approved State plan in effect on the first day of the review month.

"(7) The term 'overpayment' means a financial assistance payment received by or for an assistance unit for the review month, which exceeds by at least $1.00 the amount for which that unit was eligible under the approved State plan in effect on the first day of the review month.

"(8) The term 'underpayment' means a financial assistance payment received by or for an assistance unit for the review month, which is at least $1.00 less than the amount for which that assistance unit was eligible under the approved State plan in effect on the first day of the review month.

"(9) The term 'review month' means the specific calendar or fiscal month for which the assistance payment under review was received.

"(10) The term 'assistance payment' means a single payment (or two successive payments, in States that pay on a semimonthly basis), received for a specific calendar or fiscal month.

"(11) The term 'negative case action' means an action to deny an application for assistance or otherwise to dispose of such an application without a determination of eligibility (for instance, because the application was withdrawn or abandoned), or an action to terminate assistance.

"(12) The term 'management disregards and techniques variances' means all cases and amounts which are not to be considered as a case or payment error. They are designed to provide additional information for management to better control the program. Such term includes—

"(A) payments or nonpayments which are greater or less than the correct amount but which are not considered to be errors because the State Plan allows such variances on account of the de minimus nature of the variance;

"(B) payments made pursuant to a permissible State practice which is not in the approved State plan; and

"(C) income received or any other change in circumstances, which affects the amount of the financial benefit, of which the State agency is aware in the month preceding a review month but which was not considered in computing the financial benefit paid in the review month due to the time allowed for issuing the benefit check.

"(13) The term 'Inspector General' means the Inspector General of the Department of Health and Human Services established by section 201 of Public Law 94–505.

"REPORT TO CONGRESS

"(g) (1) Not later than six months following each six-month period referred to in subsection (a), the Secretary shall submit to the Congress a full and complete report with respect to the samples taken with respect to each State during such period which shall contain a detailed analysis of such samples taken from each State, and shall include a description of the rates of error in the payments and caseloads of each State and of operating units within the State with excessive payment error rates, as indicated by such samples and by Federal subsamples thereof, the number and dollar amounts in cases classified as management disregards and techniques variances, a description of corrective action measures taken or planned to be taken by States to reduce their error rates (and the error rates of operating units, within States, having excessive payment error rates) and otherwise improve the economical and efficient administration of their State plan approved under this part, a description of kinds and classes of error cases from a previous six month period in which there were no actions taken to correct the error or the actions taken to terminate or adjust the payment error were erroneous and such other matters as may be necessary or useful in enabling the Congress to gain a complete understanding of the degree to which the goal of effective, efficient, and economical administration of such approved State plans is being met. The Secretary shall also report to the Congress on the actions of the Inspector General with respect to fraud and abuse in the aid to families with dependent children programs, with respect to the monitoring of the quality control systems, and with respect to developing recommendations to, or alternates for, methods for determining cases with large dollar errors and ascertaining the locality or local administrative units in which such errors are most serious.

"(2) The Secretary shall make available first to the Congress and then to the public through national news media, the results of samples and error reduction efforts taken, undertaken, or planned, pursuant to the requirements of this section. Public notice of the information referred to in the preceding sentence may be made prior to submission of the periodic reports to the Congress required under paragraph (1), but shall not be earlier than ten days after the States have been furnished notice of their final error rates with respect to any six-month period.".

(d) (1) The last sentence of section 403 (j) of such Act is amended—

(A) by inserting "and" immediately after "assistance;" at the end of clause (II), and

(B) by striking out "and (IV) nonpayments to eligible families not receiving assistance due to erroneous terminations or denials,".

(2) The amendments made by paragraph (1) shall be effective in the case of determinations of dollar error rates of aid under section 403(j) of the Social Security Act with respect to periods beginning after March 31, 1981.

SEC. 2. (a) The Secretary, in carrying out assessments of a State's quality control activities under its quality control system established and put in operation pursuant to section 402(a) (31) of the Social Security Act shall, in the conduct of any such assessment in any region, include on-site visits to the State's quality control offices in the region to ascertain whether the State is complying with the quality control requirements and guidelines established by law or under regulations of the Secretary.

(b) The Secretary, in carrying out such assessments, shall establish a uniform monitoring system for each regional office of the Department of Health and Human Services to insure compliance with the uniform verification procedures and uniform and systematic monitoring activities to be employed in the conduct of such assessments. The Secretary shall periodically assess compliance with the foregoing requirement by the various regional offices of the Department of Health and Human Services.

SEC. 3. (a) The amendments made by subsections (a) through (c) of the first section of this Act shall, subject to subsection (b), take effect on September 30, 1981.

(b) If the Governor of a State certifies to the Secretary of Health and Human Services, and such Secretary finds, that in order for the State to comply with any provision of part A of title IV of the Social Security Act which is included therein by reason of the amendments made by subsections (a) through (c) of the first section of this Act a change in State law will be required, the Secretary shall waive such provision with respect to such State until the first day of the first month which begins more than 30 days after the adjournment of the first regular session of the State legislature of such State which commences after the date of enactment of this Act.

(c) (1) The Secretary of Health and Human Services shall issue any regulations required to implement the foregoing provisions of this Act within ninety days after the date of enactment of this Act.

(2) (A) The Secretary of Health and Human Services shall submit to the Congress any final regulations issued with respect to the implementation of the amendments made by this Act. Such regulations shall take effect at the end of the sixty-day period immediately following the day on which such regulations are submitted unless, within such period, either House of the Congress adopts a resolution of disapproval.

(B) In determining the sixty-day period for purposes of subparagraph (A), the following days shall not be counted:

(i) Any day on which either House of Congress is not in session.

(ii) The first thirty calendar days of a session of Congress.

(iii) The last thirty days of a session of Congress.

(C) For purposes of this paragraph, the term "resolution" means only—

(i) a concurrent resolution of the two Houses of the Congress, the matter after the resolving clause of which is as follows: "That the Congress does not approve the regulations relating to quality control under part A of title IV of the Social Security Act transmitted to the Congress on .", with the blank space being filled with the appropriate date: or

(ii) a resolution of either House of the Congress, the matter after the resolving clause of which is as follows: "That the does not approve of the regulations relating to quality control under part A of title IV of the Social Security Act transmitted to the Congress on .", with the first blank space being filled with the name of the resolving House, and the second blank space being filled with the appropriate date.

(D) Except as otherwise provided in this paragraph, the provisions of subsections (b), (c), (d), (e), and (f) of section 152 of the Trade Act of 1974 shall be applicable to resolutions under this paragraph, except that—

(i) the "20 hours" referred to in subsections (d) (2) and (e) (2) of such section shall be deemed to read "4 hours"; and

(ii) the "30 days" referred to in subsection (c) of such section shall not include any day not counted under subparagraph (B) of this paragraph.

Quality Control

For at least the last 25 years there has been recognition at the Federal level of the need for a program to reduce errors in the Federal-State public assistance programs. "Quality control" techniques were first used on a limited basis in 1952. However, at that time they were limited to periodic Federal reviews of samples of case records. No verification was made of the information in the case file, and full field investigations were not part of the systetm. As a result of a nationwide study in the early 1960's that indicated widespread ineligibility in some States, the Department of Health, Education, and Welfare developed a new and expanded quality control system to be implemented by January 1964 in all States for all public assistance programs. However, this new system produced little in the way of results, and the quality control program underwent major revision again in 1970. Basic changes made at that time included the use of field investigations, requirements on States for reporting of results, the establishment of acceptable error levels, and implementation of corrective actions. The 1970 revision in fact set into place most of the features that are part of the current quality control program. They did not include any provision for fiscal sanctions or penalties for States which failed to meet the designated tolerance level error rates. Only corrective action was required.

Both the States and the Department of Health, Education, and Welfare showed a lack of initiative in implementing the new system. The Department delayed in hiring a Federal quality control staff, and there was a parallel delay in the development of State staffs. The reason most frequently cited for the delay in the implementation of the 1970 quality control system has been that, at the Federal level at least, interest was concentrated on "welfare reform" efforts, with the view that a new system would make quality control obsolete. However, in 1973 HEW issued a new set of quality control regulations for AFDC. They differed from the 1970 rules in one major aspect—they set forth a procedure by which the Department would not match portions of State claims for AFDC payments based on the extent to which the State's error rates exceeded the acceptable Federal tolerance levels. These levls were set at 3 percent for ineligible cases, 5 percent for overpaid cases, and 5 percent for underpaid cases.

The legislative authority cited by the Department for its quality control program is in sections 402(a)(5), 403(a)(1) and 1102 of the Social Security Act:

"Sec. 402. (a) A State plan for aid and services to needy families with children must—

"(5) provide such methods of administration . . . as are found by the Secretary (of Health, Education, and Welfare) to be necessary for the proper and efficient operation of the plan.

"Sec. 403. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid and services to needy families with children. . . .

"(1) . . . an amount equal to (specific proportions) of the total amounts expended . . . as aid to families with dependent children under the State plan.

"Sec. 1102. The Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, respectively, shall make and publish such rules and regulations, not inconsistent with this Act, as may be necessary to the efficient administration of the functions with which each is charged under this Act."

The error measurement and corrective action components of the quality control program which rest on the above authority have not been questioned. As was stated in the May 1976 Federal district court decision (Maryland v. Mathews), "plaintiffs assert that they do not question HEW's right to set quality controls." However, the legality of the "disallowance" or "fiscal sanction" provision for limiting Federal matching with respect to State claims has been challenged. In the above cited case the judge ruled that "under the Secretary's rulemaking power to assure the efficient administration of the (Social Security Act), it can be concluded that a regulation establishing a withholding of Federal financial participation in a specified amount set by a tolerance level is consistent with the Act." However, the remainder of the decision invalidated the disallowance regulations based on the unreasonableness of the "tolerance level" used in determining the extent of any disallowance. As a result of the court decision, fiscal sanctions have never been applied and are no longer a part of the Federal quality control regulations.

Despite the controversy that has existed in the last few years over the penalty aspects of the quality control program, the program has been responsible for significant reductions in State AFDC error rates since 1973. The national average has fallen from a 42.6 percent case error rate and a 16.5 percent payment error rate for the period April–September 1973 to a case error rate of 26.0 percent and a payment error rate of 10.4 percent for October 1978–March 1979.

This progress can not only be continued, but also be speeded up and that with proper incentives and an appropriate legislative base, the States can be encouraged to decrease the number of errors in their AFDC caseload to more acceptable levels.

My bill would establish a modified version of the current AFDC quality control program as a requirement of law to determine the level of case and dollar error rates with respect to eligibility, overpayment, and underpayment of aid paid under the approved State plan and case error rate with respect to incorrect denials and terminations of aid. My bill would also provide additional information for management by classifying certain types of cases and amounts as management disregards and techniques variances.

The Secretary would by regulations require the States, beginning September 30, 1981, to establish and administer a special performance evaluation and corrective action system that would, using data already available, identify operating units below the State level with excessive error rates. The States would be required to make analyses and to prescribe corrective action affecting those operating units. Such analyses would be made every 6 months until error rates were substantially reduced. Cases in the samples are to be coded in such a way as to enable analyzers to identify where and by whom the cases were handled and the date the redetermination of eligibility was due to be made and was made. These measures are necessary to enable the administering agencies to determine the specific sources, causes, and reasons for errors. (However, the Secretary could not require that identifying information about State or local employees be forwarded or maintained at the Federal level.) Where such information is maintained at the State or local levels, it would be used as a management tool for improving program performance and not as a means of applying pressure on individual employees.

Full field investigations, including face-to-face interviews, are to be conducted for each case in the State samples (except for negative case actions) to independently establish and verify each element of eligibility and payment as of the review date.

Under the provisions of my bill, the reviewer would be required to check the case record data against the State AFDC computerized data and payment files and record any errors found. If the case involves the alleged absence of a parent from the home, the reviewer would be required to make a home visit at specified times and to make inquiries about the parent's whereabouts from appropriate sources such as the State division of motor vehicles, the telephone company, telephone directories, employment offices, and the agency conducting the State's parent locator services under the child support program. The reviewer would be required to verify claims that an individual has no funds deposited in financial institutions with appropriate sources such as credit bureaus and large centralized banks. Earnings would also have to be verified, as would social security account numbers. Income, both earned and unearned, received by the recipient which exceeds the benefit payment level but does not exceed the standard of need limits would have to be reported as a management disregard or techniques variances. The cause of any payment error would be required to be reported, and if there is more than one cause for a payment error, each cause would have to be reported.

In addition, States would be required to have corrective action plans and to take corrective action on incorrect assistance determinations. There would have to be public notice of error rates (including an analysis of causes and sources of errors), and of actions taken or planned to be taken to correct system weaknesses. Reviewers, including State reviewers, reviewers acting as agents of the Secretary or agents of the HHS Inspector General shall, in order to assure the validity and integrity of the quality control system, have access at the State and local levels to all State and local records relating to public assistance, to recipients, and to third parties.

Findings of the quality control program would have to be reported by the States on a timely basis to the Secretary, with a copy to the Inspector General. If a State failed to submit its quality control findings on a timely basis (subject to the discretion of the Secretary) the quality control review would be conducted by the Secretary with double the cost of the review to be borne by the State.

Federal reviewers would review a subsample of the State sample, and would be required to conduct a full field investigation of all cases in the subsample (except that the Secretary may specify by regulations categories of cases which will not require full field investigation). They would also examine cases in the State's review of the previous 6-month period to determine whether appropriate corrective action was taken. In computing payment error rates for purposes of State quality control incentive payments the Secretary would use the point estimate at the 95-percent confidence level of a statistical regression formula applied to error rates obtained from both Federal and State data. Errors for this purpose would include errors involving ineligibility and overpayments. All analyses and reports of case error rates, however, would have to include negative case actions and cases involving underpayments.

Under my bill, the Secretary would be required to provide technical assistance to State administering units to assist them in planning and operating their quality control programs, and in taking follow-up corrective actions as necessary. The bill also provides for appeal by the States to the Secretary of findings of the Federal subsample review.

Under my bill, the Inspector General would closely monitor the operation and findings made under the quality control program, the incidence and extent of fraud and abuse in the State AFDC programs, and as appropriate, recommend improvements in (or alternatives to) the methods of identifying and determining fraud and abuse, methods for identifying cases involving large dollar errors, and methods of ascertaining those administrative units which have high dollar errors. The medicaid quality control program would also be monitored by the Inspector General.

At least twice a year, to coincide with the 6-month quality control review periods, the Secretary would be required to submit a report to the Congress which would include a detailed analysis of the quality control samples, errors, corrective actions taken, and a description of kinds and classes of errors from any prior period which have not been corrected. Error rate findings and cost avoidance measures to be taken are to be described in the quality control reports of the Secretary to the Congress. The Secretary would also submit a report on the actions of the Inspector General with respect to AFDC fraud and abuse and with respect to his recommendations for improvements in the system.

In an effort to promote greater national uniformity in measurement procedures, my bill would direct the Secretary, in conducting assessments of regional quality control activities, to include on-site visits to State quality control offices to ascertain whether the State is complying with quality control requirements. The Secretary would also be required to establish a uniform monitoring system for each regional office of the Department of Health and Human Services to insure compliance with the uniform verification procedures and uniform monitoring activities which are to be used in the conduct of assessments.

Beginning with quality control measurement periods after March 31, 1981, determinations of amounts to be paid to States as incentives for achieving low error rates would be determined without regard to nonpayments to eligible families not receiving assistance due to erroneous terminations or denials. This change would increase the possibility that States will actually receive some financial benefit from the incentive provisions that were added to the law by the Social Security Amendments of 1977.

The bill also includes a provision specifying that any final regulations issued pursuant to the provisions of this bill would go into effect 60 days after being submitted to the Congress unless either House of the Congress adopts a resolution of disapproval.●

By Mr. MAGNUSON (for himself and Mr. JACKSON):

S. 3153. A bill to provide for the removal of Jones Island in the State of Washington from the National Wildlife Refuge System; to the Committee on Energy and Natural Resources.

TRANSFER OF JONES ISLAND NATIONAL WILDLIFE REFUGE TO THE STATE OF WASHINGTON

● Mr. MAGNUSON. Mr. President, Senator JACKSON and I are introducing legislation today which would facilitate transfer of Jones Island National Wildlife Refuge to the State of Washington.

The recreational use of the San Juan Islands in Puget Sound by visitors and residents of Washington State continues to grow each year. A particularly popular destination for Puget Sound boaters is Jones Island, located 6 miles north of Friday Harbor between Orcas and San Juan Islands.

Jones Island was officially designated as a National Wildlife Refuge in 1937 by Executive Order No. 7594. Between 1959 and 1969, the island was administered for recreational use by the Washington State Parks and Recreation Commission under the terms of a 10-year agreement. The commission continued to manage the island after the agreement expired while efforts were underway to sell the island to the commission pursuant to the terms of the Recreation and Public Purposes Act of 1926. In January of 1974 the Bureau of Land Management, with the concurrence of the Bureau of Outdoor Recreation and the Bureau of Sport Fisheries and Wildlife, accepted the petition for classification of the island for sale under the Recreation and Public Purposes Act.

After several avenues for selling the island to the commission were pursued, it was determined that the National Wildlife Refuge Systems Administration Act of 1976 prevented transfer of Jones Island out of Federal ownership until the island was removed from National Wildlife Refuge classification. The only way the status of Jones Island, or any other National Wildlife Refuge, may be changed under the present law is through an act of Congress.

Mr. President, Jones Island has been managed for recreation and conservation uses for some 21 years by the Washington State Parks and Recreation Commission. The Fish and Wildlife Service has expressed its support for transfer of the island from Federal to State ownership. Our bill will make this long sought after transaction possible. I urge my colleagues to act promptly on this legislation.●

● Mr. JACKSON. Mr. President, Senator MAGNUSON and I are introducing this legislation in an attempt to clean up a problem in the management of the San Juan National Wildlife Refuge that has existed for 20 years. The island is managed for recreation by the Washington State Parks and the Recreation Commission through an agreement, first signed in 1959, between the Fish and Wildlife Service and the Commission. Neither party to the agreement believes that the recurring necessity to renegotiate the agreement is beneficial to the wildlife refuge. Both parties would like to see the island transferred to the State of Washington outright. This bill seeks to accomplish this goal.

In support of this legislation and in an effort to encourage my colleagues to look favorably upon it, I ask unanimous consent that a letter I have received from Mr. Lynn A. Greenwalt, director of the Fish and Wildlife Service, about Jones Island be printed in the RECORD. In the letter, Mr. Greenwalt expresses the support of the Fish and Wildlife Service for this legislation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE,
Washington, D.C., November 19, 1979.

HON. HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: Thank you for your letter of November 1, 1979, regarding Jones Island in the San Juan Islands National Wildlife Refuge.

The Service's position on Jones Island has not changed and we continue to support a transfer of the island to the Washington State Parks and Recreation Commission. However, our Regional Solicitor has advised that P.L. 94-223 (16 U.S.C. 668dd) prevents an administrative transfer of Jones Island. Under the present set of circumstances, congressional approval is required in order for us to complete the transfer.

We will support congressional action to accomplish this. If we can be of further assistance, please feel free to call on us.

Sincerely yours,
LYNN A. GREENWALT,
Director.●

By Mr. TALMADGE:

S. 3154. A bill to make technical corrections in certain provisions of Public Law 96-249 and Public Law 96-265 which relate to information by the Commissioner of Social Security; to the Committee on Finance.

TECHNICAL CORRECTIONS TO CERTAIN FOOD STAMP LAWS

● Mr. TALMADGE. Mr. President, my bill would make purely technical amendments to rectify errors which occurred as the result of the enactment of Public Law 96-249, the Food Stamp Amendments of 1980, and Public Law 96-265, the Social Security Disability Amendments of 1980.

In drafting the final changes in disability amendments agreed to by the conferees everyone failed to take into account the provisions of the Food Stamp Act which was being acted upon by Congress at the same time. Provisions of both bills amended the Internal Revenue Code with respect to disclosure of information provisions.

As a result, there are section designations which need to be corrected. My bill does nothing more than make the necessary corrections.

Mr. President, I ask unanimous consent to insert the bill in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3154

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 127(a)(1) of the Food Stamp Act Amendments of 1980 (Public Law 96-249) is amended by striking out "Subsection (1) of section 6103" and inserting in lieu thereof "Subsection (1) of section 6103".

(b)(1) Section 408(a)(1) of the Social Security Disability Amendments of 1980 (Public Law 96-265) is amended by striking out (in the new paragraph added thereby to subsection (1) of section 6103 of the Internal Revenue Code of 1954) "(7) DISCLOSURE" and inserting in lieu thereof "(8) DISCLOSURE".

(2) Section 408(a)(2) of the Social Security Disability Amendments of 1980 is amended—

(A) in subparagraph (A), by—

(i) striking out "(l)(1) or (4)(B) or (5)" and inserting in lieu thereof "(l)(1), (4)(B), (5), or (7)", and

(ii) striking out "(l)(1), (4)(B), (5), or (7)" and inserting in lieu thereof "(l)(1), (4)(B), (5), (7), or (8)".

(B) in subparagraph (B), by—

(i) striking out "(1) (3) or (6)" and inserting in lieu thereof "(1) (3), (6), or (7)", and

(ii) striking out "(1) (3), (6), or (7)" and inserting in lieu thereof "(1) (3), (6), (7), or (8)";

(C) in subparagraph (C), by—

(i) striking out "(1) (6)" and inserting in lieu thereof "(1) (6) or (7)", and

(ii) striking out "(1) (6) or (7)" and inserting in lieu thereof "(1) (6), (7), or (8)"; and

(D) in subparagraph (D), by—

(i) striking out "subsection (d), (1) (6) or (m) (4) (B)" and inserting in lieu thereof "subsection (d), (1) (6) or (7), or (m) (4) (B)", and

(ii) striking out "subsection (d), (1) (6) or (7), or (m) (4) (B)" and inserting in lieu thereof "subsection (d), (1) (6), (7) or (8), or (m) (4) (B)".●

(3) Section 408(b) of the Social Security Disability Amendments of 1980 is amended—

(A) in paragraph (1), by striking out (in the new subsection added thereby to section 303 of the Social Security Act) "(d) (1) The State agency" and inserting in lieu thereof "(e) (1) The State agency", and

(B) in paragraph (2)—

(i) by striking out "subsection (b) or (c)" and inserting in lieu thereof "subsection (b), (c), or (d)", and

(ii) by striking out "subsection (b), (c), or (d)" and inserting in lieu thereof "subsection (b), (c), (d), or (e)".

(c) The amendment made by subsection (a) shall take effect on May 26, 1980; the amendments made by paragraphs (1) and (2) of subsection (b) shall take effect on June 9, 1980; and the amendments made by paragraph (3) of subsection (b) shall take effect on July 1, 1980.●

By Mr. TALMADGE:

S. 3155. A bill to amend the Adoption Assistance and Child Welfare Act of 1980 to extend the postponement of certain penalties relating to child support requirements; to the Committee on Finance.

POSTPONEMENT OF CERTAIN PENALTIES RELATING TO CHILD SUPPORT

● Mr. TALMADGE. Mr. President, present law provides that if a State is found by an annual audit not to have an effective child support enforcement program which meets the requirements of title IV-D, the State's AFDC reimbursement must be reduced by 5 percent. Earlier this year, the conferees on H.R. 3434 agreed to include a provision which prohibited the imposition of this penalty before October 1, 1980. This bill became Public Law 96-272. The purpose was to give the Department of Health and Human Services time to review its audit and penalty procedures to assure that they could be equitably interpreted and applied and to allow time for the Subcommittee on Unemployment and Public Assistance of the Ways and Means Committee to hold hearings on the penalty provision in current law.

More time is needed to accomplish this, and my bill therefore would simply provide for an additional delay of 2 years, to October 1, 1982, before any penalty could be imposed. As we noted in the conference report on H.R. 3434—now Public Law 96-272—this provision should not be considered to prejudice in any way the ultimate disposition of penalties for prior years.

This bill has no budgetary effect.

Mr. President, I ask unanimous consent that the bill be inserted in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3155

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 309 of the Adoption Assistance and Child Welfare Act of 1980 is amended by striking out "fiscal year 1977 or fiscal year 1978 shall be made prior to October 1, 1980" and inserting in lieu thereof "any of the fiscal years 1977 through 1980 shall be made prior to October 1, 1982".●

By Mr. TALMADGE (for himself, Mr. Helms, Mr. Pryor, Mr. Stewart, Mr. Huddleston, Mr. Melcher, Mr. Nunn, Mr. Dole, Mr. Morgan, Mr. Sasser, Mr. McGovern, Mr. Hollings, Mr. Zorinsky, Mr. Heflin, Mr. Thurmond, Mr. Stone, Mr. Boren, Mr. Young, Mr. Lugar, Mr. Cochran, Mr. Boschwitz, Mr. Jepsen, Mr. Garn, Mr. Harry F. Byrd, Jr., Mr. Warner, Mr. Goldwater, Mr. Hayakawa, and Mr. Armstrong):

S.J. Res. 205. Joint resolution to proclaim March 19, 1981, as "National Agriculture Day"; to the Committee on the Judiciary.

NATIONAL AGRICULTURE DAY

● Mr. TALMADGE. Mr. President, today I am introducing a joint resolution, identical to House Joint Resolution 560 which would proclaim March 19, 1980, as "National Agriculture Day."

This legislation unanimously passed the House recently where it was introduced with more than 230 cosponsors including Members from both political parties and Members from every part of the country.

It is important to point out that this would be the first such official recognition of "National Agriculture Day." It would authorize and request the President to issue a proclamation calling on all Americans to observe next March 19 with ceremonies and activities emphasizing the interdependence of rural and urban people. Considering that the day has been celebrated on a nationwide basis for the past 7 years, I think passage of this resolution is long overdue.

It is true that farmers today comprise a smaller number of our total population than ever before. Nonetheless, agriculture is still the backbone and basic strength of our economy. Consider these facts:

Agriculture is our Nation's No. 1 industry with assets at an incredible $927 billion.

Agriculture is our Nation's No. 1 employer—some 14 to 17 million people—when you count all the people engaged in getting food to the consumer's table.

Agriculture is our Nation's No. 1 exporter—$40 billion for 1980—at a time when we desperately need export earnings.

Let us keep in mind that despite inflation, food is still a bargain in this country. Over the past year, food prices increased far less than any other major necessity. And we Americans spend less of our disposable income—16 percent—on food than any other people in the world.

It is a record that every American can and should be proud of.

Taking time to recognize and salute the vital role agriculture plays in the U.S. economy is the basic purpose of the "Agriculture Day" project.

Under the leadership of the Agriculture Day Foundation, companies, organizations, and individuals from throughout the United States can join together to tell this story with a unified voice. The effort is administered and staffed by the Agriculture Council of America as part of its overall program to communicate what modern agriculture means to America.

The theme for this year's program is—"Agriculture: It's Your Heartbeat, America!" It is visually depicted by an electrocardiogram with a mirror farm image. I cannot think of a more appropriate message.

This message will be presented by grassroots volunteers in every State to top decisionmakers, the news media, and urban audiences. In doing so, they will be showing pride in their industry, and they will be showing pride in their country.

I would like to commend the efforts of the Agriculture Day Foundation. I would like to personally recognize the board of directors of this fine group: Robert Lanphier III, president, Dickey-John, Auburn, Ill.; John Davies, treasurer, International Harvester, Chicago, Ill.; Connie Townsend, secretary, American National Cowbells, White Sulfer Springs, Mont.; Gene Akins, Catalytic Generators, Inc., Norfolk, Va.; Dave Bennett, Miller Publishing Co., Minneapolis, Minn.; C. W. Blodgett, Hunt-Wesson Foods, Fullerton, Calif.; Rod Brannen, Ad/Creation De Kalb Ag Research, De Kalb, Ill.; Dr. Kent Christensen, Food Marketing Institute, Washington, D.C.; Roger Coleman, National Food Processors Association, Washington, D.C.; Noah Perry, West Virginia Department of Agriculture, Charleston, W. Va.; and Don Tindall, Southern States Cooperative, Inc., Richmond, Va.

The Agriculture Day Foundation and thousands of grassroots volunteers are helping the American public understand that their economic future is tied directly to the health of our agricultural production and distribution system. This is a job that I believe is essential to the economic future of this country. Enactment into law of this resolution—without involving any cost to taxpayers—will bring the added support of formal Government recognition to this most worthwhile effort.

As chairman of the Senate Agriculture, Nutrition, and Forestry Committee, I encourage my colleagues to support this resolution.●

● Mr. HELMS. Mr. President, I wholeheartedly support this joint resolution proclaiming March 19, 1981, as National Agriculture Day.

If there is one segment of the American endeavor that should be recognized, should be honored, it is agriculture, the very backbone of this great Nation. It is fitting indeed, that we set aside a day for special tribute to this country's farmers, who produce more than food and fiber; their efforts have nurtured a spirit of strong individualism, and have woven high moral principles for this land. Farmers are the bedrock upon which the national character is built.

It is fitting we pay tribute to our

farmers by adopting a resolution setting aside as National Agriculture Day that 1 day next March, and 1 day a year thereafter. While I stress the importance of this recognition, I also tell you and tell the Nation, that we have got to do more than pay lipservice to our farmers.

Many of our farmers are on the brink of disaster.

This year, farmers are experiencing their worst crisis since the Great Depression. As many as 25 percent of the Nation's farmers could go bankrupt this year, devastated largely by inflation that has been brought on by big Government and reckless spending by Congress. It is especially cruel that farmers must struggle not only against the whims of nature but the whims of excessively burdensome Federal regulations and arbitrary bureaucracies.

We must see that our farmers survive. Agriculture is responsible, or one out of every five jobs in the free enterprise system of this country. If agriculture does not survive, this country does not survive.

The biggest thing we can do to help this vital segment of our economy is to halt the Government-spawned inflation that erodes farmers' profits. What many do not realize is that the farmer is the ultimate consumer. The farmer must purchase all of his seed, fertilizer, fuel, equipment, and all the rest, at retail. He must then sell his crops at wholesale. He cannot pass on his increased costs—making profitability increasingly impossible for farmers everywhere.

Yes, let us pay tribute to our farmers. But let us not forget that there will not be as many farmers to whom we may pay tribute if we do not get the economy under control and stop the inflation that makes it impossible for farmers to earn a living.

I have had the chance to participate in past "Agriculture Day" programs, and know personally of the excellent results that are being achieved in bringing the farmers and nonfarm consumers of this Nation closer together.

Like Senator TALMADGE, I would like to commend the Agriculture Day Foundation for their outstanding leadership. They provide an effective outlet for concerned people across the country to present their views in a nationally coordinated program.

We have the opportunity here to provide this program with a much-deserved lift. It is time for us to officially recognize American agriculture for its amazing record of progress and achievement. In the interest of a stronger agriculture and a stronger America, I urge the immediate passage of this joint resolution to proclaim March 19, 1981, as "National Agriculture Day."●

ADDITIONAL COSPONSORS

S. 2111

At the request of Mr. TALMADGE, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 2111, a bill to incorporate the National Federation of Music Clubs.

S. 2924

At the request of Mr. CRANSTON, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 2924, a bill to amend the Internal Revenue Code of 1954 to provide for increased investment by individuals through a tax-deferred rollover account.

S. 3006

At the request of Mr. WALLOP, the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 3006, a bill to amend the Internal Revenue Code of 1954 to provide a nonrefundable tax credit for investment in qualified industrial energy efficiency and fuel conversion projects.

S. 3007

At the request of Mr. HOLLINGS, the Senator from West Virgina (Mr. RANDOLPH) was added as a cosponsor of S. 3007, a bill entitled the "Methane Transportation Research, Development, and Demonstration Act of 1980."

S. 3049

At the request of Mr. MCCLURE, the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Nebraska (Mr. ZORINSKY), and the Senator from Montana (Mr. MELCHER) were added as cosponsors of S. 3049, a bill entitled "The Local Schools Option Protection Act."

S. 3087

At the request of Mr. SASSER, the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 3087, a bill to amend the Congressional Budget Act to require the Congressional Budget Office, for every significant bill or resolution reported in the House or Senate, to prepare and submit an estimate of the cost which would be incurred by State and local governments in carrying out or complying with such bill or resolution.

SENATE JOINT RESOLUTION 199

At the request of Mr. DOLE, the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Arkansas (Mr. BUMPERS), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Mississippi (Mr. COCHRAN), the Senator from Missouri (Mr. DANFORTH), the Senator from Arizona (Mr. DECONCINI), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Alabama (Mr. HEFLIN), the Senator from North Carolina (Mr. HELMS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from New York (Mr. JAVITS), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Nevada (Mr. LAXALT), the Senator from Michigan (Mr. LEVIN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. MELCHER), the Senator from North Carolina (Mr. MORGAN), the Senator from Wisconsin (Mr. NELSON), the Senator from Arkansas (Mr. PRYOR), the Senator from Delaware (Mr. ROTH), the Senator from South Carolina (Mr. THURMOND), the Senator from North Dakota (Mr. YOUNG), and the Senator from Montana (Mr. BAUCUS), were added as cosponsors of Senate Joint Resolution 199, a joint resolution designating the week of September 28 to October 4, 1980, as "National High School Activities Week".

SENATE CONCURRENT RESOLUTION 73

At the request of Mr. DOLE, the Senator from California, (Mr. HAYAKAWA), the Senator from Illinois (Mr. PERCY), and the Senator from Minnesota (Mr. DURENBERGER) were added as cosponsors of Senate Concurrent Resolution 73, a concurrent resolution expressing the sense of the Congress with respect to implementing the objectives of the International Year of Disabled Persons.

SENATE CONCURRENT RESOLUTION 116

At the request of Mr. THURMOND, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of Senate Concurrent Resolution 116, a concurrent resolution expressing the sense of the Congress on the Baltic States question.

SENATE CONCURRENT RESOLUTION 120

At the request of Mr. HEINZ, the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of Senate Concurrent Resolution 120, a concurrent resolution congratulating the people of Poland on the successful conclusion of the strike.

AMENDMENT NO. 2368

At the request of Mr. CRANSTON, the Senator from Georgia (Mr. TALMADGE) was added as a cosponsor of amendment No. 2368 proposed to H.R. 4155, a bill to amend the Internal Revenue Code of 1954 to allow the Internal Revenue Service to disclose the mailing addresses of individuals who have defaulted on student loans made under the Migration and Refugee Assistance Act of 1962.

SENATE CONCURRENT RESOLUTION 127—ORIGINAL CONCURRENT RESOLUTION REPORTED RELATING TO CONSIDERATION OF THE TAX REDUCTION ACT OF 1980

Mr. LONG, from the Committee on Finance, reported the following original concurrent resolution; which was placed on the calendar:

S. CON. RES. 127

Resolved, it is the sense of the Congress that the Congress should proceed to the consideration of the Tax Reduction Act of 1980 (H.R. 5829; Senate Report 96–940) prior to the recess, which is scheduled to begin no sooner than September 30 and no later than October 2, 1980.

SENATE RESOLUTION 528—ORIGINAL RESOLUTION REPORTED TO WAIVE THE BUDGET ACT

Mr. LONG, from the Committee on Finance, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 528

Resolved, That (a) pursuant to section 402(c) of the Congressional Budget Act of 1974, section 402(a) of such Act shall not apply with respect to the consideration in the Senate of the bill S. 2574 to authorize an extension and amendment of the revenue sharing program to provide general purpose fiscal assistance to local governments, and for other purposes; and

(b) That waiver of such section 402(a) is necessary in order to enable the Senate to consider legislation which will extend the general revenue sharing program and reestablish a program of countercyclical fiscal assistance; and

(c) That it was infeasible to complete action on this legislation within the usual time limits. The program provided for in this legislation is particularly related to economic conditions, and, under the economic conditions prevailing at the time of the usual May 15 deadline for authorizing legislation, it appeared unlikely that this legislation could be enacted in view of the failure to reach agreement with the House of Representatives on a similar renewal of the countercyclical assistance program passed by the Senate earlier in this Congress (S. 566). However, the economic situation has changed markedly. The assumptions of the Senate Budget Committee as to the fiscal year 1981 unemployment rate have increased by more than a full percentage point since it reported the First Concurrent Budget Resolution on April 9, 1980; and further

(d) That, in view of the changed economic conditions, the Senate should have the opportunity to consider legislation to restore a program of countercyclical fiscal assistance.

SENATE RESOLUTION 530—RESOLUTION TO WAIVE THE BUDGET ACT

Mr. RANDOLPH submitted the following resolution; which was referred to the Committee on the Budget.

S. RES. 530

Resolved, That section 402(a) of the Congressional Budget Act of 1974 is waived with respect to the consideration of an original bill authorizing a two year extension through fiscal year 1981 of the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965.

On August 1, 1979, the Senate passed S. 914, reauthorizing the Economic Development and Appalachian Regional Commission Acts. This bill provided a four year extension of these programs and provided an expanded business development program for the Economic Development Administration. The authorizing level contained in that bill was $1.6 billion.

The conference committee on S. 914 has been meeting for more than 9 months and has been unable to resolve a lot of the differences. The main issues have been an authorization for a continuation of the Local Public Works Program and the high funding levels proposed by the House of Representatives.

The conferees, at their last meeting, could not agree on authorization levels and therefore agreed the best alternative is a simple two year extension of the Act. The authorization level provided will be $1.65 billion. This is broken down as $1.3 billion for EDA and the Title V Commissions and $350 million for the Appalachian Regional Commission.

The Committee on Environment and Public Works, therefore, requests a waiver of Section 402(a) so that the Senate can consider a bill authorized by the Environment and Public Works Committee to provide an authorization for fiscal years 1980 and 1981 of $1.65 billion per fiscal year since the conferees have been unable to resolve the differences on S. 914, the reauthorization legislation.

AMENDMENTS SUBMITTED FOR PRINTING

LIABILITY FOR CLEANUP OF INACTIVE HAZARDOUS WASTE DISPOSAL SITES

AMENDMENTS NOS. 2374 THROUGH 2388

(Ordered to be printed and to lie on the table.)

Mr. CANNON submitted 15 amendments intended to be proposed by him to the bill (S. 1480) to provide for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment and the cleanup of inactive hazardous waste disposal sites.

Mr. CANNON. Mr. President, today I am submitting a number of amendments to S. 1480, the "superfund" bill. Last Thursday, I made a statement on the floor which discussed some of the problems in S. 1480, particularly as they relate to the jurisdiction of the Senate Committee on Commerce, Science, and Transportation. At that time, I asked that certain letters be included in the RECORD which would further explain some of these problems (printed in the RECORD for September 18, at p. 26056). The amendments which I am submitting today respond to some of the concerns of the Commerce Committee developed as a result of its hearings and review of this important legislation.

Due to the extremely tight time frame within which the committee has examined S. 1480, we have not had an opportunity to consider the bill or these amendments formally in committee session. However, the amendments do respond to many of the concerns with the bill that were raised at our hearings, and I am submitting them today in the interest of expeditious consideration of S. 1480 prior to adjournment. The committee welcomes any specific comments on the amendments from interested persons.

S. 1480 as presently drafted is unnecessarily broad and unclear as to its coverage. In this regard, one of my amendments would define the scope of the applicability of this act to insure that jurisdiction over foreign vessels and nationals is not inappropriately allowed.

Another amendment would modify the definition of "hazardous substances" so as not to include any substance which might cause harm, no matter how significant, to any organism under any circumstances, and would limit that definition to substances that have been designated as hazardous. The term "pollutant or contaminant," undefined in the bill, would be clarified by an amendment to relate the term to the clean-up authority of the President. The requirement that records be retained in perpetuity would be modified to grant the President authority to issue more practical regulations in this area.

Also, there is an amendment to clarify that the limitations on liability already mandated under the Price-Anderson Act for nuclear incidents will not be modified by S. 1480.

I am particularly concerned about the broad application of certain provisions to transportation and commerce and the burdens which such application would impose. Accordingly, one of my amendments would exclude consumer products from the definition of "facility," thus precluding any unintended application of notification requirements and liability provisions to consumers. Another amendment would define transportation for the purposes of this act so as not to impose unnecessary and duplicative information-gathering requirements on the transportation sector. Furthermore, emissions from the exhaust of all transportation facilities would be excluded from the definition of "release," not just emissions from motor vehicles. This amendment would assure equal treatment of all transportation modes and avoid the overly broad notification and other requirements for releases.

To avoid imposition on transportation modes of liability without appropriate notice of the hazard associated with a shipment, I am submitting an amendment which would coordinate the designation of materials as hazardous under the Hazardous Materials Transportation Act with the corresponding designation of hazardous substances under S. 1480.

One area of primary concern to me is the virtually unlimited liability in S. 1480 and the effect that this would have on the insurability of carriers. The insurance industry has stated that as presently drafted S. 1480 is uninsurable. As one important step to avoid the risks of uninsurability, one of my amendments would establish a monetary limit on liability. Another amendment would clarify that transporters are not to be liable for releases of "pollutants or contaminants," which are not designated substances, and of which carriers would have no notice of the potentially hazardous nature of the cargo. To introduce more certainty into the liability scheme, I am submitting an amendment to clarify that recoverable damages are those expressly enumerated in S. 1480, and to limit the damages recoverable for the loss of use of property or natural resources.

Another amendment would require the President to do a study on financial responsibility and the availability of insurance and would insure that any financial responsibility requirements for motor carriers under S. 1480 coordinate with those set forth in the Motor Carrier Act of 1980.

S. 1480 would declare a broad category of manufacturing, transporting, disposing, and handling activities as "ultrahazardous." This finding is unnecessary to carry out the purposes of the act and might adversely affect these activities and their insurability. Therefore, I am submitting an amendment to eliminate this unnecessary provision.

One area of extreme concern to insurance groups and their insureds is to have an idea of the extent of their liability exposure under S. 1480. In order to assist in clarifying this question, these amendments would assure preemption of claims that can be asserted under S.

1480 so that they may not be asserted under other laws. In light of the broad liability and compensation scheme of S. 1480, this would avoid onerous, duplicative, and overlapping claims. The amendment would expressly not affect the States or public's right to assert their common law or other claims not assertable under S. 1480.

Another amendment woud reinstate the existing allocation of agency responsibilities for damage assessment activities.

I am hopeful that these amendments will facilitate the passage of a sound piece of legislation in this area during the 96th Congress. Mr. President, I ask unanimous consent that all of my amendments be printed at this point in the RECORD with their accompanying explanations.

There being no objection, the amendments and explanations were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 2374

On page 2, strike lines 5 through 11, and insert in lieu thereof the following:

"APPLICABILITY AND DEFINITIONS

"SEC. 2. (a) This Act shall apply to—

"(1) hazardous substance disposal sites, facilities, and areas within the United States;

"(2) releases or threats of releases of hazardous substances from vessels, public vessel, transportation facilities, and facilities into the navigable waters and waters of the contiguous zone, into ground water, public water supplies and air within the United States, and onto the land within the United States;

"(3) releases or threats of releases of hazardous substances into the waters seaward of the contiguous zone—

(A) from vessels which are or, where the context so provides, whose person in charge is otherwise subject to the jurisdiction of the United States at the time of the release where the release may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States; and

(B) from activities subject to regulation under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974; and

"(4) removal costs incurred under the Intervention on the High Seas Act respecting releases or threatened releases of substances other than convention oil, as defined in that Act.".

On page 2, line 16, insert "otherwise subject to the jurisdiction of the United States" after " 'onshore facility' ".

On page 12, line 2, strike "and", and on page 13, line 22, strike "amended.", and insert in lieu thereof the following: "amended; and

"(19) the term 'environment' shall mean the environment to which this Act applies, in accordance with subsection (a) of this section.".

On page 9, line 5, insert "or" before "any", and on line 6, strike ", or any Foreign government;" and insert in lieu thereof a semicolon.

EXPLANATION

S. 1480 appears not to contain any limitation on the geographical scope of its coverage. This amendment clarifies the term "environment" in the Act and assures that it does not apply to foreign vessels or nationals outside the appropriate jurisdiction of the Act.

In addition, S. 1480 defines natural resources to include any natural resources of a foreign government. This definition is too broad and all inclusive. This amendment would clarify that S. 1480 will not create recovery for damages to any natural resources of a foreign government unless such coverage is in conformance with the limitations of Section 2(a) as amended herein.

AMENDMENT No. 2375

On page 12, line 2, strike the "and" immediately following "1974;" and on page 12, line 3, insert the following new paragraph and redesignate succeeding paragraphs accordingly:

"(18) the term 'transport' or 'transportation' means the movement of a hazardous substance by any mode, including pipeline, and, incidental to such movement, any loading, unloading, handling or storage.".

On page 23, line 20, strike "transportation".

On page 24, line 4, strike "actions." and insert in lieu thereof "actions: *Provided, however*, That this subsection shall not apply not apply to the transportation of any hazardous substance.".

EXPLANATION

This amendment clarifies the meaning of "transport" and "transportation" as used in this Act, and it eliminates the applicability to transportation of the new information gathering provision in Section 3(d). The new authority granted to the Environmental Protection Agency and the states under section 3(d) is duplicative of and inconsistent with the current authority of the Department of Transportation in regulating hazardous materials transportation.

AMENDMENT No. 2376

On page 8, line 9, strike all after "this" through the end of line 23 and insert in lieu thereof the following:

"Act."; and on line 7 of such page, insert "and" immediately before "(F)" therein.

On page 15, lines 11 and 12 and lines 18 and 19; page 16, lines 4 and 5 and lines 22 and 23; page 18, lines 7 and 8; and page 83, line 3, strike the words "(other than as defined in section 2(b)(13)(G) of this Act)".

On page 38, strike lines 1 through 12 and on line 13 redesignate subsection "(n)" as subsection "(m)".

On page 12, line 2, strike "and", and on page 13, line 22, strike "amended.", and insert in lieu thereof the following: "amended; and

"(19) the term 'pollutant or contaminant' means any substance with respect to which the President exercises authority under section 3(c)(1) of this Act, other than a hazardous substance.".

EXPLANATION

S. 1480 in Section 2(b)(13) contains a two-tier definition of hazardous substances. The first tier, Sections 2(b)13(A)-(F), would define a hazardous substance as any substance designated under certain specified lists. Section 2(b)(13)(G) is a "catch-all" which would define a hazardous substance to include virtually any substance that could cause damage, however slight, to any organism under any circumstances. This extreme breadth of definition is unnecessary for any of the purposes of the Act, since section 3(c)(1)(B) of S. 1480 provides that the President is generally authorized to respond to a release of a "pollutant or contaminant which may present an imminent or substantial danger to the public health or welfare." Accordingly, this amendment would strike Section 2(b)(13)(G) and all references thereto. This amendment also clarifies that for purposes of this Act, a "pollutant or contaminant" is any substance, other than a defined hazardous substance, with respect to which the President decides to exercise his response authority under Section 3(c)(1)(B).

AMENDMENT No. 2377

On page 26, line 8, strike "all" and insert in lieu thereof "the following".

On page 26, line 10, strike "disposal, including—" and insert in lieu thereof "disposal:".

On page 26, strike lines 14–15 and lines 19–21.

On page 27, line 2, strike "resources;" and insert in lieu thereof "resources if the claimant derives at least 25% of his earnings from activities which utilize such property or resources;".

EXPLANATION

Section 4(a)(2) of S. 1480 provides for recovery of damages, which result from a release under the Act, "including" seven specified types of damages. The specified damages in the Act are not to be treated as an inclusive list, and unspecified damages are potentially recoverable. Given the joint, several, and strict liability scheme established in the bill, it is essential that the types of damages recoverable be specified in order to provide a degree of certainty and predictability. Without such predictability, insurers have indicated that the risks created by the bill would be uninsurable. This amendment would limit the damages recoverable to those specifically enumerated in the Act.

In addition, section 4(a)(2) of S. 1480 currently would impose liability for the loss of use of any property or natural resources and for any loss of income from such use resulting from a release of hazardous substances. These provisions vastly expand the number of potential claimants under the bill and would place claimants with relatively insignificant claims on a par with claimants with urgent need for recovery. For example, under the current provision, a sports fisherman using a pond that has been polluted would be entitled to compensation on the same basis as a claimant needing compensation for medical expenses. This amendment would eliminate these less significant claims from the scope of the bill and focus the liability scheme on the claimants with the most serious claims. In addition, the amendment would permit compensation for loss of income from the use of property or resources only if 25 percent of the claimant's income is derived from such use. This amendment would not affect the common law rights of those affected by this amendment. This amendment is consistent with the approach to damages taken by the Outer Continental Shelf Lands Act Amendments of 1978.

AMENDMENT No. 2378

On page 7, line 4, immediately before the semi-colon therein, insert the following: ", but such term does not include consumer products.".

On page 13, line 22, insert the following new paragraph:

"(19) the term 'facility' as used in the phrase 'facility or site at which hazardous substances are stored or disposed of', or any similar phrase, shall not include any motor vehicle, rolling stock, pipeline or aircraft engaged in transportation.".

EXPLANATION

S. 1480 defines the term "facility" broadly to include such things as "any equipment" and "any storage container," which could easily include consumer products. Such an interpretation of this term would lead to excessive notification and liability coverage by the Act. This amendment would explicitly clarify that the term "facility" does not include consumer products for the purposes of this Act.

In addition, this amendment will clarify that transportation facilities shall not be treated as facilities storing hazardous substances, which would trigger the notification provisions of S. 1480, if they are holding hazardous substances as part of the transportation process.

AMENDMENT NO. 2379

On page 91, after line 21, add the following new section:

"TRANSPORTATION

SEC. 13. (a) Each hazardous substance which is listed or designated as provided in section 2(b)(13) of this Act shall, within ninety days after the date of enactment of this Act or at the time of such listing or designation, whichever is later, be listed as a hazardous material under the Hazardous Materials Transportation Act.".

(b) A common or contract carrier shall not be liable under Section 4 of this Act for damages or remedial action resulting from the release of a hazardous substance during the course of transportation which commenced prior to the effective date of the designation under Subsection (a) of this section.

EXPLANATION

The problem of identification of hazardous substances is a very real one for carriers. Although they are subject to the liability provisions and clean-up responsibilities under S. 1480, unless the hazardous substance is required to be identified as such on shipping documents, a carrier may not even know that he is transporting a hazardous substance. Tariff publication of safety requirements is based on DOT regulations and the best way to ensure that hazardous substances are identified as such when offered for transportation is to have them listed in the Hazardous Materials Table and certain entries required on shipping papers. This problem existed with regard to the Environmental Protection Agency's (EPA) regulation of the transportation of Section 311 hazardous substances, and hazardous wastes, and the solution involved listing of these materials by DOT.

Since identification via some indication of shipping documents is the key to a carrier knowing he is transporting hazardous substances, there may be some delay after publication, prior to the effective date of the designation, to allow the ADP equipment to be reprogrammed. The determination of whether a delay in effective date was necessary would be made by the Secretary of Transportation. It is envisioned that DOT rulemaking would coincide exactly with any EPA rulemaking. The (13)(a) provision would mean that notice and comment rulemaking procedures would not have to be followed by DOT, although they would be, of course, by the agency making the § 2(b) designation.

Section 13(b) would remove liability for damages and remedial action prior to the effective date of the designation.

AMENDMENT NO. 2380

On page 25, line 20, insert the following after "Act": "(except where such a release of a pollutant or contaminant occurs during the transportation thereof by a common or contract carrier).".

EXPLANATION

This amendment clarifies that common or contract carriers would not be liable pursuant to section 3(c)(1) for releases of "pollutants or contaminants". "Pollutants or contaminants" are not listed as hazardous substances. There is no statutory requirement that common or contract carriers be notified of the substance which they are carrying unless it is designated as a hazardous substance. Therefore, it would be inappropriate to subject such carriers to the increased liability exposure of this section. They would have no way to assess the risks associated with the carriage of such unlisted substances and could not insure against these risks.

AMENDMENT NO. 2381

On page 11, line 4, delete "vehicle;" and insert "vehicle, rolling stock, pipe or pipeline, aircraft, or vessel or public vessel;".

EXPLANATION

S. 1480 presently excludes from the definition of release "emissions from the exhaust of a motor vehicle". S. 1480, however, appears to continue to cover the emissions from the exhaust of airplanes, trains, pipeline facilities, and vessels. There is no apparent rationale for this disparate treatment of the various transportation modes. This amendment would assure that all of the transportation modes are treated equally with respect to this exclusion under S. 1480.

AMENDMENT NO. 2382

On page 10, lines 17 through 19 strike "to the extent such release is covered by financial protection required" and insert in lieu thereof "if such release is subject to requirements with respect to financial protection mandated".

EXPLANATION

The Price-Anderson Act provides a $560 million limitation on public liability arising out of specified nuclear incidents. Section 2(b)(16)(ii) excludes such incidents from the definition of release "to the extent such release is covered by financial protection required by" the Price-Anderson Act. This provision could be interpreted to mean that once the Price-Anderson limits have been reached, unlimited recovery would be permitted under S. 1480. Such an interpretation would raise serious insurability questions for the nuclear industry. This amendment clarifies that S. 1480 does not alter the liability limits set forth in the Price-Anderson Act.

AMENDMENT NO. 2383

On page 25, line 25, insert immediately after "liable", the following:

", subject to the limitations set forth in subsection (b) of this section,".

On page 27, immediately after line 9, insert the following subsection and redesignate the subsequent subsections (and all cross-references thereto) accordingly:

"(b)(1) Except when the release or disposal is caused in whole or in part by willful misconduct or gross negligence, within the privity and knowledge of the liable person, or in whole or in part by a violation, within the privity and knowledge of the liable person, of applicable public health, safety, construction or operating standards or regulations of the Federal Government; or except where the liable person is subject to criminal penalties for failure to furnish any notice of a release required by section 3(a)(3)(B) of this Act or of a facility required by section 3(a)(4)(A) or fails or refuses to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of removal, the total of liability shall be limited to—

(A) in the case of a vessel which does not carry hazardous substances in bulk as cargo or residue $150 per gross registered ton or $250,000, whichever is greater;

(B) in the case of a vessel which carries hazardous substances in bulk as cargo or residue, $250,000 or $300 per gross registered ton (up to a maximum of $30,000,000), whichever is greater; or

(C) in the case of a facility, $50,000,000 unless a lesser limit is established by the President under paragraph (2) of this subsection.

"(2) The President may issue regulations establishing limits of liability of no less than $5,000,000 and no more than $50,000,000 for various classes of onshore facilities and offshore facilities. Any such regulations shall take into account the size, type, location, storage and handling capacity and other matters relating to the likelihood of discharge or release in each such class and to the economic impact of such limits on each such class.".

EXPLANATION

This amendment establishes monetary limitations on liability for persons who are liable for releases of hazardous substances under the provisions of this bill. Concern has been expressed that without such liability limitations, it would be difficult, if not impossible, for potentially liable persons to obtain insurance to cover their operations. The liability limitations would not be effective in instances where the release results from the liable person's gross negligence, willful misconduct, or knowing violation of relevant Federal regulations or where the liable party has failed to provide notification of a release or of a facility or has failed to cooperate in removal activities.

While the Committee has not had a full opportunity to review the limitations set forth in this amendment, the proposed limits are similar to provisions in bills proposed by the Administration and passed by the House.

AMENDMENT NO. 2384

On page 64, line 11, strike all from Responsibility" through line 16; and strike the period on line 11 and insert in lieu thereof a semicolon.

On page 79, lines 7–22, strike section 6 (e)(2) and redesignate the following paragraph accordingly.

EXPLANATION

Under the current National Contingency Plan, agency responsibilities for performing damage assessment activities are allocated so that the National Oceanic and Atmospheric Administration is responsible for performing such assessments of oil spills in coastal waters and seaward, and the Environmental Protection Agency is responsible for other assessments. Section 6(e)(2) would alter this existing allocation by allowing that the division of responsibilities be made at the baseline of the territorial sea, a legal boundary which has no relevance to the allocation of scientific responsibilities and expertise. Since the existing allocation is highly effective, and there is no need to change it, this amendment would strike the allocation as set forth in S. 1480. If, in the future, the agencies determine that a different allocation is appropriate, they can modify the existing allocation by amending the National Contingency Plan.

AMENDMENT NO. 2385

On page 83, immediately after line 13, insert the following, and redesignate subsequent subsections (and all cross-references thereto) accordingly:

"(b) Financial responsibility requirements for transportation of hazardous substances by motor vehicle under this Act shall be those requirements established by the Secretary of Transportation pursuant to section 30 of the Motor Carrier Act of 1980 (49 U.S.C. 10927).

"(c)(1) The President shall conduct a study to determine (A) whether adequate private insurance protection is available on reasonable terms and conditions to the owners and operators of facilities subject to liability under section 4 of this Act (other than motor vehicles); (B) whether the market for such insurance is sufficiently competitive to assure purchasers of features such as a reasonable range of deductibles, co-insurance provisions and exclusions; and (C) the extent to which operators and owners of particular categories of facilities may be able to establish financial responsibility through means other than commercial insurance.

"(2) The President shall submit the results of the study, together with recommendations for initial financial responsibility standards for various classes of facilities, within two years after the date of enactment of this Act. The President shall submit an interim report on the study within one year of the date of enactment of this Act. In formulating recommendations for financial responsibility standards, the President shall consider the small business impacts of such standards and propose means by which those impacts might be eliminated or mitigated.".

On page 83, insert at the end of line 25, ", where appropriate pursuant to the study mandated in subsection (c),".

On page 84, strike all from "Financial" on line 14 through "section." on line 17.

EXPLANATION

This amendment would conform the financial responsibility provisions in Section 7 of S. 1480 in relation to motor vehicles to the requirements recently enacted in the Motor Carrier Act of 1980 (P.L. 96-296). Also, this amendment would require the President to carry out a two-year study and report to Congress on the financial responsibility requirements of other facilities covered by S. 1480. This study would make determinations with respect to whether the private insurance protection available to owners and operators of facilities subject to liability under Section 4 of S. 1480 would be adequate and whether the insurance market is sufficiently competitive to assure adequate types and conditions of insurance. The study is also to examine the extent to which operators and owners of particular categories of facilities may be able to establish financial responsibility through means other than commercial insurance. The results of this study are to serve as the basis for the financial responsibility regulations to be issued by the President, where appropriate, pursuant to this section.

AMENDMENT No. 2386

On pages 13, line 24, strike all after "(a)" through line 2 on page 14, and redesignate subsequent paragraphs (and all cross-references thereto) accordingly.

EXPLANATION

S. 1480 as presently drafted would include a congressional declaration and finding that an enormously broad category of manufacture, use, transportation, treatment, storage, and disposal are ultrahazardous activities. Such a finding is not necessary for the purposes of the Act and would cover activities that in fact may not deserve such a designation. Therefore, this amendment would drop this overly broad designation.

AMENDMENT No. 2387

On page 85, delete lines 12 through 25 and insert in lieu thereof the following:

"RELATIONSHIP TO OTHER LAWS

"SEC. 8(a) Except as provided in this Act and subject to the provisions of subsection (b) of this section—

"(1) No action may be brought in any court of the United States, or of any State or political subdivision thereof, for costs or damages for which a claim may be asserted under this Act, and

"(2) no person may be required to contribute to any fund, the purpose of which is to pay compensation for claims for such costs or damages, nor to establish or maintain financial responsibility relating to the satisfaction of a claim for such costs or damages: provided, however, that nothing in this subsection shall preclude any State from imposing a tax or fee upon any person or upon any hazardous substance in order to finance the purchase or prepositioning of hazardous substance release cleanup equipment or other preparations for the cleanup of a release of hazardous substances which affects such State.

"(b) Nothing in subsection (a) shall preclude or be interpreted to preempt any State from establishing liability funds, establishing limits of liability, setting financial responsibility requirements, or imposing any taxes upon any person, or upon oil or hazardous substances for the purpose of establishing liability and compensation schemes for losses and costs associated with releases of hazardous substances at any closed hazardous waste disposal facility.

"(c) Regardless of any State statutory or common law to the contrary, no person who asserts a claim for damages pursuant to this Act shall be deemed or held to have waived any other claim for damages not covered or assertable under this Act arising from the same incident, transaction or set of circumstances, nor to have split a cause of action. Further, no person asserting a claim pursuant to this Act shall as a result of any determination of a question of fact or law be made in connection with that claim be deemed or held to be collaterally estopped from raising such question in connection with any other claim not covered or assertable under this title arising from the same incident, transaction or set of circumstances."

EXPLANATION

Section 8 of S. 1480 provides that nothing in the bill shall be construed as preempting any State from imposing additional liability or other requirements. In light of the comprehensiveness of the liability and compensation scheme established by S. 1480, the effect of this provision is to allow states to establish their own overlapping and duplicative systems, with the costs of these systems to be borne ultimately by the public. Without a showing of need for such duplication, the states should not be allowed to impose these costs. Furthermore, if states retain this authority, a whole new level of uncertainty will be created for interstate transporters since they may be subject to different requirements in each state. This would severely aggravate the serious insurability problems which they would encounter under S. 1480.

This amendment provides that claims may be asserted under this act (other than claims relating to closed hazardous waste disposal facilities) may not be asserted under other laws and that the states are preempted from establishing funds or imposing financial responsibility requirements for such claims. The amendment would expressly not prevent the states from providing remedies for damages not covered by S. 1480. In addition, states would specifically retain their authority to impose taxes or fees for the purchase of cleanup equipment. This amendment is consistent with both S. 1341, the administration's proposal, and H.R. 85, the House companion bill which passed the House on September 19, 1980.

AMENDMENT No. 2388

On page 17, strike lines 18 through "or" on line 24, and insert in lieu thereof the following:

"(B)(i) The Administrator of the Environmental Protection Agency is authorized to promulgate rules and regulations specifying, with respect to—

"(I) the location, title, or condition of a facility or site, or

"(II) the identity, characteristics, quantity, origin, or condition (including containerization and previous treatment) of any hazardous substances contained or deposited in a facility or site; the records which shall be retained by any person required to provide the notification of a facility or site set out in subparagraph (A) of this paragraph. Such specification shall be in accordance with the provisions of this subparagraph.

"(ii) Beginning with the date of enactment of this Act, for fifty years thereafter or for fifty years after the date of establishment of a record (whichever is later), or at such earlier time as a waiver is obtained under clause (iii) of this subparagraph, it shall be unlawful for any such person knowingly to destroy, mutilate, erase, dispose of, conceal, or otherwise render unavailable or unreadable or falsify any records identified in clause (i) of this subparagraph. Any person who violates this subparagraph shall, upon conviction, be fined not more than $20,000, or imprisoned for not more than one year, or both.

"(iii) At any time prior to the date which occurs fifty years after the date of enactment of this Act, any person identified under clause (i) of this subparagraph may apply to the Administrator of the Environmental Protection Agency for a waiver of the provisions of the first sentence of clause (ii) of this subparagraph. The Administrator is authorized to grant such waiver if, in his discretion, such waiver would not unreasonably interfere with the attainment of the purposes and provisions of this Act. The Administrator shall promulgate rules and regulations regarding such a waiver so as to inform parties of the proper application procedure and conditions for approval of such a waiver.

"(iv) Notwithstanding the provisions of this subparagraph, the Administrator of the Environmental Protection Agency may in his discretion require any such person to retain any record identified pursuant to clause (i) of this subparagraph for such a time-period in excess of the periods specified in clause (ii) of this subparagraph as the Administrator determines to be necessary to protect the public health or welfare.".

EXPLANATION

This amendment would modify the recordkeeping requirements of Section 3(a)(4)(B) of S. 1480, which presently provide that all records required under this provision, however irrelevant they might be or become over time, would have to be kept in perpetuity. Such a provision could place a serious economic burden on the public as well as on those covered by the provision. Accordingly, this amendment would provide EPA with authority to develop regulations with respect to record-keeping. In addition, the amendment provides that records are to be kept for 50 years unless the Administrator determines that a longer or shorter period is appropriate.

ADDITIONAL STATEMENTS

HMO'S—A NEW STUDY

● Mr. DURENBERGER. Mr. President, I have taken the opportunity on many occasions to express my strong support for competition and consumer choice in the delivery of health care. If we are to control costs and truly assure every American of adequate and affordable health care, then we must look to competition and consumer choice for the answers.

Some people, while agreeing that competition is the solution for the problem of rising health care costs in urban areas, have expressed concern for rural areas. My answer has always been that competition and consumer choice can be designed to work in any area.

It is one thing for a U.S. Senator to make that claim. It is quite another matter for a respected medical spokesperson to recognize the need for a competitive health care delivery system.

Robert T. Kelly, M.D., a member of the board of trustees of the American Medical Association, is a recognized expert in the health care needs of rural America. Dr. Kelly, who practices medicine in a city of about 8,000 people, is a pioneer in promoting competitive health care systems in rural areas. His firsthand experiences provide the demonstrative evidence that competitive health care systems do work in rural areas.

Along with his leadership roles in the AMA, Dr. Kelly has received numerous awards for his work. His most recent was the prestigious Shotwell Award from the Metropolitan Medical Center in Minneapolis. This award is granted yearly to the Minnesota physician making the greatest contribution to medicine. Dr. Kelly is the first nonmetropolitan recipient.

Recently, Dr. Kelly delivered an outstanding speech to the regional meeting of Blue Cross/Blue Shield in Minneapolis. He concluded by saying that:

> The AMA policy and actions on HMO's I've outlined for you demonstrate that we are sincere in our commitment to a free market, competitive health care delivery system.

Mr. President, I believe Dr. Kelly's speech is significant and I ask that it be included in today's RECORD.

The speech follows:

SPEECH BY ROBERT T. KELLY, M.D.

I'm gratified at this opportunity to discuss, "HMOs . . . A New Study," and I say that in all sincerity.

As a practicing physician here in Minnesota, I've been involved with HMOs in one way or another ever since I graduated from medical school.

And having just stepped down as Chairman of the AMA's Council on Medical Service, I have more than a passing acquaintance with recent HMO developments, and AMA responses thereto.

Of course it was this Council that did compile the "new AMA study on HMOs" submitted to our House of Delegates at our Annual Meeting in July.

We regard that report, and the subsequent House action, as the definitive culmination of a series of AMA policy actions on HMOs, and as a reaffirmation of that policy.

In short, while the study serves to expand the wheel of our HMO policy, it does not constitute a reinvention of that wheel.

I underscore these facts at the outset because there still is considerable misunderstanding over what our policy is, and almost no understanding at all of how it evolved over a span of years.

So let's examine the "hows" and the "whys" of our policy, in that order.

And let's begin by defining some terms.

For example, what is an HMO, really?

And what does it do that alternative delivery mechanisms do not do?

The significant differences that exist in the prepaid group health plans right here in the Minneapolis-St. Paul area demonstrate that the concept is not easily defined.

We can talk about prepaid group practices, or PGPs, Individual Practice Associations, or IPAs, staff and group model HMOs, contract or fee-for-service IPAs, network IPAs, and so on and so forth.

For discussion purposes, then, let's use the following definition devised by Harold S. Luft in 1978, and I quote:

". . . an organization will be considered an HMO if it assumes a contractual responsibility to provide or assure the delivery of health services to a voluntarily enrolled population that pays a fixed premium that is the HMO's major source of revenue."

Which leads to my second question, namely what services does this organizational structure provide that other delivery mechanisms do not provide?

Do HMOs really maintain the health of subscribers?

It's generally agreed, I think, even by Dr. Ellwood, that the phrase is a misnomer to some extent. Because no method of health care delivery, solo, partnership or group practice, closed or open panel, prepaid or fee-for-service, can actually maintain health to any significant degree . . .

. . . except through clinical therapy, and to a much lesser extent, through preventive care. And of course HMOs are relatively new in name only. Prepaid group practices date back to the late 1920s, while the term "health maintenance organization" was not coined by Dr. Ellwood until 1971, as this audience knows full well. The point is that in generic terms, HMOs have been around for decades now. And their basic function has been exactly the same as other delivery mechanisms, namely the delivery of patient care. Certainly more conventional group practice programs have provided services as comprehensive as those of HMOs, and to far more patients.

But during the 1970s, when the rising costs of health care became a dominant public issue, a great deal of interest centered on HMOs . . .

. . . primarily on their potential to reduce hospitalization, the costliest aspect of health care by far. And it has been within this context that the AMA's current HMO policy, including our new study, have evolved. In March of 1976 the National Commission on the Cost of Medical Care held its first meeting. Although sponsored by the AMA, this Commission was an independent body with 27 members recruited from business and industry, labor, the health care delivery sector, academia, consumers, and government. AMA sponsorship of this Commission reflected our conviction that changes had to be made to restrain health care cost increases . . .

. . . and that changes of the magnitude necessary were best developed through the combined efforts of decision-makers from the areas where health care is purchased and used, as well as delivered.

And following an intensive 18-month study, the National Cost Commission in the Winter of 1977 made public 48 impartial recommendations on how to restrain costs.

Among other things, the recommendations called for a balance between producer-consumer initiative, plus producer self-regulation, in modifying the health-care delivery system and containing costs. The Commission also emphasized the need for greater marketplace choice on the part of the consumer. This means greater latitude in the patterns and thus the cost of benefits offered by insurers, with employees given the opportunity to choose among health-care plans in terms the premium price. Another application of the marketplace idea was the recommendation calling for fair market competition between HMOs and other insurance and provider systems. All of the Commission's recommendations have been submitted to the AMA's House of Delegates, and have been adopted in whole or in part.

More specifically, with respect to the HMO recommendations, AMA Delegates at our 1978 Annual Meeting approved "the concept of neutral public policy and fair market competition among all systems of health care delivery."

The House also directed the AMA Board of Trustees to: "Seek an objective assessment of HMOs, including IPAs and other group arrangements, with respect to their impact on access, quality, and cost of health care."

So it was that the Board, in turn, immediately directed the AMA's Council on Medical Service to undertake the new HMO study on an ad hoc basis.

And we did conduct an in-depth, two-part study.

First, we conducted an extensive review of 15 existing HMOs, including the Physician Health Plan of Greater Minneapolis, an IPA model.

Utilizing detailed questionnaires and onsite visits, we were able to compare long-term HMO performance data with our own study data.

And in fact, the second part of our study was a comprehensive review of the scientific literature on HMOs which has accumulated over the past 20 years.

To make a long and laborious story short, the Council eventually compiled what we believe is a thorough and objective assessment of HMOs.

And the study, our summary report, and eight recommendations on HMOs, were submitted to AMA Delegates in July.

And the House approved seven of the eight Council recommendations.

One recommendation, that pertaining to the cost-saving potential of HMOs, was referred back to the Board of Trustees for reasons I will discuss a bit later on.

A summary of the more important recommendations that were approved by the House, however, is as follows:

That AMA policy should continue to support neutral public policy and fair market competition among all health care delivery systems, and that the growth potential of HMOs be determined by the people preference rather than government preference. . . .

That the AMA continue to recognize that no single pattern of health care delivery is necessarily suited to all patients and all physicians, and that alternative delivery systems enable both to secure true choice. . . .

That individual physicians and groups of physicians become better informed about the pros and cons of establishing or participating in an HMO if their community is interested. . . .

And that the AMA continue to provide information on HMOs to medical societies and physicians.

Please note that recurring word "continue" which properly indicates that these recommendations serve to reaffirm previous AMA policy and actions on HMOs.

Our support for neutral public policy and fair market competition, for example, stem directly from the HMO policy adopted at our 1978 Annual Meeting, policy which stemmed, in turn, from the recommendations of the National Cost Commission.

And the words "neutral public policy" mean now, as they did in 1978, that government should be neutral in its public policy treatment of all forms of health care delivery.

That is, it should not provide preferential benefits for one form of health care delivery over another. . . .

. . . whether the preferential benefits are special loans or grants or advertising campaigns. . . .

. . . and whether the form of health care delivery happens to be through HMOs or non-HMOs, solo or partnership practice, or whatever.

Because it is only through neutral public policy that fair market competition can, in fact, be fair.

That policy recommendation leads to another one approved by the House, namely our recognition that "no single pattern of health care delivery is necessarily suited to all patients and all physicians, and that alternative delivery systems enable both to secure true choice."

And that, too, means just what it says.

Some physicians and some patients will continue to prefer various settings for the delivery of health care, whether that setting happens to be in a solo practitioner's office, or in various kinds of group practice settings.

In short, let all forms of health care delivery compete in the marketplace, and let people preference, rather than government preference, determine the eventual growth of each.

Parenthetically, we do believe that HMOs have a place in the market system, and that some physicians and patients do prefer HMOs.

Hence we believe they should be one of the options offered to the people, along with various other alternatives in the financing and delivery of health care.

And hence the House in July also directed the AMA to continue to provide information on HMOs to medical societies and physicians. . .

. . . along with the recommendation that physicians become better informed about the pros and cons of establishing or participating in an HMO if their community is interested.

Furthermore, the AMA has such informational materials on hand for HMOs, including the IPA model, and for other health care delivery methods as well.

These materials emphasize that when physicians set up practice, or change their practices, they had better know what they're doing lest the practices fail as many have done in the past.

Which brings us to the Council recommendation relative to the cost-effectiveness of HMOs, and the reasons AMA Delegates in July decided to refer, rather than approve, the recommendation.

The Council's study, and the report to the House, did conclude that HMO care seems to be less costly than that in alternative settings, largely because of a reduction in the number of hospital days, with fewer admissions a precipitating factor.

In the "overview" section of the report, however, the Council also expressed concern about the possible cost implications of such relevant factors as underutilization of services, the degree of reliance on services provided by non-physicians, or the tendency of some members to secure and pay for care outside the HMO.

And the Council concluded that the impact of at least some of these factors has not been conclusively determined.

This reflects a larger uncertainty regarding existing HMO performance literature, namely that it has been far more descriptive than analytic.

And, in fact, our own new study states at the outset,

". . . the study is exploratory, suggesting potential hypotheses for future investigation."

Given these uncertainties, it should not be surprising that the House chose to refer rather than approve the pertinent recommendation.

But I should emphasize that another recommendation approved by the House specifically directs the AMA to encourage additional research into all those areas of HMO performance in need of further study, including, and I quote:

". . . whether factors leading to apparent HMO cost-effectiveness are unique to the HMO pattern or whether they may be applicable to other forms of practice."

Please keep in mind that recommendation is in keeping with another cost containment effort that has created a great deal of interest of late. . . .

. . . the Voluntary Effort to Contain Health Care Costs, or the VE.

Like the Cost Commission, the VE also represents a coalition of private sector forces spearheaded by the AMA, the nation's two largest hospital associations, and the "Blues."

Launched in the Winter of 1977, the VE has since saved the American people an estimated $3.5 billion in hospital expenditures, and that's not hay by anyone's standards.

In closing these remarks, please keep in mind, too, that our Council Report on HMOs approved by AMA Delegates in July points out that the quality of care in HMOs seems to be high. . . .

. . . that patients seem to be generally satisfied with the care they receive regardless of setting. . . .

. . . and that for some patients, HMOs enhance access to care by eliminating financial barriers, and through the provision of after-hours ambulatory care.

And to all of that I might add that a very substantial number of AMA members do, in fact, practice in HMO settings.

In any case, I think you'll agree that the AMA policy and actions on HMOs I've outlined for you demonstrate that we are sincere in our commitment to a free market, competitive health care delivery system. . . .

. . . and that we do recognize that HMOs have a place in that system.

Be assured that the AMA will continue to monitor developments in alternative forms of health care financing and delivery, including HMOs. . . .

. . . and act fairly and accordingly.

In such ways, and acting together, we can advance towards the mutual goal of providing the kind of health care our society wants in terms of access and quality. . . .

. . . at a price our society can afford.●

TAX REDUCTION LEGISLATION PROPOSED BY SENATE FINANCE COMMITTEE

● Mr. BAUCUS. Mr. President, the Senate Finance Committee has reported legislation to reduce individual and business taxes. This legislation is important to reduce the tax burden on individuals who have been especially hard hit by "taxflation" and as a start for revitalizing the U.S. economy.

The bill is especially important because of its provisions for capital cost recovery. The committee has included a "2–4–7–10" depreciation system to help encourage investment that will increase national productivity.

Mr. President, the staff of the Joint Committee on Taxation has prepared an excellent summary of the tax cut provisions. I submit for the Record an excerpt of the print for the information of my colleagues.

The material follows:

Summary of Tax Cut Provisions of H.R. 5829

INTRODUCTION

This pamphlet provides a summary of the tax cut provisions of H.R. 5829, as ordered reported by the Senate Finance Committee on August 21, 1980. The pamphlet also includes the estimated revenue effects of the tax cut provisions. The tax cut provisions were added as an amendment to a House-passed bill, H.R. 5829 (a tariff bill providing for the duty-free entry of bronze bells for the Foundry United Methodist Church of Washington, D.C.).

This document is intended to be a brief summary of the decisions made by the Finance Committee. The Finance Committee report and reported bill will provide the official legislative history of the provisions.

I. SUMMARY OF TAX CUT PROVISIONS

A. Individual income tax cuts

1. Reductions in tax rates:

Under the committee bill, individual income tax rates in every tax bracket will be reduced by 1 to 3 percentage points, as shown for married couples in table 1. The rate in the lowest bracket will be reduced to 12 percent from the current 14 percent, and the rate in the highest bracket will be reduced to 67 percent from the current 70 percent. Some brackets will be narrowed in size.

2. Personal exemption:

The present $1,000 personal exemption for each taxpayer and dependent and the extra exemptions for taxpayers who are age 65 and over and taxpayers who are blind will be increased to $1,100.

3. Zero bracket amount:

The zero bracket amount, presently $3,400 for married couples and $2,300 for single persons and heads of households, will be increased to $3,600 and $2,400, respectively. The zero bracket amount (formerly the standard deduction) establishes both an amount of taxable income which is exempt from tax and an amount of taxable income which is subtracted from itemized deductions to determine the amount which actually may be deducted.

4. Earned income credit:

The earned income credit, a refundable credit for families with children, will be increased from 10 percent of the first $5,000 of earnings to 11 percent of the same amount. Thus, the maximum credit will be increased to $550 from the present $500. The credit will be phased out as earned income increases from $7,000 to $11,000, rather than from $6,000 to $10,000 as under present law.

5. Deduction for two-earner couples:

Under the committee bill, a new deduction will be allowed for couples in which both spouses have earned income. For 1981, the deduction will be 5 percent of the first $30,000 of earnings of the spouse with the lower earnings (maximum of $1,500). For 1982 and after, the rate of the deduction will be 10 percent (maximum of $3,000). This will partially offset the additional tax, commonly referred to as the "marriage penalty," which often results when two persons with earnings marry.

6. Effective date:

The above individual income tax reduction provisions are effective for taxable years beginning after December 31, 1980. Reductions in income tax withholding to reflect the tax cuts (other than the second-earner deduction) will begin on January 1, 1981.

TABLE 1.—TAX RATES FOR MARRIED COUPLES FILING JOINT RETURNS: COMPARISON OF COMMITTEE BILL AND PRESENT LAW[1]

Committee bill		Present law tax rate in equivalent bracket
If taxable income is:	The tax is:	
Not over $3,600	No tax.	
Over $3,600 but not over $5,600	0 plus 12.0% of excess over $3,600	14
Over $5,600 but not over $7,600	$240 plus 14.0% of excess over $5,600	16
Over $7,600 but not over $11,600	$520 plus 17.0% of excess over $7,600	18
Over $11,600 but not over $15,600	$1,200 plus 20.0% of excess over $11,600	21
Over $15,600 but not over $20,000	$2,000 plus 23.0% of excess over $15,600	24
Over $20,000 but not over $24,400	$3,012 plus 27.0% of excess over $20,000	28
Over $24,400 but not over $29,700	$4,200 plus 29.0% of excess over $24,400	32
Over $29,700 but not over $35,000	$5,737 plus 35.0% of excess over $29,700	37
Over $35,000 but not over $45,600	$7,592 plus 41.0% of excess over $35,000	43
Over $45,600 but not over $59,800	$11,938 plus 48.0% of excess over $45,600	49
Over $59,800 but not over $85,400	$18,754 plus 53.0% of excess over $59,800	54
Over $85,400 but not over $109,200	$32,322 plus 58.0% of excess over $85,400	59
Over $109,200 but not over $162,200	$46,126 plus 63.0% of excess over $109,200	64
Over $162,200	$79,516 plus 67.0% of excess over $162,200	68 or [2] 70

[1] Comparable tax rate reductions and bracket changes also are made for single and head-of-household tax schedules.

[2] The bill collapses the present 68- and 70-percent tax brackets into a 67-percent bracket.

B. Capital formation and productivity tax reductions

1. Depreciation and investment credit revisions:

a. Changes in the depreciation of personal property:

Under the committee bill, a new method of depreciating most personal property will be substituted for the present law depreciation methods, including the Asset Depreciation Range (ADR) system. Public utility property will continue to use present law except that the ADR variance will be increased to 30 percent rather than 20 percent.

Under the committee's "2-4-7-10" system, the depreciable basis of tangible personal property will be placed in one of four open-ended recovery accounts.[1] The entire cost of the property is added to the account without reduction for the property's estimated salvage value. Thus, the new system will eliminate all disputes as to the salvage value of the property. Progress payments made toward the acquisition of assets which have a normal construction period of 2 years or more also will be added to the appropriate asset account rather than waiting until the asset actually is placed in service. The system utilizes a half-year convention[2] for all asset costs (including progress payments).

The four recovery accounts correspond to depreciation terms of 2, 4, 7 and 10 years. The bill requires that property be assigned to a recovery account which utilizes a life that is at least 40 percent shorter than its current midpoint useful life (under the present ADR system), except that no recovery period shall be reduced below 2 years. Assets will be assigned to recovery periods in accordance with the following schedule:

ADR midpoint life:	*Recovery period (years)*
6.5 years or less	2
7.0 years to 11.5 years	4
12.0 years to 16.5 years	7
More than 16.5 years	10

For example, assets used to manufacture clothing currently have a mid-point life of 9 years, which under this bill, would be reduced to 4 years. Equipment placed in the 7-year class would include the following assets which now have a mid-point life of 12 years; manufacturing of metal working machinery, electrical equipment, motor vehicles, ships and railroad cars. The Treasury Department would be required to publish simplified tables which incorporate these shortened lives and to establish lives for those types of tangible personal property not covered by the ADR system.

A declining balance method (200 percent, 150 percent or 100 percent) will be used to compute the year's deduction for all assets within a recovery account. (The taxpayer may make an annual election as to which of these rates is to apply to any account for the taxable year.) The amount of the depreciation for the year is then subtracted from the account to establish the balance of the account on which next year's deduction is computed. For example, assume the cost of assets in the 4-year recovery account equals $1,000. The taxpayer would choose one of the three fixed percentages for this account, 50 percent, 37.5 percent, or 25 percent) and multiply this percentage by $1,000 in order to determine the amount of his deduction. If the taxpayer is elected to apply 50 percent (i.e., the percentage representing 200 percent of the straight-line rate for the 4-year recovery period), the depreciation deduction would be $500. The balance in the account used to determine the depreciation in the next year would be $500, increased or decreased by any additions or subtractions to the account.

Generally, no gains or losses will be recognized on the disposition of assets. Instead, the amount realized on the disposition will reduce the balance of the account which, in turn, will reduce the amount of depreciation deductions in subsequent years. If the amount realized from the disposition of assets reduces the balance of the account to a negative figure, the amount of the negative balance will be recaptured as ordinary income.

A taxpayer will be permitted to elect to "expense" (take an immediate deduction) up to $25,000 of expenditures each year for tangible personal property (new or used) during a year.

b. Investment credit modifications:

The investment tax credit for assets in the 7- or 10-year accounts will remain at 10 percent. Assets in the 4-year account will be eligible for a 6-percent investment tax credit. Assets in the 2-year account will be eligible for a 2.5-percent investment tax credit.

No investment tax credit will be allowed for those assets for which an immediate deduction is taken under the $25,000 "expensing" provision.

c. Optional approaches to depreciating real property:

The committee bill provides several new elective approaches to depreciation of real property (without eliminating the present law methods). First, a taxpayer may elect to depreciate structures over a period of 20 years using the straight line method and composite depreciation. (Under composite depreciation, the entire structure must be depreciated over a single life; by contract, under component depreciation, different parts of the structure are depreciated over different lives.) Second, a taxpayer may elect to depreciate low-income rental housing over 15 years using a straight line method and composite depreciation. Third, certain owner-occupied business structures can be depreciated over a period of 15 years using the 150-percent declining balance method. However, if this latter election is made, the recapture rules currently applicable to depreciable personal property will apply. Under these personal property recapture rules, the sale of depreciable property results in recapture (i.e., ordinary income treatment) for an amount equal to the lesser of the amount of gain recognized or the amount of depreciation deductions allowable. These lives will be audit-proof; i.e., if the taxpayer were to make one of these elections, the useful life could not be challenged by the Internal Revenue Service.

d. Rehabilitation tax credit changes:

The present 10-percent rehabilitation tax credit for industrial and commercial structures will be increased to 25 percent for amounts paid or incurred after December 31, 1980. Under present law and under the bill, costs which qualify for the credit are depreciable rehabilitation costs incurred in connection with a building which has been in use for at least 20 years for the interior or exterior renovation, restoration or reconstruction of the building.

e. Effective dates:

These provisions generally apply to assets placed in service after December 31, 1980. In addition, property placed in service prior to that time can become subject to the system, at the election of the taxpayer, in taxable years beginning after December 31, 1984. However, a taxpayer with a fiscal year which begins in 1980 may elect not to apply the 2-4-7-10 system to assets placed in service prior to his first fiscal year beginning in 1981.

2. Corporate income tax:

Under the committee bill, the corporate income tax structure will be modified in 1981 and again in 1982. The effect of the modifications will be to reduce the rates and broaden the brackets generally for small businesses and to reduce the top rate over a 2-year period. Among the rate changes, the lowest rate will decrease from 17 percent to 15 percent, and the highest rate will decrease from 46 percent to 45 percent in 1981 and to 44 percent in 1982. The brackets are also revised, as set forth below.

Present law corporate tax brackets and rates are as follows:

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[1] Under the system of open-ended accounts, the costs of all eligible property with the same recovery period are placed in the same open-ended account. This system applies in lieu of vintage accounts under the ADR system and item accounts under other depreciation systems. Under item accounts and vintage accounts, a taxpayer must keep separate accounts for property placed in service in different years.

[2] Under the half-year convention, one-half of the asset's cost is placed in the account in the year that the asset is placed in service. The other half of the asset's cost is added to the account in the next subsequent year.

Taxable income	*Tax rate (percent)*
$0 to $25,000	17
$25,000 to $50,000	20
$50,000 to $75,000	30
$75,000 to $100,000	40
Over $100,000	46

For 1981, the brackets and rates will be as follows:

Taxable income	*Tax rate (percent)*
$0 to $25,000	15
$25,000 to $50,000	20
$50,000 to $100,000	30
$100,000 to $150,000	40
Over $150,000	45

Beginning in 1982, the brackets and rates will be as follows:

Taxable income	*Tax rate (percent)*
$0 to $25,000	15
$25,000 to $50,000	20
$50,000 to $75,000	25
$75,000 to $100,000	30
$100,000 to $150,000	35
$150,000 to $200,000	40
Over $200,000	44

3. Other provisions affecting small business:

In addition to the corporate rate cuts described above which apply to corporations generally, as well as small business, the committee bill includes other small business provisions outlined below.

a. Increase in minimum accumulated earnings credit:

In addition to the regular corporate income tax, present law imposes an accumulated earnings tax of 27½ percent to 38½ percent on improperly accumulated corporate earnings where the accumulation occurs in an attempt to avoid the individual income tax. In computing the base on which this tax is imposed, there is excluded an amount equal to the earnings and profits of the taxable year which are retained for the reasonable needs of the business. This is known as the accumulated earnings credit. Present law provides a minimum credit of $150,000 of earnings which may be accumulated before any accumulated earnings are subject to this tax.

The committee bill increases the minimum accumulated earnings credit to $250,000. However, this increase will not apply to specified service corporations whose principal business consists of the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting.

b. Investment credit for used property:

Present law provides a 10-percent regular investment credit. A taxpayer may claim this regular investment credit for the cost of up to $100,000 of used qualifying property acquired by purchase each taxable year.

The committee bill increases the annual cost ceiling on used property for purposes of the 10-percent regular investment credit from $100,000 to $150,000.

c. Time for furnishing Form W-2 to terminated employees:

The Internal Revenue Code requires an employer to furnish to an employee who has terminated employment prior to the close of a calendar year a Form W-2 on the day the employee receives his or her last salary payment.

The Internal Revenue Service recently has published regulations which provide that the employer may furnish a Form W-2 to an employee whose employment terminates prior to the close of the calendar year at any time after the termination but no later than January 31 of the following year. However, if an employee who terminates employment prior to the close of the calendar year requests earlier receipt of a Form W-2, and if there is no reasonable expectation on the part of the employer and employee of further employment during the calendar year, then the employee must be given a Form W-2 on or before the later of the 30th day after the request or the 30th day after the last salary payment.

The committee bill codifies the general approach of these regulations.

d. Deferred application of Revenue Procedure 80-5 and Revenue Ruling 80-60 relating to inventory writedowns:

In Revenue Procedure 80-5 and Revenue Ruling 80-60, the Internal Revenue Service provided rules which require taxpayers to conform their method of inventory accounting to that method of inventory accounting approved by the Supreme Court in *Thor Power Tool v. Commissioner*, 439 U.S. 522 (1979). For taxpayers with excess inventories (inventories in excess of foreseeable demand) that have been erroneously written down for tax purposes, these pronouncements require that the writedowns be taken into income.

These Internal Revenue Service pronouncements, which were issued on February 8, 1980, are applicable to 1979 taxable years.

The committee bill delays the implementation of Revenue Procedure 80-5 and Revenue Ruling 80-60 to taxable years beginning after 1979, in order to give taxpayers the opportunity to take mitigating action under the Treasury regulations.

e. Increase in maximum number of subchapter S shareholders:

Under present law, one of the requirements that a corporation must meet in order to be eligible to elect to be treated as a subchapter S corporation is that it have no more than 15 shareholders.

The committee bill provides for an increase in the maximum number of shareholders in a subchapter S corporation from 15 to 25.

f. Refund of excise taxes for certain fuels used in intercity, local, and school buses:

Present law imposes a manufacturer's excise tax of 4 cents per gallon on gasoline and a retailers excise tax of 4 cents per gallon on diesel fuel and other special motor fuels used or sold for use in a highway motor vehicle. The Energy Tax Act of 1978 provided that a credit or refund of these taxes could be obtained if these fuels were used in a bus while engaged in (1) the furnishing (for compensation) of certain passenger land transportation available to the general public, or (2) the transportation of students or employees of schools. However, that Act did not permit the owners or operators of buses to purchase fuel tax-free even if the fuel was to be used in a qualifying activity, and the Code requires that refunds of these taxes can be obtained quarterly only if the amount attributable to the quarter is at least $1,000. If not, the credit or refund is available annually.

The committee bill allows the present law refund of the taxes on fuels used by these buses to be available on a quarterly basis (rather than on an annual basis) if the amount of the refund is at least $50.

g. Reserves for market-making activities:

Under present law, a securities dealer must recognize any gain on the sale of equity securities, even if he is making a market for the securities. Generally, this gain will be treated as ordinary income.

The committee bill allows certain dealers in corporate securities to defer for 5 years the net gain (up to $1 million) from the sale of small business equity securities where the dealer is making a market in the securities.

Under the committee bill, a corporation which is engaged in market-making activities during the taxable year will be allowed to establish a deductible loss reserve equal to the net gains for that year from the sale of certain small business equity securities in which it makes a market. The deduction would be equal to the addition to the taxpayer's reserve. However, the reserve could not exceed $1 million. Moreover, the deduction could not exceed the taxpayer's taxable income for the year nor could it exceed 30 percent of the fair market value of the taxpayer's average monthly inventory positions in over-the-counter equity securities carried for market-making activities for the year.

This provision will apply to equity securities held by the taxpayer for sale in the ordinary course of its trade or business which are not traded on a registered security exchange and which are of corporations that had $25 million or less of debt and equity outstanding on the last day of the preceding taxable year.

Under the provision, the amount of an addition to the reserve for a taxable year would not be taken back into income until the earlier of (1) the fifth year following the year of the addition, or (2) the year the amount is withdrawn from the reserve. (A withdrawal is deemed to be from the earliest remaining addition to the reserve.)

h. Incentive stock options:

Generally, under present law, an employee is taxed, at ordinary income rates on earned income, on a compensatory stock option at the time the option is received, or, if the option does not have a readily ascertainable fair market value, at the time it is exercised. The employer has a corresponding deduction as a business expense.

Under the committee bill, an incentive stock option which is granted to an employee will be taxed at capital gains rates when the employee sells the stock. The employer will receive no deduction.

For an option to qualify as an "incentive stock option": (1) the exercise price must be not less than fair market value of the stock at the time the option is granted (in the case of a variable option, determined as if the option had been exercised when granted); (2) the option must be exercised within 10 years of the date granted; (3) shareholder approval is required; (4) the individual may not be an employee owning more than 10 percent of the value or voting power of stock of the company (unless the option price is at least 110 percent of the stock's fair market value); (5) the optionee must be an employee continuously from grant of the option to 3 months prior to exercise; (6) the option may be transferred only at death; and (7) the stock must be held for at least 2 years after the date of the granting of the option and for at least one year after the option is exercised.

This provision will apply to options exercised after December 31, 1980.

i. Effective dates:

These small business provisions generally apply to taxable years beginning after December 31, 1980.

4. Research and development tax credit:

Under present law, a taxpayer may elect to deduct currently, or to amortize over 60 months or more, certain "research or experimental expenditures" incurred in the taxpayer's trade or business which otherwise would have to be capitalized.

Under the committee bill, a nonrefundable income tax credit also will be allowed for research expenditures to the extent they exceed the average of such expenditures in the base period. The rate of the new credit will be 25 percent of the incremental research expenditure amount. In the case of individuals, the amount of the present law deduction for research expenditures also eligible for the credit will be reduced by the amount of credit allowable for those expenditures.

For 1981, the credit will apply to incremental research expenditures in excess of those for 1980. For 1982, it will apply to the excess over the average of such expenditures for 1980 and 1981. For 1983 and later years, the credit will apply to the excess over the average of such expenditures for the three preceding taxable years.

The credit will be provided to the taxpayer which conducts or bears the cost of the research for use in its trade or business. The credit will not be available to a research and development business which conducts research for the taxpayer.

The provision redefines research expenditures for purposes of both the existing section 174 election and the new credit. The definition, which is intended to be substantially the same as the definition of "research and development" used for certain accounting purposes (Financial Accounting Standards Board, Statement No. 2), will cover all expenditures incurred incident to either:

(1) a planned search or critical investigation aimed at discovery of new knowledge with the intent that such knowledge will be useful in developing a new product or service, or a new process or technique, or in bringing about a significant improvement to an existing product or process, or

(2) a translation of research findings or other knowledge into a plan or design for a new product or process, or for a significant improvement to an existing product or process to the point that the product or process meets specific functional and economic requirements, and is ready for manufacture, sale, or use.

The amount of the credit for a particular taxable year will be limited to the taxpayer's income tax liability reduced by other tax credits (other than the investment tax credit, the credit for certain fuel uses, and the earned income credit). Any excess over this limit can be carried over to apply against tax liability for the three preceding and seven succeeding years. In the case of an individual taxpayer, the allowable deduction will be reduced by the amount of the credit.

The provision includes rules for determining whether there has been a true increase in qualifying research expenditures or merely a shifting of research expenditures among different persons. Thus, for credit computation purposes, research expenditures by the taxpayer will be aggregated with research expenditures of commonly controlled persons and of entities in which the taxpayer has an economic interest or the right to benefits of the research.

Effective date:

The provision is effective for taxable years beginning after December 31, 1980.

5. Employee stock ownership plan tax credit:

A tax credit employee stock ownership plan (generally called an ESOP) is an employer-maintained tax-exempt trust under which employees share in stock ownership of the employer.

Beginning with the Tax Reduction Act of 1975, employers making qualified investments were allowed an additional one-percent investment tax credit for contributions of stock to an ESOP meeting special requirements.

The additional investment tax credit for ESOP contributions was expanded by the Tax Reform Act of 1976. Under the 1976 Act, an employer was allowed an extra investment tax credit of up to one-half of one-percent for stock contributions to an ESOP if the contributions were matched by equal employee contributions. Thus, an employer could get a total additional investment tax credit of up to one and one-half percent after the 1976 Act.

The committee bill will permit an employer to claim a tax credit based on a percentage of payroll for contributions to an ESOP. A sponsoring corporation will have the option of claiming either the tax credit based on payroll of employees covered by the plan or the additional investment tax credit provided under existing law. The percentage of payroll eligible for this credit will be as follows:

(In percent)

1981	½ of 1
1982	¾ of 1
1983	1

The wage-based credit, like the additional investment tax credit, will expire December 31, 1983.

The provision is effective for periods beginning after December 31, 1980.

6. Deduction for individual retirement savings:

Under present law an employee generally is entitled to deduct the amount contributed to an individual retirement account or individual retirement annuity or used to purchase retirement bonds (referred to collectively as "IRAs"). The limitation on the deduction for a taxable year is generally the lesser of 15 percent of compensation for the year or $1,500. The deduction limit for a spousal IRA is $1,750. No IRA deduction is allowed to an individual who is an active participant in a tax-qualified plan, a tax-sheltered annuity, or a governmental plan in a taxable year. Also, employee contributions to retirement plans are not deductible.

a. Limited employee retirement accounts (LERAs):

The committee bill provides that an active participant in a tax-qualified retirement plan or tax-sheltered annuity will be allowed a deduction for an amount contributed to the plan or to an IRA. The maximum deduction will be the lesser of 15 percent of compensation or $1,000. Where mandatory employee contributions to an employer sponsored retirement plan are made, only $100 of such contribution will be eligible for this deduction. No deduction will be allowed to an individual covered by a plan if the individual owns more than 10 percent of the employer maintaining the plan. Also, employees covered by governmental plans will generally not be eligible to make deductible contributions to LERAs.

b. Individual retirement accounts (IRAs):

In addition, for individuals who are not active participants in tax-qualified plans, etc., the contribution limit for an individual retirement account (IRA) will be increased from $1,500 to $1,750. The limit for spousal IRAs will be increased from $1,750 to $2,000.

Effective date:

The LERA and IRA provisions are effective for taxable years beginning after December 31, 1980.

7. Capital gains tax cut:

Under present law, noncorporate taxpayers may deduct from gross income 60 percent of the amount of any net capital gain for the taxable year. The remaining 40 percent of the net capital gain is included in gross income and taxed at the otherwise applicable regular income tax rates. As a result, the highest tax rate applicable to a taxpayer's entire net capital gain is 28 percent (70 percent top tax rate on the 40-percent includable capital gain). An alternative capital gains tax rate of 28 percent applies to a corporation's net capital gain (in lieu of any capital gains deduction) if that rate is lower than the corporation's regular tax rate. Otherwise, a corporation may pay a tax on the entire gain at its lower regular tax rate.

The committee bill increases the net capital gain deduction for noncorporate taxpayers from 60 to 70 percent, *i.e.*, 30 percent will be included in gross income and taxed at the otherwise applicable regular income tax rates. As a result, the highest tax rate applicable to a taxpayer's entire net capital gain will be 20.1 percent (67 percent top tax rate under the bill times the 30 percent of the net capital gain includable). The committee bill does not change the present law treatment of capital losses.

In the case of corporations, the alternative capital gain tax rate will be reduced from 28 to 20 percent.

Effective date:

The lower rates will apply in the case of gains and losses properly attributable to periods after August 20, 1980. Special rules are provided to determine the period to which gains and losses are properly attributable in the case of pass-through entities.

8. Foreign earned income exclusion:

Under present law, Americans working abroad generally are eligible for deductions intended to reflect the excess costs of living abroad if they were a bona fide resident of a foreign country for an entire taxable year or if they were physically present in a foreign country for 510 days (approximately 17 months) out of 18 consecutive months.[3] Taxpayers residing in hardship area camps may claim a $20,000 annual earned income exclusion in lieu of the excess living cost deductions.

The committee bill liberalizes the rules governing the taxation of income earned abroad. The liberalized rules apply to individuals working in developing countries (other than tax havens), regardless of the nature of the services they perform. In addition, the revised rules also apply to individuals working in other foreign countries if those individuals perform charitable, export-related, or natural resource-related services.

For those individuals described above, the committee bill will replace the present system of excess foreign living cost deductions with an exclusion of foreign earned income of $50,000 a year, increasing to $65,000 for individuals residing abroad for more than 2 years. In addition, the exclusion will be increased by the excess of the individual's housing costs over 16 percent of the salary of a Government employee at step 1 of grade GS-14 (the 16-percent figure is currently $5,554). The eligibilty requirement of present law will be modified to allow the exclusion for individuals overseas for 11 out of 12 months (or a shorter period where forced to leave because of civil unrest).

Income received for the performance abroad of export-related services, or compensation for employment abroad with an employer (including a branch) substantially all of whose income is derived from the export of U.S. goods or the performance of export-related services. These services include:

(1) construction, architectural, engineering, or repair services performed in connection with agricultural, construction, or engineering projects located in a foreign country,

(2) services associated with the export of U.S. products (including marketing and marketing analysis, advertising and promotional activities, sales and distribution services, packaging and assembly, warehousing, documentation and customs clearing, and financing), and

(3) any other services performed overseas which are designated by the Secretary of Treasury (after consultation with the Special Trade Representative and the Secretary of Commerce) as contributing significantly to U.S. exports.

Income received for services performed abroad in the exploration for or extraction of petroleum or other natural resources, or compensation for employment abroad with an employer (including a branch) substantially all of whose income is derived from those activities, will qualify for the exclusion as natural resource-related services. Services performed abroad by an employee for an employer which meet the requirements of section 501(c)(3) will qualify for the exclusion as charitable services.

Effective date:

The provisions are generally applicable beginning in 1980. (The provisions previously approved by the Committee dealing with individuals forced to leave because of civil unrest—S. 873—will be effective beginning in 1978; and the provisions with respect to charitable employees—S. 1703—will be effective beginning in 1979.

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[3] The excess foreign living cost deduction consists of separate excess housing, education, home leave, and general cost of living elements. An additional $5,000 hardship allowance is allowed to taxpayers working in hardship areas.

II. REVENUE EFFECTS

ESTIMATED REVENUE EFFECTS OF TAX CUT DECISIONS AS REPORTED BY SENATE FINANCE COMMITTEE, FISCAL YEARS 1981–1985 AND CALENDAR YEAR 1981 (PRELIMINARY)

[Billions of dollars]

Item	Fiscal year—					Calendar year 1981
	1981	1982	1983	1984	1985	
A. Individual tax cut provisions:						
1. Increase in personal exemption	−1.7	−4.9	−5.1	−5.4	−5.6	−4.8
2. Increase in zero bracket amount	−1.0	−1.6	−1.6	−1.7	−1.8	−1.5
3. Increase in earned income credit [1]	−.1	−.6	−.5	−.5	−.5	−.6
4. Deduction for 2-earner couples	−.3	−3.4	−6.8	−8.3	−9.7	−2.7
5. Rate reductions	−7.9	−14.3	−17.2	−20.9	−25.0	−12.8
Total, individual tax cuts	−11.0	−24.6	−31.3	−36.8	−42.6	−22.3
B. Capital formation and productivity tax reductions:						
1. Depreciation—investment credit revisions	−4.3	−13.3	−18.0	−18.7	−19.6	−9.9
2. Corporate rate reduction and small business provisions:						
a. Corporate rate reductions from 46 percent to 45 percent in 1981 and to 44 percent in later years	−.7	−2.4	−3.7	−4.2	−4.8	−1.5
b. Corporate rate reductions on income below $150,000 in 1981 and below $200,000 in 1982 and later years	−.3	−1.1	−1.8	−2.1	−2.3	−.7
c. Increase in accumulated earnings credit	(2)	(2)	(2)	(2)	(2)	(2)
d. Increase in used equipment eligible for investment credit to $150,000	−.1	−.2	−.2	−.2	−.2	−.2
e. Elimination of certain W–2 filing requirements						
f. Deferral of application of revenue ruling on inventory writedowns	(3)	(3)	(3)	(3)	(3)	(3)
g. Increase in number of subchapter S shareholders to 25	(4)	(4)	(4)	(4)	(4)	(4)
h. Refund of excise tax on certain fuels used in intercity, local and school buses	(3)	(3)	(3)	(3)	(3)	
i. Reserves for market making activities	(5)	−.1	−.1	(5)	(5)	−.1
j. Incentive stock options	(4)	(4)	(4)	(4)	(4)	(4)
Subtotal, small business (b. through j.)	−.4	−1.4	−2.0	−2.3	−2.5	−.9
3. Research and development tax credit	−.2	−.5	−.6	−.7	−.8	−.5
4. Savings incentives (LERA's and IRA's)	−.3	−.7	−.9	−1.1	−1.2	−.6
5. Payroll-based ESOP credit	−.3	−1.0	−2.0	−1.6	−.3	−.6
6. Capital gains tax cut	−.8	−2.7	−3.0	−3.2	−3.6	−2.7
7. Foreign earned income exclusion	−.2	−.4	−.4	−.4	−.5	−.3
Total, capital formation and productivity tax reductions	−7.2	−22.3	−30.6	−32.3	−33.2	−17.0
Grand total	−18.2	−46.9	−61.9	−69.1	−75.8	−39.4

[1] These figures include both the reduction in revenues and the increase in outlays from the changes in the earned income credit.

[2] Indeterminate with respect to both amount and timing but could be substantial.

[3] Negligible loss.

Loss of less than $5,000,000.

[5] Loss of less than $50,000,000.

[6] Gain of less than $50,000,000.

Note: Detail may not add to total because of rounding.

CYSTIC FIBROSIS WEEK

● Mr. SCHWEIKER. Mr. President, this week, September 21–27, 1980, is National Cystic Fibrosis Week.

Cystic fibrosis is a hereditary metabolic disease affecting primarily the lungs and digestive system, where an abnormal accumulation of glue-like mucus suffocates and starves the body. Each day in the United States, five infants are born with CF. Each day, three Americans die of it. CF is the leading genetic killer of young Americans.

Children with cystic fibrosis require lengthy and painful treatments just to breathe. It is not unusual for those afflicted to take 60 or more pills daily, and hospitalization is frequent. Medical costs per patient are conservatively estimated at $10,500 per year, adding crushing economic burdens to families already devastated by the pressures and pain of living with a chronic, degenerative, incurable disease.

For there is no cure. There is no test to determine which of us carry the CF gene, although the laws of heredity tell us that 1 in 20 Americans is a symptom-free carrier.

Public awareness of cystic fibrosis is critical. Observance of National Cystic Fibrosis Week will focus that awareness, and it will prolong lives; 25-years ago, children with CF were not expected to reach school age. Few lived beyond 3 years of age. Today, half will live into their twenties, thanks to advances in diagnostic techniques and techniques for managing the day-to-day treatment of the disease. Early diagnosis can definitely prolong lives.

Supported by the National Institutes of Health and Research funds provided by the Cystic Fibrosis Foundation and its sister foundations in other countries, researchers all over the world are working toward a better understanding of how to treat, prevent, and eventually cure cystic fibrosis. As I mentioned, some life-sustaining advances have been made, but progress remains agonizingly slow for victims and their families. NIH funding totals approximately $11 million per year, primarily through the programs of the National Institute of Arthritis, Metabolism and Digestive Diseases, the National Heart, Lung and Blood Institute, and the National Institute of Allergy and Infectious Diseases.

The work of the NIH has led to new hope for the development of carrier tests and the elucidation of the genetic basis of CF. Other promising research leads may one day enable doctors to find means of preventing and treating the repeated pseudomonas bacteria infections which are so deadly to CF patients, whose weakened lungs are unable to combat the bacteria. Much of the work done in the CF field will have important ramifications for those who suffer from other genetic respiratory and metabolic diseases.

The main function of Cystic Fibrosis Week is to enhance public understanding of CF and its symptoms. The establishment of CF Week by Congress and the President signifies our recognition of CF as a serious health problem and our desire to provide new impetus for research. Most importantly in the short term, through the programs developed by groups like the Cystic Fibrosis Foundation to commemorate this week, cases of CF may be diagnosed and treated at an early stage, allowing patients to live longer, more productive lives. For all these reasons, I hope all Americans will join me in observing September 21–27 as National Cystic Fibrosis Week.●

WORK AFTER 65: OPTIONS FOR THE EIGHTIES

● Mr. CHILES. Mr. President, a new era for America's older workers began 2 years ago when Congress passed the 1978 amendments to the Age Discrimination in Employment Act. The mandatory retirement age for Federal employees was completely eliminated, and the age in the private sector was raised from 65 to 70. The potential impact of greater employment of the older worker is dramatic not only for today's older worker, but for the future of this Nation. With the post-World War II baby boom soon to become the senior boom at the beginning of the next century, I believe it is essential for us to begin now to explore new ways to stimulate continued employment for older workers both before and after age 65.

In an effort to shed light on this issue of growing social and economic importance, the Senate Special Committee on Aging initiated a new series of hearings on "Work After 65: Options for the 80's."

Despite sweeping changes in the mandatory retirement law in 1978, there is no hard evidence yet to indicate that substantial numbers of older workers are delaying retirement and working longer. I want to make it clear that in raising this issue, in no way am I suggesting that we should eliminate opportunities for early retirement. For many, early retirement is necessary and viable. What concerns me is that there are so few alternatives.

The purpose of our new series of hearings is to learn as much as possible about the problems facing older persons who want to continue working. We are concerned about the future implications of current trends and present policies. It is my firm belief that new efforts to encourage greater opportunities for continued employment for older workers will be both human effective and cost effective.

By human effective I mean that we must provide better opportunities for older workers, both before and after age 65, to follow their own desires and preferences, to use their skills, experience, and learning in pursuit of their own financial and psychological independence.

There is a great deal of evidence to indicate that many older citizens want to continue working. What I hear from my constituents in Florida is accurately mirrored in several national public opinion surveys: Some prefer full-time work, others prefer part-time employment to supplement their pension and social security benefits, and some, of course, are perfectly happy with full retirement, which is their right. But the general preference for expanded work opportunities is strikingly clear.

The costs of retirement systems are becoming more and more obvious every day. Concern over the financing of the social security system and the threatened collapse of various pension funds are but two examples of the cost problem. Over the past several decades, fewer and fewer older workers have stayed in the active labor force. According to a Department of Labor study, in 1947 48 percent of male workers age 65 and older were in the labor force, a percentage which declined to only 22 percent by 1974. Estimates made prior to the 1978 amendments projected that such participation would drop to 19 percent by 1990.

A growing older population, combined with increased longevity and less and less labor force participation means an escalating reliance on social security and pension systems, systems which are already under great financial pressure. What better way is there to ease this problem than by recognizing that millions of older persons prefer to work, and by encouraging job opportunities for them?

In the first two hearings in our new series, the committee heard first from a panel of distinguished experts concerning the economics and the psychology of the older worker. In the second hearing we heard from an equally distinguished panel of corporation presidents and vice-presidents whose companies have had successful experiences with older worker policies.

While no brief summary would do justice to the valuable and detailed contributions made by our witnesses, I would like to indicate some of the highlights. There are two general themes which run throughout the testimony, two general conclusions which appear to have the support of all the witnesses.

First, there is great value both to the worker and to the employer in encouraging employment opportunities for the older worker. While older employees obviously gain from increased income, there is a substantial psychological benefit that is also produced. The older person who desires to work and finds a suitable job has a much more positive feeling about himself and a stronger sense of contribution to his employer and to his community.

Employers who have been on the forefront on this issue, which include the four companies that testified at our second hearing, report no great problems or ill effects from allowing older employees to remain on the job. On the contrary, our witnesses consistently remarked that their older employees were among their most loyal and productive workers. Companies such as Polaroid and Bankers Life & Casualty, which have never had mandatory retirement, are not overrun by thousands of old workers of declining competence. In fact, our corporate witnesses report just the opposite: A self-selection process has evolved in which the less healthy and less motivated employees are typically the first to want to retire, and the competent, motivated employees are the ones who often choose to stay on.

The second major conclusion to emerge from hearings is that older workers are the victims of false myths and stereotypes. Dr. K. Warner Schaie, a psychologist who is director of the Andrus Gerontology Research Institute at the University of Southern California, reported results from his 21-year longitudinal study of age changes in competence and learning ability. He concluded that there is no evidence of systematic, across-the-board poor health, higher accident rates, lower productivity, reduction in learning ability, or lowered value of retraining as a consequence of normal aging.

To be sure, there are some age-related differences between young and old. Yet contrary to those negative stereotypes, some differences are to the advantage of the older worker. Older workers actually have fewer accidents of certain types; older workers typically have lower absentee rates; and for certain kinds of skills, older workers may benefit from retraining more quickly, because of their experience, than younger workers.

Ironically, our four corporate witnesses stated unanimously that a major obstacle to the employment of the older worker is the persistence of the very myths that the scientific research has shown to be false. Mr. Harold Page, vice president for personnel of Polaroid, stated bluntly that "our observation is that the story that older workers have poor attendance is purely a myth." As to accidents, Mr. Gerald Maguire, vice president of corporate services for Bankers Life and Casualty of Chicago, said that "our compensable time lost is about somewhere between a third and a fifth for the older worker as opposed to the regular worker." It is relevant to again note in this context that neither Polaroid nor Bankers has ever had a policy of mandatory retirement.

Why do such myths persist? One answer is that the phenomenon of the older worker on a large scale is relatively new, and is getting growing attention as the legal barriers to older employment have diminished. Another, perhaps more direct answer was given by Mr. C. Peter McColough, chief executive office of Xerox, and Chairman of the President's Commission on Pension Policy. He said that for many corporate executives there has been a reluctance to look at the entire problem. "It is like a lot of things in our society—until you really focus in on something, you don't understand it."

As I see it, one of our big tasks is to inform the public, as well as private and public employers, about these negative myths which serve as obstacles to the employment of older workers. But I wish to emphasize once again that in focusing upon employment options for the older worker, the committee is in no way suggesting that normal retirement, or even early retirement should be withheld from those workers who so choose it. But, for those millions of older persons who have expressed a desire not to retire, or to combine partial retirement with partial employment, it is imperative that we begin to encourage more opportunity.

Furthermore, we must begin to design and encourage such policies now. As Mr. Karl Kunze, chairman of the National Institute on Age, Work, and Retirement of the National Council on the Aging, said in our first hearing, "stereotypes about older people and their capabilities took decades to work themselves into our consciousness and they will not be excised overnight."

The creation of work opportunities, as witnesses pointed out, often requires an innovative examination of the older worker within the work situation. As Dr. Schaie noted, the particular strengths of the older worker can be maximized, and weaknesses minimized, when employers make some effort to match the worker with the job.

That such is possible was described to us by Mr. Jerome Rosow, president of Work in America Institute, Inc., and a former Assistant Secretary of Labor. Mr. Rosow described a study by his institute which surveyed 170 organizations, and which produced case studies of 69 innovative older-worker programs in organizations representing over 2.5 million employees. He described six general types of innovative approaches to older worker employment which were identified in organizations including employers in both the public and private sectors. The six types are: part-time work, phased retirement, second career training, job re-design, reentry workers, and older-worker-oriented job-finder organizations.

Therefore, Mr. President, our hearings thus far have indicated that one of the primary obstacles to the employment of the older worker is a set of negative myths and stereotypes denigrating the older worker's ability to function effectively. As several of our witnesses said, one major response would be a program of education and incentives aimed at employers to encourage the development of options for the older worker.

The general answer, as I see it, must be in cooperation between Government and employers. In today's world of inflation where budget balancing is a major congressional goal, there is simply no room for new costly Government employment programs, or large increases in existing programs. Therefore, if we are to reverse or slow down the current trend toward early retirement, if we are to promote and make available options for a longer work life for the older persons, the major thrust will have to be in the form of a partnership between Government and private industry. The contours of such a cooperative arrangement will be a continuing focus for the Special Committee on Aging, as we continue this important set of hearings.

In conclusion, our hearings suggest that Congress has a responsibility to follow up on its success in limiting the discriminatory practices of mandatory retirement. Even if all age-based mandatory retirement becomes legally prohibited, as I hope will be considered in the next Congress, we still have the responsibility of encouraging a social and economic environment in which employers hire the older worker. In short, to paraphrase Pension Commission Chairman McColough, encouraging increased work force participation by older persons through more availability of full-time and part-time employment opportunities must become a matter of National policy.●

DEATH OF JACK POULSON

● Mr. DURENBERGER. Mr. President, Minnesota and the Nation recently lost a great patriot. Jack Poulson, known to thousands of Americans for his "Fly the Flag Crusade," passed away in August. His spirit, though, will long be remembered by those of us who admired him.

On numerous occasions, I had the opportunity to share a stage with Jack. What always struck me was his uncontained enthusiasm for his country. Jack believed in America and in our people. No matter how gloomy things appeared, you could not help but feel good about America after spending even a few minutes with Jack.

Mr. President, since June of this year my office has received more than 400 requests for flags that have flown over the Capitol. I cannot help but believe that Jack Poulson is, in part, responsible for the pride Minnesotans take in flying the flag.

Kent Bolsta, a friend and fellow admirer of Jack Poulson, wrote a tribute to this great American. I want to share it with my colleagues and I submit it for today's RECORD.

The tribute follows:

A MODERN AMERICAN LEGEND

(Jack Poulson, the Johnny Appleseed of Patriotism)

In the early 19th Century, until his death in 1847, John Chapman became famous as the legendary "Johnny Appleseed." Chapman waundered through what was then the "United States", planting apple trees from the east coast through Ohio.

Eighty years after Chapman's death, Jack Poulson was born in Chicago, destined to planting the seeds of another kind through his establishment of the National Fly the Flag Crusade. Poulson, a World War II Veteran and fierce patriot, became very upset during the Viet Nam War period when he saw the flag desecrated and blasphemed. Jack decided to do something about it and obtained thousands of bumper stickers reading "Your Flag—Fly It Proudly" which he and others like him began to distribute in shopping centers.

When people began to ask where they could get the flags so they could display them proudly, the ideas of the "Fly the Flag Crusade" was born.

With the help of friends, Jack formed the nonprofit organization and a midwest radio station provided public service time every Saturday morning for Jack to promote the organization and the flag. Jack, an over-the-road truck driver, spent every year's vacation from then on traveling throughout the country. In each state he visited, he immediately called on the governor, state senators, local officials and presented them with a flag. He stood on street corners passing out flags to passers-by.

His automobile, decorated with flags and the emblem of the National Fly the Flag Crusade, was soon seen on television and newspapers throughout the country. He was called to Washington for consultation with leading legislators. Senator David Durenberger of Minnesota called him "a great American."

Every waking moment not devoted to his trucking duties was spent promoting the flying of the flag, praising America and planning his future flag distributing plans.

Meanwhile, flags of all styles and sizes, brackets, steel poles and commercial aluminum poles began to flower throughout the Upper Midwest as the National Fly the Flag Crusade obtained the flags, sold them and installed them on a nonprofit basis.

In August of 1980, while on his regular trucking delivery route to International Falls, Minnesota, Jack suffered a fatal heart attack, through the combinations of the rigor of over-the-road driving and his indefatigable efforts toward the crusade.

Thus, Jack's voice was stilled, but his efforts continue as his widow and friends carry on the dedication and the works of the program. Jack's loss is felt by thousands, not because of who he was, but what he was. To all those in the Upper Midwest within the reach of the Saturday radio report, Jack was a symbol of America. He planted the patriotic seed throughout the area that persuaded so many to invite Jack to install a flag in their yard. Throughout other areas of the country, Jack's surprise visits and street corner flag distribution drove home the importance of the flag and the pride it represented. The continuation of the work of the Fly the Flag Crusade, the proliferation of flags flying over businesses and private homes, and the rebirth of patriotism is tribute to Jack's work—Jack Poulson, a dedicated patriot, a great American.●

THE PLIGHT OF SALVADORAN REFUGEES

● Mr. KENNEDY. Mr. President, I am deeply concerned by reports of increasing hardship and often death that face innocent men, women and children who try to escape the escalating violence in El Salvador. These are people whose only offense is to seek refuge from the terrorism and repression which have become a tragic part of the daily life of their small Central American country.

Earlier this month I received reports of incidents in which Salvadoran civilians have been prevented from seeking refuge in neighboring Honduras and have been killed or otherwise mistreated after being turned over to Salvadoran military units. Last May several hundred Salvadoran refugees were reported to have been killed by Salvadoran troops after being expelled from Honduras.

Following hearings on September 19 by the Judiciary Committee, I have asked the administration to comment not only on this reported killing but on the overall human tragedy of refugees and displaced persons in Honduras and El Salvador. I have asked the administration to indicate what steps it is taking with these countries and international organizations—particularly the U.N. High Commissioner for Refugees, the International Committee on the Red Cross, and the Inter-American Commission on Human Rights—to respond to this situation.

The Washington Office on Latin America has prepared a memorandum on this problem, which I have forwarded to the administration with a communique received from the Diocese of Santa Rosa de Copan and reports from Amnesty International. I request that these materials be inserted in the RECORD at the conclusion of my remarks, and I take this opportunity to renew my call upon the Government of El Salvador to end these gross abuses of human rights. Finally, I urge the Government of Honduras to insure that its security forces understand and abide by the Geneva Protocol on Refugees and its obligations to respect fundamental human rights. It is particularly distressing to see the evil of "refoulement" practiced in Latin America, where the tradition of political asylum has been proudly maintained for nearly two centuries.

The material referred to in Senator KENNEDY's statement follows:

STATEMENT BY SENATOR KENNEDY

1. What situations have provoked the exodus of Salvadoreans from their homes and/or country?

In Disaster Bulletin No. 496C status report of July 8, 1980, Church World Service executive director Paul McCleary states that:

"The Roman Catholic Archdiocese in San Salvador reports 2,065 civilians dead this year up to 1 June: peasants, workers, students, professionals, including medical personnel, killed in widespread repression of the popular organizations by Government security forces. Grave concern is expressed over the escalating armed struggle in the countryside. Impending civil insurrection accompanies strengthening political opposition.

"Large numbers of peasants flee their farms seeking protection. Some attempt to cross into Honduras. Several hundred men, women and children were massacred last week in Jicaro, in the Chalatenango "war zone," while fleeing the National Guard. Security of peasant families under the care of the church refugee centers is precarious."

Since January 1980, the Salvadorean Catholic Church has reported a sharp increase in killings, arrests, torture and forced displacement of rural inhabitants. The Legal Aid office of the San Salvador archdiocese (Socorro Juridico) reported that between 1 January and 13 March 1980, 171 military operations took place in different farming communities, resulting in the deaths of many peasants.

According to Amnesty International, during June and July 1980, "Salvadorean security forces appear to have intensified and fear of repression is now forcing peasants to flee their homes or take refuge in the mountains . . . . In the first six months of 1980, over 2000 Salvadoreans have been killed without provocation by the Salvadorean government forces while they were in detention or defenceless. Based on reports from governmental, church, press and other sources, this estimate does not include guerrillas or government forces killed in action. Many villages near the Honduran border were, in the first days of August, reported by the international press to have been destroyed by fire and by bombing as a force of some 3500 troops carried out counterinsurgency operations."

Former Minister of Economy and member of the Executive Committee of the Salvadorean Christian Democratic Party, Oscar Menjivar, in a July 9 letter expanding on the reasons for his 26 March resignation from the Salvadorean government said that: "barely three weeks after the Agrarian Reform and the Nationalization of the Banking System, the violence and repression by the military and paramilitary organizations against the popular organizations reached the highest levels since the 15 October coup and in the following months has reached proportions never seen in recent Salvadorean history. In this way, it became evident that the social reforms, as well as not achieving the political aim of pacifying the country, were also incapable of achieving their objectives in the socio-economic area. Specifically, it was impossible for the Agrarian Reform to gain significant improvements in the standard of living of the peasants at a time when there was a general situation of terror which constantly threatened the lives of the rural workers and families."

In a 4 July 1980 statement on repression against the educational sector in El Salvador, the Governing Board of the Catholic University (Jose Simeon Canas Central American University) stated that: "The repression against the Salvadorean people by the Security Forces and paramilitary groups, which act with total impunity, follows a premeditated and implacable course. So far this year, that is, since the coalition of the military with the Christian Democrats took power, there have been no fewer than 4000 victims of repression among the people, leaving aside those victims of armed 'confrontations' and 'rendering justice.' In various occasions, we have analyzed, denounced and condemned this repression, which is unlike anything that has happened before in El Salvador."

2. What has been the situation of those Salvadoreans forced to leave their homes, through fear or threats to their lives?

There are currently 8–9 refugee centers in El Salvador operating under the auspices of the Salvadorean Catholic Church. CES and CEAH, two local humanitarian assistance groups, are active in providing organization and services and in channeling financial and material assistance from religious organizations and service groups outside El Salvador. According to Church World Service, "health, food and drinking water scarcity severely tax the resources of the churches . . . (The) need for cash assistance for these refugees is increasing. Medical supplies are practically unavailable on the local market."

On July 9, 1980, the Minister of International Relations of Belize stated that their country will not take in any more Salvadorean refugees and requested assistance from UN High Commissioner for Refugees, Phillip Sargissen, in providing for the Salvadoreans already in Belize. As of July 1980, 35 Salvadorean refugees were entering Costa Rica daily. Some Salvadorean refugees traveling by land are returned to Nicaragua at the Costa Rican border town Pena Blancas for not having the proper papers. While the Costa Rican government knows that the Salvadoreans are refugees fleeing violence, government officials give the Salvadoreans tourist rather than refugee status, asking them to present round-trip passages.

The government of Honduras authorized the United Nations to attend to more than 3000 Salvadorean refugees in towns near the border with El Salvador. On 6 June 1980, Honduran government officials indicated that 3500 Salvadorean refugees were in such camps. Nicaragua is also assisting Salvadorean refugees. Two thousand are being assisted in Leon and Chinandega. The Nicaraguan Red Cross expects 200,000 more Salvadorean refugees. Both the United Nations and the Red Cross are assisting these local efforts.

3. A case study: the mass killing at the Rio Sumpul River.

Amnesty International, the Priests' Senate and Religious of the Santa Rosa diocese of Copan (Honduras), the Honduran press and the Bishops' Conference of Honduras report the killing of over 300 Salvadorean refugees near the Salvadorean-Honduran border on 13, 14 May 1980 in the northern department of Chalatenango. According to Amnesty International, "the peasants allegedly tried to cross the river Sumpul and take refuge in Honduras to escape from an attack by National Guardsmen, soldiers and members of the paramilitary group ORDEN. They were reportedly sent back by Honduran troops, only to be shot by Salvadorean troops on their return to Salvadorean territory. . . . The initial report of the killings, from the clergy of Santa Rosa de Copan, Honduras, has been accepted as true by the Conferencia Episcopal de Honduras, the Honduran Conference of Bishops. In a statement on 1 July, Bishop Jaime Brufau, Bishop of San Pedro Sula, an Executive of the Episcopal Conference, said 'Yes, there was a massacre,' and expressed his concern at the 'attempt by the military authorities of Honduras to silence or obscure everything related to this massacre.' "

4. Foreign policy issues for the United States.

In November 1979, the U.S. government resumed military aid to El Salvador, sending $205,000 in equipment and a six-man U.S. military team for a week. Reporting misuse by the Salvadorean military of this equipment, Mgr. Oscar Romero in February 1980 sent a letter to President Carter, requesting that military assistance to El Salvador be stopped. In December 1980, the U.S. had approved $300,000 in military training credits, the original plan being to send U.S. military advisors to El Salvador. In April 1980, the U.S. government approved an additional $5.7 million in credits for military equipment, such as trucks and communications equipment. The equipment already having reached El Salvador to date of this allotted $5.7 million includes radios, night vision devices and image intensifiers, the latter two having been perfected for use in Vietnam. The Archdiocese Legal Aid Office of San Salvador (Socorro Juridico) has reported on numerous occasions the use of air-to-ground radios, personnel trucks and helicopters in the large scale military operations by the Salvadorean military, particularly in the northern region near the border with Honduras. The U.S. administration has projected $5.5 million in military assistance for El Salvador in FY 81. According to the Congressional Presentation Document, the Salvadorean government is likely to request patrol boats, helicopters, spare parts, vehicles and communications equipment.

a. According to most accounts, violence has led to the exodus of Salvadoreans from their homes and oftentimes from their country. Church sources indicate that Salvadorean troops continue to be involved in perpetuating such violence. U.S. military assistance to El Salvador is based on the assumption that our country will be providing leverage to the more moderate elements within the military. Given the recent struggle between the two colonels in the junta, what indications could you give us of a pattern of more moderate action by the Salvadorean army and security forces, and thus adequate control over the use of military equipment sent in the future by the United States to El Salvador?

b. It is reported that two helicopters were used in the Sumpul River killings. Has the U.S. government been able to identify which helicopters were used? What assurances could you give us that helicopters given by the United States would not be used improperly in military operations, particularly those leading to the exodus of Salvadoreans from their homes and country?

c. The statement by the Priests and Religious of Santa Rosa de Copan raises questions as to the role of the OAS peace-keeping forces in the border area. Have you been able to determine the scope and location of their activities at the time of the Sumpul River killings and whether they are carrying out an independent investigation?

COMMUNIQUE FROM THE PRESBYTERY OF THE COPAN DIOCESE ON THE LATEST EVENTS ALONG THE BORDER OF EL SALVADOR

The Presbytery and the nuns of the Santa Rosa diocese of Copan, in view of the unfortunate situation of our Salvadoran brothers, refugees in the zone of Guarita, belonging to this diocese, and impelled by our faith in God and Truth and Life, state the following publicly:

1. THE EVENTS

Last January, a good number of Salvadorans, mostly children, women and elderly sought refuge in our country. In their exodus they were systematically harassed by the Salvadoran National Guard.

The most evident example of this harassment and cruelty happened last May 14. The day before, several trucks and vehicles of the Honduran Army arrived filled with soldiers. Without stopping, they went 14 kilometers further down, to near the Sumpul River, the border between Honduras and El Salvador, near the Honduran towns of Santa Lucia and San Jose. The megaphones directed to Salvadoran territory shouted out the prohibition against crossing the border.

On the opposite side, at around 7 a.m., in the Salvadoran village La Arada and its surrounding area, the massacre began. A minimum of two helicopters, the Salvadoran National Guard, soldiers and the paramilitary organization ORDEN, opened fire on the defenseless people. Women tortured before the finishing shot, infants thrown into the air for target practice, were some of the scenes of the criminal slaughter. The Salvadorans who crossed the river were returned by the Honduran soldiers to the area of the massacre. In mid-afternoon the genocide ended, leaving a minimum number of 600 corpses.

Days before, according to the Honduran press, in the city of Ocotepeque, bordering Guatemala and El Salvador, there was a secret meeting of high military commanders of the three countries. The news was officially denied shortly afterwards.

A minimum of 600 unburied bodies were the prey of dogs and vultures for several days. Others were lost in the waters of the river. A Honduran fisherman found five small bodies of children in his fishtrap. The Sumpul River was contaminated from the village of Santa Lucia.

The OAS, financed by the two governments for ten years, ignored the deed.

Since that tragic May 14, the number of refugees has increased noticeably and so in the border zone of the Diocese there are some 1,500 Salvadorans with the most absolute personal insecurity. They get rumors and confusing orders that they are to go to their country, or that the Salvadoran National Guard is going to enter to finish them off. In fact, in the zone "Corozal" the Salvadoran Guard entered our country and intimidated our nationals. A Salvadoran helicopter also flew over the Honduran towns of Talquinte and San Jose.

The Hondurans of this poor area, who shared what they had with the refugees from the beginning, are bothered, taken to court, with files on them. Some of those who lend animals to cart the food from the Caritas warehouses are threatened.

This situation is becoming more grave in view of the constant coincidence that whenever some international organization or foreign newsmen ask to come to the place of the refugees, they are intimidated so that they will leave the houses and hide in the mountains. The sad reality of the refugees thus has not been realized by the public.

Dysentery, malaria, mumps and skin infections, above all in children, are threatening the population. Caritas sent medicines and asked for the assistance of a medical brigade refused by the government. The last food supplies divided equally among the 3,000 refugees and needy Hondurans will last about 10 days.

2. CHRISTIAN REFLECTION

It is not our place to enter into political discussions. Our duty is to interpret the voice of God that says "I have seen the affliction of my people in Egypt, I have heard their cry by reason of their taskmasters; for I know their sorrows: And I am come to deliver them. (Exodus 3:7)

That is why we feel we are strongly obligated to protest that situation, impelled by our Christian concept of a God of Life and not death who proclaims: "The thief cometh not but for to steal and to kill and destroy. I am come that they might have life and that they might have it more abundantly. (John 10:10)

Illuminated by the Word of God and by the teachings of the Church, we feel that both the massacre of Salvadorans, as well as the situation of the refugees of that country in our territory is anti-human and anti-christian.

1. The most fundamental rights of humans are being violated, such as the right to life, health, security, etc.

2. The christian commandment of Love, basic for those of us who want to follow the steps of our Savior Jesus Christ, is being violated.

3. The traditional teaching of the Church is being violated, about which Mons. Romero left us with a prophetic summary when he said: "Before the order to kill that a man gives, the law of God that says: 'Do not kill' must prevail."

4. The call of the Latin American bishops who gathered in Puebla and which said the following, has been ignored: "The Church makes an urgent call to the conscience of the peoples and humanitarian organizations, so that the right of asylum will be strengthened and generalized. . . . The countries will increase their quotas for receiving refugees." (No. 1292)

5. The degradation brought about by the situation of institutionalized sin in which our Central American peoples live is shown.

For these reasons we consider ourselves obligated to denounce as oppressors and collaborators in the massacre of Sumpul River.

1. The oligarchy and the Salvadoran Army, executors of an entire people.

2. The OAS, which by closing its eyes to to the event, has collaborated in the massacre.

3. The Honduran government, accomplice in the acts and their later coverup.

4. The political parties and other institutions that remain quiet with respect to the tragedy.

In view of this situation of sin and brutality, we make a call on the conversion of our people. God our Father will judge us for the concrete love that we have had for our brothers (Mt. 25, 31ss). We will only be able to attain true peace by defending life.

3. DEMANDS OF THE CURRENT MOMENT

1. We encourage our christian communities to make the present problem the source of their contemplations and actions.

2. We ask our sister dioceses to help us to more exactly carry out our Christian duty with the poor.

3. We demand from our government the immediate application of the International Statute on Refugees for Salvadorans who are in our country.

4. We urge the sending of a medical brigade.

5. We invite political, union, student and social groups to become aware of the situation and contribute to the resolution of the problem.

6. If the government, because of a lack of means, is unable to accept the refugees, we demand that they officially seek countries that can receive them. This does not prevent, while our brother Salvadorans remain in this country, their being treated in conformity with human dignity.

We in turn have created a committee that will be present in the Guarita sector. Another committee, with its headquarters in Caritas of Santa Rosa de Copan, to receive and give information and to coordinate with any other organization while the government and other more qualified institutions still refuse to assume responsibility in the situation.

The concretion of these points and other appropriate ones will testify to the existence of a true christian conscience and a policy of neutrality in our country.

May the God of Peace and Life be with you all. (Rom 15, 33)

Santa Rosa de Copan, June 19.

AUGUST 11, 1980.

EL SALVADOR

Update on the "Sumpul River Massacre" (see AI Index AMR29/28/80 and AMR29/34/80). The article from the Honduran newspaper *Le Tribuna* (9 July 1980), reproduced here in translation, tends to confirm earlier local church accounts of the 14 May 1980 massacre at the Sumpul river when Salvadorian troops fired on peasant refugees. Only the precise number of Salvadorians killed there is in question. Roman Catholic priest Alberto Gallagher and teacher Jesé Léon Ayala, who live in Guarita, Honduras, near the scene of the killings, told the press that 320 bodies were found on the river banks, and that 80 Salvadorians had reached safety on the Honduran side of the river on 14 May.

The initial report of the killings, from the clergy of Santa Rosa de Copán, Honduras has been accepted as true by the *Conferencia Episcopal de Honduras*, the Honduran Conference of Bishops. In a statement on 1 July, Bishop Jaime Brufau, Bishop of San Pedro Sula, an Executive of the Episcopal Conference, said "Yes, there was a massacre", and expressed his concern at the "attempt by the military authorities of Honduras to silence or obscure everything related to this massacre."

The Episcopal Conference of Honduras in its statement on the massacre declared that "The Church cannot abandon its defence of the poor and the oppressed . . . and that is why the priests of Santa Rosa de Copán have denounced the massacre of 600 Salvadorians on the border of Honduras and El Salvador."

Amnesty International estimate that in the first six months of 1980 over 2,000 Salvadorians have been killed without provocation by the Salvadorian government forces while they were in detention or defenceless. Based on reports from governmental, church, press and other sources, this estimate does not include guerrillas or government forces killed in action. Many villages near the Honduran border were, in the first days of August, reported by the international press to have been destroyed by fire and by bombing as a force of some 3,500 troops carried out counterinsurgency operations.

* * * * *

Translation of the article in *Le Tribuna* (9 July 1980).

"Was there really a massacre of people? . . . There certainly was. This river is a mute witness to what happened that Wednesday", said Antonia Guardado, a Honduran woman who lives in Copalchio, a village of Guarita county in Lempira Department near the Sumpul river.

Testimonies from residents of the El Salvador-Honduras border area have described the execution of the massacre on the morning of 14 May. National Guard troops of El Salvador, assisted by two helicopters, moved to "flush" the peasants from the "Las Aradas" area where they had camped on the Salvadorian side of the river.

THE MASSACRE

Some of the Salvadorian survivors have said they were warned at about eight o'clock that morning that the National Guard would carry out a military operation sweeping down through the mountains to their campsites. Consequently, they said, they tried to cross to the other side of the river, but with the misfortune that "a great majority were finished off by bullets, falling into the waters of the Sumpul".

These events, it should be recalled, were denounced nationally and internationally by the Diocese of Santa Rose de Copan, but the government of Honduras denied categorically the complicity attributed to its troops and said the accusation was "irresponsible and untrue".

On this question, *La Tribuna* has established that one day before—according to the versions of the people of Guarita—three truck loads of National Army troops had passed through the region. And according to Antonia Guardado, resident of Copalchio, the Honduran Army had arrived at the border to "establish a cordon", and that "one could see the soldiers stretched out horizontally on the (Honduran) side of the river at the edge of the river bank."

Mrs. Guardado, who by last weekend had still not recovered from shock, added to her statement in the following terms: "I cannot give evidence that these soldiers killed people, because this would be a lie, but what I can insist on is that beforehand they did call out for people to stop trying to cross the river."

She also said that 15 days before these events, a Honduran military contingent had gone to tell the refugees that they should leave Honduran territory, an action justified by Chancellor Eliseo Pérez Cadalso when he said that "they could stay in the country for humanitarian reasons", but that there were no agreements signed by Honduras to make this arrangement permanent.

"That is why they were forced to go and suffer in their huts on the river bank", said Mrs. Guardado, who dramatically told how many people died "who tried to reach this bank of the river, but were killed by the bullets of the Salvadorian troops coming down from the mountain . . . and those who could not cross because of the fire from the two helicopters that arrived to bottle up the hundreds of *campesinos*, women, old people and children".

She despaired at the barbarity of the National Guard. "The victims came covered with mud. . . . I still have one of their blankets covered with blood . . . we gave them what we could."

TORTILLAS WITH SALT

"Now . . . this child you see there without any clothes, just in underpants, I cured him. You should have seen him. Some people came to my house without any clothes and with empty stomachs. By pure luck I happened to have a sack of rough maize that was for the cows and we even ate that to be able to feed these people, since they came without even a cent", said Mrs. Guardado. In this region, where there are about 500 refugees concentrated, we were able to confirm a grave crisis of hunger. The diet is one tortilla with salt. "If they can't tighten their belts, they will die of pure necessity, because there is nothing left to give them", said the Honduran residents.

LOST HER CHILDREN

A refugee of about 60 years of age, sobbing, told how she had lost two of her children. "Do you think that is little?", she asked. "But I am already growing accustomed to the idea . . . I can't go on grieving all of my life".

She told of having witnessed National Guard troops raping a woman and then cutting her throat, leaving a great pool of blood. "And they were not satisfied with that, but they also hung her body on a barbed wire fence, and warned that no one go near her. That was shameful as we could not even cover her private parts with a *petate* (a rush mat)."

The old woman, who never ceased lamenting the death of her sons, said that many of the persons killed could not cross the river "because on this side (Honduras), the army had posted troops. Although their intentions were to protect the land on this side, they terrified the Salvadorian people who thought they were going to shoot at them".

FACING THE OPTIONS

Many people that wanted to cross to this side of the river died half way acrcss, others on the little beach, according to survivors, because "if they returned they ran the risk of execution by the National Guard". Even so, some managed to cross the fateful river.

The most dramatic part of the tragedy, said Salvadorian Paula Guardado, another of the survivors, is that "the Guardsmen threw the children into the water, and boasting of their marksmanship, shot them with their machineguns. Others were thrown into the air and shot. I saw them cut off the *palomita* ("dove", slang for penis) of a little boy . . . and they shot at that too", she said.

STILL SHOOTING

The people of the border area still live with tremendous tension, as each morning they hear the stuttering of machineguns and the dispersed firing of the carbines of the National Guard. "They are surely doing so to frighten us so that we never return. And that is unnecessary, because if it is up to me, I won't return", said Julián López, a Salvadorian refugee in El Corozal village.

Antonio Guardado, another refugee, 25 years old, was the victim at the weekend of an armed attacking by National Guardsmen who found him fishing in the river. "They fired about eight times . . . I don't know how I managed to escape running. I didn't feel any pain, but once I had climbed the hill I realized I had lost two fingers on my left hand."

According to some refugees, who we consulted for their explanation for the massacre, they said that "the National Guard has been following the track of a *foco* of guerrillas, but this does not justify them to kill so many innocent people, especially old people, women and children. There is no reason for them to suffer this kind of treatment."

July 15, 1980.

El Salvador

Translation of Testimonies by Peasants of Incidents which Occurred Near the Salvador/Honduras Border on 13th and 14th May 1980.

SUMMARY

The attached testimonies were published in Spanish in the 22nd June issue of *Solidaridad*, international bulletin of *Socorro Juridico*, Legal Aid Office of the Archbishopric of San Salvador. They give a personal account of incidents which are alleged to have taken place near the Salvador/Honduras border on 13th and 14th May 1980 in the northern department of Chalatenango. A group of priests from Santa Rosa de Copán, Honduras, recently alleged that several hundred peasants, including children, from El Salvador died in one incident on the border on 14th May 1980. The peasants allegedly tried to cross the river Sumpul and take refuge in Honduras to escape from an attack by National Guardsmen, soldiers and members of the paramilitary group ORDEN. They were reportedly sent back by Honduran troops, only to be shot by Salvadorean troops on their return to Salvadorean territory.

Although the Salvadorean and Honduran authorities have denied that the massacre took place, reports from several other sources would seem to indicate that many defenseless peasants and their children were wounded or shot dead during military operations by security forces in the area in mid-May 1980.

El Salvador

Translation of Testimonies by Peasants of Incidents which Occurred near the Salvador/Honduras Border on 13th and 14th May 1980.

FIRST TESTIMONY

". . . I live in Jícaro, near Las Minas, Chalatenango Department. On Tuesday 13th May, as I was beginning to prepare a small plot of land for planting corn, I realised that an armed helicopter had been flying over the area since the early hours of the morning. A few minutes later, I saw about nine hundred National Guardsmen, soldiers and members of ORDEN coming into Jícaro. They were coming from three sides, Las Minas, Llano Grande and the village of Los Beltrán, about three hundred in each group.

A peasant named Salomon Alas was sowing corn. When they saw him, they shot him; then they killed José Melgar and his wife Josefina Guardado, Salvador Alas, Jesus Mena and two others. People began to flee towards the mountains in the direction of the valley of Los Brizuela. There the soldiers dragged Adrian Brizuela from his home and shot him in the street. They also took out his brother Hermenegildo, brutally beat him up and, thinking he was dead, left him lying in the street. There were about five hundred of us fleeing, including old people, women and children, but as we went along peasants from the villages of Corral Falso, Las Vueltas and Los Naranjos joined us, for they too were being repressed by the National Guard and the army.

That day, in the village of El Cacao Concepcion Quezaltepeque, they shot dead José Bruno Alas, 35 years old, Alfonso Mejia, 30 years old, his brother Juan Mejia, 28 years old, and José Israel Orellano, 25 years old.

In the village of Los Calles, they shot Sebastian Ortiz, an old man of 84, and Antonio Palma, 35. We arrived at the village of El Potrero at about two o'clock in the afternoon and from there we saw the guards pushing rocks down El Pajal hill in order to kill some women and children who were down below. Amongst our group, Amadeo Mejia and three children of eleven, seven and five years old were shot. We did not go on because we were afraid they were waiting for us so we decided to spend the night in the Jocote Redondo mountain, putting up with the cold, hunger and the heavy storm that broke out that night. A three-month old baby died from the cold.

At dawn, we carried on in the direction of Los Naranjos, but a helicopter, the army and National Guard were following us closely. We passed through the village of Los Amates, where they had assassinated two old men, Carlos Calderon and Juan Lopez.

When we arrived at El Zapotal, we heard heavy shooting coming from the direction of the Sumpul river and saw several helicopters flying over the area, so we again went up into the mountains and spent the night there. At dawn the next day, we realised we had been surrounded by another large contingent of guards and soldiers who were blocking our way to Los Naranjos. Fear, hunger and thirst made some of us break away from the group and go our own way. I returned to El Cacao but other peasants stayed to sleep in the mountains. . . ."

SECOND TESTIMONY

". . . I live in Jicaro, Las Minas, Chalatenango Department. On Tuesday 13th May at about seven in the morning, I went down from my refuge, which is up in the mountains because we are constantly being pursued by members of the Guard, ORDEN, and soldiers, to have breakfast and realised that an olive-green helicopter was flying over the village. A few minutes later, about nine hundred National Guardsmen, soldiers and members of ORDEN entered the village, about three hundred from each side, and started shooting. They killed seven peasants. About five hundred of us, mainly old people, women and children, fled in groups into the mountains. My group, made up of about three hundred people, set off towards El Amatillo, next to Las Vueltas.

From there we went to Portillo del Amate where we stayed until eleven o'clock that night. As the children could no longer stand the hunger, rain and thirst, we decided to go down to Yurique, where we stayed until five o'clock the next morning. There we met up with another five hundred peasants who spent their time cultivating unused land.

Yurique is on the Sumpul river on the border of El Salvador and Honduras. We had been there for about an hour when we were attacked from all sides. Two olive-green helicopters attacked us from the air and more than five hundred National Guardsmen blocked all exits. The only way we could escape was by crossing the river Sumpul in the direction of Honduras.

During this attack, more than twenty-five people were machine-gunned. When I entered the swollen river, I saw seven children who had drowned being dragged by the strong current. One of them was about six or seven months old. Some children stayed on the Salvadorean side and the mothers watched from the Honduran side as a National Guard from our country threw several little children into the river, threatening to throw more if we did not return to the Salvadorean side.

A Honduran soldier shot at the National Guard and said that what was happening was not the children's fault; that it was the fault of the National Guardsmen because they were provoking the peasants. About half an hour later, the Honduran authorities told us to swim back across the river to our country. When we returned, we were tied up by the thumbs and made to lie face down. We were kicked and beaten with rifles for eight hours.

At about half past five in the afternoon we were told that the old people and some women and children would be set free. Those of us who were set free, about seventeen of us, went up into the mountains leaving about twenty-five people still captured. We had been up in the mountains for about fifteen minutes when we heard heavy shooting near the river.

Without doubt the Guardsmen and soldiers assassinated those we had left behind. We carried on walking and arrived at a place calle El Portillo del Amate at nine o'clock Thursday morning after walking all night without food. We heard more shooting nearby so we decided to flee to the highest mountain, the name of which I can't remember at the moment, and spent Thursday night and all of Friday.

On Saturday morning we decided to go down because the children were dying of hunger and cold. We returned to Jicaro, after being taken the same afternoon to San Salvador by social services. Thousands of peasant families are fleeing to the mountains in the department of Chalatenango, fleeing from the National Guard and the army . . ."

MAY 19, 1980.

JUNE 27, 1980.

[El Salvador]

CASA ACTION: MASSACRE OF PEASANTS ON THE SALVADOR/HONDURAS BORDER

On 14th May, according to a statement issued by priests from Santa Rosa de Copán in Honduras on 24th June, several hundred peasants, including women, children and old people were massacred in El Salvador as they tried to flee into Honduras away from repressive operations by the Salvadorean security forces. The statement alleged that helicopters, soldiers and members of the paramilitary force, ORDEN, opened fire on peasants at the village of Las Arados on the Salvador/Honduras border. It also said that women were tortured before being killed, babies thrown into the air and the bodies of those killed left on the ground to be ravaged by dogs.

The day before, Honduran troops had taken up positions on the edge of the Sumpul river which forms part of the border near the village and shouted instructions at peasants trying to leave El Salvador not to cross. Those who did were sent back. During the massacre the following day, which lasted from seven o'clock in the morning until mid-afternoon. The Honduran troops are reported to have sent fleeing peasants back toward the shooting. Immediately after the priests' statement was issued the Honduran government denied any involvement in the massacre.

Press reports on 15th May in the Salvadorean media referred to a massive anti-guerrilla operation by combined security forces and members of the army in the area known as *El Trifinito* along the borders of El Salvador, Guatemala and Honduras, including the department of Chalatenango where the massacre is alleged to have occurred. Shortly before this, a secret meeting is reported to have taken place in Ocotepeque, Honduras, between high-ranking officials from the three countries.

Rural areas like Chalatenango have witnessed increasing incidents of violence as security forces attempt to root out members of popular organizations and guerrilla groups. The Legal Aid office of the Salvadorean Archbishopric, *Socorro Juridico*, reported that between 1st January and 13th March 1980, 171 military operations took place in different farming communities, resulting in the deaths of many peasants. In a press release on 17th March, Amnesty International protested at the killing of peasants in El Salvador and called on the government of the country to halt the campaign of murder and abduction against them. The organization received reports that in Chalatenango Department, a circle of fire was lit around a village to prevent the local people from escaping. Troops then entered the village and killed about 40 people and abducted many others.

During the last two months security operations appear to have intensified and fear of repression is now forcing the peasants to flee their homes and take refuge in the mountains or in San Salvador.●

SARA LITTLE TURNBULL

● Mr. HATFIELD. Mr. President, today I would like to recognize a woman whose creativity, spunk, and determination have allowed her to touch millions of lives. While her professional contributions have recently earned her a prestigious award in the field of industrial and commercial design, it is her vitality, her commitment, and her vision which deserve recognition, as well.

Sara Little Turnbull is perhaps best described as a universal woman. As one of the country's leading designers, she has brought together disparate ideas from space age technology, and created common and necessary tools for living. Her designs have included products ranging from the face masks which were worn shortly after the Mount St. Helens eruption, to nutritious soybean rope candy for kids, to the fashionable Corning dishware which can be handled in everyday use. She is a generalist with wide experience. And a catalyst of society's best ideas.

Mr. President, I submit for the RECORD an article which appeared in the Seattle Times on this outstanding woman.

The article follows:

SARA LITTLE TURNBULL

If you happen to walk by the bus station some day and see a short, well-dressed woman with her hair up in a bun getting off the bus from Ellensburg looking as if she knew everyone on board, you've probably seen Sara Little Turnbull on one of her commutes from Vantage en route to New York.

Vantage? To New York?

That's right, but that kind of long-distance commute is only one of the little things that's interesting about this tiny woman—she stands comfortably under five feet—who is one of the country's leading industrial and commercial designers.

That may not sound too interesting—industrial and commercial design. But when you hear Sara Little Turnbull talk about it, it becomes fascinating. I remember having dinner several years ago with a group of Englishmen and Irishmen who always seem to tell stories better than anyone else.

One man, an English priest, told a hilarious story about a naked woman in a holy water font and the poor young cleric who had to deal with the situation. It was, he said, the kind of story on which one could dine for a week.

That's the way Ms. Turnbull can tell a story. And she has enough of them to tell from the days she helped Lever Brothers design a jar for cold cream to figuring a way for an English toffee manufacturer to market its candy in the United States.

Ms. Turnbull is one of those Northwest people you run into with increasing frequency. They have national, even international, reputations and live in various towns and cities around here, largely unknown except by their neighbors and friends.

For example, earlier this year Ms. Turnbull won the Trailblazer Award for 1980 from the National Home Fashion League. That might not sound like much to you, but the group has plenty of clout in the design world. She is the first woman from the Pacific Northwest to win the award.

Sara Turnbull probably has touched your life at one time or another because of her design work. She likes to refer to her job as simply creating tools for living. Behind that casual, offhand description is a career that has touched millions of lives and, in the process, added to the wealth of those manufacturers who sought her ideas.

Take those face masks people downwind from Mount St. Helens are wearing. Ms. Turnbull helped design those masks some years ago when she worked for Minnesota Mining and Manufacturing Co. (The 3M Co.) The mask is a good example of how she works.

Her assignment at 3M at that time was just to read the chemical and industrial specifications of what was then a new product—non-woven fibers. She said she read the same things the scientists read, but with an eye for different uses.

"I usually start with someone who has a need for overview," she said. "I don't want to get involved in what they make as much as what people need."

A couple of things came together for her when she was reading the characteristics of the new fibers on such things as porosity. Her mother was in the hospital at the time, suffering from a postoperative infection. As a result Ms. Turnbull had to wear a surgical mask when she visited, and it was one of the flat, gauze masks used at the time.

"I hated the mask," she said. "So when I was reading the specs about porosity and the fibers and a way to lock them together, one of the things I thought of was a mask.

"I assumed several different roles (in working at 3M)," she said. "I asked questions in the laboratory, questions colored by my experience. I acted as a catalyst, bringing together the most current technology on nonwoven fabrics. I took direction, gave directions and expressed concerns.

"My role in a project ranges from coach, to player, to statistician, concerned spectator and referee—sometimes all within the same assignment. A lot of people are involved in moving an idea from the laboratory to the marketplace—the win belongs to the team, and the most valuable player may never be determined."

Despite the recognition from her peers and the business community, Sara Little Turnbull's name is hardly a household word. But some other products she has helped develop are instantly recognizable—such as Corning's white, flat-top ceramic stove or rope candy for kids (the kind that gives them soybean protein in treat form) or fashionable dishes and cooking ware designed to be mass produced so they can be handled in every-day use.

One of her gifts as a designer is the ability to bring disparate ideas together to create something new and usable. For example, Corning's stove is manufactured from a material designed to resist the extreme temperatures of outer space and bringing spacecraft back to earth. Ms. Turnbull, and the team of technologists and designers with whom she worked, were able to relate that bit of high technology to the all-too-familiar human desire for a stove-top that was easy to clean.

The rest is marketing history.

"In some situations," she said, "decision making and product development take more than an understanding of numbers. There are complex relationships involved, and a generalist with wide experience may be better equipped to deal with the opportunity than the most accomplished specialist."

Ms. Turnbull has used her generalist talents—plus an ability to ask some astute questions—over the years for a surprising variety of clients. In addition to Corning and 3M, her list of clients includes General Mills, Procter & Gamble, Scott Paper, American Can, Revlon, Columbia Broadcasting Co., Lever Brothers and Ford Motor.

In between the corporate clients, Ms.

Turnbull was in advertising as an art director and an editor of House Beautiful magazine from 1941 to 1958, when she set up her own consulting business.

Her life had its beginnings as a gifted underprivileged child in New York City. She says Brooklyn but she actually was born in Manhattan and moved with her family to Brooklyn a few years later. "Once you can claim Brooklyn as your own it's too good not to use it," she said.

She married James R. Turnbull, a forest-products-industry executive, and that eventually brought her to Tacoma. Her husband is former executive vice president of the National Forest Products Association. They live now in Vantage on the banks of the Columbia River.

If you think Ms. Turnbull's life has been glamorous with all the companies she worked for and the travel, consider the odds of making it in her field. In a typical year, more than 17,000 new products will be brought to market and only a handful will be successful enough to pay their own way. What keeps the flow coming is the enormous potential of those few products that make it big. New-product development is a field in which there are few experts and high stakes.

The Trailblazer Award Ms. Turnbull received for her long record of achievement in such a demanding arena has been presented to executives of manufacturing companies, weavers, educators and designers in all areas of specialization. They have in common what the sponsors call "a significant influence on the quality of life."

That's what a design career—Sara Little Turnbull's career—is all about. She has dedicated herself not only to designing but also to communicating to others the role of design in our society. Her Sara Little Design Center, which she donated to the Tacoma Art Museum in 1974, is a combination exhibit of her private collection and a research and learning center for students.

"One of the negative aspects of our present era of name designers," she said, "is that it projects the image of the designer as a curious person who creates by magic and whose signature on a belt or a scarf or a building makes it valuable. Although it heightened the awareness of design, it has created a misconception about design.

"A signature on a belt or a scarf doesn't make it valuable the design makes it valuable."

Ms. Turnbull has some very definite ideas about how to operate in the corporate world.

"If management starts getting too clubby with me or if management leans on me," she said, "I know my life is short with that company. I usually go with the troops, I let the troops go to the top with the brownie points."

How would she describe herself?

"I'm like a PT boat in a naval formation," she said. "I'm small, fast and accurate. I drop my bomb and run like an s.o.b. and move out of the way to let the battleships move in. You have to know when to get in and when to get out.

Incidentally, she say:

"In 20 years in the business world I have written two memos."

She said her "kicks" come when things start to happen and even then its more a private excursion, a knowledge that she's done her job and something creatively useful is beginning. She's mostly part of the stories that don't make the papers, because by the time the hoopla begins and the cheering starts, her job is over .

Ms. Turnbull is trimming back her practice a bit these days as she moves on to other things. She's a candidate for the boards of directors of several companies, where she plans to ask the right questions.

Asked about the fact that some companies are putting "token" women on their boards to avoid questions from shareholders, Ms. Turnbull said it would bother her a lot if she thought she were a token.

"I'm not a token lady," she said. "I don't think of myself as a woman breaking into the business world. "I've been there—I belong there."

EPA AND OIL IMPORTS

● **Mr. McCLURE.** Mr. President, I am certain we would all agree that freedom from foreign oil is a fundamental goal of our Nation. We as Senators have the responsibility to examine Federal policy and decide where adjustments can be made in order to meet this goal as soon as possible.

The EPA, October 1, plans to reduce further the amount of lead allowed in gasoline. The three-point drop in grams per gallon permitted will require the use of upward of an additional 100,000 barrels of oil per day, costing Americans upward of an additional billion dollars per year.

There continues to be no evidence that any segment of the population will be harmed in any way if these lead standards remain the same. As a matter of fact, when this issue was addressed in 1979 during the gasoline shortage, the EPA itself substantiated this claim. The President, alarmed by our import quota, directed the EPA to postpone implementation and after much delay the EPA did so stating:

> EPA believes that this short-term relaxation of the lead standards from 0.5 gpg to 0.8 gpg will not have a substantial effect on the public health and welfare.
>
> While the relaxation may reduce the margin of safety related to health effects of lead emissions, it represents, nevertheless, a continued decrease in airborne lead from gasoline.

The purpose of the lead regulations, first set in 1973, is a part of the Clean Air Act to reduce airborne lead and any possible harmful effects of air pollution. In 1978, the Agency set an ambient air quality standard (AAQS) for lead of 1.5 micrograms per cubic meter over a 90-day average. When EPA set this standard its own data showed that 194 of the 247 air quality regions in the United States already were meeting the standards. The average lead content of gasoline being sold in this period was between about 1.7 gpg and 1.9 gpg. Thus, 194 regions were already meeting the air standard even with an average gasoline lead content of no less than 1.7 gpg.

It was obviously not necessary to reduce further the lead content of gasoline in those 194 regions. Nevertheless, since January of 1978, except in California, the national lead limit for gasoline has been 0.8 gpg. Today, 90 percent of the Nation's air quality control regions are meeting the AAQS.

Studies have indicated that unleaded gasoline is used to a much greater extent in major metropolitan areas—areas where EPA has expressed concern about possible effects in young children—meaning that at a nationwide 0.8 gpg the lead content in metropolitan areas would be significantly lower. In fact, for the first half of 1980 the best estimates of pool-lead levels in Chicago and New York City are at or below 0.5 gpg. The natural phase-down, the increased use of catalyst-equipped automobiles, continues to occur regardless of further EPA reduction.

In order to meet the new EPA standard but yet manufacture gasoline with a high enough octane rating sufficient to satisfy modern engines, extra refining process are required using more crude oil and energy. The higher the octane quality of the material resulting from the reforming process, the less its volume. This material is also highly valuable as raw materials, or feedstock, for petrochemical manufacture into the varied products the petroleum industry produces. Therefore, refiners forced to reduce lead additives essentially are faced with tough decisions. They may process more crude oil, which necessarily will be from foreign sources at extremely high prices to maintain their current gasoline production. They may decide to reduce necessary feedstocks for their petrochemical operations. Or, they may elect to reduce the amount of gasoline or other products they presently manufacture.

Therefore, EPA's insistence that it will press forward with its phase-down is wasteful, unnecessary, and inconsistent with stated administration policy enunciated in 1979 by President Carter.

In the introduction to the White House factsheet of April 5, 1979, in which he directed the EPA to defer the 0.5 gpg lead limit for 1 year, the President of the United States said:

> In both the short and long term, conservation remains a cornerstone of U.S. energy policy. It is still cheaper in most instances to save a barrel of oil than to buy one, either from foreign or domestic sources.

I call on the President to renew this directive.●

IMMIGRANTS ARE NOT A BURDEN

● **Mr. SCHMITT.** Mr. President, the New York Times has recently reported on a study by Professors T. Paul Schultz of Yale University and Julian L. Simon of the University of Illinois. The study was prepared for the Select Commission on Immigration and Refugee Policy in an effort to determine whether immigrants are a "tax burden" on this country. The data base consisted of 150,000 families from a 1976 Census Bureau survey.

Their findings tend to confirm an earlier study using 1970 census information by Dr. Barry R. Chiswick of the University of Chicago. The study found that nonrefugee immigrants who have come to this country start earning more, on the average, than native-born Americans after approximately 10 years in the country. The study also found that these immigrant families tend to emphasize education for their children to a larger extent than do native-born families.

Immigrants also contribute substantially more in taxes than they take in social services. Professor Simon stated that in 2 to 6 years, immigrants pay roughly the same in taxes that native Americans do while taking less from the public coffers than they paid in.

I think that this study will be of great importance to the Commissioners as they deliberate on their policy recommendations. It will certainly enable the Commissioners to refute the arguments made by some that aliens are using up an inordinate amount of social welfare services.

As many of my colleagues know, I have introduced S. 1427 (the United States-Mexico Good Neighbor Act) which would create a temporary worker program with Mexico. Solidly based on modern research, such a progam only makes commonsense, yet some critics have made these claims about immigrant usage of social services in an effort to block or halt such needed programs from going forward. It is my sincere hope that when the Commission finally acts it does so on the basis of studies such as this one which appear to be factual and not on the basis of unsubstantiated claims or unwarranted fears.

Mr. President, I request that the article I referred to be printed in the Record.

The article follows:

Federal Study Finds Immigrants Are Not a Burden on Taxpayers

(By Robert Pear)

Washington, September 21.—Immigrant families start earning more than native-born American families, on the average, within 10 years after arriving in the United States. Further, according to research done for a Federal study commission, from the time of their arrival, they contribute more in taxes than they take in public services.

The studies also show that children of immigrants, after an initial disadvantage, tend to overtake the children of native-born families in academic performance, as measured by years of schooling and percentage of children completing college.

Prof. T. Paul Schultz, an economist and demographer at Yale University, sought to explain the scholastic achievement of immigrant children by suggesting that immigrants were "selectively drawn from their country of birth" and "more strongly inclined to invest in their children's schooling than are native American parents." Professor Schultz said in an interview last week that "years of schooling completed is a powerful predictor of lifetime earnings."

Professor Schultz and Prof. Julian L. Simon, an economist at the University of Illinois at Urbana-Champaign, studied the schooling and earnings of immigrant families at the request of the Select Commission on Immigration and Refugee Policy, which was created by Congress to recommend changes in immigration law.

The studies did not distinguish between legal and illegal immigrants, although the researchers said other studies had shown that there was generally not much difference in the economic progress of legal and illegal immigrants from the same country.

Their findings are likely to add fuel to the controversy between those who see immigration as a potential boon to the nation's economy and those who say that immigrants will take jobs and scarce resources from those who are already here.

Professor Simon concluded that "the average immigrant is a remarkably good investment for taxpayers." He found that immigrants were "not heavily on welfare or unemployment compensation rolls, as the popular wisdom has it."

Professor Schultz said, "We tend to attribute more problems to immigrant groups than is warranted from what we have seen in their rapid upward mobility in our society."

The studies by Professor Schultz and Professor Simon, based on a computer analysis of data from a 1976 Census Bureau survey of 150.000 families, represent a sophisticated attempt to measure the economic costs and benefits of immigration. Their research tends to confirm and extend the findings of Prof. Barry R. Chiswick, an economist at the Chicago Circle campus of the University of Illinois, who demonstrated the upward mobility of immigrants with 1970 census data.

Refugees were included with other immigrants in the 1976 survey, but the sample likely did not include many Indochinese or other recent refugees. Professor Chiswick has suggested that refugees take somewhat longer than other immigrants to achieve economic parity with native-born Americans, apparently because the refugees are driven by political forces and are not "self-selected" for innate ability and work motivation.

Although the researchers noted that there had been large numbers of refugees in the last five years, they said they believed the influx would not fundamentally change their findings in the long run.

Professor Chiswick found substantial differences in the economic progress of immigrants, depending on where they came from. Non-Hispanic whites, Japanese and second-generation Chinese fared better than Mexicans and Filipinos, he said.

"Somewhere between two to six years after entry," Professor Simon reported, "the average immigrant family comes to earn about as much as the average native family, and after that earns more. The rapid approach to equality is heavily influenced, of course, by age and education composition, and especially the absence of retired family heads among the immigrants."

"Many native families are retired and get Social Security," Professor Simon observed, "whereas the immigrants tend to be young people of working age with few children when they arrive."

The available data, he said, suggest that "it takes perhaps 10 years for the average immigrant working family to attain the same income as the average native working family."

Professor Simon also found that immigrants in their first 12 years in the United States, "use substantially less public services, largely due to less use of Social Security because of youth, than do native families." After 12 years, he said, the levels of use are "roughly equal."

On a related subject, Mr. Simon said that "after about two to six years, immigrant families come to pay as much in taxes" as native families, and "after that they pay substantially more." The financial "net balance" every year is in favor of natives, he said; "that is, immigrants contribute more to the public coffers than they take from them."

Roger Conner, executive director of the Federation for American Immigration Reform, a nonprofit group that wants to end illegal immigration and reduce legal immigration, said that such calculations were misleading because they did not count the full costs of providing government services to immigrants. The costs, he said, include not only welfare and "income transfer" programs, but also a share of the costs for national defense, road construction, schools, police and fire protection, and other community services.

Professor Simon said that immigrants were paying for their share of community services through taxes.●

FCC DEREGULATION OF CABLE TELEVISION

● Mr. MAGNUSON. Mr. President, I would like to bring to the attention of my colleagues the decision of the Federal Communications Commission this summer to eliminate the syndicated exclusivity and distant signal rules.

The FCC's action comes at a time when cable television is rapidly expanding. Today, more than 20 percent of the households in the United States subscribe to a cable service. New systems offer an increasingly wide range of programing, including sporting events, movies and news services. Cable television is no longer a mom and pop operation designed primarily to enhance viewers' capacity to receive broadcast signals.

It is only reasonable to expect that the laws and regulations affecting cable will be revised to reflect the changes the industry has undergone. However, it must be noted that the legal framework governing cable has evolved in such a manner that the actions of Congress, the regulatory agencies and the courts are inextricably related. This body of law also affects those who supply much of cable's programing—local broadcasters and owners of syndicated programing. As a result of the FCC's deregulation of cable, we can expect local broadcasters and program owners to seek revisions in the Copyright Act of 1976 in the 97th Congress.

By a narrow 4-to-3 vote, the Commission abolished two controls on cable television which have been in effect since 1972. The syndicated exclusivity rule repealed by the FCC allowed local broadcasters to license on an exclusive basis syndicated programing. If a broadcaster purchased the rights to old episodes of a particular series, he was permitted to demand that a cable system black out those episodes for a 24-hour period or replace them with nonduplicative programing. The Commission's action will now allow cable systems to have their choice of syndicated programing without interference from local broadcasters.

The FCC also repealed the so-called distant rules. Prior to the Commission's ruling, cable systems were strictly limited in the number of "distant signals" they were able to bring into a market from another city. Cable systems may now import an unlimited number of distant signals.

Congress established a legal framework for television carried to distant markets by cable systems when it approved the Copyright Act of 1976. The Copyright Act for the first time statutorily recognized the FCC's jurisdiction over cable. The act also addressed the concerns of broadcasters and copyright owners regarding the retransmission of their programs by cable systems by setting out a formula determining the license fee in return for the right of retransmission.

A cable system's license fee for retransmission of distant signals is paid in a lump sum to the Register of Copyrights each year, rather than directly to program owners. The fee is based on a formula taking into account the revenues of cable systems and the number of distant signals they import. The Copyright Royalty Tribunal, a five-member board appointed by the President, is responsible for dividing those fees equitably among the owners of programing shown on cable. In 1978, cable systems, which reported revenues of $1.5 billion paid, paid $14 million in fees for this programing. The Copyright Tribunal may also adjust the fees in response to FCC changes in the distant signal and syndicated exclusivity rules, although Congress did not anticipate the Commission would abolish the rules altogether.

Mr. President, a system of laws and regulations has yet to be devised which is satisfactory to cable operators, local broadcasters and the owners of syndicated programing. Local broadcasters and program owners can be expected to appeal the FCC's decision to deregulate cable in the courts and request the Copyright Tribunal revise the rates cable systems pay for use of syndicated programing. I also believe it will be necessary for Congress to review the Copyright Act in light of the Commission's action in order to assure that the best interests of the viewing public are protected.●

THE NUMBERS GAME

● Mr. SCHMITT. Mr. President, I have been inserting various articles in the Record concerning the problems of the undocumented workers from Mexico. To assist in solving this problem I have introduced S. 1427 (the U.S.-Mexico Good Neighbor Act) which would create a temporary workers program.

One of the most difficult aspects of this problem is deciding how many illegal aliens are in the United States and how long they stay. Immigration and Naturalization Service apprehensions (which exceeded 1 million last year), while including many repeaters, do lend a base to the numbers. Due to the historical ebb and flow of migrants across the border it has not been until recently that valid research has been conducted in this area. The data gathered by these newer studies has led me and other legislators in the House and Senate to believe that a temporary workers program makes good sense.

The San Diego Union has printed a series entitled "Southwind" by Richard Louv and in his third article "The Numbers Game" he has addressed this problem. The article discusses not only the number who have migrated (whether temporarily or permanently) but also highlights their impact on our society.

Mr. President, I ask that the article be printed in the Record.

The article follows:

The Numbers Game

For 70 years, the migrants worked more or less legally in the United States. They were recruited to build the skeleton to which the Southwest's economic flesh is now attached: the railroads, the irrigation systems. Some of the migrants returned to Mexico and some remained in the railroad camps of the north, which gradually grew into barrios. And there the culture slept, invisible.

Jobs and hope might be found in the United States, but the migrants' souls remained in Mexico. Unlike the Italian, Irish or Polish immigrants, the Mexicans could easily return home, driving south along the Pacific Coast Highway, or west along Interstate 40 or 10 and then south. The highway system was a cultural bloodline; along it flowed language, customs and family. And north came the new migrants, in stake-trucks and broken-down Fords. Some of them stayed, and some returned to Mexico, and always the bloodline pumped, refreshing the ethnic culture and language.

In the 1940s, the coming of the bracero program strengthened the bloodline. Recruiters went deeper into Mexico than ever before; radio announcements lured workers from mountain villages unreachable by road. Contracted to work in seasonal agricultural jobs, the braceros travelled back and forth between the two countries. A hundred thousand a year were contracted by U.S. employers during the 1940s, up to 400,000 a year in the late 1950s.

Along Highway 99, from the Imperial Valley in the South to the Sacramento Valley in the North, bracero camps formed what critics of the program called "the longest slum in the world." The braceros could be shuttled from one place to another when labor disputes arose; their presence helped keep farm labor from organizing and made minimum wage legislation difficult to pass. So the bracero program was phased out in the early 1960s. Congress went further: legal immigration quotas were drastically reduced.

By this time, though, the circulatory nature of the bloodline had grown strong, economically as well as culturally. The growers of California and Texas were hooked to it, hungered for it; and the families of Jalisco, Oaxaca and Michoacan hungered without it. With no real choice, other than starvation, the migrants continued to come north during picking seasons. And while they once had been prized by the U.S. government, now they were considered criminals.

Like Viet Cong crossing the demilitarized zone, the migrants were tracked and counted by electronic sensors. Curious, crude technology, the little boxes (some were hand-made) were hidden in the chaparral, mesquite and along the rocky ridges. Throughout the early 1970s, the sensors counted the migrants as they slipped across the border. But not only did the sensors count illegal aliens, but also cows, goats, coyotes and small wild animals.

The Immigration and Naturalization Service (INS) used other counting methods, however.

The agency guessed how many illegals it had not caught and added that to the number of apprehensions. And since there was no way of measuring the return flow, the INS guessed. It assumed that only 2 percent returned. Astonishingly, it based this estimate on how many legal European immigrants to the U.S. subsequently returned to Europe. According to several recent studies, however, the real return rate for Mexican migrants is closer to 90 percent.

In 1975, INS Commissioner General Leonard Chapman reported a "vast and silent invasion of illegal aliens." Chapman, a former commandant of the Marine Corps, announced that 12 million illegal aliens were in this country, at least 8 mililon of them Mexican. A flurry of headlines resulted. "Invisible Invasion," they screamed, and "Illegal Aliens Flooding the U.S."

Chapman called for a Border Patrol of more than 200.000 officers, equal to the Marine Corps. Like-minded politicians demanded stricter immigration laws, a beefed-up INS, with more officers, more technology, more sensors. Former CIA Director William Colby echoed Chapman's warning: the Mexican "invasion," he asserted, was a greater threat to national security than the Soviet Union.

Barely two months after Chapman released his estimate, at the urging of his own department experts, he revised the estimate from 8 million Mexican illegals to 6 million.

Today it appears the general's original figures may have been two to five times the actual number.

As of 1977, the CIA estimates 4 million Mexican illegals are in the United States at any one time.

A major University of Texas Study came up with 1.5 to 3 million.

And the lowest estimate to date is 1.4 million, recently announced by the University of Southern California's (USC) Population Research Laboratory.

The key to the new estimates is the peculiar nature of the Mexican migration, the back and forth movement of the migrants between the two nations. Now some experts are asserting that a shift is occurring from seasonal agricultural jobs to service industries and construction.

"Since most of these jobs are not seasonal, the migrants have less incentive to return home," says Dr. Vernon Briggs Jr., a labor economist at Cornell University and a leading proponent of a tougher border policy.

"What I maintain," says Briggs, "is that, though the original figures were too high, the shift to non-agricultural jobs is going to mean more and more illegals will remain in the United States. It may only be 3 million now, but in a few years it may be 8 million."

Among the workers studied by UCSD's Dr. Wayne Cornelius, however, even the skilled Mexican illegals working in service or construction industries wanted to return to Mexico. They disliked the United States: they thought it was a poor place to raise children; they were here only out of economic necessity; and they planned to return to their home villages as soon as they saved enough money for land, a house or to educate a child.

As Cornelius sees it, a gradual tightening of the border, through increased manpower and hardware, may turn what is now a largely floating population into one more permanently anchored in the United States.

The more the Border Patrol cracks down, he maintains, the more the migrants would actually be discouraged from returning to Mexico. For many of them, the constant hardship and growing expense could make the back-and-forth trek no longer bearable. Especially for the unskilled, rural migrants, the only option—other than starving in Mexico—would be to settle permanently in the United States, and gradually bring their families north.

According to Cornelius, any new policy (a guest worker program, for instance) should facilitate the back-and-forth movement, rather than encourage permanent immigration.

Such ideas are only now beginning to surface in the press. In the political climate created by Chapman's announcement, there was little room for discussing a worker program or similar proposals. A year after his report of the "invisible invasion" the Gallup Poll revealed that more than half of the American people were in favor of mass roundups and deportations to rid the country of illegals. Illegal aliens were thought to be contributing to the rising crime rate; they were considered "welfare cheats" and "taxpayer rip-offs", even though later studies proved these assumptions wrong.

By then, a new wind was rising, an ethnic awakening among Mexican Americans, a flexing of cultural power. While the politicians and academicians had been arguing over the exact number of illegal aliens, something far more profound and powerful was happening. For a century, the bloodline, the back-and-forth movement between Mexico and the United States, had been strengthening the Mexican-American culture. The affect was more than numbers; it was the sum of language, custom, family.

With the Chicano movement, Hispanics begin to stand up. "America's best kept secret," as one Chicano activist called it, suddenly became visible. In a period of consciousness-raising similar to that achieved by blacks. Mexican-Americans became proud of their culture and language. Hispanic children in public schools were no longer discouraged from speaking Spanish. In effect, the bloodline was exposed.

The message was not last on the business world. A unique market was revealed, one which demanded special linguistic and cultural marketing. Spanish billboards, Spanish commercials; warranties in Spanish, sales seminars in Spanish. Thirty-four television stations, 430 radio stations broadcasting some or all of the time in Spanish, all aimed at the newly discovered market, the 7 million Mexican Americans and 5 million other Hispanics.

Under this media barrage, it is understandable that so many people believe the U.S. is being invaded by Hispanics. But, because of the special nature of the Mexican migration, the "invasion" may be more cultural than numerical. The illusion may be greater than the fact.

Experts as disparate in their views as Wayne Cornelius and Vernon Briggs agree that the original figures disseminated by the INS were bloated. They also agree that contrary to the headlines which claim the migration is "out of control," an "unsolvable problem," it is probably still a manageable size. And thirdly, they agree that something quickly has to be done, for the sake of migrants as well as the U.S.

What precisely that should be, is another question.

THE RISING HISPANIC MARKET

Frito Bandito is dead. After decades of neglect, U.S. corporations are suddenly recognizing the purchasing power of the huge Hispanic market, 60 percent of which is Mexican-American. The newly discovered market, concentrated in ten major cities (including New York, Chicago, El Paso, Los Angeles and San Diego) is estimated at $15–$50 billion annually.

In reaching this market, stereotypes don't work.

"You can't reach the Hispanic consumer if you debase him. And you can't reach him if you treat him no differently from the rest of the market, if you ignore his cultural and linguistic uniqueness," says Loretta Adams-Esquivel, president of Market Development, a new San Diego company helping businesses adjust to the rising Hispanic market.

"Corporations are having to learn a lot about the Latin culture in a very short time," she says. Ironically, the recognition of this market may stimulate more cultural interchange between Anglos and Hispanics than at any other time in our history.

Realizing that the United States is fast becoming a bilingual nation, corporations such as Coca Cola and McDonald's have established Spanish advertising campaigns. Whirlpool Corporation, maker of large home appliances, is now providing warranties written in Spanish. Johnston's Yogurt company is test-marketing its products, with Spanish labels, in Spanish-speaking communities. (A spokesman for Johnston's admits that the cross-cultural chasm may be too wide for yogurt to breach.)

Spanish billboards are springing up all over cities with large Hispanic populations. The explosion is so new, in fact, that many of the billboards and advertisements contain Spanish misspellings and sexual double-entendres. According to the trade publication Advertising Age, one cigarette company advertising "low tar" cigarettes used a phrase which translated: "low-asphalt." Slight mispronunciations in Spanish commercials for the Chevrolet Nova changed "Nova" to "doesn't go." And one company considered marketing a drug called "Vidi," until it discovered a slightly different Spanish inflection changed the word's meaning to: "I died."

"The Hispanic group-orientation—their concept of the extended family—is going to challenge our basic advertising techniques, which are focused on the individual. They're bringing more than money and labor, they're bringing cultural aspects lost to Anglos," says Adams-Esquivel.

"For example, you don't market liquor to the lone Mexican drinker. One liquor company I consult for wondered if Hispanics drink at a bar, alone. But Mexican-Americans don't drink that way; alcohol is associated not with bars, but with big family and social gatherings.

"I'll never forget one Mexican-American woman's comment. I was exploring which commercial approach would be best for coffee: the richness of the coffee bean, or the social setting. I asked this woman if she associated coffee with relaxing, alone. She looked surprised. 'No, no,' she replied, 'we're never alone.' "

Why is the Hispanic market receiving so much attention?

"Basically, because they're not melting into the pot, they're not assimilating like other immigrant groups have," says Marcelino Miyares, president of OMAR, a Chicago-based research and advertising company that has been focusing on the Hispanic market for 10 years.

"The back-and-forth movement of Mexican laborers between the U.S. and Mexico continually refreshes and strengthens the Latin culture here," he says.

Miyares estimates that half of Chicago's Hispanic population cannot read or speak English.

In addition to the back-and-forth movement, is the migrant population that stays permanently in the United States, bringing with it Hispanic culture and language.

Eight years ago, Mexican food was sixth on the list of ten favorite foods in the U.S. It is now second, separated from Italian food by only a few percentage points—and catching up quickly.

"The sudden surge of popularity of Mexican food is indirectly linked to the migration," says Dr. Ricardo Romo, associate professor of history at UCSD:

"Good, low-wage Mexican cooking talent is always coming north, always available."

Another reason for the corporate excitement is the staggering Hispanic growth rate. The U.S. Census Bureau registers a 23-percent increase in Hispanic population between 1970 and 1976, compared with only 6 percent for the total U.S. population.

"We don't know how much of this increase is due to illegal aliens," says Dr. Michael Conroy, an economist at the University of Texas. "Most of the increase probably results from the high birth rate among Hispanic-Americans, and not because of a 'flood' of illegals."

In fact, some experts contend the birth rate for illegals living in the U.S. is much lower than for Hispanic-Americans, and about equal to that of middle-class, Anglo couples.

Illegal aliens, do, however, spend in the United States about 70 percent of what they earn—a significant addition to the Hispanic market.

"The whole thing—the Hispanic market, legal Mexican immigration, the undocumented workers—everything is entwined in people's minds," says Marcelino Miyares.

"Advertisers and corporations hear about Mexican oil funds and about millions of new consumers supposedly 'flooding' the U.S., and they suddenly realize there's a big market out there. People start seeing Spanish billboards and Spanish TV commercials and they become convinced the U.S. is being overwhelmed.

"The truth is, though, by virtue of being different, in this electronic media-oriented system, our impact is likely to be greater than our numbers."●

ORDER FOR RECESS TODAY UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, is there an order for the convening of the Senate on tomorrow?

The PRESIDING OFFICER. There is not.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR REDUCTION OF TIME FOR TWO LEADERS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders be reduced to 5 minutes, to be equally divided, on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the recognition of Senators on tomorrow?

The PRESIDING OFFICER. There are none.

Mr. ROBERT C. BYRD. I thank the Chair.

RECESS UNTIL TOMORROW AT 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered that the Senate stand in recess until the hour of 11 a.m. tomorrow.

The motion was agreed to and, at 6:40 p.m., the Senate recessed until tomorrow, **Thursday, September 25, 1980, at 11 a.m.**

HOUSE OF REPRESENTATIVES—*Wednesday, September 24, 1980*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O God, we give thanks that people from all parts of this world can know Your presence and come to You in prayer, in spite of our weakness or failure or lack of faith or whatever our background or condition. You still hear all people who earnestly seek Your pardon and reach out for strength. We rejoice, O God, that we can call upon You whatever our need.

Speak to us in this our prayer that we will know Your will and become the people You would have us be. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 3748. An act to provide for a uniform national 3-year statute of limitations in actions to recover damages for personal injury or death, arising out of a maritime tort, and for other purposes;

H.R. 6242. An act to establish a Towing Safety Advisory Committee in the Department of Transportation; and

H.R. 7919. An act to provide for the settlement of land claims of Indians, Indian nations and tribes and bands of Indians in the State of Maine, including the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, and for other purposes.

The message also announced that the Senate agree to the amendments of the House to a bill of the Senate of the following title:

S. 2271. An act to amend the Bretton Woods Agreements Act to authorize consent to an increase in the U.S. quota in the International Monetary Fund.

The message also announced that the Senate insist upon its amendment to the bill (H.R. 6790) entitled "An act to promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes," disagreed to by the House; agree to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoint Mr. Church, Mr. Pell, Mr. Biden, Mr. Tsongas, Mr. Javits, Mr. Percy, and Mr. Helms to be the conferees on the part of the Senate.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 6308. An act to provide for an accelerated program of research and development of magnetic fusion energy technologies leading to the construction and successful operation of a magnetic fusion demonstration plant in the United States before the end of the 20th century to be carried out by the Department of Energy;

H.R. 6665. An act to implement the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, and for other purposes;

H.R. 7203. An act to amend the Public Health Service Act to revise and extend the programs for the National Health Service Corps and to revise and extend the programs of assistance under titles VII and VIII of such act for the education of health professions personnel, and other purposes; and

H.R. 7309. An act to designate the Federal building in Portland, Oreg., the "Edith Green Federal Building."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1135. An act to add certain lands to the Moapa Indian Reservation, and for other purposes; and

S. 3044. An act to designate the U.S. Federal Building in Hartford, Conn., as the "Abraham A. Ribicoff Federal Building."

The message also announced that the Secretary be directed to request the House of Representatives to return to the Senate the bill (S. 2724) entitled "An act to extend authorization for law enforcement assistance at Corps of Engineers projects."

THE LATE HONORABLE ROBERT WINTHROP KEAN

(Mr. RODINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RODINO. Mr. Speaker, yesterday I was saddened to learn of the death of a former colleague, Robert Kean. When I entered Congress in 1949 Robert Kean was the Dean of the New Jersey delegation and I remember his dedicated work for the people of New Jersey. In the 20 years that Robert Kean served in Congress from 1938 to 1958 he made quite a record. As the ranking Republican member of the Ways and Means Committee he became a leading force behind the enactment of social security. In fact, his expertise and commitment to fight for the social security system earned him the title "Mr. Social Security" in the House.

It was a privilege for me to serve with Robert Kean, and I know New Jersey was fortunate to have him in Congress. But public service and patriotism were not new to the Kean family. His great-great-great grandfather was a member of the Continental Congress and his great-great-great uncle, William Livingston, was the first Governor of the State of New Jersey. Another of his uncles was a Congressman and U.S. Senator from our State.

And only recently I learned of his kinship with the distinguished gentleman from New York, my colleague and friend, Hamilton Fish, Jr.

Robert Kean carried on this outstanding family tradition and the State of New Jersey is better off for it. He was a well respected man, a decent man. I join with the citizens of New Jersey and the country in mourning the loss of one of our most prominent citizens and a fine public servant.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the distinguished minority leader, the gentleman from Arizona.

Mr. RHODES. I thank the gentleman for yielding.

Mr. Speaker, I would like to associate myself with the remarks that the gentleman from New Jersey has made.

Bob Kean was here when I got here, and he was a distinguished Member of the House in every way. As the gentleman has stated, he was truly one of the experts on social security.

I remember when I was a freshman being a little bit mystified about some of the fine points of social security, and Bob Kean was always available to help to straighten me out when I needed it.

So I join with my friend in mourning the loss of Bob Kean and in extending sympathy to his family.

Mr. RODINO. I thank the gentleman for his remarks.

Mr. FISH. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from New York.

Mr. FISH. I thank my distinguished chairman (Mr. Rodino) for his kind remarks, and join with him in expressing my deep sympathy to the family of our distinguished former colleague, Robert Winthrop Kean, of New Jersey.

Robert Kean graduated from Harvard College in 1915. He served with Squadron A in the New York National Guard on the Mexican border in 1916. In World

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

War I he was a first lieutenant with the Second Division of the American Expeditionary Force in France. He was awarded the Distinguished Service Cross and the Silver Star for gallantry in action.

First elected to Congress in 1938 from the 12th Congressional District, Robert W. Kean served on the Banking and Currency Committee. He was to become the ranking Republican on the House Ways and Means Committee.

During his 20 years in the House, Congressman Kean earned a reputation as a leading authority on social security, taxation, and veterans' affairs. He was the author of comprehensive bills dealing with the extension of social security.

During the Truman administration, he headed an investigation of the Internal Revenue Service. The inquiry led to changes in the Service's structure and policies.

Again, my sympathy to the family of this exemplary public servant.

● Mrs. FENWICK. Mr. Speaker, I would like to join my colleagues in this tribute to the memory of Robert Winthrop Kean, distinguished public servant and former Member of this House, by repeating the remarks I made yesterday in the House, when first I heard the sad news of his death.

He served in this House, as many of us may remember, in nine succeeding Congresses from January 3, 1939, to January 3, 1959. He served on the Mexican front. He was decorated in the First World War with a Silver Star Medal and the Distinguished Service Cross. Much more than this he was respected and loved in every place where he served, at home, in his hometown and State, and here in Congress. He was a man of integrity and honor and those qualities marked his service. He came of a family which served in this House in the 19th century as well as in this century. His uncle served as Congressman and Senator. Theirs is one of the most distinguished families in New Jersey from the point of view of honorable public service. I thought his memory should be brought to the House this day, the day after the day he died.●

GENERAL LEAVE

Mr. FISH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the life, character, and public service of the late Honorable Robert Winthrop Kean.

The SPEAKER. Is there objection to the request of the gentleman from New York.

There was no objection.

SUPPORT OF NUCLEAR ENERGY IN MAINE

(Mr. PRICE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. PRICE. Mr. Speaker, the results of the referendum in Maine yesterday supporting the utilization of nuclear energy is an example of citizens activity in the highest sense of public responsibility. The issue concerned the continued operation of a nuclear generating plant in Maine which has an equivalent generating capacity of nearly a million barrels of oil per month. Such units provide our most significant contribution to the solution of our critical energy problem.

The thanks of all of us is due to the citizens of Maine for their action yesterday in support of the national security and welfare of this Nation.

It is truly difficult to understand continued opposition by a significant minority in our Nation to nuclear energy. This is particularly true at this time when the dreaded shutdown of the Persian Gulf petroleum supplies is taking place.

We had planned to have sufficient nuclear and coal energy generating capacity in existence before this dreaded time.

It is indeed unfortunate that we were thwarted in this goal, but still the nuclear and coal route remain as our only practical solution to our energy problem and therefore we must continue to press for its accelerated utilization.●

TUG FORK, W. VA., PROJECT VIOLATES RULES OF THE HOUSE

(Mr. ROBERTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROBERTS. Mr. Speaker, the House is in the process of considering H.R. 7590 this afternoon. I rise because I am deeply upset by a specific action taken in this legislation. Numbered amendment 36 in this particular bill is an authorization of some $284 million for the Tug Fork project in West Virginia.

Neither this amendment nor any language pertaining to this project belongs in this bill at this particular time. This is a straight authorization in an appropriation bill. It is a direct violation of the rules of the House. It bypasses the authority of a standing committee of this body and makes a mockery of the committee system. The Committee on Public Works and Transportation has already passed a water bill containing an authorization for Tug Fork. A somewhat smaller bill passed the Senate containing an authorization for Tug Fork and now totally out of order we have this project with us once again today.

While I sympathize with the need for the Tug Fork project, while I sympathize with the people who are affected by the operations of the Tug Fork in the States of West Virginia, Virginia, and North Carolina and while I stand second to none in support of needed projects, I say to this body that without proper order this House will soon fall into chaos. This temporary victory gained today by those who would authorize Tug Fork will in the long run turn into ashes for if we continue to move this way the committee system as structured will collapse and the legislative process as we know it will be no longer. Let us show restraint in these matters and leave to the proper authorizing committee the authority to move programs under their jurisdiction.

CONCERN ABOUT TUG FORK, W.VA., PROJECT

(Mr. PERKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PERKINS. Mr. Speaker, I want to assure the gentleman from Texas (Mr. ROBERTS) that I share his concern, the gentleman being chairman of the Subcommittee on Water Resources of the Committee on Public Works and Transportation. The gentleman in the well knows that an authorization for the Tug Fork and Levisa and other areas of eastern Kentucky was passed in 1977, and in the omnibus bill in the Senate the authorization was removed in committee if I remember correctly. Am I correct in that? The gentleman and I went over to see the majority leader after midnight.

□ 1010

Mr. ROBERTS. The gentleman is correct.

Mr. PERKINS. Later, the omnibus bill came over, the day that we adjourned in the House, December of 1978, without the Tug Fork and Levisa Fork authorization, and was attached to another bill other than the omnibus bill when there was no majority in the House of Representatives. Am I correct, later that afternoon after the omnibus bill had already passed?

Mr. ROBERTS. The gentleman is correct.

Mr. PERKINS. Inasmuch as this bill, the authorization in question, passed the House and over in the Senate committee, and the Senate committee had not reported the omnibus bill from committee, it was a very unusual procedure to attach an authorization to the appropriation bill and then appropriate $5 million, but nevertheless, that has been done.

The people down there in my area do not know who to blame for the delay, delay, delay.

I am delighted that the gentleman from Texas (Mr. ROBERTS), since this is unusual procedure, is not objecting, so that we can get some relief down there regardless of the past.

Mr. ROBERTS. If the gentleman will yield further, I am going to vote for the bill. I would vote for anything that the gentleman from Alabama (Mr. BEVILL) and the gentleman from Mississippi (Mr. WHITTEN) bring out on this floor. But I think we ought to look very carefully and guard ourselves from this thing happening in the future.

One other thing, Mr. Speaker, this morning, the Senate refused to accept one of the last bills we sent over. I do not know what is happening over there. Maybe we need to realize that there are two bodies.

Mr. PERKINS. I thank my friend from Texas.

PRESIDENT SHOULD REJECT LICENSING OF JET ENGINES FOR IRAQ

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, I support the President's call yesterday for strict neutrality among the nations of the world in the war between Iran and Iraq.

The escalating danger to the world's oil supply and the safety of our 52 hostages makes that the only responsible course.

In view of the gravity of the situation, I would hope that the majority party in Congress would heed the President's words and reject the administration's request for export licenses for the sale of gas turbine engines for the Iraqi Navy.

Iraq's opposition to U.S. foreign policy and its support of international terrorism provided ample reasons for rejecting this transaction even before the outbreak of war in the Persian Gulf.

The current threat to world peace makes that sale unthinkable.

Mr. Speaker, the conferees are scheduled to meet today on the foreign aid bill. I hope they will consider the President's own words and reject the licensing of jet engines for Iraq.

ELECTION TACTICS UNBECOMING TO PRESIDENT

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, in any Presidential year many unusual things happen. But perhaps not as unusual as this year. I think we should recall that during the primaries President Carter initially said he would debate Senator KENNEDY. That was when he was behind Senator KENNEDY in the polls.

Later, when President Carter began to run ahead of him, he refused to debate and suggested there was something unpatriotic about the Senator even deciding to run against him.

Then we see that President Carter told JOHN ANDERSON at the opening of the Washington bureau headquarters of the Los Angeles Times, about 2 months ago, that he would meet him in the debates. Of course, that is when President Carter was not doing very well. He also told the League of Women Voters he would be very willing to debate Ronald Reagan. That of course was when he was behind in the polls. As he has come up in the polls, he has now suggested he will not do that.

He has called JOHN ANDERSON insignificant, and he suggested last week that somehow Governor Reagan was a racist and yesterday that somehow Governor Reagan was warlike.

Mr. Speaker, this is not the way to run the election of any President of any junior high school student body, and certainly is unbecoming for the President of the United States to act in this manner.

DEPRESSED HOMEBUILDING INDUSTRY NEEDS OUR ATTENTION

(Mr. WINN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WINN. Mr. Speaker, this week FHA-VA mortgage ceiling rates were raised a full point, from 12 to 13 percent. As a former homebuilder, I built a lot of homes in the Kansas City area, and I know what a rise in interest rates does to the homebuilding industry. For every 1 percent rise, about 1½ million households are shut out of the market—they cannot afford to buy their own home.

This has been a very difficult period for the housing industry—down 34 percent for the first 8 months of this year. The interest rate ceiling has bounced up and down—seven changes this year. I was hoping that the time of high rates had passed.

I know that the FHA-VA ceiling has to stay in touch with the marketplace, and the conventional loan rate is now 13¾ percent and higher. But the general problem of high interest rates and a depressed homebuilding industry needs our attention. And certainly the fact that the administration is backing these raises in the ceiling does not jibe with promises that recovery is already here.

PRESIDENT'S COMMENTS MAY HAVE DAMAGED HOSTAGE SITUATION

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, I heard on the radio this morning that President Carter has publicly commented on the Iran-Iraq hostilities, especially with regard to its effects on the hostages. The report on WRC said the Iranians reacted with rage to what they apparently interpreted as an offer by the President to swap the hostages for spare parts for Iran's armed forces.

While this no doubt was well-intentioned, it demonstrates once again the shortsightedness of many administration actions. He should have foreseen that any such statement would simply confirm the suspicion among many in Iran that the United States is behind the hostilities; thus, by his statement, he may have played into the hands of propagandists, both in Iran and the Soviet Union, as well as complicating the hostage situation.

While Mr. Carter has an understandable anxiety with regard to the hostages, it would be far better if he had stayed with his original position of not commenting on the war.

PRESIDENT CARTER HAS STATED HE WILL DEBATE GOVERNOR REAGAN

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, time after time some of our colleagues take this rostrum and address themselves to the question of the Presidential debate. Many things have been said about it, but I think the inescapable fact is that the President of the United States has very clearly stated time and time again that he will debate Governor Reagan, head to head, any place, any time.

It recalls to mind a line of poetry that I remembered as a child: "Come out, come out, wherever you are," Governor Reagan.

A NATIONAL DISGRACE

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, the man who said Soviet troops in Cuba were a threat to the United States and then quickly shoved the issue under the rug; the man who wanted to send hundreds of millions of dollars of military aid to Pakistan, which was rejected; the man who certified $75 million to Nicaragua, which will undoubtedly aid in the spread of communism in Latin America; the man who wants to expand the nuclear power of India, that is building its own bombs; the man who has cut U.S. defenses and weapons systems by billions of dollars, the man who says he wants SALT II and near unilateral disarmament, the man who embraced and kissed the cheek of Leonid Brezhnev, says he will bring us peace and Governor Reagan will get us into war.

Mr. Speaker, national weakness invites war, and the unrestrained desire to win an election for President, regardless of truth or decency, is more than unforgivable. It is a national disgrace.

AUTHORIZING SECRETARY OF INTERIOR TO ENGAGE IN FEASIBILITY INVESTIGATIONS OF CERTAIN WATER RESOURCE DEVELOPMENTS

Mr. KAZEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5278) to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 3, after line 13, insert:

(14) To determine the cause and extent of the high groundwater levels which developed in and adjacent to the town of Moses Lake, Washington, following the initiation of irrigation of the lands in and adjacent to the town and determine by the studies authorized herein measures to resolve the problems caused by the high water levels in the area.

(15) The Cle Elum Dam and Tieton Dam powerplants, Yakima Project, Washington.

(16) The Owyhee Dam powerplant, Owyhee Project, Oregon.

(17) The Wickiup Dam powerplant, Deschutes Project, Oregon.

(18) The Tiber Dam powerplant, Lower Marias Unit, Marias Division, Pick-Sloan Missouri Basin Program, Montana.

(19) The New Siphon Drop powerplant, Yuma Project, Arizona-California.

(20) The Guernsey Dam powerplant enlargement, North Platte Project, Wyoming.

(21) Increasing the height of the Theodore Roosevelt Dam, Salt River Project, Arizona.

(22) The Sly Park Extension Unit, Amer-

ican River Division, Central Valley Project, California.

(23) The Prineville Dam powerplant, Crooked River Project, Oregon.

Page 4, strike out all after line 20 over to and including line 11 on page 5 and insert:

Sec. 5. (a) Notwithstanding any other provision of law, the Secretary of the Interior is authorized to enter into new negotiated concession agreements with the present concessionaires at Lake Berryessa, California. Such agreements shall be for a term ending not later than May 26, 1989, and may be renewed at the request of the concessionaire with the consent of the Secretary of the Interior for no more than two consecutive terms of 10 years each. Concession agreements may be renegotiated preceding renewal. Such agreements must comply with the 1959 National Park Service Public Use Plan for Lake Berryessa, as amended, and with the Water and Power Resources Service Reservoir Area Management Plan: *Provided*, That the authority to enter into contracts or agreements to incur obligations or to make payments under this section shall be effective only to the extent and in such amounts as are provided in advance in appropriation Acts.

(b) Notwithstanding any other laws to the contrary, all permanent facilities placed by the concessionaires in the seven resorts at Lake Berryessa shall be considered the property of the respective current concessionaires. Further, any permanent additions or modifications to these facilities shall remain the property of said concessionaires: *Provided*, That at the option of the Secretary of the Interior, the United States may require that the permanent facilities mentioned herein not be removed from the concession areas, and instead, pay fair value for the permanent facilities or, if a new concessionaire assumes operation of the concession, require that new concessionaire to pay fair value for the permanent facilities to the existing concessionaire.

Page 5, after line 11, insert:

Sec. 6. The Reclamation Project Authorization Act of 1972 (Public Law 92–514, 86 Stat. 964) is amended—

(a) by inserting in section 101 of such Act, following "on this project", "as modified by the plans shown in the Definite Plan Report of the Water and Power Resources Service, dated November 1979";

(b) by inserting in section 102(b) of such Act, following "domestic wells in existence", "outside the project boundary"; and

(c) by striking in section 109 of such Act $18,246,000 (April 1972 prices)" and inserting in lieu thereof "$57,139,000 (October 1979 prices)".

Sec. 7. The Curecanti Storage Unit of the Colorado River Storage Project constructed under the authority of the Act of April 11, 1956 (70 Stat. 106) is hereby designated and hereafter shall be known as the Wayne N. Aspinall Storage Unit of the Colorado River Storage Project. Any law, regulation, record, map, or other document of the United States referring to the Curecanti Storage Unit shall be held to refer to the Wayne N. Aspinall Storage Unit.

Page 5, after line 11, insert:

Sec. 8. Section 1(5) of the Act of July 2, 1956 (70 Stat. 483), is hereby amended to read as follows: "(5) Provide for payment of rates under any contract entered into pursuant to said subsection (e) in advance of delivery of water on an annual, semiannual, bimonthly, or monthly basis as specified in the contract.".

Page 5, after line 11, insert:

Sec. 9. The Secretary of the Interior in coordination with the Secretary of Energy shall conduct a three-year study of the feasibility of integrating a solar powerplant in Arizona, Nevada, and California into the Federal hydroelectric system, including but not limited to consideration of the applicable solar technology, the operation of the Federal hydroelectric system and the integration of electric power generated by such a powerplant in the Federal system. The study shall specifically consider operations of Department of Energy Project 76–2–b, 10 MW Solar Thermal Power and related technology development. The Secretary shall complete the study by January 1, 1984 and submit a report to the President and the Congress.

(6) Page 5, after line 11, insert:

Sec. 10. That the proviso contained in section 201 of the Colorado River Basin Project Act (43 U.S.C. 1511) is amended by striking out "the Secretary" and inserting in lieu thereof "any Federal official".

Page 5, after line 11, insert:

Sec. 11. Section 206 of Public Law 92–514 is amended to read as follows: "There is hereby authorized to be appropriated for construction of the Brantley project the sum of $172,728,000 (based on April 1979 prices), plus or minus such amounts, if any, as may be justified by reason of changes in the construction costs as indicated by engineering cost indexes applicable to the types of construction involved and, in addition thereto, sums as may be required for operation and maintenance of the project.".

Page 5, after line 11, insert:

Sec. 12. The Secretary of Interior is hereby authorized to engage in feasibility studies of the following salinity control proposals:

(1) Lower Gunnison Basin unit, located in Delta, Montrose, and Ouray Counties, Colorado.

(2) Glenwood-Dotsero Springs unit, located in Garfield and Eagle Counties, Colorado.

(3) Meeker Dome unit, located in Rio Blanco County, Colorado.

(4) McElmo Creek unit, located in Montezuma County, Colorado.

(5) Uintah Basin unit, located in Duschesne and Uintah Counties, Utah.

(6) Dirty Devil River unit, located in Sanpete, Sevier, Emery, and Wayne Counties, Utah.

(7) Price-San Rafael Rivers unit, located in Carbon, Emery, and Sanpete Counties, Utah.

(8) La Verkin Springs unit, located in Washington County, Utah.

(9) Lower Virgin River unit, located in Clark County, Nevada, and Mohave County, Arizona.

(10) Big Sandy River unit, located in Sweetwater County, Wyoming.

Page 5, after line 11, insert:

Sec. 13. Nothing in this Act shall be interpreted to preclude or delay issuance of a license by the Federal Energy Regulatory Commission.

Mr. KAZEN (during the reading.) Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. KAZEN. Mr. Speaker, H.R. 5278 authorizes the Secretary of the Interior to engage in feasibility investigations of certain water resource development projects. The bill passed the House, amended, under a suspension of the rules on February 5, 1980.

The Senate amended the bill in several respects.

The House had previously passed a bill, H.R. 552, authorizing a study of high ground water conditions at Moses Lake, Wash. The Senate added this provision as an amendment to H.R. 5278.

The Senate amendment added feasibility study authorizations for nine proposed powerplants at existing dams, or projects, studies of 10 salinity control proposals in the upper Colorado River Basin and a study for integrating a solar powerplant in Arizona, Nevada, and California into the Federal hydroelectric system.

The authorized studies are necessary before a determination is made as to the feasibility of project construction. They do not authorize any actual construction. That must be done by further act of Congress.

The Senate amendments do update the authorizations for appropriations for two projects which have been previously authorized by Congress. These are the Closed Basin Division, San Luis project in Colorado and the Brantley project in New Mexico.

The Senate amendments also honor a former distinguished Member of this body who was for many years the chairman of the Committee on Interior and Insular Affairs by designating the Curecanti storage unit in Colorado as the "Wayne N. Aspinall Storage Unit of the Colorado River Storage Project."

Another Senate amendment provides that the feasibility study process shall not preclude or delay the issuance of a license by the Federal Energy Regulatory Commission for any of the power projects for which studies are authorized in the bill.

The Senate amendment also extends an existing statutory moratorium on any studies by the Secretary of the Interior to import water into the Colorado Basin to all Federal agencies.

● Mr. CLAUSEN. Mr. Speaker, I support the motion to concur in the Senate amendments to H.R. 5278, clearing this proposal for the President's signature.

The bill authorizes the Secretary of the Interior to conduct feasibility investigations of numerous potential water resource projects. The projects are to be studied for a variety of reasons, including hydroelectric energy production, waste water management, water quality, salinity control, water storage, and wind-hydro development.

Of particular interest of those of us on the north coast of California is the enlargement of Shasta Dam. If as a result of the feasibility study, the project proves beneficial from an economic, environmental, and engineering perspective, it could set the stage for meeting a number of water requirements in California. Enlargement of Shasta Lake, possibly up to three or four times its present size, is one of the possibilities available for increasing future water and hydroelectric power supplies including possible increased flows down the Trinity River for enhancement of the fishery resources and habitat in both the Trinity and Klamath Rivers.

Just yesterday, the House passed the Salmon and Steelhead Resources Conservation Act, H.R. 6959, which contains a provision for establishment of a Klamath River Committee to develop a salmon and steelhead management and enhancement plan for the Klamath River drainage. Authorization of the enlargement of Shasta Dam would be yet one more step in our efforts to address the serious fishery and water supply problems in this area.

The legislation also authorizes the Secretary of the Interior to enter into new negotiated concession agreements with present concessionaires at Lake Berryessa and directs that all permanent facilities placed by the concessionaires in the seven resorts at Lake Berryessa shall be considered the property of the respective current concessionaires. Further, any permanent additions or modifications to these facilities by the concessionaires shall remain the property of said concessionaires; however, at the option of the Secretary of the Interior, the United States may require that the permanent facilities not be removed from the concession areas, and instead, pay fair value for the permanent facilities or, if the new concessionaire assumes operation of the concession, require that new concessionaire to pay fair value for the permanent facilities.

Enactment of the Lake Berryessa provisions are the final step in a series of efforts which began with our inclusion of the initial language in the legislation by the Interior and Insular Affairs Committee, and approval by the House; followed by final perfecting of the provisions in the Senate Energy and Natural Resources Committee at our request, and adoption by the Senate.

The new statutory language is necessary due to the unique history of the project and the unusual circumstances which have developed there. Responsibility for management of the recreational facilities at the lake have changed hands several times, leaving the concessionaires in a tenuous position with respect to their property rights and contract obligations. This language, once enacted, will clarify the powers of the Water and Power Resources Service—the old Bureau of Reclamation—as well as the role of the concessionaires.

I commend my colleagues for their willingness to expedite final action on our bill. The shortage of time prior to our adjournment has made it particularly important that we act promptly on the measure and clear it for the President's signature.●

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

□ 1020

GENERAL LEAVE

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING APPROPRIATIONS FOR TITLE II OF MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT FOR FISCAL YEAR 1980

Mr. STUDDS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1123) to amend section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations for title II of such act for fiscal year 1980, with a Senate amendment to the House amendment thereto, and concur in the Senate amendment to the House amendment.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendment, as follows:

Page 3, of the House engrossed amendment, after line 2, insert:

SEC. 3. Section 202(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1442(a)) is amended by inserting the following immediately after the first sentence thereof: "These responsibilities shall include the scientific assessment of damages to the natural resources from spills of petroleum or petroleum products.".

Mr. STUDDS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendment to the House amendment be dispensed with, and it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. PRITCHARD. Mr. Speaker, reserving the right to object, I will not object, but I wonder if the committee chairman could explain what we are doing here.

Mr. STUDDS. Mr. Speaker, will the gentleman yield?

Mr. PRITCHARD. I do yield.

Mr. STUDDS. Mr. Speaker, I say to the gentleman that the House amended and passed S. 1123 on May 13, 1980. The Senate concurred with the House amendments and offered an additional amendment which passed on September 9, 1980. S. 1123 contains provisions that amend title II of the Marine Protection, Research, and Sanctuaries Act, more commonly known as the Ocean Dumping Act.

Title II primarily authorizes appropriations for the programs of the National Oceanic and Atmospheric Administration (NOAA) which determines the effects of pollution in the marine environment. Within this title, the Secretary of Commerce is specifically directed to conduct research into long-range effects of pollution, overfishing, and man-induced changes of ocean ecosystems. The Senate-passed amendment expands those responsibilities to include scientific assessment of damages to the marine ecosystems from oil spills.

The Senate Commerce, Science, and Transportation Committee recommended the amendment to relieve confusion and delays in assessing oil spill damage that was evident during the Campeche spill of last summer. The committee intended that NOAA coordinate this effort and establish a mechanism to incorporate damage assessment as a routine part of the Government's response to major spills.

I urge my colleagues to support S. 1123 and the vital Senate amendment which provides further protection for our coastal and marine environments.

Mr. PRITCHARD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts (Mr. STUDDS) that the reading of the Senate amendment to the House amendment be dispensed with, and that it be printed in the RECORD?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Massachusetts?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CONFERENCE REPORT ON H.R. 7590, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, 1981

Mr. BEVILL. Mr. Speaker, pursuant to the unanimous-consent agreement of Tuesday, September 23, 1980, I call up the conference report on the bill (H.R. 7590) making appropriations for Energy and Water Development for the fiscal year ending September 30, 1981, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The SPEAKER. The Clerk will read the statement.

(For conference report and statement, see proceedings of the House of September 22, 1980.)

Mr. BEVILL (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The SPEAKER. The gentleman from Alabama (Mr. BEVILL) will be recognized for 30 minutes, and the gentleman from Indiana (Mr. MYERS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Alabama (Mr. BEVILL).

Mr. BEVILL. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, I am pleased to present the conference report on the fiscal year 1981 energy and water development appropriation bill for your favorable consideration. Our colleagues will recall that debate on this bill occurred in the House on June 24 and 25. The bill was passed by substantial margins in both Houses: 334 to 87 in the House on June 25 and 83 to 9 in the other body on September 10.

Mr. Speaker, our conference committee meeting was held last Monday. I wish to compliment our friends from the other body, particularly the Senator from Louisiana, Mr. JOHNSTON, the chairman of the Senate Subcommittee, and the Senator from Oregon, Mr. HATFIELD, the ranking minority member, for the fine spirit of compromise displayed in the conference meeting. I also wish to thank my colleagues, the House conferees, for their support and their valuable contributions during the conference deliberations.

Now I would like to comment on various aspects of the conference agreement.

Mr. Speaker, the bill passed by the House contained $11,955,113,000 in new budget obligational authority. As the bill passed the Senate, it contained $12,064,270,163.

For the various agencies and program under the jurisdiction of the Energy and Water Development Subcommittee, the committee of conference recommends $12,080,831,663 in new budget authority. This amount is $92,720,663 over the President's budget. The conference agreement is $400,157,663 more than 1980 appropriations to date, $125,718,663 more than the House-passed bill and $16,561,500 more than the Senate-passed bill.

Because of the ceilings imposed by the budget resolution and the budget amendments submitted by the administration after House consideration of the bill, the Senate made more changes to the House bill than they had in many years. Your House conferees did their best to maintain the House position. However, to bring back a conference report that is within the budget target for the energy and water development programs, a great many items had to be compromised.

We would like more money for energy, for the weapons program, and for the water projects. But, if we have to stay under the budget allocation, as required by the reconciliation provision of the budget resolution, we could not provide all of the funds for all of the programs and projects to the extent we would have liked.

Mr. Speaker, I am pleased to advise the House that the conference agreement is $3,168,337 under the House budget allocation of $12,084,000,000.

The conference agreement will provide $7,220,572,000 to the Department of Energy for various research programs and other activities, including $3,225,529,000 for various energy supply, research and development programs; $504,415,000 is for general science and research activities; and $3,490,628,000 is for atomic energy defense activities.

The energy accounts include $598,836,000 for solar energy development and applications, nearly the same as the House-passed bill. In addition the bill includes $108,158,000 in solar related development and demonstrations in other activities and accounts. Altogether, the bill provides $706,994,000 for solar energy programs, which along with funds for hydroelectric construction and other Federal programs would direct nearly $1,800,000,000 in Federal funding to the development and use of solar energy in 1981.

The bill also includes $156,021,000 for geothermal energy; $469,300,000 for the breeder reactors program and $394,117,000 for magnetic fusion energy.

Mr. Speaker, I think the compromises reached with the Senate clearly preserved the priorities and directions of the bill as passed by the House. In fact, substantially all of the House committee's recommendations and the actions that were taken on the floor amendments to title I were sustained in the conference.

Mr. Speaker, we are bringing back in technical disagreement a Senate amendment to provide $10,000,000 for preliminary activities relating to the construction or acquisition of away from reactor spent fuel storage. The Senate passed a nuclear waste bill on July 30 which authorized this program. There are three nuclear waste measures currently pending before the House, along with the several fiscal year 1981 authorization measures for the Department of Energy. On the other hand, there appears to be some urgency to initiate this program. Thus, in the agreement with the Senate, we sought to preserve the House legislative options by directing that these funds be confined to preliminary activities and that no final contracts or agreements be entered into without further expressed congressional approval.

Mr. Speaker, the conference agreement contains $2,984,134,000 in title II for the Army Corps of Engineers. This is $124,537,000 less than the bill as passed by the House and $57,442,000 more than the Senate-passed bill. These funds will finance 10 new and 237 continuing studies, 5 new and 57 continuing planning items and 243 continuing construction projects. The bill contains no new construction starts for either the Corps of Engineers or the Water and Power Resources Service.

For title III, the Water and Power Resources Service, the conferees recommend a total of $771,461,000, which is $43,229,000 less than the House-passed bill and $18,417,000 less than the Senate-passed bill. This will fund 7 new and 44 continuing studies, 3 continuing planning items and 79 continuing construction projects; 3 new loans and 12 continuing loans are included in the bill.

In my view, the conference agreement provides for a financially prudent and environmentally sound water resources development program.

Mr. Speaker, the conference agreement includes $1,104,604,000 for eight independent agencies and commissions in title IV, including $342,492,000 for the Appalachian regional development program, $447,520,000 for the Nuclear Regulatory Commission, $287,563,000 for the Tennessee Valley Authority, and $24,777,000 for the Water Resources Council.

Mr. Speaker, with regard to the Water Resources Council, I should remind the Members that this bill contained no funds for the Council when it was considered by the House as no legislation had been reported in the House authorizing Council activities in fiscal year 1981. The other body has now reported legislation (S. 1639) authorizing the Council programs for fiscal year 1981.

Mr. Speaker, title V of the bill contains $60,663 for payment to the widow of our deceased colleague, Harold Runnels of New Mexico.

I will insert a table in the RECORD at this point which summarizes the financial aspects of the conference agreement:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

[Fiscal years]

	New budget authority					Conference compared with—			
	1980 enacted	1981 estimates	House, 1981	Senate, 1981	Conference, 1981	1980 enacted	1981 estimate	House bill	Senate bill
TITLE I—DEPARTMENT OF ENERGY									
Operating Expenses									
Energy supply, research and development activities	$2,233,923,000	$2,249,904,000	$2,268,754,000	$2,262,575,000	$2,268,754,000	+$34,831,000	+$18,850,000		+$6,179,000
Rescission	−44,350,000					+44,350,000			
Solar energy research and development				6,000,000					−6,000,000
Uranium supply and enrichment activities	246,123,000	27,455,000	27,455,000	29,455,000	29,455,000	−216,668,000	+2,000,000	+$2,000,000	
Reclassification of revenues		−61,515,000					+61,515,000		
Rescission	−4,000,000					+4,000,000			

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

[Fiscal years]

	New budget authority					Conference compared with—			
	1980 enacted	1981 estimates	House, 1981	Senate, 1981	Conference, 1981	1980 enacted	1981 estimate	House bill	Senate bill
General science and research activities	336, 900, 000	376, 695, 000	367, 515, 000	382, 015, 000	378, 015, 000	+41, 115, 000	+1, 320, 000	+10, 500, 000	−4, 0000, 000
Rescission	−2, 000, 000					+2, 000, 000			
Atomic energy defense activities	2, 402, 547, 000	2, 895, 123, 000	2, 756, 023, 000	2, 890, 623, 500	2, 890, 623, 000	+488, 076, 000	−4, 500, 000	+134, 600, 000	−500
Rescission	−6, 400, 000					+6, 400, 000			
Departmental administration:									
Office of the Secretary	3, 705, 000	4, 892, 000	4, 872, 000		4, 892, 000	+1, 187, 000		+20, 000	+4, 892, 000
General administration	224, 574, 000	280, 664, 000	204, 305, 000	213, 176, 000	206, 057, 000	−18, 517, 000	−74, 607, 000	+1, 752, 000	−7, 119, 000
Rescission	−31, 725, 000					+31, 725, 000			
Plant and Capital Equipment									
Energy supply, research and development activities	448, 478, 000	409, 547, 000	330, 837, 000	386, 337, 000	383, 287, 000	−65, 191, 000	−26, 260, 000	+54, 450, 000	−3, 050, 000
Rescission	−5, 150, 000					+5, 150, 000			
Small community solar demonstration project				3, 750, 000					−3, 750, 000
Uranium supply and enrichment activities	4, 000, 000	1, 300, 000	1, 300, 000	2, 300, 000	2, 300, 000	−1, 700, 000	+1, 000, 000	+1, 000, 000	
General science and research activities	135, 000, 000	138, 200, 000	120, 100, 000	132, 200, 000	126, 400, 000	−8, 600, 000	−11, 800, 000	+6, 300, 000	−5, 800, 000
Atomic energy defense activities	594, 849, 000	619, 905, 000	533, 205, 000	618, 205, 000	600, 005, 000	+5, 156, 000	−19, 900, 000	+66, 800, 000	−18, 200, 000
Departmental administration	37, 565, 000	67, 165, 000	38, 065, 000	38, 065, 000	38, 065, 000	+500, 000	−29, 100, 000		
Power Marketing Administrations									
Operation and maintenance:									
Alaska Power Administration	2, 660, 000	3, 069, 000	3, 069, 000	3, 069, 000	3, 069, 000	+409, 000			
Southeastern Power Administration	1, 400, 000	1, 552, 000	1, 552, 000	1, 552, 000	1, 552, 000	+152, 000			
Southwestern Power Administration	32, 180, 000	28, 208, 000	28, 208, 000	28, 208, 000	28, 208, 000	−3, 972, 000			
Construction, rehabilitation, operation, and maintenance, Western Area Power Administration	122, 800, 000	138, 502, 000	138, 502, 000	138, 502, 000	138, 502, 000	+15, 702, 000			
Colorado River Basins power marketing fund, Western Area Power Administration	5, 152, 000	3, 548, 000	3, 548, 000	3, 548, 000	3, 548, 000	−1, 604, 000			
Emergency fund, Western Area Power Administration	200, 000	200, 000	200, 000	200, 000	200, 000				
Federal Energy Regulatory Commission	68, 387. 000	76, 374, 000	72, 949, 000	74, 374, 000	74, 374, 000	+5, 987, 000	−2, 000, 000	+1, 425, 000	
Geothermal resources development fund	181, 000	1, 284, 000	1, 284, 000	1, 284, 000	1, 284, 000	+1, 103, 000			
Reappropriation		41, 982, 000	41, 982, 000	41, 982, 000	41, 982, 000	+41, 982, 000			
Total, title I, new budget (obligational) authority, Department of Energy	6, 806, 999, 000	7, 304, 054, 000	6, 943, 725, 000	7, 257, 420, 500	7, 220, 572, 500	+413, 573, 000	−83, 482, 000	+276, 847, 000	−36, 848, 500
TITLE II—DEPARTMENT OF DEFENSE—CIVIL									
DEPARTMENT OF THE ARMY									
Corps of Engineers—Civil									
General investigations	142, 145, 000	127, 518, 000	140, 238, 000	133, 367, 000	134, 013, 000	−8, 132, 000	+6, 495, 000	−6, 225, 000	+646, 000
Construction, general	1, 660, 966, 000	1, 522, 726, 000	1, 657, 095, 000	1, 534, 703, 000	1, 585, 742, 000	−75, 224, 000	+63, 016, 000	−71, 353, 000	+51, 039, 000
Flood control, Mississippi River and tributaries	210, 515, 000	223, 536, 000	239, 324, 000	228, 970, 000	232, 519, 000	+22, 004, 000	+8, 983, 000	−6, 805, 000	+3, 549, 000
Operation and maintenance, general	942, 100, 000	878, 379, 000	951, 259, 000	900, 397, 000	902, 605, 000	−39, 495, 000	+24, 226, 000	−48, 654, 000	+2, 208, 000
Revolving fund	50, 000, 000	34, 725, 000	34, 725, 000	43, 225, 000	43, 225, 000	−6, 775, 000	+8, 500, 000	+8, 500, 000	
General expenses	76, 800, 000	81, 030, 000	81, 030, 000	81, 030, 000	81, 030, 000	+4, 230, 000			
Special recreation use fees	4, 000, 000	5, 000, 000	5, 000, 000	5, 000, 000	5, 000, 000	+1, 000, 000			
Flood control and coastal emergencies	170, 000, 000					−170, 000, 000			
Alaska hydroelectric power development fund (rescission)	−5, 450, 000					+5, 450, 000			
Total, title II, new budget (obligational) authority, Department of Defense—Civil	3, 251, 076, 000	2, 872, 914, 000	3, 108, 671, 000	2, 926, 692, 000	2, 984, 134, 000	−266, 942, 000	+111, 220, 000	−124, 537, 000	+57, 442, 000
TITLE III—DEPARTMENT OF THE INTERIOR									
Water and Power Resources Service									
General investigations	34, 451, 000	37, 825, 000	40, 079, 000	36, 946, 000	38, 629, 000	+4, 178, 000	+804, 000	−1, 450, 000	+1, 683, 000
Construction program	424, 934, 000	590, 532, 000	596, 216, 000	580, 741, 000	570, 641, 000	+145, 707, 000	−19, 891, 000	−25, 575, 000	−10, 100, 000
Operation and maintenance	101, 353, 000	114, 117, 000	114, 117, 000	111, 117, 000	101, 117, 000	−236, 000	−13, 000, 000	−13, 000, 000	−10, 000, 000
Loan program	29, 603, 000	26, 128, 000	26, 128, 000	22, 924, 000	22, 924, 000	−6, 679, 000	−3, 204, 000	−3, 204, 000	
Rescission	−3, 000, 000					+3, 000, 000			
General administrative expenses	28, 600, 000	38, 150, 000	38, 150, 000	38, 150, 000	38, 150, 000	+9, 550, 000			
Total, title III, new budget (obligational) authority, Department of the Interior	615, 941, 000	806, 752, 000	814, 690, 000	789, 878, 000	771, 461, 000	+155, 520, 000	−35, 291, 000	−43, 229, 000	−18, 417, 000
TITLE IV—INDEPENDENT AGENCIES									
Appalachian Regional Commission: Salaries and expenses	3, 105, 000	3, 192, 000	3, 192, 000	3, 192, 000	3, 192, 000	+87, 000			
Appalachian regional development programs (funds appropriated to the President)	356, 500, 000	354, 460, 000	339, 300, 000	329, 300, 000	339, 300, 000	−17, 200, 000	−15, 160, 000		+10, 000, 000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

[Fiscal years]

	New budget authority					Conference compared with—			
	1980 enacted	1981 estimates	House, 1981	Senate, 1981	Conference, 1981	1980 enacted	1981 estimate	House bill	Senate bill
Delaware River Basin Commission:									
Salaries and expenses	111, 000	116, 000	116, 000	116, 000	116, 000	+5, 000			
Contribution to Delaware River Basin Commission	257, 000	269, 000	269, 000	269, 000	269, 000	+12, 000			
Total, Delaware River Basin Commission	368, 000	385, 000	385, 000	385, 000	385, 000	+17, 000			
Interstate Commission on the Potomac River Basin: Contribution to Interstate Commission on the Potomac River Basin	55, 000	55, 000	55, 000	55, 000	55, 000				
Nuclear Regulatory Commission: Salaries and expenses	400, 100, 000	466, 235, 000	437, 220, 000	452, 520, 000	447, 520, 000	+47, 420, 000	−18, 715, 000	+10, 300, 000	−5, 000, 000
Nuclear Safety Oversight Commission		1, 500, 000		1, 500, 000	1, 500, 000	+1, 500, 000		+1, 500, 000	
Energy Mobilization Board		9, 500, 000					−9, 500, 000		
Susquehanna River Basin Commission:									
Salaries and expenses	107, 000	112, 000	112, 000	112, 000	112, 000	+5, 000			
Contribution to Susquehanna River Basin Commission	210, 000	200, 000	200, 000	200, 000	200, 000	−10, 000			
Total, Susquehanna River Basin Commission	317, 000	312, 000	312, 000	312, 000	312, 000	−5, 000			
Tennessee Valley Authority:									
Payment to TVA fund	223, 030, 000	132, 500, 000	290, 563, 000	269, 563, 000	269, 563, 000	+46, 533, 000	+137, 063, 000	−21, 000, 000	
Columbia Dam and Reservoir			17, 000, 000	18, 000, 000	18, 000, 000	+18, 000, 000	+18, 000, 000	+1, 000, 000	
Total, Tennessee Valley Authority	223, 030, 000	132, 500, 000	307, 563, 000	287, 563, 000	287, 563, 000	+64, 533, 000	+155, 063, 000	−20, 000, 000	
Water Resources Council: Water resources planning	34, 614, 000	36, 252, 000		32, 777, 000	24, 777, 000	−9, 837, 000	−11, 475, 000	+24, 777, 000	−8, 000, 000
Rescission	−11, 431, 000					+11, 431, 000			
Total, title IV, new budget (obligational) authority, Independent Agencies	1, 006, 658, 000	1, 004, 391, 000	1, 088, 027, 000	1, 107, 604, 000	1, 104, 604, 000	+97, 946, 000	+100, 213, 000	+16, 577, 000	−3, 000, 000
TITLE V—GENERAL PROVISIONS									
Sec. 507—Reduction for consultant services				−17, 385, 000					+17, 385, 000
Sec. 508—Legislative Branch; House of Representatives payments to widows of deceased Members				60, 663	60, 663	+60, 663	+60, 663	+60, 663	
Total, titles I, II, III, IV and V:									
New budget (obligational) authority	11, 680, 674, 000	11, 988, 111, 000	11, 955, 113, 000	12, 064, 720, 163	12, 080, 831, 663	+40, 157, 663	+92, 720, 663	+125, 718, 663	+16, 561, 500
Appropriations	11, 794, 180, 000	11, 946, 129, 000	11, 913, 131, 000	12, 022, 288, 163	12, 038, 849, 663	+244, 669, 663	+92, 720, 663	+125, 718, 663	+16, 561, 500
Reappropriations		41, 982, 000	41, 982, 000	41, 982, 000	41, 982, 000	+41, 982, 000			
Rescissions	−113, 506, 000					+113, 506, 000			

Mr. FAZIO. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. Yes; I would be pleased to yield to my good friend and member of the subcommittee, the gentleman from California (Mr. FAZIO). He played a very important role in the conference in restoring money for solar energy. The gentleman led the fight to get it restored. I commend the gentleman and I will yield to him.

Mr. FAZIO. Mr. Speaker, I thank my chairman for yielding.

I am here simply to thank the gentleman from Alabama (Mr. BEVILL) and the gentleman from Indiana (Mr. MYERS) for their acquiescence and support of the House position on this item.

I think the fairness of the gentleman from Alabama and his equity should be remembered. I think the Members of the House in general should be aware of it, because when we vote on this conference report I hope those who were so strongly in support of the Fuqua-Markey amendment will be in strong support of this conference report, because the gentleman has, I think, fairly upheld the House position.

I am very pleased to see the additional $20.2 million for biomass, alcohol fuels, both passive and active solar photovoltaics and these other approaches, one of many, I realize, but I think a significant approach to energy independence.

I simply want to congratulate the gentleman from Alabama for his fair and objective approach in the way he handled this in the conference report. I am personally very gratified.

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Mr. BEVILL. I thank the gentleman. We on the committee certainly appreciate the good work the gentleman is doing and his dedication to resolving our energy crisis.

At this time I would like to yield to my colleague from Indiana (Mr. MYERS) to make his opening statement.

Mr. MYERS of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the chairman of the subcommittee, the gentleman from Alabama (Mr. BEVILL) has presented the bill and the conference report very accurately.

It has some highlights. In title I, the Department of Energy, the conference report is $276,847,000 higher than the House bill but $200 million of this is for the defense requirements which have come along since we offered the bill in the House. An increase of $52,450,000 is in plant and capital equipment for the energy supply and research and development activities.

In title II, which is the Corps of Engineers section of our bill, this conference report is $124,537,000 less than the House bill.

In title III, which is the water and power resources service, the conference report again is $43,229,000 less than the House bill. The total water resource development funding in the conference report is $167,766,000 less than the House bill, and $97 million of the decrease is in construction money.

In the independent agencies in title IV, the Nuclear Regulatory Commission, the conference report is $10,300,000 higher than the House bill and provides some additional people for investigations and licensing. In the TVA we reduced from the House bill in the conference report by $21 million.

All of these moneys could have been spent this year possibly, but in an effort to slow down the expenditures somewhat and try to slow down inflation, we did in the conference reduce it this much.

Although the bill is larger, as the chairman has said, than when it left the House, there have been some changes in the meantime and we are not over the House budget. We are within the limits.

Everything in here is sound. There are a few projects which we in the House felt were appropriate to be funded this year. We did fund them, but there were differences in judgment with the other body necessitating that we do make some compromises. We did struggle to keep some projects in that we felt were most worthy of support. But naturally a conference is a compromise.

There is one exception that three of us excepted on, and this is the project which has been around for as long as many of us have been in this body, and that is the Dickey-Lincoln Reservoir in Maine. We did take exception, because there seems to be a loss of interest from the membership in this body. The two Members from Maine both are opposed to it. In the other body, the two Members from Maine are split. The local government vacillates; administration seems to be for it and the next one is not.

But we did put language in the bill that while we are appropriating $795,000 again for more study and planning, we expect the Corps of Engineers to use this money as a final appropriation and make some recommendation so that we can make a final decision in this body either up or down early next year.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Speaker, I have a couple of questions that I would like to ask the gentleman in reference to something he mentioned, so I can understand what was done in conference. The gentleman states the reluctantly he supported some funds for the Dickey-Lincoln Dam in Maine. I wonder if the gentleman is aware that in the House authorization bill this year that project was deauthorized because of the strong feeling that we have lost interest in that project.

Mr. MYERS of Indiana. The committee was very much aware of that and, of course, as the gentleman will remember, the money was not in the House bill when it left here. The other body disagreed, they had a vote on it, and they did put the money back in, $795,000. They were very adamant in the conference that they did want the money in and so it was a compromise. Yes, the committee was very much aware that the deauthorization had passed the House, but it was not passed in the other body.

Mr. EDGAR. If the gentleman will yield further, moving to another subject, does the gentleman know how much is in this bill for the Tennessee-Tombigbee Waterway for fiscal year 1981?

Mr. MYERS of Indiana. I think we should yield to the chairman of the subcommittee to answer that.

Mr. BEVILL. Mr. Speaker, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman.

Mr. BEVILL. Mr. Speaker, the House bill included $225 million for the Tennessee-Tombigbee project. The Senate reduced the amount to $208 million. We agreed in conference to $212 million.

Mr. EDGAR. The $212 million figure for the Tennessee-Tombigbee Waterway is a reduction over what the House had indicated but compared with other projects, it is a significant amount of money, nonetheless. I think it is the only project that is funded above $100 million.

I was interested in the fact that $212 million is going to be spent in construction but, as I study the conference report, and the gentleman can help me on this, I was struck by the fact that there is money also included in the bill for a Warrior-Tombigbee River study, which is $841,000. Is that correct?

Mr. MYERS of Indiana. I believe that is accurate, yes.

Mr. EDGAR. If I am correct, the administration requested $391,000 for this study. I also understand that this study is to be done on the Lower Tombigbee River south of Demopolis. Is that correct?

Mr. MYERS of Indiana. This was, of course, debated considerably when we considered the bill in the House originally, if the gentleman will recall. I think the gentleman can go back to the RECORD and find what was debated at that time.

□ 1040

I cannot commit what the corps and this particular study will do.

Mr. EDGAR. If the gentleman will yield just for one more point. My point is that on the House floor, chairman after chairman, Member after Member have said that they had little or no intention of moving below Demopolis, Ala. Yet here in the conference report not only are we including in a study the Lower Tombigbee, but we are accelerating it by twice as much as the administration has requested, and I just wanted to point that out to the House.

Mr. MYERS of Indiana. I thank the gentleman for his observations.

Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. I thank the gentleman for yielding. I want to express my appreciation to the gentleman from Alabama (Mr. BEVILL), the chairman of the subcommittee, and the gentleman from Indiana (Mr. MYERS), our ranking minority member, for the consideration given to a number of projects included in the First District of Maryland. I also wanted to confirm my understanding as expressed to me by staff that in the deliberations in the conference committee the $700,000 which were included in the House bill, and I believe the other body's bill, for the Rock Hall, Md., project still remain as part of the funding in this bill; is that correct?

Mr. MYERS of Indiana. If the gentleman will yield, that is correct, and I want to say something about the gentleman from Maryland (Mr. BAUMAN). He has been a strong advocate of this for the last 3 years. Because of his insistence, we have put this very worthy project both in the House as well as in the Senate bill. It is in the bill, yes.

Mr. BAUMAN. I want to thank the gentleman for that. I want to congratulate both of the gentlemen for having achieved a feat that may stand alone in this session of the Congress and that is leading a Subcommittee on Appropriations that has actually had appropriations bills enacted into law in this session. That may stand alone itself in the annals of current history, and the two gentlemen deserve some credit for achieving that. I thank the gentleman.

Mr. BEVILL. I now yield as much time as he may consume to the distinguished chairman of the House Committee on Appropriations, the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Speaker, I wish to commend the gentleman from Alabama (Mr. BEVILL), the gentleman from Indiana (Mr. MYERS), and all members of the subcommittee for their efforts in bringing forth this conference report. They have listened to witnesses for week after week with an open mind and with a desire to be helpful. I am particularly pleased to have been on this subcommittee and to have seen the many changes that have taken place.

As we look around the world at countries like China, India, and other underdeveloped countries they do not have a chance to get their economy straightened out because they did not have the foresight to protect and develop their own country's natural resources. It is hard for me to understand the attitude of some of our people who think that we can go back to conditions that existed many years ago, that we can afford to risk the dust bowls, that we can afford to let our rivers and harbors go in disrepair. Truly I believe that with all the problems we have today it becomes more imperative that we develop and protect the land, which is our real wealth.

I deplore to see many elements of the news media attack any efforts to spend money productively where you end up with a richer country, while at the same time advocate programs for which we get no continuing returns. But I think the whole country is indebted to the gentleman from Alabama (Mr. BEVILL), the gentleman from Indiana (Mr. MYERS), and each member of this subcommittee, because under very trying circumstances they are trying to make the American people look after themselves and their country.

PROTECT OUR NATION'S RESOURCES

Mr. Speaker, the conference report before us today provides funding to look after the welfare of the whole country, recognizing the fact that development of our natural resources is in our national interest.

Mr. Speaker, I am proud to have had a part in protecting and developing our country over the years. Twenty-eight times out of 28, we have overridden Presidential recommendations that would have hindered our efforts to guarantee the protection of our soil, for forestry, for flood control, for rivers and harbors, including harbor projects for watershed protection and flood protection, for water and sewer and housing loans in rural areas and cities under 20,000 population.

I have frequently said, the greater our financial problems, the more imperative it is that we look after our own country's natural resources.

PROJECTS INCLUDED

My able colleagues and friends, Congressman Tom Bevill of Alabama and Congressman John Myers of Indiana, have covered many of the projects of interest to the Nation. I would therefore like to point out the benefits to my area, which in most cases are to help the people of my State benefit from projects which were authorized many years ago. The report before you provides the following:

TWENTY MILE CREEK

> Provision was made for slowing down the flow of water in Twenty Mile Creek which is resulting in bank caving in Tishomingo, Prentiss, and Itawamba Counties.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

> The sum of $232,519,000 for flood control, repair, and maintenance.

The conference report provides the following language:

> There is an urgent need to provide flood protection from the runoffs into the rivers and tributaries from the hill lands in the delta foothills area, Mississippi Recent floods have had a devastating impact on this area. Authority exists in the Yazoo Basin comprehensive study for the Corps of Engineers in cooperation with the Soil Conservation Service, the soil conservation districts, and the ASCS to investigate the feasibility of cooperatively storing floodwaters in the tributary basins above the foothills. Within available funds, the corps is directed to utilize such funds as are necessary to initiate such investigation.

The committee understands that the Corps of Engineers has studied a serious bank erosion problem on the Sunflower River at mile 175.8 in Coahoma County, Miss. However, the results of this study did not take cognizance of the serious effects of disruption of traffic, difficulty in obtaining suitable routes for mail delivery and school buses, and general disruption of the long standing social and economic makeup of the area. Accordingly, the corps is directed to proceed with an appropriate solution for correction of the erosion problem up to the maximum amount allowed within the section 14 emergency streambank program.

SARDIS LAKE

Clearing out rock and gravel in a 9-mile stretch below the reservoir so that water may be let out during nonfarming season.

GRENADA LAKE

Provides for protection of the town of Coffeeville during high water stages, and to assure a safe and healthy environment conducive to further growth of the town of Coffeeville.

Nonconnah Creek, Horn Lake Creek, including Cow Pen Creek, Mississippi and Tennessee, to complete the phase 1 study and submission of alternative plans.

Other Mississippi projects are Biloxi Bay in Harrison County; Mississippi Sound; Pascagoula Harbor; Pearl River Basin; Pascagoula River Basin; Sowashee Creek; and Tallahala Creek Lake.

Appalachian regional development programs a total of $339,300,000. For counties in my district this will fund highways; access roads; area development; health and child development; housing; natural resources and environment; and other special development programs.

Goodman Road, approximately $5,900,000 in Federal funds remain available with additional State funds for completion across Marshall County to intersect Highway 7.

TENNESSEE VALLEY AUTHORITY

For water resources development, $46,167,000.

For land, forest, and recreation resources development, $13,248,000.

For coal gasification demonstration plant, $150,000,000.

SOLAR TECHNOLOGY

The report provides the following language:

> Solar development and demonstration projects—within the funds provided the committee expects the department's continued support of the cost-effective demonstration funds in previous appropriations to extend the benefits from these projects for the over-all development and use of solar energy in practical applications.

ADDITIONAL PROJECTS

Mr. Speaker, the conference report has made funds available for the Pearl River basin in the amount of $2,015,000 to complete the Pearl River basin, Mississippi study.

Under general construction, $660,000 is provided for the Belzoni Bridge—advance participation—and $450,000 for planning in Issaquena County.

Mr. Speaker, under permission to revise and extend my remarks, I would like to insert the following excerpts from the Congressional Record of June 18, 1980, made during the consideration of the supplemental appropriations bill, 1980:

> Mr. Whitten. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.
>
> Mr. Chairman, I hope I may have the attention of my colleague from the State of Washington. Our subcommittee had already reported the supplemental appropriation bill when a terrible tragedy hit the gentleman's State of Washington. We reintroduced the bill to try to meet the gentleman's needs out there. That is right and fair play.
>
> Back through the years we realize that this is a big Nation that we have. I took part of the heat when the Bonneville Power Administration was authorized which made the Northwest one of the great sections of this country. It was federally built. It is a great asset.
>
> I supported the St. Lawrence Seaway.
>
> Let me say this. The argument for this amendment, if you will analyze it, actually works against the amendment. The proponents say they are not stopping the project. They are delaying it. We all know that the longer you delay any project, the more expensive it becomes. Not only if you delay it do you add to the cost, because of what is happening to the dollar, but you postpone the benefits derived from the use of coal.
>
> I heard my colleague from Pennsylvania refer to interest rates. The administration a few years ago wanted to charge the current interest rates on cost but not use the same interest rate in determining the benefits in the same proportion in view of the change in the dollar value. Of course, that is ridiculous. If the costs increase, the benefits must increase also.
>
> We are not talking about a rule of thumb by some technical person. Some 70 percent of the funds needed for the project have been committed, and if I accept the gentleman's figures, you have got to match the benefits of completing it against the cost of completing it; and the benefit-cost ratio is 2.5 to 1.
>
> Let me repeat, it is stated here that what is being sought is delay, but not stoppage, which increases cost and postpones the day when the project will be available and will yield benefits. But let me tell you why this $58 million is in here. And I might add at this point that this bill is within the budget resolution adopted by the Congress. The contractors made firm contracts with the Government in which they estimated the cost of their fuel. The cost of fuel has gone up so fast that to keep from going broke they have to work as fast as they can before fuel goes up more. So the contractors are working rapidly. They are tied to a firm figure. If they do not work rapidly before costs go up more they will go out of business. All of us know that inflation was rampant early this year.
>
> Let us see, if the gentleman has his way about delaying this project further, you not only put out of work some 3,200 employees now working, who will go under unemployment compensation, but many others who are not working on-site will also be affected.
>
> So I say to you, I think that we should reject this amendment. Do not vote to delay the project. If anything, let us speed it up, keep it from costing more and start getting the benefits.
>
> Let us keep in mind that what is involved here, is a slack water route north. When you go north, you go into the heart of the coal fields, and goodness knows, with all due deference to nuclear power, I wish we could all turn to coal. Let us not delay the time when that coal will be easier to get out of that biggest coal section in the United States.
>
> Mr. Edgar. Mr. Chairman, will the gentleman yield?
>
> Mr. Whitten. I yield to my colleague, the gentleman from Pennsylvania.
>
> Mr. Edgar Mr. Chairman, I thank the gentleman for yielding.
>
> The gentleman in the well knows a great deal about this project; I just have two questions to ask the gentleman.
>
> The Chairman pro tempore. The time of the gentleman from Mississippi has expired.
>
> (At the request of Mr. Edgar, and by unanimous consent, Mr. Whitten was allowed to proceed for 2 additional minutes.)
>
> Mr. Edgar. Mr. Chairman, if the gentleman will yield further, just two quick questions.
>
> Would the gentleman in the well agree that the construction of the Tennessee-Tombigbee Waterway north of Demopolis will give you a north-south corridor for moving eight tow barges; but that, in fact, if the Tennessee-Tombigbee Waterway is to be used below Demopolis, the green section of the map, that the corps will have to, as it has indicated in its aerial photographs, straighten out the lower Tennessee-Tombigbee Waterway in order to use the waterway for the kind of commerce that the gentleman has suggested.
>
> Mr. Whitten. That could well be true, but that lower portion is not authorized, we are not seeking authorization, and we are not proposing funds for that. This bill provides funds to continue ongoing contracts to keep people working and to bring project benefits on line as scheduled, but may I say this, and I am trying to be frank about it. The Pacific Northwest area had more power than they needed for many, many years, but the area is actually short of power now.
>
> I am sure that traffic patterns are not going to change overnight when you get the Tenn-Tom completed. It takes time for industry to rearrange that.
>
> I am also convinced, seeing the development in the Pacific Northwest and seeing it

in the Northeast, that despite what some of the railroads may think, waterways do bring industry. We have a big FMC plant north of Tupelo that came there because of this waterway use that they could see in the future. It is going to generate activity where everybody will prosper, including the rest of the United States. Now, that has been the history of other projects we have constructed in this country, notably the McClellan-Kerr navigation project in Oklahoma and Arkansas, and the central Arizona project.

I would like to say here that at my request the committee appropriated the first $500,000 to start this project.

I would like to say to the gentleman about the bridges he referred to earlier, I would like to point out to him that under present conditions if it was being authorized today, you would provide for crossings. The bridges now require safety features and all these things that were not required earlier. If we have a water project initiated as of now, all these other things will be included to start with; so we did nothing except give fair treatment to these areas.

I say again, that while the gentleman did appear before the committee; but living as far away as the gentleman does, he does not have the viewpoint that I think is essential here.

The CHAIRMAN pro tempore. The time of the gentleman from Mississippi has again expired.

(At the request of Mr. BEVILL, and by unanimous consent, Mr. WHITTEN was allowed to proceed for 2 additional minutes.)

Mr. WHITTEN. Mr. Chairman, may I say again, everybody agrees that we are going to complete the project that is spoken of here today. If we are going to complete the Tennessee-Tombigbee Waterway, is it not wise to go ahead and get through with it as quickly as possible and get the benefits from it?

Is it not wise to reject this amendment in order to obtain the means of transporting this coal just as fast as we can?

Is it not wise to avoid the payment of unemployment compensation benefits to people who want to work?

So I say again, since we are committed and since construction has been underway for 8 or 9 years and since it has been approved by the Congress and most everybody agrees it should be completed, let us go ahead and complete it and not delay it further and create the very situation about which you complain.

Mr. EDGAR. Mr. Chairman, if the gentleman would yield further, I just have one additional question. I am not sure the gentleman answered my first question; but the second question is relating to the contractors. We committed in November last year $165 million for the project. Because the contractors wanted to accelerate their activity, we have administratively moved over almost $30 million more. Does not the gentleman in the well think that $194 million this year is sufficient money for those contractors to complete the significant section, so that we can at least stay within our budgetary constraints?

If the amendment is not adopted, does not the gentleman agree that almost $81 million more will be spent on this project than was authorized and appropriated by the gentleman from Alabama (Mr. BEVILL)?

Mr. WHITTEN. Mr. Chairman, may I say to the gentleman, he is right in his viewpoint, except that the money is within the ceilings established by the budget resolution. The project will provide jobs and it will prevent money from being spent on unemployment compensation. The project will cost more the longer you delay it and the benefits are going to be postponed the longer you delay it.

So I do not see any sound reason for slowing down the project.

The CHAIRMAN pro tempore. The time of the gentleman from Mississippi has again expired.

(By unanimous consent, Mr. WHITTEN was allowed to proceed for 1 additional minute.)

Mr. WHITTEN. Mr. Chairman, may I conclude by saying that the funds in the bill is the estimate given to us by the corps as to the minimum needed to fund ongoing contracts. Let us not delay this project which we all agree is going to be completed. Let us do it now and defeat the amendment.

* * * * *

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I certainly yield to my friend from Mississippi.

Mr. WHITTEN. May I say the act was passed in 1946, and at the time this came up, at my instance, if I may say so, I was a spokesman for quite a group. This is not a local project. The testimony shows that 23 States will be benefitted.

Mr. FITHIAN. I understand that.

Mr. WHITTEN. So while in 1946 there was one set of circumstances to qualify the project, by the time construction was started we were dealing with other projects in an entirely different way. As you know national projects such as the St. Lawrence Seaway, the Bonneville Power Administration, and others that served big areas were looked at under different criteria. What we did in this instance was to treat this project like we would treat another project under modern conditions.

The CHAIRMAN pro tempore. The time of the gentleman from Indiana has again expired.

(By unanimous consent, Mr. FITHIAN was allowed to proceed for 5 additional minutes.)

Mr. FITHIAN. I yield to the gentleman.

Mr. WHITTEN. What this did was to broaden this authority under the discretion given in the original act. The size of the canal was greatly changed. The bridges that are built now have to meet EPA standards, at the time Tenn-Tom was authorized they did not.

Mr. FITHIAN. I understand that.

Mr. WHITTEN. So in view of all of the different requirements which we have today and which we provide for in new projects, we had to provide for those requirements in this project to make it equal to those projects currently being authorized. That is the reason for this.

Mr. FITHIAN. I understand the gentleman's presentation. But the fundamental question still goes unanswered. The fundamental question is will the States of Mississippi and Alabama be able to meet their local share requirement. That is the fundamental question.

Mr. WHITTEN. Right now it is my understanding that the Mississippi State Highway Department has expended $58.8 million to date and committed itself to an additional $48 million for relocations to complete these bridges in the last year. But may I point out to the gentleman—and he is a very able Member of Congress—are we not talking about what ought to be done in his judgment? In my judgment, what we did is in line. But now we are talking about $58 million for the project. If the gentleman is right about this, and I do not think he is, but if he is right, is it not true that it would cost us more money by postponing the date of project completion? The amendment before us would slow the project down when costs are going up. That is what has happened to every project under construction.

Mr. FITHIAN. I respect the gentleman for his comments. I have no doubt about the outcome of this amendment. I have no doubt about the building of the Tombigbee. My concern here, as I said at the outset, is the principle involved, and that is when we go into a particular project, will the States or will not the States be required under the law to meet their legal responsibility for their share? That ought to be applied, I say to the gentleman from Mississippi (Mr. WHITTEN) to all aspects of government. We cannot just willy-nilly overlook that.

Mr. WHITTEN. I cannot argue with the gentleman about what he might wish to do to change the law in the future. I would suggest that is not a reason to postpone completion of this project and make it cost more and delay the project benefits.

Mr. FITHIAN. Let me quote for my good friend a report that was never issued—a report that was never issued—dealing with this. This report is from the Army Audit Agency—that is getting right down home—to the Corps of Engineers, where the Army Audit Agency said the projected non-Federal participation may not materialize. This was their judgment based on the latest data available. The States' participation may fall short as much as $170 million.

I come back to that point. Either we are or we are not going to require local sponsoring agencies to meet their legal responsibilities in this case. It seems to me that we are not going to require them to meet their legal responsibilities. In point of fact, if my figures are correct, the State of Mississippi has spent only $8 million to carry out its legally required duties. The gentleman says that they are going to spend another $40 million.

Mr. WHITTEN. They have spent far more than that as of now.

Mr. FITHIAN. Not $40 million or $50 million, but if the Army Audit Agency is correct, $170 million. That still leaves us far short.

I just would urge my friend, the gentleman from Alabama, and my friend the gentleman from Mississippi, and all members of the Committee on Appropriations, to give very, very careful attention to the fundamental principle that I believe is at stake—not in this amendment. I only speak to this amendment casually. I speak to the principle seriously, and that is to give serious consideration to the question of whether or not we should move forward on a project, accelerate it or do anything else, until and unless the States meet their legal responsibility. A local cosponsor of a bill meets his.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from Alabama.

Mr. BEVILL. I thank the gentleman for yielding. I will answer his question right now. He asked whether there is presently a failure of local sponsors to meet the requirements of local cooperation on the Tennessee-Tombigbee project. The answer is no. There is no failure on the part of the local sponsors to meet their requirements.

I appreciate the gentleman is on a fishing expedition here, but the answer to his question is no.

Mr. FITHIAN. No, I am not on a fishing expedition. I reject that; I do not resent it, but I reject it for this reason. Let us be reasonable men and women here. If you have a project and you are going to appropriate Federal money to pay for the project, and then there was some one Federal program—and this is done so much through the Government; that is the reason we cannot balance the budget not just here but everywhere throughout the Government——

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. FITHIAN was allowed to proceed for 2 additional minutes.)

Mr. FITHIAN. If we say we are going to spend x number of Federal dollars on any project, and if we say under the law a State or local sponsor, whatever it is, a county, is supposed to come up with 3 percent or 5 percent of that money, if that county then is allowed to take another Federal funding program, through whatever means, and divert it to meet the local responsibility, then reasonable men and women, whatever party or persuasion, would reject the notion that the State has met its responsibility.

So perhaps the gentleman from Alabama is correct that technically they have met their current rate of responsibility, erroneously—I think illegally. But beyond that the Army audit section says it is highly unlikely they will meet it.

What I would like to know from either of the gentlemen is, is it their best judgment—I am postulating the question—that the States involved, the local sponsors involved, will in fact under the law meet their requirement for local funding?

Mr. Whitten. If the gentleman will yield, I will give him some figures. As of June 1, 1980, the Alabama sponsor, the Tombigbee Valley Development Authority has spent approximately $17.5 million for relocations; $5,445,000 additionally has been committed by the local sponsor. In addition, the Tombigbee River Valley Waterway Management District, the local sponsor in the State of Mississippi expended approximately $58,800,000 and has committed an additional $47,946,000 for relocations in connection with the waterway. This is 78 percent of the total non-Federal cost estimate of $165 million for relocations. But the balance of the local share will be paid, I will tell the gentleman. I will say again, whatever we may work out regarding this matter—and I agree we have to—does not justify delaying its completion.

Mr. Fithian. I am not arguing that case. I am just saying all the information I have is that they have not met their responsibility.

Mr. Whitten. I do not want the gentleman to build up some reason to vote for this amendment.

Mr. MYERS of Indiana. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. Corcoran).

Mr. CORCORAN. Mr. Speaker, I thank my colleague for yielding this time. The reason that I requested the time is in order to learn from the managers of the bill what the intent of the conferees is on the section dealing with interim spent fuel storage. I refer the chairman of the subcommittee and the ranking minority member of the subcommittee to page 23 of this conference report on H.R. 7590. In that particular section of the report the language reads:

> Domestic Spent Fuel Storage: Acquisition of AFR Capacity. The conference allowance provides $10,000,000 to initiate preliminary activities and allow negotiations for acquisition of AFR's pursuant to the Nuclear Waste Policy Act (S. 2189) as passed by the Senate on July 30, 1980, or similar legislation as it may be enacted by the Congress.

My concern is in analyzing that particular sentence it would appear to me that the intent of the conferees is that in the event that the Senate bill S. 2189, or some comparable legislation here in the House would go from the stage of having passed the Senate to the stage of having passed the House, and then perhaps there might be some differences, and a conference committee would be organized to iron out those differences, and then ultimately after approval by both Houses of Congress the measure would find its way to the President and receive his approval, then the $10 million, to which there is reference here and for which there is authority, would be available to finance the provisions of that authorization measure. Am I correct in that understanding? Is this simply money that is there so that in the event the Congress and the President would agree on a nuclear waste policy measure, this money would be there to carry out the provisions of that legislation with reference to AFR's?

Mr. BEVILL. Mr. Speaker, will the gentleman yield?

Mr. CORCORAN. I will be happy to yield to the gentleman.

Mr. BEVILL. The gentleman is essentially correct. This $10 million is to start the preliminary work, to initiate negotiations, to start the environmental impact statements, to select a site, but no construction can be started until this Congress gives the permission to start it.

Mr. CORCORAN. Right, and that, furthermore, with respect even to the preliminary activities and the allowance of negotiations, that could only be undertaken in the event that the Congress would pass something like S. 2189 which, of course, as the gentleman well knows, has not been done yet.

Mr. BEVILL. This House has pending three pieces of legislation on this.

Mr. CORCORAN. Yes.

Mr. BEVILL. The Senate has acted on one measure. When the authorization is completed, then we will have some better guidance from the Congress. This subcommittee will support, of course, the legislation as approved by the Congress.

Mr. CORCORAN. I just want to say I congratulate the chairman of the subcommittee and the ranking minority member of the subcommittee who have worked with me on this point. As we started out, the House Appropriations measure allowed for "discussions" of this particular program that has been requested by the Department of Energy and President Carter. The Senate appropriations bill allowed for "negotiations." I think this particular compromise which ties it to the authorizing legislation which is yet to come from the Congress—and to receive hopefully this year the approval of the President—is the proper course to take. I want to congratulate and express my appreciation to both of these gentlemen for their consideration in this particular matter.

Mr. MYERS of Indiana. Will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman.

Mr. MYERS of Indiana. I thank the gentleman for his comments. He has worked very closely with the committee, and the committee has tried to work very closely with him in his recommendations.

The second paragraph on page 23 on the interim spent fuel storage was put in at the gentleman's insistence. The gentleman did insist that we have this type of language to protect any interest he might have, and we did provide that it cannot be consummated without further expressed congressional approval. We put it at the gentleman's insistence, so I think this answers the question in the second paragraph.

Mr. CORCORAN. It certainly does. I want to reiterate my appreciation to the gentleman.

Mr. LUNDINE. Mr. Speaker, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from New York.

Mr. LUNDINE. I appreciate the comments of the gentleman. I share them, and I think that I understand and have been assured here that unless there is an authorization for an AFR—away from reactor—storage program, this money cannot be used by the Department of Energy toward that objective. Is that the understanding of the gentleman?

Mr. CORCORAN. That is my understanding, and it has been confirmed here this morning.

Mr. LUNDINE. I thank the gentleman.

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Mr. BEVILL. Mr. Speaker, I yield to my distinguished colleague and friend, the gentleman from North Carolina (Mr. Martin).

Mr. MARTIN. Mr. Speaker, I thank the gentleman for yielding.

I do have a question which I think will clarify remarks that the chairman of the subcommittee made earlier.

There were previous reports that there were a number of new unbudgeted construction projects. It is with pleasure that I understand the gentleman from Alabama has said there would be no new unbudgeted construction projects in this bill. I would be pleased if the gentleman would clarify the specific items so we could have that information with regard to the Tug Fork project in West Virginia. Would this mean this would not be new construction started on that project?

Mr. BEVILL. The gentleman is correct. I stated there are no new construction starts in this conference report. We had no new construction starts in our bill when it passed the House. There are no new construction starts added by the Senate.

The Tug Fork is not a new construction start.

The 1979 Appropriation Act contained $10 million for the Corps of Engineers for the Big Sandy River, Tug, and Levisa Forks for snagging, clearing, and so forth.

This was started in 1979 as I have pointed out to the gentleman, it is not a new construction start.

Mr. MARTIN. It is not new or is not construction?

Mr. BEVILL. It is not new.

Mr. MARTIN. There is $6 million, however, for that project in construction.

Mr. BEVILL. That is correct, but it is not new.

Mr. MARTIN. What about the Fall River Harbor project in Massachusetts, is that not construction? It is listed as $300,000 for construction that was not shown in the budget.

Mr. BEVILL. That is in the same category. That is a resumption. It is not new.

Mr. MARTIN. Would the same apply to the Placer Creek project in Idaho?

Mr. BEVILL. The gentleman is correct. There are no new construction starts in this bill. The projects the gentleman has named have been previously under construction.

Mr. MARTIN. I wanted to clarify that with the chairman.

There are two others if I may try the gentleman's patience a bit further. The

Freeport Harbor project in Texas and the Liberty Island project in New Jersey.

Mr. BEVILL. That is rather unique in that it allows them to use their own money. It was up to $10 million on one project and up to $1.5 million on another that they are allowed the use of their own money, but there is no assurance that Congress will ever fund it. I expect it will but there is no assurance of that and I have no way of knowing, of course.

Mr. MARTIN. We would have no objection to their using their own money for this project, certainly.

If the Congress were to later on authorize these projects, would there be a precedent for reimbursing them the money that had put into it locally? Would that be the intention of the committee?

Mr. BEVILL. If the Congress decides to do that, we would do it but we have no plans to do that.

Mr. MARTIN. Then the gentleman from Alabama has no intention of reimbursing them for their own money?

Mr. BEVILL. The gentleman is correct. That would be the will of the Congress, if that came before the Congress we would, of course, abide by what the Congress decides.

Mr. MARTIN. Mr. Speaker, I thank the gentleman for yielding on these points.

Mr. BEVILL. Mr. Speaker, I yield to the distinguished gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. I thank my colleague for yielding.

I am afraid I missed some of the dialog about the Tug Fork project in West Virginia.

As I understand it, this has not been authorized by the House; is that correct?

Mr. BEVILL. It has been passed as I understand it, by both Houses but no authorization bill has been signed. We appropriated money for this in 1979 and I would like to yield to the distinguished gentleman from Kentucky (Mr. PERKINS) who could comment on this, he is very interested in this project.

Mr. PERKINS. I thank the distinguished subcommittee chairman for yielding.

Mr. Speaker, may I say to the gentlewoman from New Jersey we have spent several million dollars on the Tug Fork, following the 1957 flood and the 1963 flood when Williamson, W. Va., and South Williamson, Ky., were practically destroyed. All of the communities on the Kentucky side were virtually destroyed, to the extent of several millions of dollars, we built some flood walls around Williamson and South Williamson. I do not recall the actual construction costs, but I think it was in the neighborhood of $1½ million.

Recently, Mr. Speaker, in the 1977 flood, again this whole area suffered damage running up to $50 million to $60 million.

Mr. Speaker, it is time that the Congress do something about this situation. We passed authorization legislation here in 1977 in the omnibus bill. It went over to the Senate in 1978 and they passed the bill late in the session of 1978. They sent it over here at a time when we did not have a quorum present. That is the necessity for another authorization now.

Mrs. FENWICK. I understand. I have a particular reason for these questions. As I understand it, the cost/benefit ratio is not in favor of this project.

Mr. Speaker, I have in my district a stream that repeatedly floods also and more important even than the property losses we lost six lives in 1973. I really think that if we are going to begin as we have in the House, I am happy to say, to allow the Corps of Engineers to take into account loss of life as well as damage to property, it is time we begin to consider this and not just rest these decisions on questions of property. The Greenbrook has flooded repeatedly. As my colleague knows, we have been trying to get some protection for that area. In the last flood which occurred in 1973, we lost six lives.

Mr. CLAUSEN. On the basis of the gentlewoman's persuasion, we incorporated into the authorization bill now pending in the Senate a provision that would permit the Corps of Engineers to start to address loss of life as a factor, an incremental factor in their methodology for evaluating projects and the development of an updated benefit-to-cost ratio criteria.

Mrs. FENWICK. I am sure that is true but here we are; we have property damage which is repeated, according to my distinguished colleague from Kentucky, who has given us a very clear picture of what those people have suffered repeatedly. My people, too, have suffered.

Mr. PERKINS. Mr. Speaker, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Kentucky.

Mr. PERKINS. Let me say to the gentlewoman that I know the gentleman from Alabama (Mr. BEVILL) and the gentleman from Mississippi (Mr. WHITTEN) and all of the Members of this Chamber would certainly like to come to the aid of the gentlewoman from New Jersey. We will help the gentlewoman in every way we possibly can in connection with the gentlewoman's project. We know it is a sound project and we would all like to help.

Mrs. FENWICK. I thank the gentleman for his remarks.

Mr. BEVILL. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. My colleagues, most of the comments made about this particular conference report have been very positive and very complimentary. I, too, want to compliment the chairman for his effort to put as few new starts in this legislation as possible. We can quibble over the language on whether or not some of them are, in fact, restarts after long periods of delay and inactivity, but I think this bill does demonstrate a reduction of the new-start mania that we have had in previous bills.

I still have some major concerns in this legislation which I would like to share with the House so that for the record we can at least all understand what is happening here on a number of projects.

As I indicated earlier, the House authorizing committee wants to deauthorize the Dickey-Lincoln Dam in Maine and yet moneys are provided to complete a study on that particular project.

Second, after a great debate, the House came within 20 votes to terminate the funding for the Tennessee-Tombigbee Waterway. There has been great discussion over the last 6 months as to whether it makes sense to spend $1.9 billion to construct from Pickwick, Tenn., to Demopolis, Ala., a six-tow barge waterway paralleling the Mississippi River.

There were great assurances on the House floor that there was no intention by Members on both sides to have an additional $1 billion spent below Demopolis, even though I held up pictures of a snakelike lower Tombigbee River that would need extensive modifications and renovation.

□ 1100

If we do complete the Upper Tombigbee Waterway and bring those six tow barges down to Demopolis, there would be the necessity, as discussed by the Army Corps of Engineers when they appeared before the committee last January, to spend an additional billion dollars below Demopolis. Time after time people assured us that there would be no effort made to put that money into this legislation. And yet, when I look at the details, I discover that we have not only put money in for the Warrior-Tombigbee River study, but we have accelerated that funding from an administration request of $391,000 to $841,000.

Why do we have to accelerate the funding for the study? Why do we have to spend $212 million at a time of balancing the budget and fiscal conservatism in this country on one project? I searched this conference report, and I found that there was one project that was $99 million; all the rest were far below that figure. Yet here in this one project, not only are we spending $212 million of the taxpayers' money on a project that I believe is unworthy of our consideration, but we are also putting our toe in the water to spend an additional billion dollars of the taxpayers' money from Demopolis, Ala., to Mobile.

I think this conference report raises a number of questions. One other project in the bill that causes me great concern is the Columbia Dam. We freely and willingly accepted the Senate's provision of $18 million on the Columbia Dam, even though the benefit cost ratio was 0.8 to 1, even though the dam will produce no hydroelectric power, and even though construction work is not currently taking place on the site. There have been a number of reports and analyses that leave little merit for this kind of funding. Yet in a time of tight budgets we are willing to spend $18 million on the Columbia Dam, almost a million dollars on an accelerated study on the Lower Tombigbee, and $212 million on the regular Tombigbee Waterway construction.

I think there are flaws that I have not yet had the time to find within this conference report. I support the energy provisions in this bill. I support the chairman's acceptance of the solar energy parts, but I would hope that this House might study more carefully each of the water projects and develop a water policy based on merit.

Mr. MYERS of Indiana. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. CLAUSEN), a very important member of the authorizing committee.

Mr. CLAUSEN. Mr. Speaker, the Appropriations Committee of the House has done an exceptionally good job under the most difficult circumstances in attempting to advance this compromise conference report through the conference committee work with the Senate. I think that which they have presented deserves the support of the House.

There are some matters that I believe should be included, but in particular I want to compliment the chairman and the Members for their full-fledged and irrevocable commitment to the solar energy development program. They clearly have made history with their efforts, and they are deserving of all the recognition and commendation the House can give them.

I applaud the conference committee recommendation of increased funding for solar energy development and demonstration projects over previous years. I firmly believe that solar energy is one of the best budget investments we can make today. In addition to its well documented abilities, it is clear that expanded use of solar energy can make a significant contribution to our success in coping with the energy crisis which we now face.

I am very pleased and gratified with the conference agreement on the Senate report language regarding geothermal commercialization plans and small-scale hydroelectric development. If there is one energy resource—as of today yet underutilized—that could free us in part from our dependence on imported oil, it is geothermal. Most experts believe that within the next 20 years, there is the geological opportunity to supply 20,000 megawatts of generating capacity. That is equal to 700,000 barrels of oil a day or 8.5 percent of today's crude oil production in the United States.

Clearly the Nation faces some hard choices regarding its energy future. Without a deliberate and long-range energy policy based on facts and sound decisions, we could be facing an increased dependence on foreign oil and gas, skyrocketing electrical bills for the consumer, and serious repercussions to the national economy, including increased unemployment and spiraling inflation.

In this bill, the conference committee has continued and extended efforts toward a balanced budget and the need for fiscal restraint during the coming year. The changes which the committee has made to reestablish priorities which we in the Congress believe represent a sound investment in our natural resources are commendable and emphasize this Nation's most serious energy supply problem—imported petroleum. Dollars spent wisely and cautiously today to develop alternative energy technologies will increase the strength and wealth of our Nation.

The committee has given careful consideration to all the facts and details made available to them and I believe that the end product of their work is a balanced and responsive bill. I urge my colleagues to support its passage.

Mr. MYERS of Indiana. Mr. Speaker, I yield 3 minutes to the gentlewoman from Maine (Mrs. SNOWE).

Mrs. SNOWE. I thank the gentleman for yielding.

Mr. Speaker, I rise today to express my strong disappointment over the conferees' decision to reinstate $795,000 for the Dickey-Lincoln project. Apparently, it reflects acquiescence to the same old refrain, "Let's do some more studies."

Mr. Speaker, this project has been studied for the last 16 years here in the Congress. And what are the results of those studies? More studies.

And what are the results of those studies? The fact is that it produced an unfavorable benefit-cost ratio. It just appears to me in determining the water policy in the Congress, that we are determined to fund some of these programs in perpetuity. In addition, as the gentleman from Pennsylvania (Mr. EDGAR) mentioned, the Public Works Committee did, earlier this year, deauthorize the Dickey-Lincoln project.

It seems to me that if we are going to continue to bypass the jurisdictional committees on these very important matters, then we must totally disregard our entire efforts in trying to authorize or deauthorize these water projects. The consumption of taxpayers' money in this way, it seems to me, indicates total disregard and insensitivity of the manner in which we spend hard-earned taxpayers' money.

I am looking forward to the day that the Congress will desist in this approach, because the studies have been done continuously on the Dickey-Lincoln Dam and it has cost the taxpayers in excess of $10 million. I would like to add one more point. The fact is that in this Congress in the last 16 years, since the time the Dickey-Lincoln Dam was authorized here in the Congress, the Maine delegation in the past has been unanimous in its support until a number of studies produced unfavorable benefit-cost ratios.

I would like to at least indicate some of the points as to why I believe this project will have an adverse impact on the State of Maine, because this project is located in the northern part of my district.

Let us examine the benefit-cost ratio. As computed by the Corps of Engineers, it is 1.2–1, based on a discount rate of 6⅞ percent. This does not include the proposed wildlife mitigation plan, which will require the Federal Government to purchase an additional 112,000 acres to mitigate the effects of the impact on fish and wildlife in that area. In a recent economic analysis conducted by a professor at Dartmouth College, it showed that at an 8.5-percent discount rate, the American taxpayer would lose 33 cents out of every dollar invested in the project.

There exist energy alternatives in Maine, and I support them wholeheartedly. I am a great proponent of hydro potential in Maine. In fact, Maine certainly displays the strongest potential in that area in New England and for various alternatives. In fact, there are 1,400 existing dams in Maine that could be refurbished and retrofitted, that could supply more energy than the output of energy produced by Dickey-Lincoln. In terms of jobs, let us look at the employment benefit of the project. It would only create 68 permanent jobs. The earliest date, in fact, that this project could come on line if we started tomorrow would be 1988, and I doubt that it would be 1988 when we could complete this project at the minimal cost of a billion dollars, regardless of what the Corps of Engineers has estimated.

The SPEAKER pro tempore. The time of the gentlewoman from Maine has expired.

Mr. MYERS of Indiana. Mr. Speaker, I yield 2 additional minutes to the gentlewoman from Maine.

Mrs. SNOWE. The project, in addition to that, would destroy 278 miles of free-flowing rivers and streams and lakes. It would also displace 500,000 acres of land in northern Maine, of very valuable timberland and that is another subject in terms of wood as an alternative in Maine. In fact, if we continue to use wood as we are doing at this rate, by the year 1985 we could seven times displace the amount of oil displaced by the construction of the Dickey-Lincoln project.

The Dickey-Lincoln project, as I said, was authorized in 1964, and is continually being studied. In fact, I was visiting a newspaper office in the northern part of my region which would be affected by this dam, and they were indicating that their basement is full of reports of studies done on Dickey-Lincoln. It appears to me that the Congress has got to decide once and for all on this project and any other projects that seem to be lingering without final decision. Somehow, the Dickey-Lincoln Dam has political buoyancy. Maybe we will be funding it into oblivion; I do not know, but I know one thing, the facts speak for themselves. That is why I have reached the conclusion—the other Congressman from Maine, DAVID EMERY, has reached the conclusion; the other Senator has reached the conclusion, and many others have decided that we should abandon this project in favor of existing alternatives that are more timely and less costly and more productive.

Mr. EDGAR. Mr. Speaker, will the gentlewoman yield?

Mrs. SNOWE. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Speaker, I would like to commend the gentlewoman on her statement on the Dickey-Lincoln project, and add that there was a majority vote recorded in the House authorizing committee that the Dickey-Lincoln Dam should be deauthorized and we should use that money for more worthy projects, perhaps throughout that region.

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Mrs. SNOWE. Mr. Speaker, I want to thank the gentleman from Pennsylvania

(Mr. EDGAR) for his efforts in attempting to discontinue the Dickey-Lincoln project, and I am hopeful that the Congress will really give this serious consideration instead of spending a million dollars here and a million dollars there and continuing to fund this project and fund more and more studies of the project.

The SPEAKER pro tempore. The time of the gentlewoman from Maine (Mrs. SNOWE) has expired.

Mr. MYERS of Indiana. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the gentlewoman from Maine (Mrs. SNOWE) has been a very powerful spokesman against Dickey-Lincoln in this body. She, along with the other Member, the gentleman from Maine (Mr. EMERY), persuaded the committee to take the funds out before the bill passed the House. However, the other body was just as adamant and just as strongly in favor of placing the funds in. As I said earlier, we made every attempt in the conference committee to try to take these funds out.

If the Members will turn to page 51 of the conference report, they will find that we have language in there that, I hope, will finally resolve this Dickey-Lincoln Reservoir. I have been in this body for 14 years, and every year this project comes up for debate. Right in the middle of page 51 of the conference report, under the heading, "Construction, General," we find this language:

> The Committee of Conference has agreed that the Corps of Engineers should finish planning for the Dickey-Lincoln School Lakes, Maine project in fiscal year 1981.

Mr. Speaker, with that language, we can have another vote up or down in the future. I completely understand why the gentlewoman from Maine is concerned about this, since it did pass this body to be deauthorized earlier this year, but I think the gentlewoman is aware that the legislation is still in the Senate and has not been acted on.

Mr. Speaker, I yield 5 minutes to the ranking minority member of the committee, the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I am severely disappointed that this conference report on the energy and water appropriations bill for fiscal year 1981 includes further funding for the Dickey-Lincoln School Lakes Dam project in Maine.

I had hoped that the House position eliminating the $795,000 requested by the administration for further planning might prevail. I want to thank the ranking minority member of the subcommittee (Mr. MYERS) and the gentlelady from Nebraska (Mrs. SMITH) for the support they gave me in the unsuccessful effort to sustain the House position.

Mr. Speaker, on February 5 of this year the House approved H.R. 4788, the omnibus water resources authorization bill which included a provision to deauthorize the Dickey-Lincoln project. On June 25, the House gave its approval to H.R. 7590 making appropriations for energy and water development in fiscal year 1981 which did not provide any funds for this project in fiscal year 1981. Nothing has changed since these House actions to warrant the expenditure of any additional taxpayer dollars on this project.

The proposed Dickey-Lincoln project is an example of how not to go about meeting our energy needs. The severe and irreversible environmental consequences of this project more than offset its marginal economic and energy value.

Mr. Speaker, this project would cost in excess of $1 billion and flood 55 miles of the largest remaining free flowing wilderness river in the Northeast—the St. Johns—in the process destroying over 89,000 acres of virgin timberland and endangering hundreds of fish and animal species.

And all this destruction to allow construction of a dam to provide 2½ hours of peak power generation a day.

Yes, the American people are looking to us, their elected Representatives, to find solutions to our energy needs. And yes, this proposed dam project would produce energy. But the fact that this is an energy project is not sufficient in my mind to justify it regardless of cost, and environmental impact. I believe that they will consume more energy in building this dam than it will produce.

Reasonable energy-producing alternatives to the proposed Dickey-Lincoln project exist—alternatives that promise to produce as much power without the irreversible damages to the land that construction of the proposed Dickey-Lincoln Dam would cause. These alternatives which include a combination of solar, wood, resource recovery, and smaller site hydropower are not as dramatic as a dam that would be as large as Egypt's famous Answan Dam but their potential has been studied and agreed on and they can be employed at far less expense to the taxpayer.

Mr. Speaker, we cannot afford to further waste taxpayers' dollars on such an undeserving project as the proposed Dickey-Lincoln School Lakes project.

Mrs. SNOWE. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentlewoman from Maine.

Mrs. SNOWE. Mr. Speaker, I want to acknowledge the efforts the gentleman from Massachusetts (Mr. CONTE) has made on behalf of our position on the Dickey-Lincoln project in order to abandon the project.

The gentleman has outlined very well the problems that face us if we do construct that project, and he has pointed out in fact that it is not a suitable energy alternative. If we look at it regionally, we find that this would only increase New England's capacity by 1.1 percent. It is certainly not worthy or justifiable of construction from the standpoint of spending the taxpayers' money. This is a project costing many millions of dollars, as the gentleman has mentioned, and also there is the irreversible damage that would be done to the environment in that area.

Mr. Speaker, we have other alternatives that we can use that would produce more energy and accomplish the objective much quicker and for less money.

Mr. CONTE. Mr. Speaker, I want to thank the gentlewoman from Maine (Mrs. SNOWE) for her statement.

The SPEAKER pro tempore. The Chair will inform the Members that the gentleman from Indiana (Mr. MYERS) has 4 minutes remaining, and the gentleman from Alabama (Mr. BEVILL) has 5 minutes remaining.

The Chair recognizes the gentleman from Indiana (Mr. MYERS).

Mr. MYERS of Indiana. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, as has been said, this is a good conference report. I think it justifies an aye vote from all Members here.

There are some questions, of course, about the dollar figures, but I think it has been explained adequately why our bill is larger than it was when it passed the House originally. The conference figure is larger now, but much of that increase is in weapons, and I think most people recognize that we do have to improve our weapons system in this country.

We did significantly reduce the amount of money in the water projects. But this is a compromise, and that is really what a conference is all about.

Mr. Speaker, I strongly urge an aye vote for this conference report, and I yield back the balance of my time.

Mr. BEVILL. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, regarding the Dickey-Lincoln project, in response to the gentlewoman from Maine (Mrs. SNOWE) and the gentleman from Massachusetts (Mr. CONTE), I would like to point out that the House did not put any money in this appropriation bill for this project. The Senate not only put the money in but they had a recorded vote on the floor of the Senate. This was added by the Senate, and the Senate insisted on its position that this planning money be included.

There is no construction money in here. We are not talking about constructing the Dickey-Lincoln project; we are talking about planning money. The feeling of the conference committee, as expressed by the Senators, was very strong that this planning money for next year should give us a signal on what should be done about this project that has been discussed all these years.

I just wanted the gentlewoman to be aware of the fact that the Senate was very insistent on its position, and that they had a vote in the Senate, so we in the conference had no other choice.

This is a good conference report.

One of the Members mentioned some of the arguments that were used about the Tenn-Tom project. I am not going to go into that because we have discussed this for 2 days here on the floor. One thing that the gentleman was talking about is something that we have not even asked the House to authorize money for. We have not included new construction south of Demopolis, and there is no use talking about that.

Mr. Speaker, I urge the Members to

support this conference report. It is a good conference report.

Mr. BEVILL. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WYDLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 273, nays 117, not voting 42, as follows:

[Roll No. 580]

YEAS—273

Abdnor
Addabbo
Akaka
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, Tenn.
Benjamin
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonker
Bouquard
Breaux
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burton, Phillip
Byron
Carney
Cheney
Clausen
Clinger
Coelho
Coleman
Corcoran
Corman
Cotter
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, S.C.
de la Garza
Deckard
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Fazio
Ferraro
Findley
Fisher
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Goldwater
Gonzalez
Gore
Gramm
Grassley
Gray
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hammerschmidt
Hanley
Hansen
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Horton
Howard
Hubbard
Huckaby
Hutchinson
Hutto
Hyde
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kemp
Kogovsek
Kramer
Lagomarsino
Leach, Iowa
Leach, La.
Lederer
Lehman
Livingston
Lloyd
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Marks
Marlenee
Marriott
Mathis
Matsui
Mica
Mikulski
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nichols
Nowak
Oakar
Oberstar
Ottinger
Panetta
Pashayan
Patten
Patterson
Perkins
Peyser
Pickle
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Rhodes
Rinaldo
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Rousselot
Royer
Sabo
Santini
Satterfield
Scheuer
Schroeder
Schulze
Sebelius
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stewart
Stokes
Swift
Synar
Tauzin
Thomas
Trible
Udall
Ullman
Van Deerlin
Volkmer
Walgren
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—117

Applegate
Archer
Atkinson
Barnes
Bedell
Beilenson
Bennett
Bonior
Brodhead
Broyhill
Burton, John
Campbell
Carr
Cleveland
Collins, Tex.
Conable
Conte
Conyers
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Dannemeyer
Dellums
Devine
Downey
Drinan
Early
Edgar
Edwards, Calif.
Emery
Erlenborn
Evans, Ind.
Fenwick
Fish
Fithian
Florio
Forsythe
Fowler
Frenzel
Glickman
Goodling
Gradison
Green
Grisham
Hall, Tex.
Hance
Holtzman
Hopkins
Hughes
Jacobs
Jeffords
Kastenmeier
Kelly
Kildee
Kindness
Kostmayer
LaFalce
Latta
Leath, Tex.
Lee
Leland
Lent
Levitas
Loeffler
Luken
Lundine
McDonald
Maguire
Markey
Martin
Mattox
Mavroules
Mazzoli
Michel
Miller, Calif.
Miller, Ohio
Moffett
Mottl
Nelson
O'Brien
Obey
Paul
Pease
Petri
Porter
Pritchard
Ratchford
Reuss
Richmond
Ritter
Rosenthal
Roth
Roybal
Russo
Sawyer
Seiberling
Sensenbrenner
Snowe
Solomon
Spence
Stark
Stenholm
Stockman
Studds
Stump
Tauke
Vander Jagt
Vento
Walker
Waxman
Weaver
Weiss
Williams, Mont.
Wolpe
Young, Fla.

NOT VOTING—42

Albosta
Alexander
Anderson, Ill.
Badham
Beard, R.I.
Bethune
Bowen
Brademas
Burlison
Butler
Carter
Cavanaugh
Chappell
Chisholm
Clay
Collins, Ill.
Davis, Mich.
Derwinski
Dodd
Eckhardt
Hawkins
Holt
Ichord
Ireland
Jenrette
Lewis
Murphy, Ill.
Musto
Myers, Pa.
Nedzi
Nolan
Pepper
Rudd
Skelton
Spellman
Stratton
Symms
Taylor
Thompson
Traxler
Vanik
Young, Alaska

☐ 1130

The Clerk announced the following pairs:

Mr. Musto with Mr. Badham.

Mrs. Spellman with Mr. Butler.

Mr. Thompson with Mrs. Holt.

Mr. Chappell with Mr. Davis of Michigan.

Mr. Pepper with Mr. Carter.

Mr. Alexander with Mr. Derwinski.

Mr. Jenrette with Mr. Rudd.

Mr. Traxler with Mr. Symms.

Mr. Hawkins with Mr. Young of Alaska.

Mr. Dodd with Mr. Lewis.

Mrs. Collins of Illinois with Mr. Bethune.

Mr. Bowen with Mr. Taylor.

Mrs. Chisholm with Mr. Myers of Pennsylvania.

Mr. Murphy of Illinois with Mr. Eckhardt.

Mr. Clay with Mr. Ichord.

Mr. Beard of Rhode Island with Mr. Cavanaugh.

Mr. Vanik with Mr. Skelton.

Mr. Nolan with Mr. Nedzi.

Mr. Ireland with Mr. Albosta.

Messrs. CARR, COUGHLIN, LELAND, DOWNEY, SAWYER, RICHMOND, LAFALCE, LENT, CONTE, HALL of Texas, STENHOLM, and HUGHES changed their votes from "yea" to "nay."

Ms. MIKULSKI, Mr. BAFALIS, and Mr. STENHOLM changed their votes from "nay" to "yea".

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1140

The SPEAKER. At this time, without objection, the Chair will recognize the gentleman from California (Mr. VAN DEERLIN).

There was no objection.

CONGRESSMAN NATCHER NOTCHES HIS 12,000TH

Mr. VAN DEERLIN. Mr. Speaker, the rollcall to which we have just responded seemed fairly routine to most of us. But for one House Member—WILLIAM H. NATCHER—it marked a milestone.

This was the 12,000th consecutive rollcall our Kentucky colleague has answered since being sworn into office more than a quarter century ago.

It constitutes an alltime record for any Member of the House or Senate. Without fear of successful challenge, I would proclaim it a record for any parliamentary body in the world.

An old saying in competitive sports holds that "records are meant to be broken." But what realistic observer of the congressional scene can imagine any among us who might ever come close to breaking this one?

BILL NATCHER was sworn in as a Member on January 6, 1954. He had been chosen in a special election on August 1, 1953. Because Congress was in adjournment, he could not be sworn in until the January following. From then to the present day, BILL NATCHER has cast 8,105 rollcall votes. In addition to having never missed a rollcall vote, he has answered 3,895 quorum calls. When you add the quorum calls together with his perfect record on rollcall votes, you have a total of 12,000.

Other than BILL NATCHER, no Member since the beginning of the U.S. Congress has ever served in the House of Representatives or in the Senate for 17 consecutive years or longer from the time of their swearing in without missing one or more votes. Mr. NATCHER has now completed 27 years. Beginning on January 6, 1954, the Clerk of the House has certified Mr. NATCHER'S voting record each year, and has regularly directed a letter to BILL NATCHER stating that he has not missed a vote.

Mr. Speaker, BILL NATCHER knows full well that the voting record of a Member of Congress is not the sole criterion for judging a Member. But he believes, as we all do, that every Member should "stand up and be counted." Bill Natcher's voting record has been cited in the "Guinness Book of World Records" as the world record for parliaments and legislative bodies.

Bill will tell you that he has had a number of close calls, but has nonetheless managed to be present every time there was a vote, from the day he was sworn in.

Mr. Speaker, it is an honor for me to call the attention of Members to this all-time record established by our friend Bill Natcher.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. VAN DEERLIN. I yield to the majority leader.

Mr. WRIGHT. I thank the gentleman for making this announcement. I think this is one of the most inspiring announcements that has been made or could be made. The record established by Bill Natcher in continuous attendance upon the floor of the House, never having missed a single day's session since the day he was sworn in on the 6th of January, 1954, and never having missed a vote or a quorum call in all those intervening 27 years is, without question, the most complete record of dedication since the beginning of this Republic for any legislator.

As my friend, the gentleman from California clearly prophesies, it is unlikely that this record ever will be broken. It is an exemplary record an exemplary Member who reflects credit and honor and distinction upon this body by his demeanor and his constancy. Bill Natcher richly deserves the gratitude and respect in which he is held by all of us.

Mr. BEVILL. Mr. Speaker, would the gentleman yield?

Mr. VAN DEERLIN. I yield to the gentleman from Alabama.

Mr. BEVILL. I thank the gentleman for yielding.

I would like to say, of course, Bill Natcher has made a record in many ways and of those 12,000 votes, he has cast many good votes, but this was also the best vote he has ever cast.

Mr. PERKINS. Mr. Speaker, will the gentleman yield to me?

Mr. VAN DEERLIN. Of course, I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Speaker, I would be derelict in responsibility if I failed to compliment my distinguished colleague from Kentucky. Naturally, I want to say that all the citizenry throughout the State of Kentucky are very proud of Bill Natcher and very proud of this outstanding record.

I share the views of the gentleman in the well and the majority leader, the gentleman from Texas (Mr. Wright) that this record never will be broken in my judgment.

In conclusion, Mr. Speaker, the people in Kentucky feel that Bill Natcher is one of our greatest citizens, and has contributed as much to good government as any other individual in the Nation.

Mr. BAUMAN. Would the gentleman from California yield?

Mr. VAN DEERLIN. I yield to the gentleman from Maryland.

Mr. BAUMAN. I just want to say as one who has probably contributed greatly to allowing many of the 12,000 rollcalls to which the gentleman has responded, that despite the fact that for these many years he has spent so much time here on the floor, as some few of us do, he has managed to maintain not only his magnificent parliamentary expertise and control when he presides, but also the total and perfect demeanor of a Kentucky gentleman. That alone, I think, speaks for itself, and I congratulate my good friend from Kentucky.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. VAN DEERLIN. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. The 12,000 votes is a record in itself, but when you have them consecutively without a miss, that really makes a record that will never be broken; but this is important and one we are all proud of for our good friend, Bill Natcher; but even more important than that record, is the gentleman that he is, as the gentleman from Maryland just said.

I do not think there is anyone here who is more patient, more understanding and kinder to his colleagues. Not only his district in Kentucky is proud of him, but all of us are proud of Bill Natcher and his accomplishments today.

We congratulate you for that, Bill.

Mr. PASHAYAN. Mr. Speaker, will the gentleman yield?

Mr. VAN DEERLIN. I yield to the gentleman from California.

Mr. PASHAYAN. I should like to wish the gentleman a long continuation of the good health that has necessarily underlaid his ability to achieve 12,000 consecutive votes.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. VAN DEERLIN. I yield to my colleague.

Mr. ROUSSELOT. I appreciate my colleague yielding.

I, too, as one who spends a great deal of time here in the House Chamber wish to compliment our colleague, not only for his perfect record of votes, but his perfect record in conducting himself as a true Member of the House of Representatives. Additionally, my colleague Mr. Natcher is an excellent Chairman of the Committee of the Whole.

We do appreciate his service in this Chamber and the achievement of his 12,000th vote.

Mr. VAN DEERLIN. We did not intend this to get out of hand, but I yield to the gentleman from Mississippi (Mr. Whitten).

Mr. WHITTEN. Mr. Speaker, I would like to add my voice to those who have spoken here about the fine record of our colleague from Kentucky, Bill Natcher.

I would like to say that it is a great tribute to him to have been consistently on the floor tending to the legislative business.

I would like for the record to show that he also has applied himself to the job at hand. He is just as conscientious about performing his duties as he is about voting on the issues. He is a great credit to our Committee on Appropriations and a great asset to this body. It is a privilege for the Nation and for the Congress to have a man of his caliber.

I say again, his outstanding attendance is only exceeded by his able legislative ability.

Mr. NATCHER. Mr. Speaker, would the gentleman yield to me?

Mr. VAN DEERLIN. I yield to the distinguished gentleman from Kentucky.

Mr. NATCHER. Mr. Speaker, I want to thank the gentleman from California (Mr. Van Deerlin) for his statement and for his friendship all down through the years.

I want to thank my friend, Jim Wright, the majority leader, and all of those who have spoken concerning my voting record.

Mr. Speaker, one of the nicest things that has happened to me during my lifetime is the honor and distinction that I have had in serving with all of the ladies and gentlemen in the House of Representatives.

To me, Mr. Speaker, the House of Representatives is the greatest legislative body in the world.

The SPEAKER. The Chair, too, would like to congratulate the gentleman from Kentucky on his great record, and at this time would advise the "Guinness Book of Records" to keep its page available, because we know that this record is going to continue through many years to come.

Good luck to the gentleman.

The Chair recognizes the gentleman from Missouri (Mr. Bolling).

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 7548, FARM CREDIT ACT AMENDMENTS OF 1980

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 96–1373) on the resolution (H. Res. 792) providing for consideration of the bill (H.R. 7548) to amend the Farm Credit Act of 1971 to permit Farm Credit system institutions to improve their services to borrowers, and for other purposes, which was referred to the House Calendar and ordered to be printed.

□ 1150

CONFERENCE REPORT ON H.R. 7590, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, 1981

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore (Mr. Bolling). The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 3. Page 2, line 17, after "collections" insert ": *Provided further*, That this appropriation as well as all prior year balances are merged with the Uranium Supply and Enrichment Activities Plant and Capital Equipment Appropriation".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Bevill moves that the House recede from its disagreement to the amendment of the Senate numbered 3 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 7: Page 3, strike out lines 8 to 14 inclusive, as follows:

OFFICE OF THE SECRETARY

For salaries and expenses for the Office of the Secretary of Energy necessary for administering the Department in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), and for official reception and representation expenses (not to exceed $15,000), $4,872,000.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 7 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

OFFICE OF THE SECRETARY

For salaries and expenses for the Office of the Secretary of Energy necessary for administering the Department in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), and for official reception and representation expenses (not to exceed $35,000), $4,892,000.

Mr. BEVILL (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 12: Page 4, line 16, strike out "$330,837,000" and insert "$376,337,000 and in addition, $10,000,000 for the construction or acquisition by the Secretary of Energy of capacity for the away from reactor storage of spent nuclear fuel from electric powerplants licensed under the Atomic Energy Act of 1954, pursuant to the Nuclear Waste Policy Act (S. 2189) as passed by the Senate on July 30, 1980, all".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 12 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: "$373,287,000 and in addition, $10,000,000 for the construction or acquisition by the Secretary of Energy of capacity for the away from reactor storage of spent nuclear fuel from electric powerplants licensed under the Atomic Energy Act of 1954, all".

Mr. BEVILL (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 15: Page 5, line 11, after "collections" insert ": *Provided further*, That this appropriation as well as all prior balances are merged with the Uranium Supply and Enrichment Activities Operating Expenses Appropriation.".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 15 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 22: Page 13, line 16, after "expended" insert ": *Provided further*, That none of the funds made available in this paragraph shall be obligated or expended for the study of Diversion of Lake Michigan at Chicago, if such study would result in any diminution of generation at hydroelectric facilities on the Niagara or St. Lawrence Rivers.".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 22 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: ": *Provided*, That none of the funds made available in this paragraph shall be obligated or expended for the study of Diversion of Lake Michigan at Chicago, if such study would result in adverse diminution of generation at hydroelectric facilities on the Niagara or St. Lawrence Rivers".

Mr. BEVILL (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 27; Page 14, line 17, after "expended" insert: ": *Provided further*, That fund appropriated for the Siuslaw River and Bar, Oregon navigation project, authorized by the Rivers and Harbors Act of 1910, as amended and modified, shall be used to design and construct further modifications to that project in accordance with the Report of the Division Engineer, North Pacific Division, dated 16 June 1976.".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 27 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 28: Page 14, line 17, after "expended" insert ": *Provided further*, That the Chief of Engineers is directed to spend not more than $3,000,000 to provide beach nourishment to replenish the authorized project for beach erosion control at Oceanside, San Diego County, California, to its previous configuration from any materials that he may reasonably obtain for that purpose.".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 28 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 31: Page 15, line 17, after "officials" insert ": *Provided further*, That funds in this Act for the Tensas Basin Red River Backwater Area, Louisiana project are to be used to construct features for flood control and allied purposes for Sicily Island and Below Red River including pumping stations and such other modifications of these or existing features in this area as the Chief of Engineers determines advisable, subject to non-Federal cooperation for each separable feature of such work at the time of construction as is required for work pursuant to the August 18, 1941, authorization".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 31 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 33: Page 16, line 4, after "expended" insert ": *Provided*, That not to exceed $1,000,000 shall be available to reimburse non-Federal public interests for the costs of diking dredged disposal areas at Federal projects provided by non-Federal public interests and for funds contributed or advanced to the Secretary of the Army by non-Federal public interests for diking of dredged disposal areas at Federal projects, during the period October 1, 1978, to December 3, 1979, where the Secretary of the Army, acting through the Chief of Engineers, determines that such costs of diking or funds contributed or advanced and expended were not specifically required of such non-Federal public interests by project authorization".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 33 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 34: Page 16, line 4, after "expended" insert ": *Provided further*, That the authorized project dimensions for East Pass Channel, Florida, are hereby modified to provide a channel length of approximately 3,800 feet in lieu of 2,000 feet from the East Pass Channel into Old Pass Lagoon, with no changes in width and depth".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 34 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 35: Page 16, strike out lines 6 and 7, and insert:

For design and construction of hopper dredges, and for the purchase of one aircraft, $43,225,000, to remain available until expended: *Provided*, That approximately $8,500,000 of this amount shall be used for the purchase of one aircraft for replacement of the existing aircraft of the Chief of Engineers.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 35 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 36: page 17, after line 19, insert:

FLOOD CONTROL PROJECTS

SEC. 202. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to design and construct, at full Federal expense, such flood control measures at or in the vicinity of—

(1) Pikesville, Kentucky, and of Grundy, Virginia, on the Levisa Fork of the Big Sandy River,

(2) Pineville, Kentucky, on the Cumberland River, and

(3) Williamson and Matewan, West Virginia, on the Tug Fork of the Big Sandy River,

as the Chief of Engineers determines necessary and advisable to afford these communities and other flood damaged localities and their immediate environs on both the Levisa and Tug Fork of the Big Sandy River and Cumberland River a level of protection against flooding at least sufficient to prevent any future losses to these communities from the likelihood of flooding such as occurred in April 1977, at an estimated cost of $284,000,000. Non-Federal interests shall hold and save the United States free from damages due to construction works referred to in this section, and maintain and operate all such works after their completion in accordance with regulations prescribed by the Secretary of the Army.

(b) There are authorized to be appropriated such sum as may be necessary to carry out the provisions of this section.

(c) The Congress finds that the benefits attributable to the objectives set forth in section 209 of the Flood Control Act of 1970 exceed the cost of the flood control measures authorized by this section.

Mr. BEVILL (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

Mr. EDGAR. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The Clerk will continue to read the amendment.

The Clerk concluded the reading of the amendment.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 36 and concur therein.

The SPEAKER pro tempore. The gentleman from Alabama (Mr. BEVILL) will be recognized for 30 minutes, and the gentleman from Indiana (Mr. MYERS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Alabama (Mr. BEVILL).

Mr. BEVILL. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Speaker, I rise in opposition to the motion to recede and concur in amendment 36, the Senate language carrying an authorization, I repeat, an authorization for the Tug Fork flood control project in West Virginia and Kentucky. The dangerous practice of legislating on an appropriation bill is carried here to a new extreme with a costly, controversial water project being authorized without a report from the Army Corps of Engineers, without any fixed cost ceiling, and without any requirement for State or local governments to match these Federal funds with a penny of local revenue.

I might point out to the House that the chairman of the House authorizing committee, the gentleman from Texas, the Honorable RAY ROBERTS, took the well in a 1-minute speech and condemned the practice of authorizing in an appropriation bill. I believe the chairman of the authorizing committee agrees with me that this should not be a part of this conference report at this time.

Mr. Speaker, many Members will recall from our earlier debate on the omnibus water resources authorization bill that the river valleys affected by this project are subject to recurring flooding. A serious problem does indeed exist and this body responded with a provision for the Tug Fork in H.R. 4788, the omnibus authorization bill.

I might point out that the estimated cost of the project as passed by the House in February was $100 million, while the estimated cost before us now is $284 million. Clearly we are groping at numbers here in the absence of a report from the Chief of Engineers, and the expense of the Federal taxpayer is likely to rise further if we agree to accept the language of the other body here today.

Mr. Speaker, as a member of the Public Works and Transportation Committee, the authorizing committee, I must object to the appropriation committee in either the House or the other body rummaging through our authorization bill and selecting one project to receive favorable treatment within an appropriation bill. By what criteria was this particular project selected? Other pending projects are needed to prevent loss of life, protect property, increase energy production, and other desirable benefits.

□ 1200

Yet only one project, a costly and controversial project, is before us today for special treatment. Mr. Speaker, this process is unfair, unpredictable, and indefensible. I urge my colleagues to reject the Senate amendment and vote "no" on the motion to recede and concur.

I yield back the remainder of my time.

Mr. BEVILL. Mr. Speaker, I yield as much time as the gentleman desires to the distinguished chairman, the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, first let me state that I can understand the concern of the gentleman from Pennsylvania (Mr. EDGAR). I, likewise, heard the statement of the gentleman from Texas (Mr. ROBERTS), chairman of the Public Works and Transportation Subcommittee, this morning. But I do not think there is any section of the United States of America that has suffered so much from floods as eastern Kentucky and West Virginia along both the Tug and the Levisa Forks. For several years we have been trying to do something about the flooding in the Tug and Levisa Forks. We have tried to build the Lower Knox Creek Reservoir, and we have been unsuccessful. In the meantime, more than $400 million in damage has been done to this area in question here.

The 1977 flood, the most recent one following the tremendous flood that exceeded the 100-year mark in 1957 and the one in 1963, was the largest of all the floods in that whole area. We have tried to do something about it. We passed an authorization in the House in 1977. It went over to the Senate, but it was deleted from the omnibus bill in 1978 shortly before we adjourned, and when it did come over here, we were ready to break up and go home and there was no quorum in the House of Representatives so we did not get an authorization.

But we started last year dredging, spending some money, a million or two dollars, maybe $5 million, deepening and widening certain areas on the Tug and Levisa Forks. But this Senate amendment is necessary, even though it is unusual, because there are local flood control projects that are ready for construction. Also flood walls involved to protect the people in Williamson, W. Va., and on my side South Williamson, Ky. We have a hospital in that area. We have numerous communities on up the Tug Fork, and on below extending through Martin County. I would hope that all of the Members of this House would go along with the Senate amendment, because hearings have been conducted at least a dozen times before the authorizing committees both in the House and the Senate.

The area has been thoroughly studied. If the Members will go back and get those hearings over a period of years, the hearing records, the Corps of Engineers has recommended that certain projects be built, but even though we do not now have the money, we are ready to move. They are out of funds even for the dredging of the Tug Fork and the Levisa Fork or practically out, and they need some money now. We have only appropriated, even though we have authorized more money, $6 million, and I hope that this body would not hold up that $6 million that we need now. If the position of the gentleman from Pennsylvania (Mr. EDGAR) to delete the Senate amendment prevailed, we would not have sufficient money at all for the dredging.

Mr. HUTCHINSON. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from West Virginia.

Mr. HUTCHINSON. I thank the gentleman for yielding. I would like to congratulate my colleague, the gentleman from Kentucky, on his remarks, and I would like to associate myself with him.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I appreciate the gentleman's statement. I recognize the dilemma we are in. It is my understanding that, first of all, the Army Corps of Engineers has not completed its study and, second, that there has been a suggestion by the Army Corps of Engineers that nonstructural alternatives would in fact make better sense at less cost in this particular area. Is the gentleman in the well familiar with the latest observations of the Army Corps of Engineers?

Mr. PERKINS. I am, and I do want to state for the benefit of the distinguished gentleman from Pennsylvania that the Corps of Engineers has studied the Tug Fork almost continuously since 1957, and they have recommended certain structures. They have recommended deepening and widening and clearing, but your position would cut off the funding for the clearing at the present time and the deepening and widening. That is the reason I say that the membership of this body should vote for the motion of the gentleman from Alabama (Mr. BEVILL) to concur with the Senate amendment.

Mr. EDGAR. Will the gentleman yield further?

Mr. PERKINS. I yield again.

Mr. EDGAR. I thank the gentleman. There has been a cost analysis made in the region. The gentleman knows that to complete the Tug Fork projects there are estimates ranging as high as $1 billion to complete it. Some calculation was made that that would amount to $76,923 per person of the people who live in that community, if we go to the structural alternatives as opposed to the nonstructural alternatives. Is that a correct figure?

Mr. PERKINS. Let me say I do not think that figure is correct. It will be very costly, but it is our duty and responsibility to protect the people from this type of flooding. Many of our big businesses in that area have moved out, for instance, Sears Roebuck and numerous others, because of the flooding situation, and here we are not throwing away any money. The Corps of Engineers has already approved deepening and widening of the Tug Fork, and they are fixing to start over on the Levisa Fork where they have already approved projects.

If we knock this out, even though it was unusual, we will slow down our efforts to control flooding. I do not know what was in the mind of Senator BYRD, the majority leader, but I would think that he thought the corps was running out of money and that this was the most feasible way to do it considering all the circumstances. That is just my judgment.

Mr. EDGAR. I appreciate the gentleman's comments. I just want to make clear for the House that comments I made are based on some information that appears in the CONGRESSIONAL RECORD of September 9, 1980. The Senator from New York, Mr. MOYNIHAN, who has a staff that deals with water resource issues, has analyzed some of the cost factors, and his comment is that Tug Fork should in fact move forward, but we should wait until the Army Corps of Engineers has analyzed a most appropriate, a most feasible, and most economical alternative for this particular project.

Mr. PERKINS. I think I can comment on that. Senator MOYNIHAN is one of our great Senators in the other body. He has stated that he will be going down there in the foreseeable future. He wants to look the situation over himself. But I am sure that neither Senator MOYNIHAN nor any other Senator would want to stop the dredging and deepening and widening of both the Levisa and the Tug Forks, and unless we concur in the Senate amendment that will be the result.

The people down there cannot understand why we have delayed so long about giving them some relief. They live in fear all the time of being washed away during the night. I would hope even though I can see the gentleman's viewpoint—the Membership of this body would hold fast to the Senate amendment. There is only $6 million appropriated here. They need that money immediately, and let us go forward and do something for flood control. I am sure that there will be no money thrown away down there in the future. If there had been $50 to $75 million appropriated instead of $6 million, I could have really understood why the gentleman was so concerned that we may go ahead and waste money, but we are not about to do that down there. Another study will be completed within 18 months, and undoubtedly the gentleman from Pennsylvania will have other opportunities to study those recommendations.

I yield back the remainder of my time.

Mr. BEVILL. Mr. Speaker, I would like to reemphasize that, in support of my motion that is now pending to accept the amendment No. 36, the House has passed authorization in the past, the Senate has passed authorization legislation in the past. In 1979 we appropriated money for this project, so there is no real problem so I urge an "aye" vote for my pending motion.

Mr. MYERS of Indiana. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BEVILL. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama (Mr. BEVILL).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. EDGAR. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 230, nays 164, not voting 38, as follows:

[Roll No. 581]

YEAS—230

Abdnor
Addabbo
Akaka
Albosta
Anderson, Calif.
Andrews, N.Dak.
Annunzio
Anthony
Archer
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bevill
Biaggi
Blanchard
Boggs
Bolling
Boner
Bonker
Bouquard
Breaux
Brodhead
Brooks
Brown, Calif.
Buchanan
Burgener
Burton, Phillip
Carney
Chappell
Cheney
Clausen
Clinger
Coelho
Coleman
Conyers
Corcoran
Corman
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
de la Garza
Dickinson
Dingell
Dixon
Donnelly
Duncan, Tenn.
Eckhardt
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Evans, Ga.
Fary
Fascell
Fazio
Fisher
Florio
Foley
Ford, Mich.
Ford, Tenn.
Frost
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Goldwater
Gonzalez
Gore
Gramm
Gray
Guarini
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hanley
Harsha
Hefner
Hightower
Hillis
Hinson
Holland
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutchinson
Hutto
Ireland
Jeffords
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kogovsek
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lehman
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
McCloskey
McCormack
McDade
McEwen
McKay
Marlenee
Marriott
Matsui
Mazzoli
Mica
Miller, Calif.
Mineta
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, N.Y.
Murtha
Myers, Ind
Natcher
Nelson
Nichols
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Perkins
Peyser
Pickle
Preyer
Price
Quayle
Quillen
Rahall
Rangel
Regula
Rhodes
Rinaldo
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Rousselot
Royer
Sabo
Santini
Satterfield
Schulze
Shelby
Shumway
Shuster
Simon
Smith, Iowa
Smith, Nebr.

Snyder
Spellman
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stump
Synar
Tauzin
Taylor
Thomas
Traxler
Trible
Ullman
Van Deerlin
Vanik
Volkmer
Wampler
Watkins
White
Whitehurst
Whitley
Whitten
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wright
Wyatt
Wylie
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—164

Ambro
Applegate
Atkinson
Barnes
Bedell
Beilenson
Bereuter
Bingham
Boland
Bonior
Brinkley
Broomfield
Brown, Ohio
Broyhill
Burton, John
Byron
Campbell
Carr
Clay
Cleveland
Collins, Ill.
Collins, Tex.
Conable
Conte
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Dannemeyer
Deckard
Dellums
Derrick
Devine
Dicks
Dornan
Dougherty
Downey
Drinan
Early
Edgar
Edwards, Calif.
Emery
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fenwick
Ferraro
Findley
Fish
Fithian
Forsythe
Fountain
Fowler
Frenzel
Garcia
Gephardt
Glickman
Goodling
Gradison
Grassley
Green
Grisham
Gudger
Hamilton
Harkin
Harris
Hawkins
Heckler
Heftel
Hollenbeck
Holtzman
Hughes
Hyde
Jacobs
Jeffries
Jenkins
Kastenmeier
Kelly
Kemp
Kildee
Kindness
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lee
Leland
Lent
Levitas
Lundine
Lungren
McClory
McDonald
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Martin
Mattox
Mavroules
Michel
Mikulski
Miller, Ohio
Minish
Mitchell, N.Y.
Moffett
Mottl
Murphy, Pa.
Neal
Nolan
Nowak
Ottinger
Pease
Petri
Porter
Pritchard
Pursell
Railsback
Ratchford
Reuss
Richmond
Ritter
Rosenthal
Roth
Roybal
Russo
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Snowe
Solarz
Solomon
Spence
St Germain
Stark
Stockman
Stokes
Studds
Swift
Tauke
Udall
Vander Jagt
Vento
Walgren
Walker
Waxman
Weaver
Weiss
Whittaker
Williams, Mont.
Wirth
Wolpe
Wydler
Yates
Yatron

NOT VOTING—38

Alexander
Anderson, Ill.
Andrews, N.C.
Badham
Bethune
Bowen
Brademas
Burlison
Butler
Carter
Cavanaugh
Chisholm
Daschle
Davis, Mich.
Davis, S.C.
Derwinski
Dodd
Duncan, Oreg.
Flippo
Hall, Ohio
Hansen
Holt
Ichord
Jenrette
Mathis
Mitchell, Md.
Murphy, Ill.
Musto
Myers, Pa.
Nedzi
Paul
Pepper
Rudd
Skelton
Stratton
Symms
Thompson
Wilson, C. H.

□ 1220

The Clerk announced the following pairs:

On this vote:

Mr. Musto for, with Mr. Jenrette against.

Mr. Pepper for, with Mr. Davis of Michigan against.

Mr. Murphy of Illinois for, with Mr. Derwinski against.

Until further notice:

Mr. Thompson with Mr. Badham.

Mrs. Chisholm with Mr. Hall of Ohio.

Mr. Alexander with Mr. Bethune.

Mr. Davis of South Carolina with Mr. Hansen.

Mr. Nedzi with Mr. Paul.

Mr. Skelton with Mr. Rudd.

Mr. Stratton with Mr. Symms.

Mr. Flippo with Mrs. Holt.

Mr. Dodd with Mr. Andrews of North Carolina.

Mr. Burlison with Mr. Butler.

Mr. Bowen with Mr. Carter.

Mr. Duncan of Oregon with Mr. Ichord.

Mr. Cavanaugh with Mr. Daschle.

Mr. Mitchell of Maryland with Mr. Mathis.

Mr. Myers of Pennsylvania with Mr. Charles H. Wilson of California.

Messrs. RITTER, SEBELIUS, HARRIS, STOKES, McCLORY, GUDGER, DOUGHERTY, and KASTENMEIER changed their votes from "yea" to "nay."

Messrs. BRODHEAD, FLORIO, RANGEL, DINGELL, and ECKHARDT changed their votes from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

□ 1230

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 39: Page 18, line 16, strike out "$596,216,000" and insert "$580,741,000,".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Bevill moves that the House recede from its disagreement to the amendment of the Senate numbered 39 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$570,641,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 40: Page 19, line 25, after "safety" insert ": *Provided further*, That no part of the funds herein approved shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Bevill moves that the House recede from its disagreement to the amendment of the Senate numbered 40 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 41: Page 19, line 25, after "safety" insert ": *Provided further*, That of the amount herein appropriated not to exceed $6,000,000 for the Wellton-Mohawk Irrigation and Drainage District, Gila Project, Arizona, shall be available for improvement of the Gila River Channel to facilitate drainage of lands within the District under a repayment obligation heretofore established by existing contract between the Secretary of the Interior and the District".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Bevill moves that the House recede from its disagreement to the amendment of the Senate numbered 41 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 42: Page 19, line 25, after "safety" insert ": *Provided further*, That of the amount herein appropriated not to exceed $10,000 shall be available to the Fremont-Madison Irrigation District to initiate a rehabilitation and betterment program under the Act of October 7, 1919, (63 Stat. 724), as amended, to be repaid in full under conditions satisfactory to the Secretary of the Interior.".

MOTION OFFERED BY BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Bevill moves that the House recede from its disagreement to the amendment of the Senate numbered 42 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following ": *Provided further*, That of the amount herein appropriated not to exceed $10,000 shall be available to initiate a rehabilitation and betterment program with the Fremont-Madison Irrigation District to rehabilitate the facilities of the Marysville, Farmer's Own, Yellowstone, Squirrel Creek, and Silky Canal Companies under the act of October 7, 1949 (63 Stat. 724), as amended, to be repaid in full by the lands served and under conditions satisfactory to the Secretary of Interior.".

Mr. BEVILL (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The clerk read as follows:

Senate amendment No. 43: Page 20, line 7, strike out "$114,117,000" and insert "$111,117,000,".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Bevill moves that the House recede from its disagreement to the amendment of the Senate numbered 43 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$101,117,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 49: Page 28, after line 21, insert:

Nuclear Safety Oversight Committee

For expenses necessary for the Nuclear Safety Oversight Committee, $1,500,000, to remain available until expended.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 49 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 52: Page 30, after line 2, insert:

WATER RESOURCES COUNCIL

WATER RESOURCES PLANNING

For the Water Resources Council for expenses necessary in carrying out the provisions of the Water Resources Planning Act of 1965 (42 U.S.C. 1962–1962d–3), as amended, including services as authorized by 5 U.S.C. 3109 and 42 U.S.C. 1962a–4(5), and hire of passenger motor vehicles (42 U.S.C. 1962a–4(6)), $32,777,000 to remain available until expended, including $4,748,000 for expenses in administering the Act (42 U.S.C. 1962d (b)), $4,186,000 for preparation of assessments and plans (42 U.S.C. 1962d(c)), $3,443,000 for expenses of river basin commissions under title II of the Act (42 U.S.C. 1962d(a)), $18,000,000 for grants to States under title III of the Act (42 U.S.C. 1962c (a)), and $2,400,000 for Upper Mississippi Comprehensive Management Plan (42 U.S.C. 1962b–3).

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 52 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

WATER RESOURCES COUNCIL

WATER RESOURCES PLANNING

For the Water Resources Council for expenses necessary in carrying out the provisions of the Water Resources Planning Act of 1965 (42 U.S.C. 1962–1962d–3), as amended, including services as authorized by 5 U.S.C. 3109 and 42 U.S.C. 1962a–4(5), and hire of passenger motor vehicles (42 U.S.C. 1962a–4(6)), $24,777,000 to remain available until expended, including $4,748,000 for expenses in administering the Act (42 U.S.C. 1962d(b)), $4,186,000 for preparation of assessments and plans (42 U.S.C. 1962d(c)), $3,443,000 for expenses of river basin commissions under title II of the Act (42 U.S.C. 1962d(a)), $10,000,000 for grants to States under title III of the Act (42 U.S.C. 1962c(a)), and $2,400,000 for Upper Mississippi Comprehensive Management Plan (42 U.S.C. 1962b–3).

Mr. BEVILL (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 53: Page 30, strike out lines 18 to 23, inclusive, as follows:

SEC. 504. Of the total budget authority provided in this Act, for payments not required by law, 2 per centum shall be withheld from obligation and expenditure: *Provided*. That of the amount provided in this Act for each appropriation account, activity, and project, for payments not required by law, the amount withheld shall not exceed 5 per centum.

And insert:

SEC. 504. (a) No appropriations made available in this Act shall be obligated in a manner that would cause obligations from the total budget authority available to any department or establishment—as defined in section 2 of the Budget and Accounting Act, 1921—or any major administrative subdivision thereof, during the fiscal year ending September 30, 1981, to exceed 30 per centum for the last quarter of such fiscal year or 15 per centum for any month in the last quarter of such fiscal year. The Director of the Office of Management and Budget may waive the requirements of the preceding sentence with respect to any program or activity if the Director determines in writing that the waiver is necessary to avoid a serious disruption in carrying out such program or activity.

(b) Not later than 45 days after the end of each quarter of the fiscal year, the head of each department and establishment shall submit a report to the Committees on Appropriations and to the Director of the Office of Management and Budget, specifying the amount of obligations incurred during the quarter and the percentage of total available budget authority for the fiscal year which the obligations constitute.

(c) The Director of the Office of Management and Budget shall keep the Committees on Appropriations fully informed of actions taken to carry out the requirements of this section, including any waivers granted. and shall promptly report in writing any situation in which the obligations of any department and establishment exceed such requirements other than pursuant to a waiver. Not later than December 31, 1981, the Director shall submit a report to the Committees on Appropriations on the results of the requirements of this section and actions taken under this section, including the effects upon procurement and apportionment processes, together with any recommendations the Director considers appropriate. Concurrent with the submittal of the report to the Committees on Appropriations under the preceding sentence, the Director shall submit a copy of such report to the Comptroller General, who shall promptly review that report and submit to the Committees on Appropriations an analysis of the report and any recommendations which the Comptroller General considers appropriate.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 53 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

"SEC. 504. There is appropriated, out of my money in the Treasury not otherwise appropriated, for payment to Dorothy Runnels, widow of Harold Runnels, late a Representative from the State of New Mexico, $60,663."

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and on the several motions was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 7203, HEALTH PROFESSIONS EDUCATIONAL ASSISTANCE AND NURSE TRAINING AMENDMENTS OF 1980

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7203) to amend the Public Health Service Act to revise and extend the programs for the National Health Service Corps and to revise and extend the programs of assistance under titles VII and VIII of such act for the education of health professions personnel, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman from West Virginia (Mr. STAGGERS) tell us what this is all about?

Mr. STAGGERS. Mr. Speaker, if the gentleman will yield, this is the Nurse Training and Health Professions Educational Assistance Amendments of 1980.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, are there a lot of other items in here that we did not consider in the House?

Mr. STAGGERS. No, Mr. Speaker. That is all there is in it.

Mr. ROUSSELOT. And this does not vary much from our version?

Mr. STAGGERS. That is true.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia? The Chair hears none and, without objection, appoints the following conferees: Messrs. STAGGERS, WAXMAN, SATTERFIELD, PREYER, BROYHILL, and CARTER.

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON S. 1946, RAILROAD TRANSPORTATION POLICY ACT OF 1980

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the Senate bill (S. 1946) to reform the economic regulation of railroads, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. MADIGAN. Mr. Speaker, reserving the right to object, I would yield under my reservation to the gentleman from West Virginia for the purpose of explaining what the bill is and what the need for this request is.

Mr. STAGGERS. Mr. Speaker, if the gentleman will yield, this is the rail bill which just recently passed the House. The time element is the reason why we are asking for permission until tonight so that we can get the bill expedited and get it back on the floor and get it passed.

Mr. MADIGAN. Mr. Speaker, further reserving the right to object, if I understand what the gentleman from West Virginia has said, he is asking that we expedite the procedure by a minor amount so that we might have the opportunity to act on this bill finally before the House adjourns for the recess?

Mr. STAGGERS. The gentleman is correct.

Mr. MADIGAN. Mr. Speaker, I want to thank the gentleman from West Virginia (Mr. Staggers), and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

□ 1240

TREATMENT OF PUBLIC UTILITY PROPERTY UNDER SECTION 46(f) AND 167(l) OF THE INTERNAL REVENUE CODE OF 1954

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 770 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 770

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6806) to amend sections 46(f) and 167(l) of the Internal Revenue Code of 1954 regarding the treatment of public utility property and to provide a transitional rule with respect thereto, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and said substitute shall be considered as having been read for amendment. No amendment to the bill or to said amendment shall be in order except amendments recommended by the Committee on Ways and Means, which shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from California (Mr. Beilenson) is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, I yield the usual 30 minutes for purposes of debate only to the gentleman from Mississippi (Mr. Lott) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 770 is the rule providing for the consideration of H.R. 6806, a bill clarifying the treatment of public utility property under sections 46(f) and 167(l) of the Internal Revenue Code. It is a modified closed rule allowing only nonamendable Ways and Means Committee amendments. The rule provides that the committee amendment in the nature of a substitute printed in the bill shall be considered as original language for the purposes of amendment and shall be considered as having been read. Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 6806, introduced by Mr. Corman and Mr. Rousselot, both of California, has bipartisan support. It addresses a problem that has arisen in California concerning the interpretation of Federal law governing the use of accelerated depreciation and the investment tax credit by utility companies.

The Internal Revenue Code requires that utility companies treat these tax benefits as investment capital. It prohibits their treating these benefits as a reduction in the cost of service which can be passed through to consumers by rate reductions. Following protracted litigation, the California Public Utilities Commission issued rulings requiring utility company accounting systems which, in effect, mandate the use of the tax benefits for both investment and consumer rate reduction. Private IRS rulings take the position that the California accounting system does not comply with Federal law. If these were to be enforced, the utility companies in question would be liable for $1.74 billion in tax benefits received prior to March 1980.

H.R. 6806 exempts these companies—Pacific Telephone & Telegraph, General Telephone of California, and Southern California Gas—from this tax liability. It is an equitable resolution to a problem caused by conflicting State and Federal mandates. Furthermore, the bill revises Federal law to make clear that the California accounting system and similar systems in other States do not comply with the requirements of the Internal Revenue Code. Which should insure that the special tax rule contained in the bill, and the interpretative problem which necessitated it, are not repeated.

Mr. Speaker, I urge my colleagues to support both the rule and the bill.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a relatively simple modified, closed rule as we so often have with legislation reported from the Ways and Means Committee. The rule allows 1 hour of debate and makes in order the committee amendment in the nature of a substitute to be considered as an original bill for the purpose of amendment. Only Ways and Means Committee amendments are allowed and these are not amendable. There is a motion to recommit with or without instructions.

There is nothing particularly complicated about this rule which befits a bill which is noncontroversial, as is H.R. 6806. The bill is designed to meet a specific, one-time problem which has arisen as a result of a misapplication of the normalization rules for public utility property in certain California cases. The bill was reported from the committee by a voice vote and was sponsored by the ranking minority member of the committee. There seems to be no opposition to the bill.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. CORMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6806) to amend sections 46(f) and 167(l) of the Internal Revenue Code of 1954 regarding the treatment of public utility property and to provide a transitional rule with respect thereto.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. Corman).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6806, with Mr. Traxler in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from California (Mr. Corman) will be recognized for 30 minutes, and the gentleman from California (Mr. Rousselot) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. Corman).

Mr. CORMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this bill, H.R. 6806, clarifies the Federal income tax rules relating to the normalization requirements for public utility property eligible for the investment tax credit and accelerated depreciation. The bill also provides a special rule which, in general, excuses violations of these requirements for certain periods ending prior to March 1, 1980, where such violations were a result of certain orders entered by a public utility commission prior to March 13, 1980.

With certain exceptions for companies that are grandfathered, public utilities are eligible to use the investment credit and to elect accelerated depreciation for tax purposes only if the tax benefits from accelerated depreciation and the investment credit—or, in some cases, a portion of the credit—are normalized for ratemaking purposes. Normalization generally requires that the tax benefits of accelerated depreciation and the investment credit not be treated for ratemaking purposes as a reduction in current Federal income tax expenses, which is an element of a utility's cost of service, since that treatment would generally result in a direct reduction in the utility's revenues.

Instead, the tax benefits are to be treated as investment capital that is supplied, in effect, by the Federal Government to the utility through the tax system. The normalization rules for accelerated depreciation require that the utility retain the use of the deferred taxes but permit the deferred taxes to be treated as zero-cost capital on which the utility need not be allowed to earn an investment return; the normalization rules for the investment credit require a similar allocation of benefits between utility shareholders and utility customers. The normalization rules relating to accelerated depreciation were imposed in 1969, and the normalization rules relating to the investment credit, for the most part, were imposed in 1971 and 1975.

The bill provides that violations of the normalization requirements of present law—and of the bill—will not result in a public utility's loss of eligibility for the investment tax credit or accelerated depreciation if such violations involved the use of estimates, projections, or rate of return adjustment: First, that applied for any period ending prior to March 1, 1980 and second, that were included in certain orders of a public utility commission which were entered prior to March 13, 1980.

This special rule is designed to benefit the customers of Pacific Telephone & Telegraph Co. (a subsidiary of A.T. & T.), General Telephone Co. of California (a subsidiary of General Telephone & Electronics), and Southern California Gas Co. and the companies themselves. If an order is covered by this special rule and does not violate the normalization requirements for any period ending after February 29, 1980, the order will not be considered a "bad" order for purposes of those provisions which provide for loss of eligibility for the investment credit as soon as a second bad order is put into effect (see code section 46(f)(4)).

The bill amends the present normalization rules relating to accelerated depreciation and the investment tax credit to make it clear for the future that certain ratemaking procedures, such as the so-called AA and AAA methods which have been used in California, involving the use of inconsistent estimates or projections do not comply with such rules. It also gives the Treasury Department specific authority to provide regulations setting forth conditions under which ratemaking adjustments are inconsistent with normalization. The amendments to the normalization rules generally apply to taxable years beginning after December 31, 1979. This effective date is not intended to affect in any way the retroactive period for which the investment credit may be disallowed under the provision of code section 46(f)(4).

No revenue effect is anticipated for the permanent changes in the bill. Under the special rule, a claim for refund of $110 million, which was paid by one of the companies, may be made at any time through February 1982. To preclude any concern that repayment of this amount would be considered a revenue loss in fiscal year 1981, a committee amendment would prevent the payment of a refund with respect to this claim during fiscal year 1981.

Mr. Chairman, I urge the House to adopt the committee amendment and approve the bill as amended.

Mr. Chairman, I reserve the balance of my time.

Mr. ROUSSELOT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I support H.R. 6806, a bill dealing with the treatment of public utility property under section 46(f) and 167(l) of the Internal Revenue Code.

Public utility tax accounting is one of the most complex areas in the Internal Revenue Code. While the details may be difficult to understand, the broad policy goals in this area are clear. The policy is to treat the tax benefits of accelerated depreciation and the investment tax credit as a capital investment incentive which is to be reflected in the utility's rate base over the projected lifetime of the utility's capital investments. Normalization is the accounting method which reflects this decision.

The alternative to normalization accounting would be a system which immediately reduces a utility's rate base by the amount of its accelerated depreciation and investment tax credit. This is the result of flowthrough accounting. It was so nicknamed because it flows through immediately to the customers the tax reductions associated with accelerated depreciation and the investment tax credit.

Thus, flowthrough accounting passes the Federal tax benefits directly to the utility customers. This results in lower, near-term utility rates but it deprives the utility of the capital investment incentive necessary to develop long-range utility capacity.

Enforcement of the Federal policy in this area is complicated because the taxpayer utilities are regulated by State commissions which are not under Federal jurisdiction. The tax law addresses the enforcement issue by language which requires a utility to use normalization accounting for ratemaking purposes, or else it is not eligible for the benefits of accelerated depreciation and the investment tax credit.

H.R. 6806 reinforces and clarifies the existing tax policy that public utilities must use normalization accounting for ratemaking purposes in order to be eligible for the special capital investment tax incentives. It also waives certain past violations. The waived violations are for those occurring before March 1, 1980, which were the result of public utility commission orders entered prior to March 13, 1980. The waiving of past violations will enable several California utilities which have been caught up in a three-sided dispute involving themselves, the Internal Revenue Service, and the California Public Utility Commission to be relieved of an unfair tax burden.

Mr. Chairman, H.R. 6806 should bring better understanding to a complicated area of the tax law. I support its passage.

□ 1250

Mr. Chairman, I yield back the balance of my time.

Mr. CORMAN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the reported bill as an original bill for the purpose of amendment shall be considered as having been read for amendment. No amendments are in order except the amendments recommended by the Committee on Ways and Means, which shall not be subject to amendment.

The text of the bill is as follows:

H.R. 6806

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Normalization Method for Purposes of Depreciation.

Paragraph (3) of section 167(l) of the Internal Revenue Code of 1954 (relating to definitions for purposes of depreciation in the base of utilities) is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

"(H) Use of inconsistent estimates and projections, etc.—

"(i) In general.—One way in which the requirements of subparagraph (G) are not met is if the taxpayer, for ratemaking purposes, uses a procedure or adjustment which is inconsistent with the requirements of subparagraph (G).

"(ii) Use of inconsistent estimates and projections.—The procedures and adjustments which are to be treated as inconsistent for purposes of clause (i) shall include any procedure or adjustment for ratemaking purposes which uses an estimate or projection of the taxpayer's tax expense, depreciation expense, or reserve for deferred taxes under subparagraph (G)(ii) unless such estimate or projection is also used, for ratemaking purposes, with respect to the other 2 such items and with respect to the rate base.

"(iii) Regulatory authority.—The Secretary may by regulations prescribe procedures and adjustments (in addition to those specified in clause (ii)) which are to be treated as inconsistent for purposes of clause (i)."

Sec. 2. Computations for Purposes of Investment Credit.

Subsection (f) of section 46 of such Code (relating to limitation in case of certain regulated companies) is amended by adding at the end thereof the following new paragraph:

"(10) Use of inconsistent estimates and projections, etc., for purposes of paragraphs (1) and (2).—

"(A) In general.—One way in which the requirements of paragraph (1) or (2) are not met is if the taxpayer, for ratemaking purposes, uses a procedure or adjustment which is inconsistent with the requirements of paragraph (1) or paragraph (2), as the case may be.

"(B) Use of inconsistent estimates and projections.—The procedures and adjustments which are to be treated as inconsistent for purposes of subparagraph (A) shall include any procedure or adjustment for ratemaking purposes which uses an estimate or projection of the taxpayer's qualified investment for purposes of the credit allowable by section 38 unless such estimate or projection is consistent with the estimates and projections of property which are used, for ratemaking purposes, with respect to the tax payer's depreciation expense and rate base.

"(C) Regulatory authority.—The Secretary may by regulations prescribe procedures and adjustments (in addition to those specified in subparagraph (B)) which are to be treated as inconsistent for purposes of subparagraph (A)."

Sec. 3. Effective Dates.

(a) General Rule.—The amendments made by sections 1 and 2 shall apply to taxable years beginning after December 31, 1979.

(b) Special Rule for Periods Before March 1, 1980.—

(1) In general.—Notwithstanding the provisions of sections 167(l) and 46(f) of the Internal Revenue Code of 1954 and of any regulations prescribed by the Secretary of the Treasury (or his delegate) under such sections, the use for ratemaking purposes or for reflecting operating results in the taxpayer's regulated books of account, for any period before March 1, 1980, of—

(A) any estimates or projections relating to the amounts of the taxpayer's tax expense, depreciation expense, deferred tax reserve, credit allowable under section 38 of such Code, or rate base, or

(B) any adjustments to the taxpayer's rate of return,

shall not be treated as inconsistent with the requirements of subparagraph (G) of such section 167(l)(3) nor inconsistent with the requirements of paragraph (1) or (2) of such section 46(f), where such estimates or projections, or such rate of return adjustments, were included in a qualified order.

(2) Qualified order defined.—For purposes of paragraph (1), the term "qualified order" means an order—

(A) by a public utility commission which was entered before March 13, 1980.

(B) which used the estimates, projections, or rate of return adjustments referred to in paragraph (1) to determine the amount of the rates to be collected by the taxpayer or the amount of a refund with respect to rates previously collected, and

(C) which ordered such rates to be collected or refunds to be made (whether or not such order actually was implemented or enforced).

(c) No Inference.—The application of subparagraph (G) of section 167(l)(3) of the Internal Revenue Code of 1954, and the application of paragraphs (1) and (2) of section 46(f) of such Code, to taxable years beginning before January 1, 1980, shall be determined without any inference drawn from the amendments made by sections 1 and 2 of this Act or from the rules contained in subsection (b) of this section. Nothing in the preceding sentence shall be construed to limit the relief provided by subsection (b).

AMENDMENT OFFERED BY MR. CORMAN

Mr. CORMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Corman: Page 6, after line 20, insert the following:

(d) Delay in Making Refunds or Credits.—No refund or credit of any overpayment of tax attributable to the amendments made by this Act shall be made or allowed before October 1, 1981.

Mr. CORMAN. Mr. Chairman, the committee amendment would provide that no refund or credit of any overpayment of tax attributable to the provisions of this bill shall be paid or allowed before October 1, 1981.

This amendment is needed because one of the companies involved has paid $110 million in disputed tax liability. This amount may be the subject of a claim for refund at any time through February 1981. This amendment precludes any budgetary concern and any concern that this refund would be considered a revenue loss in fiscal year 1981.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Corman).

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments?

If there are no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Murtha) having assumed the chair, Mr. Traxler, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6806) to amend sections 46(f) and 167(l) of the Internal Revenue Code of 1954 regarding the treatment of public utility property and to provide a transitional rule with respect thereto, pursuant to House Resolution 770, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend sections 46(f) and 167(l) of the Internal Revenue Code of 1954 with respect to the treatment of public utility property.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CORMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 6806) just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 6777, COUNCIL ON WAGE AND PRICE STABILITY EXTENSION

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 780 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 780

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6777) to incerase the authorization for the Council on Wage and Price Stability, to extend the duration of such Council, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to equally divide and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment recommended by the Committee on Banking, Finance and Urban Affairs now printed on page 1, line 3 through page 2, line 14 of the bill, and all points of order against said amendment for failure to comply with the provisions of clause 7, rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from South Carolina is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, I yield the usual 30 minutes, for purposes of debate only, to the gentleman from Maryland (Mr. Bauman), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 780 provides for the consideration of H.R. 6777, to increase the authorization and extend the duration of the Council on Wage and Price Stability, and for other purposes. This is an open rule with 1 hour of general debate to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Banking, Finance and Urban Affairs. The rule makes in order the consideration of the amendment recommended by the Committee on Banking, Finance and Urban Affairs now printed on page 1, line 3 through page 2, line 14 of the bill, and waives points of order against the committee amendment for failure to comply with clause 7, rule XVI, the germaneness rule. This waiver is needed because the committee amendment expands the mandate of the Council to include in its activities analysis of problems related to productivity in the U.S. economy and the bill, as introduced, does not contain this authority.

The rule also waives points of order against the bill for failure to comply with section 402a of the Budget Act. Section 402a requires that any bill which provides new budget authority be reported by May 15 preceding the fiscal year in which it is to take effect. This waiver is provided because the bill as reported last May contains a supplemental fiscal year 1980 authorization of $980,000. The Committee on Banking, Finance and Urban Affairs, however, has subsequently decided to offer an amendment during floor consideration of the bill to delete the supplemental authorization, and therefore, the waiver is of a technical nature.

Upon completion of the consideration of the bill, one motion to recommit is in order.

Mr. Speaker, H.R. 6777 extends the statutory life of the Council on Wage and Price Stability through fiscal year 1981, and thus authorizes continuation of the program of voluntary wage and price guidelines. It authorizes $9.77 million for its operation in fiscal year 1981 and maintains the staff level essentially unchanged, while retaining the present staff ceiling of 237 persons. Further, it directs the Council to create a unit of personnel to analyze problems related to productivity in our economy and to advise the public and private sectors of their findings.

Mr. Speaker, the Committee on Banking, Finance and Urban Affairs has concluded that the voluntary wage and price guidelines program has made a modest contribution in holding the rate of inflation below where it might otherwise have been in those sectors where the program was applicable. I urge my colleagues to adopt House Resolution 780 so that we may proceed to the consideration of H.R. 6777, Council on Wage and Price Stability extension.

□ 1300

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from South Carolina has adequately described the rule before us. I would only make some brief comments on the legislation which reauthorizes the Council on Wage and Price Stability at the level of $9,770,000 for the operation of that council for the next fiscal year, as well as a supplemental appropriation of $980,000 for this fiscal year.

This is much less than the President had originally requested. I commend the authorizing banking committee for not falling prey to the administration's spending habits in this regard; however, I did want to comment more on the legislation than on the rule. As many people remember, President Carter back in 1978 imposed voluntary price and wage guidelines on the private sector, or sought to impose them.

In 1979, against my objection and that of many Members of the Congress, the staff of this council was increased from 40 to 233. Almost immediately inflation went up from about 7 or 8 percent to almost 20 percent on an annualized rate. There may well be a correlation between these two facts, that as we have increased the size of the Government agency commissioned to stop inflation, inflation immediately went up. If that is so, it is an argument in favor of my thesis that we do not need this rule and we do not need this bill or this council.

I would hope that once and for all we might realize that the blame for inflation deserves to be placed here in Congress and on the executive acting together to spend money that we do not have. This is one council that is an example of that kind of spending.

Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I move the previous questions on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LEVITAS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 291, nays 97, not voting 44, as follows:

[Roll No. 582]

YEAS—291

Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bouquard
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Buchanan
Burton, Phillip
Byron
Carr
Chappell
Chisholm
Coelho
Conte
Conyers
Corcoran
Corman
Cotter
D'Amours
Daniel, Dan
Danielson
Daschle
de la Garza
Deckard
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Gray
Green
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Howard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Leach, La.
Leath, Tex.
Lederer
Lehman
Leland
Lent
Lewis
Lloyd
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
McCloskey
McCormack
McDade
McEwen
McKay
Maguire
Markey
Marks
Marlenee
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Perkins
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Rahall
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Shannon
Sharp
Simon
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Spellman
Spence
St Germain
Stack
Stanton
Stark
Steed
Stewart
Stokes
Studds
Swift
Synar
Tauzin
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
Weiss
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—97

Abdnor
Applegate
Archer
Ashbrook
Atkinson
Bafalis
Bauman
Beard, Tenn.
Bereuter
Brown, Ohio
Burgener
Burton, John
Campbell
Carney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
Davis, Mich.
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Okla.
Erdahl
Evans, Ga.
Fenwick
Forsythe
Frenzel
Gingrich
Goodling
Grassley
Grisham
Guyer
Hagedorn
Hammerschmidt
Hansen
Harsha
Hawkins
Hubbard
Jeffords
Jeffries
Johnson, Colo.
Kemp
Lagomarsino
Latta
Leach, Iowa
Lee
Levitas
Livingston
Lott
Lungren
McClory
McDonald
McHugh
Madigan
Marriott
Michel
Myers, Ind.
Paul
Petri
Quayle
Quillen
Railsback
Rhodes
Ritter
Roberts
Roth
Rousselot
Royer
Santini
Satterfield
Schulze
Sensenbrenner
Shelby
Shumway
Shuster
Solomon
Stangeland
Stenholm
Stockman
Stump
Tauke
Taylor
Thomas
Walker
White
Young, Alaska
Young, Fla.

NOT VOTING—44

Alexander
Anderson, Ill.
Badham
Bethune
Bonker
Bowen
Brademas
Broyhill
Burlison
Butler
Carter
Cavanaugh
Cheney
Clay
Collins, Ill.
Davis, S.C.
Derwinski
Dodd
Florio
Gibbons
Heftel
Holt
Holtzman
Horton
Ichord
Jenrette
Kindness
Loeffler
McKinney
Mathis
Moffett
Murphy, Ill.
Musto
Myers, Pa.
Nolan
Pepper
Preyer
Rudd
Skelton
Staggers
Stratton
Symms
Thompson
Wilson, C. H.

□ 1310

The Clerk announced the following pairs:

Mr. Musto with Mr. Bethune.
Mr. Thompson with Mr. Derwinski.
Mr. Florio with Mr. Rudd.
Mr. Pepper with Mr. Symms.
Mr. Jenrette with Mr. McKinney.
Mr. Mathis with Mr. Horton.
Mr. Alexander with Mr. Cheney.
Mr. Bowen with Mr. Carter.
Mr. Burlison with Mrs. Holt.
Mr. Ichord with Mr. Kindness.
Mr. Heftel with Mr. Loeffler.
Mr. Dodd with Mr. Badham.
Mr. Davis of South Carolina with Mr. Broyhill.
Mr. Myers of Pennsylvania with Mr. Butler.
Mr. Murphy of Illinois with Mr. Charles H. Wilson of California.
Mr. Stratton with Mr. Staggers.
Mr. Moffett with Mr. Gibbons.
Mr. Skelton with Ms. Holtzman.
Mr. Bonker with Mr. Cavanaugh.
Mrs. Collins of Illinois with Mr. Nolan.
Mr. Preyer with Mr. Clay.

Mr. BEREUTER and Mr. DUNCAN of Tennessee changed their votes from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1320

PERSONAL EXPLANATION

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute.)

Mr. SEIBERLING. Mr. Speaker, I was unable to make the vote yesterday on H.R. 7020, the Hazardous Waste Containment Act, on final passage. Had I voted, I would have voted for final passage.

COUNCIL ON WAGE AND PRICE STABILITY EXTENSION

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6777) to increase the authorization for the Council on Wage and Price Stability, to extend the duration of such Council, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. MOORHEAD).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 6777, with Mr. DERRICK in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Pennsylvania (Mr. MOORHEAD) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. STANTON) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. MOORHEAD).

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 5 minutes to the distinguished chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Wisconsin (Mr. REUSS) who has helped in the very fine reporting and passage of this legislation.

Mr. REUSS. Mr. Chairman, I thank the distinguished subcommittee chairman, the gentleman from Pennsylvania (Mr. MOORHEAD), for yielding and congratulate him on his diligence in bringing this important measure to the floor today.

Mr. Chairman, this reauthorization of the Council on Wage and Price Stability, H.R. 6777, is a good bill that prolongs the life of a useful agency. The bill was reported from the Banking Committee with strong bipartisan support by a vote of 35 to 6.

The COWPS program has helped restrain wage and price increases, though admittedly on a modest scale, and COWPS has done valuable work monitoring Federal regulations for inflationary impacts. COWPS has its detractors, in this body and elsewhere, but for a small agency it has done some important work, despite having to grapple with an extremely complicated economic situation in the last few years.

The bill reported by the Banking Committee is a simple, straightforward bill that basically would extend COWPS' life for another year. There may be an effort to amend the bill to add a provision to sunset the Credit Control Act. I believe this effort should be resisted very strongly. In the first place, addressing the future of the Credit Control Act goes well beyond the limited scope of H.R. 6777. I also see no justification for tampering with a law whose usefulness continues to exist today.

In the Senate, the COWPS bill emerged not only with a Credit Control Act sunset but with other nongermane amendments attached to it. We should not accept such a haphazard approach in the House. I suggest we pass the bill reported by the Banking Committee with the committee amendment, and send that bill to the Senate for them to decide whether to accept it.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, the bill before us is essentially a routine reauthorization of the Council on Wage and Price Stability, which is one of the smaller agencies of the Government. I do not see any reason why the bill should be very controversial and I would hope we can dispose of it quickly.

For a while there was some controversy over this year's COWPS reauthorization after the President, last March, asked for a large increase in funds for the agency, from roughly $10 million to $25 million. However, the Banking Committee rejected that request and approved only the amount in the Presidential's original budget—specifically $9,770,000. The committee approved the bill, with the lower figure, by a vote of 35 to 6.

It is true, of course, that the program of nonmandatory standards or guidelines for prices and wages, which COWPS put into effect almost 2 years ago, has been a source of some dispute though the criticism has come from two opposite directions. One school has alleged that the guidelines did no good in holding back inflation, while the other school said they had many of the elements—and therefore the drawbacks—of mandatory controls. A good majority of the committee felt, as our report said, that the guidelines definitely held back the rate of inflation somewhat in that part of the economy that was covered by them, but in any case this debate is now largely academic. While the guidelines are still in place through the end of this calendar year, the President has clearly signaled his intention of proposing something different for the future, following the election. Whatever that something is, I can assure the Members it will not be mandatory controls because the President has no authority for controls unless and until Congress grants it.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I will be glad to yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague's yielding. Since we have had all these signals from the White House that they may eventually disband this thing, and many other people have said it really is not doing that much good, why do we not just let it expire?

Mr. MOORHEAD of Pennsylvania. If the gentleman would permit me, I would say one thing that I am sure the gentleman from California approves of. That is it is very important that this Council carry one and monitor Government regulations for their inflationary impact. When the people in OSHA or EPA get too zealous in their desire to carry out and even do more than carry out the intention of the Congress and impose regulations that are unnecessarily expensive, this Council and this Council alone is the body that checks on it. So, for heaven's sake, let us continue for that purpose, which I am sure the gentleman from California shares with me.

Mr. ROUSSELOT. Will the gentleman yield further?

Mr. MOORHEAD of Pennsylvania. Of course, I would be glad to yield.

Mr. ROUSSELOT. I appreciate my colleague's yielding. I am sure that there are many other vehicles and/or machinery available to the White House to monitor prices and wages, et cetera, and they would be far more effective than this agency has been.

□ 1330

Of course the gentleman knows I have never favored continuing this thing. I think we should have let it expire 4 years ago. However, since there are some clear signals now that even the White House is having doubts about how valuable this thing is, there may be some trade-offs for other things.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, if I may reclaim my time, I did not say there were doubts in the White House or in the administration about continuing this. There are signals that the wage price guidelines, which is only part of the function of this Council, may be altered.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further, I hear what the gentleman is saying but I have read the article in the Washington Post this morning by Mr. Art Pine and I think there are clear signals in there that the White House is beginning to have real doubts as to how effective this agency is. I think we really ought to just help accommodate them and let it expire on the 30th of this month.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield myself 4 additional minutes.

I yield further to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. I think we ought to accommodate them and let it expire on the 30th of this month. We could save all kinds of money and I know there are many other groups within the White House staff and others who are monitoring the regulatory process and I am sure Congress is doing its job on that issue. I just think this is unnecessary bureaucracy.

Mr. MOORHEAD of Pennsylvania. I would hope that the gentleman would listen to the debate and consider whether a very modest investment of $9 million in this agency, if it only reduces the rate of inflation by 1 percent, it has paid for itself a thousand, a million times over, and I hope the gentleman will consider keeping this, with the understanding that even a person for whom I think both the gentleman from California and I share a high regard, that is Arthur Burns, has urged the continuation of the Council.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield at that point?

Mr. MOORHEAD of Pennsylvania. I do yield to the gentleman from California.

Mr. ROUSSELOT. Is there any proof that the group has reduced the inflation by 1 percent?

Mr. MOORHEAD of Pennsylvania. The testimony before our subcommittee indicates that the influence of the Council has had an effect of between 1 percent and 1½ percent reduction in the rate of inflation.

Mr. ROUSSELOT. They have documented all of them?

Mr. MOORHEAD of Pennsylvania. They have, before the committee.

Mr. ROUSSELOT. I certainly look forward to seeing that information. I have not seen it. I did go through the testimony of the gentleman's fine committee. I cannot find any reason for continuing this thing but we have a tendency around here to continue things we do not need. I will, however, listen carefully.

Mr. MOORHEAD of Pennsylvania. I thank the gentleman.

In any case, guidelines or no guidelines, there is a need for this agency. It is the only agency of the Government with an exclusive responsibility to monitor the inflation problem and recommend what to do about it. Equally important, from its very beginning in 1974 COWPS has been given the task of examining and commenting on new Government regulations that might have the effect of raising costs and prices in the economy. This has not just been a gesture. In a number of cases COWPS analysis has led the agencies concerned to modify proposed regulations in the direction of placing less costly burdens on industry without sacrificing underlying goals such as a cleaner environment and safer working places. I understand, Mr. Chairman, that the Senate Appropriations Committee, in approving full funding for COWPS, has mandated that more of its resources be used in this function, and that may well make good sense with the probable phasing out of the guidelines.

Finally, the Banking Committee added an amendment to this legislation sponsored by my friend from Minnesota (Mr. VENTO) that would require COWPS to establish a new unit devoted exclusively to the Nation's increasingly serious productivity problem. As we all know, higher productivity permits higher wages without raising unit costs and hence prices, and a lot of our problems would look much easier if we could turn around the dismal productivity performance of the past few years.

In any case, Mr. Chairman, there is important and useful work for this small agency regardless of the future of the guidelines. It should be authorized at the modest level of less than $10 million approved by the Banking Committee, and I can see no valid reason to cut it back, much less abolish it.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. STANTON).

Mr. STANTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in qualified support of H.R. 6777, a bill to extend the life of the Council on Wage and Price Stability until September 30, 1981. I am forced to say that my support is qualified for several reasons, not the least of which is that I do not wish my support to be construed as support for the Carter administration's wage/price guidelines policy.

More importantly, I have no desire to have COWPS or any other governmental unit impose artificial economic controls on our Nation's economy. I feel strongly that COWPS should pay more attention to its statutory responsibility to monitor the Government process and to focus public attention on those Federal actions it considers inflationary.

Were it not for the following advice from former Federal Reserve Board Chairman Arthur Burns, I think I would prefer to see COWPS expire. In a letter to my good friend and the ranking minority member on the Economic Stabilization Subcommittee, STEWART MCKINNEY, Dr. Burns offered these words of wisdom:

> In my judgment, COWPS has accomplished very little. The only reason for extending it is that its discontinuance at this time may be interpreted by the general public as an indication of lack of concern over inflation by the Congress

Mr. Chairman, in all honesty I personally am more concerned with a potentially more damaging and not unrelated issue regarding our Nation's economic health. I am referring to the sweeping credit controls imposed by President Carter on March 14 of this year. As I am sure all of my colleagues are aware, the President is empowered to invoke these credit controls by the Credit Control Act of 1969. Once the President alone determines that such action is necessary to curb inflation, that act grants the Federal Reserve Board almost dictatorial power to regulate and control any or all extensions of credit.

The Senate version of the COWPS legislation contains a provision which would sunset the Credit Control Act on July 31, 1981. The beauty of such a requirement is that it forces the Congress to review the continuing need for this type of extraordinary power before a date certain. Moreover, this approach allows the current credit control program, which fully expires on October 30, ample time to achieve its intended purpose of controling that portion of inflation which may or may not be generated by the excessive extension of credit. A sunset provision in no way impedes or undermines the President's current attempts to control inflation. It is my intention to use every available parliamentary option to insure that this nongermane Senate amendment reaches a vote on the floor of the House of Representatives.

NEED FOR CREDIT CONTROL ACT IN LIGHT OF THE MONETARY CONTROL ACT OF 1980

Mr. Chairman, any casual observer of our economic policymaking can wonder about the continuing need for the Credit Control Act in light of the Monetary Control Act of 1980, which passed both Houses of Congress by overwhelming majorities earlier this year. You will recall that the Credit Control Act was invoked by President Carter on March 14, just 16 days before the President signed the Monetary Control Act of 1980 into law. Had the Monetary Control Act been in place longer and fully implemented in March, I seriously doubt that President Carter would have needed to burden us with the Credit Control Act.

In line with the fundamental shift in the Federal Reserve's actions last October 6 to focus more on the control of bank reserves to control monetary growth and less on the manipulation of interest rates, the Monetary Control Act of 1980 is designed to improve the effectiveness of monetary policy by applying new reserve requirements set by the Federal Reserve Board to all depository institutions. In addition, the Monetary Control Act grants the Federal Reserve Board the power to impose emergency and supplemental reserves if they are determined to be essential for the conduct of monetary policy. Already, the Federal Reserve Board has implemented regulations regarding reserve requirements and access to the Fed's discount window.

CHAIRMAN VOLCKER'S CRITICISM OF THE CREDIT CONTROL ACT

Mr. Chairman, ever since I have been in Congress, I have respected the judgment of the financial regulators who are responsible for implementing and enforcing our laws. In this particular case, we should rely heavily upon the advice and counsel of Paul Volcker, Chairman of the Board of Governors of the Federal Reserve System, who has had the responsibility for administering the Credit Control Act.

Ony July 23, 1980, in the so-called Humphrey-Hawkins hearings before the Banking Committee, Chairman Volcker had this to say about the need for credit controls:

> The special restraints are inevitably cumbersome and arbitrary in specific application.

> They involve the kind of intrusion into private decision-making and competitive markets that should not be part of the continuing armory of monetary policy

More importantly, Chairman Volcker cited the perfect justification for doing away with the Credit Control Act.

> Our normal and traditional tools of control, which in fact have been solidified by the Monetary Control Act passed earlier this year, are intact and fully adequate to deal with foreseeable needs

During the question and answer period, I asked Chairman Volcker about the need to continue this act, especially in light of its disproportionate impact upon the average consumer and the poorer people in our country. Chairman Volcker, the man who has had to live with the administration of the credit control program, gave the committee this advice:

> My personal feeling about that act is that it is indeed a very sweeping piece of legislation with rather broad criteria to its use, to put it kindly.
>
> It is not really appropriate to have that sweeping grant of power, in this case to the President and the Federal Reserve combined . . .
>
> When one looks at the language of that legislation on its face, I share the feeling that it is extremely sweeping, it would permit, in the last analysis, control of almost all transactions in the economy. It makes me uneasy.

I would submit that if Chairman Volcker is "uneasy" about the ramification of the Credit Control Act, then all of us in Congress should be equally uneasy.

CREDIT CONTROL ACT IMPOSES SOCIAL COSTS, WITHOUT ANY SOCIAL BENEFITS

In reviewing all of the available data that I have been able to find, I must conclude that the imposition of credit controls has imposed heavy social costs on the U.S. economy without any of the corresponding social benefits. It is my opinion that the Credit Control Act as imposed places an unfair burden upon consumer credit and hurts the average American in an inequitable manner. One tangible result of the March 14 program is that the average consumer has been affected visibly, while the more affluent investor or the larger corporation can find ways to circumvent these controls.

While many banks and credit card companies have implemented policies which have a relatively greater impact on the average consumer—such as raising monthly credit card payments, adding new annual service fees, or curtailing the issuance of credit cards—wealthier individuals and businesses still have access to other forms of financial services. Thus, credit controls invariably hurt the average consumer and small businesses because they have fewer, alternative sources of funds.

I am particularly intrigued by a recent study of the U.S. Chamber of Commerce entitled "A Review of the March 14, 1980 Implementation of the Credit Control Act of 1969." As far as I know, the Chamber's study is the most comprehensive review of the credit restraint program that I have seen.

Some of the chamber of commerce report's findings will be of interest to my colleagues. For example, you will recall that in October of 1979, the Federal Reserve announced a major change in the technique for implementing monetary policy that focused on bank reserves rather than the Federal funds rate. Although there were some initial shocks throughout the financial markets, the chamber study shows that these new Fed actions were having a moderating effect on financial markets and economic activity. More importantly, however, the chamber study reveals that—

> A substantial portion of this early 1980 credit expansion was the result of necessary defensive measures by business firms and financial institutions attempting to recover from the credit policies implemented in October.

The chamber's study also correctly states:

> Such credit expansions tend to be short-lived and have little or no influence on the future course of inflation.

In order to get an alternative perspective on the impact of the controls and to better estimate their expected long-term effects, the chamber of commerce commissioned Data Resources, Inc., to do a study of the quantitative economic impact of the credit restraint program. Although these findings must be viewed as preliminary, they are startling nonetheless. DRI's own conclusion based on the data from its economic model is that—

> It is obvious from this analysis that the March 14 credit controls had a negative impact on the economy in the second quarter . . . In sum, although a turndown in the economy in the quarter was considered to be quite likely before the controls, the model illustrates that the credit controls did make the falloff in economic growth more severe. The negative impact seems to persist during the weak recovery that is forecast for 1981.

Let me just take a moment to read some of the more pertinent excerpts from the Chamber's report:

> According to the simulation, the effect of the CRP (credit restraint program) during the second and third quarters of this year was exclusively one of reducing real economic activity, not the price level. The observed decline in the rate of inflation during these quarters was evidently due to other factors . . . (T) he simulation shows no demonstrable benefit in reducing inflation during these two quarters or in succeeding quarters through 1982.
>
> The major, and perhaps surprising, result of the simulation, however, is the expected impact of the CRP on the weak recovery forecast for 1981. The negative impact in calendar and FY 1981 is expected to be greater than the impact during the short period from March through July that the program was in effect. What was expected to be a sluggish recovery in real GNP growth of 1.1% in 1981 without controls is now expected to be much weaker. As a result of the CRP, growth in real GNP in 1981 is expected to be only 0.8%, 35% less than what would have occurred without controls.
>
> Although the program had no demonstrable effects in reducing inflation, the simulation estimates that it will entail substantial social costs by the time it runs its course through the end of 1982. The DRI simulation suggests, albeit tentatively, that some of the social costs (and net loss to the economy as a whole) will have been the following:
>
> GNP loss: $23 billion.
>
> Employment loss: 300,000 man years.
>
> Federal Tax Receipt loss: $7.0 billion.
>
> New Car Sales loss (domestic): 500,000 units.
>
> Loss in total consumption: $19 billion.
>
> Loss in housing starts: 50,000 units.

In sum, Mr. Chairman, the Chamber report finds that the March 14 credit restraint program has had no demonstrable impact on inflation, while it has had a negative impact on our country's economic growth. The loss in GNP, the loss in employment, the loss in housing starts and in domestic new car sales, and the loss of Federal tax receipts—all argue in favor of sunsetting the Credit Control Act.

CREDIT CONTROLS ARE A FORM OF ALLOCATION OF CREDIT

Moreover, no matter in what light such programs are cast, credit controls are a form of allocating credit. Invariably, the result of allocating credit through government programs is a less efficient and less productive allocation than would be determined by market forces. Just 3 months after the present controls were enacted, Gov. Henry Wallich of the Federal Reserve System had this to say about the Fed's brief experience in administering the credit controls:

> They involve credit allocation to competing groups of borrowers. This is a political decision that should not be required to be made by the central bank. But when made by the political process, credit is likely to be allocated not where it produces the most goods and services, but where it produces the most votes. Any rationing of credit other than through the price, i.e., the interest rate, is bound to be arbitrary and probably in many instances unfair. Unrealistic decisions have to be made as to what type of loans are "productive" and "unproductive." The productivity performance of the American economy, already very inferior, would become further depressed.

A look at market innovations that have been a direct response to other forms of financial controls—for example, the growth of the Eurodollar market, the growth of the commercial paper market, or the growth of money market funds—will show the frustration and futility of imposing such controls. If the present credit control program had gone on much longer, I would guess that the marketplace would have found legitimate ways to circumvent these types of controls as well.

In closing, Mr. Chairman, let me say that it is indeed unfortunate that instead of sensible economic changes involving cutbacks in Government spending—an option that must have been considered and then rejected as politically impracticable—the Carter administration choose the path of credit controls. It is particularly disturbing since these controls came at a time when, according to the Federal Reserve's own interim findings, by the second half of last year expansion in total consumer installment credit had fallen to an 11-percent annual rate, down from a 20-percent rate during 1977 and 1978. Furthermore, this expansion of total consumer installment credit eased to a 7-percent pace in the first quarter of 1980. Based on these kind of statistics, one can wonder what truly motivated the imposition of such controls.

The placement of burdensome credit restrictions on an economy that was already 2 months into a recession can be viewed only as an overreaction to 1 or 2 months of admittedly bad reports on credit growth and prices, some of what were related to the earlier actions of the Federal Reserve and the growing fear that further controls would be adopted. We have seen that by all reports, there has been little in the way of social benefits arising from the imposition of these credit controls. Unfortunately, there have been and will continue to be too much in the way of social costs. Such controls seen particularly ill-conceived in light of the Nation's problems of inadequate capital formation and meager productivity growth.

I am pleased to say that this effort to sunset the Credit Control Act has the support of such diverse groups as the American Bankers Association, the American Retail Federation, the Credit Union National Association, the Independent Bankers Association of America, the Investment Company Institute, the National Association of Manufacturers, the National Consumer Finance Association, the National Federal of Independent Businesses, the National Retail Merchants Association, the U.S. Chamber of Commerce, and many, many other groups. I hope that all Members can join in this bipartisan effort to sunset the Credit Control Act.

□ 1340

Mr. BARNARD. Mr. Chairman, will the gentleman yield?

Mr. STANTON. I yield to the gentleman from Georgia.

Mr. BARNARD. Mr. Chairman, I want to commend the gentleman for bringing this particular aspect of the Senate-passed version to our attention today, because it does have extreme importance to us in considering this legislation.

Mr. Chairman, I support the extension of the Council on Wage and Price Stability—up to a point. I believe that they have done some excellent work in coordinating the various anti-inflation programs of the administration, and that their guidelines are one of the few measures that a business can use to judge their part of the anti-inflation fight. Without these guidelines, there would have been no real standard that anyone could use to restrain future price increases, or to measure wage increase against.

This program has not worked as well as most of us have wished, and prices and wages are still climbing at a far higher than acceptable rate. During the full Banking Committee consideration of this bill, there were proposals that would have tripled the size of COWPS, reflecting the belief that it could work if only it was larger. I cannot agree with this contention, because the Council's figures have far too often been ignored or altered to avoid upsetting one or another powerful group.

If the program were allowed to work as it was intended, free of the need to alter economic needs to the desires of those who should be restrained by it, COWPS could operate on less money than it gets now. For this reason, I urge my colleagues to support an amendment that will be offered here today to cut the authorization by $1.3 million. There is no reason why COWPS cannot carry out its functions effectively and efficiently at this level if it is only allowed to fulfill its mandate without interference.

There is another, and equally important reason to support, this amendment, for it is the only way to eliminate one of the most extreme legislative excesses now in existence.

The Senate has already passed an amendment to their version of this bill that would repeal the Credit Control Act of 1969 late next year. This amendment would force a careful examination of the act, and if it is found to be as damaging as I believe it is, would repeal it without any further action being required.

Unfortunately, the rules of the House prohibit us from introducing it as an amendment to H.R. 6777 today, and the only way that we can deal with it is to amend the House bill, and to instruct the conferees to accept it. Passing this amendment to reduce COWPS by $1.3 million is the first step toward doing this. These are the reasons why the Credit Control Act needs to be examined and repealed.

In 1969, Congress passed the Credit Control Act. It has only been used once—in March of this year—but it has proved itself to be one of the most sweeping grants of power ever passed. Under it, the Federal Reserve System can take control of the credit structure of the economy, and impose whatever controls on it it desires. These can be changes in the repayment terms, executive decisions on what types of credit can be offered, or severe limits on those who do lending, no matter who.

The one application of it earlier this year, resulted in the reduction of the GNP by $23 billion. In addition, an estimated 500,000 cars were never sold that would have been otherwise; 50,000 housing starts were never made; and 300,000 man-years of employment were lost when unemployment was already far higher than acceptable. Finally, in a year when we are trying to balance the budget, an estimated $7 billion in tax revenue was lost.

If there had been any effect on inflation, I would be glad to pay this price, but recent economic studies indicate that there was no effect on inflation at all. According to Data Resources, the total effect was to reduce real economic activity, while prices were not affected. In an economy already in a recession, the effect was to drive it farther down, and to make any recovery harder than before.

Mr. Chairman, if this were likely to be an isolated instance, I would still be uneasy about this law. Unfortunately, studies indicate that any future use of these controls may be even worse, and any prolonged use of them could change basic relationships in our economy to the point of altering the economy beyond recovery.

There is only one way to eliminate this law, and that is to support a motion to reduce the authorization for COWPS, and to force the bill into conference. The Senate has already passed an amendment that would sunset the Credit Control Act in September 1981. Due to the rules of the House it cannot be brought up today, but House conferees can be instructed to support it during a conference.

Mr. Chairman, I urge my colleagues to support Mr. STANTON's amendment to reduce the authorization for COWPS not only because it is a good and logical move, but also because it is the first step to eliminating future credit controls.

Mr. STANTON. Mr. Chairman, I yield 6 minutes to the gentleman from Utah (Mr. MARRIOTT).

Mr. MARRIOTT. Mr. Chairman, if I could have a colloquy with the chairman of the committee——

Mr. MOORHEAD of Pennsylvania. I would be delighted.

Mr. MARRIOTT. I have tried to be objective on the bill. I have no preconceived notions on how to vote, but I tend to be leaning against it. I have heard here today that the Council on Wage and Price Stability has basically been a failure. It has not solved the inflation problems, and I just want to ask a couple of questions.

Some of the experts have told us that the major causes of inflation would be: First, Federal deficit; second, Federal regulations, excessive regulations; third, oil imports; and fourth, our low productivity.

On the Federal regulation side, I think I remember a year ago hearing Alfred Kahn get up in the White House and blame the private sector for the problems of inflation. Could the gentleman just enlighten me now, as one who would like to vote for this bill but finds it difficult to do, exactly what has this Council done? If those are in fact the major causes of inflation that I have pointed out, what has this Council actually done, or are we just keeping 240 bureaucrats off the unemployment rolls?

Mr. MOORHEAD of Pennsylvania. If the gentleman from Utah would yield, I appreciate somebody raising questions and saying that they want enlightenment and are considering their vote.

If we say that this little Council is the only thing we have working against inflation, if that is the concept, yes, of course it has failed. But, I would suggest to the gentleman that it is one very small but very important element in our fight against inflation. Even if we should—and the committee has voted against it—if we should impose mandatory price and wage controls, we would not cover imported oil. We could not. We could not cover food prices. We could not cover a lot of things, but if we look at the areas where the Council has some influence, the rate of inflation has been lower. So, I think it has contributed a little bit, and what I am suggesting, and what I hope the gentleman will consider, is that even if it contributes just a little bit to this tremendous cost of inflation it will be worth it, and I think that the record established before our committee is that this $9 million investment has paid for itself over and over and over again.

Mr. MARRIOTT. What is that little bit that it has contributed? Has it contributed by recommending that we impose monetary constraints? Is that the little bit? What is the little bit that it has contributed to solving inflation?

Mr. MOORHEAD of Pennsylvania. The testimony before our committee indicated that the rate of inflation would be from 1 percent to 1.5 percent higher were it not for the actions of the Council in two respects: First, the price-wage guidelines have had an effect of reducing what might have been excessive prices, excessive wages; and second, in the matter of Government regulations, we have had testimony before our committee of what they did.

I think of one chemical product where OSHA proposed a particular way they had to reduce the hazards of this chemical. The Council came in and said, "No, you can achieve the same thing at a reduced cost."

If my memory is correct, it was $300 million less. In the field of EPA regulations over fiscal fuel, EPA had a regulation, and the Council on Wage and Price Stability came in and said, "You can achieve the same thing at a much lower cost to industry."

These are examples that could be repeated over and over and over again, that do have a material effect on inflation.

Mr. MARRIOTT. The point is, if that is what they are doing, are they basically serving as advisers? What are the 230 employees doing? Are they gathering data? Are they doing research? Why could not a small group of intelligent people, say a half a dozen economists consulting with the President come up with the solutions?

What I am saying is, and I am no economist, that I can come up with the same solutions they are coming up with. What I am trying to find out is, is it just an itty-bitty little dent in the woodwork? Or, are they really paying for what they are costing this country?

It seems to me that if all we can say is that it is just making a little dent, maybe this is the kind of agency the American people would like to see us do away with, and at least start the trend toward reducing Government.

Mr. MOORHEAD of Pennsylvania. When I said a little dent in percentages, we are dealing with a trillion dollar economy, and 1 percent of a trillion dollars is one heck of a sight more than the $9 million we have here. We have a tremendous economy, and to monitor it requires at least the number of people we have here. The administration actually requested of our committee an increase in the funding to $25 million. The committee, sharing some of the gentleman's points of view, reduced that to $9,700,000, and actually imposed additional duties with respect to productivity, so that the question before this House really should be, should we increase the funding rather than decrease it?

I thank the gentleman.

Mr. MARRIOTT. I thank the gentleman.

□ 1350

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 3 minutes to the distinguished chairman of the full committee.

Mr. REUSS. Mr. Chairman, I thank the gentleman for yielding me this time. I had not intended to get on my feet again, but the gentleman from Utah (Mr. MARRIOTT) has asked a very important question and he put it very well.

I think the answer is good, but because the gentleman from Utah said he started out leaning against us on this, I want to take just a minute to go into the gentleman's question. I am glad he is on his feet because I would like to yield to him in just a moment.

The gentleman from Utah named four causes of inflation. Of those four, two, imported oil and Federal deficits, are indeed causes of inflation, and COWPS does not make any meaningful contact with them. If that were all COWPS was doing, I would not take the time here trying to press the cause of COWPS.

The gentleman has mentioned two other causes of inflation, low productivity and wasteful regulation, and there COWPS does make a real contribution. As far as regulation is concerned, it does take personnel for them to evaluate the various regulations from the administration to make sure that they are free of inflationary effect.

The gentleman from Ohio (Mr. BROWN), whom I do not see here on the floor, has presented an amendment which, speaking for myself, I hope can be accepted, because I think it is a good one. The amendment would further strengthen COWPS's function in looking into these regulations, and I think the gentleman from Utah (Mr. MARRIOTT) would agree with that.

The fourth cause mentioned by the gentleman from Utah, productivity, is really the meat of the coconut, and there COWPS has done some good things in getting worker-management cooperation and innovation. Those are the ways in which we are really going to lick inflation in the long run.

Our bill today carries an amendment, the so-called Vento amendment, which specifically lavs it on COWPS to do an even better job on productivity.

So I would say to the gentleman from Utah (Mr. MARRIOTT) that he has asked a good question, but really in these two fields, productivity and regulation, he has an answer which I hope will enable him to vote for the bill.

Mr. MARRIOTT. Mr. Chairman, will the gentleman yield?

Mr. REUSS. I yield to the gentleman from Utah.

Mr. MARRIOTT. Mr. Chairman, I appreciate the gentleman's taking his time to answer this question, and I just want to ask this further question:

Can the gentleman assure us on this side that in fact the Council on Wage and Price Stability has made recommendations to the administration to substantially increase productivity and to substantially reduce regulations? Are they actually making the types of recommendations that we are going to be called upon to initiate in legislation?

What I am trying to see is the end of the rainbow here. It is nice to have them out there doing all this research but what is the bottom line? What is their contribution?

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. REUSS) has expired.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 1 additional minute to the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Chairman, the gentleman has asked his question, and I will answer it.

Mr. MARRIOTT. Mr. Chairman, if the gentleman will yield further, I will just complete the question and ask this:

Do we have assurances that in fact, rather than just researching and keeping these people informed, they will give us the recommendations in those two areas the gentleman mentioned that will have an effect on inflation?

Mr. REUSS. Mr. Chairman, the answer is yes, I can give the gentleman such assurance, particularly in light of the Vento amendment and the Brown of Ohio amendment, because we are going to insure that COWPS, without taking on one additional person or getting one additional dollar over that which is put in the bill, accelerates its action in those two areas of regulation and productivity. So I think we will get value received for the $9 million, which is not "peanuts."

Mr. MARRIOTT. Mr. Chairman, I thank the gentleman for his resopnse.

Mr. STANTON. Mr. Chairman, I now yield 2 minutes to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Chairman, I rise today in opposition to the bill currently before the House, H.R. 6777. Beyond that, I rise in opposition to the entire concept behind this legislation.

If this bill purports to indicate real concern for the skyrocketing inflation which is daily eating at the real buying power of the American taxpayer, it is a feeble attempt. The Council on Wage and Price Stability has contributed absolutely nothing to "controlling inflation." It merely spends money while demanding bigger budgets and more staff to further harass the Nation's businesses which are beleaguered enough as it is with excess Government regulation. "Voluntary wage and price controls" are an economic joke and we all know it.

I have heard that we "have to pass this bill to show the general public our concern for the rate of inflation." I suggest to my colleagues that we could really show we care if we balanced the budget and passed a substantial tax cut to put the taxpayer's money back where it belongs—in their pockets. Appropriating even the reduced amount provided in H.R. 6777 is acceding to another hollow, symbolic demand of a do-nothing administration.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from New York (Mr. LUNDINE), a member of the subcommittee and of the full committee.

Mr. LUNDINE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I wish to compliment the gentleman from Pennsylvania (Mr.

Moorehead), as well as our committee chairman, the gentleman from Wisconsin (Mr. Reuss), on their handling of this bill.

We face an issue in this bill that continues to be the most critical problem facing this country: persistent high rates of inflation. But there is a more fundamental issue underlying that problem which is slowly gaining recognition in this country, and that is our declining productivity growth.

My respected colleague, the gentleman from Minnesota (Mr. Vento), has added an amendment, which I support, to identify a productivity unit within the Council on Wage and Price Stability. I do not, however, want anyone to labor under the delusion that simply identifying two or three staff people in the Council on Wage and Price Stability is going to be an overwhelmingly significant step in solving our Nation's productivity problems.

I hope that we will not hear the same argument from this administration about this unit within COWPS as we have about their so-called Productivity Council, coordinated by OMB with its anemic staff support and symbolic efforts, because I fear that is what this unit will end up also being, that this unit is their answer to improving American productivity.

Under the leadership of the gentleman from Pennsylvania (Mr. Moorehead), the Subcommittee on Economic Stabilization has recently completed 4 days of hearings on America's lagging productivity problem. It has received testimony from business, labor, professional economists, and representatives of foreign countries. Lester Thurow, one of the distinguished economists in this country, said that this problem is not like 1 major wound; it is like 100 little cuts, and we need the kind of focused attention that will deal with the healing of 100 little injuries if we are going to really come to a commitment and a common strategy between not only Government and business, but labor and business and others in the private sector in dealing with our productivity problem.

I commend the gentleman from Minnesota (Mr. Vento), with the caveat that we must move and build upon his efforts in addressing this fundamental, underlying problem of productivity.

Mr. Chairman, I would point out that this COWPS bill before us authorizes 235 employees—the same level that agency now has. That is 235 people addressing the most important problem facing this country.

I have taken a little time and found out that the Federal Crop Insurance Corporation has 560 employees, the National Telecommunications and Information Administration has 361 employees, the International Boundary and Water Commission between the United States and Mexico has 298, the American Battle Monuments Commission has 384, and even the Federal Election Commission has more than we are devoting to the fight on inflation; it has 251 employees.

Now, in point of fact, what happened in the Committee on Banking, Finance and Urban Affairs is that the gentleman from Ohio (Mr. Stratton) offered an amendment to cut this number down. I offered a substitute committee amendment which raised the level—the "muscle" behind the Council on Wage and Price Stability—to about 650 people.

☐ 1400

That amendment passed in the Banking Committee by one or two votes. I do not recall; it was close, I remember that. And 2 days later, we came back in the committee and there was a gentleman's agreement that had been reached, and that gentleman's agreement would preserve the Council on Wage and Price Stability at this level, the authorized staff.

I can only say that I hope that we will abide by that gentleman's agreement here this afternoon and at least give this agency the kind of support, the kind of authorization that it has had in past years. As the chairman of the full committee and the chairman of the subcommittee have so incisively and so eloquently stated, this is not the whole answer to our Nation's productivity problem, but it is the one agency that has single focus, that its whole mission is on improving our performance on inflation.

I commend the members of this committee the passage of this, unadorned by amendments that are designed to cripple or destroy it.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 6 minutes to the gentleman from Georgia (Mr. Levitas).

Mr. LEVITAS. Mr. Chairman, I rise in enthusiastic opposition to this bill. The best that can be said about the Council on Wage and Price Stability is that it is a joke. At the other end it can be said that COWPS is an invidious fraud on the American public.

The Council on Wage and Price Stability has had some of the ablest and most dedicated professional people working for it over the years, men and women of great knowledge and caring. But they should have been working somewhere else. The problem is that the Council on Wage and Price Stability was created as a deception of the public and has been extended year after year, based on the same deception.

The gentleman from Ohio, in his remarks, in reluctant support of this legislation, said the reason that he is supporting this bill was based upon the testimony of Dr. Burns, who said that if this agency were abolished, it might indicate to the public that Congress is not concerned about inflation.

The fact of the matter is the agency was created on that same thesis in 1974 when, just prior to election, inflation was high, when the then President, President Ford, proposed this legislation in order to give the Members of Congress an opportunity to go back and campaign on the basis that they were doing something about inflation. And when the legislation came up for extension 2 years later, the same argument was made in 1976, and the same argument was made in 1978, and the same today.

There is nothing in this Council on Wage and Price Stability except its name that has any impact on inflation. It has not done anything about inflation. It has merely provided employment for these talented people about whom I have previously made reference.

The fact of the matter is that this legislation has been kept in place as a means of letting public officials tell the American people they are doing something about inflation rather than actually doing something about it. The only thing that this agency has done that even remotely gets close to the subject matter is to file comments on regulations that they feel are inflationary. That is commendable. However, there are at least three other agencies in Government today that perform that identical function and could take over any operation of the Council on Wage and Price Stability to that end. The Regulatory Advisory Review Group, the Council of Economic Advisers, the Office of Management and Budget, and possibly even the U.S. Regulatory Council all have that function. So this is not anything needed in COWPS. It is duplication.

There is also the possibility that because this particular agency exists in place with this name, it will become the vehicle for mandatory wage and price controls, which I hope no one in this House would believe could solve the problems of inflation in this country but, rather, exacerbate the problems of bureaucracy.

This agency is one which should be given a merciful death today. Let this Congress face the substantive problems of inflation. Productivity is the root of fighting inflation. That is what we need to deal with. Balancing the budget is what we ought to be about. Getting regulations cut back in a meaningful way by this Congress is something we ought to do, and increasing our self-sufficiency in oil and gas so that we do not have to import the OPEC petroleum.

Those are the things we ought to be doing, not deceiving the public through a title of an agency that has done nothing and will do nothing.

I remember back in 1976, when I first spoke against this particular agency, it had that year, if I remember correctly, a proposed authorization of approximately $2 million. It had about 20 to 30 professional employees. And today we are looking at a bill, in 1980, just 2 years later, with 240 employees and $9 million. And it is still doing nothing.

I think the responsible thing for this Congress to do, if we really want to send a message to the American people that we are concerned about inflation, is to abolish this agency of Government, and others, and let us deal with the bedrock causes of inflation and not continue this deception, this joke, this fraud, which is all the Council on Wage and Price Stability amounts to.

Mr. McKINNEY. Mr. Chairman, I have no further requests for time.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Minnesota (Mr. Vento), a member of the subcommittee, a member of the full committee, and the author of one of the very significant amendments to this legislation.

Mr. VENTO. Mr. Chairman, the Council on Wage and Price Stability has played an important role in controlling inflation and maintaining stability in many sectors of our Nation's economy.

In late 1979, the Pay and Price Advisory Committee completed an extensive review of the COWPS program and determined that inflation in the sectors covered by COWPS was in the neighborhood of about 7.5 percent as compared to an overall inflation rate of 13 percent.

Although it is impossible to determine precisely what contribution COWPS made in holding down inflation in those sectors, both the Council of Economic Advisers and COWPS have determined through the use of sophisticated econometric modeling the prices in parts of our economy covered by the COWPS program had risen 1.1 to 1.5 percentage points less than they otherwise would have risen. Therefore, I think it is a reasonable conclusion that the COWPS program of voluntary wage and price standards has had an important anti-inflationary effect.

It is interesting, to me, to listen to some of the critics of this bill and hear what type of economy they think we have. It is obviously a free enterprise economy, even though it does not exactly follow the Adam Smith model of free enterprise. But nevertheless, we are constantly compared with other economies and what is happening in Germany and Japan in terms of some of their economic indices. Yet we are so reluctant to let the Federal Government maintain information and provide the guidelines in terms of the private sector. Not even when they are voluntary guidelines, can we simply review and file the information. That is really what some of the attack here today is aimed at; that somewhere down the line they might do something that the private sector would not agree with.

I disagree with this type of thinking. I think we have to have the opportunity to assemble information and monitor our free enterprise economy. I think the administration has to have it. COWPS has a significant responsibility. It is one of the only places at the national level where we get that kind of coordination that is so desirable in the economy between the disparate parts of the Federal bureaucracy as it exists today.

In fact, I am personally disappointed that we are not considering a bill here today that increases funding for COWPS and authorizes them to have significantly expanded functions both in staff and in their wage and price monitoring program. I think increased funding would be helpful. I think that they are effective in terms of fighting inflation. I believe an extensive program of wage and price constraints is important.

One aspect of the reauthorization bill which I would like to pay particular attention to today is the productivity provision which I introduced as an amendment during the Subcommittee on Economic Stabilization's consideration of this bill. Certainly, I would be remiss if I did not give credit and commend my colleague, the gentleman from New York (Mr. LUNDINE), for his leadership on the topic of productivity.

□ 1410

I am pleased to note his remarks today and pledge my cooperation to work with him as we continue to tackle this problem.

I have offered this amendment because of my deep concern about the declining rate of U.S. productivity growth in recent years. Our declining growth rate and productivity raises serious questions about our economy and our economic environment. It also is making a significant contribution to inflation and hindering the competitiveness of American industry internationally. Economists throughout the country view productivity as a special area of concern for America in the 1980's.

The productivity language I have introduced creates a special sector within the Council that would focus on this problem. The Council already has a responsibility to study productivity, and address a number of concerns as they relate to productivity.

I am optimistic that with the strength of the congressional concern expressed in this particular bill that we will have a better focus on that and will address some of the serious problems of our declining rate of productivity.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. VENTO) has expired.

Mr. VENTO. Mr. Chairman, I ask for 1 additional minute.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. MOORHEAD) has only 30 seconds remaining.

Mr. McKINNEY. Mr. Chairman, I would be delighted to yield 3 additional minutes to the gentleman from Pennsylvania (Mr. MOORHEAD).

Mr. MOORHEAD of Pennsylvania. I thank the gentleman from Connecticut, and I yield 1 additional minute to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, COWPS' responsibility to coordinate the administration's economy policy and anti-inflation activities is fundamental. Therefore, I believe this productivity charge is a logical focus for COWPS. The administration, whichever party is in the White House, must address productivity in its policies and actions. The role of COWPS should be to summarize and analyze the actions of each department or agency and predict their consequences for the benefit of the public and private sectors. This is precisely what the productivity provision contained in this bill has the potential to achieve.

Once again, I urge my colleagues to support the COWPS reauthorization bill, H.R. 6777. COWPS is the only body in the U.S. Government which has been engaged specifically to help focus on inflation. I believe we must give COWPS the support that it needs to do an effective job.

I yield back the balance of my time.

Mr. McKINNEY. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. PORTER).

Mr. PORTER. Mr. Chairman, I rise in very reluctant support of this authorization.

Mr. Chairman, the Council on Wage and Price Stability claims that inflation would have been one-half to three-quarters percent higher over the period October 1978 to March 1980, if they had not been in existence. While any help in combating inflation is obviously welcome, the fact that inflation during this period rose on the Consumer Price Index from 6.8 to 18.2 percent is evidence enough of the ineffectiveness of their work.

Now we are asked to increase their spending authority substantially. Totally apart from the concept of rewarding absolutely abysmal performance, it seems beyond understanding how anyone can believe more money and more staff will make the Council more effective.

In my judgment, it will not. In fact, the increases proposed are themselves inflationary, particularly in view of the real lack of productivity of COWPS evidenced to date.

The only justification of a continuation of COWPS and its funding is psychological, based on the grounds that the American people, seeing its demise, might well believe, and I think correctly believe, that Government would then be doing absolutely nothing to combat inflation.

On that ground and on that ground alone rests the only justification for voting for this authorization.

Apart from this psychological justification, however, there is no doubt whatsoever that attempting to treat the symp-living expenses, the businessman's need for more income to keep up with higher living expenses, the businessman's need to raise prices to keep up with the rising cost of doing business—is destined to fail.

Inflation may be somewhat pushed ahead by psychological responses to it—anticipations that it will be worse in the future—but the basic cause is the devaluation of money by excessively increasing its supply. This is a function of Government and Government alone, and to the extent—and it is substantial—that Congress, by failing year after year to keep expenditures in line with revenue, is the impetus for excessive Federal Reserve money creation to monetize this enormous debt, the responsibility and blame for inflation fall directly on the Congress.

Only by Congress placing its fiscal house in order and taking the pressure off the credit markets and off the Federal Reserve will inflation ever be brought under control. Until this basic foundation of fiscal and monetary responsibility is achieved, COWPS' existence—except as a psychological crutch—is really irrelevant. When it is achieved, COWPS will be unnecessary.

The argument was made, and very well, I thought, in the subcommittee in reference to an amendment attempting to give the President standby authority for mandatory wage and price controls, that there is not enough money and manpower in existence for Government to control the price of every commodity and the wage of every worker. But this argument applies in my mind with equal force to the monitoring of every price and wage decision. Congress can throw more and more money and manpower into COWPS' efforts year after year, and the result will be the same—abysmal—until Congress takes a tack opposite to the one it has been following for so long and curbs excessive Federal spending.

In the past few months it has been increasingly evident that Congress is not yet ready to follow this responsible course. A vote for COWPS today may assuage some consciences and may be justified on the psychological ground, but it is not a substitute for doing what must be done and no real solution to inflation.

I yield back the balance of my time.

Mr. McKINNEY. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. BLANCHARD).

Mr. BLANCHARD. Mr. Chairman, I rise in support of this legislation.

It is a simple renewal, a 1-year renewal of COWPS. I think everyone agrees that there are many causes for inflation, and the sooner we recognize that and work on a number of fronts to fight inflation, the better off we are going to be. There is no easy, quick answer to stopping inflation, and an agency like COWPS brings focus on the problem and helps us understand that there are numerous causes for inflation and ways to fight inflation.

Certainly one of those components of inflation is the whole wage-price mix and how prices could or could not be transferred throughout our economy either by psychological factors, anticipatory and administered prices or other sources, including OPEC.

I think a reasonable case can be made, my colleagues, that the enormous energy price increases of the past years were prevented from being transferred into the other sectors of our economy because of the work of COWPS, because of its price and pay standards.

If for that reason alone this agency deserves a renewal. I regret it is only for 1 year. If I had my druthers, I would give them more power. But the fact is our committee very overwhelmingly and very strongly rejected expanding the power of the Council. I think that is a proper response to any of those who fear this Council may intrude too much in our economy.

I want to commend our subcommittee chairman, the gentleman from Pennsylvania (Mr. MOORHEAD), his staff and the ranking member STEWART MCKINNEY on his staff for having worked in a bipartisan fashion on this subject, this legislation and so many others.

● Mr. HINSON. Mr. Chairman, I was prepared to offer an amendment to H.R. 6777 which would have prohibited the Council on Wage and Price Stability from requiring prenotification of price increases by American businesses as a part of its program to monitor wage/price increases.

COWPS, as you know, operates under Executive Order 12092, but exists totally without legislative authority to exercise mandatory wage and price controls. The House Banking Committee, when it considered this authorizing legislation, overwhelmingly rejected a motion to grant the President standby authority to impose mandatory wage and price controls. The question might properly then be asked why we should allow COWPS to construct the machinery for mandatory controls piecemeal?

My reason for offering the amendment was to prohibit what I considered to be the first step toward mandatory wage and price controls. For COWPS to have required notification of price increases by American businesses before these increases took place, would have been to further burden these businesses with enormous costs and excessive regulation—and would, in fact, have contributed to the very problem it is professing to solve—inflation and a weakened U.S. economy.

Another reason I planned to offer my amendment was to halt the substantial increase in COWPS staff and funding which would result from implementation of a prenotification program. We have quadrupled the budget for COWPS in the past 2 years and added substantially to its staffing. By inaction, the Congress could actually create a situation whereby COWPS could expand its authority, establish a major new Federal policy, and coerce the creation of the new jobs required to run it.

I believe that the President ought to have a mechanism to fight inflation. But granting COWPS full agency powers, evermore money and authority would be an enormous administrative error from the standpoint of Government policy. COWPS exists by Executive order and its processes are not fully responsive to congressional authority. This Congress ought not to allow the exercise of extra-legal authority by COWPS without specific legislative mandate—to do so would violate the fundamental constitutional concept of separation of powers, and it could eventually imperil the country's entire inflation-fighting program.

In view of the administration's recently announced plan to abandon the current wage/price guideline program next year in favor of a restraint plan based on tax incentives, I decided not to offer my amendment. We must now wait to see if President Carter follows through on his agreement to change the present policies of the Wage and Price Council and actually adopts a policy that would encourage economic growth, instead of the growth of another arm of the bureaucracy.●

□ 1420

Mr. McKINNEY. Mr. Chairman, I have no further requests for time.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 6777

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Council on Wage and Price Stability Act is amended by striking out "on a quarterly basis and not later than thirty days after the close of each calendar quarter" and by inserting "on an annual basis".

SEC. 2. (a) Section 6 of such Act is amended by striking out "(1) $6,952,000 for the fiscal year ending September 30, 1979; and (2) $8,483,000 for the fiscal year ending September 30, 1980." and by inserting "(1) $9,463,000 for the fiscal year ending September 30, 1980, and (2) $9,770,000 for the fiscal year ending September 30, 1981."

SEC. 3. Section 7 of such Act is amended by striking out "1980" and inserting in lieu thereof "1981".

Mr. MOORHEAD of Pennsylvania (during the reading). Mr. Chairman, I ask unanimous consent that this two-page bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: On the first page, strike out line 3 and all that follows through line 3, page 2.

On the second page, insert the following after line 3:

That section 2 of the Council on Wage and Price Stability Act (12 U.S.C. 1904 note) is amended by adding at the end thereof the following new subsection:

"(h) The Director of the Council shall initiate the formation within its administrative structure of a unit of personnel who shall have as their primary responsibility problems related to productivity in the economy of the United States. Such productivity unit shall advise the public and private sectors of the economy relative to their actions and shall report on the impact of productivity on consumers, workers, business, economic growth, and inflation.".

On line 15 of the second page, insert "(a)" after "Sec. 2.".

Page 2, line 19, strike out the semicolon after "1980" and insert in lieu thereof a comma.

Page 2, after line 20, insert the following:

(b) Section 6 of such Act is amended by striking out the dash after "not to exceed".

The Committee amendments were agreed to.

AMENDMENT OFFERED BY MR. MOORHEAD OF PENNSYLVANIA

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MOORHEAD of Pennsylvania: Page 2, beginning on line 18, strike out "(1) $9,463,000 for the fiscal year ending September 30, 1980; 1980, and (2).".

Page 2, line 16, insert a dash before "(1)".

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, This is a technical amendment to bring the bill into conformity with the Budget Act. It will strike from the bill an authorization for supplemental appropriations for fiscal year 1980.

As you can see, this is an entirely academic question because the fiscal year has less than a week to go. But the amendment is necessary for Budget Act reasons.

This authorization for fiscal 1980 was not reported by the committee prior to May 15, 1979, and therefore involves a technical Budget Act violation. To repeat, the substance is entirely academic and I urge the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. MOORHEAD).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of Ohio: On page 2 after line 14, insert the following:

SEC. 3. (a) Section 2 of the Council on Wage and Price Stability Act is amended by adding at the end thereof the following:

"(i) For the fiscal year ending September 30, 1981, the Council shall increase the number of positions which involve the review of proposed and existing Federal regulations by 50 per centum, over the number of positions allocated for such purpose for the fiscal year 1980. In conducting such review, the Council shall identify those regulations which have the greatest inflationary impact on the economy or on specific industry sectors, consistent with Section 3(a)(8)."

(b) Section 5 of such Act is amended by adding at the end thereof the following: "The annual report shall also contain an evaluation of the inflationary impact reviews undertaken by the Council in the previous year pursuant to section 2(i), including a listing and description of all regulatory proceedings in which the Council participated, the Council's recommended action, the projected cost of each such regulation, the cumulative inflationary impact of such regulations and the final disposition of each such regulatory proceeding.".

And redesignate the subsequent sections accordingly.

Mr. BROWN of Ohio (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BROWN of Ohio. Mr. Chairman, the large and growing relationship between Government regulation and inflation has been widely documented. In a study performed for the Joint Economic Committee, Murray Weidenbaum of the Center for the Study of American Business at Washington University, St. Louis, found that Government regulation required nearly $100 billion in private sector compliance costs in fiscal year 1979. We all know who paid that $100 billion—the American consumer in higher costs of products and services purchased.

All regulatory cost increases are passed on to the consumer, adding significantly to inflation.

A new congressional study performed for the Joint Economic Committee and the Senate Commerce Committee by the Office of Technology Assessment and released last week concluded that at least 8 to 12 percent, and possibly as much as 15 percent, of the slowdown in U.S. productivity growth is due to environmental, safety and health regulations alone.

Yet the Council on Wage and Price stability has devoted most of its resources to monitoring wage and price increases by labor and business, downplaying the role of Federal regulations in causing those wage and price increases.

My amendment directs the Council to increase by 50 percent its regulatory review program personnel. In fiscal year 1979, the Council's regulatory review unit, the Division of Government Programs and Regulation, had 19 staff members, or about 13 percent of the total Council staff of 233.

In fiscal year 1980, after the Congress directed the Council to increase its regulatory review programs, the staff went up by only 3 to 22. Because of a huge increase in the pay and price monitoring staffs, the regulatory review staff dropped to only 9 percent of total staff. This amendment seeks only to reverse this trend, returning the regulatory review staff to 14 percent of the total. Considering the huge impact of Government regulations on inflation, this is not unreasonable.

The second part of my amendment directs the President, in his annual report to Congress, to evaluate the inflationary impact reviews undertaken by the Council, so that we may review the effectiveness of the regulatory review activity and, hopefully, change regulatory policies which have an excessive impact on inflation.

Mr. Chairman, this is a modest amendment which will not increase the cost to the taxpayers for operation of the Council on Wage and Price Stability. Its sole intent is to direct more of the Council's attention to one of the biggest components of inflation—Government regulations.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I would be happy to yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I would just like to say to the gentleman that I could not be more delighted with his amendment. This follows and makes more complete the original McKinney amendment on COWPS by allowing COWPS to go in front of regulatory agencies and testifying to the inflationary impact of the proposed regulations.

I think the gentleman has gone a step further, which is good. It could do nothing more than complement what I was trying to approach when I put my amendment in a couple years ago.

The minority will accept the amendment.

Mr. BROWN of Ohio. I appreciate the gentleman's support and his leadership.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. I thank the gentleman for yielding.

We on this side of the aisle have had an opportunity to review the amendment. While we might think that it might be well to add to the amendment some more money to be sure that we have these positions, I think that the amendment is a good one. It stresses that part of the activities of the Council which I think are extremely important. I commend the gentleman for his amendment and I hope that it will be adopted promptly.

Mr. BROWN of Ohio. I am very flattered at the support of the gentleman from Pennsylvania.

Mr. McKINNEY. Mr. Chairman, would the gentleman yield further?

Mr. BROWN of Ohio. Yes, of course.

Mr. McKINNEY. Following my chairman's statement, it is my understanding that the Senate Appropriations Committee required in their appropriations full funding, no extra money, that 100 percent more money be spent on this particular function than is presently being spent; so evidently the gentleman has reached an idea whose popularity spreads even to the other body at both the authorization and appropriation stage.

Mr. BROWN of Ohio. With that kind of enthusiastic support for my amendment from both sides of the aisle—and both sides of the Capitol—it is best for me to yield back the balance of my time, Mr. Chairman, and ask for a vote on my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. BROWN).

The amendment was agreed to.

Mr. WEISS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, last year I reluctantly supported the reauthorization of the Council on Wage and Price Stability, after an effort to amend that reauthorization to give the President standby authority to impose mandatory wage and price controls was defeated. Even at that time some of my colleagues, most prominently the gentleman from New York (Mr. STRATTON), voted against the reauthorization on the ground that just reauthorizing the Council as it was as a voluntary wage and price guideline body was asking for a continuation of the same ineffectual do-nothing kind of effort that was being made.

In the course of the past year, our worst fears have become reality. Without taking anything away from the wisdom and knowledge of the distinguished members of the subcommittee and the chairmanship of my distinguished friend and colleague, the gentleman from Pennsylvania (Mr. MOORHEAD), the fact is that the Council on Wage and Price Stability shoots with a water pistol and has absolutely no impact at all on reducing the rate of inflation.

Indeed, the administration finally came to the conclusion that the only way it could fight inflation is by inducing a severe recession. That recession has now resulted in an unemployment rate which is approximately 7.6 percent, which means there are somewhere around 8 million Americans who are unemployed.

Of course, the irony of it is that we have thrown more and more people out of work in order to fight inflation, but we have not affected the underlying rate of inflation at all.

As a matter of fact, we have a statement in this morning's Wall Street Journal from Robert Russell, who says:

> The basic cost trends haven't been markedly affected by this recession.

Barry Bosworth, Russell's predecessor, said:

> This recession, unless you think it headed off a major explosion in prices, had amazingly little effect at slowing inflation down.

☐ 1430

Lest anyone think that mine is a partisan criticism of my President, that is a Democratic President, and of the Democratic administration, I want to quickly indicate that I do not consider the position of the minority party to be any better. As a matter of fact, the opposition to the reauthorization of the Council on Wage and Price Stability coming from that side has been that as little as the Council does it is too much.

The American people are continuing to suffer the ravages of inflation. Congress and the Government have done absolutely nothing to allay their concern, to reduce the tremendous impact that inflation is having on the quality of life in this country.

I think that perhaps last year we were justified in the hope that the administration and the leadership of the House and the other body and the administration itself would recognize that something more serious had to be done and steps would be taken other than forcing millions of Americans out of work. That has not happened.

For me at this point to support this reauthorization would be, in essence, to say go ahead, fight inflation by throwing some more millions of Americans out of work. Apparently we have been so brainwashed, that we would, under no circumstances, consider the adoption of mandatory wage and price and profit controls, which historically are the only measures that have worked to reduce and cut back on the rate of inflation.

Mr. Chairman, last year I reluctantly supported reauthorization of the Council on Wage and Price Stability (COWPS) Extension. I cannot do so this year.

This measure, H.R. 6777, provides a 1-year extension for COWPS and authorizes $9.7 million for its function during that time. It leaves the level of staff unchanged at 237 people, and directs COWPS to establish a staff unit to advise the public and private sector on improving productivity.

Perhaps, Mr. Chairman, more important than what the bill contains is what the bill does not contain. I am referring to the absence of authority for the President to instruct COWPS to institute mandatory across-the-board wage and price controls.

Standby authority for wage and price controls is needed now more than ever. The national papers today are reporting the single largest 1-month food price increase in 5 years. With this increase factored into the overall increase in consumer prices the consumer price index rose 0.7 percent last month.

In dollar and cents terms this rate of inflation means that what cost $10 in 1976 would cost nearly $25 last month. In the metropolitan area where my district is located—New York—the inflation rate was reported to be much higher at 11.8 percent. The suffering and level of sacrifice in this country is at a point which cannot be tolerated much longer.

It is apparent that the recessionary approach to curing the inflationary spiral is having little or no effect. The Director of COWPS, Robert Russell, has conceded this, as reported today by the Wall Street Journal: "The basic cost trends haven't been markedly affected by this recession," he said. Barry Bosworth, Russell's predecessor and one of the first economists to advocate the use of wage and price controls this year reinforced this point in the same article. He is quoted as saying that—

> This recession, unless you think it headed off a major explosion in prices, had amazingly little effect at slowing inflation down.

These pronouncements only make the case for wage and price controls more convincing. The existing wage and price restraint program—the so-called wage and price guidelines—are a farce. They are basically being ignored. In fact, today's Washington Post reports that the administration is considering dumping the whole program entirely. COWPS director Russell is quoted as saying that the program would have to be strengthened, or "a viable alternative" located in its place.

I had the opportunity last March to testify before the House Banking Subcommittee on Economic Stabilization when it was considering H.R. 6777. At that time we were looking back at a 1979 inflation rate of over 18 percent. I pointed out then that the recessionary approach would entail a high level of unemployment. Thus far unemployment is at 7.6 percent. Economic forcasters are generally saying that we will be experiencing at least 10-percent inflation close to the upcoming election. Economists also acknowledge that to reduce inflation to 3 or 4 percent will require greater unemployment if we continue to follow a recessionary cure. Obviously this is not a prudent or fair solution. We must not cause, as the price for lower inflation, devestatingly high unemployment.

During the markup of H.R. 6777, both in subcommittee and later in full committee, an amendment was offered to give the President authority to impose wage and price controls.

On neither occasion was the amendment approved. Mr. Chairman, I expect that this issue will continue to be ignored until the economic situation worsens even more drastically. I urge my colleagues to make a serious evaluation of our current economic crisis, and to realize that mandatory wage and price controls are desperately needed, today. Authority to implement them is a necessary first step.

I do not believe that COWPS has helped make a significant improvement in our economic condition, and I do not wish to support the minimal effort it is able to make. To do so would be to lend myself to the charade which keeps us from dealing realistically with this most serious economic problem facing our Nation.

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I am happy to yield to the gentleman.

Mr. BLANCHARD. I would like to express to some degree my sympathy with the gentleman's point of view, but not entirely because I think the people at the Council. Director Bosworth and now Director Russell have quite honestly taken an enlightened view as to how to fight inflation. The policies the gentleman alluded to I believe are ones that have been determined elsewhere within the administration, quite regrettably.

I happened to have been the one on the subcommittee who offered the amendment which would have strengthened the Council's power to include standby controls.

Mr. WEISS. I appreciate that and I want to give the gentleman full credit for having done that.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent Mr. WEISS was allowed to proceed for 2 additional minutes.)

Mr. BLANCHARD. Will the gentleman yield further?

Mr. WEISS. Of course I yield.

Mr. BLANCHARD. Unfortunately, the subcommittee very strongly and in a bipartisan manner rejected that amendment. My own conclusion, having looked at the issue and having looked at the history of wage and price controls, is that the controls of the early 1970's and the way they were used or misused has so poisoned the attitude about their effectiveness and their fairness that the public, and the Congress representing the public, are not able to see fit to seriously consider them. That is one of the major problems we face in trying to deal with inflation rather than COWPS itself. I think COWPS itself has made a modest contribution to restraining prices and wages and deserves to be renewed.

I would hope the gentleman would reconsider his support of COWPS.

Mr. WEISS. I thank the gentleman for his comments and, indeed, I want to reemphasize the fact that he has been one of the few lone voices who have urged a more direct and mandatory program.

The fact is that it is not the public that has been scared off. The public in every poll that has been done over the course of the last couple of years has indicated overwhelming support for mandatory wage and price and profit controls. It is really we in public life, we in the Congress who have been scared off by Republican rhetoric. The Republicans themselves in 1972 and 1973 scuttled the wage and price control program that President Nixon himself had put in for the purpose of his own reelection campaign. It is too bad we cannot separate out what was real and what was not real and what worked and what did not work. But in the meantime it is not just we who are suffering, it is everyone in the country.

I think for myself to vote for the reauthorization is to submit myself to a charade which I do not think stands well for the country or for us.

AMENDMENT OFFERED BY MR. WOLPE

Mr. WOLPE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. WOLPE: Page 2, after line 14, insert the following:
>
> SEC. 2. Section 2 of the Council on Wage and Price Stability Act (12 U.S.C. 1904 note) is amended by adding at the end thereof the following:
>
> "(i) Not later than 60 days after the effective date of this subsection, the anti-inflationary pay and price standards administered by the Council shall be made applicable to producers of oil and natural gas.".
>
> And redesignate the subsequent sections accordingly.

Mr. WOLPE. Mr. Chairman, what this amendment does very simply is to put the oil and gas producers within the wage and price guidelines administered by the President's Council on Wage and Price Stability.

For some background on this amendment we need only to take a look at what is happening with the rate of inflation in this country. During the first 6 months of this year we experienced a 14.8-percent inflation rate. All of us within this body have constantly decried the devastating impact of that rate of inflation, its impact on the declining standard of living of all Americans. We have addressed ourselves in this Congress to a number of factors that have contributed to that rate of inflation: Wasteful spending, overregulation, poor productivity. But we continue to ignore one of the major contributors to the rate of inflation, the rising cost of energy.

In the first half of this year energy prices in this country soared at an annual rate of 33.4 percent and the profits of the 20 largest oil companies increased by 68 percent over that same period of time in 1979. And 1979 was itself a very good year for the major oil companies. The combined profits of the top 20 oil companies in that year were up 64 percent over their 1978 profits. Indeed, it is estimated that approximately 50 percent of the acceleration of the inflation rate in recent years is directly attributable to the rising cost of energy.

So what this amendment is really all about is simply a statement that enough is enough. We are asking workers in this country to accept limitations on wage demands. We ask business and industry to accept limitations on the prices that they charge. We tell our farmers that they should be patient when the prices they receive do not even return their cost of production. But somehow the oil and gas industry is exempt from any such demands for restraint.

The basic issue is fairness. I am convinced that Americans are prepared to sacrifice, they are prepared to accept some difficult decisions that have to be made if we are going to come to terms with the economic problems this country is facing. But they want to be certain that the burdens that they are being asked to carry are being borne equitably. And when it comes to the energy industry that is simply not happening.

There is a second issue in addition to that of fairness and that is the necessity to insure some moderation in energy price increases. I think we all recognize the need for gradually rising energy cost increases to encourage the development of new and alternative sources of energy. I think we recognize that this country got itself into difficulty over the years because of artificially low domestic energy prices, the emergence of which has been the development of a very energy inefficient economic system.

But we also need to be attentive to the major negative economic impacts of precipitous uncontrolled price increases. Rapidly accelerating domestic energy costs have not only fueled inflation, but have also produced major economic dislocations, hampered productivity, and caused severe unemployment. What this amendment seeks is to focus attention upon the importance of continued monitoring of energy price increases. The Council on Wage and Price Stability's guidelines should be no less applicable to the oil and gas producers than to other segments of the energy industry. The refineries now fall within those guidelines, the retailers do, but not the oil and gas producers themselves.

The approach being taken is very modest. It is not a reimposition of oil and and gas controls. We are talking about a voluntary mechanism administered by the Council on Wage and Price Stability. But it is an effort to reach out and, in effect, say to the oil and gas producers: "We welcome your participation in the fight against inflation. We expect the oil and gas industry to join in a cooperative way to accept some of the burden of the fight against inflation."

I would urge support for this amendment to bring the oil and gas producers within the Council on Wage and Price Stability guidelines.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the amendment of the gentleman from Michigan (Mr. WOLPE), while well intentioned, amounts to a back-door effort to change the Nation's whole energy policy. By making crude oil and natural gas subject to the price guidelines, the amendment would amount to a recontrol of oil and gas prices. This is a matter that has been fought out in other pieces of legislation and decontrol has been firmly fixed as a vital component of the Nation's energy policy. We cannot and should not reverse that policy by an amendment to this bill.

I would like to mention two other points in connection with this amendment.

First, even if it should be adopted and—even more unlikely, accepted by the Senate—it might wind up having no effect at all. The reason is that the present guidelines for wages and prices are quite likely to be abandoned at the end of this calendar year. As I said in my opening remarks, I do not know what will replace them, but in any event, there is no assurance that this amendment would have the intended effect of rolling back the prices of domestic oil and gas.

Second, the Members should remember that a massive component of our revenues is now dependent upon the crude oil windfall profit tax. A part of this is going toward our major new effort to start a synthetic fuels industry in this country, and another part to help the poor to heat their homes. If we foolishly sought to roll back oil prices, there would be no revenues from this tax and, therefore, other major components of the national energy policy would be thrown off track.

I think it is clear that an amendment to this bill is no way to deal with crude oil prices and reverse the Nation's energy policy.

The amendment should be soundly defeated.

□ 1440

Mr. McKINNEY. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in opposition to the amendment.

Mr. Chairman, I find myself in somewhat a dilemma fighting my good friend, the gentleman from Michigan, on his amendment. When we worked so well and hard together over the subject of exportation of Alaskan oil. But I think the chairman of the committee has covered every aspect of the argument and there is not really much point in my being redundant.

The energy situation is caused by the gluttony and the dependency of the United States on $90-odd billion worth of foreign oil. I find it impossible, Mr. Chairman, to understand how you control what you do not control. The price of oil in essence, because of its international market, is what the Japanese or the world market, or the Rotterdam spot market, is going to pay and to put it under some kind of an artificial restraint simply means in the real world you do not get it because nobody sells for less dollars than the product will bring.

To put it into the purview of the Council on Wage and Price Stability, which already has a reputation as somewhat of a weak agency is to be even a little more ridiculous. There is only one way that your constituents in the southern part of the Nation and mine in the northern part of the Nation, and Mr. WOLPE's in the north Middle West are going to get control over the price of energy, and that is to free ourselves once and for all from the foreign supplier through the synthetic fuel process, through conservation, through solar, through wood, through thermal springs, through low-head hydro, through whatever means it takes to displace every one of those barrels of foreign oil, because we are not simply talking about price, we are talking about survival as well as price.

The cost of a cutoff in the Iranian-Iraqian situation right now, I would suggest for my neighboring city, New York City, would be social chaos. We already see our foreign policy whipsawed. We see the very future of Israel in danger because of our dependency. So I think to hold up to the American people that the Council on Wage and Price Stability is going to do anything about the cost of oil is to do only what we know how to do too well in this body, and that is to lift up hope, paint the balloon with promises and then very carefully shoot it down with a well-aimed bullet.

Mr. WOLPE. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Michigan.

Mr. WOLPE. I thank the gentleman for yielding. There are just two or three points I think that need some clarification in response to the gentleman's remarks and in response to the earlier remarks of the gentleman from Pennsylvania. It needs to be restated that any amendment would not repudiate the decontrol decision; the guidelines administered by the Council on Wage and Price Stability are voluntary, not mandatory. But my amendment does attempt to assert the responsibility of the Government to monitor and to exercise some oversight of oil industry prices. It says, in effect, that the oil and gas producers should be part of the national effort to keep prices under control in the fight against inflation. I would note that the refineries and retailers both fall within the scope of the wage and price guidelines currently.

The notion that taking off all controls on energy prices is in our national self-interest is, in my view, mistaken. I agree with the notion that there ought to be some gradual rise in energy prices over time; but I disagree with the notion that oil industry pricing should be exempt from all oversight.

Mr. McKINNEY. If the gentleman will yield back, I think I am going to stand rather clear on my record of not turning over to the oil industry anything, including the right to export Alaskan oil. I voted for the windfall profit tax. But if you have an oil well in your backyard and Uncle Sam says you are going to get only so much for it, and you see that same product selling in the rest of the world for $15 a barrel more, if you are smart, if you have got any brains, you are going to get a big round plug and put it on top of that pipe and turn it off until the price rises.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. McKinney was allowed to proceed for 2 additional minutes.)

Mr. McKINNEY. I think we are spending around $12.7 billion on the Department of Energy. The Department of Commerce monitors the oil. We monitor oil of every type and fashion. The fact of the matter is we are just kidding the people of this country if we tell them we have any control over the true price situation, because the fact of the matter is it is an international market, and oil is going to go where the money is, and we are caught in that trap because we, the Congress of the United States, way back in 1974 by one vote failed to start to do anything about the energy situation, and only now have we finally done something.

Mr. WOLPE. Will the gentleman yield further?

Mr. McKINNEY. I will yield for another 30 seconds.

Mr. WOLPE. I would just like to reemphasize that I think we have fallen into a trap by allowing an industry which is one of the most concentrated, to assume total control over pricing. It is no accident that every time OPEC prices increase the profits of oil companies in this country soar dramatically. In 1973, 1974, and 1979—that was the time of the greatest increase in profits and profit margins for the domestic oil companies. I think the only issue here, and it is a very simple one, is whether or not the oil and gas producers should be the one major industry that is exempt from the wage and price guidelines.

□ 1450

I hold no brief for the way in which those guidelines have been administered. I share the critique that is made of those guidelines in many respects. But the question before us now is why only the oil and gas producers should be exempt from the operation of those guidelines.

Mr. McKINNEY. I would suggest to the gentleman if we ever let some of the people in the southwestern part of this country—if we may pardon the expression—know through this type mechanism, what they are paying in entitlement reallocation and distributions so Fairfield, Conn., New York City, and Michigan can get oil at the price they get it for, that we would have more problems in this area than we already have. I think the windfall profit tax has taken care of the gentleman's problem.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. Wolpe).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. WOLPE. Mr. Chairman, on that I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1500

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 583]

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burton, John
Burton, Phillip
Byron
Campbell
Carney
Carr
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1520

The CHAIRMAN. Three hundred and eighty-four members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Michigan (Mr. Wolpe) for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Five minutes will be allowed for this vote.

The vote was taken by electronic device, and there were—ayes 155, noes 240, not voting 37, as follows:

[Roll No. 584]

AYES—155

Abdnor
Addabbo
Akaka
Ambro
Andrews, N.Dak.
Annunzio
Applegate
Atkinson
Bailey
Baldus
Barnes
Bauman
Beard, R.I.
Bedell
Benjamin
Bennett
Biaggi
Bingham
Boland
Bolling
Boner
Bonior
Bonker
Brodhead
Burton, John
Burton, Phillip
Byron
Carr
Clay
Conte
Conyers
Corman
Cotter
D'Amours
Davis, Mich.
Dellums
Derrick
Dixon
Donnelly
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Fary
Fascell
Ferraro
Fithian
Florio
Ford, Tenn.
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Gore
Grassley
Gray
Guarini
Hall, Ohio
Harkin
Harris
Hawkins
Heckler
Heftel
Hillis
Hollenbeck
Holtzman
Hopkins
Howard
Hughes
Jacobs
Jeffords
Johnson, Calif.
Jones, N.C.
Kastenmeier
Kildee
Kostmayer
LaFalce
Leach, Iowa
Lederer
Leland
McHugh
Maguire
Markey
Matsui
Mavroules
Mikulski
Miller, Calif.
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mottl
Murphy, Pa.
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patterson
Perkins
Petri
Peyser
Price
Pursell
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Russo
Sabo
Seiberling
Shannon
Simon
Smith, Iowa
Snyder
Solarz
Solomon
Spellman
St Germain
Stack
Stangeland
Stark
Stewart
Stokes
Studds
Tauke
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Williams, Ohio
Wolff
Wolpe
Yates
Yatron
Young, Mo.
Zeferetti

NOES—240

Albosta
Anderson, Calif.
Anthony
Archer
Ashley
Aspin
AuCoin
Bafalis
Barnard
Beard, Tenn.
Beilenson
Bereuter
Bevill
Blanchard
Boggs
Bouquard
Breaux
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Campbell
Carney
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
de la Garza
Deckard
Devine
Dickinson
Dicks
Dingell
Dornan
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Fazio
Fenwick
Findley
Fish
Fisher
Flippo
Foley
Ford, Mich.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gibbons
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gradison
Gramm
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harsha
Hefner
Hightower
Hinson
Holland
Horton
Hubbard
Huckaby
Hutchinson
Hutto
Hyde
Ireland
Jeffries
Jenkins
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Mica
Michel
Miller, Ohio
Mineta
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
O'Brien
Pashayan
Patten
Paul
Pease
Pickle
Porter
Pritchard
Quillen
Rahall
Railsback
Regula
Rhodes
Roberts
Robinson
Rousselot
Royer
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Spence
Staggers
Stanton
Steed
Stenholm
Stockman
Stump
Swift
Synar
Tauzin
Taylor
Thomas
Traxler
Trible
Ullman
Vander Jagt
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wright
Wyatt
Wydler
Wylie
Young, Alaska
Young, Fla.
Zablocki

NOT VOTING—37

Alexander
Anderson, Ill.
Andrews, N.C.
Ashbrook
Badham
Bethune
Bowen
Brademas
Burlison
Butler
Carter
Cavanaugh
Chisholm
Collins, Ill.
Daschle
Davis, S.C.
Derwinski
Dodd
Dougherty
Holt
Ichord
Jenrette
Murphy, Ill.
Musto
Myers, Pa.
Nolan
Pepper
Preyer
Quayle
Ritter
Rudd
Skelton
Stratton
Symms
Thompson
Udall
Wilson, C. H.

□ 1530

The Clerk announced the following pairs:

On this vote:

Mr. Thompson for, with Mr. Ashbrook against.

Mr. Pepper for, with Mr. Badham against.

Mr. Musto for, with Mr. Bethune against.

Mr. Jenrette for, with Mr. Butler against.

Mr. Murphy of Illinois for, with Mr. Derwinski against.

Mrs. Chisholm for, with Mr. Quayle against.

Mrs. Collins of Illinois for, with Mr. Ritter against.

Mr. Carter for, with Mr. Symms against.

Mr. ABDNOR changed his vote from "no" to "aye."

Mr. SCHEUER and Mr. TRAXLER changed their votes from "aye" to "no."

Mr. NEAL changed his vote from "present" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there any further amendments?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. DERRICK, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6777) to increase the authorization for the Council on Wage and Price Stability, to extend the duration of such Council, and for other purposes, pursuant to House Resolution 780, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ROUSSELOT

Mr. ROUSSELOT. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ROUSSELOT. I am, Mr. Speaker, in its present form.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ROUSSELOT moves to recommit the bill, H.R. 6777, to the Committee on Banking, Finance and Urban Affairs, with instructions to report the same back to the House forthwith with the following amendment:

On page 2, line 20, strike "$9,770,000" and insert in lieu thereof the following: "$6,952,000".

The SPEAKER. The gentleman from California (Mr. ROUSSELOT) is recognized for 5 minutes.

Mr. ROUSSELOT. Mr. Speaker, my motion to recommit is simple, but necessary. It would freeze fiscal year 1981 appropriations for the Council at fiscal year 1979 levels, or $6,952,000.

My reason for doing this is simple. By far COWPS' largest expenditure goes for wage-price guideline development and monitoring. The future of these functions are in doubt.

New guidelines were to have been issued by the Council by September 30. These guidelines were to have been based upon recommendations made by the pay and price panels by midmonth. However, these recommendations were not forthcoming.

Instead, the majority of the pay advisory panel is reported to favor either the postponement of guideline tightening or scrapping the program altogether. The price committee is reportedly split on the issue. If it is to be eliminated, the guideline program would be phased out, beginning in 1981.

As a result of these recommendations, the administration has announced that it will continue to use the current wage-price guidelines until the end of this year.

Thus, the future of the wage-price guideline program is in doubt.

There is no reason that this body should appropriate funds in excess of the fiscal year 1980 appropriations in the current situation. To automatically increase appropriations, without any assurances from the administration as to the direction that program will take, would set a dangerous precedent.

Although I have long been an opponent of all forms of economic controls, I can assure everyone that I am not out to kill the Council now. If these programs are viable in 1981, supplemental appropriations will always be available. I simply do not believe that we as a body should act blindly.

I would remind everyone that in the first 4 years of its existence, the Council did not promulgate voluntary wage-price standards. These are a relatively recent development, first begun in October of 1978. From that time the appropriations for the Council have quadrupled, from a little over $2 million to nearly $9 million. These increases coincide and are largely due to activities in the wage-price guideline area.

That program has been, to say the least, ineffective in fighting inflation. This is necessarily the case, since inflation is caused by the irresponsible monetary and fiscal policies of the Federal Government, not by the activities of private individuals and businesses.

"Guideline mathematics" is becoming legendary. Given the flexibility of both the standards and the measuring stick, compliance has become largely a question of prosecutorial discretion.

In the past year, "guideline math" has given the stamp of approval to wage settlements which provided for increases of as much as 14.4 percent per year over a 3-year period—International Brotherhood of Teamsters. The wage rate jumped 8.6 percent in 1979, despite a wage guideline of 7 percent.

The current wage standard of 7.5 to 9.5 percent was based on the assumption that wage settlements would average 8.5 percent. The 9.1-percent Federal pay raise is testimony to the inaccuracy of that assumption. Moreover, it has been determined that a 3-year settlement of 15.6 percent per year would comply with the 1980 standard applying "guideline math."

I point out these discrepancies to illustrate the weaknesses in the current guidelines. Unfortunately, the only practical alternative to weak or ineffective controls is likely to be intolerably oppressive controls. I can only assume that the recommendations of the advisory panel is based on a consideration of the general ineffectiveness of the program.

Until the future of the most costly of the Council's programs is determined, there is no reason why we should be increasing either the authorization or the appropriations.

When the administration and the Council have determined what the future of these programs, if there is to be a future, is to be, they can come up with facts and figures to justify an appropriate supplemental appropriation.

I believe that my amendment, which keeps the 1981 authorization at the 1979 levels, is a good one. I offer it with no malice. To appropriate moneys without assurances of the future of the programs to be funded is irresponsible. We cannot, in good conscience, guarantee the growth of bureaucracy in our Government in instances where the validity of the programs involved is questioned by the panels responsible for guideline development.

□ 1540

I urge my colleagues to vote for this motion to recommit. We do not need any more money. As a matter of fact, this agency's life is in grave doubt. I urge my colleagues to support the motion.

Mr. STANTON. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I would be glad to yield to my colleague, the ranking Republican member from this fine committee.

Mr. STANTON. It is obvious in the debate, we took this up in the committee last spring.

Mr. ROUSSELOT. The gentleman took this very issue up?

Mr. STANTON. Back and forth. The administration does not seem to care or like it at the moment.

The AFL–CIO, the chamber of commerce, are all opposed to it.

Mr. ROUSSELOT. The AFL–CIO is opposed to it?

Mr. STANTON. Is opposed to the entire Council.

Mr. ROUSSELOT. To this very agency?

Mr. STANTON. Yes.

Mr. ROUSSELOT. Incredible.

Mr. STANTON. So the motion to recommit of the gentleman, I think, is probably a good compromise and I support it.

Mr. ROUSSELOT. Well, I appreciate the support of my colleague.

Does the chairman want to support this motion to recommit?

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to my colleague, the gentleman from Georgia.

Mr. LEVITAS. I thank my colleague for yielding. I support the gentleman's motion.

Mr. ROUSSELOT. I appreciate that.

Mr. LEVITAS. I would like to point out that the reason the AFL–CIO opposes this bill is they know that when you have wage and price guidelines of this sort or wage and price controls, it is the working man who pays the price. They get controlled but their expenses go uncontrolled. They have to pay the price, and we ought to adopt this motion.

Mr. ROUSSELOT. I thank my colleague for his support. Well, as my colleague (Mr. RUSSO), the gentleman from Illinois says, everybody knows I am for the working man; so I certainly support this motion to recommit.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I rise in opposition to the motion to recommit.

The first thing to be said and to reemphasize is that the committee bill has already reduced the President's request for COWPS from $25 million to just under $10 million. That is a huge cut of 60 percent. There is no need to cut this small agency any further.

The committee bill does not increase COWPS' personnel or money, except to pay for a Government-wide pay increase.

Mr. ANNUNZIO. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to my distinguished colleague, the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Speaker, I thank the distinguished chairman of the subcommittee for yielding. I want to join him in opposing the motion to recommit.

The gentleman from California whom I respect greatly, is opposed to the Credit Control Act of 1969 and he wants to establish a sunset provision. Such a provision is contained in the Senate-passed version of this legislation but not in the House bill because of the germaneness requirement. By reducing the authorization, the plan is to make the House bill so unacceptable that we will have to accept the Senate bill which, of course, contains the sunset provision for the Credit Control Act.

And why, you would ask, is there a move to kill the Credit Control Act? And the answer is quite simple. It is politically motivated in an election year to turn the spotlight away from the outstanding job that the Carter administration did in bringing part of an inflationary economy under control.

As chairman of the Consumer Affairs Subcommittee, I have watched consumer credit fuel our economy at alarming speed. I knew that we could not get consumer credit under control unless the Credit Control Act was invoked. It was indeed harsh medicine and it was a bitter pill to swallow but the bottom line is this—it worked and had President Carter not had the use of the Credit Control Act of 1969, our country would be in an inflation of such magnitude today that we might never recover.

The business community publicly was upset with the Credit Control Act, but in private many businessmen will tell you that something had to be done. We were mortgaging our future through credit cards and easy payment credit terms. You will also hear that if the Credit Control Act had been invoked the economy would have cooled down on its own. Let me point out that nothing suggests that that statement is true and if we had depended on a voluntary slowdown, we might never have seen a recovery.

We do not have enough tools in this country to fight inflation. Why should we try to take away one of the useful tools that is available?

This Nation is on the road to economic recovery. We are on the way toward beating inflation. And a large measure of the credit belongs to the Credit Control Act and to the courage of President Carter to use that act.

The Credit Control Act worked. And there are those among us who cannot stand to admit that not only did it work, but it worked under a Democratic President. They would try to turn this into a political issue and it just so happens that they are doing it during a Presidential election year. The American people want inflation brought under control, and I have sat in this House and listened to the 1-minute speeches for the past year complaining that the present administration is not doing enough to control inflation. But I ask you, is it the present administration that stands before you today and tries to kill a method of controlling inflation?

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I reclaim my time just to make two points: First, in the committee we adopted the Vento amendment which added new duties in the field of productivity to the Council on Wage and Price Stability without adding any money to carry out those duties.

On the floor of the House today we adopted the amendment of the gentleman from Ohio (Mr. BROWN) which directs that the agency increase its activity in examining Federal regulations by 50 percent without any increase in money. We have increased the duties. We have not increased the money.

This bill is a bare bones bill. The motion of the gentleman from California would gut it. It would cut by 25 percent the personnel of this very small agency. This agency, though small, is the major focus of the administration on monitoring inflation, informing the Congress, informing the President. I think while we cannot say it has cured the situation, it has certainly been of help. Do not gut this agency.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Minnesota.

Mr. VENTO. Well, I think the point is not surprising to find major labor and business organizations in our society opposed to the ability to the agency that has at least a potential to do a very effective job in terms of dealing with inflation. I do not find it very surprising. I think that we would be remiss if we caved in to that type of pressure, in this instance dealing on a voluntary basis.

They have been effective. The Council on Wage and Price Stability has on an econometric model reduced the rate of inflation from 1 to 1½ percent. I think that is a pretty significant contribution. It is a very small appropriation. It is a very small authorization.

We ought not to defeat the one tool we have, as modest as it might be, and we have weighed upon it a very heavy burden.

This Council is the only game in town that we have that is working effectively in some sectors. It is working effectively in business and labor dealing with inflation. We ought to leave it in place. We ought to at least maintain the type of authorization and appropriation that this particular agency has so well utilized in the last 2 years.

I thank the chairman for yielding.

Mr. MOORHEAD of Pennsylvania. The gentleman, as a very valued member of the subcommittee and the full committee, authored the amendment which directs the Council to focus on productivity. This is an important new duty. That together with the duties imposed by the amendment of the gentleman from Ohio (Mr. BROWN) means that, if anything, we should be thinking about increasing the funding for this very small agency.

We should defeat the motion to recommit.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

RECORDED VOTE

Mr. ROUSSELOT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER. Pursuant to the provisions of clause 5, rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of the final passage of the bill, following the vote on the motion to recommit. Members will record their presence by electronic device.

The vote was taken by electronic device, and there were—ayes 238, noes 161, not voting 33, as follows:

[Roll No. 585]

AYES—238

Abdnor
Albosta
Andrews, N.Dak.
Anthony
Applegate
Archer
Bafalis
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Boland
Boner
Bouquard
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burton, John
Byron
Campbell
Carney
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Devine
Dickinson
Dornan
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Findley
Fish
Fithian
Flippo
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gradison
Gramm
Grassley
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harsha
Hefner
Hightower
Hillis
Hinson
Holland
Hopkins
Horton
Hubbard
Huckaby
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kazen
Kelly
Kemp
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Lott
Lujan
Luken
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McKay
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mavroules
Mazzoli
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, N.Y.
Myers, Ind.
Natcher
Neal
Nelson
Nichols
O'Brien
Panetta
Pashayan
Paul
Perkins
Petri
Pickle
Porter
Pritchard
Pursell
Quillen
Railsback
Regula
Rhodes
Roberts
Robinson
Roth
Rousselot
Royer
Russo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stump
Tauke
Tauzin
Taylor
Thomas
Trible
Udall
Vander Jagt
Volkmer
Walker
Wampler
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Winn
Wirth
Wolff
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.

NOES—161

Addabbo
Akaka
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnes
Beilenson
Bevill
Biaggi
Bingham
Blanchard
Boggs
Bolling
Bonior
Bonker
Brodhead
Brown, Calif.
Burton, Phillip
Carr
Chisholm
Clay
Coelho
Collins, Ill.
Conyers
Corman
Cotter
D'Amours
Danielson
Daschle
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Fary
Fascell
Fazio
Ferraro
Fisher
Florio
Foley
Ford, Mich.
Ford, Tenn.
Frost
Garcia
Gaydos
Gephardt
Giaimo
Gonzalez
Gore
Gray
Guarini
Hall, Ohio
Hanley
Harkin
Harris
Hawkins
Heckler
Heftel
Hollenbeck
Holtzman
Howard
Hughes
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kildee
LaFalce
Lederer
Lehman
Lloyd
Long, La.
Long, Md.
Lowry
Lundine
McCormack
McHugh
McKinney
Maguire
Markey
Matsui
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Pa.
Murtha
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Peyser
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Sabo
Scheuer
Seiberling
Shannon
Simon
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Studds
Swift
Synar
Traxler
Ullman
Van Deerlin
Vanik
Vento
Walgren
Watkins
Waxman
Weaver
Weiss
Wilson, Tex.
Wolpe
Yates
Zablocki
Zeferetti

NOT VOTING—33

Alexander
Anderson, Ill.
Ashbrook
Badham
Bethune
Bowen
Brademas
Burlison
Butler
Carter
Cavanaugh
Davis, S.C.
Derwinski
Dodd
Dougherty
Edwards, Calif.
Holt
Ichord
Jenrette
Leland
Murphy, Ill.
Musto
Myers, Pa.
Pepper
Preyer
Quayle
Ritter
Rudd
Skelton
Stratton
Symms
Thompson
Wilson, C. H.

☐ 1600

The Clerk announced the following pairs:

On this vote:

Mr. Carter for, with Mr. Musto against.

Mrs. Holt for, with Mr. Pepper against.

Mr. Symms for, with Mr. Jenrette against.

Mr. Rudd for, with Mr. Murphy of Illinois against.

Mr. Quayle for, with Mr. Edwards of California against.

Mr. Butler for, with Mr. Leland against.

Mr. Ashbrook for, with Mr. Myers of Pennsylvania against.

Mr. Derwinski for, with Mr. Thompson against.

Mr. Stratton for, with Mr. Charles Wilson of California against.

Mr. Bethune for, with Mr. Cavanaugh against.

Until further notice:

Mr. Alexander with Mr. Badham.

Mr. Bowen with Mr. Anderson of Illinois.
Mr. Dodd with Mr. Ritter.
Mr. Burlison with Mr. Davis of South Carolina.
Mr. Skelton with Mr. Dougherty.
Mr. Ichord with Mr. Preyer.

Messrs. GORE, MURPHY of Pennsylvania, and DERRICK changed their votes from "aye" to "no."

Messrs. ALBOSTA, LUJAN, HUTCHINSON, and BOLAND changed their votes from "no" to "aye."

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, pursuant to the instructions of the House in the motion to recommit, I report the bill, H.R. 6777, back to the House with an amendment.

The SPEAKER pro tempore (Mr. MURTHA). The Clerk will report the amendment.

The Clerk read as follows:

Amendment: On page 2, line 20, strike "$9,770,000" and insert in lieu thereof the following: "$6,952,000".

The SPEAKER pro tempore. Without objection, the amendment is agreed to.

There was no objection.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 229, nays 165, not voting 38, as follows:

[Roll No. 586]

YEAS—229

Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Breaux
Brinkley
Brooks
Brown, Calif.
Buchanan
Carr
Chisholm
Clausen
Clay
Coelho
Conte
Corman
Cotter
Coughlin
Danielson
Daschle
Davis, Mich.
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Glickman
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Gudger
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hillis
Hollenbeck
Holtzman
Howard
Huckaby
Hughes
Hutchinson
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
LaFalce
Lederer
Lehman
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McDade
McHugh
McKinney
Maguire
Markey
Marks
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Neal
Nedzi
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Petri
Peyser
Pickle
Porter
Price
Rahall
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Royer
Russo
Sabo
Scheuer
Seiberling
Shannon
Sharp
Simon
Snowe
Solarz
Solomon
Spellman
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stewart
Stokes
Studds
Swift
Synar
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Watkins
Waxman
White
Whitley
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wylie
Yates
Yatron
Zablocki
Zeferetti

NAYS—165

Abdnor
Andrews, N.Dak.
Applegate
Archer
Bafalis
Bauman
Beard, Tenn.
Bouquard
Broomfield
Brown, Ohio
Broyhill
Burgener
Burton, John
Byron
Campbell
Carney
Chappell
Cheney
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conyers
Corcoran
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
Deckard
Dellums
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Ga.
Forsythe
Frenzel
Gibbons
Gingrich
Ginn
Goldwater
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Hightower
Hinson
Holland
Hopkins
Horton
Hubbard
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Johnson, Colo.
Kelly
Kemp
Kindness
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
McClory
McCloskey
McDonald
McEwen
McKay
Madigan
Marlenee
Marriott
Martin
Michel
Miller, Calif.
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Natcher
Nolan
Pashayan
Paul
Pritchard
Pursell
Quillen
Railsback
Rhodes
Roberts
Robinson
Roth
Rousselot
Roybal
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Iowa
Smith, Nebr.
Snyder
Spence
Stangeland
Stenholm
Stockman
Stump
Tauke
Tauzin
Taylor
Thomas
Trible
Vander Jagt
Volkmer
Walker
Wampler
Weaver
Weiss
Whitehurst
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Winn
Wyatt
Wydler
Young, Alaska
Young, Fla.
Young, Mo.

NOT VOTING—38

Alexander
Anderson, Ill.
Ashbrook
Badham
Bethune
Bowen
Brademas
Brodhead
Burlison
Burton, Phillip
Butler
Carter
Cavanaugh
Davis, S.C.
Derwinski
Dodd
Dougherty
Edwards, Calif.
Guarini
Holt
Ichord
Jenrette
Mathis
Mica
Murphy, Ill.
Musto
Myers, Pa.
O'Brien
Pepper
Preyer
Quayle
Ritter
Rudd
Skelton
Stratton
Symms
Thompson
Wilson, C. H.

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The Clerk announced the following pairs:

On this vote:

Mr. Musto for, with Mr. Butler against.
Mr. Pepper for, with Mr. Ashbrook against.
Mr. Jenrette for, with Mr. Badham against.
Mr. Murphy of Illinois for, with Mr. Bethune against.
Mr. Edwards of California for, with Mr. Derwinski against.
Mr. Guarini for, with Mrs. Holt against.
Mr. Thompson for, with Mr. Quayle against.
Mr. Cavanaugh for, with Mr. Rudd against.
Mr. Myers of Pennsylvania for, with Mr. Symms against.
Mr. Charles H. Wilson of California for, with Mr. Stratton against.

Until further notice:

Mr. Alexander with Mrs. Carter.
Mr. Bowen with Mr. Ritter.
Mr. Brodhead with Mr. Phillip Burton.
Mr. Burlison with Mr. Mica.
Mr. Dodd with Mr. Dougherty.
Mr. Mathis with Mr. Ichord.
Mr. Skelton with Mr. Davis of South Carolina.
Mr. Preyer with Mr. O'Brien.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING CLERK TO MAKE CLERICAL AND CONFORMING CHANGES IN THE ENGROSSMENT OF H.R. 6777, COUNCIL ON WAGE AND PRICE STABILITY EXTENSION

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill the Clerk be authorized to correct section numbers, punctuation, cross-references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 6777.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, could the gentleman tell us what he means by technical amendments? Are changes in substance involved?

Mr. MOORHEAD of Pennsylvania. There are no changes in substance. We did adopt the Brown amendment. That action may require some renumbering of sections, changes and cross-references. These are the usual technical changes approval for which I ask unanimous consent.

Mr. ROUSSELOT. The gentleman assures us there are no major changes?

Mr. MOORHEAD of Pennsylvania. I can assure the gentleman that is not the intention.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I ask the gentleman from Pennsylvania what would happen should I object.

Mr. MOORHEAD of Pennsylvania. We might pass a technically defective bill which would cause a field day for the lawyers in trying to construe what we meant when we referred to a section number that we changed in the process of amending the bill.

Mr. ROUSSELOT. Further reserving the right to object, I am really tempted to object just to keep the lawyers busy. They hardly ever have anything to do around here.

Mr. Speaker, I withrdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania (Mr. MOORHEAD)?

There was no objection.

GENERAL LEAVE

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

FUSION ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1980

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 6308) to provide for an accelerated program of research and development of magnetic fusion energy technologies leading to the construction and successful operation of a magnetic fusion demonstration plant in the United States before the end of the 20th century, to be carried out by the Department of Energy, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Magnetic Fusion Energy Engineering Act of 1980".

FINDINGS AND POLICY

SEC. 2. (a) The Congress hereby finds that—

(1) the United States must formulate an energy policy designed to meet an impending worldwide shortage of many exhaustible, conventional energy resources in the next few decades;

(2) the energy policy of the United States must be designed to ensure that energy technologies using essentially inexhaustible resources are commercially available at a time prior to serious depletion of conventional resources;

(3) fusion energy is one of the few known energy sources which are essentially inexhaustible, and thus constitutes a long-term energy option;

(4) major progress in all aspects of magnetic fusion energy technology during the past decade instills confidence that power production from fusion energy systems is achievable;

(5) the United States must aggressively pursue research and development programs in magnetic fusion designed to foster advanced concepts and advanced technology and to develop efficient, reliable components and subsystems;

(6) to ensure the timely commercialization of magnetic fusion energy systems, the United States must demonstrate at an early date the engineering feasibility of magnetic fusion energy systems;

(7) progress in magnetic fusion energy systems is currently limited by the funds made available rather than technical barriers;

(8) it is a proper role for the Federal Government to accelerate research, development, and demonstration programs in magnetic fusion energy technologies: and

(9) acceleration of the current magnetic fusion program will require a doubling within seven years of the present funding level without consideration of inflation and a 25 per centum increase in funding each of fiscal years 1982 and 1983.

(b) It is therefore declared to be the policy of the United States and the purpose of this Act to accelerate the national effort in research, development, and demonstration activities related to magnetic fusion energy systems. Further, it is declared to be the policy of the United States and the purpose of this Act that the objectives of such program shall be—

(1) to promote an orderly transition from the current research and development program through commercial development;

(2) to establish a national goal of demonstrating the engineering feasibility of magnetic fusion by the early 1990's;

(3) to achieve at the earliest practicable time, but not later than the year 1990, operation of a magnetic fusion engineering device based on the best available confinement concept;

(4) to establish as a national goal the operation of a magnetic fusion demonstration plant at the turn of the twenty-first century;

(5) to foster cooperation in magnetic fusion research and development among government, universities, industry, and national laboratories;

(6) to promote the broad participation of domestic industry in the national magnetic fusion program;

(7) to continue international cooperation in magnetic fusion research for the benefit of all nations;

(8) to promote greater public understanding of magnetic fusion; and

(9) to maintain the United States as the world leader in magnetic fusion.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) "fusion" means a process whereby two light nuclei, such as deuterium and tritium, collide at high velocity, forming a compound nucleus, which subsequently separates into constituents which are different from the original colliding nuclei, and which carry away the accompanying energy release;

(2) "magnetic fusion" means the use of magnetic fields to confine a very hot, fully ionized gas of light nuclei, so that the fusion process can occur;

(3) "energy system" means a facility designed to utilize energy released in the magnetic fusion process for the generation of electricity and the production of hydrogen or other fuels;

(4) "fusion engineering device" means a magnetic fusion facility which achieves at least a burning plasma and serves to test components for engineering purposes;

(5) "demonstration plant" means a prototype energy system which is of sufficient size to provide safety, environmental reliability, availability, and ready engineering extrapolation of all components to commercial size but which system need not be economically competitive with then alternative energy sources; and

(6) "Secretary" means Secretary of Energy.

PROGRAM ACTIVITIES

SEC. 4. (a) The Secretary shall initiate activities or accelerate existing activities in research areas in which the lack of knowledge limits magnetic fusion energy systems in order to ensure the achievement of the purposes of this Act.

(b)(1) The Secretary shall maintain an aggressive plasma confinement research program on the current lead concept to provide a full measure of support for the design, construction, and operation of the fusion engineering devices.

(2) The Secretary shall maintain a broadly based research program on alternate confinement concepts and on advanced fuels at a sufficient level of funding to achieve optimal design of each successive magnetic fusion facility using the then best available confinement and fuel concept.

(3) The Secretary shall ensure that research on properties of materials likely to be required for the construction of fusion engineering devices is adequate to provide timely information for the design of such devices.

(c)(1) The Secretary shall initiate design activities on a fusion engineering device using the best available confinement concept to ensure operation of such a device at the earliest practicable time, but not later than the year 1990.

(2) The Secretary shall develop and test the adequacy of the engineering design of components to be utilized in the fusion engineering device.

(d) The Secretary shall initiate at the earliest practical time each activity which he deems necessary to achieve the national goal for operation of a demonstration plant at the turn of the twenty-first century.

(e) The Secretary shall continue efforts to assess factors which will determine the commercial introduction of magnetic fusion energy systems including, but not limited to—

(1) projected costs relative to other alternative energy sources;

(2) projected growth rates in energy demand;

(3) safety-related design limitations;

(4) environmental impacts; and

(5) limitations on the availability of strategic elements, such as helium, lithium, and special metals.

COMPREHENSIVE PROGRAM MANAGEMENT PLAN

SEC. 5. (a) The Secretary shall prepare a comprehensive program management plan for the conduct of the research, development, and demonstration activities under this Act. Such plan shall include at a minimum—

(1) a presentation of the program strategy which will be used to achieve the purposes of this Act;

(2) a five-year program implementation schedule, including identification of detailed milestone goals, with associated budget and program resources requirements;

(3) risk assessments;

(4) supporting research and development needed to solve problems which may inhibit or limit development of magnetic fusion energy systems; and

(5) an analysis of institutional, environmental, and economic considerations which are limiting the national magnetic fusion program.

(b) The Secretary shall transmit the comprehensive program management plan to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than January 1, 1982.

MAGNETIC FUSION ENGINEERING CENTER

SEC. 6. (a) The Secretary shall develop a plan for the creation of a national magnetic fusion engineering center for the purpose of accelerating fusion technology development via the concentration and coordination of major magnetic fusion engineering devices and associated activities at such a national center.

(b) In developing the plan, the Secretary shall include relevant factors including, but not limited to—

(1) means of saving cost and time through the establishment of the national center relative to the cost and schedule currently projected for the program;

(2) means of providing common facilities to be shared by many magnetic fusion concepts;

(3) assessment of the environmental and safety-related aspects of the national center;

(4) provisions for international cooperation in magnetic fusion activities at the national center;

(5) provision of access to facilities for the broader technical involvement of domestic industry and universities in the magnetic fusion energy program;

(6) siting criteria for the national center including a list of potential sites;

(7) the advisability of establishing such a center considering all factors, including the alternative means and associated costs of pursuing such technology; and

(8) changes in the management structure of the magnetic fusion program to allow more effective direction of activities related to the national center.

(c) The Secretary shall submit not later than July 1, 1981, a report to the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources characterizing the plan and setting forth the steps necessary for implementation of the plan, including any steps already implemented.

TECHNICAL PANEL ON MAGNETIC FUSION

SEC. 7. (a) A technical panel on magnetic fusion of the Energy Research Advisory Board shall be established to review the conduct of the national magnetic fusion energy program.

(b)(1) The technical panel shall be comprised of such representatives from domestic industry, universities, government laboratories, and other scientific and technical organizations as the Chairman of the Energy Research Advisory Board deems appropriate based on his assessment of the technical qualifications of each such representative.

(2) Members of the technical panel need not be members of the full Energy Research Advisory Board.

(c) The activities of the technical panel shall be in compliance with any laws and regulations guiding the activities of technical and fact-finding groups reporting to the Energy Research Advisory Board.

(d) The technical panel shall review and may make recommendations on the following items, among others:

(1) the preparation of the five-year program plan prepared pursuant to section 5;

(2) the type of future facilities needed to meet the goals of this Act along with their projected completion dates;

(3) the adequacy of participation by universities and industry in the program;

(4) the adequacy of international cooperation in magnetic fusion and any problems associated therewith; and

(5) institutional, environmental, and economic factors limiting, or prospectively limiting, efforts to achieve commercial application of magnetic fusion energy systems.

(e) The technical board shall submit to the Energy Research Advisory Board on at least a triennial basis a written report of its findings and recommendations with regard to the magnetic fusion program.

(f) After consideration of the technical panel report, the Energy Research Advisory Board shall submit such report, together with any comments such Board deems appropriate, to the Secretary.

SEC. 8. The Secretary may direct the director of each laboratory or installation at which a major magnetic fusion facility is operated for, or funded primarily by, the Federal Government to establish, for the sole purpose of providing advice to such director, a program advisory committee composed of persons with expertise in magnetic fusion from such domestic industry, universities, government laboratories, and other scientific and technical organizations as such director deems appropriate.

INTERNATIONAL COOPERATION

SEC. 9. (a)(1) The Secretary in consultation with the Secretary of State shall actively seek to enter into or to strengthen existing international cooperative agreements in magnetic fusion research and development activities of mutual benefit to all parties.

(2) The Secretary shall seek to achieve equitable exchange of information, data, scientific personnel, and other consideration in the conduct of cooperative efforts with technologically advanced nations.

(b)(1) The Secretary shall examine the potential impacts on the national magnetic fusion program of United States participation in an international effort to construct fusion engineering devices.

(2) The Secretary shall explore, to the extent feasible, the prospects for joint financial participation by other nations with the United States in the construction of a fusion engineering device.

(3) Within two years of the enactment of this Act the Secretary shall transmit to the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources the results of such examinations and explorations with his recommendations for construction of a national or international fusion engineering device: *Provided, however,* That such examinations and explorations shall not have the effect of delaying design activities related to a national fusion engineering device.

TECHNICAL MANPOWER REQUIREMENTS

SEC. 10. (a) The Secretary shall assess the adequacy of the projected United States supply of manpower in the engineering and scientific disciplines required to achieve the purposes of this Act taking cognizance of the other demands likely to be placed on such manpower supply.

(b) The Secretary shall within one year of the date of enactment of this Act submit a report to the President and to the Congress setting forth his assessment along with his recommendations regarding the need for increased support for education in such engineering and scientific disciplines.

INFORMATION DISSEMINATION

SEC. 11. (a) The Secretary shall take all necessary steps to assure that technical information relevant to the status and progress of the national magnetic fusion program is made readily available to interested persons in domestic industry and universities in the United States: *Provided, however,* That upon a showing to the Secretary by any person that any information or portion thereof provided to the Secretary directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Secretary shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code.

(b) The Secretary shall maintain an aggressive program in the United States for the provision of public information and educational materials to promote widespread knowledge of magnetic fusion among educational, community, business, environmental, labor, and governmental entities and the public at large.

REPORTS

SEC. 12. As a separate part of the annual report submitted pursuant to section 801 of the Department of Energy Organization Act (Public Law 95-91), the Secretary shall submit to Congress an annual report of activities pursuant to this Act. Such report shall include—

(a) modifications to the comprehensive program management plan for implementing this Act;

(b) an evaluation of the status of national magnetic fusion energy program in the United States;

(c) a summary of the findings and recommendations of any report of the Energy Research Advisory Board on magnetic fusion;

(d) an analysis of the progress made in commercializing magnetic fusion technology; and

(e) suggestions for improvements in the national magnetic fusion program, including recommendations for legislation.

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. (a) There is hereby authorized to be appropriated to the Secretary, for the fiscal year ending September 30, 1981, such sums as are provided in the annual authorization Act pursuant to section 660 of Public Law 95-91.

(b) In carrying out the provisions of this Act, the Secretary is authorized to enter into contracts only to such extent or in such amounts as may be provided in advance in appropriations Acts.

Mr. WYDLER (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, may I inquire whether or not all of the Senate amendments are germane to the bill.

Mr. McCORMACK. Will the gentleman yield?

Mr. BAUMAN. I will yield to the gentleman.

Mr. McCORMACK. The Senate amendments are quite germane to the bill.

Mr. WYDLER. Mr. Speaker, this bill is a major effort which passed the House and it was a major effort on the part of the House.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York to dispense with the reading of the Senate amendments?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Washington (Mr. McCORMACK).

Mr. WYDLER. Reserving the right to object, Mr. Speaker, this legislation is the most important piece of legislation in the attempt to develop an energy policy for our Nation, particularly, as it occurs in this case, referring to the usefulness of the fusion energy option. This bill has passed the House and might truly be called the McCormack bill because of the work that has been done on it by the gentleman from the State of Washington (Mr. McCORMACK). I think the House should know, however, before it considers this matter, what is in the bill as it will finally be presented to the House as a result of the gentleman's unanimous-consent request.

I yield to the gentleman for that purpose.

Mr. McCORMACK. I thank the gentleman from New York. The fundamental differences between the Senate version of the bill and the House version of the bill are that in compromising out the date for the goals for the two major steps in the bill, the House version calls for the engineering test facility be on the line by 1987. We agreed to move that back to 1990 which the Senate felt was a more realistic figure. On the other hand, they had set the year 2005 for the ultimate demonstration machine. We thought that was too conservative and they agreed to bring that back to the year 2000.

The final draft to which we have agreed with the Senate calls for the engineering test facility which they call the fusion engineering device to be on the line by 1990 and the demonstration machine by the year 2000.

Another change which is very slight was a deletion by the Senate of our stated estimate that this program would cost $20 billion over the next 20 years. Instead they made recommendations for a 25-percent increase for fiscal year 1982 over 1981 and another 25-percent increase for 1983 over 1982 and the doubling of the program should occur within no less than 7 years.

Finally, they made one addition to the bill which creates a specific creation of a center for fusion engineering. Our bill assumed the creation of such a center. The Senate bill called it out specifically. This, aside from details in wording which have no legal significance and no programmatic significance, are the only differences in the bill.

Mr. WYDLER. Mr. Speaker, I thank the gentleman and, again, I thank the gentleman for the leadership he has provided from the very beginning, seeing that the Nation has a very sound and progressive fusion program and that H.R. 6308, the gentleman is really the father of that legislation which should hereafter be known as the McCormack bill.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Washington?

Mr. GOLDWATER. I reserve the right to object, Mr. Speaker. I do so to ask the gentleman from Washington (Mr. McCormack) about some of the details on this. What is the funding level on this?

Mr. McCORMACK. The funding for this year, in the bill, is the same as the authorization and the appropriation has been made. The authorization in the authorization bill is $435 million. The funding level, in fact, will be $394 million which was appropriated, which appropriation has already passed the House. It was passed in final conference report today.

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Mr. GOLDWATER. How much is the appropriation?

Mr. McCORMACK. The appropriation in the bill passed today is $394 million.

Mr. GOLDWATER. Now, another concern that is expressed by some is, I think there is no question that there needs to be an accelerated program in fusion energy and research. Will this program, however, preclude or tend to narrow the focus of fusion devices? As the gentleman well knows, there are a number of concepts and candidates for continued research. Specifically, I am referring to the Lawrence Livermore's mirror fusion program. Would this program tend to eliminate such candidates as the mirror fusion, or the one that is being worked on by the Doublet III and some of these others?

Mr. McCORMACK. I thank the gentleman for his question. The answer is no, this bill, this program that we are starting, this 20-year Apollo-like program is to move us into the engineering and development stage, and demonstration for magnetic fusion. It starts off with the Tokamak Device, which is the most advanced device today. Therefore, we expect to have demonstration on scientific feasibility by 1983, but we still will carry out our research in the tandem mirror machines such as are now being constructed by Livermore, and also in the ELMO Bumpy Torus, which was just recently authorized for Oak Ridge, which is going to be under construction.

We do not know what device we will use ultimately in the first demonstration machine. It will be a magnetic machine. It may well be a blend of the best of both the Tokamak and the mirror machines and it might be an ELMO Bumpy Torus. But, we will not preclude any parallel research. We must have a lot of parallel research not only in plasmaphysics, but also other materials, and this is the important thing we are getting into now.

Mr. GOLDWATER. So in other words, what we are doing here is, this authorization passed the House by voice vote on June 4, 1980, as I understand it, and what we are doing here, in essence, is accepting the Senate language which is basically the House language with just some minor revisions.

Mr. McCORMACK. The Senate has their own version of the bill which is extremely close to the House version. Substantially, it is the same piece of legislation, and it is the same program.

It is the same Apollo-type program, to have a fusion magnetic demonstration machine on the line by the year 2000. That is the important thing.

Mr. GOLDWATER. Further reserving the right to object, I would not only conclude by saying that fusion energy looks very attractive because of the limitless supply of fuel for these devices, and it is potentially safe and environmentally acceptable. I think it has been acknowledged by the scientific community as well as the appropriate committees of the Congress that if we are going to ever achieve any kind of semblance of energy independence, that we need to accelerate the research, development and demonstration in the area of fusion energy. I would only compliment the gentleman for pursuing to completion this legislative effort.

Mr. McCORMACK. I thank the gentleman, and I only would say in conclusion, in response, that I think this bill, launching this country in this Apollo-type program for magnetic fusion, is probably the most important program this or any other country has ever undertaken, and in this one bill, when we step across that line into that area of magnetic fusion in the year 2000, we will be entering an era of absolutely unlimited supplies of energy for all humankind for all time. It is certainly going to be no less than the second most important energy-related event in human history, second only to the discovery of fire.

Mr. GOLDWATER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

A motion to reconsider was laid on the table.

REQUEST FOR PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL MIDNIGHT FRIDAY, SEPTEMBER 26, 1980, TO FILE REPORT, ALONG WITH MINORITY OR SEPARATE VIEWS, ON H.R. 8146

Mr. JACOBS. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight, Friday, September 26, 1980, to file a report on the bill, H.R. 8146, to provide a program of Federal supplemental unemployment compensation, along with any minority or separate views.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, the gentleman from California (Mr. Rousselot), who does not appear to be here at the moment, earlier discussed this matter with me. I believe he expressed some desire on the part of the minority members to have the full 3 days to file the report, which I understand would carry the time until Monday.

Is the gentleman aware of that?

Mr. JACOBS. I am not aware of Mr. Rousselot's question.

Mr. BAUMAN. I wonder if the gentleman could withdraw his request at this point so that we could clear that up?

Mr. JACOBS. That will be fine.

Mr. BAUMAN. I thank the gentleman.

Mr. JACOBS. Mr. Speaker, I ask unanimous consent to withdraw my request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PERSONAL EXPLANATION

Mr. WEISS. Mr. Speaker, because of unavoidable absence at the end of the day on Thursday, September 18, 1980, I was unable to be present for rollcall votes Nos. 562, 563, 564, and 565. The following is an explanation of how I would have voted if I had been present. I request that this explanation be printed in the permanent Record.

Rollcall No. 562: A vote on the motion to recommit to change the expiration date of House Joint Resolution 610 from December 15, 1980, to October 18, 1980, offered by Representative Conte. The measure failed by a vote of 228 to 153. If I had been present I would have voted against the measure.

Rollcall No. 563: A vote on the final passage of House Joint Resolution 610 to provide for continuing appropriations. The measure passed by a vote of 223 to 153. If I had been present I would have voted in favor of the measure.

Rollcall No. 564: A vote on the final passage of H.R. 7244, a bill to amend the Bretton Woods Agreements Act to authorize consent to an increase in the U.S. quota in the International Monetary Fund. The measure was passed by a vote of 199 to 151. If I had been present I would have voted in favor of the measure.

Rollcall No. 565: A vote on the motion offered by Representative NEAL to lay on the table the House bill and accept in lieu thereof the language of the Senate bill. The measure was passed by a vote of 184 to 129. If I had been present I would have voted in favor of the measure.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL MIDNIGHT FRIDAY, SEPTEMBER 26, 1980, TO FILE REPORT, ALONG WITH ANY MINORITY OR SEPARATE VIEWS, ON H.R. 8146

Mr. JACOBS. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means have until midnight Friday, September 26, 1980, to file a report on H.R. 8146, to provide a program of Federal supplemental unemployment compensation, along with any minority or separate views.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I hope the gentleman will not ask for that unanimous consent, because a substantial number of us have minority views that we think it is important for the Rules Committee to have. As the gentleman knows, I was not allowed to offer an amendment that I felt was rather important in the committee. The claim was that it was a tax measure that would have bad effect, as the gentleman knows, so I will be constrained to object unless the gentleman cares to withdraw it.

Mr. JACOBS. The unanimous-consent request has been made.

Mr. ROUSSELOT. Then, Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

PROVIDING FOR CONSIDERATION OF H.R. 7112, STATE AND LOCAL FISCAL ASSISTANCE AMENDMENTS

Mr. ZEFERETTI. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 787 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 787

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7112) to authorize an extension and amendment of the revenue sharing program to provide general purpose fiscal assistance to local governments, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Government Operations now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered for amendment by titles instead of by sections and each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI are hereby waived. No amendment to the bill or to said substitute shall be in order except amendments printed in the Congressional Record. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1630

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from New York (Mr. ZEFERETTI) is recognized for 1 hour.

Mr. ZEFERETTI. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

The measure was passed by a vote of

Mr. Speaker, House Resolution 787 provides for the consideration of H.R. 7112, State and Local Fiscal Assistance Act Amendments of 1980. The resolution allows for a modified open rule with 2 hours of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations. Further, the introduced bill will require a waiver of section 402(a) of the Congressional Budget Act which requires new budget authority to be reported by May 15, preceding the beginning of the fiscal year for which it becomes effective.

After general debate, the rule makes in order a committee amendment in the nature of a substitute as original text for purposes of amendment and said substitute shall be read by titles instead of by sections, with each title considered as having been read. Clause 7, of rule XVI, germaneness, will be waived against the substitute due to the addition of a new title that was not contained in the introduced bill.

In addition, no amendment to the bill or to the substitute will be in order with the exception of those printed in the CONGRESSIONAL RECORD prior to consideration of the bill.

At the conclusion of the amendment process the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. Speaker, H.R. 7112 extends and amends the State and Local Fiscal Assistance Act of 1972, and adds a new title IV to the act authorizing a program of special assistance payments to State and local governments during periods of economic recession. The reported bill continues revenue-sharing entitlements to local governments for an additional 3 years at a funding level of approximately $4.6 billion a year. This is the same amount of funding governments are presently receiving.

The new title the committee has added authorizes a program of special assistance payments to State and local governments during periods of economic recession. This title provides for fiscal assistance during periods of recession by making payments to State governments and units of local government for each eligible calendar quarter determined by two consecutive quarterly declines in real wages, salaries, and real GNP. Appropriations for this new title will be limited to $1 billion per year.

Mr. Speaker, I would like to commend Chairman BROOKS and the Committee on Government Operations for the time and effort put into what I believe is an important piece of legislation.

However, I do believe it was a mistake to delete States from participation in the general revenue program and would argue there are many good reasons to continue some form of State program.

I am particularly pleased by the wisdom shown in the committee through the addition of a countercyclical assistance program. We are all aware State and local governments suffer extreme revenue declines during recessionary times, putting great strain on their ability to maintain jobs and deliver services.

A countercyclical program will help reduce the need for State and local governments to cut back services and at the same time prevent these governments from having to increase taxes. The serious economic uncertainties that we are facing in the country at present requires this type of safety valve and the way in which this program is crafted insures that the assistance is targeted effectively to those areas that need it the most.

There are many of my colleagues here today who will argue that the countercyclical program is a program only for cities and should not be a national program. I would respond to these arguments by stating that when literally thousands of men and women are out of work, no matter where they might reside, it is a problem for all of America and one that needs to be addressed and given the help and assistance of the Federal Government.

Mr. Speaker, as a long-time supporter of this type of legislation it just makes good sense to provide a standby program or insurance policy for the areas of our country that would be hardest hit by a sudden downturn in our economy.

I urge my colleagues to support House Resolution 787 so we may proceed to the consideration of H.R. 7112, State and Local Fiscal Assistance Act Amendments of 1980.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the resolution itself has been, I believe, thoroughly analyzed and reported. This is a simple extension of revenue sharing for local governments, as amended. It is a necessary piece of legislation.

I hated to see revenue sharing for our States discontinued, and as the Members of the House will remember, I fought on this floor to keep revenue sharing going to our States by reducing our foreign aid program and the soft science program, but I was unsuccessful in keeping that portion of revenue sharing.

This bill is for local governments, but there is one problem in here which is very glaring, and that will be apparent as we discuss the bill when it comes up for amendment. Some 268 resort areas throughout the country are penalized because the formula has been changed, taking away from those areas funds because they are popular areas in the United States, taking away from them dollars that should go to them. I intend to offer an amendment, or if I am not on the floor of the House, the gentleman from Delaware, Mr. Tom Evans, will offer the amendment, to let the formula remain as it is today.

Mr. Speaker, I urge the adoption of the resolution. I support revenue sharing, and I am for the measure.

Mr. Speaker, I reserve the balance of my time.

Mr. ZEFERETTI. Mr. Speaker, I yield 1 minute to the distinguished chairman of the Committee on Government Operations, the gentleman from Texas (Mr. Brooks).

Mr. BROOKS. Mr. Speaker, I want to thank my distinguished friend, the gentleman from New York (Mr. Zeferetti), and let me say that I want to commend the members of the Committee on Rules for acting so promptly on our request for a rule and for granting this rule that will permit the House to have a full and open debate on the revenue sharing bill, as we requested.

As a matter of fact, I like the rule a whole lot better than I like the bill. But that is a matter to be dealt with when the bill comes up. In the meanwhile, we have a good rule. I think it is a fair rule, and it should be adopted.

Mr. QUILLEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. Bauman).

Mr. BAUMAN. Mr. Speaker, I just wanted to ask a question of the gentleman from Texas (Mr. Brooks).

Last year the gentleman attended a meeting in the Rose Garden regarding this countercyclical aid matter. Has he been in the Rose Garden again this year? Or is there a snake in the bill again this year as he has said in the past. Or is the bill an acceptable blossom to which he will lend his support?

I am sure the gentleman remembers the discussions we have had on this issue of countercyclical aid over the years.

Mr. BROOKS. Mr. Speaker, if the gentleman will yield, this button that I wear says that I want to treat the hostages right. What does that one say that the gentleman is wearing over there? Is that a rose the gentleman is wearing?

Mr. BAUMAN. Yes, this is a rose in honor of a new cause, "Free the American 240 million." It has to do with the 1980 elections.

Mr. BROOKS. Mr. Speaker, in answer to the gentleman's question, no, I have not been in the Rose Garden. But during this next week they are going to have a party for little children there in the Rose Garden, and they will be teaching them to conserve energy. My daughter Kim will be there, and she and President Carter will celebrate their October 1 birthdays.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. Wydler).

Mr. WYDLER. Mr Speaker, I would like to take this conversation out of the sweet smell of flowers into some matters which are going to affect the Members during the next day.

Mr. Speaker, I rise in support of House Resolution 787, making in order H.R. 7112, a bill to extend the general revenue-sharing program. I applaud the Committee on Rules for their speedy handling of this legislation, and I urge all Members of the House to support the rule.

Others have adequately described what is contained in this rule, and there is no reason for me to expand upon that further. However, I would like to point out to Members of the House that while I have no problems with the rule, I have one small disagreement with the legislation as reported. This disagreement concerns the issue of whether State governments should participate in the revenue-sharing program. I believe they should, and I intend to offer an amendment along with Mr. Conable, Mr. Mitchell of Maryland, Mr. Rodino, and Mr. Weiss, which would restore the State governments for fiscal years 1982 and 1983. Our amendment would not provide funds to State governments in fiscal 1981 in deference to the fact that no money was provided in the budget resolution for a State share. However, I do not think that we should permanently foreclose the option of further State funding.

In addition, my amendment, should it be adopted, would make any future State share contingent upon the annual appropriations process. I think this is a reasonable compromise and I hope Members will support it.

Once again, I urge a favorable vote on the rule, and I congratulate the Rules Committee for their prompt handling of this legislation.

Mr. Speaker, let me say that I do support the rule. I think the rule is a good one, and I hope it will be passed. However, I understand now that this bill has been put over for action until tomorrow, and that was done mainly to allow the addition of certain amendments to be printed in the Record tomorrow. This would make those amendments in order tomorrow.

One of those amendments would take away the entitlement of the local governments for revenue sharing, and a major effort is going to be made to pass that amendment. That amendment would truly qualify as a gutting amendment. It would literally gut the entire revenue sharing program.

I think this reveals in a very dramatic way to the Members of this House who feel that the revenue-sharing program is important just what is behind the opposition by certain Members and what is involved in certain amendments to this bill. Those Members truly do not want revenue sharing, whether it is for the State government or for the local government or for anybody at all.

□ 1640

I want to point out to the Members something tonight that they might see tomorrow, because I have been given something, a so-called factsheet on the general revenue-sharing program—although nobody says who printed it—and this so-called factsheet is an attempt to tie together without any logical or sound sense in some fashion the amendment that I am going to offer, which is an attempt to put the State governments back into the program not as an entitlement but as an authorization in fiscal year 1982 and 1983, trying to tie that together with a vote against the countercyclical title of the bill.

Now, there is no connection between these two amendments whatsoever except in the mind of the person, whoever he may be, who wrote this so-called factsheet. And I warn the Members that this is the kind of tactics they are going to be exposed to in the course of the debate and the amendment process, and I ask them to be alert to these attempts to in effect undermine and destroy the revenue-sharing program. And obviously I am speaking to those Members who believe in it, who want it, who want it to continue, but hear these rumors and stories—and false stories—about what the amendment process is doing to the program.

Now, I have no objection to certain amendments, obviously, that are offered, because Members feel that those improve their particular localities' share of the revenue-sharing program. That is an understandable amendment, and in those Members' eyes, those amendments improve the bill. But a lot of these amendments have one aim only, to destroy the program, and nothing could be clearer than the amendment that would take away the entitlement of local governments to the revenue-sharing funds. I hope all the Members will be alert to these tactics during the debate and during the amendment process on this bill.

Mr. ZEFERETTI. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WYDLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 385, nays 8, not voting 39, as follows:

[Roll No. 587]

YEAS—385

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burton, John
Burton, Phillip
Byron
Campbell
Carney
Carr
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Jacobs
Jeffords
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McEwen
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—8

Archer
Dannemeyer
Jeffries
Kindness
McDonald
McKay
Roberts
Rousselot

NOT VOTING—39

Alexander
Anderson, Ill.
Ashbrook
Badham
Beard, R.I.
Bethune
Bowen
Brademas
Burlison
Butler
Carter
Cavanaugh
Davis, S.C.
Derwinski
Dodd
Dougherty
Gore
Holt
Ichord
Ireland
Jenrette
McDade
Mathis
Murphy, Ill.
Musto
Myers, Pa.
Nedzi
Pepper
Preyer
Quayle
Ritter
Rudd
Satterfield
Skelton
Stratton
Symms
Thompson
Wilson, C. H.
Wolff

□ 1650

The Clerk announced the following pairs:

Mr. Thompson with Mr. Ashbrook.

Mr. Musto with Mrs. Holt.

Mr. Pepper with Mr. McDade.

Mr. Satterfield with Mr. Quayle.

Mr. Gore with Mr. Rudd.

Mr. Jenrette with Mr. Badham.

Mr. Bowen with Mr. Bethune.

Mr. Burlison with Mr. Ritter.

Mr. Dodd with Mr. Symms.

Mr. Cavanaugh with Mr. Derwinski.

Mr. Davis of South Carolina with Mr. Carter.

Mr. Preyer with Mr. Butler.

Mr. Stratton with Mr. Anderson of Illinois.

Mr. Wolff with Mr. Ichord.

Mr. Alexander with Mr. Nedzi.

Mr. Skelton with Mr. Charles H. Wilson of California.

Mr. Murphy of Illinois with Mr. Myers of Pennsylvania.

Mr. Ireland with Mr. Dougherty.

Mr. Mathis with Mr. Beard of Rhode Island.

Mr. GUYER changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1700

PERMISSION FOR COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO FILE A PRIVILEGED REPORT AND ACCOMPANYING RESOLUTION IN THE MATTER OF REPRESENTATIVE MICHAEL J. MYERS

Mr. BENNETT. Mr. Speaker, I would like to advise my colleagues that it is my intention to call up the privileged resolution in the matter of Representative MICHAEL J. MYERS after the committee's report in this matter has been available to the Members for no less than 3 legislative days.

Mr. Speaker, I ask unanimous consent that the Committee on Standards of Official Conduct may have until midnight tonight, Wednesday, September 24, 1980, to file a privileged report and accompanying resolution in the matter of Representative MICHAEL J. MYERS for printing under the rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

RULE TO BE REQUESTED ON H.R. 8146, TO PROVIDE A PROGRAM OF FEDERAL SUPPLEMENTAL UNEMPLOYMENT COMPENSATION

(Mr. CORMAN asked and was given permission to address the House for 1 minute.)

Mr. CORMAN. Mr. Speaker, on September 23, 1980, the Committee on Ways and Means ordered favorably reported to the House H.R. 8146, to provide a program of Federal supplemental unemployment compensation. H.R. 8146 would provide additional weeks of unemployment compensation benefits to individuals who have exhausted their State benefits and Federal-State extended unemployment compensation benefits.

Pursuant to the rules of the Democratic Caucus, I take this occasion to advise my colleagues as to the nature of the rule that I will request for the consideration of H.R. 8146 on the floor of the House. The Committee on Ways and Means has specifically instructed me to request the Committee on Rules to grant a closed rule which would only provide for:

First. Committee amendments, which would not be subject to amendment;

Second. One hour of general debate, to be equally divided;

Third. Waiving all necessary points of order; and

Fourth. One motion to recommit.

We will request to be heard before the Committee on Rules.

PROVIDING FOR CONSIDERATION OF S. 885, PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION ACT

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 791 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 791

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 885) to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. In lieu of the amendments recommended by the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill H.R. 8157 as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as an original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instruction. After the passage of S. 885, it shall be in order in the House to insist on the House amendment to S. 885 and to request a conference with the Senate thereon.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT). I yield myself such time as I may consume.

Mr. Speaker, there was some controversy before the Rules Committee on this rule, but after hearing the testimony of both the proponents and the opponents, as I remember it, the Rules Committee voted by voice vote without objection for this rule.

It is a simple rule. It provides for two hours of general debate. It makes in order an agreed upon bill as a substitute for consideration. There will be adequate opportunity for amendment.

I really know of no vigorous opposition of substantial numbers to this rule. There are one or two people who are violently opposed, and I have agreed to yield 15 minutes to one of the opponents, so there will be full debate on the opposite side.

In the meantime, I reserve the balance of my time.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an open rule allowing 2 hours of general debate which is to be divided between the two committees which considered the bill in the House—the Interior Committee and the Commerce Committee. Instead of considering the amendments adopted separately by these two committees, a substitute amendment containing the text of H.R. 8157 is to be considered as an original bill for the purpose of amendment.

Clause 5 of rule 21 dealing with appropriations in a legislative bill is waived against the substitute.

There is one motion to recommit with or without instructions.

After passage of the Senate bill, there is to be a motion to insist on the House amendment and to request a conference with the Senate.

Mr. Speaker, this is a measure which is of great interest particularly to our colleagues from the Northwestern United States and to their constituents. It attempts to peaceably allocate electricity which is supplied to the Pacific Northwest by the Bonneville Power Administration. The Northwest faces the possibility of a regional war over the distribution of low-cost energy supplies and this bill has been dubbed a sort of "peace treaty" to unite the region and prepare for rebuilding of energy supplies.

As we are all painfully aware, the abundance of cheap energy in this Nation has come to an end and our energy future is beginning to arrive. What is happening in the Northwest is symbolic of the problems of electricity supply which are certain to eventually face other regions without our providing the proper incentives for energy production. Developments here should provide some warning to us of the energy demands which are prevalent throughout the rest of the country. And we should be prepared to face the challenge which is being thrust upon us.

Apparently there are divisions among the ranks of those involved in the proposed shortage solution, but after almost 4 years this House is to consider a plan to make the most of what the Northwest region has in the way of power. I have no opposition to the open rule we are considering but because this is an extremely complex and emotional issue, I urge my colleagues to carefully consider the measure, and I intend to do the same. The worst thing we could do right now would be to hastily consider such a serious measure in the closing days of a session without adequately acknowledging the ramifications to the Pacific Northwest and its energy consumers.

Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Speaker, I thank my friend for yielding.

Mr. Speaker, I rise in support of this rule, not because I think it is the best possible way to handle the situation in the Northwest, but because I really do not know of any other way that it could be done. I participated in the formulating of this legislation for perhaps the last 2 or 3 years. I think we have tried to take care of all of the interests in the Northwest with the bill that we came up with. We have a little bit in there for those that are interested in conservation of resources. We have something in there for the protection of fish and wildlife. We have power exchange control. We have taken care that the preference clause among preference customers is still intact.

□ 1710

It has been a long, long row to hoe on this legislation.

I am not particularly crazy about the rule. Normally I would support an open rule. But it seems to me like in having granted an open rule that it leaves us open to a minifilibuster, especially in these last few days of our session.

So reluctantly I do support the rule but I would ask those that have the inclination to offer amendments, I notice there are 26 which are listed, and within those 26 one of them says Mr. So-and-So will offer several amendments to this particular question, so we could be looking at 30, 40, or 50 amendments, and they are probably more dilatory than of substance—I do not want to cast aspersions on any one of my colleagues on the committee—but these amendments, these same amendments that have been offered here have been offered in subcommittee and full committee and some of them have been accepted. A lot of them have been turned down. Most of the ones I see listed on here have already been turned down. So I would ask my friends in these closing hours if they do not think those amendments are really going to add anything to the bill, then just control the urge to offer so many amendments to this bill.

So, Mr. Speaker, as I said before, I very reluctantly will go along with this rule but still would ask my friends that they refrain from offering so many amendments that they know will not pass.

Mr. LOTT. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. I am a little confused as a result of the comments of my colleague from New Mexico (Mr. LUJAN). This is a partially closed rule or what?

Mr. LOTT. If the gentleman will yield, it is a wide-open rule. The gentleman from New Mexico came to the Rules Committee and made his point there. I understand his concern that this could be a protracted thing with a lot of amendments being offered.

I just do not see how we could have done anything but report an open rule, certainly on a bill like this. It is out of an authorization committee and, since we are basically constitutionally opposed to a closed rule anyway, I think we certainly had to do this.

Mr. ROUSSELOT. But we did not have any points of order waived on the budget or anything?

Mr. LOTT. No, not on the budget.

Mr. ROUSSELOT. Like we did on the last rule?

Mr. LOTT. No, not at all.

Mr. ROUSSELOT. So we can be assured that people who have legitimate amendments will be able to offer them?

Mr. LOTT. Some legitimate and some otherwise, I am sure.

Mr. ROUSSELOT. Oh, really? That gives a little cause for pause. But the gentleman can assure me that there is no waiver of the budget here?

Mr. LOTT. No waiver of the budget. We do waive clause 5, rule XXI, appropriation in a legislative bill. That is waived.

Mr. ROUSSELOT. We have waived the appropriation? Could the gentleman explain that a little better?

Mr. LOTT. I am glad to yield to the gentleman from New Mexico.

Mr. LUJAN. There is no appropriation under this bill. Bonneville conducts its own business. The revenues come from the rates that are charged to the power users and none of the gentleman's hard-earned money that he pays in taxes goes into this at all.

Mr. LOTT. If I can take up my time again, there is some language on page 35 of the bill dealing with this which states the Administrator shall use the Bonneville Power Administration fund, and there is language where we had to have the waiver. It is not dealing with a specific amount, it is no taxpayer's money. But since this language is in there, that point had to be waived.

Mr. Speaker, I have no further requests for time and I reserve the balance of my time.

Mr. BOLLING. Mr. Speaker, I yield 15 minutes to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Speaker, I would like to thank very much the chairman of the Rules Committee and all the members of the Rules Committee for bringing out what I consider to be a very fair rule. I will support the rule. I appreciate this very much. I think it was done in the interests of fairness.

I wanted to tell the Members of the House why if the bill must come to the floor, which I believe it should not, but nevertheless, once it comes to the floor we have a very good rule and the reason necessary for an open rule is that this bill is so badly flawed, so deeply and pervasively a bad bill, that it will take extensive amending to possibly remedy the defects. I am not sure that even such extensive amendments can do that.

I would say that not a single one of my amendments will be dilatory. Not a single amendment that I have or will offer to this bill will be dilatory.

I would like to tell the membership that the largest public utility in Oregon, the Eugene Water & Electric Board, my home utility, is adamantly opposed to this bill. Its chairman is an arch Republican conservative, pronuclear, and he is adamantly opposed to this bill. All five board members are opposed to this bill because, and they have analyzed the bill probably more carefully than anyone else other than the Members that have been working on it themselves, because they believe it will destroy local control, it will destroy initiative, it will eventually destroy their utility.

The Eugene Water & Electric Board is one of the most aggressive, vigorous utilities in the Northwest in developing its energy sources. It has compiled a great record both in large nuclear plants as well as projects such as geothermal, wood wastes, and other energy sources, along with hydroelectric. They are now to be penalized, they are now to be told no, your efforts, we do not want them; we are going to put all energy decisions in the hands of one Federal bureaucracy, the Bonneville Power Administration. They are going to make the decisions and any initiative you take, any vigor that you show in developing energy sources that are cheaper will be penalized, not rewarded.

So, therefore, among the amendments that I am compelled to offer to this bill, and the reason I support the rule and an open rule, because I wish to offer such amendments as this, is one, the bill mandates the Bonneville Power Administration to provide all of the energy needs for all private utilities in the Northwest. Now, I will repeat that. The bill requires a Federal agency to provide all of the power needs, under long-term contract, all of the power needs of all of the private utilities in the Northwest. This is the first time in the history of this Nation that such a situation has been set up.

We could say that the TVA has some similarities. This bill, in effect, is a TVA, but all of the bad parts of the TVA, all of the bad aspects of the TVA, and very little of the good parts of the TVA.

Again, the bill mandates a Federal agency to provide all of the power needs for private utilities in the Northwest. Think of what a precedent this is setting for the rest of the Nation. Will your utilities then go in and ask a Government agency to provide all of their power needs until the entire utility industry of this country is nationalized?

□ 1720

This is not an obscure reading of the bill. This is one of its most important provisions. One of its most important provisions is mandating a Federal agency to provide all the power needs of the private utilities. All they have to do is come and ask, and Bonneville is forced to give them a 20-year contract to meet all their power needs. Is this sort of provision going to give us the initiative to develop our energy? No. Everybody can sit back and rest and say, the Federal Government is going to take care of us. Very frankly, this is what has happened among many of the small public utilities in the Northwest. They have sat back, done nothing, and let Bonneville feed them the electricity. Now we are going to do the same thing with the private utilities.

I have urged the small publics to go out and develop their own energy in the Northwest. I was proud when finally one Blachley-Lane Electric Co-op, instead of buying extremely expensive power through the Bonneville that has been put on the market, went out and developed its low-head hydro projects in its own back yard within its own district and got the electricity they need until the year 2000 for one-half the cost. But we are going to destroy with this bill the initiative, because the Federal Government is going to take care of everybody. What a precedent for the rest of the Nation. But it is a big power grab.

Why are we passing this bill? I will tell you why. It is a nice, big power grab. A handful of people who are very powerful in the Northwest utilities, executives and others, are making its power grab and pushing this bill through.

Another one of my amendments is the freedom-of-choice amendment. It is a very simple amendment. Right now the bill would force on every utility in the Northwest any project Bonneville and the Federal agency desire to put into effect. Bonneville signs on the dotted line, and every utility in the Northwest is going to pay. Some of these projects will bankrupt some of the utilities. There is no question of this. There are a number of utilities now in the Northwest on the verge of bankruptcy, and some of these projects will bankrupt these utilities. So my amendment, which I call the freedom-of-choice amendment, simply allows any utility to say to Bonneville, No, we cannot afford that project, or, No, we are meeting our own energy needs here at home. We will not participate. They will not get the benefits either. They do not get the benefits either, but they will not participate.

I offered this, yes, in subcommittee, I offered this in full committee, but the utility industry crushed it. The Bonneville Power Administration lobbyists crushed it. I said "Bonneville Power Administration lobbyists." It is against the law for a Federal agency to lobby; is it not? I can tell you the Bonneville Power people are constantly lobbying. As a matter of fact, they wrote this bill. It is also against the law for a Federal agency to write a bill like this, but they did. They wrote the bill.

So the Bonneville Power lobby, this Federal agency lobby, crushed the freedom-of-choice amendment. Why? Why? There is a very simple reason why—because they want every single citizen of the Northwest, every business, every small business, every resident, every farmer to be required to pay for whatever they desire to do in the Northwest. With my freedom-of-choice amendment they could put together huge consortiums to build all the plants they want. They could put together any group. They would have all the opportunity.

I just ask that if a utility says, no, we fear bankruptcy, or, no, we cannot afford it, or, no, we want to develop our own energy choices, we get knocked out and not get the benefits, but we will not pay for it either—let them. No, that amendment was crushed. That is one of the amendments I will have offered.

Mr. CARR. Mr. Speaker, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Michigan.

Mr. CARR. I thank the gentleman for yielding.

Mr. Speaker, I want to commend the gentleman for a very lonely task that he has undertaken, one of a few Members of that particular region, and I know how sometimes politically difficult it has been for the gentleman to be the most outspoken opponent of this legislation from that region of the country. While we have not always agreed on some of the amendments and we have not always agreed on the methods of opposition to the bill, I think the House deserves to know what fine work he had done. In the time that the gentleman would yield further, I would like to inform the House that I will be opposing the rule and for one simple reason. This bill is a product of a joint referral.

We have all had our sad experiences with joint referrals around the House. In this particular instance the Commerce Committee passed out its version. The Interior Committee passed out its version, and unlike other occasions when we have had two different committee versions, the bill before us is not a product of either committee.

Rather, as I said, with Alaska Lands and a variety of other cases where one committee bill was made a vehicle and another committee bill was made a substitute, and the House was allowed to work its will, the House is entitled to know that the bill before you today was not passed out of either committee and that what we are voting on is the result of a smashed-together version of the House Interior and Commerce Committee bills. It was written largely by the staff, largely by the staff at least in the experience of this Member with a respect to amendments that I had on the Interior Committee version. I was not consulted on the final outcome.

I think we have enough trouble with staff writing legislation around here not to sanction by an official rule of the House a bill written by the staff of the two committees. It would not be so bad if they confined themselves to the brackets between which permissible conferees might make a compromise, but in some instances this particular bill goes entirely outside the brackets and writes whole new legislation, upon which neither committee had any hearings but, rather, is the supposition and the assumption of the staff. I think that this rule establishes a very bad precedent. I think the Committee on Rules in its infinite wisdom acted hastily. Rather, we should have had one of the two bills made in order and the other committee bill made in order as a substitute and proceeded in regular order. I would urge a vote against the rule on the Northwest power bill.

Mr. WEAVER. I want to thank very much the gentleman from Michigan (Mr. CARR) who impressed me and members of the Interior Committee constantly with his grasp of the bill. He was obviously one of the keenest minds on the bill in grasping what was really in the bill. When other members were unable to explain sometimes their own amendments, the gentleman from Michigan was able to untangle them.

I would like to point out to those again who asked why I am going to offer 72 amendments—again, not a single one is dilatory—let me point out that the gentleman from Michigan said that the two staffs smashed together the bill. No, that is the one thing he said that was incorrect. What they did was pull it apart. The bill started 4 years ago as 10 pages, then became 40 pages, then became 85 pages. It is now 104 pages. It is not my fault. The substitute that I will offer is just 31 pages. It is a good, clean substitute; but 104 pages, with the staff having written most of it without the approval of either committee for many of the changes, means that these amendments that we must offer and work our will on in the House are critical—are critical in perfecting this bill.

So I want to thank again the Committee on Rules for the open rule. Albeit, I agree with my friend, the gentleman from Michigan (Mr. CARR) that the process was not a good one in arriving at a final bill. I would say again my thanks.

Mr. LOTT. Mr. Speaker, I yield back the remainder of my time.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 378, nays 5. answered "present" 1, not voting 48, as follows:

[Roll No. 588]

YEAS—378

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Archer
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonker
Bouquard
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Byron
Campbell
Carney
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Dellums
Derrick
Devine
Dickinson
Dicks
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sensenbrenner
Simon
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stockman
Stokes
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—5

Burton, Phillip
Carr
Edgar
Miller, Calif.
Seiberling

ANSWERED "PRESENT"—1

Satterfield

NOT VOTING—48

Alexander
Anderson, Ill.
Applegate
Ashbrook
Badham
Beard, R.I.
Beard, Tenn.
Bethune
Bonior
Bowen
Brademas
Butler
Carter
Cavanaugh
Coughlin
Daniel, Dan
Davis, S.C.
Deckard
Derwinski
Dingell
Dixon
Dodd
Dougherty
Holt
Holtzman
Ichord
Ireland
Jenrette
Jones, Okla
LaFalce
McDade
Murphy, Ill.
Murphy, N.Y.
Musto
Myers, Pa.
Nedzi
Pepper
Preyer
Quayle
Ritter
Rudd
Stewart
Stratton
Symms
Thompson
Wilson, C. H.
Wolff
Wydler

□ 1740

The Clerk announced the following pairs:

Mr. Thompson with Mr. Ashbrook.
Mr. Musto with Mr. Badham.
Mr. Murphy of New York with Mr. Beard of Tennessee.
Mr. Pepper with Mr. Eckhardt.
Mr. Stratton with Mr. Dougherty.
Mr. Wolff with Mr. Bethune.
Mr. LaFalce with Mr. Butler.
Mr. Jenrette with Mr. McDade.
Mr. Dodd with Mr. Quayle.
Mr. Dingell with Mr. Carter.
Mr. Dan Daniel with Mr. Rudd.
Mr. Bowen with Mr. Coughlin.
Mr. Bonior of Michigan with Mr. Symms.
Mr. Applegate with Mr. Dixon.
Mr. Alexander with Mrs. Holt.
Mr. Davis of South Carolina with Mr. Derwinski.
Mr. Nedzi with Mr. Wydler.
Mr. Myers of Pennsylvania with Mr. Ritter.
Mr. Stewart with Mr. Beard of Rhode Island.
Mr. Charles H. Wilson of California with Ms. Holtzman.
Mr. Ichord with Mr. Cavanaugh.
Mr. Ireland with Mr. Jones of Oklahoma.
Mr. Preyer with Mr. Murphy of Illinois.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

WILLIAM S. MOORHEAD FEDERAL BUILDING

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 8161) to designate the U.S. Federal Building in Pittsburgh, Pa., as the "William S. Moorhead Building."

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

Mr. WEAVER. Mr. Speaker, reserving the right to object, I do so to ask the Speaker what the schedule will be for the balance of the day.

The SPEAKER pro tempore. Is the conference chairman prepared to answer the question as to what the schedule is for the balance of the day?

Mr. WEAVER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Washington (Mr. Foley).

Mr. FOLEY. Mr. Speaker, the intention of the leadership is that there would be no matters brought before the House tonight after 6 o'clock which would require any consideration of amendments or other substantive votes. The intention was to schedule the only remaining matter, which would be general debate for not to exceed 2 hours, on the Pacific Northwest power bill.

Mr. WEAVER. Further reserving the right to object, does the gentleman say that we will go into the Northwest power bill, the general debate, immediately following this matter?

Mr. FOLEY. The next matter that the leadership had scheduled was to go into the Committee of the Whole House on the State of the Union for the consideration of general debate only, not to exceed 2 hours, on the Northwest power bill.

Mr. WEAVER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the bill, as follows:

H.R. 8161

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Federal Building located at 1000 Liberty Avenue, Pittsburgh, Pennsylvania, shall hereafter be known and designated as the "William S. Moorhead Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to that building shall be held and considered to be a reference to the "William S. Moorhead Building".

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Levitas: On line 5 and line 9 after the name Moorhead, insert the word "Federal".

Add a new section 2 to read as follows:

This Act shall take effect January 15, 1981.

□ 1750

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Georgia (Mr. Levitas).

The amendment was agreed to.

Mr. LEVITAS. Mr. Speaker, I rise in support of H.R. 8161, a bill to designate the U.S. Federal Building in Pittsburgh, Pa., as the "William S. Moorhead Federal Building."

Representative William S. Moorhead, Democrat, of the 14th Congressional District of Pennsylvania, whose constituency is located in the heart of the Pittsburgh area, is a native of the city. He was born there on April 8, 1923, the son of the late William S. and Constance Barr Moorhead. He is an attorney and was a partner in the law firm of Moorhead and Knox, founded by his father.

During World War II, he was commissioner Lieutenant (j.g.) and served in the Navy aboard a destroyer in a Pacific task force.

Mr. Moorhead attended Shadyside Academy in Pittsburgh, Phillips Andover Academy, and received his BA from Yale University in 1944. In 1949 following war service, he was graduated cum laude from Harvard Law School. He was awarded an honorary degree of LLD from Duquesne University in 1965.

He is married to the former Lucy Galpin and they have three sons and one daughter.

Congressman Moorhead served as an assistant city solicitor of the city of Pittsburgh from 1954 to 1957 and was a member of the Allegheny County Housing Authority from 1956 to 1958. He has served as a trustee of the Pittsburgh Child Guidance Center, the Pittsburgh Park and Playground Society, the Tuberculosis League of Pittsburgh, the Shadyside Hospital, the Negro Emergency Education Drive, the Western Pennsylvania Conservancy and the Board of Visitors of the University of Pittsburgh Faculty of Arts and Sciences. He is a member of the American Legion, AMVETS, and Veterans of Foreign Wars.

Mr. Moorhead was elected to the 86th Congress on November 4, 1958, and reelected to subsequent Congresses. He is a member of the Committee on Banking, Finance and Urban Affairs (serving on its Subcommittee on Housing, Subcommittee on International Development Institutions and Finance and is chairman of its Subcommittee on Economic Stabilization); the Committee on Government Operations (serving on its Subcommittee on Legislation and National Security and the Subcommittee on Environment Energy and Natural Resources); and the Joint Economic Committee (serving on its Subcommittee on International Economics and is chairman of its Subcommittee on Fiscal and Intergovernmental Policy).

Congressman Moorhead, an assistant whip for the House of Representatives since 1969, served as a regional coordinator for the Democratic Congressional Platform Committee in 1968, cochairman of the Democratic State Platform Committee in 1966 and 1970, and a member of the Speaker's Task Force on the Platform in 1976.

Mr. Speaker, Congressman Moorhead has announced that he plans to retire at the end of the 96th Congress and his departure from the House will be felt by all of his colleagues. During the past 6 years, I had the privilege of serving with him on the Government Operations Committee. I have found he is one of the friendliest, kindest, and most gentlemanly people I have had the opportunity to work with in these years. He is known for his dedication and determination in bringing about meaningful legislation and I strongly support enactment of H.R. 8161.

● Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 8161, a bill to designate the U.S. Federal Building in Pittsburgh, Pa., as the "William S. Moorhead Federal Building."

Mr. Speaker, the end of the 96th Congress will mark the retirement on one of our esteemed colleagues from the House, Representative Bill Moorhead, of the 14th District of Pennsylvania. Bill and I were both elected to the 86th Congress and I have had the honor and privilege of serving in the House with him for 22 years. His dedication to his country is to be admired. He is hard working and has served admirably on numerous committees of the House. As a member of the House Banking, Finance and Urban Affairs Committee, he serves as chairman of the Economic Stabilization Subcommittee. During his years in the House, his qualities of leadership and effectiveness are known by all. Mr. Speaker, I strongly urge enactment of this legislation.●

● Mr. HARSHA. Mr. Speaker, I rise in support of H.R. 8161, a bill designating the Federal building in Pittsburgh as the William S. Moorhead Building.

As a hard-working and conscientious Member, BILL MOORHEAD has served his Nation, as well as his fellow Pennsylvanians, in an outstanding manner. He was elected to the 86th Congress on November 4, 1958, and reelected to subsequent Congresses. He has served admirably as a member of the Committee on Banking, Finance, and Urban Affairs, the Committee on Government Operations, and the Joint Economic Committee, serving as chairman of the Subcommittee on Fiscal and Intergovernmental Policy. He has provided effective leadership as assistant whip for the House since 1969.

Designating the Federal building in Pittsburgh in honor of WILLIAM S. MOORHEAD is a well-deserved tribute.

I ask my colleagues to join me in supporting passage of this legislation.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to designate the United States Federal Building in Pittsburgh, Pennsylvania, as the 'William S. Moorhead Federal Building'."

A motion to reconsider was laid on the table.

JAMES C. CLEVELAND FEDERAL BUILDING

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 7588) to designate the U.S. Post Office and Courthouse Building in Concord, N.H., as the "James C. Cleveland Building."

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

Mr. D'AMOURS. Mr. Speaker, reserving the right to object, I, of course, will not object, but I do want to take this opportunity to express my strong support for H.R. 7588.

Mr. Speaker, it is an honor to join with the gentleman from Georgia (Mr. LEVITAS) in paying tribute to our distinguished colleague from New Hampshire, JIM CLEVELAND.

For 18 years JIM CLEVELAND has represented the people of New Hampshire's Second Congressional District with diligence and distinction in the U.S. House of Representatives. Prior to his service in Congress he represented the people of the New London area for 12 years in the New Hampshire State Senate.

During his tenure in public life JIM CLEVELAND has set the standard for constituent service against which all other public officials from New Hampshire have been measured. JIM has always gone that extra mile for his constituents and his special efforts have usually resulted in success.

As a longstanding, highly respected member of the House Public Works Committee JIM CLEVELAND has developed a great deal of expertise in the fields of transportation, water resources and economic development. His expertise has been extremely beneficial to the State of New Hampshire on numerous occasions.

JIM led the effort in 1973 to develop a compromise parkway solution to the highway through the Notch problem which met both transportation and environmental needs. JIM was instrumental in working out similar differences over the RARE II proposal for New Hampshire's White Mountain region.

As the Representative of New Hampshire's First Congressional District I was grateful for JIM's help in my efforts to secure funds to upgrade parts of route 101 between Manchester and the seacoast.

On a personal level, JIM CLEVELAND was very helpful to me when I first arrived in Congress and I have deeply enjoyed working with him over the past 6 years on a wide variety of matters of importance to the State of New Hampshire.

I will miss his friendship and cooperation, and want to wish both JIM and Hilary the best of luck in the years to come.

Mr. Speaker, in honor of his 30 years of public service on behalf of the people of New Hampshire, it is indeed appropriate that the Concord, N.H., Federal Building be renamed the "James C. Cleveland Federal Building." As a sponsor of H.R. 7588 I would like to share with my colleagues a resolution passed by unanimous vote of the Concord, N.H., city council endorsing this legislation to rename the Concord Federal Building after JIM CLEVELAND.

RESOLUTION OF THE CITY OF CONCORD

In the year of our Lord one thousand nine hundred and eighty.

Resolution Honoring United States Representative, James C. Cleveland, "The Constituent Congressman".

The City of Concord resolves as follows:

Whereas, James C. Cleveland has served the people of New Hampshire for 30 years, first as a State Senator from New London (1951–1963), and then as a United States Representative for New Hampshire's second Congressional District in the United States House of Representatives (1963–1981), and

Whereas, James C. Cleveland's strong emphasis on constituent service to both individuals and communities in New Hampshire is a model to his colleagues in the Congress and to those who aspire to public office and

Whereas, James C. Cleveland, as a ranking member of the House Public Works and Transporation Committee, has been instrumental over the years in assuring the development of New Hampshire's interstate highway system and water pollution control projects, and

And whereas, United States Senator John Durkin, United States Senator Gordon Humphrey, and United States Representative Norman D'Amours are co-sponsoring resolutions (H.R. 7588 and S. 2803) before the Congress to name Concord's Post Office and Federal Court Building the "James C. Cleveland Building", in honor of his 30 years of public service.

Therefore, the Concord City Council joins with New Hampshire's Congressional Delegation in urging Congress to approve the naming of the building and expresses its appreciation to Congressman Cleveland for his years of constituent service to Concord and its citizens.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I just want to ask the gentleman from Georgia (Mr. LEVITAS) this question:

As a general policy matter, it used to be that we were to wait until an esteemed leader of the Nation died before we honored him. More recently we have been naming public edifices after individuals, it seems to me, who are alive or who are perhaps alive for at least a period after their retirement.

Do I understand the policy of the gentleman's committee is not to name Federal buildings after anyone at least until they have left public office or presumably retired from the Congress of the United States?

Mr. Speaker, I say this without reference to the pending matter or any other matters of this type that the gentleman brings up.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Of course, I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, the guidelines under which public buildings or other facilities are named do require that the person has left office or the position prior to that occurring, and that is the reason for the offering of the amendment by the gentleman from Georgia making this last bill that we considered effective on January 15 of next year.

But it is not unprecedented at all that Members of this body who are retiring after a certain number of years, 14 years of service in the House, are eligible to have public buildings named for them. They cannot, however, receive that honor until after they have left office. Indeed, in the next few days there will be some bills coming over from the other body with respect to retiring Members of that body as well, and we have tried to establish certain criteria in addition to the criteria which have been effective for a number of years.

Mr. BAUMAN. Mr. Speaker, do I understand there are other criteria, not only retirement from service after at least 14 years in the Congress, if they are to be honored for that purpose?

Mr. LEVITAS. Mr. Speaker, that is correct. There are criteria, among other things, if the gentleman will yield further. It is not just retirement; there has to be a certain number of years of service in this body as a prerequisite for consideration, and not all such proposals are approved by the committee.

Mr. BAUMAN. Mr. Speaker, may I ask, is there any attention paid to the quality or type of service rendered during the years of service?

Mr. LEVITAS. There is by the gentleman from Georgia. I cannot speak for other members of the committee.

Mr. BAUMAN. Mr. Speaker, the only other question I have is this:

Is there any danger of our running out of Federal buildings to name after Members of Congress who are retiring? Has there been any inventory of that made? We would not want to have that happen, I assume.

Mr. LEVITAS. Mr. Speaker, if the gentleman will yield further, I can set the gentleman's mind at ease. There are some 10,000 unnamed Federal buildings, and that should take care of the next few years.

Mr. BAUMAN. As many as there are lights on Broadway, I assume.

Mr. LEVITAS. I believe the gentleman is correct.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for his explanation, and I certainly support the pending measure, in view of the fact that it involves my good friend, the gentleman from New Hampshire (Mr. CLEVELAND).

Mr. LEVITAS. Mr. Speaker, if the gentleman will yield, let me state to him that we will save and reserve a Federal building to be named for the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I would perhaps suggest that we might want to remove some of the Federal buildings from my district. That might make some of my constituents happier, depending on the buildings selected.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the gentleman from Georgia?

There was no objection.

The Clerk read the bill, as follows:

H.R. 7588

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Post Office and Courthouse Building located at 55 Pleasant Street, Concord, New Hampshire, shall hereafter be known and designated as the "James C. Cleveland Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to that building shall be held and considered to be a reference to the "James C. Cleveland Building".

COMMITTEE AMENDMENTS

The SPEAKER pro tempore. The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: Page 2, line 4, after "Cleveland" insert "Federal".

Page 2, line 7, after "Cleveland" insert "Federal".

The SPEAKER pro tempore. The question is on the committee amendments.

The committee amendments were agreed to.

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEVITAS: Add a new section 2 to read as follows:

This Act shall take effect January 15, 1981.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS).

The amendment was agreed to.

Mr. LEVITAS. Mr. Speaker, I rise in support of H.R. 7588, a bill to designate the U.S. Post Office and Courthouse Building in Concord, N.H. as the "James C. Cleveland Federal Building." It has been my distinct privilege and very great honor to have served with JIM CLEVELAND over the past 6 years. I have had the opportunity to observe firsthand JIM's dedication to our Nation while serving with him on the House Committee on Public Works and Transportation. His dedication to the interests of the working men and women of this country is greatly admired and in behalf of the Committee on Public Works and Transportation I insert the text of the committee report which further elaborates on JIM's great accomplishments while serving in the U.S. House of Representatives:

The purpose of this measure is to recognize the distinguished Congressional service of James C. Cleveland of New Hampshire, an outstanding member of the Committee on Public Works and Transportation for the past 18 years.

On this Committee, Jim Cleveland has been particularly active in the fields of transportation, water resources and economic development. He was personally involved in every highway bill to emerge from the Committee during his tenure and authored a number of significant improvements. These include advance acquisition of right-of-way, four-laning of all Interstate highways and the access control demonstration program. In water resources, he emerged as an acknowledged leader in water pollution control, co-authoring the Cleveland-Wright provision to delegate construction of wastewater treatment facilities to the states and contributing substantially to wetlands protection. Also in water resources, he authored the provision for deauthorization of dam projects long-authorized but dormant and no longer deemed in the public interest, and a provision mandating consideration of nonstructural alternatives in the development of flood control projects. In economic development, his principal interest has been in strengthening the ability of government programs to stimulate employment in the private sector. A strong believer in the use of public works projects to combat unemployment, he was impatient with bureaucratic inertia and sought to reduce red tape across the board to speed up and expand construction projects under the many programs within the Committee's jurisdiction.

Jim Cleveland served on both the Transportation and Economic Development Subcommittees, but chose to exert his leadership role as ranking minority member on the Subcommittee on Oversight and Review in keeping with his firm conviction of the importance of the investigative function and his dedication to its responsible exercise. He became known as a well-informed and probing questioner of witnesses regardless of party, at times exhibiting a humor most often reserved to informal occasions. For years, he and then-Chairman Jim Wright, now Majority Leader of the House, were a formidable bipartisan team in selecting areas of inquiry, building an investigative record and then following through to see their findings reflected in the work of the legislative subcommittees.

Although less well-known, Jim Cleveland's long record of service to the House as an institution may be of equal significance. As a member of the Joint Committee on the Organization of Congress, he contributed directly to the landmark Legislative Reorganization Act of 1970. As a member of the Joint Committee on Congressional Operations, he strongly asserted the prerogatives of the Congress. As a member of the House Commission on Information and Facilities, he helped shape such developments as the televising of House Floor proceedings. And as ranking minority member of the Select Committee on Committees during the present Congress, he led the fight for such institutional reforms as limitations on the number of subcommittees and subcommittee assignments.

For more than a decade, Jim Cleveland fought for and ultimately succeeded in obtaining equity in minority staffing, not in the interests of partisanship but, on the contrary, in the conviction that partisan competition is most constructively channeled into the development and refinement of legislation to the point where it merits bipartisan support.

He also served on the Committee on House Administration, on which he was active in the area of campaign reforms and authored an amendment to the Presidential Materials and Recordings Preservation Act in 1974 which contributed to that statute's being ultimately upheld as constitutional.

Throughout it all, Jim Cleveland has been tireless on behalf of the interests of his constituents in their dealings with government. He chose to regard this work not as an irritating distraction from Committee and floor work but rather, like the findings of oversight, as the raw material of the legislative process.

There are many instances of Jim Cleveland's emphasis on service to constituents. He returned to his district every weekend for working sessions. In recent years he successfully shifted an increasing amount of his office workload, along with the staff including his principal assistant, to his Concord office.

One notable success of his career, in fact, combined legislative work with home-district staff work. Years ago, when it became evident that the only feasible route for an Interstate highway in his state lay through the particularly scenic Franconia Notch State Park, one of the Nation's most intractable highway versus environment controversies ensued. In 1973, Jim Cleveland authored legislation which laid the groundwork for a compromise solution accommodating both transportation and environmental considerations. Yet the compromise failed to emerge for several years until he detailed his New Hampshire staff to launch negotiations with all parties until a resolution was reached. Also testimony to his work on behalf of his State, though not within the jurisdiction of the Committee, was his success in preserving New Hampshire's storied Sandwich Notch through acquisition as part of the White Mountain Mountains National Forest.

James Colgate Cleveland, a resident of New London, N.H., was born on June 13, 1920, to Dr. and Mrs. Mather Cleveland. He attended public schools and Deerfield Academy, and in 1941 graduated magna cum laude from Colgate University where he was elected to membership in Phi Beta Kappa.

He enlisted in the Army in 1941, received a commission in Field Artillery, and served overseas for 40 months as a forward observer, air observer and battery commander, receiving a Bronze Star for valor in the Philippines.

In 1948, he graduated from Yale Law School and opened law offices in Concord and New London in the spring of 1949. On December 9, 1950, he wed Hilary Paterson of Andover, N.H. They have five children, Cotton Mather, James Colby, David Paterson, Lincoln Mather and Susan Sclater.

Also in 1950, he served as Merrimack County Republican Chairman, and was elected to the New Hampshire State Senate. During his twelve years as State Senator, he served as a member of the Committees on Agriculture, Education, Fish and Game, Labor, Public Welfare, Military and Veterans Affairs, Rules, and Ways and Means, and as Chairman of the Judiciary Committee and Majority Floor Leader.

On November 6, 1962, he was elected to the 88th Congress and was reelected to the 89th and each succeeding Congress.

We have come to know Jim Cleveland as a valued friend, something of a loner at times, often direct to the point of bluntness, with an integrity making him a formidable adversary and unwavering ally; a truly learned student of the legislative process; exponent of common sense, a balance end of programs that work, and of responsive and responsible government; a dedicated member of this Committee. It is typical of Jim Cleveland that, before agreeing to accept the honor of having the Concord Federal Building bear his name, he sought the reaction of the Concord City Council, which responded with the unanimous resolution reproduced below.

RESOLUTION OF THE CITY OF CONCORD

In the year of our Lord one thousand nine hundred and eighty

Resolution Honoring United States Representative, James C. Cleveland, "The Constituent Congressman".

The City of Concord resolves as follows:

Whereas, James C. Cleveland has served the people of New Hampshire for 30 years, first as a State Senator from New London (1951-1963), and then as a United States Representative from New Hampshire's second Congressional District in the United States House of Representatives (1963–1981), and

Whereas, James C. Cleveland's strong emphasis on constituent service to both individuals and communities in New Hampshire is a model to his colleagues in the Congress and to those who aspire to public office, and

Whereas, James C. Cleveland, as a ranking member of the House Public Works and Transporation Committee, has been instrumental over the years in assuring the development of New Hampshire's interstate highway system and water pollution control projects, and

And whereas, United States Senator John Durkin, United States Senator Gordon Humphrey, and United States Representative Norman D'Amours are co-sponsoring resolutions (H.R. 7588 and S. 2803) before the Congress to name Concord's Post Office and Federal Court Building the "James C. Cleveland Building", in honor of his 30 years of public service,

Therefore, the Concord City Council joins with New Hampshire's Congressional Delegation in urging Congress to approve the naming of the building and expresses its appreciation to Congressman Cleveland for his year of constituent service to Concord and its citizens.

It is therefore entirely fitting that we dedicate the James C. Cleveland Federal Building to a man who has served his country, his constituents, the Congress and this Committee so well.

I urge enactment of H.R. 7588.

● Mr. JOHNSON of California. Mr. Speaker, I rise in support of the bill, H.R. 7588 to name the U.S. Post Office and Courthouse Building in Concord, N.H., as the "James C. Cleveland Federal Building."

Congressman Cleveland has served with distinction as a member of the House Committee on Public Works and Transportation for the past 18 years. As ranking minority of the Subcommittee on Oversight and Review, he has been extremely instrumental in the fields of transportation, water resources, economic development, aviation, and public buildings and grounds. His knowledge in these areas have greatly assisted the committee in developing meaningful legislation which ultimately has benefited all citizens of this country. His leadership abilities are admired by hs colleagues on both sides of the aisle.

I urge my colleagues to support this fitting recognition of a distinguished public servant, Jim Cleveland. His many accomplishments during his years of service will live on. This legislation will provide a proper tribute to his distinguished service.●

● Mr. HARSHA. Mr. Speaker, I rise in support of H.R. 7588, a bill designating the Federal Building in Concord, N.H., in honor of my good friend and colleague, James C. Cleveland.

James Colgate Cleveland, a resident of New London, N.H., was born on June 13, 1920, to Dr. and Mrs. Mather Cleveland. He attended public schools and Deerfield Academy, and in 1941 graduated magna cum laude from Colgate University where he was also a member of Phi Beta Kappa Society.

Jim Cleveland enlisted in the Army in 1941 and served overseas for 40 months with the 40th Infantry Division as field artillery forward observer, air observer, and battery commander. He received a bronze star for valor as forward observer at Fort Stotsenberg, Philippine Islands. He was later recalled to overseas duty during the Korean war.

In 1948, he finished his formal education at the Yale Law School and opened law offices in Concord and New London in the spring of 1949. On December 9, 1950, he wed the former Hilary Paterson of Andover, N.H. They have five children: Cotton Mather, James Colby, David Paterson, Lincoln Mather, and Susan Sclater.

Later in 1950, Jim Cleveland served as Merrimack County Republican Chairman, and was elected to the New Hampshire State Senate. During his 12 years as State senator, he served as majority floor leader, chairman of the judiciary committee, as well as on the committees of agriculture, education, fish and game, labor, public welfare, military and veterans affairs, rules, and ways and means.

On November 6, 1962, Jim Cleveland was elected to the 88th Congress and reelected to the 89th and each succeeding Congress.

While representing New Hampshire's Second Congressional District during the last 18 years, his principal committee assignments have included Public Works and Transportation and House Administration.

During his service in the Congress, Jim Cleveland has devoted much of his time and effort to legislation that has come before the Public Works and Transportation Committee. He has been very active in the fields of transportation, clean water, and economic development. He has been personally involved in every highway bill to come out of the committee during his 18 years of service and has offered a number of significant amendments. Among them are advance acquisition of right-of-way, four laning of all interstate highways and the access control demonstration program. In another public works field, clean water, he has been recognized as an authority in the House and has been actively involved in working for a stronger State role in the clean water program.

Jim Cleveland is one of the finest public servants to have ever represented New Hampshire. His leadership and guidance have been a model for the Nation and he has gained the respect and admiration of his constituents for his diligent work in their behalf.

It is truly a fitting tribute to designate the James C. Cleveland Federal Building in the honor of a man who has served his country so well.

In closing, Mr. Speaker, I urge my colleagues to join me in supporting passage of this legislation.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to redesignate the U.S. Post Office and Courthouse Building in Concord, N.H., as the 'James C. Cleveland Federal Building'.".

A motion to reconsider was laid on the table.

RAY ROBERTS LAKE

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 8024) to change the name of Aubrey Lake, Tex., to Ray Roberts Lake.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

Mr. CLAUSEN. Mr. Speaker, reserving the right to object, I will not object, of course, but I just want to take this opportunity to comment on the pending legislation.

Mr. Speaker, I rise in strong and unqualified support of H.R. 8024, a bill to change the name of Aubrey Lake, Tex., to Ray Roberts Lake.

What good things can I say that have not already been said about the gentleman from Texas (Mr. Roberts)? He has been a close personal friend as well as a dedicated professional colleague for all of the 18 years during which I have been privileged to serve with him.

In peace and war Ray Roberts has devoted his life unsparingly to the service of our country. In World War II he served in both Pacific and European theaters, building in the process one of the most remarkable and distinguished war records of any Member of Congress. Later, as chairman of the Veterans' Affairs Committee, Ray has continued—in more ways than I could begin to describe here today—to attempt to protect and advance the cause of so many of our country's men and women who served in the military.

Mr. Speaker, I have been especially privileged when it comes to knowing Ray Roberts. For years I have had the honor to serve in the Public Works Committee as ranking minority member of the Subcommittee on Water Resources, the subcommittee which has been chaired by Ray. I do not think that it is possible for anyone to have been more cooperative, more dedicated, more committed to pursuing the public interest than Ray has been as our chairman. He has been, perhaps more than anyone else in the past 20 years, the leader in the fight to protect and upgrade our irreplacable water supplies, to clean up our ravaged rivers and lakes, and to restore them for the benefit of future generations. His foresight has contributed substantially to the development of a progressive national water program. The legislation adopted under his aegis will stand as a lasting tribute to him and his recognition of the Nation's need for balanced development and conservation of our water resources.

To name this lake after Ray Roberts is only a small gesture, Mr. Speaker, and is only the first of what I believe and hope will be many instances of recognition that are properly Ray's for being the incredibly fine public servant that he has been. But it is a start and, as such, I could not more heartily add my support.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the bill, as follows:

H.R. 8024

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Aubrey Lake project, Elm Fork of the Trinity River, Texas, authorized by the River and Harbor Act of 1965 (79 Stat. 1073), shall hereafter be known as Ray Roberts Lake. Any law, regulation, map, document, or record of the United States in which such lake is referred to shall be held and considered to refer to such lake as "Ray Roberts Lake".

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 9, after the period insert the following new sentence: "This Act shall take effect on January 4, 1981."

The SPEAKER pro tempore. Without objection, the committee amendment is agreed to.

Mr. WEAVER. Mr. Speaker, reserving the right to object, I take this time to inquire further, were there not two other bills to be scheduled tonight, both the fiscal assistance bill for general debate and the IMF bill for general debate? I wonder what happened to those two bills.

The SPEAKER pro tempore. As the Chair understands it, those bills will not be taken up today. There will be general debate on the Pacific Northwest power bill following the consideration of these bills.

Mr. WEAVER. Mr. Speaker, further reserving the right to object, we are going to go immediately then into general debate on the Northwest energy bill; is that correct?

The SPEAKER pro tempore. The gentleman is correct, after one more bill to be considered by unanimous consent.

Mr. WEAVER. Then, Mr. Speaker, after one more bill, we will go into general debate, and that general debate would last then until around 8 o'clock; would that be correct? That is 2 hours.

The SPEAKER pro tempore. The Chair has no control over the length of time the debate would take.

Mr. WEAVER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. LEVITAS. Mr. Speaker, H.R. 8024 names the Aubrey Lake project in Texas, Ray Roberts Lake.

Aubrey Lake was authorized by the River and Harbor Act of 1965. It is located on the Elm Fork of the Trinity River and will provide flood control, recreational opportunities for residents in the Trinity River Basin, and 749,200 acre-feet of water supply storage for the region of Denton and Dallas, Tex.

Congressman Ray Roberts has had a long and distinguished career in public service. From 1935 to 1940 he was district director of the National Youth Administration under Lyndon B. Johnson. He later served from 1940 to 1942 as the senior staff member to Speaker Sam Rayburn. His career includes naval service in World War II as commanding officer and division commander. He was subsequently recalled to active duty during the Korean conflict and served in the Office of the Chief of Naval Operations. From 1955 to 1962 he served as a member of the Texas State Senate. He was elected to Congress in 1962 and has served continuously up to the present. He has announced his retirement at the end of the 96th Congress.

As a member of the Committee on Public Works and Transportation and as chairman of its Subcommittee on Water Resources, Congressman Roberts has worked long and effectively for the development of our Nation's water resources. He has played a vital role in the development of legislation to utilize these resources in the interests of flood control, water supply, navigation, hydroelectric power, and recreation. In addition, his efforts have contributed greatly to the development and implementation of legislation to improve the quality of our Nation's waters.

Naming the Aubrey Lake project, to which he has given his tireless support, in his honor is a fitting and deserved tribute to his long and distinguished career of public service.

Mr. Speaker, I urge passage of the bill.

● Mr. JOHNSON of California. Mr. Speaker, I rise in support of the bill H.R. 8024 to name the Aubrey Lake project in Texas, Ray Roberts Lake.

Congressman Roberts has served with distinction as chairman of our Subcommittee on Water Resources. Under his leadership the subcommittee has developed legislation in the areas of water resources development and water pollution control which greatly benefit the lives of all of the people of our great Nation.

Ray Roberts' career in public service began in 1935 when he was district director of the National Youth Administration under Lyndon B. Johnson. He later served as senior staff assistant to Speaker Sam Rayburn. In addition, he served our Nation in World War II and in the Korean conflict. His career in Congress began in 1962 and has been marked by his well-known qualities of outstanding leadership and dedication. He has long been an effective advocate of the development of our Nation's water resources which is so vitally needed to insure the continuation and improvement of our quailty of life.

The naming of the Aubrey Lake project in his honor is a fitting and appropriate tribute to a man who has served our Nation so long and so well. I urge passage of the bill.●

● Mr. ANDERSON of California. Mr. Speaker, we have before us a bill naming a lake after our good friend and dear colleague, Ray Roberts.

It is difficult to know where to begin in speaking about Ray. Do I speak about him as the man who replaced Sam Rayburn in representing the Red River Valley and Texas' Fourth Congressional District? Or as chairman of the House Committee on Veterans' Affairs and a champion of the rights of veterans? Should I speak about him as I best knew him; as a senior and hardworking member of the House Public Works and Transportation Committee; a man who I have sat with through many long committee hearings and markup sessions.

Ray has left an imprint on virtually every major piece of legislation that has come out of the Public Works Committee since at least the time that I was elected and joined him on that panel. But his presence has been felt the strongest on the Water Resources Subcommittee, which he chairs.

Through his work on the Veterans' Affairs Committee, he has seen to it that many Americans, those who struggled in the defense of their Nation, were not forgotten. In this capacity, he has strengthened America by strengthening its people.

But it was through his work on water resources that he has really been able to strengthen America directly. By rebuilding river channels, by constructing breakwaters and dams that allow us to maximize the natural resources that God gave our Nation, he has strengthened the Nation from its very core. In so doing, jobs have been created—real work, not make-work—meat and potatoes have been put on dinner tables across the country.

These projects permit the United States to run more efficiently and effectively.

Mr. Speaker, Ray Roberts took office after replacing one of your predecessors, Speaker Sam Rayburn. And it seems to me that Ray has many of those same qualities that made Speaker Rayburn so great. Perhaps he learned them as a staff assistant to the man whom one of our House office buildings is named after. He learned how to get along with other people; to respect the rights of all Members and work out compromises that satisfy all. He knows how to "think on his feet." And he knows how to lead.

These qualities are all important. But added to this list are the qualities that have made him an outstanding chairman and colleague; his honesty, helpfulness, and craving for hard work. Chairman Ray Roberts has these qualities, and so because he is retiring, his constituents, his colleagues, and his country will all miss him.

Mr. Speaker, it is entirely appropriate that we take this action today to name a lake in his beloved Texas for Ray Roberts.

I might just add that Lee and I wish him well in all he chooses to do after he leaves us behind; even if it is just fishing at his lake.●

Mr. CARR. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will state to the gentleman that there is no question pending, and the Chair cannot entertain that motion.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. Without objection, the bill is passed, and a motion to reconsider is laid on the table.

Mr. CARR. Mr. Speaker, I ask for a call of the House.

The SPEAKER pro tempore. Does the gentleman from Michigan (Mr. Carr) object to the vote on the ground that a quorum is not present?

Mr. CARR. Yes, Mr. Speaker, I do. I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will count.

Seventy-one Members are present, not a quorum.

The Sergeant at Arms will notify absent Members.

PARLIAMENTARY INQUIRY

Mr. LEVITAS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. LEVITAS. May I inquire, Mr. Speaker, what is the question, or what is the vote?

The SPEAKER pro tempore. The vote is on the passage of the bill, H.R. 8024.

Mr. LEVITAS. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. LEVITAS. Did not the gentleman from Georgia ask unanimous consent?

The SPEAKER pro tempore. The gentleman is correct. Then there was a committee amendment pending, and the committee amendment was agreed to. This vote is on final passage of the bill.

The vote was taken by electronic device, and there were—yeas 366, nays 1, not voting 65, as follows:

[Roll No. 589]

YEAS—366

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Archer
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Byron
Campbell
Carney
Carr
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Devine
Dicks
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stockman
Stokes
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolpe
Wright
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—1

Wyatt

NOT VOTING—65

Alexander
Anderson, Ill.
Ashbrook
Badham
Beard, R.I.
Bethune
Bowen
Brademas
Brown, Calif.
Burton, John
Butler
Carter
Cavanaugh
Chisholm
Clay
Coughlin
Davis, S.C.
Derwinski
Dickinson
Dingell
Dixon
Dodd
Dougherty
Early
Evans, Ga.
Garcia
Giaimo
Hightower
Holt
Holtzman
Huckaby
Ichord
Jenkins
Jenrette
Jones, Okla.
Kindness
Lehman
McCloskey
McDade
Marks
Mathis
Moffett
Murphy, Ill.
Musto
Myers, Pa.
Nedzi
Nolan
Pepper
Peyser
Preyer
Quayle
Ritter
Roberts
Rudd
Satterfield
Steed
Stratton
Symms
Thomas
Thompson
Vander Jagt
Wilson, Bob
Wilson, C. H.
Wolff
Wydler

☐ 1810

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and to include extraneous matter on H.R. 8161, H.R. 7588, and H.R. 8024, the bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

PERMISSION TO PRINT REPORT ON HOUSE RESOLUTION 794 IN THE MATTER OF REPRESENTATIVE MICHAEL J. MYERS

Mr. BENNETT. Mr. Speaker, I ask unanimous consent that the report on the resolution (H. Res. 794) in the matter of Representative Michael J. Myers, be printed in two volumes, and that volume 2 be limited to 600 copies.

The SPEAKER pro tempore (Mr. Rostenkowski). Is there objection to the request of the gentleman from Florida?

There was no objection.

PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION ACT

Mr. KAZEN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 885) to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. KAZEN).

The motion was agreed to.

The SPEAKER pro tempore. The Chair designates the gentleman from New York (Mr. MCHUGH) as Chairman of the Committee of the Whole and requests the gentleman from California (Mr. DANIELSON) to assume the chair temporarily.

☐ 1820

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill, S. 885, with Mr. DANIELSON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Texas (Mr. KAZEN) will be recognized for 30 minutes; the gentleman from New Mexico (Mr. LUJAN) will be recognized for 30 minutes; the gentleman from Washington (Mr. SWIFT) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. BROWN) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ROSTENKOWSKI) having assumed the chair, Mr. DANIELSON, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 885) to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River power system to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supplv, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. WAMPLER. On September 19, 1980, I am recorded as absent on rollcall No. 570 and rollcall No. 571. My absence occurred because of a need to depart Washington early enough to drive to Blacksburg, Va., in order to honor a prior commitment to address an evening meeting of the Association of Government Accountants.

Had I been present, I would have voted "nay" on rollcall No. 570, and "aye" on rollcall No. 571.

MESSAGE FROM THE SENATE

The SPEAKER pro tempore laid before the House the following message from the Senate:

In the Senate of the United States, ordered that the Secretary be directed to request the House of Representatives to return to the Senate the bill (S. 2724) entitled "An act to extend authorization for law enforcement assistance at Corps of Engineers projects."

The SPEAKER pro tempore. Without objection, the request is agreed to.

There was no objection.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Public Works and Transportation, which was read and, without objection, referred to the Committee on Appropriations:

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, D.C., September 24, 1980.

Hon. THOMAS P. O'NEILL,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the provisions of the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved the following projects on September 16, 1980:

CONSTRUCTION

Omaha, Nebraska: Federal Office Building, Parking Facility & Vehicle Maintenance Facility.

LEASES

Washington, D.C.: Railway Labor Building, 400 First Street, N.W.

Washington, D.C.: Reporters Building, 300 7th Street, S.W.

Washington, D.C.: Executive Building, 1030 15th Street, N.W.

Washington, D.C.: Tamol Building, 4228 Wisconsin Avenue, N.W.

Washington, D.C.: 1325 G Street, N.W.

Washington, D.C.: Shoreham Building, 15th & H Streets, N.W.

Washington, D.C.: 1310 L Street, N.W.

Arlington, Virginia: Key Building, 1200 Wilson Boulevard.

Arlington, Virginia: Arlington Center Building, 4600 Fairfax Drive.

Arlington, Virginia: Magazine Building, 1815 North Lynn Street.

Arlington, Virginia: Crystal Square 5, 1755 Jefferson Davis Highway.

Arlington, Virginia: Crystal Plaza No. 5, 2211 Jefferson Davis Highway.

Hillcrest Heights, Maryland: World Weather Building, 5200 Auth Road.

San Francisco, California: Embarcadero Center, Department of Housing and Urban Development.

Seattle, Washington: Park Place Building, 1200 Sixth Avenue.

Lakewood, Colorado: Department of Energy and Western Area Power Administration.

Chicago, Illinois: Railroad Retirement Board.

Los Angeles, California: Defense Contract Administration.

The original and one copy of the authorizing resolutions are enclosed.

Sincerely,

HAROLD T. (BIZZ) JOHNSON,
Chairman.

There was no objection.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. NELSON) is recognized for 5 minutes.

● Mr. NELSON. Mr. Speaker, due to official business in my district, I was not recorded on rollcall No. 571 on Friday, September 19. If I had been present, I would have voted "yes" on final passage of H.R. 85, the Comprehensive Oil Pollution Liability and Compensation Act.●

PRESIDENT CARTER'S REMARKS AT 100TH ANNIVERSARY DINNER OF POLISH NATIONAL ALLIANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, last Saturday evening I was present at the House of the White Eagle in Niles, Ill., where President Carter delivered a moving address to the 100th anniversary dinner of the Polish National Alliance. I am proud to be a longtime member of the alliance which is the largest ethnic fraternal organization in the United States. The 100-year history of the PNA is a story of enriching American life with enduring values of Polish culture, history, and tradition. The organization has never been more productive than it is now, which is no doubt due to the outstanding leadership qualities of its president, Aloysius A. Mazewski. President Carter's remarks were not only timely but, more important, were a powerful reaffirmation of his human rights policy. I would commend the President's adress to my colleagues:

REMARKS OF THE PRESIDENT TO THE 100TH ANNIVERSARY DINNER OF THE POLISH NATIONAL ALLIANCE

Thank you. President Mazewski, Mayor Byrne, Mayor Blaise, Congressman Dan Rostenkowski, John Berry, former Congressman Roman Pucinski, Francis Meehan, our new American Ambassador to Poland, ladies and gentlemen. I knew that when I welcomed the Pope to the White House for the first time in America's history and spoke Polish in my welcome that everybody was going to do what I did and take the glory away from me as being the only one to welcome someone in Polish language. It was easy for me to understand what he said. I could get the words very clear—Taft, Carter, Brzezinski—and I know that many of you were in about the same shape I was.

I do want to thank your great president, Al Mazewski for that fine introduction. In his capacity as president of both the Polish National Alliance and the Polish American Congress, Al is a frequent visitor at the White House. He knows how to get things done, he knows how to get re-elected.

So far he's in his fourth term—I'll settle for two. And I might say it is good to see him again, and also so many other leaders of the Polish-American community. I cannot recognize you all but there are a few that mean a lot to me and to this nation and I would like to recognize their presence.

I may repeat some of the things that the Governor and the Mayor have said but I come here in a unique role as President of our great country, representing almost 240 million Americans and I want to say those things because they're important to me, to our nation and perhaps to you.

I want to recognize the national president of the Polish Roman Catholic Union, Joseph Drobot—the president of the Falcons, Bernard Rogalski—the chairman of the board of Alliance College, Hilary Czaplicki—and the vice president in charge of the women's division of the Polish National Alliance, Mrs. Helen Szymanowicz. And also the president of the Polish Women's Alliance, Mrs. Helen Zielinski. The motto of her organization is, as you know, "The ideals of her women are the strength of a nation," and I agree with that statement. And someone else who would agree with that statement is the mayor of the world's second largest Polish city, Mayor Jane Byrne.

As you know, Chicago is also known as "the city of the big shoulders", and during the early years of Chicago and of our nation, the tough years of building, those were Polish shoulders, here and in many other cities in our country. And it would be a mistake for us to forget the tremendous contributions of artists and thinkers such as Nobel Laureates Henryk Sienkiewicz—right on, is that right?—and Madame Curie and Joseph Conrad, Arthur Rubenstein, Ignacy Paderewski—one that I can pronounce very easily, Hyman Rickover—who I might add, was my old boss, and of course, we already have mentioned Secretary of State Ed Muskie and Zbigniew Brzezinski, who are so close to me.

As you know, with Zbig in the White House and Ed Muskie in the State Department, I'm getting used to hearing jokes about the "bi-polar" foreign policy. As a matter of fact, with Clem Zablocki, Chairman of the House Foreign Affairs Committee, what we actually have is a "tri-polar" foreign policy—and other nations know that when we speak around the world, we speak with a deep commitment that's been characteristic of the Polish people down through the centuries, which is also the character of America—and I'm proud of that.

Danny Rostenkowski, as you know, is one of the great leaders of the Congress. I meet with him regularly as one of the small elite, extremely influential group, who has been elected by his own peer group, the other members of Congress, as their leaders. What we have in Washington now is a Polish-American contribution, unprecedented in modern history at least, which is a benefit to all Americans. It's been estimated that about 30 percent of all Americans can trace at least one of their ancestral lines back to Poland. And for generations, the Polish National Alliance has been the mortar that has held the Polish-American community together.

Your first meeting was held in Chicago 100 years ago and I'm honored as President, to join you in celebrating your 100th birthday—and I'm sure the second century will be just as successful as the first one.

As I've mentioned, I'm only the second President in history to appear before you. The first—William Howard Taft, as Al mentioned in passing, was a Republican. And I'm proud to be the Democrat who's evened the score.

I'm not going to talk politics tonight but I can't help noticing an interesting coincidence. When President Taft spoke to you, it was also an election year, 1912. It was also one Democratic candidate and two Republican candidates, just like this year and here's the coincidence that I particularly like—the Democrat won.

I'm sure you know your history but I'd like to point out this other part—The winner of that election—President Woodrow Wilson—played a decisive role in the history of Poland. He made Poland's freedom one of his Fourteen Points—and because of Woodrow Wilson's deep commitment, and because he accurately expressed the sentiments of that time and now of America, after more than a century of foreign oppression, Poland's existence as a state was restored.

I have a special feeling for the sons and daughters of Poland. Poland was the first foreign country that I ever visited as President of the United States. And I've been inspired by the fact that the Polish people have been among the earliest and most consistent fighters for human rights—not just for a year, not just for a hundred years, but for a thousand years.

The entire world was reminded of this fine heritage last year—when Pope John Paul II visited our country.

When Pope John Paul II came to the White House, it was the most exciting and gratifying day of my life. It was a beautiful occasion in our country.

What a tremendous impact this good and holy man had on all our people. His spirit, his kindness, his personal warmth, his radiance, conquered our hearts. That was a proud and special moment for all Americans. It was doubly so, I know, for Polish-Americans. Pope John Paul II, a faithful son of his nation and of his church, became a living symbol of Polish contributions toward our common values. The Pope is only the latest of the millions of Poles who have come to America—as visitors and as immigrants—bringing with them a love of human rights.

My second daughter-in-law lives in Pulaski County, Georgia—named after Count Casimir Pulaski, and everyone in my state and indeed the entire nation knows Thaddeus Kosciuszko was also—there with courage and commitment and the deepest sense of freedom to help America win our independence. What most people do not know is that Kosciuszko did a noble thing when he left this country. Just before he returned to Poland to fight for freedom in his own home land, he had a large sum of money coming to him from the Continental Congress. He left that money with Thomas Jefferson—with instructions to Jefferson to purchase the freedom of as many black slaves as possible. That great Polish general very simply believed that slavery was as repugnant here in America as in his own country.

Let me remind you of one more incident in the long history of Polish-Americans and human rights. Mayor Jane Byrne mentioned it in passing but I'd like to elaborate just for a moment. This goes back a long time—more than 350 years, but it's just as fresh as today's newspaper. In 1608, in what is now Virginia, Captain John Smith brought a small group of Polish glassmakers to Jamestown to set up his first factory in America. But the Polonians, as they were then called, were denied the rights of free citizens.

These proud people endured these indignities for eleven years. Then, finally in 1619, they staged the first sitdown strike in American history—not for money—not for money, but for freedom and for human rights.

Because of that the House of Burgesses, the first legislature in America, passed a bill giving the Polonians the right to vote and the other rights of free people. Think of that three and a half centuries ago and then think of the Gdansk workers of 1980. The spirit of the Jamestown Polonians is very much alive here in this room and also across the ocean and I'm thankful for it.

I was reviewing my notes on the way here early this evening from Camp David, and I thought about my being a Southerner and as a Southerner, knowing what it means to be the butt of jokes. It's especially revolting among great and proud people and I know you share my disgust with this ill-considered habit. For such remarks to be made about the home of the Pope, the home of modern and ancient freedom-fighters, the home of Nobel scientists, the home of the world's greatest musicians, the home of great statesmen there and here in our country, and of heroes who helped give birth to our nation is especially incomprehensible to me as President of this country. The joke is on those who are crude and ignorant enough to indulge in such slander and as an American and a Southerner and an admirer of the Polish-American people and the Polish people, I resent it very much.

The events of recent weeks in Poland have indeed inspired the world. During this period of exciting change in Poland the United States Government, advised very carefully by your own president here, has pursued a careful policy, a policy based on the need for a calm atmosphere, free from outside interference. We will not interfere in Poland's affairs and we expect that others will similarly respect the right of the Polish nation to make its own decisions and to resolve its problems on its own. It appears, and we pray God that it will be, on its way to a peaceful and a constructive resolution, but Poland's economic problems remain very severe. Besides the dislocations there have been terrible floods. Poland needs food. That's why I ordered quick approval of Poland's full request of $670 million in new credit guarantees for four million tons of American grain and other farm products. This is the largest such guarantee we have ever made.

And also, as you know, we have also, as you know, substantially increased Pacific Coast allocations of fish to Poland. These steps, urged by many of you here tonight, are intended to meet an urgent and a basic need for food. They are also intended to show our admiration for the dignified manner in which the entire Polish nation is conducting itself in this time of wrenching and positive change. And they are intended to demonstrate to the new leadership of Poland our desire for better relations. We want to strengthen even further the human ties of blood, kinship, and friendship that tie our two nations together.

The shipyard workers in Gdansk, the coal miners in Silesia, the store clerks and workers in Warsaw, and the authorities in Poland who responded to them have sent a powerful message around the world. Poland has reminded us that the desire for human rights and human dignity is universal. Freedom of thought and expression, freedom from arbitrary violence, freedom from violations of personal integrity, due process, participation in government, civil and political and economic rights, these are the very stuff of human rights.

And tonight I pledge to you this: As long as I am President this nation will stand for its beliefs, will stand for its ideals, will stand for its values. We will stand up for human rights.

For those who criticize our human rights policy and say it is not in our national interest, who say it hampers American foreign policy, I say, how can we—as free people—be indifferent to the fate of freedom elsewhere? How can we, as people with the most abundant economy on earth, be indifferent to the suffering of those elsewhere who lack food and health care and shelter? We cannot be indifferent. And we will not retreat one step from our human rights policy because human rights is the very soul of the identity of this nation.

We support human rights—yes—because our conscience demands it. But the fact is that our human rights policy—specifically and in general—also pragmatically serves our national interest.

Both our nation and the world are more secure when basic human rights are respected.

Our words and our actions have left their mark in many places on earth.

- Governments have released political prisoners, lessened political repression, eased economic misery. Hundreds of thousands of people have emigrated to freedom from the Soviet Union, from Cuba and elsewhere.
- Increased trade with African and Third World nations has resulted in part from the growing trust generated by America's human rights policy.

The Soviet Union may not like our human rights policy. Some generals and colonels and dictators in other countries may not like it. Those who tyrannize others will always fear the ideas of freedom and human dignity. But the people in the villages, the factory workers, those who farm the land and who populate the cities—they care and they applaud and they pray that Americans will never abandon them.

Here at home, our nation's commitment to fundamental values is strengthened by advancing human rights. When we advance human rights overseas and stand firmly for the principles on which our nation was founded, we help to guarantee quality, freedom and the respect for individual human beings here in the United States—the rights of all Americans, regardless of color or national origin or language or sex must be preserved. That commitment makes us proud to be Americans. And it makes us realize that America's foreign policy in the 1980's will always emanate from those basic values which do not change.

We cannot return to the days when we too often gave unquestioning support to repressive regimes.

We cannot return to the days when secrecy in foreign policy was used to hide policies and acts which the American people would never have supported had they known what was going on. We must continue to strengthen our defenses. Our military might must be unquestioned in order for us to keep our nation at peace.

We have had a steady increase in our commitment to a national defense every year since I became President and we will continue to do the same in the future. But we cannot sap our strength by returning to the days when some would advocate a military solution to every international disturbance. We've learned too much from the last 20 years. Too many American families have made too many sacrifices for their leaders to have their vision blurred by nostalgia for a world that no longer exists. I say to you that America's military might should be used to seek peace and to avoid war. The best weapons are those so formidable that they need never be fired in anger and the best soldier is one that's not killed in battle.

And I also say to you that America's human rights policy should be used to pierce the curtain of oppression, to throw the searchlight of the world's conscience on those who would smother the winds of freedom.

The cause of human rights is a slow process. Results are not always immediately evident. Progress is often painfully slow. Sometimes there are delays, sometimes disappointments, sometimes reverses. But when the cause finally triumphs and the winds of freedom blow, no power on earth can withstand their force.

We will stand up for human rights in Madrid at the European security conference and Al Mazewski will be there as a member of the American delegation to make sure my promise to you is kept.

I pledge to you that as long as America stands true to itself and as long as I'm President, our voice of liberty will not be stilled.

In closing let me say this: America is human rights. That's what America was meant to be. That's what America has meant to the rural people of Poland, to the potato farmers of Ireland, to the Jews of Eastern Europe, to all who were oppressed or seeking a better life, who built and peopled our country. Those inalienable human rights of life, liberty, and the pursuit of happiness, so eloquently written by Thomas Jefferson and honored by Kosciuszko and Pulaski so profoundly demonstrated by the Polish workers, they will endure. They will endure for a thousand years. Thank you very much.

TRIBUTE TO THE LATE HONORABLE JOSEPH EDWARD CASEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. O'NEILL) is recognized for 5 minutes.

● Mr. O'NEILL. Mr. Speaker, I join the many friends of former Congressman Joseph Casey, both in Washington and Massachusetts, who lament his untimely passing.

The Honorable Joseph Casey, a Representative from Massachusetts, graduated from the Law Department of Boston University, became a delegate to the Democratic National Convention, and then, was elected to the 74th Congress and to three succeeding Congresses. He was not a candidate for renomination in 1942 to the 78th Congress. Following his 4-year tenure of public service in the House of Representatives, Joseph Casey practiced law in Washington, D.C.

All of his colleagues in the House of Representatives on both sides of the aisle regarded Congressman Casey as a decent and honorable man of high moral character, who represented fully the interests of his constituents. The citizens of Massachusetts' Third Congressional District and the Nation were fortunate to have had such a distinguished and dedicated person in their service. He was a committed, honorable, and top-quality Member who was admired and well-respected by his colleagues.

Congressman Joseph Casey always practiced the principles of honor and decency; and he was always fair and just. Supportive of FDR's New Deal program, the legend Lend-Lease Act of 1941, Representative Casey worked hard on the rural electrification program, the minimum wage and hour law, social security, public housing, and other social welfare legislation.

I extend my sincere condolences to Joseph Casey's wife, Constance, and to the entire Casey family on his passing.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Rhode Island (Mr. BEARD) is recognized for 5 minutes.

● Mr. BEARD of Rhode Iisland. Mr. Speaker, on rollcall 380, for the adoption of the conference report on H.R. 7590, energy and water appropriations, I was unable to vote due to indisposition. But, had I been present, I would have voted for its passage.●

A TRIBUTE TO FORMER CONGRESSMAN ROBERT WINTHROP KEAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 5 minutes.

● Mr. ULLMAN. Mr. Speaker, it is with deep regret that we note the passing of one of our former colleagues in the House, who served with distinction on the Committee on Ways and Means for so many years. Robert Winthrop Kean of New Jersey was a Republican member of the committee in the 78th through the 85th Congresses. It was my privilege to serve with Mr. Kean in the House. While he preceded me in service on the Committee on Ways and Means, I am aware of his significant contributions to the tax, trade, and social security laws of this country during his long tenure on the committee.

Those of us who knew Robert Winthrop Kean join in mourning the loss of a dear friend and extend deepest sympathy to his family.●

REAGAN MISSTATED FACTS ON INFLATION FORECAST

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, in the Sunday night TV "debate" between Ronald Reagan and JOHN ANDERSON, one of the six journalists, Jane Bryant Quinn, asked each candidate whether he would publish a full 5-year economic projection showing what his various proposals really mean for inflation through 1985. ANDERSON agreed to do so. Reagan asserted that he had already put out all that information in a factsheet released 2 weeks before.

In an article in yesterday's Washington Post on page D–6 of the business section, Ms. Quinn reveals the astonishing fact that Mr. Reagan's statement was absolutely untrue. The factsheet does not contain an inflation forecast and, indeed, is silent on the subject of inflation.

Ms. Quinn points out that the format of the program prevented her from asking Mr. Reagan another question about this. As she says, "He was able to misspeak himself, and get away with it."

Ms. Quinn goes on to say in her article that Mr. Reagan did assert on Sunday that his factsheet assumed an inflation rate of 7.5 percent, which is the same projection for 1985 used by the Senate Budget Committee in its forecast. She then observes:

> If Reagan is right about the inflation projection, it means that his program will make no difference to inflation. He will do no better than the present policies being followed in Congress.

She also points out that one economist estimates that Reagan's proposal is more inflationary than Carter's, while another thinks it differs little from Carter's.

Ms. Quinn further points out that Alan Greenspan, himself one of Reagan's economic advisers, has described Reagan's economic factsheet as "not a forecast." Given the highly inflationary character of the so-called Reagan-Kemp-Roth tax-cut proposals, even as recently modified to respond to widespread criticism by economists, it is quite clear why Mr. Reagan has not supplied an inflation forecast. Any responsible forecast will have to show that the effect of such proposals is highly inflationary.

In any event, Mr. Reagan owes the country not only such a forecast but the supporting data that it is based on, so that it can be analyzed objectively.

He also owes the country an apology for misstating the facts in the TV debate.

The full text of Ms. Quinn's article follows these remarks:

[From the Washington Post, Sept. 23, 1980]

REAGAN ERRED IN DEBATE: NO 5-YEAR INFLATION FORECAST YET

(By Jane Bryant Quinn)

BALTIMORE.—Sunday night, I was one of six journalists asked to question two presidential candidates during the first debate. At least one of them got away with murder.

Under an agreement worked out between the League of Women Voters (which sponsored the debate) and the two candidates, we were each allowed one question with no follow-up.

This column is my follow-up.

I asked each candidate the same question.

Many economists worry that both their economic programs are inflationary, on the grounds that tax cuts—business or personal—will add to the budget deficit and raise interest rates. I asked each candidate whether he would publish a full, five-year economic projection showing what his various proposals really mean for inflation through 1985.

I asked for the projections within two weeks so that voters would have time to think about them and make a judgment before the election.

One candidate—John Anderson—agreed to "take up the challenge." I'll be letting you know what he says, and whether his proposals add up.

One candidate—Ronald Reagan—is, unfortunately, another story.

Reagan asserted that he already had put out all the information that I requested in a fact sheet released after his speech in Chicago two weeks ago. He said specifically that he had included the five-year inflation forecast that I've been missing.

That's not true. The fact sheet does not contain an inflation forecast. It predicts high economic growth, but is silent on inflation.

I couldn't help but shake my head negatively as he was answering. So he repeated his assertion: Yes, he said, the inflation forecast was there.

Either Reagan does not know what is in the almost unintelligibly brief economic projection that his people published two weeks ago, or he decided to misstate its contents under a questioning format that did not allow reporters to follow up on the candidates' answers.

Reagan's fact sheet also does not contain the real-life spending and budget forecasts I asked for—and which I think are essential in trying to judge whether his blend of big tax cuts, defense spending increases and unchanged government entitlement programs really combine with a balanced budget and less inflation.

He did assert on Sunday that his fact sheet assumed an inflation rate of 7.5 percent. That is the same inflation projection for 1985 used by the Senate Budget Committee, in its complete budget forecast.

If Reagan is right about that inflation projection, it means that his program will make no difference to inflation. He will do no better than the present policies being followed in Congress.

Michael Evans of Evans Economics Inc. recently put Reagan's tax-cut plan on his own computers and concluded that its average annual inflation effect from 1981 to 1985 would be 11.6 percent. But how do you test how Reagan gets from there back to 7.5 percent inflation if he won't publish the supporting numbers that he says he is using?

Evans put the probable inflation rate of Carter's tax-cut proposals a little higher—12 percent a year. But there's not a great deal of difference.

Otto Eckstein of Data Resources Inc., in Lexington, Mass., thinks that Reagan's program is actually more inflationary than Carter's—chiefly because Eckstein measures the effect of personal-income tax cuts in a different way than Evans. But Eckstein has not actually put Reagan's proposals on his computers because, in his opinion, there isn't enough data available to publish a good analysis.

Alan Greenspan, one of Reagan's economic advisers and head of the Council of Economic Advisers during the Ford administration, has described Reagan's economic fact sheet as "not a forecast." He said last week that the sheet was intended merely to show that Reagan's economic programs were "reducible to conventional budget procedures."

Exactly. Despite his claim in the debate Sunday that he has published the data I asked for, Reagan has not done so. The format of the program prevented my asking him another question about all this. He was able to misspeak himself, and get away with it.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mrs. HOLT (at the request of Mr. RHODES), for September 24 and 25, 1980, on account of official business.

Mr. MUSTO (at the request of Mr. WRIGHT), for September 24 and 25, 1980, on account of illness.

Mr. PEPPER (at the request of Mr. WRIGHT), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PURSELL) to revise and extend their remarks and include extraneous material:)

Mr. COLLINS of Texas, for 15 minutes, today.

(The following Members (at the request of Mr. BONKER) to revise and extend their remarks and include extraneous material:)

Mr. NELSON, for 5 minutes, today.
Mr. ROSTENKOWSKI, for 5 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. O'NEILL, for 5 minutes, today.
Mr. BEARD of Rhode Island, for 5 minutes, today.
Mr. ULLMAN, for 5 minutes, today.
Ms. HOLTZMAN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. PURSELL), and to include extraneous matter:)

Mr. RHODES.
Mr. WYDLER.
Mr. GINGRICH in three instances.
Mr. BURGENER.
Mr. BOB WILSON.
Mr. SHUSTER.
Mr. DANIEL B. CRANE.
Mr. COLLINS of Texas.
Mr. DORNAN.
Mr. YOUNG of Alaska in two instances.

(The following Members (at the request of Mr. BONKER) and to include extraneous matter:)

Mr. CONYERS.
Mr. ROE.
Mr. ROYBAL.
Mr. OTTINGER.
Mr. HAMILTON.
Mr. RATCHFORD.
Mr. BEDELL.
Mr. PEPPER.
Mr. MINETA.
Mr. PATTERSON.
Mr. HARKIN.
Mr. BARNARD.
Mr. MINISH.
Mr. BRINKLEY.
Mr. EDWARDS of California.
Mr. SANTINI.
Mr. GIBBONS.
Mr. CHAPPELL.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1135. An act to add certain lands to the Moapa Indian Reservation, and for other purposes; to the Committee on Interior and Insular Affairs; and

S. 3044. An act to designate the U.S. Federal Building in Hartford, Conn., as the "Abraham A. Ribicoff Federal Building"; to the Committee on Public Works and Transportation.

ENROLLED BILLS SIGNED

Mr. NEDZI, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3748. An act to provide for a uniform national 3 year statute of limitations in actions to recover damages for personal injury or death, arising out of a maritime tort, and for other purposes;

H.R. 5164. An act to amend certain inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes; and

H.R. 3242. An act to establish a Towing Safety Advisory Committee in the Department of Transportation.

BILLS AND A JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. NEDZI, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills and a joint resolution of the House of the following titles:

H.R. 3904. An act to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployer plans, and for other purposes;

H.R. 7825. An act to establish the Ice Age National Scenic Trail, and for other purposes; and

H.J. Res. 551. Joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the 7 calendar days beginning October 5, 1980, as "National Port Week," and for other purposes.

ADJOURNMENT

Mr. BONKER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 27 minutes p.m.), the House adjourned until tomorrow, Thursday, September 25, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5364. A letter from the Acting Assistant Secretary of Defense (Comptroller), transmitting a list of contract award dates for the period September 15 through December 15, 1980, pursuant to 10 U.S.C. 139; to the Committee on Armed Services.

5365. A letter from the Assistant Secretary of the Air Force (Research, Development, and Logistics), transmitting notice of the proposed conversion to contractor performance of the military housing maintenance function at Lowry Air Force Base, Colo., pursuant to section 806 of Public Law 96-107; to the Committee on Armed Services.

5366. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of certain defense equipment to the Philippines (transmittal No. 80-112), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

5367. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of certain defense equipment to Thailand (transmittal No. 80-113), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

5368. A letter from the President of the United States, transmitting a report on progress toward the conclusion of a negotiated solution of the Cyprus problem, pursuant to section 620C(c) of the Foreign Assistance Act of 1961, as amended (H. Doc. No. 96-371); to the Committee on Foreign Affairs and ordered to be printed.

5369. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Dr. Robert A. Frosch, rank of Ambassador during his tenure as head of the U.S. delegation to both the preparatory meetings and the subsequent United Nations Outer Space Conference and related meetings, and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

5370. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment to Kenya (Transmittal No. 80-111), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

5371. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment to the Philippines (Transmittal No 80-112), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

5372. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment to Thailand (Transmittal No. 80-113), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

5373. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment and services to Sweden (Transmittal No. 80-114), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

5374. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Kuwait (Transmittal No. 80-116), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

5375. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment and services to Oman (Transmittal No. 80-117), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

5376. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment to Turkey (Transmittal No. 80-120), pursuant to section 36(d) of the Arms Export Control Act, together with certification that the sale is consistent with the principles contained in section 620C (b) of the Foreign Assistance Act of 1961, as amended, pursuant to section 620C(d) of the act; to the Committee on Foreign Affairs.

5377. A letter from the Secretary of Health and Human Services, transmitting a report on the implementation and effectiveness of title XX of the Social Security Act, as amended, pursuant to section 4 of Public Law 93-647; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BOLLING: Committee on Rules. House Resolution 792. Resolution providing for the consideration of H.R. 7548. A bill to amend the Farm Credit Act of 1971 to permit farm credit system institutions to improve their services to borrowers, and for other purposes (Rept. No. 96-1373). Referred to the House Calendar.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce, H.R. 4892. A bill to repeal section 506 of the Communications Act of 1934; with amendment (Rept. No. 96-1378). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 6228. A bill to amend the Communications Act of 1934 to provide that the Federal Communications Commission, in considering applications for the renewal of broadcasting station licenses, shall not take into account any ownership interests of the applicant in other broadcasting stations or in other communications media, and for other purposes; with amendment (Rept. No. 96-1379). Referred to the Committee of the Whole House on the State of the Union.

Mr. WOLFF: Select Committee on Narcotics Abuse and Control. Recommendation for continued House oversight of drug-abuse problems (Rept. No. 96-1380). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. H.R. 7757. A bill to provide grants to the 1890 land-grant colleges, including Tuskegee Institute, in the purchase of equipment and land, and the planning, construction, alteration, or renovation of buildings to strengthen their capacity to conduct food and agricultural research; with amendments (Rept. No. 96-1381). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 6390. A bill to amend the Atomic Energy Act of 1954, and for other purposes; with amendments (Rept. No. 96-1382, pt. 1). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6390. A bill to amend the Atomic Energy Act of 1954, and for other purposes; with amendments (Rept. No. 96-1382, pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. H.R. 6593. A bill to regulate the feeding of garbage to swine; with amendment (Rept. No. 96-1383). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. S. 2043. A bill to provide for research and coordination of research in the diagnosis, prevention, and control of malignant tumors in domestic animals, poultry, and wildlife; with amendment (Rept. No. 96-1384). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. H.R. 5326. A bill to authorize the Secretary of

Agriculture to convey certain Government-owned property in the Louisiana National Forest to the State of Louisiana in exchange for certain property at Camp Livingston, La.; with amendments (Rept. No. 96-1385). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. H.R. 6257. A bill to authorize the Secretary of Agriculture to convey certain national forest system lands, and for other purposes; with amendment (Rept. No. 96-1386, pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. BENNETT: Committee on Standards of Official Conduct. House Resolution 794. Resolution to expel Representative Michael O. Myers (Rept. No. 96-1387). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DANIELSON: Committee on the Judiciary. H.R. 4032. A bill for the relief of Mahmud Ali Khan alias Fazal Dad (Rept. No. 86-1374). Referred to the Committee of the Whole House.

Mr. DANIELSON: Committee on the Judiciary. H.R. 5067. A bill for the relief of Dr. Toomas Eisler and Carmen Elizabeth Eisler (Rept. No. 96-1375). Referred to the Committee of the Whole House.

Mr. DANIELSON: Committee on the Judiciary. H.R. 927. A bill for the relief of Dr. Ka Chun Wong, and his wife, Marilyn Wong (Rept. No. 96-1376). Referred to the Committee of the Whole House.

Mr. DANIELSON: Committee on the Judiciary. H.R. 7764. A bill for the relief of Dr. Eric George Six, Ann Elizabeth Six, and Karen Elizabeth Mary Six; with amendments (Rept. No. 96-1377). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WHITE (for himself, Mrs. Holt, Mr. Price, Mr. Nedzi, Mr. Won Pat, and Mr. Kastenmeier):

H.R. 8188. A bill to amend chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), to revise the laws governing the U.S. Court of Military Appeals, to provide for review of decisions of such court by the Supreme Court, and for other purposes; to the Committee on Armed Services.

By Mr. WHITE (for himself, Mrs. Holt, Mr. Montgomery, Mr. Kazen, Mr. Won Pat, Mr. Nichols, and Mr. Hillis):

H.R. 8189. A bill to amend chapter 55 of title 10, United States Code, to authorize the provision of full dental care benefits to dependents of members of the uniformed services on active duty under the civilian health and medical program of the uniformed services and in facilities of the uniformed services; to the Committee on Armed Services.

By Mr. ANNUNZIO:

H.R. 8190. A bill to amend the Truth in Lending Act to encourage cash discounts, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BENNETT:

H.R. 8191. A bill to amend the urban development action grant program with respect to determining the level of physical and economic distress of certain urban counties; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BRODHEAD:

H.R. 8192. A bill to amend the Internal Revenue Code of 1954 to make the investment tax credit for motor vehicle manufacturing property refundable; to the Committee on Ways and Means.

By Mr. DORNAN:

H.R. 8193. A bill to promote the more effective use and development of the Nation's renewable energy resources by broadening and extending the Solar Heating and Cooling Demonstration Act of 1974, by improving the administration of Federal energy-related activities, and by encouraging geothermal energy development and energy conservation; jointly, to the Committee on Science and Technology and Ways and Means.

By Mr. EDWARDS of Oklahoma:

H.R. 8194. A bill to amend the Internal Revenue Code of 1954 to repeal the crude oil windfall profit tax on tier 2 oil and tier 3 oil, to phase out the tax beginning October 1, 1981, and to provide that royalty owners shall be exempt from the tax; to the Committee on Ways and Means.

By Mr. FLORIO (for himself, Mr. Staggers, Mr. Madigan, Ms. Mikulski, Mr. Matsui, Mr. Murphy of New York, and Mr. Lee):

H.R. 8195. A bill to amend the Railroad Retirement Act of 1974 to extend certain cost-of-living increases and to place financial interchange on current basis; to the Committee on Interstate and Foreign Commerce.

By Mr. GINN:

H.R. 8196. A bill to provide compensation for certain facilities on Cumberland Island National Seashore; to the Committee on Interior and Insular Affairs.

By Mr. HEFTEL (for himself, Mr. Jeffords, and Mr. Glickman):

H.R. 8197. A bill to provide assistance including, but not limited to, technical and financial support to domestic manufacturers of solar photovoltaic energy systems to facilitate the development and demonstration of such systems in foreign countries, and for other purposes; jointly, to the Committees on Foreign Affairs and Science and Technology.

By Mr. MARTIN:

H.R. 8198. A bill to amend section 355 of the Revised Statutes of the United States to authorize the head of any agency of the United States to retrocede to a State concurrent jurisdiction over any lands or interests therein over which the United States has previously acquired exclusive jurisdiction; jointly, to the Committees on Interior and Insular Affairs and Public Works and Transportation.

By Mr. MATTOX:

H.R. 8199. A bill to amend the Internal Revenue Code of 1954 to provide a 4-percent refundable income tax credit for individuals, a permanent refundable income tax credit for social security taxes, relief from the marriage penalty, and a capital cost recovery system for investment in plant and equipment; to the Committee on Ways and Means.

By Mr. MINISH:

H.R. 8200. A bill to require the Secretary of the Interior to conduct a study to examine measures for the protection of the resources of the Hackensack Meadowlands District in the State of New Jersey and to determine whether such area should be designated as a unit of the national park system; to the Committee on Interior and Insular Affairs.

By Mr. MOORE:

H.R. 8201. A bill to amend the Internal Revenue Code of 1954 to increase the allowable contributions to individual retirement plans and to allow employees a deduction for savings contributions to employer retirement plans or to individual retirement accounts; to the Committee on Ways and Means.

By Mr. RODINO (for himself and Mr. McClory):

H.R. 8202. A bill to continue in effect any authority provided under the Department of Justice Appropriation Authorization Act, Fiscal Year 1980, for a certain period; to the Committee on the Judiciary.

By Mr. ROE:

H.R. 8203. A bill to provide for the establishment of the Tallgrass Prairie National Reserve in the States of Kansas and Oklahoma, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ROSE (for himself, Mr. Fountain, Mr. Jones of North Carolina, Mr. Whitley, and Mr. Andrews of North Carolina.

H.R. 8204. A bill to amend the U.S. Grain Standards Act; to the Committee on Agriculture.

By Mrs. SNOWE:

H.R. 8205. A bill to encourage public participation in rulemaking by Federal agencies; to the Committee on the Judiciary.

By Mr. STAGGERS:

H.R. 8206. A bill to amend the Communications Act of 1934 to establish certain limitations relating to the ownership of cable television franchises; to the Committee on Interstate and Foreign Commerce.

By Mr. STAGGERS (for himself, Mr. Dingell, Mr. Ottinger, Mr. Moffett, Mr. Wirth, Mr. Markey, Mr. Swift, Mr. Maguire, Mr. Gore, Ms. Mikulski, Mr. Eckhardt, and Mr. Ullman):

H.R. 8207. A bill to authorize appropriations for the energy conservation program for schools and hospitals and for the energy conservation program for buildings owned by units of local government and public care institutions, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. VOLKMER:

H.R. 8208. A bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; to the Committee on Public Works and Transportation.

By Mr. THOMPSON (for himself, Mr. Mineta, and Mr. Conte):

H.J. Res. 615. Joint resolution providing for appointment of David C. Acheson as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on House Administration.

By Mrs. HECKLER:

H.J. Res. 616. Joint resolution designating November 28, 1980 as "National Lifeliner Day"; to the Committee on Post Office and Civil Service.

By Mr. BOLLING:

H. Res. 792. Resolution providing for the consideration of the bill H.R. 7548 to amend the Farm Credit Act of 1971 to permit farm credit system institutions to improve their services to borrowers, and for other purposes (House Calendar No. 413).

By Mr. MOTTL:

H. Res. 793. Resolution expressing the sense of the House of Representatives that the Secretary of Health and Human Services should not approve certain portions of the proposed model State adoption legislation prepared under the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978; to the Committee on Education and Labor.

By Mr. BENNETT:

H. Res. 794. Resolution to expel Representative Michael O. Myers (House Calendar No. 414).

PETITIONS

Under clause 4 of rule XXII,

436. The SPEAKER presented a petition of the Board of Trustees, Montana Legal Services Association, Helena, Mont., relative to continuation of the Legal Services Corporation, which was referred to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. AKAKA presented a bill (H.R. 8209) for the relief of John Liuaki Boteilho, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 54: Mr. Burgener.

H.R. 4653: Mr. Albosta.

H.R. 5062: Mr. Hawkins.

H.R. 5225: Mr. Hefner.

H.R. 6617: Mr. Lowry.

H.R. 6722: Mr. Fowler and Mr. Stangeland.

H.R. 7050: Mr. Kindness and Mr. Oberstar.

H.R. 7287: Mr. Guarini.

H.R. 7445: Mr. Jeffries and Mr. Spence.

H.R. 7533: Mr. Vander Jagt.

H.R. 7793: Mr. Ottinger.

H.R. 7796: Mr. Spence.

H.R. 7959: Mr. Lagomarsino, Mr. Derwinski, Mr. Clausen, Mr. Frenzel, and Mr. Lungren.

H.R. 8080: Mr. Pease, Mr. Lehman, Mr. Barnes, Mr. Bedell, and Mr. Wolpe.

H.R. 8148: Mr. Holland.

H.R. 8169: Mr. Burgener, Mr. Whitehurst, Mr. Rahall, and Mr. Kogovsek.

H.J. Res. 488: Mr. McDade and Mr. Forsythe.

H.J. Res. 511: Mr. D'Amours, Mr. Solomon, Mr. Roybal, Mr. Pritchard, Mr. Barnard, Mr. Beard of Tennessee, Mr. Pursell, Mr. Rodino, Mr. Loeffler, Mr. Moore, Mr. Preyer, Mr. Nowak, Mr. Nolan, Mr. Pickle, Mr. Gramm, Mr. Blanchard, Mr. Stenholm, Mr. Andrews of North Dakota, Mr. John L. Burton, Mr. Maguire, Mr. Jeffords, Mr. Clausen, Mr. Natcher, Mr. Abdnor, Mr. Lowry, Ms. Ferraro, Mr. Snyder, Mr. Levitas, Mr. Staggers, Mr. Roberts, Mr. Beilenson, Mr. Ullman, and Mr. Corman.

H.J. Res. 596: Mr. St Germain, Mr. Rhodes, Mr. Lloyd, Mr. Rousselot, Mr. Corcoran, Mr. Seiberling, Mr. Forsythe, Mr. Solomon, Mr. Clinger, Mr. Spence, Mr. Jeffords, Mr. Guarini, Mr. Simon, Mr. Bowen, Mr. Stewart, Mr. Stack, Mr. Lederer, Mr. Walgren, Mr. Williams of Ohio, Mr. Pepper, Mr. Nowak, Mr. Thomas, Mr. Stenholm, Mr. Montgomery, Mr. Yatron, Mr. Wirth, Mr. Albosta, Mr. LaFalce, Mr. Won Pat, Mr. Abdnor, Mr. Marriott, Mr. Roth, Mr. Vento, Mr. Mollohan, Mr. Walker, Mr. Ashley, Mr. Alexander, Mr. McHugh, Mr. Addabbo, and Mr. Andrews of North Carolina.

H. Con. Res. 409: Mr. Neal, Mr. Moffett, Mr. Kramer, Mr. Pease, Mr. Stratton, and Mr. Bedell.

H. Con. Res. 434: Mr. Oberstar, Mr. Waxman, Mr. Hanley, Mr. Weaver, Mr. Pepper, Mr. Hollenbeck, Mr. Maguire, Mr. AuCoin, Mr. Horton, Mr. Lehman, Mr. Drinan, Mr. Hughes, Mrs. Fenwick, Mr. Dornan, Mr. Fish, Mr. Stack, Mr. Ottinger, Mr. Ratchford, Mr. Lent, Mr. Frost, Mr. Ertel, Mr. Edgar, Mr. Downey, Mr. Murphy of Pennsylvania, Mr. Blanchard, Mr. Wirth, Mr. Forsythe, Mr. Kemp, Mr. Mavroules, Mr. Porter, Mr. Dougherty, Mr. Fazio, Mr. Whitehurst, Mr. Corman, Mr. Beilenson, Mr. Edwards of California, Mr. Richmond, Mr. Biaggi, Mr. Stark, Mr. Rodino, Mr. Cleveland, Mr. Lungren, Mr. Peyser, Mr. Conyers, Mr. Atkinson, Mr. Cotter, Mr. Green, Mr. Murphy of New York, Mr. Phillip Burton, Mr. Kildee, Ms. Mikulski, Mr. Guarini, Mr. Scheuer, Mr. Ford of Tennessee, Mr. Matsui, Mr. Garcia, and Mr. Gradison.

PETITIONS, ETC.

Under clause 1 of rule XXII,

538. The SPEAKER presented a memorial of the Legislature of the State of California, relative to commercial whaling, which was referred to the Committee on Foreign Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4370

By Mr. AMBRO:

—Page 11, after line 17, insert the following new subsection:

(h) No person may be issued a certificate under this section for construction or extension of a coal pipeline unless, before the issuance of the certificate, each State which has a legal interest in the ground water to be used and beneath whose lands any part of the ground water aquifer constituting any part of the source of the ground water to be used lies shall consent in writing to the use of its water before the issuance of the certificate.

Redesignate the subsequent subsection of section 101 accordingly.

H.R. 5615

By Mr. WEISS:

—On page 3, strike out lines 11 through 22, inclusive.

H.R. 6979

By Mr. AKAKA:

—On page 5, line 7, after Islands, insert subsection:

(4) Immediately after paragraph (5) insert the following new paragraph:

"(iv) Any transportation, conversion, treatment, transfer, or storage of alternative energy resources, including but not limited to those for ocean thermal and wind energy conversion systems, biomass, municipal waste, geothermal power, and solar energy."

—On page 11, line 23, after "coal." insert "or alternative energy sources.".

On page 12, line 14 after "storage;" insert "the number, capacity, and generated employment of alternative energy facilities and activities; and such other relevant factors deemed appropriate by the Secretary.".

H.R. 7112

By Mr. BOLAND:

—Page 3, line 13, immediately before the period insert "and, notwithstanding any other provision of this title, no unit of local government shall be entitled to an allocation calculated on the basis of a funding level in excess of the amount appropriated for the applicable entitlement period".

Page 4, line 7, strike "authorized" and insert in lieu thereof "appropriated".

Page 4, line 9, strike "authorized" and insert in lieu thereof "appropriated".

—Page 3, strike out line 6 and everything that follows through line 21 and insert in lieu thereof the following:

"(b) Authorization of Appropriations for Payments to Local Governments.—

"(1) Authorization for entitlements.—There are authorized to be appropriated to the Trust Fund $4,566,700,000 to pay the entitlements of units of local government hereinafter provided for the entitlement period beginning October 1, 1980, and ending September 30, 1981.

"(2) Authorization for allocations.—There are authorized to be appropriated to the Trust Fund $4,566,700,000 to make allocations to units of local government as hereinafter provided for each of the entitlement periods—

"(A) beginning October 1, 1981, and ending September 30, 1982; and

"(B) beginning October 1, 1982, and ending September 30, 1983.

Page 4, strike out line 3 and everything that follows through line 12 and insert in lieu thereof the following:

Sec. 106. Allocation Among States of Funds for Local Government.

"(a) In General.—

"(1) Entitlements based on authorization.—There shall be allocated an entitlement to each State for the entitlement period beginning on October 1, 1980, and ending on September 30, 1981, out of amounts authorized under section 105(b)(1) for that entitlement period, an amount which bears the same ratio to the amount authorized under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b).

"(2) Allocation based on appropriation.—There shall be allocated an amount to each State for the entitlement period beginning on or after October 1, 1981, out of amounts appropriated under section 105(b)(2) for that entitlement period, an amount which bears the same ratio to the amount appropriated under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b).

By Mr. ENGLISH:

—Page 4, after line 2, insert the following new subsection:

"(d) Prohibition on Use of Funds for Abortions.—None of the funds appropriated pursuant to this section shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

By Mr. GRAMM:

—Page 16, immediately before line 1 insert the following new section (and redesignate the succeeding sections accordingly):

Sec. 104. Exclusion of Certain Taxes from Tax Effort Computations.

Section 109(c)(2)(A) of the State and Local Fiscal Assistance Act of 1972 is amended to read as follows:

"(A) Taxes taken into account.—The State and local taxes taken into account under paragraph (1) are—

"(i) the compulsory contributions exacted by the State (or by any unit of local government or other political subdivision of the State) for public purposes (other than employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay), as such contributions are determined by the Bureau of the Census for general statistical purposes,

"(ii) adjusted, to the extent practicable (under regulations prescribed by the Secretary), by excluding an amount equal to that portion of such compulsory contributions which is properly allocable to the fraction of any tax the burden of which is not borne by the residents of such State.".

By Mr. LEVITAS:

(Amendment to the amendment offered by Mr. Wydler.)

—Immediately before the period at the end of section 107 as proposed to be inserted on page 6, after line 3, by the amendment of the gentleman from New York, insert the following: ", except that (1) no payment of any such allocation shall be made to any State unless the Secretary determines (in accordance with regulations prescribed by the Secretary) that such State has declined to receive or has refunded to the United States, from funds otherwise available to such State under any Federal categorical grant program (as identified in such regulations), an amount equal to such allocation, and (2) any funds which would otherwise be paid to a State but for clause (1) shall be transferred by the Secretary from the Trust Fund to the general fund of the Treasury in accordance with section 105(d)".

By Mr. PANETTA:

—Page 35, after line 22 insert the following new subsection:

"(d) No Payments to States Receiving General Revenue Sharing Payments.—Notwithstanding subsection (a)(1), no payment shall be made to any State government with respect to any eligible calendar quarter which falls within an entitlement period (as defined in section 141(b) of this Act) for which there has been an appropriation of funds for payments to State governments under title I of this Act. Any funds which would, but for the preceding sentence, he paid o State governments shall be transferred to the general fund of the Treasury.

By Mr. ROSENTHAL:

—Page 18, strike out line 10 and everything that follows through line 14 and insert in lieu thereof the following: "shall not exceed the product of the economic decline factor for such quarter multiplied by $10,000,000.".

S. 885

By Mr. CARR:

(Amendment to the amendment in the nature of a substitute.)

—Page 53, line 15, strike the period, add a colon and the following: "*Provided*, That the acquisition of a major resource as defined in section 3(12) shall be limited to 25 per centum of planned project capability.".

—Page 53, line 15, strike the period, add a colon and the following: "*Provided*, That the acquisition of a major resource as defined in section 3(12) shall be limited to 30 per centum of planned project capability.".

—Page 53, line 15, strike the period, add a colon and the following: "*Provided*, That the acquisition of a major resource as defined in section 3(12) shall be limited to 40 per centum of planned project capability.".

—Page 47, line 2, strike the period, add a colon and the following: "*Provided*, That the Administrator shall no longer offer his direct service industrial customers availability credits for electric power interruptions.".

By Mr. MILLER of California:

(Amendment to the amendment in the nature of a substitute.)

—Page 58, line 19, strike from "Act" through line 20 and insert in lieu the following: "legislation reported from the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.".

—Page 85, line 16, strike after "facility" and through line 17 and insert in lieu the following: "not utilizing renewable resources.".

EXTENSIONS OF REMARKS

BLUNT TALK ABOUT WAR, THE MILITARY, AND NATIONAL SURVIVAL

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. GINGRICH. Mr. Speaker, one of the weaknesses of both those of us who favor preparedness and of conservatives in general is that we are so trapped in concern about defense and so dedicated to convincing the country that it needs to do and spend more on defense that, as a result, we tend to have a very blind approach to the dialog. We tend to say that anyone who raises fundamental questions about the Pentagon or the Army is either not on our side or not concerned about our survival or is a liberal or—whatever.

However, we must be more openminded.

Around 500 B.C., Sun Tzu said, "Know the enemy and the battle is half won. Know yourself and the battle is yours." Clausewitz, 2,300 years later, said, "War is an extension of politics by other means." One of the major problems in this country is that we are not sure about either the enemy or ourself. Let me suggest, to start with, that the enemy is not communism or the Soviet Union. Rather, the enemy is chaos, violence, and the danger of outside forces imposing their will on the United States.

We have to be much broader in our thinking about the nature of human activity on this planet. There is no reason to presume that this month's alliance is going to be next year's alliance. When it comes to world politics, the only constant is change. For example, in 1903-04, there was a dramatic shift in the relationship between Germany, France, Russia, Britain, and Japan. And from 1939 through 1950 we saw the Chinese-American alliance against Japan become the Japanese-American alliance against China.

In a space of less than 2 years, 1939-41, we saw the Russians switch twice: once to side with the Nazis and second to fight them. We saw France go through a whole series of dances, first being a strong supporter of the Eastern states in Europe, then abandoning most of them, and finally fighting the Germans. We then saw France as an ally of the Germans in terms of Vichy and as an enemy of the Germans in terms of overseas and underground resistance forces.

We are currently allied with the People's Republic of China—not officially but in effect—against the Soviet Union. Our allies are Japan and Germany against the Russians. There is no reason to believe that by 1990 that will be true. We assume it will be true. We assume that we and the Common Market will continue to have joint interests, but that is not necessarily so. We are in fact in a dangerous and unpredictable world. There is no reason for us to assume that the history we have yet to make will be markedly different from what has gone before.

I would suggest to you that our long-range foreign policy goals are very simple. They are ultimately to create a pax humanica, or a human peace. We cannot impose an American peace, nor permit a Soviet peace. We must find ways for the people of this planet to live together. In the interim—and that may be a very long interim, of 200 to 500 years—our primary goal in foreign policy is very simple: It is our intention to survive no matter what the level of chaos on the rest of this planet. We have to state that, as a necessarily selfish and explicit American goal, and then proceed from that to other foreign policy objectives. I think that, at a military level, that broad goal breaks down into these specific goals:

First, avoid strategic nuclear war if possible. That seems fairly obvious, but there are times we tend to forget it.

Second, survive a strategic nuclear war if it occurs. We are rapidly becoming a nonsurvivable society in the event of a strategic nuclear war. The Soviet Union is slowly becoming a survivable society in a nuclear war. That has implications for us that are horrendous. It means that we need, for example, a massive increase in civil defense, a rethinking of the Army's role in domestic survival, deciding how to restore order in a postnuclear environment, and it may conceivably mean universal military training. I am not suggesting those as immediate policies, but they are questions that we have rigorously avoided thinking about for most of my lifetime.

Third, below the strategic level, we need to have the option to fight either a tactical, nuclear or chemical war at the theater level of our choice. We also need the ability to survive a tactical, nuclear, or chemical war should the Soviets or any other power decide to begin one. A tactical nuclear war, as the French indicated by their July announcement of intent to build a neutron bomb, is not a Soviet-American monopoly.

We specifically must drop the concept of spasm wars and drop the concept of a firebreak, meaning the notion that you can fight big conventional wars up to the magical point beyond which you are in a nuclear environment. It is very clear that Soviet doctrine involves a nonfirebreak concept, and that they will use whatever level of force is necessary in that theater to achieve their goals. We are severely crippled by our refusal, intellectually, to recognize that that reality, and I would suggest to you that technology has outrun our thinking.

Fourth, our fourth goal, should we not engage in chemical or tactical nuclear war, is to win any large conventional war in two stages: First, survive an initial surge; and, second, through planned mobilization, win a general conventional war. We are incapable of surviving a surge at the present time and we are even more incapable of undertaking a general mobilization.

Fifth, we must have adequate professional forces to impose our will on the Third World. Let me repeat that, because it is a very unfashionable thing to say. We must have adequate professional forces to impose our will on the Third World. I am willing to say that, as a matter of American doctrine, that there are those moments in life when we are going to disagree with other people, and it is my belief that when we fundamentally disagree with somebody we should win.

Sixth, we need to develop a paramilitary capability to contain terrorism, whether it is the Irish Republican Army, the PLO, hijacking, or Qadafi's sending of Libyan assassins into a country to kill political refugees. There is nothing new in terrorist activities and there is nothing new in random lawlessness. In some ways, the British suppression of piracy in the 1720's is a model of appropriate behavior. In other words, to use an American example, so is sending the marines to Tripoli. I am not suggesting random interventionism. I am suggesting that lawlessness is best met with adequate force to insure that people get the message that one should not act lawlessly.

Seventh, it is a reality of this planet that the Soviet Union has mounted the largest systematic penetration of Western society that I am aware of in history. That penetration also goes on in the Third World. We are currently incapable of either monitoring or matching that penetration. We are in a cold war and, unfortunately, it does not have very many James Bonds, and it does not have very many beautiful women. It has an awful lot of drudgery, a fair amount of random violence, and a great deal of systematic effort. We are, frankly, not even competitive in that zone.

Everything I just said has nothing new to it. That list of priorities could be developed using different words in different ways throughout history. In fact, I would suggest to you that nothing new has happened in military affairs in terms of the art of war since

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Genghis Khan invented the theater-wide blitzkrieg in the 13th century starting in north China. I would suggest to you that not until 1941, when the Germans invaded Russia, did we see any operation whose scale of complexity matched the Mongol invasion of Europe.

The Mongols threw 150,000 men organized into units of 10,000 who were organized into single units of 1,000, who were broken down into units of hundreds, and who maneuvered in squads of tens. They used three columns. One invaded Poland, one invaded Hungary, and one invaded Yugoslavia. This was done simultaneously. They maintained messenger service across the entire continent. They maneuvered during the daytime by banner and during the nighttime by rocket and lancer. They won as far as they wanted to and then left, largely because Genghis Khan's son died and they had a political upheaval at home.

I would suggest to you that—and I am quoting in part from a very interesting study of the Mongol Army entitled "The Doubled Horseman," which was a term used by the Europeans to describe them—there was nothing significant in Wehrmacht doctrine in World War II that any Mongol general would have found to be unusual.

The greatest single weakness in the U.S. Army today is lack of knowledge of the art of war as a historical field and the lack of adequate doctrine. It is a greater danger and a greater weakness than our current manpower or equipment problems. You can ultimately acquire equipment and you can ultimately acquire manpower at nonsenior officer levels if you have a trained officer and NCO cadre and if you have an adequate doctrine to train those people into.

The greatest single mobilization, I think, in the history of the world is the 1939-1944 mobilization of the U.S. Army. It is no wonder that Peter Drucker, the management consultant, says the greatest manager on the planet in the 20th century was George Marshall. The key to that mobilization was that trained leaders and doctrine were available.

MacArthur, as the Chief of Staff, fought throughout the Depression to preserve the cadre, he gave up tanks, he gave up guns, he gave up equipment, and he deliberately argued over and over with the Congress that he had to keep a hard core of officers and NCO's if the institutional knowledge was going to survive.

The officers who were field grade in 1939 had been trained constantly. I am not talking about the 1½ years at Leavenworth. I am talking about an Army that trusted its professional cadres to take their spare time to do professional things and thereby gave them spare time deliberately, instead of making phony work or paperwork or creating a large managerial staff that did not have time to think. Those officers, and I will cite the example of Dwight Eisenhower, were rather thoroughly trained.

People wondered in later years why a genial staff officer, who smiled a lot and was referred to as "Ike," was successful. Well, not only did he run, in 1917 and 1918, the U.S. Army's first armor training camp, Camp Cole at Gettysburg, but in 1920 and 1921 he and a man named George Patton authored essays in armored warfare which were published in the infantry journal. Later on Eisenhower wrote a section in the Chief of Staff's report for 1935 that is as good a description of the blitzkrieg and mobile warfare as you will find in American literature. That was about the same time DeGaulle, Guderian, and others were writing the same thing.

Eisenhower, on going to the Philippines with MacArthur, learned to fly and became a pilot because he understood that aircraft would be important in the next war. His good friend, George Patton was taking his vacations in France and Belgium in order to tour the area that he presumed he would some day fight on. When the war came, they were ready. They had the time, they were disciplined, they had educated themselves.

Today we have a largely bureaucratic peacetime Army with a doctrine that, in many ways, avoids key questions and violates the basic rules of the art of war. This is not in any sense an attack on the Army. It is a very tough thing to say but I think it is something the Army has to face up to. I say it lovingly. I grew up in the Army. I think the Army is absolutely essential to the survival of this society and I think these issues have got to be confronted.

I think we suffer from having won World War II and then from being able to avoid the consequences of errors in the period since World War II. All of you who have been associated with the Army are familiar with problems such as getting your ticket punched in Vietnam, such as avoiding real responsibility and the rise of staff officers who may or may not have ever had any significant responsibilities for which they were punished when they failed. There is no comparison between the so-called staff officers of World War II, all of whom comprised a very thin Army, which was very undermanned, where all had massive responsibilities. In fact, back in 1941 and 1942 George Marshall retired a great number of men that he felt could not make it.

I think you have to confront the possibility that we face a different set of problems and that we are in some ways crippled by our own successes. The greatest Soviet advantage today is not manpower or equipment. It is that their doctrine is in many ways intellectually more sophisticated, it is better grounded and better adapted to modern technology, and it is more realistic than ours. I will simply raise some doctrinal suggestions and challenge some current assumptions. Let me emphasize that these are ideas; these are not policy proposals and I am raising them primarily to be thought provoking. After all, in my precongressional life I was a college teacher and college teachers have sort of a habit of trying to be provocative.

The defensive attitude of the FM 100-5 is a disaster. I do not know of any example in modern history where you can have a military that is trained primarily to fight a defensive war and not end up with the end result of a football team that decides to play four quarters of defense. If you are real lucky, what happens is that you end up with a tie. There are no enemies that I know of worth fighting today who are going to be that unlucky against us.

Our assumptions—and some of these are political and I am not necessarily blaming the military for them—our assumptions about fighting a defensive war in Europe are fundamentally as wrong as it is possible to be in designing any kind of military posture.

Our initial policy should be that we will counterattack as rapidly as possible, that we will position ourselves to do so, and it is our intention to fight an entire war in Europe in Eastern Germany, Czechoslovakia, and Poland. We should make that our explicit policy and we should say publicly that within 48 hours of any major Soviet incursion, we will be using tactical nuclear weapons on the supply lines. Period.

That is a political decision and not one the military can make. I think it changes the whole context and I think it is the duty of professional soldiers to say unequivocally that a defensive strategy based on falling back to the Rhine is going to be a disaster. There is no reason to believe that a peacetime American Army is any more capable of a retrograde movement in the face of continuous enemy pressure than the South Vietnamese were. We will, in fact, fall apart and so will the Germans, and I think that anybody who thinks we will not ought to go over and try to walk through 5 days of the kind of pressures the Soviets could bring to bear.

I do not think we would make it. I think we will wear out mentally because we are asking our crews to fight too long without replacement and even if they do not get killed, they are going to wear down. When they wear down, things are going to break apart. If you look at the Soviets' doctrine, they understand that. They do not think their front line units are going to be there. That is why they replace them. They do not need a very long tail because they are all going to die. That is the essence of their doctrine. I suspect in the kind of war we are talking about they are more right than we are.

Any serious policy of defending West Germany, and this has consequences that Helmut Schmidt would not want to talk about, means that you would immediately be fighting in built-up areas. You move in to the existing concrete buildings, you plan to make a wasteland out of 50 miles of West Germany, and you can do that. You can build a hedgehog system.

When the Mongols invaded far enough into Europe, the Emperor Frederick II sent them a message saying that they should stop, because it was his intention to provide every peasant in his kingdom with a crossbow, that his kingdom had no open spaces, and they would fight from behind trees and the Mongols might win but it would cost them 100,000 men. For political reasons they never quite got around to testing them.

The Mongols did get that far in Vietnam in the 1200's and they were stopped. They could not invade the jungles because once they got into that kind of country they could not take out defensive forces. The cost was too great. You can design a defensive war for Hamburg that works that way. But it also annihilates Hamburg, ultimately. That is the only kind of defensive battle you can fight in Western Europe with conventional forces. To say anything else is to deny the reality of the situation.

On another issue, I have real questions about the concept of paratrooper divisions in their current form. You can make a case for enough paratroopers to land rapidly, to take over an airfield, five airfields, or seven airfields, but they don't know what to do after they have done that. Against any kind of modern enemy, they are in real trouble very, very quickly. I say that with all respect to a tradition that is very long and is very deep in the elite units of the Army.

Similarly, I would suggest that the mechanized infantry combat vehicle program is an absolute disgrace. We have our troops right now mounted in M-113's. The Congress has to take as much blame for this as anyone. This is a joint political-military failure. In terms of fighting a modern mechanized war this country faces a disaster. We would have been better off 10 years ago to have simply bought German equipment.

It is a crime to tell American soldiers they must go into battle with the M-113's in the current environment and the kind of equipment the Soviets have. The BMP—the Soviets' armored fighting vehicle—is a far superior weapon system; the Marder—the Federal Republic of Germany's armored fighting vehicle—is a far superior weapon system; the M-113 is totally obsolete and that is all we have got. We are, frankly, not close to changing it. By the time we have a fully MICV-equipped mechanized infantry force we will see a new generation of Soviet equipment and we will be once again 10 years behind the R. & D. eight ball.

We also have inadequate preparations for the violence, shock, information overload, and sheer attrition of modern war. Again, professionals have to come back and say that the lesson of the Yom Kippur war when projected into Europe is a level of violence so unbelievable, a level of complications so overwhelming that we need to rethink how we intend to fight it. We need to simplify our techniques for fighting because we are not going to be able to handle the information that is available the first 3 days. It is simply going to swamp us.

One of the reasons we are going to be in trouble, if we end up in a war, is that we are unwilling to believe Soviet doctrine. Let me give one example. When I was in Europe getting off-the-record briefings, I saw a gentleman who was very deeply involved in chemical warfare. I told him I was interested in doing a book on a Soviet attack in Western Europe. He suggested instead that I do a Reader's Digest article that begins with a Soviet chemical attack and ends with our defeat an hour later.

That is not totally false. The Soviets are consciously and explicitly designing a capability for chemical warfare. We do not believe them or at least if you look at our equipment we do not appear to believe them. I think that is a real disaster because I would suggest to you that a typical President, surrounded with liberal advisers, would not respond to a chemical attack, aimed at military installations, with nuclear weapons. He would instead negotiate. Chemical weapons do not have any sense of horror. It does not break the so-called threshold.

Finally, what may be the greatest danger for us in the long run is our lack of the transportation and industrial base for a general war.

There is a myth in this country that we could mobilize as we did in 1941. The United States, beginning in the midthirties under Franklin Roosevelt as part of the New Deal, consciously created an industrial base and went a long way on planning done by Douglas MacArthur, Dwight Eisenhower, George Marshall, and a lot of other people.

An entire generation of officers who retired just before the war—men like Fox Conner—went out and created, with the help of industry, an industrial base capable of mobilizing. They clearly thought through the problems of mobilization. They also had 2 years, from 1939 to 1941, to use British and French orders to build up our production capacity for aircraft, tanks, and ammunition. By the time we got in the war, we were able to build equipment.

We are, at the present time, due to our tax policies, doing just the opposite. We are dismantling our steel industry; we are crippling our automobile industry. We do not have subcontractors available in the aircraft industry for a surge capability. In a real war we would, in fact, run out of equipment even if we did not run out of manpower. We do not have the surge capability.

We need to look at out industrial policy not as a matter of "Do you want to help the rich?" or "Do you want to help corporations?" but as a matter of national survival. If, in fact, we want the ability to wage conventional war on this planet, what size industrial base do we have to have? If it is a matter of national survival, I suspect you can ultimately put together the kind of political coalition necessary to change the tax laws and to create an opportunity for this country to survive. We are not talking fun and games. Survival is, after all, what we are talking about.

Sometimes men and women who spend their lives in uniform recognize that the minute they enter into a discussion they are suspect. So we end up in a debate in which a general in the Army, who has spent his entire career trying to serve his Nation and save freedom, says something and is less respected then Jane Fonda because she is seemingly disinterested. Somehow any random kook—and I do not necessarily associate that with Jane Fonda nor do I necessarily not associate that with Jane Fonda—is capable of dominating a debate even if what they are saying is nonsense. For some reason our professionals, whether they are professionals in business or professionals in uniform, feel reticent about telling the truth as they know it.

Whether it is through retired military, through the association of the U.S. Army, or however, we have got to find a way in a free society to raise the tenor of the debate. I think we need to create some sort of system and I am not sure what it should be—maybe an institute of military assessment and war analysis, or something—but something which is outside the hierarchy, something which is somehow able to attract the best minds and the professionals, the career minds, and get them to talk in objective ways without being constrained by the Joint Chiefs and the traditional system.

I am looking for an answer. I do not necessarily have one. But I can tell you that right now it is very hard to get nonpoliticized assessments of our military needs and capabilities.

Another thing I think we need at the Army level is to seriously think about cutting out one-third of all work that is not combat related. I think it is time to go back and trust your senior NCO's, trust your career officers, give them the time to grow, give them the time to think. A third of them are not going to take advantage of it. They are going to go and waste their time. That is the cost in the long run of the other two-thirds developing.

I think we have got to slow down the pace of peacetime life in the Army. We have got to give the officers corps a chance to grow, to think, to reflect and to argue with itself. We have got to get out of a cycle which is increasingly producing a managerial Army rather than the combat Army we need. I think that is a real crisis and I frankly realize that if we start doing that we are going to get all sorts of liberals jumping all over the Army for wasting time. We have got to learn to have the guts to stand up and say, "Hey, if you really want, in the long run, the survival of this country, this is what it costs. You cannot survive on the cheap."

Let me close by talking briefly about this country. I got into this game of politics because in 1958, when my dad was stationed at Stuttgart, he took us to the battlefield of Verdun, the largest battlefield of World War I. We spent three nights with a friend of his who was on the Bataan Death March.

As a teenager, I spent all day touring this incredible battlefield and all evening listening to unbelievable stories. On the Sunday of that trip, we went to the ossuary, which is a large building. The entire basement is enclosed in glass and contains the bones of 100,000 German and French soldiers that could not be identified after the war, the bits and pieces laying around the battlefield. The battle lasted 9 months.

I looked at that and I went back to Stuttgart and in August of that summer, between my freshman and sophomore years in high school, I reflected on the possibility that we might not make it in this society. History has a way of being very tough with people and the margin of difference probably was not my dad. It was not the career soldiers, because ultimately the career soldiers do what the career politicians tell them to.

I think that has been true in my lifetime over and over again. We won World War II because we were allowed to. We lost in Vietnam because we were forced to. We could have militarily won the Korean war at any time we were really serious about it. We could have militarily won in Vietnam at any time we were willing to take the political risk. We did not.

I have a passionate belief in the central principle this country was founded upon. I think that those of us who are conservative and those of us who care about the survival of this country have failed that belief. It is a very simple belief. You should never underestimate the intelligence of the American people nor overestimate the amount of information they have.

For generations we have been too timid. We have not been willing to stand toe-to-toe with the Ralph Naders and the Jane Fondas, with the people willing to destroy the military, the people who assume with a sneer that if you do it in uniform it is bad but if you do it in welfare it is good. We have not been willing to stand there and say, "Look, this is too important to play games with."

The survival of this country demands nothing less than the finest level of integrity, the toughest intellectual rigor, and a willingness to brave any political arena to fight it out, to stand up and say, "Look, what is at stake is simple. Your grandchildren can be free and prosperous and safe, or they can live in a place that resembles Cambodia. What is it worth to you to insure that they are free and prosperous and safe?"

When we have the guts to communicate that message to every American and to talk about it with a technical competence that is not confusing but that is honest, I have little doubt that the people of this country will opt for survival over disaster, and that we will create the political, intellectual, and military framework that allows us to turn the 21st century into a major step toward pax humanica.●

EXPLANATION OF ABSENCE

HON. WILLIAM R. RATCHFORD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. RATCHFORD. Mr. Speaker, on Friday, September 19, 1980, I had the honor of accompanying Mrs. Joan Mondale, wife of the Vice President, on a tour of parts of the Fifth District of Connecticut. For this reason, I was necessarily absent for rollcall votes conducted on the evening of Thursday, September 18 and on Friday, September 19.

If I had been able to be present for these recorded votes, I would have cast my vote as follows:

Motion to substitute the text of H.R. 7244, as passed, for the text of S. 2271, to amend the Bretton Woods Agreements Act to authorize consent to an increase in the U.S. quota in the International Monetary Fund—"yea."

Conference report on H.R. 3904, the Multiemployer Pension Plan Amendments Act of 1979—"yea."

Amendment to H.R. 85 to make U.S. damages resulting from the Campeche Bay, Mexico, oil spill eligible for compensation by the oil spill trust fund—"no."

Final passage of H.R. 85, the Comprehensive Oil Pollution Liability and Compensation Act—"yea."●

WORKSHARING AND A SHORTER WORKWEEK: CREATING MORE JOBS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. CONYERS. Mr. Speaker, a major new policy statement, recently issued by the U.S. Equal Employment Opportunity Commission (EEOC), calls attention to the growing concern for finding solutions to the massive unemployment and job layoffs that exist in the Nation today.

EEOC is calling on employers and labor unions to step up their efforts to create alternatives to job layoffs, that demoralize workers and injure disproportionately women, minorities, and younger workers who tend to be laid off first. EEOC is recommending a worksharing approach as a means to avert layoffs. Under worksharing a firm that is experiencing a business slowdown could reduce the working hours of its entire work force a few hours a week, or else schedule additional vacation leave, rather than have to lay off some of its work force. The worksharing system operates today successfully in the State of California, where a new State law permits workers, who are laid off, to collect unemployment insurance on a daily basis. As a result, employees who work only 4 days a week are eligibile for unemployment insurance for the fifth day, and are able to maintain their medical and pension benefits intact.

The worksharing recommendation of EEOC makes eminent sense. Numerous studies have shown that measures that enhance a worker's sense of worth on the job and his job security also enhance workplace productivity. Further, measures that minimize the layoff of certain groups of workers who happen to be lowest on the seniority ladder and that provide greater equity among members of a work force also are found to promote job satisfaction and productivity.

Worksharing, flexitime, voluntary overtime, and a shorter workweek all are tested methods for saving existing jobs, raising productivity, and creating new jobs. For example, in industries that already have shortened the workweek—for example, involving telephone operators, printers, electricians, and clothing workers—the evidence shows increased productivity, lower absenteeism, and fewer jobs lost.

Support for new worktime arrangements is also found in a recent Department of Labor study entitled, "Exchanging Earnings for Leisure." The study found that an overwhelming majority of American workers would be willing to forgo a large part of their future pay raises in exchange for more free time, provided that they can choose the form their work reduction takes. This finding also reinforces the argument for eliminating compulsory overtime, an issue of growing concern among working people. As a result of the changes that have occurred in the work force, the growing number of two-earner households, and reduced family size, the Labor Department study indicates why the value of leisure time and flexible working time has become so prominent.

My colleague, Representative PATRICIA SCHROEDER of Colorado, has introduced the Short-Time Compensation Act (H.R. 7529) to make possible a worksharing program on a national scale. A slightly different approach, with similar goals, is embodied in the fair labor standards amendments (H.R. 1784), that I introduced 2 years ago, which would gradually reduce the workweek to 35 hours, replace compulsory overtime with voluntary overtime, and raise the overtime rate of pay to double time. The last major reduction in working time, which led to the 40-hour week in 1938, made possible substantial gains in new employment. A similar measure today, it is estimated, would create several million new jobs.

Not only do we have to find new ways to improve the products of American industry, we also desperately need to find new methods for better utilizing the existing work force and creating a full employment economy for all Americans. We have to break out of the rigid patterns that govern working life and innovate with new methods of employment that promise enormous dividends in productivity, economic security, and full employment. This is reflected in the EEOC announcement on worksharing, that follows, which I recommend for consideration by my colleagues.

EEOC SEEKING ALTERNATIVE APPROACHES TO LAYOFFS

WASHINGTON, D.C.—The U.S. Equal Employment Opportunity Commission (EEOC) issued a policy statement published today for comment in the Federal Register urging employers and labor unions to make serious voluntary efforts to find alternatives to layoffs that may have a disproportionately harsh impact on minorities, women and older workers during recessionary periods.

In suggesting alternatives to layoffs that may be used by employers, the Commission focused special attention on "worksharing," where the workweek is usually reduced to four days, and indicated that unemployment insurance has been used to subsidize this arrangement.

The Commission said that it is greatly concerned that the routine use of "layoffs on a last-hired, first-fired basis" that usually has an adverse effect on minorities, women and older workers may eradicate many recent affirmative gains made in the workplace.

In its statement, the Commission asked employers, who have developed "sensitivity and mechanisms" to avoid discriminatory layoffs, and others familiar with the problem to submit comments and information for the EEOC's consideration.

The Commission noted that almost one-third of all union contracts provide for worksharing as an alternative to layoffs. It said that this alternative becomes particularly attractive where state law, as in California, allows the payment of unemployment insurance to workers who work a partial workweek. For example, if an employer has to reduce its normal workforce by one-fifth, the California law permits affected workers to work four days each week and collect unemployment insurance benefits for one day layoff each week. The Commission urged employers and unions to seek similar modifications to unemployment insurance laws through their own state legislatures in order to make worksharing an attractive alternative.

The Commission also urged governors and state legislators to make the minor changes in state unemployment compensation laws that would allow unemployment insurance to be used to subsidize shortened workweeks to reduce unemployment.

The Commission warned of potential liability employers may face if they routinely resort to layoffs. "Even where a particular layoff may not be violative of Title VII, an employer may find itself vulnerable to private litigation or enforcement action by the EEOC or other governmental agencies, such as the Office of Federal Contract Compliance Programs, at a later date when the employer is in a new hiring phase. The employer may then be confronted with a situation where it has to institute or reinstitute affirmative action plans because its earlier efforts to correct past discrimination were largely nullified by intervening layoffs."

There also are substantial incentives for employers to consider alternatives to layoffs, the Commission said. "As the economy has become increasingly dependent on technology, the cost of training new employees has become a much greater part of the employers' investment, as compared to prior periods when the economy was dominated by unskilled and semi-skilled manufacturing jobs and workers. When an employer lays off a worker today the employer often loses the considerable investment that an experienced and trained workforce represents. Therefore, in today's economy, it is to the employer's advantage to explore alternative means of reducing labor costs which to the greatest extent possible avoid laying off workers."

The EEOC said that there are substantial incentives for labor organizations as well. "Some alternative approaches would result in most workers, not only the minority and female workers, keeping their jobs and thus affording protection against layoffs to all union members generally. For example, if worksharing were the selected alternative, greater job security would also be afforded to the less senior white workers who might otherwise be subject to being laid off. Furthermore, any approach that would keep most of its members employed, would also provide the union with the strength that an active dues paying membership provides."

In addition to worksharing supplemented by unemployment insurance, the Commission recommended that in circumstances where to resort to layoffs is the only viable option, they should be made according to plantwide rather than departmental seniority because this method usually has a less adverse impact on minorities and women.

Pending further development of alternative approaches to layoffs, the EEOC said that it will "continue its vigorous enforcement of Title VII as to employment practices that have an adverse impact on minorities and women" and that it will "similarly vigorously enforce" the Age Discrimination in Employment Act wherever there is evidence of discriminatory layoffs of workers protected under that Act.

Comments will be received by the Commission for the next 90 days. They should be addressed to: Executive Secretariat, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506.

The EEOC is responsible for enforcing Title VII of the Civil Rights Act of 1964, as amended, which prohibits employment discrimination based on race, sex color, religion or national origin; the Age Discrimination in Employment Act; the Equal Pay Act; and in the Federal sector only, prohibitions against discrimination because of handicap.●

THE PRESIDENTIAL DEBATES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, September 24, 1980, into the CONGRESSIONAL RECORD:

THE PRESIDENTIAL DEBATES

The League of Women Voters has laid the groundwork and issued the invitations, but it is not at all clear that the three presidential candidates will meet one another in televised debates. Differences of opinion as to the participants and format seem to have blocked the possibility that three-way debates will take place. However, voters should not be misled by the candidates' disagreements on formal arrangements. More important matters are at stake.

Mr. Carter wants to debate Mr. Reagan as often as he can without Mr. Anderson's being present, at least during the first debate. He knows that the first debate is the most critical one, and he believes that Mr. Anderson's appearance would add legitimacy to the campaign of a man who does not have much chance to be President. In Mr. Carter's view, Mr. Anderson will only siphon votes away from him and perhaps tip the election to Mr. Reagan. Because he thinks that he does better in an informal atmosphere of give and take, the President also wants the format to be one in which the candidates answer questions put to them by a panel.

Mr. Reagan wants Mr. Anderson included in the debates because he believes that the presence of the independent challenger would hurt the President. He also wants fewer debates, starting later in the year, with as little participation as possible by reporters or moderators. The former Governor of California thinks that his practiced skills on television will make him look better than his opponents.

Mr. Anderson wants to debate both his rivals, or either one, at every opportunity. He regards debate as a way to give his campaign credibility. The debates can help him firm up his presidential image. The question for the Illinois Congressman is not whether he will win or lose in the exchange, but whether he can improve his standing with the voters by being on the same platform with his better-known adversaries.

All the pushing and shoving and the maneuvering for position demonstrate that the debates have become a kind of political game. There is more debate about the debates than there is about the substantive issues of the campaign. I do not think that the voters are fooled by the candidates' posturing. They know that each candidate is trying for a confrontation which will put him in the most favorable light. They realize that the decisions being made are tactical ones, pure and simple. Voters with whom I have spoken understand that the candidates are merely jockeying for political advantage. They also understand that in an election as close as this one, the stakes are high and every edge, no matter how small, is sought.

Over the past few years, I have come to have some doubts about presidential debates. It seems to me that much of the activity surrounding them misses the point. The true purpose of the debates is to bring to the fore and clarify the issues, and the candidates' positions on the issues, so that the voters will go to the polls with the knowledge to make better choices. The debates, however, have not encouraged lively and extended interaction among candidates. With journalists asking questions on a wide variety of topics, it is difficult to focus on any issue in depth. Vague and noncommittal responses to questions are frequent. More often than not, the voters get no more than a fleeting glimpse of the candidates' views. The format that has been used in the recent past is more like a press conference than a real discussion of ideas and proposals. My own view is that the debates should be positive events for enlightening the voters. They should be made to serve the interests of the voters, not those of the candidates. They are an aspect of a campaign which the candidates should not control.

In spite of my doubts, I do look on the debates as important events in the campaign. They are potentially useful devices in that they may offer the voter firsthand information on the candidates and their opinions. Moreover, the voter gets to see the candidates under pressure as they reply to questions, and he may get a valuable impression of them as they stand side by side in a setting they themselves do not control. On the basis of conversations I have had with Ninth District residents, I am convinced that the debates are taken to be major happenings in the campaign. Indeed, I am a bit disturbed by the importance the debates have assumed in the minds of some voters. Surely one should not reach final conclusions about a candidate solely because of what one sees of him during the course of a few brief debates on television. The voters should be seeking good judgment above all else in a presidential candidate, and I am not persuaded that televised debates highlight that quality to the fullest extent possible.

For what it is worth, I think that Mr. Carter should join in a three-way presidential debate. I know that he believes it better to reject a three-way debate and take the inevitable criticism than to meet his two opponents head-on and elevate Mr. Anderson. His refusal to take on his two challengers together, however, makes him appear unwilling to defend his record against all comers. Although it is highly unlikely that Mr. Anderson will be the next President, he is a factor in the election and he is entitled to participate in the debates.●

RUSSIAN NUCLEAR PLANS BECOME REALITY FOR EASTERN BLOC NATIONS

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. WYDLER. Mr. Speaker, recently the Soviets announced the progress they are making in building nuclear plants in Russia and Eastern Europe. I noted in a report to the Congress over 2 years ago that the U.S.S.R. was on the verge of accomplishing an atomic Sputnik in terms of their nuclear development progress versus the United States.

On May 12, a Soviet official, A. Obortov, wrote an article in the Moscow Gazette entitled "CEMA: Intergration in Action—Collaboration Among Power Industry Workers." The following excerpts from the article are strong confirmation of the major milestones the Soviets have achieved in building nuclear powerplants throughout Eastern Europe, as well as their steps toward a more widely dispersed electrical grid in the eastern bloc. I should remind my colleagues that Russia is more blessed with oil and gas than the United States and also has considerable coal, and yet, they see the real need for strong pursuit of the nuclear option for electrical power generation. It is tragic that this administration has chosen to stifle this option.

The excerpts follow:

Improving the work of the integrated electric power systems is regarded as one of the most important directions in the development of the CEMA countries' fuel and energy complex. With the help of the integrated electric power systems it is planned to create the conditions for the fuller incorporation in economic circulation of countries' own existing hydroelectric power resources and fuel reserves, the intensive development of nuclear power, the formation of the optimum structure of generating capacities and the fuller realization of the technical and economic advantages of parallel working by state power systems. On the agenda are questions of erecting various energy projects by the joint efforts of interested countries, particularly main electric power supply systems with a tension of 750 kilovolts, and of carrying out joint research and design work with a view to further refitting the sector on a modern technical basis.

THE CONSTRUCTION OF NEW NUCLEAR POWER STATIONS

In many CEMA countries nearly all the growth in electric power consumption up to 1990 is to be provided for in the main from the development of the nuclear power industry. Herein lies, in essence, the meaning and major national economic significance of the program for the construction of nuclear power stations in the fraternal countries with a total capacity of 37 million kilowatts, which amounts to one-third of their entire electric power potential at present. This will yield an annual saving of 75 million tons of fossil fuel (in standard terms).

At present the capacity of nuclear power installations which have been created in the fraternal states totals more than 3.7 million kilowatts. Last year the construction of the second phase of the Nord atomic power station was completed in the GDR. Its planned capacity reached 1.76 million kilowatts. A second Vver-440 unit has recently been switched on to join the power system at the Bohunice atomic power station in Czechoslovakia. The construction of the Paks atomic power station in Hungary has entered the final stage, and it is planned to commission the first phase this year. New capacities are being created at the Kozloduy atomic power station in Bulgaria. Preparatory work is taking place for the construction of nuclear power stations in Cuba and Poland.

The Soviet Union gives technical assistance to the socialist community countries in the construction of nuclear power stations. At the same time our country is opening up new paths for the nuclear power industry. The creation of the main Vver-1000 unit, with a unit capacity of 1 million kilowatts, is being completed at the Novovoronezhskaya AES, one of the biggest in the country. In a few years' time such units will find wide application in the European CEMA countries. A powerful experimental and commercial fast neutron reactor has been launched at the Beloyarsk nuclear power station.

The Soviet Union has embarked on the construction of the Khmelnitskaya AES, together with interested countries. A multilateral agreement on its construction was signed last summer. Talks are also under way on the joint construction of the Konstantinovskaya AES in the USSR. By 1990 the volume of electric power supplies from the two stations to the European socialist countries taking part in the construction work could amount to 20-22 billion kilowatt-hours a year.

Special significance is attached to the production of equipment for nuclear power stations under construction. In 1977 the CEMA session approved a program for the maximum possible development of nuclear power machine building. Unique in terms of its scale and the complexity of the problems being resolved is the agreement on international specialization and production sharing and reciprocal deliveries of equipment for nuclear power stations for the period 1981-1990, signed in Moscow during the 33d CEMA session. Its implementation of the program for developing the nuclear power industry in the community. On the basis of the international socialist division of labor, about 50 industrial associations and enterprises in Bulgaria, Hungary, the GDR, Poland, Romania, Czechoslovakia, the USSR and Yugoslavia are to be involved in cooperation, being allocated a certain range of production and volume of deliveries of equipment for nuclear power stations. An intergovernmental commission at the level of deputy heads of government has been set up to coordinate work in fulfilling that agreement.

INTERSTATE ELECTRIC POWER TRANSMISSION LINES

An important aspect of the long-term development of the integrated electric power systems is the erection of new interstate electric power transmission lines. Calculations show that the optimum version for the integrated electric power systems is the creation of a main electricity grid with a tension of 750 kilovolts, which must be supplemented by grids with different classes of tension.

Two powerful interconnected cycles of power transmission lines with a tension of 750 kilovolts—the Northern and the Southern—with a total length of more than 7,400 km are to be formed on the territory of the European socialist countries and the USSR.

They will make it possible to ensure highly reliable parallel work by the integrated electric power systems, to carry out exchanges of tremendous flows of electric power, to offer an intersystem capacity of 4,400 megawatts and give the countries a real saving in capital investments to the extent of about R400 million (at 1975 prices) and to create the conditions for the commissioning of power units with a unit capacity of 1,000 megawatts and more and for providing mutual emergency assistance on a significant scale.

The first important step toward the formation of the main grid of the intergrated electric power systems was the introduction into commercial operation in early 1979 of the 750-kilovolt power transmission line from Vinnitsa (USSR) to Albertirsa (Hungary), which was constructed by the joint efforts of Bulgaria, Hungary, the GDR, Poland, the Soviet Union and Czechoslovakia. The fundamental significance of this power transmission line lies in the fact that it laid the foundations for parallel work by the Mir power system and the USSR's unified power system. The world's biggest international power association was formed.

In the current 5-year plan another four 400-kilovolt power transmission lines have been constructed, namely the lines from Hradec (Czechoslovakia) to Relersdorf (GDR), Gydr (Hungary) to Podunajske Biskarice (Czechoslovakia), Albertirsa (Hungary) to Levice (Czechoslovakia), and Rybnik (Poland) to Nosovice (Czechoslovakia) and Albrechtice (Czechoslovakia). Another major project will be the 750-kilovolt power transmission line from the USSR to Poland. An agreement was concluded on its joint construction by Hungary, Poland, the GDR, the USSR and Czechoslovakia in March

1978. The line will make it possible to transmit 12 billion kilowatt-hours of electricity from the Khmelnitskaya AES to the countries concerned.

Also under examination is the question of the construction of a 750-kilovolt power transmission line linking the USSR, Romania and Bulgaria, which will make it possible not only to ensure deliveries of electric power from the Konstantinovskaya AES to Bulgaria and Romania, but also the significantly increase the reliability of the working of the southeast section of the integrated electric power systems.

The CEMA member countries are waging a struggle for the rational and economical expenditure of energy resources in all sectors of the national economy, including in the electric power industry itself. The proportional expenditure of fuel is being reduced at thermal power stations, the electric power expenditure of thermal and nuclear power stations for their own needs is being reduced, and also losses in electricity grids are being cut. Targets in this sphere are included in economic and social development plans. Their fulfillment has become an important state affair. The planned nature of work in saving fuel and energy resources is yet another advantage of the socialist economic system. This work has taken on great scope in the GDR. For instance, the task set for the current 5-year plan (1976-1980) of an annual reduction in power-intensiveness in industry of 4.7-5.0 percent and of 1.8-3.0 percent in electricity-intensiveness is being successfully resolved in the republic. That means that in the current 5-year plan a saving of 40 million tons of fuel in terms of run-of-the-mine brown coal will be achieved. However, there are still tremendous reserves in this sphere in the CEMA countries. At present comprehensive measures are being elaborated in the council's organs aimed at increasing the efficiency of fuel utilization in the electric power sphere.

The results achieved in the implementation of the general plan in recent years are convincing evidence of the accelerating process of socialist economic integration in a key sector of material production.●

W. CLEMENT STONE

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. RHODES. Mr. Speaker, there has been much discussion about the younger generation in America, what it is doing, and where it is headed. It has been said that as a nation we should spend our efforts in preparing youth for the path, more than in preparing the path for youth.

In accordance with that preceptive idea, the congressional award program was established by the Congress in 1979. It is aimed at stimulating young people to achieve, to learn the discipline of applied effort, to seek physical fitness, to innovate and persevere. Truly, this is basic survival training for our complex and bewildering times.

The program is noncompetitive. It matches the individual against his or her goals, with guidelines for procedure and a record of progress, congressional medals are awarded to those who stay the course. I believe this is a most worthwhile program, and congratulate the Senator from Wyoming, Mr. WALLOP, who introduced and pushed this legislation. There are 37 million people between the ages of 14 and 23, who are in the difficult period that marks transition from childhood to the adult world. This congressional award program is aimed at helping them establish a mode of life, an approach to problems and to be recognized for dedication and diligence. This program is entirely supported by private funding.

The board that will administer this program has had its first meeting and has chosen as its chairman a distinguished American, W. Clement Stone. Certainly, Mr. Stone is representative of the American story. From a small beginning, applying his personal philosophy of study, think, plan, act, he has built an insurance business that is international in scope.

The congressional awards program is but one of the many service type of programs that Mr. Stone has graced with his energy, backing, and enthusiasm. He shares his zest for life by helping others, by working with organizations devoted to the betterment of mankind. It was my great pleasure to have the opportunity to appoint Mr. Stone to this board. Its membership of outstanding Americans have chosen a fitting symbol, and an active and energetic chairman. I am sure that under Mr. Stone's guidance, the congressional awards program will soon be in full swing, and will serve its admirable purpose of stimulating young people to work and achieve.

In these times of challenge and turmoil, it is refreshing to know that this kind of program has been started by the Congress, and is being carried forward by Mr. Stone and the other members of the board. It is proper that the Congress be a part of this effort, for our youth are our most precious national resource.●

VOLCKER LETTER ON COUNTRY LENDING EXPOSURE SURVEY

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. BEDELL. Mr. Speaker, during last week's debate on H.R. 7244, increasing the U.S. quota in the International Monetary Fund, I brought to the attention of the House a valuable survey on lending by American banks to foreign banks and governments. This report is known as the "Country Lending Exposure Survey" and is prepared twice a year by the Federal Reserve Board.

I believe that Congress should be concerned with the issue of overseas loans because many of the governments involved are LDC's who are having difficulty repaying the loans. Conversely, by promoting risky, short-term ventures, the banks involved may be overextending themselves. The danger arises in that the taxpayer is insuring these risks and that, as a result, our tax money could be wasted on financing the defaults on large loans.

For this reason, I have requested that the Federal Reserve Board begin making a copy of each Country Lending Exposure Survey available to Congress on a formal basis. In response, Mr. Paul Volcker, Chairman of the Fed, has written me to say that he also believes it is highly desirable for Congress to receive this information and further assured me that he would formally forward the survey on a regular basis to the chairmen of the relevant committees of Congress. I wish to thank Mr. Volcker for his cooperation and insert his letter as follows:

BOARD OF GOVERNORS,
FEDERAL RESERVE SYSTEM,
Washington, D.C., September 15, 1980.

Hon. BERKLEY BEDELL,
House of Representatives,
Washington, D.C.

DEAR MR. BEDELL: I understand that members of your staff have been in contact with the Board's staff about a possible amendment to H.R. 7244 which would require the Federal Reserve to transmit copies of the Country Exposure Lending Survey to the Senate Foreign Relations Committee and the House Banking, Finance and Urban Affairs Committee.

I believe that, especially during a period where increasing attention is being focused on international bank lending generally, it is highly desirable to provide the relevant Congressional Committees and the public with available information on the foreign exposure of U.S. banks. For this reason, the agencies responsible for conducting the semi-annual survey of foreign lending by large U.S. banks have regularly released to the public the results of that survey since it was inaugurated on a permanent basis in December 1977. On several occasions the Board's staff has also made available to Congressional Committees and individual Members of Congress supplementary disaggregated information and analysis. I believe that these procedures have worked well to date.

In view of this satisfactory record, it does not seem necessary to me to embody a request to supply such information in legislation. Requiring such a statistical report via legislation would reduce the flexibility of the Federal Reserve and other agencies to modify our statistical practices if circumstances were to change in the future. We are always mindful of the reporting burdens that are imposed on banks, and regularly consider ways of reducing that burden consistent with informational needs. If this survey were required by legislation, and if circumstances change such that only an annual survey was felt to be necessary, then we would need legislative action to make such a change.

In view of the interests of the various Committees in this information, I would plan to make it a practice to formally forward the survey on a regular basis to the Chairmen of the relevant Committees of Congress. I think that this approach would provide the Committees with the required information in a flexible manner without the need to embody the arrangement in a statute.

I hope this approach will meet your objectives.

Sincerely,

Paul A. Volcker.●

THE 75TH ANNIVERSARY OF THE NORTHEAST NEWSPAPERS OF LOS ANGELES

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. ROYBAL. Mr. Speaker, today the Northeast Newspapers of Los Angeles are celebrating their diamond jubilee, commemorating 75 years of continuous service to the communities of northeast Los Angeles. This represents 3,900 weeks of publication, making this newspaper chain the oldest community newspaper concern still publishing in the city of Los Angeles.

Beginning in 1905 with the Highland Park Herald, the Northeast Newspapers today serve some 90,000 households in the communities of Highland Park, Eagle Rock, Mount Washington, Lincoln Heights, El Sereno, Boyle Heights, Belvedere, and South Pasadena. Under the leadership of founder and publisher Oran W. Asa and his wife Jean, the Northeast Newspaper chain is characterized by active community involvement and a neighborhood focus much needed within the urban environment.

Through his long and distinguished publishing career, Mr. Asa has been a community activist in the finest tradition. As an advocate for viable and safe inner-city neighborhoods, prosperous community business districts, and the rights of the poor and Hispanic residents of the city, he has used the Northeast Newspapers as a vehicle to focus public attention on the problems and attributes of northeast Los Angeles. Construction of the first expressway in California, the Pasadena Freeway, provided the battleground for the paper's efforts on behalf of the displaced residents whose homes were in its intended path; with the construction of Dodger Stadium in the Chavez Ravine section of Los Angeles, Northeast Newspapers came to bat for the rights of the poor who were resettled to make way for the development; and currently, the paper has taken a strong and leading role in the drive to revitalize the northeast communities, Los Angeles' first suburbs.

These are but a few examples of the vigorous and commendable community involvement of the Northeast Newspapers reflecting the concern and dedication of its publisher, Mr. Asa, for the vitality of this section of Los Angeles. A long-time resident and businessman in the area, Mr. Asa is no stranger to the needs and concerns of the community. He began his newspaper career with the Highland Park News-Herald in 1933, where he served as editor for 8 years. In 1946, with the purchase of the Lincoln Heights Bulletin-News, Mr. Asa was well on his way to establishing the eight-paper chain as it exists today.

It is most fitting that we, in the Congress of the United States, join Mr. and Mrs. Oran Asa and the staff of the Northeast Newspapers of Los Angeles in commemorating 75 years of distinguished public service.●

INTERNATIONAL CONFERENCE ON POPULATION AND THE URBAN FUTURE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. OTTINGER. Mr. Speaker, earlier this month, more than 200 mayors and representatives of the 41 cities of the world projected to have populations of 5 million or more by the year 2000 met in Rome. This conference, sponsored by the U.N. Fund for Population Activities, considered the present condition and future trends of population growth and the problems generated by rapid urbanization in various parts of the world.

Out of this conference came the "Rome Declaration for Population and the Urban Future." I believe this declaration deserves the consideration of my colleagues and I am including the text of the declaration in the Record.

One of the recommendations of the conference was that all countries which do not yet have comprehensive population policies and programs should formulate them. These policies should be fully integrated into the process of development planning, particular emphasis being given to health, education, housing, nutrition, employment, and environmental conditions.

In August 1979, I introduced legislation to declare a national policy of population stabilization and to establish a White House Office on Population Policy. This legislation is cosponsored by 24 of my colleagues: Representatives Daniel Akaka, Berkley Bedell, Tony Beilenson, Jonathan Bingham, John Burton, Tony Coelho, John Conyers, Ron Dellums, Thomas Downey, Robert Edgar, Vic Fazio, William Frenzel, Robert Kastenmeier, Peter Kostmayer, Paul McCloskey, Stewart McKinney, Norman Mineta, Toby Moffett, Leon Panetta, Benjamin Rosenthal, Stephen Solarz, Pete Stark, Henry Waxman, and Ted Weiss.

In addition, this legislation has been endorsed by various organizations, including American Public Health Association, Concern, Conservation Foundation, Defenders of Wildlife, Environmental Action, Environmental Fund, Hawaii State Commission on Population and the Hawaiian Future, Izaak Walton League of America, Los Angeles Regional Family Planning Council, Massachusetts Conservation Council, National Alliance for Optional Parenthood, National Audubon Society, National Family Planning and Reproductive Health Association, National Parks and Conservation Association, National Wildlife Federation, Natural Resources Defense Council, Population Action Council, Population Crisis Committee, Population Institute, Population Reference Bureau, Sierra Club, Texas Family Planning Association, World Population Society, and Zero Population Growth.

Although no action has been taken on this legislation to date, I plan to reintroduce similar legislation when Congress reconvenes in January. We need to face up to the population realities of today and tomorrow—to debate them, understand them, and commit ourselves to influencing them to the benefit of all Americans and the world. The time is right for Congress to act by passing this legislation.

The text of the Rome declaration follows:

ROME DECLARATION FOR POPULATION AND THE URBAN FUTURE

PREAMBLE

1. We, the participants of the International Conference on Population and the Urban Future:

Having assembled in Rome from September 1 through September 4, 1980 at the invitation of the United Nations Fund for Population Activities (UNFPA).

Grateful for the warm and generous hospitality extended to us by the City of Rome and the Government of Italy.

Having considered the present conditions and future trends of population growth and the problems generated by rapid urbanization in various parts of the world, hereby issue this declaration:

2. We believe that the objectives, and the measures set out in this declaration will contribute towards the achievement of the goals of the World Population Plan of Action, the Colombo Declaration on Population and Development, the New International Economic Order, the recommendations of the Vancouver Conference on Human Settlements, the Action Plan of the Stockholm Conference on the Human Environment, and of other international strategies for improving the living conditions of people all over the world.

THE NEED

3. It is estimated that around the year 1800 less than 3 per cent of the population of the world lived in urban areas. By 1920, the figure had risen to fourteen per cent. By 1950, urban populations formed a quarter of total world population. By the end of this century, over half of the world's population will be urban. In the next two decades, the world will undergo, as a result of the urbanization process, the most radical changes ever in social, economic and political life.

4. The impact of urbanization will differ in the different regions of the world. In 1980 the total world population is estimated at 4.2 billion and is projected to increase to 6.2 billion by the year 2000. Urban population will increase from 1.8 billion to 3.2 billion during the same period. Over two billion of this total urban population will be in the developing countries. Today, the number of cities with populations of 5 million or more is 26 with a combined population of 252 million. It is projected that by

the year 2000, there will be 60 such cities with a population of 650 million. Approximately 45 of these "supercities" will be in the developing world.

5. We recognize that, historically, the city has been the engine of development and the forge of human creative energies. In fact, the city has often been the place in which civilization has blossomed. We believe that the process of urbanization can be harnessed to achieve mankind's goal of just, peaceful and lasting development. But if this is to happen, urbanization must take place under planned and orderly conditions.

6. Today, as we review the situation around the world, we find that these planned and orderly conditions for urbanization for the most part do not exist. We find that the problems confronting urban settlements are in fact already acute in many parts of the world. They include shortages in virtually every service, amenity and support required for tolerable urban living. Housing and shelter, basic health services, sanitation, clean air and potable water, education, transport, energy supplies, open spaces and recreational facilities—all these are lacking in many parts of the world. Moreover, under conditions of unplanned urbanization, the situation is becoming worse rather than better.

7. Economic problems—such as unemployment, underemployment, lack of means of livelihood, poverty and deprivation—loom large. Social problems—crime, delinquency, social segregation and the exploitation of certain groups, e.g., migrants and urban squatters—are becoming increasingly acute, as are environmental problems such as congestion and pollution. These questions are not confined to the developing countries. In the more developed countries, the inability of cities to cope with the problems which they face has become one of the dominant characteristics of the late 20th century.

8. Unplanned urbanization may generate tension between groups and classes within the city itself; it may also generate tension between urban and rural areas within national boundaries. Peace itself, which is the precondition for development, may be put in jeopardy. For, as the Colombo Declaration on Population and Development stated, one of the principal threats to peace is the social unrest caused by the accumulation of human fear and hopelessness. Fear and hopelessness can accumulate both quickly and enduringly in the hearts of the urban poor when their aspirations are not realised.

9. We believe that the pace and pattern of urbanization, and the nature of the social and economic development that takes place, are crucially influenced by demographic trends. In the less developed countries, migration from rural areas formerly contributed the major part of urban growth. Now, natural increase—the excess of births over deaths—generally contributes 60 per cent of urban growth. In the more developed countries, 60 per cent of urban growth is accounted for by migration. We believe that the process of urbanization can only be managed where the demographic factors contributing to this process are themselves managed through economic, social, political and cultural measures. We must seek to match population with resources in cities, in regions, in countries and—ultimately—in the world itself.

OBJECTIVES

10. To improve and enrich the quality of life for these increasing numbers of urban dwellers—all of them individuals needing food, shelter, clean water, work, education and medical care, as well as a decent physical and social environment to live in—and to avoid a continued aggravation of the urban situation over the next decades, a fairer distribution of wealth between nations is necessary. At the same time internal changes are necessary to ensure an equitable distribution of resources and a fair and just society within each nation. The objective of managed population growth and planned urbanization must be to achieve a balanced allocation of resources and development opportunities and of the economic and social benefits resulting from them.

RECOMMENDATIONS

11. In order to achieve these objectives, it is vital that countries develop a strategy for national planning for the urban future. Such strategies, supported by appropriate legislation and funding should include, among others, three important elements, namely:

(a) the formulation of comprehensive national population policies,

(b) policies for balanced development, and

(c) policies for improvement of urban areas.

12. The formulation of comprehensive national population policies.—All countries which do not yet have comprehensive population policies and programmes should formulate them. A comprehensive national population policy should, among other things, specify national and sub-national goals on the rate of growth of population, on levels of fertility and mortality and on the distribution of population between urban and rural areas. It will need to be fully integrated into the process of development planning, particular emphasis being given to health, education, housing, nutrition, employment and environmental conditions. We urge that such policies be formulated in all countries by 1985.

13. Policies for balanced development.—Plans for the redistribution of population, as part of a comprehensive national population policy, will only succeed if they form part of a strategy for balanced development. Such a strategy should be aimed at encouraging a balanced pattern of urban settlements, i.e. small, intermediate and large cities, and at the economic development of rural areas. The elimination of glaring inequalities and disparities in the quality of life and opportunity between urban and rural areas should reduce the flow of migration from the countryside to the cities. Similarly, the provisions of better information to rural populations about economic opportunities and social amenities—or the lack of them—available in the cities should permit potential migrants to have a clearer vision of the future that awaits them.

14. Policies for the improvement of urban areas.—The shanty towns and slum areas of the cities are mainly populated by migrants from the rural areas and the urban poor. Most of the urban services, such as educational and health facilities, potable water and urban sanitation are beyond the reach of these people. It is important that cities pay special attention to problems of these vulnerable groups, and that the sub-cultures of such groups be studied. The object should be to identify the values and dynamics of vulnerable groups. Special programmes should be developed aimed at facilitating the adaptation and integration into urban living of disadvantaged population groups such as new migrants, poor families, children and youth, the homeless and elderly. Such programmes should also be aimed at transmitting suitable skills to improve job opportunities.

15. The economic opportunities, in the context of national, regional and local development policies, offered by judicious "upgrading" of shanty towns and other marginal settlements should be recognized and exploited wherever possible. Policies and programmes should be developed to recognize and strengthen the role of the transitional or informal sector in the economy.

16. High land value is often one of the principal limits to the implementation of urban plans. Therefore, rules and regulations should be taken into account to control the real estate market in order to avoid an unbalanced land use and to let local administrations carry out fair urban planning for the different social groups.

17. More generally, it is necessary to achieve a revitalization of the cities as centres of intense social activity and communication, culture, heritage and civilisation.

18. Some measures are common to all three aspects of the above strategy. They will need to be adopted as appropriate at the national, regional, metropolitan and local levels. The most important are:

(a) Creation or strengthening of the necessary institutions needed to formulate and implement policies for integrating and coordinating urban development within the process of economic, social and physical development itself.

(b) Improvement of collection of population and related data required for policies and programmes for development and integration or urban planning in accordance with national objectives, and promotion of related research.

(c) Encouraging the full participation of the population at large and their community organizations in the urban development process both at the planning and the implementation stage of policy and programme development.

(d) Establishing or strengthening measures to enable all couples and individuals to have the basic right to decide freely and responsibly the number and spacing of their children and to have the information, education and means to do so.

(e) Building up of an institutional framework for exchange of experience, views and ideas on population and urban development between planners, policy makers and administrators within and between countries. This should permit the effective monitoring of urbanization trends and of the implementation of the policies and measures suggested above.

COMMITMENT TO ACTION

19. The measures proposed in this Declaration require action primarily at the national, regional, metropolitan or local levels. International cooperation and assistance is, however, urgently needed if these measures are to be successfully carried out. The various international bodies concerned, including nongovernmental organizations, are called upon to take the necessary steps within their mandates to help cities and nations to deal effectively with present and future urbanization problems. Governments of developed countries and others able to contribute to international assistance should intensify their support, both in bilateral assistance programmes and through contributions to multilateral agencies, for the activities in the field of population and urbanization covered by this Declaration. In this connection, we welcome the initiative of the United Nations Fund for Population Activities in convening this Conference and urge governments to increase their support of UNFPA so that it may, within the framework of its mandate, devote increasing attention to the problems of urbanization, including monitoring the implementation of this Declaration in collaboration with United Nations and other international bodies.

20. Finally, we dedicate ourselves to devote our best endeavours towards the attainment of the objectives and recommendations of the Declaration, consistent with

other national priorities and development goals. We believe that the present decade, the decade of the 1980's, is the time for intensive effort and for the necessary reorientation of the response of peoples and governments to the urbanization problem. In the past the development of the city and of urban living has greatly expanded mankind's horizons. It has permitted the enrichment of life, as exemplified by the contributions of science, the arts and education; by tremendously expanded options for goods and services; and by the provision of a better level of living for all. We ask no less for the future.●

JOHN RHODES DISCUSSES WHAT A NEW CONGRESS WILL MEAN FOR AMERICA

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. GINGRICH. Mr. Speaker, our distinguished colleague and leader of my party, John Rhodes, has been traveling the country telling Americans what a Republican 97th Congress would be like. He has given it a lot of thought and I fervently hope he will be putting his plans into action on January 5, 1981.

New Orleans Times-Picayune reporter Charles Bartlett has been listening to John Rhodes and was impressed by what he heard. Mr. Bartlett wrote an excellent column about it that appeared in the Times-Picayune on September 16, and I commend it to my colleagues.

The column follows:

What GOP Control Would Do for Congress

(By Charles Barlett)

"The House Republican leader is a soft-spoken realist and he's been around since 1953. So he knows how the game goes. He draws cheers when he plumps around the country for a Republican House, but when he explains this can only be done if the local Democratic incumbent is beaten, his audiences tend to go soft.

"People come up and say, 'I know you're right. I know these Democrats have done a really bad job. But our good old Joe here in this district is different.' They describe how 'good old Joe' comes home weekends, makes conservative speeches, plays golf with the president of the Chamber of Commerce. They describe how he answers his mail promptly, retrieves missing VA checks, keeps Social Security payments coming and sends out surveys to learn what people think.

"This has always sufficed to keep old Joe in his seat. But the Democrats captured the House in 1932 because the voters thought they would do better with the economy. Now there is a perception that the Democratic Congress has done its share to mess up the economy. People are blaming Congress more than the president for inflation, and a majority is telling pollsters that the Republicans might manager the economy better.

"The big risk to old Joe is that the voters will grasp the urgency of giving the Republicans a chance to tidy up the place. Popular government has always flourished best under popular pressure to 'throw the rascals out,' and in giving non-stop control of Congress to the Democrats, the voters have sorely tested the political purification process.

"A clean-up job would be Rhodes' priority undertaking as speaker. He has in mind a swift move against the entrenched Democratic fiefdom where the power games are played, and immediate action by his committee chairman to cut their staffs by at least 20 percent. This will save some $100 million and ensure that plans go no further for the construction of a fourth House office building.

"'The whole thing cries out for reform,' Rhodes says, pointing particularly to the proliferation of committees and committee staff aides. In 1947, when the Republicans controlled the House, all the staffs of all the House committees added up to 181 employees. There are now over 2,000 on the payroll. The Democrats have divided the action into 168 subcommittees so that everyone can have a piece of it. 'They have really gone crazy,' Rhodes maintains.

"When the Republicans gained control of the House in 1947 and 1953, they seated as committee chairmen a group of old-fashioned Republicans with little skill at projecting their virtues beyond the Rotary Clubs. But in the same way that Rhodes reflects the times better than his predecessors, Joe Martin and Charlie Halleck, the team of chairmen who would follow him into control is composed with few exceptions of able, modern politicians capable of whittling away at government without assuming the look of butchers.

"There would be plenty for this team to do. The chairmen would be prodded by Rhodes to get quickly at the Herculean task of tightening up the federal system, reviving the budget resolution process to control spending, establishing procedures to review agency regulations and doing battle with those agencies intoxicated by the expansive spirit of the Democratic years.

"It has not always been possible to contemplate Republican control of the House with enthusiasm. They had a way of dividing among themselves and hashing things up. Many really were bent on repealing the 20th century.

"But there is a new breed of Republicans on the scene, and some offer attractive alternatives to old Joe. They are as responsible as the Democrats and considerably more original in their approach to government. They have learned to compromise with the welfare state, but they don't have the Democrats' bad habit of milking it for political advantage.

"Old Joe has been slightly drugged by prolonged immersion in the hot tub of power. His glazed eyes have lost the gleam of idealism that made Democrats appealing in an earlier day. This is why he may be closer to being dumped than [suspected] . . ."●

NEED YANKEE INGENUITY

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. HARKIN. Mr. Speaker, I wish to call to the attention of my colleagues a recent broadcast editorial written by Mike Harris, of the Iowa Farm Bureau Federation.

Mr. Harris offers some particularly sound advice as we watch the Japanese automakers meet the challenge to innovate, create, and increase efficiency, while at the same time we witness serious problems in our own auto industry here at home.

Mr. Harris' editorial follows:

The End of an American Dream

The Old American dream of a giant luxury car is tarnished and faded.

During the next few weeks we'll be watching many car showings as the auto makers bring out their various models. But this year not as many people will be looking towards Detroit, but instead, towards Japan. 1980 will be the year Japan will displace the United States as the world's leading producer of automobiles. Japan is expected to build about ten and a half million vehicles while the U.S. will probably only build about ten and a quarter million.

The Japanese have been quite successful marketing their cars in the U.S. Currently one out of five cars bought in America comes from Japan.

One Japanese manufacturer has already announced plans to build an assembly plant in the United States. Others are also considering U.S. plants. That move should increase competition in the domestic automobile industry.

But building assembly plants here worries some Japanese manufacturers. They don't think American workers will be able to achieve the high standards of quality control Japanese workers routinely achieve. That's ironic because quality control was invented by American industry.

Now is not the time to point accusing fingers of blame for the current automobile slump. Now is the time to quit . . . quit complaining, quit being outproduced, outdesigned, outperformed and outhustled. Now is the time to reapply our Yankee ingenuity. It's time for us to achieve our earlier stature and again become producers of quality merchandise.●

MIDDLE INCOME WAGE EARNER TAX RELIEF ACT OF 1980

HON. JIM MATTOX

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. MATTOX. Mr. Speaker, today I have introduced a bill to provide a comprehensive and balanced reduction in taxes paid by individuals and businesses. The Republicans have introduced a tax-cut plan, the Kemp-Roth bill, which provides most of its tax relief to upper-income individuals. My plan, the Middle Income Wage Earner Tax Relief Act of 1980, provides much more tax relief to working- and middle-class families.

The Republican plan anticipates a net reduction of $36 billion in individual and business taxes in calendar year 1981. The Republican plan is sometimes perceived as reducing individual income taxes by 10 percent. But this is very misleading. The Republican Kemp-Roth bill does not cut taxes by 10 percent; rather, it cuts tax rates by 10 percent. This very Republican approach to the issue gives the greatest tax relief to people in the upper-income brackets, but provides precious little relief to middle-class taxpayers.

My plan reflects a much more balanced and equitable approach. It provides the same amount of total tax relief in 1981—$36 billion—as the Republican plan. The major difference between my plan and the Republican plan is that my plan provides much more tax relief to the lower- and middle-income groups.

My package contains four major components. The first element of the tax-cut package is a tax credit of 4 percent of the income taxes owed, up to a limit of $500 per joint return and $250 per single return. By providing a credit against individual income taxes owed and by placing a limit on the total amount of the credit, this provision concentrates the relief on middle-income taxpayers. This component will provide about $9.5 billion in tax relief.

The second element of my tax cut provides relief from the so-called marriage penalty by providing a tax credit equal to 6 percent of the first $10,000 of the lesser earning spouse's income. This provision is expected to provide the most relief for the tax burdened working-class and middle-class families. This provision is expected to provide $9 billion in tax relief for families.

A third element of the tax package provides a tax credit equal to 10 percent of the social security taxes owed by individuals or employers. This provision will help offset the increase in social security taxes that is scheduled to take effect January 1, 1981. But by providing a tax credit against income taxes, this provision preserves the integrity of the social security trust fund. Employees and the self-employed would receive about $7 billion in tax relief and employers would receive about $6.7 billion in tax relief. The total amount of tax relief due to the 10 percent tax credit would be $13.7 billion.

The fourth feature of my tax plan will provide a $4 billion reduction in business taxes. This will be accomplished by changing the rules on depreciation and adopting the so-called 10-5-3 approach.

I have provided a table that summarizes the provisions of my tax-cut package.

The staff of the bipartisan Joint Committee on Taxation has analyzed both of these proposals. A comparison of these analyses shows that my tax package will focus tax relief on the middle-income families while the Republican plan focuses its relief on the upper income groups. For example, a family of four with an annual family income of $10,000 would receive tax relief of $282 under my plan, but only $52 under the Republican plan. A family whose annual income was $30,000 would receive $957 tax relief under my plan, but only $405 tax relief under the Republican plan. The Republican plan provides $2,190 in tax relief to the family with $100,000 in annual income, compared to the $1,495 in tax relief under my plan. The accompanying table comparing the tax relief provided by the two plans at various levels of income clearly shows that my plan gives greater tax relief to the middle class.

The burdens of taxation and inflation have hit the middle-income families the hardest. They are the ones who are most hard pressed to make ends meet. Any tax cut that Congress enacts should include the middle class among its beneficiaries.

Tax relief should not go primarily to the wealthy. It should go to all Americans.

Tables follow:

AGGREGATE TAX RELIEF PROVIDED BY COMPONENTS OF MATTOX TAX CUT PLAN FOR CALENDAR YEAR 1980

[In billions of dollars]

	Amount
4 percent individual income tax cut (tax credit of 4 percent of taxes owed, up to a limit of $500 per joint return or $250 per single return)	9.5
Marriage tax relief (tax credit equal to 6 percent of the first $10,000 of the lesser earning spouse's income)	9.0
10 percent social security tax credit (tax credit equal to 10 percent of the social security taxes paid by employees and employers. Employees and the self-employed would receive about $7 billion in relief. Employers would receive about $6.7 billion in relief.)	13.7
Business tax cut (provides accelerated depreciation under the 10-5-3 approach)	4.0
Total tax relief	36.2

COMPARISON OF TAX RELIEF FOR FAMILY OF FOUR[1]

The Republican Simplistic Tax-Cut Plan Versus the Mattox Comprehensive Tax-Cut Plan

Annual income	Tax relief under Republican tax-cut plan	Tax relief under Mattox tax-cut plan
$10,000	$52	$282
$15,000	151	449
$20,000	228	614
$25,000	305	782
$30,000	405	957
$40,000	692	1,118
$60,000	1,308	1,431
$80,000	2,036	1,475
$100,000	2,190	1,495

[1] Assumes a 2 wage earner family of 4, a ⅓–⅔ split of income between the 2 spouses, and deductible personal expenses of 23 percent of income.

Source: Staff of Congressional Joint Committee on Taxation.●

NATIONAL TRAILS SYSTEM ACT AMENDMENTS OF 1980

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. MINETA. Mr. Speaker, I am pleased that on Monday, September 22, 1980, my colleagues voted to pass H.R. 8087, the National Trails System Act Amendments of 1980.

The bill contains a provision that my distinguished colleague from California, Mr. LAGOMARSINO, and I introduced as H.R. 4587 and H.R. 4276, respectively. This provision directs the Secretary of the Interior to conduct a study to determine the feasibility of establishing the Juan Bautista de Anza National Historic Trail.

Much of the region the proposed trail traverses is land that has been developed for urban, industrial, and agricultural use; therefore, a study is needed, prior to designation, to determine the possibility of linking many of the cities of California by such a trail. The provision authorizes an appropriation of $150,000 for the study and mandates its completion within 18 months following enactment of this legislation.

The passage of this bill has been particularly timely, as the Department of the Interior's Heritage Conservation and Recreation Service renews its efforts to expand the National Trails System. President Carter, in his 1979 environmental message to the Congress, directed that the National Trails System be expanded to provide more high quality trails that are close to residential areas, where they can be used by both recreationalists and commuters. Additionally, in recent years we have witnessed an increased awareness of the need to preserve evidence of our diverse cultural heritage.

Although the Spanish had previously made land and sea forays into California and established some settlements, it was Juan Bautista de Anza, commander of the outpost at Tubac, Mexico, who established an overland route that was suitable for transporting settlers, soldiers, and supplies. The State of California's Recreational Trails Committee, the director of the department of parks and recreation, the city of San Jose, the city of Los Angeles, and many other Californians have expressed support for the national historic designation of the de Anza expedition routes of 1775 and 1776, which resulted in the founding of the city of San Francisco.

I thank my colleagues for their support of H.R. 8087, which falls within the directives of the President's environmental message and the desire of the Nation to preserve its diverse cultural history for the enjoyment of present and future generations.●

DEMOCRATIC CAUCUS SPECIAL STUDY COMMITTEE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. EDWARDS of California. Mr. Speaker, as many of my colleagues know, in January of 1979 the House Democratic Caucus formed a six-member special committee to study the entire range of problems related to our constitutional authority to sanction offending Members and to report back at the earliest possible date with recommendations, including appropriate procedures to implement our authority.

I was designated by the caucus to chair the committee, and my colleagues ELIZABETH HOLTZMAN, CHARLES

ROSE, WYCHE FOWLER, DAN GLICKMAN, and PATRICIA SCHROEDER were chosen to serve with me.

Since formation of the committee, we have been studying the historic precedents for handling cases of misconduct here in the House of Representatives and in the Senate. In recent weeks we have invited testimony from individuals who have closely observed current House ethics procedures. In a hearing which our committee held on September 18, 1980, we received recommendations from our colleagues, the gentleman from North Carolina, RICHARDSON PREYER, and the gentleman from Indiana, LEE HAMILTON—both of whom serve on the Committee on Standards of Official Conduct. We also heard from a number of lawyers who have represented House Members in disciplinary proceeding taken up by the House. Recommendations were also made by Mr. Fred Wertheimer of Common Cause. All of the testimony was interesting and informative, and will be of tremendous value to us in completing our work.

Mr. Speaker, I would like to share with my colleagues the list of questions which were posed to the witnesses at the committee's September 18 hearing. So that we might have as much input as possible into the process of developing our recommendations to the caucus, the committee would like to invite Members to submit their responses to these questions as well as their recommendations on any changes that should be made in current House ethics procedures:

1. Should the House investigate and take cognizance of the situation when a Member is convicted of a moral or related offense, such as the solicitation of prostitution, or being drunk and disorderly in public?

2. Should the House investigate and take cognizance of the situation when a Member is convicted of a serious crime unrelated to his official duties and obligations such as an income tax violation?

3. Should the House take action of any sort upon "indictment" by a grand jury, or should the presumption of innocence preclude any action by the House at this stage of the proceedings?

4. Should the House continue to require a Member to abstain from participation in the formal life of the House (everything except constituent service) after conviction but pending appeal?

5. Should the House expel a Member who is sentenced to a term in prison for a term of 6 months or more if the Member refuses to resign?

6. Should the House establish a Citizens Oversight Panel (composed of former Members and retired judges) to hear complaints and recommend further investigations by the House Committee on Standards of Official Conduct?

7. Should the House establish a Court on Ethics (composed of eight Members chosen by lot with a senior judge presiding) to decide the cases investigated by the House Committee on Standards of Official Conduct?

8. Should the House prescribe a series of definite and tougher penalities; i.e. fines when the Member has cheated on the House or its employees; loss of five years seniority when a Member is censured, three years upon a reprimand?

9. Should the House take jurisdiction over offenses committed in prior terms of Congress, or by the Member prior to the time of his election? If so, should there be a statute of limitations?

10. Who has the burden of proof, and what should be its quality and nature? Should the prosecution carry the burden of proof beyond a reasonable doubt, or is "clear and convincing" evidence sufficient?

11. Should the Member accused of wrongdoing have the right to counsel on the floor of the House during the House debate? Should the House create a Legal Defense Fund to assist a Member who does not have the personal financial resources to pay substantial legal expenses?

12. Should the House adopt the rules of evidence and procedure applicable in the United States District Court for the District of Columbia?

13. Should the House impose a quorum requirement of all Members on the body which hears the evidence and makes the recommendations? Should the Members attending these sessions be counted as present for purposes of rollcall votes?

Mr. Speaker, the hearing record will be held open for an additional 30 days, and any comments we receive from our colleagues will be added to the offical hearing record.●

ROD MOORE—AN EXAMPLE IN EDUCATION

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. BURGENER. Mr. Speaker, one of the premier educators in all of California has recently announced that he will step down after the end of this school year, and I know he will be deeply missed by not only the institution, but also the thousands of students he served for so long.

Roderic V. "Rod" Moore is the only superintendent of schools that the Oceanside, Calif., Unified School District has ever had and the senior superintendent of any unified or high school district in San Diego County.

His 14 years as superintendent in Oceanside will cap a dedicated 38-year career in public education which began in 1942.

During Rod Moore's tenure at Oceanside Unified, the district has added two new high schools, four new elementary schools, and a school for the handicapped, and the growth was accomplished within a framework of financial stability which eludes many districts.

Rod Moore's dedication was not only to the district he served, but to the well-being of public education for all children. He served 2 years as president of the San Diego section of the California Interscholastic Federation, and chaired the San Diego/Imperial County Superintendency Committee of the Association of California School Administrators.

Rod Moore's contributions to his community have never been limited to his vocation, however, upon his retirement next June, Rod will assume the presidency of the Oceanside Rotary Club, to which he has belonged and for which he has worked actively for 13 years.

I am proud, Mr. Speaker, to have known and worked with Rod Moore, and the city of Oceanside has been indeed fortunate to have had his special blend of administrative excellence and an understanding of our youth for these past 14 years.

In my opinion, Rod Moore is one of the exemplary public educators in California, and foremost, a fine man. His service, when it ends next June, will be deeply missed, but I know that Rod and his wife Norma will continue to make their mark in Oceanside long after his retirement.●

THE PUBLIC SCHOOL PRAYER QUESTION

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. PATTERSON. Mr. Speaker, I rise in support of House Concurrent Resolution 106 sponsored by my distinguished colleague from North Carolina, STEVE NEAL. This important legislation, Mr. Speaker, seeks to resolve the bitter debate that currently exists over the restriction of prayer in the public schools.

House Concurrent Resolution 106 would express the sense of Congress that the Constitution of the United States does not preclude students in public schools from having periods of established time for quiet and private prayer. Furthermore this resolution states that public school authorities should recognize the historic importance of religion to our civilization by encouraging such periods of silence.

Prayer in the public schools raises one of our most enduring and fundamental questions—that of the proper relationship between religion and government. Our forefathers believed strongly in God and in the freedom to worship. They fiercely fought to keep the State government from dominating the church—religion—and that is one of the major purposes of the first amendment to the U.S. Constitution.

Our Government supports a belief in God through such symbols as "In God We Trust" on our coins and "One nation, under God" in our Pledge of Allegiance. Surely we ought to allow time for free and unrestricted, but private prayer.

Thomas Jefferson argued passionately for the clearest possible separation between church and state. It was his belief and that of the framers of our Constitution that the Government should never be allowed to establish a state religion nor should any religion be allowed to run our Government. The Soviet Union is a current example of what can happen if the state controls religion and, conversely, Iran is a current example of what can happen if religion controls the state.

Today's debate over the issue of whether or not prayer should be allowed in public schools strikes at the heart of the issue of separation of church and state. There are those in Congress who have offered legislation which would remove the ability of the court to strike down State or local laws establishing a religion or prayer to be recited in public schools. This would open the door to a state religion to be established by a political majority or a powerful few.

Alternatively, there are those who would like to prohibit the setting aside of time during the school hours for any prayer, silent or otherwise. Congressman NEAL in his testimony before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice distinguished the views of these two groups and those supporting his resolution by stating:

> There is a third approach wherein we may find an accommodation of the other two—that is, those who say we cannot, and those who say we must pray in the public schools. The answer, contained in my resolution (H. Con. Res. 106) is that we can if we want to.

This legislative approach, Mr. Speaker, would reaffirm the belief established in our Constitution that religious freedom is a fundamental right of our people.

The American people clearly favor the position that children should be allowed to pray during their school day. House Concurrent Resolution 106 would allow children, irrespective of what religion they follow or beliefs they hold, to have that opportunity.

I am proud, Mr. Speaker, to be a cosponsor of House Concurrent Resolution 106 which is reproduced after this statement, and would urge my colleagues to join Congressman NEAL in ending this debate and preserving our religious liberty:

H. CON. RES. 106

Concurrent resolution declaring the sense of Congress regarding periods of silence in the public schools

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress—

(1) that the Constitution of the United States does not preclude periods of silence to be used, solely at the discretion of the individual student in public schools, for quiet and private prayer, meditation, contemplation, or introspection, even if these moments are supervised by a school official; and

(2) that public school authorities should recognize the historic importance of religion to our civilization by encouraging such periods of silence.●

ANGIE PAPADAKIS: SAN PEDRO WOMAN OF THE YEAR

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. ANDERSON of California. Mr. Speaker, only very rarely does an individual come along whom we instinctively and instantly recognize as being special. Such a person has an aura about them. Most certainly, Angie Papadakis is one of these. Accordingly, Angie has been chosen by the Los Angeles Area Council of the Boy Scouts of America as "San Pedro Woman of the Year," and a dinner in her honor will be held this Saturday evening.

It has been an ongoing pleasure for my wife Lee, and I, to be associated with such dear friends as Angie and her family. We have known each other for so long that the word "friends" hardly seems appropriate. So I would like to take a few minutes of my colleagues' time in order to chronicle for them just a few of Angie's achievements.

Blessed with having been born on Chrismas Day—I hesitate to reveal the year—one of Angie's first honors was being high school valedictorian. From that time on, Angie used her speaking and writing abilities to carve out a very impressive career. She honed those abilities with writing courses at four area colleges, and her final degree, in her own words, was an MRS—Married, Raised Sons. Angie taught a "Writing for Laughs" class at Harbor College, all the while maintaining her own writing career with articles for such widely read magazines as Reader's Digest and Good Housekeeping. Her gags have been used by many columnists and comedians. Angie's particular style of wit is so well known that Earl Wilson, the nationally syndicated columnist, has said of her, "She may look like Helen of Troy, but she writes like Aristophanes." Wherever Angie goes, a trail of laughter is left behind.

Yet besides speaking and writing on numerous events of the day, Angie Papadakis successfully runs her own advertising agency in San Pedro. And since community service is no less a part of her life, it is not surprising that her achievements in this area are equally impressive.

Angie serves on both the attorney general's and the district attorney's advisory councils. Her directorships include service to the Los Angeles County Lung Association, as well as the Harbor Area Chapter of the Salvation Army. Angie is also past commissioner of the Los Angeles County Department of Public Social Services, a position she held for 3 years. To cap off these feats, Angie is a board member of the Los Angeles County Board of Education, and an active committee member of the Explorers and Boy Scouts Clubs in the Los Angeles area.

Mr. Speaker, such extensive involvment in the betterment of one's community is bound to reap award after award. Here too, Angie Papadakis excels. In 1974, Angie was the recipient of the Arkansas Traveler Award, bestowed by Gov. Dale Bumpers. The next year saw Angie receive the Woman and Boy Award of the San Pedro Boys' Club. And in 1979, receipt of the William Spurgeon Award for service to Exploring, bestowed by the Boy Scouts of America, made Angie the first woman to be recognized with this honor. So why should 1980 be any different? Angie Papadakis was recently awarded the Amicus Collegii Medal by Harbor College, in recognition of her outstanding community leadership. And on Saturday night, she will become San Pedro's Woman of the Year.

Mr. Speaker, the entire South Bay area knows Angie Papadakis as an exceptional and wonderful woman. Always giving of her time, energy, and wit, Angie is one individual who nurtures not only our hearts and minds, but our funnybones as well. My wife, Lee, and I, are delighted to have this opportunity to pay just tribute to Angie and all she has done for our community. I am certain that her husband, Tom, and their sons, Nick, John, and Tom, are as happy for her as we are, and we congratulate them all on this most happy occasion. Furthermore, we want to extend the appreciation of the entire South Bay for her continuous and untiring efforts, and wish Angie and her family continued success and happiness.●

INDEXATION OF THE TAX SYSTEM WOULD BE A BOON TO THE FARMERS OF AMERICA

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. GINGRICH. Mr. Speaker, a new study by researchers at Oklahoma State University shows that indexing the tax rate scale is the single most effective step Congress could take to preserve the family farm.

Inflation pushes up everyone's nominal income levels and land values. For farmers with their larger-than-average acreage the effects of inflation are all the more devastating. Farmers are climbing up the progressive income tax scale even as most of their income gains are inflation generated and therefore do not translate into new wealth or purchasing power.

The Oklahoma State study took a hypothetical four-member full-time farm family, started them off in 1979 with zero cash flow and only $12,600 for living expenses, and traced their path through the next 30 years with an estimated 6 percent annual inflation rate. The results were frightening: The family's effective tax rate increased by 112 percent.

Since this family started off barely making ends meet, they would either have to sell their farm or make huge gains in nominal income just to survive. In other words, they have a choice between running twice as fast just to stand still or simply dropping out of the race. That is the future our present income tax system holds out to the family farmer.

But indexing the tax rate scale, so that only the real income gains of farmers merit higher tax burdens, offers a way out of the present chain of events. The study reveals that the same family would face a far less threatening rise in its tax burden if the tax system were indexed to the inflation rate.

I have been a supporter of indexing the tax system for many years, just as I have fought for preservation of the family farm. Some politicians claim to be for the family farm but not for indexing. Yet the results of the Oklahoma State study, which were summarized in the August 15, 1980, edition of Farmland News, tell me that the best thing Congress can do to help farmers is to remove the inflationary bias from a tax system that is driving them out of business.

The Farmland News article follows, and I commend it to those of my colleagues who want to do justice to working Americans in general and to our farm families in particular:

INDEXED TAX MORE EFFECTIVE THAN PARITY IN SAVING FARMS

INFLATION KILLING FAMILY FARMS, OSU STUDY SAYS

If farmers really want to help themselves, they should be pushing for indexed income taxes rather than for 100 percent parity.

That's the final word coming out of a study underway at Oklahoma State University, according to agricultural economist Charles Eginton. Eginton is not for or against parity, his primary concern was only to conduct a study examining the effects of inflation on farm size. But as the work progressed, he and his associates began to see data that supported what many of today's farmers already know and feel.

Things like the fact that a young would-be farmer, lacking large amounts of investment capital, would not be able to control a full-time farming operation.

And the fact that inflation has resulted in ever-increasing farm size that will eventually force the ideal of a working farm family out of existence, replacing them with "super farms."

And that current tax concessions given to farm firms encourage the substitution of capital for labor, also resulting in fewer and larger farms, since established farmers are more likely to have the working capital and thus are best able to benefit from those concessions.

Indexing would be a solution to the problem, but it would take the cooperation of the U.S. government and a major switch in our tax policies or a limiting of inflation to a 6 percent rate which would also remedy the problem. Admittedly, these goals are difficult to achieve, but they are not impossible and would benefit all taxpayers, not just farmers.

Eginton defines indexing simply as set rates of income taxes to be paid by various economical classes of taxpayers. For instance, a farmer (or plumber, businessman, etc.) making $15,000 several years ago was taxed at a specific rate—say, 20 percent as an example.

Today, in order to make ends meet at exactly the same living level of several years ago, this person will have to make $20,000 or more. But due to our present taxing methods, he will be paying a 25 percent income tax rate. Indexing would keep his rate at 20 percent, which is fair because his style of living hasn't increased, only the number of inflated dollars he handles to maintain that level.

"Where farmers get into financial hot water with our tax system is when they have to handle large volumes of capital just to make an average living," Eginton points out.

Eginton's studies show that if farmers don't take advantage of available tax concessions, they will face tremendous tax burdens or very little to leave their heirs, or both.

To get a clearer picture of how modern tax policies are affecting today's farmers, Eginton turned to OSU agricultural economics professor Luther Tweeten for guidance. Tweeten has conducted several studies examining the economical standing of the modern family farm.

The researchers initiated an Oklahoma Agricultural Experiment Station study using a computer to create simulated models of six typical family farm situations operating over a 30-year period. The study employed data gathered by USDA from actual farm situations in different areas of the country.

The farms were defined as units requiring the full-time efforts of a man, his wife and two children—about 2,600 hours of labor per year. Allowing a tight $12,600 for living expenses, each model was started in year 1 (1979) with a zero cash flow situation. That is, they lived on the farm and broke even, with no income tax that year. They were kind to inflation in the model, setting it at only 6 percent per year.

"Early in the study we noted that inflation at 6 percent did not really affect farm size," Eginton says. "However, as inflation rates went over 6 percent, tax rates needed to be indexed to preserve the structure of family farms."

How much did indexing help a given farmer's income tax situation over a 30-year period? Ironically (though perhaps not accidentally), one of the farms studied was a Georgia peanut farm.

At the start and end of the period, this particular farmer was paying 48.1 percent income tax rate on an indexed tax payment system. But when the model was placed under our current non-indexed system his effective tax rate increased by 112 percent by the end of the 30-year period.

An important phase of the study was to learn what effect the withholding of current major tax concessions would have on the farm over the 30-year period.

"Tax concessions we examined were interest payments, depreciation allowances and investment tax credits. These are tax benefits that require high income and/or wealth available for investment before they can help the farmer. For this reason, full-owner or established farmers are more able to compete for land purchases, thus gradually increasing overall farm size," Eginton explains.

Because this was only an initial project, Eginton says he used major concessions, which served to cut down the bulk of material handled in the study.

Land-based farming operations, such as row-crop farming, benefit more from the interest write-off concessions than do high equipment type farms, such as confinement type hog operations. The latter type of farm firm benefits more from depreciation allowances and investment tax credits.●

TRIBUTE TO CARL PERINA

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. MINISH. Mr. Speaker, last Thursday evening, a man who has dedicated his life to serving the community in which he lives was honored by those who know and love him. A lifelong resident of Irvington, N.J., in my district, Carl, J. Perina spent 45 years as an employee of his community. He retires now from his post as director of department of parks and recreation, but his commitment to his work and his town will long be remembered.

Carl Perina was an all-State football player and was the leading man in a movie called "Irvington Romance." A graduate of the University of Pennsylvania, he was a member of the Philadelphia Opera Co. and received honorable mention by the United Press as an All-American football player.

After college, Carl Perina was a professional football player for the Montreal Wheelers. He later went to work as a property assessor for the department of revenue and finance in Irvington and worked for the New Jersey Highway Department and the Essex County Park Commission. He began his career with Irvington's Park Department in 1935.

Mr. Perina was the first town employee to enlist in service during World War II. His Air Force duty took him to England, France, Belgium, Luxembourg, and Germany, where he held the rank of captain.

Mr. Perina is a member of the American Legion, Post 16, the Masonic Lodge, the national recreation association, the Irvington Historical Society, a trustee of the Irvington Symphony Orchestra and an honorary member of the Irvington Art Associates. He has also served as treasurer and president of the New Jersey Parks and Recreation Society. Mr. Perina and his wife, Wilma, who is a guidance counselor at Irvington High School, have three children and two grandchildren.

Mr. Speaker, I would like to join these who have paid tribute to the contributions made by this extraordinary man.●

THE AGRICULTURAL CONSERVATION PROGRAM

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. MURPHY of Pennsylvania. Mr. Speaker, since the agricultural conservation program was created under the Soil Conservation and Domestic Allotment Act of 1936, it has been a consistent and effective program throughout its 40 years of existence. Despite the necessity of imposing responsible controls on Federal spending in this and future years, it is imperative that we continue to support effective programs such as this. With approximately 400,000 farmers and ranchers participating in ACP activities and sharing 50 percent of the cost of the programs we should support and approve the requested funding of $190 million so that the good conservation practices in rural communities throughout the country will continue. Because of this program, not only our farmers benefit. All Americans who enjoy clean water and unpolluted streams share in the benefits of this admirable program.

In considering this program we should also consider the fact that it is administered by nonpartisan farmer elected committees well qualified to make the necessary decisions on needed conservation practices in their respective counties. Because of the regimentation imposed on the county organizations over the years we should now make this program more responsive to the local needs of county ASC committees. Because they live and work in their individual counties they know far better what each local need is and the best ways for serving those individual counties. The proper stewardship of the land is critical to this Nation's capability of producing more food than any other nation in the world. We cannot afford to fail in supporting those men and women who grow that food on our farms and ranches. I hope that the support of this body in funding the ACP will reflect not only its concern for the rural beauty of the country but will serve as a platform for continued support throughout the years and additional funding to preserve rural America.●

THE FEASIBILITY OF A RETURN TO THE GOLD STANDARD

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. SANTINI. Mr. Speaker, the time for serious, critical discussion on the feasibility of a return to the gold standard has arrived. This issue is gaining support among Members of Congress, business leaders, and top economists, who are promoting reform of the monetary system by returning dollar to gold convertibility.

As chairman of the Subcommittee on Mines and Mining of the House Interior and Insular Affairs Committee, I am concerned about the possible ramifications of remonetizing gold. Gold is a vital strategic metal with myriad industrial applications, for the most part without substitutes. Furthermore, there is currently a resurgence in U.S. gold mining activity. How a return to the gold standard would affect the mining sector and the availability of gold supplies to defense and industry is uncertain.

In spite of calls for a return to the gold standard from numerous fronts, it is not clear just what the clamoring is about. There are numerous variants of the international gold coin standard the new monetary system could take, and the feasibility of these hybrids is a matter of debate.

On October 2, 1980, at 10 a.m. in 1324 Longworth, the Subcommittee on Mines and Mining will conduct a hearing entitled: "The Feasibility of a Return to the Gold Standard." The hearing will follow a panel format and will provide a forum for experts to debate the merits of returning to the gold standard and how it can be done. It will initiate congressional dialog on a major political and economic issue and clarify some of its ambiguities.●

MILITARY CONSTRUCTION AUTHORIZATION ACT

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. WEISS. Mr. Speaker, I oppose the provision in H.R. 7301, the Military Construction Authorization Act, for the construction of a binary munitions plant in Pine Bluff, Ark. The decision to build this nerve gas production facility is a serious departure from our existing policy of a ban on use of chemical weapons. For more than a decade, the United States has regarded biological and chemical warfare as repugnant and unacceptable. In fact, we unilaterally halted any production of chemical weapons in 1969, and the Soviet Union did the same that very year. Since that time, the United States and the Soviet Union have begun negotiating a formal agreement to limit the use and development of such weapons. Our resumed production of binary chemical weapons would seriously jeopardize the preliminary agreements that have been reached, including the recent, pathbreaking agreement regarding onsite verification.

There is no firm evidence that the Soviet Union has reversed its policy banning the use or production of chemical weapons. There have been allegations that the Soviet Union has used lethal chemical weapons in Afghanistan, but no documentation has been offered by the U.S. intelligence community to that effect. Neither can we be sure that the Soviets have increased their nerve gas stockpiles since 1969, or begun to produce such weapons again. The inhumane, horrible nature of chemical warfare alone should deter us from producing them, at least until we can be certain that the Soviet Union has again begun production.

Production of binary munitions will not give the United States any significant military advantage over the Soviet Union. The U.S.S.R. possesses the world's best defenses against chemical weapons: Our weapons would kill more civilians than soldiers. We would be wiser to invest in conventional weapons, which would have greater impact against the Soviet Union's defenses, and in protective clothing, antidotes, and training for our own soldiers.

Another major obstacle to utilization of chemical weapons is the position of our NATO Allies. They remain opposed to stockpiling chemical weapons in Europe, and West Germany has declared its refusal to train its soldiers to use them. Such a position renders our weapons useless as they would require prepositioning on European soil.

Even if our NATO Allies reversed their position, there is no immediate need to replace the current U.S. nerve gas stockpiles. The United States currently possesses a large stockpile of chemical weapons that can easily be made combat-ready and will remain operable at least into the late 1980's and probably into the 1990's.

A decision by the United States at this time to proceed with construction of a binary munitions facility would represent a drastic retreat from the policy of the current administration and its two predecessors. This decision by the world's most prominent democracy and defender of human rights would only encourage worldwide proliferation of chemical weapons. America's resumption of production of chemical weapons would make it easier for terrorist groups and poorer nations to justify producing them. It is my belief that action on this issue should be delayed until we have an opportunity to study it fully and reach agreement with out NATO Allies on a sensible, consistent course of action.●

CRISIS IN AGRICULTURE

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. BRINKLEY. Mr. Speaker, the agricultural situation in my district and throughout the State of Georgia has reached crisis proportions as a result of another, more devastating drought accompanied by extreme temperatures more severe than any in my lifetime.

I have recently received a letter from the American Agricultural Movement of Georgia, Inc., headquartered in my district, which I want to share with my colleagues. It underscores the critical economic situation facing not only farmers but also the many small businessmen who serve the farming industry.

The recommendations made by the organization to deal with the farm crisis deserve the thoughtful consideration and prompt study of all of us because the plight of the farmer grows worse each day and the fate of all consumers is tied inexorably to the farmers' worsening status.

American Agriculture
Movement of Georgia, Inc.,
Unadilla, Georgia.

Gentlemen: Agriculture in the United States is facing its severest test. After six years of gut wrenching inflation, we are now faced with a drought of gigantic proportions. Farmers throughout the U.S. who have been hardest hit by the weather, will have little or no crop to sell. The USDA is already predicting a decline in corn production of 14 percent, grain sorghum 32 percent, and cotton 13 percent, and since this report the crop has continued to deteriorate.

In past droughts farmers have bounced back with bumper crops. But with the financial stress that most farmers are in, it is doubtful that they will be able to obtain financing unless some drastic steps are taken, with little or no crops to sell, the increase we are seeing in prices will not keep farmers from bankruptcy.

As of June 30th, the following amounts were delinquent on FmHA and SBA loans.

FmHA AND SBA LOANS

	Loans	Amount
FmHA operating	21,271	$213,271,000
FmHA disaster	20,201	467,237,000
SBA direct/guarantee	9,497	483,900,000
SBA disaster	35,681	360,200,000

With farmers already delinquent on over one and a half billion, this figure will surely double by January 1, 1981. Farmers must have some relief from their pressing financial problems, if they are to recover.

If farmers are not refinanced after this disasterous drought we will see our agricultural reserves drawn down to the lowest levels in memory, we have just witnessed during the month of July a wholesale food price increase of 3.8 percent which is only the beginning. We will see over the next 2 months as the crops are gathered that each report from the USDA will show a further decline in production, we are facing runaway commodity prices the same as we have seen petroleum prices over the past few years, the U.S. is not prepared for food prices to triple in one year.

The problem is large but I believe the solution can be relatively easy to accomplish. I think the number one item that we should establish is that the fault of the problem does not lie in the farm sector, this problem started in 1972 with the beginning of petroleum increases in the OPEC countries and we have tried to avoid coming face to face with it each year. The Government just like any other business realized that all of its programs were running over budget and rather than face up to their problem in the farming sector have, because of the huge outlays in their food stamp program and not wanting to see them increase more than they already were, figured it was easier to liberalize FmHA lending to agriculture rather than help increase prices. This has brought on problems that must be faced in the FmHA, farmers cannot continue to farm under FmHA and I would like to give you some of the reasons.

1. Time frame involved in getting loan approval and obtaining funds:

In many instances we see it takes from 30 to 120 days per loan approval and after approval we sometimes see 4 to 8 weeks delay in receiving a check. No one can or should be expected to operate under this system. In many instances there are personality problems involved on the community level. The local man in charge does not want to loan a farmer $50,000 to $250,000 to make a crop on when he can not, in most instances, go to a lending institution and borrow $5,000. These people are not professional in their approach to these problems and we are seeing open conflict in some instances. No matter how incompetent a person may be on the local level he cannot or will not be replaced. These people are capable of making loans on houses which require no judgment decisions at all, but if they are called on to make judgment decisions the problems become worse. (If need be we will be glad to furnish examples of their business decisions that have cost farmers thousands and thousands of dollars.)

2. Inadequate financing:

FmHA policy is to loan a farmer a percentage of what he actually needs. If the local lending officer feels that he needs $150,000 to farm on for the year he will make him a loan for $115,000 and tell him when he spends this money to start running open accounts at his various suppliers and FmHA will allow him to pay these accounts in the fall when he harvests his crop. The farmer who in times past when told to do this by a banker, would be allowed to pay this debt even if he had a crop failure, but the FmHA works quite differently, if the farmer makes a short crop will not be given money to pay these debts by FmHA.

3. FmHA policy hinders local market competition:

When the local merchant realized that the FmHA was not going to allow the farmer to pay his bill knew that he had only one way to recoup. (most country suppliers also buy the farmers goods after harvest) He had to keep the local price just as cheap as possible, in times past when the farmer would come in to sell his crop and pay his debts the merchant would push the price as far as possible because he knew he was going to get his bill paid but on the other hand when he realized that he wasn't he did just the opposite, he kept the price as cheap as possible.

4. FmHA office under staffed and poorly managed:

In most offices the farm loans are treated secondary to any other business that the office might have, most offices will only see farmers one afternoon a week and usually only for three hours on that afternoon. This makes it almost impossible for farmers to conduct their business properly. There are many instances where the loan officers will try to intimidate the applicant and because the farmer does not understand the procedure and he never has it explained to him properly can some times have his loan application delayed indefinitely because he does not realize that as long as the officer does not give him a refusal in writing that his application can remain in that office for months and there is no one that will say or do anything in his behalf. There are many different programs that are available to farmers but he will never be briefed on them or made aware that they exist by his local office.

We could continue to give reasons for farm lending to be taken out of the hands of FmHA for hours on end but let us sum up one of the most telling problems. In 1970 their loan portfolio was 1.7 billion, in 1979 it was 42 billion during that time they have had a 5 percent increase in staff they simply are not adequately staffed to handle farm lending.

In light of the above we ask that the following steps be taken to remedy the problem, we do not think that it will cause any undue hardship on anyone but possibly some people will be offended by the simplicity of the solution.

A. Take farm lending out of the hands of the FmHA and put it in the hands of the rural agriculture banks through the already existing 90 percent guaranteed loan program. This program with a little refinement in paper work will be suitable as it already is. By putting farm lending on a guaranteed basis this will not cause big budget outlays which as you now have in your direct lending program.

B. Three year moratorium on all FmHA and SBA agricultural loans. These loans will be rolled over for three years and the farmers will be allowed to keep the money from this year's crop to help catch up on old past due accounts and to renew and improve his equipment and to give him some cash liquidity which should help him in his decision making.

C. Farmers that are borrowing money from PCA's or local banks would be able to cover their shortfall in their operating loan by being able to apply for a disaster loan through their local bank or PCA (in other words if they borrowed $200,000 from a bank and after harvesting their crop they only had $100,000 to pay against their loan they would be eligible for a disaster loan through their bank to cover the $100,000 shortfall but he would not have to start making payments on this loan for three years). This could be a guaranteed loan the same as the other loan.

It is possible that we have oversimplified this proposal, but I think that this task can be accomplished in a straightforward simple manner, I would like to close with one thought. If these steps are not taken we could see land values decline 30 to 50 percent. This would put every rural bank in financial trouble; we would see land taken out of the hands of the producers and put in the hands of people that would not try to raise crops and goods to feed the nation but would only be interested in profits, when this happens we will all be the losers. The decision rests in the hands of the Senate and Congress of the U.S. I trust that you will act responsibly.

Sincerely yours,

Tommy Kersey, *President.*●

CYSTIC FIBROSIS FOUNDATION

HON. DOUG BARNARD, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. BARNARD. Mr. Speaker, this week, September 21-27, is "National Cystic Fibrosis Week." It is an opportune time to extend a message of appreciation to the organization that has fought for a quarter of a century to provide a future for people with this tragic disease. The Cystic Fibrosis Foundation, which is observing its 25th anniversary this year, provides a shining example of how a voluntary health agency can provide innovative leadership and work in close partnership with Federal efforts to improve health care for all Americans.

The origin of the Cystic Fibrosis Foundation can be traced to 1955 with the creation and organization of the National Cystic Fibrosis Research Foundation. Parents and families of CF patients, located in six areas of the country, had already organized locally to publicize the plight of those with the disease, to raise funds usually for the support of local clinics, and to share personal experiences about their afflicted children.

A group comprised of representatives from the six geographic areas met in New York City in 1955 to consider the possibility of forming a national foundation committed to finding a cure or preventive measures for CF. What emerged from that meeting was an organization dedicated primarily to research and education, as the charter members realized that embracing care at that time would have limited funds available for the research which all hoped would result in the control of the disease.

Since that time, the foundation has grown and developed into one of the Nation's leading voluntary health organizations. Although its program structure and administration have changed significantly over time, its goals have remained essentially the same. The mission of the CFF is directed toward ultimately achieving a cure or control for CF by means of basic biological research and clinical studies, and for improving care for those with the disease through support of a network of over 120 centers across the country. The foundation promotes and supports education programs designed to alleviate the suffering of CF patients, while implementing courses of action concerned with the personal and societal impact of the disease. Although the primary target is cystic fibrosis, the foundation activities embrace a concern for other diseases as they relate to cystic fibrosis.

Through the diligent efforts of the thousands of people who have become involved in the foundation since its inception, the fight against cystic fibrosis is gaining attention and support from both Government and private sectors. The best measure of the organization's success has been the doubling of life expectancy of children born with CF during the last decade. Even with this progress, a child born today with CF cannot expect to live much past the age of 20. CF remains the No. 1 genetic killer of children and young people in the United States and a mystery of science.

Toward realizing its mission—to find a means to cure, control, or prevent cystic fibrosis—the CF Foundation will devote more than $6.6 million during the 1980-81 fiscal year for research, professional training, and health care delivery. Without this support, much of the progress achieved through CF research would not have been possible.

Two new medical programs exemplify the innovative role of the foundation. Progress in research has been hampered by the limited number of researchers in the field and the shortage of strong institutional programs with a focus on cystic fibrosis. In order to address these problems, the foundation is devoting a growing part of its research program to the support of new investigators, research trainees, and pilot and feasibility funding—the kinds of awards that allow scientists to develop new ideas, and provide data for grant applications to the NIH and other funding sources.

In addition, the foundation is planning a new kind of institutional support for universities that will make a commitment to CF research. While this program is still in the development stage, it is based on the proven record of several cystic fibrosis centers that an integrated program of patient care, interdisciplinary research, and funding flexibility is a very productive way to promote research progress. Since this kind of institutional support is rarely available from the National Institutes of Health in their current austere funding environment, the Cystic Fibrosis Foundation is stepping in to fill the gap itself with private funds.

As a result of a pair of 1978 studies into the state of the art of cystic fibrosis research, we are now aware of the importance of this medical problem and of the need for close cooperation between the Government and the private sector in dealing with it. I am pleased that the Cystic Fibrosis Foundation has not simply chosen to rely on the National Institutes of Health to do the entire job, but has instead tripled its own research budget between 1978 and what they project for the coming year. In addition, the foundation leadership has developed a good working relationship with the leadership of the National Institutes of Health, and NIH support of CF research has been growing as well. I am optimistic that the result of this innovative partnership between the Cystic Fibrosis Foundation and the NIH will accelerate the search for the answers to cystic fibrosis.

I would like to add a personal note. For the past several years it has been my privilege to work with the Cystic Fibrosis Foundation in arranging for the visits of their national poster representatives to Washington. These young people have been really inspirational to me. This year, for example, 15-year-old Todd Gibbs spent several days here as the foundation's spokesman, and I know that those of my colleagues who met him will remember him for a long time. I was very happy to learn that Todd was recently named 1 of the 10 outstanding young men in Kentucky by the Kentucky Jaycees.

So because of people like Todd Gibbs and the thousands of volunteers who work with the Cystic Fibrosis Foundation, I am happy to join in the observance of National Cystic Fibrosis Week, and I wish the Foundation rapid success in reaching their goal of conquering cystic fibrosis.●

OIL IMPORTS TO BE INTERRUPTED

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. BOB WILSON. Mr. Speaker, once again, with the current conflict between Iran and Iraq, we see a potentiality for an interruption of a part of our oil imports from the Middle East. And once again I wonder just how many crises do we have to face before we realize just how tenuous our position is in reliance on foreign oil when we have the capacity right now to increase our own energy output through use of nuclear powerplants.

Former University of California at San Diego chancellor, Dr. William McElroy has long been an advocate of the use of nuclear energy, and from his present position as a director of San Diego Gas & Electric, he is able to view the whole spectrum of our energy situation.

In an interview with a San Diego Union Board of Editors, Dr. McElroy reiterates his strong support of nuclear energy and I recommend his thoughts to my colleagues:

THE PROBLEM IS OIL, NOT A LACK OF ENERGY SOURCES, MCELROY SAYS

The United States should move promptly to get coal and nuclear technology on line to replace oil in the national energy market, Dr. William McElroy, a biologist, former chancellor of the University of California, San Diego, and a director of San Diego Gas & Electric Company, told editors of The San Diego Union recently. He said soft national and state leadership is the primary reason the U.S. energy problem is not being solved. Here is the interview.

Question. Dr. McElroy, there is a great flood of liquid energy in the world today. Why should we be concerned about energy?

A. I don't think we have an energy problem to begin with. Quite frankly, we have an oil problem and an oil import problem, but we don't have an energy problem. Either in the United States or in the world. In 1979, the latest figures I have, show about a $50 billion deficit on oil imports. But if you look at the other international trade activities we were a plus $20 billion, so the net was a minus $30 billion.

Q. But if we burn coal or something else, wouldn't those trade figures be even worse,?

A. We've got coal coming out of our ears, and we've got shale oil in Colorado and the Western United States—it's enough to last us over 300 years at the same energy level we're talking about right now.

Q. People tell me that we have three problems with coal. You can't mine it, you can't transport it and you can't burn it. Is that roughly correct?

A. No. We have the technology for burning it, and with reasonable environmental controls. There are areas for improvement, but we've cleaned it up tremendously. We know how to gasify it, we know how to liquefy it. The technology is there; it's just not being used.

Q. In light of what you're saying, why are we talking about an energy problem?

A. I think the reason we are talking about it is the lack of leadership at the federal and state levels toward using nuclear energy and coal.

Q. Hasn't the Carter administration addressed our energy needs with its synthetic fuel program?

A. Yes, but the synthetic fuel program isn't enough, nor is solar. The move toward synthetic fuels is good, but I think liquid fuel should not be the only synthetic fuel approach. I think gas is very important, too.

Q. For all practical purposes, the Germans ran their war machines on methynol during World War II—I guess coal liquefaction is the major source of it. What is keeping us from doing that?

A. I don't think we have to go to methynol. I think we can liquefy shale and coal and use that as a reasonable middle-level hydrocarbon.

Q. Would that be less expensive?

A. Yes. We have the technology. As a matter of fact, we have machines out there standing still right now that could do this. Look at California; we're in a mess. We can't burn coal, we can't really expand nuclear. All we can do is burn gas and oil. Congress, in all its wisdom, decided that $10 billion was too much to spend to convert from oil and gas to coal and appropriated only $3.6 million this last time. We should be investing probably close to 1 percent of our gross national product in transferring over to coal and nuclear right now.

Q. Is much of the opposition to the use of coal and other related hydrocarbons led by the oil industry?

A. I can't imagine, since it is so interlocking that it would make that much difference to them. Groups that I am familiar with, like Conoco, have an interlocking interest with coal people. I sit on the San Diego Gas and Electric board and I'll tell you, it's as frustrating as it can be. We're afraid to build a coal-burning instrument for making electricity because it would not be allowed to come on line. Now we're going over to Arizona and New Mexico to buy electricity from them—they are burning coal. Within two or three years they are going to refuse to sell to us.

Q. How do the costs compare for oil-fired electricity and coal-fired electricity?

A. It would be about a factor of five right now at the market value. For example, right now San Onofre 1 is supplying electricity at about one-tenth the cost of what San Diego Gas & Electric is generating with oil and gas. Coal would be about one-fifth the oil and gas cost.

Q. What kind of technology should we use for combustion of coal?

A. I happen to think that with the present instruments we have, coal liquefaction is probably one of the better ways, because coming up out of that you would also get the middle chain hydrocarbons which can be substituted for gasoline.

Q. And this eliminates the acid rain and carbon dioxide problems?

A. Yes, we can do that. The carbon dioxide level is a global problem. Right now we are running around 340 parts per million of carbon dioxide in the atmosphere. If you go up to about 1,000 parts per million, you start affecting photosynthesis, so 500 parts per million is about the maximum you could go to in terms of the biological productivity in the earth. Now, the data has been accumulated and analyzed that if you went over completely to coal to supply our present energy needs, it would take to about the year 2020 before you would even possibly approach 500 parts per million. So, you've got 20 or 30 years to make the next decision on coal, along with a lot of other interesting possibilities—nuclear fission and fusion and breeder reactors—that could substitute. But a lot of research needs to be done on where to shut off for the sake of plant life productivity, earth temperature, and so on.

Q. Do you think that, in the light of the Three Mile Island accident and the delay in a waste disposal program, it will be politically possible to increase the amount of nuclear power significantly in the next few years?

A. I think that somebody had better get politically responsible in this country and do it. It may be very tough, but if Three Mile Island told us anything, it told us we can go to almost a catastrophe in a nuclear plant without really hurting anybody. France by 1985 will be 95 percent nuclear as far as electrical generation is concerned, and other countries are moving ahead very rapidly. We're sitting here spending $50 billion for importing oil. That's ridiculous.

Q. How do you solve the nuclear waste problem?

A. We've got places to store the waste. Geologists have been saying this for years now. There are a lot of places where we can put this stuff into concrete and store it in geological formations that we know haven't been disturbed for 100 years.

Q. What happens if you live at a site selected?

A. I think you could pick sites where there is nobody living.

Q. But after Three Mile Island, isn't there a problem convincing the American people that that kind of risk is worth it?

A. I don't know what the vote would be today, but I'll just remind you that California voted not too long ago almost 3 to 1 in favor of nuclear energy.

Q. Wasn't this before Three Mile Island?

A. Yes, but my impression on the campus is that the majority of students would vote pro-nuclear. You've got a minority group that would make some more noise, but I really believe that once the people got the facts, they would go pro-nuclear, particularly as their electric bills keep going up like they are. And they are going to double again this next year.

Q. We've been talking about fusion since almost the end of World War II. What is the time table for that?

A. The first real demonstration project at a commercial level probably won't take place until about 2010. The Princeton and the Russian experiments have gotten almost to the break-even point where you're getting about the amount of energy out that you are putting in, so that's good progress. The people at Oak Ridge and the Department of Energy say that we should start building a demonstration plant now. It would probably take 10 to 15 years to build the magnets and the other things you need to contain the plasma. But it would be unrealistic to expect anything from fusion until about 2010.

Q. What is your view of biomass?

A. I'm a great enthusiast for biology and using biomass, but one has to be very careful. Economically it's just not there. If you try to, for example, raise corn, wheat or beets and things like that as a cheap source of sugar for biomass, using present agricultural techniques, you put in $3 and get back out $2.

Q. What about using timber waste? I know there are places in Maine and California where there is diseased wood just sitting around the ground. Does that have possibilities?

A. Temporarily. You could use it up; then you could go to Carolina and places like that where you can grow trees very fast. But you've got to remember that when you start taking things that would go into the soil and using them this way, you are depleting the soil. You cannot keep soil active just by putting on nitrogen, phosphorous and potassium. The structure of the soil is changed, its ability to hold onto nutrients changes and you tend to go from a nice tilling soil to, essentially, concrete. It is a very damaging approach. And that's one of the things a lot of the people who are talking about biomass have forgotten about. Now, maybe you could go to the ocean and start collecting seaweed and algae growths and things like that, but it would be microscopic in terms of our energy needs.●

CONGRESSIONAL SALUTE TO FOUR DISTINGUISHED CITIZENS AND COMMUNITY LEADERS OF THE BOROUGH OF BLOOMINGDALE, STATE OF NEW JERSEY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. ROE. Mr. Speaker, on Friday, September 26, the residents of the borough of Bloomingdale, my congressional district, and State of New Jersey will assemble at a testimonial dinner in tribute and deep appreciation to four public administrators of the community: the Honorable Josephine Bennett, tax collector-treasurer; Laurence Bennett, member and secretary, board of assessors; Kenneth Mathews, member, board of assessors (former mayor and councilman), and Sebastian C. Sehulster, member, board of assessors, whose combined services of over a century plus almost three decades dedicated to the administration of good government on behalf of the people of Bloomingdale have truly enriched our community, State, and Nation.

Mr. Speaker, as these distinguished citizens and community leaders retire from their public administration careers I am pleased to join with their many, many friends in deep appreciation of all of their good works and share with their families great pride in the success of their achievements.

With your permission I would like to insert at this point in our historic Journal of Congress a brief chronology of their service to the borough in each instance with devotion and sincerity of purpose in their daily pursuits in the interest of our people, as follows:

Josephine "Jo" Bennett, Tax Collector-Treasurer

Jo started assisting in the Tax Office in 1957. In November, 1962, she was elected Tax Collector and took office January, 1963; also, served as Treasurer, Tax Search Officer and Custodian of School Funds, until her retirement September 1, 1980. Jo is Past President of the Passaic County Collector-Treasurers Association. Past President of the Bloomingdale Firemen's Ladies Auxiliary and Past President of the Passaic County Firemen's Ladies Auxiliary.

Laurence "Bud" Bennett, Member and Secretary, Board of Assessors

Bud was employed as Assessor in the Fall of 1948, appointed Assessor and Secretary-Board of Assessors January 1949, and served in that capacity until retiring August 1, 1980. Bud was elected Borough Fireman March 8, 1946 and served until February 1977, when he retired as Captain. He served as Treasurer of the Passaic County Assessors Association for sixteen years.

KENNETH "KEN" MATHEWS, MEMBER, BOARD OF ASSESSORS (FORMER MAYOR AND COUNCILMAN)

Ken was appointed Assessor September 22, 1966 and served in that capacity until retiring August 1, 1980. He was Borough Councilman from 1948 through 1962 and was Mayor of the Borough of Bloomingdale in 1963 and 1964. Ken was one of the original members of the Planning Board organized in 1957, and served as a member until resigning March 23, 1967; also was Special Representative to the Board of Health for eight years. Ken served the Borough as Fireman from date of approval March 20, 1931 and retired as 1st Deputy Chief February 10, 1977, after having served as Captain and 1st Deputy Chief for a total of twenty-five years.

SEBASTIAN C. "CLAYT" SEHULSTER, MEMBER, BOARD OF ASSESSORS

Clayt was appointed Assessor February 14, 1957 and served until retiring August 1, 1980. He also served as Building Inspector from April 12, 1962 through January, 1967. During that time, he was Sewer Inspector and Zoning Officer. Clayt was a Past Treasurer of the Passaic County Assessors Association and was a member of the Bloomingdale Lions Club.

Mr. Speaker, it is indeed appropriate that we reflect on the deeds and achievements of our people who have contributed to the quality of our way of life here in America and I am honored and privileged to call your attention to the lifetime of outstanding public service provided by these exemplary citizens.

As they retire from the high office of public trust that they have attained by their personal commitment and hard work, I know that you and our colleagues here in the Congress will want to join with me in extending our warmest greetings and felicitations to them for their standards of excellence and record of achievements. We do indeed salute the Honorable Josephine Bennett, the Honorable Laurence Bennett, and Honorable Kenneth Mathews, and the Honorable Sebastian C. Sehulster, distinguished citizens and community leaders, for their contributions to the quality of life for the people of Bloomingdale, our State, and Nation.●

REPUBLICANS OPPOSE CARTEROMICS

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. SHUSTER. Mr. Speaker, I rise today to bring to the attention of my colleagues the dismal consequences of Carteromics—the so called economic policy of the Carter administration. Carteromics is that strange mixture of inflation, high taxes, increased Government spending, and high unemployment that passes for economic policy under President Carter. What it really is is a prescription for disaster.

Yesterday, the House Republican Policy Committee adopted a formal policy statement detailing the impact of 4 more years of Carter economics. So that my colleagues may more fully understand these impacts, I am including the full policy statement for their perusal:

CARTEROMICS: PRESCRIPTION FOR DISASTER

On behalf of the American taxpayer, the House Republican Policy Committee strongly opposes the policy of Carteromics. Carteromics—that strange mixture of inflation, high taxes, increased government spending, and high unemployment—is what passes for economic policy under President Carter.

During the past 3½ years, the American people have learned all too well the definition of Carteromics:

*An inflation rate that has soared from 4.5 percent in 1976 to 18 percent in 1980;

*An unemployment rate that has thrown 8 million people out of work.

*Prime interest rates that have almost tripled, from a high of 7.25 percent in 1976 to a high of 20 percent in 1980.

*An increase of 50 percent in the tax burden on the American people—rising from $400 billion to over $600 billion;

*A bloated federal bureaucracy that now takes almost 22 percent of the Gross National Product out of the productive private sector to feed itself.

But as bad as the past 3½ years have been, a second term under Jimmy Carter would be even worse—it would, in fact, be a Prescription for Disaster!

Congressman Dave Stockman (R-Mich.) has performed an exhaustive, detailed cost analysis of the new spending programs endorsed by the Democrat platforms and of the re-estimate of the five-year economic and budget forecasts issued by the White House in July. This analysis indicates the following dismal outlook through 1980.

1. Democrat spending promises would result in a 16 percent annual growth in federal outlays through fiscal year 1985. Fifty-three major platform proposals alone would add $444 billion in new outlays over the period and total $130 billion per year by fiscal year 1985. Overall, current Democratic policies and future pledges would escalate federal spending from $575 billion in fiscal year 1980 to over $1.2 trillion in fiscal year 1985—an increase of 105 percent. The Democrats plan to spend the staggering sum of 4.7 trillion during the next five budget years.

2. The federal deficit will increase to $92 billion in fiscal year 1981, with the deficit figure steadily rising to $134 billion by fiscal year 1983 and $201 billion by fiscal year 1985. The five year red ink total will exceed $713 billion, increasing the national debt by 66 percent.

3. The federal tax share of GNP will rise from 20.6 percent in fiscal year 1980 to an historic high of 23.2 percent in fiscal year 1985. Nominal revenues will increase from $518 billion in fiscal year 1980 to $1,022 billion in fiscal year 1985, a 98 percent jump, under current tax law. Yet revenues would have to rise to nearly $1.2 trillion or 27 percent of GNP to actually balance the budget in fiscal year 1985.

4. The anemic 2.5 percent annual real GNP growth during the first Carter Administration would decline further to an average of 1.8 percent per year through 1985.

And what do these policies mean to the American people? Simply this:

(A) The U.S. labor force will grow by nearly 7 million workers between now and 1985, but the sluggish real growth resulting from Democratic tax, spending and regulatory policies will make it impossible to generate new jobs fast enough. Consequently, unemployment will remain above 8 million through early 1984, and nearly 7.5 million Americans will still be looking for work in 1985.

(B) By 1985 inflation rates will be in the 12 percent range or higher. A thousand dollars saved in 1976 will be worth only $460 after a second Carter term.

And what does President Carter propose to ease these burdens? A tax rebate that is a pittance.

Under present law, a $25,000 per year family will experience a $3,704 increase in federal taxes between 1980 and 1985 if its earnings keep up with the inflation rate. The Carter proposed 8 percent Social Security rebate will offset only $230, or 6.2 percent, of this increase. This staggering increase is primarily due to the fact that the family's marginal tax rate will rise from 28 to 43 percent over the five years due to bracket creep.

Thus, despite promises to the contrary by Jimmy Carter, the impact of Carteromics is clear. The American people cannot afford four more years of Democrat economic policies.

This is the 267th day of the 26th consecutive year of Democrat control of the House of Representatives.●

19TH ANNUAL CONGRESSIONAL BASEBALL GAME

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. CHAPPELL. Mr. Speaker, as one of the coaches of the Democratic baseball team, it is with a feeling of both admiration and sadness that I accept the challenge to the 19th annual congressional baseball game issued by our colleagues SILVIO CONTE and CARL PURSELL.

My admiration is real. Like all Americans I feel heartened by the spectacle of men bravely facing hopeless odds: The Spartans defeat at Thermopylae, Davy Crockett and Jim Bowie at the Alamo—those images stir the blood of any patriot.

Of course, one thing about such scenes—to those who participate in them—is the fact that while odds may seem hopeless—no one can know the outcome in advance.

As John Paul Jones proved: A refusal to surrender can lead to victory.

If this were the present situation of the Republican baseball team my admiration would be unmixed. After their defeat we would honor their last stand. Perhaps building a trophy to their bravery out of the bats and gloves fallen from their helpless hands.

The present situation of the Republicans ball team, however, is not like the battle of John Paul Jones against the British.

It is more like the attempt of the medieval English King Canute to stop the oncoming tide by lashing the waves.

And this is the cause of my sadness.

It is sad to see a once-worthy opponent fallen—not in battle—but in the mind.

But can it be but madness to challenge the very tide.

There is a difference, after all, between jumping in front of a runaway horse in an attempt to save its rider and jumping in front of an avalanche.

The first is heroism. The second suicide.

And so I am sad to see my Republican colleagues come to such a pass.

But wait. It occurs to me the reason King Canute ordered the tide to halt is not in any expectation that it would stop.

In fact, he purposely took up this futile contest in order to prove his limitations to his subjects.

Some things, he said, I can oppose. Others, I cannot.

It is possible—no, it is most likely—some such lesson is what my Republican colleagues intend.

Some things undoubtedly they can do. But there are other things they should not be expected to do—such as defeating Democrats.

Ladies and gentlemen, the Democratic ball team will be happy to assist in this demonstration by overwhelming the opposing team with a tide of scoring. Then the Republicans can be seen for what they really are—all wet.●

THE AMERICAN FISHERIES PROMOTION ACT

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. YOUNG of Alaska. Mr. Speaker, yesterday, due to conflict with other business, I was unable to be present in the House Chamber when H.R. 7039, the "American Fisheries Promotion Act," was debated. I therefore wish to insert in the RECORD my views on this significant piece of legislation.

To begin with, I would like to express my gratitude to the chairman and ranking member of the Subcommittee on Fisheries and Wildlife Conservation and the Environment. They and their staffs have spent countless hours in writing this legislation, listening to testimony, and guiding the bill to final passage in committee and the House. Their sincere efforts will long be remembered and appreciated by Alaskans.

As was stated during the debate, H.R. 7039 represents an attempt to correct certain deficiencies in the Fisheries Conservation and Management Act and, more importantly, to provide a mechanism for the successful development of the U.S. fishing industry. As a Representative of a State with 35 percent of the Nation's coastline and two of the top three fishing ports in the country, I share this laudable goal. I joined with Mr. BREAUX, Mr. FORSYTHE, and a number of our other colleagues in sponsoring H.R. 7039 and have tried to work in cooperation with them in getting a good bill passed.

American fishermen have long recognized that extension of U.S. jurisdiction over aquatic resources to 200 miles was only the first step in re-establishing a strong fishing industry. Once conservation and management controls were put in place, an effort had to be made to provide the economic and political structure to allow U.S. fishermen to take advantage of these conservation and management measures. This would include such things as changing the Saltonstall-Kennedy Act to provide funding for fisheries development projects, with the money to come from tariffs collected on fish imports; providing a mechanism to rebuild our processing facilities; engaging in a coordinated marketing effort, both domestically and overseas; and insuring that foreign fishing in our 200-mile zone is treated as a privilege, rather than a right. H.R. 7039 was introduced to promote such development. In addition, certain problems with existing law that have been discovered were also addressed in this legislation.

Unfortunately, as often happens with legislation, a number of changes had to be made in the bill. Some of these were made in committee markup sessions, in which I participated. However, following the passage of H.R. 7039 in the Merchant Marine and Fisheries Committee, the administration, which had gone on record in opposition to the bill, indicated that H.R. 7039 would be vetoed if sent to the President in its existing form. As a result, negotiations ensued between the committee staff and administration representatives, resulting in the bill that was passed yesterday.

After reading the compromise bill, I must regretfully state that some concerns of Alaskan fishermen and processors have not been addressed and that new areas of concern have been found in the legislation. This is not to say that H.R. 7039 is a bad bill; on the contrary, there are a number of excellent provisions that have been retained and that will be helpful to the fishing industry. I would also like to point out, and emphasize, that the committee intent, as expressed by Mr. BREAUX and Mr. FORSYTHE in their statements yesterday, will certainly help to alleviate some of the problems found in the bill. On balance, however, I do feel that further work needs to be done if we are to have the sort of fisheries development legislation that we envisioned when H.R. 7039 was introduced.

If a conference is held with the Senate on this bill, I will work with my colleagues in trying to address these concerns in the appropriate fashion. I am sure that some Alaskan fishermen will be contacting our Senators to express their opinions on this bill. If, due to the shortness of the session, no conference is held, I would hope that the chairman and ranking member of the subcommittee will agree to look again at these problems in the next session.

Again, I think that the chairman and the ranking member should be congratulated for their efforts and I look forward to working with them in the future to insure that we retain a strong U.S. fishing industry.●

LEST WE FORGET: THE STRUGGLE OF ANATOLY SHCHARANSKY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. DORNAN. Mr. Speaker, with the passage of time, it is easy to lose sight of the sacrifices that are still being made by those brave men and women in the U.S.S.R. who stand tall for freedom. Lost in the great debates on arms control agreements, the grain embargos on the Soviet Union, the strikes in Poland, and the Soviet invasion of Afghanistan, is the continuing, silent, desolate struggle of Anatoly Shcharansky and the brave Soviet Jewish activists in Soviet labor camps.

Shcharansky's lawyer, Harvard law professor Alan Dershowitz, was forbidden by the Soviet court from making an oral agreement in Shcharansky's defense. So he submitted a written closing argument to the Soviet court on behalf of his brave client.

Lest we forget the bravery and the determination of the Soviet Jewish activists struggling for freedom and survival in the face of a tyrannical Soviet police state, I submit, for the RECORD, Professor Dershowitz's remarkable defense of Anatoly Shcharansky, a defense which is also an indictment of the Soviet system of justice.

THE CLOSING ARGUMENT BY ANATOLY SHCHARANSKY'S LAWYER IN ABSENTIA

Shortly after the arrest of Anatoly Shcharansky, his wife—Avital—asked me to serve as his American lawyer. I accepted with a profound sense of responsibility but with little hope of affecting the outcome of the case. Shortly thereafter, Shcharansky's mother, Ida Milgrom, sent me a written message from the Soviet Union asking me to try to represent Shcharansky at his Moscow trial. I agreed to try, but again without much hope. My pessimism, it turns out, was well founded: repeated requests to attend Shcharansky's trial and appeal have been rebuked. I have decided, however, to submit to the Soviet Court the following closing argument that I would have made on Shcharansky's behalf had I been allowed to represent him. I have also submitted the argument to the court that has jurisdiction to hear an appeal from Shcharansky's conviction. (A more detailed and technical legal brief will be submitted as well.)

HONORABLE JUDGES: I am here to speak on behalf of a man who has already been declared guilty by the official Soviet press and by numerous high ranking officials of the Soviet Communist Party and Government. But under Soviet law, Anatoly Shcharansky is entitled to a fair trial and an unbiased verdict from Your Honors. I am acutely aware of the burden under which you labor: I know—as you know only too well—that no judge in the half century of this nation's history has ever voted to acquit a defendant charged with a politicial crime such as treason. But I ask you to throw off your yokes and to act as honorable members of the legal profession: by rendering a true and honest judgment.

Who was the defendant, Anatoly Shcharansky, before his arrest on April 15, 1977?

Anatoly Shcharansky was the voice of the Jewish Emigration movement. It was he who served as the public communication link between the Jewish refusniks—those whose requests to emigrate from the Soviet Union has not been granted—and the outside world. His every act was out in the open; it was his purpose to let the Soviet authorities know that his voice—which, in reality, was the articulate translation of thousands of other refusnik voices—was being listened to in Europe and in the United States. He did nothing in secret: that was neither his method nor his purpose.

The Soviet authorities now claim that this open, public spokesperson was, in reality, a secret operative of the American Central Intelligence Agency, that he was stealing Soviet military secrets and covertly passing them on to American agents, diplomats and reporters.

If the charges were not so serious, they would be comic indeed. Imagine how incompetent an American intelligence agency would have to be to have engaged someone like Shcharansky as a spy. His phone obviously tapped, his every movement openly surveilled, his roommate a KGB plant, Schcharansky was the worst possible candidate for the espionage game. Imagine how incompetent the Soviet counterespionage apparatus would have to be to have let someone like Shcharansky—a man who had publicly declared his allegiance to Israel and who had demanded the right to emigrate there—have access to military secrets.

Shcharansky was not a spy. United States President Carter did not lie when he publicly assured the world that he had inquired deeply within the C.I.A. and the State Department and had determined that Shcharansky never had any connection with the C.I.A. Shcharansky did not work for the C.I.A., nor did he have access to any military secrets.

The only information to which he had any access at all was computer technology, since that was the field in which he had worked several years prior to his arrest. But the Soviet Union imports virtually all of its computer technology from the United States, under an assurance—made binding by American law—that this technology will never be put to any direct or indirect military use. For the Soviet Union now to claim that Shcharansky had access to military secrets is for that nation's leaders to boast that they are defying the express conditions under which they have been allowed to import computer technology. If this prosecution succeeds, it cannot be long before the Ameican Congress revokes the Soviet Union's privilege to import American technology for military uses expressly forbidden by American law.

The prosecutor has made much of the information that Shcharansky gave to Robert Toth, the reporter for the Los Angeles Times. But there is nothing secret either about the information or about the fact that Shcharansky turned it over to Toth. Shcharansky never gave background or off-the-record interviews to the press; he was always identified by name in the press reports as the source of the information. Indeed, on one occasion when an American newsman came to pick him up for an interview in a small family car, Shcharansky insisted that the reporter return in the large American car which was clearly identified as belonging to an American newspaper. Are these the actions of a secret spy trying to conceal his relationship to the press?

And what was the nature of the information he turned over to Toth and others? It was simply the names and places of employment of refusniks whose emigration requests had been turned down by the Soviet emigration authorities on the ground that they had worked in jobs involving state secrets. Each such refusnik had received a notification from the Soviet authorities and each was free to communicate that fact to the press—as many did. All Shcharansky did was to collate this public information and transmit it—in convenient form—to the American press in order to demonstrate that no state secrets were involved, that the Soviet, excuses for denying exit visas were pretextual. This was his right under Soviet law and under the Helsinki Accords, the irony is that if any Soviet secrets were revealed at all—and Toth denies that any were—they were revealed by the Soviet emigration authorities themselves when they sent public notices to refusniks declaring that the factories, research ships, and laboratories in which these refusniks had worked were involved in "state secrets." Shcharansky cannot legally be convicted of revealing "secrets" that had already been revealed by the Soviet authorities.

But what of Anatoly Shcharansky, the man, the husband, the son? We do not know what remains of the 29 year old smiling man who was carried away to a KGB prison on March 15, 1977. Between that date and July 10, 1978—a period of nearly 16 months—Anatoly Shcharansky was a non-person in the Soviet Union. Nobody—not his mother, not his lawyer, not his wife—was allowed to communicate with him in any way; nobody knew his physical or mental condition; nobody knew what his captors were doing to him in the secrecy of this KGB fortress. Nobody knew, for sure, whether he was alive or dead.

Then, on July 10, 1978, he was taken to a courtroom for his trial—a trial which under Soviet law must be open to the public. But who has been allowed to attend this public trial? Not the American or western press, though Shcharansky has become a household word through much of the world. Not American diplomats, though that country is charged with being the recipient of Shcharansky's espionage. Not any of Shcharansky's friends or supporters, though they are willing to testify on his behalf. Not even his mother—who had not laid eyes on him for 16 months—was allowed to enter the courtroom during the trial. The pretense for excluding his mother was that the prosecution claimed that it intended to call her as a witness, needless to say, it never called her nor allowed her to see her son. Indeed, the prosecutor—and the court—have been unwilling to call as witnesses those people who have most direct knowledge of the alleged "crimes" of Anatoly Shcharansky. Where was Robert Toth, the jounalist to whom Shcharansky allegedly passed secrets? He has declared his willingness to come to the Soviet Union to state under oath what he has already written in the American press, namely that none of the material given to him by Shcharansky was classified as secret under the Soviet regulations. Where was the testimony of Professor Vitaly Rubin, who allegedly recruited Shcharansky's KGB roommate into the C.I.A.? Efforts to submit the deposition of Rubin and other crucial witnesses who are now outside the Soviet Union have been rebuffed. Shcharansky has also been denied the right to call witnesses who are in the Soviet Union in his defense.

Why are the prosecutors so afraid of these witnesses? Why are they so afraid of the western press? Why are they so afraid of the numerous distingushed lawyers from around the world who have requested permission to observe the trial? Why are they so afraid of allowing Shcharansky to be defended by a Soviet lawyer of his choice? Why are they so afraid of letting the truth come out? The answer, Honorable Judges, is as obvious to you as it is to the rest of the world: the truth is that these charges of treason against Anatoly Shcharansky are wholly false; Anatoly Shcharansky is an innocent man.

You know that, and the world knows that you know it. It is you who are on trial. Will you follow the orders of your party and government? Will you do what every Soviet judge before you has done? Or will you act so as to merit the truly honorable title of "judge"?

When your country and mine brought the Nazi judges to trial at Nuremberg, one German judge—in defense of his decision to allow an innocent Jew to be executed—argued in defense of his judicial misconduct that he had believed that by following the party's orders in one case he could slow down the process of genocide. The Nuremberg judges—from your country and mine—rejected his defense and jointly proclaimed that on the day that justice was perverted by the deliberate conviction of the initial innocent victim, the irreversible first step toward judicial genocide and holocaust had been taken. I implore you to search your consciences before you take a similar tragic first step here.

The fate of one human being is in your hands, but much more is at stake: the future of civilization may hang in the balance.●

RETIRING ATHLETIC DIRECTOR REED LAUGHLIN

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. BONIOR of Michigan. Mr. Speaker, I would like to take this opportunity to share with my colleagues the accomplishments of Reed Laughlin, who is retiring as athletic director of Port Huron High School.

During his 40 years of involvement in education and athletics, Mr. Laughlin has helped to build a record of accomplishment at Port Huron High that will stand for a very long time.

Hired to coach the Big Reds in 1947, Mr. Laughlin went on to become the athletic director in 1966. Under his leadership, the Big Reds won many games, but it will be for his dedication to the students' needs that he will be most remembered. Facilities at the high school have improved and they now have the kind of equipment that can help to mold top athletes. He also aided the advancement of girl's sports during the early 1950's.

Mr. Laughlin, a member of the Michigan Coaches Hall of Fame, received his B.S. in physical education from Western Michigan University. From Western he served at several schools before beginning his long career at Port Huron High.

Although he is retiring from his job of athletic director, Mr. Laughlin plans to remain active in Port Huron community activities. This is not unexpected from a man who has given of his time and talents to thousands of young people.

The students, teachers, and people of Port Huron owe a great deal to this dedicated and talented man and I am pleased that I can be a part of the tribute to Reed Laughlin.●

INTERNATIONAL TRADE

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. GIBBONS. Mr. Speaker, international trade has a powerful influence upon the U.S. economy. Yesterday, Mr. Robert J. Samuelson, a noted authority on economic matters, wrote in the column entitled "Economic Focus" of the Washington Post a definitive essay on the subject of international trade.

Mr. Speaker, all Members who did not have an opportunity to read Mr. Samuelson's article should take the time to do so. For their convenience, I am attaching a copy of it:

[From the Washington Post, Sept. 23, 1980]

HARD TO IMAGINE BETTER U.S. TRADE STRUCTURE

(By Robert J. Samuelson)

One of the arts of political life today is defining the "national interest." In policies, parochial interests always will triumph if broader interests can't be coalesced into understandable themes and workable coalitions. It is simply a matter of knowing and caring. There is too much going on for everyone to know all the details of everything. If broader interests cannot be identified from the morass of details, then those who command the details will shape government policy.

You can apply this rule of thumb to dozens of areas of political life, but nowhere is it more relevant today than in trade policy. Time was, of course, that "free trade" was accepted automatically as part of the national interest. No more. When a recent New York Times-CBS News poll asked respondents whether they would choose jobs over lower-priced imports, 70 percent picked jobs.

Times change and, if free trade no longer furthers the national interest, it ought to be abandoned. But the overwhelming evidence is otherwise and, if the public disagrees, we face a self-destructive political failure in which popular attitudes diverge significantly from concrete interests.

Overwhelming evidence? Start with a recent report—"Study of U.S. Competitiveness"—submitted by the Carter administration (the work was largely done by the Labor Department) to Congress. You undoubtedly have heard much about the deterioration of the U.S. trade balance, but once you remove oil imports, the trade balance remains remarkably strong.

Put in simplest terms, America today is a massive exporter of capital-intensive and technology-intensive goods (from computers to heavy power equipment), a massive exporter of food and a large importer of consumer goods. The amounts are immense: in 1979, a surplus of $17.9 billion in agricultural exports, a $32.6 billion surplus in capital goods and a $30.2 billion deficit in consumer goods.

It's difficult to imagine a more favorable trade structure. With the exception of oil and some minerals—most of which can be stockpiled—we are not dependent on imports for strategic goods. Japanese automobiles and stereos may be conspicuous, but if they stopped coming tomorrow the nation's physical survival wouldn't be in jeopardy. The same cannot be said for the import patterns of Europe and Japan, which depend heavily on overseas food and raw materials.

Our trade mix also corresponds with emerging national and global social realities. Advanced societies such as the United States gradually are becoming areas of relative labor scarcity, while other parts of the world—especially the developing countries—have huge labor surpluses. Even in the recession, the U.S. unemployment rate remains near 8 percent; that's a far cry from the 15 percent to 30 percent of some developing nations. As the average age of the U.S. population increases, the labor pool will grow even more slowly.

What better division of labor, then, than to have more of our basic labor-intensive goods produced elsewhere while devoting domestic resources to more productive higher-technology industries? The nature of work in advanced societies makes this approach especially compelling. As the labor force becomes more educated, it is less willing (and able?) to suffer the indignities and low wages inherent in many regimented manufacturing processes.

To cite these trends is not to deny the intense pressures—both in popular attitudes and in the grievances of specific industries—for protectionism. Part of this is simply the temper of the times; Americans feel particularly annoyed and angry at foreigners. But part of it also reflects misinformation and basic changes in the world economy.

The same competitiveness report documents some of those changes. America's once unquestioned technological superiority is increasingly thin. The report found that with two exceptions, aircraft and power generators, America's top 20 manufacturing exports' shares of world exports declined between 1963 and 1977. Although some drops were slight, others were severe: U.S. farm equipment slid from 40 percent of world exports to 25 percent.

In short, some of the self-confidence is gone. Industries that once enthusiastically boosted free trade now fear imports and are a little less active. And there's the additional suspicion that U.S. products are always the victims of "unfair" practices. When auto companies and workers urge import restrictions, for example, they correctly argue that the United States is the only major country without some limitations.

Against this background, practical politicians have continued to pay lip service to free trade while becoming increasingly protectionist in practice. What's missed in this drift are the huge, largely invisible, costs. A recent staff study by the Federal Trade Commission found, for example, that restrictions usually resulted in costs to consumers at least five times as great as benefits to workers and producers.

Sometimes arguments are misused. Does anyone really believe that the U.S. auto industry's problems are not home-grown? It may be true that the Europeans restrict Japanese imports, but it's also true that European car manufacturers are more numerous and competitive among themselves than are American companies. Imports in Britain have skyrocketed to about 60 percent of the market, with Japanese cars accounting for less than one-third of that total.

And so the greatest cost is self-deception. U.S. economic power, both at home and abroad, lies heavily in the vitality of our producing enterprises. We cannot insulate ourselves from the reality that our technological and management advantages over the rest of the world have narrowed. Nor can we protect ourselves into rejuvenation. Many high-technology firms rely on exports for between 20 percent and 30 percent of their sales. They need the opportunity of new markets abroad and the stimulus—the fear and excitement—of worthy competitors. Other countries' trading policies may not be as open as they ought to be. But the national interest lies in striving to make them better, not allowing ours to get worse.●

AMERICA THE ENEMY?

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. DANIEL B. CRANE. Mr. Speaker, syndicated columnist Anthony Harrigan has performed a service for the American people by blowing the whistle on an organization shrouded in mystery: the Institute for Policy Studies.

As those familiar with this organization can attest, the goals of the IPS might shock those who have not kept up with the recent machinations of the radical left.

I urge my colleagues to carefully consider Mr. Harrigan's September 11 column, which follows.

REVOLUTIONARY THINK TANK

The Ethics and Public Policy Center in Washington has performed a major public service in reporting on the insidious work of the Institute for Policy Studies in the nation's capital.

Americans who have never heard of the IPS have been profoundly affected by its efforts to influence decision making in the United States.

Dr. Ernest Lefever, director of the Center, accurately described the IPS as "the hub of a revolutionary political network." The declared aim of the IPS is, in his words, "the radical transformation of America's basic intellectual, religious, economic and political institutions."

The IPS seeks the unilateral disarmament of the United States, the breakup of America's intelligence services, and the dismantlement of its capitalist economic system.

Dr. Rael Jean Isaac, who has taught at Brooklyn College, is the author of the report entitled "America The Enemy: Profile of a Revolutionary Think Tank" which has been published by the Center.

According to Dr. Isaac, the IPS represents an unprecedented success story—"the achievement of the New Left after its supposed demise, in shaping United States policy." The new novel, The Spike is widely assumed to be based on the IPS. "In the novel, Dr. Isaac says, "it is the channel through which the Soviet Union hopes to take over the United States."

IPS writers have produced, in Dr. Isaac's words, "a veritable avalanche of publications." She notes that the "IPS has practically become an institutional columnist for The New York Times," with numerous IPS articles used on the opposite editorial page.

The IPS has established cooperative programs with various colleges, including Antioch College. It has a joint program on "militarism" with the Cato Institute, a libertarian organization that opposes national defense efforts. It has supporters on Capitol Hill, such as Rep. John Conyers of Detroit. It made films designed to discredit U.S. intelligence agencies. It has been very active on behalf of the Palestine Liberation Organization, a terrorist group. The former head of its Transnational Institute unit, a Chilean radical, was in the pay of Cuba's intelligence service. The new head of that IPS unit is Tariq Ali, a leader of the British section of the Trotskyite Fourth International.

Most significantly, says Dr. Isaac, under the Carter administration, there has been a movement of IPS-linked people "into the National Security Council and the Department of State."

The Ethics and Public Policy Center report is packed with facts and extensively foot-noted. It points out, for example, that the Rubin Foundation has poured millions of dollars into the IPS. Another $2 million came from the now defunct DJB Foundation whose founder said the chief enemy of mankind was "the injustice of governments and of the United States Government in particular."

Despite this ugly record, the IPS is still identified by The New York Times simply as "a research organization in Washington, D.C."

The full report on the Institute For Policy Studies is available from the Ethics and Public Policy Center for $1. It is a dollar well spent for Americans who want to understand why the country has adopted left-leaning positions in recent years. Indeed, this report is an enormously important public document in this presidential election year.●

PRO PATRIA ET GLORIA, THE STORY OF THE 7TH REGIMENT OF NEW YORK, ON THE CENTENNIAL CELEBRATION OF THE 7TH REGIMENT ARMORY, A NATIONAL LANDMARK

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 24, 1980

● Mr. BIAGGI. Mr. Speaker, they are called the 7th Regiment of New York, the 107th Infantry Regiment, New York Army Reserve National Guard. They have dedicated their lives in the service of their country so that the American way of life might endure.

Their history is as rich as their wealth of men of courage and their legendary deeds. They have embodied as tradition the best in leadership and the American spirit of voluntarism to meet the historical challenges of our young Nation so that we can enjoy our basic freedoms today. Their contribution to our heritage is engrained in our national character and fiber today. We owe them our great respect and gratitude for their sacrifices.

This coming weekend, September 27 and 28, 1980, the 7th Regiment Armory, which has become a national landmark, located at 643 Park Avenue, New York City, N.Y., will celebrate the centennial of their building, for it was 100 years ago that the armory was completed, and this great institution launched in original ribbon cutting ceremonies officiated by President Rutherford B. Hayes. In festivities this Saturday and Sunday, the men and women of the 7th, their families and friends, public officials, and many who appreciate their legacy of commitment in sacrificing life for the welfare of their fellow man and the betterment of their country, will gather to honor and pay tribute to these heroic men and their deeds, and the great institution which houses their traditions and legacy.

To offer my own personal appreciation of this occasion, I would like to present a story of the development and contribution of this great regiment toward the history of our Nation. As we reflect on their efforts and achievements, we too can take from their example and inspiration of leadership and the voluntary spirit.

The 7th is a regiment of the National Guard of the State of New York and, as such, is a part of the U.S. Army. In the very beginning the regiment belonged to what was called the Volunteer Militia. This is of importance, since a National Guardsman of today is just what a Volunteer was in 1806—an amateur soldier in the best sense of the word. The Volunteer was, and still is, a man who enjoyed military life enough to join with others to practice it in his spare time. Only the Volunteer can testify to what sacrifice this often entails.

Volunteers, too, were usually men of some means and education. Their companies were independent corps and proud of it. They were, indeed, incorporated military societies available to the States for emergencies of all kinds. Another task was that of training officiers for larger emergencies. Probably the most signal contribution made by the 7th Regiment during the Civil War lay in the more than 600 men it furnished as officers for the Union Army. Something like 2,000 officers came out of the regiment in World War I, and its record in World War II is just as impressive. Volunteers selected their officers from their own ranks and this is a tradition the 7th has closely adhered to. But sound men must be recruited in the first place if sound officers are so to be selected, and careful selection of new members is another unbroken tradition in the regiment.

It was into this family of Volunteers that the 7th was born in 1806. In 1862 the Volunteer Militia of New York was given the name "National Guard" and it was from the 7th that the title came. Years later, in 1903, the name was adopted for the Volunteers, all over the country.

Military corps are always born of necessity. What is now the 7th came into being in 1806 as a result of the herculean struggle in Europe between France, under Napolean Bonaparte, and the allies, headed by Great Britain. When the firing of a British warship killed the helmsman of a little coasting vessel in the New York Harbor area, men clamored to enlist in New York volunteer companies. Four of these were the ancestors of the 7th. On July 25, 1806, the four companies were assigned to the Battalion of Artillery, one of the best Volunteer units in the city. The 7th thus began as artillery. The New Yorkers who headed the first four companies were men of substance. Much the same is true with the members who have, through the decades, followed in their footsteps.

Volunteers of this period met twice a month, but also participated in parades, inspections, and civil meetings. Drills were usually held on Saturday in open fields near the city. On the whole, discipline and training in these earlier days were of a high order considering the lack of facilities.

The years from 1824 to 1826 were momentous for the 7th. Largely they coincided with the visit to America of the Marquis de Lafayette, beloved hero of our Revolution, in whose memory, in fact, the 7th was named. It was a battalion officer who, awaiting the landing of Lafeyette, exclaimed, "Why not call our new corps the National Guards," after the celebrated National Guard of Paris, formed and first commanded by Lafayette. The name was unanimously adopted on August 25, 1824. The story is also told that a year later Lafayette, when passing the new gray battalion that bore his name "National Guards," stopped his carriage, and with tears in his eyes, took each officer by hand. In the armory hangs a portrait of Lafayette to remind all of this proud day in the regiment's history. The 7th was made a separate battalion on October 1, 1825.

It was reorganized as the 27th Regiment, New York State Artillery, on May 6 of the following year. Its future henceforth was in its own hands and the new motto it had adopted in 1824, "Pro Patria et Gloria," was the direction in which it aimed. In 1832 the "s" was dropped from National Guards.

In the quarter century that followed, the 7th held its own despite new social conditions that changed the character of New York and its Volunteer corps. By stressing regimental loyalty and keeping out of the political conflicts of the day, it held on to its strength and reputation. The year 1834 saw the regiment called out for the election riot, its first real experience with this most unpleasant kind of duty, which was, however, to be its lot for many years to come. In a few hours it quelled a serious riot in which the police had been utterly routed. With riots occurring during the next few years, in every case where the guard participated order was restored rapidly without loss of life. The regiment of 1824-47 consisted at formation of about 400 men who drilled twice a month with individual marksmanship encouraged, participated in summer encampments, out of town excursions, and attended nonmilitary meetings, frequently held at Shakespeare Tavern, Fulton and Nassau Streets, which served many of the functions of the modern armory.

In the 1840's the old enrolled militia system, degenerated into utter farce, was wiped off the books in New York and in most other States. What we have called the Volunteers remained as the only military reserve, and henceforth they were known as the Organized Militia. One product of the new system was the renumbering of the 27th Regiment as the 7th Regiment, New York State Militia on July 27, 1847. Another was the creation of the 1st Division comprising the regiments of New York City, 12 in all, numbered 1st through 12th. Only five of these survive in the National Guard of today.

The 7th now entered upon an era of remarkable prosperity, distinguished by regimental loyalty and a marked increase in strength. The election of Abram Duryee as colonel in 1849 was the first of a series of four outstanding regimental commanders that spanned 67 years. It is to this unbroken train of inspired leadership that is attributed in large measure the unusual strength and reputation the regiment has enjoyed thereafter. The resolute and steady performance of the 7th in the Astor Place riot earned it a reputation and popularity among responsible citizens. Yearly excursions had brought it a national renown, and the 7th "held deservedly in the highest respect", according to Commanding General of the Army Winfield Scott.

The great Civil War broke in April, 1861. The 7th's services were tendered to the Governor and 2 days later the 7th was ordered to leave for Washington—the first regiment selected from New York. On April 19, the regiment formed in Lafayette Place and begin its celebrated march down Broadway. They were afforded an ovation exceeding anything yet seen on that avenue of ovations—a sendoff to war long remembered by the 7th. They knew then "that our great city was with us as one man, utterly united in the great cause we were marching to sustain." The 7th never was to serve in battle, but its contribution of officers for the new regiments continued throughout the war. It was said that the presence of the 7th in Washington, as "the corps d'elite of the whole Union", seemed to change fate by bringing spirit and the power of liberty to the Nation's Capital.

The decades which followed were ones of steady growth. During an era of intense political struggle, the 7th maintained its time-honored practice of avoiding religious and political affiliation, which held it just above criticism. During the Orange Riot of 1871, it was recognized for conspicuous coolness and discipline, when under difficult conditions the 7th remained in control of its position in the parade. In 1872 we saw a renewed interest in rifle marksmanship which ever since has been so marked a part of training in the 7th. Modern field training did not commence until 1882 when the camp at Peekskill was opened. Prior to that time, out of town trips remained an important part of regimental life.

When the Tompkins Market Armory proved to be inadequate for the regiment in 1876, a campaign began to raise the funds for a new armory. The cornerstone of that armory at 66th Street and Park Avenue was laid in October 1877 and on April 26, 1880, the regiment with great ceremony marched in.

With solid-filled ranks and rolls with names that were bywords in the city, the 7th was called silk stocking when in actuality the stockings it wore remained largely cotton.

The opening years of the 20th century were as full of change for the 7th as they were for the Nation. When the regiment celebrated its centennial in 1906, it was evident that it had graduated from the status of a private military club into a carefully regulated part of a complex national military machine.

With the start of war against Germany, the 7th had to transfer men to another regiment, realizing that it could no longer function independently of higher authority. The 7th went to France as a regiment of the 27th Division. It was assigned to the 2d, and later 4th British Armies. Entering combat on August 10, 1918, the 7th together with the rest of the division broke the Hindenburg line and captured 1,799 Germans. On March 25, 1919, the regiment marched proudly up Fifth Avenue with the most tremendous ovation ever accorded it. By that time, 2,000 of its members had been commissioned as officers in the armed services.

After the war, the regiment was a more businesslike outfit with its new weapons and hard-won battle experience. Summer camps were regular events; carefully prepared training schedules became the rule; Regular Army officers were assigned permanently for instruction and inspection, and each year saw 7th men at various U.S. Army schools. Extensive improvements to the armory increased its fund of lore as well as its efficiency.

The 1920's and 1930's saw the regiment broaden considerably its base of membership. The German invasion of Poland in September 1939, beginning World War II, highlighted the need for antiaircraft defense of all types. And so the 7th was converted to antiaircraft artillery on August 1, 1940, a change not only in weapons but in the structure of its companies as well. It was now the 207th Coast Artillery Regiment.

The 7th regiment, New York Guard, was formed to take the place of the 207th when it would enter Federal service. This latter organization occupied the armory until 1947, and throughout the war trained thousands of men for active duty in the Armed Forces.

Pearl Harbor came when the regiment was in Georgia and Battery A (Searchlight) was immediately detached and sent to the Pacific coast. In April 1943 the regiment was broken up into an AAA group headquarters and headquarters company, and three battalions. The 207th AAA Group shipped to England in 1944, fighting its way across Europe to Germany. The 7th AAA Battalion served for 1½ years in Guam with the 77th Infantry Division. The 771st Battalion served in the Pacific. The 247th AAA remained in the United States to train AAA personnel.

Since October 15, 1957, 107th Infantry Regiment has been assigned to the 42d Infantry Division (Rainbow) NYARNG, an association which has continued to date. In 1958, the infantry regiment became battle group, and the first battalion group, 107th Infantry, was commanded by Colonel Stewart. Then the brigade structure was introduced, resulting in the 7th's consisting of the headquarters and headquarters company, 2d Brigade and 1st and 2d Battalions, 107th Infantry.

During his tenure as brigade commander, Col. John J. Bellew was instrumental in acquiring recognition of the 7th Regiment Armory as a national landmark to be preserved for posterity.

The present-day brigade has technical specialists, and also relys on subordinate leadership. As commanding officer, Col. Dominic A. Pellicio pointed out, the brigade, in meeting the Guard's missions in modern times, is aware of the need of coping with the problem of stress.

Flexibility is the keynote of today's National Guard. The brigade became part of the Selected Reserve Force in 1968, requiring the doubling of drills and increased administrative duties. The regiment also increased training and planning in the civil disturbance area. Individuals' training and qualifications have also been enhanced.

Thus, the national guardsman in this regiment is a man of dedication and principle, devoted to the service of ideals, State, and country. A man of this stature requires a leader who can earn the respect of his men. The men of the 2d Brigade have been fortunate consistently to have such leadership. Succeeding Colonel Pellicio were Col. Arthur Jackson, Col. Edward Brown, Col. Charles E. Hangley, and presently, Col. Bernard G. Ehrlich is commanding.

Mr. Speaker, I know that you and my colleagues here today from throughout this great Nation will join with me in saluting the valiant men of such rich tradition in the great heritage of the 7th Regiment of New York. Our country is whole and prosperous, with liberty and justice for all, because they gave of themselves whenever the need arose. They continue to do so, and so we can comfort in their service. To all the members of the 7th today, go our highest respect and esteem, and above all else, our gratitude. May all your fine efforts continue, and bring you all due happiness and success.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, September 25, 1980, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 26

10:00 a.m.

Armed Services

Manpower and Personnel Subcommittee

To hold hearings on H.R. 7626, increasing certain special pay and allowances for members of the uniformed services.

212 Russell Building

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Foreign Relations

To hold hearings on pending nominations.

4221 Dirksen Building

Select on Indian Affairs

Business meeting, to mark up H.R. 7212, to ratify a settlement agreement in a land dispute between the Pamunkey Indian Tribe and the Southern Railway Co., and H.R. 7519, to provide that the United States may not claim, as offsets against awards to Indian tribes, funds gratuitously expended for the benefit of the particular tribe after June 30, 1951.

6226 Dirksen Building

SEPTEMBER 29

9:30 a.m.

Finance

Health Subcommittee

To hold hearings on S. 3029, to establish a National Professional Mental Health Services Commission.

2221 Dirksen Building

10:00 a.m.

Finance

Taxation and Debt Management Generally Subcommittee

To hold hearings on S. 3006, increasing the tax incentives for industrial energy conservation.

6226 Dirksen Building

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings on the Department of Labor's investigation of alleged mismanagement and criminal activities of the Teamsters Union's Central States pension fund.

3302 Dirksen Building

2:00 p.m.

Select on Ethics

Business meeting, to resume closed consideration of certain provisions relating to legal defense funds of Senate Resolution 508, proposing a change in the Standing Rules of the Senate relative to certain contributions to defray investigative, civil, criminal, or other legal expenses of Members, officers, or employees of the Senate, or certain contributions to defray the legal expenses of the spouses or dependents of Members, officers, or employees of the Senate (agreed to by Senate).

S-206, Capitol

SEPTEMBER 30

9:00 a.m.

Energy and Natural Resources

To receive a closed briefing from administration officials on the current conflict between Iraq and Iran and its impact on U.S. energy policy.

S-406, Capitol

10:00 a.m.

Governmental Affairs

Federal Spending Practices and Open Government Subcommittee

To resume oversight hearings on the implementation of certain programs of the General Services Administration.

3302 Dirksen Building

Governmental Affairs

Permanent Subcommittee on Investigations

To continue hearings on the Department of Labor's investigation of alleged mismanagement and criminal activities of the Teamsters Union's Central States pension fund.

1202 Dirksen Building

Labor and Human Resources

Health and Scientific Research Subcommittee

To resume oversight hearings on the implementation of the National Health Service Corps program of the Health Services Administration under the Department of Health and Human Services.

4232 Dirksen Building

OCTOBER 1

10:00 a.m.

Governmental Affairs

Federal Spending Practices and Open Government Subcommittee

To continue oversight hearings on the implementation of certain programs of the General Services Administration.

3302 Dirksen Building

OCTOBER 8

10:00 a.m.

Select on Small Business

To hold hearings to review a proposal by the American Agricultural Investment Management Company on the investment of certain pension funds in farmland.

424 Russell Building

OCTOBER 20

10:00 a.m.

Governmental Affairs

Intergovernmental Relations Subcommittee

To hold hearings to review volunteer organization participation in Federal programs.

3302 Dirksen Building